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THIS INDEX is based on a consolidation of contents entries appearing in the January–December issues of the **Federal Register** together with broad subject references. The entries are arranged first under the name of the agency which issued the document. Under each agency, the entries are then listed alphabetically within the categories of Rules, Proposed Rules, and Notices. Executive Orders, Proclamations, and other documents from the President are listed under Presidential Documents. The number at the end of each entry gives the pages in the **Federal Register** where the document begins. Use the table of Federal Register Pages and Dates at the back of this index to locate the issue date for each page number. This index is published monthly and is cumulated for 12 months.

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Department of Health and Human Services, Public Health Service, Food and Drug Administration (HHS/PHS/FDA)	Analyst Operations Manual: Training information, instructions and procedures for new laboratory personnel	National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Rd., Springfield, VA 22161. Accession #PB85-211639: $46.50 for paper copy, $6.50 for microfiche	Food and Drug Administration, Freedom of Information Staff, HFI-35, 5600 Fishers Lane, Rockville, MD 20857 (FDA/FOIS/HFI-35)
	Bio-research Monitoring Manual for Supervisory Investigators, NCTR Nonclinical: One-week course conducted by the National Center for Toxicological Research	Food and Drug Administration, Freedom of Information Staff, HFI-35, 5600 Fishers Lane, Rockville, MD 20857. Cost: $41.00. Payable to the Food and Drug Administration	
	Center for Drugs and Biologics Staff Manual: Primarily concerned with the preparation and review of documents within the Center for Drugs and Biologics	Food and Drug Administration, Freedom of Information Staff, HFI-35, 5600 Fishers Lane, Rockville, MD 20857. Cost: $96.00. Payable to the Food and Drug Administration	
	Center for Food Safety and Applied Nutrition Daily Operating Guide: Primarily concerned with the preparation and review of documents within the Center for Food Safety and Applied Nutrition	Food and Drug Administration, Freedom of Information Staff, HFI-35, 5600 Fishers Lane, Rockville, MD 20857. Cost: $33.00. Payable to the Food and Drug Administration	
	Center for Veterinary Medicine Policy and Procedures Manual: Primarily concerned with the preparation and review of documents within the Center for Veterinary Medicine	Food and Drug Administration, Freedom of Information Staff, HFI-35, 5600 Fishers Lane, Rockville, MD 20857. Cost: $42.70. Payable to the Food and Drug Administration	
	Compliance Policy Guides: Statements of FDA compliance policy, including those statements which contain regulatory action guidance information	National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Rd., Springfield, VA 22161. Manual accession #PB88–915499, $109.95; subscription accession #PB88–915400, $135.00	
	Compliance Program Guidance Manual: Programs, plans and instructions directed to FDA field operations for Program Management System (PMS) project implementation	National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Rd., Springfield, VA 22161. Entire manual accession #PB89-920499, $157.95; subscription accession #PB89-920-400, $425.00	
	Drug Autoanalysis Manual: A manual of automated methods which provides content uniformity test specifications in USP XVII and NF XII. Provides assurance of homogeneity within a single lot for a safe and effective drug supply. Specifications are for all table monographs where the active ingredient is present in low quantities (usually 50 mg. or less)	Food and Drug Administration, Freedom of Information Staff, HFI-35, 5600 Fishers Lane, Rockville, MD 20857. Cost: $56.00. Payable to the Food and Drug Administration	
	EDRO Data Codes Manual: Computer code information for program management system projects used for reporting project information into the Program Oriented Data System (PODS)	Food and Drug Administration, Freedom of Information Staff, HFI-35, 5600 Fishers Lane, Rockville, MD 20857. Cost: $100.00. Payable to the Food and Drug Administration	

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Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
	Field Management Directives: FDA field policy in the areas of operations management, planning and budget, program management	Food and Drug Administration, Freedom of Information Staff, HFI-35, 5600 Fishers Lane, Rockville, MD 20857. Cost: $35.00. Payable to the Food and Drug Administration	
	Inspection Operations Manual: Standard operating inspectional and investigational procedures and instructions used by FDA Investigational personnel	National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Rd., Springfield, VA 22161. Manual accession #PB88-913399, $55.95; subscription accession #PB88-913300, $65.00	
	Inspector Training Manual: Basic training manual for food and drug inspectors and inspection techniques	Food and Drug Administration, Freedom of Information Staff, HFI-35, 5600 Fishers Lane, Rockville, MD 20857. Cost: $24.00. Payable to the Food and Drug Administration	
	Inspector's Manual for State Food and Drug Officials: Two-part manual—Part (1): operations section contains inspectional and investigational procedures, Part (2): program section outlines the specific recommended inspectional procedures applicable to a particular problem area, commodity or regulated industry. Similar in content to the Inspection Operations Manual, except for FDA administrative procedures which are not relevant to State Food and Drug Officials	Food and Drug Administration, Freedom of Information Staff, HFI-35, 5600 Fishers Lane, Rockville, MD 20857. Cost: $71.00. Payable to the Food and Drug Administration	
	Inspector's Technical Guide: Technical information for FDA inspectors, not previously available on a broad scale	Food and Drug Administration, Freedom of Information Staff, HFI-35, 5600 Fishers Lane, Rockville, MD 20857. Cost: $18.00. Payable to the Food and Drug Administration	
	Pesticide Analytical Manual: Procedures and methods used in FDA laboratories for surveillance of the extent and significance of contamination of man and his environment by pesticides and their metabolites	National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Rd., Springfield, VA 22161. Volume I—Accession #PB88-911799, $62.95. Volume II—Accession #PB88-911999, $193.95. Entire Manual—Accession #PB86-911799, $230.00	
	Quantity of Contents Compendium: Contains information used to measure acceptance levels of shrinkage in food containers. Divided into two parts—(1) procedures for measuring fill-of-container, statistical evaluation acceptable common or usual declaration of quantity of contents; (2) information on sampling where special techniques are required	Food and Drug Administration, Freedom of Information Staff, HFI-35, 5600 Fishers Lane, Rockville, MD 20857. Cost: $18.60. Payable to the Food and Drug Administration	
	Regulatory Procedures Manual: Guidance on regulatory policy and support processing procedures	Food and Drug Administration, Freedom of Information Staff, HFI-35, 5600 Fishers Lane, Rockville, MD 20857. Cost: $142.80. Payable to the Food and Drug Administration	
	Staff Manual Guides—Organization and Delegations: Directives issued by FDA to establish policy, organization, procedures or responsibilities in the administrative area	Food and Drug Administration, Freedom of Information Staff, HFI-35, 5600 Fishers Lane, Rockville, MD 20857. Cost: $259.00. Payable to the Food and Drug Administration	
	Supervisory Investigators Guide: Guidelines to assist supervisory inspectors in managing investigational groups	Food and Drug Administration, Freedom of Information Staff, HFI-35, 5600 Fishers Lane, Rockville, MD 20857. Cost: $9.00. Payable to the Food and Drug Administration	

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
	Index to Administrative Staff Manuals: Current listing of all staff manuals with indexes and/or table of contents	Food and Drug Administration, Freedom of Information Staff, HFI-35, 5600 Fishers Lane, Rockville, MD 20857. Cost: $29.00 Payable to the Food and Drug Administration	
Department of Health and Human Services, Public Health Service, Health Services Administration (HHS/PHS/HSA)	HSA Freedom of Information Act (FOIA) Index: March 1975 to June 30, 1982. The HSA, FOIA index is a compilation of supplements to the departmental manual system, program level operations manuals, circulars, memoranda, notices and guides used by the components of HSA. All information included in this index is current as of June 30, 1982. The respective bureau level indexes are listed as follows: OA—Office of the Administrator: OCPA—Public Affairs Management System Manual; OPEL—HSA forward plan, fiscal year 1979–83; OM/OCG—HSA procurement operating instructions; OM/OMP—HSA transmittal notices for supplements to HHS manuals; HSA Circulars; OM/OFS—policy decisions, procedures, and opinion. BMS—Bureau of Medical Services: Division of Hospitals and Clinics Operations Manual; BMS supplements to HHS manuals; Manual of Operations for PHS Health Unit, DFEH, BMS; BMS circulars; Contract Physician's Guide. IHS—Indian Health Services: IHS circulars; IHS supplements to HHS manuals; IHS Operations Manual; General Counsel opinions; policy and procedural manual and circulars. BCHS—Bureau of Community Health Services: BCHS administrative guide system; BCHS Operations Manual; Emergency Medical Service Systems Program Guidelines; BCHS Regional Memorandum Series. BHPDS—Bureau of Health Personnel Development and Service: BHPDS supplements to the HHS manuals; BHPDS operations manuals which include memoranda, guidelines, handbooks and procedures	Office of Communications and Public Affairs, HHS/PHS/HSA, Room 14A–39, 5600 Fishers Lane, Rockville, MD 20857. Checks payable to HHS/Public Health Service. Mail to HSA Collection Officer, HHS/PHS/HSA, Room 16–36, 5600 Fishers Lane, Rockville, MD 20857. Fees charged for research and reproduction of information are based upon the current departmental fee schedule for information under the FOI regulations (45 CFR part 5 subpart E)	Office of Communications and Public Affairs, HHS/PHS/HSA, Room 14A–39, 5600 Fishers Lane, Rockville, MD 20857
Department of the Interior, Office of the Secretary	Departmental Manual Table of Contents, Checklist, and Subject Index dated May 31, 1989. Index of directives containing descriptions of central and field organizations of the Department, delegations of authority, internal policies, guidelines, procedures, and other administrative matters.	Office of Planning and Performance Management, U.S. Department of the Interior, Washington, DC 20240 One copy only, no charge Telephone: 202-208-3059	
	Checklist and Subject Index of Departmental Manual Additions to the FPM dated June 3, 1988. Index of Departmental personnel management directives.	Office of Personnel, U.S. Department of the Interior, Washington, DC 20240 One copy only, no charge	

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	Listing of Secretary's Orders which are considered in effect with respect to current operations of the Department Internet address: http://elips.doi.gov	Office of Planning and Performance Management, U.S. Department of the Interior, Washington, DC 20240 One copy only, no charge Telephone: 202-208-3059	
Department of the Interior, Office of Acquisition and Property Management	Departmental Manual Additions to the Federal Acquisition Regulation (FAR)	Office of Acquisition and Property Management, Department of the Interior, 1849 C Street, NW., Room 5512, Washington, DC 20240	Office of Acquisition and Property Management, Department of the Interior, 1849 C Street, NW., Room 5512, Washington, DC 20240 Telephone: (202) 208-3348
	400 DM - Departmental Manual Addition to the Interior Property Management Regulations (IPMR)	Office of Acquisition and Property Management, Department of the Interior, 1849 C Street, NW, Room 5512, Washington, DC 20240	Office of Acquisition and Property Management, Department of the Interior, 1849 C Street, NW, Room 5512, Washington, DC 20240 Telephone: (202) 208-6649
Department of the Interior, Office of Aircraft Services	OAS Operational Procedures Memorandum No. 95-1, dated January 1, 1995. Subject: Index of Departmental Manual (Aviation Management) and Operational Procedures Memoranda Information.	Office of Aircraft Services 2350 West Robinson Road P.O. Box 15428 Boise, ID 83715-5428.	Office of Aircraft Services FOIA Officer 2350 West Robinson Road P.O. Box 15428 Boise, ID 83715–5428 No charge.
Department of the Interior, Bureau of Indian Affairs	Bureau of Indian Affairs Index dated August 31, 1992 1993 BIAM Releases 1993 BIAM Bulletins 1994 BIAM Releases 1994 BIAM Bulletins 1995 BIAM Releases 1995 BIAM Bulletins	Bureau of Indian Affairs Division of Management Support Code 850, MS 351 1951 Constitution Ave., N.W. Washington, DC 20245 First copy no charge	Bureau of Indian Affairs Division of Management Support Code 850, MS 351 1951 Constitution Ave., N.W. Washington, DC 20245 Telephone: (202) 208-2977
Department of the Interior, Bureau of Land Management	Directives Digest Bulletin's dated – 1/31/90, 2/28/90, 3/31/90, 4/30/90, 5/31/90, 6/30/90, 7/31/90, 8/31/90, 9/31/90, 10/31/90, 11/30/90, 12/31/90	Department of the Interior, Bureau of Land Management, 1849 C Street, N.W., MIB 2454, Washington, DC 20240	Department of the Interior, Bureau of Land Management, 1849 C Street, N. W., MIB 2454, Washington, DC 20240 Telephone: (202) 208–6152
	Land Management Instructions and Manual Indexes	Department of the Interior, Bureau of Land Management, 1849 C Street, N. W., MIB 2454, Washington, DC 20240 Duplicate copies at 13 cents per page.	Section for Directives and Records Operations (W0873) Room 2454, MIB Telephone: (202) 208–6152
Department of the Interior, Bureau of Mines	Bureau of Mines Manual - Subject Index	In accordance with fee schedule in 43 CFR 2, Appendix A	Elizabeth Knorr, Chief, Branch of Management Analysis, 810 7th Street, NW., MS-2193, Washington, DC 20241 Telephone 202–501–9248
	Numeric and subject listing of internal policies and procedures by series, part, chapter, paragraph, and subordinate paragraph	Bureau of Mines	
Department of the Interior, Bureau of Reclamation	Reclamation Manual Index dated 3/98.	Bureau of Reclamation, Property & Office Services, D-7924, Denver Federal Center, P.O. Box 25007, Denver CO 80225 No charge.	Bureau of Reclamation, Property & Office Services, D-7924, Denver Federal Center, P.O. Box 25007, Denver, CO 80225 Telephone: (303) 445-2048
Department of the Interior, U.S. Geological Survey	Table of Contents, Checklist, and Subject Index relating to the U.S. Geological Survey Manual	Directives Officer, U.S. Geological Survey, 807 National Center, Reston, VA 20192 No charge	Directives Officer, U.S. Geological Survey; 807 National Center, Reston, VA 20192 Telephone 703-648-7313

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Department of the Interior, Fish and Wildlife Service	001 FW 1 - Table of Contents 001 FW 2 - Checklist Lists all manual chapters of the Fish and Wildlife Service 010 FW 1, Appendixes 1-3 Lists all National Policy Issuances, specialized directives, and authorized handbooks of the Fish and Wildlife Service. 012 FW 1, Appendix 1 Lists all orders issued by the Director, Fish and Wildlife Service.	Division of Policy and Directives Management Fish and Wildlife Service 1849 C Street, NW Mail Stop - 224 Arl. Sq. Washington, D.C. 20240 No charge	Division of Policy and Directives Management Fish and Wildlife Service 4401 N. Fairfax Drive Room 224 Arlington, VA 22203 703-358-1730 Email Address: Hope_Grey@mail.fws.gov
Department of the Interior, Minerals Management Service	Table of Contents and Checklist to Basic Minerals Management Service Manual. Listed numerically by part, series, chapter, release number, date, and pages.	In accordance with fee schedule in 43 CFR 2, Appendix A	Chief, Strategic Direction and Coordination Branch, 381 Elden Street, MS-2200, Herndon, VA 20170-4817 Telephone 703-787-1258
	Index of Director's appeal decisions	In accordance with fee schedule in 43 CFR 2, Appendix A	Chief, Appeals Division, Office of Policy and Management Improvement, 1849 C St., NW, MS-9110, Washington, DC 20240, Telephone (202) 208-2437
Department of the Interior, National Park Service	Checklist of the NPS Guidelines and Directives Dated January 1, 1993	U. S. Dept. of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127 Attn: Management Services Division No charge	U. S. Dept. of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127 Attn: Management Services Division Telephone 202-523-5043
Department of the Interior, Office of Hearings and Appeals	Index-Digest. Index of synopses for all decisions decided by Office of Hearings and Appeals Boards of Appeal and published Solicitor's decisions under specific topical headings. Useful in researching legal holdings of Department of the Interior. Published quarterly, annually and on 5-year basis.	Editorial Branch, Office of Hearings & Appeals, 4015 Wilson Blvd. Arlington, VA 22203. Telephone 703–235–3791 Price: $495.00 annually for quarterly issues and bound cumulative issue at end of calendar year. Checks made payable to "Department of the Interior." Price for photocopies as prescribed in Department fee schedule for Freedom of Information Act information (43 CFR Part 2, Appendix A): Checks made payable to "Department of the Interior." Price on Quinquennial issue is set by Government Printing Office and available from that agency.	Editorial Branch, Office of Hearings and Appeals, 4015 Wilson Blvd. Arlington, VA 22203. Telephone 703–235–3791
	Indian Citator. Index of authorities cited in decisions of the Interior Board of Indian Appeals (IBIA). Initial publication covers volumes 1-15 of IBIA decisions. Updated annually.	Administrative Division Subscription Service, Office of Hearings & Appeals, 4015 Wilson Blvd., Arlington, VA 22203. Telephone 703-235-3799 Price: $40.00 for Citator. Checks made payable to; Department of the Interior.	Administrative Division Subscription Service, Office of Hearings & Appeals, 4015 Wilson Blvd., Arlington, VA 22203. Telephone (703) 235-3799
	Administrative Manual. Index related to administrative policies, procedures and standards as contained in the Administrative Manual	Administrative Division, Office of Hearings & Appeals, 4015 Wilson Blvd., Arlington, VA 22203. Price for photocopies as prescribed in Department fee schedule for Freedom of Information Act information (43 CFR Part 2, Appendix A). Checks made payable to Department of the Interior.	Administrative Division, Office of Hearings and Appeals, 4015 Wilson Blvd., Arlington, VA 22203. Telephone: (703) 235-3793

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Department of the Interior, Office of Inspector General	Inspector General Manual Index, December 17, 1992. Numeric and subject listing of internal policies and procedures by volume, chapter, section, and subsection	In accordance with fee schedule in 43 CFR Part 2, Appendix A - Fees Office of Inspector General	Betty Foyes, Information Officer, Department of the Interior, Office of Inspector General, 18th and C Streets, NW., Washington, DC 20240 Telephone: 202–208–4356
Department of the Interior, Office of Surface Mining	Functional Index (OSMRE Directives Listed by Functions) dated December 21, 1993	Office of Surface Mining, Division of Management Services, 1951 Constitution Ave., NW., Washington, DC 20240 No charge	Office of Surface Mining, Division of Management Services, 1951 Constitution Ave., NW., Washington, DC 20240 Telephone: (202) 343-5447
Department of Labor	Department of Labor Freedom of Information Act Index Overview and Guide to DOL agencies and subagencies with information on how to obtain more detailed indexes to records maintained by each subagency; includes cross-reference to agencies by statute or executive order; 28 pages	Mail $4.20 check payable to DEPARTMENT OF LABOR to: FOIA Index Request, Counsel for Administrative Law, Division of Legislation and Legal Counsel, Office of the Solicitor, Department of Labor, 200 Constitution Avenue, NW., Room N2428, Washington, DC 20210.	Administrator, FOIA/PA, Counsel for Administrative Law, Division of Legislation and Legal Counsel, Office of the Solicitor, Department of Labor, 200 Constitution Avenue, NW., Room N2428, Washington, DC 20210 Phone (202) 523-9277
Legal Services Corporation	LSC Index lists decisions, opinions, statements of policy, manuals, and other records of general interest to members of the public in understanding the activities of the Corporation. The index contains records from 1975 to date.	Freedom of Information Administrator, Legal Services Corporation, 750 First Street, NE, Washington, DC 20002-4250. No charge.	Freedom of Information Administrator, Legal Services Corporation, 750 First Street, NE, Washington, DC 20002-4250.
Department of Transportation, Federal Highway Administration (FHWA)	CrossReference Index of current directives, The index is alphabetical by subject and within each subject, applicable directives are identified. The index also includes a three-part cross-reference for the FHPM, 23 U.S.C. and 23 CFR. The index is updated semi-annually (March and September)	FOIA Program Officer, FHWA, 400 Seventh Street, SW., Washington, DC 20590. No charge	FOIA Program Officer, FHWA, 400 Seventh Street, SW., Washington, DC 20590
	Cease and Desist and Driver Disqualification Final Orders by the Federal Highway Administrator: 1969-1984; listing of cease and desist and driver disqualification final orders of the Federal Highway Administrator; items listed are identified by case docket number, name of carrier and date notice of investigation was mailed	FOIA Program Officer, FHWA, 400 Seventh Street, SW., Washington, DC 20590. No charge	FOIA Program Officer, FHWA, 400 Seventh Street, SW., Washington, DC 20590
	Opinions and Final Orders of the FHWA in Regard to the Regulation of Toll Bridges: 1968-1984 listing of opinions and final orders regarding regulation of toll bridges issued by the Federal Highway Administrator, which identifies the case and the date issued	FOIA Program Officer, FHWA, 400 Seventh Street, SW., Washington, DC 20590. No charge	FOIA Program Officer, FHWA, 400 Seventh Street, SW., Washington, DC 20590

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Department of the Treasury, Departmental Offices	Index of Selected Records, July 1967 to December 31, 1994. Index either contains the following information or indicates where the public may obtain information, decisions, statements of the general course and method by which functions are channeled and determined; a description of the central and field offices; rules of procedure, descriptions of forms; substantive rules and statements of general policy and interpretations adopted by the agency; and each amendment, revision, or repeal of the foregoing; final adjudications of cases; statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register; and administrative staff manuals and instructions to staff that affect a member of the public for the Departmental Offices, Internal Revenue Service, United States Customs Service, United States Secret Service, Bureau of Alcohol, Tobacco and Firearms, Bureau of Engraving and Printing, Financial Management Service, United States Mint, Bureau of the Public Debt, Office of the Comptroller of the Currency, Federal Law Enforcement Training Center, Office of Thrift Supervision.	Library, Room 5010-MT, Department of the Treasury, Washington, DC 20220, Reproduced upon request; fees charged per page copied in accordance with fee schedule at 31 CFR 1.7. Make checks payable to Treasury of the United States	Treasury Department Library, Room 5010, Main Treasury Bldg., 15th and Pennsylvania Ave., NW., Washington, DC 20220 Telephone 202-622-0990
Architectural and Transportation Barriers Compliance Board	ATBCB Freedom of Information Index; June 1978 through November 1982: Final decisions made in adjudication of cases concerning alleged noncompliance to the Architectural Barriers Act of 1968; and a record of the final votes of each member of the Board in every Board proceeding. ATBCB annual reports; pamphlets describing the ATBCB, how to file complaints, and resource guides to literature in the area of creating an accessible environment	Freedom of Information Officer, ATBCB, Rm. 1010, 330 C St., SW., Washington, DC 20202. Reproduced upon request. Twenty cents per page, per copy. Make checks payable to the Department of Education Public Information Office, ATBCB, Rm. 1010, 330 C St., SW. Washington, DC 20202. No charge	Freedom of Information Officer, ATBCB, Rm. 1010, 330 C St., SW., Washington, DC Phone: 202-245-1591 Public Information Office, ATBCB, Rm. 1010, 330 C St., SW., Washington, DC 20202 Telephone: 202-245-1591
Committee for Purchase From the Blind and Other Severely Handicapped	Index of Additions and Deletions to the Procurement List: (a) Procurement List 1990 incorporates all additions and deletions through November 3, 1989; (b) Current index November 1989-December 1991.	Order from: Executive Director, Committee for Purchase From the Blind and Other Severely Handicapped, Crystal Square Building No. 5, 1755 Jefferson Davis Highway, Suite 1107, Arlington, VA 22202-3509. Price: Ten cents per page, per copy. Make checks payable to: Treasurer of the United States	Committee for Purchase From the Blind and Other Severely Handicapped, Attention: Freedom of Information Officer
Commodity Futures Trading Commission	Index of final Commission opinions, including concurring and dissenting opinions, and orders in the adjudication of cases. April 21, 1975 to date. (This index consists of separate chronological listings of final Commission opinions and orders in enforcement cases and reparations proceedings before the Commission)	Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581 Price: 10 cents per page	Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581 Telephone 202 254-6314

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	Index of statements of policy and interpretations adopted by the Commission and not published in the Federal Register. April 21, 1975 to date Index of Commission administrative manuals and instructions to staff that affect a member of the public. April 21, 1975 to date. (Commission instructions no longer in use are not included in this index)		
General Services Administration (GSA)	GSA Freedom of Information index; July 4, 1967 through June 30, 1984. Category A information which is final opinions, including concurring and dissenting opinions and orders, made in the adjudication of cases. Category B information which is those statements of policy and interpretations which have been adopted by GSA and are not published in the FEDERAL REGISTER. Category C information which is administrative staff manuals and instructions to staff that affect members of the public	GSA, Freedom of Information Officer (ATRAR), Washington, DC 20405. Price: $4.75. Make checks payable to: General Services Administration	GSA Central Office Library and the business service centers located in each regional office listed below: Central Office Library, 18th & F Sts., NW., Rm. 1033, Washington, DC 20405 Business Service Centers: National Capital Region: 7th & D Sts., SW., Washington, DC 20407 Region 1: John W. McCormack Post Office and Courthouse, Boston, Mass. 02109 Region 2: 26 Federal Plaza, New York, NY 10278 Region 3: 9th & Market Sts., Philadelphia, PA, 19107 Region 4: Richard B. Russell Bldg., 75 Spring St., Atlanta, GA 30303 Region 5: 230 So. Dearborn St., Chicago, IL, 60604 Region 6: 1500 East Bannister Rd., Kansas City, MO 64131 Region 7: 819 Taylor St., Ft. Worth, TX 76102 Region 8: Building 41, Denver Federal Center, Denver, CO 80225 Region 9: 525 Market St., San Francisco, CA 94105 Region 10: GSA Center, Auburn, WA 98002
International Boundary and Water Commission, United States and Mexico, U.S. Section	Brochure: Amistad Dam and Reservoir	Project Engineer, U.S. Section, IBWC, Route 2, Box 37, Highway 90 West, Del Rio, TX 78840. No charge	Project Engineer, U.S. Section, IBWC, Route 2, Box 37, Highway 90 West, Del Rio, TX 78840
	Brochure: Falcon Dam and Power Plant	Reservoirs Manager, U.S. Section, IBWC, P.O. Box 1, Falcon Village, TX 78545. No charge	Reservoirs Manager, U.S. Section, IBWC, P.O. Box 1, Falcon Village, TX 78545
	Water Bulletins: Containing data for 1 year covering flow of Rio Grande and related data from Elephant Butte, NM, to Gulf of Mexico, re storage in major reservoirs, diversions, suspended silt, chemical analyses, sanitary aspects of water quality, meteorologic data, and irrigated areas–for years 1931 through 1980	Division Engineer, Hydrographic Division, U.S. Section, IBWC, 4171 North Mesa, Suite C-310, El Paso, TX 79902. Price: $4.50 per bulletin (data for 1 year). Payable to: International Boundary and Water Commission, U.S. Section	Division Engineer, Hydrographic Division, U.S. Section, IBWC, 4171 North Mesa, Suite C-310, El Paso, TX 79902
	Water Bulletins: Containing data for 1 year covering flow of Colorado River and other Western Boundary streams, and related data (including Tijuana, Santa Cruz, and San Pedro Rivers, and Whitewater Draw) for years 1960 through 1980	Division Engineer, Hydrographic Division, U.S. Section, IBWC, 4171 North Mesa, Suite C-310, El Paso, TX 79902. Price: $5.50 per bulletin (data for 1 year). Payable to: International Boundary and Water Commission, U.S. Section	Division Engineer, Hydrographic Division, U.S. Section, IBWC, 4171 North Mesa, Suite C-310, El Paso, TX 79902

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	Color print map – Lower Rio Grande Valley United States and Mexico	Division Engineer, Projects Division, U.S. Section, IBWC, 4171 North Mesa, Suite C-310, El Paso, TX 79902. Prices: 14≥x36≥ $4.00 per map; 10≥x28≥ $3.00 per map. Payable to: International Boundary and Water Commission, U.S. Section	Division Engineer, Projects Division, U.S. Section, IBWC, 4171 North Mesa, Suite C-310, El Paso, TX 79902
	Annual Report: Operation of Rio Grande Dams and Reservoirs. This report provides data concerning the operation of the international dams and reservoirs constructed by the Governments of the United States and Mexico on the reach of the Rio Grande which forms the boundary between the two countries	Division Engineer, Hydrographic Division, U.S. Section, IBWC, 4171 North Mesa, Suite C-310, El Paso, TX 79902. No charge	Division Engineer, Hydrographic Division, U.S. Section, IBWC, 4171 North Mesa, Suite C-310, El Paso, TX 79902
	Color print map: El Paso Rio Grande Projects, Canalization and Rectification Projects	Division Engineer, Projects Division, U.S. Section, IBWC, 4171 North Mesa, Suite C-310, El Paso, TX 79902. Price: $10.00 per map. Payable to International Boundary and Water Commission, U.S. Section	Division Engineer, Projects Division, U.S. Section, IBWC, 4171 North Mesa, Suite C-310, El Paso, TX 79902
	Brochure: Joint Projects of the United States and Mexico through the International Boundary and Water Commission	Section Secreatry, U.S. Sec., IBWC, 4171 North Mesa, Suite C-310, El Paso, TX 79902. Price: $6.00 per brochure. Payable to International Boundary and Water Commission, U.S. Section	Section Secretary, U.S. Section, IBWC, 4171 North Mesa, Suite C-310, El Paso, TX 79902
National Archives and Records Administration (NARA)	NARA FOIA Index lists the following materials which have been adopted by NARA since April 1, 1985, and which are not published in the Federal Register: NARA final opinions and orders, statements of policy and interpretations, and administrative staff manuals and instructions to staff that affect a member of the public	Policy and Program Analysis Division (NAA), National Archives, College Park, MD 20740-6001 One copy only (free).	Policy and Program Analysis Division (NAA), Room 3200, National Archives at College Park, 8601 Adelphi Rd., College Park, MD 20740-6001. 301-713-6730
National Science Foundation (NSF)	Reviewer panelist, alphabetical listing contains name, State, and institution of individuals who have reviewed proposals for the National Science Foundation for the previously completed fiscal year		NSF Library, Room 245, 1800 G St., NW., Washington, DC 20550

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Federal Register
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Wednesday, July 1, 1998

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority

AGENCY: Office of the Secretary, Department of Agriculture.

ACTION: Final Rule.

SUMMARY: This document revises the delegations of authority from the Secretary of Agriculture and general officers of the Department to change the name of the Food and Consumer Service to the Food and Nutrition Service.

EFFECTIVE DATE: July 1, 1998.

FOR FURTHER INFORMATION CONTACT: Mildred Kelley, Human Resources Division, Department of Agriculture, 3101 Park Center Drive, Room 623, Alexandria, VA 22302, telephone (703) 305–1064.

SUPPLEMENTARY INFORMATION: The agency name of the Food and Consumer Service was changed to its former name of the Food and Nutrition Service by order of the Secretary of Agriculture on November 25, 1997. The purpose of the final rule is to change the name of the Food and Consumer Service to the Food and Nutrition Service in the delegations of authority from the Secretary, through the Under Secretary for Food, Nutrition, and Consumer Services to the Administrator of the Food and Consumer Service.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required and this rule may be effective less than 30 days after publication in the **Federal Register**. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Orders Nos. 12866 and 12988. Finally, this action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. *et seq.*) and the Small Business Regulatory Fairness Enforcement Act (5 U.S.C. 801 *et. seq.*) and, thus, is exempt from their provisions.

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

Accordingly, 7 CFR part 2 is amended as follows:

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

1. The authority citation for 7 CFR part 2 continues to read as follows:

Authority: Sec. 212(a), Pub. L. 103–354, 108 Stat. 3210, 7 U.S.C. 6912(a)(1); 5 U.S.C. 301; Reorganization Plan No. 2 of 1953, 3 CFR 1949–1953 Comp., P. 1024.

Subpart I—Delegations of Authority by the Under Secretary for Food, Nutrition, and Consumer Services

2. Section 2.57 is amended by revising the section heading and paragraph (a) introductory text to read as follows:

§ 2.57 Administrator, Food and Nutrition Service.

(a) *Delegations.* Pursuant to § 2.19(a)(1), (a)(2) and (a)(5), subject to reservations in § 2.91(b), the following delegations of authority are made by the Under Secretary for Food, Nutrition, and Consumer Services to the Administrator, Food and Nutrition Service:

* * * * *

Dated: June 5, 1998.

Shirley R. Watkins,

Under Secretary for Food, Nutrition, and Consumer Services.

[FR Doc. 98–17439 Filed 6–30–98; 8:45 am]

BILLING CODE 3410–30–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–30–AD; Amendment 39–10637; AD 98–14–03]

RIN 2120–AA64

Airworthiness Directives; AlliedSignal Inc. KT 76A Air Traffic Control (ATC) Transponders

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain AlliedSignal Inc. (AlliedSignal) KT 76A ATC transponders that are installed on aircraft. This AD requires incorporating a modification on the affected transponders that consists of replacing two resistor network modules with glass-coated modules. This AD is the result of reports of these ATC transponders transmitting misleading encoding altimeter information to ground-based ATC radar sites and nearby Traffic Alert and Collision Avoidance System (TCAS)-equipped aircraft. The actions specified by this AD are intended to prevent the transmission of misleading encoding altimeter information between affected aircraft caused by the inability of these ATC transponders to coordinate with ground-based ATC radar sites and nearby TCAS-equipped aircraft.

DATES: Effective August 16, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of August 16, 1998.

ADDRESSES: Service information that applies to this AD may be obtained from AlliedSignal Inc., General Aviation Avionics, 400 N. Rogers Road, Olathe, Kansas 66062–1212. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–30–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

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FOR FURTHER INFORMATION CONTACT: Mr. Roger A. Souter, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4134; facsimile: (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain AlliedSignal KT 76A ATC transponders that are installed on aircraft was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on February 4, 1998 (63 FR 5763). The NPRM proposed to require replacing two resistor network modules, RM401 and RM402, with new glass-coated parts. Accomplishment of the proposed action as specified in the NPRM would be in accordance with AlliedSignal Service Bulletin SB KT 76A–7, dated July 1996.

The NPRM was the result of reports of these ATC transponders transmitting misleading encoding altimeter information to ground-based ATC radar sites and nearby Traffic Alert and Collision Avoidance System (TCAS)-equipped aircraft.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Comment Issue: The Compliance Time Should Be Extended

Three commenters believe that the proposed compliance time of 6 calendar months is unrealistic. These comments are detailed as follows:

1. One commenter states that, in order to accomplish the work, Allied Signal would have to supply 38 repairmen who would work 8 hours per day for 6 months. The commenter questions whether this commitment will be made.
2. Another commenter agrees with the FAA's decision to state the compliance in calendar time, but believes that a more appropriate and more convenient time would be to require the work at the next annual inspection or transponder system inspection. This would reduce the down-time for the affected aircraft by allowing the work to be accomplished during regularly scheduled maintenance.
3. The third commenter states that many of the affected transponders will be part of a complete pitot-static system that requires biennial calibration in accordance with § 91.413 of the Federal Aviation Regulations (14 CFR 91.413). The commenter proposes that since the unit will already be at the avionics shop for this calibration, then the FAA should write the compliance time to coincide with the biennial pitot-static system calibration.

The FAA partially concurs with the above comments, as follows:

1. After re-evaluating all information related to this subject, the FAA concurs that 6 calendar months is an unrealistic time period to have the work accomplished on all of the affected transponders. The FAA believes that a large number of the affected aircraft already have the proposed modification incorporated on the transponder. Based on all information, the FAA believes that a 12 calendar month compliance time is more realistic. The final rule will reflect this change.
2. The 12 calendar month compliance time will allow the modification to be incorporated during the airplane's next annual inspection, as requested by the commenter.
3. Because the silver migration process is affected by environmental factors as well as occurring over time, the FAA cannot predict when a particular transponder could fail. A transponder could work well one day and then fail the next day. With this in mind, the FAA does not concur that the compliance time should be written to coincide with the next pitot-static system biennial calibration in accordance with § 91.413 of the Federal Aviation Regulations (14 CFR 91.413). This could allow the condition defined in this AD to go undetected for up to 24 months.

Comment Issue: Problem Occurs Only on Aircraft Operating Above 10,000 Feet and the AD Should Be Limited to Only Those Aircraft Operating in Instrument Flight Rule (IFR) Conditions

Two commenters believe that the condition specified in the NPRM is associated with "at altitude" operations over time. The commenters state that one could imply that:

> "aircraft in the high altitude structure may be more likely to experience this problem than one operating below 10,000 feet and using the Allied Signal KT 76A ATC transponder simply because the aircraft operates within Class B or C airspace or within a 30 nautical miles "veil" for a class B airport. The problem with an erroneous altitude report from a high speed aircraft operating in the IFR airspace system is significantly different than a small airplane flying in visual flight rules (VFR) conditions."

Both commenters recommend different actions than are already proposed based on the above information and both believe that the private operator (who is mostly a Sunday pilot) would remove the equipment from the aircraft since aircraft in VFR operation outside of the B and C airspace do not need to have a transponder unit. Both believe that removing the transponder would reduce safety. These recommendations are as follows:

1. One commenter suggests that those operating in only VFR conditions fabricate and install a placard with the words "For VFR Use Only". If or when these aircraft's transponders no longer comply with the 125-foot error requirement of part 43, Appendix E, of the Federal Aviation Regulations (14 CFR part 43, Appendix E), then the commenter proposes that the AD require immediate replacement or modification of the transponder equipment. The commenter feels that this would allow thousands of small aircraft to fly legally and safely within the 30 nautical mile veils associated with Class B airports, without incurring an additional expense to their flying activities.
2. The other commenter recommends that the FAA not issue the proposed AD as a final rule, or if issued, limit the Applicability of the AD to only turbine-powered or "10-or-more seats" aircraft. This commenter feels that replacing equipment that meets performance standards because of a "maybe" malfunction (which will simply cause an error in altitude reporting) is wrong when it comes to private aircraft (used mostly for pleasure). The commenter also suggests a possible mandatory replacement or modification of the equipment if a certain error is detected.

The FAA does not concur with the proposed alternatives presented by the commenters. The altitude at which an aircraft equipped with one of the affected transponders is flown and the amount of time flown at this altitude do not affect the probability of the unit failing. The "silver migration" process occurs regardless of the altitude or the time "at altitude". This "silver migration" process is slow and is affected by environmental factors as well. The FAA cannot assure that any given unit would not be affected by this condition during any given 2 year period. A unit could pass on one day and then fail the next day. Aircraft that are operated in VFR conditions are interrogated by TCAS-equipped aircraft in the areas. The ATC system and misleading aircraft altitude information could represent a hazard to the aircraft in VFR conditions. The FAA has determined that safety would be compromised if the AD allowed, for aircraft operating in VFR conditions, the system to fail before mandating replacement or modification.

Comment Issue: Limit the AD to Only Those Aircraft Exhibiting Problems

In addition to the comments above proposing replacement or modification of the Allied Signal KT 76A ATC transponder upon condition for aircraft operating in VFR conditions, one commenter proposes that the AD only apply to those transponders that exhibit problems during the 24 calendar month pitot-static system calibration in accordance with § 91.413 of the Federal Aviation Regulations (14 CFR 91.413). This would be for all transponders regardless of the type of operation in which the aircraft is involved. The commenter believes that this would accomplish the intent of the AD without burdening operators already in good working order.

The FAA does not concur. As discussed earlier, the FAA cannot predict when a particular transponder could fail. A transponder could work well one day and then fail the next day. The FAA has determined that safety would be compromised if the AD allowed the system to fail before mandating replacement or modification.

Comment Issue: Wait for Results of Technical Field Study on Transponders

One commenter agrees with the FAA that the KT 76A ATC transponders have a demonstrated history of inaccurate or misleading data transmission and that corrective action is necessary to address this issue. This commenter goes on to state that the FAA Technical Center in Atlantic City conducted a full-scale field study of transponder performance in general aviation aircraft and determined that a variety of deficiencies exist in a broad range of transponders, including the KT 76A ATC transponders. This commenter suggests that the FAA withhold issuance of this AD until the full scope of the transponder issues can be addressed, including the problems associated with "silver migration" in the KT 76A ATC transponders.

The FAA concurs that the information from the Technical Center Study is very important. However, correspondence received from the Technical Center indicates that resolution of these issues may take a considerable amount of time. As stated earlier, the FAA cannot predict when a particular transponder could fail. A transponder could work well one day and then fail the next day. The FAA has determined that safety would be compromised if the AD was not issued awaiting a resolution from the FAA Technical Center in Atlantic City, regarding the full scope of the transponder issues.

Comment Issue: Certain Aspects Not Covered in the Cost Impact

Four commenters propose changes to the section that describes the cost impact upon the public. These include:

—It will take 2.5 workhours to accomplish the action instead of 2 workhours as presented in the NPRM;

—In addition to providing parts at no charge, Allied Signal is providing warranty credit for up to 2.5 workhours to accomplish the action;

—The cost impact should include the costs of a recalibration of the pitot-static system; and

—The cost impact does not take into account the costs the affected aircraft operators will incur while their aircraft is out-of-service.

The FAA concurs that it will take 2.5 workhours to accomplish the action and that Allied Signal will provide warranty credit for up to 2.5 workhours to accomplish the action. The final rule will incorporate this information.

The FAA does not concur that the cost impact section should account for recalibration costs because the inputs affected by the silver migration are encoding altimeter inputs and are not directly connected to the pitot static system. Therefore, there are no costs associated with pitot static system when complying with this AD.

The FAA believes that the change in the compliance time from 6 calendar months to 12 calendar months will take into account the cost impact of aircraft "out-of-service." This will allow the operator to schedule the replacement and modification to coincide with a regularly schedule maintenance event, thus, the AD will not necessitate any additional downtime. Even if additional downtime is necessary for some airplanes, the FAA does not possess sufficient information to evaluate the number of airplanes that may be so affected or the amount of additional downtime that may be required.

Comment Issue: Include Statistical Data Concerning the Problem in the AD

One commenter states that including statistical data that more fully discusses the origin of the "silver migration" problem would be helpful.

The FAA, in working with the manufacturer, saw a three-fold increase in the usage of spare parts of the Allied Signal KT76A ATC transponders. Between the last quarter of 1995 and the first quarter of 1996, quarterly usage of spare parts increased from approximately 40 parts per quarter to approximately 120 parts for that quarter. This indicates a significant trend and failure analysis of these transponders. Information submitted to the FAA revealed that this increase in spare parts usage was due to the "silver migration" problem. Within a 3-month period, over 150 of these transponder units were in the repair shops to have "silver migration" problems remedied.

Comment Issue: Concur With the Action

One commenter agrees with the proposal as written and states that accomplishing "this relatively inexpensive and simple repair action will eliminate the potential hazard and enhance general flying safety in the National Airspace System."

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for the change in the compliance time and minor editorial corrections. The FAA has determined that this change and minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Cost Impact

The FAA estimates that 20,000 transponder units could be affected by this AD if all were installed in aircraft of U.S. registry. Approximately 2.5 workhours will be needed to accomplish this action, at an average labor rate of $60 an hour. However, Allied Signal will provide warranty credit for up to 2.5 workhours to accomplish the action, as well as providing all necessary parts at no cost to the owners/operators of airplanes with the affected transponder units installed. Based on these figures and Allied Signal's warranty program, this AD will impose no cost impact on U.S. operators of the affected aircraft.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

98-14-03 AlliedSignal Inc.: Amendment 39-10637; Docket No. 97-CE-30-AD.

Applicability: AlliedSignal KT 76A Air Traffic Control (ATC) transponders; part number (P/N) 066-1062-00/10/02; serial numbers 93,000 through 109,999, as installed on, but not limited to the following airplanes (all serial numbers), certificated in any category:

Cessna Aircraft Company: 172, 182, R182, T182, 06, P206, U206, TP206, 210, T210, P210, 310, 310, T310, and 421 series airplanes.
Twin Commander Aircraft Company: 500, 520, 560, 680, 681, 685, 690, 695, and 720 series airplanes.
The New Piper Aircraft Corporation: PA-31, PA-32, and PA-34 series airplanes.
Raytheon Aircraft Company: E33, F33, G33, 35, J35, K35, L35, K35, M35, P35, S35, V35, 36, A26, B36, D55, E55, 56, A56, 58, 58A, 95, B95, D95, and E95 series airplanes.
Mooney Aircraft Corporation: M20 series airplanes.
McDonnell Douglas Helicopter Company: Model 500N rotorcraft.

Note 1: This AD applies to each aircraft equipped with a transponder that is identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For aircraft that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 12 calendar months after the effective date of this AD, unless already accomplished.

To prevent the transmission of misleading encoding altimeter information between affected aircraft caused by the inability of the affected ATC transponders to coordinate with ground-based air traffic control (ATC) radar sites and nearby Traffic Alert and Collision Avoidance System (TCAS)-equipped aircraft, accomplish the following:

(a) Replace the two resistor network modules, M401 and RM402, with new glass-coated parts in accordance with the MODIFICATION PROCEDURE section of AlliedSignal Service Bulletin SB KT 76A-7, dated July 1996. When accomplished, this replacement is referred to as Mod 7.

(b) As of the effective date of this AD, no person may install an AlliedSignal KT 76A ATC transponder; part number (P/N) 066-1062-00/10/02; serial numbers 93,000 through 109,999, in an aircraft without first incorporating Mod 7 as specified in paragraph (a) of this AD.

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

(e) The replacement required by this AD shall be done in accordance with AlliedSignal Service Bulletin SB KT 76A-7, dated July 1996. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from AlliedSignal Inc., General Aviation Avionics, 400 N. Rogers Road, Olathe, Kansas 66062-1212. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(f) This amendment becomes effective on August 16, 1998.

Issued in Kansas City, Missouri, on June 23, 1998.

Marvin R. Nuss,
Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98-17301 Filed 6-30-98; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98-NM-103-AD; Amendment 39-10639; AD 98-14-05]

RIN 2120-AA64

Airworthiness Directives; Dornier Model 328-100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Dornier Model 328-100 series airplanes, that requires modification of the ground cooling fan. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent failure of the ground cooling fan, which could result in smoke in the flight deck and cabin and consequent inability of the flight crew to perform duties or possible passenger injury due to smoke inhalation.

DATES: Effective August 5, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 5, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from FAIRCHILD DORNIER, DORNIER Luftfahrt GmbH, P.O. Box 1103, D-82230 Wessling, Germany. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601

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Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Dornier Model 328–100 series airplanes was published in the **Federal Register** on May 5, 1998 (63 FR 24758). That action proposed to require modification of the ground cooling fan.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Explanation of Changes Made to this Final Rule

In the proposal, the FAA inadvertently omitted reference to the Price/Material Information Sheet, dated July 16, 1997, of Dornier Service Bulletin SB–328–21–227, dated July 16, 1997. Therefore, the FAA has revised the final rule accordingly.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 50 airplanes of U.S. registry will be affected by this AD. It will take approximately 1 work hour per airplane to accomplish the required actions, at average labor rate of $60 per work hour. Required parts will be supplied by the manufacturer at no cost to operators. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $3,000, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

98–14–05 Dornier Luftfahrt GmbH: Amendment 39–10639. Docket 98–NM–103–AD.

Applicability: Model 328–100 series airplanes, serial numbers 3005 through 3095 inclusive, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the ground cooling fan, which could result in smoke in the flight deck and cabin and consequent inability of the flight crew to perform duties or possible passenger injury due to smoke inhalation, accomplish the following:

(a) Within 3 months after the effective date of this AD, modify the ground cooling fan and rotate the modified check valve, in accordance with Dornier Service Bulletin SB–328–21–227, dated July 16, 1997, including Price/Material Information Sheet, dated July 16, 1997.

Note 2: The service bulletin references EG&G Rotron Service Bulletin 011389500–21–1, dated April 30, 1997, as an additional source of service information to accomplish the actions required by this AD.

(b) As of the effective date of this AD, no person shall install on any airplane a ground cooling fan, part number 011389500, unless it has been modified in accordance with Dornier Service Bulletin SB–328–21–227, dated July 16, 1997.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The modification shall be done in accordance with Dornier Service Bulletin SB–328–21–227, dated July 16, 1997, including Price/Material Information Sheet, dated July 16, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from FAIRCHILD DORNIER, DORNIER Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in German airworthiness directive 97–243, dated August 28, 1997.

(f) This amendment becomes effective on August 5, 1998.

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Issued in Renton, Washington, on June 24, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–17419 Filed 6–30–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–336–AD; Amendment 39–10638; AD 98–14–04]

RIN 2120–AA64

Airworthiness Directives; de Havilland Model DHC–8–100, –200, and –300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain de Havilland Model DHC–8–100, –200, and –300 series airplanes, that requires modification of the lever assembly of the roll disconnect system. This amendment is prompted by mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent uncommanded disconnects of the roll control system, which could result in a limited degree of roll control and consequent reduced controllability of the airplane.

DATES: Effective August 5, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 5, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the **Federal Register**, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Anthony E. Gallo, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7510; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain de Havilland Model DHC–8–100, –200, and –300 series airplanes was published in the **Federal Register** on April 27, 1998 (63 FR 20552). That action proposed to require modification of the lever assembly of the roll disconnect system.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supports the proposed rule.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 180 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 work hours per airplane to accomplish the required modification, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $21,600, or $120 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

98–14–04 De Havilland, Inc.: Amendment 39–10638. Docket 97–NM–336–AD.

Applicability: Model DHC–8–100, –200, and –300 series airplanes on which Bombardier Modification 8/2376 was not accomplished during production; serial numbers 003 through 294 inclusive, and 296 through 433 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent uncommanded disconnects of the roll control system, which could result in a limited degree of roll control and consequent reduced controllability of the airplane; accomplish the following:

(a) Within 3 months after the effective date of this AD, modify the lever assembly of the roll disconnect system, in accordance with Bombardier Service Bulletin 8–27–79, Revision "A," dated March 20, 1998.

(b) As of the effective date of this AD, no person shall install on the roll disconnect system of any airplane a lever assembly having part number 82710200–001.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The modification shall be done in accordance with Bombardier Service Bulletin 8–27–79, Revision 'A,' dated March 20, 1998. This incorporation by reference was approved by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York.; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Canadian airworthiness directive CF–98–04, dated February 27, 1998.

(f) This amendment becomes effective on August 5, 1998.

Issued in Renton, Washington, on June 24, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–17418 Filed 6–30–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–113–AD; Amendment 39–10640; AD 98–14–06]

RIN 2120–AA64

Airworthiness Directives; British Aerospace BAe Model ATP Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain British Aerospace BAe Model ATP airplanes. This amendment requires repetitive inspections for discrepancies of the spring strut assembly of the forward door of the main landing gear (MLG), and replacement of the existing spring strut assembly with a new or serviceable part, if necessary. This amendment also requires eventual replacement of the existing spring strut assembly with an improved part, which, when accomplished, terminates the repetitive inspections. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent failure of the spring strut assembly of the forward door of the MLG, which, if not corrected, could result in inability to extend the MLG.

DATES: Effective August 5, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 5, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from AI(R) American Support, Inc., 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain British Aerospace BAe Model ATP airplanes was published in the **Federal Register** on May 1, 1998 (63 FR 24136). That action proposed to require repetitive inspections for discrepancies of the spring strut assembly of the forward door of the main landing gear (MLG), and replacement of the existing spring strut assembly with a new or serviceable part, if necessary. That action also proposed to require eventual replacement of the existing spring strut assembly with an improved part, which, when accomplished, would terminate the repetitive inspections.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 10 airplanes of U.S. registry will be affected by this AD.

It will take approximately 4 work hours (2 work hours per MLG) to accomplish the required inspection, at an average labor rate of $60 per work hour. Based on this figure, the cost impact of the inspection required by this AD on U.S. operators is estimated to be $2,400, or $240 per airplane, per inspection cycle.

It will take approximately 12 work hours (6 work hours per MLG) to accomplish the required modification, at an average labor rate of $60 per work hour. Required parts will cost approximately $2,200 per airplane ($1,100 per MLG). Based on this figure, the cost impact of the modification required by this AD on U.S. operators is estimated to be $29,200, or $2,920 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and

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responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

98–14–06 British Aerospace Regional Aircraft [Formerly Jetstream Aircraft Limited; British Aerospace (Commercial Aircraft) Limited]: Amendment 39–10640. Docket 98–NM–113–AD.

Applicability: BAe Model ATP airplanes, as listed in British Aerospace Alert Service Bulletin ATP–32–85, Revision 1, dated March 20, 1998; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the spring strut assembly of the forward door of the main landing gear (MLG), which could result in the inability to extend the MLG, accomplish the following:

(a) Within 600 flight hours after the effective date of this AD, perform a visual inspection for discrepancies of the fork end of the spring strut assembly of the forward door of the MLG, on the left and right sides of the airplane; in accordance with British Aerospace Alert Service Bulletin ATP–32–85, Revision 1, dated March 20, 1998.

(1) If no discrepancy is detected, repeat the visual inspection thereafter at intervals not to exceed 1,500 flight hours until the actions specified by paragraph (b) of this AD are accomplished.

(2) If any discrepancy is detected, prior to further flight, replace the existing spring strut assembly with a new or serviceable part, in accordance with the alert service bulletin. Repeat the visual inspection thereafter at intervals not to exceed 1,500 flight hours until the actions specified by paragraph (b) of this AD are accomplished.

(b) Within 18 months after the effective date of this AD, replace the spring strut assembly of the forward door of the MLG with an improved spring strut assembly, on the left and right sides of the airplane; in accordance with British Aerospace Service Bulletin ATP–32–87, dated January 29, 1998. This replacement constitutes terminating action for the requirements of this AD.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The replacement shall be done in accordance with British Aerospace Service Bulletin ATP–32–87, dated January 29, 1998. The inspection shall be done in accordance with British Aerospace Alert Service Bulletin ATP–32–85, Revision 1, dated March 20, 1998, which contains the following effective pages:

Page No. shown on page	Revision level shown on page	Date shown on page
1–3, 6, 7, 10	1	March 20, 1998.
4, 5, 8, 9, 11	Original ..	January 26, 1998.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from AI(R) American Support, Inc., 13850 Mclearen Road, Herndon, Virginia 20171. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on August 5, 1998.

Issued in Renton, Washington, on June 24, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–17417 Filed 6–30–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–ANE–33–AD; Amendment 39–10636; AD 98–14–02]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney Canada PW100 Series Turboprop Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Pratt & Whitney Canada (PWC) PW100 series turboprop engines, that requires removal of the existing fuel manifold tubes, lock plates, and preformed packing; installation of improved fuel manifold transfer tubes, improved lock plates, and improved preformed packing; and, after installation, the performance of a leak check. This amendment is prompted by reports of engine fuel leaks which resulted in either inflight engine shutdowns or fire warnings. The actions specified by this AD are intended to prevent engine fuel leaks, which can result in inflight engine shutdowns or fire warnings.

DATES: Effective August 31, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 31, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Pratt & Whitney Canada, 1000 Marie-Victorin, Longueuil, Quebec, Canada J4G 1A1; telephone (514) 677–9411, fax (514) 647–3620. This information may be examined at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jason Yang, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7747, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to Pratt & Whitney Canada (PWC) PW118, PW118A, PW118B, PW119B, PW119C, PW120, PW120A, PW121, PW121A, PW123, PW123B, PW123C, PW123D, PW123E, PW124B, PW125B, PW126A, PW127, PW127E, PW127F series turboprop engines was published in the **Federal Register** on October 24, 1997 (62 FR 55364). That action proposed to require removal of the existing fuel manifold tubes, lock plates, and preformed packing and installation of improved fuel manifold transfer tubes, lock plates, and preformed packing, at the earliest of the following: (1) the next time, after the effective date of this AD, that the engine or module is at a maintenance base that can do the modifications specified, regardless of the scheduled maintenance action or reason for engine removal; (2) or at the next fuel nozzle change; or (3) prior to November 30, 1998. This calendar end-date was determined based upon risk assessment. After installation, but prior to further flight, this AD requires performing a leak check.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter states that the affected part numbers (P/Ns) are not identified in the proposed rule. The FAA does not concur. The affected P/Ns have been referenced in the applicable PWC Service Bulletins (SBs).

One commenter states that the parts to be installed should not be limited to the part numbers identified in the existing SBs. The AD should make allowance for installing new parts identified in subsequent revisions. The FAA does not concur. The FAA cannot approve nonexistent parts of future designs, hence the reference of subsequent revision of SB in the AD is not permitted. However, additional parts may be introduced by an AD revision, or through alternative methods of compliance requests.

One commenter states that the requirements of PWC SB No. 21549 are not necessary and should not be required by the proposed rule. The FAA does not concur. That SB introduced improved drain tubes, that have been shown to reduce or prevent fires. Drain tube leaks have been attributed to several inflight engine fires.

One commenter states that the drain tubes should be installed in accordance with PWC SB No. 21077. The FAA concurs in part with the comment that PWC SB No. 21077 provides instructions for the part removal and replacement. However, the installation of fuel manifold drain tubes may be accomplished in accordance with PWC SB No. 21549 or PWC SB No. 21077. In addition, fuel manifold transfer tube installed in accordance with PWC No. 21077 or PWC SB No. 21516 is also acceptable. Paragraph (a) of the AD compliance section has been modified accordingly.

Since publication of the NPRM, the manufacturer has issued PWC SB No. 21077, Revision 8, dated April 4, 1998. This final rule references this latest revision.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates that 1,216 engines installed on aircraft of U.S. registry will be affected by this AD, that it will not take any additional work hours per engine to accomplish the proposed actions, as the actions may be performed during regularly scheduled maintenance or overhaul. Required parts will cost approximately $370 per engine. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $449,920.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

98–14–02 Pratt & Whitney Canada: Amendment 39–10636. Docket 97–ANE–33–AD.

Applicability: Pratt & Whitney Canada (PWC) PW118, W118A, PW118B, PW119B, PW119C, PW120, PW120A, PW121, W121A, PW123, PW123B, PW123C, PW123D, PW123E, PW124B, PW125B, PW126A, PW127, PW127E, PW127F series engines installed on but not limited to Dornier 328, Fokker 50, Jetstream ATP, ATR42, ATR42–500, ATR72, Embraer EMB–120, Canadair CL215T, CL415, and DeHavilland Dash-8–100/–200/–300/–315.

Note 1: This airworthiness directive (AD) applies to each engine identified in the

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preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent engine fuel leaks, which can result in inflight engine shutdowns or fire warnings, accomplish the following:

(a) Remove the existing fuel manifold transfer tubes, transfer tube lock plates, and fuel manifold drain tubes in accordance with PWC Service Bulletin (SB) No. 21077, Revision 8, dated April 4, 1998. Remove the existing preformed packing in accordance with PWC SB No. 21364, Revision 1, dated April 28, 1995. Replace with fuel manifold transfer tubes in accordance with the following applicable PWC Service Bulletins (SBs): No. 21077, Revision 8, dated April 4, 1998, or No. 21516, dated August 14, 1997. Replace fuel manifold drain tubes in accordance with PWC SB No. 21549, dated September 18, 1997 or SB No. 21077, Revision 8, dated April 4, 1998. The modification must include installation of the improved lock plates in accordance with PWC SB No. 21373, Revision 3, dated October 11, 1996, and the preformed packing in accordance with PWC SB No. 21364, Revision 1, dated April 28, 1995, as follows, whichever occurs first following the effective date of this AD:

(1) At the next engine removal, regardless of cause; or

(2) At the next fuel nozzle change; or

(3) Prior to November 30, 1998.

(b) After the installation of the improved fuel manifold tubes and lockplates, but prior to further flight, perform a leak check in accordance with the applicable maintenance manual.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

(e) The actions required by this AD shall be done in accordance with the following PWC SBs:

Document No	Pages	Revision	Date
21077 Total Pages: 9	1–9	8	April 4, 1998.
21516 Total Pages: 5.	1–5	Original	August 14, 1997.
21549 Total Pages: 4.	1–4	Original	September 18, 1997.
21373 Total Pages: 11.	1–11	3	October 11, 1996.
21364 Total Pages: 8.	1–8	1	April 28, 1995.

This incorporation by reference was approved by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Pratt & Whitney Canada, 1000 Marie-Victorin, Longueuil, Quebec, Canada J4G 1A1; telephone (514) 677–9411, fax (514) 647–3620. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the **Federal Register**, 800 North Capitol Street NW., suite 700, Washington, DC.

(f) This amendment becomes effective on August 31, 1998.

Issued in Burlington, Massachusetts, on June 23, 1998.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 98–17415 Filed 6–30–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–96–AD; Amendment 39–10641; AD 98–14–07]

RIN 2120–AA64

Airworthiness Directives; Cessna Aircraft Company Model 172R Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Cessna Aircraft Company Model 172R airplanes. This AD requires modifying the lower forward doorpost bulkhead by installing rivets. This AD is the result of a report from the manufacturer that those rivets were erroneously omitted during manufacture of some of the new production airplanes. The actions specified by this AD are intended to prevent reduced structural rigidity at the forward doorpost bulkhead, which could result in structural cracking and possible loss of control of the airplane.

DATES: Effective August 16, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 16, 1998.

ADDRESSES: Service information that applies to this AD may be obtained from The Cessna Aircraft Company, P. O. Box 7706, Wichita, Kansas 67277, telephone: (316) 941–7550, facsimile: (316) 942–9008. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–96–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Eual Conditt, Senior Aerospace

Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, RM 100, Mid-Continent Airport, Wichita, Kansas, 67209, telephone: (316) 946–4128; facsimile: (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Cessna Model 172R airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on February 13, 1998 (63 FR 7322). The NPRM proposed to require modifying the lower forward doorpost bulkhead on both sides of the affected model airplanes by installing rivets. Accomplishment of the proposed action as specified in the NPRM would be in accordance with Cessna Service Bulletin No. SB97–53–02, dated September 15, 1997.

The NPRM was the result of a report from the manufacturer that these rivets were erroneously omitted during manufacture of some of the new production airplanes.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Cost Impact

The FAA estimates that 87 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 14 workhours per airplane to accomplish this action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $150 per airplane. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $86,130, or $990 per airplane. The FAA assumes that none of the owners/operators of the affected airplanes have accomplished this action.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

98–14–07 Cessna Aircraft Company: Amendment 39–10641; Docket No. 97–CE–96–AD.

Applicability: Model 172R airplanes with the following serial numbers, certificated in any category: 17280004 through 17280016, 17280018 through 17280050, 17280052 through 17280058, 17280060 through 17280062, 17280064, 17280066 through 17280082, 17280085 through 17280099, 17280101 through 17280113, 17280115, 17280116, 17280118 through 17280125, 17280128 through 17280131, and 17280138.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 100 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

To prevent reduced structural rigidity at the lower forward doorpost bulkhead, which could result in structural cracking and possible loss of control of the airplane, accomplish the following:

(a) Modify the lower forward doorpost of the affected airplanes by installing the specified rivets in accordance with Cessna Service Bulletin No. SB97–53–02, dated September 15, 1997.

(b) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Rm. 100, Mid-Continent Airport, Wichita, Kansas, 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

(d) The modification required by this AD shall be done in accordance with Cessna Service Bulletin No. SB97–53–02, dated September 15, 1997. This incorporation by reference was approved by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from The Cessna Aircraft Company, P. O. Box 7706, Wichita, Kansas 67277. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(e) This amendment becomes effective on August 16, 1998.

Issued in Kansas City, Missouri, on June 24, 1998.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–17414 Filed 6–30–98; 8:45 am]

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DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 162 and 178

[T.D. 98–49]

RIN 1515–AB98

Prior Disclosure; Correction

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule; correction.

SUMMARY: Customs published in the **Federal Register** on May 28, 1998, a document revising the Customs Regulations regarding "prior disclosure". This document contains corrections to that document.

EFFECTIVE DATE: June 29, 1998.

FOR FURTHER INFORMATION CONTACT: Robert Pisani, Penalties Branch (202) 927–2344.

SUPPLEMENTARY INFORMATION:

Background

Customs published in the **Federal Register** (63 FR 29126) on May 28, 1998, a document revising the Customs Regulations regarding "prior disclosure". That document contained three technical errors which this document will correct.

Correction of Publication

Accordingly, the publication on May 28, 1998, of the final rule (T.D. 98–49) (63 FR 29126) (FR Doc. 98–14154) is corrected as follows:

1. On page 29132, in the first column, paragraph (a)(1) of § 162.74 is corrected to remove the word "duties" and insert in its place the words "duties, taxes and fees".

2. On page 29132, in the second column, paragraph (c) of § 162.74 is corrected by removing the words "actual loss of duties" in the heading and wherever it appears in the text and inserting in their place the words "actual loss of duties, taxes and fees". Also, paragraph (c) is corrected by removing the words "actual duty loss" or "actual loss of duty" and inserting in their place the words "actual loss of duties, taxes or fees".

3. On page 29132, in the third column, paragraph (f) of § 162.74 is corrected by inserting a comma after the word "Fines" the second time the word appears in the paragraph.

Dated: June 25, 1998

Joseph W. Clark,

Chief, Regulations Branch Harold M. Singer

[FR Doc. 98–17431 Filed 6–30–98; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 97F–0305]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the expanded safe use of siloxanes and silicones; cetylmethyl, dimethyl, methyl 11-methoxy-11-oxoundecyl as a pigment dispersant in all pigmented polymers intended for use in contact with food. This action is in response to a petition filed by Goldschmidt Chemical Corp.

DATES: The regulation is effective July 1, 1998; written objections and requests for a hearing by July 31, 1998.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of July 31, 1997 (62 FR 41053), FDA announced that a food additive petition (FAP 7B4550) had been filed by Goldschmidt Chemical Corp., c/o Keller and Heckman, 1001 G St. NW., suite 500 West, Washington, DC 20001. The petition proposed to amend the food additive regulations in § 178.3725 *Pigment dispersants* (21 CFR 178.3725) to provide for the expanded safe use of siloxanes and silicones; cetylmethyl, dimethyl, methyl 11-methoxy-11-oxoundecyl as a pigment dispersant in all pigmented polymers intended for use in contact with food.

FDA has evaluated data in the petition and other relevant material. Based on this information, the agency concludes that the proposed use of the additive is safe, that the additive will achieve its intended technical effect, and therefore, that the regulations in § 178.3725 should be amended as set forth below.

Information in the petition indicates that one of the constituents of the additive, i.e., hexadecene which is a starting material for the additive, leads to the formation in rabbits of a transient metabolite, 1,2-epoxyhexadecane (EHD). In a published study, EHD was reported to be a weak skin carcinogen in female Swiss mice (Ref. 1). FDA evaluated this study (Ref. 2) and has concluded that the evidence that EHD may be a weak dermal carcinogen in female Swiss mice does not preclude a conclusion that the petitioned use of the substance is safe[1].

First, the incidence of dermal tumors in EHD-treated mice was small (2 or 3 of 40 mice) and not statistically significant, assuming that control animals had no dermal tumors. Second, there were deficiencies in the conduct and reporting of this study. Third, dermal carcinogenicity is not highly predictive of carcinogenicity by other routes of exposure (Ref. 3). These observations support the agency's view that there is no evidence that suggests that EHD is likely to be a carcinogen when orally ingested, which is the route of exposure most directly relevant to the safety assessment of food additives.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has determined under 21 CFR 25.31(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

Any person who will be adversely affected by this regulation may at any time on or before July 31, 1998, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

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[1] As noted, EHD is reported to be a weak skin carcinogen in female Swiss mice. This finding does not mean that EHD is a carcinogenic impurity of the additive.

If EHD were a carcinogenic impurity, FDA would evaluate such impurity under the general safety clause, using risk assessment procedures to determine whether there is a reasonable certainty of no harm that would result from the proposed use of the additive, *Scott* v. *FDA*, 728 F. 2d 322 (6th Cir. 1984).

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Van Duuren, B. L., L. Langseth, B. M. Goldschmidt, and L. Orris, "Carcinogenicity of Epoxides, Lactones, and Epoxy Compounds. VI. Structure and Carcinogenic Activity," *Journal of the National Cancer Institute*, vol. 39, No. 6., pp. 1217–1228, 1967.

2. Memorandum from Executive Secretary of the Cancer Assessment Committee, FDA, to Quantitative Risk Assessment Committee, FDA, concerning "Potential Carcinogenicity of 1,2-epoxyhexadecane (EHD): Subject of Food Additive Petition No. 7B4550 (Goldschmidt Chemical Corp.)," dated January 8, 1998.

3. Tobin, Paul S. et al., "An Evaluation of Skin Painting Studies as Determinants of Tumorigenesis Potential Following Skin Contact with Carcinogens," *Regulatory Toxicology and Pharmacology*, vol. 2, 22–37, 1982.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR part 178 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 379e.

2. Section 178.3725 is amended in the table by alphabetically adding an entry under the headings "Substances" and "Limitations" to read as follows:

§ 178.3725 Pigment dispersants.

* * * * *

Substances	Limitations
* * *	* * * *
Siloxanes and silicones; cetylmethyl, dimethyl, methyl 11-methoxy-11-oxoundecyl (CAS Reg. No. 155419–59–3).	For use only at levels not to exceed 0.5 percent by weight of the pigment. The pigmented polymers may contact all foods under conditions of use C, D, E, F, and G described in Table 2 of § 176.170(c) of this chapter.

Dated: June 19, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–17412 Filed 6–30–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 48, 145, and 602

[T.D. 8774]

RIN 1545–AW15

Kerosene Tax; Aviation Fuel Tax; Tax on Heavy Trucks and Trailers

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations relating to the kerosene and aviation fuel excise taxes and the tax on the first retail sale of certain tractors and truck, trailer, and semitrailer chassis and bodies (heavy vehicles). The regulations provide rules for the kerosene tax, the refund available to certain aviation producers, and the tax on heavy vehicles. The regulations relating to kerosene affect the tax liability of certain industrial users, refiners, terminal operators, throughputters, and persons that sell, buy, or use kerosene. The regulations relating to aviation fuel affect certain producers, retailers, and users of aviation fuel. The regulations relating to the tax on heavy vehicles affect vehicle manufacturers and dealers. The text of these regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the **Federal Register**.

DATES: These regulations are effective July 1, 1998. For dates of applicability, see §§ 48.4082–6T, 48.4082–7T(b), 48.4082–8T(f), 48.4082–9T(b), 48.4091–3T(f), 48.4101–3T(e), 48.6427–10T(c), 48.6427–11T(g), and 145.4052–1(a)(2)(ii).

FOR FURTHER INFORMATION CONTACT: Frank Boland (202) 622–3130 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

These temporary regulations are being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collection of information contained in these regulations has been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget under control number 1545–1608. Responses to this collection of information are required to obtain a tax benefit.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

For further information concerning this collection of information, and where to submit comments on the collection of information and the accuracy of the estimated burden, and suggestions for reducing this burden, please refer to the preamble to the notice of proposed rulemaking in the Proposed Rules section of this issue of the **Federal Register**.

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Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

This document contains amendments to excise tax regulations (26 CFR parts 48 and 145) that implement certain changes made by the Taxpayer Relief Act of 1997 (the 1997 Act) relating to taxes on kerosene, aviation fuel, and heavy vehicles.

Kerosene; the 1997 Act

Section 4081 imposes a tax on certain removals, entries, and sales of taxable fuel. Before July 1, 1998, taxable fuel means gasoline and diesel fuel. As of that date, however, the definition of taxable fuel is expanded by the 1997 Act to include kerosene. Thus, after June 30, 1998, tax is imposed on the removal of kerosene from a terminal at the terminal rack.

In addition, the 1997 Act extends the rules for the exemption of dyed diesel fuel to dyed kerosene. Thus, tax is not imposed on kerosene that (1) the IRS determines is destined for a nontaxable use (such as for heating), (2) is indelibly dyed in accordance with IRS regulations, and (3) meets any marking requirements that may be prescribed in regulations.

Also, the 1997 Act provides that undyed kerosene that is destined for a nontaxable use may be removed, entered, or sold tax free in three situations. First, in the case of aviation-grade kerosene, dyeing is not required if the kerosene is received by a person that is registered by the IRS for purposes of the aviation fuel tax imposed by section 4091. Second, dyeing is not required for feedstock kerosene that is received from a pipeline or vessel by a registered kerosene feedstock user. Kerosene used as a feedstock by other persons is exempt from the dyeing requirement to the extent provided by regulations. Finally, to the extent prescribed by regulations, dyeing is not required if kerosene is received by a registered wholesale distributor that sells kerosene exclusively to ultimate vendors that sell kerosene from a pump that is not suitable for use in fueling any diesel-powered highway vehicle or train (a blocked pump).

The 1997 Act adds section 4101(e) to provide that a terminal for kerosene or diesel fuel cannot be an approved terminal unless the operator of the terminal offers dyed diesel fuel and dyed kerosene for removal for nontaxable use. This provision is not applicable until July 1, 2000.

The 1997 Act generally applies to kerosene the credit and refund rules that apply to diesel fuel. Thus, a credit or refund is allowable to a registered ultimate vendor that sells taxed, undyed kerosene for use on a farm for farming purposes or for the exclusive use of a state or local government. In addition, a credit or refund is allowable to a registered ultimate vendor that sells taxed, undyed kerosene from a blocked pump or, to the extent provided by the Secretary of the Treasury, for blending with heating oil to be used during periods of extreme or unseasonable cold.

Kerosene; Explanation of Provisions

Because kerosene is classified as a taxable fuel as of July 1, 1998, the rules (including definitions) in the existing regulations that apply to taxable fuel generally apply to kerosene.

The temporary regulations define kerosene as the kerosene described in ASTM Specification D 3699 (No. 1–K and No. 2–K) and ASTM Specification D 1655 (kerosene-type jet fuel).

Under the temporary regulations, tax is not imposed on the removal, entry, or sale of kerosene that is dyed with dye of the same strength and composition that is now required for diesel fuel. Also, every retail pump where dyed kerosene is sold must display a prescribed notice similar to the one now required on dyed diesel fuel pumps.

Under the temporary regulations, tax generally is not imposed on aviation-grade kerosene if the person that receives the kerosene in a transaction otherwise subject to tax (such as a person that buys kerosene at a terminal rack) is registered with respect to the section 4091 tax and, for sales after September 30, 1998, certifies that the kerosene will be used as a fuel in an aircraft. These buyers include registered aviation fuel producers (that is, persons with IRS registration numbers with an "H" suffix) and registered commercial airlines.

Transitional rules provide that tax generally is not imposed on aviation-grade kerosene that is destined for use as aviation fuel if an unregistered person (such as a fixed-base operator) receives the kerosene at a terminal rack and certifies (for sales after September 30, 1998) that the kerosene will be used as a fuel in an aircraft. The Treasury Department is considering whether this provision should be made a part of the final regulations, or whether persons that are presently unregistered should be required to register in order to receive aviation-grade kerosene tax free and requests comments on this issue. Comments may be submitted in the manner described under the ADDRESSES caption in the notice of proposed rulemaking on these subjects in the Proposed Rules section of this issue of the **Federal Register**.

The temporary regulations describe the conditions under which a registered ultimate vendor may be eligible for a credit or refund with respect to taxed kerosene that it sells from a blocked pump. A blocked pump is defined as a fuel pump that is at a fixed location and that cannot be used to fuel any diesel-powered highway vehicle or train. Also, blocked pumps must display a prescribed notice.

The temporary regulations do not provide rules for the following: (1) the exception from the dyeing requirement for kerosene that is removed from a terminal for use as a feedstock, (2) the exception from the dyeing requirement for kerosene that is received by a registered wholesale distributor that sells kerosene exclusively to ultimate vendors that sell kerosene from a blocked pump, (3) the availability of a credit or refund to a registered ultimate vendor that sells kerosene for blending with heating oil to be used during periods of extreme or unseasonable cold, and (4) the requirement that a terminal for kerosene or diesel fuel cannot be an approved terminal unless the operator of the terminal offers dyed diesel fuel and dyed kerosene for removal for nontaxable use. Comments are also requested on these issues. Comments may be submitted in the manner described under the ADDRESSES caption in the notice of proposed rulemaking on these subjects in the Proposed Rules section of this issue of the **Federal Register**.

Aviation Fuel

The 1997 Act added section 4091(d), which allows a registered aviation fuel producer (including a registered wholesale distributor) to obtain a refund of tax previously paid on aviation fuel that it buys. The temporary regulations describe the procedures to be followed for the allowance of this refund. These procedures are similar to the procedures under section 4081(e) for refunds relating to taxable fuel on which two taxes have been paid.

Registration of Heavy Vehicle Manufacturers and Retailers

The tax on the sale of heavy vehicles imposed by section 4051 is a tax that applies to the first retail sale by the manufacturer, importer, or retailer of a vehicle. The tax is not imposed if a vehicle is sold for resale or for lease on a long-term basis. Under existing regulations, this tax-free treatment applies only if both the seller and the buyer are registered by the IRS. Under the 1997 Act, however, the Treasury Department is to revise those regulations so that those sales may be made tax free even if the parties have not been registered by the IRS.

These temporary regulations generally provide that a person, such as a vehicle manufacturer, may sell a vehicle tax free if it accepts from its buyer, such as a vehicle retailer, a prescribed statement, signed under penalties of perjury, stating that the buyer will resell the vehicle or lease it on a long-term basis. Neither party will be required to be registered.

The temporary regulations do not affect the registration requirements for tax-free sales under section 4221, such as sales for the exclusive use of a state or local government.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. It is hereby certified that the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based upon the fact that the time required to prepare and submit the exemption certificates described in these regulations (many of which are similar to certificates that are already in use) is minimal and will not have a significant impact on those small entities that choose to provide the certificates. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Frank Boland, Office of the Assistant Chief Counsel (Passthroughs and Special Industries), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Parts 48 and 145

Excise taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 48, 145, and 602 are amended as follows:

PART 48—MANUFACTURERS AND RETAILERS EXCISE TAX REGULATIONS

Paragraph 1. The authority citation for part 48 is amended by adding entries in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Sections 48.4082–6T, 48.4082–7T, and 48.4082–8T also issued under 26 U.S.C. 4082 * * *

Section 48.4101–3 also issued under 26 U.S.C. 4101(a) * * *

Sections 48.6427–10T and 48.6427–11T also issued under 26 U.S.C. 6427(n) * * *

Par. 2. Section 48.4081–1T is added to read as follows:

§ 48.4081–1T Taxable fuel; definitions (temporary).

(a) [Reserved]

(b) *Definitions.*

Kerosene means, after June 30, 1998,—

(1) The two grades of kerosene (No. 1–K and No. 2–K) described in ASTM Specification D 3699; and

(2) Kerosene-type jet fuel described in ASTM Specification D 1655 and military specifications MIL–T–5624R and MIL–T–83133D (Grades JP–5 and JP–8). For availability of ASTM and military specification material, see § 48.4081–1(c)(2)(i).

Par. 3. Sections 48.4082–6T, 48.4082–7T, 48.4082–8T, 48.4082–9T, and 48.4082–10T are added to read as follows:

§ 48.4082–6T Kerosene; treatment as diesel fuel in certain cases (temporary).

For purposes of §§ 48.4081–1(b) (the definition of taxable fuel), 48.4081–2(c), 48.4082–1, 48.4082–4, and 48.4082–5, after June 30, 1998, diesel fuel includes kerosene.

§ 48.4082–7T Kerosene; notice required with respect to dyed kerosene (temporary).

(a) *In general.* A legible and conspicuous notice stating: "*DYED KEROSENE, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE*" must be posted by a seller on any retail pump or other delivery facility where it sells dyed kerosene for use by its buyer. Any seller that fails to post the required notice on any retail pump or other delivery facility where it sells dyed kerosene is, for purposes of the penalty imposed by section 6715, presumed to know that the fuel will not be used for a nontaxable use.

(b) *Effective date.* This section is applicable after June 30, 1998.

§ 48.4082–8T Kerosene; exemption for aviation-grade kerosene (temporary).

(a) *Overview.* This section provides rules for exempting aviation-grade kerosene from the tax imposed by section 4081. Generally, under prescribed conditions, tax is not imposed on a removal, entry, or sale of aviation-grade kerosene if the kerosene is destined for use as a fuel in an aircraft.

(b) *Definition.*

Aviation-grade kerosene means kerosene-type jet fuel described in ASTM Specification D 1655 and military specifications MIL–T–5624R and MIL–T–83133D (Grades JP–5 and JP–8). For availability of ASTM and military specification material, see § 48.4081–1(c)(2)(i).

(c) *Removals and entries not in connection with sales.* Tax is not imposed by section 4081 on the removal or entry not in connection with a sale of aviation-grade kerosene if—

(1) The person otherwise liable for tax is a taxable fuel registrant;

(2) In the case of a removal from a terminal, the terminal is an approved terminal; and

(3) The kerosene will be used as fuel in an aircraft and—

(i) The person otherwise liable for tax subsequently delivers the kerosene into the fuel supply tank of an aircraft or is registered under section 4101 with respect to the tax imposed by section 4091; or

(ii) The section 4091 tax has been imposed on the kerosene.

(d) *Removals and entries in connection with sales.* Tax is not imposed under section 4081 on the removal or entry of aviation-grade kerosene in connection with a sale if—

(1) The person otherwise liable for tax is a taxable fuel registrant;

(2) In the case of a removal from a terminal, the terminal is an approved terminal; and

(3) The kerosene will be used as fuel in an aircraft and—

(i) The buyer is registered under section 4101 with respect to the tax imposed by section 4091;

(ii) The buyer is buying for its use in a nontaxable use (as defined in section 4092(a)); or

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(iii) The section 4091 tax is, or has been, imposed on the kerosene.

(e) *Evidence under paragraph (d)(3)*—(1) *In general*—(i) *Sales before October 1, 1998*. For sales before October 1, 1998, the requirements of paragraph (d)(3) of this section will be considered to have been met if the person otherwise liable for tax has an unexpired certificate (described in this paragraph (e)) from the buyer and has no reason to believe that any information in the certificate is false.

(ii) *Sales after September 30, 1998*. For sales after September 30, 1998, the requirements of paragraph (d)(3) of this section are met only if the person otherwise liable for tax has an unexpired certificate (described in this paragraph (e)) from the buyer and has no reason to believe that any information in the certificate is false.

(2) *Certificate*. The certificate to be provided by a buyer of aviation-grade kerosene is a statement signed under penalties of perjury by a person with authority to bind the buyer, in substantially the same form as the model certificate provided in paragraph (e)(4) of this section, and that contains all information necessary to complete the model certificate. A new certificate or notice that the correct certificate is invalid must be given if any information in the current certificate changes. The certificate may be included as part of any business records normally used to document a sale. The certificate expires on the earliest of the following dates:

(i) The date one year after the effective date of the certificate (which may be no earlier than the date it is signed).

(ii) The date the buyer provides a new certificate or notice that the current certificate is invalid to the seller.

(iii) The date the seller is notified by the Internal Revenue Service or the buyer that the buyer's right to provide a certificate has been withdrawn.

(3) *Withdrawal of the right to provide a certificate*. The Internal Revenue Service may withdraw the right of a buyer of aviation-grade kerosene to provide a certificate under this section if the buyer uses or disposes of aviation-grade kerosene to which a certificate applies other than as a fuel in an aircraft. The Internal Revenue Service may notify any seller to whom the buyer has provided a certificate that the buyer's right to provide a certificate has been withdrawn.

(4) *Model certificate*.

Certificate of Person Buying Aviation-Grade Kerosene for Use as a Fuel in an Aircraft

(To support tax-free removals and entries of aviation-grade kerosene under section 4081 of the Internal Revenue Code.)

Name, address, and employer identification number of seller ("Buyer") certifies the following under penalties of perjury:

Name of Buyer: ______________________

The aviation-grade kerosene to which this certificate relates will be used as fuel in an aircraft.

Buyer is (check one):

_____ Registered under section 4101 of the Internal Revenue Code with respect to the tax imposed by section 4091 with a registration number of ______________.

_____ Buying the kerosene for its use in a nontaxable use (as defined in section 4092(a)).

_____ Buying the kerosene for its use (other than a nontaxable use) in commercial aviation (as defined in section 4092(b)).

_____ Buying the kerosene for its use (other than a nontaxable use) in noncommercial aviation (as defined in section 4041(c)(2)).

_____ Buying the kerosene for resale.

This certificate applies to the following (complete as applicable):

If this is a single purchase certificate, check here _____ and enter:

1. Invoice or delivery ticket number ______________.
2. _____ (number of gallons).

If this is a certificate covering all purchases under a specified account or order number, check here _____ and enter:

1. Effective date ______________________
2. Expiration date ______________________ (period not to exceed 1 year after the effective date)
3. Buyer account or order number ______________.

Buyer will provide a new certificate to the seller if any information in this certificate changes.

Buyer understands that if Buyer violates the terms of this certificate, the Internal Revenue Service may withdraw Buyer's right to provide a certificate.

Buyer has not been notified by the Internal Revenue Service that its right to provide a certificate has been withdrawn.

Buyer understands that the fraudulent use of this certificate may subject Buyer and all parties making any fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

____
Printed or typed name of person signing

____
Title of person signing

____
Employer identification number

____
Address of Buyer

____
Signature and date signed

(f) *Effective date*. This section is applicable after June 30, 1998.

§ 48.4082–9T Kerosene; exemption for non-fuel feedstock purposes (temporary).

(a) *In general*. Tax is not imposed under section 4081 and § 48.4081–3(e)(1) if, upon the removal of kerosene from a pipeline or vessel, the kerosene is received by a taxable fuel registrant that is a kerosene feedstock user. For this purpose, a *kerosene feedstock user* is a person that receives kerosene by bulk transfer for its own use in the manufacture or production of any substance (other than gasoline, diesel fuel, or special fuels referred to in section 4041).

(b) *Effective date*. This section is applicable after June 30, 1998.

§ 48.4082–10T Kerosene; additional exemption from floor stocks tax (temporary).

The floor stocks tax imposed by section 1032(g) of the Taxpayer Relief Act of 1997 does not apply to kerosene that satisfies the dyeing requirements of § 48.4082–1(b) by the earlier of—

(a) September 30, 1998; or

(b) The time the kerosene is sold by the person otherwise liable for the floor stocks tax.

Par. 4. Section 48.4091–3T is added to read as follows:

§ 48.4091–3T Aviation fuel; conditions to allowance of refunds of aviation fuel tax under section 4091(d) (temporary).

(a) *Overview*. This section provides the conditions under which a refund of tax imposed by section 4091 is allowable with respect to taxed aviation fuel that is held by a registered aviation fuel producer. No credit against any tax imposed by the Internal Revenue Code is allowed under section 4091(d).

(b) *Conditions to allowance of refund*. A claim for refund of tax imposed by section 4091 with respect to aviation fuel is allowed under section 4091(d) and this section only if—

(1) A tax imposed by section 4091 with respect to the aviation fuel was paid to the government by an importer or producer (the first producer) and the tax has not been otherwise credited or refunded;

(2) After imposition of the tax, the aviation fuel is acquired by a person that is a registered aviation fuel producer (the second producer);

(3) The second producer has filed a timely claim for refund that contains the information required under paragraph (d) of this section; and

(4) The first producer and any person that owns the fuel after its sale by the first producer and before its purchase by the second producer (a subsequent seller) have met the reporting requirements of paragraph (c) of this section.

(c) *Reporting requirements*—(1) *In general*. The reporting requirements of this paragraph (c)(1) are met if the first producer files a report (the first producer's report) that—

(i) Is in substantially the same form as the model report provided in paragraph (c)(2) of this section (or such other model report as the Commissioner may prescribe);

(ii) Contains all information necessary to complete such model report; and

(iii) Is filed at the time and in the manner prescribed by the Commissioner.

(2) *Model first producer's report.*

First Producer's Report

First Producer's name, address, and employer identification number

Buyer's name, address, and employer identification number

Date and location of taxable sale

Volume and type of aviation fuel sold

Amount of federal excise tax paid on account of the sale

Under penalties of perjury, First Producer declares that First Producer has examined this statement, including any accompanying schedules and statements, and, to the best of First Producer's knowledge and belief, it is true, correct and complete.

Printed or typed name of the person signing

Title of person signing

Signature and date signed

(3) *Information provided to buyers.* The reporting requirements of this paragraph (c)(3) are met if a first producer that filed a first producer's report under paragraph (c)(1) of this section gives a copy of the report to the person to whom the first producer sells the aviation fuel.

(4) *Statement of subsequent seller*—(i) *In general.* The reporting requirements of this paragraph (c)(4) are met if—

(ii)(A) Each subsequent seller gives to its buyer a copy of a statement that provides all information (whether or not in the same format) necessary to complete the model statement prescribed in paragraph (c)(4)(ii) of this section (or such other model statement as the Commissioner may prescribe); and

(B) The statement is provided at the bottom or on the back of the copy of the first producer's report (or in an attached document).

(iii) *Model statement describing subsequent sale.*

Statement of Subsequent Seller (Aviation Fuel)

Name, address, and employer identification number of seller in subsequent sale

Name, address, and employer identification number of buyer in subsequent sale

Date and location of subsequent sale

Volume and type of aviation fuel sold

The undersigned seller (the Seller) has received the copy of the first producer's report provided with this statement in connection with Seller's purchase of the aviation fuel described in this statement.

Under penalties of perjury, Seller declares that Seller has examined this statement, including any accompanying schedules and statements, and, to the best of Seller's knowledge and belief, it is true, correct and complete.

Printed or typed name of person signing

Title of person signing

Signature and date signed

(5) *Sale to multiple buyers.* If a first producer's report relates to aviation fuel that is divided among more than one buyer, multiple copies of the first producer's report should be made at the stage that the aviation fuel is divided and a copy given to each buyer. The reporting requirements of this paragraph (c) will be met only with respect to the fuel purchased by buyers that are given a copy of the report including any statement required under paragraph (c)(4) of this section.

(d) *Form and content of claim*—(1) *In general.* The following rules apply to claims for refund under section 4091(d):

(i) The claim must be made by the second producer and must include all the information described in paragraph (d)(2) of this section.

(ii) The claim must be made on Form 8849 (or such other form as the Commissioner may designate) in accordance with the instructions on the form. The form should be marked *Section 4091(d) Claim* at the top. Section 4091(d) claims must not be included with a claim for a refund under any other provision of the Internal Revenue Code.

(2) *Information to be included in the claim.* Each claim for a refund under section 4091(d) must contain the following information with respect to the aviation fuel covered by the claim:

(i) Volume and type of aviation fuel.

(ii) Date on which the second producer acquired the aviation fuel to which the claim relates.

(iii) Amount of tax that the first producer paid to the government and a statement that the second producer has not included the amount of that tax in the sales price of the aviation fuel to which the claim relates and has not collected that amount from the person that bought the aviation fuel from the second producer, if any.

(iv) Name, address, and employer identification number of the first producer that paid the tax to the government.

(v) A copy of the first producer's report that relates to the aviation fuel covered by the claim.

(vi) A copy of any statement of a subsequent seller that the second producer received with respect to that aviation fuel.

(e) *Time for filing claim.* A claim for refund under section 4091(d) may be filed any time after the first producer has filed the return of the tax to which the claim relates and before the end of the period prescribed by section 6511 for the filing of a claim for refund of that tax.

(f) *Effective date.* This section is applicable with respect to refunds of tax imposed by section 4091 after December 31, 1998.

Par. 5. Section 48.4101–2T is added to read as follows:

§ 48.4101–2T Information reporting (temporary).

(a)(1) through (a)(3) [Reserved]

(a)(4) *Registered aviation fuel producers.* After June 30, 1999, each person that is registered under section 4101 as a producer of aviation fuel must make a return showing—

(i) The name and employer identification number of each unregistered person to whom it sold aviation fuel for resale;

(ii) The volume of the aviation fuel sold to such persons;

(iii) The date and location of such sales; and

(iv) Any other information required by the Commissioner.

(b) through (d) [Reserved]

Par. 6. Section 48.4101–3T is added to read as follows:

§ 48.4101–3T Registration; special rules for kerosene (temporary).

(a) *Application of § 48.4101–1.* The references to diesel fuel in §§ 48.4101–1(a)(1) and (f)(1)(ii) are treated as references to either diesel fuel or kerosene, and the references in §§ 48.4101–1(b)(5)(i) and (f)(2) to paragraphs (c)(1) or (d) of § 48.4101–1 are treated as references also to paragraph (c) of this section.

(b) *Transitional registration rule*—(1) *In general.* A person is treated as a taxable fuel registrant if, on June 30, 1998, the person—

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(i) Is an enterer, refiner, terminal operator, or throughputter of kerosene and is registered under section 4101 as a producer or importer of aviation fuel; or

(ii) Operates one or more terminals that store kerosene (and no other type of taxable fuel) and each position holder at each of its terminals is a taxable fuel registrant.

(2) *Termination.* A person treated as registered under this paragraph (b) is treated as registered until the earlier of—

(i) The effective date of a registration issued under § 48.4101–1(g)(3) with respect to kerosene;

(ii) The effective date of a revocation or suspension of registration under § 48.4101–1(i); or

(iii) April 1, 1999.

(c) *Persons that may, but are not required to, be registered.* A person may, but is not required to, be registered under section 4101 with respect to the tax imposed by section 4081 if the person is a kerosene feedstock user (defined in § 48.4082–9T).

(d) *Additional terms and conditions of registration for certain terminal operators.* A legible and conspicuous notice stating: *"DYED KEROSENE, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE"* must be provided by each terminal operator to any person that receives dyed kerosene at a terminal rack of that operator. This notice must be provided by the time of the removal and must appear on all shipping papers, bills of lading, and similar documents that are provided by the terminal operator to accompany the removal of the fuel.

(e) *Effective date.* This section is applicable after June 30, 1998.

Par. 7. Sections 48.6427–10T and 48.6427–11T are added to read as follows:

§ 48.6427–10T Claims with respect to kerosene (temporary).

(a) *Claims under § 48.6427–8*—(1) *In general.* For purposes of § 48.6427–8, *diesel fuel* includes *kerosene.*

(2) *Blocked pumps.* Kerosene is treated as satisfying the conditions of § 48.6427–8(b)(1) only if it was not sold from a blocked pump (as described in § 48.6427–11T(b)).

(b) *Claims under § 48.6427–9.* For purposes of § 48.6427–9, *diesel fuel* includes *kerosene.*

(c) *Effective date.* This section is applicable to kerosene taxed after June 30, 1998.

§ 48.6427–11T Special rules for claims by registered ultimate vendors of kerosene (blocked pump) (temporary).

(a) *Overview.* This section provides rules relating to claims by registered ultimate vendors for payments and income tax credits with respect to kerosene that is sold from a blocked pump. For rules relating to claims by registered ultimate vendors for kerosene that is sold for farming use or use by a State, see §§ 48.6427–9 and 48.6427–10T.

(b) *Definition; blocked pump.* A *blocked pump* is a fuel pump that meets the following conditions:

(1) It is used to dispense undyed kerosene that is sold at retail for use by the buyer in a nontaxable use.

(2) It is at a fixed location and cannot (because, for example, of its distance from a road surface or train track or the length of its delivery hose) be used to dispense fuel directly into the fuel supply tank of a diesel-powered highway vehicle or train.

(3) It is identified with a legible and conspicuous notice stating: *"UNDYED UNTAXED KEROSENE, NONTAXABLE USE ONLY"*.

(c) *Conditions to allowance of credit or payment.* Notwithstanding § 48.6427–9(c), a claim for a credit or payment with respect to undyed kerosene is allowable under section 6427(l)(5)(B)(i) if—

(1) Tax was imposed by section 4081 on the kerosene to which the claim relates;

(2) The claimant sold the kerosene from a blocked pump;

(3) The claimant is a registered ultimate vendor of kerosene; and

(4) The claimant has filed a timely claim for a credit or payment that contains the information required under paragraph (e) of this section.

(d) *Form of claim.* The rules of § 48.6427–9(d) apply to claims filed under this section.

(e) *Content of claim.* Each claim for credit or payment under this section must contain the following information with respect to all the kerosene covered by the claim:

(1) The total number of gallons covered by the claim.

(2) A statement by the claimant that tax has been imposed on the kerosene covered by the claim.

(3) The claimant's registration number.

(4) A statement that the claimant has not included the amount of the tax in its sales price of the kerosene and has not collected the amount of tax from its buyer.

(f) *Time and place for filing claim.* The rules of § 48.6427–9(f) apply to claims filed under this section.

(g) *Effective date.* This section is applicable June 30, 1998.

PART 145—TEMPORARY EXCISE TAX REGULATIONS UNDER THE HIGHWAY REVENUE ACT OF 1982 (PUB. L. 97–424)

Par. 8. The authority citation for part 145 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 9. Section 145.4052–1 is amended as follows:

1. Paragraph (a)(2)(ii) is redesignated as paragraph (a)(2)(ii)(A).

2. Paragraph (a)(2)(ii)(A), as redesignated, is amended by removing the language "Both" and adding "For a sale before July 1, 1998, both" in its place and removing the language "or" at the end.

3. Paragraph (a)(2)(ii)(B) is added to read as follows:

§ 145.4052–1 Special rules and definitions.

(a) * * *

(2) * * *

(ii) * * *

(B) For a sale after June 30, 1998, and regardless of the registration status of the seller or the purchaser, the seller has in good faith accepted from the purchaser a statement that the purchaser executed in good faith and that is in substantially the same form as the certificate described in paragraph (a)(6) of this section, except that the statement must be signed under penalties of perjury and need not contain a registration number, or

* * * * *

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 10. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 11. In § 602.101, paragraph (c) is amended by:

1. Removing the following entry from the table:

§ 602.101 OMB Control numbers.

* * * * *

(c) * * *

CFR part or section where identified and described	Current OMB control number
* * * *	*
145.4052–1	1545–0120 1545–0745 1545–1076

CFR part or section where identified and described	Current OMB control number
* * *	* *

2. Adding entries in numerical order to the table to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(c) * * *

CFR part or section where identified and described	Current OMB control number
* * *	* *
48.4082–7T	1545–1608
48.4082–8T	1545–1608
48.4091–3T	1545–1608
* * *	* *
48.4101–2T	1545–1608
48.4101–3T	1545–1608
* * *	* *
48.6427–11T	1545–1608
* * *	* *
145.4052–1	1545–1608 1545–0120 1545–0745 1545–1076
* * *	* *

Michael P. Dolan,

Deputy Commissioner of Internal Revenue.

Approved: June 17, 1998.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 98–17400 Filed 6–26–98; 2:02pm]

BILLING CODE 4830–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 901

[SPATS No. AL–065–FOR]

Alabama Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving an amendment to the Alabama regulatory program (hereinafter referred to as the "Alabama program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Alabama's revisions to and additions of statutes pertain to the small operator assistance program (SOAP), the repair of homes and other structures materially damaged by underground coal mining, and the replacement of affected water supplies. The amendments is intended to revise the Alabama program to be consistent with SMCRA.

EFFECTIVE DATE: July 1, 1998.

FOR FURTHER INFORMATION CONTACT: Arthur W. Abbs, Director, Birmingham Field Office, Office of Surface Mining Reclamation and Enforcement, 135 Gemini Circle, Suite 215, Homewood, Alabama 35209, Telephone: (205) 290–7282.

SUPPLEMENTARY INFORMATION:

I. Background on the Alabama Program
II. Submission of the Proposed Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

I. Background on the Alabama Program

On May 20, 1982, the Secretary of the Interior conditionally approved the Alabama program. Background information on the Alabama program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the May 20, 1982, **Federal Register** (47 FR 22062). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 901.15 and 901.16.

II. Submission of the Proposed Amendment

By letter dated April 14, 1998 (Administrative Record No. AL–0579), Alabama submitted an amendment to its program pursuant to SMCRA. Alabama submitted the amendment in response to a May 20, 1996, letter (Administrative Record No. AL–0555) that OSM sent to Alabama in accordance with 30 CFR 732.17(c). OSM announced receipt of the amendment in the April 29, 1998, **Federal Register** (63 FR 23403), and in the same document opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the proposed amendment. The public comment period closed on May 29, 1998. Because no one requested a public hearing or meeting, none was held.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the amendment.

Revisions not specifically discussed below concern nonsubstantive wording changes, or revised cross-references and paragraph notations to reflect organizational changes resulting from this amendment.

A. Section 9–16–83. Permits; Fee

1. Alabama proposed to revise paragraph (c) to read as follows:

> (c)(1) If the regulatory authority finds that the probable total annual production at all locations of any surface coal mining operator will not exceed 300,000 tons, the cost of the following activities, which shall be performed by a qualified public or private laboratory or such other public or private qualified entity designated by the regulatory authority, shall be assumed by the regulatory authority upon the written request of the operator in connection with a permit application, provided that funds are made available to the regulatory authority for such purposes by the Secretary of the U.S. Department of Interior.
>
> (A) The determination of probable hydrologic consequences required by subsection (b)(10), including the engineering analyses and designs necessary for the determination.
>
> (B) The development of cross-section maps and plans required by subsection (b)(13).
>
> (C) The geologic drilling and statement of results of test borings and core samplings required by subsection (b)(14).
>
> (D) The collection of archaeological information required by subsection (b)(12) and any other archaeological and historical information required by the regulatory authority, and the preparation of plans necessitated thereby.
>
> (E) Pre-blast surveys required by subsection 9–16–90(b)(15)e.
>
> (F) The collection of site-specific resource information and production of protection and enhancement plans for fish and wildlife habitats and other environmental values required by the regulatory authority under this Act.
>
> (2) The regulatory authority shall provide or assume the cost of training coal operators that meet the qualifications stated in paragraph (1) concerning the preparation of permit applications and compliance with the regulatory program, and shall ensure that qualified coal operators are aware of the assistance available under this subsection; provided that funds for such purposes are made available to the regulatory authority by the Secretary of the U.S. Department of Interior.

The Director is approving this revision because it is no less stringent than section 507(c)(1) of SMCRA.

2. Alabama proposed to add new paragraph (h) to read as follows:

> (h) A coal operator that has received assistance pursuant to subsection (c) (1) or (2) shall reimburse the regulatory authority for the cost of the services rendered if the program administrator finds that the operator's actual and attributed annual production of coal for all locations exceeds 300,000 tons during the 12 months immediately following the date on which the operator is issued the surface coal mining and reclamation permit.

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The Director is approving this revision because it is no less stringent than section 507(h) of SMCRA.

B. Section 9–16–91. Underground Coal Mining; Effects on Surface

Alabama proposed to add new paragraph (e) to read as follows:

> (e) Underground coal mining operations conducted after the date of enactment of this section shall comply with each of the following requirements:
>
> (1) Promptly repair, or compensate for, material damage resulting from subsidence caused to any occupied residential dwelling and structure related thereto, or non-commercial building due to underground coal mining operations. Repair of damage shall include rehabilitation, restoration, or replacement of the damaged occupied residential dwelling and structures related thereto, or non-commercial building. Compensation shall be provided to the owner of the damaged occupied residential dwelling and structures related thereto or non-commercial building and shall be in the full amount of the diminution in value resulting from the subsidence. Compensation may be accomplished by the purchase, prior to mining, of a noncancellable premium-prepaid insurance policy.
>
> (2) Promptly replace any drinking, domestic, or residential water supply from a well or spring in existence prior to the application for a surface coal mining and reclamation permit, which has been affected by contamination, diminution, or interruption resulting from underground coal mining operations. Nothing in this section shall be construed to prohibit or interrupt underground coal mining operations.

The Director is approving this revision because it is no less stringent than section 720 of SMCRA.

IV. Summary and Disposition of Comments

Public Comments

OSM solicited public comments on the proposed amendment, but none were received.

Federal Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), the Director solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Alabama program.

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*) None of the revisions that Alabama proposed to make in this amendment pertain to air or water quality standards. Therefore, OSM did not request the EPA's concurrence.

Pursuant to 30 CFR 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from the EPA (Administrative Record No. AL–0580). The EPA did not respond to OSM's request.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Pursuant to 30 CFR 732.17(h)(4), OSM is required to solicit comments on proposed amendments which may have an effect on historic properties from the SHPO and ACHP. OSM solicited comments on the proposed amendment from the SHPO and ACHP (Administrative Record No. AL–0580). The Alabama Historical Commission (Commission) responded in a letter dated May 5, 1998 (Administrative Record No. AL–0582). The Commission wanted to know who defines the terms "known" and "significant" at section 9–16–83(b)(12) regarding archaeological sites and if the Alabama Surface Mining Commission (ASMC) or some other agency would pay for archaeological studies discussed at section 9–16–83(c)(1). The Commission also wanted clarification on what it meant to "seal all portals" at section 9–16–91(b)(2), and stated that there are historic portal facings which need to be preserved and that this issue needed to be more clearly addressed. In addition, at section 9–16–91(b)(7), the Commission wanted to know if the proximity of culturally significant sites to mining activities should be of more concern in cases where adverse effects could come from a greater distance, i.e., blasting. Furthermore, at section 9–16–91(b)(10), it wanted to know if other surface impacts not specified in section 9–16–91(b) would be subject to section 106 of the National Historic Preservation Act of 1966 if the ASMC received a permit. Finally, the Commission felt that significant cultural resources should be addressed at section 9–16–91(c)(1) which pertains to protecting the stability of the land.

Alabama did not propose to amend the above aforementioned sections of its statutes. In addition, these statute sections are substantially identical to the Federal statutes at sections 507 and 516 of SMCRA, and, therefore, are not inconsistent with the Federal requirement. In acting on State program amendments, the Director only addresses those sections of a State's laws and regulations where revisions are proposed by the State. However, OSM forwarded a copy of the Commission's comments to the ASMC for its consideration in future rulemaking.

The Commission made one other comment pertaining to Alabama's amendment. It stated that section 9–16–83(c)(1)(d) needed to be clarified and that a possible agreement be developed between the Commission and the ASMC. Section 9–16–83(c)(1)(d) pertains to one activity that the ASMC can provide assistance for to eligible mine operators if a surface coal mining operator does not exceed a total annual production of 300,000 tons at all its coal mining locations, and provided that funds are made available to the ASMC for such purposes by the Secretary of the United States Department of the Interior under the small operator assistance program (SOAP). The assistance allows the regulatory authority to obtain certain services on behalf of the operator to aid in the preparation of a permit application. This statute is substantially identical to the Federal statute at section 507(c)(1)(D) of SMCRA, and is, therefore, not inconsistent with the Federal requirement. Any clarification or agreement that the Commission feels a need for must be discussed directly with the ASMC.

V. Director's Decision

Based on the above findings, the Director approves the proposed amendment as submitted by Alabama on April 14, 1998.

The Federal regulations at 30 CFR Part 901, codifying decisions concerning the Alabama program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

Executive order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section.

However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

Unfunded Mandates

OSM has determined and certifies pursuant to the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of $100 million or more in any given year on local, state, or tribal governments or private entities.

List of Subjects in 30 CFR Part 901

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 23, 1998.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR Part 901 is amended as set forth below:

PART 901—ALABAMA

1. The authority citation for Part 901 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 901.15 is amended in the table by adding a new entry in chronological order by "Date of final publication" to read as follows:

§ 901.15 Approval of Alabama regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
* * * * *		
April 14, 1998	July 6, 1998	Code of Ala. Sections 9–16–83(c) and (h); 9–16–91(e).

[FR Doc. 98–17526 Filed 6–30–98; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 357

[Department of the Treasury Circular, Public Debt Series, No. 2–86]

Regulations Governing Book-Entry Treasury Bonds, Notes, and Bills; Determination Regarding State Statutes; Georgia, Florida and Connecticut

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Determination of substantially identical state statutes.

SUMMARY: The Department of the Treasury is announcing that it has reviewed the statutes of Georgia, Florida and Connecticut which have recently enacted laws adopting Revised Article 8 of the Uniform Commercial Code—Investment Securities ("Revised Article 8") and determined that they are substantially identical to the uniform version of Revised Article 8 for purposes of interpreting the rules in 31 CFR Part 357, Subpart B (the "TRADES" regulations). Therefore, that portion of the TRADES rule requiring application of Revised Article 8 if a state has not adopted Revised Article 8 will no longer be applicable for those 3 states.

EFFECTIVE DATE: July 1, 1998.

FOR FURTHER INFORMATION CONTACT: Sandy Dyson, Attorney-Advisor (202) 219–3320, or Cynthia E. Reese, Deputy Chief Counsel (202) 219–3320.

ADDRESSES: Copies of this notice are available for downloading from the Bureau of the Public Debt home page at: http://www.publicdebt.treas.gov.

SUPPLEMENTARY INFORMATION: On August 23, 1996, The Department published a final rule to govern securities held in the commercial book-entry system, now referred to as the Treasury/Reserve Automated Debt Entry System ("TRADES"), 61 FR 43626.

In the commentary to the final regulations, Treasury stated that for the 28 states that had by then adopted Revised Article 8, the versions enacted were "substantially identical" to the uniform version for purposes of the rule. Therefore, for those states, that portion of the TRADES rule requiring application of Revised Article 8 was not invoked. Treasury also indicated in the commentary that as additional states adopt Revised Article 8, notice would be provided in the **Federal Register** as to whether the enactments are substantially identical to the uniform version so that the federal application of Revised Article 8 would no longer be in effect for those states. Treasury adopted this approach in an attempt to provide certainty in application of the rule in response to public comments. Notices have subsequently been published setting forth Treasury's determination concerning 16 additional states' enactment of Revised Article. See (62 FR 26, January 2, 1997, 62 FR 34010, June 18, 1997, 62 FR 61912, November 20, 1997 and 63 FR 20099, April 23, 1998). Including the three states addressed herein this brings the number of states that have enacted Revised Article 8 and have been the subject of such a notice to 47. Treasury understands that several more states will soon enact versions of Revised Article 8. Treasury will review those enactments as soon as they are available and will issue notices of determination with respect to them.

This notice addresses the recent adoption of Article 8 by Georgia, Florida and Connecticut.

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Treasury has reviewed the three state enactments and has concluded all of them are substantially identical to the uniform version of Revised Article 8. We note that in 1997 Connecticut adopted a version of Revised Article 8 upon which Treasury did not issue a determination (see 62 FR 61913, November 20, 1997).

That law was repealed and replaced with the 1998 Connecticut adoption of Revised Article 8, to which this notice applies.

Accordingly, if either § 357.10(b) or § 357.11(b) directs a person to Georgia, Florida and Connecticut, the provisions of §§ 357.10(c) and 357.11(d) of the TRADES rule are not applicable.

Dated: June 25, 1998.

Van Zeck,

Commissioner of the Public Debt.

[FR Doc. 98–17474 Filed 6–26–98; 5:03 pm]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Parts 501, 515 and 560

Cuban Assets Control Regulations; Iranian Transactions Regulations; Reporting and Procedures Regulations: Corrections

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to final regulations amending the Cuban Assets Control Regulations, published May 18, 1998 (63 FR 27349), the Iranian Transactions Regulations, published on August 4, 1997 (62 FR 41851), and to the issuance of the Reporting and Procedures Regulations, published on August 25, 1997 (62 FR 45098). The regulations related to the prohibitions on travel-related transactions in Cuba, the payment of awards and settlements relating to the Iran–U.S. Claims Tribunal in The Hague, and to the consolidation and standardization of information collection provisions administered by the Office of Foreign Assets Control.

EFFECTIVE DATE: June 26, 1998.

FOR FURTHER INFORMATION CONTACT: Steven I. Pinter, Chief of Licensing (tel.: 202/622–2480), David H. Harmon, Chief of Enforcement (tel.: 202/622–2430), or William B. Hoffman, Chief Counsel (tel.: 202/622–2410), Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document is available as an electronic file on *The Federal Bulletin Board* the day of publication in the **Federal Register**. By modem, dial 202/512–1387 and type "/GO FAC," or call 202/512–1530 for disk or paper copies. This file is available for downloading without charge in WordPerfect 5.1, ASCII, and Adobe Acrobat® readable (*.PDF) formats. For Internet access, the address for use with the World Wide Web (Home Page), Telnet, or FTP protocol is: fedbbs.access.gpo.gov. The document is also accessible for downloading in ASCII format without charge from Treasury's Electronic Library ("TEL") in the "Business, Trade and Labor Mall" of the FedWorld bulletin board. By modem, dial 703/321–3339, and select self-expanding file "T11FR00.EXE" in TEL. For Internet access, use one of the following protocols: Telnet = fedworld.gov (192.239.93.3); World Wide Web (Home Page) = http://www.fedworld.gov; FTP = ftp.fedworld.gov (192.239.92.205). Additional information concerning the programs of the Office of Foreign Assets Control is available for downloading from the Office's Internet Home Page: http://www.ustreas.gov/treasury/services/fac/fac.html, or in fax form through the Office's 24–hour fax–on–demand service: call 202/622–0077 using a fax machine, fax modem, or (within the United States) a touch–tone telephone.

Background

The final regulations that are the subject of these corrections amended the Cuban Assets Control Regulations, 31 CFR part 515 (the "CACR"), the Iranian Transactions Regulations, 31 CFR part 560 (the "ITR"), and the Reporting and Procedures Regulations, 31 CFR part 501 (the "RPR").

The CACR were amended to indicate the existence of a presumption that persons subject to U.S. jurisdiction who have traveled to Cuba without the authority of a general or specific license have necessarily engaged in prohibited travel–related transactions. This presumption is subject to rebuttal upon presentation of a statement, signed by the traveler and accompanied by appropriate supporting documentation, that (1) no transactions were entered into, or (2) the travel was fully hosted by a person or persons not subject to the jurisdiction of the United States and was not in exchange for services provided in Cuba or elsewhere.

The ITR were amended to authorize by general license the payment of awards against Iran issued by the Iran–U.S. Claims Tribunal in The Hague, and implementation (other that certain exports and reexports) and payment of awards and settlements to which the United States Government is a party. The final rule also authorized by general license the provision of certain legal services to the Government of Iran and persons in Iran.

Finally, the RPR consolidated and standardized in a single part common provisions on collections of information and procedures in existing regulations administered by the Office of Foreign Assets Control. This final rule included an initial and annual requirement to report on blocked assets or retained funds transfers — as well as periodic reports on funds transfers rejected by U.S. financial institutions — for administrative and foreign policy formulation purposes. The rule also required reports on U.S. litigation and other dispute resolution proceedings where the proceedings may affect blocked assets or funds retained by banks that have stopped violative transfers. In addition, new procedures were set forth for persons seeking the unblocking of funds they believe have been blocked due to mistaken identity, or seeking administrative review of their designation or that of a vessel as blocked. In addition, the reporting requirements and licensing and other procedures of the new part are made applicable to transactions that have become subject to economic sanctions programs for which implementation and administration are delegated to the Office of Foreign Assets Control.

Need for Correction

As published, the final regulations contain errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the final regulations are corrected as follows:

1. The publication on May 18, 1998, which was the subject of FR Doc. 98–13120 amending the Cuban Assets Control Regulations, is corrected as follows. On page 27351, in the second column, amendatory instruction 2 is corrected to read: "2. Paragraph (g) of § 515.560 is revised to read as follows:".

2. The publication on August 4, 1997, which was the subject of FR Doc. 97–20447 amending the Iranian Transactions Regulations, is corrected as follows. On page 41852 in the third column, amendatory instruction 3 is corrected to read: "3. The introductory text of paragraph (a) and paragraphs (a)(3) and (a)(5)(i) of § 560.525 are revised to read as follows:".

3. The publication of August 25, 1997, which was the subject of FR Doc. 97–22378 issuing the Reporting and Procedures Regulations, is corrected as follows. On page 45104 in the third column, § 501.803 is corrected to read as follows:

§ 501.803 Amendment, modification, or revocation.

Except as otherwise provided by law, the provisions of each part of this chapter and any rulings, licenses (whether general or specific), authorizations, instructions, orders, or forms issued thereunder may be amended, modified or revoked at any time.

Dated: June 26, 1998.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: June 26, 1998.

Elisabeth Bresse,

Acting Assistant Secretary (Enforcement).

[FR Doc. 98–17539 Filed 6–30–98; 4:04 pm]

BILLING CODE 4810–25–F

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 538

Sudanese Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control of the U.S. Department of the Treasury is issuing the Sudanese Sanctions Regulations to implement the President's declaration of a national emergency and imposition of sanctions against Sudan.

EFFECTIVE DATE: July 1, 1998.

FOR FURTHER INFORMATION CONTACT: Steven I. Pinter, Chief of Licensing (tel.: 202/622–2480), or William B. Hoffman, Chief Counsel (tel.: 202/622–2410), Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

SUPPLEMENTARY INFORMATION:

Electronic Availability

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Background

On November 3, 1997, the President issued Executive Order 13067 (62 FR 59989, Nov. 5, 1997), declaring a national emergency with respect to "the policies and actions of the Government of Sudan," and invoking the authority, inter alia, of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706). The order blocks all property and interests in property of the Government of Sudan, its agencies, instrumentalities, and controlled entities, including the Central Bank of Sudan, that are in the United States, that are or hereafter come within the United States, or that are or hereafter come within the possession or control of U.S. persons, including their overseas branches; and orders other specific sanctions against Sudan. The order also authorizes the Secretary of the Treasury, in consultation with the Secretary of State and, as appropriate, other agencies, to take such actions, including the promulgation of rules and regulations, as may be necessary to carry out the purposes of the order. In implementation of the order, the Treasury Department is issuing the Sudanese Sanctions Regulations (the "Regulations").

Section 538.201 of the Regulations, implementing section 1 of Executive Order 13067 (the "Executive Order"), blocks all property and interests in property of the Government of Sudan, its agencies, instrumentalities, and controlled entities, including the Central Bank of Sudan, that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of U.S. persons, including their overseas branches. As interpreted by § 538.305 of the Regulations, § 538.201 also blocks all property and interests in property of persons determined by the Secretary of the Treasury, in consultation with the Secretary of State, to be owned or controlled by, or to be acting on behalf of, the Government of Sudan. Persons coming within any of these categories are called specially designated nationals ("SDNs"). Section 538.204 of the Regulations, implementing section 2(a) of the Executive Order, generally prohibits the importation into the United States of goods or services of Sudanese origin. Section 538.205 of the Regulations, implementing section 2(b) of the Executive Order, generally prohibits the exportation or reexportation to Sudan of goods, technology or services from the United States, by a U.S. person, or requiring the issuance of a license by a Federal agency. Section 538.206 of the Regulations, implementing section 2(c) of the Executive Order, prohibits the facilitation by a U.S. person of the exportation or reexportation of goods, technology or services to or from Sudan. Section 538.207 of the Regulations, implementing section 2(d) of the Executive Order, prohibits the performance by any U.S. person of any contract, including a financing contract, in support of an industrial, commercial, public utility, or governmental project in Sudan. Section 538.208 of the Regulations, implementing section 2(e) of the Executive Order, prohibits the grant or extension of credits or loans by any U.S. person to the Government of Sudan. Section 538.209 of the Regulations, implementing section 2(f) of the Executive Order, prohibits transactions relating to the transportation of cargo to or from Sudan. Pursuant to section 3 of the Executive Order, § 538.211 of the Regulations exempts certain transactions from the prohibitions of the Executive Order and Regulations.

Transactions otherwise prohibited under this part but found to be consistent with U.S. policy may be authorized by a general license contained in subpart E or by a specific license issued pursuant to the procedures described in subpart D of part 501 of 31 CFR chapter V. Penalties for violations of the Regulations are described in subpart G of the Regulations.

Since the Regulations involve a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553)(the "APA") requiring notice of proposed rulemaking, opportunity for

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public participation and delay in effective date are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

The Regulations are being issued without prior notice and public comment procedure pursuant to the APA. Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the collections of information contained in the Regulations have been submitted to and approved by the Office of Management and Budget ("OMB") pending public comment and has been assigned control number 1505–0169. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

Other collections of information related to the Regulations are contained in part 501 of this chapter (the "Reporting and Procedures Regulations"). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the collections of information in part 501 have been approved by the Office of Management and Budget ("OMB") under control number 1505–1604.

The new collections of information in the Regulations are contained in §§ 538.506 and 538.521. Section 538.506(d) imposes a reporting requirement in lieu of specific licensing for performance of certain trade transactions pursuant to contracts entered into prior to November 4, 1997. This information will be used to determine whether persons subject to the Regulations are in compliance with the applicable requirements, and to determine whether and to what extent civil penalty or other enforcement action is appropriate.

Section 538.521 requires nongovernmental organizations involved in humanitarian or religious activities in Sudan to obtain a registration number to engage in transactions otherwise prohibited by the Regulations. This information will be used to register applicants as nongovernmental organizations and to determine whether persons subject to the Regulations are in compliance with the applicable requirements.

The Regulations do not provide for confidential treatment of reports submitted pursuant to §§ 538.506 and 538.521. However, it is the policy of the Office of Foreign Assets Control to protect the confidentiality of information in appropriate cases pursuant to the exemptions from disclosure provided under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a).

The likely respondents and record keepers are humanitarian organizations, business organizations, and financial institutions.

The estimated total annual reporting and/or recordkeeping burden: 100 hours.

The estimated annual burden per respondent/record keeper varies from 1–3 hours, depending on individual circumstances, with and estimated average of 2 hours.

Estimated number of respondents and/or record keepers: 50.

Estimated annual frequency of responses: 1.

Comments are invited on: (a) whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimated capital or start-up costs and costs of operation maintenance, and purchase of services to provide information.

Comments concerning the above information, the accuracy of estimated average burden, and suggestions for reducing this burden should be directed to the Office of Management and Budget, Paperwork Reduction Project, control number 1505–0169, Washington, DC 20503, with a copy to the Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Ave., NW–Annex, Washington, DC 20220. Any such comments should be submitted not later than August 31, 1998. Comments on aspects of the Regulations other than those involving collections of information should not be sent to the OMB.

List of Subjects in 31 CFR Part 538

Administrative practice and procedure, Banks, banking, Blocking of assets, Exports, Foreign trade, Humanitarian aid, Imports, Penalties, Reporting and recordkeeping requirements, Specially designated nationals, Sudan, Terrorism, Transportation.

For the reasons set forth in the preamble, 31 CFR part 538 is added to read as follows:

PART 538—SUDANESE SANCTIONS REGULATIONS

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Sec.

538.101 Relation of this part to other laws and regulations.

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538.206 Prohibited facilitation.
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Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; E.O. 13067, 62 FR 59989, 3 CFR, 1997 Comp., p. 230.

Subpart A—Relation of This Part to Other Laws andRegulations

§ 538.101 Relation of this part to other laws and regulations.

(a) This part is separate from, and independent of, the other parts of this chapter with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Differing foreign policy and national security contexts may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part.

(b) No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Subpart B—Prohibitions

§ 538.201 Prohibited transactions involving blocked property.

(a) Except as authorized by regulations, orders, directives, rulings, instructions, licenses, or otherwise, no property or interests in property of the Government of Sudan, that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of U.S. persons, including their overseas branches, may be transferred, paid, exported, withdrawn or otherwise dealt in.

(b) Unless otherwise authorized by this part or by a specific license expressly referring to this section, the transfer (including the transfer on the books of any issuer or agent thereof), disposition, transportation, importation, exportation, or withdrawal of, or the endorsement or guaranty of signatures on, or otherwise dealing in any security (or evidence thereof) registered or inscribed in the name of the Government of Sudan, and held within the possession or control of a U.S. person is prohibited, irrespective of the fact that at any time (either prior to, on, or subsequent to the effective date) the registered or inscribed owner thereof may have, or appears to have, assigned, transferred, or otherwise disposed of any such security.

(c) When a transaction results in the blocking of funds at a financial institution pursuant to this section and a party to the transaction believes the funds have been blocked due to mistaken identity, that party may seek to have such funds unblocked pursuant to the administrative procedures set forth in § 501.806 of this chapter.

§ 538.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date, which is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, license, or other authorization hereunder and involves any property or interest in property blocked pursuant to § 538.201 is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power or privilege with respect to such property or property interests.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or interest in, any property or interest in property blocked pursuant to § 538.201, unless the person with whom such property is held or maintained, prior to such date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, an appropriate license or other authorization issued by or pursuant to the direction or authorization of the Director of the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or render it enforceable to the same extent that it would be valid or enforceable but for the provisions of the International Emergency Economic Powers Act, this part, and any regulation, order, directive, ruling, instruction, or license issued hereunder.

(d) Transfers of property which otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of the Director of the Office of Foreign Assets Control each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property was held or maintained;

(2) The person with whom such property was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required

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a license or authorization by or pursuant to this part and was not so licensed or authorized, or if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or the withholding of material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property was held or maintained filed with the Office of Foreign Assets Control a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other direction or authorization hereunder; or

(ii) Such transfer was not licensed or authorized by the Director of the Office of Foreign Assets Control; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or the withholding of material facts or was otherwise fraudulently obtained.

Note to paragraph (d): The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (2) of this section have been satisfied.

(e) Unless licensed or authorized pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property or interest in property blocked pursuant to § 538.201.

§ 538.203 Holding of funds in interest-bearing accounts; investment and reinvestment.

(a) Except as provided in paragraphs (c) or (d) of this section, or as otherwise directed by the Office of Foreign Assets Control, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations, subject to § 538.201(a) shall hold or place such funds in a blocked interest-bearing account located in the United States.

(b)(1) For purposes of this section, the term *blocked interest-bearing account* means a blocked account:

(i) In a federally-insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates which are commercially reasonable; or

(ii) With a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934, provided the funds are invested in a money market fund or in U.S. Treasury Bills.

(2) For purposes of this section, a rate is *commercially reasonable* if it is the rate currently offered to other depositors on deposits or instruments of comparable size and maturity.

(3) Funds held or placed in a blocked account pursuant to this paragraph (b) may not be invested in instruments the maturity of which exceeds 180 days. If interest is credited to a separate blocked account or sub-account, the name of the account party on each account must be the same.

(c) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to § 538.201 may continue to be held until maturity in the original instrument, provided any interest, earnings, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with paragraph (b) or (d) of this section.

(d) Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to § 538.201 may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates which are commercially reasonable.

(e) This section does not create an affirmative obligation for the holder of blocked tangible property, such as chattels or real estate, or of other blocked property, such as debt or equity securities, to sell or liquidate such property at the time the property becomes subject to § 538.201. However, the Office of Foreign Assets Control may issue licenses permitting or directing such sales in appropriate cases.

(f) Funds subject to this section may not be held, invested, or reinvested in a manner which provides immediate financial or economic benefit or access to the Government of Sudan or its entities, nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

§ 538.204 Prohibited importation of goods or services from Sudan.

Except as otherwise authorized, the importation into the United States, directly or indirectly, of any goods or services of Sudanese origin, other than information or informational materials, is prohibited.

§ 538.205 Prohibited exportation and reexportation of goods, technology, or services to Sudan.

Except as otherwise authorized, the exportation or reexportation, directly or indirectly, to Sudan of any goods, technology (including technical data, software, or other information) or services from the United States or by a United States person, wherever located, or requiring the issuance of a license by a Federal agency is prohibited, except for information or informational materials or donations of articles intended to relieve human suffering, such as food, clothing, and medicine.

§ 538.206 Prohibited facilitation.

Except as otherwise authorized, the facilitation by a United States person, including but not limited to brokering activities, of the exportation or reexportation of goods, technology, or services from Sudan to any destination, or to Sudan from any location, is prohibited.

§ 538.207 Prohibited performance of contracts.

Except as otherwise authorized, the performance by any United States person of any contract, including a financing contract, in support of an industrial, commercial, public utility, or governmental project in Sudan is prohibited.

§ 538.208 Prohibited grant or extension of credits or loans to the Government of Sudan.

Except as otherwise authorized, the grant or extension of credits or loans by any United States person to the Government of Sudan is prohibited.

§ 538.209 Prohibited transportation-related transactions involving Sudan.

Except as otherwise authorized, the following are prohibited:

(a) Any transaction by a U.S. person relating to transportation of cargo to or from Sudan;

(b) The provision of transportation of cargo to or from the United States by any Sudanese person or any vessel or aircraft of Sudanese registration; or

(c) The sale in the United States by any person holding authority under 49 U.S.C. subtitle VII of any transportation of cargo by air that includes any stop in Sudan.

§ 538.210 Evasions; attempts; conspiracies.

Any transaction by any United States person or within the United States that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in this part is prohibited. Any conspiracy formed for the purpose of engaging in a transaction prohibited by this part is prohibited.

§ 538.211 Exempt transactions.

(a) *Personal Communications.* The prohibitions contained in this part do not apply to any postal, telegraphic, telephonic, or other personal communication, which does not involve the transfer of anything of value.

(b) *Information and informational materials.* (1) The importation from any country and the exportation to any country of information or informational materials as defined in § 538.306, whether commercial or otherwise, regardless of format or medium of transmission, are exempt from the prohibitions and regulations of this part.

(2) This section does not authorize transactions related to information and informational materials not fully created and in existence at the date of the transactions, or to the substantive or artistic alteration or enhancement of informational materials, or to the provision of marketing and business consulting services. Such prohibited transactions include, without limitation, payment of advances for informational materials not yet created and completed, provision of services to market, produce or co–produce, create or assist in the creation of information and informational materials, and payment of royalties to the Government of Sudan or a person in Sudan with respect to income received for enhancements or alterations made by U.S. persons to information or informational materials imported from the Government of Sudan or a person in Sudan.

(3) This section does not authorize transactions incident to the exportation of software subject to the Export Administration Regulations, 15 CFR parts 730–774, or to the exportation of goods, technology or software for use in the transmission of any data. The exportation of such items to the Government of Sudan or to Sudan is prohibited, as provided in §§ 538.201 and 538.205.

(c) *Travel.* The prohibitions contained in this part do not apply to transactions ordinarily incident to travel to or from any country, including exportation or importation of accompanied baggage for personal use, maintenance within any country including payment of living expenses and acquisition of goods or services for personal use, and arrangement or facilitation of such travel including non–scheduled air, sea, or land voyages.

(d) *Official Business.* The prohibitions contained in this part do not apply to transactions for the conduct of the official business of the Federal Government or the United Nations by employees thereof.

(e) *Journalistic activity.* The prohibitions contained in this part do not apply to transactions in Sudan for journalistic activity by persons regularly employed in such capacity by a news–gathering organization.

Subpart C—General Definitions

§ 538.301 Blocked account; blocked property.

The terms *blocked account* and *blocked property* shall mean any account or property subject to the prohibition in § 538.201 held in the name of the Government of Sudan or in which the Government of Sudan has an interest, and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to an authorization or license from the Office of Foreign Assets Control authorizing such action.

§ 538.302 Effective date.

The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part which is 12:01 a.m. EST, November 4, 1997.

§ 538.303 Entity.

The term *entity* means a partnership, association, trust, joint venture, corporation, or other organization.

§ 538.304 General license.

The term *general license* means any license or authorization the terms of which are set forth in this part.

§ 538.305 Government of Sudan.

The term *Government of Sudan* includes:

(a) The state and the Government of Sudan, as well as any political subdivision, agency, or instrumentality thereof, including the Central Bank of Sudan;

(b) Any entity owned or controlled by the foregoing;

(c) Any person to the extent that such person is, or has been, or to the extent that there is reasonable cause to believe that such person is, or has been, since the effective date, acting or purporting to act directly or indirectly on behalf of any of the foregoing; and

(d) Any other person determined by the Director of the Office of Foreign Assets Control to be included within paragraphs (a) through (c) of this section.

Note to § 538.305: Please refer to the appendices at the end of this chapter for listings of persons determined to fall within this definition who have been designated pursuant to this part. Section 501.807 of this chapter sets forth the procedures to be followed by persons seeking administrative reconsideration of their designation, or who wish to assert that the circumstances resulting in the designation are no longer applicable.

§ 538.306 Information and informational materials.

(a)(1) For purposes of this part, the term *information and informational materials* means publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds, and other information and informational materials.

(2) To be considered informational materials, artworks must be classified under chapter subheading 9701, 9702, or 9703 of the Harmonized Tariff Schedule of the United States.

(b) The term *information and informational materials* with respect to U.S. exports does not include items:

(1) That were, as of April 30, 1994, or that thereafter become, controlled for export pursuant to section 5 of the Export Administration Act of 1979, 50 U.S.C. App. 2401–2420 (the "EAA"), or section 6 of the EAA to the extent that such controls promote nonproliferation or antiterrorism policies of the United States.

(2) With respect to which acts are prohibited by 18 U.S.C. chapter 37.

§ 538.307 Interest.

Except as otherwise provided in this part, the term *interest* when used with respect to property (e.g., " an interest in property") means an interest of any nature whatsoever, direct or indirect.

§ 538.308 License.

Except as otherwise specified, the term *license* means any license or authorization contained in or issued pursuant to this part.

§ 538.309 Person.

The term *person* means an individual or entity.

§ 538.310 Property; property interest.

The terms *property* and *property interest* include, but are not limited to, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds,

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ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future or contingent.

§ 538.311 Specific license.

The term *specific license* means any license or authorization not set forth in this part but issued pursuant to this part.

§ 538.312 Sudanese origin.

The term *goods or services of Sudanese origin* includes:

(a) Goods produced, manufactured, grown, extracted, or processed within Sudan;

(b) Goods which have entered into Sudanese commerce;

(c) Services performed in Sudan or by a person ordinarily resident in Sudan who is acting as an agent, employee, or contractor of the Government of Sudan or of a business entity located in Sudan. Services of Sudanese origin are not imported into the United States when such services are provided in the United States by a Sudanese national employed or resident in the United States.

(d) The term *services of Sudanese origin* does not include:

(1) Diplomatic and consular services performed by or on behalf of the Government of Sudan;

(2) Diplomatic and consular services performed by or on behalf of the Government of the United States.

§ 538.313 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property and, without limitation upon the foregoing, shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 538.314 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 538.315 United States person; U.S. person.

The term *United States person* or *U.S. person* means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

§ 538.316 U.S. financial institution.

The term *U.S. financial institution* means any U.S. entity (including foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent; including, but not limited to, depository institutions, banks, savings banks, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices and agencies of foreign financial institutions which are located in the United States, but not such institutions' foreign branches, offices, or agencies.

Subpart D—Interpretations

§ 538.401 Reference to amended sections.

Except as otherwise specified, reference to any section of this part or to any regulation, ruling, order, instruction, direction, or license issued pursuant to this part shall be deemed to refer to the same as currently amended.

§ 538.402 Effect of amendment.

Any amendment, modification, or revocation of any section of this part or of any order, regulation, ruling, instruction, or license issued by or under the direction of the Director of the Office of Foreign Assets Control shall not, unless otherwise specifically provided, affect any act done or omitted to be done, or any civil or criminal suit or proceeding commenced or pending prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 538.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from the Government of Sudan, such property shall no longer be deemed to be property in which the Government of Sudan has or has had an interest unless there exists in the property another interest of the Government of Sudan, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to the Government of Sudan, such property shall be deemed to be property in which there exists an interest of the Government of Sudan.

§ 538.404 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. bank or other U.S. person, is a prohibited transfer under § 538.201 if effected after the effective date.

§ 538.405 Transactions incidental to a licensed transaction.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except a transaction by an unlicensed Sudanese governmental entity or involving a debit to a blocked account or a transfer of blocked property not explicitly authorized within the terms of the license.

§ 538.406 Exportation of services; performance of service contracts; legal services.

(a) The prohibition on the exportation of services contained in § 538.205 applies to services performed on behalf of the Government of Sudan, or where the benefit of such services is otherwise received in Sudan, when such services are performed:

(1) In the United States;

(2) By a U.S. person, wherever located;

(3) By an entity located in the United States, including its overseas branches; or

(4) Outside the United States by an individual U.S. person ordinarily resident in the United States.

(b) The benefit of services performed anywhere in the world on behalf of the Government of Sudan, including services performed for a controlled entity or agent of the Government of Sudan, is presumed to be received in Sudan.

(c) The prohibitions contained in §§ 538.201 and 538.207 apply to services performed by U.S. persons, wherever located:

(1) On behalf of the Government of Sudan;

(2) With respect to property interests of the Government of Sudan; or

(3) In support of an industrial, commercial, public utility or governmental project in Sudan.

(d) *Example:* U.S. persons may not, without specific authorization from the Office of Foreign Assets Control, represent an individual or entity with respect to contract negotiations, contract performance, commercial arbitration, or other business dealings with the Government of Sudan. See § 538.505 on licensing policy with regard to the provision of certain legal services.

§ 538.407 Facilitation by a United States person.

(a) The prohibition contained in § 538.206 against facilitation by a United States person of the exportation or reexportation of goods, technology, or services between Sudan and any destination (including the United States) bars any unlicensed action by a U.S. person that assists or supports trading activity with Sudan by any person. Facilitation of a trade or financial transaction that could be engaged in directly by a U.S. person or from the United States consistent with the prohibitions, general licenses and exemptions contained in this part is not prohibited. Activity of a purely clerical or reporting nature that does not further trade or financial transactions with Sudan or the Government of Sudan is not considered prohibited facilitation. For example, reporting on the results of a subsidiary's trade with Sudan is not prohibited, while financing or insuring that trade or warranting the quality of goods sold by a subsidiary to the Government of Sudan constitutes prohibited facilitation.

(b) To avoid potential liability for U.S. persons under this part, a U.S. parent corporation must ensure that its foreign subsidiaries act independently of any U.S. person with respect to all transactions and activities relating to the exportation or reexportation of goods, technology, or services between Sudan and any other location including but not limited to business and legal planning; decision making; designing, ordering or transporting goods; and financial, insurance, and other risks. See § 538.505 with respect to exports of, *inter alia*, certain legal services benefitting Sudan.

(c) No U.S. person may change its policies or operating procedures, or those of a foreign affiliate or subsidiary, in order to enable a foreign entity owned or controlled by U.S. persons to enter into a transaction that could not be entered into directly by a U.S. person or from the United States pursuant to this part.

(d) No U.S. person may refer to a foreign person purchase orders, requests for bids, or similar business opportunities involving Sudan or the Government of Sudan to which the United States person could not directly respond as a result of the prohibitions contained in this part.

§ 538.408 Offshore transactions.

(a) The prohibitions contained in §§ 538.201 and 538.206 apply to transactions by any U.S. person in a location outside the United States with respect to property in which the U.S. person knows, or has reason to know, the Government of Sudan has or has had an interest since the effective date, or with respect to goods, technology or services which the U.S. person knows, or has reason to know, are of Sudanese origin or owned or controlled by the Government of Sudan.

(b) Prohibited transactions include, but are not limited to, importation into or exportation from locations outside the United States of, or purchasing, selling, financing, swapping, insuring, transporting, lifting, storing, incorporating, transforming, brokering, or otherwise dealing in, within such locations, goods, technology or services of Sudanese origin.

(c) *Examples.* (1) A U.S. person may not, within the United States or abroad, purchase, sell, finance, insure, transport, act as a broker for the sale or transport of, or otherwise deal in, Sudanese crude oil or sugar refined in Sudan.

(2) A U.S. person may not, within the United States or abroad, conduct transactions of any nature whatsoever with an entity that the U.S. person knows or has reason to know is the Government of Sudan, including a controlled entity or agent of that Government, or which benefits or supports the business of an entity located in Sudan, unless the entity is licensed by the Office of Foreign Assets Control to conduct such transactions with U.S. persons or the transaction is generally licensed in, or exempted from the prohibitions of, this part.

§ 538.409 Transshipments through the United States prohibited.

(a) The prohibitions in § 538.205 apply to the importation into the United States, for transshipment or transit, of goods which are intended or destined for Sudan, or an entity operated from Sudan.

(b) The prohibitions in § 538.204 apply to the importation into the United States, for transshipment or transit, of goods of Sudanese origin which are intended or destined for third countries.

(c) Goods in which the Government of Sudan has an interest which are imported into or transshipped through the United States are blocked pursuant to § 538.201.

§ 538.410 Imports of Sudanese goods from third countries; transshipments.

(a) Importation into the United States from third countries of goods containing raw materials or components of Sudanese origin is not prohibited if those raw materials or components have been incorporated into manufactured products or otherwise substantially transformed in a third country.

(b) Importation into the United States of goods of Sudanese origin that have been transshipped through a third country without being incorporated into manufactured products or otherwise substantially transformed in a third country are prohibited.

§ 538.411 Exports to third countries; transshipments.

Exportation of goods or technology (including technical data, software, information not exempted from the prohibition of this part pursuant to § 538.211, or technical assistance) from the United States to third countries is prohibited if the exporter knows, or has reason to know, that the goods or technology are intended for transshipment to Sudan (including passage through, or storage in, intermediate destinations). The

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exportation of goods or technology intended specifically for incorporation or substantial transformation into a third–country product is also prohibited if the particular product is to be used in Sudan, is being specifically manufactured to fill a Sudanese order, or if the manufacturer's sales of the particular product are predominantly to Sudan.

§ 538.412 Operation of accounts.

The operation of an account in a financial institution for a private Sudanese person does not constitute the exportation of a service to Sudan; however, such operation may not include the execution of transactions in support of transactions or activities prohibited by subpart B of this part.

§ 538.413 Funds transfers.

The transfer of funds to Sudan from the United States does not constitute an exportation of services pursuant to § 538.205.

§ 538.414 Loans or extensions of credit.

(a) The prohibition in § 538.205 applies to loans or extensions of credit to a person in Sudan, including overdraft protection on checking accounts, and the unlicensed renewal or rescheduling of credits or loans in existence as of the effective date, whether by affirmative action or operation of law.

(b) The prohibition in § 538.205 applies to financial services including loans or credits extended in any currency.

§ 538.415 Payments involving Sudan.

Before a United States financial institution initiates a payment subject to the prohibitions contained in this part on behalf of any customer, or credits a transfer subject to such prohibitions to the account on its books of the ultimate beneficiary, the U.S. financial institution must determine that the transfer is not prohibited by this part.

§ 538.416 Payments from blocked accounts to U.S. exporters and for other obligations prohibited.

No debits may be made to a blocked account to pay obligations to U.S. persons or other persons, including payment for goods, technology or services exported prior to the effective date, except as authorized pursuant to this part.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§ 538.501 Effect of license or authorization.

(a) No license or other authorization contained in this part, or otherwise issued by or under the direction of the Director of the Office of Foreign Assets Control, authorizes or validates any transaction effected prior to the issuance of the license, unless specifically provided in such license or authorization.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited under this part unless the regulation, ruling, instruction, or license is issued by the Office of Foreign Assets Control and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transaction prohibited by any provision of this chapter unless the regulation, ruling, instruction or license specifically refers to such provision.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited under this part has the effect of removing a prohibition or prohibitions contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property which would not otherwise exist under ordinary principles of law.

§ 538.502 Exclusion from licenses and authorizations.

The Director of the Office of Foreign Assets Control reserves the right to exclude any person, property, or transaction from the operation of any license, or from the privileges therein conferred, or to restrict the applicability thereof with respect to particular persons, property, transactions, or classes thereof. Such action shall be binding upon all persons receiving actual or constructive notice of such exclusion or restriction.

§ 538.503 Payments and transfers to blocked accounts in U.S. financial institutions.

Any payment of funds or transfer of credit in which the Government of Sudan has any interest, that comes within the possession or control of a U.S. financial institution, must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may only be made to another blocked account held in the same name.

Note to § 538.503: Please refer to § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. See also § 538.203 concerning the obligation to hold blocked funds in interest–bearing accounts.

§ 538.504 Entries in certain accounts for normal service charges authorized.

(a) U.S. financial institutions are hereby authorized to debit any blocked account with such U.S. financial institution in payment or reimbursement for normal service charges owed to such U.S. financial institution by the owner of such blocked account.

(b) As used in this section, the term *normal service charge* shall include charges in payment or reimbursement for interest due; cable, telegraph, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photocopies, credit reports, transcripts of statements, registered mail, insurance, stationery and supplies, and other similar items.

§ 538.505 Provision of certain legal services to the Government of Sudan, persons in Sudan, or benefitting Sudan.

(a) The provision to the Government of Sudan, to a person in Sudan, or in circumstances in which the benefit is otherwise received in Sudan, of the legal services set forth in paragraph (b) of this section is authorized, provided that all receipts of payment therefor must be specifically licensed. The provision of any other legal services as interpreted in § 538.406 requires the issuance of a specific license.

(b) Specific licenses may be issued, on a case–by–case basis, authorizing receipt, from unblocked sources, of payment of professional fees and reimbursement of incurred expenses for the following legal services by U.S. persons to the Government of Sudan or to a person in Sudan:

(1) Provision of legal advice and counseling to the Government of Sudan, to a person in Sudan, or in circumstances in which the benefit is otherwise received in Sudan, on the requirements of and compliance with the laws of any jurisdiction within the United States, provided that such advice and counseling is not provided to

facilitate transactions in violation of this part;

(2) Representation of the Government of Sudan or a person in Sudan when named as a defendant in or otherwise made a party to domestic U.S. legal, arbitration, or administrative proceedings;

(3) Initiation of domestic U.S. legal, arbitration, or administrative proceedings in defense of property interests subject to U.S. jurisdiction of the Government of Sudan, or of a person in Sudan;

(4) Representation of the Government of Sudan or a person in Sudan before any federal agency with respect to the imposition, administration, or enforcement of U.S. sanctions against Sudan; and

(5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

(c) Enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment or other judicial process purporting to transfer or otherwise alter or affect a property interest of the Government of Sudan is prohibited unless specifically licensed in accordance with § 538.202(e).

§ 538.506 30-day delayed effective date for pre-November 4, 1997 trade contracts involving Sudan.

(a) *Pre-existing trade contracts.* Trade transactions required under a contract entered into prior to November 4, 1997 (a "pre-existing trade contract"), otherwise prohibited by this part, including the importation of goods or services of Sudanese origin or the exportation of goods, services, or technology that was authorized under applicable Federal regulations in force immediately prior to November 4, 1997, are authorized without specific licensing by the Office of Foreign Assets Control as follows:

(1) Exports or reexports are authorized until 12:01 a.m. EST, December 4, 1997, and non-financing activity by U.S. persons incidental to the performance of the pre-existing trade contract (such as the provision of transportation or insurance) is authorized through 12:01 a.m. EST, February 2, 1998, if the pre-existing trade contract is for:

(i) The exportation of goods, services, or technology from the United States or a third country that was authorized under applicable Federal regulations in force immediately prior to November 4, 1997; or

(ii) The reexportation of goods or technology that was authorized under applicable Federal regulations in force immediately prior to November 4, 1997.

(2) If the pre-existing trade contract is for the importation of goods or services of Sudanese origin or other trade transactions relating to goods or services of Sudanese origin or owned or controlled by the Government of Sudan, importations under the pre-existing trade contract are authorized until 12:01 a.m. EST, December 4, 1997.

(3) For purposes of this section, goods are considered to be exported upon final loading aboard the exporting conveyance in the country of export. Goods are considered to be imported upon arrival in the jurisdiction of the country of importation.

(b)(1) *Financing for pre-existing trade contracts.* In general, no financing services prohibited by this part may be performed after 12:01 a.m. EST, November 4, 1997. However, letters of credit and other financing agreements with respect to the trade transactions authorized in paragraph (a) of this section may be performed according to their terms, and may be extended or renewed, except that:

(i) Any payment required to be made to the Government of Sudan or any person blocked pursuant to this part or otherwise, including payments authorized with respect to trade transactions described in paragraph (a) of this section, must be made into a blocked account in the United States; and

(ii) No payment may be made from a blocked account unless authorized by a specific license issued by the Office of Foreign Assets Controls.

(2) Specific licenses may be issued by the Office of Foreign Asset Controls on a case-by-case basis to permit a U.S. bank to debit a blocked account of the Government of Sudan for funds held as collateral under an irrevocable letter of credit issued or confirmed by it, or a letter of credit reimbursement confirmed by it, for goods, services or technology exported, or goods or technology reexported, prior to 12:01 a.m. EST, December 4, 1997, directly or indirectly to Sudan, or to third countries for an entity operated from Sudan, or for the benefit of the Government of Sudan. The application for a license must:

(i) Present evidence satisfactory to the Office of Foreign Asset Controls that the exportation or reexportation occurred prior to 12:01 a.m. EST, December 4, 1997; and

(ii) Include an explanation of the facts and circumstances surrounding the entry and execution of the export or reexport transaction, including the names and addresses of all Sudanese participants in the transaction and all Sudanese persons having an ownership interest in the beneficiary of the letter of credit.

(c) *Blocked Government of Sudan accounts.* Nothing in this section permits debits to a blocked account of the Government of Sudan absent the issuance of a specific license by Office of Foreign Asset Controls authorizing such a debit. The operation of an account of the Government of Sudan in a financial institution does not constitute a trade transaction for purposes of this section.

(d) *Existence of contract.* The existence of a contract will be determined with reference to the principles contained in Article 2 of the Uniform Commercial Code.

(e) *Reporting requirement.* Although a specific license from Office of Foreign Asset Controls is not required for any transaction authorized in paragraph (a) of this section, any U.S. person engaging in a transaction described in paragraph (a) of this section is required to report such transaction immediately to the Office of Foreign Asset Controls and provide a description of the underlying trade contract. Such reports should be directed to the Office of Foreign Assets Control, Attn: Compliance Programs Division/Sudan Contracts, 1500 Pennsylvania Avenue, NW, Annex – 2nd Floor, Washington, DC 20220. Such reports may be made by facsimile transmission to 202/622-1657.

(f) *Licensing and reporting provisions.* For provisions relating to applications to the Office of Foreign Asset Controls for specific licenses and reporting requirements, see §§ 501.606 and 501.808 of this chapter.

§ 538.507 Reexports by non-U.S. persons.

(a) *Goods, technology and services subject to export license application requirements under other United States regulations.* The reexportation to Sudan or the Government of Sudan by a non-U.S. person of any goods, technology or services exported from the United States, the exportation of which to Sudan is subject to export or reexport license application requirements is authorized under this section provided that, for reexportation of goods, the goods:

(1) Have been incorporated into another product outside the United States and constitute 10 per cent or less by value of that product exported from a third country; or

(2) Have been substantially transformed outside the United States.

Note to paragraph (a) of § 538.507: Goods, technology and software of U.S. origin that are subject to the Export Administration Regulations (15 CFR parts 730–774) may require specific authorization from the

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Department of Commerce, Bureau of Export Administration, even though such goods have been substantially transformed abroad.

(b) *Goods, technology and services not subject to export license application requirements under other United States regulations.* The reexportation to Sudan or the Government of Sudan by a non–U.S. person of any goods, technology or services of U.S. origin, the exportation of which to Sudan is not subject to any export license application requirements under any other United States regulations, is authorized under this section. However, the reexportation by non–U.S. persons of U.S.–origin goods, technology or software classified as EAR99 under the Export Administration Regulations (15 CFR parts 730–774) may require specific authorization from the Department of Commerce, Bureau of Export Administration.

§ 538.508 Certain payments by the Government of Sudan of obligations to persons within the United States authorized.

Specific licenses may be issued on a case–by–case basis to permit the transfer of funds after the effective date by, through, or to any U.S. financial institution or other U.S. person not blocked pursuant to this chapter, from a non–blocked account outside of the United States, solely for the purpose of payment of obligations of the Government of Sudan to persons or accounts within the United States, provided that the obligation arose prior to the effective date, and the payment requires no debit to a blocked account.

§ 538.509 Certain services relating to participation in various events authorized.

The importation of Sudanese–origin services into the United States is authorized where such services are performed in the United States by a Sudanese national who enters the United States on a visa issued by the State Department for the purpose of participating in a public conference, performance, exhibition or similar event, and such services are consistent with that purpose.

§ 538.510 Importation and exportation of certain gifts authorized.

The importation into the United States of Sudanese–origin goods, and the exportation from the United States of goods, is authorized for goods sent as gifts to persons provided that the value of the gift is not more than $100; the goods are of a type and in quantities normally given as gifts between individuals; and the goods are not controlled for chemical and biological weapons (CB), missile technology (MT), national security (NS), or nuclear proliferation (NP)(see Commerce Control List, 15 CFR part 774 of the Export Administration Regulations).

§ 538.511 Accompanied baggage authorized.

(a) Persons entering the United States directly or indirectly from Sudan are authorized to import into the United States Sudanese–origin accompanied baggage normally incident to travel.

(b) Persons leaving the United States for Sudan are authorized to export from the United States accompanied baggage normally incident to travel.

(c) For purposes of this section, the term *accompanied baggage normally incident to travel* includes only baggage that:

(1) Accompanies the traveler on the same aircraft, train, or vehicle;

(2) Includes only articles that are necessary for personal use incident to travel, are not intended for any other person or for sale, and are not otherwise prohibited from importation or exportation under applicable United States laws.

§ 538.512 Transactions related to telecommunications authorized.

All transactions with respect to the receipt and transmission of telecommunications involving Sudan are authorized. This section does not authorize the provision to the Government of Sudan or a person in Sudan of telecommunications equipment or technology.

§ 538.513 Transactions related to mail authorized.

All transactions by U.S. persons, including payment and transfers to common carriers, incident to the receipt or transmission of mail between the United States and Sudan are authorized, provided that mail is limited to personal communications not involving a transfer of anything of value.

§ 538.514 Certain transactions related to patents, trademarks and copyrights authorized.

(a) All of the following transactions in connection with patent, trademark, copyright or other intellectual property protection in the United States or Sudan are authorized:

(1) The filing and prosecution of any application to obtain a patent, trademark, copyright or other form of intellectual property protection;

(2) The receipt of a patent, trademark, copyright or other form of intellectual property protection;

(3) The renewal or maintenance of a patent, trademark, copyright or other form of intellectual property protection; and

(4) The filing and prosecution of opposition or infringement proceedings with respect to a patent, trademark, copyright or other form of intellectual property protection, or the entrance of a defense to any such proceedings.

(b) This section authorizes the payment of fees currently due to the United States Government, or of the reasonable and customary fees and charges currently due to attorneys or representatives within the United States, in connection with the transactions authorized in paragraph (a) of this section. Payment effected pursuant to the terms of this paragraph may not be made from a blocked account.

(c) This section authorizes the payment of fees currently due to the Government of Sudan, or of the reasonable and customary fees and charges currently due to attorneys or representatives within Sudan, in connection with the transactions authorized in paragraph (a) of this section.

(d) Nothing in this section affects obligations under any other provision of law.

§ 538.515 Certain imports for diplomatic or official personnel authorized.

All transactions ordinarily incident to the importation of any goods or services into the United States destined for official or personal use by the diplomatic missions of the Government of Sudan to the United States and to international organizations located in the United States are authorized, provided that such goods or services are not for resale, and unless such importation is otherwise prohibited by law.

§ 538.516 Diplomatic pouches.

All transactions in connection with the importation into the United States from Sudan, or the exportation from the United States to Sudan, of diplomatic pouches and their contents are authorized.

§ 538.517 Allowable payments for overflights of Sudanese airspace.

Payments to Sudan of charges for services rendered by the Government of Sudan in connection with the overflight of Sudan or emergency landing in Sudan of aircraft owned by a United States person or registered in the United States are authorized.

§ 538.518 Household goods and personal effects.

(a) The exportation from the United States to Sudan of household and personal effects, including baggage and articles for family use, of persons departing the United States to relocate in Sudan is authorized provided the articles included in such effects have been actually used by such persons or by family members accompanying them, are not intended for any other person or for sale, and are not otherwise prohibited from exportation.

(b) The importation of Sudanese–origin household and personal effects, including baggage and articles for family use, of persons arriving in the United States is authorized; to qualify, articles included in such effects must have been actually used abroad by such persons or by other family members arriving from the same foreign household, must not be intended for any other person or for sale, and must not be otherwise prohibited from importation.

§ 538.519 Aircraft and maritime safety.

Specific licenses may be issued on a case–by–case basis for the exportation and reexportation of goods, services, and technology to insure the safety of civil aviation and safe operation of U.S.–origin commercial passenger aircraft, and to ensure the safety of ocean–going maritime traffic in international waters.

§ 538.520 Extensions or renewals of loans and credits.

(a) Specific licenses may be issued on a case–by–case basis for rescheduling loans or otherwise extending the maturities of existing loans, and for charging fees or interest at commercially reasonable rates in connection therewith, provided that no new funds or credits are thereby transferred or extended to Sudan or the Government of Sudan.

(b) Specific licenses may be issued on a case–by–case basis, at the request of the account party, for the extension or renewal of a letter of credit or a standby letter of credit issued or confirmed by a U.S. financial institution.

§ 538.521 Registration of nongovernmental organizations.

(a) Registration numbers may be issued on a case–by–case basis for the registration of nongovernmental organizations involved in humanitarian or religious activities in Sudan, authorizing transactions otherwise prohibited by this part, including the exportation of goods and services to Sudan and the transfer of funds to and from Sudan for the purpose of relieving human suffering.

(b) Applications for registration must include the name and address of the organization's headquarters; the name, title, and telephone number of a person to be contacted in connection with registration pursuant to this section; the organization's local address in Sudan and name if different; and a detailed description of its humanitarian or religious activities and projects in Sudan. Applications should be submitted to the Compliance Programs Division, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, NW, Annex, Washington, DC 20220.

(c) Applicants conducting transactions pursuant to this section should reference the registration number on all funds transfers, and all purchase, shipping, and financing documents.

§ 538.522 Transactions related to U.S. citizens residing in Sudan.

U.S. persons are authorized to engage in transactions in Sudan ordinarily incident to the routine and necessary maintenance and other personal living expenses of U.S. citizens who reside on a permanent basis in Sudan.

Subpart F—Reports

§ 538.601 Records and reports.

For additional provisions relating to records and reports, see subpart C of part 501 of this chapter.

Subpart G—Penalties

§ 538.701 Penalties.

(a) Attention is directed to section 206 of the International Emergency Economic Powers Act (the "Act")(50 U.S.C. 1705), which is applicable to violations of the provisions of any license, ruling, regulation, order, direction or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the Act. Section 206 of the Act, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note), provides that:

(1) A civil penalty not to exceed $11,000 per violation may be imposed on any person who violates any license, order, or regulation issued under the Act;

(2) Whoever willfully violates any license, order, or regulation issued under the Act shall, upon conviction be fined not more than $50,000, or, if a natural person, may be imprisoned for not more than 10 years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both.

(b) The criminal penalties provided in the Act are subject to increase pursuant to 18 U.S.C. 3571.

(c) Attention is also directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statement or representation or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined under title 18, United States Code, or imprisoned not more than five years, or both.

(d) Violations of this part may also be subject to relevant provisions of other applicable laws.

§ 538.702 Prepenalty notice.

(a) *When required.* If the Director of the Office of Foreign Assets Control has reasonable cause to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, direction or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the International Emergency Economic Powers Act, and the Director determines that further proceedings are warranted, he shall issue to the person concerned a notice of his intent to impose a monetary penalty. The prepenalty notice shall be issued whether or not another agency has taken any action with respect to this matter.

(b) *Contents*—(1) *Facts of violation.* The prepenalty notice shall describe the violation, specify the laws and regulations allegedly violated, and state the amount of the proposed monetary penalty.

(2) *Right to respond.* The prepenalty notice also shall inform the respondent of respondent's right to make a written presentation within 30 days of mailing of the notice as to why a monetary penalty should not be imposed, or, if imposed, why it should be in a lesser amount than proposed.

§ 537.703 Response to prepenalty notice; informal settlement.

(a) *Deadline for response.* The respondent shall have 30 days from the date of mailing of the prepenalty notice to make a written response to the Director of the Office of Foreign Assets Control.

(b) *Form and contents of response.* The written response need not be in any

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particular form, but shall contain information sufficient to indicate that it is in response to the prepenalty notice. It should contain responses to the allegations in the prepenalty notice and set forth the reasons why the respondent believes the penalty should not be imposed or, if imposed, why it should be in a lesser amount than proposed.

(c) *Informal settlement.* In addition or as an alternative to a written response to a prepenalty notice pursuant to this section, the respondent or respondent's representative may contact the Office of Foreign Assets Control as advised in the prepenalty notice to propose the settlement of allegations contained in the prepenalty notice and related matters. In the event of settlement at the prepenalty stage, the claim proposed in the prepenalty notice will be withdrawn, the respondent is not required to take a written position on allegations contained in the prepenalty notice, and the Office of Foreign Assets Control will make no final determination as to whether a violation occurred. The amount accepted in settlement of allegations in a prepenalty notice may vary from the civil penalty that might finally be imposed in the event of a formal determination of violation. In the event no settlement is reached, the 30-day period specified in paragraph (a) of this section for written response to the prepenalty notice remains in effect unless additional time is granted by the Office of Foreign Assets Control.

§ 537.704 Penalty imposition or withdrawal.

(a) *No violation.* If, after considering any response to the prepenalty notice and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was no violation by the respondent named in the prepenalty notice, the Director promptly shall notify the respondent in writing of that determination and that no monetary penalty will be imposed.

(b) *Violation.* If, after considering any response to the prepenalty notice, the Director of the Office of Foreign Assets Control determines that there was a violation by the respondent named in the prepenalty notice, the Director promptly shall issue a written notice of the imposition of the monetary penalty to the respondent.

(1) The penalty notice shall inform the respondent that payment of the assessed penalty must be made within 30 days of the mailing of the penalty notice.

(2) The penalty notice shall inform the respondent of the requirement to furnish the respondent's taxpayer identification number pursuant to 31 U.S.C. 7701 and that such number will be used for purposes of collection and reporting on any delinquent penalty amount in the event of a failure to pay the penalty imposed.

§ 537.705 Administrative collection; referral to United States Department of Justice.

In the event that the respondent does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to the Director of the Office of Foreign Assets Control within 30 days of the mailing of the written notice of the imposition of the penalty, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a Federal district court.

Subpart H—Procedures

§ 538.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see subpart D of part 501 of this chapter.

§ 538.802 Delegation by the Secretary of the Treasury.

Any action which the Secretary of the Treasury is authorized to take pursuant to Executive Order 13067 (3 CFR, 1997 Comp., p. 230), and any further Executive orders relating to the national emergency declared with respect to Sudan in Executive Order 13067, may be taken by the Director of the Office of Foreign Assets Control, or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§ 538.901 Paperwork Reduction Act notice.

The information collection requirements in §§ 538.506 and 538.521 have been approved by the Office of Management and Budget ("OMB") and assigned control number 1505–0169. For approval by OMB under the Paperwork Reduction Act of other information collections relating to recordkeeping and reporting requirements, to licensing procedures (including those pursuant to statements of licensing policy), and to other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

Dated: June 18, 1998.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: June 25, 1998.

James E. Johnson,

Assistant Secretary (Enforcement), Department of the Treasury.

[FR Doc. 98–17538 Filed 6–29–98; 8:51 am]

BILLING CODE 4810–25–F

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–98–036]

RIN 2115–AE47

Drawbridge Operation Regulation; Lake Pontchartrain, LA

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: The Coast Guard is temporarily changing the regulation for the operation of the draws of the Greater New Orleans Expressway Commission causeway, north bascule spans across Lake Pontchartrain between Metairie, Jefferson Parish and Mandeville, St. Tammany Parish, Louisiana. From July 6, 1998 through November 10, 1998, the draws will remain closed to navigation Monday through Saturday except for September 5, 6, 7, 24, 25, 26, 27, 28 and 29, 1998 and October 10, 11 and 12, 1998. During these closure periods there will be crane barges under the bridge to support equipment. On Sundays and on September 5, 6, 7, 24, 25, 26, 27, 28 and 29, 1998, October 10, 11 and 12, 1998, the draws will open on signal if at least three hours notice is given. In the event of an approaching tropical storm or hurricane, the draw will return to normal operation within 12 hours and the channel cleared of all construction equipment. This temporary rule is issued to allow for cleaning and painting of the bascule structure, an extensive but necessary maintenance operation.

DATES: This temporary rule is effective from July 6, 1998 through November 10, 1998.

ADDRESSES: Unless otherwise indicated, documents referred to in this notice are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Hale Boggs Federal Building, room 1313, 501 Magazine Street, New Orleans, Louisiana 70130–3396 between 7 a.m. and 4 p.m., Monday though Friday, except Federal holidays. The Bridge Administration Branch of the Eighth Coast Guard District maintains the public docket for this temporary rule.

FOR FURTHER INFORMATION CONTACT: Phil Johnson or David Frank, Bridge Administration Branch, at the address given above.

SUPPLEMENTARY INFORMATION: On April 10, 1998, the Coast Guard issued a temporary deviation from the regulation governing the operation of the draws of the Greater New Orleans Expressway Commission causeway, north bascule spans across Lake Pontchartrain, to allow the draw to remain closed Monday through Saturday from May 4, 1998 through July 2, 1998. The deviation was issued to allow for the cleaning and painting of the bascule structures. However, the contractor was unable to mobilize for reasons including contract negotiation, acquisition of insurance and impeded access to the job site due to a navigation lock closure. The Greater New Orleans Expressway Commission has requested the Coast Guard issue a temporary rule to allow the work to begin on July 6, 1998 and to continue through November 10, 1998. The deteriorated condition of the bridge warrants the closures so that remedial work can be accomplished. The Coast Guard was not notified in time to issue a notice of proposed rulemaking. For this reason, good cause exists to make this temporary rule effective in less than 30 days after publication.

Background and Purpose

The south channel span of the Greater New Orleans Expressway Commission causeway across Lake Pontchartrain Louisiana provides an alternate route with a vertical clearance of 50 feet above mean high water. Navigation on the waterway consists of small tugs with tows, fishing vessels, sailing vessels, and other recreational craft. The special equipment used for this procedure has to be removed each time the draw span is opened. Since this process is time consuming and costly, the equipment must remain in place for 6-day periods, allowing the contractor to maximize work time. While the draw span being serviced is in the closed to navigation position, the equipment will be supported by two crane barges which must remain in place below the draw span. As a result, the channel will be completely blocked by the barges. The short term inconvenience, attributable to a delay of vessel traffic which is not able to use the south channel span as an alternate route, for a maximum of six days, is outweighed by the long term benefits to be gained by keeping the bridges free of corrosion and in proper working condition. This work is essential for the continued operation of the draw spans. Presently, the draws open on signal if at least three hours notice is given.

Regulatory Evaluation

This temporary rulemaking is not a significant regulation action under section 3(f) of Executive Order 12866 and does not require an assessment of potential cost and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the Regulatory Policies and Procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this temporary rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This is because the majority of vessels affected by the closure is minimal. The majority of commercial vessel and most of the recreational sailboats which normally transit the causeway bridge are able to do so at one of the navigation humps, located at four mile intervals along the bridge, or though the south channel span, which provides a vertical clearance of 50 feet above mean high water.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Cost Guard must consider whether this temporary rule will have a significant economic impact on a substantial number of small entities. "Small entities"may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000. The majority of commercial vessels and fishing vessels which normally transit the causeway bridge will still be able to do so through the south channel span. Thus, the Coast Guard expects there to be no significant economic impact on these vessels. The Coast Guard is not aware of any other waterway who would suffer economic hardship from being unable to transit the waterway during these closure periods. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this temporary rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This temporary rule contains no collection-of-information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposal in under the principles and criteria contained in Executive Order 12612, and it has been determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this temporary rule and concluded that this action is categorically excluded from further environmental documentation under current Coast Guard CE #32(e), in accordance with Section 2.B.2 and Figure 2–1 of the National Environment Protection Act Implementing Procedures, COMDTINST M16475.1C. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons set out in the preamble, the Coast Guard is amending part 117, Title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; and 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Public Law 102–587, 106 Stat. 5039.

2. Effective July 6, 1998 through November 10, 1998, § 117.467 is amended by suspending paragraph (b) and adding paragraph (c) to read as follows:

§ 117.467 Lake Pontchartrain.

* * * * *

(c) From July 6, 1998 through November 10, 1998 the draws of the Greater New Orleans Expressway Commission causeway, north bascule span, need not open for the passage of vessels Monday through Saturday except for September 5, 6, 7, 24, 25, 26, 27, 28 and 29, 1998 and October 10, 11 and 12, 1998. From 12:01 a.m. on Sundays to 12:01 a.m. on Mondays and on September 5, 6, 7, 24, 25, 26, 27, 28

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and 29 and October 10, 11 and 12, 1998 the draws will open on signal if at lease three hours notice is given. In the event of an approaching tropical storm on hurricane, the channel will be cleared and the draws will return to normal operation within 12 hours.

Dated: June 23, 1998.

A.L. Gerfin, Jr.

Captain, U.S. Coast Guard, Commander, 8th Coat Guard Dist. Acting.

[FR Doc. 98–17510 Filed 6–30–98; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 155

[CGD 79–116]

RIN 2115–AA03

Qualifications for Tankermen and for Persons in Charge of Transfers of Dangerous Liquids and Liquefied Gases

AGENCY: Coast Guard, DOT.

ACTION: Final rule; establishment of dates for compliance.

SUMMARY: The Coast Guard modifies the qualification requirements for some Persons in Charge (PICs) of transfers of fuel oil and establish the date for compliance with the modified requirements. This modification is necessary to address public concern and implement the Final Rule, which, in the part addressed here, reduces the risk and severity of spillage from vessels involved in fuel-oil transfers. The requirement that PICs obtain letters from their trainers stating that the PICs have successfully completed certain training should ensure to the greatest degree possible that crewmembers acting as PICs of fuel-oil transfers get sufficient training to minimize the risks of water pollution.

DATES: *Effective date:* The effective date for the amendments in this rule is July 1, 1998.

Compliance dates:

(1) The compliance date for 33 CFR 155.710(e)(4) is July 1, 1998.

(2) The compliance date for 33 CFR 155.710(e) introductory text, (e)(1), (e)(2), and (e)(3) and § 155.715 is October 1, 1998.

ADDRESSES: Documents, as indicated in this preamble, are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G–LRA, 3406), U.S. Coast Guard Headquarters, 2100 Second Street SW., room 3406, Washington, DC 20593–0001, between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–267–1477.

FOR FURTHER INFORMATION CONTACT: Mr. Mark C. Gould, Project Manager, Maritime Personnel Qualifications Division, (202) 267–6890 or 1–800–842–8740, extension 7–6890.

SUPPLEMENTARY INFORMATION:

Regulatory History

On December 18, 1980, the Coast Guard published two Notices of Proposed Rulemaking (NPRMs): CGD 79–116, which proposed rules for tankermen [45 FR 83290]; and CGD 79–116a, which proposed rules for Persons in Charge (PIC) of transfers of oil [45 FR 83268].

On October 17, 1989, the Coast Guard published a Supplemental Notice of Proposed Rulemaking (SNPRM), entitled, "Tankerman Requirements and Qualifications for Persons-in-Charge of Dangerous Liquid and Liquefied Gas Transfer Operations" [54 FR 42624], which combined the original two rulemakings and officially closed CGD 79–116a as a distinct rulemaking. The Coast Guard received 42 comments on that SNPRM. No public meeting was requested, nor was one held.

On April 4, 1995, the Coast Guard published an Interim Rule entitled "Qualifications for Tankermen and for Persons in Charge of Transfers of Dangerous Liquids and Liquefied Gases" [60 FR 17134].

On March 26, 1996, the Coast Guard reopened the comment period [61 FR 13098]. No public meeting was requested, nor was one held.

On May 8, 1997, the Coast Guard published a Final Rule entitled "Qualifications for Tankermen and for Persons in Charge of Transfers of Dangerous Liquids and Liquefied Gases" [62 FR 25115].

On September 17, 1997, the Coast Guard published a request for comments to that portion of the Final Rule concerning the qualifications for a PIC of transfer of fuel oil [62 FR 48769]. This request for comments also delayed the compliance date until July 1, 1998, for 33 CFR 155.710 (e) introductory text and paragraphs (e)(1), (e)(2), and (e)(3). Several comments requested a public meeting, but none was held. This regulatory project has been in preparation since 1979. During the nineteen years of preparation, the Coast Guard requested comments on the proposed rule no fewer than five times. In the last request for comments, the focus was on a very narrow section of the entire rule-qualification requirements for PICs of transfers of fuel oil. The Coast Guard felt that all sides of this debate could be adequately covered in writing; therefore, no public hearing was necessary.

Background and Purpose

In the Interim Rule [60 FR 17134 (April 4, 1995)], § 155.710(e) of title 33, Code of Federal Regulations (CFR), which sets out requirements for Tankermen-PICs, was written ambiguously. If interpreted literally, the section stated that, on an uninspected vessel required to have a licensed person aboard, either (a) the PIC of a transfer of fuel oil must hold a license authorizing service as master, mate, engineer, or operator aboard that vessel, or (b) that person must have been instructed by the operator or agent of the vessel both in his or her duties and in the Federal statutes and regulations on water pollution that apply to the vessel.

In the Final Rule [62 FR 25115 (May 8, 1997)], the Coast Guard corrected this ambiguity by revising the section. The Final Rule required that, onboard one of these same uninspected vessels, the PIC of a transfer of fuel oil hold either (a) a license authorizing service as master, mate, engineer, or operator aboard that vessel, or (b) a merchant mariner's document (MMD) endorsed as Tankerman-PIC.

Before this clarification, the Captains of the Port (COTPs) in some ports, particularly deepwater, were already interpreting the section in this way. However, in other ports, particularly inland and river, the COTPs were allowing the industry to comply with either the ambiguous requirements stated in the Interim Rule or the intended requirements stated in the Interim Rule as clarified in the Final Rule.

Many in the inland maritime industry were satisfied with the wording of the Interim Rule and, not suspecting that the Final Rule would change the qualification requirements, did not submit comments until the Final Rule was published. Many of these comments claimed that the Coast Guard had not provided the opportunity to comment on the revised text of § 155.710(e). As a result, the Coast Guard issued a request for comment on § 155.710(e) and delayed the compliance date for this section except paragraph 4—whose compliance date already was July 1, 1998—until July 1, 1998 [62 FR 48769 (September 17, 1997)].

Discussion of Comments and Changes

The Coast Guard received a total of 96 written comments in response to the reopened comment period. All of these letters are available for inspection in CGD 79–116 at the address listed under **ADDRESSES.**

Applicability

The Coast Guard received four written comments addressing the applicability of this rule. One of the comments asked whether an Uninspected Towing Vessel (UTV) with a 14,000-gallon fuel capacity would have to comply with this rule if the transfer of fuel oil was always accomplished by a shoreside fueling-company whose trucks have a maximum capacity of 8,000 gallons.

Section 155.700 of title 33 CFR states that, if either vessel has a capacity in excess of 250 barrels (or 10,500 gallons), then 33 CFR 155.710(e) applies.

A second comment questioned whether this rule would apply to Mobile Offshore Drilling Units (MODUs). More specifically, it asked, "What must the PIC of a transfer of fuel on a MODU hold—a license, an endorsed MMD, or neither?"

That person must hold a license or else hold an MMD endorsed as Tankerman-PIC. 33 CFR Section 155.700 of 33 CFR, the applicability section that covers 33 CFR 155.710(e), applies to each vessel with a capacity of more than 250 barrels of fuel oil, cargo oil, or hazardous materials. Therefore, the PIC of a transfer of fuel oil on a MODU encompassed by 33 CFR 155.710 must comply with 33 CFR 155.710(e)(1); that is, he or she must hold a valid license issued under 46 CFR part 10 authorizing service as a master, mate, pilot, engineer, or operator aboard that vessel, or else hold an MMD endorsed as Tankerman-PIC.

The third comment expressed concern that the Coast Guard had stated that crewmembers of Oil Spill Response Vessels (OSRVs) belong to a category of person eligible to seek restricted Tankerman-PIC endorsements in 46 CFR 13.111, though the Coast Guard Authorization Act of 1996 stated that they are not subject to requirements of tankermen for tank vessels as such.

The Coast Guard disagrees. It agrees that 46 U.S.C. 3702(f) establishes that 46 U.S.C. Chapter 37, and statutes whose applicability is based on 46 U.S.C. Chapter 37, do not apply to an OSRV. However, 46 U.S.C. 3302(a) makes clear that the designation of a vessel as an OSRV does not preclude it from also being considered a tank vessel under other laws and regulations. An OSRV is a tank vessel as defined by 46 U.S.C. 2101(39). 46 U.S.C. 3702(f) only states only that an OSRV will not be subject to regulations promulgated under the authority in 46 U.S.C. Chapter 37. This does not affect the applicability to an OSRV of other regulations for tank vessels, regulations not based on the authority of 46 U.S.C. Chapter 37. The Ports and Waterways Safety Program (33 U.S.C. Chapter 25, 33 U.S.C. 1221 *et. seq.*) and the Water Pollution Prevention and Control Program (33 U.S.C. Chapter 26, 33 U.S.C. 1251 *et. seq.*) also apply to these types of operations conducted by OSRVs. The purposes of Chapter 25 include the protection of the marine environment and natural resources through, among other functions, the regulation of vessel manning. The tankerman requirements for OSRVs are based on these statutes and on 33 CFR part 155. Therefore, under 33 CFR 155.710(a)(3), the PIC of a transfer of liquid cargo in bulk or of cargo-tank cleaning on an OSRV shall hold a Tankerman-PIC endorsement issued under 46 CFR part 13 that authorizes the holder to supervise the transfer of fuel oil, the transfer of liquid cargo in bulk, or cargo-tank cleaning, as appropriate to the product. Note that 46 CFR 13.111(a) discusses the possibility of OSRVs' crewmembers' obtaining a restricted Tankerman-PIC endorsements. Individual companies should ask their Regional Examination Centers (RECs) about establishing training programs and competency requirements unique to their vessels' configurations and operations.

A fourth comment asked whether floating crane rigs or other stevedoring equipment need to comply with this rule.

Again, 33 CFR 155.700, the applicability section that covers 33 CFR 155.710(e), applies to each vessel with a capacity of more than 250 barrels of fuel oil, cargo oil, or hazardous materials. Therefore, the PIC of a transfer of fuel oil on any vessel encompassed by 33 CFR 155.710 must comply with 33 CFR 155.710—either (e)(1), if the vessel is inspected, or (e)(2), if the vessel is uninspected.

Exemptions

One comment asked that this rule continue to exempt those vessels with a fuel-oil capacity of less than 250 barrels.

The Coast Guard agrees and makes no changes to the applicability under 33 CFR 155.700.

Comment Period

Several comments requested that the Coast Guard hold public meetings before making a final decision on such an important issue.

The Coast Guard declines. The public has received more than adequate opportunity to submit comments or ask questions on this issue.

General Comments

The comments received did not surprise the Coast Guard. Comments from deepwater ports generally tended to favor the stricter interpretation, since many uninspected vessels in those ports each already carry several licensed persons aboard, as well as unlicensed crewmembers documented as Tankermen-PICs. On the other hand, comments from inland and river ports, where vessels usually each carry only one licensed person onboard, generally tended to favor the wording of the Interim Rule.

Two of the comments shared the opinion that the Coast Guard should require the PIC to hold a valid MMD. One of these two recommended that the PIC receive his or her vessel-specific training from the master of the UTV or other licensed officer.

The Coast Guard disagrees. For previously mentioned reasons, and because of the expense applicants would incur to complete the required training, PICs on UTVs need not obtain MMDs.

Another comment stated that most spills caused by the human factor are the result of attitude rather than ability. The PIC knows how to do the job; he or she simply fails to execute.

The Coast Guard does not know whether this is true; however, the first step is to require some minimal amount of training to maximize the chances of a safe transfer of fuel oil. Besides, training can improve attitude along with ability.

A recommendation in one comment stated that the Coast Guard needs to understand the unique operating and regulatory environment of the brown-water maritime fleet.

The Coast Guard agrees, and has gone to extraordinary lengths to include the inland and river marine industry in this rulemaking. In fact, it was mostly comments from the brown-water fleet of UTVs that led the Coast Guard to the final amendments in this reconstitution of the Final Rule.

The Coast Guard received eleven comments agreeing with the wording as it appeared in the Final Rule [62 FR 25115 (May 8, 1997)]. These comments stated that requiring a license or an MMD for transfers of fuel oil on UTVs is good marine practice. One of the eleven stated that the rule should require that the PIC of such transfers hold either a license or an MMD.

Upon reviewing the public comments, the Coast Guard now disagrees. Because it lacks firm statistical evidence that transfers of fuel oil contribute to the amount of pollution from UTVs, the

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Coast Guard lacks adequate reason to require a license or an MMD with Tankerman-PIC endorsement.

Most comments agreed that the Coast Guard should require PICs of transfers of fuel oil to obtain instruction by the operators or agents of their vessels, both in their duties and in the Federal statutes and regulations on water pollution that apply to their vessels. These comments presented the following persuasive arguments:

Statistics

Many of the comments stated there are currently no statistics to prove that spills from transfers of fuel oil contribute significantly to the pollution of the marine environment.

Although the Coast Guard speculates, and has heard from reliable sources off the record, that mid-stream transfers contribute significantly to pollution of rivers, there are currently no supporting statistics. However, the Coast Guard recently instituted new data-gathering systems that in time will provide statistics one way or the other.

Further, many of the comments stated that, factually, there are no data to show that a reduction in oil spills would occur if the PIC of a UTV transfer of fuel oil were required to hold a license or MMD and that, therefore, no such requirement would be appropriate.

The Coast Guard agrees and, again, has dropped the requirement.

Training

Several comments stated that the key to the safe transfer of fuel oil to UTVs is training. They suggested that the Coast Guard and industry jointly develop and adopt a training program that specifically addresses transfers.

The Coast Guard agrees—in part. For now, the new requirement for a letter of training from the operator or agent of a vessel will satisfy the training requirements. However, if it later turns out that this training is not having the desired effect, the Coast Guard will ask the industry to help it develop and adopt more formal training.

Several comments felt that simple possession of a license does not endow an Operator of Uninspected Towing Vessels (OUTV) with sufficient knowledge of transfers of fuel oil. In addition, the OUTV often is not physically present where the transfer takes place. Therefore, it is unfair to make the OUTV legally responsible for the transfer.

The Coast Guard agrees. The person legally responsible for the transfer of fuel oil to the UTV, if not from the barge, is the PIC aboard the UTV.

Five comments recommended that the Coast Guard create a new UTV license that specifically certifies an individual for transfers of fuel oil. The industry and Coast Guard would jointly develop qualifications and training procedures for this license.

Currently, the Coast Guard disagrees. For now, a letter of training from the operator or agent of a vessel will satisfy the training requirements. However, if it later turns out that this training is not having the desired effect, the Coast Guard will consider strengthening the requirements in a further rulemaking.

Courses in Firefighting

Four of the comments addressed the requirements for the successful completion of approved courses in firefighting. The comments stated that these courses do not apply to operations on UTVs.

The Coast Guard agrees that most existing, approved courses in firefighting contain more-detailed training than personnel aboard UTVs need. However, the Coast Guard no longer requires approved courses in firefighting for PICs of uninspected vessels involved in transfers of fuel oil. The Coast Guard remains willing, should the need arise, to work with industry in designing the proper curriculum for a course in firefighting applicable to UTVs.

Training in Preventing Pollution

Some of the comments stated that significant training in preventing pollution is not now required to obtain a license as OUTV. Therefore, mere possession of a license, as required in the Final Rule, will not ensure that a transfer of fuel oil is safely conducted.

The Coast Guard agrees that there is insufficient stress put on environmental protection to ensure that the bare fact of holding an OUTV license marks a PIC as sufficiently trained in preventing water pollution.

A letter from the operator or agent of a vessel, stating that the PIC has been instructed both in his or her duties and in the Federal statutes and regulations on water pollution that apply to the vessel, will satisfy the training requirements.

Voluntary Industry Standards

Several of the comments mentioned the existence of voluntary industry standards. They stated that the American Waterways Operators (AWO) carries out a Responsible Carrier Program with the Coast Guard. Many of the comments urged that this Program, as well as other voluntary industry initiatives, should improve marine safety and environmental protection without this new rule.

The Coast Guard agrees that the Responsible Carrier Program is indeed an exemplary initiative for volunteer companies to help reduce pollution and improve marine safety. However, the volunteer companies participating in the various initiatives are not, nor have they ever been, the companies with which the Coast Guard is concerned. The Coast Guard is concerned with companies that do not belong to any of these initiatives. What incentive do they have to implement new programs to help improve marine safety and reduce pollution? Therefore, the new requirement, for an operator or agent of a vessel to sign a letter stating that the crewmember acting as PIC in a transfer of fuel oil has received the proper training, significantly increases the chances that the training has, in fact, been conducted. Only time will tell the significance of the impact these voluntary initiatives will have on marine safety and environmental protection.

In addition, the Coast Guard received one comment stating that the towing industry has chosen to turn its back on this issue in the past because it carries unlicensed engineers on its UTVs.

The Coast Guard partially agrees. However, with AWO's Responsible Carrier Program and similar initiatives now in place, the Coast Guard feels that the industry is trying to address the problem without added regulation.

Regional Examination Centers

Two comments stated that RECs of the Coast Guard are already inundated with licensing and documentation. The advent of the estimated 3,000–4,000 applicants required to obtain the MMD endorsed as Tankerman-PIC would place the RECs in an untenable position.

The Coast Guard recognized that the initial impact on the RECs would have been significant. That is why the plan staggered the date of compliance to correspond with renewal of MMDs, normally accomplished every 5 years. This Final Rule renders this issue irrelevant: It lifts the burden from the RECs and, to some extent, from the mariners while it shifts it in kind though not in amount for the operators and agents.

Cost

Several comments felt that the cost of hiring a licensed tankerman for each transfer of fuel oil to a UTV would be staggering.

The Coast Guard disagrees, but the point is moot. No vessel will have to hire a licensed tankerman for each transfer, or to incur fees transfer by transfer. The PIC of each transfer will be an onboard crewmember who has received in-house training from the vessel's operator or agent.

Use of Other Trained Personnel on a Vessel

Two comments recommended that the expertise of a driver required to hold a commercial driver's license at the shoreside fueling-company suffice for a transfer of fuel oil to a UTV.

The Coast Guard disagrees. The PIC onboard the UTV must have some minimal training to ensure that he or she is aware of the rules peculiar to the vessel and of the law that governs the prevention of pollution.

Another comment stated that the Tankerman-PIC onboard the barge supplying the fuel oil should be responsible for the entire transfer to the UTV.

The Coast Guard disagrees. The PIC on the barge is, in all probability, unfamiliar with the loading characteristics of the receiving UTV. The PIC onboard the UTV must have some minimal training to ensure that he or she is aware of the rules for the vessel and of the laws that govern the prevention of pollution.

Many of the comments recommended that companies, rather than their PICs aboard UTVs, be responsible for the safe completion of transfers of fuel oil to the UTVs.

The Coast Guard agrees in part. Each company is responsible for the proper training of its PICs and is accountable to its underwriters and the law for unsafe practices. However, the PIC is the logical person to be responsible for the safe completion of a transfer of fuel oil to the UTV.

One comment asked whether the Tankerman-PIC on the fueling barge bears any responsibility for ensuring compliance by the UTV. The PIC on the barge is responsible for satisfying requirements for the safe transfer of fuel oil from the barge, though not to the vessel. The PIC on the UTV is responsible for satisfying them for the safe transfer of it to the UTV, though not from the barge. Several comments stated that possession of a license or MMD will not ensure that the transfer of fuel oil to a UTV is conducted safely. Therefore, they could not understand the logic behind the insistence by the Coast Guard that the requirement is "good marine practice."

The Coast Guard now agrees. A letter from the operator or agent of a vessel, stating that the PIC has been instructed both in his or her duties and in the Federal statutes and regulations on water pollution that apply to the vessel, will satisfy the training requirements.

One comment stated that the most appropriate option might be to require the PIC on a UTV to obtain a restricted Tankerman-PIC (Barge) endorsement.

The Coast Guard disagrees. The PIC on a UTV must have received training peculiar to his or her UTV to minimize the chances of a polluting spill. The transfer procedures on a tank barge may be vastly different from those on any UTV.

Inapplicable Comments

Six comments suggested that in-house training is sufficient for the safe loading and unloading of chemical barges dockside. The loading or unloading of chemical cargo is not the subject of this request for comments. The Coast Guard will answer these comments by letter.

The Coast Guard will also answer by letter another comment, which asked about the applicability of the Final Rule to vessels loading or unloading chlorine. Qualifications for persons loading and unloading chemical cargoes are not the subject of this request for comments.

One comment stateds that the Coast Guard should exempt or grandfather from the rules those who can show prior experience in loading and unloading cargo.

The loading and unloading of cargo (other than fuel oil) by Tankerman-PICs are not proper subjects of this comment period. The Coast Guard will answer this comment by letter, too.

Although the Coast Guard will allow those who wish to act as PICs of transfers of fuel oil to so act after obtaining instruction by the operators or agents of their vessels both in their duties and in the Federal statutes and regulations on water pollution that apply to the vessels, it is still concerned that some may not receive the proper training necessary to minimize the chances of water pollution.

Therefore, after receiving proper instruction from the operator or agent of a vessel, each trainee will have to receive a letter of instruction. The letter must come from the party providing the training. The training need occur only once, unless there is some unique characteristic about a particular vessel that would necessitate later, vessel-specific training. No person changing his or her place of employment need retake the training, unless there is something unique about the new vessel. The letter of instruction must stay either with the person, on the vessel, or in the office of the operator or agent of the vessel. It must be readily available to Coast Guard boarding officers.

Collection of Information

This reconstitution of a final rule provides for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). As defined in 5 CFR 1320.3(c), "collection of information" includes reporting, recordkeeping, monitoring, posting, labeling, and other, similar actions.

The information collections associated with this rule concern the letter of instruction described in 33 CFR §§ 155.710(e)(2) and 155.715. The Coast Guard sought authority for the collection from the OMB, asking emergency processing of the request for authority by July 15, 1998. The title and description of the collection, a description of the respondents, and an estimate of the total annual burden follow. The new request has been submitted and is pending approval. A copy of the request is available for review in the docket.

The Coast Guard estimates that the letter of instruction will impose an annual burden of 153 hours' information collection. The burden comprises all time for both gathering and maintaining the information.

Title: Letter of Instruction for Persons-In-Charge (PICs) on Uninspected Vessels.

Summary of the Collection of Information: This Final Rule contains collection-of-information requirements in 33 CFR 155.710(e)(2) and 155.715.

Need for Information: The U. S. Coast Guard administers and enforces the laws and regulations promoting the safety of life and property in marine transportation. It establishes Standards of training for mariners to ensure their ability to safely and adequately carry out duties and responsibilities that promote safety on vessels. To ensure that training standards are complied with, each PIC on an uninspected vessel must carry a letter of instruction. The letter's contents should verify the PIC's credentials, stating that the holder has received sufficient formal instruction from the owner, operator, or agent of the vessel, as required by 33 CFR 155.710(e)(2).

Proposed Use of Information: Carriage of a letter of instruction will verify the credentials of the PIC, and expedite verification of compliance by the Captain of the Port (COTP).

Description of the Respondents: Respondents include the operator, agent, or PIC involved in a transfer described in 33 CFR 155.700.

Number of Respondents: According to data from the Coast Guard Marine Safety Management System, there are approximately 1380 vessels that are

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classified as uninspected vessels and are required to have PICs for transfers. The total population count [2760] represents the number of vessels [1380] multiplied by the number of PICs aperper vessel [2].

Frequency of Response: The Coast Guard expects that each PIC will receive the recognized training once.

Burden of Response: 10 minutes annually per respondent.

Estimated Total Annual Burden: An annual burden of 153 hours' information collection.

Persons submitting comments on the collection of information should submit the comments both to OMB and to the Coast Guard where indicated under ADDRESSES by the date under DATES.

No person need to respond to a request for collection of information unless it displays a currently valid control number from OMB.

List of Subjects in 33 CFR Part 155

Hazardous substances, Oil pollution, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Coast Guard is amending 33 CFR part 155 as follows:

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

PART 155—OIL OR HAZARDOUS MATERIAL POLLUTION PREVENTION REGULATIONS FOR VESSELS

1. The authority citation for part 155 continues to read as follows:

Authority: 33 U.S.C. 1231, 1321(j); 46 U.S.C. 3715; Sec. 2, E.O. 12777, 56 FR 54757, 3 CFR 1991 Comp., p. 351; 49 CFR 1.46. Sections 155.100 through 155.130, 155.350 through 155.400, 155.430, 155.440, 155.470, 155.1030(j) and (k), and 155.1065(g) also issued under 33 U.S.C. 1903(b); and sections 155.1110 and 155.1150 also issued under 33 U.S.C. 2735.

2. Revise paragraphs (e) introductory text, (e)(1), (2) and (e)(3) of § 155.710 to read as follows:

§ 155.710 Qualifications of person in charge.

* * * * *

(e) The operator or agent of each vessel to which this section applies shall verify to his or her satisfaction that the PIC of any transfer of fuel oil requiring a Declaration of Inspection—

(1) On each inspected vessel required by 46 CFR chapter I to have a licensed person aboard, holds a valid license issued under 46 CFR part 10 authorizing service as a master, mate, pilot, engineer, or operator aboard that vessel, or holds a valid merchant mariner's document endorsed as Tankerman-PIC;

(2) On each uninspected vessel, either complies with the requirements of paragraph (e)(1) of this section or carries a letter satisfying the requirements of § 155.715 and designating him or her as a PIC, unless equivalent evidence is immediately available aboard the vessel or at his or her place of employment.

(3) On each tank barge, for its own engine-driven pumps, either complies with paragraph (e)(1) or (2) of this section or has been instructed by the operator or agent of the vessel both in his or her duties and in the Federal statutes and regulations on water pollution that apply to the vessel; or

* * * * *

3. Add a new § 155.715 to read as follows:

§ 155.715 Contents of letter of designation as a person-in-charge of the transfer of fuel oil.

The letter of instruction required in § 155.710(e)(2) must designate the holder as a person-in-charge of the transfer of fuel oil and state that the holder has received sufficient formal instruction from the operator or agent of the vessel to ensure his or her ability to safely and adequately carry out the duties and responsibilities of the PIC described in 33 CFR 156.120 and 156.150.

Dated: June 23, 1998.

J. P. High,

Acting Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 98–17267 Filed 6–30–98; 8:45 am]

BILLING CODE 4910–14–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

36 CFR Part 327

Shoreline Use Permits, Flotation

AGENCY: U.S. Army Corps of Engineers.

ACTION: Final rule.

SUMMARY: An amendment to Appendix A section 327.30 "Guidelines for Granting Shoreline Use Permits" was part of a proposed rule published in the **Federal Register** on April 15, 1997. The language in this amendment reduced the burdensome requirements on individuals who have requested waivers because of limiting health conditions. The amendment gives Operations Managers the flexibility to take special circumstances of the applicant into consideration when issuing a shoreline use permit. This amendment is also in this final rule.

The U.S. Army Corps of Engineers also published a proposed rule in the April 15, 1997, issue of the **Federal Register**, to amend Appendix C of Section 327.30. The amendment concerned flotation materials to be used on all new docks and boat mooring buoys. Comments received during the 45-day comment period prompted the Corps to conduct further studies and withdraw the proposed rule to amend Appendix C issued on April 15, 1997. Subsequently, a replacement rule was published in the **Federal Register** on December 4, 1997. Comments were accepted on this proposed revision until January 20, 1998. This final rule reflects the comments received. We believe that the changes will substantially increase the safety of project visitors and the protection of the natural resources.

EFFECTIVE DATE: August 17, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Darrell E. Lewis, (202) 761–0247.

SUPPLEMENTARY INFORMATION:

Background

The U.S. Army Corps of Engineers published a final rule providing policy and guidance on the management of shorelines of Corps managed Civil Works projects in the **Federal Register** on July 27, 1990 (55 FR 30690–30702), last amended in the **Federal Register** on July 1, 1992 (57 FR 29219–29220).

Two amendments to the regulations were published as a proposed rule in the **Federal Register** on April 15, 1997 (62 FR 18307–18308). An amendment to Paragraph 2.c.(9) of Appendix A, Section 327.30, Guidelines for Granting Shoreline Use Permits, gave Operations Managers the flexibility to take special circumstances of the applicant into consideration when issuing a permit. This language reflected the Corps desire to accommodate basic access for those individuals who have requested waivers because of limiting health conditions that are either obvious or substantiated by a doctor's certification. No negative comments were received regarding this amendment during the comment period.

Paragraph 14, Appendix C, of Section 327.30, also published as a proposed rule on April 15, 1997, reflected the Corps amended flotation requirements for all new docks and boat mooring facilities. The Corps received 28 letters concerning flotation during the comment period of this proposed rulemaking. The comments prompted the Corps to conduct further studies and give additional consideration to flotation requirements. Accordingly, the flotation portion of the proposed rule published on April 15, 1997, was withdrawn and was subsequently replaced by a new proposed rule published in the **Federal Register** on December 4, 1997. Twelve comments were received on the new proposed rule change and are summarized below.

Discussion of Public Comments and Changes

I. Definition of terms

Many of the comments received asked for specific definitions as they relate to the final rule. Those definitions are as follows:

1. *Waterlogged*—This term means saturated with water to the point of sogginess or loss of buoyancy. Although all floatation materials absorb water to some degree (unless they are completely encased), they do not all lose buoyancy and become waterlogged at the same rate. Flotation that is not watertight will become progressively heavier and more waterlogged over time. At some point, these floats no longer meet the specifications for flotation as originally designed. Floats with air as a flotation media become waterlogged as soon as they are punctured or cracked, sinking almost immediately after enough chambers are penetrated.

2. *Crack, peel, fragment*—These terms refer to plastic, fiberglass, or concrete encasements or coatings. Some of these encasements may contain hairline cracks. Although these small cracks (and some larger ones) do not affect the structural integrity of the float if it is filled with good foam, some encasements have more than one gap or opening. Once filled with water, these cracks can expand and allow beads to enter the water. In the case of peeling and fragmenting, the same situation occurs when a portion of the encasement becomes dislodged and allows for the entrance of beads or other flotation material into the water.

3. *Resistant to puncture and penetration*—This phrase means that the float or its flotation will withstand the intended use under ordinary circumstances. Because waves cause floats to rise and fall along the shoreline, these floats are expected to withstand the daily beating from waves, submerged obstacles such as small rocks or snags in the area, daily bumps of boats or other recreational vessels, as well the normal extremes in weather conditions encountered in the area.

When dealing primarily with floats that use air chambers as the means of flotation, these floats take on water and sink when enough chambers are punctured or penetrated. When dealing with floats using bead flotation, punctures and other forms of penetration could allow the beads to escape into the water and then allow water to enter the encasement, eventually causing failure of the float.

4. *Damage by animals*—Animals and/or waterfowl sometimes burrow into beaded or foam flotation materials to escape the weather or for nesting. Any flotation material should be encased with material that is strong enough and thick enough to prevent intrusion by animals under normal circumstances.

5. *Fire resistant*—This term means able to resist fire and not readily combustible. It does not mean "fire proof". Flotation that is fire resistant must not be made of materials that will heighten or intensify an existing fire.

6. *Severely deteriorated and no longer serviceable*—This phrase means that there is significant damage to the float or its flotation (including taking on excess water or releasing beads), the float or its flotation no longer performs its designated function, or the float or its flotation fails to meet the specifications for which it was originally warranted. In addition, "no longer serviceable" means the float or its flotation material can no longer be repaired so that it performs its designated function or it fails to meet the specifications for which is was originally warranted.

7. *No longer performing its designated function*—This means that a float no longer can be used for its originally intended purpose as a result of damage or deterioration or that the float cannot be used without creating safety hazards for the recreating public.

8. *Marine use*—This term means that use which is related to navigation or water-based activities.

II. Use of Drums or Barrels

Objections were received to eliminating recycled 55-gallon drums, either metal or plastic, as floats. Some respondents stated that if these containers could not be recycled and used as floats, proper disposal was difficult. Others objected because of the cost involved with obtaining other types of floats. Another comment stated that if barrels did become punctured, they were easily replaced with new ones.

There are many problems associated with the use of drums, barrels, or other containers. One of the major problems is that these items can be punctured or cracked through ordinary use. Not all drums or barrels are manufactured to universally agreed-upon standard specifications. Once the integrity of the drum or barrel has been compromised, any remaining contents left in them will mix with water and be disseminated in the area, spreading possible contamination.

Secondly, 55-gallon drums easily break away from docks. Because drums cannot be through-bolted to the dock they normally float in the water under the dock sometimes within a supporting confinement structure. When these barrels become partially filled with water, they float at or just below the water surface and sometimes come out from within the confinement structure. As a result, these drums float free and are a hazard to boaters, water skiers, and other recreational users.

Lastly, when the drums do partially fill with water and sink, they can cause considerable damage to dam mechanisms, water intakes, pipelines, and other water control structures. Even if these drums are filled with polyurethane foam, they can still break loose and may sink or partially sink as a result of the water's displacement of the air within the voids.

Several comments asked for the use of tires as a form of encasement. The problem with tires is not their composition; instead, the problem is how they truly function as encasements. If the exposed extruded polystyrene portion of the flotation must be further encased by plywood or some other material, there are several problems that must be addressed. Any misshaping of the tire could result in a "non-contact" spot which would allow the entrance of water, thus altering the buoyancy of the float. If the plywood encasements are through-bolted, cracks in the wood around the bolts may occur which, again, could decrease the performance of the float. In addition, the wood around the bolts is more susceptible to rot, thus affecting the integrity of the float.

III. Specific Standards

Some comments indicated that the standards, as written, were not specific enough and that subjective requirements should be avoided. The standards were written to provide a framework for identifying measurable outcomes, focusing on results achieved rather than on strict specifications. Exact standards for thickness and density were not included for this reason. To include such restrictions would make the standards more limiting than necessary. As technologies advance and new and better forms of floats and flotation material are formulated, it may be unnecessary to meet such strict guidelines set by using today's technology.

IV. Open bead polystyrene

Several comments were received stating that if the Corps intends to not allow any flotation material made of unprotected open bead polystyrene products, such a statement should be made outright in the new standards. Again, the standards were written to provide a framework for identifying measurable outcomes. If unprotected open bead polystyrene does not meet the standards as written, it cannot be allowed as flotation. Whether it is mentioned specifically in the standards or not is irrelevant.

V. Fire Resistance

Several comments were received regarding the fire resistance requirements for floats and flotation. One stated that although some encasements, such as wood and plywood, support combustion, most encasements are not known to feed fires. In fact, most fires start on boats and spread to the docks.

The purpose of the "fire resistant" statement is to ensure that the encasement or its flotation material is not constructed of a material that would heighten or intensify an existing fire. This requirement does not mean "fire proof" or "non-combustible." In addition, the float and its flotation material must be resistant to combustion when either comes in direct contact with petroleum products.

Procedural Requirements

Executive Order (E.O.) 12866

The Secretary of the Army has determined that this final rule is not a "major" rule within the meanng of Executive Order (E.O.) 12866. This final rule will not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, geographic regions; or (3) have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of a United States-based enterprise to compete with foreign-based enterprise in domestic or export markets.

Regulatory Flexibility Act

This final rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Collection of Information

This final rule contains no collection of information under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Executive Order 12612

The Corps has analyzed this final rule under principles and criteria in E.O. 12612 and has determined that this final rule does not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12630

The Corps has determined that this final rule does not have "significant" taking implications. The final rule does not pertain to taking of private property interests, nor does it impact private property.

NEPA Statement

The Corps has determined that this final rule does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969.

Unfunded Mandates Act of 1995

The final rule imposes no unfunded mandates on any governmental or private entity and is in compliance with the provisions of the Unfunded Mandates Act of 1995.

List of Subjects in 36 CFR Part 327

Public lands, Shoreline management.

For the reasons set forth in the preamble, 36 CFR part 327, is amended as follows:

36 CFR PART 327, RULES AND REGULATIONS GOVERNING PUBLIC USE OF WATER RESOURCE DEVELOPMENT PROJECTS ADMINISTERED BY THE CHIEF OF ENGINEERS

1. The authority citation for 36 CFR part 327 continues to read as follows:

Authority: 16 U.S.C. 460d and 460*l*–6a.

2. Appendix A to § 327.30 is amended by revising paragraph 2c(9) as follows:

Appendix A to § 327.30—Guidelines for Granting Shoreline Use Permits

* * * * *

2. * * *

c. * * *

(9) The district commander or his/her authorized representative may place special conditions on the permit when deemed necessary. Requests for waivers of shoreline management plan permit conditions based on health conditions will be reviewed on a case by case basis by the Operations Manager. Efforts will be made to reduce onerous requirements when a limiting health condition is obvious or when an applicant provides a doctor's certification of need for conditions which are not obvious.

* * * * *

3. Appendix C to § 327.30 is amended by revising paragraph 14, to read as follows:

Appendix C to § 327.30—Shoreline Use Permit Conditions

* * * * *

14. Floats and the flotation material for all docks and boat mooring buoys shall be fabricated of materials manufactured for marine use. The float and its flotation material shall be 100% warranted for a minimum of 8 years against sinking, becoming waterlogged, cracking, peeling, fragmenting, or losing beads. All floats shall resist puncture and penetration and shall not be subject to damage by animals under normal conditions for the area. All floats and the flotation material used in them shall be fire resistant. Any float which is within 40 feet of a line carrying fuel shall be 100% impervious to water and fuel. The use of new or recycled plastic or metal drums or non-compartmentalized air containers for encasement or floats is prohibited. Existing floats are authorized until it or its flotation material is no longer serviceable, at which time it shall be replaced with a float that meets the conditions listed above. For any floats installed after the effective date of this specification, repair or replacement shall be required when it or its flotation material no longer performs its designated function or it fails to meet the specifications for which it was originally warranted.

* * * * *

Dated: June 23, 1998.

Robert W. Burkhardt,

Colonel, Corps of Engineers, Executive Director or Civil Works.

[FR Doc. 98–17396 Filed 6–30–98; 8:45 am]

BILLING CODE 3710–92–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Parts 1220, 1222, 1228, 1230, 1234, and 1238

RIN 3095–AA85

Technical Amendments to Records Management Regulations

AGENCY: National Archives and Records Administration (NARA).

ACTION: Final rule; technical amendments.

SUMMARY: NARA is updating organizational titles and addresses in 36 CFR ch. XII, subchapter B, to reflect the current organizations that perform the functions. Since the regulations in 36 CFR ch. XII, subchapter B, were last revised, NARA has reorganized and renamed the offices that have records management responsibilities. Additionally, the offices have been relocated to the Archives II facility in College Park. Updating the titles and addresses will facilitate agency and public correspondence with NARA.

EFFECTIVE DATE: July 1, 1998.

FOR FURTHER INFORMATION CONTACT: Nancy Allard at (301) 713–7360, extension 226.

SUPPLEMENTARY INFORMATION: This rule is being issued as a final rule without prior notice of proposed rulemaking because under 5 U.S.C. 553 (b)(3)(A) it is exempt from notice-and-comment procedure as it solely concerns matters relating to internal agency organization. NARA finds good cause to issue this rule with an immediate effective date under 5 U.S.C. 553(d)(3) because it is a nonsubstantive rule that only updates organizational titles and addresses.

This rule is not a significant regulatory action for the purposes of Executive Order 12866, and has not been reviewed by OMB. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on small entities.

For the reasons set forth in the preamble, and under the authority of 44 U.S.C. 2104, NARA is amending chapter XII of title 36, Code of Federal Regulations, as follows:

PART 1220—FEDERAL RECORDS; GENERAL

1. In the following table, for each section indicated in the left column, remove the words indicated in the middle column from wherever they appear in the section, and add the words indicated in the right column:

Section	Remove	Add in its place
1220.40	Office of Records Administration, National Archives (NIA), Washington, DC 20408.	NARA, Life Cycle Management Division (NWML), 8601 Adelphi Rd., College Park, MD 20740–6001
1220.40	Office of Records Administration	Life Cycle Management Division
1220.54	Assistant Archivist for Records Administration	Director, Life Cycle Management Division

PART 1222—CREATION AND MAINTENANCE OF FEDERAL RECORDS

2. In § 1222.20(b)(3), remove the words "NARA (NI)" , and add in their place "NARA (NWML)".

PART 1228—DISPOSITION OF FEDERAL RECORDS

3. In the following table, for each section indicated in the left column, remove the words indicated in the middle column from wherever they appear in the section, and add the words indicated in the right column:

Section	Remove	Add in its place
1228.26	NARA (NIR)	NARA (NWML)
1228.46	NARA (NI)	NARA (NWM)
1228.50	(NIR)	(NWML)
1228.54	National Archives and Records Administration (NIR)	National Archives and Records Administration (NWML)
1228.54	NARA (NIR), Washington, DC 20408	NARA (NWML), 8601 Adelphi Rd., College Park, MD 20740–6001
1228.54	Office of Federal Records Centers (NC)	Office of Regional Records Services (NR)
1228.60	NARA (NIR), Washington, DC 20408	NARA (NWML), 8601 Adelphi Rd., College Park, MD 20740–6001
1228.74	NARA (NIR), Washington, DC 20408	NARA (NWML), 8601 Adelphi Rd., College Park, MD 20740–6001
1228.78	NARA (NIR)	NARA (NWML)
1228.92	NARA (NIR)	NARA (NWML)
1228.92	NARA (NIR), Washington, DC 20408	NARA (NWML), 8601 Adelphi Rd., College Park, MD 20740–6001
1228.94	NARA (NIR)	NARA (NWML)
1228.104	NARA (NIR) Washington, DC 20408	NARA (NWML), 8601 Adelphi Rd., College Park, MD 20740–6001
1228.124	National Archives (NIR)	NARA (NWML)
1228.152	National Archives (NC), Washington, DC 20408	NARA (NR), 8601 Adelphi Rd., College Park, MD 20740–6001
1228.154	Assistant Archivist for Federal Records Centers, National Archives and Records Administration (NC), Washington, DC 20408.	Assistant Archivist for Regional Records Services, NARA (NR), 8601 Adelphi Rd., College Park, MD 20740–6001
1228.154	Records Appraisal and Disposition Division (NIR)	Life Cycle Management Division (NWML)
1228.156	National Archives (NC), Washington, DC 20408	NARA (NR), 8601 Adelphi Rd., College Park, MD 20740–6001
1228.190	Office of the National Archives (NN)	Office of Records Services—Washington, DC (MWMD)
1228.190	Regional Archives	Regional Records Services Facility
1228.222(a)(3)	National Archives (NC), Washington, DC 20408	NARA (NR), 8601 Adelphi Rd., College Park, MD 20740–6001
1228.224	Office of Federal Records Centers (NC), National Archives, Washington, DC 20408.	Office of Regional Records Services (NR), NARA, 8601 Adelphi Rd., College Park, MD 20470–6001

PART 1230—MICROGRAPHIC RECORDS MANAGEMENT

4. In the following table, for each section indicated in the left column, remove the words indicated in the middle column from wherever they appear in the section, and add the words indicated in the right column:

Section	Remove	Add in its place
1230.7	(NI), Washington, DC 20408	(NWM), 8601 Adelphi Rd., College Park, MD 20740–6001

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Section	Remove	Add in its place
1230.50	Office of Federal Records Centers, National Archives (NC), Washington, DC 20408.	Office of Regional Records Services (NR), 8601 Adelphi Rd., College Park, MD 20740–6001

PART 1234—ELECTRONIC RECORDS MANAGEMENT

5. In § 1234.10(a), remove the words "Office of Records Administration (NI), Washington, DC 20408", and add in their place the words "Modern Records Programs (NWM), 8601 Adelphi Rd., College Park, MD 20740–6001".

PART 1238—PROGRAM ASSISTANCE

6. In § 1238.2, remove the words "Agency Services Division, Office of Records Administration, National Archives (NIA), Washington, DC 20408" and add in their place the words "NARA Life Cycle Management Division (NWML), 8601 Adelphi Rd., College Park, MD 20740–6001".

7. Also in § 1238.2, remove the words "director of the appropriate Federal records center regarding records in or scheduled for transfer to the records center, or the director of the appropriate regional archives regarding records in or scheduled for transfer to the regional archives" and add in their place the words "appropriate Regional Administrator regarding records in or scheduled for transfer to the records center and/or the archival operations within the region".

Dated: June 25, 1998.

John W. Carlin,

Archivist of the United States.

[FR Doc. 98–17462 Filed 6–30–98; 8:45 am]

BILLING CODE 7515–01–P

DEPARTMENT OF DEFENSE

DEPARTMENT OF TRANSPORTATION

Coast Guard

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AF85

Veterans Education: Suspension and Discontinuance of Payments

AGENCIES: Department of Defense, Department of Transportation (Coast Guard), and Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document makes changes to the Department of Veterans Affairs (VA) education regulations. It requires that a Director of a VA field station obtain recommendations from a Committee on Educational Allowances before deciding whether to suspend or discontinue payments of educational assistance when educational institutions (including training establishments) fail to meet requirements. It also establishes procedural and composition requirements for the Committees, and it establishes hearing rules for the Committees. In addition, it provides that upon the request of the affected educational institution, the Director of the Education Service will determine, on the basis of the evidence of record, appeals of a decision concerning such suspension or discontinuance of payments of educational assistance. The changes apply to the following educational assistance programs: Montgomery GI Bill—Active Duty, Montgomery GI Bill—Selected Reserve, Survivors' and Dependents' Educational Assistance, the Post-Vietnam Era Veterans' Educational Assistance Program, and the Educational Assistance Pilot Program. The changes are appropriate to ensure proper decisionmaking. In addition, nonsubstantive changes are made for the purpose of clarification.

DATES: Effective Date: July 31, 1998.

FOR FURTHER INFORMATION CONTACT: William G. Susling, Jr., Education Advisor, Education Service, Veterans Benefits Administration, Department of Veterans Affairs, (202) 273–7187.

SUPPLEMENTARY INFORMATION: In a document published in the **Federal Register** on August 28, 1997 (62 FR 45596), VA, the Department of Defense, and the Department of Transportation (Coast Guard) proposed to amend the "Administration of Educational Assistance Programs" regulations which are set forth at 38 CFR 21.4001 et seq. It was proposed to make changes to the regulations concerning suspension or discontinuance of payments of educational assistance when educational institutions (including training establishments) fail to meet requirements to report certain occurrences concerning the enrollments of individuals in the following educational assistance programs: Montgomery GI Bill—Active Duty, Montgomery GI Bill—Selected Reserve, Survivors' and Dependents' Educational Assistance, the Post-Vietnam Era Veterans' Educational Assistance Program (VEAP), and the Educational Assistance Pilot Program.

Interested persons were given 60 days to submit comments. One comment was received from the National Association of State Approving Agencies (NASAA).

The provisions of proposed § 21.4210(e) stated, in part:

> (e) *Actions that must accompany a mass suspension of educational assistance payments or suspension of approval of enrollments and reenrollments in a course or educational institution.* (1) The Director of the VA facility of jurisdiction may suspend payment of educational assistance and may suspend approval of new enrollments and reenrollments as provided in paragraph (d) of this section, only after:
>
> (i) The Director notifies in writing the State approving agency concerned and the educational institution of any failure to meet the approval requirements and any violation of recordkeeping or reporting requirements; and
>
> (ii) The educational institution—
>
> (A) Refuses to take corrective action; or
>
> (B) Does not take corrective action within 60 days (or 90 days if permitted by the Director).

NASAA suggested that an alternative should be added to avoid a suspension if a State approving agency took action to resolve the failure to meet approval requirements, and a report of the corrective action were made to VA within 30 days of the Director's notification. No changes are made based on this comment. The rule provides for notice to the State approving agency and we would expect the State approving agency to become involved in the matter. However, the provisions of the rule allowing corrective action to be taken within 60 or 90 days would obviate any need to include an alternative that corrective action be taken within 30 days if taken as a result of prompting from the State approving agency.

Based on the rationale set forth in this document and in the proposed rule, the provisions of the proposed rule are adopted without change except that the final rule corrects a citation in § 21.4008.

The Department of Defense (DOD) and VA are jointly issuing this final rule insofar as it relates to VEAP. This program is funded by DOD and administered by VA. DOD, the Department of Transportation (Coast Guard), and VA are jointly issuing this final rule insofar as it relates to the Montgomery GI Bill—Selected Reserve program. This program is funded by DOD and the Coast Guard, and is administered by VA. The remainder of this final rule is issued solely by VA.

The Secretary of Defense, the Commandant of the Coast Guard, and the Secretary of Veterans Affairs, within their respective jurisdictions, hereby certify that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Although it is possible that a small-entity school could be affected by this final rule, the number of individuals affected at the school would in all likelihood be an insignificant portion of the student body. Also, experience has shown that only one or two schools per year will be affected by the provisions of this final rule concerning suspensions and discontinuance of payments. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

The Catalog of Federal Domestic Assistance numbers for programs affected by this final rule are 64.117, 64.120, and 64.124. There is no Catalog of Federal Domestic Assistance number for the Montgomery GI Bill—Selected Reserve program.

List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Defense Department, Education, Employment, Grant programs—education, Grant programs—veterans, Health care, Loan programs—education, Loan programs—veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: March 17, 1998.

Togo D. West, Jr.,

Acting Secretary.

Approved: May 1, 1998.

Normand G. Lezy,

Lieutenant General, USAF, Deputy Assistant Secretary (Military Personnel Policy), Department of Defense.

Approved: April 24, 1998.

G.F. Woolver,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Human Resources.

For the reasons set out in the preamble, 38 CFR part 21 (subparts D, G, K, and L) is amended as set forth below:

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart D—Administration of Educational Assistance Programs

1. The authority citation for part 21, subpart D is revised to read as follows:

Authority: 10 U.S.C. 2147 note, ch. 1606; 38 U.S.C. 501(a), chs. 30, 32, 34, 35, 36, unless otherwise noted.

§ 21.4008 [Amended]

2. Section 21.4008 is amended by removing "§ 21.4134", and adding, in its place, "§ 21.4210".

§ 21.4133 [Removed]

3. Section 21.4133 is removed.

§ 21.4134 [Removed]

4. Section 21.4134 is removed.

5. In § 21.4135, paragraph (f) is revised; introductory text is added to paragraph (j); paragraph (j)(1) is revised; the heading for paragraph (k) is revised; introductory text is added to paragraph (k); and paragraph (k)(1) is revised, to read as follows:

§ 21.4135 Discontinuance dates.

* * * * *

(f) *Discontinued by VA (§§ 21.4215, 21.4216).* If VA discontinues payments of educational assistance as provided by §§ 21.4215(d) and 21.4216, the effective date of discontinuance will be as follows:

(1) The date on which payments first were suspended by the Director of a VA facility as provided in § 21.4210, if the discontinuance were preceded by such a suspension.

(2) End of the month in which the decision to discontinue is effective pursuant to § 21.4215(d), if the Director of a VA facility did not suspend payments prior to the discontinuance.

(Authority: 38 U.S.C. 3690)

* * * * *

(j) *Disapproval by State approving agency (§ 21.4259(a)).* If a State approving agency disapproves a course, the date of discontinuance of payments to those receiving educational assistance while enrolled in the course will be as follows:

(1) The date on which payments first were suspended by the Director of a VA facility as provided in § 21.4210, if disapproval were preceded by such a suspension.

* * * * *

(k) *Disapproval by Department of Veterans Affairs (§§ 21.4215, 21.4259(c)).* If VA disapproves a course, the date of discontinuance of payments to those receiving educational assistance while enrolled in the course will be as follows:

(1) Date on which payments first were suspended by the Director of a VA facility as provided in § 21.4210, if disapproval were preceded by such a suspension.

* * * * *

§ 21.4146 [Amended]

6. Section 21.4146(e) is amended by removing "§§ 21.4207 and 21.4202(b)(4)" and adding, in its place, "§§ 21.4210(g) and 21.4212".

§ 21.4152 [Amended]

7. Section 21.4152(b)(2) is amended by removing "§ 21.4202" and adding, in its place, "§ 21.4210(d)".

§ 21.4202 [Amended]

8. In § 21.4202, paragraphs (a) and (b) are removed and reserved.

§ 21.4207 [Removed]

9. Section 21.4207 is removed.

§ 21.4208 [Removed]

10. Section 21.4208 is removed.

11. Section 21.4210 is added to read as follows:

§ 21.4210 Suspension and discontinuance of educational assistance payments and of enrollments or reenrollments for pursuit of approved courses.

(a) *Overview.* (1) VA may pay educational assistance to an individual eligible for such assistance under 10 U.S.C. chapter 1606, or 38 U.S.C. chapter 30, 32, 35, or 36, only if the individual is pursuing a course approved in accordance with the provisions of 38 U.S.C. chapter 36. In general, courses are approved for this purpose by a State approving agency designated to do so (or by VA in some instances). Notwithstanding such approval, however, VA, as provided in paragraphs (b), (c), and (d) of this

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section, may suspend, discontinue, or deny payment of benefits to any or all otherwise eligible individuals for pursuit of courses or training approved under 38 U.S.C. chapter 36.

(2) For the purposes of this section and the purposes of §§ 21.4211 through 21.4216, except as otherwise expressly stated to the contrary—

(i) The term "course" includes an apprenticeship or other on-job training program;

(ii) The term "educational institution" includes a training establishment; and

(iii) Reference to action suspending, discontinuing, or otherwise denying enrollment or reenrollment means such action with respect to providing educational assistance under the chapters listed in paragraph (a)(1) of this section.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3452, 3671, 3690)

(b) *Denial of payment in individual cases.* VA may deny payment of educational assistance to a specific individual for pursuit of a course or courses if, following an examination of the individual's case, VA has credible evidence affecting that individual that—

(1) The course fails to meet any of the requirements of 10 U.S.C. chapter 1606, or 38 U.S.C. chapter 30, 32, 34, 35, or 36; or

(2) The educational institution offering the individual's course has violated any of those requirements of law.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3690(b)(1), 3690(b)(2))

(c) *Notice in individual cases.* Except as provided in paragraph (e) of this section, when VA denies payment of educational assistance to an individual under paragraph (b) of this section, VA will provide concurrent written notice to the individual. The notice shall state—

(1) The adverse action;

(2) The reasons for the action; and

(3) The individual's right to an opportunity to be heard thereon in accordance with part 19 of this title.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3690)

(d) *Actions affecting groups.* (1) The Director of the VA facility of jurisdiction may suspend payments of educational assistance to all veterans, servicemembers, reservists, or eligible persons already enrolled in a course, and may disapprove all further enrollments or reenrollments of individuals seeking VA educational assistance for pursuit of the course. The decision to take such action, except as provided in paragraph (d)(2) of this section, must be based on evidence of a substantial pattern of veterans, servicemembers, reservists, or eligible persons enrolled in the course receiving educational assistance to which they are not entitled because:

(i) One or more of the course approval requirements of 38 U.S.C. chapter 36 are not met, including the course approval requirements specified in §§ 21.4253, 21.4254, 21.4261, 21.4262, 21.4263, and 21.4264; or

(ii) The educational institution offering the course has violated one or more of the recordkeeping or reporting requirements of 10 U.S.C. chapter 1606, or of 38 U.S.C. chapters 30, 32, 34, 35, and 36. These violations may include, but are not limited to, the following:

(A) Willful and knowing submission of false reports or certifications concerning students or courses of education;

(B) Failure to report to VA a veteran's, servicemember's, reservist's, or eligible person's reduction, discontinuance, or termination of education or training; or

(C) Submission of improper or incorrect reports in such number, manner, or period of time as to indicate negligence on its part, including failure to maintain an adequate reporting or recordkeeping system.

(2) The Director also may make a decision to take the action described in paragraph (d)(1) of this section when the Director has evidence that one or more prohibited assignments of benefits have occurred at an educational institution as a result of that educational institution's policy. This decision may be made regardless of whether there is a substantial pattern of erroneous payments at the educational institution. See § 21.4146.

(3) The Director may disapprove the enrollment of all individuals not already enrolled in an educational institution (which for the purposes of this paragraph does not include a training establishment) when the Director finds that the educational institution:

(i) Has charged or received from veterans, servicemembers, reservists, or eligible persons an amount for tuition and fees in excess of the amount similarly circumstanced nonveterans are required to pay for the same course; or

(ii) Has instituted a policy or practice with respect to the payment of tuition, fees, or other charges that substantially denies to veterans, servicemembers, reservists, or eligible persons the benefits of advance payment of educational assistance authorized to such individuals under §§ 21.4138(d), 21.7140(a), and 21.7640(d); or

(iii) Has used erroneous, deceptive, or misleading practices as set forth in § 21.4252(h).

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3680A(d), 3684, 3685, 3690, 3696, 5301)

(e) *Actions that must accompany a mass suspension of educational assistance payments or suspension of approval of enrollments and reenrollments in a course or educational institution.* (1) The Director of the VA facility of jurisdiction may suspend payment of educational assistance and may suspend approval of new enrollments and reenrollments as provided in paragraph (d) of this section, only after:

(i) The Director notifies in writing the State approving agency concerned and the educational institution of any failure to meet the approval requirements and any violation of recordkeeping or reporting requirements; and

(ii) The educational institution—

(A) Refuses to take corrective action; or

(B) Does not take corrective action within 60 days (or 90 days if permitted by the Director).

(2) Not less than 30 days before the Director acts to make a mass suspension of payments of educational assistance and/or suspend approval of new enrollments and reenrollments, the Director will, to the maximum extent feasible, provide written notice to each veteran, servicemember, reservist, and eligible person enrolled in the affected courses. The notice will:

(i) State the Director's intent to suspend payments and/or suspend approval of new enrollments and reenrollments unless the educational institution takes corrective action;

(ii) Give the reasons why the Director intends to suspend payments and/or suspend approval of new enrollments and reenrollments; and

(iii) State the date on which the Director intends to suspend payments and/or suspend approval of new enrollments and reenrollments.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3690(b))

(f) *Actions in cases indicating submission of false, misleading, or fraudulent claims or statements.* The Director of the VA facility of jurisdiction will take the following action, as indicated, that may be in addition to suspending payments or further approval of enrollments or reenrollments in a course or educational institution.

(1) If the Director has evidence indicating that an educational institution has willfully submitted a

false or misleading claim, or that a veteran, servicemember, reservist, eligible person, or other person, with the complicity of an educational institution, has submitted such a claim, the Director will make a complete report of the facts of the case to the appropriate State approving agency and to the Office of Inspector General for appropriate action.

(2) If the Director believes that an educational institution has submitted a false, fictitious, or fraudulent claim or written statement within the meaning of the Program Fraud Civil Remedies Act (31 U.S.C. 3801–3812) or that a veteran, servicemember, reservist, eligible person, or other person, with the complicity of an educational institution, has submitted such a claim or made such a written statement, the Director will follow the procedures in part 42 of this title.

(Authority: 10 U.S.C. 16136(b); 31 U.S.C. 3801–3812; 38 U.S.C. 3034(a), 3241(a), 3690(d))

(g) *Referral to the Committee on Educational Allowances.* If the Director of the VA facility of jurisdiction suspends payment of educational assistance to, or suspends approval of the enrollment or reenrollment of, individuals in any course or courses as provided in paragraph (d) of this section, the Director will refer the matter to the Committee on Educational Allowances as provided in § 21.4212.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3690)

(h) *Withdrawal of referral to Committee on Educational Allowances.* (1) If, following a suspension of payments and/or of approval of enrollments or reenrollments, the Director of the VA facility of jurisdiction determines that the conditions which justified the suspension have been corrected, and the State approving agency has not withdrawn or suspended approval of the course or courses, the Director may resume payments to and/or approval of enrollments or reenrollments of the affected veterans, servicemembers, reservists, or eligible persons. If the case has already been referred to the Committee on Educational Allowances under paragraph (g) of this section at the time such action is taken, the Director will advise the Committee that the original referral is withdrawn.

(2) If, following a referral to the Committee on Educational Allowances, the Director finds that the State approving agency will suspend or withdraw approval, the Director may, if otherwise appropriate, advise the Committee that the original referral is withdrawn.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3690)

12. Section 21.4211 is added to read as follows:

§ 21.4211 Composition, jurisdiction, and duties of Committee on Educational Allowances.

(a) *Authority.* VA is authorized by 38 U.S.C. 3690 to discontinue educational benefits to veterans, servicemembers, reservists, or eligible persons when VA finds that the program of education or course in which such individuals are enrolled fails to meet any of the requirements of 38 U.S.C. chapter 30, 32, 34, 35, or 36, or 10 U.S.C. chapter 1606, or the regulations in this part, or when VA finds an educational institution or training establishment has violated any such statute or regulation, or fails to meet any such statutory or regulatory requirement. Sections 21.4210 and 21.4216 implement that authority. This section provides for establishment of a Committee on Educational Allowances within each VA facility of jurisdiction whose findings of fact and recommendations will be provided to the Director of that VA facility, to whom such authority to discontinue educational benefits or disapprove enrollments or reenrollments has been delegated.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3690)

(b) *Purpose.* (1) The Committee on Educational Allowances is established to assist the Director of the VA facility of jurisdiction in reaching a conclusion as to whether, in a specific case, educational assistance to all individuals enrolled in any course or courses offered by the educational institution should be discontinued and, if appropriate, whether approval of all further enrollments or reenrollments in those courses should be denied to veterans, servicemembers, reservists, or other eligible persons pursuing those courses under programs administered by VA because a requirement of 38 U.S.C. chapter 30, 32, 34, 35, or 36, or 10 U.S.C. chapter 1606, or the regulations in this part, is not being met or a provision of such statute or regulation has been violated.

(2) The function of the Committee on Educational Allowances is to develop facts and recommend action to be taken on the basis of the facts found. A hearing before the Committee is not in the nature of a trial in a court of law. Instead, it is an administrative inquiry designed to create a full and complete record upon which a recommendation can be made as to whether the Director should discontinue payment of educational benefits and/or deny approval of new enrollments or reenrollments. Both the interested educational institution and VA Regional Counsel, or designee, representing VA, will be afforded the opportunity to present to the Committee any evidence, argument, or other material considered pertinent.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3690)

(c) *Jurisdiction.* The Committee on Educational Allowances will consider only those cases which are referred in accordance with §§ 21.4210(g) and 21.4212.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3690)

(d) *Committee members.* The Committee on Educational Allowances will consist of three employees of the VA facility of jurisdiction, at least one of whom is familiar with the adjudication of claims for benefits administered by the Veterans Benefits Administration. The Director of the VA facility of jurisdiction will designate a Chairperson. In the event that any member becomes unable to serve for any reason, the Director may appoint a replacement member. Before the Committee resumes its proceedings, the new member will be given an opportunity to apprise himself or herself of the actions and testimony already taken by the Committee.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3690)

(e) *Duties and responsibilities of the Committee.* (1) The function of the Committee on Educational Allowances is to make recommendations to the Director of the VA facility of jurisdiction in connection with specific cases referred for consideration as provided in §§ 21.4210(g) and 21.4212.

(2) The performance of this function will include:

(i) Hearing testimony or argument from witnesses or representatives of educational institutions and VA, as appropriate, when such persons appear personally before the Committee;

(ii) Receiving and reviewing all the evidence, testimony, briefs, statements, and records included in each case; and

(iii) Furnishing the Director of the VA facility of jurisdiction a written statement setting forth specifically the question or questions considered, a summation of the essential facts of record, recommendations as to issues referred for consideration by the Committee, and the basis therefor. In any case where there is not unanimity,

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both the majority and the minority views and recommendations will be furnished.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3690)

13. Section 21.4212 is added to read as follows:

§ 21.4212 Referral to Committee on Educational Allowances.

(a) *Form and content of referral to Committee.* When the Director of the VA facility of jurisdiction refers a case to the Committee on Educational Allowances, as provided in § 21.4210(g), the referral will be in writing and will—

(1) State the approval, reporting, recordkeeping, or other criteria of statute or regulation which the Director has cause to believe the educational institution has violated;

(2) Describe the substantial pattern of veterans, servicemembers, reservists, or eligible persons receiving educational assistance to which they are not entitled which the Director has cause to believe exists, if applicable;

(3) Outline the nature of the evidence relied on by the Director in reaching the conclusions of paragraphs (a)(1) and (a)(2) of this section;

(4) Describe the Director's efforts to obtain corrective action and the results of those efforts; and

(5) Ask the Committee on Educational Allowances to perform the functions described in §§ 21.4211, 21.4213, and 21.4214 and to recommend to the Director whether educational assistance payable to individuals pursuing the courses in question should be discontinued and approval of new enrollments or reenrollments denied.

(b) *Notice of the referral.* (1) At the time of referral the Director will—

(i) Send notice of the referral, including a copy of the referral document, by certified mail to the educational institution. The notice will include statements that the Committee on Educational Allowances will conduct a hearing; that the educational institution has the right to appear before the Committee and be represented at the hearing to be scheduled; and that, if the educational institution intends to appear at the hearing, it must notify the Committee within 60 days of the date of mailing of the notice;

(ii) Provide an information copy of the notice and referral document to the State approving agency of jurisdiction; and

(iii) Place a copy of the notice and referral document on display at the VA facility of jurisdiction for review by any interested party or parties.

(2) The Director will provide a copy of the notice and referral document to the VA Regional Counsel, or designee, of jurisdiction, who will represent VA before the Committee on Educational Allowances.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3690)

14. Section 21.4213 is added to read as follows:

§ 21.4213 Notice of hearing by Committee on Educational Allowances.

(a) *Content of hearing notice.* In any case referred to the Committee on Educational Allowances for consideration, a hearing will be held. If, as provided in § 21.4212(b), the educational institution has timely notified the Committee of its intent to participate in the hearing, the educational institution will be notified by certified letter from the Chairperson of the date when the hearing will be held. This hearing notification will inform the educational institution of—

(1) The time and place of the hearing;

(2) The matters to be considered;

(3) The right of the educational institution to appear at the hearing with representation by counsel, to present witnesses, to offer testimony, to present arguments, and/or to submit a written statement or brief; and

(4) The complete hearing rules and procedures.

(b) *Expenses connected with hearing.* The notice also will inform the educational institution that VA will not pay any expenses incurred by the educational institution resulting from its participation in the hearing, including the expenses of counsel or witnesses on behalf of the educational institution.

(c) *Publication of hearing notice.* Notice of the hearing will be published in the **Federal Register**, which will constitute notice to any interested individuals, and will indicate that, while such individuals may attend and observe the hearing, they may not participate unless called as witnesses by VA or the educational institution.

(Authority: 10 U.S.C. 16136; 38 U.S.C. 3034(a), 3241(a), 3690)

15. Section 21.4214 is added to read as follows:

§ 21.4214 Hearing rules and procedures for Committee on Educational Allowances.

(a) *Rule 1.* The Chairperson of the Committee on Educational Allowances will be in charge of the proceedings, will administer oaths or affirmations to witnesses, and will be responsible for the official conduct of the hearing. A majority of the members of the Committee will constitute a quorum. No party to the proceedings may conduct a *voir dire* of the Committee members.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3690)

(b) *Rule 2.* At the opening of the hearing, the Chairperson of the Committee on Educational Allowances will inform the educational institution of the purpose of the hearing, the nature of the evidence of record relating to the asserted failures or violations, and the applicable provisions of law and VA regulations. The Chairperson will advise the VA Regional Counsel, or designee, representing VA, that the Committee on Educational Allowances will entertain any relevant evidence or witnesses which VA Counsel presents to the Committee and which would substantiate a decision by the Committee to recommend that the Director of the VA facility of jurisdiction take an adverse action on the issues submitted for its review. The educational institution will be advised of its right to present any evidence, relevant to the issues submitted for the Committee's review, by oral or documentary evidence; to submit rebuttal evidence; to present and cross-examine witnesses; and to make such statements as may be appropriate on its behalf for a true and full disclosure of the facts. VA Counsel will be allowed to cross-examine any witnesses offered by the educational institution and to reply to any written briefs or arguments submitted to the Committee.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3690)

(c) *Rule 3.* Any testimony or evidence, either oral or written, which the Committee on Educational Allowances deems to be of probative value in deciding the question at issue will be admitted in evidence. While irrelevant, immaterial, or unduly repetitious evidence, testimony, or arguments should be excluded, reasonable latitude will be permitted with respect to the relevancy, materiality, and competency of evidence. In most instances the evidence will consist of official records of the educational institution and VA, and these documents may be attested to and introduced by affidavit; but the introduction of oral testimony by the educational institution or by VA will be allowed, as appropriate, in any instance where the educational institution or VA Counsel desires. VA, however, will neither subpoena any witness on behalf of the educational institution for such purposes nor bear any expenses in connection with the appearance of such witness. In instances where the evidence reasonably available consists of signed written statements, secondary or hearsay evidence, etc., such evidence may be introduced into the record and will be given the weight and consideration which the circumstances warrant.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3690)

(d) *Rule 4.* A verbatim stenographic or recorded transcript of the hearing will be made. This transcript will become a permanent part of the record, and a copy will be furnished to the educational institution and the VA Counsel at the conclusion of the proceeding, unless furnishing of the copy of the transcript is waived by the educational institution.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3690)

(e) *Rule 5.* The Chairperson of the Committee on Educational Allowances will identify all exhibits in the order of introduction or receipt (numerically for VA exhibits and alphabetically for exhibits introduced by the educational institution). All such original exhibits or documents shall be attached to the original of the transcript. VA shall make photocopies or certified copies and attach them to the copy of the transcript furnished to the educational institution and the VA Counsel. The original transcript will accompany the Committee's recommendation to the Director of the VA facility of jurisdiction along with all exhibits, briefs, or written statements received by the Committee during the course of the proceedings. Such documents should be clearly marked to indicate which were received into evidence and relied upon by the Committee in making its recommendations.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3690)

(f) *Rule 6.* The Committee on Educational Allowances, at its discretion, may reasonably limit the number of persons appearing at the hearing, including any affected individuals presented as witnesses by VA or the educational institution.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3690)

(g) *Rule 7.* Any person who is presented to testify will be required to be duly placed under oath or affirmation by the Chairperson of the Committee on Educational Allowances. If an official of the educational institution desires to present a statement personally, the individual will be required to be placed under oath or affirmation. The Chairperson will advise each witness that the Committee understands that he or she is voluntarily appearing before the Committee; that any testimony or statement given will be considered as being completely voluntary; and that no one has authority to require the individual to make any statement or answer any question against his or her will before the Committee, except that a person called as a witness on behalf of either VA or the educational institution must be willing to submit to cross-examination with respect to testimony given. Each witness will also be advised that his or her testimony or statement, if false, even though voluntary, may subject him or her to prosecution under Federal statutes.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3690)

(h) *Rule 8.* Any member of the Committee on Educational Allowances may question any witness presented to testify at the hearing or either a representative of the educational institution or the VA Counsel concerning matters that are relevant to the question at issue. Generally, questioning by a Committee member will be limited to the extent of clarifying information on the facts and issues involved.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3690)

(i) *Rule 9.* If the educational institution fails to timely notify the Committee of its intent to participate in a hearing or if a representative of the educational institution is scheduled to appear for a hearing but, without good cause, fails to appear either in person or by writing, the Committee will proceed with the hearing and will review the case on the basis of the evidence of record which shall be presented by the VA Counsel.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3690)

(j) *Rule 10.* Any objection by an authorized representative of the educational institution or the VA Counsel on a ruling by the Chairperson of the Committee on Educational Allowances regarding the admissibility of testimony or other evidence submitted will be made a matter of record, together with the substance in brief of the testimony intended or other evidence concerned. If the other evidence concerned is in the form of an affidavit or other document, it may be accepted for filing as a future reference if it is later ruled admissible as part of the record of the hearing.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3690)

(k) *Rule 11.* Objections relating to the jurisdiction or membership of the Committee on Educational Allowances or the constitutionality of statutes or the constitutionality of, or statutory authority for, VA regulations, are not before the Committee for decision. The time of the Committee will not be used to hear arguments in this regard. However, any such matters outside the province of the Committee may be the subject of a brief or a letter for consideration by the VA Office of General Counsel upon completion of the hearing. The ruling of such authority upon such issues will be obtained and included in the record before the Committee's recommendations are submitted to the Director of the VA facility of jurisdiction. If the VA General Counsel's ruling on such legal issues necessitates reopening the proceeding, that shall be done before the Committee makes its recommendations to the Director of the VA facility of jurisdiction.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3690)

(l) *Rule 12.* The hearing will be open to the public.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3690)

(m) *Rule 13.* The hearing will be conducted in an orderly manner with dignity and decorum. The conduct of members of the Committee on Educational Allowances, the VA Counsel, and any representatives of the educational institution shall be characterized by appropriate impartiality, fairness, and cooperation. The Chairperson of the Committee shall take such action as may be necessary, including suspension of the hearing or the removal of the offending person from the hearing room for misbehavior, disorderly conduct, or the persistent disregard of the Chairperson's ruling. Where this occurs, the Chairperson will point out that the Committee is entitled to every possible consideration in order that the case may be presented clearly and fully, which may be accomplished only through observance of orderly procedures.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3690)

(n) *Rule 14.* The Chairperson of the Committee on Educational Allowances will conduct the hearing proceedings in such a manner that will protect from disclosure information which tends to disclose or compromise investigative sources or methods or which would violate the privacy of any individual. The salient facts, which form the basis of charges, may be disclosed and discussed without revealing the source.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3690)

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(o) *Rule 15.* At the close of the hearing, the Chairperson of the Committee on Educational Allowances shall inform the appropriate representative of the educational institution that the arguments and the evidence presented will be given careful consideration; and that notice of the decision of the Director of the VA facility of jurisdiction, together with the Committee's recommendations, will be furnished to the educational institution and the VA Counsel at the earliest possible time. The Chairperson will also indicate that notice of the Director's decision will be published in the **Federal Register** for the information of all other interested persons.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3690)

(p) *Rule 16.* In making its findings of facts and recommendations, the Committee on Educational Allowances will consider only questions which are referred to it by the Director of the VA facility of jurisdiction as being at issue and which are within the jurisdiction of the Committee.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3690)

16. Section 21.4215 is added to read as follows:

§ 21.4215 Decision of Director of VA facility of jurisdiction.

(a) *Decision.* The Director of the VA facility of jurisdiction will render a written decision on the issue of discontinuance of payments of benefits and/or denial of further enrollments or reenrollments in the course or courses at the educational institution which was the subject of the Committee on Educational Allowances proceedings.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3690)

(b) *Basis of decision.* (1) The decision of the Director of the VA facility of jurisdiction will be based upon all admissible evidence of record, including—

(i) The recommendations of the Committee on Educational Allowances;

(ii) The hearing transcript and the documents admitted in evidence; and

(iii) The ruling on legal issues referred to appropriate authority.

(2) The decision will clearly describe the evidence and state the facts on which the decision is based and, in the event that the decision differs from the recommendations of the Committee on Educational Allowances, will give the reasons and facts relied upon by the Director in deciding not to follow the Committee majority's recommendations.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3690)

(c) *Correction of deficiencies.* If the Director of the VA facility of jurisdiction believes that the record provided for review is incomplete or for any reason should be reopened, before rendering a decision he or she will order VA staff to gather any additional necessary evidence and will notify the educational institution that it may comment upon the new evidence added. The Director will then notify the educational institution as to whether the matter will be resubmitted to the Committee on Educational Allowances for further proceedings, on the basis of the new circumstances. If the matter is referred back to the Committee, the Director will defer a decision until he or she has received the Committee's new recommendations based upon all of the evidence of record.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3690)

(d) *Effective date.* If the decision of the Director of the VA facility of jurisdiction is adverse to the educational institution, the decision shall indicate specifically the effective date of each adverse action covered by the decision.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3690)

(e) *Notification of decision.* (1) The Director of the VA facility of jurisdiction shall send a copy of the decision to the educational institution by certified mail, return receipt requested. A copy of the decision also will be provided by regular mail to the institution's legal representative of record, if any. If the decision is adverse to the educational institution, the Director will enclose a notice of the educational institution's right to have the Director, Education Service review the decision.

(2) The Director of the VA facility of jurisdiction will also send a copy of the decision to:

(i) The State approving agency; and

(ii) VA Counsel.

(3) The Director of the VA facility of jurisdiction shall post a copy of the decision at the VA facility of jurisdiction. A copy of the decision shall be published in the **Federal Register.**

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3690)

17. Section 21.4216 is added to read as follows:

§ 21.4216 Review of decision of Director of VA facility of jurisdiction.

(a) *Decision is subject to review by Director, Education Service.* A review by the Director, Education Service of a decision of a Director of a VA facility of jurisdiction to terminate payments or disapprove new enrollments or reenrollments, when requested by the educational institution, will be based on the evidence of record when the Director of the VA facility of jurisdiction made that decision. It will not be de novo in nature and no hearing on review will be held.

(b) *Authority of Director, Education Service.* The Director, Education Service has the authority to affirm, reverse, or remand the original decision. In the case of such a review, the reviewing official's decision, other than a remand, shall become the final Department decision on the issue presented.

(c) *Notice of decision of Director, Education Service is required.* Notice of the reviewing official's decision will be provided to the interested parties and published in the **Federal Register,** in the same manner as is provided in § 21.4215(e) for decisions of the Director of the VA facility of jurisdiction, for the information of all concerned.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3690)

Subpart G—Post-Vietnam Era Veterans' Educational Assistance Under 38 U.S.C. Chapter 32

18. The authority citation for part 21, subpart G is revised to read as follows:

Authority: 38 U.S.C. 501(a), chs. 32, 36, unless otherwise noted.

§ 21.5130 [Amended]

19. In § 21.5130, paragraphs (b) and (c) are removed, and paragraphs (d), (e), (f), and (g) are redesignated as paragraphs (b), (c), (d), and (e), respectively.

§ 21.5200 [Amended]

20. In § 21.5200, the introductory text is amended by removing "in the same manner as they are applied in the administration of chapters 34 and 36"; paragraph (h) is removed; paragraph (j) is redesignated as paragraph (h); and paragraph (i) is revised and paragraphs (j), (k), (l), (m), (n), and (o) are added, to read as follows:

§ 21.5200 Schools.

* * * * *

(i) Section 21.4210—Suspension and discontinuance of educational assistance payments and of enrollments or reenrollments for pursuit of approved courses.

(j) Section 21.4211—Composition, jurisdiction and duties of Committee on Educational Allowances.

(k) Section 21.4212—Referral to Committee on Educational Allowances.

(l) Section 21.4213—Notice of hearing by Committee on Educational Allowances.

(m) Section 21.4214—Hearing rules and procedures for Committee on Educational Allowances.

(n) Section 21.4215—Decision of Director of VA facility of jurisdiction.

(o) Section 21.4216—Review of decision of Director of VA facility of jurisdiction.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3690)

Subpart K—All Volunteer Force Educational Assistance Program (Montgomery GI Bill—Active Duty)

21. The authority citation for part 21, subpart K, is revised to read as follows:

Authority: 38 U.S.C. 501(a), chs. 30, 36, unless otherwise noted.

22. Section 21.7133 is revised to read as follows:

§ 21.7133 Suspension or discontinuance of payments.

VA may suspend or discontinue payments of educational assistance. In doing so, VA will apply §§ 21.4210 through 21.4216.

(Authority: 38 U.S.C. 3034, 3690)

§ 21.7135 [Amended]

23. In § 21.7135, paragraph (i) introductory text and paragraph (i)(2) are amended by removing "§ 21.4207" and adding, in its place, "§ 21.4211(d) and (g)"; and paragraphs (i)(1), (j)(1), and (k)(1) are amended by removing "§ 21.4134" wherever it appears, and adding, in its place, "§ 21.4210".

24. In § 21.7158, the section heading, paragraph (b)(2), and the authority citation for paragraph (b) are revised, to read as follows:

§ 21.7158 False, late, or missing reports.

* * * * *

(b) * * *

(2) If an educational institution or training establishment willfully and knowingly submits a false report or certification, VA may disapprove that institution's or establishment's courses for further enrollments and may discontinue educational assistance to veterans and servicemembers already enrolled. In doing so, VA will apply §§ 21.4210 through 21.4216.

(Authority: 38 U.S.C. 3034, 3690)

Subpart L—Educational Assistance for Members of the Selected Reserve

25. The authority citation for part 21, subpart L is revised to read as follows:

Authority: 10 U.S.C. ch. 1606; 38 U.S.C. 501(a), ch. 36, unless otherwise noted.

§ 21.7624 [Amended]

26. Section 21.7624(b) is amended by removing "21.4202(b)" and adding, in its place, "21.4210(b)".

27. Section 21.7633 is revised to read as follows:

§ 21.7633 Suspension or discontinuance of payments.

VA may suspend or discontinue payments of educational assistance. In doing so, VA will apply §§ 21.4210 through 21.4216.

(Authority: 10 U.S.C 16136(b); 38 U.S.C. 3690)

§ 21.7635 [Amended]

28. In § 21.7635, the introductory text of paragraph (e) is amended by removing "§ 21.4207 of this part", and adding, in its place, "§ 21.4211(d) and (g)"; paragraph (e)(2) is amended by removing "§ 21.4207 of this part", and adding, in its place, "§ 21.4211(d) and (g)"; and paragraphs (e)(1), (f)(1), and (g)(1) are amended by removing "§ 21.4134 of this part" wherever it appears, and adding, in its place, "§ 21.4210".

§ 21.7658 [Amended]

29. In § 21.7658, paragraph (b)(1) introductory text is amended by removing "negligent" and adding, in its place, "negligent:"; paragraph (b)(1)(i) is amended by removing "institution of higher learning to report," and adding, in its place, "educational institution to report" and by removing "reservist," and adding, in its place, "reservist;"; paragraph (b)(1)(ii) is amended by removing "§ 21.7644(b) of this part" and adding, in its place, "§ 21.7644(c)"; and the section heading, the heading of paragraph (b), and paragraph (b)(2) are revised to read as follows:

§ 21.7658 False, late, or missing reports.

* * * * *

(b) *Educational institution or training establishment.* * * *

(2) If an educational institution or training establishment willfully and knowingly submits a false report or certification, VA may disapprove that institution's or establishment's courses for further enrollments and may discontinue educational assistance to reservists already enrolled. In doing so, VA will apply §§ 21.4210 through 21.4216.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3690)

[FR Doc. 98–17409 Filed 6–30–98; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN84–1a; FRL–6114–8]

Approval and Promulgation of Implementation Plan; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On July 9, 1997, the State of Indiana submitted a State Implementation Plan (SIP) revision request to the United States Environmental Protection Agency for rule changes specific to the power plant at the University of Notre Dame located in Saint Joseph County, Indiana. The submittal provides for revised limits on particulate matter (PM) emissions from five of Notre Dame's boilers. The revised limits are less stringent, overall, than the limits in the current SIP. Air quality modeling has been conducted, however, which shows that the National Ambient Air Quality Standards (NAAQS) will still be protected under the new regulations.

DATES: The "direct final" rule is effective on August 31, 1998, without further notice unless EPA receives adverse or critical written comments by July 31, 1998. If adverse written comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Copies of the revision request are available for inspection at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone David Pohlman at (312) 886–3299 before visiting the Region 5 Office.)

Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: David Pohlman, Environmental Scientist, at (312) 886–3299.

SUPPLEMENTARY INFORMATION:

I. Background

Indiana's submittal of July 9, 1997, contains revisions to title 326 Indiana Administrative Code (326 IAC) 6–1–18, Saint Joseph County particulate emissions limitations. The purpose of

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these changes is to revise emission limits for the five boilers at the University of Notre Dame power plant.

Public hearings were held on the rules on June 5 and November 6, 1996, in Indianapolis, Indiana. The rules became effective at the State level on May 22, 1997, and were published in the Indiana Register on June 1, 1997.

II. Analysis of State Submittal

The revisions to 326 IAC 6–118 affect particulate matter and/or heat input limits for five boilers at the University of Notre Dame. The particulate matter limit for Boiler 1 is increased from 0.01 pounds per million British Thermal Units (lb/MMBTU) to 0.087 lb/MMBTU; Boiler 4's particulate limit is increased from 0.01 lb/MMBTU to 0.17/MMBTU, and the heat input limit for Boiler 4 is decreased from 284 million British Thermal Units per hour (MMBTU/hr) to 234 MMBTU/hr; and for Boiler 5, the particulate limit is decreased from 0.17 lb/MMBTU to 0.02 lb/MMBTU, while the heat input limit is increased from 137 MMBTU/hr to 244.5 MMBTU/hr. In addition, individual annual particulate limits for each of the five boilers are replaced by a collective annual limit for Boilers 1, 2, 3, 4, and 5 of 118.7 tons/year.

The general criteria used by the EPA to evaluate such emissions trades, or "bubbles", under the Clean Air Act and applicable regulations are set out in the EPA's Emissions Trading Policy statement (ETSP) (see 51 FR 43814). Emissions trades such as Notre Dame's, which result in an overall increase in allowable emissions, require a "Level III" modeling analysis under the ETPS to ensure that the NAAQS will be protected. A Level III analysis is a full-scale ambient dispersion analysis which must include emissions from the facility involved in the emissions trade as well as from any nearby facilities and background pollutant concentrations.

The modeling analysis submitted by the Indiana Department of Environmental Management (IDEM) in support of the proposed Notre Dame SIP revision was consistent with a Level II analysis, which only includes sources directly involved with the trade. This is not acceptable as a demonstration that the NAAQS will not be violated as a result of the Notre Dame rule changes. However, a further analysis was conducted by the EPA to determine the approvability of the State's submittal for Notre Dame. This analysis included the Notre Dame sources involved in the SIP revision, as well as other nearby sources and background pollutant concentrations. The analysis showed that the SIP revision request will not cause or contribute to any exceedances of the PM NAAQS.

III. Final Rulemaking Action

Indiana's submittal includes revisions to 326 IAC 6–1–18. The EPA has undertaken an analysis of this SIP revision request based on a review of the materials presented by IDEM, and the modeling analysis conducted by the EPA, and has determined that the SIP revision request is approvable because it is consistent with applicable Clean Air Act provisions, including protection of the NAAQS for PM in the Saint Joseph County area. It should be noted that the University of Notre Dame remains subject to all other applicable provisions of 326 IAC 6–1.

The EPA is publishing this action without prior proposal because EPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should specified written adverse or critical comments be filed. This action will become effective without further notice unless the Agency receives relevant adverse written comments on the parallel proposed rule (published in the proposed rules section of this **Federal Register**) by July 31, 1998. Should the Agency receive such comments, it will publish a final rule informing the public that this action did not take effect. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on August 31, 1998.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

B. Executive Order 13045

This final rule is not subject to Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks," because it is not an "economically significant" action under Executive Order 12866.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP approval does not impose any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *EPA*, 427 U.S. 246, 256–66 (1976); 42 U.S.C. 7410(a)(20).

D. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must undertake various actions in association with any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. This Federal action approves pre-existing requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or the private sector, result from this action.

E. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress, and to the Comptroller General of the United States. Section 804, however, exempts from section 801 the following types of rules: rules of particular applicability; rules relating to agency management of personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability.

F. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 31, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Particulate matter, Incorporation by reference, Intergovernmental relations.

Dated: June 11, 1998.

David A. Ullrich,

Acting Regional Administrator, Region V.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *35 et seq.*

Subpart P—Indiana

2. Section 52.770 is amended by adding paragraph (c)(123) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(123) On July 9, 1997, Indiana submitted a site specific SIP revision request for the University of Notre Dame in Saint Joseph County, Indiana. The submitted revision amends 326 IAC 6–1–18, and provides for revised particulate matter and heat input limitations on the five boilers at Notre Dame's power plant.

(i) *Incorporation by reference.* Indiana Administrative Code Title 326: Air Pollution Control Board, Article 6: Particulate Rules, Rule 1: Nonattainment Area Limitations, Section 18: St. Joseph County. Added at 20 In. Reg. 2299. Effective May 22, 1997.

[FR Doc. 98–17380 Filed 6–30–98; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX96–1–7366; FRL–6117–3]

Approval and Promulgation of Air Quality State Implementation Plans, Texas; Recodification of, and Revisions to the State Implementation Plan; Chapter 114

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving in this action the recodification of and revision to the Texas State Implementation Plan (SIP) for Chapter 114, "Control of Air Pollution from Motor Vehicles." This revision was submitted by the Governor on November 20, 1997, to reformat and renumber existing state Chapter 114 sections into seven new subchapters (A through G) without substantial technical changes and to remove original paragraph 114.1(e), concerning leaded gasoline dispensing labeling requirements.

DATES: This action is effective on August 31, 1998 without further notice unless the agency receives relevant adverse comments by July 31, 1998. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. Copies of the documents about this action are available for public inspection during normal business hours at the above and following location. Persons interested in examining these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

Texas Natural Resource Conservation Commission, 12100 Park 35 Circle, Austin, Texas 78711–3087.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Scoggins, Air Planning Section (6PD–L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7354 or via e-mail at scoggins.paul@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the above Region 6 address.

SUPPLEMENTARY INFORMATION:

I. Background

On November 20, 1997, the Governor of Texas formally submitted a recodification of, and revisions to, the Texas SIP for Regulation IV, 30 TAC Chapter 114, "Control of Air Pollution from Mobile Vehicles." These changes were submitted to reformat and renumber existing state Chapter 114 sections into seven new subchapters (A through G) without substantial technical changes and to remove original paragraph 114.1(e), concerning leaded gasoline dispensing labeling requirements.

II. Texas Chapter 114 Format Revisions

Chapter 114 includes the rules and regulations providing for the protection of environment from mobile vehicles which were divided into sections. The resulting new format divides the existing sections into subchapters (A through G) and renumbers the original sections within the new subchapters. The following Chapter 114 subchapters and sections have been adopted by the commission.

SUBCHAPTER A: DEFINITIONS

114.1 Definitions.
114.2 Inspection and Maintenance (I/M) Definitions.
114.3 Low Emission Fleet Vehicle Definitions.
114.4 Vehicle Retirement and Mobile Emission Reduction Credit Definitions.
114.5 Transportation Planning Definitions.

SUBCHAPTER B: MOTOR VEHICLE ANTI-TAMPERING REQUIREMENTS

114.20 Maintenance and Operation of Air Pollution Control Systems or Devices Used to Control Emissions from Motor Vehicles.
114.21 Exclusions and Exemptions.

SUBCHAPTER C: VEHICLE INSPECTION AND MAINTENANCE

114.50 Vehicle Emissions Inspection Requirements.
114.51 Equipment Evaluation Procedures for Vehicle Exhaust Gas Analyzers.
114.52 Waivers and Extensions for Inspection Requirements.
114.53 Inspection and Maintenance Fees.

SUBCHAPTER D: OXYGEN REQUIREMENTS FOR GASOLINE

114.110 Oxygenated Fuels.

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SUBCHAPTER E: LOW EMISSION FLEET VEHICLE REQUIREMENTS

114.150 Requirements for Mass Transit Authorities.
114.151 Requirements for Local Governments and Private Persons.
114.152 Use of Certain Vehicles for Compliance.
114.153 Exceptions.
114.154 Exceptions for Certain Mass Transit Authorities.
114.155 Reporting.
114.156 Recordkeeping.
114.157 Program Compliance Credits.

SUBCHAPTER F: VEHICLE RETIREMENT AND MOBILE EMISSION REDUCTION CREDITS; VEHICLE RETIREMENT

114.200 Accelerated Vehicle Retirement Program.

Mobile Emission Credits

114.201 Mobile Emission Reduction Credit Program.
114.202 The Texas Mobile Emission Reduction Credit Fund.

SUBCHAPTER G: TRANSPORTATION PLANNING

114.250 Memorandum of Understanding with the Texas Department of Transportation.
114.260 Transportation Conformity.
114.270 Transportation Control Measures.

The following original sections were repealed by the commission.

114.1 Maintenance and Operation of Air Pollution Control Systems or Devices Used to Control Emissions from Motor Vehicles.
114.3 Vehicle Emissions Inspection Requirements.
114.4 Equipment Evaluation Procedures for Vehicle Exhaust Gas Analyzers.
114.5 Exclusions and Exemptions.
114.6 Waivers and Extensions for Inspection Requirements.
114.7 Inspection and Maintenance Fees.
114.13 Oxygenated Fuels.
114.23 Transportation Control Measures.
114.25 Memorandum of Understanding with the Texas Department of Transportation.
114.27 Transportation Conformity.
114.29 Accelerated Vehicle Retirement Program.
114.30 Definitions.
114.31 Requirements for Mass Transit Authorities.
114.32 Requirements for Local Governments and Private Persons.
114.33 Use of Certain Vehicles for Compliance.
114.34 Exceptions.
114.35 Exceptions for Certain Mass Transit Authorities.
114.36 Reporting.
114.37 Recordkeeping.
114.38 Program Compliance Credits.
114.39 Mobile Emission Reduction Credit Program.
114.40 The Texas Mobile Emission Reduction Credit Fund.

III. Analysis of State Submittal

Subchapter A, Sections 114.1–114.5, which cover mobile source program definitions, contain the definitions for the entire chapter. New Section 114.1 definitions were taken from original Section 114.30, "Definitions" of the Texas Clean Fuel Fleet program and from original Section 114.3(a) "Definitions" of the Vehicle Emissions Inspection Requirements. New Section 114.2 definitions were taken from original Section 114.3 of remaining definitions numbered (1)–(5), (8)–(13), (15), (16) and the commission added a new definition, "Two-speed idle I/M test." New Section 114.3 definitions were taken from original Section 114.30 of remaining definitions with a Section name change from "Clean Fuel Fleet Vehicle" program definitions to "Low Emission Fleet Vehicle Definitions." New Section 114.4 definitions were taken from original Section 114.29 and new Section 114.5 definitions were taken from original Section 114.23.

Subchapter B, Sections 114.20 and 114.21 contain the requirements for the vehicle antitampering program. New Section 114.20 was created from original Section 114.1, and new Section 114.21 was created from original Section 114.5. Original Section 114.1(e) containing the leaded gasoline dispensing labeling requirement, was removed from new Section 114.20. The reference to paragraph (f) in original Section 114.5(a)(2) was removed from new Section 114.21(a)(2).

Subchapter C, Sections 114.50–114.53, contain the requirements for the vehicle inspection and maintenance program. New Sections 114.50, 114.51, 114.52, and 114.53 were created from original Sections 114.3, 114.4, 114,6, and 114.7 respectively.

Subchapter D, Section 114.100 contains the requirements for the oxygenated fuels program and was created from original section 114.13.

Subchapter E, Sections 114.150–114.157, contain the requirements for the low emission fleet vehicle program. New Sections 114.150, 114.151, 114.152, 114.153, 114,154, 114.155, 114.156, and 114.157 were created from original Sections 114.31, 114.32, 114.33, 114.34, 114.35, 114.36, 114.37, and 114.38, respectively.

Subchapter F, Sections 114.200–114.202, contain the requirements for the vehicle retirement and mobile emission reduction credits program. New Sections 114.200, 114.201, and 114.202 were created from original Sections 114.29, 114.39, and 114.40, respectively.

Subchapter G, Sections 114.250, 114.260, and 114.270, contain the requirements for the transportation planning program. New Section 114.250 was created from original Section 114.25. New Section 114.260 was created from original section 114.27. The last sentence of paragraph 114.260(b) was changed from "Affected nonattainment or maintenance areas include El Paso, Houston/Galveston, Dallas/Fort Worth, Beaumont/Port Arthur, and Victoria." to "The affected nonattainment and maintenance areas are listed in section 101.1 of the title (relating to Definitions)." In new Section 114.260, paragraph (d)(2)(A)(x), the word "pursuant" was changed to "under." Section 114.270 was created from the original Section 114.23 and the following was added to paragraph (b), to the end of subsection (1); "* * * as defined in Section 101.1 of this title (relating to Definitions) and to the end of subsections (2), (3), and (4), "* * * as defined in Section 101.1 of this title."

In addition, the following administrative change has been made to all rules and regulations in which they appear:

1. "TNRCC" to "commission".

IV. Final Action

The EPA is approving the recodification of and revision to the Texas SIP for Regulation IV, 30 TAC Chapter 114. Except as noted in the following paragraph, this action reflects a recodification, not actual approval of underlying requirements. The original Section numbers have been renumbered and reformatted into specific subchapters without changes to the underlying requirements or contents, except where noted in the following paragraph. Previous approval or disapproval of Chapter 114 Sections and contents remain unchanged.

In addition, a new definition—"Two-speed idle I/M test"—and the removal of original paragraph 114.1(e), leaded gasoline dispensing labeling requirements, are approved. Minor editorial changes as noted above in the part III, Analysis of State Submittal, are also approved.

The EPA is publishing this action without prior proposal because the agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is proposing to approve the SIP revision should relevant adverse comments be filed. This rule will be effective on August 31, 1998 without further notice unless the Agency receives adverse comments by July 31, 1998.

If EPA receives such comments, then EPA will publish a timely withdrawal of the final rule and inform the public that the rule did not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. Only parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on August 31, 1998 and no further action will be taken on the proposed rule.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

V. Administrative Requirements

A. Executive Order (E.O.) 12866 and 13045

The Office of Management and Budget has exempted this regulatory action from E.O. 12866 review. In addition, this regulatory action is not subject to E.O. 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks," because it is not an "economically significant" action under E.O. 12866.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. *See* 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

The EPA's approval of the State request under section 110 and subchapter I, part D of the Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of the flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *See Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves preexisting requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804 (2).

E. Petitions for Judicial Review

Under section 307(b) (1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 31, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307 (b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: June 9, 1998.

Jerry Clifford,

Deputy Regional Administrator, Region 6.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation of part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart SS—Texas

2. Section 52.2270 is amended by adding paragraph (c)(111) to read as follows:

§ 52.2270 Identification of plan.

* * * * *

(c)* * *

(111) Recodified and revised Regulation IV, 30 TAC Chapter 114 "Control of Air Pollution From Motor Vehicles" regulations of Texas submitted by the Governor on November 20, 1997, to reformat original Chapter 114 sections into seven new subchapters (A through G) and to remove original section 114.1(e), concerning leaded gasoline dispensing labeling requirements.

(i) Incorporation by reference.

(A) Commission Order 97–0713-RUL, adopted by the commission on November 5, 1997.

(B) SIP narrative entitled "Revisions to 30 TAC Chapter 114 and to the State Implementation Plan (Reformatting of the Chapter)" adopted by the commission on November 5, 1997, addressing: adoption of new Sections 114.1–114.5, 114.20, 114.21, 114.50–114.53, 114.100, 114.150–114.157, 114.200–114.202, 114.250, 114.260, 114.270, and repeal of original sections 114.1, 114.3–114.7, 114.13, 114.23, 114.25, 114.27, 114.29–114.40.

[FR Doc. 98–17381 Filed 6–30–98; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL163–1a; FRL–6119–2]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: United States Environmental Protection Agency (U.S. EPA).

ACTION: Direct Final Rule.

SUMMARY: On August 21, 1995, U.S. EPA promulgated a site-specific volatile organic material (VOM) rule for Riverside Laboratories, Inc.'s (Riverside) Kane County facility. The rule consisted primarily of a compliance date extension for Riverside through December 31, 1996, after which time Riverside is required to meet the applicable requirements of the Chicago-area Federal Implementation Plan (FIP). On October 10, 1997, the State of Illinois requested that U.S. EPA approve a change in regulatory status for Riverside, based on Riverside's current compliance with the applicable State Implementation Plan (SIP) rule. For the reasons discussed below, U.S. EPA is today approving the State plan as applying to Riverside.

U.S. EPA is taking this action as a "direct final" rulemaking; the rationale for this approach is set forth below. Elsewhere in this **Federal Register**, U.S. EPA is proposing this action and soliciting comment. If adverse written comments or a request for a public hearing are received, U.S. EPA will withdraw the direct final rule and it will not take effect. U.S. EPA will address the comments received in a new final rule. If no adverse written comments are received, no further rulemaking will occur on this requested SIP revision.

DATES: This final rule is effective August 31, 1998 unless written adverse comments or a request for a public hearing are received by July 31, 1998. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public the rule will not take effect.

ADDRESSES: Written comments can be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), Air and Radiation Division, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

A public hearing may be requested, to be held in Chicago, Illinois. Requests for a hearing should be submitted to J. Elmer Bortzer. Interested persons may call Steven Rosenthal at (312) 886–6062 to see if a hearing will be held and the date and location of the hearing. Any hearing will be strictly limited to the subject matter of this action, the scope of which is discussed below.

Copies of the SIP revision request are available for inspection at the following address: (It is recommended that you telephone Steven Rosenthal at (312) 886–6052, before visiting the Region 5 office.)

U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

FOR FURTHER INFORMATION CONTACT: Steven Rosenthal, Air Programs Branch (AR-18J) at (312) 886–6052.

SUPPLEMENTARY INFORMATION:

I. Background

On June 29, 1990, U.S. EPA promulgated a FIP which contained Reasonably Available Control Technology (RACT) regulations for stationary sources of Volatile Organic Compounds (VOC) located in six northeastern Illinois (Chicago area) counties: Cook, DuPage, Kane, Lake, McHenry, and Will.[1] Included in U.S. EPA's rules was a requirement that paper coating sources be subject to 40 CFR 52.741(e)(1)(C), which requires that a source achieves either a coating limit of 2.9 pounds of VOC per gallon of coating or an 81 percent reduction in emissions. On August 30, 1990, Riverside filed a petition for review of the FIP in the United States Court of Appeals for the Seventh Circuit, *Riverside Laboratories, Inc.*, v. *U.S. EPA*, Case No. 90–2886. On August 20, 1991, Riverside filed a petition for reconsideration (amended on September 5, 1991) with U.S. EPA, in which it contended that its economic status prevented the federal rules from being RACT for its facility. Based on the information provided, U.S. EPA agreed to reconsider the RACT rules for Riverside. U.S. EPA also agreed to issue an administrative stay of the applicable FIP rules, pending reconsideration. See 57 FR 27935 (June 23, 1992).

On September 9, 1994, U.S. EPA approved a number of Illinois volatile organic material (VOM)[2] RACT rules, adopted as 35 Ill. Admin. Code Part 218. 59 FR 46562. These rules established State VOM RACT requirements for surface coating operations in the Chicago and Metro-East St. Louis ozone nonattainment areas, and replaced a large section of the Chicago FIP. These regulations include 35 Ill. Admin. Code § 218.204, which contains a RACT rule for paper coating operations that is identical to the applicable FIP rule of 2.9 lbs./gal. (40 CFR 52.741(e)(1)(C)). They also contain the Applicability section, at 35 Ill. Admin. Code § 218.203. Under Section 218.103(a)(2), the effectiveness of the Part 218 rules is stayed as to any source which appealed the FIP and received a stay of the effectiveness of the FIP pending reconsideration. The rule further provides that:

> When USEPA has published in the Federal Register final action to revise or affirm the provisions of the FIP specifically applicable to such individual source or category of sources or such stay is otherwise terminated, the Board shall take corresponding action and the Agency shall submit such action to USEPA for approval. Until such time as USEPA approves the corresponding amendment to this Part, the FIP rule shall remain the applicable implementation plan for that source. * * *

On August 21, 1995, U.S. EPA promulgated a site-specific rule for Riverside (60 FR 43388). This rule consists of a compliance date extension for Riverside through December 31, 1996. During the period of the compliance date extension Riverside was required to, among other things, decrease the use of VOC-containing material. Starting on January 1, 1997, Riverside's polyester paper coating lines were required to meet the applicable FIP requirements in 40 CFR 52.741(e)(1), (e)(2), and (e)(6). In this rulemaking, U.S. EPA also terminated the stay of the FIP.

On February 13, 1996, U.S. EPA approved a revision to the Illinois RACT rules for paper coating operations at 35 Ill. Admin. Code 218.204(c), which further reduced the applicable VOM pounds-per-gallon limitation to 2.3 lbs./gal. 61 FR 5511.

On October 10, 1997, the Illinois Environmental Protection Agency (IEPA) submitted a request to U.S. EPA that it change the regulatory status for Riverside to recognize the applicability of Illinois' SIP, as federally approved on February 13, 1996. In its letter, IEPA states that, as a matter of State law, Riverside is subject to the 2.3 pounds VOC per gallon limit in 35 Ill. Administrative Code 218.204(c). For that reason, IEPA has requested that the Board not be required to conduct further rulemaking. The State intends its October 10, 1997, request to fulfill the "corresponding action" condition of

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[1] A definition of RACT is cited in a General Preamble-Supplement on CTGs, published at 44 FR at 53761 (September 17, 1979). RACT is defined as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available, considering technological and economic feasibility.

[2] VOM, as defined by the State of Illinois, is identical to VOC, as defined by U.S. EPA.

Section 218.103(a)(2). U.S. EPA agrees that it is not necessary to require Illinois to conduct additional rulemaking, since the regulations are already in the SIP and Riverside does not contest their applicability (See Riverside's March 26, 1998, letter regarding rule applicability.).

II. Applicability

As a result of this action, the approved State of Illinois regulations, including the emission limits in 35 Ill. Admin. Code 218.204(c) and the associated control requirements, test methods and recordkeeping requirements in Part 218 and the associated definitions in Part 211 shall become the federally approved regulations applicable to Riverside on August 31, 1998. The site-specific rule applicable to Riverside promulgated by U.S. EPA on August 21, 1995, remains in effect and is enforceable after August 31, 1998 for the period before August 31, 1998.

III. Final Action

At the time U.S. EPA approved Ill. Admin. Code Part 218, the Agency determined that the generally applicable rules, along with the appropriate test methods, recordkeeping requirements and definitions, met the applicable statutory requirements for RACT. U.S. EPA also has concluded that the provisions of Ill. Admin. Code 218.204(c) constitute RACT for Riverside's Kane County paper coating operations. They are thus reasonable replacements for the FIP rule that was promulgated by U.S. EPA on June 29, 1990, and the site-specific compliance date extension promulgated for Riverside by U.S. EPA on August 21, 1995.

The U.S. EPA is publishing this action without prior proposal because U.S. EPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, U.S. EPA is proposing this action should adverse comments be filed or a request for a hearing be received. This action will become effective without further notice unless the U.S. EPA receives relevant adverse comments or a request for a hearing on the parallel proposed rule (published in the proposed rules section of this **Federal Register**) by July 31, 1998. Should the U.S. EPA receive such comments or a request for a hearing, it will withdraw this final rule and publish a document informing the public that this action did not take effect. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on August 31, 1998.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

B. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, U.S. EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, U.S. EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

This action (SIP approval and a supersession of the FIP under section 110) does not create any new requirements, but simply approves requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Clean Air Act forbids U.S. EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. EPA.*, 427 U.S. 246, 256–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, U.S. EPA must undertake various actions in association with any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. This Federal action approves pre-existing requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or the private sector, result from this action.

D. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 31, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2)).

E. Congressional Review Act

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of Congress and to the Comptroller General of the United States. Section 804, however, exempts from section 801 the following types of rules: rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. section 804(3). U.S. EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: June 25, 1998.

Carol M. Browner,

Administrator.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

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Subpart O—Illinois

2. Section 52.726 is amended by adding paragraph (s) to read as follows:

§ 52.726 Control strategy: Ozone.

* * * * *

(s) On October 10, 1997, Illinois submitted a site-specific revision to the State Implementation Plan, in the form of a letter from Bharat Mathur, Chief, Bureau of Air, Illinois Environmental Protection Agency. This October 10, 1997, letter requests a change in regulatory status for Riverside Laboratories, Inc.'s Kane County facility, to reflect that the Federal site-specific rule for Riverside (40 CFR 52.741(e)(10)) has been superseded by the State of Illinois regulations, including the emission limits in 35 Illinois Administrative Code 218.204(c) and the associated control requirements, test methods and recordkeeping requirements in Part 218 and the associated definitions in Part 211. These State regulations shall become the federally approved regulations applicable to Riverside on August 31, 1998. The site-specific rule, applicable to Riverside, promulgated by the Environmental Protection Agency on August 21, 1995 (40 CFR 52.741(e)(10)), remains in effect and is enforceable after August 31, 1998 for the period before August 31, 1998.

[FR Doc. 98–17517 Filed 6–30–98; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300673; FRL–5795–6]
RIN 2070–AB78

Sodium Chlorate; Extension of Exemption from Requirement of a Tolerance for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule extends a time-limited exemption from the requirement of a tolerance for residues of the *desiccant* sodium chlorate in or on wheat for an additional one and one-half-year period, to January 31, 2000. This action is in response to EPA's granting of an emergency exemption connection with a crisis exemption declared by the state of Mississippi under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on wheat. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA) requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA.

DATES: This regulation becomes effective July 1, 1998. Objections and requests for hearings must be received by EPA, on or before August 31, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300673], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300673], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Follow the instructions in Unit II. of this preamble. No Confidential Business Information (CBI) should be submitted through e-mail.

FOR FURTHER INFORMATION CONTACT: By mail: Libby Pemberton, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 272, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-308–9364; e-mail: pemberton.libby@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a final rule, published in the **Federal Register** of December 3, 1997 (62 FR 63858) (FRL–5754–1), which announced that on its own initiative and under section 408(e) of the FFDCA, 21 U.S.C. 346a(e) and (l)(6), it established a time-limited exemption from the requirement of a tolerance for the residues of sodium chlorate in or on wheat, with an expiration date of July 31, 1998. EPA established the exemption from the requirement of a tolerance because section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment.

EPA received a request to extend the use of sodium chlorate on wheat for this year growing season due to continued heavy rains resulting in the need for a harvest aid to desiccate winter weeds which developed in the thin stands of an already dimished wheat crop. After having reviewed the submission, EPA concurs that emergency conditions exist for this state. EPA has authorized under FIFRA section 18 the use of sodium chlorate as a desiccant on wheat.

EPA assessed the potential risks presented by residues of sodium chlorate in or on wheat. In doing so, EPA considered the new safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the new safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the final rule of December 3, 1997 (62 FR 63858). Based on that data and information considered, the Agency reaffirms that extension of the time-limited exemption from the requirement of a tolerance will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited exemption from the requirement of a tolerance is extended for an additional one and one-half-year period. Although this exemption from the requirement of a tolerance will expire and is revoked on January 31, 2000, under FFDCA section 408(l)(5), residues of the pesticide in or on wheat after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the exemptionfrom a requirement of a tolerance. EPA will take action to revoke this exemption from the requirement of a tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

I. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to "object" to a tolerance regulation issued by EPA under new section 408(e) and (l)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by August 31, 1998, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

II. Public Record and Electronic Submissions

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the Virginia address in "ADDRESSES" at the beginning of this document.

Electronic comments may be sent directly to EPA at:

opp-docket@epamail.epa.gov.

Electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP–300673]. No CBI should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

III. Regulatory Assessment Requirements

This final rule extends a time-limited exemption from the requirement of a tolerance that was previously extended by EPA under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). In addition, this final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

Since this extension of an existing time-limited exemption from the requirement of a tolerance does not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

IV. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and record keeping requirements.

Dated: June 7, 1998.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180–[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371

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§ 180.1020 [Amended]

2. In § 180.1020, by amending paragraph (b) by changing the date "7/31/98" to read "1/31/00."

[FR Doc. 98–17514 Filed 6-30-98; 8:45 am]

BILLING CODE [illegible]

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–20

[FPMR Amendment D–96]

RIN 3090–AG61

Smoking Policy

AGENCY: Public Buildings Service, General Services Administration.

ACTION: Final rule.

SUMMARY: This rule revises the Federal Property Management Regulations to implement Executive Order 13058. As a result, the smoking of tobacco is prohibited in all interior space owned, rented, or leased by the executive branch of the Federal Government, and in any outdoor areas under executive branch control in front of air intake ducts.

EFFECTIVE DATE: July 1, 1998.

FOR FURTHER INFORMATION CONTACT: Howard Chideckel, Office of Business Performance at (202) 501–0457.

SUPPLEMENTARY INFORMATION: GSA has determined that this rule is not a significant regulatory action for the purpose of Executive Order 12866. This rule is not required to be published in the **Federal Register** for notice and comment, therefore the Regulatory Flexibility Act does not apply. The Paperwork Reduction Act does not apply because the change does not impose reporting, recordkeeping or information collection requirements which require the approval of the Office of Management and Budget pursuant to 44 U.S.C. 3501, et seq. This rule also is exempt from congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Part 101–20

Blind, Concessions, Federal buildings and facilities, Government property management, Occupational safety and health, Parking, Security measures, Smoking.

For the reasons set forth in the preamble, 41 CFR Part 101–20 is amended as follows:

PART 101–20—MANAGEMENT OF BUILDINGS AND GROUNDS

1. The authority citation for Part 101–20 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Subpart 101–20.1—Building Operations, Maintenance, Protection, and Alterations

2. Section 101–20.105–3 is revised to read as follows:

§ 101–20.105–3 Smoking.

(a) Pursuant to Executive Order 13058, "Protecting Federal Employees and the Public From Exposure to Tobacco Smoke in the Federal Workplace" (3 CFR, 1997 Comp., p. 216), it is the policy of the executive branch to establish a smoke-free environment for Federal employees and members of the public visiting or using Federal facilities. The smoking of tobacco products is prohibited in all interior space owned, rented, or leased by the executive branch of the Federal Government, and in any outdoor areas under executive branch control in front of air intake ducts.

(b) Exceptions. (1) The policy does not apply in designated smoking areas that are enclosed and exhausted directly to the outside and away from air intake ducts, and are maintained under negative pressure (with respect to surrounding spaces) sufficient to contain tobacco smoke within the designated area. Agency officials shall not require workers to enter such areas during business hours while smoking is ongoing.

(2) The policy does not extend to any residential accommodation for persons voluntarily or involuntarily residing, on a temporary or long term basis, in a building owned, leased, or rented by the Federal Government.

(3) The policy does not extend to those portions of federally owned buildings leased, rented, or otherwise provided in their entirety to nonfederal parties.

(4) The policy does not extend to places of employment in the private sector or in other nonfederal governmental units that serve as the permanent or intermittent duty station of one or more Federal employees.

(5) Agency heads may establish limited and narrow exceptions that are necessary to accomplish agency missions. Such exceptions must be in writing, approved by the agency head, and to the fullest extent possible provide protection of nonsmokers from exposure to environmental tobacco smoke. Authority to establish such exceptions may not be delegated.

(c) Agency heads have responsibility to determine which areas are to be smoking and which areas are to be non-smoking areas. In exercising this responsibility, agency heads will give appropriate consideration to the views of the employees affected and/or their representatives and are to take into consideration the health issues involved. Nothing in this section precludes an agency from establishing more stringent guidelines. Agencies in multi-tenant buildings are encouraged to work together to identify designated smoking areas.

(d) Agency heads shall evaluate the need to restrict smoking at doorways and in courtyards under executive branch control in order to protect workers and visitors from environmental tobacco smoke, and may restrict smoking in these areas in light of this evaluation.

(e) Agency heads shall be responsible for monitoring and controlling areas designated for smoking and for ensuring that these areas are identified by proper signs. Suitable uniform signs reading "Designated Smoking Area" shall be furnished and installed by the agency.

(f) Suitable, uniform signs reading "No Smoking Except in Designated Areas" shall be placed on or near entrance doors of buildings subject to this section. These signs shall be furnished and installed by the GSA Building Manager in buildings operated by GSA. It shall not be necessary to display a sign in every room of each building.

(g) This smoking policy applies to the judicial branch when it occupies space in buildings controlled by the executive branch. Furthermore, the Federal chief judge in a local jurisdiction may be deemed to be comparable to an agency head and may establish exceptions for Federal jurors and others as indicated in paragraph (b)(5) of this section.

(h) Prior to implementation of this section, where there is an exclusive representative for the employees, the agencies shall meet their obligation under the Federal Service Labor-Management Relations Act (5 U.S.C. 7101 *et seq.*) In all other cases, agencies should consult directly with employees.

Dated: March 16, 1998.

David J. Barram,

Administrator of General Services.

[FR Doc. 98–17469 Filed 6–30–98; 8:45 am]

BILLING CODE [illegible]

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 121

Organ Procurement and Transplantation Network; Final Rule Revision of Comment Period and Effective Dates

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Extension of Comment Period and Delay of Effective Date for the Organ Procurement and Transplantation Network.

SUMMARY: This document sets forth the revisions required by the Fiscal Year 1998 Supplemental Appropriations Act, Public Law 105–174, signed into law by the President on May 1, 1998. Section 4002 of that Act states that public comments on the Organ Procurement and Transplantation Network (OPTN) Final Rule are permitted until August 31, 1998, and that the OPTN rule will not become effective before October 1, 1998. This document is provided to notify the public about these provisions and to make corresponding changes to the regulation.

DATES: The effective date of the final rule published April 2, 1998 (63 FR 16296), as amended in this rule, is delayed until October 1, 1998. Comments on the final rule may be submitted through August 31, 1998.

ADDRESSES: Written comments may be addressed to Jon L. Nelson, Associate Director, Office of Special Programs, Room 123, Park Building, 12420 Parklawn Drive, Rockville, MD 20857 as provided in the April 2, 1998, final rule, 63 FR 16296.

FOR FURTHER INFORMATION CONTACT: Jon L. Nelson, Associate Director, Office of Special Programs, 5600 Fishers Lane, Room 7–29, Rockville, MD 20857, telephone 301–443–7577.

SUPPLEMENTARY INFORMATION: On April 2, 1998, the Secretary of Health and Human Services published in the **Federal Register** a final rule governing the operation of the Organ Procurement and Transplantation Network. That document invited public comments for a period of sixty days, ending on June 1, 1998. The final rule was to be effective on July 1, 1998.

As a result of the enactment of the Supplemental Appropriations Act, the comment period has been extended until August 31, 1998, and the final rule will become effective on October 1, 1998. Consistent with these extensions, several of the provisions of the final rule whose internal deadlines were tied to the effective date of the final rule are also being extended.

Therefore, 42 CFR Part 121, as promulgated at 63 FR 16296–16338, is amended as follows:

1. The authority citation for Part 121 continues to read as follows:

Authority: Sections 215, 371–376 of the Public Health Service Act (42 U.S.C. 216, 273–274d); Sections 1102, 1106, 1138, and 1872 of the Social Security Act (42 U.S.C. 1302, 1306, 1320b–8 and 1395ii).

§ 121.3 [Amended]

2. In § 121.3(e), revise "July 1, 1998," wherever it appears to read "October 1, 1998,".

§ 121.8 [Amended]

3. § 121.8(c)(1), revise "July 1, 1999" to read "October 1, 1999".

4. § 121.8(c)(2), revise "August 31, 1998" to read "November 30, 1998".

Dated: June 2, 1998.

Claude Earl Fox,
Administrator.

Approved: June 23, 1998.

Donna E. Shalala,
Secretary.

[FR Doc. 98–17624 Filed 6–30–98; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[MD Docket No. 98–36; FCC 98–115]

Assessment and Collection of Regulatory Fees for Fiscal Year 1998

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has revised its Schedule of Regulatory Fees in order to recover the amount of regulatory fees that Congress has required it to collect for fiscal year 1998. Section 9 of the Communications Act of 1934, as amended, provides for the annual assessment and collection of regulatory fees. For fiscal year 1998 sections 9(b)(2) and (3) provide for annual "Mandatory Adjustments" and "Permitted Amendments" to the Schedule of Regulatory Fees. These revisions will further the National Performance Review goals of reinventing Government by requiring beneficiaries of Commission services to pay for such services.

EFFECTIVE DATE: August 31, 1998.

FOR FURTHER INFORMATION: Terry Johnson, (202) 418–0445, Office of Managing Director.

SUPPLEMENTARY INFORMATION:

Adopted: June 9, 1998; Released: June 16, 1998

By the Commission:

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I. Introduction

1. By this *Report and Order,* the Commission concludes its rulemaking proceeding to revise its Schedule of Regulatory Fees in order to recover the amount of regulatory fees that Congress has required it to collect for Fiscal Year (FY) 1998. *See* 47 U.S.C. 159(a).

2. Congress has required us to collect $162,523,000 in regulatory fees in order to recover the costs of our enforcement, policy and rulemaking, international and user information activities for FY 1998. *See* Pub. L. 105–119 and 47 U.S.C. 159(a)(2). This amount is $10,000,000 or nearly 7% more than the amount that Congress designated for recovery through regulatory fees for FY 1997. *See Assessment and Collection of Regulatory Fees for Fiscal Year 1997,* FCC 97–215, released June 26, 1997, 62 FR 37408, July 11, 1997. Thus, we are revising our fees in order to collect the increased amount as specified by Congress. Additionally, we are amending the Schedule in order to simplify and streamline the Fee Schedule, including clarification of feeable categories in the Commercial Mobile Radio Services (CMRS); renaming the LEO category as Space Stations Non-geostationary, and clarifying when those stations must begin paying regulatory fees. We have also revised our methodologies for assessing AM and FM radio fees. *See* 47 U.S.C. 159(b)(3).

3. In revising the fees, we have adjusted the payment units and revenue requirement for each service subject to a fee, consistent with sections 159(b)(2) and (3). In addition, we have made changes to the fees pursuant to public interest considerations such as the 25% cap on increases in the fees which is explained in more detail below. We are amending §§ 1.1152 through 1.1156 to reflect the fee revisions. *See* 47 CFR 1.1152 through 1.1156. *See* also Rule Changes and Attachment F for our revised fee schedule for FY 1998.

4. Finally, we have included, as Attachment H, Guidance containing detailed descriptions of each fee category, information on the individual or entity responsible for paying a particular fee and other critical information designed to assist potential fee payers in determining the extent of their fee liability, if any, for FY 1998. In the following paragraphs, we describe in greater detail our methodology for establishing our FY 1998 regulatory fees.

II. Background

5. Section 9(a) of the Communications Act of 1934, as amended, authorizes the Commission to assess and collect annual regulatory fees to recover the costs, as specified each year by Congress, that it incurs in carrying out enforcement, policy and rulemaking, international, and user information activities. *See* 47 U.S.C. 159(a). *See* Attachment I for a description of these activities. In our FY 1994 *Report and Order,* 59 FR 30984, June 16, 1994, we adopted the Schedule of Regulatory Fees that Congress established and we prescribed rules to govern payment of the fees, as required by Congress. *See* 47 U.S.C. 159(b), (f)(1). Subsequently, in our FY 1995, FY 1996, and FY 1997 *Reports and Orders,* 60 FR 34004, June 29, 1995, 61 FR 36629, July 12, 1996, and 62 FR 37408, July 11, 1997, we modified the Schedule to increase by approximately 93 percent, 9 percent, and 21 percent, respectively, the revenue generated by these fees in accordance with the amounts Congress required us to collect for each of those fiscal years. Also, in our FY 1995, FY 1996, and FY 1997 fee decisions, we amended certain rules governing our regulatory fee program based upon our experience administering the program in prior years. *See* 47 CFR 1.1151 *et seq.*

6. For fiscal years after FY 1994, however, sections 9(b)(2) and (3), respectively, provide for "Mandatory Adjustments" and "Permitted Amendments" to the Schedule of Regulatory Fees.

See 47 U.S.C. 159(b)(2), (b)(3). Section 9(b)(2), entitled "Mandatory Adjustments," requires that we revise the Schedule of Regulatory Fees whenever Congress changes the amount that we are to recover through regulatory fees. *See* 47 U.S.C. 159(b)(2).

7. Section 9(b)(3), entitled "Permitted Amendments," requires us to determine annually whether additional adjustments to the fees are warranted, taking into account factors that are reasonably related to the payer of the fee and factors that are in the public interest. In making these amendments, we are required to "add, delete, or

reclassify services in the Schedule to reflect additions, deletions or changes in the nature of its services." *See* 47 U.S.C. 159(b)(3).

8. Section 9(i) requires us to develop an accounting system to adjust our fees to reflect changes in the costs of regulating various services and for other purposes. *See* 47 U.S.C. 9(i). We developed and implemented the cost accounting system in conjunction with FY 1997 fees. For FY 1998, we continue to rely on cost accounting data to identify our regulatory costs and to develop fees based upon these costs. Also, for FY 1998, we have limited the increase in the amount of the fee for any service in order to phase in our reliance on cost-based fees for those services whose revenue requirement would be more than 25 percent above the revenue requirement which would have resulted from the "mandatory adjustments" to the FY 1997 fees without incorporation of costs. This methodology enables us to develop regulatory fees which more closely reflect our costs of regulation. Finally, section 9(b)(4)(B) requires that we notify Congress of any permitted amendments 90 days before those amendments go into effect. *See* 47 U.S.C. 159(b)(4)(B).

III. Discussion

A. Cost-Based Fee Methodology

9. Congress has required us to recover $162,523,000 in FY 1998 regulatory fees, representing the costs applicable to our enforcement, policy and rulemaking, international, and user information activities.[1] *See* 47 U.S.C. 159(a).

10. In our FY 1998 *NPRM* we developed our proposed FY 1998 fee schedule using the same general methodology as we used in developing fees for FY 1997. We estimated payment units[2] for FY 1998 in order to determine the aggregate amount of revenue we would collect without any revision to our FY 1997 fees. Because the total was greater than $162,523,000, we pro-rated the overage among all the existing fee categories reducing the revenue amounts to total $162,523,000.

11. The *NPRM* provided notice that we would rely on the cost accounting system implemented in FY 1997 to assist us in determining our costs of regulation of those services subject to a fee for FY 1998. In response, several interested parties, including the Personal Communications Industry Association (PCIA), BellSouth Cellular Corp., BellSouth Wireless Data, L.P. (BellSouth), and PanAmSat Corporation (PanAmSat), contend that we failed to explain the accounting system sufficiently to permit interested parties to determine how the system distributes costs among our various services. PrimeCo argues that we merely disclosed the results of the cost accounting system and, therefore, interested parties cannot evaluate our cost accounting system or suggest improvements. In addition, PCIA, among others, argues that without more data concerning our assignment of costs, they cannot determine whether the costs attributed to their services are reasonable estimates of our actual costs.

12. The *NPRM* provided sufficient information describing the accounting system to afford interested parties the opportunity to comment. Our *NPRM* made it clear that our cost accounting system relied upon information derived from our personnel/payroll system and our fiscal accounting system as the basis for recording direct and indirect costs, separately and combined, for every major category of service subject to a fee. The cost accounting system was designed to identify the actual costs of regulation by category of service and this information, combined with other data, yield fees more closely reflecting the cost of our regulation. The accounting system collects cost of service information on an employee-by-employee basis.

13. The *NPRM* provided sufficient detail concerning our manner of distributing costs of personnel directly assigned to regulatory activities, and other costs included in our determination of regulatory costs. The system separately identifies direct costs, including salary and expenses for staff directly assigned to our operating Bureaus, and other costs, such as rent, utilities and contracts, directly attributable to such personnel. Also, included as indirect costs are those costs attributable to personnel assigned to overhead functions, including such functions as field and laboratory staff, on a proportional basis; i.e., spread among all categories of service subject to a fee according to their share of direct costs. Finally, in Attachment D of the *NPRM*, we provided a precise calculation of the regulatory costs, including separate discussions of the cost accounting system's accumulation of the direct, indirect and total actual costs for each major category of service. Thus, our *NPRM*, consistent with section 9(i) of the Act, sufficiently described our cost accounting system, including how it distributes actual costs among the various categories of service, affording parties an understanding of the system sufficient for them to submit comments on how the system allocated costs among those services subject to a regulatory fee. 47 U.S.C. 159(i)

14. Our cost accounting system was developed under contract by American Management Systems, Inc. (AMS) in FY 1995. The system has been integrated with the Commission's bi-weekly payroll and fiscal accounting systems and, as such, its procedures conform to generally accepted cost accounting principles and standards as mandated by the General Accounting Office (GAO) and by the U.S. Treasury Department. Because the methodology we employed in developing FY 1998 fees is the same as the one that was used to develop the FY 1997 fees, we adopt by incorporation paragraphs 16–20 of the FY 1997 *Report and Order* which provides detailed information covering how our cost accounting system operates.

B. Relationship of Cost Service to Revenue Requirement

15. PCIA and other commenters contend that the fees are unlawful because allegedly there is no basis for or relationship between the fees the Commission is proposing to collect from a particular class of licenses or regulatees and the amount of regulatory work or oversight associated with those regulatees. We reject the arguments that our proposed fees are inconsistent with the statute or otherwise unlawful because they are not completely cost-based or do not reflect the benefits received by entities subject to a fee payment. Section 9(a) requires that we recover our costs "in the total amounts required in Appropriations Acts." 47 U.S.C. 159(a).

Section 9(a) does not require that we base our fees solely on benefits to regulatees or that the fees recover from an entity only its particular cost of regulation. In our FY 1995 *Report and Order*, we stated that we are not limited to setting regulatory fees only in the amount that reflects services received by regulated entities. 10 FCC Rcd at 13521,

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[1] The impact of regulatory fees on the FCC's appropriation is substantial. For example, without regulatory fees to offset the Commission's costs, the FCC would require a Congressional appropriation of $186.5 million for FY 1998. When offsetting regulatory fees are taken into consideration, only $24 million must be appropriated from tax receipts to fund the Commission. Thus, taxpayers are spared the expense of funding almost 87% of the Commission's annual budget. Funds collected as application or filing fees pursuant to section 8 of the Act are deposited into the General Fund of the U.S. Treasury as reimbursement to the United States but, unlike section 9 regulatory fees, do not offset funds appropriated to the Commission. 47 U.S.C. 158(a).

[2] Payment units are the number of subscribers, mobile units, pagers, cellular telephones, licenses, call signs, adjusted gross revenue dollars, etc. which represent the base units for which fees are calculated.

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citing *Skinner* v. *Mid-America Pipe Line Co.*, 490 U.S. 212, 224 (1989). Rather, once Congress, as in section 9, has made a proper delegation of authority to raise funds, "so long as the fees in question are within the scope of Congress' lawful delegation of authority in section 9, they are constitutional." Id. Thus, as we noted in our FY 1995 *Report and Order*, we "can collect fees from regulatees for their use of frequencies and for the potential benefits of regulatory activities, even if they do not utilize these activities." *See* 60 FR 34000, (June 29, 1995), citing *United States* v. *Sperry Corp.*, 493 U.S. 52, 63. Thus, there is no requirement that the fees we establish be designed to recover only the costs of those benefits directly received by an entity. Rather, we may adjust the fees by taking into consideration "factors that the Commission determines are in the public interest." 47 U.S.C. 159(b)(1) (A).

16. We must collect in regulatory fees the amount specified by Congress. Direct costs, such as salary and expenses for (a) staff directly assigned to our operating Bureaus and performing regulatory activities and (b) staff assigned outside the operating Bureaus to the extent that their time is spent performing regulatory activities pertinent to an operating Bureau, are only part of the costs to be recovered from each licensee. Indirect costs, which include costs of support personnel assigned to overhead functions such as field and laboratory staff and certain staff assigned to the Office of Managing Director, and support costs, including rent, utilities, equipment, and contractual costs attributable to regulatory oversight, must also be recovered.[3]

17. Regulatory fees also recover costs attributable to regulatees that Congress, has exempted from the fees, such as Citizen's Band Radio and most recreational ship and aircraft radio station operators, amateur radio licensees, governmental entities, licensees in the public safety radio services, and non-profit groups, as well as costs attributable to licensees which have been granted waivers of the fees. 47 U.S.C. 159(b)(d). The costs of regulating these entities is borne by those regulatees subject to a fee requirement, with no direct measurable benefit accruing to such fee payers. We recover our costs of regulation for exempt entities, and licensees who have received waivers of the fees by allocating our regulatory costs attributable to them on a proportional basis across all fee categories so as not to unduly impact any particular category of fee payers.

18. PCIA points out that our *NPRM* did not provide actual FY 1997 fee collection data, including the number of actual payment units and the actual amount of fees collected in certain fee categories. These commenters contend that such information is essential to the evaluation of the Commission's FY 1998 fee proposal and to insure that costs are properly allocated among all regulatees or licensees in a given service. We recognize that we did not provide a detailed listing of actual FY 1997 collections data in the *NPRM*. However, Attachment B, of the *NPRM*, contained a service-by-service explanation of the basis of our estimated FY 1998 payment units.

Several of these are based on actual FY 1997 payments. Others are based on estimates obtained from Commission program experts or from regulated industries. In any case, as we noted in the *NPRM*, we consider, as one factor in estimating payment units, the actual number of payment units recorded in our fees collection system for FY 1997. These payment unit estimates used "as of" dates corresponding to the beginning of the current fiscal year, or, for some fee categories, at the end of the previous calendar year. We believe that this reliance upon actual "historical" or retrospective FY 1997 data provides us a much greater confidence level than would an estimate of payment units made prospectively.[4] Finally, from the inception of the regulatory fee collection program, actual historical payment units and collection amounts for the various categories of services have been routinely available for inspection to interested persons upon request. In sum, we cannot find that there is a basis for concluding that these commenters could not fairly evaluate our proposed fees for FY 1998 given the information pertaining to payment units contained in the *NPRM* and detailed collections data readily available from the Commission. Additionally, we note that no interested party proposed alternative payment units for any category of service for FY 1998.

19. Finally, PCIA and other interested parties are concerned about the amount of the proposed increase in their revenue requirements and in their fee amounts for FY 1998 compared with those established for FY 1997. They question how estimates of actual costs for FY 1997 and FY 1998 could differ so significantly from one year to the next in certain fee categories. These differences can be attributed to the increase in the amount to be collected as specified by Congress, changes in the numbers of units subject to the fees, and changes in services. For example, in reassigning services from the CMRS Mobile category to the CMRS Messaging category, we adjusted the estimated payment units of both fee categories. Moreover, as we have noted, because each service must offset a portion of our overhead costs, and subsidize costs not related to its regulation, the resulting fee will invariably exceed the payer's direct regulatory costs, not withstanding the efforts by Congress and the Commission to reduce the regulatory burden on our licensees.

20. As noted in our FY 1997 *Report and Order*, an important consideration in utilizing a revenue ceiling is the impact on other fee payers. Because the Commission is required to collect a full $162,523,000 in FY 1998 regulatory fees, the additional revenue that would have been collected from licensees subject to a revenue ceiling had there been no ceiling, needs to be collected instead from licensees not subject to the ceiling. Revenues from current fee payers already offset costs attributable to regulatees exempt from payment of a fee or otherwise not subject to a fee pursuant to section 9(h) of the Act or the Commission's rules. For example, CB and ship radio station users, amateur radio licensees, governmental entities, licensees in the public safety radio services, and all non-profit groups are not required to pay a fee. The costs of regulating these entities is borne by those regulatees subject to a fee requirement. We believe, however, that the public interest is best served by this methodology. To do otherwise would subject payers in some fee categories to unexpected major fee increases which could severely impact the economic well being of certain licensees. Attachment E displays the step-by-step process we used to calculate adjusted revenue requirements for each fee category for FY 1998, including the reallocation of revenue requirements

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[3] One commenter questioned how the Commission's use of contractors affected its computation of Full Time Equivalency (FTE) employee numbers. While the Commission used FTE numbers in developing its FY 1995 and FY 1996 fee schedules it discontinued using FTE numbers after it adopted a cost accounting system in FY 1997. PCIA also questions the allocation of such overhead costs as office moves. As with all overhead, we allocate it to the functional area where the cost was incurred, if this is feasible.

[4] In this regard the Commission has been checking the payments received from broadcast licensees against the name of the licensees in the Commission's database. The Commission has written to each licensee requesting payment or evidence of payment or exempt status, in order to perfect its database and ensure that the numbers of licensees upon which fees are based is accurate.

resulting from the application of our revenue ceilings.[5]

C. The 25% Ceiling on Fees

21. After separately projecting the revenue requirements for each service category using data generated by our cost accounting system, we established a revenue ceiling no higher than 25 percent above the revenue that regulatees would have paid if FY 1998 fees had remained at FY 1997 levels (adjusted only for changes in volume and the increase required by Congress).

22. SBC Communications (SBC) argues that the 25 percent ceiling is increasing the difference between the fees and the costs of regulation for some regulatees. Comcast Cellular Communications, Inc. (Comcast) and Small Business in Telecommunications (SBT) argue that the 25% ceiling unfairly results in the subsidization of some fee payer classes by other services.

23. Capping each fee category's revenue requirement at no more than a 25 percent increase enables us to continue the process of reducing fees for services with lower costs and increasing fees for services with higher costs in order to close the gap between actual costs and fees designed to recover these costs.[6] Congress in its original fee schedule, established fee amounts for each fee category that were to be used until the FCC could implement an agency-wide cost accounting system to track costs by fee category. The Congressional fee schedule inherently subsidized certain services at the expense of others. Furthermore, the Congressional mandate to collect significantly larger amounts in regulatory fees each year had made it more difficult to eliminate the imbalances first established in the statutory fee schedule. The full extent of these imbalances became clear when the Commission moved to a cost-based system in FY 1997. Thus, for FY 1997 we adopted a ceiling on fees in order to establish a mechanism that would smooth the transition to cost based fees.

24. As noted in our FY 1997 *Report and Order*, an important consideration in utilizing a revenue ceiling is the impact on other fee payers. We are required to collect a full $162,523,000 in FY 1998 regulatory fees. The additional revenue that would have been collected from licensees subject to a revenue ceiling had there been no ceiling, needs to be collected instead from services where increases are less than 25%. Utilization of the 25% ceiling permits us to close the gap between regulatory fees and actual costs while minimizing the potential adverse impact of substantial fee increases. In sum, we believe that the public interest is best served again by adopting the 25% ceiling.

C. Application of Cost-Based Methodology to Determine Fee Amounts

i. Adjustment of Payment Units

25. As the first step in calculating individual service regulatory fees for FY 1998, we adjusted the estimated payment units for each service because payment units for many services have changed substantially since we adopted our FY 1997 fees. We obtained our estimated payment units through a variety of means, including our licensee data bases, actual prior year payment records, and industry and trade group projections. Whenever possible, we verified these estimates from multiple sources to ensure the accuracy of these estimates.[7] Attachment B provides a summary of how payment units were determined for each fee category.

ii. Calculation of Revenue Requirements

26. We next multiplied the revised payment units for each service by our FY 1997 fee amounts in each fee category to determine how much revenue we would collect in FY 1998 without any change to the existing Schedule of Regulatory Fees. The amount of revenue we would collect is approximately $171.5 million. This amount is approximately $9 million more than the amount the Commission is required to collect in FY 1998. We therefore adjusted the revenue requirements for each fee category on a proportional basis, consistent with section 9(b)(2) of the Act, to obtain an estimate of revenue requirements for each fee category necessary to collect the $162,523,000 amount required by Congress for FY 1998. Attachment C provides detailed calculations showing how we determined the revised revenue amount for each service.

iii. Calculation of Regulatory Costs

27. In order to utilize actual costs as derived from our accounting system we combined support costs and direct costs[8] and then adjusted the results to approximate the amount of revenue that Congress requires us to collect in FY 1998 ($162,523,000).[9] In effect, we proportionally adjusted the actual cost data pertaining to regulatory fee activities recorded for the period October 1, 1996, through September 30, 1997, (FY 1997) among all the fee categories so that total costs approximated $162,523,000. For fee categories where fees are further differentiated by sub-categories, we distributed the revenue requirements to each sub-category. The results of these calculations are shown in detail in Attachment D and represent our best estimate of actual total attributable costs relative to each fee category and sub-category for FY 1998. However, the fee schedule for AM and FM radio stations was differentiated by class of station and population served in such a manner as to further differentiate small stations from larger stations.

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[5] For example, PCIA has requested that we establish a cost-increase benchmark at which point an explanation of the increase for any affected category must be included. A line-by-line explanation of all accounting data is not feasible, nor, do we believe, necessary in this item. Specific cost accounting data is available to interested parties upon request.

[6] We are not suggesting that fee increases are limited to a 25 percent increase over the FY 1997 fees. The 25 percent increase is over and above the *revenue* which would be required after adjusting for projected FY 1998 payment units and the proportional share of the 6.56 percent increase in the amount that Congress is requiring us to collect. Thus, FY 1998 fees may increase more than 25 percent over FY 1997 fees depending upon the number of payment units. We are also not suggesting that this methodology will always result in a continuous closing of an existing gap between costs and fees designed to recover these costs. Since actual costs for a fee category may increase or decrease in consecutive years, the gap could either close or widen depending upon whether or not actual costs go down or up and by how much.

[7] Certain payment unit estimates have been revised since release of the *NPRM* due to additional or updated information obtained by the Commission. This may result in changed fee amounts from those proposed in the *NPRM*. It is important to also note that Congress' required revenue increase in regulatory fee payments of approximately seven percent in FY 1998 will not fall equally on all fee payers because payment units have changed in several services. When the number of payment units in a service increase from one year to another, fees do not have to rise as much as they would if payment units had decreased or remained stable. Declining payment units have the opposite effect on fees.

[8] One feature of the cost accounting system is that it separately identifies direct and indirect costs. Direct costs include salary and expenses for (a) staff directly assigned to our operating Bureaus and performing regulatory activities and (b) staff assigned outside the operating Bureaus to the extent that their time is spent performing regulatory activities pertinent to an operating Bureau. These costs include rent, utilities and contractual costs attributable to such personnel. Indirect costs include support personnel assigned to overhead functions such as field and laboratory staff and certain staff assigned to the Office of Managing Director. The combining of direct and indirect costs is accomplished on a proportional basis among all fee categories as shown on Attachment D.

[9] Congress' estimate of costs to be recovered through regulatory fees is generally determined at least twelve months before the end of the fiscal year to which the fees actually apply. As such, year-end actual activity costs will not equal exactly the amount Congress designates for collection in a particular fiscal year.

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iv. Application of 25 Percent Revenue Ceiling

28. We applied the 25% ceiling on the increase in the revenue requirement of each fee category (over and above the Congressionally mandated increase in the overall revenue requirement and the difference in unit counts) using the same methodology we described in detail in our FY 1997 *Report and Order.*

v. Recalculation of Fees

29. Once we determined the amount of fee revenue that it is necessary to collect from each class of licensee, we divided the revenue requirement by the number of payment units (and by the license term, if applicable, for "small" fees) to obtain actual fee amounts for each fee category. These calculated fee amounts were then rounded in accordance with section 9(b)(3) of the Act. *See* Attachment E.

vi. Proposed Changes to Fee Schedule

30. We examined the results of our calculations made in paragraphs 25–27 to determine if further adjustments of the fees and/or changes to payment procedures were warranted based upon the public interest and other criteria established in 47 U.S.C. 159(b)(3). As a result of this review, we are adopting the following changes to our Fee Schedule:

a. Commercial AM & FM Radio

31. In FY 1997 we revised the methodology for assessing radio regulatory fees, by determining each station's daytime protected field strength signal contour which was then overlaid upon U.S. Census data to estimate the population coverage for each station.[10] Under the FY 1997 methodology, stations with larger populations within their protected service area were assessed higher fees than stations with smaller populations within their protected service area. The FY 1997 radio regulatory fees were also based on the ratio between the differences in fees assessed for different classes of stations in the Statutory Fee Schedule. 47 U.S.C. 159(g). We will modify these procedures to assess regulatory fees by calculating the populations within each station's narrower city strength service contour. We anticipate that this methodology will reduce the populations to be considered for fee purposes to the populations which most licensees consider to be within their "core" service area. We also will increase the differences between fee payments for different classes of stations with different populations, so that stations serving larger populations would pay a greater share of the regulatory fee burden.

32. We received complaints from licensees stating that the protected field strength contours used to calculate the fees, overstated actual market areas and populations served. In several instances licensees contended that rural stations whose contours intersected major metropolitan areas, were assigned populations far in excess of the populations within their primary or even their secondary market areas. *See,* for example, letters from KTXC, dated September 10, 1997; Music Express Broadcasting Corporation of Northeast Ohio, dated August 28, 1997; and Martin Broadcasting Company, dated August 26, 1997.

33. We also received complaints from licensees that they could not determine how the size of their regulatory fees were affected by their class of station, and that there was not a sufficient differentiation in fees between stations serving large populations and other stations. Several licensees argue that stations serving smaller populations have paid a disproportionate share of the regulatory fees. *See* letter from Heckler Broadcasting, Inc., received October 2, 1997; and Petition for Reduction of Regulatory Fee filed September 18, 1997 by Family Communications, Inc.

34. Comments filed by 19 State Broadcaster Associations, and by the NAB support reliance on city grade contours, a fee schedule which separated stations by class and population, and a fee schedule that increased the differentiation between the fees paid by stations serving larger markets and by stations serving smaller markets. The NAB also maintained that specifically dividing stations by class and population will provide a greater understanding to individual licensees concerning how their fees were calculated. Finally, the NAB argued that it is inequitable to base fees on the number of licensees who have paid their fees in the past and, therefore, shifting the fee payment obligation from the number of licensees that did not pay their fees. The NAB urges the Commission to adopt a broadcast fee schedule based on the total number of operating stations, excluding only those stations that have documented non-profit status.

35. In part, as a response to these concerns and comments, the *NPRM* proposed to modify the fee schedule for FY 1998 by utilizing the same general methodology for determining regulatory fees as we did in FY 1997, but by increasing the strength of the applicable signal contours to 5 mV/m for AM radio stations and 70 dBuV/m for FM radio stations, their city strength service contours. The city strength signal contours should reduce the populations used to assess fees to the populations within each station's primary local market area.

36. The FY 1998 *NPRM* proposed alternative fee schedules. In the first schedule, we determined the population in each station's city strength service contours, and then multiplied each population served by the same ratios between the fees for individual classes and types of stations (AM or FM), as established in the original Statutory Fee Schedule to determine the weighted population for each station in the FY 1998 Fee Schedule. *See* 47 U.S.C. 159(g). We then proposed to combine all of the AM and FM stations into a single schedule. We developed a range of fees for the schedule by selecting a minimum fee not lower than the AM Construction Permit fee which we determined to be $235, and a maximum fee which would not place an undue burden on any licensee. Therefore, we proposed to set the lowest radio fee at $250, and to increase the fees in $250 increments to $2,500 for stations serving the largest populations. We further proposed to retain the same number of actual fee classifications (ten) as in our FY 1997 *Report and Order.*[11]

37. We agree with the NAB and the State Broadcaster Associations that separately listing AM and FM stations by class of station, and by increasing the burden to be paid by the stations serving larger populations, is more equitable. Although that schedule would depart from the original ratios in the statutory fee schedule, we are authorized to modify the schedule and implement the following schedule which is responsive to the concerns expressed by our licensees. 47 U.S.C. 159(b).

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[10] In FY 1997 we determined that the signal contour for AM radio stations would be based upon a calculated signal strength of 0.5 mV/m from the transmitter location. For Class B FM stations the contour was based upon a signal strength of 54 dBuV/m from the transmitter location and for Class B1 FM stations the contour was based upon a signal strength of 57 dBuV/m. For all other FM Classes, a 60 dBuV/m contour was used. Attachment J describes in detail the factors, measurements and calculations that go into determining station signal contours and associated population coverages.

[11] The number of stations is not exactly divisible by 10, leaving group 10 with five less stations than the other groups.

RADIO STATION REGULATORY FEES

Population served	AM class A	AM class B	AM class C	AM class D	FM classes A, B1 & C3	FM classes B, C, C1 & C2
<=20,000	$400	$300	$200	$250	$300	$400
20,001–50,000	750	600	300	400	600	750
50,001–125,000	1,250	800	400	600	800	1,250
125,001–400,000	1,750	1,250	600	750	1,250	1,750
400,001–1,000,000	2,500	2,000	1,000	1,250	2,000	2,500
>1,000,000	4,000	3,250	1,500	2,000	3,250	4,000

38. As can be seen from the above chart, the same class stations in different size cities generally have different fees, with stations serving larger populations paying higher fees. In addition, different class stations in the same city generally have different fees, with stations which provide a higher class of service paying higher fees. The same class stations in the same city will have the same fee. Thus, the adopted fee schedule achieves the objectives of assessing fees based on class of station and populations served, thereby providing a fair and equitable means of distinguishing between stations located in metropolitan areas and in rural areas.

39. Moreover, if a licensee believes that it has been improperly placed in a particular fee classification group or that it will suffer undue financial hardship from the fee assessment, our rules provide for waiver, reduction or deferral of a fee as described in § 1.1166 of our rules. *See* 47 CFR 1.1166.

40. We also agree with the NAB that the fee schedule should reflect the total number of non-exempt operating stations. We have identified those licensees who have not paid their regulatory fees and have requested that they pay the fee or submit evidence establishing that they have paid their fee or are entitled to an exemption from the regulatory fee. In addition, in *Assessment and Collection of Regulatory Fees for Fiscal Year 1997*, FCC 97–384, adopted October 17, 1997, we required licensees to submit evidence of their non-profit status. For FY 1998, we have made adjustments to the number of licensees subject to fee payment based on responses received pertaining to non-profit status. Further, for FY 1999, we will consider the number of licensees who have paid their fees, as adjusted to account for licensees that have established their exempt status, and to account for responses to our letters requesting fee payments. Moreover, it is our intention to follow up on the FY 1998 fee payments to again identify and collect fees from those licensees that have not paid their fees and to further adjust and perfect our station counts.

41. The Commission will again inform radio station licensees of their exact fee obligation. A Public Notice listing each station's call letters, location, population, and the required fee will be mailed to each licensee. The same information will also be available at our internet web site (http://www.fcc.gov). Interested parties may also obtain their applicable fee amount for FY 1998 by calling the FCC's National Call Center at 1–888–225–5322. We have also provided detailed payment information for each radio station as Attachment L to this *Report and Order.*

b. CMRS

42. In the *NPRM*, we proposed for FY 1998 fees of $.29 per unit for the CMRS Mobile Service and $.04 per unit for the CMRS Messaging Service. In addition, we sought comment on how best to assign the various CMRS services between the two fee categories. For FY 1997, licensees authorized for operation on broadband spectrum were subject to payment of the CMRS Mobile Service fee and licensees authorized for operation on narrowband spectrum were subject to payment of the CMRS Messaging fee without regard to the nature of the services actually offered. We invited interested parties to comment on our proposal to continue the FY 1998 fee structure, and we specifically invited comments on whether licensees in the 900 MHZ Specialized Mobile Radio (SMR) Service were properly included in the CMRS Mobile fee category. Further, we tentatively proposed to include the Wireless Communications Service in the CMRS Wireless fee category.

43. Several interested parties filed comments, in particular, concerning the demarcation between the CMRS Mobile and CMRS Messaging fee categories. SBC Communications Inc. (SBC) urges us to adopt only a single CMRS fee covering all CMRS services contending that both Congress and the Commission intended in establishing SMRS to create regulatory symmetry among the CMRS services and, thereby, avoid any competitive advantage to narrowband PCS and SMR Services over Cellular and broadband PCS.[12] In contrast, Paging Network, Inc. (Pagenet) supports retention of the existing fee category structure, but recommends adoption of a subcategory for non-voice networks and services within the CMRS Mobile Service fee category which would be subject to the same fee payment as licensees within the CMRS Messaging fee category.

44. Bell South, a provider of mobile wireless data, supported by American Mobile Telecommunications Association (AMTA), suggests that 900 MHZ SMR licensees should be classified in the CMRS Messaging Fee category not the CMRS Mobile Services Category. BellSouth WD argues that regulatory fees should be governed by how the service bands are predominantly used. BellSouth WD states that the Commission has allocated 5 MHz of spectrum in each geographic region for 900 MHz SMR systems and that, in practice, this spectrum is licensed in 20 blocks, each consisting of 10 two-way 12.5 KHz paths, or 0.25 MHz per ten-channel block.[13] Further, Bell South contends that 900 MHz SMRs do not have the capacity to compete with true broadband systems, lacking the amount of spectrum of those services included in the CMRS Mobile Fee category. Thus, Bell South WD suggests that we either include any license authorization providing 25 KHz or less spectrum in the CMRS Messaging Service category or that we establish a third CMRS fee payment category for systems that operate in the 900 MHz SMR band and other services that are allocated no more than 5 MHz of spectrum. Small Business in Telecommunications (SBT), representing several SMR licensees, argues that, because we classified narrowband PCS, which operates on 50 KHz paired channels, in the CMRS

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[12] *Id.*

[13] *See* BellSouth WD Comments at 2.

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Messaging Service category,[14] we should clarify that all CMRS stations which are authorized with channel bandwidth not exceeding 50 KHz are within the CMRS Messaging Service category.

45. Moreover, SBT contends that we should clarify that SMR systems and Public Coast stations are within the CMRS Messaging Fees category since these stations are authorized with substantially less channel capacity than narrowband PCS stations. SBT also believes that SMR licensees, which are small businesses should receive discounts on their fees similar to the discounts given to small businesses in spectrum auctions. AMTA also supports relief for small businesses. SBC also contends that we incorrectly included the Rural Radio Service and the Basic Exchange Telecommunications Radio Service (BETRS) in the CMRS fee category.

46. We decline to adopt suggestions to base our fees on the predominant use of assigned spectrum and on a licensee by licensee basis. We are aware of no existing records or other information that would permit development of a sub-category of CMRS Mobile Services for those CMRS licensees who use broadband spectrum to deliver CMRS Messaging Services. Thus, adoption of those proposals could impose upon the licensees themselves and our staff an undue expenditure of administrative resources in the course of preparing the fee payments and processing them.

47. Furthermore, we reject SBC's contention that all CMRS licensees should pay the same regulatory fee. The statutory fee schedule makes plain that Congress in enacting the regulatory fee program contemplated that our fee levels would recognize the benefit of the spectrum authorized to licensees in the various services. 47 U.S.C. 159(g). Furthermore, interested parties should note that in the past our CMRS fee schedules have adhered to Congress' principle that our fee categories are to be based on the authorization provided to a licensee rather than the use a particular licensee makes of its authorized spectrum. Thus, we have considered the nature of the services offered only to the extent that service offered on broadband spectrum and services offered on narrowband spectrum are subject to different categories of fee payment.

48. While, at this time, we lack an adequate record to modify classifications within the CMRS fee category, we intend to adopt shortly a *Notice of Inquiry* to seek comment on revisiting several of our regulatory fee categories, including CMRS. We encourage CMRS licensees to participate in that proceeding by submitting comments and supporting data.

49. Finally, we did not receive any comments opposing our tentative conclusion that the Wireless Communications Service (WCS) should be classified as a CMRS Mobile Service and, therefore, we will classify WCS as service within the CMRS Mobile Service fee category. Also, we agree with SBC that § 20.7(a) of the rules excludes licensees in the Rural Radio Service from CMRS. Therefore, licensees in this Service shall pay annual regulatory fees under the category, GMRS/Other Land Mobile. For FY 1998, the GMRS/Other Land Mobile fee is $6 per license, payable in advance for the entire license term and at the time of application for a new, modification or reinstatement license. The total regulatory fee due is $30 for a five-year license term.

c. Space Stations and Bearer Circuits

i. Geostationary Satellites

50. For FY 1997 and prior years, we have adopted the statutory fee schedule's "per satellite" method for assessment of fees upon licensees of space stations. 47 U.S.C. 159(g). In the *NPRM*, we proposed retaining this approach. *See* FY 1998 *NPRM*, Attachment F. Columbia asks that we modify our methodology to take into account the difference between transponder and bandwidth capacity that exists among different satellites. Columbia states that its satellites are limited to just twelve C-band transponders, which, it contends, is only about one-third the capacity of the typical geostationary satellite. Further, it argues that satellite operators benefit from our regulation in close proportion to its capacity because a satellite's commercial capacity dictates the benefit it receives from our regulation, i.e., its ability to generate income. Thus, Columbia suggests that we base the space station fees on the transponder capacity of each satellite measured in 36 MHZ equivalent circuits.

51. Both GE Americom and Lorel contend that the Commission engages in little oversight once a satellite is licensed and that application processing costs should not be included in the regulatory fee schedule. The costs attributed to the regulation of geostationary satellites are based on the Commission's cost accounting system which separates application processing costs from regulatory costs.

52. Finally, GE Americom and others contend that any costs related to the development of new services rather than existing services should be treated as overhead and recovered proportionately from all fee payers. They also state that high regulatory fees adversely affect the U.S. satellite industry's capability to compete with foreign licensed companies. We continue to believe that it would be inappropriate to transfer costs directly attributable to one industry group to other unrelated industries or groups. Benefits need not be received or used by a particular licensee to satisfy the "reasonably related" criteria. It is enough that the benefits are available to all. The FCC, by statute, may only regulate costs of domestic licensed companies and we do not believe that our regulatory fees substantially affect American companies ability to compete with foreign entities.

53. After a careful review of the arguments, we have concluded that due to the tight collection schedule we face at this point, as a practical matter, we have no viable alternative other than adoption of the fee as proposed in the *NPRM*. Our action today is not intended to prejudge any pending waiver applications regarding these fees. Moreover, since the calculation of annual regulatory fees for geostationary satellites has been a matter of dispute for several years, we will soon issue a *Notice of Inquiry* which will entertain suggestions for alternative approaches based on different criteria and information. We will also ask the satellite industry to specify the data upon which we can base each alternative approach and the most feasible method for obtaining this information.

ii. Non-Geostationary Satellites

54. In the *NPRM*, we proposed to revise the fee payment requirement for non-geostationary satellite systems by requiring a fee payment "upon the commencement of operation of a system's first satellite as reported annually pursuant to §§ 25.142(c), 25.143(e) 25.145(g) or upon certification of operation of a single satellite pursuant to § 25.120(d)."[15] *See NPRM* at paragarph 32. In its comments, ORBCOMM contends that we should recover our non-geostationary space station regulatory costs from all non-geostationary satellite licensees rather than only those that have launched their initial satellites because all licensees benefit from our policy, enforcement and information activities and services.

55. In the past, we have not assessed fees upon licensees of LEO systems that

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[14] *See* FY 1997 Fees Order at paragraph 61.

[15] Section 25.120(d) has been renumbered to § 25.121(d).

do not operate at least one in-orbit space station. Nevertheless, we believe that ORBCOMM's proposal to impose a fee on all licensees of LEO systems warrants consideration due to developments in satellite technology permitting the deployment of LEO systems containing large numbers of satellites. However, before further considering the proposal, we believe an opportunity for comments by the interested parties would be useful. Therefore, we adopt the fee as proposed in the *NPRM*. Nevertheless, we will include ORBCOMM's proposal in the *Notice of Inquiry* we will initiate to review various methodologies for assessing fees in various fee categories. This will provide an opportunity to fully explore this proposal with input from all affected parties.

56. Finally, we will adopt the *NPRM's* proposal to reclassify the LEO regulatory fee category as the "Space Stations (Non-geostationary)" fee category because advances in satellite technology have made possible medium and high orbit satellite systems operating in non-geostationary orbits. *See NPRM* at paragraph 33.

iii. Bearer Circuits

57. For FY 1997, for the first time, we applied the international bearer circuit fee to satellite non-common carriers providing international bearer circuits to end users. *See* FY 1997 *Report and Order* at paragraphs 66–72. Previously, we had assessed the bearer circuit fee only upon undersea cable operators and domestic and international common carriers. In the *NPRM*, we proposed to again assess the bearer circuit fee on both private and common carrier satellite providers of international bearer circuits to end users. *See* FY 1998 *NPRM*, Attachment F.

58. Columbia, Loral, and PanAmSat contend that assessment of the bearer circuit fee on private satellite providers of international bearer circuits is unlawful. These parties state that section 9(g) of the Communications Act specifically limits the assessment of the bearer circuit fee to "carriers". 47 U.S.C. 159(g). Because section 3(10) of the Act defines "carriers" as "common carriers", they contend that we are limited to imposing the fee only on common carriers providing international bearer circuits. 47 U.S.C. 153(10). In addition, according to Columbia, the intent of Congress in including the bearer circuit fee in its statutory fee schedule was to assure the recovery from common carriers of the cost of their Title II regulation. Because non-common carriers are not subject to Title II regulation, Columbia argues that imposition of the bearer circuit fee on non-common carriers would result in recovery of the costs of Title II regulation from entities not subject to our Title II jurisdiction.

59. As a separate matter, PanAmSat states that our justification underlying imposition of the FY 1997 bearer fee upon non-common carrier satellite providers was flawed because we mistakenly believed that non-common carrier satellite operators would offer interconnected PSTN services in competition with common carriers following our elimination of the *de jure* prohibition on non-common carriers for the provision of these services. *See* FY 1997 *Report and Order* at paragraph 71. Instead, PanAmSat contends that the record in the pending *Comsat Dominance* proceeding demonstrates that the amount of PSTN traffic actually carried by non-common carrier satellites is so small as to be inconsequential from a competitive point of view. *See* 60–SAT–ISP–97. Thus, PanAmSat, supported by Columbia and Loral, argues that there has been no change in our regulation of non-common carriers to justify, pursuant to section 9(b)(3), subjecting non-common carrier satellites providers to a new fee. 47 U.S.C. 159(b)(3).

60. Finally, PanAmSat contends that to assess non-common carrier satellite operators the international bearer circuit fee will create a competitive disparity. PanAmSat states that under our *DISCO II* policies, foreign-licensed satellites now may be used to provide satellite service in the United States. Foreign satellite operators are not, however, required to pay regulatory fees. *See* 12 FCC Rcd 24094 (1997). As a result, the satellite systems against which U.S.-licensed non-common carriers actually compete will have a competitive advantage solely as a result of having used a foreign licensing administration. In sum, PanAmSat asks that we not impose the bearer circuit fee on non-common carrier satellite operators in order to avoid skewing competition in the telecommunications markets by unfairly discriminating against U.S.-licensed service providers.

61. We disagree with Columbia, Loral and PanAmSat that our assessment of the bearer circuit regulatory fee on them is unlawful. First, we disagree with their assertion that the intent of Congress in enacting section 9 of the Communications Act, under which the Commission is required to collect annual regulatory fees, including the bearer circuit fee at issue here, was to recover the costs of regulating common carriers under Title II of the Act. Section 9(a) clearly states that the purpose of the regulatory fees is to recover the costs of the Commission's enforcement activities, policy and rulemaking activities, user information services and international activities. Section 9(a) does not mention carriers or non-carriers or impose different criteria for each. Rather, the section requires the Commission to collect fees designed to recover its costs for these four general activities and to collect those fees from all entities that either require the Commission to engage in those activities or who benefit from them. As we noted in our FY 1997 *Report and Order* the Commission's costs for Title II regulation are recovered from the application fees under section 8 of the Communications Act.

62. We further disagree with the argument of PanAmSat that our argument for recovering bearer circuit fees from non-carrier providers of such circuits is flawed. We see nothing in section 9 that would specifically exempt non-carriers from paying fees under section 9. While we agree that the Schedule of Regulatory Fees included in section 9(g) states that we should impose bearer circuit fees upon "carriers," [16] and that section 3(10) of the Act defines "carriers" to mean "common carriers," [17] that is not the end of the issue. Section 9(b)(3) empowers the Commission to amend the Schedule of Regulatory Fees if the Commission deems such amendment necessary in the public interest.[18] In our 1997 *Report and Order* we amended the schedule of regulatory fees to impose them upon non-carrier operators of international satellite systems under the terms of section 9(g)(3). The basis for this amendment was that the non-carrier system operators had sought and obtained a significant expansion of the scope of services they are permitted to offer.[19]

Our *DISCO II* Order also allowed them to provide unlimited domestic service,[20] thereby increasing their permitted service areas. Because of these changes in their operation the non-carrier operators of international satellite systems impose more burdens upon the Commission's regulatory staff and derive a greater benefit from such staff's activities, particularly its international representation functions.

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[16] 47 U.S.C. 159(g).

[17] 47 U.S.C. 153(10).

[18] 47 U.S.C. 159(g)(3).

[19] *See* FCC 97–295 at paragraph 71, June 26, 1997.

[20] *See* 63 FR 6496 (February 9, 1997). Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Space Stations to Provide Domestic and International Satellite Service in the United States, *Report and Order* in IB Docket No. 96–111, 12 FCC Rcd 24094 (1997), 62 FR 64167 (December 4, 1997).

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We concluded, therefore, that it would be appropriate to begin to collect regulatory fees from such operators.

63. The commenting parties do not directly challenge the conclusions of our FY 1997 *Report and Order*. At most, PanAmSat argues that we may have overestimated the number of circuits such entities interconnect to the public switched telephone network (PSTN) and that the number is actually "competitively inconsequential." Our decision, however, was not solely based upon the connection of circuits to the PSTN. The non-carrier international satellite operators have become substantial providers of international private-line circuits. Such circuits are international bearer circuits, whether or not they are interconnected to the PSTN. They offer substantial competition to carrier offerings of international bearer circuits. Commission staff has also spent considerable time representing non-carrier satellite operators in international forums. Therefore, we continue to believe that our regulation of these entities has sufficiently changed so that it is now appropriate for them to contribute to the recovery of Commission costs through payment of the bearer circuit fee. Finally, we find no merit in PanAmSat's argument that our imposition of bearer circuit fees on U.S.-licensed satellite systems discriminates in favor of foreign-owned systems. Congress requires the Commission to recover regulatory fees from firms who are subject to the Commission's regulatory jurisdiction. Foreign-licensed satellite systems do not fall within Commission jurisdiction. Therefore, they neither directly impose burdens on the Commission's staff nor receive benefits from Commission representation in international fora.

d. Interstate Telephone Service Providers

64. In the *NPRM*, we proposed to adopt the methodology for assessing fees upon Interstate Telephone Service Providers that we had employed in past years. Under this methodology, carriers calculate their fees based upon their proportionate share of interstate revenues using the methodology we developed for contribution to the TRS Fund. *See Telecommunications Relay Services*, 8 FCC Rcd 5300 (1993). However, in order to avoid imposing upon resellers a double fee payment, we permit carriers to remove from their gross interstate revenue payments made to underlying carriers for telecommunications facilities and services, including payments for interstate access services.

65. SBC contends that our methodology imposes an undue burden upon the LECs because we permit interexchange carriers (IXCs) to deduct payments made to underlying common carriers from their gross revenues while local exchange carriers (LECs) do not have such payments to deduct. SBC suggests that use of end user revenues—the same contribution base used for Universal Service—to develop the annual fees would alleviate that burden and be more competitively neutral.

66. We find merit to SBC's proposal and, indeed, we have previously recognized administrative advantages to using end user revenues as opposed to net revenues when assessing carrier contributions.[21] However, SBC is mistaken in describing end user revenues as more competitively neutral than the mechanism we have proposed. Assuming that all fees are recovered from customers, including carrier customers that purchase their service for resale, retail customers would still pay the same rates. Further, to the extent that SBC provides services in competition with other carriers, those carriers would pay the same percentage amounts as SBC when providing the same services to the same customers. Since modifying the fee basis would not result in any material difference in the rates that consumers pay, we cannot conclude that the LEC's pay an undue share under our proposed methodology.

67. Interested parties should note that we are adopting our net revenue methodology as the fee basis for the Interstate Telephone Service Providers fee category again this year, in part, because we do not yet have adequate data to estimate total common carrier interstate end user revenue for FY 1997. While we could make such an estimate using data available for the first half of FY 1997 based on USF filings submitted on September 1, 1997, we believe that for FY 1998 we can make a better calculation of net revenues using historic data from regulatory fees as well as published gross revenue data based on TRS Fund filings. Thus, we expect to revisit SBC's proposal in the course of developing our regulatory fees for FY 1999.

E. Schedule of Regulatory Fees

68. The Commission's Schedule of Regulatory Fees for FY 1998 is contained in Attachment F of this *Report and Order*.

F. Effect of Revenue Redistributions on Major Constituencies

69. The chart below illustrates the relative percentages of the revenue requirements borne by major constituencies since inception of regulatory fees in FY 1994.

REVENUE REQUIREMENT PERCENTAGES BY CONSTITUENCIES

	FY 1994 (actual)	FY 1995 (actual)	FY 1996 (actual)	FY 1997 (actual)	FY 1998 (proposal)
Cable TV Operators(Inc. CARS Licenses)	41.4	24.0	33.4	21.8	18.1
Broadcast Licensees	23.8	13.8	14.6	14.1	15.3
Satellite Operators (Inc. Earth Stations)	3.3	3.6	4.0	5.0	5.0
Common Carriers	25.0	44.5	40.9	49.6	47.8
Wireless Licensees	6.5	14.1	7.1	9.3	13.8
Total	100.0	100.0	100.0	100.0	100.0

G. Procedures for Payment of Regulatory Fees

i. Installment Payments for Large Fees

70. Generally, we are retaining the procedures that we have established for the payment of regulatory fees. Section 9(f) requires that we permit "payment by installments in the case of fees in large amounts, and in the case of small amounts, shall require the payment of the fee in advance for a number of years not to exceed the term of the license held by the payer." *See* 47 U.S.C. 159(f)(1). Consistent with section 9(f), we are again establishing three categories of fee payments, based upon the category of service for which the fee payment is due and the amount of the fee to be paid. The fee categories are (1)

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[21] *Federal-State Joint Board on Universal Service, Report and Order*, FCC 97-157, CC Docket No. 96-45, 12 FCC Rcd 8776, 9206–9209 (rel. May 8, 1997) (Universal Service Order).

"standard" fees, (2) "large" fees, and (3) "small" fees.

71. We proposed in the *NPRM* that regulatees in any category of service with a liability of $12,000 or more be eligible to make installment payments and that eligibility for installment payments be based upon the amount of either a single regulatory fee payment or combination of fee payments by the same licensee or regulatee. However, statutory constraints requiring notification to Congress prior to actual collection of the fees prevents us from allowing installment payments in FY 1998. The payment dates for each regulatory fee category will be announced by Public Notice and published in the **Federal Register** following termination of this proceeding. However, regulatees otherwise eligible to make installment payments may pay their fees on the last date that fee payments may be submitted, as established in our Public Notice.

ii. Annual Payments of Standard Fees

72. Standard fees are those regulatory fees that are payable in full on an annual basis. Payers of standard fees are not required to make advance payments for their full license term and are not eligible for installment payments. As in the past, all standard fees will be payable in full on the date we establish for payment of fees in their regulatory fee category. The payment dates for each regulatory fee category will be announced by Public Notice and published in the **Federal Register** following termination of this proceeding.

iii. Advance Payment of Small Fees

73. As we have in the past, we are proposing to treat regulatory fee payments by certain licensees as "small" fees subject to advance payment consistent with the requirements of section 9(f)(2). Advance payments will be required from licensees of those services that we identified would be subject to advance payments in our FY 1994 *Report and Order*, and to those additional payers set forth herein.[22] Payers of small fees must submit the entire fee due for the full term of their licenses when filing their initial, renewal, or reinstatement application. Regulatees subject to a payment of small fees shall pay the amount due for the current fiscal year multiplied by the number of years in the term of their requested license. In the event that the required fee is adjusted following their payment of the fee, the payer would not be subject to the payment of a new fee until filing an application for renewal or reinstatement of the license. Thus, payment for the full license term would be made based upon the regulatory fee applicable at the time the application is filed. The effective date of the FY 1998 small fees will be announced by Public Notice and published in the **Federal Register** following termination of this proceeding.

iv. Standard Fee Calculations and Payment Dates

74. As noted, the time for payment of standard fees will be published in the **Federal Register**. For licensees, permittees and holders of other authorizations in the Common Carrier, Mass Media and Cable Services, fees should be submitted for any authorization held as of *October 1, 1997*. As in the past, this is the date to be used for establishing liability for payment of these fees since it is the first day of the federal government's fiscal year.

75. In the case of other regulatees whose fees are based upon a subscriber, unit or circuit count, the number of a regulatees' subscribers, units or circuits on *December 31, 1997*, will be used to calculate the fee payment.[23] As in the past, we have selected the last date of the calendar year because many of these entities file reports with us as of that date. Others calculate their subscriber numbers as of that date for internal purposes. Therefore, calculation of the regulatory fee as of that date will facilitate both an entity's computation of its fee payment and our verification that the correct fee payment has been submitted.

v. Minimum Fee Payment Liability

76. Regulatees whose total fee liability amounts to less than $10, including all categories of fees for which payment is due by an entity, are exempted from fee payment in FY 1998.

IV. Ordering Clause

77. Accordingly, it is ordered that the rule changes specified herein are adopted. It is further ordered that the rule changes made herein will become effective 60 days from date of publication in the **Federal Register**, except that changes to the Schedule of Regulatory Fees, made pursuant to section 9(b)(3) of the Communications Act, and incorporating regulatory fees for FY 1998, will become effective September 13, 1998, which is 90 days from the date of notification to Congress. Finally, it is ordered that this proceeding is *Terminated*.

V. Authority and Further Information

78. This action is taken pursuant to sections 4(i), 4(j), 9 and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and (j) and 9 and 303(r).

79. Further information about this proceeding may be obtained by contacting the Fees Hotline at (202) 418–0192.

List of Subjects in 47 CFR Part 1

Administrative practice and procedure, Communications common carriers, Radio, Telecommunications, Television.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

For the reasons discussed in the preamble part 1 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 1—PRACTICE AND PROCEDURE

1. The authority citation for part 1 continues to read as follows:

Authority: 15 U.S.C. 79 *et seq.*; 47 U.S.C. 151, 154(i), 154 (j), 155 225, and 303(r).

2. Section 1.1152 is revised to read as follows:

§ 1.1152 Schedule of annual regulatory fees and filing locations for wireless radio services.

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[22] Applicants for new, renewal and reinstatement licenses in the following services will be required to pay their regulatory fees in advance: Land Mobile Services, Microwave services, Marine (Ship) Service, Marine (Coast) Service, Private Land Mobile (Other) Services, Aviation (Aircraft) Service, Aviation (Ground) Service, General Mobile Radio Service (GMRS). In addition, applicants for Amateur Radio Vanity Call Signs will be required to submit an advance payment.

[23] Cable system operators are to compute their subscribers as follows: Number of single family dwellings + number of individual households in multiple dwelling unit (apartments, condominiums, mobile home parks, etc.) paying at the basic subscriber rate + bulk rate customers + courtesy and free service. Note: Bulk-Rate Customers= Total annual bulk-rate charge divided by basic annual subscription rate for individual households. Cable system operators may base their count on "a typical day in the last full week" of December 1996, rather than on a count as of December 31, 1996.

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Exclusive use services (per license)	Fee amount[1]	Address
1. Land Mobile (Above 470 MHz, Base Station & SMRS)(47 CFR, Part 90):		
(a) 800 MHz, New, Renewal, Reinstatement (FCC 600)	$12.00	FCC, 800 MHz, PO Box 358235, Pittsburgh, PA 15251–5235.
(b) 900 MHz, New, Renewal, Reinstatement (FCC 600)	12.00	FCC, 900 MHz, PO Box 358240, Pittsburgh, PA 15251–5240.
(c) 470–512,800,900, 220 MHz, 220 MHz Nationwide Renewal (FCC 574R, FCC 405A).	12.00	FCC, 470–512, PO Box 358245, Pittsburgh, PA 15251–5245.
(d) Correspondence, Blanket Renewal, (470–512,800,900,220 MHz) (Remittance Advice, Correspondence).	12.00	FCC, Corres., PO Box 358305, Pittsburgh, PA 15251–5305.
(e) 220 MHz, New, Renewal, Reinstatement (FCC 600)	12.00	FCC, 220 MHz, PO Box 358360, Pittsburgh, PA 15251–5360.
(f) 470–512 MHz, New, Renewal, PO Box 358810, Reinstatement (FCC 600).	12.00	FCC, 470–512, Pittsburgh, PA 15251–5810.
(g) 220 MHz Nationwide, New, Renewal, Reinstatement (FCC 600).	12.00	FCC, Nationwide, PO Box 358820, Pittsburgh, PA 15251–5820.
2. Microwave (47 CFR Pt. 101):		
(a) Microwave, New, Renewal, Reinstatement (FCC 415)	12.00	FCC, Microwave, PO Box 358250, Pittsburgh, PA 15251–5250.
(b) Microwave, Renewal (FCC 402R)	12.00	FCC, Microwave, PO Box 358255, Pittsburgh, PA 15251–5255.
(c) Correspondence, Blanket Renewal (Microwave) (Remittance Advice, Correspondence).	12.00	FCC, Corres., PO Box 358305, Pittsburgh, PA 15251–5305.
3. Shared Use Services:		
(a) Land Transportation (LT), New, Renewal, Reinstatement (FCC 600).	6.00	FCC, Land Trans., PO Box 358215, Pittsburgh, PA 15251–5215.
(b) Business (Bus.), New, Renewal, Reinstatement (FCC 600).	6.00	FCC, Business, PO Box 358220, Pittsburgh, PA 15251–5220.
(c) Other Industrial (OI), New, Renewal, Reinstatement (FCC 600).	6.00	FCC, Other Indus., PO Box 358225 Pittsburgh, PA 15251–5225.
(d) General Mobile Radio, Service (GMRS) New, Renewal, Reinstatement (FCC 574).	6.00	FCC, GMRS, PO Box 358230, Pittsburgh, PA 15251–5230.
(e) Business, Other Industrial, Land Transportation, GMRS, Renewal (FCC 574R, FCC 405A).	6.00	FCC, Bus., OI, LT, GMRS, PO Box 358245 Pittsburgh, PA 15251–5245.
(f) Ground, New, Renewal, Reinstatement (FCC 406)	6.00	FCC, Ground, PO Box 358260, Pittsburgh, PA 15251–5260.
(g) Coast, New, Renewal, Reinstatement (FCC 503)	6.00	FCC, Coast, PO Box 358265, Pittsburgh, PA 15251–5265.
(h) Ground, Renewal (FCC 452R)	6.00	FCC, Ground, PO Box 358270, Pittsburgh, PA 15251–5270.
(i) Coast, FCC, Coast Renewal (FCC 452R)	6.00	PO Box 358270, Pittsburgh, PA 15251–5270.
(j) Ship, New, Renewal, Reinstatement (FCC 506)	6.00	FCC, Ship, PO Box 358275, Pittsburgh, PA 15251–5275.
(k) Aircraft, New, Renewal, Reinstatement (FCC 404)	6.00	FCC, Aircraft, PO Box 358280, Pittsburgh, PA 15251–5280.
(l) Ship, Renewal (FCC 405B)	6.00	FCC, Ship, PO Box 358290, Pittsburgh, PA 15251–5290.
(m) Aircraft, Renewal (FCC 405B)	6.00	FCC, Aircraft, PO Box 358290, Pittsburgh, PA 15251–5290.
(n) Correspondence, Blanket Renewal (Bus.,OI,LT,GMRS) (Remittance Advice, Correspondence).	6.00	FCC, Corres., PO Box 358305, Pittsburgh, PA 15251–5305.
(o) Correspondence, Blanket Renewal (Ground) (Remittance Advice, Correspondence).	6.00	FCC, Corres., PO Box 358305, Pittsburgh, PA 15251–5305.
(p) Correspondence, Blanket Renewal (Coast) (Remittance Advice, Correspondence).	6.00	FCC, Corres., PO Box 358305, Pittsburgh, PA 15251–5305.
(q) Correspondence, Blanket Renewal (Aircraft) (Remittance Advice, Correspondence).	6.00	FCC, Corres., PO Box 358305, Pittsburgh, PA 15251–5305.
(r) Correspondence, Blanket Renewal (Ship) (Remittance Advice, Correspondence).	6.00	FCC, Corres., PO Box 358305, Pittsburgh, PA 15251–5305.
4. Amateur Vanity Call Signs	1.30	FCC, Amateur Vanity, PO Box 358924, Pittsburgh, PA 15251–5924.
5. CMRS Mobile Services (per unit)	.29	FCC, Cellular, PO Box 358835, Pittsburgh, PA 15251–5835.
6. CMRS Messaging Services (per unit)	.04	FCC, Messaging, PO Box 358835, Pittsburgh, PA 15251–5835.

[1] Note that "small fees" are collected in advance for the entire license term. Therefore, the annual fee amount shown in this table must be multiplied by the 5- or 10-year license term, as appropriate, to arrive at the total amount of regulatory fees owned. It should be further noted that application fees may also apply as detailed in 1.1102 of this chapter.

3. Section 1.1153 is revised to read as follows:

§ 1.1153 Schedule of annual regulatory fees and filing locations for mass media services.

	Fee amount	Address
I. Radio [AM and FM] (47 CFR, Part 73):		
1. AM Class A		
(a) <=20,000 population	400	FCC, Radio, PO Box 358835, Pittsburgh, PA 15251–5835.
(b) 20,001–50,000 population	750	
(c) 50,001–125,000 population	1,250	
(d) 125,001–400,000 population	1,750	
(e) 400,001–1,000,000 population	2,500	
(f) >1,000,000 population	4,000	
2. AM Class B		
(a) <=20,000 population	300	
(b) 20,001–50,000 population	750	
(c) 50,001–125,000 population	800	
(d) 125,001–400,000 population	1,250	

	Fee amount	Address
(e) 400,001–1,000,000 population	2,000	
(f) >1,000,000 population	3,250	
3. AM Class C		
(a) <=20,000 population	200	
(b) 20,001–50,000 population	300	
(c) 50,001–125,000 population	400	
(d) 125,001–400,000 population	600	
(e) 400,001–1,000,000 population	1,000	
(f) >1,000,000 population	1,500	
4. AM Class D		
(a) <=20,000 population	250	
(b) 20,001–50,000 population	400	
(c) 50,001–125,000 population	600	
(d) 125,001–400,000 population	750	
(e) 400,001–1,000,000 population	1,250	
(f) >1,000,000 population	2,000	
5. AM Construction Permit	235	
6. FM Classes A, B1 and C3		
(a) <=20,000 population	300	
(b) 20,001–50,000 population	600	
(c) 50,001–125,000 population	800	
(d) 125,001–400,000 population	1,250	
(e) 400,001–1,000,000 population	2,000	
(f) >1,000,000 population	3,250	
7. FM Classes B, C, C1 and C2		
(a)<=20,000 population	400	
(b) 20,001–50,000 population	750	
(c) 50,001–125,000 population	1,250	
(d) 125,001–400,000 population	1,750	
(e) 400,001–1,000,000 population	2,500	
(f) >,000,000 population	4,000	
8. FM Construction Permits	1,150	
II. TV (47 CFR, Part 73) VHF Commercial:		
1. Markets 1 thru 10	37,575	FCC, TV Branch, PO Box 358835, Pittsburgh, PA 15251–5835.
2. Markets 11 thru 25	31,275	
3. Markets 26 thru 50	21,400	
4. Markets 51 thru 100	11,975	
5. Remaining Markets	3,100	
6. Construction Permits	2,525	
III. TV (47 CFR, Part 73) UHF Commercial:		
1. Markets 1 thru 10	14,175	FCC, UHF Commercial, PO Box 358835, Pittsburgh, PA 15251–5835.
2. Markets 11 thru 25	10,725	
3. Markets 26 thru 50	6,650	
4. Markets 51 thru 100	3,975	
5. Remaining Markets	1,075	
6. Construction Permits	2,650	
IV. Satellite UHF/VHF Commercial:		
1. All Markets	1,175	FCC Satellite TV PO Box 358835, Pittsburgh, PA 15251–5835.
2. Construction Permits	420	
V. Low Power TV, TV/FM Translator, & TV/FM Booster (47 CFR, Part 74).	265	FCC, Low Power PO Box 358835, Pittsburgh, PA 15251–5835.
VI. Broadcast Auxiliary	11	FCC, Auxiliary, PO Box 358835, Pittsburgh, PA 15251–5835.
VII. Multipoint Distribution	260	FCC, Multipoint, PO Box 358835, Pittsburgh, PA 15251–5835.

§ 1.1154 Schedule of annual regulatory charges and filing locations for common carrier services.

	Fee amount	Address
I. Radio Facilities:		
1. Microwave (Domestic Public Fixed)	$12	FCC, Common Carrier, P.O. Box 358680, Pittsburgh, PA 15251–5680.
II. Carriers:		
1. Interstate Telephone Service Providers (per dollar contributed to TRS Fund).	.0011	FCC, Carriers, P.O. Box 358835, Pittsburgh, PA 15251–5680.

5. Section 1.1155 is revised to read as follows:

§ 1.1155 Schedule of regulatory fees and filing locations for cable television services.

	Fee amount	Address
1. Cable Antenna Relay Service	$50	FCC, Cable, P.O. Box 358835, Pittsburgh, PA 15251–5835.

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	Fee amount	Address
2. Cable TV System (per subscriber)	.44	

6. Section 1.1156 is revised to read as follows:

§ 1.1156 Schedule of regulatory fees and filing locations for international services.

	Fee amount	Address
I. Radio Facilities:		
1. International (HF) Broadcast	$475	FCC, International, P.O. Box 358835, Pittsburgh, PA 15251–5835.
2. International Public Fixed	375	FCC, International, P.O. Box 358835, Pittsburgh, PA 15251–5835.
II. Space Stations (Geostationary Orbit)	119,000	FCC, Space Stations, P.O. Box 358835, Pittsburgh, PA 15251–5835.
III. Space Stations (Non-Geostationary Orbit)	164,800	FCC, Space Stations, P.O. Box 358835, Pittsburgh, PA 15251–5835.
IV. Earth Stations, Transmit/Receive & Transmit Only (per authorization or registration).	165	FCC, Earth Station, P.O. Box 358835, Pittsburgh, PA 15251–5835.
V. Carriers:		
1. International Bearer Circuits (per active 64KB circuit or equivalent).	6.00	FCC, International, P.O. Box 358835, Pittsburgh, PA 15251–5835.

Attachment A—Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act (RFA),[24-25] an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Notice of Proposed Rulemaking In the Matter of Assessment and Collection of Regulatory Fees for Fiscal Year 1998*, 63 FR 16188 (April 2, 1998). The Commission sought written public comments on the proposals in its FY 1998 regulatory fees *NPRM*, including on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA, as amended.[26]

I. Need for and Objectives of this Report and Order

2. This rulemaking proceeding was initiated in order to collect regulatory fees in the amount of $162,523,000, the amount that Congress has required the Commission to recover through regulatory fees in FY 1998. The Commission seeks to collect the necessary amount through its revised regulatory fees, as contained in the attached Schedule of Regulatory Fees, in the most efficient manner possible and without undue burden on the public.

II. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

3. None.

III. Description and Estimate of the Number of Small Entities to Which the Rules will Apply

4. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.[27] The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."[28] In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.[29] A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).[30] A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field."[31] Nationwide, as of 1992, there were approximately 275,801 small organizations.[32] "Small governmental jurisdiction" generally means "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000."[33] As of 1992, there were approximately 85,006 such jurisdictions in the United States.[34] This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000.[35] The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (91 percent) are small entities. Below, we further describe and estimate the number of small entity licensees and regulatees that may be affected by the proposed rules, if adopted.

Cable Services or Systems

5. The SBA has developed a definition of small entities for cable and other pay television services, which includes all such companies generating $11 million or less in revenue annually.[36] This definition includes cable systems operators, closed circuit television services, direct broadcast satellite services, multipoint distribution systems, satellite master antenna systems and subscription television services. According to the Census Bureau data from 1992, there were 1,788 total cable and other pay

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[24-25] U.S.C. 603.

[26] *See* 5 U.S.C. 604. The RFA, *see* 5 U.S.C. 601 *et seq.*, has been amended by the Contract with America Advancement Act (CWAAA), Pub. L. 104–121, 110 Stat. 847 (1996). Title II of the CWAAA is "The Small Business Regulatory Enforcement Fairness Act of 1996" (SBREFA).

[27] 5 U.S.C. 603(b)(3).

[28] *Id.* section 601(6).

[29] 5 U.S.C. 601(3) (incorporating by reference the definition of "small business concern" in 15 U.S.C. 632). Pursuant to the RFA, the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**. 5 U.S.C. 601(3).

[30] Small Business Act, 15 U.S.C. 632 (1996).

[31] 5 U.S.C. 601(4).

[32] 1992 Economic Census, U.S. Bureau of the Census, Table 6 (special tabulation of data under contract to Office of Advocacy of the U.S. Small Business Administration).

[33] 5 U.S.C. 601(5).

[34] U.S. Dept. of Commerce, Bureau of the Census, "1992 Census of Governments."

[35] *Id.*

[36] 13 CFR 121.201, SIC code 4841.

television services and 1,423 had less than $11 million in revenue.[37]

6. The Commission has developed its own definition of a small cable system operator for the purposes of rate regulation. Under the Commission's rules, a "small cable company" is one serving fewer than 400,000 subscribers nationwide.[38] Based on our most recent information, we estimate that there were 1,439 cable operators that qualified as small cable system operators at the end of 1995.[39] Since then, some of those companies may have grown to serve over 400,000 subscribers, and others may have been involved in transactions that caused them to be combined with other cable operators. Consequently, we estimate that there are fewer than 1,439 small entity cable system operators.

7. The Communications Act also contains a definition of a small cable system operator, which is "a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000."[40] The Commission has determined that there are 66,000,000 subscribers in the United States. Therefore, we found that an operator serving fewer than 660,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all of its affiliates, do not exceed $250 million in the aggregate.[41] Based on available data, we find that the number of cable operators serving 660,000 subscribers or less totals 1,450.[42] We do not request nor do we collect information concerning whether cable system operators are affiliated with entities whose gross annual revenues exceed $250,000,000,[43] and thus are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act. It should be further noted that recent industry estimates project that there will be a total 66,000,000 subscribers, and we have based our fee revenue estimates on that figure.

8. Other Pay Services. Other pay television services are also classified under Standard Industrial Classification (SIC) 4841, which includes cable systems operators, closed circuit television services, direct broadcast satellite services (DBS),[44] multipoint distribution systems (MDS),[45] satellite master antenna systems (SMATV), and subscription television services.

Common Carrier Services and Related Entities

9. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the numbers of commercial wireless entities, appears to be data the Commission publishes annually in its *Telecommunications Industry Revenue* report, regarding the Telecommunications Relay Service (TRS).[46] According to data in the most recent report, there are 3,459 interstate carriers.[47] These carriers include, *inter alia*, local exchange carriers, wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, providers of telephone toll service, providers of telephone exchange service, and resellers.

10. The SBA has defined establishments engaged in providing "Radiotelephone Communications" and "Telephone Communications, Except Radiotelephone" to be small businesses when they have no more than 1,500 employees.[48] Below, we discuss the total estimated number of telephone companies falling within the two categories and the number of small businesses in each, and we then attempt to refine further those estimates to correspond with the categories of telephone companies that are commonly used under our rules.

11. Although some affected incumbent local exchange carriers (ILECs) may have 1,500 or fewer employees, we do not believe that such entities should be considered small entities within the meaning of the RFA because they are either dominant in their field of operations or are not independently owned and operated, and therefore by definition not "small entities" or "small business concerns" under the RFA. Accordingly, our use of the terms "small entities" and "small businesses" does not encompass small ILECs. Out of an abundance of caution, however, for regulatory flexibility analysis purposes, we will separately consider small ILECs within this analysis and use the term "small ILECs" to refer to any ILECs that arguably might be defined by the SBA as "small business concerns."[49]

12. Total Number of Telephone Companies Affected. The U.S. Bureau of the Census ("Census Bureau") reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year.[50] This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, personal communications services providers, covered specialized mobile radio providers, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities or small ILECs because they are not "independently owned and operated."[51] For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It is reasonable to conclude that fewer than 3,497 telephone service firms are small entity telephone service firms or small

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[37] *1992 Economic Census Industry and Enterprise Receipts Size Report*, Table 2D, SIC code 4841 (U.S. Bureau of the Census data under contract to the Office of Advocacy of the U.S. Small Business Administration).

[38] 47 CFR 76.901(e). The Commission developed this definition based on its determination that a small cable system operator is one with annual revenues of $100 million or less. *Implementation of Sections of the 1992 Cable Act: Rate Regulation, Sixth Report and Order and Eleventh Order on Reconsideration*, 10 FCC Rcd 7393 (1995), 60 FR 10534 (February 27, 1995).

[39] Paul Kagan Associates, Inc., *Cable TV Investor*, Feb. 29, 1996 (based on figures for December 30, 1995).

[40] 47 U.S.C. 543(m)(2).

[41] *Id.* 76.1403(b).

[42] Paul Kagan Associates, Inc., *Cable TV Investor*, Feb. 29, 1996 (based on figures for Dec. 30, 1995).

[43] We do receive such information on a case-by-case basis only if a cable operator appeals a local franchise authority's finding that the operator does not qualify as a small cable operator pursuant to section 76.1403(b) of the Commission's rules *See* 47 CFR 76.1043(d).

[44] Direct Broadcast Services (DBS) are discussed with the international services, *infra*.

[45] Multipoint Distribution Services (MDS) are discussed with the mass media services, *infra*.

[46] FCC, Telecommunications Industry Revenue: TRS Fund Worksheet Data, Figure 2 (Number of Carriers Paying Into the TRS Fund by Type of Carrier) (Nov. 1997) *(Telecommunications Industry Revenue)*.

[47] *Id.*

[48] 13 CFR 121.201, Standard Industrial Classification (SIC) codes 4812 and 4813. *See also* Executive Office of the President, Office of Management and Budget, *Standard Industrial Classification Manual* 1987).

[49] *See* 13 CFR 121.201, SIC code 4813. Since the time of the Commission's 1996 decision, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, First Report and Order*, 11 FCC Rcd 15499, 16144–45 (1996), 61 FR 45476 (August 29, 1996), the Commission has consistently addressed in its regulatory flexibility analyses the impact of its rules on such ILECs.

[50] U.S. Department of Commerce, Bureau of the Census, *1992 Census of Transportation, Communications, and Utilities: Establishment and Firm Size*, at Firm Size 1–123 (1995) (*1992 Census*).

[51] *See generally* 15 U.S.C. 632(a)(1).

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ILECs that may be affected by the proposed rules, if adopted.

13. Wireline Carriers and Service Providers. The SBA has developed a definition of small entities for telephone communications companies except radiotelephone (wireless) companies. The Census Bureau reports that there were 2,321 such telephone companies in operation for at least one year at the end of 1992.[52] According to the SBA's definition, a small business telephone company other than a radiotelephone company is one employing no more than 1,500 persons.[53] All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small ILECs. We do not have data specifying the number of these carriers that are not independently owned and operated, and thus are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that fewer than 2,295 small telephone communications companies other than radiotelephone companies are small entities or small ILECs that may be affected by the proposed rules, if adopted.

14. Local Exchange Carriers. Neither the Commission nor the SBA has developed a definition for small providers of local exchange services (LECs). The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.[54] According to the most recent *Telecommunications Industry Revenue* data, 1,371 carriers reported that they were engaged in the provision of local exchange services.[55] We do not have data specifying the number of these carriers that are either dominant in their field of operations, are not independently owned and operated, or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that fewer than 1,371 providers of local exchange service are small entities or small ILECs that may be affected by the proposed rules, if adopted.

15. Interexchange Carriers. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of interexchange services (IXCs). The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.[56] According to the most recent *Telecommunications Industry Revenue* data, 143 carriers reported that they were engaged in the provision of interexchange services.[57] We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of IXCs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 143 small entity IXCs that may be affected by the proposed rules, if adopted.

16. Competitive Access Providers. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to competitive access services providers (CAPs). The closest applicable definition under the SBA rules is for telephone communications companies other than except radiotelephone (wireless) companies.[58] According to the most recent Telecommunications Industry Revenue data, 109 carriers reported that they were engaged in the provision of competitive access services.[59] We do not have data specifying the number of these carriers that are not independently owned and operated, or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of CAPs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 109 small entity CAPs that may be affected by the proposed rules, if adopted.

17. Operator Service Providers. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of operator services. The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.[60] According to the most recent *Telecommunications Industry Revenue* data, 27 carriers reported that they were engaged in the provision of operator services.[61] We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of operator service providers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 27 small entity operator service providers that may be affected by the proposed rules, if adopted.

18. Pay Telephone Operators. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to pay telephone operators. The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.[62] According to the most recent *Telecommunications Industry Revenue* data, 441 carriers reported that they were engaged in the provision of pay telephone services.[63] We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of pay telephone operators that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 441 small entity pay telephone operators that may be affected by the proposed rules, if adopted.

19. Resellers (including debit card providers). Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to resellers. The closest applicable SBA definition for a reseller is a telephone communications company other than radiotelephone (wireless) companies.[64] According to the most recent *Telecommunications Industry Revenue* data, 339 reported that they were engaged in the resale of telephone service.[65] We do not have data specifying the number of these carriers that are not independently owned and

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[52] 1992 Census, supra, at Firm Size 1–123.

[53] 13 CFR 121.201, SIC code 4813.

[54] *Id.*

[55] *Telecommunications Industry Revenue*, Figure 2.

[56] 13 CFR 121.201, SIC code 4813.

[57] *Telecommunications Industry Revenue*, Figure 2.

[58] 13 CFR 121.201, SIC code 4813.

[59] *Telecommunications Industry Revenue*, Figure 2.

[60] 13 CFR 121.201, SIC code 4813.

[61] *Telecommunications Industry Revenue*, Figure 2.

[62] 13 CFR 121.201, SIC code 4813.

[63] *Telecommunications Industry Revenue*, Figure 2.

[64] 13 CFR 121.201, SIC code 4813.

[65] *Telecommunications Industry Revenue*, Figure 2.

operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of resellers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 339 small entity resellers that may be affected by the proposed rules, if adopted.

20. 800 Service Subscribers.[66] Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to 800 service ("toll free") subscribers. The most reliable source of information regarding the number of 800 service subscribers appears to be data the Commission collects on the 800 numbers in use.[67] According to our most recent data, at the end of 1995, the number of 800 numbers in use was 6,987,063. Similarly, the most reliable source of information regarding the number of 888 service subscribers appears to be data the Commission collects on the 888 numbers in use.[68] According to our most recent data, at the end of August 1996, the number of 888 numbers that had been assigned was 2,014,059. We do not have data specifying the number of these subscribers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of toll free subscribers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 6,987,063 small entity 800 subscribers and fewer than 2,014,059 small entity 888 subscribers that may be affected by the proposed rules, if adopted.

International Services

21. The Commission has not developed a definition of small entities applicable to licensees in the international services. Therefore, the applicable definition of small entity is generally the definition under the SBA rules applicable to Communications Services, Not Elsewhere Classified (NEC).[69] This definition provides that a small entity is expressed as one with $11.0 million or less in annual receipts.[70] According to the Census Bureau, there were a total of 848 communications services providers, NEC, in operation in 1992, and a total of 775 had annual receipts of less than $9,999 million.[71] The Census report does not provide more precise data.

22. International Broadcast Stations. Commission records show that there are 20 international broadcast station licensees. We do not request nor collect annual revenue information, and thus are unable to estimate the number of international broadcast licensees that would constitute a small business under the SBA definition. However, the Commission estimates that only six international broadcast stations are subject to regulatory fee payments.

23. International Public Fixed Radio (Public and Control Stations). There are 3 licensees in this service subject to payment of regulatory fees. We do not request nor collect annual revenue information, and thus are unable to estimate the number of international broadcast licensees that would constitute a small business under the SBA definition.

24. Fixed Satellite Transmit/Receive Earth Stations. There are approximately 3000 earth station authorizations, a portion of which are Fixed Satellite Transmit/Receive Earth Stations. We do not request nor collect annual revenue information, and thus are unable to estimate the number of the earth stations that would constitute a small business under the SBA definition.

25. Fixed Satellite Small Transmit/Receive Earth Stations. There are 3000 earth station authorizations, a portion of which are Fixed Satellite Small Transmit/Receive Earth Stations. We do not request nor collect annual revenue information, and thus are unable to estimate the number of fixed satellite transmit/receive earth stations may constitute a small business under the SBA definition.

26. Fixed Satellite Very Small Aperture Terminal (VSAT) Systems. These stations operate on a primary basis, and frequency coordination with terrestrial microwave systems is not required. Thus, a single "blanket" application may be filed for a specified number of small antennas and one or more hub stations. The Commission has processed 377 applications. We do not request nor collect annual revenue information, and thus are unable to estimate of the number of VSAT systems that would constitute a small business under the SBA definition.

27. Mobile Satellite Earth Stations. There are two licensees. We do not request nor collect annual revenue information, and thus are unable to estimate of the number of mobile satellite earth stations that would constitute a small business under the SBA definition.

28. Radio Determination Satellite Earth Stations. There are four licensees. We do not request nor collect annual revenue information, and thus are unable to estimate of the number of radio determination satellite earth stations that would constitute a small business under the SBA definition.

29. Space Stations (Geostationary). Commission records reveal that there are 46 space station licensees. We do not request nor collect annual revenue information, and thus are unable to estimate of the number of geostationary space stations that would constitute a small business under the SBA definition.

30. Space Stations (Non-Geostationary). There are six Non-Geostationary Space Station licensees, of which only two systems are operational. We do not request nor collect annual revenue information, and thus are unable to estimate of the number of non-geostationary space stations that would constitute a small business under the SBA definition.

31. Direct Broadcast Satellites. Because DBS provides subscription services, DBS falls within the SBA-recognized definition of "Cable and Other Pay Television Services."[72] This definition provides that a small entity is one with $11.0 million or less in annual receipts.[73] As of December 1996, there were eight DBS licensees. However, the Commission does not collect annual revenue data for DBS and, therefore, is unable to ascertain the number of small DBS licensees that could be impacted by these proposed rules. Although DBS service requires a great investment of capital for operation, there are several new entrants in this field that may not yet have generated $11 million in annual receipts, and therefore may be categorized as small businesses, if independently owned and operated.

Mass Media Services

32. Commercial Radio and Television Services. The proposed rules and policies will apply to television broadcasting licensees and radio broadcasting licensees.[74] The SBA

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[66] We include all toll-free number subscribers in this category, including 888 numbers.

[67] FCC, CCB Industry Analysis Division, *FCC Releases, Study on Telephone Trends*, Tbl. 20 (May 16, 1996).

[68] FCC, CCB Industry Analysis Division, *Long Distance Carrier Code Assignments*, p. 80, Tbl. 10B (Oct. 18, 1996).

[69] An exception is the Direct Broadcast Satellite (DBS) Service, *infra*.

[70] 13 CFR 120.121, SIC code 4899.

[71] *1992 Economic Census Industry and Enterprise Receipts Size Report*, Table 2D, SIC code 4899 (U.S. Bureau of the Census data under contract to the Office of Advocacy of the U.S. Small Business Administration).

[72] 13 CFR 120.121, SIC code 4841.

[73] 13 CFR 120.201, SIC code 4841.

[74] While we tentatively believe that the SBA's definition of "small business" greatly overstates the

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defines a television broadcasting station that has $10.5 million or less in annual receipts as a small business.[75] Television broadcasting stations consist of establishments primarily engaged in broadcasting visual programs by television to the public, except cable and other pay television services.[76] Included in this industry are commercial, religious, educational, and other television stations.[77] Also included are establishments primarily engaged in television broadcasting and which produce taped television program materials.[78] Separate establishments primarily engaged in producing taped television program materials are classified under another SIC number.[79] There were 1,509 television stations operating in the nation in 1992.[80] That number has remained fairly constant as indicated by the approximately 1,564 operating television broadcasting stations in the nation as of December 31, 1997.[81] For 1992,[82] the number of television stations that produced less than $10.0 million in revenue was 1,155 establishments.[83] Only commercial stations are subject to regulatory fees.

33. Additionally, the Small Business Administration defines a radio broadcasting station that has $5 million or less in annual receipts as a small business.[84] A radio broadcasting station is an establishment primarily engaged in broadcasting aural programs by radio to the public.[85] Included in this industry are commercial, religious, educational, and other radio stations.[86] Radio broadcasting stations which primarily are engaged in radio broadcasting and which produce radio program materials are similarly included.[87] However, radio stations which are separate establishments and are primarily engaged in producing radio program material are classified under another SIC number.[88] The 1992 Census indicates that 96 percent (5,861 of 6,127) radio station establishments produced less than $5 million in revenue in 1992.[89] Official Commission records indicate that 11,334 individual radio stations were operating in 1992.[90] As of December 31, 1997, Commission records indicate that 12,27 radio stations were operating, of which 7,465 were FM stations.[91] Only commercial stations are subject to regulatory fees.

34. Thus, the proposed rules, if adopted, will affect approximately 1,558 full power television stations, approximately 1,200 of which are considered small businesses.[92] Additionally, the proposed rules will affect some 12,156 full power radio stations, approximately 11,670 of which are small businesses.[93] These estimates may overstate the number of small entities because the revenue figures on which they are based do not include or aggregate revenues from non-television or non-radio affiliated companies. There are also 1,952 low power television stations (LPTV).[94] Given the nature of this service, we will presume that all LPTV licensees qualify as small entities under the SBA definition.

Alternative Classification of Small Stations

35. An alternative way to classify small radio and television stations is by number of employees. The Commission currently applies a standard based on the number of employees in administering its Equal Employment Opportunity Rule (EEO) for broadcasting.[95] Thus, radio or television stations with fewer than five full-time employees are exempted from certain EEO reporting and record keeping requirements.[96] We estimate that the total number of broadcast stations with 4 or fewer employees is approximately 4,239.[97]

Auxiliary, Special Broadcast and Other Program Distribution Services

36. This service involves a variety of transmitters, generally used to relay broadcast programming to the public (through translator and booster stations)

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number of radio and television broadcast stations that are small businesses and is not suitable for purposes of determining the impact of the proposals on small television and radio stations, for purposes of this *Report and Order* we utilize the SBA's definition in determining the number of small businesses to which the proposed rules would apply. We reserve the right to adopt, in the future, a more suitable definition of "small business" as applied to radio and television broadcast stations or other entities subject to the proposed rules in this *Report and Order*, and to consider further the issue of the number of small entities that are radio and television broadcasters or other small media entities. *See Report and Order in MM Docket No. 93–48 (Children's Television Programming)*, 11 FCC Rcd 10660, 10737–38 (1996), 61 FR 43981 (August 27, 1996), *citing* 5 U.S.C. 601(3).

[75] 13 CFR 120.201, SIC code 4833.

[76] Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce, *1992 Census of Transportation, Communications and Utilities, Establishment and Firm Size, Series UC92–S–1*, Appendix A–9 (1995) *1992 Census, Series UC92–S–1)*.

[77] *Id.; see* Executive Office of the President, Office of Management and Budget, *Standard Industrial Classification Manual* (1987), at 283, which describes "Television Broadcasting Stations" (SIC code 4833) as:

> Establishments primarily engaged in broadcasting visual programs by television to the public, except cable and other pay television services. Included in this industry are commercial, religious, educational and other television stations. Also included here are establishments primarily engaged in television broadcasting and which produce taped television program materials.

[78] *1992 Census, Series UC92–S–1*, at Appendix A–9.

[79] *Id.*, SIC code 7812 (Motion Picture and Video Tape Production); SIC code 7922 (Theatrical Producers and Miscellaneous Theatrical Services) (producers of live radio and television programs).

[80] FCC News Release No. 31327 (Jan. 13, 1993); *1992 Census, Series UC92–S–1*, at Appendix A–9.

[81] FCC News Release, "Broadcast Station Totals as of December 31, 1997."

[82] A census to determine the estimated number of Communications establishments is performed every five years, in years ending with a "2" or "7". *See 1992 Census, Series UC92–S–1*, at III.

[83] The amount of $10 million was used to estimate the number of small business establishments because the relevant Census categories stopped at $9,999,999 and began at $10,000,000. No category for $10.5 million existed. Thus, the number is as accurate as it is possible to calculate with the available information.

[84] 13 CFR 120.201, SIC code 4832.

[85] *1992 Census, Series UC92–S–1*, at Appendix A–9.

[86] *Id.*

[87] *Id.*

[88] *Id.*

[89] The Census Bureau counts radio stations located at the same facility as one establishment. Therefore, each co-located AM/FM combination counts as one establishment.

[90] FCC News Release, No. 31327 (Jan. 13, 1993).

[91] FCC News Releases, "Broadcast Station Totals as of December 31, 1997."

[92] We use the 77 percent figure of TV stations operating at less than $10 million for 1992 and apply if to the 1997 total of 1558 TV stations to arrive at 1,200 stations categorized as small businesses.

[93] We use the 96% figure of radio station establishments with less than $5 million revenue from the Census data and apply it to the 12,088 individual station count to arrive at 11,605 individual stations as small businesses.

[94] FCC News Release, No. 7033 (Mar. 6, 1997).

[95] The Commission's definition of a small broadcast station for purposes of applying its EEO rules was adopted prior to the requirements of approval by the SBA pursuant to section 3(a) of the Small Business Act, 15 U.S.C. 632(a), as amended by section 222 of the Small Business Credit and Business Opportunity Enhancement Act of 1992, Pub. L. 102–366, 222(b)(1), 106 Stat. 999 (1992), as further amended by the Small Business Administration Reauthorization and Amendments Act of 1994, Pub. L. 103–403, 301, 108 Stat. 4187 (1994). However, this definition was adopted after public notice and the opportunity for comment. *See Report and Order* in Docket No. 18244, 23 FCC 2d 430 (1970), 35 8925 (June 6, 1970).

[96] *See, e.g.*, 47 CFR 73.3612 (Requirements to file annual employment reports on Forms 395 applies to licensees with five or more full-time employees); *First Report and Order* in Docket No. 21474 (*Amendment of Broadcast Equal Employment Opportunity Rules and FCC Form 395*), 70 FCC 2d 1466 (1979), 50 FR 50329 (December 10, 1085). The Commission is currently considering how to decrease the administrative burdens imposed by the EEO rule on small stations while maintaining the effectiveness of our broadcast EEO enforcement. *Order and Notice of Proposed Rule Making in MM Docket N0. 96–16 (Streamlining Broadcast EEO Rule and Policies, Vacating the EEO Forfeiture Policy Statement and Amending Section 1.80 of the Commission's Rules to Include EEO Forfeiture Guidelines)*, 11 FCC Rcd 5154 (1996), 61 FR 9964 (March 12, 1996). One option under consideration is whether to define a small station for purposes of affording such relief as one with ten or fewer full-time employees.

[97] Compilation of 1994 Broadcast Station Annual Employment Reports (FCC Form B), Equal Opportunity Employment Branch, Mass Media Bureau, FCC.

or within the program distribution chain (from a remote news gathering unit back to the station). The Commission has not developed a definition of small entities applicable to broadcast auxiliary licensees. Therefore, the applicable definitions of small entities are those, noted previously, under the SBA rules applicable to radio broadcasting stations and television broadcasting stations.[98]

37. There are currently 2,720 FM translators and boosters, 4,952 TV translators.[99] The FCC does not collect financial information on any broadcast facility and the Department of Commerce does not collect financial information on these auxiliary broadcast facilities. We believe, however, that most, if not all, of these auxiliary facilities could be classified as small businesses by themselves. We also recognize that most translators and boosters are owned by a parent station which, in some cases, would be covered by the revenue definition of small business entity discussed above. These stations would likely have annual revenues that exceed the SBA maximum to be designated as a small business (either $5 million for a radio station or $10.5 million for a TV station). Furthermore, they do not meet the Small Business Act's definition of a "small business concern" because they are not independently owned and operated.[100]

38. Multipoint Distribution Service (MDS). This service involves a variety of transmitters, which are used to relay programming to the home or office, similar to that provided by cable television systems.[101] In connection with the 1996 MDS auction the Commission defined small businesses as entities that had annual average gross revenues for the three preceding years not in excess of $40 million.[102] This definition of a small entity in the context of MDS auctions has been approved by the SBA.[103] These stations were licensed prior to implementation of section 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. 309(j). Licenses for new MDS facilities are now awarded to auction winners in Basic Trading Areas (BTAs) and BTA-like areas.[104] The MDS auctions resulted in 67 successful bidders obtaining licensing opportunities for 493 BTAs. Of the 67 auction winners, 61 meet the definition of a small business. There are 1,573 previously authorized and proposed MDS stations currently licensed. Thus, we conclude that there are 1,634 MDS providers that are small businesses as deemed by the SBA and the Commission's auction rules. It is estimated, however, that only 1,878 MDS licensees are subject to regulatory fees and the number which are small businesses is unknown.

Wireless and Commercial Mobile Services

39. Cellular Licensees. Neither the Commission nor the SBA has developed a definition of small entities applicable to cellular licensees. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone (wireless) companies. This provides that a small entity is a radiotelephone company employing no more than 1,500 persons.[105] According to the Bureau of the Census, only twelve radiotelephone firms out of a total of 1,178 such firms which operated during 1992 had 1,000 or more employees.[106] Therefore, even if all twelve of these firms were cellular telephone companies, nearly all cellular carriers were small businesses under the SBA's definition. In addition, we note that there are 1,758 cellular licenses; however, a cellular licensee may own several licenses. In addition, according to the most recent *Telecommunications Industry Revenue* data, 804 carriers reported that they were engaged in the provision of either cellular service or Personal Communications Service (PCS) services, which are placed together in the data.[107] We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of cellular service carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 804 small cellular service carriers that may be affected by the proposed rules, if adopted.

40. 220 MHz Radio Services. Because the Commission has not yet defined a small business with respect to 220 MHz services, we will utilize the SBA definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons.[108] With respect to 220 MHz services, the Commission has proposed a two-tiered definition of small business for purposes of auctions: (1) For Economic Area (EA) licensees, a firm with average annual gross revenues of not more than $6 million for the preceding three years and (2) for regional and nationwide licensees, a firm with average annual gross revenues of not more than $15 million for the preceding three years. Given that nearly all radiotelephone companies under the SBA definition employ no more than 1,500 employees (as noted *supra*), we will consider the approximately 1,500 incumbent licensees in this service as small businesses under the SBA definition.

41. Private and Common Carrier Paging. The Commission has proposed a two-tier definition of small businesses in the context of auctioning licenses in the Common Carrier Paging and exclusive Private Carrier Paging services. Under the proposal, a small business will be defined as either (1) an entity that, together with its affiliates and controlling principals, has average gross revenues for the three preceding years of not more than $3 million, or (2) an entity that, together with affiliates and controlling principals, has average gross revenues for the three preceding calendar years of not more than $15 million. Because the SBA has not yet approved this definition for paging services, we will utilize the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons.[109] At present, there are approximately 24,000 Private Paging licenses and 74,000 Common Carrier Paging licenses. According to the most recent *Telecommunications Industry Revenue* data, 172 carriers reported that they were engaged in the provision of either paging or "other mobile" services, which are placed together in the data.[110] We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of paging carriers

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[98] 13 CFR 121.201, SIC code 4832.

[99] FCC News Release, *Broadcast Station Totals as of December 31, 1996*, No. 71831 (Jan. 21, 1997).

[100] 15 U.S.C. 632.

[101] For purposes of this item, MDC includes both the single channel Multipoint Distribution Service (MDS) and the Multichannel Multipoint Distribution Service (MMDS).

[102] *See* 47 CFR 1,2110 (a)(1).

[103] *Amendment of Part 21 and 74 of the Commission's Rules with Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service and Implementation of Section 309(j) of the Communications Act-Competitive Bidding*, 10 FCC Rcd 9589 (1995), 60 FR 36524 (July 17, 1995).

[104] *Id.* A Basic Trading Area (BTA) is the geographic area by which the Multipoint Distribution Service is licensed. *See* Rand McNally *1992 Commercial Atlas and Marketing Guide*, 123rd Edition, pp. 36–39.

[105] 13 CFR 121.291, SIC code 4812.

[106] *1992 Census, Series UC92–S–1*, at Table 5, SIC code 4812.

[107] *Telecommunications Industry Revenue*, Figure 2.

[108] 13 CFR 121.201, SIC code 4812.

[109] 13 CFR 121.201, SIC code 4812.

[110] *Telecommunications Industry Revenue*, Figure 2.

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that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 172 small paging carriers that may be affected by the proposed rules, if adopted. We estimate that the majority of private and common carrier paging providers would qualify as small entities under the SBA definition.

42. Mobile Service Carriers. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to mobile service carriers, such as paging companies. As noted above in the section concerning paging service carriers, the closest applicable definition under the SBA rules is that for radiotelephone (wireless) companies,[111] and the most recent *Telecommunications Industry Revenue* data shows that 172 carriers reported that they were engaged in the provision of either paging or "other mobile" services.[112] Consequently, we estimate that there are fewer than 172 small mobile service carriers that may be affected by the proposed rules, if adopted.

43. Broadband Personal Communications Service (PCS). The broadband PCS spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission defined "small entity" for Blocks C and F as an entity that has average gross revenues of less than $40 million in the three previous calendar years.[113] For Block F, an additional classification for "very small business" was added and is defined as an entity that, together with their affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years.[114] These regulations defining "small entity" in the context of broadband PCS auctions have been approved by the SBA.[115] No small businesses within the SBA-approved definition bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40% of the 1,479 licenses for Blocks D, E, and F.[116] Based on this information, we conclude that the number of small broadband PCS licensees will include the 90 winning C Block bidders and the 93 qualifying bidders in the D, E, and F blocks, for a total of 183 small entity PCS providers as defined by the SBA and the Commission's auction rules.

44. Narrowband PCS. The Commission has auctioned nationwide and regional licenses for narrowband PCS. There are 11 nationwide and 30 regional licensees for narrowband PCS. The Commission does not have sufficient information to determine whether any of these licensees are small businesses within the SBA-approved definition for radiotelephone companies. At present, there have been no auctions held for the major trading area (MTA) and basic trading area (BTA) narrowband PCS licenses. The Commission anticipates a total of 561 MTA licenses and 2,958 BTA licenses will be awarded by auction. Such auctions have not yet been scheduled, however. Given that nearly all radiotelephone companies have no more than 1,500 employees and that no reliable estimate of the number of prospective MTA and BTA narrowband licensees can be made, we assume, for purposes of this IRFA, that all of the licenses will be awarded to small entities, as that term is defined by the SBA.

45. Rural Radiotelephone Service. The Commission has not adopted a definition of small entity specific to the Rural Radiotelephone Service.[117] A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems (BETRS).[118] We will use the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons.[119] There are approximately 1,000 licensees in the Rural Radiotelephone Service, and we estimate that almost all of them qualify as small entities under the SBA's definition.

46. Air-Ground Radiotelephone Service.[120] The Commission has not adopted a definition of small entity specific to the Air-Ground Radiotelephone Service. Accordingly, we will use the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons.[121] There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and we estimate that almost all of them qualify as small under the SBA definition.

47. Specialized Mobile Radio (SMR). The Commission awards bidding credits in auctions for geographic area 800 MHz and 900 MHz SMR licenses to firms that had revenues of no more than $15 million in each of the three previous calendar years.[122] In the context of 900 MHz SMR, this regulation defining "small entity" has been approved by the SBA; approval concerning 800 MHz SMR is being sought.

48. The proposed fees in the NPRM apply to SMR providers in the 800 MHz and 900 MHz bands that either hold geographic area licenses or have obtained extended implementation authorizations. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than $15 million. One firm has over $15 million in revenues. We assume, for purposes of this IRFA, that all of the remaining existing extended implementation authorizations are held by small entities, as that term is defined by the SBA.

49. The Commission has held auctions for geographic area licenses in the 900 MHz SMR band, and recently completed an auction for geographic area 800 MHz SMR licenses. There were 60 winning bidders who qualified as small entities in the 900 MHz auction. In the recently concluded 800 MHz SMR auction there were 524 licenses awarded to winning bidders, of which 38 were won by small or very small entities.

50. Private Land Mobile Radio (PLMR). PLMR systems serve an essential role in a range of industrial, business, land transportation, and public safety activities. These radios are used by companies of all sizes operating in all U.S. business categories. The Commission has not developed a definition of small entity specifically applicable to PLMR licensees due to the vast array of PLMR users. For the purpose of determining whether a licensee is a small business as defined by the SBA, each licensee would need to be evaluated within its own business area.

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[111] 13 CFR 121.201, SIC code 4812.

[112] *Telecommunications Industry Revenue*, Figure 2.

[113] *See Amendment of Parts 20 and 24 of the Commission's Rules—Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap, Report and Order*, FCC 96–278, WT Docket No. 96–59, paragraphs 57–60 (released June 24, 1996), 61 FR 33859 (July 1, 1996); *see also* 47 CFR 24.720(b).

[114] *See Amendment of parts 20 and 24 of the Commission's Rules—Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap, Report and Order*, FCC 96–278, WT Docket No. 96–59, paragraph 60 (1996), 61 FR 33859 (July 1, 1996).

[115] *See, e.g.*, Implementation of section 309(j) of the Communications Act—Competitive Bidding, PP Docket No. 93–253, *Fifth Report and Order*, 9 FCC Rcd 5532, 5581–84 (1994).

[116] FCC News, *Broadband PCS, D, E and F Block Auction Closes*, No. 71744 (released January 14, 1997).

[117] The service is defined in 47 CFR 22.99.

[118] BETRS is defined in 47 CFR 22.757, 22.759.

[119] 13 CFR 121.201, SIC code 4812.

[120] The service is defined in 47 CFR 22.99.

[121] 13 CFR 121.201, SIC code 4812.

[122] *See* 47 CFR 90.814(b)(1).

51. The Commission is unable at this time to estimate the number of small businesses which could be impacted by the rules. However, the Commission's 1994 Annual Report on PLMRs[123] indicates that at the end of FY 1994 there were 1,087,267 licensees operating 12,481,989 transmitters in the PLMR bands below 512 MHz. Because any entity engaged in a commercial activity is eligible to hold a PLMR license, the proposed rules in this context could potentially impact every small business in the United States.

52. Amateur Radio Service. We estimate that 10,000 applicants will apply for vanity call signs in FY 1998. All are presumed to be individuals. All other amateur licensees are exempt from payment of regulatory fees.

53. Aviation and Marine Radio Service. Small businesses in the aviation and marine radio services use a marine very high frequency (VHF) radio, any type of emergency position indicating radio beacon (EPIRB) and/or radar, a VHF aircraft radio, and/or any type of emergency locator transmitter (ELT). The Commission has not developed a definition of small entities specifically applicable to these small businesses. Therefore, the applicable definition of small entity is the definition under the SBA rules for radiotelephone communications.[124]

54. Most applicants for recreational licenses are individuals. Approximately 581,000 ship station licensees and 131,000 aircraft station licensees operate domestically and are not subject to the radio carriage requirements of any statute or treaty. Therefore, for purposes of our evaluations and conclusions in this IRFA, we estimate that there may be at least 712,000 potential licensees which are individuals or are small entities, as that term is defined by the SBA. We estimate, however, that only 16,500 will be subject to FY 1998 regulatory fees.

55. Fixed Microwave Services. Microwave services include common carrier,[125] private-operational fixed,[126] and broadcast auxiliary radio services.[127] At present, there are approximately 22,015 common carrier fixed licensees and 61,670 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services. The Commission has not yet defined a small business with respect to microwave services. For purposes of this IRFA, we will utilize the SBA's definition applicable to radiotelephone companies—*i.e.*, an entity with no more than 1,500 persons.[128] We estimate, for this purpose, that all of the Fixed Microwave licensees (excluding broadcast auxiliary licensees) would qualify as small entities under the SBA definition for radiotelephone companies.

56. Public Safety Radio Services. Public Safety radio services include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services.[129] There are a total of approximately 127,540 licensees within these services. Governmental entities as well as private businesses comprise the licensees for these services. As indicated *supra* in paragraph 4 of this IRFA, all governmental entities with populations of less than 50,000 fall within the definition of a small entity.[130] All licensees in this category are exempt from the payment of regulatory fees.

57. Personal Radio Services. Personal radio services provide short-range, low power radio for personal communications, radio signalling, and business communications not provided for in other services. The services include the citizen's band (CB) radio service, general mobile radio service (GMRS), radio control radio service, and family radio service (FRS).[131] Inasmuch as the CB, GMRS, and FRS licensees are individuals, no small business definition applies for these services. We are unable at this time to estimate the number of other licensees that would qualify as small under the SBA's definition; however, only GMRS licensees are subject to regulatory fees.

58. Offshore Radiotelephone Service. This service operates on several UHF TV broadcast channels that are not used for TV broadcasting in the coastal area of the states bordering the Gulf of Mexico.[132] At present, there are approximately 55 licensees in this service. We are unable at this time to estimate the number of licensees that would qualify as small under the SBA's definition for radiotelephone communications.

59. Wireless Communications Services. This service can be used for fixed, mobile, radiolocation and digital audio broadcasting satellite uses. The Commission defined "small business" for the wireless communications services (WCS) auction as an entity with average gross revenues of $40 million for each of the three preceding years, and a "very small business" as an entity with average gross revenues of $15 million for each of the three preceding years.

The Commission auctioned geographic area licenses in the WCS service. In the auction, there were seven winning bidders that qualified as very small business entities, and one that qualified as a small business entity. We conclude that the number of geographic area WCS licensees affected includes these eight entities.

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[123] Federal Communications Commission, *60th Annual Report, Fiscal Year 1994*, at 116.

[124] 13 CFR 121.201, SIC code 4812.

[125] 47 CFR 101 *et seq.* (formerly, Part 21 of the Commission's rules).

[126] Persons eligible under parts 80 and 90 of the Commission's rules can use Private Operational-Fixed Microwave services. *See* 47 CFR parts 80 and 90. Stations in this service are called operational-fixed to distinguish them from common carrier and public fixed stations. Only the licensee may use the operational-fixed station, and only for communications related to the licensee's commercial, industrial, or safety operations.

[127] Auxiliary Microwave Service is governed by part 74 of Title 47 of the Commission's rules. *See* 47 CFR 74 *et seq.* Available to licensees of broadcast stations and to broadcast and cable network entities, broadcast auxiliary microwave stations are used for relaying broadcast television signals from the studio to the transmitter, or between two points such as a main studio and an auxiliary studio. The service also includes mobile TV pickups, which relay signals from a remote location back to the studio.

[128] 13 CFR 121.201, SIC 4812.

[129] With the exception of the special emergency service, these services are governed by subpart B of part 90 of the Commission's rules, 47 CFR 90.15–90.27. The police service includes 26,608 licenses that serve state, county, and municipal enforcement through telephony (voice), telegraphy (code) and teletype and facsimile (printed material). The fire radio service includes 22,677 licensees comprised of private volunteer or professional fire companies as well as units under governmental control. The local government service that is presently comprised of 40,512 licensees that are state, county, or municipal entities that use the radio for official purposes not covered by other public safety services. There are 7,325 licensees within the forestry service which is comprised of licensees from state departments of conservation and private forest organizations who set up communications networks among fire lookout towers and ground crews. The 9,480 state and local governments are licensed to highway maintenance service provide emergency and routine communications to aid other public safety services to keep main roads safe for vehicular traffic. The 1,460 licensees in the Emergency Medical Radio Service (EMRS) use the 39 channels allocated to this service for emergency medical service communications related to the delivery of emergency medical treatment. 47 CFR 90.15–90.27. The 19,478 licensees in the special emergency service include medical services, rescue organizations, veterinarians, handicapped persons, disaster relief organizations, veterinarians, handicapped persons, disaster relief organizations, school buses, beach patrols, establishments in isolated areas, communications standby facilities, and emergency repair of public communications facilities. 47 CFR 90.33–90.55.

[130] 5 U.S.C. 601(5).

[131] Licensees in the Citizens Band (CB) Radio Service, General Mobile Radio Service (GMRS), Radio Control (R/C) Radio Service and Family Radio Service (FRS) are governed by subpart D, subpart A, subpart C, and subpart B, respectively, of part 95 of the Commission's rules. 47 CFR 95.401–95.428; 95.1–95.181; 95.201–95.225; 47 CFR 95.191–95.194.

[132] This service is governed by subpart I of part 22 of the Commission's rules. *See* 47 CFR 22.1001–22.1037.

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IV. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

60. With certain exceptions, the Commission's Schedule of Regulatory Fees applies to all Commission licensees and regulatees. Most licensees will be required to count the number of licenses or call signs authorized, complete and submit an FCC Form 159, "FCC Remittance Advice," and pay a regulatory fee based on the number of licenses or call signs.[133] Interstate telephone service providers must compute their annual regulatory fee based on their adjusted gross interstate revenue using information they already supply to the Commission in compliance with the TRS Fund, and they must complete and submit the FCC Form 159. Compliance with the fee schedule will require some licensees to tabulate the number of units (e.g., cellular telephones, pagers, cable TV subscribers) they have in service, complete and submit an FCC Form 159. Licensees ordinarily will keep a list of the number of units they have in service as part of their normal business practices. Licensees/regulatees that must pay on the basis of subscriber counts shall submit documentation which supports the number of units for which payment is submitted. Each licensee/regulatee shall provide certification by affixing their signature to the FCC Form 159 that all information submitted is true and accurate. No additional outside professional skills are required to complete the FCC Form 159, and it can be completed by the employees responsible for an entity's business records.

61. Each licensee must submit the FCC Form 159 to the Commission's lockbox bank after computing the number of units subject to the fee. As an option, licensees are permitted to file electronically or on computer diskette to minimize the burden of submitting multiple copies of the FCC Form 159. Although not mandatory, the latter procedure may require additional technical skills. Licensees who pay small fees in advance supply fee information as part of their application and do not need to use the FCC Form 159.

62. Licensees and regulatees are advised that failure to submit the required regulatory fee and/or the required supporting documentation in a timely manner will subject the licensee or regulatee to a late payment fee of an additional 25% in addition to the required fee.[134] Until payment is received, no new or pending applications will be processed, and existing authorizations may be subject to rescission.[135] Further, in accordance with the Debt Collection Improvement Act of 1996, federal agencies may bar a person or entity from obtaining a federal loan or loan insurance guarantees if that person or entity fails to pay a delinquent debt owed to any federal agency.[136] Thus, debts owed to the Commission may result in a person or entity being denied a federal loan or loan guarantee pending before another federal agency until such obligations are paid.[137]

63. The Commission's rules currently make provision for relief in exceptional circumstances. Persons or entities that believe they have been placed in the wrong regulatory fee category or are experiencing extraordinary and compelling financial hardship, upon a showing that such circumstances override the public interest in reimbursing the Commission for its regulatory costs, may request a waiver, reduction or deferment of payment of the regulatory fee.[138] However, timely submission of the required regulatory fee must accompany requests for waivers or reductions. This will avoid any late payment penalty if the request is denied. The fee will be refunded if the request is granted. In exceptional and compelling instances (where payment of the regulatory fee along with the waiver or reduction request could result in reduction of service to a community or other financial hardship to the licensee), the Commission will accept a petition to defer payment along with a waiver or reduction request.

V. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

64. *The Omnibus Consolidated Appropriation Act*, Pub. L. 105–119, requires the Commission to revise its Schedule of Regulatory Fees in order to recover the amount of regulatory fees that Congress, pursuant to section 9(a) of the Communications Act, as amended, has required it to collect for Fiscal Year (FY) 1998. *See* 47 U.S.C.159 (a). We have sought comment on the proposed methodology for implementing these statutory requirements and any other potential impact of these proposals on small business entities.

65. With the use actual cost accounting data for computation of regulatory fees, we found that some fees which were very small in previous years would have increased dramatically. The statute establishing regulatory fees provides for permitted amendments to be made to the schedule of fees in the public interest.[139] The methodology adopted in this *Report and Order* minimizes this impact by limiting the amount of increase and shifting costs to other services which, for the most part, are larger entities.

66. We have developed and adopted an alternative methodology for assessing fees to recover the regulatory costs attributable to AM and FM radio stations. The radio industry has requested additional relief for small stations, and we offered two alternative proposals for comment. One would update the schedule of fees adopted in the FY 1997 *Report and Order*. The other proposal would increase the differences in the fee amount between larger and smaller stations. Both options benefitted by changing the service contours used to determine populations for determining station size. The impact of adoption of our proposal will result in lower fees for smaller, less powerful stations relative to larger, more powerful stations in the same radio market; or stations potentially serving a larger population.

67. Several categories of licensees and regulatees are exempt from payment of regulatory fees. *See*, e.g., footnote 108, *supra*, and Attachment H of this *Report and Order*, *infra*.

Report to Congress: The Commission shall include a copy of this Final

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[133] The following categories are exempt from the Commission's Schedule of Regulatory Fees: Amateur radio licensees (except applicants for vanity call signs) and operators in other non-licensed services (e.g., Personal Radio, part 15, ship and aircraft). Governments and non-profit (exempt under section 501(c) of the Internal Revenue Code) entities are exempt from payment of regulatory fees and need not submit payment. Non-commercial educational broadcast licensees are exempt from regulatory fees as are licensees of auxiliary broadcast services such as low power auxiliary stations, television auxiliary service stations, remote pickup stations and aural broadcast auxiliary stations where such licenses are used in conjunction with commonly owned non-commercial educational stations. Emergency Alert System licenses for auxiliary service facilities are also exempt as are instructional television fixed service licensees. Regulatory fees are automatically waived for the license of any translator station that: (1) Is not licensed to, in whole or in part, and does not have common ownership with, the licensee of a commercial broadcast station; (2) does not derive income from advertising; and (3) is dependent on subscriptions or contributions from members of the community served for support. Receive only earth station permittees are exempt from payment of regulatory fees. A regulatee will be relieved of its fee payment requirement if its total fee due, including all categories of fees for which payment is due by the entity, amounts to less than $10.

[134] 47 U.S.C. 1.1164(a).

[135] 47 U.S.C. 1.1164(c).

[136] Pub. L. 104–134, 110 Stat. 1321 (1996).

[137] 31 U.S.C. 7701(c)(2)(B).

[138] 47 U.S.C. 1.1166.

[139] *See* 47 U.S.C. <nothing> 159(b)(1)(A) and (b)(3).

Regulatory Flexibility Analysis, along with this *Report and Order,* in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801(a)(1)(A). A copy of this FRFA (or summary thereof) will also be published in the **Federal Register**, along with this *Report and Order.*

Attachment B—Sources of Payment Unit Estimates For FY 1998

In order to calculate individual service fees for FY 1998, we adjusted FY 1997 payment units for each service to more accurately reflect expected FY 1998 payment liabilities. We obtained our updated estimates through a variety of means. For example, we used Commission licensee data bases, actual prior year payment records and industry and trade association projections when available. We tried to obtain verification for these estimates from multiple sources and, in all cases, we compared FY 1998 estimates with actual FY 1997 payment units to ensure that our revised estimates were reasonable. Where it made sense, we adjusted and/or rounded our final estimates to take into consideration the fact that certain variables that impact on the number of payment units cannot yet be estimated exactly. These include an unknown number of waivers and/or exemptions that may occur in FY 1998 and the fact that, in many services, the number of actual licensees or station operators fluctuates from time to time due to economic, technical or other reasons. Therefore, when we note, for example, that our estimated FY 1998 payment units are based on FY 1997 actual payment units, it does not necessarily mean that our FY 1998 projection is *exactly* the same number as FY 1997. It means that we have either rounded the FY 1998 number or adjusted it slightly to account for these variables.

Fee category	Sources of payment unit estimates
Land Mobile (All), Microwave, IVDS [140], Marine (Ship & Coast), Aviation (Aircraft & Ground), GMRS, Amateur Vanity Call Signs, Domestic Public Fixed.	Based on Wireless Telecommunications Bureau (WTB) projections of new applications and renewals taking into consideration existing Commission licensee data bases. Aviation (Aircraft) and Marine (Ship) estimates have been adjusted to take into consideration the licensing of portions of these services on a voluntary basis.
CMRS Mobile Services	Based on actual FY 1997 payment units adjusted to take into consideration industry estimates of growth between FY 1997 and FY 1998 and Wireless Telecommunications Bureau projections of new applications and average number of mobile units associated with each application.
CMRS Messaging Services	Based on industry estimates of the number of units in operation.
AM/FM Radio Stations	Based on actual FY 1997 payment units.
UHF/VHF Television Stations	Based on actual FY 1997 payment units.
AM/FM/TV Construction Permits	Based on actual FY 1997 payment units.
LPTV, Translators and Boosters	Based on actual FY 1997 payment units.
Auxiliaries	Based on actual FY 1997 payment units.
MDS/MMDS	Based on actual FY 1997 payment units.
Cable Antenna Relay Service (CARS)	Based on actual FY 1997 payment units.
Cable Television System Subscribers	Based on Cable Services Bureau and industry estimates of subscribership.
Interstate Telephone Service Providers	Based on actual FY 1997 interstate revenues associated with contributions to the Telecommunications Relay System (TRS) Fund, adjusted to take into consideration FY 1998 revenue growth in this industry as estimated by the Common Carrier Bureau.
Earth Stations	Based on actual FY 1997 payment units.
Space Stations (GEOs & NGEOs)	Based on International Bureau licensee data bases.
International Bearer Circuits	Based on International Bureau estimate.
International HF Broadcast Stations, International Public Fixed Radio Service.	Based on actual FY 1997 payment units.

Attachment C—Calculation of Revenue Requirements

Fee category	FY 1998 payment units	(times) FY 1997 Fee	(times) payment years	(equals) computed FY 1998 revenue requirement	Pro-rated revenue requirement**
LM (220 MHz, >470 MHZ-Base, SMRS)	4,645	10	5	232,250	225,691
Private Microwave	3,830	10	10	383,000	372,184
Domestic Public Fixed/Comc'l Microwave	5,150	10	10	515,000	500,456
IVDS	0	0	5	0	0
Marine (Ship)	16,500	5	10	825,000	801,702
GMRS/Other LM	72,465	5	5	1,811,625	1,760,465
Aviation (Aircraft)	3,500	5	10	175,000	170,058
Marine (Coast)	1,370	5	5	34,250	33,283
Aviation (Ground)	1,865	5	5	46,625	45,308
Amateur Vanity Call Signs	10,000	5	10	500,000	485,880
AM/FM Radio	8,646	1,126	1	9,735,396	9,460,469
AM Construction Permits	62	195	1	12,090	11,749
FM Construction Permits	473	950	1	449,350	436,660
Satellite TV	105	950	1	99,750	96,933
Satellite TV Construction Permit	10	345	1	3,450	3,353

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[140] The Wireless Telecommunications Bureau's staff advises that they do not anticipate receiving any applications for IVDS in FY 1998. Therefore, since there is no volume, there will be no regulatory fee in the IVDS category for FY 1998.

Fee category	FY 1998 payment units	(times) FY 1997 Fee	(times) payment years	(equals) computed FY 1998 revenue requirement	Pro-rated revenue requirement**
VHF Markets 1–10	42	35,025	1	1,471,050	1,429,508
VHF Markets 11–25	61	28,450	1	1,735,450	1,686,441
VHF Markets 26–50	71	18,600	1	1,320,600	1,283,306
VHF Markets 51–100	118	9,850	1	1,162,300	1,129,477
VHF Remaining Markets	207	2,725	1	564,075	548,146
VHF Construction Permits	10	4,800	1	48,000	46,644
UHF Markets 1–10	94	16,850	1	1,583,900	1,539,171
UHF Markets 11–25	96	13,475	1	1,293,600	1,257,069
UHF Markets 26–50	124	8,750	1	1,085,000	1,054,360
UHF Markets 51–100	172	4,725	1	812,700	789,749
UHF Remaining Markets	182	1,350	1	245,700	238,761
UHF Construction Permits	50	2,975	1	148,750	144,549
Auxiliaries	20,000	25	1	500,000	485,880
International HF Broadcast	4	390	1	1,560	1,516
LPTV/Translators/Boosters	2,290	220	1	503,800	489,573
CARS	1,800	65	1	117,000	113,686
Cable Systems	66,000,000	0.54	1	35,640,000	34,633,530
Interstate Telephone Service Providers	70,103,000	0.00116	1	81,319,480	79,023,026
CMRS Mobile Services (Cellular/Public Mobile)	55,540,000	0.24	1	13,329,600	12,953,173
CMRS Messaging Services	39,592,000	0.03	1	1,187,760	1,154,218
MDS/MMDS	1,878	215	1	403,770	392,368
International Circuits	325,000	5	1	1,625,000	1,579,110
International Public Fixed	3	310	1	930	904
Earth Stations	3,000	515	1	1,545,000	1,501,369
Space Stations (Geostationary)	46	97,975	1	4,506,850	4,379,577
Space Stations (Non-geostationary)	2	135,675	1	271,350	263,687
Total Estimated Revenue Collected	....	....	....	167,246,011	162,523,000
Total Revenue Requirement	....	....	....	162,523,000	162,523,000
Difference	....	....	....	4,723,011	0

**0.971760098 factor applied.

ATTACHMENT D—CALCULATION OF REGULATORY COSTS

Fee category	Actual FY 1997 regulatory costs	Overhead and other indirect pro rated	Total costs with overhead and other indirect pro rated	Total costs pro-rated to $162 Million **	Adjusted pro-rated costs ***
LM (220 MHz, >470 MHZ-Base, SMRS)	1,952,428	98,195	2,050,623	2,113,136	2,113,136
Microwave	4,860,809	244,469	5,105,277	5,260,912	5,260,912
IVDS	2,122,499	106,749	2,229,248	2,297,206	2,297,206
Marine (Ship)	2,754,238	138,521	2,892,759	2,980,945	2,980,945
GMRS/Other LM	5,943,682	298,930	6,242,612	6,432,918	6,432,918
Aviation (Aircraft)	980,895	49,333	1,030,228	1,061,635	1,061,635
Marine (Coast)	685,608	34,482	720,090	742,041	742,041
Aviation (Ground)	562,239	28,277	590,516	608,518	608,518
Amateur Vanity Call Signs	88,615	4,457	93,072	95,909	95,909
AM/FM Radio	14,125,529	710,427	14,835,955	15,288,230	14,396,926
AM Construction Permits	....	....	....	....	103,960
FM Construction Permits	....	....	....	....	787,344
Satellite TV	....	....	....	....	138,603
Satellite TV Construction Permit	....	....	....	....	3,489
VHF Television	4,957,533	249,333	5,206,866	5,365,598	
VHF Markets 1–10	....	....	....	....	1,177,538
VHF Markets 11–25	....	....	....	....	1,423,609
VHF Markets 26–50	....	....	....	....	1,134,321
VHF Markets 51–100	....	....	....	....	1,055,080
VHF Remaining Markets	....	....	....	....	479,377
VHF Construction Permits	....	....	....	....	18,765
UHF Television	2,954,865	148,611	3,103,476	3,198,086	
UHF Markets 1–10	....	....	....	....	993,777
UHF Markets 11–25	....	....	....	....	767,939
UHF Markets 26–50	....	....	....	....	614,629
UHF Markets 51–100	....	....	....	....	510,374
UHF Remaining Markets	....	....	....	....	147,610
UHF Construction Permits	....	....	....	....	98,573

ATTACHMENT D—CALCULATION OF REGULATORY COSTS—Continued

Fee category	Actual FY 1997 regulatory costs	Overhead and other indirect pro rated	Total costs with overhead and other indirect pro rated	Total costs pro-rated to $162 Million **	Adjusted pro-rated costs ***
Auxiliaries	146,460	7,366	153,826	158,515	158,515
International HF Broadcast	217,931	10,961	228,891	235,869	235,869
LPTV/Translators/Boosters	736,547	37,044	773,590	797,173	797,173
CARS	61,797	3,108	64,905	66,883	66,883
Cable Systems	20,125,023	1,012,164	21,137,187	21,781,555	21,781,555
Interstate Telewphone Service Providers	53,234,026	2,677,341	55,911,367	57,615,828	57,615,828
CMRS Mobile Services (Cellular/Public Mobile)	11,273,798	567,002	11,840,801	12,201,768	12,201,768
CMRS Messaging Services	6,015,701	302,552	6,318,254	6,510,866	6,510,866
MDS/MMDS	1,357,260	68,262	1,425,521	1,468,979	1,468,979
International Circuits	8,253,772	415,114	8,668,886	8,933,157	8,933,157
International Public Fixed	193,436	9,729	203,165	209,358	209,358
Earth Stations	339,999	17,100	357,099	367,985	367,985
Space Stations (Geostationary)	5,677,889	285,563	5,963,452	6,145,248	6,145,248
Space Stations (Non-Geostationary)	540,215	27,169	567,385	584,681	584,681
Overhead & Other Indirect Costs	7,552,257				
Total	157,715,049	7,552,257	157,715,049	162,523,000	159,839,216
Total Revenue Requirement	162,523,000		162,523,000	162,523,000	162,523,000
Difference	(4,807,951)		(4,807,951)	0	(2,683,784)

** 1.046987 factor applied.

*** The pro rated costs shown in the previous column needed to be adjusted to sub-allocate actual TV and radio costs.

Note: Columns may not add due to rounding.

ATTACHMENT E—CALCULATION OF FY 1998 REGULATORY FEES

Fee category	Pro-rated revenue requirement	Adjusted activity costs	Costs vs. revenue requirement difference (percent)	Pro-rated revenue requirement plus 25% ceiling	Round 1 target revenue	Round 1 adjustable target revenue	Round 1 pro-rated target revenue**	Round 2 target revenue	Round 2 adjustable target revenue	Round 2 pro-rated target revenue***	Computed new FY 1998 regulatory fee	Rounded new FY 1998 regulatory fee	Expected FY 1998 revenue
LM (220 MHz, >470 MHZ-Base, SMRS)	225,691	2,113,136	836.30	282,114	282,114		282,114	282,114		282,114	12	12	278,700
Microwave	872,640	5,260,912	502.87	1,090,800	1,090,800		1,090,800	1,090,800		1,090,800	12	12	1,077,600
IVDS	0	2,297,206		0	0		0	0		0	0	0	0
Marine (Ship)	801,702	2,980,945	271.83	1,002,128	1,002,128		1,002,128	1,002,128		1,002,128	6	6	990,000
GMRS/Other LM	1,760,465	6,432,918	265.41	2,200,581	2,200,581		2,200,581	2,200,581		2,200,581	6	6	2,173,950
Aviation (Aircraft)	170,058	1,061,635	524.28	212,573	212,573		212,573	212,573		212,573	6	6	210,000
Marine (Coast)	33,283	742,041	2129.49	41,604	41,604		41,604	41,604		41,604	6	6	41,100
Aviation (Ground)	45,308	608,518	1243.07	56,635	56,635		56,635	56,635		56,635	6	6	55,950
Amateur Vanity Call Signs	485,880	95,909	(80.26)	607,350	95,909	95,909	128,372	128,372	128,372	128,527	1.29	1.30	130,000
AM/FM Radio	9,460,469	14,396,926	52.18	11,825,586	11,825,586		11,825,586	11,825,586		11,825,586	1,368	1,375	11,888,250
AM Construction Permits	11,749	103,960	784.84	14,686	14,686		14,686	14,686		14,686	237	235	14,570
FM Construction Permits	436,660	787,344	80.31	545,825	545,825		545,825	545,825		545,825	1,154	1,150	543,950
Satellite TV	96,933	138,603	42.99	121,166	121,166		121,166	121,166		121,166	1,166	1,175	123,375
Satellite TV Construction Permit	3,353	3,489	4.06	4,191	3,489	3,489	4,670	4,191		4,191	419	420	4,200
VHF Markets 1–10	1,429,508	1,177,538	(17.63)	1,786,885	1,177,538	1,177,538	1,576,112	1,576,112	1,576,112	1,578,013	37,572	37,575	1,578,150
VHF Markets 11–25	1,686,441	1,423,609	(15.59)	2,108,051	1,423,609	1,423,609	1,905,473	1,905,473	1,905,473	1,907,772	31,275	31,275	1,907,775
VHF Markets 26–50	1,283,306	1,134,321	(11.61)	1,604,133	1,134,321	1,134,321	1,518,267	1,518,267	1,518,267	1,520,098	21,410	21,400	1,519,400
VHF Markets 51–100	1,129,477	1,055,080	(6.59)	1,411,846	1,055,080	1,055,080	1,412,204	1,411,846		1,411,846	11,965	11,975	1,413,050
VHF Remaining Markets	548,148	479,377	(12.55)	685,183	479,377	479,377	641,637	641,637	641,637	642,411	3,103	3,100	641,700
VHF Construction Permits	46,664	18,765	(59.79)	58,350	18,765	18,765	25,117	25,117	25,117	25,147	2,515	2,525	25,250
UHF Markets 1–10	1,539,171	993,777	(35.43)	1,923,964	993,777	993,777	1,330,151	1,330,151	1,330,151	1,331,756	14,168	14,175	1,332,450
UHF Markets 11–25	1,257,069	767,939	(38.91)	1,571,336	767,939	767,939	1,027,872	1,027,872	1,027,872	1,029,111	10,720	10,725	1,029,600
UHF Markets 26–50	1,054,360	614,629	(41.71)	1,317,950	614,629	614,629	822,669	822,669	822,669	823,661	6,642	6,650	824,600
UHF Markets 51–100	789,749	510,374	(35.38)	987,186	510,374	510,374	683,126	683,126	683,126	683,950	3,976	3,975	683,700
UHF Remaining Markets	238,761	147,610	(38.18)	298,451	147,610	147,610	197,573	197,573	197,573	197,811	1,087	1,075	195,650
UHF Construction Permits	144,549	98,573	(31.81)	180,686	98,573	98,573	131,938	131,938	131,938	132,097	2,642	2,650	132,500
Auxiliaries	485,880	158,515	(67.38)	607,350	158,515	158,515	212,169	212,169	212,169	212,425	11	11	220,000
International HF Broadcast	1,516	235,869	15458.64	1,895	1,895		1,895	1,895		1,895	474	475	1,900
LPTV/Translators/Boosters	489,573	797,173	62.83	611,966	611,966		611,966	611,966		611,966	267	265	606,850
CARS	113,696	66,883	(41.17)	142,120	66,883	66,883	89,522	89,522	89,522	89,630	50	50	90,000
Cable Systems	34,633,530	21,781,555	(37.11)	43,291,913	21,781,555	21,781,555	29,154,192	29,154,192	29,154,192	29,189,360	0.44	0.44	29,189,360
Interstate Telephone Service Providers	79,023,026	57,615,828	(27.09)	98,778,783	57,615,828	57,615,828	77,117,676	77,117,676	77,117,676	77,210,702	0.0011	0.0011	77,210,702
CMRS Mobile Services (Cellular/Public Mobile)	12,953,173	12,201,768	(5.80)	16,191,466	12,201,768	12,201,768	16,331,831	16,191,466		16,191,466	0.29	0.29	16,191,466
CMRS Messaging Services	1,154,218	6,510,866	464.09	1,442,773	1,442,773		1,442,773	1,442,773		1,442,773	0.04	0.04	1,442,773
MDS/MMDS	392,368	1,468,979	274.39	490,460	490,460		490,460	490,460		490,460	261	260	488,280
International Circuits	1,579,110	8,933,157	465.71	1,973,888	1,973,888		1,973,888	1,973,888		1,973,888	6	6	1,950,000
International Public Fixed	904	209,358	23059.07	1,130	1,130		1,130	1,130		1,130	377	375	1,125
Earth Stations	1,501,369	367,985	(75.49)	1,876,711	367,985	367,985	492,541	492,541	492,541	493,135	184	165	495,000
Space Stations (Geostationary)	4,379,577	6,145,248	40.32	5,474,471	5,474,471		5,474,471	5,474,471		5,474,471	119,010	119,000	5,474,000
Space Stations (Non-Geostationary)	263,687	584,681	121.73	329,609	329,609		329,609	329,609		329,609	164,804	164,800	329,000
Total Estimated Revenue Collected	162,523,019	162,522,999		203,153,774	128,433,413	[illegible]	162,523,000	162,381,798	117,654,[illegible]	162,524,243			162,506,526
Total Revenue Requirement	162,523,000	162,523,000		162,523,000	162,523,000		162,523,000	162,523,000		162,523,000			162,523,000
Difference	19	(1)		40,630,774	(34,089,587)		0	(141,202)		1,243			(16,474)

**1.33782803 factor applied.

***1.003487295 factor applied.

ATTACHMENT F—FY 1998 SCHEDULE OF REGULATORY FEES

Fee category	Annual regulatory fee
PMRS (per license) (Formerly Land Mobile—Exclusive Use at 220–222 MHz, above 470 MHz, Base Station and SMRS) (47 CFR Part 90)	12
Microwave (per license) (47 CFR Part 101)	12
Interactive Video Data Service (per license) (47 CFR Part 95)	[1]
Marine (Ship) (per station) (47 CFR Part 80)	6
Marine (Coast) (per license) (47 CFR Part 80)	6
General Mobile Radio Service (per license) (47 CFR Part 95)	6
Land Mobile (per license) (all stations not covered by PMRS and CMRS)	6
Aviation (Aircraft) (per station) (47 CFR Part 87)	6
Aviation (Ground) (per license) (47 CFR Part 87)	6
Amateur Vanity Call Signs (per call sign) (47 CFR Part 97)	1.30
CMRS Mobile Services (per unit) (47 CFR Parts 20, 22, 24, 80 and 90)	.29
CMRS Messaging Services (per unit) (47 CFR Parts 20, 22 and 90)	.04
Multipoint Distribution Services (per call sign) (47 CFR Part 21)	260
TV (47 CFR Part 73) VHF Commercial:	
Markets 1–10	37,575
Markets 11–25	31,275
Markets 26–50	21,400
Markets 51–100	11,975
Remaining Markets	3,100
Construction Permits	2,525
TV (47 CFR Part 73) UHF Commercial:	
Markets 1–10	14,175
Markets 11–25	10,725
Markets 26–50	5,650
Markets 51–100	3,975
Remaining Markets	1,075
Construction Permits	2,650
Satellite Television Stations (All Markets)	1,175
Construction Permits—Satellite Television Stations	420
Low Power TV, TV/FM Translators & Boosters (47 CFR Part 74)	265
Broadcast Auxiliary (47 CFR Part 74)	11
Cable Antenna Relay Service (47 CFR Part 78)	50
Cable Television Systems (per subscriber) (47 CFR Part 76)	.44
Interstate Telephone Service Providers (per revenue dollar)	.0011
Earth Stations (47 CFR Part 25)	165
Space Stations (per operational station in geostationary orbit) (47 CFR Part 25) also includes Direct Broadcast Satellite Service (per operational station) (47 CFR Part 100)	119,000
Space Stations (per operational system in non-geostationary orbit) (47 CFR Part 25)	164,800
International Bearer Circuits (per active 64KB circuit)	6
International Public Fixed (per call sign) (47 CFR Part 23)	375
International (HF) Broadcast (47 CFR Part 73)	475

[1] No fee.

RADIO STATION REGULATORY FEES

Population served	AM class A	AM class B	AM class C	AM class D	FM classes A, B1 & C3	FM classes B, C, C1 & C2
<=20,000	400	300	200	250	300	400
20,001–50,000	750	600	300	400	600	750
50,001–125,000	1,250	800	400	600	800	1,250
125,001–400,000	1,750	1,250	600	750	1,250	1,750
400,001–1,000,000	2,500	2,000	1,000	1,250	2,000	2,500
>1,000,000	4,000	3,250	1,500	2,000	3,250	4,000

ATTACHMENT G—COMPARISON BETWEEN FY 1997 AND FY 1998 PROPOSED AND FINAL REGULATORY FEES

Fee category	Annual regulatory fee FY 1997	NPRM proposed fee FY 1998	Annual regulatory fee FY 1998
PMRS (per license) (Formerly Land Mobile-Exclusive Use at 220–222 Mhz, above 470 Mhz, Base Station and SMRS) (47 CFR Part 90)	10	12	12
Microwave (per license) (47 CFR Part 101)	10	12	12
Interactive Video Data Service (per license) (47 CFR Part 95)	([1])	([1])	([1])
Marine (Ship) (per station) (47 CFR Part 80)	5	6	6
Marine (Coast) (per license) (47 CFR Part 80)	5	6	6
General Mobile Radio Service (per license) (47 CFR Part 95)	5	6	6

ATTACHMENT G—COMPARISON BETWEEN FY 1997 AND FY 1998 PROPOSED AND FINAL REGULATORY FEES—Continued

Fee category	Annual regulatory fee FY 1997	NPRM proposed fee FY 1998	Annual regulatory fee FY 1998
Land Mobile (per license) (all stations not covered by PMRS and CMRS)	5	6	6
Aviation (Aircraft) (per station) (47 CFR Part 87)	5	6	6
Aviation (Ground) (per license) (47 CFR Part 87)	5	6	6
Amateur Vanity Call Signs (per call sign) (47 CFR Part 97)	5	1.29	1.30
CMRS Mobile Services (per unit) (47 CFR Parts 20, 22, 24, 80 and 90)	.24	.29	.29
CMRS Messaging Services [formerly One Way Paging] (per unit) (47 CFR Parts 20, 22, and 90)	.03	.04	.04
Multipoint Distribution Services (per call sign) (47 CFR Part 21)	215	260	260
AM/FM Radio (47 CFR Part 73):			
Group 1	2,000	2,500	(2)
Group 2	1,800	2,250	(2)
Group 3	1,600	2,000	(2)
Group 4	1,400	1,750	(2)
Group 5	1,200	1,500	(2)
Group 6	1,000	1,250	(2)
Group 7	800	1,000	(2)
Group 8	600	750	(2)
Group 9	400	500	(2)
Group 10	200	250	(2)
AM Construction Permits	195	235	235
FM Construction Permits	950	1,150	1,150
TV (47 CFR Part 73) VHF Commercial:			
Markets 1–10	35,025	41,275	37,575
Markets 11–25	28,450	24,850	31,275
Markets 26–50	18,600	22,600	21,400
Markets 51–100	9,850	11,375	11,975
Remaining Markets	2,725	3,250	3,100
Construction Permits	4,800	4,100	2,525
TV (47 CFR Part 73) UHF Commercial:			
Markets 1–10	16,850	14,625	14,175
Markets 11–25	13,575	10,575	10,725
Markets 26–50	8,750	5,750	6,650
Markets 51–100	4,725	3,775	3,975
Remaining Markets	1,350	1,500	1,075
Construction Permits	2,975	3,625	2,650
Satellite Television Stations (All Markets)	950	900	1,175
Construction Permits—Satellite Television Stations	345	420	420
Low Power TV, TV/FM Translators & Boosters (47 CFR Part 74)	220	265	265
Broadcast Auxiliary (47 CFR Part 74)	25	11	11
Cable Antenna Relay Service (47 CFR Part 78)	65	50	50
Earth Stations (47 CFR Part 25)	515	165	165
Cable Television Systems (per subscriber) (47 CFR Part 76)	.54	.44	.44
Interstate Telephone Service Providers (per revenue dollar)	.00116	.0011	.0011
Space Stations (per operational station in geostationary orbit) (47 CFR Part 25) also includes Direct Broadcast Satellite Service (per operational station) (47 CFR Part 100)	97,975	119,000	119,000
Space Stations (per operational system in non-geostationary orbit) (47 CFR Part 25)	135,675	164,800	164,800
International Bearer Circuits (per active 64KB circuit)	5	6	6
International Public Fixed (per call sign) (47 CFR Part 23)	310	375	375
International (HF) Broadcast (47 CFR Part 73)	390	475	475

[1] No fee.

[2] See radio.

RADIO STATION REGULATORY FEES

Populationserved	AM class A	AM class B	AM class C	AM class D	FMclasses A, B1 & C3	FMclasses B, C, C1 & C2
<=20,000	400	300	200	250	300	400
20,001–50,000	750	600	300	400	600	750
50,001–125,000	1,250	800	400	600	800	1,250
125,001–400,000	1,750	1,250	500	750	1,250	1,750
400,001–1,000,000	2,500	2,000	1,000	1,250	2,000	2,500
>1,000,000	4,000	3,250	1,500	2,000	3,250	4,000

Attachment H—Detailed Guidance on Who Must Pay Regulatory Fees

1. The guidelines below provide an explanation of regulatory fee categories established by the Schedule of Regulatory Fees in section 9(g) of the Communications Act, 47 U.S.C. 159(g) as modified in the instant *Report and Order.* Where regulatory fee categories need interpretation or clarification, we have relied on the legislative history of section 9, our own experience in establishing and regulating the Schedule of Regulatory Fees for Fiscal Years (FY) 1994, 1995, 1996, and 1997 and the services subject to the fee schedule, and the comments of the parties in our proceeding to adopt fees for FY 1998. The categories and amounts set out in the schedule have been modified to reflect changes in the number of payment units, additions and changes in the services subject to the fee requirement and the benefits derived from the Commission's regulatory activities, and to simplify the structure of the schedule. The schedule may be similarly modified or adjusted in future years to reflect changes in the Commission's budget and in the services regulated by the Commission. *See* 47 U.S.C. 159(b) (2), (3).

2. *Exemptions.* Governments and nonprofit entities are exempt from paying regulatory fees and should not submit payment. A nonprofit entity may be asked to submit a current IRS Determination Letter documenting that it is exempt from taxes under section 501of the Internal Revenue Code or the certification of a governmental authority attesting to its nonprofit status. The governmental exemption applies even where the government-owned or community-owned facility is in competition with a commercial operation. Other specific exemptions are discussed below in the descriptions of other particular service categories.

1. Private Wireless Radio Services

3. Two levels of statutory fees were established for the Private Wireless Radio Services—exclusive use services and shared use services. Thus, licensees who generally receive a higher quality communication channel due to exclusive or lightly shared frequency assignments will pay a higher fee than those who share marginal quality assignments. This dichotomy is consistent with the directive of section 9, that the regulatory fees reflect the benefits provided to the licensees. *See* 47 U.S.C. 159(b)(1)(A). In addition, because of the generally small amount of the fees assessed against Private Wireless Radio Service licensees, applicants for new licenses and reinstatements and for renewal of existing licenses are required to pay a regulatory fee covering the entire license term, with only a percentage of all licensees paying a regulatory fee in any one year. Applications for modification or assignment of existing authorizations do not require the payment of regulatory fees. The expiration date of those authorizations will reflect only the unexpired term of the underlying license rather than a new license term.

a. Exclusive Use Services

4. *Private Mobile Radio Services (PMRS) (Formerly Land Mobile Services):* Regulatees in this category include those authorized under part 90 of the Commission's rules to provide limited access Wireless Radio service that allows high quality voice or digital communications between vehicles or to fixed stations to further the business activities of the licensee. These services, using the 220–222 MHz band and frequencies at 470 MHz and above, may be offered on a private carrier basis in the Specialized Mobile Radio Services (SMRS).[141] For FY 1998, PMRS licensees will pay a $12 annual regulatory fee per license, payable for an entire five or ten year license term at the time of application for a new, renewal, or reinstatement license.[142] The total regulatory fee due is either $60 for a license with a five year term or $120 for a license with a 10 year term.

5. *Microwave Services:* These services include private and commercial microwave systems and private and commercial carrier systems authorized under part 101 of the Commission's rules to provide telecommunications services between fixed points on a high quality channel of communications. Microwave systems are often used to relay data and to control railroad, pipeline, and utility equipment. Commercial systems typically are used for video or data transmission or distribution. For FY 1998, Microwave licensees will pay a $12 annual regulatory fee per license, payable for an entire ten year license term at the time of application for a new, renewal, or reinstatement license. The total regulatory fee due is $120 for the ten year license term.

6. *Interactive Video Data Service (IVDS):* The IVDS is a two-way, point-to-multi-point radio service allocated high quality channels of communications and authorized under part 95 of the Commission's rules. The IVDS provides information, products, and services, and also the capability to obtain responses from subscribers in a specific service area. The IVDS is offered on a private carrier basis. The Commission does not anticipate receiving any applications in the IVDS during FY 1998. Therefore, for FY 1998, there is no regulatory fee for IVDS licensees.

b. Shared Use Services

7. *Marine (Ship) Service:* This service is a shipboard radio service authorized under part 80 of the Commission's rules to provide telecommunications between watercraft or between watercraft and shore-based stations. Radio installations are required by domestic and international law for large passenger or cargo vessels. Radio equipment may be voluntarily installed on smaller vessels, such as recreational boats. The Telecommunications Act of 1996 gave the Commission the authority to license certain ship stations by rule rather than by individual license. Private boat operators sailing entirely within domestic U.S. waters and who are not otherwise required by treaty or agreement to carry a radio, are no longer required to hold a marine license, and they will not be required to pay a regulatory fee. For FY 1998, parties required to be licensed and those choosing to be licensed for Marine (Ship) Stations will pay a $6 annual regulatory fee per station, payable for an entire ten-year license term at the time of application for a new, renewal, or reinstatement license. The total regulatory fee due is $60 for the ten year license term.

8. *Marine (Coast) Service:* This service includes land-based stations in the maritime services, authorized under part 80 of the Commission's rules, to provide communications services to ships and other watercraft in coastal and inland waterways. For FY 1998, licensees of Marine (Coast) Stations will pay a $6 annual regulatory fee per call sign, payable for the entire five-year license term at the time of application for a new, renewal, or reinstatement license. The total regulatory fee due is $30 per call sign for the five-year license term.

9. *Private Land Mobile (Other) Services:* These services include Land Mobile Radio Services operating under

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[141] This category only applies to licensees of shared-use private 220–222 MHz and 470 MHz and above in the Specialized Mobile Radio (SMR) service who have elected not to change to the Commercial Mobile Radio Service (CMRS). Those who have elected to change to the CMRS are referred to paragraph 14 of this Attachment.

[142] Although this fee category includes licenses with ten-year terms, the estimated volume of ten-year license applications in FY 1997 is less than one-tenth of one percent and, therefore, is statistically insignificant.

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parts 90 and 95 of the Commission's rules. Services in this category provide one- or two-way communications between vehicles, persons or fixed stations on a shared basis and include radiolocation services, industrial radio services, and land transportation radio services. For FY 1998, licensees of services in this category will pay a $6 annual regulatory fee per call sign, payable for an entire five-year license term at the time of application for a new, renewal, or reinstatement license. The total regulatory fee due is $30 for the five-year license term.

10. *Aviation (Aircraft) Service:* These services include stations authorized to provide communications between aircraft and between aircraft and ground stations and include frequencies used to communicate with air traffic control facilities pursuant to part 87 of the Commission's rules. The Telecommunications Act of 1996 gave the Commission the authority to license certain aircraft radio stations by rule rather than by individual license. Private aircraft operators flying entirely within domestic U.S. airspace and who are not otherwise required by treaty or agreement to carry a radio are no longer required to hold an aircraft license, and they will not be required to pay a regulatory fee. For FY 1998, parties required to be licensed and those choosing to be licensed for Aviation (Aircraft) Stations will pay a $6 annual regulatory fee per station, payable for the entire ten-year license term at the time of application for a new, renewal, or reinstatement license. The total regulatory fee due is $60 per station for the ten-year license term.

11. *Aviation (Ground) Service:* This service includes stations authorized to provide ground-based communications to aircraft for weather or landing information, or for logistical support pursuant to part 87 of the Commission's rules. Certain ground-based stations which only serve itinerant traffic, i.e., possess no actual units on which to assess a fee, are exempt from payment of regulatory fees. For FY 1998, licensees of Aviation (Ground) Stations will pay a $6 annual regulatory fee per license, payable for the entire five-year license term at the time of application for a new, renewal, or reinstatement license. The total regulatory fee is $30 per call sign for the five-year license term.

12. *General Mobile Radio Service (GMRS):* These services include Land Mobile Radio licensees providing personal and limited business communications between vehicles or to fixed stations for short-range, two-way communications pursuant to part 95 of the Commission's rules. For FY 1998, GMRS licensees will pay a $6 annual regulatory fee per license, payable for an entire five-year license term at the time of application for a new, renewal or reinstatement license. The total regulatory fee due is $30 per license for the five-year license term.

c. Amateur Radio Vanity Call Signs

13. *Amateur Vanity Call Signs:* This fee covers voluntary requests for specific call signs in the Amateur Radio Service authorized under part 97 of the Commission's rules. For FY 1998, applicants for Amateur Vanity Call-Signs will pay a $1.30 annual regulatory fee per call sign, payable for an entire ten-year license term at the time of application for a vanity call sign. The total regulatory fee due would be $13 per license for the ten-year license term.[143]

d. Commercial Wireless Radio Services

14. *Commercial Mobile Radio Services (CMRS) Mobile Services:* The Commercial Mobile Radio Service (CMRS) is an "umbrella" descriptive term attributed to various existing broadband services authorized to provide interconnected mobile radio services for profit to the public, or to such classes of eligible users as to be effectively available to a substantial portion of the public. CMRS Mobile Services include certain licensees which formerly were licensed as part of the Private Radio Services (*e.g.*, Specialized Mobile Radio Services) and others formerly licensed as part of the Common Carrier Radio Services (*e.g.*, Public Mobile Services and Cellular Radio Service). While specific rules pertaining to each covered service remain in separate parts 22, 24, 80 and 90, general rules for CMRS are contained in part 20. CMRS Mobile Services will include: Specialized Mobile Radio Services (part 90);[144] Personal Communications Services (part 24), Public Coast Stations (part 80); Public Mobile Radio (Cellular, 800 MHz Air-Ground Radiotelephone, and Offshore Radio Services) (part 22). Each licensee in this group will pay an annual regulatory fee for each mobile or cellular unit (mobile or cellular call sign or telephone number), assigned to its customers, including resellers of its services. For FY 1998, the regulatory fee is $.29 per unit.

15. *Commercial Mobile Radio Services (CMRS) Messaging Services:* The Commercial Mobile Radio Service (CMRS) is an "umbrella" descriptive term attributed to various existing narrowband services authorized to provide interconnected mobile radio services for profit to the public, or to such classes of eligible users as to be effectively available to a substantial portion of the public. CMRS Messaging Services include certain licensees which formerly were licensed as part of the Private Radio Services (e.g., Private Paging, qualifying interconnected Business Radio Services, and 220–222 MHz Land Mobile Systems), licensees formerly licensed as part of the Common Carrier Radio Services (e.g., Public Mobile One-Way Paging), and licensees of Personal Communications Service (PCS) one-way and two-way paging. While specific rules pertaining to each covered service remain in separate parts 22, 24 and 90, general rules for CMRS are contained in part 20. We have replaced the CMRS One-Way Paging regulatory fee category with a CMRS Messaging Services category for regulatory fee collection purposes. Each licensee in the CMRS Messaging Services will pay an annual regulatory fee for each unit (pager, telephone number, or mobile) assigned to its customers, including resellers of its services. For FY 1998, the regulatory fee is $.04 per unit.

16. Finally, we are reiterating our definition of CMRS payment units to make it clear that fees are assessable on each PCS or cellular telephone and each one-way or two-way pager capable of receiving or transmitting information, whether or not the unit is "active" on the "as of" date for payment of these fees. The unit becomes "feeable" if the end user or assignee of the unit has possession of the unit and the unit is capable of transmitting or receiving voice or non-voice messages or data and the unit is either owned and operated by the licensee of the CMRS system or a reseller, or the end user of a unit has a contractual agreement for provision of a CMRS service from a licensee of a CMRS system or a reseller of a CMRS service. The responsible payer is the CMRS licensee. For example, John Doe purchases a pager and contractually obtains paging services from Pagin Licensee X. Paging Licensee X is responsible for paying the applicable regulatory fee for this unit. Likewise, Cellular Licensee Y donates cellular

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[143] Section 9(h) exempts "amateur radio operator licenses under part 97 of the Commission's rules (47 CFR part 97)" from the requirement. However, section 9(g)'s fee schedule explicitly includes "Amateur vanity call signs" as a category subject to the payment of a regulatory fee.

[144] This category does not include licensees of private shared-use 220 MHz and 470 MHz and above in the Specialized Mobile Radio (SMR) service who have elected to remain non-commercial. Those who have elected not to change to the Commercial Mobile Radio Service (CMRS) are referred to paragraph 4 of this Attachment.

telephones to a high school and the high school either pays for or obtains free service from the Cellular Licensee Y. In this situation, Cellular Licensee Y is responsible for paying the applicable regulatory fee for these units.

2. Mass Media Services

17. The regulatory fees for the Mass Media fee category apply to broadcast licensees and permittees. Noncommercial Educational Broadcasters are exempt from regulatory fees.

a. Commercial Radio

18. These categories include licensed Commercial AM (Classes A, B, C, and D) and FM (Classes A, B, B1, C, C1, C2, and C3) Radio Stations operating under part 73 of the Commission's rules.[145] In response to numerous requests, we have combined class of station and grade B contour population data to formulate a schedule of radio fees which differentiate between stations based on class of station and population served. In general, higher class stations and stations in metropolitan areas will pay higher fees than lower class stations and stations located in rural areas. The specific fee that a station must pay is determined by where it ranks after weighting its fee requirement (determined by class of station) with its population. The regulatory fee classifications for Radio Stations or FY 1998 are as follows:

RADIO STATION REGULATORY FEES

Population served	AM class A	AM class B	AM class C	AM class D	FM classes A, B1 & C3	FM classes B, C, C1 & C2
<=20,000	400	300	200	250	300	400
20,001–50,000	750	600	300	400	600	750
50,001–125,000	1,250	800	400	600	800	1,250
125,001–400,000	1,750	1,250	600	750	1,250	1,750
400,001–1,000,000	2,500	2,000	1,000	1,250	2,000	2,500
>1,000,000	4,000	3,250	1,500	2,000	3,250	4,000

19. Licensees may determine the appropriate fee payment by referring to the list provided at Attachment L to this *Report and Order*. This same information will be available on the FCC's internet world wide web site (http://www.fcc.gov), by calling the FCC's National Call Center (1–888–225–5322), and will be included in the Public Notices mailed to each licensee.

b. Construction Permits—Commercial AM Radio

20. This category includes holders of permits to construct new Commercial AM Stations. For FY 1998, permittees will pay a fee of $235 for each permit held. Upon issuance of an operating license, this fee would no longer be applicable and licensees would be required to pay the applicable fee for the designated class of the station.

c. Construction Permits—Commercial FM Radio

21. This category includes holders of permits to construct new Commercial FM Stations. For FY 1998, permittees will pay a fee of $1,150 for each permit held. Upon issuance of an operating license, this fee would no longer be applicable. Instead, licensees would pay a regulatory fee based upon the designated class of the station.

d. Commercial Television Stations

22. This category includes licensed Commercial VHF and UHF Television Stations covered under part 73 of the Commission's rules, except commonly owned Television Satellite Stations, addressed separately below. Markets are Nielsen Designated Market Areas (DMA) as listed in the *Television & Cable Factbook*, Stations Volume No. 66, 1998 Edition, Warren Publishing, Inc. The fees for each category of station are as follows:

VHF Markets 1–10	$37,575
VHF Markets 11–25	31,275
VHF Markets 26–50	21,400
VHF Markets 51–100	11,975
VHF Remaining Markets	3,100
UHF Markets 1–10	$14,175
UHF Markets 11–25	10,725
UHF Markets 26–50	6,650
UHF Markets 51–100	3,975
UHF Remaining Markets	1,075

e. Commercial Television Satellite Stations

23. Commonly owned Television Satellite Stations in any market (authorized pursuant to Note 5 of 73.3555 of the Commission's rules) that retransmit programming of the primary station are assessed a fee of $1,175 annually. Those stations designated as Television Satellite Stations in the 1998 Edition of the *Television and Cable Factbook* are subject to the fee applicable to Television Satellite Stations. All other television licensees are subject to the regulatory fee payment required for their class of station and market.

f. Construction Permits—Commercial VHF Television Stations

24. This category includes holders of permits to construct new Commercial VHF Television Stations. For FY 1998, VHF permittees will pay an annual regulatory fee of $2,525. Upon issuance of an operating license, this fee would no longer be applicable. Instead, licensees would pay a fee based upon the designated market of the station.

g. Construction Permits—Commercial UHF Television Stations

25. This category includes holders of permits to construct new UHF Television Stations. For FY 1998, UHF Television permittees will pay an annual regulatory fee of $2,650. Upon issuance of an operating license, this fee would no longer be applicable. Instead, licensees would pay a fee based upon the designated market of the station.

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[145] The Commission acknowledges that certain stations operating in Puerto Rico and Guam have been assigned a higher level station class than would be expected if the station were located on the mainland. Although this results in a higher regulatory fee, we believe that the increased interference protection associated with the higher station class is necessary and justifies the fee.Stations for FY 1998 are as follows:

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h. Construction Permits—Satellite Television Stations

26. The fee for UHF and VHF Television Satellite Station construction permits for FY 1998 is $420. An individual regulatory fee payment is to be made for each Television Satellite Station construction permit held.

i. Low Power Television, FM Translator and Booster Stations, TV Translator and Booster Stations

27. This category includes Low Power UHF/VHF Television stations operating under part 74 of the Commission's rules with a transmitter power output limited to 1 kW for a UHF facility and, generally, 0.01 kW for a VHF facility. Low Power Television (LPTV) stations may retransmit the programs and signals of a TV Broadcast Station, originate programming, and/or operate as a subscription service. This category also includes translators and boosters operating under part 74 which rebroadcast the signals of full service stations on a frequency different from the parent station (translators) or on the same frequency (boosters). The stations in this category are secondary to full service stations in terms of frequency priority. We have also received requests for waivers of the regulatory fees from operators of community based Translators. These Translators are generally not affiliated with commercial broadcasters, are nonprofit, nonprofitable, or only marginally profitable, serve small rural communities, and are supported financially by the residents of the communities served. We are aware of the difficulties these Translators have in paying even minimal regulatory fees, and we have addressed those concerns in the ruling on reconsideration of the FY 1994 *Report and Order*. Community based Translators are exempt from regulatory fees. For FY 19978 licensees in low power television, FM translator and booster, and TV translator and booster category will pay a regulatory fee of $265 for each license held.

j. Broadcast Auxiliary Stations

28. This category includes licensees of remote pickup stations (either base or mobile) and associated accessory equipment authorized pursuant to a single license, Aural Broadcast Auxiliary Stations (Studio Transmitter Link and Inter-City Relay) and Television Broadcast Auxiliary Stations (TV Pickup, TV Studio Transmitter Link, TV Relay) authorized under part 74 of the Commission's rules. Auxiliary Stations are generally associated with a particular television or radio broadcast station or cable television system. This category does not include translators and boosters (see paragraph 26 *infra*). For FY 1998, licensees of Commercial Auxiliary Stations will pay an $11 annual regulatory fee on a per call sign basis.

k. Multipoint Distribution Service

29. This category includes Multipoint Distribution Service (MDS), and Multichannel Multipoint Distribution Service (MMDS), authorized under part 21 of the Commission's rules to use microwave frequencies for video and data distribution within the United States. For FY 1998, MDS and MMDS stations will pay an annual regulatory fee of $260 per call sign.

3. Cable Services

a. Cable Television Systems

30. This category includes operators of Cable Television Systems, providing or distributing programming or other services to subscribers under part 76 of the Commission's rules. For FY 1998, Cable Systems will pay a regulatory fee of $.44 per subscriber.[146] Payments for Cable Systems are to be made on a per subscriber basis as of December 31, 1997. Cable Systems should determine their subscriber numbers by calculating the number of single family dwellings, the number of individual households in multiple dwelling units, *e.g.*, apartments, condominiums, mobile home parks, etc., paying at the basic subscriber rate, the number of bulk rate customers and the number of courtesy or fee customers. In order to determine the number of bulk rate subscribers, a system should divide its bulk rate charge by the annual subscription rate for individual households. See FY 1994 *Report and Order*, Appendix B at paragraph 31.

b. Cable Antenna Relay Service

31. This category includes Cable Antenna Relay Service (CARS) stations used to transmit television and related audio signals, signals of AM and FM Broadcast Stations, and cablecasting from the point of reception to a terminal point from where the signals are distributed to the public by a Cable Television System. For FY 1998, licensees will pay an annual regulatory fee of $50 per CARS license.

4. Common Carrier Services

a. Commercial Microwave (Domestic Public Fixed Radio Service)

32. This category includes licensees in the Point-to-Point Microwave Radio Service, Local Television Transmission Radio Service, and Digital Electronic Message Service, authorized under part 101 of the Commission's rules to use microwave frequencies for video and data distribution within the United States. These services are now included in the Microwave category (see paragraph 5 *infra*).

b. Interstate Telephone Service Providers

33. This category includes Inter-Exchange Carriers (IXCs), Local Exchange Carriers (LECs), Competitive Access Providers (CAPs), domestic and international carriers that provide operator services, Wide Area Telephone Service (WATS), 800, 900, telex, telegraph, video, other switched, interstate access, special access, and alternative access services either by using their own facilities or by reselling facilities and services of other carriers or telephone carrier holding companies, and companies other than traditional local telephone companies that provide interstate access services to long distance carriers and other customers. This category also includes pre-paid calling card providers. These common carriers, including resellers, must submit fee payments based upon their proportionate share of gross interstate revenues using the methodology that we have adopted for calculating contributions to the TRS fund. *See Telecommunications Relay Services*, 8 FCC Rcd 5300 (1993), 58 FR 39671 (July 26, 1993). In order to avoid imposing any double payment burden on resellers, we will permit carriers to subtract from their gross interstate revenues, as reported to NECA in connection with their TRS contribution, any payments made to underlying common carriers for telecommunications facilities and services, including payments for interstate access service, that are sold in the form of interstate service. For this purpose, resold telecommunications facilities and services are only intended to include payments that correspond to revenues that will be included by another carrier reporting interstate revenue. For FY 1998, carriers must multiply their adjusted gross revenue figure (gross revenue reduced by the total amount of their payments to underlying common carriers for telecommunications facilities or

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[146] Cable systems are to pay their regulatory fees on a per subscriber basis rather than per 1,000 subscribers as set forth in the statutory fee schedule. See FY 1994 *Report and Order* at paragraph 100.

services) by the factor 0.0011 to determine the appropriate fee for this category of service. Regulatees may want to use the following worksheet to determine their fee payment:

	Total	Interstate
(1) Revenue reported in TRS Fund worksheets		
(2) Less: Access charges paid		
(3) Less: Other telecommunications facilities and services taken for resale		
(4) Adjusted revenues (1)minus(2)minus(3)		
(5) Fee factor		0.0011
(6) Fee due (4)times(5)		

5. International Services

a. Earth Stations

34. Very Small Aperture Terminal (VSAT) Earth Stations, equivalent C-Band Earth Stations and antennas, and earth station systems comprised of very small aperture terminals operate in the 12 and 14 GHz bands and provide a variety of communications services to other stations in the network. *VSAT* systems consist of a network of technically-identical small Fixed-Satellite Earth Stations which often include a larger hub station. VSAT Earth Stations and C-Band Equivalent Earth Stations are authorized pursuant to part 25 of the Commission's rules. *Mobile Satellite Earth Stations*, operating pursuant to part 25 of the Commission's rules under blanket licenses for mobile antennas (transceivers), are smaller than one meter and provide voice or data communications, including position location information for mobile platforms such as cars, buses, or trucks.[147] *Fixed-Satellite Transmit/Receive and Transmit-Only Earth Station antennas*, authorized or registered under part 25 of the Commission's rules, are operated by private and public carriers to provide telephone, television, data, and other forms of communications. Included in this category are telemetry, tracking and control (TT&C) earth stations, and earth station uplinks. For FY 1998, licensees of VSATs, Mobile Satellite Earth Stations, and Fixed-Satellite Transmit/Receive and Transmit-Only Earth Stations will pay a fee of $165 per authorization or registration *as well as a separate fee of $165 for each associated Hub Station.*

35. *Receive-only earth stations.* For FY 1998, there is no regulatory fee for receive-only earth stations.

b. Space Stations (Geostationary)

36. Geostationary Space Stations are domestic and international satellites positioned in orbit to remain approximately fixed relative to the earth. Most are authorized under part 25 of the Commission's rules to provide communications between satellites and earth stations on a common carrier and/or private carrier basis. In addition, this category includes Direct Broadcast Satellite (DBS) Service which includes space stations authorized under part 100 of the Commission's rules to transmit or re-transmit signals for direct reception by the general public encompassing both individual and community reception. For FY 1998, entities authorized to operate geostationary space stations (including DBS satellites) will be assessed an annual regulatory fee of $97,975 per operational station in orbit. Payment is required for any geostationary satellite that has been launched and tested and is authorized to provide service.

c. Space Stations (Non-Geostationary)

37. Non-geostationary Orbit (NGSO) Systems (such as Low Earth Orbit Satellite Systems) are space stations that orbit the earth in non-geostationary orbit. They are authorized under part 25 of the Commission's rules to provide communications between satellites and earth stations on a common carrier and/or private carrier basis. For FY 1998, entities authorized to operate NGSOs will be assessed an annual regulatory fee of $164,800 per operational system in orbit. Payment is required for any NGSO System that has one or more satellites operational. In our FY 1997 *Report and Order* at paragraph 75 we retained our requirement that licensees of LEOs pay the LEO regulatory fee upon certification of operation of a single satellite pursuant to section 25.120(d) subsequently renumbered as § 25.121(d). We require payment of this fee following commencement of operations of a system's first satellite to insure that we recover our regulatory costs related to LEO systems from licensees of these systems as early as possible so that other regulatees are not burdened with these costs any longer than necessary. Because § 25.121(d) has significant implications beyond regulatory fees (such as whether the entire planned cluster is operational in conditions of the license) we are clarifying our current definition of an operational LEO satellite to prevent misinterpretation of our intent as follows:

Licensees of non-geostationary satellite systems (such as LEOs) are assessed a regulatory fee upon the commencment of operation of a system's first satellite as reported annually pursuant to §§ 25.142(c), 25.143(e), 25.145(g), or upon certification of operation of a single satellite pursuant to § 25.120(d).

d. International Bearer Circuits

38. Regulatory fees for International Bearer Circuits are to be paid by facilities-based common carriers (either domestic or international) activating the circuit in any transmission facility for the provision of service to an end user or resale carrier. Payment of the fee for bearer circuits by non-common carrier submarine cable operators is required for circuits sold on an indefeasible right of use (IRU) basis or leased to any customer, including themselves or their affiliates, other than an international common carrier authorized by the Commission to provide U.S. international common carrier services. *Compare* FY 1994 *Report and Order* at 5367. Payment of the international bearer circuit fee is also required by non-common carrier satellite operators for circuits sold or leased to any customer, including themselves or their affiliates, other than an international common carrier authorized by the Commission to provide U.S. international common carrier services. The fee is based upon active 64 Kbps circuits, or equivalent circuits. Under this formulation, 64 Kbps circuits or their equivalent will be assessed a fee. Equivalent circuits include the 64 Kbps

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[147] Mobile earth stations are hand-held or vehicle-based units capable of operation while the operator or vehicle is in motion. In contrasts, transportable units are moved to a fixed location and operate in a stationary (fixed) mode. Both are assessed the same regulatory fee for FY 1997.

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circuit equivalent of larger bit stream circuits. For example, the 64 Kbps circuit equivalent of a 2.048 Mbps circuit is 30 64 Kbps circuits. Analog circuits such as 3 and 4 KHz circuits used for international service are also included as 64 Kbps circuits. However, circuits derived from 64 Kbps circuits by the use of digital circuit multiplication systems are not equivalent 64 Kbps circuits. Such circuits are not subject to fees. Only the 64 Kbps circuit from which they have been derived will be subject to payment of a fee. For FY 1998, the regulatory fee is $6.00 for each active 64 Kbps circuit or equivalent. For analog television channels we will assess fees as follows:

Analog television channel size in MHz	No. of equivalent 64 Kbps circuits
36	630
24	288
18	240

e. International Public Fixed

39. This fee category includes common carriers authorized under part 23 of the Commission's rules to provide radio communications between the United States and a foreign point via microwave or HF troposcatter systems, other than satellites and satellite earth stations, but not including service between the United States and Mexico and the United States and Canada using frequencies above 72 MHz. For FY 1998, International Public Fixed Radio Service licensees will pay a $375 annual regulatory fee per call sign.

f. International (HF) Broadcast

40. This category covers International Broadcast Stations licensed under part 73 of the Commission's rules to operate on frequencies in the 5,950 KHz to 26,100 KHz range to provide service to the general public in foreign countries. For FY 1998, International HF Broadcast Stations will pay an annual regulatory fee of $475 per station license.

Attachment I—Description of FCC Activities

I. Activities That Are Not Included in Regulatory Fees

1. *Authorization of Service*

The authorization or licensing of radio stations, telecommunications equipment, and radio operators, as well as the authorization of common carrier and other services and facilities. Includes policy direction, program development, legal services, and executive direction, as well as support services associated with authorization activities. Although Authorization of Service is described in this attachment, it is *not* one of the activities included as a feeable activity for regulatory fee purposes pursuant to section 9(a)(1) of the Act. 47 U.S.C. 159(a)(1).

II. Activities That are Included in Regulatory Fees

2. Policy and Rulemaking

Formal inquiries, rulemaking proceedings to establish or amend the Commission's rules and regulations, action on petitions for rulemaking, and requests for rule interpretations or waivers; economic studies and analyses; spectrum planning, modeling, propagation-interference analyses, and allocation; and development of equipment standards. Includes policy direction, program development, legal services, and executive direction, as well as support services associated with policy and rulemaking activities.

3. Enforcement

Enforcement of the Commission's rules, regulations and authorizations, including investigations, inspections, compliance monitoring, and sanctions of all types. Also includes the receipt and disposition of formal and informal complaints regarding common carrier rates and services, the review and acceptance/rejection of carrier tariffs, and the review, prescription and audit of carrier accounting practices. Includes policy direction, program development, legal services, and executive direction, as well as support services associated with enforcement activities.

4. Public Information Services

The publication and dissemination of Commission decisions and actions, and related activities; public reference and library services; the duplication and dissemination of Commission records and databases; the receipt and disposition of public inquiries; consumer, small business, and public assistance; and public affairs and media relations. Includes policy direction, program development, legal services, and executive direction, as well as support services associated with public information activities.

Attachment J—Factors, Measurements and Calculations That Go Into Determining Station Signal Contours and Associated Population Coverages

AM Stations

Specific information on each day tower, including field ratio, phasing, spacing and orientation was retrieved, as well as the theoretical pattern RMS figure (mV/m @ 1 km) for the antenna system. The standard, or modified standard if pertinent, horizontal plane radiation pattern was calculated using techniques and methods specified in § 73.150 and 73.152 of the Commission's rules. *See* 47 U.S.C. 73.150 and 73.152. Radiation values were calculated for each of 72 radials around the transmitter site (every 5 degrees of azimuth). Next, estimated soil conductivity data was retrieved from a database representing the information in FCC Figure M3. Using the calculated horizontal radiation values, and the retrieved soil conductivity data, the distance to the city grade (5 mV/m) contour was predicted for each of the 72 radials. The resulting distance to city grade contours were used to form a geographical polygon. Population counting was accomplished by determining which 1990 block centroids were contained in the polygon. The sum of the population figures for all enclosed blocks represents the total population for the predicted city grade coverage area.

FM Stations

The maximum of the horizontal and vertical HAAT (m) and ERP (kW) was used. Where the antenna HAMSL was available, it was used in lieu of the overall HAAT figure to calculate specific HAAT figures for each of 72 radials under study. Any available directional pattern information was applied as well, to produce a radial-specific ERP figure. The HAAT and ERP figures were used in conjunction with the propagation curves specified in § 73.313 of the Commission's rules to predict the distance to the city grade (70 dBuV/m or 3.17 mV/m) contour for each of the 72 radials. *See* 47 U.S.C. 73.313. The resulting distance to city grade contours were used to form a geographical polygon. Population counting was accomplished by determining which 1990 block centroids were contained in the polygon. The sum of the population figures for all enclosed blocks represents the total population for the predicted city grade coverage area.

Attachment K—Parties Filing Comments and Reply Comments

Parties Filing Comments on the Notice of Proposed Rule Making

Named State Broadcasters Associations
National Association of Broadcasters
SBC Communications, Inc.
Columbia Communications Corp.
GE American Communications, Inc.

Loral Space & Communications Ltd.
Orbital Communications Corp.
PanAmSat Corp.
Satellite Industry Association
BellSouth Wireless Data
Paging Network, Inc.
Personal Communications Industry Association
Small business In Telecommunications
American Radio Relay League

Parties Filing Reply Comments on the Notice of Proposed Rule Making

GE American Communications, Inc.
PanAmSat Corp.
BellSouth Cellular Corp. & Wireless Data, L.P.
Paging Network, Inc.
PrimeCo Personal Communications
American Mobile Telecommunications Association, Inc.
Comcast Cellular Communications, Inc.

Attachment L—AM and FM Radio Regulatory Fees

(List will be filed in the Docket file for this proceeding to avoid publication costs.)

[FR Doc. 98–17222 Filed 6–30–98; 8:45 am]

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Proposed Rules

Federal Register
Vol. 63, No. 126
Wednesday, July 1, 1998

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Parts 2420 through 2423, 2470 and 2472

Regulations Implementing Coverage of Federal Sector Labor Relations Laws to the Executive Office of the President

AGENCY: Federal Labor Relations Authority.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Labor Relations Authority (FLRA) proposes to revise portions of its regulations in order to carry out its responsibilities under the Presidential and Executive Office Accountability Act. The FLRA was directed to issue regulations implementing coverage of the Federal Service Labor-Management Relations Statute to the Executive Office of the President no later than October 1, 1998. The FLRA is also providing an opportunity for all interested persons to comment on an issue that has arisen during the consideration of these regulatory revisions.

DATES: Comments must be received on or before July 31, 1998.

ADDRESSES: Mail or deliver written comments to the Office of Case Control, Federal Labor Relations Authority, 607 14th Street, NW., Washington, DC 20424–0001.

FOR FURTHER INFORMATION CONTACT: Peter Constantine, Director, Office of Case Control, at the address listed above or by telephone # (202) 482–6500.

SUPPLEMENTARY INFORMATION:

1. Background

The Presidential and Executive Office Accountability Act (Pub. L. 104–331) (the EOAA) was enacted on October 26, 1996, extending the coverage of eleven civil rights, labor, and employment laws to the Executive Office of the President (EOP). The EOAA applies Chapter 71 of Title 5, the Federal Service Labor-Management Relations Statute (the Statute), to the EOP and requires the FLRA to promulgate regulations to implement the EOAA, no later than October 1, 1998.

The EOP is comprised of thirteen separate offices: The White House Office, the Executive Residence at the White House, the Office of the Vice President, the Official Residence of the Vice President, the Office of Policy Development, the Council of Economic Advisors, the Council on Environmental Quality and Office of Environmental Quality, the National Security Council, the Office of Administration, the Office of Management and Budget, the Office of National Drug Control Policy, the Office of Science and Technology, and the Office of the United States Trade Representative.

According to House Report No. 104–820 (110 Stat. 4375), there are roughly 1,700 employees working in the EOP. Less than one-third of these are Title 3 employees, who traditionally serve at the discretion of the President. The Title 3 employees work in the White House Office, the Office of the Vice President, the Office of Policy Development, the Executive Residence, and the Official Residence of the Vice President. The remaining 1,150 employees working in the other eight EOP offices are covered by Title 5, and are civil service employees serving under the same laws and regulations as other career executive branch employees. These Title 5 employees previously covered by Chapter 71 of Title 5, are now covered under the provisions of the EOAA.

2. Requirements placed on the FLRA

The EOAA contains a general requirement that the FLRA issue regulations for the EOP that are the same as the substantive regulations promulgated by the FLRA for all other agencies under its jurisdiction. This general requirement applies differently, however, depending on the EOAA's classification of the EOP offices.

With respect to the first group of five designated offices (the Council on Environmental Quality, the Office of Administration, the Office of Science and Technology Policy, the Office of the U.S. Trade Representative, and the Official Residence of the Vice President), the EOAA requires that the FLRA's regulations be the same as the regulations that apply to other agencies, except to the extent that the Authority determines for good cause, or to avoid a conflict of interest or an appearance of a conflict of interest, that a modification is required. For the remaining eight EOP offices, the EOAA requires that the FLRA exclude from coverage employees if the FLRA determines that exclusion is required because of a conflict of interest, an appearance of a conflict of interest, or the President's or Vice President's constitutional responsibilities.

3. Prior Federal Register Notice

The FLRA published a **Federal Register** notice (63 FR 16141, Apr. 2, 1998) inviting parties to submit written recommendations on what, if any, modifications to the FLRA's current regulations were necessary to satisfy the requirements of the EOAA. Specifically, the FLRA asked for comments regarding: Appropriate bargaining units under section 7112 of the Statute and section 431(d)(1)(B) of the EOAA; appropriate remedies for statutory violations based upon section 431(a) of the EOAA and sections 7118(a)(7) and 7105(a)(2)(I) of the Statute; possible security issues based upon the FLRA's ability to investigate, prosecute, and adjudicate cases in which non-public information could be at issue or discussed; possible conflict of interest/appearance of conflict of interest issues based upon section 431(d)(1)(B)(i) of the EOAA; possible constitutional issues based upon section 431(d)(1)(B)(ii) of the EOAA; concerns regarding political affiliation; and appropriate designation of the "head of an agency" under sections 7102(1), 7114(c)(1)–(3), and 7117(c)(3) of the Statute for each EOP office. No comments were received specifically in response to the notice.

Additionally, the FLRA informally invited comment directly from interested persons. In response, one comment noted that during the FLRA's investigation, prosecution, and adjudication of cases involving the EOP, the FLRA may receive documents that otherwise would not be subject to public disclosure through the Freedom of Information Act (FOIA). As the FLRA continues to review its regulations to determine whether modifications are necessary in light of the EOAA, the FLRA is requesting comments on this issue of information disclosure and the interests of the EOP. Once the FLRA receives comments, it will consider rulemaking on this issue, if necessary.

4. Summary of Amendments

As a result of the enactment of the EOAA, a number of amendments to the FLRA's regulations are necessary.

A. Section 2420.1 Purpose and scope

The FLRA proposes to amend this section to reflect the fact that the EOAA has made applicable Chapter 71 of Title 5 to the EOP.

B. Section 2421.2 Terms defined in 5 U.S.C. 7103(a)

The FLRA proposes to amend this section to incorporate applicable definitions found in the EOAA.

C. Section 2421.14 Appropriate unit

The FLRA proposes to amend this section to reflect that when making bargaining unit determinations for the eight offices listed in 3 U.S.C. 431(d)(2), pursuant to section 431 of the EOAA, the Regional Director shall exclude employees if it is determined that such exclusion is required because of a conflict of interest, an appearance of a conflict of interest, or the President's or Vice President's constitutional duties.

D. Section 2422.34(b) Rights and obligations during the pendency of representation proceedings

The FLRA proposes to amend this section to include 3 U.S.C. 431(d)(2) as one of the statutory grounds for a party to take action regarding the bargaining unit status of individual employees.

E. Section 2423.41 Action by the Authority; compliance with Authority decisions and orders

The FLRA proposes to amend this section to reflect that, with regard to employees covered by section 431 of the EOAA, on finding a violation, the Authority may not issue an order of reinstatement.

F. Section 2470.1 Purpose

The FLRA proposes to amend this section to reflect the fact that the EOAA has made applicable chapter 71 of title 5 to the Executive Office of the President.

G. Section 2470.2 Definitions

The FLRA proposes to amend this section to incorporate applicable definitions found in the EOAA.

H. Section 2472.1 Purpose

The FLRA proposes to amend this section to clarify that the regulations contained in this part do not apply to employing offices, employees, and representatives of those employees, who are subject to the provisions of the EOAA.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the FLRA has determined that this regulation, as amended, will not have a significant economic impact on a substantial number of small entities. The amendments are required so that the FLRA can carry out its responsibilities under the EOAA.

Unfunded Mandates Reform Act of 1995

This rule change will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small government. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This action is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Paperwork Reduction Act of 1995

The amended regulations contain no additional information collection or record keeping requirement under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, *et seq.*

List of Subjects in 5 CFR Parts 2420, 2421, 2422, 2423, 2470, and 2472

Administrative practice and procedure, Government employees, Labor-management relations.

For the reasons stated in the preamble, the FLRA proposes to amend parts 2420, 2421, 2422, 2423, 2470, and 2472 of chapter XIV, title 5 of the Code of Federal Regulations as follows:

PART 2420—PURPOSE AND SCOPE

1. The authority citation for part 2420 is revised to read as follows:

Authority: 3 U.S.C. 431; 5 U.S.C. 7134.

2. The introductory text of § 2420.1 is revised to read as follows:

§ 2420.1 Purpose and scope.

The regulations contained in this subchapter are designed to implement the provisions of chapter 71 of title 5 and, where applicable, section 431 of title 3 of the United States Code. They prescribe the procedures, basic principles or criteria under which the Federal Labor Relations Authority or the General Counsel of the Federal Labor Relations Authority, as applicable, will:

* * * * *

PART 2421—MEANING OF TERMS AS USED IN THIS SUBCHAPTER

1. The authority citation for part 2421 is revised to read as follows:

Authority: 3 U.S.C. 431; 5 U.S.C. 7134.

2. In § 2421.2, paragraph (a) is revised to read as follows:

§ 2421.2 Terms defined in 5 U.S.C. 7103(a); General Counsel; Assistant Secretary.

(a) The terms *person, employee, agency, labor organization, dues, Authority, Panel, collective bargaining agreement, grievance, supervisor, management official, collective bargaining, confidential employee, conditions of employment, professional employee, exclusive representative, firefighter,* and *United States*, as used herein shall have the meanings set forth in 5 U.S.C. 7103(a). The *terms* covered employee, employee, employing office, and *agency*, when used in connection with the Presidential and Executive Office Accountability Act, 3 U.S.C. 401 *et seq.*, shall have the meaning set out in 3 U.S.C. 401(b), 431(b) and (d)(2). Employees who are employed in the eight offices listed in 3 U.S.C. 431(d)(2) are excluded from coverage if the Authority determines that such exclusion is required because of a conflict of interest, an appearance of a conflict of interest, or the President's or Vice President's constitutional responsibilities, in addition to the exemptions currently set forth in 5 U.S.C. 7103(a).

* * * * *

3. Section 2421.14 is revised to read as follows:

§ 2421.14 Appropriate unit.

Appropriate unit means that grouping of employees found to be appropriate for purposes of exclusive recognition under 5 U.S.C. 7111, and for purposes of allotments to representatives under 5 U.S.C. 7115(c), and consistent with the provisions of 5 U.S.C. 7112. For the eight offices listed in 3 U.S.C. 431(d)(2), in determining whether particular employees are to be included in an appropriate unit in a proceeding under part 2422 of this chapter, the Regional

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Director shall exclude employees if it is determined that such exclusion is required because of a conflict of interest or appearance of a conflict of interest or because of the President's or Vice President's constitutional responsibilities, in addition to the standards set out in 5 U.S.C. 7112.

PART 2422—REPRESENTATION PROCEEDINGS

1. The authority citation for part 2422 is revised to read as follows:

Authority: 3 U.S.C. 431; 5 U.S.C. 7134.

2. In § 2422.34, paragraph (b) is revised to read as follows:

§ 2422.34 Rights and obligations during the pendency of representation proceedings.

* * * * *

(b) *Unit status of individual employees.* Notwithstanding paragraph (a) of this section and except as otherwise prohibited by law, a party may take action based on its position regarding the bargaining unit status of individual employees, pursuant to 3 U.S.C. 431(d)(2), 5 U.S.C. 7103(a)(2), and 7112(b) and (c): *Provided, however,* that its actions may be challenged, reviewed, and remedied where appropriate.

PART 2423—UNFAIR LABOR PRACTICE PROCEEDINGS

1. The authority citation for part 2423 is revised to read as follows:

Authority: 3 U.S.C. 431; 5 U.S.C. 7134.

2. In § 2423.41, paragraph (c) is amended to read as follows:

§ 2423.41 Action by the Authority; compliance with Authority decisions and orders.

* * * * *

(c) *Authority's order.* Upon finding a violation, the Authority shall, in accordance with 5 U.S.C. 7118(a)(7), issue an order directing the violator, as appropriate, to cease and desist from any unfair labor practice, or to take any other action to effectuate the purposes of the Federal Service Labor-Management Relations Statute. With regard to employees covered by 3 U.S.C. 431, upon finding a violation, the Authority's order may not include an order of reinstatement, in accordance with 3 U.S.C. 431(a).

* * * * *

PART 2470—GENERAL

1. The authority citation for part 2470 is revised to read as follows:

Authority: 3 U.S.C. 431; 5 U.S.C. 7119, 7134.

2. Section 2470.1 is revised to read as follows:

§ 2470.1 Purpose.

The regulations contained in this subchapter are intended to implement the provisions of section 7119 of title 5 and, where applicable, section 431 of title 3 of the United States Code. They prescribe procedures and methods which the Federal Service Impasses Panel may utilize in the resolution of negotiation impasses when voluntary arrangements, including the services of the Federal Mediation and Conciliation Service or any other third-party meditation, fail to resolve the disputes. It is the policy of the Panel to encourage labor and management to resolve disputes on terms that are mutually agreeable at any stage of the Panel's procedures.

3. In § 2470.2, paragraph (a) is revised to read as follows:

§ 2470.2 Definitions.

(a) The terms *agency, labor organization,* and *conditions of employment* as used herein shall have the meaning set forth in 5 U.S.C. 7103(a). When used in connection with 3 U.S.C. 431, the term *agency* as used in the Panel's regulations means an employing office as defined in 3 U.S.C. 401(a)(4).

* * * * *

PART 2472—IMPASSES ARISING PURSUANT TO AGENCY DETERMINATIONS NOT TO ESTABLISH OR TO TERMINATE FLEXIBLE OR COMPRESSED WORK SCHEDULES

1. The authority citation for part 2472 is revised to read as follows:

Authority: 5 U.S.C. 6131.

2. Section 2472.1 is revised to read as follows:

§ 2472.1 Purpose.

The regulations contained in this part are intended to implement the provisions of section 6131 of title 5 of the United States Code, but are not applicable to actions covered by section 431 of title 3 of the United States Code. They prescribe procedures and methods which the Federal Service Impasses Panel may utilize in the resolution of negotiations impasses arising from agency determinations not to establish or to terminate flexible and compressed work schedules.

Dated: June 26, 1998.

Kevin Kopper,

Director, Budget & Finance Division.

[FR Doc. 98–17503 Filed 6–30–98; 8:45 am]

BILLING CODE 6727–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–ANE–29–AD]

Airworthiness Directives; First Technology Fire and Safety Ltd. Toilet Compartment Fire Extinguishers

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to First Technology Fire and Safety Ltd. toilet compartment fire extinguishers. This proposal would require inspection of suspect fire extinguishers for leakage, and removal from service and replacement with serviceable parts if found leaking. This proposal is prompted by reports of leakage at the fire extinguisher's eutectic tip due to a design change. The actions specified by the proposed AD are intended to prevent fire extinguisher failure due to leakage, which in the event of a toilet compartment fire could result in an uncontained fire and damage to the aircraft.

DATES: Comments must be received by August 31, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–ANE–29–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be submitted to the Rules Docket by using the following Internet address: "9-ad-engineprop@faa.dot.gov". Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Percival Aviation Ltd., The Sidings, Knowle, Fareham, Hampshire PO17 5LZ England; telephone 011 44 1329 833814, fax 011 44 1329 834013. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Terry Fahr, Aerospace Engineer, Boston Aircraft Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7155, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–ANE–29–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–ANE–29–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom (UK), recently notified the Federal Aviation Administration (FAA) that an unsafe condition may exist on certain First Technology Fire and Safety Ltd. toilet compartment fire extinguishers. The CAA advises that they have received reports of leakage at the fire extinguisher's eutectic tip due to a design change. This condition, if not corrected, could result in fire extinguisher failure due to leakage, which in the event of a toilet compartment fire could result in an uncontained fire and damage to the aircraft.

First Technology Fire and Safety Ltd. has issued Service Bulletin (SB) No. 26–110, dated January 1998, that specifies procedures for inspection of suspect fire extinguishers for leakage. The CAA classified this SB as mandatory and issued AD 007–11–97 in order to assure the safety of these fire extinguishers in the UK.

These fire extinguishers are manufactured in the UK and are certificated for operation in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other fire extinguishers of the same type design registered in the United States, the proposed AD would require, within 3 months after the effective date of this AD, inspection of suspect fire extinguishers for leakage, and removal from service and replacement with serviceable parts if found leaking. The UK CAA AD specified a second inspection after the initial inspection; however, the FAA has determined that a second inspection is unnecessary due to the time that has passed from the publication of the UK CAA AD to the publication of this FAA NPRM. The actions would be required to be accomplished in accordance with the SB described previously.

There are approximately 1,500 fire extinguishers of the affected design installed on the worldwide fleet. There are an unknown number of fire extinguishers installed on aircraft of U.S. registry. The FAA estimates that it would take approximately 3 minutes per fire extinguisher to accomplish the proposed actions, and that the average labor rate is $60 per work hour. The manufacturer has advised the CAA that replacement parts would be provided at no charge to the operator. Based on these figures, the total cost impact of the proposed AD on worldwide operators is estimated to be $4,500.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

First Technology Fire and Safety Ltd.: Docket No. 98–ANE–29–AD.

Applicability: First Technology Fire and Safety Ltd. toilet compartment fire extinguisher, identified by serial and model number in First Technology Fire and Safety Ltd. Service Bulletin (SB) No. 26–110, dated January 1998. These fire extinguishers are installed on but not limited to Airbus A320, A330, A340; British Aerospace Bae 146, Bombardier CL–600–2B19 (CRJ), Dornier 328 Embraer EMB 145, and all Fokker Series aircraft.

Note 1: This airworthiness directive (AD) applies to each fire extinguisher identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For fire extinguishers that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fire extinguisher failure due to leakage, which could result in an uncontained fire and damage to the aircraft, accomplish the following:

(a) Within 3 months after the effective date of this AD, perform a one time inspection of fire extinguishers for leakage, and replace leaking fire extinguishers with serviceable parts, in accordance with First Technology Fire and Safety Ltd. SB No. 26–110, dated January 1998.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Boston Aircraft Certification Office. Operators shall submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Boston Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Boston Aircraft Certification Office.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

Issued in Burlington, Massachusetts, on June 23, 1998.

Dated: June 23, 1998.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service

[FR Doc. 98–17416 Filed 6–30–98; 8:45 am]

BILLING CODE 4910–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 210, 229, 240 and 249

[Release Nos. 33–7549; 34–40126; File No. S7–17–98]

RIN 3235–AH43

Segment Reporting

AGENCY: Securities and Exchange Commission.

ACTION: Proposed Rules.

SUMMARY: The Commission today proposes technical amendments to conform our reporting requirements with the Financial Accounting Standards Board's ("FASB") recently adopted Statement of Financial Accounting Standards ("SFAS") No. 131, governing disclosures relating to a business enterprise's operating segments.

DATES: We should receive comments by July 31, 1998.

ADDRESSES: Please send three copies of your comment letter to Jonathan G. Katz, Secretary, U.S. Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Interested persons also may submit comments electronically at the following e-mail address: rule-comments@sec.gov. All comment letters should refer to File No. S7–17–98; please include this file number in the subject line if you use e-mail. Anyone can inspect and copy the comment letters in our public reference room at 450 Fifth Street, N.W., Washington, D.C. 20549. We will post electronically submitted comment letters on the Commission's Internet Web Site (www.sec.gov).

FOR FURTHER INFORMATION CONTACT: James R. Budge, Special Counsel, Division of Corporation Finance, at (202) 942–2950, Louise M. Dorsey, Assistant Chief Accountant, Division of Corporation Finance, at (202) 942–2960, or Robert F. Lavery, Assistant Chief Accountant, Office of the Chief Accountant, at (202) 942–4400, U.S. Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission today proposes technical amendments to Rules 3–03[1] and 12–16[2] of Regulation S–X,[3] Items 101[4] and 102[5] of Regulation S–K,[6] and Schedule 14A[7] in order to conform our reporting requirements with the FASB's recently adopted SFAS No. 131. We also propose to make consistent changes to Form 20–F[8] and to Sections 501.06 and 503 of the Codification of Financial Reporting Policies ("CFRP").

I. Background

In 1976, the FASB issued SFAS No. 14, "Financial Reporting for Segments of a Business Enterprise." SFAS No. 14 required corporations to disclose certain financial information by "industry segment" as defined in the statement and by geographic area. In December 1977, we adopted amendments to our rules to integrate the information to be furnished under SFAS No. 14 with the narrative and financial disclosures required in various disclosure forms.[9]

After extensive deliberations, including solicitation of public comments, the FASB adopted a number of fundamental changes to its standards for segment reporting by publishing SFAS No. 131 in June of 1997. SFAS No. 131 superseded SFAS No. 14 and established standards for reporting information about "operating segments" of an enterprise rather than following the "industry segment" standards that were in place previously. The Commission today proposes a number of technical changes to its reporting requirements to accommodate these recent modifications. This is in keeping with our long-standing position that we will look to the private sector for the promulgation of generally accepted accounting principles ("GAAP"),[10] and furthers our goal of integrating existing accounting information into the narrative disclosure in documents mandated by the federal securities laws. This release explains in detail the proposed changes.

II. Proposed Rule Changes

A. Operating Segment Disclosure

SFAS No. 14 required, and the Commission's current rules and forms require, disclosure along "industry segment" lines. An "industry segment," as defined by SFAS No. 14, was "a component of an enterprise engaged in providing a product or service or a group of related products and services primarily to unaffiliated customers * * * for a profit."[11] Recognizing that businesses often evaluate their operations using criteria not necessarily related to the products or services offered to the public, the FASB replaced the industry segment reporting standard with one that requires businesses to report financial information on the basis of "operating segments." Under the new accounting standard, an operating segment is a component of a business, for which separate financial information is available, that management regularly evaluates in deciding how to allocate

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[1] 17 CFR 210.3–03.

[2] 17 CFR 210.12–16.

[3] 17 CFR Part 210.

[4] 17 CFR 229.101.

[5] 17 CFR 229.102.

[6] 17 CFR Part 229.

[7] 17 CFR 240.14a–101.

[8] 17 CFR 249.220f.

[9] Release No. 33–5893 (December 23, 1977) [42 FR 65554].

[10] Section 101 of the Codification of Financial Reporting Policies. The Commission initially issued its administrative policy concerning financial statements in 1938 and updated it in 1973 to recognize the establishment of the FASB.

[11] SFAS No. 14, ¶ 10.a.

resources and assess performance.[12] Specifically, SFAS No. 131 states that an operating segment is a component of a business:

- That engages in activities from which it may earn revenues and incur expenses (including revenues and expenses relating to transactions with other components of the same business);
- Whose operating results are regularly reviewed by the enterprise's "chief operating decision maker"[13] to make decisions about resources to be allocated to the segment and assess its performance; and
- For which discrete financial information is available.

Under SFAS No. 131, a company generally must report separately information about an operating segment that meets any of the following thresholds:

- Its reported revenue, including both sales to external customers and intersegment sales and transfers, is 10 percent or more of the combined revenue of all reported operating segments, whether generated inside or outside of the company;
- Its reported profit or loss is 10 percent or more of the greater of: (1) the combined reported profit of all operating segments that did not report a loss or (2) the combined reported loss of all operating segments that did report a loss; or
- Its assets are 10 percent or more of the combined assets of all operating segments.[14]

SFAS No. 131 not only changed how a business should identify its segments, it also changed the types of information to be disclosed for each segment. SFAS No. 14 required an issuer to report its revenues, operating profit (loss),[15] and identifiable assets[16] if a segment's revenues, operating profit, or identifiable assets were 10% or more of all the industry segments' revenues, operating profits, or assets, respectively. Issuers were to reconcile these three items to the consolidated amounts in the financial statements. In addition, SFAS No. 14 required issuers to report for each segment depreciation, depletion and amortization, capital expenditures, equity in net income of unconsolidated subsidiary or equity-method investee, and the effect of a change in accounting principle on operating profit (loss).

By contrast, SFAS No. 131 requires that a company provide for each reportable segment quantitative disclosure of two basic items—total assets and a measure of profit or loss. The new standard defines neither segment profit (loss) nor assets. Instead, management must determine what they will report based on how they operate their business. In addition, companies must disclose the following items for each segment, but only if management includes them in measuring segment profit or loss:

- Revenues from external customers;
- Revenues from other operating segments;
- Interest income;[17]
- Interest expense;[18]
- Depreciation, depletion and amortization;
- Unusual items;
- Equity in net income of equity method investees;
- Income taxes;
- Extraordinary items; and
- Significant non-cash items other than depreciation, depletion, and amortization.

A company also must disclose for each segment the amount of investment in equity-method investees and total expenditures for additions to long-lived assets if it includes the amount in its determination of segment assets.

The company must reconcile the totals of the reportable segments' amounts for all of these listed items to consolidated amounts. The FASB required more items to be disclosed per segment under the new standard because analysts have long wanted more information and most of the items required should be already available in management reports.

We propose to amend our narrative and financial reporting rules to conform current segment reporting requirements to the FASB's revised accounting standards. The proposals would, however, retain certain requirements relating to disclosure of principal products or services and major customers that traditionally have differed from the FASB standards.[19] We will address below each of the proposals.[20]

1. Description of Business—Item 101

Regulation S–K Item 101(b)[21] currently requires an issuer to disclose financial information with respect to its "industry segments" in the business description sections of documents that it files with the Commission. The proposals would amend Item 101 to conform its disclosure requirements to current GAAP as defined in SFAS No. 131, thereby requiring disclosure about an issuer's "operating segments" rather than its "industry segments."[22] Other proposals specific to Item 101 follow.

a. Principal Products or Services

Item 101 historically has required a discussion, by segment, of the principal products produced and services rendered by the issuer, as well as the principal markets for and methods of distribution of each segment's products and services. On the other hand, GAAP required, and continues to require, disclosure of principal products and services on an enterprise-wide basis, without reference to principal markets and methods of distribution. We continue to believe that the segment information relating to principal products or services, principal markets and distribution methods is useful to investors and propose not to change this provision.

Item 101 further requires registrants to disclose the amounts of revenues from each class of similar products and services based on quantitative thresholds. Specifically, the issuer must state the amount or percentage of total revenue contributed by any class of similar products or services that accounted for 10 percent or more of consolidated revenue in any of the last three fiscal years, or if total revenue did not exceed $50,000,000 during any of those three fiscal years, 15 percent or more of consolidated revenue.[23] SFAS No. 131 requires disclosure of revenues from external customers for each product and service or each group of similar products and services unless it is impracticable to do so. Because SFAS No. 131 requires disclosure regardless of amount, unless impracticable, it appears that the new accounting standard may require more disclosure than Item 101. In light of this, we seek comment as to whether we need to maintain the quantitative thresholds of Item 101(c)(1)(i). If so, should they be raised or lowered, or should we simply follow the standard set out in paragraph 37 of SFAS No. 131, which provides for no quantitative threshold?

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[12] We refer to this below as the "management approach."

[13] The term "chief operating decision maker" identifies a function, not a person with that title. This person's function is to allocate resources to and assess the performance of the company's segments. A chief operating decision maker frequently might be a company's chief executive officer or chief operating officer, but it also could be a group of decision makers, for example, the company's president, executive vice presidents and others.

[14] SFAS No. 131, ¶18.

[15] SFAS No. 14 specifically defined segment operating profit to be revenues less all operating expenses, which included depreciation and amortization. An issuer was to allocate operating expenses that were not directly traceable to a particular segment on a reasonable basis among the segments for whose benefit the expenses were incurred. The standard required an explanation of the amount and nature of any unusual or nonrecurring items added or deducted in determining operating profit of a segment. In addition, the standard defined any restructuring charges related to a specific segment as operating expenses of that segment and issuers were to deduct these charges in calculating that segment's operating profit or loss.

SFAS No. 14 excluded certain items in calculating segment profit. They were: general corporate expenses; interest expense (except included for financial institutions, insurance and leasing operations); equity in income (loss) of unconsolidated subsidiaries or equity investees; discontinued operations; extraordinary items; and, the effects of changes in accounting.

[16] Segment assets included all tangible and intangible assets used by the segment, including goodwill, other intangibles, and deferred income and expenses.

[17] Certain enterprises may report segment interest revenue net of its interest expense. *See* SFAS 131, ¶27.

[18] *Id.*

[19] *See* Sections II.A.1a. and II.B.2.

[20] The Commission also is proposing several technical amendments to update cross references to the new accounting standard. These revisions would be made to Rules 3–03(e) and 12–16 of Regulation S–X and Item 14(b)(2)(ii)(A)(*3*)(*i*) of Schedule 14A.

[21] 17 CFR 229.101(b).

[22] We also propose to retain the current provisions allowing an issuer to refer to other sections of the registration statement that include the required information in order to avoid duplicative disclosure.

b. Retroactive Restatement of Information

Item 101 requires issuers to restate retroactively previously reported financial information when there has been a material change in the way they group products or services into industry segments and that change affects the reported segment information.[24] By contrast, SFAS No. 131 provides that if an issuer changes the structure of its internal organization in a manner that causes the composition of its reportable segments to change, the issuer must restate the corresponding information for earlier periods unless it is impracticable to do so.[25] We propose to conform the language of Item 101 with the language of SFAS No. 131 regarding when a company must restate information.

c. Appendix A

Item 101 includes an appendix that illustrates how to present the required industry segment information in tabular form. The Commission proposes to eliminate this appendix and rely instead on the SFAS No. 131 instructions governing how to present information relating to operating segments.

2. Property—Item 102

Regulation S–K Item 102 requires descriptions of an issuer's principal plants, mines, and other "materially important" physical properties. Companies must identify the industry segment(s) that use the described properties.[26] We propose to update the item by substituting the term "segment" for "industry segment."

3. Management's Discussion and Analysis—Item 303

Regulation S–K Item 303, which requires management to include a discussion and analysis of an issuer's financial condition and results of operations, provides:

> Where in the registrant's judgment a discussion of segment information or other subdivisions of the registrant's business would be appropriate to an understanding of such business, the discussion shall focus on each relevant, reportable segment or other subdivision of the business and on the registrant as a whole.[27]

The Commission historically has relied on the FASB's definition for segment disclosure in Management's Discussion and Analysis ("MD&A"). The Commission intends to continue to rely on the FASB's standards, thereby allowing issuers to use the management approach under SFAS No. 131. No rule change is necessary. Under the language in Item 303, a multi-segment registrant preparing a full fiscal year MD&A should analyze revenues, profitability (or losses) and total assets of each significant segment in formulating a judgment as to whether a discussion of segment information is necessary to an understanding of the business.

While we propose no changes to the language of Item 303, we do propose to amend CFRP 501.06.a, which provides informal guidance about MD&A. The proposed revisions would accord the Codification's language with that of SFAS No. 131, and would add a new footnote, that would read:

> Where consistent with the registrant's internal management reports, SFAS No. 131 permits measures of segment profitability that differ from GAAP measures of profit on a consolidated basis, or that exclude items included in the determination of the registrant's net income. In a note to the financial statements, however, the registrant must reconcile key segment amounts to the corresponding items reported in the consolidated financial statements. Similarly, the Commission expects that the discussion of a segment whose profitability is determined on a basis that differs from GAAP on a consolidated basis or that excludes the effects of items attributable to the segment also will address the applicable reconciling items. For example, if a material charge for restructuring or asset impairment relates to a specific segment, but is not included in management's measure of the segment's operating profit or loss, registrants would be expected to disclose the applicable portion of the charge and the circumstances of its incurrence. Likewise, the Commission expects that the effects of management's use of non-GAAP measures will be explained in a balanced and informative manner, and the disclosure will include a discussion of how that segment's performance has affected the registrant's GAAP financial statements.

4. Form 20–F

Form 20–F is the registration statement and annual report for foreign private issuers promulgated under the Securities Exchange Act of 1934 ("Exchange Act").[28] Form 20–F currently permits a foreign registrant that presents financial statements according to United States GAAP to omit SFAS No. 14 disclosures if it provides the information required by Item 1 of the form. We propose replacing the reference to SFAS No. 14 with one to SFAS No. 131.[29]

Item 1 of Form 20–F requires registrants to disclose sales and revenues by categories of activity and geographical areas, as well as to discuss each category of activities that provide a disproportionate contribution to total "operating profit" of the registrant. We contemplate no change to these requirements.

B. Other Reporting Requirements

SFAS No. 14 also set standards for disclosure of certain enterprise-wide information where the issuer did not provide the information in the segment disclosure, and Regulation S–K currently reflects those standards. We propose to update our rules to conform with the revised requirements of SFAS No. 131, as we explain below.

1. Geographic Areas

Regulation S–K Item 101(d) currently requires an issuer to disclose for each of the issuer's last three fiscal years the amounts of revenue, operating profit or loss, and identifiable assets attributable to each of its geographic areas. It also requires disclosure of the amount of export sales in the aggregate or by appropriate geographic area to which the issuer makes sales.

Under SFAS No. 131, issuers must disclose revenues from external customers deriving from:

- The issuer's country of domicile;
- All foreign countries in total from which the issuer derives revenues; and
- An individual foreign country, if material.

An issuer also must disclose the basis for attributing revenues from external customers to individual countries.

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[23] 17 CFR 229.101(c)(1)(i).

[24] 17 CFR 229.101(b)(1)(ii).

[25] *See* SFAS No. 131, ¶34.

[26] f17 CFR 229.102.

[2] 17 CFR 229.303(a).

[28] 15 U.S.C. 78a *et seq.*

[29] *See* proposed Instruction 3 to Item 17 of Form 20–F.

The new accounting standard also requires an issuer to disclose long-lived assets other than financial instruments, long-term customer relationships of a financial institution, mortgage and other servicing rights, deferred policy acquisition costs, as well as deferred tax assets located in its country of domicile and in all foreign countries, in total, in which the enterprise holds assets. If assets in an individual foreign country are material, an issuer must disclose those assets separately.[30]

We propose to revise our disclosure requirements to conform entirely with the new accounting standard. Consequently, we would no longer require issuers to disclose geographic information relating to: individual geographic areas (except where information relating to an individual country is material); profitability; or export sales.[31]

2. Major Customers

Since the adoption of SFAS No. 14, GAAP has required disclosure of revenues from major customers.[32] SFAS No. 131 now requires issuers to disclose the amount of revenues from each external customer that amounts to 10 percent or more of its revenue as well as the identity of the segment(s) reporting the revenues. The accounting standards, however, have never required issuers to identify major customers. On the other hand, Regulation S–K Item 101 historically requires naming a major customer if sales to that customer equal 10 percent or more of the issuer's consolidated revenues and if the loss of the customer would have a material adverse effect on the issuer and its subsidiaries.[33] Since we continue to believe that the identity of major customers is material information to investors, we propose to retain this Regulation S–K requirement.

C. Segment Information Added to Interim Reports

GAAP historically has not required segment reporting in interim financial statements. In SFAS No. 131, the FASB changed its position. Under the new accounting standards, issuers must include in condensed financial statements of interim periods issued to shareholders the following information about each reportable segment:

- Revenues from external customers;
- Intersegment revenues;
- A measure of segment profit or loss;
- Total assets for which there has been a material change from the amount disclosed in the last annual report;
- A description of differences from the last annual report in the basis of segmentation or in the basis of measurement of segment profit or loss; and
- A reconciliation of the total of the reportable segments' measures of profit or loss to the enterprise's consolidated income before income taxes, extraordinary items, discontinued operations, and the cumulative effect of changes in accounting principles.[34]

Thus, for the first time, issuers must disclose in their interim financial statements, including those filed with the Commission, condensed financial information about the segments they have chosen as reportable segments for purposes of their annual reports. In making this change, the FASB explained:

> This statement [SFAS No. 131] requires disclosure of limited segment information in condensed financial statements that are included in quarterly reports to shareholders. * * * Statement 14 did not apply to those condensed financial statements because of the expense and the time required for producing segment information under Statement 14. A few respondents to the Exposure Draft said that reporting segment information in interim financial statements would be unnecessarily burdensome. However, users contended that, to be timely, segment information is needed more often than annually and that the difficulties of preparing it on an interim basis could be overcome by an approach like the one in this Statement. Managers of many enterprises agree and have voluntarily provided segment information for interim periods.
>
> The Board decided that the condensed financial statements in interim reports issued to shareholders should include disclosure of segment revenues from external customers, intersegment revenues, a measure of segment profit or loss, material changes in segment assets, differences in the basis of segmentation or the way segment profit or loss was measured in the previous annual period, and a reconciliation to the enterprise's total profit or loss. That decision is a compromise between the needs of users who want the same segment information for interim periods as that required in annual financial statements and the costs to preparers who must report the information. Users will have some key information on a timely basis. Enterprises should not incur significant incremental costs to provide the information because it is based on information that is used internally and therefore already available.[35]

SFAS No. 131 is effective for fiscal years beginning after December 15, 1997.[36] The FASB specified, however, that issuers need not apply the new provisions to interim financial statements in the initial year of application, but they must report comparative information for interim periods in that initial year in financial statements for interim periods in the second year of application.[37] Consequently, through the Rules of General Application of Regulation S–X, which state that financial statements not prepared in accordance with GAAP will be presumed to be misleading or inaccurate,[38] we expect to see comparative segment information reported in filings containing interim financial statements for periods ending on or after March 15, 1999. No changes to our rules are necessary to implement the FASB's changes in this regard.

III. General Request for Comment

The Commission is proposing these amendments to conform its disclosure requirements to GAAP, as modified by SFAS No. 131. Today we solicit public comments specifically addressing whether these proposed changes adequately address the new accounting standards. We also seek comment about whether other amendments are appropriate for that purpose.

We request comment on whether the proposed revisions, if adopted, would have an adverse effect on competition or would impose a burden on competition that is neither necessary nor appropriate in furthering the purposes of the Securities Act and the Exchange Act. We will consider these comments in complying with our responsibilities under Section 23(a)(2) of the Exchange Act.[39]

Section 2(b) of the Securities Act[40] and Section 3(f) of the Exchange Act[41] require the Commission, when engaged in rulemaking that requires a public interest finding, to consider, in addition to the protection of investors, whether

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[30] *See* SFAS No. 131, ¶ 38.

[31] The proposed changes would include eliminating Appendix B of Regulation S–K Item 101, which illustrates how to present the currently-required information. We also would revise Instruction 2 to Item 101, which provides guidance about materiality analyses based on "interperiod comparability," to reflect the elimination of the requirements to disclose the quantitative geographic information once required by SFAS No. 14.

[32] SFAS No. 30 amended SFAS No. 14 and retained this provision to disclose revenues from major customers.

[33] 17 CFR 229.101(c)(1)(vii).

[34] *See* SFAS No. 131¶ 33. The FASB also amended Accounting Principles Board Opinion No. 28 ("APB No. 28"), governing interim financial reporting, to reflect this change. The stated purpose of APB No. 28 is "to clarify the application of accounting principles and reporting practices to interim financial information, including interim financial statements and summarized interim financial data of publicly traded companies issued for external reporting purposes." APB No. 28 ¶ 1.

[35] SFAS No. 131 ¶ 98 and ¶ 99.

[36] SFAS No. 131 ¶ 40.

[37] *Id.*

[38] *See* 17 CFR 210.4–01(a)(1).

[39] 15 U.S.C. 78w(a)(2).

[40] 15 U.S.C. 77b(b).

[41] 15 U.S.C. 78c(f).

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the action will promote efficiency, competition and capital formation. Therefore, we solicit comment on what effect the proposed changes, if adopted, may have on efficiency, competition and capital formation.

Please send three copies of your comment letter to Jonathan G. Katz, Secretary, U.S. Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Interested persons also may submit comments electronically at the following e-mail address: rule-comments@sec.gov. All comment letters should refer to File No. S7–17–98; please include this file number in the subject line if you use e-mail. Anyone can inspect and copy the comment letters in our public reference room at 450 Fifth Street, N.W., Washington, D.C. 20549. We will post electronically submitted comment letters on our Internet Web Site (www.sec.gov).

IV. Cost-Benefit Analysis

We anticipate that these proposals, if adopted, would not impose any new regulatory costs on registrants, since the changes would simply conform our disclosure requirements with current accounting principles, to which registrants are already subject. To the contrary, if we do not act to conform our rules to the revised accounting standards, costs will rise because of the confusion registrants might experience in determining which set of standards to apply to their disclosure documents, the standards under SFAS No. 14, as currently codified in Commission rules, or the revised standards of SFAS No. 131. Some registrants may determine to resolve the conflict by producing and providing both sets of information. This duplicative disclosure would be a wasteful expenditure of business resources that we could avoid by the adopting the changes proposed today. Commenters should address the costs and benefits of the proposals, and provide supporting empirical data for any positions advanced.

V. Summary of Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act,[42] Arthur Levitt, Chairman of the Commission, certified that the amendments proposed in this release would not, if adopted, have significant impact on a substantial number of small entities. The reason for this certification is that the proposed amendments are intended to conform rules and forms to GAAP, as recently amended, to which registrants are already subject. We include the Certification in this release as Attachment A and encourage written comments relating to it. Commenters should describe the nature of any impact on small entities and provide empirical data to support the extent of the impact.

VI. Paperwork Reduction Act[43]

We anticipate that information collection burden hours would not change as a result of the technical amendments we propose today.

VII. Codification Update

The "Codification of Financial Report Policies" announced in Financial Reporting Release No. 1 (April 15, 1982) [47 FR 21028] is proposed to be updated to:

1. Modify Section 501 by revising Section 501.06.a. to read as follows:

a. Segment Analysis

In formulating a judgment as to whether a discussion of segment information is necessary to an understanding of the business, a multi-segment registrant preparing a full fiscal year MD&A should analyze revenues, profitability, and the cash needs of its significant segments.[44] To the extent any segment contributes in a materially disproportionate way to those items, or where discussion on a consolidated basis would present an incomplete and misleading picture of the enterprise, segment discussion should be included. This may occur, for example, when there are legal or other restrictions upon the free flow of funds from one segment, subsidiary, or division of the registrant to others; when known trends, demands, commitments, event, or uncertainties within a segment are reasonably likely to have a material effect on the business as a whole; when the ability to dispose of identified assets of a segment may be relevant to the financial flexibility of the registrant; and in other circumstances in which the registrant concludes that segment analysis is appropriate to an understanding of its business.

The following example illustrates segment disclosure for a manufacturer with two segments. The two segments contributed to segment profit amounts that were disproportionate to their respective revenues. The registrant discusses sales and segment profit trends, factors explaining such trends, and where applicable, known events that will impact future results of operations of the segment.

NET SALES BY SEGMENT

Segments	Year 3			Year 2		Year 1
	($ million)	Percent of total	($ million)	Percent of total	($ million)	Percent of total
Segment I	585	55	479	53	420	48
Segment II	*472*	*45*	*433*	*47*	*457*	*52*
Total Sales	1057	100	912	100	877	100

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[42] 5 U.S.C. 605(b).

[43] 44 U.S.C. 3501 *et seq.*

[44] Where consistent with the registrant's internal management reports, SFAS No. 131 permits measures of segment profitability that differ from GAAP measures of profit on a consolidated basis, or that exclude items included in the determination of the registrant's net income. In a note to the financial statements, however, the registrant must reconcile key segment amounts to the corresponding items reported in the consolidated financial statements. Similarly, the Commission expects that the discussion of a segment whose profitability is determined on a basis that differs from GAAP on a consolidated basis or that excludes the effects of items attributable to the segment also will address the applicable reconciling items. For example, if a material charge for restructuring or asset impairment relates to a specific segment, but is not included in management's measure of the segment's operating profit or loss, registrants would be expected to disclose the applicable portion of the charge and the circumstances of its incurrence. Likewise, the Commission expects that the effects of management's use of non-GAAP measures will be explained in a balanced and informative manner, and the disclosure will include a discussion of how that segment's performance has affected the registrant's GAAP financial statements.

Year 3 vs. Year 2

Segment I sales increased 22% in Year 3 over the Year 2 period. The increase included the effect of the acquisition of Corporation T. Excluding this acquisition, sales would have increased by 16% over Year 2. Product Line A sales increased by 18% due to a 24% increase in selling prices, partially offset by lower shipments. Product Line B sales increased by 35% due to a 17% increase in selling prices and a 15% increase in shipment volume.

Segment II sales increased 9% due to a 12% increase in selling prices partly offset by a 3% reduction in shipment volume.

Year 2 vs. Year 1

Segment I sales increased 14% in Year 2. Product Line A sales increased 22%, in spite of a slight reduction in shipments, because of a 23% increase in selling prices.

Product Line B sales declined 5% due mainly to a 7% decrease in selling prices, partially offset by higher shipments.

The 5% decline in Segment II sales reflected a 3% reduction in selling prices and a 2% decline in shipments.

The substantial increases in selling prices of Product Line A during Year 3 and Year 2 occurred primarily because of heightened worldwide demand which exceeded the industry's production capacity. The Company expects these conditions to continue for the next several years. The Company anticipates that shipment volumes of Product Line A will increase as its new production facility reaches commercial production levels in Year 4.

Segment II shipment volumes have declined during the past two years primarily because of the discontinuation of certain products that were marginally profitable and did not have significant growth potential.

PROFIT BY SEGMENT

Segments	Year 3			Year 2		Year 1
	($ million)	Percent of total	($ million)	Percent of total	($ million)	Percent of total
Segment I	126	75	108	68	67	55
Segment II	42	25	51	32	54	45
Segment Profit	168	100	159	100	121	100

Year 3 vs. Year 2

Segment I profit was $18 million (17%) higher in Year 3 than in Year 2. This increase includes the effects of higher sales prices and slightly improved margins on Product Line A, higher shipments of Product Line B and the acquisition of Corporation T. Excluding this acquisition, Segment I profit would have been 11% higher than in Year 2. Partially offsetting these increases are costs and expenses of $11 million related to new plant start-up, slightly reduced margins on Product Line B and a $9 million increase in research and development expenses.

Segment II profit declined $9 million (18%) due mainly to substantially higher costs in Year 3 resulting from a 23% increase in average raw material costs which could not be fully recovered through sales prices increases. The Company expects that Segment II margins will continue to decline, although at a lesser rate than in Year 3 as competitive factors limit the Company's ability to recover cost increases.

Year 2 vs. Year 1

Segment I profit was $41 million (61%) higher in Year 2 than in Year 1. After excluding the effect of the $34 million non-recurring charge for the early retirement program in Year 1, Segment I profit in Year 2 was $18 million (27%) higher than in Year 1. This increase reflected higher prices and a corresponding 21% increase in margins on Product Line A, and a 17% increase in margins on Product Line B due primarily to costs reductions resulting from the early retirement program.

Segment II profit declined about $3 million (6%) due mainly to lower selling prices and slightly reduced margins in Year 2.

2. Replace paragraphs .01, .02 and .03 of Section 503 with new paragraph .01, to include the text of Section I of this release captioned "Background" and with new paragraph .02 to include the text of Section II.B.2 of this release captioned "Major Customers."

The Codification is a separate publication of the Commission. It will not be published in the Code of Federal Regulations.

VIII. Statutory Basis

The Commission proposes the rule changes explained in this release pursuant to Sections 6, 7, 8, 10 and 19(a) of the Securities Act and Sections 3, 12, 13, 14, 15(d) and 23(a) of the Exchange Act.

List of Subjects in 17 CFR Parts 210, 229, 240 and 249

Accounting, Registration requirements, Reporting and recordkeeping requirements, Securities.

Text of the Proposals

Accordingly, the Commission proposes to amend Title 17, Chapter II of the Code of Federal Regulations as follows:

PART 210—FORM AND CONTENT OF AND REQUIREMENTS FOR FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, INVESTMENT COMPANY ACT OF 1940, AND ENERGY POLICY AND CONSERVATION ACT OF 1975

1. The authority citation for part 210 continues to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77z–2, 77aa(25), 77aa(26), 78j–1, 78*l*, 78m, 78n, 78o(d), 78u–5, 78w(a), 78*ll*(d), 79e(b), 79j(a), 79n, 79t(a), 80a–8, 80a–20, 80a–29, 80a–30, 80a–37(a), unless otherwise noted.

2. By amending Section 210.3–03 by revising the first sentence of paragraph (e) to read as follows:

§ 210.3–03 Instructions to income statement requirements.

* * * * *

(e) Disclosures regarding segments required by generally accepted accounting principles shall be provided for each year for which an audited statement of income is provided. * * *

3. By amending § 210.12–16 by revising footnote one to the table to read as follows:

§ 210.12–16 Supplementary insurance information.

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[1] Segments shown should be the same as those presented in the footnote disclosures called for by generally accepted accounting principles.

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PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934 AND ENERGY POLICY AND CONSERVATION ACT OF 1975—REGULATION S–K

4. The authority citation for part 229 continues to read in part as follows:

Authority: 15 U.S.C. 77e, 77f, 77g, 77h, 77j, 77k, 77s, 77z–2, 77aa(25), 77aa(26), 77ddd, 77eee, 77ggg, 77hhh, 77iii, 77jjj, 77nnn, 77sss, 78c, 78i, 78j, 78*l*, 78m, 78n, 78o, 78u–5, 78w, 78*ll*(d), 79e, 79n, 79t, 80a–8, 80a–29, 80a–30, 80a–37, 80b–11, unless otherwise noted.

* * * * *

5. By amending § 229.101 (Item 101 of Regulation S–K) by revising the introductory text of paragraph (b), paragraph (b)(1) and paragraph (d); in paragraphs (c)(1) introductory text, (c)(1)(i), (c)(1)(ii), (c)(1)(iv), and (c)(1)(v), by revising the term "industry segment" to read "segment"; in paragraph (c)(1) introductory text and in Instruction 1 in the Instructions to Item 101, by revising the term "industry segments" to read "segments"; by revising Instruction 2 to Item 101, and by removing Appendix A—Industry Segments, and Appendix B—Foreign and Domestic Operations and Export Sales.

§ 229.101 (Item 101) Description of business.

* * * * *

(b) *Financial information about segments.* Report for each segment, as defined by generally accepted accounting principles, revenues from external customers, a measure of profit or loss and total assets. A registrant must report this information for each of the last three fiscal years or for as long as it has been in business, whichever period is shorter. If the information provided in response to this paragraph (b) conforms with generally accepted accounting principles, a registrant may include in its financial statements a cross reference to this data in lieu of presenting duplicative information in the financial statements; conversely, a registrant may cross reference to the financial statements.

(1) If a registrant changes the structure of its internal organization in a manner that causes the composition of its reportable segments to change, the registrant must restate the corresponding information for earlier periods, including interim periods, unless it is impracticable to do so. Following a change in the composition of its reportable segments, a registrant shall disclose whether it has restated the corresponding items of segment information for earlier periods. If it has not restated the items from earlier periods, the registrant shall disclose in the year in which the change occurs segment information for the current period under both the old basis and the new basis of segmentation, unless it is impracticable to do so.

* * * * *

(d) *Financial information about geographic areas.* (1) State for each of the registrant's last three fiscal years, or for each fiscal year the registrant has been engaged in business, whichever period is shorter:

(i) Revenues from external customers attributed to:

(A) The registrant's country of domicile;

(B) All foreign countries, in total, from which the registrant derives revenues; and

(C) Any individual foreign country, if material. Disclose the basis for attributing revenues from external customers to individual countries.

(ii) Long-lived assets, other than financial instruments, long-term customer relationships of a financial institution, mortgage and other servicing rights, deferred policy acquisition costs, and deferred tax assets, located in:

(A) The registrant's country of domicile;

(B) All foreign countries, in total, in which the registrant holds assets; and

(C) Any individual foreign country, if material.

(2) A registrant shall report the amounts based on the financial information that it uses to produce the general-purpose financial statements. If providing the geographic information is impracticable, the registrant shall disclose that fact. A registrant may wish to provide, in addition to the information required by paragraph (d)(1) of this section, subtotals of geographic information about groups of countries. To the extent that the disclosed information conforms with generally accepted accounting principles, the registrant may include in its financial statements a cross reference to this data in lieu of presenting duplicative data in its financial statements; conversely, a registrant may cross-reference to the financial statements.

(3) A registrant shall describe any risks attendant to the foreign operations and any dependence on one or more of the registrant's segments upon such foreign operations, unless it would be more appropriate to discuss this information in connection with the description of one or more of the registrant's segments under paragraph (c) of this section.

(4) If the registrant includes, or is required by Article 3 of Regulation S–X (17 CFR 210), to include, interim financial statements, discuss any facts relating to the information furnished under this paragraph (d) that, in the opinion of management, indicate that the three year financial data for geographic areas may not be indicative of current or future operations. To the extent necessary to the discussion, include comparative information.

Instructions to Item 101

* * * * *

2. Base the determination of whether information about segments is required for a particular year upon an evaluation of interperiod comparability. For instance, interperiod comparability would require a registrant to report segment information in the current period even if not material under the criteria for reportability of SFAS No. 131 if a segment has been significant in the immediately preceding period and the registrant expects it to be significant in the future.

* * * * *

6. By amending § 229.102 by revising the term "Industry segment(s)" in the introductory paragraph to read "segment(s)".

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

7. The authority citation for part 240 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78f, 78i, 78j, 78j–1, 78k, 78k–1, 78*l*, 78m, 78n, 78o, 78p, 78q, 78s, 78u–5, 78w, 78x, 78*ll*(d), 78mm, 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

§ 240.14a–101 [Amended]

8. By amending § 240.14a–101(Schedule 14A) in Item 14(b)(2)(ii)(A)(*3*)(*i*) by revising the phrase "industry segments" to read "segments".

PART 249—FORM, SECURITIES EXCHANGE ACT OF 1934

9. The authority citation for part 249 continues to read in part as follows:

Authority: 15 U.S.C. 78a, *et seq.*, unless otherwise noted:

* * * * *

10. By amending Form 20–F (referenced in § 249.220f) by removing

the term "SFAS 14" from Instruction 3 to Item 17 and inserting the term "SFAS No. 131" in its place.

[**Note:** The text of Form 20–F does not, and the amendment will not, appear in the Code of Federal Regulations]

Dated: June 25, 1998.

By the Commission.

Margaret H. McFarland,
Deputy Secretary.

Attachment A—Regulatory Flexibility Act Certification

(**Note:** Attachment A to the Preamble will not appear in the Code of Federal Regulations)

I, Arthur Levitt, Chairman of the Securities and Exchange Commission, hereby certify pursuant to 5 U.S.C. 605(b) that the proposed amendments to certain rules, forms and policies contained in Securities Act Release No. 33–7549, if adopted, will not have a significant economic impact on a substantial number of small entities. The amendments will conform Commission rules with accounting standards recently adopted by the Financial Accounting Standards Board. Since registrants are already subject to these standards, the proposed amendments would not impose any new burden on them.

June 24, 1998

Arthur Levitt,
Chairman.

[FR Doc. 98–17432 Filed 6–30–98; 8:45 am]

BILLING CODE 8010-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 48

[REG–119227–97]

RIN 1545–AV71

Kerosene Tax; Aviation Fuel Tax; Tax on Heavy Trucks and Trailers

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Proposed rule, notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations relating to the kerosene and aviation fuel excise taxes and the tax on the first retail sale of certain tractors, truck, trailer, and semitrailer chassis and bodies. The text of those temporary regulations also serves as the text of these proposed regulations.

DATES: Written comments must be received by September 29, 1998. Requests to speak and outlines of oral comments to be discussed at the public hearing scheduled for Wednesday, November 4, 1998, must be received by September 29, 1998.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG–119227–97), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8:00 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG–119227–97), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at http://www.irs.ustreas.gov/prod/tax__regs/comments.html. The public hearing will be held in the IRS Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Frank Boland (202) 622–3130; concerning submissions and the hearing, LaNita VanDyke (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, OP:FS:FP, Washington, DC 20224. Comments on the collection of information should be received by August 31, 1998. Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the Internal Revenue Service, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information (see below);

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs of operation, maintenance, and purchase of services to provide information.

The collection of information in this notice of proposed rulemaking is in §§ 48.4052–1, 48.4082–7(a), 48.4082–8(e), 48.4091–3(c), 48.4101–2(a)(4), 48.4101–3(d), and 48.6427–11. This information is required to support exempt transactions and to inform consumers of the type of fuel that is being purchased. The likely respondents are businesses and other for-profit organizations.

Estimated total annual reporting burden: 3,340 hours.

The estimated annual burden per respondent varies from .20 hours to 1 hour, depending on individual circumstances, with an estimated average of .29 hour.

Estimated number of respondents: 11,600.

Estimated annual frequency of responses: On occasion.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

Temporary regulations published in the Rules and Regulations section of this issue of the **Federal Register** provide rules relating to the kerosene tax, certain aviation fuel tax refunds allowed by section 4091(d), and registration requirements for certain heavy vehicle manufacturers and retailers. The text of those regulations also serves as the text of these proposed regulations relating to kerosene. The preamble to the temporary regulations explains the temporary regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these

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regulations. It is hereby certified that the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based upon the fact that the time required to prepare and submit the exemption certificates described in these regulations (many of which are similar to certificates that are already in use) is minimal and will not have a significant impact on those small entities that choose to provide the certificates. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted (in the manner described in the ADDRESSES caption) timely to the IRS. All comments will be available for public inspection and copying.

A public hearing has been scheduled for Wednesday, November 4, 1998, at 10 a.m. in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington DC. Because of access restrictions, visitors will not be admitted beyond the Internal Revenue Building lobby more than 15 minutes before the hearing starts.

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons that wish to present oral comments at the hearing must submit comments by September 29, 1998 and submit an outline of the topics to be discussed and the time to be devoted to each topic by September 29, 1998.

A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is Frank Boland, Office of the Assistant Chief Counsel (Passthroughs and Special Industries), IRS. However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 48

Excise taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 48 is proposed to be amended as follows:

PART 48—MANUFACTURERS AND RETAILERS EXCISE TAXES

Paragraph 1. The authority citation for part 48 is amended by adding entries in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 48.4052–1 also issued under 26 U.S.C. 4052 * * *

Sections 48.4082–6, 48.4082–7, and 48.4082–8 also issued under 26 U.S.C. 4082 * * *

Section 48.4101–3 also issued under 26 U.S.C. 4101(a) * * *

Sections 48.6427–10 and 48.6427–11 also issued under 26 U.S.C. 6427(n) * * *

Par. 2. In subpart H, § 48.4052–1 is added to read as follows:

§ 48.4052–1 Special rule.

After June 30, 1998, the sale of an article is a taxable sale unless the seller has in good faith accepted from the purchaser a statement that the purchaser executed in good faith and that is in substantially the same form as the certificate described in § 145.4052–1(a)(6) of this chapter, except that the statement must be signed under penalties of perjury and need not include a registration number.

Par. 3. Section 48.4081–1 is amended as follows:

1. Paragraph (b) is amended by adding the definition of kerosene.

2. Paragraph (d) is revised.

The addition and revision read as follows:

§ 48.4081–1 Taxable fuel; definitions.

* * * * *

(b) * * *

Kerosene means—

(1) The two grades of kerosene (No. 1–K and No. 2–K) described in ASTM Specification D 3699; and

(2) Kerosene-type jet fuel described in ASTM Specification D 1655 and military specifications MIL–T–5624R and MIL–T–83133D (Grades JP–5 and JP–8). For availability of ASTM and military specification material, see § 48.4081–1(c)(2)(i).

* * * * *

(d) *Effective date.*

(1) Except as provided in paragraph (d)(2) of this section, this section is applicable January 1, 1994.

(2) In paragraph (b) of this section—

(i) The definition of aviation gasoline and the third sentence in the definition of terminal are applicable January 2, 1998; and

(ii) The definition of kerosene is applicable July 1, 1998.

Par. 4. Sections 48.4082–6, 48.4082–7, 48.4082–8, 48.4082–9 and 48.4082–10 are added to read as follows:

§ 48.4082–6 Kerosene; treatment as diesel fuel in certain cases.

[The text of this proposed section is the same as the text of § 48.4082–6T published elsewhere in this issue of the **Federal Register**.]

§ 48.4082–7 Kerosene; notice required with respect to dyed kerosene.

[The text of this proposed section is the same as the text of § 48.4082–7T published elsewhere in this issue of the **Federal Register**.]

§ 48.4082–8 Kerosene; exemption for aviation-grade kerosene.

[The text of this proposed section is the same as the text of § 48.4082–8T published elsewhere in this issue of the **Federal Register**.]

§ 48.4082–9 Kerosene; exemption from non-fuel feedstock purposes.

[The text of this proposed section is the same as the text of § 48.4082–9T published elsewhere in this issue of the **Federal Register**.]

§ 48.4082–10 Kerosene; additional exemption from floor stocks tax.

[The text of this proposed section is the same as the text of § 48.4082–10T published elsewhere in this issue of the **Federal Register**.]

Par. 5. Section 48.4091–3 is added to read as follows:

§ 48.4091–3 Aviation fuel; conditions to allowance of refunds of aviation fuel tax under section 4091(d).

[The text of this proposed section is the same as the text of § 48.4091–3T published elsewhere in this issue of the **Federal Register**.]

Par. 6. Section 48.4101–2 is amended by adding paragraph (a)(4) to read as follows:

§ 48.4101–2 Information reporting.

(a) * * *

(4) *Registered aviation fuel producers.*

[The text of this proposed paragraph is the same as the text of § 48.4101–2T(a)(4) published elsewhere in this issue of the **Federal Register**].

§ 48.6427–10 Claims with respect to kerosene.

[The text of this proposed section is the same as the text of § 48.6427–10T published elsewhere in this issue of the **Federal Register**.]

§ 48.6427–11 Special rules for claims by registered ultimate vendors of kerosene (blocked pump).

[The text of this proposed section is the same as the text of § 48.6427–11T published elsewhere in this issue of the **Federal Register**.]

Michael P. Dolan,

Deputy Commissioner of Internal Revenue.

[FR Doc. 98–17389 Filed 6–26–98; 2:02 pm]

BILLING CODE 4830–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN84–1b; FRL–6114–9]

Approval and Promulgation of Implementation Plan; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On July 9, 1997, the State of Indiana submitted a State Implementation Plan (SIP) revision request to the United States Environmental Protection Agency for rule changes specific to the power plant at the University of Notre Dame located in Saint Joseph County, Indiana. The submittal provides for revised limits on particulate matter (PM) emissions from 5 boilers. The revised limits are less stringent, overall, than the limits in the current SIP. Air quality modeling has been conducted which shows that the National Ambient Air Quality Standards (NAAQS) will still be protected under the new regulations. The EPA is proposing to approve this request. In the final rules section of this **Federal Register**, the EPA is approving the State's requests as a direct final rule without prior proposal because EPA views this action as noncontroversial and anticipates no adverse comments. A detailed rationale for approving the State's request is set forth in the direct final rule. The direct final rule will become effective without further notice unless the Agency receives relevant adverse written comments on this proposed rule. Should the Agency receive such comment, it will publish a final rule informing the public that the direct final rule did not take effect and such public comment received will be addressed in a subsequent final rule based on this proposed rule. If no adverse written comments are received, the direct final rule will take effect on the date stated in that document and no further activity will be taken on this proposed rule. EPA does not plan to institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments on this proposed rule must be received on or before July 31, 1998.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal are available for inspection at: Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: David Pohlman, Environmental Scientist, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–3299.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: June 11, 1998.

David A. Ullrich,

Acting Regional Administrator, Region V.

[FR Doc. 98–17379 Filed 6–30–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX98–1–7366; FRL–6117–4]

Approval and Promulgation of Air Quality State Implementation Plans, Texas; Recodification of, and Revisions to the State Implementation Plan; Chapter 114

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes approval in this action the recodification of and revision to the Texas State Implementation Plan (SIP) for 30 TAC Chapter 114, "Control of Air Pollution from Motor Vehicles." This revision was submitted by the Governor on November 20, 1997, to reformat and renumber existing state Chapter 114 sections into seven new subchapters (A through G) without substantial technical changes.

In the final rules section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn, and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

Please see the direct final rule of this action located elsewhere in today's **Federal Register** for a detailed description of the recodification and revision to 30 TAC Chapter 114.

DATES: Comments on this proposed rule must be postmarked by July 31, 1998.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

Copies of the documents about this action are available for public inspection during normal business hours at the above and following location. Persons interested in examining these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

Texas Natural Resource Conservation Commission, 2100 Park 35 Circle, Austin, Texas 78711–3087.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Scoggins, Air Planning Section (6PD–L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7354 or via e-mail at scoggins.paul@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the above Region 6 address.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final action of the same title which is published in the Rules and Regulations section of this **Federal Register**.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by

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reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: June 9, 1998.

Jerry Clifford,

Regional Administrator, Region 6.

[FR Doc. 98–17382 Filed 6–30–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL163–1b; FRL–6119–1]

Approval and Promulgation of State Implementation Plan; Illinois

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: USEPA is proposing to approve the October 10, 1997, Illinois Environmental Protection Agency (IEPA) request that USEPA change the regulatory status for Riverside Laboratories, Inc.''s (Riverside) Kane County facility, based on Riverside's current compliance with the applicable State Implementation Plan (SIP) rule. In the final rules section of this **Federal Register**, the USEPA is approving the State's request as a direct final rule without prior proposal because USEPA views this action as noncontroversial and anticipates no adverse comments. A detailed rationale for approving the State's request is set forth in the direct final rule. The direct final rule will become effective without further notice unless US EPA receives relevant adverse written comments or a request for a public hearing on this proposed rule. Should USEPA receive such comment, it will publish a final rule informing the public that the direct final rule did not take effect and such public comment received will be addressed in a subsequent final rule based on this proposed rule. If no adverse written comments or request for a public hearing are received, the direct final rule will take effect on the date stated in that document and no further activity will be taken on this proposed rule. USEPA does not plan to institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments or a request for a public hearing on this proposed rule must be received on or before July 31, 1998.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal are available for inspection at: Regulation Development Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Steven Rosenthal, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6052.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the final rules section of this **Federal Register**.

Dated: June 25, 1998.

Carol M. Browner,

Administrator.

[FR Doc. 98–17518 Filed 6–30–98; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL MARITIME COMMISSION

46 CFR Parts 502, 503, 510, 514, 540, 572, 585, 587 and 588

[Docket No. 98–09]

Update of Existing and Addition of New Filing and Service Fees

AGENCY: Federal Maritime Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Maritime Commission (''Commission'') proposes to revise its existing fees filing petitions, complaints, and special docket application; various public information services, such as record searches, document coping and admissions to practice; filing freight forwarder applications; various ATFI related services; passenger vessel performance and casualty certificate applications; and agreements. This proposal will update existing fees to reflect current costs to the Commission. In addition, the Commission proposes to add three new fees for: the publication of the Regulated Persons Index (''RPI'') on diskette, the application to amend a passenger vessel operators' Certification of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation and Cetification of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages (''Certificates'') for the addition or substitution of a vessel to the applicant's fleet, and the agency's review of corrections of clerical errors in service contracts, as requested by parties to a service contract.

DATES: Comments due July 31, 1998.

ADDRESSES: Comments (Original and fifteen copies) to: Joseph C. Polking, Secretary, Federal Maritime Commission, 800 North Capitol Street, N.W., Washington, D.C. 20573–0001.

FOR FURTHER INFORMATION CONTACT: Sandra L. Kusumoto, Director, Bureau of Administration, Federal Maritime Commission, 800 North Capitol Street, N.W., Washington, D.C. 20573–0001, (202) 523–5866, E-mail: sandrak@fmc.gov.

SUPPLEMENTARY INFORMATION: The Commission is authorized under the Independent Offices Appropriation Act (''IOAA''), 31 U.S.C. § 9701 (1983), to establish fees for services and benefits that it provides to specific recipients. The IOAA provides that each service or thing of value provided by an agency to a person by self-sustaining to the extent possible, and that each charge shall be fair and based on the costs to the Government, the value of the service or thing to the recipient, policy or interest served, and other relevant facts. 31 U.S.C. § 9701.

The primary guidance for implementation of IOAA is Office of Management and Budget (''OMB'') Circular A–25, as revised July 8, 1993. OMB Circular A–25 requires that a reasonable charge be made to each recipient for a measurable unit or amount of Government Service from which the recipient derives a benefit, in order that the Government recover the full cost of rendering that service.

OMB Circular A–25 further provides that costs be determined or estimated from the best available records in the agency, and that cost computations shall cover the direct and indirect costs to the Government of carrying out the activity, including but not limited to: (a) Direct and indirect personnel costs, including salaries and fringe benefits such as medical insurance and retirement. (b) Physical overhead, consulting, and other indirect costs including material and supply costs, utilities, insurance, travel and rent. (c) The management and supervisory costs. (d) The costs of enforcement, collection, research, establishment of standards, and regulations, including any required environmental impact statements.

OMB Circular A–25, paragraphs 6d (a), (b), (c), and (d).

OMB Circular A–25 also calls for a periodic reassement of costs, with related adjustments of fees, if necessary, and the establishment of new fees where none exist.

The Commission's current filing and service fees have been in effect since 1995. The fees established at that time are no longer representative of the Commission's actual costs for providing such services. The proposed fees include, among other costs, salary increases for several years. The Commission, accordingly, proposes to update its fees to reflect current costs to the Commission.

The Commission proposes the elimination of several fees. The Commission proposes the deletion of fees associated with the provision of subscription services. These services will be discontinued because of diminished public demand for them and because most of the information can be found on the Internet, the Commission's website or requested from the Office of the Secretary on an ad hoc basis. Some fees associated with ATFI Subscriber Tapes have been eliminated in accordance with Docket No. 95–13, *Automated Tariff Filing and Information System*. (60 FR 56122, November 7, 1995).

The Commission also proposes three new user fees for: the provision of the RPI on diskette, the issuance of Pub. L. 89–777 Certificates to add or substitute a vessel to the applicant's fleet, and the agency's review of corrections of clerical errors in service contracts, as requested by parties to a service contract under 46 CFR § 514.7(k)(2). Provisions of Parts 585, 587, and 588 are proposed to be amended to clarify that fees governing the filing of petitions are applicable.

The Commission has reviewed its current fees and developed data on the time and cost involved in providing particular services to arrive at the updated direct labor costs for those services. The direct labor costs include clerical, professional, supervisory, and executive time expended on an activity, plus a check processing cost of $1.40. The indirect costs include Government overhead costs, which are fringe benefits and other wage-related Government contributions in OMB Circular A–76[1] Commission general and administrative expenses[2] and office general and administrative overhead expenses.[3] The sum of these indirect cost components gives an indirect cost factor that is added to the direct labor costs of an activity to arrive at the fully distributed cost.

All current fees, except as noted, are being revised to reflect the higher costs to the Commission in providing its services. A detailed summary of the data used to arrive at the proposed fees is available from the Secretary of the Commission upon written request.

The Commission intends to update its fees biennially in keeping with OMB guidance. In updating its fees, the Commission will incorporate changes in the salaries of its employees into direct labor costs associated with its services, and recalculate its indirect costs (overhead) based on current level of costs.

The Commission has user fees currently in effect and the proposed fee increases primarily reflect the increases in salary and indirect (overhead) costs. For some services, the increase in processing or review time accounts for the increase in the level of proposed fees.

The Chairman of the Commission hereby certifies that these proposed fees will not have a significant economic impact on a substantial number of small entities. The Commission recognizes that these proposed revisions may have some impact on the shipping industry. Fees collected from the general public for Commission information recover the cost to the Commission for providing specific services. Fees for filing petitions, formal and informal complaints, and special dockets, in the Commission's view, do not impose an undue burden nor have a chilling effect on filers. Furthermore, Commission regulations provide for waiver of fees for those entities that can make the required showing of undue hardship. 46 C.F.R. § 503.41.

This proposed rule does not contain any collection of information requirements as defined by the Paperwork Reduction Act of 1980, as amended. Therefore, OMB review is not required.

List of Subjects

46 CFR Part 502

Administrative practice and procedure, Claims, Equal Access to Justice, Investigations, Lawyers, and Reporting and record keeping requirements.

46 CFR Part 503

Classified information, Freedom of Information, Privacy, and Sunshine Act.

46 CFR Part 510

Freight forwarders, Maritime carriers, Reporting and record keeping requirements, and Surety bonds.

46 CFR Part 514

Freight, Harbors, Maritime carriers, and Reporting and record keeping requirements.

46 CFR Part 540

Insurance, Maritime carriers, Penalties, Reporting and record keeping requirements, and Surety bonds.

46 CFR Part 572

Administrative practice and procedure, Freight, Maritime carriers, and Reporting and record keeping requirements.

46 CFR Part 585

Administrative practice and procedure, Maritime carriers.

46 CFR Part 587

Administrative practice and procedure, Maritime carriers.

46 CFR Part 588

Administrative practice and procedure, Investigations, Maritime carriers.

Pursuant to 5 U.S.C. 553, the Independent Offices Appropriations Act, 31 U.S.C. § 9701, and section 17 of the Shipping Act of 1984, 46 U.S.C. app. § 1716, the Commission proposes to amend title 46 of the Code of Federal Regulations as follows:

PART 502—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for Part 502 continues to read as follows:

Authority: 5 U.S.C. 504, 551, 552, 553, 556(c), 559, 561–569, 571–596; 12 U.S.C. 1141j(a); 18 U.S.C. 207; 26 U.S.C. 501(c)(3); 28 U.S.C. 2112(a); 31 U.S.C. 9701; 46 U.S.C. app. 817, 820, 826, 841a 1114(b), 1705, 1707–1711, 1713–1716; E.O. 11222 of May 8, 1965 (30 FR 6469); 21 U.S.C. 853a; and Pub. L. 88–777 (46 U.S.C. app. 817d, 817e).

2. The fourth sentence of § 502.51 is revised to read as follows:

Subpart D—Rulemaking

§ 502.51 Petition for issuance, amendment, or repeal of rule.

* * * Petitions shall be accompanied by remittance of a $177 filing fee.

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[1] These include leave and holidays, retirement, worker's compensation, awards, health and life insurance, and Medicare. These are expressed as a percentage of basic pay.

[2] These costs include all salaries and overhead, such as rent, utilities, supplies and equipment, allocated to the Offices of the Commissioner, Managing Director, General Counsel, and the Bureau of Administration. The percentage of these costs to the total agency budget is allocated across all Commission programs.

[3] These expenses are limited to the overhead expenses allocated to those bureau and offices involved in fee-generating activities, and is derived from dividing allocated overhead expenses by the total funding for these fee-generated offices.

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Subpart E—Proceedings; Pleadings; Motions; Replies

3. Section 502.62(f) is revised to read as follows:

§502.62 Complaints and fee.

* * * * *

(f) The complaint shall be accompanied by remittance of a $184 filing fee.

* * * * *

4. Section 502.68(a)(3) is revised to read as follows:

§ 502.68 Declaratory orders and fee.

(a) * * *

(3) Petitions shall be accompanied by remittance of a $177 filing fee.

* * * * *

5. Section 502.69(b) is revised to read as follows:

§ 502.69 Petitions-general and fee.

* * * * *

(b) Petitions shall be accompanied by remittance of a $177 filing fee. [Rule 69.]

Subpart K—Shortened Procedure

6. The last sentence of § 502.182 is revised to read as follows:

§ 502.182 Complaint and memorandum of facts and arguments and filing fee.

* * * The complaint shall be accompanied by remittance of a $184 filing fee.

[Rule 182.]

Subpart U—Conciliation Service

7. The last sentence of § 502.404(a) is revised to read as follows:

§ 502.404 Procedure and fee.

(a) * * * The request shall be accompanied by remittance of a $69 service fee.

* * * * *

PART 503—PUBLIC INFORMATION

8. The authority citation for Part 503 is revised to read as follows:

Authority: 5 U.S. 552, 552a, 552b, 553; 31 U.S.C. 9701; E.O. 12958 of April 20, 1995 (60 FR 19825), sections 5.2(a) and (b).

§ 503.41 [Amended]

9. In § 503.41, Policy and services available, paragraph (b)(1) is removed, and paragraphs (b)(2) and (b)(3) are redesignated as (b)(1) and (b)(2).

10. In § 503.43, the first two sentences of paragraph (a)(8), paragraphs (c)(1) (i) and (ii), the first sentence of paragraph (c)(2), paragraph (c)(3)(ii) and (iii), paragraph (c)(4), paragraph (e) and paragraph (g) are revised; paragraphs (d), (f) and (h) are removed; revised paragraphs (e) and (g) are redesignated paragraphs (d) and (e); and paragraph (c)(3)(iv) is added to read as follows:

§ 503.43 Fees for services.

(a) * * *

(8) *Direct costs* means those expenditures which the agency actually incurs in searching for and duplicating (and in the case of commercial requester, reviewing) documents to respond to a Freedom of Information Act request. Direct costs include, for example, the salary of the employee performing the work (the basic rate of pay for the employee plus 17.5 percent of that rate to cover benefits and the cost of operating duplicating machinery.* * *

* * * * *

(c) * * *

(1) * * *

(i) Search will be performed by clerical/adminstrative personnel at a rate of $18.00 per hour and by professional/executive personnel at a rate of $35.00 per hour.

(ii) Minimum charge for record search is $18.00.

(2) Charges for review of records to determine whether they are exempt from disclosure under § 503.35 shall be assessed to recover full costs at the rate of $70.00 per hour.* * *

(3) * * *

(ii) By Commission personnel, at the rate of five cents per page (one side) plus $18.00 per hour.

(iii) Minimum charge for copying is $4.50.

(iv) No charge will be made by the Commission for notices, decisions, orders. etc., required by law to be served on a party to any proceeding or matter before the Commission. No charge will be made for single copies of such Commission issuances individually requested in person or by mail.

(4) The certification and validation (with Federal Maritime Commission seal) of documents filed with or issued by the Commission will be available at $55.00 for each certification.

(d) To have one's name and address placed on the mailing list of a specific docket as an interested party to receive all issuance pertaining to the docket: $8 per proceeding.

(e) Applications for admission to practice before the Commission for persons not attorneys at law must be accompanied by a fee of $86 pursuant to § 502.27 of the chapter.

Subpart G—Access to Any Record of Identifiable Personal Information

11. In § 503.63, the introductory texts of paragraphs (b) and (c) are revised to read as follows:

§ 503.63 Request for information.

* * * * *

(b) Any individual requesting such information in person shall personally appear at the Office of the Secretary, Federal Maritime Commission, 800 North Capitol Street, NW, Washington, DC 20573 and shall:

* * * * *

(c) Any individual requesting such information by mail shall address such request to the Secretary, Federal Maritime Commission, 800 North Capitol Street, NW, Washington, DC 20573 and shall include in such request the following:

* * * * *

12. In § 503.65, the introductory text of paragraph (b)(1) and paragraph (b)(2) are revised to read as follows:

§ 503.65 Request for access to records.

* * * * *

* * *

(1) Any individual making such request in person shall do so at the Office of the Secretary, Federal Maritime Commission, 800 North Capitol Street, NW, Washington, DC 20573 and shall:

* * * * *

(2) Any individual making a request for access to records by mail shall address such request to the Secretary, Federal Maritime Commission, 800 North Capitol Street, NW, Washington, DC 20573 and shall include therein a signed notarized statement to verify his or her identity.

* * * * *

13. In § 503.67, paragraph (b)(1) is revised to read as follows:

§ 503.67 Appeals from denial of request for amendment of a record.

* * * * *

(b) * * *

(1) Be addressed to the Chairman, Federal Maritime Commission, 800 North Capitol Street, NW, Washington, DC 20573; and

* * * * *

14. In § 503.69, paragraph (b)(2) is revised to read as follows:

§ 503.69 Fees.

* * * * *

(b) * * *

(2) The certification and validation (with Federal Maritime Commission seal) of documents filed with or issued by the Commission will be available at $55 for each certification.

* * * * *

PART 510—LICENSING OF OCEAN FREIGHT FORWARDERS

15. The authority citation for Part 510 continues to read as follows:

Authority: 5 U.S.C. 553; 31 U.S.C. 9701; 46 U.S.C. app. 1702, 1707, 1709, 1710, 1712, 1714, 1716, and 1718; 21 U.S.C. 862.

Subpart B—Eligibility and Procedure for Licensing; Bond Requirements

16. Section 510.12(b) is revised to read as follows:

§ 510.12 Application for license.

(a) * * *

(b) *Fee.* The application shall be accompanied by a money order, certified check or cashier's check in the amount of $778 made payable to the *Federal Maritime Commission.*

* * * * *

17. The penultimate sentence in § 510.14(b) is revised to read as follows:

§ 510.14 Surety bond requirements.

* * * * *

(b) * * *

The fee for such supplementary investigation shall be $224 payable by money order, certified check or cashier's check to the *Federal Maritime Commission.* * * *

* * * * *

18. The first sentence of § 510.19(e) is revised to read as follows:

§ 510.19 Changes in organization.

* * * * *

(e) *Application form and fee.* Applications for Commission approval of status changes or for license transfer under paragraph (a) of this section shall be filed in duplicate with the Director, Bureau of Tariffs, Certification and Licensing, Federal Maritime Commission, on form FMC–18 Rev., together with a processing fee of $362, made payable by money order, certified check or cashier's check to the *Federal Maritime Commission.* * * *

* * * * *

19. Section 510.26 is added to read as follows:

§ 510.26 Regulated Persons Index.

The Regulated Persons Index is a database containing the names, addresses, phone/fax numbers and bonding information, where applicable, of Commission-regulated entities. The database may be purchased for $84 by contacting BTCL, Federal Maritime Commission, Washington, DC 20573. Contact information is listed on the Commission's website at www.fmc.gov.

PART 514—TARIFFS AND SERVICE CONTRACTS

20. The authority citation for Part 514 continues to read as follows:

Authority: 5 U.S.C. 552 and 553; 31 U.S.C. 9701; 46 U.S.C. app. 803, 812, 814–817(a), 820, 833a, 841a, 843, 844, 845, 845a, 845b, 847, 1702–1712, 1714–1716, 1718, 1721 and 1722; and sec. 2(b) of Pub. L. 101–92, 103 Stat. 601.

Subpart B—Service Contracts

21. Section 514.7(K)(2) introductory text is revised to read as follows:

§ 514.7 Service contracts in foreign commerce.

* * * * *

(k) * * *

(2) *Corrections.* Either party to a filed service contract may request permission to correct clerical or administrative errors in the essential terms of a filed contract. Requests shall be filed, in duplicate, with the Commission's Office of the Secretary within 45 days of the contract's filing with the Commission, accompanied by remittance of a $233 service fee, and shall include:

* * * * *

Subpart C—Form, Content, and Use of Tariff Data

22. In § 514.21, paragraphs (b)(1), (b)(2)(i) through (iv), (c), (e)(1), (f), (g), (i), (j) (l) and (k) are revised; paragraphs (l) is removed; paragraphs (m) is revised and redesignated paragraphs (l); and new paragraphs (m) is added to read as follows:

§ 514.21 User charges.

* * * * *

(b) *User manual* (of ATFI "Guides"—§ 514.8(b)).

(1) *In diskette form:* $39 for diskette(s) containing all user guides in WordPerfect 5.0 format.

(2) * * *

(i) *Package A:* Fundamentals Guide and System Handbook (125 pages) are made available jointly and are a prerequisite for use of either of the packages in paragraphs (b)(2)(ii) or (b)(2)(iii): $49.00.

(ii) *Package B:* Tariff Retrieval Guide: $49.00.

(iii) *Package C:* Tariff Filing Guide: $59.00.

(iv) *Package D:* All Guides listed in paragraph (b)(2)(i) through (b)(2)(iii): $99.00.

* * * * *

(c) *Registration for user (filer and/or retriever ID and password* (see exhibit 1 to this part and §§ 514.4(d), 514.8(f) and 514.20)): $174 for initial registration for firm and one individual; $148 for additions and changes.

* * * * *

(e) *Certification of batch filing capability (by appointment through the Office of Information Resources Management)* (§ 514.8(1)).

(1) *User charge:* $496 per certification submission (covers all types of tariffs for which the applicant desires to be certified as well as recertification required by substantial charges to the ATFI system).

* * * * *

(f) *Application for special permission* (§ 514.18): $179.

(g) *Remote electronic retrieval* (§ 514.20(c)(3)). The fee for remote electronic access to ATFI electronic data is 33 cents for each minute of remote computer access directly to the ATFI database by any individual.

(h) * * *

(i) *Tariff filing fee.* The fee for tariff filing shall be 20 cents per filing object; the fee for filing service contract essential terms shall be $1.63 per filing set.

(j) *Daily Subscriber Data* (§ 514.20(d)).

(1) Persons requesting download of daily updates must pay 33 cents per minute as provided by § 514.21(g).

(2) * * *

(k) *Miscellaneous tapes.* The fee for tape data, other than the ATFI database described in paragraph (j) of this section, shall be $46 for the initial tape plus $25 for each additional tape required.

(l) *Access to ATFI data.* Official ATFI tariff data may be directly accessed by computer by:

(1) *Retrievers.* Any person may, with a proper retrieval USERID and password, enter the official ATFI database to obtain computer access of tariff matter, as provided in this part, but may download ATFI data only through the "Print Screen" function, which prints one screen at a time on paper. The user fee for this computer access is 33 cents a minute, for which the user will be billed at the end of each month.

(2) *Filers.* Any person with a proper filer USERID and password may enter the official ATFI database to obtain computer access of tariff matter as provided in this part, but may download ATFI data only through the "Print Screen" function, which prints one screen at a time on paper, and the filer ATFI-mail-file-transfer function, which prints the contents of the filer's ATFI mail on paper.

(m) *Regulated Persons Index.* The Regulated Persons Index is a database containing the names, addresses, phone/

fax numbers and bonding information, where applicable, of Commission-regulated entities. The database may be purchased for $84 by contacting BTCL, Federal maritime Commission, Washington, DC 20573. Contact information is listed on the Commission's website at www.fmc.gov.

PART 540—SECURITY FOR THE PROTECTION OF THE PUBLIC

23. The authority citation for Part 540 continues to read as follows:

Authority: 5 U.S.C. 552, 553; 31 U.S.C. 9701; secs. 2 and 3, Pub. L. 89–777, 80 Stat. 1356/1358 (46 U.S.C. app. 817e, 817d); sec. 43 of the Shipping Act, 1916 (46 U.S.C. app. 841a); sec. 17 of the Shipping Act of 1984 (46 U.S.C. 1716).

Subpart A—Proof of Financial Responsibility, Bonding and Certification of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation

24. The last sentence in § 540.4(a) and the last sentence in § 540.4(b) are revised, and another sentence added to § 540.4(b) to read as follows:

§ 540.4 Procedure for establishing financial responsibility.

(a) * * * Copies of Form FMC–131 may be obtained from the Secretary, Federal Maritime Commission, Washington, DC 20573.

(b) * * * An application for a Certificate (Performance), excluding an application for the addition or substitution of a vessel to the applicant's fleet, shall be accompanied by a filing fee remittance of $2,152. An application for a Certificate (Performance) for the addition or substitution of a vessel to the applicant's fleet shall be accompanied by a filing fee remittance of $1,076.

* * * * *

Subpart B—Proof of Financial Responsibility, Bonding and Certification of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages

25. The last sentence in § 540.23(a) and the last sentence in § 540.23(b) are revised, and another sentence added to § 540.23(b) to read as follows:

§ 540.23 Procedure for establishing financial responsibility.

(a) * * * Copies of Form FMC–131 may be obtained from the Secretary, Federal Maritime Commission, Washington, DC 20573.

(b) * * * An application for a Certificate (Casualty), excluding an application for the addition or substitution of a vessel to the applicant's fleet, shall be accompanied by a filing fee remittance of $938. An application for a Certificate (Casualty) for the addition or substitution of a vessel to the applicant's fleet shall be accompanied by a filing fee remittance of $469.

* * * * *

PART 572—AGREEMENS BY OCEAN COMMON CARRIERS AND OTHER PERSONS SUBJECT TO THE SHIPPING ACT OF 1984

26. The authority citation for Part 572 continues to read as follows:

Authority: 5. U.S.C. 553; 31 U.S.C. 9701: 46 U.S.C. app. 1701–1707, 1709–1710, 1712 and 1714–1717.

Subpart D—Filing of Agreements

27. Section 572.401(f) is revised to read as follows:

§ 572.401 General requirements.

* * * * *

(f) Agreement filings for Commission action requiring an Information Form and review by the Commission shall be accompanied by remittance of a $1,666 filing fee; agreement filings for Commission action not requiring an Information Form, but requiring review by the Commission, shall be accompanied by remittance of a $841 filing fee; agreement filings reviewed under delegated authority shall be accompanied by remittance of a $391 filing fee; and agreement filings for terminal and carrier exempt agreements shall be accompanied by remittance of a $131 filing fee.

PART 585—REGULATIONS TO ADJUST OR MEET CONDITIONS UNFAVORABLE TO SHIPPING IN THE FOREIGN TRADE OF THE UNITED STATES

28. The authority citation for Part 585 continues to read as follows:

Authority: 5 U.S.C. 553; sec. 19(1)(b), (5), (6), (7), (8), (9), (10), (11) and (12) of the Merchant Marine Act, 1920, 46 U.S.C. app. 876(1)(b), (5), (6), (7), (8), (9), (10), (11) and (12); Reorganization Plan No. 7 of 1961, 75 Stat 840; and sec. 10002 of the Foreign Shipping Practices Act of 1988, 46 U.S.C. app. 1710a.

Subpart C—Conditions Unfavorable to Shipping

29. Section 585.402 is revised to read as follows:

§ 585.402 Filing of petitions.

All requests for relief for conditions unfavorable to shipping in the foreign trade shall be by written petition. An original and fifteen copies of a petition for relief under the provisions of this part shall be filed with the Secretary, Federal Maritime Commission, Washington, DC 20573. The petition shall be accompanied by remittance of a $177 filing fee.

PART 587—ACTIONS TO ADDRESS CONDITIONS UNDULY IMPAIRING ACCESS OF U.S.-FLAG VESSELS TO OCEAN TRADE BETWEEN FOREIGN PORTS

30. The authority citation for Part 587 continues to read as follows:

Authority: 5 U.S.C. 553; secs. 13(b)(5) 15 and 17 of the Shipping Act of 1984, 46 U.S.C. app. 1712(b)(5), 1714 and 1716; sec. 10002 of the Foreign Shipping Practices Act of 1988 (46 U.S.C. app. 1710a).

31. Section 587.3(a)(2) is revised to read as follows:

§ 587.3 Petitions for relief.

(a) * * *

(2) An original and fifteen copies of such a petition including any supporting documents shall be filed with the Secretary, Federal Maritime Commission, Washington, DC 20573. The petition shall be accompanied by remittance of a $177 filing fee.

* * * * *

PART 588—ACTIONS TO ADDRESS ADVERSE CONDITIONS AFFECTING U.S. FLAG-CARRIERS THAT DO NOT EXIST FOR FOREIGN CARRIERS IN THE UNITED STATES

32. The authority citation for Part 588 continues to read as follows:

Authority: 5 U.S.C. 553; sec. 10002 of the Foreign Shipping Practices Act of 1988 (46 U.S.C. app. 1710a).

33. Section 588.4(a) is revised to read as follows:

§ 588.4 Petitions.

(a) A petition for investigation to determine the existence of adverse conditions as described in § 588.3 may be submitted by any person, including any common carrier, shipper, shippers' association, ocean freight forwarder, or marine terminal operator, or any branch, department, agency, or other component of the Government of the United States. Petitions for relief under this part shall be in writing, and filed in the form of an original and fifteen copies with the Secretary, Federal Marine Commission, Washington, DC 20573. The petition shall be accompanied by remittance of a $177 filing fee.

* * * * *

By the Commission.

Joseph C. Polking,
Secretary.

[FR Doc. 98–17451 Filed 6–30–98; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[CI Docket No. 98–69; FCC 98–97]

Importation of Radio Frequency Devices Capable of Causing Harmful Interference

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has issued an *Order and Notice of Proposed Rule Making.* The Notice of Proposed Rulemaking (NPRM) proposes that entities submit FCC Form 740 directly to the U.S. Customs Service (Customs) rather than be required to file duplicate declarations with the FCC and Customs and to modify the marketing rules affecting devices imported solely for export. Under the first proposal, only the few remaining entities that do not file the Form 740 electronically with Customs will be affected. These entities will be required to file Form 740 with Customs only. Eliminating the requirement to file duplicative information with the FCC reduces the administrative burden on filers, particularly small businesses, and eliminates an FCC record process that is no longer necessary. The modification under the second proposal will improve our ability to enforce the equipment authorization rules by eliminating a loophole that has resulted in the marketing and selling of devices that could not be authorized in the U.S.

DATES: Comments are due July 31, 1998, reply comments are due August 17, 1998.

FOR FURTHER INFORMATION CONTACT: Dan Emrick of the Compliance and Information Bureau at (202) 418–1175.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making,* CI Docket No. 98–69, FCC 98–97, adopted May 18, 1998, and released June 5, 1998. The full text of this *Order and Notice of Proposed Rulemaking* is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239) 1919 M Street, NW, Washington, DC. The complete text may be purchased from the Commission's copy contractor, International Transcription Services, 2100 M Street NW, Washington, DC 20037, telephone (202) 857–3800 (phone), (202) 857–3805 (facsimile), 1231 20th St., N.W., Washington, D.C. 20036.

Summary of Proposed Rule Making

1. In this *Notice of Proposed Rulemaking,* we seek comment on two proposals involving the importation of radio frequency devices. First, we propose that entities submit FCC Form 740 directly to the U.S. Customs Service (Customs) rather than be required to file duplicate declarations with the FCC and Customs. Under this proposal, only the few remaining entities that do not file the Form 740 electronically with Customs will be affected. These entities will be required to file Form 740 with Customs only. Any compliance information needed by the FCC is infrequently needed on a case by case basis and would be readily available from Customs. Eliminating the requirement to file duplicative information with the FCC reduces the administrative burden on filers, particularly small businesses, and eliminates an FCC record process that is no longer necessary.

2. Next, we seek comment on our proposal to modify the marketing rules affecting devices imported solely for export. This modification will improve our ability to enforce the equipment authorization rules by eliminating a loophole that has resulted in the marketing and selling of devices that could not be authorized in the U.S.

Initial Regulatory Flexibility Analysis

3. As required by the Regulatory Flexibility Act (RFA),[1] the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected economic impact on small entities by the policies and rules proposed in this Order and Notice of Proposed Rule Making (Notice). Written public comments are requested on the IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments in the Notice. The Office of Public Affairs, Reference Operations Division will send a copy of this Notice, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.[2]

I. Need For and Purpose of This Action

4. This Notice reexamines the rules specifying procedures for importation of radio frequency devices. It seeks information that will assist the Commission in determining whether current rules can be simplified and made more easy to enforce. It will also reduce the administrative burden on both the Commission and the public.

II. Description and Estimate of Number of Small Businesses to Which Rules Will Apply

5. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.[3] The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organizations," and "small governmental jurisdiction".[4] In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.[5] A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).[6] The Commission will need to receive more data regarding the brokers who currently file Forms 740 with the Commission, rather than filing them electronically through the U.S. Customs Service (Customs). We estimate that 800 of these forms are filed per month, presumably by smaller firms that do not subscribe to the Customs electronic filing system due to the relatively small number of FCC declarations that they handle. While there is no readily apparent link between the number of paper filings per month and the number of entities submitting the declarations, we presume most of the entities involved are small businesses or individuals. These entities will continue to be subject to the requirement to submit FCC Form 740 documents, but only to one government agency, not two. They will address and mail only one

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[1] See 5 U.S.C. 603. The RFA, see 5 U.S.C. 601 et seq., has been amended by the Contract with America Advancement Act of 1996 Public Law No. 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is "The Small Business Regulatory Enforcement Fairness Act of 1996" (SBREFA).

[2] See 5 U.S.C. 604.

[3] 5 U.S.C. 603(b)(3).

[4] *Id.*; 5 U.S.C. 601(6).

[5] 5 U.S.C. 601(3) (incorporating by reference the definition of "small business concern" in 15 U.S.C. 632). Pursuant to the RFA, the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such terms which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**. 5 U.S.C. 601(3).

[6] Small Business Act, 15 U.S.C. 632 (1996).

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form per declaration, not two, thereby reducing at least their mailing cost by half. Other administrative costs, such as staff time required to complete the form, will also be significantly reduced.

IV. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

6. There will be no new requirements. The Notice proposes to eliminate the requirement to file a copy of Form 740 with the Commission for entities that do not use the Customs electronic filing procedures. Those entities will provide an original Form 740 to Customs with the shipment, but will not be required to file a second copy with the FCC.

V. Significant Alternatives and Steps Taken by Agency To Minimize Significant Economic Impact on a Substantial Number of Small Entities Consistent With Stated Objectives

7. The impact of this Notice will be, by its nature, a reduction of the burden on small entities. For example, eliminating the duplicative filing of the Form 740 should reduce administrative overhead, such as processing and mailing costs for small businesses.

VI. Commission's Outreach Efforts To Learn of and Respond to the Views of Small Entities Pursuant to SBREFA 5 U.S.C. 609

Report to Congress

The Commission will send a copy of this Order and Notice of Proposed Rulemaking, including this Final Regulatory Flexibility Analysis, to Congress pursuant to the Small Business Regulatory Enforcement Act of 1996, 5 U.S.C. 801(a)(1)(A). A summary of the Order and Notice of Proposed Rulemaking and this FRFA will also be published in the **Federal Register** pursuant to 5 U.S.C. 604(b), and it will also be sent to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 2

Imports.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–17491 Filed 6–30–98; 8:45 am]

BILLING CODE 6712–01–P

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

DEPARTMENT OF INTERIOR

Bureau of Land Management

Whitetail-Pipestone Recreation Management Strategy; Site-specific Deerlodge Forest Plan Amendment; Butte and Jefferson Ranger Districts; Silver Bow and Jefferson Counties, Montana

AGENCY: Forest Service, USDA and Bureau of Land Management, USDI.

ACTION: Notice; intent to prepare environmental impact statement.

SUMMARY: The Forest Service and BLM will prepare an environmental impact statement (EIS) to create a recreation management strategy for the Whitetail-Pipestone area and amend site-specifically the Deerlodge Forest Plan and the Headwaters Resource Management Plan to include further recreation direction. The Forest Service and the BLM will be joint lead agencies for this EIS (40 CFR 1501.5). The purpose is to determine what network of roads and trails will best provide a variety of recreation opportunities while protecting resources from soil erosion, spread of noxious weeds, and disturbance of wildlife habitats and heritage resources.

DATES: Initial comments concerning the scope of the analysis should be received in writing no later than July 19, 1998.

ADDRESSES: Send written comments to Deborah L.R. Austin, Forest Supervisor, Beaverhead-Deerlodge National Forest, 1820 Meadowlark, Butte, MT, 59701.

FOR FURTHER INFORMATION CONTACT: Jocelyn Dodge, Environmental Analysis Team Leader, Butte Ranger District, 1820 Meadowlark, Butte, MT, 59701, or phone: (406)494–2147, Eric Tolf, Jefferson Ranger District, 3 Whitetail Road, Whitehall MT, 59759, or phone (406)287–3223 or Darrell McDaniel, BLM, 106 North Parkmont, Butte, MT, 59701, or phone (406)–494–5059.

SUPPLEMENTARY INFORMATION: The Forest Service and BLM propose to create a recreation management strategy for federal lands in the Whitetail-Pipestone Area. Five sub-units would be managed with an area restriction with non-motorized and/or motorized travel allowed on various designated roads and trails. Different sub-units would emphasize different recreation opportunities. The proposed strategy also includes construction of trailhead and camping facilities and an interpretive site, and allows for future trail construction to meet resource and recreation objectives. This proposal would result in non-significant amendments to the Deerlodge Forest Plan and the Headwaters Resource Management Plan.

The analysis area lies between Butte, Boulder, and Whitehall, Montana. It includes all National Forest and Bureau of Land Management lands within an area defined by Interstate 15 from Butte to Boulder, Whitetail Road from Boulder to Whitehall (including Hadley Park), and Montana Highway 2 from Whitehall to Butte. The project area totals 276,234 acres including private lands.

The Forest Service and BLM land management plans include goals to provide areas for quality motorized and non-motorized recreation and to provide a wide variety of suitable recreation experiences. Since these plans were adopted about ten years ago, monitoring shows large increases in use and changes in type of recreation activities. A recreation management strategy for the area must address changes in recreation activities in the last 10 years, address current and anticipated travel demands on public land, and manage recreation use while protecting resources, including historic and prehistoric sites.

Potential issues identified are the effects of the proposal on watershed function, recreation, road and trail safety, fish and wildlife, heritage resources, and roadless character.

Public participation is important to the analysis. Part of the goal of public involvement is to identify additional issues and to refine the general, tentative issues identified above. People may visit with Forest Service and BLM officials at any time during the analysis and prior to the decision. Two periods are specifically designated for comments on the analysis: (1) During the scoping process and (2) during the draft EIS comment period.

During the scoping process, the Forest Service and BLM are seeking information and comments from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. The United States Fish and Wildlife Service will be consulted concerning effects to threatened and endangered species. The agencies invite written comments and suggestions on this action, particularly in terms of identification of issues and alternative development.

Analysis of this proposed action began in an environmental assessment (EA). Public involvement for the EA started in July, 1995. Since then, the public has participated in formulating issues and developing alternatives through responding to large mailings and attending periodic public meetings and field trips.

In addition to the proposed action, a range of alternatives has been developed in response to issues identified during scoping. One of these is the "no action" alternative, in which no changes would be made to current travel management direction for the analysis area. A second alternative identified proposes to reduce secondary road densities from the present condition by 50 to 90 percent, while maintaining general forest access for traditional non-motorized recreation. Class I primary motorized road access would remain the same as the existing condition. A third alternative proposes to increase the number of trails, trailheads, campgrounds, view points, and tables, and identify historic points more than identified in the proposed action. The Forest Service and BLM will analyze and document the direct, indirect, and cumulative effects of all alternatives.

The Forest Service and BLM will continue to involve the public and will inform interested and affected parties as to how they may participate and contribute to the final decision. Another formal opportunity for response will be provided following completion of a draft EIS.

The draft EIS should be available for review in October, 1998. The final EIS

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is scheduled for completion in March, 1999.

The comment period on the draft EIS will be 90 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service and BLM believe it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp* v. *NRDC, 435 U.S. 519, 553 (1978)*. Also, environmental objections that could be raised at the draft environmental impact statement stage but are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important those interested in this proposed action participate by the close of the 90-day comment period so substantive comments and objections are made available to the forest Service and BLM at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service and BLM in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

The Beaverhead-Deerlodge Forest Supervisor and the Headwaters Resource Area Manager are the responsible officials who will make the decision. They will decide on this proposal after considering comments and responses, environmental consequences discussed in the Final EIS, and applicable laws, regulations, and policies. The decision and reasons for the decision will be documented in a Record of Decision.

Dated: June 4, 1998.

Thomas W. Heintz,

Acting Forest Supervisor, Beaverhead-Deerlodge National Forest.

Dated: June 5, 1998.

Merle Good,

Area Manager, Headwaters Resource Area.

[FR Doc. 98–17467 Filed 6–30–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Revised East Beaver and Miner's Creek Timber Sale and Prescribed Burning Project, Targhee National Forest, Clark County, Idaho

AGENCY: Forest Service, USDA.

ACTION: Revised Notice of Intent to prepare environmental impact statement.

SUMMARY: This is a revised Notice of Intent for the East Beaver Creek Timber Sale and Prescribed Burning Project. A Notice of Intent was originally published on April 20, 1998 pages 19470 and 19471 of the **Federal Register**. The project is being revised to add the Miner's Creek Timber Sale as part of the environmental impact statement. The project will now be referred to as the East Beaver and Miner's Creek Timber Sale and Prescribed Burning Project. The Forest Supervisor of the Targhee National Forest gives notice of the agency's intent to prepare an environmental impact statement. The revised proposed action would harvest 7.4 million feet of timber from 2,145 acres and prescribe burn 2,220 acres with 518 acres of the burning in the timber sale harvest units. The remaining 1,702 acres of burning would be in nonforest types. Two miles of temporary roads would be built, 2.6 miles of existing roads reconstructed, and 4.4 miles of new specified roads would be constructed. Project area is located approximately 15 miles northeast of Dubois, Idaho. Alternatives will include the proposed action, no action, and any alternatives that respond to significant issues generated during the scoping process. A more detailed description is available from the Dubois Ranger District; see address below.

DATES: Send written comments and suggestions on the issues concerning the proposed action by July 20, 1998. Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record on the proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have a standing to appeal the subsequent decision under 39 CFR parts 215 or 217. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentiality should be aware that, under the FOIA, confidentiality may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within 15 days.

ADDRESSES: Send written comments to Clarence M. Murdock, District Ranger, Dubois Ranger District, P.O. Box 46, Dubois, ID 83423.

FOR FURTHER INFORMATION CONTACT: John Councilman, Interdisciplinary Team Leader, phone (208) 558–7301.

SUPPLEMENTARY INFORMATION: The revision to this project is being made to include the Miner's Creek Timber Sale. An environmental assessment was prepared for Miner's Creek in 1995 and the sale was sold in 1996. After sale, a lawsuit was filed by two environmental groups. The Forest Service's decision to log the sale was upheld at the local Federal court level but this decision was appealed to the 9th Circuit Court of Appeals. The 9th Circuit Court reversed the lower court's decision and directed the Forest Service to prepare an environmental impact statement. The Miner's Creek Timber Sale and the East Beaver Creek Timber Sale and Prescribed Burning Project are within the same watersheds, have similar issues and could be implemented at the same time. Therefore, it made sense to combine the projects into a single analysis.

The Targhee Revised Land Management Plan was approved in 1997. One of the decisions in the Revised Plan was to allow for the production and utilization of wood fiber from certain areas of the Forest. The geographic area where the proposed action would take place has primarily a prescription of timber management with emphasis on big game security (5.1.4b).

Prescriptions for other lands in the area are described below.

Aquatic Influence Zones (2.8.3)—Management emphasis is directed at the application of ecological knowledge to restore and maintain the health of these areas in ways that also produce desired resource values, products, protection, restoration, enhancement, interpretation, and appreciation of these areas.

Visual Quality Maintenance (2.1.2)—This prescription emphasizes maintaining the existing visual quality within major travel corridors with quality natural vistas, while allowing livestock production, and other compatible commodity outputs. There is no scheduled timber harvesting. No scheduled harvests means timber removed from these areas does not contribute toward the Forests annual allowable sale quantity.

Initial public involvement will include mailing maps and a project description to interested parties to solicit comments on the proposal. Preliminary issues include: water quality, fisheries, elk habitat, and motorized access by the public.

Additional opportunity to comment on the project will occur on the Draft Environmental Impact Statement (draft EIS). The draft EIS is expected to be filed with the Environmental Protection Agency and available for public review in October of 1998.

The comment period on the draft EIS will be 45 days from the date the Environmental Protection Agency's notice of availability appears in the **Federal Register.** At the same time, copies of the draft EIS will be distributed to interested and affected agencies, organizations, tribes, and members of the public for their review and comment. It is very important that those interested in the proposed action participate at that time.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions. *Vermont Yankee Nuclear Power Corp* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could have been raised at the draft stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* (9th Circuit, 1986 and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. Comments may also address the adequacy of the draft environmental impact statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

The final EIS is scheduled to be completed in January of 1998. In the final EIS, the Forest Service is required to respond to comments received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making the decisions on this proposal.

Responsible Official

Jerry B. Reese, Forest Supervisor, is the responsible official. As responsible official, he will document the selected alternative for the East Beaver and Miner's Creek Timber Sale and Prescribed Burning Project EIS and his rationale in a Record of Decision.

The decision will be subject to Forest Service Appeal Regulations (36 CFR Part 215).

Dated: June 9, 1998.

Richard N. Rine,

Acting Forest Supervisor.

[FR Doc. 98–17464 Filed 6–30–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Committee of Scientists Meetings

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: The Committee of Scientists will hold three public teleconference calls: the first on Wednesday, July 8, 1998; the second on Friday, July 10, 1998; and the third on Wednesday, July 15, 1998. Each teleconference call will begin at 11:00 a.m. and end at 2:00 p.m. (eastern daylight time). The purpose of the telephone conference calls is for the Committee of Scientists to continue to discuss its report and recommendations to the Secretary of Agriculture and the Chief of the Forest Service. The public is invited to attend these teleconference calls and may be provided an opportunity to comment on the Committee of Scientists' deliberations during the teleconference, only at the request of the Committee.

DATES: The teleconference calls will be held on Wednesday, July 8, 1998; Friday, July 10, 1998; and Wednesday, July 15, 1998; each from 11:00 a.m. to 2:00 p.m. (eastern daylight time).

ADDRESSES: The first teleconference, on July 8, will be held at the USDA Forest Service headquarters, Auditor's Building, 201 14th Street, SW. Washington, DC in the Roosevelt Conference Room and at all Regional Offices of the Forest Service, which are listed in the table under Supplementary Information.

The second and third teleconferences will be held at the USDA Forest Service headquarters, Auditor's Building, 201 14th Street, SW, Washington, DC in the Chief's Conference Room and at all Regional Offices of the Forest Service.

Written comments on improving land and resource management planning may be sent to the Committee of Scientists, P.O. Box 2140, Corvallis, OR 97339. Also, the Committee may be accessed via the Internet at www.cof.orst.edu./org/scicomm/.

FOR FURTHER INFORMATION CONTACT: For additional information concerning the teleconferences, contact Bob Cunningham, Designated Federal Official to the Committee of Scientists, at telephone: (703) 306–1023 or via the Internet at rcunningansf.gov/.

SUPPLEMENTARY INFORMATION: The public may attend the teleconference at the following field locations:

USDA FOREST SERVICE REGIONAL OFFICE LOCATIONS

Region 1: Northern Region	Federal Building	200 E. Broadway	Missoula, MT.
Region 2: Rocky Mountain Region	740 Simms St		Golden, CO.

USDA FOREST SERVICE REGIONAL OFFICE LOCATIONS—Continued

Region 3: Southwestern Region	Federal Building	517 Gold Ave., SW	Albuquerque, NM.
Region 4: Intermountain Region	Federal Building	324 25th St	Ogden, UT.
Region 5: Southwest Region	630 Sansome ST		San Francisco, CA.
Region 5: Pacific Northwest Region	333 SW 1st Ave		Portland, OR.
Region 8: Southern Region	1720 Peachtree Rd. NW		Atlanta, GA.
Region 9: Eastern Region	310 W. Wisconsin Ave., Room 500		Milwaukee, WI.
Region 10: Alaska Region (office will open early).	Federal Office Building	709 W. 9th St	Juneau, AK.

The Committee of Scientists is chartered to provide scientific and technical advice to the Secretary of Agriculture and the Chief of the Forest Service on improvements that can be made to the National Forest System land and resource management planning process (62 FR 43691; August 15, 1997). Notice of the names of the appointed Committee members was published December 16, 1997 (62 FR 65795).

Dated: June 25, 1998.

Robert C. Joslin,

Deputy Chief, National Forest System.

[FR Doc. 98–17479 Filed 6–30–98; 8:45 am]

BILLING CODE 3410–11–M

CENSUS MONITORING BOARD

Notice of Public Meeting

SUMMARY: This notice, in compliance with Pub. L. 105–119, sets forth the meeting date, time and place for the second business meeting of the full Census Monitoring Board. The meeting agenda will include an examination of ongoing preparations by the Census Bureau for the 2000 Decennial Census.

DATES: The meeting will take place at 10 a.m. Wednesday, July 8, 1998.

ADDRESSES: The meeting will be held in Conference Rooms 3 and 4 of the Census Bureau's Conference Center, located in Building 3 at the Suitland Federal Center, 4700 Silver Hill Road, Suitland, MD.

FOR FURTHER INFORMATION CONTACT: Contact LaVerne Vines Collins, Chief, Public Information Office, Census Bureau. Phone: 301–457–3100.

Fred T. Asbell,

Executive Director, Congressionally Appointed Members.

[FR Doc. 98–17604 Filed 6–30–98; 8:45 am]

BILLING CODE 1179–00–M

COMMISSION ON CIVIL RIGHTS

Sunshine Act Meeting

AGENCY: U.S. Commission on Civil Rights.

DATE AND TIME: Tuesday, June 23, 1998, 2:00 p.m.

PLACE: U.S. Commission on Civil Rights, 624 Ninth Street, NW., Room 540, Washington, DC 20425.

STATUS: Special Telephonic Meeting (Open).

Agenda

I. Approval of Agenda
II. Announcements
III. Discussion of the Schools and Religion Hearing

CONTACT PERSON FOR FURTHER INFORMATION: Barbara Brooks, Press and Communications (202) 376–8312.

Stephanie Y. Moore,

General Counsel.

[FR Doc. 98–17588 Filed 6–26–98; 5:05 pm]

BILLING CODE 6335–01–M

COMMISSION ON CIVIL RIGHTS

Sunshine Act Meeting

AGENCY: U.S. Commission on Civil Rights.

DATE AND TIME: Friday, July 10, 1998, 9:30 a.m.

PLACE: U.S. Commission on Civil Rights, 624 Ninth Street, NW., room 540, Washington, DC 20425.

STATUS:

Agenda

I. Approval of Agenda
II. Approval of Minutes of June 12, 1998 Meeting
III. Announcements
IV. Staff Director's Report
V. State Advisory Committee Appointments for Delaware, Missouri, Rhode Island, and Vermont
VI. ADA Report
- An Advisory Committee Appointments for Delaware, Missouri, Rhode Island, and Vermont
- An Assessment of the Enforcement of Title II, Subtitle A of the Americans with Disabilities Act: U.S. Department of Justice

VII. Future Agenda Items

CONTACT PERSON FOR FURTHER INFORMATION: Barbara Brooks, Press and Communications (202) 376–8312.

Stephanie Y. Moore,

General Counsel.

[FR Doc. 98–17689 Filed 6–29–98; 2:23 pm]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 32–98]

Proposed Foreign-Trade Zone—Lancaster, California, Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the City of Lancaster, California, to establish a general-purpose foreign-trade zone in Lancaster, California, within the Los Angeles-Long Beach Customs port of entry. The application was submitted pursuant to the provisions of the FTZ Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on June 12, 1998. The applicant is authorized to make the proposal under Section 6302 of the California Code.

The proposed zone would be the fourth general-purpose zone in the Los Angeles-Long Beach Customs port of entry area. The existing zones are: *FTZ 50* in Long Beach (sites also in Ontario, Santa Ana and San Bernardino) (Grantee: Board of Harbor Commissioners of the City of Long Beach, Board Order 147, 44 FR 55919, 9/28/79); *FTZ 191* in Palmdale (Grantee: City of Palmdale, Board Order 628, 58 FR 6614, 2/1/93); and, *FTZ 202* in Los Angeles (sites also in Bakersfield, Rancho Dominguez and Carson) (Grantee: Board of Harbor Commissioners of the City of Los Angeles, Board Order 693, 59 FR 37464, 7/22/94).

The proposed new zone would consist of 2 sites (3,200 acres) in Lancaster (Los Angeles County): *Site 1* (160 acres)—Lancaster Business Park, Avenues L and K–8, Lancaster; and *Site 2* (3,040 acres)—Reusable Launch

Vehicle/Space Port, southern perimeter of that portion of the Edwards Air Force Base, Los Angeles County. Site 1 is owned by the Lancaster Economic Development Corporation and several private owners. Site 2 is presently owned by the Department of Defense but will be conveyed to the applicant and would be annexed into the City limits and fall under the City's jurisdiction.

The application indicates a need for foreign-trade zone services in the Lancaster area. Several firms have indicated an interest in using zone procedures for research and development and space launch and recover operations. Specific manufacturing approvals are not being sought at this time. Requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

As part of the investigation, the Commerce examiner will hold a public hearing on August 4, 1998, 9:00 a.m., City of Lancaster City Hall, Emergency Operation Center, 44933 North Fern Avenue, Lancaster, California 93534.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is August 31, 1998. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to September 14, 1998).

A copy of the application and accompanying exhibits will be available during this time for public inspection at the following locations:

City Clerk's Office, City of Lancaster, 44933 North Fern Avenue, Lancaster, California 93534

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th and Pennsylvania Avenue, NW, Washington, DC 20230.

Dated: June 18, 1998.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98-17444 Filed 6-30-98; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 969]

Grant of Authority for Subzone Status; Artesyn Technologies (Inc.) (Electric Power Supplies), Broomfield, Colorado

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the FTZ Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the City and County of Denver, Colorado, grantee of FTZ 123, for authority to establish special-purpose subzone status for the electric power supply manufacturing plant of Artesyn Technologies (Inc.)(formerly, Zytec Corporation), in Broomfield, Colorado, was filed by the Board on August 22, 1997, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 69-97, 62 FR 45794, 8-29-97); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby grants authority for subzone status at the Artesyn Technologies (Inc.), plant in Broomfield, Colorado (Subzone 123B), at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 22nd day of 1998.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98-17447 Filed 6-30-98; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 968]

Grant of Authority for Subzone Status; Artesyn Technologies (Inc.) (Electric Power Supplies), Redwood Falls, Minnesota

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the FTZ Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the Greater Metropolitan Area Foreign Trade Zone Commission, Inc., grantee of FTZ 119, for authority to establish special-purpose subzone status for the electric power supply manufacturing facilities of Artesyn Technologies (Inc.)(formerly, Zytec Corporation), in Redwood Falls, Minnesota, was filed by the Board on August 22, 1997, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 68-97, 62 FR 45793, 8-29-97); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby grants authority for subzone status at the Artesyn Technologies (Inc.), facilities in Redwood Falls, Minnesota (Subzone 119F), at the locations described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 22nd day of June 1998.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–17446 Filed 6–30–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 18–98]

Foreign-Trade Zone 7—Mayaguez, Puerto Rico, Application for Expansion; Extension of Public Comment Period

The comment period for the above case, submitted by the Puerto Rico Industrial Development Company (PRIDCO), requesting authority to expand its zone to include additional areas of the PRIDCO Industrial Park System (63 FR 17982, 4/13/98), is extended to July 13, 1998, to allow interested parties additional time in which to comment on the proposal.

Comments in writing are invited during this period. Submissions should include three (3) copies. Material submitted will be available at: Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th and Pennsylvania Avenue, NW, Washington, DC 20230.

Dated: June 11, 1998.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–17443 Filed 6–30–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 987]

Grant of Authority for Subzone Status; Komatsu America International Company, Inc.; (Construction and Mining Equipment Parts Distribution) Ripley, TN

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the City of Memphis, Tennessee, grantee of Foreign-Trade Zone 77, for authority to establish special-purpose subzone status at the warehousing/distribution (non-manufacturing) facility of Komatsu America International Company, Inc., located in Ripley, Tennessee, was filed by the Board on June 30, 1997, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 57–97, 62 FR 36487, 07/08/97); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby authorizes the establishment of a subzone (Subzone 77C) at the Komatsu America International Company, Inc., facility in Ripley, Tennessee, at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28. The scope of authority does not include activity conducted under FTZ procedures that would result in a change in tariff classification.

Signed at Washington, DC, this 19th day of June 1998.

Richard W. Moreland,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–17450 Filed 6–30–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 985]

Designation of New Grantee for Foreign-Trade Zone 85, Everett, Washington; Resolution and Order

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) adopts the following Order:

After consideration of the request with supporting documents (Docket 48–96) from the Puget Sound Foreign-Trade Zones Association, grantee of Foreign-Trade Zone 85, Everett, Washington, for reissuance of the grant of authority for said zone to the Port of Everett, a State of Washington municipal corporation, which has accepted such reissuance subject to approval of the FTZ Board, the Board, finding that the requirements of the Foreign-Trade Zones Act and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the request and recognizes the Port of Everett as the new grantee of Foreign-Trade Zone 85.

The approval is subject to the FTZ Act and the FTZ Board's regulations, including Section 400.28.

Signed at Washington, DC, this 19th day of June 1998.

Richard W. Moreland,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–17448 Filed 6–30–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 986]

Approval of Export Manufacturing Activity Within Foreign-Trade Zone 216; Olympia, Washington; Darigold, Inc. (Dairy By-Products)

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Port of Olympia, Washington, grantee of FTZ 216, has requested authority under § 400.32(b)(1) of the Board's regulations on behalf of Darigold, Inc., to process liquid whey permeate for export under zone procedures within FTZ 216 (filed 3–19–98, FTZ Docket 13–98);

Whereas, pursuant to § 400.32(b)(1), the Commerce Department's Assistant Secretary for Import Administration has the authority to act for the Board in making such decisions on new manufacturing/processing activity under certain circumstances, including situations where the proposed activity is for export only (§ 400.32(b)(1)(ii)); and,

Whereas, the FTZ Staff has reviewed the proposal, taking into account the criteria of § 400.31, and the Executive Secretary has recommended approval;

Now, therefore, the Assistant Secretary for Import Administration, acting for the Board pursuant to § 400.32(b)(1), concurs in the recommendation and hereby approves the request subject to the Act and the Board's regulations, including § 400.28, and further subject to a restriction requiring that all foreign-origin, tariff-rate-quota dairy products admitted to FTZ 216 for the Darigold, Inc., activity shall be reexported, as indicated in the application.

Signed at Washington, DC, this 19th day of June 1998.

Richard W. Moreland,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–17449 Filed 6–30–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Opportunity to Request Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended, may request, in accordance with § 351.213 of the Department of Commerce (the Department) Regulations (19 CFR 351.213 (1997)), that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity to Request a Review: Not later than the last day of JULY 1998, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in JULY for the following periods:

	Period
Antidumping Duty Proceedings	
Armenia: Solid Urea, A–831–801	7/1/97–6/30/98
Azerbaijan: Solid Urea, A–832–801	7/1/97–6/30/98
Belarus: Solid Urea, A–822–801	7/1/97–6/30/98
Brazil: Industrial Nitrocellulose, A–351–804	7/1/97–6/30/98
Brazil: Silicon Metal, A–351–806	7/1/97–6/30/98
Estonia: Solid Urea, A–447–801	7/1/97–6/30/98
Georgia: Solid Urea, A–833–801	7/1/97–6/30/98
Germany: Industrial Nitrocellulose, A–428–803	7/1/97–6/30/98
Germany: Solid Urea, A–428–605	7/1/97–6/30/98
Iran: In-Shell Pistachio Nuts, A–507–502	7/1/97–6/30/98
Italy: Pasta, A–475–818	7/1/97–6/30/98
Japan: Cast Iron Pipe Fittings, A–588–605	7/1/97–6/30/98
Japan: Clad Steel Plate, A–588–838	7/1/97–6/30/98
Japan: Electric Cutting Tools, A–588–823	7/1/97–6/30/98
Japan: High Power Microwave Amplifiers and Components Thereof, A–588–005	7/1/97–6/30/98
Japan: Industrial Nitrocellulose, A–588–812	7/1/97–6/30/98
Japan: Synthetic Methionine, A–588–041	7/1/97–6/30/98
Kazakhstan: Solid Urea, A–834–801	7/1/97–6/30/98
Kyrgyzstan: Solid Urea, A–835–801	7/1/97–6/30/98
Latvia: Solid Urea, A–449–801	7/1/97–6/30/98
Lithuania: Solid Urea, A–451–801	7/1/97–6/30/98
Moldova: Solid Urea, A–841–801	7/1/97–6/30/98
Republic of Korea: Industrial Nitrocellulose, A–580–805	7/1/97–6/30/98
Romania: Solid Urea, A–485–601	7/1/97–6/30/98
Russia: Ferrovanadium, A–821–807	7/1/97–6/30/98
Russia: Solid Urea, A–821–801	7/1/97–6/30/98
Tajikistan: Solid Urea, A–842–801	7/1/97–6/30/98
Thailand: Butt-Weld Pipe Fittings, A–549–807	7/1/97–6/30/98
Thailand: Canned Pineapple, A–549–813	7/1/97–6/30/98
Thailand: Furfuryl Alcohol, A–549–812	7/1/97–6/30/98

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	Period
The People's Republic of China: Butt-Weld Pipe Fittings, A–570–814	7/1/97–6/30/98
The People's Republic of China: Industrial Nitrocellulose, A–570–802	7/1/97–6/30/98
The People's Republic of China: Sebacic Acid, A–570–825	7/1/97–6/30/98
The Ukraine: Solid Urea, A–823–801	7/1/97–6/30/98
The United Kingdom: Industrial Nitrocellulose, A–412–803	7/1/97–6/30/98
Turkmenistan: Solid Urea, A–843–801	7/1/97–6/30/98
Turkey: Pasta, A–489–805	7/1/97–6/30/98
Uzbekistan: Solid Urea, A–844–801	7/1/97–6/30/98
Countervailing Duty Proceedings	
European Economic Community: Sugar, C–408–046	1/1/97–12/31/97
Italy: Pasta, C–475–819	1/1/97–12/31/97
Turkey: Pasta, C–489–806	1/1/97–12/31/97

Suspension Agreements

None.

In accordance with section 351.213 of the regulations, an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. In recent revisions to its regulations, the Department has changed its requirements for requesting reviews for countervailing duty orders. Pursuant to 71(9) of the Act, an interested party must specify the individual producers or exporters covered by the order or suspension agreement for which they are requesting a review (Department of Commerce Regulations, 62 FR 27295, 27424 (May 19, 1997)). Therefore, for both antidumping and countervailing duty reviews, the interested party must specify for which individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order it is requesting a review, and the requesting party must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street & Constitution Avenue, N.W., Washington, D.C. 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/Countervailing Enforcement, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with section 351.303(f)(l)(i) of the regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of "Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation" for requests received by the last day of JULY 1998. If the Department does not receive, by the last day of JULY 1998, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute but is published as a service to the international trading community.

Dated: June 24, 1998.

Maria Harris Tildon,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 98–17532 Filed 6–30–98; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–560–801]

Melamine Institution Dinnerware Products From Indonesia: Notice of Recission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: July 1, 1998.

FOR FURTHER INFORMATION CONTACT: David Goldberger or Katherine Johnson, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone: (202) 482–4136 or (202) 482–4929, respectively.

SUMMARY: On March 23, 1998, the Department of Commerce ("the Department") published in the **Federal Register** (63 FR 13837) a notice announcing the initiation of an administrative review of the antidumping duty order on melamine institutional dinnerware products from Indonesia, covering the period August 22, 1996, through January 31, 1998. This review has now been rescinded as a result of the withdrawal of the request for administrative review by the interested party.

SUPPLEMENTARY INFORMATION:

Background

On February 27, 1998, the Department received a request from the American Melamine Institutional Tableware Association (AMITA), the petitioner in the original investigation, and its member companies, Carlisle Food Service Products and Prolon, Inc., to conduct an administrative review of its entries, pursuant to 19 CFR 351.213(b) of the Department's regulations. The period of review is August 22, 1996, through January 31, 1998. On March 23, 1998, the Department published in the **Federal Register** (63 FR 13837) a notice announcing the initiation of an administrative review of the antidumping duty order on melamine institutional dinnerware products from Indonesia, covering the period August 22, 1996, through January 31, 1998.

Termination of Review

On June 16, 1998, we received a timely request for withdrawal of the request for administrative review from AMITA and its member companies.

Because there were no other requests for administrative review from any other interested party, in accordance with section 351.213(d) of the Department's regulations, we have rescinded this administrative review.

This notice is published in accordance with section 751 of the Tariff Act of 1930, as amended (19 U.S.C. 1675) and 19 CFR 351.213(d)(4).

Dated: June 25, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–17533 Filed 6–30–98; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

Emory University, et al.; Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW, Washington, DC.

Docket Number: 98–018. *Applicant:* Emory University, Atlanta, GA 30322. *Instrument:* Electron Microscope, Model H–7500. *Manufacturer:* Hitachi Scientific Instruments, Japan. *Intended Use:* See notice at 63 FR 15832, April 1, 1998. *Order Date:* July 30, 1997.

Docket Number: 98–023. *Applicant:* University of Iowa, Iowa City, IA 52242. *Instrument:* Electron Microscope, Model JEM–1220. Manufacturer: JEOL, Ltd., Japan. *Intended Use:* See notice at 63 FR 25015, May 6, 1998. *Order Date:* February 3, 1998.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered. Reasons: Each foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States either at the time of order of each instrument or at the time of receipt of application by the U.S. Customs Service.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 98–17442 Filed 6–30–98; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

Application for Duty-Free Entry of Scientific Instrument

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether an instrument of equivalent scientific value, for the purposes for which the instrument shown below is intended to be used, is being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Application may be examined between 8:30 a.m. and 5 p.m. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC.

Docket Number: 98–031. *Applicant:* University of California, San Diego, Department of Chemistry, 9500 Gilman Drive, MS–0358, La Jolla, CA 92093–0358. *Instrument:* Electron Beam Evaporation Source. *Manufacturer:* Oxford Applied Research, United Kingdom. *Intended Use:* The instrument will be used to study the atomic structure and magnetic properties of nanograin particles of permalloy (NiFe) in a silver matrix and in ultra high vacuum. These particles will be capped with Ta for studies in air. Application accepted by Commissioner of Customs: June 11, 1998.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 98–17445 Filed 6–30–98; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

Quarterly Update to Annual Listing of Foreign Government Subsidies on Articles of Cheese Subject to an In-Quota Rate of Duty

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Publication of Quarterly Update to Annual Listing of Foreign Government Subsidies on Articles of Cheese Subject to an In-Quota Rate of Duty.

SUMMARY: The Department of Commerce, in consultation with the Secretary of Agriculture, has prepared its quarterly update to the annual list of foreign government subsidies on articles of cheese subject to an in-quota rate of duty during the period January 1, 1998 through March 31, 1998. We are publishing the current listing of those subsidies that we have determined exist.

EFFECTIVE DATE: July 1, 1998.

FOR FURTHER INFORMATION CONTACT: Russell Morris, Office of CVD/AD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., N.W., Washington, D.C. 20230, telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION: Section 702(a) of the Trade Agreements Act of 1979 (as amended) (the Act) requires the Department of Commerce (the Department) to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of cheese subject to an in-quota rate of duty, as defined in section 702(g)(b)(4) of the Act, and to publish an annual list and quarterly updates of the type and amount of those subsidies. We hereby provide the Department's quarterly update of subsidies on cheeses that were imported during the period January 1, 1998 through March 31, 1998.

The Department has developed, in consultation with the Secretary of Agriculture, information on subsidies (as defined in section 702(g)(b)(2) of the Act) being provided either directly or indirectly by foreign governments on articles of cheese subject to an in-quota rate of duty. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amounts of each subsidy for which information is currently available.

The Department will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of cheese subject to an in-quota rate of duty to submit such information in writing to the Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th

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Street and Constitution Avenue, N.W., Washington, D.C. 20230.

This determination and notice are in accordance with section 702(a) of the Act.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

Appendix—Subsidy Programs on Cheese Subject to an In-Quota Rate of Duty

Country and program(s)	Gross [1] subsidy	Net [2] subsidy
Austria: European Union Restitution Payments	$0.22	$0.22
Belgium: EU Restitution Payments	0.07	0.07
Canada: Export Assistance on Certain Types of Cheese	0.24	0.24
Denmark: EU Restitution Payments	0.10	0.10
Finland: EU Restitution Payments	0.27	0.27
France: EU Restitution Payments	0.16	0.16
Germany: EU Restitution Payments	0.20	0.20
Greece: EU Restitution Payments	0.00	0.00
Ireland: EU Restitution Payments	0.23	0.23
Italy: EU Restitution Payments	0.17	0.17
Luxembourg: EU Restitution Payments	0.07	0.07
Netherlands: EU Restitution Payments	0.10	0.10
Norway: Indirect (Milk) Subsidy	0.33	0.33
Consumer Subsidy	0.15	0.15
Total	0.48	0.48
Portugal: EU Restitution Payments	0.09	0.09
Spain: EU Restitution Payments	0.13	0.13
Switzerland Deficiency Payments	0.89	0.89
U.K.: EU Restitution Payments	0.08	0.08

[1] Defined in 19 U.S.C. 1677(5).

[2] Defined in 19 U.S.C. 1677(6).

[FR Doc. 98–17531 Filed 6–30–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Announcement of Meeting of National Conference on Weights and Measures

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of Meeting.

SUMMARY: Notice is hereby given that the 83rd Annual Meeting of the National Conference on Weights and Measures will be held July 12 through 16, 1998, at the Portland Hilton Hotel, Portland, Oregon. The meeting is open to the public. The National Conference on Weights and Measures is an organization of weights and measures enforcement officials of the states, counties, and cities of the United States, and private sector representatives. The interim meeting of the conference, held in January 1998, as well as the annual meeting, brings together enforcement officials, other government officials, and representatives of business, industry, trade associations, and consumer organizations to discuss subjects that relate to the field of weights and measures technology and administration.

Pursuant to (15 U.S.C. 272(B)(6)), the National Institute of Standards and Technology acts as a sponsor of the National Conference on Weights and Measures in order to promote uniformity among the states in the complex of laws, regulations, methods, and testing equipment that comprises regulatory control by the states of commercial weighting and measuring.

DATES: The meeting will be held July 12–16, 1998.

LOCATION: The Portland Hilton, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Gilbert M. Ugiansky, Executive Secretary, National Conference on Weights and Measures, P.O. Box 4025, Gaithersburg, Maryland 20885. Telephone: (301) 975–4004.

Dated: June 25, 1998.

Robert E. Herbner,

Acting Deputy Director, National Institute of Standards and Technology.

[FR Doc. 98–17461 Filed 6–30–98; 8:45 am]

BILLING CODE 3510–13–M

COMMODITY FUTURES TRADING COMMISSION

Application of Cantor Financial Futures Exchange as a Contract Market in U.S. Treasury Bond, Ten-Year Note, Five-Year Note and Two-Year Note Futures Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Application of the Cantor Financial Futures Exchange for initial designation as a contract market.

SUMMARY: The Cantor Financial Futures Exchange, Inc. ("CFFE" or "Exchange"), a New York not-for-profit corporation, has applied for designation as a contract market for the computer-based trading of US Treasury bond, ten-year note, five-year note and two-year note futures contracts. CFFE has been formed pursuant to an agreement between the New York Cotton Exchange ("NYCE") and CFFE, LLC, a subsidiary of Cantor Fitzgerald, LP ("Cantor").[1] Under the agreement, CFFE trading would be conducted on the same trading system that another Cantor subsidiary, Cantor

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[1] CFFE, LLC is a limited liability company whose equity interest is held by Cantor (ninety-nine percent) and CFFE Holdings, LLC (one percent).

Fitzgerald Securities, LLC ("CFS"), currently operates as an interdealer-broker in the US Treasury securities market. CFFE's regulatory responsibilities would be handled by NYCE. CFFE has not previously been approved by the Commission as a contract market in any commodity. Accordingly, in addition to the terms and conditions of the proposed futures contracts, the Exchange has submitted to the Commission a proposed trade-matching algorithm; proposed rules pertaining to CFFE governance, disciplinary and arbitration procedures, trading standards and recordkeeping requirements; and various other materials to meet the requirements for a board of trade seeking initial designation as a contract market. CFFE trades would be cleared and settled by the Commodity Clearing Corporation ("CCC") which is wholly owned by NYCE. Notice of CFFE's application was previously published on February 3, 1997 (63 FR 5505) for a comment period ending on April 6, 1998. That comment period was later extended until April 27, 1998 (63 FR 17823 (April 10, 1998)). Since the Commission's original publication of the CFFE's proposal, the Exchange has made additional submissions to the Commission. Those submissions revise a number of features of CFFE's proposal and generally include further explication and supporting materials with respect to the entire proposal. The submissions are available for review in the Commission's public files.

Acting pursuant to the authority delegated by Commission Regulation 140.96, the Division of Trading and Markets ("Division") has determined to publish CFFE's proposal again so that the public may review and comment on the Exchange's additional submissions. The Division believes that publication of the proposal for comment at this time is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act. The Division seeks comment regarding all aspects of CFFE's application and addressing any issues commenters believe the Commission should consider.

DATES: Comments must be received on or before July 16, 1998.

FOR FURTHER INFORMATION CONTACT: With respect to questions about the terms and conditions of CFFE's proposed futures contracts, please contact Thomas M. Leahy of the Division of Economic Analysis, Commodity Futures Trading Commission, at Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581; Telephone number: (202) 418–5278; Facsimile number: (202) 418–5527; or Electronic mail: tleahy@cftc.gov. With respect to questions about any of CFFE's other proposed rules or related NYCE proposed rules, please contact David Van Wagner of the Division of Trading and Markets at the same address; Telephone number: (202) 418–5481; Facsimile number: (202) 418–5536; or Electronic mail: dvanwagner@cftc.gov.

SUPPLEMENTARY INFORMATION:

I. Description of Proposal

CFFE has applied for designation as a contract market for the computer-based trading of US Treasury bond, ten-year note, five-year note and two-year note futures contracts. CFFE has not been approved previously by the Commission as a contract market in any commodity. Thus, in addition to the terms and conditions of the proposed futures contracts, the Exchange has submitted, among other things, proposed trade-matching algorithm procedures and rules pertaining to CFFE governance, trade practice surveillance, disciplinary and arbitration procedures, trading standards and recordkeeping requirements.

CFFE would be wholly owned by CFFE Regulatory Services, LLC. Equity interest in CFFE Regulatory Services, LLC would be held entirely by NYCE (ten percent equity interest) and NYCE's members (ninety percent equity interest).[2] CFFE's contracts would trade over a computer-based trading system maintained by CFS (the "Cantor System"). CFS is an interdealer-broker in the US Treasury securities market, and it currently operates the Cantor System to match orders placed with it by broker-dealers and other customers. Although neither Cantor nor any of its affiliates would have any equity interest in CFFE, Cantor would collect a transaction fee for each trade executed at CFFE through the Cantor System.

CFFE would be governed by a thirteen-person Board of Directors—eight of whom would be appointed by Cantor and five of whom would be appointed by NYCE. Three of the eight CFFE directors appointed by Cantor would be public directors who could not be affiliated with the CFFE, NYCE or Cantor. NYCE would be responsible for providing all of CFFE's regulatory services including its compliance, surveillance, arbitration and disciplinary programs.[3] Because of NYCE's involvement in CFFE's regulatory programs, all CFFE rule changes that involved regulatory procedures would have to be approved by NYCE's Board of Managers in addition to CFFE's Board of Directors.

CFFE proposes to trade each of its four contracts from 7:30 a.m. to 5:30 p.m., New York time, on each business day. Under the proposal, all CFFE trading would be conducted through: (1) CFFE Class B Members (*i.e.*, NYCE members), (2) CFFE Associate Members, or (3) futures commission merchants, introducing brokers and commodity trading advisors, without CFFE membership, who have entered into a guarantee agreement with a CCC clearing member to clear their CFFE trades. These persons and entities would be collectively referred to as Screen-Based Traders ("SBT") under CFFE's rules. SBTs or their associated persons, referred to as Authorized Traders ("AT") under CFFE's rules, would place orders, whether for their own or for their customers' accounts if they are properly registered, by phoning CFFE terminal operators ("TO")[4] located at a Cantor facility.[5] For each order, the SBT or Authorized Trader who placed an order would be required to provide the TO with a customer or proprietary account identifier, the relevant contract and the quantity and price.[6] The CFFE TO would promptly enter this information into the Cantor System via a terminal keyboard.

The Cantor System would match eligible CFFE orders according to a trade-matching algorithm that would be similar to the algorithm that CFS currently uses to match orders as an interdealer-broker in the US Treasury securities market. Under the algorithm, the Cantor System would post the best bid (best offer) available at any given time and its quantity. Any inferior bids (offers) that were posted earlier would be removed from the System, while inferior bids (offers) entered subsequently would be rejected by the System. Responsive orders to hit outstanding bids (or take outstanding offers) would be matched with bids (offers) on a time-priority basis at the designated bid (offer) price. Under

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[2] NYCE would have the sole voting interest in CFFE Regulatory Services, LLC.

[3] In this regard, CFFE's proposed rules would incorporate by reference certain NYCE rules, such as its rules governing arbitration and disciplinary procedures.

[4] All CFFE TOs would be compensated by CFS.

[5] All phone conversations between SBTs or ATs and CFFE TOs would be recorded and time-indexed by a Cantor tape-recording system. CFFE proposes to retain those recordings for a 45-day period.

[6] SBTs and ATs also would be required to fill out an order ticket for each customer order.

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CFFE's rules, accounts that placed such responsive orders would be known as "aggressors." Aggressors who placed orders that hit all outstanding bids (take all outstanding offers) in the Cantor System at any particular time would be permitted to engage in an exclusive trading period with the best bidder (offeror). During this exclusive trading period, the aggressor and the best bidder (offeror) would "work up" the quantity for a trade at the previously-established trade price. During this work up process, each party would be given alternating six-second periods either to agree to do a transaction at the quantity offered by the other party or to counteroffer for some other quantity. This work up process would continue until the parties agreed to a transaction quantity.[7] During an exclusive trading period, the Cantor System would accept subsequent bids and offers at the same price as the ongoing trade, and these orders would be matched on a time-priority basis to the extent possible immediately upon the conclusion of the exclusive period. The CFFE would provide an exclusive trading period to participants who were earliest in posting best market bids and offers and to aggressors in order to create an incentive for participants to place orders at attractive prices and to provide liquidity.

Upon the execution of a CFFE transaction, the TO would provide an oral confirmation of the trade to the submitting SBT or AT by telephone and the SBT or AT would record the details of the trade on an order ticket.[8] Upon execution of a trade, the Cantor System also would electronically transmit matched-trade data to CCC for clearing and settlement purposes. For each trade, CCC would transmit transaction information to the appropriate clearing members via the Trade Input Processing System ("TIPS").[9] Clearing members would be required to accept or reject each trade within thirty minutes of its posting on TIPS.

The Cantor System also would transmit relevant trade data to NYCE each day for compliance and surveillance purposes.

Since the Commission's original publication of the CFFE's proposal for comment, the Exchange has revised a number of aspects of its proposal. Among the revisions, the CFFE has provided an extensive explanation of its TOs' responsibilities and restrictions and has stated that it would register all TOs with the Commission as floor brokers. The Exchange also has created a new membership category—Associate Members—and has clarified that all holders of CFFE trading privileges who could execute customer orders would be Commission registrants. In addition, all trading privilege holders would, under CFFE's rules, be subjected to the Commission's Part 155 trading standards. The Exchange also has provided further explanation and justification of its trade-matching algorithm, including the procedures for exclusive trading periods and market-crossing sessions.

Finally, among the more significant additions to its submission, the CFFE has determined that the CCC, rather than the New York Board of Clearing, would clear and settle Exchange transactions. It also has submitted an extensive description of CFFE's compliance and surveillance programs and the role of NYCE staff in administering these programs.

III. Request for Comments

Any person interested in submitting written data, views, or arguments on the proposal to designate CFFE should submit their views and comments by the specified date to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5521, or by electronic mail to secretary@cftc.gov. The Division seeks comment on all aspects of CFFE's application for designation as a new contract market, as well as CCC's proposal to serve as CFFE's clearing organization. Reference should be made to the CFFE application for designation as a contract market in US Treasury bond, ten-year note, five-year note and two-year note futures contracts. Copies of the proposed terms and conditions are available for inspection at the Office of the Secretariat at the above address. Copies also may be obtained through the Office of the Secretariat at the above address or by telephoning (202) 418–5100.

Other materials submitted by CFFE and CCC may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552), except to the extent that they are entitled to confidential treatment pursuant to 17 CFR 145.5 or 145.9. Requests for copies of such materials should be made to the Freedom of Information, Privacy and Sunshine Act compliance staff of the Office of the Secretariat at the Commission headquarters in accordance with 17 CFR 145.7 and 145.8.

Issued in Washington, DC, on June 25, 1998.

Alan L. Seifert,

Deputy Director.

[FR Doc. 98–17501 Filed 6–30–98; 8:45 am]

BILLING CODE 6351-01-U

COMMODITY FUTURES TRADING COMMISSION

Membership of the Commission's Performance Review Board

AGENCY: Commodity Futures Trading Commission.

ACTION: Membership Change of Performance Review Board.

SUMMARY: In accordance with the Office of Personnel Management guidance under the Civil Service Reform Act of 1978, notice is hereby given that the following employees will serve as members of the Commission's Performance Review Board.

Chairperson: Linda Ferren, Executive Director. Members: Susan G. Lee, Executive Assistant to the Chairperson; Daniel Waldman, General Counsel; Steven Manaster, Director, Division of Economic Analysis; Geoffrey Aronow, Director, Division of Enforcement; I. Michael Greenberger, Director, Division of Trading and Markets.

DATES: This action will be effective on July 1, 1998.

ADDRESSES: Commodity Futures Trading Commission, Office of Human Resources and Support Services, Three Lafayette Centre, Suite 4100, Washington, D.C. 20581.

FOR FURTHER INFORMATION CONTACT: Ann Linnertz, Director, Office of Human Resources and Support Services, Commodity Futures Trading Commission, Office of Human Resources and Support Services, Three Lafayette Centre, Suite 4100, Washington, D.C. 20581, (202) 254–3275.

SUPPLEMENTAL INFORMATION: This action which changes the membership of the Board supersedes the previously published **Federal Register** Notice, September 11, 1997.

Issued in Washington, D.C. on June 24, 1998.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 98–17498 Filed 6–30–98; 8:45 am]

BILLING CODE 6351-01-M

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[7] The entire work up process would be conducted through CFFE TOs who would enter each party's desired quantity into the Cantor System. The System itself would automatically trigger the alternating six-second exclusive period for each party.

[8] TOs would receive and input orders from SBTs and ATs and relay back trade confirmations. TOs could not maintain any sort of order book or deck, nor could they exercise any discretion over orders.

[9] CCC estimates that CFFE trades would be posted on TIPS within fifteen minutes of their execution.

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Associated Form, and OMB Number: Application For Former Spouse Payments From Retired Pay; DD Form 2293; OMB Number 0730—[To Be Determined].

Type of Request: Reinstatement.

Number of Respondents: 20,520.

Responses Per Respondent: 1.

Annual Responses: 20,520.

Average Burden Per Response: 15 minutes.

Annual Burden Hours: 5,130.

Needs and Uses: Under 10 U.S.C. 1408, state courts may divide military retired pay as property or order alimony and child support payments from the retired pay. The former spouse may apply to the Defense Finance and Accounting Service (DFAS) for direct payment of these monies by using the DD Form 2293, Application For Former Spouse Payments From Retired Pay. This information collection is needed to provide DFAS the basis data needed to process the request. The respondents of this information collection are spouses or former spouses of military members. Information on the DD Form 2293 is also used to determine the applicant's current status and contains statutory required certifications the applicant/former spouse must make when applying for payments. This collection of information was formerly approved by the Office of Management and Budget under OMB Nubmer 0704–0182.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Office for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written request for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: June 25, 1998.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 98–17404 Filed 6–30–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Army

Proposed Collection; Comment Request

AGENCY: Deputy Chief of Staff for Personnel (DAPE–ZXI–RM).

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Department of the Army announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by August 31, 1998.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to Department of the Army, Military Traffic Management Command, (MTOP–Q and MTOP–T), 6511 Columbia Pike, Falls Church, Virginia 22041–5050, ATTN: (Diane Coleman or Sylvia Walker). Consideration will be given to all comments received within 60 days of the date of publication of this notice.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call Department of the Army Reports clearance officer at (703) 614–0454.

Title: Tender of service—Mobile Homes/Boats, OMB Number 0704–0056.

Needs and Uses: Since mobile homes/boats move at Government expense. Data is needed to choose the best service at least cost. The information provided serves as a bid for contract to transport mobile homes/boats, and the carrier must provide the information in order to become a DOD-approved carrier. Carrier with best service for lease cost receives the contract.

Affected Public: Business or other for-profit.

Annual Burden Hours: 444.

Number of Respondents: 23.

Responses Per Respondent: 125.

Average Burden Per Response: 1 hour 15 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION: The Carrier Qualification Program (CQP) is designed to protect the interest of the Government and to ensure that the Department of Defense (DOD) deals with responsible carriers having the capability to provide quality and dependable service. This program became necessary because deregulation of the motor carrier industry brought an influx of new carriers into DOD's transportation market, many of which are unreliable or do not have capability to provide consistent dependable transportation services.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 98–17482 Filed 6–30–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Committee Meeting Notice

AGENCY: United States Army School of the Americas, Training and Doctrine Command.

ACTION: Notice; withdrawal.

SUMMARY: This document withdraws from consideration the Committee Meeting Notice published in the **Federal Register** on June 17, 1998 (Vol. 63, No. 116 FR 33055–33056). Reason for withdrawal is based on the expired membership of this subcommittee which precludes the meeting from taking place.

FOR FURTHER INFORMATION CONTACT: United States Army School of the Americas, Attention: TMD, MAJ Clemente, Room 333, Building 35, Fort Benning, GA 31905.

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 98–17484 Filed 6–30–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Supplemental Environmental Impact Statement (E-SEIS) for Permitting Continued Mining Operations of PCS Phosphate, White Springs (Hamilton County), Florida

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of Intent.

SUMMARY: The Jacksonville District, U.S. Army Corps of Engineers, Regulatory Division (Corps), has received a request for a modification to Department of the Army permit no. 19840452 for the PCS Phosphate-White Springs mine (PCS Phosphate), located in Hamilton County, Florida. A more minor modification was issued in 1997. The Corps has determined that the proposed modification of the existing permit will involve substantial changes that are relevant to environmental concerns. Therefore, a Supplement to the Final Environmental Impact Statement, dated February 1986 will be prepared.

ADDRESSES: Chief, Regulatory Division, U.S. Army Corps of Engineers, P.O. Box 4970, Jacksonville, Florida 32232–0019.

FOR FURTHER INFORMATION CONTACT: Osvaldo Collazo, 904–232–1675.

SUPPLEMENTARY INFORMATION: PCS Phosphate has been engaged in phosphate mining in its project area in Hamilton County under permits from the Corps, Florida Department of Environmental Protection (DEP), and Hamilton County. The current Federal permit will expire in 2002. PCS Phosphate has begun the application process with state and Federal regulatory agencies for the permitting of continued mining operations within the company's 100,000-acre project area in Hamilton County. The modification involves mining new sites within the general boundary of the project area. This is the same project area reviewed under the original EIS.

Proposed new mining areas include jurisdictional wetlands. Permit modification would be issued under Section 404 of the Clean Water Act, as amended. Permits would be issued under a joint permitting process with the DEP. A new permit would also be required from Hamilton County. Other state, regional, and Federal agencies are expected to participate in the permit evaluation. Mitigation for loss of wetland functions and values is anticipated.

In addition, PCS Phosphate has requested that the DEP initiate a process under s. 403.752, Florida Statutes for coordinated review and agency actions. The process will be expected to result in a binding ecosystem management agreement, which would include the required state permits and approvals. The ecosystem management agreement process requested by PCS Phosphate includes the opportunity for public participation and comment. The Corps agreed that these public meetings would also serve the purpose of the scoping process and review and the SEIS and permit actions. The first public meeting was held on December 11, 1997. Public comment was initially requested in two areas: (1) the scope of the environmental studies to be performed for support of permitting actions and (2) identification of persons or organizations for both active participation in the process and receipt of periodic mailings. Coordination has included a number of Federal, state, regional, local agencies, and environmental groups including but not limited to the following: U.S. Fish and Wildlife Service, U.S. Environmental Protection Agency, Florida Department of Environmental Protection, State Historic Preservation Officer, Suwannee River Water Management District, Hamilton County, Florida Department of Community Affairs, Florida Game and Freshwater Fish Commission, Sierra Club, 4 Rivers Audubon, and Florida Defenders of the Environment.

Scoping: The public meetings provided much information that has served the scoping process. A draft Plan of Study for the Ecosystem Management Agreement and the SEIS has been prepared. This Plan of Study is intended to fulfill the information requirements for all anticipated regulatory actions. The results of the study will be compiled into a Supplemental Technical Background Document (TDB) and analyzed in a SEIS. The document can be made available for review upon request. The Corps will hold a formal public scoping meeting on July 30, 1998. All parties are invited to participate in the scoping process by identifying any additional concerns on issues, studies needed, alternatives, procedures, and other matters related to the scoping process.

Public Participation: We invite the participation of affected Federal, state and local agencies, and other interested private organizations and individuals.

Draft SEIS Preparation: We estimate that the Supplemental TBD will be available to the public on or about mid 1999, and the Draft SEIS will be prepared later that year.

Dated: June 17, 1998.

Marie G. Burns,

Acting Chief, Regulatory Division.

[FR Doc. 98–17483 Filed 6–30–98; 8:45 am]

BILLING CODE 3710–AJ–M

DEPARTMENT OF EDUCATION

National Assessment Governing Board

AGENCY: National Assessment Governing Board; Department of Education.

ACTION: Notice of Information Collection Activity; Request for Comment.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces a proposed information collection request (ICR) of the National Assessment Governing Board. The information collection is to conduct pilot tests of items developed for use in the proposed voluntary national tests in 4th grade reading and 8th grade mathematics. Before submitting the ICR to the Office of Management and Budget (OMB), the Governing Board is soliciting comments on the information collection as described below.

DATES: Comments must be submitted on or before August 31, 1998.

ADDRESSES: Submit written comments identified by "ICR: Voluntary National Tests—Pilot," by mail or in person addressed to Ray Fields, Assistant Director for Policy and Research, National Assessment Governing Board, Suite 825, 800 North Capitol Street, NW, Washington, DC, 20002. Comments may be submitted electronically by sending electronic mail (e-mail) to Ray __ Fields@ED.GOV. Comments sent by e-mail must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

All written comments will be available for public inspection at the address given above from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Ray Fields, Assistant Director for Policy and Research, National Assessment Governing Board, Suite 825, 800 North Capitol Street, NW, Washington, DC, 20002, Telephone: (202) 357–0395, e-mail: Ray __ Fields@ED.GOV.

SUPPLEMENTARY INFORMATION:

I. Information Collection Request

The National Assessment Governing Board is seeking comments on the following Information Collection Request (ICR).

Type of Review: New.

VOL 63 ISS 126 JL 1 1998 UMI

Title: Pilot Tests for the Voluntary National Tests in 4th Grade Reading and 8th Grade Mathematics.

Affected Entities: Parties affected by this information collection are state, local, Tribal Government or non-public education agencies.

Abstrate: Pub. L. 105–78 vests exclusive authority to develop the voluntary national tests in the Governing Board and also prohibits the use of Fiscal Year 1998 funds for pilot testing, field testing, implementation, administration, or distribution of voluntary national tests. If Congress does not prohibit further development of the voluntary national tests after September 30, 1998, the Governing Board intends to begin pilot testing of items (i.e., test questions) in March 1999.

Public Law 105–78 also requires the Governing Board to make four determinations about the voluntary national tests: (1) the extent to which test items selected for use on the tests are free from racial, cultural, or gender bias, (2) whether the test development process and test items adequately assess student reading and mathematics comprehension in the form most likely to yield accurate information regarding student achievement in reading and mathematics, (3) whether the test development process and test items take into account the needs of disadvantaged, limited English proficient, and disabled students, and (4) whether the test development process takes into account how parents, guardians, and students will appropriately be informed about testing content, purpose and uses.

The purpose of the pilot test is to gather data on the test questions in order to construct multiple equated test forms (i.e., test booklets that are essentially interchangeable) in 4th grade reading and in 8th grade mathematics and to provide information related to the four determinations. Test forms would be constructed on the basis of the pilot test data and would be field-tested in March of 2000. The overall purpose of the field-testing is to ensure that the test forms are in fact equated to each other. Test forms developed in this first cycle would be available for use in March 2001. Further item and test development is expected, with pilot testing in March of 2000 and 2001, and field-testing, for respective cycles, in March 2001 and 2002.

Approximately 1,100 test items in 4th grade reading and 1,100 test items in 8th grade mathematics will be pilot tested in March 1999. Individual 4th grade students will respond to 45 reading items; individual 8th grade students will respond to 60 mathematics items. This is the same number of items that will be on the respective test forms for field-testing. The objective is to produce six equated test forms in reading and in mathematics for the year 2000 field test. Thus, 270 reading test items and 360 mathematics test items are required for the field-test forms. This provides a ratio of pilot tested items to field-tested items of 4:1 for reading and 3:1 for mathematics.

The pilot tests will be conducted on nationally representative samples. The sample size is based on at least 800 students per test item. For 4th grade reading, the March 1999 pilot will involve an estimated 24,000 students in 558 schools. The March 2000 and 2001 pilot tests in 4th grade reading will each involve an estimated 16,000 students in 374 schools. For 8th grade mathematics, the March 1999 pilot test will involve an estimated 19,200 students in 344 schools. The March 2000 and 2001 pilot tests in 8th grade mathematics will each involve an estimated 13,000 students in 231 schools. The reason for the smaller sample sizes in 2000 and 2001 is that the target is to field test four test forms in the second and third development cycles as opposed to six in the first cycle (i.e., March 1999 pilot test, March 2000 field test).

In order to ensure adequate control and proper identification of the booklets of test items, and conduct necessary analyses of the data that results from the information collection, the following background information will be collected on the cover of the booklets of test questions: student name, date of birth, race/ethnicity, and sex (all to be supplied by the student), and special education status, limited English proficiency status, disadvantaged status, test administration accommodations, primary language, the test administrator under contract). Although students will write their name on each booklet for identification purposes during the administration of the pilot test, the students' names will be removed from the booklet shortly after the pilot test. Student names will not be included in the database for analysis and will not leave the school building where pilot testing is taking place. Instead, a unique numeric or alphanumeric identifier will be assigned to each booklet for tracking and analysis purposes. No third party notification or public disclosure burden is associated with this collection.

Burden Statement: The annual burden respondent estimate is based on 90 minutes of testing and 30 minutes of test administration activities (e.g., delivering instructions, handing out and collecting booklets, and providing background information as described above) per student, or two hours per student. For 4th grade reading, the burden estimate is 48,000 hours in 1999, 32,000 hours in 2000, and 32,000 hours in 2001. For 8th grade mathematics, the burden estimate is 38,400 hours in 19999, 26,000 hours in 2000, and 26,000 hours in 2001. Each respondent is required to respond only once per event. Respondents will be different individuals in different pilot test years.

Participation in the pilot test is voluntary. State, local, and non-public education agencies are not mandated or required to participate.

II. Request for Comments

The National Assessment Governing Board solicits comments to:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Governing Board, including whether the information will have practical utility;

(b) Evaluate the accuracy of the Governing Board's estimates of the burden of the proposed collection of information;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

III. Public Record

A record has been established for this action. A public version of this record, including printed, paper versions of electronic comments, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Suite 825, 800 North Capital Street, NW., Washington, DC, 20002. Comments may be submitted electronically by sending electronic mail (e-mail) to Ray_Fields@ED.GOV. Comments sent by e-mail must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this action, as well as the public version, as described above will be kept in paper form. Accordingly, the National Assessment Governing Board will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the National Assessment Governing Board, Suite 825, 800 North Capitol Street, NW., Washington, DC 20002.

List of Subjects

Pilot tests for the voluntary national tests in 4th grade reading and 8th grade mathematics and Information Collection Requests.

Dated: June 25, 1998.

Roy Truby,

Executive Director, National Assessment Governing Board.

[FR Doc. 98–17408 Filed 6–30–98; 8:45 am]

BILLING CODE 4000–01–M

DEPARTENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Acting Deputy Chief Information Officer, Office of the Chief Information Officer, invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 31, 1998.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Deputy Chief Information Officer, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Hazel Fiers,

Acting Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review:

Title: Application for Seven Foreign Language and Area Studies Programs.

Frequency: Annually or Every 3 Years.

Affected Public: Individuals or households; Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden: Responses: 469; Burden Hours: 43,213.

Abstract: Collect program and budget information to make grants to institution of higher education. This information collection falls under the streamlined process for discretionary grants under OMB Control Number 1890–0001.

Office of the Under Secretary

Type of Review: New.

Title: Local Implementation of Federal Programs.

Frequency: One time.

Affected Public: State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden: Responses: 849; Burden Hours: 872.

Abstract: The Department of Education is charged with evaluating Title I of ESEA and other elementary and secondary education legislation enacted by the 103rd Congress. These studies will collect information on the operations and effects at the district level of legislative provisions and federal assistance, in the context of state education reform efforts. Findings will be used in reporting to Congress and improving information dissemination. Respondents are local superintendents, directors of federal programs, directors of research and assessment, and school principals.

No comments were received during the 60-day comment period. Minor revisions have been made to the instrument during the interim. There are two differences between the earlier version of the survey and the revised version being submitted to OMB, the are as follows:

(1) The original survey addressed a wide range of topics concerning the implementation of federal programs, with emphasis on data use, cross-program coordination, intergovernmental relations, and services to homeless children and youth. The revised survey is more focused on data needed for ED reporting to Congress under the Government Performance and Results Act (GPRA). It incorporates a number of data elements required in the Department's Strategic Plan and Annual Performance Plans. Questions about services to homeless children and youth have been dropped, and the number of questions about intergovernmental relations and the implementation of specific federal programs has been reduced.

(2) The revised version required a smaller sample. Rather than drawing a large random sample of approximately 1500 districts stratified by proverty and district size as previously planned, the instrument will now draw a smaller random sample of 789 districts that will permit national estimates, but not estimates for distinct strata. Additionally, the entire sample of districts in the ED Study of Education Resources and Funding is being incorporated into this sample so that the two studies can share key data elements.

[FR Doc. 98–17535 Filed 6–30–98; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–406–000]

CNG Transmission Corporation; Notice of Informal Settlement Conference

June 25, 1998.

Take notice that an informal settlement conference will be convened in this proceeding on Wednesday, July 1, 1998, at 10:00 a.m., at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC, 20426, for the purpose of exploring the possible settlement of the above-reference docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact William J. Collins at (202) 208–0248.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17429 Filed 6–30–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–619–000]

Columbia Gas Transmission Corporation; Notice of Application

June 25, 1998.

Take notice that on June 17, 1998, Columbia Gas Transmission Corporation (Columbia), a Delaware corporation, having its principal place of business at 12801 Fair Lakes Parkway, Fairfax, Virginia, 22030–1046, filed an abbreviated application pursuant to Section 7(b) of the Natural Gas Act, as amended, for permission and approval to abandon certain natural gas services, as more fully described in the application.

Columbia proposes to abandon from service Munderf Storage Field and transmission pipelines 4393 and 4394, all located in Jefferson County, Pennsylvania. Due to the deteriorating condition of the casing in the only well (Munderf Storage Well 552) in Munderf Storage field and at the recommendation of the State of Pennsylvania Department of Environmental Resources, Columbia plugged Well 552 on July 13, 1994. Columbia has determined that because of changes in market requirements, sources of supply and transmission facilities in the Munderf area, that current and future market requirements can be met without the Munderf Storage Field. Columbia has also determined that with the abandonment of Munderf Storage Field, transmission lines 4393 and 4394, consisting of 677 feet of 4-inch diameter pipeline, will no longer be needed. The estimated net debit to accumulated provision for depreciation for both the storage field and lines is $138,475.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 16, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Columbia to appear or be represented at the hearing.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17424 Filed 6–30–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–2580–000]

HDI Associates III; Notice of Withdrawal

June 25, 1998.

Take notice that on June 22, 1998, HDI Associates III tendered for filing Notice of Withdrawal of its filing made on April 17, 1998, in Docket No. ER98–2580–000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 216 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.216). All such motions and protests should be filed on or before July 7, 1998. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17494 Filed 6–30–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–2581–000]

HDI Associates III; Notice of Withdrawal

June 25, 1998.

Take notice that on June 22, 1998, HDI Associates III tendered for filing Notice of Withdrawal of its filing made on April 17, 1998, in Docket No. ER98–2581–000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 216 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.216). All such motions and protests should be filed on or before July 7, 1998. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17495 Filed 6–30–98; 8:45 am]

BILLING CODE 6717–01–M

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–606–000]

Koch Gateway Pipeline Company; Notice of Request Under Blanket Authorization

June 25, 1998.

Take notice that on June 11, 1998, as supplemented on June 18, 1998, Koch Gateway Pipeline Company (Applicant), 600 Travis Street, P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP98–606–000 a request pursuant to Sections 157.205, 157.208(a)(2) and 157.211(a)(2) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.208, and 157.211) for approval to acquire the facilities of Five Flags Pipeline Company (Five Flags), construct two interconnections, and authorize the use of five existing delivery points in jurisdictional service, pursuant to Section 7(c) of the Natural Gas Act (NGA), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Applicant proposes to acquire from Five Flags approximately 41 miles of ten-inch and 15 miles of eight-inch pipeline located in Santa Rosa and Escambia Counties, Florida. Applicant states that the acquisition will not include any compression facilities, because there is none on the Five Flags system. Applicant further proposes to construct and operate two interconnections between the existing facilities of Five Flags and Applicant. It is asserted that once connected, these facilities will serve as interconnections between the systems of Applicant and Florida Gas Transmission, another interstate pipeline. Finally, Applicant proposes to operate five existing delivery points on the Five Flags system as jurisdictional delivery points.

Any person or the Commission's Staff may, within 45 days of the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), a motion to intervene and pursuant to Section 157.205 of the regulations under the Natural Gas Act (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefor, the proposed activities shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17423 Filed 6–30–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT98–58–000]

National Fuel Gas Supply Corporation; Notice of Refund Report

June 25, 1998.

Take notice that on June 23, 1998, National Fuel Gas Supply Corporation (National) tendered for filing a refund report pursuant to the Commission's September 27, 1996, "Opinion and Order Approving the Gas Research Institute 1997 Research and Development Program" issued in Docket No. RP96–267–000.

National states that it has refunded the Gas Research Institute demand surcharge based on the non-discounted GRI dollars paid by each firm shipper during the 1997 calendar year as a percentage of the total non-discounted GRI demand dollars paid by all firm shippers. National further states that it made these refunds in the form of credits to invoices issued on June 11, 1998. National states that the total credit amounted to $685,234.

National states that the notice of the refund and refund amounts have been posted on National's EBB and copies of National's filing were served on National's jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest this filing should file a motion or a protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Section 385. 214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before July 2, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17425 Filed 6–30–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–2588–000]

Newfound Hydroelectric Company; Notice of Withdrawal

June 25, 1998.

Take notice that on June 22, 1998, Newfound Hydroelectric Company tendered for filing Notice of Withdrawal of its filing made on April 17, 1998, in Docket No. ER98–2588–000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 216 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.216). All such motions and protests should be filed on or before July 7, 1998. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17496 Filed 6–30–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2042–010]

Public Utility District No. 1 of Pend Oreille County; Notice of Offer of Settlement

June 25, 1998.

On May 14, 1998, the United States Department of the Interior, through the Bureau of Indian Affairs and the U.S. Fish and Wildlife Service, the Public Utility District No. 1 of Pend Oreille County, Washington, the Kalispel Tribe of Indians, the Washington State Department of Fish and Wildlife, and the United States Forest Service filed an

Offer of Settlement which, if approved by the Commission, would resolve the pending license amendment application for the Box Canyon Project No. 2042, filed by the District on February 18, 1997.

The matters that would be resolved by the settlement pertain to protection, mitigation, or enhancement of resources affected by project operations, as well as the Kalispel Indian Reservation and national forest lands, and annual charges for the use and occupancy of Indian trust lands.

Anyone may submit comments on the Offer of Settlement in accordance with the requirements of the Commission's Rules of Practice and Procedure pertaining to submission of settlement offers, 18 CFR 385.602(f), except that the provisions of subsection 602(f)(2) are hereby waived to the extent necessary to extend the period for comments and reply comments as specified below. Comments must be filed by [the 20th day following publication of this notice in the Federal Register]; must bear in all capital letters the title "COMMENTS," and Project No. 2042–010. Reply comments must be filed by [the 30th day following publication of this notice in the Federal Register]. Send the comments or reply comments (original and 8 copies) to: the Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any comments or reply comments must also be served on each representative of the parties to the Offer of Settlement.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17426 Filed 6–30–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–2589–000]

W.M. Lord Excelsior (Union Village Dam); Notice of Withdrawal

June 25, 1998.

Take notice that on June 22, 1998, W.M. Lord Excelsior tendered for filing Notice of Withdrawal of its filing made on April 17, 1998, in Docket No ER98–2589–000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 216 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.216). All such motions and protests should be filed on or before July 7, 1998. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17497 Filed 6–30–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–1850–000, et al.]

California Independent System Operator Corporation, et al.; Electric Rate and Corporate Regulation Filings

June 22, 1998.

Take notice that the following filings have been made with the Commission:

1. California Independent System Operator Corporation

[Docket No. ER98–1850–000]

Take notice that on June 17, 1998, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 1, to the Meter Service Agreement for Scheduling Coordinators between Automated Power Exchange, Inc., and the ISO for acceptance by the Commission. The ISO states that Amendment No. 1, modifies the Agreement, as directed by the Commission, to comply with the Commission's order issued December 17, 1997 in Pacific Gas and Electric Co., 81 FERC ¶ 61,320 (1997).

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: July 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. California Independent System Operator Corporation

[Docket No. ER98–1851–000]

Take notice that on June 17, 1998, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 1, to the Meter Service Agreement for Scheduling Coordinators between Enron Power Marketing, Inc., and the ISO for acceptance by the Commission. The ISO states that Amendment No. 1, modifies the Agreement, as directed by the Commission, to comply with the Commission's order issued December 17, 1997 in Pacific Gas and Electric Co., 81 FERC ¶ 61,320 (1997).

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: July 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. California Independent System Operator Corporation

[Docket No. ER98–1854–000]

Take notice that on June 17, 1998, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 1, to the Meter Service Agreement for Scheduling Coordinators between LG&E Energy Marketing, Inc., and the ISO for acceptance by the Commission. The ISO states that Amendment No. 1, modifies the Agreement, as directed by the Commission, to comply with the Commission's order issued December 17, 1997 in Pacific Gas and Electric Co., 81 FERC ¶ 61,320 (1997).

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: July 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. California Independent System Operator Corporation

[Docket No. ER98–1856–000]

Take notice that on June 17, 1998, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 1, to the Meter Service Agreement for Scheduling Coordinators between Duke Energy Trading & Marketing, L.L.C. and the ISO for acceptance by the Commission. The ISO states that Amendment No. 1, modifies the Agreement, as directed by the Commission, to comply with the Commission's order issued December 17, 1997 in Pacific Gas and Electric Co., 81 FERC ¶ 61,320 (1997).

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: July 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. California Independent System Operator Corporation

[Docket No. ER98–1857–000]

Take notice that on June 17, 1998, the California Independent System Operator

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Corporation (ISO), tendered for filing Amendment No. 1, to the Meter Service Agreement for Scheduling Coordinators between Salt River Project Agriculture Improvement and Power District and the ISO for acceptance by the Commission. The ISO states that Amendment No. 1, modifies the Agreement, as directed by the Commission, to comply with the Commission's order issued December 17, 1997 in Pacific Gas and Electric Co., 81 FERC ¶ 61,320 (1997).

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: July 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. California Independent System Operator Corporation

[Docket No. ER98–1858–000]

Take notice that on June 17, 1998, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 1, to the Meter Service Agreement for Scheduling Coordinators between PG&E Energy Services Corporation and the ISO for acceptance by the Commission. The ISO states that Amendment No. 1, modifies the Agreement, as directed by the Commission, to comply with the Commission's order issued December 17, 1997 in Pacific Gas and Electric Co., 81 FERC ¶ 61,320 (1997).

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: July 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. California Independent System Operator Corporation

[Docket No. ER98–1859–000]

Take notice that on June 17, 1998, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 1, to the Meter Service Agreement for Scheduling Coordinators between Vitol Gas & Electric, L.L.C. and the ISO for acceptance by the Commission. The ISO states that Amendment No. 1, modifies the Agreement, as directed by the Commission, to comply with the Commission's order issued December 17, 1997 in Pacific Gas and Electric Co., 81 FERC ¶ 61,320 (1997).

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: July 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. California Independent System Operator Corporation

[Docket No. ER98–1862–000]

Take notice that on June 17, 1998, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 1, to the Meter Service Agreement for Scheduling Coordinators between Arizona Public Service Company and the ISO for acceptance by the Commission. The ISO states that Amendment No. 1, modifies the Agreement, as directed by the Commission, to comply with the Commission's order issued December 17, 1997 in Pacific Gas and Electric Co., 81 FERC ¶ 61,320 (1997).

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: July 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. California Independent System Operator Corporation

[Docket No. ER98–1863–000]

Take notice that on June 17, 1998, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 1, to the Meter Service Agreement for Scheduling Coordinators between Power Resource Managers, L.L.C., and the ISO for acceptance by the Commission. The ISO states that Amendment No. 1, modifies the Agreement, as directed by the Commission, to comply with the Commission's order issued December 17, 1997 in Pacific Gas and Electric Co., 81 FERC ¶ 61,320 (1997).

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: July 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. California Independent System Operator Corporation

[Docket No. ER98–1866–000]

Take notice that on June 17, 1998, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 1, to the Meter Service Agreement for Scheduling Coordinators between Edison Source and the ISO for acceptance by the Commission. The ISO states that Amendment No. 1, modifies the Agreement, as directed by the Commission, to comply with the Commission's order issued December 17, 1997 in Pacific Gas and Electric Co., 81 FERC ¶ 61,320 (1997).

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: July 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. California Independent System Operator Corporation

[Docket No. ER98–1867–000]

Take notice that on June 17, 1998, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 1, to the Meter Service Agreement for Scheduling Coordinators between PacifiCorp and the ISO for acceptance by the Commission. The ISO states that Amendment No. 1, modifies the Agreement, as directed by the Commission, to comply with the Commission's order issued December 17, 1997 in Pacific Gas and Electric Co., 81 FERC ¶ 61,320 (1997).

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: July 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. California Independent System Operator Corporation

[Docket No. ER98–1889–000]

Take notice that on June 17, 1998, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 1, to the Meter Service Agreement for Scheduling Coordinators between the City of Seattle, City Light Department and the ISO for acceptance by the Commission. The ISO states that Amendment No. 1, modifies the Agreement, as directed by the Commission, to comply with the Commission's order issued December 17, 1997 in Pacific Gas and Electric Co., 81 FERC ¶ 61,320 (1997).

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: July 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. Rochester Gas and Electric Corporation

[Docket Nos. ER98–2510–000 and ER98–2621–000]

Take notice that on June 17, 1998, Rochester Gas and Electric Corporation (RG&E), filed a response to a deficiency letter received from the Director, Division of Rate Applications, dated

May 18, 1998 (May 18, Letter) in these proceedings. As part of this response, RG&E submits two Service Agreements for service to Energetix, Inc., and NEV East LLC. RG&E states that these Service Agreements address all the items raised in the May 18, Letter.

Comment date: July 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Carolina Power & Light Company

[Docket No. ER98–3385–000]

Take notice that on June 17, 1998, Carolina Power & Light Company (CP&L), tendered for filing un-executed Service Agreements between CP&L and 108 eligible buyers.[1]

Service to each eligible buyer will be in accordance with the terms and conditions of CP&L's Market-Based Rates Tariff, FERC Electric Tariff No. 4, for sales of capacity and energy at market-based rates.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: July 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. Puget Sound Energy, Inc.

[Docket No. ER98–3392–000]

Take notice that on June 17, 1998, Puget Sound Energy, Inc., as Transmission Provider, tendered for filing a Service Agreement for Firm Point-To-Point Transmission Service (Firm Point-To-Point Service Agreement) and a Service Agreement for Non-Firm Point-To-Point Transmission Service (Non-Firm Point-To-Point Service Agreement) with Avista Energy, Inc. (Avista), as Transmission Customer.

A copy of the filing was served upon Avista.

Comment date: July 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. Fortistar Power Marketing LLC

[Docket No. ER98–3393–000]

Take notice that on June 17, 1998, Fortistar Power Marketing LLC (FPM), tendered for filing pursuant to Rule 205, 18 CFR 385.205, a petition for waivers and blanket approvals under various regulations of the Commission and for an order accepting its FERC Electric Rate Schedule No. 1, to be effective sixty days from the date of this filing. In transactions where FPM will sell electric energy at wholesale, it proposes to make such sales on rates, terms and conditions to be mutually agreed to with the purchasing party.

Comment date: July 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. Carolina Power & Light Company

[Docket No. ER98–3394–000]

Take notice that on June 17, 1998, Carolina Power & Light Company (CP&L), tendered for filing executed Service Agreements between CP&L and the following eligible buyers: Allegheny Power Service Corporation; The Energy Authority; The Power Company of America; and Northern Indiana Public Service Company. Service to each eligible buyer will be in accordance with the terms and conditions of CP&L's Market-Based Rates Tariff, FERC Electric Tariff No. 4, for sales of capacity and energy at market-based rates.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: July 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. Carolina Power & Light Company

[Docket No. ER98–3395–000]

Take notice that on June 17, 1998, Carolina Power & Light Company (CP&L), tendered for filing un-executed Service Agreements between CP&L and the following eligible buyers: Avista Energy, Inc.; Cargill-Alliant, LLC; First Energy Trading and Power Marketing Incorporated; Plum Street Energy Marketing; and QST Energy Trading. Service to each eligible buyer will be in accordance with the terms and conditions of CP&L's Market-Based Rates Tariff, FERC Electric Tariff No. 4, for sales of capacity and energy at market-based rates.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: July 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. Arizona Public Service Company

[Docket No. ER98–3396–000]

Take notice that on June 17, 1998, Arizona Public Service Company (APS), tendered for filing a Service Agreement under APS' FERC Electric Tariff, Original Volume No. 3, for service to the California Independent System Operator Corporation.

A copy of this filing has been served on the Arizona Corporation Commission and the California Independent System Operator Corporation.

Comment date: July 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

20. New York State Electric & Gas Corporation

[Docket No. ER98–3397–000]

Take notice that on June 17, 1998, New York State Electric & Gas Corporation (NYSEG), tendered for filing pursuant to Section 205 of the Federal Power Act and Section 35.13 of the Federal Energy Regulatory Commission's (FERC or Commission) Regulations, a request for modification of its tax factor applicable to service rendered under Schedules 7 and 8 and Attachment H of NYSEG's OATT.

NYSEG requests an effective date of August 17, 1998, for the new tax factor.

NYSEG has served copies of the filing on the parties on the official service list of the OATT. In addition, NYSEG has mailed copies of the filing to NYPSC, NYPA, and the customers taking service under the OATT.

Comment date: July 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

21. Southern Company Services, Inc.

[Docket No. ER98–3398–000]

Take notice that on June 17, 1998, Southern Company Services, Inc. (SCSI), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric and Power Company (collectively referred to as Southern Companies), filed a service agreement under Southern Companies' Market-Based Rate Power Sales Tariff (FERC Electric Tariff, Original Volume No. 4) with The XERXE Group, Inc. SCSI states that the service agreements will enable Southern Companies to engage in short-term market-based rate sales to this customer.

Comment date: July 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

22. Western Resources, Inc.

[Docket No. ER98–3401–000]

Take notice that on June 17, 1998, Western Resources, Inc., tendered for filing an agreement between Western Resources and Ameren Services Company, Western Resources and Missouri Public Service, Western Resources and Koch Energy Trading, Inc., Western Resources and PacifiCorp Power Marketing, Inc., and Western Resources and Omaha Public Power District. Western Resources states that the purpose of the agreements is to permit the customers to take service

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[1] The list of the 108 eligible buyers can be found in Attachment A of the application filed June 17, 1998 in the above-docketed proceeding.

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under Western Resources' market-based power sales tariff on file with the Commission. The agreements are proposed to become effective May 19, 1998, May 18, 1998, May 20, 1998, May 28, 1998 and June 17, 1998, respectively.

Copies of the filing were served upon Ameren Services Company, Missouri Public Service, Koch Energy Trading, Inc., PacifiCorp Power Marketing, Inc., Omaha Public Power District, and the Kansas Corporation Commission.

Comment date: July 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

23. PJM Interconnection, L.L.C.

[Docket No. ER98–3402–000]

Take notice that on June 17, 1998, PJM Interconnection, L.L.C. (PJM), tendered for filing amendments to the service agreements for Network Integration Transmission Service for Delmarva Power & Light Company and PP&L, Inc., so as to reflect that, commencing June 1, 1998, the load of the Easton Utilities Commission will be served by PP&L rather than Delmarva.

Copies of this filing were served upon Delmarva, PP&L, Easton, the Maryland Public Service Commission, and the Pennsylvania Public Utility Commission.

PJM requests an effective date of June 1, 1998, for the amendments to the service agreements.

Comment date: July 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 98–17430 Filed 6–30–98; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2232–334]

Duke Power Company, Notice of Availability of Draft Environmental Assessment

June 25, 1998.

A draft environmental assessment (EA) is available for public review. The draft EA analyzes the environmental impacts of allowing Duke Power Company, licensee for the Catawba-Wateree Project, P–2232–334, to authorize the Charlotte-Mecklenburg Utility District to construct additional facilities at the Catawba River Pumping Station to increase the water withdrawal from Mountain Island Lake for municipal water supply. The EA concludes the proposed action would not constitute a major federal action significantly affecting the quality of the human environment. The Catawba-Wateree Project is on the Catawba and Wateree rivers in North and South Carolina.

the draft EA was written by staff in the Office of Hydropower Licensing, Federal Energy Regulatory Commission. Copies of the draft EA can be obtained by calling the Commission's Public Reference Room at (202) 208–1371.

Please submit any comments on the draft EA within 30 days from the date of this notice. any comments conclusions, or recommendations that draw upon studies, reports, or other working papers of substance should be supported by appropriate documentation. Comments should be addressed to: Mr. David P. Boergers, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street N.E., Washington, D.C. 20426. Please affix Project No. 2232–334 to all comments.

David P. Boergers,
Acting Secretary.

[FR Doc. 98–17427 Filed 6–30–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11508–001]

Alaska Power and Telephone Company; Notice of Intent To Prepare an Environmental Assessment and Conduct Public Scoping Meetings and a Site Visit

June 25, 1998.

The Federal Energy Regulatory Commission (Commission) has received an application from the Alaska Power and Telephone Company (AP&T) to license the Wolf Lake Hydroelectric Project, Project No. 11508–001. The proposed 2.2-megawatt project would be located on the east side of Prince of Wales Island along Twelvemile Arm, near Hollis, Alaska.

The Commission intends to prepare an Environmental Assessment (EA) for the project in accordance with the National Environmental Policy Act. In the EA, we will objectively analyze both site-specific and cumulative environmental impacts of the project, and reasonable alternatives as proposed by AP&T, as well as, economic and engineering impacts.

The draft EA will be issued and circulated to those on the mailing lists for this project. All comments filed on the draft EA will be analyzed by the staff and considered in a final EA. The staff's conclusions and recommendations presented in the final EA will then be presented to the Commission to assist in making a licensing decision.

Scoping

At this time, we are asking agencies, native Alaskans, non-governmental organizations, and individuals to help us identify the scope of environmental issues that should be analyzed in the EA, and to provide us with information that may be useful in preparing the EA.

To help focus comments on the environmental issues, a scoping document outlining subject areas to be addressed in the EA will soon be mailed to those on the mailing list for the project. Those not on the mailing list may request a copy of the scoping document from the project coordinator, whose telephone number is listed below. Copies of the scoping document will also be available at the scoping meetings.

Scoping Meetings

Two scoping meetings will be held to hear comments on the project that could assist FERC staff in identifying the scope of environmental issues that should be analyzed in the EA. A public meeting will be held at 6:30 PM on Wednesday, July 29, 1998, at the Hollis Public Library, in Hollis, Alaska. The agency scoping meeting will be held at 1:30 PM on Thursday, July 30, 1998, at the State Capitol Building, Governor's Conference Room, 3rd Floor, corner of 4th and Main Streets, Juneau, Alaska. The public and the agencies may attend either or both meetings, however.

Objectives

At the scoping meetings the staff will: (1) identify preliminary environmental issues related to the proposed project: (2) identify preliminary resource issues that are not important and do not require detailed analysis; (3) identify reasonable alternatives to be addressed in the EA; (4) solicit from the meeting participants all available information, especially quantified data, on the resource issues; and (5) encourage statements from experts and the public on issues that should be analyzed in the EA, including points of view in opposition to, or in support of, the staff's preliminary views.

Procedures

The scoping meetings will be recorded by a court reporter, and all statements will become part of the Commission's public record for the project. Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meetings and assist the staff in defining and clarifying and issues to be addressed in the EA.

Persons choosing not to speak at the meetings, but who have views on the issues or information relevant to the issues, may submit written statements for inclusion in the public record at the meetings. All written correspondence should clearly show the following caption on the first page: Wolf Lake Hydroelectric Project, FERC Project No. 11508–001. Comments and information are due to the Commission no later than August 31, 1998.

Those with comments or information pertaining to this project should file it with the Commission at the following address: David P. Boergers, Acting Secretary, Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

Intervenors—those on the Commission's service list for this proceeding (parties)—are reminded of the Commission's Rules of Practice and Procedure, requiring parties filing documents with the Commission, to serve a copy of the document on each person whose name appears on the official service list. Further, if a party or interceder files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Site Visit

There will be a tour of the proposed project site on Tuesday, July 28, 1998, to familiarize concerned individuals with the project. Because of the absence of road access at the proposed project site, transportation to the project site would be via helicopter from a location to be identified in Hollis. Those interested in going on the site visit should call the AP&T contact, Mr. Greg Mickelson at (907) 826–3202 by July 21, 1998, for details. The trip is expected to last several hours. In the event of inclement weather or if we are unable to get to the proposed site on the scheduled date, the alternate site visit would be on Wednesday, July 29, 1998, at the same meeting place and time as the preferred scheduled visit.

Any questions regarding this notice maybe directed to Mr. Carl Keller at FERC, (202) 219–2831.

David P. Boergers,

Acting Secetary.

[FR Doc. 98–17428 Filed 6–30–98; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6119–4]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Motor Vehicle Emission Certification and Fuel Economy Compliance; Motorcycles, Light Duty Vehicles and Light Duty Trucks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Emission Certification and Fuel Economy Compliance; Motorcycles, Light Duty Vehicles and Light Duty Trucks; EPA ICR 0783.37, OMB 2060–0104, expires 31 August 1998. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 31, 1998.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR, call Sandy Farmer at EPA, by phone at (202) 260–2740, by E-Mail at Farmer.Sandy@epamail.epa.gov or download off the Internet at http://www.epa.gov/icr/icr.htm, and refer to EPA ICR No. 0783.37.

SUPPLEMENTARY INFORMATION:

Title: Emission Certification and Fuel Economy Compliance; Motorcycles, Light Duty Vehicles and Light Duty Trucks; EPA ICR 0783.37, OMB 2060–0104, expires 31 August 1998. This is a request for extension of a currently approved collection.

Abstract: Under the Clean Air Act (42 U.S.C. 7525), manufacturers and importers of passenger cars, light trucks and motorcycles must have a certificate of conformity issued by EPA covering any vehicle they intend to offer for sale. In addition, car and truck manufacturers (and importers) must also submit iformation and reports required by the Energy Conservation and Policy Act (15 U.S.C. 2000 *et seq.*) cars and light trucks). EPA reviews vehicle information and test data to verify that the vehicle conforms to appropriate requirements and to verify that the proper testing has been performed. Subsequent audit and enforcement actions may be taken based, in part, on the information submitted. Information submitted is not available to the public until the vehicle(s) to which it pertains is offered for sale; after that time trade secrets qualify for confidential treatment; 42 U.S.C. 7542. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The **Federal Register** Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 08 April 1998, (63 FR 17172); no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 13,831 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying

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information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Manufacturers and importers of passenger cars, light trucks and motorcycles.

Estimated Number of Respondents: 70.

Frequency of Response: Annual.

Estimated Total Annual Hour Burden: 968,175 hours.

Estimated Total Annualized Cost Burden: $12,700,000.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No 0783.37 and OMB Control No. 2060–0104 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460;

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA 725 17th Street, NW, Washington, DC 20503.

Dated: June 25, 1998.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 98–17515 Filed 6–30–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6118–7]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; New Source Performance Standards for Portland Cement Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: New Source Performance Standards for Portland Cement Plants, OMB Control No. 2060–0025, expiration date 8/31/98. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 31, 1998.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR, call Sandy Farmer at EPA, by phone at (202) 260–2740, by E-Mail at Farmer.Sandy@epamail.epa.gov or download off the Internet at http://www.epa.gov/icr/icr.htm, and refer to EPA ICR No. 1051.07

SUPPLEMENTARY INFORMATION:

Title: New Source Performance Standards for Portland Cement Plants, OMB Control No. 2060–0025; EPA ICR No. 1051.07; expiring 8/31/98. This is a request for the extension of a currently approved collection.

Abstract: Entities potentially affected by this action are portland cement plants with the following facilities: kilns, clinker coolers, raw mill systems, raw mill dryers, raw material storage, clinker storage, finished product storage, conveyor transfer points, bagging and bulk loading and unloading systems. The Administrator has judged that PM emissions from portland cement plants cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. Owners/operators of portland cement plants must notify EPA of construction, modification, startups, shut downs, date and results of initial performance test and excess emissions. In order to ensure compliance with the standards promulgated to protect public health, adequate reporting and recordkeeping is necessary. In the absence of such information enforcement personnel would be unable to determine whether the standards are being met on a continuous basis, as required by the Clean Air Act. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 3/5/98. No comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 279 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners/Operators of Portland Cement Plants.

Estimated Number of Respondents: 113.

Frequency of Response: Initial and semiannual.

Estimated Total Annual Hour Burden: 7,968 hours.

Estimated Total Annualized Cost Burden: $941,720.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1051.07 and OMB Control No. 2060–0025 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460;

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: June 25, 1998.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 98–17516 Filed 6–30–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6119–5]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; NSPS Rubber Tire Manufacturing Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: NSPS Subpart BBB, Rubber Tire Manufacturing Plants, OMB Control Number 2060–0156, expiration date 7/31/98. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 31, 1998.

FOR FURTHER INFORMATION: For a copy of the ICR, call Sandy Farmer at EPA, by phone at (202) 260–2740, by E-Mail at Farmer.Sandy@epamail.epa.gov or download off the Internet at http://www.epa.gov/icr/icr.htm, and refer to EPA ICR No. 1158.06.

SUPPLEMENTARY INFORMATION:

Title: NSPS Subpart BBB, Rubber Tire Manufacturing Plants; EPA ICR No.1158.06; OMB Control No. 2060–0156, expiring 7/31/98. This is a request for an extension of a currently approved collection.

Abstract: All data in this ICR that is recorded and reported is required by 40 CFR Part 60 Subpart BBB. The monitoring and recordkeeping requirements include: maintain records of startups, shutdowns, malfunctions, periods where the continuous monitoring system is inoperative (60.7(b)), and of all measurements including performance test measurements, operating parameters of monitoring device results for catalytic or thermal incinerator, or carbon absorber (60.545 (a), (b) and (c)); monthly VOCs use, number of days in compliance period, and of other information needed to verify results of all monthly tests (60.545 (d) and (e)); of formulation data or results of Method 24 analysis of water-based sprays containing less than 1.0 percent of VOC (60.545(f); and of all other information required by this part recorded in a permanent file suitable for inspection. The file shall be retained for at least two years.

Following notification of startup, the reviewing authority might inspect the source to check if the pollution control devices are properly installed and operated. Performance test reports are used by the Agency to discern a source's initial capability to comply with the emission standard, and note the operating conditions specified above under which compliance was achieved. Data obtained during periodic visits by Agency personnel from records maintained by the respondents are tabulated and published for internal Agency use in compliance and enforcement programs. The semiannual reports are used for problem identification, as a check on source operation and maintenance, and for compliance determinations.

The required information consisting of emissions data and other information have been determined not to be private. However, any information submitted to the agency for which a claim of confidentiality is made will be safeguarded according to the Agency policies.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The **Federal Register** Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on December 2, 1997. (FR Volume 62, Number 231). No comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 73 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

New Affected Entities: Rubber Tire Manufacturing Plants

Estimated Number of Respondents: [31]

Frequency of Response: [Semiannually and annual reports]

Estimated Total Annual Hour Burden: [18,651] hours

Estimated Total Annualized Cost Burden: [$485,000]

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1158.06 and OMB Control No. 2060–0156 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2136), 401 M Street, SW, Washington, DC 20460;

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: June 25, 1998.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 98–17519 Filed 6–30–98; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6118–6]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; General Conformity of Federal Actions to State Implementation Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Determining Conformity of General Federal Actions to State Implementation Plans, OMB Control Number 2060–0279, ICR number 1637.04, expiring July 31, 1998. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

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DATES: Comments must be submitted on or before July 31, 1998.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR, call Sandy Farmer at EPA, by phone at (202) 260–2740, by E-Mail at Farmer.Sandy@epamail.epa.gov or download off the Internet at http://www.epa.gov/icr/icr.htm, and refer to EPA ICR No. 1637.04.

SUPPLEMENTARY INFORMATION:

Title: Determining Conformity of General Federal Actions to State Implementation Plans, OMB Control Number 2060–0279, ICR number 1637.04, expiring July 31, 1998. This is a request for extension of a currently approved collection.

Abstract: Before any agency, department, or instrumentality of the Federal government engages in, supports in any way, provides financial assistance for, licenses, permits, or approves any activity, that agency has the affirmative responsibility to ensure that such action conforms to the State implementation plan (SIP) for the attainment and maintenance of the national ambient air quality standards (NAAQS). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document, required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on February 18, 1998 (63 FR 8196); two comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 49 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Federal Agencies.

Estimated Number of Respondents: 280.

Frequency of Response: 1.

Estimated Total Annual Hour Burden: 13,600 hours.

Estimated Total Annualized Cost Burden: 0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1637.04 and OMB Control No. 2060–0279 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460;

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: June 25, 1998.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 98–17520 Filed 6–30–98; 8:45 am]

BILLING CODE 6560–50–P

EXECUTIVE OFFICE OF THE PRESIDENT

National Economic Council

Office of Science and Technology Policy

Enhancing Federal Training and Education Through Technology

AGENCY: National Economic Council and Office of Science and Technology Policy, EOP.

ACTION: Notice of inquiry.

SUMMARY: The National Economic Council and the Office of Science and Technology Policy, in consultation with the Office of Personnel Management, seek information about how to make the most efficient possible use of new information technologies for training federal employees in ways that also will accelerate the development of the broader commercial marketplace. This will require making full use of innovations in technology for commercial training, encouraging interoperability of products from competing vendors, and experimenting with new forms of public-private collaboration to develop high-quality instructional software.

DATES: Written comments should be received on or before September 15, 1998.

ADDRESSES: Interested parties should submit electronic version of comments at www.fed-training.org or written comments by mail to Martha Livingston, Office of Science and Technology, Room 423, Old Executive Office Building, Washington, D.C. 20502.

FOR FURTHER INFORMATION CONTACT: Diane Mayronne, Department of Labor, 2000 Constitution, Room N–5303, Washington, D.C. 20001. Telephone: (202) 219–9587, ext. 171. Fax: (202)-7968. Additional information and materials are available at www.fed-training.org.

SUPPLEMENTARY INFORMATION:

Background

The Administration is interested in the ability of new information and communications technologies to enhance lifelong learning by expanding access, reducing cost, and improving quality. For example:

- Access to education and training could be expanded by allowing adults to learn at a time, place, and pace that is convenient for them—using the Internet, CDROM, and/or other technology-mediated forms of instruction.
- The quality of education could be improved through the use of technologies such as: modeling and simulation and case-based reasoning, which enable "learning by doing"; intelligent tutoring systems, which can respond to the individual needs of the learner and recognize common mistakes; synchronous and asynchronous learning networks, which can encourage the formation of "communities of learners" between students and teachers; and the appropriate use of multimedia, which can increase retention and "time on task."
- Cost for the development of high-quality instructional content/software could be reduced by: greater re-use of instructional modules; better authoring tools; and open specifications for instructional management systems—such as the EDUCOM Instructional Management System.
- Relevance could be increased by reducing the time that is required to develop instructional software, thereby providing timely technology-based training materials to the learner.

The Administration is pursuing a number of policies to realize this vision, including: (1) Eliminating barriers to broader adoption of distance learning by both individuals and institutions through reforms of the Higher Education

Act; (2) increasing investment in R&D for learning technologies; (3) encouraging experimentation and collaboration in the use of distance learning with a new Department of Education grant program called "Learning Anytime, Anywhere Partnerships"; and (4) encouraging federal agencies to make better use of information technology to train their own employees. This Notice of Inquiry focuses on this last issue.

Encouraging Federal Agencies To Make Better Use of Learning Technology

Clearly, efficient management of the federal government requires continuous investment in training. The demand for training has increased as new technologies reshape the workplace in ways that both make federal employees more productive and allow them to improve the service they provide. Both military and civilian agencies face enormous challenges in this area. Advances in computers, communication, and other areas of information technology make it possible to improve the efficiency of the training process itself. Federal agencies need to take advantage of techniques, software, and specifications being developed for commercial training and for university and college instruction. This is a difficult undertaking since the field is changing rapidly.

Since all federal agencies share similar challenges in this area, the President issued an Executive Memorandum dated January 30, 1998 directing the National Economic Council to develop a plan which will describe how agencies can:

- make full use of best commercial practices when purchasing instructional software;
- work with businesses, universities, and other appropriate entities to foster a competitive market for electronic instruction;
- develop a model technical approach to facilitate electronic instruction building on existing agency efforts, such as the Advanced Distributed Learning Initiative Partnership; and
- develop and support a program of research that will accelerate the development and adoption of new instructional technologies.

Request for Comments on Technology for Federal Training and Education

To support this effort, we are interested in receiving information in the following areas:

Emerging or existing technical specifications and technologies that will enable:

- standardized methods for identifying software components and other tools that can facilitate electronic commerce. These methods can include specifications for "meta-data" such as ownership, licensing restrictions, unique identifiers, and other critical information.
- standardized methods for tracking student performance, preference, and records in instructional modules. These methods allow an instructional management system to link a student to a range of instructional modules and provide information to management systems about student performance and learning styles. This information can be used to maintain student records and to improve the instructional materials themselves.
- methods for handling individual questions presented by students. This includes systems for connecting students to databases of "frequently asked questions," methods for creating and maintaining such databases, and systems for connecting students to live instructors who can provide personal answers to questions.
- methods for specifying software components that ensure interoperability. This can include exemplary use of specifications for software objects that can be combined to create simulations or other instructional tools. These specifications could, for example, allow simulated vehicles to be constructed from software objects manufactured by many different vendors.
- tools for creating instructional modules quickly and efficiently from components.
- management systems using components described above. These systems would provide some or all of the following services: methods allowing instructors to develop curricula for individual students, monitor individual student progress, maintain transcripts and certifications, allow easy movement between remedial and advanced instruction, protect student privacy and protect intellectual property, and keep records facilitating financial transactions to holders of intellectual property and others.

(2) Subject areas where there is significant overlap between government and private sector requirements—and proposed partnerships for taking advantage of these commonalities. We are particularly interested in: (a) instructional software that could improve adult basic education (e.g., GED equivalence; adult literacy, English as a Second Language); and (b) subject areas that will help workers compete for jobs in rapidly growing fields (e.g., information technology).

(3) New forms of assessment that are particularly appropriate for technology-mediated instruction.

(4) Methodologies for evaluating the effectiveness of technology-mediated instruction on educational outcomes, costs, and productivity of training and published evaluations of technology-mediated training.

(5) New procurement mechanisms, public-private partnerships, and innovative business models that will encourage private sector investment in the development of highq-uality instructional software and wider deployment and utilization of technology-mediated instruction throughout the economy. Our strategy can only work if all businesses and educational institutions with technology and services capable of serving federal training needs are willing and able to compete for federal business. We are particularly interested in comments that will help federal agencies hold competitions that will attract proposals from creative institutions throughout the economy—even institutions that have had no previous experience in bidding on government contracts. We would like comments on how existing procedures create barriers to bidding on federal contracts and proposals for streamlining the process.

These comments will be used to develop a federal strategy to facilitate the emergence of a vigorous, competitive market in interoperable software products for instruction. Such a market ensures that institutions with training needs—including federal agencies—get high-quality, up-to-date, instruction for their employees at a low cost. It also ensures the widest possible market for creative developers producing products that can be sold into the large markets for instructional software products created by such open markets.

Please provide information and suggestions in these areas useful for developing federal policy that will ensure efficient federal use of information technology based on use of the best practices emerging in competitive commercial markets. This notice is for the purses of developing policy and *is not* a solicitation. Please do not send descriptions of specific products or services.

Dated: June 24, 1998.

Holly Gwin,

Chief of Staff and General Counsel; Office of Science and Technology Policy.

[FR Doc. 98–17502 Filed 6–26–98; 5:03 pm]

BILLING CODE 3170–01–U

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 96–45; DA 98–1130]

Third Quarter 1998 Universal Service Contribution Factors Revised and Approved

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Common Carrier Bureau announces approved universal service contribution factors for the third quarter of 1998.

DATES: The third quarter contribution factors were announced in a Public Notice released on June 12, 1998.

ADDRESSES: One original and five copies of all comments responsive to this Public Notice must be sent to Magalie Roman Salas, Secretary, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554. Three copies also should be sent to Sheryl Todd, Accounting Policy Division, Common Carrier Bureau, 2100 M Street, N.W., 8th Floor, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Lori Wright, Accounting Policy Division, Common Carrier Bureau, (202) 418–7391.

SUPPLEMENTARY INFORMATION: In this Public Notice, the Common Carrier Bureau (Bureau) revises and approves the final universal service contribution factors for the third quarter of 1998. On May 13, 1998, using information submitted on May 1, 1998 by the Universal Service Administrative Company (USAC), Schools and Libraries Corporation (SLC), and Rural Health Care Corporation (RHCC), the Accounting Policy Division (Division) of the Bureau announced the proposed universal service contribution factors for the third quarter of 1998. The proposed factors were published in the **Federal Register** on May 26, 1998. Pursuant to the Commission's rules, if the Commission had taken no action by June 9, 1998, the proposed third quarter contribution factors would have been deemed approved. On June 8, 1998, the Division extended until 11:59 p.m. on June 12, 1998 the time period during which the Commission could modify the proposed third quarter 1998 universal service contribution factors.

Also on May 13, 1998, the Bureau released a Public Notice seeking comment on whether to reduce the 1998 collection amounts for the schools and libraries and rural health care universal service support mechanisms. In an Order adopted today, the Commission, among other things, adjusts the 1998 collection amounts for the schools and libraries and rural health care universal service support mechanisms. Specifically, the Commission directs USAC to collect only as much as required by demand, but in no event more than $325 million per quarter for the third and fourth quarters of 1998 and the first and second quarters of 1999 to support the schools and libraries universal service support mechanism. The Commission further directs SLC to commit to applicants no more than $1.925 billion for disbursement during 1998 and the first half of 1999. With respect to the rural health care universal service support mechanism, the Commission directs USAC to collect only as much as required by demand, but in no event more than $25 million per quarter for the third and fourth quarters of 1998. The adjustments to the collection amounts for the third quarter of 1998 are reflected in the table below under the "total program costs" column. We note that, because the demand for funds exceeds the maximum amount that will be collected for the schools and libraries support mechanism in the third quarter of 1998, the "total program costs" for the third quarter (i.e., $325 million) is less than the demand that SLC projected. Because the table lists expenses, positive income flows are denoted with parentheses.

THIRD QUARTER 1998

[In millions of dollars]

Program	Program demand	Administrative expenses	Interest income	Total program costs
Schools and Libraries	690.0	4.4	(0.0)	325.0
Rural Health Care	24.3	1.2	(0.5)	25.0
Subtotal	714.3	5.6	(0.5)	350.0
High Cost	414.1	0.8	(0.7)	414.2
Low Income	125.3	0.4	(1.0)	124.7
Subtotal	539.4	1.2	(1.7)	538.9
Total	1,253.7	6.8	(2.2)	888.9

Based on information contained in the Universal Service Worksheets, FCC Form 457, USAC submitted on May 1, 1998, end-user telecommunications revenues for the 1997 calendar year. On May 14, 1998, USAC submitted revised end-user telecommunications revenues for the 1997 calendar year. Funding bases for the third and fourth quarters are determined by subtracting the revenues reported for January through June 1997 (on the September Worksheet) from the 1997 calendar year revenues reported on the March Worksheet. The amounts are as follows:

Total Interstate, Intrastate, and International End-User Telecommunications Revenues from July 1, 1997—December 31, 1997: $94.066 billion

Total Interstate and International End-User Telecommunications Revenues from July 1, 1997—December 31, 1997: $34.719 billion

To account for uncollectible contributions, we decrease by one percent the revenue estimates listed above. It has come to our attention that several carriers subject to the universal service contribution obligation have failed to meet this obligation. To maintain the integrity of the universal service support mechanisms, pending enforcement of this obligation, we determine that we should account for uncollectible contributions at a rate of one percent. This is consistent with USAC's estimated rate of uncollectible contributions. Additionally, because each quarter is three months long, we estimate quarterly revenues by dividing by two the six-month revenue estimates.

Based on the revised end-user telecommunications revenues submitted by USAC, SLC, and RHCC, a one-percent reduction in the revenue estimates to account for uncollectible contributions, and consistent with the revised collection amounts for the schools and libraries and rural health care support mechanisms adopted today, the approved contribution factors for the third quarter of 1998 are as follows:

Contribution factor for the schools and libraries and rural health care support mechanisms: Total Program Costs / Contribution Base (Interstate, International, and Intrastate) = $0.350 billion / ($93.125 billion / 2) = 0.0075

Contribution factor for the high cost and low income support mechanisms: Total Program Costs / Contribution Base (Interstate and International) = $0.539 billion / ($34.372 billion / 2) = 0.0314

These factors are the approved third quarter 1998 universal service contribution factors that USAC shall use to calculate third quarter universal service contributions. USAC will bill and collect these contributions on a monthly basis.

For further information, contact Lori Wright, Accounting Policy Division, Common Carrier Bureau, at (202) 418-7400.

Federal Communications Commission.

Lisa S. Gelb,

Chief, Accounting Policy Division, Common Carrier Bureau.

[FR Doc. 98-17486 Filed 6-30-98; 8:45 am]

BILLING CODE 6712-01-U

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:47 p.m. on Friday, June 26, 1998, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider (1) matters relating to the Corporation's supervisory activities, and (2) an administrative enforcement proceeding.

In calling the meeting, the Board determined, on motion of Director Ellen S. Seidman (Director, Office of Thrift Supervision), seconded by Vice Chairman Andrew C. Hove, Jr., concurred in by Director Julie L. Williams (Acting Comptroller of the Currency), and Chairman Donna Tanoue, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Dated: June 29, 1998.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 98-17722 Filed 6-26-98; 3:56 pm]

BILLING CODE 6714-01-M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Title: Management Agreement Between Port of Oakland and Marine Terminals Corporation

Parties: City of Oakland (Board of Port Commissioners) Marine Terminals Corporation

Synopsis: The proposed amendment changes a minimum annual hourly use guarantee of port cranes to a minimum equivalent unit container guarantee and provides for a reduction in the amount of the per lift charge. The term of the agreement continues to run through June 30, 2004.

Title: City of Los Angeles and Matson Terminals, Inc. Marine Terminal Permit No. 776

Parties: City of Los Angeles (Board of Harbor Commissioners) Matson Terminals, Inc.

Synopsis: The proposed amendment increases both the size of the area leased and the amount of the rent required. The term of the agreement continues to run through January 31, 1999.

Title: Cruise Terminal Agreement Among the Port of Palm Beach District, Contessa International Company and Contessa Cruise and Casino, Inc.

Parties: Port of Palm Beach District, Contessa International Company, Contessa Cruise and Casino, Inc.

Synopsis: The proposed agreement provides for the use of Palm Beach's Cruise Terminal Area by Contessa International Company and its agent, Contessa Cruise and Casino, Inc. The term of the agreement runs through June 21, 2004, with the possibility of two 4-year extensions.

Dated: June 25, 1998.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 98-17405 Filed 6-30-98; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

International Traffic & Logistics, 9327 Tranquil Park Drive, Spring, TX 77379, Al G. Wichterich, Jr., Sole Proprietor.

Dated: June 26, 1998.

Joseph C. Polking,

Secretary.

[FR Doc. 98-17471 Filed 6-30-98; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank

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holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 17, 1998.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. *Patricia McLaurin Morgan, Richard Brand Morgan, Paul Mangum Morgan,* all of Lawrenceville, Georgia; to acquire voting shares of Brand Banking Company, Lawrenceville, Georgia.

Board of Governors of the Federal Reserve System, June 25, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–17454 Filed 6–30–98; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 27, 1998.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. *CNY Financial Corporation,* Cortland, New York; to become a bank holding company by acquiring Cortland Savings Bank, Cortland, New York.

Board of Governors of the Federal Reserve System, June 25, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–17455 Filed 6–30–98; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 27, 1998.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. *Old Kent Financial Corporation,* Grand Rapids, Michigan; to merge with First Evergreen Corporation, Evergreen Park, Illinois, and thereby indirectly acquire First National Bank of Evergreen Park, Evergreen Park, Illinois.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. *First Banks, Inc.,* Creve Coeur, Missouri; and its wholly owned subsidiary CCB Bancorp, Inc., Newport Beach, California; to acquire 100 percent of the voting shares of Republic Bank, Torrance, California.

Board of Governors of the Federal Reserve System, June 26, 1998.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 98–17527 Filed 6-30-98; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 17, 1998.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. *BankBoston Corporation (BKB),* Boston, Massachusetts; to acquire Robertson Stephens, Inc., San Francisco, California, and thereby engage in

underwriting and dealing to a limited extent in all types of equity securities, other than ownership interest in open-end investment companies; making, acquiring and servicing loans and other extensions of credit, pursuant to § 225.28(b)(1) of Regulation Y; providing investment and financial advisory services, pursuant to § 225.28(b)(6) of Regulation Y; arranging commercial or industrial real estate equity financing, pursuant to § 225.28(b)(2)(ii) of Regulation Y; underwriting and dealing in obligations of the United States and Canada, general obligations of U.S. States, Canadian provinces, and their political subdivisions, and other obligation in which state member banks may underwrite and deal under 12 U.S.C. 24 and 335, pursuant to § 225.28(b)(8) of Regulation Y; and providing securities brokerage, private placement, and riskless principal services, pursuant to § 225.28(b)(7)(i), (ii), and (iii) of Regulation Y. The proposed activities are currently being conducted, directly or indirectly, by the subject entities with Board approval. (See *Bank of Boston Corp.*, 83 Fed. Res. Bull. 42 (1997) and *Bank America Corp.*, 83 Fed. Res. Bull. 1008 (1997)).

Board of Governors of the Federal Reserve System, June 25, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–17453 Filed 6–30–98; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Scientific Misconduct; Terry D. Reisine, Ph.D.

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) has made a final finding of scientific misconduct in the following case:

Terry D. Reisine, Ph.D., University of Pennsylvania: Based upon "The Dean's Proposed Findings of Fact" and "Memorandum on Issues Not Fully Addressed in Findings of Fact," forwarded to ORI by the University of Pennsylvania, dated October 25, 1996 (Findings and Memorandum), and ORI's oversight review of the evidence provided, ORI finds that Terry D. Reisine, Ph.D., former Professor, Department of Pharmacology, University of Pennsylvania, engaged in scientific misconduct in biomedical research supported by Public Health Service (PHS) grants.

Specifically, ORI finds that the Respondent falsified results related to the measurement of cyclic AMP in cultured, transfected cells by falsely representing in manuscripts and publications the number of experiments conducted, and by falsifying and/or fabricating some of the substantive data presented in those manuscripts and publications. Moreover, ORI finds that the Respondent attempted to falsify data by directing members of his laboratory to construct figures and tables with false values in the preparation of manuscripts.

Dr. Reisine has entered into a Voluntary Exclusion Agreement with ORI. The settlement is not an admission of liability on the part of the Respondent, and Dr. Reisine denies having committed scientific misconduct. Pursuant to the Agreement, Dr. Reisine has agreed to the following:

(1) Respondent agreed to exclude himself voluntarily for a period of three (3) years beginning on June 11, 1998, from any contracting or subcontracting with any agency of the United States Government, and from eligibility for or involvement in nonprocurement transactions (e.g., grants and cooperative agreements) of the United States Government as defined in 45 CFR part 76 (Debarment Regulations).

(2) Respondent agreed to exclude himself voluntarily from serving in any advisory capacity to PHS including, but not limited to, service on any PHS advisory committee, board, and/or peer review committee, or as a consultant for a period of three (3) years, beginning on June 11, 1998.

(3) Within 30 days of the effective date of the Agreement, Respondent agreed to submit letters to the following journals requesting correction of the corresponding articles. The corrections are warranted by the following findings of the Findings and Memorandum:

a. The Journal of Biological Chemistry

Kong, H., Raynor, K., Yasuda, K., Moe, S.T., Portoghese, P.S., Bell, G.I., and Reisine, T. "A single residue, aspartic acid 95, in the gamma opioid receptor specifies selective high affinity agonist binding." J. Biol. Chem. 268:23055–23058, 1993.

i. The results in Table 1 are stated in the table legend to be based on four (4) experiments with calculated SEM values and Hill coefficients when, in fact, the majority of the listed compounds were tested only once, and a few tested only twice.

ii. Figure 2 data are stated in the figure legend to be the means of three (3) different experiments when, in fact, most of the results were based on a single experiment.

b. The Journal of Pharmacology and Experimental Therapeutics

Raynor, K., Kong, H., Hines, J., Kong, G., Benevoc, J., Yasuda, K., Bell, G.I., and Reisine, T. "Molecular mechanisms of agonist-induced desensitization of the cloned mouse kappa opioid receptor." J. Pharmacol. Exp. Ther. 270:1381–1386, 1994.

i. The figure legend for Figures 3A, 3C, and 3D claimed that the values shown were the average of three (3) different experiments when, in fact, the results were from only one (1) experiment.

ii. The figure legend for Figure 4B claimed that the values shown were the average of four (4) different experiments when, in fact, the results were from only three (3) experiments.

iii. Figures 3A, 3C, and 3D each show several levels of adenyl cyclase inhibition that do not reflect the actual results obtained in duplicate cyclic AMP assays.

c. Molecular Pharmacology

Reisine, T., Kong, H., Raynor, K., Yano, H., Takeda, J., Yasuda, K., and Bell, G.I. "Splice variant of the somatostatin receptor 2 subtype, somatostatin receptor 2B, couples to adenylyl cyclase." Mol. Pharmacol. 44:1016–1020, 1994.

i. The legend for Figure 3A claims that three (3) experiments were performed when, in fact, only two (2) experiments were performed for the SSTR2B mutants.

ii. The legend for Figure 3B claims that the values presented are the average of two (2) different experiments when, in fact, the inhibition curve shown was based on a single experiment.

FOR FURTHER INFORMATION CONTACT: Acting Director, Division of Research Investigations, Office of Research Integrity, 5515 Security Lane, Suite 700, Rockville, MD 20852, (301) 443–5330.

Dorothy K. Macfarlane,

Acting Director, Office of Research Integrity.

[FR Doc. 98–17411 Filed 6–30–98; 8:45 am]

BILLING CODE 4160-17-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[Program Announcement 98095]

Enhancement of Local Public Health Departments Participation in Brownfields Decisions and Actions; Notice of Availability of Funds

Introduction

The Agency for Toxic Substances and Disease Registry (ATSDR) announces the availability of fiscal year (FY) 1998 funds for a cooperative agreement program for a pilot activity with a select number of local health departments to demonstrate effective public health

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interventions around Brownfields properties.

ATSDR is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Environmental Health. (For ordering a copy of Healthy People 2000, see the section Where to Obtain Additional Information.)

ATSDR is also fully committed to implementing the President's Executive Order 12898 on Environmental Justice to ensure the full representation and participation on all levels, of minority and low-income population groups.

Authority

This program is authorized under Sections 104 (i) (4), (6), (7), (14), and (15) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA) [42 U.S.C. 9604 (i)(4), (6), (7), (14), and (15)].

Smoke-Free Workplace

ATSDR strongly encourages all grant and cooperative agreement recipients to provide a smoke-free workplace and promote the non-use of all tobacco products, and Public Law 103–227, the Pro Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Eligible Applicants

Applicants will be limited to the official county, city and other local public health agencies of local communities (with the exception of Rhode Island where the State Health Department is the eligible applicant) located in the sixteen (16) Brownfields Showcase Communities as designated by the Environmental Protection Agency (EPA)(62 FR 44274). The Brownfields Showcase Communities are:

1. Portland, Oregon
2. Chicago, Illinois
3. Southeast Florida (Eastward Ho!)
4. Trenton, New Jersey
5. Kansas City, Kansas & Missouri
6. Dallas, Texas
7. Baltimore, Maryland
8. Lowell, Massachusetts
9. Salt Lake City, Utah
10. Seattle/King County, Washington
11. St. Paul, Minnesota
12. Los Angeles, California
13. State of Rhode Island
14. East Palo Alto, California
15. Stamford, Connecticut
16. Glen Cove, New York

Only one application will be accepted from each of the 16 Brownfields Showcase Communities. Each Brownfields Showcase community should coordinate between appropriate county, city and other local public health departments to ensure only one application is received from each showcase community. If more than one application is received from the same showcase community, all applications from that showcase community will be returned as unresponsive. See also Executive Order 12372 referenced later in this announcement.

Availability of Funds

Approximately $350,000 is available in FY 1998 to fund an estimated five to seven awards. The average award is expected to be approximately $60,000, ranging from $50,000 to $70,000. It is expected that the awards will begin on or about September 30, 1998, and will be made for a 12-month budget and project period. There is currently no expectation that projects will be continued for more than one year. Funding estimates may vary and are subject to change.

Use of Funds

Funds may be expended for reasonable program purposes, such as personnel, travel, supplies, and services. Funds for contractual services may be requested; however, the grantee, as the direct and primary recipient of ATSDR grant funds, must perform a substantive role in carrying out project activities and not merely serve as a conduit for an award to another party or provide funds to an ineligible party. Equipment may be purchased with grant funds. The equipment proposed should be appropriate and reasonable for the activities to be conducted. The applicant, as part of the application process, should provide: (1) a justification for the need to acquire the equipment, (2) the description of the equipment, (3) the intended use of the equipment, and (4) the advantages/disadvantages of leasing versus purchase of the equipment.

Background

Brownfields are abandoned, idled or under-utilized industrial and commercial properties where expansion or redevelopment is complicated by real or perceived contamination. The Brownfields Initiative was launched by the Environmental Protection Agency (EPA) to empower States, local governments, and other stakeholders in community redevelopment to work together to assess, clean up, and sustainably reuse Brownfields. In May 1997, Vice President Gore announced a Brownfields National Partnership to bring together the resources of 17 Federal agencies to address local cleanup and reuse issues in a more coordinated manner. ATSDR is among the agencies participating in the partnership. This multi-agency partnership has pledged support to sixteen "Brownfields Showcase Communities"—models demonstrating the benefits of collaborative activity on Brownfields. The designated Brownfields Showcase Communities are distributed across the country and vary by size, resources, and community type. It is expected that because of their location, Brownfields property redevelopment will disproportionately impact low-income minority communities; therefore, the President's Executive Order 12898 on Environmental Justice should be fully implemented.

While the full magnitude of the Brownfields problem is not known, it has been estimated that there are as many as 600,000 Brownfields properties in the United States and its territories, affecting virtually every community in the Nation. Whereas environmental clean up is a building block to economic redevelopment, public health should be the cornerstone. Public health concerns must go hand-in-hand with restoration of contaminated properties and bringing life and economic vitality back to a community.

ATSDR's role in the National Brownfields Initiative is to develop strategies and methods to protect the health and quality of life of people living around brownfields properties by focusing on public health issues related to previous environmental degradation.

Purpose

The purpose of this project is to assist the local public health departments (LHDs) with jurisdiction in the 16 Brownfields Showcase Communities to develop and implement strategies to ensure that efforts to remediate and redevelop properties do not present environmental public health hazards to current and future community residents. It is expected that this program will stimulate LHDs to enlist the cooperation of local governing officials, community-based organizations, and State governments to work together in a timely manner to ensure that public health issues are considered in the earliest phases of remediation and redevelopment of the Brownfields properties.

ATSDR and local stakeholders have identified the need to develop public health science, build environmental health capacity in State and local health departments, assure principles of environmental justice, and implement communication and empowerment strategies to enhance community support for and participation in the Brownfields Redevelopment Initiative. A goal for ATSDR is to assist in empowering local community stakeholders by providing them with the tools to monitor the health of Brownfields workers and community residents during assessment, clean up, and redevelopment of Brownfields. It is expected that by using this comprehensive public health approach to Brownfields redevelopment, the health and quality of life of persons working or living on or near Brownfields properties will be adequately protected. The incorporation of the President's Executive Order 12898 on Environmental Justice is essential for successful Brownfields redevelopment. Therefore, recipients will be expected to fully implement the Executive Order. In addition, it is expected that this strategy will encourage open lines of communication among local stakeholders, particularly local officials and residents living on or near Brownfields properties and promote the development of working partnerships with these groups. This program highlights the 16 Brownfields Showcase Communities as examples of how public health activities can be implemented. The examples will serve as models which can be generalized to other communities throughout the Nation.

Program Requirements

ATSDR will assist or work jointly with the recipients in conducting the activities of this cooperative agreement program. The application should be presented in a manner that demonstrates the applicant's ability to address the health issues in a collaborative manner with local community stakeholders and with ATSDR in adherence with the Executive Order on Environmental Justice to ensure the full participation of minority and low-income population groups. Recipient and ATSDR activities are listed below:

A. Recipient Activities

The recipient will have primary responsibility for:

1. Obtaining an inventory of Brownfields properties in the local community and analyzing existing contaminant data.

2. In collaboration with ATSDR, State health departments, and EPA, using environmental data, community health concerns, medical and other public health data, and other relevant information to evaluate Brownfields properties for property-specific environmental public health issues.

3. Assuring relevant health data, including perceived or real affected community concerns is collected and used in decision-making.

4. Developing Brownfields Showcase Public Health teams composed of representatives from the LHD and local stakeholders, e.g., particularly those from affected Brownfields communities to include minorities and low-income population groups in accordance with Executive Order 12898. Co-host with local stakeholders on community workshops on the types of health considerations necessary for land use planning. Work with the local Brownfields Public Health Teams to provide information on sensitive populations to be input into the local development agency's Geographical Information System.

5. Assuring public health concerns are integrated into the Brownfields Showcase decision-making related to assessment, clean up, and redevelopment.

B. ATSDR Activities

ATSDR will have primary responsibilities for:

1. Collaborating with and assisting the recipient in the collection of environmental data, medical and other public health data and other relevant information to evaluate Brownfields properties for property-specific public health issues.

2. Convening a Public Health Empowerment Workshop for recipients to discuss mechanisms for community-based organizations and local health departments to implement public health strategies in their communities.

3. Evaluating recommendations prepared by the recipient and providing timely advice and assistance to further the objectives of this program.

4. Providing the recipient with an exposure assessment algorithm (EAA) for addressing the public health impacts on Brownfields properties. The EAA is an environmental differential diagnosis that local public health professionals may use to help focus in on the possible risks from Brownfields properties.

5. Ensuring compliance with the requirements for peer and technical reviews as identified below under "Technical Reporting Requirements".

Technical Reporting Requirements

A final financial status and performance report is required 90 days after the end of the 12-month budget and project period. All reports are to be submitted to Ron Van Duyne, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Mailstop E–13, Atlanta, GA 30305–2209. The final performance report must include the following for the program, function, or activity involved: (1) a comparison of actual accomplishments to the goals established for the period; (2) the reasons for slippage if established goals are not met; and (3) other pertinent information.

Peer and Technical Reviews

A. CERCLA, as amended by SARA, Section 104(i)(13), and [42 U.S.C. 9604(i)] requires all studies and results of research (other than public health assessments) that ATSDR carries out or funds in whole or in part will be peer reviewed by ATSDR. The ATSDR peer review process for final reports requires that:

1. Studies must be reported or adopted only after appropriate peer review.

2. Studies shall be peer reviewed within a period of 60 days to the maximum extent practical.

3. Studies shall be reviewed by no fewer than three or more than seven reviewers who (1) are selected by the Administrator, ATSDR; (2) are disinterested Scientific experts; (3) have a reputation for scientific objectivity; and (4) who lack institutional ties with any person involved in the conduct of the study or research under review.

B. ATSDR encourages the rapid reporting and interpretation of laboratory results and references back to individual participants. However, if summary tables or distribution of laboratory results are prepared using the study data, this is considered a preliminary finding and will require ATSDR technical and peer review prior to release.

C. When, in the opinion of the investigator(s), a public health concern exists requiring the release of summary study statistics prior to the completion of the study, the investigator must obtain concurrence from ATSDR prior to releasing the summary statistics. A request for ATSDR concurrence for the release of information must be documented in a letter to ATSDR and should outline the public health concern, and recommended response,

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and the draft document proposed for release by the investigator. ATSDR will provide a technical review and peer review within ten (10) working days to the maximum extent possible. Summary statistics may be released only after peer review. The release of summary statistics does not preclude the requirement for a final report.

D. By statute, the reporting of preliminary studies and preliminary research results to the public is not acceptable without prior review by ATSDR. This includes manuscripts prepared for publication, presentations at scientific meetings, and reporting of preliminary findings to the community or the media.

E. The final report for every study should include a detailed description of the problem, hypothesis, methods, results, conclusions, and recommendations that constitute a complete performance record of the study.

F. ATSDR is responsible for the technical and peer review of draft final reports of any study that it funds prior to the submission of the final report. This will allow for the recipient to incorporate all technical and peer review comments into the final report. Responses to all ATSDR required technical and peer review comments should be summarized in a letter to ATSDR. This letter should also include the investigator's response to each comment and a rationale for those responses. Based upon the comments of the technical and peer reviewers, modifications in the study report may result. The modified study report should accompany the letter to ATSDR.

G. ATSDR will make available assistance to investigators in formatting and copy editing draft final reports, should the investigator request this assistance. Editing will be conducted by ATSDR staff and an edited copy of the draft final report will be supplied to the investigator for review and concurrence. Editing will occur DURING the conduct of the peer review. It is requested that the report be furnished in WordPerfect 5.1 on a disk with the hard copy double-spaced, with clearly numbered pages, unbound and unstapled, and printed on one side only. All appendices, including maps and reproduced forms used in this study, should be furnished to ATSDR by the investigator.

H. Following the steps outlined above, a final report of all studies and results of research carried out or supported by ATSDR must be submitted to the Procurement and Grants Office with a copy furnished to ATSDR.

I. If assistance in printing the final report is needed, the Principal Investigator can submit a hard copy of the final report to the Procurement and Grants Office with a copy furnished to ATSDR.

Application Content

In a narrative format, the applicant should include discussion of areas listed under the EVALUATION CRITERIA section of this announcement as they relate to the proposed program. Because these criteria will serve as the basis for evaluation of the application, omissions or incomplete information may affect the rating of the application. Although this program does not require in-kind or matching funds, the applicant should describe any in-kind support in the formal application. For example, if the in-kind support includes personnel, the applicant should provide the qualifying experience of the personnel and clearly state the type of activity to be performed.

Evaluation Criteria

The application will be reviewed and evaluated according to the following criteria:

1. Proposed Program (60 percent)

A. Applicants ability to address the following:

1. Identification of relevant Brownfields properties in the area including but not limited to those identified in the Brownfields Showcase award.

2. Identification of all local Brownfields stakeholder groups, particularly minority and low-income local residents from affected communities. These groups should be developed into Brownfields Showcase Public Health Teams with public health making authority.

3. Demonstrate how they will effectively use local health data in Brownfields public health evaluation and assurance.

4. Demonstrate how they will effectively implement the Executive Order on Environmental Justice, by demonstrating working partnerships with community-based organizations of targeted populations in Brownfields communities.

5. Describe how they will evaluate and sustain the public health activities after the project period.

2. Program Evaluation (20 percent)

The adequacy of the proposal relative to the extent to which evaluation plan includes measures of program outcome (e.g., effect on participant's knowledge, attitudes, skills, and behaviors).

3. Applicant Capability (20 percent)

a. Applicant's basic knowledge/experience required to perform the applicant's responsibilities in the project;

b. Description of the adequacy and commitment of institutional resources to administer the program and the adequacy of the facilities.

4. Program Budget (not scored)

The extent to which the budget is reasonable, clearly justified, and consistent with the intended use of cooperative agreement funds.

Executive Order 12372 Review

The application is subject to Intergovernmental Review of Federal Programs as governed by Executive Order (E.O.) 12372, which sets up a system for State and local government review of proposed Federal assistance applications. The applicant should contact their Single Point of Contact (SPOC) as early as possible to alert them to the prospective application and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC for each affected State. A current list of SPOCs is included in the application kit. If SPOCs have any State process recommendations on applications submitted to CDC, they should forward them to Ron Van Duyne, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Atlanta, GA 30305–2209, no later than 45 days after the application deadline date. The requirement for a 60-day State Process period has been waived under governing regulations 45 CFR 100. The granting agency does not guarantee to "accommodate or explain" State process recommendations it receives after that date.

Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The catalog of Federal Assistance Number is 93.161.

Other Requirements

A. Paperwork Reduction Act

Projects that involve the collection of information from ten or more individuals and funded by cooperative agreement will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

B. Cost Recovery

CERCLA, as amended by SARA, provides for the recovery of costs incurred for response actions at each Superfund site from potentially responsible parties. The recipient would agree to maintain an accounting system that will keep an accurate, complete, and current accounting of all financial transactions on a site-specific basis, i.e., individual time, travel, and associated cost including direct cost, as appropriate for the site. The recipient would also maintain documentation that describes the site-specific response actions taken with respect to the site, e.g., contracts, work assignments, progress reports, and other documents that describe the work performed at a site. The recipient will retain the documents and records to support these financial transactions and documentation of work performed, for possible use in a cost recovery case, for a minimum of ten years after submission of a final financial status report, unless there is litigation, claim, negotiation, audit or other action involving the specific site, then the records will be maintained until resolution of all issues on the specific site.

C. Third Party Agreements

Project activities which are approved for contracting pursuant to the prior approval provisions shall be formalized in a written agreement that clearly establishes the relationship between the grantee and the third party. The written agreement shall at a minimum:

1. State or incorporate by reference all applicable requirements imposed on the contractors under the grant by the terms of the grant, including requirements concerning technical review (ATSDR selected reviewers), release of data, ownership of data, and the arrangement for copyright when publications, data or other copyrightable works are developed under or in the course of work under a PHS grant supported project or activity.
2. State that any copyrighted or copyrightable works shall be subject to a royalty-free, non-exclusive, and irrevocable license to the Government to reproduce, publish, or otherwise use them, and to authorize others to do so for Federal Government purposes.
3. State that whenever any work subject to this copyright policy may be developed in the course of a grant be a contractor under a grant, the written agreement (contract) must require the contractor to comply with these requirements and can in no way diminish the Government's right in that work.
4. State the activities to be performed, the time schedule for those activities, the policies and procedures to be followed in carrying out the agreement, and the maximum amount of money for which the grantee may become liable to the third party under the agreement.

The written agreement required shall not relieve the grantee of any part of its responsibility or accountability to ATSDR under the cooperative agreement. The written agreement shall, therefore, retain sufficient rights and control to the grantee to enable it to fulfill this responsibility and accountability.

Application Submission and Deadline

The original and two copies of application PHS Form 5161-1 (OMB Number 0937-0189) should be submitted to Ron Van Duyne, Grants Management Officer, Attn: Patrick A. Smith, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 225 East Paces Ferry Road, NE., Room 300, Mailstop E-13, Atlanta, GA 30305-2209, on or before August 10, 1998. (By formal agreement, the CDC Procurement and Grants Office will act for and on behalf of ATSDR on this matter.)

A. Deadline: Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date, or
2. Sent on or before the deadline date and received in time for submission to the objective review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

B. Late Applications: Applications which do not meet the criteria in A.1. or 2. above are considered late applications. Late applications will not be considered.

Where to Obtain Additional Information

To receive additional written information call 1-888-GRANTS4. You will be asked to leave your name, address, and phone number and will need to refer to ATSDR Announcement Number 98095. You will receive a complete program description, information on application procedures, and application forms. CDC will not send application kits by facsimile or express mail.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from Patrick A. Smith, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mail Stop E-13, Atlanta, GA 30305-2209, telephone (404) 842-6803, Internet: phs3@cdc.gov.

Programmatic technical assistance may be obtained from Rueben C. Warren, DDS, MPH, DrPH, Associate Administrator for Urban Affairs, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, N.E., Mail Stop E-29, Atlanta, GA 30333 or by calling (404) 639-5060, Internet: rcw4@cdc.gov.

Please refer to announcement number 98095 when requesting information and submitting an application.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017-001-00474-0) or Healthy People 2000 (Summary Report, Stock No. 017-001-00473-1) referenced in the INTRODUCTION through the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402-9325 (Telephone 202-783-3238).

This and other CDC announcements are available through the CDC homepage on the Internet. The address for the CDC homepage is: http://www.cdc.gov.

Dated: June 25, 1998.

Georgi Jones,

Director, Office of Policy and External Affairs Agency for Toxic Substances and Disease Registry.

[FR Doc. 98-17459 Filed 6-30-98; 8:45 am]

BILLING CODE 4163-70-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97D-0525]

Draft Guidance for Industry: "Promoting Medical Products in a Changing Healthcare Environment; I. Medical Product Promotion by Healthcare Organizations or Pharmacy Benefits Management Companies (PBMs);" Reopening of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; reopening of comment period.

SUMMARY: The Food and Drug Administration (FDA) is reopening until July 31, 1998, the comment period for

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a notice announcing the availability of a draft guidance for industry entitled "Promoting Medical Products in a Changing Healthcare Environment; I. Medical Product Promotion by Healthcare Organizations or Pharmacy Benefits Management Companies (PBMs)" that appeared in the **Federal Register** of January 5, 1998 (63 FR 236). FDA is taking this action because of the complexity and importance of the issues raised by this draft guidance and to allow interested parties additional time to prepare and submit comments.

DATES: Written comments by July 31, 1998. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Copies of the draft guidance for industry are available on the Internet at http://www.fda.gov/cder/guidance/index.htm. Submit written requests for single copies of the draft guidance for industry "Promoting Medical Products in a Changing Healthcare Environment; I. Medical Product Promotion by Healthcare Organizations or Pharmacy Benefits Management Companies (PBMs)" to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your request. Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Requests and comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT:

Regarding prescription drugs: Laurie B. Burke, Center for Drug Evaluation and Research (HFD–40), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–2828, or via Internet at burkel@cder.fda.gov;

Regarding prescription biological products: Toni M. Stifano, Center for Biologics Evaluation and Research (HFM–200), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–3028, or via Internet at stifano@cber.fda.gov;

Regarding restricted medical devices: Byron L. Tart, Center for Devices and Radiological Health (HFZ–302), Food and Drug Administration, 2098 Gaither Rd., Rockville, MD 20850, 301–594–4639, or via Internet at bxt@cdrh.fda.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 5, 1998 (63 FR 236), FDA published a notice announcing the availability of a draft guidance for industry entitled "Promoting Medical Products in a Changing Healthcare Environment; I. Medical Product Promotion by Healthcare Organizations or Pharmacy Benefits Management Companies (PBMs)." The draft guidance is intended to assist sponsors of regulated medical products (human drugs, biologics, and medical devices) by describing circumstances in which they may be held responsible for promotional activities performed by a healthcare organization/PBM subsidiary or by a nonsubsidiary healthcare organization/PBM that violate the Federal Food, Drug, and Cosmetic Act and regulations issued thereunder. The draft guidance also reminds medical product sponsors of their responsibility to submit or, in the case of some devices, maintain historical files of promotional labeling and advertising. Following the review of all comments received between January 5 and July 31, 1998, the agency intends to solicit public comment on a new draft guidance document.

Interested persons may, on or before July 31, 1998, submit to the Dockets Management Branch (address above) written comments on this subject. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 25, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 98–17413 Filed 6-30-98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Statement of Organization, Functions and Delegations of Authority

This notice amends Part R of the Statement of Organization Functions and Delegations of Authority of the Department of Health and Human Services (DHHS), Health Resources and Services Administration (HRSA), (60 FR 56605 as amended November 6, 1995, as last amended at 63 FR 33379–80 dated June 18, 1998). This notice reflects the changes in the Bureau of Primary Health Care (BPHC), Division of National Health Service Corps.

I. Under Division of National Health Service Corps (RC5) delete the current functional statement in it's entirety and replace with the following:

Provides (1) strategic planning and overall policy guidance, and program oversight to the National Health Service Corps (NHSC); (2) initiates national program and policy changes, including regulatory and statutory amendments, as necessary, to ensure NHSC consistency with evolving national health care policy; (3) supports the NHSC National Advisory Council (NAC), which advises the Secretary, DHHS, on national health care policy, particularly as it affects health manpower issues and the NHSC; (4) works with the Office of the Administrator and the Office of the Secretary to ensure that the NAC membership are nationally recognized leaders in national health care policy issues, and in their respective primary health care disciplines; (5) provides national NHSC leadership, integration and coordination with BPHC, HRSA and other Departmental programs serving or impacting the Nation's underserved communities and populations; (6) works directly with Bureau, Agency and intra-Agency, Departmental, and inter-Departmental organizations and staffs, as appropriate, on national policies and strategies affecting underserved populations and development and distribution of primary care clinical personnel; (7) coordinates with the Bureau of Health Professions regarding health professionals education and training, as appropriate; (8) speaks for NHSC with national, regional, State, and local public and private health care professional associations, universities and other health professions training institutions and other groups whose public policy interests relate to primary health care manpower and access issues; (9) articulates NHSC policy interests and issues to a variety of national forums, including universities, foundations, think tanks, and other organizations whose interests in primary and other health care public policy issues have potential for affecting the NHSC; (10) provides policy guidance and support to HRSA field offices, and to State and Regional Primary Care Offices and Primary Care Associations; and (11) coordinates NHSC and Bureau policy on primary and other health care manpower issues, and works with a wide variety of national, regional, State and local constituencies in ensuring their effective implementation.

II. Delegations of Authority

All delegations and redelegations of authority which were in effect immediately prior to the effective date hereof have been continued in effect in them or their successors pending further redelegation. I hereby ratify and affirm all actions taken by any DHHS officials which involved the exercise of these authorities prior to the effective date of this delegation.

This reorganization is effective upon date of signature.

Dated: June 19, 1998.

Claude Earl Fox,

Administrator.

[FR Doc. 98–17472 Filed 6–30–98; 8:45 am]

BILLING CODE 4160–15–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT–843092

Applicants: San Antonio Zoological Gardens and Aquarium, San Antonio, TX.

The applicant requests a permit to import 4.4 live Japanese Giant Salamanders (*Andrias japonicus*), bred in captivity by the Asa Zoological Park, Hiroshima, Japan, for the purpose of enhancement of the species through captive breeding and exhibition.

PRT–841435

Applicant: Panamerican Marketing, San Antonio, TX.

The applicant requests a permit to export 1.2 live ring-tailed lemurs (*Lemur catta*) to Promotora Zoofari, Morelos, Mexico for the purpose of enhancement of the propagation and survival of the species through captive breeding.

PRT–831689

Applicant: University of Wisconsin, Dept. of Zoology, Madison, WI.

The applicant requests a permit to import blood and feather samples taken from captive-held and wild caught Andean condors (Vultur gryphus) in South America, for the purpose of scientific research.

PRT–844311

Applicant: Geraldine Mr. Stallman, Salem, WI.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Writtend data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of this publication.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice. U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: June 26, 1998.

MaryEllen Amtower,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 98–17524 Filed 6–30–98; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Intent To Issue 2 Draft Comprehensive Conservation Plans and Associated Environmental Assessments for 2 National Wildlife Refuges in the Southwest Region

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service (Service) has prepared draft Comprehensive Conservation Plans (CCP) and associated Environmental Assessments for the Bitter Lake National Wildlife Refuge, Roswell, New Mexico, and San Andres National Wildlife Refuge, Las Cruces, New Mexico pursuant to the National Wildlife Refuge System Improvement Act of 1997, and National Environmental Policy Act of 1969, and its implementing regulations.

DATES: The Service will be open to written comments through July 30, 1998.

ADDRESSES: Copies may be obtained by writing to: Mr. Tom Baca, Natural Resource Planner, Division of Refuge, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, NM 87103–1306. Comments should be submitted to: Lou Bridges, Project Coordinator, Research Management Consultants, Inc., 1746 Cole Blvd., Bldg. 21, Suite 300, Golden, CO 80401.

SUPPLEMENTARY INFORMATION: It is Service policy to have all lands within the National Wildlife Refuge System managed in accordance with an approved CCP. The CCP guides management decisions and identifies refuge goals, long-range objectives, and strategies for achieving refuge purposes. The planning process has considered many elements, including habitat and wildlife management, habitat protection and acquisition, public and recreational uses, and cultural resources. Public input into this planning process has assisted in the development of the draft documents. The CCP will provide other agencies and the public with a clear understanding of the desired conditions for the Refuges and how the Service will implement management strategies.

The Service intends to consider comments and advice generated in response to the draft documents prior to the preparation of a final CCP. The Service is furnishing this notice in compliance with Service CCP policy: (1) To advise other agencies and the public of the availability of the draft documents, and (2) to obtain suggestions and advice for consideration in preparation of final documents.

The Service anticipates that final CCP documents and any associated NEPA documents will be available by September 15, 1998.

Dated: June 26, 1998.

Renne Lohoefner,

Acting Regional Director.

[FR Doc. 98–17460 Filed 6–30–98; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Notice of Intent To Prepare an Environmental Impact Statement for the White River Amphitheatre, Muckleshoot Indian Reservation, King County, WA

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of intent and public scoping notice.

SUMMARY: This notice advises the public that the Bureau of Indian Affairs, with the cooperation of the U.S. Army Corps of Engineers, U.S. Environmental

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Protection Agency, Muckleshoot Indian Tribe, and Washington Department of Transportation, intends to gather the information necessary and prepare an Environmental Impact Statement (EIS) for the proposed taking into federal trust of land for the construction of the Muckleshoot Indian Tribe's White River Amphitheatre. A description of the proposed project, location, and environmental considerations to be addressed in the EIS are provided in the Supplementary Information section. This notice also announces a public meeting to be held on the proposal and the preparation of the EIS.

This notice is published in accordance with Section 1501.7 of the Council on Environmental Quality Regulations (40 CFR Parts 1500–1508) implementing the procedural requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), and the Department of the Interior Manual (516 DM 1–6), and is in the exercise of authority delegated to the Assistant Secretary—Indian Affairs by 209 DM 8. The purpose of this notice is to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS.

DATES: Comments must be received on or before July 24, 1998. The public scoping meeting will be held on July 15, 1998. We will consider all comments sent during the comment period, or submitted at the public scoping meeting.

ADDRESSES: Comments should be addressed to Stanley Speaks, Area Director, Portland Area Office, 911 N.E. 11th Avenue, Portland, Oregon 97232–4169. The public scoping meeting will be held at Green River Community College, Lindbloom Student Center, 12401 S.E. 320th Street, Auburn, Washington, from 7:00 PM to 9:00 PM.

FOR FURTHER INFORMATION CONTACT: June Boynton, Area Environmental Coordinator, 503–231–6749.

SUPPLEMENTARY INFORMATION: The Muckleshoot Indian Tribe intends to develop an amphitheatre on tribal property within the boundaries of the Muckleshoot Indian Reservation adjacent to Highway 164, about seven miles southeast of the City of Auburn in King County, Washington. The White River Amphitheatre Project will consist of a 20,000-seat amphitheatre plus parking for approximately 5900 cars, all on a 90-acre site. The amphitheatre will include fixed and lawn seating, a main stage, concessions, cafes, and various plantings surrounding the seating. The amphitheatre will be used for about 30 to 40 concert events per year (which will generate the greatest attendance) and community and cultural events such as Native American pow wows, dance performances, and children's events.

The Tribe has recently requested that the BIA acquire the land upon which the amphitheatre is being built and hold that land in trust status on behalf of the Tribe. As a consequence, BIA must decide either to acquire the land or not acquire the land. With respect to possible BIA action, only the action and no action alternatives have so far been identified. Additionally, a federal district court ordered BIA to prepare an EIS with respect to the amphitheatre in *United States ex rel. Citizens for Safety & Environment* v. *Bill Graham Enterprises, Inc.*, No. C97–1775C (W.D.Wash.) (order issued April 17, 1998). It has not been decided whether to appeal that decision.

The EIS will address the project's effects on the environment. Issues identified include:

- Traffic—concerns that traffic jams will result and that safety and emergency services will be compromised.
- Noise—concerns that the sounds from the concerts will travel offsite and adversely affect surrounding residents, wildlife, and livestock.
- Crime—concern that crimes, including alcohol and drug related ones, will increase in the vicinity of the amphitheatre.
- Water quality—the primary concern is that runoff from the site will not be adequately controlled or cleaned up to prevent impact to the White River.
- Wetlands—are wetland impacts minimized, accounted for, or mitigated?
- Wildlife—are there unacceptable impacts on fish and wildlife and their habitats, including threatened or endangered species?
- Slope stability—will the project affect the stability of the bluff above the White River and thereby affect other resources?
- Sewage disposal—how will sewage from the site be handled?
- Air quality—will traffic at the amphitheatre generate enough carbon monoxide to violate regional standards?
- Land use—how will the project affect the rural character of the surrounding lands?
- Socioeconomics—how will the project affect local businesses and property values?

The Bureau of Indian Affairs recognizes that the Corps of Engineers has issued a public notice for a proposed wetland fill permit for the amphitheatre, has held a public hearing to receive comments, and has accepted numerous written comments concerning the Amphitheatre project. The issues and concerns received by the Corps of Engineers in comments on the project will be included as part of the scoping for this EIS.

Dated: June 26, 1998.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 98–17528 Filed 6–30–98; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–985–0777–66]

Notice of Intent To Conduct a Planning Review, Concerning Off Road Vehicle Use in the Weston Hills Area, North of Gillette, Wyoming, and Request for Public Participation

SUMMARY: The Bureau of Land Management (BLM), Buffalo Resource Area, invites the public to identify issues and concerns to be addressed in a review of vehicular use management decisions for BLM administered public lands in the Weston Hills Area.

FOR FURTHER INFORMATION CONTACT: Interested parties may obtain further information, or request to be placed on the Buffalo mailing list by contacting Neil Schiche, Project Coordinator, at the Buffalo Resource Area Office, Bureau of Land Management, 1425 Fort Street, Buffalo, Wyoming 82834, 307–684–1100.

SUPPLEMENTARY INFORMATION: A planning review of the Weston Hills area is needed to evaluate existing BLM off road vehicle use and vehicular use management decisions for the BLM administered public lands in the area. The purposes of the planning review are to determine: (1) Whether the existing vehicular use management decisions for the BLM administered public lands in the Weston Hills area provide for an appropriate level of resource protection, (2) whether other management actions and alternatives that may be considered would be in conformance with existing decisions in the Buffalo Resource Management Plan (RMP), and (3) whether or not it will be necessary to amend the Buffalo RMP.

The National Environmental Policy Act environmental analysis and documentation process will be used in conducting the planning review and in making the above determinations for the planning review area. An Environmental Assessment will be prepared to document the review and its results.

The planning review will include opportunities for public participation. The public will be invited to a meeting(s) to discuss: (1) problems, conflicts, concerns, and planning issues in the review area, and (2) potential management options to consider. A public meeting is scheduled for June 30, 1998, at 7 p.m., in the Campbell County Public Library, 2101 4J Road, Gillette, Wyoming.

If other public meetings, open houses or similar events are needed, they will be announced through other notices, mailings, or news releases. The planning review results, and any need to amend the Buffalo RMP and to provide a protest period on the amendment will be announced in the same manner.

Dated: June 25, 1998.

Alan L. Kesterke,

Associate State Director.

[FR Doc. 98–17458 Filed 6–30–98; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–066–1430–00; CACA 35556]

Public Land Order No. 7343; Withdrawal of Public Land for the Pechanga Historic Site; CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 19.83 acres of public land from surface entry, mining, mineral leasing, and mineral materials sales for a period of 50 years on behalf of the Bureau of Land Management to protect the Pechanga Historic Site.

EFFECTIVE DATE: July 1, 1998.

FOR FURTHER INFORMATION CONTACT: Duane Marti, BLM California State Office (CA–931.4), 2135 Butano Drive, Sacramento, California 95825; 916–978–4675.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Subject to valid existing rights, the following described public land is hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws, 30 U.S.C. Ch. 2 (1994), mineral leasing laws, 30 U.S.C. 181 *et seq.* (1994), and mineral material sale laws, 30 U. S. C. 601–604 (1994), to protect the Pechanga Historic Site:

San Bernardino Meridian

T. 5 S., R. 4 W.,
Sec. 22, lot 5.

The area described contains 19.83 acres in Riverside County.

2. This withdrawal will expire 50 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1994), the Secretary determines that the withdrawal shall be extended.

Dated: June 18, 1998.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 98–17466 Filed 6–30–98; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–958–1430–01; GP7–0182; OR–19080]

Public Land Order No. 7347; Revocation of Executive Order Dated August 2, 1916; OR

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an Executive order in its entirety as to the remaining 24.38 acres withdrawn for Bureau of Land Management Powersite Reserve No. 537. The lands are no longer needed for the purpose for which they were withdrawn. This action will remove restrictions on 6.25 acres of public lands that were subject to the provisions of Section 24 of the Federal Power Act. These lands will remain closed to the agricultural land laws due to an overlapping withdrawal. The remaining 18.13 acres have been conveyed out of Federal ownership with a reservation of all minerals to the United States.

EFFECTIVE DATE: July 1, 1998.

FOR FURTHER INFORMATION CONTACT: Bill Bliesner, BLM Oregon/Washington State Office, P.O. Box 2965, Portland, Oregon 97208–2965, 503–952–6157.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. The Executive Order dated August 2, 1916, which established Powersite Reserve No. 537, is hereby revoked in its entirety:

Willamette Meridian

(a) Public Lands

T. 2 S., R. 7 E.,
Sec. 33, lots 11, 21, 22, 27, and 28.

(b) Non-Federal Surface

T. 2 S., R. 7 E.,
Sec. 33, lots 1, 4, 6, 7, 12, 14, 15, 18, 20, 23, 24, 26, 30, 31, 32, and 34.

The areas described aggregate 24.38 acres in Clackamas County.

2. The lands described in paragraph 1(b) have been conveyed out of Federal ownership with a reservation of all minerals to the United States.

3. The lands described in paragraph 1(a) have been open to operation of the public land laws, subject to the provisions of Section 24 of the Federal Power Act of June 10, 1920, and will be relieved of such restrictions at 8:30 a.m. on July 1, 1998. These lands have been and will remain open to mining and mineral leasing.

4. The lands described in paragraph 1(a) remain withdrawn from all forms of appropriation under the agricultural land laws, 43 U.S.C. Ch. 9; 25 U.S.C. 331 (1994), by Public Land Order No. 5490, as modified by Public Land Order Nos. 5542 and 7043.

Dated: June 18, 1998.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 98–17463 Filed 6–30–98; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–958–1430–01; GP8–0002; OR–19578 (WA)]

Public Land Order No. 7344; Partial Revocation of Executive Order dated July 2, 1910; Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes an Executive order insofar as it affects 1,147.26 acres of National Forest System lands withdrawn for Bureau of Land Management Powersite Reserve No. 73. The lands are no longer needed for the purpose for which they were withdrawn. The lands will remain closed to surface entry, mining, and mineral leasing due to another overlapping withdrawal.

EFFECTIVE DATE: July 1, 1998.

FOR FURTHER INFORMATION CONTACT: Charles R. Roy, BLM Oregon/Washington State Office, P.O. Box 2965, Portland, Oregon 97208–2965, 503–952–6189.

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By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. The Executive Order dated July 2, 1910, which established Powersite Reserve No. 73, is hereby revoked insofar as it affects the following described lands:

Willamette Meridian

Gifford Pinchot National Forest

T. 9 N., R. 4 E.,
  Sec. 2, SW¼;
  Sec. 5, SE¼SW¼ and S½SE¼;
  Sec. 7, lots 1, 2, and 3, NE¼, E½NW¼, NE¼SW¼, and N½SE¼;
  Sec. 8, N½ and N½SW¼.

The areas described aggregate 1,147.26 acres in Cowlitz County.

2. The lands are included in the Mt. St. Helens National Volcanic Monument and will remain closed to surface entry, mining, and mineral leasing.

Dated: June 18, 1998.

Bob Armstrong,
Assistant Secretary of the Interior.

[FR Doc. 98–17465 Filed 6–30–98; 8:45 am]

BILLING CODE 4310-33-P

DEPARTMENT OF INTERIOR

Bureau of Land Management

[CA–018–1220–00]

Recreation Management Restrictions; California, South Yuba River, Hoyt's Crossing; Supplementary Rules

AGENCY: Bureau of Land Management, Interior.

ACTION: Final Supplementary Rules.

SUMMARY: The Bureau of Land management establishes supplementary rules for the management of recreational uses on public lands adjacent to the South Yuba River at Hoyt's Crossing. This action is necessary to limit adverse impacts to public lands while longterm planning for the South Yuba River is underway. The California State Parks and the County of Nevada urges the BLM to enact restrictions in the Hoyt's Crossing area to reduce ongoing problems. These Supplementary Rules will protect the resources and the recreational experience until planning is completed.

EFFECTIVE DATE: July 1, 1998.

FOR FURTHER INFORMATION: Questions on the Final Rules can be directed to Deane Swickard, Field Manager, Folsom Field Office, 63 Natoma Street, Folsom, CA 95630, 916–985–4474.

SUPPLEMENTARY INFORMATION: These Supplementary Rules were published as Proposed Supplementary Rules in the **Federal Register**, April 20, 1998, 63 FR 19508–19509. No changes were made from the Proposed Supplementary Rules to the Final Supplementary Rules. Written comments were received from one organization and two individuals. No new information was revealed and the comments suggested "status quo" as an alternative plan.

One comment suggested that the BLM wait until a Management Plan is completed before rules are established. The Nevada County Department of Health requested the area be closed to camping due to health hazards associated with the improper disposal of human waste. A long range plan is needed but an immediate action is necessary to deal with existing health hazards and other recourse issues.

Two comments states there are too few camping areas along the South Yuba River due to topography. BLM agrees that the terrain limits the available locations suitable for camping. Two comments states that the ban on camping on State Park property has reinforced the need for camping opportunities at Hoyt's Crossing. the California State Parks must manage their land within mandates set forth by the California legislature. The BLM must manage public land within mandates set forth by Congress in the Federal Land Policy and Management Act plus other Federal laws. While it is the BLM's policy to allow and encourage dispersed camping in most locations, our responsibilities require us to impose restrictions in some areas. Hoyt's Crossing is one of these areas. BLM has a signed cooperative agreement with California State Parks and Recreation to manage the Federal lands within the South Yuba Recreation Area in harmony with the goals of the State Park.

Two comments stated that there is too much area dedicated to day use (State Park and BLM). BLM feels that the vast majority of recreational demand is for day use activities.

Two comments said that regulations degrade the recreational experience. True, a regulation will degrade a person's experience if that person wishes to participate in an activity prohibited by regulation.

Two comments asked where people would camp now. In the area of the South Yuba River, there are the South Yuba Campground, Malokoff Diggins State Park, and other dispersed areas around Illinois, Purdon, and Edwards Crossing.

Two comments asked if BLM was forcing campers off the river. See above paragraph.

Two comments asked if there would be additional restrictions along the South Yuba River. It is impossible to predict at this time.

Two comments objected to the penalty amounts of violating the Supplementary Rules. These penalties are set by Congress and not by BLM.

One comment questioned if the BLM was targeting nude sunbathing and gay individuals. Nothings in these rules directly affect these specific groups.

One comment stated that the South Yuba River floods every year and cleans this area. The BLM's position is not to allow trash, abandoned property, or human feces to be swept away by the water.

Two comments suggested that there is no need for any protection at Hoyt's Crossing. BLM must provide some degree of protection to all public lands. The amount of protection would be directly related to other factors, such as, amount of use, plant life, animal life, soils, water quality, and Federal mandates.

One comment suggested that we leave Hoyt's Crossing "as is". Explained previously.

One comment stated that BLM should construct campsites, fire rings, and toilets. BLM will not construct facilities until the long range planning is completed.

One comment asked what gave BLM the right to decide these issues. BLM is directed by Congress through the Federal Land Policy and Management Act of 1976 and other Federal laws to make land management decisions.

One comment suggested that the boundary between BLM, State Parks, and private property is impossible to locate. BLM plans to mark boundaries.

One comment said any signs would destroy the recreational experience. BLM will install the minimum signs needed to inform the public.

One comment said the BLM is making criminals out of citizens because of bureaucratic rules. Congress has decided that there will be sanctions for willfully violating laws and regulations.

One comment suggested there were too many rules already. BLM is mandated to enforce existing laws and regulations and enact new regulations to provide for proper land management.

One comment said these rules were restricting access to public lands. Access to Public Land remains intact.

Supplementary Rules

BLM adopts the following supplementary rules which will be applicable on public land within sections 28 and 34, Township 17 North, Range 8 East of the Mt. Diablo meridian. BLM's authority to for issuing supplementary rules is contained in 43 CFR 8365.1–6.

(a) No person shall camp. The term camp is defined as the use, construction, or taking possession of public lands using tents, shacks, lean-tos, tarps, vehicles, huts, blankets, or sleeping bags.

(b) No person shall build, attend, maintain, or use a campfire. The term campfire is defined as a controlled fire occurring out of doors used for cooking, branding, personal warmth, lighting, ceremonial, or esthetic purposes.

(c) No person shall possess or consume alcoholic beverages. The term alcoholic beverages is defined as beer, wine, distilled spirits, or any other beverage defined as such by California law.

(d) No person shall possess any bottle or container made of glass.

(e) Any person who fails to comply with these Supplementary Rules will be subject to a fine of up to 100,000 dollars and/or imprisoned not to exceed 12 months. These penalties are specified by 43 U.S.C. 303 and 18 U.S.C. 3623. Federal, state, and local law enforcement personnel and emergency service personnel, while performing official duties, are exempt from these Supplementary Rules.

D.K. Swickard,

Field Manager.

[FR Doc. 98–16993 Filed 6–30–98; 8:45 am]

BILLING CODE 4310–40–M

DEPARTMENT OF THE INTERIOR

Mineral Management Service

Outer Continental Shelf, Beaufort Sea, Oil and Gas Lease Sale 170

AGENCY: Mineral Management Service, Interior.

ACTION: Final Notice of Sale.

1. *Authority.* The Mineral Management Service (MMS) is issuing this Notice of Sale under the Outer Continental Shelf (OCS) Lands Act (43 U.S.C. 1331–1356, as amended) and the regulations issued thereunder (30 CFR Part 256).

A "Sale Notice Package," containing this Notice and several supporting and essential documents referenced in the Notice, is available from the MMS Alaska OCS Regional Office Public Information Unit (see paragraph 15 of this Notice).

2. *Filing of Bids.* Bidders must comply with the following requirements. Times specified hereafter are local Anchorage, Alaska, times unless otherwise indicated.

(a) *Filing of Bids.* Sealed bids must be received by the Regional Director (RD), Alaska OCS Region, MMS, 949 East 36th Avenue, Third Floor, Anchorage, Alaska 99508–4302, during normal business hours (8 a.m. to 4 p.m.) until the Bid Submission Deadline at 10 a.m., Tuesday, August 4, 1998. If the RD receives bids later than the time and date specified above, he will return the bids unopened to bidders. Bidders may not modify or withdraw their bids unless the RD receives a written modification or written withdrawal request prior to 10 a.m. Tuesday, August 4, 1998.

(b) *Bid Opening Time.* Bid Opening Time will be 9 a.m., Wednesday, August 5, 1998, at the Wilda Marston Theatre, Z. J. Loussac Public Library, 3600 Denali Street, Anchorage, Alaska. The MMS published a list of restricted joint bidders, which applies to this sale, in the **Federal Register** at 63 FR 14473 on March 25, 1998.

(c) *Natural Disasters.* In the event of an earthquake or other natural disaster, the MMS Alaska OCS Regional Office may extend the bid submission deadline. Bidders may call (907) 271–6010 for information about the possible extension of the bid submission deadline due to such an event.

3. *Method of Bidding.* The MMS has adopted the optional use of EFT for payment of the ⅕th bonus bid. Sale 170 will be the first Alaska OCS Region sale to use these procedures; however, the process has been successfully implemented for recent Gulf of Mexico Region sales.

(a) *Submission of Bids.* For each tract bid upon, a bidder must submit a separate signed bid in a sealed envelope labeled "Sealed Bid for Oil and Gas Lease Sale 170, not to be opened until 9 a.m., Wednesday, August 5, 1998." The total amount bid must be a whole dollar amount; any cent amount above the whole dollar will be ignored by the MMS. Details of the information required on the bid(s) and the bid envelope(s) are specified in the document "Bid Form and Envelope" contained in the Sale Notice Package (see paragraph 15 of this Notice).

Bidders must execute all documents in conformance with signatory authorizations on file in the MMS Alaska OCS Region Office. Partnerships also must submit or have on file a list of signatories authorized to bind the partnership. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to a maximum of give decimal places, e.g., 33.33333 percent. The MMS may require bidders to submit other documents in accordance with 30 CFR 256.46. The MMS warns bidders against violation of 18 U.S.C. 1860 prohibiting unlawful combination or intimidation of bidders.

(b) *Submission of the ⅕th Bonus Payment.* Bidders will have the option of submitting the ⅕th cash bonus in cash or by cashier's check, bank draft, or certified check with the bid; or by using electronic funds transfer (EFT) procedures. Detailed instructions for submitting the ⅕th bonus payment by EFT are contained in the document "Instructions for Making EFT ⅕th Bonus Payments" included in the Sale Notice Package.

Bidders are advised that the MMS considers the signed bid to be a legally binding obligation on the part of the bidder(s) to comply with all applicable regulations, including paying the ⅕th bonus on all high bids. A statement to this effect will be included on each bid (see the document "Bid Form and Envelope" contained in the Sale Notice Package).

4. *Minimum Bid, Yearly Rental, and Royalty System.* The following minimum bid, yearly rental, and royalty system apply to this sale:

(a) *Minimum Bid.* Bidders must submit a cash bonus in the amount of $62.00 or more per hectare or fraction thereof with all bids submitted at this sale.

(b) *Yearly Rental.* All leases awarded will provide for a yearly rental payment of $13.00 per hectare or fraction thereof until initial production is obtained.

(c) *Royalty System.* After initial production is obtained, leases will require a minimum royalty of $13.00 per hectare or fraction thereof. Leases issued as a result of Sale 170 will have a fixed royalty rate of 12½ percent.

5. *Equal Opportunity.* The certification required by 41 CFR 60–1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form MMS–2033 (June 1985), and the Affirmative Action Representation Form, Form MMS–2032 (June 1985) must be on file in the MMS Alaska OCS Regional Office, prior to lease award, (see paragraph (u) of the document "Information to Lessees for Sale 170" contained in the Sale Notice Package).

6. *Bid Opening.* Bid opening will begin at the bid opening time stated in paragraph 2(b). The opening of the bids is for the sole purpose of publicly

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announcing bids received, and no bids will be accepted or rejected at that time.

7. *Deposit of Payment.* Any payments made in accordance with paragraph 3(b) above will be deposited by the Government in an interest-bearing account in the U.S. Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

8. *Withdrawal of Tracts.* The United States reserves the right to withdraw any tract from this sale prior to issuance of a written acceptance of a bid for the tract.

9. *Acceptance, Rejection, or Return of Bids.* The United States reserves the right to reject any and all bids. In any case, no bid will be accepted, and no lease for any tract will be awarded to any bidder, unless:

(a) the bidder has complied with all requirements of this Notice, including the documents contained in the associated Sale Notice Package (see paragraphs 1–15 of this Notice), and applicable regulations;

(b) the bid is the highest valid bid; and

(c) the amount of the bid has been determined to be adequate by the authorized officer.

No bonus bid will be considered for acceptance unless it provides for a cash bonus as specified in paragraph 4 above. Any bid submitted which does not conform to the requirements of this Notice, the OCS Lands Act, as amended, and other applicable regulations may be returned to the person submitting that bid by the RD and not considered for acceptance.

To ensure that the Government receives a fair return for the conveyance of lease rights for this sale, tracts will be evaluated in accordance with established MMS bid adequacy procedures. A copy of the current procedures ("Summary of Procedures for Determining Bid Adequacy at Offshore Oil and Gas Lease Sales: Effective August 1997, with Sale 168") is available from the MMS Alaska OCS Regional Office Public Information Unit (see paragraph 15 of this Notice). This document incorporates changes announced in a **Federal Register** Notice at 62 FR 37589, dated July 14, 1997.

10. *Successful Bidders.* The following requirements apply to successful bidders in this sale:

(a) *Lease Issuance.* The MMS will require each person who has submitted a bid accepted by the authorized officer to execute copies of the lease (Form MMS–2005 (March 1986) as amended), pay the balance of the cash bonus bid along with the first year's annual rental for each lease issued by EFT in accordance with the requirements of 30 CFR 218.155, and satisfy the bonding requirements of 30 CFR 256, Subpart I, as amended.

(b) *Certification Regarding Nonprocurement Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions.* Each person involved as a bidder in a successful high bid must have on file, in the MMS Alaska OCS Regional Office, a currently valid certification that the person is not excluded from participation in primary covered transactions under Federal nonprocurement programs and activities. A certification previously provided to that office remains currently valid until new or revised information applicable to that certification becomes available. In the event of new or revised applicable information, the MMS will require a subsequent certification before lease issuance can occur. Persons submitting such certifications should review the requirements of 43 CFR, Part 12, Subpart D.

A copy of the certification form is contained in the Sale Notice Package.

11. *Official Protraction Diagrams.* The following Officials Protraction Diagrams, which may be purchased from the MMS Alaska OCS Regional Office Public Information Unit (see the document "Information to Lessees" contained in the Sale Notice Package), depict the blocks offered for lease in this sale:

(a) Outer Continental Shelf Official Protraction Diagrams. these diagrams sell for $2.00 each.

NR 06–03, Beechey Point, revised September 30, 1997
NR 06–04, Flaxman Island, revised September 30, 1997

12. *Description of the Areas Offered for Bids.*

(a) *Areas Available for Leasing.* The locations of blocks offered for lease in Sale 170 are shown on Locator Maps and Official Protraction Diagrams. Some of these blocks, however, may be partially leased or transected by administrative lines such as the Federal/State jurisdictional line. Information on the unleased portions of such blocks, including the exact area in hectares, is included in the document:

"Description of Blocks Included in Sale 170"

The Sale Notice Package contains this document.

13. *Lease Terms and Stipulations.*

(a) Leases resulting from this sale will have initial terms of 10 years. Copies of the lease form are available from the MMS Alaska OCS Regional Office Public Information Unit (see paragraph 15 of this Notice).

(b) The text of the lease stipulations is contained in the document "Lease Stipulations for Oil and Gas Lease Sale 170." This document is contained in the Sale Notice Package. The stipulations will become a part of leases on applicable blocks resulting from Sale 170.

14. *Information to Lessees.* The Sale Notice Package contains a document titled "Information to Lessees for Sale 170." The Information to Lessees items provide information on various matters of interest to lessees and potential bidders.

15. *Sale Notice Package.* The Sale Notice Package, and individual documents contained therein, are available from the Public Information Unit, Minerals Management Service, 949 East 36th Avenue, Room 308, Anchorage, Alaska 99508–4302, either in writing or by telephone at (907) 271–6070 or (800) 764–2627. For additional information, contact the Regional Supervisor for Leasing and Environment, in writing at the above address or by telephone at (907) 271–6045.

The documents referenced below and contained in the Sale Notice Package contain information essential for bidders, and bidders are charged with the knowledge contained therein. Included in the Package are:

Cover sheet.

Notice of Sale for Sale 170, Beaufort Sea.

Least Stipulations for Oil and Gas Lease Sale 170.

Information to Lessees for Sale 170.

Description of Blocks Included in Sale 170.

Debarment Certification Form.

Bid Form and Envelope.

Bidder Contact Form.

Instructions for Making EFT ⅕ Bonus Payment.

Certain documents may be viewed and downloaded from the MMS World Wide Web site at http://www.mms.gov/alaska. The MMS also maintains a 24-hour Fax-on-Demand Service at (202) 219–1703.

Dated: June 24, 1998.

Cynthia Quarterman,
Director, Minerals Management Service.

Bob Armstrong,
Assistant Secretary, Land and Minerals Management.

[FR Doc. 98–17403 Filed 6–30–98; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF THE INTERIOR

Request for Proposal to Schedule, Escort, Issue Launch Permits to, and Collect Fees From Paddle Craft Users on the Colorado River, Within the Security Zone of Hoover Dam.

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of solicitation for proposals from qualified parties to schedule reservations, escort, issue launch permits to, and collect fees from paddle crafts users.

SUMMARY: Reclamation is soliciting proposals from qualified parties to reserve and schedule 2 paddle craft launches daily, and escort a maximum of 15 users at each launch-time to a launch area on the Colorado River, in a secured area surrounding Hoover Dam.

ADDRESSES: Interested parties should request copies of the Request for Proposal (RFP) from Mr. Jeff Reavis, Outdoor Recreation Planner, Environmental Compliance and Realty Group, Bureau of Reclamation, Lower Colorado Region, P.O. Box 61470, Boulder City, Nevada 89006–1470, Telephone: (702) 293–8428 or FAX (702) 293–8146.

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Reavis at (702) 293–8428.

SUPPLEMENTARY INFORMATION: Reclamation's Lower Colorado Dams Facilities office is supervised by the Area Manager, Mr. Timothy J. Ulrich, and encompasses projects administered by Hoover, Davis and Parker Dams and appurtenant works.

A Concession Agreement will be negotiated with the Concessionaire selected under this RFP. The Area Manager is the authorizing official in this action. Prior to execution of an agreement by the Area Manager, the agreement will be reviewed for legal sufficiency and endorsement, then signed by the prospective new Concessionaire.

Dated: June 11, 1998.

John A. Johnson,

Acting Director, Resource Management Office.

[FR Doc. 98–17422 Filed 6–30–98; 8:45 am]

BILLING CODE 4310–94–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 753–TA–34]

Extruded Rubber Thread From Malaysia

Determination

On the basis of the record[1] developed in the subject investigation, the United States International Trade Commission determines, pursuant to section 753(a) of the Tariff Act of 1930 (19 U.S.C. 1675b(a)) (the Act), that an industry in the United States is not likely to be materially injured by reason of imports of extruded rubber thread from Malaysia, provided for in subheading 4007.00.00 of the Harmonized Tariff Schedule of the United States, if the countervailing duty order concerning such extruded rubber thread is revoked.

Background

The Commission initiated this investigation effective December 15, 1997, following receipt of a request filed with the Commission by North American, Fall River, MA, on June 30, 1995, requesting the continuation of the existing countervailing duty order, issued August 25, 1992, concerning extruded rubber thread from Malaysia. Notice of the scheduling of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of December 24, 1997 (62 FR 67406). The hearing was held in Washington, DC, on May 5, 1998, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on June 25, 1998. The views of the Commission are contained in USITC Publication 3112 (June 1998), entitled "Extruded Rubber Thread From Malaysia: Investigation No. 753–TA–34."

Issued: June 26, 1998.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–17537 Filed 6–30–98; 8:45 am]

BILLING CODE 7020–02–P

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[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Air Act

Pursuant to 28 CFR 50.7, notice is hereby given that on June 8, 1998, a proposed Consent Decree in *United States* v. *Ford Motor Company*, Civil Action No. 98–01432(RCL), was lodged with the United States District Court for the District of Columbia.

The United States has asserted, in a civil complaint under the Clean Air Act, 42 U.S.C. § 7401 *et seq.*, that certain 1997 Econoline vans had defeat devices or otherwise violated the reporting requirements of Section 203 of the Clean Air Act. In addition, the United States asserted that 1.7 million Escorts from model years 1991 through 1995 violated the reporting requirements of Section 203 of the Clean Air Act.

Under the proposed Consent Decree, Ford has agreed to recall the 1997 Econolines and deactivate the defeat device. Ford also agreed to offset the excess NO_X emitted as a result of these violations by purchasing and retiring 2,500 tons of NO_X credits. Finally, Ford will pay a civil penalty of $2.5 million dollars, and will implement Supplemental Environmental Projects valued at $1.5 million in the form of alternative fuel vehicles and fueling stations, which Ford will provide to at least two airports, at no cost to the airport facilities, for use in transporting passengers from off-site parking lots to the terminals.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Ford Motor Company*, Civil Action No. 98–01432(RCL), D.J. Ref. 90–5–2–1–2195.

The Consent Decree may be examined at the Office of the United States Attorney for the District of Columbia, Judiciary Center Bldg., 555 Fourth St., NW., Washington, DC 20001; at the Environmental Protection Agency Library, Reference Desk, Room 2904, 401 M Street, SW., Washington, DC 20460; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, 202–624–0892. A copy of the consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005.

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In requesting a copy, please enclose a check in the amount of $7.00 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–17499 Filed 6–30–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a consent decree in *United States* v. *Reynolds,* Civ. A. No 96–0014–C, was lodged on June 12, 1998 with the United States District Court for the Western District of Virginia. The consent decree resolves the claims of the United States under Section 106(b), 107(a), and 107(c) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), for reimbursement of response costs incurred at the Singleton Drum Site in Castleton, Rappahannock County, Virginia, as well as civil penalties for failure to comply with a Unilateral Administrative Order issued by EPA. The consent decree obligates Settling Defendants to pay $277,500 in reimbursement of response costs incurred by EPA in responding to contamination at the Site, and civil penalties. Of this amount, approximately $144,000 will be paid in full reimbursement of EPA's response costs at the Site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Reynolds,* DOJ Ref. 90–11–2–1072.

The consent decree may be examined at the office of the United States Attorney, 616 Chestnut Street, Philadelphia, Pennsylvania 19106; the Region III Office of the Environmental Protection Agency, 841 Chestnut Street, Philadelphia, PA; and at the Consent Decree Library, 1120 G Street, NW 4th Floor, Washington, DC 20005 (202) 624–0892. A copy of the consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $4.75 (25 cents per page reproduction cost), payable to the Consent Decree library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environmental & Natural Resources Division.

[FR Doc. 98–17500 Filed 6–30–98; 8:45 am]

BILLING CODE 4110–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

[Civil Action No. 98–1497]

Proposed Final Judgment and Competitive Impact Statement; United States v. Aluminum Company of America, et al.

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. section 16(b)-(h), that a proposed Final Judgment, Hold Separate Stipulation and Order, Stipulation and Order, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States v. Aluminum of America, et. al.,* Civil No. 1:98CV01497. The proposed Final Judgment is subject to approval by the Court after the expiration of the statutory 60-day public comment period and compliance with the Antitrust Procedures and Penalties Act, 15 U.S.C. section 16(b)-(h).

On June 15, 1998, the United States filed a Complaint seeking to enjoin a transaction in which Aluminum Company of America ("Alcoa") would acquire Alumax, Inc. ("Alumax"). Alcoa and Alumax are the two largest of three producers of aluminum cast plate ("cast plate") in the world. Cast plate is used for applications that require precise dimensions and flatness, such as jigs, fixtures, and numerous tooling, mold, machinery, and equipment applications. Alcoa's proposed acquisition of Alumax would have combined under single ownership almost 90% of the cast plate manufacturing business in the world. The Complaint alleged that the proposed acquisition would substantially lessen competition in the manufacture and sale of cast plate worldwide in violation of Section 7 of the Clayton Act, 15 U.S.C. section 18.

The proposal Final Judgment, filed at the same time as the Complaint, orders Alcoa to sell its cast plate division to a purchaser who has the capability to compete effectively in the manufacture and sale of cast plate. The proposed Final Judgment also requires Alcoa to abide by the Hold Separate Stipulation and Order, which requires Alcoa to ensure that, until the divestiture mandated by the Final Judgment has been accomplished, Alcoa's cast plate division will be held separate and apart from, and operated independently of, any of Alcoa's other assets and businesses. A Competitive Impact Statement filed by the United States describes the Complaint, the proposed Final Judgment, and remedies to private litigants.

Public comment is invited within the statutory 60-day comment period. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Written comments should be directed to Roger W. Fones, Chief, Transportation, Energy, and Agriculture Section, Antitrust Division, 325 Seventh Street, NW., Suite 500, Washington, DC 20530 (telephone: (202) 307–6351).

Copies of the Complaint, Hold Separate Stipulation and Order, Stipulation and Order, proposed Final Judgment, and Competitive Impact Statement are available for inspection in Room 215 of the U.S. Department of Justice, Antitrust Division, 325 Seventh Street, NW, Washington, DC 20530 (telephone: (202) 514–2481) and at the office of the Clerk of the United States District Court for the District of Columbia, 333 Constitution Avenue, NW, Washington, DC 20001. Copies of any of these materials may be obtained upon request and payment of a copying fee.

Constance K. Robinson,

Director of Operations & Merger Enforcement, Antitrust Division.

Stipulation and Order

It is hereby *Stipulated* by and between the undersigned parties, by their respective attorneys, as follows:

1. The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in the United States District Court for the District of Columbia.

2. The parties stipulate that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedure and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

3. Defendants shall abide by and comply with the provisions of the proposed Final Judgment pending entry of the Final Judgment by the Court, or until expiration of time for all appeals of any Court ruling declining entry of the proposed Final Judgment, and shall, from the date of the signing of this Stipulation by the parties, comply with all the terms and provisions of the proposed Final Judgment as though they were in full force and effect as an order of the Court.

4. This Stipulation shall apply with equal force and effect to any amended proposed Final Judgment agreed upon in writing by the parties and submitted to the Court.

5. In the event that plaintiff withdraws its consent, as provided in paragraph 2 above, or in the event that the proposed Final Judgment is not entered pursuant to this Stipulation, the time has expired for all appeals of any Court ruling declining entry of the proposed Final Judgment, and the Court has not otherwise ordered continued compliance with the terms and provisions of the proposed Final Judgment, then the parties are released from all further obligations under this Stipulation, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

6. Defendants represent that the divestiture ordered in the proposed Final Judgment can and will be made, and that the defendants will later raise no claims of hardship of difficulty as grounds for asking the Court to modify any of the divestiture provisions contained therein. Respectfully submitted.

For Plaintiff United States of America;

Nina B. Hale,

Washington Bar #18776

Andrew K. Ross,

Hawaii Bar #6366, Attorneys, Antitrust Division, U.S. Department of Justice, 325 Seventh St., N.W., Washington, DC 20004, (202) 307–6316, (202) 307–0886.

Dated: June 15, 1998.

For Defendant Aluminum Company of America:

Mark Leddy,

DC Bar #404833,

David I. Gelfand,

DC Bar #416596,

Steven J. Kaiser,

DC Bar #454251,

Cleary, Gottlieb, Steen & Hamilton,

2000 Pennsylvania Avenue, N.W., Washington, DC 20006 (202) 974–1500.

For Defendant Alumax Inc.:

Robert P. Wolf,

Virginia Bar #1299,

Alumax Inc.,

3424 Peachtree Road, N.E., Suite 2100, Atlanta, GA 30326, (404) 846–4651.

Order

It is *So ordered*, this ________ day of ________, 1998.

____

United States District Court Judge

Hold Separate Stipulation and Order

It is hereby *Stipulated* by and between the undersigned parties, subject to approval and entry by the Court, that:

I

Definitions

As used in this Hold Separate Stipulation and Order:

A. *Alcoa* means defendant Aluminum Company of America, a Pennsylvania Corporation with its headquarters in Pittsburgh, Pennsylvania, and its successors, assigns, subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and directors, officers, managers, agents, and employees.

B. *Alumax* means Alumax Inc., a Delaware Corporation with its headquarters in Atlanta Georgia, and its successors, assigns, subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and directors, officers, managers, agents, and employees.

C. *Alcoa Cast Plate Division* means all assets included within the cast plate operation of Alcoa's Aerospace and Commercial Rolled Products Division as of the date hereof, including:

1. all tangible assets, including the cast plate manufacturing facility located at 1551 Alcoa Avenue, Vernon, California 90058 ("Vernon facility") and the portion of the real property on which the Vernon facility is situated that is reasonably necessary for operation of the Vernon cast plate plant; any facilities used for research and development activities; Vernon offices; cast plate-related manufacturing assets including capital equipment, vehicles, interests, supplies, personal property, inventory, office furniture, fixed assets and fixtures, materials, on-site warehouses or storage facilities, and other tangible property or improvements used in the cast plate operation; all licenses, permits and authorizations issued by any governmental organization relating to the cast plate operation; all contracts, agreements, leases, commitments and understandings pertaining to the cast plate operation; supply agreements; all customer lists, contracts, accounts, and credit records; and other records maintained by Alcoa in connection with the cast plate operation;

2. all intangible assets, including but not limited to all patents, licenses and sublicenses, intellectual property, trademarks, trade names, service marks, service names (except to the extent such trademarks, trade names, service marks, and service names contain the name "Alcoa"), technical information, know-how, trade secrets, drawings, blueprints, designs, design protocols, specifications for materials, specifications for parts and devices, safety procedures for the handling of materials and substances, quality assurance and control procedures, design tools and simulation capability, and all manuals and technical information Alcoa provides to its own employees, customers, suppliers, agents or licensees; and

3. all research data concerning historic and current research and development efforts relating to the cast plate operation, including designs of experiments, and the results of unsuccessful designs and experiments.

D. *Cast Plate* means an aluminum plate product manufactured by casting or by sawing cast slab purchased from an external source, ranging in gauges from ¼ inch to 30 inches, that is used for various tooling, industrial and mold plate applications, and that is manufactured by the Alcoa Cast Plate Division.

II

Objectives

The Final Judgment filed in this case is meant to ensure Alcoa's prompt divestiture of the Alcoa Cast Plate Division for the purpose of maintaining a viable competitor in the manufacture and sale of Cast Plate to remedy the effects that the United States alleges would otherwise result from Alcoa's proposed acquisition of Alumax.

This Hold Separate Stipulation and Order ensures, prior to such divestiture, that the Alcoa Cast Plate Division which is being divested be maintained as an independent, economically viable, ongoing business concern, and that competition is maintained during the pendency of the divestiture.

III

Hold Separate Provisions

Until the divestiture required by the Final Judgment has been accomplished:

A. Alcoa shall preserve, maintain, and operate the Alcoa Cast Plate Division as an independent competitor with management, research, development, production, sales and operations held entirely separate, distinct and apart from those of Alcoa. Alcoa shall not coordinate the manufacture, marketing or sale of products from Alcoa Cast Plate Division's business with the Cast Plate business that Alcoa will own as a result of the acquisition of Alumax. Within twenty (20) calendar days of the filing of the Complaint in this matter, Alcoa will inform plaintiff of the steps taken to comply with this provision.

B. Alcoa shall take all steps necessary to ensure that the Alcoa Cast Plate Division will be maintained and operated as an independent, ongoing, economically viable and active competitor in Cast Plate manufacture and sale; that the management of the Alcoa Cast Plate Division will not be influenced by Alcoa, and that the books, records, competitively sensitive sales, marketing and pricing information, and decision-making associated with the Alcoa Cast Plate Division will be kept separate and apart from the operations of Alcoa. Alcoa's influence over the Alcoa Cast Plate Division shall be limited to that necessary to carry out Alcoa's obligations under this Order and the Final Judgment. Alcoa may receive historical aggregate financial information (excluding capacity or pricing information) relating to the Alcoa Cast Plate Division to the extent necessary to allow Alcoa to prepare financial reports, tax returns, personnel reports, and other necessary or legally required reports.

C. Alcoa shall use all reasonable efforts to maintain Cast Plate manufacturing at the Alcoa Cast Plate Division, and shall maintain at current or previously approved levels, whichever are higher, internal research and developing funding, promotional, advertising, sales, technical assistance, marketing and merchandising support for the Alcoa Cast Plate Division.

D. Alcoa shall provide and maintain sufficient working capital to maintain the Alcoa Cast Plate Division as an economically viable, ongoing business.

E. Alcoa shall provide and maintain sufficient lines and sources of credit to maintain the Alcoa Cast Plate Division as an economically viable, ongoing business.

F. Alcoa shall take all steps necessary to ensure that the Vernon facility is fully maintained in operable condition at no lower than its current rated capacity, and shall maintain and adhere to normal repair and maintenance schedules for the Alcoa Cast Plate Division.

G. Alcoa shall not, except as part of a divestiture approved by plaintiff, remove, sell, lease, assign, transfer, pledge or otherwise dispose of or pledge as collateral for loans, any assets of the Alcoa Cast Plate Division, including intangible assets that relate to the permits described in Section II of the Final Judgment.

H. Alcoa shall maintain, in accordance with sound accounting principles, separate, true, accurate and complete financial ledgers, books and records that report, on a periodic basis, such as the last business day of every month, consistent with past practices, the assets, liabilities, expenses, revenues, incomes, profit and loss of the Alcoa Cast Plate Division.

I. Until such time as the Alcoa Cast Plate Division is divested, except in the ordinary course of business or as is otherwise consistent with this Hold Separate Agreement, Alcoa shall not hire and defendant shall not transfer or terminate, or alter, to the detriment of any employee, any current employment or salary agreements for any Alcoa employees who on the date of the signing of this Agreement (i) work in the Alcoa Cast Plate Division, or (ii) are members of management referenced in Section III(J) of this Order unless such individual has a written offer of employment from a third party for a like position.

J. Until such time as the Alcoa Cast Plate Division is divested, the assets to be divested shall be managed by John Hogarth. John Hogarth shall have complete managerial responsibility for the Alcoa Cast Plate Division, subject to the provisions of this Order and the Final Judgment. In the event that John Hogarth is unable to perform his duties, Alcoa shall appoint, subject to plaintiff's approval, a replacement acceptable to plaintiff within ten (10) working days. Should Alcoa fail to appoint a replacement acceptable to plaintiff within ten (10) working days, plaintiff shall appoint a replacement.

K. Alcoa shall take no action that would interfere with the ability of any trustee appointed pursuant to the Final Judgment to complete the divestiture pursuant to the Final Judgment to a suitable purchaser.

L. This Hold Separate Stipulation and Order shall remain in effect until the divestiture required by the Final Judgment is complete, or until further Order of the Court.

Respectfully submitted,

For Plaintiff, United States of America:

Nina B. Hale,

Washington Bar #18776,

Andrew K. Ross,

Hawaii Bar #6366, Attorneys, Antitrust Division, U.S. Department of Justice, 325 Seventh St., N.W., Washington, DC 20004, (202) 307–6316, (202) 307–0886.

Dated: June 15th, 1998.

For Defendant, Aluminum Company of America:

Mark Leddy,

DC Bar #404833,

David I. Gelfand,

DC Bar #416596,

Steven J. Kaiser,

DC Bar #454251,

Cleary, Gottlieb, Steen & Hamilton,

2000 Pennsylvania Avenue, N.W., Washington, DC 20006, (202) 974–1500.

For Defendant Alumax Inc.:

Robert P. Wolf,

Virginia Bar #1299, Alumax Inc., 3424 Peachtree Road, N.E., Suite 2100, Atlanta, GA 30326, (404) 846–4651.

Order

It is So Ordered, this _______ day of _______, 1998.

____

United States District Judge

Final Judgment

Whereas, plaintiff, the United States of America ("United States"), filed its complaint in this action on June 15, 1998, and plaintiff and defendants, Aluminum Company of America ("Alcoa") and Alumax Inc. ("Alumax"), by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or an admission by any party with respect to any issue of law or fact herein;

And whereas, defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

And whereas, the essence of this Final Judgment is the prompt and certain divestiture of the Alcoa Cast Plate Division to assure that competition is not substantially lessened;

And whereas, plaintiff requires defendants to make certain divestitures for the purpose of remedying the loss of competition alleged in the Complaint;

And whereas, defendants have represented to plaintiff that the divestiture ordered herein can and will be made and that defendants will later raise no claims of hardship or difficulty as grounds for asking the Court to modify any of the divestiture or contract provisions contained below;

Now, therefore, before the taking of any testimony, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby *Ordered, Adjudged, and decreed* as follows:

I

Jurisdiction

This Court has jurisdiction over the subject matter of this action and over each of the parties hereto. The Complaint states a claim upon which relief may be granted against the defendants, as hereinafter defined, under Section 7 of the Clayton Act, as amended (15 U.S.C. 18).

II

Definitions

As used in this Final Judgment:

A. *Alcoa* means defendant Aluminum Company of America, a Pennsylvania Corporation with its headquarters in Pittsburgh, Pennsylvania, and its successors, assigns, subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and directors, officers, managers, agents, and employees.

B. *Alumax* means Alumax Inc., a Delaware Corporation with its headquarters in Atlanta, Georgia, and its successors, assigns, subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and directors, officers, managers, agents, and employees.

C. *Alcoa Cast Plate Division* means all assets included within the cast plate operation of Alcoa's Aerospace and Commercial Rolled Products Division as of the date hereof, including:

1. all tangible assets, including the cast plate manufacturing facility located at 1551 Alcoa Avenue, Vernon, California 90058 ("Vernon facility") and the portion of the real property on which the Vernon facility is situated that is reasonably necessary for operation of the Vernon cast plate plant: any facilities used for research and development activities; Vernon offices; cast plate-related manufacturing assets including capital equipment, vehicles, interests, supplies, personal property, inventory, office furniture, fixed assets and fixtures, materials, on-site warehouses or storage facilities, and other tangible property or improvements used in the cast plate operation; all licenses, permits and authorizations issued by any governmental organization relating to the cast plate operation; all contracts, agreements, leases, commitments and understandings pertaining to the cast plate operation; supply agreements; all customer lists, contracts, accounts, and credit records, and other records maintained by Alcoa in connection with the cast plate operation;

2. all intangible assets, including but not limited to all patents, licenses and sublicenses, intellectual property, trademarks, trade names, service marks, service names (except to the extent such trademarks, trade names, service marks, and service names contain the name "Alcoa"), technical information, know-how, trade secrets, drawings, blueprints, designs, design protocols, specifications for materials, specifications for parts and devices, safety procedures for the handling of materials and substances, quality assurance and control procedures, design tools and simulation capability, and all manuals and technical information Alcoa provides to its own employees, customers, suppliers, agents or licensees; and

3. all research data concerning historic and current research and development efforts relating to the cast plate operation, including designs of experiments, and the results of unsuccessful designs and experiments.

D. "Cast Plate" means an aluminum plate product manufactured by casting or by sawing cast slab purchased from an external source, ranging in gauges from ¼ to 30 inches, that is used for various tooling, industrial and mold plate applications, and that is manufactured by the Alcoa Cast Plate Division.

III

Applicability

A. The provisions of this Final Judgment apply to Alcoa and Alumax, their successor and assigns, their subsidiaries, affiliates, directors, officers, managers, agents, and employees, and all other persons in active concern or participation with any of them who shall have receive actual notice of this Final Judgment by personal service or otherwise.

B. Alcoa shall require, as a condition of the sale or other disposition of all or substantially all of the assets involving Cast Plate, that the acquiring party or parties agree to be bound by the provisions of this Final Judgment.

IV

Divestiture of Assets

A. Alcoa is hereby ordered and directed in accordance with the terms of this Final Judgment, within one hundred and eighty (180) calendar days after the filing of the Complaint in this matter, or five (5) days after notice of entry of this Final Judgment by the Court, whichever is later, to divest the Alcoa Cast Plate Division as an ongoing business to a purchaser acceptable to the United States in its sole discretion. With respect to the intangible assets described in Section II(C)(2) of this Final Judgment, the divestiture required hereunder shall be accomplished by entering into a perpetual, nonexclusive license (or licenses, as the case may be) with the purchaser, transferable to any future purchaser of the Vernon facility, to use, in manufacturing cast plate at the Vernon facility, all such intangible assets, wherever located, that have been used in the manufacture of cast plate at the Vernon facility.

B. Alcoa shall use its best efforts to accomplish the divestiture as expeditiously and timely as possible. The United States, in its sole discretion, may extend the time period for any divestiture by an additional period of time not to exceed thirty (30) calendar days.

C. In accomplishing the divestiture ordered by this Final Judgment, Alcoa promptly shall make known, by usual and customary means, the availability of the Alcoa Cast Plate Division described in this Final Judgment. Alcoa shall inform any person making an inquiry regarding a possible purchase that the sale is being made pursuant to this Final Judgment and provide such person with a copy of this Final Judgment. Alcoa shall also offer to furnish to all prospective purchasers, subject to customary confidentiality assurances, all information regarding the Alcoa Cast Plate Division customarily provided in a due diligence process except such information subject to attorney-client privilege or attorney work-product privilege. Alcoa shall make available such information to the plaintiff at the same time that such information is made available to any other person.

D. Alcoa shall not interfere with any negotiations by any purchaser to employ any Alcoa employee who works at, or whose principal responsibility is, the Cast Plate business.

E. Alcoa shall permit prospective purchasers of the Alcoa Cast Plate Division to have reasonable access to personnel and to make such inspection of Alcoa Casts Plate's Vernon facility; assess to any and all environmental, zoning, and other permit documents and information; and access to any and all financial, operational, or other documents and information customarily provided as part of a due diligence process.

F. Alcoa shall warrant to the purchaser of the Alcoa Cast Plate

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Division that the Alcoa Cast Plate Division will be operational on the date of sale.

G. Alcoa shall not take any action, direct or indirect, that will impede in any way the operation of the Alcoa Cast Plate Division.

H. Alcoa shall warrant to the purchaser of the Alcoa Cast Plate Division that there are no material defects in the environmental, zoning, or other permits pertaining to the operation of the Alcoa Cast Plate Division and that Alcoa will not undertake, directly or indirectly, following the divestiture of the Alcoa Cast Plate Division, any challenges to the environmental, zoning, or other permits pertaining to the operation of the Alcoa Cast Plate Division.

I. Alcoa shall not be permitted to locate any of its operations at the Alcoa Cast Plate Division's Vernon facility.

J. Unless the United States otherwise consents in writing, the divestiture pursuant to Section IV, or by trustee appointed pursuant to Section V of this Final Judgment, shall include the entire Alcoa Cast Plate Division, operated in place pursuant to the Hold Separate Stipulation and Order, and be accomplished by selling or otherwise conveying the Alcoa Cast Plate Division to a purchaser in such a way as to satisfy the United States, in its sole discretion, that the Alcoa Cast Plate Division can and will be used by the purchaser as part of a viable, ongoing business or businesses engaged in the manufacture of Cast Plate. The divestiture, whether pursuant to Section IV of Section V of this Final Judgment, shall be made to purchaser for whom it is demonstrated to the United State's sole satisfaction that: (1) the purchaser has the capability and intent of competing effectively in the manufacture and sale of Cast Plate; (2) the purchaser has or soon will have the managerial, operational, and financial capability to compete effectively in the manufacture and sale of Cast Plate; and (3) none of the terms of any agreement between the purchaser and Alcoa gives Alcoa the ability unreasonably to raise the purchaser's costs, to lower the purchaser's efficiency, or otherwise to interfere in the ability of the purchaser to compete effectively.

V

Appointment of Trustee

A. In the event that Alcoa has not divested the Alcoa Cast Plate Division within the time specified in Section IV of this Final Judgment, the Court shall appoint, on application of the United States, a trustee selected by the United States to effect the divestiture of the Alcoa Cast Plate Division.

B. After the appointment of a trustee becomes effective, only the trustee shall have the right to sell the Alcoa Cast Plate Division. The trustee shall have the power and authority to accomplish the divestiture at the best price then obtainable upon a reasonable effort by the trustee, subject to the provisions of Sections IV and VI of this Final Judgment, and shall have such other powers as the Court shall deem appropriate. Subject to Section V(C) of this Final Judgment, the trustee shall have the power and authority to hire at the cost and expense of Alcoa any investment bankers, attorneys, or other agents reasonably necessary in the judgment of the trustee to assist in the divestiture, and such professionals and agents shall be accountable solely to the trustee. The trustee shall have the power and authority to accomplish the divestiture at the earliest possible time to a purchaser acceptable to the United States in its sole discretion and shall have such other powers as this Court shall deem appropriate. Alcoa shall not object to a sale by the trustee on any grounds other than the trustee's malfeasance. Any such objections by Alcoa must be conveyed in writing to plaintiff and the trustee within ten (10) days after the trustee has provided the notice required under Section VI of this Final Judgment.

C. The trustee shall serve at the cost and expense of Alcoa, on such terms and conditions as the Court may prescribe, and shall account for all monies derived from the sale of the assets sold by the trustee and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services and those of any professionals and agents retained by the trustee, all remaining money shall be paid to Alcoa and the trust shall then be terminated. The compensation of such trustee and of professionals and agents retained by the trustee shall be reasonable in light of the value of the divested business and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished.

D. Alcoa shall use it best efforts to assist the trustee in accomplishing the required divestiture, including its best efforts to effect all necessary regulatory approvals. The trustee and any consultants, accountants, attorney, and other persons retained by the trustee shall have full and complete access to the personnel, books, records, and facilities of the business to be divested, and Alcoa shall develop financial or other information relevant to the business to be divested customarily provided in a due diligence process as the trustee may reasonably request, subject to customary confidentiality assurances. Alcoa shall permit bona fide prospective acquirers of the Alcoa Cast Plate division to have reasonable access to personnel and to make such inspection of physical facilities and any and all financial, operational or other documents and other information as may be relevant to the divestiture required by this Final Judgment.

E. After its appointment, the trustee shall file monthly reports with the parties and the Court setting forth the trustee's efforts to accomplish the divestiture ordered under this Final Judgment; provided however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the court. Such reports shall include the name, address and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the business to be divested, and shall describe in detail each contact with any such person during that period. The trustee shall maintain full records of all efforts made to divest the business to be divested.

F. If the trustee has not accomplished such divestiture within six (6) months after its appointment, the trustee thereupon shall file promptly with the Court a report setting forth: (1) the trustee's efforts to accomplish the required divestiture, (2) the reasons, in the trustee's judgment, why the required divestiture has not been accomplished, and (3) the trustee's recommendations; provided, however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. The trustee shall at the same time furnish such report to the parties, who shall each have the right to be heard and to make additional recommendations consistent with the purpose of the trust. The Court shall enter thereafter such orders as it shall deem appropriate in order to carry out the purpose of the trust, which may, if necessary, include extending the trust and the term of the trustee's appointment by a period requested by the United States.

VI

Notification

Within two (2) business days following execution of a definitive agreement contingent upon compliance with the terms of this Final Judgment to effect, in whole or in part, any proposed divestiture pursuant to Sections IV and V of this Final Judgment, Alcoa or the trustee, whichever is then responsible for effecting the divestiture, shall notify plaintiff of the proposed divestiture. If the trustee is responsible, it shall similarly notify Alcoa. The notice shall set forth the details of the proposed transaction and list the name, address, and telephone number of each person not previously identified who offered to, or expressed an interest in or a desire to, acquire any ownership interest in the business to be divested that is the subject of the binding contract, together with full details of same. Within fifteen (15) calendar days of receipt by plaintiff of such notice, the United States, in its sole discretion, may request for Alcoa, the proposed purchaser, or any other third party additional information concerning the proposed divestiture and the proposed purchaser. Alcoa and the trustee shall furnish any additional information requested from them within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree. Within thirty (30) calendar days after receipt of the notice or within twenty (20) calendar days after the plaintiff has been provided the additional information requested from Alcoa, the proposed purchaser, or any third party, whichever is later, the United States shall provide written notice to Alcoa and the trustee, if there is one, stating whether or not it objects to the proposed divestiture. If the United States provides written notice to Alcoa and the trustee that it does not object, then the divestiture may be consummated, subject only to Alcoa's limited right to object to the sale under Section V(B) of this Final Judgment. Absent written notice that the United States does not object to the proposed purchaser or upon objection by the United States, a divestiture proposed under Section IV or Section V shall not be consummated. Upon objection by Alcoa under the provision in Section V(B), a divestiture proposed under Section V shall not be consummated unless approved by the Court.

VII

Affidavits

A. Within twenty (20) calendar days of the filing of the Complaint in this matter and every thirty (30) calendar days thereafter until the divestiture has been completed whether pursuant to Section IV or Section V of this Final Judgment, Alcoa shall deliver to plaintiff an affidavit as to the fact and manner of compliance with Section IV or Section V of this Final Judgment. Each such affidavit shall include, *inter alia*, the name, address, and telephone number of each person who, at any time after the period covered by the last such report, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, an interest in the business to be divested,and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include description of the efforts that Alcoa has taken to solicit a buyer for the Alcoa Cast Plate Division and to provide required information to prospective purchasers.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter, Alcoa shall deliver to plaintiff an affidavit which describes in detail all actions Alcoa has taken and all steps Alcoa has implemented on an on-going basis to preserve the Alcoa Cast Plate Division pursuant to Section VIII of this Final Judgment and the Hold Separate Stipulation and Order entered by the Court. The affidavit also shall describe, but not be limited to, Alcoa's efforts to maintain and operate the Alcoa Cast Plate Division as an active competitor, maintain the management, staffing, research and development activities, sales, marketing, and pricing of the Alcoa Cast Plate Division, and maintain the Vernon facility in operable condition at current capacity configurations. Alcoa shall deliver to plaintiff an affidavit describing any changes to the efforts and actions outlined in Alcoa's earlier affidavits(s) filed pursuant to Section VII(B) within fifteen (15) calendar days after the change is implemented.

C. Until one year after such divestiture has been completed, Alcoa shall preserve all records of all efforts made to preserve the business to be divested and effect the divestiture.

VIII

Hold Separate Order

Until the divestitures required by the Final Judgment have been accomplished, Alcoa shall take all steps necessary to comply with the Hold Separate Stipulation and Order entered by this Court. Defendants shall take no action that would jeopardize the divestiture of the Alcoa Cast Plate Division.

IX

Financing

Alcoa is ordered and directed not to finance all or any part of any purchase by an acquirer made pursuant to Sections IV or V of this Final Judgment.

X

Compliance Inspection

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

A. Duly authorized representatives of the United States Department of Justice, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendants made to their principal offices, shall be permitted:

1. Access during office hours of defendants to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of defendants, who may have counsel present, relating to any matters contained in this Final Judgment and the Hold Separate Stipulation and Order; and

2. Subject to the reasonable convenience of defendants and without restraint or interference from them, to interview, either informally or on the record, their officers, employees, and agents, who may have counsel present, regarding any such matters.

B. Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, made to defendants at their principal offices, defendants shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment and the Hold Separate Stipulation and Order.

C. No information nor any documents obtained by the means provided in Sections VII or X of this Final Judgment shall be divulged by a representative of the United States to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by defendants to plaintiff, defendants represent and identify in writing the materials in any such information or documents for

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which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedures, and defendants marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then plaintiff shall give ten (10 days notice to defendants prior to divulging such material in any legal proceeding (other than grand jury proceeding) to which defendants are not a party.

XI

Retention of Jurisdiction

Jurisidiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violations hereof.

XII

Termination

Unless this Court grants an extension, this Final Judgment will expire on the tenth anniversary of the date of its entry.

XIII

Public Interest

Entry of this Final Judgment is in the public interest.

Dated: ____________________

Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. 16

____

United States District Judge

Competitive Impact Statement

The United States, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act ("APPA"), 15 U.S.C. 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

On June 15, 1998, the United States filed a civil antitrust Complaint alleging that the proposed acquisition by Aluminum Company of America ("Alcoa") of the aluminum cast plate ("cast plate") manufacturing business of Alumax Inc. ("Alumax") would violate Section 7 of the Clayton Act, 15 U.S.C. 18. The Complaint alleges that Alcoa and Alumax are the two largest producers of aluminum cast plate in the world, and are each other's most significant competitor. They compete vigorously to lower the costs of producing and selling the best quality cast plate at the lowest prices, and to provide the best technological, marketing, and customer support services. There is only one other producer, Alpase, and it is much smaller and not nearly as significant. Alcoa and Alumax have proposed a transaction that will leave the already highly concentrated aluminum cast plate business with one overwhelmingly dominant firm—Alcoa—owning almost 90% of the cast plate manufacturing business in the world. Worldwide sales of cast plate in 1997 were $73,884,000.

The prayer for relief in the Complaint seeks: (1) a judgment that the proposed acquisition would violate Section 7 of the Clayton Act; and (2) a permanent injunction preventing Alcoa from acquiring Alumax.

When the Complaint was filed, the United States also filed a proposed settlement that would permit Alcoa to complete its acquisition of Alumax, but require a divestiture that will preserve competition in the relevant market. This settlement consists of a Stipulation and Order, Hold Separate Stipulation and Order, and a proposed Final Judgment.

The proposed Final Judgment orders Alcoa to divest, within one hundred and eighty (180) calendar days after the filing of the Complaint in this matter, or five (5) days after notice of the entry of the Final Judgment by the Court, whichever is later the Alcoa Cast Plate Division (as defined in the Final Judgment) to an acquirer acceptable to the Antitrust Division of the Department of Justice ("DOJ"). "Alcoa Cast Plate Division" means all assets included within the cast plate operation of Alcoa's Aerospace and Commercial Rolled Products Division, including all tangible and intangible assets, and all research data concerning historic and current research and development efforts relating to the cast plate operation.

Until such divestiture is completed, the terms of the Hold Separate Stipulation and Order entered into by the parties apply to ensure that the Alcoa Cast Plate Division shall be maintained as an independent competitor from Alcoa.

The plaintiff and defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate the action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. Description of The Events Giving Rise to The Alleged Violation

A. The Defendants and the Proposed Transaction

Alcoa is a Pennsylvania corporation, with its principal offices located in Pittsburgh, Pennsylvania. Alcoa is the world's largest integrated aluminum company, engaging in all phases of the aluminum business—from the mining and processing of bauxite to the production of primary aluminum and fabrication of products. In 1997, Alcoa had revenues of over $13 billion. Alcoa produces cast plate at a facility located in Vernon, California. Alcoa's 1997 sales of cast plate in the United States were $17,871,528.

Alumax is a Delaware corporation, headquartered in Atlanta, Georgia. In 1997, Alumax reported total sales of about $3 billion. Its Mill Products Division produces cast plate, among other products, in Lancaster, Pennsylvania. Alumax's sales of cast plate in the United States were $38,991,628.

On March 8, 1998, Alcoa and Alumax entered into an agreement under which Alcoa would acquire Alumax. This transaction, which would increase concentration in the already highly concentrated cast plate market, precipitated the government's suit.

B. Cast Plate Market

Cast plate is a flat aluminum product, ranging from eight to twelve feet long, three to five feet wide and anywhere from one-quarter inch to thirty inches thick. Cast plate is produced by pouring molten aluminum onto a conveyor belt in a shape slightly thicker than what it ultimately desired. After cooling, the shape is milled to achieve its final thickness and shape. Cast plate has metallurgic characteristics that make it uniquely suited for certain applications. The casting process, which involves little or no pressing of the plate, produces aluminum that is free from stresses that can cause warping. The resulting cast metal shape is stable enough for applications that required precise dimensions and flatness, such as jigs, fixtures, and numerous tooling, mold, machinery and equipment applications. Cast plate is used to make machinery and equipment that manufactures end products with extremely narrow tolerances. Cast plate must be stress-free, stable, and flat, because stress-induced warping, instability, and unevenness would cause movement in the machinery and equipment made of cast plate, which in turn would cause the end products manufactured on that machinery and equipment to be out of tolerance.

Other products are not realistic substitutes for cast plate to which customers could switch in the event of a small, but significant and non-transitory price increase. Rolled tooling plate is not a substitute because the rolled metal shape can warp. Furthermore, it is not possible to produce rolled plate as thick as cast plate can be made. Depending on the thickness of the shape, rolled plate can also be significantly more expensive than cast plate.

Alcoa and Alumax are the two strongest and most significant producers of cast plate in the world, representing almost 90% of 1997 sales. Alpease, the third competitor, is not as significant as either Alcoa or Alumax. Aggressive competition by Alcoa and Alumax has given customers lower prices and improved quality for cast plate products.

Successful entry into the manufacture and sale of cast plate is difficult, time-consuming and costly. To build an efficient cast plate facility would cost in excess of $25 million, and would require as long as four years from the time of site selection to production of commercial quantities of cast plate. A new entrant into the cast plate business must submit its product to customers for qualification before the entrant will be accepted as a supplier. A new entrant must establish a reputation for good quality product and for reliability in fulfilling customer orders. There are no other domestic or foreign firms whose entry or expansion would be likely, timely, or sufficient to thwart an anticompetitive price increase.

C. Harm to Competition as a Consequence of the Acquisition

The proposed acquisition would likely lessen competition in the manufacture and sale of cast plate. If Alcoa acquired the cast plate business of Alumax, it would control almost 90% of the cast plate business in the world and likely would increase prices, reduce quality, and decrease production of cast plate. Entry by a new company would not be timely, likely, or sufficient to prevent harm to competition.

The Compliant alleges that the transaction would likely have the following effects, among others; actual and potential competition between Alcoa and Alumax in the cast plate market will be eliminated; competition generally in the sale and manufacture of cast plate worldwide would be lessened substantially; and prices for cast plate would increase.

III. Explanation of the Proposed Final Judgment

The provisions of the proposed Final Judgment are designed to eliminate the anticompetitive effects of the acquisition of Alumax by Alcoa.

The proposed Final Judgment provides that Alcoa must divest, within on hundred and eighty (180) calendar days after the filing of the Complaint in this matter, or five (5) days after notice of the entry of the Final Judgment by the Court, whichever is later, the Alcoa Cast Plate Division to an acquirer acceptable to the DOJ. If defendants fail to divest the Alcoa Cast Plate Division, a trustee (selected by DOJ) will be appointed.

The Final Judgment provides that Alcoa will pay all costs and expenses of the trustee. After his or her appointment becomes effective, the trustee will file monthly reports with the parties and the Court, setting forth the trustee's efforts to accomplish divestiture. At the end of six months, if the divestiture has not been accomplished, the trustee and the parties will have the opportunity to make recommendations to the Court, which shall enter such orders as appropriate in order to carry out the purpose of the trust, including extending the trust or the term of the trustee's appointment.

Divestiture of the Alcoa Cast Plate Division preserves competition because it will restore the cast plate market to a structure that existed prior to the acquisition and will preserve the existence of a independent competitor. Divestiture will keep at least three producers of cast plate in the market, which will preserve and encourage ongoing competition in the production and sale of cast plate.

IV. Remedies Available to Potential Private Litigants

Seciton 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three time the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. § 16(a), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against defendants.

V. Procedures Available for Modification of the Proposed Final Judgment

The United States and defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comment regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty days of the date of the dated of publication of this Competitive Impact Statement in the Federal Register. The United States will evaluate and respond to the comments. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Judgment at any time prior to entry. The comments and the response to the United States will be filed with the Court and published in the Federal Register.

Written comments should be submitted to: Roger W. Fones, Chief, Transportation, Energy and Agriculture Section, Antitrust Division, United States Department of Justice, 325 Seventh Street, NW., Suite 500, Washington, DC 20004.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. Alternatives to the Proposed Final Judgment

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits against defendants Alcoa and Alumax.

The United States is satisfied that the divestiture of the described assets specified in the proposed Final Judgment will encourage viable competition in the production and sale of cast plate. The United States is satisfied that the proposed relief will prevent the acquisition from having anticompetitive effects in this market. The divestiture of the Cast Plate Division will restore the cast plate market to a structure that existed prior to the acquisition and will preserve the existence of an independent competitor.

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VII. Standard of Review under the APPA for Proposed Final Judgment

The APPA requires that proposed consent judgments IN antitrust cases brought by the United States be subject to a sixty-day comment period, after which the court shall determine whether entry of the proposed Final Judgment "is in the public interest." In making that determination, the court *may* consider—

(1) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, and any other consideration bearing upon the adequacy of such judgment;

(2) the impact of entry of such judgment upon the public generally and individuals alleging specific inquiry from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e) (emphasis added). As the Court of Appeals for the District of Columbia Circuit recently held, the APPA permits a court to consider, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See United States* v. *Microsoft*, 56 F.3d 1448 (D.C. Cir. 1995).

In conducting this inquiry, "the Court is nowhere compelled to go on trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process."[1] Rather

> absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should . . . carefully consider the explanations of the government in the competitive impact statement and its response to comments in order to determine whether those explanations are reasonable under the circumstances.

United States v. *Mid-America Dairymen, Inc.*, 1977–1 Trade Cas 61,508, at 71,980 (W.D. Mo. 1977)

Accordingly, with respect to the adequacy of the relief secured by the decree, a court may not "engage in an unrestricted evaluation of what relief would best serve the public." *United States* v. *BNS, Inc.*, 858 F2d 456, 462 (9th Cir. 1988), *quoting United States* v. *Bechtel Corp.*, 648 F.2d 660, 666 (9th Cir.) *cert denied*, 454 U.S. 1083 (1981); *see also Microsoft*, 56 F.3d 1448 (D.C. Cir. 1995), Precedent requires that

> [t]he balancing of competing social and political interest affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is '*within the reaches of the public interest.*' More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.[2]

The proposed Final Judgment, therefore, should not be reviewed under a standard of whether it is certain to eliminate every anticompetitive effect of a particular practice or whether it mandates certainly of free competition in the future. Court approval of a final judgment requires a standard more flexible and less strict than the standard required for a finding of liability."[A] proposed decree must be approved even if its falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' (citations omitted)."[3]

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

For Plaintiff United States of America:

Date: June 18, 1998.

Respectfully submitted,
Nina B. Hale,
Washington Bar # 18776,
Andrew K. Rosa,
Hawaii Bar # 6366,
Michele Cano,
Jade Alice Eaton.
Trial Attorneys,
U.S. Department of Justice,
Antitrust Division,
325 Seventh Street, NW,
Suite 500,
Washington, DC 20004,
202–307–0892,
202–307–2441 (Facsimile).

Certificate of Service

I hereby certify that I have caused a copy of the foregoing Competitive Impact Statement to be served on counsel for defendants in this matter in the manner and on the date set forth below:

By the first class mail, postage prepaid:

D. Stuart Meiklejohn,
Sullivan & Cromwell,
125 Broad Street, 28th Floor,
New York, NY 10004.

David I. Gelfand, Cleary, Gottlieb, Steen & Hamilton,
2000 Pennsylvania Avenue, NW.,
Washington, DC 20006.

Dated: June 18, 1998.

Andrew K. Rosa,
Antitrust Division, U.S. Department of Justice,
325 Seventh Street, NW, Suite 500,
Washington, D.C. 20530, (202) 307–0886,
(202) 616–2441 (Fax).

[FR Doc. 98–17504 Filed 6–30–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities: Extension of Existing Collection; Comment Request

ACTION: Notice of information collection under review; Application for Individual Manufacturing Quota for Basic Class of Controlled Substance; Extension of a Currently Approved Collection.

Office of Management and Budget approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** on April 7, 1998 in volume 63, page 17017, allowed for a 60-day comment period.

The purpose of this notice is to allow an additional 30 days for public comment until July 31, 1998. This process is conducted in accordance with 5 CFR 1320.10.

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[1] 119 Cong. Rec. 24598 (1973), *See also United States* v. Gillette Co., 406 F. Supp. 713, 715 (D. Mass. 1975), A "public interest" determination can be made properly on the basis of the Competitive Impact Statement and Response to Comments filed pursuant to the APPA. Although the APPA authorizes the use of additional procedures, 15 U.S.C. 16(f), those procedures are discretionary. A court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the court in resolving those issues. *See* H.R. 93–1463, 93rd Cong. 2d Sess. 8–9, reprinted in (1974) U.S. Code Cong. & Ad. News 6535, 6538.

[2] *United States* v. *Bethtel*, 648 F.2d at 666 (internal citations omitted) (emphasis added); *see United States* v. *BNS, Inc.*, 858 F.2d at 463, *United States* v. *National Broadcasting Co.* 449 F. Supp. 1127, 1143, (C.D. Cal. 1978); *Gillette*, 406 F. Supp. at 716. *See also United States* v. *American Cyanamid Co.*, 719 F.2d 558, 565 (2d Cir. 1983).

[3] *United States* v. *American Tel. & Tel. Co.*, 552 F. Supp. 131, 150 (D.D.C. 1982), aff'd sub nom, *Maryland* v. *United States*, 460 U.S. 1001 (1983), *quoting Gillette*, 406 F. Supp, at 716; *United States* v. *Alcan Aluminum, Ltd.*, 605 F. Supp, 619, 622 (W.D. Ky. 1985).

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Regulatory Affairs, Attention: Department of Justice Desk Office, Washington, DC 20530. Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department of Clearance Officer, Suite 850, 1001 G Street, NW., Washington, DC 20530. Additionally, comments may be submitted to DOJ via facsimile to (202) 514–1590.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
2. Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of the information collection:

1. *Type of Information Collection:* Extension of currently approved collection.
2. *Title of the Form/Collection:* Application for Individual Manufacturing Quota for a Basic Class of Controlled Substance.
3. *Agency form number:* DEA Form 189, if any, and the applicable component of the Department of Justice sponsoring the collection: Office of Diversion Control, Drug Enforcement Administration, Department of Justice.
4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit.

Title 21, Section 1303.22 of the Code of Federal Regulations requires that any person who is registered to manufacture any basic class of controlled substance listed in Schedule I or II and who desires to manufacture a quantity of such class shall apply on DEA Form 189 for a manufacturing quota for such quantity of such class.

5. *An estimate of the total estimated number of respondents and the amount of time estimated for an average respondent to respond:* 27 respondents at approximately 10 responses per year at .5 hour per response.
6. *An estimate of the total public burden (in hours) associated with the collection:* 135 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street NW., Washington, DC 20530.

Dated: June 24, 1998.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 98–17397 Filed 6–30–98; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Office of the Secretary

Job Training Partnership Act (JTPA), Title IV–D, Demonstration Program: Women in Apprenticeship and Nontraditional Occupations

AGENCY: Women's Bureau, Department of Labor.

ACTION: Notice of Availability of Funds and Solicitation for Grant Applications (SGA 98–04).

SUMMARY: All information required to submit a proposal is contained in this announcement. Applicants for grant funds should read this notice in its entirety and respond as directed. Grant proposals that are not completed as directed will be judged nonresponsive and will not be evaluated.

The Women's Bureau (WB), U.S. Department of Labor (DOL) announces the fifth (5) year of the Solicitation for Grant Applications (SGAs) first authorized by the Women in Apprenticeship and Nontraditional Occupations (WANTO) Act under its grant provision to Community-Based Organizations (CBOs) to deliver Technical Assistance (TA) to private sector Employers and Labor Unions (E/LUs) to prepare them to increase the recruiting, training, promotion, and retention of women in apprenticeship and nontraditional occupations (A/NTOs) in their workplaces. WANTO is a competitive grant program funded through the Job Training Partnership Act (JTPA) Title IV-D. While the Women's Bureau has responsibility for implementing the competitive grant process, the WANTO Act is jointly administered by the Department of Labor's Bureau of Apprenticeship and Training (BAT)/Employment and Training Administration (ETA) and the Women's Bureau (WB).

The Department expects to make up to eight (8) WANTO awards to experienced, private nonprofit CBOs from the funds allocated for FY 1998. With the fifth year of WANTO grants, the Department will give priority consideration to proposals for technical assistance that leverage WANTO funds in Federally designated Empowerment Zones (EZ) and Enterprise Communities (EC) in both rural and urban areas. (See Appendix A for a listing of Urban EZ/EC cities and Appendix B for a listing of Rural EZ/EC areas and contacts.) The Department expects WANTO funded CBOs to assist employers and labor unions to make commitments to increase the participation of EZ/EC area women who are returning to work after welfare and related long-term work disruptions. The DOL is particularly concerned with obtaining the commitment of employers and labor unions who have jobs/careers in information technology, manufacturing, and *apprenticeship* in skilled construction building trades. Employers and labor unions will be encouraged to assist returning women to enter and remain in apprenticeship training and other nontraditional employment in these industries by (1) providing them with information on the realities of work and the company's promotion and employee development practices, (2) creating a firm-specific individual development plan, (3) providing for firm-specific skill/job development to promote job advancement, and (4) providing for support services utilizing both firm and community resource networks. CBOs should note well that WANTO training is for employer or labor union firm/company-specific (demand) and is not to increase the general store (supply) of trained workers in apprenticeship and nontraditional occupations. Finally, each proposal MUST include a specific defined internal program evaluation design.

In this time of economic prosperity and skill shortage, it is clear that CBOs'

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technical assistance can convince employers and labor unions of the advantage of training and support services to develop their own skilled, stable, and competitive work force. It is equally clear that advances in high technology has moved the U.S. economy from the smokestack industrial age to the information age. Advances in high-tech and microelectronics have spurred the restructuring manufacturing industry and given rise to a variety of computer-based jobs/careers in service sector industries—e.g., public utilities, transportation, finance, real estate, business, professional and personal services, as well as the rise of the information technology industry. Such industries can provide the stable year-round jobs women returning to work need to begin building a self-sufficient future with good wages and benefits. Nonetheless, *apprenticeship* in the skilled building trades and highway construction can provide important career opportunities for women, particularly given the shortage of skilled workers. Therefore, the Department will give priority consideration to applications with an occupational/industrial focus that link, in the first instance, to the delivery of technical assistance to employers and unions in information technology, high-tech skilled manufacturing (including tool and die, technicians and machinists to customize, repair, and service products) and other nonconstruction industries, including utilities, telecommunications, transportation, computer-based business, professional and personal services, and in *apprenticeship* in the skilled building trades in construction. In the second instance, priority consideration will be given to the delivery of technical assistance to employers and labor unions linked to jobs with private contractors on State/Federal Department of Transportation highway and road projects, including construction. In all, the aim of the technical assistance is to promote the placement and training of EZ/EC area women returning to work after welfare and other long-term disruptions in project-committed employer and union workplaces.

Proposals including ALL four (4) of the Department's priority interests (noted and summarized below) for CBO technical assistance to employers and labor unions will receive thirty (30) bonus points. To receive any bonus points, the proposal MUST focus on Empowerment Zones and Enterprise Communities where the CBO has a commitment to leverage WANTO activities in the EZ/EC areas, as noted in Appendices A and B. (1) Empowerment Zones and Enterprise Communities (EZ/EC), (2) Nonconstruction industrial and *apprenticeship* in the skilled building trades in construction and highway industries focuses, (3) employer and labor union commitment to placement and skill development to increase the participation of women returning to work after welfare and other long-term work disruptions, and (4) employer and labor union commitment for support services—particularly, child care, transportation, and transitional costs—for women returning to work from welfare and other long-term work disruptions.

1. Empowerment Zones and Enterprise Communities (EZs/ECs) have been identified in both rural and urban areas and can be characterized as having high incidences of poverty. Further, these are areas where other public resources are now being leveraged to revitalize their economies, including incentives for job creation in private enterprise. The Department also wants to leverage WANTO funding in these areas of concentrated economic resources to support both employers and labor unions who want to help themselves by increasing the participation of women in apprenticeship and nontraditional occupations, particularly EZ/EC area women who are returning to work from welfare and other long-term work disruptions. (See Appendices A and B for lists of EZ/EC areas and contact agencies.)

2. Industry-Occupation focus should reflect non-construction industries, particularly in manufacturing and information technology. The Department's priority is to emphasize the wide diversity of apprenticeship and nontraditional occupations beyond the building trades. While the most often-cited high-pay nontraditional occupations are those of the skilled building trades, e.g., carpenters, plumbers, electricians, sheet metal workers or welders, etc.; in the construction industry, there is also a variety of high-pay nontraditional occupations arising from the advances of high technology in nonconstruction industries. Jobs in some industries have significant labor shortages and can support the entry and skill development needs of women returning to work from welfare and other long-term work disruptions. High-tech has restructured manufacturing, both improving and/or developing new manufacturing processes in fiber optics, chemicals, and petroleum. Such career opportunities have increased the need for technicians' skills in electronics and related computer-based skills and machinists skilled to customize, service, build, and repair precision machinery in manufacturing. Still other fast growing computer-based jobs are found in service sector industries, e.g., business/professional services (including record keeping, financial, and personal services), other high-tech and information technologies driven by the growth in telecommunications, utilities, transportation, and health care industries. Statistical projections continue to anticipate employment growth and labor shortages in nonconstruction occupations, particularly those requiring technical skills. Thus, the window of opportunity is open for women returning to work for employers and labor unions in these industries who want to build a stable, skilled, and competitive work force.

3. Skill Development and Related Training is a necessary component to advancement to self-sufficiency for women returning to work from welfare and other long-term work disruptions. Not only must they work, but returning women also need a range of employment related skills, including readiness and job-specific skills to enter and remain in self-sufficient jobs and to move up the career ladder. Such training includes not only informal buddy or on-the-job mentoring by experienced workers, but also more structured work readiness and pre-apprenticeship programs linked to sponsored apprenticeship training programs. Therefore, it is important that proposed responses to this SGA show constructive strategies that promote both placement and training for women returning to work in the CBO's delivery of technical assistance to employer and labor union preparation to recruit, train, promote, and retain women in apprenticeship and other nontraditional occupations. Training is an area where community-wide resources and EZ/EC area leverages might provide advantages to WANTO technical assistance. Moreover, emphasis should be on both work and skills training during the workday, since many of the target women are single mothers with small children, that does not allow them much free time to obtain skills training after working hours.

4. Support Services are a necessary service for most work families. Many women seeking to enter or sustain themselves in apprenticeship and other nontraditional employment are unable to enter and/or complete training programs or employment because of the lack of child care, transportation, and transitional costs. This is another area where the community-wide human

resources and social services of EZ/EC areas can supplement and/or support WANTO technical assistance to employers and labor unions in their efforts with the CBO to women returning to work after welfare and other long-term work disruptions to become economically viable again. Therefore, grant proposals also should discuss workplace strategies for technical assistance to employers and labor unions that also bring to the attention of employers and labor unions the need and how to develop cooperative strategies with community resources to provide for transitional costs (including fees/dues, tools, uniforms, and living costs), child care, and transportation.

This notice describes the background, the application process, statement of work, evaluation criteria, and reporting requirements for this Solicitation for Grant Applications (SGA 98–04). WB anticipates that a total amount of $1,000,000 will be available for the support of all Fiscal Year 1998. (See Part II.C. for funding limitations per grant.)

DATES: One (1) ink-signed original, complete grant application plus five (5) copies of the Technical Proposal and three (3) copies of the Cost Proposal shall be submitted to the U.S. Department of Labor, Office of Procurement Services, Room N–5416, Reference SGA 98–04, 200 Constitution Avenue, NW., Washington, DC 20210, not later than 4:45 p.m. ET, August 17, 1998. Hand-delivered applications must be received by the Office of Procurement Services by that time.

ADDRESSES: Applicants who intend to submit a proposal must register immediately with the Grant Officer in order to receive any amendment to this solicitation that is issued. Please send registration to U.S. Department of Labor, Office of Procurement Services, Attention: Grant Officer, Reference SGA 98–04, Room N–5416, 200 Constitution Avenue, NW., Washington, DC 20210. Grant applications must be mailed to U.S. Department of Labor, Office of Procurement Services, Attention: Grant Officer, Reference SGA 98–04, Room N–5416, 200 Constitution Avenue, NW., Washington, DC 20210. Applicants are encouraged to verify delivery to this office directly through their delivery service and as soon as possible.

FOR FURTHER INFORMATION CONTACT: Applications will not be mailed. The **Federal Register** may be obtained from your nearest government office or library. Questions concerning this solicitation may be sent to Lisa Harvey at the following Internet address: lharvey@dol.gov.

Part I. Background

The Women in Apprenticeship and Nontraditional Occupations (WANTO) Act

Pub. L. 102–530, signed October 27, 1992—

The Act has three major activities that affect this SGA:

1. Outreach to Employers and Labor Unions. DOL will promote the Act's program to employers and labor unions by informing them of the availability of technical assistance and keeping a data base of employers and community-based organizations with active grants.
2. Technical Assistance. DOL will provide grants to community-based organizations to deliver technical assistance to employers and labor unions to prepare them to recruit, train, and employ women in apprenticeable and nontraditional occupations.
3. Liaison Role of Department of Labor. DOL will serve as follows: (1) To act as a liaison between employers, labor, and the community-based organizations providing technical assistance, and (2) coordinating, conducting regular assessment, and seeking input of employers and labor unions.

Women's Bureau

Improving women's employment opportunities and related equity issues have been the driving force of the Bureau's activities and policies since its inception in 1920. Within the Department of Labor, the Director serves as the policy advisor to the Secretary on issues related to working women.

The Bureau has a history of encouraging women to consider the wide array of apprenticeable and other occupations nontraditional to women as one way to obtain economic self-sufficiency for themselves and their families. Nontraditional occupations (NTOs) are occupations where women account for 25 percent or less of all persons employed in an occupational group. NTOs include the often-cited skilled trades in construction, as well as the emerging "good" or high-pay jobs in nonconstruction as the result of advances in high-tech and the pervasiveness of microelectronics. Nonetheless, the lack of a critical mass of women in good, high-pay jobs in both construction and nonconstruction results in continued occupational segregation and artificial employment barriers to women's success in apprenticeship and NTOs, particularly in the old established workplaces and occupations, particularly in construction trades. Studies point out that once hired, women in construction face problems (sexism, racism, homophobia, inadequate toilet facilities, health and safety, isolation from other women, etc.) that erode their retention in jobs. These problems are beyond the usual problems faced by all women and some men—sexual harassment, pay equity, balancing work and family responsibilities. (See, Laurie Wessman LeBreton, Sara Segal Loevy, and Lauren Sugerman, Building Equal Opportunity, and Breaking New Ground: Worksite 2000.)

The Bureau of Apprenticeship and Training

The Women's Bureau co-administers WANTO with the Bureau of Apprenticeship and Training (BAT). BAT was established in 1937 as the national administrative agency in the Department of Labor to carry out the objectives of the National Apprenticeship Act (also known as the Fitzgerald Act), guided by the recommendations of the Federal Committee on Apprenticeship. BAT has the objective to stimulate and assist industry in the development, expansion, and improvement of apprenticeship and training programs designed to provide the skilled workers required by the American economy.

Under the National Apprenticeship Act, the Bureau is responsible for providing service to existing apprenticeship programs and technical assistance to organizations who would like to establish an apprenticeship program. The Bureau works very closely with State Apprenticeship Councils (SAC) and the educational system to deliver support services at the national, State and local level. When apprentices finish their training, they receive certificates of completion of apprenticeship. These are issued by the State apprenticeship agencies, or in those States not having such an agency, by the Bureau of Apprenticeship and Training in accordance with its recommended standards.

BAT is committed to improving the access of women to apprenticeship training to increase their employment in jobs that have historically put men on the career ladder to successful working careers. As apprenticeship has been the building block for a skilled and stable work force, it is also a career path that can provide an economically stable family life in mainstream America.

Definitions

Nontraditional Occupations (NTOs) are those where women account for less than 25 percent of all persons employed in a single occupational group.

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Pre-Apprenticeship programs for women prepare them to keep pace with occupational skills training or entry-level employment in nontraditional occupations. The curriculum includes pre-vocational instruction in identification and use of tools, blueprint reading, basic shop skills, and safety procedures, as well as math skills, and physical conditioning.

Apprenticeship is a formal paid training-work agreement where labor and management work together to promote learning on the job. (Some BAT registered apprenticeship programs are operated by employers independent of labor unions.) To support the "hands on" learning, there must be related theoretical instruction (often classroom). After successfully completing the BAT-registered program standards—usually three to five years—the apprentice is awarded a certificate of completion by either the Bureau of Apprenticeship and Training (BAT) or the State Apprenticeship Council.

Community-Based Organizations (CBOs) are as defined in Section 4(5) of the Job Training Partnership Act (29 U.S.C 1501(5)): Private nonprofit organizations which are representative of communities or significant segments of communities and which provide job training services. For this solicitation, communities or significant segments of communities are the private nonprofit organizations that have demonstrated at least three years experience in (1) the operation and delivery of employment and training related services to women, and (2) the development of policies, programs and technical assistance for employers and labor unions for the recruitment, selection, training, placing, retaining, and otherwise preparation of WOMEN to enter and remain in APPRENTICESHIP and other NONTRADITIONAL OCCUPATIONS (NTOs).

Please Note That Eligible Applicants Must Not Be Classified Under The IRS Tax Code as A 501(c)(4) Entity.

A. Authorities

The technical assistance grants were first authorized under the Women in Apprenticeship and Nontraditional Occupations (WANTO) Act, Pub. L. 102–530, approved October 27, 1992.

B. Purpose of the Demonstration

The purpose of the WANTO demonstration program is to provide technical assistance to employers and labor unions to encourage and prepare them to increase the participation of women in apprenticeship and nontraditional occupations in their workplaces. Such activity will increase the total level of employment of women in good jobs that pay living wages.

Part II. Application Process

A. Eligible Applicants

1. Private, Nonprofit, Community-Based Organizations (CBOs) are the only entities eligible for grant awards. Public bodies such as JTPA administrative entities, schools, and hospitals are not eligible for WANTO grants.

Please Note That Eligible Applicants Must Not Be Classified Under The IRS Tax Code as A 501(c)(4) Entity.

(a.) Community-Based Organizations (CBOs) are the eligible applicants to receive WANTO grants to provide technical assistance to private sector employers and labor unions that request assistance to prepare them/their workplaces to recruit, select, train, place, retain women in apprenticeship or other nontraditional occupations, including linking their apprenticeship program to pre-apprenticeship programs with specific employment. The Department is interested in leveraging WANTO technical assistance to private sector employers and labor unions in Empowerment Zones and Enterprise Communities (EZ/EC) as noted in Appendices A and B. The final goal would be to increase the participation of EZ/EC women returning to work after welfare or other long-term work disruptions in apprenticeship and nontraditional jobs/career paths. CBOs should note well: CBOs should demonstrate their interaction with the community beyond direct services for a fee, e.g., CBO activities for social and economic change in their community to support women.

(b.) Specific Technical Assistance provided by CBOs may include:

(1) Developing outreach and orientation sessions to recruit women into the employers' apprenticeable occupations and nontraditional occupations;

(2) Developing pre-apprenticeable occupations or nontraditional skills training to prepare women for apprenticeable occupations or nontraditional occupations;

(3) Providing ongoing orientations for employers, unions, and workers on creating a successful environment for women in apprenticeable occupations or nontraditional occupations;

(4) Setting up support groups and facilitating networks for women in nontraditional occupations on or off the job site to improve their retention;

(5) Setting up a local computerized data base referral system to maintain a current list of tradeswomen who are available for work;

(6) Serving as a liaison between tradeswomen and employers and tradeswomen and labor unions to address workplace issues related to gender; and

(7) Conducting exit interviews with tradeswomen to evaluate their on-the-job experience and to assess the effectiveness of the program.

(8) Developing cooperative projects that leverage WANTO technical assistance with EZ/EC area social and human services resources to support employers' and labor unions' integration of women returning to work after welfare or other long-term work disruptions.

(c.) Employers and Labor Unions are eligible to request and receive technical assistance provided by community-based organizations with a WANTO grant. Such technical assistance includes all items listed under A.(b.)(1)-(8) above and including linking pre-apprenticeship with a commitment for employment and/or sponsored apprenticeship training, and any other technical assistance an employer or labor union may need to increase the participation of women returning to work to enter and remain in apprenticeship and other nontraditional occupations, particularly in the manufacturing and information technology industries.

To be selected to receive technical assistance either through direct application with a CBO, or independent of a specific CBO, employers and labor unions must submit a request (as described below) and send it directly to the U.S. Department of Labor, Office of Procurement Services, Room N–5416, Attention: Lisa Harvey, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

(d.) All Employers and Labor Unions must provide a written commitment for technical assistance by answering the following:

(1) A description of the need for assistance;

(2) A description of the types of apprenticeable occupations or nontraditional occupations in which the employer or labor union would like to train or employ women;

(3) Assurances that there are or will be suitable and appropriate employment available in the apprenticeable occupations or in the nontraditional occupations being targeted; and

(4) Commitments that all reasonable efforts should be made to place women in apprenticeable occupations or nontraditional occupations as they develop skills.

B. Contents

To be considered responsive to this SGA, each application must consist of, and follow the order of, the sections listed in Part III of this solicitation. The application must also include information which the applicant believes will address the selection criteria identified in Part IV. Technical proposals shall not exceed 20 single sided, double spaced, 10 to 12 pitch typed pages (not including attachments). *Any Proposal That Does Not Conform to These Standards Shall be Deemed Nonresponsive to This SGA and Will Not be Evaluated.*

1. Technical Proposal

Each proposal shall include: (1) A two-page abstract summarizing the proposal, and (2) a complete description of the CBO's program for technical assistance, including information required in *Part III and IV.* No cost data or reference to price shall be included in the technical proposal.

2. Cost Proposal

The cost proposal is a physically separate document and shall not be included in the twenty (20) page limit. The cost (business) proposal must be separate from the technical proposal. (If applicants do not have the current version of the standard grant forms listed below, they must download the forms from the following OMB website address: www.whitehouse.gov.wh/eop/omb/grants/). The transmittal letter and the grant assurances and certifications forms shall be attached to the business proposal, which shall consist of the following:

a. Standard Form 424 "Application for Federal Assistance," signed by an official from the applicant's organization who is authorized to enter the organization into a grant agreement with the Department of Labor. The *Catalog of Federal Domestic Assistance Number (CFDA) is 17.700*;

b. Standard Budget Form 424A "Budget Information Form,"; and

c. Budget Narrative; provide a narrative explanation of the budget which describes all proposed costs and indicates how they are related to the operation of the project. Provide this information separately for the amount of requested Federal funding and the amount of proposed Non-Federal contribution. In an application which proposes to fund staff positions, the budget narrative must provide information which describes the number of proposed positions by title and by the amount of staff time and salary charged to Federal and Non-Federal funding resources. The Budget Narrative provides the detailed description of the costs reflected on the SF 424A.

C. Funding Levels

The Department expects to have $1,000,000 to be disbursed through WANTO grants. The Department expects to make up to eight (8) awards to Community-Based Organizations (CBOs). The Women's Bureau expects awards to range from approximately $75,000 to $150,000, depending upon the scope of the proposal's demonstration and technical assistance activities to be delivered.

D. Length of Grant and Grant Awards

The initial performance period for the grants awarded under this SGA shall be for fifteen (15) months with one (1) option to extend for up to three months as a no-cost extension to complete final reports. Each applicant shall reflect in their application the intention to begin operation no later than *September 1998.*

E. Submission

One (1) ink-signed original, complete grant application (plus five (5) copies of the Technical Proposal and three (3) copies of the Cost Proposal must be submitted to the U.S. Department of Labor, Office of Procurement Services, Room N–5416, 200 Constitution Avenue, N.W., Washington, D.C. 20210, not later than 4:45 p.m. ET, August 17, 1998. Hand delivered applications must be received by the Office of Procurement Services by that time. Any application received at the Office of Procurement Services after 4:45 p.m. ET will not be considered unless it is received before an award is made and:

1. It was sent by registered or certified mail not later than the fifth calendar day before August 17, 1998 (i.e., not later than August 12, 1998);

2. It is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the U.S. Department of Labor at the above address; or

3. It was sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee, not later than 5 p.m. ET at the place of mailing two working days, excluding weekends and Federal holidays, prior to August 17, 1998 (i.e., not later than 5 p.m. ET August 13, 1998).

The only acceptable evidence to establish the date of mailing of a late application sent by registered or certified mail is the U.S. Postal Service postmark on the envelope or wrapper and on the original receipt from the U.S. Postal Service. If the postmark is not legible, an application received after the above closing time and date shall be processed as if mailed late. "Postmark" means a printed, stamped or otherwise placed impression (*not* a postage meter machine impression) that is readily identifiable without further action as having been applied and affixed by an employee of the U.S. Postal Service on the date of mailing. Therefore, applicants shall request that the postal clerk place a legible hand cancellation bull's-eye postmark on both the receipt and the wrapper or envelope.

The only acceptable evidence to establish the date of mailing of a late application sent by U.S. Postal Service Mail Next Day Service-Post Office to Addressee is the date entered by the post office receiving clerk on the "Express Mail Next Day Service-Post Office to Addressee" label and the postmark on the envelope or wrapper and on the original receipt from the U.S. Postal Service. "Postmark" has the same meaning as defined above. Therefore, applicants shall request that the postal clerk place a legible hand cancellation bull's-eye postmark on both the receipt and the envelope or wrapper.

The only acceptable evidence to establish the time of receipt at the U.S. Department of Labor is the date/time stamp of the Office of Procurement Services on the application wrapper or other documentary evidence of receipt maintained by that office. Applications sent by E-mail, telegram, or facsimile (Fax) will *not* be accepted.

Part III. The Statement of Work—Key Features

A. Introduction and Priority

All respondents to this SGA (98–04) are encouraged to carefully read and review the material discussed in the summary section above on this SGA. Applications that do not meet the minimum terms and conditions of this solicitation may be disqualified. The Department has priority interest in providing technical assistance to employers and labor unions in nonconstruction industries, particularly manufacturing and information technology, and in registered *apprenticeships* in the skilled building trades in construction, including highway construction, who are interested in supporting the placement and skill development of women returning to work after welfare or other long-term work disruptions residing in rural and urban EZ/EC communities noted in Appendices A and

B. Grants will be awarded competitively to private, nonprofit Community-Based Organizations (CBOs)

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with at least three (3) years of experience in providing employment and training programs and support services to increase the participation of women in apprenticeship and nontraditional occupations, particularly for women with employment barriers, including women returning to work after welfare and other work disruptions.

Note well: Each Proposal Must Have a Specifically Defined Internal Evaluation Design.] (See Part II.A. Eligible Applicants, above.)

Such experienced CBOs will deliver technical assistance to employers and labor unions to prepare them to recruit, train, promote, and retain women returning to work from welfare to enter and remain in apprenticeship and nontraditional occupations. The Department has priority interest in further focusing on developing cooperative projects in Federally designated Empowerment Zones and Enterprise Communities (EZs/ECs) where a number of public programs are being leveraged to revitalize their economies. Further, the Department has a priority interest in focusing WANTO technical assistance to employers and labor unions in nonconstruction industries, particularly in areas with potential for good, high-pay occupations with benefits for stable year-round work in nonconstruction industries, e.g., public utilities, telecommunications, high-tech manufacturing (including tool and die occupations), computer-based information technologies (including business and professional services), high-tech health industries, and private employers and contractors in State or Federal Department of Transportation highway and road projects and *apprenticeship* in the skilled building trades.

Bonus Points: Thirty (30) bonus points will be added to the technical score of proposals that MUST focus on EZ/EC areas, as well as include the priorities discussed above in the Summary section of this SGA and noted below.

1. Provide technical assistance in Empowerment Zones and Enterprise Communities;

2. Provide technical assistance to employers and labor unions in nonconstruction industries, particularly in high-tech and skilled manufacturing and information technology;

3. Provide commitment from employers and labor unions for matches with EZ/EC area women who are returning to work after welfare and other dependencies;

4. Provide employers and labor unions with community-wide resources to assist employers and labor unions in providing support services—child care, transportation, and transitional costs—so that women returning to work can enter and complete apprenticeship and other nontraditional training and employment;

5. Provide employers and labor unions with strategies to allow labor force entry women to work and participate in developmental skill and related training, both informal on-the-job/buddy systems and more formal skill attainment.

Other projects will receive consideration and be evaluated.

B. Key Features

1. Wanto Project Proposal Submissions should provide for technical assistance between a Community-Based Organization (CBO) and requesting employers and labor unions, particularly nonconstruction industries. Such an entity can also provide for the linking of pre-apprenticeship programs to apprenticeship programs sponsored by employers and labor unions. All technical assistance grant activity has the goal to increase the employment of women in apprenticeship and other nontraditional occupations.

Grant proposals must include a specific internal program evaluation design and process and must specify expected outcomes based on the CBO's past experience and expenditures for the following:

—The proposed number of employers and labor unions to be provided on-site technical assistance, those to receive, and methodology for reaching proposed goals;

—The proposed number of women to be trained, placed, promoted, and/or retained in apprenticeship and other nontraditional employment and methodology for reaching proposed goals;

—Any other activities for which grant funds will be expended.

2. CBOs that apply for funding to provide technical assistance must provide information on their experience and accomplishments in apprenticeship and nontraditional activities in the areas of: (1) Policy, (2) program development, (3) program operation, and (4) the provision of technical assistance to business, labor organizations, and other activities in the employment and training community related to increasing the participation of women in apprenticeship and nontraditional employment.

a. List name, trade, and organizational position of tradeswomen and other women in nontraditional occupations on staff or on your organization's Board of Directors. Include the dates when tradeswomen served in active paid or unpaid positions in your organization.

b. In addition, all applications must also include a management and staff loading plan. The management plan is to include a project organizational chart and accompanying narrative which differentiate between elements of the applicant's staff and subcontractors or consultants who will be retained. The staff loading plan must identify all key tasks and the hours required to complete each task. Labor estimates for each task must be broken down by individuals assigned to the task, including subcontractors and consultants. All key tasks must be charted to show time required to perform them by months or weeks.

c. Proposed projects should include a discussion of support services to participants that include (1) transitional costs (which may include living expenses as well as fees, union dues, uniforms, etc.), (2) child care, and (3) transportation.

d. Proposed projects should include outreach activities to improve apprenticeship and NTO opportunities for women in their own workplaces as well as women seeking to enter NTO career ladder employment and training.

e. Proposed projects should clearly identify expected outcomes in terms of: (1) An employer or labor union workplace—number of welfare to work placements and type of training or technical assistance agreement, (2) number of apprenticeship training commitments and other work commitments by employer/labor organizations, (3) number of participants moving into higher level NTO employment, (4) number of women participants moving from pre-apprenticeship into a sponsored apprenticeship program, and (5) number of pre-apprenticeship women moving into permanent employment without participating in an apprenticeship program.

f. Proposed project submissions should include a listing of all items for which grant funds will be expended. (Do not include any cost information for this item in the technical proposal, but expenditure items *MUST* be listed.)

g. Proposed project submissions should include any leverage or co-funding anticipated by this submission, particularly leverage with other specific EZ/EC programs (e.g., HUD or USDA) and interaction with overall EZ/EC program contacts listed with EZ/EC cities and areas listed in Appendices A and B.

h. Proposed project submissions should include copies of the CBO's budget and major funding sources for the past three (3) years, including foundation and government grants and other types of funding.

In addition to the grant's final report, proposed project submissions should include plans for a "how-to-do-it" project replication manual, including awareness/outreach material, technical assistance and curriculum manual(s) and all other materials developed as a result of the grant activities. All grant materials should be submitted with "hard copy" and electronic (computer-based) copy.

j. The proposed project submission should include any activities to encourage and promote the continuation or expansion of grant activities beyond the grant's period of program performance.

Part IV. Evaluation Criteria and Selection

Applicants are advised that selection for a grant award is to be made after careful evaluation of technical applications by a panel. Each panelist will evaluate applications against the various criteria on the basis of 100 points. The scores will then serve as the primary basis to select applications for a potential award. Clarification may be requested of grant applicants if the situation so warrants it. Please see Part III, Sections A and B for additional information on the elements against which proposals will be reviewed. After proposals are fully evaluated for responsiveness to Technical Evaluation Criteria 1.a.–1.c., the distribution of bonus points will be determined. Only those proposals whose technical score falls within the technically acceptable range will be eligible to receive bonus points.

1. Technical Evaluation Criteria—Points

a. Capabilities and Qualifications of CBO and Staff (NTO experience, education, and work with the community for social and/or economic change to support women): 50 points.

b. Established Linkages and Relationship with Employers, Labor Unions, EZ/EC Communities and Welfare to Work Social Agencies: 25 points.

c. Quality and Scope of WANTO Project: 25 points. (Must include a specific internal program evaluation design. Such as, proposed number of employers, labor unions for on-site technical assistance, number of women affected and served by the WANTO project and placed in apprenticeship or nontraditional employment; proposed career ladder and technical assistance strategies to promote the increase in women in apprenticeship and nontraditional occupations for employers and labor unions; proposed job placement outcomes.)

2. Bonus Points

a. Priority Focus: 30 points. (See Part III.A. Statement of Work—Key Features, Bonus Points.)

3. Cost Criteria

Proposals will be scored, based on their costs in relation to other proposals submitted in response to this SGA.

4. Total Score

Technical quality of proposals will be weighted three (3) times the estimated price in ranking proposals, for purposes of selections for awards. Proposals received will be evaluated by a review panel based on the criteria immediately above, in Technical Evaluation Criteria 1 and 2. The panel's recommendations will be advisory, and final awards will be made based on the best interests of the Government, including but not limited to such factors as technical quality, geographic balance, occupational/industrial impact, and diversity in service providers.

The Department wishes to make it clear that it is not simply the best written proposals that will be chosen, but rather those which demonstrate the greatest experience and commitment to assisting employers and labor organizations to successfully develop successful strategies to increase the participation of women in higher-paying apprenticeship and nontraditional occupations and to expand the employment and self-sufficiency options of women returning to work after welfare and other work and family disruptions. In addition, the Department considers geographic and race-ethnic diversity in the array of award-winning proposals important considerations in making the final awards.

The submission of the same proposal from any prior year WANTO competition does not guarantee an award under this solicitation. Although the Government reserves the right to award on the basis of the initial proposal submission, the Government may establish a competitive range or technically acceptable range based upon proposal evaluation, for the purpose of selecting qualified applicants. The panel's conclusions are advisory in nature and not binding on the Grant Officer. The Government reserves the right to ask for clarification or hold discussions, but is not obligated to do so. The Grant Officer's determination for award under this SGA 98–04 is the final agency action.

Part V

A. Deliverables

(This section is provided only so that grantees may more accurately estimate the staffing budgetary requirements when preparing their proposal. Applicants are to exclude from their cost proposal the cost of any requested travel to Washington, DC.)

1. No later than four (4) weeks after an award, the grantees and partners shall meet with the Women's Bureau and the Bureau of Apprenticeship and Training at the Post-Award Conference to discuss the demonstration project and related components and technical assistance activities, time lines, technical assistance outcomes, assessment for comment, and final approval. The grantees and partners and the Department will discuss and make decisions on the following program activities:

a. The proposed technical assistance commitments for employment, apprenticeship and related nontraditional occupation activities and responsibilities; the number of partnerships with EZ/EC communities, employers and labor unions to be served.

b. The methodology the proposed partnership will use to support/change management and employee attitudes to promote female workers in nontraditional occupations.

c. The types of systemic change anticipated by technical assistance strategies anticipated to be incorporated into ongoing employer recruitment, hiring, training, and promotion of women in apprenticeship and apprenticeable nontraditional occupations.

d. The occupational, industrial, and geographical impact anticipated.

e. The supportive services to be provided to employers and women after successful placement into employment, apprenticeship, or other supporting nontraditional occupations.

f. The plan for the development and maintenance of a relationship with the State level of the Federal Bureau of Apprenticeship and Training and the State Apprenticeship Council.

The Women's Bureau and the Bureau of Apprenticeship and Training will provide further input orally and in writing, if necessary, within ten (10) working days after the Post-Award Conference.

1. No later than ten (10) weeks after an award, the grantee(s) and the

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Women's Bureau will confirm the "plan of action" or detailed time line for program implementation.

2. No later than twelve (12) weeks after an award, the grantee(s) shall have begun the provision of technical assistance to employers and labor unions to recruit, select, train, place, retain, and other areas of preparation to promote the increase of women in apprenticeable occupations and other nontraditional training for women, characterized by employment growth and above average earnings.

3. No later than sixteen (16) weeks after an award, the first quarterly progress report of work done under this grant will be due. Thereafter, quarterly reports will be due twenty (20) working days after the end of each of the remaining quarters.

Quarterly progress reports must include:

a. A description of overall progress on work performed during the reporting period—(a) the number of employers and labor unions provided on-site, off-site (conferences, workshops, seminars, training, etc., (b) number of women trained (on and off the workplace), placed in apprenticeship or other nontraditional employment. Describe: (1) Any linkages of pre-apprenticeship (on and off a workplace) with sponsored apprenticeship: Number of women effected or participating in programs; include name and address of workplace/company and person responsible for the operation, (2) number of employers and labor unions receiving technical assistance—name, address, size of the workplace, including proportion of women, include brief profiles of employers and labor organizations, (3) describe any systemic workplace and policy changes—actual or in process, including the hiring and promotion of women already in the workplace, career ladders or other training activities, (4) public presentations, (5) media articles or appearances, (6) publications disseminated, and (7) publications developed.

b. An indication of any current problems which may impede the performance of the grant and the proposed corrective action.

c. A discussion of work to be performed during the next reporting period.

Between scheduled reporting dates the grantee(s) also shall immediately inform the Grant Officer's Technical Representative (GOTR) of significant developments affecting the grantee's ability to accomplish the work.

5. No later than sixty-four (64) weeks after an award, the grantee(s) shall submit three (3) copies of the draft Final Report, an integrated draft analysis of the process and results of the technical assistance activities during the year. The Women's Bureau and the Bureau of Apprenticeship and Training will provide written comments on the draft Report within twenty (20) working days if substantive problems are identified. The grantee's response to these comments shall be incorporated into the Final Report.

6. The Final Report shall cover findings, final performance data, outcome results and assessment, and employer or labor organization plans for follow-up of participants. The Final Report shall provide all information to replicate the project including copies of curriculums, technical assistance materials developed for the project and technical assistance—videos, posters, notices, etc., as well as any plans for replication and dissemination of information. An Executive Summary of the findings and recommendations shall be included in the Final Report, completely separate or separately combined with the Final Report.

No later than sixty-four (64) weeks after an award, the grantee(s) shall (1) submit one (1) diskette (IBM compatible, WordPerfect 6.1), one (1) camera-ready copy of the Final Report, and five (5) copies of the camera-ready Final Report, bound in a professional manner, and not a collection of loose leaf sheets, and (2) computer-based, electronic files for each of the other products—e.g., manual(s), curriculums, "how-to-do-it" handbooks, videos, etc.—paid for with grant funds, along with five (5) copies of the final camera-ready products.

B. Administrative Provisions

The grant awarded under this SGA shall be subject to the following administrative standards and provisions:

29 CFR Part 97—Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments;

29 CFR Part 96—Federal Standards for Audit of Federally Funded Grants, Contracts and Agreements;

29 CFR Part 95—Uniform Administrative Requirements for Grants and Cooperative Agreements with Institutions of Higher Education, etc.

C. Certifications and Assurances

If the applicant is awarded a grant, they are required to operate the program in accordance with the following Certifications and Assurances. An original signed and dated signature page providing the following Certifications and Assurances must accompany the Cost Proposal. Each can be downloaded from the OMB website address www.whitehouse.gov/wh/eop/omb/grants/.

D. Allowable Costs

Determinations of allowable costs shall be made in accordance with the following applicable Federal cost principles:

a. State and Local Governments—OMB Circular A–87.

b. Educational Institutions—OMB Circular A–21.

c. Nonprofit Organizations—OMB Circular S–122.

d. Profit-making Commercial Firms—48 CFR Part 31.

Signed at Washington, DC., on June 24, 1998.

Lawrence J. Kuss,

Grant Officer.

BILLING CODE 4510-30-P

APPENDIX A: Urban

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As of March 20, 1998

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APPENDIX B: Rural

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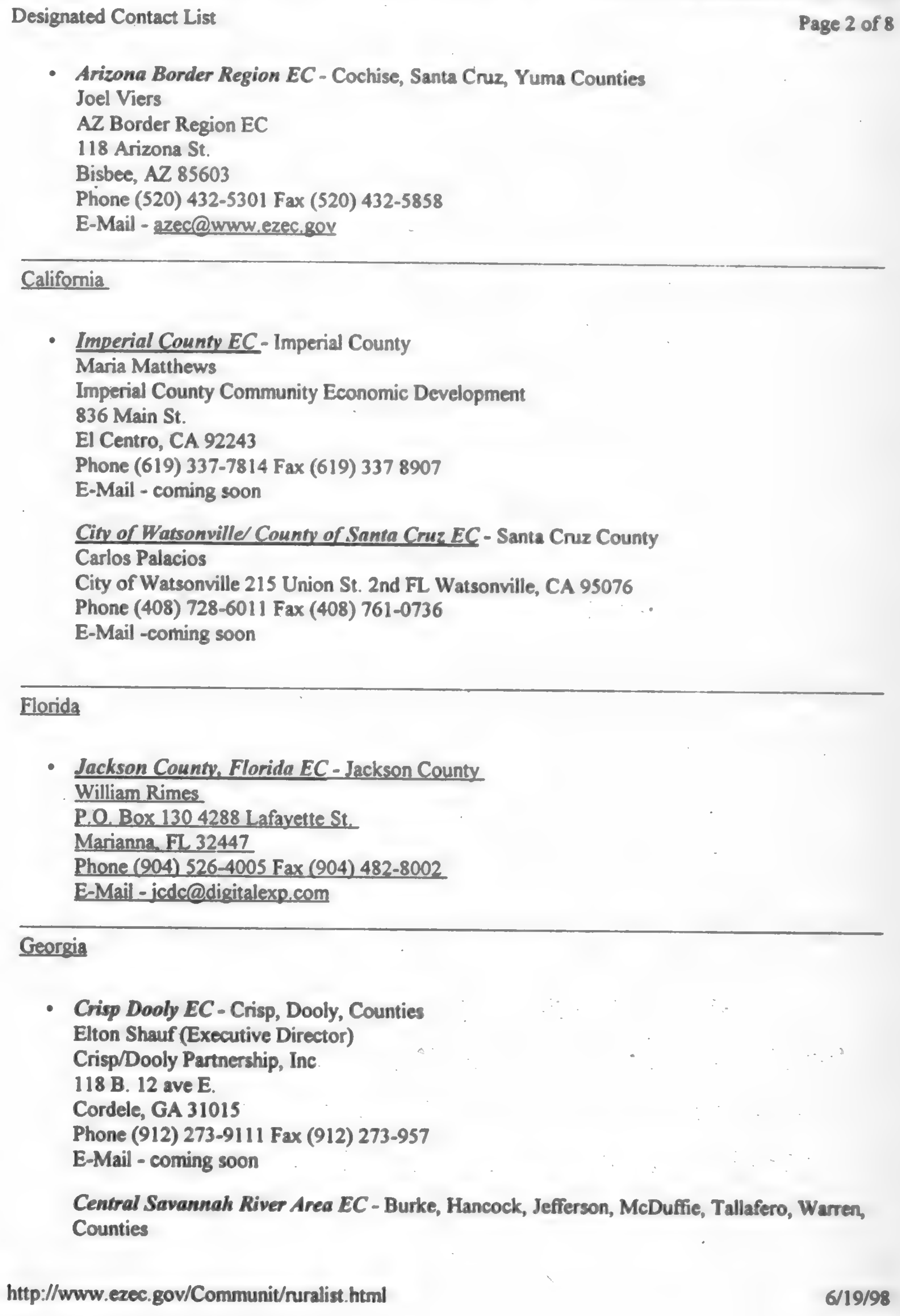

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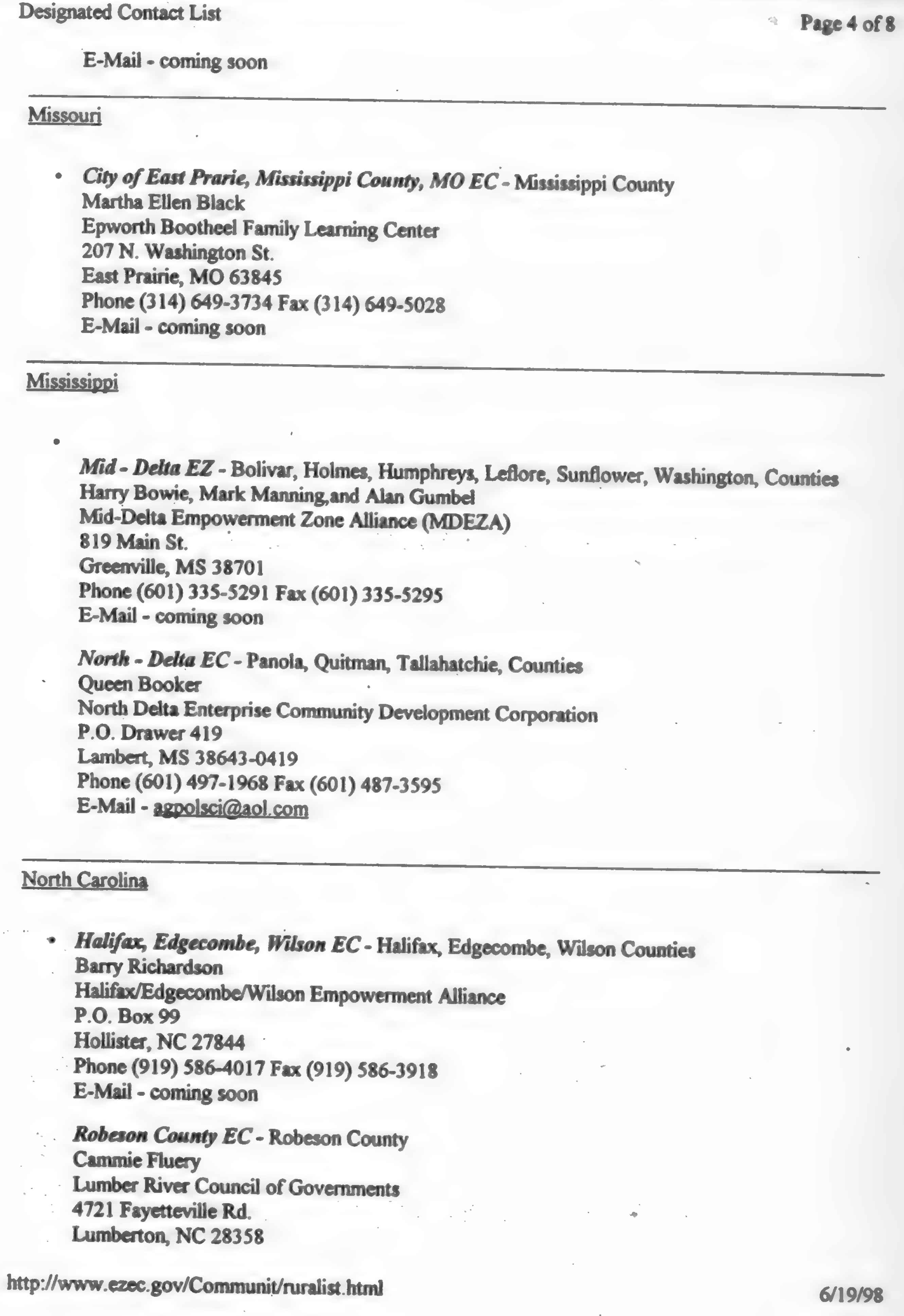

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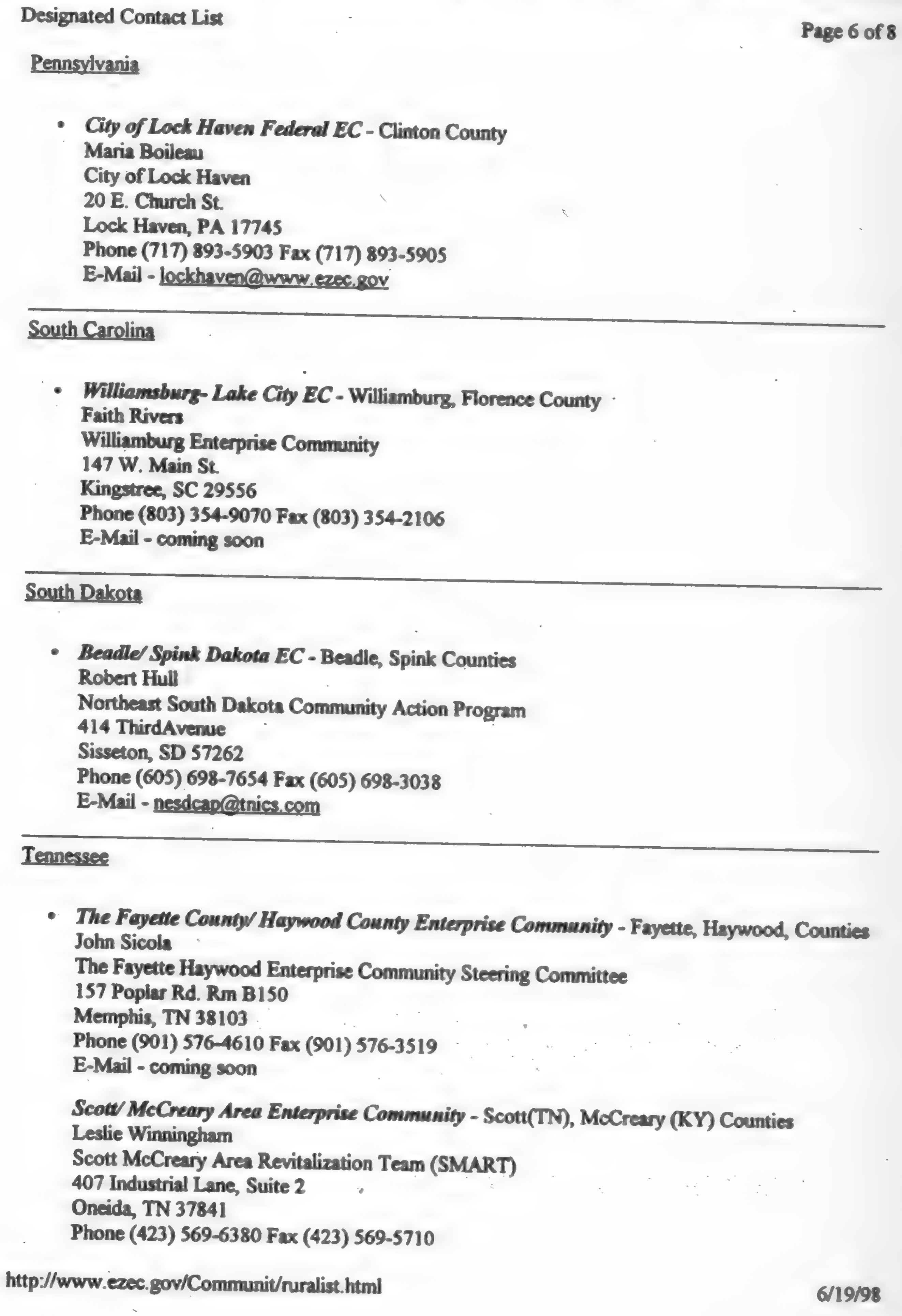

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  157 Poplar Rd. Rm B150
  Memphis, TN 38103
  Phone (901) 576-4610 Fax (901) 576-3519
  E-Mail - coming soon

  Scott/ McCreary Area Enterprise Community - Scott(TN), McCreary (KY) Counties
  Leslie Winningham
  Scott McCreary Area Revitalization Team (SMART)
  407 Industrial Lane, Suite 2
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  Phone (423) 569-6380 Fax (423) 569-5710

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E-Mail- lwinningham@highland.net

Texas

- ***Rio Grande Valley Empowerment Zone*** - Cameron, Hidalgo, Starr, Willacy Counties
  Bonnie Gonzalez
  Rio Grande Valley Empowerment Zone 301 S Texas
  Mercedes, TX 78570
  Phone (210) 514-4000 Fax (210) 514-4007
  E-Mail - coming soon

Virginia

- ***Accomack- Northampton Virginia EC*** - Northampton, Accomack Counties
  Monte Penney
  The Economic Empowerment & Housing Corporation
  P.O. Box 814
  Nassawadox, VA 23413
  Phone (804) 442-4509 Fax (804) 442-7530
  E-Mail - veseehc@esva.net

Washington

- ***Lower Yakima County Rural EC*** - Yakima County
  Dave Fontara
  Yakima County
  128 North Second Street
  Yakima, WA 98901
  Phone (509) 574-1500 Fax (509) 574-1501
  E-Mail - coming soon

West Virginia

- ***Central Applachia EC*** - Braxton, Clay, Fayette, Nicholas, Roane
  Terrell Ellis
  Central Applachia Empowerment Zone
  174 Main St., P.O. Box 176
  Clay, WV 251215
  Phone (304) 587-2034 Fax (304) 587-2027
  E-Mail - coming soon

  McDowell County EC - McDowell County
  Cliff Moore
  McDowell County Action Network
  Route 103

Wilcoe, WV 24895
Phone (304) 448-2118 Fax (304) 448-3287
E-Mail - coming soon

[FR Doc. 98–17401 Filed 6–30–98; 8:45 am]
BILLING CODE 4510–30–C

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LIBRARY OF CONGRESS

Copyright Office

[Docket No. 96–4 CARP DPRA]

Digital Phonorecord Delivery Rate Adjustment Proceeding

AGENCY: Copyright Office, Library of Congress.

ACTION: Notices of intent to participate.

SUMMARY: The Library of Congress is requesting that those parties interested in participating in a Copyright Arbitration Royalty Panel ("CARP") proceeding for establishing rates and terms for digital phonorecord deliveries file a Notice of Intent to Participate. Those parties who have already filed such a notice need not file again.

DATES: Notices of Intent to Participate are due July 31, 1998.

ADDRESSES: Notices of Intent to Participate, when sent by mail, should be addressed to: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024. If hand delivered, they should be brought to: Office of the General Counsel, Copyright Office, James Madison Memorial Building, Room LM–407, First and Independence Avenues, SE, Washington, DC.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or William Roberts, Senior Attorney for Compulsory Licenses, Copyright Arbitration Royalty Panels, P.O. Box 70977, Southwest Station, Washington, DC 20024. Telephone: (202) 707–8380. Facsimile: (202) 707–8366.

SUPPLEMENTARY INFORMATION:

Background

On November 1, 1995, Congress passed the Digital Performance Right in Sound Recordings Act of 1995 ("Digital Performance Act"). Public Law 104–39, 109 Stat. 336. Among other things, it confirms and clarifies that the scope of the compulsory license to make and distribute phonorecords of nondramatic musical compositions includes the right to distribute or authorize distribution by means of a digital transmission which constitutes a "digital phonorecord delivery." 17 U.S.C. 115(c)(3)(A). A "digital phonorecord delivery" is defined as each individual delivery of a phonorecord by digital transmission of a sound recording which results in a specifically identifiable reproduction by or for any transmission recipient. * * * " 17 U.S.C. 115(d).

The Digital Performance Act established that the rate for all digital phonorecord deliveries made or authorized under a compulsory license on or before December 31, 1997, is the same rate in effect for the making and distribution of physical phonorecords. 17 U.S.C. 115(c)(3)(A)(i). For digital phonorecord deliveries made or authorized after December 31, 1997, the Digital Performance Act established a process that may take two-steps for determining the terms and rates. 17 U.S.C. 115(c)(3)(A)(ii). The first step in the process is a voluntary negotiation period initiated by the Librarian of Congress to enable copyright owners and users of the section 115 digital phonorecord delivery license to negotiate the terms and rates of the license. The Librarian initiated this period on July 17, 1996, and directed it to end on December 31, 1996. 61 FR 37213 (July 17, 1996).

The second step of the process is the convening of a CARP to determine reasonable terms and rates for digital phonorecord deliveries for parties not subject to a negotiated agreement. In the July 17, 1996, **Federal Register** notice, the Library stated that CARP proceedings would begin, in accordance with the rules of 37 CFR part 251, on January 31, 1997. 61 FR 37214 (July 17, 1996). The Library also directed those parties not subject to a negotiated agreement to file their petitions to convene a CARP, as required by 17 U.S.C. 115(c)(3)(D), by January 10, 1997, and their Notices of Intent to Participate in CARP proceedings by January 17, 1997. *Id.* In addition, the Library directed interested parties to comment by November 8, 1996, on the possibility of consolidating the CARP proceeding to determine terms and rates for digital phonorecord deliveries with the proceeding to adjust the mechanical royalty rate for the making and distributing of physical phonorecords. 61 FR 37215 (July 17, 1996).

On November 8, 1996, the Library received a joint motion from the Recording Industry Association of America ("RIAA"), the National Music Publishers' Association, Inc. ("NMPA"), and The Harry Fox Agency, Inc. ("Harry Fox") to vacate the scheduled dates appearing in the July 17, 1996, **Federal Register** notice for convening a CARP. The Library vacated the schedule on December 11, 1996, and established a new precontroversy discovery schedule and date for the filing of Notices of Intent to Participate. 61 FR 65243 (December 11, 1996).

After publication of the new schedule, representatives of the RIAA, NMPA and Harry Fox informed the Library that terms and rates for digital phonorecord deliveries could be negotiated through voluntary agreement, and requested that the Library vacate the new schedule to allow sufficient time for such negotiations. The Library vacated the new schedule on February 3, 1997. 62 FR 5057 (February 3, 1997). The parties did reach a voluntary agreement and, pursuant to the rules, the Library published the proposed rates and terms for digital phonorecord deliveries for public comment. 62 FR 63506 (December 1, 1997). In that notice of proposed rulemaking, the Library specified that any party that objected to the proposed rates and terms was required to file a Notice of Intent to Participate and was expected to fully participate in a CARP proceeding. 62 FR 63507 (December 1, 1997). However, the Library did not call for the filing of Notices of Intent to Participate by parties other than those who objected to the proposed rates and terms.

Two parties, the United States Telephone Association ("USTA") and the Coalition of Internet Webcasters ("Webcasters"), opposed the proposed terms and rates and filed Notices of Intent to Participate. A third party, Broadcast Music, Inc. ("BMI"), also filed a Notice of Intent to Participate in the event that a CARP takes place. BMI's interest is the relationship between digital phonorecord deliveries and the public performance right.

Notices of Intent To Participate

The parties in this proceeding continue to negotiate in an effort to reach agreement as to the terms and rates for digital phonorecord deliveries. In the event that a CARP becomes necessary, participating parties must be identified. Because earlier deadlines for the filing of Notices of Intent to Participate were vacated at the parties' request, Notices have yet to be filed in this proceeding, save those filed by USTA, Webcasters and BMI. Consequently, the Library is instructing those parties (other than USTA, Webcasters and BMI) who wish to participate in a CARP proceeding to establish rates and terms for digital phonorecord deliveries to file a Notice of Intent to Participate by July 31, 1998.

Dated: June 24, 1998.

David O. Carson,

General Counsel.

[FR Doc. 98–17478 Filed 6–30–98; 8:45 am]

BILLING CODE 1410–33–U

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 98–085]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Availability of Inventions for Licensing.

SUMMARY: The inventions listed below are assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATE: July 1, 1998.

FOR FURTHER INFORMATION CONTACT: Thomas H. Jones, Patent Counsel, NASA Management Office-JPL, 4800 Oak Grove Drive, Mail Stop 180–801, Pasadena, CA 91109; telephone (818) 354–5179.

NPO–19293–2–CU: Convex Diffraction Grating Imaging Spectrometer;

DRC–098–001: On-Line µ-Method for Robust Flutter Prediction in Expanding a Safe Flight Envelope for an Aircraft Model under Flight Test;

NPO–20263–1–CU: An Improved Infrared Detector System with Controlled Thermal Conductance;

NPO–18414–4–CU: Synchronous Parallel System for Emulation and Discrete Event Simulation.

Dated: June 24, 1998.

Edward A. Frankle,

General Counsel.

[FR Doc. 98–17406 Filed 6–30–98; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Review; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA has submitted the following revised information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public. It was originally published on January 15, 1998. No comments relating to the information collection were received.

DATES: Comments will be accepted until July 31, 1998.

ADDRESSES: Interested parties are invited to submit written comments to NCUA Clearance Officer or OMB Reviewer listed below:

Clearance Officer: Mr. James L. Baylen (703) 518–6411, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–518–6433, E-mail: jbaylen@ncua.gov.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Copies of the information collection requests, with applicable supporting documentation, may be obtained by calling the NCUA Clearance Officer, James L. Baylen, (703) 518-6411.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

OMB Number: 3133–0067.

Form Number: NCUA 5310.

Type of Review: Revision of a currently approved collection.

Title: Corporate Credit Union Monthly Call Report.

Description: NCUA utilizes the information to monitor financial conditions in corporate credit unions and to allocate supervision and examination resources. The respondents are corporate credit unions or "banker's banks" for natural person credit unions.

Respondents: All corporate credit unions.

Estimated No. of Respondents/Recordkeepers: 40.

Estimated Burden Hours Per Response: 1.44 hours.

Frequency of Response: Monthly.

Estimated Total Annual Burden Hours: 960.

Estimated Total Annual Cost: N/A.

By the National Credit Union Administration Board on May 11, 1998.

Becky Baker,

Secretary of the Board.

[FR Doc. 98–17407 Filed 6–30–98; 8:45 am]

BILLING CODE 7535–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–348 and 50–364]

Southern Nuclear Operating Company, Inc.; Joseph M. Farley Nuclear Plant, Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR Part 50, Section 50.71(e)(4), for Facility Operating License Nos. NPF–2 and NPF–8 issued to Southern Nuclear Operating Company, Inc., et al. (the licensee) for operation of the Joseph M. Farley Nuclear Plant (FNP), Units 1 and 2, located in Houston County, Alabama.

Environmental Assessment

Identification of the Proposed Action

The proposed action would allow an exemption from the requirements of 10 CFR 50.71(e)(4) regarding submission of revisions to the FNP, Units 1 and 2, Updated Final Safety Analysis Report (UFSAR). Under the proposed exemption, the licensee would submit UFSAR updates to the single, unified Farley UFSAR for the two units within 6 months following the FNP Unit 1 refueling outage, not to exceed 24 months from the last submittal.

The proposed action is in accordance with the licensee's application for exemption dated January 19, 1998.

The Need for the Proposed Action

The proposed action would provide an exemption to the requirements of 10 CFR 50.71(e)(4), which requires licensees to submit updates to their UFSAR within 6 months after each refueling outage providing that the interval between successive updates does not exceed 24 months. Since FNP, Units 1 and 2, share a common UFSAR, the licensee must update the same document within 6 months after a refueling outage for either unit. Allowing the exemption would maintain the UFSAR current within 24 months of the last revision and still would not exceed a 24-month interval from submission of the 10 CFR 50.59 design change report for either unit.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that issuance of the proposed exemption to 10 CFR 50.71(e)(4) is an administrative change unrelated to plant operation.

The proposed action will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the occupational or offsite radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed

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action does not affect nonradiological plant effluents and has no other nonradiological environmental impact. Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded there are no significant environmental impacts associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the FNP, "Final Environmental Statement related to the Operation of Joseph M. Farley Nuclear Plant, Units 1 and 2," dated December 1974 and its Addendum, NUREG-0727, dated September 1980.

Agencies and Persons Consulted

In accordance with its stated policy, on June 2, 1998, the staff consulted with the Alabama State official, Mr. K. Whatley of the Alabama Department of Public Health, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated January 19, 1998, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Houston—Love Memorial Library, 212 W. Burdeshaw Street, P.O. Box 1369, Dothan, Alabama.

Dated at Rockville, Maryland, this 25th day of June 1998.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

Director, Project Directorate II-2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98-17488 Filed 6-30-98; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee Meeting on Advanced Reactor Designs; Revised

A two-day meeting of the ACRS Subcommittee on Advanced Reactor Designs scheduled to be held on Monday and Tuesday, July 6-7, 1998, has been changed to a one-day meeting which will be held on Tuesday, July 7, 1998, beginning at 8:30 a.m., in Room T-2B3, 11545 Rockville Pike, Rockville, Maryland. Notice of this meeting was published in the **Federal Register** on Wednesday, June 17, 1998 (63 FR 33102). All other items pertaining to this meeting remain the same as previously published.

For further information contact, Mr. Noel F. Dudley, cognizant ACRS staff engineer, (telephone 301/415-6888) between 7:30 a.m. and 4:15 p.m. (EDT).

Dated: June 25, 1998.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 98-17487 Filed 6-30-98; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97-415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from June 8, 1998, through June 19, 1998. The last biweekly notice was published on June 17, 1998 (63 FR 33103).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administration Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By July 31, 1998, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Detroit Edison Company, Docket No. 50–16, Enrico Fermi Atomic Power Plant, Unit 1, Monroe County, Michigan

Date of amendment request: January 28, 1998 (Reference NRC–98–0027)

Description of amendment request: The proposed amendment will revise Section F and I of the Fermi, Unit 1 Technical Specifications to include requirements for control of effluents; dose limits; annual reporting in accordance with requirements of 10 CFR 50.36a; and numerical guideline criteria based on 10 CFR 50, Appendix I. Also, this amendment will correct several editorial errors.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration using the standards in 10 CFR 50.92(c). The licensee's analysis is presented below:

(1) Does the proposed change significantly increase the probability or consequences of an accident previously evaluated?

No, the proposed submittal establishes additional requirements and limits on radioactive effluent releases. No existing requirements are deleted. For these reasons, this proposed change will not significantly increase the probability or consequences of an accident at Fermi 1.

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(2) Will the proposed amendment create the possibility of a new or different kind of accident from any accident previously analyzed?

No, the addition of requirements for radioactive effluent releases will not cause a new kind of accident. The additional requirements involve having a functional waste system with procedures, submitting an annual report, and restricting the potential dose to the public from effluents. These changes, in themselves, do not require a different type of operation of systems. Any new system installed to enable future discharges will be evaluated at the time of design.

(3) Will the proposed change significantly reduce the margin of safety at the facility?

No, adding new requirements for radioactive effluents will not decrease the margin of safety. Since no existing requirements are being eliminated, this change will not reduce the margin of safety of the facility.

NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Attorney for licensee: John Flynn, Esquire, Detroit Edison Company, 2000 Second Avenue, Detroit, Michigan 48226.

NRC Branch Chief: John W. N. Hickey.

Detroit Edison Company, Docket No. 50–16, Enrico Fermi Atomic Power Plant, Unit 1, Monroe County, Michigan

Date of amendment request: January 28, 1998 (Reference NRC–98–0025).

Description of amendment request: The proposed amendment will revise the Technical Specifications on access controls to provide flexibility while maintaining similar controls over access. Provisions will be established for cases where work is performed on the Protected Area boundary, such that the boundary temporarily will not meet the Technical Specification criteria. Redundancy between Technical Specifications will be eliminated. Figure B–1, "Facility Plan," will be modified to show the buildings within the Protected Area, delete locations of the Protected Area gates and doors, and delete a building and equipment outside the Protected Area which are planned to be removed in the future. Finally, several editorial corrections will be made.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration using the standards in 10 CFR 50.92(c). The licensee's analysis is presented below:

(1) Does the proposed change significantly increase the probability or consequences of an accident previously evaluated?

The proposed changes do not involve a significant increase in the probability or consequences of an accident. The proposed changes all involve access control, the Protected Area boundary, or deletion of details from a sketch, including a building and equipment planned for removal, which are outside the Protected Area. The changes still require control over the gates and doors to the Protected Area and that only authorized individuals will be issued the Fermi 1 key. Since the changes do not involve operation of any system, modifications to any required plant systems, nor eliminate the requirements for control of the Fermi 1 key and access points, the probability or consequences of an accident will be unaffected.

(2) Will the proposed amendment create the possibility of a new or different kind of accident from any accident previously analyzed?

The proposed changes do not create the possibility of a new or different type of accident from any previously evaluated. The proposed changes will not lead to any different method of operating any systems, nor will they create any tests involving plant systems. The changes only affect the access control requirements, the Protected Area boundary, and deletion of details from a sketch. Changes of who issues the key, how doors are secured, provisions for temporary modifications to the boundary, requirements to observe the Protected Area boundary if degraded, wording consolidation, and more accurate building outlines cannot cause a new or different type of accident. Access points and the Fermi 1 key are still required to be controlled. The Boilerhouse and main unit output transformer are not used to support the Fermi 1 nuclear facility. Removal of the Boilerhouse and main unit output transformer from the drawing will help facilitate future removal plans, but will not cause a new or different accident from any previously evaluated, since they provide no support to the Fermi 1 nuclear facility. For these reasons, the proposed changes to the access control requirements and Figure B–1 will not create the possibility of a new or different type of accident.

(3) Will the proposed change significantly reduce the margin of safety at the facility?

The proposed changes do not involve a significant reduction in the margin of safety. The changes involve access control, the Protected Area boundary, and the sketch of the facility. Doors and gates in the Protected Area boundary will still be required to be secured when personnel are not inside. The keys will still be required to be controlled and issued only to authorized personnel. Compensatory measures will be required if the Protected Area boundary is degraded such that the requirements are not met. Therefore, there will not be a significant reduction in the margin of safety.

NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Attorney for licensee: John Flynn, Esquire, Detroit Edison Company, 2000 Second Avenue, Detroit, Michigan 48226.

NRC Branch Chief: John W. N. Hickey.

Detroit Edison Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of amendment request: June 5, 1998 (NRC–98–0067).

Description of amendment request: The proposed amendment would revise Technical Specification (TS) 2.1.2 to incorporate cycle-specific safety limit minimum critical power ratios (SLMCPRs) for the core that will be loaded during the upcoming refueling outage and update the footnote associated with the SLMCPR values to limit applicability of the SLMCPR values to Cycle 7 operation only.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed license amendment establishes a revised SLMCPR value of 1.11 for two recirculation loop operation and 1.13 for single recirculation loop operation for use during Cycle 7 operation. The derivation of the cycle-specific SLMCPRs was performed using "General Electric Standard Application for Reactor Fuel," NEDE–24011–P–A–13; U.S. Supplement, EDE–24011–P—A–13–US, August 1996; and the "Proposed Amendment 25 to GE Licensing Topical Report NEDE–24011–P–A (GESTAR II) on Cycle Specific Safety Limit MCPR." Amendment 25 was submitted by General Electric Nuclear Energy (GENE) to the NRC on December 13, 1996.

The probability of an evaluated accident is derived from the probabilities of the individual precursors to that accident. The consequences of an evaluated accident are determined by the operability of plant systems designed to mitigate those consequences. Limits have been established, consistent with NRC approved methods, to ensure that fuel performance during normal, transient, and accident conditions is acceptable.

The probability of an evaluated accident is not increased by revising the SLMCPR values. The change does not require any physical plant modifications or physically affect any plant components. Therefore, no individual precursors of an accident are affected.

The proposed license amendment establishes a revised SLMCPR that ensures that the fuel is protected during normal operation and during any plant transients or anticipated operational occurrences. Specifically, the reload analysis demonstrates that a SLMCPR value of 1.11 (1.13 for single loop operation) ensures that less than 0.1 percent of the fuel rods will experience boiling transition during any plant operation if the limit is not violated.

Based on (1) the determination of the new SLMCPR values using conservative methods, and (2) the operability of plant systems designed to mitigate the consequences of accidents not having been changed;[,] the consequences of an accident previously evaluated have not been increased.

Additionally, updating of the footnote on the SLMCPR value in Technical Specification 2.1.2 to limit the applicability of the SLMCPR values to only Cycle 7 operation will not increase the probability or consequences of accidents previously evaluated. The updating of the footnote on the SLMCPR value in Technical Specification 2.1.2 is an administrative change that has no effect on the probability or consequences of accidents previously evaluated.

Therefore, the proposed TS change does not involve an increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed license amendment involves a revision of the SLMCPR from 1.09 to 1.11 for two recirculation loop operation and from 1.11 to 1.13 for single loop operation based on the results of analysis of the Cycle 7 core using the same fuel types as in previous fuel cycles, and updating of the footnote on the SLMCPR values in TS 2.1.2. Creation of the possibility of a new or different kind of accident would require the creation of one or more new precursors of that accident. New accident precursors may be created by modifications of the plant configuration, including changes in the allowable methods of operating the facility. This proposed license amendment does not involve any modifications of the plant configuration or changes in the allowable methods of operation. Therefore, the proposed TS change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The change does not involve a significant reduction in the margin of safety.

The proposed license amendment establishes a revised SLMCPR value of 1.11 for two recirculation loop operation and 1.13 for single recirculation loop operation for use during Cycle 7 operation. The derivation of the cycle-specific SLMCPRs was performed using "General Electric Standard Application for Reactor Fuel," NEDE–24011–P–A–13; U.S. Supplement, EDE–24011–P–A–13–US, August 1996; and the "Proposed Amendment 25 to GE Licensing Topical Report NEDE–24011–P–A (GESTAR II) on Cycle Specific Safety Limit MCPR." Amendment 25 was submitted by General Electric Nuclear Energy (GENE) to the NRC on December 13, 1996. Use of these methods ensures that the resulting SLMCPR satisfies the fuel design safety criteria that less than 0.1 percent of the fuel rods experience boiling transition if the safety limit is not violated. Based on the assurance that the fuel design safety criteria will be met, the proposed license amendment does not involve a significant reduction in a margin of safety.

Additionally, updating of the footnote on the SLMCPR value in TS 2.1.2 will not decrease the margin of safety for accidents previously evaluated. The updating of the footnote on the SLMCPR value in Technical Specification 2.1.2 is an administrative change that does not reduce the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Monroe County Library System, Ellis Reference and Information Center, 3700 South Custer Road, Monroe, Michigan 48161.

Attorney for licensee: John Flynn, Esq., Detroit Edison Company, 2000 Second Avenue, Detroit, Michigan 48226.

NRC Project Director: Cynthia A. Carpenter.

Florida Power and Light Company, et al., Docket Nos. 50–335 and 50–389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of amendment request: May 27, 1998.

Description of amendment request: The request, if granted, would modify the Technical Specifications to allow the use of various controlled shift structures during a 36 to 48 hour work week. The request will allow the use of up to 12 hour shifts without routine heavy use of overtime.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Operation of the facility in accordance with the proposed amendments would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendments will delete the TS 6.2.2.f. requirement ". . . to have operating personnel work a normal 8-hour day, 40-hour week while the plant is operating." The proposed change will allow FPL to implement various controlled shift structures and durations during a nominal (36 to 48 hours) work week. The proposed changes will allow the use of up to 12 hour shifts without routine heavy use of overtime. The TS will continue to require the controls and guidelines for work hours to be contained in administrative procedures. The proposed amendments do not involve a change to any structure, system, or component that affects the probability or consequences of an accident previously evaluated. The proposed amendments are administrative in nature and do not involve a significant increase in the probability or consequences of any accident previously evaluated.

(2) Operation of the facility in accordance with the proposed amendments would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendments will not change the physical plant or modes of plant operation and therefore, will not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed amendments will not result in the addition or modification of equipment for any systems, structures, or components at St. Lucie.

The proposed changes modify the controls on working hours for operating personnel without significantly changing the hours worked on a weekly or annual basis, and do not alter the current guidelines on the use of overtime. The changes are administrative in nature. Consequently, operation of either unit in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Operation of the facility in accordance with the proposed amendments would not involve a significant reduction in a margin of safety.

The proposed amendments will delete the TS 6.2.2.f. requirement ". . . to have operating personnel work a normal 8-hour day, 40-hour week while the plant is operating." The proposed change will allow FPL to implement various controlled shift structures and durations during a nominal (36 to 48 hours) work week. The proposed changes will allow the use of up to 12 hour shifts without routine heavy use of overtime. The TS will continue to require the controls and guidelines for work hours to be contained in administrative procedures. This will result in fewer operating shift-to-shift turnovers per day and will allow more contiguous days off between work shifts. The net result of longer work shifts will be more rested crews with better communications between shifts.

The proposed changes do not alter the current guidelines on the use of overtime and will not alter the basis for any TS that is related to the establishment of, or maintenance of, a nuclear safety margin. Consequently, operation of St. Lucie Units 1 and 2 in accordance with the proposed amendments will not involve a significant reduction in a margin of safety.

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The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Indian River Community College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34981–5596.

Attorney for licensee: M.S. Ross, Attorney, Florida Power & Light, P.O. Box 14000, Juno Beach, Florida 33408–0420

NRC Project Director: Frederick J. Hebdon.

Florida Power and Light Company, et al., Docket Nos. 50–335 and 50–389 St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of amendment request: June 3, 1998

Description of amendment request: The request will modify the Technical Specifications to provide for the use of an interim periodic method of monitoring oxygen concentration in the service waste decay tanks in the event that continuous monitoring capability is lost.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

> (1) Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.
>
> The proposed license amendments are administrative in nature and will rectify an inconsistency between Surveillance Requirement 4.11.2.5.1 and the UFSAR that was inadvertently created by previous license amendments. The revisions will reinstate a previously approved conditional exception to the explicit terms of the presently stated TS requirement to continuously monitor the waste gases in the on service Waste Gas Decay Tank, and allow limited system operation using the laboratory gas partitioner to periodically analyze gas samples in the event that continuous monitoring capability becomes inoperable. Limits for potentially explosive mixtures of waste gases have not been altered, and explosive gas monitoring instrumentation does not prevent or mitigate design basis accidents or transients which assume a failure of or a challenge to a fission product barrier. The proposed revisions do not involve any change to the plant accident analyses assumptions, and do not involve accident initiators. Therefore, operation of either facility in accordance with its proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.
>
> (2) Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.
>
> The proposed license amendments are administrative in nature and rectify an inconsistency between Technical Specification 4.11.2.5.1 and the UFSAR that was inadvertently created by previous license amendments. The revisions will not change the physical plant or the modes of plant operation defined in the Facility Licenses. The changes do not involve the addition or modification of equipment nor do they alter the design of plant systems. Therefore, operation of either facility in accordance with its proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.
>
> (3) Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.
>
> The proposed license amendments are administrative in nature and rectify an inconsistency between Surveillance Requirement 4.11.2.5.1 and the UFSAR that was inadvertently created by previous license amendments. The revisions will reinstate a previously approved conditional exception to the explicit terms of the presently stated TS requirement to continuously monitor the waste gases in the on service Waste Gas Decay Tank, and allow limited system operation using the laboratory gas partitioner to periodically analyze gas samples in the event that continuous monitoring capability becomes inoperable. Limits for potentially explosive mixtures of waste gases have not been altered, and explosive gas monitoring instrumentation does not prevent or mitigate design basis accidents or transients which assume a failure of or a challenge to a fission product barrier. The proposed changes do not alter the basis for any technical specification that is related to the establishment of, or the maintenance of, a nuclear safety margin. Therefore, operation of either facility in accordance with its proposed amendment would not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Indian River Community College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34981–5596.

Attorney for licensee: M.S. Ross, Attorney, Florida Power & Light, P.O. Box 14000, Juno Beach, Florida 33408–0420.

NRC Project Director: Frederick J. Hebdon.

Indiana Michigan Power Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Units 1 and 2, Berrien County, Michigan.

Date of amendment requests: March 3, 1998.

Description of amendment requests: The proposed amendments would remove the word "immediately" from the Unit 1 hydrogen recombiner surveillance requirement 4.6.4.2.b.4 and revise the Unit 1 and Unit 2 Technical Specification 3/4.6.4 bases.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

> In accordance with 10 CFR 50.92, the proposed changes do not involve a significant hazards consideration if the changes do not:
>
> 1. Involve a significant increase in the probability or consequences of an accident previously evaluated;
> 2. Create the possibility of a new or different kind of accident from any accident previously evaluated; or
> 3. Involve a significant reduction in a margin of safety.
>
> *Criterion 1*
>
> This amendment request does not involve a significant increase in the probability or consequences of an accident previously evaluated. The change removes an ambiguous word from the technical specification. It does not physically alter the recombiner, nor does it adversely impact its operating characteristics.
>
> The resistance to ground test will continue to be used to detect circuit faults. However, with the removal of the word "immediately", it will be possible to conduct the test near the ambient temperature, the temperature for which the 10,000 ohm criterion is applicable. The previously observed resistance value that was lower than 10,000 ohms is not indicative of a faulted heater circuit. Rather, it is the result of an elevated heater temperature and the electrical characteristics of the heater's insulating material, magnesium oxide. Magnesium oxide has a negative electrical resistance temperature coefficient, and it is not unusual or unacceptable for the measured insulation resistance to be less than 10,000 ohms when the heater temperature is elevated.
>
> *Criterion 2*
>
> This proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated. The hydrogen recombiner is used to mitigate the consequences of an accident, and it performs no function during normal operation. The change to the surveillance requirement removes an ambiguous word and does not affect the equipment or its installed configuration. No accident initiators that might be introduced by this change have been identified.

Criterion 3

This proposed change does not involve a significant reduction in a margin of safety. The change removes an ambiguous word from the T/S. The performance characteristics for the recombiner are not affected by this change, and no margin of safety is impacted.

The resistance to ground test will continue to be used to detect circuit faults. However, with the removal of the word "immediately", it will be possible to conduct the test near the ambient temperature, the temperature for which the 10,000 ohm criterion is applicable. The previously observed resistance values that were lower than 10,000 ohms are not indicative of a faulted heater circuit. Rather, they are the result of an elevated heater temperature and the electrical characteristics of the heater's insulating material, magnesium oxide. Magnesium oxide has a negative electrical resistance temperature coefficient, and it is not unusual or unacceptable for the measured insulation resistance to be less than 10,000 ohms when the heater temperature is elevated.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, MI 49085

Attorney for licensee: Jeremy J. Euto, Esq., 500 Circle Drive, Buchanan, MI 49107

NRC Acting Project Director: Dr. Ronald R. Bellamy

Northeast Nuclear Energy Company (NNECO), et al., Docket No. 50–423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of amendment request: May 7, 1998

Description of amendment request: The proposed revision to the Millstone Unit 3 licensing basis would address the addition of the dose from refueling water storage tank (RWST) back leakage into the design basis loss-of-coolant accident (LOCA) analysis and Chapter 15 of the Final Safety Analysis Report (FSAR).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

> NNECO has reviewed the proposed revision in accordance with 10CFR50.92 and concluded that the revision does not involve a significant hazards consideration (SHC). The basis for this conclusion is that the three criteria of 10CFR50.92(c) are not satisfied. The proposed revision does not involve an SHC because the revision would not:
>
> 1. Involve a significant increase in the probability or consequence of an accident previously evaluated.
>
> The RWST is a standby system during normal operation, and provides the initial makeup water supply for the Emergency Core Cooling System (ECCS) when actuated in response to a Safety Injection signal. The RWST supply piping does not interface directly with the Reactor Coolant System or associated Reactor Coolant Pressure Boundary piping. All piping, up to and including the last isolation valve prior to the RWST, is rated for pressure exceeding RSS [recirculation spray system] pump discharge pressure.
>
> The RWST is a passive tank, vented to atmosphere. Following swapover to post-LOCA recirculation cooling, the RWST is isolated and is no longer required for accident mitigation purposes. Back leakage will collect in the tank and mix with any remaining volume of water. The temperature of the mixed fluid will not significantly exceed the ambient temperature of the remaining tank volume due to the extremely low leakage rates involved. Because the tank is vented to atmosphere, pressurization of the tank [cannot] occur.
>
> The specific condition of back leakage through the RWST isolation valves in combination with a motor operated valve failure does not contribute to the probability of a malfunction previously evaluated in the Safety Analysis Report. In lines that contain a motor operated valve and result in back leakage to the RWST, there exists another valve in series. The other valve is either another motor operated valve, a check valve, or a manually operated valve. The most limiting single failure assumed is the failure of the lowest leakage series valve to close and results in the maximum calculated leakage rate. Certain ECCS check valves are not subject to single failure consideration and are therefore credited as the barrier valve against back leakage.
>
> The back leakage into the RWST results in sump water entering the RWST when it is at its minimum level. The RWST now becomes a radioactive source and contributes a shine dose to the surrounding areas. The increase in dose rates onsite will not prevent operators from remaining in the control room or from accessing equipment needed to mitigate the accident.
>
> All piping and valves associated with RWST back leakage are located in harsh radiation areas. Backflow from RSS could increase dose rates in the areas where these valves are located. Since these areas are already classified as harsh radiation environments post LOCA, additional dose contributions from these pipes would not adversely impact EEQ [environmental qualification of electrical equipment] doses to vital equipment located in these rooms. Any vital equipment located within would continue to perform its safety function.
>
> The leakage back to the RWST has no effect on the ability of the RSS pumps to perform their design function. The NPSH [net positive suction head] required by the RSS pumps is not adversely impacted by the loss of sump water back to the RWST. The RSS switchover to cold leg recirculation occurs prior to reaching a minimum level of 392,000 gallons in the RWST. Not counting the reactor coolant system volume, 774,000 gallons of water is in the sump. QSS [quench spray system] pumps shut off when the inventory in the RWST decreases to 93,000 gallons. Another 303,000 gallons will reach the sump prior to QSS shutoff. RWST back leakage displaces approximately 36,000 gallons of sump water back into the RWST at the end of 720 hours, leaving more than 1,000,000 gallons, not counting RCS [reactor coolant system] volume, in the sump. When RSS switches over to recirculation, at least 774,000 gallons of water will remain in the sump. After 720 hours, more water resides in the sump than when RSS is started. Therefore minimum NPSH requirements will not be impacted by this leakage.
>
> Post-LOCA back leakage to the RWST has not previously been included in the radiological consequence analyses for Millstone Unit 3. Including this source in dose assessment increases the consequences of the accident. NNECO has tested the associated valves to establish bounding criteria to be used in the analysis of potential radiological consequences. The contribution of the RWST back leakage has been determined to be 2.1 Rem at the LPZ [low population zone] and 0.9 Rem at the Control Room. When combined with the present LOCA analysis radiological consequences, the results remain below the previously analyzed values reported in the FSAR. All dose estimates reflect the limiting exposure which, in this case, is Thyroid dose. All resultant doses are less than 10CFR100 and GDC [General Design Criterion] 19 limits to offsite and control room.
>
> Back leakage to the RWST from the operation of RSS is a result of a LOCA. It cannot increase the probability of a LOCA. Therefore RWST back leakage does not increase the probability of an accident previously evaluated.
>
> Based on the above, the proposed license amendment request does not involve a significant increase in the probability or consequence of an accident previously evaluated.
>
> 2. Create the possibility of a new or different kind of accident from any accident previously evaluated.
>
> No new condition potentially impacting the ability to mitigate the accident is created by the back leakage. The low leakage rates from these valves occurs over [an] extended period of time during which other makeup water sources can be brought into service to account for lost inventory, if necessary.
>
> Therefore, the proposed license amendment request does not create the possibility of a new or different kind of accident from any accident previously evaluated.
>
> 3. Involve a significant reduction in a margin of safety.
>
> The resultant dose from back leakage of ECCS valves to the RWST does not reduce the Margin of Safety. The offsite and control room doses, with the addition from RWST back leakage, remain below the licensing

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base dose as listed in the SAR [safety analysis report]. Technical Specification 6.8.4 defines the basis for the leak reduction program. The basis for the program is to reduce leakage outside containment to the maximum extent possible. The Technical Specifications do not define the maximum amount of leakage or the origin of the leakage. The addition of the back leakage valves to the leak reduction program does not reduce the Margin of Safety.

Therefore, the proposed license amendment request does not involve a significant reduction in a margin of safety.

In conclusion, based on the information provided, it is determined that the proposed revision does not involve an SHC.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, Connecticut.

NRC Deputy Director: Phillip F. McKee.

Northeast Nuclear Energy Company (NNECO), et al., Docket No. 50–423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of amendment request: June 5, 1998

Description of amendment request: The proposed revision to the Millstone Unit 3 licensing basis would address a recent steam generator tube rupture (SGTR) analysis that was determined to be an unreviewed safety question. The SGTR analyses described in the Final Safety Analysis Report (FSAR) include an offsite dose analysis and a margin to overfill analysis. Both of the analyses have been updated. The offsite dose analysis was updated to reflect a larger capacity for the steam generator atmospheric dump valve, and the margin to overfill analysis was updated to reflect a new single failure.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

NNECO has reviewed the proposed revision in accordance with 10CFR50.92 and has concluded that the revision does not involve a significant hazards consideration (SHC). The basis for this conclusion is that the three criteria of 10CFR50.92(c) are not satisfied. The proposed revision does not involve an SHC because the revision would not:

1. Involve a significant increase in the probability or consequence of an accident previously evaluated.

The FSAR Steam Generator Tube Rupture offsite dose analysis is being updated to reflect a larger capacity for the steam generator atmospheric dump valve. The updated analysis, as well as the current FSAR analysis, postulate the failure, in the open position, of the steam generator atmospheric dump valve associated with the steam generator with the ruptured tube. Revising the analyses does not impact the failure probability of the steam generator atmospheric dump valve. The SGTR analyses credit closure of the atmospheric dump valve block valve to isolate the failed open atmospheric dump valve. The revised SGTR analysis uses a larger flow capacity for the atmospheric dump valve. A larger flow capacity, without other changes being made, would increase the consequences associated with this failure. However, the time credited for closure of the block valve is being reduced to 20 minutes after the atmospheric dump valve fails open, instead of 30 minutes after the atmospheric dump valve fails open. A shorter isolation time, without other changes being made, would decrease the consequences associated with the atmospheric dump [valve] failing open. This faster isolation time more than compensates for the larger capacity assumed for the atmospheric dump valve. Therefore, the revised analyses does not increase the consequences of a Steam Generator Tube Rupture. The change is a revision to the analyses for a steam generator tube rupture and the description of the analyses in the FSAR. Changing the analyses and its description [cannot] cause an increase in the probability of a steam generator tube rupture.

Therefore, the proposed revision does not involve a significant increase in the probability or consequence of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The change is to the analyses and FSAR description of that analyses. The important changes in the analyses are the increased capacity of the atmospheric dump valve and the shorter time utilized for isolation of the failed open atmospheric dump valve. The only change in equipment credited in the analyses is the crediting of the block valve to close when there is a larger flow through the valve. The block valve can close under the postulated accident conditions.

Therefore, the proposed revision does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The revised analyses reduces the time available to the Operators to isolate the failed open atmospheric dump valve from 30 minutes to 20 minutes. The actions required are unchanged. The twenty minutes allows sufficient time for the Operators to both recognize the failure of the atmospheric dump valve and to close the block valve. However, reducing the available time to the Operators from 30 minutes to 20 minutes represents a reduction in the margin for error available to the Operators and thus represents a reduction in the margin of safety. The reduction in the margin of safety is not significant since the twenty minutes allowed by the analysis is still significantly above the typical ten minute minimum assumed response time for Operator actions performed in the control room. In addition, Operator training provides assurance that the twenty minute time limit is met.

Therefore, the proposed revision does not involve a significant reduction in a margin of safety.

In conclusion, based on the information provided, it is determined that the proposed revision does not involve an SHC.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, Connecticut.

NRC Deputy Director: Phillip F. McKee.

Northeast Nuclear Energy Company (NNECO), et al., Docket No. 50–423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of amendment request: June 6, 1998.

Description of amendment request: The proposed revision to the Millstone Unit 3 licensing basis relates to operation of the supplementary leak collection and release system (SLCRS) after a postulated accident. Specifically, the proposed revision to the Final Safety Analysis Report (FSAR) would address (1) the manual actions required to trip the non-nuclear safety grade fans and time requirements for control room ventilation realignment, and (2) the input assumptions and results of the new loss-of-cooling accident/control rod ejection accident analyses.

Basis for proposed no significant hazards consideration determination:

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

NNECO has reviewed the proposed revision in accordance with 10CFR50.92 and has concluded that the revision does not involve a significant hazards consideration (SHC). The basis for this conclusion is that the three criteria of 10CFR50.92(c) are not satisfied. The proposed revision does not involve [an] SHC because the revision would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The potential condition of radioactive effluent bypassing the isolated boundary in the Supplemental Leak Collection and Release System after an accident cannot contribute to the probability of an accident previously evaluated. The leakage is caused by a postulated failure of the non-nuclear safety grade exhaust fans within the SLCRS boundary to trip after a safety injection signal. Operator action is needed to verify that the fans in question are tripped within a predetermined time delay after the accident in order that credit can be taken in the radiological dose analysis for the isolation of this source.

The proposed operator action will verify that the power to the fan motors is terminated, which cannot create any conditions leading to a new accident. The verification will augment the procedure to minimize the consequences of the accident itself. The trip circuits of the fan motors do not interface with safety systems.

The consequences of the limiting design basis accidents have been evaluated with the additional bypass leakage. The doses for the Exclusion Area Boundary, Low Population Zone and Unit 3 Control room remain below the previously calculated and approved licensing values. The calculated doses for the Technical Support Center are higher than previously approved, but below the radiological acceptance criteria of GDC [General Design Criterion] 19.

Therefore, the proposed license amendment does not involve a significant increase in the probability or consequence of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

There are no conceivable conditions, created by the proposed operator action, that may lead to the possibility of a new accident. Interruption of power to the exhaust fans is, in itself, a part of accident mitigating activity. The proposed activity cannot create an adverse environment where a possibility of a new accident has to be considered.

The breakers used to de-energize the fans, control only the fan motors and no other equipment. Clear labeling ensures that no safety equipment is inadvertently de-activated. The revised ventilation system operating procedure will clearly specify the order of steps and confirmatory indicators necessary for safe shutdown of the exhaust fans. The equipment operator will be briefed before proceeding to open the breakers to the affected fan motors. To minimize the possibility of an error, this step will be done early in the sequence of procedural steps performed to re-align the control room ventilation system to the filtration/recirculation mode of operation after an accident.

Therefore, the proposed license amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

In considering the impact of the proposed revision on the margin of safety, as defined in the Technical Specifications, the impact on the design basis analysis of the fission product barriers must be evaluated.

The proposed operator action to trip the fans is done as part of personnel protective actions after a major accident, which is to stop the distribution of radioactive iodine into the vital areas through the ventilation system within a predetermined time. The maintenance of the fission product barriers is not affected by this action. This potential source of radioactivity associated with the ventilation fans discharging through the closed SLCRS boundary dampers has not been considered previously in the dose analysis. Including this source results in a small increase in the gamma and beta doses to the Technical Support Center. The GDC 19 limits for protection of personnel in the vital areas however, are not violated. The calculated doses to EAB/LPZ [exclusion area boundary and the low population zone] zones and to the control room vital area remain below the current licensing base values.

Therefore, the proposed license amendment request does not involve a significant reduction in a margin of safety.

In conclusion, based on the information provided, it is determined that the proposed revision does not involve an SHC.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, Connecticut.

NRC Deputy Director: Phillip F. McKee.

Pennsylvania Power and Light Company, Docket Nos. 50-387 and 50-388; Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: April 23, 1998.

Description of amendment request: The amendment would update the operating licenses such that the corporate name of Pennsylvania Power and Light Company "be changed to PP&L, Inc."

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will the change involve a significant increase in the probability or consequences of an accident previously evaluated?

No. This request involves an administrative change only. The Operating Licenses (OLs) are being changed to reference the new corporate name of the licensee. No actual plant equipment or accident analyses will be affected by the proposed changes. Therefore, this request will have no impact on the possibility of any type of accident: new, different, or previously evaluated.

2. Will the change create the possibility of a new or different kind of accident from any accident previously evaluated?

No. This request involves an administrative change only. The OLs are being changed to reference the new corporate name of the licensee. No actual plant equipment or accident analyses will be affected by the proposed change and no failure modes not bounded by previously evaluated accidents will be created. Therefore, this request will have no impact on the possibility of any type of accident: new, different, or previously evaluated.

3. Will the change involve a significant reduction in a margin of safety?

No. Margin of safety is associated with confidence in the ability of the fission product barriers (i.e., fuel and fuel cladding, Reactor Coolant System pressure boundary, and containment structure) to limit the level of radiation dose to the public. This request involves an administrative change only. The OLs are being changed to reference the new corporate name of the licensee.

No actual plant equipment or accident analyses will be affected by the proposed change. Additionally, the proposed change will not relax any criteria used to establish safety limits, will not relax any safety systems settings, or will not relax the bases for any limiting conditions of operation. Therefore, this request will not impact margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the

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amendment request involves no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037.

NRC Project Director: Robert A. Capra.

Philadelphia Electric Company, Docket No. 50–171, Peach Bottom Atomic Power Station, Unit 1, York County, Pennsylvania

Date of application for amendment: March 2, 1998

Brief description of amendment: This proposed amendment will revise the Peach Bottom Atomic Power Station, Unit 1, Technical Specifications (TS) to include requirements for control of effluents and annual reporting in accordance with the requirements of 10 CFR 50.36a.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

a. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed changes do not impact the SAFSTOR status of Unit 1 or the design of any plant system, structure, or component (SSC). These changes are administrative in nature. They do not affect security at Unit 1 or the potential of radioactive material being released. Inspections for potential liquid and gas effluents have previously been established. These changes ensure the requirement for procedures and reporting are listed in TS. Therefore, these proposed changes do not increase the probability or consequences of an accident previously evaluated.

b. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated because implementation of the proposed changes do not involve any physical changes to plant SSC or impact the SAFSTOR status. The changes are administrative in nature. Therefore, the possibility of a new or different kind of accident from any accident previously evaluated is not created.

c. Does the proposed amendment involve a significant reduction in a margin of safety?

The proposed changes do not involve a significant reduction in a margin of safety because the proposed changes do not affect the plant SAFSTOR status. Because proposed changes are administrative in nature, they do not involve a question of safety. These changes involve reporting and adding a requirement that procedures be in place for effluent monitoring. Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Attorney for licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, PECO Energy Company, 2301 Market Street, Philadelphia, Pennsylvania 19101.

NRC Branch Chief: John W. N. Hickey.

Public Service Electric & Gas Company, Docket No. 50–354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: May 13, 1998.

Description of amendment request: The proposed amendment would revise Technical Specification (TS) 3/4.10.8, "Inservice Leak and Hydrostatic Testing," to delete the requirement for an operable High Drywell Pressure trip function. Specifically, TS 3.10.8.a is being revised to remove the reference to the Secondary Containment Isolation Actuation Instrumentation trip function 2.b.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed TS revisions will continue to allow the performance of inservice leak and hydrostatic testing at a reactor coolant temperature of greater than 200 degrees Fahrenheit but less than or equal to 212 degrees Fahrenheit while considering the plant to remain in Operational Condition 4; however, the requirement to have an operable "High Drywell Pressure" Secondary Containment Isolation trip function during a leak or hydrostatic test is being deleted. This change will not have an impact on the consequences of an accident previously evaluated since the tests will continue to be performed nearly water solid and with all control rods fully inserted. The stored energy in the reactor core and coolant will continue to be very low and the potential for causing fuel failures with a subsequent increase in coolant activity will continue to be minimal. The remaining restrictions provided in Special Test Exception 3.10.8 requiring Secondary Containment Integrity and Filtration, Recirculation and Ventilation System (FRVS) operability will continue to provide assurance that potential releases into secondary containment will be restricted from direct release to the environment. With the reactor coolant continued to be limited to 212 degrees Fahrenheit, there will be little or no flashing of coolant to steam, and any release of radioactive materials will be minimized.

In the event of a large primary system leak, the reactor vessel will rapidly depressurize, allowing the low pressure Emergency Core Cooling Systems (ECCS) to operate. The capability of the required ECCS in Operational Condition 4 remains adequate to maintain the core flooded under these conditions. Small system leaks will continue to be detected by leakage inspections, which are an integral part of the inservice leak and hydrostatic testing programs, before any significant inventory loss can occur. In addition, the "High Drywell Pressure" Secondary Containment Isolation trip function (TS Table 3.3.2–1, Trip Function 2.b) provides no additional protection against the events of concern during the inservice leak and hydrostatic tests. As a result, these changes will not increase the probability of an accident previously evaluated nor significantly increase the consequences of an accident previously evaluated.

(2) The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes to Special Test Exception 3.10.8 contained in this submittal will not adversely impact the operation of any safety related component or equipment. Since the proposed changes involve no hardware changes and no changes to existing structures, systems or components, there can be no impact on the potential occurrence of any accident due to new equipment failure modes. The remaining restrictions provided in proposed Special Test Exception 3.10.8 requiring Secondary Containment Integrity and Filtration, Recirculation and Ventilation System (FRVS) operability will continue to function as required, which will provide assurance that potential releases into secondary containment will be restricted from direct release to the environment. Furthermore, there is no change in plant testing proposed in this change request that could initiate an event. Therefore, these changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The proposed change does not involve a significant reduction in a margin of safety.

The proposed TS revisions will still allow the performance of inservice leak and hydrostatic testing at a reactor coolant temperature of greater than 200 degrees Fahrenheit but less than or equal to 212 degrees Fahrenheit while considering the plant to remain in Operational Condition 4; however, the requirement to have an operable "High Drywell Pressure" Secondary Containment Isolation trip function during a leak or hydrostatic test is being deleted. Since the reactor vessel head will remain in place, secondary containment will continue to be maintained, sufficient isolation actuation instrumentation will be maintained and all systems required in Operational Condition 4 will continue to be operable in accordance with the TS, the proposed changes will not have any significant impact on any design basis accident or safety limit. Since Hope Creek will still remain capable of meeting all applicable design basis requirements and retaining the capability to mitigate the consequences of accidents described in the UFSAR, the proposed changes contained in this submittal were determined to not result in a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, NJ 08070.

Attorney for licensee: Jeffrie J. Keenan, Esquire, Nuclear Business Unit—N21, P.O. Box 236, Hancocks Bridge, NJ 08038.

NRC Project Director: Robert A. Capra.

Public Service Electric & Gas Company, Docket No. 50–354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: June 12, 1998.

Description of amendment request: The proposed amendment would revise Technical Specification (TS) Limiting Condition for Operation (LCO) sections 3.7.1.1, 3.7.1.2, and 3.7.1.3. Specifically, the proposed changes implement more appropriate Ultimate Heat Sink (UHS) limits for river water temperature, which increases operational flexibility. In addition, the Station Service Water System (SSWS) and Safety Auxiliaries Cooling System (SACS) TS Action Statements are being revised to provide additional restrictions on continued plant operation. These revisions provide explicit TS guidance, which maintains SSWS/SACS operating configurations within design analysis assumptions.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

LCO 3.7.1.3 Changes

The proposed TS revisions related to UHS involve no hardware changes and no changes to existing structures, systems or components. The UHS and supported system temperature and configuration limits ensure that the UHS can remove required heat loads during design basis accidents and transients with the proposed UHS river water temperature limits. The proposed UHS TS ACTION Statements ensure that the plant is directed to enter a safe shutdown condition whenever the capability to mitigate design basis accidents and transients is lost. The existing UHS TS surveillance requirements to increase monitoring of the river water temperature at 82°F adequately ensures that the actions required at elevated river water temperature conditions are taken as appropriate. Since the UHS will still remain capable of meeting all applicable design basis requirements and retaining the capability to mitigate the consequences of accidents described in the [Hope Creek] HC [Updated Final Safety Analysis Report] UFSAR, the proposed changes were determined to be justified. As a result, these changes will not increase the probability of an accident previously evaluated nor significantly increase the consequences of an accident previously evaluated.

LCO 3.7.1.1 and 3.7.1.2 Changes

The proposed TS revisions related to SSWS/SACS operating configuration restrictions involve no hardware changes and no changes to existing structures, systems or components. The additional restrictions requiring: 1) SACS heat exchanger operability in one SSWS/SACS pump per loop scenarios; and 2) assessments of SACS loop operability when a SSWS loop is declared inoperable; ensure that the SSWS/SACS can remove required heat loads during design basis accidents and transients with the proposed UHS river water temperature limits contained in this submittal. The proposed SSWS/SACS TS ACTION Statements ensure that the plant is directed to enter a safe shutdown condition whenever the capability to mitigate design basis accidents and transients is lost. Since SSWS/SACS will still remain capable of meeting all applicable design basis requirements and retaining the capability to mitigate the consequences of accidents described in the HC UFSAR, the proposed changes were determined to be justified. As a result, these changes will not increase the probability of an accident previously evaluated nor significantly increase the consequences of an accident previously evaluated.

(2) The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

LCO 3.7.1.3 Changes

The proposed changes to the UHS TS contained in this submittal will not adversely impact the operation of any safety related component or equipment. Since the proposed changes involve no hardware changes and no changes to existing structures, systems or components, there can be no impact on the potential occurrence of any accident due to new equipment failure modes. The system configuration limits imposed by the UHS LCO ensure that supported systems can remove required heat loads during design basis accidents and transients with the proposed UHS river water temperature limits. Furthermore, there is no change in plant testing proposed in this change request that could initiate an event. Therefore, these changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

LCO 3.7.1.1 and 3.7.1.2 Changes

The proposed changes to the SSWS/SACS TS contained in this submittal will not adversely impact the operation of any safety related component or equipment. Since the proposed changes involve no hardware changes and no changes to existing structures, systems or components, there can be no impact on the potential occurrence of any accident due to new equipment failure modes. The system configuration limits imposed by the SSWS/SACS LCOs ensure that systems can remove required heat loads during design basis accidents and transients with the proposed UHS river water temperature limits. Furthermore, there is no change in plant testing proposed in this change request that could initiate an event. Therefore, these changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The proposed change does not involve a significant reduction in a margin of safety.

LCO 3.7.1.3 Changes

The proposed changes for the TS related to the UHS ensure continued capability of the UHS to mitigate the consequences of design basis accidents and transients. The UHS supported systems' configuration limits and changes to the operating limits of the UHS ensure that the UHS can remove required heat loads during design basis accidents and transients with the proposed river water temperature limits. The proposed UHS TS ACTION Statements ensure that the plant is directed to: 1) enter a safe shutdown condition whenever the capability to mitigate design basis accidents and transients is lost; or 2) enter a conservatively short period of continued operation when supported system redundancy is reduced. Since the UHS will still remain capable of meeting all applicable design basis requirements and retaining the capability to mitigate the consequences of accidents described in the HC UFSAR, the proposed changes contained were determined to not result in a significant reduction in a margin of safety.

LCO 3.7.1.1 and 3.7.1.2 Changes

The proposed changes for the TS related to the SSWS/SACS ensure continued capability of these systems to mitigate the consequences

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of design basis accidents and transients. The proposed configuration limits ensure that the safety-related heat removal systems can perform their safety functions during design basis accidents and transients with the proposed river water temperature limits. The SSWS/SACS TS ACTION Statements ensure that the plant is directed to: 1) enter a safe shutdown condition whenever the capability to mitigate design basis accidents and transients is lost; or 2) enter a conservatively short period of continued operation when supported system redundancy is reduced. Since the SSWS/SACS will still remain capable of meeting all applicable design basis requirements and retaining the capability to mitigate the consequences of accidents described in the HC UFSAR, the proposed changes contained were determined to not result in a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, NJ 08070.

Attorney for licensee: Jeffrie J. Keenan, Esquire, Nuclear Business Unit—N21, P.O. Box 236, Hancocks Bridge, NJ 08038.

NRC Project Director: Robert A. Capra.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: May 7, 1998.

Description of amendment request: The proposed amendment would change the Technical Specifications (TSs) to reflect reactor coolant system flow differences between the existing Model E and the replacement Delta 94 steam generators (SGs). Specifically, it would (1) add a new reactor core safety limit figure in TS 2.1.1, Reactor Core Safety Limits, that shows curves that are a function of core temperature, power and operating pressure, applicable to the Delta 94 SGs, (2) add a footnote in TS Table 2.2–1, Reactor Trip System Instrumentation Trip Setpoints, to specify a new design loop flow rate applicable to the Delta 94 SGs, and (3) add a new flow rate requirement to TS 3.2.5, Departure from Nucleate Boiling (DNB) Parameters, applicable to the Delta 94 SGs. Related changes to the TS Bases were also proposed for Bases 2.1.1, Reactor Core Safety Limits, and Bases 3/4.2.5, DNB Parameters.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed Technical Specification changes are necessary to reflect new conditions associated with replacement of the steam generators. The differences in the replacement steam generators only require small changes to parameters modeled in existing accident analyses. Accident analyses affected by the replacement steam generator parameter changes have each been evaluated to establish that there is no significant change in the documented results. In cases where an evaluation was not adequate, new analyses have been performed to verify that there is no significant change in the consequences of the affected accidents.

The Technical Specification changes specify new requirements (i.e., changed RCS [reactor coolant system] flow) which support the new and existing accident analyses. The accident analysis performed for these new requirements determined that neither the probability, nor the consequences, of accidents previously evaluated in the UFSAR [Updated Final Safety Analysis Report] would be increased.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed Technical Specification changes are necessary to reflect new conditions associated with replacement of the steam generators. The differences in the replacement steam generators only require small changes to parameters modeled in existing accident analyses. The replacement of the original steam generators with new Model Delta 94 steam generators improves the structural integrity of the steam generator tubes. The improved structural integrity of the new steam generators does not increase the possibility of a new or different kind of accident from any accident previously evaluated such as a multiple steam generator tube rupture event.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed change does not alter the manner in which Safety Limits, Limiting Safety System Setpoints, or Limiting Conditions for Operations are determined. Changes in parameters assumed in safety analyses associated with replacement of the steam generators have been analyzed and new Technical Specification limits are proposed. The new limits proposed for SL [Safety Limit] 2.1.1, "Reactor Core"; Table 2.2–1, "Reactor Trip System Instrumentation Trip Setpoints"; and LCO [Limiting Condition for Operation] 3.2.5, "DNB [Departure from Nucleate Boiling] Parameters" maintain or improve the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Local Public Document Room location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, TX 77488.

Attorney for licensee: Jack R. Newman, Esq., Morgan, Lewis & Bockius, 1800 M Street, N.W., Washington, DC 20036–5869.

NRC Project Director: John N. Hannon.

Wisconsin Public Service Corporation, Docket No. 50–305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of amendment request: June 1, 1998.

Description of amendment request: The proposed amendment would revise the minimum steam generator (SG) tube roll expansion distances for the F* and elevated F* (EF*) repair criteria that were approved in Amendment 129.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed change was reviewed in accordance with the provisions of 10 CFR 50.92 to show no significant hazards exist. The proposed change will not:

(1) Involve a significant increase in the probability or consequence of an accident previously evaluated.

The changes to the minimum engagement lengths for F* and EF* do not change any of the conclusions of the original F* and EF* analyses. The technical justification for the repair criteria has not changed due to changes in the engagement lengths. The calculated engagement lengths continue to preclude tube pullout and rupture during all postulated conditions. Based on the geometry of the Model 51 SG, tube rupture type release rates are not expected for a postulated failure at an F* or EF* repair location. Engagement lengths were calculated such that structural integrity of the repaired tube meets the RG [Regulatory Guide] 1.121 requirements. Therefore, application of the new F* and EF* distances will not increase the probability of an accident previously evaluated.

The new calculated engagement lengths continue to preclude primary to secondary leakage during all conditions. Leakage for both F* and EF* remains negligible at normal operating conditions. The amount of leakage expected at faulted conditions from F* and EF* repaired tubes remains a small percentage of the maximum allowable leak rate during a[n] SLB [steamline break] and is considered negligible. Therefore, it can be concluded that leakage will be restricted such that off-site doses will not exceed a small fraction of 10 CFR part 100 and control room doses will not exceed GDC [General Design Criterion] 19 criteria. Therefore, the proposed change to the F* and EF* distances will not increase the consequences of an accident previously evaluated.

(2) Create the possibility of a new or different kind of accident from any previously evaluated.

Implementation of the proposed changes in F* and EF* distances does not introduce any significant changes to the plant design basis. As with the original acceptance of the amendment for using the original F* and EF* criteria, use of the proposed F* and EF* engagement lengths will not introduce a mechanism that will result in an accident initiated outside of the tubesheet crevice region. As previously discussed, the structural integrity of F* and EF* tubes will be maintained during all plant conditions. Any hypothetical accident as a result of tube degradation in the tubesheet crevice region of the tube will be bounded by the existing tube rupture analysis. Therefore, implementation of the proposed engagement lengths for F* and EF* will not create the possibility of a new or different kind of accident.

(3) Involve a significant reduction in the margin of safety.

The calculation for the new F* and EF* minimum engagement lengths used the same methodology as the original F* and EF* analysis. The only change was the assumed normal operating primary to secondary differential pressure. The new assumed differential pressure is the design differential pressure for the KNPP [Kewaunee Nuclear Power Plant] SGs. The calculation for the engagement lengths continues to use the appropriate safety factors from RG 1.121. The revised F* and EF* engagement lengths continue to preclude tube pullout at all plant conditions and to maintain the structural integrity of the tube. Additionally, primary to secondary leakage during all plant conditions is precluded as described in the preceding sections. Since the structural and leakage integrity is not changed by the proposed changes in engagement length, the margin of safety is not significantly reduced.

Additionally, use of the F* and EF* repair criteria will decrease the number of tubes removed from service by plugging or repaired by sleeving. Since both plugging and sleeving reduce reactor coolant flow margin, implementation of the F* and EF* repair criteria helps to maintain that flow margin.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of Wisconsin, Cofrin Library, 2420 Nicolet Drive, Green Bay, WI 54311–7001.

Attorney for licensee: Bradley D. Jackson, Esq., Foley and Lardner, P.O. Box 1497, Madison, WI 53701–1497.

NRC Acting Project Director: Ronald R. Bellamy.

Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Duke Energy Corporation, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of amendment request: February 2, 1998, as supplemented February 18, 1998.

Description of amendment request: The proposed amendments would revise the wording to specify refueling outage surveillances. The changes clarify that these surveillances are to be performed on an 18-month frequency and need not be constrained to refueling outage conditions.

Date of publication of individual notice in **Federal Register**: February 10, 1998 (63 FR 6784).

Expiration date of individual notice: For comments February 24, 1998; For hearing March 12, 1998.

Local Public Document Room location: Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina.

Duke Energy Corporation, Docket Nos. 50–269 and 50–287, Oconee Nuclear Station, Units 1 and 3, Oconee County, South Carolina

Date of amendment request: June 4, 1998.

Description of amendment request: The proposed amendments would revise Technical Specification 4.17.2 to allow continued operation with certain steam generator tubes that exceed their repair limit as a result of tube end anomalies. This action temporarily exempts these tubes from the requirement for sleeving, rerolling, or removal from service until they are repaired during or before the next scheduled refueling outages for the respective unit.

Date of publication of individual notice in **Federal Register**: June 17, 1998 (63 FR 33097).

Expiration date of individual notice: For comments July 1, 1998; For hearing July 17, 1998.

Local Public Document Room location: Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina.

Tennessee Valley Authority, Docket Nos. 50–259, 50–260 and 50–296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of application for amendments: June 6 and December 11, 1996, April 11, May 1, August 14, October 15, November 5 and 14, December 3, 4, 15, 22, 23, 29 and 30, 1997, January 23, March 12 and 13, April 16, 20 and 28; May 7, 14 and 19, and June 2, 1998.

Brief description of amendments: Conversion to Standard Improved Technical Specifications (TSs). Supplements requested less restrictive changes to the planned conversion. These changes involve (1) plant-specific application of generically approved methodology supporting extended instrument surveillance intervals and allowed outage times, (2) operating practice to treat secondary containment as a single zone, (3) TS changes to support installation of a Power Range Neutron Monitoring System, Average Power Range Monitor and Rod Block Monitor TS improvements, and the Maximum Extended Load Line Limit analysis, (4) TSs to specify reactor vessel water level should be greater than the top of the irradiated fuel, (5) reflect plant-specific design condition that excludes average U–235 enrichment, (6) all spiral off-load procedures and adopt revision to Surveillance Requirement (SR). Also, changes to (1) SR relating to core reactivity difference between actual and expected critical rod configuration, (2) calibration frequency for local power range monitors and (3) an alternate SR for Unit 3 for position verification of the low pressure core injection cross tie valves.

Date of publication of individual notices in the **Federal Register**: June 1, 1998 (63 FR 29763), and June 12, 1998 (63 FR 32252).

Expiration dates of individual notices: July 1, 1998 (63 FR 29763) and July 13, 1998 (63 FR 32252).

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611.

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Tennessee Valley Authority, Docket Nos. 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 2 and 3, Limestone County, Alabama

Date of application for amendments: October 1, 1997, as supplemented October 14, 1997, March 16, April 1 and 28, May 1 and 20, 1998.

Brief description of amendments: Change Technical Specifications to allow operation at the uprated power level of 3458 MWt which represents a power level increase of 5 percent.

Date of publication of individual notice in the **Federal Register**: June 9, 1998 (63 FR 31533).

Expiration date of individual notice: July 9, 1998.

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved.

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: March 25, 1998, as supplemented on April 8, and May 5, 1998.

Brief description of amendment: The amendment modifies the Pilgrim Nuclear Power Station Technical Specification Section 3.6.A.1 with respect to the monitoring requirements for the vessel flange and adjacent shell differential temperature during heatup and cooldown and removes the 145 °Fahrenheit differential temperature limit.

Date of issuance: June 19, 1998.

Effective date: As of the date of issuance, to be implemented within 30 days.

Amendment No.: 175.

Facility Operating License No. DPR-35: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: April 28, 1998 (63 FR 23304). The May 5, 1998, letter provided clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 19, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360

Commonwealth Edison Company, Docket Nos. 50-373 and 50-374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of application for amendments: July 15, 1996, as supplemented on June 19, 1997, and February 2, 1998.

Brief description of amendments: The amendments relocate requirements related to fire protection from the Technical Specifications (TS) to the Updated Final Safety Analysis Report. The TS sections to be relocated are: 3/4.3.7.9, Fire Detection Instrumentation; 3/4.7.5, Fire Suppression Systems; 3/4.7.6, Fire Rated Assemblies; and 6.1.C.4, Fire Brigade Staffing. The amendments also replace License Condition 2.C.(25) for Unit 1 and License Condition 2.C.(15) for Unit 2.

Date of issuance: June 10, 1998.

Effective date: Immediately, to be implemented within 60 days.

Amendment Nos.: 127 and 112.

Facility Operating License Nos. NPF-11 and NPF-18: The amendments revised the operating licenses and the Technical Specifications.

Date of initial notice in **Federal Register**: September 25, 1996 (61 FR 50340). The June 19, 1997, and February 2, 1998, supplements clarified the license conditions by providing specific approval dates for previous fire protection safety evaluations. This information was within the scope of the original application and did not change the staff's initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 10, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Jacobs Memorial Library, Illinois Valley Community College, Oglesby, Illinois 61348

Consumers Energy Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of application for amendment: March 13, 1998, as supplemented March 30, 1998.

Brief description of amendment: The amendment revises the auxiliary feedwater system technical specification to allow two auxiliary feedwater flow control valves in one train to be inoperable for up to 72 hours.

Date of issuance: June 10, 1998.

Effective date: June 10, 1998.

Amendment No.: 183.

Facility Operating License No. DPR-20: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: April 22, 1998 (63 FR 19967) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 10, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Van Wylen Library, Hope College, Holland, Michigan 49423-3698

Detroit Edison Company, Docket No. 50-341, Fermi 2, Monroe County, Michigan

Date of amendment request: May 20, 1998 (NRC-98-0099)

Description of amendment request: The amendment revises the action specified in Technical Specification 3.1.3.1, "Control Rod Operability," by changing the action statements associated with the scram discharge volume vent and drain valves to align with those in the NUREG-1433, Revision 1, "Standard Technical

Specifications General Electric Plants, BWR/4.”

Date of issuance: June 12, 1998.

Effective date: June 12, 1998.

Amendment No: 120.

Facility Operating License No. NPF–43: Amendment revises the Technical Specifications.

Public comments requested as to proposed no significant hazards considerations (NSHC): Yes (63 FR 29254 dated May 28, 1998). The notice provided an opportunity to submit comments on the Commission's proposed NSHC determination. No comments have been received. The notice also provided for an opportunity to request a hearing by June 29, 1998, but indicated that if the Commission makes a final NSHC determination, any such hearing would take place after issuance of the amendment.

The Commission's related evaluation of the amendment, finding of exigent circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated June 12, 1998.

Local Public Document Room location: Monroe County Library System, Ellis Reference and Information Center, 3700 South Custer Road, Monroe, Michigan 48161.

Attorney for licensee: John Flynn, Esq., Detroit Edison Company, 2000 Second Avenue, Detroit, Michigan 48226.

NRC Project Director: Cynthia A. Carpenter.

Duke Energy Corporation, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: May 22, 1998.

Brief description of amendments: The amendments revise Surveillance Requirement Section 4.4.3.3 of each unit's Technical Specification to be consistent with the plant design; specifically, deleting the reference to manual transfer of power supply from normal to emergency.

Date of issuance: June 17, 1998.

Effective date: As of the date of issuance.

Amendment Nos.: Unit 1—166; Unit 2—158.

Facility Operating License Nos. NPF–35 and NPF–52: The amendments revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: Yes. (63 FR 29759 dated June 1, 1998). That notice provided an opportunity to submit comments on the Commission's proposed no significant hazards consideration determination. No. comments have been received. The notice also provided for an opportunity to request a hearing by July 1, 1998, but indicated that if the Commission makes a final no significant hazards consideration determination, any such hearing would take place after issuance of the amendments.

The Commission's related evaluation of the amendments, finding of exigent circumstances, and final no significant hazards consideration determination are contained in a Safety Evaluation dated June 17, 1998.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Attorney for licensee: Mr. Paul R. Newton, Legal Department (PB05E), Duke Energy Corporation, 422 South Church Street, Charlotte, North Carolina 28242.

NRC Project Director: Herbert N. Berkow.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: March 20, 1998.

Brief description of amendment: The amendment revised the Improved Technical Specification 5.6.2.8 to reflect the current schedule for performing the required reactor coolant pump flywheel inspection.

Date of issuance: June 8, 1998.

Effective date: June 8, 1998.

Amendment No.: 167.

Facility Operating License No. DPR–31: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: May 6, 1998 (63 FR 25110).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 8, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 34428.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of application for amendments: November 22, 1996, as revised and replaced February 2, 1998.

Brief description of amendments: The amendments revise the Technical Specifications (TS) to allow for the installation of a temporary fuel oil storage and transfer system in order to maintain the operability of one Unit 3 emergency diesel generator during the performance of a required surveillance to clean the permanent fuel oil storage tank.

Date of issuance: June 9, 1998.

Effective date: June 9, 1998.

Amendment Nos.: 197 and 191.

Facility Operating Licenses Nos. DPR–31 and DPR–41: Amendments revised the TS.

Date of initial notice in **Federal Register**: February 25, 1998 (63 FR 9604).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 9, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Florida International University, University Park, Miami, Florida 33199.

North Atlantic Energy Service Corporation, et al., Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: March 23, 1998.

Description of amendment request: The proposed change would revise the Seabrook Station Technical Specifications (TSs) to add a new TS 3.0.5 that would provide an exception to TSs 3.0.1 and 3.0.2 to allow the performance of required testing to demonstrate the operability of the equipment being returned to service or the operability of other equipment.

Date of issuance: June 16, 1998.

Effective date: As of its date of issuance, to be implemented within 60 days.

Amendment No.: 57.

Facility Operating License No. NPF–86: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: April 22, 1998 (63 FR 19972)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 16, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Exeter Public Library, Founders Park, Exeter, NH 03833.

Northeast Nuclear Energy Company, et al., Docket No. 50–336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut.

Date of application for amendment: December 8, 1997.

Brief description of amendment: The changes modify the Technical Specifications to resolve several compliance issues by rewording of the text, changing terminology, correcting a

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mode applicability, correcting a formula, updating the Design Features section, and updating the Bases section to reflect the changes.

Date of issuance: June 16, 1998.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 216.

Facility Operating License No. DPR–65: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: January 28, 1998 (63 FR 4319).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 16, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of application for amendments: February 14, 1997, as supplemented by letters dated October 9, 1997, March 31, 1998, and April 15, 1998.

Brief description of amendments: The amendments revised the combined Technical Specifications (TS) for the Diablo Canyon Power Plant, Unit Nos. 1 and 2 to change the surveillance frequencies from at least once every 18 months to at least once per refueling interval (nominally 24 months) for (1) eight slave relays, (2) 20 electrical system tests, (3) one electrical Bases change, and (4) five miscellaneous tests.

Date of issuance: June 5, 1998.

Effective date: June 5, 1998, to be implemented within 90 days from the date of issuance.

Amendment Nos.: Unit 1—126; Unit 2—124.

Facility Operating License Nos. DPR–80 and DPR–82: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: March 26, 1997 (62 FR 14466). The October 9, 1997, March 31, 1998, and April 15, 1998, supplemental letters provided additional information and did not change the staff's initial no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 5, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407

Philadelphia Electric Company, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of application for amendments: January 27, 1998.

Brief description of amendments: These amendments revise Table 3.6.3–1 of the Technical Specifications by removing the isolation time for the high pressure coolant injection turbine exhaust valves and adding a notation that the isolation is not required.

Date of issuance: June 16, 1998.

Effective date: As of date of issuance, to be implemented within 30 days.

Amendment Nos.: 129 and 90.

Facility Operating License Nos. NPF–39 and NPF–85. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: March 11, 1998 (63 FR 11921).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 16, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, PA 19464.

Power Authority of the State of New York, Docket No. 50–286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of application for amendment: June 25, 1997, as supplemented by letter dated June 2, 1998.

Brief description of amendment: The amendment changes the Technical Specifications (TSs) to allow for up to +17½ steps of control rod misalignment when power is greater than 85%.

Date of issuance: June 17, 1998.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 180.

Facility Operating License No. DPR–64: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: August 27, 1997 (62 FR 45461) The June 2, 1998, supplement provided a clarification to the wording of the TSs and did not change the staff's proposed finding of no significant hazards consideration. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 17, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Power Authority of the State of New York, Docket No. 50–286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of application for amendment: September 3, 1997.

Brief description of amendment: The amendment changes the Technical Specifications (TSs) by revising the number of hours operating personnel can work in a normal shift. The proposed amendment also contains some administrative changes to the TS.

Date of issuance: June 17, 1998.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 181

Facility Operating License No. DPR–64: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: October 22, 1997 (62 FR 54875).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 17, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: February 13, 1998 (TS 97–03).

Brief description of amendments: The amendments change the Technical Specifications by adding a new Limiting Condition for Operation 3.7.1.6 that addresses the requirements for the main feedwater isolation valve functions required by the Sequoyah Nuclear Plant accident analysis.

Date of issuance: June 8, 1998.

Effective date: As of the date of issuance to be implemented no later than 45 days after issuance.

Amendment Nos.: Unit 1–232; Unit 2–222.

Facility Operating License Nos. DPR–77 and DPR–79: Amendments revise the technical specifications.

Date of initial notice in **Federal Register**: April 22, 1998 (63 FR 19979).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 8, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Chattanooga-Hamilton County Library, 101 Broad Street, Chattanooga, Tennessee 37402.

Tennessee Valley Authority, Docket No. 50-390 Watts Bar Nuclear Plant, Unit 1, Rhea County, Tennessee

Date of application for amendment: April 29, 1998.

Brief description of amendment: The requested changes would allow, temporarily, both trains of hydrogen igniters to be declared inoperable for up to 72 hours.

Date of issuance: June 9, 1998.

Effective date: June 9, 1998.

Amendment No.: 10.

Facility Operating License No. NPF-90: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register**: May 7, 1998 (63 FR 25243).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 9, 1998.

No significant hazards consideration comments received: None.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, TN 37402

Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit 1, Ottawa County, Ohio

Date of application for amendment: August 26, 1997.

Brief description of amendment: This amendment changed Technical Specification (TS) Section 3/4.2, "Power Distribution Limits." The departure from nucleate boiling parameters limiting condition for operation was modified due to an industry notification.

Date of issuance: June 11, 1998.

Effective date: June 11, 1998.

Amendment No.: 222.

Facility Operating License No. NPF-3: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: October 8, 1997 (62 FR 52590)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 11, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Toledo, William Carlson Library, Government Documents Collection, 2801 West Bancroft Avenue, Toledo, OH 43606.

Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit 1, Ottawa County, Ohio

Date of application for amendment: August 26, 1997.

Brief description of amendment: This amendment revises Technical Specification (TS) Section 3/4.6.1.3, "Containment Systems—Containment Air Locks," and the associated bases. The limiting condition for operation and the surveillance requirements were modified. The application also proposed a change to TS Bases 3/4.9.4, "Refueling Operations—Containment Penetrations." That bases change was approved by letter dated March 19, 1998.

Date of issuance: June 11, 1998.

Effective date: June 11, 1998.

Amendment No.: 223.

Facility Operating License No. NPF-3: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: October 22, 1997 (62 FR 54876)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 11, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Toledo, William Carlson Library, Government Documents Collection, 2801 West Bancroft Avenue, Toledo, OH 43606

Virginia Electric and Power Company, et al., Docket Nos. 50-280 and 50-281, Surry Power Station, Units 1 and 2, Surry County, Virginia

Date of application for amendments: December 18, 1997.

Brief Description of amendments: These amendments revise the Technical Specifications (TS) to clarify the terminology used for describing equipment surveillances performed on a refueling interval frequency, and to use consistent wording.

In two cases the proposed changes are denied. These two exceptions, TS 4.6.A.1.b and 4.6.C.1.e, do not include required specific Mode restrictions and could not be approved at this time. If appropriate revisions are submitted, these two exceptions could be found to be acceptable at a later time.

Date of issuance: June 11, 1998.

Effective date: June 11, 1998.

Amendment Nos.: 213 and 213.

Facility Operating License Nos. DPR-32 and DPR-37: Amendments change the Technical Specifications.

Date of initial notice in **Federal Register**: May 6, 1998 (63 FR 25118).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 11, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Virginia Electric and Power Company, et al., Docket Nos. 50-280 and 50-281, Surry Power Station, Units 1 and 2, Surry County, Virginia

Date of application for amendments: November 5, 1997, as supplemented January 28, 1998 and May 12, 1998.

Brief Description of amendments: These amendments permit an increase in the maximum allowable fuel enrichment for core reloads from 4.1 to 4.3 weight percent U^{235}.

Date of issuance: June 19, 1998.

Effective date: June 19, 1998.

Amendment Nos.: 214 and 214.

Facility Operating License Nos. DPR-32 and DPR-37: Amendments change the Technical Specifications.

Date of initial notice in **Federal Register**: December 31, 1997 (62 FR 68320)

The January 28 and May 12, 1998 submittals provided clarifying information that did not affect the initial no significant hazards determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 19, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185

Virginia Electric and Power Company, et al., Docket Nos. 50-280 and 50-281, Surry Power Station, Units 1 and 2, Surry County, Virginia

Date of application for amendments: March 25, 1998.

Brief Description of amendments: These amendments revise the Technical Specifications to change certain management titles. There is no change in duties or responsibilities proposed. Specifically, the Station Manager's title is changed to Site Vice President. The title of Assistant Station Manager Operations and Maintenance is changed to Manager-Operations and Maintenance. The title of Assistant Station Manager Nuclear Safety and Licensing is changed to Manager-Station Safety and Licensing.

Date of issuance: June 19, 1998.

Effective date: June 19, 1998.

Amendment Nos.: 215 and 215.

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Facility Operating License Nos. DPR–32 and DPR–37: Amendments change the Technical Specifications.

Date of initial notice in **Federal Register**: May 6, 1998 (63 FR 25119) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 19, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Wisconsin Public Service Corporation, Docket No. 50–305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of application for amendment: October 13, 1997, supplemented on February 10, 1998.

Brief description of amendment: The amendment involves miscellaneous changes to the TS to (1) relocate information to the Updated Safety Analysis Report (USAR), (2) delete redundant information, (3) incorporate new references, (4) delete incorrect references, (5) correct errors, and (6) augment existing requirements.

Date of issuance: June 9, 1998.

Effective date: June 9, 1998.

Amendment No.: 137.

Facility Operating License No. DPR–43: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: April 8, 1998 (63 FR 11926).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 9, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Wisconsin, Cofrin Library, 2420 Nicolet Drive, Green Bay, WI 54311–7001

Yankee Atomic Electric Company, Docket No. 50–29, Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of application for amendment: September 5, 1997 and March 30, 1998.

Brief description of amendment: Revises Technical Specifications and bases in order to allow loads of up to 80-tons to travel over the spent fuel pool.

Date of issuance: June 17, 1998.

Effective date: June 17, 1998.

Amendment No.: 149.

Facility Opertating (Possession Only) License No. DPR–3: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: October 22, 1997 (62 FR 54879) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 17, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301

Dated at Rockville, Maryland, this 24th day of June 1998.

For The Nuclear Regulatory Commission.

Elinor G. Adensam,

Acting Director, Division of Reactor Projects—III/IV Office of Nuclear Reactor Regulation.

[FR Doc. 98–17352 Filed 6–30–98; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (GST Telecommunications, Inc., Common Shares, Without Par Value) File No. 1–12866

June 24, 1998.

GST Telecommunications, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commssion"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified Security ("Security") from listing and registration on the American Stock Exchange, Inc. ("Amex" or "Exchange").

The reasons cited in the application for withdrawing the Security from listing and registration include the following:

The Board of Directors of the Company, at a meeting held on March 4 and 5, 1998, unanimously approved resolutions to withdraw the Security from listing on the Amex and, instead, to list such Security on the Nasdaq National Market ("Nasdaq"). The Board of Directors, after lengthy deliberation, determined that, since all other telecommunications companies in the Company's industry segment have their shares listed for trading on Nasdaq, it would be in the best interest of the Company and its shareholders to have the Security listed on Nasdaq rather than the Amex.

The Company has complied with Amex Rule 18 by notifying the Amex of its intention to withdraw its Security from listing by letter dated March 27, 1998. The Amex replied by letter dated April 7, 1998, advising it would not interpose any objection to such withdrawal. The Amex suspended trading of the Security at the close of business on Monday, April 13, 1998, and the Security commenced trading on Nasdaq on Tuesday, April 14, 1998. The Company has filed an amended registration statement on Form 8–A to register the Security under Section 12(g) of the Act.

By reason of Section 12(g) of the Act and the rules and regulations thereunder, the Company shall continue to be obligated to file reports with the Commission under Section 13 of the Act.

Any interested person may, on or before July 16, 1998, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–17436 Filed 6–30–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (M&T Bank Corporation (Formerly First Empire State Corporation), Common Stock, $5.00 Par Value) File No. 1–9861

June 24, 1998.

M&T Bank Corporation[1] ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security ("security") from listing and registration on the American Stock Exchange, Inc. ("Amex" or "Exchange").

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[1] The Company's former name was "First Empire State Corporation," and the name change to "M&T Bank Corporation" became effective on May 29, 1998. The Company filed the Form 8–A, effective on May 27, 1998, and mentioned below, under the Company's old name.

The reasons cited in the application for withdrawing the Security from listing and registration include the following:

The Security has been listed for trading on the Amex and, pursuant to a Registration Statement of Form 8–A which became effective on May 27, 1998, on the New York Stock Exchange, Inc. ("NYSE"). Trading in the Company's Security under the name "M&T Bank Corporation" commenced on the NYSE at the opening of business on June 1, 1998, and concurrently therewith such Security was suspended from trading on the Amex.

The Company complied with Amex Rule 18 by filing with the Exchange a certified copy of resolutions adopted by the Company's Board of Directors authorizing the withdrawal of the Security from listing and registration on the Amex and by setting forth in detail to the Exchange the reasons and facts supporting the withdrawal.

In deciding to withdraw its Security from listing and registration on the Amex, the Company considered the direct and indirect costs and the division of the market resulting from a dual listing on the NYSE and the Amex.

By letter dated May 22, 1998, the Amex informed the Company that it has no objection to the withdrawal of the Company's Security from listing and registration on the Amex.

By reason of Section 12(b) of the Act and the rules and regulations thereunder, the Company shall continue to be obligated to file reports with the Commission and the NYSE under Section 13 of the Act.

Any interested person may, on or before July 16, 1998, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–17434 Filed 6–30–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Oak Industries Inc., Common Stock, $.01 Par Value, Together With Junior Preferred Stock Purchase Rights Expiring December 7, 2005) File No. 1–4474

June 24, 1998.

Oak Industries Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified Securities ("Securities") from listing and registration on the Pacific Exchange, Inc. ("PCX" or "Exchange").

The reasons cited in the application for withdrawing the Securities from listing and registration include the following:

The Securities currently are listed for trading on both the PCX and New York Stock Exchange, Inc. ("NYSE").

The Company complied with PCX Rule 3.4(b) by filing with the Exchange a certified copy of resolutions adopted by the Company's Board of Directors authorizing the withdrawal of the Securities from listing and registration on the PCX and by setting forth in detail to the Exchange the reasons and facts supporting the withdrawal.

In deciding to withdraw its Securities from listing and registration on the PCX, the Company considered the administrative burden of complying with the listing requirements and rules of governance of both the PCX and the NYSE and the direct and indirect costs and expenses attendant in maintaining the dual listing of the Securities.

By letter dated June 3, 1998, the PCX informed the Company that it had approved the Company's request to withdraw the Securities from listing and registration on the PCX.

By reason of Section 12(b) of the Act and the rules and regulations thereunder, the Company shall continue to be obligated to file reports with the Commission and the NYSE under Section 13 of the Act.

Any interested person may, on or before July 16, 1998, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–17433 Filed 6–30–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–23284; 812–10620]

PaineWebber America Fund et al.; Notice of Application

June 24, 1998.

AGENCY: Securities and Exchange Commission ("Commission" or "SEC").

ACTION: Notice of application for an order under sections 6(c) and 17(b) of the Investment Company Act of 1940 (the "Act") for an exemption from sections 17(a) and (e) of the Act, and under section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint transactions.

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered investment companies to use cash collateral from securities lending transactions and uninvested cash to purchase shares ("Shares") of a private investment company ("New Fund") advised by Mitchell Hutchins Asset Management Inc. ("Mitchell Hutchins"); PaineWebber Incorporated ("PaineWebber") and Mitchell Hutchins to accept fees from certain other registered investment companies that are affiliated persons solely because they hold 5% or more of the Shares of the New Fund (the "Other Funds"); and PaineWebber and certain affiliated broker-dealers to borrow portfolio securities from certain affiliated registered investment companies and to receive brokerage commissions from, and to engage in principal securities transactions with, the Other Funds.

APPLICANTS: PaineWebber; Mitchell Hutchins; PaineWebber America Fund, PaineWebber Cashfund, Inc., PaineWebber Investment Series, PaineWebber Managed Assets Trust, PaineWebber Managed Investments Trust, PaineWebber Managed Municipal Trust, PaineWebber Master Series, Inc., PaineWebber Municipal Series, PaineWebber Mutual Fund Trust, PaineWebber Olympus Fund,

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PaineWebber Financial Services Growth Fund Inc., PaineWebber RMA Money Fund, Inc., PaineWebber RMA Tax-Free Fund, Inc., PaineWebber Securities Trust, Mitchell Hutchins Series Trust, Strategic Global Income Fund, Inc., 2002 Target Term Trust Inc., All-American Term Trust Inc., Global High Income Dollar Fund Inc., Global Small Cap Fund Inc., Investment Grade Municipal Income Fund Inc., Insured Municipal Income Fund Inc., Managed High Yield Fund Inc., PaineWebber Municipal Money Market Series, PaineWebber Investment Trust, PaineWebber Investment Trust II, Liquid Institutional Reserves, PaineWebber PACE Select Advisors Trust, PaineWebber Index Trust, Managed High Yield Plus Fund Inc., Mitchell Hutchins Institutional Series (collectively, the "Affiliated Funds"), and any other registered investment company, or series thereof, which currently is or in the future may be advised by Mitchell Hutchins or PaineWebber, or any entity controlling, controlled by, or under common control with PaineWebber or Mitchell Hutchins,[1] that may purchase Shares of New Fund; and any Other Fund.

FILING DATES: The application was filed on April 17, 1997. Applicants have agreed to file an amendment, the substance of which is incorporated in this notice, during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 20, 1998, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 1285 Avenue of the Americas, New York, New York 10019.

FOR FURTHER INFORMATION CONTACT: Brian T. Hourihan, Senior Counsel, at (202) 942–0526, or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549 (tel. (202) 942–8090).

Applicants' Representations

1. The Affiliated Funds are registered under the Act as either closed-end or open-end management investment companies. PaineWebber and Mitchell Hutchins, each an investment adviser registered under the Investment Advisers Act of 1940 ("Advisers Act"), serve as investment adviser and sub-adviser, respectively, to PaineWebber Cashfund, Inc., PaineWebber RMA Money Fund, Inc., PaineWebber RMA Tax-Free Fund, Inc., PaineWebber Managed Municipal Trust, PaineWebber Municipal Money Market Series, and Liquid Institutional Reserves. Mitchell Hutchins is a wholly-owned subsidiary of PaineWebber and serves as investment adviser to the remaining Affiliated Funds. Both PaineWebber and Mitchell Hutchins are registered as broker-dealers under the Securities Exchange Act of 1934. PaineWebber, Mitchell Hutchins, and any other broker-dealer controlled by or under common control with PaineWebber are referred to as "Affiliated Broker-Dealers."

2. Each Affiliated Fund is permitted under its investment objectives, policies, and restrictions to lend its portfolio securities. PaineWebber has been authorized by the board of directors/trustees of each Affiliated Fund (the "Board") to act as securities lending agent for the Fund. The PaineWebber personnel providing day-to-day lending agency services to the Affiliated Funds do not provide investment advisory services to the Funds, or participate in any way in the selection of portfolio securities or other aspects of the management of the Funds. In addition, depending on the particular Affiliated Fund, PaineWebber's activities as lending agent are conducted under the supervision of investment management personnel of the Affiliated Fund's investment adviser, who are not in any manner involved in PaineWebber's lending agency operations. PaineWebber also provides securities lending agency services to various other clients, including the Other Funds.

3. PaineWebber, as lending agent for the Affiliated Funds, is responsible for soliciting borrowers of portfolio securities ("Borrowers"), monitoring daily the value of the loaned securities and collateral, and performing other administrative functions. PaineWebber, under the supervision of each Affiliated Fund's investment adviser enters into loans with pre-approved Borrowers on terms that have been pre-approved by the Fund's investment adviser. At present, the Affiliated Funds may not lend portfolio securities to PaineWebber. Applicants request that the Affiliated Funds, as well as the Other Funds, have the flexibility to lend their securities to any Affiliated Broker-Dealer.

4. Each Borrower of an Affiliated Fund's portfolio securities is required to tender collateral to the Fund's custodian in the form of cash, U.S. Government securities, or irrevocable letters of credit. When the collateral consists of U.S. government securities or letters of credit, PaineWebber typically negotiates on behalf of the Affiliated Fund a lending fee to be paid by the Borrower to the Affiliated Fund. Alternatively, when the collateral consists of cash ("Cash Collateral"), the Affiliated Fund, instead of receiving a separate lending fee, typically receives a portion of the return earned on the investment of the Cash Collateral by or under the direction of the Fund's investment adviser. For its services as lending agent to the Affiliated Funds, PaineWebber is permitted to receive fees based on a share of the revenue generated from securities lending transactions for the Affiliated Funds.[2]

5. Affiliated Funds and Other Funds may have uninvested cash ("Uninvested Cash") on hand from a variety of sources. Uninvested Cash may result from dividend or interest payments, unsettled securities transactions, reserves held for future investments, scheduled maturity of investments, liquidation of portfolio securities, as well as cash received from new investors.

6. Currently, the Affiliated Funds invest their Cash Collateral and Uninvested Cash in short-term money market instruments. Applicants propose to create the New Fund to serve as an alternative investment option for the Affiliated Funds, the Other Funds, and other clients of PaineWebber and Mitchell Hutchins for the investment of Cash Collateral and Uninvested Cash. The New Fund may be organized as a New York or Delaware business trust or

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[1] All existing Affiliated Funds that currently intend to rely on the order have been named as applicants. Any other existing or future Affiliated Funds that may rely on the order in the future will do so in accordance with the terms and conditions in the application.

[2] *See PaineWebber America Fund, et al.*, Investment Company Act Release Nos. 22541 (March 4, 1997) (notice) and 22594 (Apr. 1, 1997) (order).

limited liability company and will be comprised of one or more separate investment series. The New Fund will operate as a private investment company in reliance on section 3(c)(7) of the Act. The New Fund will offer daily redemption of its shares at the current net asset value per Share. The New Fund will not impose any sales load, redemption or asset-based distribution fees. By investing in the New Fund, the Affiliated and Other Funds anticipate that they will be able to lower transaction costs, increase liquidity, achieve greater diversification, and enjoy greater returns in connection with their investment of Cash Collateral and Uninvested Cash.

7. Applicants intend to operate the initial investment series of the New Fund as a money market portfolio that values its securities based on the amortized cost method and complies with rule 2a–7 under the Act ("Money Market Series"). Future investment series of the New Fund could operate as Money Market Series, as well as portfolios which invest in high quality securities but with longer maturities or different quality standards. Any Affiliated or Other Fund that complies with the requirements of rule 2a–7 under the Act will invest only in a Money Market Series.

8. Mitchell Hutchins or PaineWebber may serve as Trustee to the New Fund. Mitchell Hutchins will act as investment adviser to the New Fund. For acting as investment adviser, Mitchell Hutchins will receive an advisory fee from the initial series of the New Fund, but will waive its advisory fees for any Affiliated Fund to the extent necessary to avoid a duplication of advisory fees for the Affiliated Fund. In addition, PaineWebber, Mitchell Hutchins, or an affiliated person may provide administrative, accounting, transfer agent and other services to the New Fund and receive reasonable compensation for providing the services.

Applicants' Legal Analysis

A. Sections 17(a), 17(b), and 17(d), and Rule 17d–1

1. Sections 17(a)(1) and 17(a)(2) of the Act make it unlawful for any affiliated person of a registered investment company, or any affiliated person of the affiliated person, acting as a principal, to sell any security to, or purchase any security from, the investment company. Section 17(a)(3) of the Act makes it unlawful for any affiliated person of a registered investment company or any affiliated person of the affiliated person, acting as principal, to borrow money or other property from the investment company. Section 17(d) of the Act and rule 17d–1 under the Act prohibit any affiliated person of or principal underwriter for a registered investment company or any affiliated person of the affiliated person or principal underwriter, acting as principal, from effecting any transaction in connection with the any joint enterprise or other joint arrangement or profit sharing plan in which the investment company participates, unless an application regarding the joint transaction has been filed with the Commission and granted by order.

2. Section 2(a)(3) of the Act defines an "affiliated person" of another person to include any person directly or indirectly owning, controlling, or holding with the power to vote, 5 percent of more of the outstanding voting securities of the other person, as well as any person directly or indirectly controlling, controlled by, or under common control with, the other person; and in the case of an investment company, its investment adviser. Section 2(a)(9) of the Act defines "control" to mean the power to exercise a controlling influence over the management or policies of a company.

3. The Affiliated Funds and New Fund may be deemed affiliated persons because they are advised by Mitchell Hutchins or PaineWebber. Accordingly, the sale or redemption of Shares of the New Fund by the Affiliated Funds may be prohibited under sections 17(a)(1) and 17(a)(2). Moreover, by owning more than 5 percent of the New Fund's Shares, an Other Fund may be deemed to be an affiliated person of the New Fund and thus subject to the same prohibitions. Applicants also state that the Affiliated Funds and the Other Funds by purchasing and redeeming Shares of the New Fund, PaineWebber and Mitchell Hutchins by acting as investment adviser or sub-adviser to the New Fund, PaineWebber by acting as lending agent for the Affiliated and Other Funds, and PaineWebber or Mitchell Hutchins by serving as Trustee and providing other services to the New Fund, may be deemed participants in a joint transaction under section 17(d) of the Act and rule 17d–1 under the Act.

4. Sections (17(a)(1) and 17(a)(2) also may prohibit the Affiliated Broker-Dealers, acting as principal, from selling securities to or purchasing portfolio securities from the Other Funds. Similarly, section 17(a)(3) may prohibit an Affiliated Broker-Dealer from being a Borrower of portfolio securities of the Affiliated and Other Funds. Applicants also believe that the proposed lending of portfolio securities by the Affiliated and Other Funds to the Affiliated Broker-Dealers may be deemed to involve a "joint enterprise or joint arrangement or profit-sharing plan" within the meaning of section 17(d) and rule 17d–1.

5. Section 17(b) of the Act authorizes the Commission to exempt a transaction from section 17(a) if the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person, the transaction is consistent with the policy of each registered investment company, and the general purposes of the Act. Section 6(c) of the Act authorizes the Commission to exempt any class of transactions from any provision of the Act if the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Under rule 17d–1, in passing on applications for orders under section 17(d), the Commission considers whether the company's participation in the proposed transaction is consistent with the provisions, policies, and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants.

6. Applicants request an order under sections 6(c), 17(b), and 17(d) of the Act and rule 17d–1 under the Act to permit the Affiliated and Other Funds to purchase Shares of the New Fund. Applicants submit that the terms of the proposed transactions are reasonable and fair and do not involve overreaching because the Affiliated and Other Funds will be treated like any other shareholder in the New Fund and will purchase and redeem Shares on the same terms as Shares are purchased and redeemed by other investors in the New Fund. Applicants also state that the New Fund will not impose any sales load, redemption or asset-based distribution fee, and that PaineWebber or Mitchell Hutchins, as applicable, will waive advisory fees paid to it by an Affiliated Fund, to the extent necessary to avoid a duplication of advisory fees for the Affiliated Funds as a result of their investment in the New Fund. Finally, applicants state that the New Fund will comply with the provisions of the Act relating to prohibitions on affiliated transactions, leveraging and the issuance of senior securities, and rights of redemption.

7. Applicants submit that investment in the New Fund of Cash Collateral and Uninvested Cash will be consistent with the policy of each Affiliated or Other Fund, as recited in its registration

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statement and reports filed under the Act. Applicants state that any Affiliated or Other Fund that complies with the requirements of rule 2a–7 under the Act will invest only in a Money Market Series of the New Fund; and that the investment of Cash Collateral in the New Fund will be conducted in accordance with the SEC staff's securities lending guidelines.

8. Applicants request an order under sections 6(c) and 17(b) of the Act to permit the Affiliated Broker-Dealers to engage in principal transactions with the Other Funds. Applicants state that each such transaction between an Other Fund and an Affiliated Broker-Dealer will be the product of arms-length bargaining because each Other Fund has its own investment adviser that is not controlled by the Affiliated Broker-Dealer and that, in economic reality, may be a competitor of the Affiliated Broker-Dealer.

9. Applicants request an order under sections 6(c) and 17(b) of the Act exempting them from section 17(a)(3) of the Act, and under section 17(d) of the Act and rule 17d–1 under the Act, to permit the Affiliated Broker-Dealers to be Borrowers of portfolio securities from an Affiliated or Other Fund. Applicants state that each loan to an Affiliated Broker-Dealer by an Affiliated Fund will be made with a spread that is no lower than that applied to comparable loans to unaffiliated broker-dealers.[3] In this regard, applicants state that at least 50% of the loans made by the Affiliated Fund, on an aggregate basis, will be made to unaffiliated Borrowers. Moreover, all loans will be made with spreads that are no lower than those set forth in a schedule of spreads established by directors/trustees of each Affiliated Fund who are not "interested persons" as defined in section 2(a)(19) of the Act (the "Disinterested Directors") (the "Lending Committee") and all transactions with the Affiliated Broker-Dealers will be reviewed periodically by the officers of the Affiliated Funds and by the Boards of the Affiliated Funds. Lastly, the Lending Committee will review detailed quarterly compliance reports on all lending activity.

10. Applicants also request an order under section 17(d) of the Act and rule 17d–1 under the Act to permit PaineWebber to receive lending agency fees from the Other Funds based on a share of securities lending revenues, and Mitchell Hutchins to receive fees from the Other Funds for providing administrative and management services relating to the Cash Collateral. Applicants note that, absent the existence of New Fund and the ownership of 5 percent or more of the Shares of New Fund by an Other Fund, PaineWebber and Mitchell Hutchins may receive these fees from an Other Fund. Applicants thus assert that it is appropriate to permit PaineWebber and Mitchell Hutchins to receive the fees from the Other Funds because the affiliation between PaineWebber and Mitchell Hutchins and the Other Funds is technical in nature and the fees will be the product of arms-length bargaining.

B. Section 17(e)

11. Section 17(e)(2) of the Act makes it unlawful for any affiliated person of a registered investment company, or any affiliated person of the affiliated person, acting as broker in connection with the sale of securities to or by the investment company, to receive from any source a commission for effecting the transaction which exceeds (a) the usual and customary broker's commission if the sale is effected on a securities exchange, (b) 2 percent of the sales price if the sale is effected in connection with a secondary distribution of the securities, or (c) 1 percent of the purchase or sale price of the securities if the sale if otherwise effected.

12. Applicants request an order under section 6(c) of the Act exempting them from section 17(e)(2) of the Act as it may apply to transactions by Other Funds that are brokered by an Affiliated Broker-Dealer. Applicants state that an investment adviser for an Other Fund would have no interest in preferring or benefiting an Affiliated Broker-Dealer at the expense of the Other Fund. Applicants thus assert that brokerage transactions by the Affiliated Broker-Dealer for the Other Funds do not raise the concerns underlying section 17(e)(2).

Applicants' Conditions

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

Borrowing of Portfolio Securities

1. The Affiliated Funds, on an aggregate basis, will make at least 50% of their portfolio securities loans to unaffiliated Borrowers.

2. An Affiliated Fund will not make any loan to any Affiliated Broker-Dealer unless the income attributable to such loan fully covers the transaction costs incurred in making the loan.

3. a. All loans will be made with spreads no lower than those set forth in a schedule of spreads which will be established and may be modified from time to time by each Affiliated Fund's Lending Committee (the "Schedule of Spreads").

b. The Schedule of Spreads will set forth rates of compensation to the Affiliated Funds that are reasonable and fair and that are determined in light of those considerations set forth in the application. The Schedule of Spreads and any modifications will be ratified by the full Board and by a majority of the Disinterested Directors.

c. The Schedule of Spreads will be uniformly applied to all Borrowers of the Affiliated Funds' portfolio securities, and will specify the lowest allowable spread with respect to a loan of securities to any Borrower.

d. If a security is lent to an unaffiliated Borrower with a spread higher than the minimum set forth in the Schedule of Spreads, all comparable loans to Affiliated Broker-Dealers will be made at no less than the higher spread.

e. The securities lending program for each Affiliated Fund will be monitored on a daily basis by an officer of each Affiliated Fund who is subject to section 36(a) of the Act. This officer will review the terms of each loan to Affiliated Broker-Dealers for comparability with loans to unaffiliated Borrowers and conformity with the Schedule of Spreads, and will periodically, and at least quarterly, report his or her findings to the Affiliated Funds' Lending Committees.

4. The Boards of the Affiliated Funds, including a majority of the Disinterested Directors, (a) will determine no less frequently than quarterly that all transactions with Affiliated Broker-Dealers effected during the preceding quarter were effected in compliance with the requirements of the procedures adopted by the Boards and the conditions of any order that may be granted and that such transactions were conducted on terms that were reasonable and fair; and (b) will review no less frequently than annually such requirements and conditions for their continuing appropriateness.

5. The Affiliated Funds will maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) which are followed in lending securities, and shall maintain and preserve for a period of not less than six years from the end of the fiscal year in which any loan occurs, the first two

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[3] A "spread" is the compensation earned by a fund, as lender, from a securities loan, that is in the form either of a lending fee payable by the borrower to the fund (when non-cash collateral is posted) or the excess—retained by the fund—over a rebate rate payable by the fund to the borrower (when cash collateral is posted and then invested by the fund).

years in an easily accessible place, a written record of each loan setting forth the number of shares loaned, the face amount of the securities lent, the fee received (or the rebate rate remitted), the identity of the Borrower, the terms of the loan, and any other information or materials upon which the finding was made that each loan made to Affiliated Broker-Dealers was fair and reasonable, and that the procedures followed in making such loan were in accordance with the other undertakings set forth in the application.

6. The total value of securities loaned to any one broker-dealer on the approved list will be in accordance with a schedule to be approved by the Board of each Affiliated Fund, but in no event will the total value of securities lent to any one Affiliated Broker-Dealer exceed 10% of the net assets of the Affiliated Fund, computed at market.

Investment of Uninvested Cash and Cash Collateral

7. The Affiliated Funds, New Fund, and any future Affiliated Fund that relies on the order will be advised by PaineWebber, Mitchell Hutchins, or any entity controlling, controlled by, or under common control with, PaineWebber or Mitchell Hutchins.

8. A majority of the Board of an Affiliated Fund (including a majority of the Disinterested Directors), will initially and at least annually thereafter determine that investing Uninvested Cash and Cash Collateral in Shares of New Fund is in the best interests of the shareholders of the Affiliated Fund.

9. With respect to any Affiliated Fund that invests in Shares of New Fund, PaineWebber or Mitchell Hutchins will reduce its advisory fee charged to the Affiliated Fund in an amount (the "Reduction Amount") equal to the net asset value of the Affiliated Fund's holdings in New Fund multiplied by the rate at which advisory fees are charged by Mitchell Hutchins to New Fund. Any fees remitted or waived pursuant to this condition will not be subject to recoupment by PaineWebber or Mitchell Hutchins or their affiliates at a later date.

10. Investment in Shares of New Fund by an Affiliated or Other Fund will be consistent with the Affiliated or Other Fund's investment objectives and policies.

11. An Affiliated or Other Fund's Uninvested Cash and Cash Collateral will be invested in a particular investment series of the New Fund only if that investment series invests in the types of instruments that the Affiliated or Other Fund has authorized for the investment of its Uninvested Cash and Cash Collateral.

12. Each investment series of the New Fund that uses the amortized cost method of valuation as defined in rule 2a–7 under the Act will comply with rule 2a–7. With respect to such series, Mitchell Hutchins will adopt and monitor the procedures described in rule 2a–7(c)(6) under the Act and will take such other actions as are required to be taken pursuant to such procedures. An Affiliated or Other Fund may only purchase Shares of an investment series of the New Fund using the amortized cost method of valuation if Mitchell Hutchins determines on an ongoing basis that the investment series is in compliance with rule 2a–7. Mitchell Hutchins will preserve for a period not less than six years from the date of determination, the first two years in an easily accessible place, a record of such determination and the basis upon which the determination was made. This record will be subject to examination by the Commission and the staff.

13. An Affiliated or Other Fund that complies with rule 2a–7 under the Act will not invest its Cash Collateral or Uninvested Cash in an investment series of the New Fund that does not comply with the requirements of rule 2a–7.

14. The securities lending program of each Affiliated and Other Fund will comply with all present and future applicable Commission staff positions regarding securities lending arrangements.

15. Each Affiliated or Other Fund will invest Uninvested Cash in, and hold Shares of, the New Fund only to the extent that the Affiliated or Other Fund's aggregate investment of Uninvested Cash in Shares of the New Fund does not exceed 25% of the Affiliated or Other Fund's total assets.

Operation of the New Fund

16. The New Fund will comply as to each investment series with the requirements of sections 17 (a), (d), and (e), and 18 of the Act as if the New Fund were a registered open-end investment company. With respect to all redemption requests made by an Affiliated or Other Fund, the New Fund will comply with section 22(e) of the Act. Mitchell Hutchins will, subject to approval by the Trustee, adopt procedures designed to ensure that the New Fund complies with sections 17 (a), (d), and (e), 18, and 22(e) of the Act. Mitchell Hutchins will also periodically review and periodically update as appropriate the procedures and will maintain books and records describing the procedures, and maintain the records required by rules 31a–1(b)(1), 31a–1(b)(2)(ii), and 31a–1(b)(9) under the Act. All books and records required to be made pursuant to this condition will be maintained and preserved for a period of not less than six years from the end of the fiscal year in which any transaction occurred, the first two years in an easily accessible place, and will be subject to examination by the Commission and the staff.

17. The net asset value per share with respect to Shares of the New Fund will be determined separately for each investment series by dividing the value of the assets belonging to that investment series, less the liabilities of that investment series, by the number of Shares outstanding with respect to that investment series.

18. The Shares of the New Fund will not be subject to a sales load, redemption fee, asset-based sales charge, or service fee (as defined in rule 2830(b)(9) of the Conduct Rules of the National Association of Securities Dealers).

19. Each Affiliated or Other Fund will purchase and redeem Shares of the New Fund as of the same time and at the same price, and will receive dividends and bear its proportionate share of expenses on the same basis, as other shareholders of the New Fund. A separate account will be established in the shareholder records of the New Fund for the account of each Affiliated or Other Fund.

20. The New Fund will not acquire securities of any investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–17473 Filed 6–30–98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [63 FR 34949, June 26, 1998].

STATUS: Closed Meeting.

PLACE: 450 Fifth Street, N.W., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: June 26, 1998.

CHANGE IN THE MEETING: Time Change.

The time for the closed meeting scheduled for Wednesday, July 1, 1998, at 2:30 p.m., has been changed to 11:00 a.m.

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At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary (202) 942–7070.

Dated: June 29, 1998.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–17711 Filed 6–29–98; 3:56 pm]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40119; File No. SR–DTC–98–7]

June 24, 1998.

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Proposed Rule Change Adding a New Service Providing Pre-Issuance Messaging of Money Market Instruments Trade Details to Issuing and Paying Agents and Dealers

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on April 22, 1998, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR–DTC–98–7) as described in Items I, II, and III below, which items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change will approve DTC's providing Pre-Issuance Messaging ("PIM") of money market instruments ("MMIs") trade details to issuing and paying agents ("IPAs") and dealers.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

DTC's proposed rule change seeks to provide a less expensive and more efficient mechanism for IPAs and dealers to communicate securities information, specifically PIM instructions, related to the issuance of MMI. Although the PIM service is being designed to accommodate all types of MMIs, it is anticipated that initially the PIM service will be utilized only for commercial paper ("CP").

According to DTC, the service will enable dealers and IPAs to communicate issuance instructions to one another prior to the IPAs' issuing CP by book-entry through DTC or through physical certificates outside DTC.

Background

DTC begin operation of its CP program in October 1990 and handles almost all CP issuances done in the United States today. The CP program is designed to allow for the electronic issuance done in the United States today. The CP program is designed for the electronic issuance of CP in book-entry-only form. The transmission of issuance instructions for IPAs to DTC for dealer-placed CP is central to the CP program. Typically, between four and five messages are transmitted among IPAs and dealers prior to each issuance of CP. Currently, these messages are transmitted via dedicated links between a dealer and individual IPA. Thus, dealers interacting with more than one IPA must create and maintain multiple communications links. Typically, dealers maintain seven or more separate links with IPAs.

As a result of the recommendation by dealer participant that DTC investigate offering a pre-issuance messaging service, a working group of dealers and IPA was formed in June of 1996 under the auspices of the The Bond Market Association's Money Market Task Force. DTC has worked closely with the Task Force on the development of the CP program and again drew on its expertise for the PIM project.

Proposed Rule Change

Under the proposed rule change, IPAs and dealers could send PIM instructions to each other by using DTC as a conduit or central switch for the messages. PIM instructions would be sent electronically to DTC. DTC would not perform any processing on the instructions but would instead automatically route them to the recipient indicated in the sender's instructions.

PIM employs several levels of system security in addition to allowing IPAs and dealers to utilize their own password security per message if they wish. As each message sent requires an acknowledgment from the receiving party, it is unlikely that messages will be lost. Should a message be undeliverable for some reason, DTC will issue a notice to the message originator indicating the message could not be delivered. The originator will then have to reissue a new message. DTC will charge the sending party $.04 per message. There will be no charge to the message receiver. Each user of the PIM Service will enter into a PIM agreement with DTC.

DTC believes that the proposed rule change is consistent with the requirements of Sections 17A(b)(3)(A) of the Act and the rules and regulations thereunder because it encourages an efficient means of communicating among dealers and IPAs in connection with the issuance of MMIs.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, in the public interest, and for the protection of investors.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change have not been solicited or received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which DTC consents, the Commission will:

(A) By order approved such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

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[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by DTC.

IV.—Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of DTC. All submissions should refer to File No. SR–DTC–98–7 and should be submitted by July 22, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[3]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–17435 Filed 6–30–98; 8:45 am]

BILLING CODE 8010–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Meeting of the Industry Sector Advisory Committee on Small and Minority Business (ISAC–14)

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of meeting.

SUMMARY: The Industry Sector Advisory Committee (ISAC–14) will hold a meeting on July 20, 1998 from 9:15 a.m. to 3:00 p.m. The meeting will be open to the public from 9:15 a.m. to 11:15 a.m. and closed to the public from 11:15 a.m. to 3:00 p.m.

DATES: The meeting is scheduled for July 20, 1998, unless otherwise notified.

ADDRESSES: The meeting will be held at the Department of Commerce Room 4830, located at 14th Street and Constitution Avenue, N.W., Washington, D.C., unless otherwise notified.

FOR FURTHER INFORMATION CONTACT: Kathy Rice or Susan Toohey, Department of Commerce, 14th St. and Constitution Ave., N.W., Washington, D.C. 20230, (202) 482–4792 or Bill Daley, Office of the United States Trade Representative, 600 17th St. N.W., Washington, D.C. 20508, (202) 395–6120.

SUPPLEMENTARY INFORMATION: The ISAC–14 will hold a meeting on July 20, 1998 from 9:15 a.m. to 3:00 p.m. The meeting will include a review and discussion of current issues which influence U.S. trade policy. Pursuant to Section 2155(f)(2) of Title 19 of the Untied States Code and Executive Order 11846 of March 27, 1975, the Office of the U.S. Trade Representative has determined that part of this meeting will be concerned with matters the disclosure of which would seriously compromise the development by the Untied Stated Government of trade policy, priorities, negotiating objectives or bargaining positions with respect to the operation of any trade agreement and other matters arising in connection with the development, implementation and administration of the trade policy of the United States. During the discussion of such matters, the meeting will be closed to the public from 11:15 a.m. to 3:00 p.m. The meeting will be open to the public and press form 9:15 a.m. to 11:15 a.m. when other trade policy issues will be discussed. Attendance during this part of the meeting is for observation only. Individuals who are not members of the committees will not be invited to comment.

Pate Felts,

Acting Assistant United States Trade Representative, Intergovernmental Affairs and Public Liaison.

[FR Doc. 98–17481 Filed 6–30–98; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Notice of Order to Show Cause (Order 98–6–33), Dockets OST–97–2940 and OST–97–2941]

Applications of Planet Airways, Inc. for New Certificate Authority

AGENCY: Office of the Secretary, Department of Transportation.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue orders (1) finding Planet Airways, Inc., fit, willing, and able, and (2) awarding it certificates of public convenience and necessity to engage in interstate and foreign charter air transportation of persons, property, and mail.

DATES: Persons wishing to file objections should do so no later than July 10, 1998.

ADDRESSES: Objections and answers to objections should be filed in Dockets OST–97–2940 and OST–97–2941 and addressed to the Department of Transportation Dockets (SVC–124.1, Room PL–401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590 and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Mrs. Kathy Lusby Cooperstein, Air Carrier Fitness Division (X–56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW, Washington, D.C. 20590, (202) 366–2337.

Dated: June 26, 1998.

Charles A. Hunnicutt,

Assistant Secretary for Aviation and International Affairs.

[FR Doc. 98–17536 Filed 6–30–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Meeting on Emergency Evacuation Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting of the FAA's Aviation Rulemaking Advisory Committee (ARAC) to discuss emergency evacuation issues.

DATES: The meeting will be on July 23, 1998, at 10 a.m. Arrange for oral presentations by July 17, 1998.

ADDRESSES: The meeting will be held at the Boeing Facility, 1200 Wilson Boulevard (across the street from the Rosslyn Metro stop), Rosslyn, VA.

FOR FURTHER INFORMATION CONTACT: Effie M. Upshaw, Office of Rulemaking, ARM–209, FAA, 800 Independence Avenue, SW, Washington, DC 20591, Telephone (202) 267–7626, FAX (202) 267–5075.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app. III), notice is given of an ARAC meeting to be held on July 23, 1998, at the Boeing facility at 1200 Wilson Boulevard, Rosslyn, VA (across the street from the Rosslyn Metro stop).

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[3] 17 CFR 200.30–3(a)(12).

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The agenda will include:

- Opening remarks.
- Report on Performance Standards Working Group Activities.
- Briefing on draft notice of proposed rulemaking regarding escape device lighting.
- Discussion of assignment of new ARAC task on emergency exit access.

Attendance is open to the public, but will be limited to space available. The public must make arrangements by July 17, 1998, to present oral statements at the meeting. Written statements may be presented to the committee any time by providing 25 copies to the Assistant Executive Director for Emergency Evacuation Issues or by providing copies at the meeting. In addition, sign and oral interpretation, as well as a listening device, can be made available if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on June 25, 1998.

Florence Hamn,

Acting Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 98–17490 Filed 6–30–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. 98–3990]

Notice of Request for the Extension of a Currently Approved Information Collection

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to reinstate the following expired information collection: Charter Service Operations.

DATES: Comments must be submitted before August 31, 1998.

ADDRESSES: All written comments must refer to the docket number that appears at the top of this document and be submitted to the United States Department of Transportation, Central Dockets Office, PL–401, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address from 10:00 a.m. to 5:00 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard/envelope.

FOR FURTHER INFORMATION CONTACT: Ms. Rita Daguillard, Office of the Chief Counsel, (202) 366–1936.

SUPPLEMENTARY INFORMATION: Interested parties are invited to send comments regarding any aspect of this information collection, including: (1) the necessity and utility of the information collection for the proper performance of the functions of the FTA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection.

Title: **Charter Service Operations** (*OMB Number: 2132–0543*)

Background: Section 5323(d) of the Federal Transit Laws (FT Laws) requires all applicants for financial assistance from FTA to enter into a charter bus agreement with the Secretary of Transportation (delegated to the Administrator of FTA in 49 CFR 1.51(a)). Section 5323(d) of the FT Laws provides protections for private intercity charter bus operators from unfair competition by FTA recipients. Section 5302(a)(7) of the FT Laws as interpreted by the Comptroller General permits FTA recipients, but does not state that recipients have a right, to provide charter bus service with FTA funded facilities and equipment only if it is incidental to the provision of mass transportation service. These statutory requirements have been implemented in FTA's charter regulation, 49 CFR Part 604.

49 CFR 604.7 requires all applicants for financial assistance under Section 5309, 5336, or 5311 of the FT Laws to include two copies of a charter bus agreement with the first grant application submitted after the effective date of the rule. The applicant signs the agreement, but FTA executes it only upon approval of the application. This is a one-time submission with incorporation by reference in subsequent grant applications. Section 604.11(b) requires recipients to provide notice to all private charter operators and allow them to demonstrate that they are willing and able to provide the charter service the recipient is proposing to provide. The notice must be published in a newspaper and sent to any private operator requesting notice and to the United Bus Owners of America and the American Bus Association, the two trade associations to which most private charter operators belong. To continue receiving federal financial assistance, recipients must publish this notice annually. Section 604.13(b) requires recipients to notify each private operator that presented evidence of the recipient's determination whether the private operator meets the definition of "willing and able." This notice is also an annual requirement. On December 30, 1988, FTA issued an amendment to the Charter Service Regulation which allows additional exceptions for certain non-profit social service groups that meet eligibility requirements.

Respondents: State and local government, business or other for-profit institutions, and non-profit institutions.

Estimated Annual Burden on Respondents: 1.2 hours for each of the 1,656 respondents.

Estimated Total Annual Burden: 1,984 hours.

Frequency: Annual.

Issued: June 26, 1998.

Gordon J. Linton,

Administrator.

[FR Doc. 98–17476 Filed 6–30–98; 8:45 am]

BILLING CODE 4910–57–U

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–98–3979; Notice No. 1]

Reports, Forms, and Recordkeeping Requirements (Authority: Paperwork Reduction Act of 1995)

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Request for public comment on proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under new procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatements of previously approved collections. This document describes a collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before August 31, 1998.

ADDRESSES: Direct all written comments to the DOT Docket Management

Facility, U.S. Department of Transportation, Room PL–01, 400 Seventh Street, SW, Washington, DC 20590. Docket No. NHTSA ______. Comments must refer to the docket and notice numbers cited at the beginning of this notice.

FOR FURTHER INFORMATION CONTACT: Complete copies of each request for collection of information may be obtained at no charge from Mr. Michael Robinson, NHTSA Information Collection Clearance Officer, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Room 6123, Washington, DC 20590. Mr. Robinson's telephone number is (202) 366–9456.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulations (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) How to enhance the quality, utility, and clarity of the information to be collected; and

(iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks public comment on the following proposed collection of information:

Assessment of the Drowsy Driver Education Campaign

Type of Request—New information collection requirement.

OMB Clearance Number—Not yet assigned.

Form Number—This collection of information uses no standard forms.

Requested Expiration Date of Approval—12/31/99.

Summary of the Collection of Information—NHTSA is developing an educational program to help night-shift workers to increase the amount and improve the quality of their sleep in order to reduce their risk for involvement in automobile crashes as a result of driving while drowsy. The education campaign will present several messages related to sleep improvement, sleepiness, and driving while drowsy to night-shift workers employed by 24-hour industries. To ensure that the program is effective in conveying crucial information to shift workers, NHTSA is proposing to conduct a survey of workers to determine changes in their knowledge, attitudes and behavior pertaining to sleep and drowsy driving as a result of the Drowsy Driver Education Campaign. NHTSA proposes to collect survey data from night-shift workers at up to twenty sites that implement the program to varying degrees.

Workers' participation in the self-administered survey would be voluntary. The survey tool would be administered prior to the beginning of the campaign and again 6 months later (after the close of the campaign) to assess the extent to which campaign messages had their intended effect.

Questions included in the survey would be designed to assess changes in night shift worker knowledge, attitude, and behavior as they relate to improved sleep and decreased drowsy driving. A core set of survey items will be asked on both the pre-and post-test survey instruments; some retrospective items will only appear on the post-test instrument.

Survey participants would include a non-probability sample of up to 100 night-shift workers (employed between the hours of 11 p.m. and 7 a.m.) at each participating employer, including some workers on rotating shifts, all of whom would be exposed to the education campaign. Participants are expected to include both male and female workers, age 18 and over. The proposed survey would be anonymous and confidential.

Description of the Need for the Information and Proposed use of the Information—NHTSA was established to reduce the number of deaths, injuries, and economic losses resulting from motor vehicle crashes on the Nation's highways. As part of this statutory mandate, NHTSA is authorized to conduct research as a foundation for the development of motor vehicle standards and traffic safety programs.

In the 1996 Appropriations Bill for the Department of Transportation, the Senate Appropriations Committee report noted that, "NHTSA data indicate that in recent years there have been about 56,000 crashes annually in which driver drowsiness/fatigue was cited by police. An annual average of roughly 40,000 nonfatal injuries and 1,500 fatalities result from these crashes. It is widely recognized that these statistics under-report the extent of these types of crashes."

In response to the Committee's report, Congress allocated funds for a public education campaign on drowsy driving among non-commercial drivers to be sponsored by NHTSA and the National Center of Sleep Disorders Research of the National Institutes of Health.

As a preliminary task in the development of the campaign, NHTSA in cooperation with the National Center on Sleep Disorders Research (an agency of the National Heart, Lung, and Blood Institute of the National Institutes of Health) convened an Expert Panel on Driver Fatigue and Sleepiness to conduct a review of the literature to establish the state of knowledge on sleepiness and driving. This research indicated that the night shift worker is an appropriate target for the education campaign addressing drowsy driving. Night shift workers typically get one and one-half fewer hours of sleep per 24 hours than day workers. They are also at greatest risk of sleep disruption because their work requires that they sleep during daylight hours, interfering with circadian (i.e., day/night sleep) patterns known to exist in human beings.

Data from a recent national telephone survey indicate that 57 percent of the adult public have driven when drowsy during the past calendar year; 23 percent of this population report that they have fallen asleep at the wheel. When data were restricted to individuals working rotating or evening shifts, they indicate that: (1) 80 percent of adults working rotating shifts and 64 percent of adults working regular night shifts had driven while drowsy during the past calendar year, and (2) 40 percent of adults working rotating shifts and 28 percent of adults working regular night shifts reported falling asleep at the wheel.

An education campaign with messages focused on the need for more continuous and higher quality sleep is being finalized for implementation among night shift workers. The proposed survey would assess the ability of this campaign to improve sleep patterns among night shift workers. The survey would allow for the collection of baseline data on knowledge, attitude, and behaviors related to sleep and drowsy driving among shift workers, and their

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comparison with similar data collected at the close of the campaign. If approved, the proposed survey would assist NHTSA in establishing policy related to the expansion of the education campaign to the larger driving community.

Description of the Likely Respondents (Including Estimated Number, and Proposed Frequency of Response to the Collection of Information)—The information collection described in this notice would be a self-administered paper-and-pencil survey requiring approximately 20 minutes to complete. It would be administered to up to 2,000 shift workers (average of about 100 per site), both male and female, ages 18 and older. Survey participants will be identified by the 15 to 20 employers who will have been awarded grants to participate in the conduct and evaluation of the educational program. Each individual would be surveyed twice during the course of the program: prior to the start of the campaign and again at the close of the campaign.

Estimate of the Total Annual Reporting and Record Keeping Burden Resulting from the Collection of Information—NHTSA estimates that each respondent in the sample would require an average of 20 minutes to complete the survey. Thus, the number of estimated reporting burden hours a year on the survey participants (2,000 participants multiplied by 2 survey administrations multiplied by 20 minutes) would be 1,333 person-hours for the proposed survey. The respondents would not incur any reporting cost from the data collection. The respondents also would not incur any record keeping burden or record keeping cost from the information collection.

James L. Nichols,

Acting Associate Administrator for Traffic Safety Programs.

[FR Doc. 98–17512 Filed 6–30–98; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Discretionary Cooperative Agreement in Support of a Large City/Jurisdiction Demonstration and Evaluation Program for Pedestrian Safety

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Announcement of a discretionary cooperative agreement in support of a large city/jurisdiction demonstration and evaluation program for pedestrian safety.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) announces a discretionary cooperative agreement program to demonstrate and evaluate the effectiveness of a comprehensive behavioral and engineering-based countermeasures program for reducing the occurrence of crashes involving pedestrians of all ages. Past Departmental research efforts typically have focused on developing and, when possible, assessing countermeasures for a single target group, such as school-age children. The idea here is to determine the combined effects of various crash prevention approaches to maximize the safety benefits to all pedestrians. The study will use a recently developed methodology for identifying land areas (or zones) within jurisdictions containing concentrations of crashes for specific target groups. Subsequently, existing, refined, and, as needed, newly developed countermeasures will be directed within these zones at pedestrians of all ages, especially those at high risk of crash involvement. To the extent possible, the program also will determine the impact of countermeasures directed at one or more diverse racial or ethnic group known to have a traffic safety problem.

This notice solicits applications from public and private, non-profit, for profit and not-for-profit organizations, governments and their agencies, or a consortium of these organizations that are interested in implementing and evaluating the safety zones and countermeasures program within a large jurisdiction. Preference will be given to those applications which help NHTSA meet its needs to obtain an urban diverse mix, potential for replication in other communities, and/or other factors deemed relevant by NHTSA.

NHTSA anticipates awarding one demonstration and evaluation project for a period of four years as a result of this announcement. In the event additional money becomes available a second award may be made during FY'99 or FY 2000.

DATES: Applications must be received at the office designated below on or before July 31, 1998.

ADDRESSES: Applications must be submitted to the NHTSA, Office of Contracts and Procurement (NAD–30), ATTN: Lamont Norwood, 400 7th Street, SW, Room 5301, Washington, DC 20590. All applications submitted must include a reference to NHTSA Cooperative Agreement Program No. DTNH22–98–H–05183. Interested applicants are advised that no separate application package exists beyond the contents of this announcement.

FOR FURTHER INFORMATION CONTACT: General administrative questions may be directed to Lamont Norwood, Office of Contracts and Procurement, at (202 366–8573) or by e-mail to LNorwood@nhtsa.dot.gov. Programmatic questions relating to this cooperative agreement program should be directed to Marv Levy, Traffic Safety Programs, NHTSA, NTS–31, 400 Seventh Street S. W., Washington, D.C. 20590 (202 366–5597), or by e-mail at mlevy@nhtsa.dot.gov.

SUPPLEMENTARY INFORMATION:

Background

The Problem

On average, a pedestrian is killed in a traffic crash every 97 minutes, and injured every six minutes. In 1996, 5412 pedestrians were killed in traffic crashes in the U.S. and 82,000 were injured. The economic costs of these crashes are substantial, costing billions of dollars each year. The Department of Transportation, via the Secretarial Initiative for Pedestrians and Bicyclists, has targeted a decrease in the number of pedestrian crashes of 10 percent by the year 2000. This demonstration will support the Departmental effort.

Why a Large City or Jurisdiction is Needed

In 1996 seventy-one percent of pedestrian fatalities occurred in urban areas. For example, in 1996, cities with high percentages of pedestrian fatalities among all traffic related deaths included New York (52.7 percent), Baltimore (47.1 percent), Buffalo (44.8 percent), Miami (43.1 percent), Honolulu (41.7 percent), Long Beach (41.7 percent), and San Jose (40.0 percent).

Target Groups of Interest

Over the past twenty-five years NHTSA and the Federal Highway Administration (FHWA) collected data on pedestrians most likely to be involved in crashes. These data suggest that three groups are most at risk: young children, alcohol impaired adults, and older pedestrians. In 1996, nearly one-third (31 percent) of all children between the ages of five and nine years who were killed in traffic crashes were pedestrians, more than one-fifth (22 percent) killed under the age of 16 were pedestrians, and 7 percent of all traffic injuries under the age of 16 were pedestrians. Older pedestrians (ages 65+) accounted for 22.4 percent of all pedestrian fatalities; however, this group constitutes only 12.8 percent of the population. Older adults have the highest pedestrian fatality rate among all ages. Excessive drinking is a major traffic safety problem facing pedestrians. In 1996, 36 percent of all pedestrian fatalities (16 years of age or older), were intoxicated, with blood alcohol concentrations of 0.10 grams per deciliter or greater. Recent study findings suggest the alcohol crash problem for pedestrians crosses both racial and ethnic groups. The problem is not confined to white Americans but extends to groups such as Afro-Americans, Hispanic Americans, and Native Americans. As with drinking drivers, most victims are male, and the crashes occur primarily at night and on weekends.

Preventing Pedestrian Crashes

Within the Department of Transportation both NHTSA and FHWA have responsibilities in the area of pedestrian safety. NHTSA is primarily responsible for developing and testing public information and education, training, legislative, and enforcement based countermeasures, whereas the FHWA is primarily responsible for improving pedestrian safety by developing and testing engineering applications. The types of countermeasures developed and implemented by both Agencies typically complement each other. For example, crash reduction effects have been achieved at intersection locations for older pedestrians in Phoenix, AZ by combining behavioral advice in conjunction with engineering activities. FHWA sponsored improvements to the physical environment at selected intersections within a set of "safety zones" containing concentrations of crashes. These improvements included removal of visual "screens," which blocked pedestrians and drivers from viewing each other, and adding new traffic signs explaining the meaning of different signal phases such as flashing "Don't Walk". NHTSA, on the other hand, sponsored the development of educational materials for use with older pedestrians. Door hangers were prepared containing information about what pedestrians should do at intersections and what they should do as drivers to avoid crash involvement. Some of the advice provided specifically discussed the meaning of pedestrian signals, including "Don't Walk". Thus, the materials and environmental changes likely had the effect of "positively reinforcing" each other. Findings from this recently completed study reported a forty-six percent decrease in crashes involving older pedestrians within the zones. This was in contrast to an increase in crashes involving older pedestrians outside the zones during the program period.

Tools for Problem Identification

Jurisdictions seeking to counter pedestrian traffic safety problems have to deal with key issues such as determining the nature and extent of the problem and ways to impact identified problems in an efficient manner due to limited resources. Past Departmental research has developed methodologies that may be used to (1) identify areas (zones) within jurisdictions where countermeasures may be implemented for maximum impact and (2) identify the specific types of crashes occurring within these zones. This approach permits existing, refined or newly developed countermeasures which address the major pedestrian traffic safety problems to be disseminated in a cost effective manner.

Zoning Methodology

Jurisdictions have used school safety zones for years as a means of preventing crashes. In these zones, young children are protected by a combination of behavioral advice, enforcement of traffic laws, and engineering activities. Rather than using a facility, i.e., a school, for identifying where a zone should be located, recent research found that zones could be identified by locating areas within a jurisdiction where concentrations of crashes have occurred. A mapping methodology (either manual or incorporating a geographic information system) has been used to identify concentrations of crashes for older pedestrians and for pedestrian crashes involving alcohol. Once identified, countermeasures can be disseminated efficiently within the zones which comprise just a fraction of the entire jurisdiction or city land area. In Phoenix, for example, all of the zones comprised less than 5% of the land area. Use of such an approach can save thousands of dollars by focusing the countermeasures where they can do the most benefit. It is anticipated that the grantee will use this approach for identifying different sets of zones, each for a different subpopulation of pedestrians.

Crash Typing

Within identified zones, different kinds or types of crashes occur. These need to be identified so that appropriate countermeasures can be applied to impact them. During the 1970s, NHTSA identified more than thirty pedestrian crash types. This research went beyond simple identification of the normal demographic data available (e.g., time of day, day of week, gender, age of victim) to include information on the dynamics leading to the crash. Both predisposing factors (alcohol consumption, parked vehicles along the street) and precipitating factors (e.g., inadequate search, detection, or reaction by the pedestrian and driver) were identified that distinguished each crash type.

Subsequent work was conducted during the 1980s which permitted the identification of the various crash types by use of a process called Manual Accident Typing (MAT). With this tool, coders, by responding to a series of items, could readily classify crashes into their respective types. By using this process, a jurisdiction is able to identify its most significant pedestrian problems. Once identified, countermeasures can be used to impact predisposing and precipitating conditions so as to reduce the occurrence of these crashes. A software program called the Pedestrian and Bicyclist Crash Analysis Tool (PBCAT) is currently being prepared under the sponsorship of the FHWA and NHTSA. This tool, scheduled to be available by December 1998, will automatically classify crashes, build a data base and produce reports for use by the jurisdiction.

Countermeasure Ideas, and Materials Developed for Impacting Pedestrian Safety

Over the years, NHTSA and FHWA have developed a variety of countermeasures that can be used with specific target groups. Most of these address the problems of children, older pedestrians, and adults. Some address alcohol impaired pedestrians. Several of these countermeasures were conceptual in nature and not developed; others were developed but not tested in the field for positive behavioral change, and their crash reduction effects; still others were tested in the field for their effectiveness. It is anticipated that existing countermeasures may need to be refined, and that new countermeasures may need to be developed in support of this demonstration. For example, a jurisdiction or city may have a specific problem that has not been addressed in past Departmental work, e.g., alcohol-impaired pedestrians involving diverse racial/ethnic groups. Also, other existing countermeasures will be considered for implementation which can be justified to the government. The following provides a partial listing of products that were produced in the Department or elsewhere which are consistent with NHTSA/FHWA research. These and other products, as designed by the COTR, will be used by

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the successful applicant in fulfilling the requirements of this agreement.

Preschool Children

Walking in Traffic Safely

A pedestrian safety program for preschoolers involving parents, teachers, and preschoolers. Safe areas (sidewalks) are distinguished from unsafe areas (roadways). Parents and other caretakers are instructed to be with the child or children when crossing the roadway. Materials are provided for parents, and teachers, and a set of storybooks with a safety theme are provided for children of different ages.

School-Age Children

Walk Ride Walk Getting to School Safely

These materials are based on research conducted by NHTSA. A school bus/pedestrian safety kit is available through the National Safety Council. It is a comprehensive safety program that covers walking to and from the bus stop, waiting for the bus, crossing the street to the bus, boarding the bus, etc. A set of teacher guides, videotapes and a poster are available, as are parent and bus driver materials.

Stop and Look With Willy Whistle and Walking With Your Eyes

These videos contain traffic safety advice for school age children from K–6th grade. The first video "Stop and Look with Willy Whistle" provides information on what steps are involved in safely crossing the street. The second video—"Walking with Your Eyes"—is geared to the older school-age child and provides information on how to cross the street at intersections, especially when signals are present. For example, information is provided on how to deal with turning vehicles, such as right turn on red and the meaning of lights and signals, such as the "Don't Walk" sign. The contents of these videos were tested in the field and associated with a substantial reduction in crashes.

Alcohol-Impaired Adults

Walk Smart Baltimore Program

This ongoing study developed TV and radio public service announcements (PSAs) and print materials (flyers, posters, etc.) that provided pedestrian safety advice; used engineering improvements such as nighttime lighting, analysis of parking setback violations, special pedestrian alert signs, and program banners; developed a police training video; and, provided retroreflective caps.

Older Pedestrians

Walking Through the Years

This brief paper describes the traffic safety problems facing older pedestrians and provides safety advice for older pedestrians and motorists. Information from this paper was incorporated in AAA materials, including a brochure, a flyer and a slide presentation.

Pedzone Study Materials

Public information and education (PI&E) materials included a video, "Walking Through the Years", that offers pedestrian safety advice for older pedestrians, five TV PSAs, and a set of 13 flyers for both pedestrians and motorists. There were also brochures, posters, bus cards, bumper stickers, radio PSAs and slides. These materials are the outgrowth of a rigorous research process to highlight behavioral errors that are amenable to change. Specific pedestrian risks addressed were turning cars, multiple threat and other visual screens, looking before entering the roadway, backing cars, parking lots, conspicuity, the fresh green signal, driveways and alleyways, and the meaning of flashing "Don't Walk" signs. Engineering activities included installing overhead pedestrian warning signs, improving crosswalks, installing signs explaining the meaning of the signal phases, etc. A Zone Guide, currently in draft form, will describe the process of conducting a zoning analysis. It is anticipated this product will be published by November, 1998.

Caminado a Traves de los Anos-Segurid Para Peatones de Tercera Edad (65+) (Walking Through the Years—Pedestrian Safety for Older (65+) Adult).

Pedestrian safety program materials include "La Cita telenovela", an illustrated brochure, a detailed report, and a slide show and presenter's guide that identifies pedestrian risks and suggested actions that can be taken to avoid crashes. These materials were specifically designed for use with spanish speaking audiences.

Objectives

Under this cooperative agreement the effectiveness of the combined pedestrian countermeasures program shall be demonstrated and evaluated to determine the impacts on reducing the traffic related injuries and associated costs within a large jurisdiction or city. Specific objectives of this cooperative agreement are as follows:

1. Conduct Complete Analysis of Pedestrian Safety Problem

Fulfilling this objective will involve applying the Zoning Process to identify concentrations of crashes within a large city or jurisdiction for different target groups. Once the zoning process is completed, common crash types will be identified by applying the MAT or, if available, PBCAT.

2. Use of Traditional and Non-Traditional Partners

One of the key components of this study is to assemble a cadre of partners that are dedicated to reducing crashes among pedestrians at the local level. These partners will be involved in all aspects of the demonstration, from analyzing the scope of the pedestrian problem, to identifying appropriate countermeasures, to monitoring the field evaluation and analyzing the data. Both traditional partners (e.g., State and local DOTs, including traffic engineers, national organizations, enforcement agencies, study design and evaluation specialists, local PTAs) and non-traditional (local public health organizations, hospitals, alcohol rehabilitation, etc.) shall be considered for inclusion. It should be mentioned that use of subcontractors to administer and/or evaluate the findings is acceptable.

3. Implement a Program To Reduce Traffic Related Injuries

The focus of the study is to reduce crashes among pedestrians. The partners shall develop a program that will be broad based in scope and that has the potential to impact all of the residents of the jurisdiction or city.

Representatives within the jurisdiction or city will design their own unique countermeasures program. Existing behavioral and engineering countermeasures will be examined and if appropriate applied as is. Other countermeasures will be refined or developed as needed. The key here is that the countermeasures developed will be designed to impact specific behavioral, engineering or environmental problems related to common crash situations or types.

4. Evaluate the Effectiveness of the Program

A process analysis as well as an impact analysis will be conducted to determine the effectiveness of the demonstration program. What worked and did not work during implementation is important for other jurisdictions interested in setting up a program of their own. A power analysis shall be conducted as part of the study design activities. At a minimum, information on the effectiveness of the program for reducing crashes overall and within specific subpopulations, eg., school age children, older pedestrians, shall be provided.

Availability of Funds

A total of $400K will be made available to fund this program. Of this amount, $250K will be made available in FY'98 and the remaining funds ($150K) will be provided in FY'99, subject to available funds, for this demonstration and evaluation program. Of the total funds awarded, at least, $20,000 must be used to fund an on-site staffer who is dedicated to achieving the goals of this study. Also, at least 25% of the awarded amount must be devoted to evaluation activities. Additional funds may become available to fund a second demonstration project in FY'99 or FY'2000. This demonstration project will be conducted for a period of up to four years. Given the amount of funds available for this effort, applicants are strongly encouraged to seek other funding sources to supplement the federal funds and include cost sharing plans and commitments.

Period of Performance

Performance of this cooperative agreement will be four years (48 months) from the effective date of award.

NHTSA Involvement

NHTSA will be involved in all activities undertaken as part of the cooperative agreement and will:

1. Provide a Contracting Officer's Technical Representative (COTR) to participate in the planning and management of this Cooperative Agreement and to coordinate activities between the Grantee and NHTSA.
2. Provide information and technical assistance from government sources within available resources and as determined appropriate by the COTR.
3. Serve as a liaison between NHTSA Headquarters, Regional Offices and others (Federal state and local) interested in the application of this comprehensive pedestrian program and the activities of the grantee.
4. Stimulate the transfer of information among those engaged in pedestrian traffic safety activities.

Eligibility and Other Applicant Requirements

A sufficient number of pedestrian crashes per year is required so that appropriate statistical techniques can be used to determine the effectiveness of various countermeasures for reducing crashes and injuries overall, and among various subpopulations within the city or jurisdiction.

Therefore, only cities or jurisdictions with at least 500,000 people will be considered for inclusion in this demonstration. Applicants may, in conjunction with representatives from a large city or jurisdiction, submit a proposal to conduct this demonstration study. Applications may be submitted by public and private, non-profit, and not-for-profit organizations, and governments and their agencies or a consortium of the above. Thus, universities, colleges, research institutions, other public and private oganizations and state and local governments are eligible to apply. Interested applicants are advised that no fee or profit will be allowed under this cooperative agreement program. This demonstration project will require extensive collaboration among the various organizations to achieve the program objectives.

Application Procedures

Each applicant must submit one original and two copies of the application package to NHTSA, Office of Contracts and Procurement (NAD-30), ATTN: Lamont Norwood, 400 7th Street, SW., Room 5301, Washington, DC 20590. Submission of three additional copies will expedite processing but is not required. Applications must be typed on one side of the page only, and must include a reference to NHTSA Cooperative Agreement No. DTNH22-98-H-05183. Only complete packages received on or before 4 p.m. on July 31, 1998 will be considered.

Application Contents

Applications for this program must include the following information:

1. The application package must be submitted with OMB Standard Form 424 (Rev. 4-88, including 424A and 424B), application for Federal Assistance, with the required information filled in and certified assurances signed. While form 424 deals with budget information, and Section B identified Budget Categories, the available space does not permit a level of detail which is sufficient to provide for a meaningful evaluation of the proposed total costs. A supplemental sheet shall be provided which presents a detailed breakdown of the proposed costs, as well as any costs which the applicant indicates will be contributed by other sources in support of the demonstration study.

2. The application shall include a narrative which addresses the following items.

a. A statement of goals and objectives of the project as interpreted by the applicant.

b. A description of the city in which the applicant proposes to work. For the purposes of this program, a large city is defined here as a city with a population of 500,000 or more. It should be large enough so that the program can support an impact evaluation and yield meaningful results. The description should include city demographics, including any information on diverse racial/ethnic groups, three years of data on the city's overall traffic safety problem, a listing of available data sources, the types of data collected, e.g., police files, hospital or trauma center records, and how the data will be accessed.

c. A description of the city's overall pedestrian crash problem and for different subgroups, e.g., older and younger pedestrians. Data shall include both fatality and injury data. Also, a description of the procedure that will be used to conduct a zoning analysis and identification of concentrations of crashes for different target groups, including young children, older pedestrians and alcohol involved pedestrians. As part of the application the applicant shall identify and describe the qualifications of the person conducting this analysis. For more information, see Reporting Requirements and Deliverables section (b) Problem Identification Report.

d. An Implementation Plan that describes the types of interventions or activities proposed to achieve the objectives of the demonstration project. How will priorities be set for the different interventions? How will the respective roles of the various parties be determined, monitored and modified if needed? What types of interventions will be considered? How will government-provided materials be used in countermeasure implementation? The implementation plan shall also address prospects for program continuation beyond the period of Federal assistance. A milestone chart with proposed deadlines (weeks after award) shall be included as part of the Implementation Plan.

e. A proposed Evaluation Plan that at a minimum shall contain the following:

1. The study design proposed and whether a control or matching procedure will be used;
2. The types of process and impact data collected;

3. The duration of the data collection period, including predelivery, delivery (of countermeasures), and post delivery;

4. What the (outcome) measures are expected to be and how they will be measured;

5. How often the data will be collected, and how the data will be analyzed;

6. How action undertaken by the community will be linked with the outcome measures;

7. How the collected data may be disaggregated to provide relevant population; and subpopulation data. (For more information see Objectives, Item 4, Evaluate the Effectiveness of the Program.)

f. A description of the full working partnership that has been or will be established to conduct the Comprehensive Pedestrian Safety program. The application shall describe all the partners that will participate in the program (e.g., local city and state government, law enforcement, education, media) and what the role for each partner will be. A complete set of letters of commitment, written by major partners, organizations, and groups proposed for study involvement, shall detail what each partner is willing to do over the course of the program (provide data, staff, in-kind resources, etc.). Form letters that do not specifically address these issues will not be acceptable. Letters from owners of the data required for successful completion of this project also must be submitted. These letters must indicate that the data required for the project are accessible to the project team.

g. A description of how the project will be managed both at the grantee level and at the local level. The application shall identify the proposed project manager and any support personnel considered critical to the successful accomplishment of the project objectives, including a description of their qualifications and respective organizational responsibilities. The roles and responsibilities of the grantee, the local level staff and any others included in the application package also shall be specified. The proposed level of effort in performing the various activities shall be identified. A staffing plan and resume for all key personnel shall be included in the application.

h. A dissemination plan that describes how the results from this demonstration may be shared with other interested parties. The plan should include materials, e.g., a how-to guide for developing and implementing a comprehensive pedestrian safety program in other communities, and delivery mechanisms. Also, proposed presentations and submission of articles to peer review journals shall be included as part of the plan.

i. A separately labeled section of the document shall be prepared with information demonstrating that the applicant meets all of the following special competencies.

1. Knowledge and experience accessing and using relevent data sources such as police crash reports, hospital data collection procedures, and to the extent possible, injury cost data (e.g., costs of injuries in the city).

2. Experience in designing comprehensive program evaluations, collecting and analyzing both qualitative and quantitative data and synthesizing, summarizing and reporting evaluation results which are readily understandable to lay and technical audiences. Also, demonstrated experience in designing comprehensive program manuals or guides. An example of a manual or guide produced should be submitted, if available.

3. Experience in field research, and in working cooperatively in partnerships with governmental agencies, media, local organizations and others in implementing solutions to traffic safety problems.

4. Experience in implementing pedestrian crash reduction programs at the local level.

j. A dissemination plan that describes how the results from this demonstration may be shared with other interested parties. The plan should include materials, e.g., a how-to guide for developing and implementing a comprehensive pedestrian safety program in other communities, and delivery mechanisms. Also, presentations and submissions of articles to peer reviewed journals shall be part of the plan.

Application Review Process and Evaluation Factors

Each application package will initially be reviewed for eligibility (See Eligibility and Other Applicant Requirements section of this announcement). Each complete application from an eligible recipient will subsequently be reviewed by an evaluation committee. The applications will be assessed using the following criteria:

1. Goals, Objectives and Implementation Plan (25%)

The extent to which the applicant's goals are clearly articulated, the objectives are time-phased, specific, measurable and achievable and the goals and objectives relate to identified problems. The extent to which the implementation plan will achieve an outcome-oriented result that will reduce pedestrian related injuries and, to the extent possible, costs to the city. The implementation plan will be evaluated in terms of its feasibility, realism, and ability to achieve the desired outcomes as well as prospective plans for program continuation beyond the period of Federal assistance. For more information, see application contents, items 2a and d.

2. Understanding Pedestrian Safety Problem and Problem Identification (15%)

The applicant's capacity to demonstrate an understanding of the theory and findings of NHTSA's and FHWA's research efforts relating to pedestrian crash typing and the zoning process for identifying concentrations of pedestrian crashes within the city. Also, the applicant's ability to identify the significance of the pedestrian safety problem within the overall traffic safety problem and to identify among the residents involved in pedestrian-related crashes the populations involved, types and locations of crashes, types of vehicles, and the types of injuries incurred. For more information, see application contents, item 2c.

3. Collaboration (15%)

The extent to which the applicant has demonstrated experience in a full working partnership for data acquisition and analysis, design, implementation and evaluation of a city/community based program; and the extent to which such a partnership has been established among the applicant and critical components in the city/community representing various elements within and outside of the traditional traffic safety community. The extent to which commitment has been demonstrated by the various partners and the roles of each are specified. For more information, see application contents, item 2f.

4. Evaluation Plan (15%)

How well the applicant describes the proposed evaluation plan design and the methods for measuring the processes and outcomes of the proposed interventions (countermeasures). How well the measures described provide useful information on the effectiveness of the comprehensive pedestrian countermeasures program? Does the applicant provide sufficient evidence that the proposed partners are sufficiently committed to evaluation? Are there sufficient resources or capacity to ensure access to needed data, and the collection and analysis of qualitative and quantitative data for measuring the effectiveness of the comprehensive pedestrian countermeasure program? See application contents, item 2e, for more information.

5. Special Competencies (15%)

The extent to which the applicant has demonstrated knowledge and experience accessing and using relevant data sources, designing and implementing comprehensive program evaluations, implementing problem identification and countermeasure development and test programs, and working in partnerships with others on the local (city) level. For more information, see application contents, item 2i.

6. Project Management and Staffing (15%)

The extent to which the proposed staff, including management, program staff and local (city) partners are clearly described, appropriately assigned, and have adequate skills and experiences.

The extent to which the applicant has the capacity and facilities to design, implement, and evaluate a complex and comprehensive local (city) program. The extent to which the applicant provides details regarding the level of effort and allocation of time for each staff position. See application contents, item 2g, for more information.

Special Award Selection Factors

Applicants are strongly encouraged to seek funds for the purpose of cost-sharing from other Federal, State, local and private sources to augment those available under this announcement. Applications which include a commitment of such funds will be given additional consideration.

Terms and Conditions of Award

1. Prior to award, each grantee must comply with the certification requirements of 49 CFR Part 20, Department of Transportation New Restrictions on Lobbying, and 49 CFR part 29, Department of Transportation government-wide Debarment and Suspension (Non-procurement) and Government-wide Requirements for Drug Free Workplace (Grants).

2. Reporting Requirements and Deliverables:

a. Quarterly Progress Reports should include a summary of the previous quarter's activities and accomplishments, as well as the proposed activities for the upcoming quarter. Any decisions and actions required in the upcoming quarter should be included in the report. The grantee shall supply the progress report to the Contracting's Officer's Technical Representative (COTR) every ninety (90) days following the date of award.

b. Problem Identification Report: The grantee shall submit a Problem Identification Report within six months after award. This report will describe the overall pedestrian safety problem, within the city and by subpopulation. Subpopulations to be described will include at a minimum, school age children, older pedestrians (65+ years of age and older) and crashes involving alcohol-impaired pedestrians. Also, information on crashes involving different racial and ethnic groups shall be presented as part of the report. A crash typing analysis will be conducted to determine the types of crashes occurring within the city. This analysis will be based on the MAT coding procedure or, if available, the software package containing the (PBCAT).

The grantee shall conduct a zone analysis to determine those areas within the city that contain the highest concentration of crashes. The zone process will be applied to each target group of significance using the crash analysis tool. The Problem Identification Report will contain the grantee's recommendations on the most critical groups of pedestrians within the city that require a comprehensive countermeasures program as well as information on the areas within the city where pedestrian crashes occur most often. The NHTSA COTR will review and comment on this report.

c. Program Implementation and Evaluation Plan (PIEP): Within nine months the grantee shall submit a refined Program Implementation and Evaluation Plan. This plan will describe the approach recommended for determining the effectiveness of the Comprehensive Pedestrian Countermeasures program. Information will be provided on target groups to be addressed, partners involvement, the types of countermeasures (e.g., behavioral, engineering and enforcement) that will be used during field implementation, the extent of countermeasure refinement and development, the dissemination mechanisms that will be used, the areas within the city receiving countermeasures. A set of refined milestones will be presented with a listing of countermeasures and expected dates of administration. This PIEP shall be submitted to the COTR and within 30 days comments will be received from the government and incorporated in the PIEP.

d. Draft Final Report and Draft "How-To" Manual: The grantee shall prepare a draft final technical report that includes a description of the city, and its pedestrian traffic safety problem, overall and for different subgroups, the partners, intervention strategies, program implementation activities, evaluation methodology and findings from the program evaluation. The grantee shall answer the question: Did the program impact the pedestrian safety problem and, if so, to what extent? Also, what was the impact of the countermeasures program on crashes among different subgroups such as young children, older adults and alcohol impaired pedestrians.

The grantee shall also prepare a Draft "How-To" Manual that describes what happened in the community in establishing the Comprehensive Pedestrian Countermeasures program and provides advice on ways to set up a similar program in different communities. Included in this manual will be information on the use of crash typing and zoning methodologies as precursors to countermeasure development; the types of countermeasures needed, the process used to decide which countermeasures to pursue; the dissemination mechanisms used; the extent to which the countermeasures were implemented; the reactions of those who were responsible for disseminating the countermeasures; and if possible, those impacted by these countermeasures. Also, advice shall be presented on what worked and what did not work; how the various partners interacted; and the lessons learned to avoid potential problems in other communities. The grantee shall submit four copies of the Draft Final Report and Draft How-To Manual to the COTR 90 days prior to the end of the performance period. The COTR will review the draft document and provide comments to the grantee.

e. Final Report and Final Version of "How-to" Manual: The grantee shall revise the Draft Final Technical Report and Draft How-to Manual to reflect the COTR's comments. The final documents, as revised, shall be delivered to the COTR on or before the end of the performance period. The grantee shall submit to the COTR one camera ready copy and four additional hard copies of each final document. In addition, the grantee shall prepare these publications for printing and incorporation into the World Wide Web. (See attached printing and web guidance.)

f. Meetings and Briefings. The grantee shall plan to participate in two working sessions per year in Washington, DC.

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These meetings will last up to four hours. The exact dates shall be decided by mutual consent of the COTR and grantee. In addition, the grantee shall plan for a presentation at one national meeting (e.g., Lifesavers, Pro-Bike Pro-Walk) per year.

g. Professional Journal Paper: The grantee shall prepare and submit at least one paper for publication in a professional journal if deemed appropriate by the COTR.

3. During the effective performance period of the cooperative agreement awarded as a result of this announcement, the agreement shall be subject to the National Highway Traffic Safety Administration's General Provisions for Assistance Agreements.

James Nichols,

Acting Associate Administrator for Traffic Safety Programs.

[FR Doc. 98–17511 Filed 6–30–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. RSPA–98–3891; Notice 12]

Pipeline Safety: Intent To Approve Project and Environmental Assessment for the Mobil Pipe Line Company Pipeline Risk Management Demonstration Program

AGENCY: Office of Pipeline Safety, Research and Special Programs Administration, DOT.

ACTION: Notice of Intent to Approve Project and Environmental Assessment.

SUMMARY: As part of its Congressional mandate to conduct a Risk Management Demonstration Program, the Office of Pipeline Safety (OPS) has been authorized to conduct demonstration projects with pipeline operators to determine how risk management might be used to complement and improve the existing Federal pipeline safety regulatory process. This is a notice that OPS intends to approve Mobil Pipe Line Company (Mobil) as a participant in the Pipeline Risk Management Demonstration Program. This also provides an environmental assessment of Mobil's demonstration project. Based on this environmental assessment, OPS has preliminarily concluded that this proposed project will not have significant environmental impacts.

This notice explains OPS's rationale for approving this project, and summarizes the demonstration project provisions (including affected locations, risk control and monitoring activities, and regulatory exemptions) that would go into effect once OPS issues an order approving Mobil as a Demonstration Program participant. OPS seeks public comment on the proposed demonstration project so that it may consider and address these comments before approving the project. The Mobil demonstration project is one of several projects OPS plans to approve and monitor in assessing risk management as a component of the Federal pipeline safety regulatory program.

ADDRESSES: OPS requests that comments to this notice or about this environmental assessment be submitted on or before July 31, 1998 so they can be considered before project approval. However, comments on this or any other demonstration project will be accepted in the Docket throughout the 4-year demonstration period. Comments should be sent to the Dockets Facility, U.S. Department of Transportation, Plaza 401, 400 Seventh Street, SW, Washington, DC 20590–0001, or you can E-Mail your comments to ops.comments@rspa.dot.gov. Comments should identify the docket number RSPA–98–3891. Persons should submit the original comment document and one (1) copy. Persons wishing to receive confirmation of receipt of their comments must include a self-addressed stamped postcard. The Dockets Facility is located on the plaza level of the Nassif Building in Room 401, 400 Seventh Street, SW, Washington, DC. The Dockets Facility is open from 10:00 a.m. to 5:00 p.m., Monday through Friday, except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Elizabeth Callsen, OPS, (202) 366–4572, regarding the subject matter of this notice. Contact the Dockets Unit, (202) 366–5046, for docket material.

SUPPLEMENTARY INFORMATION:

1. Background

The Office of Pipeline Safety (OPS) is the federal regulatory body overseeing pipeline safety. As a critical component of its federal mandate, OPS administers and enforces a broad range of regulations governing safety and environmental protection of pipelines. These regulations have contributed to a good pipeline industry safety record by assuring that risks associated with pipeline design, construction, operations, and maintenance are understood, managed, and reduced. Preserving and improving this safety record is OPS's top priority. On the basis of extensive research, and the experience of both government and industry, OPS believes that a risk management approach, properly implemented and monitored, offers opportunities to achieve:

(1) Superior safety, environmental protection, and service reliability;

(2) Increased efficiency and reliability of pipeline operations; and

(3) Improved communication and dialogue among industry, the government, and other stakeholders.

A key benefit of this approach is the opportunity for greater levels of public participation.

As authorized by Congress, OPS is conducting a structured Demonstration Program to evaluate the use of a comprehensive risk management approach in the operations and regulation of interstate pipeline facilities. This evaluation will be performed under strictly controlled conditions through a set of Demonstration Projects to be conducted with interstate pipeline operators. A Presidential Directive to the Secretary of Transportation (October 16, 1996) stated that in implementing the Pipeline Risk Management Demonstration Program: "The Secretary shall require each project to achieve superior levels of public safety and environmental protection when compared with regulatory requirements that otherwise would apply." Thus, the process to select operators for this Demonstration Program involves a comprehensive review to ensure that the proposed project will provide the superior safety and environmental protection required by this Directive. OPS may exempt a participating operator from particular regulations if the operator needs such flexibility in implementing a comprehensive risk management program; however, regulatory exemption is neither a goal nor requirement of the Demonstration Program. This document summarizes the key points of this review for Mobil's demonstration project, and evaluates the safety and environmental impacts of this proposed project.

2. OPS Evaluation of Mobil's Demonstration Project Proposal

Using the consultative process described in Appendix A of the Requests for Application for the Pipeline Risk Management Demonstration Program (62 FR 14719), published on March 27, 1997, OPS has reached agreement with Mobil Pipe Line Company on the provisions for a demonstration project to be conducted at a crude oil storage tank facility in Patoka, Illinois.

Company History and Record

Mobil Pipe Line Company currently owns approximately 5409 miles of hazardous liquid pipeline throughout nine states. The Patoka, Illinois crude breakout facility is located within the city limits of Vernon, Illinois, population about 150, in Mobil's East of the Rockies (EOR) operating region.

Before entering into consultations with Mobil, OPS determined that Mobil was a good demonstration program candidate based on an examination of the company's safety and environmental compliance record, its accident history, and its commitment to working with OPS to develop a project meeting the Demonstration Program goals.

In considering the merits of Mobil's proposal, OPS undertook a comprehensive review of the company's safety and compliance record for the demonstration project location, as well as Mobil's entire East of the Rockies (EOR) system. Mobil, like all operating companies, has experienced incidents at its facilities within and outside the United States. In the last five years, the only incident at Patoka of sufficient impact that required reporting to OPS occurred on March 7, 1995. A roof drain hose failed due to ice formation during sub-zero temperatures. This event resulted in no injuries, and the company reported that 196 of the 200 barrels spilled were recovered.

Considering the frequency, causes, and consequences of these events, together with Mobil's response to these events, OPS has concluded that Mobil has demonstrated the corporate commitment to safety and environmental protection required of demonstration program candidates.

Mobil has also demonstrated a strong working relationship with emergency response personnel from federal and state agencies. Mobil recently participated in a successful emergency drill with representatives from OPS, the Environmental Protection Agency (EPA), and the Coast Guard. Local and state participants from Illinois and Missouri played active roles in this exercise.

Consultative Evaluation

During the consultations, OPS headquarters and Central Region representatives, an Illinois pipeline safety official, and risk management experts, met with Mobil to discuss Mobil's Environment, Health, and Safety Management System (EHSMS). These discussions included the programmatic and technical processes associated with the risk management element of the EHSMS, the specific risk assessments that Mobil has or will perform as part of this program, other supporting analyses Mobil performed, proposed risk control activities to address identified risks, and proposed performance measures to ensure superior performance is being achieved. The discussions addressed the adequacy of Mobil's management systems and technical processes, demographics near the demonstration facility, communications with outside stakeholders, and monitoring and auditing of results once the demonstration project is underway. The consultation process also included an environmental assessment, which is described in the appendix to this notice.

The consultation process was structured around three major review criteria:

1. Whether Mobil's proposed risk management demonstration program is consistent with the Risk Management Program Standard and compatible with the Guiding Principles set forth in that Standard;
2. Whether the specific risk control activities that will result from Mobil's proposed risk management program are expected to produce superior safety, environmental protection, and reliability of service compared to that achieved from compliance with the current regulations;
3. Whether Mobil's proposed risk management demonstration program includes a company work plan and a performance monitoring plan that will provide adequate assurance that the expectations for superior safety, environmental protection, and service reliability are actually being achieved during implementation.

The demonstration project provisions described in this notice evolved from these consultations, as well as any public comments received to date. Once OPS and Mobil consider comments received on this notice, OPS plans to issue an order approving the Mobil demonstration project.

3. Statement of Project Goals

OPS and Mobil believe Mobil's demonstration project will improve safety and environmental protection through the application of the Mobil EHSMS, which includes numerous hazard and risk assessments and risk control activities beyond current regulatory requirements. Specifically, the project will focus on safety and environmental issues associated with breakout tanks and tank facilities, and will demonstrate the adequacy of Mobil's release prevention and tank integrity programs. The project will help demonstrate how Mobil's release prevention activities will work in conjunction with proposed American Petroleum Institute (API) aboveground storage tank standards and National Fire Protection Association (NFPA) codes on flammable and combustible liquids. OPS has issued a notice of proposed rulemaking that would incorporate by reference selected industry standards for breakout tanks into 49 CFR Part 195. (see **Federal Register** Notice 63 FR 27903, published 05/21/98.) Information and insights from the Mobil project will help OPS determine if the proposed regulations effectively address the most important risks at tank facilities, and help operators define the most effective means of addressing these risks.

The Patoka crude breakout tank facility will be the initial focus of the Mobil demonstration project. Mobil has conducted a thorough and systematic hazard analysis and risk assessment to identify hazards and risks associated with operating the facility. Mobil invited OPS to observe these assessments. Based on these risk assessments, Mobil has identified potential corrective actions for various systems at the facility, including piping, pumps, communications, fire water system, utility/support systems, and cast iron valves. During the demonstration project, Mobil will identify the specific risk control activities that are expected to result in reduced risk and superior safety and reliability at the facility. These risk control activities will exceed the requirements of the current regulations.

Through these activities at Patoka, both Mobil and OPS will improve their understanding of risks associated with tanks and the most effective risk control activities to manage these risks. Mobil will use this information to assure superior performance at Patoka and, as appropriate, at other Mobil tank facilities. OPS will use the additional information to assure that Mobil and OPS fully understand the major risks of the Patoka facility and that Mobil is implementing effective risk control activities, specific to the Patoka facility.

Mobil seeks no relief from current pipeline safety regulations governing the operation of the Patoka facility. The Patoka facility would be exempt from compliance with any new regulations that are not consistent with the approved risk management activities and OPS would continue to monitor Mobil's performance under the risk management order to assure that superior performance is being achieved.

4. Demonstration Project Facility:

The Patoka facility is located within the city limits of Vernon, Illinois, a town with a population of about 150. The surrounding area is also low population density. The facility contains 22 vertical aboveground crude

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storage tanks, plant transfer piping, transfer pumps, crude oil blenders, offices, a maintenance building, miscellaneous auxiliary pipeline station equipment, and the station manager's personal residence. Patoka is a self-contained facility, with no public roads traversing the property. The North Fork Creek, which runs along the south end of the Patoka facility, is a water supply for the city of Patoka. Mobil protects the creek by maintaining a second physical barrier surrounding each tank that is capable of holding more than the entire contents of the tank. Mobil has provided additional precautionary barriers to releases of product along the south end of its Patoka facility.

The facility is used as a common carrier crude pipeline handling facility. Products handled at the facility include crudes of varying sulphur content from the US Gulf Coast and Canada, and petroleum condensate. The products include both "sour" crude (oil with a total sulphur content above one percent), and "sweet" crude (oil with little or no sulphur impurities).

5. Project Description

In 1996, Mobil updated its Corporate Policy on Environment, Health, and Safety (EHS). To fulfill the commitments in the EHS Policy, Mobil has adopted an Environmental, Health, and Safety Management System (EHSMS). The EHSMS is the vehicle for institutionalizing a comprehensive and integrated risk management program throughout Mobil. The primary objective of the Mobil project is to demonstrate that implementing the EHSMS will lead to superior performance, improved safety and environmental protection.

Mobil's environment, health, and safety program includes 11 key elements and 56 specific management "expectations". An "expectation" within the EHSMS is a well-defined objective and includes identification of those accountable and responsible for achieving the objective, the documentation required to demonstrate achievement, performance indicators, and the key corporate resources that will be used to achieve the objective.

The 11 elements are:

1. Policy and Leadership.
2. Continuous Improvement.
3. Safety and Health.
4. Risk Management.
5. Incident Reporting and Investigation.
6. Crisis Preparedness.
7. Environmental Protection.
8. Product Stewardship.
9. Training.
10. Community Relations.
11. Legal Requirements.

The Risk Management element of the program (Element #4) has four expectations:

4.1 A system is in place to identify environment, health, and safety hazards and their potential consequences.

4.2 A system is in place to assess and prioritize risks and manage them in a cost-effective manner.

4.3 A system is in place to review the design of new and modified facilities to ensure the incorporation of appropriate environment, health, and safety protection measures.

4.4 Risks associated with the acquisition, closure and divestment of facilities and operations are assessed and managed.

Mobil has structured and documented processes in place for performing the hazards analyses, risk assessments, and job safety analyses, prioritizing risks, defining risk control activities, and evaluating and prioritizing risk control activities required to meet the corporate expectations. These structured analytical and management processes also satisfy the requirements of the Risk Management Program Standard.

The Mobil EHSMS also includes structured processes for qualifying and training personnel in risk assessment, and integrating the risk assessment program with other Mobil operating and business systems, including those processes used by Mobil to ensure that proposed changes to the physical design of the system or to the maintenance and operating procedures of the system are carefully considered, documented, and communicated.

Mobil's East of the Rockies (EOR) business unit, which is responsible for the Patoka facility, has defined the accountabilities, responsibilities, documentation requirements, and performance indicators for management expectations, including the four risk management expectations. A business unit review of how Mobil's EOR Business Unit is implementing the EHSMS was performed in the First Quarter of 1998, and no significant deficiencies were reported. Business unit reviews will occur annually.

Mobil has performed the required hazards assessment, job safety analyses, and risk assessment of its Patoka facility. Mobil has identified a variety of potential risk control activities to address the identified risks including improvements to piping, pumps, communications, fire water system, utility/support systems, and cast iron valves. During the demonstration project, Mobil will identify the specific set of risk control activities that will best manage the risks identified. Mobil will continue to perform all of the preventive measures and risk control activities currently in effect. In addition, through the EHSMS process, Mobil has identified facility-specific hazards and concerns that were not specifically or adequately addressed through compliance with current DOT regulations. The risk analyses that Mobil has performed are beyond the requirements of the current regulations.

Mobil has defined performance indicators for management expectations, including performance indicators for the four risk management expectations discussed previously. Mobil tracks several high level EHS performance indicators including the number of environmental incidents, DOT and OSHA reportable incidents, and lost work days. The financial compensation for Mobil employees is tied to these performance measures. Ongoing audits and assessments, conducted as part of the Continuous Improvement element (Element #2 of the EHSMS), assure that all expectations have been met.

The activities below would be included in an Order formally approving the Mobil demonstration project:

- Share information with OPS concerning the use of hazards analyses, risk screening tools, and other risk assessment and prioritization tools;
- Share information with OPS concerning facility-specific risks at Patoka;
- Share information with OPS concerning the preventive and risk control activities Mobil has identified to address these risks and their relative priority;
- Implement the risk control activities selected for Patoka;
- Share information with OPS concerning the lessons learned on institutionalizing risk management programs to help OPS in evaluating the effectiveness of risk management programs; and
- Track, monitor, and report performance measures selected to determine the effectiveness of the risk control activities selected for Patoka, and the Mobil risk management program in general.

Monitoring Demonstration Project Effectiveness

The Mobil Demonstration Project includes a comprehensive approach to performance monitoring that assures the superior protection of public safety and the environment, and achieves other project objectives. A key element of this monitoring plan is a set of programmatic performance measures that would track the growth and institutionalization of risk management within the company, measure the effectiveness of the EHSMS in achieving stated expectations, and measure the effectiveness of specific risk control activities. Mobil uses a simple, three point scale to score performance in implementing the Mobil EHSMS:

0=No Evidence That Expectation is Being Met
1=Expectation is Partially Met
2=Expectation is Fully Met
B=Best Practice (equivalent to a "2" for roll-up purposes)

Mobil will report performance measurement data and project progress quarterly to OPS throughout the four year demonstration period. This information, as well as periodic OPS audits, will assure accountability for improved performance.

6. Regulatory Perspective

Why Is OPS Considering This Project?

OPS is considering Mobil's proposed project for the Demonstration Program because, after extensive review, OPS is satisfied that the proposal:

1. Provides superior safety and environmental protection for the Patoka facility. Mobil has adequately demonstrated that the risk control activities it will perform at Patoka go beyond current pipeline safety regulatory requirements and, thus, provide a higher level of public safety and environmental protection than exists today.

2. Offers a good opportunity to evaluate risk management as a component of the Federal pipeline safety regulatory program. OPS believes the Demonstration Program could benefit from Mobil's participation, given some of the distinguishing features of its proposed demonstration project, including:

- A fully-institutionalized, integrated, corporate-wide risk management program with documented roles, responsibilities, and accountabilities;
- Comprehensive evaluation of the hazards and risks of the facility;
- A structured and documented approach for identifying and evaluating the relative merits of risk control activities through a multi-attribute decision process;
- A good illustration of how companies can use risk management to improve safety and environmental protection over and above current regulatory requirements;
- Willingness to share information with OPS and state pipeline safety agencies on the specific risks associated with the facility, as well as its risk management program and processes.

3. Provides valuable information about the risks and effective risk control activities for aboveground storage tanks. This additional information will allow OPS to more effectively ensure

4. Safe operation of Patoka, and be better able to develop, apply, and enforce regulations related to aboveground storage tanks.

How Will OPS Oversee This Project?

OPS retains its full authority to administer and enforce all regulations governing pipeline safety. Mobil is not requesting any regulatory exemptions. The Patoka facility will be subject to the routine OPS inspection to ensure compliance with the applicable Federal Pipeline Safety Regulations. In addition, subsequent to approval, a Project Review Team (PRT) consisting of OPS headquarters and regional staff and state pipeline safety officials who have been reviewing the proposal, will continue to monitor the project. The PRT is designed to be a more comprehensive oversight process which draws maximum technical experience and perspective from all affected OPS regional and headquarters offices as well as any affected state agencies that would not normally provide oversight on interstate transmission projects.

One of the primary functions of this Team will be to conduct periodic risk management audits. These risk management audits will be used to ensure company compliance with the specific terms and conditions of the OPS Order authorizing this Demonstration Project. OPS is developing a detailed audit plan, tailored to the unique requirements of the Mobil Demonstration Project. This plan will describe the audit process (e.g., types of inspections, methods, points of disclosure of risk assessment information, frequency of audit), as well as the specific requirements for reporting information and performance measurement data to OPS.

Information Provided to the Public

OPS has previously provided information to the public about the Mobil project, and has requested public comment, using many different sources. OPS aired an electronic town meeting on September 17, 1997 that enabled viewers of the two-way live broadcasts to pose questions and voice concerns about candidate companies (including Mobil). An earlier **Federal Register** notice (62 FR 53052; October 10, 1997) informed the public that Mobil was interested in participating in the Demonstration Program, provided general information about technical issues and risk control alternatives to be explored, and identified the geographic areas the demonstration project would traverse.

Since August 1997, OPS has used an Internet-accessible data system called the Pipeline Risk Management Information System (PRIMIS) at http://www.cycla.com/opsdemo to collect, update, and exchange information about all demonstration candidates, including Mobil.

At a November 19, 1997, public meeting hosted by OPS in Houston, TX, Mobil officials presented a summary of the proposed demonstration project and answered questions from meeting attendees. (Portions of this meeting were broadcast on January 15, 1998, 2:00 p.m. Eastern Standard Time, via satellite to locations nationwide and via Internet to individuals at their personal computers). OPS featured members of the Patoka community on a satellite/Internet nationwide broadcast which aired March 26, 1998. The school superintendent, fire chief, and mayor were among the citizens who remarked on community relations, training programs, exercises, spill drills, and other interactions between the company and citizens. In addition to viewers of the live broadcast at sites throughout the nation, the Internet broadcast received over 4300 hits.

OPS has provided a prospectus, which includes a map of the demonstration sites, to State officials and community representatives who may be interested in reviewing project information, providing input, or monitoring the progress of the project. This notice is OPS's final request for public comment before OPS intends to approve Mobil's demonstration project. So far, the public has not raised any issues or concerns related to the Mobil proposal.

Issued in Washington, DC on June 25, 1998.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

Appendix—Environmental Assessment

A. Background and Purpose

A Presidential Directive to the Secretary of Transportation (October 16, 1996) stated that in implementing the Pipeline Risk Management Demonstration Program: "The Secretary shall require each project to achieve superior levels of public safety and environmental protection when compared with regulatory requirements that otherwise would apply." Thus, the process to select operators for this Demonstration Program involves a comprehensive review to ensure that the proposed project will provide the superior safety and environmental protection required by this Directive. This document summarizes the key points of this review for Mobil Pipe Line Company's (Mobil)

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demonstration project, and evaluates the safety and environmental impacts of this proposed project.

This document was prepared in accordance with section 102(2)(c) of the National Environmental Policy Act (42 U.S.C. Section 4332), the Council on Environmental Quality regulations (40 CFR Sections 1500–1508), and Department of Transportation Order 5610.1c, Procedures for Considering Environmental Impacts.

B. Description of Proposed Action

Mobil will conduct its demonstration project at its crude oil breakout storage tank facility in Patoka, Illinois. Mobil has adopted an Environment, Health, and Safety Management System (EHSMS) to institutionalize a comprehensive and integrated risk management program throughout the company. The proposed project's primary objective is to demonstrate that implementing the Mobil EHSMS will lead to superior performance, improved safety and environmental protection. The project will focus on safety and environmental issues associated with breakout tanks and tank facilities, and will demonstrate the adequacy of Mobil's release prevention and tank integrity programs.

As a result of a comprehensive review of Mobil's risk management demonstration project, the Office of Pipeline Safety (OPS) proposes to approve this project for participation in the Demonstration Program.

The Risk Management element of Mobil's EHSMS (Element #4) contains four expectations:

4.1 A system is in place to identify environment, health, and safety hazards and their potential consequences.

4.2 A system is in place to assess and prioritize risks and manage them in a cost-effective manner.

4.3 A system is in place to review the design of new and modified facilities to ensure the incorporation of appropriate environment, health, and safety protection measures.

4.4 Risks associated with the acquisition, closure and divestment of facilities and operations are assessed and managed.

Each "expectation" within the EHSMS contains a well-defined objective and includes identification of those accountable and responsible for achieving the objective, the documentation required to demonstrate achievement, performance indicators, and the key corporate resources that will be used to achieve the objective.

Mobil has structured and documented processes in place for performing the hazards analyses, risk assessments, job safety analyses, prioritizing risks, defining risk control activities, and evaluating and prioritizing risk control activities required to meet the corporate expectations. These structured analytical and management processes also satisfy the requirements of the Risk Management Program Standard.

The Mobil EHSMS also includes structured processes for qualifying and training personnel in risk assessment, and integrating the risk assessment program with other Mobil operating and business systems, including those processes used by Mobil to ensure that proposed changes to the physical design of the system, or to the maintenance and operating procedures of the system, are carefully considered, documented, and communicated.

Mobil is performing the required hazards assessment, job safety analyses, and risk assessment of its Patoka facility and will identify a set of risk control activities to effectively manage the risks identified. Mobil requests no exemptions from the current pipeline safety regulations. Mobil will continue to perform all of the preventive measures and risk control activities that are presently in effect. In addition, through the EHSMS process, Mobil has identified facility-specific hazards and concerns that were not specifically or adequately addressed through compliance with current pipeline safety regulations. The analyses that Mobil has performed and the risk control activities that Mobil will perform are beyond the requirements of the current regulations.

Mobil will define performance indicators for each of the 56 management objectives in the EHSMS. The financial compensation for Mobil employees is tied to these performance measures. Ongoing audits and assessments, conducted as part of the Continuous Improvement element of EHSMS (Element #2), will assure that all expectations are being met.

The activities below would be included in an Order formally approving the Mobil demonstration project:

- Share information with OPS concerning the use of hazards analyses, risk screening tools, and other risk assessment and prioritization tools;
- Share information with OPS concerning the facility-specific risks at Patoka;
- Share information with OPS concerning the preventive and risk control activities Mobil has identified to address these risks and their relative priority;
- Implement the risk control activities selected for Patoka;
- Share information with OPS concerning the lessons learned on institutionalizing risk management programs to help OPS in evaluating the effectiveness of risk management programs;
- Track, monitor, and report performance measures selected to determine the effectiveness of the risk control activities selected for Patoka, and the Mobil risk management program in general.

Monitoring Demonstration Project Effectiveness

The Mobil Demonstration Project includes a comprehensive approach to performance monitoring that assures the superior protection of public safety and the environment, and achieves other project objectives. A key element of this monitoring plan is a set of programmatic performance measures that would track the growth and institutionalization of risk management within the company, measure the effectiveness of the EHSMS in achieving stated expectations, and measure the effectiveness of specific risk control activities.

Mobil will report performance measurement data and project progress regularly to OPS throughout the four year demonstration period. This information, as well as periodic OPS audits, will assure accountability for improved performance.

More detailed descriptions of all aspects of the Mobil proposal and OPS rationale for approving the project are available to the public via the Pipeline Risk Management Information System (PRIMIS), at http://www.cycla.com/opsdemo.

C. Purpose and Need for Action

As authorized by Congress, OPS is conducting a structured Demonstration Program to evaluate the use of a comprehensive risk management approach in the operations and regulation of interstate pipeline facilities. This evaluation is being performed under strictly controlled conditions through a set of demonstration projects being conducted with interstate pipeline operators. Through the Demonstration Program, OPS will determine whether a risk management approach, properly implemented and monitored through a formal risk management regulatory framework, achieves:

(1) Superior safety and environmental protection; and

(2) Increased efficiency and service reliability of pipeline operations.

In June, 1997, Mobil submitted a Letter of Intent to OPS, asking to be considered as a Demonstration Program candidate. Using the consultative process described in Appendix A of the Requests for Application for the Pipeline Risk Management Demonstration Program (62 FR 14719), published on March 27, 1997, OPS is satisfied that Mobil's proposal will provide superior safety and environmental protection, and is prepared to finalize the agreement with Mobil on the provisions for the demonstration project.

D. Alternatives Considered

OPS has considered three alternatives: approval of the Mobil risk management demonstration project as proposed in Mobil's application; denial of the Mobil demonstration project; or approval of the project with certain modifications to Mobil's application.

OPS's preferred alternative is to approve the Mobil demonstration project. OPS is satisfied that the proposal protects the Patoka facility and surrounding environment. The risk assessment findings disclosed from Mobil's hazard and risk analyses already exceed the information that would have been available to OPS through the current regulatory process. As a result of the assessments, Mobil is considering potential corrective actions for various systems at the facility, including piping, pumps, communications, fire water system, utility/support systems, and cast iron valves. Because Mobil will continue to perform the activities currently required by the regulations, the set of proposed risk control activities will go beyond the current regulatory requirements to provide a higher level of protection than exists today. OPS and Mobil will monitor and, if necessary, improve the effectiveness of the risk control activities throughout the demonstration period.

Denial of the project would result in OPS's considerable loss of valuable information concerning the sources of risks at Patoka and other similar breakout tank facilities and the most effective means of managing these risks. Denial would also significantly diminish OPS's ability to evaluate the effectiveness of an institutionalized, integrated, and comprehensive risk management program in producing superior performance, and would hinder OPS's ability to satisfy the objectives of the Risk management Demonstration Program, and the requirements of the previously-mentioned Presidential Directive.

All of the issues raised by OPS, state regulators, stakeholders, and the public about Mobil's proposed project have been discussed within the consultative process, resolved to OPS's satisfaction, and reflected in Mobil's application. Therefore, OPS does not believe that modifications to Mobil's application are required.

E. Affected Environment and Environmental Consequences

The Patoka facility is located within the city limits of Vernon, Illinois, a town with a population of about 150. The area around the facility is low population density. The facility contains 22 vertical aboveground crude storage tanks, plant transfer piping, transfer pumps, crude oil blenders, offices, a maintenance building, miscellaneous auxiliary pipeline station equipment, and the station manager's personal residence. Patoka is a self-contained facility, with no public roads traversing the property.

The North Fork Creek, which runs along the south end of the Patoka facility, is a water supply for the city of Patoka. Mobil protects the creek by maintaining a second physical barrier surrounding each tank that is capable of holding more than the entire contents of the tank. Mobil has provided additional precautionary barriers to releases of product along the south end of its Patoka facility.

The facility is used as a common carrier crude pipeline handling facility. Products handled at the facility include crudes of varying sulphur content from the U.S. Gulf Coast and Canada, and petroleum condensate. The products include both "sour" crude (oil with a total sulphur content above one percent), and "sweet" crude (oil with little or no sulphur impurities). If a tank leak or rupture were to occur, the crude product could possibly spill into the immediate surrounding area within the facility, and in the presence of an ignition source, could ignite releasing fumes into the air. The likelihood of such spills and the levels of associated environmental consequences are already very low, as evidenced by both Patoka-specific and industry-wide operating history. The performance of the risk demonstration project will result in additional risk control activities over those currently required, reducing even further the likelihood of events that could impact the environment and the potential levels of those impacts.

In considering the merits of Mobil's proposal, OPS undertook a comprehensive review of the company's safety and compliance record for the demonstration project location, as well as Mobil's entire East of the Rockies (EOR) system. Mobil, like all operating companies, has experienced incidents at its facilities within and outside the United States. In the last five years, the only incident at Patoka of sufficient impact that required reporting to OPS occurred on March 7, 1995. A roof drain hose failed due to ice formation during sub-zero temperatures. This event resulted in no injuries and the company reported that 196 of the 200 barrels spilled were recovered.

Considering the frequency, causes, and consequences of these events, together with Mobil's response to these events, OPS has concluded that Mobil has demonstrated the corporate commitment to safety and environmental protection required of demonstration program candidates.

Mobil has also demonstrated a strong working relationship with emergency response personnel from federal and state agencies. Mobil recently participated in a successful emergency drill with representatives from OPS, the Environmental Protection Agency (EPA), and the Coast Guard. Local and state participants from Illinois and Missouri played active roles in this exercise.

F. Environmental Justice Considerations

In accordance with Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority and Low-Income Populations), OPS has considered the effects of the demonstration project on minority and low-income populations. As explained above, OPS believes this project will provide superior safety and environmental protection at the Patoka facility. The risk control activities will provide greater protection than compliance with existing regulations. The Patoka facility is located within the city limits of Vernon, Illinois, population about 150. Residents of Vernon will be afforded greater protection than they presently have, regardless of the residents' income level or minority status. Therefore, the proposed project does not have any disproportionately high or adverse health or environmental effects on any minority or low-income populations near the demonstration facility.

G. Information Made Available to States, Local Governments, and Individuals

OPS has made the following documents publicly available, and incorporates them by reference into this environmental assessment:

(1) "Demonstration Project Prospectus: Mobil Pipe Line Corporation", June 1998, available by contacting Elizabeth M. Callsen at 202–366–4572. Includes a map showing the location of the demonstration project site. Purpose is to reach the public, local officials, and other stakeholders, and to solicit their input about the proposed project. Mailed to several hundred individuals, including Local Emergency Planning Committees (LEPC) and other local safety officials, Regional Response Teams (RRT) representing other federal agencies, state pipeline safety officials, conference attendees, and members of public interest groups.

(2) "Mobil Pipe Line Company—Application for DOT–OPS Risk Management Demonstration Program", available in Docket No. RSPA–98–3891 at the Dockets Facility, U.S. Department of Transportation, Plaza 401, 400 Seventh Street, SW, Washington, DC 20590–0001, (202) 366–5046.

(3) "OPS Project Review Team Evaluation of the Mobil Demonstration Project".

(4) "Notice of Intent to Approve Project", published concurrently with this Environmental Assessment.

OPS has previously provided information to the public about the Mobil project, and has requested public comment, using many different sources. OPS aired four electronic broadcasts (June 5, 1997; September 17, 1997; and December 4, 1997; and March 26, 1998.) reporting on demonstration project proposals (the last three of which provided specific information on Mobil's proposal). An earlier **Federal Register** notice (62 FR 53052; October 10, 1997) informed the public that Mobil was interested in participating in the Demonstration Program, provided general information about technical issues and risk control alternatives to be explored, and identified the geographic areas the demonstration project would traverse.

Since August, 1997 OPS has used an Internet-accessible data system called the Pipeline Risk Management Information System (PRIMIS) at http://www.cycla.com/opsdemo to collect, update, and exchange information about all demonstration candidates, including Mobil.

At a November 19, 1997, public meeting OPS hosted in Houston, TX, Mobil officials presented a summary of the proposed demonstration project and answered questions from meeting attendees. (Portions of this meeting were broadcast on December 4, 1997.) OPS featured members of the Patoka community on a satellite/Internet nationwide broadcast which aired March 26, 1998. The school superintendent, fire chief, and mayor were among the citizens who remarked on community relations, training programs, exercises, spill drills, and other interactions between the company and citizens. In addition to viewers of the live broadcast at sites throughout the nation, the Internet broadcast received over 4300 hits. This broadcast is available on demand via the OPS website ops.dot.gov/tmvid.htm. So far, the public has not raised any issues or concerns related to the Mobil proposal.

H. Listing of the Agencies and Persons Consulted, Including Any Consultants

Persons/Agencies Directly Involved in Project Evaluation

Stacey Gerard, OPS/U.S. Department of Transportation
Tom Fortner, OPS/U.S. Department of Transportation
Ivan Huntoon, OPS/U.S. Department of Transportation
Donald Moore, OPS/U.S. Department of Transportation
Linda Daugherty, OPS/U.S. Department of Transportation
Bruce Hansen, OPS/U.S. Department of Transportation
Elizabeth Callsen, OPS/U.S. Department of Transportation
Steve Smock, Illinois Commerce Commission
Mary McDaniel, Railroad Commission of Texas

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Jim vonHerrmann, Cycla Corporation (consultant)
Andrew McClymont, Cycla Corporation (consultant)

Persons/Agencies Receiving Briefings/Project Prospectus/Requests for Comment

Regional Response Team (RRT), Region 5, representing the Environmental Protection Agency; the Coast Guard; the U.S. Departments of Interior, Commerce, Justice, Transportation, Agriculture, Defense, State, Energy, Labor; Health and Human Services; the Nuclear Regulatory Commission; the General Services Administration; and the Federal Emergency Management Agency (RRT Co-Chairs: Richard Karl, EPA and Captain Gregory Cope, Coast Guard).

I. Conclusion

Based on the above-described analysis of the proposed demonstration project, OPS has determined that there are no significant impacts associated with this action.

[FR Doc. 98–17492 Filed 6–30–98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration (RSPA), DOT.

[Docket No. RSPA–98–3892; Notice 13]

Pipeline Safety: Intent To Approve Project and Environmental Assessment for the Phillips Pipe Line Company Pipeline Risk Management Demonstration Program

AGENCY: Office of Pipeline Safety, DOT.

ACTION: Notice of Intent to Approve Project and Environmental Assessment.

SUMMARY: As part of its Congressional mandate to conduct a Risk Management Demonstration Program, the Office of Pipeline Safety (OPS) has been authorized to conduct demonstration projects with pipeline operators to determine how risk management might be used to complement and improve the existing Federal pipeline safety regulatory process. This is a notice that OPS intends to approve Phillips Pipe Line Company (Phillips) as a participant in the Pipeline Risk Management Demonstration Program. This also provides an environmental assessment of Phillips's demonstration project. Based on this environmental assessment, OPS has preliminarily concluded that this proposed project will not have significant environmental impacts.

This notice explains OPS's rationale for approving this project, and summarizes the demonstration project provisions (including affected locations, risk control and monitoring activities, and regulatory exemptions) that would go into effect once OPS issues an order approving Phillips as a Demonstration Program participant. OPS seeks public comment on the proposed demonstration project so that it may consider and address these comments before approving the project. The Phillips demonstration project is one of several projects OPS plans to approve and monitor in assessing risk management as a component of the Federal pipeline safety regulatory program.

ADDRESSES: OPS requests that comments to this notice or about this environmental assessment be submitted on or before July 31, 1998 so they can be considered before project approval. However, comments on this or any other demonstration project will be accepted in the Docket throughout the four year demonstration period. Comments should be sent to the Dockets Facility, U.S. Department of Transportation, Plaza 401, 400 Seventh Street, SW, Washington, DC 20590–0001, or you can E-Mail your comments to ops.comments@rspa.dot.gov. Comments should identify the docket number RSPA–98–3892. Persons should submit the original comment document and one (1) copy. Persons wishing to receive confirmation of receipt of their comments must include a self-addressed stamped postcard. The Dockets Facility is located on the plaza level of the Nassif Building in Room 401, 400 Seventh Street, SW, Washington, DC. The Dockets Facility is open from 10:00 a.m. to 5:00 p.m., Monday through Friday, except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Elizabeth Callsen, OPS, (202) 366–4572, regarding the subject matter of this notice. Contact the Dockets Unit, (202) 366–5046, for docket material.

SUPPLEMENTARY INFORMATION:

1. Background

The Office of Pipeline Safety (OPS) is the federal regulatory body overseeing pipeline safety. As a critical component of its federal mandate, OPS administers and enforces a broad range of regulations governing safety and environmental protection of pipelines. These regulations have contributed to a good pipeline industry safety record by assuring that risks associated with pipeline design, construction, operations, and maintenance are understood, managed, and reduced. Preserving and improving this safety record is OPS's top priority. On the basis of extensive research, and the experience of both government and industry, OPS believes that a risk management approach, properly implemented and monitored, offers opportunities to achieve:

(1) Superior safety, environmental protection, and service reliability;

(2) Increased efficiency and reliability of pipeline operations; and

(3) Improved communication and dialogue among industry, the government, and other stakeholders.

A key benefit of this approach is the opportunity for greater levels of public participation.

As authorized by Congress, OPS is conducting a structured Demonstration Program to evaluate the use of a comprehensive risk management approach in the operations and regulation of interstate pipeline facilities. This evaluation will be performed under strictly controlled conditions through a set of Demonstration Projects to be conducted with interstate pipeline operators. A Presidential Directive to the Secretary of Transportation (October 16, 1996) stated that in implementing the Pipeline Risk Management Demonstration Program: "The Secretary shall require each project to achieve superior levels of public safety and environmental protection when compared with regulatory requirements that otherwise would apply." Thus, the process to select operators for this Demonstration Program involves a comprehensive review to ensure that the proposed project will provide the superior safety and environmental protection required by this Directive. OPS may exempt a participating operator from particular regulations if the operator needs such flexibility in implementing a comprehensive risk management program; however, regulatory exemption is neither a goal nor requirement of the Demonstration Program. This document summarizes the key points of this review for Phillips's demonstration project, and evaluates the safety and environmental impacts of this proposed project.

2. OPS Evaluation of Phillips's Demonstration Project Proposal

Using the consultative process described in Appendix A of the Requests for Application for the Pipeline Risk Management Demonstration Program (62 FR 14719), published on March 27, 1997, OPS has reached agreement with Phillips Pipe Line Company on the provisions for a demonstration project to be conducted along Phillips's Sweeny-Pasadena system in Texas.

Company History and Record

Phillips Pipe Line Company is headquartered in Bartlesville, Oklahoma, and employs over 580 people and operates and maintains approximately 7500 miles of pipelines in 9 states. Phillips transports approximately 750,000 barrels of crude oil, refined products, petrochemicals, and natural gas liquids each day.

Before entering into consultations with Phillips, OPS determined that Phillips was a good demonstration program candidate based on an examination of the company's safety and environmental compliance record, its accident history and its commitment to working with OPS to develop a project meeting the Demonstration Project goals.

In December 1992, during an excavation project, a contract equipment operator punctured a pipeline operated by Phillips in Aurora, Colorado. This accident resulted in a release of 1,665 barrels of natural gas liquids, injuring six people. Because of concerns raised by OPS over company procedures, Phillips developed a risk based approach to improve the safety of pipeline excavations and implemented an Excavation Risk Assessment process. Lessons learned from this incident as well as other company and industry incidents led Phillips to the development and implementation of a formal risk management program. This event was also a major driver behind the development of the Phillips Excavation Risk Assessment Process which is a focal point of its proposed demonstration project.

Consultative Evaluation

During the consultations, representatives from OPS headquarters and Southwest Region, pipeline safety officials from Texas, and risk management experts met with Phillips to discuss Phillips's overall risk management process. This included discussion of Phillips's risk assessment, risk analyses, and risk control processes and tools, its performance measures, and the philosophy and administration of risk management within the company. This also included a discussion of Phillips's excavation risk assessment process, including a review of the proposed demonstration project activities; population, terrain, and infrastructure along the affected pipelines; communications with outside stakeholders; and monitoring and auditing of results once the demonstration project is underway. The consultation process also included an environmental assessment which is an Appendix to this notice.

The consultation process focused on three major review criteria:

1. Whether Phillips's proposed risk management demonstration project is consistent with the Risk Management Program Standard and compatible with the Guiding Principles set forth in that Standard;

2. Whether Phillips's proposed risk management demonstration project is expected to produce superior safety, environmental protection, and reliability of service;

3. Whether Phillips's proposed risk management demonstration project includes a company work plan and a performance monitoring plan that will provide adequate assurance that superior safety, environmental protection, and service reliability are being achieved.

Once OPS and Phillips consider and address comments received on this notice and environmental assessment, OPS plans to issue an Order approving the Phillips demonstration project.

3. Statement of Project Goals

Phillips has been managing risk on its pipeline systems using a combination of personnel knowledge and experience, as well as Phillips and industry-wide operating data for many years. In 1995, Phillips Petroleum Company (Phillips's corporate parent) created the *Process for Safety and Environmental Excellence* (PSEE) to achieve a more consistent, formalized approach to ensuring the safe and environmentally responsible operation of its facilities. Within the framework of the PSEE, Phillips has implemented a formal risk management program. Formalizing Phillips's risk management program has involved developing more sophisticated tools to comprehensively identify and evaluate the most important risks associated with the design, construction, operation, and maintenance of Phillips's pipeline systems. Phillips is evaluating all of its pipelines using these tools, to identify the nature and location of the most significant risks.

During this demonstration project, Phillips will share information about its evolving risk management program with OPS. This will enable OPS to acquire an improved understanding of the methods and techniques the company is using to manage risk on its system, and obtain far more information about the company's management processes, pipeline operations, and potential safety and environmental risks than is normally observed during OPS inspections to ensure compliance with the regulations.

A key element of Phillips's risk management program is a risk-based approach to managing the risks associated with pipeline excavations. The Phillips Excavation Risk Assessment Process is a formal, ongoing process that has been in use system-wide since 1993 to identify and control the unique risks associated with each excavation on or near Phillips's pipelines. The process goes beyond the existing pipeline safety regulatory requirements for damage prevention.

For its risk management demonstration project, Phillips proposes to comprehensively evaluate the application and effectiveness of the Excavation Risk Assessment Process to all company and third-party excavations that occur on and across the pipeline segments included in the project. Phillips's demonstration project will involve:

—requirements that an excavation risk assessment be conducted prior to each excavation project (whether the excavation is performed by Phillips employees or outside parties proposing to dig near Phillips's lines);

—requirements that outside parties excavating along the Phillips right-of-way prepare work plans and obtain Phillips's approval prior to initiating excavation;

—increased work plan formality, level of detail, and management approval required for higher risk excavations, including where appropriate, coordination with local emergency response personnel;

—enhanced monitoring of excavation work;

—gathering of performance measurement data and developing a more quantitative assessment of the benefits of performing excavation risk assessments; and,

—enhanced communications with One-Call centers, excavators, and the public.

Phillips and OPS expect this project to demonstrate that risk management techniques can be successfully applied toward improving pipeline excavation safety.

4. Demonstration Project Pipeline Segments

Phillips has proposed a 60-mile segment of two pipelines for inclusion in its demonstration project.

Phillips's Sweeny-Pasadena products pipeline system consists of two interstate pipelines, 12" and 18", that deliver refined products (e.g., gasolines, distillates, and naphtha) from Phillips's Sweeny Refinery in Sweeny, Texas, to Phillips's Pasadena Terminal in Pasadena Texas. These products have varying properties and if released under certain conditions are flammable. They could also affect human health and the

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environment if significant exposures occur.

The 12″ and 18″ pipelines have been in operation since 1959 and 1979, respectively. This system runs roughly Northeast from the Sweeny Refinery to the Pasadena Terminal, passing near the northern edge of Friendswood, Texas. The two lines parallel each other over the entire 60-mile distance. The lines run through sparsely populated areas for about the first 45 miles and through heavily populated areas for the last 15 miles. The lines cross the Brazos and San Bernard rivers, several major roadways and railroad lines, and pass underneath the Texas State Department of Corrections' Ramsey facility.

The 12″ line began service in 1956 and has a maximum operating pressure (MOP) of 1270 psi. It has had two leaks: one in 1992 and another in 1993. These leaks resulted in localized surface contamination near the line. Phillips quickly detected the leaks and stopped the release of product. The contaminated areas were satisfactorily remediated. There were no fatalities, injuries or adverse health effects to any member of the public or to any Phillips employees from these events. Both of these leaks were associated with material defects that developed because of the manufacturing process used to bend sections of the pipe. As a result of these events, Phillips conducted a comprehensive review of all pipe bends, that included an internal inspection for geometric defects. All piping bends with characteristics similar to those that had failed were replaced or heat treated to eliminate the condition that created the leaks. The 12″ line also has some history of coating problems. To resolve this problem, Phillips has placed additional rectifiers to provide enhanced cathodic protection.

The 18″ line was placed in service in 1979 and has a MOP of 680 psi. The 18″ line has not had any leaks.

5. Project Description

In 1995, the Phillips Petroleum Company (Phillips Corporate) created the *Process for Safety and Environmental Excellence* (PSEE) to achieve a more consistent, formalized approach to ensuring safe and environmentally responsible operation of its facilities. The PSEE is designed to manage environmental, safety and health risks in a manner that is integral to and not separate from the overall business process. The Phillips Corporate PSEE is a comprehensive business process applicable to every Phillips Corporate business unit (e.g., Phillips Pipe Line Company). Within this framework, each business unit is required to implement a formal risk management program.

As part of formalizing its risk management program for pipelines, Phillips has identified and uses a variety of tools to identify and manage pipeline risks. These include: hazards analysis, environmental impact reviews, internal (pipeline) inspection tools, incident investigations, safety, health and environmental audits, contractor assessments, design reviews and others. To support a more integrated evaluation of the potential risks represented by its pipelines, the company also developed the Phillips Pipeline Risk Assessment System (PRAS). PRAS is a computerized indexing model that predicts the relative risk different pipe segments represent based on numerous factors that influence the likelihood and consequences of pipeline failure. The model synthesizes data and information on pipe design, operation, maintenance, pipe condition, population and activity near the line, and external environmental conditions. PRAS has been in use since 1995 and has been applied to all of Phillips's regulated pipeline systems (approximately 5500 miles of pipe). During the course of the demonstration project, Phillips will be enhancing PRAS, and evaluating improved approaches to integrate the PRAS results with the output from the other tools noted previously to comprehensively and consistently assess risks across its pipeline.

During this demonstration project, Phillips will share information about its evolving risk management program with OPS.

This will enable OPS to improve its understanding of the methods and techniques the company is using to manage risk on its system, and obtain far more information about the company's management processes, pipeline operations, and potential safety and environmental risks than is normally observed during OPS regulatory compliance inspections.

The primary focus of Phillips's proposed demonstration project is to reduce pipeline risks resulting from excavations on or near Phillips's pipelines. Phillips hopes to demonstrate superior risk control and risk reduction mechanisms by applying its Excavation Risk Assessment Process. This process includes specific procedures relative to pipeline excavations and requires that an excavation site inspection and risk assessment be conducted prior to each excavation project. A risk assessment matrix is used to assess the potential risks associated with each excavation project. This matrix examines various risk factors for each excavation, including nearby population density, the presence of roads and railways, the existence of other utilities in the vicinity of the pipeline, the type of excavation equipment being used, and the properties of the product in the pipeline.

Phillips uses a graded approach based on combinations of risk factors to evaluate the level of Phillips's project review and approvals required for the excavation plan.

Phillips plans to communicate the details, progress, and results of the demonstration project, both externally and internally. Internally, Phillips will implement a formal communication program for company personnel involved with the demonstration project. Phillips will also implement excavation risk assessment refresher training prior to the start of the project, that will include the demonstration project communication plans and performance measures to be monitored and tracked during the project.

Externally, Phillips will contact the affected local emergency planning committees (LEPCs) at the beginning of the demonstration project to communicate the details of the project and to identify how Phillips will communicate progress and results during the project. Phillips will also contact city and county planning committees for the towns that the demonstration segments cross to communicate Phillips's excavation requirements. Phillips will conduct surveys regarding the effectiveness and benefits of its excavation risk management process. Phillips also plans to seek input from contractors and developers involved during the demonstration project to help determine the cost effectiveness for the level of safety achieved. They plan to communicate throughout the project with OPS, the Texas Railroad Commission, city and county planning committees, affected LEPCs, and contractors and developers.

Phillips's intended approach to performance monitoring of the project will include formal data collection and performance measures related to excavations along the demonstration segments. Phillips has proposed an initial set of performance metrics for the project and has an excavation risk assessment data collection worksheet to generate data and information relative to these metrics. Phillips's proposed performance metrics include:

- total number of one-call requests
- total number of excavation projects broken down by
  - Phillips's excavation projects (planned and unplanned),

  - —third party excavations planned, and
  - —other, unplanned excavation activities.
- initial and final risk ranking of each excavation that required a formal risk assessment
- level of approval obtained to complete the excavation
- number and type of risk control activities implemented
- number of excavations completed, changed, or terminated
- categorization and characterization of the number of excavations by
  - —successful excavation (i.e., no damage)
  - —damage incurred,
  - —damage resulting in a leak, and
  - —effectiveness of emergency response plans to a leak.

6. Regulatory Perspective

Why Is OPS Considering This Project?

The OPS Project Review Team evaluated Phillips's proposed project according to review protocols and criteria. OPS has concluded the Phillips project will:

1. Provide superior safety and environmental protection for the pipeline segments proposed for the demonstration project; and
2. Offer a good opportunity to evaluate risk management as a component of the Federal pipeline safety regulatory program.

Phillips is not proposing any alternative to or requesting any regulatory exemption from existing pipeline safety regulations in this demonstration project. Rather, Phillips's proposed project goes beyond the regulations and is considered to provide superior protection.

Phillips's proposed project offers a good opportunity to evaluate risk management as a component of the Federal pipeline safety regulatory program. It also provides an opportunity to evaluate a risk-based pipeline damage prevention methodology that could have broad potential application. The damage prevention focus could also offer benefits to the current joint government/industry initiative on damage prevention education.

While the overall safety record for pipeline transportation is excellent, third party damage still presents a significant problem. Education on damage prevention is essential to reducing the incidence of third-party damage to underground facilities. OPS is currently sponsoring a joint government and industry Damage Prevention Quality Action Team to evaluate how to best utilize education resources to prevent pipeline damage. Phillips's proposed demonstration project is consistent with OPS's goals concerning pipeline damage prevention. The potential synergies between the Phillips project and the Damage Prevention Quality Action Team should enhance the benefits from both efforts.

OPS believes the Demonstration Program could benefit from Phillips's participation, given some of the distinguishing features of its proposed demonstration project, including:

—An emphasis on improving damage prevention and emergency response coordination;

—Plans for concentrated public outreach and risk communications efforts;

—A good illustration of how companies can use excavation risk management to improve safety without seeking to reduce costs incurred by existing regulations;

—Phillips's willingness to share information with OPS and state pipeline safety agencies on the specific risks associated with the demonstration line segments and the Company's overall risk management program and processes. This additional information will allow OPS to more effectively ensure safe operation, and help OPS understand how risk management might be employed to supplement the existing regulatory framework.

How Will OPS Oversee This Project?

The demonstration segments will be subject to routine OPS inspection to ensure compliance with the applicable Federal pipeline safety regulations. Additionally, the Demonstration Project will be monitored by a Project Review Team (PRT) consisting of OPS headquarters and regional staff, and state pipeline safety officials. The PRT is designed to implement a more comprehensive oversight process, which draws maximum technical experience and perspective from all affected OPS regional and headquarters offices as well as any affected state agencies that would not normally provide oversight on interstate transmission projects.

One of the PRT's primary functions will be to conduct periodic risk management audits. These audits will ensure Phillips's compliance with the specific terms and conditions of the OPS Order authorizing Phillips's demonstration project, and will be performed in addition to the normal OPS inspections. OPS is developing a detailed audit plan, tailored to the unique requirements of Phillips's demonstration project. This plan will describe the audit process (e.g., types of inspections, methods, and their frequency), as well as the specific requirements for reporting information and performance measure data to OPS.

Phillips is not requesting any regulatory exemptions, and OPS retains full authority to administer and enforce all regulations governing pipeline safety.

Information Provided to the Public

OPS has previously provided information to the public about the Phillips project, and has requested public comment, using many different sources. OPS aired several electronic "town meetings" enabling viewers of the two-way live broadcasts to pose questions and voice concerns about candidate companies (including Phillips). An earlier **Federal Register** notice (62 FR 53052; October 10, 1997) informed the public that Phillips was interested in participating in the Demonstration Program, provided general information about technical issues and risk control alternatives to be explored, and identified the geographic areas the demonstration project would traverse.

Since August, OPS has used an Internet-accessible data system called the Pipeline Risk Management Information System (PRIMIS) at http://www.cycla.com/opsdemo to collect, update, and exchange information about all demonstration candidates, including Phillips.

At a November 19, 1997, public meeting OPS hosted in Houston, TX, Phillips officials presented a summary of the proposed demonstration project and answered questions from meeting attendees. (Portions of this meeting were broadcast on December 4, 1997, and March 26, 1998.)

OPS has provided a prospectus, which includes a map of the demonstration segments, to State officials and community representatives who may be interested in reviewing project information, providing input, or monitoring the progress of the project. At this point, OPS has received no public comment on the Phillips's proposal.

This notice is the last public comment opportunity prior to approval of Phillips's demonstration project.

Issued in Washington, DC on June 25, 1998.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

Appendix: Environmental Assessment

A. Background and Purpose

A Presidential Directive to the Secretary of Transportation (October 16, 1996) stated that

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in implementing the Pipeline Risk Management Demonstration Program: "The Secretary shall require each project to achieve superior levels of public safety and environmental protection when compared with regulatory requirements that otherwise would apply." Thus, the process to select operators for this Demonstration Program involves a comprehensive review to ensure that the proposed project will provide the superior safety and environmental protection required by this Directive. This document summarizes the key points of this review for Phillips Pipe Line Company's (Phillips) proposed demonstration project and evaluates the safety and environmental impacts of this proposed project.

This document was prepared in accordance with section 102(2)(c) of the National Environmental Policy Act (42 U.S.C. Section 4332), the Council on Environmental Quality regulations (40 CFR Sections 1500–1508), and Department of Transportation Order 5610.1c, Procedures for Considering Environmental Impacts.

B. Description of Proposed Action

OPS intends to approve Phillips as a participant in the Pipeline Risk Management Demonstration Program. Phillips has proposed a 60-mile segment of two pipelines for inclusion in its demonstration project. Phillips's Sweeny—Pasadena products pipeline system consists of two interstate pipelines, 12" and 18", that deliver refined products (e.g., gasolines, distillates, and naphtha) from Phillips's Sweeny Refinery in Sweeny, Texas, to Phillips's Pasadena Terminal in Pasadena Texas. As the primary focus of its risk management demonstration project, Phillips proposes to comprehensively evaluate the application and effectiveness of its Excavation Risk Assessment Process to all company and third-party excavations that occur on and across the pipeline segments included in the project. OPS believes the Phillips demonstration project will provide superior safety and environmental protection by applying excavation risk control measures that exceed regulatory requirements.

In 1995, the Phillips Petroleum Company (Phillips Corporate) created the *Process for Safety and Environmental Excellence* (PSEE) to achieve a more consistent, formalized approach to ensuring safe and environmentally responsible operation of its facilities. The PSEE is designed to manage environmental, safety and health risks in a manner that is integral to and not separate from the overall business process. The Phillips Corporate PSEE is a comprehensive business process applicable to every Phillips Corporate business unit (e.g., Phillips Pipe Line Company). Within this framework, each business unit is required to implement a formal risk management program.

As part of formalizing its risk management program for pipelines, Phillips has identified and uses a variety of tools to identify and manage pipeline risks. These include: hazards analysis, environmental impact reviews, internal (pipeline) inspection tools, incident investigations, safety, health and environmental audits, contractor assessments, design reviews and others. To support a more integrated evaluation of the potential risks represented by its pipelines, the company also developed the Phillips Pipeline Risk Assessment System (PRAS). PRAS is a computerized indexing model that predicts the relative risk different pipe segments represent based on numerous factors that influence the likelihood and consequences of pipeline failure. The model synthesizes data and information on pipe design, operation, maintenance, pipe condition, population and activity near the line, and external environmental conditions. PRAS has been in use since 1995 and has been applied to all of Phillips's regulated pipeline systems (approximately 5500 miles of pipe). During the course of the demonstration project, Phillips will be enhancing PRAS and evaluating improved approaches to integrate the PRAS results with the output from the other tools noted previously to comprehensively and consistently assess risks across its pipeline.

During this demonstration project, Phillips will share information about its evolving risk management program with OPS. This will enable OPS to improve its understanding of the methods and techniques the company is using to manage risk on its system, and to obtain far more information about the company's management processes, pipeline operations, and potential safety and environmental risks than is normally observed during OPS regulatory compliance inspections.

A key element of Phillips's risk management program, and the primary focus of Phillips's proposed demonstration project, is a risk-based approach to managing the risks associated with pipeline excavations. The Phillips Excavation Risk Assessment Process is a formal, ongoing process that has been in use system-wide since 1993 to identify and control the unique risks associated with each excavation on or near Phillips's pipelines. The process goes beyond the existing pipeline safety regulatory requirements for damage prevention.

The Phillips Excavation Risk Assessment Process includes specific procedures relative to pipeline excavations and requires that an excavation site inspection and risk assessment be conducted prior to each excavation project. A risk assessment matrix is used to assess the potential risks associated with each excavation project. This matrix examines various risk factors for each excavation, including nearby population density, the presence of roads and railways, the existence of other utilities in the vicinity of the pipeline, the type of excavation equipment being used, and the properties of the product in the pipeline. Phillips uses a graded approach based on combinations of risk factors to evaluate the level of Phillips's project review and approvals required for the excavation plan.

For its risk management demonstration project, Phillips proposes to comprehensively evaluate the application and effectiveness of the Excavation Risk Assessment Process to all company and third-party excavations that occur on and across the pipeline segments included in the project. Phillips's demonstration project will involve:

—requirements that an excavation risk assessment be conducted prior to each excavation project (whether the excavation is performed by Phillips's employees or outside parties proposing to dig near Phillips's lines);
—requirements that outside parties excavating along the Phillips right-of-way prepare work plans and obtain Phillips's approval prior to initiating excavation;
—increased work plan formality, level of detail, and management approval required for higher risk excavations, including where appropriate, coordination with local emergency response personnel;
—enhanced monitoring of excavation work;
—gathering of performance measurement data and developing a more quantitative assessment of the benefits of performing excavation risk assessments; and,
—enhanced communications with One-Call centers, excavators, and the public.

Phillips plans to communicate the details, progress, and results of the demonstration project, both externally and internally. Internally, Phillips will implement a formal communication program for company personnel involved with the demonstration project. Phillips will also implement excavation risk assessment refresher training prior to the start of the project, that will include the demonstration project communication plans and performance measures to be monitored and tracked during the project.

Externally, Phillips will contact the affected local emergency planning committees (LEPCs) to communicate the details of the project and to identify how Phillips will communicate progress and results during the project. Phillips will also contact city and county planning committees for the towns that the demonstration segments cross to communicate Phillips's excavation requirements. Phillips will conduct surveys on the excavation risk management process effectiveness. Phillips plans to communicate throughout the project with OPS, the Texas Railroad Commission, city and county planning committees, affected LEPCs, and contractors and developers.

Phillips's intended approach to performance monitoring of the project will include formal data collection and performance measures related to excavations along the demonstration segments. Phillips has proposed an initial set of performance metrics for the project and has an excavation risk assessment data collection worksheet to generate data and information relative to these metrics. Phillips's proposed performance metrics include:

- total number of one-call requests
- total number of excavation projects broken down by
  —Phillips excavation projects (planned and unplanned),
  —third-party excavations planned, and
  —other, unplanned excavation activities.
- initial and final risk ranking of each excavation that required a formal risk assessment
- level of approval obtained to complete the excavation
- number and type of risk control activities implemented

- number of excavations completed, changed, or terminated
- categorization and characterization of the number of excavations by
  —successful excavation (i.e., no damage),
  —damage incurred,
  —damage resulting in a leak, and
  —effectiveness of emergency response plans to a leak.

Phillips and OPS expect this project to demonstrate that risk management techniques can be successfully applied toward improving pipeline excavation safety. During this demonstration project, Phillips will share information about its evolving risk management program with OPS. This will enable OPS to acquire an improved understanding of the methods and techniques the company is using to manage risk on its system, and obtain far more information about the company's management processes, pipeline operations, and potential safety and environmental risks than is normally observed during OPS regulatory compliance inspections.

OPS intends to approve Phillips as a participant in the Pipeline Risk Management Demonstration Program. OPS believes the Phillips demonstration project will provide superior safety by applying excavation risk control measures that exceed regulatory requirements.

Phillips is not requesting any regulatory exemptions, and OPS retains full authority to administer and enforce all regulations governing pipeline safety. The demonstration segments will be subject to routine OPS inspection to ensure compliance with the applicable Federal Pipeline Safety Regulations. Additionally, the Demonstration Project will be monitored by a Project Review Team (PRT) consisting of OPS headquarters and regional staff and state pipeline safety officials. The PRT is designed to implement a more comprehensive oversight process, which draws maximum technical experience and perspective from all affected OPS regional and headquarters offices as well as any affected state agencies that would not normally provide oversight on interstate transmission projects.

One of the PRT's primary functions will be to conduct periodic risk management audits. These audits will ensure Phillips's compliance with the specific terms and conditions of the OPS Order authorizing Phillips's demonstration project, and will be performed in addition to the normal OPS inspections. OPS is developing a detailed audit plan, tailored to the unique requirements of Phillips's demonstration project. This plan will describe the audit process (e.g., types of inspections, methods, and their frequency), as well as the specific requirements for reporting information and performance measure data to OPS.

C. Purpose and Need for Action

As authorized by Congress, OPS is conducting a structured Demonstration Program to evaluate the use of a comprehensive risk management approach in the operations and regulation of interstate pipeline facilities. This evaluation is being performed under strictly controlled conditions through a set of demonstration projects being conducted with interstate pipeline operators. Through the Demonstration Program, OPS will determine whether a risk management approach, properly implemented and monitored through a formal risk management regulatory framework, achieves:

(1) Superior safety and environmental protection; and

(2) Increased efficiency and service reliability of pipeline operations.

On July 21, 1997, Phillips Pipe Line Company submitted a Letter of Intent to OPS, asking to be considered as a Demonstration Program candidate. Using the consultative process described in Appendix A of the Requests for Application for the Pipeline Risk Management Demonstration Program (62 FR 14719), published on March 27, 1997, OPS is satisfied that Phillips's proposal will provide superior safety and environmental protection, and is prepared to finalize the agreement with Phillips on the provisions for the demonstration project.

D. Alternatives Considered

OPS has considered three alternatives: approval of the Phillips risk management demonstration project as proposed in Phillips's application; denial of the Phillips demonstration project; or approval of the project with certain modifications to Phillips's application.

OPS's preferred alternative is to approve the Phillips demonstration project as proposed in Phillips's application. OPS is satisfied that the proposal provides superior protection for the demonstration project segments and the surrounding environment. The Phillips Excavation Risk Assessment Process provides a higher level of protection than exists under the current regulatory requirements. Phillips is not requesting any regulatory exemptions and OPS retains full authority to administer and enforce all regulations governing pipeline safety. The demonstration segments will be subject to routine OPS inspection to ensure compliance with the applicable Federal Pipeline Safety Regulations. OPS and Phillips will monitor and, if necessary, improve the effectiveness of the risk control activities throughout the demonstration period.

Denial of the project would result in OPS's considerable loss of valuable information concerning the effectiveness of the proposed methodology for assessing and controlling excavation risks and reducing third-party damage. Denial would also significantly diminish OPS's ability to evaluate the effectiveness of an institutionalized, integrated, and comprehensive risk management program in producing superior performance, and would hinder OPS's ability to satisfy the objectives of the Risk Management Demonstration Program, and the requirements of the aforementioned Presidential Directive.

All of the issues raised by OPS, state pipeline safety officials, stakeholders, and the public about Phillips's proposed project have been discussed within the consultative process, resolved to OPS's satisfaction, and reflected in Phillips's application. Therefore, OPS does not believe that modifications to Phillips's application are required.

E. Affected Environment and Environmental Consequences

The 12″ and 18″ Sweeny—Pasadena pipelines proposed for this demonstration project transport refined products (e.g., gasolines, distillates, and naphtha) from Phillips's Sweeny Refinery to Phillips's Pasadena Terminal in Pasadena, Texas. These products are stable, flammable liquids. Product spills could result in the accumulation of highly flammable, heavier than air vapors in low areas. These vapors could also spread along the ground away from the spill site and could ignite. The resulting fire could create localized damage in the vicinity of the release. These products form carbon oxides and various hydrocarbons which are dispersed into the atmosphere when burned. These products will float on water (their solubility in water is negligible), and large spills have been known to result in kills of fish and other aquatic life.

However, it should be noted that the transport of these products is already protected by all existing, applicable pipeline safety regulations and safe industry practices, which have contributed to a good pipeline industry safety record. The proposed risk management measures are intended to improve upon this safety record.

The Sweeny-Pasadena system pipelines have been in operation since 1959 and 1979, respectively. This system runs roughly Northeast from the Sweeny Refinery to the Pasadena Terminal, passing near the northern edge of Friendswood, Texas. The lines parallel each other over the entire 60-mile distance to be included in the demonstration project. The lines run through sparsely populated areas for about the first 45 miles and through heavily populated areas for the last 15 miles. The lines cross the Brazos and San Bernard rivers, several major roadways and railroad lines, and pass underneath the Texas State Department of Corrections' Ramsey facility.

Both of these lines have a good leak history. The 12″ line began service in 1956 and has a maximum operating pressure (MOP) of 1270 psi. It has had two leaks: one in 1992 and another in 1993. These leaks resulted in localized surface contamination near the line. Phillips quickly detected the leaks and stopped the release of product. The contaminated areas were satisfactorily remediated. There were no fatalities, injuries or adverse health effects to any member of the public or to any Phillips employee from these events. Both of these leaks were associated with material defects that developed because of the manufacturing process used to bend sections of the pipe. As a result of these events, Phillips conducted a comprehensive review of all pipe bends, that included an internal inspection for geometric defects. All piping bends with characteristics similar to those that had failed were replaced or heat treated to eliminate the condition that created the leaks. The 12″ line also has some history of coating problems. To resolve this problem, Phillips has placed additional rectifiers to provide enhanced cathodic protection.

The 18″ line was placed in service in 1979 and has a MOP of 680 psi. The 18″ line has not had any leaks.

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The OPS Project Review Team carefully reviewed Phillips's proposed excavation risk management activities and concluded that superior protection would be provided for the pipeline systems during the demonstration project. The Phillips Excavation Risk Assessment Process goes beyond the existing regulations in providing additional assurance of safety. OPS has concluded that the enhanced risk control activities will reduce the likelihood of pipeline accidents and leaks, especially those resulting from third party damage. Should a leak or rupture occur, the enhanced communication efforts should improve the responsiveness of company and local officials to an event, and diminish the consequences of any such leak or rupture. In summary, based on expected reductions in both the likelihood and consequences of leaks and ruptures, OPS has concluded that the proposed risk control activities will clearly reduce safety and environmental risks.

F. Environmental Justice Considerations

In accordance with Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority and Low-Income Populations), OPS has considered the effects of the demonstration project on minority and low-income populations. As explained above, OPS believes this project will provide superior safety and environmental protection along the demonstration project lines. The pipeline segments proposed for the project are routed mostly through rural, sparsely populated areas, but include about 15 miles of pipeline which runs through industrial and developing residential areas. A mixture of income levels resides along the segments.

The risk control activities provide greater protection than mere compliance with existing regulations. Because the proposed risk management activities will be applied uniformly along the lines, residents and communities near the lines will be afforded greater protection, regardless of the residents' income level or minority status. Therefore, the proposed project does not have any disproportionately high or adverse health or environmental effects on any minority or low-income populations along the demonstration segments.

G. Information Made Available to States, Local Governments, (and) Individuals

OPS has recently (in January and February 1998) made the following documents publicly available, and incorporates them by reference into this environmental assessment:

(1) "Demonstration Project Prospectus: Phillips Pipe Line Company", June, 1998, available by contacting Elizabeth M. Callsen at 202–366–4572. Includes maps of the demonstration segments. Purpose is to reach the public, local officials, and other stakeholders, and to solicit their input about the proposed project. Mailed to over 500 individuals, including Local Emergency Planning Committees (LEPC) and other local safety officials, Regional Response Teams (RRT) representing other federal agencies, state pipeline safety officials, conference attendees, and members of public interest groups.

(2) "Phillips Pipe Line Company—Application for DOT-OPS Risk Management Demonstration Program", available in Docket No. RSPA–98–3982 at the Dockets Facility, U.S. Department of Transportation, Plaza 401, 400 Seventh Street, SW, Washington, DC 20590–0001, (202)366–5046.

(3) "OPS Project Review Team Evaluation of Phillips Demonstration Project".

(4) Notice of Intent to approve project (published concurrently with this environmental assessment).

OPS has previously provided information to the public about the Phillips project, and has requested public comment, using many different sources. OPS aired several electronic broadcasts reporting on demonstration project proposals, including Phillips's proposal. An earlier **Federal Register** notice (62 FR 53052; October 10, 1997) informed the public that Phillips was interested in participating in the Demonstration Program, provided general information about technical issues and risk control alternatives to be explored, and identified the geographic areas the demonstration project would traverse.

Since August 1997, OPS has used an Internet-accessible data system called the Pipeline Risk Management Information System (PRIMIS) at http://www.cycla.com/opsdemo to collect, update, and exchange information about all demonstration project candidates, including Phillips.

At a November 19, 1997, public meeting OPS hosted in Houston, TX, Phillips officials presented a summary of the proposed demonstration project and answered questions from meeting attendees. (Portions of this meeting were broadcast on December 4, 1997, and on March 26, 1998. This broadcast is available on demand via the OPS website at http://ops.dot.gov/tmvid.htm.) No issues or concerns about Phillips's proposal have been raised.

H. Listing of the Agencies and Persons Consulted, Including Any Consultants

Persons/Agencies Directly Involved in Project Evaluation

Stacey Gerard, OPS/U.S. Department of Transportation
James C. Thomas (retired), OPS/U.S. Department of Transportation
Linda Daugherty, OPS/U.S. Department of Transportation
Carl Griffis, OPS/U.S. Department of Transportation
Anne Marie Joseph, OPS/U.S. Department of Transportation
Rod Seeley, OPS/U.S. Department of Transportation
Bruce Hansen, OPS/U.S. Department of Transportation
Elizabeth Callsen, OPS/U.S. Department of Transportation
Mary McDaniel, Gas Services Division, Railroad Commission of Texas
Jim vonHerrmann, Cycla Corporation (consultant)
Robert Brown, Cycla Corporation (consultant)
Herb Wilhite, Cycla Corporation (consultant)

Persons/Agencies Receiving Briefings/Project Prospectus/Requests for Comment

Regional Response Team (RRT), Region 6, representing the Environmental Protection Agency; the Coast Guard; the U.S. Departments of Interior, Commerce, Justice, Transportation, Agriculture, Defense, State, Energy, Labor; Health and Human Services; the Nuclear Regulatory Commission; the General Services Administration; and the Federal Emergency Management Agency (RRT Co-Chairs: Charles Gazda, EPA Region 6 and Cdr. Ed Stanton, Coast Guard 8th District).

I. Conclusion

Based on the above-described analysis of the proposed demonstration project, OPS has determined that there are no significant impacts associated with this action.

[FR Doc. 98–17493 Filed 6–30–98; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. RSPA–97–2426; Notice 2]

Pipeline Safety: National Pipeline Mapping System

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Public workshops.

SUMMARY: RSPA invites natural gas transmission and hazardous liquid pipeline operators, liquefied natural gas facility operations managers, mapping specialists, federal and state government agencies, and the public, to attend one of four public workshops on the national pipeline mapping system (NPMS). This digital mapping system, when complete, will show the location and selected attributes of the major natural gas transmission and hazardous liquid pipelines and liquefied natural gas facilities in the United States. At each of the workshops we will provide: An overview of the NPMS; details on the types of information OPS is requesting for the NPMS; facts about how we will use this information; technical specifications for submitting attribute data, geospatial data, and metadata; information about the national and state repository system; and advice on how to convert paper maps to digital data, should you want to convert.

DATES AND LOCATIONS: Four workshops will be held:

- July 14–15—Adam's Mark Hotels and Resorts, Houston, TX, 2900 Briarpark Drive at Westheimer, (800) 436–2326;
- September 1–2—Hotel Arlington Heights, Arlington Heights, IL, 75 W. Algonquin Road, (847) 364–7600;

- September 23–24—ANA Hotel, San Francisco, CA, 50 Third Street, (415) 974–6400;
- October 28–29—Washington Plaza Hotel, Washington DC, 10 Thomas Circle, (202) 842–1300.

All workshops will begin at 9:00 a.m. and end at 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Specifics on registration and hotel accommodation information are available on the OPS Homepage—http://ops.dot.gov or may be obtained by calling Janice Morgan, (202) 366–2392.

SUPPLEMENTARY INFORMATION: The Department of Transportation's Office of Pipeline Safety (OPS) is working with other federal and state agencies and the pipeline industry to create a national pipeline mapping system. The NPMS will be a digital mapping data base. This system, when complete, will show the location and selected attributes of the major natural gas transmission and hazardous liquid pipelines, and liquefied natural gas facilities in the United States. This would include information on interstate and intrastate natural gas transmission pipelines and hazardous liquid transmission lines. This would not include information on gas service lines, gas distribution lines, gathering lines, flow lines, or spur lines.

OPS will add additional data layers to the system, including layers to describe population densities, areas unusually sensitive to environmental damage, natural disaster probability and high-consequence areas, hydrography, and transportation networks. OPS will use the system to depict pipelines in relation to the public and the environment, and to work with other government agencies and industry during an incident.

The NPMS will provide federal and state governments and the pipeline industry with information on pipeline locations and their proximity to safety sensitive areas. For example, these include places where people live and work, community drinking water supplies, and national parks and historical areas.

The NPMS will consist of multiple state repositories and a single national repository. The repositories will follow one mapping data standard to digitize, convert, and process the data.

DOT strongly urges all natural gas transmission and hazardous liquid pipeline and liquefied natural gas facility operators to attend one of these meetings and to voluntarily provide mapping data for inclusion in the national pipeline mapping system. OPS will begin requesting pipeline operators to submit digital data early in 1999. OPS will accept paper data following collection of mapping data that has already been digitized.

Two Joint Government-Industry Pipeline Mapping Quality Action Teams (MQAT) have worked to create the national pipeline mapping system digital pipeline location and attribute layer. The teams are sponsored by OPS, the American Petroleum Institute, the Interstate Natural Gas Association of America, and the American Gas Association. Represented on the teams are OPS, the U.S. Geological Survey, the Department of Energy, the Federal Energy Regulatory Commission, the Department of Transportation's Bureau of Transportation Statistics, the states of Texas, Louisiana, California, New York, and Minnesota, and the natural gas and hazardous liquid pipeline industry.

The first team, MQAT I, analyzed various mapping alternatives and determined a cost-effective strategy for creating a reasonably accurate depiction (plus or minus 500 feet, for a corridor width of 1,000 feet) of transmission pipelines and liquefied natural gas facilities in the U.S. The findings of MQAT I are described in a report titled: "Strategies for Creating a National Pipeline Mapping System'.

MQAT II implemented the strategies outlined by the first team. MQAT II developed the national pipeline mapping data standards that will be used to create the digital pipeline layer in the national pipeline mapping system. These include standards for electronic data submissions, paper map submissions, and metadata (data on the data). The team has also developed standards that will be used by the pipeline mapping repository receiving the pipeline information. Both standards were pilot tested by state agencies, industry, and others to test the exchange of data that met the standards. A copy of the standards can be viewed and downloaded from the OPS Internet web site. The Internet web site is http://ops.dot.gov. The standards can also be obtained by calling (202) 366-4561.

OPS has established a multi-phase approach to create the NPMS. This approach will allow industry and government to efficiently upgrade information in a manner that works with other business needs.

OPS strongly urges all natural gas transmission and hazardous liquid pipeline operators and liquefied natural gas facility operators to provide mapping data. With federal and state agencies and operators all contributing, we can save time and money. To be successful, we need your help. Please attend one of four public workshops to learn how you can participate.

Issued in Washington, DC on June 25, 1998.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

[FR Doc. 98–17477 Filed 6–30–98; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33612 (Sub-No. 1)]

The Burlington Northern and Santa Fe Railway Company—Trackage Rights Exemption—Union Pacific Railroad Company

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of Exemption.

SUMMARY: The Board, under 49 U.S.C. 10502, exempts the trackage rights described in STB Finance Docket No. 33612[1] to permit the trackage rights to expire on July 31, 1998, in accordance with the agreement of the parties.[2]

DATES: This exemption is effective on July 31, 1998. Petitions to reopen must be filed by July 21, 1998.

ADDRESSES: An original and 10 copies of all pleadings referring to STB Finance Docket No. 33612 (Sub-No. 1) must be filed with the Office of the Secretary, Case Control Unit, Surface Transportation Board, 1925 K Street, NW, Washington, DC 20423–0001. In addition, a copy of all pleadings must be served on petitioners' representatives (1) Yolanda M. Grimes, Esq., The Burlington Northern and Santa Fe Railway Company, P. O. Box 961039, Fort Worth, TX 76161–0039, and (2) Joseph D. Anthofer, Esq., Union Pacific Railroad Company, 1416 Dodge Street, #830, Omaha, NE 68179.

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[1] On June 4, 1998, BNSF filed a notice of exemption under the Board's class exemption procedures at 49 CFR 1180.2(d)(7). The notice covered the agreement by UP to grant temporary overhead trackage rights to BNSF between Dallas, TX, in the vicinity of UP's milepost 214.6 (Dallas Subdivision) and Tower 55, Fort Worth, TX, in the vicinity of UP's milepost 245.5 (Dallas Subdivision), a distance of approximately 30.9 miles. *See The Burlington Northern and Santa Fe Railway Company—Trackage Rights Exemption—Union Pacific Railroad Company,* STB Finance Docket No. 33612 (STB served June 22, 1998). The trackage rights operations under the exemption became effective on June 11, 1998, 7 days after the verified notice was filed, and were scheduled to be consummated on June 15, 1998.

[2] Trackage rights normally remain in effect unless discontinuance authority or approval of a new agreement is sought. *See Milford-Bennington Railroad Company, Inc.—Trackage Rights Exemption—Boston and Maine Corporation and Springfield Terminal Railway Company,* Finance Docket No. 32103 (ICC served Sept. 3, 1993).

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FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927–1600. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC NEWS & DATA, INC., Suite 210, 1925 K Street, NW, Washington, DC 20006. Telephone: (202) 289–4357. [Assistance for the hearing impaired is available through TDD services (202) 565–1695.]

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: June 23, 1998.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 98–17394 Filed 6–30–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33615]

Genesee & Wyoming Inc.—Continuance in Control Exemption—Savannah Port Terminal Railroad, Inc. and Golden Isles Terminal Railroad, Inc.

Genesee and Wyoming Inc. (GWI), a noncarrier holding company, has filed a notice of exemption to continue in control of Savannah Port Terminal Railroad, Inc. (SAPT) and Golden Isles Terminal Railroad, Inc. (GITM), upon SAPT and GITM becoming Class III railroads.

The transaction was scheduled to be consummated on or shortly after June 8, 1998.

This transaction is related to STB Finance Docket No. 33613, *Savannah Port Terminal Railroad, Inc—Acquisition and Operation Exemption—Georgia Ports Authority and Savannah State Docks Railroad and STB Finance Docket No. 33614, Golden Isles Terminal Railroad, Inc.—Acquisition and Operation Exemption—Georgia Ports Authority and Colonel's Island Railroad,* wherein SAPT and GITM seek to acquire easements to operate over certain rail lines from GPA.

GWI directly controls one existing Class II rail carrier subsidiary: Buffalo & Pittsburgh Railroad, Inc., operating in New York and Pennsylvania. GWI directly controls 12 existing Class III rail carrier subsidiaries: Genesee & Wyoming Railroad Company, Inc., operating in New York; Dansville and Mount Morris Railroad Company, operating in New York; Rochester & Southern Railroad, Inc., operating in New York; Louisiana & Delta Railroad, Inc., operating in Louisiana; Bradford Industrial Rail, Inc., operating in Pennsylvania and New York; Allegheny & Eastern Railroad, Inc., operating in Pennsylvania; Willamette & Pacific Railroad, Inc., operating in Oregon; GWI Switching Services, operating in Texas; Illinois & Midland Railroad, Inc., operating in Illinois; Pittsburgh & Shawmut Railroad, Inc., operating in Pennsylvania; Portland & Western Railroad, Inc., operating in Oregon; and Corpus Christi Terminal Railroad, Inc., operating in Texas.

GWI indirectly controls 3 Class III rail carriers through its ownership of Rail Link, Inc.: Carolina Coastal Railway, Inc., operating in North Carolina; Commonwealth Railway, Inc., operating in Virginia; and Talleyrand Terminal Railroad, Inc., operating in Florida.

GWI states that: (1) The rail lines to be operated by SAPT and GITM do not connect with any railroad in the corporate family; (ii) the transaction is not part of a series of anticipated transactions that would connect SAPT and GITM's lines with any railroads in the corporate family; and (iii) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

As a condition to this exemption the continuance in control of SAPT and GITM are subject to the labor protection requirements of 49 U.S.C. 11326(b).

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33615, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Eric M. Hocky, Esquire, Gollatz, Griffin & Ewing, P.C., 213 West Miner Street, P.O. Box 796, West Chester, PA 19381–0796.

Board decision and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: June 24, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–17506 Filed 6–30–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33614]

Golden Isles Terminal Railroad, Inc.—Acquisition and Operation Exemption—Georgia Ports Authority and Colonel's Island Railroad

Golden Isles Terminal Railroad, Inc. (GITM), a noncarrier has filed a verified notice of exemption under 49 CFR 1150.31 to acquire the exclusive rail freight easement over and operate approximately 33 of miles rail line (consisting of approximately 12.6 miles of common use tracks and 20.4 miles of yard tracks, industrial leads, and related trackage over which the Board might not have jurisdiction) owned by Georgia Ports Authority (GPA).[1] The rail line involved in this acquisition is located in the Colonel's Island Bulk and Auto Processing Terminal near Brunswick, Glynn County Georgia. The line is currently operated by Colonel's Island Railroad (CIRR). Following GITM's acquisition of the line CIRR will permanently relinquish its rights to operate as a common carrier railroad over the line.

The transaction was expected to be consummated on or shortly after June 8, 1998.

This transaction is related to STB Finance Docket 33615, *Genesee & Wyoming Inc.—Continuance in Control Exemption—Savannah Port Terminal Railroad, Inc. and Golden Isled Terminal Railroad, Inc.,* wherein Genesee & Wyoming, Inc., has concurrently filed a verified notice of exemption to continue in control of GITM upon its becoming a Class III rail carrier.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33614, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Eric M. Hocky, Esquire, Gollatz & Ewing, P.C., 213 West Miner Street, P.O. Box 796, West Chester, PA 19381.

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[1] The rail lines are located within a terminal area and do not have designated mileposts. GITM certifies that its projected revenues will not exceed those that would qualify it as a Class III carrier.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: June 24, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–17508 Filed 6–30–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33613]

Savannah Port Terminal Railroad, Inc.—Acquisition and Operation Exemption—Georgia Ports Authority and Savannah State Docks Railroad

Savannah Port Terminal Railroad, Inc. (SAPT), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire the exclusive easement over and operate approximately 23 miles of rail line (consisting of approximately 1 mile of common use tracks, and 22 miles of yard tracks, industrial leads, and other related trackage over which the Board might not have jurisdiction) owned by the Georgia Ports Authority (GPA).[1] The rail line involved in this acquisition transaction is located within the Garden City Terminal, Garden City, GA. The line is currently operated by Savannah State Docks Railroad (SSDRR). Following the acquisition transaction, SSDRR will permanently relinquish its right to operate as a common carrier railroad over the line.

The transaction was expected to be consummated on or shortly after June 8, 1998.

This transaction is related to STB Finance Docket No. 33615, *Genesee & Wyoming Inc.—Continuance in Control Exemption—Savannah Port Terminal Railroad, Inc. and Golden Isles Terminal Railroad, Inc.*, wherein Genesee & Wyoming Inc., has concurrently filed a verified notice of exemption to continue in control of SAPT upon its becoming a Class III rail carrier.

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33613, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Eric M. Hocky, Esquire, Gollatz, Griffin & Ewing, P.C., 213 West Miner Street, P.O. Box 796, West Chester, PA 19381–0796.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: June 24, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–17507 Filed 6–30–98; 8:45 am]

BILLING CODE 4915–00–P

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[1] The rail lines are located within a terminal area and do not have designated mileposts. SAPT certifies that its projected revenues will not exceed those that would qualify it as a Class III railroad.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–83 (Sub-No. 16X)]

Maine Central Railroad Company—Abandonment Exemption—in Androscoggin County, ME

Maine Central Railroad Company (MeC) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances* to abandon an approximately 18.97-mile line of its railroad on the Lewiston Industrial Track between Engineering Station 0+00 (approximately milepost 0.00) and Engineering Station 1001+81.6 (approximately milepost 18.97), in Androscoggin County, ME. The line traverses United States Postal Service Zip Codes 04011, 04086, 04210, 04240, 04250, 04251 and 04252.

MeC has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic moving over the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on July 31, 1998, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by July 13, 1998. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by July 21, 1998, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: John R. Nadolny, Maine Central Railroad Company, Law Department, Iron Horse Park, North Billerica, MA.

If the verified notice contains false or misleading information, the exemption is void ab initio.

MeC has filed an environmental report which addresses the effects of the abandonment and discontinuance, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by July 6, 1998. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

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[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

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Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), MeC shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by MeC's filing of a notice of consummation by July 1, 1999, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: June 24, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–17505 Filed 6–30–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund; Notice of Open Meeting of the Community Development Advisory Board

AGENCY: Community Development Financial Institutions Fund, Department of the Treasury.

ACTION: Notice of open meeting.

SUMMARY: This notice announces the next meeting of the Community Development Advisory Board (the "Advisory Board"), which provides advice to the Director of the Community Development Financial Institutions Fund (the "Fund").

DATES: The next meeting of the Community Development Advisory Board will be held on Wednesday, July 15, 1998 at 10:00 a.m.

FOR FURTHER INFORMATION CONTACT: The Community Development Financial Institutions Fund, U.S. Department of Treasury, 601 13th Street, NW., Suite 200 South, Washington, DC, 20005, (202) 622–8662 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: Section 104(d) of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4703(d)) established the Community Development Advisory Board. The charter for the Advisory Board has been filed in accordance with the Federal Advisory Committee Act, as amended, (5 U.S.C. App.), and with the approval of the Secretary of the Treasury.

The function of the Advisory Board is to advise the Director of the Fund (who has been delegated the authority to administer the Fund) on the policies regarding the activities of the Fund. The Fund is a wholly owned corporation within the Department of the Treasury. The Advisory Board shall not advise the Fund on the granting or denial of any particular application. The Advisory Board shall meet at least annually.

It has been determined that this document is not a major rule as defined in Executive Order 12291 and that regulatory impact analysis therefore is not required. In addition, this document does not constitute a rule subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

The next meeting of the Advisory Board, all of which will be open to the public, will be held at the Treasury Executive Institute, located at 1255 22nd Street, NW., Suite 500, Washington, DC, on Wednesday, July 15, 1998 at 10:00 a.m. The room will accommodate 30 members of the public. Seats are available on a first-come, first-served basis. Participation in the discussions of the meeting will be limited to Advisory Board members and Department of the Treasury staff. Anyone who would like to have the Advisory Board consider a written statement must submit it to the Fund, at the address of the Fund specified above in the For Further Information Contact section, by 4:00 p.m., Friday, July 10, 1998.

The meeting will include a report from Director Lazar on the activities of the CDFI Fund since the last Advisory Board meeting, members will be briefed and solicited for input on the development of the CDFI Fund's Strategic Plan, a discussion and vote on the formation of subcommittees will be conducted, and members will be briefed and solicited for input on the creation of an Impact study to be conducted by the Fund.

Authority: 12 U.S.C. 4703; Chapter X, Pub. L. 104–19, 109 Stat. 237.

Dated: June 26, 1998.

Ellen Lazar,

Director, Community Development Financial Institutions Fund.

[FR Doc. 98–17595 Filed 6–30–98; 8:45 am]

BILLING CODE 4810–70–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCIES: Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); and Federal Deposit Insurance Corporation (FDIC).

ACTION: Joint notice and request for comment.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the OCC, the Board, and the FDIC (the "agencies") may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid Office of Management and Budget (OMB) control number. The agencies, under the auspices of the Federal Financial Institutions Examination Council (FFIEC), intend to extend without revision a currently approved information collection, the Report on Indebtedness of Executive Officers and Principal Shareholders and their Related Interests to Correspondent Banks (FFIEC 004). At the end of the comment period, the comments and recommendations received will be analyzed to determine whether the FFIEC and the agencies should modify the information collection. The agencies will then submit the report to OMB for review and approval.

DATES: Comments must be submitted on or before August 31, 1998.

ADDRESSES: Interested parties are invited to submit written comments to any or all of the agencies. All comments, which should refer to the OMB control number(s), will be shared among the agencies.

OCC: Written comments should be submitted to the Communications Division, Office of the Comptroller of the Currency, 250 E Street, Third Floor, SW, Washington, DC 20219; Attention: Paperwork Docket No. 1557–0070 [FAX number (202) 874–5274; Internet address: regs.comments@occ.treas.gov]. Comments will be available for inspection and photocopying at that address.

Board: Written comments should be addressed to Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551, or delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW Comments received may be inspected in room M–P–500 between 9:00 a.m. and 5:00 p.m., except as provided in section 261.8 of the Board's Rules Regarding Availability of Information, 12 CFR 261.8(a).

FDIC: Written comments should be addressed to Robert E. Feldman, Executive Secretary, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429. Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m. [FAX number (202) 898–3838; Internet address: comments@fdic.gov]. Comments may be inspected and photocopied in the FDIC Public Information Center, Room 100, 801 17th Street, NW, Washington, DC, between 9:00 a.m. and 4:30 p.m. on business days.

A copy of the comments may also be submitted to the OMB desk officer for the agencies: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Additional information may be requested from any of the agency clearance officers whose names appear below.

OCC: Jessie Gates, OCC Clearance Officer, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

Board: Mary M. McLaughlin, Chief, Financial Reports Section, (202) 452–3829, Division of Research and Statistics, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact Diane Jenkins, (202) 452–3544, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551.

FDIC: Steven F. Hanft, FDIC Clearance Officer, (202) 898–3907, Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

Proposal to Extend for Three Years Without Revision the Following Currently Approved Collection of Information

Title: Report on Indebtedness of Executive Officers and Principal Shareholders and their Related Interests to Correspondent Banks.

Form Number: FFIEC 004.

Frequency of Response: Annually (for executive officers and principal shareholders), and on occasion (for national, state member and insured state nonmember banks).

Affected Public: Individuals or households, Businesses or other for-profit.

For OCC:

OMB Number: 1557–0070.

Estimated Number of Respondents: 33,550 (30,500 executive officers and principal shareholders fulfilling recordkeeping burden, 3,050 national banks fulfilling recordkeeping and disclosure burden).

Estimated Average Hours per Response: 2.87 hours.

Estimated Total Annual Burden: 96,533.

For Board:

OMB Number: 7100–0034.

Estimated Number of Respondents: 4,955 (3,964 executive officers and principal shareholders fulfilling recordkeeping burden, 991 state member banks fulfilling recordkeeping and disclosure burden).

Estimated Average Hours per Response: 1.12 hours.

Estimated Total Annual Burden: 5,551.

For FDIC:

OMB Number: 3064–0023.

Estimated Number of Respondents: 30,170 (24,136 executive officers and principal shareholders fulfilling recordkeeping burden, 6,034 insured state nonmember banks fulfilling recordkeeping and disclosure burden).

Estimated Average Hours per Response: 1.8 hours.

Estimated Total Annual Burden: 54,306.

General Description of Report: This information collection is mandatory: 12 U.S.C. 1972(2)(G) (all); 12 U.S.C. 375(a)(6) and (10) , and 375(b)(10) (Board); 12 U.S.C. 1817(k) and 12 U.S.C. 93a (OCC); 12 CFR 349.3, 12 CFR 349.4, and 12 CFR 304.5(e) (FDIC).

Abstract: Executive officers and principal shareholders of insured banks must file with the bank the information contained in the FFIEC 004 report on their indebtedness and that of their related interests to correspondent banks. Banks must retain these reports or reports containing similar information and fulfill other recordkeeping requirements, such as furnishing annually a list of their correspondent banks to their executive officers and principal shareholders. Banks also have certain disclosure requirements for this information collection.

Request for Comment

Comments are invited on:

a. Whether the information collection is necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

b. The accuracy of the agencies' estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Comments submitted in response to this Notice will be shared among the agencies and will be summarized or included in the agencies' requests for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology as well as other relevant aspects of the information collection request.

Dated: June 22, 1998.

Karen Solomon,

Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

Board of Governors of the Federal Reserve System, June 25, 1998.

Jennifer J. Johnson,

Secretary of the Board.

Dated at Washington, DC, this 11th day of June, 1998.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 98–17452 Filed 6–30–98; 8:45 am]

BILLING CODE 4810–33–P, 6210–01–P, 6714–01–P

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DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptance on Federal Bonds: Name Change—Allegheny Mutual Casualty Company

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 18 to the Treasury Department Circular 570; 1997 Revision, published July 1, 1997, at 62 FR 35548.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 875–6905.

SUPPLEMENTARY INFORMATION: Allegheny Mutual Casualty Company, a Pennsylvania corporation, has formally changed its name to Allegheny Casualty Company, effective January 1, 1998. The Company was listed as an acceptable surety on Federal bonds at 62 FR 35549, July 1, 1997.

A Certificate of Authority as an acceptable surety on Federal bonds, dated today, is hereby issued under sections 9304 to 9308 of Title 31 of the United States Code, to Allegheny Casualty Company, Meadville, Pennsylvania. This new Certificate replaces the Certificate of Authority issued to the Company under its former name. The underwriting limitation of $1,023,000 established for the Company as of July 1, 1997, remains unchanged until June 30, 1998.

Certificates of Authority expire on June 30, each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the Company remains qualified (31 CFR, part 223). A list of qualified companies is published annually as of July 1, in the Department Circular 570, which outlines details as to underwriting limitations, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1997 Revision, at page 35549 to reflect this change.

The Circular may be viewed and downloaded through the Internet (http://www.fms.treas.gov/c570/index.html) or through our computerized public bulletin board system (FMS Inside Line) at (202) 874–6887. A hard copy may be purchased from the Government Printing Office (GPO), Subscription Service, Washington, DC, telephone (202) 512–1800. When ordering the circular from GPO, use the following stock number: 048000–00509–8.

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Funds Management Division, Surety Bond Branch, 3700 East-West Highway, Room 6A11, Hyattsville, MD 20782.

Dated: June 19, 1998.

Charles F. Schwan III,

Director, Funds Management Division, Financial Management Service.

[FR Doc. 98–17338 Filed 6–30–98; 8:45 am]

BILLING CODE 4810–55–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Office of Thrift Supervision, Department of Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Currently, the Office of Thrift Supervision within the Department of the Treasury is soliciting comments concerning the Customer Survey—Consumer Complaints.

DATES: Written comments should be received on or before August 31, 1998 to be assured of consideration.

ADDRESSES: Send comments to Manager, Dissemination Branch, Records Management and Information Policy, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention 1550–0086. These submissions may be hand delivered to 1700 G Street, NW. From 9:00 A.M. to 5:00 P.M. on business days; they may be sent by facsimile transmission to FAX Number (202) 906–7755; or they may be sent by e-mail: public.info@ots.treas.gov. Those commenting by e-mail should include their name and telephone number. Comments over 25 pages in length should be sent to FAX Number (202) 906–6956. Comments will be available for inspection at 1700 G Street, NW., from 9:00 A.M. until 4:00 P.M. on business days.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Mary Gottlieb, Regulations and Legislation Division, Office of the Chief Counsel, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, (202) 906–7135.

SUPPLEMENTARY INFORMATION:

Title: Customer Survey—Consumer Complaints.

OMB Number: 1550–0086.

Form Number: OTS Form 1604.

Abstract: This information collection will be used to obtain feedback from consumers who have filed a complaint against a thrift. This survey is part of OTS' efforts under the National Performance Review.

Current Actions: OTS is proposing to renew this information collection without revision.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or For Profit.

Estimated Number of Respondents: 1,000.

Estimated Time Per Respondent: 5 minutes average.

Estimated Total Annual Burden Hours: 83 hours.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality; (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology, and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 23, 1998.

Catherine C. M. Teti,

Director, Records Management and Information Policy.

[FR Doc. 98–17420 Filed 6–30–98; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Office of Thrift Supervision, Department of Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Currently, the Office of Thrift Supervision within the Department of the Treasury is soliciting comments concerning the Ongoing Survey for Interpretive Opinions.

DATES: Written comments should be received on or before August 31, 1998 to be assured of consideration.

ADDRESSES: Send comments to Manager, Dissemination Branch, Records Management and Information Policy, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention 1550–0085. These submissions may be hand delivered to 1700 G Street, NW. From 9:00 A.M. to 5:00 P.M. on business days; they may be sent by facsimile transmission to FAX Number (202) 906–7755; or they may be sent by e-mail: public.info@ots.treas.gov. Those commenting by e-mail should include their name and telephone number. Comments over 25 pages in length should be sent to FAX Number (202) 906–6956. Comments will be available for inspection at 1700 G Street, NW., from 9:00 A.M. until 4:00 P.M. on business days.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Mary Gottlieb, Chief Counsel's Office, Regulations & Legislation Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, (202) 906–7135.

SUPPLEMENTARY INFORMATION:

Title: Ongoing Customer Survey for Interpretive Opinions.

OMB Number: 1550–0085.

Form Number: OTS Form 1602.

Abstract: This information collection is needed to obtain feedback on the quality or opinions produced by the Office of Thrift Supervision in order to meet the goals of the National Performance Review with respect to improving customer service on a long-term basis.

Current Actions: OTS is proposing to renew this information collection without revision.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or For Profit.

Estimated Number of Respondents: 35.

Estimated Time Per Respondent: .25 average hours.

Estimated Total Annual Burden Hours: 8.75 hours.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality; (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology, and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 23, 1998.

Catherine C.M. Teti,

Director, Records Management and Information Policy.

[FR Doc. 98–17421 Filed 6–30–98; 8:45 am]

BILLING CODE 6720–01–P

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition Determinations

AGENCY: United States Information Agency.

Republican FR 98–160400 Published @ Page 33123 in the **Federal Register** of June 17, 1998 is republished in its entirety.

This notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985). I hereby determine that the fragment of the Dead Scroll, Psalms Tehillim, to be included in the exhibit "A Living Memorial to the Holocaust" at the Museum of Jewish Heritage in New York, imported from abroad for temporary exhibition without profit within the United States, is of cultural significance. This object is imported pursuant to a loan agreement with the foreign lenders. I also determine that the exhibition or display of this object for "A Living Memorial to the Holocaust" at the Museum of Jewish Heritage in New York beginning in July 1998 is in the national interest. The action of the United States in this matter and the immunity based on the application of the provisions of the law involved does not imply any view of the United States concerning the ownership of this exhibition object. Further, it is not based upon and does not represent any change in the position of the United States regarding the status of Jerusalem or the territories occupied by Israel since 1967. *See* letter of September 22, 1978, of President Jimmy Carter, attached to the Camp David Accords, *reprinted in* 78 *Dept of State Bulletin* 11 (October 1978); Statement of September 1, 1982 of President Ronald Reagan, *reprinted* 82 *Dept of State Bulletin* 23, (September 1982).

Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: A copy of this list may be obtained by contacting Ms. Jacqueline Caldwell, Assistant General Counsel, at (202) 619–6982. The address is, U.S. Information Agency, 301—4th Street, S.W., Room 700, Washington, D.C. 20547–0001.

Dated: June 25, 1998.

Les Jin,

General Counsel.

[FR Doc. 98–17530 Filed 6–30–98; 8:45 am]

BILLING CODE 8230–01–M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition Determinations

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985. 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 133359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985).

ACTION: I hereby determine that the objects to be included in the exhibit, "Saints and Sinners: Caravaggio's Italy" imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. This object is imported pursuant to a loan agreement with the foreign lender. I also determine that the exhibition or display of the listed exhibit object at McMullen Museum of Art, Boston College, Chestnut Hill, MA from on or about January 26, 1999

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through May 24, 1999, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Paul Manning, Assistant General Counsel, Office of the General Counsel, 202/619–5997, and the address is Room 700, U.S. Information Agency, 301 4th Street, S.W., Washington, D.C. 20547–0001.

Dated: June 25, 1998.

Les Jin,

General Counsel.

[FR Doc. 98–17529 Filed 6–30–98; 8:45 am]

BILLING CODE 8230–01–M

federal register

Wednesday
July 1, 1998

Part II

Department of Defense

Department of the Army, Corps of Engineers

Proposal To Issue and Modify Nationwide Permits; Notice

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DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Proposal To Issue and Modify Nationwide Permits

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent and request for comments.

SUMMARY: To improve protection of the environment the Army Corps of Engineers is proposing changes to its Nationwide General Permit Program. On December 13, 1996, the Corps announced that it would phase out nationwide permit 26 (NWP 26) which covered certain activities in isolated waters and waters above the "headwaters" point on streams. Specifically, the Corps is proposing to issue 6 new nationwide permits (NWPs) and modify 6 existing NWPs to become effective when NWP 26 expires. In addition, the Corps is proposing to add one NWP condition and modify 6 existing NWP conditions, which will apply to all existing NWPs as well as the new and modified NWPs proposed in this notice. These NWPs are activity-specific, and most are restricted to discharges of dredged or fill material into non-tidal waters of the United States. In addition to improving protection of our aquatic resources, a principal objective is to ensure that those activities with truly minimal impacts are authorized in an efficient manner by a general permit. In this regard, we believe that these new and modified NWPs will authorize those activities with minimal impacts that are currently authorized by NWP 26. They will also authorize like activities with minimal impacts that occur below the headwaters. These NWPs will allow the Corps to improve overall environmental protection by allowing the Corps to prioritize its work in non-tidal waters based on the quality of impacted aquatic systems and the specific impacts of a proposed project. Although NWP 26 was originally scheduled to expire on December 13, 1998, the Corps is proposing to change the expiration date to March 28, 1999, to ensure that the Corps has adequate time to effectively involve the other agencies and the public in a new regional conditioning process. When the Corps first established the December 13, 1998, expiration date for NWP 26, we did not contemplate the extensive process needed to develop sound regional conditions. This extension is necessary since a lapse between the expiration of NWP 26 and the effective date of the replacement NWPs is unacceptable and unnecessary.

The Corps is also proposing to modify its "single family home" NWP (NWP 29) to change the acreage limit to 1/4 acre, as discussed at the end of the preamble to this notice. In the interim, the Corps is suspending NWP 29 for single family housing activities that result in the loss of greater than 1/4 acre of non-tidal waters of the United States, including non-tidal wetlands. The Corps is also making available a revised environmental assessment for NWP 29.

The public is invited to provide comments on these proposals and is being given the opportunity to request a public hearing on these activity-specific NWPs.

DATES: Comments on the proposed new and modified NWPs and the proposed modification of NWP 29 must be received by August 31, 1998. Comments on the proposal to extend the expiration date of NWP 26 to March 28, 1999, must be received by July 31, 1998.

ADDRESSES: HQUSACE, CECW–OR, Washington, D.C. 20314–1000.

FOR FURTHER INFORMATION CONTACT: Mr. David Olson or Mr. Sam Collinson, CECW–OR, at (202) 761–0199 or http://www.usace.army.mil/inet/functions/cw/cecwo/reg/.

SUPPLEMENTARY INFORMATION:

Background

The protection and restoration of the aquatic environment is an integral part of the Army Corps of Engineers mission. In its recent Strategic Plan, the Corps made it clear that this part of its mission was equal to its more traditional missions of navigation and flood damage reduction. Over the past 10 years the Corps has made remarkable progress in improving environmental protection through its Regulatory Program. An example is the substantial improvements in the Nationwide Permit program. Through each of the last two five-year reauthorization cycles, the Corps has improved the NWP program. This proposal today takes an additional important step as the Corps phases out NWP 26.

While some may not appreciate fully the import of today's proposal on improving environmental protection, one must only discuss this issue with those who have implemented the NWPs for the past 20 years to gain an accurate account of the substantial progress today's action reflects. This proposal is a reflection of the Corps unequivocal commitment to its environmental mission and to wetlands protection.

The Corps is also committed to reducing regulatory burdens where possible. Consistent with the President's 1993 Wetlands Plan, the Corps, along with other Federal agencies, has made the Regulatory Program more fair, more flexible, and more effective. This NWP proposal also reflects this commitment.

The Corps of Engineers is proposing new and modified NWPs that will authorize those activities with minimal adverse effects on the aquatic environment that are currently authorized by NWP 26. This will ensure the NWP program is based on types of activities and continues to authorize work that has no more than minimal adverse effects on the aquatic environment. The Corps believes that the overall protection of the aquatic environment will be increased by these new and modified NWPs when compared to the existing NWP program. The proposed NWPs will help the Corps achieve its goal of managing its workload based on impacts to the aquatic environment as a whole, not on impacts to any particular geographic type of waters, such as isolated waters or headwater streams. The proposed new and modified NWPs, along with the existing NWPs, will allow the Corps to manage its workload by efficiently authorizing activities with minimal adverse effects and focusing its limited resources on aquatic areas of higher value. Higher value waters, including wetlands, will receive additional protection through increased regional conditioning of NWPs, case-specific special conditions, and case-specific discretionary authority to require a standard individual permit where necessary. These measures will ensure that impacts to these waters authorized by NWPs are no more than minimal. The Corps has established permit thresholds that will allow authorization of most projects that result in no more than minimal adverse effects on the aquatic environment. At the same time, the Corps has established PCN limits to ensure that any project that may have more than minimal adverse effects on the aquatic environment will be reviewed. Moreover, since a minimal adverse effect is still an effect on the aquatic environment, we will also require compensatory mitigation, when appropriate, to ensure that the goal of no net loss is achieved in the NWP program and that the cumulative adverse effects of these activities on the aquatic environment are minimal. Moreover, the Corps believes that the proposed NWPs, along with regional conditioning and the ability to place special conditions on NWP authorizations on a case-by-case basis, will authorize no more than minimal individual and cumulative adverse effects to waters of the United States. Regional conditions will be required by each district to further restrict the use of the NWPs in higher value aquatic systems.

In the June 17, 1996, issue of the **Federal Register**, the Corps proposed to reissue NWP 26 and requested comments on several options for modification of this NWP. In response to this notice, the Corps received more than 500 comments concerning NWP 26. Numerous commenters opposed reissuance of NWP 26. Some commenters acknowledged the necessity of NWP 26, but believed that the NWP must be modified to address potential cumulative adverse effects. Many commenters stated that NWP 26 has worked well and that the loss of NWP 26 would result in increased regulatory burdens on the public, less regulatory certainty, unacceptable workload increases for the Corps, increased processing times, project delays, and an overall lessening of the regulatory program's ability to protect waters of the United States. As a result of the Corps review, the Corps determined that NWP 26 should be replaced with activity-specific NWPs, but in the interim a substantially modified NWP 26 was reissued on December 13, 1996, for a period of two years. This phased approach was determined to be necessary to minimize disruption and confusion for the regulated public and improve environmental protection. For a complete discussion of the issues concerning the reissuance and modification of NWP 26, please refer to the December 13, 1996, issue of the **Federal Register** (61 FR 65874–65922).

The coordination process to develop the new and modified NWPs has taken longer than the Corps expected. Moreover, the Corps has established a very time intensive process to effectively engage other agencies and the public in developing regional conditions.

Due to the additional amount of time required to develop the proposed new and modified NWPs and regional conditions, the Corps is proposing to change the expiration date of NWP 26 to March 28, 1999. Extending the expiration date of NWP 26 will ensure fairness to the regulated public by continuing to provide an NWP for activities in headwaters and isolated waters that have minimal adverse environmental effects until the proposed activity-specific NWPs that will replace NWP 26 become effective. If NWP 26 were to expire on the originally scheduled date of December 13, 1998, then most project proponents would have to apply for authorization through the individual permit process, although some activities may be authorized by other NWPs or regional general permits. For many activities with minimal adverse environmental effects, this would result in unnecessary burdens on the regulated public without added environmental benefits.

Section 404(e) of the Clean Water Act, which provides the statutory authority for the issuance of general permits, states that general permits (including nationwide permits) can be issued for no more than five years. Therefore, NWP 26 can be in effect for a 5 year period. However, the Corps decided that NWP 26 should expire when replacement NWPs become effective. We established a schedule for developing replacement NWPs by December 13, 1998, and announced that NWP 26 would expire then. The revised schedule to develop the new and modified NWPs now indicates that they will become effective on March 28, 1999. Based on this schedule, we are proposing to extend the expiration date of NWP 26 to March 28, 1999. The public is invited to provide comments on the proposal to extend the expiration date of NWP 26 within 30 days of the date of this notice. After the 30 day comment period, the Corps will make a decision on the proposal to extend the expiration date of NWP 26, and publish the decision in the **Federal Register**.

The replacement of NWP 26 with activity-specific NWPs will help implement the President's Wetlands Plan, which was issued by the White House Office on Environmental Policy on August 24, 1993. A major goal of this plan is that Federal wetlands protection programs be fair, flexible, and effective. To achieve this goal, the Corps regulatory program must continue to provide effective protection of wetlands and other aquatic resources and avoid unnecessary impacts to private property, the regulated public, and the environment. These proposed NWPs will more clearly address individual and cumulative impacts to the aquatic environment, ensure that those impacts are minimal, address specific applicant group needs, and provide more predictability and consistency to the regulated public. Throughout the process of developing the new and modified NWPs, the Corps recognized the concerns of natural resource agencies and environmental groups for the potential level of adverse effects on the aquatic environment resulting from these NWPs and the regulated public's need for the certainty and flexibility in the NWP program.

The activity-specific NWPs proposed in this notice were developed based on information from several sources: (1) comments submitted in response to the December 13, 1996, **Federal Register** notice to issue, reissue, and modify the NWPs; (2) Corps internal recommendations; (3) data concerning the types of activities currently authorized by NWP 26; (4) discussions with other Federal agencies; and (5) discussions with both developmental and environmental stakeholders.

Since NWP 26 was modified and reissued, the Corps collected additional data on the types of activities authorized by NWP 26 to develop these new NWPs. From May 1, 1997, through December 31, 1997, 83% of the total activities authorized by NWP 26 fell into 10 categories. Residential development comprised approximately 24% of the activities authorized by NWP 26. Transportation activities accounted for 19% of the NWP 26 authorizations. Six percent to 8% of NWP 26 authorizations were for each the following activities: agricultural activities, retail developments, industrial developments, stormwater facilities, and impoundments. Institutional facilities, mining activities, and channel modification activities each comprised 2% to 5% of the NWP 26 authorizations during this time period.

In response to the December 13, 1996, **Federal Register** notice, several commenters recommended NWPs for activities that were specifically authorized by NWP 26. We also received comments that recommended modifications to existing NWPs to authorize additional activities. We considered all recommendations received and, where appropriate, developed a proposed new NWP or proposed modification of an existing NWP to authorize that activity. Some proposals involved activities that did not require a permit or were exempt from Section 404 or Section 10 permit requirements. Where we believed that it was not appropriate to develop an NWP for a particular recommended activity, our reasons are provided elsewhere in this notice.

In contrast to NWP 26, none of the proposed new NWPs and the proposed modifications of existing NWPs are restricted solely to activities in headwaters and isolated wetlands. However, most are limited to work in non-tidal waters of the United States, and do not authorize work in tidal waters (i.e., waters subject to the ebb and flow of the tide) or in non-tidal wetlands contiguous (i.e., connected by

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surface waters) to tidal waters. Some of the proposed new and modified NWPs are applicable only in non-Section 10 waters and do not authorize work in tidal waters or in non-tidal navigable waters of the United States. The removal of the headwaters restriction will help improve consistency and reduce confusion by eliminating the need to determine where the median flow of a waterbody, on an annual basis, is less than 5 cubic feet per second. In this proposal, we have clarified that for all NWPs, the acreage of loss of waters of the United States, which is the threshold measurement of the gross impacts to existing waters for determining whether a project might qualify for an NWP, includes the filled area plus any waters of the United States that are adversely affected by flooding, excavation, or drainage as a result of the project. Furthermore, in most cases compensatory mitigation will be required for these losses.

Many of the proposed new and modified NWPs have preconstruction notification (PCN) requirements, which allow the Corps to review proposed activities on a case-by-case basis to: (1) place special conditions on specific projects to ensure that the authorized impacts will have minimal individual and cumulative adverse effects on the aquatic system; or (2) assert discretionary authority to require a standard individual permit. These provisions will ensure that the impacts authorized by the NWPs will be minimal. The PCN requirements differ for each NWP. The PCN threshold is based on a level of effects on the existing aquatic ecosystem that requires review by the District Engineer to ensure that those effects are minimal. Each district will identify any areas of high value waters that require lower PCN levels to ensure minimal adverse effects on the aquatic environment. With the national and district-added PCN thresholds, any activity below these limits will have minimal adverse effects on the aquatic environment. Many of the proposed NWPs have PCN requirements for activities that result in the loss, by filling or excavation, of greater than 500 linear feet of stream bed. The term "stream bed" is defined, for the purpose of the proposed new NWPs, as a water of the United States with flowing water (i.e., perennial and intermittent streams). Ephemeral stream beds are not subject to this 500 linear foot PCN requirement. However, Corps districts may regionally condition certain NWPs to require notification for activities that adversely affect ephemeral streams. District engineers are responsible for determining if a particular stream bed is perennial, intermittent, or ephemeral, based on the definitions provided below. District engineers can assert discretionary authority and require an individual permit for those activities that they determine will have more than minimal individual or cumulative adverse effects on the aquatic environment. As with all NWPs, Corps districts will continue to require that applicants avoid and minimize impacts on-site.

Section 404(e) of the Clean Water Act requires that only activities with minimal adverse environmental effects, both individually and cumulatively, can be authorized by general permits. Activities with more than minimal adverse impacts are subject to the individual permit process and the associated alternatives analysis, individual public notice procedures, and other aspects of individual review that help ensure that potential adverse effects are fully avoided and minimized to the maximum extent practicable before an activity is authorized. On a national basis, the Corps prescribes terms and conditions for nationwide permits to ensure that the NWPs only authorize activities that have minimal individual and cumulative adverse effects on the aquatic environment. Furthermore, in certain situations to ensure that activities authorized by NWPs have minimal adverse effects, the Corps: (1) requires a specific review (i.e., a preconstruction notification) so that activity-specific conditions can be imposed where necessary; (2) adds regional conditions on a regional or geographic basis, to ensure that activities authorized by the NWPs have minimal adverse effects; or (3) exercises discretionary authority to require individual permits for those activities that would have more than minimal adverse effects on the aquatic environment.

District engineers will normally require compensatory mitigation to offset adverse environmental effects to the aquatic environment that result from activities authorized by these NWPs, thus ensuring no more than minimal cumulative adverse environmental effects and supporting the goal of no net loss of aquatic resource functions and values. Compensatory mitigation can be accomplished through individual mitigation projects, through mitigation banks and through in lieu fee programs. A focus of all mitigation for NWP impacts in and around flowing and other open waters will be to normally require vegetated buffers, including upland areas adjacent to open waters. These buffer areas are vital for protecting and enhancing water quality.

Compensatory mitigation is necessary to offset losses of functions and values of aquatic systems caused by permitted activities. In 1997, the Corps required 28,631 acres of compensatory mitigation for 15,989 acres of impacts authorized by standard permits (which includes individual permits and letters of permission). During this same time period, the Corps required 24,819 acres of compensatory mitigation for 21,409 acres of impacts authorized by general permits, including nationwide permits and regional general permits. Restoration, enhancement, and creation comprise the bulk of compensatory mitigation efforts. Less than 5% of this compensatory mitigation is accomplished through preservation of aquatic resources. In some Corps districts, such as Savannah District, preservation of aquatic habitats is used to augment restoration, enhancement, and creation efforts. In the Savannah District, permittees are typically required to provide restoration, enhancement, and creation at a 1:1 ratio of impacts to mitigation, and provide additional preservation of aquatic resources, to ensure that there is no net loss of functions and values as a result of authorized activities.

Permittees who received an NWP 26 authorization before NWP 26 expires will have up to 12 months to complete the authorized activity, provided they have commenced construction, or are under contract to commence construction, prior to the date NWP 26 expires (see 33 CFR 330.6(b)). This provision applies to all NWP authorizations unless discretionary authority has been exercised on a case-by-case basis to modify, suspend, or revoke the authorization in accordance with 33 CFR 330.4(e) and 33 CFR 330.5(c) or (d).

The existing NWPs, with the exception of NWP 26, will remain in effect until they expire on February 11, 2002, unless otherwise modified, reissued, or revoked. Some of the proposed NWPs can be used with existing NWPs to authorize projects with minimal individual or cumulative adverse effects on the aquatic environment. Any prohibitions or limitations regarding stacking of the proposed new or modified NWPs with existing NWPs or each other will be addressed in the proposed NWPs.

The Corps believes that substantial additional protection of the overall aquatic environment will result from modification of two NWP conditions. We are proposing to modify General Condition 9, previously entitled "Water

Quality Certification", to require that post-project conditions do not result in more than minimal degradation of downstream water quality. For certain NWPs, this General Condition will require the implementation of a water quality management plan to protect and enhance aquatic resources. The water quality management plan may consist of storm water management techniques and/or the establishment of vegetated buffer zones. In many cases, the Corps will be able to rely on State or local water quality plans. We are also proposing to modify former Section 404 Only Condition 6 by changing its title from "Obstruction of High Flows" to "Management of Water Flows" and modifying it to require that neither upstream nor downstream areas are more than minimally flooded or dewatered after the project is completed. This requirement will help ensure that post-construction effects on the aquatic environment and populated areas are further minimized. We are also modifying other conditions and consolidating the general and Section 404 only NWP conditions to a single list, as discussed below.

Ensuring the protection of threatened and endangered species is a high priority of the Department of the Army Regulatory Program, including the general permit program. Because of programmatic safeguards and individual project review, the Corps continues to believe the NWP program results in no effect on endangered species. Notwithstanding this position, we have requested formal programmatic consultation with the U.S. Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NMFS) to ensure that the NWP program, including the proposed new and modified NWPs, has a formal process to develop any necessary additional procedures at the district level. This will ensure that the program will not jeopardize the continued existence of any Federally listed endangered species. The formal consultation will be initiated as soon as possible and completed by December 13, 1998.

In addition to the standard NWP condition for endangered species, the Corps has required regional conditions and activity-specific conditions to address specific endangered species. To further ensure compliance with the requirements of ESA, Corps districts have developed, and will continue to develop, local operating procedures (referred to as Standard Local Operating Procedures for Endangered Species, or SLOPES) to ensure that districts will continue to reach a project specific "may affect" determination when necessary, and thus consult with FWS and NMFS, where appropriate. Furthermore, programmatic formal consultation has been initiated on NWP 29. We expect this consultation will be completed this summer. Corps districts will develop additional regional conditions and SLOPES this summer for the new and modified NWPs, to ensure that we fully comply with the Endangered Species Act.

Overall, the Corps believes that the proposed changes to the NWP program will substantially enhance protection of the aquatic environment while allowing activities with minimal individual and cumulative adverse effects on the aquatic environment to proceed with a minimum of delay. For example, where we have proposed higher acreage limits for mitigated losses, such as NWP B for master planned development activities, the applicant must fully protect all remaining waters in the project area and offset all losses of aquatic functions and values within the community. In this way, the overall aquatic environment will be maintained, and in many cases enhanced, by planning for treatment of stormwater, establishing and/or maintaining buffers around all aquatic areas, and placing deed restrictions on all unimpacted aquatic environments and associated buffer areas. In addition, some of these NWPs will authorize all secondary activities associated with the primary activity, such as infrastructure and recreational amenities, with the impacts for a residential development. This will discourage piecemealing by encouraging applicants to present the total project.

General Issues

In addition to seeking comments on the proposed new and modified NWPs, the Corps is soliciting comments on the following general issues related to the proposed NWPs: the scope of the new NWPs, acreage limitations and PCN thresholds on the proposed NWPs, assessing cumulative impacts on a watershed basis, and regional conditioning of the NWPs. The Corps is also seeking comments on other issues related to the NWPs, such as maintenance of landfill surfaces, maintenance and filling of ditches adjacent to roads and railways, maintenance of water treatment facilities, the use of mitigation banks in the NWP program, and expansion of NWP 31, which are discussed below in the section entitled "Other Suggested NWPs".

NEPA Compliance

The Corps recognizes that there has been, and continues to be, substantial interest among the public regarding the potential environmental effects associated with the implementation of the Nationwide Permit program. With the last reissuance of the NWPs in December 1996, we reemphasized our commitment to improve data collection and monitoring efforts associated with the NWP program, and NWP 26 in particular. In many instances, these efforts have already provided critical information on the use of the NWPs, overall acreage impacts, affected resource types, the geographic location of the activities, and the type of mitigation provided. This information is critical in our efforts to make well-informed permitting and policy decisions regarding the continued role of the NWP program and to ensure that the program continues to authorize only those activities with minimal individual and cumulative effects.

We also recognize that this current process to develop replacement permits for NWP 26 provides an important opportunity to further expand the current tools available for evaluating and monitoring the environmental effects associated with this program. We are committed to ensuring and demonstrating that the NWP program as a whole, including the new NWPs proposed today, authorizes only those activities with minimal individual and cumulative environmental effects. Consistent with this commitment, the Corps will prepare a programmatic environmental impact statement (PEIS) for the entire NWP program. While a PEIS is not required for the reasons noted below, the PEIS will provide the Corps with a comprehensive mechanism to review the effects of the NWP program on the environment, with full participation of other Federal agencies, States, Tribes, and the public. The Corps will initiate the PEIS by mid-1999 and complete it by December 2000. The Corps plans to complete the PEIS prior to the next scheduled reissuance of the NWPs in December 2001.

The National Environmental Policy Act (NEPA) requires Federal agencies to prepare an Environmental Impact Statement (EIS) for major Federal actions that have a significant impact on the quality of the human environment. Notwithstanding our commitment to complete a PEIS, we have determined that the NWP program does not constitute a major Federal action significantly affecting the human environment and therefore the preparation of an EIS is not required by NEPA. The basis for this determination is that the NWP program authorizes only those activities that have minimal adverse environmental effects on the

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aquatic environment, both individually and cumulatively, which is a much lower threshold than the threshold for requiring an EIS. We have prepared a Finding of No Significant Impact (FONSI) for the NWP program. Copies of the FONSI are available at the office of the Chief of Engineers, at each District office, and on the Corps home page at http://www.usace.army.mil/inet/functions/cw/cecwo/reg/.

Similar to our determination for the overall NWP program, we have made a preliminary determination that the proposed new and modified NWPs do not constitute a major Federal action significantly affecting the quality of the human environment, because the NWPs authorize only those activities that have minimal adverse effects on the aquatic environment, both individually and cumulatively. In compliance with NEPA, preliminary environmental documentation has been prepared for each proposed NWP and each proposed modification of an existing NWP. This documentation includes a preliminary environmental assessment (EA), a preliminary FONSI, and, where relevant, a preliminary Section 404(b)(1) Guidelines compliance review for each proposed new and modified NWP. Copies of these documents are available for inspection at the office of the Chief of Engineers, at each Corps district office, and on the Corps Home Page at http://www.usace.army.mil/inet/functions/cw/cecwo/reg/. Based on these documents the Corps has provisionally determined that the proposed new and modified NWPs comply with the requirements for issuance under general permit authority.

Scope of the New NWPs

The applicable waters of the United States for the proposed and existing NWPs can be categorized in five ways: (1) all waters of the United States; (2) non-tidal waters; (3) non-tidal waters, excluding non-tidal wetlands contiguous to tidal waters; (4) non-Section 10 waters; and (5) non-Section 10 waters, excluding wetlands contiguous to Section 10 waters. The term "all waters of the United States" includes both Section 10 and Section 404 waters. "Non-tidal waters" are waters of the United States that are not subject to the ebb and flow of the tide (i.e., are located landward of the normal spring high tides), and may include non-tidal wetlands contiguous to tidal waters. "Non-tidal waters, excluding non-tidal wetlands contiguous to tidal waters" are limited to non-tidal waters and wetlands that are not connected by surface waters to tidal waters or are not part of a linear aquatic system with a defined channel to the otherwise contiguous wetland (see the proposed definitions of "contiguous wetland" and "noncontiguous wetland", below). Where non-tidal waters and wetlands are contiguous to tidal waters, there are no uplands or other non-jurisdictional areas separating those non-tidal waters from the tidal waters. "Non-Section 10 waters" are limited to waters of the United States, including wetlands, located above the ordinary high water mark of Section 10 waters. Wetlands located below the ordinary high water mark in Section 10 waters are Section 10 waters. "Non-Section 10 waters, excluding wetlands contiguous to Section 10 waters" are limited to waters and wetlands that are not connected by surface waters to Section 10 waters; there may be uplands or other non-jurisdictional areas separating those waters. Wetlands contiguous to Section 10 waters may be either tidal or non-tidal.

Many of the proposed new NWPs (e.g., NWPs A, B, D, and E) are applicable only to discharges of dredged or fill material into non-tidal waters of the United States, excluding wetlands that are contiguous to tidal waters. A definition of "contiguous wetland" has been proposed in the definition section of this notice. Proposed NWPs C and F are applicable only to non-Section 10 waters of the United States. For the proposed modification to NWP 12, the construction of substations and access roads is authorized only in non-Section 10 waters, but the construction of utility lines and foundations for overhead utility lines may be authorized in Section 10 waters. The proposed modifications to NWP 27 allow wetland and riparian restoration in non-tidal waters of the United States, while limiting stream enhancement projects to non-Section 10 waters. The proposed modification to NWP 7 may authorize work in navigable waters of the United States (i.e., Section 10 waters). Crushed and broken stone and hard rock/mineral mining activities authorized by proposed NWP E can occur only in non-tidal waters of the United States that are not contiguous to tidal waters. The activities authorized by the proposed modification to NWP 40 are limited to non-tidal waters, including activities in non-tidal wetlands contiguous to tidal waters.

Acreage Limitations and PCN Thresholds

The Corps is seeking comments on the acreage limitations and PCN thresholds for the proposed new NWPs and the proposed modifications to existing NWPs. The Corps will review and consider acreage limits that are smaller or greater than those proposed. If the Corps believes that an acreage limit substantially higher than proposed may be appropriate, then a new proposal with an opportunity to comment would be published in the **Federal Register**.

For the new NWPs, the acreage limitations range from 1 acre for NWP D to 10 acres for NWP B. NWP F is limited to the minimum necessary to reconfigure the drainage ditch. The upper limits for the proposed modifications to existing NWPs are highly variable. NWP 27 will continue to have no acreage limit, since it authorizes projects that restore or enhance the aquatic environment. The acreage limits for the other proposed modifications range from ⅓ acre for private roads under NWP 14 to 3 acres for NWP 40. The proposed modification to NWP 7 will not have an acreage limitation, but will restrict the work to the minimum necessary to restore the facility to its original configuration.

The PCN threshold for many of the proposed new NWPs and modifications to existing NWPs will be the loss of greater than ⅓ acre of waters of the United States. In addition, there are PCN requirements for impacts to open waters and streams for some of these NWPs. NWP A requires a PCN for any impacts to open waters below the ordinary high water mark. NWP B requires a PCN for all activities. NWPs C and D and the proposed modification of NWP 40 require a PCN if greater than 500 linear feet of stream bed is filled or excavated. NWP E and the proposed modification to NWP 7 will require notification for all activities. NWP F will require notification for any ditch reconfiguration that involves sidecasting excavated material into waters of the United States. The proposed modifications to NWP 3 will require notification for the removal of accumulated sediments and debris in the vicinity of existing structures and for restoration of upland areas damaged by storms, floods, or other discrete events that affect greater than ⅓ acre of waters of the United States. The repair, rehabilitation, or replacement of currently serviceable structures or fills will not require notification under the proposed modification of NWP 3.

Mitigation

A requirement of the NWPs is that project proponents must avoid and minimize impacts to waters of the United States at the project site to the maximum extent practicable. (See General Condition 20.) For those unavoidable impacts to waters of the United States, including wetlands, compensatory mitigation may be required, either through regional conditioning or on a case-by-case basis. Compensatory mitigation will normally be required by district engineers for those projects which require notification (i.e., impacts to more than ⅓ acre of waters of the United States for most of the proposed NWPs). Compensatory mitigation will be required by Corps districts to offset the adverse environmental effects to the aquatic ecosystem of the proposed work to a level that ensures no more than minimal cumulative adverse environmental effects.

There are several ways that a permittee can provide compensatory mitigation for a project that is authorized by NWPs. The permittee can restore, create, enhance, or preserve wetlands or other aquatic habitats to replace the functions and values of the wetlands and other waters of the United States that are lost as a result of the project. In most situations, establishing or maintaining a vegetated buffer, including uplands adjacent to open waters, will be an important part of a mitigation plan. Another method of compensatory mitigation is mitigation banks. A mitigation bank is a site where wetlands or other aquatic resources are restored, created, enhanced, or preserved to provide compensatory mitigation in advance of the authorized impacts. The entity that developed the mitigation bank provides these aquatic resources in return for payment from the permittee. Federal guidance for the establishment, use, and operation of mitigation banks was published in the **Federal Register** on November 28, 1995 (60 FR 58605–58614). A third method of compensatory mitigation is in lieu fee programs, which may be used to offset losses of waters of the United States. In lieu fee programs are typically operated by States, counties, and private and public organizations who protect, restore, and enhance open space, including waters of the United States. Permittees may use in lieu fee programs that protect, enhance, or restore wetlands, riparian corridors, and open water areas, including upland buffers which protect water quality. The permittee pays a fee to the operator of the in lieu fee program in exchange for the protection, enhancement, and restoration of these areas. In lieu fee programs should be watershed based and focused in areas where restoring, enhancing, and preserving the aquatic system and associated uplands will provide the greatest overall protection of that particular watershed. Regardless of the method used to provide compensatory mitigation, district engineers have the discretionary authority to determine the type and quantity of compensatory mitigation that is appropriate to replace lost aquatic functions and values.

Cumulative Impacts

Cumulative adverse effects on the aquatic environment caused by activities authorized by NWPs, regional general permits, and individual permits must be monitored by the districts on a watershed basis. Assessment of cumulative impacts on a watershed basis is the only technically sound approach and must focus on essential aquatic functions and values. No determination of minimal individual and cumulative adverse effects can be made on a national basis, because the functions and values of aquatic resources vary considerably across the nation and cannot be monitored or assessed by Corps headquarters. Individual districts are better suited to assess cumulative impacts because they have a better understanding of the local conditions and processes used to evaluate whether cumulative impacts to the aquatic environment in a particular watershed will be more than minimal as a result of work authorized by the Corps. In some watersheds, a large acreage of loss of waters offset with appropriate compensatory mitigation could occur and result in no more than minimal cumulative adverse effects on that watershed. Similar wetland losses in other watersheds could exceed the minimal impact threshold, if the wetlands in that watershed were of high value, or if historic wetland losses in that watershed were extensive, making the remaining wetlands especially valuable due to the scarcity of that habitat type. Therefore, each district generally monitors the losses of waters of the United States in each watershed, as well as the gains through restoration, enhancement, creation, and preservation of aquatic resources, to determine whether the effects of these actions result in more than minimal cumulative adverse effects on the aquatic environment. Regional conditions can be used by districts to allow the continued use of these NWPs while making certain that the individual and cumulative adverse environmental effects to the aquatic ecosystem are not more than minimal. The Corps has established a process on a nationwide basis (regional conditioning), a requirement that each district compensate for impacts through mitigation, as well as nationwide PCN limits, all of which will ensure no more than minimal adverse effects will occur on a cumulative basis. The Corps will continue to work towards the goal of no net loss of functions and values of the Nation's aquatic resources.

Division engineers can revoke any of the proposed NWPs in aquatic environments of particularly high value or in specific geographic areas (e.g., watersheds), if they believe that use of particular NWPs in these areas will result in more than minimal individual and cumulative adverse environmental effects to the aquatic ecosystem. The proposed NWPs may be revoked where districts have implemented programmatic general permits (PGPs) for similar activities, as long as the PGP provides at least the level of protection of the aquatic environment that the Corps does through its NWP program.

Data Collection by Corps Districts

Corps districts use databases to collect information concerning permit applications, issued standard permits, issued general permit authorizations, denied permit applications, and enforcement activities. Most districts utilize the Regulatory Analysis and Management System (RAMS and RAMSII). The Corps has been continuously improving its data collection efforts, especially for the NWP Program. Districts have been collecting the following information for all permit actions, including NWP authorizations:

- The name of the permit applicant.
- The description and location of the work.
- The amount of requested impacts to non-tidal and/or tidal wetlands, in acres.
- The amount of authorized impacts to non-tidal and/or tidal wetlands, in acres.
- The amount of compensatory mitigation provided by the permittee, in acres of non-tidal and/or tidal wetlands restored, enhanced, created, or preserved.
- The amount of non-tidal and/or tidal wetlands impacted as a result of an unauthorized activity, in acres.
- The amount of non-tidal and/or tidal wetlands restored as a result of an enforcement action, in acres.

Since May 1, 1997, districts have been required to collect additional information on the environmental impacts of the NWPs. Wetland impacts are entered in the database as acres of wetlands permitted to be filled, excavated, drained, and flooded. Stream impacts are quantified in linear feet of stream bed that are permitted to be impacted by an activity that involves filling or excavation within a stream. The Corps is also collecting data on the

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types of waters impacted (i.e., estuarine, lacustrine, marine, palustrine, or riverine), based on the Cowardin classification system. As resources permit, Corps districts may use the remainder of the Cowardin classification system to better define the types of aquatic habitats being impacted. The United States Geological Survey (U.S.G.S.) hydrological unit code in which the affected waterbody is located is also entered into the database. The U.S.G.S. hydrological unit code system identifies over 2,000 watersheds nationwide. Wetland mitigation is entered in the database as acres of wetlands that are required to be restored, created, enhanced, and preserved. Mitigation for impacts authorized by NWPs is also tracked by the method of mitigation (i.e., mitigation provided by permittee, mitigation bank, or some other method, such as an in lieu fee program) and acreage of compensatory mitigation.

For the NWP program, the Corps is monitoring: (1) the number of verified authorizations; (2) the number of requests where discretionary authority was exercised because the activity would have resulted in more than minimal adverse effects; (3) the number of NWP authorization requests that were denied and an individual permit review was required; (4) the number of NWP authorization requests that were withdrawn because no permit was required; (5) the number of NWP authorization requests that were withdrawn based on the applicant's decision; and (6) the number of NWP authorization requests that were withdrawn because the Corps received more than one request for the same project (i.e., an accounting error occurred).

In addition, the Corps is collecting data on the impact of the NWPs on Federally-listed endangered and threatened species and their critical habitat. The Corps is monitoring whether or not a particular activity is proposed in critical habitat for a Federally-listed endangered or threatened species. The Corps is also collecting data on which endangered or threatened species are involved in verified NWP activities, as well as the ESA determination for that activity (i.e., no effect, not likely to adversely affect, no jeopardy/no adverse modification, or jeopardy/adverse modification).

As part of its effort to develop NWPs to replace NWP 26, the Corps has been collecting more data on the types of activities authorized by NWP 26. For this data collection effort, these types of activities are classified as follows: institutional, agricultural, silvicultural, mining aggregates, mining other, retail individual, retail multiple, residential multiple, industrial, transportation, storm water management, impoundment, treatment facility, or "other". The Corps is also classifying these activities into the following categories: commercial, non-commercial, and governmental. For every NWP action, the location of the impact area within the watershed is recorded as either: (1) above headwaters or in isolated waters, or (2) below headwaters and not in isolated waters. When NWP 26 expires, the Corps will no longer collect the data mentioned in this paragraph.

Data collection requires a balance between the amount of work required to evaluate permit applications and the usefulness of the data to monitor the impacts of the authorized activities on the aquatic environment. The amount and types of collected information should be limited to the data that is needed for cumulative impact assessment while allowing districts the time and personnel resources to effectively evaluate permit applications and conduct enforcement activities. Corps districts will continue to monitor regulated activities on a watershed basis to ensure that the activities authorized by NWPs do not result in more than minimal cumulative adverse effects on the aquatic environment in a particular watershed. In addition, data collection helps the Corps monitor the effects of authorized activities on endangered and threatened species. In the future, the Corps will evaluate our current overall data collection efforts on standard and general permits, including NWPs, to better and more consistently assess the effects of these actions on the aquatic environment.

Process for Issuing the New and Modified NWPs

The process for issuing the proposed new and modified NWPs is illustrated in Figure 1. The regional conditioning and 401/CZM certification processes are also illustrated in Figure 1. The proposal in this **Federal Register** is the beginning of this process. During the 60-day comment period, there will be a public hearing in Washington, DC to solicit comments on the proposed new and modified NWPs. We will initially review the comments received in response to this **Federal Register** notice with a task force staffed by Corps regulatory field personnel. Upon completion of our initial review of the comments, we will complete an initial draft of the final NWPs and begin agency coordination; this process will last approximately 2 months. After agency coordination is finished, we will complete the final version of the NWPs for publication in the **Federal Register** by December 28, 1998. The State 401/CZM agencies will have 60 days to complete their certification decisions. The Corps will then finalize its regional conditions and then certify that the NWPs, with any regional conditions or geographic revocations, will only authorize activities with minimal adverse environmental effects, both individually and cumulatively. The NWPs will become effective 90 days later, as NWP 26 expires. The Corps regional conditioning and 401/CZM certification processes are discussed elsewhere in this notice.

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Nationwide Permit 26 Replacement Milestones

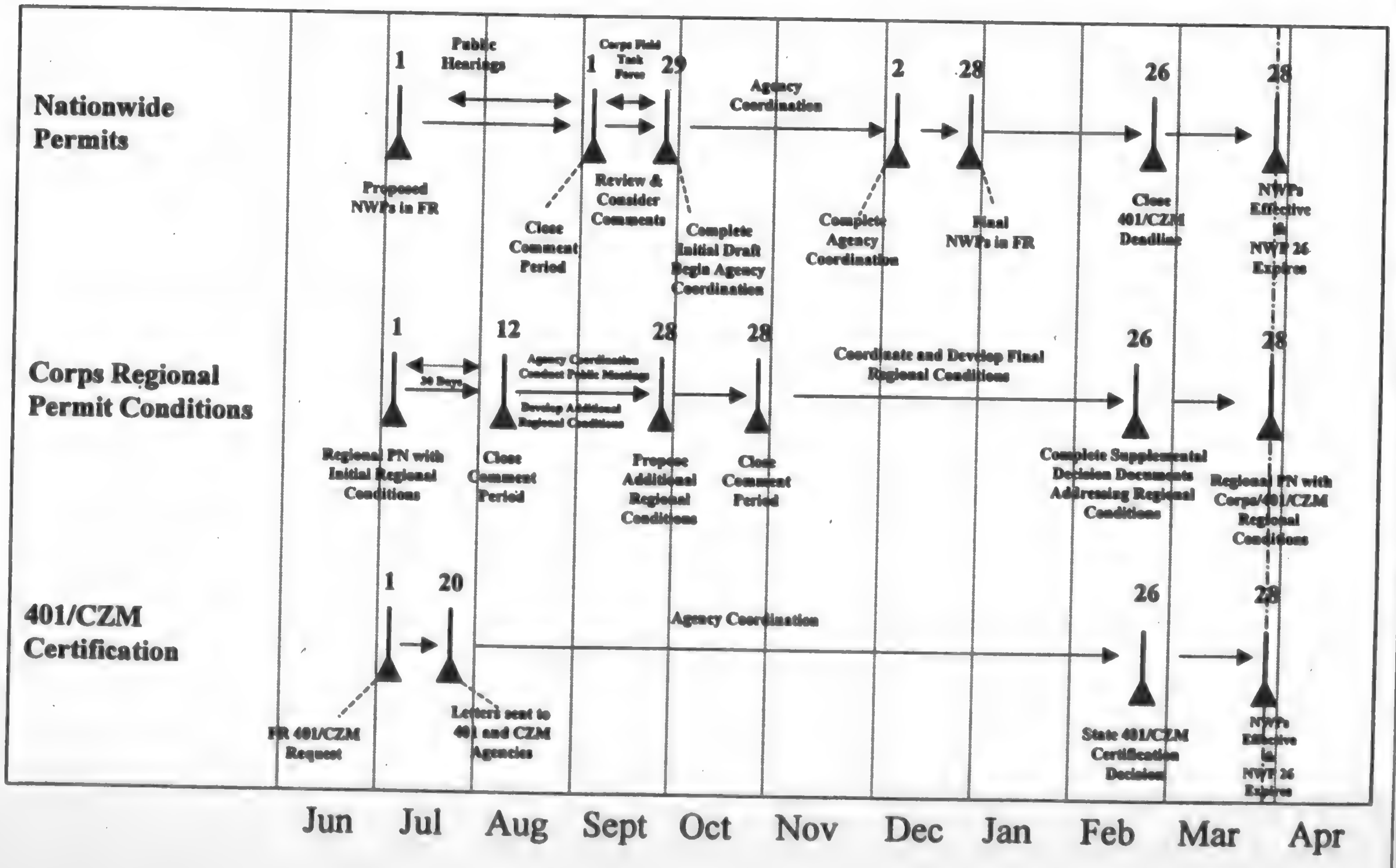

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Regional Conditioning of Nationwide Permits

As previously discussed in this notice, the Corps is committed to developing a package of replacement permits with demonstrably less environmental impact than the permit they replace. An important element in achieving this goal is the successful implementation of a significantly improved regionalization process. The coordinated involvement of States, Tribes, the public, and others, at the District level, will assist the Corps in identifying appropriate conditions and in developing permits that ensure effective protection at the local level of wetlands and other water resources. Moreover, effective regional conditioning of the NWPs by the Corps Districts will ensure compliance with the statutory requirement that the NWPs result in no more than minimal adverse effects on the aquatic environment and will support the Administration's goal of no net loss of aquatic functions and values on a watershed and programmatic basis.

Although a regionalization process has been required during past reissuances of the NWPs, we recognize that those efforts were not always the most effective in ensuring the development of appropriate conditions in each Corps District. We are confident, however, that the process proposed in today's notice is fundamentally different from those past approaches and will yield an improved environmental result that makes sense for local watersheds throughout the country. In general terms, the new approach provides the public, as well as other Federal and State/Tribal agencies, with two opportunities to comment on proposed Corps regional conditions before they are finalized, involves a more active and coordinated role for the Federal resource agencies throughout the process, and results in final decision documents that include certifications by each Division Engineer that each NWP, as conditioned, will authorize only minimal adverse environmental effects. The regionalization process is outlined in greater detail below.

There are two types of regional conditions: conditions added as part of the Section 401 water quality certification/Coastal Zone Management Act (401/CZM) process and conditions added by the Corps Divisions after consultation with Corps Districts, other agencies, and the public. The 401/CZM regional conditions for the proposed NWPs automatically become regional conditions on those NWPs. However, if the division engineer determines that those conditions do not meet the provisions of 33 CFR 325.4, the 401 certification and/or CZM concurrence will be treated as a denial without prejudice. The 401/CZM regional conditions must be announced by the final Corps public notice concerning the final NWPs. Corps regional conditions should generally not, but may, duplicate 401/CZM regional conditions. Corps regional conditions are added to NWPs by division engineers after a public notice comment period. Corps regional conditions cannot increase the terms or limits of the NWPs, delete or modify NWP conditions, change or be inconsistent with Corps regulations, be unenforceable, require an individual 401 water quality certification or CZM concurrence, or require another agency decision, review, or approval.

When each Corps district issues its initial public notice for the proposed NWPs, approximately concurrent with this **Federal Register** notice, the public notice will include: (1) Corps regional conditions for NWP 26, if any, that are applicable to any of the proposed NWPs; (2) the existing Corps regional conditions, if any, for the NWPs that are proposed to be modified (i.e., NWPs 3, 7, 12, 14, 27, and 40); and (3) any additional Corps regional conditions that the district is proposing at that time. This initial public notice will also request comments or suggestions for additional Corps regional conditions for the NWPs. The initial public notice may also include, for informational purposes only, any State/tribal 401/CZM regional conditions for NWP 26 and for the NWPs that are proposed to be modified. The public does not have the opportunity to comment on the State/tribal 401/CZM regional conditions through the Corps. There is a separate State/tribal process that involves the public regarding State/tribal 401/CZM certifications. Each district will announce the final State/tribal 401/CZM regional conditions in the final NWP public notice. Each district may also propose Corps regional conditions for any existing NWP in this initial public notice.

The initial public notice will request that the general public and other agencies submit comments on the NWPs and any regional conditions proposed by the Corps, to suggest additional Corps regional conditions, or to suggest specific watersheds or waterbodies where Corps regional conditions should be implemented, or geographic areas or specific watersheds or waterbodies where certain NWPs should be suspended or revoked. After the close of the comment period for the initial public notice, each district will coordinate with the Federal and State resource agencies to develop additional Corps regional conditions. In addition, each district will hold a public meeting to discuss regional conditioning of the NWPs with the public and representatives of Federal, State, tribal, and local agencies. Based on the initial input, the Corps will develop proposed regional conditions and each district will issue a second public notice to solicit comments on those proposed Corps regional conditions. After the close of the comment period for the second public notice, each district will coordinate with the Federal and State resource agencies to develop final Corps regional conditions. Prior to the publication of the final NWPs in the **Federal Register**, the District Engineer will meet with the Regional Administrator of EPA and the Regional Directors of FWS and NMFS to discuss the proposed regional conditions and resolve any disputes concerning Corps regional conditions.

Prior to the date the NWPs become effective, each Division Engineer will prepare supplemental decision documents addressing the regional conditions for each NWP. Each decision document will include a statement, by the Division Engineer, certifying that the Corps regional conditions imposed on the NWPs will ensure that those NWPs will authorize only activities with minimal adverse effects. After the Division Engineer establishes the Corps regional conditions, each district will issue final public notices announcing the final 401/CZM regional conditions and Corps regional conditions. Each district may propose additional Corps regional conditions in future public notices.

Corps regional conditions will be tailored to the issues related to the aquatic environment within each district, and will be used to ensure that the effects of the NWP program on the aquatic environment are minimal, both individually and cumulatively. Corps regional conditions can cover a large geographic area (e.g., a State or county), a particular waterbody or watershed, or a specific type of water of the United States (e.g., trout streams). Examples of Corps regional conditions that may be used by districts to restrict the use of the NWPs include:

- Restricting the types of waters of the United States where the NWPs may be used (e.g., fens, hemi-marshes, prairie potholes, bottomland hardwoods, etc.) or prohibiting the use of some or all of the NWPs in those types of waters or in specific watersheds;

- Restricting or prohibiting the use of NWPs in areas covered by a Special Area Management Plan, or an Advanced Identification study with associated regional general permits;
- Adding "Notification" requirements to NWPs to require PCNs for all work in certain watersheds or certain types of waters of the United States, or lowering the PCN threshold;
- Reducing the acreage thresholds in certain types of waters of the United States;
- Revoking certain NWPs on a geographic or watershed basis;
- Restricting activities authorized by NWPs to certain times of the year in certain waters of the United States, to minimize the adverse effects of those activities on areas used by fish or shellfish for spawning, nesting wildlife, or other ecologically cyclical events.

The Corps regional conditions implemented by each district do not supersede the general conditions of the nationwide permit program. The general conditions address the Endangered Species Act, the National Historic Preservation Act of 1966, the Wild and Scenic Rivers Act, Section 401 water quality certification, Coastal Zone Management, navigation, etc. Given the extent of the coordination already mandated by Federal law, the addition of regional conditions at the State, Tribal, watershed, or geographic level will help ensure that important public interest factors are considered when evaluating projects for NWP authorization.

Comments on regional issues and regional conditions must be sent to the appropriate District Engineer, as indicated below:

Alabama
  Mobile District Engineer, ATTN: CESAM–OP–S, 109 St. Joseph Street, Mobile, AL 36602–3630
Alaska
Alaska District Engineer, ATTN: CEPOA–CO–R, P.O. Box 898, Anchorage, AK 99506–0898
Arizona
  Los Angeles District Engineer, ATTN: CESPL–CO–R, P.O. Box 2711, Los Angeles, CA 90053–2325
Arkansas
  Little Rock District Engineer, ATTN: CESWL–CO–P, P.O. Box 867, Little Rock, AR 72203–0867
California
  Sacramento District Engineer, ATTN: CESPK–CO–O, 1325 J Street, Sacramento, CA 95814–4794
Colorado
  Albuquerque District Engineer, ATTN: CESPA–CO–R, 4101 Jefferson Plaza NE, Rm 313, Albuquerque, NM 87109
Connecticut
  New England District Engineer, ATTN: CENAE–OD–R, 696 Virginia Road, Concord, MA 01742–2751
Delaware
  Philadelphia District Engineer, ATTN: CENAP–OP–R, Wannamaker Building, 100 Penn Square East Philadelphia, PA 19107–3390
Florida
  Jacksonville District Engineer, ATTN: CESAJ–CO–R, P.O. Box 4970, Jacksonville, FL 32202–4412
Georgia
  Savannah District Engineer, ATTN: CESAS–OP–F, P.O. Box 889, Savannah, GA 31402–0889
Hawaii
  Honolulu District Engineer, ATTN: CEPOH–ET–PO, Building 230, Fort Shafter, Honolulu, HI 96858–5440
Idaho
  Walla Walla District Engineer, ATTN: CENWW–OP–RF, 210 N. Third Street, City-County Airport, Walla Walla, WA 99362–1876
Illinois
  Rock Island District Engineer, ATTN: CEMVR–RD, P.O. Box 004, Rock Island, IL 61204–2004
Indiana
  Louisville District Engineer, ATTN: CELRL–OR–F, P.O. Box 59, Louisville, KY 40201–0059
Iowa
  Rock Island District Engineer, ATTN: CEMVR–RD, P.O. Box 2004, Rock Island, IL 61204–2004
Kansas
  Kansas City District Engineer, ATTN: CENWK–OD–P, 700 Federal Building, 601 E. 12th Street, Kansas City, MO 64106–2896
Kentucky
  Louisville District Engineer, ATTN: CELRL–OR–F, P.O. Box 59, Louisville, KY 40201–0059
Louisiana
  New Orleans District Engineer, ATTN: CEMVN–OD–S, P.O. Box 60267, New Orleans, LA 70160–0267
Maine
  New England District Engineer, ATTN: CENAE–OD–R, 696 Virginia Road, Concord, MA 01742–2751
Maryland
  Baltimore District Engineer, ATTN: CENAB–OP–R, P.O. Box 1715, Baltimore, MD 21203–1715
Massachusetts
  New England District Engineer, ATTN: CENAE–OD–R, 696 Virginia Road, Concord, MA 01742–2751
Michigan
  Detroit District Engineer, ATTN: CELRE–CO–L, P.O. Box 1027, Detroit, MI 48231–1027
Minnesota
  St. Paul District Engineer, ATTN: CEMVP–CO–R, 190 Fifth Street East, St. Paul, MN 55101–1638
Mississippi
  Vicksburg District Engineer, ATTN: CEMVK–CO–0, 201 N. Frontage Road, Vicksburg, MS 39180–5191
Missouri
  Kansas City District Engineer, ATTN: CENWK–OD–P, 700 Federal Building, 601 E. 12th Street, Kansas City, MO 64106–2896
Montana
  Omaha District Engineer, ATTN: CENWO–OP–R, 215 N. 17th Street, Omaha, NE 68102–4978
Nebraska
  Omaha District Engineer, ATTN: CENWO–OP–R, 215 N. 17th Street, Omaha, NE 68102–4978
Nevada
  Sacramento District Engineer, ATTN: CESPK–CO–O, 1325 J Street, Sacramento, CA 95814–2922
New Hampshire
  New England District Engineer, ATTN: CENAE–OD–R, 696 Virginia Road, Concord, MA 01742–2751
New Jersey
  Philadelphia District Engineer, ATTN: CENAP–OP–R, Wannamaker Building, 100 Penn Square East, Philadelphia, PA 19107–3390
New Mexico
  Albuquerque District Engineer, ATTN: CESWA–CO–R, 4101 Jefferson Plaza NE, Rm 313, Albuquerque, NM 87109
New York
  New York District Engineer, ATTN: CENAN–OP–R, 26 Federal Plaza, New York, NY 10278–9998
North Carolina
  Wilmington District Engineer, ATTN: CESAW–CO–R, P.O. Box 1890, Wilmington, NC 28402–1890
North Dakota
  Omaha District Engineer, ATTN: CENWO–OP–R, 215 North 17th Street, Omaha, NE 68102–4978
Ohio
  Huntington District Engineer, ATTN: CELRH–OR–F, 502 8th Street, Huntington, WV 25701–2070
Oklahoma
  Tulsa District Engineer, ATTN: CESWT–OD–R, P.O. Box 61, Tulsa, OK 74121–0061
Oregon
  Portland District Engineer, ATTN: CENWP–PE–G, P.O. Box 2946, Portland, OR 97208–2946
Pennsylvania
  Baltimore District Engineer, ATTN: CENAB–OP–R, P.O. Box 1715, Baltimore, MD 21203–1715
Rhode Island
  New England District Engineer, ATTN: CENAE–OD–R, 696 Virginia Road, Concord, MA 01742–2751

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Tennessee
Nashville District Engineer, ATTN: CELRN–OR–F, P.O. Box 1070, Nashville, TN 37202–1070
Texas
Ft. Worth District Engineer, ATTN: CESWF–OD–R, P.O. Box 17300, Ft. Worth, TX 76102–0300
Utah
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Vermont
New England District Engineer, ATTN: CENAE–OD–R, 696 Virginia Road, Concord, MA 01742–2751
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Washington
Seattle District Engineer, ATTN: CENWS–OP–RG, P.O. Box 3755, Seattle, WA 98124–2255
West Virginia
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District of Columbia
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Pacific Territories
Honolulu District Engineer, ATTN: CEPOH–ET–PO, Building 230, Fort Shafter, Honolulu, HI 96858–5440
Puerto Rico & Virgin Islands
Jacksonville District Engineer, ATTN: CESAJ–CO–R, P.O. Box 4970, Jacksonville, FL 32202–4412

State (or Tribal) Certification of Nationwide Permits

State or tribal water quality certification pursuant to Section 401 of the Clean Water Act, or waiver thereof, is required for activities authorized by NWPs which may result in a discharge into waters of the United States. In addition, any State with a Federally approved Coastal Zone Management (CZM) Plan must agree with the Corps determination that activities authorized by NWPs which are within, or will affect any land or water uses or natural resources of the State's coastal zone, are consistent with the CZM plan. Section 401 water quality certifications and/or CZM consistency determinations may be conditioned, denied, or authorized for parts of the NWPs.

The Corps believes that, in general, the activities authorized by the NWPs will not violate State or tribal water quality standards and will be consistent with State CZM Plans. The NWPs are conditioned to ensure that adverse environmental effects will be minimal and are the types of activities that would be routinely authorized, if evaluated under the individual permit process. The Corps recognizes that in some States or tribes there will be a need to add regional conditions or individual State or tribal review for some activities to ensure compliance with State or tribal water quality standards or consistency with State CZM Plans. The Corps goal is to develop such conditions so that the States or tribes can issue 401 water quality certifications or CZM consistency agreements. Therefore, each Corps district will initiate discussions with their respective States or tribes, as appropriate, following publication of this proposal to discuss issues of concern and identify regional modification and other approaches to the scope of waters, activities, discharges, and notification, as appropriate, to resolve these issues. Note that there will be some States where an SPGP has been adopted and the NWPs have been wholly or partially revoked. Concurrent with today's proposal, Corps districts may be proposing modification or revocation of the NWPs in States where SPGPs will be used in place of some or all of the NWP program.

Section 401 of the Clean Water Act: This **Federal Register** notice of these NWPs serves as the Corps application to the States, tribes, or EPA, where appropriate, for 401 water quality certification of the activities authorized by these NWPs. The States, tribes, and EPA, where appropriate, are requested to issue, deny, or waive certification pursuant to 33 CFR 330.4(c) for these NWPs.

Proposed NWPs A, B, C, D, E, and F, and the proposed modifications to NWPs 12, 14, 27, and 40 involve activities which would result in discharges and therefore 401 water quality certification is required.

The proposed modifications to NWPs 3 and 7 involve various activities, some of which may result in a discharge and require 401 water quality certification and others of which do not. State denial of 401 water quality certification for any specific NWP affects only those activities which may result in a discharge. For those activities not involving discharges, the NWP remains in effect.

If a State denies a 401 water quality certification for certain activities within that State, then the Corps will deny NWP authorization for those activities without prejudice. Corps districts will issue provisional NWP verification letters upon receipt of a PCN for such projects. The provisional verification letter will contain all general and regional conditions as well as any project specific conditions the Corps determines are necessary, and will notify the applicant that they must obtain a project specific Section 401 water quality certification, or waiver thereof, prior to starting work in waters of the United States. Anyone wanting to perform such activities where a PCN is not required must first obtain a project specific 401 water quality certification or waiver thereof from the State before proceeding under the NWP. This requirement is provided at 33 CFR 330.4(c).

Section 307 of the Coastal Zone Management Act (CZMA): This **Federal Register** notice serves as the Corps determination that the activities authorized by these NWPs are consistent with States' CZM programs, where applicable. This determination is contingent upon the addition of State CZM conditions and/or regional conditions or the issuance by the State of an individual consistency concurrence, where necessary. The States are requested to agree or disagree with the consistency determination pursuant to 33 CFR 330.4(d) for these NWPs.

The Corps CZMA consistency determination only applies to NWP authorizations for activities that are within, or affect any land or water uses or natural resources of a State's coastal zone. NWP authorizations for activities that are not within or would not affect a State's coastal zone are not contingent on such State's agreement or disagreement with the Corps consistency determinations.

If a State disagrees with the Corps consistency determination for certain activities, then the Corps will deny authorization for those activities without prejudice. Corps districts will issue provisional NWP verification letters upon receipt of a PCN for such projects. The provisional verification letter will contain all general and regional conditions as well as any project specific conditions the Corps determines are necessary, and will notify the applicant that they must obtain a project specific CZMA consistency determination prior to starting work in waters of the United States. Anyone wanting to perform such activities where a PCN is not required must present a consistency certification to the appropriate State agency for concurrence. Upon concurrence with such consistency certifications by the State, the activity would be authorized by the NWP. This requirement is provided at 33 CFR 330.4(d).

Discussion of Proposed Nationwide Permits

The following is a discussion of the new NWPs we are proposing to issue. We have identified these NWPs by letters received in response to the December 13, 1996, **Federal Register**, Final Notice of Issuance, Reissuance, and Modification of Nationwide Permits (61 FR 65874) and as a result of a workshop at the Corps 1997 Biennial National Regulatory Program Conference. If issued, they would be placed at a reserved NWP number or given a new number. The proposed modification to NWP 29 is discussed at the end of the preamble.

A. Residential, Commercial, and Institutional Activities

One commenter recommended an NWP to authorize the construction of residential developments and associated activities, including roads, stormwater management facilities, and amenities for recreation, such as golf courses, swimming pools, playing fields, and hiking and biking trails.

Similar comments were received recommending that the Corps develop an NWP for the construction of industrial and office developments, including retail and recreational facilities. Another commenter recommended an NWP for the development and modification of commercial real estate projects, with different thresholds for site plan development and the construction of roads and utilities. A third commenter recommended an NWP for commercial and industrial activities. An NWP for commercial development activities was also recommended by the participants at the 1997 Biennial National Regulatory Program Conference workshop.

Comments were also received recommending an NWP for the construction of Federal, State, Tribal and local government buildings and institutional buildings, including, but not limited to, schools, fire stations, public works buildings, libraries, hospitals and places of worship, and their attendant features (septic systems, parking lots, loading docks, playgrounds, etc.).

From May 1, 1997, through December 31, 1997, NWP 26 was used to authorize 1,581 residential, commercial or institutional developments, impacting approximately 835 acres of wetlands and 42,190 linear feet of stream bed. Approximately 2,634 acres of compensatory mitigation were provided to offset the adverse environmental effects of these projects.

The Corps is proposing an NWP to authorize discharges of dredged or fill material into non-tidal waters of the United States, excluding wetlands contiguous to tidal waters, for residential, commercial, and institutional development activities, and associated infrastructure, including utilities, roads, driveways, and sidewalks. Infrastructure is integral to residential, commercial, and institutional development activities, and should be included as a part of the single and complete project for NWP authorization, unless the road or utility line is a component of a separate linear project that will provide service to other residential subdivisions, commercial sites, or other areas.

This NWP is intended to authorize the construction of residential developments (particularly subdivisions), commercial developments, and institutional developments with minimal impacts that comply with the terms and conditions of the permit. These types of activities are currently authorized by NWP 26. This NWP is not intended to replace NWP 29, which authorizes the construction of a single family residence to be used only by the person who will use the house as a personal residence. Contractors and commercial developers cannot use NWP 29 to construct a residence which would subsequently be offered for sale upon completion. Furthermore, NWP 29 authorizes discharges into all non-tidal waters of the United States, whereas NWP A authorizes discharges into non-tidal waters of the United States, excluding non-tidal wetlands contiguous to tidal waters.

The Corps is also considering and seeking comments on options to establish acreage limits for this NWP. One option would be to establish a simple acreage limit, such as 3 acres, for a single and complete project. Another option would be to establish a sliding scale or indexing of impact acreage limits for this NWP, based on parcel size, percentage of wetlands on the parcel, or other criteria. An example of such a sliding scale, based on parcel size, is shown in the table below:

Parcel Size	Maximum acreage loss authorized
Less than 5 acres	¼ acre.
5–10 acres	½ acre.
10–15 acres	1 acre.
15–100 acres	2 acres.
Greater than 100 acres	3 acres.

Such a scheme helps ensure minimal adverse impacts by authorizing smaller impacts for smaller projects and encouraging planning of developments that reduces impacts to aquatic resources. For example, under a sliding scale, a 25-acre development could result in the loss of only 2 acres of waters of the United States, whereas under a simple acreage limit the permittee could impact up to 3 acres. For NWP A, the Corps is soliciting comments on the use of a sliding scale, as well as acreage for parcel sizes and impacts to waters of the United States that would be used for the sliding scale. The Corps is also seeking comments on the benefits and drawbacks of such a sliding scale. The Corps is also seeking comments on the PCN threshold(s) that would be used in conjunction with the sliding scale of acreage limitation.

The Corps is proposing to require a PCN for losses of greater than ⅓ acre of non-tidal waters of the United States, or for any project that would result in the loss of any open waters, such as perennial or intermittent stream beds or lakes. The PCN will be subject to Corps-only review where the project would result in the loss of 1 acre or less of waters of the United States, and to review by the Corps and coordinating agencies where the loss of waters of the United States would exceed 1 acre. As part of the PCN, applicants must submit a written statement to the District Engineer explaining why discharges in waters of the United States must occur, what measures were taken to avoid and minimize impacts, and how the permittee will provide compensatory mitigation for those impacts. We have conditioned this NWP to require compensatory mitigation for projects resulting in the loss of greater than ⅓ acre of waters of the United States. In general, compensatory mitigation for losses below 1 acre will be provided most effectively through mitigation banks and in lieu fee programs. The compensatory mitigation proposal required for the PCN does not have to include detailed plans and implementation schedules, but must adequately describe the proposal so that

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the District Engineer can determine if the proposed compensatory mitigation is appropriate. If the project involves streams or other open water, then buffers, including upland areas adjacent to the open waters, to these areas may be required as a part of the compensatory mitigation proposal. The permittee may be required to submit detailed compensatory mitigation plans at a later date as a special condition of the NWP authorization unless a mitigation bank or in lieu fee program is used to provide the compensatory mitigation. For many of these types of projects, the Corps believes that compensatory mitigation is necessary to offset adverse impacts to waters of the United States.

The PCN requirement will allow district engineers to assert discretionary authority when they have determined that the adverse effects of the proposed work will be more than minimal. The Corps believes that the issuance of this NWP, along with its terms, limitations, and general conditions, as well as any regional or case-specific conditions, will ensure that the authorized work will have no more than minimal adverse effects, both individually and cumulatively, on the aquatic environment on a watershed basis. Projects authorized by this NWP must be designed to avoid and minimize impacts to waters of the United States to the extent practicable on the project site. In addition, the project design must reduce adverse effects to water quality by maintaining off-site upstream and downstream baseflow conditions, providing for stormwater management, and normally maintaining a vegetated buffer zone if the project occurs in the vicinity of open water. Through regional conditions, district engineers may require additional watershed protection techniques, if appropriate.

This NWP cannot be used to authorize recreational facilities that are not an integrated component of a residential, commercial, or institutional development. The development of a master planned community that includes residential, recreation, and commercial activities may be authorized by NWP B. The issuance of this NWP, as with any NWP, provides for the use of discretionary authority when valuable or unique aquatic areas may be affected by this activity.

B. Master Planned Development Activities

One commenter proposed an NWP to authorize discharges of dredged or fill material to construct residential, commercial, and industrial developments that are planned or designed for the long term protection of aquatic resources and are owned and managed by a single owner. Such developments are designed for residential, industrial, and/or commercial uses, as well as recreational uses. Master planned developments can provide long term protection of valuable aquatic resources by carefully integrating the development into the landscape and protecting the remaining wetlands, open waters, and associated buffers. These developments typically set aside wetlands, riparian corridors, and valuable upland habitats for restoration, enhancement, or preservation as part of the plan for the area.

Increasingly, counties and local communities across the country are encouraging mixed-use development and encouraging land use planning that incorporates consideration of the environment. Such initiatives provide communities with an opportunity to address a variety of concerns including protecting sensitive natural areas, consolidating infrastructure, and maximizing the delivery of urban services. Through local zoning and land use programs, governments are working to achieve these goals by encouraging the development of environmentally responsible, multiple-use communities. The Corps is committed to ensuring that the NWP program is consistent with these goals and objectives and is proposing this NWP to build on the incentives currently provided by State and local governments.

The Corps is proposing an NWP for master planned development activities that are designed, constructed, and managed to conserve and enhance the functions and values of waters of the United States on the project site. The Corps has designed NWP B to authorize only those master planned development activities that are designed, constructed, and managed to integrate multiple uses in a manner that conserves and enhances the functions and values of the water resources on the project site. Specifically, activities authorized by this permit often would incorporate several land use categories, including residential uses (e.g., single family homes, apartments), commercial uses (e.g., stores, hotels, office buildings), industrial uses (e.g., water treatment facilities), transportation uses (e.g., light rail, roads), and open space uses (e.g., parks, trails).

This NWP authorizes discharges of dredged or fill material into non-tidal waters of the United States, excluding non-tidal wetlands contiguous to tidal waters, for the construction or expansion of master planned developments. The Corps is seeking comments on the definition of master planned development to use for this NWP. A PCN will be required for all activities authorized by this NWP. The PCN must include a wetland assessment that utilizes a functional assessment method approved by the District Engineer. Permittees will be required to avoid and minimize impacts to waters of the United States to the maximum extent practicable and must include a written statement detailing compliance with this condition. The PCN must also indicate on the site plans all aquatic areas and adjacent buffer zones that would be protected by conservation easements or other measures. All preserved wetland areas, streams, mitigation areas, and buffer zones adjacent to waters of the United States on the site must be protected by a deed restriction, conservation easement, or other method of conservation and preservation as a condition of the permit. The District Engineer will review the proposed master planned development activities to ensure that these features are designed to ensure resource conservation and protection, and to protect aquatic resources.

The Corps is also considering and seeking comments on options to establish acreage limits for this NWP. One option would be to establish a simple acreage limit, such as 10 acres, for a single and complete project. Another option would be to establish acreage limits for master planned developments that are determined by indexing the upper limit of adverse wetland impact to the size of the parcel, to the amount of wetlands on the parcel, or to a percentage of the jurisdictional waters of the United States on a project site. The following table is an example of such a sliding scale, which indexes the acreage limit to parcel size:

Parcel size	Maximum acreage loss authorized
100–200 acres	3 acres.
200–300 acres	5 acres.
300–500 acres	7 acres.
Greater than 500 acres	10 acres.

In this example, master planned developments constructed on parcels less than 100 acres in size could not be authorized by this NWP. Instead, NWP A or another NWP may be used to authorize the development, if appropriate.

Examination of the above table shows that, in general, smaller project sites would be allowed a relatively higher wetland impact limit, as a percentage of parcel size, than would larger sites, although the ratio does not decrease proportionately as the parcel size increases. (This same relationship already occurs under the existing NWP program, due to the Corps requirements for on-site minimization and avoidance, and the use of regional conditions). The use of a sliding scale can be justified by the limited flexibility that a smaller project site affords an applicant, whereas a larger project site affords an applicant more options in developing the property, and consequently, more opportunities to minimize wetland impacts. Such a method would differ from most NWPs, in that most NWPs have acreage limits that do not vary with the size of the project site. An indexed or varying scale for the maximum threshold would encourage the master planning of larger sites and discourage fragmenting projects to get more acres of impact to waters of the United States.

Other methods of determining acreage limits that we are considering would allow the applicant to adversely impact a certain percentage of the jurisdictional waters of the United States on the project site (e.g., 2% to 10% of the jurisdictional areas), or an amount of jurisdictional waters equal to a percentage of the parcel size. For example, at 1% of the total parcel size, a project on a 200 acre parcel could impact up to 2 acres of waters of the United States, and at 2% of the parcel size, a project on a 200 acre parcel could impact up to 4 acres of waters of the United States, etc.

These are just a few examples of an indexed or varying maximum threshold concept that the Corps is considering. Any such concept, if adopted, would still be subject to on-site avoidance and minimization requirements, as well as regional conditions and/or other restrictions. Any such permits would have to be carefully conditioned, and the respective acreage limits (and implied incentives) studied closely in order for these proposals to lead to a net reduction in the theoretical acreage of impacted waters of the United States. The Corps is seeking comments on the practicability of such concepts, the conditions that should be attached to any such concepts, and the advantages or disadvantages of implementing such concepts.

District engineers will consider the use of discretionary authority when sensitive and/or unique areas or areas with significant social or ecological functions and values may be adversely affected by the work. Although we have proposed a high acreage limit for this NWP, impacts must be avoided and minimized to the maximum extent practicable, with appropriate compensatory mitigation to offset losses. Moreover, the comprehensive approach to the watershed area to be developed and the fact that all remaining waters of the United States and buffers will be protected will benefit the overall aquatic system. The compensatory mitigation should, in most cases, be on site and be incorporated into the development. District engineers can impose special conditions on a case-by-case basis to ensure the impacts are minimal. Regional conditions can also be used to limit the use of this NWP in high value aquatic ecosystems.

C. Stormwater Management Facilities

The Corps is proposing an NWP to authorize the discharge of dredged or fill material into non-Section 10 waters of the United States, including wetlands, for the construction and maintenance of stormwater management facilities. This permit may be used to authorize the construction of new stormwater management facilities including: the excavation for stormwater ponds/facilities, detention, and retention basins; installation and maintenance of water control structures, outfall structures, and emergency spillways; and the maintenance excavation of existing stormwater management ponds/facilities, detention, and retention basins. This permit may not be used to authorize any activities for the construction of ponds for other purposes.

The proposed acreage limit is 2 acres for the construction of new stormwater management facilities in order to authorize the construction of consolidated regional stormwater management facilities. There is no acreage limit proposed for the maintenance of stormwater management facilities because maintenance of these facilities is necessary to ensure the designed capacity is maintained for water quality improvements and reduction of downstream erosion and flooding. Notification will be required for the loss of greater than ⅓ acre of waters of the United States, including wetlands, the loss of greater than 500 linear feet of stream bed, or the maintenance of existing stormwater management facilities causing the loss of greater than 1 acre of wetlands. Between May 1, 1997, and December 31, 1997, NWP 26 was used to authorize the construction or maintenance of 358 stormwater management facilities. These projects resulted in the loss of approximately 107 acres of wetlands, and 33,170 linear feet of stream bed, with 205 acres of compensatory mitigation provided by permittees. In most cases, the construction of stormwater management facilities will be included in project specific permits (e.g., NWPs A, B, C, and D). There may also be cases where the construction of a stormwater management facility will be required, not in association with the construction of a residential, commercial, or institutional development, but for a watershed management plan.

Placement of stormwater management facilities in jurisdictional areas in certain circumstances may provide more environmentally sensitive planning and benefits to the aquatic environment than placing them in the uplands. By incorporating best management practices and watershed protection techniques that provide for long-term protection and enhancement of aquatic resources, and requiring a PCN for certain activities, the Corps believes that impacts to the aquatic environment will be minimal for this NWP. In response to a PCN, district engineers can require special conditions on a case-by-case basis to ensure that the impacts to the aquatic environment are minimal or assert discretionary authority to require an individual permit for the work. Division engineers may place regional conditions on this NWP. Such regional conditions may utilize interagency regional guidance that already exists, to the extent that such guidance complies with Corps regulations and allows the development of enforceable regional conditions.

D. Passive Recreational Facilities

One commenter recommended an NWP to authorize the construction of recreational facilities, such as playgrounds, playing fields, swimming pools and related structures, biking and hiking trails, and golf courses. Another commenter proposed an NWP to authorize discharges associated with the expansion or maintenance of ski areas. NWP 26 has been used to construct recreational facilities in headwaters and isolated wetlands. From May 1, 1997, through December 31, 1997, NWP 26 was used to authorize 57 recreational facilities, but this data does not include information on the specific types of recreational facilities authorized by NWP 26, or the acreage of impacts and compensatory mitigation.

The Corps is proposing an NWP to authorize discharges of dredged or fill material into non-tidal waters of the United States, excluding non-tidal wetlands contiguous with tidal waters, for the construction or expansion of passive recreational facilities. For the purposes of this NWP, passive

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recreational facilities are defined as low-impact recreational facilities that are constructed so that they do not substantially change preconstruction grades or deviate from natural landscape contours for the following types of activities: biking, hiking, camping, running, and walking. Passive recreational facilities may also include the construction or expansion of golf courses or ski areas, provided they are designed to be integrated with existing landscape features, do not require substantial amounts of grading or filling, and adverse effects to wetlands and riparian areas are minimized to the extent practicable. District engineers may require vegetated buffers to wetlands and streams and water quality management techniques as measures to ensure the impacts caused by these recreational facilities are minimal.

Passive recreational facilities can be either public or private and will not have a substantial amount of buildings and other impervious surfaces, such as concrete or asphalt. This NWP also authorizes the construction of support facilities such as office buildings, maintenance buildings, storage sheds, and stables, but does not authorize the construction of associated hotels or restaurants. Some grading and filling will be necessary to construct these facilities, such as constructing a gravel running trail or paving a narrow bike path through a park. Timber decks and walkways should be used where possible to minimize adverse impacts to waters of the United States. Campgrounds authorized by this NWP should have few impervious surfaces such as pavement and should consist of small cleared areas for tents and picnic tables connected by dirt or gravel trails or roads, with as little grading and filling as possible.

The maximum acreage loss authorized by this NWP is 1 acre of non-tidal waters of the United States (wetlands contiguous to tidal waters are also excluded). The Corps is proposing to require a PCN for losses of greater than ⅓ acre of waters of the United States and/or greater than 500 linear feet of stream bed. Recreational facilities authorized by this NWP should be designed to protect valuable aquatic and upland habitats through avoidance and minimization. Compensatory mitigation will normally be required for losses of greater than ⅓ acre of waters of the United States. A permittee may provide compensatory mitigation through individual restoration, enhancement, or creation of aquatic habitats, or through the preservation of adjacent open or green space, particularly those that include wetland and riparian habitats. Compensatory mitigation can also be provided through in lieu fee programs, land trusts, and mitigation banks.

This NWP does not authorize the construction or expansion of campgrounds for mobile homes, trailers, or recreational vehicles. This NWP does not authorize the construction of playing fields, basketball or tennis courts, race tracks, stadiums, or arenas. Any recreational facility not authorized by this NWP may be authorized by another NWP, a regional general permit, or individual permit. Playing fields, playgrounds, and other golf courses may be authorized by NWP A if they are an integral part of a residential subdivision. Commercial recreational facilities may be authorized by NWP A. Playgrounds, ball fields, golf courses, parks, and trails may be authorized by NWP B if these facilities are part of a master planned development. The construction of hotels and conference centers that are commonly associated with recreational facilities may be authorized by NWP A.

By restricting this NWP to passive recreational facilities, we believe that the impacts to the aquatic environment will be minimal. In response to a PCN, district engineers can require special conditions on a case-by-case basis to ensure that the impacts to the aquatic environment are minimal or assert discretionary authority to require an individual permit for the work.

E. Mining Activities

During the 1996 NWP reissuance process, the Corps proposed an NWP for "Mining Operations". Based on the comments and information gathered during the process, the Corps decided to encourage the development of regional general permits, rather than to develop national limits to meet the minimal effects requirement. As a part of the initiative to replace NWP 26, the aggregate industry (i.e., sand, gravel, crushed and broken stone) and hard rock metal/mineral mining industry (i.e., extraction of metalliferous ores from subsurface locations) provided information and proposed draft NWPs that they believed would meet the minimal impact requirement.

The Corps has evaluated that input and developed a new proposed NWP for mining activity discharges that would have minimal impact (as conditioned) in certain aquatic ecosystems. We have organized the NWP around specific activities, within specific aquatic ecosystems. We have also provided separate sections for aggregate activities and for hard rock/mineral mining activities. This recognizes that while some of the discharges being regulated by the Corps are similar for both industries, there are considerable differences in the impacts associated with the subsequent processing of the materials being extracted.

The terms and conditions of this NWP as well as the typical State and local permitting requirements mining operations are subject to, serve to minimize potential resource use conflicts and make it likely that only those activities which have adequately addressed the issue of such potential conflicts would be in a position to consider using this NWP. Both industries are generally speaking highly regulated, often subject to State and local land use planning requirements and individual permits. The NWP does not obviate the need to obtain other authorizations required by law, [33 CFR 330.4(b)]. For example, hard rock/mineral mining operations often require National Pollution Discharge Elimination System (NPDES) permits for discharges associated with ore processing techniques, and those NPDES permits must be obtained.

This NWP is expected to be used primarily for commercial mining activities, although smaller, non-commercial operations may benefit from this NWP. These activities provide both public and private benefits by providing materials for construction, manufacturing, and other industries.

The Corps is proposing to authorize discharges of dredged or fill material associated with specific activities undertaken during the mining of aggregate materials (i.e., sand, gravel, crushed and broken stone) and hard rock/mineral mining at new and existing mining sites. Mining activities authorized by this NWP include: discharges from filling, excavation, and dredging; exploration; processing; construction of berms, haul roads, dikes, and road crossings; construction of settling ponds and settling basins; ditching and trenching; mechanized landclearing; storm water and surface water management; stream diversion or relocation; stockpiling; sediment and erosion controls; grading; and other activities involved in mining and mined land reclamation.

The Corps is proposing two options for the acreage limit for a single and complete mining project in paragraph (j). We are requesting comments on whether the acreage limit for a single and complete project should be 3 acres or 2 acres. The acreage limit for a single and complete project is a combination of the acreage limit for the specific mining activities and the acreage limit for support activities.

This NWP authorizes only those Section 404 discharges associated with mining activities that have been considered to have minimal impacts, as conditioned. For example, any NWP notification for in-stream mining activities must include a discussion of necessary measures to prevent increases in stream gradient and water velocities to prevent adverse effects (e.g., head cutting, bank erosion) on upstream and downstream channel conditions, as well as measures to minimize adverse effects to downstream turbidity. We are particularly interested in comments concerning conditions that are appropriate for mining activities in the aquatic ecosystems we have identified.

While thresholds and limits have been developed for each type of aquatic ecosystem, during the notification and evaluation process the Corps may find that further conditioning of the nationwide permit for a specific activity, including relocating or further reduction of the impacts of the activity and/or additional compensatory mitigation, is necessary or that the project should be evaluated under the Corps individual permitting procedures. Specifically, if the District Engineer determines that a proposed activity will have more than minimal adverse environmental effects, the District Engineer will require an individual permit. This would result in a project specific alternatives analysis, including off-site alternatives.

This NWP requires that the permittee submit a reclamation plan with the notification. District engineers have the flexibility to assert discretionary authority and not authorize further mining activities under this NWP if there is mined land reclamation required for previously authorized mining activities that has not been completed. Subsequently, upon completion of the required mined land reclamation, the District Engineer may authorize further mining activities under this NWP.

This NWP sets forth criteria that, combined with the discretion of the District Engineer, and the regional conditioning that can take place at the district and State levels, help ensure that only minimal adverse environmental effects will result on a cumulative basis. With required compensatory mitigation for losses of wetlands, environmental gains in addition to adequate environmental protections can be anticipated as an end result of use of this NWP. It is reasonable to assume that the potential time and cost savings associated with use of this NWP will encourage applicants to design their project within the scope of the NWP rather than request an individual permit, which could potentially have a greater adverse impact. In addition, use of this NWP will enhance regulatory oversight of projects potentially encompassing much greater impacts.

Acreage limitations in this NWP restrict its applicability. Mining projects are of varying sizes, sometimes covering hundreds of acres, which include areas under Corps jurisdiction. Mandatory compensatory wetland mitigation ensures that losses of wetland functions are minimal on a cumulative basis. Furthermore, as a result of the notification requirements and the opportunity for regional conditioning, even small discharges can be ineligible for this NWP if the unique environmental function or ecological setting is determined to require further protection.

Mining companies have considerable experience in land reclamation, including the creation and restoration of wetland and riparian areas. Regulatory confusion surrounding wetlands created intentionally or unintentionally at mining operations serve as further testament to the ability to create wetlands as a part of the mining and reclamation process. We are requesting comments concerning the following position as a part of the NWP notice:

"Waterfilled depressions and pits, ponds, etc., created in any area not a "water of the U.S.", as a result of mining, processing, and reclamation activities, shall not be considered "waters of the U.S." until one of the following occurs:

(1) All construction, mining, or excavation activities, processing activities and reclamation activities have ceased and the affected site has been fully reclaimed pursuant to an approved plan of reclamation; or

(2) All construction, mining, or excavation activities, processing activities and reclamation activities have ceased for a period of fifteen (15) consecutive years or the property is no longer zoned for mineral extraction, the same or successive operators are not actively mining on contiguous properties, or reclamation bonding, if required, is no longer in place; and the resulting body of water and adjacent wetlands meet the definition of "waters of the U.S." (33 CFR 328.3 (a))."

This clarification would resolve a long-standing jurisdictional debate that has consumed much time and effort on the part of the regulated community and regulators alike, without contributing significantly to environmental protection. Asserting jurisdiction in such circumstances provides an incentive for operators to go out of their way to make sure that wetlands do not occur on their properties, thus depriving for the duration of normal activities, whatever benefits would have accrued to the area as a result of the temporary or permanent creation of wetlands. Similarly, such assertions lessen the likelihood of non-mitigation wetland creation for fear of regulatory problems.

F. Reshaping Existing Drainage Ditches

One commenter recommended an NWP to authorize the maintenance of ditches. The maintenance of drainage ditches constructed in waters of the United States does not require a Section 404 permit (i.e., the maintenance is exempt), provided the drainage ditch is returned to its original dimensions and configuration (see 33 CFR 323.4(a)(3)). However, the modification or new construction of drainage ditches in waters of the United States requires a Section 404 permit. NWP 26 has been used in the past to authorize this activity in headwaters and isolated wetlands.

The Corps is proposing an NWP to authorize discharges of dredged or fill material into non-Section 10 waters of the United States for reshaping existing drainage ditches by altering the cross-section of the ditch to benefit the aquatic environment. Since maintenance of drainage ditches to their original dimensions and configurations is exempt from Section 404 permit requirements, the purpose of this NWP is to encourage reshaping of ditches in a manner that provides benefits to the aquatic environment. The original dimensions and configuration of the ditch may not provide water quality benefits that could be achieved with a different configuration. For example, the banks of ditches can be graded at a gentler slope to reduce erosion and decrease sediment transport down the ditch by trapping sediments. Shallower slopes also increase the amount of vegetation along the bank of the ditch, which can decrease erosion, increase nutrient and pollutant uptake by plants, and increase the amount of habitat for wildlife. This NWP is limited to reshaping currently serviceable drainage ditches constructed in waters of the United States, provided the activity does not change the location of the drainage ditch. The centerline of the reshaped drainage ditch must be in essentially the same location as the centerline of the existing ditch. This NWP does not authorize reconstruction of drainage ditches that have become ineffective through abandonment or lack of regular maintenance. This NWP may not be used to relocate drainage ditches or to modify drainage ditches to increase the area drained by the ditch

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(e.g., by widening or deepening the ditch beyond its original design dimensions or configuration) or to construct new drainage ditches if the previous drainage ditches have been neglected long enough to require reconstruction. This NWP does not authorize channelization or relocation of streams to improve capacity of the streams to convey water. The construction of new drainage ditches or the reconstruction of drainage ditches may be authorized by an individual permit, another NWP, or a regional general permit.

This NWP does not authorize the maintenance or reshaping of drainage ditches constructed in navigable waters of the United States (wetlands that are contiguous to Section 10 waters are also excluded). A Section 10 permit is required for the maintenance or modification of drainage ditches constructed in navigable waters of the United States.

The Corps is proposing to require notification for reshaping drainage ditches where the material excavated during reconfiguration is sidecast into waters of the United States. If the ditch is being maintained to its original dimensions and configuration and the excavated material is sidecast into waters of the United States, no notification is necessary because this activity is exempt and a Section 404 permit is not required. Compensatory mitigation for the work authorized by this NWP should not be required if the ditch is reshaped to improve water quality. This activity can be considered to be self-mitigating, in that reshaping the ditch will normally result in improvements in water quality and any wetland vegetation that inhabited the ditch prior to the work will recolonize the ditch. In addition, if the project proponent did the work in such a manner that qualified for the exemption, compensatory mitigation would not be required since the activity is exempt. Requiring compensatory mitigation for modifying the cross-sectional configuration of the ditch may encourage maintenance to the original dimensions and configuration and discourage reshaping the ditch to a more environmentally beneficial shape.

Division engineers can regionally condition this NWP to exclude certain waterbodies or require notification when waters or unique areas that provide significant social or ecological functions and values may be adversely affected by the work. Activities authorized by this NWP will have minimal adverse effect on the aquatic environment, since it is limited to existing drainage ditches and activities that improve water quality. District engineers can assert discretionary authority when very sensitive or unique areas may be adversely affected by these activities. It is unlikely that this NWP will result in a substantial increase in the Corps workload. The PCN requirement allows Corps districts, on a case-by-case basis, to add appropriate special conditions to ensure that the adverse effects are minimal. The District Engineer can also assert discretionary authority to require an individual permit for any activity that may have more than minimal adverse effects.

Discussion of Proposed Modifications to Existing Nationwide Permits

In response to comments received in reply to the December 13, 1996, **Federal Register** notice, the Corps is proposing to modify NWPs 3, 7, 12, 14, 27, and 40. These modifications will increase the number of activities authorized by these NWPs. The following is a discussion of our reasons for modifying these NWPs.

3. Maintenance

The Corps has proposed several modifications to this permit, as outlined in paragraphs (ii) and (iii) of the proposed permit. The Corps experience with NWP 3 to date has been very good; navigable waters have not been obstructed and adverse impacts to the aquatic environment are very minor. Furthermore, in many cases, use of NWP 3 actually enhances the aquatic environment. For example, replacing a damaged seawall often eliminates chronic turbidity caused by erosion. In paragraph (i) of the proposed modification, the Corps is retaining all of the original terms and conditions of this NWP. The Corps is proposing to add two related activities to this NWP: removal of accumulated sediments in the vicinity of existing structures and restoration of upland areas damaged by a storm, flood, or other discrete event.

Paragraph (ii) of the proposed modification will authorize the removal of accumulated sediments from stream beds and other open water areas in the vicinity of existing structures such as bridges and culverted road crossings. This modification also authorizes the placement of rip rap to protect the structure from scour. A new NWP to authorize this work was recommended as a result of a workshop at the 1997 Biennial National Regulatory Program Conference. From May 1, 1997, through December 31, 1997, NWP 26 was used 126 times to authorize the maintenance and clean-out of stream beds. The Corps believes that it is more appropriate to modify NWP 3 than to develop a new NWP for this activity.

The accumulation of sediments in the vicinity of structures is usually due to the structure's effects on sediment transport and flow patterns in the waterbody. These sediment deposits affect the ability of the structure to function effectively and may increase flooding in the area. In addition, these deposits can create barriers to the passage of fish and other aquatic organisms. Periodic removal of these aggraded materials is required to restore stream flow conditions and protect the integrity of the structure for the safety of the public.

Paragraph (ii) of the proposed modification of this NWP will be used more often than NWP 26 to authorize removal of sediments from the vicinity of structures because it is not limited to headwater streams where the median flow on an annual basis is less than 5 cubic feet per second. This activity will be authorized in all waters of the United States. Paragraph (ii) limits the amount of excavated material to the minimum necessary to restore the waterbody to its original dimensions (e.g., depth and width), for a maximum distance of 200 feet upstream and downstream from the structure. The amount of rip rap discharged for scour protection must be the minimum necessary to protect the structure. Excavated sediments must be deposited in an upland area, unless otherwise authorized by the District Engineer, and contained to prevent their reentry into the waterway. We are proposing to require a PCN for all work performed under this paragraph.

We believe that removal of sediments from the vicinity of these structures will have minimal adverse effects on the aquatic environment provided the amount of material removed is the minimum necessary to restore the stream to preconstruction dimensions (e.g., width and depth). Such work may also provide environmental benefits by restoring flow regimes and removing barriers to the movement of aquatic organisms. Flooding in the vicinity of the structure may also be reduced. The placement of rip rap for scour protection is also likely to result in only minimal adverse effects, because only small amounts of rip rap are typically needed to protect these structures. In those areas inhabited by submerged aquatic vegetation or other important aquatic organisms, the PCN requirement of this NWP will allow the District Engineer the opportunity to assert discretionary authority over the activity. In addition, regional or case-by-case special conditions such as time-of-year restrictions can be placed on specific activities or geographic areas.

This NWP will not authorize stream channelization or stream relocation projects. Stream channelization or relocation may be authorized by an individual permit, regional general permit, or other NWP. Removal of sediments from the vicinity of an existing structure in tidal waters may be authorized by an individual permit, regional general permit, or other NWP, such as NWP 19.

The PCN requirement will allow the District Engineer to ensure that the amount of sediment removed is the minimum necessary and consider the use of discretionary authority when important ecological functions are present or sensitive/unique areas may be adversely affected. Districts may impose regional or case-by-case special conditions to decrease the maximum distance to less than 200 linear feet upstream or downstream of the structure. Compensatory mitigation will typically not be required for work authorized by this NWP, since the work usually involves removal of recently aggraded sediments and may provide benefits for aquatic organisms by restoring flow regimes. Although a few streams will have aggraded sediments inhabited by vegetation, removal of these vegetated deposits will have minimal adverse effects on the stream. In circumstances where sediment deposits have developed extensive plant communities, such as in a braided stream, district engineers may require compensatory mitigation or assert discretionary authority to require an individual permit.

Paragraph (iii) of the proposed modification of NWP 3 will authorize discharges of dredged or fill material for the purpose of restoring uplands adjacent to waters of the United States where those uplands have been damaged by discrete events such as floods or storms. The purpose of this modification is to allow the reconstruction of shorelines, river banks, and other lands adjacent to open water areas to the extent and contours that existed prior to the damaging event. For example, the high banks of a river may be subjected to damaging flood flows, with the result that a substantial area of the bank becomes undercut and collapses into the river. The use of this permit would allow the discharge of fill material into the edge of the river in the quantities needed to rebuild the river bank. The installation of any bank stabilization measures needed to protect the restored area could be authorized under a separate permit, such as NWP 13. In order to qualify for this permit, the damage or loss of upland would have to be traceable to a specific event that has occurred within the 12 months prior to the District Engineer receiving notification of the proposed work. This permit may not be used to reclaim lands that have been lost due to long-term erosion processes, historic damage more than 12 months old, or to restore lands where no substantial evidence of previous land contours can be established. The determination of previous land contours, and the extent of restoration allowed under this permit, is the responsibility of the District Engineer. Proposals to reconfigure and armor the rebuilt bank that the District Engineer has determined to not qualify for this permit may be processed as an individual permit or general permit.

The 12 month notification deadline has been proposed to allow the Corps to establish that the damage has occurred recently, and to verify that the purpose of the permit application is to repair any immediate damage, and not to reclaim lands that may have existed in the past. For example, a river may slowly change course over a period of many years, with a corresponding evolution of the landscape. The meandering of a river is a natural process, and this NWP would not be applicable if a party wished to relocate the channel of the river to reconfigure a piece of property into a more usable form, or to relocate the channel to a historic configuration. Likewise, an old land survey of a property adjacent to a lake may not be presented as evidence of justification for use of this NWP, where the land in question was located in what is now the open waters of the lake, and the land was lost to the lake several years ago. The shorelines of lakes may change over time, and the 12 month limit of this proposed permit is needed to ensure that areas of open water are not reclaimed as dry land in a piecemeal fashion based on historic surveys. The 12 month time period also seems reasonable given that the affected parties would be interested in quickly repairing any damage that has occurred to their property. This permit does not require that the restoration be completed within 12 months; it only requires that the Corps be notified within 12 months of the date of the damage. Any work authorized by this permit would have to commence, or be under contract to commence, within 2 years of the date of the damage.

The need for this NWP is justified by the desire of landowners to quickly repair property damage, or to ensure that they will be able to restore the land when resources become available. A landowner who has suddenly been deprived of a valuable piece of property due to the effects of a flood or storm may sustain a substantial economic loss if he or she were unable to restore the damaged land quickly. The availability of this NWP would in many cases allow the landowner to repair the damage and minimize economic losses, without having to apply for an individual permit, which would require more time to process. Notification requirements and evidentiary conditions of this permit should ensure that the work is limited to that needed to restore recent damage, and should prevent the reclamation of historic lands.

This proposed modification to NWP 3 would also authorize minor dredging to remove obstructions or sediments deposited by the flood or storm. Dredging under paragraph (iii) of this NWP would be limited to a total of 50 cubic yards, and would be restricted to the extent needed to remove the obstruction. Any dredging requirements in excess of 50 cubic yards may be authorized by another general permit or an individual permit. The dredging provision of this NWP may not be used solely to provide a source of fill material needed for the restoration of uplands, nor may it be used to artificially deepen a waterbody, channelize a stream, or be used in place of a maintenance dredging operation.

It is anticipated that this NWP would only result in minimal impacts to the aquatic environment, since the areas that would be rebuilt were not waters of the United States prior to the damaging event, and the restoration of such lands should not result in a loss of aquatic habitat. Indeed, the actual restoration of the upland itself does not require a permit, because it is exempt under Section 404(f). The determination of the extent of waters of the United States should consider the contours of the affected upland area prior to the damaging event, and should not be based upon the current damaged condition of the property (i.e., the damaged area does not immediately become a water of the United States). As explained above, the applicant must provide evidence of the previous contours of the damaged land in order to qualify for this permit.

No upper acreage limit has been proposed for this activity, and mitigation will typically not be required for the work, since the restoration of uplands should not result in a loss of waters of the United States. While there is no upper limit, it is anticipated that most permittees would seek to restore small areas, such as the frontage of individual lots adjacent to streams or lakes in developed areas. The notification requirement would allow the Corps to alert other Federal and

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State agencies, as necessary, such as State flood plain regulatory agencies. In addition, The Corps believes that the potential impacts from the removal of accumulated sediments near existing structures will be minimal. However, if these areas are inhabited by submerged aquatic vegetation or other important aquatic organisms, the PCN requirement of this NWP will allow the District Engineer the opportunity to assert discretionary authority over the activity. In addition, regional or case-by-case special conditions such as time-of-year restrictions can be placed on specific activities or geographic areas.

The Corps would only authorize those upland restoration projects that would be constructed in such a way as to result in no more than minimal impacts to the aquatic environment. Furthermore, this NWP would restrict the upland restoration to the extent that existed prior to the damage; however, the Corps would not require the applicant to make such full upland restoration. For example, should the applicant propose to restore only a part of the damaged upland, or to restore part of the damaged area in a way more beneficial to the aquatic environment, such as a wetland restoration, the Corps will usually agree to the plan. Any proposals to restore only a part of the damaged upland must originate with the applicant, and will not be required by the Corps.

The restoration of wetland areas and riparian zones damaged by storms may not be authorized with this NWP, however, these activities may be authorized by NWP 27. With regard to the use of this proposed permit with other NWPs (i.e., "stacking"), the Corps would not allow the use of this permit in combination with NWP 18 or NWP 19. The Corps is soliciting comments on the requirements and methods needed to demonstrate the prior extent of the uplands to be restored, the practicability of the proposed 50 cubic yard dredging limit, the 12 month time limit for notification to the Corps, the 2 year time limit established for the work to commence.

7. Outfall Structures and Maintenance

A commenter recommended modification of NWP 35 to authorize maintenance dredging activities at utility facilities for three types of areas: barge canals and slips, dam headworks at hydropower plants, and intake and outfall structures and canals. Most of these activities require individual permits because they occur in navigable waters of the United States or below headwater streams. Currently, NWP 35 authorizes maintenance dredging of marina basins, boat slips, and access channels to marinas and boat slips.

The removal of debris from the headworks of hydroelectric dams does not require a Section 10 permit because it does not constitute work in navigable waters of the United States. A Section 404 permit is not required for this activity as long as there is no associated discharge of dredged or fill material. In these situations, most debris is removed with equipment or specially designed vessels that do not cause discharges of dredged or fill material into waters of the United States. Therefore, we are not proposing an NWP for this activity.

Another commenter requested that the terms and limitations of NWP 31 be expanded to include maintenance of intakes to water supply facilities.

The Corps is proposing to modify NWP 7 to authorize the removal of accumulated sediments from outfalls, intakes, and associated canals. All of the original terms and limitations of NWP 7 are retained in the proposed modification. Outfalls, intakes, and associated canals accumulate sediment and require periodic excavation or maintenance dredging to restore flow capacities to the facility. Most of the dredging is required in the vicinity of intake structures and their canals because circulation patterns result in the deposition of sediments in these areas. These sediments must be removed to ensure that the facility has an adequate supply of water for its operations. Water discharged from outfall structures usually has little or no sediment load; maintenance dredging is not often required in these areas. In situations where an utility company's intake or outfall canal is used by barges to travel to the utility facility, the proposed modification will allow continued access by those barges because the removal of accumulated sediments will return the intake or outfall canal to its designed dimensions, and restore its navigable capacity. Currently, utility companies must obtain individual permits for this work, since the amount of dredged material usually exceeds the limitation of 25 cubic yards specified in NWP 19. This NWP authorizes the removal of accumulated sediment from intake and outfall structures in small impoundments, such as water treatment facilities, irrigation ponds, and farm ponds. This NWP will not authorize the construction of new canals or the removal of sediments from the headworks of large dams, flood control facilities, or large reservoirs. These types of work may be authorized by individual permits, regional general permits, or other NWPs, such as NWPs 19 or 31.

A PCN will be required so that Corps districts can review these activities on a case-by-case basis to ensure that the adverse effects are minimal. The amount of sediment dredged or excavated must be the minimum necessary to restore the facility to original design capacities and configurations.

The Corps believes that the potential impacts from the removal of accumulated sediments from intake and outfall structures and associated canals will be minimal. If the canals are inhabited by submerged aquatic vegetation or other important aquatic organisms, the PCN requirement of this NWP will allow district engineers the opportunity to assert discretionary authority. In addition, regional or case-by-case special conditions such as time-of-year restrictions can be placed on specific activities or geographic areas.

12. Utility Activities

In response to the December 13, 1996, **Federal Register** notice, the Corps received several comments requesting development of NWPs for activities associated with utility lines, such as the construction of electric and pumping substations, foundations for electric power line towers, and permanent access roads. NWP 26 has been used to authorize these activities in the past. From May 1, 1997, through December 31, 1997, there were 34 utility-related activities authorized by NWP 26. Since the commenters were proposing activities directly related to utility lines, we believe it is more appropriate to modify NWP 12 to authorize these activities, instead of developing separate NWPs for each type of activity.

One commenter proposed an NWP that would authorize the installation and maintenance of overhead electric transmission lines and associated facilities, such as substations and permanent access roads. NWPs 26 and 33 have been used to construct access roads associated with utility lines, but NWP 33 authorizes only temporary access roads. Permanent access roads are necessary for routine and emergency maintenance of overhead electric transmission lines. NWP 26 has also been used to authorize the construction of foundations for transmission towers and poles. Another commenter has used NWP 26 to build electric substations and construct access roads for electric power transmission lines, and recommended either issuance of a new NWP or modification of NWP 12 to authorize these activities. The commenter stated that NWPs 14 and 33 typically cannot be used to authorize the construction of permanent access roads for utility lines, because of the acreage limitations of NWP 14 and the fact that NWP 33 authorizes temporary, not permanent, access roads.

A commenter recommended including electric utility activities in the NWP program, similar to the utility activities presently authorized by the Florida Department of Environmental Protection and regional water management districts in the State of Florida.

Currently, NWP 12 authorizes only utility line backfill and bedding activities. All of the original terms and limitations of NWP 12 have been retained, with some clarification, in the proposed modification. The proposed modification of NWP 12 will include the following activities commonly associated with utility lines: electric and pumping substations, foundations for electric utility line towers, and permanent access roads. Modifying NWP 12 to expand coverage of the installation and maintenance of utility lines and attendant features is a more effective means of authorizing these activities than developing several new NWPs. It will streamline the authorization process for utility line activities that have minimal adverse effects on the environment.

Paragraph (i) of the proposed modification authorizes the same activities as the NWP 12 published in the December 13, 1996, **Federal Register** notice. In the proposed modification, we are including clarification of the circumstances where a pipeline carrying gaseous or liquid substances over navigable waters of the United States requires a permit from the United States Coast Guard pursuant to Section 9 of the Rivers and Harbors Act. We are also proposing to include language in this paragraph that states that repair of utility lines is authorized by this NWP. The impacts due to repair are often less than those of installation, because in most cases only certain sections of a utility line require repair, and these areas are restored upon completion of the work.

Paragraph (ii) authorizes discharges associated with the construction or expansion of electric or pumping substations, provided the discharge does not cause the loss of more than 1 acre of non-Section 10 waters of the United States (wetlands that are contiguous to Section 10 waters are also excluded). The Corps is proposing to require a PCN if the construction or expansion of the substation will cause the loss of more than ⅓ acre of waters of the United States.

Paragraph (iii) authorizes discharges for foundations of utility line towers, poles, and anchors. To minimize adverse effects, separate foundations for each tower leg will be required, when practicable, and the foundations must be the minimum size necessary. In most cases, the construction of foundations for overhead utility lines will have minimal adverse effects on the aquatic environment because these utility lines are constructed in a cleared right-of-way (which will remain as a wetland) and the foundations will permanently affect only a small proportion of the cleared wetland area. In the right-of-way, most of the vegetation will be allowed to grow back as either emergent or scrub-shrub wetland.

Paragraph (iv) would authorize discharges for the construction and maintenance of permanent access roads, which would be used to maintain the utility line, especially in emergency situations. Access roads used only for construction can be authorized by NWP 33, but restoration of waters of the United States is required after completion of the work. We expect that most access roads used for maintenance will be the same as the access roads used for construction. Access roads must be the minimum width necessary, be designed to minimize the amount of waters of the United States adversely affected by the roads, and cannot restrict surface and subsurface flows. We are proposing a maximum acreage loss limitation of 1 acre of waters of the United States. Access roads must follow preconstruction contours and elevations to the extent practicable. The Corps is proposing to require notification where more than 500 linear feet of access road is constructed above preconstruction grades in waters of the United States. Corduroy or geotextile/gravel access roads constructed at grade are likely to be the most common access roads constructed. We anticipate that most of these access roads would be 10 to 15 feet wide. We believe that permanent access roads are necessary because they allow efficient emergency maintenance of utility lines. Temporary access roads become overgrown with vegetation, delaying access for emergency repairs. Such delays endanger citizens serviced by the utility line. With proper construction techniques, access roads can be constructed and maintained with minimal adverse effects on the aquatic environment. Surface water flows will not be substantially affected by access roads constructed at-grade. Some components of access roads will have to be constructed above grade, particularly to construct culverted stream crossings. Such crossings will have minimal adverse effects, provided the culverts are adequately sized.

In the proposed modification of NWP 12, we are including the definition of "loss" of waters of the United States as defined in other NWPs. The installation of subaqueous utility lines in waters of the United States should not be considered as resulting in a loss of waters of the United States if the area impacted by the installation of the utility line is the minimum necessary and preconstruction contours and elevations are restored after construction. The use of timber mats in utility line construction results in temporary impacts to waters of the United States, and typically reduce impacts to wetlands caused by heavy equipment. Therefore, the use of timber mats should not be included as a source of permanent loss when determining impacts to waters of the United States, provided they are removed upon completion of construction. Once the timber mats are removed, wetland conditions typically return within a short time period.

We are also including language in the proposed modification of NWP 12 to clarify that the installation of utility lines in navigable waters of the United States without any associated discharge of dredged or fill material (i.e., Section 10 of the Rivers and Harbors Act is the only applicable law) is authorized by this NWP. All of the original notification provisions of NWP 12 will remain the same, with additional notification provisions for discharges for electric or pumping substations that result in the loss of more than ⅓ acre of non-tidal waters of the United States and for permanent access roads constructed in waters of the United States above preconstruction grades for a distance of more than 500 feet. We are revising item "c" in the notification section to clarify that the exclusion of overhead utility lines that are constructed for a distance of more than 500 linear feet in waters of the United States from the notification requirement.

This NWP does not authorize the construction of new power plants, water treatment plants, or reservoirs. Discharges in Section 10 waters for the construction of electric or pumping substations or access roads is not authorized. Pipelines used to transport gases and liquids over navigable waters of the United States require a Section 9 permit from the United States Coast Guard and are not authorized by this NWP. Division and district engineers will still be allowed the use of discretionary authority when very

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sensitive/unique areas may be adversely affected by these activities.

14. Linear Transportation Crossings

One commenter recommended an NWP to authorize the construction, extension, and expansion of railroad tracks, including railroad beds. NWP 26 has been often used to authorize this type of work. Another commenter recommended an NWP to authorize minor road improvements and maintenance projects and the placement of drainage structures in headwater streams.

The Corps is proposing to modify NWP 14 to authorize discharges of dredged and fill material into non-tidal waters of the United States, excluding non-tidal wetlands contiguous to tidal waters, for the construction, expansion, and improvement of public linear transportation crossings for public projects such as roads, railroads and runways. For private linear transportation crossings and for public linear transportation crossings in tidal waters or non-tidal wetlands contiguous to tidal waters, such as a controlled-access road to an industrial site, or the construction of a private road leading to a residence, the original terms and limitations of NWP 14 will be retained.

The Corps is proposing two options for the acreage limit for public linear transportation crossings in paragraph (a). We are requesting comments on whether the acreage limit for public linear transportation crossing should be 1 acre or 2 acres. For public linear transportation crossings, notification will be required for discharges in special aquatic sites, including wetlands, or for all discharges that result in the loss of greater than ⅓ acre of waters of the United States. For private road crossings, the discharge cannot result in the loss of more than ⅓ acre of waters of the United States, or extend for a distance of more than 200 feet in waters of the United States. Notification will be required for all discharges in special aquatic sites, including wetlands, for private road crossings. Between May 1, 1997, and December 31, 1997, NWP 26 was used to authorize 953 transportation projects. These transportation projects resulted in the loss of approximately 278 acres of wetlands, and 56,442 linear feet of stream bed, with 1,036 acres of compensatory mitigation provided by permittees.

Features of the proposed work that are integral to the linear transportation project, such as interchanges, stormwater detention basins, rail spurs or water quality enhancement measures, may also be authorized by this permit. This proposed permit may not be used to authorize non-linear features commonly associated with transportation projects, such as vehicle maintenance or storage buildings, parking lots, train stations, or hangars.

For large transportation projects that would have many potential crossings of jurisdictional areas, the Corps districts will determine on a case-by-case basis whether this permit may be used, or whether an individual permit may be required for the work. Corps districts may also exercise discretionary authority over any project that, in the determination of the District Engineer, has the potential to result in more than minimal impact on the aquatic environment. The definition of the term "single and complete project" for linear projects can be found at 33 CFR 330.2(i).

The Corps is soliciting comments on several issues related to this proposed permit, including the acreage limit, and the prohibition of the use of this permit for non-linear features associated with transportation projects.

27. Stream and Wetland Restoration Activities

The Corps is proposing to modify NWP 27 to add the restoration and enhancement of streams to the wetland and riparian enhancement authorized by the existing NWP 27. The modified permit would authorize projects that would enhance, restore or create structural habitat features, hydraulics, and vegetation in altered and/or degraded non-Section 10 streams and non-tidal wetlands. Such activities include, but are not limited to: the removal of accumulated sediments, the installation, removal and maintenance of water control structures, the installation of current deflectors, the enhancement, restoration or creation of riffle and pool stream structure, the placement of in-stream habitat structures, modifications of the stream bed and/or banks to restore or create stream meanders, the backfilling of artificial channels and drainage ditches, the removal of existing drainage practices and structures, the construction of small nesting islands, the construction of open water areas, and activities needed to re-establish vegetation, including plowing or discing for seed bed preparation and mechanized land-clearing to remove undesirable vegetation. This NWP applies to projects that would serve the purpose of restoring and enhancing "natural" stream hydrology, wetland hydrology, vegetation, and function in altered and degraded non-Section 10 streams and associated riparian areas, and non-tidal wetlands.

This NWP cannot be used to authorize activities for the conversion of natural wetlands or streams to another aquatic use, such as the impoundment of a stream for waterfowl habitat, or the conversion of a scrub-shrub wetland into an herbaceous emergent wetland. However, this permit may be used to authorize the construction of projects that would recreate similar habitat types in a different location than the existing wetlands, provided that the project results in functional gains. For example, a berm may be proposed to enhance and enlarge an existing wetland, however, the impoundment of water behind the berm would replace an existing emergent wetland area with open water, and recreate a similar emergent wetland at another location within the larger wetland. This project may be authorized by NWP 27, because it would not result in a conversion of one wetland type to a dissimilar wetland type.

No activities or discharges not directly related to the restoration of ecological values or aquatic functions may be authorized by this permit.

The intent of this permit is to facilitate the restoration of degraded or altered streams and wetlands. The goals of the proposed activities must be based upon the enhancement, restoration or creation of the characteristic ecological conditions that existed, or may have existed, in the stream or wetland prior to disturbance, or to other wise improve the aquatic functions of such areas. The activities may include, but are not limited to, the modification of the hydraulics, vegetation, or physical structure of the altered or degraded stream or wetland. Notification to the District Engineer would be required only for those projects noted in condition (iv) of the permit.

The use of this proposed permit with other NWPs would require notification to the District Engineer in accordance with General Condition 15. Use of this NWP with other NWPs may not be restricted, provided there is a net gain of aquatic habitat and/or aquatic functions. For example, it is likely that some projects considered under this permit would require cofferdams to temporarily dewater the project site, or interim bank stabilization measures during construction of channel improvements. Because neither of these discharges are, in and of themselves, directly related to the restoration of aquatic habitat, they would require separate authorizations, in these cases NWP 33 and NWP 13, respectively. Given the nature of the activities that may be proposed for each project site, the Corps will make a case-by-case determination on the need for other authorizations during the review of the project.

For activities that require notification, the Corps, with input from other Federal and State agencies, would evaluate each project to determine whether the proposed work would result in a net increase in aquatic functions. Factors such as temporal habitat loss, changes in species composition, and other aquatic functions would be examined in the course of the evaluation. This permit cannot be used to relocate an altered or degraded stream, where the new stream would have characteristics similar to the old stream (i.e., substantial habitat improvement would not result from the work). In another example, this permit would not be applicable to a project that proposed to remove sediment from a stream for the purpose of improving or creating a navigation channel, because the primary purpose of the work would not be the improvement of aquatic functions, although in some cases, some habitat benefits could result from the work. Similarly, this permit may not be used to channelize, deepen or modify a stream in order to facilitate land drainage.

The Corps is soliciting comments on the types of activities that may be authorized under this proposed permit, and whether any additional conditions (e.g., restricting the construction of the projects to certain types of streams) should be placed upon its use. The Corps anticipates that the majority of projects authorized by this permit would involve habitat improvements on small lengths of streams or in small wetland areas; however, there is no restriction on the scope of the projects that can be authorized with this permit. The Corps anticipates that this permit will be used primarily by units of State and local government, private ecological restoration groups and individual landowners.

40. Agricultural Activities

The Corps is proposing to modify NWP 40 to authorize the discharge of dredged or fill material into non-tidal waters of the United States, including non-tidal wetlands, for the purpose of improving production on existing agricultural lands. Between May 1, 1997, and December 31, 1997, NWP 26 was used to authorize 317 agricultural projects. These projects resulted in the loss of approximately 85 acres of wetlands and 20,860 linear feet of stream bed, with 151 acres of compensatory mitigation provided by the permittees. The proposed modification to NWP 40 may be used to authorize, in addition to the construction of foundations and building pads for farm buildings currently authorized by NWP 40, the installation or placement of drainage tiles; construction of drainage ditches or levees; mechanized land clearing, land leveling, and similar activities.

Paragraph (a) of the proposed modification of NWP 40 authorizes discharges into waters of the United States, provided the permittee has obtained a minimal effect exemption from NRCS and the activity does not cause the loss of greater than 1 acre of non-tidal wetlands and does not cause the loss of greater than ⅓ acre of playas, prairie potholes, and vernal pools. The minimal effect exemption must be obtained in accordance with the provisions of the Food Security Act (16 U.S.C. 3801 *et seq.*) and the National Food Security Act Manual(NFSAM).

Paragraph (b) of the proposed modification authorizes discharges of dredged or fill material into non-tidal wetlands on agricultural lands provided the discharge results in a loss of no greater than 3 acres of non-tidal wetlands and the permittee submits and implements a compensatory mitigation plan that fully offsets the wetlands loss. The Corps is considering options for the type of wetlands that should be applicable to this activity and is seeking comments on whether this proposed modification should be for all non-tidal wetlands, farmed wetlands only, or frequently cropped wetlands only. Farmed wetlands and frequently cropped wetlands are those wetlands which are already being manipulated to some extent for agricultural production. Non-tidal wetlands include farmed wetlands and frequently cropped wetlands in addition to those natural wetland areas on agricultural land that have not been previously manipulated for agricultural production.

The Corps is also considering and seeking comments on options to establish acreage limits for these activities. One option would be to establish a sliding scale or indexing of impact acreage limits for this NWP, based on farm size. Another option is using a simple upper impact acreage limit (e.g., 3 acres). A sliding scale could be based on the size of a farm, percentage of wetlands, percentage of farm, or other approaches. The following table is a sample sliding scale or indexing of impact acreage limits for this NWP, based on farm size:

Farm Size	Maximum acreage loss authorized for wetlands on agricultural lands
Less than 15 acres	¼ acre.
15–25 acres	½ acre.
25–50 acres	¾ acre.
50–100 acres	1 acre.
100–500 acres	2 acres.
Greater than 500 acres	3 acres.

NRCS must approve the mitigation plan if the permittee is a USDA program participant or non-participant receiving technical assistance. If the permittee is a USDA non-participant and has not had NRCS approve a mitigation plan, the Corps must approve the mitigation plan. Discharges into natural playas, prairie potholes, or vernal pools are not authorized under the terms of this paragraph.

Paragraph (c) of the proposed modification to NWP 40 authorizes discharges into naturally vegetated playas, prairie potholes, or vernal pools, provided the discharge does not result in the loss of greater than 1 acre of non-tidal wetlands. The Corps is also considering and seeking comments on options to establish acreage limits for these activities. One option would be to establish a sliding scale or indexing of impact acreage limits for this NWP, based on farm size. Another option is using a simple upper impact acreage limit (e.g., 1 acre). A sliding scale could be based on size of farm, percentage of wetlands, percentage of farm, or other approaches. The following table is a sample sliding scale or indexing of impact acreage limits for this NWP, based on farm size:

Farm size	Maximum acreage loss authorized for playas, prairie potholes, and vernal pools
Less than 25 acres	¼ acre.
25—100 acres	½ acre.
100—500 acres	¾ acre.
Greater than 500 acres	1 acre.

The permittee must submit an NRCS- or Corps-approved compensatory mitigation plan to fully offset wetland losses. The compensatory mitigation plan must be approved by NRCS if the permittee is a USDA program participant or non-participant receiving technical assistance. The Corps must approve the mitigation plan if the permittee is not a USDA program

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participant and has not had NRCS approve a mitigation plan.

Paragraph (d) of the proposed modification contains the original terms of NWP 40. The acreage limit for this paragraph is 1 acre of non-tidal wetlands in agricultural production prior to December 23, 1985. This NWP does not authorize discharges into playas, prairie potholes, and vernal pools for the construction of building pads or foundations for farm buildings.

In paragraph (e), the Corps is also proposing to modify NWP 40 to authorize the relocation of existing serviceable drainage ditches and previously substantially manipulated intermittent and small perennial streams on agricultural land. However, the relocation of ditches and streams authorized by this NWP does not authorize reconfiguration of those ditches or streams to increase the area drained by the ditch or stream (i.e., by widening or deepening the ditch/stream beyond its original design dimensions or configuration). This NWP does not authorize work in streams other than described above.

The Corps is proposing to require notification for activities that result in: (1) the loss of greater than ⅓ acre of non-tidal waters of the United States, including playas, prairie potholes, or vernal pools, or (2) filling or excavating greater than 500 linear feet of drainage ditches and previously substantially modified intermittent and small perennial streams. The appropriate Federal and State agencies will be notified for the loss of greater than 1 acre of non-tidal wetlands.

The aggregate acreage limit for wetland impacts authorized by this NWP as a result of the activities in paragraphs (a), (b), (c), and (d) cannot exceed 3 acres per farm for the duration of this nationwide permit (i.e., until reissuance or any revocation). NWPs are generally reissued every five years. When NWPs are reissued they may be used again on the same farm to authorize activities for impacts not to exceed the acreage thresholds authorized in the reissuance. In addition, for the purposes of increasing agricultural production, this NWP cannot be used with other NWPs to exceed this 3-acre limit. The use of this NWP prohibits any future use of proposed NWP A, whether by the farm owner/operator or if the property is sold. For the purposes of this NWP a single and complete project is defined as a "farm" (i.e., the land unit under one ownership, which is operated as a farm, as reported to the Internal Revenue Service). We are considering options for and requesting comments on alternative suggestions for this definition of a single and complete project (such as "farm tract" or "field"). The boundary determination of the single and complete project as defined for this NWP will be as determined as of the effective date of the publication of this **Federal Register** notice.

The notification will allow district engineers to review proposed activities to ensure that no more than minimal adverse effects to aquatic resources will occur. District engineers can require special conditions on a case-by-case basis to ensure that the impacts are minimal. District engineers can exercise discretionary authority and require an individual permit for those activities that may have more than minimal adverse effects on the aquatic environment.

Other Suggested NWPs

In response to the December 13, 1996, **Federal Register** notice, several commenters recommended replacement NWPs for activities which we believe do not warrant the development of a NWP. Some of these activities are in areas that are not considered to be waters of the United States. Other activities are exempt from permit requirements of Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act. These comments are addressed below.

Maintenance of Landfill Surfaces: One commenter proposed an NWP authorizing the maintenance of landfill surfaces. The Resource Conservation and Recovery Act (RCRA) requires the use of clay material to cap municipal solid waste landfills, and grading of such areas sufficient to prevent water from ponding on the cap. As refuse in a landfill decomposes and settles, portions of the clay cap can subside, creating ponded areas on the landfill surface. Wetland species may colonize these ponded areas. These depressions increase the chance that water may infiltrate through the clay cap and come into contact with the refuse, which may result in increased pollution of the air and groundwater. To comply with the RCRA, Clean Air Act, and Clean Water Act, these depressions must be filled to return the landfill cap to the designed grade and prevent infiltration of water into the landfill. The regular maintenance of landfill caps prevents leaching of contaminants into the surrounding air, water, and soil.

The Corps believes that these ponded areas on the landfill cap are not waters of the United States, because landfill caps are constructed from uplands and require continuous maintenance. The preamble to 33 CFR Part 328 in the November 13, 1986, **Federal Register** (51 FR 41217, Section 328.3) states that "water filled depressions created in dry land incidental to construction activity * * *" are not considered waters of the United States "* * * until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States." The landfill is not abandoned because of the routine maintenance required by law to keep the landfill surface at the designed grade. Since routine maintenance of landfill surfaces does not require a Section 404 permit, we will not be developing an NWP for this activity.

Maintenance and Filling of Ditches Adjacent to Roads and Railways: One commenter proposed an NWP to authorize maintenance of roadside ditches constructed in tidal and non-tidal waters of the United States to collect and convey runoff from the road. Another commenter proposed an NWP to authorize discharges of dredged or fill material to construct additional railroad tracks, widen or protect railroad beds, and drain water to prevent saturation of the railroad bed. Saturation of the railroad bed can cause settling of the bed, requiring maintenance or reconstruction to return the railroad bed to the proper grade. Flat-bottom ditches are constructed at the toe of the railroad embankment (often in upland areas) to convey runoff from the railway to natural drainage courses. Roadside and railway ditches commonly develop wetland characteristics as a result of fulfilling their purpose and must be periodically cleaned out. At other times, these drainage ditches may be filled to widen the road or railroad bed. Work in roadside or railroad ditches may or may not require a permit from the Corps, depending on the case-specific circumstances of the ditch.

The maintenance of roadside or railroad drainage ditches constructed in uplands does not require a Section 404 permit since these ditches are not waters of the United States, even though they may support wetland vegetation. The preamble to 33 CFR 328.3, as published in the November 13, 1986, issue of the **Federal Register** (51 FR 41217), states that "non-tidal drainage or irrigation ditches excavated on dry land" are generally not considered to be waters of the United States. Filling these ditches to widen the road or railroad bed does not require a Section 404 permit.

If these roadside or railroad ditches are constructed in waters of the United States, the maintenance of these ditches is exempt from Section 404 permit requirements (see 33 CFR 323.4(a)(3)), provided the ditch is restored to its original dimensions and configuration. However, the construction of these ditches in waters of the United States requires a Section 404 permit and may be authorized by an individual permit, an NWP or a regional general permit. A Corps permit is required to widen the road or railroad bed in these ditches constructed in waters of the United States, if the activity results in a discharge of dredged or fill material into waters of the United States or the activity extends into navigable waters of the United States. We are proposing to modify NWP 14 to authorize such activities, and other linear transportation activities, in non-tidal waters of the United States (wetlands that are contiguous to tidal areas are also excluded). Widening road or railroad beds in tidal waters usually requires an individual permit, but may be authorized by an NWP, or an applicable regional general permit. The construction or maintenance of roadside and railroad ditches in navigable waters of the United States requires a Section 10 permit. Furthermore, the maintenance of roadside ditches where the proposal includes reconfiguration of these ditches does not qualify for the exemption at 33 CFR 323.4(a)(3). However, we have proposed NWP F in order to address this situation, provided the drainage capacity of the ditch is not increased.

Maintenance of Water Treatment Facilities: One commenter requested an activity-specific NWP for maintenance of water treatment facilities, such as the removal of material from constructed settling lagoons and associated constructed wetlands, maintenance and de-watering of stock ponds for livestock, and maintenance of recharge ponds for water supplies.

Water treatment facilities constructed in uplands do not require a Section 404 permit for maintenance activities. The Corps does not generally consider "[a]rtificial lakes or ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing" to be waters of the United States. (Refer to the preamble to 33 CFR 328.3, as published in the November 13, 1986, issue of the **Federal Register** (51 FR 41217)).

To address some other issues relevant to water quality, we are proposing NWP C for the construction and maintenance of stormwater management facilities, modifying NWP 3 to authorize the removal of sediments that accumulate in the vicinity of structures, and modifying NWP 7 to authorize removal of accumulated sediments from outfall and intake structures and associated canals. Removal of sediments from detention and settling basins constructed with a Section 404 permit would be authorized by the proposed NWP C as long as the maintenance activity does not change the use of the facility. In addition, some of the activities cited above are covered by existing NWPs, are exempt from Clean Water Act regulation, or do not require a Corps permit. Construction of stock ponds is an exempt activity; thus, the de-watering and maintenance of stock ponds is exempt from 404 Section permit requirements as long as the activity is for water quality benefits and does not enlarge the pond or change the use to other than providing water for livestock. Maintenance of recharge ponds constructed in uplands does not require a Section 404 permit, but the maintenance of these ponds constructed in waters of the United States may be authorized by existing NWPs, such as NWPs 3, 18, or 13, or proposed NWP C. Therefore, these activities have not been specifically included in the proposed NWPs.

Mitigation Banks and the NWP Program. One commenter recommended that the replacement NWPs should include language that identifies mitigation banks as the preferred method of providing compensatory mitigation for impacts authorized by these NWPs. The commenter believes that placing such an emphasis on mitigation banking will provide incentive for the construction of more mitigation banks by increasing the certainty that these banks will be used by permittees to offset losses authorized by these NWPs. This commenter also recommended that the NWP program formally adopt the "Federal Guidance for the Establishment, Use, and Operation of Mitigation Banks" (60 FR 58605–58614). The commenter also recommended the development and implementation of standard policies pertaining to the establishment and use of in lieu fee programs that matches the federal mitigation bank guidance. The commenter believes such guidance is needed to monitor the funds paid by permittees, monitor the number of acres of wetlands restored as a result of payment of those fees, provide compensatory mitigation in advance of authorized impacts, and require binding agreements that will ensure that the compensatory mitigation is successful.

The Corps disagrees that the proposed replacement NWPs should stipulate preference for mitigation banks as a form of compensatory mitigation. In the December 13, 1996, **Federal Register** notice, the Corps did not direct districts to require permittees to use mitigation banks for offsetting wetland losses due to NWP 26, but suggested that they could be used, as could in lieu fee programs and individual mitigation projects, to provide compensatory mitigation. Consolidated mitigation methods (mitigation banks, in-lieu fees) are often an efficient means of compensating for impacts, and may confer benefits to the aquatic environment as well (see 61 FR 65892). We recognize that consolidated mitigation projects, such as mitigation banks and in lieu fee programs, are more practicable and successful because of the planning and implementation efforts typically expended on these projects by their proponents. In contrast, many individual efforts to create, restore, or enhance wetlands to replace small wetland impacts are often not successful and do not provide many benefits to the aquatic environment, partly because they are not well planned or executed. In addition, numerous small compensatory mitigation efforts can be expensive and time-consuming to monitor.

Mitigation banks and in lieu fee programs are not common throughout the country. Therefore, it would be impractical to require their use as a preferred or sole means of providing compensatory mitigation for impacts authorized by the proposed replacement NWPs. While in lieu fee programs are in place in several districts, efforts continue to ensure in lieu fee programs will provide adequate compensatory mitigation. District engineers have the authority to approve the means by which a particular permittee provides appropriate compensatory mitigation. Permittees should not be required to use a particular mitigation method, just because it is available. Permittees must have the flexibility to propose compensatory mitigation methods that are within their means to accomplish. To the extent appropriate, permittees should consider use of approved mitigation banks and other forms of mitigation including in lieu fees. District engineers will evaluate the permittee's proposed mitigation for its appropriateness and practicability as indicated in the NWP mitigation condition.

Expansion of Nationwide Permit 31. A commenter requested that NWP 31 be expanded to authorize other maintenance activities relating to flood control and maintenance of water supply facilities, including removing sediment from natural stream channels without enlarging the channel, removing vegetation from streams that increases aggradation of the stream bed,

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stabilizing banks, removing aggraded sediments, and cleaning sediment from intake pipes that draw water from the stream or groundwater. The commenter stated that some of these activities did not require a Section 404 permit prior to the implementation of the excavation rule and are not authorized by NWP 31 or 33 CFR 330.3.

NWP 31 authorizes discharges of dredged or fill material for the maintenance of existing flood control facilities that were either previously authorized by a Corps permit or 33 CFR 330.3 or constructed by the Corps and transferred to a local sponsor for operation and maintenance. In natural stream channels, most of the activities cited in the previous paragraph can be authorized by NWP 31 provided those channels are part of an authorized flood control facility. One requirement of NWP 31 is that the District Engineer establish a baseline for maintenance. The maintenance baseline can include width at ordinary high water, channel depth, and/or other parameters used to quantify dimensions of a stream channel. For example, the maintenance baseline for a stream channel may a particular bed elevation. When sediments accumulate in the stream channel, raising the elevation of the bed, NWP 31 may be used to authorize the removal of the aggraded sediments to return the stream bed to the maintenance baseline elevation, even if the sediment supports wetland vegetation. Bank stabilization work for portions of the flood control project may be authorized by NWP 13, regional general permits, or an individual permit. The removal of sediment from water intake pipes cannot be authorized by NWP 31. However, removal of sediments from the vicinity of these structures may be authorized by NWP 18, the proposed modifications to NWP 3, the proposed modification to NWP 7, regional general permits, or individual permits.

Discussion of Nationwide Permit Conditions

General Conditions

The Corps is proposing to consolidate all of the General Conditions and Section 404 Only conditions into one General Condition Section for the NWPs. The reason for this consolidation is that most of the Section 404 Only conditions have applicability to activities in Section 10 waters. Some of the Section 404 Only conditions, such as conditions 4, 5, 6, and 8, are essentially always applicable to work in navigable waters of the United States. For example, 33 CFR 320.4(r) states that mitigation is an important aspect of the review and balancing process on many Department of the Army permit applications. The Corps policy at 33 CFR 320.4(r) on mitigation applies to all types of decisions, including Section 10 permits. Some of the Section 404 only conditions still generally apply only to Section 404 activities, but in an effort to simplify the general conditions for the NWPs, the Corps is proposing to combine all conditions into one section. This consolidation does not increase the scope of analysis for determining if a particular project qualifies for an NWP; the District Engineer must still use discretion to determine if a particular condition applies to a particular activity. We are proposing to modify the opening language of Section 404 only conditions 1, 2, 3, 4, 5, 7, and 8 to "activity [or activities], including structures and work in navigable waters of the United States and discharges of dredged or fill material," to reflect that broader application. The three modified conditions (general conditions 9 and 13 and Section 404 only condition 6) and the modified Section 404 only conditions would apply to all the existing NWPs as well as the new NWPs that are issued.

The following is a discussion of our reasons for proposing changes to 6 existing NWP conditions and adding one new NWP general condition. If an existing NWP condition is not discussed below, no changes to that condition are proposed, other than those changes cited in the previous paragraph.

9. Water Quality. We are proposing to change the name of this condition from "Water Quality Certification" to "Water Quality" and modify this condition to require, for NWPs 12, 14, 17, 18, 21, 32, 40, A, B, C, D, and E, a water quality management plan, if it is not required as part of the 401 certification. This requirement only applies to those projects for which a water quality management plan would help keep the adverse effects on the aquatic environment minimal, such as prevention of more than minimal degradation of downstream water quality by maintaining a vegetated buffer adjacent to open water bodies such as lakes and streams. The requirement of implementation of a water quality management plan is not intended to apply to projects where the impacts to the aquatic environment are minimal, such as the construction of a small road crossing to provide access to an upland development where the impacts to waters of the United States regulated by the Corps (i.e., NWP 14 in this example) are limited to a small proportion of the project area. The requirement for a water quality management plan is also not intended to increase the scope of analysis of the Corps review. The water quality management plan must implement methods and technologies to reduce direct and/or indirect degradation of water quality as a result of the permitted work. Practices such as vegetated buffers adjacent to open waters, sediment traps and barriers, sediment detention basins and ponds, infiltration trenches, and nutrient management techniques can be used to reduce degradation of water quality due to adjacent land use.

13. Notification. We are proposing to require notification to the District Engineer for all of the proposed NWPs, based on varying thresholds, generally ⅓ of an acre of impact. Because the Corps has added so many NWPs with a PCN requirement, the PCN process must be applied in a simple and consistent manner. Therefore, for discharges causing the loss of greater than 1 acre of waters of the United States, the notification will be sent to the appropriate Federal and State agencies in accordance with paragraph (e) of General Condition 13. For other activities requiring notification to the District Engineer, the PCN will be subject to Corps-only review. The PCN will be subject to a 30-day review period, from the date of receipt of a complete PCN by the District Engineer. Corps district personnel will utilize the PCN to assess the environmental impacts of the proposed work and can recommend appropriate actions, such as special conditions or compensatory mitigation, to ensure that impacts are minimal.

16. Subdivisions. The Corps is including a condition in the proposed NWPs similar to the "subdivision clause" of NWP 26, which prohibited the use of NWP 26 for real estate subdivisions created after October 5, 1984, where new discharges of dredged or fill material into waters of the United States in said subdivision would cause the upper acreage limit of NWP 26 to be exceeded. The Corps is proposing to include a similar clause for NWPs A and B. The purpose of this condition is to prevent the division of property as a means of getting around the acreage limits of NWPs A and B. The subdivision clause would state that the cumulative upper limit for a subdivision seeking authorization under NWP A would be 3 acres for a single and complete project, and that the cumulative upper limit for subdivisions seeking to use NWP B would be 10 acres for a single and complete. The term "single and complete" means if, upon

authorization, any given project can be constructed, independent of any reliance on *subsequent* Corps of Engineers authorization for additional regulated activities (i.e., activities following those under current authorization consideration). In other words, a project may be considered single and complete if it has independent utility.

19. Suitable material. The Corps is proposing to modify this general condition by inserting the words "* * * used for construction or * * *" between "material" and "discharged." This change was made to ensure that materials used for structures or work in navigable waters of the United States are made of suitable materials.

20. Mitigation. We are proposing to delete the words "* * * unless the District Engineer approves a compensation plan that the District Engineer determines is more beneficial to the environment than on-site minimization or avoidance measures." from this condition. This condition will be modified to require restoration, creation, enhancement, or preservation of aquatic resources to offset losses of functions and values due to authorized impacts. This condition also stresses the importance of including upland or wetland vegetated buffers adjacent to open water areas as an important component of any mitigation plan.

21. Spawning areas. The Corps is proposing to add a sentence to this condition to prohibit activities that fill or excavate important spawning areas.

22. Management of Water Flows. We are proposing to change the title of this condition from "Obstruction of High Flows" to "Management of Water Flows" and modifying it to require that permittees design their projects to maintain preconstruction downstream flow conditions. The permittee must, to the extent practicable, maintain the flow rates from the site as close as is feasible to preconstruction levels to minimize the potential for adverse effects to aquatic organisms and sediment transport in the stream. The removal of vegetation, and the increase in the percentage of impervious surfaces on a project site can increase runoff flows from the site, which can result in downcutting of stream beds and degradation of aquatic habitat. This condition also requires that projects be designed to reduce upstream impacts such as flooding or draining, unless the primary purpose of the project is to impound water or reestablish drainage.

Definitions

To provide for consistency in the implementation of the proposed NWPs, the Corps is proposing to include definitions for some terms used in these NWPs. The definitions are located in Section E of this notice. The Corps is seeking comments on these definitions.

Nationwide Permit 29 for Single Family Housing

On July 15, 1996, a lawsuit was filed by several organizations against the Corps, challenging the issuance of NWP 29 under Section 404 of the Clean Water Act (CWA). The plaintiffs challenged the issuance of NWP 29 because they believe that: (1) the Corps violated the CWA by issuing an NWP for activities that result in more than minimal adverse environmental effects; (2) the Corps violated the CWA by issuing an NWP for activities that are not similar in nature; (3) the Corps violated the procedural requirements of the Section 404(b)(1) Guidelines of the CWA; (4) the Corps violated the Endangered Species Act (ESA) by failing to consult with the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS); (5) the Corps violated the Fish and Wildlife Coordination Act by failing to consult with the FWS and NMFS; (6) the Corps violated the National Environmental Policy Act (NEPA) by failing to prepare an Environmental Impact Statement (EIS); and (7) the issuance of NWP 29 was arbitrary, capricious, and an abuse of discretion. After the Corps reissued NWP 29 on December 13, 1996, a supplemental complaint was filed by the plaintiffs challenging the reissuance of NWP 29.

On April 30, 1998, a court order was issued by the United States District Court, District of Alaska, remanding the Secretary of the Army to consider excluding high value waters from NWP 29, consider the use of lower acreage limits for NWP 29, and to set forth those considerations in an amended environmental assessment (EA). The court determined that the EA issued on December 10, 1996, inadequately addressed the exclusion of high value waters and lower acreage limits for NWP 29. Pending the Secretary of the Army's consideration of these issues, the court enjoined the Corps from accepting any preconstruction notifications for NWP 29 after June 30, 1998, unless the court orders otherwise. The court did not address the other issues raised by the plaintiffs because actions undertaken by the Corps as a result of the remand may have significant impacts on the resolution of the other arguments. It should be noted that the Corps is already undergoing ESA consultation for NWP 29, which should be concluded this summer.

NWP 29 authorizes single family housing activities that have minimal adverse effects, both individually and cumulatively, on the aquatic environment. For this NWP, the Corps has several mechanisms to protect high value waters and wetlands. All activities authorized under NWP 29 require preconstruction notification to the Corps. The preconstruction notification allows district engineers to review each proposed activity to determine if it will result in minimal adverse environmental effects, and if necessary, take measures such as adding special conditions to the NWP authorization to further minimize the adverse effects of the activity. Special conditions may require compensatory mitigation to offset losses of aquatic resource functions and values. If the proposed work will result in more than minimal adverse environmental effects, then the District Engineer will exercise discretionary authority to require an individual permit, with the requisite alternatives analysis and public interest review. District engineers can protect high value waters and endangered species by regionally conditioning NWP 29. Regional conditioning may exclude the use of NWP 29 from certain waters, such as non-tidal wetlands contiguous to tidal waters, lower the acreage limit, or exclude the use of NWP 29 in areas where endangered species or their critical habitat is known to occur. The regional conditioning process is discussed elsewhere in this notice.

Corps districts have been collecting data on the use of NWP 29 since 1995. Districts have been monitoring the use of NWP 29 by tracking the number of NWP 29 verifications, the number of PCNs where discretionary authority was exercised to require individual permits for the proposed activity, the proposed acreage of impacts, the authorized acreage of impacts, and the acreage of compensatory mitigation offered and accepted for NWP 29 authorizations.

During Fiscal Year 1996, NWP 29 was used 333 times to authorize the construction of single family residences and attendant features. Discretionary authority was exercised for 9 PCNs to review the proposed work under the individual permit process. During 1996, applicants proposed to fill 101.8 acres of non-tidal waters of the United States, but were authorized to fill only 62.7 acres. The acreage of compensatory mitigation offered and accepted during this time period was 2.3 acres. The average loss of waters of the United States per NWP 29 authorization was 0.19 acres.

During Fiscal Year 1997, NWP 29 was used 188 times. The Corps asserted

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discretionary authority and required individual permit review for two requests for NWP 29 authorization. During this time period, applicants proposed to fill 30.5 acres of non-tidal waters of the United States, but were authorized to fill 28.1 acres of waters of the United States. The acreage of compensatory mitigation offered and accepted during this time period was 11.3 acres. During 1997, the average loss of waters of the United States per NWP 29 authorization was 0.15 acres.

Corps districts are also monitoring cumulative impacts to ensure compliance with the CWA. Corps districts generally monitor regulated activities on a watershed basis to ensure that the activities authorized by NWP 29 and other Corps permits do not result in more than minimal cumulative adverse effects on the aquatic environment in a particular watershed. Division engineers can revoke NWP 29 in high value aquatic environments or in specific geographic areas (e.g., watersheds), if they believe that the use of NWP 29 in these areas will result in more than minimal individual and/or cumulative adverse environmental effects to the aquatic environment.

In accordance with the court order, we have prepared a revised EA for NWP 29. The revised EA includes a Section 404(b)(1) Guidelines compliance review and a Finding of No Significant Impact (FONSI). The revised EA also discusses how high value waters are protected under the NWP and the consideration of lower acreage limits for NWP 29. Copies of the revised EA and FONSI are available at the office of the Chief of Engineers, at each District office, and on the Corps home page at http://www.usace.army.mil/inet/functions/cw/cecwo/reg/. Based on these analyses, the Corps has determined that the issuance of NWP 29 complies with the requirements for issuance under general permit authority.

During the comment period for the proposed reissuance of NWP 29, the Corps considered different acreage limits for this NWP. Several commenters recommended that the acreage limit be reduced to 1/10 acre. A few other commenters recommended an acreage limit of ¼ acre. As discussed previously in this notice, the average acreage impact authorized by NWP 29 was 0.19 acre and 0.15 acre during fiscal years 1996 and 1997, respectively. The average acreage impact requested by applicants was 0.31 acre in 1996 and 0.16 acre in 1997. During their review of PCNs for NWP 29 authorization, district engineers required additional avoidance and minimization to ensure that the authorized impacts were minimal. Although NWP 29 has an acreage limit of ½ acre, few projects were authorized with that amount of impact. District engineers require avoidance and minimization during the PCN process to ensure minimal adverse environmental impacts due to the work. A higher acreage limit, although it may be rarely used, provides district engineers with the flexibility to authorize projects that have minimal adverse effects under NWP 29, even though they may adversely affect a somewhat larger area of low-value wetlands. As a result, the Corps considered decreasing the acreage limit of this NWP and determined that lower acreage limits are not necessary in terms of environmental effects or the workload that would be required to process requests for higher acreage impacts through the individual permit process.

To provide further assurance that NWP 29 authorizes only single family housing activities that have minimal adverse environmental effects, the Corps is now proposing to modify the acreage limit for NWP 29 to ¼ acre. The public is invited to provide comments on the proposed modification to the acreage limit for NWP 29 within 60 days of the date of this notice. The Corps is not requesting comments on the other terms of NWP 29. In the interim, the Corps is suspending NWP 29 for activities that result in the loss of greater than ¼ acre of non-tidal waters of the United States.

It is unlikely that the suspension or modification of NWP 29 will result in a substantial burden on the regulated public, since the average NWP 29 authorization in 1996 and 1997 resulted in the loss of 0.19 acre of non-tidal waters of the United States. Most small landowners can design their single family residences to comply with this new acreage limit for NWP 29. If not, then they can request authorization through the individual permit process or by a regional general permit, if available.

Therefore, from the date of this notice until the Corps has determined whether or not to modify NWP 29, NWP 29 can be used to authorize discharges of dredged or fill material to construct single family housing, including attendant features, provided the discharge does not result in the loss of greater than ¼ acre of non-tidal waters of the United States, including non-tidal wetlands. All other terms and limitations for NWP 29, as published in the December 13, 1996, issue of the **Federal Register**, remain in effect. Discharges for single family housing activities that result in the loss of greater than ¼ acre of non-tidal waters of the United States, including non-tidal wetlands, will be processed either under the individual permit process or by regional general permits. For information purposes, the text of the proposed modification of NWP 29 is as follows:

29. Single-Family Housing. Discharges of dredged or fill material into non-tidal waters of the United States, including non-tidal wetlands for the construction or expansion of a single-family home and attendant features (such as a garage, driveway, storage shed, and/or septic field) for an individual permittee provided that the activity meets all of the following criteria:

a. The discharge does not cause the loss of more than ¼ acre of non-tidal waters of the United States, including non-tidal wetlands;

b. The permittee notifies the District Engineer in accordance with the "Notification" general condition;

c. The permittee has taken all practicable actions to minimize the on-site and off-site impacts of the discharge. For example, the location of the home may need to be adjusted on-site to avoid flooding of adjacent property owners;

d. The discharge is part of a single and complete project; furthermore, that for any subdivision created on or after November 22, 1991, the discharges authorized under this NWP may not exceed an aggregate total loss of waters of the United States of ¼ acre for the entire subdivision;

e. An individual may use this NWP only for a single-family home for a personal residence;

f. This NWP may be used only once per parcel;

g. This NWP may not be used in conjunction with NWP 14, NWP 18, or NWP 26, for any parcel; and,

h. Sufficient vegetated buffers must be maintained adjacent to all open water bodies, streams, etc., to preclude water quality degradation due to erosion and sedimentation.

For the purposes of this NWP, the acreage of loss of waters of the United States includes the filled area previously permitted, the proposed filled area, and any other waters of the United States that are adversely affected by flooding, excavation, or drainage as a result of the project. Whenever any other NWP is used in conjunction with this NWP, the total acreage of impacts to waters of the United States of all NWPs combined, can not exceed ¼ acre. This NWP authorizes activities only by individuals; for this purpose, the term "individual" refers to a natural person and/or a married couple, but does not include a corporation, partnership, or similar entity. For the purposes of this NWP, a parcel of land is defined as "the entire contiguous quantity of land in possession of, recorded as property of, or owned (in any form of ownership, including land owned as a partner, corporation, joint tenant, etc.) by the same individual (and/or that individual's spouse), and comprises not only the area of wetlands sought to be filled, but also all land contiguous to those wetlands, owned by the individual (and/or that individual's spouse) in any form of ownership". (Sections 10 and 404)

Authority

Accordingly, we are proposing to issue new NWPs, modify existing NWPs, and add conditions and to add NWP definitions under the authority of Section 404(e) of the Clean Water Act (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 401 *et seq.*).

Dated: June 23, 1998.

Approved:

Russell L. Fuhrman,

Major General, U.S. Army, Director of Civil Works.

Nationwide Permits, Conditions, Further Information, and Definitions

A. Index of Nationwide Permits, Conditions, Further Information, and Definitions

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Definitions

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2. Best Management Practices
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B. Nationwide Permits

A. Residential, Commercial, and Institutional Activities

Discharges into non-tidal waters of the United States, excluding non-tidal wetlands contiguous to tidal waters, associated with residential, commercial, and institutional development activities. Residential developments (multiple and single unit development for other than the personal residence of the permittee), commercial developments (such as retail stores, industrial parks, restaurants, business parks, shopping centers, and commercial recreational activities) and institutional developments (such as schools, fire stations, government office buildings, judicial buildings, public works buildings, libraries, hospitals and places of worship), are authorized, and may include activities such as: grading, rechannelization, expansion of an existing development, building pads, soil erosion and sediment control measures, and infrastructure such as utilities, roads, driveways, sidewalks, and recreation activities associated with the development, including activities such as playgrounds, ball fields, golf courses, nature trails, etc., provided that the activity meets all of the following criteria:

a. The discharge does not cause the loss of greater than 3 acres of non-tidal waters of the United States, using an index of impact acreage as follows*:

Parcel size	Maximum acreage loss authorized
Less than 5 acres	1/4 acre.
5–10 acres	1/2 acre.
10–15 acres	1 acre.
15–100 acres	2 acres.
Greater than 100 acres	3 acres.

b. For discharges causing the loss of greater than 1/3 acre of non-tidal waters of the United States, including non-tidal wetlands, the permittee notifies the District Engineer in accordance with the "Notification" general condition;

c. For activities that involve excavation and/or filling of open waters, including perennial or intermittent waterways, below the ordinary high water mark, the permittee notifies the District Engineer in accordance with the "Notification" general condition;

d. For discharges in special aquatic sites, including wetlands, the notification must also include a delineation of affected special aquatic sites, including wetlands;

e. The discharge is part of a single and complete project;

f. The permittee must avoid and minimize discharges into waters of the United States at the project site to the maximum extent practicable, and the notification must include a written statement to the District Engineer detailing compliance with this condition, i.e., why the discharge must occur in waters of the United States and avoidance or additional minimization cannot be achieved;

g. For discharges requiring notification the permittee must submit a mitigation proposal that will offset the loss to waters of the United States;

h. Whenever any other NWP is used in conjunction with this NWP, the combined total acres of impacts to waters of the United States cannot exceed 3 acres and any combined total acreage exceeding ⅓ acre requires that the permittee notify the District Engineer in accordance with the "Notification" general condition; and

i. Any work authorized with this permit must not cause more than minor changes to the flow characteristics of any stream, or measurably degrade water quality (See General Conditions 9 and 22). (Sections 10 and 404)

*Note: For the purposes of the proposed NWP, a discussion of acreage limit options is provided in the preamble.

B. Master Planned Development Activities

Discharges into non-tidal waters of the United States, excluding non-tidal

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wetlands contiguous to tidal waters, associated with a comprehensively planned development which may include a combination of, but is not limited to, the following: residential housing, office parks, retail stores, restaurants, playgrounds, ball fields, golf courses, ponds, impoundments, community green space, parks, trails, soil erosion and sediment control measures, sewage and/or water treatment facilities, storm water management facilities, and infrastructure such as utilities, roads, driveways, and sidewalks, provided that the activity meets all of the following criteria:

a. The discharge does not cause the loss of greater than 10 acres of non-tidal waters of the United States, using an index of impact acreage as follows*:

Parcel size	Maximum acreage loss authorized
100–200 acres	3 acres.
200–300 acres	5 acres.
300–500 acres	7 acres.
Greater than 500 acres	10 acres.

b. The permittee notifies the District Engineer in accordance with the "Notification" general condition;

c. For discharges in all waters of the United States, including wetlands, the notification must also include a delineation of affected waters and/or wetlands;

d. The notification will include a wetland assessment utilizing a functional assessment approach approved by the District Engineer;

e. The discharge is part of a single and complete project; however the activity may proceed in phases;

f. The permittee must avoid and minimize discharges into waters of the United States at the project site to the maximum extent practicable, and the notification must include a written statement to the District Engineer detailing compliance with this condition (i.e., why the discharge must occur in waters of the United States and why avoidance or additional minimization cannot be achieved);

g. The notification must include a mitigation proposal that will offset the loss to waters of the United States;

h. Deed restrictions, protective covenants, land trusts, or other means of conservation and preservation will be required for all waters of the United States, including wetlands, on the project site, including riparian buffers and/or vegetated buffers adjacent to open water, as well as all existing, enhanced, restored, or created wetland areas; and

i. Whenever any other NWP is used in conjunction with this NWP, the combined total acres of impacts to waters of the United States cannot exceed 10 acres.

Master Planned Development: The intent of defining Master Planned Development is to distinguish these activities from those that would be authorized under NWP A. Unlike NWP A, this NWP is limited to authorizing those activities that are mixed-use in nature. Master planned developments are designed, constructed, and managed to integrate multiple uses in a manner that conserves and enhances the functions and values of the water resources on the project site. NWP B is intended to be consistent with the increasing nationwide efforts by counties and local communities across the country to encourage mixed-use development and to motivate land use planning alternatives that incorporate consideration of the environment. This NWP is designed to match up with the efforts of local communities to achieve these goals by encouraging the development of environmentally responsible, multiple-use communities and building upon the incentives currently provided by State and local governments. Such master planned developments provide communities with an opportunity to address a variety of concerns, including protecting sensitive natural areas, consolidating infrastructure and maximizing the delivery of urban services. The project may consist of cluster developments surrounded by a substantial amount of open or green space, including vegetated buffers to waters of the United States. All remaining waters of the United States on the project site, including wetlands and riparian areas that are restored, enhanced, or created as compensatory mitigation for impacts authorized by this NWP, as well as vegetated buffers, will be set aside and preserved through deed restrictions, protected covenants, land trusts, or other legal means, to protect these areas and maintain water quality and aquatic resource values. (Sections 10 and 404)

*Note: For the purposes of the proposed NWP, a discussion of acreage limit options is provided in the preamble.

C. Stormwater Management Facilities

Discharges of dredged or fill material into non-Section 10 waters of the United States, including wetlands, for the construction and maintenance of stormwater management facilities, including activities for the excavation for stormwater ponds/facilities, detention, and retention basins, installation and maintenance of water control structures, outfall structures and emergency spillways; and the maintenance dredging of existing stormwater management ponds/ facilities, detention and retention basins provided that the activity meets all of the following criteria:

a. The discharge or excavation for the construction of new stormwater management facilities does not cause the loss of greater than 2 acres of non-tidal wetlands;

b. For discharges or excavation for the construction of new stormwater management facilities causing the loss of greater than ⅓ acre of non-tidal waters of the United States, including wetlands, or for the maintenance of existing stormwater management facilities causing the loss of greater than 1 acre of non-tidal waters of the United States, or for the loss of greater than 500 linear feet of intermittent stream bed, the permittee notifies the District Engineer in accordance with the "Notification" general condition. In addition the notification must include:

(1) A maintenance plan, which is in accordance with State and local requirements, if any;

(2) For discharges in special aquatic sites, including wetlands, the notification must include a delineation of affected areas; and

(3) For discharges involving construction of stormwater management facilities, the notification must include a mitigation proposal that will offset the loss of waters of the United States. In appropriate circumstances, compensatory mitigation can be provided by the use of bioengineering techniques and aquatic benches within the stormwater management facility. Compensatory mitigation will not be allowed in designated facility maintenance areas. Where the size of the facility allows for the construction of sediment forebays, such designs will be used to the maximum extent practicable to enhance water quality and to minimize the maintenance area of the facility. Future maintenance in constructed areas will not require mitigation provided that maintenance is accomplished in designated maintenance areas and not within compensatory mitigation areas.

c. The stormwater management facility must be designed using Best Management Practices and watershed protection techniques (e.g., vegetated buffers, siting considerations to minimize adverse effects to aquatic resources, bioengineering methods incorporated into the facility design to benefit water quality and minimize adverse effects to aquatic resources from storm flows especially downstream of the facility, as appropriate) that provide for long term aquatic protection and enhancement, to the maximum extent practicable;

d. Maintenance excavation will be in accordance with an approved maintenance plan and will not exceed the original contours of the facility as approved and constructed; and

e. The discharge is part of a single and complete project.

f. This permit does not authorize the discharge of dredged or fill material for the construction of new stormwater management facilities in perennial streams. (Section 404)

D. Passive Recreational Facilities. Discharges of dredged or fill material into non-tidal waters of the United States, excluding non-tidal wetlands contiguous to tidal waters, for the construction or expansion of passive recreational facilities, provided that the activity meets all of the following criteria:

a. The discharge does not cause the loss of greater than 1 acre of non-tidal waters of the United States, including non-tidal wetlands;

b. For discharges causing the loss of greater than ⅓ acre of non-tidal waters of the United States, or the loss of greater than 500 linear feet of stream bed, the permittee notifies the District Engineer in accordance with the "Notification" general condition;

c. For discharges in special aquatic sites, including wetlands, the notification must include a delineation of affected special aquatic sites, including wetlands; and

d. The discharge is part of a single and complete project.

A *passive recreational facility* is defined as a low-impact recreational facility that is integrated into the natural landscape and consists primarily of open space that does not substantially change preconstruction grades or deviate from natural landscape contours. The primary function of passive recreational facilities does not include the use of motor vehicles, buildings, or impervious surfaces. Examples of passive recreational facilities that may be authorized by this NWP include: hiking trails, bike paths, horse paths, nature centers, and campgrounds (excluding trailer parks). The construction or expansion of golf courses and ski areas may be authorized by this NWP, provided the golf course or ski area does not substantially deviate from natural landscape contours and is designed to minimize adverse effects to waters of the United States and riparian areas through the use of such practices as integrated pest management, adequate stormwater management facilities, vegetated buffers, reduced fertilizer use, etc. The facility must have an adequate water quality management plan in accordance with General Condition 9, such as a stormwater management facility constructed in uplands to ensure that the recreational facility results in no substantial adverse effects to water quality. This NWP also authorizes support facilities, such as maintenance and storage buildings, office buildings, rental buildings, and stables that are directly related to the recreational activity. It does not authorize other buildings, hotels, restaurants, etc. Whenever any other NWP is used in conjunction with this NWP, the total acreage of impacts to waters of the United States of all NWPs combined, cannot exceed 1 acre. The construction or expansion of playing fields (e.g., baseball or football fields), basketball and tennis courts, race tracks, stadiums, and arenas is not authorized by this NWP. (Section 404)

E. Mining Activities

Discharges of dredged or fill material into non-tidal waters of the United States, excluding non-tidal wetlands contiguous to tidal waters, for aggregate mining (i.e., sand, gravel, crushed and broken stone) and hard rock metal/mineral mining activities (i.e., extraction of metalliferous ores from subsurface locations), including exploration, excavation, dredging, processing, stream relocation and/or diversion, overburden disposal, stockpiling, mechanized landclearing, mined land reclamation, and support activities, provided the discharge meets all of the following criteria:

a. *Lower perennial riverine systems:* Any discharges for excavation and dredging activities associated with sand and gravel mining in lower perennial riverine systems as defined by the Cowardin classification system for aquatic habitats (areas that are defined as special aquatic sites [40 CFR Subpart E, 230.40 through 230.45] are excluded), must:

1. not cause the loss of greater than 2 acres of waters of the United States;
2. not result in the excavation of fish spawning areas and shellfish beds;
3. include necessary measures to prevent increases in stream gradient and water velocities, to prevent adverse effects (e.g., head cutting, bank erosion) on upstream and downstream channel conditions;
4. not result in adverse affects on the course, capacity, or condition of navigable waters of the United States; and
5. include measures to minimize downstream turbidity;

b. *Intermittent and ephemeral streams:* Any discharges for excavation, dredging, processing, exploration, trenching, stockpiling, and mined land reclamation activities associated with sand and gravel mining activities in intermittent and ephemeral streams (areas that are defined as special aquatic sites [40 CFR Subpart E, 230.40 through 230.45] are excluded), must:

1. not cause the loss of greater than 1 acre of waters of the United States; and
2. include necessary measures to prevent increases in stream gradient and water velocities, to prevent adverse effects (e.g., head cutting, bank erosion) on upstream and downstream channel conditions;

c. *Intermittent and small perennial stream relocations:* Any discharges for stream relocation/diversion activities (i.e., mining may not occur in open waters below the ordinary high water mark; only stream relocation and diversion are authorized) associated with crushed or broken stone mining in intermittent and small perennial streams (areas that are defined as special aquatic sites [40 CFR Subpart E, 230.40 through 230.45] are excluded), must:

1. not cause the loss of greater than 1 acre of waters of the United States;
2. include necessary measures to prevent increases in stream gradient and water velocities and to prevent adverse effects (e.g., head cutting, bank erosion) on upstream and downstream channel conditions; and
3. not result in the excavation of fish spawning areas and shellfish beds;

d. *Isolated wetlands and wetlands above the ordinary high water mark, in non-Section 10 waters:* Any discharges for excavation, exploration, dredging, processing, mechanized landclearing, stockpiling, stream relocation/diversion, on-site overburden disposal, and mined land reclamation associated with aggregate mining activities in isolated wetlands and wetlands above the ordinary high water mark in non-Section 10 streams, must:

1. not cause the loss of greater than 2 acres of waters of the United States; and
2. be compensated for through mitigation approved by the Corps;

e. *Dry washes and arroyos:* Any discharges, including excavation, associated with aggregate mining activities in dry washes and arroyos, must:

1. not cause the loss of greater than 2 acres of waters of the United States;
2. include necessary measures to prevent increases in stream gradient and water velocities and to prevent adverse effects (e.g., head cutting, bank erosion)

on upstream and downstream channel conditions; and

3. include necessary measures to prevent adverse water quality effects on groundwater resources;

f. *Intermittent and small perennial stream relocations:* Any discharges for stream relocation/diversion activities (i.e., mining may not occur in open waters below the ordinary high water mark; only stream relocation and diversion are authorized) associated with hard rock metal/mineral mining activities in intermittent and small perennial streams (areas that are defined as special aquatic sites [40 CFR Subpart E, 230.40 through 230.45] are excluded), must:

1. not cause the loss of greater than 1 acre of waters of the United States;
2. include necessary measures to prevent increases in stream gradient and water velocities and to prevent adverse effects (e.g., head cutting, bank erosion) on upstream and downstream channel conditions; and
3. not result in the excavation of fish spawning areas and shellfish beds;

g. *Isolated wetlands and wetlands above the ordinary high water mark, in non-Section 10 waters:* Any discharges for excavation, exploration, dredging, processing, mechanized landclearing, stockpiling, stream relocation/diversion, on-site overburden disposal, and mined land reclamation associated with hard rock metal/mineral mining activities in isolated wetlands and wetlands above the ordinary high water mark in non-Section 10 streams, must:

1. not cause the loss of greater than 2 acres of waters of the United States; and
2. be compensated for through mitigation approved by the Corps;

h. *Dry washes and arroyos:* Any discharges, including excavation, associated with hard rock metal/mineral mining activities in dry washes and arroyos, must:

1. not cause the loss of greater than 2 acres of waters of the United States;
2. include necessary measures to prevent increases in stream gradient and water velocities and to prevent adverse effects (e.g., head cutting, bank erosion) on upstream and downstream channel conditions; and
3. include necessary measures to prevent adverse water quality effects on groundwater resources;

i. *Support activities:* Any discharges for support activities associated with aggregate mining and/or hard rock metal/mineral mining activities, including the construction of berms, access and haul roads, rail lines, dikes, road crossings, settling ponds and settling basins, ditching, storm water and surface water management, head cutting prevention, sediment and erosion controls, and mechanized land clearing, must not cause the loss of more than 1 acre of waters of the United States, including wetlands. This acreage limit does not include temporary mining roads that are exempt under Section 404(f). The limit of 1 acre of impact for support activities will be in addition to the acreage allowed for the mining activities;

j. *Single and complete project:* The discharges must be for a single and complete project. Multiple mining activity discharges into several designated parcels of a mining project, may be included together as long as the acreage limit for each aquatic resource type is not exceeded and the combination of more than one aquatic resource type does not exceed 2 acres. The total maximum acreage of waters of the United States adversely affected by the mining activities combined with the support activities will not exceed 3 acres (2 acres)*;

k. *Notification:* The permittee notifies the District Engineer in accordance with the "Notification" general condition. The notification must include a description of all waters of the United States impacted by the project, and, where required, a discussion of measures to minimize or prevent adverse effects (e.g., head cutting, bank erosion, turbidity, water quality) to waters of the United States, a description of measures taken to meet the criteria associated with the discharge being permitted, and a reclamation plan; and

l. Authorized activities associated with hard rock/mineral mining may include beneficiation and mineral processing. This NWP does not authorize hard rock/mineral mining in Section 10 waters or any mining activity in wetlands that are contiguous to tidal waters. (Sections 10 and 404)

*Note: For the purposes of the proposed NWP, a discussion of acreage threshold options being considered for NWP E is provided in the preamble.

F. Reshaping Existing Drainage Ditches

Discharges of dredged or fill material into non-Section 10 waters of the United States to modify the cross-sectional configuration of existing serviceable drainage ditches constructed in non-Section 10 waters of the United States. No compensatory mitigation is required if the work is designed to improve water quality (e.g., by regrading the drainage ditch with gentler slopes, which can reduce erosion, increase growth of vegetation, increase uptake of nutrients and other substances by vegetation, etc.). The reshaping of the ditch cannot increase drainage beyond the original project boundaries or expand the area drained by the ditch as originally designed (i.e., the capacity of the ditch must be the same as originally designed and it cannot drain additional wetlands or other waters of the United States). The permittee must notify the District Engineer in accordance with the "Notification" general condition, if material excavated during ditch reshaping is sidecast into waters of the United States. This NWP does not apply to reshaping drainage ditches constructed in uplands, since these areas are not waters of the United States, or to the maintenance of existing drainage ditches to their original dimensions and configuration, which does not require a Section 404 permit (see 33 CFR 323.4(a)(3)). This NWP does not authorize the relocation of drainage ditches constructed in waters of the United States; the location of the centerline of the reshaped drainage ditch must be approximately the same as the location of the centerline of the original drainage ditch. This NWP does not authorize the reshaping and maintenance of drainage ditches in navigable waters of the United States, which requires a Section 10 permit. This NWP does not authorize stream channelization or stream relocation projects. (Section 404)

3. Maintenance Activities related to: (i) The repair, rehabilitation, or replacement of any previously authorized, currently serviceable, structure, or fill, or of any currently serviceable structure or fill authorized by 33 CFR 330.3, provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification, and the District Engineer receives notification for all work other than the replacement of a structure. Minor deviations in the structure's configuration or filled area including those due to changes in materials, construction techniques, or current construction codes or safety standards which are necessary to make repair, rehabilitation, or replacement are permitted, provided the environmental impacts resulting from such repair, rehabilitation, or replacement are minimal. Currently serviceable means useable as is or with some maintenance, but not so degraded as to essentially require reconstruction. This nationwide permit authorizes the repair, rehabilitation, or replacement of those structures destroyed or damaged by storms, floods, fire or other discrete events, provided the repair,

rehabilitation, or replacement is commenced, or is under contract to commence, within two years of the date of their destruction or damage. In cases of catastrophic events, such as hurricanes or tornadoes, this two-year limit may be waived by the District Engineer, provided the permittee can demonstrate funding, contract, or other similar delays. Maintenance dredging and beach restoration are not authorized by this nationwide permit.

(ii) Discharges of dredged or fill material, including excavation, into any waters of the United States to remove accumulated sediments and debris in the vicinity of existing structures (e.g., bridges, culverted road crossings, water intake structures, etc.) and the placement of new or additional rip rap to protect the structure, provided the permittee notifies the District Engineer in accordance with the "Notification" general condition. The removal of sediment is limited to the minimum necessary to restore the waterway in the immediate vicinity of the structure to the approximate dimensions that existed when the structure was built, but cannot extend further than 200 feet in any direction from the structure. The placement of rip rap must be the minimum necessary to protect the structure, or to ensure the safety of the structure. This NWP does not authorize new stream channelization or stream relocation projects. All excavated materials must be deposited and retained in an upland area unless otherwise specifically approved by the District Engineer under separate authorization. Any bank stabilization measures require a separate authorization from the District Engineer.

(iii) Discharges of dredged or fill material, including excavation, into waters of the United States for the restoration of upland areas damaged by a storm, flood or other discrete event, and minor dredging to remove obstructions in a waterbody adjacent to the upland, where such work requires activities in a regulated water of the United States, provided that the District Engineer receives notification within 12 months of the date of the damage, subject to the following criteria;

a. The extent of the proposed restoration must be justified by a recent topographic survey, or other evidence of the pre-existing conditions. The restoration of the damaged areas cannot exceed the contours, or ordinary high water mark, that existed prior to the damage. The District Engineer retains the right to determine the extent of the pre-existing conditions, and the extent of any restoration work;

b. Minor dredging to remove obstructions from the adjacent waterbody is limited to 50 cubic yards below the plane of the ordinary high water mark, and is limited to the degree needed to restore the pre-existing bottom contours of the waterbody. The dredging may not be done primarily to obtain fill for any restoration activities;

c. For activities affecting greater than ⅓ acre of waters of the United States, the permittee notifies the District Engineer in accordance with the "Notification" general condition;

d. The discharge of dredged or fill material and all related work needed to restore the upland is part of a single and complete project;

e. This permit authorizes such work, provided the District Engineer has been notified as appropriate in accordance with condition (3) within 12 months of the date of the damage, and the work has commenced, or is under contract to commence, within 2 years of the date of the damage;

f. This permit may not be used in conjunction with NWP 18 or NWP 19;

g. This NWP cannot be used to channelize a stream, and any work authorized must not cause more than minor changes to the hydraulic flow characteristics of the stream, increase flooding, or measurably degrade water quality (See General Conditions 9 and 22); and

h. This permit may not be used to reclaim historic lands lost, over an extended period of time, to normal erosion processes. (Sections 10 and 404)

7. Outfall Structures and Maintenance. Activities related to: (i) Construction of outfall structures and associated intake structures where the effluent from the outfall is authorized, conditionally authorized, or specifically exempted, or are otherwise in compliance with regulations issued under the National Pollutant Discharge Elimination System program (Section 402 of the Clean Water Act), and (ii) maintenance excavation, including dredging, to remove accumulated sediments blocking or restricting outfall and intake structures, accumulated sediments from small impoundments associated with outfall and intake structures, and accumulated sediments from canals associated with outfall and intake structures, provided that the activity meets all of the following criteria: a

a. The permittee notifies the District Engineer in accordance with the "Notification" general condition;

b. The amount of excavated or dredged material must be the minimum necessary to restore the outfalls, intakes, small impoundments, and canals to original design capacities and design configurations (i.e., depth and width);

c. The excavated or dredged material is deposited and retained at an upland site, unless otherwise approved by the District Engineer under separate authorization; and

d. Proper soil erosion and sediment control measures are used to minimize reentry of sediments into waters of the United States.

The construction of intake structures is not authorized by this NWP, unless they are directly associated with an outfall structure. For maintenance excavation and dredging to remove accumulated sediments, the notification must include information regarding the original design capacities and configurations of the facility. (Sections 10 and 404)

12. Utility Activities. Discharges of dredged or fill material into waters of the United States and/or structures in, over, or under navigable waters of the United States for the following utility activities:

(i) Utility lines: The construction or maintenance of utility lines, including outfall and intake structures and the associated excavation, backfill, or bedding for the utility lines, provided there is no change in preconstruction contours. A "utility line" is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquefiable, or slurry substance, for any purpose, and any cable, line, or wire for the transmission for any purpose of electrical energy, telephone, and telegraph messages, and radio and television communication (see Note 1, below). Material resulting from trench excavation may be temporarily sidecast (up to three months) into waters of the United States, provided that the material is not placed in such a manner that it is dispersed by currents or other forces. The District Engineer may extend the period of temporary side-casting not to exceed a total of 180 days, where appropriate. In wetlands, the top 6" to 12" of the trench should normally be backfilled with topsoil from the trench. Furthermore, the trench cannot be constructed in such a manner as to drain waters of the United States (e.g., backfilling with extensive gravel layers, creating a french drain effect). Any exposed slopes and stream banks must be stabilized immediately upon completion of the utility line crossing of each waterbody. This NWP also includes the repair of existing utility lines.

(ii) Electric or pumping substations: The construction, maintenance, or expansion of an electric or pumping substation, provided the discharge does

not result in the loss of greater than 1 acre of non-Section 10 waters of the United States.

(iii) Foundations for overhead utility line towers, poles, and anchors: The construction or maintenance of foundations for overhead utility lines, provided the foundations are the minimum size necessary and separate footings for each tower leg (rather than a larger single pad) are used where feasible.

(iv) Access roads: The construction of access roads for the construction and maintenance of utility lines, including overhead power lines, and substations is authorized, provided the discharge does not cause the loss of greater than 1 acre of non-Section 10 waters of the United States, excluding non-tidal waters contiguous with Section 10 waters. Access roads shall be the minimum width necessary (see Note 2, below). Access roads must be constructed so that the length of the road minimizes the adverse effects on waters of the United States and at preconstruction contours and elevations, or as near as possible (e.g., at grade corduroy roads or geotextile/gravel roads). Access roads constructed above preconstruction contours and elevations in waters of the United States must be properly bridged or culverted to maintain surface flows.

The term *utility line* does not include activities which drain a water of the United States, such as drainage tile or french drains; however, it does apply to pipes conveying drainage from another area. For the purposes of this NWP, the acreage of loss of waters of the United States includes the filled area plus waters of the United States that are adversely affected by flooding, excavation, or drainage as a result of the project. However, the term "loss" applies only to waters of the United States permanently affected by filling, flooding, excavation, or drainage and not to waters of the United States that are temporarily affected by the work and restored to preconstruction contours and wetland conditions. Temporary construction mats (e.g., timber, steel, geotextile) used during construction and removed upon completion of the work are not included in the calculation of permanent loss of waters of the United States.

Mechanized landclearing necessary for the installation and maintenance of utility lines and the construction and maintenance of electric and pumping substations, foundations for overhead utility lines, and access roads is authorized, provided the cleared area is kept to the minimum necessary and preconstruction contours are maintained as near as possible. The area of waters of the United States that is filled, excavated, or flooded must be limited to the minimum necessary to construct the utility line, substations, foundations, and access roads. Excess material must be removed to upland areas immediately upon completion of construction. This NWP may authorize utility lines in or affecting navigable waters of the United States, even if there is no associated discharge of dredged or fill material (See 33 CFR Part 322). Construction of access roads or the construction or expansion of electric or pumping substations in navigable waters of the United States is not authorized by this NWP.

Notification: The permittee must notify the District Engineer in accordance with the "Notification" general condition, if any of the following criteria are met:

(a) Mechanized landclearing in a forested wetland for the right-of-way;

(b) A Section 10 permit is required;

(c) The utility line in waters of the United States, excluding overhead lines, exceeds 500 feet;

(d) The utility line is placed within a jurisdictional area (i.e., a water of the United States), and it runs parallel to a stream bed that is within that jurisdictional area;

(e) Discharges associated with the construction of electric or pumping substations that result in the loss of greater than ⅓ acre of non-tidal waters of the United States; or

(f) Permanent access roads constructed above grade in waters of the United States for a distance of more than 500 feet.

Note 1: Overhead utility lines constructed over Section 10 waters and utility lines that are routed in or under Section 10 waters without a discharge of dredged or fill material require a Section 10 permit; except for pipes or pipelines used to transport gaseous, liquid, liquefiable, or slurry substances over navigable waters of the United States, which are considered to be bridges, not utility lines, and may require a permit from the U.S. Coast Guard pursuant to Section 9 of the River and Harbor Act of 1899. However, any discharges of dredged or fill material associated with such pipelines will require a Corps permit under Section 404.

Note 2: Access roads used for both construction and maintenance may be authorized, provided they meet the terms and conditions of this NWP. Access roads used solely for construction of the utility line must be removed upon completion of the work and the area restored to preconstruction contours, elevations, and wetland conditions. Temporary access roads for construction may be authorized by NWP 33. (Sections 10 and 404)

14. Linear Transportation Crossings. Activities required for the construction, expansion, modification or improvement of linear transportation crossings (e.g., highways, railways, trails, airport runways, and taxiways) in waters of the United States, including wetlands, provided that the activity meets the following criteria:

a. For public linear transportation crossings, the discharge is limited to non-tidal waters of the United States, excluding non-tidal wetlands contiguous to tidal waters, and does not cause the loss of greater than 2 acres (1 acre)* of non-tidal waters of the United States;

b. For private linear transportation crossings in waters of the United States or public linear transportation crossings in tidal waters or in non-tidal wetlands contiguous to tidal waters, the discharge does not cause the loss of greater than ⅓ acre of waters of the United States, including wetlands, and the length of the fill for the crossing in waters of the United States is limited to 200 linear feet;

c. The permittee notifies the District Engineer in accordance with the "Notification" general condition for discharges into special aquatic sites, including wetlands, or that cause the loss of greater than ⅓ acre of waters of the United States;

d. For public linear transportation crossings, the notification must include a mitigation proposal that will offset the loss of waters of the United States;

e. For discharges in special aquatic sites, including wetlands, the notification must include a delineation of the affected special aquatic sites;

f. The width of the fill is limited to the minimum necessary for the crossing;

g. This NWP cannot be used to channelize a stream, and any work authorized must not cause more than minor changes to the hydraulic flow characteristics of the stream, increase flooding, or measurably degrade water quality (See General Conditions 9 and 22); and

h. The crossing is part of a single and complete project for crossing a water of the United States.

Some discharges for crossings may be eligible for an exemption from the need for a Section 404 permit (see 33 CFR 323.4). (Sections 10 and 404)

***Note:** For the purposes of this proposed modification to NWP 14, a discussion of acreage threshold options being considered for NWP 14 is provided in the preamble.

27. Stream and Wetland Restoration Activities. Activities in waters of the United States associated with the restoration and enhancement of former non-tidal wetlands and riparian areas, the enhancement of degraded wetlands

and riparian areas, the creation of wetlands and riparian areas, and the restoration and enhancement of non-Section 10 streams and open water areas; (i) on non-Federal public lands and private lands, in accordance with the terms and conditions of a binding wetland enhancement, restoration or creation agreement between the landowner and the U.S. Fish and Wildlife Service or the Natural Resources Conservation Service (NRCS) or voluntary wetland restoration, enhancement, and creation actions documented by the NRCS pursuant to NRCS regulations; or (ii) on any Federal land; or (iii) on reclaimed surface coal mined lands, in accordance with a Surface Mining Control and Reclamation Act permit issued by the Office of Surface Mining or the applicable State agency. (The future reversion does not apply to streams or wetlands created, restored or enhanced as mitigation for the mining impacts, nor naturally due to hydrologic or topographic features, nor for a mitigation bank.); or (iv) on any public or private land, provided the permittee notifies the District Engineer in accordance with the "Notification" general condition.

Such activities include, but are not limited to, the removal of accumulated sediments, the installation, removal and maintenance of small water control structures, dikes and berms; the installation of current deflectors; the enhancement, restoration, or creation of riffle and pool stream structure; the placement of in-stream habitat structures; modifications of the stream bed and/or banks to restore or create stream meanders; the backfilling of artificial channels and drainage ditches; the removal of existing drainage structures; the construction of small nesting islands; the construction of open water areas; activities needed to reestablish vegetation, including plowing or discing for seed bed preparation; mechanized land-clearing to remove undesirable vegetation; and other related activities. This NWP cannot be used to authorize activities for the conversion of a stream to another aquatic use, such as the creation of an impoundment for waterfowl habitat. This NWP cannot be used to channelize a stream. This NWP does not authorize the conversion of natural wetlands to another aquatic use, such as creation of waterfowl impoundments where a forested wetland previously existed. However, this NWP may be used to relocate aquatic habitat types on the project site, provided there are net gains in aquatic resource functions and values. For example, this NWP may authorize the creation of an open water impoundment in an emergent wetland, provided the emergent wetland is replaced by creating that wetland type in the adjacent uplands.

Reversion. For enhancement, restoration and creation projects conducted under paragraphs (ii) and (iv), this NWP does not authorize any future discharge of dredged or fill material associated with the reversion of the area to its prior condition. In such cases a separate permit at that time would be required for any reversion. For restoration, enhancement and creation projects conducted under paragraphs (i) and (iii), this NWP also authorizes any future discharge of dredged or fill material associated with the reversion of the area to its documented prior condition and use (i.e., prior to the restoration, enhancement, or creation activities) within five years after expiration of a limited term wetland restoration or creation agreement or permit, even if the discharge occurs after this NWP expires. The five year reversion limit does not apply to agreements without time limits reached under paragraph (i). The prior condition will be documented in the original agreement or permit, and the determination of return to prior conditions will be made by the Federal agency or appropriate State agency executing the agreement or permit. Prior to any reversion activity the permittee or the appropriate Federal or State agency must notify the District Engineer and include the documentation of the prior condition. Once an area has reverted back to its prior physical condition, it will be subject to whatever the Corps regulatory requirements will be at that future date. Because projects that would be authorized by this permit are designed to enhance the aquatic environment, mitigation will not be required for the work. (Sections 10 and 404)

40. Agricultural Activities. Discharges of dredged or fill material into non-tidal waters of the United States, including non-tidal wetlands, for the purpose of improving agricultural production and construction of building pads for farm buildings. Activities authorized include installation, placement, or construction of drainage tiles, ditches, or levees; mechanized land clearing, land leveling, and similar activities, provided:

a. The Natural Resources Conservation Service (NRCS) has made a written notification based on an NRCS certified wetland determination that the activity qualifies for a minimal effect exemption in accordance with the provisions of the Food Security Act (16 U.S.C. 3801 *et seq.*) and the National Food Security Act Manual (NFSAM) and the discharge does not cause a loss of greater than 1 acre of non-tidal wetlands and no greater than ⅓ acre of playas, prairie potholes, or vernal pools;

b. The discharge does not cause a loss of greater than 3 acres of non-tidal wetlands on a farm, using an index of impact acreage as follows:

Farm Size	Maximum acreage loss authorized for wetlands on a farm
Less than 15 acres	¼ acre.
15–25 acres	½ acre.
25–50 acres	¾ acre.
50–100 acres	1 acre.
100–500 acres	2 acres.
Greater than 500 acres	3 acres.

and the permittee submits an NRCS (for USDA program participants and non-participants) or Corps (for USDA non-participants only) approved mitigation plan fully offsetting wetland losses;

c. The discharge does not cause the loss of greater than 1 acre of naturally vegetated playas, prairie potholes, or vernal pools, using an index of impact acreage as follows:

Farm size	Maximum acreage loss authorized for playas, prairie potholes, and vernal pools
Less than 25 acres	¼ acre.
25–100 acres	½ acre.
100–500 acres	¾ acre.
Greater than 500 acres	1 acre.

and the permittee submits an NRCS (for USDA program participants and non-participants) or Corps (for USDA non-participants only) approved mitigation plan fully offsetting wetland losses;

d. For construction of building pads for farm buildings, the discharge does not cause the loss of greater than 1 acre of wetlands (not to include playas, prairie potholes, and vernal pools) that were in agricultural production prior to December 23, 1985; or

e. Any activity in other waters of the United States is limited to the relocation of existing serviceable drainage ditches and previously substantially manipulated intermittent and small perennial streams.

For the purposes of this NWP, the acreage of loss of waters of the United States includes the filled area plus waters of the United States that are adversely affected by flooding,

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excavation or drainage as a result of the project. Also, authorized activities involving excavation or drainage cannot have the effect of adversely impacting jurisdictional areas through flooding, draining, or restricting the flow and circulation of waters of the United States, including wetlands, beyond the acreage permitted. The acreage limits for the above activities to improve agriculture production are a cumulative limit not to exceed each limit above nor exceed a total of 3 acres per farm for the duration of this nationwide permit (i.e., until reissuance or any revocation). When this NWP is reissued it may be used again on the same farm to authorize activities for impacts not to exceed the acreage thresholds authorized in the reissuance. (The term "farm" refers to a land unit under one ownership operated as a farm as reported to the Internal Revenue Service.) This NWP may not be used in conjunction with any other NWP to exceed the acreage limits listed in (a), (b), (c) and (d) above for the purpose of increasing acreage for agriculture production. Regulated discharges associated with the mitigation are authorized and not calculated into the overall acreage figure. Work in waters of the United States not authorized by the above provisions, may be authorized by other NWPs (e.g., NWP 3—maintenance, NWP 13—bank stabilization, and NWP 27—wetland restoration).

Notification: The permittee must notify the District Engineer in accordance with the "Notification" general condition for the loss of: (1) Greater than 1/3 acre of non-tidal wetlands, or (2) greater than 500 linear feet of drainage ditches and previously substantially manipulated intermittent and small perennial streams. The appropriate Federal and State agencies will be notified for the loss of greater than 1 acre of non-tidal wetlands, in accordance with paragraph (e) of General Condition 13. The notification must also include any past use of this NWP on the farm. For discharges in special aquatic sites, including wetlands, the notification must include a delineation of the affected area.

This NWP does not affect, or otherwise regulate, discharges associated with agricultural activities when the discharge qualifies for an exemption under Section 404 of the Clean Water Act (CWA) (33 CFR Part 323.4) even though a minimal effect/mitigation determination may be required by the NRCS. (Section 404)

Note: For the purposes of this proposed modification to NWP 40, a discussion of acreage limit options, the types of waters affected in paragraph (b), and the definition of single and complete project, is provided in the preamble.

C. Nationwide Permit General Conditions

The following general conditions must be followed in order for any authorization by a NWP to be valid:

1. Navigation. No activity may cause more than a minimal adverse effect on navigation.

2. Proper Maintenance. Any structure or fill authorized shall be properly maintained, including maintenance to ensure public safety.

3. Soil Erosion and Sediment Controls. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date.

4. Aquatic Life Movements. No activity may substantially disrupt the movement of those species of aquatic life indigenous to the waterbody, including those species which normally migrate through the area, unless the activity's primary purpose is to impound water.

5. Equipment. Heavy equipment working in wetlands must be placed on mats, or other measures must be taken to minimize soil disturbance.

6. Regional and Case-by-Case Conditions. The activity must comply with any regional conditions which may have been added by the division engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the State or tribe in its section 401 water quality certification.

7. Wild and Scenic Rivers. No activity may occur in a component of the National Wild and Scenic River System; or in a river officially designated by Congress as a "study river" for possible inclusion in the system, while the river is in an official study status; unless the appropriate Federal agency, with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely effect the Wild and Scenic River designation, or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service.)

8. Tribal Rights. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

9. Water Quality. In certain States and tribal lands an individual 401 water quality certification must be obtained or waived (See 33 CFR 330.4(c)). For NWPs 12, 14, 17, 18, 21, 32, 40, A, B, C, D, and E where the State or tribal 401 certification (either generically or individually) does not require/approve a water quality management plan, the permittee must include design criteria and techniques that provide for protection of aquatic resources. The project must include a method for storm water management that minimizes degradation of the downstream aquatic system, including water quality. To the maximum extent practicable, a vegetated buffer zone (including wetlands, uplands, or both) adjacent to the river, stream, or other open waterbody must be established and maintained, if the project occurs in the vicinity of such an open waterbody. The Corps district will determine the proper width of the buffer and in which cases it will be required.

10. Coastal Zone Management. In certain States, an individual State coastal zone management consistency concurrence must be obtained or waived (see Section 330.4(d)).

11. Endangered Species.

(a) No activity is authorized under any NWP which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act, or which is likely to destroy or adversely modify the critical habitat of such species. Non-federal permittees shall notify the District Engineer if any listed species or critical habitat might be affected or is in the vicinity of the project, and shall not begin work on the activity until notified by the District Engineer that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized.

(b) Authorization of an activity by a nationwide permit does not authorize the "take" of a threatened or endangered species as defined under the Federal Endangered Species Act. In the absence of separate authorization (*e.g.*, an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, both lethal and non-lethal "takes" of protected species are in violation of the Endangered Species Act. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the U.S. Fish and Wildlife Service and National Marine Fisheries Service or their world wide web pages at http://www.fws.gov/~r9endspp/endspp.html and http://kingfish.spp.nmfs.gov/tmcintyr/prot_res.html#ES and Recovery, respectively.

12. Historic Properties. No activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized, until the DE has complied with the provisions of 33 CFR Part 325, Appendix C. The prospective permittee must notify the District Engineer if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin the activity until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places (see 33 CFR 330.4(g)).

13. Notification.

(a) *Timing:* Where required by the terms of the NWP, the prospective permittee must notify the District Engineer with a Pre-Construction Notification (PCN) as early as possible and shall not begin the activity:

(1) Until notified by the District Engineer that the activity may proceed under the NWP with any special conditions imposed by the District or Division engineer; or

(2) If notified by the District or Division engineer that an individual permit is required; or

(3) Unless 30 days have passed from the District Engineer's receipt of the notification and the prospective permittee has not received notice from the District or Division Engineer. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) *Contents of Notification:* The notification must be in writing and include the following information:

(1) Name, address and telephone numbers of the prospective permittee;

(2) Location of the proposed project;

(3) Brief description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause; any other NWP(s), regional general permit(s) or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity; and

(4) For NWPs 12, 14, 18, 21, 29, 34, 38, A, B, C, D, and F, the PCN must also include a delineation of affected special aquatic sites, including wetlands, vegetated shallows, (e.g., submerged aquatic vegetation, seagrass beds), and riffle and pool complexes (see paragraph 13(f));

(5) For NWP 7—Outfall Structures and Maintenance, the PCN must include information regarding the original design capacities and configurations of those areas of the facility where maintenance dredging or excavation is proposed.

(6) For NWP 12—Utility Activities, where the proposed utility line is constructed or installed in navigable waters of the United States (i.e., Section 10 waters), a copy of the PCN must be sent to the National Oceanic Atmospheric Administration, National Ocean Service, for charting the utility line to protect navigation.

(7) For NWP 21—Surface Coal Mining Activities, the PCN must include an OSM or State approved mitigation plan.

(8) For NWP 29—Single-Family Housing, the PCN must also include:

(i) Any past use of this NWP by the individual permittee and/or the permittee's spouse;

(ii) A statement that the single-family housing activity is for a personal residence of the permittee;

(iii) A description of the entire parcel, including its size, and a delineation of wetlands. For the purpose of this NWP, parcels of land measuring 0.5 acre or less will not require a formal on-site delineation. However, the applicant shall provide an indication of where the wetlands are and the amount of wetlands that exists on the property. For parcels greater than 0.5 acre in size, a formal wetland delineation must be prepared in accordance with the current method required by the Corps. (See paragraph 13(f));

(iv) A written description of all land (including, if available, legal descriptions) owned by the prospective permittee and/or the prospective permittee's spouse, within a one mile radius of the parcel, in any form of ownership (including any land owned as a partner, corporation, joint tenant, co-tenant, or as a tenant-by-the-entirety) and any land on which a purchase and sale agreement or other contract for sale or purchase has been executed;

(9) For NWP 31—Maintenance of Existing Flood Control Projects, the prospective permittee must either notify the District Engineer with a Pre-Construction Notification (PCN) prior to each maintenance activity or submit a five year (or less) maintenance plan. In addition, the PCN must include all of the following:

(i) Sufficient baseline information so as to identify the approved channel depths and configurations and existing facilities. Minor deviations are authorized, provided that the approved flood control protection or drainage is not increased;

(ii) A delineation of any affected special aquatic sites, including wetlands; and,

(iii) Location of the dredged material disposal site.

(10) For NWP 33—Temporary Construction, Access, and Dewatering, the PCN must also include a restoration plan of reasonable measures to avoid and minimize adverse effects to aquatic resources.

(11) For NWPs A and B, the PCN must also include a written statement to the District Engineer detailing why the discharge must occur in waters of the United States and additional avoidance or minimization cannot be achieved.

(12) For NWP B—Master Planned Development Activities, the PCN must also include:

(i) a wetland assessment utilizing a functional assessment approach approved by the District Engineer;

(ii) a mitigation proposal that will offset the loss of waters of the United States; and

(iii) evidence of deed restrictions, protective covenants, land trusts, or other means of conservation and preservation for vegetated buffers (both wetland and/or upland) to open water and any existing wetlands, as well as any wetlands restored, enhanced, or created as part of the project.

(13) For NWP C-Stormwater Management Facilities, the PCN must include, for the construction of stormwater management facilities, a mitigation proposal to offset losses of waters of the United States.

(14) For NWPs E-Mining Activities, the PCN must include a description of all waters of the United States impacted by the project and a reclamation plan.

(c) *Form of Notification:* The standard individual permit application form (Form ENG 4345) may be used as the notification but must clearly indicate that it is a PCN and must include all of the information required in (b) (1)-(7) of General Condition 13. A letter containing the requisite information may also be used.

(d) *District Engineer's Decision:* In reviewing the pre-construction notification for the proposed activity, the District Engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse

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environmental effects or may be contrary to the public interest. The prospective permittee may, optionally, submit a proposed mitigation plan with the pre-construction notification to expedite the process and the District Engineer will consider any optional mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects of the proposed work are minimal. If the District Engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse effects on the aquatic environment are minimal, the District Engineer will notify the permittee and include any conditions the District Engineer deems necessary.

Any mitigation proposal must be approved by the District Engineer prior to commencing work. If the prospective permittee elects to submit a mitigation plan, the District Engineer will expeditiously review the proposed mitigation plan, but will not commence a second 30-day notification procedure. If the net adverse effects of the project (with the mitigation proposal) are determined by the District Engineer to be minimal, the District Engineer will provide a timely written response to the applicant stating that the project can proceed under the terms and conditions of the nationwide permit.

If the District Engineer determines that the adverse effects of the proposed work are more than minimal, then he will notify the applicant either: (1) that the project does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (2) that the project is authorized under the NWP subject to the applicant's submitting a mitigation proposal that would reduce the adverse effects to the minimal level; or (3) that the project is authorized under the NWP with specific modifications or conditions.

(e) *Agency Coordination:* The District Engineer will consider any comments from Federal and State agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the project's adverse environmental effects to a minimal level.

For NWPs A, B, C, E, and 40, where the loss of waters of United States is greater than 1 acre, and for NWPs 14, 21, 29, 33, 37, and 38, the District Engineer will, upon receipt of a notification, provide immediately, e.g., facsimile transmission, overnight mail or other expeditious manner, a copy to the appropriate offices of the Fish and Wildlife Service, State natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO), and, if appropriate, the National Marine Fisheries Service. For NWP 40, where the activity results in the loss of greater than ⅓ acre of playas, prairie potholes, or vernal pools, the District Engineer will, upon receipt of notification, provide immediately, a copy of the notification to the appropriate office of the U.S. Fish and Wildlife Service. With the exception of NWP 37, these agencies will then have 5 calendar days from the date the material is transmitted to telephone or fax the District Engineer notice that they intend to provide substantive, site-specific comments. If so contacted by an agency, the District Engineer will wait an additional 10 calendar days before making a decision on the notification. The District Engineer will fully consider agency comments received within the specified time frame, but will provide no response to the resource agency. The District Engineer will indicate in the administrative record associated with each notification that the resource agencies' concerns were considered. Applicants are encouraged to provide the Corps multiple copies of notifications to expedite agency notification.

(f) *Wetlands Delineations:* Wetland delineations must be prepared in accordance with the current method required by the Corps. For NWP 29 see paragraph (b)(6)(iii) for parcels less than 0.5 acres in size. The permittee may ask the Corps to delineate the special aquatic site. There may be some delay if the Corps does the delineation. Furthermore, the 30-day period will not start until the wetland delineation has been completed and submitted to the Corps, where appropriate.

(g) *Mitigation:* Factors that the District Engineer will consider when determining the acceptability of appropriate and practicable mitigation necessary to offset all impacts that are more than minimal include, but are not limited to:

(i) To be practicable, the mitigation must be available and capable of being done considering costs, existing technology, and logistics in light of the overall project purposes;

(ii) To the extent appropriate, permittees should consider mitigation banking and other forms of mitigation including contributions to wetland trust funds, "in lieu fees" to non-profit land restoration and stewardship organizations, State or county natural resource management agencies, where such fees contribute to the restoration, creation, replacement, enhancement, or preservation of wetlands. Furthermore, examples of mitigation that may be appropriate and practicable include but are not limited to: reducing the size of the project; establishing wetland or upland buffer zones to protect aquatic resource values; and replacing the loss of aquatic resource values by creating, restoring, enhancing, or preserving similar functions and values. In addition, mitigation must address wetland impacts, such as functions and values, and cannot be simply used to offset the acreage of wetland losses that would occur in order to meet the acreage limits of some of the NWPs (e.g., for NWP 14, 0.5 acre of wetlands cannot be created to change a 0.75-acre loss of wetlands to a 0.25 acre loss; however, 0.5 created acres can be used to reduce the impacts of a 0.3-acre loss.).

14. Compliance Certification. Every permittee who has received a Nationwide permit verification from the Corps will submit a signed certification regarding the completed work and any required mitigation. The certification will be forwarded by the Corps with the authorization letter and will include: a. A statement that the authorized work was done in accordance with the Corps authorization, including any general or specific conditions; b. A statement that any required mitigation was completed in accordance with the permit conditions; c. The signature of the permittee certifying the completion of the work and mitigation.

15. Multiple Use of Nationwide Permits. In any case where any NWP number 12 through 40 and any NWP A through F is combined with any other NWP number 12 through 40 and NWP A through F, as part of a single and complete project, the permittee must notify the District Engineer in accordance with paragraphs a, b, and c of the "Notification" General Condition number 13. Any NWP number 1 through 11 may be combined with any other NWP without notification to the Corps, unless notification is otherwise required by the terms of the NWPs. As provided at 33 CFR 330.6(c) two or more different NWPs can be combined to authorize a single and complete project. However, the same NWP cannot be used more than once for a single and complete project.

16. Subdivisions. Discharges in any real estate subdivision created or subdivided after October 5, 1984, which would cause the aggregate total loss of waters of the United States in said subdivision to exceed 3 acres under NWP A or 10 acres under NWP B, is not authorized by this NWP unless the District Engineer exempts a particular subdivision or parcel by making a

written determination that the individual and cumulative adverse environmental effects would be minimal, high quality wetlands would not be adversely affected, and there would be an overall benefit to the aquatic environment. If an exemption is established for a subdivision, subsequent development by individual property owners may proceed using either NWP A or B, as appropriate. For purposes of this condition, the term "real estate subdivision" shall be interpreted to include circumstances where a landowner or developer divides a tract of land into smaller parcels for the purpose of selling, conveying, transferring, leasing, or developing said parcels. This would include the entire area of a residential, commercial, or other real estate subdivision, including all parcels and parts thereof.

17. Water Supply Intakes. No activity, including structures and work in navigable waters of the United States or discharges of dredged or fill material, may occur in the proximity of a public water supply intake except where the activity is for repair of the public water supply intake structures or adjacent bank stabilization.

18. Shellfish Production. No activity, including structures and work in navigable waters of the United States or discharges of dredged or fill material, may occur in areas of concentrated shellfish production, unless the activity is directly related to a shellfish harvesting activity authorized by NWP 4.

19. Suitable Material. No activity, including structures and work in navigable waters of the United States or discharges of dredged or fill material, may consist of unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.,) and material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

20. Mitigation. Activities, including structures and work in navigable waters of the United States or discharges of dredged or fill material into waters of the United States, must be minimized or avoided to the maximum extent practicable at the project site (i.e., on-site). Furthermore, the District Engineer will require restoration, creation, enhancement, or preservation of other aquatic resources in order to offset the authorized impacts, at least to the extent that adverse environmental effects to the aquatic environment are minimal. An important element of any mitigation plan for projects in or near streams or other open waters is the requirement of vegetated buffers (wetland, upland, or both) adjacent to the open water areas.

21. Spawning Areas. Activities, including structures and work in navigable waters of the United States or discharges of dredged or fill material, in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that physically destroy (e.g., excavate or fill) an important spawning area are not authorized.

22. Management of Water Flows: To the maximum extent practicable, the project must be designed to maintain pre-construction downstream flow conditions (e.g., location, capacity, and flow rates). Furthermore, the project must not permanently restrict or impede the passage of normal or expected high flows (unless the primary purpose of the fill is to impound waters) and the structure or discharge of dredged or fill material must withstand expected high flows. The project must provide, to the maximum extent practicable, for retaining excess flows from the site and for establishing flow rates from the site similar to pre-construction conditions. To minimize downstream impacts, such as flooding or erosion, and upstream impacts, such as back-up flooding, the project must not, to the maximum extent practicable, increase water flows from the site, relocate water, or redirect flow beyond pre-construction conditions.

23. Adverse Effects from Impoundments. If the activity, including structures and work in navigable waters of the United States or discharge of dredged or fill material, creates an impoundment of water, adverse effects on the aquatic system caused by the accelerated passage of water and/or the restriction of its flow shall be minimized to the maximum extent practicable.

24. Waterfowl Breeding Areas. Activities, including structures and work in navigable waters of the United States or discharges of dredged or fill material, into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.

25. Removal of Temporary Fills. Any temporary fills must be removed in their entirety and the affected areas returned to their preexisting elevation.

D. Further Information

1. District engineers have authority to determine if an activity complies with the terms and conditions of an NWP.

2. NWPs do not obviate the need to obtain other Federal, State, or local permits, approvals, or authorizations required by law.

3. NWPs do not grant any property rights or exclusive privileges.

4. NWPs do not authorize any injury to the property or rights of others.

5. NWPs do not authorize interference with any existing or proposed Federal project.

E. Definitions

1. *Aquatic bench:* Aquatic benches are those shallow areas around the edge of a permanent pool stormwater management facility that support aquatic vegetation, both submerged and emergent.

2. *Best management practices:* Best Management Practices (BMPs) are policies, practices, procedures, or structures implemented to mitigate the adverse impacts on surface water quality resulting from development. BMPs are categorized as structural or non-structural. A BMP policy may affect the limits on a development.

3. *Channelized stream:* A channelized stream is a stream that has been manipulated to increase the rate of water flow through the stream channel. Manipulation may include deepening, widening, straightening, armoring, and other activities that change the stream cross-section and other aspects of channel geometry in an effort to increase water conveyance. A channelized stream remains a water of the United States despite the alterations. For the purposes of the NWPs, a channelized stream is not considered to be a drainage ditch.

4. *Contiguous wetland:* A contiguous wetland is a wetland that is connected by surface waters to other waters of the United States. For example, in tidal ecosystems, contiguous wetlands may be either tidal or non-tidal. For the purposes of the NWPs, contiguous wetlands in tidal ecosystems extend in the same direction as the ebb and flow of the tide; wetlands that are upstream (i.e., either upstream on the main tidal channel or upstream on any linear aquatic system with a defined channel that enters the contiguous wetland) of tidal waters are not considered to be contiguous. Contiguous wetlands in non-tidal systems are normally contiguous to the nearest open water of the United States and perpendicular to a tangent of the OHWM of that open water. Wetlands contiguous with other waters of the United States are adjacent to those waters, but wetlands adjacent to those waters are not necessarily contiguous, as they may be separated from waters of the United States by berms, levees, roads, etc.

5. *Drainage ditch:* A linear excavation or depression constructed for the purpose of conveying surface runoff or groundwater from one area to another. An "upland drainage ditch" is a

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drainage ditch constructed entirely in uplands (i.e., not waters of the United States) and is not a water of the United States, unless it becomes tidal or otherwise extends the ordinary high water line of existing waters of the United States. Drainage ditches constructed in waters of the United States (e.g., by excavating wetlands) remain waters of the United States even though they are heavily manipulated to increase drainage. The term "drainage ditch" does not include channelized streams. A drainage ditch may be constructed in uplands or wetlands.

6. *Ephemeral stream:* An ephemeral stream has flowing water only during, and for a short duration after, storm events in a typical year. Ephemeral stream beds are located above the water table year-round. Groundwater is not a source of water for the stream. Runoff from rainfall is the primary source of water for stream flow.

7. *Farm:* A land unit under one ownership operated as a farm as reported to the Internal Revenue Service.

8. *Intermittent stream:* An intermittent stream has flowing water during certain times of the year. When the stream bed is located below the water table, groundwater is the primary source of water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow.

9. *Loss of waters of the United States:* Waters of the United States that include the filled area and other waters that are adversely affected by flooding, excavation, or drainage as a result of the regulated activity. The acreage of loss of waters of the United States is the threshold measurement of the impact to existing waters for determining whether a project may qualify for an NWP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and values. The loss of stream bed includes the linear feet of stream that is filled or excavated.

10. *Noncontiguous wetland:* A noncontiguous wetland is a wetland that is not connected by surface waters to other waters of the United States, or is part of a linear aquatic system with a defined channel to the otherwise contiguous wetland. Noncontiguous wetlands may be adjacent to other waters of the United States, but a direct connection to other waters of the United States is lacking. For example, a depressional wetland located on a floodplain that is separated by a narrow band of uplands from the river is a noncontiguous wetland, but still adjacent to that river due to periodic overbank flooding that is a source of hydrology for that wetland. Noncontiguous wetlands also include those wetlands that are tributary to the contiguous wetland or its open water area, where the tributary has a defined channel for water flow.

11. *Non-tidal wetland:* A non-tidal wetland is a wetland (i.e., a water of the United States) that is not subject to the ebb and flow of tidal waters. The definition of a wetland can be found at 33 CFR 328.3(b). Non-tidal wetlands contiguous to tidal waters are located landward of the high tide line (i.e., spring high tide line).

12. *Perennial stream:* A perennial stream has flowing water year-round during a typical year. The stream bed is located below the water table for most of the year. Groundwater is the primary source of water for stream flow. Runoff from rainfall is a supplemental source of water for stream flow.

13. *Riffle and pool complex:* Riffle and pool complexes typically occur in steep gradient sections of perennial streams and consist of alternating stream segments characterized by: 1) the rapid of movement of water over a coarse substrate (e.g., gravel or cobble) with shallow water and 2) the slower movement of water over a finer substrate (e.g., sand or silt) with deeper water.

14. *Stormwater management:* Stormwater management is the mechanism for controlling stormwater runoff for the purposes of reducing downstream erosion, water quality degradation, and flooding and mitigating the negative impacts of urbanization.

15. *Stormwater management facilities:* Stormwater management facilities are those facilities, including but not limited to, stormwater retention and detention ponds and BMPs, which retain water for a period of time to control runoff and/or improve the quality (i.e., by reducing the concentration of nutrients, sediments, hazardous substances and other pollutants) of stormwater runoff.

16. *Tidal wetland:* A tidal wetland is a wetland (i.e., a water of the United States) that is inundated by tidal waters. The definitions of a wetland and tidal waters can be found at 33 CFR 328.3(b) and 33 CFR 328.3(f), respectively. Tidal waters rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by other waters, wind, or other effects. Tidal wetlands are located channelward of the high tide line (i.e., spring high tide line) and are inundated by tidal waters at least two times per month, during spring high tides.

17. *Vegetated shallows:* Vegetated shallows are special aquatic sites under the 404(b)(1) Guidelines. They are areas that are permanently inundated and under normal circumstances have rooted aquatic vegetation, such as seagrasses in marine and estuarine systems and a variety of vascular rooted plants in freshwater systems.

18. *Waterbody:* A waterbody is any area that in a normal year has water flowing or standing above ground to the extent that evidence of an ordinary high water mark is established.

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federal register

Wednesday
July 1, 1998

Part III

Department of the Treasury

Fiscal Service

Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies; Notice

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DEPARTMENT OF THE TREASURY

FISCAL SERVICE

(Dept. Circular 570; 1998 Revision)

COMPANIES HOLDING CERTIFICATES OF AUTHORITY AS ACCEPTABLE SURETIES ON FEDERAL BONDS AND AS ACCEPTABLE REINSURING COMPANIES

Effective July 1, 1998

This Circular is published annually, solely for the information of Federal bond-approving officers and persons required to give bonds to the United States. Copies of the Circular and interim changes may be obtained directly from the Government Printing Office (202) 512-1800. (Interim changes are published in the FEDERAL REGISTER as they occur.) Other information pertinent to Federal sureties may be obtained from the U.S. Department of the Treasury, Financial Management Service, Surety Bond Branch, 3700 East West Highway, Room 6A11, Hyattsville, MD 20782, Telephone (202) 874-6850 or Fax (202) 874-9978.

For the most current list of Treasury authorized companies, all year round, 24 hours a day, free of charge, use your computer modem and dial into our ***computerized public bulletin board*** at (202) 874-6887. The list is also available through the Internet at http://www.fms.treas.gov/c570/index.html. ***Please note that the underwriting limitation published herein is on a per bond basis but this does not limit the amount of a bond that a company can write.*** Companies are allowed to write bonds with a penal sum over their underwriting limitation as long as they protect the excess amount with reinsurance, coinsurance or other methods as specified at 31 CFR 223.10-11. Please refer to footnote (b) at the end of this publication.

The following companies have complied with the law and the regulations of the U.S. Department of the Treasury. Those listed in the front of this Circular are acceptable as sureties and reinsurers on Federal bonds under Title 31 of the United States Code, Sections 9304 to 9308 [See Note (a)]. Those listed in the back are acceptable only as reinsurers on Federal bonds under 31 CFR 223.3(b) [See Note (e)].

If we can be of any assistance, please feel free to contact the Surety Bond Branch at (202) 874-6850.

Mitchell A. Levine
Assistant Commissioner
Financial Information
Financial Management Service

IMPORTANT INFORMATION IS CONTAINED IN THE NOTES AT THE END OF THIS CIRCULAR. PLEASE READ THE NOTES CAREFULLY.

Acadia Insurance Company

BUSINESS ADDRESS: P.O. BOX 9010, Westbrook, ME 04098-5010. PHONE: (207) 772-4300. UNDERWRITING LIMITATION [b/]: $4,494,000. SURETY LICENSES [c,f/]: CT, DE, ME, MD, MA, NH, NY, PA, RI, VT. INCORPORATED IN: Maine.

Acceptance Insurance Company

BUSINESS ADDRESS: 222 South 15th Street, Suite 600 North, Omaha, NE 68102-1616. PHONE: (402) 344-8800. UNDERWRITING LIMITATION [b/]: $12,881,000. SURETY LICENSES [c,f/]: AL, AZ, AR, CO, GA, IL, IN, IA, KY, ME, MI, NE, ND, OH, TN, VA, WI. INCORPORATED IN: Nebraska.

ACCREDITED SURETY AND CASUALTY COMPANY, INC.

BUSINESS ADDRESS: P.O. Box 568529, Orlando, FL 32856-8529. PHONE: (407) 841-8500. UNDERWRITING LIMITATION [b/]: $778,000. SURETY LICENSES [c,f/]: AL, CT, DE, FL, GA, ID, IN, IA, LA, MD, MN, MS, MO, MT, NV, NJ, NC, ND, OH, PA, RI, SC, SD, TN, VA. INCORPORATED IN: Florida.

ACSTAR INSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 2350, New Britain, CT 06050-2350. PHONE: (860) 224-2000. UNDERWRITING LIMITATION [b/]: $1,321,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Aegis Security Insurance Company

BUSINESS ADDRESS: P.O. Box 3153, Harrisburg, PA 17105. PHONE: (717) 657-9671. UNDERWRITING LIMITATION [b/]: $1,458,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Affiliated FM Insurance Company

BUSINESS ADDRESS: Allendale Park, P.O. Box 7500, Johnston, RI 02919-0500. PHONE: (401) 275-3000. UNDERWRITING LIMITATION [b/]: $2,385,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Rhode Island.

Allegheny Casualty Company

BUSINESS ADDRESS: P.O. Box 1116, Meadville, PA 16335-7116. PHONE: (814) 336-2521. UNDERWRITING LIMITATION [b/]: $1,072,000. SURETY LICENSES [c,f/]: CA, DC, FL, ID, IL, IN, LA, MD, MI, MS, NV, NJ, NC, OH, OK, PA, SC, SD, TN, TX, WA, WI. INCORPORATED IN: Pennsylvania.

Allendale Mutual Insurance Company

BUSINESS ADDRESS: Allendale Park, P.O. Box 7500, Johnston, RI 02919-0500. PHONE: (401) 275-3000. UNDERWRITING LIMITATION [b/]: $108,976,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Rhode Island.

Alliance Assurance Company of America

BUSINESS ADDRESS: 9300 Arrowpoint Boulevard, P.O. Box 1000, Charlotte, NC 28201-1000. PHONE: (704) 522-2000. UNDERWRITING LIMITATION [b/]: $19,481,000. SURETY LICENSES [c,f/]: AL, AR, CA, CT, DE, DC, FL, ID, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MO, NE, NH, NJ, NY, NC, OK, PA, RI, SC, SD, TN, VA, WV. INCORPORATED IN: New York.

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Allied Mutual Insurance Company

BUSINESS ADDRESS: 701 Fifth Avenue, Des Moines, IA 50391-2007. PHONE: (515) 280-4211. UNDERWRITING LIMITATION [b/]: $23,023,000. SURETY LICENSES [c,f/]: AZ, AR, CA, CO, DC, ID, IL, IN, IA, KS, KY, MI, MN, MO, MT, NE, NV, NM, ND, OH, OK, OR, SC, SD, TN, TX, UT, WA, WI, WY. INCORPORATED IN: Iowa.

ALLSTATE INSURANCE COMPANY

BUSINESS ADDRESS: 3075 Sanders Rd. Ste. H1A, Northbrook, IL 60062-7127. PHONE: (847) 402-5000. UNDERWRITING LIMITATION [b/]: $1,137,098,000. SURETY LICENSES [c,f/]: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

AMCO Insurance Company

BUSINESS ADDRESS: 701 FIFTH AVENUE, DES MOINES, IA 50391-2007. PHONE: (515) 280-4211. UNDERWRITING LIMITATION [b/]: $26,782,000. SURETY LICENSES [c,f/]: AZ, CA, CO, DC, ID, IL, IN, IA, KS, KY, MI, MN, MO, MT, NE, NM, ND, OH, OR, SD, TN, TX, UT, WA, WI, WY. INCORPORATED IN: Iowa.

AMERICAN ALLIANCE INSURANCE COMPANY

BUSINESS ADDRESS: 580 Walnut Street, Cincinnati, OH 45202. PHONE: (513) 369-5000. UNDERWRITING LIMITATION [b/]: $722,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Arizona.

AMERICAN ALTERNATIVE INSURANCE CORPORATION

BUSINESS ADDRESS: 555 COLLEGE ROAD EAST - P.O. BOX 5241, PRINCETON, NJ 08543. PHONE: (609) 243-4200. UNDERWRITING LIMITATION [b/]: $9,081,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

American Automobile Insurance Company

BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (415) 899-2000. UNDERWRITING LIMITATION [b/]: $6,081,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

AMERICAN BANKERS INSURANCE COMPANY OF FLORIDA

BUSINESS ADDRESS: 11222 Quail Roost Drive, Miami, FL 33157. PHONE: (305) 253-2244. UNDERWRITING LIMITATION [b/]: $11,108,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Florida.

American Casualty Company of Reading, Pennsylvania

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION [b/]: $39,383,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

AMERICAN CONTRACTORS INDEMNITY COMPANY

BUSINESS ADDRESS: 9841 Airport Blvd., Suite 1414, Los Angeles, CA 90045. PHONE: (310) 649-0990. UNDERWRITING LIMITATION [b/]: $548,000. SURETY LICENSES [c,f/]: CA, NM. INCORPORATED IN: California.

See Footnotes/Notes at end of Circular

American Economy Insurance Company

BUSINESS ADDRESS: SAFECO Plaza, Seattle, WA 98185. PHONE: (206) 545-5000. UNDERWRITING LIMITATION b/: $43,971,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

American Fire and Casualty Company

BUSINESS ADDRESS: 136 North Third Street, Hamilton, OH 45025. PHONE: (513) 867-3000. UNDERWRITING LIMITATION b/: $10,696,000. SURETY LICENSES c,f/: AL, AR, CO, DC, FL, GA, KS, KY, LA, MD, MS, NC, SC, TN, TX, VA. INCORPORATED IN: Ohio.

American Guarantee and Liability Insurance Company

BUSINESS ADDRESS: 1400 AMERICAN LANE, SCHAUMBURG, IL 60196-1056. PHONE: (847) 605-6000. UNDERWRITING LIMITATION b/: $24,949,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

American Home Assurance Company

BUSINESS ADDRESS: 70 Pine Street, New York, NY 10270. PHONE: (212) 770-7000. UNDERWRITING LIMITATION b/: $251,958,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

American Insurance Company (The)

BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (415) 899-2000. UNDERWRITING LIMITATION b/: $31,006,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Nebraska.

AMERICAN INTERNATIONAL INSURANCE COMPANY OF PUERTO RICO

BUSINESS ADDRESS: P.O. Box 10181, San Juan, PR 00908. PHONE: (787) 767-6400. UNDERWRITING LIMITATION b/: $2,962,000. SURETY LICENSES c,f/: PR, VI. INCORPORATED IN: Puerto Rico.

American International Pacific Insurance Company

BUSINESS ADDRESS: 70 Pine Street, New York, NY 10270. PHONE: (212) 770-7000. UNDERWRITING LIMITATION b/: $2,116,000. SURETY LICENSES c,f/: AK, CO, CT, DC, IA, ME, MD, MA, MS, MT, NE, NH, ND, RI, SD, UT, VT, WV, WY. INCORPORATED IN: Colorado.

American Interstate Insurance Company

BUSINESS ADDRESS: 2301 Highway 190 West, DeRidder, LA 70634-6005. PHONE: (800) 256-9052. UNDERWRITING LIMITATION b/: $3,564,000. SURETY LICENSES c,f/: AL, AR, FL, GA, ID, IL, IN, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NM, NC, ND, OK, OR, PA, SC, SD, TN, TX, UT, VA, VI, WI, WY. INCORPORATED IN: Louisiana.

American Manufacturers Mutual Insurance Company

BUSINESS ADDRESS: 1 Kemper Drive, Long Grove, IL 60049-0001. PHONE: (847) 320-2000. UNDERWRITING LIMITATION b/: $21,919,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

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American Mercury Insurance Company

BUSINESS ADDRESS: P. O. Box 268847, Oklahoma City, OK 73126-8847. PHONE: (405) 523-2000. UNDERWRITING LIMITATION [b/]: $4,540,000. SURETY LICENSES [c,f/]: AZ, AR, CA, CO, GA, ID, IA, KS, LA, MS, MO, MT, NE, NV, NJ, NM, ND, OK, OR, PA, SD, TN, TX, UT, VA, WA, WI. INCORPORATED IN: Oklahoma.

American Motorists Insurance Company

BUSINESS ADDRESS: 1 Kemper Drive, Long Grove, IL 60049-0001. PHONE: (847) 320-2000. UNDERWRITING LIMITATION [b/]: $32,854,000. SURETY LICENSES [c,f/]: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

American National Fire Insurance Company

BUSINESS ADDRESS: 580 Walnut Street, Cincinnati, OH 45202. PHONE: (513) 369-5000. UNDERWRITING LIMITATION [b/]: $2,346,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

American Re-Insurance Company

BUSINESS ADDRESS: 555 College Road East, P.O. Box 5241, Princeton, NJ 08543. PHONE: (609) 243-4200. UNDERWRITING LIMITATION [b/]: $205,195,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

AMERICAN RELIABLE INSURANCE COMPANY

BUSINESS ADDRESS: 8655 East Via De Ventura, Scottsdale, AZ 85258. PHONE: (602) 483-8666. UNDERWRITING LIMITATION [b/]: $3,859,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Arizona.

American Safety Casualty Insurance Company

BUSINESS ADDRESS: 1845 The Exchange, Suite 200, Atlanta, GA 30339. PHONE: (770) 916-1908. UNDERWRITING LIMITATION [b/]: $899,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, MD, MA, MN, MS, MO, MT, NE, NV, NJ, NM, NY, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Delaware.

American States Insurance Company

BUSINESS ADDRESS: SAFECO Plaza, Seattle, WA 98185. PHONE: (206) 545-5000. UNDERWRITING LIMITATION [b/]: $87,933,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

American Surety Company

BUSINESS ADDRESS: 3901 West 86th Street, Suite 450, Indianapolis, IN 46268-0932. PHONE: (317) 875-8700. UNDERWRITING LIMITATION [b/]: $507,000. SURETY LICENSES [c,f/]: AL, CA, FL, ID, IN, LA, MD, MS, NV, ND, SD, TN, TX. INCORPORATED IN: California.

Amwest Surety Insurance Company

BUSINESS ADDRESS: 5230 Las Virgenes Road, Calabasas, CA 91302. PHONE: (818) 871-2000. UNDERWRITING LIMITATION [b/]: $2,510,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Nebraska.

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Antilles Insurance Company

BUSINESS ADDRESS: P.O. Box 9023507, San Juan, PR 00902-3507. PHONE: (787) 721-4900. UNDERWRITING LIMITATION [b/]: $2,691,000. SURETY LICENSES [c,f/]: PR. INCORPORATED IN: Puerto Rico.

Arkwright Mutual Insurance Company

BUSINESS ADDRESS: 225 Wyman Street,P.O. Box 9198, Waltham, MA 02254-9198. PHONE: (781) 890-9300. UNDERWRITING LIMITATION [b/]: $84,172,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Massachusetts.

Associated Indemnity Corporation

BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (415) 899-2000. UNDERWRITING LIMITATION [b/]: $3,449,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

ATLANTIC ALLIANCE FIDELITY AND SURETY COMPANY

BUSINESS ADDRESS: 100 Dobbs Lane, Suite 204, Cherry Hill, NJ 08034. PHONE: (609) 795-5575. UNDERWRITING LIMITATION [b/]: $422,000. SURETY LICENSES [c,f/]: AL, CT, DE, DC, FL, GA, IL, KS, KY, MD, MA, MN, MO, NJ, NY, NC, OK, PA, TN, TX. INCORPORATED IN: New Jersey.

Atlantic Mutual Insurance Company

BUSINESS ADDRESS: 100 Wall Street, New York, NY 10005. PHONE: (212) 943-1800. UNDERWRITING LIMITATION [b/]: $39,155,000. SURETY LICENSES [c,f/]: AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

ATLAS ASSURANCE COMPANY OF AMERICA

BUSINESS ADDRESS: 600 College Road East, Princeton, NJ 08540. PHONE: (609) 275-2600. UNDERWRITING LIMITATION [b/]: $36,440,000. SURETY LICENSES [c,f/]: AK, AZ, AR, CA, CO, DE, GA, ID, IL, IA, KS, KY, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OR, PA, RI, SD, TN, TX, UT, VT, VA, WA, WV, WY. INCORPORATED IN: New York.

Auto-Owners Insurance Company

BUSINESS ADDRESS: P.O. Box 30660, Lansing, MI 48909-8160. PHONE: (517) 323-1200. UNDERWRITING LIMITATION [b/]: $203,895,000. SURETY LICENSES [c,f/]: AL, AZ, CO, FL, GA, IL, IN, IA, KS, KY, MI, MN, MS, MO, NE, NM, NC, ND, OH, OR, SC, SD, TN, TX, UT, VA, WA, WI. INCORPORATED IN: Michigan.

AXA GLOBAL RISKS US INSURANCE COMPANY

BUSINESS ADDRESS: 199 Water Street, New York, NY 10038. PHONE: (212) 412-0700. UNDERWRITING LIMITATION [b/]: $6,975,000. SURETY LICENSES [c,f/]: AK, AZ, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

BANKERS INSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 15707, St. Petersburg, FL 33733-5707. PHONE: (813) 823-4000. UNDERWRITING LIMITATION [b/]: $4,120,000. SURETY LICENSES [c,f/]: AL, AZ, AR, CA, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, PA, SC, SD, TN, TX, UT, VA, WA, WV, WY. INCORPORATED IN: Florida.

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BITUMINOUS CASUALTY CORPORATION

BUSINESS ADDRESS: 320 - 18th Street, Rock Island, IL 61201. PHONE: (309) 786-5401 x-268. UNDERWRITING LIMITATION [b/]: $15,927,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

BOND SAFEGUARD INSURANCE COMPANY

BUSINESS ADDRESS: 246 E. Janata Blvd., Lombard, IL 60148. PHONE: (630) 495-9380. UNDERWRITING LIMITATION [b/]: $463,000. SURETY LICENSES [c,f/]: IL, IN, KS, MO, NC, OK, TN, TX. INCORPORATED IN: Illinois.

Boston Old Colony Insurance Company

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION [b/]: $1,974,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Massachusetts.

Buckeye Union Insurance Company (The)

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION [b/]: $20,572,000. SURETY LICENSES [c,f/]: AK, DC, FL, IL, IN, IA, KS, KY, MD, MI, MO, NY, OH, PA, RI, SD, VA, WV. INCORPORATED IN: Ohio.

Capital City Insurance Company, Inc.

BUSINESS ADDRESS: P.O. Box 212157, Columbia, SC 29221. PHONE: (803) 781-7118. UNDERWRITING LIMITATION [b/]: $1,849,000. SURETY LICENSES [c,f/]: AL, AR, GA, KY, LA, MS, NC, OK, PA, SC, TN, TX, VA, WV. INCORPORATED IN: S. Carolina.

Capitol Indemnity Corporation

BUSINESS ADDRESS: P.O. Box 5900, Madison, WI 53705-0900. PHONE: (608) 231-4450. UNDERWRITING LIMITATION [b/]: $10,932,000. SURETY LICENSES [c,f/]: AL, AZ, AR, CO, DE, FL, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WI, WY. INCORPORATED IN: Wisconsin.

Carolina Casualty Insurance Company

BUSINESS ADDRESS: P.O. Box 2575, Jacksonville, FL 32203. PHONE: (904) 363-0900. UNDERWRITING LIMITATION [b/]: $5,544,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Florida.

Centennial Insurance Company

BUSINESS ADDRESS: 100 Wall Street, New York, NY 10005. PHONE: (212) 943-1800. UNDERWRITING LIMITATION [b/]: $17,344,000. SURETY LICENSES [c,f/]: AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

CENTURY SURETY COMPANY

BUSINESS ADDRESS: P.O. Box 163340, Columbus, OH 43216-3340. PHONE: (614) 895-2000. UNDERWRITING LIMITATION [b/]: $1,724,000. SURETY LICENSES [c,f/]: AZ, IN, OH, WV, WI. INCORPORATED IN: Ohio.

Charter Oak Fire Insurance Company (The)

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION [b/]: $13,719,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

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Chartwell Reinsurance Company

BUSINESS ADDRESS: P.O. Box 120043, Stamford, CT 06912-0043. PHONE: (203) 705-2500. UNDERWRITING LIMITATION [b/]: $9,199,000. SURETY LICENSES [c,f/]: AL, AK, AZ, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, KS, KY, MD, MI, MN, MS, MT, NE, NV, NM, NY, NC, ND, OH, PA, TN, TX, UT, WA, WV, WI. INCORPORATED IN: Minnesota.

Chatham Reinsurance Corporation

BUSINESS ADDRESS: 100 Campus Drive, Florham Park, NJ 07932-1006. PHONE: (973) 443-4660. UNDERWRITING LIMITATION [b/]: $3,476,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, DC, HI, ID, IL, IN, IA, KY, MD, MA, MN, NE, NJ, NY, OK, OR, PA, SC, SD, TX, UT, WA, WI. INCORPORATED IN: California.

CHRYSLER INSURANCE COMPANY

BUSINESS ADDRESS: CIMS:465-20-85, P.O. Box 5168, Southfield, MI 48086-5168. PHONE: (248) 948-3443. UNDERWRITING LIMITATION [b/]: $17,063,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

CHUBB INDEMNITY INSURANCE COMPANY

BUSINESS ADDRESS: 100 William Street, New York, NY 10038. PHONE: (908) 903-2000. UNDERWRITING LIMITATION [b/]: $1,564,000. SURETY LICENSES [c,f/]: AK, AZ, CA, CT, DE, DC, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MO, MT, NJ, NY, NC, OH, OK, OR, PA, RI, SC, SD, TN, TX, VA, WA, WI. INCORPORATED IN: New York.

CIGNA INDEMNITY INSURANCE COMPANY

BUSINESS ADDRESS: 1601 Chestnut Street, P.O. Box 7716, Philadelphia, PA 19192. PHONE: (215) 761-1000. UNDERWRITING LIMITATION [b/]: $2,743,000. SURETY LICENSES [c,f/]: AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NJ, NM, NY, ND, OH, OR, PA, RI, SC, SD, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

CIGNA Insurance Company of the Midwest

BUSINESS ADDRESS: 5929 LAKESIDE BLVD., INDIANAPOLIS, IN 46278. PHONE: (215) 761-1000. UNDERWRITING LIMITATION [b/]: $3,085,000. SURETY LICENSES [c,f/]: IN. INCORPORATED IN: Indiana.

Cincinnati Casualty Company (The)

BUSINESS ADDRESS: P.O. Box 145496, Cincinnati, OH 45250-5496. PHONE: (513) 870-2000. UNDERWRITING LIMITATION [b/]: $17,227,000. SURETY LICENSES [c,f/]: AL, AZ, AR, CO, FL, GA, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, NE, NH, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WV, WI, WY. INCORPORATED IN: Ohio.

Cincinnati Insurance Company (The)

BUSINESS ADDRESS: P.O. Box 145496, Cincinnati, OH 45250-5496. PHONE: (513) 870-2000. UNDERWRITING LIMITATION [b/]: $227,074,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

COLONIAL AMERICAN CASUALTY AND SURETY COMPANY

BUSINESS ADDRESS: 300 Saint Paul Place, Baltimore, MD 21202. PHONE: (410) 539-0800. UNDERWRITING LIMITATION [b/]: $1,826,000. SURETY LICENSES [c,f/]: AZ, CA, CO, DE, DC, FL, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MO, MT, NE, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Maryland.

COLONIAL SURETY COMPANY

BUSINESS ADDRESS: 50 Chestnut Ridge Road, Montvale, NJ 07645. PHONE: (201) 573-8788. UNDERWRITING LIMITATION [b/]: $300,000. SURETY LICENSES [c,f/]: AL, CT, DE, DC, MD, MA, MT, NJ, NM, NY, ND, PA, SD, TX, UT, WV. INCORPORATED IN: Pennsylvania.

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Commercial Casualty Insurance Company of Georgia

BUSINESS ADDRESS: 160 Technology Parkway, Norcross, GA 30092. PHONE: (770) 729-8101. UNDERWRITING LIMITATION b/: $1,061,000. SURETY LICENSES c,f/: FL, GA, IN, LA, SC. INCORPORATED IN: Georgia.

Commercial Insurance Company of Newark, New Jersey

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION b/: $4,771,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Jersey.

Commercial Union Insurance Company

BUSINESS ADDRESS: One Beacon Street, Boston, MA 02108-3100. PHONE: (617) 725-6000. UNDERWRITING LIMITATION b/: $49,029,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Massachusetts.

CONNECTICUT INDEMNITY COMPANY (THE)

BUSINESS ADDRESS: P.O. Box 420, Hartford, CT 06141. PHONE: (860) 674-6600. UNDERWRITING LIMITATION b/: $5,700,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Connecticut Surety Company (The)

BUSINESS ADDRESS: City Place II, 185 Asylum Street, Hartford, CT 06103-3403. PHONE: (860) 527-6732. UNDERWRITING LIMITATION b/: $806,000. SURETY LICENSES c,f/: AK, AZ, AR, CA, CT, DE, DC, FL, GA, IN, IA, KY, LA, MD, MA, MO, MT, NE, NV, NJ, NY, ND, OH, OR, PA, SC, SD, TX, UT, WA. INCORPORATED IN: Connecticut.

Consolidated Insurance Company

BUSINESS ADDRESS: 62 Maple Avenue, Keene, NH 03431. PHONE: (317) 581-6400. UNDERWRITING LIMITATION b/: $2,449,000. SURETY LICENSES c,f/: IL, IN, IA, KY, MI, OH, TN, WA, WI. INCORPORATED IN: Indiana.

Continental Casualty Company

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION b/: $452,190,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Continental Insurance Company (The)

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION b/: $32,224,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

Continental Reinsurance Corporation

BUSINESS ADDRESS: 200 S. Wacker, 23rd Floor, Chicago, IL 60606. PHONE: (312) 822-5000. UNDERWRITING LIMITATION b/: $20,711,000. SURETY LICENSES c,f/: AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, LA, MD, MI, MS, MT, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PR, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

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Continental Western Insurance Company

BUSINESS ADDRESS: P.O. Box 1594, Des Moines, IA 50306. PHONE: (515) 278-3000. UNDERWRITING LIMITATION [b/]: $8,679,000. SURETY LICENSES [c,f/]: AZ, AR, CO, ID, IL, IN, IA, KS, KY, ME, MI, MN, MS, MO, MT, NE, NV, NM, ND, OH, OK, OR, SD, TN, TX, UT, WA, WV, WI, WY. INCORPORATED IN: Iowa.

CONTRACTORS BONDING AND INSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 9271, Seattle, WA 98109-0271. PHONE: (206) 622-7053. UNDERWRITING LIMITATION [b/]: $2,097,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Washington.

Cooperativa de Seguros Multiples de Puerto Rico

BUSINESS ADDRESS: G.P.O. Box 363846, San Juan, PR 00936-3846. PHONE: (787) 758-8585. UNDERWRITING LIMITATION [b/]: $11,051,000. SURETY LICENSES [c,f/]: PR. INCORPORATED IN: Puerto Rico.

CREDIT GENERAL INSURANCE COMPANY

BUSINESS ADDRESS: 3201 Enterprise Parkway - Suite 310, BEACHWOOD, OH 44122. PHONE: (216) 831-7500. UNDERWRITING LIMITATION [b/]: $1,558,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Ohio.

CUMBERLAND CASUALTY & SURETY COMPANY

BUSINESS ADDRESS: 4311 West Waters Ave. #401, Tampa, FL 33614. PHONE: (813) 885-2112. UNDERWRITING LIMITATION [b/]: $504,000. SURETY LICENSES [c,f/]: AR, DE, DC, FL, GA, GU, ID, IN, KY, LA, MD, MA, MO, MT, NE, NV, ND, OR, PA, SC, SD, TN, TX, WA, WV, WY. INCORPORATED IN: Florida.

CUMIS INSURANCE SOCIETY, INC.

BUSINESS ADDRESS: Post Office Box 1084, Madison, WI 53701. PHONE: (608) 238-5851. UNDERWRITING LIMITATION [b/]: $30,586,000. SURETY LICENSES [c,f/]: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

DAIRYLAND INSURANCE COMPANY

BUSINESS ADDRESS: 1800 North Point Drive, Stevens Point, WI 54481. PHONE: (715) 346-6000. UNDERWRITING LIMITATION [b/]: $22,095,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, DE, FL, GA, ID, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

DEVELOPERS INSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 19725, Irvine, CA 92623. PHONE: (714) 263-3300. UNDERWRITING LIMITATION [b/]: $557,000. SURETY LICENSES [c,f/]: AK, AZ, CA, HI, ID, IN, NV, OR, UT, VA, WA. INCORPORATED IN: California.

Developers Surety and Indemnity Company

BUSINESS ADDRESS: P.O. Box 19725, Irvine, CA 92623. PHONE: (714) 263-3310. UNDERWRITING LIMITATION [b/]: $539,000. SURETY LICENSES [c,f/]: AZ, CO, DC, ID, IL, IN, IA, KS, MN, MO, MT, NE, NM, ND, OK, SD, VA, WI, WY. INCORPORATED IN: Iowa.

DIAMOND STATE INSURANCE COMPANY

BUSINESS ADDRESS: Three Bala Plaza East, Suite 300, Bala Cynwyd, PA 19004. PHONE: (610) 664-1500. UNDERWRITING LIMITATION [b/]: $4,058,000. SURETY LICENSES [c,f/]: AL, AZ, AR, CO, CT, DE, DC, FL, GA, ID, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WY. INCORPORATED IN: Indiana.

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ECONOMY FIRE & CASUALTY COMPANY

BUSINESS ADDRESS: 500 Economy Court, Freeport, IL 61032. PHONE: (815) 233-2000. UNDERWRITING LIMITATION [b/]: $26,958,000. SURETY LICENSES [c,f/]: AL, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MN, MS, MO, MT, NE, NV, NM, ND, OH, OK, PA, SD, UT, WV, WI, WY. INCORPORATED IN: Illinois.

Empire Fire and Marine Insurance Company

BUSINESS ADDRESS: 13810 FNB Parkway, Omaha, NE 68154-5202. PHONE: (402) 963-5000. UNDERWRITING LIMITATION [b/]: $7,476,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Nebraska.

EMPLOYERS INSURANCE OF WAUSAU A Mutual Company

BUSINESS ADDRESS: P.O. Box 8017, Wausau, WI 54402-8017. PHONE: (715) 845-5211. UNDERWRITING LIMITATION [b/]: $36,111,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Employers Mutual Casualty Company

BUSINESS ADDRESS: P.O. Box 712, Des Moines, IA 50303-0712. PHONE: (515) 280-2511. UNDERWRITING LIMITATION [b/]: $51,059,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Employers Reinsurance Corporation

BUSINESS ADDRESS: P.O. Box 2991, Overland Park, KS 66201-1391. PHONE: (913) 676-5200. UNDERWRITING LIMITATION [b/]: $440,030,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

Erie Insurance Company

BUSINESS ADDRESS: 100 Erie Insurance Place, Erie, PA 16530. PHONE: (814) 870-2000. UNDERWRITING LIMITATION [b/]: $5,464,000. SURETY LICENSES [c,f/]: DC, IN, KY, MD, NY, NC, OH, PA, TN, VA, WV. INCORPORATED IN: Pennsylvania.

Everest Reinsurance Company

BUSINESS ADDRESS: P.O. Box 830, Liberty Corner, NJ 07938-0830. PHONE: (312) 822-5000. UNDERWRITING LIMITATION [b/]: $76,749,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, NM, NY, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Delaware.

Evergreen National Indemnity Company

BUSINESS ADDRESS: P.O. Box 18295, Columbus, OH 43218. PHONE: (614) 895-1773. UNDERWRITING LIMITATION [b/]: $1,226,000. SURETY LICENSES [c,f/]: AL, AK, CO, DE, DC, GA, ID, IL, IA, KY, MD, MI, MN, MO, MT, NJ, NM, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, WA, WI. INCORPORATED IN: Ohio.

Excelsior Insurance Company

BUSINESS ADDRESS: 62 Maple Avenue, Keene, NH 03431. PHONE: (603) 352-3221. UNDERWRITING LIMITATION [b/]: $3,069,000. SURETY LICENSES [c,f/]: CT, DE, DC, FL, GA, IN, KY, MD, NH, NJ, NY, NC, PA, VT, VA. INCORPORATED IN: New Hampshire.

Executive Risk Indemnity Inc.

BUSINESS ADDRESS: 82 Hopmeadow Street, P.O. Box 2002, Simsbury, CT 06070-7683. PHONE: (860) 408-2000. UNDERWRITING LIMITATION [b/]: $26,556,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, DE, DC, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

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EXPLORER INSURANCE COMPANY (THE)

BUSINESS ADDRESS: P.O. Box 85563, San Diego, CA 92186-5563. PHONE: (619) 350-2400. UNDERWRITING LIMITATION [b/]: $2,446,000. SURETY LICENSES [c,f/]: AZ, CA, ID, IA, MT, NV, NM, OR, TX, UT, WA. INCORPORATED IN: Arizona.

FAR WEST INSURANCE COMPANY

BUSINESS ADDRESS: 5230 Las Virgenes Road, Calabasas, CA 91302. PHONE: (818) 871-2000. UNDERWRITING LIMITATION [b/]: $650,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OR, PA, RI, SC, SD, TN, TX, UT, WA, WV, WI, WY. INCORPORATED IN: Nebraska.

Farmers Alliance Mutual Insurance Company

BUSINESS ADDRESS: P.O. Box 1401, McPherson, KS 67460. PHONE: (316) 241-2200. UNDERWRITING LIMITATION [b/]: $6,680,000. SURETY LICENSES [c,f/]: AZ, CO, ID, IN, IA, KS, MN, MO, MT, NE, NM, ND, OK, SD, TX. INCORPORATED IN: Kansas.

Farmington Casualty Company

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION [b/]: $16,918,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Farmland Mutual Insurance Company

BUSINESS ADDRESS: 1963 Bell Avenue, Des Moines, IA 50315-1030. PHONE: (515) 245-8800. UNDERWRITING LIMITATION [b/]: $6,936,000. SURETY LICENSES [c,f/]: AL, AR, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, MT, NE, NV, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Federal Insurance Company

BUSINESS ADDRESS: 15 Mountain View Rd., P.O. Box 1615, Warren, NJ 07061-1615. PHONE: (908) 903-2000. UNDERWRITING LIMITATION [b/]: $255,512,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Indiana.

FEDERATED MUTUAL INSURANCE COMPANY

BUSINESS ADDRESS: 121 East Park Square, Owatonna, MN 55060. PHONE: (507) 455-5200. UNDERWRITING LIMITATION [b/]: $79,757,000. SURETY LICENSES [c,f/]: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

Fidelity and Casualty Company of New York (The)

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION [b/]: $20,902,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

Fidelity and Deposit Company of Maryland

BUSINESS ADDRESS: 300 Saint Paul Place, Baltimore, MD 21202. PHONE: (410) 539-0800. UNDERWRITING LIMITATION [b/]: $37,440,000. SURETY LICENSES [c,f/]: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Maryland.

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FIDELITY AND GUARANTY INSURANCE COMPANY

BUSINESS ADDRESS: MC0401, P.O. Box 1138, Baltimore, MD 21203-1138. PHONE: (410) 205-3000. UNDERWRITING LIMITATION [b/]: $1,388,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Fidelity and Guaranty Insurance Underwriters, Inc.

BUSINESS ADDRESS: MC0401, P.O. Box 1138, Baltimore, MD 21203-1138. PHONE: (410) 205-3000. UNDERWRITING LIMITATION [b/]: $2,771,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, ME, MD, MA, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Financial Pacific Insurance Company

BUSINESS ADDRESS: P.O. BOX 292220, Sacramento, CA 95829-2220. PHONE: (916) 630-5000. UNDERWRITING LIMITATION [b/]: $1,283,000. SURETY LICENSES [c,f/]: AZ, CA, ID, MO, MT, NE, NV, ND, OR, SD, UT. INCORPORATED IN: California.

Fireman's Fund Insurance Company

BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (415) 899-2000. UNDERWRITING LIMITATION [b/]: $235,704,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: California.

Firemen's Insurance Company of Newark, New Jersey

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION [b/]: $29,801,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Jersey.

First Community Insurance Company

BUSINESS ADDRESS: 360 Central Avenue, St. Petersburg, FL 33701. PHONE: (813) 823-4000. UNDERWRITING LIMITATION [b/]: $807,000. SURETY LICENSES [c,f/]: AL, AZ, AR, CO, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, MD, MA, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

First Excess and Reinsurance Corporation

BUSINESS ADDRESS: P.O. Box 419369, Kansas City, MO 64141-6369. PHONE: (913) 676-5520. UNDERWRITING LIMITATION [b/]: $31,005,000. SURETY LICENSES [c,f/]: AK, AZ, CA, CT, DC, GA, ID, IL, IN, IA, KS, KY, MI, MS, MO, MT, NE, NM, NY, OH, OK, SD, TN, TX, WA, WV, WI. INCORPORATED IN: Missouri.

FIRST FINANCIAL INSURANCE COMPANY

BUSINESS ADDRESS: 238 International Road, Burlington, NC 27215. PHONE: (336) 586-2500. UNDERWRITING LIMITATION [b/]: $4,227,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, DE, FL, GA, HI, ID, IL, IN, IA, KS, KY, MD, MI, MN, MO, MT, NE, NV, NM, NY, ND, OH, OR, RI, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

First Insurance Company of Hawaii, Ltd.

BUSINESS ADDRESS: P.O. Box 2866, Honolulu, HI 96803. PHONE: (808) 527-7777. UNDERWRITING LIMITATION [b/]: $9,835,000. SURETY LICENSES [c,f/]: GU, HI. INCORPORATED IN: Hawaii.

First Liberty Insurance Corporation (The)

BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02117. PHONE: (617) 357-9500. UNDERWRITING LIMITATION [b/]: $1,458,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Iowa.

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First National Insurance Company of America

BUSINESS ADDRESS: SAFECO Plaza, Seattle, WA 98185. PHONE: (206) 545-5000. UNDERWRITING LIMITATION [b/]: $7,093,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Washington.

FRONTIER INSURANCE COMPANY

BUSINESS ADDRESS: 195 Lake Louise Marie Road, Rock Hill, NY 12775-8000. PHONE: (914) 796-2100. UNDERWRITING LIMITATION [b/]: $13,286,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

Frontier Pacific Insurance Company

BUSINESS ADDRESS: 4250 Executive Square, Suite 200, La Jolla, CA 92037. PHONE: (619) 642-5000. UNDERWRITING LIMITATION [b/]: $3,117,000. SURETY LICENSES [c,f/]: CA, NV, NY. INCORPORATED IN: California.

GENERAL ACCIDENT INSURANCE COMPANY OF AMERICA

BUSINESS ADDRESS: 436 Walnut Street,P.O. Box 1109, Philadelphia, PA 19105-1109. PHONE: (215) 625-1000. UNDERWRITING LIMITATION [b/]: $104,304,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

General Insurance Company of America

BUSINESS ADDRESS: SAFECO Plaza, Seattle, WA 98185. PHONE: (206) 545-5000. UNDERWRITING LIMITATION [b/]: $71,809,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Washington.

General Reinsurance Corporation

BUSINESS ADDRESS: 695 East Main Street, P.O. Box 10350, Stamford, CT 06904-2350. PHONE: (203) 328-5000. UNDERWRITING LIMITATION [b/]: $534,503,000. SURETY LICENSES [c,f/]: AL, AK, AZ, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Glens Falls Insurance Company (The)

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION [b/]: $1,191,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Global Surety & Insurance Co.

BUSINESS ADDRESS: 3555 Farnam Street, Omaha, NE 68131. PHONE: (402) 271-2846. UNDERWRITING LIMITATION [b/]: $1,456,000. SURETY LICENSES [c,f/]: AZ, CA, CO, NE. INCORPORATED IN: Nebraska.

Grain Dealers Mutual Insurance Company

BUSINESS ADDRESS: P.O. Box 1747, Indianapolis, IN 46206. PHONE: (317) 923-2453. UNDERWRITING LIMITATION [b/]: $2,724,000. SURETY LICENSES [c,f/]: AZ, AR, CO, GA, IL, IN, IA, KS, KY, LA, MN, MS, MO, NE, NV, NM, NC, ND, OH, OK, OR, SD, TN, TX, VA, WA, WI, WY. INCORPORATED IN: Indiana.

GRANITE RE, INC.

BUSINESS ADDRESS: P.O. Box 20683, Oklahoma City, OK 73156. PHONE: (405) 516-5100. UNDERWRITING LIMITATION [b/]: $188,000. SURETY LICENSES [c,f/]: MN, ND, OK, SD. INCORPORATED IN: Oklahoma.

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Granite State Insurance Company

BUSINESS ADDRESS: 70 Pine Street, New York, NY 10270. PHONE: (212) 770-7000. UNDERWRITING LIMITATION [b/]: $2,090,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Great American Insurance Company

BUSINESS ADDRESS: 580 Walnut Street, Cincinnati, OH 45202. PHONE: (513) 369-5000. UNDERWRITING LIMITATION [b/]: $121,649,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Great Northern Insurance Company

BUSINESS ADDRESS: 15 Mountain View Rd., P.O. Box 1615, Warren, NJ 07061-1615. PHONE: (908) 903-2000. UNDERWRITING LIMITATION [b/]: $13,469,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CO, CT, DC, FL, GA, HI, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

Greenwich Insurance Company

BUSINESS ADDRESS: One Greenwich Plaza, PO Box 2568, Greenwich, CT 06836-2568. PHONE: (203) 622-5200. UNDERWRITING LIMITATION [b/]: $2,525,000. SURETY LICENSES [c,f/]: AL, AK, AS, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

Gulf Insurance Company

BUSINESS ADDRESS: P.O. Box 1771, Dallas, TX 75221-1771. PHONE: (972) 650-2800. UNDERWRITING LIMITATION [b/]: $31,754,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Missouri.

Hanover Insurance Company (The)

BUSINESS ADDRESS: 100 North Parkway, Worcester, MA 01605. PHONE: (508) 853-7200. UNDERWRITING LIMITATION [b/]: $114,758,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

HARCO NATIONAL INSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 68309, Schaumburg, IL 60168-0309. PHONE: (847) 734-4100. UNDERWRITING LIMITATION [b/]: $5,557,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Harleysville Mutual Insurance Company

BUSINESS ADDRESS: 355 Maple Avenue, Harleysville, PA 19438-2297. PHONE: (215) 256-5000. UNDERWRITING LIMITATION [b/]: $45,399,000. SURETY LICENSES [c,f/]: AR, CA, CO, DE, DC, GA, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, NJ, NM, NC, OH, PA, SC, TN, TX, UT, VA, WV, WI. INCORPORATED IN: Pennsylvania.

Hartford Accident and Indemnity Company

BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-5000. UNDERWRITING LIMITATION [b/]: $471,853,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

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Hartford Casualty Insurance Company

BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-5000. UNDERWRITING LIMITATION [b]: $30,985,000. SURETY LICENSES [c,f]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Hartford Fire Insurance Company

BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-5000. UNDERWRITING LIMITATION [b]: $684,888,000. SURETY LICENSES [c,f]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Hartford Insurance Company of Illinois

BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-5000. UNDERWRITING LIMITATION [b]: $38,463,000. SURETY LICENSES [c,f]: IL, PA. INCORPORATED IN: Illinois.

Hartford Insurance Company of the Midwest

BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-5000. UNDERWRITING LIMITATION [b]: $6,751,000. SURETY LICENSES [c,f]: AL, AK, AZ, AR, CA, CO, CT, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MT, NE, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Hartford Insurance Company of the Southeast

BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-5000. UNDERWRITING LIMITATION [b]: $2,963,000. SURETY LICENSES [c,f]: CT, FL, GA, LA, PA. INCORPORATED IN: Florida.

Hartford Underwriters Insurance Company

BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-5000. UNDERWRITING LIMITATION [b]: $20,997,000. SURETY LICENSES [c,f]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Heritage Mutual Insurance Company [1]

BUSINESS ADDRESS: 2800 South Taylor Drive, P.O. Box 58, Sheboygan, WI 53082-0058. PHONE: (920) 458-9131. UNDERWRITING LIMITATION [b]: $15,339,000. SURETY LICENSES [c,f]: AL, AZ, AR, CO, DE, FL, GA, ID, IL, IN, IA, KS, KY, MI, MN, MO, NE, NV, ND, OH, OR, PA, SD, TN, TX, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Highlands Insurance Company

BUSINESS ADDRESS: 10370 Richmond Avenue, Houston, TX 77042-4123. PHONE: (713) 952-9555 x-8334. UNDERWRITING LIMITATION [b]: $11,203,000. SURETY LICENSES [c,f]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Texas.

Highlands Underwriters Insurance Company

BUSINESS ADDRESS: 10370 Richmond Avenue, Houston, TX 77042-4123. PHONE: (713) 952-9555 x-8334. UNDERWRITING LIMITATION [b]: $3,452,000. SURETY LICENSES [c,f]: AL, AZ, AR, CA, FL, GA, LA, MS, NM, OK, TX. INCORPORATED IN: Texas.

ILLINOIS NATIONAL INSURANCE CO.

BUSINESS ADDRESS: 500 West Madison Street, Chicago, IL 60606-2511. PHONE: (312) 930-5417. UNDERWRITING LIMITATION [b]: $2,912,000. SURETY LICENSES [c,f]: AL, AK, IL, IN, IA, KY, MD, MI, MO, MT, NE, NV, NH, NM, NY, ND, OH, RI, SD, TX, UT, VT, WV, WY. INCORPORATED IN: Illinois.

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Indemnity Company of California

BUSINESS ADDRESS: P.O. Box 19725, Irvine, CA 92623. PHONE: (714) 263-3300. UNDERWRITING LIMITATION b/: $697,000. SURETY LICENSES c,f/: AK, AZ, CA, HI, ID, NV, OR, UT, VA, WA. INCORPORATED IN: California.

Indemnity Insurance Company of North America

BUSINESS ADDRESS: 1601 Chestnut St., P.O. Box 7716, Philadelphia, PA 19192. PHONE: (215) 761-1000. UNDERWRITING LIMITATION b/: $6,205,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Independence Casualty and Surety Company

BUSINESS ADDRESS: P.O. Box 85563, San Diego, CA 92186-5563. PHONE: (619) 350-2400. UNDERWRITING LIMITATION b/: $1,618,000. SURETY LICENSES c,f/: TX. INCORPORATED IN: Texas.

Indiana Insurance Company

BUSINESS ADDRESS: 62 Maple Avenue, Keene, NH 03431. PHONE: (317) 581-6400. UNDERWRITING LIMITATION b/: $6,539,000. SURETY LICENSES c,f/: FL, IL, IN, IA, KY, MI, OH, TN, WA, WI. INCORPORATED IN: Indiana.

Indiana Lumbermens Mutual Insurance Company

BUSINESS ADDRESS: P.O. Box 68600, Indianapolis, IN 46268-1168. PHONE: (800) 428-1441 x-710. UNDERWRITING LIMITATION b/: $3,714,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Inland Insurance Company

BUSINESS ADDRESS: P.O. Box 80468, Lincoln, NE 68501. PHONE: (402) 435-4302. UNDERWRITING LIMITATION b/: $7,253,000. SURETY LICENSES c,f/: AZ, CO, IA, KS, MN, MO, MT, NE, ND, OK, SD, WY. INCORPORATED IN: Nebraska.

Insurance Company of North America

BUSINESS ADDRESS: 1601 Chestnut St.,P.O. Box 7716, Philadelphia, PA 19192. PHONE: (215) 761-1000. UNDERWRITING LIMITATION b/: $15,587,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Insurance Company of the State of Pennsylvania (The)

BUSINESS ADDRESS: 70 Pine Street, New York, NY 10270. PHONE: (212) 770-7000. UNDERWRITING LIMITATION b/: $59,597,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Insurance Company of the West

BUSINESS ADDRESS: P.O. Box 85563, San Diego, CA 92186-5563. PHONE: (619) 350-2400. UNDERWRITING LIMITATION b/: $20,006,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

Insurance Corporation of New York (The)

BUSINESS ADDRESS: 500 North Broadway, Suite 142, Jericho, NY 11753. PHONE: (516) 822-9410. UNDERWRITING LIMITATION b/: $9,084,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

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Insurors Indemnity Company

BUSINESS ADDRESS: P.O. Box 2683, Waco, TX 76702-2683. PHONE: (817) 750-8128. UNDERWRITING LIMITATION [b/]: $223,000. SURETY LICENSES [c,f/]: TX. INCORPORATED IN: Texas.

INTEGRAND ASSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 70128, San Juan, PR 00936-8128. PHONE: (787) 781-0707 x-269. UNDERWRITING LIMITATION [b/]: $3,471,000. SURETY LICENSES [c,f/]: PR, VI. INCORPORATED IN: Puerto Rico.

Intercargo Insurance Company

BUSINESS ADDRESS: 1450 East American Lane, 20th Floor, Schaumburg, IL 60173. PHONE: (847) 517-2990. UNDERWRITING LIMITATION [b/]: $2,939,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

International Business & Mercantile REassurance Company

BUSINESS ADDRESS: 307 North Michigan Avenue, Chicago, IL 60601. PHONE: (312) 346-8100. UNDERWRITING LIMITATION [b/]: $8,275,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

International Fidelity Insurance Company

BUSINESS ADDRESS: One Newark Center, 20th Floor, Newark, NJ 07102-5207. PHONE: (973) 624-7200 x-226. UNDERWRITING LIMITATION [b/]: $3,694,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WY. INCORPORATED IN: New Jersey.

ISLAND INSURANCE COMPANY, LIMITED

BUSINESS ADDRESS: P.O. Box 1520, Honolulu, HI 96806. PHONE: (808) 531-1311. UNDERWRITING LIMITATION [b/]: $11,062,000. SURETY LICENSES [c,f/]: HI. INCORPORATED IN: Hawaii.

John Deere Insurance Company

BUSINESS ADDRESS: 3400 80th Street, Moline, IL 61265-5886. PHONE: (800) 447-0633. UNDERWRITING LIMITATION [b/]: $14,100,000. SURETY LICENSES [c,f/]: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Kansas Bankers Surety Company (The)

BUSINESS ADDRESS: P. O. Box 1654, Topeka, KS 66601-1654. PHONE: (785) 228-0000. UNDERWRITING LIMITATION [b/]: $5,615,000. SURETY LICENSES [c,f/]: AZ, AR, CO, ID, IL, IN, IA, KS, KY, LA, ME, MI, MN, MS, MO, MT, NE, NM, ND, OK, SD, TN, TX, WI, WY. INCORPORATED IN: Kansas.

Kansas City Fire and Marine Insurance Company

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION [b/]: $1,492,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

KEMPER REINSURANCE COMPANY

BUSINESS ADDRESS: 1 Kemper Drive, Long Grove, IL 60049. PHONE: (847) 320-2600. UNDERWRITING LIMITATION [b/]: $52,966,000. SURETY LICENSES [c,f/]: AL, AZ, CA, DE, DC, GA, ID, IL, IN, IA, KY, MI, MN, MS, NE, NV, NM, OH, OK, OR, PA, PR, RI, TN, TX, UT, WA, WI. INCORPORATED IN: Illinois.

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LIBERTY MUTUAL FIRE INSURANCE COMPANY

BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02117. PHONE: (617) 357-9500. UNDERWRITING LIMITATION [b/]: $58,240,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Massachusetts.

Liberty Mutual Insurance Company

BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02117. PHONE: (617) 357-9500. UNDERWRITING LIMITATION [b/]: $487,432,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Massachusetts.

Lincoln General Insurance Company

BUSINESS ADDRESS: 3350 Whiteford Road, York, PA 17402. PHONE: (717) 757-0000. UNDERWRITING LIMITATION [b/]: $2,209,000. SURETY LICENSES [c,f/]: AL, AR, CO, DE, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

LM Insurance Corporation

BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02117. PHONE: (617) 357-9500. UNDERWRITING LIMITATION [b/]: $1,447,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Iowa.

London Assurance of America Inc. (The)

BUSINESS ADDRESS: 9300 Arrowpoint Boulevard, P.O. Box 1000, Charlotte, NC 28201-1000. PHONE: (704) 522-2000. UNDERWRITING LIMITATION [b/]: $44,774,000. SURETY LICENSES [c,f/]: AL, AK, AZ, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WI. INCORPORATED IN: New York.

Lumbermens Mutual Casualty Company

BUSINESS ADDRESS: 1 Kemper Drive, Long Grove, IL 60049-0001. PHONE: (847) 320-2000. UNDERWRITING LIMITATION [b/]: $108,835,000. SURETY LICENSES [c,f/]: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Lyndon Property Insurance Company

BUSINESS ADDRESS: 645 Maryville Centre Drive, St. Louis, MO 63141-5815. PHONE: (314) 275-5200. UNDERWRITING LIMITATION [b/]: $1,522,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

MARKEL INSURANCE COMPANY

BUSINESS ADDRESS: Shand Morahan Plaza, Evanston, IL 60201. PHONE: (847) 866-2800. UNDERWRITING LIMITATION [b/]: $5,008,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Massachusetts Bay Insurance Company

BUSINESS ADDRESS: 100 North Parkway, Worcester, MA 01605. PHONE: (508) 853-7200. UNDERWRITING LIMITATION [b/]: $1,733,000. SURETY LICENSES [c,f/]: AL, AR, CA, CO, CT, DC, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, OH, OR, PA, RI, SC, TN, TX, VT, VA, WA, WI. INCORPORATED IN: New Hampshire.

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Merchants Bonding Company (Mutual)

BUSINESS ADDRESS: 2100 Fleur Drive, Des Moines, IA 50321-1158. PHONE: (515) 243-8171. UNDERWRITING LIMITATION b/: $2,063,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Michigan Millers Mutual Insurance Company

BUSINESS ADDRESS: P.O. Box 30060, Lansing, MI 48909-7560. PHONE: (517) 482-6211. UNDERWRITING LIMITATION b/: $6,605,000. SURETY LICENSES c,f/: AZ, AR, CA, ID, IL, IN, KS, KY, MI, MO, NE, NY, NC, OH, OK, PA, VA, WI. INCORPORATED IN: Michigan.

Mid-Century Insurance Company

BUSINESS ADDRESS: P. O. Box 2478, Terminal Annex, Los Angeles, CA 90051. PHONE: (213) 932-3200. UNDERWRITING LIMITATION b/: $71,702,000. SURETY LICENSES c,f/: AZ, AR, CA, CO, FL, GA, ID, IL, IN, LA, MI, MN, MO, MT, NE, NV, NM, ND, OH, OK, OR, SD, TN, TX, UT, VA, WA, WI, WY. INCORPORATED IN: California.

MID-CONTINENT CASUALTY COMPANY

BUSINESS ADDRESS: P.O. Box 1409, Tulsa, OK 74101. PHONE: (918) 587-7221 x-200. UNDERWRITING LIMITATION b/: $6,001,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, IL, IN, IA, KS, LA, MN, MS, MO, MT, NE, NM, ND, OK, TN, TX, UT, WA, WY. INCORPORATED IN: Oklahoma.

Mid-State Surety Corporation

BUSINESS ADDRESS: 3400 East Lafayette, Detroit, MI 48207. PHONE: (313) 882-7979. UNDERWRITING LIMITATION b/: $1,035,000. SURETY LICENSES c,f/: AL, AR, CT, DE, DC, FL, GA, IL, IN, KS, KY, MD, MI, MN, MO, NJ, NY, OH, PA, SC, TN, UT, VT, VA, WV, WI. INCORPORATED IN: Michigan.

MIDWESTERN INDEMNITY COMPANY (THE) 2/

BUSINESS ADDRESS: 6281 Tri-Ridge Boulevard, Loveland, OH 45140. PHONE: (513) 576-3200. UNDERWRITING LIMITATION b/: $1,909,000. SURETY LICENSES c,f/: AL, AR, CT, GA, IL, IN, IA, KS, KY, MI, MN, MS, MO, NE, NJ, NY, NC, OH, OK, PA, SC, TN, VA, WV, WI. INCORPORATED IN: Ohio.

Millers Mutual Fire Insurance Company (The)

BUSINESS ADDRESS: P.O. Box 2269, Fort Worth, TX 76113-2269. PHONE: (817) 332-7761. UNDERWRITING LIMITATION b/: $8,730,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, DC, FL, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, SC, SD, TN, TX, UT, WA, WI, WY. INCORPORATED IN: Texas.

Millers Mutual Insurance Association

BUSINESS ADDRESS: 111 East Fourth Street, P.O. Box 9006, Alton, IL 62002-9006. PHONE: (618) 463-3636. UNDERWRITING LIMITATION b/: $3,273,000. SURETY LICENSES c,f/: AL, AR, CO, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NC, ND, OH, SD, TN, TX, WI. INCORPORATED IN: Illinois.

Minnesota Trust Company of Austin

BUSINESS ADDRESS: P. O. Box 463, Austin, MN 55912-0463. PHONE: (507) 437-3231. UNDERWRITING LIMITATION b/: $154,000. SURETY LICENSES c,f/: CO, MN, MT, ND, SD, UT. INCORPORATED IN: Minnesota.

MOTORS INSURANCE CORPORATION

BUSINESS ADDRESS: 3044 West Grand Blvd., Detroit, MI 48202. PHONE: (313) 556-5000. UNDERWRITING LIMITATION b/: $107,131,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, DE, DC, FL, GA, ID, IL, IN, IA, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

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Mountbatten Surety Company, Inc. (The)

BUSINESS ADDRESS: 33 Rock Hill Road, Bala Cynwyd, PA 19004. PHONE: (610) 664-2259. UNDERWRITING LIMITATION [b/]: $905,000. SURETY LICENSES [c,f/]: AL, CT, DE, DC, IL, IN, KY, MD, MS, NJ, NY, OH, PA, SC, TN, VA, WV. INCORPORATED IN: Pennsylvania.

MUTUAL SERVICE CASUALTY INSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 64035, St. Paul, MN 55164-0035. PHONE: (612) 631-7000. UNDERWRITING LIMITATION [b/]: $5,369,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

NAC Reinsurance Corporation

BUSINESS ADDRESS: One Greenwich Plaza, P.O. Box 2568, Greenwich, CT 06836-2568. PHONE: (203) 622-5200. UNDERWRITING LIMITATION [b/]: $67,331,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

National American Insurance Company

BUSINESS ADDRESS: 1008 Manvel Avenue, Chandler, OK 74834. PHONE: (405) 258-0804. UNDERWRITING LIMITATION [b/]: $3,843,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Nebraska.

National Fire Insurance Company of Hartford

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION [b/]: $68,809,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

National Grange Mutual Insurance Company

BUSINESS ADDRESS: 55 West Street, Keene, NH 03431. PHONE: (603) 352-4000. UNDERWRITING LIMITATION [b/]: $22,630,000. SURETY LICENSES [c,f/]: CT, DE, DC, ME, MD, MA, MI, NH, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI. INCORPORATED IN: New Hampshire.

National Indemnity Company

BUSINESS ADDRESS: 3024 Harney Street, Omaha, NE 68131. PHONE: (402) 536-3000. UNDERWRITING LIMITATION [b/]: $1,398,147,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Nebraska.

NATIONAL REINSURANCE CORPORATION

BUSINESS ADDRESS: 695 East Main St., P.O. Box 10350, Stamford, CT 06904-2350. PHONE: (203) 328-5000. UNDERWRITING LIMITATION [b/]: $36,655,000. SURETY LICENSES [c,f/]: AK, AZ, AR, CA, CO, DE, DC, ID, IL, IN, IA, KS, KY, MD, MA, MI, MN, MT, NE, NV, NH, NJ, NM, NY, ND, OH, OK, PA, PR, RI, TX, UT, VT, VA, WI, WY. INCORPORATED IN: Delaware.

National Surety Corporation

BUSINESS ADDRESS: 233 South Wacker Drive, Suite 2000, Chicago, IL 60606-6308. PHONE: (312) 441-5400. UNDERWRITING LIMITATION [b/]: $10,828,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

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National Union Fire Insurance Company of Pittsburgh, PA

BUSINESS ADDRESS: 70 Pine Street, New York, NY 10270. PHONE: (212) 770-7000. UNDERWRITING LIMITATION b/: $101,580,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

National-Ben Franklin Insurance Company of Illinois

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION b/: $7,913,000. SURETY LICENSES c,f/: DC, FL, IL, IN, IA, KY, MD, MI, MN, NY, NC, ND, RI, SD, WI. INCORPORATED IN: Illinois.

Nationwide Mutual Insurance Company

BUSINESS ADDRESS: One Nationwide Plaza, Columbus, OH 43216. PHONE: (614) 249-7111. UNDERWRITING LIMITATION b/: $698,585,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Ohio.

NAVIGATORS INSURANCE COMPANY

BUSINESS ADDRESS: 123 William Street, New York, NY 10038-3871. PHONE: (212) 349-1600. UNDERWRITING LIMITATION b/: $10,996,000. SURETY LICENSES c,f/: AL, AK, AZ, CT, DE, DC, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, NE, NV, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WI, WY. INCORPORATED IN: New York.

Netherlands Insurance Company (The)

BUSINESS ADDRESS: 62 Maple Avenue, Keene, NH 03431. PHONE: (603) 352-3221. UNDERWRITING LIMITATION b/: $2,195,000. SURETY LICENSES c,f/: AZ, CA, CT, DC, GA, ID, IL, IN, IA, KY, ME, MD, MI, NV, NH, NJ, NY, NC, OH, RI, SC, TN, UT, VT, VA, WA, WI. INCORPORATED IN: New Hampshire.

New Hampshire Insurance Company

BUSINESS ADDRESS: 70 Pine Street, New York, NY 10270. PHONE: (212) 770-7000. UNDERWRITING LIMITATION b/: $24,537,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Nobel Insurance Company

BUSINESS ADDRESS: 8001 LBJ Freeway - Suite 300, Dallas, TX 75251-1301. PHONE: (972) 644-0434. UNDERWRITING LIMITATION b/: $3,092,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Texas.

NORTH AMERICAN SPECIALTY INSURANCE COMPANY

BUSINESS ADDRESS: 650 Elm Street, Manchester, NH 03101-2524. PHONE: (603) 644-6600. UNDERWRITING LIMITATION b/: $6,400,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

NORTHBROOK PROPERTY AND CASUALTY INSURANCE COMPANY

BUSINESS ADDRESS: 500 West Madison, Suite 2600, Chicago, IL 60661-2594. PHONE: (312) 648-5000. UNDERWRITING LIMITATION b/: $24,583,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

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NORTHLAND INSURANCE COMPANY

BUSINESS ADDRESS: P. O. Box 64816, St. Paul, MN 55164-0816. PHONE: (612) 688-4100. UNDERWRITING LIMITATION b/: $14,203,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

NORTHWESTERN PACIFIC INDEMNITY COMPANY

BUSINESS ADDRESS: 15 Mountain View Rd., P.O. Box 1615, Warren, NJ 07061-1615. PHONE: (503) 221-4240. UNDERWRITING LIMITATION b/: $2,780,000. SURETY LICENSES c,f/: CA, OR, TX, WA. INCORPORATED IN: Oregon.

Ohio Casualty Insurance Company (The)

BUSINESS ADDRESS: 136 North Third Street, Hamilton, OH 45025. PHONE: (513) 867-3000. UNDERWRITING LIMITATION b/: $100,135,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Ohio Farmers Insurance Company

BUSINESS ADDRESS: P.O. Box 5001, Westfield Center, OH 44251-5001. PHONE: (330) 887-0101. UNDERWRITING LIMITATION b/: $58,416,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, DE, DC, FL, GA, ID, IL, IN, IA, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Oklahoma Surety Company

BUSINESS ADDRESS: P.O. Box 1409, Tulsa, OK 74101. PHONE: (918) 587-7221. UNDERWRITING LIMITATION b/: $674,000. SURETY LICENSES c,f/: AR, KS, OK, TX. INCORPORATED IN: Oklahoma.

Old Republic Insurance Company

BUSINESS ADDRESS: P.O. Box 789, Greensburg, PA 15601-0789. PHONE: (724) 834-5000. UNDERWRITING LIMITATION b/: $40,906,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Old Republic Surety Company

BUSINESS ADDRESS: P.O. Box 1635, Milwaukee, WI 53201. PHONE: (414) 797-2640. UNDERWRITING LIMITATION b/: $2,018,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, DC, FL, GA, ID, IL, IN, IA, KS, MD, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

ORISKA INSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 400, Oriskany, NY 13424. PHONE: (315) 768-2726. UNDERWRITING LIMITATION b/: $385,000. SURETY LICENSES c,f/: NY. INCORPORATED IN: New York.

Pacific Employers Insurance Company

BUSINESS ADDRESS: 1601 Chestnut Street, Philadelphia, PA 19192. PHONE: (215) 761-1000. UNDERWRITING LIMITATION b/: $8,418,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Pacific Indemnity Company 3/

BUSINESS ADDRESS: 15 Mountain View Rd., P.O. Box 1615, Warren, NJ 07061-1615. PHONE: (908) 903-2000. UNDERWRITING LIMITATION b/: $53,049,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

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Pacific Insurance Company, Limited

BUSINESS ADDRESS: 150 Federal Street, Boston, MA 02110. PHONE: (617) 526-7600. UNDERWRITING LIMITATION b/: $31,877,000. SURETY LICENSES c,f/: CT, HI. INCORPORATED IN: Connecticut.

Peerless Insurance Company

BUSINESS ADDRESS: 62 Maple Avenue, Keene, NH 03431. PHONE: (603) 352-3221. UNDERWRITING LIMITATION b/: $8,088,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

Pekin Insurance Company

BUSINESS ADDRESS: 2505 Court Street, Pekin, IL 61558. PHONE: (309) 346-1161. UNDERWRITING LIMITATION b/: $3,708,000. SURETY LICENSES c,f/: IL, IN, IA, WI. INCORPORATED IN: Illinois.

Pennsylvania General Insurance Company

BUSINESS ADDRESS: 436 Walnut Street, P.O. Box 1109, Philadelphia, PA 19105-1109. PHONE: (215) 625-1000. UNDERWRITING LIMITATION b/: $17,933,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, DC, GA, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, NE, NV, NH, NJ, NM, NY, NC, OH, OR, PA, RI, SC, TN, TX, VT, VA, WA, WV, WI. INCORPORATED IN: Pennsylvania.

Pennsylvania Millers Mutual Insurance Company

BUSINESS ADDRESS: P. O. Box P, Wilkes-Barre, PA 18773-0016. PHONE: (717) 822-8111. UNDERWRITING LIMITATION b/: $4,996,000. SURETY LICENSES c,f/: AL, AR, CT, DC, FL, GA, IL, IN, KS, KY, ME, MD, MA, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA. INCORPORATED IN: Pennsylvania.

Pennsylvania National Mutual Casualty Insurance Company

BUSINESS ADDRESS: P.O. Box 2361, Harrisburg, PA 17105-2361. PHONE: (717) 234-4941. UNDERWRITING LIMITATION b/: $14,872,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Pennsylvania.

Phoenix Assurance Company of New York

BUSINESS ADDRESS: 9300 Arrowpoint Boulevard, P.O. Box 1000, Charlotte, NC 28201-1000. PHONE: (704) 522-2000. UNDERWRITING LIMITATION b/: $11,417,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

Phoenix Insurance Company (The)

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION b/: $57,457,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Pioneer General Insurance Company

BUSINESS ADDRESS: 6780 East Hampden Avenue, Denver, CO 80224. PHONE: (303) 758-8122. UNDERWRITING LIMITATION b/: $158,000. SURETY LICENSES c,f/: CO. INCORPORATED IN: Colorado.

PLANET INDEMNITY COMPANY

BUSINESS ADDRESS: 216 Sixteenth Street, Suite 1300, Denver, CO 80202. PHONE: (303) 534-5300. UNDERWRITING LIMITATION b/: $1,119,000. SURETY LICENSES c,f/: CO, ID, ND, PA. INCORPORATED IN: Colorado.

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PREFERRED NATIONAL INSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 407003, Ft. Lauderdale, FL 33340-7003. PHONE: (954) 752-1222. UNDERWRITING LIMITATION [b/]: $2,675,000. SURETY LICENSES [c,f/]: FL, IL. INCORPORATED IN: Florida.

Progressive Casualty Insurance Company

BUSINESS ADDRESS: 6300 Wilson Mills Road, W33, Mayfield Village, OH 44143-2182. PHONE: (440) 461-5000. UNDERWRITING LIMITATION [b/]: $46,489,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

PROTECTION MUTUAL INSURANCE COMPANY

BUSINESS ADDRESS: 300 S. Northwest Highway, Park Ridge, IL 60068. PHONE: (847) 825-4474. UNDERWRITING LIMITATION [b/]: $50,560,000. SURETY LICENSES [c,f/]: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Protective Insurance Company

BUSINESS ADDRESS: 1099 North Meridian Street, Indianapolis, IN 46204. PHONE: (317) 636-9800. UNDERWRITING LIMITATION [b/]: $24,692,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Providence Washington Insurance Company

BUSINESS ADDRESS: P.O. Box 518, Providence, RI 02901-0518. PHONE: (401) 453-7000. UNDERWRITING LIMITATION [b/]: $4,635,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Rhode Island.

Ranger Insurance Company

BUSINESS ADDRESS: P.O. Box 2807, Houston, TX 77252. PHONE: (713) 954-8100. UNDERWRITING LIMITATION [b/]: $7,503,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Redland Insurance Company

BUSINESS ADDRESS: 222 South 15th Street, Suite 600 North, Omaha, NE 68102-1616. PHONE: (402) 344-8800. UNDERWRITING LIMITATION [b/]: $9,806,000. SURETY LICENSES [c,f/]: AL, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Reliance Insurance Company

BUSINESS ADDRESS: Compliance Department - Three Parkway, PHILADELPHIA, PA 19102. PHONE: (215) 864-4000. UNDERWRITING LIMITATION [b/]: $76,893,000. SURETY LICENSES [c,f/]: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Reliance Insurance Company of Illinois [4/]

BUSINESS ADDRESS: Compliance Department - Three Parkway, PHILADELPHIA, PA 19102. PHONE: (215) 864-4000. UNDERWRITING LIMITATION [b/]: $4,296,000. SURETY LICENSES [c,f/]: IL. INCORPORATED IN: Illinois.

See Footnotes/Notes at end of Circular

Reliance National Indemnity Company

BUSINESS ADDRESS: Compliance Department - Three Parkway, PHILADELPHIA, PA 19102. PHONE: (215) 864-4000. UNDERWRITING LIMITATION [b]: $3,543,000. SURETY LICENSES [c,f]: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Reliance Surety Company

BUSINESS ADDRESS: COMPLIANCE DEPARTMENT - THREE PARKWAY, PHILADELPHIA, PA 19102. PHONE: (215) 864-4000. UNDERWRITING LIMITATION [b]: $2,121,000. SURETY LICENSES [c,f]: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Republic Western Insurance Company

BUSINESS ADDRESS: 2721 North Central Avenue, Phoenix, AZ 85004-1163. PHONE: (602) 263-6755. UNDERWRITING LIMITATION [b]: $9,301,000. SURETY LICENSES [c,f]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Arizona.

RLI Insurance Company

BUSINESS ADDRESS: 9025 N. Lindbergh Drive, Peoria, IL 61615. PHONE: (309) 692-1000. UNDERWRITING LIMITATION [b]: $26,553,000. SURETY LICENSES [c,f]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Royal Indemnity Company

BUSINESS ADDRESS: 9300 Arrowpoint Boulevard, P.O. Box 1000, Charlotte, NC 28201-1000. PHONE: (704) 522-2000. UNDERWRITING LIMITATION [b]: $12,701,000. SURETY LICENSES [c,f]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

SAFECO Insurance Company of America

BUSINESS ADDRESS: SAFECO Plaza, Seattle, WA 98185. PHONE: (206) 545-5000. UNDERWRITING LIMITATION [b]: $93,061,000. SURETY LICENSES [c,f]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Washington.

SAFECO Insurance Company of Illinois

BUSINESS ADDRESS: SAFECO Plaza, Seattle, WA 98185. PHONE: (206) 545-5000. UNDERWRITING LIMITATION [b]: $14,525,000. SURETY LICENSES [c,f]: AZ, CO, IL, KS, KY, MD, MI, MN, MS, NE, NM, OH, OR, PA, TN, TX, UT, WI, WY. INCORPORATED IN: Illinois.

SAFECO National Insurance Company

BUSINESS ADDRESS: SAFECO Plaza, Seattle, WA 98185. PHONE: (206) 545-5000. UNDERWRITING LIMITATION [b]: $7,131,000. SURETY LICENSES [c,f]: CO, KY, MD, MO, NY, UT, WI, WY. INCORPORATED IN: Missouri.

SCOR REINSURANCE COMPANY

BUSINESS ADDRESS: 2 World Trade Center, New York, NY 10048. PHONE: (212) 390-5200. UNDERWRITING LIMITATION [b]: $42,362,000. SURETY LICENSES [c,f]: AL, AK, AZ, CA, DE, DC, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, NE, NM, NY, NC, ND, OH, OK, OR, PA, RI, TN, TX, UT. INCORPORATED IN: New York.

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Sea Insurance Company of America (The)

BUSINESS ADDRESS: 9300 Arrowpoint Boulevard, P.O. Box 1000, Charlotte, NC 28201-1000. PHONE: (704) 522-2000. UNDERWRITING LIMITATION b/: $24,895,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Seaboard Surety Company

BUSINESS ADDRESS: Burnt Mills Road and Route 206, Bedminster, NJ 07921. PHONE: (908) 658-3500. UNDERWRITING LIMITATION b/: $15,892,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

SECURITY INSURANCE COMPANY OF HARTFORD

BUSINESS ADDRESS: P.O. Box 420, Hartford, CT 06141. PHONE: (860) 674-6600. UNDERWRITING LIMITATION b/: $7,541,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Security National Insurance Company

BUSINESS ADDRESS: P.O. Box 655028, Dallas, TX 75265-5028. PHONE: (214) 360-8000. UNDERWRITING LIMITATION b/: $1,585,000. SURETY LICENSES c,f/: AL, AR, CA, CO, GA, ID, IL, IN, IA, KS, KY, LA, MS, MO, MT, NE, NM, OH, OK, OR, TN, TX, WA, WI, WY. INCORPORATED IN: Texas.

Select Insurance Company

BUSINESS ADDRESS: P.O. Box 1771, Dallas, TX 75221-1771. PHONE: (972) 650-2800. UNDERWRITING LIMITATION b/: $4,017,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KY, LA, MD, MI, MS, MO, MT, NE, NV, NM, NC, OH, OR, SC, SD, TN, TX, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Texas.

Selective Insurance Company of America

BUSINESS ADDRESS: Wantage Avenue, Branchville, NJ 07890. PHONE: (973) 948-3000. UNDERWRITING LIMITATION b/: $24,153,000. SURETY LICENSES c,f/: AL, DE, DC, GA, IL, IN, IA, MD, MI, MS, NJ, NY, NC, OH, PA, SC, TX, VA, WI. INCORPORATED IN: New Jersey.

SENTINEL INSURANCE COMPANY, LTD.

BUSINESS ADDRESS: 1001 Bishop Street, Honolulu, HI 96813. PHONE: (808) 546-5700. UNDERWRITING LIMITATION b/: $2,196,000. SURETY LICENSES c,f/: HI. INCORPORATED IN: Hawaii.

Sentry Insurance A Mutual Company

BUSINESS ADDRESS: 1800 North Point Drive, Stevens Point, WI 54481. PHONE: (715) 346-6000. UNDERWRITING LIMITATION b/: $150,173,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

SERVICE INSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 9729, Bradenton, FL 34206-9729. PHONE: (941) 746-4107. UNDERWRITING LIMITATION b/: $538,000. SURETY LICENSES c,f/: AL, FL, GA, SC, TN. INCORPORATED IN: Florida.

Signet Star Reinsurance Company

BUSINESS ADDRESS: 100 Campus Drive, P.O. Box 853, Florham Park, NJ 07932-0853. PHONE: (973) 301-8000. UNDERWRITING LIMITATION b/: $27,113,000. SURETY LICENSES c,f/: AL, AK, AR, CA, CO, DE, DC, FL, ID, IL, IN, IA, KY, LA, MD, MI, MN, NE, NY, NC, ND, OH, OK, OR, PA, RI, SD, TN, TX, UT, VT, WA, WV, WI. INCORPORATED IN: Delaware.

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SOREMA NORTH AMERICA REINSURANCE COMPANY

BUSINESS ADDRESS: 199 Water Street, New York, NY 10038-3526. PHONE: (212) 480-1900. UNDERWRITING LIMITATION [b]: $17,459,000. SURETY LICENSES [c,f]: AK, AZ, CA, CO, DE, DC, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, WA, WV, WI, WY. INCORPORATED IN: New York.

St. Paul Fire and Marine Insurance Company

BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (612) 310-7911. UNDERWRITING LIMITATION [b]: $120,040,000. SURETY LICENSES [c,f]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

ST. PAUL GUARDIAN INSURANCE COMPANY

BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (612) 310-7911. UNDERWRITING LIMITATION [b]: $3,480,000. SURETY LICENSES [c,f]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

St. Paul Mercury Insurance Company

BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (612) 310-7911. UNDERWRITING LIMITATION [b]: $6,624,000. SURETY LICENSES [c,f]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

Standard Fire Insurance Company (The)

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION [b]: $68,584,000. SURETY LICENSES [c,f]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Star Insurance Company

BUSINESS ADDRESS: 26600 Telegraph Road, Southfield, MI 48034. PHONE: (248) 358-1100. UNDERWRITING LIMITATION [b]: $7,005,000. SURETY LICENSES [c,f]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

State Automobile Mutual Insurance Company

BUSINESS ADDRESS: 518 East Broad Street, Columbus, OH 43215-3976. PHONE: (614) 464-5000. UNDERWRITING LIMITATION [b]: $71,425,000. SURETY LICENSES [c,f]: AL, AZ, AR, CO, FL, GA, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, MT, NE, NC, ND, OH, OK, PA, SC, SD, TN, VA, WV, WI, WY. INCORPORATED IN: Ohio.

State Farm Fire and Casualty Company

BUSINESS ADDRESS: One State Farm Plaza, Bloomington, IL 61710. PHONE: (309) 766-2311. UNDERWRITING LIMITATION [b]: $384,931,000. SURETY LICENSES [c,f]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Statewide Insurance Company

BUSINESS ADDRESS: P. O. BOX 799, Waukegan, IL 60079-0799. PHONE: (847) 662-0073. UNDERWRITING LIMITATION [b]: $1,073,000. SURETY LICENSES [c,f]: AZ, AR, ID, IL, IN, IA, KS, KY, MN, MO, MT, NE, NV, NM, ND, OH, OR, PA, SC, SD, TN, UT, WA, WI, WY. INCORPORATED IN: Illinois.

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Sun Insurance Office of America Inc.

BUSINESS ADDRESS: 9300 Arrowpoint Boulevard, P.O. Box 1000, Charlotte, NC 28201-1000. PHONE: (704) 522-2000. UNDERWRITING LIMITATION [b]: $37,143,000. SURETY LICENSES [c,f]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Surety Company of the Pacific

BUSINESS ADDRESS: P.O. Box 10289, Van Nuys, CA 91410-0289. PHONE: (818) 609-9232. UNDERWRITING LIMITATION [b]: $813,000. SURETY LICENSES [c,f]: CA. INCORPORATED IN: California.

Swiss Reinsurance America Corporation

BUSINESS ADDRESS: 237 Park Avenue, New York, NY 10017. PHONE: (212) 907-8000. UNDERWRITING LIMITATION [b]: $148,247,000. SURETY LICENSES [c,f]: AL, AK, AZ, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WI. INCORPORATED IN: New York.

TEXAS PACIFIC INDEMNITY COMPANY

BUSINESS ADDRESS: 15 Mountain View Rd., P.O. Box 1615, Warren, NJ 07061-1615. PHONE: (214) 754-0777. UNDERWRITING LIMITATION [b]: $831,000. SURETY LICENSES [c,f]: AR, TX. INCORPORATED IN: Texas.

TIG Insurance Company

BUSINESS ADDRESS: P. O. Box 152870, Irving, TX 75015. PHONE: (972) 831-5000. UNDERWRITING LIMITATION [b]: $50,903,000. SURETY LICENSES [c,f]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

TIG Insurance Company of Michigan

BUSINESS ADDRESS: P.O. Box 152870, Irving, TX 75015. PHONE: (972) 831-5000. UNDERWRITING LIMITATION [b]: $2,013,000. SURETY LICENSES [c,f]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

TIG Premier Insurance Company

BUSINESS ADDRESS: P.O. BOX 152870, IRVING, TX 75015. PHONE: (972) 831-5000. UNDERWRITING LIMITATION [b]: $2,606,000. SURETY LICENSES [c,f]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

TRANSATLANTIC REINSURANCE COMPANY

BUSINESS ADDRESS: 80 Pine Street, New York, NY 10005. PHONE: (212) 770-2000. UNDERWRITING LIMITATION [b]: $116,386,000. SURETY LICENSES [c,f]: AK, AZ, AR, CA, CO, DE, DC, GA, ID, IL, IN, IA, KY, LA, MI, MN, MS, NE, NV, NJ, NM, NY, OH, OK, PA, UT, WA, WI. INCORPORATED IN: New York.

Transcontinental Insurance Company

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION [b]: $23,373,000. SURETY LICENSES [c,f]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Transportation Insurance Company

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION [b]: $9,059,000. SURETY LICENSES [c,f]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

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Travelers Casualty and Surety Company

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION b/: $194,661,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Travelers Casualty and Surety Company of America

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION b/: $43,333,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Travelers Casualty and Surety Company of Illinois

BUSINESS ADDRESS: 2500 Cabot Drive, Lisle, IL 60532. PHONE: (860) 277-0111. UNDERWRITING LIMITATION b/: $29,024,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Travelers Indemnity Company (The)

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION b/: $162,303,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

TRAVELERS INDEMNITY COMPANY OF AMERICA (THE)

BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION b/: $9,275,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Travelers Indemnity Company of Connecticut (The)

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION b/: $21,380,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Travelers Indemnity Company of Illinois (The)

BUSINESS ADDRESS: 2500 Cabot Drive, Lisle, IL 60532. PHONE: (860) 277-0111. UNDERWRITING LIMITATION b/: $6,395,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Tri-State Insurance Company of Minnesota

BUSINESS ADDRESS: One Roundwind Road, Luverne, MN 56156. PHONE: (507) 283-9561. UNDERWRITING LIMITATION b/: $2,780,000. SURETY LICENSES c,f/: CO, IL, IN, IA, KS, MI, MN, MO, NE, ND, OH, SD, WI. INCORPORATED IN: Minnesota.

Trinity Universal Insurance Company

BUSINESS ADDRESS: P.O. Box 655028, Dallas, TX 75265-5028. PHONE: (214) 360-8000. UNDERWRITING LIMITATION b/: $47,042,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, GA, ID, IL, IN, IA, KS, KY, LA, MI, MS, MO, NM, OH, OK, TN, TX, WA, WI, WY. INCORPORATED IN: Texas.

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Trinity Universal Insurance Company of Kansas, Inc.

BUSINESS ADDRESS: P.O. Box 655028, Dallas, TX 75265-5028. PHONE: (214) 360-8000. UNDERWRITING LIMITATION b/: $1,004,000. SURETY LICENSES c,f/: AL, AZ, CO, GA, ID, IL, IN, IA, KS, KY, LA, MS, MO, MT, NE, NM, OH, OK, OR, TX, WA, WI, WY. INCORPORATED IN: Kansas.

Trumbull Insurance Company

BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-5000. UNDERWRITING LIMITATION b/: $2,882,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, ID, IL, IN, IA, KY, ME, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, WY. INCORPORATED IN: Connecticut.

Twin City Fire Insurance Company

BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-5000. UNDERWRITING LIMITATION b/: $11,434,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

ULICO CASUALTY COMPANY

BUSINESS ADDRESS: 111 Massachusetts Avenue, NW, Washington, DC 20001. PHONE: (202) 682-0900. UNDERWRITING LIMITATION b/: $4,476,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Underwriters Indemnity Company

BUSINESS ADDRESS: 8 Greenway Plaza, Suite 400, Houston, TX 77046. PHONE: (713) 961-1300. UNDERWRITING LIMITATION b/: $418,000. SURETY LICENSES c,f/: AL, AR, GA, KY, MS, NE, NM, NC, SC, TX, WV, WY. INCORPORATED IN: Texas.

UNDERWRITERS REINSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 4030, Woodland Hills, CA 91365. PHONE: (818) 225-1000. UNDERWRITING LIMITATION b/: $47,290,000. SURETY LICENSES c,f/: AZ, CA, DE, DC, ID, IL, IN, IA, KS, MI, MS, NE, NV, NJ, NM, NY, OH, PA, RI, SD, TX, UT, WV, WI. INCORPORATED IN: New Hampshire.

Union Insurance Company

BUSINESS ADDRESS: P.O. Box 80439, Lincoln, NE 68501-0439. PHONE: (402) 423-7688. UNDERWRITING LIMITATION b/: $1,285,000. SURETY LICENSES c,f/: AR, CO, DC, ID, IA, KS, MD, MN, MS, MO, MT, NE, NC, ND, OK, SD, TN, TX, UT, VA, WA, WY. INCORPORATED IN: Nebraska.

United Capitol Insurance Company 5/

BUSINESS ADDRESS: 400 Perimeter Center Terrace, Suite 345, Atlanta, GA 30346. PHONE: (770) 677-0330. UNDERWRITING LIMITATION b/: $5,011,000. SURETY LICENSES c,f/: AZ, IL, WI. INCORPORATED IN: Illinois.

United Coastal Insurance Company 6/

BUSINESS ADDRESS: 233 Main Street, P.O. Box 2350, New Britain, CT 06050-2350. PHONE: (860) 223-5000. UNDERWRITING LIMITATION b/: $4,311,000. SURETY LICENSES c,f/: AZ. INCORPORATED IN: Arizona.

United Fire & Casualty Company

BUSINESS ADDRESS: P.O. Box 73909, Cedar Rapids, IA 52407-3909. PHONE: (319) 399-5700. UNDERWRITING LIMITATION b/: $23,133,000. SURETY LICENSES c,f/: AK, AZ, AR, CA, CO, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, ND, OH, OK, OR, SC, SD, TN, TX, UT, WA, WV, WI, WY. INCORPORATED IN: Iowa.

UNITED NATIONAL INSURANCE COMPANY

BUSINESS ADDRESS: Three Bala Plaza East, Suite 300, Bala Cynwyd, PA 19004. PHONE: (610) 664-1500. UNDERWRITING LIMITATION b/: $15,485,000. SURETY LICENSES c,f/: PA. INCORPORATED IN: Pennsylvania.

See Footnotes/Notes at end of Circular

United Pacific Insurance Company

BUSINESS ADDRESS: COMPLIANCE DEPARTMENT - THREE PARKWAY, PHILADELPHIA, PA 19102. PHONE: (215) 864-4000. UNDERWRITING LIMITATION b/: $2,355,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

United States Fidelity and Guaranty Company

BUSINESS ADDRESS: MC0401, P.O. Box 1138, Baltimore, MD 21203-1138. PHONE: (410) 205-3000. UNDERWRITING LIMITATION b/: $105,629,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Maryland.

UNITED STATES FIRE INSURANCE COMPANY

BUSINESS ADDRESS: 305 Madison Avenue, Morristown, NJ 07960. PHONE: (973) 490-6600. UNDERWRITING LIMITATION b/: $45,818,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

United States Surety Company

BUSINESS ADDRESS: P.O. Box 5605, Timonium, MD 21094. PHONE: (410) 453-9522. UNDERWRITING LIMITATION b/: $194,000. SURETY LICENSES c,f/: MD. INCORPORATED IN: Maryland.

UNITED SURETY AND INDEMNITY COMPANY

BUSINESS ADDRESS: P.O. Box 2111, San Juan, PR 00922-2111. PHONE: (809) 273-1818. UNDERWRITING LIMITATION b/: $1,558,000. SURETY LICENSES c,f/: PR. INCORPORATED IN: Puerto Rico.

UNIVERSAL BONDING INSURANCE COMPANY

BUSINESS ADDRESS: 518 Stuyvesant Avenue, Lyndhurst, NJ 07071. PHONE: (201) 438-7223. UNDERWRITING LIMITATION b/: $1,238,000. SURETY LICENSES c,f/: NJ, NY, PA. INCORPORATED IN: New Jersey.

UNIVERSAL INSURANCE COMPANY

BUSINESS ADDRESS: G.P.O. Box 71338, San Juan, PR 00936. PHONE: (787) 793-7202. UNDERWRITING LIMITATION b/: $5,763,000. SURETY LICENSES c,f/: PR. INCORPORATED IN: Puerto Rico.

Universal Surety Company

BUSINESS ADDRESS: P.O. Box 80468, Lincoln, NE 68501. PHONE: (402) 435-4302. UNDERWRITING LIMITATION b/: $4,218,000. SURETY LICENSES c,f/: AZ, AR, CO, ID, IL, IA, KS, MI, MN, MO, MT, NE, NV, NM, ND, OH, OK, OR, SD, UT, WA, WI, WY. INCORPORATED IN: Nebraska.

Universal Surety of America

BUSINESS ADDRESS: P.O. Box 1068, Houston, TX 77251-1068. PHONE: (713) 722-4600. UNDERWRITING LIMITATION b/: $1,367,000. SURETY LICENSES c,f/: AL, AK, AR, CA, CO, DE, DC, FL, GA, ID, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Texas.

UNIVERSAL UNDERWRITERS INSURANCE COMPANY

BUSINESS ADDRESS: 6363 College Blvd., Overland Park, KS 66211. PHONE: (913) 339-1000. UNDERWRITING LIMITATION b/: $59,006,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

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Utica Mutual Insurance Company

BUSINESS ADDRESS: P.O. Box 530, Utica, NY 13503-0530. PHONE: (315) 734-2000. UNDERWRITING LIMITATION [b/]: $30,595,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Valley Forge Insurance Company

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION [b/]: $19,686,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

VAN TOL SURETY COMPANY, INCORPORATED

BUSINESS ADDRESS: 424 Fifth Street, Brookings, SD 57006. PHONE: (605) 692-6294. UNDERWRITING LIMITATION [b/]: $240,000. SURETY LICENSES [c,f/]: SD. INCORPORATED IN: South Dakota.

VESTA FIRE INSURANCE CORPORATION

BUSINESS ADDRESS: P.O. Box 43360, Birmingham, AL 35243-3360. PHONE: (205) 970-7000. UNDERWRITING LIMITATION [b/]: $28,334,000. SURETY LICENSES [c,f/]: AL, AK, AZ, CO, DC, IL, IA, KS, KY, LA, MA, MI, MN, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OR, PA, RI, SC, SD, TX, UT, VA, WA, WI, WY. INCORPORATED IN: Alabama.

Vigilant Insurance Company

BUSINESS ADDRESS: 100 William Street, New York, NY 10038. PHONE: (908) 903-2000. UNDERWRITING LIMITATION [b/]: $30,969,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

Washington International Insurance Company

BUSINESS ADDRESS: 300 Park Boulevard, Suite 500, Itasca, IL 60143-2625. PHONE: (630) 227-4700. UNDERWRITING LIMITATION [b/]: $2,769,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Arizona.

West American Insurance Company

BUSINESS ADDRESS: 136 North Third Street, Hamilton, OH 45025. PHONE: (513) 867-3000. UNDERWRITING LIMITATION [b/]: $72,678,000. SURETY LICENSES [c,f/]: AL, AZ, AR, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Westchester Fire Insurance Company

BUSINESS ADDRESS: Six Concourse Parkway, Suite 2500, Atlanta, GA 30328-5346. PHONE: (770) 393-9955. UNDERWRITING LIMITATION [b/]: $16,139,000. SURETY LICENSES [c,f/]: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Western Surety Company

BUSINESS ADDRESS: P.O. Box 5077, Sioux Falls, SD 57117-5077. PHONE: (605) 336-0850. UNDERWRITING LIMITATION [b/]: $12,540,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: South Dakota.

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Westfield Insurance Company

BUSINESS ADDRESS: P.O. Box 5001, Westfield Center, OH 44251-5001. PHONE: (330) 887-0101. UNDERWRITING LIMITATION b/: $31,938,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Westfield National Insurance Company

BUSINESS ADDRESS: P.O. Box 5001, Westfield Center, OH 44251-5001. PHONE: (330) 887-0101. UNDERWRITING LIMITATION b/: $9,240,000. SURETY LICENSES c,f/: CA, IA, OH. INCORPORATED IN: Ohio.

WINTERTHUR REINSURANCE CORPORATION OF AMERICA

BUSINESS ADDRESS: Two World Financial Ctr, 225 Liberty Street, 42 Fl, New York, NY 10281-1076. PHONE: (212) 416-5700. UNDERWRITING LIMITATION b/: $25,434,000. SURETY LICENSES c,f/: AL, AZ, CA, DE, DC, IL, IN, IA, KY, MD, MI, MN, MS, MT, NE, NJ, NM, NY, ND, OH, OK, OR, PA, RI, SC, SD, TX, UT, VT, WA, WV, WI. INCORPORATED IN: New York.

ZENITH INSURANCE COMPANY 7/

BUSINESS ADDRESS: 21255 Califa Street, Woodland Hills, CA 91367. PHONE: (818) 713-1000. UNDERWRITING LIMITATION b/: $24,038,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, FL, HI, ID, IL, IN, IA, NJ, NM, NY, OR, TX, UT, WA. INCORPORATED IN: California.

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COMPANIES HOLDING CERTIFICATES OF AUTHORITY AS ACCEPTABLE REINSURING COMPANIES UNDER SECTION 223.3(b) OF TREASURY CIRCULAR NO. 297, REVISED SEPTEMBER 1, 1978 [See Note (e)]

Capital Reinsurance Company

BUSINESS ADDRESS: 1325 Avenue of the Americas, New York, NY 10019. PHONE: (212) 974-0100. UNDERWRITING LIMITATION [b/]: $34,633,000.

European Reinsurance Corporation of America

BUSINESS ADDRESS: Park Avenue Plaza, 55 East 52nd St., 43rd Fl., New York, NY 10055-0002. PHONE: (212) 317-5400. UNDERWRITING LIMITATION [b/]: $12,260,000.

FOLKSAMERICA REINSURANCE COMPANY

BUSINESS ADDRESS: One Liberty Plaza, New York, NY 10006. PHONE: (212) 312-2500. UNDERWRITING LIMITATION [b/]: $27,583,000.

Generali - U.S. Branch

BUSINESS ADDRESS: One Liberty Plaza, New York, NY 10006. PHONE: (212) 602-7600. UNDERWRITING LIMITATION [b/]: $10,580,000.

Odyssey Reinsurance Corporation

BUSINESS ADDRESS: One Liberty Plaza, New York, NY 10006. PHONE: (212) 978-4700. UNDERWRITING LIMITATION [b/]: $30,637,000.

KIRK CAPITAL REINSURANCE COMPANY

BUSINESS ADDRESS: 20 HORSENECK LANE, GREENWICH, CT 06830. PHONE: (203) 862-4300. UNDERWRITING LIMITATION [b/]: $31,665,000.

Tokio Marine and Fire Insurance Company, Limited (The), U.S. Branch

BUSINESS ADDRESS: 101 Park Avenue, New York, NY 10178. PHONE: (212) 297-6600. UNDERWRITING LIMITATION [b/]: $22,426,000.

Zurich Insurance Company, U.S. Branch

BUSINESS ADDRESS: 1400 American Lane, Schaumburg, IL 60196-1056. PHONE: (847) 605-6000. UNDERWRITING LIMITATION [b/]: $72,150,000.

See Footnotes/Notes at end of Circular

FOOTNOTES

1 This Company's name is very similar to another company that is NOT certified by this Department. Please ensure that the name of the Company and the state of incorporation are exactly as they appear in this Circular.

2 This Company's name is very similar to another company that is NOT certified by this Department. Please ensure that the name of the Company and the state of incorporation are exactly as they appear in this Circular.

3 Pacific Indemnity Company changed its state of incorporation from California to Wisconsin, effective December 31, 1997.

4 Reliance Insurance Company of Illinois is an approved surplus lines carrier. Such approval by the State Insurance Department may indicate that the Company is authorized to write surety in a particular state, even though the Company is not licensed in the state. Questions related to this, may be directed to the appropriate State Insurance Department. Refer to the list of the Departments at the end of this publication.

5 United Capitol Insurance Company changed its state of incorporation from Wisconsin to Illinois, effective January 1, 1998.

United Capitol Insurance Company is an approved surplus lines carrier. Such approval by the State Insurance Department may indicate that the Company is authorized to write surety in a particular state, even though the Company is not licensed in the state. Questions related to this, may be directed to the appropriate State Insurance Department. Refer to the list of the Departments at the end of this publication.

6 United Coastal Insurance Company is an approved surplus lines carrier. Such approval by the State Insurance Department may indicate that the Company is authorized to write surety in a particular state, even though the Company is not licensed in the state. Questions related to this, may be directed to the appropriate State Insurance Department. Refer to the list of the Departments at the end of this publication.

7 This Company's name is very similar to another company that is NOT certified by this Department. Please ensure that the name of the Company is exactly as it appears in this Circular. Do not hesitate to contact the Company to verify the authenticity of a bond.

NOTES

(a) All Certificates of Authority expire June 30, and are renewable July 1, annually. Companies holding Certificates of Authority as acceptable sureties on Federal bonds are also acceptable as reinsuring companies.

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(b) The Underwriting Limitations published herein are on a per bond basis. Treasury requirements do not limit the penal sum (face amount) of bonds which surety companies may provide. However, when the penal sum exceeds a company's Underwriting Limitation, the excess must be protected by co-insurance, reinsurance, or other methods in accordance with Treasury Circular 297, Revised September 1, 1978 (31 CFR Section 223.10, Section 223.11). Treasury refers to a bond of this type as an Excess Risk. When Excess Risks on bonds in favor of the United States are protected by reinsurance, such reinsurance is to be effected by use of a Federal reinsurance form to be filed with the bond or within 45 days thereafter. In protecting such excess risks, the underwriting limitation in force on the day in which the bond was provided will govern absolutely. For further assistance, contact the Surety Bond Branch at (202) 874-6850.

(c) A surety company must be licensed in the State or other area in which it provides (signs) a bond, but need not be licensed in the State or other area in which the principal resides or where the contract is to be performed [28 Op. Atty. Gen. 127, Dec. 24, 1909; 31 CFR Section 223.5 (b)]. The term "other area" includes the District of Columbia, American Samoa, Guam, Puerto Rico, and the Virgin Islands.

License information in this Circular is provided to the Treasury Department by the companies themselves. For updated license information, you may contact the company directly or the applicable state insurance department. Refer to the list of state insurance departments at the end of this publication. For further assistance, contact the Surety Bond Branch at (202) 874-6850.

(d) FEDERAL PROCESS AGENTS: Treasury approved surety companies are required to appoint Federal process agents in accordance with 31 U.S.C. 9306 and 31 CFR 224 in the following districts: Where the principal resides; where the obligation is to be performed; and in the District of Columbia where the bond is returnable or filed. No process agent is required in the State or other area where the company is incorporated (31 CFR Section 224.2). The name and address of a particular surety's process agent in a particular Federal Judicial District may be obtained from the Clerk of the U.S. District Court in that district. (The appointment documents are on file with the clerks.) (NOTE: A surety company's underwriting agent who furnishes its bonds may or may not be its authorized process agent.)

SERVICE OF PROCESS: Process should be served on the Federal process agent appointed by a surety in a judicial district, except where the appointment of such agent is pending or during the absence of such agent from the district. Only in the event that an agent has not been duly appointed, or the appointment is pending, or the agent is absent from the district, should process be served directly on the Clerk of the court pursuant to the provisions of 31 U.S.C. 9306.

(e) Companies holding Certificates of Authority as acceptable reinsuring companies are acceptable only as reinsuring companies on Federal bonds.

(f) Some companies may be approved surplus lines carriers in various states. Such approval may indicate that the company is authorized to write surety in a particular state, even though the company is not licensed in the state. Questions related to this may be directed to the appropriate state insurance department. Refer to the list of state insurance departments at the end of this publication.

STATE INSURANCE DEPARTMENTS	TELEPHONE NO.
Alabama, Montgomery 36130-3401	(334) 269-3550
Alaska, Juneau 99811-0805	(907) 465-2515
Arizona, Phoenix 85012	(602) 912-8420
Arkansas, Little Rock 72204	(501) 371-1325
California, Sacremento 95814	(916) 492-3301
Colorado, Denver 80202	(303) 894-7499
Connecticut, Hartford 06142-0816	(203) 297-3802
Delaware, Dover 19901	(302) 739-4251
D. C., Washington 20013-7200	(202) 727-8000
Florida, Tallahasse 32399-0300	(904) 922-3100
Georgia, Atlanta 30334	(404) 656-2056
Hawaii, Honolulu 96811	(808) 586-2799
Idaho, Boise 83720	(208) 334-2250
Illinois, Springfield 62767	(217) 782-4515
Indiana, Indianapolis 46204-2787	(317) 232-2385
Iowa, Des Moines 50319	(515) 281-5705
Kansas, Topeka 66612	(913) 296-7801
Kentucky, Frankfort 40602	(502) 564-3630
Louisiana, Baton Rouge 70804	(504) 342-5900
Maine, Augusta 04333	(207) 582-8707
Maryland, Baltimore 21202	(410) 333-6300
Massachusetts, Boston 02114	(617) 521-7794
Michigan, Lansing 48909	(517) 373-9273
Minnesota, St. Paul 55101	(612) 296-6848
Mississippi, Jackson 39205	(601) 359-3569
Missouri, Jefferson City 65102-0690	(314) 751-4126
Montana, Helena 59604-4009	(406) 444-2040
Nebraska, Lincoln 68508	(402) 471-2201
Nevada, Carson City 89710	(702) 687-4270
New Hampshire, Concord 03301	(603) 271-2261
New Jersey, Trenton 08625	(609) 292-5360
New Mexico, Sante Fe 87504-1269	(505) 827-4500
New York, New York 10013	(212) 602-0249
North Carolina, Raleigh 27611	(919) 733-7349
North Dakota, Bismarck 58505	(701) 224-2440
Ohio, Columbus 43266-0566	(614) 644-2651
Oklahoma, Oklahoma City 73152-3408	(405) 521-2828
Oregon, Salem 97310	(503) 378-4271
Pennsylvania, Harrisburg 17120	(717) 787-5173
Puerto Rico, Santurce 00910-8330	(809) 722-8686
Rhode Island, Providence 02903	(401) 277-2223
South Carolina, Columbia 29202-3105	(803) 737-6117
South Dakota, Pierre 57501	(605) 773-3563
Tennessee, Nashville 37243-0565	(615) 741-2241
Texas, Austin 78714-9104	(512) 463-6464
Utah, Salt Lake City 84114-1201	(801) 538-3800
Vermont, Montpelier 05620-3101	(802) 828-3301
Virginia, Richmond 23209	(804) 371-9741
Virgin Islands, St. Thomas 00802	(809) 774-2991
Washington, Olympia 98504	(206) 753-7301
West Virginia, Charleston 25305	(304) 558-3394
Wisconsin, Madison 53707-7873	(608) 266-0102
Wyoming, Cheyenne 82002	(307) 777-7401

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July 1, 1998

Part IV

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Chapter 1
Federal Acquisition Regulations (FAR);
Final Rules

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 12, 15, 19, 52, and 53

[FAC 97–07; FAR Case 97–004B]

RIN 9000–AH59

Federal Acquisition Regulation; Reform of Affirmative Action in Federal Procurement

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule with request for comment.

SUMMARY: The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration have agreed to issue Federal Acquisition Circular 97–07, as an interim rule to make amendments to the Federal Acquisition Regulation (FAR) concerning programs for small disadvantaged business (SDB) concerns. These amendments conform to a Department of Justice (DoJ) proposal to reform affirmative action in Federal procurement. DoJ's proposal is designed to ensure compliance with the constitutional standards established by the Supreme Court in *Adarand Constructors, Inc.* v. *Pena*, 115 S. Ct. 2097 (1995). This regulatory action was subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is a major rule under 5 U.S.C. 804.

DATES: *Effective Date:* January 1, 1999.

Applicability Date: The policies, provisions, and clauses of this interim rule are effective for all solicitations issued on or after January 1, 1999.

Comment Date: Comments should be submitted to the FAR Secretariat at the address shown below on or before August 31, 1998 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (MVR), 1800 F Street, NW, Room 4035, Attn: Ms. Laurie Duarte, Washington, DC 20405.

E-Mail comments submitted over the Internet should be addressed to: farcase.97–004B@gsa.gov.

Please cite FAC 97–07, FAR case 97–004B in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Ms. Victoria Moss, Procurement Analyst, Federal Acquisition Policy Division, General Services Administration, 1800 F Street NW, Washington DC 20405, Telephone: (202) 501–4764, or Mr. Mike Sipple, Procurement Analyst, Contract Policy and Administration, Director, Defense Procurement, Department of Defense, 3060 Defense Pentagon, Washington DC 20301–3060, Telephone: (703) 695–8567.

For general information call the FAR Secretariat at (202) 501-4755.

SUPPLEMENTARY INFORMATION:

A. Background

In *Adarand*, the Supreme Court extended strict judicial scrutiny to Federal affirmative action programs that use racial or ethnic criteria as a basis for decisionmaking. In procurement, this means that any use of race in the decision to award a contract is subject to strict scrutiny. Under strict scrutiny, any Federal programs that make race a basis for contract decisionmaking must be narrowly tailored to serve a compelling Government interest.

DoJ developed a proposed structure to reform affirmative action in Federal procurement designed to ensure compliance with the constitutional standards established by the Supreme Court in *Adarand*. The DoJ proposal was published for public notice and invitation for comments (61 FR 26042, May 23, 1996). The DoJ model is being implemented in several parts: revisions to the FAR and the FAR supplements; Small Business Administration (SBA) regulations; and procurement mechanisms and applicable factors (percentages) determined by the Department of Commerce. The SBA regulations were published for public comment on August 14, 1997 (62 FR 23584). Requirements related to certification, protests, and appeals and other issues are also addressed in SBA's rules. On May 9, 1997, proposed amendments to the FAR, based on the DoJ Model, were published as a proposed rule in the **Federal Register** (62 FR 25786). An interim FAR rule that implemented the price evaluation adjustment for SDB concerns was previously issued in the **Federal Register** on June 30, 1998. This interim rule implements the evaluation factor or subfactor for SDB participation, incentive subcontracting with SDB concerns, and other coverage that is not directly related to the price evaluation adjustment for SDB concerns.

B. Regulatory Flexibility Act

These changes may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because through the rule small business concerns may be provided benefits in Federal contracting. An Initial Regulatory Flexibility Analysis (IRFA) was submitted to the Chief Counsel for Advocacy of the Small Business Administration. A summary of the IRFA was published along with the FAR proposed rule in the **Federal Register** at 62 FR 25786, May 9, 1997. The economic impact associated with certification and associated costs, as well as other program requirements addressed in the SBA's changes to 13 CFR Parts 121, 124, and 134 have been addressed in analyses prepared by the SBA. The following information is provided to update the IRFA related to this FAR interim rule:

> This interim rule would establish in the FAR two procurement mechanisms benefiting small disadvantaged businesses (SDBs). The first of these mechanisms is a source selection evaluation factor or subfactor for planned SDB participation, primarily at the subcontract level, in the performance of a contract in the SIC Major Groups as determined by the Department of Commerce. This evaluation factor or subfactor would be used in competitive, negotiated acquisitions expected to exceed $500,000 ($1,000,000 for construction). This mechanism would not be applied to certain major categories of acquisition, including, for example, small business set-asides, 8(a) acquisitions, and acquisitions in which source selection is based on a cost or price competition between proposals meeting the Government's minimum requirements.
>
> The second mechanism provides for a monetary incentive for subcontracting with SDBs. Contracts resulting from solicitations in which SDB participation is evaluated may provide for a monetary payment to those prime contractors that meet specified targets for SDB participation as subcontractors in the SIC Major Groups as determined by the Department of Commerce.
>
> The rule would also add to the FAR a requirement to evaluate the past performance of offerors in complying with targets for SDB participation and subcontracting plan goals for SDBs whenever past performance is to be evaluated.
>
> The main impact of the rule is expected to be on firms seeking to obtain contracts from Federal government agencies and SDBs seeking subcontracts under those prime contracts. The best available estimate of the number of such firms is 30,000. The basis for this estimate is the IRFA prepared by SBA addressing the changes to 13 CFR Parts 121, 124, and 134. The anticipated costs for certification and protest and appeal procedures are addressed in SBA's IRFA. The primary impact of this interim rule is expected to be the increase in contract awards to qualified firms and a corresponding decrease in contract awards to firms that are not qualified as SDBs.

Within the constraints imposed by the need to implement the DOJ-proposed reforms, the rule was crafted throughout to select alternatives that would minimize any adverse economic impact on small business.

A copy of the IRFA may be obtained from the FAR Secretariat.

C. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (Pub. L. 104–13) applies because the interim rule contains reporting and recordkeeping requirements. Requests for approval of new and revised information collection requirements were submitted to the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* The information collections required by this rule were approved under clearance 9000–0007 through June 30, 2000, and 9000–0150 through June 30, 2000. Public comments concerning this request were invited through a **Federal Register** notice published on May 9, 1997. No comments were received.

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DOD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary to allow adequate time for the significant number of potential SDB subcontractors to understand the requirements of the rule and to be certified as SDB's by SBA. The rule will conform the FAR to the model program designed by the Department of Justice to ensure compliance with Constitutional standards established by the Supreme Court and, thereby, avoid unnecessary litigation. A proposed FAR rule on this subject was published for public comment at 62 FR 25786 on May 9, 1997. As a result of public comments received in response to the proposed rule, changes have been made to the rule. This interim rule would qualify for publication as a final rule; however, further public comments are requested. Pursuant to Public Law 98–577 and FAR 1.501, public comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Parts 1, 12, 15, 19, 52, and 53

Government procurement.

Dated: June 23, 1998.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Federal Acquisition Circular

FAC 97–07

Federal Acquisition Circular (FAC) 97–07 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

The policies, provisions, and clauses of this interim rule are effective for all solicitations issued on or after January 1, 1999.

Dated: June 17, 1998.

R.D. Kerrins,

Col, USA, Deputy Director, Defense Procurement.

Dated: June 16, 1998.

Ida M. Ustad,

Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration.

Dated: June 17, 1998.

Deidre A. Lee,

Associate Administrator for Procurement, NASA.

Therefore, 48 CFR Parts 1, 12, 15, 19, 52, and 53 are amended as set forth below:

1. The authority citation for 48 CFR Parts 1, 12, 15, 19, 52, and 53 continues to read as follows:

Authority: 41 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

2. Section 1.106 is amended in the table following the introductory paragraph by adding, in numerical order, the following entries:

1.106 OMB approval under the Paperwork Reduction Act.

* * * * *

FAR segment	OMB control No.
* * *	* *
19.12	9000–0150
* * *	* *
52.219–25	9000–0150
* * *	* *
OF 312	9000–0150
* * *	* *

PART 12—ACQUISITION OF COMMERCIAL ITEMS

3. Section 12.303(b)(1) is revised to read as follows:

12.303 Contract format.

* * * * *

(b) * * *

(1) Block 10 if a price evaluation adjustment for small disadvantaged business concerns is applicable (the contracting officer shall indicate the percentage(s) and applicable line item(s)), if an incentive subcontracting clause is used (the contracting officer shall indicate the applicable percentage), or if set aside for emerging small businesses;

* * * * *

PART 15—CONTRACTING BY NEGOTIATION

4. Section 15.304 is amended by adding paragraph (c)(4) to read as follows:

15.304 Evaluation factors and significant subfactors.

* * * * *

(c) * * *

(4) The extent of participation of small disadvantaged business concerns in performance of the contract shall be evaluated in unrestricted acquisitions expected to exceed $500,000 ($1,000,000 for construction) subject to certain limitations (see 19.201 and 19.1202).

* * * * *

5. Section 15.305 is amended by adding paragraph (a)(2)(v) to read as follows:

15.305 Proposal evaluation.

(a) * * *

(2) * * *

(v) The evaluation should include the past performance of offerors in complying with subcontracting plan goals for small disadvantaged business (SDB) concerns (see Subpart 19.7), monetary targets for SDB participation (see 19.1202), and notifications submitted under 19.1202–4(b).

* * * * *

6. Section 15.503 is amended in paragraph (a)(2) by revising the first sentence to read as follows:

15.503 Notifications to unsuccessful offerors.

(a) * * *

(2) *Preaward notices for small business programs.* In addition to the notice in paragraph (a)(1) of this section, when using a small business set-aside (see Subpart 19.5), or when a small disadvantaged business concern receives a benefit based on its disadvantaged status (see Subpart 19.11 and 19.1202) and is the apparently successful offeror, upon completion of negotiations and determinations of

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responsibility, and completion of the process in 19.304(d), if necessary, but prior to award, the contracting officer shall notify each offeror in writing of the name and address of the apparently successful offeror. * * *

* * * * *

PART 19—SMALL BUSINESS PROGRAMS

7. Section 19.000 is amended at the end of paragraph (a)(7) by removing "and"; in paragraph (a)(8) by removing the period and inserting "; and" in its place; and by adding paragraph (a)(9) to read as follows:

19.000 Scope of part.

(a) * * *

(9) The Small Disadvantaged Business Participation Program.

* * * * *

19.001 Definitions.

8. Section 19.001 is amended by revising the definition of "Small disadvantaged business concern" to read as follows:

19.001 Definitions.

* * * * *

Small disadvantaged business concern, as used in this part, means (except for 52.212–3(c)(2) and 52.219–1(b)(2) for general statistical purposes and 52.212–3(c)(7)(ii), 52.219–22(b)(2), and 52.219–23(a) for joint ventures under the price evaluation adjustment for small disadvantaged business concerns) an offeror that represents, as part of its offer, that it is a small business under the size standard applicable to the acquisition; and either—

(1) It has received certification as a small disadvantaged business concern consistent with 13 CFR 124, Subpart B; and

(i) No material change in disadvantaged ownership and control has occurred since its certification;

(ii) Where the concern is owned by one or more disadvantaged individuals, the net worth of each individual upon whom the certification is based does not exceed $750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

(iii) It is listed, on the date of its representation, on the register of small disadvantaged business concerns maintained by the Small Business Administration; or

(2) For prime contractors, it has submitted a completed application to the Small Business Administration or a Private Certifier to be certified as a small disadvantaged business concern in accordance with 13 CFR 124, Subpart B, and a decision on that application is pending, and that no material change in disadvantaged ownership and control has occurred since its application was submitted. In this case, a contractor must receive certification as an SDB by the SBA prior to contract award.

* * * * *

9. Section 19.201 is amended by revising paragraph (b) to read as follows:

19.201 General policy.

* * * * *

(b) The Department of Commerce will determine on an annual basis, by Major Groups as contained in the Standard Industrial Classification (SIC) manual, and region, if any, the authorized small disadvantaged business (SDB) procurement mechanisms and applicable factors (percentages). The Department of Commerce determination shall only affect solicitations that are issued on or after the effective date of the determination. The effective date of the Department of Commerce determination shall be no less than 60 days after its publication date. The Department of Commerce determination shall not affect ongoing acquisitions. The SDB procurement mechanisms are a price evaluation adjustment for SDB concerns (see Subpart 19.11), an evaluation factor or subfactor for participation of SDB concerns (see 19.1202), and monetary subcontracting incentive clauses for SDB concerns (see 19.1203). The Department of Commerce determination shall also include the applicable factors, by SIC Major Group, to be used in the price evaluation adjustment for SDB concerns (see 19.1104). The authorized procurement mechanisms shall be applied consistently with the policies and procedures in this subpart. The agencies shall apply the procurement mechanisms determined by the Department of Commerce. The Department of Commerce, in making its determination, is not limited to the SDB procurement mechanisms identified in this section where the Department of Commerce has found substantial and persuasive evidence of—

(1) A persistent and significant underutilization of minority firms in a particular industry, attributable to past or present discrimination; and

(2) A demonstrated incapacity to alleviate the problem by using those mechanisms.

* * * * *

10. Section 19.304 is amended in the introductory text of paragraph (c) by revising the second sentence to read as follows:

19.304 Disadvantaged business status.

* * * * *

(c) * * * The mechanisms that may provide benefits on the basis of disadvantaged status as a prime contractor are a price evaluation adjustment for SDB concerns (see Subpart 19.11), and an evaluation factor or subfactor for SDB participation (see 19.1202).

* * * * *

11. Section 19.305 is amended in paragraph (a) by revising the last sentence to read as follows:

19.305 Protesting a representation of disadvantaged business status.

(a) * * * An offeror, the contracting officer, or the SBA may protest the apparently successful offeror's representation of disadvantaged status if the concern is eligible to receive a benefit based on its disadvantaged status (see Subpart 19.11 and 19.1202).

* * * * *

12. Section 19.306 is amended by revising paragraph (b) to read as follows:

19.306 Solicitation provisions.

* * * * *

(b) The contracting officer shall insert the provision at 52.219–22, Small Disadvantaged Business Status, in solicitations that include the clause at 52.219–23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns, or 52.219–25, Small Disadvantaged Business Participation Program-Disadvantaged Status and Reporting.

* * * * *

13. Section 19.703 is amended by revising paragraphs (a)(2) and (b) to read as follows:

19.703 Eligibility requirements for participating in the program.

(a) * * *

(2) In connection with a subcontract, or a requirement for which the apparently successful offeror received an evaluation credit for proposing one or more SDB subcontractors, the contracting officer or the SBA may protest the disadvantaged status of a proposed subcontractor. Such protests will be processed in accordance with 13 CFR 124.1015 through 124.1022. Other interested parties may submit information to the contracting officer or the SBA in an effort to persuade the contracting officer or the SBA to initiate a protest. Such protests, in order to be considered timely, must be submitted to the SBA prior to completion of performance by the intended subcontractor.

(b) A contractor acting in good faith may rely on the written representation of its subcontractor regarding the subcontractor's status as a small business concern or a woman-owned small business concern. The contractor shall obtain representations of small disadvantaged status from subcontractors through use of a provision substantially the same as paragraph (b)(1)(i) of the provision at 52.219–22, Small Disadvantaged Business Status. A contractor shall confirm that a subcontractor representing itself as a small disadvantaged business concern is listed on the SBA's list of SDBs by accessing the list at http://www.sba.gov or by contacting the SBA's Office of Small Disadvantaged Business Certification and Eligibility. The contractor, the contracting officer, or any other interested party can challenge a subcontractor's size status representation by filing a protest, in accordance with 13 CFR 121.1601 through 121.1608. Protests challenging a subcontractor's small disadvantaged business representation shall be filed in accordance with 13 CFR 124.1015 through 124.1022.

14. Section 19.705–1 is amended by inserting the following sentence after the first sentence to read as follows:

19.705–1 General support of the program.

* * * This subsection does not apply to SDB subcontracting (see 19.1203). * * *

19.705–4 [Amended]

15. Section 19.705–4 is amended in the last sentence of paragraph (c) by removing ", small disadvantaged".

19.708 [Amended]

16. Section 19.708 is amended in the first sentence of paragraphs (c)(1), (c)(2), and (c)(3) by removing ", small disadvantaged".

17. Subpart 19.12, consisting of sections 19.1201 through 19.1204, is added to read as follows:

Subpart 19.12—Small Disadvantaged Business Participation Program

19.1201 General.
19.1202 Evaluation factor or subfactor.
19.1202–1 General.
19.1202–2 Applicability.
19.1202–3 Considerations in developing an evaluation factor or subfactor.
19.1202–4 Procedures.
19.1203 Incentive subcontracting with small disadvantaged business concerns.
19.1204 Solicitation provisions and contract clauses.

Authority: 41 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

Subpart 19.12—Small Disadvantaged Business Participation Program

19.1201 General.

This subpart addresses the evaluation of the extent of participation of small disadvantaged business (SDB) concerns in performance of contracts in the Standard Industrial Classification (SIC) Major Groups as determined by the Department of Commerce (see 19.201(b)), and to the extent authorized by law. Two mechanisms are addressed in this subpart—

(a) An evaluation factor or subfactor for the participation of SDB concerns in performance of the contract; and

(b) An incentive subcontracting program for SDB concerns.

19.1202 Evaluation factor or subfactor.

19.1202–1 General.

The extent of participation of SDB concerns in performance of the contract, in the SIC Major Groups as determined by the Department of Commerce, and to the extent authorized by law, shall be evaluated consistent with this section. Participation in performance of the contract includes joint ventures, teaming arrangements, and subcontracts. Credit under the evaluation factor or subfactor is not available to SDB concerns that receive a price evaluation adjustment under Subpart 19.11. If an SDB concern waives the price evaluation adjustment at Subpart 19.11, participation in performance of that contract includes the work expected to be performed by the SDB concern at the prime contract level.

19.1202–2 Applicability.

(a) Except as provided in paragraph (b) of this subsection, the extent of participation of SDB concerns in performance of the contract in the authorized SIC Major Groups shall be evaluated in competitive, negotiated acquisitions expected to exceed $500,000 ($1,000,000 for construction).

(b) The extent of participation of SDB concerns in performance of the contract in the authorized SIC Major Groups (see paragraph (a) of this subsection) shall not be evaluated in—

(1) Small business set-asides (see Subpart 19.5);

(2) 8(a) acquisitions (see Subpart 19.8);

(3) Negotiated acquisitions where the lowest price technically acceptable source selection process is used (see 15.101–2); or

(4) Contract actions that will be performed entirely outside of any State, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

19.1202–3 Considerations in developing an evaluation factor or subfactor.

In developing an SDB participation evaluation factor or subfactor, agencies may consider—

(a) The extent to which SDB concerns are specifically identified;

(b) The extent of commitment to use SDB concerns (for example, enforceable commitments are to be weighted more heavily than non-enforceable ones);

(c) The complexity and variety of the work SDB concerns are to perform;

(d) The realism of the proposal;

(e) Past performance of offerors in complying with subcontracting plan goals for SDB concerns and monetary targets for SDB participation; and

(f) The extent of participation of SDB concerns in terms of the value of the total acquisition.

19.1202–4 Procedures.

(a) The solicitation shall describe the SDB participation evaluation factor or subfactor. The solicitation shall require offerors to provide, with their offers, targets, expressed as dollars and percentages of total contract value, in each of the applicable, authorized SIC Major Groups, and a total target for SDB participation by the contractor, including joint venture partners, and team members, and a total target for SDB participation by subcontractors. The solicitation shall require an SDB offeror that waives the SDB price evaluation adjustment in the clause at 52.219–23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns, to provide with its offer a target for the work that it intends to perform as the prime contractor. The solicitation shall state that any targets will be incorporated into and become part of any resulting contract. Contractors with SDB participation targets shall be required to report SDB participation.

(b) When an evaluation includes an SDB participation evaluation factor or subfactor that considers the extent to which SDB concerns are specifically identified, the SDB concerns considered in the evaluation shall be listed in the contract, and the contractor shall be required to notify the contracting officer of any substitutions of firms that are not SDB concerns.

19.1203 Incentive subcontracting with small disadvantaged business concerns.

The contracting officer may encourage increased subcontracting opportunities in the SIC Major Groups as determined by the Department of Commerce for SDB

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concerns in negotiated acquisitions by providing monetary incentives (see the clause at 52.219–26, Small Disadvantaged Business Participation Program Incentive Subcontracting, and 19.1204(c)). Monetary incentives shall be based on actual achievement as compared to proposed monetary targets for SDB subcontracting. The incentive subcontracting program is separate and distinct from the establishment, monitoring, and enforcement of SDB subcontracting goals in a subcontracting plan.

19.1204 Solicitation provisions and contract clauses.

(a) The contracting officer may insert a provision substantially the same as the provision at 52.219–24, Small Disadvantaged Business Participation Program Targets, in solicitations that consider the extent of participation of SDB concerns in performance of the contract. The contracting officer may vary the terms of this provision consistent with the policies in 19.1202–4.

(b) The contracting officer shall insert the clause at 52.219–25, Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting, in solicitations and contracts that consider the extent of participation of SDB concerns in performance of the contract.

(c) The contracting officer may, when contracting by negotiation, insert in solicitations and contracts containing the clause at 52.219–25, Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting, a clause substantially the same as the clause at 52.219–26, Small Disadvantaged Business Participation Program—Incentive Subcontracting, when authorized (see 19.1203). The contracting officer may include an award fee provision in lieu of the incentive; in such cases, however, the contracting officer shall not use the clause at 52.219–26.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.212-2 [Amended]

18. Section 52.212–2 is amended by revising the provision date to read "(Jan 1999)"; and in the parenthetical following paragraph (a) of the provision by inserting "; (iv) small disadvantaged business participation;" after "(see FAR 15.304)".

19. Section 52.212–3 is amended by revising the provision date; and the introductory text of paragraph (c)(7) to read as follows:

52.212–3 Offeror Representations and Certifications—Commercial Items.

* * * * *

Offeror Representations and Certifications—Commercial Items (Jan. 1999)

* * * * *

(c) * * *

(7) (Complete only if the solicitation contains the clause at FAR 52.219–23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns, or FAR 52.219–25, Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting, and the offeror desires a benefit based on its disadvantaged status.)

* * * * *

20. Section 52.212–5 is amended by revising the clause date; redesignating paragraphs (b)(7) through (b)(18) as (b)(9) through (b)(20), respectively; and adding new paragraphs (b)(7) and (b)(8) to read as follows:

52.212–5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.

* * * * *

Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items (Jan. 1999)

* * * * *

(b) * * *

______ (7) 52.219–25, Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting (Pub. L. 103–355, section 7102, and 10 U.S.C. 2323).

______ (8) 52.219–26, Small Disadvantaged Business Participation Program—Incentive Subcontracting (Pub. L. 103–355, section 7102, and 10 U.S.C. 2323).

* * * * *

21. Section 52.219–8 is amended by revising the clause date and paragraph (c) to read as follows:

52.219–8 Utilization of Small, Small Disadvantaged, and Women-Owned Small Business Concerns.

* * * * *

Utilization of Small, Small Disadvantaged, and Women-Owned Small Business Concerns (Jan. 1999)

* * * * *

(c) As used in this contract, the term "small business concern" shall mean a small business as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto. The term "small business concern owned and controlled by socially and economically disadvantaged individuals" means an offeror that represents, as part of its offer, that—

(1) It is a small business under the size standard applicable to the acquisition;

(2) It has received certification as a small disadvantaged business concern consistent with 13 CFR 124, Subpart B;

(3) No material change in disadvantaged ownership and control has occurred since its certification;

(4) Where the concern is owned by one or more individuals, the net worth of each individual upon whom the certification is based does not exceed $750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

(5) It is listed, on the date of its representation, on the register of small disadvantaged business concerns maintained by the Small Business Administration.

* * * * *

22. Section 52.219–9 is amended by revising the clause date and paragraphs (d)(5), and (d)(10)(iii); and by adding paragraph (j) to read as follows:

52.219–9 Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan.

* * * * *

Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (Jan. 1999)

* * * * *

(d) * * *

(5) A description of the method used to identify potential sources for solicitation purposes (*e.g.*, existing company source lists, the Procurement Marketing and Assistance Network (PRONET) of the Small Business Administration (SBA), the list of certified small disadvantaged business concerns of the SBA, the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small, small disadvantaged, and women-owned small business trade associations). A firm may rely on the information contained in PRONET as an accurate representation of a concern's size and ownership characteristics for the purposes of maintaining a small and women-owned small business source list. A firm shall rely on the information contained in SBA's list of small disadvantaged business concerns as an accurate representation of a concern's size and ownership characteristics for the purposes of maintaining a small disadvantaged business source list. Use of PRONET and/or the SBA list of small disadvantaged business concerns as its source lists does not relieve a firm of its responsibilities (*e.g.*, outreach, assistance, counseling, publicizing subcontracting opportunities) in this clause.

(10) * * *

(iii) Submit Standard Form (SF) 294, Subcontracting Report for Individual Contracts, and/or SF 295, Summary Subcontract Report, in accordance with the instructions on the forms or as provided in agency regulations and in paragraph (j) of this clause; and

* * * * *

(j) The Contractor shall submit the following reports:

(1) *Standard Form 294, Subcontracting Report for Individual Contracts.* This report shall be submitted to the Contracting Officer semiannually and at contract completion. The report covers subcontract award data related to this contract. This report is not required for commercial plans.

(2) *Standard Form 295, Summary Subcontract Report.* This report encompasses all the contracts with the awarding agency. It must be submitted semi-annually for contracts with the Department of Defense and annually for contracts with civilian agencies. If the reporting activity is covered by a commercial plan, the reporting activity must report annually all subcontract awards under that plan. All reports submitted at the close of each fiscal year (both individual and commercial plans) shall include a breakout, in the Contractor's format, of subcontract awards, in whole dollars, to small disadvantaged business concerns by Standard Industrial Classification (SIC) Major Group. For a commercial plan, the Contractor may obtain from each of its subcontractors a predominant SIC Major Group and report all awards to that subcontractor under its predominant SIC Major Group.

(End of clause)

* * * * *

52.219–10 [Amended]

23. Section 52.219–10 is amended by revising the clause date to read "(Jan. 1999)"; and in the first sentence of paragraph (b) of the clause by inserting "for small business concerns and women-owned small business concerns" after the word "goals".

24. Sections 52.219–24 through 52.219–26 are added to read as follows:

52.219–24 Small Disadvantaged Business Participation Program—Targets.

As prescribed in 19.1204(a), insert a provision substantially the same as the following:

Small Disadvantaged Business Participation Program—Targets (Jan. 1999)

(a) This solicitation contains a source selection factor or subfactor related to the participation of small disadvantaged business (SDB) concerns in the contract. Credit under that evaluation factor or subfactor is not available to an SDB concern that qualifies for a price evaluation adjustment under the clause at FAR 52.219–23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns, unless the SDB concern specifically waives the price evaluation adjustment.

(b) In order to receive credit under the source selection factor or subfactor, the offeror must provide, with its offer, targets, expressed as dollars and percentages of total contract value, for SDB participation in any of the Standard Industrial Classification (SIC) Major Groups as determined by the Department of Commerce. The targets may provide for participation by a prime contractor, joint venture partner, teaming arrangement member, or subcontractor; however, the targets for subcontractors must be listed separately.

(End of provision)

52.219–25 Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting.

As prescribed in 19.1204(b), insert the following clause:

Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting (Jan. 1999)

(a) *Disadvantaged status for joint venture partners, team members, and subcontractors.* This clause addresses disadvantaged status for joint venture partners, teaming arrangement members, and subcontractors and is applicable if this contract contains small disadvantaged business (SDB) participation targets. The Contractor shall obtain representations of small disadvantaged status from joint venture partners, teaming arrangement members, and subcontractors through use of a provision substantially the same as paragraph (b)(1)(i) of the provision at FAR 52.219–22, Small Disadvantaged Business Status. The Contractor shall confirm that a joint venture partner, team member, or subcontractor representing itself as a small disadvantaged business concern is included in the SBA's on-line list of SDBs at http://www.sba.gov or by contacting the SBA's Office of Small Disadvantaged Business Certification and Eligibility.

(b) *Reporting requirement.* If this contract contains SDB participation targets, the Contractor shall report on the participation of SDB concerns at contract completion, or as otherwise provided in this contract. Reporting may be on Optional Form 312, Small Disadvantaged Business Participation Report, or in the Contractor's own format providing the same information. This report is required for each contract containing SDB participation targets. If this contract contains an individual Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan, reports may be submitted with the final Subcontracting Report for Individual Contracts (Standard Form 294) at the completion of the contract.

(End of clause)

52.219–26 Small Disadvantaged Business Participation Program—Incentive Subcontracting.

As prescribed in 19.1204(c), insert a clause substantially the same as the following:

Small Disadvantaged Business Participation Program—Incentive Subcontracting (Jan. 1999)

(a) Of the total dollars it plans to spend under subcontracts, the Contractor has committed itself in its offer to try to award a certain amount to small disadvantaged business concerns in the Standard Industrial Classification (SIC) Major Groups as determined by the Department of Commerce.

(b) If the Contractor exceeds its total monetary target for subcontracting to small disadvantaged business concerns in the authorized SIC Major Groups, it will receive ________ [*Contracting Officer to insert the appropriate number between 0 and 10*] percent of the dollars in excess of the monetary target, unless the Contracting Officer determines that the excess was not due to the Contractor's efforts (*e.g.*, a subcontractor cost overrun caused the actual subcontract amount to exceed that estimated in the offer, or the excess was caused by the award of subcontracts that had been planned but had not been disclosed in the offer during contract negotiations). Determinations made under this paragraph are not subject to the Disputes clause of this contract.

(c) If this is a cost-plus-fixed-fee contract, the sum of the fixed fee and the incentive fee earned under this contract may not exceed the limitations in subsection 15.404–4 of the Federal Acquisition Regulation.

(End of clause)

PART 53—FORMS

25. Section 53.219 is amended by adding paragraph (c) to read as follows:

53.219 Small business programs.

* * * * *

(c) *OF 312 (1/99), Small Disadvantaged Business Participation Report.* (See Subpart 19.12.)

26. Section 53.302–312 is added to read as follows:

53.302–312 OF 312, Small Disadvantaged Business Participation Report.

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SMALL DISADVANTAGED BUSINESS (SDB) PARTICIPATION REPORT

OMB No.: 9000-0150
Expires: 06/30/2000

PAGE OF PAGES

Public reporting burden for this collection of information is estimated to average 8.66 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVR), Federal Acquisition Policy Division, GSA, Washington, DC 20405.

1A. CONTRACTOR'S NAME

1B. CONTRACTOR'S ADDRESS

2. CONTRACT NUMBER

3. TOTAL PARTICIPATION OF SDBs IN THE CONTRACT ($)

4. SDB PARTICIPATION AT PRIME CONTRACT LEVEL

A. SIC MAJOR GROUP	B. DOLLAR AMOUNT	C. PERCENTAGE

5. BREAKDOWN OF SDB PARTICIPATION AT SUBCONTRACT LEVEL BY SIC MAJOR GROUP

A. SIC MAJOR GROUP	B. DOLLARS	C. PERCENT	A. SIC MAJOR GROUP	B. DOLLARS	C. PERCENT

6. PREPARED BY

A. NAME OF INDIVIDUAL

B. DATE PREPARED

C. TELEPHONE NUMBER

AREA CODE	NUMBER	EXTENSION

D. E-MAIL ADDRESS

AUTHORIZED FOR LOCAL REPRODUCTION

OPTIONAL FORM 312 (1-99)
Prescribed by GSA/FAR (48 CFR) 53.219(c)

GENERAL INFORMATION INSTRUCTIONS

1. This form collects data on the participation of small disadvantaged business concerns in contracts that contain the clause at FAR 52.219-25, Small Disadvantaged Business Participation Program - Disadvantaged Status and Reporting.

2. Submit this report to the contracting officer. If your organization is required to report subcontracting data under an individual subcontracting plan, you may attach this report to the final SF 294, Subcontracting Report for Individual Contracts, submitted under the contract.

3. Report in whole dollars.

SPECIFIC INSTRUCTIONS

Block 3. Report the total dollar amount of participation of small disadvantaged business concerns under the contract cited in Block 2. Participation may be through subcontracting, teaming arrangement, joint ventures, or as the prime contractor (provided the prime contractor waived its right to a price evaluation adjustment).

Block 4. Report the participation, if any, by small disadvantaged business concerns in this contract at the prime contract level. All prime contract dollars must be reported under the SIC code assigned to the prime contract. Report the dollar amount and percentage of the total contract value.

Block 5. Report, by SIC Major Group, as determined by the Department of Commerce, the participation by small disadvantaged business concerns in this contract at the subcontract level. Report the dollar amount and percentage of the total contract value.

Block 6. Provide the name, telephone number, and e-mail address of the individual who can answer questions related to this report.

OPTIONAL FORM 312 1-99 BACK

[FR Doc. 98–17298 Filed 6–30–98; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

Federal Acquisition Regulation; Small Entity Compliance Guide

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration as the Federal Acquisition Regulatory Council. This *Small Entity Compliance Guide* has been prepared in accordance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121). It consists of a summary of the rule appearing in Federal Acquisition Circular (FAC) 97–07 which amends the Federal Acquisition Regulation (FAR). Further information regarding this rule may be obtained by referring to FAC 97–07 which precedes this notice. This document may be obtained from the Internet at http://www.arnet.gov/far.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, (202) 501–4755.

Reform of Affirmative Action in Federal Procurement

FAC 97–07/FAR Case 97–004B. This interim rule amends FAR Parts 1, 12, 14, 15, 19, 52, and 53 to establish two mechanisms to benefit small disadvantaged business concerns at the subcontract level. The first mechanism is a source selection evaluation factor or subfactor for planned SDB participation, primarily at the subcontract level, in the performance of a contract in the SIC Major Groups as determined by the Department of Commerce. This evaluation factor or subfactor will be used in competitive, negotiated acquisitions expected to exceed $500,000 ($1,000,000 for construction). This mechanism will not be applied to certain major categories of acquisition, including, for example, small business set-asides, 8(a) acquisitions, and acquisitions using the lowest price technically acceptable source selection process.

The second mechanism provides for a monetary incentive for subcontracting with SDBs. Contracts resulting from solicitations in which SDB participation is evaluated may provide for a monetary payment to those prime contractors that meet specified targets for SDB participation as subcontractors in the SIC Major Groups as determined by the Department of Commerce.

These mechanisms conform to the Department of Justice proposal to reform affirmative action in Federal procurement and to regulations issued by the Small Business Administration regarding small disadvantaged business programs.

The interim rule also adds to the FAR a requirement to evaluate the past performance of offerors in complying with targets for SDB participation and subcontracting plan goals for SDBs whenever past performance is to be evaluated.

Dated: June 23, 1998

Edward C. Loeb,

Director,

Federal Acquisition Policy Division.

[FR Doc. 98–17299 Filed 6–30–98; 8:45 am]

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federal register

Wednesday
July 1, 1998

Part V

Department of Housing and Urban Development

Portfolio Reengineering—Fiscal Year 1998 Transition Program Guidelines; Notice

VOL 63 ISS 126 JL 1 1998 UMI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4162–N–03]

Portfolio Reengineering—Fiscal Year 1998 Transition Program Huidelines

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of guidelines.

SUMMARY: HUD is currently implementing a statutory demonstration program authorized for fiscal year (FY) 1997. The Demonstration Program is directed at FHA-insured multifamily projects that have project-based Section 8 contracts with rents in excess of 120 percent of fair market rents. That program has been extended by Congress through FY 1998 with certain modifications as a transitional program while HUD develops regulations to implement the new authority for a non-demonstration FHA-insured mortgage and rental assistance restructuring program.

This notice provides guidelines for the FY 1998 Transition Program. It also identifies projects that will continue to proceed under the FY 1997 Demonstration Program unmodified by these transitional provisions. Finally, it clarifies HUD policy concerning delegation of responsibilities to joint venture designees. This clarification applies to both the FY 1998 Transition Program and the FY 1997 Demonstration Program.

FOR FURTHER INFORMATION CONTACT: Dan Sullivan, Housing Project Manager, Office of Multifamily Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–4000; Room 6106; Telephone (202) 708–2300, ext. 2062. (This is not a toll-free number.) Hearing or speech-impaired individuals may call 1–800–877–8399 (Federal Information Relay Service TTY). Internet address: Dan_Sullivan@hud.gov.

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act Statement

Paperwork Reduction Act Statement

The information collection requirements contained in this notice and in the notice published on January 23, 1997, at 62 FR 3566 have been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), and assigned OMB control number 2502–0519. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

II. Background

The FY 1997 Demonstration Program was authorized by sections 211 and 212 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (FY 1997 Appropriations Act) (Pub. L. 104–204; 110 Stat. 2874, 2895–2904; approved September 26, 1996). HUD is currently implementing the FY 1997 program under Guidelines published on January 23, 1997, at 62 FR 3566. (See also FY 1997 Portfolio Reengineering Request for Qualifications published on July 16, 1997, at 62 FR 38109.)

The Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA) was enacted in title V of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998 (FY 1998 Appropriations Act) (Pub. L. 105–65; 111 Stat. 1344, 1384; approved October 27, 1997). Subtitle A of MAHRA contains the FHA-Insured Multifamily Housing Mortgage and Housing Assistance Restructuring Program. That program provides authority to deal with Section 8 contract expirations occurring in FY 1999 and later. In accordance with section 522(a) of MAHRA, the new non-demonstration program will be initially implemented by an interim rule to be followed by a final rule.

Section 522(b) of MAHRA contains transition provisions for projects with Section 8 contracts expiring in FY 1998. For these projects, the transition provisions direct HUD to apply all the terms of sections 211 and 212 of the HUD FY 1997 Appropriations Act except for two provisions in section 212. First, the 50,000 unit limitation in section 212(k) does not apply. Second, the mortgage restructuring provisions in section 212(h)(1)(G) do not apply. In addition, HUD is directed to apply section 517(a), Mortgage Restructuring, of MAHRA.

Section 517(a) provides for a new second mortgage loan program from HUD that is available to eligible project owners as part of a prepayment on the existing unpaid principal balance on the first mortgage so that the restructured or new first mortgage is sustainable at rents determined under section 514(g) of MAHRA. The amount of the second mortgage cannot be more than the difference between the restructured or new first mortgage and the indebtedness under the existing insured mortgage. The second mortgage is further limited to an amount that can reasonably be expected to be repaid.

Section 517(a) contains other requirements for the second mortgage, including a requirement that at least 75 percent of excess project income be applied to the second mortgage note.

Section 514(g), which, as noted above, is used in determining the amount of the restructured or new first mortgage, in general, requires the use of market rents based on at least two comparable properties, or, if those rents cannot be determined, on 90 percent of the applicable fair market rents. Section 514(g) also authorizes budget-based exception rents. In general, such rents cannot exceed 120 percent of fair market rent (FMR). Up to 5 percent of the units subject to mortgages restructured in a fiscal year may have rents that exceed this limit based on a finding of special need.

Under the transition program there are two statutory bases for debt forgiveness and two statutory bases for providing budget-based rents. Debt forgiveness can be authorized under section 212(h)(1)(H) and also under section 517(a) but only when application of the "reasonably be expected to be repaid" limitation results in a second mortgage that is less than the amount required to pay down the first mortgage to a sustainable level. Budget-based rents are authorized under section 212(h)(1)(I) and, as discussed above, under the exception rent provisions in section 514(g)(2) and (3).

These Guidelines implement all of these authorities in a manner that is consistent with overall statutory requirements, and in particular, with the requirement in section 522(b) to apply section 517(a).

III. Projects Continuing Under the FY 1997 Demonstration Program

Any project covered by a Demonstration HAP Contract that was executed on or before September 30, 1997 shall continue to be processed under the provisions of the January 23, 1997 Guidelines unmodified by section IV. of today's **Federal Register** notice. Certain of these Demonstration HAP Contracts may be extended for a period not to exceed 120 days in accordance with section 212(g)(2) of the FY 1997 Appropriations Act, as added by section 523(f) of MAHRA. Section 212(g)(2) authorizes these extensions for contracts originally executed before February 1, 1997 and for contracts originally executed before October 1, 1997 in connection with a restructuring under the joint venture approach, if HUD, in its sole discretion, determines that the renewal period needs to exceed one year

(i) for the pre-February 1, 1997 contracts, due to the delay in publishing the January 23, 1997 Guidelines and (ii) for the pre-October 1, 1997 contracts, due to a delay in implementation of the joint venture agreement. The two categories described involve not more than 21 and 25 projects, respectively. A project continuing under the FY 1997 Demonstration Program is not subject to the FY 1998 Transition Program Guidelines (see section IV. of this notice), but is subject to the revision to joint venture designee policy in section V. of this notice.

IV. FY 1998 Transition Program Guidelines

A. Applicability of the January 23, 1997 Guidelines

Because MAHRA applies almost all of the statutory provisions for the FY 1997 Demonstration Program to the FY 1998 Transition Program, sections IV. through IX. of the January 23, 1997 Guidelines (62 FR 3569–3581), as augmented by this notice, constitute the FY 1998 Transition Program Guidelines. Except for statutory references, all references in sections IV. through IX. of the January 23, 1997 Guidelines to "FY 1997" mean "FY 1998."

In section III.B. of the January 23, 1997 Guidelines (62 FR 3568), the definitions of "FMR" and "in the aggregate" apply to the FY 1998 Transition Program.

B. General Eligibility

This section IV.B. applies instead of section IV.B.1., General Eligibility, of the January 23, 1997 Guidelines (62 FR 3569). For a project to be eligible for the FY 1998 Demonstration Program, the owner must agree to participate. The project must be subject to an FHA-insured mortgage and supported by project-based Section 8 Housing Assistance Payments (HAP) contracts with rent levels which, in the aggregate, exceed 120 percent of FMR. In managing its workload, HUD will give preference to projects with contracts expiring in FY 1998.

C. Disqualified Owner

The following conforms the Guidelines to the amendment to section 211(b)(4)(B) of the HUD FY 1997 Appropriations Act made by section 10006 of the 1997 Emergency Supplemental Appropriations Act, Pub. L. 105–18; 111 Stat. 158; approved June 12, 1997 which added "affiliate of the owner" to the definition of "owner." In section IV.C.3. of the January 23, 1997 Guidelines (62 FR 3569), Disqualified Owners, the term *owner* also means an affiliate of the owner and the term *purchaser* also means an affiliate of the purchaser. The terms *affiliate of the owner* and *affiliate of the purchaser* mean any person or entity (including but not limited to, a general partner or managing member, or an officer of either) that controls an owner or purchaser, is controlled by an owner or purchaser, or is under common control with the owner or purchaser. The term *control* means the direct or indirect power (under contract, equity ownership, the right to vote or determine a vote, or otherwise) to direct the financial, legal, beneficial or other interests of the owner or purchaser.

D. Demonstration Approaches/ Underwriting

1. Mandatory FY 1998 Transition Program Approaches

This section applies in place of the guidance in sections IV.E.1., Mandatory Demonstration Approaches, through and including section IV.E.1.b., Debt Forgiveness, of the January 23, 1997 Guidelines (62 FR 3569–3571).

With respect to any eligible project, HUD must perform an analysis under section 517(a)(1)(B) of MAHRA. HUD is obligated to require a new second mortgage to the extent that it makes a determination that a new second mortgage can reasonably be expected to be repaid.

To the extent that the combination of the new first mortgage and the new second mortgage is less than the outstanding principal balance of the existing insured mortgage, immediately before it is restructured or refinanced, HUD will consider debt forgiveness or budget basing, or a combination of these, pursuant to sections 212(h)(1)(H) and 212(h)(1)(I) and sections 514(g)(2) and (3) and 517(a).

a. Mortgage Restructuring.

Under the Mortgage Restructuring approach, the unpaid principal balance (UPB) on the existing FHA-insured mortgage loan is paid down to, or refinanced by a new first mortgage at, an amount equal to the Supportable Debt. The reduction in the first mortgage UPB is effected by an advance of funds from HUD. This advance is secured, in whole or in part, by a second mortgage note. The portion of the advance that is secured by the second mortgage cannot exceed the amount that HUD determines can reasonably be expected to be repaid.

(1) Supportable First Mortgage Loan

The amount of the UPB of the supportable first mortgage loan after restructuring is determined by applying a 1.10 or greater debt service coverage ratio, at the interest rate and term approved by HUD, to the adjusted NOI. The amount may, at HUD's option, be adjusted if the security for the existing FHA-insured loan includes vacant land or other non-income producing assets with additional market value. HUD will require that the restructured or new first mortgage carry an interest rate and term that is competitive in the market.

(2) Second Mortgage Loan.

The initial unpaid principal balance of the second mortgage loan will equal the lesser of:

(a) The amount required to pay down the existing FHA-insured mortgage loan(s) to a sustainable level; or

(b) An amount HUD determines can reasonably be expected to be repaid.

The second mortgage loan shall bear interest at a rate less than or equal to the long term applicable Federal rate, as set forth pursuant to section 1274(d) of the Internal Revenue Code of 1986 (26 U.S.C. 1274(d)). The term of the second mortgage shall be equal to the term of the restructured or new first mortgage.

The interest rate and payment and other terms of the loan will be established by HUD, consistent with section 517(a) of MAHRA. Principal and interest on the second mortgage loan will be payable out of Net Cash Flow (discussed below), and unpaid interest will accrue.

(3) Debt Forgiveness.

HUD may forgive a certain portion of the outstanding balance of an existing FHA-insured loan to the extent HUD determines that a second mortgage cannot reasonably be expected to be repaid.

(i) Amount of Debt Forgiveness.

The amount of the debt that may be forgiven is equal to—

(a) If HUD will make a second mortgage loan, the outstanding UPB of the existing FHA-insured mortgage loan(s) at the time of restructuring minus the sum of UPB of the restructured or new first mortgage and the UPB of the second mortgage loan determined under section IV.D.1.a.(2) of this notice; or

(b) If there will be no second mortgage loan from HUD, the outstanding UPB of the existing FHA-insured mortgage loan(s) at the time of restructuring minus the market value. The project's "market value" will be determined based upon an appraisal of the project's as-is value prepared in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP). The appraisal will take into consideration, among other factors, the current market rents for unsubsidized units in the local market area, the project's current operating expenses, any necessary reserves for long term capital

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replacements, any necessary rehabilitation costs (see section IV.E.2.b.(1)(c), Determining the Level of Required Physical Improvements, of the January 23, 1997 Guidelines (62 FR 3572)), and any anticipated costs relating to the transition of the project to market rents.

(4) Restructuring Payment.

The amount of the restructuring payment made by HUD shall equal the UPB of the existing FHA-insured mortgage loan(s) minus (i) the supportable debt, (ii) all contributions made by the owner (and the owner's partners/investors) in connection with the restructuring, as determined by HUD, and (iii) all excess funds in the project's reserve for replacement account, and (iv) all funds in the project's residual receipts account and any other escrows and reserves, as determined by HUD, plus (v) reasonable, cost effective rehabilitation costs approved by HUD, and (vi) reasonable transaction costs approved by HUD.

(5) Use of Net Cash Flow.

For purposes of the Mortgage Restructuring approach, "Net Cash Flow" means that portion of the NOI that remains after the payment of all required debt service payments on the first mortgage loan. Net Cash Flow shall be applied as follows: *first,* to payment to the holder of the first mortgage loan of any past due principal or interest, and required escrows and reserves, on such mortgage loan; *second,* to the extent of the remaining Net Cash Flow to any other expenditures approved by HUD; and *third,* to the extent of the remaining Net Cash Flow, to be distributed with at least 75 percent to payment of principal and interest due on the second mortgage and up to 25 percent to an escrow account for payment to the owner after the requirements of section IV.D.2. of this notice have been met.

(6) Funding of Rehabilitation Costs.

If the FHA-insured mortgage loan will be refinanced with non-FHA-insured financing, the HUD-approved rehabilitation costs will be financed with funds available in the project's residual receipts account and excess funds in the project's reserve for replacements account, as of the date of the mortgage restructuring. If the rehabilitation costs exceed the amount of such funds, the rehabilitation costs may be funded by (a) a contribution of cash equity from the owner's partners/investors, and/or (b) the proceeds of the non-FHA-insured refinancing loan, and (c) to the extent that other sources of funds are unavailable, and at HUD's sole discretion, through a loan or grant from HUD.

If the FHA-insured mortgage loan is retained or refinanced with another FHA-insured loan, the HUD approved rehabilitation costs will be financed with funds available in the project's residual receipts account and excess funds in the project's reserve for replacements account, as of the date of the mortgage restructuring. If the rehabilitation costs exceed the amount of such funds, the rehabilitation costs may be funded by (1) a contribution of cash equity from the owner's partners/investors, (2) the proceeds of a non-FHA-insured rehabilitation loan, (3) the proceeds of an FHA-insured rehabilitation loan, and/or (4) to the extent that other sources of funds are unavailable, through a loan or grant from HUD.

For owners who want to refinance the original FHA-insured loan, mortgage insurance from the following FHA programs may be provided:

(a) Section 223(f), acquisition and refinance with limited renovations—loan to value limit of 85 percent; or

(b) Section 223(a)(7), refinance of an insured loan to lower the interest rate and to fund rehabilitation costs—loan limit is up to the original insured principal amount.

b. Budget-Based Rents.

The provisions of section IV.E.1.c., Budget-Based Rents, of the January 23, 1997 Guidelines (62 FR 3571) apply, subject to the following. The above referenced Budget-Based Rents provisions implement the authority under section 212(h)(1)(I) of the 1997 Appropriations Acts. Budget-based rents under that authority may not exceed the expiring contract rents, and there is no percentage limitation on the number of units that may receive budget-based rents. Sections 514(g) (2) and (3) of MAHRA also authorize the use of budget-based rents. Those sections have a general limit of 120 percent of FMR but allow up to 5 percent of all units subject to mortgages restructured within the fiscal year to exceed that limit. While there is no express statutory requirement in section 514(g)(2) or (3) limiting budget-based rents to no more than the expiring contracts rents, it is HUD policy to approve budget-based rents only at or below expiring contract rents.

32. Owner's Distribution From Net Cash Flow

This section IV.D.2. applies instead of section IV.E.2.b.(2), Owner's Distribution from Net Cash Flow, of the January 23, 1997 Guidelines (62 FR 3569).

As an incentive to maintain the property the owner may receive an annual distribution of up to 25 percent of Net Cash Flow ("Owner's Distribution").

The Owner's Distribution will be held in an escrow account and paid to the owner only after HUD or its representative inspects the project and finds that all units are in substantial compliance with maintenance standards set forth by HUD as part of the restructuring agreement. Any owner who fails to deposit all Net Cash Flow to the escrow account will waive its rights to future distributions.

E. Project Underwriting—Market Rents

In estimating a project's net operating income under section IV.E.2.b. of the January 23, 1997 Guidelines (62 FR 3572), market rents will be established through an appraisal of the property that utilizes at least two comparables. If two comparables cannot be found, HUD may authorize the appraiser to use 90 percent of the applicable fair market rents.

F. HUD Housing Notices

The following sections of the January 23, 1997 Guidelines referred to Housing Notice H 96–89, issued October 15, 1996: Sections V.F. (62 FR 3574); V.B.2. (62 FR 3575); VI.D. (62 FR 3576); and VI.L. (62 FR 3577). Housing Notice H 97–66, issued November 12, 1997, reinstates H 96–89 with certain exceptions. The reader should refer to both Housing Notices. They are available through HUDCLIPS, which is on HUD's web site. The location (URL) for the HUDCLIPS Database Selection Screen is http://www.hudclips.org/subscriber/cgi/legis.cgi?legis. These notices are in the Handbooks and Notices—Housing Notices database. Enter only the number without the letter prefix (e.g., 97–96) in the "Document Number" to retrieve the program notice.

G. Obsolete Provisions

Section V.G., Funding and Unit Limitations, of the January 23, 1997 Guidelines (63 FR 3574) described limitations as they existed in FY 1997 and does not apply.

Section IX.A., Participation of Projects with Post-FY 1997 Expirations, of the January 23, 1997 Guidelines (62 FR 3581) does not apply. (See section IV.B of today's notice for guidance on preference for projects with contracts expiring in FY 1998.)

H. Sunshine Provision

This section IV.H. applies instead of section X.B., Sunshine Provision, of the January 23, 1997 Guidelines (62 FR

3581). In order that others may learn from the experience of the FY 1998 Transition Program, all proposals accepted by HUD to participate in the FY 1998 Transition Program may be posted on HUD's Web Page (www.hud.gov/fha/mfh/mfhsec8.html). The posted information will include, but not be limited to, the final restructuring commitment, detailed financial information regarding the asset and tenant issues. Owners will be requested to waive the provisions of the Privacy Act (5 U.S.C. 552a) and the Trade Secrets Act (18 U.S.C. 1905).

V. Revision to Joint Venture Designee Policy for Both the FY 1997 Demonstration Program and the FY 1998 Transition Program

Section VII.A. of the January 23, 1997 Guidelines (62 FR 3578, 2d col.) contained a statement encouraging designee applicants to "develop partnerships with each other as well as with other private and public entities * * *." This inaccurately stated the policy set out in section 212(d)(3) of the FY 1997 HUD Appropriations Act. Rather, designee applicants are encouraged to develop partnerships with each other and to contract or subcontract with other private and public entities, including the entities listed in section VII.A. of the January 23, 1997 Guidelines.

Section VII.B.2.a. of the January 23, 1997 Guidelines (62 FR 3580) stated in part, "It is possible that HUD would delegate all of its powers to the designees including the ability to authorize full or partial mortgage prepayment and would rely solely on a post-restructuring audit to verify that the interests of the Federal Government are fairly represented in the transaction." Section VI.B.2.b. of the January 23, 1997 Guidelines (62 FR 3580) stated in part, "The Joint Venture Designees will be responsible for all decision making. HUD approvals will be based on representations and certifications made by the Designee." These two statements do not apply to the FY 1998 Transition Program.

A Joint Venture Designee will be responsible for decision making as set out in its agreement with HUD. All other provisions of section VII. continue to apply to the FY 1997 Demonstration Program and the FY 1998 Transition Program.

VI. HUD Findings and Certifications

A. Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk at the above address.

B. Executive Order 12612, Federalism

The General Counsel, as the Designated Official for HUD under section 6(a) of Executive Order 12612, Federalism, has determined that the provisions in this notice are closely based on statutory requirements and impose no significant additional burdens on States or other public bodies. This notice does not affect the relationship between the Federal Government and the States and other public bodies or the distribution of power and responsibilities among various levels of government. Therefore, the policy is not subject to review under Executive Order 12612.

Dated: June 22, 1998.

Art Agnos,

Acting General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 98–17457 Filed 6–30–98; 8:45 am]

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Part VI

Securities and Exchange Commission

17 CFR Parts 230 and 240

Options Disclosure Document; Amendment to Rule 9b–1 Under the Securities Exchange Act Relating to the Options Disclosure Document; Proposed Rules

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 230

[Release No. 33–7550; File No. S7–19–98]

RIN 3235–AH31

Options Disclosure Document

AGENCY: Securities and Exchange Commission.

ACTION: Proposed Rule.

SUMMARY: The Securities and Exchange Commission ("Commission") is proposing to revise Rule 135b under the Securities Act of 1933 to provide that an options disclosure document prepared in accordance with Rule 9b–1 under the Securities Exchange Act of 1934 is not a prospectus and, accordingly, is not subject to civil liability under Section 12(a)(2) of the Securities Act. This proposal is intended to codify a long-standing interpretive position that was issued immediately after the Commission adopted the current registration and disclosure system applicable to standardized options. The proposal also is intended to eliminate any legal uncertainty in this area.

DATES: Comments should be received on or before July 31, 1998.

ADDRESSES: Comment letters should be submitted in triplicate to Jonathan G. Katz, Secretary, U.S. Securities and Exchange Commission, Mail Stop 6–9, 450 Fifth Street, N.W., Washington, D.C. 20549. Comments also may be submitted electronically at the following E-mail address: rule-comments@sec.gov. All comment letters should refer to File Number S7–19–98; this file number should be included on the subject line if e-mail is used. All comments received will be available for public inspection and copying in the Commission's Public Reference Room at the same address. Electronically submitted comment letters will be posted on the Commission's Internet web site (http://www.sec.gov).

FOR FURTHER INFORMATION CONTACT: David Lavan, at (202) 942–1840, Office of Chief Counsel, Division of Corporation Finance, U.S. Securities and Exchange Commission, Mail Stop 3–3, 450 Fifth Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: In order to clarify that an options disclosure document prepared in accordance with Rule 9b–1 [1] under the Securities Exchange Act of 1934 ("Exchange Act") [2] is not a prospectus for purposes of Section 12(a)(2) [3] of the Securities Act of 1933 ("Securities Act"),[4] the Commission is proposing to revise Rule 135b [5] under the Securities Act.

I. Proposed Amendment

The Commission has a simplified registration and disclosure system for investors in standardized options [6], which the Commission adopted in 1982. [7] Under this system, the issuer of the standardized options (generally a clearing corporation) may register the options under the Securities Act on Form S–20. [8] This form is quite streamlined. It requires limited information about the clearing corporation issuer and the options it issues in a prospectus filed as Part I of the registration statement, and more detailed information (including the issuer's financial statements) in Part II of the registration statement. [9] The options issuer may satisfy its prospectus delivery requirement by delivering the prospectus to each options market on which the options are traded, for the purpose of redelivery to options customers on request. [10]

The disclosure document used to inform investors generally about options is the "options disclosure document" ("ODD"). The ODD is prepared by the exchange on which the registered option trades and must meet the requirements of Rule 9b-1 under the Exchange Act. The ODD provides a general description of standardized options and the rules of options trading. The ODD must be delivered to a customer at or before the time that a broker or dealer approves the customer's account for options trading. Typically, the exchanges work closely with the clearing corporation in preparing the ODD. [11]

The Commission adopted this simplified registration and disclosure system in part to reduce the expense of preparing and updating a detailed prospectus, and to provide investors with a document that is easier to read than the options prospectus that investors received before adoption of these rules. [12] Rule 135b under the Securities Act is one rule of this system. This rule provides that an ODD prepared in accordance with Rule 9b-1 under the Exchange Act "shall not be deemed to constitute an offer to sell or offer to buy any security" [13] for purposes of Section 5 of the Securities Act. [14] In the Adopting Release, the Commission stated that "if the disclosure document is deemed not to be an offer to sell or buy, it cannot be deemed to be a prospectus." [15] In addition, the Commission stated that Rule 135b "is intended to relieve the preparers of the disclosure document from liability under Section [12(a)(1)] of the Act for distributing a disclosure document to investors which might, absent such relief, violate Section 5 of the Act." [16]

However, Rule 135b and the Adopting Release both are silent as to whether Rule 135b was intended to address liability under Section 12(a)(2) of the Securities Act. Section 12(a)(2) generally imposes civil liability for a prospectus that contains material misstatements or omissions. [17]

Shortly after the Commission adopted the rule, the Options Clearing Corporation ("OCC") requested interpretive advice from the Division of Corporation Finance ("Division") regarding the applicability of liability under Section 12(a)(2) of the Securities Act to an ODD. After considering the Adopting Release, the Division advised the OCC that in its view, an ODD "is not a prospectus within the meaning of

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[1] 17 CFR 240.9b–1.

[2] 15 U.S.C. 78a *et seq.*

[3] 15 U.S.C. 77*l*(a)(2) (renumbered). Before the Securities Litigation Reform Act of 1995, Public Law No. 104–67, 109 Stat. 737, this provision was contained in Section 12(2) of the Securities Act.

[4] 15 U.S.C. 77a *et seq.*

[5] 17 CFR 230.135b.

[6] Standardized options are "options contracts trading on a national securities exchange, an automated quotations system of a registered securities association, or a foreign securities exchange which relate to options classes the terms of which are limited to specific expiration dates and exercise prices, or such other securities as the Commission may, by order, designate." Rule 9b-1(a)(4) under the Exchange Act [17 CFR 240.9b-1(a)(4)].

[7] Securities Act Release No. 6426 (Sept. 16, 1982) [47 FR 41950] ("Adopting Release").

[8] 17 CFR 239.20

[9] Information about the companies whose shares underlie the options is not required. Instead, information about these companies is available because these companies are generally required to be reporting companies before options on the shares can be approved for trading on U. S. options markets.

[10] Rule 153b under the Securities Act [17 CFR 230.153b].

[11] *See* Adopting Release.

[12] *Id.; see also* Securities Act Release No. 6494, n.2 (Oct. 27, 1983) [48 FR 51328] (discussing the Commission's 1979 Special Study of the Options Market, which suggested the simplified registration and disclosure scheme).

[13] Securities Act Rule 135b.

[14] 15 U.S.C. 77e. However, as stated in the release that proposed Rule 135b, the ODD is subject to liability under the anti-fraud provisions. Securities Act Release No. 6411 (June 24, 1982) [47 FR 28688] ("Proposing Release").

[15] Adopting Release at § I.C.

[16] Adopting Release. Because Rule 135b states that Section 5 does not apply to distribution of the ODD, it is clear that Section 12(a)(1) liability is inapplicable because that section provides recourse only for offers or sales made in violation of Section 5. See 15 U.S.C. 77l(a)(1).

[17] Section 12(a)(2) also imposes civil liability for oral communications containing material misstatements or omissions. 15 U.S.C. 77l(a)(2).

Section [2(a)(10)] of the Securities Act and, thus, is not subject to liability under Section [12(a)(2)] of the Securities Act."[18]

Despite this long-standing interpretive position, uncertainty exists about the applicability of Section 12(a)(2) liability to an ODD.[19] In response to informal requests from the Chicago Board Options Exchange and the OCC, the Commission believes that it is appropriate and in the public interest to eliminate any uncertainty in this area. Accordingly, the Commission proposes to modify Rule 135b to codify the Division's position that an ODD prepared in accordance with Rule 9b-1 under the Exchange Act is not subject to liability under Section 12(a)(2) because it is not a prospectus.[20]

II. Request for Comment

The Commission seeks comments on any aspect of the proposed amendment to Rule 135b. Any interested persons wishing to submit written comments relating to the rule proposal are invited to do so by submitting them in triplicate to Jonathan G. Katz, Secretary, U.S. Securities and Exchange Commission, Mail Stop 6–9, 450 Fifth Street, N.W., Washington, D.C. 20549. Comments also may be submitted electronically at the following E-mail address: rule-comments@sec.gov. Comments will be considered by the Commission in complying with its responsibilities under Section 19(a) of the Securities Act.[21] Commentators should refer to File No. S7–19–98; this file number should be included on the subject line if E-mail is used.

III. Costs and Benefits of the Proposed Rule Change and its effects on Efficiency, Competition and Capital Formation

The Commission does not anticipate that the proposed amendment will, in and of itself, result in any economic costs. The rule proposal is not intended to change current practice under the federal securities laws. Rather, the proposal is intended to make it clear that an ODD prepared in accordance with Exchange Act Rule 9b-1 is not a prospectus and thus is not subject to liability under Section 12(a)(2) of the Securities Act. By eliminating any uncertainty over the applicability of Section 12(a)(2) liability to an ODD, it is anticipated that the proposal will result in some unquantifiable economic benefits.

However, commentators are encouraged to provide views and data relating to any costs or benefits associated with the rule proposal. In particular, please identify any costs or benefits associated with the rule proposal relating to the preparation of the disclosure document. Will the proposal have no substantial effect as anticipated, or will the proposal result in additional costs and/or benefits? Please describe, and quantify where possible, any foreseeable significant effects. In addition, address whether the proposal will affect the current compliance burden of exchanges or options issuers.

Because the proposed amendment is intended to codify long-standing Commission interpretations, the Commission does not currently believe that the proposed amendments to Rule 135b will impose any additional burdens on competition. Nevertheless, the Commission seeks comments on any anti-competitive effects the rule, as amended, may have.

In addition, by eliminating any uncertainty in this area, the Commission currently believes that the proposed rule amendments will have a positive, but unquantifiable, effect on efficiency, competition and capital formation. The Commission seeks comments on this preliminary view.

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996, the Commission is also requesting information regarding the potential impact of the proposals on the economy on an annual basis. The Commission does not currently believe that the amendments, if adopted, would result or be likely to result in (i) an annual effect on the economy of $100 million or more; (ii) a major increase in costs or prices for consumers or individual industries; or (iii) significant adverse effects on competition, investment, or innovation. Nevertheless, the Commission solicits comment on this preliminary view. Commentators should provide empirical data to support their views.

IV. Regulatory Flexibility Act Certification

Pursuant to Section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. § 605(b), the Chairman of the Commission has certified that the proposal would not, if adopted, have a significant economic impact on a substantial number of small entities. This certification, including the reasons therefore, is attached to this release as Appendix A. We encourage written comments on the Certification. Commentators are asked to describe the nature of any impact on small business entities and provide empirical data to support the extent of the impact.

V. Paperwork Reduction Act

Certain sections of Rule 135b contain "collection of information" requirements within the meaning of the Paperwork Reduction Act of 1995 ("PRA") (44 U.S.C. 3501 *et seq.*). The Commission has previously submitted the rule to the Office of Management and Budget ("OMB") for review in accordance with 44 U.S.C. 3507(d), and OMB has assigned the rule OMB control number 3235–0200. Because the proposed rule changes should not materially affect the collection of information obligations under the rule, there is no requirement that the Commission resubmit the rule with the proposed amendment to OMB for review under the PRA.

VI. Statutory Bases

The amendment to Securities Act Rule 135b is being proposed pursuant to Sections 2(a)(10),[22] 7,[23] 10,[24] 12,[25] and 19(a)[26] of the Securities Act, as amended.

List of Subjects in 17 CFR Part 230

Reporting and recordkeeping requirements, Securities.

Text of the Proposal

In accordance with the foregoing, Title 17, chapter II of the Code of Federal Regulations is proposed to be amended as follows:

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[18] Letter dated September 23, 1982, from then Division of Corporation Finance Director, Lee B. Spencer, Jr. to Mr. Marc L. Berman, then Senior Vice President and General Counsel, of the Options Clearing Corporation. On its face, the text of Rule 135b does not address the applicability of Section 12 liability. In its interpretive letter; the Division noted that the limiting language "for purposes only of Section 5 of the Act" appearing in Rule 135b is intended to clarify that the ODD would be subject to the antifraud provisions of Section 17(a) of the Securities Act [15 U.S.C. 77q(a)] and Section 10(b) of the Exchange Act [15 U.S.C. 78j(b)], but is not intended to suggest that the ODD remains subject to Section 12(a)(2) liability.

[19] *See, e.g., Spicer* v. *Chicago Board Options Exchange*, No. 88 C 2139 (N.D. Ill. Oct. 24, 1990), *motion to reconsider denied* (Jan. 24, 1991) (holding that an ODD that is incorporated by reference as a matter of law into the prospectus could be subject to Section 12(2) [now Section 12(a)(2)] liability).

[20] Of course, the document would continue to be subject to the anti-fraud liability provisions of Section 17(a) of the Securities Act [15 U.S.C. 77q(a)], Section 10(b) of the Exchange Act [15 U.S.C. 78j(b)], and Rule 10b-5 under the Exchange Act [17 CFR 240.10b-5]. Thus, the Commission believes that the rule, if amended as proposed, would continue to be consistent with protection of investors.

[21] 15 U.S.C. 77s(a).

[22] 15 U.S.C. 77b(10).

[23] 15 U.S.C. 77g.

[24] 15 U.S.C. 77j.

[25] 15 U.S.C. 77l.

[26] 15 U.S.C. 77s(a).

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PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. The authority citation for Part 230 continues to read in part as follows:

Authority: 15 U.S.C. 77b, 77f, 77g, 77h, 77j, 77r, 77s, 77sss, 78c, 78d, 78l, 78m, 78n, 78o, 78w, 78ll(d), 79t, 80a-8, 80a-24, 80a-29, 80a-30, and 80a-37, unless otherwise noted.

* * * * *

2. Section § 230.135b is revised to read as follows:

§ 230.135b Materials not deemed an offer to sell or offer to buy nor a prospectus.

Materials meeting the requirements of § 240.9b-1 of this chapter shall not be deemed an offer to sell or offer to buy a security for purposes solely of Section 5[27] of the Act, nor shall such materials be deemed a prospectus for purposes of Sections 2(a)(10)[28] and 12(a)(2)[29] of the Act.

By the Commission.

Dated: June 25, 1998.

BILLING CODE 8010-01-P

Margaret H. McFarland,
Deputy Secretary.

Appendix A

[Note: This Appendix A to the preamble will not appear in the Code of Federal Regulations]

Regulatory Flexibility Act Certification

I, Arthur Levitt, Chairman of the Securities and Exchange Commission, hereby certify, pursuant to 5 U.S.C. 605(b), that the proposed amendment to Rule 135b under the Securities Act, as set forth in Securities Act Release No. 33–7550, would not, if adopted, impose additional disclosure or delivery requirements or otherwise alter current requirements, and therefore would not have a significant economic impact on a substantial number of small entities.

The amendment proposed in Securities Act Release No. 33–7550 is intended to codify a long standing interpretive position by clarifying that an Options Disclosure Document complying with the requirements of Exchange Act Rule 9b–1 is not subject to liability under Section 12(a)(2) of the Securities Act. No new disclosure or delivery obligations are proposed, nor are old methods of disclosure or delivery being terminated. Because the proposed amendment is consistent with the current interpretive position, no new liability would be imposed and the current liability system would not be altered. Since no changes to substantive disclosure or delivery requirements are being proposed, the proposal will not have a significant economic impact on businesses, large or small.

Economic benefits resulting from the proposed amendment are anticipated. In particular, the proposed amendment would eliminate uncertainty over the applicability of Section 12(a)(2) liability to an Options Disclosure Document.

Dated: June 24, 1998.

Arthur Levitt,
Chairman.

[FR Doc. 98–17438 Filed 6–30–98; 8:45 am]

BILLING CODE 8010-01-M

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[27] 15 U.S.C. 77e.

[28] 15 U.S.C. 77b(10).

[29] 15 U.S.C. 77l(a)(2).

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–40129 , File No. S7–18–98]

RIN 3235–AH30

Amendment to Rule 9b–1 Under the Securities Exchange Act Relating to the Options Disclosure Document

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is proposing an amendment to Rule 9b–1 ("Rule") that would refine certain language of the Rule so that it more clearly reflects the regulatory standards it was designed to establish. The amendment is intended to strengthen Rule 9b–1 while continuing to ensure a regulatory scheme that fosters investors' understanding of the characteristics and risks of standardized options.

DATES: Comments should be submitted by July 31, 1998.

ADDRESSES: All comments should be submitted in triplicate and addressed to Jonathan G. Katz, Secretary, U.S. Securities and Exchange Commission, Mail Stop 6–9, 450 Fifth Street, N.W., Washington, D.C. 20549. Comments may also be submitted electronically at the following E-Mail address: rule-comments@sec.gov. All comment letters should refer to File No. S7–18–98; this file number should be included on the subject line if E-mail is used. Comment letters will be available for inspection and copying at the Commission's Public Reference Room at the same address. Electronically submitted comment letters will be posted at the Commission's Internet web site (http://www.sec.gov).

FOR FURTHER INFORMATION CONTACT: For further information regarding this proposal, contact: Michael Walinskas, Deputy Associate Director, at (202) 942–0090 or Kevin Ehrlich, Attorney, at (202) 942–0778.

SUPPLEMENTARY INFORMATION:

I. Introduction

In general, Rule 9b–1:[1] (i) dictates when a self-regulatory organization is required to file an options disclosure document ("ODD") with the Commission; (ii) itemizes the information required to be contained in the ODD; (iii) specifies the Commission's process of reviewing a preliminary ODD; and (iv) establishes the obligations of broker-dealers to furnish the ODD prior to approving a customer's account for trading in options. In light of the evolving nature of the standardized options[2] markets, the Commission is soliciting comments on a proposal to amend Rule 9b–1 to ensure that the requirements of the Rule continue to reflect the underlying objective of adequate disclosure regarding standardized options.

II. Background

Rule 9b–1 provides that an options disclosure document containing the information specified in paragraph (c) of the Rule must be filed with the Commission by an options market[3] at least 60 days prior to the date definitive copies of the document are furnished to customers. Paragraph (c) of the Rule currently specifies that, with respect to the options classes covered by the document, the document must contain, among other things, a discussion of the mechanics of buying, writing, and exercising the options; the risks of trading the options; the market for the option; and a brief reference to the transaction costs, margin requirements, and tax consequences of options trading. Paragraph (d) of the Rule further provides that no broker or dealer shall accept an options order from a customer, or approve the customer's account for the trading of options, "unless the broker or dealer furnishes or has furnished to the customer the options disclosure document."

The Commission adopted the Rule on September 16, 1982, in an effort to foster better investor understanding of standardized options trading and to reduce the costs of issuer compliance with the registration requirements of the Securities Act of 1933 ("Securities Act").[4] Prior to the adoption of the Rule, it was necessary for an options issuer to file a registration statement containing detailed information about the issuer of the options and the mechanics of options trading, in order to meet the registration requirements of the Securities Act. These registration requirements, however, made the prospectus "lengthy and complicated" and did not meet the needs of financially unsophisticated options investors.[5] Accordingly, the Commission proposed that a disclosure document be developed which would contain information concerning the risks and uses of options trading and present the information in a manner easily understandable by investors lacking a technical, financial background. With the adoption of Rule 9b–1, the Commission established a new disclosure procedure specifically geared to meeting the information needs of investors in standardized options.[6]

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[1] 17 CFR 240.9b–1.

[2] Paragraph (a)(4) of the Rule defines standardized options to mean "options contracts trading on a national securities exchange, an automated quotation system of a registered securities association, or a foreign securities exchange which relate to options classes the terms of which are limited to specific expiration dates and exercise prices, or such other securities as the Commission may, by order, designate."

[3] Paragraph (a)(1) of the Rule defines an options market to mean "a national securities exchange, an automated quotation system of a registered securities association or a foreign securities exchange on which standardized options are traded."

In 1982, following the adoption of Rule 9b–1, an options disclosure document was prepared jointly by the American Stock Exchange, Inc., the Chicago Board Options Exchange, Inc. ("CBOE"), the Pacific Exchange, Inc., the Philadelphia Stock Exchange, Inc., and the Options Clearing Corporation ("OCC"). The initial disclosure document consisted of a single booklet generally describing the risks and uses of exchange-listed options on individual equity securities. Since that time, several revised disclosure booklets have been published describing, among other things, the risks and uses of listed options on stock indexes, debt instruments, and foreign currencies. Currently, the ODD utilized by the U.S. options exchanges is entitled "Characteristics and Risks of Standardized Options."[7]

III. Discussion

The Commission is proposing several changes to Rule 9b–1 to better reflect the desired disclosure requirements regarding standardized options. The changes are minor or technical and do not alter the basic purpose of the Rule, to ensure the dissemination of essential options information to unsophisticated investors in a manner they can easily understand. Moreover, the changes should help to ensure that the Rule addresses the evolving nature of the standardized options markets. Accordingly, the Commission believes that the proposed amendments are necessary or appropriate in the public interest. The following is a discussion of the proposed changes.

In paragraph (a)(3) of the Rule, the definition of an "options disclosure document" will be amended in order to explicitly state that amendments and supplements to the ODD are included as part of the ODD. New financial products have been introduced into the standardized options marketplace recently, such as FLEX Equity options[8] and LEAPS.[9] In order to reduce printing costs, descriptions of these and similar products are often initially incorporated into the ODD through an ODD supplement and delivered to the customer along with the bound ODD. (This practice conforms to the Commission's interpretation of ODD supplement delivery obligations under the current rule.) The proposed amendment removes a potential ambiguity regarding whether such supplements are required to be delivered to customers and should be deemed part of the ODD.

In addition, a definition of "definitive options disclosure document" is being proposed in paragraph (a)(3) of the Rule so that Rules 134a and 135b under the Securities Act accurately reference Rule 9b–1.[10] This definition will be referenced in paragraphs (d)(1) and (d)(2) of the Rule. In this manner, the Commission believes that investor confusion will be lessened.

The amendment will also make several technical clarifying changes to the Rule. For example, in paragraph (b)(2)(i), the word "options" will be inserted before the phrase "disclosure document." Similarly, in paragraph (b)(2)(ii), the phrase "options disclosure document" will replace the phrase "such material," and the phrase "options classes covered by the document" will replace the more general language "the subject standardized options contracts." In each of these instances, the Commission believes that the new language eliminates potential ambiguity.

The proposed amendments to paragraphs (c)(2) and (c)(3) of the Rule, which currently require that the ODD contain information regarding, respectively, the "mechanics of buying, writing and exercising options, including settlement procedures" and "the risks of trading options" will be changed to better reflect the type of information that appropriately is and should be included in the ODD. Specifically, paragraph (c)(2) will require a discussion of the "mechanics of exercising" options, and paragraph (c)(3) will require a discussion of the risks of "being a holder or writer" of options. The Rule's existing language might be interpreted incorrectly to mean that options exchanges covered by Rule 9b-1 must provide information to investors via the ODD about how to "trade" options, including exchange operating procedures and effective investment strategies.

Similarly, the proposed amendments to paragraphs (c)(4) and (c)(7) of the Rule will be amended to ensure that the scope of information included within the ODD is consistent with its intended purpose and character. Accordingly, rather than including a discussion of the "market for the options," paragraph (c)(4) will simply require "the identification of the market or markets in which the options are traded." In addition, paragraph (c)(7) will require a "general" identification of the "type" of instrument or instruments underlying the options class or classes covered by the document.

The changes to paragraphs (c)(2), (c)(3), (c)(4), and (c)(7) of the Rule should help to clarify that the purpose of the ODD is to inform investors generally about the characteristics and risks of options as well as the risks to investors of maintaining positions in options. The Commission does not intend for the proposed changes to the

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[4] *See* Securities Exchange Act Release Nos. 18836 (June 24, 1982), 47 FR 28688 (July 1, 1982) ("Proposing Release") and 19055 (September 16, 1982), 47 FR 41950 (September 23, 1982) ("Adopting Release").

[5] Proposing Release, *id.* at 47 FR 28688.

[6] Concurrent with the adoption of Rule 9b–1, the Commission adopted a new Form S–20 for the registration of standardized options under the Securities Act. Adopting Release, *supra* note 3, 47 FR at 41951–2. This Form requires the filing of information related to the issuer of standardized options and such options. The Form must be filed with the Commission by the issuer before an options disclosure document may be distributed. 17 CFR 240.9b–1(b)(1)(1985).

[7] In addition to the ODD utilized by the U.S. options exchanges, two foreign exchanges, the London Securities and Derivatives Exchange ("OMLX") and Canada Clearing Corporation, have each filed an ODD with the Commission. Both of these ODDs are modeled after the U.S. options market ODD.

[8] *See, e.g.*, Securities Exchange Act Release No. 36841 (February 14, 1996), 61 FR 6666 (February 21, 1996) (order approving the listing of Flexible Exchange options on specified equity securities) (CBOE–95–43).

[9] LEAPS are equity and index options that have a longer term expiration (up to five years) as compared to regular options. *See, e.g.*, Securities Exchange Act Release No. 35617 (April 17, 1995), 60 FR 20132 (April 24, 1995) (CBOE–95–02).

[10] Rule 134a states that written materials related to standardized options will not be deemed to be a prospectus for the purposes of Section 2(10) of the Securities Act provided that, among other conditions, such materials are limited to explanatory information describing the general nature of the standardized options markets. In addition, Rule 135b states that for purposes of Section 5 of the Securities Act, materials meeting the requirements of Rule 9b–1 of the Exchange Act will not be deemed to constitute either an offer to sell or an offer to buy any security.

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Rule to require any changes to the current disclosures in an ODD.[11]

IV. Request for Comments

The Comission seeks comments on the proposed amendments to Rule 9b-1. Comments should address whether the amendment clarifies the disclosure requirements of Rule 9b-1 while continuing to ensure a regulatory scheme that fosters inventors' understanding of standardized options. The Commission's view is that the proposed changes will not require any substantive changes to existing ODDs now distributed by the U.S. options exchanges, Canada Clearing Corporation, and OMLX. The Commission requests comment on this point.

V. Costs and Benefits of the Proposed Rule Change and its Effects on Competition

To assist the Commission in its evaluation of the costs and benefits that may result from the proposed exemption, commentators are requested to provide analysis and data, if possible, relating to costs and benefits associated with the proposal herein. The proposed amendments to Rule 9b-1 under the Act will not change any substantive disclosure obligations or compliance costs. Rather, the proposal would clarify the disclosure requirements and goals regarding standardized option products. The proposal should remove ambiguity that currently may exist within the rules regarding standardized options disclosures. The Commission requests commentators to address whether the proposed amendment would generate the anticipated benefits, or impose any costs on U.S. investors, broker-dealers, or others.

In addition, Section 23(a)(2) of the Act requires that the Commission, when promulgating rules under the Exchange Act, to consider, among other matters, the impact any such regulations would have on competition.[12] The Commission has preliminarily considered the proposed rule in light of the standards cited in Section 23(a)(2) of the Act and believes preliminarily that it would not impose any significant burden on competition not necessary or appropriate in furtherance of the Exchange Act. As noted above, the Commission does not believe that the proposed amendments will require any changes to the current disclosures in an ODD.

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. §605(b), the Commission has certified that the proposed amendment would not have a significant economic impact on a substantial number of small entities.[13] The Commission requests comments on the certification (see Appendix A). Commenters are asked to provide empirical data to support the extent of any identified impact.

VI. Regulatory Flexibility Act Certification

Pursuant to Section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chairman of the Commission has certified that the amendment proposed herein would not, if adopted, have a significant economic impact on a substantial number of small entities. This certification, including the reasons therefor, is attached to this release as Appendix A. We encourage written comments on the Certification. Commenters are asked to describe the nature of any impact on small business entities and provide empirical data to support the extent of the impact.

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996, the Commission is also requesting information regarding the potential impact of the proposals on the economy on an annual basis. The Commission does not currently believe that the amendments, if adopted, would result or be likely to result in (i) an annual effect on the economy of $100 million or more; (ii) a major increase in costs or prices for consumers or individual industries; or (iii) significant adverse effects on competition, investment, or innovation. Nevertheless, the Commission solicits comment on this preliminary view. Commentators should provide empirical data to support their views.

VII. Paperwork Reduction Act

Certain provisions of Rule 9b-1 contain "collection of information" requirements within the meaning of the Paperwork Reduction Act of 1995 ("PRA") (44 U.S.C. § 3501 et seq.). The Commission previously submitted the rule to the Office of Management and Budget ("OMB") for review in accordance with 44 U.S.C. 3507(d), and OMB has assigned the rule OMB control number 3235–0480. Because the proposed rule changes should not materially affect the substance of the required disclosures or the filing and delivery obligations under the rule, there is no requirement that the Commission resubmit the rule with the proposed amendment to OMB for review under the PRA.

VIII. Statutory Basis

The amendment to Rule 9b-1 is being proposed pursuant to 15 U.S.C. §§ 78a *et seq.*, particularly Sections 9 and 23.

Text of the Proposed Amendment

List of Subjects in post

17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

In accordance with the foregoing, Title 17, Chapter II of the *Code of Federal Regulations* is proposed to be amended as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for Part 240 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78f, 78i, 78j, 78k, 78k–1, 78*l*, 78m, 78n, 78o, 78p, 78q, 78s, 78u–5, 78w, 78x, 78*ll*(d), 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

2. Section 240.9b–1 is amended by revising paragraphs (a)(3), (b)(2)(i) and (ii), (c)(2), (c)(3), (c)(4), (c)(6), (c)(7), (d)(1) and (d)(2) as follows:

§ 240.9b–1 Options disclosure document.

(a) * * *

(3) "Options disclosure document" means a document, *including all amendments and supplements thereto,* prepared by one or more options markets which *has been filed with the Commission or distributed in accordance with paragraph (b) of this section* [contains the information required by this rule with respect to the options classes covered by the document]. *"Definitive options disclosure document" or "document" means an options disclosure document furnished to customers in accordance with paragraph (b) of this section.*

* * * * *

(b)(1) * * *

(2)(i) If the information contained in the options disclosure document becomes or will become materially inaccurate or incomplete or there is or will be an omission of material information necessary to make the *options* disclosure document not misleading, the options market shall amend *or supplement* its options disclosure document by filing five copies of an amendment *or supplement* to such options disclosure document with the Commission at least 30 days prior to the date definitive copies are furnished to customers, unless the Commission determines otherwise having due regard to the adequacy of the information disclosed and the public interest and protection of investors. Five copies of the definitive options disclosure document, as amended *or supplemented,* shall be filed with the Commission not later than the date the *amendment or supplement,* or the amended options disclosure document, is furnished to customers.

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[11] The Commission notes that under the Rule it retains authority to review and approve ODDs and to revise "such other information as the Commission may specify."

[12] *See* 15 U.S.C. 78w(a)(2).

[13] Under the Exchange Act, as small broker or dealer entity is defined as "a broker or dealer that had total capital (net worth plus subordinated liabilities) of less than $500,000 on the last business day of the preceding fiscal year as of which its audited financial statements were prepared pursuant to § 240.17a–5(d) or, if not required to file such statements, a broker or dealer that had total capital (net worth plus subordinated liabilities) of less than $500,000 on the last business day of the preceding fiscal year (or in the time that it has been in business, if shorter)." 17 CFR 240.010(c).

(2)(ii) Notwithstanding paragraph (b)(2)(i) of this section, an options market may distribute *an amendment or supplement to an options disclosure document* [such materials] prior to such 30 day period if it determines, in good faith, that such delivery is necessary to ensure timely and accurate disclosure with respect to *one or more of the options classes covered by the document* [the subject standardized options contracts]. Five copies of any amendment *or supplement* distributed pursuant to this paragraph shall be filed with the Commission at the time of distribution. In that instance, if the Commission determines, having given due regard to the adequacy of the information disclosed and the public interest and the protection of investors, it may require refiling of the amendment pursuant to paragraph (b)(2)(i) of this section.

(c) * * *

(2) *A discussion of the* mechanics of [buying, writing and] exercising the options [including settlement procedures];

(3) *A discussion of the* risks of *being a holder or writer of the options* [trading the options];

(4) *The identification* of the market [for] *or markets in which* the options *are traded;*

* * * * *

(6) *The identification of* the issuer of the options;

(7) *A general* identification of the *type of* instrument or instruments underlying the options class *or classes covered by the document;*

* * * * *

(d) Broker-dealer obligations. (1) No broker or dealer shall accept an order from a customer to purchase or sell an option contract relating to an options class that is the subject of a[n] *definitive* options disclosure document, or approve the customer's account for the trading of such option, unless the broker or dealer furnishes or has furnished to the customer [the] *a copy of the definitive* options disclosure document.

(2) If a[n] *definitive* options disclosure document *relating to an options class* is amended or *supplemented,* each broker and dealer shall promptly send *a copy of the definitive amendment or supplement or a copy of the definitive options disclosure document as amended* [the information contained in the definitive amendment] to each customer whose account is approved for trading the options *class or* classes to which the *amendment or supplement* [options disclosure document] relates.

Dated: June 25, 1998.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

Appendix A—Regulatory Flexibility Act Certification

[Note: This Appendix A to the preamble will not appear in the Code of Federal Regulations.]

I, Arthur Levitt, Jr., Chairman of the U.S. Securities and Exchange Commission ("Commission"), hereby certify, pursuant to 5 U.S.C. § 605(b), that the proposed amendment to Rule 9b–1 ("Rule") under the Securities Exchange Act of 1934, ("Exchange Act")[1] set forth in Securities Exchange Act Release No. 34–40129, would not, if adopted, have a significant economic impact on a substantial number of small entities. The proposed amendment will clarify existing disclosure obligations for standardized option products pursuant to Section 9 of the Act and Rule 9b–1 thereunder[2] and should not materially affect the substance of the required disclosures or the filing and delivery obligations under the Rule. Consequently, no new preparation, printing, or distribution costs will be necessary. Finally, the proposed rule imposes no new recordkeeping requirements or compliance burdens on small entities. Accordingly, the proposed amendment would not have a significant economic impact on a substantial number of small entities.

Dated: June 24, 1998

Arthur Levitt, Jr.,

Chairman.

[FR Doc. 98–17437 Filed 6–30–98; 8:45 am]

BILLING CODE 8010–01–P

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[1] 15 U.S.C. 78a *et seq.*

[2] 17 CFR 240.9b–1.

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Part VII

Department of Education

34 CFR Parts 74 and 80

Administration of Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations; and Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments; Final Rule

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DEPARTMENT OF EDUCATION

34 CFR Parts 74 and 80

Administration of Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations; and Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments

AGENCY: Department of Education.

ACTION: Applicability of revised Office of Management and Budget circulars A–21, A–87, A–102, A–110, and A–122.

SUMMARY: The Secretary announces the applicability of five revised Office of Management and Budget (OMB) circulars. These revised circulars provide conditional exceptions from certain regulatory requirements for the Department of Education (ED) grant programs. The Secretary takes this action to promote efficiency in the State and local program administration of these programs.

DATES: The revised circulars are applicable as of July 1, 1998.

FOR FURTHER INFORMATION CONTACT: Ronelle Holloman, U.S. Department of Education, 600 Independence Avenue, SW, Room 3652, ROB–3, Washington, DC 20202–4248. Telephone: (202) 205–3501. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION: On August 29, 1997, OMB published in the **Federal Register** (62 FR 45934) final revisions to five OMB circulars. The five circulars are A–21, "Cost Principles for Educational Institutions"; A–87, "Cost Principles for State, Local, and Indian Tribal Governments"; A–102, "Grants and Cooperative Agreements with State and Local Governments"; A–110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations"; and A–122, "Cost Principles for Non-Profit Organizations." Now the Secretary of ED announces the applicability of the five revised circulars to the Department's grant programs.

These revisions to the circulars provide a conditional exception from the requirements of 34 CFR Part 74 and a conditional class exception from the requirements of 34 CFR Part 80 for certain ED grant programs. The programs to which these revisions can apply are those formula grant programs with statutorily-authorized consolidated planning and consolidated administrative funding that are identified by ED and approved by the Secretary.

The Secretary can apply the exception to formula grant programs that are administered by State and local governments, and have the following characteristics: the related programs (1) serve a common program purpose, (2) have specific statutorily-authorized consolidated planning and consolidated administrative funding, and (3) are administered by State agencies that are funded mostly by non-Federal sources. To promote efficiency in the State and local program administration of such related programs, ED can exempt these covered, State-administered programs from Federal grants management requirements in OMB Circulars A–21, A–87, A–110 (34 CFR Part 74), and A–122 and the Grants Management Common Rule (34 CFR Part 80). The exemptions are from all but the allocability-of-costs provisions of Circulars A–21 (Section C, subpart 4), A–87 (Attachment A, subsection C.3), A–122 (Attachment A, subsection A.4) and from all of the administrative requirements provisions of 34 CFR parts 74 and 80.

Thus, ED has discretion to exempt a Federal formula grant program from the Federal grants management requirements. ED will consult with OMB during its consideration of whether to grant such an exemption.

If ED exempts a Federal formula grant program from these requirements, a State would be permitted to use only State procedures, provided that the State adopts its own written fiscal and administrative requirements for expending and accounting for all funds. These requirements must be consistent with the provisions of OMB Circular A–87 and extend to all sub-recipients. These fiscal and administrative requirements must be sufficiently specific to ensure that: funds are used in compliance with all applicable Federal statutory and regulatory provisions; costs are reasonable and necessary for operating these programs; and funds are not used for general expenses required to carry out other responsibilities of a State or its sub-recipients. If a State does not adopt such fiscal and administrative requirements it will continue to be subject to the Federal grants management requirements.

The Department of Education implements OMB Circulars A–102 and A–110 through regulations codified in 34 CFR Parts 80 and 74 respectively. Because these regulations contain sufficient discretion for ED to implement OMB's guidance, ED does not need to amend these regulations.

In addition, ED adopts the changes to OMB Circulars A–21, A–87 and A–122 that contain cost principles for educational institutions, State and local governments, and non-profit organizations, respectively. These circulars have been amended several times over the years by OMB, and ED has adopted these changes by publishing notices in the **Federal Register**. For a complete list of prior amendments to these circulars adopted by ED, please consult the following **Federal Register** publications: for OMB Circular A–21, May 8, 1996 (61 FR 20880); for Circular A–87, May 17, 1995 (60 FR 26484); and for Circular A–122, May 14, 1997 (62 FR 26577).

The five circulars are available by calling OMB's Publication Office at (202) 395–7332, or they can be obtained in electronic form from the OMB Home Page at (http://www.whitehouse.gov/WH/EOP/omb).

Waiver of Notice and Comment

It is the practice of the Secretary to offer interested parties the opportunity to comment on proposed actions in accordance with the Administrative Procedure Act (5 U.S.C. 553). However, since OMB previously provided the public an opportunity for comment on the revision of Circulars A–21, A–87, A–102, A–110 and A–122, the Secretary finds that soliciting further public comment with respect to adopting the revised circulars is unnecessary and contrary to the public interest under 5 U.S.C. 553(b)(B). For the same reasons, the Secretary waives the delayed effective date for this action under 5 U.S.C. 553(d).

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Note: The official version of this document is the document published in the **Federal Register**.

Dated: June 23, 1998.

(Catalog of Federal Domestic Assistance Number does not apply.)

Donald Rappaport,

Chief Financial and Chief Information Officer.

[FR Doc. 98–17256 Filed 6–30–98; 8:45 am]

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Part VIII

The President

Presidential Determination No. 98–31 of June 19, 1998—Presidential Determination on U.S. Assistance to the Korean Peninsula Energy Development Organization (KEDO)

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Presidential Documents

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The President

Presidential Determination No. 98-31 of June 19, 1998

Presidential Determination on U.S. Assistance to the Korean Peninsula Energy Development Organization (KEDO)

Memorandum for the Secretary of State

Pursuant to the authority vested in me by section 614(a)(1) of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2364(a)(1) (the "Act"), I hereby determine that it is important to the security interests of the United States to furnish up to $5 million in funds made available under Chapter IV, Part II of the Act for a U.S. contribution to KEDO without regard to any provision of law within the scope of section 614(a)(1). I hereby authorize this contribution.

You are hereby authorized and directed to transmit this determination to the Congress and to arrange for its publication in the **Federal Register**.

William J. Clinton

THE WHITE HOUSE,
Washington, June 19, 1998.

[FR Doc. 98-17758
Filed 6-30-98; 8:45 am]
Billing code 4710-10-M

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At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

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H.R. 1847/P.L. 105–184

Telemarketing Fraud Prevention Act of 1998 (June 23, 1998; 112 Stat. 520)

S. 1150/P.L. 105–185

Agricultural Research, Extension, and Education Reform Act of 1998 (June 23, 1998; 112 Stat. 523)

S. 1900/P.L. 105–186

U.S. Holocaust Assets Commission Act of 1998 (June 23, 1998; 112 Stat. 611)

H.R. 3811/P.L. 105–187

Deadbeat Parents Punishment Act of 1998 (June 24, 1998; 112 Stat. 618)

Last List June 24, 1998

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CFR ISSUANCES 1998
January—April 1998 Editions and Projected July, 1998 Editions

This list sets out the CFR issuances for the January–April 1998 editions and projects the publication plans for the **July, 1998** quarter. A projected schedule that will include the **October, 1998** quarter will appear in the first **Federal Register** issue of October.

For pricing information on available 1997–1998 volumes consult the CFR checklist which appears every Monday in the Federal Register.

Pricing information is not available on projected issuances. The weekly CFR checklist and the monthly List of CFR Sections Affected will continue to provide a cumulative list of CFR titles and parts, revision date and price of each volume.

Normally, CFR volumes are revised according to the following schedule:

Titles 1–16—January 1
Titles 17–27—April 1
Titles 28–41—July 1
Titles 42–50—October 1

All volumes listed below will adhere to these scheduled revision dates unless a notation in the listing indicates a different revision date for a particular volume.

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TABLE OF EFFECTIVE DATES AND TIME PERIODS—JULY 1998

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

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July 10	July 27	August 10	August 24	September 8	October 8
July 13	July 28	August 12	August 27	September 11	October 13
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July 15	July 30	August 14	August 31	September 14	October 13
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July 17	August 3	August 17	August 31	September 15	October 15
July 20	August 4	August 19	September 3	September 18	October 19
July 21	August 5	August 20	September 4	September 21	October 19
July 22	August 6	August 21	September 8	September 21	October 20
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July 24	August 10	August 24	September 8	September 22	October 22
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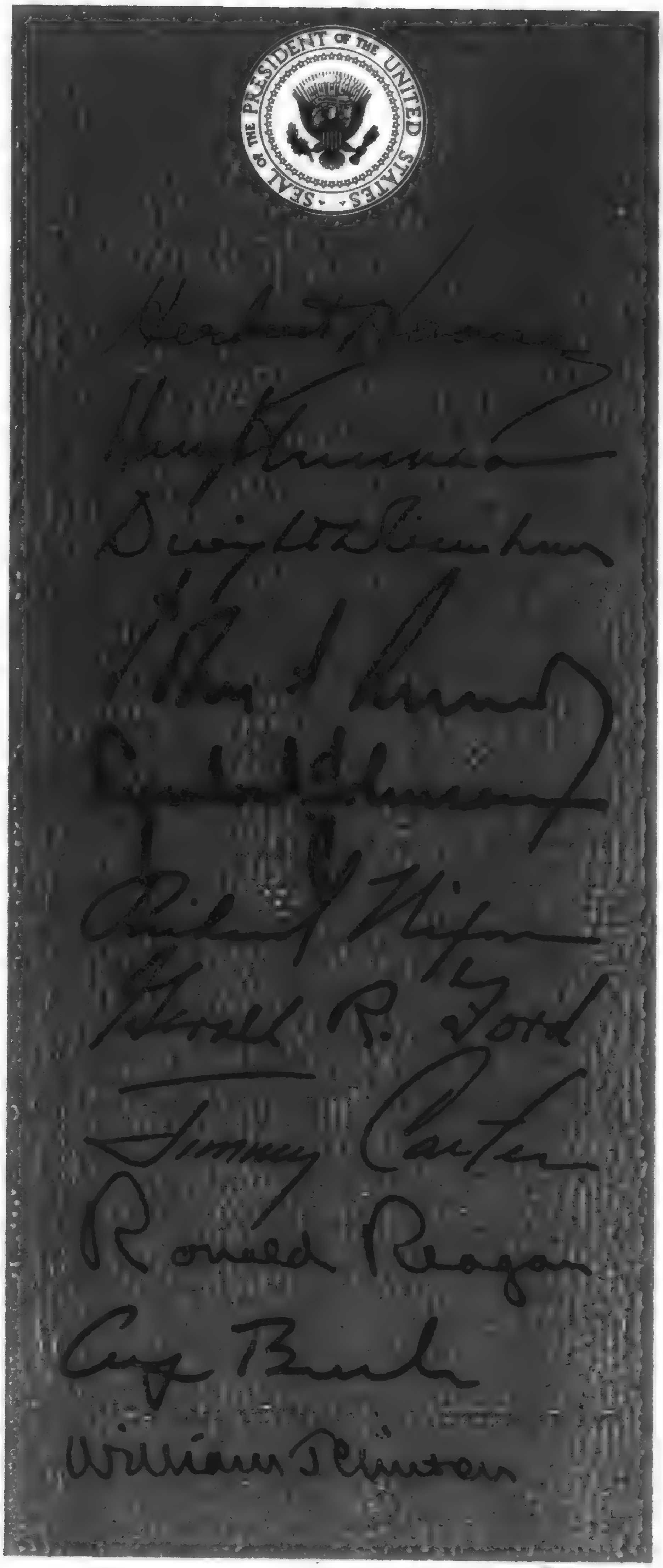
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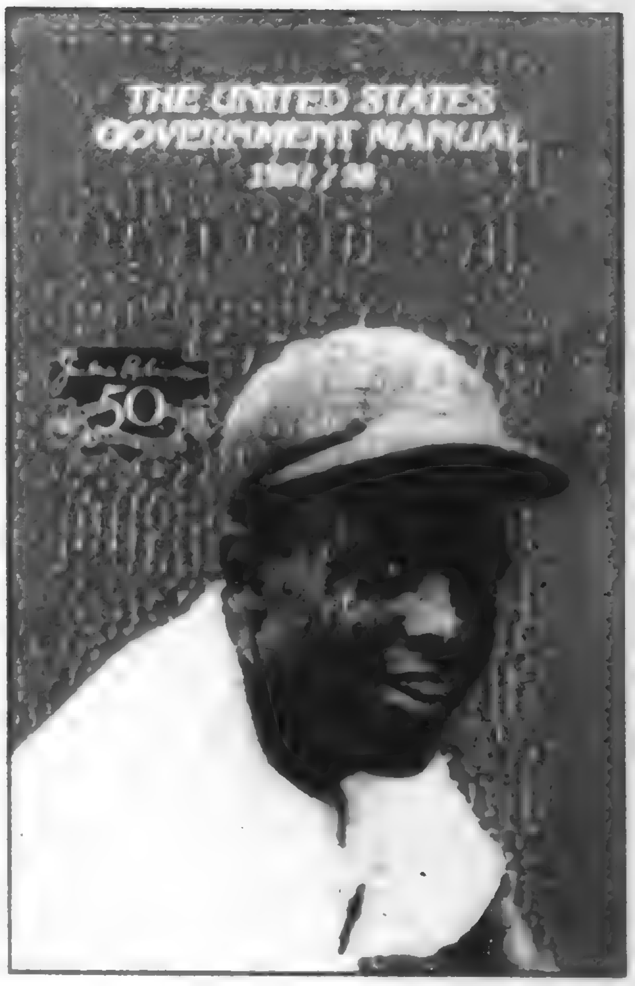

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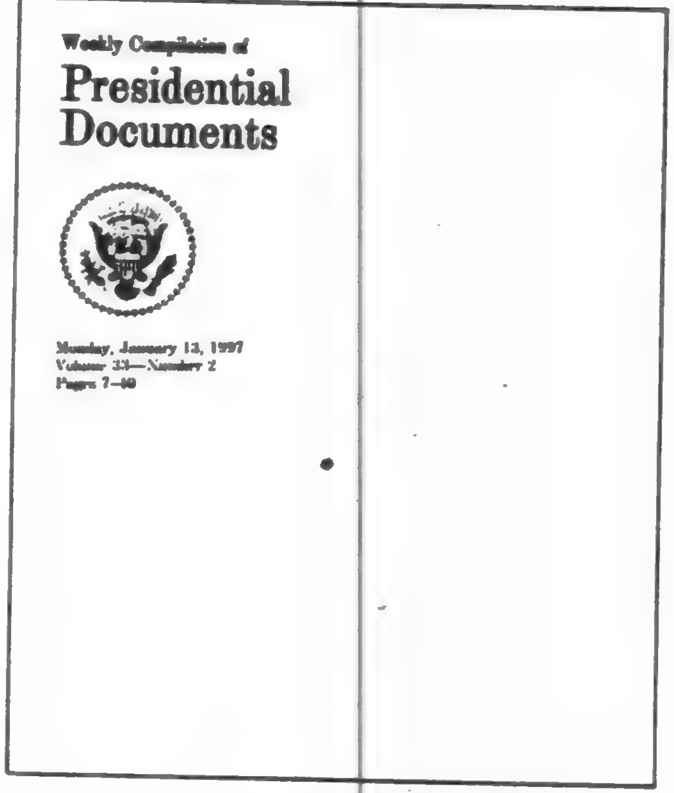

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WASHINGTON, DC

WHEN: July 14, 1998 at 9:00 am

WHERE: Office of the Federal Register
Conference Room
800 North Capitol Street, NW.
Washington, DC
(3 blocks north of Union Station Metro)

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Title 3—

The President

Executive Order 13090 of June 29, 1998

President's Commission on the Celebration of Women in American History

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App.), and in order to celebrate the role of women in American history, it is hereby ordered as follows:

Section 1. *Establishment.* There is established the President's Commission on the Celebration of Women in American History ("Commission"). The Commission shall be composed of not more than 11 members appointed by the President from the public and private sectors. The public sector members shall include such persons as the President deems appropriate, including (a) the Assistant to the President and Director of Communications and (b) a person recommended by and who shall be the representative of the Administrator of General Services. The President may designate two members as Co-Chairs of the Commission. The private sector members shall represent entities interested in the Commission's work on American history, particularly the history of women in America. These entities may include, but need not be limited to, academic institutions, business entities, labor organizations, public interest organizations, arts and humanities institutions, State and local governments, athletic groups, and organizations devoted to civil rights and opportunities for minorities and women. The private sector members shall not be considered special Government employees.

Sec. 2. *Functions.* (a) The Commission shall make recommendations to the President, through the Co-Chairs of the Commission, on ways to best acknowledge and celebrate the roles and accomplishments of women in American history. Recommendations may include, among other things, the feasibility of a focal point for women's history located in Washington, D.C., and the use of the latest technology to connect existing and planned women's history sites, museums, and libraries.

(b) The Commission shall meet to carry out its work concerning the celebration of women in American history.

(c) The Commission shall report its recommendations, through the Co-Chairs of the Commission, in a final report to the President by March 1, 1999.

Sec. 3. *Administration.* (a) The heads of executive departments and agencies shall, to the extent permitted by law and where practicable, provide the Co-Chairs of the Commission with such information with respect to women's history in America as the Co-Chairs may request.

(b) Members of the Commission shall serve without compensation for their work on the Commission. While engaged in the work of the Commission, members appointed from the private sector may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in Government service (5 U.S.C. 5701–5707).

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(c) To the extent permitted by law and subject to the availability of appropriations, the General Services Administration shall provide the Commission with funding, administrative services, facilities, staff, and other support services necessary for the performance of the functions of the Commission. With respect to the Commission, the Administrator of General Services shall perform the administrative functions of the President under the Federal Advisory Committee Act, as amended, except that of reporting to the Congress.

(d) The Commission shall terminate 60 days after the submission of its final report.

William J. Clinton

THE WHITE HOUSE,
June 29, 1998.

[FR Doc. 98–17828
Filed 6–30–98; 3:34 pm]
Billing code 3195–01–P

Presidential Documents

Executive Order 13091 of June 29, 1998

Administration of Arms Export Controls and Foreign Assistance

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, and in order to delegate certain authority to the Secretary of State and the Secretary of Defense, it is hereby ordered as follows:

Section 1. Section 1 of Executive Order 11958, as amended, is further amended as follows:

(a) in subsection (k), by inserting after "State." "Those under Section 36(e) of the Act, as added by Public Law 104-164 with respect to transmittals pursuant to Section 36(b) to the Secretary of Defense, and with respect to transmittals pursuant to Section 36(c), to the Secretary of State.", and

(b) by redesignating subsections (n) through (s) as subsections (o) through (t), respectively, and inserting the following after subsection (m):

"(n) Those under Section 40A of the Act, as added by Public Law 104–164, to the Secretary of State insofar as they relate to commercial exports licensed under the Act, and to the Secretary of Defense insofar as they relate to defense articles and defense services sold, leased, or transferred under the Foreign Military Sales Program."

Sec. 2. Section 1–201 of Executive Order 12163, as amended, is further amended as follows:

(a) in subsection (a)(13),

(1) by inserting the following before "and sections":

", section 620G as added by Public Law 104–164"; and

(2) by inserting the following after "law":

", except that the functions under section 620G as added by Public Law 104–164 shall be exercised in consultation with the Secretary of Defense";

(b) in subsection (a)(23), by deleting ", except" and all that follows through "thereof"; 2

(c) by redesignating subsections (a)(18) through (36) as (a)(19) through (37), respectively; and

(d) by inserting the following new subsection after subsection (a)(17):

"(18) section 655 of the Act, insofar as they relate to defense articles and defense services licensed for export under section 38 of the Arms Export Control Act:".

Sec. 3. Section 1–301 of Executive Order 12163, as amended, is further amended by:

(a) redesignating subsections (e) through (g) as subsections(f) through (h), respectively; and

(b) inserting the following new subsection (e):

"(e) the functions under section 655 of the Act insofar as they relate to defense articles, defense services, and international military education and training furnished by grant or sale by the Secretary of Defense, except to the extent otherwise delegated."

Sec. 4. Section 1–501 of Executive Order 12163, as amended, is further amended:

(a) in subsection (a)(2) by striking "and"; and

(b) in subsection (a)(3) after "1754)" by inserting the following:

"; and (4) section 655(c) of the Act".

William J. Clinton

THE WHITE HOUSE,
June 29, 1998.

[FR Doc. 98–17829
Filed 7–1–98; 8:45 am]
Billing code 3195–01–P

Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 97–101–2]

Imported Fire Ant Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the imported fire ant regulations by designating as quarantined areas nine counties in Arkansas. This action expands the areas quarantined for imported fire ant and imposes certain restrictions on the interstate movement of regulated articles from those areas. This action is necessary to prevent the artificial spread of the imported fire ant to noninfested areas of the United States.

DATES: Interim rule effective July 2, 1998. Consideration will be given only to comments received on or before August 31, 1998.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 97–101–2, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 97–101–2. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Ron Milberg, Operations Officer, Operational Support, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236, (301) 734–5255; or e-mail: ron.p.milberg@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The imported fire ant regulations (contained in 7 CFR 301.81 through 301.81–10, and referred to below as the regulations) quarantine infested States or infested areas within States and impose restrictions on the interstate movement of certain regulated articles for the purpose of preventing the artificial spread of the imported fire ant.

The imported fire ant, *Solenopsis invicta* Buren and *Solenopsis richteri* Forel, is an aggressive, stinging insect that, in large numbers, can seriously injure or even kill livestock, pets, and humans. The imported fire ant feeds on crops and builds large, hard mounds that damage farm and field machinery. The imported fire ant is not native to the United States. The regulations prevent the imported fire ant from spreading throughout its ecological range within this country.

The regulations in § 301.81–3 provide that the Administrator of the Animal and Plant Health Inspection Service (APHIS) will list as a quarantined area each State, or each portion of a State, that is infested with imported fire ant. The Administrator will designate less than an entire State as a quarantined area only under the following conditions: (1) The State has adopted and is enforcing restrictions on the intrastate movement of the regulated articles listed in § 301.81–2 that are equivalent to the interstate movement restrictions imposed by the regulations; and (2) designating less than the entire State will prevent the spread of the imported fire ant. The Administrator may include uninfested acreage within a quarantined area due to its proximity to an infestation or its inseparability from an infested locality for quarantine purposes.

We are amending § 301.81–3(e) by designating the following entire counties in Arkansas as quarantined areas: Desha, Garland, Howard, Jefferson, Lincoln, Pike, Pulaski, Saline, and Sevier Counties. We are taking this action because recent surveys conducted by APHIS and State and county agencies reveal that the imported fire ant has spread to these areas. See the rule portion of this document for specific descriptions of the new quarantined areas.

Emergency Action

The Administrator of the Animal and Plant Health Inspection Service has determined that an emergency exists that warrants publication of this interim rule without prior opportunity for public comment. Immediate action is necessary to prevent the artificial spread of the imported fire ant into noninfested areas of the United States.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make it effective upon publication in the **Federal Register**. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

This interim rule affects the interstate movement of regulated articles from all of nine counties in Arkansas. Affected entities include nurserymen, sod and hay growers, farm equipment dealers, construction companies, and others who sell, process, or move regulated articles interstate. There are approximately 260 establishments within the newly regulated areas that could be affected by this interim rule; nearly 99 percent of these are small entities. However, most of the sales for these entities are local intrastate or within the regulated area, and would not be affected by this rule.

The effect on those entities that do move regulated articles interstate is minimized by the availability of various treatments that, in most cases, will permit the movement of regulated articles with very little additional cost. Treatment costs range between $30 and $50 per shipment. The total projected annual cost of treatment required as a result of this rule is approximately $1,200. In 1992, the sales of nursery stock, sod, hay, and other regulated articles in the newly regulated areas had a market value of approximately $4.06 million. The potential costs to affected entities of treatments required as a result of this rule are minimal compared to the total value of regulated articles sold in these areas.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this program. The assessment provides a basis for the conclusion that the methods employed to regulate the imported fire ant will not significantly affect the quality of the human environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Incorporation by reference, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we are amending 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 147a, 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.22, 2.80, and 371.2(c).

2. In § 301.81–3, paragraph (e), the list of quarantined areas is amended by adding, in alphabetical order, entries for Garland, Pike, Pulaski, Saline, and Sevier Counties in Arkansas and by revising the entries for Desha, Howard, Jefferson, and Lincoln Counties in Arkansas to read as set forth below.

§ 301.81–3 Quarantined areas.

* * * * *

(e) * * *

* * * * *

ARKANSAS

* * * * *

Desha County. The entire county.

* * * * *

Garland County. The entire county.

* * * * *

Howard County. The entire county.
Jefferson County. The entire county.

* * * * *

Lincoln County. The entire county.

* * * * *

Pike County. The entire county.
Pulaski County. The entire county.
Saline County. The entire county.
Sevier County. The entire county.

* * * * *

Done in Washington, DC, this 26th day of June 1998.

Charles P. Schwalbe,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–17634 Filed 7–1–98; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

Guaranteed Production Plan of Fresh Market Tomato; Correction

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to the final regulation which was published in the **Federal Register** on Thursday, May 1, 1997 (62 FR 23628–23634), and subsequently corrected on June 20, 1997 (62 FR 33539). The regulation pertains to the Guaranteed Production Plan of Fresh Market Tomato Regulations.

EFFECTIVE DATE: June 21, 1997.

FOR FURTHER INFORMATION CONTACT: Louise Narber, Insurance Management Specialist, Research and Development, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Background

The final regulation that is the subject of this correction was intended to provide policy changes to better meet the needs of the insured and include the current Fresh Market Tomato (Guaranteed Production Plan) Crop Insurance Regulations with the Common Crop Insurance Policy for ease of use and consistency of terms.

Need for Correction

As published, the final regulation and the subsequent final rule correction contain errors which may prove to be misleading and need to be clarified. The calendar dates for the end of the insurance period are being further corrected to designate November 10 instead of September 20 as the correct calendar date for the end of the insurance period in the states of Florida and Georgia. As currently stated in policy, the insurance period is only 31 days. Fall tomatoes require approximately 70 days from planting to maturity.

List of Subjects in 7 CFR Part 457

Crop insurance, Fresh market tomato (guaranteed production plan).

Accordingly, 7 CFR part 457 is corrected by making the following correcting amendment:

PART 457—COMMON CROP INSURANCE REGULATIONS; REGULATIONS FOR THE 1998 AND SUBSEQUENT CONTRACT YEARS

1. The authority citation for part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(p).

§ 457.128 [Corrected]

2. In § 457.128, paragraph 10(b)(7) is further corrected to read as follows: "October 31 of the crop year in California, November 10 of the crop year in Florida and Georgia, and September 20 of the crop year in all other states."

Signed in Washington D.C., on June 26, 1998.

Joy Harwood,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 98–17636 Filed 7–1–98; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

Dry Pea; Correction

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to the final regulation which was published in the **Federal Register** on Tuesday, December 16, 1997 (62 FR 65741–65747). The regulation pertains to the Dry Pea Crop Insurance Provisions.

EFFECTIVE DATE: July 1, 1998.

FOR FURTHER INFORMATION CONTACT: Arden Routh, Insurance Management Specialist, Research and Development, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Background

The final regulation that is the subject of this correction was intended to provide policy changes to better meet the needs of the insured and include the pea crop insurance regulations with the Common Crop Insurance Policy for ease of use and consistency of terms.

Need for Correction

As published, the final regulation contained an error which may prove misleading. The local market price definition was based on the cash price per pound for U.S. No. 2 grade of dry peas and is being corrected to be based on the cash price per pound for U.S. No. 1 grade of dry peas. Dry Pea production that is eligible for quality adjustment is based on production grading U.S. No. 2 or worse; therefore, any production not grading U.S. No. 1 is eligible for quality adjustment. The local market price must be based on the U.S. No. 1 grade rather than U.S. No. 2. The value of the damaged or conditioned production is divided by the local market price (based on U.S. No. 1 grade) to calculate the quality adjustment factor under section 12(e) of the crop provisions.

List of Subjects in 7 CFR Part 457

Crop insurance, Dry pea.

Accordingly, 7 CFR part 457 is corrected by making the following correcting amendment:

PART 457—COMMON CROP INSURANCE REGULATIONS; REGULATIONS FOR THE 1998 AND SUBSEQUENT CONTRACT YEARS

1. The authority citation for part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(1), 1506(p).

§ 457.140 [Corrected]

2. In § 457.140, section 1 of the policy pertaining to the definition of "Local market price" is corrected by removing the phrase "U.S. No. 2", in the first and second sentences, and replacing it with "U.S. No. 1".

Signed in Washington D.C., on June 26, 1998.

Joy Harwood,

Acting Manager, Federalf Crop Insurance Corporation.

[FR Doc. 98–17637 Filed 7–1–98; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Farm Service Agency

7 CFR Part 1980

RIN 0560–AE92

Subordination of Direct Loan Basic Security To Secure a Guaranteed Line of Credit; Correction

AGENCIES: Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, Farm Service Agency, USDA.

ACTION: Final rule; correction.

SUMMARY: This document corrects the amendatory language contained in the final rule published April 24, 1998, regarding approving a subordination of direct loan security when another lender will be making a line of credit guaranteed by the Agency with a Contract of Guarantee-Line of Credit. This correction clarifies that the conditions applicable to a subordination of direct loan basic security do not apply to the subordination of direct loan normal income security. This correction will apply retroactively to those lines of credit approved since the effective date of the final rule.

EFFECTIVE DATE: May 26, 1998.

FOR FURTHER INFORMATION CONTACT: Phillip Elder (202) 690–4012; Electronic mail: pelder@wdc.fsa.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The final rule being corrected by this publication was intended to allow subordination of direct loan basic chattel and real estate security to secure a guaranteed line of credit in certain cases, to allow subordinations for refinancing purposes and to remove a loan maximum limitation that had been repealed.

Need for Correction

As published, the final rule had the unintentional effect of greatly increasing the conditions that must be met for the Agencies to subordinate direct loan normal income security when making a guaranteed line of credit. These extra conditions were intended to apply only to subordinations of basic security when making a guaranteed line of credit. As stated in the final rule discussion of the fourth comment received, "Regardless, the limitations included in § 1980.108(a) will allow subordinations of direct loan basic security in only those cases where the likelihood of a Government loss on the direct loan is small." The extra conditions were not to be applied to subordinations of normal income security. The definitions of normal income and basic security are contained in § 1962.4 of Title 7. Also, as part of this correction, the first extra condition in § 1980.108(a)(1)(vi) is clarified to more clearly state that the required loan to value ratio is to be calculated based on all of the borrower's direct loans and all of the loan security and is not calculated on a single loan basis for multiple loan borrowers.

Correction of Publication

In the final rule published in **Federal Register**, 63 FR 20295–20299, on April 24, 1998, make the following corrections in the amendatory language section: At

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63 FR 20298, in the third column, § 1980.108, introductory paragraph (a)(1)(vi) and the first sentence of paragraph (a)(1)(vi)(A), should be corrected to read as follows:

§ 1980.108 General provisions.

(a) * * *

(1) * * *

(vi) The Agency may subordinate direct loan basic security under paragraph (a)(1)(v)(D) of this section only when both of the following additional conditions are met:

(A) The total unpaid principal and interest balance of all of the borrower's direct loans secured by the property being subordinated is less than or equal to 75 percent of the value of all of the basic security for the direct loan, excluding the value of growing crops or planned production, on the date the Agency approves the subordination.

* * *

Signed at Washington, DC, on June 22, 1998.

August Schumacher Jr.,

Under Secretary for Farm and Foreign Agricultural Services.

Dated: June 10, 1998.

Jill Long Thompson,

Under Secretary for Rural Development.

[FR Doc. 98–17562 Filed 7–1–98; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–121–AD; Amendment 39–10642; AD 98–14–09]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100, –200, –200C Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Boeing Model 737–100, –200, and –200C series airplanes. This action requires repetitive inspections to detect fatigue cracking and certain discrepancies of the forward engine mount support (FEMS) fitting and its attachments, and repair, if necessary. This amendment is prompted by reports of fatigue cracks on the lower flange of the FEMS fitting, broken bolts and bolts with loose or detached nuts on the upper inboard attachment of the FEMS fitting, and cracked or severed lugs at the outboard support link attachment of the FEMS fitting. The actions specified in this AD are intended to detect and correct fatigue cracking and certain discrepancies of the FEMS fitting and its attachments, which could result in an in-flight separation of an engine.

DATES: Effective July 17, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 17, 1998.

Comments for inclusion in the Rules Docket must be received on or before August 31, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–121–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Gregory L. Schneider, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2028; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: The FAA has received reports of certain problems affecting the forward engine mount support (FEMS) fitting on certain Boeing Model 737 series airplanes. This support fitting is one of the primary structural elements that attach the engine to the wing. The reports indicate that three critical elements of the FEMS fitting have proved to be susceptible to fatigue damage or other problems as summarized below:

- Lower Flange of the FEMS Fitting:

The FAA has received 17 reports of cracks of the lower flange "I" section of the FEMS fitting. Analysis indicates that the cracks were initiated by fatigue. A FEMS fitting that has a cracked lower flange may not be capable of withstanding certain limit load conditions.

- Upper Inboard Attachment Bolt:

There have been 13 cases of the upper inboard attachment bolt fracturing in service due to fatigue, and 4 cases of the nut being broken, loose, or detached. Investigation revealed that the original production bolt installation was subject to relative motion between the bushing and the attachment bolt. As a result, the production nut (which has no secondary locking features) tended to come loose in service. A later configuration change that was intended to correct this problem consisted of installing a stronger bolt and nut, and a new bushing. This change, which has subsequently been adopted by almost the entire fleet of affected airplanes, requires the nut to be torqued to a higher value than is appropriate for the bolt and nut installation. Specifically, the torque applied to the new nut is applicable to a "non-lubricated" thread condition, whereas the nut material tends to act as a "dry" lubricant. Consequently, the higher torque applied to the new bolt and nut configuration induces an excessive pre-load on the bolt threads. This excessive pre-load, in conjunction with certain operational loads, causes an overload condition on the bolt threads, which in turn leads to premature fatigue cracking of the bolt. Additionally, results of an analysis indicate that the FEMS fitting cannot react certain limit load conditions with a fractured or detached bolt at this location.

- Upper Outboard Lug of the FEMS Fitting:

The upper outboard lug of the FEMS fitting contains a bearing that has proved susceptible to excessive wearing. This lug is designed to secure the outboard end of the FEMS fitting to the wing. A severely worn bearing could drastically reduce the fatigue life of the lug. This condition has been observed on six airplanes to date; on three of those airplanes the lug was found to be completely fractured. Analysis has revealed that the FEMS fitting cannot react certain limit load conditions with a severed lug.

Explanation of the Unsafe Condition

The fatigue cracking problems that affect the three areas of the FEMS fitting are examples of "multiple element damage." The existence of any one of these conditions could result in an engine separation under certain limit load conditions. The simultaneous existence of any two conditions could result in an immediate engine loss at loads that are much lower than the design limit loads. These problems, if not corrected, could result in an in-flight separation of an engine.

Explanation of Relevant Service Information

The FAA has reviewed and approved the following three service bulletins:

- Boeing Service Bulletin 737–54A1012, Revision 4, dated March 26, 1998, addresses fatigue cracking of the lower flange of the FEMS fitting. The service bulletin notes that the fatigue cracking problem affects only "older-type" FEMS fittings that have a lower flange thickness of 0.32 inches (nominal). Therefore, the service bulletin describes procedures for performing repetitive detailed visual inspections of the lower flange of the "older-type" FEMS fitting to detect fatigue cracking, and corrective action, if necessary. The corrective action includes replacement of the "older-type" FEMS fitting with a "newer-type" FEMS fitting, which would eliminate the need for the repetitive detailed visual inspections. These inspections are not required on "newer-type" FEMS fittings [i.e., those FEMS fittings having lower flanges that are 0.40 inches (nominal) thick], since there have been no reports of fatigue cracking of the lower flange of these parts.
- Boeing Service Bulletin 737–54–1007, Revision 1, dated March 26, 1998, describes procedures for performing repetitive detailed visual inspections of the upper inboard attachment of the FEMS fitting to detect bolt deformation or fatigue damage. Additionally, the service bulletin recommends that operators perform a torque check during each inspection to ensure that the nut and bolt installation has retained its integrity. The service bulletin also describes procedures for an initial and two follow-on ultrasonic inspections of the bolt to detect fatigue cracking, and replacement of any discrepant part.

The service bulletin recommends that, if the three successive ultrasonic inspections (i.e., the initial and the two follow-on inspections) reveal that the bolt is undamaged, the need for further ultrasonic inspections would be eliminated. In addition, the service bulletin describes procedures for replacement of the bolt and nut installation with a new Nickel Alloy 718 bolt and associated nut, which would eliminate the need for the repetitive detailed visual inspections and torque checks.

- Boeing Service Bulletin 737–54–1009, Revision 1, dated March 26, 1998, describes procedures for repetitive detailed visual inspections of the lug of the outboard support link attachment of the FEMS fitting to detect cracked or severed lugs; and corrective action, if necessary. The service bulletin notes that some of the lug structure will not be visible during the detailed visual inspection. If a crack is detected, the corrective action is to replace the cracked FEMS fitting with a "newer-type" FEMS fitting and to install a new bearing. The service bulletin also describes procedures for an optional preventive modification, which entails removing the engine, installing a new bearing, and re-installing the existing fitting (provided that a magnetic particle inspection shows that the lug of the existing FEMS fitting is free of cracks).

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to detect and correct fatigue cracking and certain discrepancies of the FEMS fitting and its attachments, which could result in an in-flight separation of an engine. This AD requires accomplishment of the actions specified in the service bulletins described previously, except as discussed below. This AD also requires that operators report any adverse (negative) inspection findings to the FAA.

Differences Between the AD and the Service Bulletins

Boeing Service Bulletin 737–54A1012, Revision 4, specifies that if cracking of the lower flange of the FEMS fitting is found, the cracked FEMS fitting should be replaced with a "newer-type" FEMS fitting. Such installation of a "newer-type" FEMS fitting would constitute terminating action for the repetitive detailed visual inspection requirements of this AD. However, since sufficient parts may not be available for all of the affected airplanes, this AD allows operators to install either an "older-type" FEMS fitting that is "serviceable," or a "newer-type" FEMS fitting. The installation of a "serviceable" FEMS fitting instead of a "newer-type" FEMS fitting would not terminate the repetitive detailed visual inspections required by this AD. Rather, these inspections would continue until a "newer-type" FEMS fitting is installed. For the purposes of this AD, a "serviceable" FEMS fitting is defined as an "older-type" FEMS fitting that has been shown to be free of cracks by means of a magnetic particle inspection. This AD also requires operators to perform the magnetic particle inspection in accordance with a method approved by the FAA.

Although Boeing Service Bulletin 737–54–1007, Revision 1, advises operators to examine the nut of the FEMS fitting inboard attachment for looseness, it does not provide procedures for determining if the nut is too tight. This AD requires operators to examine the nut for both looseness and excessive tightness. This AD also requires that, if the nut is found to be too loose or too tight, the nut is to be re-torqued to a value of 440 to 650 pound-inches, provided that a run-on torque value of at least 18 pound-inches can be achieved. If the run-on torque value cannot be achieved, the nut is to be replaced with a new nut. This run-on torque check is to be accomplished by loosening the nut sufficiently to demonstrate that a minimum run-on torque value of 18 pound-inches can be achieved. Finally, this AD requires operators to perform this same run-on torque check on any new nut that is installed on the bolt. If a new nut should fail the 18 pound-inches minimum requirement, then this would imply that the bolt thread was defective. Therefore, if this were to occur, this AD requires the operator to replace the existing bolt installation with a stronger bolt installation in accordance with the service bulletin.

Boeing Service Bulletin 737–54–1009, Revision 1, specifies that the manufacturer may be contacted for disposition of certain repair conditions (i.e., for a repair of a cracked lug). However, this AD requires that the repair of those conditions be accomplished in accordance with a method approved by the FAA.

Previously Modified Airplanes

Each of the three Boeing service bulletins specified in this AD contains the following statement: "If an airplane has a non-Boeing modification or repair that affects a component or system affected by this service bulletin, the operator is responsible for obtaining appropriate regulatory agency approval before incorporating this service bulletin."

The FAA is aware that a certain proportion of the airplanes listed in the effectivity sections of the three service bulletins have already been modified by certain non-Boeing engine hush-kit supplemental type certificates (STC). The FAA has determined that the following hush-kit STC's are compatible with the service bulletins; therefore, operators of airplanes modified with the following STC's need not seek prior FAA approval before accomplishing the requirements of this AD.

- SA5730NM, issued June 28, 1992; amended October 2, 1992.
- ST00131SE, issued November 8, 1994; amended January 26, 1995; May

13, 1996; September 13, 1996; and February 20, 1997.

- ST223CH, issued July 7, 1994; amended August 11, 1994; December 19, 1994; May 30, 1995; and October 14, 1997.

Interim Action

This is considered to be interim action. The FAA is currently considering requiring replacement of the attachment bolt installation and the bearing with new and improved replacement parts. However, the planned compliance time for installation of new and improved parts is sufficiently long that notice and opportunity for prior public comment will be practicable.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption "ADDRESSES." All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–NM–121–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

98–14–09 Boeing: Amendment 39–10642. Docket 98–NM–121–AD.

Applicability: Model 737–100, –200, –200C series airplanes, manufacturer's line positions 001 through 1585 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Note 2: The performance of the requirements of this AD is not affected by modifications in accordance with the following supplemental type certificates (STC's).

- SA5730NM, issued June 26, 1992; amended October 2, 1992.
- ST00131SE, issued November 8, 1994; amended January 26, 1995; May 13, 1996; September 13, 1996; and February 20, 1997.
- ST223CH, issued July 7, 1994; amended August 11, 1994; December 19, 1994; May 30, 1995; and October 14, 1997.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking and certain discrepancies of the forward engine mount support (FEMS) fitting and its attachments, which could result in an in-flight separation of an engine, accomplish the following:

(a) For airplanes on which a "newer-type" FEMS fitting having part number (P/N) 65–46850–9/–10 or 65–46850–13/–14 has not been installed: Within 90 days or 700 flight cycles after the effective date of this AD, whichever occurs later, perform a detailed visual inspection to detect fatigue cracking of the lower flange of the FEMS fitting, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 737–54A1012, Revision 4, dated March 26, 1998.

(1) If no fatigue cracking of the lower flange of the FEMS fitting is found, or if a "serviceable" FEMS fitting is installed in lieu of a "newer-type" FEMS fitting, repeat the inspection thereafter at intervals not to exceed 700 flight cycles in accordance with the service bulletin.

Note 3: For the purposes of this AD, a "serviceable" FEMS fitting is defined as an "older-type" FEMS fitting that is free of cracking, as shown by a magnetic particle inspection performed in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

(2) If any cracking of the lower flange of the FEMS fitting is found, prior to further flight, replace the FEMS fitting with a "serviceable" or a "newer-type" FEMS fitting in accordance with the service bulletin. Replacement of this part with a "newer-type" FEMS fitting constitutes terminating action for the repetitive inspection requirements of paragraph (a)(1) of this AD.

(b) Within 90 days or 700 flight cycles after the effective date of this AD, whichever occurs later, perform a detailed visual inspection to detect deformation or fatigue damage of the bolt at the upper inboard attachment of the FEMS fitting; perform a torque check to detect any bolt that is under- or over-torqued; and perform an ultrasonic inspection to detect any cracking of the bolt; in accordance with the Accomplishment Instructions of Boeing Service Bulletin 737–54–1007, Revision 1, dated March 26, 1998.

(1) If no bolt deformation or fatigue damage, under- or over-torqued nut, or fatigue cracking is found: Thereafter, repeat the detailed visual inspection and torque check required by paragraph (b) of this AD at intervals not to exceed 700 flight cycles. Additionally, repeat the ultrasonic inspection two more times at intervals not to exceed 700 flight cycles, but no earlier than 600 flight cycles.

(2) If any deformation, fatigue damage, or fatigue cracking of the inboard attachment bolt is found during any inspection required by this paragraph: Prior to further flight, replace the inboard attachment bolt and nut with a new Nickel Alloy 718 bolt and associated nut in accordance with the service bulletin. Replacement of the inboard attachment bolt and nut in accordance with the service bulletin constitutes terminating action for the repetitive inspection requirements of paragraphs (b)(1), (b)(2), and (b)(3) of this AD.

(3) If the torque check shows that a nut is torqued to any value outside the limits of 440 to 650 pound-inches, prior to further flight, accomplish paragraphs (b)(3)(i) and (b)(3)(ii) of this AD.

(i) Loosen the affected nut enough to demonstrate that a minimum run-on torque value of 18 pound-inches can be achieved. If this value cannot be achieved, install a new nut in accordance with the service bulletin, and repeat the run-on torque check prior to tightening the nut to 440–650 inch pounds. If a run-on torque value of 18 pound-inches still cannot be achieved, prior to further flight, replace the inboard attachment bolt and nut with a new Nickel Alloy 718 bolt and associated nut in accordance with the service bulletin.

(ii) Tighten the affected nut to 440–650 pound-inches in accordance with the service bulletin.

(c) Within 90 days or 700 flight cycles after the effective date of this AD, whichever occurs later, perform a detailed visual inspection to detect any cracked or severed lug of the outboard support link attachment of the FEMS fitting, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 737–54–1009, Revision 1, dated March 26, 1998.

(1) If no cracked or severed lug is detected: Repeat the detailed visual inspection required by paragraph (c) thereafter at intervals not to exceed 700 flight cycles, or perform the optional terminating modification, in accordance with Part II of the Accomplishment Instructions of the service bulletin. Where the service bulletin specifies that the manufacturer may be contacted for disposition of certain repair conditions, repair in accordance with a method approved by the Manager, Seattle ACO. Accomplishment of this modification constitutes terminating action for the repetitive inspection requirements of paragraph (c) of this AD.

(2) If any cracked or severed lug is found, prior to further flight, accomplish the requirements of paragraphs (c)(2)(i) and (c)(2)(ii) of this AD.

(i) Replace the FEMS fitting with a "serviceable" or a "newer-type" FEMS fitting in accordance with Accomplishment Instructions of Boeing Service Bulletin 737–54A1012, Revision 4, dated March 26, 1998. Replacement of the FEMS fitting with a "newer-type" FEMS fitting in accordance with the service bulletin constitutes terminating action for the repetitive inspection requirements of paragraph (a) of this AD.

(ii) Install a new bearing, which is inserted into the lug of the replacement FEMS fitting, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 737–54–1009, Revision 1, dated March 26, 1998. Replacement of the existing bearing with an improved bearing constitutes terminating action for the repetitive inspection requirements of the lug that are specified in paragraph (c) of this AD.

(d) Within 20 days after accomplishing the initial inspections required by paragraphs (a), (b), and (c) of this AD, or within 20 days after the effective date of this AD, whichever occurs later, submit a report of the inspection results (adverse findings only) to the Manager, Seattle ACO, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; fax (425) 227–1181. Required information for each report must include the following: A description of the adverse finding, airplane serial number and total flight cycles and flight hours accumulated, number of flight cycles and flight hours accumulated since the last engine change, and the number of flight cycles and flight hours accumulated since the last inspection of the affected part. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(g) Except as provided in paragraph (c)(1) of this AD, the actions shall be done in accordance with Boeing Service Bulletin 737–54A1012, Revision 4, dated March 26, 1998; Boeing Service Bulletin 737–54–1007, Revision 1, dated March 26, 1998; and Boeing Service Bulletin 737–54–1009, Revision 1, dated March 26, 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on July 17, 1998.

Issued in Renton, Washington, on June 25, 1998.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–17523 Filed 7–1–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ASO–6]

Amendment of Class E Airspace; Daytona Beach, FL; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects an error in the geographic position coordinates of a final rule that was published in the **Federal Register** on June 19, 1998, (63 FR 33544) Airspace Docket No. 98–ASO–6. The final rule modified Class E airspace at Daytona Beach, FL.

EFFECTIVE DATE: 0901 UTC, August 13, 1998.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5586.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 98–16355, Airspace Docket No. 98–ASO–6, published on June 19, 1998 (63 FR 33544), amended the Class E surface area airspace at Daytona Beach, FL. A VHF Omnidirectional Range (VOR) or Global Positioning System (GPS) Runway (RWY) 17 Standard Instrument Approach Procedure (SIAP) has been developed for Ormond Beach Municipal

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Aiport. The geographic position coordinates as published in the **Federal Register** on June 19, 1998, for the Daytona Beach, FL, Spruce Creek Airport are incorrect. This action corrects that error.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the geographic position coordinates at Daytona Beach, FL, as published in the **Federal Register** on June 19, 1998 (63 FR 33544), (FR 98–16355) and the description in FAA Order 7400.9E, which is incorporated by reference in 14 CFR 71.1, are corrected as follows:

§ 71.1 [Corrected]

ASO FL E5 Daytona Beach, FL [Corrected]

On page 33544, in column 3, in the Daytona Beach, FL, airspace, under Spruce Creek Airport, correct "(Lat. 20°04′49″N., long. 81°03′27″W.)" to read "(Lat. 29°04′49″N., long. 81°02′48″W.)".

Issued in College Park, Georgia, on June 22, 1998.

Nancy B. Shelton,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 98–17489 Filed 7–1–98; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29262; Amdt. No. 1877]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAP's) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAP's, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125); telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAP's. The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Form 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAP's, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAP's, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR sections, with the types and effective dates of the SIAP's. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. The SIAP's contained in this amendment are based on the criteria contained in the United States Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAP's, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports.

The FAA has determined through testing that current non-localizer type, non-precision instrument approaches developed using the TERPS criteria can be flown by aircraft equipped with a Global Positioning System (GPS) and/or Flight Management System (FMS) equipment. In consideration of the above, the applicable SIAP's will be altered to include "or GPS or FMS" in the title without otherwise reviewing or modifying the procedure. (Once a stand alone GPS or FMS procedure is developed, the procedure title will be altered to remove "or GPS or FMS" from these non-localizer, non-precision instrument approach procedure titles.)

The FAA has determined through extensive analysis that current SIAP's intended for use by Area Navigation (RNAV) equipped aircraft can be flown by aircraft utilizing various other types of navigational equipment. In consideration of the above, those SIAP's currently designated as "RNAV" will be redesignated as "VOR/DME RNAV" without otherwise reviewing or modifying the SIAP's.

Because of the close and immediate relationship between these SIAP's and safety in air commerce, I find that notice and public procedure before adopting these SIAP's are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAP's effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on June 26, 1998.

Tom E. Stuckey,

Acting Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113–40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

2. Amend 97.23, 97.27, 97.33 and 97.35, as appropriate, by adding, revising, or removing the following SIAP's, effective at 0901 UTC on the dates specified:

* * * *Effective August 13, 1998*

Barrow, AK, Wiley Post-Will Rogers Mem, NDB or GPS RWY 6, Amdt 5A CANCELLED
Barrow, AK, Wiley Post-Will Rogers Mem, NDB RWY 6, Amdt 5A
Barrow, AK, Wiley Post-Will Rogers Mem, NDB or GPS RWY 24, Amdt 6 CANCELLED
Barrow, AK, Wiley Post-Will Rogers Mem, NDB RWY 24, Amdt 6
Galena, AK, Galena/Edward G. Pitka, VOR/DME or TACAN or GPS RWY 7, Amdt 6B CANCELLED
Galena, AK, Galena/Edward G. Pitka, VOR/DME or TACAN RWY 7, Amdt 6B
Galena, AK, Galena/Edward G. Pitka, VOR or GPS RWY 25, Amdt 9C CANCELLED
Galena, AK, Galena/Edward G. Pitka, VOR RWY 25, Amdt 9C
Kenai, AK, Kenai Muni, VOR/DME or GPS RWY 1, Amdt 5 CANCELLED
Kenai, AK, Kenai Muni, VOR/DME RWY 1, Amdt 5
Kenai, AK, Kenai Muni, VOR or GPS RWY 19, Amdt 15 CANCELLED
Kenai, AK, Kenai Muni, VOR RWY 19, Amdt 15
Koyuk, AK, Koyuk, NDB/DME, RWY 36, Orig CANCELLED
Koyuk, AK, Koyuk, NDB/DME or GPS, RWY 36, Orig
Nome, AK, Nome, VOR/DME or GPS RWY 9, Orig B CANCELLED
Nome, AK, Nome, VOR/DME RWY 9, Orig B
Nome, AK, Nome, VOR or GPS RWY 27, Orig A CANCELLED
Nome, AK, Nome, VOR RWY 27, Orig A
Nome, AK, Nome, NDB/DME or GPS–1 RWY 2, Orig A CANCELLED
Nome, AK, Nome, NDB/DME–1 RWY 2, Orig A
Unalakleet, AK, Unalakleet, NDB or GPS RWY 14, Amdt 1A CANCELLED
Unalakleet, AK, Unalakleet, NDB RWY 14, Amdt 1A
Yakutat, AK, Yakutat, VOR or GPS RWY 11, Amdt 11A CANCELLED
Yakutat, AK, Yakutat, VOR RWY 11, Amdt 11A
Yakutat, AK, Yakutat, VOR or GPS RWY 29, Amdt 3A CANCELLED
Yakutat, AK, Yakutat, VOR RWY 29, Amdt 3A
Tanana, AK, Ralph M. Calhoun Memorial, VOR/DME or GPS RWY 6, Orig CANCELLED
Tanana, AK, Ralph M. Calhoun Memorial, VOR/DME RWY 6, Orig
Tuscaloosa, AL, Tuscaloosa Muni, VOR or TACAN or GPS RWY 22, Amdt 13A CANCELLED
Tuscaloosa, AL, Tuscaloosa Muni, VOR or TACAN RWY 22, Amdt 13A
Tuscaloosa, AL, Tuscaloosa Muni, NDB or GPS RWY 4, Amdt 10A CANCELLED
Tuscaloosa, AL, Tuscaloosa Muni, NDB RWY 4, Amdt 10A
Hot Springs, AR, Memorial Field, VOR or GPS–2 RWY 5, Amdt 3 CANCELLED
Hot Springs, AR, Memorial Field, VOR–2 RWY 5, Amdt 3
Osceola, AR, Osceola Muni, NDB RWY 19, Orig-A CANCELLED
Osceola, AR, Osceola Muni, NDB or GPS RWY 19, Orig-A
Colorado City, AZ, Colorado City Muni, NDB–A, Orig CANCELLED
Colorado City, AZ, Colorado City Muni, NDB or GPS–A, Orig
Camarillo, CA, Camarillo, VOR or GPS RWY 26, Amdt 4 CANCELLED
Camarillo, CA, Camarillo, VOR RWY 26, Amdt 4
Delano, CA, Delano Muni, VOR or GPS RWY 32, Amdt 6 CANCELLED
Delano, CA, Delano Muni, VOR RWY 32, Amdt 6
Merced, CA, Merced Muni-Macready Field, VOR or GPS RWY 12, Amdt 6 CANCELLED
Merced, CA, Merced Muni-Macready Field, VOR RWY 12, Amdt 6
Merced, CA, Merced Muni-Macready Field, VOR or GPS RWY 30, Amdt 17A CANCELLED
Merced, CA, Merced Muni-Macready Field, VOR RWY 30, Amdt 17A
Modesto, CA, Modesto City-County Airport-Harry Sham Field, VOR or GPS RWY 28R, Amdt 10A CANCELLED
Modesto, CA, Modesto City-County Airport-Harry Sham Field, VOR RWY 28R, Amdt 10A
Oxnard, CA, Oxnard, VOR/DME or GPS RWY 7, Orig CANCELLED
Oxnard, CA, Oxnard, VOR/DME RWY 7, Orig
Oxnard, CA, Oxnard, VOR or GPS RWY 25, Amdt 8 CANCELLED
Oxnard, CA, Oxnard, VOR RWY 25, Amdt 8
San Bernardino, CA, San Bernardino Intl, NDB RWY 6, Orig CANCELLED
San Bernardino, CA, San Bernardino Intl, NDB or GPS RWY 6, Orig
Visalia, CA, Visalia Muni, VOR or GPS RWY 12, Amdt 5 CANCELLED
Visalia, CA, Visalia Muni, VOR RWY 12, Amdt 5
Visalia, CA, Visalia Muni, NDB or GPS RWY 30, Amdt 3 CANCELLED
Visalia, CA, Visalia Muni, NDB RWY 30, Amdt 3
Grand Junction, CO, Walker Field, VOR or GPS RWY 11, Amdt 1 CANCELLED
Grand Junction, CO, Walker Field, VOR RWY 11, Amdt 1
Cross City, FL, Cross City, VOR RWY 31, Amdt 17 CANCELLED
Cross City, FL, Cross City, VOR or GPS RWY 31, Amdt 17
Gainesville, FL, Gainesville Regional, VOR/DME RNAV or GPS RWY 28, Amdt 5 CANCELLED
Gainesville, FL, Gainesville Regional, VOR/DME RNAV RWY 28, Amdt 5
Sebring, FL, Sebring Regional, NDB or GPS RWY 36, Amdt 4 CANCELLED
Sebring, FL, Sebring Regional, NDB RWY 36, Amdt 4
Zephyrhills, FL, Zephyrhills Muni, NDB RWY 4, Orig CANCELLED
Zephyrhills, FL, Zephyrhills Muni, NDB or GPS RWY 4, Orig
Boone, IA, Boone Muni, NDB or GPS RWY 32, Amdt 4 CANCELLED
Boone, IA, Boone Muni, NDB RWY 32, Amdt 4
Plainfield, IL, Plainfield/Clow Intl, VOR–A, Amdt 1 CANCELLED
Plainfield, IL, Plainfield/Clow Intl, VOR or GPS–A, Amdt 1
Connersville, IN, Connersville/Mettel Field, NDB RWY 18, Orig CANCELLED
Connersville, IN, Connersville/Mettel Field, NDB or GPS RWY 18, Orig
Connersville, IN, Connersville/Mettel Field, VOR–A, Orig CANCELLED
Connersville, IN, Connersville/Mettel Field, VOR or GPS–A, Orig
Lafayette, IN, Aretz, VOR or GPS–C, Amdt 1 CANCELLED
Lafayette, IN, Aretz, VOR–C, Amdt 1
Logansport, IN, Logansport Muni, VOR/DME RNAV RWY 27, Amdt 3 CANCELLED
Logansport, IN, Logansport Muni, VOR/DME RNAV or GPS RWY 27, Amdt 3
Logansport, IN, Logansport Muni, NDB RWY 9, Amdt 2 CANCELLED
Logansport, IN, Logansport Muni, NDB or GPS RWY 9, Amdt 2
Marion, IN, Marion Muni, VOR RWY 4, Amdt 12 CANCELLED
Marion, IN, Marion Muni, VOR or GPS RWY 4, Amdt 12
Marion, IN, Marion Muni, VOR RWY 15, Amdt 9 CANCELLED
Marion, IN, Marion Muni, VOR or GPS RWY 15, Amdt 9

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Marion, IN, Marion Muni, VOR RWY 22, Amdt 15 CANCELLED
Marion, IN, Marion Muni, VOR or GPS RWY 22, Amdt 15
Iola, KS, Iola/Allen County, NDB RWY 1, Amdt 1 CANCELLED
Iola, KS, Iola/Allen County, NDB or GPS RWY 1, Amdt 1
McPherson, KS, McPherson, NDB or GPS RWY 18, Orig CANCELLED
McPherson, KS, McPherson, NDB RWY 18, Orig
Scott City, KS, Scott City Muni, NDB RWY 35, Amdt 1 CANCELLED
Scott City, KS, Scott City Muni, NDB or GPS RWY 35, Amdt 1
Topeka, KS, Philip Billard Muni, NDB or GPS RWY 13, Amdt 28 CANCELLED
Topeka, KS, Philip Billard Muni, NDB RWY 13, Amdt 28
Murray, KY, Murray/Kyle-Oakley Field, NDB RWY 23, Orig CANCELLED
Murray, KY, Murray/Kyle-Oakley Field, NDB or GPS RWY 23, Orig
Shreveport, LA, Shreveport Regional, NDB RWY 14, Amdt 19 CANCELLED
Shreveport, LA, Shreveport Regional, NDB or GPS RWY 14, Amdt 19
Thibodaux, LA, Thibodaux Muni, VOR–A, Amdt 1A CANCELLED
Thibodaux, LA, Thibodaux Muni, VOR or GPS–A, Amdt 1A
Boston, MA, General Edward Lawrence Logan Intl, NDB or GPS RWY 4R, Amdt 22 CANCELLED
Boston, MA, General Edward Lawrence Logan Intl, NDB RWY 4R, Amdt 22
Fitchburg, MA, Fitchburg Muni, NDB–A, Amdt 2 CANCELLED
Fitchburg, MA, Fitchburg Muni, NDB or GPS–A, Amdt 2
Taunton, MA, Taunton Muni, NDB RWY 30, Amdt 4 CANCELLED
Taunton, MA, Taunton Muni, NDB or GPS RWY 30, Amdt 4
Appleton, MN, Appleton Muni, NDB, RWY 13, Orig–A CANCELLED
Appleton, MN, Appleton Muni, NDB or GPS, RWY 13, Orig-A
Pinecreek, MN, Pinecreek/Piney Pinecreek Border, NDB, RWY 33, Orig CANCELLED
Pinecreek, MN, Pinecreek/Piney Pinecreek Border, NDB or GPS, RWY 33, Orig
St. James, MN, St. James Muni, NDB RWY 32, Orig CANCELLED
St. James, MN, St. James Muni, NDB or GPS RWY 32, Orig
Cuba, MO, Cuba Muni, NDB RWY 18, Amdt 2 CANCELLED
Cuba, MO, Cuba Muni, NDB or GPS RWY 18, Amdt 2
Cuba, MO, Cuba Muni, NDB RWY 36, Amdt 2 CANCELLED
Cuba, MO, Cuba Muni, NDB or GPS RWY 36, Amdt 2
Macon, MO, Macon-Flower Memorial, VOR/DME RWY 20, Orig-A CANCELLED
Macon, MO, Macon-Flower Memorial, VOR/DME or GPS RWY 20, Orig-A
Grenada, MS, Grenada Muni, NDB or GPS RWY 13, Amdt 1 CANCELLED
Grenada, MS, Grenada Muni, NDB RWY 13, Amdt 1
Hattiesburg, MS, Hattiesburg/Bobby L. Chain Muni, VOR RWY 13, Amdt 10 CANCELLED
Hattiesburg, MS, Hattiesburg/Bobby L. Chain Muni, VOR or GPS RWY 13, Amdt 10
Laurel, MS, Laurel/Hesler-Noble Field, VOR/DME–A, Amdt 2 CANCELLED
Laurel, MS, Laurel/Hesler-Noble Field, VOR/DME or GPS–A, Amdt 2
Laurel, MS, Laurel/Hesler-Noble Field, NDB RWY 13, Amdt 6 CANCELLED
Laurel, MS, Laurel/Hesler-Noble Field, NDB or GPS RWY 13, Amdt 6
Bowman, ND, Bowman Muni, NDB RWY 29, Amdt 2A CANCELLED
Bowman, ND, Bowman Muni, NDB or GPS RWY 29, Amdt 2A
Cambridge, NE, Cambridge Muni, NDB or GPS RWY 32, Amdt 2 CANCELLED
Cambridge, NE, Cambridge Muni, NDB RWY 32, Amdt 2
Harvard, NE, Harvard State, VOR/DME RNAV RWY 35, Orig CANCELLED
Harvard, NE, Harvard State, VOR/DME RNAV or GPS RWY 35, Orig
Ogallala, NE, Searle Field, VOR or GPS RWY 26, Amdt 4A CANCELLED
Ogallala, NE, Searle Field, VOR RWY 26, Amdt 4A
Whitefield, NH, Whitefield/Mount Washington Regional, NDB RWY 10, Amdt 7 CANCELLED
Whitefield, NH, Whitefield/Mount Washington Regional, NDB or GPS RWY 10, Amdt 7
Berlin, NJ, Berlin/Camden County, VOR or GPS–B, Amdt 2 CANCELLED
Berlin, NJ, Berlin/Camden County, VOR–B, Amdt 2
Linden, NJ, Linden, VOR/DME–D, Orig-B CANCELLED
Linden, NJ, Linden, VOR/DME or GPS–D, Orig-B
Linden, NJ, Linden, VOR–C, Orig-B CANCELLED
Linden, NJ, Linden, VOR or GPS–C, Orig-B
Robbinsville, NJ, Robbinsville/Trenton-Robbinsville, VOR or GPS RWY 29, Amdt 10A CANCELLED
Robbinsville, NJ, Robbinsville/Trenton-Robbinsville, VOR RWY 29, Amdt 10A
Gallup, NM, Gallup Muni, VOR or GPS RWY 6, Amdt 7 CANCELLED
Gallup, NM, Gallup Muni, VOR RWY 6, Amdt 7
Wellsville, NY, Wellsville Muni, Tarantine Field, NDB RWY 28, Amdt 6A CANCELLED
Wellsville, NY, Wellsville Muni, Tarantine Field, NDB or GPS, RWY 28, Amdt 6A
Wellsville, NY, Wellsville Muni, Tarantine Field, VOR–A, Amdt 5A CANCELLED
Wellsville, NY, Wellsville Muni, Tarantine Field, VOR or GPS–A, Amdt 5A
Millersburg, OH, Holmes County NDB or GPS RWY 27, Amdt 5A CANCELLED
Millersburg, OH, Holmes County NDB RWY 27, Amdt 5A
Oklahoma City, OK, Will Rogers World, VOR or GPS RWY 17L, Amdt 1B CANCELLED
Oklahoma City, OK, Will Rogers World, VOR RWY 17L, Amdt 1B
Oklahoma City, OK, Will Rogers World, NDB or GPS RWY 17R, Amdt 24 CANCELLED
Oklahoma City, OK, Will Rogers World, NDB RWY 17R, Amdt 24
Oklahoma City, OK, Will Rogers World, NDB or GPS RWY 35R, Amdt 5A CANCELLED
Oklahoma City, OK, Will Rogers World, NDB RWY 35R, Amdt 5A
Okmulgee, OK, Okmulgee Muni, NDB or GPS RWY 17, Amdt 3 CANCELLED
Okmulgee, OK, Okmulgee Muni, NDB RWY 17, Amdt 3
Tulsa, OK, Tulsa Intl, NDB or GPS RWY 18L, Amdt 10A CANCELLED
Tulsa, OK, Tulsa Intl, NDB RWY 18L, Amdt 10A
Tulsa, OK, Tulsa Intl, VOR/DME or TACAN or GPS RWY 8, Amdt 3B CANCELLED
Tulsa, OK, Tulsa Intl, VOR/DME or TACAN RWY 8, Amdt 3B
Tulsa, OK, Tulsa Intl, NDB or GPS RWY 36R, Amdt 19D CANCELLED
Tulsa, OK, Tulsa Intl, NDB RWY 36R, Amdt 19D
Eugene, OR, Mahlon Sweet Field, NDB or GPS RWY 16, Amdt 29A CANCELLED
Eugene, OR, Mahlon Sweet Field, NDB RWY 16, Amdt 29A
Philadelphia, PA, Philadelphia Intl, VOR/DME RNAV or GPS RWY 17, Amdt 4 CANCELLED
Philadelphia, PA, Philadelphia Intl, VOR/DME RNAV RWY 17, Amdt 4
Florence, SC, Florence Regional, NDB or GPS RWY 9, Amdt 10 CANCELLED
Florence, SC, Florence Regional, NDB RWY 9, Amdt 10
Madison, SD, Madison Muni, VOR/DME or GPS RWY 33, Amdt 3 CANCELLED
Madison, SD, Madison Muni, VOR/DME RWY 33, Amdt 3
Vermillion, SD, Vermillion/Harold Davidson Field, NDB RWY 30, Amdt 1 CANCELLED
Vermillion, SD, Vermillion/Harold Davidson Field, NDB or GPS RWY 30, Amdt 1
Lawrenceburg, TN, Lawrenceburg-Lawrence County, NDB RWY 17, Amdt 4 CANCELLED
Lawrenceburg, TN, Lawrenceburg-Lawrence County, NDB or GPS RWY 17, Amdt 4
Millington, TN, Millington/Charles W. Baker, VOR/DME RWY 18, Amdt 1 CANCELLED
Millington, TN, Millington/Charles W. Baker, VOR/DME or GPS RWY 18, Amdt 1
Shelbyville, TN, Shelbyvile Muni, VOR/DME RNAV or GPS RWY 18, Amdt 3 CANCELLED
Shelbyville, TN, Bomar Field-Shelbyvile Muni, VOR/DME RNAV RWY 18, Amdt 3
Shelbyville, TN, Bomar Field-Shelbyvile Muni, VOR or GPS RWY 36, Amdt 15 CANCELLED
Shelbyville, TN, Shelbyvile Muni, VOR RWY 36, Amdt 15
Abilene, TX, Abilene Regional NDB or GPS RWY 35R, Amdt 5 CANCELLED
Abilene, TX, Abilene Regional NDB RWY 35R, Amdt 5
Amarillo, TX, Amarillo Intl; NDB or GPS RWY 4, Amdt 16A CANCELLED
Amarillo, TX, Amarillo Intl; NDB RWY 4, Amdt 16A
Bonham, TX, Bonham/Jones Field, NDB RWY 17, Amdt 3 CANCELLED
Bonham, TX, Bonham/Jones Field, NDB or GPS RWY 17, Amdt 3
Greenville, TX, Greenville/Majors, NDB RWY 17, Amdt 5 CANCELLED
Greenville, TX, Greenville/Majors, NDB or GPS RWY 17, Amdt 5
Greenville, TX, Greenville/Majors, NDB RWY 35, Amdt 1 CANCELLED
Greenville, TX, Greenville/Majors, NDB or GPS RWY 35, Amdt 1

Kountze, TX, Kountze/Silsbee/Hawthorne Field, NDB RWY 13, Admt 2 CANCELLED
Kountze, TX, Kountze/Silsbee/Hawthorne Field, NDB or GPS RWY 13, Admt 2
Muleshoe, TX, Muleshoe Muni, VOR/DME–A, Orig CANCELLED
Muleshoe, TX, Muleshoe Muni, VOR/DME or GPS–A, or Orig
Perryton, TX, Perryton Ochiltree County, NDB–A, Amdt 3 CANCELLED
Perryton, TX, Perryton Ochiltree County, NDB or GPS–A, Amdt 3
Price, UT, Carbon County, VOR or GPS RWY 36 Orig CANCELLED
Price, UT, Carbon County, VOR RWY 36, Orig
Gordonsville, VA, Gordonsville Muni, NDB RWY 23, Amdt 1 CANCELLED
Gordonsville, VA, Gordonsville Muni, NDB RWY 23, Amdt 1 CANCELLED
Lyndonville, VT, Lydonville/Caledonia County, NDB RWY 2, Amdt 3A CANCELLED
Lyndonville, VT, Lydonville/Caledonia County, NDB or GPS RWY 2, Amdt 3A
Moses Lake, WA, Grant County, VOR or GPS RWY 4, Amdt 5 CANCELLED
Moses Lake, WA, Grant County, VOR RWY 4, Amdt 5
Moses Lake, WA, Grant County, VOR or GPS RWY 22, Amdt 4 CANCELLED
Moses Lake, WA, Grant County, VOR or GPS RWY 22, Amdt 4
Moses Lake, WA, Grant County, VOR or GPS RWY 32R, Amdt 19 CANCELLED
Moses Lake, WA, Grant County, VOR RWY 32R, Amdt 19
Moses Lake, WA, Grant County, VOR–3 or GPS RWY 14L, Orig CANCELLED
Menomonie, WI, Menomonie Muni-Score Field, VOR/DME RWY 27, Orig CANCELLED
Menomonie, WI, Menomonie Muni-Score Field, VOR/DME or GPS RWY 27, Orig
Prairie Du Chien, WI, Prairie Du Chien Muni, VOR/DME or GPS RWY 29, Amdt 6 CANCELLED
Prairie Du Chien, WI, Prairie Du Chien Muni, VOR/DME RWY 29, Amdt 6
Racine, WI, Racine/John H. Batten, RWY 4, Amdt 3A CANCELLED
Racine, WI, Racine/John H. Batten, or GPS RWY 4, Amdt 3A
Racine, WI, Racine/John H. Batten, VOR RWY 4, Orig CANCELLED
Racine, WI, Racine/John H. Batten, VOR or GPS RWY 4, Orig
Shell Lake, WI, Shell Lake Muni, NDB RWY 32, Orig–A CANCELLED
Shell Lake, WI, Shell Lake Muni, NDB or GPS RWY 32, Orig–A
Solon Springs, WI, Solon Springs Muni, NDB RWY 19, Amdt 1 CANCELLED
Solon Springs, WI, Solon Springs Muni, NDB or GPS RWY 19, Amdt 1
Guernsey, WY, Guernsey/Camp Guernsey, NDB RWY 32, Orig CANCELLED
Guernsey, WY, Guernsey/Camp Guernsey, NDB or GPS RWY 32, Orig
Saratoga, WY, Saratoga/Shively Field, NDB–A, Orig CANCELLED
Saratoga, WY, Saratoga/Shively Field, NDB or GPS–A Orig
Sheridan, WY, Sheridan County, VOR RWY 14, Orig CANCELLED
Sheridan, WY, Sheridan County, VOR or GPS RWY 14, Orig

[FR Doc. 98–17627 Filed 7–1–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29261; Amdt. No. 1876]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which affected airport is located; or
3. The Flight Inspection Area Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Date Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation's Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAM for each SIAP. The SIAP information is some previously designated FDC/Temporary

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(FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been canceled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments require making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (Air).

Issued in Washington, DC on June 26, 1998.

Tom E. Stuckey,

Acting Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follow:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, and 97.35 [Amended]

By amending: § 97.23, VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

* * * Effective Upon Publication

FDC date	State	City	Airport	FDC number	SIAP
06/03/98	WA	PUYALLUP	PIERCE COUNTY-THUN FIELD	8/3508	GPS RWY 34 ORIG...
06/10/98	TX	ABILENE	ABILENE REGIONAL	8/3714	CORRECTS TL98–14 RADAR–1, AMDT 8A...
06/10/98	TX	CORPUS CHRISTI	CORPUS CHRISTI INTL	8/3716	ILS RWY 13, AMDT 25...
06/12/98	AL	GREENSBORO	GREENSBORO MUNI	8/3768	NDB OR GPS RWY 36, ORIG–A...
06/12/98	IA	CARROLL	ARTHUR N. NEU	7/3768	GPS RWY 31, ORIG...
06/12/98	IA	CARROLL	ARTHUR N. NEU	8/3785	NDB RWY 31, AMDT 6...
06/12/98	IA	OTTUMWA	OTTUMWA INDUSTRIAL	8/3786	ILS RWY 31, AMDT 4A...
06/12/98	MI	GRAND RAPIDS	KENT COUNTY INTL	8/3821	ILS RWY 8R, AMDT 5A...
06/12/98	MI	GRAND RAPIDS	KENT COUNTY INTL	8/3823	ILS RWY 35, ORIG A...
06/12/98	MI	GRAND RAPIDS	KENT COUNTY INTL	8/3825	ILS RWY 26L, AMDT 20...
06/12/98	MI	GRAND RAPIDS	KENT COUNTY INTL	8/3826	VOR RWY 17, ORIG A...
06/12/98	MI	GRAND RAPIDS	KENT COUNTY INTL	8/3826	VOR RWY 17, ORIG 20
06/12/98	MS	INDIANOLA	INDIANOLA MUNI	8/3748	NDB OR GPS RWY 35, AMDT 4...
06/12/98	NC	STATESVILLE	STATESVILLE MUNI	8/3763	GPS RWY 10 ORIG...
06/12/98	NC	STATESVILLE	STATESVILLE MUNI	8/3764	VOR/DME RWY 10, AMDT 7...
06/12/98	NC	STATESVILLE	STATESVILLE MUNI	8/3813	NDB RWY 10 ORIG...
06/12/98	NC	STATESVILLE	STATESVILLE MUNI	8/3814	LOC RWY 10, ORIG...
06/12/98	SC	AIKEN	AIKEN MUNI	8/3845	VOR/DME OR GPS–A, ORIG...
06/12/98	SC	AIKEN	AIKEN MUNI	8/3846	NDB OR GPS RWY 24, AMDT 9...
06/21/98	SC	DILLON	DILLON COUNTY	8/3808	NDB RWY 7 AMDT 5...
06/12/98	SC	DILLON	DILLON COUNTY	8/3809	VOR/DME OR GPS RWY 7 AMDT 5...
06/12/98	SC	FLORENCE	FLORENCE FLORENCE REGIONAL	8/3757	RADAR–1 ORIG...
06/12/98	SC	GEORGETOWN	GEORGETOWN COUNTY	8/3770	NDB OR GPS RWY 5, AMDT 5...
06/12/98	SC	LAKE CITY	LAKE CITY MUNI CJ EVANS FIELD	8/3772	NDG OR GPS–A, AMDT 1A...
06/12/98	SC	WALTERBORO	WALTERBORO MUNI	8/3817	NDB OR GPS RWY 23, AMDT 11...

* * * Effective Upon Publication

FDC date	State	City	Airport	FDC number	SIAP
06/12/98	TN	JASPER	MARION COUNTY-BROWNFIELD	8/3812	NDB OR GPS RWY 8, AMDT 4A...
06/14/98	AL	SELMA	CRAIG FIELD	8/3902	VOR RWY 15, ORIG....
06/14/98	AL	SELMA	CRAIG FIELD	8/3904	VOR RWY 33 ORIG....
06/14/98	TN	CHATTANOOGA	LOVELL FIELD	8/3899	ILS RWY 2, AMDT 6...
06/14/98	TN	JAMESTOWN	JAMESTOWN MUNI	8/3892	VOR/DME OR GPS–A, AMDT 1...06/14/98
06/14/98	TN	PARIS	HENRY COUNTY	8/3891	NDB OR GPS RWY 2, AMDT 21
06/16/98	MO	ST LOUIS	LAMBERT-ST LOUIS INTL	8/3937	ILS RWY 24, AMDT 45...
06/16/98	MS	GRENADA	GRENADA MUNI	8/3934	ILS RWY 13 ORIG–A...
06/16/98	MS	GRENADA	GRENADA MUNI	8/3935	NDB OR GPS RWY 13, AMDT 1...
06/17/98	AL	GULF SHORES	JACK EDWARDS	8/3963	VOR OR GPS–A AMDT 2...
06/17/98	AL	GULF SHORES	JACK EDWARDS	8/3964	GPS RWY 27, ORIG...
06/17/98	MI	GRAND RAPIDS	KENT COUNTY INTL	8/3987	RADR–1, AMDT 10A...
06/17/98	TN	CLARKSVILLE	OUTLAW FIELD	8/3958	NDB OR GPS RWY 35, AMDT 5B
06/17/98	TN	CLARKSVILLE	OUTLAW FIELD	8/3959	LOC RWU, AMDT 5B...
06/18/98	FL	CRESTVIEW	BOB SIKES	8/4048	ILS RWY 17, ORIG...
06/18/98	GA	MILLEDGEVILLE	BALDWIN COUNTY	8/4066	GPS RWY 28, ORIG...
06/18/98	GA	MILLEDGEVILLE	BALDWIN COUNTY	8/4067	GPS RWY 10, ORIG...
06/18/98	IA	BURLINGTON	BURLINGTON REGIONAL	8/4047	ILS RWY 36, AMDT 9A...
06/18/98	IA	MASON CITY	MASON CITY MUNI	8/4046	ILS RWY 24, AMDT 2...
06/18/98	KY	FRANKFORT	FRANKFORT/CAPITAL CITY	8/4049	VOR RWY 24, AMDT 2...
06/18/98	MO	ST LOUIS	LAMBERT-ST LOUIS INTL	8/4064	LDA/DME RWY 301, AMDT 2...
06/19/98	GA	MILLEDGEVILLE	BALDWIN COUNTY	8/4100	NDB RWY 28, ORIG...
06/24/98	FL	PAHOKEE	PALM BEACH COUNTY GLADES	8/3730	VOR OR GPS RWY 17, AMDT 8...

Greensboro

GREENSBORO MUNI
Alabama
NDB OR GPS RWY 36, ORIG–A...
FDC Date: 06/12/98

FDC 8/3768 /7AO/ FI/P GREENSBORO MUNI, GREENSBORO, AL. NDB OR GPS RWY 36, ORIG–A...S–36 MDA 800/HAT 628 ALL CATS, VIS CAT C 1 3/4. CIRCLING MDA 800/HAA 620 ALL CATS. DELETE NOTE...ACTIVATE MIRL RWY 18–36 CTAF. THIS IS NDB OR GPS RWY 36, ORIG–B.

Selma

CRAIG FIELD
Alabama
VOR RWY 15, ORIG...
FDC Date: 06/14/98

FDC 8/3902 /SEM/ FI/P CRAIG FIELD, SELMA, AL. VOR RWY 15, ORIG...DELETE TERMINAL ROUTE...BEING INT TO JYU VOR/DME. THIS IS VOR RWY 15, ORIG–A.

Selma

CRAIG FIELD
Alabama
VOR RWY 33, ORIG...
FDC Date: 06/14/98

FDC 8/3904 /SEM/ FI/P CRAIG FIELD, SELMA, AL. VOR RWY 33, ORIG...DELETE TERMINAL ROUTE...BEING INT TO JYU VOR/DME. THIS IS VOR RWY 33, ORIG–A.

Gulf Shores

JACK EDWARDS
Alabama
VOR OR GPS–A AMDT 2...
FDC Date: 06/17/98

FDC 8/3963 /AL15/ FI/P JACK EDWARDS, GULF SHORES, AL. VOR OR GPS–A AMDT 2...CIRCLING MDA 520/HAA 504, ALL CATS. DELETE ALTIMETER SETTING NOTE. THIS IS VOR OR GPS–A, AMDT 2A.

Gulf Shores

JACK EDWARDS
Alabama
GPS RWY 27, ORIG...
FDC Date: 06/17/98

FDC 8/3964 /AL15/ FI/P JACK EDWARDS, GULF SHORES, AL. GPS RWY 27, ORIG...DELETE ALTIMETER SETTING NOTE. THIS IS GPS RWY 27, ORIG–A.

Pahokee

PALM BEACH COUNTY GLADES
Florida
VOR OR GPS RWY 17, AMDT 8...
FDC Date: 06/24/98

FDC 8/3730 /PHK/ FI/P PALM BEACH COUNTY GLADES, PAHOKEE, FL. VOR OR GPS RWY 17, AMDT 8...CIRCLING CAT D MDA 700/HAA 682, VIS CAT D 2 1/4. THIS IS VOR OR GPS RWY 17, AMDT 8A.

Crestview

BOB SIKES
Florida
ILS RWY 17, ORIG...
FDC Date: 06/18/98

FDC 8/4048 /CEW/ FI/P BOB SIKES, CRESTVIEW, FL. ILS RWY 17, ORIG...ADD NOTE...AUTOPILOT COUPLED APPROACH NA. THIS IS ILS RWY 17, ORIG–A.

Milledgeville

BALDWIN COUNTY
Georgia
GPS RWY 28, ORIG...
FDC Date: 06/18/98

FDC 8/4066 /MLJ/ FI/P BALDWIN COUNTY, MILLEDGEVILLE, GA. GPS RWY 28, ORIG...CHANGE ALSTG NOTE TO READ... IF LOCAL, ALSTG NOT RECEIVED, USE MIDDLE GEORGIA REGIONAL ALSTG AND INCREASE ALL MDAS 100 FT. THIS IS GPS RWY 28, ORIG–A.

Milledgeville

BALDWIN COUNTY
Georgia
GPS RWY 10, ORIG...
FDC Date: 06/18/98

FDC 8/4067 /MLJ/ FI/P BALDWIN COUNTY, MILLEDGEVILLE, GA. GPS RWY 10, ORIG...CHANGE ALSTG NOTE TO READ... IF LOCAL ALSTG NOT RECEIVED, USE MIDDLE GEORGIA REGIONAL ALSTG AND INCREASE ALL MDAS 100 FT. THIS IS GPS RWY 10, ORIG–A.

Milledgeville

BALDWIN COUNTY
Georgia
NDB RWY 28, ORIG...
FDC Date: 06/19/98

FDC 8/4100 /MLJ/ FI/P BALDWIN COUNTY, MILLEDGEVILLE, GA. NDB RWY 28, ORIG...MINIMUM (FAF) ALTITUDE ML NDB 1300. S–28 MDA 1140/HAT 762 ALL CATS, VIS CAT B 1 1/4, CAT C 2 1/4, CAT D 2 1/2. CIRCLING... MDA 1140/HAA 756 ALL CATS, VIS CAT B 1 1/4, CAT C 2 1/4, CAT D 2 1/2. CHANGE ALSTG NOTE TO READ... IF LOCAL, ALSTG NOT RECEIVED, USE MIDDLE GEORGIA REGIONAL ALSTG AND INCREASE ALL MDAS 100 FT. THIS IS NDB RWY 28, ORIG–A.

Carroll

ARTHUR N. NEU
Iowa
GPS RWY 31, ORIG...
FDC Date: 06/12/98

FDC 8/3784 /CIN/ FI/P ARTHUR N. NEU, CARROLL, IA. GPS RWY 31, ORIG...DELETE NOTE... IF LOCAL ALTIMETER SETTING NOT RECEIVED, USE FORT DODGE ALTIMETER SETTING AND INCREASE ALL MDA'S 100 FEET. THIS IS GPS RWY 31, ORIG–A.

Carroll

ARTHUR N. NEU
Iowa
NDB RWY 31, AMDT 6...
FDC Date: 06/12/98

FDC 8/3785 /CIN/ FI/P ARTHUR N. NEU, CARROLL, IA. NDB RWY 31, AMDT 6...DELETE NOTE... IF LOCAL ALTIMETER SETTING NOT RECEIVED, USE FORT DODGE ALTIMETER SETTING AND INCREASE ALL MDA'S 100 FEET. THIS IS NDB RWY 31, AMDT–6A.

Ottumwa

OTTUMWA INDUSTRIAL
Iowa
ILS RWY 31, AMDT 4A...
FDC Date: 06/12/98

FDC 8/3786 /OTM/ FI/P OTTUMWA INDUSTRIAL, OTTUMWA, IA. ILS RWY 31, AMDT 4A...DELETE ALL REFERENCE TO MM. THIS IS ILS RWY 31, AMDT 4B.

Mason City

MASON CITY MUNI
Iowa
ILS RWY 35, AMDT 6...
FDC Date: 06/18/98

FDC 8/4046 /MCW/ FI/P MASON CITY MUNI, MASON CITY, IA. ILS RWY 35, AMDT 6...DLT ALL REFERENCE TO MM. THIS IS RWY 35, AMDT 6A.

Burlington

BURLINGTON REGIONAL
Iowa
ILS RWY 36, AMDT 9A...
FDC Date: 06/18/98

FDC 8/4047 /BRL/ FI/P BURLINGTON REGIONAL, BURLINGTON, IA. ILS RWY 36, AMDT 9A...DLT ALL REFERENCE TO MM. THIS IS ILS RWY 36, AMDT 9B.

St Louis

LAMBERT-ST LOUIS INTL
Missouri
LDA/DME RWY 30L, AMDT 2...
FDC Date: 06/18/98

FDC 8/4064 /STL/ FI/P LAMBERT-ST LOUIS INTL, ST LOUIS, MO. LDA/DME RWY 30L, AMDT 2...CHANGE FINAL APPROACH FIX DESIGNATION TO NEALE I–FXD 7.00 DME, FAF TO THLD 5.21NM. THIS IS LDA/DME RWY 30L, AMDT 2A.

Frankfort

FRANKFORT/CAPITAL CITY
Kentucky
VOR RWY 24, AMDT 2...
FDC Date: 06/18/98

FDC 8/4049 /FFT/ FI/P FRANKFORT/CAPITAL CITY, FRANKFORT, KY. VOR RWY 24, AMDT 2...MISSED APPROACH...CLIMB TO 3000 FT THEN LEFT TURN DIRECT HYK VORTAC AND HOLD SOUTH EAST, RIGHT TURN, 304 INBOUND. DELETE...LEXINGTON ALSTG MNMS. DELETE NOTE...OBTAIN LOCAL ALSTG ON CTAF, WHEN NOT RECEIVED, USE LEXINGTON ALSTG. THIS IS VOR RWY 24, AMDT 2A.

Grand Rapids

KENT COUNTY INTL
Michigan
ILS RWY 8R, AMDT 5A...
FDC Date: 06/12/98

FDC 8/3821 /GRR/ FI/P KENT COUNTY INTL, GRAND RAPIDS, MI.

FDC 8/3821 /GRR/ FI/P KENT COUNTY INTL, GRAND RAPIDS, MI. ILS RWY 8R, AMDT 5A...CIRCLING...MDA 1280/HAA 486 CAT A/B/C. THIS IS ILS RWY 8R, AMDT 5B.

Grand Rapids

KENT COUNTY INTL
Michigan
ILS RWY 35, ORIG A...
FDC Date: 06/12/98

FDC 8/3823/GRR/FI/P KENT COUNTY INTL, GRAND RAPIDS, MI. ILS RWY 35, ORIG A...LMBAW INT MINIMUMS...CIRCLING MDA 1280/HAA 486 CAT A/B/C. THIS IS ILS RWY35, ORIG–B.

Grand Rapids

KENT COUNTY INTL
Michigan
VOR RWY 35, ORIG...
FDC Date: 06/12/98

FDC 8/3824/GRR/FI/P KENT COUNTY INTL, GRAND RAPIDS, MI. VOR RWY 35, ORIG...CIRCLING...MDA 1280/HAA 486 CAT A/B/C/. ALSKA INT MINIMUMS...CIRCLING MDA 1280/HAA 486 CAT A/B/C. THIS IS VOR RWY 35, ORIG–A.

Grand Rapids

KENT COUNTY INTL
Michigan
ILS RWY 26L, AMDT 20...
FDC Date: 06/12/98

FDC 8/3825/GRR/FI/P KENT COUNTY INTL, GRAND RAPIDS, MI. ILS RWY 26L, AMDT 20...GLGHR INT MINIMUMS...CIRCLING MDA 1280/HAA 486 CAT A/B/C. THIS IS ILS RWY 26L, AMDT 20A.

Grand Rapids

KENT COUNTY INTL
Michigan
VOR RWY 17, ORIG A...
FDC Date: 06/12/98

FDC 8/3826/GRR/FI/P KENT COUNTY INTL, GRAND RAPIDS, MI. VOR RWY 17, ORIG A...CIRCLING MDA 1280/HAA 486 CAT A/B/C. THIS IS VOR RWY 17, ORIG–B.

Grand Rapids

KENT COUNTY INTL
Michigan
RADAR–1, AMDT 10A...
FDC Date: 06/17/98

FDC 8/3987/GRR/FI/P KENT COUNTY INTL, GRAND RAPIDS, MI. RADAR–1, AMDT 10A...ASR 26R...MDA 1180/HAT 386 ALL CATS. ASR 8L...MDA 1200/HAT 413 ALL CATS, VIS CAT C 1–¼. CIRCLING...MDA 1280/HAA 486 CAT A THRU C. THIS IS RADAR–1, AMDT 10B.

St Louis

LAMBERT-ST LOUIS INTL
Missouri
ILS RWY 24, AMDT 45...
FDC DATE 06/16/98

FDC 8/3937/STL/FI/P LAMBERT-ST LOUIS INTL, ST LOUIS, MO. ILS RWY 24, AMDT 45...DLT ALL REFERENCE TO MM. CHG NOTE...LPC UNUSABLE FROM MM INBOUND TO READ ILS UNUSABLE FROM I–STL 1.9 DME/0.5 NM FROM THLD INBOUND. THIS IS ILS RWY 24, AMDT 45A.

Indianola

INDIANOLA MUNI
Mississippi
NDB OR GPS RWY 35, AMDT 4...
FDC Date: 06/12/98

FDC 8/3748/IDL/FI/P INDIANOLA MUNI, INDIANOLA, MS. NDB OR GPS

RWY 35, AMDT 4...35 MDA 700/HAT 579 ALL CATS. CIRCLING CAT A/B/C/ MDA 700/HAA 574. GREENWOOD ALSTG MNMS...S–35 MDA 780/HAT 659 ALL CATS. VIS CAT C 1¾, CAT D 2. CIRCLING MDA 780/HAA 654 CAT A/B/C. VIS CAT C 1¾. CHANGE ALTM NOTE TO READ...USE GREENVILLE ALSTG IF NOT RECEIVED, USE GREENWOOD ALSTG. THIS IS NDB OR GPS RWY 35, AMDT 4A.

Grenada

GRENADA MUNI
Mississippi
ILS RWY 13 ORIG–A...
FDC Date: 06/16/98

FDC 8/3934/GNF/FI/P GRENADA MUNI, GRENADA, MS. ILS RWY 13 ORIG–A...CIRCLING MDA 1080/HAA 872 ALL CATS. DELETE CAT D MINIMUMS. DELETE NOTE...INOPERATIVE TABLE DOES NOT APPLY TO S–LOC 13 CAT C. S–ILS 13 VISIABILITY ½ ALL CATS. DELETE CAT D MINIMUMS. S–LOC 13 VISIBILITY ½ CAT A AND B, 1 CAT C. DELETE CAT D MINIMUMS. THIS IS ILS RWY 13 ORIG–B.

Grenada

GRENADA MUNI
Mississippi
NDB OR GPS RWY 13, AMDT 1...
FDC Date: 06/16/98

FDC 8/3935/GNF/FI/P GRENADA MUNI, GRENADA, MS. NDB OR GPS RWY 13, AMDT 1...CIRCLING MDA 1080/HAA 872 ALL CATS. DELETE CAT D MINIMUMS. S–13...DELETE CAT D MINIMUMS. DELETE REFERENCE (SYMBOL) TO MM ON PLAN VIEW. THIS IS NDB OR GPS RWY 13, AMDT 1A.

Statesville

STATESVILLE MUNI
North Carolina
GPS RWY 10 ORIG...
FDC Date: 06/12/98

FDC 8/3763/SVH/FI/P STATESVILLE MUNI, STATESVILLE, NC. GPS RWY 10 ORIG...MISSED APPROACH INSTRUCTIONS...CLIMB TO 3300 DIRECT OWALT WP AND HOLD. DELETE NOTE...OBTAIN LOCAL ALSTG ON CTAF; WHEN NOT RECEIVED USE CHARLOTTE ALSTG. DELETE CHARLOTTE ALSTG MINIMUMS. THIS IS GPS RWY 10, ORIG–A.

Statesville

STATESVILLE MUNI
North Carolina
VOR/DME RWY 10, AMDT 7...
FDC Date: 06/12/98

FDC 8/3764/SVH/FI/P STATESVILLE MUNI, STATESVILLE, NC. VOR/DME RWY 10, AMDT 7...MISSED APPROACH INSTRUCTIONS...CLIMB TO 3300 VIA BZM VOR/DME R–118 TO OWALT INT AND HOLD. DELETE NOTE...OBTAIN LOCAL ALSTG ON CTAF; WHEN NOT RECEIVED, USE CHARLOTTE ALSTG. DELETE CHARLOTTE ALSTG MINIMUMS. THIS IS VOR/DME RWY 10, AMDT 7A.

Statesville

STATESVILLE MUNI
North Carolina
NDB RWY 10 ORIG...
FDC Date: 06/12/98

FDC 8/3813/SVH/FI/P STATESVILLE MUNI, STATESVILLE, NC. NDB RWY 10 ORIG...DELETE NOTE...OBTAIN LOCAL ALSTG ON CTAF; WHEN NOT RECEIVED, USE CHARLOTTE ALSTG. DELETE CHARLOTTE ALSTG MINIMUMS. THIS IS NDB RWY 10 ORIG–A.

Statesville

STATESVILLE MUNI
North Carolina
LOC RWY 10, ORIG...
FDC Date: 06/12/98

FDC 8/3814/SVH/FI/P STATESVILLE MUNI, STATESVILLE, NC. LOC RWY 10, ORIG...MISSED APPROACH INSTRUCTIONS...CLIMB TO 3300 VIA BZM VOR/DME R–118 TO OWALT INT AND HOLD. DELETE NOTE...OBTAIN LOCAL ALSTG ON CTAF; WHEN NOT RECEIVED, USE CHARLOTTE ALSTG. DELETE CHARLOTTE ALSTG MNMS. THIS IS LOC RWY 10, ORIG–A.

Florence

FLORENCE REGIONAL
South Carolina
RADAR–1 ORIG...
FDC Date: 06/12/98

FDC 8/3757/FLO/FI/P FLORENCE REGIONAL, FLORENCE, SC. RADAR–1 ORIG...S–27 MDA 560, HAT 420 ALL CATS. VISIBILITY CAT C AND D 1¼. CIRCLING HAA 692 ALL CATS. THIS IS RADAR–1 ORIG–A.

Georgetown

GEORGETOWN COUNTY
South Carolina
NDB OR GPS RWY 5, AMDT 5...
FDC Date: 06/12/98

FDC 8/3770/GGE/FI/P GEORGETOWN COUNTY, GEORGETOWN, SC. NDB OR GPS RWY 5, AMDT 5...CIRCLING HAA 480 CATS A/B/C, 700 CAT D. MYRTLE BEACH INTL ALTIMETER SETTING MINIMUMS...CIRCLING HAA 600 CAT A/B/C, 820 CAT D. PLANVIEW...DELETE TERMINAL ROUTE FROM PLANN TO GEORGETOWN NDB. THIS IS NDB OR GPS RWY 5, AMDT 5A.

Lake City

LAKE CITY MUNI CJ EVANS FIELD
South Carolina
NDB OR GPS–A, AMDT 1A...
FDC Date: 06/12/98

FDC 8/3772/51J/FI/P LAKE CITY MUNI CJ EVANS FIELD, LAKE CITY, SC. NDB OR GPS–A, AMDT 1A...CIRCLING MDA 740/HAA 665 CATS A/B, HAA 705 CAT C, HAA 785 CAT D. THIS IS NDB OR GPS–A, AMDT 1B.

Dillon

DILLON COUNTY
South Carolina
NDB RWY 7 AMDT 5...
FDC Date: 06/12/98

FDC 8/3808/DLC/FI/P DILLON COUNTY, DILLON, SC. NDB RWY 7 AMDT 5...S–7 MDA 840, HAT 706 ALL CATS. VISIBILITY CAT C2. CIRCLING MDA 840, HAA 706, ALL CATS. VISIBILITY CAT C2. MISSED APPROACH INSTRUCTIONS...CLIMB TO 1500 THEN CLIMBING LEFT TURN TO 2300 DIRECT DLC NDB AND HOLD. DELETE CAT D MINIMUMS. THIS IS NDB RWY 7 AMDT 5A.

Dillon

DILLON COUNTY
South Carolina
VOR/DME OR GPS RWY 7 AMDT 5...
FDC Date: 06/12/98

FDC 8/3809/DLC/FI/P DILLON COUNTY, DILLON, SC. VOR/DME OR GPS RWY 7 AMDT 5...DELETE CAT D MINIMUMS. THIS IS VOR/DME OR GPS RWY 7 AMDT 5A.

Walterboro

WALTERBORO MUNI
South Carolina
NDB OR GPS RWY 23, AMDT 11...
FDC Date: 06/12/98

FDC 8/3817/RBW/FI/P WALTERBORO MUNI, WALTERBORO, SC. NDB OR GPS RWY 23, AMDT 11...S–23 MDA 680/HAT 581 ALL CATS. CIRCLING MDA 680/HAA 581 ALL CATS. THIS IS NDB OR GPS RWY 23, AMDT 11A.

Aiken

AIKEN MUNI
South Carolina
VOR/DME OR GPS–A ORIG...
FDC Date: 06/12/98

FDC 8/3845/AIK/FI/P AIKEN MUNI, AIKEN, SC. VOR/DME OR GPS–A, ORIG...DELETE CAT D MINIMUMS. CIRCLING MDA 1020/HAA 491 ALL CATS. AUGUSTA ALSTG MINIMUMS...CIRCLING MDA 1140/HAA 611 ALL CATS. VIS CAT CA 1¾. DELETE NOTE...INOPERATIVE TABLE DOES NOT APPLY. THIS IS VOR/DME OR GPS–A, ORIG A.

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Aiken

AIKEN MUNI

South Carolina

NDB OR GPS RWY 24, AMDT 9...

FDC Date: 06/12/98

FDC 8/3846/AIK/FI/P AIKEN MUNI, AIKEN, SC. NDB OR GPS RWY 24, AMDT 9...DELETE CAT D MINIMUMS. CHANGE NOTE TO READ...INOPERATIVE TABLE DOES NOT APPLY TO CAT C. S–24 MDA 1160/HAT 655 ALL CATS, VIS CAT C 1¾. CIRCLING MDA 1160/HAA 631 ALL CATS. VIS CAT C 1¾. AUGUSTA ALSTG MINIMUMS...S–24 MDA 1280/HAT 775 ALL CATS. VIS CAT B 1¼, CAT C 2¼. CIRCLING MDA 1280/HAA 751 ALL CATS. VIS CAT B 1¼, CAT C 2¼. THIS IS NDB OR GPS RWY 24, AMDT 9A.

Jasper

MARION COUNTY-BROWN FIELD

Tennessee

NDB OR GPS RWY 4, AMDT 4A...

FDC Date: 06/12/98

FDC 8/3812/APT/FI/P MARION COUNTY-BROWN FIELD, JASPER, TN. NDB OR GPS RWY 4, AMDT 4A...ADD NOTE...CIRCLING NA SOUTHEAST OR RWY 04/22. THIS IS NDB OR GPS RWY 4, AMDT 4B.

Paris

HENRY COUNTY

Tennessee

NDB OR GPS RWY 2, AMDT 2A...

FDC Date: 06/14/98

FDC 8/3891/PHT/FI/P HENRY COUNTY, PARIS, TN. NDB OR GPS RWY 2, AMDT 2A...S–2 VIS CATS A/B¾...CIRCLING CAT D MDA 1360/HAA 780 VIS 2½. ADD NOTE...INOPERATIVE TABLE DOES NOT APPLY TO S–2 CAT C. DELETE NOTE...IF LOCAL ALTIMETER SETTING NOT RECEIVED, USE JACKSON ALTIMETER SETTING AND INCREASE ALL MDAS 240 FT. ALTERNATE MINIMUMS... STANDARD, CAT D 800–2½. THIS IS NDB OR GPS RWY 2, AMDT 2B.

[FR Doc. 98–17628 Filed 7–1–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29260; Amdt. No. 1875]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK. 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (NFDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on June 26, 1998.

Tom E. Stuckey,

Acting Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

* * * *Effective 16 July 1998*

Louisville, KY, Louisville Intl-Standiford Field, GPS RWY 17R, Orig
Louisville, KY, Louisville Intl-Standiford Field, GPS RWY 35L, Orig
Louisville, KY, Louisville Intl-Standiford Field, ILS RWY 17L, Amdt 1
Louisville, KY, Louisville Intl-Standiford Field, ILS RWY 35R, Amdt 1
Detroit, MI, Detroit Metropolitan Wayne County, ILS RWY 3R, Amdt 13

* * * *Effective 13 August 1998*

Kenai, AK, Kenai Muni, VOR RWY 19, Amdt 16
Kenai, AK, Kenai Muni, ILS RWY 19, Amdt 6
Kenai, AK, Kenai Muni, GPS RWY 1, Orig
Kenai, AK, Kenai Muni, GPS RWY 19, Orig
Fort Huachuca/Sierra Vista, AZ, Libby AAF-Sierra Vista Muni, GPS RWY 8, Orig
Wilmington, DE, New Castle County, VOR/DME RNAV RWY 9, Orig, CANCELLED
Marianna, FL, Marianna Muni, GPS RWY 18, Orig
Goshen, IN, Goshen Muni, GPS RWY 9, Amdt 1
Goshen, IN, Goshen Muni, VOR RWY 9, Amdt 12
Goshen, IN, Goshen Muni, VOR OR GPS RWY 27, Amdt 6
Goshen, IN, Goshen Muni, ILS/DME RWY 27, Amdt 1, CANCELLED
Goshen, IN, Goshen Muni, ILS RWY 27, Orig
Baltimore, MD, Baltimore-Washington Intl, ILS RWY 10, Admt 17
Boston, MA, General Edward Lawrence Logan Intl, GPS RWY 4R, Orig
Boston, MA, General Edward Lawrence Logan Intl, VOR/DME RNAV RWY 4R, Amdt 1
Cortland, NY, Cortland County-Chase Field, GPS RWY 6, Orig
Burlington, NC, Burlington-Alamance Regional, LOC RWY 6, Amdt 1
Charlotte, NC, Charlotte/Douglas Intl, VOR/DME RWY 18R, Amdt 6, CANCELLED
Charlotte, NC, Charlotte/Douglas Intl, VOR RWY 36R, Amdt 5A, CANCELLED
Wadesboro, NC, Anson County, VOR/DME OR GPS–A, Amdt 1, CANCELLED
Lancaster, OH, Fairfield County, VOR OR GPS–A, Amdt 10
Lancaster, OH, Fairfield County, LOC RWY 28, Amdt 1
Lancaster, OH, Fairfield County, NDB OR GPS RWY 28, Amdt 8
Lancaster, OH, Fairfield County, VOR/DME RNAV OR GPS RWY 10, Amdt 10
Bradford, PA, Bradford Regional ILS RWY 32, Amdt 10
Florence, SC, Florence Regional, GPS RWY 1, Orig
Florence, SC, Florence Regional, GPS RWY 9, Orig
Florence, SC, Florence Regional, GPS RWY 19, Orig
Hohenwald, TN, John A. Baker Field, NDB RWY 2, Orig
Price, UT, Carbon County, GPS RWY 36, Orig

* * * *Effective 8 OCT 1998*

Hot Springs, AR, Memorial Field, VOR RWY 5, Amdt 16
Hot Springs, AR, Memorial Field, ZAPLE VOR RWY 5, Amdt 4
Hot Springs, AR, Memorial Field, NDB RWY 5, Amdt 7
Hot Springs, AR, Memorial Field, ILS RWY 5, Amdt 14
Hot Springs, AR, Memorial Field, GPS RWY 5, Orig
Indianapolis, IN, Indianapolis Downtown Heliport, COPTER GPS 291, Orig

*** *Effective Upon Publication*

Bentonville, AR, Bentonville Muni/Louise M Thadden Field, GPS RWY 18, Amdt 1
Bentonville, AR, Bentonville Muni/Louise M Thadden Field, GPS RWY 36, Amdt 1

[FR Doc. 98–17631 Filed 7–1–98; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 303

Rules and Regulations Under the Textile Fiber Products Identification Act

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission ("Commission") announces amendments to Rule 7 of the Rules and Regulations Under the Textile Fiber Products Identification Act ("Textile Rules"), to designate two new generic fiber names and establish two new generic fiber definitions for fibers manufactured by BASF Corporation ("BASF") of Mt. Olive, New Jersey, and DuPont Advanced Fiber Systems ("DuPont") of Wilmington, Delaware. The amendments create a new subsection (*w*) to Rule 7 that establishes the name "melamine" for a fiber for which BASF has registered the trade name "Basofil"; and a new subsection (*x*) to Rule 7 that establishes the name "fluoropolymer" for a fiber that DuPont designates by the registered name "Teflon."

DATES: Effective: July 2, 1998.

FOR FURTHER INFORMATION CONTACT: James G. Mills, Attorney, Division of Enforcement, Federal Trade Commission, Washington, DC 20580; (202) 326–3035, FAX: (202) 326–3259.

SUPPLEMENTARY INFORMATION:

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I. Background

A. Statutory and Regulatory Framework

Section 4(b)(1) of the Textile Fiber Products Identification Act ("the Act") declares that a textile product will be misbranded unless it is labeled to show, among other elements, the percentages, by weight, of the constituent fibers (or fiber combinations) in the product, designated by their generic name and in order of predominance by weight. 15 U.S.C. 70b(b)(1). Section 4(c) of the Act provides that the same information required by section 4(b)(1) (except the percentages) must appear in written advertisements for covered textile products. 15 U.S.C. 70b(c). Section 7(c) empowers the Commission to promulgate such rules, including the establishment of generic names of manufactured fibers, as are necessary to enforce the Act's directives. 15 U.S.C. 70e(c).

Rule 6 of the Textile Rules requires manufacturers to use the generic names of the fibers contained in their textile fiber products in making required disclosures of the fiber content of the products. 16 CFR 303.6. Rule 7 sets forth the generic names and definitions that the Commission has established for synthetic fibers. 16 CFR 303.7. Rule 8 sets forth the procedures for establishing new generic names. 16 CFR 303.8.

B. Procedural History

On March 22, 1996, BASF and DuPont submitted their applications to the Commission separately. The applications and related materials were placed on the rulemaking record.

BASF stated that Basofil fiber, which is mostly used in combination with other heat- and flame-resistant fibers, is intended for use in applications where heat and flame resistance and low flammability are vital, including fire-blocking fabrics, protective apparel and heat-insulating fabrics. BASF stated that, because the unique chemistry of Basofil fiber is inadequately described under the existing generic names listed in the Textile Rules, a new generic name and definition should be established.

DuPont states that it has manufactured a fiber it calls "Teflon PTFE fluorocarbon fiber" or "Teflon fiber" since the 1950's for industrial applications, but that it expected to begin commercial sales of the fiber in socks beginning in late April 1996. DuPont explained that it was petitioning the Commission to establish a new name and definition for its fiber in its new use in textile fiber products covered by the Textile Rules because none of the current generic fiber definitions in Rule 7 of the Textile Rules is appropriate for Teflon fiber.

On June 25, 1996, the Commission issued BASF the designation "BC 0001" and DuPont the designation "DP 0001" for temporary use in identifying Basofil and Teflon PTFE fluorocarbon fiber, respectively, pending a final determination as to the merits of the applications for new generic names. The Commission staff analyzed the applications as well as additional materials that the two companies subsequently submitted separately at the staff's request. On January 6, 1998, the Commission published two Notices of Proposed Rulemaking ("NPR") detailing the technical aspects of BASF's (63 FR 449) and DuPont's (63 FR 447) fibers and requesting public comment on whether to add new generic fiber names and definitions to Rule 7 of the Textile Rules to describe them. On March 23, 1998, the comment periods created by the two NPRs closed. No comments were received in either matter.

II. Description of the Fibers and Solicitation of Comments in the NPRs

A. The Commission's Criteria for Granting a New Generic Name and Definition Under Rule 7

In the NPRs, the Commission solicited comment on the petitioners' applications and asked whether the applications met the following criteria, which the Commission first announced at 38 FR 34,112 (Dec. 11, 1973) as grounds for the granting of petitions for new generic names, and later clarified and reaffirmed on Dec. 6, 1995, 60 FR 62,352, and again on May 23, 1997, 62 FR 28,342:

1. The fiber for which a generic name is requested must have a chemical composition radically different from other fibers,and that distinctive chemical composition must result in distinctive physical properties of significance to the general public.
2. The fiber must be in active commercial use or such use must be immediately foreseen.
3. The grant of the generic name must be of importance to the consuming public at large, rather than to a small group of knowledgeable professionals such as purchasing officers for large Government agencies.

B. The BASF NPR

1. Fiber Description and Proposed Name and Definition

The BASF NPR provided a detailed description, taken from BASF's application, of Basofil's chemical composition and physical and chemical properties.[1] BASF maintained that, because of its unique melamine-formaldehyde chemistry, Basofil is especially well-suited for applications in which heat and flame resistance are needed. BASF thus intends to use Basofil in the manufacture of heat- and flame-resistant textile products like fire-blocking fabrics, gloves and aprons and other protective apparel. BASF described Basofil chemically as follows:

> The product is a fiber made from a condensation polymer of melamine derivatives and formaldehyde * * *. In the condensation reaction, methylol compounds are formed which then react with one another to form a three-dimensional structure of methylene ether and methylene bridges.
>
> The chemical composition of Basofil fiber is based upon a three-dimensional cross-lined structure containing methylene links, such as (Melamine-NH-CH_2-NH-Melamine) and dimethylene ether links such as (Melamine-NH-CH_2-O-CH_2-NH-Melamine). The melamine can also be modified to contain hydroxyl groups.
>
> The network structure of Basofil fiber provides the characteristics found in melamine-based resins—heat stability, solvent resistance, and low flammability.

BASF stated that Basofil combines fire protection and heat stability with good chemical, hydrolysis and ultraviolet resistance, and that the fiber, which is white and dyeable, can be processed on standard textile manufacturing equipment for the production of woven, knitted, and nonwoven fabrics. BASF further asserted that Basofil's most outstanding physical properties are its high Limiting Oxygen Index (LOI), low thermal conductivity, heat dimensional stability, and the fact that it does not shrink, melt or drip when exposed to a flame.

The Commission proposed the following fiber name and definition for Basofil, which has been suggested by BASF:

Melamine. A manufactured fiber in which the fiber-forming substance is a synthetic polymer composed of at least 50% by weight of a cross-linked melamine polymer.

In proposing this definition in the BASF NPR, the Commission noted that BASF had explained that the unusually low (50%) threshold for the principal element of the fiber (the cross-linked melamine polymer) in the definition is based on the possibility that Basofil may be modified in the future to contain other components typically found in fiber formulations, such as dispersing aids, fillers, flame retardants, heat or light stabilizers, optical modifiers, etc.

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[1] 63 FR 449, at 449–50 (Jan. 6, 1998). For brevity's sake, the Commission is providing a simplified description of the fiber today, and refers those members of the public who wish to see detailed technical information about the fiber to the earlier description in the NPR.

2. Discussion of the Three Criteria

a. Distinctive Chemical Composition and Physical Properties of Importance to the Public

The materials submitted by BASF show that Basofil fiber is based upon unique melamine chemistry that is not encompassed by any existing definition in Rule 7 and that results in a fiber with the physical property of significant resistance to heat and flame. This property is very important to those members of the general public (for example, cooks, foundry workers, welders, and fire-fighters) who need textile fiber products that are highly resistant to heat and flame. Thus, BASF's application meets this first criterion.

b. Active Commercial Use

BASF stated in the materials it submitted that it has begun to import Basofil fiber and to market the fiber to potential end users. When it filed its petition, BASF was in the process of building a plant in Enka, North Carolina, capable of producing approximately 3.6 million pounds of Basofil. Counsel for BASF has informed Commission staff that the plant is currently operational. Such a level of production for distribution satisfies this second criterion.

c. Importance to the Consuming Public

The Commission agrees with BASF that the granting of a generic name to describe Basofil is of importance to the general public, and not just a few knowledgeable professionals such as purchasing officers for large Government agencies, because of the importance of Basofil's properties to all consumers in need of textile fiber products with resistance to heat and flame. The Commission believes that granting a generic name and definition for Basofil fiber will assist consumers seeking high heat and flame resistance to identify those textile fiber products containing Basofil. Thus, the application satisfies this final criterion.

d. Conclusion

Based on the foregoing, the Commission finds that BASF's fiber Basofil is of a distinctive chemical composition not encompassed by any of the Textile Rules' existing generic definitions for manufactured fibers, that its physical properties are important to the public, that the fiber is in active commercial use, and that the granting of a new generic name and definition is important to the consuming public at large. Because the Commission has received no additional information bearing on this issue beyond that available to it when it proposed in the NPR to amend Rule 7 to include a name and definition for Basofil, the Commission amends Rule 7 of the Textile Rules by adding the following new name and definition for BASF's fiber:

Melamine. A manufactured fiber in which the fiber-forming substance is a synthetic polymer composed of at least 50% by weight of a cross-linked melamine polymer.

C. The DuPont NPR

1. Fiber Description and Proposed Name and Definition

The DuPont NPR provided a detailed description, taken from DuPont's application, of Teflon PTFE fluorocarbon fiber's chemical composition and physical and chemical properties.[2] DuPont described Teflon PTFE fluorocarbon fiber generally as inherently low friction, water-resistant, flame-resistant, and low modulus (i.e., with a high degree of flexibility, so textile products that are made from the fiber will drape easily to conform to the shape of the wearer, and will feel soft and comfortable to the touch). DuPont expects the initial market for the fiber to be sports apparel where fabrics from Teflon fiber and blends containing it may reduce the chance of skin irritation and may have other desirable characteristics, such as permanent water- and stain- resistance, softer hand, and improved comfort.

DuPont described the chemical characteristics of Teflon PTFE fluorocarbon fibers and the base resins used to make the fibers as follows:

> Teflon PTFE fluorocarbon resins and fibers developed by DuPont have unusually high thermo-chemical resistance and display exceptionally low coefficients of friction. The molecular structure of Teflon PTFE fluorocarbon consists of long chains of carbon atoms fully saturated by fluorine atoms. The carbon-fluorine bonds are extremely strong and the carbon-carbon bonds are well-shielded by the fluorine atoms * * * Molecules of Teflon PTFE fluorocarbons are electrically neutral and therefore lack the strong polar forces that bind together the molecules of other fibers such as nylon or cellulose. However, the extreme regularity of the molecules permits very close packing.

DuPont stated that the coefficient of friction of Teflon PTFE fluorocarbon fiber is the lowest of all known fibers, and that, because the static coefficient of friction is only slightly higher than the dynamic value, the fiber does not exhibit "stick-slip" behavior, which means that the fiber feels very smooth and slippery when rubbed between the fingers, rather than periodically catching and slipping. DuPont also asserted that its fiber is the most chemically resistant fiber known, and that the only known solvents for Teflon fiber or resin are selected perfluorinated organic liquids at temperatures above 570° F (299° C).

DuPont asserted that continuous exposure to temperatures below 400° F (204° C) ordinarily does not degrade the fiber, and that the fiber is stable over a wide range of temperatures. According to DuPont, the fiber becomes less ductile at extremely low temperatures and softens at extremely high temperatures, and that adequate toughness and strength are available for selected uses at temperatures as low as −450° F (−268° C) and as high as 550° F (288° C). DuPont also asserted that Teflon PTFE fluorocarbon fiber has significant resistance to sunlight and the effects of weather.

The Commission proposed the following fiber name and definition, which had been suggested by DuPont:

Fluoropolymer. A manufactured fiber containing at least 95% of a long-chain polymer synthesized from aliphatic fluorocarbon monomers.

DuPont suggested "fluoropolymer" in its application so the fiber's name would be consistent with all other products that DuPont sells under the brand name "Teflon," and because the name "fluoropolymer" is already well-established in association with its Teflon PTFE fluorocarbon fiber. The Commission noted in the DuPont NPR, however, that a name—"fluorofibre"—has already been established for this type of fiber by the International Organization for Standardization ("ISO") for fibers (like Teflon PTFE fluorocarbon fiber) that are composed of linear macromolecules made from aliphatic fluorocarbon monomers. The Commission therefore solicited comment on whether, in the interests of international standardization of fiber terminology, the ISO generic name (spelled "fluorofibre" or "fluorofiber") would be more appropriate than DuPont's suggested name ("fluoropolymer") to describe fibers similar to DuPont's Teflon PTFE fluorocarbon fiber.

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[2] 63 FR 447, at 447–48 (Jan. 6, 1998). For brevity's sake, the Commission is providing a simplified description of the fiber today, and refers those members of the public who wish to see detailed technical information about the fiber to the earlier description in the NPR.

2. Discussion of the Three Criteria

a. Distinctive Chemical Composition and Physical Properties of Importance to the Public

The facts that the coefficient of friction of Teflon PTFE fluorocarbon fiber is the lowest of all known fibers, that the fiber is the most chemically resistant fiber known, and that the fiber is stable over a wide range of temperatures, together with its unique molecular structure, result in a distinctive chemical composition and distinctive physical properties. The Commission agrees with DuPont that its fiber does not fall under any of the existing definitions in the Textile Rules. The properties of Teflon PTFE fluorocarbon fiber generally—low friction, water-resistance, flame-resistance, and low modulus—are of considerable importance to the public, because they result in a fiber that can be used in sports apparel and other wearing apparel where reduced skin irritation, permanent water- and stain-resistance, softer hand, and improved comfort are highly desirable. Thus, the application meets this first criterion.

b. Active Commercial Use

DuPont has informed Commission staff that it is currently producing Teflon PTFE fluorocarbon fiber in significant quantities for use in sports-related textile wearing apparel, and that it has observed manufacturers in Japan beginning to market similar fibers in markets abroad. Consequently, the criterion for active commercial use is satisfied.

c. Importance to the Consuming Public

As discussed above, Teflon PTFE fluorocarbon fiber exhibits the characteristics of low friction, water- and flame-resistance, and low modulus. The Commission believes that granting a new generic name to identify this fiber is of importance to the consuming public at large, and not just to a few knowledgeable professionals, because it will enable consumers to recognize garments (such as hiking and athletic socks) with a reduced chance of skin irritation, significant water- and stain-resistance, softer hand, and improved comfort. Thus, DuPont's application meets this third criterion.

d. Conclusion

Based on the foregoing, the Commission finds that DuPont's Teflon PTFE fluorocarbon fiber is of a distinctive chemical composition not encompassed by any of the Textile Rules' existing generic definitions for manufactured fibers, that its physical properties are important to the public, that the fiber is in active commercial use, and that the granting of a new generic name and definition is important to the consuming public at large. Because the Commission has received no additional information bearing on this issue (including whether to adopt the name "fluorofiber/fluorofibre" instead of DuPont's proposed name "fluoropolymer")[3] beyond that available to it when it proposed in the DuPont NPR to amend Rule 7 to include a name and definition for Teflon PTFE fluorocarbon fiber, the Commission amends Rule 7 of the Textile Rules by adding the following new name and definition for DuPont's fiber:

Fluoropolymer. A manufactured fiber containing at least 95% of a long-chain polymer synthesized from aliphatic fluorocarbon monomers.

III. Effective Date

The Commission is making the amendments effective today, as permitted by 5 U.S.C. 553(d), because the amendments do not create new obligations under the Rule; rather, they merely create a fiber name and definition that the public may use to comply with the Rule.

IV. Regulatory Flexibility Act

In the two NPRs, the Commission tentatively concluded that the provisions of the Regulatory Flexibility Act relating to an initial regulatory analysis, 5 U.S.C. 603–604, did not apply to the proposals because the amendments, if promulgated, would not have a significant economic impact on a substantial number of small entities. The Commission believed that the proposed amendments would impose no additional obligations, penalties, or costs. The amendments simply would allow covered companies to use new generic names for new fibers that may not appropriately fit within current generic names and definitions, and would impose no additional labeling requirements. To ensure, however, that no substantial economic impact was overlooked, the Commission solicited public comment in the two NPRs on the effects of the proposed amendment on costs, profits, competitiveness of, and employment in small entities. 63 FR 447, at 448–49; 63 FR 449, at 451 (Jan. 6, 1998).

No comments were received on this (or any other) issue in response to the two NPRs. Accordingly, the Commission hereby certifies, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), that the amendments promulgated today will not have a significant economic impact on a substantial number of small entities.

V. Paperwork Reduction Act

These amendments do not constitute "collection[s] of information" under the Paperwork Reduction Act of 1995, Pub. L. 104–13, 109 Stat. 163, 44 U.S.C. Chapter 35 (as amended), and its implementing regulations, 5 CFR 1320 *et seq.* (1997). Those procedures for establishing generic names that do constitute collections of information, 16 CFR 303.8 (1997), have been submitted to OMB, which has approved them and assigned them control number 3084–0101.

List of Subjects in 16 CFR Part 303

Labeling, Textile, Trade Practices.

VI. Text of Amendments

For reasons set forth in the preamble, 16 CFR Part 303 is amended as follows:

PART 303—RULES AND REGULATIONS UNDER THE TEXTILE FIBER PRODUCTS IDENTIFICATION ACT

1. The authority citation for part 303 continues to read as follows:

Authority: Sec. 7(c) of the Textile Fiber Products Identification Act (15 U.S.C. 70e(c)).

2. In § 303.7, paragraphs (w) and (x) are added, to read as follows:

§ 303.7 Generic names and definitions for manufactured fibers.

* * * * *

(w) *Melamine.* A manufactured fiber in which the fiber-forming substance is a synthetic polymer composed of at least 50% by weight of a cross-linked melamine polymer.

(x) *Fluoropolymer.* A manufactured fiber containing at least 95% of a long-chain polymer synthesized from aliphatic fluorocarbon monomers.

By direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 98–17541 Filed 7–1–98; 8:45 am]

BILLING CODE 6750–01–M

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[3] Amendments to the Textile Rules promulgated since the NPRs were published now permit the description of generic fibers defined in Rule 7 by means of the ISO designations. 63 FR 7,508; 7,510–11; 7,518 (Feb. 13, 1998). Thus, marketers who wish to use "fluorofibre" (or "fluorofiber") to describe DuPont's fiber now may do so pursuant to that amendment, or they could use "fluoropolymer" in accordance with today's amendment.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 177

[Docket No. 90F–0435]

Indirect Food Additives: Polymers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of isobutylene-butene copolymers as a plasticizer in polypropylene intended for use in contact with food. This action responds to a food additive petition filed by Amoco Chemical Co.

DATES: The regulation is effective July 2, 1998. Submit written objections and requests for a hearing by August 3, 1998.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Julius Smith, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS–215), 200 C St. SW., Washington, DC 20204, 202–418–3091.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of January 11, 1991 (56 FR 1197), FDA announced that a petition (FAP 1B4238) had been filed by Amoco Chemical Co., Chicago, IL 60601. The petition proposed to amend the food additive regulations in § 177.1430 *Isobutylene-butene copolymers* (21 CFR 177.1430) to provide for the safe use of isobutylene-butene copolymers as components of food-contact articles and as plasticizers in polypropylene in contact with food complying with 21 CFR 177.1520. Upon further review of the petition, the agency has determined that the petitioner is proposing only the use of isobutylene-butene copolymers as a plasticizer in polypropylene.

FDA has evaluated the data in the petition and other relevant material. The agency concludes that: (1) The proposed use of the additive in polypropylene articles is safe, (2) the additive will have the intended technical effect, and therefore, (3) the regulations in § 177.1430 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before August 3, 1998, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

List of Subjects in 21 CFR Part 177

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 177 is amended as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

1. The authority citation for 21 CFR part 177 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 379(e).

2. Section 177.1430 is amended in the table in paragraph (b) by revising item "2." under the heading "Isobutylene-butene copolymers" to read as follows:

§ 177.1430 Isobutylene-butene copolymers.

* * * * *

(b) * * *

Isobutylene-butene copolymers	Molecular weight (range)	Viscosity (range)	Maximum bromine value
* * *	*	*	* *
2. Used as plasticizers in polyethylene or polypropylene complying with § 177.1520, and in polystyrene complying with § 177.1640.			
* * *	*	*	* *

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Dated: June 23, 1998.

L. Robert Lake,

Director, Office of Policy, Planning and Strategic Initiatives, Center for Food Safety and Applied Nutrition.

[FR Doc. 98–17543 Filed 7–1–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 97F–0468]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of tris(2,4-di-*tert*-butylphenyl)phosphite by removing the restrictions on the temperature of use in low-density polyethylene films of thickness greater than 0.051 millimeter (mm) (0.002 inch (in)), provided that the film does not contain a total of tris(2,4-di-*tert*-butylphenyl)phosphite in excess of 0.062 milligram (mg) per square inch (in^2) of the food-contact surface. This action is in response to a petition filed by Ciba Specialty Chemicals Corp.

DATES: This regulation is effective July 2, 1998. Written objections and requests for a hearing by August 3, 1998.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of November 28, 1997 (62 FR 63350), FDA announced that a food additive petition (FAP 8B4563) had been filed by Ciba Specialty Chemicals Corp., c/o Keller and Heckman, 1001 G St. NW., suite 500 West, Washington, DC 20001. The petition proposed to amend the food additive regulations in § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) to provide for the safe use of tris(2,4-di-*tert*-butylphenyl)phosphite by removing the restriction on the temperature of use in low-density polyethylene films of thickness greater than 0.051 mm (0.002 in), provided that the film does not contain a total of tris(2,4-di-*tert*-butylphenyl)phosphite in excess of 0.062 mg per in^2 of the food contact-surface.

FDA has evaluated data in the petition and other relevant material. Based on this information, the agency concludes that the proposed use of the additive is safe, that the additive will achieve its intended technical effect, and that therefore, the regulations in § 178.2010 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has previously considered the environmental effects of this rule as announced in the notice of filing for FAP 8B4563 (62 FR 63350). FDA has concluded that the action is of a type that does not individually or cumulatively have a significant effect on the human environment, and that therefore, neither an environmental assessment nor an environmental impact statement is required.

Any person who will be adversely affected by this regulation may at any time on or before August 3, 1998, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objection received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

This final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR part 178 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 379e.

2. Section 178.2010 is amended in the table in paragraph (b) by revising the entry for "tris(2,4-di-*tert*-butylphenyl)phosphite" in item "6." under the heading "Limitations" to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* * *	* * *
Tris(2,4-di-*tert*-butylphenyl)phosphite. (CAS Reg. No. 31570–04–4).	For use only: * * * 6. At levels not to exceed 0.2 percent by weight of olefin polymers complying with § 177.1520(c) of this chapter, items 2.1, 2.2, 2.3, 3.1(a), 3.1(b), 3.1(c), 3.2(a), or 3.2(b). The finished polymers complying with items 2.1, 2.2, or 2.3 having a density less than 0.94 gram per cubic centimeter and a thickness greater than 0.051 millimeter (0.002 inch), either shall have a level of tris(2,4-di-*tert*-butylphenyl)phosphite that shall not exceed 0.062 milligram per square inch of food-contact surface or shall contact all food types identified in Table 1 of § 176.170(c) of this chapter only under conditions of use E, F, and G described in Table 2 of § 176.170(c) of this chapter.
* * *	* * *

Dated: June 23, 1998.

L. Robert Lake,

Director, Office of Policy, Planning and Strategic Initiatives, Center for Food Safety and Applied Nutrition.

[FR Doc. 98–17545 Filed 7–1–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 97F–0469]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the expanded safe use of phosphorous acid, cyclic butylethyl propanediol, 2,4,6-tri-*tert*-butylphenyl ester, which may contain up to 1 percent by weight of triisopropanolamine, as an antioxidant and/or stabilizer in high-density polyethylene and high-density olefin copolymers intended for use in contact with food. This action is in response to a petition filed by General Electric Co.

DATES: This regulation is effective July 2, 1998. Written objections and requests for a hearing by August 3, 1998.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of November 20, 1997 (62 FR 62062), FDA announced that a food additive petition (FAP 8B4567) had been filed by General Electric Co., One Lexan Lane, Mt. Vernon, IN 47620–9364. The petition proposed to amend the food additive regulations in § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) to provide for the expanded safe use of phosphorous acid, cyclic butylethyl propanediol, 2,4,6-tri-*tert*-butylphenyl ester, which may contain up to 1 percent by weight of triisopropanolamine, as an antioxidant and/or stabilizer in high-density polyethylene and high-density olefin copolymers (more appropriately identified as high-density polyethylene homopolymers and copolymers) intended for use in contact with food.

FDA has evaluated data in the petition and other relevant material. Based on this information, the agency concludes that the proposed use of the additive is safe and that the additive will achieve its intended technical effect. Therefore, the regulations in § 178.2010 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has previously considered the environmental effects of this rule as announced in the notice of filing for FAP 8B4567 (62 FR 62062). FDA has concluded that the action is of the type that does not individually or cumulatively have a significant effect on the human environment, and that therefore, neither an environmental assessment nor an environmental impact statement is required.

Any person who will be adversely affected by this regulation may at any time on or before August 3, 1998, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objection received in response to the regulation may be seen in the Dockets Management Branch

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between 9 a.m. and 4 p.m., Monday through Friday.

This final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR Part 178 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 379e.

2. Section 178.2010 is amended in the table in paragraph (b) by revising the entry for "Phosphorous acid, cyclic butylethyl propanediol, 2,4,6-tri-*tert*-butylphenyl ester" by adding item "4." under the heading "Limitations" to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* * *	* * * *
Phosphorous acid, cyclic butylethyl propanediol, 2,4,6-tri-*tert*-butylphenyl ester (CAS Reg. No. 161717–32–4), which may contain not more than 1 percent by weight of triisopropanolamine (CAS Reg. No. 122–20–3).	For use only: * * * 4. At levels not to exceed 0.1 percent by weight of olefin polymers complying with § 177.1520(c) of this chapter, items 2.1, 2.2, 2.3, 3.1(a), 3.1(b), 3.1(c), 3.2 (a), or 3.2(b), having a density not less than 0.94 grams per cubic centimeter, in contact with foods only of types III, IV, V, VI–A, VI–C, VII, VIII, and IX identified in Table 1 of § 176.170(c) of this chapter, and under conditions of use B through H as described in Table 2 of § 176.170(c) of this chapter; provided that the food-contact surface does not exceed 0.003 inch (0.076 mm) in thickness.
* * *	* * * *

Dated: June 23, 1998.

L. Robert Lake,

Director, Office of Policy, Planning and Strategic Initiatives, Center for Food Safety and Applied Nutrition.

[FR Doc. 98–17544 Filed 7–1–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 520

Animal Drugs, Feeds, and Related Products; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect the change of sponsor for two approved new animal drug applications (NADA's) from Danbury Pharmacal, Inc., to Phoenix Scientific, Inc.

EFFECTIVE DATE: July 2, 1998.

FOR FURTHER INFORMATION CONTACT: Thomas J. McKay, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0213.

SUPPLEMENTARY INFORMATION: Danbury Pharmacal, Inc., 131 West St., Danbury, CT 06810, has informed FDA that it has transferred the ownership of and all rights and interests in the approved NADA's 91–818 and 94–170 (phenylbutazone tablets) to Phoenix Scientific, Inc., 3915 South 48th St. Terrace, P.O. Box 6457, St. Joseph, MO 64506–0457. The agency is amending 21 CFR 510.600(c)(1) and (c)(2) to remove the sponsor name for Danbury Pharmacal, Inc., because the firm no longer is the holder of any approved NADA's. The agency also is amending 21 CFR 520.1720a to reflect the change of sponsor.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Parts 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 520 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in the table in paragraph (c)(1) by removing the entry for "Danbury Pharmacal, Inc."; and in the table in paragraph (c)(2) by removing the entry for "000591".

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

3. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 520.1720a [Amended]

4. Section 520.1720a *Phenylbutazone tablets and boluses* is amended in paragraph (b)(3) by removing the numbers "000591, 000856, 000864, and 015579" and adding in their place the numbers "000856, 000864, 015579, and 059130".

Dated: June 22, 1998.

Margaret Ann Miller,

Acting Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 98–17542 Filed 7–1–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs For Use in Animal Feeds; Penicillin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of two supplemental new animal drug applications (NADA's), one filed by Alpharma Inc., the other by Pfizer, Inc. The supplemental NADA's provide for using approved penicillin G procaine Type A medicated articles to make Type C medicated chicken, turkey, pheasant, quail, and swine feeds used for increased rate of weight gain and improved feed efficiency.

EFFECTIVE DATE: July 2, 1998.

FOR FURTHER INFORMATION CONTACT: Dianne T. McRae, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1623.

SUPPLEMENTARY INFORMATION: Alpharma Inc., One Executive Dr., P.O. Box 1399, Fort Lee, NJ 07024, is sponsor of NADA 46–666. Pfizer, Inc., 235 East 42d St., New York, NY 10017, is sponsor of NADA 46–668. The sponsors filed supplemental NADA's that provide for amending the regulations concerning use of penicillin Type A medicated articles to make Type B and C medicated feeds for chickens, turkeys, pheasants, quail, and swine for increased rate of weight gain and improved feed efficiency. The supplemental NADA's reflect the results of the National Academy of Sciences/National Research Council (NAS/NRC) Drug Efficacy Study Implementation (DESI) review of the products' effectiveness and FDA's conclusions based on that review (35 FR 11533, July 17, 1970).

NAS/NRC evaluated these products as probably effective for faster gain and/or feed efficiency. FDA concurred with these findings and concluded that the appropriate claim should be "for increased rate of weight gain and improved feed efficiency for (under appropriate conditions of use)." The evaluation concerned only the drug's effectiveness and safety to the animal to which administered, and it did not take into account the safety for food use of food derived from drug-treated animals. Nothing herein will constitute a bar to further proceedings with respect to questions of safety of the drugs or their metabolites as residues in food products derived from treated animals.

In the **Federal Register** of August 30, 1977 (42 FR 43772), the then Bureau of Veterinary Medicine issued a notice of opportunity for hearing (NOOH) on a proposal to withdraw approval of NADA's for all penicillin-containing premixes (Type A medicated articles) intended for subtherapeutic use in animal feeds. The NOOH was issued in response to scientific research suggesting that subtherapeutic use of such drugs has contributed to the pool of antibiotic-resistant pathogenic microorganisms in food animals. Furthermore, research indicated that the drug resistance could be transferred to pathogenic organisms in humans. The NOOH is still pending and approval of these supplements to finalize the DESI review process for penicillin-containing Type A medicated articles does not constitute a bar to subsequent action to withdraw approval on the grounds cited in the outstanding NOOH.

The supplemental NADA's are approved as of April 10, 1998. The regulations are amended in 21 CFR 558.460 by redesignating paragraphs (b) and (c) as paragraphs (c) and (d), by adding new paragraph (b), and by revising the table in paragraph (d) to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(3) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

2. Section 558.460 is amended by redesignating paragraphs (b) and (c) as paragraphs (c) and (d), by adding paragraph (b), and by revising the table in paragraph (d)(1) to read as follows:

§ 558.460 Penicillin.

* * * * *

(b) *Sponsors.* Type A medicated articles: To 000069, 100 grams per pound. To 046573, 100 and 227 grams per pound.

* * * * *

(d) * * *

(1) * * *

Penicillin in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(i) 2.4 to 50		Chickens, turkeys, and pheasants; for increased rate of weight gain and improved feed efficiency.	Do not feed to poultry producing eggs for human consumption.	000069, 046573.
(ii) 5 to 20		Quail; for increased rate of weight gain and improved feed efficiency.	Quail; not over 5 weeks of age.	Do.

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Penicillin in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(iii) 10 to 50		Swine; for increased rate of weight gain and improved feed efficiency.		Do.

* * * * *

Dated: June 22, 1998.

Margaret Ann Miller,

Acting Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 98–17546 Filed 7–1–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 8775]

RIN 1545–AV79

Election Not to Apply Look-Back Method in De Minimis Cases

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains regulations explaining how a taxpayer elects under section 460(b)(6) not to apply the look-back method to long-term contracts in de minimis cases. The regulations reflect changes to the law made by the Taxpayer Relief Act of 1997 and affect manufacturers and construction contractors whose long-term contracts otherwise are subject to the look-back method.

DATES: *Effective date:* These regulations are effective July 2, 1998.

Applicability date: These regulations apply to long-term contracts completed in taxable years ending after August 5, 1997.

FOR FURTHER INFORMATION CONTACT: Leo F. Nolan II or John M. Aramburu at (202) 622–4960 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545–1572. Responses to this collection of information are required for a taxpayer to elect not to apply the look-back method to long-term contracts in de minimis cases. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. The estimated average burden per respondent is 0.2 hours.

Comments concerning the accuracy of this burden estimate should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, OP:FS:FP, Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

This document contains amendments to the Income Tax Regulations (26 CFR part 1). Section 460(b)(6) of the Internal Revenue Code was added by section 1211 of the Taxpayer Relief Act of 1997, Public Law 105–34, 111 Stat. 788, 998, to provide an election not to apply the look-back method of section 460(b)(2) to long-term contracts in de minimis cases. These regulations provide guidance concerning this new election.

A notice of proposed rulemaking was published in the **Federal Register** for January 13, 1998 (63 FR 1932). No written comments were received, and no public hearing was requested or held. The proposed regulations under section 460 are adopted by this Treasury decision with one revision. The final regulations provide that for long-term contracts completed in taxable years ending after August 5, 1997, an election not to apply the look-back method under section 460(b)(6) automatically revokes an election under § 1.460–6(e) to use the delayed reapplication method.

Special Analyses

It has been determined that this final regulation is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. Moreover, it is hereby certified that the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that the time required to prepare and file an election statement is minimal and will not have a significant impact on those small entities that choose to make the election. In addition, the election need only be made once by a taxpayer. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required.

Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on the impact of the proposed regulations on small business.

Drafting Information

The principal author of these regulations is Leo F. Nolan II, Office of Assistant Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by removing the entry for "§ 1.460–6T" to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. In § 1.460–0, the entry for § 1.460–6 is amended by adding entries for paragraphs (i) and (j) and the entry for § 1.460–6T is removed to read as follows:

§ 1.460–0 Outline of regulations under section 460.

* * * * *

§ 1.460–6 Look-back method.

* * * * *

(i) [Reserved].

(j) Election not to apply look-back method in de minimis cases.

* * * * *

Par. 3. In § 1.460–6, paragraph (i) is added and reserved and paragraph (j) is added to read as follows:

§ 1.460–6 Look-back method.

* * * * *

(i) [Reserved].

(j) *Election not to apply look-back method in de minimis cases.* Section 460(b)(6) provides taxpayers with an election not to apply the look-back method to long-term contracts in de minimis cases, effective for contracts completed in taxable years ending after August 5, 1997. To make an election, a taxpayer must attach a statement to its timely filed original federal income tax return (including extensions) for the taxable year the election is to become effective or to an amended return for that year, provided the amended return is filed on or before March 31, 998. This statement must have the legend "NOTIFICATION OF ELECTION UNDER SECTION 460(b)(6)"; provide the taxpayer's name and identifying number and the effective date of the election; and identify the trades or businesses that involve long-term contracts. An election applies to all long-term contracts completed during and after the taxable year for which the election is effective. An election may not be revoked without the Commissioner's consent. For taxpayers who elected to use the delayed reapplication method under paragraph (e) of this section, an election under this paragraph (j) automatically revokes the election to use the delayed reapplication method for contracts subject to section 460(b)(6). A consolidated group of corporations, as defined in § 1.1502–1(h), is subject to consistency rules analogous to those in paragraph (e)(2) of this section and in paragraph (d)(4)(ii)(C) of this section (concerning election to use simplified marginal impact method).

§ 1.460–6T [Removed]

Par. 4. Section 1.460–6T is removed.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 5. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 6. In § 602.101, paragraph (c) is amended by:

1. Removing the following entry from the table:

§ 602.101 OMB Control numbers.

* * * * *

(c) * * *

CFR part or section where identified and described	Current OMB control No.
* * *	* *
1.460–6T	1545–1572
* * *	* *

2. Revising the entry for § 1.460–6 to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(c) * * *

CFR part or section where identified and described	Current OMB control No.
* * *	* *
1.460–6	1545–1031 1545–1572
* * *	* *

Michael P. Dolan,
Deputy Commissioner of Internal Revenue.

Approved: June 12, 1998.

Donald C. Lubick,
Assistant Secretary of the Treasury.

[FR Doc. 98–17697 Filed 7–1–98; 8:45 am]

BILLING CODE 4830-01-U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD07–98–006]

RIN 2115–AE46

Special Local Regulations; Around Alone Sailboat Race, Charleston, SC

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary special local regulations creating a regulated area in the coastal waters off Charleston, SC, for the Around Alone single-handed sailboat race, sponsored by Great Adventure, Ltd. These regulations will prohibit entry into the regulated area by non-participating vessels during the event. These regulations are necessary to provide for the safety of life on navigable waters because of the expected presence of numerous spectator craft.

DATES: This regulation is effective from 10 a.m. (EDT) until 2 p.m. (EDT) on September 26, 1998.

FOR FURTHER INFORMATION CONTACT: LTJG S. Brisco, Project Manager, Coast Guard Group Charleston at (803) 724–7628.

SUPPLEMENTARY INFORMATION:

Regulatory History

The Coast Guard published a Notice of Proposed Rulemaking in the **Federal Register** on March 30, 1998 (63 FR 15115). No comments were received during the comment period.

Background and Purpose

These regulations are needed to provide for the safety of life during the start of the Around Alone 1998–99 sailing race. These regulations are intended to promote safe navigation offshore Charleston Harbor immediately before, during, and after the start of the race, by controlling the traffic entering, exiting, and traveling within the regulated area. The anticipated concentration of commercial traffic, spectator vessels, and participating vessels associated with the race poses a safety concern which is addressed in these proposed safety regulations.

The regulated area will encompass a trapezoidal area south of Charleston Harbor entrance lighted buoy 7 (LLNR 2405). Four conspicuous markers will indicate the corners of the regulated area. These regulations prohibit the movement of spectator vessels and other non-participants within the regulated area on September 26, 1998, between 10 a.m. and 2 p.m., at the discretion of the Coast Guard Patrol Commander.

Regulatory Evaluation

This rule is not a major significant regulatory action under section 3(f) of executive order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard

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expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. The regulations will only be in effect for approximately 4 hours on September 26, 1998.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their field, and governmental jurisdictions with populations of less than 50,000.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities because the regulated area would be in effect for only 4 hours in a limited area outside Charleston harbor.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*)

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this proposal, and has determined pursuant figure 2-1, paragraph #34(h) of Commandant Instruction M16475.1C, that this proposal is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available in the docket for inspection and copying.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Temporary Regulations

In consideration of the foregoing, the Coast Guard amends Part 100 of Title 33, Code of Federal Regulations, as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 40 CFR 1.46 and 33 CFR 100.35

2. A new section 100.35T-07-008 is added to read as follows:

§ 100.35T-07-008 Around Alone 1998-99 Sailing Race; Charleston, SC.

(a) *Definitions:*

(1) *Regulated area.* The regulated area includes the waters off Charleston, SC, in an area bounded by four corner points located at 32-42.72N, 79-47.64W; 32-42.09N, 79-46.96W; 32-41.61N, 79-47.28W; and 32-41.78N, 79-48.27W. All coordinates reference Datum: NAD 83. These four points will be conspicuously marked with four markers.

(2) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Group Charleston, SC.

(b) *Special Local Regulations.*

(1) Entry into the regulated area by other than event participants is prohibited, unless otherwise authorized by the Coast Guard Patrol Commander.

(2) The Coast Guard Patrol Commander may delay, modify, or cancel the race as conditions or circumstances require. The Coast Guard Patrol Commander shall monitor the start of the race with the race committee, to allow for a window of opportunity for the race participants to depart the harbor with minimal interference with inbound or outbound commercial traffic.

(3) Spectator and other non-participating vessels may only follow the participants out of Charleston Harbor to the race starting area if they maintain a minimum distance of 500 yards behind the last participant, at the discretion of the Patrol Commander. Upon completion of the start of the race and when the last race participant has passed the outermost boundary of the regulated area, all vessels may resume normal operations.

(c) *Date.* This section becomes effective at 10 a.m. and terminates at 2 p.m. EDT on September 26, 1998.

Dated: June 24, 1998.

Norman T. Saunders,

Rear Admiral, U.S. Coast Guard Commander, Seventh Coast Guard District.

[FR Doc. 98-17651 Filed 7-1-98; 8:45 am]

BILLING CODE 4910-15-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD08-98-034]

RIN 2115-AE46

Special Local Regulations; Head of the Ohio, Allegheny River Mile 0.0-3.3

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

SUMMARY: This notice implements 33 CFR 100.201, "Annual marine events within the Second Coast Guard District", Table One, number 79, listed as "Head of the Ohio". In 1996, the Second Coast Guard District was disestablished, and the Eighth District boundaries were expanded to include the prior Second District area of responsibility. The Eighth District Commander now exercises authority over the combined geographical region. 61 FR 29958 (June 13, 1996). This event will be held on October 3, 1998 at Pittsburgh, Pennsylvania. Implementation of section 33 CFR 100.201 (Table One, 79) is necessary to provide for the safety of life on navigable waters during the event.

DATES: 33 CFR 100.201 (Table One, 79) is effective from 7 a.m. until 6 p.m. on October 3, 1998.

FOR FURTHER INFORMATION CONTACT: LT T.J. Ferring, Marine Safety Office, Pittsburgh, PA, Tel: (412) 644-5808.

SUPPLEMENTARY INFORMATION: The Head of the Ohio is a river festival sponsored by the Pittsburgh Mercy Foundation. These special local regulations permit the Coast Guard to control vessel traffic in order to ensure the safety of spectators and participants. Spectators will be able to view the event from areas designated by the sponsor. Non-participating vessels will be able to transit the area during breaks between scheduled events.

Dated: June 11, 1998.

A.L. Gerfin, Jr.,

Captain, U.S. Coast Guard Commander, 8th Coast Guard Dist. Acting.

[FR Doc. 98-17650 Filed 7-1-98; 8:45 am]

BILLING CODE 4910-15-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[GCD08-98-033]

RIN 2115-AE46

Special Local Regulations; Pittsburgh Three Rivers Regatta Allegheny River Mile 0.0–0.5, Monongehela River Mile 0.0–0.2 and Ohio River Mile 0.0–0.9

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

SUMMARY: This notice implements the special local regulations of 33 CFR 100.201, "Annual marine events within the Second Coast Guard District", Table One, number 47, listed as "Pittsburgh Three Rivers Regatta." In 1996, the Second Coast Guard District was disestablished, and the Eighth District boundaries were expanded to include the prior Second District area of responsibility. The Eighth District Commander now exercises authority over the combined geographical region. 61 FR 29958 (June 13, 1996). This event will be held from 30 July to 2 August 1998 at Pittsburgh, Pennsylvania. Implementation of section 33 CFR 100.201 (Table One, 47) is necessary to provide for the safety of life on navigable waters during the event.

DATES: 33 CFR 100.201 (Table One, 47) is effective on the following dates/times: 8 a.m. until 11 p.m. on July 30, 1998; 8 a.m. until 11 p.m. on July 31, 1998; 8 a.m. until 12 p.m. on August 01, 1998; 8 a.m. until 9 p.m. on August 02, 1998.

FOR FURTHER INFORMATION CONTACT: LT T.J. Ferring, Marine Safety Office, Pittsburgh, PA, Tel: (412) 644–5808.

SUPPLEMENTARY INFORMATION: The Pittsburgh Three Rivers Regatta is an annual river festival sponsored by Three Rivers Regatta Inc. These special local regulations permit the Coast Guard to control vessel traffic in order to ensure the safety of spectators and participants. Spectators will be able to view the event from areas designated by the sponsor. Non-participating vessels will be able to transit the area during breaks between scheduled events.

Dated: June 11, 1998.

A.L. Gerfin, Jr.,

Captain, U.S. Coast Guard, Commander, 8th Coast Guard Dist. Acting.

[FR Doc. 98–17649 Filed 7–1–98; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD08-98-032]

RIN 2115-AE46

Special Local Regulations; Steubenville Regatta, Ohio River Mile 65.0–67.0

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

SUMMARY: This notice implements 33 CFR 100.210, "Annual marine events within the Second Coast Guard District", Table One, number 35, listed as the "10th Annual Steubenville Regatta". In 1996 the Second Coast Guard District was disestablished, and the Eighth District boundaries were expanded to include the prior Second District area of responsibility. The Eighth District Commander now exercises authority over the combined geographical region. 61 FR 29958 (June 13, 1996). This event will be held from August 7 through 9, 1998 in Steubenville, Ohio. Implementation of section 33 CFR 100.201 (Table One, 35) is necessary to provide for the safety of life on navigable waters during the event.

DATES: 33 CFR 100.201 (Table One, 35) is effective on the following dates/times: Aug 7, 1998 from 8 a.m. until 11 p.m.; Aug 8, 1998 from 8 a.m. until 11 p.m.; and Aug 9, 1998 from 8 a.m. until 9 p.m.

FOR FURTHER INFORMATION CONTACT: LT T.J. Ferring, Marine Safety Office Pittsburgh, PA Tel: (412) 644–5808.

SUPPLEMENTARY INFORMATION: The Steubenville Regatta is an annual river festival sponsored by the Steubenville Regatta and Racing Association, Inc. These special local regulations permit the Coast Guard to control vessel traffic in order to ensure the safety of spectators and participants. Spectators will be able to view the event from areas designated by the sponsor. Non-participating vessels will be able to transit the area during breaks between scheduled events.

Dated: June 11, 1998.

A.L. Gerfin, Jr.,

Captain, U.S. Coast Guard, Commander, 8th Coast Guard Dist. Acting.

[FR Doc. 98–17648 Filed 7–1–98; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD08-98-031]

RIN 2115-AE46

Special Local Regulations; Oakmont Yacht Club Regatta Allegheny River Mile 12.0–13.0

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

SUMMARY: This notice implements 33 CFR 100.201, "Annual marine events within the Second Coast Guard District", Table One, number 43, listed as "Oakmont Yacht Club Regatta". In 1996, the Second Coast Guard District was disestablished, and the Eighth District boundaries were expanded to include the prior Second District area of responsibility. The Eighth District Commander now exercises authority over the combined geographical region. 61 FR 29958 (June 13, 1996. This event will be held on July 25 and 26, 1998 in Oakmont, Pennsylvania. Implementation of section 33 CFR 100.201 (Table One, 43) is necessary to provide for the safety of life on navigable waters during the event.

DATES: 33 CFR 100.201 (Table One, 43) is effective on the following dates/times: July 25, 1998 from 8 a.m. to 11 p.m. and July 26, 1998 from 8 a.m. to 9 p.m.

FOR FURTHER INFORMATION CONTACT: LT T.J. Ferring, Marine Safety Office, Pittsburgh, PA Tel: (412) 644–5808.

SUPPLEMENTARY INFORMATION: The Oakmont Yacht Club Regatta is a river festival sponsored by the Oakmont Yacht Club. These special local regulations permit the Coast Guard to control vessel traffic in order to ensure the safety of spectators and participants. Spectators will be able to view the event from areas designated by the sponsor. Non-participating vessels will be able to transit the area during breaks between scheduled events.

Dated: June 11, 1998.

A. L. Gerfin, Jr.,

Captain, U.S. Coast Guard, Commander, 8th Coast Guard District, Acting.

[FR Doc. 98–17647 Filed 7–1–98; 8:45 am]

BILLING CODE 4910–15–M

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DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

[Docket No. 980108007–8131–02]

RIN 0651–AA97

Changes to Continued Prosecution Application Practice

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The Patent and Trademark Office (Office) is confirming the amendment of its regulations that removed the requirement that the prior application of a continued prosecution application (CPA) must have been filed on or after June 8, 1995. This requirement was removed in response to requests from the public.

DATES: This final rule is effective on July 2, 1998. The interim rule, published at 63 FR 5732, was effective February 4, 1998.

Applicability date: This rule change applies to all continued prosecution applications filed on or after December 1, 1997.

FOR FURTHER INFORMATION CONTACT: *Concerning this final rule:* Hiram H. Bernstein or Robert W. Bahr, Senior Legal Advisors, by telephone at (703) 305–9285; or by mail addressed to: Box Comments—Patents, Assistant Commissioner for Patents, Washington, DC 20231; or by facsimile to (703) 308–6916, marked to the attention of Mr. Bernstein.

Concerning § 1.53 in General: John F. Gonzales, Fred A. Silverberg, or Robert W. Bahr, Senior Legal Advisors, at the above-mentioned telephone number.

SUPPLEMENTARY INFORMATION: Continued Prosecution Application (CPA) practice under § 1.53(d) was adopted to permit applicants to obtain further examination of an application. *See Changes to Patent Practice and Procedure;* Final Rule Notice, 62 FR 53131, 53147 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* 63, 76–77 (October 21, 1997). Section 1.53(d) as adopted, effective December 1, 1997, required, *inter alia*, that the prior application of a CPA be filed on or after June 8, 1995. *See* Final Rule Notice, 62 FR at 53186, 1203 *Off. Gaz. Pat. Office* at 112. Thus, if an application was filed before June 8, 1995, the applicant was required to file a continuation (or divisional) under § 1.53(b) to obtain further examination.

Section 1.53(b) requires that any application filed thereunder (including a continuation or divisional) contain a specification (including at least one claim) and any necessary drawing. While § 1.53(b) permits the submission of a rewritten specification (with all prior amendments incorporated), such an option is only practical to those who have the prior application in electronic form. For those applicants who do not have the prior application in electronic form, their only option is to submit a copy of the prior application (including any appendix) along with a copy of all the amendments made in the prior application, as well as copies of all other papers filed in the prior application (e.g., information disclosure statements (IDSs), affidavits, declarations) that are to be considered in the continuing application.

Subsequent to the adoption of the change to § 1.53(d), the Office received a number of comments indicating that it takes a considerable amount of time to prepare the papers required by § 1.53(b), even when copied from a prior application. In view of these concerns, the Office amended § 1.53(d)(1)(i) by an immediately effective interim rule to eliminate its requirement that the prior application of a CPA be filed on or after June 8, 1995, and requested public comment on this interim rule change. *See Changes to Continued Prosecution Application Practice;* Interim Rule Notice, 63 FR 5732 (February 4, 1998), 1207 *Off. Gaz. Pat. Office* 83 (February 24, 1998).

The Office has received a number of comments by telephone expressing support for the change to § 1.53(d)(1)(i), as well as its immediate adoption and applicability to CPAs filed on or after December 1, 1997 (*i.e.*, all CPAs). The Office, however, has received no written comments on the change to § 1.53(d)(1)(i). Accordingly, the change to § 1.53(d)(1)(i) in the interim rule—removal of the requirement that the prior application of a continued prosecution application (CPA) under § 1.53(d) must have been filed on or after June 8, 1995—is adopted as a final rule.

As discussed in the Interim Rule Notice, no patent issuing from a CPA under § 1.53(d) is entitled to the provisions of 35 U.S.C. 154(c). To avoid confusion as to the term of any patent issuing on a CPA, other than an application for a reissue or design patent, of an application filed before June 8, 1995, the Office will include the following notice on any patent, other than a reissue or design, issuing on a CPA:

> This patent issued on a continued prosecution application filed under 37 CFR 1.53(d), and is subject to the twenty-year patent term provisions of 35 U.S.C. 154(a)(2).

The term of a design patent is fourteen years beginning on the date of grant as provided in 35 U.S.C. 173. The term of a reissue patent is the unexpired part of the term of the original patent as provided in 35 U.S.C. 251. Since the term of a reissue or design patent is not affected by the filing of a CPA, the above-mentioned notice will not be printed on any reissue or design patent.

Other Considerations

This final rule is in conformity with the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), Executive Order 12612 (October 26, 1987), and the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). It has been determined that this rulemaking is not significant for the purposes of Executive Order 12866 (September 30, 1993).

This final rule involves a collection of information subject to the Paperwork Reduction Act. This final rule involves the deletion of the requirement which stated that the prior application of a continued prosecution application must have been filed on or after June 8, 1995. This collection of information has been previously approved by the Office of Management and Budget (OMB) under OMB Control Number 0651–0032. The public reporting burden for this collection of information is estimated to average 7.88 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the information. Send comments regarding this burden estimate or any other aspect of the data requirement, including suggestions for reducing the burden to Hiram H. Bernstein or Robert W. Bahr at the address specified above and to the Office of Information and Regulatory Affairs, OMB, 725 17th Street, N.W., Washington, D.C., 20503 (Attn: PTO Desk Officer).

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number.

The principal impact of this final rule is to relieve a restriction in § 1.53(d)(1)(i) to permit applicants to file a CPA in the situation in which the prior application was filed before June 8, 1995.

The Office has determined that this final rule has no Federalism implications affecting the relationship between the National Government and the States as outlined in Executive Order 12612 (October 26, 1987).

List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Courts, Freedom of information, Inventions and patents, Reporting and recordkeeping requirements, Small businesses.

For the reasons set forth in the preamble, the interim rule amending 37 CFR Part 1 which was published at 63 FR 5732–5734 on February 4, 1998, is adopted as a final rule without change.

Dated: June 25, 1998.

Bruce A. Lehman,

Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.

[FR Doc. 98–17632 Filed 7–1–98; 8:45 am]

BILLING CODE 3510–16–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 303

RIN 0970–AB67

Child Support Enforcement Program; Quarterly Wage and Unemployment Compensations Claims Reporting to the National Directory of New Hires

AGENCY: Office of Child Support Enforcement (OCSE), HHS.

ACTION: Final rule.

SUMMARY: This final rule implements section 453A(g)(2)(B) of the Social Security Act (the Act), as added by section 313(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) and amended by section 5533 of Public Law 105–33, section 303(h) of the Act, in part, as amended by section 316(g) of PRWORA, and section 3304(a)(16) of the Internal Revenue Code of 1986, as amended by section 316(g) of PRWORA. These provisions require certain State entities to furnish quarterly wage and unemployment compensation data to the National Directory of New Hires or to the Secretary of Health and Human Services. A Notice of Proposed Rulemaking was published in the **Federal Register** on October 7, 1997 (62 FR 52306).

EFFECTIVE DATE: The final rule is effective August 3, 1998.

FOR FURTHER INFORMATION CONTACT: Anne Benson, Policy Branch, OCSE (202) 401–1467, e-mail: abenson@acf.dhhs.gov. Deaf and hearing-impaired individuals may call the federal Dual Party Relay Service at 1–800–877–8339 between 8:00 a.m. and 7:00 p.m. Eastern time.

SUPPLEMENTARY INFORMATION:

Statutory Authority

This regulation is published under the authority of section 453A(g)(2)(B) of the Social Security Act (the Act), 42 U.S.C. 653A(g)(2)(B), as added by section 313(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Pub. L. 104–193 and amended by section 5533 of Public Law 105–33; section 303(h) of the Act, in part, 42 U.S.C. 503(h), as amended by section 316(g) of PRWORA; and section 3304(a)(16) of the Internal Revenue Code of 1986, 26 U.S.C. 3304(a)(16), as amended by section 316(g) of PRWORA.

This regulation is also issued under the authority granted to the Secretary of Health and Human Services (Secretary) by section 1102 of the Act, 42 U.S.C. 1302. Section 1102 of the Act authorizes the Secretary to publish regulations that may be necessary for the efficient administration of the functions for which she is responsible under the Act.

Section 453A(g)(2)(B) of the Act requires the State Directory of New Hires to furnish, on a quarterly basis, data concerning the wages and unemployment compensation paid to individuals to the National Directory of New Hires. Pursuant to section 453A(g)(2)(B) of the Act, the Secretary of the Department of Health and Human Services is required to publish regulations to identify the dates, format, and data elements necessary for the State Directory of New Hires to furnish the quarterly wage and unemployment compensation data to the National Directory of New Hires.

Section 3304(a)(16) of the Internal Revenue Code of 1986 contains requirements that must be included in State Unemployment Compensation laws for employers in the State to receive Federal Unemployment Tax credits. Section 316(g) of Public Law 104–193 amended section 3304(a)(16) of the Internal Revenue Code of 1986 to provide that the wage and unemployment compensation information contained in the records of the State agency administering that program shall be furnished to the Secretary of Health and Human Services, in accordance with regulations promulgated by the Secretary, as may be necessary for the purposes of the National Directory of New Hires under section 453(i)(1) of the Act. The Secretary will maintain the quarterly wage and unemployment compensation data reported pursuant to section 3304(a)(16) in the National Directory of New Hires (NDNH), which is established pursuant to section 453 of the Act.

Section 303(h)(1)(A) of the Act, as amended by section 316(g) of Public Law 104–193, requires the State agency charged with the administration of the unemployment compensation program, on a reimbursable basis, to disclose quarterly, to the Secretary of Health and Human Services, wage and claim information, as required pursuant to section 453(i)(1) of the Act, that is contained in the records of such agency. As is the case with information reported pursuant to section 3304(a)(16) of the Internal Revenue Code of 1986, the Secretary will maintain any quarterly wage and unemployment compensation data reported pursuant to section 303(h) of the Act in the NDNH. Section 303(h)(3)(A) of the Act defines 'wage information' as "information regarding wages paid to an individual, the social security account number of such individual, and the name, address, State, and the Federal employer identification number of the employer paying such wages to such individual." Section 303(h)(3)(B) defines 'claim information' as "information regarding whether an individual is receiving, has received, or has made application for, unemployment compensation, the amount of any such compensation being received (or to be received by such individual), and the individual's current (or most recent) home address." Title III of the Act, Grants to States for Unemployment Compensation Administration, is directly administered by the Department of Labor. We are referencing section 303(h)(1)(A) of the Act because this provision references information required pursuant to section 453(i)(1) of the Act. Section 453(i)(1) is administered by the Department of Health and Human Services, and the information that is required pursuant to that section (which in turn references information supplied pursuant to section 453A(g)(2)) is established in this rule. The Secretary also adopted the definitions included in section 303(h) in the rule in order to enable the implementation of the provisions in an integrated and complementary manner.

Background

The Federal Parent Locator Service (FPLS) is a computerized network established pursuant to section 453 of the Act, 42 U.S.C. 653, through which States may request information from Federal and State agencies to find noncustodial parents and/or their employers for purposes of establishing paternity and securing support. The

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Personal Responsibility and Work Opportunity Reconciliation Act of 1996 requires the Secretary to develop an expanded FPLS to improve States' ability to locate child support obligors and to establish and enforce child support orders, as well as for other specified purposes in Title IV–D of the Act. The Office of Child Support Enforcement (OCSE), within the Administration for Children and Families (ACF), is charged with the task of developing, implementing, and maintaining the expanded FPLS. The expanded FPLS is housed in the Social Security Administration's National Computer Center, because locating the expanded FPLS there provides the most efficient and cost-effective mechanism for developing the expanded FPLS, as well as ensuring state-of-the-art standards for system security and confidentiality of the data.

The expanded FPLS includes the National Directory of New Hires and a Federal Case Registry (operational no later than October 1, 1998), and maintains the capability to seek information from existing FPLS data sources, including, but not limited to, the Internal Revenue Service, Social Security Administration, Department of Defense, and Department of Veterans Affairs. The expanded FPLS will perform regular cross matches between the National Directory of New Hires and the Federal Case Registry. With these new FPLS resources, the interstate matching of child support obligors and employment, earnings, and benefits data will flow more efficiently and quickly between States.

The NDNH will contain three types of information. First, the NDNH maintains employment data on newly-hired employees (new hire reporting) submitted by State Directories of New Hires pursuant to section 453A(g)(2)(A) of the Act, and by federal agencies pursuant to section 453A(b)(1)(C) of the Act. Second, the NDNH will maintain quarterly wage information on individual employees received pursuant to sections 453A(g)(2)(B) and 303(h) of the Act, and section 3304(a)(16) of the Internal Revenue Code of 1986, as well as quarterly wage information on federal employees received pursuant to 453(n) of the Act. Third, the NDNH will maintain unemployment compensation claims data received pursuant to sections 453A(g)(2)(B) and 303(h) of the Act, and section 3304(a)(16) of the Internal Revenue Code of 1986. States will be required to transmit new hire, quarterly wage and unemployment compensation claims data electronically to the NDNH.

The purpose of the NDNH is to develop a repository of information on newly-hired employees, and on the earnings and unemployment compensation claims data of employees. The purpose of including quarterly wage and unemployment compensation claims data in the NDNH is to provide States with the ability to quickly locate information on the address of, employment of, and unemployment compensation being paid to, parents with child support obligations who are residing or working in other States. States seek to locate these parents and their employers to either establish or enforce a child support order. Quarterly wage and unemployment compensation claims data will provide information on continuously employed and unemployed individuals who would not be located solely by new hire reporting.

Most States have been matching their quarterly wage and unemployment compensation claims data against their respective State child support caseloads since the 1980's. In addition, since 1990 the Federal Parent Locator Service has conducted cross-matches between State child support locate requests and State Employment Security Agencies, although such matches are currently limited to 250,000 cases per State per bi-weekly cross-match. The information generated from cross-matches between quarterly wage, claims and child support data, both at the State level and in the more limited FPLS context, has proven extremely beneficial for the location of child support obligors and their wages. The inclusion of quarterly wage and unemployment compensations claims data in the NDNH will allow for a substantially higher volume of interstate cross-matching than is currently possible.

The Federal Case Registry will be a national registry of individuals involved in child support cases, constructed from abstracts of child support case and order information that State Case Registries will transmit to the Federal Case Registry. The expanded FPLS, through a matching process between NDNH and the Federal Case Registry, will be able to automatically provide States with information on address, employment, and unemployment compensation claims data on parents owing child support. The expanded FPLS will also alert States to other States that have registered the same individual.

In an effort to be responsive to the President's Memorandum of March 4, 1995 to heads of Departments and Agencies which announced a government-wide Regulatory Reinvention Initiative to reduce or eliminate burdens on States, other governmental agencies or the private sector, OCSE formed an FPLS workgroup which held three meetings between September, 1996 and March, 1997. The purpose of the FPLS workgroup is to provide consultation regarding the design, development, and regulatory requirements for the expanded FPLS. This group is comprised of representatives from State Child Support Agencies, State Employment Security Agencies, the Federal Office of Child Support Enforcement, the U.S. Department of Labor, the Social Security Administration, the Interstate Conference of State Employment Security Agencies, employer groups, payroll associations, and other interested individuals. The workgroup members provided information regarding quarterly wage and unemployment compensation claims reporting which was considered in developing these regulations.

Description of Regulatory Provisions

This rule implements the three new statutory wage and unemployment compensation claims reporting requirements by adding a new section, 45 CFR 303.108, "Quarterly Wage and Unemployment Compensations Claims Reporting to the National Directory of New Hires," to existing rules governing the child support enforcement program under Title IV–D of the Act. Although there are three separate reporting provisions, the information required to be reported is substantially the same for all three. Therefore, OCSE addresses the Secretary's responsibilities under all three provisions by a single regulation which permits the quarterly wage and unemployment compensation data required to be furnished under the three provisions to be supplied in a single, quarterly submission. Further, OCSE will consider the reporting requirements to have been satisfied if any one of the required reporting entities submits the information in accordance with the provisions of the regulation. OCSE intends to leave the decision as to which entity will report up to the individual States. Accordingly, the regulation refers to the "State" as the entity that must transmit data to the NDNH. However, if data is not reported as required under the proposed regulation, OCSE will hold the State Title IV–D agency accountable for the failure of the State Directory of New Hires to report as required under section 453A(g)(2)(B). Section 454(28) of the Act, as added by section 313(a) of PRWORA, added a new State plan requirement for Title IV–D agencies to operate a State Directory of New Hires in accordance with section 453A of the Act. The failure to report as required pursuant to section 303(h) of the Act or section 3304(a)(16) of the Internal Revenue Code of 1986 may also result in actions being taken by the Secretary of Labor.

45 CFR 303.108(a) contains definitions designed to clarify quarterly wage and unemployment compensation claims reporting. Paragraph (a)(1) defines "Reporting period" as the time elapsed during a calendar quarter, e.g. January–March, April–June, July–September, October–December. "Wage information" is defined in paragraph (a)(2) as: (1) The name of the employee; (2) the employee's social security number; (3) aggregate wages of the employee during the reporting period; and (4) the name and address (and optionally, any second address for wage withholding purposes) and Federal employer identification number of the employer reporting wages. In the event that an individual is working more than one job, the State must transmit separate quarterly records containing the "wage information" for each job an individual has held. The information being included as wage information is the minimal amount of data needed to meet the purposes of the NDNH. OCSE is requesting data on the names of employees in order to meet the requirements of section 453(j)(1) of the Act, 42 U.S.C. 653(j)(1). Section 453(j)(1) requires the Secretary of Health and Human Services to transmit the information in the NDNH to the Social Security Administration to verify the accuracy of the name, social security number, and birth date of each individual. "Unemployment compensation or claim information" is defined in paragraph (a)(3) as: (1) Whether an individual is receiving, has received or has applied for unemployment compensation; (2) the individual's name and current (or most recent) home address; (3) the individual's social security number; and (4) the aggregate gross amount of compensation the claimant received during the reporting quarter.

Paragraph (b) of 45 CFR 303.108 contains the requirements for quarterly wage and unemployment compensation claims reporting. Under paragraph (b), the State is required to disclose quarterly, to the National Directory of New Hires, wage and claim information, as defined in paragraph (a), that is collected pursuant to a State's unemployment compensation program referenced in Title III of the Act or pursuant to section 1137 of the Act. OCSE does not require the collection or reporting of any additional wage information for purposes of the NDNH beyond that which is currently being collected. Wage and unemployment claim information is currently reported to agencies administering unemployment compensation laws under title III of the Act or to other agencies pursuant to section 1137(a) of the Act as part of the income and eligibility verification program, so paragraph (b) does not impose an additional information requirement. OCSE is also aware that some States' compensation records either do not include employee names or record only a partial set of the letters in the employee's name. Similarly, OCSE is aware that State unemployment compensation laws do not require all employers to report information. In the regulation, the State is only required to supply wage information which is already contained in the records of the State. Therefore, in the case of employee names or wages, a State is required to send us as much information on employee names or wages as exists in the unemployment compensation records, or in the records maintained for purposes of section 1137 of the Act if the information is maintained by another agency. The reference to section 1137 has been included to cover those situations where States have alternate data collection systems to make it clear that the data in such alternate systems is covered by the regulation.

Similarly, the State is only required to supply claim information which is already contained in the records of the State agency administering the unemployment compensation program or the records maintained for purposes of section 1137 of the Act. There is no requirement imposed to collect additional claim information for purposes of the NDNH. In addition, the State is only required to furnish the NDNH with claim information that is processed electronically. OCSE believes that it is neither feasible nor cost effective to require that States transmit claims data for those relatively few benefit programs which are processed manually. State Employment Security Agencies and the Department of Labor have indicated that manually processed claims comprise a very small portion of total claims. We understand that the unemployment compensation programs being administered by States cover any compensation payable under State unemployment compensation law (including amounts payable in accordance with agreements under any Federal unemployment compensation law) and extended benefits, unemployment compensation for Federal employees, unemployment compensation for ex-servicemen, trade readjustment allowances, and disaster unemployment assistance.

45 CFR 303.108(c) sets the time frames for quarterly wage and claims reporting. The State is required to report wage information for the reporting period no later than the end of the fourth month following the reporting period. States will be required to begin reporting on the first reporting date occurring after the final rule becomes effective. However, the NDNH will accept earlier reports, beginning with those for the July–September 1997 reporting period and States are encouraged to begin submitting reports as early as possible. Currently, State laws generally allow employers one month following the reporting period to report quarterly wages to the State agency administering the unemployment compensation program. We believe that the time frame for States to report wage information to the Secretary for the purposes of the NDNH will ensure that States have adequate time to enter, edit, and transmit wage information to the Secretary. Given the necessity and importance of maintaining accurate wage data in the NDNH, the schedule for reporting allows States ample time to work with employers to correct inaccurate wage reports and to submit complete and comprehensive wage information on employees within a State.

The State is required to report claim information for the reporting period no later than the end of the first month following the end of the reporting period. The State is required to begin the reporting of claim information on the first reporting date occurring after the final rule becomes effective. However, the NDNH will accept earlier reports, beginning with those for the October–December 1997 reporting period and States are encouraged to begin submitting reports as early as possible. We believe that a shorter time frame for submitting claim information, as opposed to wage information, is appropriate because the State agency charged with administering the unemployment compensation program maintains this data on an ongoing basis. Also, as noted above, the collection of wage information lags behind the collection of claim information because of the time required to ensure that wage information submitted is accurate.

In order to ensure the effective implementation of the NDNH, the Secretary planned a staggered schedule for initial data submissions to the NDNH. The reporting of new hire data began on October 1, 1997, to be

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followed by initial quarterly wage and claims information submissions on January 31, 1998 or the first reporting date after the final rule becomes effective. For this reason, the Secretary will allow that the earliest claims information be submitted for the period beginning October–December, 1997, rather than July–September, 1997.

45 CFR 303.108(d) provides that the Secretary will establish standardized formats for reporting quarterly wage and claim information and that the States will be required to adhere to such formats for reporting purposes. The formats identify the data elements, descriptions and tape specifications for reporting quarterly wage and claim information. These formats were published in the **Federal Register** for comment on July 25, 1997 (62 FR 40092).

Response to Comments

In response to the Notice of Proposed Rulemaking published October 7, 1997, in the **Federal Register** (62 FR 52306) we received thirteen comments from six commenters, representing State IV–D agencies, State Employment Security Agencies/State Departments of Labor and one Federal Agency. The comments and our responses are as follows:

1. Comment: One commenter stated that, under 45 CFR 303.108(b), there are large programming costs associated with submission of quarterly wage and unemployment insurance claim data because the information, while available in the State Department of Labor's records, is not all in one place or in the required formats for submission to the National Directory of New Hires. The commenter stated that the costs for the extraction, formatting and transmission of the data are not reimbursable from Unemployment Compensation grant money. Their recommendation is that there be reimbursement for all legitimate costs based on actual costs, not an arbitrary figure. Another commenter believes that this is an unfunded mandate because states are required to submit information "electronically." They believe that there is no provision for the costs associated with electronic submission.

Response: Section 453(g) of the Act states that "The Secretary may reimburse Federal and State agencies for the costs incurred by such entities in furnishing information requested by the Secretary under this section in an amount which the Secretary determines to be reasonable payment for the information exchange (which amount shall not include payment for the costs of obtaining, compiling, or maintaining the information)." OCSE is requesting that States submit an itemized list of projected costs for extraction and transmission of the required data. These will consist of both initial costs for programming and ongoing costs for transmission. OCSE will then be able to respond specifically to requests for reimbursement, and is planning to reimburse States for reasonable direct costs for extraction, formatting and transmission. OCSE has also offered on-site technical assistance to complete the required programming, and has provided skeleton code programs to all the States in order to assist with the programming changes.

2. Comment: One commenter stated that the source for estimates of the burden on the States is not clearly presented and that the impact on the States in terms of hours spent is "grossly underestimated." The commenter stated that their start up burden is underestimated and that the annual reporting estimate "will not begin to cover the time necessary." They also said they have spent a great deal of time reviewing materials sent out by OCSE. A second commenter also took issue with the burden time estimates and pointed out that any time spent diverts resources from Year 2000 projects.

Response: The time estimates in the Rule are based on industry practices and on information from the Social Security Administration. Detailed estimates were presented in the Paperwork Reduction Act package approved as of November 26, 1997 (OMB control number 0970–0166.) There are burdens for start-up programming, but OCSE has tried to do everything possible to minimize these burdens; for instance by providing on-site technical assistance if requested and by providing on-going technical support by telephone, as well as skeleton code programs to assist with programming changes. The burden estimates are based on the assumption that once the program is in place, extraction and transmission of the data can be done on an almost entirely automated basis, requiring little or no human intervention. Materials sent out by OCSE were meant to reduce the burden on the states by answering commonly asked questions, giving further explanations of program requirements, and providing technical information and assistance.

3. Comment: The commenter states that there is ambiguity in the first paragraph of the *Description of Regulatory Provisions.* They indicate that the phrase "the three new statutory reporting requirements" might be interpreted to refer to New Hire, Quarterly Wage and Unemployment Insurance. The commenter then points out that the rule only defines reporting requirements with respect to Quarterly Wage and Unemployment Insurance. The commenter's recommendation is that it be made more clear that this rule does not address New Hire reporting requirements. They also suggest that the Rule ought to indicate where New Hire reporting provisions are located.

Response: The phrase "the three new statutory reporting requirements" refers to the code sections cited in the first paragraph under *Statutory Authority,* all of which relate to Quarterly Wage and Unemployment Insurance reporting. It is understandable that this reference may be confusing, so we have added semi-colons between the three cites in that section. We have also revised the phrase to read "the three new statutory wage and unemployment claims reporting requirements". It is also made clear within the body of the commentary that Quarterly Wage and Unemployment Insurance reporting are the areas covered by the rule. As this rule relates only to Quarterly Wage and Unemployment Insurance, it is not appropriate to give a reference to a third program in the body of the rule.

4. Comment: Two commenters stated that, while it is clear from the description section, the rule itself is not sufficiently clear that the State is not required to collect additional information to fulfill the requirements of the rule. One commenter also wished to point out that OCSE does not have the authority to propose collection of additional information by State Employment Security Agencies. The recommendation is that the rule be clarified.

Response: We believe that 303.108(b) makes it clear that the States are to report information "that is collected pursuant to a State's unemployment compensation program." The rule does not call for a State to collect any additional information.

5. Comment: One commenter noted the differences in time frames between quarterly wage information and unemployment insurance information (four months after the end of the reporting quarter and one month after the end of the reporting quarter, respectively). The commenter stated that it is their understanding that this time does not imply that the States must undertake any new processing effort. A second commenter believes that four months is too long to allow for submission, and that the data will be stale after that amount of time.

Response: The key considerations in determining the time period for reporting quarterly wages were accuracy and timeliness. Currently, State laws generally allow employers one month following the reporting period to report quarterly wages to the State agency administering the unemployment compensation program. The time period for reporting quarterly wages was determined so that States would have adequate time to input, extract, format and edit the information. Given the necessity and importance of maintaining accurate wage data in the NDNH, the schedule for reporting ensures that States have time to work with employers to correct inaccurate wage reports and to submit complete and comprehensive wage information on employees within a State. In response to the one comment that the time period is too long, it is important to remember that quarterly wage information exists for individuals who have been employed at the same job for a period of time. New hire reporting will provide States with data on newly-employed individuals within approximately a month or less from the date of hire (exact time depends on State law).

6. Comment: One commenter pointed out that while the State Departments of Labor are responsible for collecting and reporting this data, the child support agency is held accountable if the Department of Labor does not comply. The commenter pointed out that this may be beyond their control.

Response: Both agencies will be held accountable for failure to comply. The child support agency will be held accountable through the State Plan process. Under section 454(28) of the Act, the State Plan must provide for the operation of a State Directory of New Hires (SDNH). Section 453A(g)(2)(b) requires the SDNH to transmit quarterly wage and unemployment insurance information to the NDNH. Thus, the child support statute directly places the responsibility for reporting the necessary information on the SDNH. Failure to report could result in disapproval of the State Plan, and put federal funding of the State program at risk.

Similarly, section 3304(a)(16) of the Internal Revenue Code of 1986 contains requirements that must be included in State Unemployment Compensation laws for employers in the State to receive Federal Unemployment Tax credits. Section 316(g) of Public Law 104–193 amended section 3304(a)(16) of the Internal Revenue Code of 1986 to provide that the wage and unemployment compensation information contained in the records of the State agency administering that program shall be furnished to the Secretary of Health and Human Services, in accordance with regulations promulgated by the Secretary, as may be necessary for the purposes of the NDNH under section 453(i)(1) of the Act. Thus, the State Employment Security Agency may lose its certification by the Secretary of Labor for failure to submit the required information.

The provision of quarterly wage and unemployment insurance information to the NDNH is anticipated to be a cooperative effort between two agencies; in some States the information will be provided by one agency and submitted by another. Both agencies will by held accountable.

7. Comment: One commenter pointed out that the rule does not address the fundamental issues of confidentiality and security of the data to be provided.

Response: Under section 453A(g)(2)(B) the Secretary of the Department of Health and Human Services is required to identify the dates, format, and data elements necessary for quarterly wage and unemployment compensation data. In coordination with the President's Regulatory Reinvention Initiative, OCSE's intent is only to regulate where required by statute, thus reducing the regulatory burden on states; therefore the rule only covers the required areas. However, OCSE is committed to the confidentiality and security of data under this program, and is required to guarantee its "integrity and security" under section 453(m) of the Act. Our security approach covers policies and procedures, computer and data transmission systems, physical access, and the integrity of the staff who have access to the data or systems.

Only authorized persons, as defined in Federal law, may request access to information in the NDNH. (*See sections* 453 and 463 of the Act.) In accordance with section 453(b)(2) of the Act, the security plan for the NDNH incorporates specific safeguards to prevent the disclosure of information in cases where domestic violence is indicated and disclosure could be harmful to the parent or child, or where disclosure would contravene national policy or security interests, or to protect the confidentiality of census data.

The NDNH is physically housed at the Social Security Administration's (SSA) National Computer Center (NCC) in Baltimore, MD. SSA takes extensive measures to ensure the physical and electronic security of its data processing facilities. SSA uses state of the art technology to restrict physical and electronic access to information, limiting it to personnel specifically authorized by OCSE and SSA and to specific functions. New Hire, Quarterly Wage and Unemployment Insurance data are transmitted to the NDNH via several methods, including SSA's leased-line CONNECT:Direct network and transportable electronic media, such as cartridge tapes. While the measures vary according to the transmission method, OCSE and SSA have taken specific steps to ensure the security of data during transmission, including a clear chain of custody and secure locked storage for physical media.

The NCC is regularly reviewed and monitored by outside security auditors who report any concerns, violations or breaches in security to SSA's Security Officer. Staff who have access to sensitive data are assigned security level designations. In addition, all staff associated with the NDNH are required to undergo background checks. Staff sign non-disclosure agreements, and are subject to fines and imprisonment for misuse of data. (*See* 5 U.S.C. sec 552a(i) and 18 USC sec 1905.)

States are required by law to implement safeguards that are similar to those at SSA and OCSE under section 454A(d) of the Act. These are designed to protect the privacy rights of individuals, and prevent the unauthorized disclosure of information. State agencies and systems are audited, reviewed, or certified by a variety of Federal agencies including the Internal Revenue Service, Department of Labor, DHHS' Office of State Systems, and SSA. SSA and NDNH security plans fully document the approach summarized here.

8. Comment: One commenter stated that the rule fails to address the right to privacy of individuals whose information is to be disclosed, especially privacy of social security numbers.

Response: OCSE recognizes that the right to privacy is of the utmost importance, not only in regards to social security numbers, but for all the information that is to be reported to the expanded Federal Parent Locator Service. For that reason access to the information in the database is very strictly limited (see section 453(m) of the Act.) While it would be optimal if social security numbers did not need to be disclosed, it would not be possible to obtain the necessary accuracy of data without social security numbers. This is especially true because some States do not collect the individual's name at all for quarterly wage, so a social security number is the only identifier for the individual. The number is absolutely essential for the program to function, and every precaution is being taken to

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be sure that the information is kept confidential.

9. Comment: One commenter stated that the definitions given are inconsistent with existing income eligibility and verification system data element definitions, and that any rules should be issued jointly with the Federal Department of Labor in order to ensure consistency.

Response: The definitions, while worded slightly differently and in slightly different order, are consistent with the definitions under the Income Eligibility Verification System. Any differences have more to do with the required reporting period than any difference in intent. If anything, the definitions given in this rule are more specific. For instance, this rule asks for "aggregate gross amount of compensation the claimant received during the reporting quarter" rather than "the amount of compensation the individual is receiving or entitled to receive." Under 453A(g)(2)(B) of the Act, the Secretary of the Department of Health and Human Services is required to issue the rule.

Paperwork Reduction Act of 1995

Sections 453A(g)(2)(B) and 303(h) of the Act and section 3304(a)(16) of the Internal Revenue Code of 1986 contain information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), this request for approval of a new information collection has been approved by Office of Management and Budget as of November 26, 1997 under OMB control number 0970–0166.

Because all quarterly wage and unemployment compensation claims data will be reported from the State to the NDNH electronically and will be limited to data already being collected, the burden on the States will be minimal. The average burden per response is estimated to be 2 minutes (.03 hours). States may also have a one-time initial start-up burden of two weeks (80 hours) for reprogramming their systems to comply with Federal reporting requirements. The total annual reporting and recordkeeping burden that will result from the collection of information is estimated to be 7.13 hours.

Regulatory Flexibility Analysis

The Secretary certifies, under 5 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that this rule will not result in a significant impact on a substantial number of small entities. The primary impact is on State governments. State governments are not considered small entities under the Act.

Executive Order 12866

Executive Order 12866 requires that regulations be reviewed to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that this rule is consistent with these priorities and principles. The rule implements the statutory provisions by specifying the wage and unemployment compensation claims information that must be reported to the Secretary of Health and Human Services.

Unfunded Mandates Act

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that a covered agency prepare a budgetary impact statement before promulgating a rule that includes any Federal mandate that may result in the expenditure by state, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year.

The Department has determined that this rule would not impose a mandate that will result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of more than $100 million in any one year.

List of Subjects in 45 CFR Part 303

Child support, Grant programs/social programs, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Programs No. 93.563, Child Support Enforcement Program)

Dated: March 18, 1998.

Olivia A. Golden,

Assistant Secretary for Children and Families.

Approved: April 28, 1998.

Donna E. Shalala,

Secretary, Department of Health Human Services.

For the reasons discussed above, title 45 CFR Chapter III is amended as follows:

PART 303—STANDARDS FOR PROGRAM OPERATIONS

1. The authority citation of Part 303 continues to read as follows:

Authority: 42 U.S.C. 651 through 658, 660, 663, 664, 666, 667, 1302, 1396a(a)(25), 1396(d)(2), 1396b(o), 1396b(p) and 1396(k).

2. A new § 303.108 is added to read as follows:

§ 303.108 Quarterly wage and unemployment compensation claims reporting to the National Directory of New Hires.

(a) What definitions apply to quarterly wage and unemployment compensation claims reporting? When used in this section:

(1) *Reporting period* means time elapsed during a calendar quarter, e.g. January–March, April–June, July–September, October–December.

(2) *Wage information* means:

(i) The name of the employee;

(ii) The social security number of the employee;

(iii) The aggregate wages of the employee during the reporting period; and

(iv) The name, address (and optionally, any second address for wage withholding purposes), and Federal employer identification number of an employer reporting wages.

(3) *Unemployment compensation or claim information* means:

(i) Whether an individual is receiving, has received or has applied for unemployment compensation;

(ii) The individual's name and current (or most recent) home address;

(iii) The individual's social security number; and

(iv) The aggregate gross amount of compensation the claimant received during the reporting quarter.

(b) What data must be transmitted to the National Directory of New Hires?

The State shall disclose quarterly, to the National Directory of New Hires, wage and claim information as defined in paragraph (a) of this section that is collected pursuant to a State's unemployment compensation program referenced in Title III of the Act or pursuant to section 1137 of the Act.

(c) What time frames apply for reporting quarterly wage and unemployment compensation claims data?

The State shall report wage information for the reporting period no later than the end of the fourth month following the reporting period. The State shall report claim information for the reporting period no later than the end of the first month following the reporting period.

(d) What reporting formats will be used for reporting data?

The State must use standardized formats established by the Secretary of Health and Human Services for reporting wage and claim information.

[FR Doc. 98–17652 Filed 7–1–98; 8:45 am]

BILLING CODE 4184–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 96–128; DA 98–1198]

Pay Telephone Reclassification and Compensation Provisions of the Telecommunciations Act of 1996

AGENCY: Federal Communications Commission.

ACTION: Request for comments pursuant to court decision.

SUMMARY: This document seeks further comment on certain issues raised by the May 15, 1998 decision of the United States Court of Appeals for the District of Columbia Circuit in *MCI Telecommunications Corporation, et al.* v. *FCC*. The Court of Appeals decision related to the Commission's Second Report and Order on pay telephone reclassification and compensation provisions.

DATES: Comments are due on or before July 13, 1998, and reply comments are due on or before July 27, 1998.

ADDRESSES: Federal Communications Commission, Room 222 , 1919 M St., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Greg Lipscomb, Formal Complaints and Information Branch, Enforcement Division, Common Carrier Bureau. (202)418–0960.

SUPPLEMENTARY INFORMATION: In *MCI Telecommunications Corporation, et al.* v. *FCC* ("*MCI* v. *FCC*"),[1] the court held that the Commission failed to explain, in its *Second Order*,[2] published on October 30, 1997, at 62 FR 58659, why a market-based rate for coinless calls could be derived by subtracting avoided costs from a market rate charged for coin calls.[3] In light of the court's decision in *MCI* v. *FCC*, we seek comment on competition in the payphone market since the deregulation of payphones and the impact of deregulation on the local coin rate. To that end, we seek comment and evidence on whether the local coin rate reflects competitive market conditions and the extent to which costs and rates converge in the coin call market. We also seek comment on the similarities and differences between the market segments for coin and coinless calls and the factors attributable to these similarities and differences, including the use of payphones to initiate both types of calls. We further seek comment on whether, and how, the distinctions between these market segments should affect the determination of a reasonable default compensation amount for coinless calls. Parties should address any market imperfections that might affect the use of the local coin rate as a market-based surrogate for coinless calls, including locational monopolies, and limitations on the use of pennies in payphones.

The *Second Order* concluded that coin and coinless calls share certain joint and common costs, because each type of call generally uses the same piece of equipment. Therefore, we seek comment on the reasonableness of adjusting the local coin rate for cost differences between providing coin and coinless calls as a market-based mechanism for deriving fair compensation for coinless calls. We ask that parties respond specifically to the concerns raised by the court in establishing the appropriate per-call compensation amount using this approach. We also seek comment on other market-based methodologies that could be used to establish a per-call compensation rate for coinless calls. In suggesting alternative market approaches, parties should address, for example, how a payphone service provider would use the market-based approach to set a price for coinless calls in a deregulated market when providing a number of related types of services using substantially the same payphone equipment.

We will incorporate in this proceeding the comments and reply comments filed in the *Second Order* proceeding and in response to petitions for reconsideration of the *Second Order*. Parties may also file additional information regarding specific payphone costs for providing coinless calls and the differences in costs for providing coin calls.

Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments with the Office of the Secretary, Federal Communications Commission, Room 222, 1919 M St. NW, Washington, DC 20554 on or before July 13, 1998, and reply comments on or before July 27, 1998. To file formally in this proceeding, participants must file an original and four copies of all comments, reply comments, and supporting comments. In addition, parties should file two copies of any such pleadings with the Chief, Enforcement Division, Common Carrier Bureau, Stop 1600A, Room 6008, 2025 M Street, NW, Washington, DC 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 1231 20th Street, NW, Washington, DC 20036. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, DC.

Federal Communications Commission.

Kathryn C. Brown,

Chief, Common Carrier Bureau.

[FR Doc. 98–17830 Filed 7–1–98; 8:45 am]

BILLING CODE 6712–01–P

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[1] *MCI* v. *FCC*, No. 97–1675, slip op. (D.C. Cir. May 15, 1998).

[2] Implementation of Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, Second Report and Order, CC Docket No. 96–128, 62 FR 58659 (October 30, 1997), 13 FCC Rcd 1778 (1997) ("Second Order").

[3] *MCI* v. *FCC*, slip op. at 5.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–40; RM–9240]

Radio Broadcasting Services; Gurdon, AR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a petition for rule making filed on behalf of PGR Communications, Inc., licensee of Station KYXK(FM), Channel 224A, Gurdon, Arkansas, this document substitutes Channel 295A for Channel 224A at Gurdon and modifies the license for Station KYXK(FM), as requested. The modification will enable Station KYXK(FM) to improve its Class A facilities to six kilowatts and expand its coverage area. *See* 63 FR 17799, April 10, 1998. With this action, the proceeding is terminated.

EFFECTIVE DATE: August 10, 1998.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 98–40, adopted June 17, 1998, and released June 26, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 reads as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arkansas is amended by removing Channel 224A and adding Channel 295A at Gurdon.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–17552 Filed 7–1–98; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–51; RM–9241]

Radio Broadcasting Services; Salmon, ID

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 233A to Salmon, Idaho, as that community's second local FM transmission service, in response to a petition for rule making filed on behalf of Alpine Broadcasting Limited Partnership. *See* 63 FR 19700, April 21, 1998. Coordinates used for Channel 233A at Salmon, Idaho, are 45–10–30 and 113–53–42. With this action, the proceeding is terminated.

DATES: Effective August 10, 1998. A filing window for Channel 233A at Salmon, Idaho, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a separate Order.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180. Questions related to the application filing process for Channel 233A at Salmon, Idaho, should be addressed to the Audio Services Division, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 98–51, adopted June 17, 1998, and released June 26, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 reads as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Idaho, is amended by adding Channel 233A at Salmon.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–17551 Filed 7–1–98; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–236; RM–9186]

Radio Broadcasting Services; Point Arena, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 296B1 to Point Arena, California, in response to a petition for rule making filed on behalf of Point Broadcasting, one of two applicants for Channel 272B1 at Point Arena, to resolve the mutual exclusivity, and to provide a second local FM service to that community. See 62 FR 65782, December 16, 1997. Petitioner is permitted to amend its pending application for Channel 272B1 at Point Arena (File No. BPH–940223MC) to specify operation on Channel 296B1 while retaining its cut-off protection. Coordinates used for Channel 296B1 at Point Arena are 38–54–42 North Latitude and 123–41–24 West Longitude. With this action, the proceeding is terminated.

EFFECTIVE DATE: August 10, 1998.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 97–236, adopted June 17, 1998, and released June 26, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 reads as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under California, is amended by adding Channel 296B1 at Point Arena.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–17550 Filed 7–1–98; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–31, RM–9227]

Radio Broadcasting Services; Johnstown and Altamount, NY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document reallots Channel 285A from Johnstown to Altamount, New York, and modifies the Station WSRD license to specify operation on Channel 285A at Altamount, New York. *See* 63 FR 13158, March 18, 1998. The reference coordinates for Channel 285A at Altamount, New York, are 42–38–07 and 74–04–30. With this action, the proceeding is terminated.

EFFECTIVE DATE: August 14, 1998.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau (202) 418–2177.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order* adopted June 24, 1998, and released June 29, 1998. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3805, 1231 M Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under New York, is amended by removing Channel 285A at Johnstown, and adding Channel 285A at Altamount.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–17549 Filed 7–1–98; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 971208298–8055–02; I.D. 062498A]

Fisheries of the Exclusive Economic Zone Off Alaska; Trawl Rockfish Fisheries in the Bering Sea and Aleutian Islands

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Modification of a closure.

SUMMARY: NMFS is terminating the closure to directed fishing for rockfish with trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to allow the directed fishery for rockfish with trawl gear to occur consistent with the specified halibut mortality allowance.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 1, 1998.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907–586–7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 1998 prohibited species bycatch mortality allowance of halibut for the BSAI trawl rockfish fishery category, which is defined at § 679.21(e)(3)(iv)(D), was established as 69 mt by the Final 1998 Harvest Specifications of Groundfish for the BSAI (63 FR 12689, March 16, 1998). The halibut bycatch allowance to the rockfish fishery was apportioned in a manner that prevented a directed rockfish fishery from opening until July 1, 1998. Therefore, in accordance with § 679.21(e)(7)(iv), which has been renumbered as § 679.21(e)(7)(v), the directed fishery for rockfish with trawl gear in the BSAI was closed at the beginning of the fishing year (63 FR 12698, March 16, 1998). NMFS now is terminating the previous closure and is opening directed fishing for rockfish by vessels using trawl gear in the BSAI, effective 1200 hrs, A.l.t., July 1, 1998. All other closures remain in full force and effect.

The public is reminded that the Regional Administrator has determined that the total allowable catch amounts remaining for Pacific ocean perch, "other rockfish", and "other red rockfish" in the Bering Sea subarea (BS); and sharpchin/northern rockfish, shortraker/rougheye rockfish, and "other rockfish" in the Aleutian Islands subarea (AI) are necessary as incidental catch to support other anticipated groundfish fisheries for the 1998 fishing year. In accordance with § 679.20(d)(1)(iii) NMFS prohibited directed fishing for these species effective through 2400 hrs, A.l.t., December 31, 1998. (63 FR 12698, March 16, 1998)

Classification

Because this action relieves a restriction, the 30-day delayed effectiveness provision of the Administrative Procedure Act does not apply.

This action is required by § 679.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 26, 1998.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–17668 Filed 6–29–98; 3:18 am]

BILLING CODE 3510-22-F

Proposed Rules

Federal Register
Vol. 63, No. 127
Thursday, July 2, 1998

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 958

[Docket No. FV97–958–2 PR]

Onions Grown in Certain Designated Counties in Idaho, and Malheur County, Oregon, and Imported Onions; Proposed Increase in Grade Requirement for White Onions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the minimum grade requirement for white onion varieties handled under the Idaho-Eastern Oregon onion marketing order from U.S. No. 2 or U.S. Commercial to U.S. No. 1. The marketing order regulates the handling of onions produced in certain designated counties in Idaho, and Malheur County, Oregon, and is administered locally by the Idaho-Eastern Oregon Onion Committee (Committee). This rule would improve the marketing of white onions and increase returns to producers, as well as provide consumers with higher quality onions. As provided under section 8e of the Agricultural Marketing Agreement Act of 1937, the proposed increase in the minimum grade requirement would also apply to all imported varieties of white onions.

DATES: Comments must be received by August 31, 1998.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 205–6632. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Robert J. Curry, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, room 369, Portland, Oregon 97204–2807; telephone: (503) 326–2724, Fax: (503) 326–7440; and George J. Kelhart, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone (202) 720–2491, Fax: (202) 205–6632. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone (202) 720–2491, Fax: (202) 205–6632.

SUPPLEMENTARY INFORMATION: This proposal is issued under Marketing Agreement No. 130 and Marketing Order No. 958, both as amended (7 CFR part 958), regulating the handling of onions grown in certain designated counties in Idaho, and Malheur County, Oregon, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

This proposed rule is also issued under section 8e of the Act, which provides that whenever certain specified commodities, including onions, are regulated under a Federal marketing order, imports of these commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodities.

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This proposal has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This proposal would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after date of the entry of the ruling.

There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of import regulations issued under section 8e of the Act. This proposal invites comments on an increase in the minimum grade requirement for white onion varieties grown in the defined production area and handled under order authority. This proposed rule, unanimously recommended by the Committee at its June 19, 1997, meeting, would require that all white onion varieties handled be U.S. No. 1 grade. The current regulations allow the handling of white onions of U.S. No. 2, U.S. Commercial, and U.S. No. 1 grades. As provided under section 8e of the Agricultural Marketing Agreement Act of 1937, the proposed increase in the minimum grade requirements would also apply to all imported varieties of white onions.

Sections 958.51 and 958.52 of the order provide authority for the establishment and modification of regulations applicable to the handling of particular grades of onions. Section 958.328(a)(1) establishes the grade requirements for white onions handled subject to the Idaho-Eastern Oregon onion marketing order. Such grade requirements are based on the U.S. Standards for Grades of Onions (Other than Bermuda-Granex-Grano and Creole Types) (7 CFR part 51.2830 *et seq.*), or the U.S. Standards for Grades of Bermuda-Granex-Grano Type Onions (7 CFR part 51.3195 *et seq.*). Currently, these handling regulations require that white onion varieties shall be (1) U.S.

No. 2 or U.S. Commercial, 1 inch minimum to 2 inches maximum diameter; or (2) U.S. No. 2 or U.S. Commercial, if not more than 30 percent of the lot is comprised of onions of U.S. No. 1 quality, and at least 1½ inches minimum diameter; or (3) U.S. No. 1, at least 1½ inches minimum diameter. The regulations further specify that none of these three categories may be commingled in the same bag or other container.

This proposed rule would require that all bags or other containers of white onion varieties shipped subject to order requirements be either: (1) U.S. No. 1, 1 inch minimum to 2 inches maximum diameter; or (2) U.S. No. 1, at least 1½ inches minimum diameter. Commingling of these two categories would not be allowed. Current exemptions under the order for special purpose shipments in section 958.328(e), and shipments qualifying for a minimum quantity exemption in section 958.328(g), would continue to apply when applicable.

The Committee justification for its recommendation indicated that shipments of U.S. No. 2 and U.S. Commercial grade white onions have had a negative impact on producer returns and have been a factor in decreasing this industry's share of the fresh domestic white onion market. In addition, the Committee stated that consumers of white onions traditionally demand a quality product and that U.S. No. 2 and U.S. Commercial grade white onions have poor consumer acceptance.

The Committee stated that producers seldom profit from U.S. No. 2 or U.S. Commercial grade white onion sales, and as a consequence, common business practice for many is to discard such onions as culls following harvest. Based upon comments made by handlers and receivers of white onions, the Committee reported that shipments of low quality U.S. No. 2 and U.S. Commercial grade white onions have a depressing influence on the price of the higher quality U.S. No. 1 grade white onions. The Free-on-Board (FOB) price for U.S. No. 2 white onions usually runs about one-half the FOB price on U.S. No. 1 white onions reflecting the weak demand for U.S. No. 2 white onions in fresh markets. Moreover, over the last several years there has been increased competition from white onions grown in Nevada, Washington, Colorado, and Utah. The quality produced and marketed from those States is excellent. Thus, a higher grade for white onions grown in Idaho-Eastern Oregon should help this industry compete more effectively and increase demand through stronger confidence in the quality of Idaho-Eastern Oregon white onions.

Between the 1986/87 and the 1996/97 marketing seasons, an annual average of 336,000 hundredweight of white onions, representing 3.9 percent of the total of all onion varieties, has been shipped from the Idaho-Eastern Oregon production area. The annual average of all Idaho-Eastern Oregon onion shipments for this period, including white, yellow, and red onion varieties, is 9,517,500 hundredweight. During the same period of time, shipments of Idaho-Eastern Oregon U.S. No. 2 white onions averaged 3,807 hundredweight per year, or approximately an annual average of 1.2 percent of white Idaho-Eastern Oregon onion shipments and an annual average of .04 percent of all Idaho-Eastern Oregon onion shipments. The majority, or nearly 99 percent, of the white onions shipped from this production area are U.S. No. 1 grade. Onions from the Idaho-Eastern Oregon production area are shipped throughout most of the year. Most Idaho-Eastern Oregon white onions are marketed during the months of September, October, and November, with significant additional volume through February. Preliminary information pertaining to the 1998/99 shipping season indicates that the FOB price for onions this season could average $13.10 per hundredweight.

As mentioned earlier, section 8e of the Act requires that when certain domestically produced commodities, including onions, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements. Section 8e also provides that whenever two or more marketing orders regulating the same commodity produced in different areas of the United States are concurrently in effect, a determination must be made as to which of the areas produces the commodity in most direct competition with the imported commodity. Imports must then meet the requirements established for that particular area.

Grade, size, quality, and maturity regulations have been issued regularly under both Marketing Order No. 958 and Marketing Order No. 959, which regulates the handling of onions grown in South Texas, since the marketing orders were established. The current import regulation specifies that import requirements for onions are to be based on the seasonal categories of onions grown in both marketing order areas. The import regulation specifies that imported onions must meet the requirements of the Idaho-Eastern Oregon onion marketing order during the period June 5 through March 9 and the South Texas onion marketing order during the period March 10 through June 4 each season. This proposal would change the import requirements for the period June 5 through March 9 of each marketing year to provide that all imported white onion varieties must be U.S. No. 1 grade. While no changes are required in the language of section 980.117, all white onion varieties imported during this period would be required to meet the modified grade requirement.

White onions are imported into the United States throughout the year from a number of different countries. By far the largest source of all imported onions is Mexico. Mexican white onions enter the United States from November through July, with the heaviest volumes moving during the months of December through April. The annual average volume of all Mexican onions imported into the United States between 1986 and 1996 was 3,333,150 hundredweight, while the annual average volume for all imported onions from all sources during the same period was 4,040,004 hundredweight.

Other sources of imported onions are Canada, Chile, New Zealand, France, Guatemala, Belgium, Morocco, and the Netherlands. In 1996 and 1997, imports from Canada totaled 654,728 hundredweight and 498,950 hundredweight, imports from Chile totaled 139,927 hundredweight and 85,914 hundredweight, and those from New Zealand totaled 13,007 hundredweight and 20,172 hundredweight. During those two years, onion imports from France totaled 82,034 hundredweight and 102,956 hundredweight, imports from Guatemala were 32,540 hundredweight and 32,474 hundredweight, imports from Belgium totaled 1,565 hundredweight and 2,386 hundredweight, Moroccan imports totaled 287 hundredweight and 948 hundredweight, and imports from the Netherlands during 1996 and 1997 totaled 26,852 and 26,544 hundredweight, respectively.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact this action would have on small entities. Accordingly, the AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are

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unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

Import regulations issued under the Act are based on those established under Federal marketing orders which regulate the handling of domestically produced products.

There are approximately 35 handlers of Idaho-Eastern Oregon onions who are subject to regulation under the order and approximately 260 onion producers, including approximately 80 producers of white onions, in the regulated area. In addition, approximately 150 importers of onions are subject to import regulations and could be affected by this proposed rule. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000. Approximately 90 percent of the handlers and 70 percent of the producers of Idaho-Eastern Oregon white onions may be classified as small entities. Although it is not known how many importers of white onions may be classified as small entities, it can be assumed that a number of the 150 importers could be classified as such.

This proposal invites comments on an increase in the minimum grade requirement for white onion varieties grown in the defined production area and handled under order authority. This proposed rule, unanimously recommended by the Committee at its June 19, 1997, meeting, would require that all white onion varieties handled be U.S. No. 1 grade. The current regulations allow the handling of U.S. No. 2 grade and U.S. Commercial grade white onions as well. As provided under section 8e of the Agricultural Marketing Agreement Act of 1937, the proposed increase in the minimum grade requirement would also apply to all imported varieties of white onions.

At the meeting the Committee discussed the impact of this proposal on handlers and producers in terms of cost. The Committee stated that producers seldom profit from U.S. No. 2 or U.S. Commercial grade white onion sales, and as a consequence, common business practice for many is to discard such onions as culls following harvest.

Based upon comments made by handlers and receivers of white onions, the Committee reported that shipments of low quality U.S. No. 2 and U.S. Commercial grade white onions have a depressing influence on the price of the higher quality U.S. No. 1 grade white onions. The Free-on-Board (FOB) price for U.S. No. 2 white onions usually runs about one-half the FOB price on U.S. No. 1 white onions reflecting the weak demand for U.S. No. 2 white onions in fresh markets. Moreover, over the last several years there has been increased competition from white onions grown in Nevada, Washington, Colorado, and Utah. The quality produced and marketed from those States is excellent. Thus, a higher grade for white onions grown in Idaho-Eastern Oregon should help this industry compete more effectively and increase demand through stronger confidence in the quality of Idaho-Eastern Oregon white onions. Preliminary information pertaining to the 1998–99 shipping season indicates that the FOB price for onions this season could average $13.10 per hundredweight.

While this proposed rule may impose some additional costs on handlers and producers, the costs are expected to be minimal, and would be offset by the benefits of the proposal. This proposal is expected to similarly impact importers of white onions. The Committee believes that this proposed modification would benefit consumers, producers, and handlers. The benefits of this rule are not expected to be disproportionately greater or lesser for small entities than for large entities.

As alternatives to the proposal, the Committee discussed leaving the regulations as currently issued and using voluntary methods to solve the problem. Both alternatives were rejected. The prevailing opinion was that market confidence and producer income would continue to erode without the implementation of this proposal. The majority of Committee members stated that voluntary measures had not been effective in the past.

Section 8e of the Act requires that when certain domestically produced commodities, including onions, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements. Section 8e also provides that whenever two or more marketing orders regulating the same commodity produced in different areas of the United States are concurrently in effect, the Secretary shall determine which of the areas produces the commodity in more direct competition with the imported commodity. Imports must then meet the requirements established for the particular area.

Grade, size, quality, and maturity regulations have been issued regularly under both Marketing Order No. 958 and Marketing Order No. 959, which regulates the handling of onions grown in South Texas, since the orders were established. The current import regulation specifies that import requirements for onions are to be based on the seasonal categories of onions grown in both marketing order areas. The import regulations specify that imported onions must meet the requirements of the Idaho-Eastern Oregon onion order during the period June 5 through March 9 each season and the South Texas onion order during the period March 10 through June 4 each season. This proposal would change the import requirements for the period June 5 through March 9 of each marketing year to provide that all imported white onion varieties must be U.S. No. 1 grade.

This action would not impose any additional reporting or recordkeeping requirements on either small or large handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. The Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this proposed rule.

In addition, the Committee's meeting was widely publicized throughout the Idaho-Eastern Oregon onion industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the June 19, 1997, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

An advance notice of proposed rulemaking with request for public comment was published in the **Federal Register** (63 FR 5472) on February 3, 1998. A 60-day comment period was provided to allow interested persons the opportunity to comment on the volume and grade of imported white onions, as well as other aspects of the potential grade increase, including its probable regulatory and economic impact on small business entities. Copies of the notice were faxed and mailed to the Committee office, which in turn notified Committee and Idaho-Eastern Oregon onion industry members of the recommendation. The Department also provided copies of the notice to the administrative offices of the Walla Walla Sweet Onion Committee, the South Texas Onion Committee, and the Vidalia Onion Committee, as well as to the World Trade Organization. In addition, the Committee's meetings were widely publicized throughout the Idaho-Eastern Oregon onion industry and all interested persons were invited to attend and participate on all issues. A copy of the notice was also made available on the Internet by the U.S. Government Printing Office.

Five comments were received. Four of the comments are supportive of the Committee's recommendation. The Idaho-Eastern Oregon Onion Committee reaffirmed its unanimous recommendation in favor of increasing the minimum grade for white onions from U.S. No. 2 or U.S. Commercial to U.S. No. 1. The South Texas Onion Committee, administering Marketing Order No. 959, expressed its support of the recommended modification as well. The South Texas Onion Committee commented that by the time the South Texas industry enters the market in March of each year, the market is flooded with inferior quality white onions from both Mexico and Idaho-Eastern Oregon, and that the onion industries and consumers would benefit from the minimum grade increase. The minimum grade requirement for white onion varieties handled under the South Texas marketing order is a modified U.S. No. 1 grade. The proposed rule would increase the minimum grade requirement for Idaho-Eastern Oregon onions, with the two minimum grade requirements becoming more similar.

Also commenting in favor of the Committee's recommendation were a South Texas onion handler and an association representing Texas onion handlers as well as importers of Mexican onions. Both commentators are located in Mission, Texas. The handler commented that the recommended modification would allow the South Texas industry the necessary confidence to continue to produce onions for a market free from the negative consumer reaction associated with poor quality white onions. The association also added its support of the recommended minimum grade increase. The association stated that it has within its membership approximately 21 South Texas handlers of onions, most of whom also import onions from Mexico. The commenter added that the association has numerous members who only handle imported produce, including white onions. The commenter noted further that in the modern competitive produce market, consumers must be provided with the best quality products available.

A comment was also received from the European Commission, Brussels, Belgium, on behalf of the European Community. That comment stated that the proposal aims at increasing the minimum diameter size requirement for imported onions from 2.54 to 2.79 centimeters for the period June 5 through March 9 of each year, and objected to such action. However, the Committee had recommended increasing the minimum grade for Idaho-Eastern Oregon white onions and white onions imported during the period June 5 through March 9 from U.S. No. 2 to U.S. No. 1. However, the recommendation did not include a modification to the minimum diameter size itself, which continues to be 1 inch or 2.54 centimeters.

In conjunction with the issuance of the advance notice and request for comment, the Texas Cooperative Inspection Program monitored white onions imported from Mexico during the period December 1, 1997, through March 9, 1998. This process was conducted at the request of the AMS to determine the quantity of imported white onions potentially impacted by the Committee's recommendation. An analysis of the information provided by the Inspection Program indicates that approximately 98 percent of the white onions imported from Mexico during the test period met U.S. No. 1 grade. The balance of the imported white onions during this period either met U.S. Commercial grade or failed to meet the minimum of U.S. No. 2 grade. There were no U.S. No. 2 grade white onions imported from Mexico during this period. During the test period, a total of 1,006,279 50-pound containers were offered for importation. A total of 948,069 50-pound containers graded U.S. No. 1, 11,427 50-pound containers graded U.S. Commercial, and 10,783 50-pound containers failed to meet the current minimum grade requirement of U.S. No. 2.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A 60-day comment period is provided to allow interested persons the opportunity to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 958

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 958 is proposed to be amended as follows:

PART 958—ONIONS GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO, AND MALHEUR COUNTY, OREGON

1. The authority citation for 7 CFR part 958 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 958.328 is amended by revising paragraph (a)(1) to read as follows:

§ 958.328 Handling Regulations.

* * * * *

(a)(1) *Grade and size requirements.* (i) White varieties shall be either:

(A) U.S. No. 1, 1 inch minimum to 2 inches maximum diameter; or

(B) U.S. No. 1, at least 1½ inches minimum diameter.

(ii) Neither of these two categories of onions may be commingled in the same bag or other container.

* * * * *

Dated: June 26, 1998.

Eric M. Forman,

Acting Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–17564 Filed 7–1–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD07–98–039]

RIN 2115–AE46

Special Local Regulations; City of Charleston, SC

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: Temporary special local regulations are being proposed for the Charleston Maritime Center's South Carolina Tug Boat Challenge. The event will last approximately 30 minutes and will take place, depending on shipping traffic, between 11 a.m. and 5 p.m. Eastern Daylight Time (EDT) on August 8, 1998, in Charleston Harbor on Cooper River Charleston, SC. The exact time of the race will be announced via separate Broadcast Notice to Mariners. These regulations are necessary for the safety of life on the navigable waters during the event.

DATES: Comments must be received on or before August 3, 1998.

ADDRESSES: Comments may be mailed to U.S. Coast Guard Group Charleston, 196 Tradd Street, Charleston, SC 29401–1817, or may be delivered to the

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Operations Department at the same address, between 8:00 a.m. to 3:00 p.m, EST, Monday through Friday, except federal holidays. Comments will become a part of the public docket and will be available for copying and inspection at the same address.

FOR FURTHER INFORMATION CONTACT: LTJG A.L. Cooper, Project Manager, Coast Guard Group Charleston at (803) 720–7748.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking [CGD07–98–039] and the specific section of this proposal to which each comment applies and give the reason for each comment.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments. The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the address under **ADDRESSES.** The request should include the reasons why a hearing would be beneficial. If the Coast Guard determines that the opportunity for oral presentations will aid this rulemaking, it will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

This proposed rule is needed to provide for the safety of life during the South Carolina Tug Boat Challenge. The tug race is expected to create large and powerful wakes. This proposed rule is intended to promote safe navigation on the Cooper River immediately before, during, and after the race by controlling the traffic entering, exiting, and traveling within the regulated area.

There will be 6 to 8 participants racing barges on a fixed course. The event will take place on the Cooper River at Charleston, SC, starting at the John P. Grace Memorial Bridge, also known as the Cooper River Bridge, and continue south through Hog Island Reach and end at the southern end of Customhouse Reach on August 8, 1998. The proposed regulation will be effective for approximately 30 minutes between 11 a.m. and 5 p.m. The actual time of the event will be chosen to ensure the least interference with vessel traffic in Charleston Harbor.

Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of executive order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. The regulated area encompasses less than 2 nautical miles on the Cooper River between the John P. Grace Bridge and the southern end of Customhouse Reach, and entry is prohibited for only approximately 30 minutes on the day of the event.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposed rule, if adopted, will have a significant economic impact on a substantial number of small entities. "Small entities" include small business, not-for-profit organizations that are independently owned and operated and are not dominant in their field; and governmental jurisdiction with populations of less than 50,000.

Therefore, the Coast Guard certifies under section 605(b) that this proposed rule, if adopted, will not have a significant effect upon a substantial number of small entities because this regulation will only be in effect in a limited area for a period of approximately 30 minutes on one day.

If, however, you think that your business or organization qualifies as a small entity and that this proposed rule will have a significant economic impact on your business or organization, please submit a comment explaining why you think it qualifies and in what way and what degree this proposed rule will economically affect it.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*)

Federalism

This action has been analyzed in accordance with the principals and criteria contained in Executive Order 12612 and it has been determined that this rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this action and determined pursuant to Figure 2–1, paragraph #34(h) of Commandant Instruction M16475.1C, that this proposed rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination has been prepared and is available in the docket for inspection or copying.

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend part 100 of Title 33, Code of Federal Regulations, as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary section 100.35 T–07–039 is added to read as follows:

§ 100.35T–07–39 South Carolina Tug Boat Challenge, Charleston Harbor, Charleston, SC.

(a) *Definitions. (1) Regulated area.* A regulated area is established on that portion of the Cooper River at Charleston, SC between the John P. Grace Memorial Bridge, also known as the Cooper River Bridge, and the southern end of Customhouse Reach. The regulated area encompasses the width of the Cooper River between these two points.

(2) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Group Charleston, SC.

(b) *Special local regulations.* (1) Entry into the regulated area by other than event participants is prohibited, unless otherwise authorized by the Coast Guard Patrol Commander. After termination of the South Carolina Tug Boat Challenge on August 8, 1998, all vessels may resume normal operations.

(2) On August 8, 1998, Coast Guard Group Charleston will issue a broadcast Notice to Mariners on VHF Channel 16/22A advising mariners of the exact time of the regulated area.

(3) A succession of not fewer than 5 short whistle or horn blasts from a patrol vessel will be the signal for any

and all vessels to take immediate steps to avoid collision. The display of an orange distress smoke signal from a patrol vessel will be the signal for any and all vessels to stop immediately.

(4) Spectators are required to maintain a safe distance from the racecourse at all times.

(c) *Dates.* This section is effective for approximately 30 minutes between 11 a.m. and 5 p.m. EDT on August 8, 1998.

Dated: June 24, 1998.

Norman T. Saunders,

Rear Admiral, U.S. Coast Guard Commander, Seventh Coast Guard District.

[FR Doc. 98–17646 Filed 7–1–98; 8:45 am]

BILLING CODE 4910–15–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–97; RM–9287]

Radio Broadcasting Services; Hudson, WY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Windy Valley Broadcasting proposing the allotment of Channel 286C at Hudson, Wyoming, as the community's first local aural transmission service. Channel 286C can be allotted to Hudson in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 286C at Hudson are North Latitude 42–54–24 and West Longitude 108–35–00.

DATES: Comments must be filed on or before August 17, 1998, and reply comments on or before September 1, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: A. Wray Fitch, III, Esq., Gammon & Grange, P.C., 8280 Greensboro Drive, McLean, Virginia 22102–3807 (Counsel for Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–97, adopted June 17, 1998, and released June 26, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–17555 Filed 7–1–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–99; RM–9283]

Radio Broadcasting Services; Shoshoni, WY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Windy Valley Broadcasting proposing the allotment of Channel 290C at Shoshoni, Wyoming, as the community's first local aural transmission service. Channel 290C can be allotted to Shoshoni in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 290C at Shoshoni are North Latitude 43–14–06 and West Longitude 108–06–36.

DATES: Comments must be filed on or before August 17, 1998, and reply comments on or before September 1, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: A. Wray Fitch, III, Esq., Gammon & Grange, P.C., 8280 Greensboro Drive, McLean, Virginia 22102–3807 (Counsel for Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–99, adopted June 17, 1998, and released June 26, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–17554 Filed 7–1–98; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–101, RM–9289]

Radio Broadcasting Services; Yuma, CO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Ronald L. Zahller and Kent Sager, seeking the allotment of Channel 233A to Yuma, Colorado, as that community's second local FM transmission service. Coordinates used for this proposal are 40–07–30 NL and 102–43–24 WL.

DATES: Comments must be filed on or before August 17, 1998, and reply comments on or before September 1, 1998.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554.In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: John F. Garziglia and Patricia M. Chuh, Esqs., Pepper & Corazzini, L.L.P., 1776 K Street, NW., Suite 200, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice ofProposed Rule Making, MM Docket No. 98–101, adopted June 17, 1998, and released June 26, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of ProposedRule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–17553 Filed 7–1–98; 8:45 am]

BILLING CODE 6712–01–U

Notices

Federal Register
Vol. 63, No. 127
Thursday, July 2, 1998

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[FV–97–329N]

United States Standards for Grades of Canned Beets, United States Standards for Grades of Canned Carrots and the United States Standards for Grades of Canned White Potatoes

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The Agricultural Marketing Service (AMS) is revising standards for grades of canned beets, carrots, and white potatoes (canned root crop vegetables). Specifically, USDA is modifying the Recommended Minimum Drained Weight Averages (RMDWA's) for all styles packed in No. 300 size cans to be equivalent to the percent water capacity corresponding to the closest sized container, the No. 303 can, i.e., reduced by 9.02 percent. These changes were requested by industry in order to improve the usability of the U.S. standards for these canned root crop vegetables. In addition, USDA will further improve the standards and promote consistency by changing the format of the tables to incorporate a column for the water capacity of each container size and add metric system tables to the canned beets and canned carrots standards.

EFFECTIVE DATE: August 3, 1998.

FOR FURTHER INFORMATION CONTACT: Chere L. Shorter, Processed Products Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, Room 0709, South Building; STOP 0247, P.O. Box 96456, Washington, DC 20090–6456; Telephone (202) 720–4693, fax (202) 690–1087; or e-mail chere_l_shorter@usda.gov.

SUPPLEMENTARY INFORMATION: Section 203(c) of the Agricultural Marketing Act of 1946, as amended, directs and authorizes the Secretary of Agriculture "to develop and improve standards of quality, condition, quantity, grade, and packaging and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices * * *" AMS is committed to carrying out this authority in a manner that facilitates the marketing of agricultural commodities and makes copies of official standards available upon request. The United States Standards for Grades of Canned Beets, the United States Standards for Grades of Canned Carrots, and the United States Standards for Grades of Canned White Potatoes (canned root crop vegetables) do not appear in the Code of Federal Regulations but are maintained by USDA.

The current U.S. grade standards for these canned root crop vegetables, along with the changes, are available either through the above addresses or by accessing the Internet at the following site: www.ams.usda.gov/ standards/ vegcan.htm.

Procedures for revising, suspending, or terminating voluntary official grades standards were published in August 13, 1997, (62 FR 43439).

In November 1993, USDA received a request to review the RMDWA's for these canned root crops in No. 300 size containers from the National Food Processors Association's (NFPA)'s Grade Standards Review Subcommittee. NFPA requested the changes in the United States Standards for Grades of Canned Beets; Canned Carrots; and Canned White Potatoes.

NFPA requested that the recommended drained weight of the No. 300 size container be reviewed for all styles of canned root crop vegetables. Within the last few years the canning industry has been replacing production of the No. 303 container size with the No. 300 container. The total water capacity for the No. 300 container is less than the total water capacity for a No. 303 container. The percentage water capacity, on which the recommended minimum drained weight average is based, is calculated by dividing the RMDWA for a particular style of canned root crop vegetable by the total water capacity of the container. Studies done by the USDA have found that for every style of canned root crop vegetable under consideration, in the current U.S. standards, the drained weight as a percentage of the water capacity is significantly more for the No. 300 container than for No. 303 containers, even though the available capacity of the No. 300 container is 9.02 percent less than that of the No. 303 container.

NFPA stated that several companies were noting difficulty in meeting the RMDWA requirements for these products in the No. 300 cans. The remedies recommended by NFPA proposed that the RMDWA's in the U.S. grade standards for canned beets; canned carrots; and canned white potatoes be reduced to the same percentage water capacity offered in the No. 303 container size, i.e., lowered by 9.02 percent. The No. 303 can size was chosen because the size relationship is closest to the No. 300 can.

USDA published a notice in the **Federal Register** January 15, 1998, (63 FR 2356). Five comments were received from industry members. All comments received indicated that the affected industry members were in favor of the revision to base the RMDWA on the percent water capacity of the No. 303 container.

Accordingly, AMS agrees with the recommendations to improve the United States Standards for Grades of Canned Beets; Canned Carrots; and Canned White Potatoes and is making changes to and adding the following tables: Canned Beets, Table I, adding Table IA, Canned Carrots, Table I, adding Table IA, and Canned White Potatoes, Table I and Table IA. Specifically, the changes will: (1) Adjust the RMDWA's for No. 300 containers which were calculated using the percentage water capacity corresponding to No. 303 containers and lowered accordingly by 9.02 percent of the RMDWA of the 303 size container; and further improve the standards and promote consistency by (2) changing the format to include tables that will incorporate the water capacity of each container size; and (3) adding metric system tables to the canned beet and canned carrot standards.

The changes will become effective 30 days after the publication of this notice in the **Federal Register**. These changes will improve the grade standards by making RMDWA's proportional for the No. 300 can size, enhance safety of the product, and help to facilitate the

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marketing of canned beets, carrots and white potatoes. This will allow for a more equitable marketing environment for the canning industry.

Authority: 7 U.S.C. 1621–1627.

Dated: June 24, 1998.

Robert C. Keeney,
Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–17563 Filed 7–1–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

National School Lunch, Special Milk, and School Breakfast Programs; National Average Payments/Maximum Reimbursement Rates

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This Notice announces the annual adjustments to: (1) the "national average payments, "the amount of money the Federal Government provides States for lunches, meal supplements and breakfasts served to children participating in the National School Lunch and School Breakfast Programs; (2) the "maximum reimbursement rates," the maximum per lunch rate from Federal funds that a State can provide a school food authority for lunches served to children participating in the National School Lunch Program; and (3) the rate of reimbursement for a half-pint of milk served to nonneedy children in a school or institution which participates in the Special Milk Program for Children. The payments and rates are prescribed on an annual basis each July. The annual payments and rates adjustments for the National School Lunch and School Breakfast Programs reflect changes in the Food Away From Home series of the Consumer Price Index for All Urban Consumers. The annual rate adjustment for the Special Milk Program reflects changes in the Producer Price Index for Fluid Milk Products. These payments and rates are in effect from July 1, 1998 through June 30, 1999.

EFFECTIVE DATE: July 1, 1998.

FOR FURTHER INFORMATION CONTACT: Robert M. Eadie, Chief, Policy and Program Development Branch, Child Nutrition Division, FNS, USDA, Alexandria, Virginia 22302, (703) 305–2620.

SUPPLEMENTARY INFORMATION: This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and thus is exempt from the provisions of that Act.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), no new recordkeeping or reporting requirements have been included that are subject to approval from the Office of Management and Budget.

This action is exempted from review by the Office of Management and Budget under Executive Order 12866.

National School Lunch, School Breakfast and Special Milk Programs are listed in the Catalog of Federal Domestic Assistance under No. 10.553, No. 10.555 and No. 10.556, respectively, and are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V, and the final rule related notice published at 48 FR 29114, June 24, 1983.)

Background

Special Milk Program for Children

Pursuant to section 3 of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1772), the Department announces the rate of reimbursement for a half-pint of milk served to nonneedy children in a school or institution which participates in the Special Milk Program for Children. This rate is adjusted annually to reflect changes in the Producer Price Index for Fluid Milk Products (Code 0231), published by the Bureau of Labor Statistics of the Department of Labor.

For the period July 1, 1998 to June 30, 1999, the rate of reimbursement for a half-pint of milk served to a nonneedy child in a school or institution which participates in the Special Milk Program is 13.00 cents. This reflects an increase of 4.65 percent in the Producer Price Index for Fluid Milk Products (Code 0231) from May 1997 to May 1998 (from a level of 135.4 in May 1997 to 141.7 in May 1998).

As a reminder, schools or institutions with pricing programs which elect to serve milk free to eligible children continue to receive the average cost of a half-pint of milk (the total cost of all milk purchased during the claim period divided by the total number of purchased half-pints) for each half-pint served to an eligible child.

National School Lunch and School Breakfast Programs

Pursuant to Sections 11 and 17A of the National School Lunch Act, (42 U.S.C. 1759a and 1766a), and Section 4 of the Child Nutrition Act of 1966, (42 U.S.C. 1773), the Department annually announces the adjustments to the National Average Payment Factors and to the maximum Federal reimbursement rates for meals and supplements served to children participating in the National School Lunch Program. Adjustments are prescribed each July 1, based on changes in the Food Away From Home series of the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor. The changes in the national average payment rates for schools and residential child care institutions for the period July 1, 1998 through June 30, 1999 reflect a 2.75 percent increase in the Price Index during the 12-month period May 1997 to May 1998 (from a level of 156.3 in May 1997 to 160.6 in May 1998).

Section 704(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104–193, enacted August 22, 1996, amended section 11(a)(3)(B) of the National School Lunch Act (42 U.S.C. 1759a (a)(3)(B)) and changed the method for computing the annual adjustments to the national average payment rates for meals and supplements served to *nonneedy* children. Effective July 1, 1997, the annual adjustments to the payment rates for paid meals under Section 4 of the National School Lunch Act (42 U.S.C. 1753), and Section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) and *paid* supplements under Section 17(c) of the National School Lunch Act (42 U.S.C. 1766(c)), authorized under Section 11 (a)(3)(B) of the National School Lunch Act, is rounded down to the nearest whole cent. The annual adjustments to the Section 4 payments for free and reduced price meals and to the Section 17(c) payments for free and reduced price supplements, were unchanged by P.L. 104–193 and are rounded up or down to the nearest one-fourth cent.

Lunch Payment Levels

Section 4 of the National School Lunch Act (42 U.S.C. 1753) provides general cash for food assistance payments to States to assist schools in purchasing food. The National School Lunch Act provides two different Section 4 payment levels for lunches served under the National School Lunch Program. The lower payment level applies to lunches served by school food authorities in which less than 60 percent of the lunches served in the school lunch program during the second preceding school year were served free or at a reduced price. The higher payment level applies to lunches served by school food authorities in which 60 percent or more of the lunches served during the second preceding school year were served free or at a reduced price.

To supplement these Section 4 payments, Section 11 of the National School Lunch Act provides special cash assistance payments to aid schools in providing free and reduced price lunches. The Section 11 National Average Payment Factor for each reduced price lunch served is set at 40 cents less than the factor for each free lunch.

As authorized under Sections 8 and 11 of the National School Lunch Act (42 U.S.C. 1757, 1759a), maximum reimbursement rates for each type of lunch are prescribed by the Department in this Notice. These maximum rates are to ensure equitable disbursement of Federal funds to school food authorities.

Meal Supplement Payments in Afterschool Care Programs

Section 17A of the National School Lunch Act (42 U.S.C. 1766a) authorizes elementary and secondary schools to be reimbursed for meal supplements as part of the National School Lunch Program if they meet the following requirements: (1) operate school lunch programs under the National School Lunch Act; (2) sponsor afterschool care programs; and (3) were participating in the Child and Adult Care Food Program as of May 15, 1989. The reimbursement rates for supplements served in Afterschool Care Programs under the National School Lunch Program are the same as the rates for supplements served in centers under the Child and Adult Care Food Program.

Breakfast Payment Factors

Section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) establishes National Average Payment Factors for free, reduced price and paid breakfasts served under the School Breakfast Program and additional payments for free and reduced price breakfasts served in schools determined to be in "severe need" because they serve a high percentage of needy children.

Revised Payments

The following specific Section 4, Section 11 and Section 17A National Average Payment Factors and maximum reimbursement rates for lunch, the after-school supplement rates and breakfast rates are in effect from July 1, 1998 through June 30, 1999. Due to a higher cost of living, the average payments and maximum reimbursements for Alaska and Hawaii are higher than those for all other States. The District of Columbia, Virgin Islands, Puerto Rico and Guam use the figures specified for the contiguous States.

National School Lunch Program Payments

Section 4 National Average Payment Factors

In school food authorities which served *less than 60 percent* free and reduced price lunches in School Year 1996–97, the payments for meals served are: *Contiguous States*—paid rate—18 cents, free and reduced price rate—18.75 cents, maximum rate—26 cents; *Alaska*—paid rate—30 cents, free and reduced price rate—30.25 cents, maximum rate—40 cents; *Hawaii*—paid rate—21 cents, free and reduced price rate—21.75 cents, maximum rate—30 cents.

In school food authorities which served *60 percent or more* free and reduced price lunches in School Year 1996–97, payments are: *Contiguous States*—paid rate—20 cents, free and reduced price rate—20.75 cents, maximum rate—26 cents; *Alaska*—paid rate—32 cents, free and reduced price rate—32.25 cents, maximum rate—40 cents; *Hawaii*—paid rate—23 cents, free and reduced price rate—23.75 cents, maximum rate—30 cents.

Section 11 National Average Payment Factors

Contiguous States—free lunch—175.50 cents, reduced price lunch—135.50 cents; *Alaska*—free lunch—284.25 cents, reduced price lunch—244.25 cents; *Hawaii*—free lunch—205.25 cents, reduced price lunch—165.25 cents.

Meal Supplements in Afterschool Care Programs—The payments are: *Contiguous States*—free supplement—53.25 cents, reduced price supplement—26.75 cents, paid supplement—4 cents; *Alaska*—free supplement—86.25 cents, reduced price supplement—43.25 cents, paid supplement—7 cents; *Hawaii*—free supplement—62.25 cents, reduced price supplement—31.25 cents, paid supplement—5 cents.

School Breakfast Program Payments

For schools "not in severe need" the payments are: *Contiguous States*—free breakfast—107.25 cents, reduced price breakfast—77.25 cents, paid breakfast—20 cents; *Alaska*—free breakfast—170 cents, reduced price breakfast—140 cents, paid breakfast—29 cents; *Hawaii*—free breakfast—124.50 cents, reduced price breakfast—94.50 cents, paid breakfast—23 cents.

For schools in "severe need" the payments are: *Contiguous States*—free breakfast—127.75 cents, reduced price breakfast—97.75 cents, paid breakfast—20 cents; *Alaska*—free breakfast—203 cents, reduced price breakfast—173 cents, paid breakfast—29 cents; *Hawaii*—free breakfast—148.25 cents, reduced price breakfast—118.25 cents, paid breakfast—23 cents.

Payment Chart

The following chart illustrates: the lunch National Average Payment Factors with the Sections 4 and 11 already combined to indicate the per meal amount; the maximum lunch reimbursement rates; the reimbursement rates for meal supplements served in afterschool care programs; the breakfast National Average Payment Factors including "severe need" schools; and the milk reimbursement rate. All amounts are expressed in dollars or fractions thereof. The payment factors and reimbursement rates used for the District of Columbia, Virgin Islands, Puerto Rico and Guam are those specified for the contiguous States.

BILLING CODE 3410-30-U

SCHOOL PROGRAMS
MEAL AND MILK PAYMENTS TO STATES AND SCHOOL FOOD AUTHORITIES

Expressed in Dollars or Fractions Thereof
Effective from July 1, 1998 - June 30, 1999

NATIONAL SCHOOL LUNCH PROGRAM *		LESS THAN 60%	60% OR MORE	MAXIMUM RATE
CONTIGUOUS STATES	PAID	$ .1800	$ .2000	$ .2600
	REDUCED PRICE	1.5425	1.5625	1.7125
	FREE	1.9425	1.9625	2.1125
ALASKA	PAID	$ .3000	$ .3200	$ .4000
	REDUCED PRICE	2.7450	2.7650	3.0100
	FREE	3.1450	3.1650	3.4100
HAWAII	PAID	$ .2100	$ .2300	$ .3000
	REDUCED PRICE	1.8700	1.8900	2.0675
	FREE	2.2700	2.2900	2.4675

SCHOOL BREAKFAST PROGRAM		NON-SEVERE NEED	SEVERE NEED
CONTIGUOUS STATES	PAID	$ .2000	$ .2000
	REDUCED PRICE	.7725	.9775
	FREE	1.0725	1.2775
ALASKA	PAID	$ .2900	$ .2900
	REDUCED PRICE	1.4000	1.7300
	FREE	1.7000	2.0300
HAWAII	PAID	$ .2300	$ .2300
	REDUCED PRICE	.9450	1.1825
	FREE	1.2450	1.4825

SPECIAL MILK PROGRAM	ALL MILK	PAID MILK	FREE MILK
PRICING PROGRAMS WITHOUT FREE OPTION	$ .13	N/A	N/A
PRICING PROGRAMS WITH FREE OPTION	N/A	$ .13	Average cost 1/2 pint milk
NONPRICING PROGRAMS	$ .13	N/A	N/A

SUPPLEMENTS SERVED IN AFTERSCHOOL CARE PROGRAMS		
CONTIGUOUS STATES	PAID	$ .0400
	REDUCED PRICE	.2675
	FREE	.5325
ALASKA	PAID	$ .0700
	REDUCED PRICE	.4325
	FREE	.8625
HAWAII	PAID	$ .0500
	REDUCED PRICE	.3125
	FREE	.6225

* Payments listed for Free & Reduced Price Lunches include both sections 4 and 11 funds.

BILLING CODE 3410-30-C

Authority: Sections 4, 8, 11 and 17A of the National School Lunch Act, as amended, (42 U.S.C. 1753, 1757, 1759a, 1766a) and sections 3 and 4(b) of the Child Nutrition Act, as amended, (42 U.S.C. 1772 and 42 U.S.C. 1773(b)).

Dated: June 26, 1998.

George A. Braley,

Acting Administrator.

[FR Doc. 98–17675 Filed 7–1–98; 8:45 am]

BILLING CODE 3410–30–U

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Child and Adult Care Food Program: National Average Payment Rates, Day Care Home Food Service Payment Rates, and Administrative Reimbursement Rates for Sponsors of Day Care Homes for the Period July 1, 1998–June 30, 1999

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the annual adjustments to the national average payment rates for meals served in child care, outside-school-hours care and adult day care centers; the food service payment rates for meals served in day care homes; and the administrative reimbursement rates for sponsors of day care homes to reflect changes in the Consumer Price Index. Further adjustments are made to these rates to reflect the higher costs of providing meals in the States of Alaska and Hawaii. The adjustments contained in this notice are required by the statutes and regulations governing the Child and Adult Care Food Program (CACFP).

EFFECTIVE DATE: July 1, 1998.

FOR FURTHER INFORMATION CONTACT: Robert M. Eadie, Branch Chief, Policy and Program Development Branch, Child Nutrition Division, Food and Nutrition Service, USDA, Alexandria, Virginia, 22302, (703) 305–2620.

SUPPLEMENTARY INFORMATION: This program is listed in the Catalog of Federal Domestic Assistance under No. 10.558 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V, and final rule related notice published at 48 FR 29114, June 24, 1983.)

This notice imposes no new reporting or recordkeeping provisions that are subject to Office of Management and Budget review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3518).

This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and thus is exempt from the provisions of that Act. This notice has been determined to be exempt under Executive Order 12866.

Definitions

The terms used in this notice shall have the meanings ascribed to them in the regulations governing the CACFP (7 CFR Part 226).

Background

Pursuant to sections 4, 11 and 17 of the National School Lunch Act (NSLA) (42 U.S.C. 1753, 1759a and 1766), section 4 of the Child Nutrition Act of 1966 (CNA) (42 U.S.C. 1773) and sections 226.4, 226.12 and 226.13 of the regulations governing the CACFP (7 CFR Part 226), notice is hereby given of the new payment rates for participating institutions. These rates shall be in effect during the period July 1, 1998 through June 30, 1999.

As provided for under the NSLA and the CNA of 1966, all rates in the CACFP must be revised annually on July 1 to reflect changes in the Consumer Price Index (CPI) for the most recent 12-month period. In accordance with this mandate, the Department last published the adjusted national average payment rates for centers, the food service payment rates for day care homes and the administrative reimbursement rates for sponsors of day care homes on July 14, 1997 at 62 FR 37702 (for the period July 1, 1997–June 30, 1998).

Section 704(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104–193, amended section 11a(3)(B) of the NSLA (42 U.S.C. 1759a(a)(3)(B)) and changed the method for computing the annual adjustments to the national average payment rates for meals and supplements served to *non-needy* children in day care centers. Beginning July 1, 1997, the annual adjustments to the payment rates for *paid* meals and *paid* supplements were rounded down to the nearest whole cent. The annual adjustments to the payments for free and reduced price meals and to the payments for free and reduced price supplements were unchanged by Pub. L. 104–193 and continue to be rounded up or down to the nearest one fourth cent.

Section 708(e)(1) of Pub. L. 104–193 also amended section 17(f)(3)(A) of the NSLA to establish two "tiers" of day care homes and reimbursement rates. Tier I homes are homes located in low-income areas or homes in which the provider's household income is at or below 185 percent of the Federal income poverty guidelines. Tier II homes are those homes which do not meet the location or provider income criteria for a tier I home. However, tier II homes may receive the tier I rates for meals served to identified income-eligible children (i.e. children from households with incomes at or below 185 percent of the Federal income poverty guidelines).

Pub. L. 104–193 further specified in section 17(f)(3)(A)(ii) (III) and (IV) the reimbursement factors for meals served in tier I day care homes as the factors in effect on July 1, 1996, with adjustments made to the factors on July 1, 1997, and each July 1 thereafter. Pub. L. 104–193 further provided in section 17(f)(3)(A) (ii)(IV) and (iii)(I)(bb) (42 U.S.C. 1766(f)(3)(A) (ii)(IV) and (iii)(I)(bb)) of the NSLA that the factors paid to tier I and tier II homes be rounded down to the nearest whole cent, instead of rounding the factors up or down to the nearest quarter-cent increment as previously required. Subsequent adjustments must be based on the unrounded rate from the preceding school year. In addition, annual adjustments, which were previously based on changes in the CPI for food away from home, must now be made based on the CPI for food at home.

Please note that reimbursement rates for tier II family day care homes are set forth in section 17(f)(3)(A)(iii)(I)(aa) of the NSLA (42 U.S.C. 1766(f)(3)(A)(iii)(I)(aa)), as amended by section 708(e)(1) of Pub.L. 104–193. After these reimbursement rates were adjusted and rounded down to the nearest whole cent as required under the law, an additional six cents was added to the breakfast rate as required by section 4(b)(3) of the CNA of 1966, as amended (42 U.S.C. 1773(b)(3)). The CNA requires that all reimbursement rates for breakfasts served under the School Breakfast Program and the CACFP be adjusted upward by six cents. As background, this addition was first made in 1986, under Pub. L. 99–500, the School Lunch and Child Nutrition Amendments of 1986, which added three cents to adjusted breakfast rates to assist States in improving the nutritional quality of the breakfasts. This adjustment was raised from three cents to six cents in 1989 under Pub. L. 101–147, the Child Nutrition and WIC Reauthorization Act of 1989, for the same reason.

The payment rates for the period July 1, 1998–June 30, 1999 are:

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ALL STATES EXCEPT ALASKA AND HAWAII

Meals Served in Centers—Per Meal Rates in Dollars or Fractions thereof:	
Breakfasts:	
Paid	$0.20
Free	1.0725
Reduced	0.7725
Lunches and Suppers:[1].	
Paid	$0.18
Free	1.9425
Reduced	1.5425
Supplements:	
Paid	$0.04
Free	.5325
Reduced	.2675

[1] These rates do not include the value of commodities (or cash-in-lieu of commodities) which institutions receive as additional assistance for each lunch or supper served to participants under the program. A notice announcing the value of commodities and cash-in-lieu of commodities is published separately in the FEDERAL REGISTER.

	Tier I	Tier II
Meals Served in Day Care Homes—Per Meal Rates in Dollars or Fractions thereof:		
Breakfasts	$0.90	$0.34
Lunches and Suppers	1.65	1.00
Supplements	0.49	0.13
Administrative Reimbursement Rates for Sponsoring Organizations of Day Care Homes-Per Home/Per Month Rates in Dollars:		
Initial 50 day care homes		$76
Next 150 day care homes		$58
Next 800 day care homes		$45
Additional day care homes		$40

Pursuant to section 12(f) of the NSLA (42 U.S.C 1760(f)), the Department adjusts the payment rates for participating institutions in the States of Alaska and Hawaii. The new payment rates for Alaska are as follows:

ALASKA

Meals Served in Centers—Per Meals Rates in Dollars or Fractions thereof:	
Breakfasts:	
Paid	$0.29
Free	1.70
Reduced	1.40
Lunches and Suppers:[1]	
Paid	$0.30
Free	3.1450
Reduced	2.7450

ALASKA—Continued

Supplements:	
Paid	$0.07
Free	0.8625
Reduced	0.4325

[1] These rates do not include the value of commodities (or cash-in-lieu of commodities) which institutions receive as additional assistance for each lunch or supper served to participants under the program. A notice announcing the value of commodities and cash-in-lieu of commodities is published separately in the FEDERAL REGISTER.

	Tier I	Tier II
Meals Served in Day Care Homes—Per Meal Rates in Dollars or Fractions thereof:		
Breakfasts	$1.42	$0.52
Lunches and Suppers	2.68	1.62
Supplements	0.80	0.22
Administrative Reimbursement Rates for Sponsoring Organizations of Day Care Homes—		
Per Home/Per Month Rates in Dollars:		
Initial 50 day care homes.	123	
Next 150 day care homes		94
Next 800 day care homes		73
Additional day care homes		65

The new payment rates for Hawaii are as follows:

HAWAII

Meals Served in Centers—Per Meal Rates in Dollars or Fractions thereof:	
Breakfasts:	
Paid	$0.23
Free	1.2450
Reduced	0.9450
Lunches and Suppers:[1]	
Paid	$0.21
Free	2.27
Reduced	1.87
Supplements:	
Paid	$0.05
Free	0.6225
Reduced	0.3125

[1] These rates do not include the value of commodities (or cash-in-lieu of commodities) which institutions receive as additional assistance for each lunch or supper served to participants under the program. A notice announcing the value of commodities and cash-in-lieu of commodities is published separately in the FEDERAL REGISTER.

	Tier I	Tier II
Meals Served in Day Care Homes—Per Meal Rates in Dollars or Fractions thereof:		
Breakfasts	$1.04	$0.39
Lunches and Suppers	1.93	1.17
Supplements	0.57	0.16
Administrative Reimbursement Rates for Sponsoring Organizations of Day Care Homes—Per Home/Per Month Rates in Dollars:		
Initial 50 day care homes	$89	
Next 150 day care homes	68	
Next 800 day care homes	53	
Additional day care homes	47	

The changes in the national average payment rates for centers reflect a 2.75 percent increase during the 12-month period May 1997 to May 1998 (from 156.3 in May 1997 to 160.6 in May 1998) in the food away from home series of the CPI for All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

The changes in the food service payment rates for day care homes reflect 2.03 percent increase during the 12-month period May 1997 to May 1998 (from 157.5 in May 1997 to 160.7 in May 1998) in the food at home series of the CPI for All Urban Consumers.

The changes in the administrative reimbursement rates for sponsoring organizations of day care homes reflect a 1.68 percent increase during the 12-month period May 1997 to May 1998 (from 160.1 in May 1997 to 162.8 in May 1998) in the series for all items of the CPI for All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

The total amount of payments available to each State agency for distribution to institutions participating in the program is based on the rates contained in this notice.

Authority: Sections 4(b)(2), 11a, 17(c) and 17(f)(3)(B) of the National School Lunch Act, as amended (42 U.S.C. 1753(b)(2), 1759a, 1766(f)(3)(B)) and section 4(b)(1)(B) of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1773(b)(1)(B)).

Dated June 26, 1998.

George A. Braley,

Acting Administrator.

[FR Doc. 98–17674 Filed 7–1–98; 8:45 am]

BILLING CODE 3410–30–U

DEPARTMENT OF AGRICULTURE

Forest Service

Knox-Brooks Timber Sales and Road Rehabilitation; Superior Ranger District, Lolo National Forest; Mineral County, Montana

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare environmental impact statement.

AUTHORITY: 40 CFR 1508.22.

SUMMARY: The Forest Service will prepare an environmental impact statement (EIS) for timber harvesting, prescribed burning, road access changes, and watershed rehabilitation in a 38,000-acre area near St. Regis, Montana.

DATES: Initial comments concerning the scope of the analysis should be received in writing within 30 days following publication of this notice. Comments received during the initial scoping will be considered in the analysis and do not need to be resubmitted during this comment time period.

ADDRESSES: Send written comments to Cindy Chapman Enstrom, District Ranger, Superior Ranger District, Box 460, Superior, MT 59872.

FOR FURTHER INFORMATION CONTACT: Bruce Erickson, Knox-Brooks Interdisciplinary Team Leader, Superior Ranger District, as above, or phone: (406) 822–4233.

SUPPLEMENTARY INFORMATION: The responsible official who will make decisions based on this EIS is Charles C. Wildes, Forest Supervisor, Lolo National Forest, Building 24 Fort Missoula, Missoula, MT 59804. He will decide on this proposal after considering comments and responses, environmental consequences discussed in the Final EIS, and applicable laws, regulations, and policies. The decision and reasons for the decision will be documented in a Record of Decision.

The Forest Service proposes to harvest approximately 51,000 hundred cubic feet of timber from about 3180 acres, (about 1050 of those acres to be burned after harvest), to reconstruct or recondition about 50 miles of road and stabilize and/or obliterate about 37 miles of existing road (primarily to mitigate existing water quality and fish habitat impacts), and to add new yearlong road closures to about 4 miles of currently open roads. New road construction would be limited to about 2 miles of permanent road and about 5 miles of temporary road.

Lands affected are within the Twelvemile Creek and Twin Creek drainages, tributary to the St. Regis River, between DeBorgia and St. Regis, Montana. The project area is bounded by Interstate 90 to the south and the divide between Plains/Thompson Falls and Superior Ranger Districts to the north.

The purpose of this proposal is to carry out the goals and direction given in the Lolo National Forest Land and Resource Management Plan with ecosystem management principles. Key elements of the purpose and need are:

(1) Treat pine stands considering the mountain pine beetle epidemic moving through the area by altering timber stands to reduce mountain pine beetle hazard and by providing a mix of age classes so the continuity of susceptible stands is reduced for future outbreaks;

(2) Rehabilitate water quality and fisheries habitat through improving channel stability, reducing sources of sediment, reducing erosion and improving drainage on existing roads that are needed for long-term management, and reclaiming roads that are not needed; and

(3) Contribute to the short-term output goals and long-term forest plan expectations for timber production.

The decision to be made is to what extent, if at all, the Forest Service should conduct timber harvest, prescribed burning, road construction or reconstruction, road reclamation, and road closures in the Twelvemile Creek and Twin Creek drainages, given the above purpose and need. This is a site-specific project decision, not a general management plan nor a programmatic analysis.

Public scoping has been conducted on most elements of this proposal both with this proposal and an earlier version of this proposal.

While quite a number of issues have been identified for environmental effects analysis, the following issues have been found significant enough to guide alternative development and provide focus for the EIS:

(1) Water quality and fisheries habitat effects resulting from timber harvest and road construction and rehabilitation activities;

(2) Wildlife habitat effects (including hunting season bull elk security) resulting from timber harvest and road construction and rehabilitation activities; and

(3) Economic effect on local communities resulting from different access methods and resulting timber values.

The proposed action could have both beneficial and adverse effects on these resources. In addition to the proposed action, a range of alternatives will be developed in response to issues identified during scoping. Other alternatives planned for detailed study are:

(1) No action;

(2) Harvest only from existing roads (no new roads or temporary roads) with no harvesting in bull elk security areas; and add year-round road closures to three existing roads; and

(3) Harvest from existing roads and from short-term and temporary roads on gentle ridgetops and upper sideslopes, harvest with no regeneration cuts in bull elk security areas, and add year-round road closures to three existing roads.

Public participation is important to the analysis. People may visit with Forest Service officials at any time during the analysis and prior to the decision. No formal scoping meetings are planned. However, two periods are specifically designated for comments on the analysis:

(1) During this scoping process and

(2) During the draft EIS comment period.

During the scoping process, the Forest Service is seeking information and comments from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. A scoping document will be mailed to parties known to be interested in the proposed action. The agency invites written comments and suggestions on this action, particularly in terms of issues and alternatives.

The Forest Service will continue to involve the public and will inform interested and affected parties as to how they may participate and contribute to the final decision. Another formal opportunity for response will be provided following completion of a draft EIS.

The draft EIS should be available for review in November, 1998. The final EIS is scheduled for completion in February, 1999.

The comment period on the draft EIS will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes it is important, at this early stage, to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so it is meaningful and alerts the agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also,

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environmental objections that could be raised at the draft environmental impact statement stage but are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important those interested in this proposed action participate by the close of the 45-day comment period so substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

I am the responsible official for this environmental impact statement. My address is Lolo National Forest, Building 24, Fort Missoula, Missoula MT 59804.

Dated: June 18, 1998.

Charles C. Wildes,

Forest Supervisor.

[FR Doc. 98–17665 Filed 7–1–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Clearwater Ecosystem Management and Timber Sale Projects; Seeley Lake Ranger District, Lolo National Forest, Missoula County, Montana

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare an environmental impact statement.

SUMMARY: The USDA, Forest Service, will prepare an environmental impact statement (EIS) to disclose the environmental effects of timber harvest, reforestation, temporary road construction, road access changes including closures, and prescribed and ecosystem management burning in a 7,000 acre project area approximately 12 miles northeast of Seeley Lake, Montana.

DATE: Written comments and suggestions should be received on or before August 3, 1998.

ADDRESSES: Submit written comments and suggestions on the proposed management activities or a request to be placed on the project mailing list to Timothy G. Love, Ranger District, Lolo National Forest, HC 31, Box 3200, Seeley Lake, MT 59868.

FOR FURTHER INFORMATION CONTACT: Sharon Klinkhammer, EIS Team Leader, District Silviculturist, Lolo National Forest, Phone (406) 677–3925.

SUPPLEMENTARY INFORMATION: The responsible official who will make decisions based on this EIS is Charles Wildes, Forest Supervisor, Lolo National Forest, Building 24, Fort Missoula, Missoula, MT, 59804. He will decide on this proposal after considering comments and responses, environmental consequences, applicable laws, regulations, and policies. The decision and rationale for the decision will be documented in a Record of Decision.

The Forest Service proposes to harvest 8 million board feet of timber from 550 acres. Approximately 300 acres will be in openings ranging from 5–100 acres. Openings will retain approximately one-third of the trees growing on the site. Trees in these openings will then be burned to create fire-killed dead and the areas regenerated. To accomplish this, approximately 2 miles of temporary road will be built. An estimated 6.5 miles of road will be obliterated after harvest and additional road closures put into effect. In addition, ecosystem management burning on approximately 250 acres to improve wildlife Habitat is planned. Area affected is within the Upper and East For Clearwater River Drainages approximately 12 miles northeast of Seeley Lake, MT.

The purpose of this proposal is to carry out the goals and direction stated in the Lolo National Forest Plan using ecosystem management principles. The objectives are to:

- Reduce road densities in order to meet inter-agency access standards for grizzly bear.
- Reduce the risk of mature lodgepole stands to mountain pine beetle mortality, to maintain the health and vigor of seral species stands, and to contribute to the forest plan expectations for timber production through harvesting.
- Reduce existing sources of sediment to water and fisheries resources caused by existing roads.
- Reintroduce and simulate low and moderate intensity fires in fire-dependent ecosystems in order to create fire-killed dead trees on the landscape and improve wildlife habitat.
- Treat noxious weeds.
- Create vistas of Swan mountains along the Clearwater Loop Road
- Precommercially thin young stands to achieve desired species composition and density.

Public scoping was conducted on most elements of this proposal during June, 1997. Since then the proposal has been reduced in scale and modified. Issues and comments identified during this earlier scoping process will be carried forward and addressed in this analysis.

The following key issues were identified and will be used to develop alternatives and assess environmental consequences:

1. The project area has high value grizzly bear habitat, important bull trout spawning habitat, sensitive soils, and high value water quality. The current density of roads is high enough to result in adverse effects on those resources. The density of open and closed roads exceeds the inter-agency standard for grizzly bears. Culverts and drainage features on many of the roads in the project area are inadequate for the high volume run-off typical to the area. To meet current resource standards, roads in the project area need: (1) an overall reduction in density; (2) removal or upgrade of roads or culverts most at risk of failing during high run-off events; and (3) an upgrade of drainage features to reduce sediment during run-off events.

2. Management of the project area is subject to a number of laws, standards, interim regulations, and special allocations. The area is within occupied, essential grizzly bear habitat (USDI, 1993). Road densities exceed the standard for grizzly bear habitat. While the Clearwater River is not a "Water Quality Limited" segment as determined by Montana State in the current 305(b) Report, Seeley Lake, approximately 12 miles down-stream is identified as Water Quality Limited. The USDI Fish, Wildlife Service made a decision to list bulltrout as a threatened species within the Columbia River Basin in early June, 1998. Current road densities and past management activities have resulted in a decrease in large woody debris and an increase in sediment within streams of the analysis area.

3. As a result of past management activities, including fire suppression, there has been a shift in fire regime, forest structure, species composition and patch size across the landscape. Of particular concern is the extent of mature lodgepole pine stands at risk to mountain pine beetle mortality. Some level of vegetative treatment could stabilize stands, reduce risks to insect and disease mortality, and maintain vigor. Reintroduction of fire to simulate natural processes and patterns is desirable to improve wildlife habitat.

4. Recreational values and demand are high and need to be considered. At present the Clearwater area abounds with recreation opportunities such as driving the Clearwater Loop Road, hunting, fishing, snowmobiling, cross-country skiing, berry-picking and hiking. Unique and outstanding opportunities include scenic drives and canoeing on pristine Clearwater Lake. Management actions should not detract from the existing opportunities.

5. The area east of Clearwater Loop Road is in RARE II area 01485. The boundary of the RARE II area 01485 coincides with portions of Road 4370. Portions were precommercially thinned and roaded about 30 years ago. The roads are currently over-grown with brush and undrivable. Past wilderness proposals included areas above 5800 feet but did not include this area. Any treatments proposed within the RARE II area will be analyzed to determine impacts on roadless character and will be consistent with agency regulations and policies.

In addition to these key issues, secondary issues include: treatment of noxious weeds to curtail spread, the effects of treatments on old growth stands and the species that use them, effects of treatments on management indicator species or sensitive plan and wildlife species, biodiversity, fragmentation and corridors, cultural resources and precommercial thinning of young stands.

The Forest Service will consider a range of alternatives. Other alternatives will examine varying levels and locations for activities in response to issues and other resource values. In addition to the proposed action, one of these will be the "no action" alternative—in which none of the proposed activities would be implemented. Another alternative, in addition to the treatments in the proposed action, will address the impacts of commercial thinning from existing open roads. This concept is further broadened in an alternative that adds areas that can only be accessed from existing road and must be logged during the winter using snow roads.

Public participation is an important part of the analysis, commencing with the initial scoping process (40 CFR 1501.7) which will occur during July, 1998. In addition to this initial scoping, the public may visit Forest Service officials at any time during the analysis and prior to the decision. The Forest Service will be seeking information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations who may be interested in, or affected by, the proposed action. Consultation with the USDI Fish, Wildlife Service on grizzly bear and bulltrout will occur. No public meetings are scheduled at this time.

The Draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and available for public review in January, 1999. At that time, the EPA will publish a Notice of Availability of the Draft EIS in the **Federal Register**. The comment period on the Draft EIS will be 45 days from the date the EPA's notice of availability appears in the **Federal Register**. It is very important that those interested in management of the Clearwater project area participant at that time. The Final EIS is scheduled to be completed by April, 1999.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several count rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1978)*. Also, environmental objections that could be raised at the draft environmental impact statements stage buts that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Agoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 30-day scoping comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in developing issues and alternatives. To assist the Forest Service in identifying and considering issues, comments should be as specific to this proposal as possible. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Dated: June 23, 1998.

Charles C. Wildes,

Forest Supervisor.

[FR Doc. 98–17666 Filed 7–1–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Proposed Posting of Stockyards

The Grain Inspection, Packers and Stockyards Administration, United States Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act (7 U.S.C. 202) and should be made subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*).

MS–171—Varner Horse Company, Edwards, Mississippi

NM–123—Southwest Livestock Auction, Los Lunas, New Mexico

Pursuant to the authority under section 302 of the Packers and Stockyards Act, notice is hereby given that it is proposed to designate the stockyards named above as posted stockyards subject to the provisions of said Act.

Any person who wishes to submit written data, views or arguments concerning the proposed designation may do so by filing them with the Director, Office of Policy/Litigation Support, Packers and Stockyards Programs, Grain Inspection, Packers and Stockyards Administration, U.S. Department of Agriculture, 1400 Independence Avenue, SW, Stop 3646, Room 3418–S, Washington, D.C. 20250, by July 17, 1998.

All written submissions made pursuant to this notice will be made available for public inspection in the office of the Director of the Office of Policy/Litigation Support during normal business hours.

Done at Washington, DC, this 23rd day of June 1998.

Daniel L. Van Ackeren,

Director, Office of Policy/Litigation Support, Packers and Stockyards Programs.

[FR Doc. 98–17440 Filed 7–1–98; 8:45 am]

BILLING CODE 3410–EN–P

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DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Housing Service (RHS), USDA.

ACTION: Proposed collection; Comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Housing Service's intention to request an extension for a currently approved information collection in support of the program for Rural Housing Loans.

DATES: Comments on this notice must be received by August 31, 1998 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Dean A. Daetwyler, Senior Loan Specialist, Single Family Housing Servicing and Property Management Division, RHS, United States Department of Agriculture, Mail Stop 0784, 1400 Independence Ave., SW, Washington, DC 20250–0784, Telephone (202) 690–0514, E-mail dean.daetwyler@usda.gov.

SUPPLEMENTARY INFORMATION:

Title: 7 CFR 1980–D, Rural Housing Loans.

OMB Number: 0575–0078.

Expiration Date of Approval: July 31, 1998.

Type of Request: Extension of a currently approved information collection.

Abstract: The Rural Housing Service (RHS) is authorized under Section 517 (d) of Title V of the Housing Act of 1949, as amended, to issue loan guarantees for the acquisition of new or existing dwellings and related facilities to provide decent, safe, and sanitary living conditions and other structures in rural areas by eligible recipients.

The Act also authorizes the Secretary to pay the holder of a guaranteed loan the difference between the rate of interest paid by the borrower and the market rate of interest.

The purpose of the program is to assist low and moderate income individuals and families acquire or construct a single family residence in a rural area with loans made by private lenders. Eligibility for this program includes low and moderate income families or persons whose income does not exceed 115 percent of the median income for the area, as determined by the Secretary.

The GRH program was authorized under the Cranston-Gonzalez National Affordable Housing Act and the Agency issued a final rule implementing the GRH program on April 17, 1991, before departmental reorganization. The program began as a pilot program in 20 States on May 17, 1991. In 1992, the GRH program was offered on a nationwide basis. During the implementation process, the Agency looked for ways to improve the program and make it more user friendly.

The Agency recognized the need to make its program even more compatible with the existing structure of the mortgage lending community. On May 22, 1995, the Agency published the final rule incorporating the needed changes to encourage greater participation by lenders and the secondary market for mortgage loans.

The information requested by the Agency includes borrower financial information such as household income, assets and liabilities, and monthly expenses. All information collected is vital for the Agency to determine if borrowers qualify for and assure they receive all assistance for which they are eligible. Information requested on lenders is required to ensure lenders are eligible to participate in the GRH program. Lender requirements are in compliance with OMB Circular A–129.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .4 hours per response.

Respondents: Individuals or households and business or other for-profits.

Estimated Number of Respondents: 48,060.

Estimated Number of Responses per Respondent: 8.6.

Estimated Total Annual Burden on Respondents: 153,931 hours.

Copies of this information collection can be obtained from Michele Brooks, Regulations and Paperwork Management Branch, at (202) 692–0036.

Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of RHS, including whether the information will have practical utility; (b) the accuracy of RHS's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Michele Brooks, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Ave. SW, Washington, DC 20250. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: June 24, 1998.

Jan E. Shadburn,

Administrator, Rural Housing Service.

[FR Doc. 98–17635 Filed 7–1–98; 8:45 am]

BILLING CODE 3410–XV–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and Deletions from the Procurement List.

SUMMARY: This action adds to the Procurement List a commodity and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List services previously furnished by such agencies.

EFFECTIVE DATE: August 3, 1998.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On May 15 and May 22, 1998, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (63 F.R 27049 and 28352) of proposed additions to and deletions from the Procurement List.

Additions

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodity and services and impact of the additions on the current or most recent contractors, the Committee has determined that the commodity and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodity and services.

3. The action will result in authorizing small entities to furnish the commodity and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46—48c) in connection with the commodity and services proposed for addition to the Procurement List.

Accordingly, the following commodity and services are hereby added to the Procurement List:

Commodity

Mop Sponge Scrub Brush
M.R. 1012

Services

Base Supply Center
Homestead Air Reserve Station, Florida

Carwash Service
U.S. Border Patrol
1111 N. Imperial Avenue
El Centro, California
U.S. Border Patrol
1150 Birch Street
Calexico, California

Furnishings Management Services
Dover Air Force Base, Delaware

Grounds Maintenance
Mifflin County USARC
Lewistown, Pennsylvania

Janitorial/Custodial
PFC Harold P. Lynch USAR Center
Plattsburgh, New York
Canton USAR Center
Canton, New York

Medical Transcription
97th Medical Group
Altus AFB, Oklahoma

Refuse Collection and Disposal
Picatinny Arsenal, New Jersey

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will not have a severe economic impact on future contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services deleted from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the services listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Accordingly, the following services are hereby deleted from the Procurement List:

Grounds Maintenance
Naval Station
Mobile, Alabama

Grounds Maintenance
Portland Air National Guard Base
Portland, Oregon

Janitorial/Custodial
Pacific Highway Border Station
USDA Building
Blaine, Washington

Beverly L. Milkman,
Executive Director.

[FR Doc. 98–17737 Filed 7–1–98; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposal(s) to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: August 3, 1998.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodities and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodities

Carbon-Removing Compound
6850–00–965–2332
6850–00–281–3042
NPA: Lighthouse for the Blind, St. Louis, Missouri

Meals Operations Rations Commercial (MORC) Kits
8790–01–E59–0239
8790–01–E59–0240
8790–01–E59–0241

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8790–01–E59–0242

8790–01–E59–0243

8790–01–E59–0244

8790–01–E59–0245

NPA: The Meadows Center for Opportunity, Inc., Edmond, Oklahoma

Services

Grounds Maintenance

USARC

Myrtle Beach, South Carolina

NPA: Horry County Disability and Special Needs Board, Conway, South Carolina

Janitorial/Custodial

USARC

Myrtle Beach, South Carolina

NPA: Horry County Disability and Special Needs Board, Conway, South Carolina

Laundry Service

Naval Station

Everett, Washington

NPA: Northwest Center for the Retarded, Seattle, Washington.

Beverly L. Milkman,

Executive Director.

[FR Doc. 98–17738 Filed 7–1–98; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Deletion to the Procurement List; Correction

In the document appearing on page 30706 FR Doc. 98–14999, in the issue of June 5, 1998, in the second column, a Painting Service, McClellan Air Force Base, California, is listed as deleted from the Procurement List, effective July 6, 1998. The Committee voted to delete this service on information that the facility was closing and that this service would no longer be required. Since the June 5, 1998 deletion notice, the Air Force has indicated that it still requires this service.

Accordingly, the notice of June 5, 1998 referenced above is corrected to remove Painting Service, McClellan Air Force Base, California from the list of services deleted from the Procurement List.

Beverly L. Milkman,

Executive Director.

[FR Doc. 98–17739 Filed 7–1–98; 8:45 am]

BILLING CODE 6353–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the California Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the California Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 1:00 p.m. on Saturday, July 25, 1998, at the Holiday Inn at Union Square, 480 Sutter Street, San Francisco, California 94108. The purpose of the meeting is to review the Orange County and Sonoma transcripts and plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Philip Montez, Director of the Western Regional Office, 213–894–3437 (TDD 213–894–3435). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, June 23, 1998.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 98–17659 Filed 7–1–98; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Delaware Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Delaware Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 4:00 p.m. on July 23, 1998, at the Brandywine Suites Hotel-Kent Room, 707 King Street, Wilmington, Delaware 19801. The purpose of the meeting is to review the project proposal, "A Catalogue of Civil Rights Resources in Delaware's Public and Private Sectors," and take a vote. Planning will begin for fiscal year 1999, including proposals for new projects and meeting schedules.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Emily George Morris, 302–674–0839, or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, June 24, 1998.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 98–17658 Filed 7–1–98; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Kansas Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Kansas Advisory Committee to the Commission will convene at 10:00 a.m. and adjourn at 1:00 p.m. on July 24, 1998, at the Central Regional Office, 400 State Avenue, Suite 908, Kansas City, Kansas 66101. The purpose of the meeting is to discuss future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Office, 913–551–1400 (TDD 913–551–1414). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, June 23, 1998.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 98–17660 Filed 7–1–98; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 983]

Grant of Authority; Establishment of a Foreign-Trade Zone Dothan, Alabama

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Dothan-Houston County Foreign Trade Zone, Inc. (the Grantee), an Alabama non-profit corporation, has made application to the Board (FTZ Docket 31–97, 62 FR 19545, 4–22–97), requesting the establishment of a foreign-trade zone at sites in the Dothan (Houston/Dale Counties), Alabama area, adjacent to the Panama City, Florida Customs port of entry;

Whereas, notice inviting public comment has been given in the **Federal Register**; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report and finds that the requirements of the Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing a foreign-trade zone, designated on the records of the Board as Foreign-Trade Zone No. 233, at the sites described in the application, subject to the Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 23rd day of June 1998.

Foreign-Trade Zones Board.

William M. Daley,

Secretary of Commerce, Chairman and Executive Officer.

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–17688 Filed 7–1–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 33–98]

Foreign-Trade Zone 38 " Spartanburg, SC, Application for Subzone Status; Borg-Warner Automotive Powertrain Systems Corporation (Automotive Transfer Cases); Seneca, South Carolina

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the South Carolina State Ports Authority, grantee of FTZ 38, requesting special-purpose subzone status for the automotive transfer case manufacturing plant of Borg-Warner Automotive Powertrain Systems Corporation (BWA), located in Seneca, South Carolina. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on June 23, 1998.

The BWA plant (78 acres, 211,000 sq.ft.), is located at 15545 Wells Highway in Seneca (Oconee County), South Carolina, about 40 miles southwest of Greenville. The facility (175 employees) is used to produce transfer cases for all-wheel drive passenger vehicles manufactured at the Mercedes-Benz motor vehicle assembly plant in Alabama, as well as for export. The application indicates that foreign-sourced parts and materials comprise some 27 percent of the finished transfer cases' value, including: chain, fasteners, steel belts/cable/wire, crown corks and seals, parts of engines, ball/roller bearings, oil seals, rubber gaskets/washers/seals, electromagnetic couplings and clutches, gear boxes, and automatic regulating and controlling instruments (duty rates: free-9.4%).

FTZ procedures would exempt BWA from Customs duty payments on the foreign items used in production for export. On domestic shipments transferred in-bond to the Mercedes-Benz plant (Subzone 98A, Board Order 803, 61 FR 8237, 3–4–96), no duties would be paid on foreign-origin components of the transfer cases until Mercedes enters the finished motor vehicles for domestic consumption, at which time, Mercedes could choose to apply the finished auto duty rate (2.5%), rather than the rate on the individual parts. Mercedes would pay no duties on its exports. For finished transfer cases withdrawn for Customs entry, BWA would be able to choose the automotive transfer case duty rate (2.6%) for the foreign-origin items noted above. The application indicates that the savings from FTZ procedures would help improve the plant's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is August 31, 1998. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to September 15, 1998.)

A copy of the application and the accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce Export Assistance Center, Park Central Office Park, Building 1, Suite 109, 555 N. Pleasantburg Drive, Greenville, SC 29607.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th Street & Pennsylvania Avenue, NW, Washington, DC 20230.

Dated: June 23, 1998.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–17687 Filed 7–1–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 062498C]

Mid-Atlantic Fishery Management Council; Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council will hold a closed meeting.

DATES: The meeting will be held on July 22–23, 1998, from 8:00 a.m. until 5:00 p.m.

ADDRESSES: This meeting will be held at the Wilmington Hilton, I–95 and Naamans Road, Claymont, DE; telephone: 302–792–2700.

Council address: Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19904; telephone: 302–674–2331.

FOR FURTHER INFORMATION CONTACT: Christopher Moore, Ph.D., Acting Executive Director, Mid-Atlantic Fishery Management Council; telephone: 302–674–2331, ext. 16.

SUPPLEMENTARY INFORMATION: The purpose of this closed meeting is to interview candidates and select an Executive Director for the Mid-Atlantic Fishery Management Council.

Although other issues not contained in this agenda may come before this

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Council for discussion, in accordance with the Magnuson- Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in the agenda listed in this notice.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at the Council (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: June 26, 1998.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries National Marine Fisheries Service.

[FR Doc. 98–17669 Filed 7–1–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 062498B]

New England Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a meeting of its Scientific and Statistical Committee (SSC) to discuss and evaluate issues related to sea scallop management in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will be held on July 15, 1998.

ADDRESSES: The meetings will be held at the Holiday Inn, One Newbury Street, Peabody, MA 01960; telephone: (978) 535–4600.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; (781) 231–0422.

SUPPLEMENTARY INFORMATION: The SSC meeting is being convened to evaluate the scientific information used to develop management measures under consideration for inclusion in Amendment 7 to the Atlantic Sea Scallop Fishery Management Plan. In addition, the SSC will evaluate the biological and statistical data used by the Council's Overfishing Definition Review Panel to define overfishing of the Atlantic sea scallop resource.

Although other issues not contained in this agenda may come before this group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: June 26, 1998.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–17672 Filed 7–1–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Technical Information Service

NTIS Advisory Board Meeting

AGENCY: National Technical Information Service, Technology Administration, U.S. Department of Commerce.

ACTION: Notice of Partially Closed Meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that the National Technical Information Service Advisory Board (the "Board") will meet on Wednesday, July 22, 1998, from 8:30 a.m. to 12:30 p.m., and from 1:30 p.m. to 4:00 p.m. The session from 8:30 a.m. to 12:30 p.m., will be closed to the Public.

The Board was established under the authority of 15 U.S.C. 3704b(c), and was Chartered on September 15, 1989. The Board is composed of five members appointed by the Secretary of Commerce who are eminent in such fields as information resources management, information technology, and library and information services. The purpose of the meeting is to review and make recommendations regarding general policies and operations of NTIS, including policies in connection with fees and charges for its services. The agenda will include a progress report on NTIS activities, an update on the progress of FedWorld, and a discussion of NTIS' long range plans. The closed session discussion is scheduled to begin at 8:30 a.m. and end at 12:30 p.m. on July 22, 1998. The session will be closed because premature disclosure of the information to be discussed would be likely to significantly frustrate implementation of NTIS' business plans.

DATES: The meeting will convene on July 22, 1998, at 8:30 a.m. and adjourn at 4:00 p.m.

ADDRESSES: The meeting will be held in Room 2029 Sills Building, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161.

PUBLIC PARTICIPATION: The meeting will be open to public participation from 1:30 p.m. to 4:00 p.m. on July 22, 1998. Approximately thirty minutes will be set aside on July 22, 1998, for comments or questions from the public. Seats will be available for the public and for the media on a first-come, first-served basis. Any member of the public may submit written comments concerning the Board's affairs at any time. Copies of the minutes of the open session meeting will be available within thirty days of the meeting from the address given below.

FOR FURTHER INFORMATION CONTACT: Linda Lucas, NTIS Advisory Board Secretary, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161 Telephone: (703) 605–6400; Fax (703) 487–4093.

Dated: July 2, 1998.

Donald W. Corrigan,

Acting Director.

[FR Doc. 98–17693 Filed 7–1–98; 8:45 am]

BILLING CODE 3510–04–M

DEPARTMENT OF DEFENSE

Department of the Navy

Meetings of the Naval Research Advisory Committee

AGENCY: Department of the Navy, DOD.

ACTION: Closed meetings.

SUMMARY: The Naval Research Advisory Committee will meet to discuss basic and advanced research and technology. All sessions of the meetings will be devoted to briefings, discussions and technical examination of information related to technology opportunities and interoperability implications associated with information transfer and interaction among systems as well as between systems, especially among and between NATO and coalition forces; emerging technologies and technology-

enabled methodologies for training Naval personnel; and vulnerabilities and deficiencies of the Global Positioning System on Navy and Marine Corps platforms and weapons systems. All sessions of these meetings will be closed to the public.

DATES: The meetings will be held on Monday, July 13 through Friday, July 17, 1998 from 8:00 a.m. to 5:00 p.m.; and on Monday, July 20 through Friday, July 24, 1998 from 8:00 a.m. to 5:00 p.m.

ADDRESSES: The meetings will be held at the Space and Naval Warfare Systems Center San Diego, 53560 Hull Street, San Diego, California.

FOR FURTHER INFORMATION CONTACT: Diane Mason-Muir, Program Director, Naval Research Advisory Committee, 800 North Quincy Street, Arlington, VA 22217–5660, telephone number: (703) 696–6769.

SUPPLEMENTARY INFORMATION: This notice of meetings is provided in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2). All sessions of the meetings will be devoted to briefings and discussions involving technical examination of information related to technology opportunities and interoperability implications associated with information transfer and interaction among systems as well as between systems, especially among and between NATO and coalition forces; emerging technologies and technology-enabled methodologies for training Naval personnel; and vulnerabilities and deficiencies of the Global Positioning System on Navy and Marine Corps platforms and weapons systems. These briefings and discussions will contain classified information that is specifically authorized under criteria established by Executive Order to be kept secret in the interest of national defense and are in fact properly classified pursuant to such Executive Order. The classified and non-classified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meetings. In accordance with 5 U.S.C. App. 2, section 10(d), the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meetings be closed to the public because they will be concerned with matters listed in 5 U.S.C. section 552b(c)(1).

Dated: June 24, 1998.

Lou Rae Langevin,

LT, JAGC, USN, Alternate Federal Register Liaison Officer.

[FR Doc. 98–17663 Filed 7–1–98; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent to Grant Exclusive License; Unifinancial International, Inc.

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Unifinancial International, Inc. a revocable, nonassignable, exclusive license in the United States to practice these Government owned inventions in all fields of use except contaminated plastic waste abatement on commercial ocean-going vessels, as described in:

U.S. Patent Number 5,489,200 entitled *Compress/Melt Processor for Contaminated Plastic Waste*

U.S. Patent Number 5,411,697 entitled *Method for Processing Contaminated Plastic Waste*

U.S. Patent Number 5,488,278 entitled *Load Limit System for Mechanical Linear Actuator*

DATES: Anyone wishing to object to the grant of this license must file written objections along with supporting evidence, if any, not later than August 31, 1998.

ADDRESSES: Written objections are to be filed with the Carderock Division, Naval Surface Warfare Center, Code 004, 9500 MacArthur Blvd., West Bethesda, MD 20817–5700.

FOR FURTHER INFORMATION CONTACT: Mr. Dick Bloomquist, Director Technology Transfer, Carderock Division, Naval Surface Warfare Center, Code 0117, 9500 MacArthur Blvd., Bethesda, MD 20817–5700, telephone (301) 227–4229.

Dated: June 23, 1998.

Lou Rae Langevin,

LT, JAGC, USN, Alternate Federal Register Liaison Officer.

[FR Doc. 98–17661 Filed 7–1–98; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Meeting

AGENCY: National Assessment Governing Board; Education.

ACTION: Notice of Teleconference.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming teleconference of the Design and Methodology Committee of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act.

Date: July 24, 1998.

Time: 11:00 a.m.–1:00 p.m.

Location: National Assessment Governing Board, 800 North Capitol Street, N.W., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mary Ann Wilmer, Operations Officer, National Assessment Governing Board, Suite 825, 800 North Capitol Street, N.W., Washington, D.C., 20002–4233, Telephone: (202) 357–6938.

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board is established under section 412 of the National Education Statistics Act of 1994 (Title IV of the Improving America's Schools Act of 1994), (Pub. L. 103–382).

The Board is established to formulate policy guidelines for the National Assessment of Educational Progress. The Board is responsible for selecting subject areas to be assessed, developing assessment objectives, identifying appropriate achievement goals for each grade and subject tested, and establishing standards and procedures for interstate and national comparisons. Under P.L. 205–78, the National Assessment Governing Board is also granted exclusive authority over developing Voluntary National Tests pursuant to contract number RJ97153001

On July 24, in open session, 11:00 a.m. to 1:00 p.m., the Design and Methodology Committee will meet to review and approve the final pilot test design and sampling plan for the Voluntary National Tests in accordance with the prospective authority given to the Committee by the Board at its May meeting.

Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, Suite 825, 800 North Capitol Street, N.W., Washington, D.C., from 8:30 a.m. to 5:00 p.m.

Roy Truby,

Executive Director, National Assessment Governing Board.

[FR Doc. 98–17598 Filed 7–1–98; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Meeting

AGENCY: National Assessment Governing Board; Education.

ACTION: Notice of teleconference.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming teleconference of the Achievement Levels Committee of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act.

Date: July 22, 1998.

Time: 11:00 a.m.–1:00 p.m.

Location: National Assessment Governing Board, 800 North Capitol Street, N.W., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mary Ann Wilmer, Operations Officer, National Assessment Governing Board, Suite 825, 800 North Capitol Street, N.W., Washington, D.C., 20002–4233, Telephone: (202) 357–6938.

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board is established under section 412 of the National Education Statistics Act of 1994 (Title IV of the Improving America's Schools Act of 1994), (Pub. L. 103–382).

The Board is established to formulate policy guidelines for the National Assessment of Educational Progress. The Board is responsible for selecting subject areas to be assessed, developing assessment objectives, identifying appropriate achievement goals for each grade and subject tested, and establishing standards and procedures for interstate and national comparisons. Under P.L. 105–78, the National Assessment Governing Board is also granted exclusive authority over developing Voluntary National Tests pursuant to contract number RJ97153001.

On July 22, in open session, 11:00 a.m. to 1:00 p.m., the Achievement Levels Committee will meet to consider the revised achievement levels descriptions for writing for the purpose of formulating a recommendation for action on this matter at the next quarterly meeting of the Board.

Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, Suite 825, 800 North Capitol Street, N.W., Washington, D.C., from 8:30 a.m. to 5:00 p.m.

Roy Truby,

Executive Director, National Assessment Governing Board.

[FR Doc. 98–17599 Filed 7–1–98; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Hanford Site

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Hanford Site.

DATES: Thursday, August 6, 1998: 9:00 a.m.–5:00 p.m.; Friday, August 7, 1998: 8:30 a.m.–4:00 p.m.

ADDRESSES: Ridpath Hotel, W. 515 Sprague, Spokane, WA 99204–0367.

FOR FURTHER INFORMATION CONTACT: Gail McClure, Public Involvement Program Manager, Department of Energy Richland Operations Office, P.O. Box 550 (A7–75), Richland, WA, 99352; Ph: (509) 373–5647; Fax: (509) 376–1563.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda: The Board will receive information on and discuss issues related to the Groundwater/Vadose Zone Project—overview, program objectives, schedule and regulatory perspectives; Tank Waste Remediation System (TWRS); TWRS Vitrification/Privatization—Report to Congress; Technical Issues; Compliance Issues; Contractual Issues; Intersite Discussion Workshops; and the Proposed SSAB Low-Level Waste Forum. The Board will also receive update on the Spent Fuel Tri-Party Agreement Negotiations (M–34).

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Gail McClure's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments near the beginning of the meeting.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4:00 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to Gail McClure, Department of Energy Richland Operations Office, P.O. Box 550, Richland, WA 99352, or by calling him at (509) 376–9628.

Issued at Washington, DC on June 28, 1998.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 98–17676 Filed 7–1–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Research

Basic Energy Sciences Advisory Committee

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770), notice is given of a meeting of the Basic Energy Sciences Advisory Committee (BESAC).

DATES: Wednesday, July 29, 1998—8:30 a.m.—5:00 p.m.; Thursday, July 30, 1998—8:30 a.m.—2:00 p.m.

ADDRESSES: Gaithersburg Hilton, 620 Perry Parkway, Gaithersburg, MD 20877.

FOR FURTHER INFORMATION CONTACT: Patricia Lake; Basic Energy Sciences Advisory Committee; U. S. Department of Energy; ER–10, GTN; 19901 Germantown Road; Germantown, MD 20874–1290; Telephone: (301) 903–5565.

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting: The Committee will provide advice and guidance with respect to the basic energy sciences research program.

Tentative Agenda: Agenda will include discussions of the following:

- Introduction to Basic Energy Sciences (BES) for the New Committee Members with Selected Highlights.
- Update on the Fiscal Year (FY) 1999 Budget.
- ER Strategic Simulation Initiative Update.
- BESAC High Flux Isotope Reactor (HFIR) Review Update.
- BESAC 4th Generation Light Source Panel Update.
- BESAC/Energy Research (ER) Roadmapping—Complexity.

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- ER Roadmapping Activities—The Scientific User Facilities.
- Interagency Efforts on Scientific User Facilities.

Public Participation: The meeting is open to the public. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will, in her judgment, facilitate the orderly conduct of business. Any member of the public who wishes to make oral statements pertaining to agenda items should contact Patricia Lake at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. Public comment will follow the 10 minute rule.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room; 1E–190, Forrestal Building; 1000 Independence Avenue, S.W.; Washington, D.C. 20585; between 9:00 a.m. and 4:00 p.m., Monday through Friday, except holidays.

Issued in Washington, D.C. on June 29, 1998.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 98–17677 Filed 7–1–98; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Office of Energy Research

High Energy Physics Advisory Panel; Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770), notice is given of a meeting of the High Energy Physics Advisory Panel.

DATES: Monday, August 24, 1998; 9:00 a.m. to 6:00 p.m.; and Tuesday, August 25, 1998; 8:30 a.m. to 3:30 p.m.

ADDRESSES: University of Wisconsin, Wisconsin Center Guest House (a.k.a. Lowell Hall), Room B1A, 610 Langdon Street, Madison, Wisconsin 53703.

FURTHER INFORMATION CONTACT: John Metzler; Executive Secretary, High Energy Physics Advisory Panel; U.S. Department of Energy; ER–20, Germantown, Maryland 20874; Telephone: (301) 903–2979.

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting: To provide advice and guidance on a continuing basis with respect to the high energy physics research program.

Tentative Agenda

Monday, August 24, 1998 and Tuesday, August 25, 1998:

Discussion of Department of Energy High Energy Physics Programs
Discussion of National Science Foundation Elementary Particle Physics Program
Discussion of High Energy Physics University Programs
Reports on and Discussion of the Use of Computer Networks in High Energy Physics
Reports on and Discussion of U.S. Large Hadron Collider Activities
Reports on and Discussions of Topics of General Interest in High Energy Physics
Public Comment (10 minute rule)

Public Participation: The two-day meeting is open to the public. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to make oral statements pertaining to agenda items should contact the Executive Secretary at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Minutes: Available for public review and copying at the Public Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on June 29, 1998.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 98–17678 Filed 7–1–98; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ES98–35–000]

Northwestern Corporation; Notice of Application

June 26, 1998.

Take notice that on June 11, 1998, Northwestern Corporation submitted an application under Section 204 of the Federal Power Act for authorization to issue (I) not more than 11,100,000 shares of its Common Stock, par value $1.75 per share, including related Common Stock Purchase Rights; (ii) not more than 500,000 shares of its Cumulative Preferred Stock, par value $100 per share; (iii) not more than 500,000 shares of its Preferred Stock, par value $50 per share; and (iv) not more than $300 million of its mortgage bonds, notes, debentures, subordinated debentures, guarantees or other evidences of indebtedness.

Northwestern also requests an exemption from the Commission's competitive bidding and negotiated offer requirements of 18 CFR 34.2.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., 20426, according to the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before July 13, 1998. Protests will be considered by the commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–17573 Filed 7–1–98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–628–000]

Sea Robin Pipeline Company; Notice of Application

June 26, 1998.

Take notice that on June 19, 1998, Sea Robin Pipeline Company (Sea Robin), Post Office Box 2563, Birmingham, Alabama 35202–2563, filed in Docket No. CP98–628–000, an application pursuant to Section 7(b) of the Natural Gas Act and Sections 157.5 through 157.13 and 157.18 of the Commission's Regulations, to abandon two compressor units and appurtenant facilities, one of which is located in Vermillion Parish, Louisiana, and the other located offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Sea Robin proposes to abandon: (1) one of three 10,830 horsepower reciprocating compressor units and appurtenant facilities at its Erath Compressor Station (Erath); and

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(2) one of three 12,350 horsepower turbine engine compressor units and appurtenant facilities at its Vermillion 149 Compressor Station (Vermillion 149).

Sea Robin states that the remaining compressor units at Erath and Vermillion 149 will be sufficient to compress the quantities of gas available on its system, and that the proposed abandonment of the two units will have no affect on its firm obligations, nor will it result in any termination or deterioration of service to its customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 17, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its on review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Sea Robin to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–17579 Filed 7–1–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–626–000]

Viking Gas Transmission Company; Notice of Request Under Blanket Authorization

June 26, 1998.

Take notice that on June 19, 1998, as supplemented on June 24, 1998, Viking Gas Transmission Company (Applicant), 825 Rice Street, Saint Paul, Minnesota 55117, filed in Docket No. CP98–626–000 a request pursuant to Section 157.205, 157.212 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for approval to replace facilities at an existing delivery point, located in Polk County, Wisconsin, to accommodate natural gas deliveries to Wisconsin Gas Company (Wisconsin Gas), under Applicant's blanket certificate issued in Docket Nos. CP82–414–000 and CP88–679–000, pursuant to Section 7(c) of the Natural Gas Act (NGA), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Applicant states that Wisconsin Gas has requested meter capacity up to 3,500 Mcf of natural gas per day at the dresser delivery point in Polk County, Wisconsin; therefore, Applicant proposes to add a three-inch positive displacement meter, data acquisition equipment, and associated piping to this delivery point. Applicant asserts that Wisconsin Gas has agreed to reimburse Applicant for these additional facilities. Applicant further asserts that it has sufficient capacity in its system to accomplish delivery of gas to the proposed delivery point without detriment or disadvantage to Applicant's other customers.

Any person or the Commission's Staff may, within 45 days of the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), a motion to intervene and pursuant to Section 157.205 of the regulations under the Natural Gas Act (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefor, the proposed activities shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–17580 Filed 7–1–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–625–000]

Viking Gas Transmission Company; Notice of Request Under Blanket Authorization

June 26, 1998.

Take notice that on June 19, 1998, Viking Gas Transmission Company (Viking), 825 Rice Street, St. Paul, Minnesota 55117, filed in Docket No. CP98–625–000 a request pursuant to §§ 157.205, and 157.212, of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to add a new delivery point to accommodate natural gas deliveries to Wisconsin Gas (Wisconsin) in Polk County, Wisconsin under Viking's blanket certificate issued in Docket No. CP88–679–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Viking states that Wisconsin has requested metering capacities to accommodate up to 3,600 Dth of gas per day at the Black Brook delivery point. Viking states that the new delivery point will not exceed contract quantities, and the changes proposed are not prohibited by Viking's tariff. They also state that they have sufficient capacity in its system to accomplish delivery of gas to the proposed delivery point without detriment or disadvantage to Viking's other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–17581 Filed 7–1–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–624–000]

Williston Basin Interstate Pipeline Company; Notice of Request Under Blanket Authorization

June 26, 1998.

Take notice that on June 19, 1998, Williston Basin Interstate Pipeline Company (Williston Basin), Suite 300, 200 North Third Street, Bismarck, North Dakota 58501, filed a prior notice request with the Commission in Docket No. CP98–624–000 pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to construct and operate two master meter stations and appurtenant facilities in Yellowstone County, Montana, under Williston Basin's blanket certificate issued in Docket No. CP82–487–000, *et al.*, pursuant to Section 7 of the NGA, all as more fully set forth in the request which is open to the public for inspection.

Williston Basin proposes to construct and operate two new master meter stations and appurtenant facilities to provide natural gas service to Montana-Dakota Utilities Co. (Montana-Dakota). Williston Basin states that it would install two master meter stations at its current 48th Street West farm tap site. Williston Basin also states that one meter station would be known as the Danford master meter station, which would consist of a 2-inch tap on the Elk Basin-Billings mainline and approximately 400 feet of 3-inch diameter lateral pipeline from the proposed Danford master meter station to the new tap. Williston Basin further states that it would construct and operate a rotary meter, regulators, and miscellaneous piping, gauges, and valves at the 48th Street West farm tap site. Williston Basin estimates that it would construct the proposed master meter stations facilities at a cost of $47,700 in order to deliver approximately 1,310 Mcf of natural gas per day via the proposed Danford master meter station and 595 Mcf of natural gas per day via the 48th Street West farm tap site master meter station to Montana-Dakota.

Williston Basin states that it provides natural gas transportation service to Montana-Dakota pursuant to Rate Schedules FT–1 and/or IT–1 of Williston Basin's FERC Gas Tariff. Williston Basin further states that the addition of the proposed master meter stations facilities is not prohibited by its FERC Gas Tariff and that addition of the facilities would not have any adverse impact on a daily or annual basis upon Williston Basin's existing customers.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–17576 Filed 7–1–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–991–001, et al.]

California Independent System Operator Corporation, et al.; Electric Rate and Corporate Regulation Filings

June 24, 1998.

Take notice that the following filings have been made with the Commission:

1. California Independent System Operator Corporation

[Docket No. ER98–991–001]

Take notice that on June 19, 1998, the California Independent System Operator Corporation (ISO) tendered for filing Amendment No. 1 to the Scheduling Coordinator Agreement between Power Resource Managers, L.L.C., and the ISO for acceptance by the Commission. The ISO states that Amendment No. 1 modifies the Agreement, as directed by the Commission, to comply with the Commission's order issued December 17, 1997 in Pacific Gas and Electric Co., 81 FERC ¶ 61,320 (1997).

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: July 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. California Independent System Operator Corporation

[Docket No. ER98–994–001]

Take notice that on June 19, 1998, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 1 to the Scheduling Coordinator Agreement between Edison Source and the ISO for acceptance by the Commission. The ISO states that Amendment No. 1 modifies the Agreement, as directed by the Commission, to comply with the Commission's order issued December 17, 1997 in Pacific Gas and Electric Co., 81 FERC ¶ 61,320 (1997).

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: July 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. California Independent System Operator Corporation

[Docket No. ER98–995–001]

Take notice that on June 19, 1998, the California Independent System Operator Corporation (ISO) tendered for filing Amendment No. 1 to the Scheduling Coordinator Agreement between Duke Energy Trading & Marketing, L.L.C. and the ISO for acceptance by the Commission. The ISO states that Amendment No. 1 modifies the Agreement, as directed by the Commission, to comply with the Commission's order issued December 17, 1997 in Pacific Gas and Electric Co., 81 FERC ¶ 61,320 (1997).

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: July 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. California Independent System Operator Corporation

[Docket No. ER98–1000–001]

Take notice that on June 19, 1998, the California Independent System Operator Corporation (ISO) tendered for filing Amendment No. 1 to the Scheduling Coordinator Agreement between Northern California Power Agency and the ISO for acceptance by the Commission. The ISO states that Amendment No. 1 modifies the Agreement, as directed by the

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Commission, to comply with the Commission's order issued December 17, 1997 in Pacific Gas and Electric Co., 81 FERC ¶ 61,320 (1997).

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: July 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. California Independent System Operator Corporation

[Docket No. ER98–1001–001]

Take notice that on June 19, 1998, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 1, to the Scheduling Coordinator Agreement between PacifiCorp, an Oregon Corporation and the ISO for acceptance by the Commission. The ISO states that Amendment No. 1, modifies the Agreement, as directed by the Commission, to comply with the Commission's order issued December 17, 1997 in Pacific Gas and Electric Co., 81 FERC ¶ 61,320 (1997).

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: July 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. California Independent System Operator Corporation

[Docket No. ER98–1003–001]

Take notice that on June 19, 1998, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 1, to the Scheduling Coordinator Agreement between PG&E Energy Services Corporation and the ISO for acceptance by the Commission. The ISO states that Amendment No. 1, modifies the Agreement, as directed by the Commission, to comply with the Commission's order issued December 17, 1997 in Pacific Gas and Electric Co., 81 FERC ¶ 61,320 (1997).

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: July 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. California Independent System Operator Corporation

[Docket No. ER98–1006–001]

Take notice that on June 19, 1998, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 1, to the Scheduling Coordinator Agreement between Automated Power Exchange, Inc., and the ISO for acceptance by the Commission. The ISO states that Amendment No. 1, modifies the Agreement, as directed by the Commission, to comply with the Commission's order issued December 17, 1997 in Pacific Gas and Electric Co., 81 FERC ¶ 61,320 (1997).

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: July 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. California Independent System Operator Corporation

[Docket No. ER98–1009–001]

Take notice that on June 19, 1998, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 1, to the Scheduling Coordinator Agreement between Vitol Gas & Electric, L.L.C., and the ISO for acceptance by the Commission. The ISO states that Amendment No. 1, modifies the Agreement, as directed by the Commission, to comply with the Commission's order issued December 17, 1997 in Pacific Gas and Electric Co., 81 FERC ¶ 61,320 (1997).

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: July 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. California Independent System Operator Corporation

[Docket No. ER98–1012–001]

Take notice that on June 19, 1998, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 1, to the Scheduling Coordinator Agreement between City of Seattle, City Light Department and the ISO for acceptance by the Commission. The ISO states that Amendment No. 1, modifies the Agreement, as directed by the Commission, to comply with the Commission's order issued December 17, 1997 in Pacific Gas and Electric Co., 81 FERC ¶ 61,320 (1997).

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: July 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. California Independent System Operator Corporation

[Docket No. ER98–1013–001]

Take notice on June 19, 1998, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 1, to the Scheduling Coordinator Agreement between Electric Clearinghouse, Inc., and the ISO for acceptance by the Commission. The ISO states that Amendment No. 1, modifies the Agreement, as directed by the Commission, to comply with the Commission's order issued December 17, 1997 in Pacific Gas and Electric Co., 81 FERC ¶ 61,320 (1997).

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: July 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. California Independent System Operator Corporation

[Docket No. ER98–1016–001]

Take notice that on June 19, 1998, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 1, to the Scheduling Coordinator Agreement between Enron Power Marketing, Inc., and the ISO for acceptance by the Commission. The ISO states that Amendment No. 1, modifies the Agreement, as directed by the Commission, to comply with the Commission's order issued December 17, 1997 in Pacific Gas and Electric Co., 81 FERC ¶ 61,320 (1997).

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: July 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. California Independent System Operator Corporation

[Docket No. ER98–1018–001]

Take notice that on June 19, 1998, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 1, to the Scheduling Coordinator Agreement between LG&E Energy Marketing, Inc., and the ISO for acceptance by the Commission. The ISO states that Amendment No. 1 modifies the Agreement, as directed by the Commission, to comply with the Commission's order issued December 17, 1997 in Pacific Gas and Electric Co., 81 FERC ¶ 61,320 (1997).

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: July 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. California Independent System Operator Corporation

[Docket No. ER98–1020–001]

Take notice that on June 19, 1998, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 1, to the Scheduling Coordinator Agreement between Arizona Public Service Company and the ISO for acceptance by the Commission. The ISO states that Amendment No. 1, modifies the Agreement, as directed by the Commission, to comply with the Commission's order issued December 17, 1997 in Pacific Gas and Electric Co., 81 FERC ¶ 61,320 (1997).

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: July 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. California Independent System Operator Corporation

[Docket No. ER98–1021–001]

Take notice that on June 19, 1998, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 1, to the Scheduling Coordinator Agreement between San Diego Gas & Electric Company and the ISO for acceptance by the Commission. The ISO states that Amendment No. 1, modifies the Agreement, as directed by the Commission, to comply with the Commission's order issued December 17, 1997 in Pacific Gas and Electric Co., 81 FERC ¶ 61,320 (1997).

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: July 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. California Independent System Operator Corporation

[Docket No. ER98–1884–001]

Take notice that on June 19, 1998, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 1, to the Scheduling Coordinator Agreement between Symmetry Device Research, Inc., and the ISO for acceptance by the Commission. The ISO states that Amendment No. 1, modifies the Agreement, as directed by the Commission, to comply with the Commission's order issued December 17, 1997 in Pacific Gas and Electric Co., 81 FERC ¶ 61,320 (1997).

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: July 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. California Independent System Operator Corporation

[Docket No. ER98–1870–001]

Take notice that on June 19, 1998, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 1, to the Scheduling Coordinator Agreement between Citizens Power Sales and the ISO for acceptance by the Commission. The ISO states that Amendment No. 1, modifies the Agreement, as directed by the Commission, to comply with the Commission's order issued December 17, 1997 in Pacific Gas and Electric Co., 81 FERC ¶ 61,320 (1997).

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: July 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. Consolidated Edison Company of New York, Inc.

[Docket No. ER98–2720–000]

Take notice that on June 19, 1998, Consolidated Edison Company of New York, Inc. (CECONY), tendered for filing, pursuant to its FERC Electric Tariff Rate Schedule No. 2, a service agreement for Consolidated Edison Solutions, Inc., to purchase electric capacity and energy pursuant at negotiated rates, terms, and conditions.

CECONY states that a copy of this filing has been served by mail upon Consolidated Edison Solutions, Inc.

Comment date: July 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. The Washington Water Power Company

[Docket No. ER98–3183–000]

Take notice that on June 19, 1998, The Washington Water Power Company (WWP), tendered for filing with the Federal Energy Regulatory Commission an amendment in the above docket by submitting an executed Service Agreement for Short-Term Firm and Non-Firm Point-To-Point Transmission Service under WWP's Open Access Transmission Tariff—FERC Electric Tariff, Volume No. 8 with PacifiCorp. WWP requests the Service Agreement be given an effective date of May 1, 1998.

Comment date: July 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. Cinergy Services, Inc.

[Docket No. ER98–3405–000]

Take notice that on June 18, 1998, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Open Access Transmission Service Tariff (the Tariff) entered into between Cinergy and NorAm Energy Services, Inc., (NorAm).

Cinergy and NorAm are requesting an effective date of May 20, 1998.

Comment date: July 8, 1998, in accordance with Standard Paragraph E at the end of this notice.

20. Public Service Electric and Gas Company

[Docket No. ER98–3421–000]

Take notice that on June 19, 1998, Public Service Electric and Gas Company (PSE&G), of Newark, New Jersey tendered for filing an agreement for the sale of capacity and energy to Tenaska Power Services Co. (Tenaska), pursuant to the PSE&G Wholesale Power Market Based Sales Tariff, presently on file with the Commission.

PSE&G further requests waiver of the Commission's Regulations such that the agreement can be made effective as of May 22, 1998.

Copies of the filing have been served upon Tenaska and the New Jersey Board of Public Utilities.

Comment date: July 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

21. Public Service Electric and Gas Company

[Docket No. ER98–3422–000]

Take notice that on June 19, 1998, Public Service Electric and Gas Company (PSE&G) of Newark, New Jersey tendered for filing an agreement for the sale of capacity and energy to Duke/Louis Dreyfus, L.L.C. (Duke), pursuant to the PSE&G Wholesale Power Market Based Sales Tariff, presently on file with the Commission.

PSE&G further requests waiver of the Commission's Regulations such that the agreement can be made effective as of May 22, 1998.

Copies of the filing have been served upon Duke and the New Jersey Board of Public Utilities.

Comment date: July 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

22. Cinergy Services, Inc.

[Docket No. ER98–3423–000]

Take notice that on June 17, 1998, Cinergy Services, Inc. (Cinergy),

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tendered for filing a service agreement under Cinergy's Open Access Transmission Service Tariff (the Tariff), entered into between Cinergy and Amoco Energy Trading Corporation (Amoco).

Cinergy and Amoco are requesting an effective date of May 21, 1998.

Comment date: July 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

23. Jersey Central Power & Light Company, et al.

[Docket No. ER98–3424–000]

Take notice that on June 19, 1998, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (d/b/a GPU Energy), filed an executed Service Agreement between GPU Energy and Engage Energy US, L.P. (EEU), dated June 18, 1998. This Service Agreement specifies that EEU has agreed to the rates, terms and conditions of GPU Energy's Capacity, Energy and Capacity Credit Sales Tariff (Sales Tariff) designated as FERC Electric Tariff, Second Revised Volume No. 1. The Sales Tariff allows GPU Energy and EEU to enter into separately scheduled transactions under which GPU Energy will make available for sale, capacity, energy and capacity credits.

GPU Energy requests a waiver of the Commission's notice requirements for good cause shown and an effective date of June 18, 1998, for the Service Agreement.

GPU Energy has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: July 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

24. Puget Sound Energy, Inc.

[Docket No. ER98–3425–000]

Take notice that on June 19, 1998, Puget Sound Energy, Inc., as Transmission Provider, tendered for filing a Service Agreement for Firm Point-To-Point Transmission Service (Firm Point-To-Point Service Agreement) and a Service Agreement for Non-Firm Point-To-Point Transmission Service (Non-Firm Point-To-Point Service Agreement) with NorAm Energy Services, Inc. (NES), as Transmission Customer.

A copy of the filing was served upon NES.

Comment date: July 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

25. Puget Sound Energy, Inc.

[Docket No. ER98–3426–000]

Take notice that on June 19, 1998, Puget Sound Energy, Inc., as Transmission Provider, tendered for filing a Service Agreement for Firm Point-To-Point Transmission Service (Firm Point-To-Point Service Agreement) and a Service Agreement for Non-Firm Point-To-Point Transmission Service (Non-Firm Point-To-Point Service Agreement) with Duke Energy Trading and Marketing, L.L.C. (DETM), as Transmission Customer.

A copy of the filing was served upon DETM.

Comment date: July 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

26. Cinergy Services, Inc.

[Docket No. ER98–3427–000]

Take notice that on June 19, 1998, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Open Access Transmission Service Tariff (the Tariff), entered into between Cinergy and Amoco Energy Trading Corporation (Amoco).

Cinergy and Amoco are requesting an effective date of May 21, 1998.

Comment date: July 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

27. Duquesne Light Company

[Docket No. ER98–3428–000]

Take notice that on June 19, 1998, Duquesne Light Company (DLC), filed a Service Agreement dated June 9, 1998, with Constellation Power Source under DLC's FERC Coordination Sales Tariff (Tariff). The Service Agreement adds Constellation Power Source as a customer under the Tariff. DLC requests an effective date of June 9, 1998, for the Service Agreement.

Comment date: July 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

28. Cinergy Services, Inc.

[Docket No. ER98–3429–000]

Take notice that on June 17, 1998, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Open Access Transmission Service Tariff (the Tariff) entered into between Cinergy and Oglethorpe Power Corporation (OPC).

Cinergy and OPC are requesting an effective date of May 21, 1998.

Comment date: July 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

29. Cinergy Services, Inc.

[Docket No. ER98–3430–000]

Take notice that on June 19, 1998, Cinergy Services, Inc. (Cinergy), tendered for filing a Service Agreement under Cinergy's Open Access Transmission Service Tariff (the Tariff), entered into between Cinergy and Oglethorpe Power Corporation (OPC).

Cinergy and OPC are requesting an effective date of May 21, 1998.

Comment date: July 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

30. Orange and Rockland Utilities, Inc.

[Docket No. ER98–3431–000]

Take notice that on June 19, 1998, Orange and Rockland Utilities, Inc. (O&R), tendered for filing pursuant to Part 35 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR 35, a service agreement under which O&R will provide capacity and/or energy to NGE Generation, Inc. (NGE Generation).

O&R requests waiver of the notice requirement so that the service agreement with NGE Generation becomes effective as of June 16, 1998.

O&R has served copies of the filing on The New York State Public Service Commission and NGE Generation.

Comment date: July 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

31. Rochester Gas and Electric Corporation

[Docket No. ER98–3432–000]

Take notice that on June 19, 1998, Rochester Gas and Electric Corporation (RG&E), filed a Service Agreement between RG&E and the Coral Power, L.L.C.(Customer). This Service Agreement specifies that the Customer has agreed to the rates, terms and conditions of the RG&E open access transmission tariff filed on July 9, 1996 in Docket No. OA96–141–000.

RG&E requests waiver of the Commission's sixty (60) day notice requirements and an effective date of June 11, 1998, for the Coral Power, L.L.C., Service Agreement. RG&E has served copies of the filing on the New York State Public Service Commission and on the Customer.

Comment date: July 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

32. JMF Power Marketing

[Docket No. ER98–3433–000]

Take notice that on June 19, 1998, JMF Power Marketing (JMF), petitioned the Commission for acceptance of JMF Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission Regulations.

JMF intends to engage in wholesale electric power and energy purchases and sales as a marketer. JMF is not in the business of generating or transmitting electric power. JMF is a privately owned company, is not affiliated with any other entity and is engaged in electric and water resources energy consulting.

Comment date: July 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

33. Unitil Power Corp.

[Docket No. ER98–3434–000]

Take notice that on June 19, 1998, Unitil Power Corp. (UPC), tendered for filing a service agreement between UPC and PG&E Energy Trading-Power, L.P., for service under UPC's Market-Based Power Sales Tariff. This Tariff was accepted for filing by the Commission on September 25, 1997, in Docket No. ER97–2460–000. UPC requests an effective date of July 15, 1998, for the service agreement.

Comment date: July 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

34. Fitchburg Gas and Electric Light Company

[Docket No. ER98–3435–000]

Take notice that on June 19, 1998, Fitchburg Gas and Electric Light Company (Fitchburg), tendered for filing a service agreement between Fitchburg and PG&E Energy Trading-Power, L.P., for service under Fitchburg's Market-Based Power Sales Tariff. This Tariff was accepted for filing by the Commission on September 25, 1997, in Docket No. ER97–2463–000. Fitchburg requests an effective date of July 15, 1998.

Comment date: July 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

35. Entergy Services, Inc.

[Docket No. ER98–3436–000]

Take notice that on June 19, 1998, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy Operating Companies), tendered for filing a Non-Firm Point-To-Point Transmission Service Agreement and a Short-Term Firm Transportation Agreement both between Entergy Services, Inc., as agent for the Entergy Operating Companies, and NorAm Energy Services, Inc.

Comment date: July 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

36. FirstEnergy System

[Docket No. ER98–3437–000]

Take notice that on June 19, 1998, FirstEnergy System filed Service Agreements to provide Firm Point-to-Point Transmission Service for Coral Power, L.L.C., Dayton Power & Light Co., Duquesne Light Co., Koch Energy Trading, Inc., PacifiCorp Power Marketing, Inc., and Plum Street Energy Marketing, Inc., the Transmission Customers. Services are being provided under the FirstEnergy System Open Access Transmission Tariff submitted for filing by the Federal Energy Regulatory Commission in Docket No. ER97–412–000. The proposed effective date under these Service Agreements is June 1, 1998.

Comment date: July 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

37. Consolidated Edison Company of New York, Inc.

[Docket No. ER98–3438–000]

Take notice that on June 19, 1998, Consolidated Edison Company of New York, Inc. (CECONY), tendered for filing, pursuant to its FERC Electric Tariff Rate Schedule No. 2, a service agreement for Northeast Utilities Service Company to purchase electric capacity and energy pursuant at negotiated rates, terms, and conditions.

CECONY states that a copy of this filing has been served by mail upon Northeast Utilities Service Company.

Comment date: July 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

38. Entergy Services, Inc.

[Docket No. ER98–3440–000]

Take notice that on June 19, 1998, Entergy Services, Inc. (Entergy Services), on behalf of Gulf States Utilities Company tendered for filing a Letter Agreement between Entergy Services, Inc., and Sam Rayburn Municipal Power Agency (SRMPA). Entergy Services states that the Letter Agreement provides for the relocation of certain distribution facilities to accommodate an SRMPA terminal addition at an Entergy Services substation.

Comment date: July 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

39. Entergy Services, Inc.

[Docket No. ER98–3441–000]

Take notice that on June 19, 1998, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc. (Entergy Arkansas), submitted for filing the Second Amendment to the Agreement for Wholesale Power Service between Entergy Arkansas, Inc. and the City of Benton, Arkansas, dated March 1998.

Comment date: July 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17625 Filed 7–1–98; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–3038–000, et al.]

Minnesota Power & Light Company, et al.; Electric Rate and Corporate Regulation Filings

June 26, 1998.

Take notice that the following filings have been made with the Commission:

1. Minnesota Power & Light Company

[Docket No. ER98–3038–000]

Take notice that on May 18, 1998, Minnesota Power & Light Company filed a service agreement with Minnkota Power Cooperative in Docket No. ER98–3038–000. Take notice that on June 2, 1998, Minnesota Power & Light Company filed a request for withdrawal of the above-referenced Service Agreement.

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Comment date: July 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Mid-Continent Area Power Pool

[Docket No. ER98–3454–000]

Take notice that on June 22, 1998, the Mid-Continent Area Power Pool (MAPP), tendered for filing on behalf of its Members that are subject to Commission jurisdiction as public utilities under Section 201(e) of the Federal Power Act, Schedule R: Redispatch Service. Schedule R provides for redispatch of MAPP Member generating units on a regional basis as an alternative to curtailing firm transmission service on MAPP Member systems during emergency conditions.

Comment date: July 15, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. Central Illinois Light Company

[Docket No. ER98–3458–000]

Take notice that on June 23, 1998, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61202, tendered for filing a Coordination Sales Tariff Service Agreement with E Prime and Attachment B, a Index of Customers under its Coordination Sales Tariff, which was approved by Commission letter order issued on April 25, 1998, in Docket No. ER95–602-000.

CILCO requests a effective date of June 18, 1998.

Copies of the filing were served on the affected customer and the Illinois Commerce Commission.

Comment date: July 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. Southwest Power Pool

[Docket No. ER98–3459–000]

Take notice that on June 23, 1998, Southwest Power Pool (SPP), tendered for filing two executed service agreements for short-term firm point-to-point transmission service and non-firm point-to-point firm transmission service with Tennessee Valley Authority and PacifiCorp Power Marketing, Inc., under the SPP Open Access Transmission Tariff.

SPP states that the effective date of these agreements is June 1, 1998, and requests waiver of the Commission's notice requirements.

Copies of this filing were served upon each of the parties to these agreements.

Comment date: July 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. American Electric Power Service Corporation

[Docket No. ER98–3460–000]

Take notice that on June 23, 1998, the American Electric Power Service Corporation (AEPSC), as agent for the operating utility subsidiaries of American Electric Company, Inc., (AEP Companies), tendered for filing blanket service agreements executed by AEP Companies under the Wholesale Market Tariff of the AEP Operating Companies (Power Sales Tariff). The Power Sales Tariff was accepted for filing effective October 10, 1997, and has been designated AEP Operating Companies' FERC Electric Tariff Original Volume No. 5.

AEPSC respectfully requests waiver of notice to permit the service agreements to be made effective for service billed on and after June 1, 1998.

A copy of the filing was served upon the Parties and the State Utility Regulatory Commissions of Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

Comment date: July 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Southern Company Services, Inc.

[Docket No. ER98–3461–000]

Take notice that on June 23, 1998, Southern Company Services, Inc. (SCS), acting as agent for Alabama Power Company (APCo), tendered for filing a Delivery Point Specification Sheet dated as of June 1, 1998, involving a rate schedule change other than a rate increase predicated solely upon the revision of delivery point specifications for service to Baldin County Electric Membership Cooperative.

Comment date: July 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Washington Water Power Company

[Docket No. ER98–3462–000]

Take notice that on June 23, 1998, Washington Water Power Company (WWP), tendered for filing pursuant to 18 CFR Section 35.13, an executed Service Agreement and a revised list of Purchasers under WWP's FERC Electric Tariff Original Volume No. 9, with Northern/AES Energy, L.L.C.

WWP requests waiver of the prior notice requirement and requests an effective date of June 22, 1998.

Comment date: July 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Western Resources, Inc.

[Docket No. ER98–3463–000]

Take notice that on June 23, 1998, Western Resources, Inc., tendered for filing Service Agreements between Western Resources and Northern AES Energy, Southern Indiana Gas & Electric Co., Virginia Electric and Power Company, and Western Farmers Electric Cooperative. Western Resources states that the purpose of the agreements is to permit the customers to take service under Western Resources' Market-Based Power Sales Tariff under Western Resources' FERC Electric Tariff, Original Volume No. 6.

Western Resources requests waiver of the Commission's prior notice requirements and requests that the agreements become effective on June 22, 1998.

Copies of the filing were served upon Northern AES Energy, Southern Indiana Gas & Electric Co., Virginia Electric and Power Company, Western Farmers Electric Cooperative, and the Kansas Corporation Commission.

Comment date: July 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. Central Wayne Energy Recovery L.P.

[Docket No. QF95–220–002]

Take notice that on June 23, 1998, Central Wayne Energy Recovery, L.P. (Applicant), tendered for filing a supplement to its filing in this docket.

The supplement pertains to the ownership structure of the facility. No determination has been made that the submittal constitutes a complete filing.

Comment date: 15 days after publication of this notice in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

10. Colorado Springs Utilities

[Docket No. NJ97–9–002]

Take notice that on January 28, 1998, Colorado Springs Utilities (CSU), tendered for filing a revised open access Transmission Tariff, in accordance with Order No. 888–A and Order No. 888–B in Docket No. NJ97–9–001.

Comment date: July 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17623 Filed 7–1–98; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG98–89–000, et al.]

North American Energy Services Company, et al.; Electric Rate and Corporate Regulation Filings

June 25, 1998.

Take notice that the following filings have been made with the Commission:

1. North American Energy Service Company

[Docket No. EG98–89–000]

Take notice that on June 17, 1998, North American Energy Services Company, a Washington corporation (Applicant), with its principal executive office at Issaquah, Washington, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations (the Application).

Applicant has entered into an agreement for operation and maintenance services with Generadora Electrica Del Norte, S.A., organized and existing pursuant to the laws of the Republic of Guatemala, to operate and maintain a 40-megawatt fuel oil-fired, electric generating plant located at or near Puerto Barrios, Guatemala (the Project). Project facilities also include a switching yard and substation owned and operated by Instituto Nacional de Electrificaión, a Guatemalan utility.

Comment date: July 15, 1998, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Montaup Electric Company

[Docket No. ER96–1090–001]

Take notice that on June 8, 1998, Montaup Electric Company filed a compliance refund report.

Comment date: July 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. Aquila Power Corporation v. Entergy Services, Inc., as agent for Entergy Arkansas, Inc., et al.

[Docket No. EL98–36–000]

Take notice that on June 23, 1998, Aquila Power Corporation filed an Amended and Restated Complaint in this docket. Aquila Power Corporation's Amended and Restated Complaint provides further factual support (including descriptions of events that occurred after the filing of the original complaint) for its claims that Entergy has improperly denied Aquila transmission service in violation of Order No. 888.

Coment date: July 16, 1998, in accordance with Standard Paragraph E at the end of this notice. Answers to the Amended and Restated Complaint shall be due on or before July 16, 1998.

4. First Power, L.L.C.

[Docket No. ER97–3580–002]

Take notice that on May 18, 1998, First Power, L.L.C., tendered for filing a change in status compliance filing in the above-referenced docket.

Comment date: July 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. California Independent System Operator Corporation

[Docket No. ER98–1887–001]

Take notice that on June 22, 1998, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 1, to the Scheduling Coordinator Agreement between the City of Riverside and the ISO for acceptance by the Commission. The ISO states that Amendment No. 1, modifies the Agreement, as directed by the Commission, to comply with the Commission's order issued December 17, 1997 in Pacific Gas and Electric Co., 81 FERC ¶ 61,320 (1997).

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: July 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. The Washington Water Power Company

[Docket No. ER98–3439–000]

Take notice that on June 22, 1998, The Washington Water Power Company (WWP), tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13(a)(2)(i) a revision to its Rate Schedule FERC No. 148.

WWP requests an effective date of June 22, 1998.

A copy of this filing has been served upon The Spokane Tribe of Indians, The United States Bureau of Reclamation, and the Washington Utilities and Transportation Commission.

Comment date: July 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. PECO Energy Company

[Docket No. ER98–3442–000]

Take notice that on June 22, 1998, PECO Energy Company (PECO), filed under Section 205 of the Federal Power Act, 16 U.S.C. S 792 *et seq.*, a Contract dated April 30, 1998, with the United States of America—Department of Energy, acting by and through the Southeastern Power Administration (Government).

PECO requests an effective date of April 30, 1998, for the Contract.

PECO states that copies of this filing have been supplied to Government and to the Pennsylvania Public Utility Commission.

Comment date: July 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Wisconsin Electric Power Company

[Docket No. ER98–3443–000]

Take notice that on June 22, 1998, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing an electric service agreement under its Market Rate Sales Tariff (FERC Electric Tariff, Original Volume No. 8) with ConAgra Energy Services, Inc., (ConAgra). Wisconsin Electric respectfully requests an effective date of June 19, 1998, to allow for economic transactions.

Copies of the filing have been served on ConAgra, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: July 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. Virginia Electric and Power Company

[Docket No. ER98–3444–000]

Take notice that on June 22, 1998, Virginia Electric and Power Company

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(Virginia Power), tendered for filing two amendments to its filing in this docket. Virginia Power requests an effective date of January 1, 1998, for the amendments.

Comment date: July 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. MidAmerican Energy Company

[Docket No. ER98–3445–000]

Take notice that on June 22, 1998, MidAmerican Energy Company (MidAmerican), 666 Grand Avenue, Des Moines, Iowa 50309, filed with the Commission a Firm Transmission Service Agreement with PacificCorp Power Marketing, Inc. (PacificCorp), dated June 12, 1998, and a Non-Firm Transmission Service Agreement with PacificCorp, dated June 12, 1998, entered into pursuant to MidAmerican's Open Access Transmission Tariff.

MidAmerican requests an effective date of June 12, 1998, for the Agreements with PacificCorp, and accordingly seeks a waiver of the Commission's notice requirement.

MidAmerican has served a copy of the filing on PacificCorp, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment date: July 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. PECO Energy Company

[Docket No. ER98–3446–000]

Take notice that on June 22, 1998, PECO Energy Company (PECO), tendered for filing under Section 205 of the Federal Power Act, 16 U.S.C. S 792 *et seq.*, a Amended and Restated Transaction Agreement dated June 30, 1997 with CL Power Sales Two, L.L.C. (CL Two), under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff).

PECO requests an effective date of June 1, 1998, for the Agreement.

PECO states that copies of this filing have been supplied to CL Two and to the Pennsylvania Public Utility Commission.

Comment date: July 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. The Washington Water Power Company

[Docket No. ER98–3447–000]

Take notice that on June 22, 1998, The Washington Water Power Company (WWP), tendered for filing with the Federal Energy Regulatory Commission executed Service Agreements for Short-Term Firm and Non-Firm Point-To-Point Transmission Service under WWP's Open Access Transmission Tariff—FERC Electric Tariff, Volume No. 8, with Idaho Power Company, Amoco Energy Trading Corporation, and Public Utility District No. 1 of Chelan County.

WWP requests the Service Agreements be given respective effective dates of May 26, 1998, June 4, 1998, and June 11, 1998.

Comment date: July 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. South Carolina Electric & Gas Company

[Docket No. ER98–3448–000]

Take notice that on June 22, 1998, South Carolina Electric & Gas Company (SCE&G), submitted a service agreement establishing SCANA Energy Marketing, Inc. (SEMI), as a customer under the terms of SCE&G's Open Access Transmission Tariff.

SCE&G requests an effective date of one day subsequent to the filing of the service agreement. Accordingly, SCE&G requests waiver of the Commission's notice requirements.

Copies of this filing were served upon SEMI and the South Carolina Public Service Commission.

Comment date: July 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. South Carolina Electric & Gas Company

[Docket No. ER98–3449–000]

Take notice that on June 22, 1998, South Carolina Electric & Gas Company (SCE&G), submitted service agreements establishing ConAgra Energy Services, Inc. (CESI), and Federal Energy Sales, Inc. (FESI), as customers under the terms of SCE&G's Open Access Transmission Tariff.

SCE&G requests an effective date of one day subsequent to the filing of the service agreements. Accordingly, SCE&G requests waiver of the Commission's notice requirements.

Copies of this filing were served upon CESI, FESI, and the South Carolina Public Service Commission.

Comment date: July 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. Alliant Service, Inc.

[Docket No. ER98–3450–000]

Take notice that on June 22, 1998, Alliant Services, Inc., (Alliant), on behalf of IES Utilities Inc., Interstate Power Company (IPC), and Wisconsin Power & Light Company (WPL), tendered for filing executed Service Agreements for Firm and Non-Firm Point-to-Point Transmission Service, establishing PacifiCorp Power Marketing, Inc., as a customer under the rates, terms and conditions of Alliant's transmission tariff.

Alliant, requests an effective date of June 15, 1998, and accordingly, seeks waiver of the Commission's notice requirements.

A copy of this filing has been served upon the Illinois Commerce Commission, the Minnesota Public Utilities Commission, the Iowa Department of Commerce, and the Public Service Commission of Wisconsin.

Comment date: July 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. American Premier Energy Corp.

[Docket No. ER98–3451–000]

Take notice that on June 22, 1998, American Premier Energy Corp. (APE), petition the Commission for acceptance of APE Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission Regulations.

APE intends to engage in wholesale electric power and energy purchases and sales as a marketer. APE is not in the business of generating or transmitting electric power.

Comment date: July 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. Virginia Electric and Power Company

[Docket No. ER98–3452–000]

Take notice that on June 22, 1998, Virginia Electric and Power Company (Virginia Power), tendered for filing Service Agreements for Firm Point-to-Point Transmission Service with (i) The Energy Authority, Inc., (ii) NorAm Energy Services, Inc., (iii) Energy Transfer Group LLC, (iv) Merchant Energy Group of the Americas, Inc. (MEGA), and (v) Avista Energy, Inc. (collectively, the Transmission Customers), under the Open Access Transmission Tariff to Eligible Purchasers dated July 14, 1997. Under the Service Agreements, Virginia Power will provide firm point-to-point service to the Transmission Customers under the rates, terms and conditions of the Open Access Transmission Tariff.

Copies of the filing were served upon the Transmission Customers, the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: July 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. PP&L, Inc.

[Docket No. ER98-3453-000]

Take notice that on June 22, 1998, PP&L, Inc. (PP&L), tendered for filing an application to amend its Market-Based Rates Tariff, FERC Electric Tariff Original Volume No. 5, to (1) allow PP&L to sell, assign or transfer transmission rights and associated ancillary services; (2) change the name of the tariff to Market-Based Rates and Resale of Transmission Rights Tariff; (3) delete all references in the Form of Service Agreement to PP&L's Open Access Transmission Tariff and (4) reflect the name change from Pennsylvania Power & Light Company to PP&L, Inc.

PP&L requests waiver of Commission Regulations to permit the tariff amendment to become effective on June 26, 1998.

Comment date: July 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. Mid-Continent Area Power Pool

[Docket No. ER98-3454-000]

Take notice that on June 22, 1998, the Mid-Continent Area Power Pool (MAPP), tendered for filing on behalf of its Members that are subject to Commission jurisdiction as public utilities under Section 201(e) of the Federal Power Act, Schedule R: Redispatch Service. Schedule R provides for redispatch of MAPP Member generating units on a regional basis as an alternative to curtailing firm transmission service on MAPP Member systems during emergency conditions.

Comment date: July 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

20. Wisconsin Electric Power Company

[Docket No. ER98-3455-000]

Take notice that on June 22, 1998, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing an electric service agreement under its Market Rate Sales Tariff (FERC Electric Tariff, Original Volume No. 8) with Allegheny Power Service Corporation (Allegheny).

Wisconsin Electric respectfully requests an effective date of June 18, 1998, to allow for economic transactions between the parties.

Copies of the filing have been served on Allegheny, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: July 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

21. Houston Lighting & Power Company

[Docket No. ER98-3456-000]

Take notice that on June 22, 1998, Houston Lighting & Power Company (HL&P), tendered for filing (1) an executed Transmission Service Agreement (TSA) with Tex-La Electric Cooperative of Texas, Inc., for Short-Term Firm Transmission Service under HL&P's FERC Electric Tariff, Third Revised Volume No. 1, for Transmission Service To, From and Over Certain HVDC Interconnections, and Notice of Cancellation to be effective January 1, 1999. HL&P has requested an effective date for the TSA of August 1, 1998.

Copies of the filing were served on Tex-La and the Public Utility Commission of Texas.

Comment date: July 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

22. PJM Interconnection, L.L.C.

[Docket No. ER98-3457-000]

Take notice that on June 22, 1998, PJM Interconnection, L.L.C., filed proposed revisions to the Reliability Assurance Agreement Among Load Serving Entities in the PJM Control Area that would (1) modify the methodology for determining the capacity obligations of the parties, (2) clarify the responsibilities of the parties, the Office of the Interconnection and the PJM Board, (3) clarify and adjust the cost responsibilities of the parties, (4) modify the Agreement to provide incentives for the owners of generating resources who are not parties to the Agreement and (5) simplify, clarify or correct a number of other provisions.

Copies have been served on the Regulatory Commissions of Delaware, the District of Columbia, Maryland, New Jersey, Pennsylvania and Virginia and on the parties to the Reliability Assurance Agreement.

Comment date: July 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98-17622 Filed 7-1-98; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG98-87-000, et al.]

Sunlaw Cogeneration Partners I, et al.; Electric Rate and Corporate Regulation Filings

June 23, 1998.

Take notice that the following filings have been made with the Commission:

1. Sunlaw Cogeneration Partners I

[Docket No. EG98-87-000]

Take notice that on June 12, 1998, Sunlaw Cogeneration Partners I (Sunlaw), filed with the Federal Energy Regulatory Commission (Commission), an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Sunlaw states that it is a limited partnership organized and existing under the laws of the State of California. Sunlaw indicates that it is engaged directly and exclusively in the business of owning and operating all or part of two cogeneration facilities located in the City of Vernon, California and selling electric energy at wholesale.

Comment date: July 10, 1998, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Potomac Electric Power Company, PP&L, Inc., GPU Energy, Delmarva Power & Light Company, Atlantic City Electric Company, Public Service Electric and Gas Company, PECO Energy Company and GPU Energy, et al.

[Docket Nos. ER98-1568-000, ER98-1569-000, ER98-1570-000, ER98-1608-000, ER98-1609-000, ER98-1621-002, ER98-2011-000, and ER97-3189-013]

Take notice that on June 15, 1998, Public Service Electric and Gas Company submitted a compliance filing in the above-captioned proceeding.

Comment date: July 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

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3. Ogden Haverhill Associates

[Docket No. ER98–3156–000]

Take notice that on June 1, 1998, Ogden Haverhill Associates tendered for filing an amendment in the above-referenced docket.

Comment date: July 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. Consolidated Edison Company of New York, Inc.

[Docket No. ER98–3386–000]

Take notice that on June 17, 1998, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide non-firm transmission service pursuant to its Open Access Transmission Tariff with Central Hudson Gas & Electric Corporation (CH).

Con Edison states that a copy of this filing has been served by mail upon CH.

Comment date: July 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Wisconsin Electric Power Company

[Docket No. ER98–3387–000]

Take notice that on June 17, 1998, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing unexecuted electric service agreement under its Market Rate Sales Tariff (FERC Electric Tariff, Original Volume No. 8) with Northern States Power Company (NSP), Engage Energy US, L.P. (Engage), Morgan Stanley Capital Group Inc., (Morgan Stanley) and Tenaska Power Services Company (Tenaska). Wisconsin Electric respectfully requests an effective date of May 20, 1998, to allow for economic transactions.

Copies of the filing have been served on NSP, Engage, Morgan Stanley, Tenaska, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: July 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. NGE Generation, Inc.

[Docket No. ER98–3388–000]

Take notice that NGE Generation, Inc. (NGE Gen) on June 17, 1998, tendered for filing pursuant to Part 35 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR 35, a service agreement (the Service Agreement) under which NGE Gen may provide capacity and/or energy to Cinergy Capital & Trading, Inc. (Cinergy), in accordance with NGE Gen's FERC Electric Tariff, Original Volume No. 1.

NGE Gen has requested waiver of the notice requirements so that the service agreement with Cinergy becomes effective as of June 18, 1998.

NGE Gen has served copies of the filing upon the New York State Public Service Commission and Cinergy.

Comment date: July 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Southern Indiana Gas and Electric Company

[Docket No. ER98–3389–000]

Take notice that on June 17, 1998, Southern Indiana Gas and Electric Company (SIGECO), tendered for filing one (1) service agreement for market based rate power sales under its Market Based Rate Tariff with Noram Energy Services, Inc.

Copies of the filing were served upon each of the parties to the service agreement.

Comment date: July 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Union Electric Company

[Docket No. ER98–3390–000]

Take notice that on June 17, 1998, Union Electric Company (UE), tendered for filing Service Agreements for Market Based Rate Power Sales between UE and Avista Energy, Inc., Central and South West Services, Inc., Koch Power Services, Inc., Northern Indiana Public Service Company and PECO Energy Company. UE asserts that the purpose of the Agreements is to permit UE to make sales of capacity and energy at market based rates to the parties pursuant to UE's Market Based Rate Power Sales Tariff filed in Docket No. ER97–3664–000.

Comment date: July 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. South Carolina Electric & Gas Company

[Docket No. ER98–3391–000]

Take notice that on June 17, 1998, South Carolina Electric & Gas Company (SCE&G), submitted service agreements establishing DTE Energy Trading, Inc. (DTE), Constellation Power Service, Inc. (CPSI), and VTEC Energy, Inc. (VTEC), as customers under the terms of SCE&G's Negotiated Market Sales Tariff.

SCE&G requests an effective date of one day subsequent to the filing of the service agreements. Accordingly, SCE&G requests waiver of the Commission's notice requirements.

Copies of this filing were served upon DTE, CPSI, VTEC, and the South Carolina Public Service Commission.

Comment date: July 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Black Hills Corporation

[Docket No. ER98–3403–000]

Take notice that Black Hills Corporation, which operates its electric utility business under the assumed name of Black Hills Power and Light Company (Black Hills), tendered for filing on June 18, 1998, an executed Form Service Agreement with MEAN–NMPP Energy.

Copies of the filing were provided to the Regulatory Commission of each of the States Montana, South Dakota, and Wyoming.

Comment date: July 8, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Cinergy Services, Inc.

[Docket No. ER98–3404–000]

Take notice that on June 16, 1998, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Open Access Transmission Service Tariff (the Tariff) entered into between Cinergy and Dayton Power and Light (DP&L).

Cinergy and DP&L are requesting an effective date of June 4, 1998.

Comment date: July 8, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. New York State Electric & Gas Corporation

[Docket No. ER98–3406–000]

Take notice that on July 8, 1998, New York State Electric & Gas Corporation (NYSEG), tendered for filing pursuant to Section 205 of the Federal Power Act and Section 35.13 of the Federal Energy Regulatory Commission's (FERC or Commission) Regulations, a request for modification of its loss percentage for FERC Rate Schedule 110 for service to NYPA for the benefit of its Expansion Power Program, Rate Schedule 179 for service to NYPA for its Economic Development Power Program, and Rate Schedules 67, 70, and 80 for service to NYPA for numerous municipal agencies within NYSEG's service territory.

NYSEG requests the modification of the loss percentage to be effective retroactively to March 1, 1998, for Rate Schedule 179, and for Rate Schedule 110, NYSEG requests the modification of the loss percentage to be effective as of the date in March 1998 on which the customer's meter was read. For Rate Schedules 67, 70, and 80, NYSEG requests the modification of the loss percentage to be effective on July 1, 1998. NYSEG has served copies of the filing on the parties on the official service lists of the subject rate schedules.

Comment date: July 8, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. South Carolina Electric & Gas Company

[Docket No. ER98–3408–000]

Take notice that on July 8, 1998, South Carolina Electric & Gas Company (SCE&G), submitted a service agreement establishing NP Energy, Inc. (NPEI), as a customer under the terms of SCE&G's Negotiated Market Sales Tariff.

SCE&G requests an effective date of one day subsequent to the filing of the service agreement. Accordingly, SCE&G requests waiver of the Commission's notice requirements.

Copies of this filing were served upon NPEI and the South Carolina Public Service Commission.

Comment date: July 8, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. UtiliCorp United Inc.

[Docket No. ER98–3409–000]

Take notice that on June 18, 1998, UtiliCorp United Inc. (UtiliCorp), filed service agreements with Tractebel Energy Marketing, Inc., for service under its Short-Term Firm Point-to-Point Open Access Service Tariff for its operating divisions, Missouri Public Service, WestPlains Energy-Kansas and WestPlains Energy-Colorado.

Comment date: July 8, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. UtiliCorp United Inc.

[Docket No. ER98–3410–000]

Take notice that on June 18, 1998, UtiliCorp United Inc. (UtiliCorp), filed service agreements with Coral Power, L.L.C., for service under its Non-Firm Point-to-Point open access service tariff for its operating divisions, Missouri Public Service, WestPlains Energy-Kansas and WestPlains Energy-Colorado.

Comment date: July 8, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. UtiliCorp United Inc.

[Docket No. ER98–3411–000]

Take notice that on June 18, 1998, UtiliCorp United Inc. (UtiliCorp), filed service agreements with Tractebel Energy Marketing, Inc., for service under its Non-Firm Point-to-Point open access service tariff for its operating divisions, Missouri Public Service, WestPlains Energy-Kansas and WestPlains Energy-Colorado.

Comment date: July 8, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. UtiliCorp United Inc.

[Docket No. ER98–3412–000]

Take notice that on June 18, 1998, UtiliCorp United Inc. (UtiliCorp), filed service agreements with Coral Power, L.L.C., for service under its Short-Term Firm Point-to-Point open access service tariff for its operating divisions, Missouri Public Service, WestPlains Energy-Kansas and WestPlains Energy-Colorado.

Comment date: July 8, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. Western Resources, Inc.

[Docket No. ER98–3413–000]

Take notice that on June 18, 1998, Western Resources, Inc., (Western Resources), tendered for filing Service Agreements between Western Resources and Aquila Power Corporation, Coral Power L.L.C., MidAmerican Energy Inc., and Sonat Power Marketing L.P. Western Resources states that the purpose of the agreements is to permit the customers to take service under Western Resources' market-based power sales tariff on file with the Commission. The agreements are proposed to become effective May 21, 1998, May 21, 1998, May 19, 1998, and May 19, 1998, respectively.

Copies of the filing were served upon Aquila Power Corporation, Coral Power L.L.C., MidAmerican Energy Inc., Sonat Power Marketing L.P., and the Kansas Corporation Commission.

Comment date: July 8, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. Western Resources, Inc.

[Docket No. ER98–3414–000]

Take notice that on June 18, 1998, Western Resources, Inc., tendered for filing Service Agreements between Western Resources and Illinova Power Marketing, Inc., North American Energy Conservation, Inc., The Power Company of America. Western Resources states that the purpose of the agreements is to permit the customers to take service under Western Resources' market-based power sales tariff on file with the Commission. The agreements are proposed to become effective June 17, 1998.

Copies of the filing were served upon Illinova Power Marketing, Inc., North American Energy Conservation, Inc., The Power Company of America, and the Kansas Corporation Commission.

Comment date: July 8, 1998, in accordance with Standard Paragraph E at the end of this notice.

20. Commonwealth Edison Company

[Docket No. ER98–3415–000]

Take notice that on June 18, 1998, Commonwealth Edison Company (ComEd), submitted for filing submits for filing two Service Agreements establishing PP&L, Inc. (PP&L) and Tractebel Energy Marketing Inc. (TEMI), as non-firm transmission customers under the terms of ComEd's Open Access Transmission Tariff (OATT).

ComEd requests an effective date of June 18, 1998, for the service agreements, and accordingly seeks waiver of the Commission's notice requirements.

Copies of this filing were served on PP&L and TEMI, and the Illinois Commerce Commission.

Comment date: July 8, 1998, in accordance with Standard Paragraph E at the end of this notice.

21. Duke Energy Oakland LLC

[Docket No. ER98–3416–000]

Take notice that on June 18, 1998, Duke Energy Oakland LLC (Oakland), tendered for filing an application for an order accepting its FERC Electric Rate Schedule No. 3, to be effective as soon as possible. Oakland intends to sell certain ancillary services at market-based rates under its Rate Schedule No. 3.

Comment date: July 8, 1998, in accordance with Standard Paragraph E at the end of this notice.

22. Duke Energy Morro Bay LLC

[Docket No. ER98–3417–000]

Take notice that on June 18, 1998, Duke Energy Morro Bay LLC (Morro Bay), tendered for filing an application for an order accepting its FERC Electric Rate Schedule No. 2, to be effective on the date its acquisition of the Morro Bay Facility, a generation facility in California, closes or as soon thereafter as possible. Morro Bay intends to sell certain ancillary services at market-based rates under its Rate Schedule No. 2.

Comment date: July 8, 1998, in accordance with Standard Paragraph E at the end of this notice.

23. Duke Energy Moss Landing LLC

[Docket No. ER98–3418–000]

Take notice that on June 18, 1998, Duke Energy Moss Landing LLC (Moss Landing), tendered for filing an application for an order accepting its FERC Electric Rate Schedule No. 3, to be effective as soon as possible. Moss Landing intends to sell certain ancillary services at market-based rates under its Rate Schedule No. 3.

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Comment date: July 8, 1998, in accordance with Standard Paragraph E at the end of this notice.

24. Cinergy Services, Inc.

[Docket No. ER98–3419–000]

Take notice that on June 18, 1998, Cinergy Services, Inc., (Cinergy), tendered for filing an Interchange Agreement among the Cinergy Operating Companies and Enserch Energy Services, Inc., in the above-referenced docket. The Interchange Agreement provides for voluntary sales transactions between the parties.

Copies of the filing have been served upon Enserch Energy Services, Inc., the Texas Public Utility Commission, the Kentucky Public Service Commission, the Public Utility Commission of Ohio, and the Indiana Utility Regulatory Commission.

Comment date: July 8, 1998, in accordance with Standard Paragraph E at the end of this notice.

25. American Electric Power Service Corporation

[Docket No. ER98–3420–000]

Take notice that on June 18, 1998, the American Electric Power Service Corporation (AEPSC), tendered for filing service agreements under the Wholesale Market Tariff of the AEP Operating Companies (Power Sales Tariff). The Power Sales Tariff was accepted for filing effective October 10, 1997 and has been designated AEP Operating Companies' FERC Electric Tariff Original Volume No. 5. AEPSC respectfully requests waiver of notice to permit the service agreements submitted with this filing to be made effective for service billed on or after May 20, 1998.

A copy of the filing was served upon the Parties and the State Utility Regulatory Commissions of Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

Comment date: July 8, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17626 Filed 7–1–98; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Major License Application

June 26, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Major Original License.

b. *Project No.:* 11508–001.

c. *Date filed:* March 27, 1998.

d. *Applicant:* Alaska Power & Telephone Company.

e. *Name of Project:* Wolf Lake Hydroelectric Project.

f. *Location:* On the east side of Prince of Wales Island, along Wolf Creek, near Hollis, Alaska.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Robert S. Grimm, President, Alaska Power & Telephone Company, P.O. Box 3222, 191 Otto Street, Port Townsend, WA 98368, (360) 385–1733.

i. *FERC Contact:* Carl J. Keller, (202) 219–2831.

j. *Status of Environmental Analysis:* This application is not ready for environmental analysis at this time—see attached paragraph E1.

k. *Deadline for Protests and Motions to Intervene:* Sixty days after issuance of this notice.

l. *Brief Description of the Project:* The proposed project would consist of the following features: (1) A screened intake structure 50 feet long by 3 feet high with a 20-foot-wide spillway; (2) a 3.5-acre storage impoundment at elevation 1,088 feet mean sea level; (3) a 6,000-foot-long, 22-inch-diameter steel and high-density polyethylene chloride penstock; (4) a 30- by 40-foot-long prefabricated metal powerhouse along the right bank of Wolf Creek, having a single horizontal twin-jet Pelton turbine with an installed capacity of 2.2 megawatts; (5) a 150-foot-long, 10-foot-wide, by 6-foot-deep tailrace channel; (6) a 12.5-kilovolt, 2.3-mile-long overhead transmission line on wooden poles; (7) a 50-foot-wide by 2.3-mile-long transmission line right-of-way, including an access road; and (8) other appurtenances.

The proposed run-of-river project would use natural flows from the 100-acre Wolf Lake and ponds just below the lake to generate 2.2 MW of power to serve various communities on Prince of Wales Island. Water diverted to generate power for this project would bypass about 6,000 feet of Wolf Creek. The project would operate continuously to meet a large portion of the spring, summer, and fall load demand.

m. This notice also consists of the following standard paragraph: B1, and E1.

n. Available Locations of Application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 First Street, N.E., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at the address shown in item h. above.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules or Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

E1. Filing and Service of Responsive Documents—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All filings must (1) bear in all capital letters the title "PROTEST" or "MOTION TO INTERVENE;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC. 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–17574 Filed 7–1–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1218]

Georgia Power Company; Notice of Availability of Draft Application and Preliminary Draft Environmental Assessment (DEA)

June 26, 1998.

Take notice that the following hydroelectric application has been field with the Commission and is available for public inspection:

a. *Type of Application:* Major New License.

b. *Project No.:* 1218.

c. *Applicant:* Georgia Power Company.

d. *Name of Project:* Flint River Hydroelectric Project.

e. *Location:* Flint River near the City of Albany, in Lee and Dougherty Counties.

f. *Applicant Contact:* Mr. Mike Phillips, Georgia Power Company, Bin 10151, 241 Ralph McGill Boulevard, NE, Atlanta, GA 30308–3374.

g. *FERC Contact:* Allan E. Creamer, (202) 219–0365.

h. Georgia Power Company mailed a copy of the Draft License Application and Preliminary DEA on all entities on June 22, 1998. The Commission received a copy of the Draft License Application and Preliminary DEA on June 23, 1998. Copies of these documents, as well as the resource study reports previously distributed for review and comment, are available for review at Georgia Power Company's Plant Mitchell Office, 5200 Radium Springs Road, Albany, GA 31705.

i. As discussed in the Commission's March 6, 1996, letter to all parties, with this notice we are soliciting preliminary terms, conditions, and recommendations on the Draft License Application and Preliminary DEA.

j. All comments on the Draft License Application and Preliminary DEA should be sent to the address noted above in Item (f), with one copy filed with the Commission at the following address: Allan E. Creamer, Federal Energy Regulatory Commission, Office of Hydropower Licensing, Mailstop HL–11.3, 888 First Street, NE, Washington, DC 20426.

All comments must include the project name and number, and bear the heading "Preliminary Comments," "Preliminary Recommendations," "Preliminary Terms and Conditions," or "Preliminary Prescriptions." Any part interested in commenting must do so on or before Monday, August 24, 1998.

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 98–17578 Filed 7–1–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP97–315–000 et al., CP97–319–000 and CP98–200–000]

Independence Pipeline Company, ANR Pipeline Company and National Fuel Gas Supply Company; Notice of Additional Scoping Meeting and Site Visit

June 26, 1998.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will be conducting an additional scoping meeting for the proposed Independence Pipeline Project in Wooster, Ohio (Wayne County) on Wednesday, July 29, 1998. Note the meeting location and time below.

Location: Wooster High School, PAC Auditorium, 515 Oldman Road, Wooster, Ohio 44691, (330) 345–4000.

Time: 3:00 p.m. to 9:00 p.m.

This meeting is being held to (1) allow those individuals who signed up but did not get an opportunity to speak on the record in Canton, Ohio on April 21, 1998, a new opportunity to provide oral comments, and (2) afford an opportunity for those individuals in Wayne County who could not attend the April 21, 1998 meeting an opportunity to present oral or written comments at this meeting. In order to accommodate the maximum number of speakers, the scoping meeting will be an "Open House" forum from 3:00 p.m. until 9:00 p.m. Those who signed up at the April 21, 1998 meeting but did not get an opportunity to speak will be given priority to speak as they arrive during the six hour meeting. Comments will be received from 3:00 p.m. through 5:00 p.m. and 6:00 p.m. through 8:00 p.m., with question and answer periods between 5:00 p.m. and 6:00 p.m.; and 8:00 p.m. through 9:00 p.m. As in past meetings, and to encourage more participation, commentors will be limited to five minutes each. Transcripts of the meeting will be placed in the environmental record for the above-referenced project.

The staff is particularly interested in learning about issues not already addressed at the April 21, 1998 meeting and request that comments be limited to new issues not previously presented. To allow more time to hear new comments, those individuals who presented oral comments on April 21, 1998 are requested not to speak again at the Wooster meeting. If anyone who spoke at the Canton, Ohio scoping meeting wishes to supplement their previous comments, you are invited to do so in writing by filing the supplemental comments with the Secretary of the Commission.

Provide two copies of your letter to: David Boergers, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Room 1A, Washington, DC 20426.

Please label one copy for the attention of the Environmental Review and Compliance Branch, PR–11.1.

In addition, Commission staff will be conducting a limited site visit and/or a helicopter flyover of the project area. Anyone interested in participating in the site visit may contact the Commission's Office of External Affairs at (202) 208–1088. Participants must provide their own transportation.

Additional information about the proposed project is available from Paul McKee in the Commission's Office of External Affairs at (202) 208–1088.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–17577 Filed 7–1–98; 8:45 am]

BILLING CODE 6717–01–M

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1962–000, CA]

Pacific Gas & Electric Company; Notice of Public Meeting to Discuss Processing Alternatives for the Application for Relicensing of the Rock Creek-Cresta Hydroelectric Project

June 26, 1998.

Take notice that the Commission staff will hold a meeting with Pacific Gas & Electric Company (PG&E), the applicant for the Rock Creek-Cresta Hydroelectric Project No. 1962, the U.S. Forest Service, and representatives of the intervenors in the relicensing proceeding for the project. The project is located on the North Fork Feather River in Plumas County, California. The meeting will be held on Tuesday, July 14, 1998, from 10:00 a.m. to 4:00 p.m. at the U.S. Fish and Wildlife Service's offices at 3310 El Camino Street, Suite 130, in Sacramento, California.

The purpose of the meeting is to discuss alternatives for processing the application for relicensing of the Rock Creek-Cresta Project. All interested persons are invited to attend the meeting.

For further information, please contact Dianne Rodman at (202) 219–2830.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–17575 Filed 7–1–98; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6119–3]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; National Emissions Standards for Hazardous Air Pollutants for Petroleum Refineries

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) reinstatement has been forwarded to the Office of Management and Budget (OMB) for review and approval: National Emissions Standards for Hazardous Air Pollutants for Petroleum Refineries (OMB Control Number 2060–0340), which expired July 31, 1996. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before August 3, 1998.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA by phone at (202) 260–2740, by email at farmer.sandy@epamail.epa.gov, or download off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 1692.03.

SUPPLEMENTARY INFORMATION: *Title:* National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries (OMB Control No. 2060–0340; EPA ICR No. 1692.03) expired 7/31/96. This is a request for a reinstatement of a collection for which approval has expired.

Abstract: On August 18, 1995, EPA promulgated a regulation under section 112 of the Clean Air Act (Act) for petroleum refineries that emit Hazardous Air Pollutants (HAP). This regulation was published in 60 FR 43244, August 18, 1995, and is codified at 40 CFR part 63, subpart CC.

The information being requested includes a one-time report of start of construction, anticipated and actual start-up dates, and physical or operational changes to existing facilities; notification of compliance status reports; periodic reports; and event triggered (e.g., notification of installation of a new control device or reconstruction of an existing control device, notification of an intent to perform a performance test) reports. The periodic reports provide information on monitored control device parameters when they are outside of established ranges and on instances where inspections revealed problems. Records (e.g., parameter monitoring data, records of annual storage vessel inspections) are required to be maintained on-site for a minimum of 5 years.

Effective enforcement of the standards is necessary due to the hazardous nature of benzene (a known human carcinogen) and the other HAP's emitted from petroleum refineries. The required records and reports are necessary: (1) to enable EPA to identify new and existing sources subject to the standards, and (2) to assist EPA and State agencies to which enforcement has been delegated in determining compliance with the standards. The EPA uses the reports to identify facilities that may not be in compliance with the standards. Based on reported information, EPA can decide which facilities should be inspected and what records or specific emission sources should be inspected at each facility. The required records also provide an indication as to whether facility personnel are operating and maintaining control equipment properly.

In order to retain effective enforcement (section 114 of the Act) of the petroleum refinery NESHAP (section 112 of the Act) response to this information collection is mandatory.

The ICR reinstatement does not include any burden for third-party or public disclosures not previously reviewed and approved by OMB. Any information submitted to the Agency for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in Title 40 Chapter 1, part 2, subpart B—Confidentiality of Business Information (see 40 CFR part 2; 40 FR 36902, September 1, 1976; amended by 43 FR 39999, September 28, 1978; 43 FR 42251, September 28, 1978, 44 FR 17674, March 23, 1979).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on March 10, 1998 (63 FR 11675); no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 1,494 hours per respondent. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners and operators of petroleum refineries.

Estimated Number of Respondents: 165.

Frequency of Response: semi-annually.

Estimated Total Annual Hour Burden: 493,136 hours.

Estimated Total Annualized Cost Burden: $570,000.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1692.03 and OMB Control No. 2060–0340 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460; and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: June 25, 1998.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 98–17686 Filed 7–1–98; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5493–4]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared June 15, 1998 Through June 19, 1998 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 10, 1998 (63 FR 17856).

Draft EISs

ERP No. D–FHW–E50291–AL Rating EC2, uscaloosa East Bypass Project (DPI–0080(001), Construction from I–59/I–20 east Tuscaloosa and Newport to US–82 near west of Newport, Funding, NPDESs Permit, COE Section 10 and 404 Permits, Tuscaloosa County, AL.

Summary: EPA's review found that wetlands and especially upland hardwood forests would be impacted by the project. Information on resource mitigation was lacking.

ERP No. D–FHW–G40148–AR Rating EC2, S–71 Transportation Improvements, from south of Bella Vista to Pineville, Benton County, AR and McDonald County, MI.

Summary: EPA expressed environmental concerns regarding impact associated with stream crossings, floodplains and other cumulative/secondary water quality impacts. EPA requested that these and other issues be fully discussed in the final EIS.

ERP No. D–FHW–G40149–NM Rating EC2, US 84/285 Highway Transportation Improvements from Alamo Drive in Santa Fe to Viarrial Street in Pojoaque, Right-of-Way Acquisition, NPDES Permit and COE Section 404 Permit, Santa Fe County, NM.

Summary: EPA expressed environmental concern regarding noise, hazardous materials and other transportation impact. EPA requested that these and other issues be fully discussed in the final EIS.

Final EISs

ERP No. F–AFS–L82016–ID Sandpoint Noxious Weed Control Project, Implementation, Proposing to control noxious weeds on 46 sites, Idaho Panhandles National Forests, Sandpoint Ranger District, Bonner County, ID.

Summary: Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F–FRC–L05219–WA Sullivan Creek Hydroelectric (FERC No. 2225) Project, An Application for Amendment of License, Public Utility District No. 1, Sullivan Creek, Pend Oreille County, WA.

Summary: Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

Dated: June 29, 1998.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 98–17691 Filed 7–1–98; 8:45 am]

BILLING CODE 6560-50-U

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5493–3]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 OR (202) 564–7153.

Weekly receipt of Environmental Impact Statements Filed June 22, 1998 Through June 26, 1998 Pursuant to 40 CFR 1506.9.

EIS No. 980246, Final EIS, AFS, VT, Sugarbush Ski Resort Project, Improvements and Development, Special-Use-Permit, Green Mountain National Forest, Rochester Range District, Fayston and Warren, Washington County, VT, Due: August 03, 1998, Contact: Bob Bayer (802) 362–2307.

EIS No. 980247, Draft EIS, AFS, SD, Veteran/Boulder Area Project, Enhancement of Vegetative Diversity, Improve Forest Health and to Improve Wildlife Habitats, Implementation, Black Hills National Forest, Spearfish and Nemo Ranger District, Lawrence and Meade Counties, SD, Due: August 17, 1998, Contact: Patricia Seay (605) 642–4622.

EIS No. 980248, Final EIS, FHW, TX, Grand Parkway Segment (TX–99) Volume IV, Segment 1–2, Improvement Project from TX–225 to I–10 (East), Funding, COE Section 404 Permit and Right-of-Way Grant, Harris and Chamber Counties, TX, Due: August 03, 1998, Contact: Ms. Julie Lane (512) 416–2612.

EIS No. 980249, Final EIS, FTA, CA, Mission Valley East Corridor Transit Improvement Project, between I–15 in Mission Valley and the East County community of La Mesa, Funding, COE Section 404 Permit, Metropolitan Transit Development Board (MTDB) and Light Rail Transit (LRT), San Diego County, CA, Due: August 03, 1998, Contact: Hymie Luden (415) 744–3115.

EIS No. 980250, Final EIS, FTA, FL, ADOPTION—Miami Intermodal Center (MIC), Construction, Bounded by FL–112 on the north, FL–836 on the south, Miami International Airport landside terminal NW 27th Avenue on the east, along FL–836 that extends West to NW 57th Avenue, Dade County, FL , Contact: Elizabeth Martin (404) 562–3509.

The US Department of Transportation's Federal Transit Administration's has adopted the US Department of Transportation's Federal Highway Administration FEIS #980086 filed on 03–17–98. FTA was a cooperating agency for the above final EIS. Recirculation of the document is not necessary under Section 1506.3(c) of the Council on Environmental Quality Regulations.

EIS No. 980251, Final EIS, AFS, CO, Lakewood Raw Water Pipeline for Continued Operation, Maintenance, Reconstruction and/or Replacement, Application for Easement, Roosevelt National Forest, Boulder Ranger

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District, in the City of Boulder, CO, Due: August 03, 1998, Contact: Jean A. Thomas (970) 498–1267.

EIS No. 980252, Final EIS, DOE, ID, WY, ID, Lower Valley Transmission Project, Construction of a New 115 kV Transmission Line from Swan Valley Substation near Swan Valley, Special-Use-Permits, Bonneville and Teton Counties, ID and Teton County, WY, Due: August 03, 1998, Contact: Nancy Wittpenn (503) 230–3297.

EIS No. 980253, Draft Supplement, COE, IL, Chicago Area Confined Disposal Facility, Updated Information on Construction and Operation, Maintenance Dredging from Chicago River/Harbor, Calumet River and Harbor, Cook County, IL, Due: August 17, 1998, Contact: Keith Ryder (312) 353–6400.

EIS No. 980254, Draft EIS, FHW, RI, Western Johnston and Cranston, Improved Highway Access to the Environmental Management District, Funding and COE Section 404 Permit, Providence County, RI, Due: August 17, 1998, Contact: Daniel J. Berman (401) 528–4541.

Amended Notices

EIS No. 980233, Draft EIS, COE, FL, Jacksonville Harbor Navigation Channel Deepening Improvements, Construction, St. Johns River, Duval County, FL, Due: August 03, 1998, Contact: Kenneth Dugger (904) 232–1686. Published FR—06–19–98—Correction to Telephone Number for Contact Person.

EIS No. 980238, Final EIS, BLM, AZ, Cyprus Miami Mining Leach Facility Expansion Project, Construction and Operation, Plan of Operations Approval and COE Section 404 Permit, Gila County, AZ, Due: July 27, 1998, Contact: Ms. Shela McFarlin (602) 417–9568. Published FR—06–26–98—Correction to Title.

Dated: June 29, 1998.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 98–17692 Filed 7–1–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6119–8]

Proposed Administrative Penalty Assessment and Opportunity to Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed assessment of Clean Water Act class I administrative penalties and opportunity to comment.

SUMMARY: EPA is providing notice of a proposed administrative penalty for alleged violations of the Clean Water Act. EPA is also providing notice of opportunity to comment on the proposed penalty.

EPA is authorized under section 309(g) of the Act, 33 U.S.C. 1319(g), to assess a civil penalty after providing the person subject to the penalty notice of the proposed penalty and the opportunity for a hearing, and after providing interested persons public notice of the proposed penalty and a reasonable opportunity to comment on its issuance. Under section 309(g), any person who discharges a pollutant to a navigable water in excess of its NPDES limits, as those terms are defined in section 502 of the Act, 33 U.S.C. 1362, may be assessed a penalty of up to $27,500 by EPA. Class I proceedings under section 309(g) are conducted in accordance with Subpart I of the proposed "Consolidated Rules of Practice Governing The Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits," ("proposed part 22"), which has been published in the **Federal Register** at 63 FR 9480 (February 25, 1998).

EPA is providing public notice of the following proposed Class I penalty proceeding initiated by the Water Division, U.S. EPA, Region 9, 75 Hawthorne St., San Francisco, CA 94105:

In the Matter of Chevron U.S.A. Production Company, California; Docket No. CWA-IX-FY98–12, filed June 22,1998; proposed penalty, $9,000, for exceeding permitted limits during discharge into the Pacific Ocean on May 16, 1997 from Platform Hidalgo operated by Chevron U.S.A. Production Company, 646 County Square Drive, Ventura, California 93003.

The procedures by which the public may comment on a proposed Class I penalty or participate in a Class I penalty proceeding are set forth in proposed part 22. The deadline for submitting public comment on a proposed Class I penalty is thirty days after issuance of public notice. The Regional Administrator of EPA, Region 9 may issue an order upon default if the respondent in the proceeding fails to file a response within the time period specified in proposed part 22.

FOR FURTHER INFORMATION CONTACT: Persons wishing to receive a copy of proposed part 22, review the complaint or other documents filed in these proceedings, comment upon the proposed penalty, or participate in any hearing that may be held, should contact Danielle Carr, Regional Hearing Clerk, U.S. EPA, Region 9, 75 Hawthorne St., San Francisco, CA 94105, (415) 744–1391. Documents filed as part of the public record in these proceedings are available for inspection during business hours at the office of the Regional Hearing Clerk.

In order to provide opportunity for public comment, EPA will not take final action in this proceeding prior to thirty days after issuance of this document.

Dated: June 22, 1998.

Alexis Strauss,

Acting Director,

Water Division.

[FR Doc. 98–17685 Filed 7–1–98; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting

June 24, 1998.

TIME AND DATE: 9:30 a.m., Thursday, July 9, 1998.

PLACE: Room 6005, 6th Floor, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission shall consider and act upon the following:

1. *Secretary of Labor* v. *Lafarge Construction Materials,* Docket Nos. LAKE 95–114–RM, etc. (Issues include whether the judge correctly determined that (a) Lafarge committed a violation of 30 C.F.R. § 56.16002(a)(1), (b) the violation was the result of Lafarge's unwarrantable failure, and (c) a foreman is personally liable under section 110(c) of the Mine Act.

Any person attending the meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 C.F.R. § 2706.150(a)(3) and § 2706.160(d).

CONTACT PERSON FOR MORE INFOR: Jean Ellen, (202) 653–5629/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Jean H., Ellen,

Chief Docket Clerk.

[FR Doc. 98–17736 Filed 6–29–98; 4:11 pm]

BILLING CODE 6735–01–M

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act Meeting

TIME AND DATE: 10:00 a.m. (EDT) July 13, 1998.

PLACE: 4th Floor, Conference Room 4506, 1250 H Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of the June 8, 1998, Board member meeting.
2. Thrift Savings Plan activity report by the Executive Director.

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Trabucco, Director, Office of External Affairs, (202) 942–1640.

Dated: June 30, 1998.

Roger W. Mehle,

Executive Director, Federal Retirement Thrift Investment Board.

[FR Doc. 98–17832 Filed 6–30–98; 3:28 pm]

BILLING CODE 6760–01–M

GENERAL SERVICES ADMINISTRATION

President's Commission on the Celebration of Women in American History

AGENCY: General Services Administration.

ACTION: Meeting notice.

SUMMARY: Notice is hereby given that the President's Commission on the Celebration of Women in American History (Commission) will hold an open meeting from 2:00 p.m. to 4:00 p.m. on Thursday, July 16, 1998 at the Ontario Courthouse, Judge Henry Court Room, 27 North Main Street, Canandaigua, NY 14424. Under 41 CFR 101–6.1015(b)(2), less than 15 days notice of the meeting is provided due to delays in organizing the Commission and the intent to coordinate the first Commission meeting with the celebration in Seneca Falls, NY of the 150th anniversary of the first women's rights convention.

Background

Executive Order 13090 signed by President Clinton on June 29, 1998, established the Commission. The Commission's mission is to make recommendations to the President by March 1, 1999, on ways to best acknowledge and celebrate the roles and accomplishments of women in American history.

Purpose

The meeting is for organizational purposes and will include introduction of Commission members, an overview of the Executive Order, and a discussion of the Commission's mandate.

FOR FURTHER INFORMATION CONTACT: Martha Davis (202) 501–0705, Assistant to the Associate Administrator for Communications, General Services Administration.

Dated: June 30, 1998.

Joseph R. Rodriguez,

Acting GSA Committee Management Officer.

[FR Doc. 98–17825 Filed 6–30–98; 3:56 pm]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Administration on Aging

[Program Announcement No. AoA–98–7]

Fiscal Year 1998 Program Announcement; Availability of Funds and Notice Regarding Applications

AGENCY: Administration on Aging, HHS.

ACTION: Announcement of availability of funds and request for applications to carry out the functions of a National Eldercare Locator.

SUMMARY: The Administration on Aging (AoA) announces that under this program announcement it will hold a competition for a cooperative agreement award for a National Eldercare Locator. The deadline date for the submission of applications is August 26, 1998. Public and/or nonprofit agencies, organizations, and institutions are eligible to apply under this program announcement. To be considered for funding, however, applicants must demonstrate a proven track record of experience in conducting national hotlines and dealing with the network of State and Area Agencies on Aging and State and Area Information and Referral Services. Coalitions of organizations are encouraged.

Application kits are available by writing to the Department of Health and Human Services, Administration on Aging, Office of State and Community Programs, 330 Independence Avenue, SW, Room 4747, Washington, DC 20201, telephone: (202) 619–0011 or (202) 619–3955.

Dated: June 26, 1998.

Jeanette C. Takamura,

Assistant Secretary for Aging.

[FR Doc. 98–17572 Filed 7–1–98; 8:45 am]

BILLING CODE 4150–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[INFO–98–22]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques for other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project

1. Gonococcal Isolate Surveillance Project (GISP) (0920–0307)—Extension—The Division of STD Prevention, National Center for HIV, STD and TB Prevention (NCHSTP) is requesting a 3-year extension of OMB clearance to continue the Gonococcal Isolate Surveillance Project (GISP). The objectives of GISP are: (1) To monitor trends in antimicrobial susceptibility of strains of *Neisseria gonorrhoeae* in the United States; and (2) to characterize resistant isolates. GISP provides critical surveillance for antimicrobial resistance, allowing for informed treatment recommendations. GISP was begun in 1986 as a voluntary surveillance project and now involves 5 regional laboratories and 26 publicly funded sexually transmitted disease clinics around the country. The STD clinics submit up to 25 gonococcal

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isolates per month to the regional laboratories, which measure susceptibility to a panel of antibiotics. Limited demographic and clinical information corresponding to the isolates are submitted directly by the clinics to CDC.

During 1986–1997, GISP has demonstrated the ability to effectively achieve its objectives. The recent emergence of resistance to fluoroquinolones, commonly used therapies for gonorrhea, has been identified through GISP and makes ongoing surveillance critical. Data gathered through GISP are used to alert the public health community to changes in antimicrobial resistance in *N. gonorrhoeae* which may impact treatment choices, and to guide recommendations made in CDC's STD Treatment Guidelines, which are published every several years. There is no cost to the respondents.

Respondent	No. of respondents	No. of responses/respondents	Avg. burden (in hrs.)	Total burden (in hrs.)
Laboratory	5	1056	1	5312
Clinic	26	204	0.166	8846
Total				6196

2. Tuberculosis Statistics and Program Evaluation Activity, Contact Follow-up (CDC 72.16) and Completion of Preventive Therapy (CDC 72.21)—(0920–0026)—Extension—The National Center for HIV, STD and TB Prevention (NCHSTP)—Tuberculosis (TB) is transmitted when contagious TB patients aerosolize *Mycobacterium tuberculosis* and susceptible persons (i.e., "contacts") are exposed. Some contacts are especially endangered by TB if they become infected—children younger than 5 years old, and anyone with an illness that weakens the immune system (e.g., the acquired immunodeficiency syndrome, AIDS). The prompt evaluation of all contacts is crucial for finding early TB cases and latent infections. For latent TB infections, treatment with isoniazid preventive therapy can prevent new TB cases from developing. Evaluation, follow-up, and preventive therapy for contacts comprise the most efficient approach for finding and treating recent TB infections and preventing future cases. Therefore, it is one of the highest priorities for the national TB control strategy, second only to finding and treating contagious cases. The local and the state TB control programs and CDC use Contact Follow-up (CDC 72.16) and Completion of Preventive Therapy (CDC 72.21) to measure progress in achieving the national goals for performance in these areas. There is no cost to the respondents.

Report	No. of respondents	No. of responses/respondent (in hrs.)	Avg. burden/response (in hrs.)	Total burden (in hrs.)
Contact Follow-up (1996),	103	2	.5	103
Completion of Preventive Therapy (1995)	103	2	1	206
Total				309

Dated: June 26, 1998.

Charles W. Gollmar,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–17594 Filed 7–1–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Availability of Funds Program Announcement 98077, Programs To Prevent the Emergence and Spread of Antimicrobial Resistance in Food Animals

A. Purpose

The Centers for Disease Control and Prevention (CDC) is implementing a multifaceted effort to address the problem of antimicrobial resistance. As part of this, CDC, in collaboration with the Food and Drug Administration Center for Veterinary Medicine, announces the availability of fiscal year (FY) 1998 funds for a cooperative agreement program to provide assistance for the development and evaluation of demonstration projects to prevent and control the emergence and spread of antimicrobial resistance in food animals. CDC is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Immunization and Infectious Diseases (For ordering a copy of Healthy People 2000, see the section Where to Obtain Additional Information).

The purpose of this program is to develop, implement, and evaluate a prudent antimicrobial use project to reduce the emergence, prevalence, and spread of antimicrobial resistance among target pathogens in food animals.

The intention of this project is to develop and evaluate a "prudent use of antimicrobial agents" program in certain food animal groups. It is hoped that this project would serve as a model towards the long-term goal of development of a national campaign for prudent antimicrobial use in food animals, and that additional resources towards achieving this goal would be provided by veterinary and animal industry organizations.

Applicants should address the problem of antimicrobial resistance through interventions potentially including, but not limited to:

1. Promoting more judicious antimicrobial use (e.g., using antimicrobial agents only when needed, using appropriate doses of antimicrobial agents),

2. Reducing transmission of antimicrobial resistant microorganisms

among food animals through good management practices,

3. Preventing colonization and infection of animals by pathogens through the use of probiotics,

4. Improving the ability to provide effective narrow spectrum therapy by rapidly and accurately diagnosing resistant microorganisms through the use of improved laboratory testing procedures and improved quality and flow of laboratory data.

It is envisioned that funded projects will use a combination of approaches to achieve judicious antimicrobial use and other changes that will result in decreased appearance and spread of resistance. Funded projects will also be expected to conduct a multifaceted evaluation of many aspects of the program, including assessing the costs and any cost-savings associated with any proposed intervention.

B. Eligible Applicants

Applications may be submitted by public and private, nonprofit organizations and governments and their agencies in the United States. Thus, universities, colleges, research institutions, hospitals, other public and private non profit organizations, including State and local governments or their bona fide agents, federally recognized Indian tribal governments, Indian tribes or Indian tribal organizations, and small, minority- and/or women-owned businesses are eligible to apply. Only one eligible application from an organization/government/agency will be accepted. Applicants from each organization/government/agency are encouraged to coordinate and combine their efforts prior to submitting their application.

Note: Public Law 104–65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 which engages in lobbying activities shall not be eligible to receive Federal funds constituting an award, grant, contract, loan, or any other form.

C. Availability of Funds

Approximately $120,000 is available in FY 1998 to fund one or two awards. These resources will be provided to support demonstration projects in food animals (e.g. swine, poultry, beef cattle, dairy cattle). It is expected that the average annual award for projects will be range from $40,000 up to $70,000 and will be made for a 12-month budget period within a project period of up to 3 years. Funding estimates may change. It is expected that awards will begin on or about September 30, 1998. Continuation awards within an approved project period will be made on the basis of satisfactory progress and availability of funds.

Use of Funds

Restrictions on Lobbying. Applicants should be aware of restrictions on the use of HHS funds for lobbying of Federal or State legislative bodies. Under the provisions of 31 U.S.C. Section 1352 (which has been in effect since December 23, 1989), recipients (and their subtier contractors) are prohibited from using appropriated Federal funds (other than profits from a Federal contract) for lobbying Congress or any Federal agency in connection with the award of a particular contract, grant, cooperative agreement, or loan. This includes grants/cooperative agreements that, in whole or in part, involve conferences for which Federal funds cannot be used directly or indirectly to encourage participants to lobby or to instruct participants on how to lobby.

In addition, the FY 1998 Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act (Public Law 105–78) states in Section 503 (a) and (b) that no part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress or any State legislature, except in presentation to the Congress or any State legislature itself. No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient shall be responsible for the activities under A, below, and CDC shall be responsible for conducting activities under B, below.

A. Recipient Activities

Recipients are responsible for the following:

1. Develop study protocol to include utilizing the selected food animal (e.g., beef cattle, dairy cattle, swine, poultry); defining foodborne pathogens of interest (e.g., *Salmonella, Campylobacter*), and describing the partnerships (e.g., including a veterinary diagnostic laboratory, veterinary professional associations, and animal commodity groups).

2. Providing a descriptive analysis of the selected study population.

3. Defining, collecting, and analyzing baseline data, so that evaluation of the interventions can be done. This includes at a minimum collecting prevalence data on antimicrobial resistance among the target pathogens and measuring antimicrobial agent usage pattern before the intervention.

4. Designing and implementing an intervention promoting judicious antimicrobial use and other approaches to reducing antimicrobial resistance: It is anticipated that this will involve developing coalitions among veterinary professional societies, producers, commodity groups, and others, as well as implementing specific strategies. These strategies may include peer-education of veterinarians, producers, formulary guidelines, prescribing restrictions, and strategies which are likely to reduce transmission of pathogens. The choice of strategies should be justified based on the nature of the study population, and the infrastructure in which the study population receives veterinary care.

5. Measuring the effects of the intervention:

a. Measuring the change in rates of antimicrobial resistance of organisms over time. Organisms whose resistance can be measured could include: human foodborne pathogens, animal pathogens, organisms that are opportunistic human pathogens (e.g., *Enterococcus*), normal animal fecal flora.

b. Measurement of antimicrobial resistance should be accomplished by a laboratory with proven ability to perform measurements using a standard approved methodology, yielding a quantitative measure of resistance, such as mean inhibitory concentration or zone size.

c. As decreases in resistance as a result of the program may take several months to years to manifest themselves, recipients are responsible for measuring outcomes related to how well the interventions have been implemented.

d. Measuring cost implications of the intervention. This should include impact of the intervention on direct costs (e.g., costs of antibiotics, veterinary care visits, duration of illness, etc.) and indirect costs (*e.g.*, lost productivity, decreased feed efficiency, etc.). Costs of the intervention program must be differentiated from those of the evaluation.

e. Consideration should be given to parallel measurements in a non-

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intervention group of animals, to better define the impact of the intervention.

6. Dissemination of research findings: Disseminating research results by appropriate methods such as publication in journals, presentation at meetings, conferences, etc.

B. CDC Activities

CDC, in collaboration with Food and Drug Administration Center for Veterinary Medicine, will provide technical assistance in the design and conduct of the research. This includes: (1) providing technical assistance in the design and conduct of the project, including intervention methods and analytic approach; (2) performing selected laboratory tests as appropriate; (3) assisting in data management, the analysis of research data, and the interpretation and dissemination of research findings, as appropriate; (4) assisting in the design of the evaluation and in the identification of outcome measures that will allow for later analysis of economic benefits.

E. Application Content

All applicants must develop their application in accordance with the Form PHS–398 (revised 5/95), information contained in this cooperative agreement announcement, and the instructions outlined below. In order to ensure an objective, impartial, and prompt review, applications which do not conform to these instructions may be disqualified.

General Instructions

1. All pages must be clearly numbered.
2. A complete index to the application and its appendixes must be included.
3. The original and two copies of the application must be submitted unstapled and unbound. Bound materials (e.g., pamphlets, booklets, etc.) will not be accepted in the narrative or appendices. To submit such materials, copy them onto 8½″ × 11″ white paper, one-side only.
4. All materials must be typewritten, single spaced, and in unreduced type (no smaller than font size 12) on 8½″ by 11″ white paper, with at least 1″ margins, headers, and footers.
5. All pages must be printed on one side only.

Specific Instructions

The application narrative must not exceed 15 pages (excluding budget and appendixes). Unless indicated otherwise, all information requested below must appear in the narrative. Materials or information that should be part of the narrative will not be accepted if placed in the appendices. The application narrative must contain the following sections in the order presented below.

1. *Abstract:* Provide a brief (two pages maximum) abstract of the project.

2. *Background and Need:* Discuss the background and need for the proposed project. Illustrate and justify the need for the proposed project that is consistent with the purpose and objectives of this cooperative agreement program.

3. *Capacity and Personnel:* Describe applicant's past experience in conducting projects/studies similar to that being proposed. Describe applicant's resources, laboratory and other facilities, and professional personnel that will be involved in conducting the project. Include in an appendix curriculum vitae for all professional personnel involved with the project. Describe plans for administration of the project and identify administrative resources that will be assigned to the project. Provide in an appendix letters of support from all key participating non-applicant organizations, individuals, etc., which clearly indicate their commitment to participate as described in the operational plan. Do not include letters of support from CDC personnel. Letters of support from CDC will not be accepted in the application.

4. *Objectives and Technical Approach:* Describe specific objectives for the proposed project which are measurable and time-phased and are consistent with the purpose and goals of this cooperative agreement program. Include a detailed timeline for completion of key activities. Provide a detailed operational plan for initiating and conducting the project which clearly and appropriately addresses all Recipient Activities. Include a clear description of applicant's technical approach/methods which are directly relevant to the study objectives. Clearly identify specific assigned responsibilities/tasks for all key professional personnel. Describe the nature and extent of collaboration with CDC and/or others during various phases of the project. Clearly describe the population to be studied (minimum adequate numbers of animals are as follows: dairy cows-100, turkeys or chickens-5000, beef cattle-500, and swine-250). Describe in detail a plan for evaluating study results (including how data on prescribing practices, costs, and charges will be obtained) and for evaluating progress toward achieving project objectives. Justify the choice of organisms and antimicrobial susceptibility that will be used for evaluation, and include a description about how quality of laboratory measurements will be assured.

5. *Budget:* Provide in an appendix a budget and accompanying detailed justification for the first year of the project that is consistent with the purpose and objectives of this program. Provide estimated total budgets for subsequent years. The last year may involve only data collection and analysis for purposes of evaluating the program. If requesting funds for any contracts, provide the following information for each proposed contract: (1) Name of proposed contractor, (2) breakdown and justification for estimated costs, (3) description and scope of activities to be performed by contractor, (4) period of performance, and (5) method of contractor selection (e.g., sole-source or competitive solicitation). (See sample budget included in application package.)

Note: If indirect costs are requested, a copy of the applicant organization's current negotiated Federal indirect cost rate agreement or cost allocation plan must be provided.

F. Application Submission and Deadline

The original and five copies of the completed application PHS Form 398 (revised 5/95, OMB Control Number 0925–0001) must be submitted to the address below on or before August 7, 1998:

Sharron P. Orum, Grants Management Officer, ATTN: Gladys T. Gissentanna, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 314, Mailstop E–18, Atlanta, Georgia 30305–2209

1. *Deadline:* Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date; or

b. Sent on or before the deadline date and received in time for submission to the objective review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. *Late Applications:* Applications which do not meet the criteria in 1. a. or 1. b. above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

G. Evaluation Criteria

The applications will be reviewed and evaluated according to the following criteria by an independent review group appointed by CDC:

1. Background and Need (10 points):

Extent to which applicant's discussion of the background for the proposed project demonstrates a clear understanding of the purpose and objectives of this cooperative agreement program. Extent to which applicant illustrates and justifies the need for the proposed project that is consistent with the purpose and objectives of this program.

2. Capacity and Personnel (30 points total):

a. Extent to which applicant describes adequate resources and facilities (both technical and administrative) for conducting the project. This includes the capacity to conduct quality laboratory measurements. (10 points)

b. Extent to which applicant documents that professional personnel involved in the project are qualified and have past experience and achievements in research and programs related to that proposed as evidenced by curriculum vitae, publications, etc. (15 points)

c. Extent to which applicant includes letters of support from non-applicant organizations, individuals, etc. Extent to which the letters clearly indicate the author's commitment to participate as described in the operational plan. (5 points)

3. Objectives and Technical Approach (60 points total):

a. Extent to which applicant describes specific objectives of the proposed project which are consistent with the purpose and goals of this program and which are measurable and time-phased. (10 points)

b. Extent to which the applicant identifies an appropriate population for study, including whether the results of a study in this population will be generalizable to other populations in the United States. Extent to which the applicant identifies microbes/resistance patterns for study that are of public health importance. (10 points) Extent to which applicant presents a detailed operational plan for initiating and conducting the project, which clearly and appropriately addresses all Recipient Activities. Extent to which applicant clearly identifies specific assigned responsibilities for all key professional personnel. Extent to which the plan clearly describes applicant's technical approach/methods for developing and conducting the proposed program and evaluation and extent to which the plan is adequate to accomplish the study objectives. The extent to which applicant describes the existence of or plans to establish partnerships. (20 points)

c. Extent to which applicant describes adequate and appropriate collaboration with CDC and/or others during various phases of the project. (10 points)

d. Extent to which applicant provides a detailed and adequate plan for evaluating study results (including laboratory data, data on prescribing practices, and data on direct costs and charges and indirect costs), as well as plans for evaluating progress toward achieving project objectives. (10 points)

4. Budget (not scored):

Extent to which the proposed budget is reasonable, clearly justifiable, and consistent with the intended use of cooperative agreement funds.

H. Other Requirements

Technical Reporting Requirements

Semiannual progress reports are required and must be submitted no later than 30 days after each semiannual reporting period. The semiannual progress reports must summarize the following: (1) major accomplishments including information on women screened; (2) problems encountered in program implementation; and (3) efforts or proposed strategies to resolve problems. The final progress report is required no later than 90 days after the end of the project period. All manuscripts published as a result of the work supported in part or whole by the cooperative agreement will be submitted with the progress reports.

An annual Financial Status Report (FSR) must be submitted no later than 90 days after the end of each budget period. The final financial status report is due no later than 90 days after the end of the project period.

An original and two copies of all reports should be submitted to the Grants Management Officer, Grants Management Branch, CDC.

Executive Order 12372 Review

Applications are subject to Intergovernmental Review of Federal Programs as governed by Executive Order 12372 (E.O.). E.O. 12372 sets up a system for State and local government review of proposed Federal assistance applications. Applicants (other than federally recognized Indian tribal governments) should contact their State Single Point of Contact (SPOC) as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC for each affected State. A current list of SPOCs is included in the application kit. Indian tribes are strongly encouraged to request tribal government review of the proposed application. If SPOCs or tribal governments have any process recommendations on applications submitted to CDC, they should forward them to Sharron Orum, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Mailstop E-18, Room 314, Atlanta, Georgia 30305. The due date for State process recommendations is 30 days after the application deadline date for new and competing continuation awards (the appropriation for this financial assistance program was received late in the fiscal year and would not allow for an application receipt date that would accommodate the 60-day State recommendation process period). The granting agency does not guarantee to "accommodate or explain" for State process recommendations it receives after that date.

The following additional requirements, incorporated by reference, are applicable to this program. For a complete description of each, see Attachment 2 (included in the application kit).

AR98-2-Animal Subjects Requirements
AR98-9-Paperwork Reduction Act Requirements
AR98-10-Smoke-Free Workplace Requirements
AR98-15-Proof of Non-Profit Status (See Eligibility Section)

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under Sections 301(a) and 317(k)(2) of the Public Health Service Act, as amended [42 U.S.C. 241(a) and 247b(k)(2)]. The Catalog of Federal Domestic Assistance Number is 93.283.

J. Where To Obtain Additional Information

To receive additional written information and to request an application kit, call 1-888-GRANTS4 (1-888-472-6874). You will be asked to leave your name and address and will be instructed to identify the Announcement number of interest. If you have any questions after reviewing the contents of all the documents, business management technical assistance may be obtained from Gladys T. Gissentanna, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers

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for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 314, Mailstop E–18, Atlanta, Georgia 30305, Telephone (404) 842–6801, Email address: gcg4@cdc.gov.

Programmatic technical assistance may be obtained from Frederick Angulo, DVM, PhD, Medical Epidemiologist, National Centers for Infectious Diseases, Division of Bacterial and Mycotic Diseases, Foodborne and Diarrheal Diseases Branch, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., Mailstop A–38, Atlanta, Georgia 30333, Telephone (404) 639–2840, Facsimile: (404) 639–2205, Email address: fja0@cdc.gov.

You may also obtain this announcement from one of two Internet sites on the actual publication date: CDC's homepage at http://www.cdc.gov or at the Government Printing Office homepage (including free on-line access to the **Federal Register** at http://www.access.gpo.gov).

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–17592 Filed 7–1–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Docket No. 98D–0375]

Draft Guidance for Staff, Industry and Third Parties: Third Party Programs Under the Sectoral Annex on Medical Devices to the Agreement on Mutual Recognition Between the United States of America and the European Community; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance entitled "Draft Guidance for Staff, Industry and Third Parties: Third Party Programs Under the Sectoral Annex on Medical Devices to the Agreement on Mutual Recognition Between the United States of America and the European Community (MRA)." Under the Sectoral Annex on Medical Devices (Medical Devices Annex), FDA has agreed to designate Conformity Assessment Bodies (CAB's). CAB's will be third parties (i.e., private individuals or organizations outside of FDA) authorized to perform premarket and quality system evaluations consistent with the Medical Devices Annex. Assuming the MRA enters into force and a final rule becomes effective, when finalized, this draft guidance will apply to CAB's seeking to be designated under the Medical Devices Annex, and it will assist those who are interested in participating in this program as CAB's or as applicants pursuing premarket and quality system evaluations consistent with the Medical Devices Annex.

DATES: Written comments by August 3, 1998.

ADDRESSES: Submit written comments on the guidance to the Dockets Management Branch, (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Comments should be identified with the docket number found in brackets in the heading of this document. If you do not have access to the World Wide Web, submit written requests for single copies of the guidance document entitled "Draft Guidance for Staff, Industry and Third Parties: Third Party Programs Under the Sectoral Annex on Medical Devices to the Agreement on Mutual Recognition Between the United States of America and the European Community (MRA)" on 3.5" diskette to the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self addressed adhesive labels to assist that office in processing your request, or fax your request to 401–443–8818. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance.

FOR FURTHER INFORMATION CONTACT: John F. Stigi, Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301–443–6597 or FAX 301–443–8818.

SUPPLEMENTARY INFORMATION:

I. Background

FDA has participated in negotiations on an international agreement on medical devices concluded in June 1997 between the United States and the European Community (EC). These negotiations resulted in the drafting of the MRA, which includes a special section pertaining to medical devices and is referred to as the Medical Devices Annex. After completion of a 3-year transition period, the Medical Devices Annex provides for normal endorsement of premarket and quality system evaluation reports of conformity assessment produced by equivalent third parties, the CAB's.

The MRA was signed in London on May 18, 1998, but it has not entered into force. FDA has published a proposed rule on the portions of the MRA affecting FDA-regulated products (63 FR 17744, April 10, 1998); the comment period closed on May 11, 1998.

In order to establish confidence in the conformity assessment process, CAB's will be required to participate in rigorous joint activities to demonstrate their proficiency to conduct evaluations. Upon implementation of this program, CAB evaluations will be exchanged and normally endorsed by both FDA and the EC for the marketing of medical devices.

FDA intends to use the National Voluntary Conformity Assessment System Evaluation (NVCASE) administered by the National Institute of Standards and Technology (NIST) of the U.S. Department of Commerce to recognize one or more accreditation bodies that, in turn, will assess potential U.S. CAB's seeking to be designated under the Medical Devices Annex, to evaluate medical devices produced for the EC market. FDA will consider the recommendations made by the recognized accreditation bodies under NVCASE from June 1, 1998, to October 1, 1998, and then designate U.S. CAB's that meet criteria for technical competence established in the Medical Devices Annex. This draft guidance provides information regarding the process for CAB's to become eligible for designation under the Medical Devices Annex.

II. Significance of Guidance

This draft guidance document represents the agency's current thinking on guidance for staff, industry, third parties, and third party programs under the sectoral annex on medical devices to the Agreement on Mutual Recognition Between the United States of America and the European Community. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statute, regulations, or both. This guidance is not final nor is it in effect at this time.

The agency has adopted Good Guidance Practices (GGP's) that set forth the agency's policies and procedures for the development, issuance, and use of guidance documents (62 FR 8961, February 27, 1997). This guidance is issued as a Level 1 guidance consistent with GGP's.

III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so using the World Wide Web. CDRH maintains an entry on the World Wide Web for easy access to information including text, graphics, and files that may be downloaded to a personal computer with access to the Web. Updated on a regular basis, the CDRH Home Page includes the "Draft Guidance for Staff, Industry and Third Parties: Third Party Programs Under the Sectoral Annex on Medical Devices to the Agreement on Mutual Recognition Between the United States of America and the European Community (MRA)," device safety alerts, access to **Federal Register** reprints, information on premarket submissions including lists of approved applications and manufacturers' addresses, small manufacturers assistance, information on video conferencing and electronic submissions, mammography matters, and other device-oriented information. The CDRH Home Page may be accessed at http://www.fda.gov/cdrh.

A text-only version of the CDRH Web site is also available from a computer or VT–100 compatible terminal by dialing 800–222–0185. The terminal settings are 8/1/N. After the modem answers, press Enter several times and then select menu choice 1: FDA BULLETIN BOARD SERVICE. From there follow instructions for logging in, and at the BBS TOPICS PAGE, arrow down to the FDA Home Page (do not select the first CDRH entry). Then select Medical Devices and Radiological Health. From there select CENTER FOR DEVICES AND RADIOLOGICAL HEALTH for general information, or arrow down for specific topics.

IV. Comments

Interested persons may, on or before (*insert date 30 days after publication in the* **Federal Register**), submit to Dockets Management Branch (address above) written comments regarding this draft guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance document and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 24, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 98–17600 Filed 7–1–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0453]

Agency Emergency Processing Under OMB Review

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for emergency processing under the Paperwork Reduction Act of 1995 (the PRA). The proposed collection of information concerns the submission of applications to recognized accreditation bodies that will assess potential U.S. Conformity Assessment Bodies (CAB's) seeking to be designated under the U.S./European Community (EC) Mutual Recognition Agreement (MRA) to assess medical devices produced for the EC market. This collection of information also concerns the submission of third-party evaluation reports by EC CAB's under the program. FDA is requesting OMB approval within 15 days of receipt of this submission.

DATES: Submit written comments on the collection of information by July 13, 1998.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Desk Officer for FDA. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Margaret R. Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION:

I. Background

FDA has requested emergency processing of this proposed collection of information under section 3507(j) of the PRA and 5 CFR 1320.13. The information is needed immediately in order for potential CAB's to be designated in time to participate in training for premarket and quality systems evaluations scheduled for October 14 through 23, 1998. The use of normal clearance procedures would be likely to result in the prevention or disruption of this collection of information and would delay the implementation of the confidence building activities authorized by the U.S./EC MRA.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

The third-party program under the U.S./EC MRA is intended to implement that part of the U.S./EC MRA that covers the exchange of quality system evaluation reports for all medical devices and premarket evaluation reports for selected low-to-moderate risk devices. Under the MRA, firms may apply to become designated as a U.S. CAB. Firms who are designated will be qualified to conduct quality system evaluations for all classes of devices and product-type examinations and verifications for selected devices based on EC requirements under the voluntary third-party program authorized by the MRA. Firms designated as EC CAB's could, in turn, conduct quality system evaluations for all classes of devices and premarket 510(k) evaluations for selected devices based on FDA requirements. Under the voluntary third-party program, reports of these evaluations would be submitted by the EC CAB's to FDA. The EC CAB's would also be required to maintain copies of their evaluation reports.

FDA estimates the burden of this collection as follows:

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TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

Item	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
Requests for designation as U.S. CAB	12	1	12	24	288
Premarket reports by EC CAB's	20	5	100	40	4,000
Quality system reports by EC CAB's	20	5	100	32	3,200
Total					7,488

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

Item	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
Records of evaluation of premarket submissions by EC CAB's	20	5	100	10	1,000
Records of evaluation of quality systems	20	5	100	10	1,000
Total					2,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The burdens are explained as follows:

II. Reporting

A. Requests for Designation as U.S. CAB

Under this program, U.S. firms may apply for designation as a U.S. CAB. Such designation will enable that firm to perform third-party evaluations of U.S. products for export to the EC. Likewise, European firms may apply to be designated as EC CAB's, which will enable them to perform third-party evaluations of products to be exported to the United States. The application for nomination as an EC CAB does not represent a paperwork burden subject to the PRA because the designation procedure is an internal process which is required by, and administered by, European authorities. Only the application for designation as a U.S. CAB represents a paperwork burden under the PRA. The agency anticipates, based on discussions with the National Institute of Science and Technology of the U.S. Department of Commerce and officials of other standards organizations, that approximately 12 applications for designation as U.S. CAB's will be received.

B. Premarket Reports

Under this program, EC CAB's will be able to perform third-party evaluations for certain products produced in Europe for export to the United States. EC CAB's would be required to submit to FDA reports of their evaluations. Based upon information gathered during the negotiation of the U.S./EC MRA, the agency anticipates that European manufacturers will request third-party evaluation for approximately 100 medical device products annually. The agency further estimates, based on dialogue with EC officials, that 20 firms will be designated to act as EC CAB's.

C. Quality System Reports

Under this program, EC CAB's will be able to perform third-party evaluations of the quality systems established by manufacturers of European products produced for export to the United States. EC CAB's would be required to submit to FDA reports of their evaluations. Based upon information gathered during the negotiation of the U.S./EC MRA, the agency anticipates that European manufacturers will request third-party evaluations for approximately 100 medical device products annually. The agency estimates that 20 EC CAB's will perform these evaluations.

III. Recordkeeping

As stated previously, firms designated as EC CAB's will be able to perform third-party evaluations of quality systems and premarket submissions for certain products produced for export to the United States. Such evaluation will be conducted consistent with FDA's regulatory requirements, and FDA will require the reviewers to keep, in their records, a copy of the report that they submit to FDA for each evaluation. The agency anticipates that 100 premarket reports and 100 quality system reports will be generated and required to be maintained by EC CAB's annually. Thus, the agency estimates that 100 records of evaluations of quality systems and premarket submissions will be retained by the designated EC CAB's. Based on experience with the Third Party Review Pilot Program, which was announced in the **Federal Register** of April 3, 1996 (61 FR 14789), the agency anticipates that each recordkeeper will require no more than 2 hours of recordkeeping per review. The agency is estimating 5 reviews per respondent; therefore, the total number of hours per recordkeeper is 10.

Dated: June 24, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 98–17602 Filed 7–1–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Request for Nominations for Nonvoting Representatives of Consumer and Industry Interests on Public Advisory Panels or Committees

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting nominations for nonvoting consumer representatives and nonvoting industry representatives to serve on certain device panels of the Medical Devices Advisory Committee in the Center for Devices and Radiological Health (CDRH). Nominations will be accepted for current vacancies and for those that will or may occur through June 30, 1999.

FDA has a special interest in ensuring that women, minority groups, individuals with disabilities, and small businesses are adequately represented on advisory committees and, therefore,

encourages nominations for appropriately qualified candidates from these groups, as well as nominations from small businesses that manufacture medical devices subject to the regulations.

DATES: Nominations should be received by (*insert date 30 days after date of publication in the* **Federal Register**), for vacancies listed in this notice.

ADDRESSES: All nominations and curricula vitae for consumer representatives should be submitted in writing to Annette J. Funn (address below). All nominations and curricula vitae (which includes nominee's office address and telephone number) for industry representatives should be submitted in writing to Kathleen L. Walker (address below).

FOR FURTHER INFORMATION CONTACT:

Regarding consumer representatives:
Annette Funn, Office of Consumer Affairs (HFE–88), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–5006.

Regarding industry representatives:
Kathleen L. Walker, Office of Systems and Management (HFZ–17), CDRH, Food and Drug Administration, 2098 Gaither Rd., Rockville, MD 20850, 301–594–1283, ext. 114.

SUPPLEMENTARY INFORMATION: FDA is requesting nominations for nonvoting members representing consumer and industry interests for the vacancies listed below:

Medical Devices Panels	Approximate Date Representative is Needed	
	Consumer	Industry
Circulatory System Devices Panel	July 1, 1999	NV
Immunology Devices Panel	March 1, 1999	NV
Obstetrics and Gynecology Devices Panel	NV	February 1, 1999

NV = No vacancy

Function

The functions of the medical device panels are to: (1) Review and evaluate data on the safety and effectiveness of marketed and investigational devices and make recommendations for their regulation; (2) advise the Commissioner of Food and Drugs regarding recommended classification or reclassification of these devices into one of three regulatory categories; (3) advise on any possible risks to health associated with the use of devices; (4) advise on formulation of product development protocols; (5) review premarket approval applications for medical devices; (6) review guidelines and guidance documents; (7) recommend exemption to certain devices from the application of portions of the Federal Food, Drug, and Cosmetic Act; (8) advise on the necessity to ban a device; (9) respond to requests from the agency to review and make recommendations on specific issues or problems concerning the safety and effectiveness of devices; and (10) make recommendations on the quality in the design of clinical studies regarding the safety and effectiveness of marketed and investigational devices.

Consumer and Industry Representation

Section 520(f)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360j(f)(3)), as amended by the Medical Device Amendments of 1976, provides that each medical device panel include as members one nonvoting representative of consumer interests and one nonvoting representative of interests of the medical device manufacturing industry.

Nomination Procedures

Consumer Representatives

Any interested person may nominate one or more qualified persons as a member of a particular advisory committee or panel to represent consumer interests as identified in this notice. Self-nominations are also accepted. To be eligible for selection, the applicant's experience and/or education will be evaluated against Federal civil service criteria for the position to which the person will be appointed.

Nominations shall include a complete curriculum vitae of each nominee and shall state that the nominee is aware of the nomination, is willing to serve as a member, and appears to have no conflict of interest that would preclude membership. FDA will ask the potential candidates to provide detailed information concerning such matters as financial holdings, employment, and research grants and/or contracts to permit evaluation of possible sources of conflict of interest. The nomination should state whether the nominee is interested only in a particular advisory committee or panel or in any advisory committee or panel. The term of office is up to 4 years, depending on the appointment date.

Industry Representatives

Any organization in the medical device manufacturing industry (industry interests) wishing to participate in the selection of an appropriate member of a particular panel may nominate one or more qualified persons to represent industry interests. Persons who nominate themselves as industry representatives for the panels will not participate in the selection process. It is, therefore, recommended that all nominations be made by someone with an organization, trade association, or firm who is willing to participate in the selection process.

Nominees shall be full-time employees of firms that manufacture products that would come before the panel, or consulting firms that represent manufacturers. Nominations shall include a complete curriculum vitae of each nominee. The term of office is up to 4 years, depending on the appointment date.

Selection Procedures

Consumer Representatives

Selection of members representing consumer interests is conducted through procedures which include use of a consortium of consumer organizations which has the responsibility for recommending candidates for the agency's selection. Candidates should possess appropriate qualifications to understand and contribute to the committee's work.

Industry Representatives

Regarding nominations for members representing the interests of industry, a letter will be sent to each person that has made a nomination, and to those organizations indicating an interest in participating in the selection process, together with a complete list of all such organizations and the nominees. This letter will state that it is the responsibility of each nominator or organization indicating an interest in

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participating in the selection process to consult with the others in selecting a single member representing industry interests for the panel within 60 days after receipt of the letter. If no individual is selected within 60 days, the agency will select the nonvoting member representing industry interests.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: June 26, 1998.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 98–17601 Filed 7–1–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Request for Nominations for Voting Members on Public Advisory Panels or Committees

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting nominations for voting members to serve on certain device panels of the Medical Devices Advisory Committee, the Device Good Manufacturing Practice Advisory Committee, and the Technical Electronic Product Radiation Safety Standards Committee in the Center for Devices and Radiological Health (CDRH). Nominations will be accepted for current vacancies and those that will or may occur through June 30, 1999.

FDA has a special interest in ensuring that women, minority groups, and individuals with disabilities are adequately represented on advisory committees and, therefore, encourages nominations of qualified candidates from these groups.

DATES: Because scheduled vacancies occur on various dates throughout each year, no cutoff date is established for the receipt of nominations. However, when possible, nominations should be received at least 6 months before the date of scheduled vacancies for each year, as indicated in this notice.

ADDRESSES: All nominations and curricula vitae for the device panels should be sent to Nancy J. Pluhowski, Office of Device Evaluation (HFZ–400), CDRH, Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850.

All nominations and curricula vitae for health professionals, industry representatives, and government representatives for the Device Good Manufacturing Practice Advisory Committee should be sent to Sharon Kalokerinos, CDRH (HFZ–300), Food and Drug Administration, 2094 Gaither Rd., Rockville, MD 20850.

All nominations and curricula vitae for government and industry representatives for the Technical Electronic Product Radiation Safety Standards Committee should be sent to Orhan Suleiman, CDRH (HFZ–240), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850.

All nominations and curricula vitae for general public representatives for the Device Good Manufacturing Practice Advisory Committee and the Technical Electronic Product Radiation Safety Standards Committee should be sent to Annette Funn, Office of Consumer Affairs (HFE–88), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Kathleen L. Walker, Center for Devices and Radiological Health (HFZ–17), Food and Drug Administration, 2098 Gaither Rd., Rockville, MD 20850, 301–594–1283, ext. 114.

SUPPLEMENTARY INFORMATION: FDA is requesting nominations of voting members for vacancies listed below.

1. *Circulatory System Devices Panel*: Two vacancies occurring June 30, 1999; interventional cardiologists, electrophysiologists, invasive (vascular) radiologists, vascular and cardiothoracic surgeons, and cardiologists with special interest in congestive heart failure.

2. *Clinical Chemistry and Clinical Toxicology Devices Panel*: One vacancy occurring February 28, 1999; doctors of medicine or philosophy with experience in clinical chemistry, clinical toxicology, clinical pathology, clinical laboratory medicine, or oncology.

3. *Dental Products Panel*: Three vacancies immediately, one vacancy occurring October 31, 1998; dentists who have expertise in the areas of lasers, endosseous implants, temporomandibular joint implants, dental materials and/or endodontics; or experts in bone physiology relative to the oral and maxillofacial area.

4. *Ear, Nose, and Throat Devices Panel*: One vacancy occurring October 31, 1998; audiologists, otolaryngologists, neurophysiologist, statisticians, or electrical or biomedical engineers.

5. *General Hospital and Personal Use Devices Panel*: Three vacancies immediately, one vacancy occurring December 31, 1998; internists, pediatricians, neonatologists, gerontologists, nurses, biomedical engineers or microbiologists/infection control practitioners or experts.

6. *Hematology and Pathology Devices Panel*: Two vacancies occurring February 28, 1999; cytopathologists and histopathologists; hematologists (blood banking, coagulation and hemostasis); molecular biologists (nucleic acid amplification techniques), and hematopathologists (oncology).

7. *Immunology Devices Panel*: One vacancy immediately, one vacancy occurring February 28, 1999; persons with experience in medical, surgical, or clinical oncology, internal medicine, clinical immunology, allergy, molecular diagnostics, human genetics testing or clinical laboratory medicine.

8. *Microbiology Devices Panel*: Three vacancies immediately, one vacancy occurring February 28, 1999; infectious disease clinicians; clinical microbiologists with expertise in antimicrobial and antimycobacterial susceptibility testing, chemotherapy and in vitro diagnostic (IVD) applications; clinical virologists with expertise in clinical diagnosis and IVD assays; clinical oncologists experienced with antitumor resistance and susceptibility; and molecular biologists.

9. *Obstetrics and Gynecology Devices Panel*: Two vacancies occurring January 31, 1999; experts in reproductive endocrinology, endoscopy, electrosurgery, laser surgery, assisted reproductive technologies, and contraception; biostatisticians and engineers with experience in obstetrics/gynecology devices; urogynecologists; experts in breast care; and experts in gynecology in the older patient.

10. *Orthopaedic and Rehabilitation Devices Panel*: Two vacancies occurring August 31, 1998; orthopedic surgeons experienced with prosthetic ligament devices, joint implants, or spinal instrumentation; physical therapists experienced in spinal cord injuries, neurophysiology, electrotherapy, and joint biomechanics; rheumatologists; or biomedical engineers.

11. *Radiological Devices Panel*: Two vacancies occurring January 31, 1999; physicians and scientists with expertise in nuclear medicine, diagnostic or therapeutic radiology, mammography, thermography, transillumination, hyperthermia cancer therapy, bone densitometry, magnetic resonance, computed tomography, or ultrasound.

12. *Device Good Manufacturing Practice Advisory Committee*: Four vacancies immediately, one government representative, one health professional, one industry representative, and one general public representative; five

vacancies occurring May 31, 1999; two government representatives, one health professional, one industry representative, and one general public representative.

13. *Technical Electronic Product Radiation Safety Standards Committee*: Five vacancies immediately, two government representatives, one industry representative, and two general public representatives; five vacancies occurring December 31, 1998, one government representative, three industry representatives, and one general public representative.

Functions

Medical Devices Panels

The functions of the panels are to: (1) Review and evaluate data on the safety and effectiveness of marketed and investigational devices and make recommendations for their regulation; (2) advise the Commissioner of Food and Drugs regarding recommended classification or reclassification of these devices into one of three regulatory categories; (3) advise on any possible risks to health associated with the use of devices; (4) advise on formulation of product development protocols; (5) review premarket approval applications for medical devices; (6) review guidelines and guidance documents; (7) recommend exemption to certain devices from the application of portions of the Federal Food, Drug, and Cosmetic Act (the act); (8) advise on the necessity to ban a device; (9) respond to requests from the agency to review and make recommendations on specific issues or problems concerning the safety and effectiveness of devices; and (10) make recommendations on the quality in the design of clinical studies regarding the safety and effectiveness of marketed and investigational devices.

The Dental Products Panel also functions at times as a dental drug panel. The functions of the drug panel are to: (1) Evaluate and recommend whether various prescription drug products should be changed to over-the-counter status; and (2) evaluate data and make recommendations concerning the approval of new dental drug products for human use.

Device Good Manufacturing Practice Advisory Committee

The functions of the committee are to review proposed regulations for promulgation regarding good manufacturing practices governing the methods used in, and the facilities and controls used for manufacture, packaging, storage, installation, and servicing of devices, and make recommendations regarding the feasibility and reasonableness of those proposed regulations. The committee also reviews and makes recommendations on proposed guidelines developed to assist the medical device industry in meeting the good manufacturing practice requirements, and provides advice with regard to any petition submitted by a manufacturer for an exemption or variance from good manufacturing practice regulations.

Section 520 of the act (21 U.S.C. 360(j)), as amended, provides that the Device Good Manufacturing Practice Advisory Committee shall be composed of nine members as follows: Three of the members shall be appointed from persons who are officers or employees of any Federal, State, or local government, two shall be representatives of interests of the device manufacturing industry, two shall be representatives of the interests of physicians and other health professionals, and two shall be representatives of the interests of the general public.

Technical Electronic Product Radiation Safety Standards Committee

The function of the committee is to provide advice and consultation on the technical feasibility, reasonableness, and practicability of performance standards for electronic products to control the emission of radiation from such products. The committee may recommend electronic product radiation safety standards for consideration.

Section 534(f) of the act (21 U.S.C. 360kk(f)), as amended by the Safe Medical Devices Act of 1990, provides that the Technical Electronic Product Radiation Safety Standards Committee include five members from governmental agencies, including State or Federal Governments, five members from the affected industries, and five members from the general public, of which at least one shall be a representative of organized labor.

Qualifications

Medical Device Panels

Persons nominated for membership on the panels shall have adequately diversified experience appropriate to the work of the panel in such fields as clinical and administrative medicine, engineering, biological and physical sciences, statistics, and other related professions. The nature of specialized training and experience necessary to qualify the nominee as an expert suitable for appointment may include experience in medical practice, teaching, and/or research relevant to the field of activity of the panel. The particular needs at this time for each panel are shown above. The term of office is up to 4 years, depending on the appointment date.

Device Good Manufacturing Practice Advisory Committee

Persons nominated for membership as a government representative or health professional should have knowledge of or expertise in any one or more of the following areas: Quality assurance concerning the design, manufacture, and use of medical devices. To be eligible for selection as a representative of the general public or industry, nominees should possess appropriate qualifications to understand and contribute to the committee's work. The particular needs are shown above. The term of office is up to 4 years, depending on the appointment date.

Technical Electronic Product Radiation Safety Standards Committee

Persons nominated must be technically qualified by training and experience in one or more fields of science or engineering applicable to electronic product radiation safety. The particular needs are shown above. The term of office is up to 4 years, depending on the appointment date.

Nomination Procedures

Any interested person may nominate one or more qualified persons for membership on one or more of the advisory panels or advisory committees. Self-nominations are also accepted. Nominations shall include a complete curriculum vitae of each nominee, current business address and telephone number, and shall state that the nominee is aware of the nomination, is willing to serve as a member, and appears to have no conflict of interest that would preclude membership. FDA will ask the potential candidates to provide detailed information concerning such matters as financial holdings, employment, and research grants and/or contracts to permit evaluation of possible sources of conflict of interest.

Consumer/General Public Representatives

Any interested person may nominate one or more qualified persons as a member of a particular advisory committee or panel to represent consumer interests as identified in this notice. To be eligible for selection, the applicant's experience and/or education will be evaluated against Federal civil service criteria for the position to which the person will be appointed.

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Selection of members representing consumer interests is conducted through procedures which include use of a consortium of consumer organizations which has the responsibility for recommending candidates for the agency's selection. Candidates should possess appropriate qualifications to understand and contribute to the committee's work.

Nominations shall include a complete curriculum vitae of each nominee and shall state the the nominee is aware of the nomination, is willing to serve as a member, and appears to have no conflict of interest that would preclude membership. FDA will ask the potential candidates to provide detailed information concerning such matters as financial holdings, employment, and research grants and/or contracts to permit evaluation of possible sources of conflict of interest. The nomination should state whether the nominee is interested only in a particular advisory committee or in any advisory committee. The term of office is up to 4 years, depending on the appointment date.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14 relating to advisory committees.

Dated: June 26, 1998.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 98–17603 Filed 7–1–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 92F–0443]

Dow Corning Corp.; Filing of Food Additive Petition; Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is amending the filing notice for a food additive petition filed by Dow Corning Corp. to indicate that the petitioner has also proposed that the food additive regulations be amended to provide for the safe use of tetramethyltetravinylcyclotetrasiloxane as an optional polymerization inhibitor in the manufacture of dimethylpolysiloxane coatings produced by cross-linking a vinyl-containing dimethylpolysiloxane with methylhydrogen-containing polysiloxane and dimethylmethylhydrogen polysiloxane polymers using a platinum catalyst.

FOR FURTHER INFORMATION CONTACT: Julius Smith, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3091.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of February 12, 1993 (58 FR 8290), FDA announced that a petition (FAP 3B4346) had been filed by Dow Corning Corp., P.O. Box 994, Midland, MI 48686–0994, proposing to amend § 175.300 *Resinous and polymeric coatings* (21 CFR 175.300), § 175.320 *Resinous and polymeric coatings for polyolefin films* (21 CFR 175.320), and § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) to provide for the safe use of dimethylpolysiloxane coatings produced by cross-linking a vinyl-containing dimethylpolysiloxane with methylhydrogen-containing polysiloxane and dimethylmethylhydrogen polysiloxane polymers using a platinum catalyst. The petition also proposed that the food additive regulations be amended to provide for the safe use of 3,5-dimethyl-1-hexyne-3-ol, 1-ethynylcyclohexene, bis(methoxymethyl)ethyl maleate and methylvinyl cyclosiloxane as optional polymerization inhibitors. Additionally, the petition proposed that the regulations be amended to provide for the safe use of 5-chloro-2-methyl-4-isothiazolin-3-one and 2-methyl-4-isothiazolin-3-one mixture, optionally containing magnesium nitrate, as an antimicrobial agent for emulsion-based silicone coating formulations.

Subsequent to publication of the filing notice, the petitioner amended the petition to request the use of tetramethyltetravinylcyclotetrasiloxane as an optional polymerization inhibitor in the manufacture of dimethylpolysiloxane coatings produced by cross-linking a vinyl-containing dimethylpolysiloxane with methylhydrogen-containing polysiloxane and dimethylmethylhydrogen polysiloxane polymers using a platinum catalyst.

Therefore, FDA is amending the filing notice of February 12, 1993, to indicate that the petitioner requests that the food additive regulations be amended to provide for the safe use of tetramethyltetravinylcyclotetrasiloxane as an optional polymerization inhibitor in the manufacture of dimethylpolysiloxane coatings produced by cross-linking a vinyl-containing dimethylpolysiloxane with methylhydrogen-containing polysiloxane and dimethylmethylhydrogen polysiloxane polymers using a platinum catalyst.

The agency has determined under 21 CFR 25.32(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: June 11, 1998.

Laura M. Tarantino,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 98–17548 Filed 7–1–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98F–0484]

Eastman Chemical Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Eastman Chemical Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of di-2-ethylhexyl terephthalate as a component of closure-sealing gaskets for food containers.

FOR FURTHER INFORMATION CONTACT: Hortense S. Macon, Center for Food Safety and Applied Nutrition (HFS–205), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3086.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 8B4593) has been filed by Eastman Chemical Co., P.O. Box 431, Kingsport, TN 37662. The petition proposes to amend the food additive regulations in § 177.1210 *Closures with sealing gaskets for food containers* (21 CFR 177.1210) to provide for the safe use of di-2-ethylhexyl terephthalate as a component of closure-sealing gaskets for food containers.

The agency has determined under 21 CFR 25.32(i) that this action is of the type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: June 17, 1998.

Laura M. Tarantino,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 98–17547 Filed 7–1–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 95N–0195]

Agreement on Mutual Recognition Between the United States of America and the European Community; Third Party Review Program Under the Sectoral Annex on Medical Devices; Conformity Assessment Bodies

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is identifying the process for designating Conformity Assessment Bodies (CAB's) under the Sectoral Annex on Medical Devices to the Agreement on Mutual Recognition Between the United States of America and the European Community (MRA). The MRA was signed in London on May 18, 1998, but it has not entered into force. FDA has published a proposed rule on the parts of the MRA affecting FDA-regulated products. This notice announces the process for CAB's to become eligible for designation under the Sectoral Annex on Medical Devices (Medical Devices Annex). The availability of the draft guidance detailing the requirements for performing evaluations, training for CAB's, and content of evaluation reports by FDA is announced elsewhere in this issue of the **Federal Register**. Also announced elsewhere in this issue of the **Federal Register** is an emergency processing request for Office of Management and Budget review of the information collection provisions of this notice.

FOR FURTHER INFORMATION CONTACT:

Regarding the U.S./European Community MRA: John F. Stigi, Director, Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301–443–6597, or FAX: 301–443–8818.

Regarding the process for being recognized to assess U.S. CAB's or for naming a recognized accreditor: Robert L. Gladhill, Conformity Assessment Systems Evaluation, National Institute of Standards and Technology, NN, 282 Gaithersburg, MD 20899, 301–975–4273, or FAX: 301–963–2871.

SUPPLEMENTARY INFORMATION:

I. Background

On June 20, 1997, the United States and the European Community (EC) completed negotiation of the MRA that covered a variety of product sectors, including telecommunication equipment, recreational craft, pharmaceuticals, and medical devices. The Medical Devices Annex applies only to medical devices manufactured for export to the United States or EC. The EC consists of the following member States: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, The Netherlands, Portugal, Spain, Sweden, and the United Kingdom. FDA issued a proposed rule on April 10, 1998 (63 FR 17744), to add a new section to its regulations setting out requirements through which FDA may normally endorse certain reports of conformity assessments. The Medical Device Annex applies to reports of quality system evaluations of all medical devices and premarket evaluations of selected medical devices provided by designated conformity assessment bodies.

Assuming the MRA enters into force and a final rule becomes effective, a 3-year transition period will start during which time both sides will engage in confidence building activities. After the 3-year transition period and the confidence building activities are successfully completed, the operational period will begin.

The MRA consists of a framework agreement and individual sectoral annexes (i.e., those product sectors covered by the MRA). The framework agreement covers the general aspects of the implementation of the agreement as well as the requirements governing the CAB's, such as designation, listing, suspension, and withdrawal.

Within the framework agreement there is a provision that FDA and EC Designating Authorities review the Medical Devices Annex. It is anticipated that aspects of the Medical Devices Annex will be modified by agreement of FDA and EC Designating Authority as laws and policies change. This provision was included because of FDA's concern during the negotiations that there could be a change in the status of the FDA Third Party Review Pilot Program for medical devices that would change the nature of the agreement.

Under the MRA, an EC CAB could conduct quality system evaluations for all classes of devices and premarket 510(k) evaluations for selected devices based on FDA requirements. Similarly, a U.S. CAB could conduct quality system evaluations for all classes of devices and product type examinations and verifications for selected devices based on EC requirements. In addition, an alert system would be set up during the transition period and maintained thereafter by which FDA and regulatory authorities will notify each other when there is an immediate danger to public health. As part of that system, FDA and EC will notify each other of any confirmed problem reports, corrective actions, or recalls.

The MRA may: (1) Be an important means of facilitating movement of medical devices important to human health between the United States and EC, (2) enhance public health by allowing better use of scarce FDA resources, (3) enhance harmonization of U.S. and EC regulatory systems, and (4) permit FDA to better utilize its regulatory resources to focus on manufacturers located in other countries.

Under the MRA, both the United States and the EC may eventually be able to save resources by utilizing evaluations of manufacturers conducted by the other party, thereby saving overseas travel time and expense. However, CAB's will be required to participate in rigorous joint activities in order to demonstrate proficiency in conducting FDA and EC evaluations. Based on demonstrated proficiency during a 3-year transition period, both FDA and EC are expected to "normally endorse" evaluations conducted by the other party's CAB's, while reserving the final decision making to themselves and reserving the right to conduct their own evaluations should significant deficiencies be found in any reports.

II. Third Party Review Program

The Medical Devices Annex identifies legislation, regulations, and related procedures under which: (1) Products are regulated as medical devices by each party (i.e., FDA and the EC); (2) CAB's are designated and confirmed; and (3) evaluation reports are prepared. Assuming the MRA enters into force and a final rule becomes effective, FDA will be the Designating Authority for U.S. CAB's and the EC Regulatory Authorities will be the Designating Authority for EC CAB's. FDA intends to use the National Voluntary Conformity Assessment System Evaluation

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(NVCASE) administered by the National Institute of Standards and Technology (NIST) of the U.S. Department of Commerce to recognize one or more accreditation bodies that, in turn, will assess potential U.S. CAB's seeking to be designated under the MRA to assess medical devices produced for the EC market. FDA will consider the recommendations made by the recognized accreditation bodies from June 1, 1998, until October 1, 1998, review the list of recommended CAB's, and then designate U.S. CAB's that meet criteria for technical competence set forth in the Medical Devices Annex, assuming the MRA enters into force and a final rule on the MRA becomes effective. FDA intends to conduct training for EC CAB's from October 14 to 23, 1998.

Assessment of prospective U.S. CAB's for purposes of conducting quality system evaluations and product type-examination and verifications will be conducted under the NVCASE program under the procedures set forth in 15 CFR part 286. Prospective U.S. CAB's and accreditation bodies should contact NIST for additional information. Applications for designation should include sufficient information to address the qualifications for CAB's set forth in Article 1, Paragraph 1 of the Medical Devices Annex of the MRA. At a minimum, qualified U.S. CAB's should have knowledge of:

(1) Council Directive 90/385/EEC of June 20, 1990, on active implantable medical devices OJ No. L 189, 20.7.1990 (p. 17). Conformity assessment procedures: Annex 2 (with the exception of section 4), Annex 4, and Annex 5.

(2) Council Directive 93/42/EEC of June 14, 1993, on medical devices OJ No. L 169, 12.7.1993 (p. 1). Conformity assessment procedures: Annex 2 (with the exception of section 4), Annex 3, Annex 4, Annex 5, and Annex 6.

Assuming the MRA enters into force and a final rule becomes effective, designation of EC CAB's for the purpose of conducting quality system evaluations and premarket 510(k) evaluations will be conducted in accord with the Medical Devices Annex. At a minimum, qualified EC CAB's should have knowledge of:

(1) The Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 *et seq.*),

(2) The Public Health Service Act (42 U.S.C. 201 *et seq.*),

(3) Regulations of the United States Food and Drug Administration (21 CFR parts 800 to 1299); and

(4) The **Federal Register** document on the pilot program for third-party review of selected premarket notifications for medical devices that was published on April 3, 1996 (61 FR 14789 at 14796).

Prospective EC CAB's should contact their European Regulatory Authority, not FDA, for further information. Following designation, the EC CAB's can expect to be monitored through FDA surveillance audits at intervals determined by the agency.

III. Environmental Impact

The agency has determined under 21 CFR 25.34(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Analysis of Impacts

FDA has examined the impacts of the U.S./EC MRA third party review program under Executive Order 12866 and the Regulatory Flexibility Act (Pub. L. 96–354), as amended by subtitle D of the Small Business Regulatory Fairness Act of 1996 (Pub. L. 104–121), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this voluntary program is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the program is not a significant regulatory action as defined by the Executive Order and so is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. This regulation provides alternative review options for certain types of submissions. This is a voluntary program which imposes no additional requirements on regulated industry. Accordingly, the agency certifies that the program, if implemented, would not have a significant economic impact on small entities. Therefore, under the Regulatory Flexibility Act, no further analysis is required.

Dated: June 24, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 98–17597 Filed 7–1–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Circulatory System Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Circulatory System Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on July 21 and 22, 1998, 8 a.m. to 5 p.m.

Location: Holiday Inn, Ballroom, Two Montgomery Village Ave., Gaithersburg, MD.

Contact Person: John E. Stuhlmuller, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8243, ext. 157, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12625. Please call the Information Line for up-to-date information on this meeting.

Agenda: On July 21, 1998, the committee will discuss, make recommendations, and vote on a premarket approval application (PMA) for a cardiac ablation device for ventricular tachycardia. On July 22, 1998, the committee is being asked to provide input to the agency regarding the design of clinical trials to support PMA's for cardiac ablation devices intended to treat atrial fibrillation and atrial flutter. Of particular concern are the following issues: (1) What are the appropriate controls to be used in such trials? (2) What are the appropriate safety and efficacy measures? and (3) When should assessments of these measures be made?

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by July 10, 1998. Oral presentations from the public will be scheduled between approximately 8 a.m. and 8:30 a.m. Near the end of committee deliberations on both days, a 30-minute open public hearing will be conducted for interested persons to address issues specific to the submission before the committee. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before July 10, 1998, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: June 26, 1998.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 98–17596 Filed 7–1–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–379]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* The Financial Statement of Debtor and Supporting Regulation 42 CFR 405.376; *Form No.:* HCFA–379, OMB #0938–0270; *Use:* This form is used to collect financial information which is needed to evaluate requests from physician/suppliers to pay indebtness under extended repayment schedule, or to compromise a debt for less than the full amount. *Frequency:* As needed; *Affected Public:* Business or other for-profit, Not-for-profit institutions; *Number of Respondents:* 500; *Total Annual Responses:* 500; *Total Annual Hours:* 1,000.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: June 18, 1998.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA, Office of Information Services, Information Technology Investment Management Group, Division of HCFA Enterprise Standards.

[FR Doc. 98–17557 Filed 7–1–98; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–246]

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

We are, however, requesting an emergency review of the information collection referenced below. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. We are requesting an emergency review because the collection of this information is needed before the expiration of the normal time limits under OMB's regulations at 5 CFR, Part 1320. This collection is necessary to ensure compliance with section 1876 of the Social Security Act. Section 1876(I) of the Social Security Act (the Act) sets forth several criteria for HMO contracts. As relevant here, section 1876(I)(3) of the Act gives the Secretary, or her designee the authority to incorporate additional contractual terms and conditions that are consistent with section 1876. These statutorily mandated contract provisions have been implemented in the regulations at 42 CFR 417.470, *et seq* which reference 42 CFR 417.126(a) which states that each HMO must have an effective procedure to develop, compile, evaluate, and report to HCFA, to its enrollees, and to the general public, at the times and in the manner that HCFA requires, the following: the cost of its operations; the patterns of utilization of its services; the availability, accessibility and acceptability of its services; to the extent practical, developments in the health status of its enrollees; information demonstrating that the HMO has a fiscally sound operation and other matters that HCFA may require. Without emergency approval HCFA will be unable to monitor the quality of care received by beneficiaries in managed care measured through the Consumer Assessment of Health Plans Study (CAHPS) survey asking beneficiaries about their experiences with their plan. As a result, public harm is likely to result because HCFA will be unable to monitor the quality of care received by beneficiaries.

HCFA is requesting OMB review and approval of this collection within 6 working days of publication of this notice in the **Federal Register**, with a 180-day approval period. Written comments and recommendations will be accepted from the public if received by the individuals designated below by 5 working days of the publication of this notice. During this 180-day period, we

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will publish a separate **Federal Register** notice announcing the initiation of an extensive 60-day agency review and public comment period on these requirements. We will submit the requirements for OMB review and an extension of this emergency approval.

Type of Information Request: Revision of Currently Approved Collection.

Title of Information Collection: CAHPS (Consumer Assessment of Health Plans Study) Survey.

Form Number: HCFA–R–246 (OMB approval #: 0938–NEW).

Use: We are revising the CAHPS to conform with the NCQA instrument. This collection effort (CAHPS) will be used to hold the Medicare managed care industry accountable for the quality of care they are delivering. This collection will better allow HCFA to obtain the information critical for the proper oversight of the program and to disseminate information that will help beneficiaries choose among plans, contribute to the improved quality of care through identification of quality improvement opportunities, and assist HCFA in carrying out its responsibilities.

Frequency: Annually.

Affected Public: Businesses or other for profit, Individuals or Households.

Number of Respondents: 150,240.

Total Annual Responses: 150,240.

Total Annual Hours Requested: 49,579.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, E-mail your request, including your address, phone number, and HCFA form number(s) referenced above, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326.

Interested persons are invited to send comments regarding the burden or any other aspect of these collections of information requirements. However, as noted above, comments on these information collection and recordkeeping requirements must be mailed and/or faxed to the designees referenced below within 4 working days of the publication of this notice in the **Federal Register**:

Health Care Financing Administration, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Room C2–26–17, 7500 Security Boulevard, Baltimore, MD 21244–1850, Fax Number: (410) 786–1415, Attn: John Rudolph HCFA–R–246

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Fax Number: (202) 395–6974 or (202) 395–5167, Attn: Allison Herron Eydt, HCFA Desk Officer.

Dated: June 25, 1998.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA, Office of Information Services, Information Technology Investment Management Group, Division of HCFA Enterprise Standards.

[FR Doc. 98–17664 Filed 7–1–98; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–855]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Health Care Financing Administration.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Medicare and Other Federal Health Care Programs Provider/Supplier Enrollment Application and Supporting Regulations in 42 CFR 410.32, 410.71, 413.17, 424.57, 424.73, 424.80, 440.30, and 484.12; *Form No.:* HCFA–855 (OMB# 0938–0685); *Use:* This information is needed to enroll providers and suppliers into the Medicare program by identifying them, pricing and paying their claims, and verifying their qualifications and eligibility to participate in Medicare.; *Frequency:* Initial Enrollment/Recertification; *Affected Public:* Business or other for-profit, Individuals or Households, Not-for-profit institutions, and Federal Government; *Number of Respondents:* 225,000; *Total Annual Responses:* 225,000; *Total Annual Hours:* 435,000.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: June 25, 1998.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 98–17673 Filed 7–1–98; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel Review of R24 Resource-Related Research Projects.

Date: July 8, 1998.

Time: 11:30 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Rockledge II Building, NHLBI Conference Room 7214, Bethesda, MD 20892–7924, (Telephone Conference Call).

Contact Person: Valerie L. Prenger, PHD, Health Scientist Administrator, Review Branch, NIH, NHLBI, Rockledge Building II, 6701 Rockledge Drive, Suite 7198, Bethesda, MD 208982–7924, (301) 435–0297.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel Pulmonary Immune Defenses and Their Regulation.

Date: July 13–14, 1998.

Time: 7:30 p.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.

Contact Person: Jon M. Ranhand, Ph.D., Review Branch, NIH, NHLBI, Rockledge Building II, 6701 Rockledge Drive, Suite 7188, Bethesda, MD 20892–7924, (301) 435–0280.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel Review of Demonstration and Education (R18) Applications.

Date: July 14, 1998.

Time: 9:00 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton National Airport Hotel, 2399 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Louis P. Corman, Ph.D., Scientific Review Administrator, Review Branch, NIH, NHLBI, Rockledge Building II, 6701 Rockledge Drive, Suite 7180, Bethesda, MD 20892–7924, (301) 435–0270.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Disease Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: June 25, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–17620 Filed 7–1–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date: June 19, 1998.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Ramada Inn, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Aida K. Vasquez, Grant Technical Assistant, Extramural Review Branch, National Institute on Alcohol Abuse and Alcoholism, Suite 409, 6000 Executive Boulevard, Bethesda, MD 20892, 301–443–9788.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: June 26, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–17614 Filed 7–1–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes And Digestive and Kidney Diseases, Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, ZDK1–GRB–8 O1 S.

Date: July 15–16, 1998.

Time: July 15, 1998, 8:30 am to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Renaissance Mayflower Hotel, 1127 Connecticut Avenue, N.W., Washington, DC 20036.

Contact Person: Roberta J. Haber, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Natcher Building, Room 6AS–37, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–8898.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, ZDK1–GRB–6 (03).

Date: July 28, 1998.

Time: 1:00 pm to Adjournment.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Bldg., 45 Center Drive, Room 6AS–37, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Neal A. Musto, Scientific Review Administrator, Review Branch, DEA, NIDDK, Natcher Building, Room 6AS–37A, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–7798.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: June 26, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–17615 Filed 7–1–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant

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applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel.

Date: July 8–10, 1998.

Time: July 8, 1998, 7:30 AM to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Omni New Haven Hotel, 155 Temple Street, New Haven, CT 06510.

Contact Person: Lakshmanan Sankaran, PHD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Natcher Building, Room 6AS–37, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–7799.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS.)

Dated: June 26, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–17616 Filed 7–1–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, ZDK1 GRB–4–04.

Date: July 13, 1998.

Time: 3:00 PM to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Natcher Bldg, Bethesda, MD 20892–6400 (Telephone Conference Call).

Contact Person: William Elzinga, PHD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Natcher Building, Room 6AS–37, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–8895.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Disgestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: June 26, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–17617 Filed 7–1–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel Review of Immunology Grant Applications.

Date: July 23, 1998.

Time: 2:00 PM to adjournment.

Agenda: To review and evaluate grant applications.

Place: Solar Building Room 4C38, 6003 Executive Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Edward W. Schroder, Scientific Review Administrator.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: June 25, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–17618 Filed 7–1–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings:

Name of SEP: National Institute on Aging Special Emphasis Panel Review of Study for Women's Health Across the Nation.

Dates of Meeting: July 8–9, 1998.

Times of Meeting: July 8—7:00 p.m. to 10:00 p.m.; July 9—8:00 a.m. to adjournment.

Place of Meeting: Chevy Chase Holiday Inn, Bethesda, Maryland 20815.

Purpose/Agenda: To review grant application.

Contact Person: Dr. Paul Lenz, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

This notice is being published less than 15 days prior to the above meetings due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Name of SEP: National Institute on Aging Special Emphasis Panel Longitudinal Measurement of Cardiovascular Parameters in Persons of Various Ages (Teleconference).

Date of Meeting: July 10, 1998.

Time of Meeting: 1:00 p.m. to adjournment.

Place of Meeting: Gateway Building, Room 2C212, 7201 Wisconsin Avenue, Bethesda, Maryland 20892.

Purpose/Agenda: To review on contract proposal.

Contact Person: Dr. Arthur Schaerdel, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

Name of SEP: National Institute on Aging Special Emphasis Panel Review of grant application from RAND.

Date of Meeting: July 17, 1998.

Time of Meeting: 8:00 a.m. to 4:00 p.m.

Place of Meeting: Holiday Inn, 5520 Wisconsin Avenue, Bethesda, Maryland 20892.

Purpose/Agenda: To review a program project grant application.

Contact Person: Dr. Arthur Schaerdel, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496 9666.

This meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets of commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.866, Aging Research, National Institutes of Health)

Dated: June 25, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–17619 Filed 7–1–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C., Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552(c)(6), Title 5, U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel SBIR Topic 52—Better Nitrone Spin Trap for Oxygen Centered Radicals.

Date: July 16, 1998.

Time: 11:00 AM to 1:00 PM.

Agenda: To review and evaluate contract proposals.

Place: NIEHS, 79 T.W. Alexander Drive, Building 4401, Conference Room 3446, Research Triangle Park, NC 27709 (Telephone Conference Call).

Contact Person: David Brown, MPH, Nat'l Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, NC 27709, (919) 541–4964.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel SBIR Topic 54—Device/Capability for Quantitative Assessment of Bone Strength in Rodents.

Date: July 17, 1998.

Time: 10:00 AM to 2:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIEHS, 79 T.W. Alexander Drive, Building 4401, Conference Room 3446, Research Triangle Park, NC 27709 (Telephone Conference Call).

Contact Person: David Brown, MPH, Nat'l Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, NC 27709, (919) 541–4964.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: June 25, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–17621 Filed 7–1–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4281–N–05]

Notice of Proposed Information Collection: Comment Request

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of proposed information collection.

SUMMARY: For the Federal Empowerment Zone Initiative (Round One and Round Two), the proposed information collection requirements described below will be submitted to the Office of Management and Budget (OMB) for review and approval by September 1, 1998 for a three year period. as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments due date:* August 31, 1998.

ADDRESSES: Interested parties are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Sheila Jones, Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street, SW, Room 7232, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: James Selvaggi, (202) 708–3773, ext 4647 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collections to OMB for review and approval, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). OMB has previously extended its approval of control number 2506–0148 through August 31, 1998; that extension covers information collections for the Round Two 1998 application process as well as for periodic reporting and responses to warning letters for Round One (1994) and Round Two (1998) programs.

This Notice solicits comments concerning the proposed collection for information for both the Round Two (1998) Urban Empowerment Zone Initiative (including the application process, periodic reporting, and responding to warning letters) and the Round One (1994) Urban Empowerment Zone and Enterprise Community Initiative (including periodic reporting, and responding to warning letters), during the three year period starting September 1, 1998. Commenters may wish to: (1) evaluate whether the proposed collection of information is necessary for the proper management of the Urban Empowerment Zone Initiative by the agency, including whether or not the information has practical utility; (2) evaluate the accuracy of HUD's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond. This Notice also lists the following information:

Title of Proposal: 1998 Urban Empowerment Zone Program (Round Two)/1994 Urban Empowerment Zone and Enterprise Community Program (Round One).

OMB Control Number: 2506–0148.

Description of the need for the information and proposed use: The Taxpayer Relief Act of 1997 amended the Omnibus Budget Reconciliation Act of 1993 to authorize the Secretary of HUD to designate 15 more urban empowerment zones. These statutes together require three sets of data. First, applicants for EZ designates must submit data (a) demonstrating their eligibility to apply, (b) addressing problems/needs in the proposed zone area and described in their proposed strategic plan, (c) determined by the applicant to be related to measuring success of the proposed implementation plan, measuring any lack of progress in achieving the activities in the proposed implementation plan, and justifying any boundary changes for the zone. Second, the statutes require HUD to review, periodically, the progress of designated urban communities (both Round 1 of 1994 and Round 2 of 1998) in carrying out their implementation programs and achieving the goals of their strategic plans. The Secretary is directed to collect such periodic and other data as deemed necessary for the review of the designees' progress. A third set of data is required in those rare cases where HUD would send a decertification warning letter to a designee, which then would submit data needed to rebut a proposed decertification.

A. Data for a Round Two 1998 EZ Application. Information to be collected consists of statutorily required data related to poverty by census tract; other measures of pervasive poverty, unemployment and economic/social distress; overall population by tract; and geographic data as to size and configuration.

B. Data for Round One and Round Two Periodic Reports. These data consist of a short narrative of progress by the designee and individual progress reports on each project they describe in their implementation plans.

C. Data refuting Possible Decertification. In instances where warning letters may be sent to Round One or Round Two designees, the collection burden would consist of narrative and data they select in order to rebut the federal argument for decertification.

How the information is planned to be used to further the proper performance of functions of the agency. HUD will use the applicant information as part of its respective review and approval procedures for selecting the 1998 EZ designees. This will be a one-time process. And for both the 72 Round One designees and the 15 Round Two communities which are designated, HUD will require the periodic reports to be submitted annually. The designees' annual progress reports provide management information for HUD, oversight information for the Vice President's Community Empowerment Board, and status reporting for the Congress. These periodic reviews also provide the basis for HUD to continue or revoke a designation during the ten-year life of the federal program. For potential decertifications, HUD would use the designees' rebuttal information to make a final decision regarding decertification.

Description of the likely respondents, including the estimated number of likely respondents, and proposed frequency of response to the collection of information:

HUD anticipates that 225 communities will apply in 1998 for Round Two designation; for the subsequent ten year designation period, HUD estimates that 15 Round Two designees will submit annual progress reports and 72 Round One designees will submit annual progress reports for the remainder of their ten year periods. Possibly five de-certification warning letters may require rebuttal by designees.

Agency form numbers, if applicable: Nomination for a Federal Empowerment Zone, HUD 40003 (5–98).

Members of affected public: Units of Local Government and States; Non-Profit Organization; Interested Members of the Public.

Estimate of the total reporting and recordkeeping burden that will result from the collection of information:

Number of Round Two applicants: 225.

Total burden hours (@ 50 hours per response): 11,250.

Number of Annual Progress Reports;
15 Round Two @ 15 hrs: 225.
72 Round One @ 15 hrs: 1080.

Number of Rebuttals—5 @ 20 hours: 100.

Total Estimated Annual Burden Hours: 12,655.

Status of the proposed information collection: The public was twice invited to comment on the accuracy of this information collection burden, via a Notice of Proposed Information Collection published in the **Federal Register** on January 23, 1998, and via an Interim Notice of Rulemaking published in the **Federal Register** in April 16, 1998. HUD received no public comments in response to either publication. This Notice now informs the public that HUD is seeking OMB approval for three years of the control number 2506–0148, for continuing management of the urban EZ programs (Round One and Round Two).

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: June 26, 1998.

Kenneth Williams,

Deputy Assistant Secretary for Grant Programs, CPD.

[FR Doc. 98–17585 Filed 7–1–98; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4356–N–09]

Notice of Proposed Information Collection: Comment Request

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments due date:* August 31, 1998.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street, SW, Room 4176, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Vyllorya Evans, Office of Multifamily Housing, telephone number (202) 708–2866 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Application for Project Mortgage Insurance.

OMB Control Number, if applicable:: 2502–0029.

Description of the need for the information and proposed use: This notice requests an extension of the use of Forms HUD–92013, HUD–92013–NHICF, 92013–HOSP, 90213 Supplement, applications for Multifamily Mortgage Insurance and their supporting exhibits that make up the basic application package for FHA-insurance on multifamily projects as authorized by Sections 207, 220, 221, 231, 232, 241, 242 of the National Housing Act. These project applications are submitted by project sponsors seeking feasibility determinations and by mortgagees applying for a conditional or firm commitment for FHA mortgage insurance.

Agency form numbers, if applicable: HUD–92013, HUD–92013–NHICF, 92013–HOSP, 90213 Supplement.

Status of the proposed information collection: (Extension of currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: June 26, 1998.

Ira G. Peppercorn,

General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 98–17586 Filed 7–1–98; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4341–N–17]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, room 7256, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1226; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the Decemer 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this, Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following address: GSA: Mr. Brian K. Polly, Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets, NW, Washington, DC 20405; (202) 501–2059; (This is not a toll-free number).

Dated: June 25, 1998.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Economic Development.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM, FEDERAL REGISTER REPORT FOR 07/02/98

Suitable/Available Properties

BUILDINGS (by State)

Montana

Forsyth Tech Operations Site
Forsyth Co: Rosebud MT 59327–
Landholding Agency: GSA
Property Number: 189610001
Status: Surplus
Comment: 6643 sq. ft. bldg. with 6.43 acres of land, most recent use—AF training site.
GSA Number: 7–D–MT–609

[FR Doc. 98–17468 Filed 7–1–98; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4322–N–02]

Statement of Notice to Bidders Concerning Disclosure of Bids From Past HUD Mortgage Loan Sales

AGENCY: Office of the Secretary, HUD.

ACTION: Business Submitter Notice to Bidders Concerning Release by HUD of Their Bids Under the Freedom of Information Act.

SUMMARY: This notice sets forth the business submitter notice by the Department of Housing and Urban Development to bidders regarding release under the Freedom of Information Act of the bids they submitted on past HUD Mortgage Loan Sales.

EFFECTIVE DATES: July 2, 1998.

FOR FURTHER INFORMATION CONTACT: William Barth, Managing Attorney, FOIA Division, Room 10250, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–3866 (this is not a toll free number). Speech or hearing impaired individuals

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may access this number via TTY by calling the toll free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On February 27, 1998, the Department of Housing and Urban Development published a statement of policy regarding disclosure of mortgage loan sales information (63 FR 10031). The February, 1998, notice set forth the Department's policy pertaining to the release of records regarding those bids that the Department or its contractors had received to date under its mortgage loan sale program. The notice stated that, when requested to provide records pursuant to the Freedom of Information Act (FOIA), the Department would produce relevant records in its files including, where available: (1) All potential bidders receiving bid materials; (2) all successful bidders and their successful bids and the mortgage loans attributable to such bids; (3) all unsuccessful bidders and their unsuccessful bids and the mortgage loans attributable to such bids; (4) the aggregate proceeds the Department received from the sale; and (5) the aggregate number of bidders.

This notice serves as the business submitter notice authorized by 24 CFR 15.54 of the Department's FOIA regulations. The purpose of this notice is to provide bidders the opportunity to object to disclosure of their bids under the FOIA. Bidders shall have 10 working days from the date of publication of this notice in the **Federal Register** to provide the Department a detailed written statement of their objections to disclosure of the bid information under the FOIA. Such statement shall specify all grounds for withholding the information and shall demonstrate why the bid information is a trade secret or commercial or financial information that is privileged or confidential. Conclusory statements that the information would be useful to competitors or similarly conclusory statements generally will not be considered sufficient to justify confidential treatment. Bidders should submit their statements to the agency contact identified in this notice.

The Department will carefully consider a submitter's objections before determining whether to disclose the information. If the Department decides to disclose the information over the objections of the submitters, the Department will advise the submitter in a written notice its intent to disclose the information 10 working days before the specified disclosure date.

Authority: 5 U.S.C. 552; 24 CFR 15.54; E.O. 12600, 52 FR 23781, 3 CFR, 1987 Comp., p. 235.

Dated: June 22, 1998.

Ira Peppercorn,

General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 98–17584 Filed 7–1–98; 8:45 am]

BILLING CODE 4210–32–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4363–N–01]

Announcement of OMB Approval Number for Economic Development Initiatives (EDI/BEDI) Grant Program

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Announcement of OMB Approval Number.

SUMMARY: The purpose of this notice is to announce the OMB approval number for the collection of information pertaining to the Super Notice of Funding Availability for the Economic Development and Empowerment Programs; the Economic Development Initiative (EDI) and for the Brownfields Economic Development Initiative (BEDI) Grant Programs.

FOR FURTHER INFORMATION CONTACT: Either Stan Gimont or Paul Webster, Financial Management Division, Office of Block Grant Assistance, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–1871. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), this notice advises that OMB has responded to the Department's request for approval of the information collection pertaining to the Economic Development Initiative (EDI) and for the Brownfields Economic Development Initiative (BEDI) Grant Programs. The OMB approval number for this information collection is 2506–0153, which expires June 30, 2001.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number.

Dated: June 26, 1998.

Kenneth Williams,

Deputy Assistant Secretary for Grant Programs.

[FR Doc. 98–17587 Filed 7–1–98; 8:45 am]

BILLING CODE 4210–32–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications.

SUMMARY: The following applicants have applied for a scientific research permit to conduct certain activities with endangered species pursuant to section 10 (a)(1)(A) of the Endangered Species Act of 1973, as amended (16 USC 1531 *et seq.*).

Permit No. 825572

Applicant: Jeff Dreier.

The applicant requests a permit to take (translocate cysts) the vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with inoculating created habitat for the purpose of enhancing its survival in Alameda County, California.

Permit No. 702631

Applicant: Assistant Regional Director-Ecological Services, Region 1, Fish and Wildlife Service, Portland, Oregon.

The applicant requests a permit amendment to take (capture, handle, band, radio-tag, and release; haze, relocate, and kill) the peregrine falcon (*Falco peregrinus*) throughout the species range in conjunction with scientific research and management activities on peregrine falcons, especially with regard to their interactions with California least tern (*Sterna albifrons browni*) colonies and western snowy plovers (*Charadrius alexandrinus nivosus*) and take (collect for captive propagation, harass, handle) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with scientific research throughout the species range for the purpose of enhancing their survival.

Permit No. 745541

Applicant: S. J. M. Consultants, San Diego, California.

The applicant requests a permit to take (survey using taped vocalizations) the Yuma clapper rail (*Rallus longirostris yumanensis*) in conjunction with surveys in Imperial County, California, for the purpose of enhancing its survival.

Permit No. 787376

Applicant: Peter Bloom, Santa Ana, California.

The applicant requests a permit amendment to take (harass through hazing) the peregrine falcon (*Falco peregrinus*) throughout the species range in conjunction with scientific research on peregrine falcons, especially with regard to their interactions with California least tern (*Sterna albifrons browni*) colonies and western snowy plovers (*Charadrius alexandrinus nivosus*), for the purpose of enhancing its survival.

Permit No. 783928

Applicant: California Department of Transportation, San Diego, California.

The applicant requests a permit amendment to take (capture, handle, and release) the desert pupfish (*Cyprinodon macularius*) in Imperial and Riverside Counties, California, in conjunction with presence or absence surveys, for the purpose of enhancing its survival.

Permit No. 785148

Applicant: Ogden Environmental, San Diego, California.

The applicant requests a permit amendment to take (capture, handle, and release) the San Bernardino kangaroo rat (*Dipodomys merriami parvus*) and the Amargosa vole (*Mocrotus californicus scirpensis*), and take (harass by survey) the Quino checkerspot butterfly (*Euphydryas editha quino*) and the southwestern willow flycatcher *Empidonax traillii extimus*) in conjunction with presence or absence surveys and ecological research throughout each species' range, for the purpose of enhancing their survival.

DATES: Written comments on these permit applications must be received on or before August 3, 1998.

ADDRESSES: Written data or comments should be submitted to the Chief, Division of Consultation and Conservation Planning, Ecological Services, Fish and Wildlife Service, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181; Fax: (503) 231–6243. Please refer to the respective permit number for each application when submitting comments. All comments, including names and addresses, received will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 20 days of the date of publication of this notice to the address above; telephone: (503) 231–2063. Please refer to the respective permit number for each application when requesting copies of documents.

Dated: June 24, 1998.

John H. Doebel,

Acting Regional Director, Region 1, Portland, Oregon.

[FR Doc. 98–17593 Filed 7–1–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Big Game Guiding on National Wildlife Refuges in Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of solicitation.

SUMMARY: Notice is hereby given the U.S. Fish and Wildlife Service is soliciting proposals to conduct commercial big game guide services on several national wildlife refuges in Alaska.

DATES: Proposals should be postmarked by Monday, November 16, 1998, or hand delivered to the respective refuge manager by Friday, November 20, 1998.

ADDRESSES: Mail proposals to the refuge manager at the appropriate refuge as listed in the section, **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Tony Booth, Division of Refuges, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska, 99503; telephone (907) 786–3357 [TTY: (907) 786–3552].

SUPPLEMENTARY INFORMATION: The U.S. Fish and Wildlife Service is requesting proposals to conduct commercial big game guide services within use areas on several National Wildlife Refuges in Alaska. These offerings are for use areas which have become vacant or may become vacant soon. Big game guiding services will be authorized on these areas for the period July 1, 1999, through June 30, 2004. Authorizations to conduct guiding services in these areas will be awarded through a competitive selection process.

The offerings will include the following guide use areas:

Alaska Peninsula/Becharof Refuge—BCH–06, AKP–09
  Address: Refuge Manager, Alaska Peninsula/Becharof National Wildlife Refuge, Post Office Box 277, King Salmon, Alaska 99613.
Arctic Refuge—ARC–01, 02, 15
  Address: Refuge Manager, Arctic National Wildlife Refuge, 101 12th Avenue, Box 20, Fairbanks, Alaska 99701.
Innoko Refuge—INN–03
  Address: Refuge Manager, Innoko National Wildlife Refuge, Post Office Box 69, McGrath, Alaska 99627.
Kanuti Refuge—KAN–01
  Address: Refuge Manager, Kanuti National Wildlife Refuge, 101 12th Avenue, Room 112, Fairbanks, Alaska 99701.
Kenai Refuge—KEN–02, 03
  Address: Kenai National Wildlife Refuge, Post Office Box 2139, Soldotna, Alaska 99699–2139.
Koyukuk Refuge—KOY–02
  Address: Koyukuk/Nowitna National Wildlife Refuge, Post Office Box 287,Galena, Alaska 99741.
Selawik Refuge—SEL–01
  Address: Selawik National Wildlife Refuge, Post Office Box 270, Kotzebue, Alaska 99752.

The Service is also requesting proposals for the following refuge guide use areas where the Service proposes to not renew existing guiding permits. Interested qualified guides who apply for the following use areas should be aware that the availability of these areas is uncertain at this time because existing permittees may seek reconsideration or appeal a decision to not renew their permits. Since the Service does not plan to issue a seperate notice for these tentative offerings, interested parties should submit proposals in response to this notice. These tentative offerings include the following areas:

Alaska Peninsula/Becharof Refuge—BCH–02, 03
  Address: Alaska Peninsula/Becharof National Wildlife Refuge, Post Office Box 277, King Salmon, Alaska 99613.
Arctic Refuge—ARC–08
  Address: Arctic National Wildlife Refuge, 101 12th Avenue, Box 20, Fairbanks, Alaska, 99701.
Izembek Refuge—IZM–02
  Address: Izembek National Wildlife Refuge, Post Office Box 127, Cold Bay, Alaska 99571–0127.
Kodiak Refuge—KOD–14, 15
  Address: Kodiak National Wildlife Refuge, 1390 Buskin River Road, Kodiak, Alaska 99615.
Koyukuk Refuge—KOY–03
  Address: Koyukuk/Nowitna National Wildlife Refuge, Post Office Box 287, Galena, Alaska 99741.

A letter announcing these offerings is being sent to all State of Alaska registered big game guides. Proposals must be postmarked by Monday, November 16, 1998 or hand delivered to the appropriate refuge manager by 4:30

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p.m., Alaska Standard Time, Friday, November 20, 1998.

Copies of the solicitation are available to any interested party by calling or writing the above telephone number/address.

Dated: June 11, 1998.

David B. Allen,

Regional Director, Anchorage, Alaska.

[FR Doc. 98–17667 Filed 7–1–98; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM–070–98–1430–00–P]

Emergency Closure of Public Lands to Motorized Vehicles Within the Butte Field Office, Butte, MT

AGENCY: Butte Field Office, Bureau of Land Management, DOI.

ACTION: Notice is hereby given that, pursuant to 43 CFR 8340.0–3, 8341.2(a), and 8364.1, the following closure shall take effect immediately in the area described in this notice within the jurisdiction of the Bureau of Land Management until the Whitetail-Pipestone Environmental Impact Statement (EIS) is completed with public involvement.

The following described lands administered by the Bureau of Land Management in the Whitetail-Pipestone project area are limited to use of existing roads and trails for all motorized vehicles, except snowmobiles. All existing roads and trails are open unless signed otherwise. These lands are bordered on the west by U.S. Interstate 15 from Butte to Boulder, on the east by the Whitetail Road from Boulder to Whitehall, and on the south by Highway 2 from Whitehall to Butte.

The purpose of the closure is to protect cultural resources and riparian areas, reduce erosion and new spread of noxious weeds in the area, and stop the proliferation of user-created trails. Most of the existing roads and trails will be open in the area during the closure order.

Pursuant to 43 CFR 8340.0–4, the following use is exempt from this order:

(1) Any military, fire, emergency, or law-enforcement vehicle that is being used for emergency purposes;

(2) Any vehicle whose use is expressly authorized by the Authorized Officer or otherwise officially approved; and

(3) Vehicles in official use.

More specifically, these lands are:

All BLM lands north of Highway 2 and south of Interstate 90 as follows:

N½N½ of Sec. 6, T. 1 N., R. 5 W.

NW¼NE¼, E½NW¼, of Sec. 2; N½NW¼ of Sec. 3; N½NW¼ of Sec. 4; S½NW¼, SW¼ of Sec. 9; S½SE¼ of Sec. 10; SW¼SW¼ of Sec. 11; NW¼SW¼ of Sec. 12; NE¼NE¼, W½NW¼ of Sec. 14; T. 1 N., R. 6 W.

Secs. 23, 24, 25, 26, and 35 of T. 2 N., R. 6 W.

S½SW¼, SW¼SE¼ of Sec. 19; all of Secs. 30 and 31; S½NW¼, SW¼, NW¼SE¼ of Sec. 32, T. 2 N., R. 5 W.

All BLM lands north of Interstate 90 and south of the township line between T. 2 N. and T. 3 N. as follows:

N½NE¼, SE¼NE¼, W½, SW¼SE¼, of Sec. 6; W½SW¼, SE¼SW¼, SE¼ of Sec. 18, NW¼NW¼ of Sec. 26, T. 2 N., R. 4 W.

All of Secs. 2, 5, 7, 8, 9, and 10; SW¼ of Sec. 14; all of Secs. 15, 17, and 18; NW¼NE¼, NE¼NW¼ of Sec. 19; N½, NE¼SE¼ of Sec. 20; N½, N½SE¼ of Sec. 21; N½, SE¼ of Sec. 22; SE¼NE¼, NW¼ of Sec. 24, T. 2 N., R. 5 W.

All BLM lands north of the township line between T. 2 N. and T. 3 N., south of the township line between T. 4 N. and T. 5 N., and west of the Whitetail Road as follows:

All of Secs. 11, 12, 13, 14, 23, and 24 except mining claims in Sec. 11, T. 2 N., R. 6 W.

NW¼NW¼ of Sec. 4; all of Sec. 6; W½, W½E½ of Sec. 8; W½, W½E½ of Sec. 32, T. 3 N., R. 4 W.

All of Secs. 25, 26, and 35, T. 3 N., R. 5 W.

E½, N½NW¼ of Sec. 4; NE¼NE¼, W½, W½E½ of Sec. 5; NW¼, N½SW¼, SE¼SW¼, SW¼SE¼ of Sec. 8; W½ of Sec. 17; W½, SW¼SE¼ of Sec. 20; N½, SE¼, NE¼SW¼ of Sec. 28; all of Secs. 30 and 31, T. 4 N., R. 4 W.

All BLM lands north of the township line between T. 4 N. and T. 5 N., south of Interstate 15, and west of Highway 69 that runs between Boulder and Whitehall, as follows:

SW¼SW¼ of Sec. 19; SE¼ of Sec. 30; W½NE¼, SE¼NE¼, NW¼, N½SW¼, SW¼SW¼ of Sec. 32, T. 5 N., R. 3 W.

W½ of Sec. 5; all of Sec. 6; W½, SE¼ of Sec. 8; SW¼SW¼ of Sec. 13; SW¼NW¼, SW¼, W½SE¼, SE¼SE¼ of Sec. 14, T. 5 N., R. 4 W.

W½SW½NE¼, W½, W½SE¼, SE¼SE¼ of Sec. 31; SW¼NW¼, SW¼, E½SW¼SE¼ of Sec. 32, T. 6 N., R. 4 W.

All BLM lands south of U.S. Interstate 15 as follows:

S½SW¼ of Sec. 15; S½S½SW¼ of Sec. 16; SE¼SE¼SW¼ of Sec. 17; S½SW¼. W½NE¼SW¼ of Sec. 22; SE¼, SW¼SW¼SW¼, E½SW¼ of Sec. 23; SE¼SE¼SW¼ of Sec. 24; W½, SW¼SE¼ of Sec. 25, T. 6 N., R. 5 W.

The authorities for this closure are 43 CFR 8340.0–3, 8341.2, and 8364.1. The closure will remain in effect until the Recreation Management Plan Environmental Impact Statement for this area is completed.

ADDRESSES: Copies of the closure order and maps showing the location of the closed areas are available from the Bureau of Land Management, Butte Field Office, 106 North Parkmont, P.O. Box 3388, Butte, Montana 59702, telephone 406–494–5059.

FOR FURTHER INFORMATION CONTACT: Merle Good, Field Manager, Butte Field Office, P.O. Box 3388, Butte, Montana 59702; telephone 406–494–5059.

Dated: June 25, 1998.

Merle Good,

Field Manager.

[FR Doc. 98–17703 Filed 7–1–98; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–921–41–5700; WYW138133]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

June 18, 1998.

Pursuant to the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), a petition for reinstatement of oil and gas lease WYW138133 for lands in Campbell County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination. The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this Federal Register notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW138133 effective February 1, 1998, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Pamela J. Lewis,

Chief, Leasable Minerals Section.

[FR Doc. 98–17654 Filed 7–1–98; 8:45 am]

BILLING CODE 4310–22–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–921–41–5700; WYW126395]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

June 18, 1998.

Pursuant to the provisions of 30 U.S.C. 188(d) and (3), and 43 CFR 3108.2–3(a) and (b)(1), a petition for reinstatement of oil and gas lease WYW126395 for lands in Weston County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination. The lease has agreed to the amended lease terms for rentals and royalties at rates $5.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW126395 effective March 1, 1998, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Pamela J. Lewis,

Chief, Leasable Minerals Section.

[FR Doc. 98–17655 Filed 7–1–98; 8:45 am]

BILLING CODE 4310–22–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–921–41–5700; WYW138134]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

June 18, 1998.

Pursuant to the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), a petition for reinstatement of oil and gas lease WYW138134 for lands in Campbell County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination. The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department of the cost of the **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW138134 effective February 1, 1998, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Pamela J. Lewis,

Chief, Leasable Minerals Section.

[FR Doc. 98–17656 Filed 7–1–98; 8:45 am]

BILLING CODE 4310–22–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[C–930–1430–01; COC–47115]

Public Land Order No. 7345; Revocation of Public Land Order No. 6803; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes, in its entirety, a public land order that withdrew 30 acres of public land for a Forest Service administrative site. The land is no longer needed for this purpose and the Forest Service has relinquished the withdrawal. This action will open the land to the operation of the public land laws. The land is temporarily closed to mining due to a pending land exchange proposal. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: August 3, 1998.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215–7076, 303–239–3706.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Public Land Order No. 6803, which withdrew public land for the Forest Service Sulphur Center Administrative Site, is hereby revoked in its entirety:

Sixth Principal Meridian

T. 1 N., R. 76 W., sec. 8, NW¼NW¼NW¼ and E½NW¼NW¼.

The area described contains 30 acres in Grand County.

2. At 9 a.m. on August 3, 1998, the land will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on August 3, 1998, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Dated: June 18, 1998

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 98–17657 Filed 7–1–98; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–060–08–1040–00]

Moratorium on Issuance of New Commercial Permits and Rights-of-Way in Mill Creek Canyon

AGENCY: Bureau of Land Management, Department of Interior.

ACTION: Notice of moratorium on authorization of new commercial permits and rights of way for Mill Creek Canyon pending completion of a special management plan.

SUMMARY: This notice places a moratorium on issuance of all new commercial permits including new special recreation and filming permits and rights of way authorized by the Moab Field Office for Mill Creek Canyon near Moab, Utah. This action is implemented under the authority of 43 CFR 2800, 2920 and 8372.

Increased recreation and other use of public lands in Mill Creek Canyon has adversely impacted wildlife, vegetation, soil, water quality, visual and cultural resources and poses a threat to public health and safety and enjoyment of the lands. This area encompasses lands under BLM management within one-quarter (1/4) mile of the stream, from the public land boundary west of the Power Dam to the Forest Service boundary, in both forks of the canyon including Rill Canyon.

The purpose and need for preparation of a special management plan for the area has been determined through public scoping. To prevent foreclosure of management options in that plan, issuance of additional special recreation and filming permits, rights-of-way, and all other commercial use permits is hereby suspended. Limiting new permits is one way to control future resource damage, ensure the sustainability of existing resources, and allow unhindered consideration and possible adoption of use ceilings, pending completion of the management plan.

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It will also respond to public requests for limitations on commercial uses, rights-of-way, or any publicized use of the area pending completion of the plan. No limitation or suspension of existing permits is created by this moratorium nor is any limitation created affecting previously pending permits or rights-of-way. This notice does not affect existing or future authorizations on the Flat Pass Trail.

Maps of the moratorium area are available in the Moab Field Office.

DATES: This restriction shall remain in effect pending revision of the resource management plan for the Grand Resource Area or completion of a special management plan for South Mill Creek Canyon or until updated by the authorized officer.

FOR FURTHER INFORMATION CONTACT: Brad Palmer, Moab Field Office, 82 East Dogwood Avenue, Moab, Utah 84532 at (435) 259–6111.

Dated: June 22, 1998

Brad Palmer,

Acting Moab Field Office Manager.

[FR Doc. 98–17653 Filed 7–1–98; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Announcement of Posting of Invitation for Bids on Crude Oil From Federal Leases in Wyoming

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of IFB on Federal crude oil in the State of Wyoming.

SUMMARY: The Minerals Management Service (MMS) will post on MMS's Internet Home Page and make available in hard copy an Invitation for Bids (IFB) offering of approximately 3,700 barrels per day (bpd) of crude oil to be taken as royalty-in-kind (RIK) from Federal leases in Wyoming's Bighorn and Powder River Basins. The oil will be sold publicly by competitive bid.

DATES: The IFB will be posted on MMS's Internet Home Page on or about July 1, 1998. Bids will be due to MMS on or about July 31, 1998. MMS will notify successful bidders on or about August 17, 1998. The Federal Government will begin actual taking of royalty volumes for a 6-month period beginning on or about October 1, 1998.

ADDRESSES: The IFB will be posted on MMS's Home page at http://www.rmp.mms.gov under the icon "What's New." The IFB may also be obtained by contacting Ms. Betty Estey at the address in the **FURTHER INFORMATION** section. Bids should be submitted to the address provided in the IFB.

FOR FURTHER INFORMATION CONTACT: For additional information on MMS's RIK pilots, contact Mr. Bonn J. Macy, Minerals Management Service, 1849 C Street, NW, MS 4230, Washington, DC 20240; telephone number (202) 208–3827; fax (202) 208–3918; e-mail Bonn.Macy@mms.gov. For additional information concerning the IFB document, terms, and process, contact Ms. Betty Estey, Minerals Management Service, MS 2510, 381 Elden Street, Herndon, VA 20170–4817; telephone number (703) 787–1352; fax (703) 787–1009; e-mail Betty.Estey@mms.gov.

SUPPLEMENTARY INFORMATION: The offering of crude oil in the IFB is Phase I of the first of MMS's three planned RIK pilots. The other two RIK pilots will be in the Gulf of Mexico. MMS's objective in all its pilots is to identify the circumstances under which taking oil and gas royalties as a share of production, or RIK, is a viable alternative to MMS's usual practice of collecting oil and gas royalties as a share of the value received by the lessee for sale of the production. The Wyoming pilot is a joint project with the State of Wyoming expected to last 2 to 3 years.

The sale will involve approximately 3,700 bpd of crude oil from some 186 Federal properties located in Wyoming's Bighorn and Powder River Basins.

Purchasers may bid on individual properties and/or on the entire packages of Wyoming sweet crude oil (1,051 bpd), Wyoming general sour crude oil (890 bpd), or Wyoming asphaltic sour crude oil (1,782 bpd). Bids will be due as specified in the IFB on or about July 31, 1998; successful bidders will be notified on or about August 17, 1998.

The following are some of the additional details regarding the offerings that will be posted in the IFB on or about July 1, 1998:

- List of specific properties;
- For each property, royalty rate(s), average daily royalty volume, quality, transportation method (truck/pipe), and current transporter and operator;
- Bid basis;
- Reporting requirements;
- Terms and conditions; and
- Contract format.

The internet posting and availability of the IFB in hard copy are being announced in oil and gas trade journals as well as in this **Federal Register** notice.

Dated: June 26, 1998.

Walter D. Cruickshank,

Associate Director for Policy and Management Improvement.

[FR Doc. 98–17694 Filed 7–1–98; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Glen Canyon Adaptive Management Work Group; Notice of Meeting

AGENCY: Bureau of Reclamation.

ACTION: Public meetings of the Glen Canyon Adaptive Management Work Group (AMWG) and Glen Canyon Technical Work Group (TWG).

SUMMARY: The Glen Canyon Adaptive Management Work Group will conduct public meetings to discuss administrative and program related issues. The following agenda items will be discussed during this meeting: Administrative issues, Formation of the Science Advisory Board, Installation of Flashboards on Glen Canyon Dam, Beach Building Flows, Hydrology, Grand Canyon Conceptual Model, Lake Powell Monitoring and Research, Temperature Control Device, Cultural Resources, 1998 April-May Dam Releases, and Budgetary Issues. The TWG will be meeting to discuss future Beach Building Flows and Research Activities in Lake Powell. This TWG meeting is in addition to the meeting previously scheduled on July 23 in the **Federal Register** notice dated March 17, 1998.

DATE AND LOCATION: The AMWG public meeting will be held at the following time and location:

Phoenix, Arizona—July 21–22, 1998. The two-day meeting will begin at 9:30 a.m. on the first day and conclude at 3:30 p.m. on the second day. The meeting will be held at the Embassy Suites, 1515N. 44th St., Phoenix, Arizona.

DATE AND LOCATION: The additional TWG public meeting will be held at the following time and location:

Phoenix, Arizona—July 20, 1998. The meeting will begin at 1:00 p.m. and end at 4:00 p.m. The meeting will be held at the Embassy Suites, 1515N. 44th St., Phoenix, Arizona.

Time will be allowed at each meeting for any individual or organization wishing to make formal oral comments (limited to 10 minutes), but written notice must be provided at least FIVE (5) days prior to the meeting to Mr. Bruce Moore, Bureau of Reclamation, Upper Colorado Regional Office, 125

South State Street, Room 6107, Salt Lake City, Utah 84138–1102, telephone (801) 524–3702, faxogram (801) 524–5499, e-mail at bmoore@uc.usbr.gov.

Official agenda for the AMWG meeting is available now on the Bureau of Reclamation's website under the Adaptive Management Program at: http://www.uc.usbr.gov.

Dated: June 29, 1998.

Eluid L. Martinez,

Commissioner, Bureau of Reclamation.

[FR Doc. 98–17690 Filed 7–1–98; 8:45 am]

BILLING CODE 4310–94–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,643]

Amoco Exploration and Production, Natural Gas Group Operating in the State of Texas; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 8, 1998 in response to a worker petition which was filed on behalf of workers at Amoco Gas Company, Texas City, Texas.

All workers of the subject firm are covered under an existing certification (TA–W–32,660K).

Consequently, further investigation in this cas would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C. this 22nd day of June 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–17640 Filed 7–1–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–33,922]

Anitec Image Corporation A/K/A Kodak Polychrome Graphics, Binghamton, New York; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on January 9, 1998, applicable to workers of Anitec Image Corporation located in Binghamton, New York. The notice was published in the **Federal Register** on February 6, 1998 (63 FR 6209).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information provided by the State agency and confirmed by company officials reveal that Anitec Image Corporation was purchased by Kodak Polychrome Graphics on April 30, 1998. Consequently, some of the workers at Binghamton producing photographic film paper and related products have had their wages reported under the unemployment insurance (UI) tax account for Kodak Polychrome Graphics.

The intent of the Department's certification is to include all workers of the subject firm in Binghamton, New York adversely affected by increased imports. Accordingly, the Department is amending the certification to reflect that Anitec Image Corporation is under the new ownership of Kodak Polychrome Graphics.

The amended notice applicable to TA–W–33,922 is hereby issued as follows:

> All workers of Anitec Image Corporation, also known as Kodak Polychrome Graphics, Binghamton, New York who became totally or partially separated from employment on or after December 14, 1997 through January 8, 2000, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 22nd day of June 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–17638 Filed 7–1–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Acting Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 13, 1998.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 13, 1998.

The petitions filed in this case are available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 15th day of June, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

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APPENDIX

[Petitions instituted on 06/15/98]

TA–W	Subject firm (Petitioners)	Location	Date of petition	Product(s)
34,645	Celanese (UNITE)	Narrows, VA	06/02/98	Cellulose Acetate.
34,646	Lam Research, Inc (Wrks)	Wilmington, MA	05/20/98	Improving Mfg Process, Quality Control.
34,647	Wells Lamont (Comp)	El Paso, TX	05/24/98	Gloves.
34,648	Tiffany Fabrics (Comp)	New York, NY	04/24/98	Printed Fabrics for Apparel.
34,649	Trident Automotive (Wrks)	Blytheville, AR	06/01/98	Automotive Cables.
34,650	BTR Sealing Systems (UNITE)	Maryville, TN	06/01/98	Weatherstripping for Cars & Trucks.
34,651	General Mfg. Co., Inc (Comp)	Opp, AL	05/29/98	Men's Denim Jeans.
34,652	Gates Rubber Co. (The) (Comp)	Jefferson, NC	05/12/98	Vulco Flex Hose.
34,653	Runo Graphic Comm. (Wrks)	Portland, OR	05/03/98	Box Labels, Printed Articles.
34,654	Selmet, Inc/REM Products (Wrks)	Albany, OR	05/28/98	Titanium Golf Club Heads.
34,655	Tri Americas (Wrks)	El Paso, TX	05/07/98	Jeans.
34,656	McCabe Packing Co (Comp)	Taylorville, IL	06/05/98	Beef Carcasses.
34,657	Cowtown Boot Co (Wrks)	El Paso, TX	05/28/98	Boots.
34,658	IRI International Corp (Comp)	El Dorado, KS	06/03/98	Oilfield Drilling Equipment.
34,659	Champion Pacific Timber (Comp)	Lebanon, OR	06/04/98	Seedlings for Reforestation.
34,660	Gloria Corp. (The) (Comp)	Ada, OK	06/04/98	Crude Oil.
34,661	EJ Footwear Corp (Comp)	Endicott, NY	06/03/98	Footwear.
34,662	General Electric (IUE)	Memphis, TN	06/01/98	Automotive Lamps.

[FR Doc. 98–17644 Filed 7–1–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Acting Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address show below, not later than July 13, 1998.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 13, 1998.

The petitions filed in this case are available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 8th day of June, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

[Petitions Instituted On 06/08/98]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
34,615	Empire Print Works (Wkrs)	West Hazleton, PA	05/26/98	Printing Fabrics.
34,616	Springfield Manufacturing (Wkrs)	Springfield, GA	05/29/98	Ladies Sportswear.
34,617	Virginia Apparel (Wkrs)	Rocky Mount, VA	05/27/98	Woven Shorts, Pants and Skirts.
34,618	Philips Components (Wkrs)	Saugerties, NY	05/20/98	Ferrite Cores.
34,619	ITT Cannon (Co.)	Nogales, AZ	05/20/98	Electronic Interconnect Systems.
34,620	Weck Closure Systems (Wkrs)	Resrch Triangle, NC	05/26/98	Surgical Instrument.
34,621	Strategic Finishing (Wkrs)	Tualatin, OR	05/18/98	Paints, Finished Coatings on Autos.
34,622	Creative Apparel (Wkrs)	Andrews, SC	05/19/98	T-Shirts.
34,623	Pillowtex (Co.)	Monroe, NC	05/15/98	Blankets.
34,624	IDE Corp.—Idea Courier (Wkrs)	Phoenix, AZ	05/26/98	Assemble & Test Printed Circuit Boards.
34,625	Nutri Metics Inter'l (Wkrs)	Cerritos, CA	05/26/98	Skincare Products.
34,626	Oregon Glove Co (Wkrs)	Salem, OR	05/21/98	Work Gloves.
34,627	DMC Prings (Wkrs)	New York, NY	05/19/98	Rayon Printed Fabrics.
34,628	Gilroy Canning Company (IBT)	Gilroy, CA	05/28/98	Canned Tomatoes and Tomato Products.
34,629	Stewman Fashions (Wkrs)	Ardomore, TN	05/26/98	Shorts and Boy's Dress Shirts.
34,630	Kvaerner Metals (Wkrs)	Pittsburgh, PA	04/13/98	Design Drawings.
34,631	Donnkenny Apparel, Inc (Wkrs)	Rural Retreat, VA	05/04/98	Blouses, Sweatshirts, T-Shirts.
34,632	MacMillan Bloedel (Wkrs)	Spokane, VA	04/07/98	Solid Wood Products, Timbers, Siding.

APPENDIX—Continued

[Petitions Instituted On 06/08/98]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
34,633	Datagold, Inc (Wkrs)	Mocanaqua, PA	05/28/98	Expanding Accordian File Folders.
34,634	Gould Electronics, Inc (IBEW)	Newburyport, MA	04/20/98	Electrical Fuses.
34,635	Thermodisc—Rittenhouse (Co.)	Honeoye Falls, NY	05/27/98	Automotive Electronic Modules.
34,636	McCreary Mfg Co (Wkrs)	Stearns, KY	05/28/98	Mean's Shirts and Ladies' Blouses.
34,637	Carol Ann Fashions, Inc (Wkrs)	Hastings, PA	05/27/98	Ladies' Sportswear.
34,638	Ohmite Mfg (UPIU)	Huntington, IN	05/26/98	Resistors, Brakes.
34,639	Breed Technologies (Co.)	Greenville, AL	06/01/98	Seat Belts and Air Bag Parts.
34,640	Heiser Egan (UNITE)	New York, NY	05/24/98	Ladies' Dresses.
34,641	J and J Lingerie (UNITE)	Glens Falls, NY	05/22/98	Ladies' Intimate Apparel.
34,642	Pittsburgh Tube Co. (USWA)	Moon Township, PA	05/27/98	Mechanical Tubing.
34,643	Amoco Gas Co (Wkrs)	Texas City, TX	05/29/98	Natural Gas.
34,644	Forest Furniture (Co.)	Lapine, OR	05/27/98	Rustic Pine Furniture.

[FR Doc. 98–17641 Filed 7–1–98; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,443]

Hart Textiles Sikeston, Missouri; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on April 13, 1998 in response to a worker petition which was filed on March 30, 1998 on behalf of workers at Hart Textiles, located in Sikeston, Missouri.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 15th day of June, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–17642 Filed 7–1–98; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,592]

The Paper Magic Group Incorporated, Reynosa, Mexico; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on May 26, 1998 in response to a worker petition which was filed on April 23, 1998 on behalf of workers at The Paper Magic Group Inc., Reynosa, Mexico.

During the course of the investigation it was revealed that the workers' firm was located outside of the United States. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 15th day of June, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–17643 Filed 7–1–98; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–33,581 & 581A]

Pro-Line Cap Company, et al.; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on November 17, 1997, applicable to all workers of Pro-Line Cap Company, Bowie, Texas. The notice was published in the **Federal Register** on December 10, 1997 (62 FR 65100).

At the request of the petitioners, the Department reviewed the certification for workers of the subject firm. New information received from the company shows that worker separations occurred at Pro-Line's two Fort Worth, Texas locations: (1) White Settlement Road, headquarters office, accounts and customer service and (2) Jennings Avenue location, embrodiery and warehousing. The entire company closed February 3, 1998. The workers produced athletic headwear (officially licensed, National Football League, National Hockey League and Major League Baseball caps).

The intent of the Department's certification is to include all workers of Pro-Line Cap Company who were adversely affected by increased imports.

Accordingly, the Department is amending the certification to cover the workers of Pro-Line Cap Company, also known as Star Point Enterprise, Incorporated, also known as Caryle Golf, Incorporated location on White Settlement Road; and Jennings Avenue in Fort Worth, Texas.

The amended notice applicable to TA–W–33, 581 is hereby issued as follows:

> All workers of Pro-Line Cap Company, also known as Star Point Enterprises, Incorporated, also known as Carlye Golf, Incorporated, Bowie, Texas (TA–W–33,581), 8224 White Settlement Road, and 512 Jennings Avenue, Fort Worth, Texas (TA–W–33,581A) who became totally or partially separated from employment on or after May 9, 1996 through November 17, 1999 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington D.C. this 22nd day of June, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–17639 Filed 7–1–98; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–002364]

The Paper Magic Group Incorporated, Reynosa, Mexico; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement

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Implementation Act and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2331), an investigation was initiated on April 30, 1998, in response to a petition filed on April 23, 1998 on behalf of workers at The Paper Magic Group Inc., Reynosa, Mexico.

During the course of the investigation it was revealed that the workers' firm was located outside of the United States. Therefore, further investigation would serve no purpose and the investigation has been terminated.

Signed in Washington, DC this 15th day of June 1998.

Grant D. Beals,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–17645 Filed 7–1–98; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Prohibited Transaction Exemption 94–71

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, provides the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95), 44 U.S.C. 3506(c)(2)(A). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Pension and Welfare Benefits Administration is soliciting comments concerning the proposed extension of a currently approved collection of information, Prohibited Transaction Exemption 94–71. A copy of the proposed information collection request (ICR) can be obtained by contacting the employee listed below in the contact section of this notice.

DATES: Written comments must be submitted on or before August 31, 1998.

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarify the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Gerald B. Lindrew, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW, Washington, DC 20210, (202) 219–4782 (this is not a toll-free number), FAX (202) 219–4745.

SUPPLEMENTARY INFORMATION:

I. Background

Class Exemption 94–71 exempts certain transactions authorized by a settlement agreement resulting from an investigation of an employee benefit plan pursuant to the authority of section 504(a) of the Employee Retirement Income Security Act of 1974 (ERISA) from prohibitions set forth in sections 406 and 407(a) of ERISA. The conditions of the exemption include certain notice and disclosure requirements, which are intended to protect the interests of plan participants and beneficiaries. At least 30 days prior to engaging in the transaction described in the settlement agreement, a party who will be engaging in the transaction or activity must provide written notice to affected participants and beneficiaries in a manner reasonably calculated to result in receipt of the notice. The notice and method of distribution must be approved by the Department's office which negotiated the settlement.

II. Current Actions

The ICR included in this exemption is intended to facilitate voluntary settlements arising from investigations involving Title I of ERISA, while ensuring that participants and beneficiaries have adequate information concerning matters which may affect their benefits. In the absence of Prohibited Transaction Exemption 94–71, parties wishing to enter into certain types of transactions pursuant to settlement agreements would be required to apply for individual exemptions. Therefore, the Pension and Welfare Benefits Administration intends to request Office of Management and Budget approval of this ICR beyond its September 30, 1998 expiration date.

Type of Review: Extension.

Agency: Department of Labor, Pension and Welfare Benefits Administration.

Title: Prohibited Transaction Exemption 94–71.

OMB Number: 1210–0091.

Affected Public: Business or other for-profit, Not-for-profit institutions, Individuals.

Total Respondents: 10.

Frequency: On occasion.

Total Responses: 10.

Estimated Total Burden Hours: 1010 hours.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: June 26, 1998.

Gerald B. Lindrew,

Deputy Director, Office of Policy and Research, Pension and Welfare Benefits Administration.

[FR Doc. 98–17565 Filed 7–1–98; 8:45 am]

BILLING CODE 4510-29-M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Proposed Extension of Information Collection Request Submitted for Public Comment and Recommendations; Employee Retirement Income Security Act of 1974 (ERISA) Technical Release 91–1

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, provides the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Pension and Welfare

Benefits Administration is soliciting comments concerning the proposed extension of a currently approved collection of information, ERISA Technical Release 91–1. A copy of the proposed information collection of information (ICR) can be obtained by containing the individual listed below in the contact section of this notice.

DATES: Written comments must be submitted on or before August 31, 1998.

The Department of Labor (Department) is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Gerald B. Lindrew, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW, Washington, DC 20210, (202) 219–4782 (not a toll-free number), FAX (202) 219–4745.

SUPPLEMENTARY INFORMATION:

I. Background

ERISA section 101(e) sets forth certain notice requirements which must be satisfied before an employer may transfer excess assets from a defined benefit plan to a retiree health benefit account as otherwise permissible after satisfying the conditions set forth in section 420 of the Internal Revenue Code of 1986, as amended (Code). Section 101(e)(1) describes the plan administrator's obligation to provide advance written notification of such transfers to participants and beneficiaries. Section 101(e)(2)(A) describes the employer's obligation to provide advance written notification to the Secretaries of Labor and Treasury, the administrator, and each employee organization representing participants in the plan. The ICR included in ERISA Technical Release 91–1 provides guidance on the type of information to be provided in the notices to both the participants and beneficiaries and the Secretaries.

II. Current Actions

The advance notice requirements with respect to transfers of excess assets from defined benefit plans to retiree health benefit account are specifically established in ERISA section 101(e). The provisions of ERISA Technical Release 91–1 are intended to assist plan sponsors in complying with these statutory requirements and to ensure that plan participants and beneficiaries receive information concerning transactions that may affect their benefits. As such, the Pension and Welfare Benefits Administration intends to request an extension of this ICR beyond its September 30, 1998, expiration date.

Type of Review: Extension.

Agency: Department of Labor, Pension and Welfare Benefits Administration.

Title: ERISA Technical Release 91–1.

OMB Number: 1210–0084.

Affected Public: Business or other for-profit, Not-for-profit institutions, Individuals.

Total Respondents: 40.

Frequency: On occasion.

Total Responses: 140,000.

Estimated Total Burden Hours: 3,540.

Comments submitted in response to this notice will be summarized and/or included in the requested for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: June 26, 1998.

Gerald B. Lindrew,

Deputy Director, Office of Policy and Research, Pension and Welfare Benefits Administration.

[FR Doc. 98–17566 Filed 7–1–98; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Prohibited Transaction Class Exemption 81–6

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, provides the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) 44 U.S.C. 3506(c)(2)(A). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Pension and Welfare Benefits Administration is soliciting comments concerning the proposed extension of a currently approved collection of information, Prohibited Transaction Class Exemption 81–6. A copy of the proposed information collection request can be obtained by contacting the employee listed below in the contact section of this notice.

DATES: Written comments must be submitted on or before August 31, 1998.

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarify the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Gerald B. Lindrew, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW, Washington, DC 20210, (202) 219–4782 (this is not a toll-free number), FAX (202) 219–4745.

SUPPLEMENTARY INFORMATION:

I. Background

Prohibited Transaction Class Exemption 81–6 permits an employee benefit plan to lend securities to a broker-dealer registered under the Securities Exchange Act of 1934 or to a bank, provided certain conditions are met. In the absence of an exemption, securities lending transactions would be prohibited under circumstances where the borrowing broker-dealer or bank is a party in interested or disqualified person with respect to the plan under

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the Employee Retirement Income Security Act (ERISA) or the Internal Revenue Code (Code).

II. Current Actions

This existing collection of information should be continued because without the relief provided by this exemption, securities lending transactions would be prohibited under circumstances where the borrowing broker-dealer or bank is a party in interest or disqualified person with respect to the plan under the Employee Retirement Income Security Act (ERISA) or the Internal Revenue Code (Code). The recordkeeping requirements incorporated within the class exemption are intended to protect the interests of plan participants and beneficiaries. The class exemption has two basic information collection requirements. The first requires the borrower of the plan securities to report certain information to the lending plan fiduciary, and the second calls for a written agreement between the lending plan and the borrower.

Type of Review: Extension.

Agency: Pension and Welfare Benefits Administration.

Title: Prohibited Transaction Class Exemption 81–6.

OMB Number: 1210–0065.

Affected Public: Business or other for-profit, Not-for-profit institutions, Individuals.

Total Respondents: 18,245.

Frequency: On occasion.

Total Responses: 36,490.

Average Time Per Response: 5 minutes.

Estimated Total Burden Hours: 3,041.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: June 26, 1998.

Gerald B. Lindrew,

Deputy Director, Office of Policy and Research Pension and Welfare Benefits Administration.

[FR Doc. 98–17567 Filed 7–1–98; 8:45 am]

BILLING CODE 4510–29–M

DPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Prohibited Transaction Exemption T88–1

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, provides the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) 44 U.S.C. 3506(c)(2)(A). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Pension and Welfare Benefits Administration is soliciting comments concerning the proposed extension of a currently approved collection of information, Prohibited Transaction Exemption T88–1. A copy of the proposed information collection request (ICR) can be obtained by contacting the employee listed below in the contact section of this notice.

DATES: Written comments must be submitted on or before August 31, 1998.

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarify the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Gerald B. Lindrew, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW, Washington, DC 20210, (202) 219–4782 (this is not a toll-free number), FAX (202) 219–4745.

SUPPLEMENTARY INFORMATION:

I. Background

Prohibited Transaction Exemption T88–1 adopts, for purposes of the prohibited transaction provisions of section 8477(c)(2) of the Federal Employees' Retirement System Act of 1986 (FERSA), certain prohibited transaction class exemptions (the Class Exemptions) granted pursuant to section 408(a) of the Employee Income Security Act of 1974.

II. Current Actions

This existing collection of information should be continued because without the relief provided by this exemption, certain transactions described in the Class Exemptions might be prohibited by the prohibited transaction provisions of FERSA. The recordkeeping requirements incorporated within the class exemption are intended to protect the interests of plan participants and beneficiaries.

Type of Review: Extension.

Agency: Pension and Welfare Benefits Administration.

Title: Prohibited Transaction Exemption T88–1.

OMB Number: 1210–0074.

Affected Public: Business or other for-profit institutions, Individuals.

Total Respondents: 1.

Frequency: On occasion.

Total Responses: 1.

Average Time Per Response: 1 hour.

Estimated Total Burden Hours: 1 hour.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: June 26, 1998.

Gerald B. Lindrew,

Deputy Director, Office of Policy and Research, Pension and Welfare Benefits Administration.

[FR Doc. 98–17568 Filed 7–1–98; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Final Regulation Relating to Loans to Plan Participants and Beneficiaries Who Are Parties in Interest With Respect to the Plan

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, provides the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in

accordance with the Paperwork Reduction Act of 1995 (PRA 95) 44 U.S.C. 3506(c)(2)(A). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Pension and Welfare Benefits Administration is soliciting comments concerning the proposed extension of a currently approved collection of information, that is included in the final regulation relating to loans to plan participants and beneficiaries who are parties in interest with respect to the plan (29 CFR § 2550.408b–1). A copy of the proposed information collection request (ICR) can be obtained by contacting the employee listed below in the contact section of this notice.

DATES: Written comments must be submitted on or before August 31, 1998.

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarify the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Gerald B. Lindrew, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW, Washington, DC 20210, (202) 219–4782 (this is not a toll-free number), FAX (202) 219–4745.

SUPPLEMENTARY INFORMATION:

I. Background

The Employee Retirement Income Security Act of 1974 (ERISA) prohibits a fiduciary with respect to a plan from causing the plan to engage in the direct or indirect lending of money or other extension of credit between the plan a party in interest. ERISA section 408(b)(1) exempts loans made by a plan to parties in interest who are participants and beneficiaries of the plan from this prohibition provided that certain requirements are satisfied. One such requirement is that loans to participants must be made in accordance with specific provisions regarding such loans set forth in the plan. In final regulations published in the **Federal Register** on July 20, 1989 (54 FR 30520), the Department of Labor provided additional guidance on section 408(b)(1)(C), which requires that loans must be made in accordance with specific provisions set forth in the plan. This ICR relates to the specific provisions which must be included in plan documents for those plans which permit loans to participants.

II. Current Actions

This existing collection of information should be continued because it ensures that participants and beneficiaries are provided with adequate information with respect to matters affecting their benefits. This ICR also provides additional guidance concerning the statutory requirement that loans to participants be made in accordance with specific written plan provisions.

Type of Review: Extension.

Agency: Pension and Welfare Benefits Administration.

Title: Final Regulation Relating to Loans to Plan Participants and Beneficiaries who are Parties in Interest with Respect to the Plan.

OMB Number: 1210–0076.

Affected Public: Business or other for-profit, Not-for-profit institutions, Individuals.

Total Respondents: 7,000.

Frequency: On occasion.

Total Responses: 7,000.

Average Time Per Response: 3 hours.

Estimated Total Burden Hours: 5,250.

Total Burden Cost (operating/maintenance): $393,750.00.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: June 26, 1998.

Gerald B. Lindrew,

Deputy Director, Office of Policy and Research, Pension and Welfare Benefits Administration.

[FR Doc. 98–17569 Filed 7–1–98; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Prohibited Transaction Exemption 91–55

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, provides the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) 44 U.S.C. 3506(c)(2)(A). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Pension and Welfare Benefits, Administration is soliciting comments concerning the proposed extension of a currently approved collection of information, Prohibited Transaction Exemption 91–55. A copy of the proposed information collection request can be obtained by contacting the employee listed below in the contact section of this notice.

DATES: Written comments must be submitted on or before August 31, 1998.

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarify the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Gerald B. Lindrew, Department of Labor, Pension and

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Welfare Benefits Administration, 200 Constitution Avenue, NW, Washington, DC 20210, (202) 219–4782 (this is not a toll-free number), FAX (202) 219–4745.

SUPPLEMENTARY INFORMATION:

I. Background

Prohibited Transaction Exemption 91–55 permits purchases and sales by certain "individual retirement accounts," as defined in Internal Revenue Code section 408 (IRAs) of American Eagle bullion coins ("Coins") in principal transactions from or to broker-dealers in Coins which are "authorized purchasers" of Coins in bulk quantities from the United States Mint and which are also "disqualified persons," within the meaning of Code section 4975(e)(2), with respect to IRAs. The exemption also describes the circumstances under which the interest-free extension of credit in connection with such sales and purchases is permitted. In the absence of an exemption, such purchases and sales and extensions of credit would be impermissible under the Employee Retirement Income Security Act of 1974 (ERISA).

II. Current Actions

This existing collection of information should be continued because without the relief provided by this exemption, purchases and sales of such Coins and extensions of credit in connection with such sales and purchases would be prohibited transactions. The recordkeeping requirements incorporated within the exemption are intended to protect the interest of plan participants and beneficiaries. The exemption requires that certain information be disclosed relating to covered transactions in Coins.

Type of Review: Extension.

Agency: Pension and Welfare Benefits Administration.

Title: Prohibited Transaction Exemption 91–55.

OMB Number: 1210–0079.

Affected Public: Business or other for-profit, Not-for-profit institutions, Individuals.

Total Respondents: 12.

Frequency: On occasion.

Total Responses: 200,000.

Average Time Per Response: 5 minutes for confirmation statement and recordkeeping, 1 minute for one-time disclosure document.

Estimated Total Burden Hours: 36,666.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: June 26, 1998.

Gerald B. Lindrew,

Deputy Director, Office of Policy and Research, Pension and Welfare Benefits Administration.

[FR Doc. 98–17570 Filed 7–1–98; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Proposed Extension of Information Collection Request Submitted for Public Comment and Recommendations; Prohibited Transaction Exemption 85–68 To Permit Employee Benefit Plans To Invest in Customer Notes of Employers

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, provides the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Pension and Welfare Benefits Administration is soliciting comments concerning the proposed extension of a currently approved collection of information, Prohibited Transaction Exemption 85–68. A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the contact section of this notice.

DATES: Written comments must be submitted on or before August 31, 1998.

The Department of Labor (Department) is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Gerald B. Lindrew, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW, Washington, DC 20210, (202) 219–4782 (not a toll-free number), FAX (202) 219–4745.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to section 408 of ERISA, the Department has authority to grant an exemption from the prohibitions of sections 406 and 407(a) if it can determine that the exemption is administratively feasible, in the interest of participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan. Prohibited Transaction Class Exemption 85–68 describes the conditions under which a plan is permitted to acquire customer notes accepted by an employer of employees covered by the plan in the ordinary course of the employer's primary business activity. The exemptions covers sales as well as contributions of customer notes by an employer to its plan.

II. Current Actions

The ICR included in this exemption is intended to ensure that the conditions of ERISA section 408 have been satisfied with respect to transactions involving customer notes. Specifically, the exemption requires that the employer provide a written guarantee to repurchase a note which becomes more than 60 days delinquent, that such notes be secured by a perfected security interest in the property financed by the note, and that the collateral be insured. Because this ICR ensures that the transactions are protective of the rights of participants and beneficiaries, the Pension and Welfare Benefits Administration intends to request an extension of this ICR beyond its September 30, 1998 expiration date.

Type of Review: Extension.

Agency: Department of Labor, Pension and Welfare Benefits Administration.

Title: Prohibited Transaction Class Exemption 85–68.

OMB Number: 1210–0094.

Affected Public: Business or other for-profit, Not-for-profit institutions, Individuals.

Frequency: On occasion.

Total Responses: 1.

Estimated Total Burden Hours: 1.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: June 26, 1998.

Gerald B. Lindrew,

Deputy Director, Office of Policy and Research, Pension and Welfare Benefits Administration.

[FR Doc. 98–17571 Filed 7–1–98; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

National Council on The Humanities; Meeting

July 1, 1998.

Pursuant to the provisions of the Federal Advisory Committee Act (Public L. 92–463, as amended) notice is hereby given that a meeting of the National Council on the Humanities will be held in Washington, D.C. on July 16–17, 1998.

The purpose of the meeting is to advise the Chairman of the National Endowment for the Humanities with respect to policies, programs, and procedures for carrying out his functions, and to review applications for financial support and gifts offered to the Endowment and to make recommendations thereon to the Chairman.

The meeting will be held in the Old Post Office Building, 1100 Pennsylvania Avenue, N.W., Washington, D.C. A portion of the morning and afternoon sessions on July 16–17, 1998, will not be open to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code because the Council will consider information that may disclose: trade secrets and commercial or financial information obtained from a person and privileged or confidential; information of a personal nature the disclosure of which will constitute a clearly unwarranted invasion of personal privacy; and information the disclosure of which would significantly frustrate implementation of proposed agency action. I have made this determination under the authority granted me by the Chairman's Delegation of Authority dated July 19, 1993.

The agenda for the session on July 16, 1998 will be as follows:

Committee Meetings

(Closed to the Public)

Discussion of Specific Grant Applications Before the Council

9:00–11:00 a.m.
Research/Education Programs—Room M07

(Open to the Public)

Policy Discussion

9:00–10:00 a.m.
Preservation and Access & Challenge Grants—Room 415
Public Programs—Room 420
Federal/state Partnership—Room 507
11:15 a.m. until Adjourned
Research/Education Programs—Room M07

(Closed to the Public)
10:00 a.m. until Adjourned
Discussion of specific grant applications before the Council
12:30—1:30 p.m.
National Humanities Medal Meeting—Room 430

The morning session on July 17, 1998 will convene at 8:30 a.m., in the 1st Floor Council Room M–09, and will be open to the public, as set out below. The agenda for the morning session will be as follows:

Minutes of the Previous Meeting

Reports

A. Introductory Remarks
B. Staff Report
C. Reports on Policy & General Matters
  1. Overview
  2. Research and Education Programs
  3. Preservation and Access & Challenge Grants
  4. Public Programs
  5. Federal/State Partnership

The remainder of the proposed meeting will be given to the consideration of specific applications and closed to the public for the reasons stated above.

Further information about this meeting can be obtained from Ms. Nancy E. Weiss, Advisory Committee Management Officer, Washington, D.C. 20506, or call area code (202) 606–8322, TDD (202) 606–8282. Advance notice of any special needs or accommodations is appreciated.

Nancy E. Weiss,

Advisory Committee Management Officer.

[FR Doc. 98–17680 Filed 7–1–98; 8:45 am]

BILLING CODE 7536–01–M

THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: The National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Nancy E. Weiss, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential and/or information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* July 10, 1998.
Time: 8:30 a.m. to 6:00 p.m.
Room: 415.
Program: This meeting will review applications for Colleges and Universities I, submitted to the Office of Challenge Grants for projects at the May 1, 1998 deadline.

2. *Date:* July 13, 1998.
Time: 8:30 a.m. to 6:00 p.m.
Room: 415.
Program: This meeting will review applications for Art and Anthropology Museums, submitted to the Office of

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Challenge Grants for projects at the May 1, 1998 deadline.

3. *Date:* July 20, 1998.

Time: 8:30 a.m. to 6:00 p.m.

Room: 415.

Program: This meeting will review applicaitons for Research Institutions and Organizations, submitted to the Office of Challenge Grants for projects at the May 1, 1998 deadline.

4. *Date:* July 20, 1998.

Time: 8:30 a.m. to 5:00 p.m.

Room: 315.

Program: This meeting will review applications for Fellowships for University Teachers in Anthropology I, submitted to the Division of Research and Education for projects at the May 1, 1998 deadline.

5. *Date:* July 20, 1998.

Time: 8:30 a.m. to 5:00 p.m.

Room: 430.

Program: This meeting will review applications for Fellowships for College Teachers and Independent Scholars in European History, submitted to the Division of Research and Education for projects at the May 1, 1998 deadline.

6. *Date:* July 21, 1998.

Time: 8:30 a.m. to 5:00 p.m.

Room: 315.

Program: This meeting will review applications for Fellowships for University Teachers in American History and Studies I, submitted to the Division of Research and Education for projects at the May 1, 1998 deadline.

7. *Date:* July 22, 1998.

Time: 8:30 a.m. to 5:00 p.m.

Room: 315.

Program: This meeting will review applications for Fellowships for University Teachers in European History, submitted to the Division of Research and Education for projects at the May 1, 1998 deadline.

8. *Date:* July 23, 1998.

Time: 8:30 a.m. to 5:00 p.m.

Room: 430.

Program: This meeting will review applications for Fellowships for University Teachers in Religious Studies, submitted to the Division of Research and Education for projects at the May 1, 1998 deadline.

9. *Date:* July 24, 1998.

Time: 8:30 a.m. to 5:00 p.m.

Room: 315.

Program: This meeting will review applications for Fellowships for University Teachers in Philosophy, submitted to the Division of Research and Education for projects at the May 1, 1998 deadline.

10. *Date:* July 24, 1998.

Time: 8:30 a.m. to 5:00 p.m.

Room: 430.

Program: This meeting will review applications for Fellowships for College Teachers and Independent Scholars in Sociology, Psychology, and Education, submitted to the Division of Research and Education for projects at the May 1, 1998 deadline.

11. *Date:* July 24, 1998.

Time: 8:30 a.m. to 6:00 p.m.

Room: 415.

Program: This meeting will review applications for Public Libraries & Related Organizations, submitted to the Office of Challenge Grants for projects at the May 1, 1998 deadline.

12. *Date:* July 29, 1998.

Time: 8:30 a.m. to 5:00 p.m.

Room: 430.

Program: This meeting will review applications for Fellowships for College Teachers and Independent Scholars in Music, Dance, Theater, and Film, submitted to the Division of Research and Education for projects at the May 1, 1998 deadline.

13. *Date:* July 30, 1998.

Time: 8:30 a.m. to 5:00 p.m.

Room: 430.

Program: This meeting will review applications for Fellowships for College Teachers and Independent Scholars in Art History, submitted to the Division of Research and Education for projects at the May 1, 1998 deadline.

14. *Date:* July 31, 1998.

Time: 8:30 a.m. to 5:00 p.m.

Room: 430.

Program: This meeting will review applications for Fellowships for College Teachers and Independent Scholars in African, Asian, and Latin American History, submitted to the Division of Research and Education for projects at the May 1, 1998 deadline.

15. *Date:* July 31, 1998.

Time: 8:30 a.m. to 6:00 p.m.

Room: 420.

Program: This meeting will review applications for Colleges and Universities II, submitted to the Office of Challenge Grants for projects at the May 1, 1998 deadline.

Nancy E. Weiss,

Advisory Committee Management Officer.

[FR Doc. 98–17679 Filed 7–1–98; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL SCIENCE FOUNDATION

Committee Management; Renewals

The NSF management officials having responsibility for the 29 advisory committees listed below have determined that renewing these groups for another two years is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF), by 42 USC 1861 et seq. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

1. Special Emphasis Panel in Graduate Education
2. Special Emphasis Panel in Elementary, Secondary & Informal Education
3. Advisory Committee for Mathematical and Physical Sciences
4. Special Emphasis Panel in Engineering Education and Centers
5. Advisory Committee for Computer & Information Science & Engineering
6. Advisory Committee for Social, Behavioral & Economic Sciences
7. Committee on Equal Opportunities in Science & Engineering
8. Special Emphasis Panel in Advanced Computational Infrastructure & Research
9. Special Emphasis Panel in Astronomical Sciences
10. Special Emphasis Panel in Bioengineering & Environmental Systems
11. Special Emphasis Panel in Chemical & Transport Systems
12. Special Emphasis Panel in Chemistry
13. Special Emphasis Panel in Computing—Communications Research
14. Special Emphasis Panel in Experimental & Integrative Activities
15. Special Emphasis Panel in Design, Manufacture & Innovation
16. Special Emphasis Panel in Electrical & Communications Systems
17. Special Emphasis Panel in Experimental Programs to Stimulate Competitive Research
18. Special Emphasis Panel in Human Resource Development
19. Special Emphasis Panel in Information & Intelligent Systems
20. Special Emphasis Panel in Materials Research
21. Special Emphasis Panel in Mathematical Sciences
22. Special Emphasis Panel in Civil & Mechanical Systems
23. Special Emphasis Panel in Advanced Networking Infrastructure & Research
24. Special Emphasis Panel in Physics
25. Special Emphasis Panel in Polar Programs
26. Special Emphasis Panel in Research, Evaluation & Communication
27. Special Emphasis Panel in Undergraduate Education
28. Special Emphasis Panel in Educational System Reform
29. Advisory Panel for Biomolecular Processes

Authority for these Committees will expire on June 30, 2000, unless they are renewed. For more information, please contact Rebecca Winker, NSF, at (702) 306–1185.

Dated: June 29, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–17612 Filed 7–1–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Committee of Visitors Meeting for the Physiology & Ethology Cluster; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Biological Sciences, Committee of Visitors for the Physiology & Ethology Cluster (1110).

Date & Time: July 13–15, 1998—8:30 am–5:00 pm each day.

Place: Room 360, NSF, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Part-Open—(see agenda below).

Contract Person: Dr. John Fray, Deputy Division Director, Division of Integrative Biology & Neuroscience, 4201 Wilson Boulevard, Arlington, VA 22230, 703 306–1420.

Purpose of Meeting: To carry out Committee of Visitors (COV) review, including program evaluation, GPRA assessments, and access to privileged materials.

Open: July 13 from 8:30 am–10:30 am & July 15 from 10:30 am–12 noon—To provide background information on the role of COVs and GPRA at NSF. To summarize findings regarding the quality of program management, including merit review; and discussion and review of grantee outputs and outcomes during the past three years.

Closed: July 13 from 10:30 am–5:00 pm; July 14 from 8:30 am–5:00 pm; July 15 from 8:30 am–10:30 am and from 1:00 pm–5:00 pm—To review the merit review processes covering funding decisions made during the past three fiscal years of the Physiology & Ethology Cluster.

Reason For Closing: During the closed session, the Committee will be reviewing proposal actions that will include privileged intellectual property and personal information that could harm individuals if they are disclosed, If discussions were open to the public, these matters that are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act would be improperly disclosed.

Reason for Late Notice: Difficulty in arranging schedules of COV members.

Dated: June 29, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–17613 Filed 7–1–98; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 52–002]

Notice of Issuance of Final Design Approval Pursuant to 10 CFR Part 52, Appendix O System 80+ Standard Design ABB-Combustion Engineering, Inc.

The U.S. Nuclear Regulatory Commission (NRC) has issued a revised final design approval (FDA) to ABB-Combustion Engineering, Inc. (ABB–CE) pursuant to 10 CFR part 52, Appendix O. This FDA allows the System 80+ standard design to be referenced in an application for a construction permit or operating license pursuant to 10 CFR Part 50, or in an application for a combined license pursuant to 10 CFR part 52. The FDA is being revised to make it coterminous with the design certification rule that was issued on May 21, 1997. This FDA supersedes the FDAs dated July 26 and November 23, 1994.

A copy of the revised FDA has been placed in the NRC's Public Docket Room, the Gelman Building, 2120 L Street, NW., Washington, D.C. 20037, for review by interested persons.

Dated at Rockville, Maryland, this 24th day of June 1998.

For the Nuclear Regulatory Commission.

Theodore R. Quay,

Director, Standardization Project Directorate, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 98–17606 Filed 7–1–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–255]

Consumers Energy Company; Notice of Consideration of Issuance of Amendment to Facility Operating License No. DPR–20 Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–20 issued to Consumers Energy Company (the licensee) for operation of the Palisades Nuclear Plant, located in Van Buren County, Michigan.

The proposed amendment would revise Section 3.1.1c of the Technical Specifications (TS), Appendix A of the Operating License for the Palisades Nuclear Plant, to change the minimum required primary coolant system flow. The currently specified value is 140.7x10^6 lb/hr [pounds per hour] or greater, when corrected to 532 °F. The licensee proposed to revise the TS to specify a value of greater than or equal to 352,000 gpm [gallons per minute], which is equivalent to approximately 135x10^6 lb/hr, when corrected to 532 °F.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

a. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change to the minimum reactor vessel flow does not alter the assumed initiators to any analyzed event. Rather, specification of a minimum reactor vessel flow provides assurance that sufficient cooling will take place during normal and accident operating conditions of the reactor. Therefore the probability of an accident previously evaluated has not been increased by this proposed change.

Each of the applicable Palisades FSAR [Final Safety Analysis Report] Chapter 14 accident analyses have been evaluated with respect to the proposed reduction in minimum reactor vessel flow rate. The results of these analyses, which have been incorporated into the Palisades Cycle 14 Disposition and Analysis of Standard Review Plan (SRP) Events, demonstrate that the acceptance criteria for each of the events continues to be met.

Therefore, operation of the facility in accordance with the proposed change to TS section 3.1.1c would not involve a significant increase in the probability or consequences of an accident previously evaluated.

b. Create the possibility of a new or different kind of accident from any previously evaluated.

The proposed changes provide a reduced requirement for PCS [primary coolant system] flow through the reactor vessel than currently exists in the TS. The change does not, however, involve any alteration in the plant configuration (no new or different type

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of equipment will be installed) or make changes in the methods governing normal plant operation. However, these changes are consistent with the assumptions in the safety analyses and licensing basis. Therefore, the changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

Therefore, operation of the facility in accordance with the proposed change to TS section 3.1.1c would not create the possibility of a new or different kind of accident from any previously evaluated.

c. Involve a significant reduction in a margin of safety.

The proposed change to the minimum reactor vessel flow has been evaluated against each of the applicable Palisades FSAR Chapter 14 accident analyses. Reducing the assumed minimum reactor vessel flow did not result in a significant change (per 10 CFR 50.46) in the results of the Loss Of Coolant Accident (LOCA) Emergency Core Cooling System (ECCS) analyses. Reducing the assumed minimum reactor vessel flow did not result in penetration of TS DNB [departure from nucleate boiling] limits or additional fuel failures for non-LOCA events. Reducing the assumed minimum reactor vessel flow did not result in a change in the results of the LOCA or Main Steam Line Break containment response analyses. Reducing the assumed minimum reactor vessel flow did not result in a change to the radiological consequences of the SRP events with respect to 10 CFR 100 offsite dose or SRP 6.4 control room habitability requirements. Therefore, operation of the facility in accordance with the proposed change to TS 3.1.1c does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received by close of business within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By August 3, 1998, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Van Wylen Library, Hope College, Holland, Michigan 49423–3698. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by close of business on the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Judd L. Bacon, Esquire, Consumers Energy Company, 212 West Michigan Avenue, Jackson, Michigan 49201, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated June 17, 1998, and supplement dated June 23, 1998, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Van Wylen Library, Hope College, Holland, Michigan 49423–3698.

Dated at Rockville, Maryland, this 26th day of June 1998.

For the Nuclear Regulatory Commission.

Robert G. Schaaf,

Project Manager, Project Directorate III–1, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–17609 Filed 7–1–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–341]

Detroit Edison Company; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–43 issued to the Detroit Edison Company (the licensee) for operation of the Fermi 2 plant located in Monroe County, Michigan.

The proposed amendment would provide a one-time extension of the interval for a number of technical specification (TS) surveillance requirements that will be performed in the sixth refueling outage. TS 4.0.2 and Index page xxii would be revised and TS tables 4.0.2–1 and 4.0.2–2 would be replaced to reflect the extensions.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the June 26, 1998, amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed TS changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed TS changes involve a one-time only change in the surveillance testing intervals to facilitate a one-time only change in the Fermi 2 operating cycle. The proposed TS changes do not physically impact the plant nor do they impact any design or functional requirements of the associated systems. That is, the proposed TS changes do not significantly degrade the performance or increase the challenges of any safety systems assumed to function in the accident analysis. The proposed TS changes affect only the frequency of the surveillance requirements and do not impact the TS surveillance requirements themselves. In addition, the proposed TS changes do not introduce any new accident initiators since no accidents previously evaluated have as their initiators anything related to the change in the frequency of surveillance testing. Also, the proposed TS changes do not significantly affect the availability of equipment or systems required to mitigate the consequences of an accident because of other, more frequent testing or the availability of redundant systems or equipment. Furthermore, a historical review of surveillance test results supports the above conclusions. Therefore, the proposed TS changes do not significantly increase the probability or consequences of an accident previously evaluated.

2. The proposed TS changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed TS changes involve a one-time only change in the surveillance testing intervals to facilitate a one-time only change in the Fermi 2 operating cycle. The proposed TS changes do not introduce any failure mechanisms of a different type than those previously evaluated since there are no physical changes being made to the facility. In addition, the surveillance test requirements themselves will remain unchanged. Therefore, the proposed TS changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed TS changes do not involve a significant reduction in a margin of safety.

Although the proposed TS changes will result in an increase in the interval between some surveillance tests, the impact, if any, on system availability is small based on other, more frequent testing or redundant systems or equipment, and there is no evidence of any time dependent failures that would impact the availability of the systems. Therefore, the assumptions in the licensing basis are not impacted, and the proposed TS changes do not significantly reduce a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received by the close of business within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would

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result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By August 3, 1998, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Monroe County Library System, Ellis Reference and Information Center, 3700 South Custer Road, Monroe, Michigan 48161. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to John Flynn, Esq., Detroit Edison Company, 2000 Second Avenue, Detroit, Michigan 48226, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated June 26, 1998, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Monroe County Library System, Ellis Reference and Information Center, 3700 South Custer Road, Monroe, Michigan 48161.

Dated at Rockville, Maryland, this 29th day of June 1998.

For the Nuclear Regulatory Commission.

Andrew J. Kugler,

Project Manager, Project Directorate III–1, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–17772 Filed 7–1–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–333]

Power Authority of the State of New York; James A. FitzPatrick Nuclear Power Plant; Exemption

I

The Power Authority of the State of New York (the Licensee), also known as the New York Power Authority is the holder of Facility Operating License No. DPR–59, which authorizes operation of the James A. FitzPatrick Nuclear Power Plant (the facility). The license provides, among other things, that the facility is subject to all the rules, regulations and orders of the U.S. Nuclear Regulatory Commission now or hereafter in effect.

The facility is a boiling-water reactor located at the licensee's site in Oswego County, New York.

II

Section 70.24 of Title 10 of the *Code of Federal Regulations,* "Criticality Accident Requirements," requires that each licensee authorized to possess special nuclear material maintain a criticality accident monitoring system in each area in which such material is handled, used, or stored. Subsections (a)(1) and (a)(2) of 10 CFR 70.24 specify detection and sensitivity requirements that these monitors must meet. Subsection (a)(1) also specifies that all areas subject to criticality accident monitoring must be covered by two detectors. Subsection (a)(3) of 10 CFR 70.24 requires licensees to maintain emergency procedures for each area in which this licensed special nuclear material is handled, used, or stored and requires that (1) the procedures ensure that all personnel withdraw to an area of safety upon the sounding of a criticality accident monitor alarm, (2) the procedures include drills to familiarize personnel with the evacuation plan, and (3) the procedures designate responsible individuals for determining the cause of the alarm and placement of radiation survey instruments in accessible locations for use in such an emergency. Subsection (b)(1) of 10 CFR 70.24 requires licensees to provide the means of identifying quickly any personnel who have received a dose of 10 rads or more. Subsection (b)(2) of 10 CFR 70.24 requires licensees to maintain personnel decontamination facilities, arrangements for a physician and other medical personnel qualified to handle radiation emergencies, and arrangements for the transportation of contaminated individuals to treatment facilities outside the site boundary. Paragraph (c) of 10 CFR 70.24 exempts Part 50 licensees from the requirements of paragraph (b) of 10 CFR 70.24 for special nuclear material used or to be used in the reactor. Subsection (d) of 10 CFR 70.24 states that any licensee that believes that there is good cause why it should be granted an exemption from all or part of 10 CFR 70.24 may apply to the Commission for such an exemption and shall specify the reasons for the relief requested.

III

The special nuclear material that could be assembled into a critical mass at James A. FitzPatrick Nuclear Power Plant is in the form of nuclear fuel. The quantity of special nuclear material other than fuel that is stored on site in any given location is small enough to preclude achieving a critical mass. The Commission's technical staff has evaluated the possibility of an inadvertent criticality of the nuclear fuel at James A. FitzPatrick Nuclear Power Plant and has determined that it is extremely unlikely that such an accident will occur if the licensees meet the following seven criteria:

1. Only three boiling-water reactor new fuel assemblies are allowed out of a shipping cask or a storage rack at one time;
2. The k-effective does not exceed 0.95, at a 95-percent probability, 95-percent confidence level, in the event that the fresh fuel storage racks are filled with fuel of the maximum permissible U–235 enrichment and flooded with pure water;
3. If optimum moderation occurs at low moderator density, the k-effective does not exceed 0.98, at a 95-percent probability, 95-percent confidence level, in the event that the fresh fuel storage racks are filled with fuel of the maximum permissible U–235 enrichment and flooded with a moderator at the density corresponding to optimum moderation;
4. The k-effective does not exceed 0.95, at a 95-percent probability, 95-percent confidence level, in the event that the spent fuel storage racks are filled with fuel of the maximum permissible U–235 enrichment and flooded with pure water;
5. The quantity of special nuclear material, other than nuclear fuel, stored on-site in any given area is less than the quantity necessary for a critical mass;
6. Radiation monitors, as required by General Design Criterion (GDC) 63, are provided in fuel storage and handling areas to detect excessive radiation levels and to initiate appropriate safety actions; and
7. The maximum nominal U–235 enrichment is limited to 5.0 weight percent.

By letter dated April 24, 1998, the licensee requested an exemption from 10 CFR 70.24. In this request, the licensee addressed the seven criteria previously stated. The licensee stated that James A. FitzPatrick Nuclear Power Plant does not analyze optimum moderation conditions as addressed in Criteria 3 above, but has used a standard industry practice by implementing administrative and physical controls in accordance with General Electric Service Information Letter 152, "Criticality margins for the Storage of New Fuel." To preclude the existence of an optimum moderation condition in the new fuel storage vault area, the following controls are used: the new fuel storage vault is equipped with drains; the pre-fire plans have been updated to prevent the use of fire fighting foam or fire house streams in a fog pattern during the storage and transfer of new nuclear fuel; and the new fuel storage vault plugs are installed during prolonged work delays. The staff has found this practice acceptable.

The Commission's technical staff has reviewed the licensee's submittal and has determined that James A. FitzPatrick Nuclear Power Plant meets the criteria for prevention of inadvertent criticality.Therefore, the staff has determined that it is extremely unlikely that an inadvertent criticality will occur in the handling of special nuclear materials or in their storage areas at the James A. FitzPatrick Nuclear Power Plant.

The purpose of the criticality monitors required by 10 CFR 70.24 is to ensure that if a criticality were to occur during the handling of special nuclear material, personnel would be alerted to that fact and would take appropriate action. The staff has determined that it is extremely unlikely that such an accident could occur. Although James A. FitzPatrick Nuclear Power Plant is not licensed to GDC 63, the licensee has radiation monitors consistent with the standards of GDC 63 in fuel storage and handling areas. These monitors will alert personnel to excessive radiation levels and allow them to initiate appropriate safety actions. The low probability of an inadvertent criticality, together with the licensee's adherence to GDC 63 standards, constitutes good cause for granting an exemption to the requirements of 10 CFR 70.24.

IV

The Commission has determined that pursuant to 10 CFR 70.14, this exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest. Therefore, the Commission hereby grants the licensee an exemption from the requirements of 10 CFR 70.24 for the James A. FitzPatrick Nuclear Power Plant.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not result in any significant adverse environmental impact (63 FR 34205).

This exemption is effective upon issuance.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 24th day of June 1998

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 98–17611 Filed 7–1–98; 8:45 am]

BILLING CODE 7590-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–9]

Notice of Issuance of Amendment to Materials License SNM–2504, Public Service Company of Colorado, Fort St. Vrain Independent Spent Fuel Storage Installation

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment 5 to Materials License No. SNM–2504 held by the Public Service Company of Colorado (PSCo) for the receipt, possession, storage, and transfer of spent fuel at the Fort St. Vrain (FSV) independent spent fuel storage installation (ISFSI), located in Weld County, Colorado. The amendment is effective as of the date of issuance.

By application dated November 25, 1997, PSCo requested an amendment to revise Materials License SNM–2504 and the Technical Specifications for the FSV ISFSI to (1) replace 10 CFR 50 Program references with stand-alone ISFSI program references due to the termination of the FSV 10 CFR part 50 license, (2) delete references to previously authorized material that is not stored at the ISFSI, and (3) revise the Technical Specifications to accurately reflect the current ISFSI activities.

This amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

In accordance with 10 CFR 72.46(b)(2), a determination has been made that the amendment does not present a genuine issue as to whether public health and safety will be significantly affected. Therefore, the publication of a notice of proposed action and an opportunity for hearing or a notice of hearing is not warranted. Notice is hereby given of the right of interested persons to request a hearing by July 31, 1998, on whether the action should be rescinded or modified.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that, pursuant to 10 CFR 51.22(c)(10)(ii), an environmental assessment need not be prepared in connection with issuance of the amendment.

Documents related to this action are available for public inspection at the Commission's Public Document Room located at the Gelman Building, 2120 L Street, NW, Washington, DC 20555.

Dated at Rockville, Maryland, this 24th day of June 1998.

For the Nuclear Regulatory Commission.

William F. Kane,

Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 98–17610 Filed 7–1–98; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–250 and 50–251]

Turkey Point Plant, Units 3 and 4; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulation Commission (the Commission) is considering issuance of an exemption from certain requirements of its regulations to Facility Operating License Nos. DPR–31 and DPR–41 for the Turkey Point Plant, Units 3 and 4, respectively, issued to the Florida Power and Light Company (the licensee).

Environmental Assessment

Identification of Proposed Action

The proposed action is in response to the licensee's application dated March 5, 1998, for exemption from the requirements of 10 CFR 50.71(e)(4) regarding submission of revisions to the updated Final Safety Analysis Report (FSAR). Under the proposed exemption, the licensee would schedule updates to a single, unified FSAR for the two units based on the refueling cycle of Unit 4 and at intervals not to exceed 24 months.

The Need for the Proposed Action

The Code of Federal Regulations, 10 CFR 50.71(e)(4), requires licensees to submit updates to their FSAR annually or within 6 months after each refueling outage providing that the interval between successive updates does not exceed 24 months. Since Units 3 and 4 share a common FSAR, the licensee must update the same document annually or within 6 months after a refueling outage for either unit. The underlying purpose of the rule was to relieve licensees of the burden of filing annual FSAR revisions while assuring that such revisions are made at least every 24 months. The Commission reduced the burden, in part, by permitting a licensee to submit its FSAR revisions 6 months after refueling outages for its facility, but did not provide for multiple unit facilities sharing a common FSAR in the rule. Rather, the Commission stated: "With respect to the concern about multiple facilities sharing a common FSAR, licensees will have maximum flexibility for scheduling updates on a case-by-case basis." 57 FR 39355 (1992). Allowing the exemption would maintain the updated FSAR current within 24 months of the last revision.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that it involves administrative activities unrelated to plant operation.

The proposed action will not result in an increase in the probability or consequences of accidents or result in a change in occupational exposure or offsite dose. Therefore, there are no significant radiological impacts associated with the proposed action.

The proposed action will not result in a change in nonradiological plant effluents and will have no other nonradiological environmental impact.

Accordingly, the Commission concludes there are no significant environmental impacts associated with this action.

Alternative to the Proposed Action

Since the Commission has concluded that there is no significant environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the exemption would result in no change in current environmental impacts. The environmental impacts of the proposed exemption and this alternative are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement related to Turkey Point Plant dated July 1972.

Agencies and Persons Contacted

In accordance with its stated policy, on May 28, 1998, the staff consulted with the Florida State official, Mr. William A. Passetti, Chief, Office of Radiation Control, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For further details with respect to this action, see the licensee's request for the exemption dated March 5, 1998, which is available for public inspection at the Commission's Public Document Room, Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Library, Florida International University, University Park Campus, Miami, Florida 33199.

Dated at Rockville, Maryland, this 25th day of June 1998.

For the Nuclear Regulatory Commission.

Frederick J. Hebdon,

Director, Project Directorate II–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98–17605 Filed 7–1–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket 72–16]

Virginia Electric and Power Company, Issuance of Environmental Assessment and Finding of No Significant Impact Regarding the Proposed Exemptions From Requirements of 10 CFR Part 72

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an exemption from certain requirements of its regulations to Virginia Electric and Power Company (Virginia Power). The requested exemption would allow Virginia Power to submit the report of preoperational test acceptance criteria and test results at least 3 days (instead of 30 days) prior to the receipt of fuel at its independent spent fuel storage installation (ISFSI) at the North Anna Power Station (Docket Nos. 50–338 and 50–339) in Louisa County, Virginia.

Environmental Assessment (EA)

Identification of Proposed Action

By letter dated June 12, 1998, Virginia Power requested an exemption from the requirement in 10 CFR 72.82(e) which states that "A report of the preoperational test acceptance criteria and test results must be submitted . . . at least 30 days prior to the receipt of spent fuel or high level waste." Virginia Power proposed to submit this report 3 days prior to receipt of fuel at the ISFSI. Granting the exemption at this time would enable Virginia Power to proceed with activities to support its scheduled Unit 1 refueling outage.

Need for the Proposed Action:

Virginia Power's request is to ensure the availability of adequate storage space in the spent fuel pool to support its upcoming Unit 1 refueling outage which is scheduled to begin in September 1998. New fuel for the outage is scheduled to arrive onsite on July 21, 1998. To load the new fuel into the spent fuel pool and still retain a single unit full core offload capacity in the spent fuel pool, Virginia Power plans to load its first spent fuel storage cask during the week of July 6, 1998.

The purpose of the 30-day period, for the applicant to submit a report of the preoperational test acceptance criteria and test results, is to establish a sufficient hold point to ensure that the NRC has enough time to inspect a new licensee's preparation and, if necessary, exercise its regulatory authority before fuel is received at an ISFSI. For example, an ISFSI located at an away-from-reactor site may not have a resident inspector, therefore, the full 30-day period might be necessary to provide enough time for the NRC to review the licensee's records and preoperational test results and, if needed, send inspectors to the site. The North Anna ISFSI is located on a reactor site that has resident inspectors, and the resident and other NRC inspectors were present to observe portions of the preoperational test activities as they were being conducted. The NRC inspectors will also have ongoing access to the applicant's tests procedures and results to allow the inspectors to conduct the appropriate review. Thus, in view of the NRC's oversight presence during the preoperational testing phase at North Anna, as well as NRC's immediate access to the applicant's test procedures and results, the Commission concludes that the entire 30 days provided for in the rule will not be needed for the NRC to complete its inspection activities and determine whether any further regulatory action is needed before spent fuel is received at the North Anna ISFSI. However, the NRC may determine that it requires more than the requested 3 days to review the test results. The NRC will consider the specific amount of time needed to review the North Anna preoperational test results in its final response to the request for exemption.

Environmental Impacts of the Proposed Action

The Environmental Assessment (EA) for the license application for the North Anna ISFSI (62 FR 16202, April 4, 1997) considered the potential environmental impacts of construction and operation of an ISFSI at the North Anna site. In the EA, the NRC concluded that storage of spent fuel at the North Anna ISFSI will not significantly affect the quality of the environment. The proposed actions now under consideration would not change the potential environmental effects assessed in the EA. Specifically, there are no environmental impacts associated with the time frame for submitting the preoperational test acceptance criteria and test results. As previously discussed, the 30-day period is to provide the NRC sufficient opportunity to review the licensee's report. However, as NRC inspectors were on site during the applicant's preoperational tests, which were conducted between June 8 and June 18, 1998, the shorter 3-day period will provide the same, sufficient opportunity. In addition, the proposed exemption does not involve any changes that increase the probability or consequences of accidents, change the

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types of effluents that may be released offsite, or would significantly increase the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that this proposed exemption will have no significant radiological or nonradiological environmental impacts.

Alternative to the Proposed Action

Since there is no significant environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact are not evaluated. The alternative to the proposed action would be to deny approval of the exemption and, therefore, require the preoperational test acceptance criteria and test report to be submitted 30 days prior to receipt of spent fuel, rather than 3 days as proposed. This alternative would have no significant environmental impacts as well. However, denial of the requested exemption could result in loss of full core offload capability. The licensee is not required to maintain a full core offload capability, however, it is an operationally advantageous capability.

Agencies and Persons Consulted

An official from the State of Virginia Bureau of Radiological Health was contacted about this EA for the proposed action and had no concerns.

Finding of No Significant Impact

The environmental impacts of the proposed action have been reviewed in accordance with the requirements set forth in 10 CFR part 51. Based upon the foregoing EA, the Commission finds that the proposed action of granting an exemption from 10 CFR 72.82(e) so that Virginia Power may submit a preoperational test acceptance criteria and test report 3 days prior to receipt of spent fuel at the North Anna ISFSI will not significantly impact the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

This application was docketed under 10 CFR part 72, Docket 72–16. For further details with respect to this action, see the application for an ISFSI license dated May 9, 1995, and the request for exemption dated June 12, 1998, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW, Washington, DC 20555, and the Local Public Document Room at the University of Virginia, Alderman Library, Charlottesville, Virginia 22903.

Dated at Rockville, Maryland, this 24th day of June 1998.

For the Nuclear Regulatory Commission.

William F. Kane,

Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 98–17608 Filed 7–1–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Consolidated Guidance About Materials Licenses: Program-Specific Guidance About Academic, Research & Development, and Other Licenses of Limited Scope, Availability of Draft NUREG

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability and request for comments.

SUMMARY: The Nuclear Regulatory Commission is announcing the availability of and requesting comment on draft NUREG–1556, Volume 7, "Consolidated Guidance about Materials Licenses: Program-Specific Guidance about Academic, Research & Development, and Other Licenses of Limited Scope," dated May 1998.

NRC is using Business Process Redesign (BPR) techniques to redesign its materials licensing process, as described in NUREG–1539, "Methodology and Findings of the NRC's Materials Licensing Process Redesign." A critical element of the new process is consolidating and updating numerous guidance documents into a NUREG-series of reports. This draft NUREG report is the seventh program-specific guidance developed to support an improved materials licensing process.

The guidance is intended for use by applicants, licensees, NRC license reviewers, and other NRC personnel. The draft NUREG combines and updates the guidance for applicants and licensees previously found in (1) Regulatory Guide 10.2, Revision 1, "Guidance To Academic Institutions Applying For Specific Byproduct Material Licenses of Limited Scope," dated December 1976, (2) Regulatory Guide 10.7, "Guide For The Preparation Of Applications For Licenses For Laboratory and Industrial Use of Small Quantities of Byproduct Material," dated August 1979, and (3) Draft Regulatory Guide FC 405–4, "Guide for the Preparation of Applications for Licenses for the Use of Sealed Sources in Gas Chromatography Devices and X-Ray Fluorescence Analyzers," dated February 1985. In addition, this draft report also contains pertinent information found in Technical Assistance Requests and Information Notices. This draft report is for public comment only, and is NOT for use in preparing or reviewing applications until it is published in final form. It is being distributed for comment to encourage public participation in its development.

DATES: The comment period ends September 30, 1998. Comments received after that time will be considered if practicable.

ADDRESSES: Submit written comments to: Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U. S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Hand deliver comments to 11545 Rockville Pike, Rockville, Maryland, between 7:15 a.m. and 4:30 p.m. on Federal workdays. Comments may also be submitted through the Internet by addressing electronic mail to DLM1@NRC.GOV.

Those considering public comment may request a free single copy of draft NUREG–1556, Volume 7, by writing to the U.S. Nuclear Regulatory Commission, ATTN: Mrs. Sally L. Merchant, Mail Stop TWFN 9–F–31, Washington, DC 20555–0001. Alternatively, submit requests through the Internet by addressing electronic mail to slm2@nrc.gov. A copy of draft NUREG–1556, Volume 7, is also available for inspection and/or copying for a fee in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC 20555–0001.

FOR FURTHER INFORMATION CONTACT: Mrs. Sally L. Merchant, Mail Stop TWFN 9–F–31, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Materials Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–7874; electronic mail address: slm2@nrc.gov.

Electronic Access

Draft NUREG–1556, Vol. 7 will be available electronically by visiting NRC's Home Page (http://www.nrc.gov/NRC/nucmat.html) approximately two weeks after the publication date of this notice.

Dated at Rockville, Maryland, this 24th day of June, 1998.

For the Nuclear Regulatory Commission.

Frederick C. Combs,

Acting Director, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 98–17607 Filed 7–1–98; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Existing Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, 450 5th Street, NW, Washington, DC 20549

Extension: Rule 3a–4, SEC File No. 270–401, OMB Control No. 3235–0459; Form N–8B–2, SEC File No. 270–186, OMB Control No. 3235–0186

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the "Commission") is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget ("OMB") for extension and approval.

Rule 3a–4 under the Investment Company Act of 1940 [15 U.S.C. 80a] ("Investment Company Act" or "Act") provides a nonexclusive safe harbor from the definition of investment company under the Act for certain investment advisory programs. These programs, which include "wrap fee" and "mutual fund wrap" programs, generally are designed to provide professional portfolio management services to clients who are investing less than the minimum usually required by portfolio managers but more than the minimum account size of most mutual funds. Under wrap fee and similar programs, a client's account is typically managed on a discretionary basis according to pre-selected investment objectives. Clients with similar investment objectives often receive the same investment advice and may hold the same or substantially the same securities in their accounts. Some of these investment advisory programs may meet the definition of investment company under the Act because of the similarity of account management.

In 1997, the Commission adopted rule 3a–4, which clarifies that programs organized and operated in a manner consistent with the conditions of rule 3a–4 are not required to register under the Investment Company Act or comply with the Act's requirements.[1] These programs differ from investment companies because, among other things, they provide individualized investment advice to the client. The rule's provisions have the effect of ensuring that clients in a program relying on the rule receive advice tailored to the client's needs.

Rule 3a–4 provides that each client's account must be managed on the basis of the client's financial situation and investment objectives and consistent with any reasonable restrictions the client imposes on managing the account. When an account is opened, the sponsor[2] (or its designee) must obtain information from each client regarding the client's financial situation and investment objectives, and must allow the client an opportunity to impose reasonable restrictions on managing the account.[3] In addition, the sponsor (or its designee) annually must contact the client to determine whether the client's financial situation or investment objectives have changed and whether the client wishes to impose any reasonable restrictions on the management of the account or reasonably modify existing restrictions. The sponsor (or its designee) also must notify the client quarterly, in writing, to contact the sponsor (or the designee) regarding changes to the client's financial situation, investment objectives, or restrictions on the account's management.[4]

The program must provide each client with a quarterly statement describing all activity in the client's account during the previous quarter. The sponsor and personnel of the client's account manager who know about the client's account and its management must be reasonably available to consult with the client. Each client also must retain certain indicia of ownership of all securities and funds in the account.

Rule 3a–4 is intended primarily to provide guidance regarding the status of investment advisory programs under the Investment Company Act. The rule is not intended to create a presumption about a program that is not operated according to the rule's guidelines.

The requirement that the sponsor (or its designee) obtain information about the client's financial situation and investment objectives when the account is opened is designed to ensure that the investment adviser has sufficient information regarding the client's unique needs and goals to enable the portfolio manager to provide individualized investment advice. The sponsor is required to contact clients annually and provide them with quarterly notices to ensure that the sponsor has current information about the client's financial status, investment objectives, and restrictions on management of the account. Maintaining current information enables the program manager to evaluate the client's portfolio in light of the client's changing needs and circumstances. The requirement that clients be provided with quarterly statements of account activity is designed to ensure the client receives an individualized report, which the Commission believes is a key element of individualized advisory services.

The Commission staff estimates that approximately 49 wrap fee and mutual fund wrap programs administered by 44 program sponsors use the procedures under rule 3a–4.[5] Although it is impossible to determine the exact number of clients that participate in investment advisory programs, an estimate can be made by dividing total assets by the minimum account requirement ($139.4 billion[6] divided by $100,000), for a total of 1,394,000 clients. In addition, an average number of new accounts opened each year can be estimated by dividing the average annual increase in account assets in 1994 through 1997, by the minimum account requirement ($7.5 billion divided by $100,000, for an average annual number of new accounts of 75,333.[7]

The Commission staff estimates that each program sponsor spends approximately one hour annually in preparing, conducting and/or reviewing interviews for each new client; 30 minutes annually preparing, conducting and/or reviewing annual interviews for each continuing client; and one hour preparing and mailing quarterly account activity statements, including the notice

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[1] Status of Investment Advisory Programs Under the Investment Company Act of 1940, Investment Company Act Release No. 22579 (Mar. 24, 1977) [62 FR 15098 (Mar. 31, 1997)] ("Adopting Release"). In addition, there are no registration requirements under section 5 of the Securities Act of 1933 for these programs. *See* 17 CFR 270.3a–4, introductory note.

[2] For purposes of rule 3a–4, the term "sponsor" refers to any person who receives compensation for sponsoring, organizing or administering the program, or for selecting, or providing advice to clients regarding the selection of, persons responsible for managing the client's account in the program.

[3] Clients specifically must be allowed to designate securities that should not be purchased for the account or that should be sold if held in the account. The rule does not require that a client be able to require particular securities be purchased for the account.

[4] The sponsor also must provide a means by which clients can contact the sponsor (or its designee).

[5] See The Cerulli Report, Asset-Based Strategies: Developments in the Financial Advisor and Wrap Markets 66 (1997) (statistical information on wrap fee and mutual fund wrap programs).

[6] See id. at 63 (estimating amount of assets in wrap fee and mutual fund wrap programs).

[7] The requirement for initial client contact and evaluation is not a recurring obligation, but only occurs when the account is opened. The estimated annual hourly burden is based on the average number of new accounts opened each year.

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to update information to each client. Based on the foregoing, the Commission staff therefore estimates the total annual burden of the rule's paperwork requirements for all program sponsors to be 2,128,666.5 hours. This represents an increase of 1,112,666.5 hours from the prior estimate of 1,016,000 hours. The increase results primarily from an increase in the amount of assets managed under investment advisory programs and the resulting increase in the estimated number of clients in those programs. The increase also results from a more accurate calculation of certain collection of information burdens.

Form N–8B–2 is the form used by unit investment trusts ("UITs") which are currently issuing securities, including UITs which are issuers of periodic payment plan certificates and UITs of which a management investment company is the sponsor or depositor, to comply with the filing and disclosure requirements imposed by section 8(b) of the Act. Form N–8B–2 requires disclosure about the organization of a UIT, its securities, the trustee, the personnel and affiliated persons of the depositor, the distribution and redemption of securities, and financial statements. The Commission uses the information provided in the collection of information to determine compliance with section 8(b) of the Act.

Based on the Commission's industry statistics, the Commission estimates that there will be approximately 34 initial filings on Form N–8B–2 and 11 post-effective amendment filings to the Form. The Commission estimates that each registrant filing an initial Form N–8B–2 would spend 1,150 hours in preparing and filing the Form and that the total hour burden for all initial Form N–8B–2 filings is 39,100 hours. Also, the Commission estimates that each UIT filing a post-effective amendment to Form N–8B–2 would spend 150 hours in preparing and filing the amendment and that the total hour burden for all post-effective amendments to the Form is 1,650 hours. By combining the total hour burdens estimated for initial Form N–8B–2 filings and post-effective amendment filings to the Form, the Commission estimates that the total annual burden hours for all registrants on Form N–8B–2 is 40,750 hours.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

Written comments are invited on: (a) whether the collections of information are necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burdens of the collections of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burdens of the collections of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, Mail Stop 0–4, 450 5th Street, NW., Washington, DC 20549.

Dated: June 22, 1998.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–17560 Filed 7–1–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of July 6, 1998.

An open meeting will be held on Tuesday, July 7, 1998, at 10:00 a.m., in Room 6600.

A closed meeting will be held on Tuesday, July 7, 1998, following the 10:00 a.m. open meeting. A closed meeting will be held on Thursday, July 9, 1998, at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exceptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Johnson, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The open meeting scheduled for Tuesday, July 7, 1998, at 10:00 a.m., will be:

The Commission will hear oral argument on an appeal by Valicenti Advisory Services, Inc. ("VAS"), a registered investment adviser, and the Division of Enforcement from an administrative law judge's initial decision.

The closed meeting scheduled for Tuesday, July 7, 1998, following the 10:00 a.m. open meeting, will be:

Post argument discussion.

The closed meeting scheduled for Thursday, July 9, 1998, at 10:00 a.m., will be:

Institution and settlement of injunctive actions.

Institution and settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted for postponed, please contact: The Office of the Secretary at (202) 942–7070.

Dated: June 30, 1998.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–17835 Filed 6–30–98; 3:53 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40123; file No. SR–AMEX–98N10]

Self-Regulatory Organizations; American Stock Exchange, Inc., Order Granting Approval to Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No 1. to Proposed Rule Change Relating to Market-at-the-Close and Limit-at-the-Close Order Handling Requirements

June 24, 1998.

I. Introduction

On February 18, 1998, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities and Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to revise the Exchange's policy for entry of market-at-the-close orders ("MOC") and to permit the entry of limit-at-the-close orders ("LOC"). The proposed rule change was published for comment in the **Federal Register** on March 26, 1998.[3] On May 12, 1998, the Exchange submitted Amendment No. 1 to the proposed rule change.[4] This order approves the proposal as amended.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Description of the Proposal

Exchange Rule 109 sets for the procedures to be followed in executing MOC orders. Paragraph (d) of Rule 109 provides that where there is an imbalance between MOC buy and sell orders, the imbalance or buy orders should be executed against the offer, and the imbalance of sell orders against the bid. The remaining buy and sell orders are then paired off and executed at the price of the immediately preceding last sale. The "pair off" transaction is reported to the consolidated last-sale reporting system as "stopped stock."

In May 1995, the Exchange amended Commentary .02 to Exchange Rule 109 to impose a 3:50 p.m. deadline for the entry, cancellation or reduction of MOC orders through Amex's Post Execution Reporting system ("PER").[5] After the 3:50 p.m. deadline, a member may only enter, modify or cancel MOC orders other than through the PER system. This change was intended to reduce the sometimes disruptive effect on the market of MOC orders entered through the PER system shortly before the close. Prior to the imposition of the 3:50 p.m. deadline, it often took several minutes for a specialist to ascertain whether an imbalance existed and to pair off buyers and sellers, with the sellers, with the result that the executed MOC transactions did not actually print until after the close. When this happened, it was difficult for market participants to ascertain the closing price of the security in question on a timely basis.

Although the 3:50 p.m. deadline has alleviated some of the disruptive impact of MOC orders, Amex believes that further modifications are appropriate to reduce excess market volatility that may arise from the liquidation of stock positions related to trading strategies involving index derivative products, and to provide consistency to member organizations by substantially conforming the Amex's policy to the policy currently in effect at the New York Stock Exchange ("NYSE")[6]

As a result, Amex is proposing to substantially conform its policy to the NYSE policy. However, Amex's policy will differ from that of the NYSE in several respects to account for the differences in the types of stocks that trade on the Amex versus those that trade on the NYSE (*e.g.*, smaller float and capitalization of Amex companies). The proposed policy is as follows:

(a) A 3:40 p.m. deadline will be imposed every day for the entry of *all* MOC orders in all common stocks,[7] other than those that trade in units of less than 100 shares. After the 3:40 p.m. deadline, MOC orders will only be accepted to offset published imbalances. MOC orders will be irrevocable after that time, except to correct an error.

(b) Order imbalances must be published on the tape as soon as practicable after 3:40 p.m. if there is an imbalance of 25,000 shares or more. In addition, an order imbalance below 25,000 shares may also be published by a specialist, with the concurrence of a Floor Official, if the specialist (1) anticipates that the execution price of the MOC orders on the book will exceed the price change parameters of Amex Rule 154, Commentary .08,[8] or (2) believes that an order imbalance should otherwise be planned.[9]

(c) LOC orders (which Amex does not currently permit to be entered) will now be permitted to be entered prior to the applicable deadline (*i.e.*, 3:40 p.m.), but after the deadline only to offset a published imbalance. LOC orders will be irrevocable after that time, except to correct an error.[10]

The Exchange is also proposing that the order imbalance dissemination requirements described in paragraph (b) above also be applied to the opening at 9:30 a.m.[11]

III. Discussion

The Commission finds that the proposed rule change is consistent with Section 6[12] of the Act the rules and regulations thereunder. In particular, the Commission believes that the proposal is consistent with the Section 6(b)(5)[13] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.[14]

In recent years, the Exchange and other self-regulatory organizations have instituted certain safeguards to minimize excess market volatility that may arise from the liquidation of stock positions at the end of the trading day. The Exchange has been utilizing special closing procedures for the entry of MOC orders in Amex-listed stocks since December 16, 1992.[15] These procedures allow Amex specialist to determine the buying and selling interest in MOC orders and, if there is a substantial imbalance on one side of the market, to provide the investing public with timely and reliable notice of the imbalance and with an opportunity to make appropriate investment decision in response. The Commission believes that Amex's proposal appropriately refines and augments the current procedures.

The Commission believes that the proposed rule change may further increase public awareness of MOC order imbalances and provide market participants with more of an opportunity to make appropriate investment decisions. Specifically, the proposal will change the deadline from 3:50 p.m. to 3:40 p.m. for entry of all MOC orders on all trading days. In addition, the proposal will allow the entry of LOC orders prior to the applicable deadline, but after the deadline only to offset a published

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[3] Securities Exchange Act Release No. 39770 (Mar. 18, 1998), 63 FR 14747.

[4] *See* letter from Claudia Crowley, Special Counsel, Legal & Regulatory Policy, Amex to David Sieradzki, Attorney, Division of Market Regulation ("Division"), Commission dated May 7, 1998 ("Amendment No. 1"). In Amendment No. 1, the Exchange clarifies that the proposed policy regarding imbalance dissemination requirements will be applied to the opening as well as the close, and any applicable imbalance must be published prior to the opening at 9:30 a.m. In addition, the Exchange represents that it does not intend to apply the proposed order entry procedures to the opening.

[5] *See* Securities and Exchange Act Release No. 35660 (May 2, 1995), 60 FR 22592 (May 8, 1995).

[6] The Commission recently approved a proposal submitted by the NYSE to make various changes to its policy with respect to MOC and LOC orders. *See* Securities and Exchange Act Release No. 40094 (June 15, 1998) (order approving SR–NYSE–97–36).

[7] This policy will not apply to any security the pricing for which is based on another security or an index, such as derivatives, warrants and convertible securities.

[8] Commentary .08 requires a specialist to have Floor Official approval before executing a transaction in a stock at a price (i) of $20 or more a share at 2 points or more away from the last sale, (ii) between $10 and $20 a share at one point or more away from the last sale, and (iii) of less than $10 a share at ½ point or more away from the last sale.

[9] Pursuant to Amex Rule 22(d), a specialist may request that a Floor Governor review a determination by a Floor Official not to permit publication of an order imbalance.

[10] Telephone conversation between Stuart Diamond, Director, Rulings, Amex and David Sieradzki, Attorney, Division, Commission on June 16, 1998.

[11] *See* Amendment No. 1, *supra* note 3.

[12] 15 U.S.C. 78f.

[13] 15 U.S.C. 78f(b)(5).

[14] In approving the proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78f(b).

[15] *See* Securities Exchange Act Release No. 31610 (Dec. 16, 1992), 57 FR 61131 (Dec. 23, 1992).

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imbalance. In conjunction with the prohibition on canceling or modifying any MOC/LOC order after 3:40 p.m. the Commission believes that this requirement should allow the specialist to make a timely and reliable assessment, for every Amex-listed stock, of MOC/LOC order flow and its potential impact on closing prices.

Further, the proposal would require Amex specialists to publish order imbalances of 25,000 shares or more as close to 3:40 p.m. as practicable. In addition, under certain circumstances, order imbalances of less than 25,000 shares may be published as close to 3:40 p.m. as practicable with the approval of a Floor Official. The Commission believes that permitting order imbalance publications even though the imbalance is under 25,000 shares should give specialists needed flexibility to balance order flow where the specialist believes that it may be necessary to attract contra-side interest. With respect to changing the deadline for entering MOC orders on non-expiration days, the Commission believes that, by giving market participants more time to react to published MOC order imbalances, the proposal may contribute to reducing volatility at the close.[16]

Finally, the Exchange proposes to apply the order imbalance dissemination requirements at the opening of trading as well as at the close. Specifically, as discussed above, the Exchange will require order imbalances of 25,000 shares or more to be disseminated before 9:30 a.m. Circumstances under which an imbalance of less than 25,000 shares would be published will apply to the opening as well.[17] The Commission believes that requiring order imbalances to be published prior to the opening may help reduce volatility at the opening as well as at the close of improving the specialists' ability to accurately assess opening order flow, and attract contra-side interest to help alleviate order imbalances. Further, the policy should help provide the investing public with more timely and reliable information regarding likely opening and closing prices, and thus the ability to make more informed trading decision.

The Commission finds good cause for approving Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing of this amendment in the **Federal Register**. Amendment No. 1 clarifies the proposal to indicate what the deadline is for order imbalance publications at the opening. In addition, Amendment No. 1 clarifies that MOC/LOC order entry procedures will not apply to the opening of trading. As a result, the Commission does not believe that Amendment No. 1 raises any new regulatory issues. Further, the Commission notes that the original proposal was published for the full 21-day comment period and no comments were received by the Commission. Accordingly, the Commission believes there is good cause, consistent with Sections 6(b)(5) and 19(b)[18] of the Act, to approve Amendment No. 1 to the Exchange's proposal on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 1, including whether it is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–AMEX–98–10 and should be submitted by July 23, 1998.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[19] that the proposed rule change (SR–AMEX–98–10) is approved as amended.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[20]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–17561 Filed 7–1–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40124; File No. SR–NASD–98–42]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval to Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Extension of Effectiveness of the Pilot Injunctive Relief Rule

June 24, 1998.

Pursuant to Section 19(b)(1) of the Securities and Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 12, 1998, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by NASD Regulation, Inc. ("NASD Regulation"). The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. For the reasons discussed below, the Commission is granting accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD Regulation is proposing to amend Rule 10335 of the Code of Arbitration ("Code") of the NASD to extend the pilot injunctive relief rule for six months. Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

10335. Injunctions

* * * * *

(i) Effective Date

This Rule shall apply to arbitration claims filed on or after January 3, 1996. Except as otherwise provided in this Rule, the remaining provisions of the Code shall apply to proceedings instituted under this Rule. This Rule shall expire on [July 3, 1998] *January 3, 1999,* unless extended by the Association's Board of Governors.

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[16] As discussed above, LOC orders will be subject to the same deadlines for order entry as MOC orders.

[17] As discussed above and in Amendment No. 1, the Commission notes that the Exchange will not apply the order entry procedures used for the close of trading to the opening of trading. *See* Amendment No. 1, *supra* note 3.

[18] 15 U.S.C. 78f(b)(5) and 15 U.S.C. 78s(b).

[19] 15 U.S.C. 78s(b)(2).

[20] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1) (1994).

[2] 17 CFR 240.19b–4 (1997).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD Regulation included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. NASD Regulation has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The NASD's injunctive relief rule, Rule 10335 of the Code, provides a procedure for obtaining injunctive relief in arbitration and for expediting proceedings for injunctive relief in intra-industry disputes. Rule 10335 became effective on January 3, 1996, for a one-year pilot period.[3] The initial pilot period was subsequently extended twice by the Commission to permit NASD Regulation's Office of Dispute Resolution to gain additional experience with the rule before determining whether the rule should be made permanent, the pilot period should be extended or the rule should be permitted to terminate by its terms.[4] The rule is currently due to expire on July 3, 1998.

NASD Regulation is currently developing a proposed rule change to amend Rule 10335 and make it a permanent part of the Code. NASD Regulation anticipates filing this proposed rule change by July 17, 1998. The purpose of the requested six-month extension of the existing injunctive relief rule is to maintain the rule's effectiveness pending filing of and Commission action on that proposed rule change.

(b) Statutory Basis

NASD Regulation believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[5] which requires, among other things, that the Association's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The NASD believes that the current pilot injunctive relief rule serves the public interest by enhancing the satisfaction with the arbitration process afforded by expeditious resolution of certain disputes. The NASD also believes that it is in the interest of members that the effectiveness of the rule remains uninterrupted pending Commission action on the permanent proposed rule change.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NASD Regulation does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Solicitation of Comments

Interested person are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number SR–NASD–98–42 and should submitted by July 23, 1998.

IV. Commission Findings and Order Granting Accelerated Approval of Proposed Rule Change

NASD Regulation has requested that the Commission find good cause pursuant to Section 19(b)(2) of the Act[6] for approving the proposed rule change prior to the 30th day after publication in the **Federal Register**. To avoid interruption of the pilot injunctive relief rule, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association and, in particular, the requirements of Section 15A(b)(6) of the Act.[7] Rule 10335 is intended to provide a pilot system within the NASD arbitration forum to process requests for temporary injunctive relief. Rule 10335 is intended principally to facilitate the disposition of employment disputes, and related disputes, concerning members who file for injunctive relief to prevent registered representatives from transferring their client accounts to their new firms. The commission finds it is appropriate to extend the pilot for six months to avoid interruption of the pilot injunctive relief rule During that time the NASD Regulation will be able to evaluate the success of Rule 10335 and adequately review comments received. The Commission expects the NASD to submit a proposed rule change to add Rule 10355 to the Code on a permanent basis in the near future.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission believes that accelerated approval of the proposal is appropriate because members will continue to have the benefit of injunctive relief in arbitration without interruption. The Commission is extending the pilot for six months. During that time NASD Regulation will submit a proposed rule change to amend Rule 10335 to make it a permanent part of the Code. The Commission believes, therefore, that granting accelerated approval of the proposed rule change is consistent with Section 15A of the Act.[8]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[9] that the proposed rule change be, and hereby is, approved on an accelerated basis for a six month pilot basis through January 3, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–17559 Filed 7–1–98; 8:45 am]

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[3] Securities and Exchange Act Release No. 36145 (August 23, 1995), 60 FR 45200 (Aug. 30, 1995).

[4] Securities and Exchange Act Release No. 38069 (December 20, 1996), 61 FR 68806 (December 30, 1996), and Securities and Exchange Act Release No. 39458 (December 17, 1997), 62 FR 67423 (December 24, 1997).

[5] 15 U.S.C. 78*o*–3.

[6] 15 U.S.C. 78s(b)(2).

[7] 15 U.S.C. 78*o*–3(b)(6).

[8] 15 U.S.C. 78*o*(b)(2).

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).

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SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Request for Emergency Review by the Office of Management and Budget

The Social Security Administration publishes a list of information collection packages that will require clearance by OMB in compliance with P.L. 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995. The information collection listed below has been submitted to OMB for emergency clearance. OMB approval has been requested by July 8, 1998:

0960–NEW. SSA has contracted with the Gallup Organization to conduct a survey to gather baseline data on the public's current level of knowledge of the Social Security programs. The information will enable SSA to establish a clear, quantitative baseline measure of public understanding of SSA programs against which the outcomes of SSA performance improvement efforts can be assessed. The relevant performance objective contained in SSA's strategic plan is that by the year 2005, 90 percent of all American adults will be knowledgeable about Social Security programs in five broad areas: basic program facts; the financial value of programs to individuals; the economic and social impact of SSA programs; how the programs are financed today; and financing issues. The respondents are randomly selected adults residing in the United States.

Number of Respondents: 4,000.

Frequency of Response: 1.

Average Burden Per Response: 12 minutes.

Estimated Annual Burden: 800 hours.

To receive a copy of the form or clearance packages, call the SSA Reports Clearance Officer on (410) 965–4145 or write to him at the address listed below. Written comments and recommendations regarding the information collection(s) should be directed to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses:

(OMB)

Office of Management and Budget,
OIRA, Attn: Laura Oliven, New Executive Office Building, Room 10230, 725 17th St., NW., Washington, D.C. 20503

(SSA)

Social Security Administration,
DCFAM, Attn: Frederick W. Brickenkamp, 6401 Security Blvd, 1–A–21 Operations Bldg., Baltimore, MD 21235

Dated: June 25, 1998.

Frederick W. Brickenkamp,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 98–17441 Filed 7–1–98; 8:45 am]

BILLING CODE 4190–29–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–98–13]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief for specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before June 23, 1998.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. ________, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments may also be sent electronically to the following internet address: 9–NPRM–CMTS@faa.dot.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Tawana Matthews (202) 267–9783 or Terry Stubblefield (202) 267–7624, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on June 26, 1998.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petition for Exemption

Docket No: 29253.

Petitioner: Boeing Commercial Airplane Group.

Regulations Affected: 25.785(h)(1), 25.807(d)(7), 25.812(e), 25.813(e), 25.853(d).

Description of Petition: To exempt The Boeing Company from the requirements of 14 CFR 25.785(h)(1), 25.807(d)(7), 25.812(e), 25.813(e), and 25.853(d) to permit business jet interiors to be designated for "private, not-for-hire use" on Boeing Model 737–700 IGW airplanes.

Petitions for Exemption

Docket No: 29224.

Petitioner: Bombardier Aerospace.

Sections of the FAR Affected: 14 CFR C36.3(c) of appendix C to part 36.

Description of Relief Sought: To permit the petitioner to measure noise levels at the sideline point for its Bombardier de Havilland Canada DHC–8 Dash 8 Series 400 airplane using the International Civil Aviation Organization standards set forth in annex 16, volume 1, chapter 3, 3.3.1(a)(2), amendment 5 for lateral reference noise measure points, in lieu of the standards set forth in section C36.3(c) of appendix C to part 36.

Dispositions of Petitions

Docket No: 29213.

Petitioner: Elliott Aviation of Des Moines, Inc.

Sections of the FAR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/Disposition: To permit the petitioner to operate its Beechcraft Model 200 Aircraft (Registration No. N120RJ, Serial No. BB–432) without a TSO–C112 (Mode S) transponder installed. *Grant, Grant, Exemption No. 6787.*

Docket No: 23869.

Petitioner: The Uninsured Relative Workshop, Inc.

Sections of the FAR Affected: 14 CFR 105.43(a).

Description of Relief Sought/Disposition: To permit employees, representatives, and other volunteer experimental parachute test jumpers under the petitioner's control to make tandem parachute jumps while wearing a dual-harness, dual-parachute pack that has at least one main parachute and one approved auxiliary parachute. The exemption also permits pilots in command of aircraft involved in these operations to allow such persons to make these parachute jumps. *Grant, June 15, 1998, Exemption No. 4943.*

Docket No: 11366.

Petitioner: United States Customs Service.

Sections of the FAR Affected: 14 CFR 91.117 (a), (b), and (c); 91.119(c); 91.159(a); and 91.209 (a) and (d).

Description of Relief Sought/Disposition: To permit continued relief from the pertinent provisions of 14 CFR part 91 in order to conduct drug interdiction air support. *Grant, June 17, 1998, Exemption No. 5504B.*

Docket No: 29137.

Petitioner: Weary Warriors Squadron.

Sections of the FAR Affected: 14 CFR 91.315.

Description of Relief Sought/Disposition: To permit the petitioner to operate its North American B–25 (B–25) aircraft, which is certificated in the limited category, for the purpose of carrying passengers for compensation or hire. *Grant, June 17, 1998, Exemption No. 6786.*

Docket No.: 28660.

Petitioner: The Collings Foundation.

Sections of the FAR Affected: 14 CFR 91.315, 91.319(a), 119.5(g), and 119.21(a).

Description of Relief Sought/Disposition: To permit the petitioner to operate its Boeing B–17 (B–17) aircraft, which is certificated in the limited category, and its Consolidated B–24 (B–24) aircraft, which is certificated in the experimental category, for the purpose of carrying passengers on local flights for compensation or hire. *Grant, June 17, 1998, Exemption No. 6540A.*

Docket No.: 28512.

Petitioner: Robert P. Lavery.

Sections of the FAR Affected: 14 CFR 91.109(a) and (b)(3).

Description of Relief Sought/Disposition: To permit the petitioner to conduct certain flight instruction and simulated instrument flights to meet the recent instrument experience requirements in certain Beechcraft airplanes equipped with a functioning throwover control wheel in place of functioning dual controls. *Grant, June 19, 1998, Exemption No. 6525A.*

Docket No.: 28515.

Petitioner: Kenneth L. Fossler.

Sections of the FAR Affected: 14 CFR 91.109(a) and (b)(3).

Description of Relief Sought/Disposition: To permit the petitioner to conduct certain flight instruction and simulated instrument flights to meet the recent instrument experience requirements in certain Beechcraft airplanes equipped with a functioning throwover control wheel in place of functioning dual controls. *Grant, June 19, 1998, Exemption No. 6524A.*

Docket No.: 28517.

Petitioner: Samuel D. James.

Sections of the FAR Affected: 14 CFR 91.109(a) and (b)(3).

Description of Relief Sought/Disposition: To permit the petitioner to conduct certain flight instruction and simulated instrument flights to meet the recent instrument experience requirements in certain Beechcraft airplanes equipped with a functioning throwover control wheel in place of functioning dual controls. *Grant, June 19, 1998, Exemption No. 6532A.*

Docket No.: 29174.

Petitioner: Hawaii Helicopters, Inc.

Sections of the FAR Affected: 14 CFR 135.152(a).

Description of Relief Sought/Disposition: To permit the petitioner to operate its Sikorsky S–76A helicopter (Canadian Registration No. C–GHJG, Serial No. 760015) in the United States under part 135 without a digital flight data recorder (DFDR) as required by § 135.152. *Grant, June 19, 1998, Exemption No. 6789.*

Docket No.: 29109.

Petitioner: Mobile Business Resources Corporation.

Sections of the FAR Affected: 14 CFR 135.152(a).

Description of Relief Sought/Disposition: To permit the petitioner to operate its Sikorsky S–76A helicopter under part 135 without each of those helicopters being equipped with an approved digital flight data recorder. *Grant, June 19, 1998, Exemption No. 6788.*

[FR Doc. 98–17630 Filed 7–1–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 159; Minimum Operational Performance Standards for Airborne Navigation Equipment Using Global Positioning System (GPS)

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 159 meeting to be held July 27–31, 1998, starting at 9:00 a.m. on July 27. The meeting will be held at RTCA, 1140 Connecticut Avenue, NW., Washington, DC 20036.

The agenda will be as follows:

Specific Working Group Sessions: July 27: Working Group (WG)–4A, Precision Landing Guidance (LAAS CAT I/II/III), Rooms A and B; WG–6, Interference, Room C; July 28: WG–4A, Precision Landing Guidance (LAAS CAT I/II/III), Rooms A and B; Ad Hoc Working Group, Second Civil Frequency, Room C, 1:30–4:30 p.m.; July 29: WG–4A, Precision Landing Guidance (LAAS CAT I/II/III), Rooms A and B; WG–2C, GPS/Inertial, Room C; July 30: WG–4A, Precision Landing Guidance (LAAS CAT I/II/III), Rooms A and B; WG–2, WAAS, Room C; WG–4B, Airport Surface Surveillance, Room D.

Plenary Session Agenda, July 31, 9:00 a.m.–4:30 p.m., Rooms A and B: (1) Chairman's Introductory Remarks; (2) Review/Approval of Minutes of Previous Meeting; (3) Review WG Progress and Identify Issues for Resolution: (a) GPS/WAAS (WG–2); (b) GPS/GLONASS (WG–2A); (C) GPS/Inertial (WG–2C); (d) GPS/Precision Landing Guidance and Airport Surface Surveillance (WG–4A & WG–4B); (e) Interference (WG–6); (4) Review of EUROCAE Activities; (5) Review WG–4B's draft report on *The role of GNSS in Supporting Airport Surface Operations*; (6) Assignment/Review of Future Work; (7) Other Business; (8) Date and Location of Next Meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact Mr. Harold Moses, RTCA Program Director, at (202) 833–9339 (phone), (202) 833–9434 (fax), or hmoses@rtca.org (electronic mail). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on June 24, 1998.

Janice L. Peters,

Designated Official.

[FR Doc. 98–17629 Filed 7–1–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Amtrak Reform Council; Notice of Meeting

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

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ACTION: Notice of Amtrak Reform Council meeting.

SUMMARY: As provided in Section 203 of the Amtrak Reform and Accountability Act of 1997, the Federal Railroad Administration (FRA) gives notice of a meeting of the Amtrak Reform Council ("ARC"). The purpose of the meeting is to discuss a draft of the Council's Charter, to receive a briefing from the Department of Transportation's Inspector General regarding the independent assessment of Amtrak's financial needs, and to take up such other matters as the Council or its members deem appropriate.

DATES: The ARC meeting is scheduled for 9:00 a.m. to 12:00 p.m. EST on Monday, July 6, 1998.

ADDRESSES: The meeting will be held in Room 235 in the Hall of States at 444 North Capitol Street, NW, Washington, DC. The meeting is open to the public on a first-come, first-served basis and is accessible to individuals with disabilities. Persons in need of special arrangements should contact the person whose name is listed below.

FOR FURTHER INFORMATION CONTACT: Arrigo Mongini, Deputy Associate Administrator for Railroad Development, FRA, RDV-2, Mail Stop 20, 400 Seventh Street, SW, Washington, DC 20590 (mailing address only) or by telephone at (202) 632-3286.

SUPPLEMENTARY INFORMATION: The ARC was created by the Amtrak Reform and Accountability Act of 1997 (ARAA) as an independent commission to evaluate Amtrak's performance and make recommendations to Amtrak for achieving further cost containment and productivity improvements, and financial reforms. In addition, the ARAA requires: that the ARC monitor cost savings resulting from work rules established under new agreements between Amtrak and its labor unions; that the ARC provide an annual report to Congress that includes an assessment of Amtrak's progress on the resolution of productivity issues; and that after two years the ARC begin to make findings on whether Amtrak can meet certain financial goals and, if not, to notify the President and the Congress.

The ARAA provides that the ARC consist of eleven members, including the Secretary of Transportation and ten others nominated by the President or Congressional leaders. Each member is to serve a 5 year term.

Issued in Washington, DC on June 26, 1998.

Mark E. Yachmetz,

Chief, Passenger Programs Division.

[FR Doc. 98-17556 Filed 7-1-98; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Release of Waybill Data

The Surface Transportation Board has received requests from Mayer, Brown & Platt on behalf of The Burlington Northern and Santa Fe Railway Company (BNSF) (WB461-1—6/2/98), and from the General American Transportation Corporation (WB512-4—6/15/98) for permission to use certain data from the Board's Carload Waybill Samples. A copy of these requests may be obtained from the Office of Economics, Environmental Analysis, and Administration.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to these requests, they should file their objections with the Director of the Board's Office of Economics, Environmental Analysis, and Administration within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.8.

Contact: James A. Nash, (202) 565-1542.

Vernon A. Williams,

Secretary.

[FR Doc. 98-17681 Filed 7-1-98; 8:45 am]

BILLING CODE 4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-33 (Sub-No. 116X)]

Union Pacific Railroad Company; Abandonment Exemption; in Salt Lake County, UT

On June 12, 1998, Union Pacific Railroad Company (UP) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903-10905[1] to abandon three rail line segments as follows: (1) the Provo Subdivision, between milepost 799.0 and milepost 800.26 (1.26 miles); (2) the Passenger Line Industrial Lead, between milepost 782.32 and milepost 782.79 (0.47-mile); and (3) the Provo Subdivision Running Track Passenger Line, between milepost 744.20 and milepost 745.48 (1.28 miles), a total distance of 3.01 miles in Salt Lake City, Salt Lake County, UT. The line segments traverse U.S. Postal Service Zip Codes 84101 and 84104. The line segments include the non-agency rail stations of Grant Tower (milepost 800.10), Salt Lake City (milepost 782.79), UP 9th St. Crossing (milepost 744.20), and Salt Lake City (milepost 745.40).

The line segments do not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it. The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by September 30, 1998.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a $1,000 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line segments, the segments may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than July 22, 1998.[2] Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB-33 (Sub-No. 116X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423-0001, and (2) Joseph D. Anthofer, 1416 Dodge Street, Room 830, Omaha, NE 68179-0830. Replies to the UP petition are due on or before July 22, 1998.

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[1] In addition to an exemption from 49 U.S.C. 10903, UP seeks exemption from 49 U.S.C. 10904 (offer of financial assistance procedures) and 49 U.S.C. 10905 (public use conditions). UP also requests "that the exemptions be effective on the date after the date of service" of the final decision. These requests will be addressed in the final decision.

[2] UP states that the line segments are located on Salt Lake City streets within a city project area which is commonly referred to as the Gateway Project. UP points out that exemption from the OFA procedures and public use conditions will allow a prompt conveyance of the right-of-way underlying the line segments to the Utah Department of Transportation and Salt Lake City Corporation, as required for the city's Gateway Project.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1545. [TDD for the hearing impaired is available at (202) 565–1695.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: June 25, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–17509 Filed 7–1–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1040–TeleFile and Form 8855–V, TeleFile Payment Voucher

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1040–TeleFile and Form 8855–V, TeleFile Payment Voucher.

DATES: Written comments should be received on or before August 31, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: 1040–TeleFile and TeleFile Payment Voucher (Form 8855–V).

OMB Number: 1545–1277.

Form Number: 1040–TeleFile and Form 8855–V.

Abstract: Certain Form 1040EZ filers are given the option of using a simplified method of filing their tax return by telephone. The taxpayer enters certain minimal items of information on the TeleFile Tax Record and calls the IRS with a touch-tone telephone. The automated system figures the tax and any refund or balance due while the taxpayer is still on the phone.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 5,900,000.

Estimated Time Per Respondent: 1 hr., 22 min.

Estimated Total Annual Burden Hours: 8,095,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 22, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–17695 Filed 7–1–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request For Form 8863

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8863, Education Credits (Hope and lifetime learning credits).

DATES: Written comments should be received on or before August 31, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Education Credits (Hope and lifetime learning credits).

OMB Number: To be assigned later.

Form Number: 8863.

Abstract: Section 25A of the Internal Revenue Code allows for two education credits, the Hope credit and the lifetime learning credit. Form 8863 will be used to compute the amount of the allowable

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credits. The IRS will use the information on the form to verify that respondents correctly computed their education credits.

Current Actions: This is a new collection of information.

Type of Review: New OMB approval.

Affected Public: Individuals or households.

Estimated Number of Respondents: 10 million.

Estimated Time Per Respondent: To be determined.

Estimated Total Annual Burden Hours: To be determined.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 22, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–17696 Filed 7–1–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 7018–C

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 7018-C, Order Blank for Forms.

DATES: Written comments should be received on or before August 31, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Order Blank for Forms.

OMB Number: 1545–1022.

Form Number: Form 7018-C.

Abstract: Form 7018-C allows taxpayers who must file information returns a systematic way to order the forms and instructions they need.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individauls or households, and business or other for-profit organizations.

Estimated Number of Respondents: 868,432.

Estimated Time Per Respondent: 3 minutes.

Estimated Total Annual Burden Hours: 43,422.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 19, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–17699 Filed 7–1–98; 8:45 am]

BILLING CODE 4830–01–U

UNITED STATES ENRICHMENT CORPORATION

Sunshine Act Meeting

AGENCY: United States Enrichment Corporation (USEC-federal).

TIME AND DATE: 11:00 a.m., Monday, June 29, 1998.

PLACE: 6903 Rockledge Drive, Bethesda, Maryland 20817.

STATUS: The telephonic meeting of the Board of USEC Inc., a Delaware-chartered corporation, was closed to the public.

MATTERS TO BE CONSIDERED: Organizational, financial and commercial matters of USEC Inc., a Delaware-chartered corporation.

CONTACT PERSON FOR MORE INFORMATION: Elizabeth Stuckle 301–564–3399.

Dated: June 29, 1998.

William H. Timbers, Jr.,

President and Chief Executive Officer, USEC-Federal.

[FR Doc. 98–17819 Filed 6–30–98; 2:39 pm]

BILLING CODE 8720–01–M

UNITED STATES INFORMATION AGENCY

International Education and Cultural Activities; Open Grant Program

ACTION: Notice—Request for proposals.

SUMMARY: The Office of Citizen Exchanges (E/P) of the United States Information Agency's Bureau of Educational and Cultural Affairs announces an open competition for an assistance award program. Public or private non-profit organizations meeting the provisions described in IRS regulation 26 CFR 1.501(c) may apply to develop projects that link their international exchange interests with counterpart institutions/groups in ways supportive of the aims of the Bureau of Educational and Cultural Affairs. Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, as amended, Public Law 87–256, also known as the Fulbright Hays Act.

The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * * ; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world." Programs and projects must conform with Agency requirements and guidelines outlined in the Application Package. USIA projects and programs are subject to the availability of funds.

Interested applicants should read the complete **Federal Register** announcement before addressing inquiries to the Office of Citizen Exchanges or submitting their proposals. Once the RFP deadline has passed, the Office of Citizen Exchanges may not discuss this competition in any way with applicants until after the Bureau program and project review process has been completed.

Announcement Name and Number: All communications concerning this announcement should refer to the Annual Open Grant Program. The announcement number is E/P–99–1. Please refer to title and number in all correspondence or telephone calls to USIA.

Deadline for Proposals: All copies must be received at the U.S. Information Agency by 5 p.m. Washington, DC. time on Friday, October 2, 1998. Faxed documents will not be accepted at any time. Documents postmarked by the due date but received at a later date will not be accepted. It is the responsibility of each grant applicant to ensure that proposals are received by the above deadline. This action is effective from the publication date of this notice through October 2, 1998, for projects where activities will begin between January 1, 1999 and December 31, 1999.

FOR FURTHER INFORMATION CONTACT: Interested organizations/institutions must contact the Office of Citizen Exchanges, E/PL, Room 216, United States Information Agency, 301 4th Street, SW., Washington, DC 20547, (202) 619–5326, to request detailed application packets which include award criteria; all application forms; and guidelines for preparing proposals, including specific criteria for preparation of the proposal budget.

To Download a Solicitation Package Via Internet: The Solicitation Package may be downloaded from USIA's website at http://www.usia.gov/education/rfps. Please read all information before beginning to download.

ADDRESSES: Applicants must follow all instructions given in the Application Package and send only complete applications with 15 copies to: U.S. Information Agency, REF: E/P–99–1 Annual Open Grant Competition, Grants Management Division (E/XE), 301–4th Street, SW., Room 336, Washington, DC 20547.

Applicants must also submit to E/XE the "Executive Summary" and "Narrative" sections of each proposal on a 3.5" diskette, formatted for DOS. This material must be provided in ASCII text (DOS) format with a maximum line length of 54 characters. USIA will transmit these files electronically to USIS posts overseas for their review, with the goal of reducing the time it takes to get posts' comments for the Agency's grants review process.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the "Support for Diversity" section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that "in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy," USIA "shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries." Proposals should account for advancement of this goal in their program contents, to the full extent deemed feasible.

Overview

The Office of Citizen Exchanges works with U.S. private sector, non-profit organizations on cooperative international group projects that introduce American and foreign participants to each others' social, economic, and political structures, and international interests. The Office supports international projects in the United States or overseas involving leaders or potential leaders in the following fields and professions: urban planners, jurists, specialized journalists (specialists in economics, business, political analysis, international affairs), business professionals, NGO leaders, environmental specialist, parliamentarians, educators, economists, and other government officials.

Guidelines

Applicants should carefully note the following restrictions/recommendations for proposals in specific geographical areas:

Central and Eastern Europe (CEE) and the Newly Independent States (NIS): Requests for proposals involving the following countries will be announced in separate competitions: CEE—Albania, Bosnia-Herzegovina, Bulgaria, Croatia, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Macedonia, Poland, Romania, Slovak Republic, and Slovenia; NIS—Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan. Proposals involving these regions will not be accepted under this competition.

Western Europe (WEU): Proposals involving this region will not be accepted under this competition.

East Asia and the Pacific (E Priority consideration will be given to proposals focused on the following

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countries: China, Korea, and Vietnam and the following themes: Rule of Law, especially the enforcement of intellectual property rights, judicial reform and court administration; Third Sector Development with emphasis on citizens groups, grassroots/community organizations, and professional associations; Market Economics/Reform stressing the relationship between government regulation and private enterprise; and Local Government focusing on practical approaches to streamlining government and increasing government's accountability, transparency, and responsiveness.

E/P contact for EA programs: Bill Dawson, 202/260–5485; E-Mail {WDawson@USIA.GOV}

American Republics (AR): Only those proposals will be considered that evidence the applicant's substantial knowledge of both the proposed theme and the country/countries where the project is to take place. Preference will be given to proposals on the following themes and for the following eligible countries:

Rule of Law/Administration of Justice: Proposals should focus on professional working level exchanges for prosecuting attorneys, district attorneys, paralegals, justices of the peace, mediators, arbitrators and/or judges. Preferred topics: judicial reform, case management, administration of justice, judicial independence and alternative dispute resolution. Eligible countries: Venezuela, Brazil, the Dominican Republic, Costa Rica, and Panama; other countries as appropriate.

Rule of Law/Civil Society: Proposals should support ongoing efforts in the field of conflict resolution in Argentina which include ongoing support for a national conflict resolution center, and developing an indigenous trainer capacity, including a training program on how to develop courses in conflict resolution for the governmental and non-governmental sectors. Eligible countries: Argentina.

Democratic Institution Building: Proposals should focus on ethics in government, good governance, transparency, the fight against corruption, decentralization, local/municipal government, grassroots democracy and citizen participation. Exchanges should target local government officials, city managers and administrators, and NGO leaders. Eligible countries: Bolivia, Peru, Colombia, Ecuador, Chile, Mexico; other countries as appropriate.

Reporting on Democratic Institutions: Proposals should focus on professional, working level exchanges for reporters, editors and managers in the news business. Exchanges should include workshops that would explore how journalists cover and relate to democratic institutions such as local government agencies, legislatures, and the courts. Workshops could include advanced skills such as investigative reporting and business journalism and how those skills can be applied to covering government agencies. Eligible countries: Any in the region.

Education: Proposals should focus on implementation of the Summit of the Americas Action Plan for Education, details of which can be found on the Summit internet web site, reachable through the USIA site at www.usia.gov. Exchanges should be in the fields of technology in education (including distance learning), educational administration, and professional development for teachers and other educators. Eligible countries: Any in the region. E/P contact for AR programs: Laverne Johnson, 202/619–5337; E-Mail {LJohnson@USIA.GOV}

Africa (AF): Proposals are requested for projects which would advance sustainable democracy by building human capital in Africa and strengthening partnership between the United States and Africa in the thematic categories delineated below. In addition to promoting democratic values, projects should enhance policy and operational skills and foster networking across political as well as government-civil society divisions.

Civic Education—Proposals should encourage the effective engagement of citizens in their country's political life. Preference will be given to projects that focus on organizations whose aim is to educate citizens about their democratic rights and responsibilities, or through projects that assist key institutions of civil society (e.g., women's groups, grassroots/community organizations, professional associations, other NGOs) in contributing to democracy. Related themes might include building values of tolerance, pragmatism, cooperation and compromise, building skills and institutions for constructive non-violent change, addressing cultural and other obstacles to civic education; inculcating a commitment to rule of law; and teaching and encouraging citizens to participate fully in community and national development.

Democratic Governance—Proposals should work to strengthen institutions of government whose work has a direct impact on the quality of a country's democracy and to increase their transparency, accountability, responsiveness, and effectiveness of operations. Especially welcome would be proposals dealing with local government and decentralization, but projects might also be focused on other elements of executive branches, legislatures, or judicial systems. Use of alternate dispute resolution methods and protection of human rights are welcome themes.

Trade and Investment—Proposals should foster an understanding of and commitment to policies and practices that support economic growth in a democratic framework through the private sector and international trade. Especially encouraged are proposals that focus on creating an "enabling environment" supportive of these goals. Issues addressed might include intellectual property rights, trade liberalization (e.g., tax and investment laws, along with other incentives), mechanisms of transparency and accountability, the role of business associations, and regional economic cooperation/integration.

Electronic Connectivity—Proposals should promote information sharing and network building between Americans and Africans as well as among Africans themselves. Preference will be given to projects that address one of the thematic categories listed above for Africa. African participants might include government institutions (e.g., parliaments or trade policy departments within ministries); educational institutions; professional associations (e.g., bar, business, or journalism associations); and civic organizations (e.g., women's, human rights or environmental groups). USIA funds should not be used for the purchase of equipment. Proposals must demonstrate a commitment to use and a capacity to maintain the necessary equipment. Other themes may be proposed, but strong preference will be given to proposals that follow the thematic guidelines above and to proposals that include programming in at least three countries.

E/P contact for AF programs: Stephen Taylor, 202/205–0535; E-Mail (Staylor@USIA.GOV)

Near East, North Africa and South Asia (NEA): Proposals which respond to the following suggested themes and organizational approaches will receive priority consideration in the awarding of grants for exchange activity in the Near East, North Africa, and South Asia. While not all countries suggested as participants for each project must be included in the exchange, projects which bring together representatives from three or more countries will be given preference. Proposals for exchange projects which address issues of crucial importance to the United States and to proposed partner countries but which do not respond specifically to the themes included below will also be considered.

The countries/entities comprising the NEA AREA are listed below, Currently there is no USIA presence in Afghanistan, Iran, Iraq, Libya, or Mauritania. Under each theme, the countries appearing in parentheses are those which have indicated a particular interest in the theme or which appear to be appropriate exchange partners in projects addressing the theme.

Countries/Entities of the Near East, North Africa, and South Asia—Afghanistan; Algeria; Bahrain; Bangladesh; Egypt; India; Iran; Iraq; Israel; Jordan; Kuwait; Lebanon; Libya; Mauritania; Morocco; Nepal; Oman; Pakistan; the Palestinian Authority; Qatar; Saudi Arabia; Sri Lanka; Sudan; Syria; Tunisia; the United Arab Emirates (UAE); Yemen.

Strengthening Non-governmental Organizations: Political and Social Activism in Support of Democracy (India; Nepal; Pakistan; Egypt; Morocco; Jordan; the Palestinian Authority; Lebanon).

Social and political activism, encouraged, focussed, and channeled through non-governmental organizations, is a basic underpinning of democratic society. Strengthening NGO advocacy skills, management, grassroots support, fundraising, networking for mutual support and reinforcement, and cultivating media relations will reinforce democratic trends in the region. In addition to providing existing and newly established NGOs clear guidance and training in the above-listed operational skills, issues to be considered in developing an exchange are: training people to use dissent and advocacy effectively to produce peaceful social change; educating citizens and disseminating information on the role of non-governmental organizations in a civil society; and emphasizing the role of NGOs can play in ensuring that the workings of government are open and transparent, in strengthening the rule of law, in supporting human and civil rights, and in improving the status of women in both society and government.

Developing Content-based Teaching English as a Second Language (TESL) Programs (Israel; Egypt; Jordan).

There is a strong desire throughout the Middle East for enhanced capacity in the English language. A proposal is sought that will combine high-level, substantive professional development for ESL curriculum developers and teachers from the Peach Process countries with a strong social and cultural content base emphasizing the principles of conflict resolution and civic education, with a possible additional emphasis on environmental issues.

Administration of Justice: Strengthening the Independence of the Judiciary (Jordan (proposed as a single-country project); Morocco; India (proposed with emphasis on the need to address equal treatment of women under the law); Nepal; Bangladesh).

A strong, independent judiciary is a fundamental pillar of democracy. The integrity of the judicial process and, by extrapolation, public confidence in the ability of the judicial process to deliver justice, is threatened in diverse countries by political interference and by public perception of the unequal and, by extrapolation, unfair treatment before the bench of women and members of ethnic minority communities. It is important that judges of both lower and higher courts be introduced to the principles and practices of U.S. jurisprudence and that such fundamental procedural innovations as alternative dispute resolution, early neutral evaluation, case management, and arbitration/mediation be familiar to them.

Combatting Narcotics Abuse and Developing Positive Approaches to Rehabilitation and Re-integration (Israel; Jordan; India).

Narcotics trafficking and abuse is an increasing problem for countries in the Near East and South Asia. There is a need for a regional project, to include educators, community leaders, medical practitioners and drug rehabilitation experts, to work with American counterparts in building a strategy to contain the spread of drug use. Emphasis should be placed on dealing with the issue on a community level, and there should be a focus on rehabilitation and the reintegration into society of former addicts through such undertakings as job skills training programs and family and community support efforts.

Women in Politics (Israel; Oman, Yemen; the United Arab Emirates; the Palestinian Authority).

While women's groups have organized themselves and actively campaign for equal rights and a greater say in local politics, they are ready and eager to learn more about advocacy, election campaigning, grassroots educational efforts, lobbying, and meeting the challenges and responsibilities of leadership once elected. Both women in municipal leadership roles and those hoping to expand the franchise and strengthen the role of women in politics could benefit from learning about the American experience and from establishing linkages with American and Middle Eastern women's political groups which share their aspirations.

Federalism: Center-State Relations and the Sharing of Power (India; Bangladesh).

The American experience with federalism is becoming more and more relevant to the states of South Asia as the complexity of governing requires that power devolve from the center to the regions and states. Regional parties have emerged in several states and are demanding increasing autonomy. A project to demonstrate how federalism functions in the United States, particularly its constitutional, legal and practical bases, would be very useful. Potential participants are political leaders, NGO leaders, party operatives, and political scientists who are studying democratic patterns and whose thinking will have a multiplier effect in society.

Civic Education (Egypt; the Palestinian Authority).

Promoting the development of civic education, both in terms of curriculum development and in terms of teacher training, parent-teacher coordination, and other aspects of primary and secondary education aimed at increasing citizen awareness and participation, is a high priority. Middle Eastern groups are particularly interested in learning about American school systems that have incorporated community service, environmental campaigns, and other activities that involve students in the larger society in their curricula.

Economic Reform (Egypt; Tunisia).

A proposal is sought that would link North African business groups with American counterparts and would demonstrate the system and the efficacy of lobbying, public education campaigns, and media relations in support of privatization, competitiveness, decentralization of commercial regulation, and regional economic integration.

Ethnic Tolerance (India; Sri Lanka; Pakistan; Lebanon).

Communal and ethnic tolerance have been difficult objectives to achieve in South Asia, and the problem has worsened with the rise of community-based political groupings. There are numerous community groups working to bring about resolution to the challenge posed by ethnic nationalism, and the American experience of absorbing, integrating, and accommodating diverse communities from various parts of the world into civil, as opposed to an ethnically defined, polity would be useful to these groups. Of particular relevance would

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be the experience of programs that teach tolerance in either a formal educational setting or in novel, arts/media-based contexts.

E/P contact for NEA programs: Tom Johnston, 202/619–5325; E-Mail {TJohnston@USIA.GOV}

The Office of Citizen Exchanges strongly encourages the coordination of activities with respected universities, professional associations, and major cultural institutions in the U.S. and abroad, but particularly in the U.S. Projects should be intellectual and cultural, not technical. Vocational training (an occupation other than one requiring a baccalaureate or higher academic degree; i.e., clerical work, auto maintenance, etc., and other occupations requiring less than two years of higher education) and technical training (special and practical knowledge of a mechanical or a scientific subject which enhances mechanical, narrowly scientific, or semi-skilled capabilities) are ineligible for support. In addition, scholarship programs are ineligible for support. The Office does not support proposal limited to conference or seminars (i.e, one to fourteen-day programs with plenary sessions, main speakers, panels, and a passive audience). It will support conference only insofar as they are part of a larger project in duration and scope which is receiving USIA funding from this competition. USIA-supported projects may include internships; study tours; short-term, non-technical training; and extended, intensive workshops taking place in the United States or overseas. The themes addressed in exchange programs must be of long-term importance rather than focused exclusively on current events or short-term issues. In every case, a substantial rationale must be presented as part of the proposal, one that clearly indicates the distinctive and important contribution of the overall project, including, where applicable, the expected yield of any associated conference. No funding is available exclusively to send U.S. citizens to conferences or conference-type seminars overseas; nor is funding available for bringing foreign nationals to conferences or to routine professional association meetings in the United States. Projects that duplicate what is routinely carried out by private sector and/or public sector operations will not be considered. The Office of Citizen Exchanges strongly recommends that applicants consult with host country USIS posts *prior* to submitting proposals.

Selection of Participants: All grants proposals should clearly describe the type of persons who will participate in the program as well as the process by which participants will be selected. It is recommended that programs in support of U.S. internships include letters tentatively committing host institutions to support the internships. In the selection of foreign participants, USIA and USIS posts abroad retain the right to nominate all participants and to accept or deny participants recommended by grantee institutions. However, grantee institutions are often asked by USIA to suggest names of potential participants. The grantee institution will also provide the names of American participants and brief (two pages) biographical data on each American participant to the Office of Citizen Exchanges for information purposes. Priority will be given to foreign participants who have not previously travelled to the United States.

Additional Guidance: The Office of Citizen Exchanges offers the following additional guidance to prospective applicants:

1. The Office of Citizen Exchanges encourages project proposal involving more than one country. Pertinent rationale which links countries in multi-country projects should be include in the submission. Single-country projects that are clearly defined and possess the potential for creating and strengthening continuing linkages between foreign and U.S. institutions are also welcome.

2. Proposals for bilateral programs are subject to review and comment by the USIS post in the relevant country, and pre-selected participants will also be subject to USIS post review.

3. Bilateral programs should clearly identify the counterpart organization and provide evidence of the organization's participation.

4. The Office of Citizen Exchanges will consider proposals for activities which take place exclusively in other countries when USIS posts are consulted in the design of the proposed program and in the choice of the most suitable venues for such programs.

5. Office of Citizen Exchanges grants are not given to support projects whose focus is limited to technical or vocational subjects, or for research projects, for publications funding, for student and/or teacher/faculty exchanges, for sports and/or sports related programs. Nor does this office provide scholarships or support for long-term (a semester or more) academic studies. Competitions sponsored by other Bureau offices are also announced in the **Federal Register**.

For projects that would begin after December 31, 1999, competition details will be announced in the **Federal Register** on or June 1, 1999. Inquiries concerning technical requirements are welcome prior to submission of applications.

Funding: Although no set funding limit exists, proposals for less than $135,000 will receive preference. Organizations with less than four years of successful experience in managing international exchange programs are limited to $60,000. Applicants are invited to provide both an all-inclusive budget as well as separate sub-budgets for each program component, phase, location, or activity in order to facilitate USIA decisions on funding. While an all-inclusive budget must be provided with each proposal, separate component budgets are optional. Competition for USIA funding support is keen.

The selection of grantee institutions will depend on program substance, cross-cultural sensitivity, and ability to carry out the program successfully. Since USIA grant assistance constitutes only a portion of total project funding, proposals should list and provide evidence of other anticipated sources of financial and in-kind support. Proposals with substantial private sector support from foundations, corporations, other institutions, et al. will be deemed highly competitive. The Recipient must provide a minimum of 33 percent cost sharing of the total project cost.

The following project costs are eligible for consideration for funding:

1. International and domestic air fares; visas; transit costs; ground transportation costs.

2. Per Diem. For the U.S. program, organizations have the option of using a flat $160/day for program participants or the published U.S. Federal per diem rates for individual American cities. For activities outside the U.S., the published Federal per diem rates must be used. NOTE: U.S. escorting staff must use the published Federal per diem rates, not the flat rate. Per diem rates may be accessed at [www.usia.gov/agency/ebur-ref.html].

3. Interpreters: If needed, interpreters for the U.S. program are provided by the U.S. State Department Language Services Division. Typically, a pair of simultaneous interpreters is provided for every four visitors who need interpretation. USIA grants do not pay for foreign interpreters to accompany delegations from their home country. Grant proposal budgets should contain a flat $160/day per diem for each Department of State interpreter, as well as home-program-home air transportation of $400 per interpreter plus any U.S. travel expenses during the program. Salary expenses are covered

centrally and should not be part of an applicant's proposed budget.

4. Book and cultural allowance: Participants are entitled to and escorts are reimbursed a one-time cultural allowance of $150 per person, plus a participant book allowance of $50. U.S. staff do not get these benefits.

5. Consultants. May be used to provide specialized expertise or to make presentations. Daily honoraria generally do not exceed $250 per day. Subcontracting organizations may also be used, in which case the written agreement between the prospective grantee and subcontractor should be included in the proposal.

6. Room rental, which generally should not exceed $250 per day.

7. Materials development. Proposals may contain costs to purchase, develop, and translate materials for participants.

8. One working meal per project. Per capita costs may not exceed $5–8 for a lunch and $14–20 for a dinner, excluding room rental. The number of invited guests may not exceed participants by more than a factor of two-to-one.

9. A return travel allowance of $70 for each participant which is to be used for incidental expenditures incurred during international travel.

10. All USIA-funded delegates will be covered under the terms of a USIA-sponsored health insurance policy. The premium is paid by USIA directly to the insurance company.

11. Other costs necessary for the effective administration of the program, including salaries for grant organization employees, benefits, and other direct and indirect costs per detailed instructions in the application package. Note: the 20 percent limitation of "administrative costs" included in previous announcements does not apply to this RFP. Please refer to the Application Package for complete budget guidelines.

Review Process: USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines established herein and in the Application Packet. Eligible proposals will be forwarded to panels of USIA officers for advisory review. All eligible proposals will also be reviewed by the program office, as well the USIA geographic regional office and the USIS post overseas, where appropriate. Proposals may also be reviewed by the USIA's Office of General Counsel by other Agency elements. Funding decisions are at the discretion of the USIA Associate Director for Education and Cultural Affairs. Final technical authority for assistance awards (grants or cooperative agreements) resides with USIA's grants officer.

Review Criteria: USIA will consider proposals based on their conformance with the objectives and considerations already stated in the RFP, as well as the following criteria:

1. *Quality of Program Idea:* Proposals should exhibit originality, substance, precision, and relevance to the Agency mission.

2. *Progam Planning/Ability to Achieve Program Objectives:* Detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described above. Objectives should be reasonable, feasible, and flexible. Proposals should clearly demonstrate how the institution will meet the program objectives and plan.

3. *Multipler Effect/Impact:* Proposed programs should strengthen long-term mutual understanding, including maximum sharing of information and establishment of long-term institutional and individual linkages.

4. *Support of Diversity:* Proposals should demonstrate the substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue, and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials, and follow-up activities.

5. *Institutional Capacity/Reputation/Ability:* Proposed personnel and institutional resources should be adequate and appropriate to achieve the program's or project's goal. Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Agency grants as determined by USIA's Office of Contracts. The Agency will consider the past performance of prior recipients and the demonstrated potential of new applicants.

6. *Follow-on Activities:* Proposals should provide a plan for continued follow-up activity (without USIA support) which ensures that USIA-supported programs are not isolated events.

7. *Evaluation Plan:* Proposals should provide a plan for a thorough and objective evaluation of the program/project by the grantee institution.

8. *Cost-Effectiveness/Cost Sharing:* The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate. Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by USIA that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. The Agency reserves the right to reduce, revise, or increase proposal budgets in accordance with the need of the program and the availability of funds. Organizations will be expected to cooperate with USIA in evaluating their programs under the principles of the Government Performance and Results Act of 1993, which requires federal agencies to measure and report on the results of their programs and activities.

Notification

Final awards cannot be made until funds have been fully appropriated by the Congress, allocated, and committed through internal USIA procedures. Awarded grants will be subject to periodic reporting and evaluation requirements.

Dated: June 23, 1998.

John P. Loiello,

Associate Director for the Bureau of Educational and Cultural Affairs.

[FR Doc. 98–17165 Filed 7–1–98; 8:45 am]

BILLING CODE 8230-01-M

UNITED STATES INSTITUTE OF PEACE

Announcement of the 1998 Unsolicited Fall Grant Program

AGENCY: United States Institute of Peace.

ACTION: Notice.

SUMMARY: The Agency announces its Upcoming Deadline for the 1998 Unsolicited Grant Fall Competition, which offers support for research, education and training, and the dissemination of information on international peace and conflict resolution.

Deadline: October 1, 1998.

DATES: Application Material Available Upon Request, Receipt Date for Return of Application: October 1, 1998, Notification of Awards: Late January 1999.

ADDRESSES: For Application Package: United States Institute of Peace, Grant Program, 1550 M Street, NW., Suite 700, Washington, DC 20005–1708, (202) 429–3842 (phone), (202) 429–6063 (fax), (202) 457–1719 (TTY), Email: grant__program@usip.org.

Applications also available on-line at our web site: www.usip.org.

FOR FURTHER INFORMATION CONTACT: The Grant Program, Phone (202) 429–3842.

Dated: June 26, 1998.

Bernice J. Carney,

Director, Office of Administration.

[FR Doc. 98–17662 Filed 7–1–98; 8:45 am]

BILLING CODE 6820–AR–M

Corrections

Federal Register
Vol. 63, No. 127
Thursday, July 2, 1998

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT98-55-000]

Iroquois Gas Transmission System, L.P.; Notice of GRI Refunds

Correction

In notice document 98–17192, appearing on page 35212, in the issue of Monday, June 29, 1998, make the following correction:

On page 35212, in the first column, the docket number is corrected to read as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF JUSTICE

28 CFR Part 16

[Attorney General Order No. 2156-98]

RIN 1105-AA20

Revision of Freedom of Information Act and Privacy Act Regulations and Implementation of Electronic Freedom of Information Act Amendments of 1996

Correction

In the issue of Monday, June 1, 1998, on page 29598, in the first column, in the correction of rule document 98–14341, § 16.11(b)(7) should read as set forth below:

§ 16.11 [Corrected]

* * * * *

(b)* * *

(7) *Review* means the examination of a record located in response to a request in order to determine whether any portion of it is exempt from disclosure. It also includes processing any record for disclosure—for example, doing all that is necessary to redact it and prepare it for disclosure. Review costs are recoverable even if a record ultimately is not disclosed. Review time includes time spent considering any formal objection to disclosure made by a business submitter under § 16.8, but does not include time spent resolving general legal or policy issues regarding the application of exemptions.

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Part II

Department of Education

Office of Special Education and Rehabilitative Services, National Institute on Disability and Rehabilitation Research; Notice Inviting Applications for New Awards Under the Disability and Rehabilitation Research Project and Centers Program for Fiscal Year (FY) 1998

DEPARTMENT OF EDUCATION

[CFDA Nos.: 84.133A and 84.133B]

Office of Special Education and Rehabilitative Services; National Institute on Disability and Rehabilitation Research; Notice Inviting Applications for New Awards Under the Disability and Rehabilitation Research Project and Centers Program for Fiscal Year (FY) 1998

Note To Applicants: This notice is a complete application package. Together with the statute authorizing the programs and applicable regulations governing the programs, including the Education Department General Administrative Regulations (EDGAR), this notice contains information, application forms, and instructions needed to apply for a grant under these competitions.

On June 8, 1998 the Secretary published in separate parts two notices of proposed priorities in the **Federal Register**. One notice included two proposed priorities related to a burn data coordinating project and collaborative research for traumatic brain injury (TBI) model systems. (63 FR 31320–31321). The second notice included three proposed priorities related to: employment opportunities for American Indians; community integration for persons with mental retardation; and policies affecting families of children with disabilities. (63 FR 31324–313290).

In order to provide applicants with a 60-day application period and to ensure that these grants are awarded before the end of FY 1998, NIDRR is inviting applications based on the proposed priorities published on June 8, 1998. NIDRR will publish the final priorities as soon as possible after the comment period closes on July 8, 1998. Depending upon the comments that NIDRR receives, the final priorities may include revisions to the proposed priorities. It is the policy of the Department of Education not to solicit applications before the publication of final priorities. However, in this case it is essential to solicit applications on the basis of the proposed priorities in order to allow applicants sufficient time to prepare applications of appropriate quality to be funded. Applicants are advised to begin to develop their applications based on the proposed priorities. If changes are made in the final priorities, applicants will be given a chance to revise or resubmit their applications.

As of the publication of this notice inviting applications, NIDRR had received two substantive comments addressing the proposed priorities. The first comment suggested revising the priority on collaborative research for TBI model systems to address the needs of individuals in correctional facilities. The second comment suggested that applicants for the burn data coordinating project demonstrate an understanding of burn care and the burn model systems database, and possess the technology to respond to idiosyncratic hardware and software needs and issues that each burn model system brings to the common database. In the notice of final priorities, NIDRR will provide its analysis of these comments and others that are received on or before July 8, 1998.

The notice of proposed priority for collaborative research for TBI model systems requires the applicants to collaborate with the current TBI model systems grantees. The notice of final priority for collaborative research for TBI model systems will include the names and telephone numbers of the TBI model systems grantees.

This program supports the National Education Goal that calls for all Americans to possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

The estimated funding levels in this notice do not bind the Department of Education to make awards in any of these categories, or to any specific number of awards or funding levels, unless otherwise specified in statute.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 80, 81, 82, 85, 86, and 34 CFR part 350.

Program Title: Disability and Rehabilitation Research Project and Centers Program.

CFDA Numbers: 84.133A and 84.133B.

Purpose of Program: The purpose of the Disability and Rehabilitation Research Project and Centers Program is to plan related activities, including international activities, to develop methods, procedures, and rehabilitation technology, that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities. In addition, the purpose of the Disability and Rehabilitation Research Project and Centers Program is to improve the effectiveness of services authorized under the Act (34 CFR 350.2).

Eligible Applicants: Parties eligible to apply for grants under this program are States, public or private agencies, including for-profit agencies, public or private organizations, including for-profit organizations, institutions of higher education, and Indian tribes and tribal organizations.

Program Authority: 29 U.S.C. 762.

APPLICATION NOTICE FOR FISCAL YEAR 1998 DISABILITY AND REHABILITATION RESEARCH PROJECTS, CFDA NO. 84–133A

Funding priority	Deadline for transmittal of applications	Estimated number of awards	Maximum award amount (per year) [1]	Project period (months)
Burn Data Coordinating Project	8/31/98	1	$125,000	48
Collaborative Research for Traumatic Brain Injury Model Systems	8/31/98	8–10	$300,000	48

[1] Note: The Secretary will reject without consideration or evaluation any application that proposes a project funding level that exceeds the stated maximum award amount per year (See 34 CFR 75.104(b)).

Disability and Rehabilitation Research Projects—Burn Data Coordinating Project

Selection Criteria: The Secretary uses the following selection criteria to evaluate applications for a Burn Data Coordinating Project under the Disability and Rehabilitation Research Project and Centers Program.

(a) *Responsiveness to an absolute or competitive priority* (15 points total).

(1) The Secretary considers the responsiveness of the application to the absolute or competitive priority published in the **Federal Register**.

(2) In determining the responsiveness of the application to the absolute or competitive priority, the Secretary considers the following factors:

(i) The extent to which the applicant addresses all requirements of the absolute or competitive priority (9 points).

(ii) The extent to which the applicant's proposed activities are likely to achieve the purposes of the absolute or competitive priority (6 points).

(b) *Design of technical assistance activities* (20 points total).

(1) The Secretary considers the extent to which the design of technical assistance activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(i) The extent to which the methods for providing technical assistance are of sufficient quality, intensity, and duration (6 points).

(ii) The extent to which the information to be provided through technical assistance covers all of the relevant aspects of the subject matter (8 points).

(iii) The extent to which the technical assistance is appropriate to the target population, including consideration of the knowledge level of the target population, needs of the target population, and format for providing information (6 points).

(c) *Plan of operation* (10 points total).

(1) The Secretary considers the quality of the plan of operation.

(2) In determining the quality of the plan of operation, the Secretary considers the adequacy of the plan of operation to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, and timelines for accomplishing project tasks (10 points).

(d) *Collaboration* (16 points total).

(1) The Secretary considers the quality of collaboration.

(2) In determining the quality of collaboration, the Secretary considers the following factors:

(i) The extent to which the applicant's proposed collaboration with one or more agencies, organizations, or institutions is likely to be effective in achieving the relevant proposed activities of the project (8 points).

(ii) The extent to which agencies, organizations, or institutions demonstrate a commitment to collaborate with the applicant (4 points).

(iii) The extent to which agencies, organizations, or institutions that commit to collaborate with the applicant have the capacity to carry out collaborative activities (4 points).

(e) *Adequacy and reasonableness of the budget* (4 points total).

(1) The Secretary considers the adequacy and the reasonableness of the proposed budget.

(2) In determining the adequacy and the reasonableness of the proposed budget, the Secretary considers the following factors:

(i) The extent to which the costs are reasonable in relation to the proposed project activities (2 points).

(ii) The extent to which the budget for the project, including any subcontracts, is adequately justified to support the proposed project activities (2 points).

(f) *Plan of evaluation* (10 points total).

(1) The Secretary considers the quality of the plan of evaluation.

(2) In determining the quality of the plan of evaluation, the Secretary considers the following factors:

(i) The extent to which the plan of evaluation provides for periodic assessment of progress toward—

(A) Implementing the plan of operation (3 points); and

(B) Achieving the project's intended outcomes and expected impacts (2 points).

(ii) The extent to which the plan of evaluation provides for periodic assessment of a project's progress that is based on identified performance measures that—

(A) Are clearly related to the intended outcomes of the project and expected impacts on the target population (3 points); and

(B) Are objective, and quantifiable or qualitative, as appropriate (2 points).

(g) *Project staff* (20 points total).

(1) The Secretary considers the quality of the project staff.

(2) In determining the quality of the project staff, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability (2 points).

(3) In addition, the Secretary considers the following factors:

(i) The extent to which the key personnel and other key staff have appropriate training and experience in disciplines required to conduct all proposed activities (7 points).

(ii) The extent to which the commitment of staff time is adequate to accomplish all the proposed activities of the project (4 points).

(iii) The extent to which the key personnel are knowledgeable about the methodology and literature of pertinent subject areas (7 points).

(h) *Adequacy and accessibility of resources* (5 points total).

(1) The Secretary considers the adequacy and accessibility of the applicant's resources to implement the proposed project.

(2) In determining the adequacy and accessibility of resources, the Secretary considers the following factors:

(i) The extent to which the applicant is committed to provide adequate facilities, equipment, other resources, including administrative support, and laboratories, if appropriate (3 points).

(ii) The extent to which the facilities, equipment, and other resources are appropriately accessible to individuals with disabilities who may use the facilities, equipment, and other resources of the project (2 points total).

Collaborative Research for Traumatic Brain Injury Model Systems

Selection Criteria: The Secretary uses the following selection criteria to evaluate applications for a Collaborative Research for Traumatic Brain Injury Model Systems Project under the Disability and Rehabilitation Research Project and Centers Program.

(a) *Responsiveness to an absolute or competitive priority* (10 points total).

(1) The Secretary considers the responsiveness of the application to the absolute or competitive priority published in the **Federal Register**.

(2) In determining the responsiveness of the application to the absolute or competitive priority, the Secretary considers the following factors:

(i) The extent to which the applicant addresses all requirements of the absolute or competitive priority (5 points).

(ii) The extent to which the applicant's proposed activities are likely to achieve the purposes of the absolute or competitive priority (5 points).

(b) *Design of research activities* (30 points total).

(1) The Secretary considers the extent to which the design of research activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(i) The extent to which the research activities constitute a coherent, sustained approach to research in the field, including a substantial addition to the state-of-the-art (7 points).

(ii) The extent to which the methodology of each proposed research activity is meritorious, including consideration of the extent to which—

(A) The proposed design includes a comprehensive and informed review of

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the current literature, demonstrating knowledge of the state-of-the-art (4 points);

(B) Each research hypothesis is theoretically sound and based on current knowledge (4 points);

(C) Each sample population is appropriate and of sufficient size (4 points);

(D) The data collection and measurement techniques are appropriate and likely to be effective (3 points); and

(E) The data analysis methods are appropriate (3 points).

(iii) The extent to which anticipated research results are likely to satisfy the original hypotheses and could be used for planning additional research, including generation of new hypotheses where applicable (5 points).

(c) *Design of dissemination activities* (5 points total).

(1) The Secretary considers the extent to which the design of dissemination activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(i) The extent to which the materials to be disseminated are likely to be effective and usable, including consideration of their quality, clarity, variety, and format (3 points).

(ii) The extent to which the materials and information to be disseminated and the methods for dissemination are appropriate to the target population, including consideration of the familiarity of the target population with the subject matter, format of the information, and subject matter (2 points).

(d) *Plan of operation* (6 points total).

(1) The Secretary considers the quality of the plan of operation.

(2) In determining the quality of the plan of operation, the Secretary considers the adequacy of the plan of operation to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, and timelines for accomplishing project tasks (6 points).

(e) *Collaboration* (15 points total).

(1) The Secretary considers the quality of collaboration.

(2) In determining the quality of collaboration, the Secretary considers the following factors:

(i) The extent to which the applicant's proposed collaboration with one or more agencies, organizations, or institutions is likely to be effective in achieving the relevant proposed activities of the project (5 points).

(ii) The extent to which agencies, organizations, or institutions demonstrate a commitment to collaborate with the applicant (5 points).

(iii) The extent to which agencies, organizations, or institutions that commit to collaborate with the applicant have the capacity to carry out collaborative activities (5 points).

(f) *Adequacy and reasonableness of the budget* (4 points total).

(1) The Secretary considers the adequacy and the reasonableness of the proposed budget.

(2) In determining the adequacy and the reasonableness of the proposed budget, the Secretary considers the following factors:

(i) The extent to which the costs are reasonable in relation to the proposed project activities (2 points).

(ii) The extent to which the budget for the project, including any subcontracts, is adequately justified to support the proposed project activities (2 points).

(g) *Plan of evaluation* (10 points total).

(1) The Secretary considers the quality of the plan of evaluation.

(2) In determining the quality of the plan of evaluation, the Secretary considers the following factors:

(i) The extent to which the plan of evaluation provides for periodic assessment of progress toward—

(A) Implementing the plan of operation (3 points); and

(B) Achieving the project's intended outcomes and expected impacts (2 points).

(ii) The extent to which the plan of evaluation provides for periodic assessment of a project's progress that is based on identified performance measures that—

(A) Are clearly related to the intended outcomes of the project and expected impacts on the target population (3 points); and

(B) Are objective, and quantifiable or qualitative, as appropriate (2 points).

(h) *Project staff* (15 points total).

(1) The Secretary considers the quality of the project staff.

(2) In determining the quality of the project staff, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability (2 points).

(3) In addition, the Secretary considers the following factors:

(i) The extent to which the key personnel and other key staff have appropriate training and experience in disciplines required to conduct all proposed activities (5 points).

(ii) The extent to which the commitment of staff time is adequate to accomplish all the proposed activities of the project (3 points).

(iii) The extent to which the key personnel are knowledgeable about the methodology and literature of pertinent subject areas (5 points).

(i) *Adequacy and accessibility of resources* (5 points total).

(1) The Secretary considers the adequacy and accessibility of the applicant's resources to implement the proposed project.

(2) In determining the adequacy and accessibility of resources, the Secretary considers the following factors:

(i) The extent to which the applicant is committed to provide adequate facilities, equipment, other resources, including administrative support, and laboratories, if appropriate (3 points).

(ii) The extent to which the facilities, equipment, and other resources are appropriately accessible to individuals with disabilities who may use the facilities, equipment, and other resources of the project (2 points total).

APPLICATION NOTICE FOR FISCAL YEAR 1998 REHABILITATION RESEARCH AND TRAINING CENTERS, CFDA NO. 84–133B

Funding priority	Deadline for transmittal of applications	Estimated number of awards	Maximum award amount (per year)[1]	Project period (months)
Employment Opportunities for American Indians	8/31/98	1	$600,000	60
Community Integration for Persons with Mental Retardation	8/31/98	1	700,000	60
Policies Affecting Families of Children with Disabilities	8/31/98	1	650,000	60

[1] Note: The Secretary will reject without consideration or evaluation any application that proposes a project funding level that exceeds the stated maximum award amount per year (See 34 CFR 75.104(b)).

Rehabilitation Research and Training Centers

Selection Criteria: The Secretary uses the following selection criteria to evaluate applications for RRTCs on employment opportunities for American Indians, community integration for persons with mental retardation, and policies affecting families of children with disabilities.

(a) *Importance of the problem* (9 points total).

(1) The Secretary considers the importance of the problem.

(2) In determining the importance of the problem, the Secretary considers the following factors:

(i) The extent to which the applicant clearly describes the need and target population (3 points).

(ii) The extent to which the proposed activities address a significant need of those who provide services to individuals with disabilities (3 points).

(iii) The extent to which the proposed project will have beneficial impact on the target population (3 points).

(b) *Responsiveness to an absolute or competitive priority* (4 points total).

(1) The Secretary considers the responsiveness of the application to the absolute or competitive priority published in the **Federal Register**.

(2) In determining the responsiveness of the application to the absolute or competitive priority, the Secretary considers the following factors:

(i) The extent to which the applicant addresses all requirements of the absolute or competitive priority (2 points).

(ii) The extent to which the applicant's proposed activities are likely to achieve the purposes of the absolute or competitive priority (2 points).

(c) *Design of research activities* (35 points total).

(1) The Secretary considers the extent to which the design of research activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(i) The extent to which the research activities constitute a coherent, sustained approach to research in the field, including a substantial addition to the state-of-the-art (5 points).

(ii) The extent to which the methodology of each proposed research activity is meritorious, including consideration of the extent to which—

(A) The proposed design includes a comprehensive and informed review of the current literature, demonstrating knowledge of the state-of-the-art (5 points);

(B) Each research hypothesis is theoretically sound and based on current knowledge (5 points);

(C) Each sample population is appropriate and of sufficient size (5 points);

(D) The data collection and measurement techniques are appropriate and likely to be effective (5 points); and

(E) The data analysis methods are appropriate (5 points).

(iii) The extent to which anticipated research results are likely to satisfy the original hypotheses and could be used for planning additional research, including generation of new hypotheses where applicable (5 points).

(d) *Design of training activities* (11 points total).

(1) The Secretary considers the extent to which the design of training activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(i) The extent to which the proposed training materials are likely to be effective, including consideration of their quality, clarity, and variety (2 points).

(ii) The extent to which the proposed training methods are of sufficient quality, intensity, and duration (2 points).

(iii) The extent to which the proposed training content—

(A) Covers all of the relevant aspects of the subject matter (1 point); and

(B) If relevant, is based on new knowledge derived from research activities of the proposed project (1 point).

(iv) The extent to which the proposed training materials, methods, and content are appropriate to the trainees, including consideration of the skill level of the trainees and the subject matter of the materials (2 points).

(v) The extent to which the proposed training materials and methods are accessible to individuals with disabilities (1 point).

(vi) The extent to which the applicant is able to carry out the training activities, either directly or through another entity (2 points).

(e) *Design of dissemination activities* (8 points total).

(1) The Secretary considers the extent to which the design of dissemination activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(i) The extent to which the content of the information to be disseminated—

(A) Covers all of the relevant aspects of the subject matter (1 point); and

(B) If appropriate, is based on new knowledge derived from research activities of the project (1 point).

(ii) The extent to which the materials to be disseminated are likely to be effective and usable, including consideration of their quality, clarity, variety, and format (2 points).

(iii) The extent to which the methods for dissemination are of sufficient quality, intensity, and duration (2 points).

(iv) The extent to which the materials and information to be disseminated and the methods for dissemination are appropriate to the target population, including consideration of the familiarity of the target population with the subject matter, format of the information, and subject matter (1 point).

(v) The extent to which the information to be disseminated will be accessible to individuals with disabilities (1 point).

(f) *Design of technical assistance activities* (4 points total).

(1) The Secretary considers the extent to which the design of technical assistance activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(i) The extent to which the methods for providing technical assistance are of sufficient quality, intensity, and duration (1 point).

(ii) The extent to which the information to be provided through technical assistance covers all of the relevant aspects of the subject matter (1 point).

(iii) The extent to which the technical assistance is appropriate to the target population, including consideration of the knowledge level of the target population, needs of the target population, and format for providing information (1 point).

(iv) The extent to which the technical assistance is accessible to individuals with disabilities (1 point).

(g) *Plan of operation* (4 points total).

(1) The Secretary considers the quality of the plan of operation.

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(2) In determining the quality of the plan of operation, the Secretary considers the following factors:

(i) The adequacy of the plan of operation to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, and timelines for accomplishing project tasks (2 points).

(ii) The adequacy of the plan of operation to provide for using resources, equipment, and personnel to achieve each objective (2 points).

(f) *Collaboration* (2 points total).

(1) The Secretary considers the quality of collaboration.

(2) In determining the quality of collaboration, the Secretary considers the following factors:

(i) The extent to which the applicant's proposed collaboration with one or more agencies, organizations, or institutions is likely to be effective in achieving the relevant proposed activities of the project (1 point).

(ii) The extent to which agencies, organizations, or institutions demonstrate a commitment to collaborate with the applicant (1 point).

(g) *Adequacy and reasonableness of the budget* (3 points total).

(1) The Secretary considers the adequacy and the reasonableness of the proposed budget.

(2) In determining the adequacy and the reasonableness of the proposed budget, the Secretary considers the following factors:

(i) The extent to which the costs are reasonable in relation to the proposed project activities (1 point).

(ii) The extent to which the budget for the project, including any subcontracts, is adequately justified to support the proposed project activities (2 points).

(h) *Plan of evaluation* (7 points total).

(1) The Secretary considers the quality of the plan of evaluation.

(2) In determining the quality of the plan of evaluation, the Secretary considers the following factors:

(i) The extent to which the plan of evaluation provides for periodic assessment of progress toward—

(A) Implementing the plan of operation (1 point); and

(B) Achieving the project's intended outcomes and expected impacts (1 point).

(ii) The extent to which the plan of evaluation will be used to improve the performance of the project through the feedback generated by its periodic assessments (1 point).

(iii) The extent to which the plan of evaluation provides for periodic assessment of a project's progress that is based on identified performance measures that—

(A) Are clearly related to the intended outcomes of the project and expected impacts on the target population (2 points); and

(B) Are objective, and quantifiable or qualitative, as appropriate (2 points).

(i) *Project staff* (9 points total).

(1) The Secretary considers the quality of the project staff.

(2) In determining the quality of the project staff, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability (1 point).

(3) In addition, the Secretary considers the following factors:

(i) The extent to which the key personnel and other key staff have appropriate training and experience in disciplines required to conduct all proposed activities (2 points).

(ii) The extent to which the commitment of staff time is adequate to accomplish all the proposed activities of the project (2 points).

(iii) The extent to which the key personnel are knowledgeable about the methodology and literature of pertinent subject areas (2 points).

(iv) The extent to which the project staff includes outstanding scientists in the field (2 points).

(j) *Adequacy and accessibility of resources* (4 points).

(1) The Secretary considers the adequacy and accessibility of the applicant's resources to implement the proposed project.

(2) In determining the adequacy and accessibility of resources, the Secretary considers the following factors:

(i) The extent to which the applicant is committed to provide adequate facilities, equipment, other resources, including administrative support, and laboratories, if appropriate (1 point).

(ii) The extent to which the applicant has appropriate access to clinical populations and organizations representing individuals with disabilities to support advanced clinical rehabilitation research (2 points).

(iii) The extent to which the facilities, equipment, and other resources are appropriately accessible to individuals with disabilities who may use the facilities, equipment, and other resources of the project (1 point).

Instructions for Application Narrative

The Secretary strongly recommends that applicants:

(1) Include a one-page abstract in their application;

(2) Limit Part III—Application Narrative to no more than 125 pages for RRTCs and 75 pages for projects;

(3) Use pages that are 8½ x 11" (one side only) with one inch margins (top, bottom, and sides);

(4) Double-space (no more than 3 lines per vertical inch) all sections of text in the application narrative; and

(5) Use no smaller than a 12-point font, and an average character density no greater than 14 characters per inch.

The recommended application narrative page limit does not apply to: Part I—the electronically scannable form; Part II—the budget section (including the narrative budget justification); and Part IV—the assurances and certifications. Also, the one-page abstract, resume(s), bibliography, or letters of support, while considered part of the application, are not subject to the recommended page limitation. Applicants should note that reviewers are not required to review any information provided in addition to the application information listed above.

The recommendations for double-spacing and font do not apply within charts, tables, figures, and graphs, but the information presented in those formats should be easily readable.

Instructions for Transmittal of Applications

(a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA # [Applicant must insert number and letter]), Washington, D.C. 20202–4725, or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. [Washington, D.C. time] on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA # [Applicant must insert number and letter]), Room #3633, Regional Office Building #3, 7th and D Streets, SW., Washington, DC.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) An applicant wishing to know that its application has been received by the Department must include with the application a stamped self-addressed postcard containing the CFDA number and title of this program.

(3) The applicant *must* indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and letter, if any—of the competition under which the application is being submitted.

Application Forms and Instructions

The appendix to this application is divided into four parts. These parts are organized in the same manner that the submitted application should be organized. These parts are as follows:

PART I: Application for Federal Assistance (Standard Form 424 (Rev. 4–88)) and instructions.

PART II: Budget Form—Non-Construction Programs (Standard Form 524A) and instructions.

PART III: Application Narrative.

Additional Materials

Estimated Public Reporting Burden.

Assurances—Non-Construction Programs (Standard Form 424B).

Certification Regarding Lobbying, Debarment, Suspension, and Other Responsibility Matters: and Drug-Free Work-Place Requirements (ED Form 80–0013).

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED Form 80–0014) and instructions. (Note: ED Form GCS–014 is intended for the use of primary participants and should not be transmitted to the Department.)

Disclosure of Lobbying Activities (Standard Form LLL (if applicable) and instructions; and Disclosure of Lobbying Activities Continuation Sheet (Standard Form LLL–A).

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and the certifications must each have an *original signature*. No grant may be awarded unless a completed application form has been received.

For Applications Contact: The Grants and Contracts Service Team (GCST), Department of Education, 600 Independence Avenue S.W., Switzer Building, 3317, Washington, D.C. 20202, or call (202) 205–8207. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–9860. The preferred method for requesting information is to FAX your request to (202) 205–8717.

Individuals with disabilities may obtain a copy of the application package in an alternate format by contacting the GCST. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

FOR FURTHER INFORMATION CONTACT: Donna Nangle, U.S. Department of Education, 600 Maryland Avenue, S.W., room 3418, Switzer Building, Washington, D.C. 20202–2645. Telephone: (202) 205–5880. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–2742. Internet: Donna_Nangle@ed.gov

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg.htm

http://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the preceding sites. If you have questions about using the pdf, call the U.S. Government Printing Office at (202) 512–1530 or, toll free at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of this document is the document published in the **Federal Register**.

Program Authority: 29 U.S.C. 760–762.

Dated: June 26, 1998.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

Appendix—Application Forms and Instructions

Applicants are advised to reproduce and complete the application forms in this section. Applicants are required to submit an original and two copies of each application as provided in this section. However, applicants are encouraged to submit an original and seven copies of each application in order to facilitate the peer review process and minimize copying errors.

Frequent Questions

1. Can I Get an Extension of the Due Date?

No! On rare occasions the Department of Education may extend a closing date for all applicants. If that occurs, a notice of the revised due date is published in the **Federal Register**. However, there are no extensions or exceptions to the due date made for individual applicants.

2. What Should be Included in the Application?

The application should include a project narrative, vitae of key personnel, and a budget, as well as the Assurances forms included in this package. Vitae of staff or consultants should include the individual's title and role in the proposed project, and other information that is specifically pertinent to this proposed project. The budgets for both the first year and all subsequent project years should be included.

If collaboration with another organization is involved in the proposed activity, the application should include assurances of participation by the other parties, including written agreements or assurances of cooperation. It is *not* useful to include general letters of support or endorsement in the application.

If the applicant proposes to use unique tests or other measurement instruments that are not widely known in the field, it would be helpful to include the instrument in the application.

Many applications contain voluminous appendices that are not helpful and in many cases cannot even be mailed to the reviewers. It is generally not helpful to include such things as brochures, general capability statements of collaborating organizations, maps, copies of publications, or descriptions of other projects completed by the applicant.

3. What Format Should be Used for the Application?

NIDRR generally advises applicants that they may organize the application to follow the selection criteria that will be used. The specific review criteria vary according to the specific program and are contained in this Consolidated Application Package.

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4. May I Submit Applications to More Than One NIDRR Program Competition or More Than One Application to a Program?

Yes, you may submit applications to any program for which they are responsive to the program requirements. You may submit the same application to as many competitions as you believe appropriate. You may also submit more than one application in any given competition.

5. What is the Allowable Indirect Cost Rate?

The limits on indirect costs vary according to the program and the type of application.

An applicant for an RRTC is limited to an indirect cost rate of 15 percent.

An applicant for a Disability and Rehabilitation Research Project should limit indirect charges to the organization's approved indirect cost rate. If the organization does not have an approved indirect cost rate, the application should include an estimated actual rate.

6. Can Profitmaking Businesses Apply for Grants?

Yes. However, for-profit organizations will not be able to collect a fee or profit on the grant, and in some programs will be required to share in the costs of the project.

7. Can Individuals Apply for Grants?

No. Only organizations are eligible to apply for *grants* under NIDRR programs. However, individuals are the only entities eligible to apply for fellowships.

8. Can NIDRR Staff Advise me Whether my Project is of Interest to NIDRR or Likely to be Funded?

No. NIDRR staff can advise you of the requirements of the program in which you propose to submit your application. However, staff cannot advise you of whether your subject area or proposed approach is likely to receive approval.

9. How Do I Assure That my Application Will be Referred to the Most Appropriate Panel for Review?

Applicants should be sure that their applications are referred to the correct competition by clearly including the competition title and CFDA number, including alphabetical code, on the Standard Form 424, and including a project title that describes the project.

10. How Soon After Submitting my Application Can I Find Out if it Will be Funded?

The time from closing date to grant award date varies from program to program. Generally speaking, NIDRR endeavors to have awards made within five to six months of the closing date. Unsuccessful applicants generally will be notified within that time frame as well. For the purpose of estimating a project start date, the applicant should estimate approximately six months from the closing date, but no later than the following September 30.

11. Can I Call NIDRR to Find Out if my Application is Being Funded?

No. When NIDRR is able to release information on the status of grant applications, it will notify applicants by letter. The results of the peer review cannot be released except through this formal notification.

12. If my Application is Successful, Can I Assume I Will Get the Requested Budget Amount in Subsequent Years?

No. Funding in subsequent years is subject to availability of funds and project performance.

13. Will all Approved Applications be Funded?

No. It often happens that the peer review panels approve for funding more applications than NIDRR can fund within available resources. Applicants who are approved but not funded are encouraged to consider submitting similar applications in future competitions.

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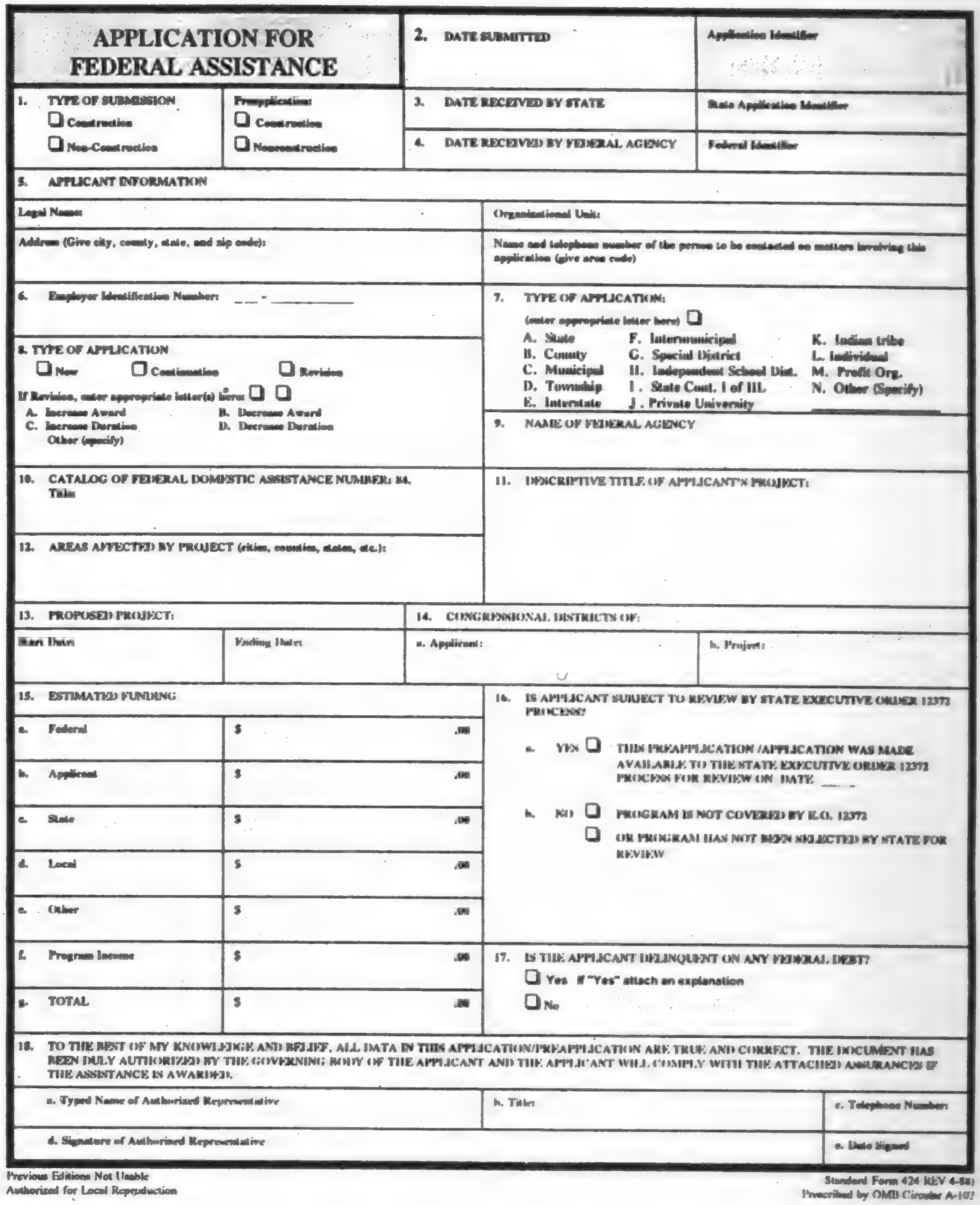

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED

Application Identifier

1. TYPE OF SUBMISSION

☐ Construction

☐ Non-Construction

Preapplication:

☐ Construction

☐ Nonconstruction

3. DATE RECEIVED BY STATE

State Application Identifier

4. DATE RECEIVED BY FEDERAL AGENCY

Federal Identifier

5. APPLICANT INFORMATION

Legal Name:

Organizational Unit:

Address (Give city, county, state, and zip code):

Name and telephone number of the person to be contacted on matters involving this application (give area code)

6. Employer Identification Number: __ - _______

7. TYPE OF APPLICATION:

(enter appropriate letter here) ☐

A. State	F. Intermunicipal	K. Indian tribe
B. County	G. Special District	L. Individual
C. Municipal	H. Independent School Dist.	M. Profit Org.
D. Township	I. State Cont. I of HL	N. Other (Specify)
E. Interstate	J. Private University	

8. TYPE OF APPLICATION

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) here: ☐ ☐

A. Increase Award B. Decrease Award

C. Increase Duration D. Decrease Duration

Other (specify)

9. NAME OF FEDERAL AGENCY

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 84.

Title

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.):

13. PROPOSED PROJECT:

Start Date: Ending Date:

14. CONGRESSIONAL DISTRICTS OF:

a. Applicant: b. Project:

15. ESTIMATED FUNDING:

a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICANT SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES ☐ THIS PREAPPLICATION /APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE ___

b. NO ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes" attach an explanation

☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Typed Name of Authorized Representative

b. Title:

c. Telephone Number:

d. Signature of Authorized Representative

e. Date Signed

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Standard Form 424 (REV 4-88)

Prescribed by OMB Circular A-102

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INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item:	Entry:
1.	Self-explanatory.
2.	Date application submitted to Federal agency (or State if applicable) & applicants control number (if applicable).
3.	State use only (if applicable).
4.	If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5.	Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matter related to this application.
6.	Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7.	Enter the appropriate letter in the space provided.
8.	Check appropriate box and enter appropriate letter(s) in the space(s) provided: - "New" means a new assistance award. - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date. - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9.	Name of Federal agency from which assistance is being requested with this application.
10.	Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11.	Enter a brief descriptive title of the project, if more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications use a separate sheet to provide a summary description of this project.
12.	List the State and area (county, city, etc.) the applicant is applying to serve with this application.
13.	Self-explanatory.
14.	List the applicant's Congressional District and any District(s) affected by the program or project.
15.	Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16.	Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17.	This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18.	To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application).

SF 424 (Rev. 4-88) Back

U.S. DEPARTMENT OF EDUCATION

BUDGET INFORMATION

NON-CONSTRUCTION PROGRAMS

OMB Control No. 1880--0538

Expiration Date: 10/31/99

Name of Institution/Organization

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION A - BUDGET SUMMARY
U.S. DEPARTMENT OF EDUCATION FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

ED FORM NO. 524

Name of Institution/Organization	Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION B - BUDGET SUMMARY
NON-FEDERAL FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

SECTION C - OTHER BUDGET INFORMATION (see instructions)

ED FORM NO. 524

Public reporting burden for this collection of information is estimated to vary from 13 to 22 hours per response, with an average of 17.5 hours, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202-4651; and the Office of Management and Budget, Paperwork Reduction Project 1875-0102, Washington, D.C. 20503.

INSTRUCTIONS FOR ED FORM NO. 524

General Instructions

This form is used to apply to individual U.S. Department of Education discretionary grant programs. Unless directed otherwise, provide the same budget information for each year of the multi-year funding request. Pay attention to applicable program specific instructions, if attached.

Section A - Budget Summary
U.S. Department of Education Funds

All applicants must complete Section A and provide a breakdown by the applicable budget categories shown in lines 1-11.

Lines 1-11, columns (a)-(e): For each project year for which funding is requested, show the total amount requested for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If funding is requested for only one project year, leave this column blank.

Line 12, columns (a)-(e): Show the total budget request for each project year for which funding is requested.

Line 12, column (f): Show the total amount requested for all project years. If funding is requested for only one year, leave this space blank.

Section B - Budget Summary
Non-Federal Funds

If you are required to provide or volunteer to provide matching funds or other non-Federal resources to the project, these should be shown for each applicable budget category on lines 1-11 of Section B.

Lines 1-11, columns (a)-(e): For each project year for which matching funds or other contributions are provided, show the total contribution for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If non-Federal contributions are provided for only one year, leave this column blank.

Line 12, columns (a)-(e): Show the total matching or other contribution for each project year.

Line 12, column (f): Show the total amount to be contributed for all years of the multi-year project. If non-Federal contributions are provided for only one year, leave this space blank.

Section C - Other Budget Information
Pay attention to applicable program specific instructions, if attached.

1. Provide an itemized budget breakdown, by project year, for each budget category listed in Sections A and B.
2. If applicable to this program, enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period. In addition, enter the estimated amount of the base to which the rate is applied, and the total indirect expense.
3. If applicable to this program, provide the rate and base on which fringe benefits are calculated.
4. Provide other explanations or comments you deem necessary.

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Public reporting burden for these collections of information is estimated to average 30 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding this burden estimate or any other aspect of these collections of information, including suggestions for reducing this burden, to the: U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202–4651; and Office of Management and Budget, Paperwork Reduction Project 1820–0027, Washington, D.C. 20503. *Disability and Rehabilitation Research Projects* (CFDA No. 84.133A) 34 CFR Part 350 Subpart B. *Rehabilitation Research and Training Center* (CFDA No. 84.133B) 34 CFR Part 350 Subpart C.

Notice to All Applicants

Thank you for your interest in this program. The purpose of this enclosure is to inform you about a new provision in the Department of Education's General Education Provisions Act (GEPA) that applies to applicants for new grant awards under Department programs. This provision is section 427 of GEPA, enacted as part of the Improving America's Schools Act of 1994 (Pub. L. 103–382).

To Whom Does This Provision Apply?

Section 427 of GEPA affects applicants for new discretionary grant awards under this program. *ALL APPLICANTS FOR NEW AWARDS MUST INCLUDE INFORMATION IN THEIR APPLICATION TO ADDRESS THIS NEW PROVISION IN ORDER TO RECEIVE FUNDING UNDER THIS PROGRAM.*

What Does This Provision Require?

Section 427 requires each applicant for funds (other than on individual person) to include in its application a description of the steps the applicant proposes to take to ensure equitable access to, and participation in, its federally assisted program for students, teachers, and other program beneficiaries with special needs.

This section allows applicants discretion in developing the required description. The statute highlights six types of barriers that can impede equitable access or participation that you may address: gender, race, national origin, color, disability, or age. Based on local circumstances, you can determine whether these or other barriers may prevent your students, teachers, etc. from equitable access or participation. Your description need not be lengthy; you may provide a clear and succinct description of how you plan to address those barriers that are applicable to your circumstances. In addition, the information may be provided in a single narrative, or, if appropriate, may be discussed in connection with related topics in the application.

Section 427 is not intended to duplicate the requirement of civil rights statutes, but rather to ensure that, in designing their projects, applicants for Federal funds address equity concerns that may affect the ability of certain potential beneficiaries to fully participate in the project and to achieve to high standards. Consistent with program requirements and its approved application, an applicant may use the Federal funds awarded to its to eliminate barriers it identifies.

What are Examples of How an Applicant Might Satisfy the Requirement of This Provision?

The following examples may help illustrate how an applicant may comply with section 427.

(1) An applicant that proposes to carryout an adult literacy project serving, among others, adults with limited English proficiency, might describe in its application how it intends to distribute a brochure about the proposed project to such potential participants in their native language.

(2) An applicant that proposes to develop instructional materials for classroom use might describe how it will make the materials available on audio tape or in braille for students who are blind.

(3) An applicant that proposes to carry out a model science program for secondary students and is concerned that girls may be less likely than boys to enroll in the course, might indicate how it intends to conduct "outreach" efforts to girls, to encourage their enrollment.

We recognize that many applicants may already be implementing effective steps to ensure equity of access and participation in their grant programs, and we appreciate your cooperation in responding to the requirements of this provision.

Estimated Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 1801–0004 (Exp. 8/31/98). The time required to complete this information collection is estimated to vary from 1 to 3 hours per response, with an average of 1.5 hours, including the time to review instructions, search existing data resources, gather and maintain the data needed, and complete and review the information collection. If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: U.S. Department of Education, Washington, DC 20202–4651.

BILLING CODE 4001–01–P

OMB Approval No. 0348-0040

ASSURANCES- NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management, and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to non-discrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §§874) and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to

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Standard Form 424B (4-88) *Prescribed by OMB Circular A-102*

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EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

Signature of Authorized Certifying Official	Title
Applicant Organization	Date Submitted

SF 424 (4-88) Back

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

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1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

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2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110--

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c)Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

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3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about-

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will-

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

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(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants Policy and Oversight Staff, U.S. Department of Education, 600 Independence Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted-

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address. city, county, state, zip code)

____

____

____

Check [ ] if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610-

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants Policy and Oversight Staff, Department of Education, 600 Independence Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND / OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant,' " person," "primary covered transaction," " principal," proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV.12/88), which is obsolete)

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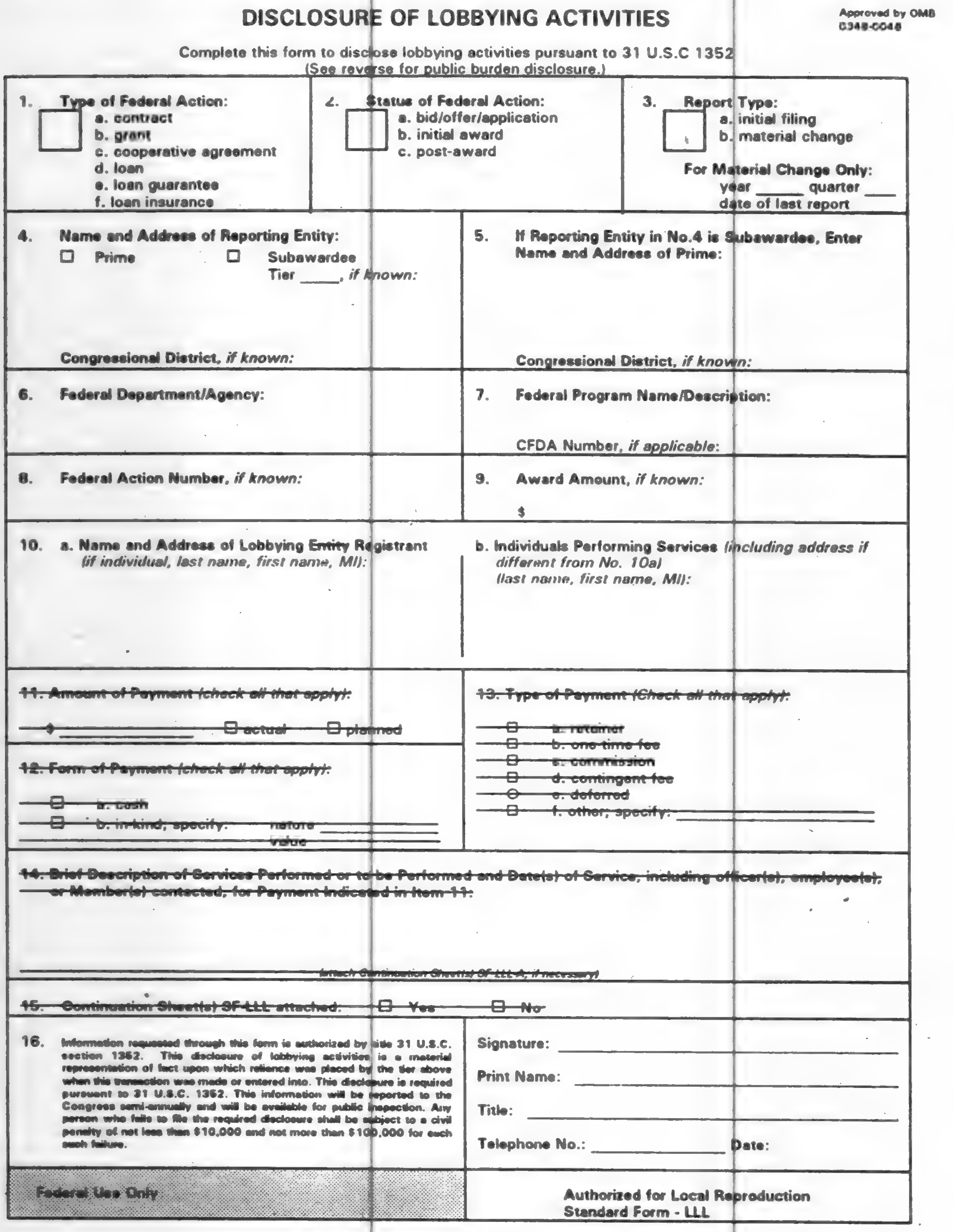

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action: ☐
a. contract
b. grant
c. cooperative agreement
d. loan
e. loan guarantee
f. loan insurance

2. Status of Federal Action: ☐
a. bid/offer/application
b. initial award
c. post-award

3. Report Type: ☐
a. initial filing
b. material change

For Material Change Only:
year _____ quarter ___
date of last report

4. Name and Address of Reporting Entity:
☐ Prime ☐ Subawardee
Tier _____, *if known:*

Congressional District, *if known:*

5. If Reporting Entity in No.4 is Subawardee, Enter Name and Address of Prime:

Congressional District, *if known:*

6. Federal Department/Agency:

7. Federal Program Name/Description:

CFDA Number, *if applicable:*

8. Federal Action Number, *if known:*

9. Award Amount, *if known:*
$

10. a. Name and Address of Lobbying Entity Registrant
(if individual, last name, first name, MI):

b. Individuals Performing Services *(including address if different from No. 10a)*
(last name, first name, MI):

~~11. Amount of Payment *(check all that apply):*~~
~~$ ______________ ☐ actual ☐ planned~~

~~12. Form of Payment *(check all that apply):*~~
~~☐ a. cash~~
~~☐ b. in-kind; specify: nature ___________~~
~~value ___________~~

~~13. Type of Payment *(Check all that apply):*~~
~~☐ a. retainer~~
~~☐ b. one-time fee~~
~~☐ c. commission~~
~~☐ d. contingent fee~~
~~○ e. deferred~~
~~☐ f. other; specify: ___________~~

~~14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:~~

~~*(attach Continuation Sheet(s) SF-LLL-A, if necessary)*~~

~~15. Continuation Sheet(s) SF-LLL attached: ☐ Yes ☐ No~~

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: ___________________
Print Name: ___________________
Title: ___________________
Telephone No.: ___________ Date:

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Standard Form - LLL

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. ~~Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate.~~ Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a follow up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and conract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee" then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number, grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state, and zip code of the ~~lobbying entity~~ registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).

~~11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this a material change report, enter the cumulative amount of payment made or planned to be made.~~

~~12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of in-kind payment.~~

~~13. Check the appropriate box(es). Check all boxes that apply. If other specify nature.~~

~~14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.~~

~~15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.~~

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions

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DUNS Number Instructions

D–U–N–S No.: Please provide the applicant's D–U–N–S Number. You can obtain your D–U–N–S Number at no charge by calling 1–800–333–0505 or by completing a D–U–N–S Number Request Form. The form can be obtained via the Internet at the following URL:

http://www.dnb.com/dbis/aboutdb/intlduns.htm

The D–U–N–S Number is a unique nine-digit number that does not convey any information about the recipient. A built in check digit helps assure the accuracy of the D–U–N–S Number. The ninth digit of each number is the check digit, which is mathematically related to the other digits. It lets computer systems determine if a D–U–N–S Number has been entered correctly.

Dun & Bradstreet, a global information services provider, has assigned D–U–N–S numbers to over 43 million companies worldwide.

[FR Doc. 98–17583 Filed 7–1–98; 8:45 am]

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federal register

Thursday
July 2, 1998

Part III

Department of Education

Indian Vocational Education Program; Inviting Applications for New Awards for Fiscal Year 1998; Notice

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DEPARTMENT OF EDUCATION

[CFDA No: 84.101]

Indian Vocational Education Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1998

Notice to Applicants: This notice is a complete application package. Together with the statute authorizing the program and applicable regulations governing the program, including the Education Department General Administrative Regulations (EDGAR), the notice contains all of the information, application forms, and instructions needed to apply for a grant under this competition.

Purpose of Program: To provide financial assistance to Indian tribes and certain schools funded by the Department of the Interior to plan, conduct, and administer projects, or portions of projects, that are authorized by and consistent with the Carl D. Perkins Vocational and Applied Technology Education Act of 1990 (Act), as amended, 20 U.S.C. 2301 *et seq.*

Eligible Applicants: The following entities are eligible for an award under this program:

(a) A tribal organization of any Indian tribe that is eligible to contract with the Secretary of the Interior under the Indian Self-Determination and Education Assistance Act or under the Act of April 16, 1934.

(b) A Bureau-funded school offering a secondary program.

(c) Any tribal organization or Bureau-funded school described in paragraphs (a) or (b) of this section may apply individually or as part of a consortium with one or more eligible tribal organizations or schools.

When seeking to apply for funds as a consortium, individual eligible applicants must enter into an agreement signed by all members of the consortium and designating one member of the consortium as the applicant and grantee. The consortium's agreement must detail the activities each member of the consortium plans to perform, and must bind each member to every statement and assurance made in the consortium's application. The designated applicant must submit the consortium's agreement with its application.

Submission of Applications

(a) An application from a tribal organization, other than a Bureau-funded school, must be submitted to the Secretary by the Indian tribe.

(b) An application for a project to serve more than one Indian tribe must be approved by each tribe to be served.

(c) An application from a Bureau-funded school may be submitted directly to the Secretary.

Deadline for Transmittal of Applications: September 18, 1998.

Available Funds: $12,529,088 for the first 12 months of the 24-month project period. Funding for the second 12-month period of the 24-month project period is subject to the availability of funds and to a grantee meeting the requirements of 34 CFR 75.253.

Estimated Range of Awards: $250,000 to $500,000 for the first 12 months.

Estimated Average Size of Awards: $375,000.

Estimated Number of Awards: 35.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 24 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR Part 74 (Administration of Grants and Agreements to Institutions of Higher Education, Hospitals and Nonprofit Organizations).

(2) 34 CFR Part 75 (Direct Grant Programs).

(3) 34 CFR Part 77 (Definitions that Apply to Department Regulations).

(4) 34 CFR Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(5) 34 CFR Part 81 (General Education Provisions Act—Enforcement).

(6) 34 CFR Part 85 (Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)).

(7) 34 CFR Part 86 (Drug-Free Schools and Campuses).

(b) The regulations for this program in 34 CFR parts 400 and 401.

Definitions

Applicants are encouraged to take particular note of the following definitions that are contained in 34 CFR 401.5:

Act of April 16, 1934 means the Federal law commonly known as the "Johnson-O'Malley Act," that authorizes the Secretary of the Interior to make contracts for the education of Indians and other purposes (25 U.S.C. 455–457).

Bureau means the Bureau of Indian Affairs, Department of the Interior.

Bureau-funded school means—

(1) A Bureau-operated elementary or secondary day or boarding school or a Bureau-operated dormitory for students attending a school other than a Bureau school;

(2) An elementary or secondary school or a dormitory that receives financial assistance for its operation under a contract or agreement with the Bureau under section 102, 104(1), or 208 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f, 450h(1), and 458d); or

(3) A school for which assistance is provided under the Tribally Controlled Schools Act of 1988.

Indian tribe means any Indian tribe, band, Nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) that is federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Tribal organization means the recognized governing body of any Indian tribe or any legally established organization of Indians that is controlled, sanctioned, or chartered by that governing body or that is democratically elected by the adult members of the Indian community to be served by the organization and that includes the maximum participation of Indians in all phases of its activities. However, in any case where a contract is let or grant made to an organization to perform services benefiting more than one Indian tribe, the approval of each of those Indian tribes must be a prerequisite to the letting or making of that contract or grant.

SUPPLEMENTARY INFORMATION: In response to recent notices inviting applications under the Indian Vocational Education Program, a number of Indian tribal organizations and Bureau-funded schools have submitted applications proposing projects that were designed to use a majority of the funds to prepare students for a high school equivalency diploma. Although a high school diploma or its equivalent certainly enhances a student's ability to benefit from postsecondary vocational education, applicants are reminded that projects must use funds under the Indian Vocational Education Program only to provide vocational education that is authorized by and consistent with the Act. Vocational education includes: (a) remedial education, only to the extent that it is necessary for a vocational education student to benefit from vocational instruction, and (b) the integration of academic and vocational education through coherent sequences of courses so that students achieve both academic and occupational competencies. Grantees may not pay for the cost of academic courses that are not directly related to the occupational skill being taught in a vocational education program.

The Secretary recognizes that in many Indian communities the need for a high school equivalency diploma may be as great as the need for vocational training and, therefore, encourages Indian tribal organizations and Bureau-funded schools to seek other resources to address the former need.

Priority: Under 34 CFR 75.105(c)(1), the Secretary is particularly interested in receiving applications that meet the following invitational priority:

Projects that include a valid, reliable, and otherwise meaningful plan for conducting an evaluation of the effectiveness of the project. The project must include an evaluation plan that—

(a) Is clearly explained and appropriate for the project;

(b) Identifies at a minimum—

(1) The types of quantifiable data to be collected and reported with respect to the academic and vocational competencies demonstrated by participants and the number and kinds of academic and work credentials acquired by individuals who complete the training, including participation in programs providing training at the associate degree level that is articulated with an advanced degree option;

(2) The type of data to be collected and reported with respect to enrollment, completion, and placement of participants by sex, racial or ethnic group, socio-economic status for each occupation for which training is provided;

(3) Job or work skill attainment or enhancement, including participation in apprenticeship and work-based learning programs, and student progress in achieving occupational skills necessary to obtain employment in the field for which the student has been prepared, including occupational skills in the industry the student is preparing to enter; and

(4) The types and numbers of placements into additional training or education, military service, or employment;

(c) Includes activities during the formative stages of the project to help guide and improve the project, as well as a summative evaluation that includes recommendations for replicating project activities and results. A project that will continue to operate after Federal funding ends should also plan for a summative evaluation that includes recommendations for improving the quality of its vocational education services;

(d) Will yield results that can be summarized and submitted to the Secretary for review as a potentially exemplary and promising educational program;

(e) Makes use of an external independent evaluator; and

(f) When appropriate, will provide a comparison between intended and observed results and lead to the demonstration of a clear link between the observed results and the specific treatment of project participants.

Note: An application that meets this invitational priority does not receive competitive or absolute preference over other applications.

Selection Criteria: The Secretary uses the selection criteria contained in 34 CFR 401.21 to evaluate applications for new grants under this competition. However, due to the repeal of the legislation authorizing the Jobs Opportunities and Basic Skills (JOBS) program, the "program factors" criterion included in this notice no longer includes references to the JOBS program. (See Pub. L. 104–193, Title I, Section 108(e), August 22, 1996.) Section 401.21 assigns a total of 85 points for these criteria. Under section 401.20(b), the Secretary is authorized to distribute an additional 15 reserved points among the criteria contained in section 401.21 for a maximum of 100 points for the selection criteria. The maximum score for each criterion is indicated in parentheses.

Criteria

(a) *Program factors.* (25 points) The Secretary reviews each application to determine the extent to which it—

(1) Proposes measurable goals for student enrollment, completion, and placement (including placement in jobs or military specialties and in continuing education or training opportunities) that are realistic in terms of stated needs, resources, and job opportunities in each occupation for which training is to be provided;

(2) Proposes goals that take into consideration any related goals or standards developed for the Job Training Partnership Act (JTPA)(29 U.S.C. 1501 *et seq.*) training programs operating in the area, and, where appropriate, any goals set by the State Board for vocational education for the occupation and geographic area;

(3) Describes, for each occupation for which training is to be provided, how successful program completion will be determined in terms of academic and vocational competencies demonstrated by enrollees prior to completion and any academic or work credentials acquired by enrollees upon completion;

(4) Demonstrates the active commitment in the project's planning and operation by advisory committees, tribal planning offices, the JTPA program director, and potential employers such as tribal enterprises, private enterprises (on or off reservation), and other organizations;

(5) Is targeted to individuals with inadequate skills to assist those individuals in obtaining new employment; and

(6) Includes a thorough description of the approach to be used, including some or all of the following components:

(i) Methods of participant selection.

(ii) Assessment and feedback of participant progress.

(iii) Coordination of vocational instruction, academic instruction, and support services such as counseling, transportation, and child care.

(iv) Curriculum and, if appropriate, approaches for providing on-the-job training experience.

(b) *Need.* (15 points) The Secretary reviews each application to determine the extent to which the project addresses specific needs, including—

(1) The job market and related needs (such as educational level) of the target population;

(2) Characteristics of that population, including an estimate of those to be served by the project;

(3) How the project will meet the needs of the target population; and

(4) A description of any ongoing and planned activities relative to those needs, including, if appropriate, how the State plan developed under 34 CFR 403.30–403.34 is designed to meet those needs.

(c) *Plan of operation.* (15 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(1) The establishment of objectives that are clearly related to project goals and activities and are measurable with respect to anticipated enrollments, completions, and placements;

(2) A management plan that describes the chain of command, how staff will be managed, how coordination among staff will be accomplished, and timelines for each activity; and

(3) The way the applicant intends to use its resources and personnel to achieve each objective.

(d) *Key personnel.* (10 points). (1) The Secretary reviews each application to determine the quality of key personnel the applicant plans to use on the project, including—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used on the project;

(iii) The time, including justification for the time that each one of the key

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personnel, including the project director, will commit to the project; and

(iv) Subject to the Indian preference provisions of the Indian Self-Determination Act (25 U.S.C. 450 *et seq.*) that apply to grants and contracts to tribal organizations, how the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or disabling condition.

(2) To determine personnel qualifications, the Secretary considers—

(i) The experience and training of key personnel in project management and in fields particularly related to the objectives of the project; and

(ii) Any other qualifications of key personnel that pertain to the quality of the project.

(e) *Budget and Cost Effectiveness.* (5 points) The Secretary reviews each application to determine the extent to which—

(1) The budget is adequate to support the project activities;

(2) Costs are reasonable in relation to the objectives of the project and the number of participants to be served; and

(3) The budget narrative justifies the expenditures.

(f) *Evaluation Plan.* (20 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which—

(1) The plan identifies, at a minimum, types of data to be collected and reported with respect to the academic and vocational competencies demonstrated by participants and the number and kind of academic and work credentials acquired by participants who complete the training;

(2) The plan identifies, at a minimum, types of data to be collected and reported with respect to the achievement of project goals for the enrollment, completion, and placement of participants. The data must be broken down by sex and by occupation for which training was provided;

(3) The methods of evaluation are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable; and

(4) The methods of evaluation provide periodic data that can be used by the project for ongoing program improvement.

(g) *Employment opportunities.* (10 points) The Secretary reviews each application to determine the quality of the plan for job placement of participants who complete training under this program, including—

(1) The expected employment opportunities (including any military specialties) and any additional educational or training opportunities that are related to the participants' training;

(2) Information and documentation concerning potential employers' commitment to hire participants who complete training; and

(3) An estimate of the percentage of trainees expected to be employed (including self-employed individuals) in the field for which they were trained following completion of training.

Special Considerations

Under 34 CFR 401.20(e), in addition to the 100 points to be awarded based on the selection criteria in 34 CFR 401.21, the Secretary awards:

(a) Up to 5 points to applications proposing exemplary approaches that involve, coordinate with, or encourage tribal economic development plans; and

(b) Five points to applications from tribally controlled community colleges that—

(1) Are accredited or are candidates for accreditation by a nationally recognized accreditation organization as an institution of postsecondary vocational education; or

(2) Operate vocational education programs that are accredited or are candidates for accreditation by a nationally recognized accreditation organization and issue certificates for completion of vocational education programs.

Additional Factors

Under 34 CFR 401.22, the Secretary may decide not to award a grant or cooperative agreement if—

(a) The proposed project duplicates an effort already being made; or

(b) Funding the project would create an inequitable distribution of funds under this part among Indian tribes.

Instructions for Transmittal of Applications

Applicants are required to submit one original signed application and two copies of the grant application. All forms and assurances must have ink signatures. Please mark applications as "original" or "copy." To aid with the review of applications, the Department encourages applicants to submit four additional copies of the grant application. The Department will not penalize applicants who do not provide additional copies.

(a) If an applicant wants to apply for a grant under this competition, the applicant must either—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA #84.101), Washington, D.C. 20202–4725, or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. (Washington, D.C. time) on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA #84.101), Room #3633, Regional Office Building #3, 7th and D Streets, S.W., Washington, D.C.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) The Application Control Center will mail a Grant Application Receipt Acknowledgment to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 708–9494.

(3) The applicant *must* indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and suffix letter, if any—of the competition under which the application is being submitted.

Application Instructions and Forms: All forms and instructions are included as Appendix A of this notice. Questions and answers pertaining to this program are included, as Appendix B, to assist potential applicants.

To apply for an award under this program competition, your application must be organized in the following order and include the following five parts. The parts and additional materials are as follows:

PART I: Application for Federal Assistance (Standard Form 424 (Rev. 4-88)) and instructions.

PART II: Budget Information—Non-Construction Programs (ED Form No. 524) and instructions.

PART III: Budget Narrative.

PART IV: Program Narrative.

Estimated Public Reporting Burden.

PART V: Additional Assurances and Certifications:

a. Assurances—Non-Construction Programs (Standard Form 424B).

b. Certification regarding Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013) and instructions.

c. Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED Form 80–0014, 9/90) and instructions.

Note: ED Form 80–0014 is intended for the use of grantees and should not be transmitted to the Department.

d. Disclosure of Lobbying Activities (Standard Form LLL)(if applicable) and instructions. This document has been marked to reflect statutory changes. See the notice published by the Office of Management and Budget at 61 FR 1413 (January 19, 1996).

e. Notice to All Applicants.

No grant may be awarded unless a completed application form has been received.

FOR FURTHER INFORMATION CONTACT: Gwen Washington, Linda Mayo or Sonja Turner, Special Programs Branch, Division of National Programs, Office of Vocational and Adult Education, U.S. Department of Education, 600 Independence Avenue, S.W. (Room 4512, Mary E. Switzer Building), Washington, D.C. 20202–7242. Telephone (202) 205–9351. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m. Eastern time, Monday through Friday.

Individuals with disabilities may obtain this notice in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact persons listed in the preceding paragraph. Please note, however, that the Department is not able to reproduce in an alternate format the standard forms included in the notice.

Electronic Access to This Department

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format(pdf) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
http://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the preceding sites. If you have questions about using the pdf, call the U.S. Government Printing Office toll free at 1–888–293–6498.

Anyone may also view these documents in text copy on an electronic bulletin board of the Department. Telephone (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of this document is the document published in the **Federal Register**.

Program Authority: 20 U.S.C. 2313(b).

Dated: June 26, 1998.

Patricia W. McNeil,

Assistant Secretary, Office of Vocational and Adult Education.

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Appendix A

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED

Application Identifier

1. TYPE OF SUBMISSION
☐ Construction
☐ Non-Construction

Preapplication:
☐ Construction
☐ Nonconstruction

3. DATE RECEIVED BY STATE

State Application Identifier

4. DATE RECEIVED BY FEDERAL AGENCY

Federal Identifier

5. APPLICANT INFORMATION

Legal Name:

Organizational Unit:

Address (Give city, county, state, and zip code):

Name and telephone number of the person to be contacted on matters involving this application (give area code)

6. Employer Identification Number: ___ - __________

7. TYPE OF APPLICATION:
(enter appropriate letter here) ☐

A. State	F. Intermunicipal	K. Indian tribe
B. County	G. Special District	L. Individual
C. Municipal	H. Independent School Dist.	M. Profit Org.
D. Township	I. State Cont. I of HL	N. Other (Specify)
E. Interstate	J. Private University	

8. TYPE OF APPLICATION
☐ New ☐ Continuation ☐ Revision
If Revision, enter appropriate letter(s) here: ☐ ☐
A. Increase Award B. Decrease Award
C. Increase Duration D. Decrease Duration
Other (specify)

9. NAME OF FEDERAL AGENCY

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 84. 101
Title: Indian Vocational Education Program

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.):

13. PROPOSED PROJECT:
Start Date:
Ending Date:

14. CONGRESSIONAL DISTRICTS OF:
a. Applicant:
b. Project:

15. ESTIMATED FUNDING

a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICANT SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES ☐ THIS PREAPPLICATION /APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE _____

b. NO ☒ PROGRAM IS NOT COVERED BY E.O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?
☐ Yes If "Yes" attach an explanation
☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Typed Name of Authorized Representative
b. Title:
c. Telephone Number:
d. Signature of Authorized Representative
e. Date Signed

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Standard Form 424 REV 4-88)
Prescribed by OMB Circular A-102

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item:	Entry:
1.	Self-explanatory.
2.	Date application submitted to Federal agency (or State if applicable) & applicants control number (if applicable).
3.	State use only (if applicable).
4.	If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5.	Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matter related to this application.
6.	Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7.	Enter the appropriate letter in the space provided.
8.	Check appropriate box and enter appropriate letter(s) in the space(s) provided: - "New" means a new assistance award. - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date. - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9.	Name of Federal agency from which assistance is being requested with this application.
10.	Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11.	Enter a brief descriptive title of the project, if more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications use a separate sheet to provide a summary description of this project.
12.	List the State and area (county, city, etc.) the applicant is applying to serve with this application.
13.	Self-explanatory.
14.	List the applicant's Congressional District and any District(s) affected by the program or project.
15.	Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16.	Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17.	This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18.	To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application).

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U.S. DEPARTMENT OF EDUCATION

BUDGET INFORMATION

NON-CONSTRUCTION PROGRAMS

OMB Control No. 1880–0538

Expiration Date: 10/31/99

Name of Institution/Organization

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION A - BUDGET SUMMARY
U.S. DEPARTMENT OF EDUCATION FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

ED FORM NO. 524

Name of Institution/Organization	Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION B - BUDGET SUMMARY
NON-FEDERAL FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

SECTION C - OTHER BUDGET INFORMATION (see instructions)

ED FORM NO. 524

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Public reporting burden for this collection of information is estimated to vary from 13 to 22 hours per response, with an average of 17.5 hours, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202-4651; and the Office of Management and Budget, Paperwork Reduction Project 1875-0102, Washington, D.C. 20503.

INSTRUCTIONS FOR ED FORM NO. 524

General Instructions

This form is used to apply to individual U.S. Department of Education discretionary grant programs. Unless directed otherwise, provide the same budget information for each year of the multi-year funding request. Pay attention to applicable program specific instructions, if attached.

Section A - Budget Summary U.S. Department of Education Funds

All applicants must complete Section A and provide a breakdown by the applicable budget categories shown in lines 1-11.

Lines 1-11, columns (a)-(e): For each project year for which funding is requested, show the total amount requested for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If funding is requested for only one project year, leave this column blank.

Line 12, columns (a)-(e): Show the total budget request for each project year for which funding is requested.

Line 12, column (f): Show the total amount requested for all project years. If funding is requested for only one year, leave this space blank.

Section B - Budget Summary Non-Federal Funds

If you are required to provide or volunteer to provide matching funds or other non-Federal resources to the project, these should be shown for each applicable budget category on lines 1-11 of Section B.

Lines 1-11, columns (a)-(e): For each project year for which matching funds or other contributions are provided, show the total contribution for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If non-Federal contributions are provided for only one year, leave this column blank.

Line 12, columns (a)-(e): Show the total matching or other contribution for each project year.

Line 12, column (f): Show the total amount to be contributed for all years of the multi-year project. If non-Federal contributions are provided for only one year, leave this space blank.

Section C - Other Budget Information Pay attention to applicable program specific instructions, if attached.

1. Provide an itemized budget breakdown, by project year, for each budget category listed in Sections A and B.
2. If applicable to this program, enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period. In addition, enter the estimated amount of the base to which the rate is applied, and the total indirect expense.
3. If applicable to this program, provide the rate and base on which fringe benefits are calculated.
4. Provide other explanations or comments you deem necessary.

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PART II—BUDGET INFORMATION

Instructions for Part II—Budget Information

Sections A and B—Budget Summary by Categories

1. *Personnel:* Show salaries to be paid to personnel for each budget year.
2. *Fringe Benefits:* Indicate the rate and amount of fringe benefits for each budget year.
3. *Travel:* Indicate the amount requested for both local and out of State travel of Project Staff for each budget year. Include funds for at least one trip for two people to attend the Project Director's Workshop.
4. *Equipment:* Indicate the cost of non-expendable personal property that has a cost of $5,000 or more per unit for each budget year.
5. *Supplies:* Include the cost of consumable supplies and materials to be used during the project period for each budget year.
6. *Contractual:* Show the amount to be used for: (1) procurement contracts (except those which belong on other lines such as supplies and equipment); and (2) sub-contracts for each budget year.
7. *Construction:* Not Applicable.
8. *Other:* Indicate all direct costs not clearly covered by lines 1 through 6 above, including consultants and capital expenditures for each budget year.
9. *Total Direct Cost:* Show the total for Lines 1 through 8 for each budget year.
10. *Indirect Costs:* Indicate the rate and amount of indirect costs for each budget year.
11. *Training/stipend Cost:* Indicate cost per student and number of hours of instruction. The amount of a stipend may be the greater of either the minimum hourly wage prescribed by state or local law or the minimum hourly wage set under the Fair Labor Standards Act. Please carefully read 34 CFR 401.3(c) for additional information on stipends.
12. *Total Costs:* Show total for lines 9 through 11 for each budget year.

Instructions for Part III—Budget Narrative

The budget narrative should explain, justify, and, if needed, clarify your budget summary. For each line item (personnel, fringe benefits, travel, etc.) in your budget, explain why it is there and how you computed the costs.

Please limit this section to no more than five pages. Be sure that each page of your application is numbered consecutively.

Instructions for Part IV—Program Narrative

The program narrative will comprise the largest portion of your application. This part is where you spell out the who, what, when, why, and how, of your proposed project.

Although you will not have a form to fill out for your narrative, there is a format. This format is based on the selection criteria. Because your application will be reviewed and rated by a review panel on the basis of the selection criteria, your narrative should follow the order and format of the criteria.

Before preparing your application, you should carefully read the legislation and regulations of the program, eligibility requirements, special considerations, and the selection criteria for this competition.

Your program narrative should be clear, concise, and to the point. Begin the narrative with a one page abstract or summary of your project. Then describe the project in detail, addressing each selection criterion in order.

The Secretary strongly suggests that you limit the program narrative to no more than 30 double-spaced, typed pages (on one side only), although the Secretary will consider your application if it is longer. Be sure to number consecutively ALL pages in your application.

You may include supporting documentation as appendices to the program narrative. Be sure that this material is concise and pertinent to this program competition.

You are advised that—

(a) The Secretary considers only information contained in the application in ranking applications for funding consideration. Letters of support sent separately from the formal application package are not considered in the review by the technical review panels. (34 CFR 75.217)

(b) The technical review panel evaluates each application solely on the basis of the selection criteria contained in this notice and in 34 CFR 401.21 and the special consideration contained in this notice and in 34 CFR 401.20(e)(1).

(c) The Secretary awards five points to applications from tribally-controlled community colleges, under the terms of 34 CFR 401.20(e)(2).

(d) Letters of support included as appendices to an application, that are of direct relevance to or contain commitments that pertain to the established selection criteria, such as commitment of resources, will be reviewed by the panel.

Estimated Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 1830–0013. (Expiration date: 06/30/99). The time required to complete this information collection is estimated to average 90 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection.

If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: U.S. Department of Education, Washington, D.C. 20202–4651.

If you have comments or concerns regarding the status of your individual submission of this form, write directly to: Gwen Washington, Linda Mayo or Sonja Turner, Division of National Programs, Office of Vocational and Adult Education, U.S. Department of Education, 600 Independence Avenue, S.W. (Room 4512, Mary E. Switzer Building), Washington D.C. 20202–7242.

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OMB Approval No. 0348-0040

ASSURANCES- NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management, and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to non-discrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §§874) and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO

11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1721 et seq) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

Signature of Authorized Certifying Official	Title
Applicant Organization	Date Submitted

[illegible]

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CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110--

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about-

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will-

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants and Contracts Service, U.S. Department of Education, 600 Independence Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20220-4571. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted-

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

____

____

____

Check [ ] if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610-

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants and Contracts Service, Department of Education, 600 Independence Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND / OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013

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Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," " person," "primary covered transaction," " principal," proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of these regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV.12/88), which is obsolete)

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:
☐
a. contract
b. grant
c. cooperative agreement
d. loan
e. loan guarantee
f. loan insurance

2. Status of Federal Action:
☐
a. bid/offer/application
b. initial award
c. post-award

3. Report Type:
☐
a. initial filing
b. material change
For Material Change Only:
year _____ quarter _____
date of last report

4. Name and Address of Reporting Entity:
☐ Prime ☐ Subawardee
Tier _____, *if known:*

Congressional District, *if known:*

5. If Reporting Entity in No.4 is Subawardee, Enter Name and Address of Prime:

Congressional District, *if known:*

6. Federal Department/Agency:

7. Federal Program Name/Description:

CFDA Number, *if applicable:*

8. Federal Action Number, *if known:*

9. Award Amount, *if known:*
$

10. a. Name and Address of Lobbying Entity Registrant *(if individual, last name, first name, MI):*

b. Individuals Performing Services *(including address if different from No. 10a)* *(last name, first name, MI):*

~~11. Amount of Payment (check all that apply):~~
~~$ _____ ☐ actual ☐ planned~~

~~12. Form of Payment (check all that apply):~~
~~☐ a. cash~~
~~☐ b. in-kind; specify: nature _____~~
~~value _____~~

~~13. Type of Payment (Check all that apply):~~
~~☐ a. retainer~~
~~☐ b. one-time fee~~
~~☐ c. commission~~
~~☐ d. contingent fee~~
~~☐ e. deferred~~
~~☐ f. other; specify: _____~~

~~14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:~~

~~(attach Continuation Sheet(s) SF-LLL-A, if necessary)~~

~~15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No~~

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____
Print Name: _____
Title: _____
Telephone No.: _____ Date:

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INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. ~~Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate.~~ Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a follow up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and conract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee" then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number, grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state, and zip code of the lobbying-entity registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).

~~11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this a material change report, enter the cumulative amount of payment made or planned to be made.~~

~~12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of in-kind payment.~~

~~13. Check the appropriate box(es). Check all boxes that apply. If other specify nature.~~

~~14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.~~

~~15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.~~

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions

BILLING CODE 4000-01-C

Notice to All Applicants

Thank you for your interest in this program. The purpose of this enclosure is to inform you about a new provision in the Department of Education's General Education Provisions Act (GEPA) that applies to applicants for new grant awards under Department programs. This provision is section 427 of GEPA, enacted as part of the Improving America's Schools Act of 1994 (Pub. L. 103–382).

To Whom Does This Provision Apply?

Section 427 of GEPA affects applicants for new discretionary grant awards under this program. *All applicants for new awards must include information in their applications to address this new provision in order to receive funding under this program.*

What Does This Provision Require?

Section 427 requires each applicant for funds (other than an individual person) to include in its application a description of the steps the applicant proposes to take to ensure equitable access to, and participation in, its federally-assisted program for students, teachers, and other program beneficiaries with special needs.

This section allows applicants discretion in developing the required description. The statute highlights six types of barriers that can impede equitable access or participation that you may address: gender, race, national origin, color, disability, or age. Based on local circumstances, you can determine whether these or other barriers may prevent your students, teachers, etc. from equitable access or participation. Your description need not be lengthy; you may provide a clear and succinct description of how you plan to address those barriers that are applicable to your circumstances. In addition, the information my be provided in a single narrative, or, if appropriate, may be discussed in connection with related topics in the application.

Section 427 is not intended to duplicate the requirements of civil rights statutes, but rather to ensure that, in designing their projects, applicants for Federal funds address equity concerns that may affect the ability of certain potential beneficiaries to fully participate in the project and to achieve to high standards. Consistent with program requirements and its approved application, an applicant may use the Federal funds awarded to it to eliminate barriers it identifies.

What are Examples of How an Applicant Might Satisfy the Requirement of This Provision?

The following examples may help illustrate how an applicant may comply with section 427.

(1) An applicant that proposes to carry out an adult literacy project serving, among others, adults with limited English proficiency, might describe in its application how it intends to distribute a brochure about the proposed project to such potential participants in their native language.

(2) An applicant that proposes to develop instructional materials for classroom use might describe how it will make the materials available on audio tape or in braille for students who are blind.

(3) An applicant that proposes to carry out a model science program for secondary students and is concerned that girls may be less likely than boys to enroll in the course, might indicate how it tends to conduct "outreach" efforts to girls, to encourage their enrollment.

We recognize that many applicants may already be implementing effective steps to ensure equity of access and participation in their grant programs, and we appreciate your cooperation in responding to the requirements of this provision.

Estimated Burden Statement

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Potential applicants frequently direct questions to officials of the Department regarding application notices and programmatic and administrative regulations governing various direct grant programs. To assist potential applicants, the Department has assembled the following most commonly asked questions followed by the Department's answers.

Q. Can we get an extension of the deadline?

A. No. A closing date may be changed only under extraordinary circumstances. Any change must be announced in the **Federal Register** and must apply to all applications. Waivers for individual applications cannot be granted regardless of the circumstances.

Q. How many copies of the application should I submit and must they be bound?

A. Applicants are required to submit one original and two copies of the grant application. To aid with the review of applications, the Department encourages applicants to submit four additional copies of the grant application. The Department will not penalize applicants who do not provide additional copies. The binding of applications is optional.

Q. We just missed the deadline for the XXX competition. May we submit under another competition?

A. Yes, however, the likelihood of success is not good. A properly prepared application must meet the specifications of the competition to which it is submitted.

Q. I'm not sure which competition is most appropriate for my project. What should I do?

A. We are happy to discuss any such questions with you and provide clarification on the unique elements of the various competitions.

Q. Will you help us prepare our application?

A. We are happy to provide general program information. Clearly, it would not be appropriate for staff to participate in the actual writing of an application, but we can respond to specific questions about application requirements, evaluation criteria, and the priorities. Applicants should understand, however, that prior contact with the Department is not required, nor will it in any way influence the success of an application.

Q. When will I find out if I'm going to be funded?

A. You can expect to receive notification within 3 to 4 months of the application closing date, depending on the number of applications received and the number of Department competitions with similar closing dates.

Q. Once my application has been reviewed by the review panel, can you tell me the outcome?

A. No. Every year we are called by a number of applicants who have a legitimate reason for needing to know the outcome of the panel review prior to official notification. Some applicants need to make job decisions, some need to notify a local school district, etc.

Regardless of the reason, because final funding decisions have not been made at that point, we cannot share information about the results of panel review with anyone.

Q. Will my application be returned if I am not funded?

A. No. We no longer return unsuccessful applications. Thus, applicants should retain at least one copy of the application.

Q. Can I obtain copies of reviewers' comments?

A. Upon written request, reviewers' comments will be mailed to unsuccessful applicants.

Q. Is travel allowed under these projects?

A. Travel associated with carrying out the project is allowed. Because we may request the project director of funded projects to attend an annual project directors' meeting, you may also wish to include a trip or two to Washington, DC in the travel budget. Travel to conferences is sometimes allowed when the purpose of the conference will be of benefit and relates to the project.

Q. If my application receives high scores from the reviewers, does that mean that I will receive funding?

A. Not necessarily. It is often the case that the number of applications scored highly by the reviewers exceeds the dollars available for funding projects under a particular competition. The order of selection, which is based on the scores of all the applications reviewed and other relevant factors, determines the applications that can be funded.

Q. What happens during pre-award clarification discussions?

A. During pre-award clarification discussions, technical and budget issues may be raised. These are issues that have been identified during the panel and staff reviews that require clarification. Sometimes issues are stated as "conditions." These are issues that have been identified as so critical that the award cannot be made unless those conditions are met. Questions may also be raised about the proposed budget. Generally, these issues are raised because an application contains inadequate justification or explanation of a particular budget item, or because the budget item seems unimportant to the successful completion of the project. If you are asked to make changes that you feel could seriously affect the project's success, you may provide reasons for not making the changes or provide alternative suggestions. Similarly, if proposed budget reductions will, in your opinion, seriously affect the project activities, you may explain why and provide additional justification for the proposed expenses. An award cannot be made until all issues under discussion have been resolved.

Q. How do I provide an assurance?

A. Except for SF–424B, "Assurances—Non-Construction Programs," you may provide an assurance simply by stating in writing that you are meeting a prescribed requirement.

Q. Where can copies of the **Federal Register**, program regulations, and Federal statutes be obtained?

A. Copies of these materials can usually be found at your local library. If not, they can be obtained from the Government Printing Office by writing to Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. Telephone: (202) 708–8228. When requesting copies of regulations or statutes, it is helpful to use the specific name or public law, number of a statute, or part number of a regulation. The material referenced in this notice should be referred to as follows:

(1) The Carl D. Perkins Vocational and Applied Technology Education Act (Pub. L. 101–302).

(2) Education Department General Administrative Regulations, 34 CFR parts 74, 75, 77, 79, 90, 81, and 85.

(3) 34 CFR parts 400 (Vocational and Applied Technology Education Programs—General Provisions) and 401 (Indian Vocational Education Program) as published in the **Federal Register** on August 14, 1992 (57 FR 36724).

Copies of these materials may be found on the World Wide Web at http://www.access.gpo.gov/nara.

[FR Doc. 98–17582 Filed 7–1–98; 8:45 am]

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Deadbeat Parents Punishment Act of 1998 (June 24, 1998; 112 Stat. 618)

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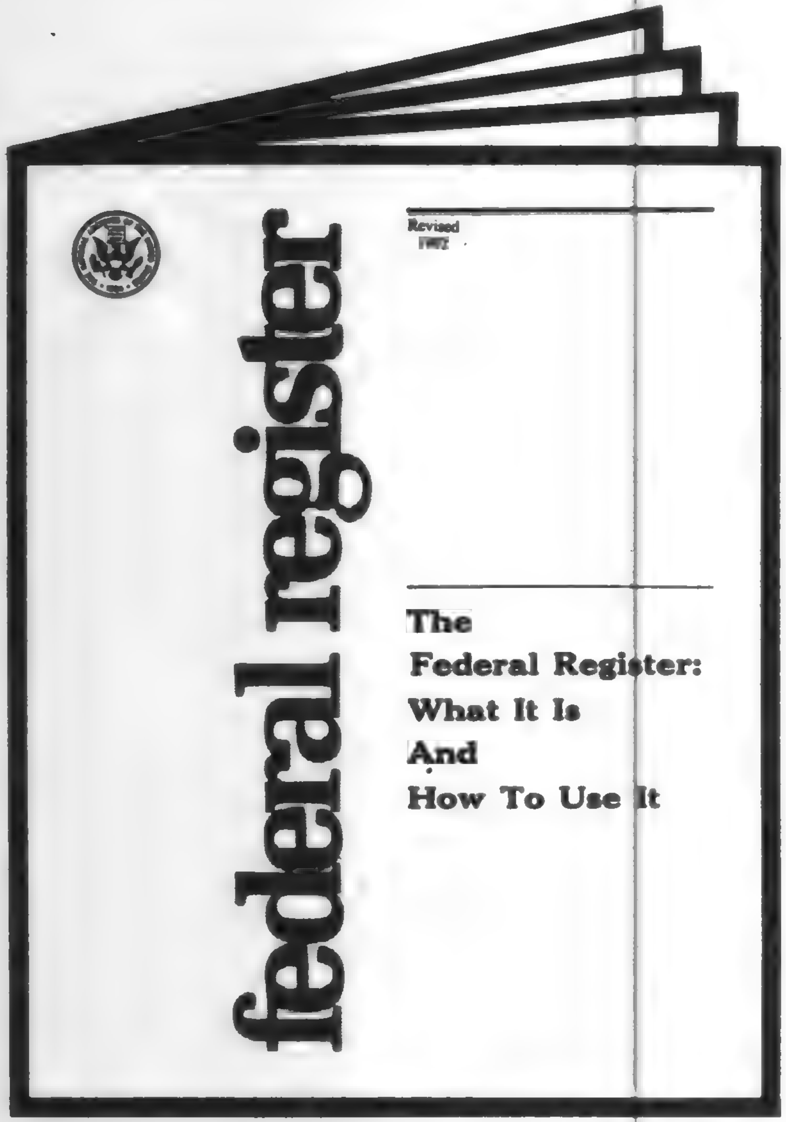
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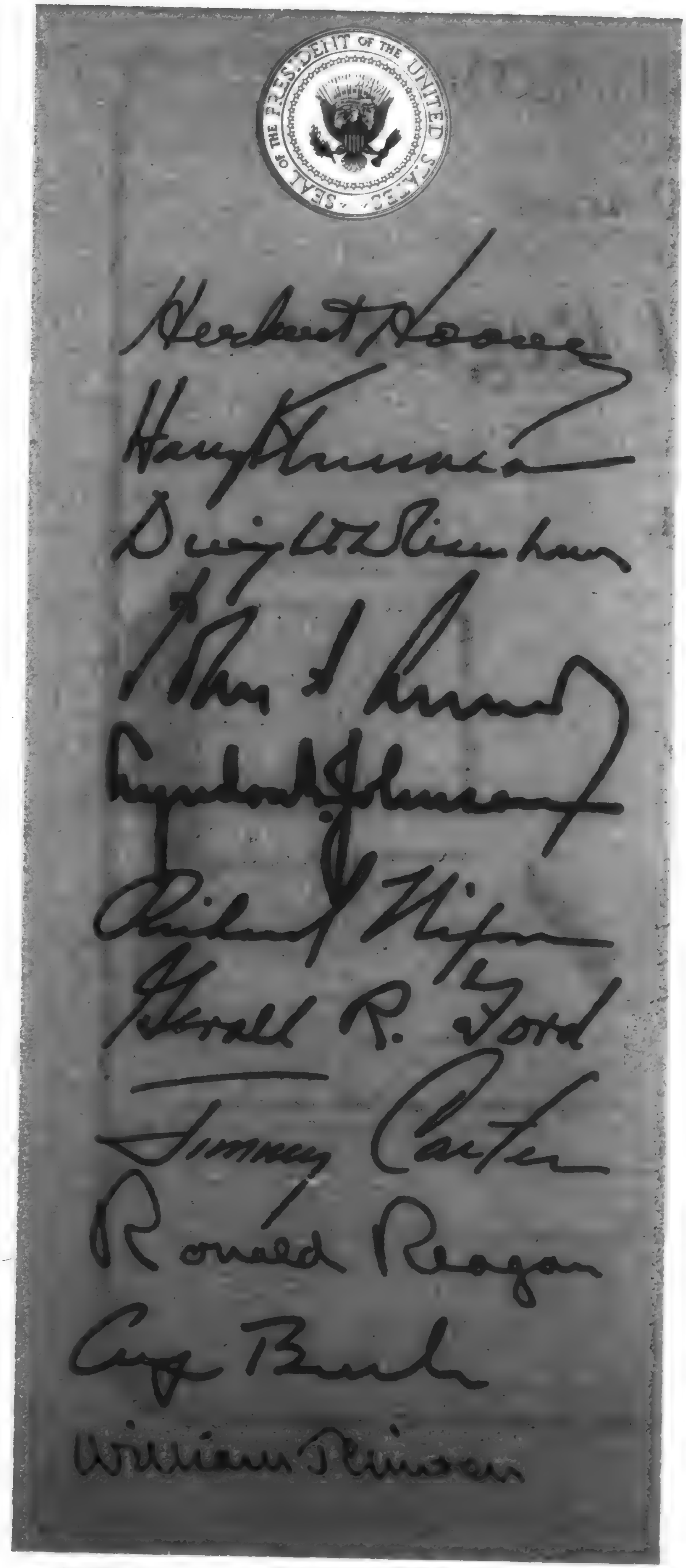
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Rules and Regulations

Federal Register
Vol. 63, No. 128
Monday, July 6, 1998

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

[Docket No. 950609150-8003-04]

RIN 0648-AI06

Jade Collection in the Monterey Bay National Marine Sanctuary; Confirmation of Effective Date

AGENCY: Sanctuaries and Reserves Division (SRD), Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Confirmation of effective date.

SUMMARY: On March 30, 1998, the National Oceanic and Atmospheric Administration (NOAA) published a final rule (63 FR 15083) amending the regulations and Designation Document for the Monterey Bay National Marine Sanctuary (MBNMS or Sanctuary) to allow limited, small-scale collection of jade from the Jade Cove area of the Sanctuary. Under the National Marine Sanctuaries Act, the amendment would automatically take effect at the end of 45 days, continuous session of Congress beginning on March 30 1998, unless the Governor of California certified to the Secretary of Commerce the amendment as unacceptable in State waters of the MBNMS. The 45-day review period ended on June 13, 1998. During the review period, NOAA received a letter dated May 29, 1998, from Governor Pete Wilson stating that the State of California has no objection to the amendment. This document confirms the effective date of the amendment of the MBNMS Designation Document and regulations as June 16, 1998.

EFFECTIVE DATE: The amendment to the MBNMS Designation Document and regulations at 15 CFR part 922, subpart M, published on March 30, 1998 (63 FR 15083) shall take effect on June 16, 1998.

FOR FURTHER INFORMATION CONTACT: Scott Kathey, Monterey Bay National Marine Sanctuary, 299 Foam Street, Suite D, Monterey, California 93940 or at (408) 647-4251.

(Federal Domestic Assistance Catalog Number 11.429, Marine Sanctuary Program)

Captain Evelyn Fields,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 98-17734 Filed 7-2-98; 8:45 am]

BILLING CODE 3510-08-M

FEDERAL TRADE COMMISSION

16 CFR Parts 0, 1, and 3

Organization, General Procedures, Rules of Practice for Adjudicative Proceedings

AGENCY: Federal Trade Commission (FTC).

ACTION: Final rule.

SUMMARY: The Commission is revising its Rules of Practice to incorporate statutory requirements of the Small Business Regulatory Enforcement Fairness Act concerning congressional review of certain agency rules and publication of small entity guides for certain rules.

The revised rules also reflect statutory amendments to the Equal Access to Justice Act as well as technical and interpretive nonsubstantive changes to the rules governing claims under the Act.

EFFECTIVE DATES: These amendments are effective July 6, 1998.

FOR FURTHER INFORMATION CONTACT: Sandra M. Vidas, Attorney, (202) 326-2456, Office of the General Counsel, FTC, Sixth Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: The Commission is amending Parts 0, 1, and 3 of its existing Rules of Practice to reflect the statutory provisions of the Small Business Regulatory Enforcement Fairness Act (SBREFA), Pub. L. 104-121, 110 Stat. 857 (1996) as that Act amends the Administrative Procedure Act (APA), 5 U.S.C. 551 *et seq.*, the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612, and the Equal Access to Justice Act (EAJA), 5 U.S.C. 504.

The Commission is amending Part 1 by adding a new Subpart M reflecting SBREFA's requirements concerning the submission of information to Congress and the Comptroller General when the agency issues or amends a rule or industry guide, or formally adopts an interpretation or policy statement that constitutes a rule within the meaning of 5 U.S.C. 804(3). The amendments also reflect SBREFA's statutory requirements with respect to publication of small entity compliance guides, and add references to the RFA and Paperwork Reduction Act, (PRA), 44 U.S.C. 3501-3520, where appropriate.

The Commission is revising its rules governing EAJA claims to reflect statutory amendments and to clarify certain provisions of the Commission's existing EAJA rules. These clarifying amendments provide, *inter alia*, additional information concerning filing time limits, procedures, and allowable expenses to assist persons eligible to file claims under the EAJA. The Commission is also amending § 0.5 of its rules, "Laws authorizing monetary claims," to include a reference to the EAJA and a new telephone contact number in the Office of the General Counsel.

The Commission has determined that these rule amendments relate to agency practice or are interpretive in nature. Accordingly, they are not subject to the notice and comment requirements of the APA, 5 U.S.C. 553(b)(A), or to the RFA, 5 U.S.C. 601-612.

The submissions required by the amended rules with respect to claims under the EAJA, 5 U.S.C. 504, do not likely constitute "the collection of information" as that term is defined by the PRA. Submission of a claim for fees occurs in connection with an administrative proceeding with respect to a specific party and is therefore exempt from PRA coverage. 5 CFR 1320.4(a)(2). In the event that an EAJA claim is subject to the requirements of the PRA, the Commission has previously received clearance for Part 3, Subpart I, of the Rules of Practice, which specifies, *inter alia*, the documentation necessary to support an application for reimbursement under the EAJA, See 16 CFR 3.81-3.83 (OMB

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Control Number 3084–0047, expiration date Sept. 30, 1998).

List of Subjects

16 CFR Part 0

Organization and functions (Government agencies).

16 CFR Part 1

Administrative practice and procedure.

16 CFR Part 3

Administrative practice and procedure.

For the reasons set forth in the preamble, the Federal Trade Commission amends Title 16, Chapter 1, Subchapter A, of the Code of Federal Regulations as follows:

PART 0—ORGANIZATION

1. The authority for part 0 continues to read as follows:

Authority: See 6(g), 38 Stat. 721 (15 U.S.C. 46); 80 Stat. 383 as amended (5 U.S.C. 552).

2. Section 0.5 is revised to read as follows:

§ 0.5 Laws authorizing monetary claims.

The Commission is authorized to entertain monetary claims against it under three statutes. The Federal Tort Claims Act (28 U.S.C. 2671–2680) provides that the United States will be liable for injury or loss of property or personal injury or death caused by the negligent or wrongful acts or omissions of its employees acting within the scope of their employment or office. The Military Personnel and Civilian Employees Claims Act of 1964 (31 U.S.C. 3701, 3721) authorizes the Commission to compensate employees' claims for damage to or loss of personal property incident to their service. The Equal Access to Justice Act (5 U.S.C. 504 and 28 U.S.C. 2412) provides that an eligible prevailing party other than the United States will be awarded fees and expenses incurred in connection with any adversary adjudicative and court proceeding, unless the adjudicative officer finds that the agency was substantially justified or that special circumstances make an award unjust. In addition, eligible parties, including certain small businesses, will be awarded fees and expenses incurred in defending against an agency demand that is substantially in excess of the final decision of the adjudicative officer and is unreasonable when compared with such decision under the facts and circumstances of the case, unless the adjudicative officer finds that the party has committed a willful violation of law or otherwise acted in bad faith, or special circumstances make an award unjust. Questions may be addressed to the Office of the General Counsel, (202) 326–2462.

PART 1—GENERAL PROCEDURES

1. The authority for part 1 continues to read as follows:

Authority: Sec. 6, 38 Stat. 721 (15 U.S.C. 46), unless otherwise noted.

Subpart B—Rules and Rulemaking Under Section 18(a)(1)(B) of the FTC Act

2. The authority for Subpart B is revised to read as follows:

Authority: 15 U.S.C. 46; 15 U.S.C. 57a; 5 U.S.C. 552; sec. 212(a), Pub. L. 104–121, 110 Stat. 857 (5 U.S.C. 601 note).

3. Section 1.11(b)(4) is revised to read as follows:

§ 1.11 Commencement of a rulemaking proceeding.

* * * * *

(b) * * *

(4) The information required by the Regulatory Flexibility Act, 5 U.S.C. 601–612, and the Paperwork Reduction Act, 44 U.S.C. 3501–3520, if applicable.

4. In § 1.14 paragraph (a)(2)(vi) is revised and paragraph (a)(3) is added to read as follows:

§ 1.14 Promulgation.

(a) * * *

(2) * * *

(vi) The information required by the Regulatory Flexibility Act, 5 U.S.C. 601–612, and the Paperwork Reduction Act, 44 U.S.C. 3501–3520, if applicable.

(3) *Small entity compliance guide.* For each rule for which the Commission must prepare a final regulatory flexibility analysis, the Commission will publish one or more guides to assist small entities in complying with the rule. Such guides will be designated as "small entity compliance guides."

* * * * *

Subpart C—Rules Promulgated Under Authority Other Than Section 18(a)(1)(B) of the FTC Act

1. The authority for Subpart C is added to read as follows:

Authority: 15 U.S.C. 46; 5 U.S.C. 552; Sec. 212(a), Pub. L. 104–121, 110 Stat. 857 (5 U.S.C. 601 note).

2. Section 1.26 is amended by adding 3 sentences to the end of paragraph (d) to read as follows:

§ 1.26 Procedure.

* * * * *

(d) *Promulgation of rules or orders.* * * * The **Federal Register** publication will contain the information required by the Paperwork Reduction Act, 44 U.S.C. 3501–3520, and the Regulatory Flexibility Act, 5 U.S.C. 601–612, if applicable. For each rule for which the Commission must prepare a final regulatory flexibility analysis, the Commission will publish one or more guides to assist small entities in complying with the rule. Such guides will be designated as "small entity compliance guides."

* * * * *

3. Subpart M, consisting of § 1.99, is added to read as follows:

Subpart M—Submissions Under the Small Business Regulatory Enforcement Fairness Act

Authority: 5 U.S.C. 801–804.

§ 1.99 Submission of rules, guides, interpretations, and policy statements to Congress and the Comptroller General.

Whenever the Commission issues or substantively amends a rule or industry guide or formally adopts an interpretation or policy statement that constitutes a "rule" within the meaning of 5 U.S.C. 804(3), a copy of the final rule, guide, interpretation or statement, together with a concise description, the proposed effective date, and a statement of whether the rule, guide, interpretation or statement is a "major rule" within the meaning of 5 U.S.C. 804(2), will be transmitted to each House of Congress and to the Comptroller General. The material transmitted to the Comptroller General will also include any additional relevant information required by 5 U.S.C. 801(a)(1)(B). This provision generally applies to rules issued or substantively amended pursuant to §§ 1.14(c), 1.15(a), 1.19, or 1.26(d); industry guides issued pursuant to § 1.6; interpretations and policy statements formally adopted by the Commission; and any rule of agency organization, practice or procedure that substantially affects the rights or obligations of non-agency parties.

PART 3—RULES OF PRACTICE FOR ADJUDICATIVE PROCEEDINGS

1. The authority for part 3 continues to read as follows:

Authority: Section 6, 38 Stat. 721 (15 U.S.C. 46), unless otherwise noted.

2. Subpart I is revised to read as follows:

Subpart I—Recovery of Awards Under the Equal Access to Justice Act in Commission Proceedings

3.81 General provisions.
3.82 Information required from applicants.
3.83 Procedures for considering applicants.

Authority: 5 U.S.C. 504 and 5 U.S.C. 553(b).

Subpart I—Recovery of Awards Under the Equal Access to Justice Act in Commission Proceedings

§ 3.81 General provisions.

(a.) *Purpose of these rules.* The Equal Access to Justice Act, 5 U.S.C. 504 (called "the Act" in this subpart), provides for the award of attorney fees and other expenses to eligible individuals and entities who are parties to adversary adjudicative proceedings under part 3 of this title. The rules in this subpart describe the parties eligible for awards, how to apply for awards, and the procedures and standards that the Commission will use to make them.

(1.) *When an eligible party will receive an award.* An eligible party will receive an award when:

(i) It prevails in the adjudicative proceeding, unless the Commission's position in the proceeding was substantially justified or special circumstances make an award unjust. Whether or not the position of the agency was substantially justified will be determined on the basis of the administrative record as a whole that is made in the adversary proceeding for which fees and other expenses are sought; or

(ii) The agency's demand is substantially in excess of the decision of the adjudicative officer, and is unreasonable when compared with that decision, under all the facts and circumstances of the case. "Demand" means the express final demand made by the agency prior to initiation of the adversary adjudication, but does not include a recitation by the agency of the statutory penalty in the administrative complaint or elsewhere when accompanied by an express demand for a lesser amount.

(b.) *When the Act applies.* (1) Section 504(a)(1) of the Act applies to any adversarial adjudicative proceeding pending before the Commission at any time after October 1, 1981. This includes proceedings begun before October 1, 1981, if final Commission action has not been taken before that date.

(2) Section 504(a)(4) applies to any adversarial adjudicative proceeding pending before the Commission at any time on or after March 29, 1996.

(c) *Proceedings covered.* (1) The Act applies to all adjudicative proceedings under part 3 of the rules of practice as defined in § 3.2, except hearings relating to the promulgation, amendment, or repeal of rules under the Fair Packaging and Labeling Act.

(2) [Reserved]

(d) *Eligibility of applicants.* (1) To be eligible for an award of attorney fees and other expenses under the Act, the applicant must be a party to the adjudicative proceeding in which it seeks an award. The term "party" is defined in 5 U.S.C. 551(3). The applicant must show that it meets all conditions of eligibility set out in this subpart.

(2) The types of eligible applicants are as follows:

(i) An individual with a net worth of not more than $2 million;

(ii) the sole owner of an unincorporated business who has a net worth of not more than $7 million, including both personal and business interests, and not more than 500 employees;

(iii) A charitable or other tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) with not more than 500 employees;

(iv) A cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)) with not more than 500 employees;

(v) Any other partnership, corporation, association, unit of local government, or organization with a net worth of not more than $7 million and not more than 500 employees; and

(vi) For purposes of receiving an award for fees and expenses for defending against an excessive Commission demand, any small entity, as that term is defined under 5 U.S.C. 601.

(3) Eligibility of a party shall be determined as of the date the proceeding was initiated.

(4) An applicant who owns an unincorporated business will be considered as an "individual" rather than a "sole owner of an unincorporated business" if the issues on which the applicant prevails are related primarily to personal interests rather than to business interests.

(5) The employees of an applicant include all persons who regularly perform services for remuneration for the applicant, under the applicant's direction and control. Part-time employees shall be included on a proportional basis.

(6) The net worth and number of employees of the applicant and all of its affiliates shall be aggregated to determine eligibility. Any individual, corporation or other entity that directly or indirectly controls or owns a majority of the voting shares or other interest of the applicant, or any corporation or other entity of which the applicant directly or indirectly owns or controls a majority of the voting shares or other interest, will be considered an affiliate for purposes of this part, unless the Administrative Law Judge determines that such treatment would be unjust and contrary to the purposes of the Act in light of the actual relationship between the affiliated entities. In addition, the Administrative Law Judge may determine that financial relationships of the applicant other than those described in this paragraph constitute special circumstances that would make an award unjust.

(7) An applicant that participates in a proceeding primarily on behalf of one or more other persons or entities that would be ineligible is not itself eligible for an award.

(e) *Standards for awards*—(1) *For a prevailing party:*

(i) A prevailing applicant will receive an award for fees and expenses incurred after initiation of the adversary adjudication in connection with the entire adversary adjudication, or on a substantive portion of the adversary adjudication that is sufficiently significant and discrete to merit treatment as a separate unit unless the position of the agency was substantially justified. The burden of proof that an award should not be made to an eligible prevailing applicant is on complaint counsel, which may avoid an award by showing that its position had a reasonable basis in law and fact.

(ii) An award to prevailing party will be reduced or denied if the applicant has unduly or unreasonably protracted the proceeding or if special circumstances make an award unjust.

(2) *For a party defending against an excessive demand:*

(i) An eligible applicant will receive an award for fees and expenses incurred after initiation of the adversary adjudication related to defending against the excessive portion of a Commission demand that is substantially in excess of the decision of the adjudicative officer and is unreasonable when compared with that decision under all the facts and circumstances of the case.

(ii) An award will be denied if the applicant has committed a willful violation of law or otherwise acted in bad faith or if special circumstances make an award unjust.

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(f) *Allowable fees and expenses.* (1) Awards will be based on rates customarily charged by persons engaged in the business of acting as attorneys, agents and expert witnesses, even if the services were made available without charge or at a reduced rate to the applicant.

(2) No award for the fee of an attorney or agent under these rules may exceed the hourly rate specified in 5 U.S.C. 504(b)(1)(A). No award to compensate an expert witness may exceed the highest rate at which the Commission paid expert witnesses for similar services at the time the fees were incurred. The appropriate rate may be obtained from the Office of the Executive Director. However, an award may also include the reasonable expenses of the attorney, agent, or witness as a separate item, if the attorney, agent or witness ordinarily charges clients separately for such expenses.

(3) In determining the reasonableness of the fee sought for an attorney, agent or expert witness, the Administrative Law Judge shall consider the following:

(i) If the attorney, agent or witness is in private practice, his or her customary fee for similar services, or, if an employee of the applicant, the fully allocated cost of the services;

(ii) The prevailing rate for similar services in the community in which the attorney, agent or witness ordinarily performs services;

(iii) The time actually spent in the representation of the applicant;

(iv) The time reasonably spent in light of the difficulty or complexity of the issues in the proceeding; and

(v) Such other factors as may bear on the value of the services provided.

(4) The reasonable cost of any study, analysis, engineering report, test, project or similar matter prepared on behalf of a party may be awarded, to the extent that the charge for the service does not exceed the prevailing rate for similar services, and the study or other matter was necessary for preparation of the applicant's case.

(5) Any award of fees or expenses under the Act is limited to fees and expenses incurred after initiation of the adversary adjudication and, with respect to excessive demands, the fees and expenses incurred in defending against the excessive portion of the demand.

(g) *Rulemaking on maximum rates for attorney fees.* If warranted by an increase in the cost of living or by special circumstances (such as limited availability of attorneys qualified to handle certain types of proceedings), the Commission may, upon its own initiative or on petition of any interested person or group, adopt regulations providing that attorney fees may be awarded at a rate higher than the rate specified in 5 U.S.C. 504(b)(1)(A) per hour in some or all the types of proceedings covered by this part. Rulemaking under this provision will be in accordance with Rules of Practice Part 1, Subpart C of this chapter.

§ 3.82 Information required from applicants.

(a) *Contents of application.* An application for an award of fees and expenses under the Act shall contain the following:

(1) Identify of the applicant and the proceeding for which the award is sought;

(2) A showing that the applicant has prevailed; or, if the applicant has not prevailed, a showing that the Commission's demand was the final demand before initiation of the adversary adjudication and that it was substantially in excess of the decision of the adjudicative officer and was unreasonable when compared with that decision;

(3) Identification of the Commission position(s) that applicant alleges was (were) not substantially justified; or, identification of the Commission's demand that is alleged to be excessive and unreasonable and an explanation as to why the demand was excessive and unreasonable;

(4) A brief description of the type and purpose of the organization or business (unless the applicant is an individual);

(5) A statement of how the applicant meets the criteria of § 3.81(d);

(6) The amount of fees and expenses incurred after the initiation of the adjudicative proceeding or, in the case of a claim for defending against an excessive demand, the amount of fees and expenses incurred after the initiation of the adjudicative proceeding attributable to the excessive portion of the demand;

(7) Any other matters the applicant wishes the Commission to consider in determining whether and in what amount an award should be made; and

(8) A written verification under oath or under penalty or perjury that the information provided is true and correct accompanied by the signature of the applicant or an authorized officer or attorney.

(b) *Net worth exhibit.* (1) Each applicant except a qualified tax-exempt organization or cooperative association must provide with its application a detailed exhibit showing the net worth of the application and any affiliates (as defined in § 3.81(d)(6)) when the proceeding was initiated. The exhibit may be in any form convenient to the applicant that provides full disclosure of the applicant's and its affiliates' assets and liabilities and is sufficient to determine whether the applicant qualifies under the standards in this part. The Administrative Law Judge may require an applicant to file additional information to determine its eligibility for an award.

(2) Ordinarily, the net worth exhibit will be included in the public record of the proceeding. However, if an applicant objects to public disclosure of information in any portion of the exhibit and believes there are legal grounds for withholding it from disclosure, the applicant may submit that portion of the exhibit directly to the Administrative Law Judge in a sealed envelope labeled "Confidential Financial Information," accompanied by a motion to withhold the information from public disclosure. The motion shall describe the information sought to be withheld and explain, in detail, why it falls within one or more of the specific exemptions from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552(b) (1) through (9), why public disclosure of the information would adversely affect the applicant, and why disclosure is not required in the public interest. The material in question shall be served on complaint counsel but need not be served on any other party to the proceeding. If the Administrative Law Judge finds that the information should not be withheld from disclosure, it shall be placed in the public record of the proceeding. Otherwise, any request to inspect or copy the exhibit shall be disposed of in accordance with § 4.11.

(c) *Documentation of fees and expenses.* The application shall be accompanied by full documentation of the fees and expenses incurred after initiation of the adversary adjudication, including the cost of any study, analysis, engineering report, test, project or similar matter, for which an award is sought. With respect to a claim for fees and expenses involving an excessive demand, the application shall be accompanied by full documentation of the fees and expenses incurred after initiation of the adversary adjudication, including the cost of any study, analysis, engineering report, test, project or similar matter, for which an award is sought attributable to the portion of the demand alleged to be excessive and unreasonable. A separate itemized statement shall be submitted for each professional firm or individual whose services are covered by the application, showing the hours spent in connection with the proceeding by each individual, a description of the specific services performed, the rate at which each fee has been computed, any expenses for which reimbursement is sought, the total amount claimed, and the total amount paid or payable by the applicant or by any other person or entity for the services provided. The Administrative Law Judge may require the applicant to provide vouchers, receipts, or other substantiation for any expenses claimed.

(d) *When an application may be filed*—(1) For a prevailing party.

(i) An application may be filed not later than 30 days after the Commission has issued an order or otherwise taken action that results in final disposition of the proceeding.

(ii) If review or reconsideration is sought or taken of a decision as to which an applicant believes it has prevailed, proceedings for the award of fees shall be stayed pending final disposition of the underlying controversy.

(2) *For a party defending against an excessive demand:*

(i) An application may be filed not later than 30 days after the Commission has issued an order or otherwise taken action that results in final disposition of the proceeding.

(ii) If review or reconsideration is sought or taken of a decision as to which an applicant believes the agency's demand was excessive and unreasonable, proceedings for the award of fees and expenses shall be stayed pending final disposition of the underlying controversy.

(3) For purposes of this subpart, "final disposition" means the later of—

(i) The date that the initial decision of the Administrative Law Judge becomes the decision of the Commission pursuant to § 3.51(a);

(ii) The date that the Commission issues an order disposing of any petitions for reconsideration of the Commission's final order in the proceeding; or

(iii) The date that the Commission issues a final order or any other final resolution of a proceeding, such as a consent agreement, settlement or voluntary dismissal, which is not subject to a petition for reconsideration.

§ 3.83 Procedures for considering applicants.

(a) *Filing and service of documents.* Any application for an award or other pleading or document related to an application shall be filed and served on all parties as specified in §§ 4.2 and 4.4(b) of this chapter, except as provided in § 3.82(b)(2) for confidential financial information. The date the Office of the Secretary of the Commission receives the application is deemed the date of filing.

(b) *Answer to application.* (1) Within 30 days after service of an application, complaint counsel may file an answer to the application. Unless complaint counsel requests an extension of time for filing or files a statement of intent to negotiate under paragraph (b)(2) of this section, failure to file an answer within the 30-day period may be treated as a consent to the award requested.

(2) If complaint counsel and the applicant believe that the issues in the fee application can be settled, they may jointly file a statement of their intent to negotiate a settlement. The filing of this statement shall extend the time for filing an answer for an additional 30 days, and further extensions may be granted by the Administrative Law Judge upon request by complaint counsel and the applicant.

(3) The answer shall explain in detail any objections to the award requested and identify the facts relied on in support of complaint counsel's position. If the answer is based on any alleged facts not already in the record of the proceeding, complaint counsel shall include with the answer either supporting affidavits or a request for further proceedings under paragraph (f) of this section.

(c) *Reply.* Within 15 days after service of an answer, the applicant may file a reply. If the reply is based on any alleged facts not already in the record of the proceeding, the applicant shall include with the reply either supporting affidavits or a request for further proceedings under paragraph (f) of this section.

(d) *Comments by other parties.* Any party to a proceeding other than the applicant and complaint counsel may file comments on an application within 30 days after it is served or on an answer within 15 days after it is served. A commenting party may not participate further in proceedings on the application unless the Administrative Law Judge determines that the public interest requires such participation in order to permit full exploration of matters in the comments.

(e) *Settlement.* The applicant and complaint counsel may agree on a proposed settlement of the award before final action on the application. A proposed award settlement entered into in connection with a consent agreement covering the underlying proceeding will be considered in accordance with § 3.25. The Commission may request findings of fact or recommendations on the award settlement from the Administrative Law Judge. A proposed award settlement entered into after the underlying proceeding has been concluded will be considered and may be approved or disapproved by the Administrative Law Judge subject to Commission review under paragraph (h) of this section. If an applicant and complaint counsel agree on a proposed settlement of an award before an application has been filed, the application shall be filed with the proposed settlement.

(f) *Further proceedings.* (1) Ordinarily, the determination of an award will be made on the basis of the written record. However, on request of either the applicant or complaint counsel, or on his or her own initiative, the Administrative Law Judge may order further proceedings, such as an informal conference, oral argument, additional written submissions or an evidentiary hearing. Such further proceedings shall be held only when necessary for full and fair resolution of the issues arising from the application, and shall be conducted as promptly as possible.

(2) A request that the Administrative Law Judge order further proceedings under this section shall specifically identify the information sought or the disputed issues and shall explain why the additional proceedings are necessary to resolve the issues.

(g) *Decision.* The Administrative Law Judge shall issue an initial decision on the application within 30 days after closing proceedings on the application.

(1) *For a decision involving a prevailing party:* The decision shall include written findings and conclusions on the applicant's eligibility and status as a prevailing party, and an explanation of the reasons for any difference between the amount requested and the amount awarded. The decision shall also include, if at issue, findings on whether the agency's position was substantially justified, whether the applicant unduly protracted the proceedings, or whether special circumstances make an award unjust.

(2) *For a decision involving an excessive agency demand:* The decision shall include written findings and conclusions on the applicant's eligibility and an explanation of the reasons why the agency's demand was or was not determined to be substantially in excess of the decision of the adjudicative officer and was or was not unreasonable when compared with that decision. That decision shall be based upon all the facts and circumstances of the case. The decision shall also include, if at issue, findings on whether the applicant has committed a willful violation of law or otherwise

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acted in bad faith, or whether special circumstances make an award unjust.

(h) *Agency review.* Either the applicant or complaint counsel may seek review of the initial decision on the fee application by filing a notice of appeal under § 3.52(a), or the Commission may decide to review the decision on its own initiative, in accordance with § 3.53. If neither the applicant nor complaint counsel seeks review and the Commission does not take review on its own initiative, the initial decision on the application shall become a final decision of the Commission 30 days after it is issued. Whether to review a decision is a matter within the discretion of the Commission. If review is taken, the Commission will issue a final decision on the application or remand the application to the Administrative Law Judge for further proceedings.

(i) *Judicial review.* Judicial review of final Commission decisions on awards may be sought as provided in 5 U.S.C. 503(c)(2).

(j) *Payment of award.* An applicant seeking payment of an award shall submit to the Secretary of the Commission a copy of the Commission's final decision granting the award, accompanied by a statement that the applicant will not seek review of the decision in the United States courts. The agency will pay the amount awarded to the applicant within 60 days, unless judicial review of the award or of the underlying decision of the adjudicative proceeding has been sought by the applicant or any party to the proceeding.

By direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 98–17803 Filed 7–2–98; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 172

[Docket No. 90F–0220]

Food Additives Permitted for Direct Addition to Food for Human Consumption; Acesulfame Potassium

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of acesulfame potassium (ACK) as a nonnutritive sweetener in nonalcoholic beverages. This action is in response to a petition filed by Hoechst Celanese Corp. (Hoechst).

DATES: This regulation is effective July 6, 1998; written objections and requests for a hearing by August 5, 1998.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Patricia A. Hansen, Center for Food Safety and Applied Nutrition (HFS–206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3093.

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I. Introduction

In a notice published in the **Federal Register** of July 30, 1990 (55 FR 30983), FDA announced that a food additive petition (FAP 0A4212) had been filed by Hoechst Celanese Corp. (Hoechst), Route 202–206 North, Somerville, NJ 08876, proposing that § 172.800 *Acesulfame potassium* (21 CFR 172.800) be amended to provide for the safe use of acesulfame potassium (ACK) as a nonnutritive sweetener in nonalcoholic beverages, including beverage bases. (Recently, Hoechst has reorganized; the division of Hoechst now responsible for ACK is known as Nutrinova, Inc., 25 Worlds Fair Dr., Somerset, NJ 08873.) The present petition contains data and other information relevant to the safety of ACK under the proposed conditions of use; the present petition also relies on certain data and information contained in previous petitions for ACK.

FDA's food additive regulations were first amended to permit the use of ACK on July 28, 1988 (53 FR 28379, the "dry uses final rule"), in response to a petition filed by Hoechst. In its original evaluation of the safety of ACK, FDA concluded that a review of animal feeding studies showed that there is no association between neoplastic disease (cancer) and consumption of this additive (53 FR 28379 at 28380 and 28381). The agency further concluded that ACK was safe under the conditions of use proposed in the initial petition, and amended its food additive regulations to permit the use of the sweetener.

Following publication of the dry uses final rule, the agency received timely objections from the Center for Science in the Public Interest (CSPI). CSPI submitted four separate objections, two of which asserted that the long-term studies of ACK in rodents were inadequate to evaluate ACK's potential carcinogenicity, and two of which asserted that certain of these studies showed that the additive was potentially carcinogenic. CSPI requested a stay of the regulation and also requested a hearing on each of its objections. FDA, after careful consideration of CSPI's objections, found that none of the objections raised issues of fact that justified granting a hearing or otherwise provided a basis for revoking the regulation. Thus FDA denied both the request for a stay of the regulation and a hearing, and confirmed the effective date of the regulation. The agency published a detailed response to CSPI's objections in the **Federal Register** of February 27, 1992 (57 FR 6667).

Since its initial approval decision on the use of ACK, FDA has approved the following additional uses for ACK in response to petitions: In baked goods and baking mixes, including frostings, icings, and fillings for baked goods; in yogurt and yogurt-type products; in frozen and refrigerated desserts; in sweet sauces, toppings, and syrups; and in alcoholic beverages (59 FR 61538, 59 FR 61540, and 59 FR 61543, December 1, 1994, and 60 FR 21700, May 3, 1995). No objections were received in response to the December 1, 1994, final rule. However, CSPI filed timely objections to the agency's May 3, 1995, final rule authorizing the use of ACK in alcoholic beverages (60 FR 21700). The agency's response to those objections is published elsewhere in this issue of the **Federal Register**.

With respect to the present petition, Hoechst's original submission contained data and information from several toxicity studies of ACK, as well as data and information regarding the stability of ACK in aqueous solutions.[1] Because hydrolysis of ACK can occur under certain conditions, the petitioner also conducted toxicity studies of the principal hydrolysis products of ACK.

In response to an issue raised by FDA's review, Hoechst submitted additional information regarding ACK hydrolysis products, including a report prepared by a panel of experts in various scientific disciplines who independently evaluated the results of certain toxicity studies of the ACK hydrolysis products. Hoechst also submitted an indepth analysis of the potential health risk from one of the ACK hydrolysis products, acetoacetamide (AAA). FDA's Center for Food Safety and Applied Nutrition (CFSAN) conducted its own indepth analysis of the data and information on AAA, and, in reaching a final decision on this issue, also obtained the advice of additional experts from within and from outside the agency.

FDA notes that CSPI has submitted comments on the present petition for use of ACK in nonalcoholic beverages, and has transmitted comments on that petition from other interested parties as well. Further, Hoechst has transmitted additional comments from two of these same parties. Several other comments were also received. The agency's response to all comments on the present petition is presented in section IV of this document.

II. Evaluation of Safety

Under the general safety standard of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348(c)(3)(A)), a food additive cannot be approved for a particular use unless a fair evaluation of the data available to FDA establishes that the additive is safe for that use. FDA's food additive regulations in § 170.3(i) (21 CFR 170.3(i)) define safe as "a reasonable certainty in the minds of competent scientists that the substance is not harmful under the intended conditions of use."

The food additives anticancer, or Delaney, clause of the act (21 U.S.C. 348(c)(3)(A)) provides that no food additive shall be deemed safe if it is found to induce cancer when ingested by man or animal. Importantly, however, the Delaney clause applies to the additive itself and not to impurities in the additive. That is, where an additive itself has not been shown to cause cancer, but contains a carcinogenic impurity, the additive is properly evaluated under the general safety standard using risk assessment procedures to determine whether there is a reasonable certainty that no harm will result from the intended use of the additive (*Scott* v. *FDA*, 728 F.2d 322 (6th Cir. 1984)).

III. Evaluation of the Safety of the Petitioned Use of the Additive

A. ACK—Background

As previously noted, FDA's original evaluation of the safety of ACK established that there was no association between neoplastic disease (cancer) and consumption of this additive (53 FR 28379 at 28380 and 28381). That evaluation also established a lifetime-averaged acceptable daily intake (ADI) for ACK of 15 milligrams per kilogram of body weight per day (mg/kg bw/d), equivalent to 900 mg per person per day (mg/p/d).

B. ACK—New Information

In the present petition, Hoechst included several ACK toxicity studies that had been conducted since the agency's original evaluation of the safety of this additive. These included studies on mutagenicity, antigenicity, and potential for dermal and eye irritation; an acute toxicity study in fish; and a subchronic toxicity study in diabetic rats.

The mutagenicity studies demonstrated that ACK is not mutagenic at histidine loci in *Salmonella typhimurium* or at a tryptophan locus in *Escherichia coli*. These results are consistent with the negative results of the mutagenicity and genetic toxicity studies previously considered by FDA in its original evaluation of the safety of ACK. The results of all the ACK genetic toxicity tests establish that ACK is not genotoxic.

The results of the other ACK toxicity studies listed above did not show toxicologically significant ACK-related adverse effects. Importantly, these ACK toxicity studies contain no new information that would change the agency's previous conclusion that there is no association between neoplastic disease and consumption of this additive. Thus, FDA has evaluated the safety of the petitioned use of ACK in nonalcoholic beverages under the general safety standard, considering all available data.

In determining whether the proposed use of an additive is safe, FDA considers, among other things, whether an individual's lifetime-averaged estimated daily intake (EDI) of the additive will be less than the ADI established from toxicological information. Importantly, the new studies on ACK listed above do not contain any new information that would cause the agency to alter the previously determined ADI for ACK. Thus, FDA concludes that the ADI for ACK is 15 mg/kg bw/d (equivalent to 900 mg/p/d). The present petition contains information regarding dietary consumption of ACK-containing food products, including nonalcoholic beverages, and the agency has considered consumer exposure to ACK resulting from its use in nonalcoholic beverages, as well as all currently listed uses. FDA has calculated the mean EDI from these combined uses to be 1.6 mg/kg bw/d, which is equivalent to 96 mg/p/d; and the 90th percentile EDI from these combined uses to be 3.0 mg/kg bw/d, which is equivalent to 180 mg/p/d (Ref. 1). These levels of dietary exposure to ACK, which represent measures of the average and the high chronic intake, respectively, are both well below the ADI.

C. Methylene Chloride

Residual amounts of reactants and manufacturing aids are commonly found as contaminants in chemical products, including food additives. In its evaluation of the safety of ACK, FDA reviewed both the safety of the additive

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[1] Stability studies of ACK in aqueous solutions were also submitted in the original petition for ACK.

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and the safety of the chemical impurities that may be present in the additive from the manufacturing process.

In the current manufacturing process for ACK, methylene chloride, a carcinogenic chemical, is used as a solvent in the initial manufacturing step. Subsequently, the product is neutralized, stripped of methylene chloride, and recrystallized from water. Data submitted by the petitioner show that methylene chloride could not be detected in the final product at a limit of detection of 40 parts per billion (ppb).

FDA has previously discussed the significance of the use of methylene chloride in the production of ACK. The agency incorporates those discussions, published in the **Federal Register** of December 1, 1994 (59 FR 61538, 59 FR 61540, and 59 FR 61543) and of May 3, 1995 (60 FR 21700), in full, into the agency's safety determination on the present petition.

Specifically, in evaluating the safety of the uses of the additive that are currently listed, FDA concluded, using risk assessment procedures, that the estimated upper-bound limit of individual lifetime risk from the potential exposure to methylene chloride resulting from these uses of ACK, together with the petitioned use of ACK in nonalcoholic beverages, is 2.6×10^{-11}, or less than 3 in 100 billion. The agency also concluded that, because of the numerous conservative assumptions used in calculating this estimated upper-bound limit of risk, this upper-bound limit would be expected to be substantially higher than any actual risk (59 FR 61538 at 61539, 59 FR 61540 at 61542, 59 FR 61543 at 61544, and 60 FR 21700). FDA has received no new information that would change the agency's previous conclusion. Therefore, the agency concludes that there is a reasonable certainty of no harm from the exposure to methylene chloride that might result from the proposed use of ACK in nonalcoholic beverages.

In conducting its evaluation, the agency also considered whether a specification is necessary to control the amount of potential methylene chloride impurity in ACK. At that time, FDA concluded that there is no reasonable possibility that methylene chloride will be present in amounts that present a health concern, and that there would thus be no justification for requiring manufacturers to monitor compliance with a specification (59 FR 61538 at 61539, 59 FR 61540 at 61542, 59 FR 61543 at 61544, and 60 FR 21700). Because no new information has been received that would change FDA's previous conclusion regarding the need for a specification, the agency affirms its prior determination that a specification for methylene chloride impurity in ACK is unnecessary.

D. Special Conditions Relevant to Use in Nonalcoholic Beverages

The use of ACK as a nonnutritive sweetener in nonalcoholic beverages may subject the sweetener to conditions other than those considered in the evaluation of the currently listed uses of this additive. FDA has evaluated data in the present petition and other information regarding the stability of ACK under a variety of conditions that characterize the proposed use in nonalcoholic beverages. Based on these data and information, the agency concludes that ACK is stable under almost all circumstances expected to be encountered for the proposed use in nonalcoholic beverages.

However, FDA has determined that there is a limited possibility that some nonalcoholic beverages could be stored under conditions that could lead to the formation of ACK hydrolysis products. Specifically, small amounts of hydrolysis products may be formed in highly acidic aqueous food products (which would include some, though not all, nonalcoholic beverages) under conditions of prolonged storage at elevated temperatures. As part of its safety evaluation, FDA has reviewed toxicological data and supporting information regarding the hydrolysis products of ACK, as well as estimates of human dietary exposure to the hydrolysis products. The substantive aspects of the agency's safety assessment of the hydrolysis products, as they relate to the use of ACK in nonalcoholic beverages, are discussed in detail in sections III.D.1 and 2 of this document.

1. Hydrolysis Products—Consumer Exposure

Both the present petition and the petition supporting the initial approval of ACK contain studies of the stability of ACK in aqueous solutions. These studies show that ACK hydrolyzes, in strongly acidic or strongly basic aqueous solutions, to acetoacetamide-N-sulfonic acid (AAS). AAS subsequently hydrolyzes to acetoacetamide (AAA). The AAA that is formed is also subject to hydrolysis; the eventual endproducts are acetone, carbon dioxide, and ammonia. Data and other information submitted by the petitioner and evaluated by the agency establish that both AAS and AAA are transient intermediates in the overall ACK hydrolysis pathway and that no significant buildup of AAS or AAA will occur in ACK-sweetened nonalcoholic beverages.

Studies in the two petitions also establish that hydrolysis of ACK is dependent on two other factors in addition to pH: Time and temperature. Prolonged storage at elevated temperatures is required to produce detectable amounts of AAS and, particularly, its byproduct, AAA, even in test solutions containing over 100 times the amount of ACK that would ordinarily be used in a nonalcoholic beverage. Specifically, data in the petition show that such a concentrated, buffered, carbonated solution of pH 3.0 (representative of the lower end of the pH range for carbonated diet soft drinks), after storage at 20 °C (68 °F) for 8 weeks, contained AAS at a level of 0.35 percent of the original ACK level. Even with a sensitive analytical method (limit of detection, circa (ca.) 1 ppb, corresponding to 0.001 percent of the original ACK level), no AAA was detected in this system. More severe storage conditions were required to produce detectable levels of AAA (e.g., 8 weeks storage at 30 °C (86 °F) or 50 weeks storage at 20 °C).

The combination of conditions necessary to produce measurable amounts of hydrolysis products in beverages (i.e., low beverage pH and extended storage at high temperatures) is not expected to be frequently encountered. The stability studies also establish that AAA and AAS will not build up in beverages over time. Accordingly, FDA believes that any consumer exposure to AAA and AAS from consumption of ACK-sweetened nonalcoholic beverages will be at extremely low levels and also both intermittent and infrequent.

Nevertheless, using data from the stability studies and other information regarding consumption patterns, FDA has estimated a potential lifetime-averaged "daily" dietary intake of ACK hydrolysis products that might result from consumption of ACK-sweetened nonalcoholic beverages. In its calculations, the agency has deliberately incorporated several assumptions that, taken together, will produce an estimated "daily" intake that is likely to be an overestimate rather than an underestimate. First, FDA has assumed that all nonalcoholic beverages ingested by consumers will have been sweetened only with ACK, that ACK will be used at the highest levels characteristic of each type of nonalcoholic beverage, and that the consumer will have ingested such beverages at the 90th percentile consumption level. Second, FDA has assumed certain values for beverage pH, storage time, and storage temperature that are also likely to produce an overestimate of the "daily" intake of ACK hydrolysis products. The basis for the agency's particular choice of beverage pH, storage time, and storage temperature is discussed in more detail in the next two paragraphs.

FDA has chosen to use a pH of 3.0 in its analysis because this pH is representative of the lower end of the range in which beverages containing nonnutritive sweeteners are formulated. The agency has chosen to use a storage time of 8 weeks because FDA considers 8 weeks to be representative of a storage period that is significantly longer than the average storage period for nonalcoholic beverages. Data in the petition and in the agency's files show that ca. 90 percent of diet cola (representative of beverages formulated at low pH) is sold within 8 weeks of bottling; these data also show that even when additional flavor categories are considered, ca. 90 percent of nonalcoholic beverages are still sold within 9.5 weeks of bottling, with an average time from bottling to sale of just under 4 weeks (Ref. 2).

With respect to temperature, FDA has chosen to use 20 °C in its analysis because this temperature is representative of the high end of the range of in-home or in-store storage temperatures, when periods of both refrigerated and room temperature storage are taken into account.[2] The agency also reviewed climate data for different geographical locations in the United States, which were chosen to cover the range of possible temperature extremes for beverages stored under ambient conditions (no temperature control). This review shows that few locations have annual average temperatures above 20 °C (Ref. 2). Accordingly, for all of the foregoing reasons, the agency has used 20 °C as representative of the temperature conditions likely to be encountered over an extended storage period.

FDA has calculated estimated dietary exposure to AAS and AAA based upon data reflecting the foregoing assumptions regarding beverage formulation and storage conditions (see Ref. 2). The agency concludes that, for the 90th percentile consumer of ACK-sweetened nonalcoholic beverages, exposure to AAS would be no more than 2.5 micrograms (μg)/kg bw/d, which is equivalent to 0.15 mg/p/d. In estimating consumer exposure to AAA, the agency incorporated an additional conservative assumption: that AAA would be present at a level corresponding to one-half the limit of detection (Ref. 3), even though it was not actually detected. The agency concludes that, for the 90th percentile consumer of ACK-sweetened nonalcoholic beverages, exposure to AAA would be no more than 3.3 nanograms (ng)/kg bw/d, which is equivalent to 0.2 μg/p/d.

2. Hydrolysis Products—Evaluation of Toxicological Information

In support of the safety of ACK for use as a nonnutritive sweetener in nonalcoholic beverages, the petitioner submitted toxicity studies of AAS and AAA, the two principal hydrolysis products of ACK. The agency's evaluation of these toxicological data and other related information follows.

a. *Acetoacetamide-N-sulfonic acid (AAS).* Hoechst submitted a set of toxicity studies of AAS in support of the safety of the proposed use of ACK in nonalcoholic beverages including: Short-term tests for genetic toxicity; acute, short-term and subchronic studies in rats; a subchronic study in dogs; short-term and subchronic studies in monkeys; an acute study in humans; a reproduction and developmental toxicity study in rats; and metabolism studies in rats and humans. The key studies of AAS relevant to FDA's safety decision regarding the petitioned use of ACK are discussed in the next sections of this document.

i. *Genetic toxicity testing.* AAS was tested in several in vitro and in vivo genetic toxicity tests. In the absence of bioassay data, such tests are often used to predict the carcinogenic potential of the test compound.

AAS was not mutagenic at histidine loci in *Salmonella typhimurium* (Ames test), at a tryptophan locus in *Escherichia coli*, nor at the HGPRT locus in V79 cells treated in vitro. AAS did not induce unscheduled deoxyribonucleic acid (DNA) synthesis in strain A 549 human cells exposed in vitro. Finally, AAS was not clastogenic in V79 cells exposed in vitro nor in bone marrow cells of NMRI mice. The agency concludes that results of these tests establish that AAS is not genotoxic.

ii. *Subchronic toxicity studies in rats and monkeys.* The petitioner submitted the results of a subchronic toxicity study in which AAS was administered in the diet to 30 Wistar rats/sex/group at dose levels equivalent to 0, 800, 2,000, or 5,000 mg/kg bw/d for 90 days. Twenty rats/sex/group were sacrificed at the end of the dosing period. The remaining ten rats/sex/group were designated as "recovery" animals; that is, there was an interval of approximately 1 month between the time dosing ended and the time of sacrifice for these animals.

Increased relative kidney weights and decreased relative pituitary weights were observed in high-dose female rats. The mid- and high-dose groups (2,000 and 5,000 mg/kg bw/d, respectively) of male and female rats had softer feces, decreased body weight gain, and dose-related increases in feed consumption compared to controls. Other AAS-related effects observed in the animals in the mid- and high-dose groups included increased urine pH, and changes in various clinical chemistry parameters, some of which changes resolved by the end of the recovery period. Certain changes in the caecum were also observed; however, these effects had also resolved by the end of the recovery period, and were judged by FDA to be a probable physiological adaptation to osmotic changes in the gastrointestinal tract. Based on these data, FDA concludes that the no-observed-effect level (NOEL) from this study is 800 mg AAS/kg bw/d, the lowest dose level tested in this study (Ref. 4).

The petitioner also submitted the results of a subchronic toxicity study of AAS in Cynomologous monkeys. In this study, four monkeys/sex/group were administered gavage doses of 0, 100, 315, or 1,000 mg AAS/kg bw/d for 13 weeks. Marginal decreases in the absolute and relative weights of various organs in animals of the mid- and high-dose groups were observed; however, FDA does not consider these effects to be of toxicological significance because of the lack of corroborative evidence of organ toxicity. The only toxicologically significant effect observed in this study was a dose-related increase in incidence and severity of diarrhea in the mid- and high-dose groups. Thus, FDA concludes that the NOEL for AAS from this study

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[2] FDA also considered the effect of extreme temperature conditions on dietary exposure to ACK hydrolysis products (see Ref. 2). However, the agency has concluded that, for several reasons, it is highly unlikely that beverages stored under extremely high temperatures for extended periods of time would be consumed on a continued basis. First, most in-home or retail storage is under refrigeration or other climate-controlled conditions. Second, it is a common and usual practice in the industry to discard diet beverages that have been stored under extreme conditions (e.g., 50 to 55 °C, equivalent to 120 to 130 °F) because the artificial sweeteners currently in use undergo significant decomposition that results in an unpalatable product. FDA expects that this practice would also be applied to beverages sweetened with ACK because the decomposition of ACK that occurs under such extreme conditions also results in an unpalatable product. Finally, consumers do not customarily store nonalcoholic beverages under extreme conditions for lengthy periods, and would not be expected to habitually consume the unpalatable products that result from extended storage at extremely high temperatures.

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is 100 mg/kg bw/d, the lowest dose level tested (Ref. 4).

iii. *Reproduction and developmental toxicity study in rats.* The petitioner submitted the results of a two-generation reproduction study with a teratology phase conducted in Sprague-Dawley rats. In this study, AAS was administered in the diet to 25 rats/sex/group of the P- and F1-generation at dose levels equivalent to 0, 164, 492, or 1,780 mg AAS/kg bw/d. No adverse effects on reproduction or developmental parameters were observed at any dose level in this study. Thus, FDA concludes that the NOEL for this study is 1,780 mg AAS/kg bw/d, the highest dose used in the study (Ref. 4).

iv. *Assessment of AAS.* No adverse AAS-related effects were observed at 800 mg/kg bw/d in the subchronic rat study, at 100 mg/kg bw/d in the subchronic monkey study, and at 1,780 mg/kg bw/d and lower in the reproduction/teratology study in rats. The agency has no safety concerns about AAS at its anticipated level of intake (less than 2.5 µg/kg bw/day) because of the substantial margin between this level and the levels at which no adverse effects were observed in these studies (a margin of at least 40,000).

b. *Acetoacetamide (AAA).* Hoechst submitted a set of toxicity studies of AAA in support of the safety of ACK for use in nonalcoholic beverages, including short-term tests for genetic toxicity; an acute study, two short-term studies, and a subchronic study in rats; an acute and two short-term studies in dogs; a subchronic study in rabbits; metabolism studies in rats, dogs, hamsters, and humans; a developmental toxicity study in rabbits; and several other studies. The key studies of AAA relevant to FDA's safety decision regarding the petitioned uses of ACK are discussed in detail below.

i. *Genetic toxicity testing.* AAA was tested in several in vitro and in vivo genetic toxicity tests. As noted, in the absence of bioassay data, such tests are often used to predict the carcinogenic potential of the test compound.

AAA was not mutagenic at the HGPRT locus in V79 cells treated in vitro nor at histidine loci in *Salmonella typhimurium* (Ames test). AAA was not clastogenic in V79 cells exposed in vitro nor in bone marrow cells of NMRI mice. In addition, AAA did not induce unscheduled DNA synthesis in strain A 549 human cells exposed in vitro. The agency concludes that the results of these tests establish that AAA is not genotoxic.[3]

ii. *Short-term and subchronic toxicity studies in rats, rabbits, and dogs.* The petitioner submitted the results of one subchronic (90-day) and two short-term toxicity studies of AAA in rats. One short-term (30-day) study was designed to determine appropriate doses for the subsequent subchronic study. The second short-term (14-day) study was designed as a preliminary mechanistic study; the second short-term study is discussed in detail in section III.D.2.b.v of this document.

In the subchronic study, AAA was administered in the diet to 15 SPF Wistar rats/sex/group at dose levels equivalent to 0, 24, 157, 794, or 4,300 mg/kg bw/d for 13 weeks. The following AAA-related adverse effects were identified in the subchronic rat study: (1) Reduced body weights of males and females in the highest dose group over the entire study; (2) anemia in female rats in the highest dose group and male rats in the two highest dose groups; (3) increased numbers of both males and females with centrilobular fatty liver in the highest dose group; (4) increased group mean relative liver weights for male and female rats in the highest dose group; as well as (5) various adverse effects on the thyroid, which are discribed in the next paragraph.

The adverse effects on the thyroid observed in the subchronic rat study of AAA were: (1) Dose-related increases in the numbers of males and females with grossly enlarged thyroids; (2) increased relative thyroid weights for mid- and high-dose males and females; (3) dose-related increases in the numbers of males and females with follicular cell hypertrophy and hyperplasia; and (4) thyroid adenomas in one male rat in each of the two highest dose groups. No hypertrophy or hyperplasia was associated with enlarged thyroids in controls or in animals in the lowest dose group (24 mg/kg bw/d).

With respect to endpoints in organs other than the thyroid, no adverse toxicological effects were observed at doses corresponding to 157 mg/kg bw/day and lower. However, based on the gross and histopathological findings in the thyroid, FDA concludes that the NOEL from the subchronic rat study is 24 mg AAA/kg bw/d, the lowest dose tested in this study.

The petitioner also submitted the results of a subchronic study of AAA in albino Himalayan rabbits. In this study, six rabbits/sex/group were administered 0, 1,200, 6,000, or 30,000 mg AAA/kg drinking water/day (equivalent to 0, 96, 499, or 2,192 mg AAA/kg bw/d for male rabbits, and to 0, 93, 560, or 2,763 mg AAA/kg bw/d for female rabbits). The following effects were observed: (1) Significantly increased testes weights and signs of focal tubular hypospermatogenesis in the testes of all high-dose males; (2) significantly increased thyroid weights in high-dose males and females; and (3) thyroid follicular cell hypertrophy and hyperplasia in all high-dose males and females. One mid-dose female and one high-dose female in this study had grossly enlarged thyroids; the mid-dose female also had a thyroid follicular cyst that may have been part of a hyperplastic response.

With respect to endpoints in organs other than the thyroid, no adverse toxicological effects were observed at doses corresponding to 499 mg/kg bw/day and lower. However, based on the evidence that the thyroid is a target organ for AAA-related toxicity and the finding of possible thyroid hyperplasia in one female in the mid-dose group, FDA concludes that the NOEL for AAA in rabbits is 93 mg/kg bw/d, the lowest dose tested in females in this study (Ref. 4).

The petitioner submitted the results of two short-term (14-day) studies of AAA in dogs. In the first short-term study, two dogs/sex/group were gavaged with 0, 100, 500, or 2,500 mg AAA/kg bw/d for 14 days. Thyroid follicular cell hyperplasia was observed in males and females in all dose groups.

Because adverse effects were observed at all dose levels in the first study, the petitioner performed a second short-term (14-day) dog study using lower doses. In the second study, three dogs/sex/group were gavaged with 0, 4, 20, or 100 mg AAA/kg bw/d for 14 days; at the end of the dosing period two males and females from each group were sacrificed. The remaining male and female in each group were designated as "recovery" animals; that is, there was an interval of approximately 1 month between the time dosing ended and the time of sacrifice for these two animals. In this study, two of the males in the high-dose group developed thyroid follicular hyperplasia; no other males and no females in this study were reported to have thyroid abnormalities. However, of the two high-dose males that developed thyroid follicular hyperplasia, one was a "recovery" animal, indicating that the effect of AAA on the thyroid had persisted for 1 month after dosing ended. In an effort to identify a possible mechanism for AAA's action on the thyroid in the second dog study, the investigators measured serum levels of thyroid hormones T3 and T4 at the end of the study; no compound-related changes in serum T3 or T4 levels were observed. (The investigators did not measure levels of thyroid stimulating hormone (TSH).)

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[3] The petitioner also submitted results of genetic toxicity tests of β-hydroxybutyramide (BHB), the principal metabolite of AAA in humans. The Ames test of BHB was well conducted and showed that BHB is not mutagenic. Although several of the other genetic toxicity tests of BHB had deficiencies, none of these tests indicated that BHB is genotoxic.

FDA concludes that the results of the short-term and subchronic toxicity studies in rats, rabbits, and dogs demonstrate that AAA has a proliferative effect on the thyroid (i.e., diffuse follicular cell hypertrophy and hyperplasia). The agency's assessment of the significance of the observed thyroid lesions is discussed in detail in section III.D.2.b.v of this document.

iii. *Developmental toxicity study in rabbits.* The petitioner submitted an embryotoxicity study of AAA in Chinchilla rabbits in which groups of 16 rabbits were gavaged with 0, 100, 300, or 1,000 mg AAA/kg bw/d on days 6 through 18 of pregnancy. FDA has determined that there were no toxicologically significant effects of AAA on reproductive or developmental parameters in this study; thus, the NOEL for reproductive and developmental effects is 1,000 mg AAA/kg bw/d, the highest dose used in this study (Ref. 4).

iv. *Assessment of AAA—nonthyroid endpoints.* For organs other than the thyroid, no AAA-related adverse effects were observed at 157 mg/kg bw/d and lower in the subchronic rat study, at 499 mg/kg bw/d and lower in the subchronic rabbit study, and at 1,000 mg/kg bw/d and lower in the developmental toxicity study in rabbits. With respect to endpoints in organs other than the thyroid, the agency has no safety concerns about AAA at its anticipated level of intake (less than 3.3 ng/kg bw/day) because of the substantial margin between this level and the levels at which no adverse effects were observed in the studies discussed previously (a margin of at least 5 million).

v. *Assessment of AAA—thyroid endpoints.* No adverse AAA-related effects on the thyroid were observed at 24 mg/kg bw/day in the subchronic rat study, at 93 mg/kg bw/day in the subchronic rabbit study, and at 20 mg/kg bw/day and lower in the second short-term dog study. Although the study results permit FDA to identify NOEL's for certain thyroid endpoints in the rat and rabbit subchronic studies,[4] the major histological findings in these studies, thyroid follicular cell hypertrophy and hyperplasia, raise a question regarding the possible tumorigenic activity of AAA. Thyroid follicular cell hypertrophy and hyperplasia were also observed at similar levels of AAA administration in the dog studies, which studies were of even shorter duration. The pronounced thyroid follicular cell hypertrophy and hyperplasia observed in rats, rabbits, and dogs, considered together with the occurrence of thyroid adenomas in two males in the subchronic rat study, suggest that AAA might induce thyroid tumors if administered in long-term oral studies (see Refs. 2 and 4).

In response to FDA's concerns regarding AAA's thyroid effects, the petitioner initially argued that application of an appropriate safety factor to the lowest NOEL for thyroid endpoints was a suitable approach, despite the possible tumorigenic activity of AAA. Hoechst maintained that the dose-related hypertrophy and hyperplasia of the thyroid follicular cells and, in a 90-day study, the progression of some cells to adenomas was consistent with a typical pattern of morphological changes clearly associated with sustained, elevated levels of TSH,[5] particularly in the rat. Hoechst also maintained that AAA was most likely to act on the thyroid gland by inhibiting the enzyme thyroperoxidase in follicular cells. Thyroperoxidase is required for synthesis of T3 and T4 in the thyroid; therefore, inhibiting this enzyme would lead to a reduction in the levels of T3 and T4 and, consequently, increased serum levels of TSH (see Refs. 5 and 6). As support for this hypothesis, Hoechst referenced an extensive body of scientific literature linking thyroperoxidase inhibition (and consequent elevated TSH levels) by other compounds to thyroid lesions that are similar in type, severity, and timecourse of development, to the thyroid lesions observed in the short-term and subchronic studies of AAA summarized previously in this document. Hoechst asserted that progression of the hypertrophy and the hyperplasia associated with AAA would be dependent on continued or chronic stimulation of the thyroid gland by TSH, again drawing upon comparisons with other compounds whose similar effects on the thyroid were mediated by chronic TSH stimulation.[6]

In further support of its argument, Hoechst submitted a set of publications addressing various aspects of thyroid function and toxicity, including thyroid carcinogenicity; a report authored by the "Acesulfame K Scientific Expert Panel," a group of experts retained by the petitioner to perform an independent safety evaluation of AAS and AAA (Ref. 7); and a letter from one of the experts from the Acesulfame K Scientific Expert Panel elaborating on the significance of the thyroid effects of AAA (Ref. 8).

The petitioner also submitted the results of a short-term study of AAA in rats (the "preliminary mechanistic study"). In this study, 5 male rats per group were fed diets containing 0, 50, 123, 410, 1,110, or 2,400 ppm AAA or 90 ppm methimazole (positive control) for a period of 14 days. The following AAA-induced thyroid effects were observed in the preliminary mechanistic study: (1) Significantly increased absolute and relative thyroid weights in all positive control rats and in all rats fed diets containing 1,110 or 2,400 ppm AAA; (2) grossly enlarged thyroids in all positive control rats and in all rats fed diets containing 1,110 or 2,400 ppm AAA; (3) diffuse thyroid follicular cell hypertrophy and hyperplasia in all positive control rats and in all rats fed diets containing 1,110 or 2,400 ppm AAA; (4) significantly increased levels of TSH in positive control rats, as well as in rats fed 410, 1,110 or 2,400 ppm

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[4] In reaching a safety decision on a food additive, FDA typically uses NOEL's determined from studies of at least 90 days duration (a subchronic study) and uses the term "NOEL" to refer specifically to the no-observed-effect levels determined from such studies. Results from studies in which animals are exposed for shorter test periods are typically used for different purposes (e.g., to gather information for use in designing longer studies). The short-term studies in dogs and rats (14 days) are too short to determine a subchronic NOEL.

[5] Iodine is taken up by the thyroid and converted to the thyroid hormone thyroxine, also known as T4 (which contains four iodine atoms) or to tri-iodothyronine, otherwise known as T3 (which contains three iodine atoms). Thyroid hormone production and release into circulation are stimulated by TSH released by the pituitary in response to decreases in circulating levels of T3 and T4. The biological functions of T4 and T3 are similar. The thyroid hormones are primarily metabolized in the liver and, to a lesser extent, in the kidneys. T4 can be converted to T3 (biologically active) or to reverse T3 (inactive), and then to di-iodothyronine (DIT).

Thyroid hypertrophy, hyperplasia and neoplasia can be caused by a wide range of nongenotoxic compounds. The common factor is prolonged stimulation of the thyroid by TSH following disruption of the normal feedback mechanism that controls the serum level of TSH. This disruption of thyroid hormone economy can be caused by interference with iodide uptake and thyroid hormone synthesis or secretion, interference with the peripheral metabolism of T4 or T3, or increased metabolism and excretion of thyroid hormones (see Refs. 5 and 6).

[6] "Ample information in experimental animals indicates a relationship between inhibition of thyroid-pituitary homeostasis and the development of thyroid follicular cell neoplasms. This is generally the case when there are long-term reductions in circulating thyroid hormones which have triggered increases in circulating thyroid stimulating hormone * * *. The progression of events leading to thyroid * * * neoplasms can be reversed under certain circumstances by reestablishing thyroid-pituitary homeostasis" (Ref. 6).

AAA; (5) significantly decreased levels of T4 and reverse T3 in positive control rats and in rats fed diets containing 1,110 or 2,400 ppm AAA; and (6) significantly decreased T3 levels in positive control rats and in rats fed diets containing 2,400 ppm AAA (see Ref. 4).

In further support of its proposed mechanism, Hoechst also submitted the results of an in vitro investigation of the action of AAA on canine thyroperoxidase. In this study, AAA was shown to inhibit enzyme activity in a dose-related manner; the AAA concentration at which 50 percent enzyme inhibition occurred was calculated by Hoechst to be 28.6 micromolar. Hoechst pointed to the consistency between the results of both the preliminary mechanistic study and the thyroperoxidase inhibition study as further evidence for the link it hypothesized between thyroperoxidase inhibition and the thyroid-related effects observed in the oral toxicity studies of AAA.

Hoechst also argued that a substance acting through a TSH-dependent mechanism would be expected to show a threshold below which no excessive stimulation of thyroid follicular cells would occur. The petitioner acknowledged that it is difficult to actually determine thresholds for low-incidence effects because of the small numbers of animals ordinarily used in toxicity studies (see Ref. 8). However, Hoechst cited the results of the preliminary mechanistic study, the results of the in vitro thyroperoxidase inhibition study, and the results of the short-term and subchronic oral studies in rats, rabbits, and dogs as strong evidence of the existence of a threshold for AAA-induced thyroid effects. The petitioner also pointed to the negative results of the genetic toxicity tests of AAA as further support for its argument that a threshold level should exist, below which administration of AAA would not induce thyroid tumors. That is, hypertrophy and hyperplasia and, by extension, possible progression to tumors, would occur only at AAA doses high enough to increase circulating levels of TSH, and not through a genotoxic mechanism.

In summary, Hoechst proposed the following nongenotoxic or "secondary" mechanism for the AAA-induced effects observed in the thyroids of several species: (1) At high doses, AAA acts to disrupt thyroid hormone economy by inhibiting thyroperoxidase activity and thus decreasing serum levels of T3 and T4; (2) the disruption in thyroid hormone economy results in hypersecretion of TSH by the pituitary; (3) the elevated blood levels of TSH, if sustained, result in hypertrophy and hyperplasia of the thyroid follicular cells and, eventually, thyroid tumors; and (4) that AAA does not act through a genotoxic mechanism to initiate a neoplastic process.

Hoechst explicitly acknowledged that there was a distinct possibility that AAA, if tested in a 2-year rodent bioassay, would induce thyroid tumors. However, Hoechst also maintained that thyroid tumors would occur only as a result of chronic consumption of AAA in amounts high enough to induce excess TSH production. Hoechst argued that because AAA would be consumed only in extremely low amounts, well below any value they believed likely for the postulated threshold for stimulating excess TSH production, it would be appropriate to base an analysis of the potential health risk from AAA on a comparison between the NOEL's for certain thyroid endpoints and the anticipated low levels of intake (a "safety factor" or "threshold concept" approach). Hoechst concluded that because the NOEL's for AAA's thyroid effects exceeded its dietary exposure estimate by a factor of approximately 2 million, there would be essentially no risk to human health from dietary exposure to AAA resulting from consumption of beverages sweetened with ACK.

FDA agrees that the anticipated human dietary exposure to AAA is lower than the NOEL's for AAA-related thyroid hypertrophy and hyperplasia by several orders of magnitude. FDA does not agree, however, that Hoechst's approach of simply comparing these NOEL's with dietary exposure is sufficient for evaluating the potential health risk suggested by the AAA-related effects observed in the thyroid. As previously noted, the AAA-related histopathological findings in the thyroid (i.e., hypertrophy and hyperplasia in rats, rabbits, and dogs, together with adenomas in two AAA-treated male rats in the subchronic study) suggest that AAA may induce thyroid tumors in long-term studies. Hoechst's "safety factor" approach relies on the firm's proposed mechanism for AAA's action on the thyroid, which explicitly incorporates a presumed threshold for AAA's thyroid effects. FDA has concluded, however, that the available data do not establish the mechanism proposed by the petitioner. The strengths and weaknesses in the data submitted in support of Hoechst's proposed mechanism are discussed in the following paragraphs.

FDA has determined that there is strong evidence that AAA is not genotoxic. The agency also acknowledges that some of the results from the preliminary mechanistic study and the in vitro study of canine thyroperoxidase are consistent with Hoechst's argument that AAA-induced effects on the thyroid are mediated through disruption of thyroid hormone economy. In particular, because inhibition of thyroperoxidase would cause TSH serum levels to increase rapidly, the results of the in vitro thyroperoxidase inhibition study are consistent with results of the preliminary mechanistic study. The preliminary mechanistic study also provides some support for the hypothesis that AAA-induced thyroid effects in rats are mediated by dose-related perturbations in thyroid hormone economy because decreased circulating levels of T3 and T4 and increased serum TSH levels were associated with thyroid follicular cell hypertrophy and hyperplasia in this study.

However, a threshold level for thyroperoxidase inhibition in vivo cannot be determined from the available data, which were obtained in an in vitro system. In addition, a threshold level for AAA-induced TSH induction cannot be determined from the in vivo studies, which were conducted with too few animals. Finally, the in vivo studies of AAA-induced effects on thyroid hormone economy (the preliminary mechanistic study in rats and the second short-term dog study) were both limited to 14 days duration; there are no studies of the effects of longer periods of exposure to AAA on thyroid hormone economy.

Moreover, FDA has determined that some of the data from the short-term and subchronic toxicity studies appear to be inconsistent with Hoechst's proposed mechanism. For example, as discussed above, early AAA-related changes in the thyroid (e.g., hypertrophy and hyperplasia), if induced via the petitioner's proposed mechanism, would be expected to be reversible. However, in the second 14-day dog study, one of the two high-dose animals with thyroid follicular hyperplasia was a "recovery" animal (i.e., an animal sacrificed 1 month after dosing ended); the observation of hyperplasia in a "recovery" animal indicates that AAA's effect on the thyroid persisted for 1 month after dosing ended. This raises the possibility that the effect may persist for longer than 1 month and may not be readily or completely reversible.

Similarly, some of the data obtained from the subchronic rat study are not entirely consistent with certain features of the mechanism proposed by Hoechst.

Hoechst has advanced, as part of its argument, the observation that rodents are more susceptible to TSH-mediated thyroid effects than other species, and that male rats are "particularly vulnerable." However, FDA notes that the available data do not show clear differences, between rats and dogs, in sensitivity to AAA-induced effects. For example, the NOEL for AAA-induced thyroid effects in rats in the subchronic study and the level at which no AAA-induced effects were observed in the second dog study are approximately the same. In addition, although FDA's review of the subchronic rat study showed that male rats may have been slightly more susceptible to AAA's thyroid effects than female rats, the differences were again small.

FDA concludes that, for several reasons, the petitioner's proposed mechanism has not been established. First, as noted, some of the results of the short-term and subchronic feeding studies (e.g., persistence of thyroid effects in recovery animal in the dog study; the lack of a clear difference, in sensitivity to AAA, between rats and dogs and between male and female rats) appear to be inconsistent with the proposed mechanism. Second, the data on AAA's effects on thyroid hormone economy are limited to short-term exposures of a relatively small number of animals; as previously noted, these limited data do not permit the determination of a threshold for AAA's effects. Thus, FDA has determined that although the mechanism proposed by Hoechst is plausible, it has not been established. Because Hoechst's approach to evaluating the health risk from AAA (a comparison of the NOEL's for certain thyroid endpoints with dietary AAA exposure) relies explicitly on the firm's proposed mechanism, and the proposed mechanism has not been established, FDA concludes that Hoechst's approach is not sufficient for an evaluation of the health risk from AAA.

vi. *Consideration of whether more testing of AAA is necessary—(1) Statement of the issue.* Because the findings in the short-term and subchronic toxicity studies of AAA suggest that AAA could induce thyroid tumors in a long-term study, FDA carefully considered whether conduct of such a study was necessary to evaluate the safety of ACK for use in nonalcoholic beverages. In particular, given the likely human dietary exposure to AAA, FDA considered whether the possibility that AAA might induce tumors in a long-term bioassay raised sufficient concern such that testing of the hypothesis should be required. Said differently, the issue was whether a long-term oral study of AAA, a hydrolysis product expected to be present at extremely low levels (if at all) in only certain nonalcoholic beverages, is needed to evaluate the safety of the petitioned use of the food additive, ACK. In addressing this question, FDA determined that it was critical to assess both the likely putative tumorigenic (neoplastic) potency of AAA and the likely patterns of dietary exposure to AAA resulting from consumption of ACK-sweetened nonalcoholic beverages.

As discussed in detail in the rest of this section, FDA considered several approaches to assessing the risk from AAA, and determined both that long-term testing of AAA is unnecessary and that the petitioned use of ACK in nonalcoholic beverages is safe.

(2) Risk assessment. The usual process of quantitative risk assessment is characterized by four steps. First, a possible toxicological hazard is identified. Second, mathematical modelling techniques are applied to the dose-response information from a toxicity study in order to estimate the probability, or, usually, an upper-bound limit on the probability, of the toxic effect of the substance at any given dose level (see for example, Refs. 9 through 11).[7] Typically, in a risk assessment of a carcinogen, this dose-response information is taken from tumor incidence data from a long-term animal study; most often, this long-term study is conducted in a rodent species. Third, the likely human dietary exposure to the substance is estimated. This estimate of dietary exposure may consider such factors as the age groups likely to be exposed and the type, magnitude, and duration of the anticipated exposures.[8] Finally, the information from the first three steps is combined to characterize the risk associated with the potential human exposure to the substance in question.

In the present case, as in the usual risk assessment process, a possible hazard, thyroid carcinogenicity, has been identified. There are similarities between the thyroid effects produced by oral administration of AAA in short-term and subchronic toxicity studies and those produced by oral administration of other substances known to induce thyroid tumors in long-term rodent studies. Thus, there is the possibility that AAA would also induce tumors if tested in a long-term rodent study and, thus, may ultimately present a carcinogenic hazard to humans.

The risk assessment process used in the present case differs from the usual process, however, in that AAA has not been demonstrated to be an animal (or human) carcinogen. That is, dose-response information from a long-term oral study of AAA in animals has not been used because such a study has not been conducted. As an alternative, FDA has used information from the many existing long-term oral studies of known thyroid tumorigens to assess the probable carcinogenic potency (or range of probable potencies) of AAA that might be determined, were a carcinogenicity study of AAA conducted in a rodent species. The agency believes this is a sound approach because of the substantial amount of information available for a large number of thyroid tumorigens.[9]

As in the usual risk assessment process for a known carcinogenic constituent of a food or color additive, a potential life-time averaged "daily" human dietary exposure to the substance in question (in this case, AAA, a putative tumorigen) has been estimated. In calculating this estimate, FDA has used estimates of the likely human dietary exposure to ACK, in conjunction with information from analytical testing conducted on model solutions under exaggerated conditions, to estimate a potential lifetime-averaged level of daily dietary exposure to AAA. FDA's exposure estimate is conservative in that it incorporates numerous assumptions and default values for certain parameters that, when combined, yield a value for "daily" dietary exposure to AAA that is likely to overestimate rather than underestimate such exposure. By combining the information regarding potential human dietary exposure with the information regarding the likely tumorigenic potency (or range of probable potencies) of AAA, FDA has characterized the potential human carcinogenic risk from AAA resulting

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[7] In the absence of information that would support another approach, FDA uses simple linear extrapolation from the dose-response information in the experimental range to estimate the dose-response outside the experimental range (that is, at lower doses comparable to the anticipated human exposure).

[8] In the risk assessment of carcinogenic constituents of food and color additives used directly in food, FDA most often uses an estimate of the lifetime-averaged daily dietary exposure to the substance in question.

[9] Potency values at the thyroid and at other organ sites are available for a large number of thyroid tumorigens. In addition, the results of genetic toxicity testing, short-term studies, and other toxicity testing are available for many of the these compounds. Mechanistic information, though not complete in many cases, is also available for a significant number of these compounds, as well as information regarding structure-activity relationships.

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from the consumption of ACK-sweetened nonalcoholic beverages.

The petitioner and the agency have separately analyzed the likely health risk suggested by the AAA-related thyroid findings in the short-term studies, by considering both estimates of the tumorigenic potency of AAA and the likely patterns of dietary exposure to AAA resulting from consumption of ACK-sweetened nonalcoholic beverages. In the course of its analysis, scientists from FDA's Center for Food Safety and Applied Nutrition consulted with several scientists (hereafter referred to as "the FDA consultants"), from both within and outside the agency, with expertise in various scientific disciplines relevant to the agency's analysis. Details of the petitioner's analysis and the agency's analysis (including relevant comments from the FDA consultants) are discussed in the following paragraphs.

(3) Hoechst's analysis. In response to the agency's reservations regarding Hoechst's initial, threshold-based approach to evaluating the potential health risk from AAA, Hoechst performed two additional "extreme-case" or "worst-case" comparative risk assessments. In both assessments, Hoechst assumed that AAA would induce thyroid tumors in a long-term study, even though AAA has not been shown to be a tumorigen. In contrast to the firm's initial approach, neither of Hoechst's comparative risk assessments was predicated on a threshold for AAA's thyroid effects. That is, both of Hoechst's comparative risk assessments assumed that some risk of neoplastic disease would be present at all levels of exposure to AAA.

In presenting its assessments of the tumorigenic potential of AAA, Hoechst continued to argue strongly for the mechanism it had proposed to account for AAA's thyroid effects. Hoechst used several features of its proposed mechanism to select the set of chemicals against which to compare AAA and estimate AAA's tumorigenic potential; Hoechst's selection of these surrogates for AAA is described in the following paragraphs.

Using data from lifetime studies of thyroid tumorigens that Hoechst identified as acting with similar effect and through a mechanism similar to the one it had proposed for AAA, Hoechst estimated AAA's putative thyroid tumor potency. According to Hoechst, these estimates of AAA's putative thyroid tumor potency, coupled with an estimate of dietary exposure, would provide "comparative risk assessments" of AAA's potential to induce thyroid tumors. Hoechst drew upon several recognized sources to identify the thyroid tumorigens that it chose as surrogates for AAA. These sources included a publication analyzing target organs for more than 500 chemicals in the Carcinogen Potency Database (CPDB), a published review of the information in the data base maintained by the National Toxicology Program (NTP), the Integrated Risk Information System (IRIS), and a well known literature source on thyroid follicular cell carcinogenesis (Refs. 6 and 12 through 14).[10] From the group of thyroid tumorigens identified using these sources, Hoechst selected those for which long-term rodent bioassays had been conducted and in which the test substance displayed tumorigenic activity in either the thyroid alone or, if tumorigenic at other organ sites as well, with greater potency at the thyroid than at other sites. From this subset of thyroid tumorigens, only those compounds that Hoechst identified as both nonmutagenic and active in inhibiting thyroperoxidase (both of which are critical elements of Hoechst's proposed mechanism) were retained as AAA surrogates. Applying these criteria, Hoechst identified four compounds: Amitrole, methimazole, propylthiouracil, and sulfamethazine.

Hoechst used the same estimated dietary exposure in both of its comparative risk assessments. In calculating this estimate, Hoechst used data on ACK stability and nonalcoholic beverage consumption patterns, incorporating several conservative assumptions similar to those used by FDA and described previously. Hoechst estimated the high-level consumer's potential "daily" dietary exposure to AAA to be 3.5 ng/kg bw/day. Hoechst asserted that this estimate of potential "daily" dietary exposure was likely to overestimate significantly the actual exposure because of the numerous conservative assumptions used in deriving the estimate.[11]

In its first comparative risk assessment, Hoechst assumed that the putative induction of thyroid tumors by AAA would be directly related to an AAA-induced increase in serum levels of TSH. Using the literature sources listed previously, Hoechst identified three compounds (methimazole, propylthiouracil, and sulfamethazine) that the firm asserted have approximately the same quantitative effect on circulating TSH levels as AAA had on TSH levels in the preliminary mechanistic study in rats. Hoechst then estimated a hypothetical cancer potency for AAA by interpolating between the established tumorigenic potencies of these three substances;[12] the hypothetical cancer potency for AAA in this assessment was 2.3×10^{-3} (mg/kg bw/day)$^{-1}$. When coupled with the firm's estimated "daily" dietary exposure of 3.5 ng/kg bw/day, Hoechst's estimated upper-bound limit of lifetime human cancer risk, in its first assessment, was 8.1×10^{-9}.

In the second of Hoechst's nonthreshold risk assessments, the putative induction of thyroid tumors by AAA was assumed to be directly related to AAA-induced inhibition of thyroperoxidase (and thus, indirectly, to elevated serum TSH levels). Hoechst identified four substances (amitrole, methimazole, propylthiouracil, and sulfamethazine) for which it maintained that the induction of thyroid tumors in animals is known to occur as a result of thyroperoxidase inhibition. Hoechst then estimated a hypothetical cancer potency for AAA by calculating a weighted average of the established tumorigenic potencies of these four substances. In this second comparative risk assessment, Hoechst estimated the hypothetical potency of AAA as 4.0×10^{-2} (mg/kg bw/day)$^{-1}$. When coupled with the firm's estimated "daily" dietary exposure of 3.5 ng/kg bw/day, Hoechst's estimated upper-bound limit of lifetime human cancer risk, in its second assessment, was approximately 1.4×10^{-7}.

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[10] The CPDB summarizes results of carcinogenicity bioassays published in the open literature and in technical reports of the NTP. The NTP data base, also known as the NCI/NTP data base, contains the results of mouse and rat carcinogenicity studies conducted by NCI/NTP. The published review that was used by Hoechst summarized the results of 343 selected carcinogenicity studies conducted by NCI/NTP; in this subset of the NCI/NTP data base, 14 percent of the studies in male rats, 11 percent of the studies in female rats, 8 percent of the studies in male mice and 9 percent of the studies in female mice were identified as having positive or equivocal, chemically-related thyroid proliferative lesions. (The studies from the NCI/NTP data base are also included in the CPDB.) IRIS is an electronic data base prepared and maintained by the U.S. Environmental Protection Agency (EPA); it contains information on human health effects that may result from exposure to various chemicals in the environment.

[11] Hoechst's estimate of consumer exposure to AAA (3.5 ng/kg bw/d) is essentially the same as FDA's estimate (3.3 ng/kg bw/d, equivalent to 0.2 μg/p/d). FDA has determined that both Hoechst's and the agency's estimate of AAA dietary exposure, because of the particular assumptions used in deriving them, are likely to overestimate rather than underestimate exposure.

[12] The potencies of the AAA surrogates are properly described as tumorigenic potencies; the tumors observed in rodents are more often benign, rather than malignant, follicular cell tumors. In both the petitioner's and the agency's comparative risk assessments, the distribution of tumorigenic potencies of AAA surrogates is used to estimate the putative tumorigenic potency of AAA. This putative tumorigenic potency of AAA is then used as a direct substitute for a hypothetical human cancer potency in the comparative risk assessments.

The petitioner argued that both its estimates of AAA's upper-bound limit of lifetime human cancer risk were well below the level ordinarily regarded by FDA as commensurate with negligible risk. The petitioner also argued that any actual risk would be far lower than these estimated upper-bound limits of risk because of the numerous conservative assumptions used in calculating these estimates.

In addition, the petitioner noted that humans are less sensitive than rats to thyroid effects induced through TSH-dependent mechanisms. Hoechst referenced scientific literature in support of its contention that, although chronic TSH stimulation induces thyroid hypertrophy and hyperplasia in humans as well as in rodents, humans are less likely to develop tumors following chronic stimulation by TSH. Specifically, they noted that prolonged TSH stimulation is known to lead to thyroid enlargement or goiter in humans, but rarely leads to thyroid tumors (Refs. 15 and 16). Hoechst also maintained that the rat's significantly higher baseline TSH levels and more rapid metabolism of the hormone leave rats more vulnerable than humans to the development of thyroid tumors in response to chemically induced increases in circulating TSH levels (see Refs. 8 and 17). Hoechst argued that the lower sensitivity of human thyroid follicular cells to elevated TSH levels would further reduce the likely magnitude of any actual thyroid tumor risk to humans from exposure to any AAA in ACK-sweetened nonalcoholic beverages.

(4) FDA's analysis. FDA has carefully evaluated the petitioner's comparative risk assessments. The agency agrees that it is reasonable to perform an "extreme-case" risk assessment of AAA in order to evaluate the potential health concern raised by the thyroid findings in the short-term studies of AAA. To this end, FDA conducted its own analysis of the potential health risk from the low levels of AAA that may be ingested as a result of the consumption of ACK-sweetened nonalcoholic beverages. FDA's two principal comparative risk assessments of AAA, like the petitioner's, are essentially modified carcinogenic risk assessments; however, in several respects the agency's approach differs from the petitioner's.

Like Hoechst, FDA assumed that AAA would be tumorigenic if tested in a long-term bioassay. The agency also assumed, as did Hoechst in its comparative risk assessments, that there is no threshold for AAA's presumed tumorigenic activity. However, in contrast to Hoechst, FDA did not rely on assumptions regarding AAA's mechanism of action on the thyroid. Although FDA believes that it is plausible that AAA may induce thyroid tumors in long-term studies through the mechanism hypothesized by the petitioner, the data supporting the petitioner's hypothesis are limited in several key areas. First, as noted, there are no studies demonstrating long-term effects of AAA on thyroid hormone economy; thus, FDA, in its comparative risk assessments, did not assume a quantitative correlation between TSH induction and AAA's putative thyroid tumorigenic potency. Second, there is no direct evidence of AAA-induced effects on thyroperoxidase activity in vivo; consequently, FDA did not assume that AAA's putative potency would be similar to potencies of thyroid carcinogens known or asserted to act through inhibition of thyroperoxidase activity.

To provide assurance that the risk presented by AAA is not underestimated, FDA included in its set of AAA surrogates all substances it identified, using the 1996 CPDB (see Ref. 18), as having induced tumors in the thyroid, including substances that also induced tumors in other organs, regardless of the relative potencies involved.[13] This set of surrogates includes both genotoxic and nongenotoxic substances. Because the potency distribution for genotoxic chemicals is shifted to higher potencies than the potency distribution for nongenotoxic chemicals, FDA's set of 91 surrogates includes substances of higher potency than those in Hoechst's set of 4 surrogates (Ref. 2). FDA included this frank and deliberate conservatism to ensure that neither the putative potency of AAA nor the attendant estimate of AAA's potential carcinogenic risk would be underestimated.

In the first of FDA's comparative risk assessments, the agency used potency values from the distribution of the thyroid tumor potencies of the 91 surrogates. FDA chose this approach because the data from the short-term and subchronic studies of AAA in rats, rabbits, and dogs identify the thyroid as the potential target organ for putative AAA-induced tumors and do not suggest other likely target organs. The distribution of thyroid tumor potencies for the 91 surrogates has a peak, or "most probable" value, of 7.0×10^{-3} $(mg/kg\ bw/day)^{-1}$. FDA used this potency value as an estimate for the likely potency of AAA. This potency, coupled with the agency's estimated "daily" dietary exposure to AAA of 3.3 ng/kg bw/day, yields an estimated upper-bound limit of lifetime risk from AAA of 2.3×10^{-8} (Ref. 2). This hypothetical upper-bound limit of lifetime risk from AAA is well below the level that FDA ordinarily considers commensurate with negligible risk.

To provide further assurance that AAA's potential risk was not being underestimated, the agency performed a second risk assessment. In this second assessment, FDA hypothesized that AAA might, in addition to inducing thyroid tumors, induce tumors at sites other than the thyroid and that AAA's potency at these other sites could be higher than for tumors induced at the thyroid.[14] In essence, this scenario describes the most adverse outcome of a long-term bioassay with AAA, were such a bioassay actually conducted. Thus, FDA's second risk assessment included an assumption of the most adverse outcome for a study testing the hypothesis that AAA causes thyroid tumors so that the potential risk posed by AAA would not be underestimated.

In this assessment, to estimate AAA's most likely tumorigenic potency, FDA used the peak, or "most probable value" value from the distribution of highest tumor potencies at any organ site for FDA's 91 surrogates. Using this estimate of the putative tumorigenic potency of AAA (2.0×10^{-2} $(mg/kg\ bw/d)^{-1}$) and the agency's conservative estimate of "daily" dietary exposure to AAA of 3.3 ng/kg bw/d, FDA estimated the upper-bound limit of lifetime human cancer risk from exposure to AAA to be 6.6×10^{-8} (Ref. 2). This hypothetical upper-bound limit of lifetime risk from AAA, like the value obtained in FDA's first

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[13] Taken together, the six plots of the 1996 CPDB include results of 5,002 experiments on 1,230 chemicals. The agency notes that of the 91 compounds in the CPDB that were reported to induce thyroid tumors in rodents, only three (methimazole, deltamethrin, and sulfamethazine) produced thyroid tumors only. Of the remaining 88 compounds, 70 percent had a higher cancer potency for tumors other than thyroid tumors. Thus, the majority of compounds that have been found to induce thyroid tumors (by any mechanism) have also been found to induce tumors at other sites, for which the estimated cancer potency is higher than the potency estimated for thyroid tumors alone (see Ref. 2).

[14] One of the FDA consultants noted that some, but not all thyroid peroxidase inhibitors lead to tumors at sites other than the thyroid, especially the liver of mice. This consultant further commented that "* * * FDA is on strong ground to look at the potency for tumors other than thyroid, as well as looking at those for the thyroid." Including the higher potencies for tumors other than thyroid tumors in FDA's assessment is, however, a conservative measure in that the data in the studies of AAA submitted to the petition do not suggest that there are other likely target organs for neoplasia.

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risk assessment, is well below the level ordinarily considered by FDA as commensurate with negligible risk.

Based on its risk assessments, the agency believes that AAA is highly unlikely to pose more than a negligible cancer risk to consumers. For example, even if, in FDA's first risk assessment, AAA's thyroid tumor potency were as high as that of the 90th percentile most potent compound in FDA's set of AAA surrogates, the estimated upper-bound limit of lifetime risk from AAA, using all of the conservative features and assumptions described previously, would still be less than 7×10^{-7}. To produce the same estimate of upper-bound risk from AAA using the approach in FDA's second risk assessment, AAA's potency at any organ site would have to approach that of the 90th percentile most potent compound in FDA's set of AAA surrogates. The agency considers these potency levels highly unlikely for several reasons. First, AAA's potency at the thyroid would need to approach that of methimazole, the positive control in the preliminary mechanistic study. That AAA would be as potent as methimazole is unlikely, however, given the fact that almost 100-fold greater doses of AAA than of methimazole were needed to induce comparable degrees of thyroid follicular cell hypertrophy and hyperplasia, the presumed precursors to any thyroid neoplasia (see Ref. 2). Second, the thyroid tumorigens in the set of 91 surrogates with potencies in this range (approaching the 90th percentile and above) are almost all genotoxic or have strong structural indicators of genotoxicity while the results of the genetic toxicity tests of AAA show that AAA is not genotoxic. As previously noted, the potency distribution for genotoxic compounds is shifted to higher values than the potency distribution of nongenotoxic compounds; thus, the probability that AAA, a nongenotoxic compound, will be more potent than the most potent genotoxic compounds in FDA's set of AAA surrogates is extremely low (see Ref. 2).

As noted previously, the agency's comparative risk assessments were based on numerous conservative assumptions so that any risk from AAA would not be underestimated; FDA believes that any actual risk from AAA would be substantially lower than either of its estimates of the upper-bound limit of lifetime risk. The agency also notes that all of the FDA consultants agreed that the numerous conservative assumptions used in the agency's comparative risk assessments were likely to lead to an overestimate, rather than an underestimate, of the risk from AAA.[15]

The conservative nature of FDA's risk estimates was amplified by the agency's assumption, in its comparative risk assessments, that consumers would be subject to "chronic" or "daily" dietary exposure to AAA through consumption of ACK-sweetened nonalcoholic beverages. In fact, frequent exposure to AAA is unlikely because few containers of beverages are likely to be stored under the conditions necessary to produce significant quantities of AAA. Thus, any actual dietary exposure to AAA through consumption of ACK-sweetened beverages is likely to be at very low levels, to be intermittent, and to be infrequent.[16]

In summary, the agency has used information from the many long-term oral studies of known thyroid tumorigens to estimate the range of possible tumorigenic potencies of AAA; this estimate has then been used to represent the tumorigenic potency for AAA that might be determined by a carcinogenicity study of AAA in a rodent species. FDA has combined this information with a conservative estimate of "daily" dietary exposure to AAA in order to assess the risk that might be posed to individuals consuming ACK-sweetened beverages. FDA's risk assessments for AAA all yield upper-bound limits of lifetime risk that are not only very low, but are also expected to be substantially higher than any actual risk from AAA.

(5) Resolution of the issue. FDA has carefully evaluated the data from the available short-term and subchronic oral toxicity tests of AAA. As previously noted, the findings in these studies suggested that AAA might induce thyroid tumors in a long-term oral study, raising the question of AAA's possible carcinogenic risk. Thus, FDA has considered whether conduct of a long-term study was necessary to assess the possible carcinogenic risk from AAA.

FDA has concluded that, for several reasons, it is not necessary to require the conduct of a long-term study of AAA. First, the primary purpose of such a study would be to determine whether AAA actually induced thyroid tumors. As an alternative, in its assessment of the potential health risk of AAA, the agency has simply chosen to assume that AAA would, indeed, induce thyroid tumors in a long-term study, thus obviating the first purpose of such a study.

The second purpose of a long-term study of AAA, in the event that AAA were found to be tumorigenic, would be to determine AAA's tumorigenic potency. As an alternative, in its risk assessments for AAA, FDA has conservatively estimated AAA's putative potency by considering the range of potencies of the many known thyroid tumorigens (AAA surrogates) for which long-term testing has been conducted. As noted previously, FDA believes this is a sound approach because the results of the short-term tests of AAA indicate the thyroid as a likely target organ for the assumed neoplasia, and because of the substantial amount of chemical and toxicological information available for a large number of thyroid tumorigens.

FDA has also used several deliberate conservatisms in constructing its set of surrogates in order to ensure that AAA's putative potency and any attendant estimate of AAA's hypothetical cancer risk are not underestimated: (1) FDA's set of surrogates includes genotoxic compounds which, as a group, are generally more potent than nongenotoxic compounds (AAA is nongenotoxic); (2) FDA's set of AAA surrogates also includes compounds for which genetic toxicity testing data are not available, but which have features in their chemical structures that are widely recognized as strong indicators of mutagenicity/carcinogenicity and, thus, are expected to be of higher potency than nongenotoxic compounds; and (3)

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[15] One of the FDA consultants also provided two additional approaches to calculating a conservative upper-bound limit of lifetime human cancer risk, one that made use of a feature of the petitioner's proposed mechanism for AAA's action on the thyroid and one that did not. The estimates of AAA's upper-bound carcinogenic risk derived by these two additional approaches were 8.0×10^{-8} and 3.3×10^{-8}, respectively (see Ref. 2). Both of the consultant's estimates for the upper-bound risk from AAA, like the upper-bound risks calculated by FDA (2.[illegible] $\times 10^{-8}$ and 6.6×10^{-8}) and by the petitioner (8.1×10^{-9} and 1.4×10^{-7}), are very low.

[16] FDA notes that approaches to modifying risk assessments for intermittent exposures to carcinogens generally reduce the estimated risk substantially (see for example, Refs. 19 and 20). Such modification can be particularly important for carcinogens that are nongenotoxic. In general, continuous exposure to such substances for a prolonged period of time is needed before tumors develop; removal of the carcinogen from the diet for a significant portion of that time, will stop progression toward tumor development and may even result in partial or complete reversal of the treatment-related preneoplastic changes (see Ref. 6). If AAA were to induce thyroid tumors, and if it were to do so through a nongenotoxic or indirect mechanism, the intermittent nature of the exposure to AAA from consumption of ACK-sweetened nonalcoholic beverages would reduce the risk from AAA so that it is even more likely to be significantly less than the value estimated by the agency's method, and perhaps to be zero. On this point, one of the FDA consultants also commented that explicit consideration of the expected intermittent nature of any dietary exposure to AAA was particularly important in placing the calculations of AAA's estimated risk into perspective.

FDA's set of surrogates includes thyroid tumorigens that are tumorigenic at sites other than the thyroid and with higher potency than at the thyroid. Using information regarding the AAA surrogates and the distribution of their potencies, FDA estimated a range of hypothetical carcinogenic potencies for AAA. Thus, by conservatively estimating the range of likely tumorigenic potencies for AAA, FDA believes that it has obviated the need to determine AAA's potency through long-term testing.

Using the estimates of AAA's likely tumorigenic potency, the agency performed several comparative risk assessments for AAA, combining the estimates of AAA's potency with a deliberately exaggerated estimate of dietary exposure to AAA to assess the possible risk from the compound; these conservative estimates of AAA's hypothetical upper-bound limit of cancer risk are very low. As previously noted, the risk estimates calculated by the FDA consultant and by Hoechst, though derived using different assumptions about the range of possible potencies for AAA, are also very low. In addition, the conservative nature of all of the risk estimates for AAA is amplified by the assumption that consumers would be subject to "chronic" or "daily" exposure to AAA through consumption of ACK-sweetened nonalcoholic beverages when, in fact, such exposure is likely to be both intermittent and infrequent.

FDA's risk assessments show that, even assuming that AAA were carcinogenic in a long-term test, the hypothetical upper-bound of risk associated with an exaggerated estimate of dietary exposure to the compound would be extremely small. Because of the numerous conservatisms used in calculating these upper-bound limits of risk, FDA concludes that any actual risk from AAA would be far lower than these limits and, in fact, negligible. In this way, the results of FDA's risk assessments corroborate the agency's determination that a long-term study of AAA is not necessary to assess the potential risk to the public health from consumption of this compound.

Thus, based on the available data and information, including the risk assessments described previously, FDA concludes that there is a reasonable certainty that no harm will result from the exposure to AAA that might result from the proposed use of ACK in nonalcoholic beverages. Accordingly, the agency has determined that requiring the petitioner to conduct further testing of AAA is not necessary and would not serve a useful purpose from the public health perspective.

E. Summary of FDA's Safety Evaluation

The safety of ACK has been thoroughly tested and the data have been carefully reviewed by the agency. FDA has considered the data and information submitted in the present petition as well as other information in its files, including data and information in previous petitions for ACK.

The agency has determined that the toxicological data on ACK establish that: (1) There is no association between neoplastic disease (cancer) and consumption of the additive and (2) the ADI for the additive is 15 mg/kg bw/day. FDA has also determined that the estimated dietary exposure to ACK from all currently permitted uses of the additive as well as the proposed use in nonalcoholic beverages (1.6 mg/kg bw/day for the mean consumer, 3.0 mg/kg bw/day for the 90th percentile consumer) is well below the ADI. In addition, the agency has concluded that there is a reasonable certainty of no harm from the exposure to methylene chloride (a chemical used in the manufacture of ACK) that might result from all currently permitted uses of the additive as well as the proposed use in nonalcoholic beverages.

Finally, FDA has considered the special conditions that are relevant to the proposed use in nonalcoholic beverages. In this regard, FDA has considered toxicological data and other information, including estimates of dietary exposure, regarding AAS and AAA, the principal hydrolysis products of ACK. Based on the data and information described previously in this document, including FDA's comparative risk assessments for AAA, the agency has concluded that there is a reasonable certainty of no harm from the exposure to AAS and AAA that might result from the proposed use of ACK in nonalcoholic beverages.

Thus, based on a full and fair evaluation of the relevant data and information, FDA concludes that the proposed use of ACK in nonalcoholic beverages is safe.

IV. Response to Comments

During the course of FDA's evaluation of the present petition, the agency received several sets of comments on the petition. FDA received multiple submissions from CSPI, who also transmitted comments from other interested parties. Later, Hoechst transmitted additional remarks from two of these same parties. Several letters were also received from trade groups and other organizations.

A. Summary of Comments

1. Center for Science in the Public Interest's (CSPI's) First Submission

The first of CSPI's submissions was a letter, dated October 18, 1990, in which CSPI referred to the organization's 1988 objections to FDA's initial approval of the use of ACK (the dry uses final rule). CSPI asked that FDA not consider expanding the permitted uses of ACK "without first resolving [CSPI's] objections, hearing request, and petition[17] [sic]." As noted previously in this document, FDA considered the issues raised by CSPI in its objections and responded, in detail, to those objections in the **Federal Register** of February 27, 1992 (57 FR 6667). After reviewing the objections, the agency concluded that no genuine issues of material fact had been raised that would justify either a hearing or a stay of the regulation and, accordingly, denied CSPI's requests. Because the agency has responded to CSPI's objections to the dry uses final rule and to the organization's related requests, no further discussion of CSPI's first submission is warranted.

2. CSPI's Second Submission

CSPI's second submission was a letter, dated January 29, 1996, in which CSPI asserted that the long-term toxicity testing of ACK was inadequate and that ACK was "possibly carcinogenic." Once again, CSPI referred to its previous objections to the dry uses final rule, and urged FDA to deny the present petition and to require the petitioner to conduct additional carcinogenicity testing of ACK. CSPI did not, however, supply any substantive information to support these requests.[18] In its letter, CSPI also mentioned certain results from the toxicity tests of AAA[19] in support of its request for additional carcinogenicity testing of ACK, but did not supply any substantive information that had not already been considered by FDA or any explanation of how the AAA test results related to the organization's request for additional testing of ACK. Because CSPI did not provide any substantive information to support its requests, no

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[17] CSPI uses the term "petition" to refer to its request for a stay of the dry uses final rule.

[18] In its January 29, 1996, letter, CSPI indicated that it intended to submit a detailed analysis of the ACK safety data at a future date.

[19] CSPI mentioned histologic changes in the thyroid glands of rats, rabbits, and dogs, referring specifically to "hypertrophic and neoplastic changes" when AAA was administered at high dose levels in short-term studies. As previously noted in this document, AAA-related thyroid follicular cell hypertrophy occurred in all three animal species; adenomas occurred only in two male rats in a subchronic study.

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further discussion of this submission is warranted.

3. CSPI's Third Submission

CSPI's third submission consisted of a letter to FDA, dated May 29, 1996, in which CSPI reiterated its concerns about the carcinogenicity testing of ACK, and also included copies of the materials the organization had submitted to the National Toxicology Program (NTP) in nominating ACK for "chronic toxicity (carcinogenicity) testing" by NTP ("CSPI's NTP nomination package"). CSPI's NTP nomination package consisted of a cover letter, dated May 29, 1996, and a narrative describing CSPI's rationale for nominating ACK for testing under the NTP program (a document entitled "Summary of Data on Acesulfame Potassium"), including a list of nine references and seven attachments.[20]

The seven attachments in CSPI's NTP nomination package were three FDA review memoranda; the final report for a subchronic toxicity study of ACK in rats; a letter from Hoechst responding to FDA questions regarding histopathology data from two of the long-term studies of ACK in rodents; and two FDA memoranda, each summarizing a different meeting of Hoechst and FDA representatives. The agency notes that the attachments are all copies of publicly available documents contained in the administrative record for the dry uses final rule. The agency also notes, however, that CSPI did not provide NTP with all of the information from the administrative record for the dry uses final rule.[21] Specifically, CSPI did not provide NTP with the reports on the long-term studies of ACK in rats or mice, the reports of the genetic toxicity studies of ACK, or any of the review memoranda from FDA's pathologists or FDA's Cancer Assessment Committee.

The narrative describing CSPI's rationale for nominating ACK for NTP testing raised various issues with respect to the three long-term ACK feeding studies in rodents that were submitted in the original ACK petition. FDA's analysis of the specific issues raised in CSPI's third submission is discussed in section IV.B.2 of this document.

4. CSPI's Fourth Submission

CSPI's fourth submission consisted of a letter, dated July 31, 1996, addressed to the Director of FDA's CFSAN, in which the organization reiterated its concerns regarding the long-term testing of ACK and also mentioned its nomination of ACK for chronic toxicity (carcinogenicity) testing by NTP. In addition, CSPI cited certain of the results from the toxicity testing of AAA and urged FDA to require the petitioner to conduct long-term testing of AAA. CSPI again asked FDA to deny the present petition and to revoke "all existing regulations permitting the use of acesulfame potassium."

In support of its requests, CSPI enclosed copies of letters from "ten experts in the fields of carcinogenesis, toxicology, and statistics" who had, at CSPI's request, "reviewed the Hoechst test protocols and results" (hereinafter, these individuals will be referred to as "CSPI's ten consultants"). Seven of the letters were addressed to CSPI; the authors of these particular letters expressed support for CSPI's nomination of ACK for testing under the NTP program. Three of the letters were addressed to the Commissioner of the Food and Drug Administration. The authors of these three letters urged FDA to require additional carcinogenicity tests of ACK; one of the authors also urged FDA not to approve the present petition.[22] CSPI claimed that "[b]ased on the experts' conclusions regarding Hoechst's tests, it is clear that Hoechst has failed to demonstrate a 'reasonable certainty of no harm' for the use of acesulfame potassium in soft drinks (or other foods)."

In partial response to CSPI's letter of July 31, 1996, FDA requested copies of the materials supplied to CSPI's ten consultants and on which, presumably, the consultants had based their comments. CSPI responded by submitting copies of materials that it characterized as "a standard data set," consisting of ten complete documents and selected portions of several other documents (19 items altogether) drawn from the administrative record for the dry uses final rule.[23] Based on the "standard data set" submitted by CSPI, it appears that the ten consultants were not provided, however, with all of the Hoechst study reports and other relevant supporting information, nor were they provided with all of the FDA review memoranda filed in the administrative record for the prior approvals of ACK.[24] For example, neither the results of the ACK genetic toxicity testing nor FDA's final pathology review memorandum (Ref. 21), which articulated FDA's resolution of the outstanding questions regarding missing data and incomplete initial reporting of histopathology results raised in earlier FDA review memoranda, were included in CSPI's "standard data set."

As previously noted, most of the letters from CSPI's ten consultants did not raise specific issues regarding either the long-term testing of ACK or other safety data relevant to FDA's evaluation of the present petition; only one consultant provided detailed criticism of FDA's interpretation of the data. FDA's analysis of the few specific points raised in letters from the ten consultants is discussed below, along with FDA's analysis of the issues raised in CSPI's NTP nomination package.

5. Hoechst's Submission

In response to the letters from CSPI's ten consultants, Hoechst transmitted to FDA copies of letters from two CSPI consultants to whom the firm had provided supplementary information regarding the toxicity testing of ACK. In their letters, these two individuals stated that, after reviewing additional information provided to them by Hoechst, they had concluded that the long-term testing of ACK was adequate and that the test results did not indicate that ACK was a carcinogen.

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[20] FDA has assumed that the NTP nomination package is the detailed analysis of the safety data on ACK that CSPI indicated, in its letter of January 29, 1996, that it would send to the agency at a future date.

[21] The administrative record for the dry uses final rule contains all of the Hoechst study reports submitted in support of the original petition for ACK, other data and supporting information, FDA review memoranda, and other documents. Hoechst submitted reports for 6 genetic toxicity tests, 2 acute toxicity studies, a subchronic toxicity study, 4 reproduction or developmental toxicity studies, 3 long-term studies in rodents referred to previously in this document, a 2-year study in dogs, 11 metabolism studies, and 7 other specialized studies.

[22] Several of the letters to CSPI and to FDA raised specific issues regarding the procedures used in, or the interpretation of results from, the long-term studies of ACK in rodents. None provided any new data or other information that had not already been considered by the agency. FDA's analysis of the specific issues raised in these letters is discussed later in this document.

[23] The ten complete documents in CSPI's "standard data set" were six FDA review memoranda, including the final review memorandum from FDA's Cancer Assessment Committee; the dry uses final rule (53 FR 28379); FDA's response to CSPI's objections to the dry uses final rule (57 FR 6667); and two letters addressed to Hoechst from an independent pathology lab, supplying additional information regarding histopathology data (one letter in regard to a long-term study in rats, the other in regard to a long-term study in mice). The other items in CSPI's "standard data set" consisted primarily of narrative sections from, or excerpts from various tables (e.g., mortality data, tumor incidence data) included in, the study reports for the three long-term feeding studies of ACK in rodents.

[24] Judging from their remarks, some of CSPI's ten consultants may have been under the impression that all of the data and information on ACK had been made available to them. For example, one of these individuals stated: "I agree strongly with [CSPI's] evaluation that the available data on this compound is at best incomplete * * * I could not find any information related to mutagenicity or other genotoxicity or any studies on reproduction and development." Another of CSPI's consultants also made similar remarks regarding the apparent lack of ACK genetic toxicity data.

However, as noted previously in this document, the ACK toxicity data base submitted to the original petition for ACK included the results of six genetic toxicity tests and four studies of reproductive or developmental toxicity. The agency concluded that the results of the genetic toxicity tests did not indicate ACK-induced genotoxic effects and that the results of the reproduction and teratology studies produced no evidence of ACK-related teratogenic or adverse reproductive effects (see 53 FR 28379 at 28380).

Hoechst also submitted to FDA copies of the materials it had provided to the two CSPI consultants for review. These materials included several documents from the administrative record for the dry uses final rule as well as a copy of the dry uses final rule. Also included in Hoechst's information package was a copy of a document entitled "Executive Summary," a document that, according to Hoechst, was a summary of toxicology information on ACK that had been submitted to Health Canada as part of a petition for the use of ACK; and a book, entitled *Acesulfame Potassium*.[25]

Because the additional letters from these two particular consultants provided no data or other substantive information, FDA regards them solely as further elaboration of the earlier remarks from the two individuals in question. No further discussion of any of these remarks is necessary.

6. Other Submissions

FDA also received several letters from trade groups and other organizations urging FDA to approve the present petition. Because none of these letters provided any substantive information, no further discussion of these submissions is necessary.

B. Analysis of Specific Issues Raised in the Comments

1. AAA Test Results

CSPI, in its fourth submission, and two of CSPI's ten consultants, commented on the results of short-term toxicity tests of ACK's breakdown product, AAA, and raised the issue of AAA's possible carcinogenic potential.[26] FDA agrees that the results of the short-term studies of AAA raised concerns that required resolution. As discussed previously, the agency carefully evaluated the data from the short-term toxicity tests of AAA, along with other data and information from the petition and in its files. As discussed previously, FDA has concluded that AAA is highly unlikely to pose a significant cancer risk to individuals consuming ACK-sweetened beverages; none of the information in the comments provides a basis to reconsider that conclusion. Because the agency's detailed analysis of the issue of AAA's possible carcinogenic potential has already been presented (see sections III.D.2.b.v and vi of this document), that analysis will not be repeated here. The agency's analysis of the remaining issues raised in the comments on the present petition follows.

2. ACK Test Results

In its NTP nomination package, CSPI again raised some of the same questions regarding the adequacy of, and the results from, the long-term testing of ACK that it raised in its previous objections to the dry uses final rule; CSPI also raised some new points with respect to the safety testing of ACK. CSPI's NTP nomination package is clearly addressed to NTP and is not written as a comment, per se, on the present petition; the narrative in CSPI's NTP nomination package focuses on the differences between the designs of, and procedures used in, the long-term feeding studies of ACK and specific elements of NTP study designs or other "NTP standards." Nevertheless, FDA has assumed that CSPI's NTP nomination package constitutes the "detailed analysis of the safety data on ACK" that CSPI had intended to send to the agency at a future date and that FDA had indicated it would treat as a comment on the present petition. Thus, FDA has attempted to extract from CSPI's NTP nomination package those remarks on specific issues that could be construed as comments on the present petition.

As noted previously, there is considerable overlap between the specific issues raised by certain of CSPI's ten consultants and those raised by CSPI. Because CSPI's NTP nomination package provides the most detailed discussion of specific issues, those remarks will be the focus of FDA's response. Where the other parties have raised additional points or points that differ substantively from those raised by CSPI, FDA will indicate that in its discussion.

a. *The second rat study.* In its original evaluation of the safety of ACK, FDA reviewed a long-term study conducted in CPB–WU Wistar rats in which ACK was administered at 0, 0.3, 1.0, or 3.0 percent in the test diet (the "second rat study"). In the preamble to the dry uses final rule, the agency concluded that this study was adequate for an evaluation of a food additive and that it demonstrated the safety of acesulfame potassium (see 53 FR 28379 at 28380). Implicit in FDA's determination of the adequacy of the second rat study was that the dosing levels in this study were appropriate (see 57 FR 6667 at 6669).

i. *Issues raised previously—(1) Appropriateness of the dosing.* CSPI's NTP nomination package asserts that the second rat study was inadequate because the highest dose tested (3 percent in the diet) was too low. To support its assertion, CSPI compares the dosing regimen used in the second rat study with NTP "requirements": "NTP requires that long-term feeding studies be carried out at the minimally toxic dose (MTD), which is functionally equivalent to the maximum tolerated dose * * *." CSPI also states that "NTP requires that when a test chemical is administered in the diet, the high dose should not exceed 5 percent of the diet, but use of a 5 percent dose could meet NTP standards. Since rats in the subchronic test tolerated 10 percent acesulfame potassium in the diet with what were reported as only minimal effects* * *, 5 percent should have been the highest dose tested in the two rat studies."[27] CSPI's submission does not, however, contain or identify any data or other evidence to establish that the dosing used in the second rat study was, in fact, too low to permit an assessment of ACK's carcinogenic potential.

CSPI implies that, in order for long-term toxicity (carcinogenicity) testing to be valid, it must conform to NTP "requirements." FDA does not agree. The NTP document cited by CSPI[28]

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[25] This book, co-edited by a Hoechst scientist and a professor at a German university, discusses various studies of ACK submitted in the original petition, including genetic toxicity studies, acute studies, the three long-term feeding studies in rodents referred to previously in this document, a subchronic feeding study, reproduction and teratology studies, metabolism studies and others. The book also discusses several additional studies of ACK (e.g., additional genetic toxicity studies), conducted after FDA's initial approval decision, that were submitted to the present petition and have been discussed previously in this document.

[26] One of these individuals referred to AAA as a "metabolic breakdown product." FDA notes, however, that AAA has not been shown to be a metabolite of ACK. As discussed previously in this document, the ACK toxicity data base submitted to the original petition for ACK included the results of 11 metabolism studies. FDA carefully evaluated the results of these studies and concluded that they revealed no evidence that ACK was metabolized (53 FR 28379 at 28380, see also Ref. 4).

[27] FDA notes that, in the subchronic study, ACK was administered at dose levels of 0, 1.0, 3.0, or 10.0 percent in the diet. ACK-related reductions in body weight of greater than 10 percent, along with various other effects, were observed in the 10 percent dose group. Body weight reductions were also observed in the 3 percent dose group, but such reductions were less than 10 percent. Based on the findings in the 10 percent and 3 percent dose groups, Hoechst chose to use 3 percent as the highest dose level in the long-term study; there are no data to suggest that 5 percent was required.

[28] This document is entitled "Specifications for the Conduct of Studies to Evaluate the Toxic and

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establishes standardized protocol elements and reporting formats for certain toxicity and carcinogenicity tests conducted by contract laboratories under the auspices of the NTP program. The NTP document does not establish criteria for evaluating the scientific validity of toxicity and carcinogenicity tests in general, nor does it establish regulatory requirements with respect to safety decisions on food additives. The NTP document provides specifications that must be met in order for the results of a particular toxicity study to be included in the NCI/NTP data base (described previously in this document).

FDA notes that the agency's own guidelines, "Toxicological Principles for the Safety Assessment of Direct Food Additives and Color Additives Used in Food" (the FDA Redbook), do not establish regulatory requirements or requirements for establishing the scientific validity of testing. Rather, the Redbook represents the agency's best advice to manufacturers of food and color additives on how to satisfy the legal safety standard of "reasonable certainty * * * that a substance is not harmful" (see § 170.3(i)); and contains general toxicological principles that are to be applied using good scientific judgment.

It is important to note that although the details provided in the NTP document differ from those provided in the Redbook, a study that follows either the NTP "specifications" or the Redbook guidance[29] and is conducted in accordance with good laboratory practices will generally be appropriate for use in a safety evaluation. Strict adherence to any particular set of guidelines is not necessary, however, to ensure either scientific validity or suitability for a regulatory safety decision. Accordingly, in reaching a final decision on the safety of a food additive, FDA considers all of the relevant data and information available, including the design of, and results from, toxicity testing. The suitability and validity of any particular toxicity study submitted in support of a food additive is evaluated on its own merits, using good scientific judgment, by FDA.

The agency notes that, in its objections to the dry uses final rule, CSPI raised the same issue regarding the adequacy of the dosing in the second rat study, and FDA addressed this issue in its response to CSPI's objections (57 FR 6667 at 6668 and 6669). The agency incorporates that discussion, in full, into the safety determination on the present petition. Because CSPI has presented no new evidence to support its opinion regarding the adequacy of the dosing in this study, nor identified evidence that the agency overlooked in its previous evaluations, FDA reaffirms its earlier determination that the dosing in the second rat study was adequate for an assessment of the carcinogenic potential of acesulfame potassium (57 FR 6667 at 6669, see also 53 FR 28379, 28380).

With respect to dosing, one of CSPI's consultants asserted that the dose range in the second rat study was too narrow, citing "[the] increased tumorigenesis at even the 'lowest' dose used * * *." FDA has previously concluded, however, that the data from the second rat study do not establish an association between tumors and treatment with ACK (53 FR 28379 at 28380 and 28381). The issue of tumor incidence in the second rat study is also discussed later in this document.

CSPI, in its NTP nomination package, also implies that the second rat study is inadequate because the subchronic testing of ACK, used as an aid in determining doses for the second rat study, did not conform in each and every respect to the standardized elements in the NTP guidelines. Specifically, CSPI stated that a subchronic study was not conducted in the same strain of rat as that used in the second rat study; CSPI also disagrees with the use, in the subchronic study, of fewer dose groups than the number NTP "requires."[30]

FDA disagrees. First, the agency notes that the purposes of subchronic testing are generally acknowledged to be twofold: To identify likely target organs in longer-term studies and to aid in determining doses for the longer-term testing. Second, as previously noted, the NTP document does not establish scientific or regulatory requirements for either subchronic or long-term toxicity testing, including carcinogenicity testing. In particular, the NTP document does not establish a subchronic testing regimen that must be followed in order for long-term testing to be valid. Moreover, FDA is not aware of any relevant guideline, including the NTP document, that states that deviations from the guidelines for a subchronic toxicity study conducted to determine appropriate dose levels in a subsequent carcinogenicity study necessarily invalidates the results of the carcinogenicity study.

Because CSPI has not provided any substantive information to support its assertions regarding the effect of the design of the ACK subchronic study on the validity of the long-term testing of ACK, it has provided no basis for FDA to reconsider its conclusions regarding the second rat study. Thus, FDA reaffirms its earlier conclusions that the dosing in the second rat study was appropriate for an assessment of the carcinogenic potential of ACK and that the study was suitable for a safety assessment of ACK (57 FR 6667 at 6669, see also 53 FR 28379 at 28380).

(2) Incidence of mammary tumors. In its NTP nomination package, CSPI stated that there was an increased incidence of mammary tumors in treated females in the second rat study. CSPI also claimed that "* * * FDA discounted these data because [the] incidence was not strongly dose-related." CSPI thus implies that the lack of a strong dose-response was the only reason FDA concluded, in its previous evaluation, that the incidence of mammary tumors in female rats in the second rat study was not ACK-related. CSPI also criticizes the agency's use of historical control data in evaluating the results of the second rat study and asserts that more information on "animals or test conditions" (e.g., diets, animal husbandry) should have been obtained by FDA before using the data from "previous studies" conducted at the testing laboratory where the long-term studies of ACK were conducted.[31]

The agency notes that CSPI has previously raised these particular points in its objections to the dry uses final rule, and that FDA has previously addressed these points at length in responding to CSPI's objections (57 FR 6667 at 6674 and 6675). Specifically, in the original safety evaluation of ACK, FDA gave careful and detailed consideration to the incidence of mammary gland tumors in female rats in the second rat study. After a review of

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Carcinogenic Potential of Chemical, Biological and Physical Agents in Laboratory Animals for the National Toxicology Program (NTP)."

[29] Other guidelines, such as those issued by EPA or the Organization for Economic Cooperation and Development (OECD), are also frequently used as resources in the design, conduct, and evaluation of toxicological tests (see for example, Ref. 22).

[30] CSPI specifically noted that the NTP document stipulates the use of five dose groups in addition to controls. FDA notes that the use of five dose groups is not a requirement, either for the scientific validity of the test, or for utility of the test in reaching a regulatory decision. FDA's own Redbook recommends (but does not require) the use of at least three dose groups in addition to controls; EPA's guidelines for subchronic toxicity testing contain a similar recommendation.

[31] One of CSPI's consultants criticized the petitioner's use of historical control data, commenting that the "historical database" is "actually very small." CSPI's consultant did not, however, provide any information to indicate that FDA made inappropriate use of the relevant historical control data. (As previously noted, FDA's final pathology review memorandum, which discusses the agency's use of the historical control data, was apparently not included in the materials supplied by CSPI to its ten consultants.)

all the data, the agency concluded that mammary gland neoplasms were not associated with treatment with ACK. The preamble to the dry uses final rule cited several reasons for this conclusion, including the lack of a dose response. However, the agency also took into account the lack of evidence of progressive stages of mammary gland neoplasms and certain information obtained from historical control data (53 FR 28379 at 28381, see also Ref. 21).

With respect to the use of historical control data, the agency notes that, as in its objections to the dry uses final rule, CSPI mischaracterizes the information on historical controls and fails to acknowledge the detailed information on this point that FDA has evaluated. In its response to CSPI's objections, the agency noted that the historical control data were from the same type of studies conducted in the same laboratory, with the same strain of rat, under similar conditions, with continuity of pathological standards, and, furthermore, were from the same time period as the long-term studies evaluated in FDA's original review (57 FR 6667 at 6672 and Ref. 8 of that document). CSPI has presented no new information to support its allegation that FDA made inappropriate use of the relevant historical control data.

In summary, CSPI has presented no new evidence that would change the agency's previous conclusion that the occurrence of mammary gland neoplasms was not associated with treatment with ACK, and FDA incorporates its earlier discussion of the results of the second rat study, in full, into the safety determination on the present petition. Because CSPI has presented no new evidence to support its opinion nor identified evidence that the agency overlooked in its previous evaluations, FDA reaffirms its earlier determination that the data from the second rat study do not establish an association between the occurrence of neoplasms and treatment with ACK (53 FR 28379 at 28380 and 28381).

ii. *Issues not raised previously—(1) Incidence of respiratory disease.* In its NTP nomination package, CSPI claims that the incidence of respiratory disease in the animals used in the second rat study was too high[32] and questioned whether this study or the other long-term studies of ACK in rodents were adequate: "The poor health of the animals used in the Hoechst studies raises the question as to whether any of the test results in the subchronic and chronic studies were good enough to be used." However, CSPI's submission neither identifies nor contains any data or other evidence that establish that the second rat study was, in fact, rendered inadequate for an assessment of ACK's carcinogenic potential by the incidence of respiratory disease in the test animals.

In its original evaluation of the safety of ACK, FDA carefully considered all of the data and information relevant to an evaluation of the long-term testing of ACK, including the general health of, and the incidence of respiratory disease in, test animals. In the case of the second rat study, FDA determined that the mortality rate was low in all dose groups and the signs of chronic respiratory disease randomly distributed (Refs. 21 and 23). Only in the case of the first rat study did FDA conclude that the incidence of respiratory disease in test animals confounded the test results to such an extent that such incidence contributed to a finding that the study was inadequate for assessing the safety of ACK (53 FR 28379 at 28380, see also Ref. 24). Because CSPI has not presented any new evidence to support its allegation nor has the organization identified evidence that the agency overlooked in its previous evaluations, FDA reaffirms its earlier determination that the second rat study was adequate for an assessment of the carcinogenic potential of acesulfame potassium.

(2) Assignment of animals to test groups. CSPI's NTP nomination package also raises a question regarding the procedure used to assign animals to the various test groups in the second rat study. CSPI implies that improper assignment procedures were used, which confounded the results of the second rat study. CSPI does not, however, provide any data or other information to support its speculation.[33]

In its original evaluation of the safety of ACK, FDA carefully considered all of the data and information relevant to an evaluation of the long-term testing of ACK, including the question of whether the assignment procedures or other aspects of the study designs compromised the suitability of the studies for an assessment of ACK's carcinogenic potential (Ref. 23). FDA concluded that the second rat study was adequate for an assessment of ACK's carcinogenic potential (Ref. 24, see also 53 FR 28379, 28380, and 57 FR 6667 at 6669). Because CSPI, in support of its allegations, has neither presented evidence that has not already been evaluated by the agency nor identified evidence that the agency overlooked in its previous evaluations, FDA reaffirms its earlier conclusion that the second rat study was adequate for an assessment of ACK's carcinogenic potential.

b. *The mouse study.* In concluding that ACK had been shown to be safe, FDA reviewed a long-term study conducted in Swiss mice in which ACK was administered at 0, 0.3, 1.0, or 3.0 percent in the test diet ("the mouse study"). FDA concluded that the results of this study showed no association between neoplastic disease and treatment with ACK (53 FR 28379 at 28380). In the preamble to the dry uses final rule, the agency explicitly discussed the adequacy of the mouse study with respect to study duration. FDA concluded that the length of the study was adequate because it had been conducted for the majority of the animals' lifespan (53 FR 28379 at 28380; see also 57 FR 6669 at 6670). Implicit in FDA's determination of the mouse study's adequacy was that the dosing levels in this study were appropriate (57 FR 6667).

i. *Issues raised previously—(1) Adequacy of the study length.* In its NTP nomination package, CSPI asserts that the mouse study was inadequate because the study was too short. To support its assertion, CSPI again refers to NTP "requirements": "NTP generally requires that long-term studies on rats and mice be carried out for a 104-week period. Hoechst's study in mice lasted only 80 weeks." CSPI also presents some figures for survival levels in the various test groups (apparently derived from information in the final report for the mouse study, a document not included in CSPI's NTP nomination package) and remarks that "survival of the mice was very high at 80 weeks." CSPI implies that the survival statistics suggest that the study was not conducted for the majority of the animals' lifespan. However, CSPI provides no data or other evidence to support its view.

FDA disagrees with CSPI's comments regarding the length of the mouse study. First, as previously noted in this document, the NTP document cited by CSPI does not establish either scientific or regulatory requirements. Second, in its original evaluation of the safety of ACK, FDA carefully considered all of the data and information relevant to an evaluation of the long-term testing of ACK, including the duration of, and survival data from, the mouse study. As previously noted, FDA concluded that length of the study was adequate because it had been conducted for the majority of the animals' lifespan (see 53 FR 28379 at 28380, see also Ref. 24.) Specifically, the agency found that at the time the study was conducted, survival of the Swiss strain of mice tended to decline severely between 18 and 24 months of age; thus, at that time, 80 weeks was representative of a time period corresponding to the majority of the animals' lifespan (Ref. 24).

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[32] CSPI presents some figures for the incidence of pneumonia in the rats in the second study that are apparently derived from information in the final report for this study, a document not included in CSPI's NTP nomination package.

[33] In its NTP nomination package, CSPI remarks: "* * * the likelihood that animals were of different ages when exposure to the test agent began, and that female animals may have been considerably older than males, makes it difficult to know what to make of the data." While CSPI speculates, at length, on the ages of the animals in the subchronic study, CSPI does not provide any substantive information to support its claims regarding the long-term study, nor does the organization provide an explanation of the significance of its allegations.

CSPI previously raised this issue in its objections to the dry uses final rule, and the agency previously discussed this issue in responding to CSPI's objections (57 FR 6667). FDA incorporates that discussion, in full, into the safety determination on the present petition. Because CSPI has not identified any evidence that the agency overlooked in its previous evaluations, FDA reaffirms its earlier determination that the mouse study was of adequate duration for an assessment of the carcinogenic potential of ACK.

(2) Appropriateness of dosing. CSPI, in its NTP nomination package, comments on the appropriateness of the dosing in the mouse study: "* * * the high survival at 80 weeks of mice fed 3% acesulfame potassium in the diet suggests that a higher dose might have been more in keeping with NTP recommendations." CSPI provides no other further explanation of the significance of its remarks, nor does it provide any data or other information that would establish that the dosing in the mouse study was too low to permit an assessment of ACK's carcinogenic potential. CSPI previously questioned the adequacy of the dosing in the mouse study in its objections to the dry uses final rule, and the agency previously discussed this issue in responding to CSPI's objections (57 FR 6667). FDA incorporates that discussion, in full, into the safety determination on the present petition. Because CSPI has presented no new evidence to support its opinion nor identified evidence that FDA overlooked in its previous evaluations, FDA reaffirms its earlier determination that the dosing in the mouse study was appropriate for an assessment of the carcinogenic potential of acesulfame potassium (see 57 FR 6667 at 6669).

ii. *Issues not raised previously—(1) Incidence of respiratory disease.* In its NTP nomination package, CSPI notes that respiratory infections occurred in the mice, but offers no specific supporting information.[34] In particular, CSPI neither identifies nor provides any data or other evidence regarding the actual incidence of respiratory infections in the mice, nor does it provide any information that would establish that the mouse study was rendered inadequate for an assessment of ACK's carcinogenic potential by the alleged incidence of respiratory disease in the test animals.

FDA notes that, in its original evaluation of the safety of ACK, the agency carefully considered all of the data and information relevant to an evaluation of the long-term testing of ACK, including the health of the test animals (Ref. 23). CSPI has presented no evidence to support its claim that has not already been evaluated by the agency nor identified evidence that the agency overlooked in its previous evaluations. Thus, FDA reaffirms its earlier conclusion that the mouse study was suitable for an assessment of ACK's carcinogenic potential (see 53 FR 28379 at 28380, and 57 FR 6667 at 6669).

(2) Histopathology data. CSPI also criticizes aspects of the histopathological examinations in the mouse study. CSPI specifically compares the extent of the histopathology review of tissues from animals from the low and mid-dose test groups with "NTP requirements." CSPI implies that the histopathology review was not extensive enough and, thus, obscured the results of the mouse study. CSPI does not, however, provide any data or other information that would establish that the histopathological examinations of tissues from the animals in the mouse study were inadequate for an assessment of ACK's carcinogenic potential.

FDA notes that, in its original evaluation of the safety of ACK, the agency carefully considered all of the data and information relevant to an evaluation of the long-term testing of ACK, including the histopathology data from the mouse study. FDA concluded both that the mouse study was adequate for an assessment of ACK's carcinogenic potential and that the results of the study showed no association between neoplastic disease and treatment with ACK (53 FR 28379 at 28380 and 57 FR 6667 at 6669, see also Ref. 24). Again, because CSPI has presented no evidence to support its assertions that has not already been evaluated by the agency nor has CSPI identified evidence that the agency overlooked in its previous evaluations, FDA reaffirms its prior conclusion that the mouse study was suitable for an assessment of ACK's carcinogenic potential.

(3) Time-to-tumor. In its NTP nomination package, CSPI also claims that the data in the mouse study showed that ACK caused tumors: "[i]n the mouse study, there was an early time-to-tumor reported for first tumors in treated animals relative to first tumors in controls." However, CSPI provides no additional data or other information to support this claim, nor does it provide further explanation of the significance of this alleged time-to-tumor differential.

In the original safety evaluation of ACK, FDA carefully considered all of the data in the mouse study, including data in the study report that showed an apparent ACK-related decreased time-to-tumor for first tumors. After an interim review of all the data, the agency concluded that the only finding of possible significance was an increase in lymphocytic leukemia in female mice in the highest dose group (Ref. 25). After detailed consideration of this reported finding, FDA concluded that this finding was not treatment-related and that no increase in neoplastic disease of the lymphoreticular system could be attributed to ACK (Ref. 24).

Because CSPI has presented no new evidence to support its opinion nor identified evidence that the agency overlooked in its previous evaluations, it has provided no basis for FDA to change its previous conclusions regarding the results of the mouse study. Thus, FDA reaffirms its earlier determination that the data from the mouse study do not establish an association between neoplasia and treatment with ACK (see 53 FR 28379 at 28380 and 57 FR 6667 at 6669).

c. *The first rat study.* In its evaluation of the original petition for the use of ACK, the agency reviewed a long-term study conducted in CIVO-bred Wistar rats in which ACK was administered at 0, 0.3, 1.0, or 3.0 percent in the diet (the "first rat study"). In the preamble to the dry uses final rule, the agency concluded that the data from this study did not establish a carcinogenic effect of ACK (53 FR 28379 at 28380). However, the agency further concluded, because of deficiencies and confounding factors in this study (e.g., a high incidence of respiratory disease in the test animals), that it was "inadequate for assessing the carcinogenic potential of the test compound or for any other purposes of a safety evaluation" (53 FR 28379 at 28381).

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[34] As noted previously in this document, CSPI questions, in its NTP nomination package, the health of the test animals in all of the long-term studies of ACK in rodents. However, CSPI also cites the high survival rates of the test animals in the mouse study in support of some of the organization's criticisms of this study. The agency notes that CSPI's positions regarding animal health and survival rates in the mouse study are not entirely consistent.

Issues raised previously. In its NTP nomination package, CSPI asserts that, despite the prevalence of chronic respiratory disease in the test animals in the first rat study, the test results were suggestive of a carcinogenic effect of ACK.[35] Specifically, CSPI claims that the data in the first rat study showed a dose-dependent effect on incidence of lymphoreticular cancers of pulmonary origin and on time-to-tumor. In support of its claims, CSPI cites a single FDA interim review memorandum (Ref. 23). CSPI also asserts that the agency made inappropriate use of historical control data in evaluating the results of the first rat study.[36] With respect to the use of historical control data, CSPI merely expresses its opinion that more information on "animals and test conditions" (e.g., diets and animal husbandry) should have been obtained by FDA before using the data from "previous studies" conducted at the testing laboratory where the long-term studies of ACK were conducted.

The agency notes that the issue of a possible dose-dependent effect of ACK on the incidence of lymphoreticular tumors and on time-to-tumor was raised by CSPI in its letter to FDA dated September 23, 1987, and this issue was addressed by the agency in the preamble to the dry uses final rule (53 FR 28379). Specifically, the agency noted that, in the first rat study, there was a slightly higher incidence, and earlier appearance, of lymphoreticular tumors in dosed rats than in the concurrent control group. However, the agency concluded that under the circumstances of severe chronic respiratory disease, sampling limitations, and the very high rate of spontaneously-occurring lung tumors in this strain of rat, no conclusions could be made regarding any effect of ACK on the lungs (53 FR 28379 at 28380; see also Ref. 24).[37] FDA also notes that CSPI previously raised this particular issue in its objections to FDA's original approval decision on ACK, and the agency discussed these issues, at length, in responding to CSPI's objections (57 FR 6667 at 6671 and 6672). FDA incorporates those discussions, in full, into the safety determination on the present petition. Because CSPI has presented no new evidence to support its opinion nor identified evidence that the agency overlooked in its previous evaluations that would change the outcome of those evaluations, FDA reaffirms its earlier determination that the data from the first rat study do not establish a carcinogenic effect of ACK.

C. Summary of FDA's Response to Comments

In determining that ACK is safe for use in nonalcoholic beverages, FDA carefully considered all of the data and information in the present petition, as well as other information in its files, including relevant information from previous petitions for ACK. FDA has also carefully considered all of the issues raised in the comments on the present petition.

As previously noted in this document, many of the specific issues raised in the comments on the present petition are the same as those raised in earlier objections to the dry uses final rule, and the agency has previously considered and responded to these issues in detail (see 57 FR 6667). Also as noted, the comments supply no new information that would change any of the agency's prior conclusions on any of the issues previously raised. Likewise, with respect to specific issues raised in the comments on the present petition that have not been raised previously, the comments neither provide new evidence nor identify evidence that FDA has overlooked that would change the agency's conclusion that the use of ACK in nonalcoholic beverages is safe.

Because no outstanding issues in the comments undermine FDA's determination of safety, FDA is denying the requests that: (1) The petitioner be required to conduct additional testing of ACK or AAA, (2) the present petition be denied, and (3) all existing regulations permitting the use of ACK in food be revoked.

V. Conclusion of Safety

FDA has evaluated the data in the petition, published scientific literature, and other relevant material from its files and concludes that the use of ACK in nonalcoholic beverages is safe. Therefore, the agency concludes that § 172.800 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

VI. Environmental Impact

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

VII. Paperwork Reduction Act

This final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

VIII. Objections

Any person who will be adversely affected by this regulation may at any time on or before August 5, 1998, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the

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[35] Several of CSPI's ten consultants made similar remarks. None of these individuals, however, provided any substantive information in support of their remarks.

[36] Importantly, as in its objections to the dry uses final rule, CSPI mischaracterizes the information on historical controls and fails to acknowledge the information on this point that FDA evaluated. The agency has previously discussed, in-detail, its use of historical control data in the evaluation of the first rat study in responding to CSPI's objections to the dry uses final rule. In its response to CSPI's objections, the agency noted that the historical control data were from the same type of studies conducted in the same laboratory, with the same strain of rat, under similar conditions, with continuity of pathological standards, and, furthermore, were from the same time period as the first rat study (57 FR 6667 at 6672).

[37] Because the first rat study was inadequate for use in assessing the carcinogenic potential of ACK, the petitioner conducted a second long-term study in a different strain of rat. This second rat study did not show lymphoreticular tumors in the lungs (53 FR 28379 at 28380).

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objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

IX. References

The following sources are referred to in this document. References marked with an asterisk (*) have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday. References without an asterisk are not on display; they are available as published articles, books, and reports.

*1. Memorandum, from M. DiNovi, Chemistry Review Branch, to P. Hansen, Biotechnology Policy Branch, dated April 28, 1994.

*2. Memorandum to the file FAP 0A4212, from M. DiNovi, K. Ekelman, and P. Hansen, dated June 3, 1998.

*3. Memorandum, from M. DiNovi, Chemistry Review Branch, to P. Hansen, Biotechnology Policy Branch, dated November 9, 1994.

*4. Memorandum, from K. Ekelman, Division of Health Effects Evaluation, to P. Hansen, Regulatory Policy Branch, dated June 2, 1998.

5. Green, W. L., "Mechanisms of Action of Antithyroid Compounds," pp. 77–87 in: *The Thyroid*, edited by S. C. Werner and S. H. Ingbar, Harper & Row, New York, 1978.

6. Hill, R. N. et al., "Thyroid Follicular Cell Carcinogenesis," *Fundamental and Applied Toxicology*, 12:629–697, 1989.

*7. Report, Borzelleca, J. F., C. C. Capen, M. S. Christian, and B. N. LaDu, "Summary and Consensus of the Acesulfame K Scientific Expert Panel on the Safety of Acetoacetamide-N-Sulfonic Acid and Acetoacetamide," dated October 13, 1992.

*8. Letter, from C.C. Capen, Ohio State University, to J. Simplicio, Hoechst-Celanese Corp., dated December 6, 1991.

9. Gaylor, D. W., and R. L. Kodell, "Linear Interpolation Algorithm for Low Dose Assessment of Toxic Substances," *Journal of Environmental Pathology and Toxicology*, 4:305–315, 1980.

10. National Academy of Sciences/National Research Council, "Risk Assessment in the Federal Government: Managing the Process," Washington, DC, 1983.

11. Lorentzen, R. J., "FDA Procedures for Carcinogenic Risk Assessment," *Food Technology*, pp. 108–111, 1984.

12. Gold, L.S. et al., "Target Organs in Chronic Bioassays of 533 Chemical Carcinogens," *Environmental Health Perspectives*, 93:233–246, 1991.

13. McConnell, E. E., "Thyroid Follicular Cell Carcinogenesis: Results from 343 2–Year Carcinogenicity Studies Conducted by the NCI/NTP," *Regulatory Toxicology and Pharmacology*, 16:177–188, 1992.

14. IRIS (1995), Cincinnati: Office of Health and Environmental Assessment, Environmental Criteria and Assessment Office, EPA.

15. Curran, P. G., and L. J. DeGroot, "The Effect of Hepatic Enzyme-Inducing Drugs on Thyroid Hormones and the Thyroid Gland," *Endocrine Reviews*, 12(2):135–150, 1991.

16. Donaich, I., "Aetiological Considerations of Thyroid Carcinoma," vol. 6, pp. 55–72, in: *Tumors of the Thyroid Gland*, edited by D. Smithers, E & S Livingstone, Edinburgh, 1970.

17. Capen, C. C. and S. L. Martin, "Mechanisms that Lead to Disease in the Endocrine System in Animals," *Toxicologic Pathology*, 17:234–249, 1989.

18. *Handbook of Carcinogenic Potency and Genotoxicity Databases*, edited by L. S. Gold and E. Zeiger, CRC Press, Boca Raton, FL, 1997.

19. Goddard, M. J., D. J. Murdoch, and D. Krewski, "Temporal Aspects of Risk Characterization," *Inhalation Toxicology*, 7:1005–1018, 1995.

20. Kodell, R. L., D. W. Gaylor, and J. J. Chen, "Using Average Lifetime Dose Rate for Intermittent Exposures to Carcinogens," *Risk Analysis*, 7:339–345, 1987.

*21. Memorandum, from F. Hines, Diagnostic Pathology Branch, to L. Taylor, Additives Evaluation Branch, dated June 6, 1986.

22. "Health Effects Test Guidelines," U.S. EPA, June, 1996.

*23. Memorandum, from L. Taylor, Additives Evaluation Branch, to P. McLaughlin, Petitions Control Branch, dated November 17, 1982.

*24. Memorandum, Cancer Assessment Committee (CAC) (covers conferences of November 21, 1983, February 21, 1985, December 12, 1985, and June 17, 1986, and information in Ref. 25 of this document).

*25. Memorandum, from L. Taylor, Additives Evaluation Branch, to Cancer Assessment Committee, dated June 19, 1986.

List of Subjects in 21 CFR 172

Food additives, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 172 is amended as follows:

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

1. The authority citation for 21 CFR part 172 continues to read as follows:

Authority: 21 U.S.C. 321, 341, 342, 348, 371, 379e.

2. Section 172.800 is amended by adding paragraph (c)(13) to read as follows:

§ 172.800 Acesulfame potassium.

* * * * *

(c) * * *

(13) Nonalcoholic beverages, including beverage bases.

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Dated: June 29, 1998.

Michael A. Friedman,

Acting Commissioner of Food and Drugs.

[FR Doc. 98–17700 Filed 6–30–98; 10:34 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 172

[Docket No. 93F–0286]

Food Additives Permitted for Direct Addition to Foods for Human Consumption; Acesulfame Potassium

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; response to objection, confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is overruling the objection that it has received on the final rule that amended the food additive regulations to provide for the safe use of acesulfame potassium (ACK) as a nonnutritive sweetener in alcoholic beverages. After reviewing the objection to the final rule, the agency has concluded that the objection does not provide a basis for revoking the amendment to the regulation. Therefore, FDA is confirming the effective date for the final rule. The final rule was issued in response to a food additive petition filed by Hoechst Celanese Corp.

DATES: The effective date of the final rule published at 60 FR 21700 is confirmed as May 3, 1995.

FOR FURTHER INFORMATION CONTACT: Patricia A. Hansen, Center for Food Safety and Applied Nutrition (HFS–206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3093.

SUPPLEMENTARY INFORMATION:

I. Introduction

In the **Federal Register** of May 3, 1995 (60 FR 21700), FDA issued a final rule amending its regulations to permit the use of acesulfame potassium (ACK) as a nonnutritive sweetener in alcoholic beverages (the "alcoholic beverages final rule"). This amendment of the regulation, codified at 21 CFR 172.800(c)(12), was issued in response to a food additive petition (FAP No. 3A4391) filed by Hoechst Celanese Corp. FDA based its decision to permit the use of ACK in alcoholic beverages on the data in this petition and other relevant information in its files, including data and information from previous petitions for various uses of ACK.[1]

II. Summary of Objection

Following the publication of the alcoholic beverages final rule, the Center for Science in the Public Interest (CSPI) filed a timely submission objecting to the approval of ACK for use in alcoholic beverages. CSPI's submission consisted of a letter, dated June 1, 1995, and a copy of CSPI's objections to FDA's original approval decision on ACK (the "dry uses final rule") (July 28, 1988, 53 FR 28379).[2] CSPI specifically requests that FDA "withdraw this approval, and, instead, require that acesulfame potassium (including its breakdown products) be evaluated for carcinogenicity in properly conducted long-term animal feeding tests." CSPI also requests that FDA reconsider and act favorably on its previous objections to the dry uses final rule, alleging that FDA has not addressed these previous objections in a substantive manner. CSPI does not request a hearing on its objection to the alcoholic beverages final rule, nor does it request a stay of the rule.[3]

III. Provisions for Objections and Hearing Requests

The agency's regulations regarding food additive petitions (21 CFR 171.110) provide that objections and hearings relating to food additive regulations are to be governed by part 12 (21 CFR part 12). Under § 12.24(a), the Commissioner of Food and Drugs is to review all objections and hearing requests and make three determinations: (1) Whether the regulation at issue should be modified or revoked, (2) whether a hearing has been justified, and (3) whether an alternative form of hearing (e.g., before a Public Board of Inquiry under 21 CFR part 13), if requested, has been justified. As provided for in § 12.30(a), a person may submit objections and waive the right to a hearing; such waiver may be express or may result from the failure to request a hearing (see § 12.22(a)). Even when no hearing has been requested, the Commissioner has the discretion to order a hearing under § 12.30(b) and should exercise such discretion when it is in the public interest to do so. Because issuance of a final rule constitutes a finding that such action is in the public interest, a substantial showing is required to justify the Commissioner's exercise of his discretion to order a hearing to reconsider a final rule.

The objector to the alcoholic beverages final rule for ACK, CSPI, has waived its right to a hearing by failing to request a hearing (see § 12.22(a)(4)). Thus, the only remaining question under § 12.24(a) is whether CSPI's objection, and the information submitted in support of the objection, establish that the food additive regulation for ACK should be revoked or modified. If revocation or modification has not been justified, FDA must then evaluate the record to determine whether there is a reason for the Commissioner to exercise his discretion to order a hearing.

As discussed in detail in section IV of this document, FDA has concluded that CSPI has not established a basis for revocation or modification of the food additive regulation for ACK. Thus, the agency is overruling CSPI's objection. Likewise, because CSPI has not identified new relevant information or articulated an interpretation of existing information not previously addressed by FDA, there is no factual dispute to be resolved. Further, there has been no showing that such a hearing would otherwise be in the public interest. Accordingly, there is no reason for the Commissioner to exercise his discretion and order a hearing.

IV. Analysis of the Objection

In order to justify a revocation or modification of the food additive regulation authorizing the use of ACK in alcoholic beverages, CSPI must establish that FDA failed to conduct a fair evaluation of the evidence in the record and thus erroneously concluded that there is a reasonable certainty of no harm from the use of ACK in alcoholic beverages. As shown in section IV of this document, CSPI's objections cite no new data or information and simply reiterate issues that FDA has previously considered and resolved. Thus, FDA has concluded that there is no basis to modify or revoke the food additive regulation for ACK.

A. FDA's Determination of Safety

In its June 1, 1995 letter, objecting to the alcoholic beverages final rule, CSPI quotes from an FDA memorandum[4] "* * * The use of acesulfame potassium in alcoholic beverages contributes only a very small percentage of acesulfame potassium intake to the total because of the limited number of users of these products and their low intakes." CSPI indicates its agreement with FDA's assessment of the dietary intake of ACK, but also goes on to state: "* * * we expect minimal public exposure to acesulfame potassium in the alcoholic beverages covered in the approval. However, *de minimis* exposure of the public does not solve the safety problems associated with acesulfame potassium * * *."

Although CSPI implies that FDA's decision on the safe use of ACK in alcoholic beverages was based on intake data alone, this is not the case. In concluding that the use of ACK in alcoholic beverages was safe, FDA reviewed data and information in the petition as well as other relevant information from its files, including data and information contained in previous petitions for various uses of ACK. As discussed in the alcoholic beverages final rule (60 FR 21700 at 21701), FDA made its determination based on an analysis of the safety data and a consideration of conditions relevant to the proposed use in alcoholic beverages, including the estimated low increase in dietary exposure to ACK from its use in alcoholic beverages.[5]

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[1] Acesulfame potassium, the potassium salt of 6-methyl-1,2,3-oxathiazine-4(3*H*)-one-2,2-dioxide, was first approved for a variety of uses as a nonnutritive sweetener on July 28, 1988 (53 FR 28379). Subsequent to its initial approval decision on the use of ACK, FDA approved the following additional uses for ACK in response to petitions in: Baked goods and baking mixes, including frostings, icings, and fillings for baked goods; yogurt and yogurt-type products; frozen and refrigerated desserts; sweet sauces, toppings, and syrups; and alcoholic beverages on December 1, 1994 (59 FR 61538, 61540, 61543) and on May 3, 1995 (60 FR 21700).

[2] In its 1988 objections to the dry uses final rule, CSPI objected to the agency conclusions drawn from each of the three long-term safety studies of ACK conducted in rodents and sought revocation of the rule. CSPI asked FDA to consider four separate objections to the rule and to hold a public evidentiary hearing on the issues raised in each of its objections. FDA considered the issues raised by CSPI and responded to them, in detail, in the **Federal Register** of February 27, 1992 (57 FR 6667, "1992 response to objections"). The agency concluded, after reviewing the objections, that no genuine issues of material fact had been raised that would justify a hearing and, accordingly, denied CSPI's requests for a hearing.

[3] In its 1988 objections to the dry uses final rule, CSPI requested a stay of the rule until the hearing it had also requested could be held. FDA denied both the requests for a hearing and a stay.

[4] Memorandum from M. DiNovi, Chemistry Review Branch, CFSAN, FDA to P. Hansen, Biotechnology Policy Branch, CFSAN, FDA, April 28, 1994 (Ref. 1 in the alcoholic beverages final rule).

[5] Specifically, in its original review of the safety of ACK, FDA concluded that a review of animal feeding studies showed that there is no association between neoplastic disease (cancer) and consumption of this additive (53 FR 28379 at 28380 and 28381, July 28, 1988). FDA also established an acceptable daily intake (ADI) for ACK, based on the information from the animal feeding studies. Based on all of the information before it, FDA concluded that ACK was safe for the uses proposed in the original petition.

In its evaluation of the safety of ACK for use in alcoholic beverages, FDA considered, among other things, various conditions relevant to the proposed use. One consideration was whether an individual's estimated daily intake (EDI) of ACK would be less

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CSPI's objection to the alcoholic beverages final rule does not provide any new evidence or identify any evidence that FDA overlooked in previous evaluations that would call into question FDA's determination of safety. Moreover, CSPI has not provided a basis for concluding that the information FDA has evaluated is inadequate to support a finding that the use of ACK in alcoholic beverages is safe. Thus, with respect to this issue, CSPI has not provided any basis for FDA to revoke the alcoholic beverages final rule.

B. Long-Term Testing; Breakdown Products of ACK

As previously noted, in CSPI's objection to the alcoholic beverages final rule, the organization requests that FDA require long-term animal testing of the breakdown products of ACK.[6] CSPI's submission does not, however, provide any information to support its view that such testing is necessary to establish the safety of ACK for use in alcoholic beverages. Because CSPI's submission provides no information to support its request, it provides no basis for FDA to reconsider its decision to issue the alcoholic beverages final rule. Thus, the agency is overruling this aspect of CSPI's objection and is denying the request that FDA require additional testing of the breakdown products of ACK.

C. Long-Term Testing; ACK

In its objection to the alcoholic beverages final rule, CSPI also asks that FDA require additional long-term testing of ACK.[7] CSPI alleges that "* * * technical flaws render several key safety studies inadequate, and * * * available evidence suggests that acesulfame potassium may pose a cancer risk" and mentions four specific issues with respect to the existing long-term animal testing of ACK, quoting directly from its objections to the dry uses final rule. In support of this aspect of its objection to the alcoholic beverages final rule, CSPI submitted a copy of its objections to the dry uses final rule. CSPI asked FDA to "* * * reconsider and act favorably on our 1988 objections."

One of the issues raised by CSPI in its June 1, 1995, letter concerns the adequacy of one of the long-term studies of ACK that was conducted in rats: "* * * the doses of acesulfame potassium given in the petitioner's second long-term rat study were too low to make that study adequate to show that the chemical does not cause cancer in rats * * *." CSPI raised exactly the same issue in its objections to the dry uses final rule, and FDA responded, in detail, to this issue in the agency's 1992 response to objections.[8] In its objection to the alcoholic beverages final rule, CSPI provides no additional evidence or analysis to support its assertion regarding dosing. Thus, the agency incorporates its 1992 discussion of the dosing in the second rat study, in full, into the present response. Specifically, FDA reaffirms its earlier determination that the dosing levels in this study were appropriate to evaluate the safe use of ACK, and that this study demonstrated the safety of ACK (57 FR 6667 at 6669, see also 53 FR 28379, 28380).

Once an issue has been considered in a prior proceeding, a party is estopped from raising that same issue in a subsequent proceeding in the absence of new evidence.[9] Because CSPI's objection to the alcoholic beverages final rule neither identifies nor contains any new evidence or new analysis to support its assertion that the dosing in the second rat study was inadequate, it provides no basis for reconsideration of this issue by FDA. Moreover, CSPI's objection does not provide any information that links this issue to FDA's determination that the use of ACK in alcoholic beverages is safe and, thus, provides no basis for FDA to revoke the alcoholic beverages final rule.

Another issue raised by CSPI in its June 1, 1995, letter concerns the adequacy of the long-term study of ACK that was conducted in mice: "* * * the petitioner's long-term mouse study fell short of FDA guidelines and standards because: (1) A subchronic study needed to set the proper high dose was not done, and the high dose used was too low, and (2) the chronic study lasted only 80 weeks, not the minimum 104 weeks * * *." CSPI made precisely the same claims in its objections to the dry uses final rule, and FDA responded, in detail, to this issue in the agency's 1992 response to objections.[10] In its objection to the alcoholic beverages final rule, CSPI provides no additional evidence or analysis to support its assertions regarding dosing and study length. Thus, the agency incorporates its 1992 discussion of the mouse study, in full, into the present response. Specifically, FDA reaffirms its earlier determination that both the length of, and the dosing in, the mouse study were adequate for an assessment of ACK's carcinogenic potential and that the mouse study demonstrated the safety of ACK (57 FR 6667 at 6669, see also 53 FR 28379, 28380).

As noted, once an issue has been considered in a prior proceeding, a party is estopped from raising that same issue in a subsequent proceeding in the absence of new evidence. Because CSPI's objection to the alcoholic beverages final rule neither identifies nor contains any new evidence or new analysis to support its assertion that the mouse study was inadequate, it provides no basis for reconsideration of

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than the ADI that had been previously established from toxicological information. The agency concluded that the EDI for ACK resulting from its use in alcoholic beverages, as well as all uses listed at that time and other uses in a pending petition, was well below the ADI. On the basis of all the information before it, FDA concluded that the proposed use in alcoholic beverages was safe.

[6] These products are acetoacetamide-N-sulfonic acid (AAS) and acetoacetamide (AAA).

[7] As discussed in detail in the dry uses final rule (53 FR 28379 at 28380), the safety data originally submitted by the petitioner included a feeding study performed in mice and a feeding study performed in rats. FDA concluded that the mouse study was adequate for the safety evaluation of ACK, but that the rat study ("the first rat study") was inadequate for a safety evaluation of ACK. The petitioner then conducted a second feeding study in rats ("the second rat study"); the agency concluded that this second rat study was adequate to assess the safety of ACK. The agency also concluded that the results of the second rat study, together with the results of the mouse study, established that there was no association between neoplastic disease (cancer) and consumption of ACK.

[8] In the 1992 response to objections (57 FR 6667 at 6669) FDA denied CSPI's request for a hearing on this issue because the data and information identified by CSPI in support of this objection, even if established at a hearing, would not have been adequate to justify resolution, in CSPI's favor, of the factual questions about adequacy of dosing. Because the information cited was not sufficient to establish CSPI's factual assertion, a hearing was not granted on this issue (see § 12.24(b)(3)).

[9] Even if the objections raise material issues of fact, FDA need not grant a hearing if those same issues were adequately raised and considered in an earlier proceeding. Once an issue has been so raised and considered, a party is estopped from raising that same issue in a later proceeding without new evidence. The various judicial doctrines dealing with finality are validly applied to the administrative process. In explaining why these principles "self-evidently" ought to apply to an agency proceeding, the D.C. Circuit wrote: "The underlying concept is as simple as this: Justice requires that a party have a fair chance to present his position. But overall interests of administration do not require or generally contemplate that he will be given more than a fair opportunity." (*Retail Clerks Union, Local 1401, R.C.I.A.* v. *National Labor Relations Board*, 463 F.2d 316, 322 (D.C. Cir. 1972). (See *Costle* v. *Pacific Legal Foundation*, 445 U.S. 198, 214–215 (1980), *reh. den.*, 445 U.S. 947 (1980). See also *Pacific Seafarers, Inc.* v. *Pacific Far East Line, Inc.*, 404 F.2d 804 (D.C. Cir. 1966))).

[10] In the 1992 response to objections (57 FR 6667 at 6669 through 6670) FDA denied CSPI's request for a hearing on this objection because the data and information identified by CSPI in support of this objection, even if established at a hearing, would not have been adequate to justify resolution, in CSPI's favor, of the factual questions about the duration of, and dosing used in, this study. Because the information cited was not sufficient to establish CSPI's factual assertion, a hearing was not granted on this issue (see § 12.24(b)(3)).

this issue by FDA. Moreover, CSPI's objection does not provide any information that would link this issue to FDA's determination that the use of ACK in alcoholic beverages is safe and, thus, provides no basis for FDA to revoke the alcoholic beverages final rule.

A third issue raised by CSPI in its June 1, 1995, letter concerns the results of the first rat study: "* * * the petitioner's first long-term rat study shows that acesulfame potassium induced tumors in rats, even though design flaws biased this study against finding carcinogenicity* * *." CSPI has raised this particular issue twice before, once as a comment on the petition that supported the dry uses final rule and once as an objection to the dry uses final rule. FDA considered this issue and addressed it in the dry uses final rule; FDA also responded, in detail, to this issue in the agency's 1992 response to objections.[11] In its objection to the alcoholic beverages final rule, CSPI provides no additional evidence or analysis to support its claim that ACK induced tumors in the animals used in the first rat study. Thus, the agency incorporates both of its earlier discussions of this issue (from both the dry uses final rule and the agency's 1992 response to objections), in full, into the present response. Specifically, the agency reaffirms its earlier determination that the data and information from the first rat study do not establish a carcinogenic effect of ACK (57 FR 6667 at 6670).[12]

Again, because this particular issue has been considered in a prior proceeding, CSPI is estopped from raising that same issue subsequently in the absence of new evidence. Because CSPI's objection to the alcoholic beverages final rule neither identifies nor contains any new evidence or new analysis to support its assertion that the first rat study shows that ACK induces tumors in rats, it provides no basis for reconsideration of this issue by FDA. Moreover, CSPI's objection does not provide any information that would undermine FDA's determination that the use of ACK in alcoholic beverages is safe and, thus, provides no basis for FDA to revoke the alcoholic beverages final rule.

A fourth issue raised by CSPI in its June 1, 1995, letter concerns the results of the second rat study: "* * * the second long-term rat study shows that acesulfame potassium induces tumors in rats * * *." CSPI raised precisely this same issue in its objections to the dry uses final rule, and FDA responded, in detail, to this issue in the agency's 1992 response to objections.[13] In its objection to the alcoholic beverages final rule, CSPI provides no additional evidence or analysis to support its assertion regarding the results of the second rat study. Thus, the agency incorporates its 1992 discussion of the results of the second rat study, in full, into the present response. Specifically, FDA reaffirms its earlier determination that the second rat study did not demonstrate an association between the occurrence of tumors and treatment with ACK (57 FR 6667 at 6674, see also 53 FR 28379 at 28380 and 28381).

Once an issue has been considered in a prior proceeding, a party is estopped from raising that same issue in a subsequent proceeding in the absence of new evidence. Because CSPI's objection to the alcoholic beverages final rule neither identifies nor contains any new evidence or new analysis to support its assertion that the second rat study shows that ACK induces tumors in rats, it provides no basis for reconsideration of this issue by FDA. Moreover, CSPI's objection provides no information that would call into question FDA's determination that the use of ACK in alcoholic beverages is safe and, thus, provides no basis for FDA to revoke the alcoholic beverages final rule.

V. Conclusions

The safety of ACK has been thoroughly tested and the data have been reviewed by the agency. As discussed previously, FDA concluded that the available data and information establish the safety of ACK as a nonnutritive sweetener in alcoholic beverages.

The petitioner has the burden to demonstrate safety before FDA can approve a particular use of a food additive. Nevertheless, once the agency makes a finding of safety in an approval document, the burden shifts to an objector, who must come forward with evidence that calls into question FDA's conclusion (*American Cyanamid Co.* v. *FDA*, 606 F2d. 1307, 1314–1315 (D.C. Cir. 1979)).

CSPI has not identified any information in the record to support its claim that the FDA incorrectly concluded that the use of ACK in alcoholic beverages is safe. Nor has CSPI established that the agency overlooked significant information in reaching its conclusion. Indeed, the objection has not presented any information or analysis that has not already been carefully reviewed and weighed by the agency. FDA has determined that the objection provides no basis for FDA to revoke the alcoholic beverages final rule or to require additional safety testing. Accordingly, FDA is overruling the objection.

FDA is confirming May 3, 1995, as the effective date of the amendment to the regulation.

Dated: June 29, 1998.

Michael A. Friedman,

Acting Commissioner of Food and Drugs.

[FR Doc. 98–17701 Filed 6-30-98; 10:34 am]

BILLING CODE 4160-01-F

DEPARTMENT OF STATE

22 CFR Parts 40 and 41

[Public Notice 2800]

Documentation of Nonimmigrants Under the Immigration and Nationality Act, as Amended—Place of Application

AGENCY: Bureau of Consular Affairs, DOS.

ACTION: Final rule; correction.

SUMMARY: This document confirms as a final rule the interim rule published on January 7, 1998, that establishes the venue for a nonimmigrant visa application by an applicant whose previous nonimmigrant visa has been voided due to an overstay of an authorized period of admission. This

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[11] CSPI claimed that there were increased incidences in lymphoreticular tumors and several types of other tumors; CSPI also disputed FDA's reasons for concluding that this study was inadequate for a safety evaluation of ACK. FDA considered and addressed all of the points in this objection in the 1992 response to objections (57 FR 6667 at 6670 to 6677). FDA denied CSPI's request for a hearing on this objection on several different grounds, specifically, a threshold burden of identifying specific evidence was not met (see § 12.24(b)(2)), the data and information identified were insufficient to justify the factual determination in CSPI's favor (see § 12.24(b)(3)), and the factual issues identified were not determinative with respect to the action requested (see § 12.24(b)(4)).

[12] Because of deficiencies and confounding factors in the first rat study, FDA further concluded that this study is "inadequate for assessing the carcinogenic potential of the test compound or for any other purposes of a safety evaluation" (53 FR 28379 at 28381). As noted, the petitioner subsequently performed a second study in a different strain of rat.

[13] CSPI identified two issues in this objection: (1) The incidence of rare tumors and (2) the incidence of mammary gland tumors. CSPI also raised four separate points with regard to the occurrence of mammary tumors. FDA considered and addressed all of the points in this objection in the 1992 response to objections (57 FR 6667 at 6674 through 6675). FDA denied CSPI's request for a hearing on this objection on several different grounds: (1) A threshold burden of identifying specific evidence was not met (see § 12.24(b)(2)), (2) the data and information identified were insufficient to justify the factual determination in CSPI's favor (see § 12.24(b)(3)), and (3) the factual issues identified were not determinative with respect to the action requested (see § 12.24(b)(4)).

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notice also contains a correction of a citation in the interim rule.

EFFECTIVE DATE: July 6, 1998.

FOR FURTHER INFORMATION CONTACT: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Services, Department of State, Washington, DC 20520–0106, (202) 663–1204.

SUPPLEMENTARY INFORMATION: An interim rule implementing the new subsection 222(g) of the Immigration and Nationality Act (INA), and requesting comments, was published on January 7, 1998 [63 FR 669]. The period for comments has expired; no comments have been received. The rule will thus stand as originally published, with a correction of the reference to INA 214(k) in 22 CFR 41.101(c)(1) which should read 214(l). As there are now two 214(l)'s in the INA, this reference is to the first one, i.e., the subsection relating to a waiver of the 2-year foreign residence requirement.

As the final regulation is identical to the interim regulation other than for the correction of a citation, it is not being reprinted in full herein.

List of Subjects in 22 CFR Part 41

Aliens, Nonimmigrants, Passports, Visas.

In view of the foregoing, the interim rule amending 22 CFR parts 40 and 41 which was published at 63 FR 669 on January 7, 1998, is adopted as a final rule with the following change:

PART 41—[CORRECTED]

1. The authority citation for part 41 continues to read:

Authority: 8 U.S.C. 1104.

§ 41.101 [Corrected]

2. In § 41.101(c)(1), correct the reference to "INA 214(k)" to read "INA 214(l)".

Dated: May 20, 1998.

Donna J. Hamilton,

Acting Assistant Secretary for Consular Affairs.

[FR Doc. 98–17735 Filed 7–2–98; 8:45 am]

BILLING CODE 4710–06–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300666; FRL–5794–6]

RIN 2070–AB78

Pyriproxyfen (2-[1-methyl-2-(4-phenoxyphenoxy)ethoxy]pyridine; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for combined residues of pyriproxfen in or on cotton seed and cotton gin byproducts. Valent U.S.A. Corporation requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (Pub. L. 104-170).

DATES: This regulation is effective July 6, 1998. Objections and requests for hearings must be received by EPA on or before September 4, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300666], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300666], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP–300666]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Joseph Tavano, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305-6411, e-mail: tavano.joseph@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 6, 1998 (63 FR 11240) (FRL–5777–5), EPA, issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) announcing the filing of a pesticide petition (PP 6F4737) for tolerance by Valent U.S.A. Corporation, 1333 N. California Blvd., Walnut Creek, CA 94596. This notice included a summary of the petition prepared by Valent U.S.A. Corporation, the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.534 be amended by establishing tolerances for combined residues of the insecticide, pyriproxfen, in or on cotton seed and cotton gin byproducts at 0.05 and 2.0 parts per million (ppm) respectively.

I. Risk Assessment and Statutory Findings

New section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . ."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides based primarily on toxicological studies using laboratory animals. These studies address many adverse health effects, including (but not limited to) reproductive effects, developmental toxicity, toxicity to the nervous system, and carcinogenicity. Second, EPA examines exposure to the pesticide through the diet (e.g., food and drinking water) and through exposures that occur as a result of pesticide use in residential settings.

A. Toxicity

1. *Threshold and non-threshold effects*. For many animal studies, a dose response relationship can be determined, which provides a dose that causes adverse effects (threshold effects) and doses causing no observed effects (the "no-observed effect level" or "NOEL").

Once a study has been evaluated and the observed effects have been determined to be threshold effects, EPA generally divides the NOEL from the study with the lowest NOEL by an uncertainty factor (usually 100 or more) to determine the Reference Dose (RfD). The RfD is a level at or below which daily aggregate exposure over a lifetime will not pose appreciable risks to human health. An uncertainty factor (sometimes called a "safety factor") of 100 is commonly used since it is assumed that people may be up to 10 times more sensitive to pesticides than the test animals, and that one person or subgroup of the population (such as infants and children) could be up to 10 times more sensitive to a pesticide than another. In addition, EPA assesses the potential risks to infants and children based on the weight of the evidence of the toxicology studies and determines whether an additional uncertainty factor is warranted. Thus, an aggregate daily exposure to a pesticide residue at or below the RfD (expressed as 100% or less of the RfD) is generally considered acceptable by EPA. EPA generally uses the RfD to evaluate the chronic risks posed by pesticide exposure. For shorter term risks, EPA calculates a margin of exposure (MOE) by dividing the estimated human exposure into the NOEL from the appropriate animal study. Commonly, EPA finds MOEs lower than 100 to be unacceptable. This 100-fold MOE is based on the same rationale as the 100-fold uncertainty factor.

Lifetime feeding studies in two species of laboratory animals are conducted to screen pesticides for cancer effects. When evidence of increased cancer is noted in these studies, the Agency conducts a weight of the evidence review of all relevant toxicological data including short-term and mutagenicity studies and structure activity relationship. Once a pesticide has been classified as a potential human carcinogen, different types of risk assessments (e.g., linear low dose extrapolations or MOE calculation based on the appropriate NOEL) will be carried out based on the nature of the carcinogenic response and the Agency's knowledge of its mode of action.

2. *Differences in toxic effect due to exposure duration*. The toxicological effects of a pesticide can vary with different exposure durations. EPA considers the entire toxicity data base, and based on the effects seen for different durations and routes of exposure, determines which risk assessments should be done to assure that the public is adequately protected from any pesticide exposure scenario. Both short and long durations of exposure are always considered. Typically, risk assessments include "acute," "short-term," "intermediate term," and "chronic" risks. These assessments are defined by the Agency as follows.

Acute risk, by the Agency's definition, results from 1-day consumption of food and water, and reflects toxicity which could be expressed following a single oral exposure to the pesticide residues. High end exposure to food and water residues are typically assumed.

Short-term risk results from exposure to the pesticide for a period of 1-7 days, and therefore overlaps with the acute risk assessment. Historically, this risk assessment was intended to address primarily dermal and inhalation exposure which could result, for example, from residential pesticide applications. However, since enaction of FQPA, this assessment has been expanded to include both dietary and non-dietary sources of exposure, and will typically consider exposure from food, water, and residential uses when reliable data are available. In this assessment, risks from average food and water exposure, and high-end residential exposure, are aggregated. High-end exposures from all three sources are not typically added because of the very low probability of this occurring in most cases, and because the other conservative assumptions built into the assessment assure adequate protection of public health. However, for cases in which high-end exposure can reasonably be expected from multiple sources (e.g. frequent and widespread homeowner use in a specific geographical area), multiple high-end risks will be aggregated and presented as part of the comprehensive risk assessment/characterization. Since the toxicological endpoint considered in this assessment reflects exposure over a period of at least 7 days, an additional degree of conservatism is built into the assessment; i.e., the risk assessment nominally covers 1-7 days exposure, and the toxicological endpoint/NOEL is selected to be adequate for at least 7 days of exposure. (Toxicity results at lower levels when the dosing duration is increased.)

Intermediate-term risk results from exposure for 7 days to several months. This assessment is handled in a manner similar to the short-term risk assessment.

Chronic risk assessment describes risk which could result from several months to a lifetime of exposure. For this assessment, risks are aggregated considering average exposure from all sources for representative population subgroups including infants and children.

B. Aggregate Exposure

In examining aggregate exposure, FFDCA section 408 requires that EPA take into account available and reliable information concerning exposure from the pesticide residue in the food in question, residues in other foods for which there are tolerances, residues in groundwater or surface water that is consumed as drinking water, and other non-occupational exposures through pesticide use in gardens, lawns, or buildings (residential and other indoor uses). Dietary exposure to residues of a pesticide in a food commodity are estimated by multiplying the average daily consumption of the food forms of that commodity by the tolerance level or the anticipated pesticide residue level. The Theoretical Maximum Residue Contribution (TMRC) is an estimate of the level of residues consumed daily if each food item contained pesticide residues equal to the tolerance. In evaluating food exposures, EPA takes into account varying consumption patterns of major identifiable subgroups of consumers, including infants and children. The TMRC is a "worst case" estimate since it is based on the assumptions that food contains pesticide residues at the tolerance level and that 100% of the crop is treated by pesticides that have established tolerances. If the TMRC exceeds the RfD or poses a lifetime cancer risk that is greater than approximately one in a million, EPA attempts to derive a more accurate exposure estimate for the pesticide by evaluating additional types

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of information (anticipated residue data and/or percent of crop treated data) which show, generally, that pesticide residues in most foods when they are eaten are well below established tolerances.

Percent of crop treated estimates are derived from federal and private market survey data. Typically, a range of estimates are supplied and the upper end of this range is assumed for the exposure assessment. By using this upper end estimate of percent of crop treated, the Agency is reasonably certain that exposure is not understated for any significant subpopulation group. Further, regional consumption information is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups, to pesticide residues. For this pesticide, the most highly exposed population subgroup was not regionally based.

II. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action, EPA has sufficient data to assess the hazards of pyriproxyfen (2-[1-methyl-2-(4-phenoxyphenoxy)ethoxy]pyridine and to make a determination on aggregate exposure, consistent with section 408(b)(2), tolerances for combined residues of pyriproxfen on cotton seed and cotton gin byproducts at 0.05 and 2.0 ppm respectively EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by pyriproxyfen (2-[1-methyl-2-(4-phenoxyphenoxy)ethoxy]pyridine are discussed below.

1. *Acute toxicity— Acute toxicity studies with technical pyriproxyfen.* Oral LD$_{50}$ in the rat is >5,000 milligram/kilogram (mg/kg) for males and females - Toxicity Category IV; dermal LD$_{50}$ in the rabbit at >2,000 mg/kg - Toxicity Category IV; inhalation LC$_{50}$ in the rat is >1.3 mg/L (highest dose attainable) - Toxicity Category III; primary eye irritation in the rabbit (mild irritatant) - Toxicity Category III; primary dermal irritation in the rabbit (not an irritant: non-irritating to the skin under conditions of test))- Toxicity Category IV. Pyriproxyfen is not a sensitizer.

2. *Subchronic toxicity*— i. *Rats.* In the subchronic feeding study in rats, the no-observed effect level (NOEL) was 27.68 mg/kg/day. The lowest oberved effect level (LOEL) was 141.28 mg/kg/day, based upon higher mean total cholesteral and phospholipids, decreased mean RBCs, hematocrit and hemoglobin counts and increased relative liver weight.

ii. *Dogs.* In the subchronic feeding study in dogs, the NOEL was 100 mg/kg/day and the LOEL was 300 mg/kg/day. The effects were based on increased absolute and relative liver weight in males and hepatocellular hypertrophy in females. These findings were also observed at 1,000 mg/kg/day and may represent adaptive changes at both 300 mg/kg/day and the limit dose of 1,000 mg/kg/day.

iii. *Dermal study - Rats.* In a 21-day dermal study in rats, the NOEL for systemic effects was >1,000 mg/kg/day (limit dose). The LOEL for systemic effects was not established in this study. No dermal or systemic toxicity was observed at any dose tested.

3. *Chronic toxicity/carcinogenicity*— i. *Dogs.* In a one-year chronic feeding study in dogs, the NOEL was 100 mg/kg/day. The LOEL was 300 mg/kg/day based on decreased weight gain, increased absolute and relative liver weight, mild anemia, increased cholesterol and triglycerides.

ii. *Mice.* The oncogenicity study in mice the NOEL and LOEL for systemic toxicity in males are 600 ppm and 3,000 ppm, respectively, based on an renal lesions in males. The technical grade test material was given to male and female CD-1 mice in diet for 18 months at 0, 120, 600, or 3,000 ppm. No statistically significant increase in tumor incidence relative to controls were observed in either sex at any does up to 3,000 ppm (highest dose tested).

iii. *Rats.* In the chronic feeding/oncogenicity study in rats, the NOEL (systemic) was 35.1 mg/kg/day and the LOEL (systemic) was 182.7 mg/kg/day. The technical grade test material was administered to male and female Sprague-Dawley rats in diet for 24 months at 0, 120, 600, or 3,000 ppm. A decrease of 16.9% in bogy weight gain in females at 3,000 ppm (182.7 mg/kg/day) was basis for the systemic LOEL.

4. *Developmental toxicity*— i. *Rabbits.* In the developmental study in rabbits, the maternal NOEL/LOEL for maternal toxicity were 100 and 300 mg/kg/day based on premature delivery/abortions, soft stools, emaciation, decreased activity and bradypnea. The developmental NOEL was determined to be 300 mg/kg/day and developmental LOEL was determined to be undetermined; no dose related anomalies occurred in the 4 remaining litters studied at 1,000 mg/kg/day.

ii. *Rats.* In the developmental study in rats, a maternal NOEL/LOEL were determined to be 100 mg/kg/day and 300 mg/kg/day, respectively. These findings were based on increased incidences in mortality and clinical signs at 1,000 mg/kg/day with decreases in food consumption, body weight, and body weight gain together with increases in water consumption at 300 and 1,000 mg/kg/day. The developmental NOEL/LOEL were 100 mg/kg/day and 300 mg/kg/day based on the increase of skeletal variations at 300 mg/kg/day and above.

5. *Reproductive toxicity.* In a two-generation reproduction study in rats, the systemic NOEL was 1,000 ppm (87 mg/kg/day). The LOEL for sytemic toxicity was 5,000 ppm (453 mg/kg/day). Effects were based on decreased body weight, weight gain and food consumption in both sexes and both generations, and increased liver weights in both sexes associated with liver and kidney histopathology in males. The reproductive NOEL was 5,000 ppm. A reproductive LOEL was not established.

6. *Mutagenicity.* Studies on gene mutation and other genotoxic effects: In a Gene Mutation Assay (Ames Test)/Reverse Mutation, finding were determined as negative for induction of gene mutation measured as the reversion to histine protrophy of 5 *S.typhimurium* strains and *E.Coli* WP2 uvra at doses from 10 to 5,000 µg/plate with & without S-9 activation. The highest dose was insoluble. A Gene Mutation assay in Mammalian Cells was found to be negative f or mutagencity in CHO (Chinese hamster ovary) V79 cells with and without metabolic activation up to cytotoxic doses (300 µg/mL). In a Structural Chromosomal Aberration Assay *in vivo*, findings proved nonclastogenic in CHO cells both with and without S-9 activation up to cytotoxic doses (300 µg/mL). In Other Genotoxicity Assays, an increase in unscheduled DNA synthesis was not induced both with and without activation in HeLa cells exposed up to insoluble doses ranging to 6.4 µg/mL (without activation) and 51.2 µg/mL (with activation).

7. *Metabolism.* The results of the metabolism studies are as follows:

Acceptable: Rats were orally dosed with ^{14}C-labeled pyriproxyfen at 2 or

1,000 mg/kg and at repeated oral doses (14 daily doses) of unlabeled pyriproxyfen at 2 mg/kg followed by administration of a single oral dose of labeled pyriproxyfen at 2 mg/kg. Most radioactivity was excreted in the feces (81-92%) and urine (5-12%) over a 7 day collection period. Expired air was not detected. Tissue radioactivity levels were very low (less than 0.3%) except for fat. Examination of urine, feces, liver, kidney, bile and blood metabolites yielded numerous (>20) identified metabolites when compared to synthetic standards. The major biotransformation reactions of pyriproxyfen include: (i) Oxidation of the 4′ - position of the terminal phenyl group; (ii) oxidation at the 5′ - position of pyridine; and (iii) cleavage of the ether linkage and conjugation of the resultant phenols with sulfuric acid.

8. *Neurotoxicity*. Neurotoxicity has not been observed in any of the acute, subchronic, chronic, developmental or reproductive studies performed with pyriproxyfen.

B. Toxicological Endpoints

1. *Acute toxicity*. An acute dietary dose and endpoint was not identified in the database. The Agency concludes that there is a reasonable certainty of no harm from acute dietary exposure.

2. *Short - and intermediate - term toxicity*. Doses and endpoints were not identified for short and intermediate-term dermal and inhalation exposure. The Agency concludes that there are reasonable certainties of no harm from these exposures.

3. *Chronic toxicity*. EPA has established the RfD for pyriproxyfen (2-[1-methyl-2-(4-phenoxyphenoxy)ethoxy]pyridine at 0.35 mg/kg/day. This RfD is based on a NOEL of 35.1 mg/kg/day and an uncertainty factor (UF) of 100. The NOEL was established from the combined chronic feeding/oncogenicity study in rats where the LOEL was 3,000 ppm, based on a 16.9% decrease in body weight gain in females when compared to controls.

4. *Carcinogenicity*. Pyriproxyfen is classified as Category E: not carcinogenic in two acceptable animal studies.

C. Exposures and Risks

1. *From food and feed uses*. In today's action tolerances will be established (40 CFR 180.534) for the combined residues of pyriproxfen, in or on the raw agricultural commodities: cotton seed and cotton gin byproducts at 0.05 and 2.0 ppm respectively. Risk assessments were conducted by EPA to assess dietary exposures and risks from pyriproxyfen (2-[1-methyl-2-(4-phenoxyphenoxy)ethoxy]pyridine as follows:

i. *Acute exposure and risk*. Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. No acute dietary endpoint and dose was identified in the toxicology data base for pyriproxyfen, therefore the Agency concludes that there is a reasonable certainty of no harm from acute dietary exposure.

ii. *Chronic exposure and risk*. The chronic dietary exposure analysis from food sources was conducted using the RfD of 0.35 mg/kg/day. The RfD is based on the NOEL of 35.1 mg/kg/day in male and female rats from the Chronic Feeding/Oncogenicity study in rats, and an uncertainty factor of 100 applicable to all population subgroups.

In conducting this chronic dietary risk assessment, EPA has made very conservative assumptions: 100% of cottonseed having pyriproxyfen tolerances will contain pyriproxyfen residues and those residues will be at the level of the established tolerance. This results in an overestimate of human dietary exposure. Thus, in making a safety determination for this tolerance, EPA is taking into account this conservative exposure assessment.

The existing pyriproxyfen tolerances (published, pending, and including the necessary Section 18 tolerances) result in a Theoretical Maximum Residue Contribution (TMRC) that is equivalent to the following percentages of the RfD: U.S. population (48 states) 0.00029%; Nursing infants (< 1 year old) 0.00003%; Non-nursing infants (< 1 year old) 0.00009%; Children (1-6 years old) 0.00053%; Children (7-12 years old) 0.00045%; Non-Hispanic Whites 0.00030%; Males (13-19 years old) 0.00032%.

The subgroups listed above are: (1) the U.S. population (48 states); (2) those for infants and children; and (3) the other subgroups for which the percentage of the RfD occupied is greater than that occupied by the subgroup U.S. population (48 states).

2. *From drinking water*— i. *Acute exposure and risk*. As previously stated, no acute dietary endpoint was identified for assessment of acute dietary risk. Thus the risk from acute exposure is considered to be negligible.

ii. *Chronic exposure and risk*. No monitoring data is available to perform a quantitative drinking water risk assessment for pyriproxyfen at this time. Thus, the GENEEC model and the SCI-GROW model were run to produce estimates of pyriproxyfen concentrations in surface and ground water respectively. The primary use of these models is to provide a coarse screen for sorting out pesticides for which OPP has a high degree of confidence that the true levels of the pesticide in drinking water will be less than the human health drinking water levels of concern (DWLOCs). A human health DWLOC is the concentration of a pesticide in drinking water which would result in unacceptable aggregate risk, after having already factored in all food exposures and other non-occupational exposures for which OPP has reliable data.

For chronic (non-cancer) exposure to pyriproxyfen in surface and ground water, the drinking water levels of concern are 12,250 g/L for males (13 yrs+), 10,500 g/L for females (13 yrs+) and 3,500 g/L for children (1-6 yrs). To calculate the DWLOC for chronic (non-cancer) exposure relative to a chronic toxicity endpoint, the chronic dietary food exposure (from DRES) was subtracted from the RfD to obtain the acceptable chronic (non-cancer) exposure to pyriproxyfen in drinking water. DWLOCs were then calculated using default body weights and drinking consumption figures.

Estimated average concentrations of pyriproxyfen in surface and ground water are 0.011 ppb (after adjustment for the highly conservative nature of the GENEEC model and 0.006 ppb, respectively). The estimated average concentrations of pyriproxyfen in surface and ground water are less than OPP's level of concern for pyriproxyfen in drinking water as a contribution to chronic aggregate exposure. Therefore, taking into account present uses and uses proposed in this action, OPP concludes with reasonable certainty that residues of pyriproxyfen in drinking water (when considered along with other sources of exposure for which OPP has reliable data) would not result in unacceptable levels of aggregate human health risk at this time.

3. *From non-dietary exposure*. Pyriproxyfen is the active ingredient in many registered residential (indoor, non-food) products for flea and tick control. Formulations include foggers, aerosol sprays, emulsifiable concentrates, and impregnated materials (pet collars). Pyriproxyfen (2-[1-methyl-2-(4-phenoxyphenoxy)ethoxy]pyridine is currently registered for use on the following residential non-food sites: indoor premise, pet bedding, dogs and cats.

i. *Acute exposure and risk*. An acute dietary dose and endpoint was not

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identified. Thus the risk from acute aggregate exposure is considered to be negligible.

ii. *Chronic exposure and risk.* Long-term exposure to pyriproxyfen in residential use products is not expected. Therefore there is no chronic risk. Consumer use of these products typically results in short-term, intermittent exposures.

iii. *Short- and intermediate-term exposure and risk.* The Agency concludes that there is reasonable certainty of no harm from short term and intermediate-term dermal and inhalation occupational and residential exposure due to the lack of significant toxicological effects observed.

4. *Cumulative exposure to substances with common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity." The Agency believes that "available information" in this context might include not only toxicity, chemistry, and exposure data, but also scientific policies and methodologies for understanding common mechanisms of toxicity and conducting cumulative risk assessments. For most pesticides, although the Agency has some information in its files that may turn out to be helpful in eventually determining whether a pesticide shares a common mechanism of toxicity with any other substances, EPA does not at this time have the methodologies to resolve the complex scientific issues concerning common mechanism of toxicity in a meaningful way. EPA has begun a pilot process to study this issue further through the examination of particular classes of pesticides. The Agency hopes that the results of this pilot process will increase the Agency's scientific understanding of this question such that EPA will be able to develop and apply scientific principles for better determining which chemicals have a common mechanism of toxicity and evaluating the cumulative effects of such chemicals. The Agency anticipates, however, that even as its understanding of the science of common mechanisms increases, decisions on specific classes of chemicals will be heavily dependent on chemical specific data, much of which may not be presently available.

Although at present the Agency does not know how to apply the information in its files concerning common mechanism issues to most risk assessments, there are pesticides as to which the common mechanism issues can be resolved. These pesticides include pesticides that are toxicologically dissimilar to existing chemical substances (in which case the Agency can conclude that it is unlikely that a pesticide shares a common mechanism of activity with other substances) and pesticides that produce a common toxic metabolite (in which case common mechanism of activity will be assumed).

EPA does not have, at this time, available data to determine whether pyriproxyfen (2-[1-methyl-2-(4-phenoxyphenoxy)ethoxy]pyridine has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, pyriproxyfen (2-[1-methyl-2-(4-phenoxyphenoxy)ethoxy]pyridine does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that pyriproxyfen (2-[1-methyl-2-(4-phenoxyphenoxy)ethoxy]pyridine has a common mechanism of toxicity with other substances.

D. Aggregate Risks and Determination of Safety for U.S. Population

1. *Acute risk.* An acute dietary dose and endpoint was not identified. Thus the risk from acute aggregate exposure is considered to be negligible.

2. *Chronic risk.* Using the TMRC exposure assumptions described above, EPA has concluded that aggregate exposure to pyriproxyfen (2-[1-methyl-2-(4-phenoxyphenoxy)ethoxy]pyridine from food will utilize 0.0003% of the RfD for the U.S. population. The major identifiable subgroup with the highest aggregate exposure is children (1-6 years old). See discussion below. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. There are currently no chronic residential scenarios. The estimated average concentrations of pyriproxyfen in surface and ground water are less than OPP's level of concern for pyriproxyfen in drinking water as a contribution to chronic aggregate exposure. Therefore, EPA concludes with reasonable certainty that residues of pyriproxyfen (2-[1-methyl-2-(4-phenoxyphenoxy)ethoxy]pyridine in drinking water do not contribute significantly to the aggregate chronic human health risk at the present time when considering the present uses and uses proposed by this action.

E. Aggregate Cancer Risk for U.S. Population

Pyriproxyfen is classified as Category E: not carcinogenic in two acceptable animal studies.

F. Aggregate Risks and Determination of Safety for Infants and Children

1. *Safety factor for infants and children*— i. *In general* . In assessing the potential for additional sensitivity of infants and children to residues of pyriproxyfen (2-[1-methyl-2-(4-phenoxyphenoxy)ethoxy]pyridine, EPA considered data from developmental toxicity studies in the rat and rabbit and a two-generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for pre-and post-natal toxicity and the completeness of the database unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using the standard uncertainty factor (usually 100 for combined inter- and intra-species variability)) and not the additional tenfold MOE/uncertainty factor when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard MOE/safety factor.

ii. *Developmental toxicity studies.* In the rat developmental study, the developmental NOEL was 100 mg/kg/day and the maternal NOEL was 100 mg/kg/day. Therefore, there was no prenatal developmental toxicity in the presence of maternal toxicity. Similarly in rabbits, the prenatal developmental NOEL was 300 mg/kg/day and the maternal NOEL was 300 mg/kg/day. Therefore, prenatally exposed fetuses were not more sensitive to the effects of pyriproxyfen than maternal animals.

iii. *Reproductive toxicity study.* In the rat reproduction study, the parental NOEL of 1,000 ppm was identical to the pup NOEL of 1,000 ppm and decreased body weight was seen in both pup and parental animals. This finding demonstrates that there are no extra sensitivities with respect to pre- and post-natal toxicity between adult and infant animals.

iv. *Pre- and post-natal sensitivity.* The oral perinatal and prenatal data demonstrated no indication of increased sensitivity of rats or rabbits to *in utero* and postnatal exposure to pyriproxyfen.

v. *Conclusion.* The 10x factor for infants and children (as required by FQPA) was removed, since there was no special sensitivity for infants and children and the data base is complete. For chronic dietary risk assessment, a UF of 100 is adequate for protection from exposure to pyriproxyfen.

2. *Acute risk.* An acute dietary dose and endpoint was not identified. Thus the risk from acute aggregate exposure is considered to be negligible.

3. *Chronic risk.* Using the conservative exposure assumptions described above, EPA has concluded that aggregate exposure to pyriproxyfen (2-[1-methyl-2-(4-phenoxyphenoxy)ethoxy]pyridine from food will utilize 0.00053% of the RfD for infants and children. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. There are currently no chronic residential scenarios. The estimated average concentrations of pyriproxyfen in surface and ground water are less than OPP's level of concern for pyriproxyfen in drinking water as a contribution to chronic aggregate exposure. Therefore, OPP concludes with reasonable certainty that residues of pyriproxyfen (2-[1-methyl-2-(4-phenoxyphenoxy)ethoxy]pyridine in drinking water do not contribute significantly to the aggregate chronic human health risk at the present time when considering the present uses and uses proposed by this action. EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to pyriproxyfen (2-[1-methyl-2-(4-phenoxyphenoxy)ethoxy]pyridine residues.

4. *Short- or intermediate-term risk.* Short-term and intermediate-term dermal and inhalation risk assessments for residential exposure are not required due to the lack of significant toxicological effects observed.

III. Other Considerations

A. Metabolism In Plants and Animals

EPA considers the nature of the residue in cotton to be adequately understood. Metabolism of pyriproxyfen in cotton proceeds through hydroxylation and cleavage of the phenoxy ether linkage, with additional metabolism by oxidation and conjugation reactions. Much of the metabolized pyriproxyfen is reincorporated into natural products. The HED Metabolism Committee previously issued a tentative conclusion (15-JUL-1996) that the residue of concern in plants is pyriproxyfen *per se*. A meeting of the Chemistry Science Advisory Council (25-FEB-1998) confirmed this conclusion for cotton and determined that future food uses involving pyriproxyfen should be reviewed by the HED Metabolism Committee. Metabolism of phenyl-^{14}C pyriproxyfen in poultry proceeds through hydroxylation of the phenoxyphenyl ring, sulfation of the 4′-OH phenoxyphenyl moiety, hydroxylation of the pyridyl ring, and cleavage of the ether linkage. Metabolism of pyridyl-^{14}C pyriproxyfen in poultry proceeds through hydroxylation of the phenoxyphenyl ring, sulfation of the 4′-OH phenoxyphenyl moiety, hydroxylation of the pyridyl ring, cleavage of the ether linkage and oxidation of the side chain. EPA concludes that the nature of the residue in poultry is adequately understood, and that tolerances are not needed.

Metabolism of phenyl-^{14}C pyriproxyfen in goats proceeds through hydroxylation of the phenoxyphenyl and pyridyl rings, sulfation of the 4′-OH phenoxyphenyl moiety, and cleavage of the ether linkage. Metabolism of pyridyl-^{14}C pyriproxyfen in goats proceeds through hydroxylation of the phenoxyphenyl and pyridyl rings, sulfation of the 4′-OH phenoxyphenyl moiety, cleavage of the ether linkage and oxidation of the side chain. EPA concludes that the nature of the residue in ruminants is adequately understood for this present use and that tolerances are not required.

B. Analytical Enforcement Methodology

Residue analytical method RM-33P-2 has undergone validation in EPA laboratories and is suitable to gather residue data and to enforce tolerances.

The multiresidue method will serve as a confirmatory method for residues of pyriproxyfen.

C. Magnitude of Residues

Based on the radioactive metabolic studies and the calculated dietary burden, EPA concludes that the proposed uses on cotton fall under 40 CFR 180.6(a)(3) since there is no reasonable expectation of finite residues in meat, milk, poultry, and eggs and thus tolerances are not required at this time. If additional uses are sought that could result in greater livestock dietary exposure from feedstuffs, the need for milk, meat, poultry and eggs tolerances will be reassessed.

D. International Residue Limits

There are no CODEX, Canadian, or Mexican tolerances for pyriproxyfen residues on cottonseed or cotton gin byproducts. Therefore, international harmonization is not an issue at this time. Pyriproxyfen is scheduled as a new compound for JMPR review (both toxicology and residue chemistry) in 1999.

E. Rotational Crop Restrictions

An acceptable confined accumulation in rotational crops study with Ph-^{14}C and Py-^{14}C pyriproxyfen was submitted The study showed no significant uptake (<0.01 ppm) of radioactive residues (pyriproxyfen) by lettuce, radish, or wheat. The majority of the ^{14}C was found in the unextractable material in the post extraction solids. These findings indicated that the ^{14}C has been reincorporated in other, non-pyriproxyfen related compounds. Therefore a plant back interval is not necessary for cotton treated with pyriproxyfen.

IV. Conclusion

Therefore, tolerances are established for combined residues of pyriproxfen in cotton seed and cotton gin byproducts at 0.05 and 2.0 ppm respectively.

V. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to "object" to a tolerance regulation issued by EPA under new section 408(e) and (l)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

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Any person may, by September 4, 1998, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VI. Public Record and Electronic Submissions

EPA has established a record for this rulemaking under docket control number [OPP–300666] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Electronic comments may be sent directly to EPA at:

opp-docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the Virginia address in "ADDRESSES" at the beginning of this document.

VII. Regulatory Assessment Requirements

This final rule establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

In addition, since these tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950) and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 18, 1998.

Stephen L. Johnson,

Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180— [AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.534 is added to subpart C to read as follows:

§ 180.534 Pyriproxyfen; tolerances for residues.

(a) *General.* Tolerances are established for combined residues of the insecticide pyriproxyfen in or on the following agricultural commodities:

Commodity	Parts per million
Cotton gin byproducts ...	2.0

Commodity	Parts per million
Cottonseed	0.05

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

[FR Doc. 98–17729 Filed 7-2-98; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 195

[Docket No. RSPA–97–2362; Amdt. 195–62]

RIN 2137—AD05

Pipeline Safety: Incorporation by Reference of Industry Standard on Leak Detection

AGENCY: Research and Special Programs Administration (RSPA).

ACTION: Final rule.

SUMMARY: This rule adopts as a referenced document an industry publication for pipeline leak detection, API 1130, "Computational Pipeline Monitoring," published by the American Petroleum Institute (API). This rule requires that an operator of a hazardous liquid pipeline use API 1130 in conjunction with other information, in designing, evaluating, operating, maintaining, and testing its software-based leak detection system. The use of this document will significantly advance the acceptance of leak detection technology on hazardous liquid pipelines. However, this rule does not require operators to install such systems.

DATES: This final rule takes effect July 6, 1999.

FOR FURTHER INFORMATION CONTACT: Lloyd W. Ulrich, telephone: (202) 366–4556, FAX: (202) 366–4566, e-mail: lloyd.ulrich@rspa.dot.gov regarding the subject matter of this final rule, or Dockets Unit, (202) 366–4453, for copies of this final rule or other material in the docket. Further information can be obtained by accessing OPS' Internet Home Page at: ops.dot.gov.

SUPPLEMENTARY INFORMATION:

I. Background on Requiring Leak Detection Equipment

A. Congressional Mandate To Issue Regulations

Congress, in section 212 of the Pipeline Safety Act of 1992 (codified at 49 U.S.C. 60102(j)), required the Secretary of Transportation, by October 24, 1994, to survey and assess the effectiveness of emergency flow restricting devices (EFRDs) and other procedures, systems, and equipment used to detect and locate hazardous liquid pipeline ruptures and minimize product releases from hazardous liquid pipeline facilities. Congress further mandated that the Secretary issue regulations two years after completing the survey and assessment (no later than October 24, 1996). These regulations would prescribe the circumstances under which hazardous liquid pipeline operators would use EFRDs or other procedures, systems, and equipment used to detect and locate pipeline ruptures and minimize product releases from pipeline facilities. The Secretary delegated this authority to the Research and Special Programs Administration (RSPA).

B. Advance Notice of Proposed Rulemaking, Volpe Center Report and Public Workshop

RSPA used several means to gather information on EFRDs and leak detection equipment. We issued an advance notice of proposed rulemaking (ANPRM) (59 FR 2802, Jan. 19, 1994) to solicit information primarily from hazardous liquid pipeline operators about operational data and costs related to EFRDs and about the performance of leak detection systems to detect and locate hazardous liquid pipeline ruptures and minimize product release. The ANPRM also sought information to help determine which critical pipeline locations should be protected from product releases. Commenters provided limited usable data and generally opposed requiring leak detection equipment and EFRDs.

We contracted with the Volpe National Transportation Systems Center (Volpe Center) to conduct a research study on SCADA[1] systems, including leak detection systems. Its report, "Remote Control Spill Reduction Technology: A Survey and Analysis of Applications for Liquid Pipeline Systems" (September 29, 1995), found that because of the pipeline industry's diversity, each system used for leak detection must be custom configured for a particular pipeline system, that SCADA and leak detection systems were dependent on the sophistication of the host computer and how rapidly and diverse remote field data can be collected, and that operators have invested in SCADA systems, but have invested much less in software-based leak detection systems.

RSPA also held a public workshop on October 19, 1995, to obtain more data on EFRDs and leak detection systems. Participants confirmed the Volpe Center report's finding that each leak detection system is unique to the pipeline on which it is installed. Discussions included operational and economic problems with leak detection systems, as well as their operational, economic and environmental benefits.

Detailed discussion of the ANPRM, Volpe Center report, and workshop can be found at 62 FR 56141; October 29, 1997.

C. Development of API 1130

In 1994, the API formed a task force to develop a document on computational pipeline monitoring (CPM). The task force produced API 1130, entitled "Computational Pipeline Monitoring," which addressed the use of software-based leak detection equipment. API 1130 defines computational pipeline monitoring as "an algorithmic monitoring tool that allows the pipeline controller to respond to a pipeline operating anomaly which may be indicative of a commodity release." The document's stated purpose is to assist the pipeline operator in selecting, implementing, testing, and operating a CPM system, and to help to identify the complexities, limitations, and other implications of detecting anomalies on liquid pipelines using CPM systems.

RSPA and the Volpe Center staff monitored the task force's work. Minutes of the task force meetings, and copies of final drafts of API 1130, are available in Docket No. PS–133.

D. Definition of Areas Unusually Sensitive to Environmental Damage

Congress required that in prescribing standards, RSPA identify the circumstances where EFRDs and other equipment must be installed. RSPA's current policy is to base regulations on risk assessment. We believe that a primary high risk circumstance would be where a pipeline is located in an environmentally sensitive area.

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[1] SCADA is an acronym for Supervisory Control and Data Acquisition. SCADA systems utilize computer technology to continuously gather data (e.g., pressure, temperature, and delivery flow rates) from remote locations on the pipeline. Dispatchers use SCADA systems to assist in day-to-day operating decisions on the pipeline. SCADA systems can also provide input for real-time models of the pipeline operation. Such models compare current operating conditions with calculated data values. A deviation may indicate the possibility of a leak.

RSPA has been conducting public workshops since 1995 to identify a subset of environmentally sensitive areas, areas unusually sensitive to environmental damage, or USAs. Because of this ongoing regulatory effort to define USAs and the definition's relevance to locating EFRDs, RSPA has decided to wait before proposing a rule prescribing where leak detection systems would be required.

E. First Step

Although RSPA has delayed proposing the circumstances where EFRDs and other equipment must be installed on hazardous liquid pipeline systems until it has an USA definition, RSPA did not want to delay addressing the safety and environmental advantages of using software-based leak detection technology to reduce releases from pipeline ruptures.

Pipeline safety regulations do not require hazardous liquid pipeline operators to meet any leak detection system performance standards. Thus, as a first step in RSPA's statutory requirement to issue regulations prescribing where hazardous liquid pipeline operators would use EFRDs or other leak detection systems, RSPA considered adopting API 1130. RSPA would adopt API 1130 and require operators to use it in operating, maintaining, and testing their existing software-based leak detection systems and in designing and installing new software-based leak detection systems or replacing components of existing systems. RSPA considered this action because—

(1) We monitored the development of API 1130 and its development is well documented in Docket No. PS–133. The API task force members who developed API 1130 are experts in the pipeline industry, well versed in leak detection systems.

(2) API 1130 is a comprehensive document that advances safety by providing for more rapid detection of ruptures and response to those ruptures, limiting releases of hazardous liquids.

(3) Adopting API 1130 complies with the spirit of the President's initiative to reduce and simplify regulations by adopting industry-developed standards. Its adoption would not be controversial because the pipeline industry, the primary user, developed the publication.

F. Role of the Technical Hazardous Liquid Pipeline Safety Standards Committee (THLPSSC)

We proposed adopting API 1130 as a referenced document in the pipeline safety regulations to the THLPSSC at its meeting on November 6, 1996. The THLPSSC is a 15-member Congressionally mandated advisory committee (49 U.S.C. 60115) responsible for reviewing proposed pipeline safety standards for technical feasibility, reasonableness, and practicability. The THLPSSC Chairperson appointed a three-person subcommittee to work with RSPA to provide technical expertise on the feasibility of adopting API 1130. The subcommittee submitted to the THLPSSC Chairperson several recommendations, which THLPSSC accepted:

(1) API 1130 in its entirety should be referenced in the 49 CFR Part 195 regulations.

(2) The operations, maintenance, and testing portions of API 1130 should apply to all existing and newly-installed CPM systems, and API 1130 in its entirety should apply to all newly installed CPM systems and replacement sections of existing CPM systems.

(3) Compliance with API 1130 should be within twelve months of incorporation of the document into the regulations.

(4) The document should apply only to single phase liquid pipelines (see Section 1.3 of API 1130, which limits the document's application to single phase liquid pipelines).

(5) The preamble to the draft and final rule should state that referencing API 1130 is a first step in meeting the requirements of 49 U.S.C. 60102(j), and is not intended to delay issuing additional requirements or actions.

II. Notice of Proposed Rulemaking (NPRM)

A. Proposal

RSPA published an NPRM on October 29, 1997 (62 FR 56141) proposing to incorporate API 1130 into the regulations as a referenced document. The NPRM incorporated THLPSSC's recommendations. The rule proposed requiring an operator of a hazardous liquid pipeline to comply with API 1130 in designing, operating, maintaining, and testing the operator's software-based leak detection system. The proposed rule did not require an operator to install a software-based leak detection system, but proposed that whenever such a leak detection system is installed or a component replaced, API 1130 would have to be followed. Similarly, each existing software-based leak detection system would have to comply with the operating, maintenance, testing, and training provisions of API 1130.

To be consistent with API 1130's scope limitations (Section 1.3), the NPRM limited API 1130's applicability to single-phase liquid pipelines. Pipelines transporting both gas and liquid simultaneously, called dual phase pipelines, are prevalent in offshore operations. A pipeline transports gas and liquid to onshore facilities, where it is more economical to separate the gas and liquid for further transport. Designing a leak detection system for such a pipeline is extremely complex because of the different physical and chemical characteristics of gases and liquids.

The NPRM's comment period closed on December 29, 1997.

B. Discussion of the Comments

Three comments were filed in the docket: two from hazardous liquid operators and one from API.

One operator asked three questions. The first dealt with a "Special Note" in API 1130 that API documents are reviewed, revised, reaffirmed, or withdrawn at least every five years. The commenter asked how incorporating API 1130 would affect the hazardous liquid pipeline safety regulations should API not reaffirm the document, and the document was no longer available. We review and revise the regulations periodically to update the references to industry and other voluntary standards. In this rule, we are incorporating the current version of API 1130. An operator will have to comply with this version of the document until we revise the rule. Whatever API does with API 1130 in the future will not affect an operator's compliance with the version we are incorporating.

The second question concerned the use of CPM systems not described in section 4.1.2 of API 1130. Section 4.1.2 describes seven CPM systems: line balance, volume balance, modified volume balance, real time transient mode, pressure/flow monitoring, acoustic/negative pressure wave, and statistical analysis. The commenter asked if CPM systems not described could be used.

API 1130 lists and describes the seven CPM systems that are used by the pipeline industry today. Section 4.1.2 does not limit the use of CPM systems to only those described. Our intent in referencing API 1130 is to include any CPM system, whether or not described in the document, as long as the system meets the requirements of API 1130.

The third question concerned how we would enforce compliance with API 1130. Enforcement strategies are not included in the safety standards, but rather are developed by the RSPA enforcement staff. Each operator who has installed a CPM system will have to demonstrate that it is complying with the requirements in API 1130, as it does with any pipeline safety regulation.

The second operator suggested that the effective date for complying with API 1130 should be 24 months instead of the proposed 12 months. RSPA believes that 12 months is sufficient compliance time for at least three reasons. First, the operator is not required to install a CPM system, just to follow API 1130 if one is installed. Second, our conversations with API indicate that the vast majority of operators who use CPM systems have already adopted the practices embodied in the document. Third, a 12-month compliance timetable follows THLPSSC's recommendation.

API commented on the proposed rule's reference to the CPM selection criteria in section 4.2. API stated that the NPRM can be interpreted as requiring compliance with all the listed criteria in Section 4.2. However, the introduction to Section 4.2 makes clear that no system meets all the criteria. RSPA has revised § 195.134 in the final rule to clarify that all of the selection criteria do not have to be met.

In addition, we have revised the definition for Computation Pipeline Monitoring to clarify that a CPM system alerts the pipeline dispatcher of a possible operating anomaly rather than allows the dispatcher to respond to an operating anomaly. This revision better describes the function of the monitoring tool. Also, § 195.134 has been revised by eliminating the superfluous term "that will be installed" referring to new CPM systems.

C. Advisory Committee Review

As mentioned previously, the THLPSSC accepted the subcommittee's recommendation to reference API 1130 in 49 CFR part 195. The NPRM was discussed at the THLPSSC meeting in Houston, Texas, on November 18, 1997. The eight members present voted unanimously to adopt API 1130 as proposed in the NPRM.

III. Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This rule is not considered a significant action under section 3(f) of Executive Order 12866 and, therefore, was not reviewed by OMB. It is not considered significant under the Department of Transportation Policies and Procedures (44 FR 11034, Feb. 26, 1979).

As THLPSSC recommended, this rule adopts an industry document, API 1130. Our adopting API 1130 should result in leak detection systems that allow for faster leak detection, resulting in reduced commodity loss, lower short-term cleanup costs from releases, and lower long-term remediation costs. The rule does not require an operator to install a CPM if the operator does not already have one. It only requires that an operator with such a system follow API 1130. API 1130 represents good industry practices. Our conversations with API officials confirm that the vast majority of the industry that uses CPM already has adopted these practices.

In the NPRM, RSPA solicited information on any costs to industry of referencing API 1130. No one submitted any information on costs in response to this request. Therefore, RSPA believes that the cost of this regulation will be minimal and that a regulatory evaluation is not necessary.

B. Regulatory Flexibility Act

The rule does not mandate the use of CPM but simply adopts the practices already instituted and developed by industry. Most operators, large, medium and small, with such systems already comply with these requirements and will not incur additional costs. Therefore, based on the facts available, I certify pursuant to Section 605 of the Regulatory Flexibility Act (5 U.S.C. 605) that this action will not have a significant economic impact on a substantial number of small entities..

C. Federalism Assessment

The rulemaking action would not have substantial direct effects on states, on the relationship between the Federal Government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612 (52 FR 41685, Oct. 30, 1987), RSPA has determined that this rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

D. Unfunded Mandates

This rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the rule.

E. Paperwork Reduction Act

There are minimal record keeping requirements included in API 1130. This rule does not require an operator to have a CPM. The industry developed API 1130; the vast majority of the industry that uses CPM already has adopted the practices in API 1130. Because the record keeping requirements represent the usual and customary practices of the industry, there is minimal paperwork burden on the public. Nevertheless, RSPA has prepared a paperwork analysis and, on April 1, 1998 submitted it to the Office of Management and Budget (OMB) for review. The estimated annual information collection burden for the entire industry is estimated to be only 100 hours per year.

Comments on the paperwork burden have been solicited on: (a) The need for the proposed collection of information for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality utility and clarity of the information to be collected; and (d) ways to minimize the burden of collection of information on those who respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques.

No comments were submitted in response to the request for comment. OMB approved the information collection and assigned the information collection control number 2137–0598, which is approved through April 30, 2001. Federal agencies are required to publish the OMB control number for information collections in the **Federal Register**. Failure to publish the information collection control number would mean that respondents would not be required to respond to the information collection.

List of Subjects in 49 CFR Part 195

Ammonia, Carbon dioxide, Petroleum, Pipeline safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, RSPA amends 49 CFR part 195 as follows:

PART 195—TRANSPORTATION OF HAZARDOUS LIQUIDS BY PIPELINE

1. The authority citation for Part 195 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60118; and 49 CFR 1.53.

Subpart A—General

2. Section 195.2 is amended by adding the definition for Computational Pipeline Monitoring to read as follows:

§ 195.2 Definitions.

* * * * *

Computation Pipeline Monitoring (CPM) means a software-based monitoring tool that alerts the pipeline dispatcher of a possible pipeline operating anomaly that may be indicative of a commodity release.

* * * * *

3. Section 195.3 is amended by redesignating paragraphs (c)(2)(i) through (c)(2)(iii), as paragraphs (c)(2)(ii) through (c)(2)(iv), and adding a new paragraph (c)(2)(i) to read as follows:

§ 195.3 Matter incorporated by reference.

* * * * *

(c) * * *

(2) * * *

(i) API 1130 "Computational Pipeline Monitoring" (1st Edition, 1995).

* * * * *

Subpart C—Design Requirements

4. Section 195.134 is added to read as follows:

§ 195.134 CPM leak detection.

This section applies to each hazardous liquid pipeline transporting liquid in single phase (without gas in the liquid). On such systems, each new computational pipeline monitoring (CPM) leak detection system and each replaced component of an existing CPM system must comply with section 4.2 of API 1130 in its design and with any other design criteria addressed in API 1130 for components of the CPM leak detection system.

Subpart F—Operation and Maintenance

5. Section 195.444 is added to read as follows:

§ 195.444 CPM leak detection.

Each computational pipeline monitoring (CPM) leak detection system installed on a hazardous liquid pipeline transporting liquid in single phase (without gas in the liquid) must comply with API 1130 in operating, maintaining, testing, record keeping, and dispatcher training of the system.

Issued in Washington, DC on June 29, 1998.

Kelley S. Coyner,

Deputy Administrator.

[FR Doc. 98–17721 Filed 7–2–98; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 223

[FRA Docket No. PTEP–1, Notice No. 4]

RIN 2130–AA96

Passenger Train Emergency Preparedness; Correction

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Final rule correction.

SUMMARY: This document contains a correction to the text of the final rule amending the safety glazing standards for locomotives, passenger cars and cabooses that was issued jointly with the new final rule on passenger train emergency preparedness and was published on Monday, May 4, 1998 (63 FR 24630).

DATES: Effective on July 6, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Edward R. English, Director, Office of Safety Assurance and Compliance, FRA, 400 Seventh Street, SW., RRS–10, Mail Stop 25, Washington, DC 20590 (telephone number: 202–632–3384), or John A. Winkle, Esq., Trial Attorney, Office of Chief Counsel, FRA, 400 Seventh Street, SW., RCC–12, Mail Stop 10, Washington, DC 20590 (telephone number: 202–632–3167).

SUPPLEMENTARY INFORMATION:

Background

In conjunction with promulgating the final rule on passenger train emergency preparedness, FRA revised part 223 of title 49 of the Code of Federal Regulations concerning the safety glazing standards for locomotives, passenger cars, and cabooses. Part of that revision included adding definitions for both Railroad and Person to part 223. During the revision, FRA inadvertently used the incorrect definition of Person. Instead of incorporating the proper definition, which currently appears in the final rule on passenger train emergency preparedness under section 239.7, FRA repeated the definition of Railroad under Person.

Need for Correction

As published, 49 CFR 223.5 does not correctly define *Person* and could cause confusion in determining the scope of the regulation. Thus, that portion of the revised safety glazing standards is in need of clarification.

Correction of Publication

Accordingly, the publication on May 4, 1998, of the modification to the safety glazing standards for locomotives, passenger cars and cabooses, which was contained in FR Doc. 98–11393, is corrected as follows:

§ 223.5 [Corrected]

On page 24675, in the second column, after the definition of Passenger train service, the definition of "Person" is corrected to read as follows:

§ 223.5 Definition.

* * * * *

Person includes all categories of entities covered under 1 U.S.C. 1, including, but not limited to, a railroad; any manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any passenger, any trespasser or nontrespasser; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor.

* * * * *

Issued in Washington, DC.

Donald M. Itzkoff,

Deputy Administrator, Federal Railroad Administration.

[FR Doc. 98–17767 Filed 7–2–98; 8:45 am]

BILLING CODE 4910–06–P

Proposed Rules

Federal Register
Vol. 63, No. 128
Monday, July 6, 1998

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1755

RIN 0572–AB41

Special Equipment Specifications

AGENCY: Rural Utilities Service, USDA.

ACTION: Advanced notice of proposed rulemaking.

SUMMARY: The Rural Utilities Service (RUS) is proposing to amend its regulation on RUS Telecommunications Standards and Specifications for Materials, Equipment and Construction to add to RUS Form 397, Special Equipment Contract (including installation). This action will amend the Special Equipment Specifications which include RUS Form 397b, Trunk Carrier System Specifications; RUS Form 397c, Subscriber Carrier Specifications; RUS Form 397d, Design Specifications for Point-to-Point Microwave Radio Systems; RUS Form 397e, Design Specifications for Mobile and Fixed Dial Radio Telephone Equipment; RUS Form 397g, Performance Specifications for Line Concentrators; and RUS Form 397h, Design Specifications for Digital Lightwave Transmission Systems. Changes to the Special Equipment Specifications will incorporate the latest technology, remove redundant or outdated requirements, and simplify specification format.

DATES: Written comments must be received by RUS, or bear a postmark or equivalent, no later than September 4, 1998.

ADDRESSES: Comments should be mailed to Gary B. Allan, Chief, Transmission Branch, Telecommunications Standards Division, Rural Utilities Service, STOP 1598, United States Department of Agriculture, 1400 Independence Avenue, SW, Washington, DC, 20250–1598. RUS requests an original and three copies of all comments (7 CFR part 1700.4). All comments received will be available for public inspection at room 2838 South Building (above address) during regular business hours (7 CFR 1.27 (b)).

FOR FURTHER INFORMATION CONTACT: Melanie L. Umstead, Transmission Branch, Telecommunications Standards Division, Rural Utilities Service, STOP 1598, United States Department of Agriculture, 1400 Independence Avenue, SW, Washington, DC, 20250–1598, telephone number (202) 720–0665, fax (202) 720–4099, e-mail mumstead@rus.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

RUS is considering replacing RUS Form 397b, Trunk Carrier System Specifications; RUS Form 397c, Subscriber Carrier Specifications; RUS Form 397d, Design Specifications for Point-to-Point Microwave Radio Systems; RUS Form 397e, Design Specifications for Mobile and Fixed Dial Radio Telephone Equipment; RUS Form 397g, Performance Specifications for Line Concentrators; and RUS Form 397h, Design Specifications for Digital Lightwave Transmission Systems with two (2) specifications.

One specification will address wireline systems and the other will address wireless systems. The wireline systems specification will address lightwave systems, digital and analog carrier systems, concentrators and related wireline technologies. The wireless systems specifications will address microwave radio systems, wireless local loop systems and other wireless technologies. These specifications will address the latest advances in telecommunications systems and recognize new technologies. The specifications will also recognize established industry standards by removing outdated requirements and incorporating new relevant requirements. RUS is requesting comments from RUS borrowers, consulting engineers, manufacturers and any other interested bodies on recommended changes for special equipment specifications to ensure rural telecommunications networks continue to provide reliable and progressive telecommunications services without an undue burden to the parties involved.

Dated: June 24, 1998.

Jill Long Thompson,

Under Secretary, Rural Development.

[FR Doc. 98–17747 Filed 7–2–98; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–SW–23–AD]

Airworthiness Directives; Bell Helicopter Textron, Inc. Model 214B and 214B–1 Helicopters

ACTION: Supplemental notice of proposed rulemaking (SNPRM); reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to Bell Helicopter Textron, Inc. (BHTI) Model 214B and 214B–1 helicopters, that would have established a mandatory retirement life of 15,000 high-power events for the pillow block bearing bolts (bearing bolts). That proposal was prompted by fatigue analyses and tests that show certain bearing bolts fail sooner than originally anticipated because of the unanticipated high number of lifts and takeoffs (torque events) performed with those bearing bolts in addition to the time-in-service (TIS) accrued under normal operating conditions. This action revises the proposed rule by proposing the creation of a component history card using a Retirement Index Number (RIN) system, establishment of a system for tracking increases to the accumulated RIN, and establishment of a maximum accumulated RIN for the bearing bolts. The actions specified by this proposed AD are intended to prevent fatigue failure of the bearing bolts, which could result in failure of the main rotor system and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before September 4, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 94–SW–23–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. Comments may be inspected at this location

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between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Harry Edmiston, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Certification Office, Fort Worth, Texas 76193–0170, telephone (817) 222–5158, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 94–SW–23–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 94–SW–23–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39), applicable to BHTI Model 214B and 214B–1 helicopters, was published in the **Federal Register** on May 3, 1993 (58 FR 35902; July 2, 1993). That NPRM would have required changing the method of calculating the retirement life for the bearing bolts, part number (P/N) 20–057–12–48D and P/N 20–057–12–50D, from flight hours to equivalent operating hours based on high-power events calculated using the number of takeoffs and external load lifts, or a maximum of 15,000 high power events, whichever occurred first. That NPRM was prompted by fatigue analyses and tests that show certain bearing bolts fail sooner than originally anticipated because of the unanticipated high number of lifts and takeoffs (torque events) performed with those bearing bolts in addition to the TIS accrued under normal operating conditions. That condition, if not corrected, could result in fatigue failure of the bearing bolts, which could result in failure of the main rotor system and subsequent loss of control of the helicopter.

Since the issuance of that NPRM, BHTI has issued BHTI Information Letter GEN–94–54, dated April 15, 1994, Subject: Retirement Index Number (RIN) For Cycle Lifed Components, which introduces a different method of accounting for fatigue damage on components that have shortened service lives as a result of frequent torque events. Additionally, BHTI has issued BHTI Alert Service Bulletin (ASB) 214–94–54, dated November 7, 1994, which describes procedures for converting flight hours and total number of torque events into a RIN for the bearing bolts, P/N 20–057–12–48D.

The FAA desires to implement a standardized system to account for the high power torque events and the retirement lives of these bearing bolts. Therefore, the FAA now proposes to require the RIN method of accounting for high power torque events. The proposed AD would require creation of a component history card using the RIN system; establishment of a system for tracking increases to the accumulated RIN; and establishment of a maximum accumulated RIN for the bearing bolts of 17,000 before they must be removed from service.

Since this change expands the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

The FAA estimates that 54 helicopters of U.S. registry would be affected by this proposed AD, and that it would take (1) 24 work hours per helicopter to replace the affected bearing bolts due to the new method of determining the retirement life; (2) 2 work hours per helicopter to create the component history card or equivalent record (record); and (3) 10 work hours per helicopter to maintain the record each year, and that the average labor rate is $60 per work hour. Required parts would cost approximately $2,000 per helicopter. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $224,640 for the first year and $128,520 for each subsequent year. These costs assume replacement of the bearing bolts in the fleet the first year, creation and maintenance of the records for all the fleet; and replacement of one-half of the fleet's bolts, creation of the records for one-half of the fleet, and maintenance of the records for all the fleet each subsequent year.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD), to read as follows:

Bell Helicopter Company, Inc. (BHTI): Docket No. 94–SW–23–AD.

Applicability: Model 214B and 214B–1 helicopters, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (e) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required within 25 hours time-in-service (TIS), unless accomplished previously.

To prevent fatigue failure of the pillow block bearing bolts (bearing bolts), part number (P/N) 20–057–12–48D or –50D, which could result in failure of the main rotor system and subsequent loss of control of the helicopter, accomplish the following:

(a) Create a Retirement Index Number (RIN) component history card or an equivalent record for the bearing bolts, P/N 20–057–12–48D or –50D.

(b) Calculate and record on the component history card the historical accumulated RIN for the bearing bolts as follows:

(1) When the type of operation (internal or external load lift), actual flight hours, and number of external load lifts or takeoffs per hour are known, multiply the actual flight hours by the appropriate factor in the following table for external load lift operation:

Average No. of external load lift events per flight hour	Factor
0–2.00	6.8
2.01–5.00	13.6
5.01–16.00	27.2
16.01–27.00	40.8
Above 27.00	54.4

When the type of operation is internal load and no external lifting is involved, each hour of actual operating time is equal to 6.8 RIN.

(2) When the actual flight hours on the bolts are known, but the type of operation (internal or external load lift) is unknown, multiply the actual flight hours by a factor of 40.8.

(3) When the actual flight hours on the bolts are unknown, assume 75 flight hours per month.

(4) When the flight hours on the bolts are assumed, but the type of operation (internal or external load lift) is known,

(i) Multiply the number of flight hours assumed for internal load operations by a factor of 6.8.

(ii) Multiply the number of flight hours assumed for external load operations by a factor of 40.8.

(5) When the flight hours on the bolts are assumed and the type of operation (internal or external load lift) is unknown, multiply the assumed flight hours by a factor of 40.8.

(c) After compliance with paragraphs (a) and (b) of this AD, during each operation thereafter, maintain a count of each lift or takeoff performed and at the end of each day's operations, increase the accumulated RIN on the bearing bolts component history card as follows:

(1) Increase the RIN by 1 for each takeoff.

(2) Increase the RIN by 1 for each external load lift, or increase the RIN by 2 for each external load operation in which the load is picked up at a higher elevation and released at a lower elevation and the difference in elevation between the pickup point and the release point is 200 feet or greater.

Note 2: Bell Helicopter Textron, Inc. Alert Service Bulletin 214–94–54, dated November 7, 1994, pertains to the subject of this AD.

(d) Remove the bearing bolts from service on or before attaining an accumulated RIN of 17,000. The bearing bolts are no longer retired based upon flight hours. If any of the four bolts require replacement for any reason, then all four bolts must be replaced at that time. This AD revises the Airworthiness Limitations section of the maintenance manual by establishing a new retirement life for the bearing bolts of 17,000 RIN.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Rotorcraft Certification Office, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Certification Office.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Certification Office.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

Issued in Fort Worth, Texas, on June 23, 1998.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 98–17765 Filed 7–2–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

RIN 1515–AC29

Boarding of Vessels in the United States

AGENCY: U.S. Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes, as a primary focus, to amend the Customs Regulations regarding the boarding of vessels arriving in ports of the United States. It is intended that the Customs Regulations regarding this subject accurately reflect and implement amendments to the underlying statutory authority, enacted as part of the Customs Modernization Act, as well as policy determinations necessitated as a result of those amendments. To this same end, certain general amendments are proposed to the regulations concerning vessel entry and clearance as well as the issuance of permits to lade and unlade merchandise.

DATES: Comments must be received on or before September 4, 1998.

ADDRESSES: Written comments may be addressed to and inspected at the Regulations Branch, U.S. Customs Service, 1300 Pennsylvania Avenue, N.W., 3rd Floor, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Legal aspects: Larry L. Burton, Office of Regulations and Rulings, 202–927–1287.

Operational aspects: William Scopa, Office of Field Operations, 202–927–3112.

SUPPLEMENTARY INFORMATION:

Background

On December 8, 1993, amendments to certain Customs and navigation laws became effective as the result of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182), Title VI of which is popularly known as the Customs Modernization Act (the Act). Sections 653 and 656 of the Act significantly amended the statutes governing the entry and the lading and unlading of vessels in the United States. These operations are governed, respectively, by §§ 434 and 448 of the Tariff Act of 1930, as amended (19 U.S.C. 1434 and 1448).

Prior to the subject amendments, the entry of vessels of the United States and vessels of foreign countries had been governed by separate statutes (19 U.S.C.

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1434 and 1435), neither of which included elements concerning preliminary vessel entry or the boarding of vessels. The Act repealed 19 U.S.C. 1435 and amended 19 U.S.C. 1434 to provide for the entry of American and foreign-documented vessels under the same statute. Additionally, the amended 19 U.S.C. 1434 now provides authority for the promulgation of regulations regarding preliminary vessel entry, and while neither mandating boarding for all vessels nor specifying that optional boarding must be accomplished at any particular stage of the vessel entry process, the amended law does require that a sufficient number of vessels be boarded to ensure compliance with the laws enforced by the Customs Service.

The general authority provided for Customs to board vessels is found in § 581, Tariff Act of 1930, as amended (19 U.S.C. 1581). Prior to amendment, 19 U.S.C. 1448 as previously cited had linked the granting of preliminary vessel entry to a mandatory boarding requirement and physical presentation of manifest documents to a Customs boarding officer. The amended 19 U.S.C. 1448 no longer contains provisions regarding preliminary vessel entry, vessel boarding, or manifest presentation, all of which are now provided for in other statutes; the statute now provides that Customs may electronically issue permits to lade or unlade merchandise pursuant to an authorized data interchange system as an alternative to physical document presentation.

The regulations which implement the statutory authority for boarding, the granting of preliminary and formal vessel entry, the issuance of permits to lade and unlade merchandise, and vessel clearance are contained in §§ 4.1, 4.3, 4.8, 4.9, 4.30, 4.60 and 4.61 of the Customs Regulations (19 CFR 4.1, 4.3, 4.8, 4.9, 4.30, 4.60 and 4.61). Various of these provisions still contain mandatory boarding and physical document presentation requirements, and of course do not include any reference to the new electronic permit issuance option. This document proposes to amend the cited sections in order to properly implement the amended statutory authority and revised Customs interpretations.

This document proposes to amend § 4.1 by removing all reference to the mandatory boarding of vessels. The amended 19 U.S.C. 1434 makes it clear that boarding is discretionary with Customs and is only required to the extent determined necessary to enforce the laws with which we are charged. This is accomplished by deleting paragraph (b) and making necessary amendments to paragraph (a) of the section.

Section 4.3 is proposed to be amended by identifying the vessels subject to entry in the simplified outline format presented in the statute itself. The use of this format makes much of the current language of § 4.3 unnecessary. The proposal provides for vessel entry within 24 hours after arrival. Although the amended statute provides that the time may be extended by regulation to a period not to exceed 48 hours, Customs believes that 24 hours is adequate. The proposal also includes procedures for allowing Customs, in its discretion, to allow vessels to enter at places other than the customhouse as well as at locations outside of the actual port of entry limits. This discretion is conferred by statute.

Proposed amendments to § 4.8 are offered in this document. The proposal would amend the regulation by providing that preliminary entry may be granted after, at the time of, or even before the actual arrival of a vessel in the United States. Different procedures are established to apply to these differing circumstances.

Also proposed are amendments to § 4.9 of the regulations concerning the actual vessel entry process. The proposed amendments make it clear that for the purpose of the vessel entry statute, Customs does not interpret bonded merchandise to include bonded vessel stores or ship's supplies. We consider the term to refer to in-bond transportation of merchandise. This interpretation makes it necessary to define specific procedures applicable to certain United States vessels sailing between domestic ports.

It is proposed that § 4.16 be removed from the regulations. The section currently provides that parties may apply for entry and clearance to be accomplished aboard a vessel. The amended entry and clearance statutes permit those functions to be accomplished elsewhere than at the customhouse pursuant to regulations. Amendments to §§ 4.3 and 4.61 as proposed in this document would permit entry and clearance aboard vessels. These changes would render § 4.16 redundant.

The regulation relating to the granting of lading and unlading permits in § 4.30 is also proposed to be amended. Specifically, procedures are established which are applicable to newly-emerging commercial entities, such as those created by vessel sharing and slot chartering agreements.

Section 4.60 is sought to be amended by utilizing the simplified outline format appearing in the amended vessel clearance statute (46 U.S.C. App. 91). This would replace the present paragraph format which reflects the clearance language prior to its amendment.

It is proposed to amend § 4.61 by allowing clearance filings to be accomplished by authorized electronic means. The proposal also establishes that clearances may be necessary for departures other than for foreign ports as was the case under the law prior to its amendment. As in the proposed entry regulation, this section would also incorporate special procedures applicable to certain United States vessels sailing between domestic ports.

The proposal also makes some changes to the list of elements appearing in current § 4.61(b), which are required to be satisfied prior to the granting of clearance. The reference to "crew" is removed from paragraph (b)(8) of the current section, due to the repeal of the underlying statute (46 U.S.C. App. 674) by enactment of section 690(a)(22) of Pub. L. 103–182 (December 8, 1993). The reference to "pratique" is removed from paragraph (b)(14) of the current section, as a result of amendments to the Public Health Service Regulations which eliminate the pratique but leave in place other health-related documentary requirements. Finally, paragraph (b)(17) of the current section is removed because the underlying statute in this regard, 7 U.S.C. 516, which restricted the exportation of tobacco seeds, was repealed by § 1019 of Pub. L. 102–237 (December 13, 1991).

Amendments are proposed to § 4.68 to reflect amendments to laws enforced by Customs on behalf of other agencies, and to eliminate the antiquated reference to the whale fishery.

Finally, § 4.70 is proposed to be amended to eliminate the reference to the former Public Health Service's certificate of free pratique. New Public Health Service foreign quarantine regulations are now in effect.

Comments

Before adopting this proposal, consideration will be given to any written comments that are timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Branch, U.S. Customs Service, 1300 Pennsylvania Avenue, N.W., 3rd Floor, Washington, D.C.

Regulatory Flexibility Act and Executive Order 12866

The proposed rule would amend the Customs Regulations principally in order to accurately reflect and implement changes to the underlying statutory authority regarding the boarding of vessels arriving in ports of the United States. To this same end, certain general amendments to the regulations are proposed concerning vessel entry and clearance as well as the issuance of permits to lade and unlade merchandise. As such, under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that, if adopted, the proposed rule will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604. Nor does the document meet the criteria for a "significant regulatory action" as specified in E.O. 12866.

Paperwork Reduction Act

The collections of information contained in this notice of proposed rulemaking have previously been reviewed and approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) and assigned the following OMB Control Numbers:

1515–0013—Application-Permit-Special License, Unlading-Lading-Overtime Services (Customs Form 3171);
1515–0060—Master's Oath of Vessels in Foreign Trade (Customs Form 1300);
1515–0078—Cargo Declaration (inward and outward) (Customs Form 1302); and
1515–0144—Customs Bond Structure (Customs Form 301 and Customs Form 5297).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB. This document restates the collections of information without substantive change.

Comments concerning suggestions for reducing the burden of the collections of information should be sent to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, N.W., 3rd Floor, Washington, D.C. 20229. A copy should also be sent to U.S. Customs Service, Information Services Group, Attention: J. Edgar Nichols, Room 3.2–C, 1300 Pennsylvania Avenue, N.W., 3rd Floor, Washington, D.C. 20229.

Drafting Information: The principal author of this document was Larry L. Burton, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 4

Customs duties and inspection, Entry, Freight, Harbors, Inspection, Merchandise, Reporting and recordkeeping requirements, Vessels.

Proposed Amendments to the Regulations

It is proposed to amend part 4, Customs Regulations (19 CFR part 4), as set forth below.

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. The specific authority citations for §§ 4.1, 4.9 and 4.68 would be revised, and a specific authority citation for § 4.61 would be added in appropriate numerical order, to read as follows:

Authority: * * *

Section 4.1 also issued under 19 U.S.C. 1581(a); 46 U.S.C. App. 163;

* * * * *

Section 4.9 also issued under 42 U.S.C. 269;

* * * * *

Section 4.61 also issued under 46 U.S.C. App. 883;

* * * * *

Section 4.68 also issued under 46 U.S.C. App. 817d, 817e;

* * * * *

2. It is proposed to amend § 4.1 by revising paragraph (a) to read as set forth below; and by removing paragraph (b) and redesignating paragraphs (c), (d), (e), (f), and (g), as paragraphs (b), (c), (d), (e) and (f), respectively:

§ 4.1 Boarding of vessels; cutter and dock passes.

(a) Every vessel arriving at a Customs port shall be subject to such supervision while in port as the port director considers necessary. The port director may detail Customs officers to remain on board a vessel to secure enforcement of this part. Customs may determine to board as many vessels as considered necessary to ensure compliance with the laws it enforces.

* * * * *

3. It is proposed to amend part 4 by removing and reserving Footnote 1.

4. It is proposed to revise § 4.3 to read as follows:

§ 4.3 Vessels required to enter; place of entry.

(a) *Formal entry required.* Unless specifically excepted by law, within 24 hours after the arrival at any port or place in the United States, the following vessels are required to make formal entry:

(1) Any vessel from a foreign port or place;

(2) Any foreign vessel from a domestic port;

(3) Any vessel of the United States having merchandise on board that is being transported in-bond (not including bonded ship's stores or supplies), or foreign merchandise for which entry has not been made; or

(4) Any vessel that has visited a hovering vessel as defined in 19 U.S.C. 1401(k), or has delivered or received merchandise or passengers while outside the territorial sea.

(b) *Completion of entry.* (1) When vessel entry is to be made at the customhouse, either the master, licensed deck officer, or purser may appear in person during regular working hours to complete preliminary or formal vessel entry; or, necessary documents properly executed by the master or other authorized officer may be delivered at the customhouse by the vessel agent or other personal representative of the master.

(2) The appropriate Customs port director may permit the entry of vessels to be accomplished at locations other than the customhouse, and services may be requested outside of normal business hours. Customs may take local resources into consideration in allowing formal entry to be transacted on board vessels themselves or at other mutually convenient approved sites and times within or of outside port limits. When services are requested to be provided outside the limits of a Customs port, the appropriate port director to whom an application must be submitted is the director of the port located nearest to the point where the proposed services would be provided. That port director must be satisfied that the place designated for formal entry will be sufficiently under Customs control at the time of entry, and that the expenses incurred by Customs will be reimbursed as authorized. It may be required that advance notice of vessel arrival be given as a condition for granting requests for optional entry locations. A master, owner, or agent of a vessel who desires that entry be made at an optional location shall file with the appropriate port director an application on Customs Form 3171 and a single entry or continuous bond on Customs Form 301 containing the bond conditions set forth in § 113.64 of this chapter, in such amount as that port director deems appropriate but not less than $1,000. If the application is approved, the port

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director or a designated Customs officer shall formally enter the vessel.

5. It is proposed to revise § 4.8 to read as follows:

§ 4.8 Preliminary entry.

(a) *Generally.* Preliminary entry allows a U.S. or foreign vessel arriving under circumstances that require it formally to enter, to commence lading and unlading operations prior to making formal entry. Preliminary entry may be accomplished electronically pursuant to an authorized electronic data interchange system, or by any other means of communication approved by the Customs Service.

(b) *Requirements and conditions.* Preliminary entry must be made in compliance with § 4.30, and may be granted prior to, at, or subsequent to arrival of the vessel. The granting of preliminary vessel entry by Customs at or subsequent to arrival of the vessel, is conditioned upon the presentation to Customs of all forms, electronically or otherwise, comprising a complete manifest as provided in § 4.7. Vessels seeking preliminary entry in advance of arrival may do so by presenting to Customs a complete Customs Form 1302 (Cargo Declaration) showing all cargo on board the vessel and Customs Form 3171, electronically or otherwise, no less than 48 hours prior to vessel arrival. The CF 3171 shall also serve as notice of intended date of arrival. The port director may allow for the presentation of the CF 1302 and CF 3171 less than 48 hours prior to arrival in order to grant advanced preliminary entry if a vessel voyage takes less than 48 hours to complete from the last foreign port to the first U.S. port, or if other reasonable circumstances warrant. Preliminary entry granted in advance of arrival will become effective upon arrival at the port granting preliminary entry. Additionally, Customs must receive confirmation of a vessel's estimated time of arrival in a manner acceptable to the port director.

6. It is proposed to revise § 4.9 to read as follows:

§ 4.9 Formal entry.

(a) *General.* Section 4.3 provides which vessels are subject to formal entry and where and when entry must be made. The formal entry of an American vessel is governed by section 434, Tariff Act of 1930 (19 U.S.C. 1434). The term "American vessel" means a vessel of the United States (see § 4.0(b)) as well as, when arriving by sea, a vessel entitled to be documented except for its size (see § 4.0(c)). The formal entry of a foreign vessel arriving within the limits of any Customs port is also governed by section 434, Tariff Act of 1930 (19 U.S.C. 1434). The required oath on entry shall be executed on Customs Form 1300. Alternatively, information necessary for formal entry may be transmitted electronically pursuant to a system authorized by Customs.

(b) *Procedures.* Under certain circumstances, American vessels arriving in ports of the United States directly from other United States ports must make entry. Entry of such vessels is required when they have merchandise aboard that is being transported in-bond, or when they have unentered foreign merchandise aboard. For the purposes of the vessel entry requirements, merchandise transported in-bond does not include bonded ship's stores or supplies. While American vessels transporting unentered foreign merchandise must fully comply with the usual formal entry procedures, American vessels carrying no unentered foreign merchandise but that have in-bond merchandise aboard may satisfy vessel entry requirements by making a required report of arrival, and providing certain bill of lading information to Customs concerning the in-bond cargo. If the cargo in question is being moved under the "paperless" in-bond procedures described in the Customs Handbook on Automated Manifest Interface Requirements (a copy of which is provided to each Automated Manifest System participant), a list of the bill of lading numbers for the in-bond cargo must be provided to Customs. If "paperless" in-bond procedures are not applicable to the cargo, copies of the relevant bills of lading must be presented to Customs prior to the start of any cargo unlading. Report of arrival together with providing bill of lading information to Customs as specified in this paragraph satisfies all entry requirements for the subject vessels.

(c) *Delivery of vessel document.* The master of any foreign vessel shall exhibit the vessel's document to the port director on or before the entry of the vessel. After the net tonnage has been noted, the document may be delivered to the consul of the nation to which such vessel belongs, in which event the vessel master shall certify to the port director the fact of such delivery (see section 434, Tariff Act of 1930, as amended (19 U.S.C. 1434), as applied through section 438, Tariff Act of 1930, as amended (19 U.S.C. 1438)). If not delivered to the consul, the document shall be deposited in the customhouse. Whether delivered to the foreign consul or deposited at the customhouse, the document shall not be delivered to the master of the foreign vessel until clearance is granted under § 4.61. It shall not be lawful for any foreign consul to deliver to the master of any foreign vessel the register, or document in lieu thereof, deposited with him in accordance with the provisions of 19 U.S.C. 1434 until such master shall produce to him a clearance in due form from the director of the port where such vessel has been entered. Any consul violating the provisions of this section is liable to a fine of not more than $5,000 (section 438, Tariff Act of 1930, as amended; 19 U.S.C. 1438).

(d) *Failure to make required entry; penalties.* Any master who fails to make entry as required by this section or who presents or transmits electronically any document required by this section that is forged, altered, or false, may be liable for certain civil penalties as provided under 19 U.S.C. 1436, in addition to penalties applicable under other provisions of law. Further, any vessel used in connection with any such violation is subject to seizure and forfeiture.

7. It is proposed to amend part 4 by removing and reserving § 4.16.

8. It is proposed to amend § 4.30 by adding the word "fees" between the words "clearance" and "under" where appearing in paragraph (a); and by revising paragraph (b) to read as follows:

§ 4.30 Permits and special licenses for unlading and lading.

* * * * *

(b) Application for a permit or special license shall be made by the master, owner, or agent of the vessel on Customs Form 3171, or electronically pursuant to an authorized electronic data interchange system or other means of communication approved by the Customs Service, and shall specifically indicate the type of service desired at that time, unless a term permit or term special license has been issued. Vessels that arrive in a Customs port with more than one vessel carrier sharing or leasing space on board the vessel (such as under a vessel sharing or slot charter arrangement) are required to indicate on the CF 3171 all carriers on board the vessel and indicate whether each carrier is transmitting its cargo declaration electronically or is presenting it on the Customs Form 1302. In the case of a term permit or term special license, upon entry of each vessel, a copy of the term permit or special license must be submitted to Customs during official hours in advance of the rendering of services so as to update the nature of the services desired and the exact times they will be needed. Permits must also be updated to reflect any other needed changes including those in name of vessel and in slot charter or vessel sharing parties. An agent of a vessel may limit his application to operations involved in the entry and unlading of the vessel or to operations involved in its lading and clearance. Such limitation shall be specifically noted on the application.

* * * * *

9. It is proposed to amend § 4.60 by revising paragraph (a) to read as follows:

§ 4.60 Vessels required to clear.

(a) Unless specifically excepted by law, the following vessels must obtain clearance from the Customs Service before departing from a port or place in the United States:

(1) All vessels departing for a foreign port or place;

(2) All foreign vessels departing for another port or place in the United States;

(3) All American vessels departing for another port or place in the United States that have merchandise on board which is being transported in-bond (not including bonded ship's stores or supplies), or foreign merchandise for which entry has not been made; and

(4) All vessels departing for points outside the territorial sea to visit a hovering vessel or to receive merchandise or passengers while outside the territorial sea.

* * * * *

10. It is proposed to revise § 4.61 to read as follows:

§ 4.61 Requirements for clearance.

(a) *Application for clearance.* Application for clearance for a vessel shall be made by filing the oath, Customs Form 1300, and a General Declaration, Customs Form 1301, by or on behalf of the master at the customhouse. The master, licensed deck officer, or purser may appear in person to clear the vessel, or documents properly executed by the master or other proper officer may be delivered at the customhouse by the vessel agent or other personal representative of the master. Necessary information may also be transmitted electronically pursuant to a system authorized by Customs. Clearance shall be granted either on Customs Form 1378 or by approved electronic means. Customs port directors may permit the clearance of vessels at locations other than the customhouse, and at times outside of normal business hours. Customs may take local resources into consideration in allowing clearance to be transacted on board vessels themselves or at other mutually convenient sites and times either within or outside of port limits. Customs must be satisfied that the place designated for clearance is sufficiently under Customs control at the time of clearance, and that the expenses incurred by Customs will be reimbursed as authorized. Customs may require that advance notice of vessel departure be given prior to granting requests for optional clearance locations.

(b) *When clearance required.* Under certain circumstances, American vessels departing from ports of the United States directly for other United States ports must obtain Customs clearance. The clearance of such vessels is required when they have merchandise aboard that is being transported in-bond, or when they have unentered foreign merchandise aboard. For the purposes of the vessel clearance requirements, merchandise transported in-bond does not include bonded ship's stores or supplies. While American vessels transporting unentered foreign merchandise must fully comply with usual clearance procedures, American vessels carrying no unentered foreign merchandise but that have in-bond merchandise aboard may satisfy vessel clearance requirements by reporting intended departure within 72 hours prior thereto by any means of communication that is satisfactory to the local Customs port director, and by providing certain bill of lading information to Customs concerning the in-bond cargo. If the cargo in question is being moved under the "paperless" in-bond procedures as described in the Customs Handbook on Automated Manifest Interface Requirements (a copy of which is provided to each Automated Manifest System participant), a list of the bill of lading numbers for the in-bond cargo must be provided to Customs. If "paperless" in-bond procedures are not applicable to the cargo, copies of the relevant bills of lading must be presented to Customs prior to vessel departure. Report of departure together with providing bill of lading information to Customs as specified in this paragraph satisfies all clearance requirements for the subject vessels.

(c) *Verification of compliance.* Before clearance is granted to a vessel bound to a foreign port as provided in § 4.60 and this section, the port director shall verify compliance with respect to the following matters:

(1) Accounting for inward cargo (see § 4.62).

(2) Outward Cargo Declarations; shippers export declarations (see § 4.63).

(3) Documentation (see § 4.0(c)).

(4) Verification of nationality and tonnage (see § 4.65).

(5) Verification of inspection (see § 4.66).

(6) Inspection under State laws (46 U.S.C. App. 97).

(7) Closed ports or places (see § 4.67).

(8) Passengers (see § 4.68).

(9) Shipping articles and enforcement of Seamen's Act (see § 4.69).

(10) Medicine and slop chests.

(11) Load line regulations (see § 4.65a).

(12) Carriage of United States securities, etc. (46 U.S.C. App. 98).

(13) Carriage of mail.

(14) Public Health regulations (see § 4.70).

(15) Inspection of vessels carrying livestock (see § 4.71).

(16) Inspection of meat, meat-food products, and inedible fats (see § 4.72).

(17) Neutrality exportation of arms and munitions (see § 4.73).

(18) Payment of State and Federal fees and fees due the Government of the Virgin Islands of the United States (46 U.S.C. App. 100).

(19) Orders restricting shipping (see § 4.74).

(20) Estimated duties deposited or a bond given to cover duties on foreign repairs and equipment for vessels of the United States (see § 4.14).

(21) Illegal discharge of oil (see § 4.66a).

(22) Attached or arrested vessel.

(23) Immigration laws.

(d) *Vessel built for foreign account.* A new vessel built in the United States for a foreign account shall be cleared under a certificate of record, Coast-Guard Form 1316, in lieu of a marine document.

(e) *Clearance not granted.* Clearance shall not be granted to any foreign vessel using the flag of the United States or any distinctive signs or markings indicating that the vessel is an American vessel (22 U.S.C. 454a).

(f) *Clearance in order of itinerary.* Unless otherwise provided in this section, every vessel bound for a foreign port or ports shall be cleared for a definite port or ports in the order of its itinerary, but an application to clear for a port or place for orders, that is, for instructions to masters as to destination of the vessel, may be accepted if the vessel is in ballast or if any cargo on board is to be discharged in a port of the same country as the port for which clearance is sought.

11. It is proposed to amend part 4 by removing and reserving Footnotes 97, 99 and 100a through 101.

12. It is proposed to revise § 4.68 to read as follows:

§ 4.68 Federal Maritime Commission certificates for certain passenger vessels.

No vessel having berth or stateroom accommodations for 50 or more passengers and embarking passengers at

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U.S. ports shall be granted a clearance at the port or place of departure from the United States unless it is established that the vessel has valid certificates issued by the Federal Maritime Commission.

13. It is proposed to revise § 4.70 to read as follows:

§ 4.70 Public Health Service requirements.

No clearance shall be granted to a vessel subject to the foreign quarantine regulations of the Public Health Service.

Bonni G. Tischler,
Acting Commissioner of Customs.

Approved: June 8, 1998.

John P. Simpson,
Deputy Assistant Secretary of the Treasury.

[FR Doc. 98–17815 Filed 7–2–98; 8:45 am]

BILLING CODE 4820-02-P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Chapter I

[USCG–1998–3798]

RIN 2115–AF13

Numbering of Undocumented Barges

AGENCY: Coast Guard, DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Coast Guard seeks public comments on establishing a statutorily required numbering system for operating undocumented barges more than 100 gross tons. The numbering of these barges would increase owner accountability and deter their abandonment, making fewer barges available for disposal of oil and hazardous substances.

DATES: Comments must reach the Coast Guard on or before November 3, 1998.

ADDRESSES: You may mail comments to the Docket Management Facility [USCG–1998–3798], U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington DC 20590–0001, or deliver them to room PL–401, located on the Plaza level of the Nassif Building at the same address, between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

The Docket Management Facility maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room PL–401, located on the Plaza level of the Nassif Building at the same address, between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also access this docket on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: For information concerning this document, call Mr. Thomas Willis, Director, National Vessel Documentation Center, U.S. Coast Guard, telephone 304–271–2506. For questions on viewing, or submitting material to, the docket, call Dorothy Walker, Chief, Documents, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages you to participate in the early stages of this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this document [USCG–1998–3798], the specific section or question in this document to which your comments apply, and give the reason for each comment. Please submit all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you want acknowledgment of receipt of your comments, you should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period.

The Coast Guard plans no public meeting. You may request a public meeting by submitting a comment requesting one to the address under **ADDRESSES**. The request should include the reasons why a meeting would be beneficial. If the Coast Guard determines that a meeting should be held, we will announce the time and place in a later notice in the **Federal Register**.

Background and Purpose

The Abandoned Barge Act of 1992, sections 5301 to 5305 of Pub. L. 102–587 (the Act), enacted on November 4, 1992, added a new chapter 47 to Title 46 of the United States Code (46 U.S.C. 4701–4705) and amended 46 U.S.C. 12301 to require the numbering of undocumented barges measuring more than 100 gross tons operating on the navigable waters of the U.S. In enacting this legislation, Congress noted that an abandoned barge could become the site for the disposal of hazardous cargoes, wastes, and petroleum products, which can lead to water pollution incidents. Numbering these undocumented barges will increase owner accountability, reducing the likelihood barges will be abandoned and used for disposal of oil and hazardous substances.

Regulatory History

On October 18, 1994, the Coast Guard published a notice in the **Federal Register** [59 FR 52646] requesting comments on issues related to a numbering system for undocumented barges measuring more than 100 gross tons. The primary issues addressed in the notice concerned who should administer a barge numbering system, what type of number should be required, and how much the numbering would cost. The Coast Guard received twenty-two comments in response to the notice.

Summary of Comments

The following is a summary of the comments received in response to the questions and issues addressed in the 1994 Notice of Request for Comments. Comments can be viewed on the Internet at *http://dms.dot.gov.*

Administering Agency

All comments recommended the Coast Guard, not the States, administer a numbering system for undocumented barges. The comments noted several difficulties the States would encounter administering barge numbering programs, including coordination with other States, resource burdens, and enacting State legislation.

The comments discussed several advantages of having the Coast Guard administer a barge numbering system, such as its experience with the vessel documentation system, the Marine Safety Information System (MSIS), and providing a single source for barge registration.

Undocumented Barge Number

Several comments suggested the Coast Guard should use a numbering code similar to the code used for documented vessels, as long as codes differentiate between documented and undocumented barges. Some comments suggested assigning undocumented barges Hull Identification Numbers (HINs), while others suggested painting the company name and homeport on barges instead of numbers.

A few comments discussed a perceived difference between *inspected* undocumented barges and *uninspected* undocumented barges, and suggested addressing only uninspected undocumented barges.

Attaching Numbers to Barges

Some comments suggested that the barge numbers be permanently welded on a structural component of a barge and clearly visible. Other comments stated that welding a number on the interior of a barge could make the number difficult to locate.

Some comments recommended numbering undocumented barges in a manner similar to recreational vessels, and others pointed out that these numbers are not permanently affixed, and could be easily removed.

Application Information

Several comments suggested that a barge numbering application should require information similar to that required to document a barge.

Other comments stated that barge owners should only provide proof of vessel ownership or a signed affidavit of ownership because it may be difficult to provide information proving ownership for an undocumented barge.

Some comments stated that a number should not change when barge ownership changes, and additional registration or renewal should be required only if ownership changes.

Economic Impacts

A few comments indicated that it would take a survey of the barge industry to determine the total undocumented barge population and the potential economic impact of any regulations. Several comments mentioned that it is difficult to identify how many undocumented barges are in operation because many barges are not tracked by government agencies or other organizations. One comment estimated that there are approximately 13,000 to 14,000 undocumented barges measuring more than 100 gross tons in operation.

Several comments supported an estimated cost for attaching barge numbers of $500–$1,500 per barge. Another comment stated that related costs to be considered include barge out-of-service time, fleeting expenses, shifting expenses, tug service, and gas free certificates. Attaching numbers during regularly scheduled maintenance or inspections could minimize such overhead costs. The comments recommended a two-year phase-in period for any regulations.

Some comments stated that barge owners should not be charged a fee for initial registration, and that any charges for subsequent registration (change of ownership, for example) should be scaled to vessel documentation service fees. Other comments stated that the Coast Guard should charge fees to recover its costs for setting up and administering a numbering program.

Other Issues

One comment suggested that barge owners should be allowed to voluntarily number undocumented barges measuring 100 gross tons or less.

Another comment opposed a costly numbering system that would not solve the abandoned barge problem, and suggested the repeal of the Abandoned Barge Act of 1992. One comment pointed out that even identifying a few barge owners through barge numbers would probably not lead to an owner with sufficient assets to remove the barge, and the taxpayers would continue to pay for removal of barges.

General Proposals and Related Questions

Based on the comments received, the Coast Guard is considering options for establishing a Coast Guard numbering system administered by the National Vessel Documentation Center (NVDC). Unlike vessel documentation, which serves multiple purposes such as establishing vessel nationality, admitting vessels to restricted trades, and permitting vessels to be the subject of preferred mortgages, the numbering of operating undocumented barges more than 100 gross tons would be used to simply identify their owners.

The Coast Guard requests comments on the following questions, although comments on other issues addressed in this advance notice are also welcome. In responding to a question, please explain your reasons for each answer, and follow the instructions under **Request for Comments** above.

Inspected Undocumented Barges

Only documented vessels are required to obtain and mark Official Numbers per 46 CFR part 67, subparts H and I. The Coast Guard acknowledges that some inspected undocumented barges may have Official Numbers and these numbers may still be marked on the vessels. However, Official Numbers on existing undocumented barges may not provide accurate owner information.

- How should the Coast Guard address undocumented inspected barges with Official Numbers? Should the barge owner be required to obtain a number under this proposed system?

What Number Should the Coast Guard Use for Undocumented Barges?

The Coast Guard believes assigned barge numbers should be similar to the numbers used for documented vessels. We do not plan on including undocumented barges in the Hull Identification Number (HIN) system since most existing undocumented barges do not have HINs.

- Are there other options the Coast Guard should consider for undocumented barge numbers?

How Should Owners Attach Numbers to Barges?

At this point, the Coast Guard believes numbers should be permanently welded externally to discourage removal and be clearly visible from a distance to help identify barge owners. The Coast Guard does not believe numbers should be marked on the interior as this makes identification difficult.

- Should barge numbers be attached to the exterior of a vessel's hull? How large should the numbers be? Where exactly should the numbers be attached? Would numbers possibly interfere with other barge markings?
- Should barge numbers be bead welded to the hull? Are there other attachment methods that the Coast Guard could consider?

What Information Should Barge Owners Provide on Barge Numbering Applications?

The Coast Guard recognizes that in many cases, it may be impossible for owners of undocumented barges to prove vessel ownership. The purpose of the proposed barge numbering system is to identify the owners of barges. The Coast Guard does not expect owners of undocumented barges to provide the same information that is required to document a vessel. The Coast Guard plans to propose accepting any available information indicating ownership (such as a bill of sale), or a signed affidavit of ownership.

Under this approach, barge owners may be required to submit an application with the following identifying information: owner name, address, e-mail, and phone number; company name; proof or affidavit of ownership; general barge description; and barge operating area. We do not anticipate requiring application renewal, except when ownership changes. Barge owners would also be responsible for updating application information as appropriate (change of address, new phone numbers, etc.).

- Is the proposed application information discussed above adequate to identify barge owners? Should the application request barge operator information? Is the proposed information readily available?
- How long after the effective date of any future regulations should owners submit their numbering applications to the Coast Guard?
- Who should initiate numbering application renewal upon change of

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ownership, the seller or the new owner? How long after a change of ownership should this paperwork be submitted to the Coast Guard?

- If you had the option of submitting a numbering application or application update electronically via the Internet, would you take advantage of the service?

How Many Operating Undocumented Barges Measuring More Than 100 Gross Tons are There?

Based on available information, we estimate that there are approximately 10,000 to 14,000 undocumented barges measuring more than 100 gross tons and operating on the navigable waters of the United States. The Coast Guard's Marine Safety Information System (MSIS) contains records on just under 10,000 undocumented barges measuring more than 100 gross tons.

However, since most undocumented and uninspected barges are listed in the database only when Coast Guard personnel enter information as a result of marine safety-related activity (casualty, boarding, etc.), many barges may not even be listed in the database. It is also possible that many undocumented barges listed in the database are no longer operating. The Coast Guard is in the process of commencing a study of the barge industry to determine the number of undocumented barges.

- Is the population range of 10,000 to 14,000 undocumented barges measuring more than 100 gross tons accurate?
- How can the Coast Guard obtain a more accurate population estimate? What is the best way to contact owners and operators of undocumented barges measuring more than 100 gross tons?

What are the Potential Economic Impacts of the Proposed Numbering System?

The *Preliminary Regulatory Assessment* section of this document discusses the potential economic impacts of this rulemaking. Please refer to that section when reviewing the following questions. This rulemaking will affect owners of undocumented barges measuring more than 100 gross tons. Barge owners would bear the cost of providing needed owner and barge information and costs associated with attaching numbers to the barges. Submitting this information to the Coast Guard should impose only a minimum cost burden. Costs associated with attaching barge numbers depend on the form, size, and attachment method(s) established.

The Coast Guard may charge a fee for initial and subsequent barge numbering to offset agency costs, and is interested in comments regarding the appropriateness of such fees.

- Is the cost estimate of $500 to $1,500 for attaching permanent numbers to barges accurate? Does it include all costs associated with barge numbering (barge out-of-service costs, shifting expenses, etc.)? Will most barge owners attach numbers in-house or have a shipyard do the work? How would costs differ according to types of barges (tank barge versus construction barge, for example)?
- What are the common uses (services) for undocumented and uninspected barges measuring more than 100 gross tons? Where do most barges operate?
- What are the average maintenance intervals for undocumented barges measuring more than 100 gross tons?
- What is the average barge service life for undocumented barges measuring more than 100 gross tons?
- What is the average annual construction rate for new undocumented barges measuring more than 100 gross tons?
- How often, on average, do barges measuring more than 100 gross tons change owners?

How Will any Future Regulations Affect Small Entities?

The *Small Entities* section of this advance notice discusses potential impacts on small entities and available assistance for small entities. Please refer to that section when reviewing the following question. We believe many undocumented barge owners are small entities, and are interested in feedback from potentially affected small businesses, agencies, and organizations.

- If your small business, organization, or agency may be affected by any future barge numbering system, please tell how, and what flexibility or compliance alternatives we should consider to minimize the regulatory burden on you while promoting the intent of the Abandoned Barge Act.

Preliminary Regulatory Assessment

The cost for mandatory numbering of undocumented barges more than 100 gross tons is not expected to exceed $100 million. As discussed, preliminary population estimates for the number of undocumented barges measuring more than 100 gross tons ranges from just under 10,000 to 14,000 barges.

An industry-provided cost estimate for attaching barge numbers ranges from $500 to $1,500 per barge, depending on the method used and whether the work is done in-house or at a shipyard. Assuming a per barge cost of $500 to $1,500 for as many as 14,000 barges, the preliminary cost estimate ranges from $7.0 to $21.0 million. Other associated costs to consider include shipyard tug services, barge out-of-service costs, numbering fees, fleeting expense, and shifting expense. Avoiding future environmental damage and potentially reducing clean-up costs are the primary benefits associated with this rulemaking. From January 1988 to September 1991, the Coast Guard spent an estimated $4.4 million to clean up pollutants from abandoned vessels. Approximately 15% of these pollution incidents were attributable to abandoned barges. According to 1997 figures, there are just over 1,000 abandoned barges in our nation's waterways; approximately 25 barges pose hazards to navigation, and 15 pose a potential pollution threat.

Small Entities

Under the Regulatory Flexibility Act [5 U.S.C. 601 *et seq.*], the Coast Guard must consider whether any potential rulemaking would have significant economic impacts on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

Many owners of undocumented barges subject to future barge-numbering regulations may be small entities. Because we have not yet proposed specific requirements and because the number of affected small entities has not been identified, we cannot accurately estimate the potential impact on small entities at this time. The Coast Guard would like comments discussing the potential impacts of any future regulatory changes on small entities.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 [Pub. L. 104–21], the Coast Guard wants to assist small entities to understand this document so they can better evaluate the potential effects of this rulemaking on them and participate in the rulemaking process. If you believe that your small business, organization, or agency may be affected by this rulemaking, please explain how you could be affected, and tell us what flexibility or compliance alternatives the Coast Guard should consider to minimize the burden on you.

If you have questions concerning this document, you may call the Coast Guard point of contact designated in **FOR FURTHER INFORMATION CONTACT**. We also maintain a small business regulatory assistance Web Page at http://www.uscg.mil/hq/g-m/regs/reghome.htm which has current information on small entity issues and proposed Coast Guard regulations. To help small entities become more involved in this rulemaking, the Coast Guard will mail copies of this advance notice to Small Business Development Center (SBDC) State Directors nationwide for distribution to local SBDC offices and interested small businesses.

Collection-of-Information

Under the Paperwork Reduction Act [44 U.S.C. 3501 *et seq.*], the Office of Management and Budget (OMB) reviews each proposed rule that contains a collection-of-information requirement to determine whether the practical value of the information is worth the burden imposed by its collection. Collection-of-information requirements include reporting, record-keeping, notification, and other similar actions. This proposal would include new collection-of-information requirements. Barge owners would have to provide readily available information identifying undocumented barges and barge owners to the Coast Guard. This information should be readily available, so the burden should be minimal. We cannot estimate the exact paperwork burden associated with this rulemaking because specific requirements have not been proposed. We expect that comments received in response to this advance notice will assist us in estimating the potential paperwork burden, as required under the Paperwork Reduction Act. Once a specific proposal is developed, the Coast Guard will prepare a request for OMB approval of any collection-of-information requirements.

Environment

The Coast Guard will consider preparing an Environmental Assessment before publication of a notice of proposed rulemaking. The Coast Guard expects that an environmental impact statement would not be required. By increasing owner accountability, this rulemaking may prevent future marine pollution incidents from abandoned barges and providing a beneficial impact on the environment. The Coast 1 Guard invites comments addressing possible effects that this rulemaking may have on the environment or addressing possible inconsistencies with any Federal, State, or local law or administrative determinations relating to the environment.

Dated: June 29, 1998.

R.C. North,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 98–17814 Filed 7–2–98; 8:45 am]

BILLING CODE 4910–15–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–72, RM–9265]

Radio Broadcasting Services; Middlebury and Berlin, VT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Dynamite Radio, Inc. seeking the substitution of Channel 265C2 for Channel 265A; the reallotment of Channel 265C2 from Middlebury to Berlin, VT; and the modification of Station WGTK's license to specify Berlin as its community of license. Channel 265C2 can be allotted to Berlin in compliance with the Commission's minimum distance separation requirements with a site restriction of 11.1 kilometers (6.9 miles) north of the community. The site restriction imposed on Channel 265C2 at Berlin does not obviate the short-spacings to Station CBF–FM, Channel 265C1, Montreal, Quebec, and to Station CBF10F, Channel 266B, Sherbrook, Quebec, Canada. Therefore, we have sought Canadian concurrence in the allotment of Channel 265C2 at Berlin as a specially negotiated short-spaced limited allotment since Berlin is located within 320 kilometers (200 miles) of the U.S.-Canadian border. In accordance with the provisions of Section 1.420(i) of the Commission's Rules, we will not accept competing expressions of interest in the use of Channel 265C2 at Berlin, VT.

DATES: Comments must be filed on or before July 13, 1998, and reply comments on or before July 28, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Anthony A. Neri, President, Dynamite Radio, Inc., 74 Exchange Street, Middlebury, Vermont, 05753 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–72, adopted May 13, 1998, and released May 22, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–17776 Filed 7–2–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–70, RM–9276]

Radio Broadcasting Services; Clinton and Okarche, OK

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Tyler Broadcasting Corporation seeking the substitution of Channel 294C2 for Channel 294C1 at Clinton, OK, the reallotment of Channel 294C2 from Clinton to Okarche, OK, as the community's first local aural service, and the modification of Station KCLI–FM's license to specify Okarche as its

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community of license. Channel 294C2 can be allotted to Okarche in compliance with the Commission's minimum distance separation requirements with a site restriction of 2.8 kilometers (1.7 miles) east, at coordinates 35–43–08 North Latitude; 98–00–09 West Longitude, to accommodate petitioner's desired transmitter site.

DATES: Comments must be filed on or before August 24, 1998, and reply comments on or before, September 8, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Gary S. Smithwick, Smithwick & Belendiuk, P.C., 1990 M Street, NW, Suite 510, Washington, D.C. 20036 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, 202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–70, adopted May 1, 1998, and released May 22, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–17777 Filed 7–2–98; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 63, No. 128
Monday, July 6, 1998

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping, Steel Jacks et al.

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Initiation of Five-Year ("Sunset") Reviews.

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended ("the Act"), the Department of Commerce ("the Department") is automatically initiating five-year ("sunset") reviews of the antidumping and countervailing duty orders, findings, and/or suspended investigations listed below. The International Trade Commission ("the Commission") is publishing concurrently with this notice its notices of *Institution of Five-Year Review* covering these same orders and/or suspended investigations.

FOR FURTHER INFORMATION CONTACT: Melissa G. Skinner, Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, at (202) 482–1560, or Vera Libeau, Office of Investigations, U.S. International Trade Commission, at (202) 205–3176.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to sections 751(c) and 752 of the Act, an antidumping ("AD") or countervailing duty ("CVD") order will be revoked, or the suspended investigation will be terminated, unless revocation or termination would be likely to lead to continuation or recurrence of (1) dumping or a countervailable subsidy, and (2) material injury to the domestic industry.

Parties wanting to participate in the sunset review being conducted by the Department must follow the separate procedural regulations promulgated by the Department (see *Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998)).[1] In addition, because deadlines in a sunset review are, in many instances, very short, we urge interested parties to apply for access to proprietary information under administrative protective order ("APO") immediately following publication of the notice of initiation of the sunset review in the **Federal Register**. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306 (see *Antidumping and Countervailing Duty Proceedings: Administrative Protective Order Procedures; Procedures for Imposing Sanctions for Violation of a Protective Order*, 63 FR 24391 (May 4, 1998)). Finally, for guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews, you may wish to consult the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871(April 16, 1998). We are making information related to sunset proceedings available to the public on the Internet at the following address: "http://www.ita.doc.gov/import__admin/records/sunset/".

Finally, the procedural rules regarding filing, format, translation, service, and certification of documents can be found at 19 CFR 351.303 (see *Antidumping Duties; Countervailing Duties; Final rule*, 62 FR 27295, 27406 (May 19, 1997)).

Initiation of Reviews

In accordance with 19 CFR 351.218, as amended, we are initiating sunset reviews of the following antidumping and countervailing duty orders, findings, or suspended investigations:

Doc case no.	ITC case no.	Country	Product
A–122–006	AA–49	Canada	Steel Jacks.
A–588–029	AA–85	Japan	Fish Netting of Manmade Fiber.
A–427–030	AA–86	France	Large Power Transformers.
A–475–031	AA–87	Italy	Large Power Transformers.
A–588–032	AA–88	Japan	Large Power Transformers.
A–843–803	AA–51	Kazakstan	Titanium Sponge.
A–821–803	AA–51	Russia	Titanium Sponge.
A–823–803	AA–51	Ukraine	Titanium Sponge.
A–588–020	A–161	Japan	Titanium Sponge.
A–588–038	AA–98	Japan	Bicycle Speedometers.
A–602–039	AA–110	Australia	Canned Bartlett Pears.
A–588–028	AA–111	Japan	Roller Chain.

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[1] A number of parties commented that these interim-final regulations provided insufficient time for rebuttals to substantive responses to a notice of initiation (pursuant to 19 CFR 351.218(d)(4)). As provided in 19 CFR 351.302(b), the Department will consider individual requests for extension of that five-day deadline based upon a showing of good cause.

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This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: June 29, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–17789 Filed 7–2–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–485–602]

Tapered Roller Bearings and Parts Thereof From Romania: Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On March 6, 1998, the Department of Commerce ("the Department") published the preliminary results of its administrative review of the antidumping duty order on tapered roller bearings and parts thereof, finished or unfinished ("TRBs"), from Romania. This review covers one manufacturer/exporter of the subject merchandise to the United States during the period June 1, 1996, through May 31, 1997. We gave interested parties an opportunity to comment on our preliminary results. Based on our analysis of the comments received, we have not changed the results from those presented in the preliminary results of review.

We received no comments from interested parties with regard to the Department's preliminary determination to grant Tehnoimportexport, S.A. ("TIE") a separate rate for this review. Therefore, for the final results of review, we reaffirm our determination that TIE is entitled to a separate rate.

EFFECTIVE DATE: July 6, 1998.

FOR FURTHER INFORMATION CONTACT: Carrie Blozy or Rick Johnson, Office of Antidumping and Countervailing Duty Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–0374 or (202) 482–3818.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR Part 353 (April 1997).

Background

On March 6, 1998, the Department published in the **Federal Register** (63 FR 11217) the preliminary results of its administrative review of the antidumping duty order on TRBs from Romania ("*Preliminary Results*"). We gave interested parties an opportunity to comment on our preliminary results. We received written comments from respondent, TIE, and from Universal Automotive Trading Company Ltd. ("Universal"), an interested party. Comments submitted consisted of respondent's case brief of April 6, 1998 and Universal's rebuttal brief of April 13, 1998.

Scope of Review

Imports covered by this review are shipments of TRBs from Romania. These products include flange, take-up cartridge, and hanger units incorporating tapered roller bearings, and tapered roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles, whether or not for automotive use. This merchandise is currently classifiable under Harmonized Tariff Schedule (HTS) item numbers 8482.20.00, 8482.91.00, 8482.99.30, 8483.20.40, 8483.30.40, and 8483.90.20. Although the HTS item numbers are provided for convenience and Customs purposes, the written description of the scope of this order remains dispositive.

The period of review ("POR") is June 1, 1996, through May 31, 1997.

Analysis of Comment Received

Comment 1: Respondent and Universal assert that the Department erred in its calculation of freight for certain steel supplies imported from Russia. Respondent states that, based on the Department's language in its analysis memorandum, the longest possible distance used in this review to calculate freight for steel supplies should be either the distance from the Romanian steel mill to the Alexandria factory (280 km) or from Constanza, the port, to the Alexandria factory (350 km).

Petitioner did not comment on this issue.

Department's Position: We disagree with respondent and Universal. As stated in the analysis memorandum for the preliminary results, the Department "added to CIF surrogate values from Indonesia a surrogate freight cost using the shorter of the reported distances from either the closest port to the manufacturer's factory, or from the actual supplier to the manufacturer's factory." *See TIE Analysis Memorandum for the Preliminary Results of Review ("Analysis Memorandum")* at page 5 (March 2, 1998). The Department established this methodology for accounting for the freight component of surrogate values in *Collated Roofing Nails from the People's Republic of China*, 62 FR 25895 (May 12, 1997) ("*Nails*"). Thus, if the material was domestically produced or imported from a non-market economy ("NME") supplier, we used the shorter of (a) the distance between the closest Romanian port and the factory, or (b) the distance between the actual supplier and the factory to calculate a freight cost.

As noted on page 5 of the *Analysis Memorandum*, some of the distances between Alexandria and NME suppliers were not reported. For those missing distances, the Department assigned a distance of 3000 km, the longest distance reported in the submission. *See Analysis Memorandum* at page 5. However, despite respondent's assertion, the Department correctly calculated a freight cost for those inputs using 350 km, which is the shorter of the distance between Constanza and Alexandria (350 km) and the distance between Alexandria and the Russian NME supplier (3000 km). Therefore, the Department calculated freight in a manner consistent with the methodology established in *Nails.*

Final Results of Review

As a result of our review, we determine the dumping margin (in percent) for the period June 1, 1996, through May 30, 1997, to be as follows:

Exporter	Margin (percent)
TIE	0.86

The Department will determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. For assessment purposes, we have calculated an importer-specific ad valorem duty assessment rate for the merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales during the POR to the total quantity of sales examined during the POR. The

Department will issue appraisement instructions directly to the Customs Service. Furthermore, the following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of TRBs from Romania entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(c) of the Act: (1) the cash deposit rate for TIE will be the rate we determine in the final results of review; (2) for all other Romanian exporters, the cash deposit rate will be the Romania-wide rate made effective by the amended final results of the 1994–95 administrative review (*see Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from Romania; Amendment of Final Results of Antidumping Duty Administrative Review*, 61 FR 59416 (November 22, 1996)); (3) for non-Romanian exporters of subject merchandise from Romania, the cash deposit rate will be the rate applicable to the Romanian supplier of that exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d)(1). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 11, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–17788 Filed 7–2–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Procedures for Delivery of HEU Natural Uranium Component in the United States

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce is announcing procedures and required certifications pursuant to the USEC Privatization Act.

EFFECTIVE DATE: March 20, 1998.

FOR FURTHER INFORMATION CONTACT: James Doyle, Karla Whalen, or Letitia Kress, AD/CVD Enforcement Group III, Office VII, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230, telephone: (202) 482–0159, (202) 482–1386, or (202) 482–6412, respectively.

Background

On April 25, 1996, Congress passed the United States Enrichment Corporation Privatization Act (The USEC Privatization Act), 42 U.S.C. 2297h *et seq.* The USEC Privatization Act required the U.S. Department of Commerce (the Department) to administer and enforce the limitations set forth in Section 42 U.S.C. 2297h–10(b)(5) of the USEC Privatization Act. On January 7, 1998, the Department issued Procedures for Delivery of HEU Natural Uranium Component in the United States (The HEU Procedures).

On March 20, 1998, the Department issued Annex 1 to the HEU Procedures to clarify certain requirements detailed in the HEU Procedures. This announcement provides public notification of the HEU Procedures and their Annex 1. Annex 1 details required certification language and includes two additional certification requirements in items A and C. Item A is an amendment to the certifications currently required of all importers of uranium, regardless of national origin. Item B is the designated agent's certification referred to Section B of the HEU Procedures. Item C lists all the certifications which must accompany all quarterly reports submitted to the Department in accordance with section C of the HEU Procedures.

The following Attachment 1 provides the Procedures for the Delivery of HEU Natural Uranium Component in the United States and Attachment 2 provides Annex 1 to the HEU Procedures.

Dated: June 25, 1998.

Joseph A. Spetrini,

Deputy Assistant Secretary, AD/CVD Enforcement Group III, Import Administration.

Attachment 1—Procedures for Delivery of HEU Natural Uranium Component in the United States

A. Annual Maximum Deliveries

The United States Department of Commerce ("the Department") designates the Ministry of Atomic Energy of the Russian Federation ("MINATOM"), or its designated agent, to allocate the annual maximum deliveries of HEU natural uranium component among any marketing agent(s) authorized by MINATOM to sell the HEU natural uranium component in the United States. The annual maximum deliveries which may be allocated by MINATOM are set forth in the United States Enrichment Corporation (USEC) Privatization Act, 42 U.S.C. 2297h–10(b)(5) ("Delivery Schedule").

For each agent receiving a delivery allocation, MINATOM will issue a certificate identifying such agent, the duration of the allocation, and the maximum annual amount to be delivered under that certificate. The certificate(s) will also contain a statement that the material to be delivered to the agent for sale in the United States will be delivered for consumption only. MINATOM will provide a copy of all such certificates to the Department within 10 days of issuance.

The cumulative amount of the deliveries authorized by such certificates each year may not exceed the annual maximum deliveries set forth in the Delivery Schedule. Annual deliveries allocated to any given agent may be re-allocated to any other agent(s) or to MINATOM within the same annual period subject to the annual maximum deliveries under the following conditions:

—The Department is notified of the re-allocation no later than December 1 of the affected annual period;

—MINATOM provides the Department with a copy of the amended and/or terminated certificate(s) from which delivery allocation is to be withdrawn and a copy of the new certificate(s) re-allocating such deliveries.

New contracts entered into by any agent(s) as a result of re-allocation will be subject to the approval process outlined in paragraph B.

If, in any given annual period, an agent delivers less than the maximum flexibility(ies) under an approved contract(s), such agent may enter into a new contract(s) for the difference between its actual deliveries during that year and the maximum flexibilities under the contract(s) for that same year, provided that the agent's total annual deliveries under all contracts do not exceed the agent's delivery allocation or the annual maximum deliveries and provided that the following conditions are met:

—The Department is notified of the agent's intention to re-direct deliveries by December 1;

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—All new contracts entered into by agents resulting from re-direction of deliveries must be approved under paragraph B.

On December 31 of each year, any portion of the annual maximum deliveries not so delivered in that year will be forfeited.

B. Contract Monitoring and Approval

The Department will require all authorized agents to submit for approval all contracts related to the sale of the HEU natural uranium component to end-users for consumption in the United States. Contract approval will be contingent on the following requirements:

—A certificate as provided for in paragraph A confirming that the relevant agent has been allowed sufficient amounts for deliveries by MINATOM to fulfill its obligations under the submitted contract;
—A schedule of deliveries indicating the date, amount, and point of each delivery;
—A statement in the contract that the material to be sold is of Russian origin;
—A statement in the contract that the sale is for consumption only.[1]
—A certification from the relevant agent that the deliveries pursuant to the contract submitted for approval, when combined with deliveries pursuant to other approved contracts entered into by that agent, do not exceed that agent's delivery allocation for any given annual period. In addition, each agent shall certify to the Department that such agent's sales of Russian uranium are solely for consumption and do not circumvent, directly or indirectly, the limitations set forth in Section 3112(b) of the USEC Privatization Act and the procedures set forth in this document.

The Department will officially notify the relevant agent of contract approval/rejection within 10 business days of contract submission. If an approved contract is subsequently terminated as a result of force majeure, the Department will allow the affected agent to replace such contract with a newly executed contract, subject to the approval process outlined above, provided that the agent's delivery allocation and the annual maximum deliveries are not exceeded.

The Department will develop a separate record for actions undertaken pursuant to the USEC Privatization Act and will announce filing procedures consistent with existing antidumping procedures during January 1998.

C. Quarterly Reports/Verification

The Department will require quarterly reports from all authorized agents of HEU natural uranium component detailing all activity relating to the movement of HEU natural uranium component into and out of their respective accounts. In addition, the Department will require similar quarterly reports from the administrator of the account holding the HEU natural uranium component prior to sale, e.g., USEC. These reports will be submitted on May 1, August 1, November 1, and February 1 of each year for the quarters ending March 31, June 30, September 30, and December 31.

The Department reserves the right to verify quarterly reports and to restrict future deliveries from any account in which the reported activity appears to be in violation of these procedures and/or the annual maximum deliveries if such potential violations are not rectified to the satisfaction of the Department and MINATOM.

MINATOM and the Department will hold annual consultations subsequent to the filing of the quarterly report due February 1 of each year for the purpose of exchanging/reviewing all data pertaining to deliveries of HEU natural uranium component under these procedures.

D. Re-importation

The Department will outline documentary requirements for re-entry of HEU natural uranium component which has been exported from the United States for further processing and re-imported for consumption.

E. Enforcement

If the Department finds that an agent has exceeded its delivery allocation and/or the annual maximum deliveries set forth in the Delivery Schedule, the Department will require USEC or the appropriate entity to withhold any further release of HEU natural uranium component from the agent's account, until the problem has been satisfactorily resolved among the Department, MINATOM, and the agent.

In accordance with Section 3112(b)(9) of the USEC Privatization Act (42 USC 2297h–10(b)(9)), the Department reserves the right to require any other certifications, information, or take any other action necessary to enforce the annual maximum deliveries provided for therein.

F. Review of Procedures

By September 1998, the Department will initiate a review of these procedures to ensure that its statutory obligations are being met. Comments by interested parties regarding necessary/desirable changes to these procedures will be solicited and fully considered. If the department determines that changes are warranted, new procedures will be implemented effective January 1, 1999.

Attachment 2—Procedures for Delivery of HEU Natural Uranium Component in the United States, Annex #1 Required Certifications

On January 7, 1998, the Department of Commerce (the Department) issued the Procedures for Delivery of HEU Natural Uranium Component in the United States (the HEU Procedures), pursuant to the United States Enrichment Corporation Privatization Act (The USEC Privatization Act), 42 U.S.C. 2297h–10(b)(9). In order to further clarify certain requirements of the HEU Procedures, the Department will periodically issue supplemental statements. This annex sets forth certification language required under the HEU Procedures and includes two new certification requirements in items A and C. The certification stated in item A is required of all importers of uranium, regardless of origin. The certifications stated in item C must accompany all quarterly reports submitted to the Department in accordance with paragraph C of the HEU Procedures.

A. Importer Certifications

The importer of record must certify the following to the United States Customs Service (and provide a copy of such certification to the Department):

(Importer name) hereby certifies that the material being imported was not obtained under any arrangement, swap, exchange, or other transaction designed to circumvent the agreements with Kazakhstan, Kyrgyzstan, the Russian Federation and Uzbekistan, as amended, the antidumping duty order on Ukraine, or the delivery limitation set forth in Section 3112(b) of the USEC Privatization Act, 42 U.S.C. 2297h *et seq.*, and the Procedures for Delivery of HEU Natural Uranium Component in the United States.

B. Contract Approval Certifications

(Designated agent) certifies that the total annual deliveries under the contract between (seller) and (purchaser), contract number (insert #), and executed on (insert date), when added to annual delivery quantities of other contracts approved in accordance with the HEU Procedures for Delivery of HEU Natural Uranium Component in the United States, will not exceed the maximum annual delivery quantity allocated to (designated agent) by (MINATOM) for that given year, or the annual maximum delivery quantity established in Section 3112(b)(5) of the USEC Privatization Act for the year in which deliveries under this contract will be made.

(Designated agent) further certifies that the sale of the HEU Natural Uranium Component is solely for consumption and does not circumvent, directly or indirectly, the limitations set for in Section 3112(b) of the USEC Privatization Act or the Procedures for Delivery of HEU Natural Uranium Component in the United States.

C. Quarterly Report Certifications

(Certifying party) certifies that it holds an HEU Natural Uranium Component account(s) at (state name of entity(ies)), and that all HEU Natural Uranium Component transferred from or into this (these) account(s) during calendar quarter (indicated dates) has been transferred in accordance with only the following: (1) an approved matched sale under 3112(b)(6) of the USEC Privatization Act and Section IV of the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation, as amended, (2) for use in overfeeding in U.S. enrichment facilities pursuant to Section 3112(b)(7) of the USEC Act; (3) for delivery to a United States end-user for consumption, within the delivery limits of the USEC Privatization Act Section 3112(b)(5); (4) for export out of the United States; (5) for further processing on behalf of (name of entity); or (6) to another designated agent.

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[1] For consumption means for use as nuclear fuel. Swaps, exchanges or loans of material may be conducted solely for the purpose of facilitating further processing and use as nuclear fuel. All such permitted swaps, exchanges or loans must be documented to the Department prior to each such transaction. The Department considers swaps, exchanges or loans that will result in significant disruptions to the uranium production market and in the depression of market prices to be a circumvention of Section 3112(b) of the USEC Privatization Act. The material may be re-sold as a result of a force majeure.

(Certifying party) further certifies that none of the HEU Natural Uranium Component transferred from or into this (these) account(s) during calendar quarter (indicate dates) has been loaned, swapped, exchanged or used in any arrangement which directly or indirectly circumvents the limitations set forth in section 3112(b) of the USEC Privatization Act, the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation, as amended, or the Procedures for Delivery of HEU Natural Uranium Component in the United States.

[FR Doc. 98–17787 Filed 7–2–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Science Advisory Board; Notice of Open Meeting

AGENCY: Office of the Administrator, National Oceanic and Atmospheric Administration.

SUMMARY: The Science Advisory Board (SAB) was established by a Decision Memorandum dated September 25, 1997, and is the only Federal Advisory Committee with responsibility to advise the Under Secretary of Commerce of Oceans and Atmosphere on long- and short-range strategies for research, educating and application of science to resource management. SAB activities and advice will provide necessary input to ensure that National Oceanic and Atmospheric Administration (NOAA) science programs are of the highest quality and provide optimal support to resource management.

TIME AND PLACE: July 23, 1998 from 8:30 AM to 5:00 PM, and July 24 from 8:30 AM to 12:00 PM. The meeting will take place at the Main Commerce Building, Room 4832, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Agenda

1. Receive overview of NOAA science programs and priority science issues from NOAA Line Offices, with subsequent questions and discussion by SAB.
2. Discuss trends in federal science budgets with special emphasis on NOAA programs.
3. Receive and discuss input from key outside constituent groups regarding NOAA science programs.
4. Receive and discuss input from the public regarding NOAA science programs.
5. Discuss and formulate strategy for developing recommendations to the Under Secretary of Commerce for Oceans and Atmosphere regarding long- and short-range NOAA research, education and application of science to resource management.

PUBLIC PARTICIPATION: The meeting will be open to public participation with at least one (1) hour set aside during the meeting on July 24, 1998 for oral comments or questions. The SAB expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, each individual or group making an oral presentation will be limited to a total time of (5) minutes. Written comments (at least 35 copies) should be received in the SAB Executive Director's Office by July 13, 1998 in order to provide sufficient time for SAB review prior to meeting dates. Written comments received by the SAB Executive Director after July 13 will be distributed to the SAB, but may possibly not be received prior to the meeting dates. Approximately twenty (20) seats will be available for the public including five (5) seats reserved for the media. Seats will be available on a first-come first-served basis.

FOR FURTHER INFORMATION CONTACT: Dr. Michael P. Crosby, Executive Director, Science Advisory Board, NOAA, HCHB, Rm. 5128, 14th St. & Constitution Ave., NW. Washington, DC 20230 [Phone: 202–482–2977, Fax: 202–501–3068, E-mail: MICHAEL.CROSBY@NOAA.GOV]

Dated: June 29, 1998.

D. James Baker,

Under Secretary for Oceans and Atmosphere, and Administrator for NOAA.

[FR Doc. 98–17775 Filed 7–2–98; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 062598A]

Western Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Western Pacific Fishery Council (Council) will hold its 69th meeting of its Scientific and Statistical Committee (SSC) in Honolulu, HI.

DATES: The SSC meeting will be held on July 21–23, 1998, from 8:30 a.m. to 5:00 p.m., each day.

ADDRESSES: The 69th SSC meeting will be held at the Council office conference room, 1164 Bishop St., Suite 1400, Honolulu, HI; telephone: (808–522–8220).

Council address: Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI, 96813.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: 808–522–8220.

SUPPLEMENTARY INFORMATION: The SSC will discuss and may make recommendations to the Council on the agenda items below. The order in which agenda items will be addressed can change.

Tuesday, July 21, 1998, 8:30 a.m.

A. Pelagics

1. 2nd quarter 1998 report for longline fisheries in Hawaii & American Samoa;
2. Final review of area closure framework measure for American Samoa;
3. Reports on the 3rd Multilateral High-level Conference;
4. Protected species interactions: albatross and turtles;
5. Issues concerning shark finning in the western Pacific region;
6. Report on universal minimum size limit for swordfish in the USA;
7. Pelagic longline and charter interactions in Hawaii;
8. Report on Pelagic Fisheries Research Program studies;
9. Report on Secretariat of Pacific Community meetings;
10. Summary of 1997 annual report; and
11. Public Comment/Hearing.

B. Bottomfish

1. Summary of 1997 annual report, including recommendations;
2. Management of main Hawaiian Islands onaga, ehu and hauupuu; status of Hawaii Institute of Marine Biology genetic research on stock range, NMFS research activities in Hawaii, Guam and CNMI, implementation of Department of Land and Natural Resources' management plan and Federal management alternatives; and
3. Public Comment.

C. Sustainable Fisheries Act (SFA)

Final review of comprehensive SFA amendment for all fishery management plans regarding bycatch, fishing sectors, fishing communities, overfishing and designation of essential fish habitat(EFH), potential fishing and non-fishing threats to EFH, and conservation and enhancement measures to mitigate impacts to EFH; and environmental impact of SFA provisions. Copy of draft amendment is available for public review and comment by contacting the Council office.

1. Plan Team/Advisory Panel recommendations; and
2. Public comment/hearing.

D. Precious Corals

Plan Team recommendations.

Thursday, July 23, 1998, 8:30 a.m.

E. Crustaceans

1. Annual allocation of bank-specific harvest guidelines including 1998 bank-specific guidelines and draft framework regulatory measures for future bank-specific guidelines; and
2. Public comment/hearing.

F. Ecosystems and Habitat

1. Status of Enviromental Impact Statement on Farallon de Mendinilla, Northern Mariana Islands; and
2. Current ecosystem and habitat issues.

G. Other Business

Although other issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in the agenda in this notice.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, 808–522–8220 (voice) or 808–522–8226 (fax), at least 5 days prior to meeting date.

Dated: June 29, 1998.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–17796 Filed 7–2–98; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in Bahrain

June 29, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing limits.

EFFECTIVE DATE: July 8, 1998.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being increased for carryover.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Also see 62 FR 67620, published on December 29, 1997.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 29, 1998.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 19, 1997, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textile products, produced or manufactured in Bahrain and exported during the twelve-month period which began on January 1, 1998 and extends through December 31, 1998.

Effective on July 8, 1998, you are directed to increase the limits for the categories listed below, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve month limit [1]
Group I	
237, 239pt.[2], 331–336, 338, 339, 340–342, 345, 347, 348, 350–352, 359pt.[3], 431, 433–436, 438, 440, 442–448, 459pt.[4], 631, 633–636, 638, 639, 640–647, 648, 649, 650–652, 659pt.[5], 831, 833–836, 838, 840, 842–847, 850–852, 858 and 859pt.[6], as a group.	48,027,335 square meters equivalent.
Sublevels in Group I	
338/339	667,350 dozen.
340/640	320,183 dozen of which not more than 240,136 dozen shall be in Categories 340–Y/640–Y[7].

[1] These limits have not been adjusted to account for any imports exported after December 31, 1997.

[2] Category 239pt.: only HTS number 6209.20.5040 (diapers).

[3] Category 359pt.: all HTS numbers except 6406.99.1550.

[4] Category 459pt.: all HTS numbers except 6405.20.6030, 6405.20.6060, 6405.20.6090, 6406.99.1505 and 6406.99.1560.

[5] Category 659pt.: all HTS numbers except 6406.99.1510 and 6406.99.1540.

[6] Category 859pt.: only HTS numbers 6115.19.8040, 6117.10.6020, 6212.10.5030, 6212.10.9040, 6212.20.0030, 6212.30.0030, 6212.90.0090, 6214.10.2000 and 6214.90.0090.

[7] Category 340–Y: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2046, 6205.20.2050 and 6205.20.2060; Category 640–Y: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2050 and 6205.30.2060.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc 98–17751 Filed 7–2–98; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Increase of Guaranteed Access Levels for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Dominican Republic

June 29, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing guaranteed access levels.

EFFECTIVE DATE: July 2, 1998.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these levels, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

Upon a request from the Government of the Dominican Republic, the U.S. Government agreed to increase the current guaranteed access levels for Categories 347/348/647/648 and 433.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Also see 62 FR 67622, published on December 29, 1997.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 29, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 19, 1997, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Dominican Republic and exported during the twelve-month period which began on January 1, 1998 and extends through December 31, 1998.

Effective on July 2, 1998, you are directed to increase the guaranteed access levels for the categories listed below for the period January 1, 1998 through December 31, 1998.

Category	Guaranteed Access Levels
347/348/647/648	8,550,000 dozen.
433	81,000 dozen.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–17750 Filed 7–2–98; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Limit for Certain Wool Textile Products Produced or Manufactured in the Former Yugoslav Republic of Macadonia

June 29, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a limit.

EFFECTIVE DATE: July 8, 1998.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Category 435 is being increased for carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Also see 62 FR 64361, published on December 5, 1997.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 29, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 1, 1997, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain wool textile products, produced or manufactured in the Former Yugoslav Republic of Macedonia and exported during the twelve-month period beginning on January 1, 1998 and extending through December 31, 1998.

Effective on July 8, 1998, you are directed to increase the limit for Category 435 to 30,552 dozen[1], as provided for in the agreement between the Governments of the United States and the Former Yugoslav Republic of Macedonia dated November 7, 1997.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–17749 Filed 7–2–98; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Denial of Participation in the Special Access Program

June 29, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs suspending participation in the Special Access Program.

EFFECTIVE DATE: July 6, 1998.

FOR FURTHER INFORMATION CONTACT: Lori E. Mennitt, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854);

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[1] The limit has not been adjusted to account for any imports exported after December 31, 1997.

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Executive Order 11651 of March 3, 1972, as amended.

The Committee for the Implementation of Textile Agreements (CITA) has determined that Tycoon Tutti, Inc. has violated the requirements for participation in the Special Access Program, and has suspended Tycoon Tutti from participation in the Program for the period July 6, 1998 through January 5, 1999.

Through the letter to the Commissioner of Customs published below, CITA directs the Commissioner to prohibit entry of products under the Special Access Program by or on behalf of Tycoon Tutti during the period July 6, 1998 through January 5, 1999, and to prohibit entry by or on behalf of Tycoon Tutti under the Program of products manufactured from fabric exported from the United States during that period.

Requirements for participation in the Special Access Program are available in **Federal Register** notices 51 FR 21208, published on June 11, 1986; 52 FR 26057, published on July 10, 1987; 54 FR 50425, published on December 6, 1989; 62 FR 49206, published on September 19, 1997; and 63 FR 16474, published on April 3, 1998.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 29, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: The purpose of this directive is to notify you that the Committee for the Implementation of Textile Agreements has suspended Tycoon Tutti, Inc. from participation in the Special Access Program for the period July 6, 1998 through January 5, 1999. You are therefore directed to prohibit entry of products under the Special Access Program by or on behalf of Tycoon Tutti during the period July 6, 1998 through January 5, 1999. You are further directed to prohibit entry of products under the Special Access Program by or on behalf of Tycoon Tutti manufactured from fabric exported from the United States during the period July 6, 1998 through January 5, 1999.

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.98–17748 Filed 7–2–98; 8:45 am]

BILLING CODE 3510–DR–F

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

AGENCY: U.S. Consumer Product Safety Commission, Washington, DC 20207.

TIME AND DATE: Wednesday, July 15, 1998, 2:00 p.m.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Open to the Public.

MATTER TO BE CONSIDERED:

FY 2000 Budget Request

The staff will brief the Commission on issues related to the Commission's budget for fiscal year 2000.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207, (301) 504–0800.

Dated: July 1, 1998.

Sadye E. Dunn,

Secretary.

[FR Doc. 98–17960 Filed 7–1–98; 1:41 pm]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Air Force Academy Board of Visitors Meeting

Pursuant to Section 9355, Title 10, United States Code, the Air Force Academy Board of Visitors will meet at the U.S. Air Force Academy, Colorado, August 20–22, 1998. The purpose of the meeting is to consider morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to the Academy.

A portion of the meeting will be open to the public while other portions will be closed to the public to discuss matters listed in Subsections (2), (4), and (6) of Section 552b(c), Title 5, United States Code. These closed sessions will include attendance at cadet training programs and discussions with cadets, military staff, and faculty officers involving personal information and opinion, the disclosure of which would result in a clearly unwarranted invasion of personal privacy. Closed sessions will include executive sessions involving discussions of personnel issues, financial topics, and information relating solely to internal personnel rules and practices of the Board of Visitors and the Academy. Closed sessions may also include proprietary information from sources outside the government. Meeting sessions will be held in various facilities throughout the cadet area.

FOR FURTHER INFORMATION CONTACT: Lt. Col. William E. Rhoden or Ms. Deborah Mercurio, Plans and Current Operations Division, HQ USAFA/XPO, 2304 Cadet Drive, Suite 350, USAF Academy, CO 80840–5002, (719) 333–3933.

Barbara A. Carmichael,

Alternate Air Force Federal Register Liaison Officer.

[FR Doc. 98–17705 Filed 7–2–98; 8:45 am]

BILLING CODE 3910–01–P

DEPARTMENT OF ENERGY

Notice of Wetlands Involvement for the Installation of a Consolidated Waste Processing Facility Accessway at the Miamisburg Environmental Management Project

AGENCY: Department of Energy (DOE), Miamisburg Environmental Management Project.

ACTION: Notice of wetlands involvement.

SUMMARY: This is to give notice of DOE's proposal to construct an accessway for a consolidated waste processing facility at the Miamisburg Environmental Management Project (MEMP), located approximately ten (10) miles southwest of Dayton, Ohio. The proposed activity would involve a small, isolated, man-made wetland in Montgomery County, Ohio. In accordance with 10 CFR part 1022, DOE will prepare a Wetlands Assessment and conduct the proposed action in such a manner to avoid or minimize potential harm to or within the surrounding environment.

DATES: Written comments must be received by the DOE at the following address on or before July 21, 1998.

ADDRESSES: For further information on this proposed action, including a site map and/or a copy of the Wetlands Assessment, contact: Mr. Robert S. Rothman, Waste Management/Legacy Waste Project Manager, U.S. Department of Energy, Miamisburg Environmental Management Project Office, P.O. Box 66, Miamisburg, OH 45343–0066. Phone: (937) 865–3823. Facsimile: (937) 865–4489.

FOR FURTHER INFORMATION CONTACT: For further information on general DOE wetland and floodplain environmental review requirements, contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance, EH–42, U.S. Department of Energy, 1000

Independence Avenue, SW, Washington, DC 20585. Phone: (202) 586–4600 or 1–800–472–2756.

SUPPLEMENTARY INFORMATION: The proposed activity would directly support the ongoing environmental remediation program at the Mound Plant. Construction of the accessway to the consolidated waste processing facility would enable the facility to accomplish volume-reduction, metal recovery, and waste packaging goals established for the site. Construction of the accessway would impact approximately 0.06 acres of a man-made, isolated wetland. The wetland is one of several delineated in the OU9 Hydrogeologic Investigation: Wetlands Determination Report, January 1994. The proposed action would result in long-term and direct impacts from the filling of an isolated, man-made wetland of 0.06 acres in size. The affected wetland would be backfilled with gravel during the construction of an accessway which is needed to support a consolidated waste processing facility. Best management practices would be utilized to avoid or minimize potential harm to or within the surrounding environment.

Issued in Miamisburg, Ohio on June 23, 1998.

Susan L. Smiley,

NEPA Compliance Officer, Ohio Field Office.

[FR Doc. 98–17780 Filed 7–2–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[ERA Docket No. 84–15–NG; ERA Docket No. 87–40–NG; FE Docket No. 94–96–NG

Office of Fossil Energy; Pan-Alberta Gas (U.S.) Inc., Successor to Northwest Alaskan Pipeline Company; Order Transferring Long-Term Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of Order.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice that it issued DOE/FE Order No. 1009–A on June 25, 1998, transferring Northwest Alaskan Pipeline Company's (Northwest Alaskan) import authorization granted by DOE/FE Order No. 1009 (Order 1009), *et al.*, to Pan-Alberta Gas (U.S.) Inc. Order 1009, *et al.*, authorizes the importation of up to 300,000 Mcf of natural gas per day on an average annual daily basis (240,000 Mcf per day on a firm basis and 60,000 Mcf per day on an interruptible basis). The term of the authorization expires October 31, 2003.

This order may be found on the FE web site at http://www.fe.doe.gov., or on our electronic bulletin board at (202) 586–7853. It is also available for inspection and copying in the Office of Natural Gas & Petroleum Import and Export Activities Docket Room, 3E–033, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585–0334, (202) 586–9478. The Docket Room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., June 25, 1998.

John W. Glynn,

Manager, Natural Gas Regulation Office of Natural Gas & Petroleum Import and Export Activities, Office of Fossil Energy

[FR Doc. 98–17779 Filed 7–2–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EC96–19–026 and ER96–1663–027]

California Power Exchange Corporation; Notice of Filing

June 29, 1998.

Take notice that on June 26, 1998, California Power Exchange Corporation (PX), filed a Second Notice and Motion Regarding Change in Start of the Hour-Ahead Market. In order to allow for testing of the software needed to run the Hour-Ahead Market, the PX moves to amend its proposed Tariff Amendment No. 2, originally filed on April 10, 1998 and amended on May 22, 1998, to reflect a new requested effective date. The PX now requests that the effective date for PX Tariff Amendment No. 2, be no later than July 31, 1998, or as early as July 16, 1998, upon 15 days notice provided to the Commission and posted on the PX's Home Page.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.211 and 18 CFR 385.214). All such motions and protests should be filed on or before July 8, 1998. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17781 Filed 7–2–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–620–000]

Columbia Gas Transmission Corporation; Notice of Request Under Blanket Authorization

June 29, 1998.

Take notice that on June 16, 1998, Columbia Gas Transmission Corporation (Columbia), 12801 Fair Lakes Parkway, Fairfax, Virginia 22030 filed in Docket No. CP98–620–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to operate an existing point of delivery to Columbia Gas of Maryland, Inc., (CMD) in Allegany County, Maryland under Columbia's blanket certificate issued in Docket No. CP83–76–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Columbia requests certification to provide this service at an existing point of delivery which was originally authorized under Section 311 of the Natural Gas Policy Act (NGPA) for transportation service. Columbia states that the customer is CMD, the maximum daily quantity is 40 Dth and the estimated annual quantity is 14,600 Dth.

Columbia constructed the existing point of delivery to CMD in Allegany County, Maryland, which was placed in service on May 1, 1998. Interconnecting facilities installed by Columbia included a 2-inch tap and valve. The existing point of delivery will be utilized for residential service. The cost of constructing the existing point of delivery was $4,200.

The quantities of natural gas to be provided through the existing point will be within Columbia's authorized level of service. Therefore, there is no impact on Columbia's existing point of delivery for transportation service.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section

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157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17752 Filed 7–2–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–627–000]

El Paso Natural Gas Company; Notice of Request Under Blanket Authorization

June 29, 1998.

Take notice that on June 19, 1998, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP98–627–000 a request pursuant to Sections 157.205 and 157.212 of Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to modify an existing receipt point as a delivery point in Upton County, Texas and to thereafter operate the new delivery point in jurisdictional service to permit the delivery of natural gas to NuStar Joint Venture (NuStar), under El Paso's blanket certificate issued in Docket No. CP82–435–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

El Paso states that NuStar has requested the delivery of pipeline quality natural gas as fuel for new field compression facilities in its gathering system. To facilitate NuStar's request, El Paso will modify a receipt point to a delivery point on El Paso's 20″ O.D. Upton County Line (Line No. 1105) and thereafter transport, under NuStar's interruptible Transportation Service Agreement, volumes of gas to NuStar's new delivery point.

El Paso states that this proposal is not prohibited by its existing tariff and that El Paso has sufficient capacity to accomplish deliveries without detriment or disadvantage to its other customers.

El Paso requests authorization to modify and operate the NuStar Joint Venture Delivery Point on its Line No. 1105 in Upton County, Texas. The estimated cost of NuStar Joint Venture Delivery Point is $5,500 and NuStar will reimburse El Paso for the cost related to the construction of this delivery point.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allow for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17756 Filed 7–2–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–629–000]

Tennessee Gas Pipeline Company; Notice of Request Under Blanket Authorization

June 29, 1998.

Take notice that on June 22, 1998, Tennessee Gas Pipeline Company (Tennessee), a Delaware corporation, Post Office Box 2511, Houston, Texas 77252, filed a request with the Commission in Docket No. CP98–629–000, pursuant to Sections 157.205, and 157.212 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to install a delivery point, to provide interruptible gas transportation service to Chevron Gas Pipeline Company (Chevron) for emergency fuel use authorized in blanket certificate issued in Docket No. CP82–413–000, all as more fully set forth in the request on file with the Commission and open to public inspection.

Tennessee proposes to install a new delivery point on its system at approximately Mile Post 526A–601+17.65, Side Valve 526A–612 located at Plaquemines Parish, Louisiana, Louisiana State Water, Main Pass Block 80 (MP 80) to provide interruptible gas transportation service of up to 900 dekatherms per day to Chevron for emergency fuel use. At MP 80, Tennessee will inspect Chevron's installation of a two-inch tie-in assembly on an offshore platform owned by Ocean Energy Inc. The volumes to be delivered to MP 80 will be transported from MP 80 over interconnecting pipe owned by Forcenergy Inc. (Forcenergy), to a pipeline platform located at Main Pass Block 69 (MP 69) owned by Forcenergy. Chevron has separately arranged with Forcenergy for transportation services over this interconnecting pipe. Chevron would install its measurement facilities. Tennessee would install, own and operate electronic gas measurement (EGM) equipment and own, operate and maintain the tie-in assembly. Chevron would install, own and maintain the measurement facility. Tennessee reports that Chevron would reimburse Tennessee approximately $24,700 for the cost of the project.

Tennessee reports that deliveries of natural gas to Chevron from the proposed point would be on an interruptible basis, pursuant to a transportation agreement between Tennessee and Chevron under Tennessee's Rate Schedule IT. The addition of this delivery point is not expected to have any significant impact upon Tennessee's peak day or annual deliveries.

Tennessee states that the total quantities to be delivered to Chevron after the delivery point is installed would not exceed previously authorized quantities. Tennessee further states that the proposed modification is not prohibited by its tariff, and that it has sufficient capacity to accomplish deliveries at the delivery point without detriment or disadvantage to Tennessee's other customers.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17755 Filed 7–2–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application

June 29, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11615–000.

c. *Date Filed:* June 1, 1998.

d. *Applicant:* Massachusetts Water Resources Authority.

e. *Name of Project:* Winsor Dam.

f. *Location:* On the Swift River in the Towns of Belchertown, Hardwick, New Salem, Pelham, Petersham, Shutesbury, and Ware, Hampshire, Franklin, and Worcester Counties, Massachusetts.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. William A. Brutsch, Charleston Navy Yard, 100 First Avenue, Boston, MA 02129, (617) 241–4604.

i. *FERC Contact:* Charles T. Raabe, (202) 219–2811.

j. *Deadline Date:* August 28, 1998.

k. *Description of Project:* The existing, inoperative project would consist of the following facilities: (1) the 2,900-foot-long Winsor Dam; (2) the 25,216-acre Quabbin reservoir; (3) a water intake; (4) 48-inch-diameter and 68-inch-diameter pipelines, each about 1,000 feet long; (5) a powerhouse containing a 1200 kW generating unit; (6) a tailrace; (7) a new transformer and a proposed 13.8-kV transmission line; and (8) appurtenant facilities.

Applicant estimates that the average annual generation would be 3.0 MWh and that the cost of the studies under the permit would be $85,000. The dam and water rights are owned by the Metropolitan District Commission, 20 Somerset Street, Boston, MA 02108. The equipment is owned by the Applicant.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to the Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17753 Filed 7–2–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Filed With the Commission

June 29, 1998.

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory Commission and is available for public inspection.

a. *Type of Application:* Amendment of License.

b. *Project No:* 8185–034.

c. *Date Filed:* June 11, 1998.

d. *Applicant: Bluestone Energy Design.*

e. *Name of Project:* Clifton No. 3.

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f. *Location:* Pacolet River, Spartanburg County, South Carolina.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Victoria J. Miller, Bluestone Energy Design, P.O. Box 181, Converse, SC 29329, (864) 579–4640.

i. *FERC Contact:* J.W. Flint, (202) 219–2667.

j. *Comment Date:* August 15, 1998.

k. *Description of Amendment:* Bluestone Energy Design proposes to remove the 4-foot-high flashboards from the dam.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR sections 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "RECOMMENDATIONS FOR TERMS AND CONDITIONS," "PROTEST" OR "MOTION TO INTERVENE," as applicable, and the project number of the particular application to which the filing is in response. Any of these documents must be filed by providing the original and 8 copies to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426. Motions to intervene must also be served upon each representative of the applicant specified in the particular application.

D2. Agency Comments—The Commission invites federal, state, and local agencies to file comments on the described application. (Agencies may obtain a copy of the application directly from the applicant.) If an agency does not file comments within the time specified for filing comments, the Commission will presume that the agency has none. One copy of an agency's comments must also be sent to the applicant's representatives.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17754 Filed 7–2–98; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6121–1]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Regional Compliance Assistance Program Evaluation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Agency Generic Information Collection Request: Regional Compliance Assistance Program Evaluation, EPA ICR No. 1860.01. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before August 5, 1998.

FOR FURTHER INFORMATION CONTACT: Contact Sandy Farmer at EPA by phone at (202) 260–2740, by email at farmer.sandy@epamail.epa.gov, or download off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 1860.01.

SUPPLEMENTARY INFORMATION:

Title: Agency Generic Information Collection Request: Regional Compliance Assistance Program, (EPA ICR No. 1860.01). This is a new collection.

Abstract: Since EPA's Office of Enforcement and Compliance Assurance (OECA) was formed three years ago, there has been an increased focus on the use of compliance assistance as an appropriate tool to assist the regulated community in improving its compliance. In particular, OECA has focussed its compliance assistance on small business and small communities that have not had much exposure to traditional enforcement and therefore may not be fully aware of their compliance obligations. Compliance assistance consists of information and technical assistance provided to the regulated community to help it meet the requirements of environmental law. First and foremost, compliance assistance ensures that the regulated community understands its obligations by providing clear and consistent descriptions of regulatory requirements. The bulk of OECA's compliance assistance activities are undertaken in our regional offices. Regional compliance assistance activities commonly include: hotlines, workshops/seminar/trainings, compliance guides (e.g., plain language explanations of regulations, videos), and on-site visits. Since compliance assistance is a rather new tool for OECA, we are very interested in learning about its effectiveness. In particular, we are interested in learning about the "outcome" of compliance assistance on a continuum of potential outcomes. The continuum includes determining the "reach" of activity within the intended audience; determining their "satisfaction" with the activity; and determining what "behavioral changes" they make as a result of the activity. The purpose of this generic ICR is to enable OECA to collect data on the program effectiveness of their compliance assistance program so that we can begin to understand which of our various types of compliance assistance activities are most effective as well as to obtain anecdotal information on the outcomes of these assistance efforts. Moreover, since measuring the impact of compliance assistance is a new activity for OECA, we are also interested in experimenting with different types of measurement methods (e.g., comment cards, mailed surveys, phone surveys) to better direct our program evaluation program. Moreover, we are interested in learning if this data can be obtained using generalizable methods and will be supporting our measurement activities with analysis in this area.

In each instance we will be measuring whether or not the compliance assistance activity is meeting its intended goal. Typical goals for compliance assistance activities include: informing the regulated community of their compliance obligations (e.g., plain-language guides); assisting the regulated community in their understanding of complex federal and/or state requirements (e.g., section 215 of the Small Business Regulatory Enforcement Fairness Act asks EPA to undertake demonstration projects with states to develop compliance assistance tools that integrate state and federal rules); and motivating behavioral change (e.g., pollutants reduced, permits adopted) from on-site visits, and in-depth workshops/trainings. This activity is being undertaken to assist EPA in its implementation of the National Performance Measures Strategy that was finalized on December 22, 1997.

None of the information collected by this action results in or requests sensitive information of any nature from the states.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it display a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on April 21, 1998. No comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average .125 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Businesses receiving compliance assistance from EPA.

Estimated Number of Respondents: 465,489.

Frequency of Response: Sporadic.

Estimated Total Annual Hour Burden: 19,470 hours.

Estimated Total Annualized Cost Burden: $218,090.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1860.01 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460; and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: June 25, 1998.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 98–17811 Filed 7–2–98; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6120–8]

Proposed Settlement Under Section 122(h) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as Amended, 42 U.S.C. 9622(h), Jones Trucklines Superfund Site, St. Louis, MO

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: The United States Environmental Protection Agency (EPA) is proposing to enter into an administrative settlement to resolve claims under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended, 42 U.S.C. 9622(h). This settlement is intended to resolve the liability of Triad Carriers, Inc. for response costs incurred at the Jones Trucklines Superfund Site, 5401 Hall Street, St. Louis, Missouri.

DATES: Written comments must be provided on or before August 5, 1998.

ADDRESSES: Comments should be addressed to Cheryle Micinski, Deputy Regional Counsel, Office of Regional Counsel, United States Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101 and should refer to: *In the Matter of Jones Trucklines Superfund Site,* EPA Docket No. VII–98–F–0010.

The proposed administrative cost recovery settlement may be examined in person at the United States Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101. A copy of the proposed settlement may be obtained from Venessa Cobbs, Regional Docket Clerk, EPA Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101, telephone (913) 551–7630.

FOR FURTHER INFORMATION CONTACT: Cheryle Micinski, Deputy Regional Counsel, Office of Regional Counsel, EPA Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101, telephone (913) 551–7010.

Dated: June 25, 1998.

Michael J. Sanderson,

Director, Superfund Division, Region VII.

[FR Doc. 98–17809 Filed 7–2–98; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6120–9]

Proposed Settlement Agreement; Commonwealth of Pennsylvania; Enhanced Motor Vehicle Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement agreement.

SUMMARY: In accordance with section 113(g) of the Clean Air Act ("Act"), as amended, 42 U.S.C. 7413(g), notice is hereby given of a proposed settlement agreement concerning litigation instituted against the Environmental Protection Agency (EPA) by the Commonwealth of Pennsylvania. The lawsuit concerns EPA's conditional interim approval of the Commonwealth's enhanced vehicle inspection and maintenance (I/M) program under section 182(c)(3) of the Act. The parties have agreed to settle this matter without litigation. The proposed settlement agreement obligates Pennsylvania to make certain additional State Implementation Plan (SIP) submissions, which EPA agrees to propose to approve. The agreement further obligates EPA to work with Pennsylvania to develop an alternative program evaluation methodology that does not require the use of mass emission testing technology, or in the alternative to conditionally approve a subsequent Pennsylvania I/M program evaluation SIP submission if the parties can not develop such a methodology

For a period of thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to modified settlement agreement. EPA or the Department of Justice may withhold or withdraw consent to the proposed settlement agreement if the comments disclose facts or circumstances that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act.

Copies of the settlement agreement are available from Phyllis Cochran, Air and Radiation Law Office (2344), Office of General Counsel, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, (202) 260–7606.

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Written comments should be sent to Sara Schneeberg at the above address and must be submitted on or before August 5, 1998.

Dated: April 16, 1998.

Scott C. Fulton,

Acting General Counsel.

[FR Doc. 98–17810 Filed 7–2–98; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

[DA 98–1238; CC Docket No. 90–571]

Notice of Telecommunications Relay Services (TRS) Certification

Released: June 26, 1998.

Notice is hereby given that the applications for certification of state Telecommunication Relay Services (TRS) programs of the states listed below have been granted, subject to the condition described below, pursuant to Title IV of the Americans with Disabilities Act of 1990, 47 U.S.C. 225(f)(2), and section 64.605(b) of the Commission's rules, 47 CFR 64.605(b). The Commission will provide further Public Notice of the certification of the remaining applications for certification once review of those states' applications has been completed. On the basis of the states applications, the Commission has determined that:

(1) The TRS program of the listed states meet or exceed all operational, technical, and functional minimum standards contained in section 64.604 of the Commission's rules, 47 CFR 64.604;

(2) The TRS programs of the listed states make available adequate procedures and remedies for enforcing the requirements of the state program; and,

(3) The TRS programs of the listed states in no way conflict with federal law.

The Commission also has determined that, where applicable, the intrastate funding mechanisms of the listed states are labeled in a manner that promotes national understanding of TRS and does not offend the public, consistent with section 64.605(d) of the Commission's rules, 47 CFR 64.605(d).

On May 14, 1998, the Commission adopted a Notice of Proposed Rulemaking that proposes ways to enhance the quality of existing telecommunications relay services (TRS) and expand those services for better use by individuals with speech disabilities. See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 98–67, FCC 98–90 (rel. May 20, 1998). Because the Commission may adopt changes to the rules governing relay programs, including state relay programs, the certification granted herein is conditioned on a demonstration of compliance with any new rules ultimately adopted by the Commission. The Commission will provide guidance to the states on demonstrating compliance with such rule changes.

This certification, as conditioned herein, shall remain in effect for a five year period, beginning July 26, 1998, and ending July 25, 2003, pursuant to 47 CFR 64.605(c). One year prior to the expiration of this certification, July 25, 2002, the states may apply for renewal of their TRS program certifications by filing documentation in accordance with the Commission's rules, pursuant to 47 CFR 64.605 (a) and (b).

Copies of certification letters are available for public inspection at the Commission's Common Carrier Bureau, Network Services Division, Room 235, 2000 M Street, NW, Washington, DC, Monday through Thursday, 8:30 AM to 3:00 PM (closed 12:30 to 1:30 PM) and the FCC Reference Center, Room 239, 1919 M Street, NW, Washington, DC, daily, from 9:00 AM to 4:30 PM.

Fifth Notice of States Approved for Certification

File No. TRS–97–03.

Applicant: Alabama Public Service Commission.

State of: Alabama.

FOR FURTHER INFORMATION CONTACT: Al McCloud, (202) 418–2499, amccloud@fcc.gov: Helene Nankin, (202) 418–1466, hnankin@fcc.gov; or Kris Monteith, (202) 418–1098, kmonteit@fcc.gov, (TTY, 202–418–0484), at the Network Services Division, Common Carrier Bureau, Federal Communications Commission.

Federal Communications Commission.

Geraldine A. Matise,

Chief, Network Services Division, Common Carrier Bureau.

[FR Doc. 98–17698 Filed 7–2–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting, Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10:00 a.m. on Tuesday, July 7, 1998, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous Board of Directors' meetings.

Reports of actions taken pursuant to authority delegated by the Board of Directors.

Memorandum and resolution re: Interim Rule to Amend Part 347 of the FDIC's Rules and Regulations.

Memorandum and resolution re: Part 325—Final Rule Revising the Regulatory Capital Treatment of Servicing Assets.

Memorandum and resolution re: Revised Statement of Policy on the National Environmental Policy Act of 1969.

Memorandum and resolution re: Revised Statement of Policy regarding the Assessment of Civil Money Penalties by the Federal Bank Regulatory Agencies.

Memorandum and resolution re: Final Amendments to Part 360—Receivership Rules.

Discussion Agenda

Memorandum and resolution re: Part 330—Proposed Rule on Insurance of Joint Accounts and Payable-on-Death Accounts.

Memorandum and resolution re: Part 303—Final Rule on Applications, Requests, Submittals, Delegations of Authority, and Notices Required to be Filed by Statute or Regulation and related Policy Statements.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call (202) 416–2449 (Voice); (202) 416–2004 (TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at (202) 898–6757.

Dated: June 30, 1998.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 98–17841 Filed 6–30–98; 4:08 pm]

BILLING CODE 6717–01–M

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Uniform Retail Credit Classification Policy

AGENCY: Federal Financial Institutions Examination Council.

ACTION: Notice and request for comment.

SUMMARY: The Federal Financial Institutions Examination Council (FFIEC), on behalf of the Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC), and the Office of Thrift Supervision (OTS), collectively referred to as the Agencies, requests comment on proposed changes to the Uniform Policy for Classification of Consumer Installment Credit Based on Delinquency Status (Uniform Retail Credit Classification Policy). The National Credit Union Administration (NCUA), also a member of FFIEC, is reviewing the applicability and appropriateness of the FFIEC proposal for institutions supervised by the NCUA; however, the NCUA does not plan to adopt the proposed policy at this time.

The Uniform Retail Credit Classification Policy is a supervisory policy used by the federal regulatory agencies for the uniform classification of retail credit loans of financial institutions. At the time the initial Uniform Retail Credit Classification Policy was issued in 1980, open-end credit generally consisted of credit card accounts with small credit lines to the most creditworthy borrowers. Today, open-end credit generally includes accounts with much larger lines of credit to diverse borrowers with a variety of risk levels. The change in the nature of those accounts and the inconsistencies in the reporting and charging off of accounts has raised concerns with the FFIEC. This proposed policy statement is intended to help the FFIEC develop a revised classification policy to more accurately reflect the changing nature of risk in today's retail credit environment. The FFIEC is proposing to revise the charge-off policy for closed-end and open-end credit and address other significant issues in retail credit lending by the financial services industry. The FFIEC is requesting comment on the proposed revision and the listed issues.

DATES: Comments must be received by September 4, 1998.

ADDRESSES: Comments should be sent to Keith Todd, Acting Executive Secretary, Federal Financial Institutions Examination Council, 2100 Pennsylvania Avenue NW., Suite 200, Washington, DC 20037, or by facsimile transmission to (202) 634–6556.

FOR FURTHER INFORMATION CONTACT:

FRB: William Coen, Supervisory Financial Analyst, (202) 452–5219, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), Dorothea Thompson, (202) 452-3544, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551.

FDIC: James Leitner, Examination Specialist, (202) 898–6790, Division of Supervision. For legal issues, Michael Phillips, Counsel, (202) 898–3581, Supervision and Legislation Branch, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

OCC: Cathy Young, National Bank Examiner, Credit Risk Division, (202) 874–4474, or Ron Shimabukuro, Senior Attorney, Legislative and Regulatory Activities Division (202) 874–5090, Office of the Comptroller of the Currency, 250 E Street SW., Washington, DC 20219.

OTS: William J. Magrini, Senior Project Manager, (202) 906–5744, Supervision Policy; or Vern McKinley, Attorney, (202) 906–6241, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street NW, Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

Background Information

On June 30, 1980, the FRB, FDIC, and OCC adopted the FFIEC uniform policy for classification of open-end and closed-end credit (1980 policy). The Federal Home Loan Bank Board, the predecessor of the OTS, adopted the 1980 policy in 1987. The 1980 policy established uniform guidelines for the classification of installment credit based on delinquency status and provided different charge-off time frames for open-end and closed-end credit. The 1980 policy recognized the statistical validity of determining losses based on past due status. At that time, open-end credit generally consisted of credit card accounts with small credit lines to the most creditworthy borrowers. Today, open-end credit generally includes accounts with much larger lines of credit to diverse borrowers with a variety of credit risk levels. The change in the nature of those accounts and the inconsistencies in the reporting and charging off of accounts by financial institutions, has prompted the federal regulatory agencies to propose several revisions to the 1980 policy.

Comments Received

The FFIEC requested comment on September 12, 1997 at 62 FR 48089 (September Notice) on a series of questions designed to help the FFIEC develop a revised classification policy. A total of 61 comments were received representing the views of 22 banks and thrifts, nine bank holding companies, eight regulatory agencies, seven trade groups, and 15 other companies and individuals. The following is a summary of the questions and responses.

1. Charge-off Policy for Open-End and Closed-End Credit

The September Notice requested comment on whether a uniform time frame should be used to charge off both open-end and closed-end accounts, and if a change in policy is made, a reasonable time frame to allow institutions to comply with such a change. Comments were also sought on whether to continue the current regulatory practice of classifying open-end and closed-end credit Substandard when the account is 90 days or more delinquent; whether a standard for the Doubtful classification or guidance for placing loans on a nonaccrual status should be adopted; and whether a specific reserve account should be established.

Charge off policy: Commenters were divided on whether to maintain the current policy of charging off open-end (credit card) loans at 180 days delinquent and closed-end installment loans at 120 days or to change the policy to a uniform time frame for both types of loans. Almost half of the commenters suggested a uniform charge-off time frame for both types of loans. Recommendations for the charge-off time frame varied from 90 days to 180 days; the majority who favored uniformity believed the time frame should be less than 180 days. Of 51 comments to this question, 22 commenters preferred a stricter open-end standard than what is contained in the 1980 policy and remaining respondents supported no change or a less strict open-end standard.

Commenters in favor of a uniform time frame cited three main reasons: (1) inconsistency in the 1980 policy guidelines; (2) recovery data supports a lengthening of the charge-off policy for closed-end installment loans; and (3) the level of credit risk in open-end and closed-end loans has changed since the 1980 policy was adopted.

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Commenters supporting a uniform time frame cited the inconsistency between the level of risk associated with credit card loans and closed-end credit and the inconsistency in the 1980 policy for charging-off delinquent accounts. Under the 1980 policy, credit card loans, which generally are unsecured, are charged off when an account is 180 days delinquent. Conversely, closed-end credits generally amortize according to a payment schedule, are better protected via a security interest in collateral, and experience much higher recovery rates after being charged off, but are subject to a more stringent charge-off policy at 120 days delinquency. Over the years, the inconsistency in the time frames has become more apparent as the market for credit cards evolved. Several commenters stated that the risk associated with open-end credit has increased significantly since 1980. This is due to competition in solicitations, less stringent underwriting criteria, lower minimum payment requirements, lack of a security interest, and lower recovery rates after charge-off. Commenters contended that these factors provide support for shortening the current 180 day charge-off time frame for open-end credit.

A uniform time frame would eliminate the inconsistent treatment for closed-end and open-end credit. On a volume basis, the change would actually lengthen the charge-off time frame for more loans than it would shorten. As of year end 1997, institutions supervised by the FRB, FDIC, and OCC had closed-end installment loans of $338 billion and open-end credit card loans of $237 billion. At that time, institutions supervised by the OTS had closed-end installment loans of $29 billion and open-end loans totaling $23 billion. Under a uniform time frame, institutions would have an additional month to work with borrowers before recognizing a loss for lower risk closed-end credit. Credit card issuers would have this same 150-day charge-off time frame, although it would be 30 days less than the current requirement.

The most direct measure of credit risk is the ratio of net losses to loans. In every year since 1984, the credit card loss ratio has been much higher than the closed-end installment loss ratio. During the fourteen-year period, the average net loss for credit cards was 3.2 percent while the average net loss for installment loans was 0.8 percent. The percentage of current recoveries to prior year charge-offs is a ratio that indicates how timely loans are charged-off. A loss classification does not mean that the asset has absolutely no recovery or salvage value; rather, it means that it is not practical or desirable to defer writing off an essentially worthless asset even though partial recovery may occur in the future. A high rate of recoveries may illustrate a conservative charge-off policy, whereas a low rate may indicate an unwarranted delay in the recognition of losses. Since 1985, recoveries for credit card loans have averaged 19 percent, while recoveries for installment loans have averaged 34 percent.

Commenters opposed to any change of the charge-off standards cited four principal reasons: (1) the impact on the industry's earnings and capital; (2) the effect on credit card securitization transactions; (3) the limitation of programming resources because of Year 2000 issues; and (4) impact on consumers.

Some commenters believed that changing the charge-off guidelines for open-end credit may make it more difficult for lenders to collect from borrowers. They stated that a change in the guidelines will result in more expense for institutions, because of the need to revise their existing collection policies and procedures. This can negatively affect an institution's earnings and capital.

Others stated that a change in the charge-off time frames would affect credit card securitization transactions. One commenter mentioned that as of September 1997, $213 billion, or 40.6 percent of outstanding credit card receivables, were securitized. Some commenters believed that any change in the charge-off policy could trigger contractual provisions, such as early amortization or collateral substitution requirements. This would increase costs to credit card issuers and limit their ability to sell securitizations, thus potentially restricting credit card lending. Some commenters indicated that such a change may cause them to exit the securitization market for years.

Some commenters expressed concern about the re-programming efforts needed for a change in the charge-off policy. This comes at a time when computer programmer resources are limited due to Year 2000 efforts.

Finally, some commenters contended that requiring earlier charge offs will have an impact on consumers. The incentives for borrowers to pay and for banks to invest in collection efforts are greatest before the charge off has occurred. One industry association reported that 34 percent of accounts that are 120 days delinquent will be made current before charge off under the 1980 policy. A shorter charge-off time frame reduces the borrower's time to cure a debt. Once charge off occurs, the customer's charged-off account is reported to the credit bureau, further damaging the customer's credit rating and future ability to obtain credit. Commenters stated that the customer loses the incentive to pay, further impacting an institution's recoveries.

Given the division in comments as to the appropriate charge-off policy guidelines, the FFIEC is requesting comment on two alternative charge-off standards (only one of these will be implemented):

- A uniform charge-off time frame for both open-end and closed-end credit at 150 days delinquency with a proposed implementation date of January 1, 2001; or
- Retaining the existing policy of charging off delinquent closed-end loans at 120 days and delinquent open-end loans at 180 days. If this option is selected, any changes affected by the final policy statement would have a January 1, 1999 implementation date.

Substandard classification policy: Thirty-six of 41 commenters supported the practice of classifying open-end and closed-end loans Substandard at 90 days delinquency. The majority of commenters opposed a uniform policy of classifying loans Doubtful, placing them on nonaccrual, or setting up separate reserves in lieu of charging off a loan. The FFIEC has long felt that when an account is 90 days past due, it displays weaknesses warranting classification and proposes to continue the policy of classifying open-end and closed-end loans Substandard at 90 days delinquency. The FFIEC has decided not to add guidance for classifying retail credit Doubtful or placing those loans on nonaccrual.

2. Bankruptcy, Fraud, and Deceased Accounts

The September Notice requested comment on whether there should be separate guidance for determining: (i) when an account should be charged off for bankruptcies under Chapter 7 or 13 of the Federal Bankruptcy Code; (ii) the event in the bankruptcy process that should trigger loss recognition; (iii) the amount of time needed by an institution to charge off an account after the bankruptcy event; and (iv) whether, as an alternative to an immediate charge off, it would be beneficial to set up a specific reserve account. Comments also were sought on the amount of time needed by an institution to charge off losses due to fraud or losses on loans to deceased borrowers.

Bankruptcy: The majority of commenters, 26 of 40, stated that separate guidance should not be developed for bankruptcies under Chapter 7 or Chapter 13. Many commenters stated that charge-off guidance recognizing bankruptcies arising from defaults on secured loans versus bankruptcies arising from defaults on unsecured is more realistic. The majority indicated that the notification date to the creditor from the bankruptcy court should constitute the event triggering loss recognition. The majority also did not believe it should be necessary to set up a separate allowance reserve at the time of the bankruptcy filing.

The FFIEC proposes to add guidance specifying that unsecured loans for which the borrower declared bankruptcy should be charged off by the end of the month that the creditor receives notification of filing from the bankruptcy court. In addition, secured loans in bankruptcy should be evaluated for repayment potential and classified appropriately, within 30 days of notification of filing from the bankruptcy court, or within the charge-off time frames in the classification policy, whichever is shorter.

The FFIEC is aware that Congress is in the process of addressing bankruptcy reform legislation. If legislation is passed, the FFIEC will review its proposed bankruptcy guidelines for any changes that may be necessary as a result of changes to the bankruptcy code.

Fraud: Commenters were divided equally with respect to the time required to charge off fraudulent loans, either 30 days or 90 days. The FFIEC recognized that a fraud investigation may last more than 30 days. For that reason, the FFIEC is proposing that fraudulent retail credit should be charged off within 90 days of discovery or within the charge-off time frames adopted in this classification policy, whichever is shorter.

Deceased Accounts: The majority of commenters reported that they needed 150 days to work with the trustee of an estate to determine the repayment potential of loans of deceased persons. The FFIEC recognizes that working with the trustee or the deceased family may take months to determine repayment potential. The FFIEC proposes that retail credit loans of deceased persons should be evaluated and charged off when the loss is determined, or within the charge-off time frames adopted in this classification policy, whichever is shorter.

3. Partial Payments

The September notice requested comment on whether borrowers should receive credit for partial payments in determining delinquency by giving credit for any payment received and if this would require significant computer programming changes. Comments were sought on other reasonable alternatives and how payments should be applied. Comments also were requested about the need for guidance on fixed payment programs.

The commenters were divided evenly between supporting the proposal versus keeping the existing policy whereby 90 percent of a payment qualifies as a full payment. Many commented about the significant programming costs that a change to the existing policy would cause. For that reason, the FFIEC is proposing that institutions be permitted to choose one of two methods. The first method retains the current policy of considering a payment equivalent to 90 percent or more of the contractual payment to be a full payment in computing delinquency. The second method would allow an institution to aggregate payments and give credit for any partial payment received; however, the account should be considered delinquent until all contractual payments are received. Whichever method is chosen, the same method should be used consistently within the entire portfolio.

Most commenters did not advocate additional guidance for fixed payment programs. Although no specific language is included in this policy, when an institution grants interest rate or principal concessions under a fixed payment program, and those concessions are material, the institution should follow generally accepted accounting principles (GAAP) guidelines presented in Financial Accounting Standards Board (FASB) 15 (Accounting by Debtors and Creditors for Troubled Debt Restructuring) and FASB 114 (Accounting by Creditors for Impairment of a Loan).

4. Re-aging, Extension, Renewal, Deferral, or Rewrite Policy

The September notice proposed and requested comment on supervisory standards for re-aging accounts.

Re-aging is the practice of bringing a delinquent account current after the borrower has demonstrated a renewed willingness and ability to repay the loan by making some, but not all, past due payments. A liberal re-aging policy on credit card accounts, or an extension, deferral, or rewrite policy on closed-end credit, can cloud the true performance and delinquency status of the accounts. The majority of commenters agreed that the borrower should show a renewed willingness and ability to repay, re-aging should occur after receipt of three months consecutive or equivalent lump sum payments, the account should be opened for a minimum period of time before it can be re-aged, and the account should not be re-aged more than once per year.

The FFIEC concurred with those criteria, but decided that additional guidance on the amount that could be re-aged, and the number of times the account could be re-aged in its lifetime were also needed. The FFIEC proposes to allow re-aging of delinquent loans, when it is based on recent, satisfactory performance by the borrowers and when it is structured in accordance with the institution's prudent internal policies. Institutions that re-age open-end accounts or extend, defer, or rewrite closed-end accounts should establish a written policy, ensure its reasonableness, and adhere to it. An account eligible for re-aging, extension, deferral, or re-write exhibits the following:

- The borrower should show a renewed willingness and ability to repay the loan.
- The borrower should make at least three consecutive contractual payments or the equivalent lump sum payment (funds may not be advanced by the institution for this purpose).
- No more than one re-age, extension, deferral, or rewrite should occur during any 12 month period.
- The account should exist for at least 12 months before a re-aging, extension, deferral, or rewrite is allowed.
- No more than two re-agings, extensions, deferrals, or rewrites should occur in the lifetime of the account.
- The re-aged balance in the account should not exceed the predelinquency credit limit.
- A re-aged, extended, deferred, or rewritten loan should be documented adequately.

5. Residential and Home Equity Loans

The September notice requested comment on whether residential and home equity loans should be classified Substandard at a certain delinquency and whether a collateral evaluation should be required at a certain delinquency.

Twenty-eight of 37 commenters agreed with classifying residential and home equity loans Substandard when they are 90 days delinquent. The proposed policy statement classifies certain residential and home equity loans Substandard at 90 days delinquent. However, the FFIEC recognizes that delinquent, low loan-to-value loans (i.e., those loans less than or equal to 60 percent of the real estate's value based on the most current appraisal or evaluation) possess little likelihood for loss as they are protected

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adequately by the real estate. Those loans will be exempted from the proposed classification policy. The FFIEC proposes that, if an institution holds a first-lien residential real estate loan and a home equity loan to the same borrower, and if the combined loan-to-value ratio exceeds 60 percent, the loans should be classified as substandard when both are delinquent more than 90 days. If only the residential real estate loan is delinquent or if only the home equity loan is delinquent, only the delinquent loan is classified substandard. If the institution only holds the home equity loan and does not hold other prior residential mortgages to the same borrower, and the loan is delinquent 90 days or more, it should be classified Substandard.

The majority of commenters supported a collateral evaluation by the time the loan is 180 days delinquent. The proposed policy statement calls for a current evaluation of the collateral to be made by the time a residential or home equity loan is: (1) 150 days past due, if option one under the charge off time frames is selected, or (2) 120 days past due for closed-end credit and 180 days past due for open-end credit, if option 2 is selected. The outstanding balance in the loan in excess of fair value of the collateral, less the cost to sell, should be classified Loss and the balance classified Substandard.

6. Need for Additional Retail Credit Guidance

The September notice requested comment as to whether additional supervisory guidance is needed or would be beneficial. Comments were also sought as to whether additional supervisory guidance is needed on the loan loss reserve for retail credit.

The majority of commenters did not support any other regulatory guidance. Any additional guidance on the allowance for loan and lease loss will be addressed in other policy statements.

Proposed Revision

The FFIEC drafted a revised policy statement in consideration of the comments. The proposed policy statement will:

- Establish a charge-off policy for open-end and closed-end credit based on delinquency under one of two possible time frames;
- Provide guidance for loans affected by bankruptcy, fraudulent activity, and death;
- Establish standards for re-aging, extending, deferring, or rewriting of past due accounts;
- Classify certain delinquent residential mortgage and home equity loans; and
- Broaden the recognition of partial payments that qualify as a full payment.

The FFIEC considered the effect of GAAP on this guidance. GAAP requires that a loss be recognized promptly for assets or portions of assets deemed uncollectible. The FFIEC believes that this guidance requires prompt recognition of losses, and therefore, is consistent with GAAP.

This proposed policy statement, if adopted, will apply to all regulated financial institutions and their operating subsidiaries supervised by the FRB, FDIC, OCC, and OTS.

The proposed text of the statement is as follows:

Uniform Retail Credit Classification Policy[1]

Evidence of the quality of consumer credit soundness is indicated best by the repayment performance demonstrated by the borrower. When loans become seriously delinquent (90 days or more contractually past due), they display weaknesses that, if left uncorrected, may result in a loss. Because retail credit generally is comprised of a large number of relatively small balance loans, evaluating the quality of the retail credit portfolio on a loan-by-loan basis is inefficient and burdensome to the institution being examined and to examiners. Therefore, in general, retail credit should be classified based on the following criteria:

- [Option 1]: Open-end and closed-end retail loans that become past due 150 cumulative days or more from the contractual due date should be charged off. The charge off should be effected by the end of the month in which the requirement is triggered. Open-end and closed-end retail loans that are past due 90 days or more, but less than 150 cumulative days, should be classified Substandard or
- [Option 2]: Closed-end retail loans that become past due 120 cumulative days and open-end retail loans that become past due 180 cumulative days from the contractual due date should be charged off. The charge off should be effected by the end of the month in which the requirement is triggered. Open-end and closed-end retail loans that are past due 90 days or more should be classified Substandard.[2]
- Unsecured loans for which the borrower declared bankruptcy should be charged off by the end of the month in which the creditor receives notification of filing from the bankruptcy court, or within the charge-off time frames adopted in this classification policy, whichever is shorter.
- For secured and partially secured loans in bankruptcy, the collateral and the institution's security position in the bankruptcy court should be evaluated. Any outstanding investment in the loan in excess of the fair value of the collateral, less the cost to sell, should be charged off within 30 days of notification of filing from the bankruptcy court, or within the time frames in this classification policy, whichever is shorter. The remainder of the loan should be classified Substandard until the borrower re-establishes the ability and willingness to repay.
- Fraudulent loans should be charged off within 90 days of discovery, or within the time frames in this classification policy, whichever is shorter.
- Loans of deceased persons should be charged off when the loss is determined, or within the time frames adopted in this classification policy, whichever is shorter.
- One- to four-family residential real estate loans and home equity loans that are delinquent 90 days or more, and with loan-to-value ratios greater than 60%, should be classified Substandard.
- A current evaluation of the loan's collateral should be made by the time a residential or home equity loan is: (1) 150 days past due if option one under the charge off time frames is selected or

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[1] The regulatory classifications used for retail credit are Substandard, Doubtful, and Loss. These are defined as follows: Substandard: An asset classified Substandard is protected inadequately by the current net worth and paying capacity of the obligor, or by the collateral pledged, if any. Assets so classified must have a well-defined weakness or weaknesses that jeopardize the liquidation of the debt. They are characterized by the distinct possibility that the institution will sustain some loss if the deficiencies are not corrected. Doubtful: An asset classified Doubtful has all the weaknesses inherent in one classified Substandard with the added characteristic that the weaknesses make collection or liquidation in full, on the basis of currently existing facts, conditions, and values, highly questionable and improbable. Loss: An asset, or portion thereof, classified Loss is considered uncollectible, and of such little value that its continuance on the books is not warranted. This classification does not mean that the asset has absolutely no recovery or salvage value; rather, it is not practical or desirable to defer writing off an essentially worthless asset (or portion thereof), even though partial recovery may occur in the future.

Although the Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, and Office of Thrift Supervision do not require institutions to adopt the identical classification definitions, institutions should classify their assets using a system that can be easily reconciled with the regulatory classification system.

[2] The final policy will adopt only one of these options.

(2) 120 days past due for closed-end credit and 180 days past due for open-end credit if option 2 is selected. Any investment in excess of fair value of the collateral, less cost to sell, should be classified Loss and the balance classified Substandard.

Certain residential real estate loans with low loan-to-value ratios are exempt from classification based on delinquency, although these loans may be reviewed and classified individually. Residential real estate loans with a loan-to-value ratio equal to, or less than, 60 percent should not be classified based solely on delinquency status. In addition, home equity loans to the same borrower at the same institution as the senior mortgage loan with a combined loan-to-value ratio equal to, or less than, 60 percent, should not be classified. However, home equity loans where the institution does not hold the senior mortgage that are delinquent 90 days or more should be classified Substandard, even if the loan-to-value ratio is reportedly equal to, or less than, 60 percent.

The use of delinquency to classify retail credit is based on the presumption that delinquent loans display a serious weakness or weaknesses that, if uncorrected, demonstrate the distinct possibility that the institution will suffer a loss of either principal or interest. However, if an institution can clearly document that the delinquent loan is well secured and in the process of collection, such that collection will occur regardless of delinquency status, then the loan need not be classified. A well secured loan is collateralized by a perfected security interest on, or pledges of, real or personal property, including securities, with an estimated fair value, less cost to sell, sufficient to recover the recorded investment in the loan, as well as a reasonable return on that amount. In the process of collection means that either collection efforts or legal action is proceeding, and is reasonably expected to result in recovery of the recorded investment in the loan or its restoration to a current status, generally within the next 90 days.

This policy does not preclude an institution from adopting an internal classification policy more conservative than the one detailed above. It also does not preclude a regulatory agency from using the Doubtful classification in certain situations if a rating more severe than Substandard is justified. Nor does it preclude a charge-off sooner when accounts are recognized as Loss.

Partial Payments on Open-End and Closed-End Credit

Institutions should use one of two methods to recognize partial payments. A payment equivalent to 90 percent or more of the contractual payment may be considered a full payment in computing delinquency. Alternatively, the institution may aggregate payments and give credit for any partial payment received. However, the account should be considered delinquent until all contractual payments are received. For example, if a regular installment payment is $300 and the borrower makes payments of only $150 per month for a six-month period, the loan would be $900 ($150 shortage times six payments), or three full months delinquent. Whichever method is chosen, the same method should be used consistently within the entire portfolio.

Re-agings, Extensions, Deferrals, or Rewrites

Re-aging is the practice of bringing a delinquent account current after the borrower has demonstrated a renewed willingness and ability to repay the loan by making some, but not all, past due payments. A permissive re-aging policy on credit card accounts, or an extension, deferral, or re-write policy on closed-end credit, can cloud the true performance and delinquency status of the accounts. However, prudent use of the re-aging policy is acceptable when it is based on recent, satisfactory performance and the borrower's other positive credit factors and when it is structured in accordance with the institution's internal policies. Institutions that re-age open-end accounts, or extend, defer, or re-write closed-end accounts, should establish a written policy, ensure its reasonableness, and adhere to it. An account eligible for re-aging, extension, deferral, or rewrite exhibits the following:

- The borrower should show a renewed willingness and ability to repay the loan.
- The borrower should make at least three consecutive contractual payments or the equivalent lump sum payment (funds may not be advanced by the institution for this purpose).
- No loan should be re-aged, extended, deferred, or rewritten more than once within the preceding 12 months.
- The account should exist for at least 12 months before a re-aging, extension, deferral, or re-write is allowed.
- No more than two re-agings, extensions, deferrals, or re-writes should occur in the lifetime of the account.
- The re-aged balance in the account should not exceed the predelinquency credit limit.
- An institution should ensure that a re-aged, extended, deferred, or re-written loan meets the agencies' and institution's standards. The institution should adequately identify, discuss, and document any account that is re-aged, extended, deferred, or re-written.

Examination Considerations

Examiners should ensure that institutions adhere to this policy. Nevertheless, there may be instances that warrant exceptions to the general classification policy. Loans need not be classified if the institution can document clearly that repayment will occur irrespective of delinquency status. Examples might include loans well secured by marketable collateral and in the process of collection, loans for which claims are filed against solvent estates, and loans supported by insurance.

The uniform classification policy does not preclude examiners from reviewing and classifying individual large dollar retail credit loans, which may or may not be delinquent, but exhibit signs of credit weakness.

In addition to loan classification, the examination should focus on the institution's allowance for loan and lease loss and its risk and account management systems, including retail credit lending policy, adherence to stated policy, and operating procedures. Internal controls should be in place to assure that the policy is followed. Institutions lacking sound policies or failing to implement or effectively follow established policies will be subject to criticism.

Request for Comment

The FFIEC is requesting comments on all aspects of the proposed policy statement. In addition, the FFIEC also is asking for comment on a number of issues affecting the charge-off policy and will consider the answers before developing the final policy statement:

1. What would be the costs and benefits of the uniform 150 day charge-off time frame? What would be the costs and benefits of leaving the policy at the current 120/180 day charge-off time frames? The FFIEC welcomes historical statistical evidence showing the dollars and percentages of open-end accounts collected between 120 days delinquency and 150 days delinquency and between 150 days delinquency and 180 days delinquency.

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2. What will be the effect of the proposed two time frame charge-off options on institutions? If possible, please quantify, in dollar amounts and percentages (of total operating expenses), the impact of the proposed options in the charge-off policy in the first year of implementation and in subsequent years for open-end and closed-end credits on:

(a) gross and net charge-offs;
(b) recoveries;
(c) earnings; and
(d) securitization transactions.

3. What are the expected dollar costs of reprogramming to implement the first option (uniform charge-off policy at 150 days past due) and what percentage of total operating expenses do those programming dollars represent? Also, can the programming changes be completed by the proposed January 1, 2001 implementation date?

4. Please provide any other information that the FFIEC should consider in determining the final policy statement including the optimal implementation date for the proposed changes.

Dated: June 30, 1998.

Keith J. Todd,

Acting Executive Secretary, Federal Financial Institutions Examination Council.

[FR Doc. 98–17782 Filed 7–2–98; 8:45 am]

BILLING CODE 6210–01–P, 25% 6714–01–P, 25% 6720–01–P, 25% 4810–33–P 25%

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 20, 1998.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. *Keith Ray Loeffler*, Allendale, Illinois; to acquire additional voting shares of Allendale Bancorp, Inc., Allendale, Illinois, and thereby indirectly acquire First National Bank of Allendale, Allendale, Illinois.

Board of Governors of the Federal Reserve System, June 29, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–17742 Filed 7-2-98; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 28, 1998.

A. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. *FNB Corporation*, Hermitage, Pennsylvania, and Southwest Banks, Inc.; to merge with Citizens Holding Corporation, Clearwater, Florida, and thereby indirectly acquire Citizens Bank and Trust Company, Clearwater, Florida.

Board of Governors of the Federal Reserve System, June 29, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–17741 Filed 7-2-98; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 20, 1998.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. *UST Corp.*, Boston, Massachusetts; to acquire through Cambridge Trade Finance Corp., Boston, Massachusetts certain assets of Cambridge Trading Services Corporation, Boston, Massachusetts, and thereby engage in extending credit and servicing loans, pursuant to § 225.28(b)(1).

B. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. *Deutsche Bank AG*, Frankfurt, Main, Federal Republic of Germany; to acquire Bouclier Vert Limite' L.L.C. d/b/a/ Green Shield Limited, L.L.C., Woodbury, New Jersey, and thereby engage in residential mortgage

warehouse lending activities in the United States, pursuant to § 225.28(b)(1).

Board of Governors of the Federal Reserve System, June 29, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–17743 Filed 7-2-98; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

SUMMARY:

Background. Notice is hereby given of the final approval of a proposed information collection by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the OMB 83-Is and supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT:

Chief, Financial Reports Section—Mary M. McLaughlin—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3829)

OMB Desk Officer—Alexander T. Hunt—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503 (202-395-7860)

Final approval under OMB delegated authority of the implementation of the following report:

1. *Report title*: Survey of Small Business Finances

Agency form number: FR 3044

OMB Control number: 7100-0262

Frequency: one-time

Reporters: small businesses

Annual reporting hours: 6,100

Estimated average hours per response: 1

Number of respondents: 6,100

Small businesses are affected.

General description of report: This information collection is voluntary (12 U.S.C. 252, 1817(j), 1828(c), and 1841 et seq.). Individual respondent data are provided in a public-use file. However, any information that could identify respondent firms, or the financial institutions that they use, will be excluded from the public data set pursuant to the Freedom of Information Act (5 U.S.C. § 552(b)(4)).

Abstract: The FR 3044 will be similar to the 1987 and 1993 National Surveys of Small Business Finances (OMB Nos. 7100-0234 and 7100-0262, respectively). In part, this survey is being conducted to collect information needed to satisfy the requirements of Section 2227 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996. This law requires the Board to conduct a study and submit a report to the Congress every five years "...detailing the extent of small business lending by all creditors...."

The FR 3044 would gather data from small businesses on their financial relationships, credit experiences, lending terms and conditions, income and balance sheet information, the location and types of financial institutions used, and other firm characteristics. In conjunction with Board staff, a private survey firm would conduct small focus groups to investigate emerging issues in small business finance and update the 1993 questionnaire. The survey firm would then conduct two pretests with a minimum of fifty small business firms in each pretest. Following revisions to the questionnaire, the survey would be conducted by means of computer-assisted telephone interviews with approximately 6,000 randomly selected small business firms. Interviewing would likely commence in early 1999.

Board of Governors of the Federal Reserve System, June 29, 1998.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 98-17744 Filed 7-2-98; 8:45AM]

Billing Code 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Information Collection Activities: Proposed Collections; Comment Request

The Department of Health and Human Services, Office of the Secretary will periodically publish summaries of proposed information collections projects and solicit public comments in compliance with the requirements of Section 3506(c)((2)((A) of the Paperwork Reduction Act of 1995. To request more information on the project or to obtain a copy of the information collection plans and instruments, call the OS Reports Clearance Officer on (202) 690–6207.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Projects 1. A National Assessment of Linguistically and Culturally Appropriate Services in Managed Care Organizations Serving Racially and Ethnically Diverse Populations—NEW—The Office of Minority Health proposes to conduct a mixed telephone and mail survey with a national random sample of managed care organizations serving racially and ethnically diverse communities. The survey will provide data on the prevalence of policies and practices that promote the delivery of linguistically and culturally appropriate services by managed care organizations, and the factors that facilitate and detract from the implementation of such policies and practices. The data collected will inform the Office of Minority Health about the current nature and extent of such services and identify ways in which such efforts can be extended. Respondents: Business or other for-profit; Non-profit organizations; Number of Respondents: 320; Response per Respondent: 3; Average Burden per Response: 30 minutes; Total Burden: 480 hours.

Send comments to Cynthia Agens Bauer, OS Reports Clearance Officer, Room 503H, Humphrey Building, 200 Independence Avenue SW, Washington DC, 20201. Written comments should be received within 60 days of this notice.

Dated: June 25, 1998.

Dennis P. Williams,

Deputy Assistant Secretary, Budget.

[FR Doc. 98–17786 Filed 7–2–98; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics, Subcommittee on Populations.

Times and Dates: 9:00 a.m.–5:00 p.m., July 14, 1998; 9:00 a.m.–5:00 p.m., July 15, 1998.

Place: Room 705A, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

Status: Open.

Purpose: The Subcommittee on Populations will hold a two-day public meeting to assess the health data needs in the Pacific insular areas, Puerto Rico, and the Virgin Islands. The Subcommittee will examine the relations between these areas and the Federal government with regard to the current status of health data collection, analysis, and utilization, including the adequacy of available health data and statistics, as well as health information systems for assessing population health needs and health service requirements, examining the results of Federal public health spending, and documenting Healthy People objectives. The Subcommittee intends to examine impediments to improving health data collection and use in Pacific insular areas, Puerto Rico, and the Virgin Islands; learn about any special considerations involving privacy and confidentiality; identify the most critical areas where health data gathering capabilities are undeveloped but essential; and develop recommendations for improving health information systems. Participants are expected to include representatives from the Pacific insular areas, Puerto Rico and the Virgin Islands, as well as representatives from HHS agencies which administer programs in these areas, and other invited federal officials.

For Further Information Contact: Substantive information about the Committee as well as a roster of Committee members may be obtained from James Scanlon, NCVHS Executive Staff Director, Office of the Assistant Secretary for Planning and Evaluation, DHHS, Room 440–D. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201, telephone (202) 690–7100, or Marjorie S. Greenberg, Executive Secretary, NCVHS, NCHS, CDC, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, MD 20782, telephone 301/436–7050. Additional information about the full Committee is available on the NCVHS website, where the tentative agenda for the Subcommittee meeting will also be posted when available: http://aspe.os.dhhs.gov/ncvhs

Dated: June 26, 1998.

James Scanlon,

Director, Division of Data Policy.

[FR Doc. 98–17785 Filed 7–2–98; 8:45 am]

BILLING CODE 4151–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–17–98]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Projects

1. Project Intensive Care Antimicrobial Resistance Epidemiology (ICARE), Phase 3—Reinstatement—The Hospital Infections Program, National Center for Infectious Diseases, Centers for Disease Control and Prevention, is proposing a study to investigate the relationship between use of antimicrobial agents and the incidence of antimicrobial resistance at 40 U.S. hospitals. The proposed Phase 3 study of Project ICARE will be very similar to Phase 2 ICARE with minor revisions. We hope to enroll 40 hospitals and address many confounding factors of antimicrobial resistance. In addition, these hospitals will serve as a sentinel surveillance system for different antimicrobial resistant pathogens, such as vancomycin resistant staphylococci. About half of the hospitals have participated in Phase 2 of Project ICARE. Participating hospitals will all be active participants of the CDC's National Nosocomial Infections Surveillance (NNIS) system. Phase 3 of Project ICARE is a refinement of the Phase 2 study and will allow interhospital comparison of data (i.e., sending interim reports back to study hospitals) facilitated by incorporating differences in culturing frequency, case-mix by ICU type and speciality wards (i.e., internal organization), barrier precautions, and prescribing practice policies. Phase 3 will also allow for valid comparison of attempts at reducing antimicrobial resistance in study hospitals (i.e., publish results of interventions to reduce antimicrobials resistance at study hospitals). Also, key parameters of antimicrobial use could be correlated with antimicrobial resistance levels and tracked through the hospital's quality improvement indicator process, pharmacy and therapeutics committee, or medical staff. Unnecessary use of antimicrobials may be reduced by these efforts if the information can be provided to hospitals. The total annual burden hours are 6,160.

Form name	Number of respondents	No. responses/respondent	Avg. burden/response (in hrs.)	Total burden (in hrs.)
Primary contact	40	12	1	480
Pharmacy	40	48 (median)	2.0	3,840
Microbiology	40	60 (median)	0.5	1,200
Isolates	40	80 (maximum)	0.20	640

2. 1999 and 2001 National School-Based Youth Risk Behavior Surveys—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP)—Reinstatement—The purpose of this request is to renew OMB clearance for a biennial, national, youth risk behavior survey. This ongoing biennial survey is administered to students attending regular public, private, and Catholic schools in grades 9–12. The survey addresses priority health risk behaviors related to the major preventable causes of mortality, morbidity, and social problems among both youth and adults in the U.S. Previous OMB clearance for these surveys expired in October of 1997 (OMB No. 1920–0258, expiration 10/97). OMB clearance for a similar survey conducted among alternative school students will expire in December of 1998 (OMB No. 0920–0416, expiration 12/31/98). Data on the health risk

behaviors of adolescents is the focus of at least 26 national health objectives in *Healthy People 2000: Midcourse Review and 1995 Revisions.* This survey will provide end-of-decade data to help measure these objectives, as well as baseline data to measure many new national health objectives proposed for 2010. No other national source of data exists for most of the proposed 2010 objectives that address behaviors of adolescents. The data also will have significant implications for policy and program development for school health programs nationwide. The total annual burden hours are 9,173.

Respondents	Number of respondents	Number of responses/respondent	Avg. burden/response (in hrs.)	Total burden (in hrs.)
Alternative school students	12,000	1	0.75	9,000
Educating officials	345	1	0.50	173

Dated: June 26, 1998.

Charles Gollmar,

Acting Associate Director for Policy Planning and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–17766 Filed 7–2–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Subcommittee for Community Affairs of the Advisory Committee for Energy-Related Epidemiologic Research: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following subcommittee meeting.

Name: Subcommittee for Community Affairs of the Advisory Committee for Energy-Related Epidemiologic Research.

Times and Dates: 8:30 a.m.–4:45 p.m., July 23, 1998; 8:15 a.m.–12 noon, July 24, 1998.

Place: The Grove Hotel, 245 South Capitol Boulevard, Boise, Idaho 83702, telephone 208/333–8000, FAX 208/333–8800.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Purpose: This subcommittee will advise the Advisory Committee for Energy-Related Epidemiologic Research (ACERER) on matters related to community needs and will report back to the agency through ACERER.

Matters to be Discussed: Agenda items include: discussions on the status of current federal health agencies' responses to the National Cancer Institute (NCI) I–131 fallout study and the feasibility of additional responses that include, but not limited to, notification, education, screening, medical monitoring, additional dose assessment (other radionuclides), and epidemiology; and the history and progress of the Idaho National Engineering and Environmental Laboratory (INEEL) dose reconstruction project with a focus on the process of discovering, accessing, and assembling documentation on the emissions of radionuclides and chemicals from INEEL facilities.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Mr. Steven Adams, Public Health Advisor, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, 4770 Buford Highway, NE, M/S F–35, Atlanta, Georgia 30341–3724, telephone 770/488–7040, FAX 770/488–7044.

Dated: June 29, 1998.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–17764 Filed 7–2–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Vaccine Advisory Committee; Notice of Meeting

Name: National Vaccine Advisory Committee (NVAC) Immunization Registries Workgroup on Privacy and Confidentiality.

Time and Date: 8:30 a.m.–12:30 p.m., July 16, 1998.

Name: NVAC Immunization Registries Workgroup on Technical and Operational Challenges.

Time and Date: 1:30 p.m.–5:30 p.m., July 16, 1998.

Name: NVAC Immunization Registries Workgroup on Ensuring Provider Participation.

Time and Date: 8:30 a.m.–12:30 p.m., July 17, 1998.

Name: NVAC Immunization Registries Workgroup on Resource Issues.

Time and Date: 1:30 p.m.–5:30 p.m., July 17, 1998.

Place: Marriott Marquis, 265 Peachtree Center, Atlanta, Georgia, telephone (404) 521–0000.

Status: Open to the public, limited only by space availability. The meeting room accommodates approximately 200 people.

Purpose: During a White House Ceremony on July 23, 1997, the President directed the Secretary of Health and Human Services (HHS) to work with the States on integrated immunization registries. As a result, NVAC has formed a Workgroup, staffed by the National Immunization Program (NIP), that will gather information for development of a National Immunization Registry Plan of Action.

To assist in the formulation of a work plan, a series of public meetings relating to (1) privacy and confidentiality; (2) resource issues; (3) technical and operational challenges; and (4) ensuring provider participation, will be held throughout the Nation. These meetings will provide an opportunity for input from all partners which include state and local public health agencies, professional organizations of private health agencies, managed care organizations (MCOs), employer-funded health care plans, vaccine manufacturers and developers, vendors and developers of medical information systems, information standards development organizations, parents, social welfare agencies, legislators, privacy and consumer interest groups, and other representatives of the public at large.

For each meeting, the Workgroup is inviting experts to address the four specific issues outlined above. Expert speakers are being asked to respond to the questions outlined below in writing, make brief oral presentations, and to respond to additional questions from the Workgroup.

Members of the public who wish to provide comments may do so in the form of written statements, to be received by the completion of the last meeting, addressed as follows: NIP/CDC, Data Management Division, 1600 Clifton Road, NE, M/S E–62, Atlanta, Georgia 30333.

There will be a period of time during the agenda for members of the public to make oral statements, not exceeding 3

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minutes in length, on the issues being considered by the Workgroup. Members of the public who wish to speak are asked to place their names on a list at the registration table on the day of the meeting. The number of speakers will be limited by the time available and speakers will be heard once in the order in which they place their names on the list. Written comments are encouraged; please provide 20 copies.

Based on the outcome of these meetings, a National Immunization Registry Plan of Action will be developed and proposed to NVAC for their deliberation and approval. This plan will identify registry barriers and solutions, strategies to build a registry network, resource requirements and commitments, and a target date for network completion.

Matters to be Discussed: Agenda items will include an overview of the Initiative on Immunization Registries and current immunization registry efforts and testimonies by organizational representatives on the following issues relevant to immunization registries: privacy and confidentiality, resources issues, technical and operational challenges, and ensuring provider participation.

Agenda items are subject to change as priorities dictate.

Resource Issues Questions to be Considered:

1. What approaches have been successful in securing funding to support registries?
2. What approaches to secure funding have been tried but failed?
3. What cost-sharing arrangements would your organization view as reasonable and fair to ensure long-term sustainability of a registry?
4. Would you be willing to share costs through a fee-for-service arrangement and how much would you be willing to pay?
5. Would you be willing to support a vaccine surcharge and at what rate?
6. What types of resources and/or in-kind support do you receive and from whom?
7. What types of resources and/or in-kind support do you provide?
8. What types of resources are you willing and able to provide over the short-term and/or long-term to ensure registry sustainability?
9. Are you willing to provide resources or in-kind support toward linking your existing registries with state and local registries?
10. What are the costs of implementing/operating an immunization registry?
11. What are the costs of not having an immunization registry (e.g., looking up immunization histories, generating school immunization records, etc.)?
12. How should immunization registries be integrated with larger patient information systems and how should their component costs be ascertained?
13. Do you feel there is a need for the Federal Government to provide leadership in developing state and community-based immunization registries? What should the role of the Federal Government be in this effort?

Technical and Operational Questions to be Considered:

1. How can universal, interactive, real-time, secure immunization record exchange between immunization providers be implemented?
2. How does your system implement record exchange?

A. Can a provider get an up-to-date immunization history for a patient sitting in his or her office?

B. How is this function implemented?

3. How can it be assured that the most complete and up-to-date copy of an immunization record is always retrieved by a requesting provider?
4. How does your system identify the definitive record?
5. How can existing practice management systems achieve connectivity with immunization registries efficiently, without dual systems, redundant processes, and multiple interfaces?
6. What software systems can your system interface with?
7. How are connections between your system and existing systems implemented?
8. How can registries be used to measure immunization rates, accurately and routinely, at county, state, and national levels, without counting any individual more than once?
9. How can the functionality of immunization registries be standardized without compromising registries' ability to customize and extend that functionality?
10. What immunization registry functions should be standardized?
11. Who should provide leadership in such a standardization effort?
12. How will/should standards be implemented in immunization registries?
13. How can the cost of operating immunization registries be reduced to a level at which immunization providers themselves would be willing to support them? [crossover with cost issue]
14. What sorts of inter-organizational arrangements and legal structures need to be in place to provide an environment in which immunization registry data can flow as needed? [crossover with privacy & confidentiality issue]
15. Do you feel that there is a need for the Federal Government to provide leadership in developing state and community-based immunization registries? What should the role of the Federal Government be in this effort?
16. How can duplication of records be minimized?
17. How can existing billing/encounter information systems be modified to provide appropriate immunization registry functions?
18. How can immunization registries be broadened to provide other important functions in patient monitoring (e.g., well-child assessments, metabolic/hearing screening, etc.)?
19. What mechanisms are needed to detect and prevent unauthorized access to registry data?
20. What data capture technology (e.g., bar codes, voice recognition, etc.) can minimize the negative impact on workflow?
21. What techniques (e.g., standard knowledge representation such as Arden Syntax) can be used to disseminate vaccination guidelines to individual registries quickly and with a minimum of new programming required to update automated reminder/recall and forecasting based on the guidelines?

Privacy and Confidentiality Questions to be Considered: Terminology: Privacy—The right of an individual to limit access by others to some aspect of the person. Confidentiality—The treatment of information that an individual has disclosed in a relationship of trust and with the expectation that it will not be divulged to others in ways that are inconsistent with the understanding of the original disclosure. Individually identifiable information—Information that can reasonably be used to identify an individual (by name or by inference).

1. Should immunization data have different privacy requirements than the rest of the medical record?
2. How can the disclosure and re-disclosure of immunization information be controlled through policies, procedures, and legislation?
3. Should consent to participate be implied or required? In what form?
4. Should different levels of disclosure be possible? What levels should be available to what groups?
5. Who should have access to immunization registry data?
6. What information should be disclosed to an immunization registry?
7. What other uses can immunization registry data have?
8. Would ability to produce a legal record be a desirable function for the registry?

9. What fair information practices should be implemented (e.g., ability to correct the record, notice of being put in registry to parent)?

10. How long should information be kept in a registry?

11. How will privacy issues affect the following groups: parents, immigrants, religious groups, HIV-positive and other immunocompromised health conditions, law enforcement, victims of domestic violence, and custodial parents?

12. How should registries ensure that privacy policies are followed?

13. Do you have any comment or recommendation for NVAC/CDC/HHS related to the implementation of the network of state and community-based registries and do you have any concerns?

14. Do you feel there is a need for the Federal Government to provide leadership in developing state and community-based immunization registries? What should the role of the Federal Government be in this effort?

15. Given the mandate of Health Insurance Portability and Accountability Act to create a unique health identifier, how should that goal be achieved while minimizing the probability of inappropriate use of the identifier?

16. What steps can be taken to prevent unauthorized re-disclosure of information already provided to an organization or person?

17. What legal barriers exist which prevent data sharing by MCOs and how can they be obviated?

18. What mechanism should be available to allow parents to opt out of the registry?

19. What agency/organization should be responsible for maintaining registry information?

20. How should consent for inclusion in an immunization registry be obtained? Should it be implicit or explicit?

21. What information should be included in an immunization registry?

22. Should registries include (and release) information on contraindications, adverse events, etc.?

23. Who should have access to immunization registry data and how can restricted access be assured?

24. What information should be available to persons other than the client/patient and the direct health care provider (e.g., schools)?

25. What is the best way to protect privacy and ensure confidentiality within a registry?

26. How should individuals/parents have access to registry information on themselves/their children?

27. Should data maintained in a state and community-based immunization registry be considered public information?

28. Would national privacy and confidentiality standards help ensure that data maintained in an immunization registry is protected?

Ensuring Provider Participation Questions to be Considered:

1. What type of resources (e.g., hardware, staff, etc.) are needed for you (provider/organization) to participate in a computerized registry?

2. What are the cost-related barriers that keep you (provider/organization) from participating in an immunization registry?

3. What cost should providers be responsible for, pertaining to participation in immunization registry systems?

4. What are the cost savings you would anticipate as a result of participating in a computerized registry (e.g., increased return visit form reminders, less personnel paperwork for preschool exams, etc.)?

5. How much time would you be willing to invest per patient visit (e.g., additional 1, 5, 7, 10 minutes) in the overall success of an immunization registry?

6. What type of user support would be needed in order for you (provider/organization) to participate in an immunization registry?

7. How would you (provider/organization) encourage providers and consumers in your community to participate in an immunization registry?

8. What community support would be necessary for you to participate in the immunization registry?

9. What benefits/value (e.g., immunization reminders, quick access to immunization histories, etc.) would a registry provide that would encourage your (provider/organization) participation?

10. What incentives should be offered to providers/organizations to participate in an immunization registry?

11. What barriers have you (provider/organization) encountered that have prevented you from participating in an immunization registry?

12. Is provider liability (e.g. disclosure of sensitive patient information) a barrier to participating in an immunization registry? Why?

13. How would an immunization registry impact your practice/organization?

14. Do you currently share immunization data with other providers electronically? For what purpose (e.g., billing, share group data, etc.)?

15. How (e.g., electronic record, paper record) is medical information maintained in your practice/organization?

16. Who should retain ownership of immunization records as they are distributed throughout an immunization registry?

17. How would you (provider/organization) use the data maintained in an immunization registry?

18. What type of quality control process would you (provider/organization) perform to ensure the accuracy and completeness of the immunization data entered into an immunization registry?

19. What type of security policies and procedures need to be in place for you to be confident that data are secure?

20. What functions should a registry perform in your office in order for you (provider/organization) to participate?

21. Do you have any advice or recommendations for NVAC/CDC/HHS related to the implementation of the network of state and community-based registries and do you have any concerns?

22. Do you feel that there is a need for the Federal Government to provide leadership in developing state and community-based immunization registries? What should the role of the Federal Government be in this effort?

23. Have you received training on the use and maintenance of computerized medical information? Do you feel this training is needed to fully support the development and maintenance of immunization registries?

Contact Person for More Information: Robb Linkins, M.P.H., Ph.D., Chief, Systems Development Branch, Data Management Division, NIP, CDC, 1600 Clifton Road, NE, M/S E–62, Atlanta, Georgia 30333, telephone (404) 639–8728, e-mail rxl3@cdc.gov.

Dated: June 29, 1998.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–17763 Filed 7–2–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0046]

Quarterly List of Guidance Documents at the Food and Drug Administration

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

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SUMMARY: The Food and Drug Administration (FDA) is publishing the first quarterly update of all guidance documents issued and withdrawn since the compilation of the comprehensive list. FDA committed to publishing quarterly updates in its February 1997 "Good Guidance Practices" (GGP's), which set forth the agency's policies and procedures for the development, issuance, and use of guidance documents. This list is intended to inform the public of the existence and availability of guidance documents issued since the comprehensive list was compiled. This list also includes some guidance documents that were inadvertently not included on the comprehensive list mentioned previously.

DATES: General comments on this list and on agency guidance documents are welcome at any time.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Information on where to obtain single copies of listed guidance documents is provided for each agency center individually in the specific center's list of guidance documents.

FOR FURTHER INFORMATION CONTACT: Lisa L. Barclay, Office of Policy (HF–22), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3360.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of February 27, 1997 (62 FR 8961), FDA published a notice announcing its "Good Guidance Practices" (GGP's), which set forth the agency's policies and procedures for the development, issuance, and use of guidance documents. The agency adopted the GGP's to ensure public involvement in the development of guidance documents and to enhance public understanding of the availability, nature, and legal effect of such guidance.

As part of FDA's effort to ensure meaningful interaction with the public regarding guidance documents, the agency committed to publish an annual comprehensive list of guidance documents and quarterly **Federal Register** notices that list all guidance documents that were issued and withdrawn during that quarter, including "Level 2" guidance documents. The following list of guidance documents represents all guidances issued by FDA since the compilation of the February 26, 1998 (63 FR 9795) list and guidance documents inadvertently not included in the comprehensive list. The guidance documents are organized by the issuing Center or Office within FDA, and are further grouped by the intended users or regulatory activities to which they pertain. Dates provided in the following list refer to the date of issuance or, where applicable, the date of last revision of the document. Document numbers are provided where available.

II. Guidance Documents Issued by the Center for Biologics Evaluation and Research (CBER)

Name of Document	Date of Issuance	Grouped by Intended User or Regulatory Activity	How to Obtain a Hard Copy of the Document (Name and Address, Phone, FAX, E-mail, or Internet)
Guidance for Industry: Industry-Supported Scientific and Educational Activities	November 1997	FDA Regulated Industry	Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 1–800–835–4709 or 301–827–1800, FAX Information System: 1–888–CBER–FAX (within the United States) or 301–827–3844 (outside of the United States and local to Rockville, MD). Internet access: http://www.fda.gov/cber
Draft Guidance for Industry: Promoting Medical Products in a Changing Healthcare Environment; I. Medical Product Promotion by Healthcare Organizations or Pharmacy Benefits Management Companies (PBMS)	December 1997	Do	Do
Guidance for Industry: Year 2000 Date Change for Computer Systems and Software Applications Used in the Manufacture of Blood Products	January 1998	Do	Do
Draft Guidance for Industry: Efficacy Studies to Support Marketing of Fibrin Sealant Products Manufactured for Commercial Use	January 1998	Do	Do
Draft Guidance for Industry: Container and Closure Integrity Testing in Lieu of Sterility Testing as a Component of the Stability Protocol for Sterile Products	January 1998	Do	Do
Draft Guidance for Industry: Clinical Development of Programs for Drugs, Devices and Biological Products Intended for Treatment of Osteoarthritis (OA)	February 1998	Do	Do
Draft Guidance for Industry: Environmental Assessment of Human Drug and Biologics Applications	November 1997	Do	Do

Name of Document	Date of Issuance	Grouped by Intended User or Regulatory Activity	How to Obtain a Hard Copy of the Document (Name and Address, Phone, FAX, E-mail, or Internet)
Guidance for Industry: Implementation of Section 126, Elimination of Certain Labeling Requirements of the Food and Drug Administration Modernization Act of 1997	February 1998	Do	Do
Guidance for Industry: Clinical Development Programs for Drugs, Devices and Biological Products for the Treatment of Rheumatoid Arthritis (RA)	March 1998	Do	Do
Guidance for Industry: Supplemental Testing and the Notification of Consignees of Donor Test Results for Antibody to Hepatitis C Virus (Anti-HCV)	March 1998	Do	Do
Guidance for Industry: Guidance for Human Somatic Cell Therapy and Gene Therapy	March 1998	Do	Do
Compliance Program Guidance Manual (Drugs and Biologics) (Publication No. 94–920699)	1994	FDA Personnel	National Technical Information Service (NTIS), 5285 Port Royal Rd., Springfield, VA 22161, 703–605–6050

III. Guidance Documents Issued by the Center for Devices and Radiological Health (CDRH)

Name of Document	Date of Issuance	Grouped by Intended User or Regulatory Activity	How to Obtain a Hard Copy of the Document (Name and Address, Phone, FAX, E-mail or Internet)
Guidance on Medical Device Tracking (Docket #98D–0132)	February 19, 1998	OC	Division of Small Manufacturers Assistance, 1–800–638–2041 or 301–827–0111 or (Fax) Facts-on-Demand at 1–800–899–0381 or Internet at http://www.fda.gov/cdrh
Guidance on Lead Wires and Patient Cables	March 9, 1998	OC	Do
Draft Guidance to Industry and CDRH for PMA's and PMA Supplements: Use of Published Literature, Use of Previously Submitted Materials, and Priority Review	March 20, 1998	ODE	Do
PMA/510(k) Expedited Review—Guidance for Industry and CDRH Staff	March 20, 1998	ODE	Do
Guidance on Amended Procedures for Advisory Panel Meetings	March 20, 1998	ODE	Do
Guidance on IDE Policies and Procedures	January 20, 1998	ODE	Do
Early Collaboration Meetings Under the FDA Modernization Act (FDAMA), Guidance for Industry and CDRH Staff, Final Document (Docket #98D–0078) (FOD #310)	February 19, 1998	ODE	Do
Guidance on PMA Interactive Procedures for Day-100 Meetings and Subsequent Deficiencies—for Use by CDRH and Industry (Docket #98D–0079) (FOD #322)	February 19, 1998	ODE	Do
Determination of Intended Use for 510(k) Devices: Final Document (Docket #98D–0081) (FOD #857)	February 19, 1998	ODE	Do
30-Day Notices and 135-day PMA Supplements for Manufacturing Method or Process Changes, Guidance for Industry and CDRH (Docket #98D–0080) (FOD #795)	February 19, 1998	ODE	Do
New section 513(f)(2)—Evaluation of Automatic Class III Designation: Guidance for Industry and CDRH Staff (Docket #98D–0082) (FOD #199)	February 19, 1998	ODE	Do
Procedures for Class II Device Exemptions from Premarket Notification Guidance for Industry and CDRH Staff (Docket #98D–0083) (FOD #159)	February 25, 1998	ODE	Do
Electrocardiograph (ECG) Surface Electrode Tester—Version 1.0	February 11, 1997	ODE/DCRND	Do

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Name of Document	Date of Issuance	Grouped by Intended User or Regulatory Activity	How to Obtain a Hard Copy of the Document (Name and Address, Phone, FAX, E-mail or Internet)
Guidance for the Submission of 510(k) Premarket Notifications for Cardiovascular Intravascular Filters	January 1, 1997	ODE/DCRND	Do
Guidance Document for Testing Bone Anchor Devices (FOD #915)	April 20, 1996	ODE/DGRD	Do
ORDB 510(k) Sterility Review Guidance (FOD #659)	July 3, 1997	ODE/DGRD	
Guidance for Testing MR Interaction With Aneurysm Clips (FOD #958)	May 22, 1996	ODE/DGRD	Do
Electroencephalograph Device Draft Guidance for 510(k) Content (FOD #767)	June 25, 1997	ODE/DGRD	Do
Ophthalmic Device Triage List	July 25, 1997	ODE/DOD	Do
Contact Lenses: The Better the Care the Safer the Wear (FDA Publication No. 91–4220)	April 1, 1991	ODE/DOD	Do
An FDA Survey of U.S. Contact Lens Wearers (Carol L. Herman) Reprinted from Contact Lens Spectrum	July 1, 1987	ODE/DOD	Do
Facts for Consumers from the Federal Trade Commission—Eyeglasses	April 1, 1986	ODE/DOD	Do
Important Information About Rophae Intraocular Lenses	August 20, 1992	ODE/DOD	Do
Intraocular Lens (IOL) Guidance Document	October 10, 1997	ODE/DOD	Do
FDA Guidance for Multifocal Intraocular Lens IDE Studies and PMA's	May 1996	ODE/DOD	Do
Premarket Notification[510(k)] Guidance Document on Class II Daily Wear Contact Lenses	May 12, 1994	ODE/DOD	Do
Electrocardiograph (ECG) Electrode—Version 1.0	February 11, 1997	ODE/DRAERD	Do
Electrocardiograph (ECG) Lead Switching Adapter—Version 1.0	February 11, 1997	ODE/DRAERD	Do
Tympanostomy Tubes, Submission Guidance for a 510(k) Premarket Notification	January 14, 1998	ODE/DRAERD	Do
Guidance for the Content of Premarket Notifications for Metal Expandable Biliary Stents	February 5, 1998	ODE/DRAERD	Do
FDA Modernization Act of 1997: Guidance for the Device Industry on Implementation of Highest Priority Provisions; Availability	February 6, 1998	OHIP/Regs	Do
Policy Notebook in a Q/A Format (Update to existing document)	January 23, 1998	OHIP/DMQRP	Do
The Small Entity Compliance Guide	January 1998	OHIP/DMQRP	Do
Medical Device Appeals and Complaints: A Guidance on Dispute Resolution	February 19, 1998	OHIP/DSMA	Do
Medical Device Quality Systems Manual: A Small Entity Compliance Guide	December 1, 1996	OHIP/DSMA	Do
SMDA to FDAMA: Guidance on FDA's Transition Plan for Existing Postmarket Surveillance (FOD #318)	February 19, 1998	OSB/DPS	Do
Guidance on Procedures to Determine Application of Postmarket Surveillance Strategies (FOD #316)	February 19, 1998	OSB/DPS	Do
Guidance on Procedures for Review of Postmarket Surveillance Submissions (FOD #317)	February 19, 1998	OSB/DPS	Do
MDR/Policy/Guidance for Endosseus Implant Devices	December 1992	OSB/DSS	Do
MDR Guidance #4—External Defibrillators	September 1994	OSB/DSS	Do
MDR Guidance—Blood Loss Policy	December 1995	OSB/DSS	Do
Summary Reporting Approval for Adverse Events	July 1997	OSB/DSS	Do
Common Problems: Baseline Reports and MedWatch Form 3500A (letter to manufacturers updated)		OSB/DSS	Do
Guidance on the Recognition and Use of Consensus Standards	February 19, 1998	OST	Do
Withdrawn			

Name of Document	Date of Issuance	Grouped by Intended User or Regulatory Activity	How to Obtain a Hard Copy of the Document (Name and Address, Phone, FAX, E-mail or Internet)
"Draft Guidance for the Content of Preliminary Investigational Device Exemptions (Pre-IDE) Presentations: Teleconferences, Meetings and Written Submissions"	August 22, 1995	ODE/DCRND	Do
Preliminary Guidance for Ambulatory Electrocardiograph for Data to be Submitted to FDA in Support of Premarket Notification Applications	September 1, 1994	ODE/DCRND	Do
Preliminary Guidance for Data to be Submitted in Support of Premarket Notifications for Analyzing ECG's/Interpretive ECG's	December 1, 1994	ODE/DCRND	Do
Preliminary Guidance for Data to be Submitted to the FDA in Support of Premarket Notification Applications for External Cardioverters and Defibrillators	April 25, 1994	ODE/DCRND	Do
Reviewer Checklist for Monitors: EMC, Battery and Software	January 24, 1996	ODE/DCRND	Do
Medical Device Tracking: Questions and Answers Based on the Final Rule	August 26, 1993	OC/DOEI	Do
510(k) Diagnostic Ultrasound Guidance 4/91 Use of Medical Index in Place of Peak Intensity in Determining Substantial Equivalency for Diagnostic Ultrasound Equip/Access/Rel. Meas. Dev.	February 1993	ODE/DRAERD	Do
Review of "YAG" Lasers for Neurosurgery	N/A	ODE/DGRD	Do
FDA Public Health Advisory: Retinal Photic Injuries from Operating Microscopes During Cataract Surgery	October 16, 1995	ODE/DOD	Do
Sterilization: Questions and Answers from FDA, from Medical Device Diagnostic Industry for January, 1985, page 132	January 1985	OC/DOEII	Do
Corrections			
Rechargeable Battery Preliminary Guidance for Data to be Submitted to FDA in Support of Premarket Notification Applications (FOD #873)	January 1, 1994	ODE/DCRND	Do
Review Guidance for Anesthesia Conduction Catheter (FOD #783)	May 15, 1991	ODE/DCRND	Do
Guidance for Peak Flow Meters for Over-the-Counter Sale	June 1, 1993	ODE/DCRND	Do
Review Guidance for Oxygen Generators and Oxygen Equipment	Undated	ODE/DCRND	Do
Guidance for the Preparation and Content of Applications to the Food and Drug Administration for Ventricular Assist Devices and Total Artificial Hearts (draft)	December 4, 1987	ODE/DCRND	Do
Draft Premarket Notification Review Guidance for Evoked Response Somatosensory Stimulators	June 1, 1994	ODE/DGRD	Do
Draft Version—Guidance on Biocompatibility Requirements for Long Term Neurological Implants: Part 3—Implant Model	September 12, 1994	ODE/DGRD	Do
Draft Version 1—Biofeedback Devices—Draft Guidance for 510(k) Content	August 1, 1994	ODE/DGRD	Do
Draft Version Cranial Perforator Guidance	July 13, 1994	ODE/DGRD	Do
Draft Version Guidance for Clinical Data to be Submitted for Premarket Approval Application for Cranial Electrotherapy Stimulators	August 20, 1992	ODE/DGRD	Do
Draft Version Guide for Cortical Electrode 510(k) Content	August 10, 1992	ODE/DGRD	Do
Draft Version Neuro Endoscope Guidance	July 7, 1994	ODE/DGRD	Do
Galvanic Skin Response Measurement Devices—Draft Guidance for 510(k) Content	August 23, 1994	ODE/DGRD	Do
Guidance for Studies for Pain Therapy Devices—General Considerations in the Design of Clinical Studies for Pain-Alleviating Devices	May 12, 1988	ODE/DGRD	Do
Guide for 510(k) Review of Processed Human Dura Mater	June 26, 1990	ODE/DGRD	Do

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Name of Document	Date of Issuance	Grouped by Intended User or Regulatory Activity	How to Obtain a Hard Copy of the Document (Name and Address, Phone, FAX, E-mail or Internet)
Guide for TENS 510(k) Content (Draft)	August 1, 1994	ODE/DGRD	Do
Guidelines for Reviewing Premarket Notifications that Claim Substantial Equivalence to Evoked Response Stimulators	N/A	ODE/DGRD	Do
Protocol for Dermal Toxicity Testing for Devices in Contact With Skin (Draft)	N/A	ODE/DGRD	Do
Premarket Notification 510(k) Guidance for Contact Lens Care Products	May 1, 1997	ODE/DOD	Do
Amendment 1: Premarket Notification [510(k)] Guidance Document for Class II Daily Wear Contact Lenses	June 28, 1994	ODE/DOD	Do
Premarket Approval (PMA) Manual (FDA 97–4214)	July 1, 1997	OHIP/DSMA	Do
Required Postmarket Surveillance Section 522(a) Initial Device Categories Revised	September 30, 1997	OSB/DPS	Do
Guidance to Manufacturers on the Development of Required Postmarket Surveillance Study Protocols Under Section 522(a)(1) of the Federal Food, Drug, and Cosmetic Act	July 16, 1996	OSB/DPS	Do
Variance from Manufacturer Report Number Format	August 12, 1996	OSB/DSS	Do

IV. Guidance Documents Issued by the Center for Drug Evaluation and Research (CDER)

Name of Document	Date of Issuance	Grouped by Intended User or Regulatory Activity	How to Obtain a Hard Copy of the Document (Name and Address, Phone, Fax, E-mail, or Internet)
Level 1 Guidances			
Environmental Assessment of Human Drugs and Biologics Applications	February 12, 1998	Chemistry	Office of Training and Communications, Drug Information Branch, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4573 or Internet at http://www.fda.gov/cder/guidance/index.htm
PAC-ALTS: Postapproval Changes—Analytical Laboratory Testing Sites	April 28, 1998	Do	Do
SUPAC IR/MR: Immediate Release and Modified Release Solid Oral Dosage Forms, Manufacturing Equipment Addendum	April 28, 1998	Do	Do
Clinical Development Programs for Drugs, Devices, and Biological Products for the Treatment of Rheumatoid Arthritis (RA)	March 18, 1998	Clinical	Do
Clinical Development Programs for Drugs, Devices, and Biological Products Intended for the Treatment of Osteoarthritis (OA)	February 18, 1998	Do	Do
Manufacture, Processing or Holding of Active Pharmaceutical Ingredients	April 17, 1998	Compliance	Do
S1B Testing for Carcinogenicity in Pharmaceuticals	February 23, 1998	International Conference on Harmonization	Do
Implementation of Section 126, Elimination of Certain Labeling Requirements, of the FDA Modernization Act of 1997	February 18, 1998	FDA Modernization Act	Do
National Uniformity for Nonprescription Drugs Ingredient Labeling for OTC Drugs	May 5, 1998	Do	Do
Repeal of Section 507 of the Federal Food, Drug, and Cosmetic Act	February 5, 1998	Do	Do
Level 2 Guidances			
Drug Metabolism/Drug Interaction Studies in the Drug Development Process: Studies In Vitro	April 7, 1997	Clinical	Do

Name of Document	Date of Issuance	Grouped by Intended User or Regulatory Activity	How to Obtain a Hard Copy of the Document (Name and Address, Phone, Fax, E-mail, or Internet)
Organization of an Abbreviated New Drug Application and an Abbreviated Antibiotic Application	April 7, 1997	Generic Drug	Do
Aerosol Steroid Product Safety Information in Prescription Drug Advertising and Promotional Labeling	January 12, 1998	Advertising	Do
Withdrawn			
Biopharmaceutic Considerations in Designing and Evaluating Novel Drug Delivery Systems	November 1, 1983	Biopharmaceutic	
Clinical Evaluation of Drugs to Prevent Dental Caries	November 2, 1978	Clinical	
Clinical Evaluation of Drugs to Prevent, Control and/or Treat Periodontal Disease	November 1, 1978	Do	
Conjugated Estrogens (Tables) In Vivo Bioequivalence and In Vitro Dissolution Testing	August 21, 1991	Biopharmaceutic	
Current Good Manufacturing Practices for Positron Emission Tomographic (PET) Drug Products	April 22, 1997	Compliance	
Diphenhydramine Hydrochloride Capsules/Elixir	June 1, 1986	Labeling	
Ergotamine Tartrate and Caffeine Tablets and Suppositories	December 1, 1981	Do	
Glyburide Tablets	April 1, 1993	Do	
Haloperidol Tablets/Oral Solution (Concentrate)	February 1, 1990	Do	
Regulatory Aspects Pertinent to the Development of Transdermal Drug Delivery Systems	February 2, 1985	Biopharmaceutic	
Supplements to New Applications, Abbreviated Antibiotic Applications for Nonsterile Drug Products	December 12, 1994	Compliance	
Terfenadine (Tablets) In Vivo Bioequivalence and In Vitro Dissolution Testing	September 11, 1995	Biopharmaceutic	
Positron Emission Tomography Questions and Answers 1	October 24, 1996	Generic Drug	
Positron Emission Tomography Questions and Answers 2	April 18, 1997	Do	
Submission of an Environmental Assessment in Human Drug Applications and Supplements	November 13, 1995	Chemistry	
Submission of an Environmental Assessment in Human Drug Applications and Supplements	November 13, 1995	Do	
Acetohexamide (tablets) In Vivo Bioequivalence and In Vitro Dissolution Testing	August 1, 1988	Biopharmaceutic	
Allopurinol (tablets) In Vivo Bioequivalence and In Vitro Dissolution Testing	July 15, 1985	Do	
Amiloride Hydrochloride (tablets) In Vivo Bioequivalence and In Vitro Dissolution Testing	March 29, 1985	Do	
Aminophylline (suppositories) In Vivo Bioequivalence and In Vitro Dissolution Testing	July 5, 1983	Do	
Amitriptyline Hydrochloride (tablets) In Vivo Bioequivalence and In Vitro Dissolution Testing	July 5, 1983	Do	
Amoxicillin (capsules, tablets and suspension) In Vivo Bioequivalence and In Vitro Dissolution Testing	June 10, 1988	Do	
Baclofen (tablets) In Vivo Bioequivalence and In Vitro Dissolution Testing	May 5, 1988	Do	
Cefadroxil (capsules, tablets and suspension) In Vivo Bioequivalence and In Vitro Dissolution Testing	October 7, 1988	Do	
Cephalexin (tablets and capsules) In Vivo Bioequivalence and In Vitro Dissolution Testing	March 19, 1987	Do	

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Name of Document	Date of Issuance	Grouped by Intended User or Regulatory Activity	How to Obtain a Hard Copy of the Document (Name and Address, Phone, Fax, E-mail, or Internet)
Cephradine (Capsule and Suspension) In-Vivo Bioequivalence Studies	September 10, 1986	Do	
Chlordiazepoxide and Chlordiazepoxide HCl Bioavailability and Dissolution Studies	July 5, 1983	Do	
Chlorpropamide In-Vivo Bioavailability Studies	July 5, 1983	Do	
Chlorthalidone (Tablets)	July 5, 1983	Do	
Clinical Evaluation of Drugs for the Treatment of Peripheral Vascular Disease		Do	
Clofibrate In Vivo Bioavailability Studies	April 7, 1986	Do	
Clonidine Hydrochloride Drug Products In Vivo Bioequivalence Study and In Vitro Dissolution Testing	December 5, 1984	Do	
Clorazepate In Vivo Bioequivalence Study and In Vitro Dissolution Testing	February 17, 1987	Do	
Cyclobenzaprine Hydrochloride (tablets) In Vivo Bioequivalence and In Vitro Dissolution Testing	January 25, 1988	Do	
Desipramine Hydrochloride (Tablets) In Vivo Bioequivalence Studies	September 22, 1987	Do	
Dicyclomine Hydrochloride Drug Products In Vivo Bioequivalence	August 10, 1984	Do	
Dissolution Testing (General)	April 1, 1978	Do	
Estropipate Tablets In Vivo Bioequivalence and In Vitro Dissolution Testing (I)	August 26, 1992	Do	
Flurazepam Hydrochloride (capsules) In Vivo Bioequivalence and In Vitro Dissolution Testing	October 15, 1985	Do	
Hydrochlorothiazide (tablets) In Vivo Bioequivalence and In Vitro Dissolution Testing	September 28, 1987	Do	
Hydroxyzine Hydrochloride (tablets) (dissolution only)	March 4, 1986	Do	
Indomethacin (capsules) In Vivo Bioequivalence and In Vitro Dissolution Testing	January 27, 1988	Do	
Isopropamide Iodide (tablets) In Vivo Bioequivalence and In Vitro Dissolution Testing	May 12, 1982	Do	
Loxapine Succinate (capsules) In Vivo Bioequivalence and In Vitro Dissolution Testing	September 10, 1987	Do	
Maprotiline Hydrochloride (tablets) In Vivo Bioequivalence and In Vitro Dissolution Testing	August 27, 1987	Do	
Meclofenamate Sodium (capsules) In Vivo Bioequivalence and In Vitro Dissolution Testing	November 12, 1986	Do	
Metaproterenol Sulfate (tablets) In Vivo Bioequivalence and In Vitro Dissolution Testing	March 18, 1986	Do	
Metoclopramide Hydrochloride (tablets) In Vivo Bioequivalence and In Vitro Dissolution Testing	December 27, 1984	Do	
Nalidixic Acid In Vivo Bioequivalence and In Vitro Dissolution Testing	August 19, 1987	Do	
Nitrofurantion Macrocrystalline (capsules) In Vivo Bioequivalence and In Vitro Dissolution Testing	January 10, 1986	Do	
Nitroglycerin Ointment In Vivo Bioequivalence Studies	December 17, 1986	Do	
Perphenazine (tablets) In Vivo Bioequivalence and In Vitro Dissolution Testing	August 27, 1987	Do	
Perphenazine/Amitriptyline (tablets) In Vivo Bioequivalence and In Vitro Dissolution Testing	August 27, 1987	Do	
Phenylbutazone Oxyphenbutazone (capsules and tablets) In Vivo Bioequivalence and In Vitro Dissolution Testing	September 28, 1987	Do	

Name of Document	Date of Issuance	Grouped by Intended User or Regulatory Activity	How to Obtain a Hard Copy of the Document (Name and Address, Phone, Fax, E-mail, or Internet)
Prazepam (capsules and tablets) In Vivo Bioequivalence and In Vitro Dissolution Testing	July 26, 1988	Do	
Prednisone (tablets) (dissolution only)	July 10, 1985	Do	
Probenecid Drug Products Bioavailability Study	July 26, 1983	Do	
Propoxyphene Napsylate With Acetaminphen (Tablets)	March 26, 1980	Do	
Propranolol Hydrochloride (tablets) In Vivo Bioequivalence and In Vitro Dissolution Testing	August 1, 1984	Do	
Propylthiouracil (tablets) In Vivo Bioequivalence and In Vitro Dissolution Testing	August 13, 1986	Do	
Quinidine Gluconate (tablets, controlled release) In Vivo Bioequivalence and In Vitro Dissolution Testing	September 22, 1987	Do	
Ritodrine Hydrochloride (tablets) In Vivo Bioequivalence and In Vitro Dissolution Testing	August 27, 1987	Do	
Sulfinpyrazone (Capsules and Tablets)	September 25, 1987	Do	
Sulfones (tablets) In Vivo Bioequivalence and In Vitro Dissolution Testing	November 7, 1986	Do	
Temazepam In Vivo Bioequivalence Studies and In Vitro Dissolution Testing	August 8, 1985	Do	
Tolazamide (tablets) In Vivo Bioequivalence and In Vitro Dissolution Testing	May 30, 1986	Do	
Tolbutamide (tablets) In Vivo Bioequivalence and In Vitro Dissolution Testing	December 1, 1983	Do	
Trimipramine Maleate (capsules) In Vivo Bioequivalence and In Vitro Dissolution Testing	August 18, 1987	Do	
Verapamil Hydrochloride (tablets) In Vivo Bioequivalence and In Vitro Dissolution Testing	July 18, 1985	Do	

V. Guidance Documents Issued by the Center for Food Safety and Applied Nutrition

Name of Document	Date of Issuance	Grouped by Intended User or Regulatory Activity	How to Obtain a Hard Copy of the Document (Name and Address, Phone, FAX, E-mail, or Internet)
Level I Guidance Documents Not Included in the February 1998 Comprehensive List			
Draft Working Guide to Minimize Microbial Hazards for Fresh Fruits and Vegetable	1998	Farmers and Food Packers	Lou Carson, Food Safety Initiative (HFS–3), FDA–CFSAN, 200 C St. SW., Washington, DC 20204 or jsaltsman@bangate.fda.gov
Iron-containing Supplements and Drugs: Label Warning and Unit Dose Packaging; Small Entity Compliance Guide	1997	Dietary Supplement Manufacturers; Small Entities	Office of Special Nutritionals (HFS–450), FDA–CFSAN, 200 C St. SW., Washington, DC 20204
Level 2 Guidance Documents			
Partial List of Enzyme Preparations That Are Used in Foods	1998	FDA Regulated Industry	Office of Premarket Approval (HFS–200), FDA–CFSAN, 200 C St. SW., Washington, DC 20204
Partial List of Microorganisms and Microbial-Derived Ingredients That Are Used in Food	1998	Do	Do
Fish and Fishery Products Hazards and Controls Guide, 2nd Ed.	January 1998	Do	Office of Seafood (HFS–400), FDA–CFSAN, 200 C St. SW., Washington, DC 20204
HACCP Regulations for Fish and Fishery Products: Questions and Answers	1997	Do	Do

VI. Guidance Documents Issued by the Center for Veterinary Medicine (CVM)

Name of Document	Date of Issuance	Grouped by Intended User or Regulatory Activity	How to Obtain a Hard Copy of the Document (Name and Address, Phone, FAX, E-mail, or Internet)
Validation of Analytical Procedures; Definition and Terminology; Draft	December 1997	Regulated Industry	Center for Veterinary Medicine (HFV–12), Communications Staff, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1755.
Validation of Analytical Procedures; Methodology; Draft	December 1997	Do	Do
Industry-Supported Scientific and Educational Activities	November 1997	Do	Do
Professional Flexible Labeling of Antimicrobial Drugs; Draft	January 1998	Do	Do
Small Entities Compliance Guide for Renderers	February 1998	Do	Do
Small Entities Compliance Guide for Protein Blenders, Feed Manufacturers, and Distributors	February 1998	Do	Do
Small Entities Compliance Guide for Feeders of Ruminant Animals With On-Farm Feed Mixing Operations	February 1998	Do	Do
Small Entities Compliance Guide for Feeders of Ruminant Animals Without On-Farm Feed Mixing Operations	February 1998	Do	Do
CVM Program Policy and Procedures Manual; Index (Guide No. 1240.0000)	March 19, 1998	Do	Do
CVM Guidance on Media Inquiries (Guide No. 1240.2325)	December 17, 1997	Do	Do
Requirements for Importation of Investigational New Animal Drugs (Guide No. 1240.3032)	March 27, 1992	Do	Do
Animal Drug Applications Expedited Review (Guide No. 1240.3135)	December 3, 1997	Do	Do
CVM Research Activities (Guide No. 1240.3700)	January 6, 1998	Do	Do
Initiation and Approval of Research Projects (Guide No. 1240.3710)	January 6, 1998	Do	Do
Ownership Transfer or Corporate Identity Change of an Application (Guide No. 1240.4150)	March 19, 1998	Do	Do
CVM Makes the Analysis of Comments on the Fluoroquinolone and Glycopeptide Prohibition Available to the Public	January 15, 1998	Do	Do
Withdrawn			
CVM Program Policy and Procedures Manual; Index (Guide No. 1240.0000)	October 29, 1997		
CVM Guidance on Media Inquiries (Guide No. 1240.2325)	July 1, 1997		
CVM Research Activities (Guide No. 1240.3700)	November 3, 1993		
Initiation and Approval of Research Projects (Guide No. 1240.3710)	November 3, 1993		
Criteria for the Approval of Euthanasia Products (Guide No. 1240.4112)	February 13, 1990		
Sterility of Ophthalmic Products (Guide No. 1240.4120)	December 7, 1993		
Sterility and Pyrogen Requirements for Injectable Drug Products (Guide No. 1240.4122)	November 27, 1989		
Overformulation in Animal Drug Products (Guide No. 1240.4130)	January 2, 1992		
Continuous Use Production Drugs and Short-Term Therapeutic Treatments in Feeds (Guide No. 1240.4145)	April 10, 1990		
Policy on Sterilization of New Animal Drug Products and Containers by Irradiation (Guide No. 1240.4160)	September 10, 1997		
CVM Medically Necessary Veterinary Drug Product Shortage Management (Guide No. 1240.4170)	June 30, 1994		

Name of Document	Date of Issuance	Grouped by Intended User or Regulatory Activity	How to Obtain a Hard Copy of the Document (Name and Address, Phone, FAX, E-mail, or Internet)
Small Entities Compliance Guide on Animal Proteins Prohibited from Animal Feed	June 1997		

VII. Guidance Documents Issued by the Office of Regulatory Affairs

Name of Document	Date of Issuance	Grouped by Intended User or Regulatory Activity	How to Obtain a Hard Copy of the Document (Name and Address, Phone, FAX, E-mail, or Internet)
Investigations Operations Manual (PB98–913399)	January 1998	FDA Staff Personnel	National Technical Information Service (NTIS), 5285 Port Royal Rd., Springfield, VA 22161, or via Internet at www.fda.gov/ora/ inspect—ref/iom/iomtc.html
Mammography Quality Standards Act (MQSA) Auditors Guide (PB98–127178)	January 1998	Do	NTIS or via Internet at www.fda.gov/ora/inspect—ref/igs/iglist.html
Guide to Inspections of Electromagnetic Compatibility Aspects of Medical Device Quality Systems (PB98–127152)	December 1997	Do	Do
Guide to Inspections of Grain Product Manufacturers	March 1998	Do	Division of Emergency and Investigational Operations (HFC–130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857
Guide to Bioresearch Monitoring Inspections of In Vitro Devices	February 1998	Do	Do
Guide to Inspections of Viral Clearance Processes for Plasma Derivatives	March 1998	Do	Do
Guide to Inspections of Computerized Systems in the Food Processing Industry	March 1998	Do	Do
Regulatory Procedures Manual; Update/New Subchapter; Application Integrity Policy	March 1998	Do	Division of Compliance Policy (HFC–230), Office of Enforcement, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0420 or via Internet at www.fda.gov/ora/compliance__ref/rpm/rpmtc.html
Regulatory Procedures Manual; Update Subchapter; Warning Letters	March 1998	Do	Do
Regulatory Procedures Manual: Update/Revised Subchapter; Import Procedures	April 1998	Do	Do
Regulatory Procedures Manual: Updated/Revised Subchapter; Priority Enforcement Strategy for Problem Importers	April 1998	Do	Do
Regulatory Procedures Manual: Updated/Revised Subchapter; Import Procedures	April 1998	Do	Do
Regulatory Procedures Manual: Updated/Revised Subchapter; Notice of Sampling	April 1998	Do	Do
Regulatory Procedures Manual: Updated/Revised Subchapter; Supervisory Charges	April 1998	Do	Do
Regulatory Procedures Manual: Update/New Subchapter; Granting and Denying Transportation and Exportation (T&E) Entries	May 1998	Do	Do
Import Alerts	Continuously	Do	Freedom of Information Staff (HFI–35), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, or via Internet at www.fda.gov/ora/fiars/ora__imports__alerts.html
Guidance Documents Not Included in the February 1998 Comprehensive List			
Guideline for the Monitoring of Clinical Investigations	January 1998	Regulated Industry	Division of Compliance Policy (HFC–230), Office of Enforcement, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0420 or via Internet at www.fda.gov/ora/compliance__ref/rpm/rpmtc.html
Computerized Systems Used in Clinical Trials	June 18, 1997	Do	Do

Name of Document	Date of Issuance	Grouped by Intended User or Regulatory Activity	How to Obtain a Hard Copy of the Document (Name and Address, Phone, FAX, E-mail, or Internet)
Compliance Program 7348.808; Bioresearch Monitoring; Good Laboratory Practices (GLP) (Nonclinical)	August 8, 1994	FDA Staff Personnel	Do
Food Laboratory Practice Program (Nonclinical Laboratories) 7348.808A: EPA Data Audit Inspections	October 1, 1991	Do	Do
Compliance Program 7348.810: Sponsors, Contract Research Organizations and Monitors	August 18, 1994	Do	Do
Compliance Program 7348.809: Bioresearch Monitoring; Institutional Review Board	August 18, 1994	Do	Do
Compliance Program 7348.811: Bioresearch Monitoring; Clinical Investigations	August 18, 1994	Do	Do

VIII. International Conference on Harmonization Guidances (CDER)

Name of Document	Date of Issuance	Grouped by Intended User or Regulatory Activity	How to Obtain a Hard Copy of the Document (Name and Address, Phone, FAX, E-mail, or Internet)
E2B Data Elements for Transmission of Individual Case Safety Reports	January 15, 1998	Regulated Industry	Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4573 or Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 1–800–835–4709 or 301–827–1800, FAX Information System: 1–888–CBER–FAX (within the United States)or 301–827–3844 (outside of the United States and local to Rockville, MD). Internet at http://www.fda.gov/cder/guidance/index.htm or http://www.fda.gov/cber/publications.htm
E8 General Considerations for Clinical Trials	December 17, 1997	Do	Do
M3 Timing of Nonclinical Studies for the Conduct of Human Clinical Trials of Pharmaceuticals	November 25, 1997	Do	Do
QC3 Impurities; Residual Solvents	December 24, 1997	Do	Do
S1B Testing for Carcinogenicity of Pharmaceuticals	February 23, 1998	Do	Do
S1C(R) Dose Selection for Carcinogenicity Studies of Pharmaceuticals: Addendum on a Limit Dose and Related Notes	December 4, 1997	Do	Do

Dated: June 25, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 98–17702 Filed 7–2–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies, and Laboratories That Have Withdrawn From the Program

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services notifies Federal agencies of the laboratories currently certified to meet standards of Subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (59 FR 29916, 29925). A similar notice listing all currently certified laboratories will be published during the first week of each month, and updated to include laboratories which subsequently apply for and complete the certification process. If any listed laboratory's certification is totally suspended or revoked, the laboratory will be omitted

from updated lists until such time as it is restored to full certification under the Guidelines.

If any laboratory has withdrawn from the National Laboratory Certification Program during the past month, it will be identified as such at the end of the current list of certified laboratories, and will be omitted from the monthly listing thereafter.

This Notice is now available on the internet at the following website: http://www.health.org

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh or Dr. Walter Vogl, Division of Workplace Programs, 5600 Fishers Lane, Rockwall 2 Building, Room 815, Rockville, Maryland 20857; Tel.: (301) 443–6014.

Special Note: Our office moved to a different building on May 18, 1998. The above address is now the correct one to use for all regular mail and correspondence. For all overnight mail service use the following: Division of Workplace Programs, 5515 Security Lane, Room 815, Rockville, Maryland 20852.

SUPPLEMENTARY INFORMATION: Mandatory Guidelines for Federal Workplace Drug Testing were developed in accordance with Executive Order 12564 and section 503 of Pub. L. 100–71. Subpart C of the Guidelines, "Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies," sets strict standards which laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification a laboratory must participate in a quarterly performance testing program plus periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are not to be considered as meeting the minimum requirements expressed in the HHS Guidelines. A laboratory must have its letter of certification from SAMHSA, HHS (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Guidelines, the following laboratories meet the minimum standards set forth in the Guidelines:

ACL Laboratories, 8901 W. Lincoln Ave., West Allis, WI 53227, 414–328–7840 (formerly: Bayshore Clinical Laboratory)

Aegis Analytical Laboratories, Inc., 345 Hill Ave., Nashville, TN 37210, 615–255–2400

Alabama Reference Laboratories, Inc., 543 South Hull St., Montgomery, AL 36103, 800–541–4931/334–263–5745

Alliance Laboratory Services, 3200 Burnet Ave., Cincinnati, OH 45229, 513–569–2051 (formerly: Jewish Hospital of Cincinnati, Inc.)

American Medical Laboratories, Inc., 14225 Newbrook Dr., Chantilly, VA 20151, 703–802–6900

Associated Pathologists Laboratories, Inc., 4230 South Burnham Ave., Suite 250, Las Vegas, NV 89119–5412, 702–733–7866/800–433–2750

Associated Regional and University Pathologists, Inc. (ARUP), 500 Chipeta Way, Salt Lake City, UT 84108, 801–583–2787/800–242–2787

Baptist Medical Center-Toxicology Laboratory, 9601 I–630, Exit 7, Little Rock, AR 72205–7299, 501–202–2783 (formerly: Forensic Toxicology Laboratory Baptist Medical Center)

Cedars Medical Center, Department of Pathology, 1400 Northwest 12th Ave., Miami, FL 33136, 305–325–5784

Clinical Reference Lab, 8433 Quivira Rd., Lenexa, KS 66215–2802, 800–445–6917

Cox Health Systems, Department of Toxicology, 1423 North Jefferson Ave., Springfield, MO 65802, 800–876–3652/417–269–3093 (formerly: Cox Medical Centers)

Dept. of the Navy, Navy Drug Screening Laboratory, P. O. Box 88–6819, Great Lakes, IL 60088–6819, 847–688–2045/847–688–4171

Diagnostic Services Inc., dba DSI, 4048 Evans Ave., Suite 301, Fort Myers, FL 33901, 941–418–1700/800–735–5416

Doctors Laboratory, Inc., P.O. Box 2658, 2906 Julia Dr., Valdosta, GA 31604, 912–244–4468

DrugProof, Division of Dynacare/Laboratory of Pathology, LLC, 1229 Madison St., Suite 500, Nordstrom Medical Tower, Seattle, WA 98104, 800–898–0180/206–386–2672 (formerly: Laboratory of Pathology of Seattle, Inc., DrugProof, Division of Laboratory of Pathology of Seattle, Inc.)

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Rd., Warminster, PA 18974, 215–674–9310

Dynacare Kasper Medical Laboratories,* 14940–123 Ave., Edmonton, Alberta, Canada T5V 1B4, 800–661–9876/403–451–3702

ElSohly Laboratories, Inc., 5 Industrial Park Dr., Oxford, MS 38655, 601–236–2609

Gamma-Dynacare Medical Laboratories,* A Division of the Gamma-Dynacare Laboratory Partnership, 245 Pall Mall St., London, ON, Canada N6A 1P4, 519–679–1630

General Medical Laboratories, 36 South Brooks St., Madison, WI 53715, 608–267–6267

Hartford Hospital Toxicology Laboratory, 80 Seymour St., Hartford, CT 06102–5037, 860–545–6023

LabCorp Occupational Testing Services, Inc., 1904 Alexander Drive, Research Triangle Park, NC 27709, 919–672–6900/800–833–3984 (formerly: CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group)

LabCorp Occupational Testing Services, Inc., 4022 Willow Lake Blvd., Memphis, TN 38118, 901–795–1515/800–223–6339 (formerly: MedExpress/National Laboratory Center)

LabOne, Inc., 8915 Lenexa Dr., Overland Park, Kansas 66214, 913–888–3927/800–728–4064 (formerly: Center for Laboratory Services, a Division of LabOne, Inc.)

Laboratory Corporation of America, 888 Willow St., Reno, NV 89502, 702–334–3400 (formerly: Sierra Nevada Laboratories, Inc.)

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 800–437–4986/908–526–2400 (formerly: Roche Biomedical Laboratories, Inc.)

Laboratory Specialists, Inc., 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823

Marshfield Laboratories, Forensic Toxicology Laboratory, 1000 North Oak Ave., Marshfield, WI 54449, 715–389–3734/800–331–3734

MAXXAM Analytics Inc.,* 5540 McAdam Rd., Mississauga, ON, Canada L4Z 1P1, 905–890–2555 (formerly: NOVAMANN (Ontario) Inc.)

Medical College Hospitals Toxicology Laboratory, Department of Pathology, 3000 Arlington Ave., Toledo, OH 43614, 419–381–5213

Medlab Clinical Testing, Inc., 212 Cherry Lane, New Castle, DE 19720, 302–655–5227

MedTox Laboratories, Inc., 402 W. County Rd. D, St. Paul, MN 55112, 800–832–3244/612–636–7466

Methodist Hospital Toxicology Services of Clarian Health Partners, Inc., Department of Pathology and Laboratory Medicine, 1701 N. Senate Blvd., Indianapolis, IN 46202, 317–929–3587

Methodist Medical Center Toxicology Laboratory, 221 N.E. Glen Oak Ave., Peoria, IL 61636, 800–752–1835/309–671–5199

MetroLab-Legacy Laboratory Services, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–4512/800–950–5295

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Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, Minnesota 55417, 612–725–2088

National Toxicology Laboratories, Inc., 1100 California Ave. Bakersfield, CA 93304, 805–322–4250

Northwest Toxicology, Inc., 1141 E. 3900 South, Salt Lake City, UT 84124, 800–322–3361/801–268–2431

Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Ave., Eugene, OR 97440–0972, 541–341–8092

Pacific Toxicology Laboratories, 1519 Pontius Ave., Los Angeles, CA 90025, 310–312–0056 (formerly: Centinela Hospital Airport Toxicology Laboratory.

Pathology Associates Medical Laboratories, 11604 E. Indiana, Spokane, WA 99206, 509–926–2400/800–541–7891

PharmChem Laboratories, Inc., 1505-A O'Brien Dr., Menlo Park, CA 94025, 650–328–6200/800–446–5177

PharmChem Laboratories, Inc., Texas Division, 7610 Pebble Dr., Fort Worth, TX 76118, 817–595–0294 (formerly: Harris Medical Laboratory)

Physicians Reference Laboratory, 7800 West 110th St., Overland Park, KS 66210, 913–339–0372/800–821–3627

Poisonlab, Inc., 7272 Clairemont Mesa Blvd., San Diego, CA 92111, 619–279–2600/800–882–7272

Premier Analytical Laboratories, 15201 East I–10 Freeway, Suite 125, Channelview, TX 77530, 713–457–3784/800–888–4063 (formerly: Drug Labs of Texas)

Presbyterian Laboratory Services, 5040 Airport Center Parkway, Charlotte, NC 28208, 800–473–6640/704–943–3437

Quest Diagnostics Incorporated, 4444 Giddings Road, Auburn Hills, MI 48326, 810–373–9120/800–444–0106 (formerly: HealthCare/Preferred Laboratories, HealthCare/MetPath, CORNING Clinical Laboratories)

Quest Diagnostics Incorporated, National Center for Forensic Science, 1901 Sulphur Spring Rd., Baltimore, MD 21227, 410–536–1485 (formerly: Maryland Medical Laboratory, Inc., National Center for Forensic Science, CORNING National Center for Forensic Science)

Quest Diagnostics Incorporated, 4770 Regent Blvd., Irving, TX 75063, 800–526–0947/972–916–3376 (formerly: Damon Clinical Laboratories, Damon/MetPath, CORNING Clinical Laboratories)

Quest Diagnostics Incorporated, 875 Greentree Rd., 4 Parkway Ctr., Pittsburgh, PA 15220–3610, 800–574–2474/412–920–7733 (formerly: Med-Chek Laboratories, Inc., Med-Chek/Damon, MetPath Laboratories, CORNING Clinical Laboratories)

Quest Diagnostics Incorporated, 2320 Schuetz Rd., St. Louis, MO 63146, 800–288–7293/314–991–1311 (formerly: Metropolitan Reference Laboratories, Inc., CORNING Clinical Laboratories, South Central Division)

Quest Diagnostics Incorporated, 7470 Mission Valley Rd., San Diego, CA 92108–4406, 800–446–4728/619–686–3200 (formerly: Nichols Institute, Nichols Institute Substance Abuse Testing (NISAT), CORNING Nichols Institute, CORNING Clinical Laboratories)

Quest Diagnostics Incorporated, One Malcolm Ave., Teterboro, NJ 07608, 201–393–5590 (formerly: MetPath, Inc., CORNING MetPath Clinical Laboratories, CORNING Clinical Laboratory)

Quest Diagnostics Incorporated, 1355 Mittel Blvd., Wood Dale, IL 60191, 630–595–3888 (formerly: MetPath, Inc., CORNING MetPath Clinical Laboratories, CORNING Clinical Laboratories Inc.)

Scientific Testing Laboratories, Inc., 463 Southlake Blvd., Richmond, VA 23236, 804–378–9130

Scott & White Drug Testing Laboratory, 600 S. 31st St., Temple, TX 76504, 800–749–3788/254–771–8379

S.E.D. Medical Laboratories, 500 Walter NE, Suite 500, Albuquerque, NM 87102, 505–727–8800/800–999-LABS

SmithKline Beecham Clinical Laboratories, 3175 Presidential Dr., Atlanta, GA 30340, 770–452–1590 (formerly: SmithKline Bio-Science Laboratories)

SmithKline Beecham Clinical Laboratories, 8000 Sovereign Row, Dallas, TX 75247, 214–637–7236 (formerly: SmithKline Bio-Science Laboratories)

SmithKline Beecham Clinical Laboratories, 801 East Dixie Ave., Leesburg, FL 34748, 352–787–9006 (formerly: Doctors & Physicians Laboratory)

SmithKline Beecham Clinical Laboratories. 400 Egypt Rd., Norristown, PA 19403, 800–877–7484/610–631–4600 (formerly: SmithKline Bio-Science Laboratories)

SmithKline Beecham Clinical Laboratories, 506 E. State Pkwy., Schaumburg, IL 60173, 847–447–4379/800–447–4379 (formerly: International Toxicology Laboratories)

SmithKline Beecham Clinical Laboratories, 7600 Tyrone Ave., Van Nuys, CA 91405, 818–989–2520 / 800–877–2520

South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 219–234–4176

Southwest Laboratories, 2727 W. Baseline Rd., Tempe, AZ 85283, 602–438–8507

Sparrow Health System, Toxicology Testing Center, St. Lawrence Campus, 1210 W. Saginaw, Lansing, MI 48915, 517–377–0520 (Formerly: St. Lawrence Hospital & Healthcare System)

St. Anthony Hospital Toxicology Laboratory, 1000 N. Lee St., Oklahoma City, OK 73101, 405–272–7052

Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 2703 Clark Lane, Suite B, Lower Level, Columbia, MO 65202, 573–882–1273

Toxicology Testing Service, Inc., 5426 N.W. 79th Ave., Miami, FL 33166, 305–593–2260

UNILAB, 18408 Oxnard St., Tarzana, CA 91356, 800–492–0800/818–996–7300 (formerly: MetWest-BPL Toxicology Laboratory)

Universal Toxicology Laboratories, LLC, 10210 W. Highway 80, Midland, Texas 79706, 915–561–8851/888–953–8851

UTMB Pathology-Toxicology Laboratory, University of Texas Medical Branch, Clinical Chemistry Division, 301 University Boulevard, Room 5.158, Old John Sealy, Galveston, Texas 77555–0551, 409–772–3197

The following laboratory is voluntarily withdrawing from the National Laboratory Certification Program on July 31, 1998: TOXWORX Laboratories, Inc., 6160 Variel Ave., Woodland Hills, CA 91367, 818–226–4373/800–966–2211 (formerly: Laboratory Specialists, Inc.; Abused Drug Laboratories; MedTox Bio-Analytical, a Division of MedTox Laboratories, Inc.)

* The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories, certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. DHHS, with the DHHS" National Laboratory Certification Program (NLCP) contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do. Upon finding a Canadian

laboratory to be qualified, the DHHS will recommend that DOT certify the laboratory (**Federal Register**, 16 July 1996) as meeting the minimum standards of the "Mandatory Guidelines for Workplace Drug Testing" (59 Federal Register, 9 June 1994). After receiving the DOT certification, the laboratory will be included in the monthly list of DHHS certified laboratories and participate in the NLCP certification maintenance program.

Richard Kopanda,

Executive Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 98–17846 Filed 7–2–98; 8:45 am]

BILLING CODE 4160–20–P

DEPARTMENT OF THE INTERIOR

National Recreation Lakes Study

AGENCY: National Recreation Lakes Study.

ACTION: Notice of First Commission Meeting, National Recreation Lakes Study.

SUMMARY: The Omnibus Parks and Public Land Management Act of 1996 authorizes a presidential commission to review the demand for recreation at Federal lakes, and to develop alternatives for enhanced recreation uses, primarily through innovative public/private partnerships. This will be the first meeting of the Commissioner-designees and Staff.

DATES: July 20–21, 1998, starting at 8 a.m.

ADDRESSES: The briefing will be held at the National Association Public Administration Conference Room, First Floor, 800 North Capitol Street, NW, Washington, D.C. 20001. Please have photo identification available for admission into the building. The agenda will consist of the following: Swearing-In Ceremony for Appointed Commissioners; Election of a Vice Chairman; Overview of the Status of Recreation at Federal Lakes; Discussion of Proposed Goals; Study Process/Action Plan; Presentation of Findings Reports; Subgroups & Topic Experts; Communications Plan; Study Duration & Report Due Date; Public Comment Period; Necessary Decisions on Above Agenda Topics; Future Meetings; Time and Place of Next Meeting; and the Adjournment.

FOR FURTHER INFORMATION CONTACT: Jeanne Whittington, 202–219–7104.

Dated: June 30, 1998.

Jana Prewitt,

Executive Director, National Recreation Lakes Study.

[FR Doc. 98–17961 Filed 7–2–98; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of the Draft Environmental Assessment and Land Protection Plan for the Proposed Establishment of Swayze Lake National Wildlife Refuge, St. Landry Parish, LA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of the Draft Environmental Assessment and Land Protection Plan for the Proposed Establishment of Swayze Lake National Wildlife Refuge.

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service, Southeast Region, proposes to establish a new national wildlife refuge in the Swayze Lake area in St. Landry Parish, Louisiana. The purpose of the proposed refuge is to protect, enhance, and manage a diversity of fish and wildlife habitats in the Swayze Lake area for the benefit of the area's fishery, resident and migratory waterfowl, shorebirds, wading birds, neotropical migratory birds, the federally listed Louisiana black bear, and other native wildlife. A Draft Environmental Assessment and Land Protection Plan for the establishment of the proposed refuge has been developed by Service biologists in coordination with the Louisiana Department of Wildlife and Fisheries, the Natural Resources Conservation Service, parish officials, and other local entities. The assessment considers the biological, environmental, and socioeconomic effects of establishing the proposed refuge and evaluates three alternative actions and their potential impacts on the environment. Written comments or recommendations concerning the proposal are welcomed and should be sent to the address given below.

DATES: Land acquisition planning for the project is currently underway. The draft environmental assessment and land protection plan will be available to the public for review and comment on July 15, 1998. Written comments must be received no later than August 14, 1998, in order to be considered for the preparation of the final environmental assessment.

ADDRESSES: Comments and requests for copies of the draft environmental assessment and for further information on the project should be addressed to Mr. Charles R. Danner, Team Leader, Planning and Support Team, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Atlanta, Georgia 30345, or by telephone at 800/419–9582.

SUPPLEMENTARY INFORMATION: The proposed refuge area consists primarily of bottomland hardwoods, wooded/shrub swamps, and other wetlands. It covers a total of approximately 20,000 acres and is located within the Atchafalya River Basin, about 5 miles northwest of Krotz Springs in St. Landry Parish, Louisiana. The Service proposes to establish the refuge by purchasing about 9,000 acres in fee title from willing sellers. The remaining 11,000 acres would be sought through conservation easements, cooperative agreements, or fee title purchases, depending on landowner willingness.

The Swayze Lake area is nationally significant because it provides wintering habitat for migratory waterfowl, breeding habitat for wood ducks, migration habitat for shorebirds and neotropical migratory birds, and year-round habitat for wading birds. It is also a feeding area for bald eagles. The bottomland hardwoods also provide important habitat for the federally listed Louisiana black bear. Other resident wildlife include the American alligator, white-tailed deer, swamp rabbit, and furbearers such as raccoon, mink, muskrat, and otter.

The area's freshwater fishery is excellent. Numerous bayous and backwater lakes are interspersed throughout the area and provide outstanding sportfishing opportunities. Freshwater game species are abundant and include largemouth bass, black and white crappie, bluegill, and several species of catfish. Crawfishing is also extremely popular.

Dated: June 22, 1998.

Sam D. Hamilton,

Regional Director.

[FR Doc. 98–17724 Filed 7–2–98; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–00–P]

Notice for Publication; Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that decisions to issue conveyance under the provisions of Sec. 14(h)(8) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(h)(8), will be issued to the Bering Straits Native Corporation for approximately 14,169 acres. The lands involved are in the vicinity of Iron Creek, Alaska, and are within T. 6 S., R. 30 W., Kateel River Meridian, Alaska.

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A notice of the decisions will be published once a week, for four (4) consecutive weeks, in the *Nome Nuggett*. Copies of the decisions may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decisions, an agency of the Federal government, or regional corporation, shall have until August 5, 1998 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

Terry R. Hassett,

Chief, Branch of 962 Adjudication.

[FR Doc. 98–17762 Filed 7–2–98; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–030–1220–00; Closure Notice No. NV–030–98–003]

Notice of Closure to Off Highway Vehicles

AGENCY: Bureau of Land Management, Interior.

SUMMARY: Notice is given that public lands west of Deer Run Road along the Carson River in Carson City, Nevada are closed to motorized vehicle use except on the designated access road and trailhead parking area.

EFFECTIVE DATES: This closure goes into effect on August 15, 1998.

FOR FURTHER INFORMATION OR TO COMMENT CONTACT: Arthur Callan, Outdoor Recreation Planner, 5665 Morgan Mill Road, Carson City, Nevada 89701. Telephone (702) 885–6141.

SUPPLEMENTARY INFORMATION: The lands included in this closure are those public lands west of Deer Run Road within Mt. Diablo Meridian, Sections 11 and 14, T. 15 N., R. 20 E. This closure does not apply to the existing mining occupancy in south portion of Section 14, or legitimate operations conducted under the mining laws. The closure does not apply to emergency, law enforcement, or agency vehicles on official business. This order is consistent with the Bureau of Land Management October, 1996 Carson City Urban Interface Plan Amendment, and the Carson City 1996 Carson River Master Plan to enhance nonmotorized uses and protect the river environment. The authorities for this closure are 43 CFR 8342.1 and 8364.1. Any person failing to comply with the closure may be subject to imprisonment for not more than 12 months, or a fine in accordance with the applicable provisions of 18 U.S.C. 3571, or both.

Dated: June 25, 1998.

John O. Singlaub,

Carson City Field Manager.

[FR Doc. 98–17817 Filed 7–2–98; 8:45 am]

BILLING CODE 4310–HC–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

U.S. Fish and Wildlife Service

[OR–015–98–1610–00: GP8–0236]

Hart Mountain National Antelope Refuge, OR; Jurisdictional Land Exchange

AGENCY: Lakeview District, Bureau of Land Management (BLM) and Hart Mountain National Antelope Refuge, U.S. Fish and Wildlife Service (USFWS), DOI.

ACTION: Notice of Availability, Environmental Assessment (EA#OR–010–97–05) and Draft Warner Lakes Management Framework Plan Amendment—Proposed Jurisdictional Land Exchange Between the Hart Mountain National Antelope Refuge and the Lakeview District, BLM.

SUMMARY: The USFWS and BLM have jointly prepared this document in accordance with the Federal Land Policy and Management Act of 1976 and the National Environmental Policy Act of 1969. The USFWS is the lead agency. The transfer has been proposed to improve the management efficiency of federal lands and to improve management of upland and riparian wildlife habitats. The document analyzes the potential environmental impacts of transferring management jurisdiction of about 12,880 acres of BLM-managed lands to the USFWS and about 7,870 acres of USFWS-managed lands to the BLM. In addition, a change of management direction would occur on about 11,020 acres of BLM-managed lands.

This notice announces that the document is, or soon will be available for a 45-day public comment period. It is very important that you participate during this review opportunity, so that any substantive comments are provided at a time when we can meaningfully consider them. If you require additional information concerning this analysis, or desire a copy of the document, please contact Paul Whitman at (541) 947–6110 (e-mail address: pwhitman@or.blm.gov) or Tori Roberts at (541) 947–3315.

DATES: You are encouraged to provide written comments to the address below, by August 19, 1998.

ADDRESSES: Mr. Michael Nunn, U.S. Fish and Wildlife Service, Sheldon/Hart Mountain Refuges, Post Office Building, Lakeview, OR 97630.

Dated: June 22, 1998.

Michael L. Nunn,

Project Leader, Sheldon/Hart Mountain Refuges.

Scott R. Florence,

Area Manager, Lakeview Resource Area.

[FR Doc. 98–17745 Filed 7–2–98; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–030–98–1020–24–1 A]

Sierra Front/Northwest Great Basin Resource Advisory Council—Notice of Meeting Locations and Times

AGENCY: Bureau of Land Management, Interior.

ACTION: Resource Advisory Council Meeting locations and times.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), the Department of the Interior, Bureau of Land Management (BLM) Council meetings will be held as indicated below. The agenda includes: Minutes of previous meeting, discussion of the Black Rock Desert Management Plan, setting criteria for acquisition of conservation easements in the Carson Valley, a tour of Carson Valley to view agricultural lands being considered for protection under the "Rural Lands Initiative" and public comment period.

All meetings are open to the public. The public may present written comments to the council. Each formal council meeting will have a time allocated for public comments. The public comment period for the council meeting is listed below. Individuals who plan to attend the tour are welcome but need to provide their own transportation.

For further information about the meeting or anyone that needs special assistance such as sign language interpretation or other reasonable accommodations, should contact Joan Sweetland at the Carson City Field Office, 5665 Morgan Mill Road, Carson City, NV 89701, (702) 885–6000.

DATES: The council will meet on Thursday, July 30, 1998 at 9:00 a.m., at the Carson Valley Inn, 1627 US Highway 395 N, Minden, NV. The meeting will be called to order and then council members will depart on a tour of Carson Valley to look at the agricultural lands in the Carson Valley being considered for protection under the "Rural Lands Initiative". The Council will break for lunch and return to the business meeting at the Carson Valley Inn at approximately 1:30. The public comment period will be at 1:45 p.m. with adjournment at 5:00 p.m. Friday, July 31, the RAC will meet from 8:00 a.m. until noon. They will break for lunch and reconvene at 1:00. The public comment period will be at 1:00 and adjournment at 4:00.

FOR FURTHER INFORMATION CONTACT: Joan Sweetland, Public Affairs Specialist, Carson City Field Office, telephone (702) 885–6000.

Dated: June 24, 1998.

John O. Singlaub,

Field Manager.

[FR Doc. 98–17704 Filed 7–2–98; 8:45 am]

BILLING CODE 4310–HC–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–070–98–1430–01; AZA 30675]

Arizona: Notice of Realty Action

AGENCY: Bureau of Land Management, Interior.

ACTION: Classification of Public Land for Recreation and Public Purposes Lease and Conveyance, Mohave County, Arizona.

SUMMARY: The following described public land in Mohave County, Arizona, has been examined and found suitable for classification for lease and conveyance under the provisions of the Recreation and Public Purposes (R&PP) Act, as amended (43 U.S.C. 869 et seq.):

Gila and Salt River Meridian, Arizona

T. 17 N, R. 21 W.,
  Sec. 5, lots 3 and 4.

Containing 79.04 acres, more or less.

SUPPLEMENTARY INFORMATION: The Big Sandy Natural Resource Conservation District proposes to use the land for a park, botanical gardens, and experimental agricultural projects and exhibits for educational purposes. The land is not required for any Federal purposes. The lease and conveyance of the land for recreational or public purposes is consistent with current Bureau planning for this area and would be in the public interest.

The lease and conveyance, when issued, will contain the following reservations to the United States:

1. Rights-of-way for ditches and canals constructed by the authority of the United States.
2. All minerals reserved to Santa Fe Minerals, with the right to prospect for, mine, and remove materials.

And will be subject to:

1. The provisions of the R&PP Act and all applicable regulations of the Secretary of the Interior.

Upon publication of this Notice in the **Federal Register**, the land will be segregated from all forms of appropriation under the public land laws, except for lease and conveyance under the Recreation and Public Purposes Act. The mineral estate is in private ownership and is not subject to Bureau of Land Management administration.

DATES: For a period of 45 days from the date of publication of this Notice in the **Federal Register**, interested parties may submit comments to the Field Manager, Lake Havasu Field Office, 2610 Sweetwater Avenue, Lake Havasu City, Arizona 86406. Any adverse comments will be reviewed by the Arizona State Director. In the absence of any adverse comments, the classification of the land described in this Notice will become effective 60 days from the date of publication of this Notice in the **Federal Register**. The land will not be offered for lease and conveyance until after the classification becomes effective.

Classification Comments

Interested parties may submit comments involving the suitability of the land for a park, botanical gardens, and experimental agricultural projects and exhibits for educational purposes. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with the local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments

Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the Bureau of Land Management followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a park, botanical gardens, experimental agricultural projects and exhibits for educational purposes.

FOR FURTHER INFORMATION CONTACT: Land Law Examiner Janice Easley, Lake Havasu Field Office, 2610 Sweetwater Avenue, Lake Havasu City, Arizona 86406 or telephone (52) 505–1239.

Dated: June 29, 1998.

Jaime T. Provencio,

Field Manager.

[FR Doc. 98–17768 Filed 7–2–98; 8:45 am]

BILLING CODE 4310–32–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–00; N–62765, N–55975]

Notice of Proposed Withdrawal and Amended Notice of Exchange Proposal; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Nellis Air Force Base has filed an application (N–62765) to withdraw approximately 1,755 acres of public lands adjacent to the base from surface entry and mining in order to provide safety buffers between potentially hazardous areas on the base and public use or populated areas. There are also approximately 745 acres of non-Federal lands proposed to be acquired in the Carl Volkmar exchange that would become a part of this application and subsequent withdrawal. This notice closes the lands for up to 2 years from settlement, sale, location, or entry under the general land laws, including the mining laws.

Additionally, the Bureau of Land Management is considering a proposal to exchange land pursuant to Section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716), as amended. The exchange proposed by Carl Volkmar, N–55975, was initiated under a Notice of Exchange Proposal published in the Las Vegas Review-Journal on July 22, 1994.

DATES: Comments on the withdrawal and/or land exchange proposals should be received on or before October 5, 1998.

FOR FURTHER INFORMATION CONTACT: Sharon DiPinto, Las Vegas Field Office, 702–647–5062 for the exchange. Dennis Samuelson, Nevada State Office, 702–861–6532 for the withdrawal.

SUPPLEMENTARY INFORMATION: On June 25, 1998, Nellis Air Force Base filed an

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application to withdraw the following described public lands from settlement, sale, location, or entry under the general land laws, including the mining laws, subject to valid existing rights:

Mount Diablo Meridian

T. 19 S., R. 62 E.,
  Sec. 25, NE¼ south of Las Vegas Boulevard.
T. 19 S., R. 63 E.,
  Sec. 27, NE¼SE¼, W½SE¼;
  Sec. 34, NE¼.
T. 20 S., R. 62 E.,
  Sec. 1, lots 9, 10, and lots 13 to 20, inclusive;
  Sec. 11, lots 1 to 8, inclusive;
  Sec. 12, lots 2 to 7, inclusive, and lots 12 and 13.
T. 20 S., R 63 E.,
  Sec. 3, SE¼.

The areas described aggregate approximately 1,755 acres in Clark County.

The following described non-Federal lands, if acquired by the United States in the Volkmar land exchange, would become a part of this application and subsequent withdrawal:

T. 19 S., R. 62 E.,
  Sec. 35, A portion of the NW¼SE¼, and a portion of the S½SW¼.
T. 20 S., R. 62 E.,
  Sec. 2, SE¼NE¼, a portion of the NE¼SW¼, SE¼SW¼, SE¼;
  Sec. 10, E½SE¼;
  Sec. 11, E½NW¼, SW¼;
  Sec. 15, NW¼NE¼, W½SW¼NE¼.

The areas described aggregate 745 acres in Clark County.

The above described lands have been identified for acquisition by the Air Force for public safety and to comply with Department of Defense regulation 6055.9 regarding ammunition and explosion safety standards. Recently, an explosives site plan was completed for the Live Ordnance Loading Area (LOLA) of Nellis Air Force Base. This site plan expanded the Quantity Distance (QD) arcs for the live ordnance loading area and the evacuation zone outside of the current Nellis Air Force Base boundaries. These QD arcs are established in order to provide safety buffers between potentially hazardous areas and populated areas. The purpose of the proposed withdrawal is to set aside land that serves as the safety buffers.

The application will be processed in accordance with the regulations set forth in 43 CFR Part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. Other uses which will be permitted during this segregative period are rights-of-way, leases, and permits. The temporary segregation of the land in connection with a withdrawal application shall not affect administrative jurisdiction over the land, and the segregation shall not have the effect of authorizing any use of the land by the Nellis Air Force Base.

In the amended land exchange proposal, Carl Volkmar has added offered lands including portions of the following lands in the vicinity of Nellis Air Force Base in Clark County, Nevada, and Lake Tahoe in Douglas and Washoe Counties, Nevada. The Nellis lands are adjacent to the Nellis Air Force Base and are located within the facility's Live Ordnance Loading Area safety zones.

Nellis Lands: Approximately 745 acres within:

T. 19 S., R. 62 E.,
  Sec. 35, a portion of the NW¼SE¼, and a portion of the S½NW¼.
T. 20 S., R. 62 E.,
  Sec. 2, SE¼NE¼, a portion of the NE¼SW¼, SE¼SW¼, SE¼;
  Sec. 10, E½SE¼;
  Sec. 11, E½NW¼, SW¼;
  Sec. 15, NW¼NE¼, W½SW¼NE¼.

These lands would be withdrawn upon Federal acquisition to the United States Air Force. The Nellis lands are private land adjacent to Nellis Air Force Base located within the facility's Live Ordnance Loading Area safety zones as described above.

Tahoe lands: Approximately 93 acres within:

T. 14 N., R. 18 E.,
  Sec. 3, a portion of the SW¼;
  Sec. 4, Lot 3;
  Sec. 15, a portion of Lot 3, and a portion of Lot 4;
  Sec. 27, a portion of the NW¼.
T. 16 N., R. 18 E.,
  Sec. 11, a portion of the W½.

These private lands in Douglas and Washoe counties if Federally acquired would be managed by the United State Forest Service.

The Notice of Exchange Proposal is also amended to include the following selected lands in Clark County: Approximately 1,614 acres within:

T. 19 S., R. 60 E.,
  Sec. 5, Lots 5, 8–19;
  Sec. 6, Lots 1–5, 12–18, S½NE¼, SE¼NW¼, SE¼;
  Sec. 7, Lots 5, 6, 8–12, 14–16, 18–21
T. 22 S., R. 60 E.,
  Sec. 12, SW¼SE¼NE¼NE¼,
    S½SW¼NW¼NE¼,
    SE¼SE¼NW¼NE¼,
    NE¼NE¼SW¼NE¼,
    S½NE¼SW¼NE¼,
    E½NW¼SW¼NE¼,
    S½SW¼SW¼NE¼,
    W½SE¼SW¼NE¼,
    SE¼SW¼NW¼NW¼,
    SW¼SE¼NW¼NW¼,
    SE¼NE¼SE¼NW¼,
    E½SE¼SE¼NW¼,
    NE¼NE¼NE¼SW¼,
    SW¼NE¼NE¼SW¼,
    N½NW¼NE¼SW¼,
    SW¼SW¼NE¼SW¼,
    N½SE¼NE¼SW¼,
    SW¼SE¼NE¼SW¼,
    NW¼NE¼NW¼SE¼, NW¼NW¼SE¼,
    SW¼NW¼SE¼.
  Sec. 13, W½SW¼NE¼NW¼,
    SE¼NE¼SW¼NW¼,
    S½SE¼SW¼NW¼,
    W½NW¼SE¼NW¼,
    NE¼NE¼NW¼SW¼,
    SE¼SW¼NW¼SW¼,
    NW¼SE¼NW¼SW¼,
    S½NW¼SW¼SW¼,
    NW¼SW¼SW¼SW¼.
  Sec. 36, NE¼NE¼NE¼NW¼,
    S½NE¼NE¼NW¼, W½NE¼NW¼,
    SE¼NE¼NW¼, NE¼NE¼NW¼NW¼,
    SW¼NE¼NW¼NW¼,
    SE¼SW¼NW¼NW¼,
    NE¼SE¼NW¼NW¼,
    SW¼SE¼NW¼NW¼,
    SW¼NE¼SW¼NW¼,
    SE¼NW¼SW¼NW¼,
    N½SW¼SW¼NW¼,
    SW¼SW¼SW¼NW¼,
    SE¼SW¼NW¼, NW¼NE¼SE¼NW¼,
    NE¼NW¼SE¼NW¼,
    W½SW¼SE¼NW¼,
    W½W½NE¼SW¼,
    E½NE¼NW¼SW¼, W½NW¼SW¼,
    SE¼NW¼SW¼, N½SW¼SW¼,
    W½SW¼SW¼SW¼,
    W½SE¼SW¼SW¼, W½E½SE¼SW¼,
    SW¼SE¼SW¼, W½SE¼SW¼SE¼.
T. 23 S., R. 61 E.,
  Sec. 5, S½N½SW¼SE¼,
    N½SE¼SW¼SE¼, SW¼SE¼SE¼,
    N½SE¼SE¼SE¼.
  Sec. 6, Lots 5, 6, N½SW¼SE¼NW¼.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal or land exchange may present their views by writing to Michael F. Dwyer, Field Office Manager, Las Vegas Field Office, 4765 Vegas Drive, Las Vegas, NV 89108.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. Any party who desires a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the Las Vegas Field Office Manager within 90 days from the date of publication of this notice.

Dated: June 29, 1998.

William K. Stowers,

Lands Team Lead.

[FR Doc. 98–17760 Filed 7–2–98; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

National Park Service

Availability of Plan of Operations and Environmental Assessment for Proposed 3–D Seismic Survey; Union Oil of California, et al.

Notice is hereby given in accordance with Section 9.52(b) of Title 36 of the Code of Federal Regulations, Part 9, Subpart B, that the National Park Service has accepted a Plan of Operations from Union Oil of California, for Three-Dimensional Seismic Survey within Big Thicket National Preserve, Hardin, Jefferson and Orange Counties, Texas.

The Plan of Operations and corresponding Environmental Assessment are available for public review and comment for a period of 30 days from the publication date of this notice. Both documents can be viewed during normal business hours at the Office of the Superintendent, Big Thicket National Preserve, 3785 Milam Street, Beaumont, Texas. Copies can be requested from the Superintendent, Big Thicket National Preserve, 3785 Milam Street, Beaumont, TX 77701.

Dated: June 25, 1998.

Richard R. Peterson,

Superintendent, Big Thicket National Preserve.

[FR Doc. 98–17805 Filed 7–2–98; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Fort Stanwix National Monument, Oneida County, New York; Notice of Intent to Prepare an Environmental Impact Statement and Notice of Public Meetings

In accordance with the National Environmental Policy Act of 1969 (Pub. L. 91–109 section 102(c)), the National Park Service (NPS) is preparing an Environmental Impact Statement (EIS) for the Fort Stanwix National Monument, located in Rome, Oneida County, New York. The purpose of the EIS is to assess the impacts of alternative management strategies which will be described in the General Management Plan (GMP) for Fort Stanwix National Monument. A range of alternatives will be formulated for cultural resource protection, visitor use and interpretation, facilities development, and operations.

The NPS will hold a series of three (3) public meetings between July 15 and July 31, 1998 which will provide an opportunity for public input into the scoping for the GMP/EIS. The date, time, and location of these meetings will be announced through local media as they will be held at various places in the Rome area. The purpose of these meetings is to obtain both written and verbal comments concerning the future of Fort Stanwix National Monument. Those persons who wish to comment verbally or in writing should contact Joanne Arany, Planning Project Manager, Upstate New York Project Office, National Park Service, C/O SUNY–ESF, Room 331 Marshall Hall, One Forestry Drive, Syracuse, New York 13210, (315) 470–6995.

The draft GMP/EIS is expected to be completed and available for public review in late 1999. After public and interagency review of the draft document comments will be considered and a final EIS followed by a Record of Decision will be prepared.

The responsible official is Gary Warshefski, Superintendent, Fort Stanwix National Monument, 112 E. Park Street, Rome, New York 13440.

Dated: June 26, 1998.

Gary Warshefski,

Superintendent, Fort Stanwix.

[FR Doc. 98–17807 Filed 7–2–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission; Notice of Meeting Cancellation

Notice is hereby given in accordance with the Federal Advisory Committee Act that the meeting of the Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission previously scheduled for Wednesday, July 8, 1998 (62 FR 67091, December 23, 1997) in San Francisco will be canceled.

The Advisory Commission was established by Public Law 92–589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service systems in Marin, San Francisco and San Mateo Counties.

Members of the Commission are as follows:

Mr. Richard Bartke, Chairman
Ms. Naomi T. Gray
Mr. Michael Alexander
Ms. Lennie Roberts
Mr. Trent Orr
Ms. Jacqueline Young
Mr. R.H. Sciaroni
Dr. Edgar Wayburn
Mr. Mel Lane
Ms. Amy Meyer, Vice Chair
Dr. Howard Cogswell
Mr. Jerry Friedman
Ms. Yvonne Lee
Mr. Redmond Kernan
Mr. Merritt Robinson
Mr. John J. Spring
Mr. Joseph Williams

Dated: June 22, 1998.

Len McKenzie,

Deputy Superintendent, Golden Gate National Recreation Area.

[FR Doc. 98–17806 Filed 7–2–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Bay-Delta Advisory Council Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of meeting.

SUMMARY: The Bay-Delta Advisory Council (BDAC) will meet to discuss several issues including: discussion of CALFED document on "Selecting a Preferred Alternative"; presentation and discussion of the findings of the CALFED Scientific Panel on the effects of Delta diversions on Delta Fisheries; CALFED outreach to the California business community; and a panel on the health of the San Francisco Bay. This meeting is open to the public. Interested persons may make oral statements to the BDAC or may file written statements for consideration.

DATES: The Bay-Delta Advisory Council meeting will be held from 9 a.m. to 5:30 p.m. on Thursday, July 16, 1998, and Friday, July 17, 1998 from 8 a.m. to 11:30 a.m.

ADDRESSES: The Bay-Delta Advisory Council will meet at the Hilton Oakland Airport, 1 Hagenberger Road, Oakland, CA 94621 (510) 635–5000.

FOR FURTHER INFORMATION CONTACT: Mary Selkirk, CALFED Bay-Delta Program, at (916) 657–2666. If reasonable accommodation is needed due to a disability, please contact the Equal Employment Opportunity Office at (916) 653–6952 or TDD (916) 653–6934 at least one week prior to the meeting.

SUPPLEMENTARY INFORMATION: The San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta system) is a critically important part of California's natural environment and economy. In

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recognition of the serious problems facing the region and the complex resource management decisions that must be made, the state of California and the Federal government are working together to stabilize, protect, restore, and enhance the Bay-Delta system. The State and Federal agencies with management and regulatory responsibilities in the Bay-Delta system are working together as CALFED to provide policy direction and oversight of the process. One area of Bay-Delta management includes the establishment of a joint State-Federal process to develop long-term solutions to problems in the Bay-Delta system related to fish and wildlife, water supply reliability, natural disasters, and water quality. The intent is to develop a comprehensive and balanced plan which addresses all of the resource problems. This effort, the CALFED Bay-Delta Program (Program), is being carried out under the policy direction of CALFED. The Program is exploring and developing a long-term solution for a cooperative planning process that will determine the most appropriate strategy and actions necessary to improve water quality, restore health to the Bay-Delta ecosystem, provide for a variety of beneficial uses, and minimize Bay-Delta system vulnerability. A group of citizen advisors representing California's agricultural, environmental, urban, business, fishing, and other interests who have a stake in finding long-term solutions for the problems affecting the Bay-Delta system has been chartered under the Federal Advisory Committee Act (FACA) as the Bay-Delta Advisory Council (BDAC) to advise CALFED on the program mission, problems to be addressed, and objectives for the Program. BDAC provides a forum to help ensure public participation, and will review reports and other materials prepared by CALFED staff. BDAC has established a subcommittee called the Ecosystem Roundtable to provide input on annual workplans to implement ecosystem restoration projects and programs.

Minutes of the meeting will be maintained by the Program, Suite 1155, 1416 Ninth Street, Sacramento, CA 95814, and will be available for public inspection during regular business hours, Monday through Friday within 30 days following the meeting.

Dated: June 26, 1998.

Roger Patterson,

Regional Director, Mid-Pacific Region.

[FR Doc. 98-17759 Filed 7-2-98; 8:45 am]

BILLING CODE 4310-94-M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Bay-Delta Advisory Council's Ecosystem Roundtable Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of meeting.

SUMMARY: The Bay-Delta Advisory Council's (BDAC) Ecosystem Roundtable will meet to discuss several issues including: status of the May 1998 Proposal Solicitation Package, the development of the other programs for FY 98 funding, revised planning process, funding coordination, Comprehensive Monitoring, Assessment, and Research Program, a case study on habitat restoration in the Delta, tracking system and other issues. This meeting is open to the public. Interested persons may make oral statements to the Ecosystem Roundtable or may file written statements for consideration.

DATES: The BDAC Ecosystem Roundtable meeting will be held from 9:30 a.m. to 1:00 p.m. on Friday, July 17, 1998.

ADDRESSES: The Ecosystem Roundtable will meet at the Resources Building, 1416 Ninth Street, Room 1131, Sacramento, CA 95814.

FOR FURTHER INFORMATION CONTACT: Cindy Darling, CALFED Bay-Delta Program, at (916) 657-2666. If reasonable accommodation is needed due to a disability, please contact the Equal Employment Opportunity Office at (916) 653-6952 or TDD (916) 653-6934 at least one week prior to the meeting.

SUPPLEMENTARY INFORMATION: The San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta system) is a critically important part of California's natural environment and economy. In recognition of the serious problems facing the region and the complex resource management decisions that must be made, the State of California and the Federal government are working together to stabilize, protect, restore, and enhance the Bay-Delta system. The State and Federal agencies with management and regulatory responsibilities in the Bay-Delta system are working together as CALFED to provide policy direction and oversight for the process.

One area of Bay-Delta management includes the establishment of a joint State-Federal process to develop long-term solutions to problems in the Bay-Delta system related to fish and wildlife, water supply reliability, natural disasters, and water quality. The intent is to develop a comprehensive and balanced plan which addresses all of the resource problems. This effort, the CALFED Bay-Delta Program (Program), is being carried out under the policy direction of CALFED. The Program is exploring and developing a long-term solution for a cooperative planning process that will determine the most appropriate strategy and actions necessary to improve water quality, restore health to the Bay-Delta ecosystem, provide for a variety of beneficial uses, and minimize Bay-Delta system vulnerability. A group of citizen advisors representing California's agricultural, environmental, urban, business, fishing, and other interests who have a stake in finding long term solutions for the problems affecting the Bay-Delta system has been chartered under the Federal Advisory Committee Act (FACA) as the Bay-Delta Advisory Council (BDAC) to advise CALFED on the program mission, problems to be addressed, and objectives for the Program. BDAC provides a forum to help ensure public participation, and will review reports and other materials prepared by CALFED staff. BDAC has established a subcommittee called the Ecosystem Roundtable to provide input on annual workplans to implement ecosystem restoration projects and programs.

Minutes of the meeting will be maintained by the Program, Suite 1155, 1416 Ninth Street, Sacramento, CA 95814, and will be available for public inspection during regular business hours, Monday through Friday within 30 days following the meeting.

Dated: June 26, 1998.

Roger Patterson,

Regional Director, Mid-Pacific Region.

[FR Doc. 98-17761 Filed 7-2-98; 8:45 am]

BILLING CODE 4310-94-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. AA1921-98 (Review)]

Bicycle Speedometers From Japan

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on bicycle speedometers from Japan.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on bicycle

speedometers from Japan would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; the deadline for responses is August 25, 1998. Comments on the adequacy of responses may be filed with the Commission by September 21, 1998.

For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 F.R. 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: July 6, 1998.

FOR FURTHER INFORMATION CONTACT: Elizabeth Haines (202–205–3200) or Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

On November 22, 1972, the Department of the Treasury issued an antidumping duty order on imports of bicycle speedometers from Japan (37 F.R. 24826). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

Definitions

The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is Japan.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise*. In its original determination, the Commission defined the *Domestic Like Product* as bicycle speedometers.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product*, or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined the *Domestic Industry* as producers of bicycle speedometers.

(5) The *Order Date* is the date that the antidumping duty order under review became effective. In this review, the *Order Date* is November 22, 1972.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the Review and Public Service List

Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and APO Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. § 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification

Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written Submissions

Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is August 25, 1998. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning whether the Commission should conduct an expedited review. The deadline for filing such comments is September 21, 1998. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to Provide Requested Information

Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information to be Provided in Response to this Notice of Institution

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product*, a U.S. union or worker group, a U.S. importer of the *Subject Merchandise*, a foreign producer or exporter of the *Subject Merchandise*, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. § 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry*.

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product*. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. § 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in Japan that currently export or have exported *Subject Merchandise* to the United States or other countries since 1971.

(7) If you are a U.S. producer of the *Domestic Like Product*, provide the following information on your firm's operations on that product during calendar year 1997 (report quantity data in units and value data in thousands of U.S. dollars). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production; and

(b) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from Japan, provide the following information on your firm's(s') operations on that product during calendar year 1997 (report quantity data in units and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from Japan accounted for by your firm's(s'') imports; and

(b) the quantity and value of U.S. commercial shipments of *Subject Merchandise* imported from Japan.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in Japan, provide the following information on your firm's(s') operations on that product during calendar year 1997 (report quantity data in units and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in Japan accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from Japan accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* since the *Order Date*, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country*, and bicycle speedometers from other countries.

(11) (Optional) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: June 29, 1998.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–17790 Filed 7–2–98; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. AA1921–110 (Review)]

Canned Bartlett Pears from Australia

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on canned Bartlett pears from Australia.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on canned Bartlett pears from Australia would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; the deadline for responses is August 25, 1998. Comments on the adequacy of responses may be filed with the Commission by September 21, 1998.

For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 F.R. 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: July 6, 1998.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193) or Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

On March 23, 1973, the Department of the Treasury issued an antidumping duty order on imports of canned Bartlett pears from Australia (38 F.R. 7566). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

Definitions

The following definitions apply to this review:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The Subject Country in this review is Australia.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determination, the Commission defined the Domestic Like Product as canned Bartlett pears.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined the Domestic Industry as enterprises, proprietary and grower-owned cooperatives, engaged in the production of canned Bartlett pears.

(5) The Order Date is the date that the antidumping duty order under review became effective. In this review, the Order Date is March 23, 1973.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the Review and Public Service List

Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and APO Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification

Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written Submissions

Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is August 25, 1998. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning whether the Commission should conduct an expedited review. The deadline for filing such comments is September 21, 1998. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to Provide Requested Information

Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information to be Provided in Response to this Notice of Institution

(1) The name and address of your firm or entity (including World Wide Web address if available) and name,

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telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product*, a U.S. union or worker group, a U.S. importer of the *Subject Merchandise*, a foreign producer or exporter of the *Subject Merchandise*, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry*.

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product*. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in Australia that currently export or have exported *Subject Merchandise* to the United States or other countries since 1971.

(7) If you are a U.S. producer of the *Domestic Like Product*, provide the following information on your firm's operations on that product during calendar year 1997 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production; and

(b) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from Australia, provide the following information on your firm's(s') operations on that product during calendar year 1997 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from Australia accounted for by your firm's(s') imports; and

(b) the quantity and value of U.S. commercial shipments of *Subject Merchandise* imported from Australia.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in Australia, provide the following information on your firm's(s') operations on that product during calendar year 1997 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in Australia accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from Australia accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* since the *Order Date*, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country*, and canned Bartlett pears from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry*; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: June 29, 1998.

By order of the Commission.

Donna R. Koehnke,
Secretary.

[FR Doc. 98–17795 Filed 7–2–98; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. AA1921–85 (Review)]

Fish Netting of Manmade Fiber From Japan

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on fish netting of manmade fiber from Japan.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on fish netting of manmade fiber from Japan would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; the deadline for responses is August 25, 1998. Comments on the adequacy of responses may be filed with the Commission by September 21, 1998.

For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 F.R. 30599, June 5, 1998, and may be

downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: July 6, 1998.

FOR FURTHER INFORMATION CONTACT: Elizabeth Haines (202–205–3200) or Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background.

On June 9, 1972, the Department of the Treasury issued an antidumping duty order on imports of fish netting of manmade fiber from Japan (37 F.R. 11560). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

Definitions.

The following definitions apply to this review:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The Subject Country in this review is Japan.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determination, the Commission defined the Domestic Like Product as fish netting of manmade fiber. In a subsequent review determination, the Commission determined that salmon gill fish netting was a separate like product from other types of fish netting of manmade fiber. (Salmon Gill Fish Netting of Manmade Fibers from Japan, Inv. No. 751–TA–11, USITC Pub. 1921 (Dec. 1986)). As a result of this review, the antidumping duty order was revoked with respect to salmon gill fish netting. Consequently, for purposes of this notice, the Domestic Like Product is fish netting of manmade fiber, other than salmon gill fish netting.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined the Domestic Industry as producers of fish netting of manmade fiber. In light of the Commission's like product determination in its review proceeding, for purposes of this notice the Domestic Industry is producers of fish netting of manmade fiber, other than salmon gill fish netting.

(5) The Order Date is the date that the antidumping duty order under review became effective. In this review, the Order Date is June 9, 1972.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the Review and Public Service List.

Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and APO Service list

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification

Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written Submissions

Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is August 25, 1998. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning whether the Commission should conduct an expedited review. The deadline for filing such comments is September 21, 1998. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to Provide Requested Information

Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse

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inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information To Be Provided in Response to This Notice of Institution

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in Japan that currently export or have exported Subject Merchandise to the United States or other countries since 1970.

(7) If you are a U.S. producer of the *Domestic Like Product*, provide the following information on your firm's operations on that product during calendar year 1997 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production; and

(b) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from Japan, provide the following information on your firm's(s') operations on that product during calendar year 1997 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from Japan accounted for by your firm's(s') imports; and

(b) the quantity and value of U.S. commercial shipments of *Subject Merchandise* imported from Japan.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in Japan, provide the following information on your firm's(s') operations on that product during calendar year 1997 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in Japan accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from Japan accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* since the *Order Date*, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country*, and fish netting of manmade fiber from other countries.

(11)(OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: June 29, 1998.

By order of the Commission.

Donna R. Koehnke,
Secretary.

[FR Doc. 98–17794 Filed 7–2–98; 8:45 am]

BILLING CODE 7021–02–P

INTERNATIONAL TRADE COMMISSION

Investigations Nos. AA1921–86–88 (Review)

Large Power Transformers From France, Italy, and Japan

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the antidumping duty orders on large power transformers from France, Italy, and Japan.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders on large power transformers from France, Italy, and Japan would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; the deadline for responses is August 25, 1998. Comments on the adequacy of responses may be filed with the Commission by September 21, 1998.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 F.R. 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: July 6, 1998.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193) or Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

On June 14, 1972, the Department of the Treasury issued antidumping duty orders on imports of large power transformers from France, Italy, and Japan (37 F.R. 11772). The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

Definitions

The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The *Subject Countries* in these reviews are France, Italy, and Japan.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise*. In its original determinations, the Commission defined the *Domestic Like Product* as all transformers rated 10,000 KVA or above, by whatever name designated, used in the generation, transmission, distribution, and utilization of electrical power, including but not limited to shunt reactors, autotransformers, rectifier transformers, and power rectifier transformers.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product*, or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission defined the *Domestic Industry* as producers of all transformers rated 10,000 KVA or above, by whatever name designated, used in the generation, transmission, distribution, and utilization of electrical power, including but not limited to shunt reactors, autotransformers, rectifier transformers, and power rectifier transformers.

(5) The *Order Date* is the date that the antidumping duty orders under review became effective. In these reviews, the *Order Date* is June 14, 1972.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the Reviews and Public Service List

Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and APO Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. § 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification

Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written Submissions

Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is August 25, 1998. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning whether the Commission should conduct expedited reviews. The deadline for filing such comments is September 21, 1998. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to Provide Requested Information

Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information to be Provided in Response to This Notice of Institution

If you are a domestic producer, union/worker group, or trade/business association; import/export *Subject Merchandise* from more than one *Subject Country;* or produce *Subject Merchandise* in more than one *Subject Country,* you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country.*

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty orders on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in France, Italy, and Japan that currently export or have exported *Subject Merchandise* to the United States or other countries since 1971.

(7) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 1997 (report quantity data in units and value data in thousands of U.S. dollars). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production; and

(b) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from France, Italy, and/or Japan, provide the following information on your firm's(s') operations on that product during calendar year 1997 (report quantity data in units and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from France, Italy, and Japan accounted for by your firm's(s') imports; and

(b) the quantity and value of U.S. commercial shipments of *Subject Merchandise* imported from France, Italy, and Japan.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in France, Italy, and/or Japan, provide the following information on your firm's(s') operations on that product during calendar year 1997 (report quantity data in units and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in France, Italy, and Japan accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from France, Italy, and Japan accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Countries* since the *Order Date,* and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Countries,* and large power transformers from other countries.

(11) (Optional) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: June 29, 1998.

By order of the Commission.

Donna R. Koehnke,

Secretary.

Issued: June 29, 1998

[FR Doc. 98–17792 Filed 7–2–98; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. AA1921–111 (Review)]

Roller Chain From Japan

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on roller chain from Japan.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on roller chain from Japan would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; the deadline for responses is August 25, 1998. Comments on the adequacy of responses may be filed with the Commission by September 21, 1998.

For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 F.R. 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: July 6, 1998.

FOR FURTHER INFORMATION CONTACT: Elizabeth Haines (202–205–3200) or Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

On April 12, 1973, the Department of the Treasury issued an antidumping duty order on imports of roller chain from Japan (38 F.R. 9226). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

Definitions

The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is Japan.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise*. In its original determination, the Commission defined the *Domestic Like Product* as roller chain, other than bicycle.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product*, or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined the *Domestic Industry* as producers of roller chain, other than bicycle.

(5) The *Order Date* is the date that the antidumping duty order under review became effective. In this review, the *Order Date* is April 12, 1973.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the Review and Public Service List

Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and APO Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. § 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification

Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written Submissions

Pursuant to section 207.61 of the Commission's rules, each interested response to this notice must provide the information specified below. The deadline for filing such responses is August 25, 1998. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning whether the Commission should conduct an expedited review. The deadline for filing such comments is September 21, 1998. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to Provide Requested Information

Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in

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the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information to be Provided in Response to this Notice of Institution

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product*, a U.S. union or worker group, a U.S. importer of the *Subject Merchandise*, a foreign producer or exporter of the *Subject Merchandise*, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry*.

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product*. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in Japan that currently export or have exported *Subject Merchandise* to the United States or other countries since 1971.

(7) If you are a U.S. producer of the *Domestic Like Product*, provide the following information on your firm's operations on that product during calendar year 1997 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production; and

(b) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from Japan, provide the following information on your firm's(s') operations on that product during calendar year 1997 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from Japan accounted for by your firm's(s') imports; and

(b) the quantity and value of U.S. commercial shipments of *Subject Merchandise* imported from Japan.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in Japan, provide the following information on your firm's(s') operations on that product during calendar year 1997 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in Japan accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from Japan accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* since the *Order Date*, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country*, and roller chain, other than bicycle, from other countries.

(11) (Optional) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry*; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: June 29, 1998.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–17791 Filed 7–2–98; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. AA1921–49 (Review)]

Steel Jacks From Canada

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on steel jacks from Canada.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on steel jacks from Canada would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of

the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; the deadline for responses is August 25, 1998. Comments on the adequacy of responses may be filed with the Commission by September 21, 1998.

For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 F.R. 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: July 6, 1998.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193) or Vera Libeau (202–205-3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

On September 13, 1966, the Department of the Treasury issued an antidumping duty order on imports of steel jacks from Canada (31 F.R. 11974). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

Definitions

The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is Canada.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise*. In its original determination, the Commission defined the *Domestic Like Product* as steel jacks.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product*, or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined the *Domestic Industry* as producers of steel jacks.

(5) The *Order Date* is the date that the antidumping duty order under review became effective. In this review, the *Order Date* is September 13, 1966.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the Review and Public Service List

Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and APO Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification

Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written Submissions

Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is August 25, 1998. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning whether the Commission should conduct an expedited review. The deadline for filing such comments is September 21, 1998. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to Provide Requested Information

Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

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Information To Be Provided in Response to This Notice of Institution

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in Canada that currently export or have exported Subject Merchandise to the United States or other countries since 1965.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1997 (report quantity data in number of steel jacks and value data in thousands of U.S. dollars). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production; and

(b) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from Canada, provide the following information on your firm's(s') operations on that product during calendar year 1997 (report quantity data in number of steel jacks and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from Canada accounted for by your firm's(s') imports; and

(b) the quantity and value of U.S. commercial shipments of Subject Merchandise imported from Canada.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in Canada, provide the following information on your firm's(s') operations on that product during calendar year 1997 (report quantity data in number of steel jacks and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in Canada accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from Canada accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for 0other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and steel jacks from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: June 29, 1998.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–17793 Filed 7–2–98; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Parole Commission

Sunshine Act Meeting

AGENCY HOLDING MEETING: Department of Justice United States Parole Commission.

TIME AND DATE: 2:00 p.m., Thursday, July 9, 1998.

PLACE: 5550 Friendship Boulevard, Suite 400, Chevy Chase, Maryland 20815.

STATUS: Open.

MATTERS TO BE CONSIDERED:

The following matters have been placed on the agenda for the open Parole Commission meeting:

1. Consideration of Proposed Interim Regulations and Guidelines for District of Columbia prisoners to take effect August 5, 1998.

2. Budget Proposal for the Fiscal Year 2000.

AGENCY CONTACT: Tom Kowalski, Case Operations, United States Parole Commission, (301) 492–5962.

Dated: July 1, 1998.

Michael A. Stover,

General Counsel, U.S. Parole Commission.

[FR Doc. 98–17968 Filed 7–1–98; 2:19 pm]

BILLING CODE 4410–31–M

DEPARTMENT OF JUSTICE

Parole Commission

Sunshine Act Meeting; Record of Vote of Meeting Closure (Public Law 94–409) (5 U.S.C. Sec. 552b)

I, Michael J. Gaines, Chairman of the United States Parole Commission, was present at a meeting of said Commission which started at approximately nine-thirty a.m. on Tuesday, June 30, 1998, at 5550 Friendship Boulevard, Chevy Chase, Maryland 20815. The purpose of the meeting was to decide one appeal from the National Commissioners' decisions pursuant to 28 C.F.R. Section 2.27. Three Commissioners were present, constituting a quorum when the vote to close the meeting was submitted.

Public announcement further describing the subject matter of the meeting and certifications of General Counsel that this meeting may be closed by vote of the Commissioners present were submitted to the Commissioners prior to the conduct of any other business. Upon motion duly made, seconded, and carried, the following Commissioners voted that the meeting be closed: Michael J. Gaines, Edward F. Reilly, Jr., and John R. Simpson.

IN WITNESS WHEREOF, I make this official record of the vote taken to close this meeting and authorize this record to be made available to the public.

Dated: June 30, 1998.

Michael J. Gaines,

Chairman, U.S. Parole Commission.

[FR Doc. 98–17969 Filed 7–1–98; 2:19 pm]

BILLING CODE 4410–31–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

June 30, 1998.

The Department of Labor (DOL) submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Todd R. Owen (202) 219–5096 ext. 143) or by E-Mail to Owen-Todd@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 (202) 395–7316), within 30 days from the date of this publication in the **Federal Register.**

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employment and Training Administration.

Titles: Benefits Rights Experience.

OMB Number: 1205–0177 (extension).

Form Numbers: ETA 218.

Frequency: Quarterly.

Frequency: Quarterly.

Form	Affected public	Respondents	Frequency	Average time per respondent
53	Regular States	53	Quarterly	30 minutes.
2	Extended Benefit States	2	Quarterly	30 minutes.

Total Burden Hours: 108 hours.

Total annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: The data in the ETA 218, provides information on the solvency studies, in budgeting projections and for evaluation of adequacy of benefit formulas, as administered under the State unemployment insurance program.

Agency: Employment and Training Administration.

Title: Planning and Reporting Requirements for Job Training Partnership Act (JTPA) Title IV–A, Section 402 Migrant and Seasonal Farmworker Grantees.

OMB Number: 1205–0215 (reinstatement with change).

Form Numbers: ETA 8595; ETA 8596; ETA 8597; ETA 8598.

Affected Public: State, Local, or Tribal govt.

Form No.	Respondents	Frequency	Average time per response
Planning Agreement	53	One-time	3 minutes.
Planning Narrative	53	One-time	22 hours.
ETA 8595	53	Annual	15 hours.
ETA 8596	53	Annual	16 hours.
ETA 8597	53	Twice	7 hours.
ETA 8598	53	Annual	7 hours.
Recordkeeping	34	Annual	1 hour 45 minutes.

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Total Burden Hours: 65,590.

Total annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: This request is for approval of a reinstatement of the planning and reporting forms previously approved and in use for the JTPA section 402 program which provides employment and training services for migrant and seasonal farmworkers. These forms are used to manage the national program under section 402, and are the principal source of program plans and performance data. They form the basis for the award of funds, Federal oversight and reports to Congress.

Agency: Mine Safety and Health Administration.

Title: Hazardous Conditions Complaints (30 CFR 43.2, 43.4, 43.7, and 43.8).

OMB Number: 1219–0014 (revision).

Frequency: On Occasion.

Affected Public: Business or other for-profit.

Number of Respondents: 637.

Estimated Time per Response: 12 minutes.

Total Burden Hours: 127 hours.

Total annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): $8.00.

Description: A representative of miners or, if there is no representative of miners, an individual miner acting voluntarily may submit or give a written notification to MSHA of an alleged violation of the Mine Act or mandatory standard or of an imminent danger. Such notification requires MSHA to make an immediate inspection.

Todd R. Owen,

Departmental Clearance Officer.

[FR Doc. 98–17801 Filed 7–2–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting Notice

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463 as amended), notice is hereby given of a meeting of the Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: July 14, 1998, 10:00 a.m., U.S. Department of Labor, S–4215 B/C, 200 Constitution Ave., NW, Washington, DC 20210.

Purpose: The meeting will include a review and discussion of current issues which influence U.S. trade policy. Potential U.S. negotiating objectives and bargaining positions in current and anticipated trade negotiations will be discussed. Pursuant to 19 U.S.C. 2155(f) it has been determined that the meeting will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions. Accordingly, the meeting will be closed to the public.

For further information, contact: Jorge Perez-Lopez, Director Office of International Economic Affairs, Phone: (202) 219–7597.

Signed at Washington, DC this 25th day of June 1998.

Andrew James Samet,

Deputy Under Secretary, International Affairs.

[FR Doc. 98–17798 Filed 7–2–98; 8:45 am]

BILLING CODE 4510–28–M

DEPARTMENT OF LABOR

Employment Standards Administration

Wage and Hour Division; Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this date may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

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General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon and Related Acts." This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at (703) 487–4630.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wages determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, DC this 26th day of June 1998.

Terry Sullivan,

Acting Chief, Branch of Construction Wage Determinations.

[FR Doc. 98–17480 Filed 7–2–98; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed revision of the "BLS Occupational Safety and Health Statistics Federal/State Cooperative Agreement (Application Package)."

A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the addresses section of this notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before September 4, 1998. The Bureau of Labor Statistics is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Send comments to Karin G. Kurz, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 3255, 2 Massachusetts Avenue, NE, Washington, D.C. 20212. Ms. Kurz can be reached on (202) 606–7628 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

I. Background

The Secretary of Labor has delegated to the BLS the authority to collect, compile and analyze statistical data on work-related injuries and illnesses. The Cooperative Agreement is designed to allow the BLS to ensure conformance with program objectives. The BLS has full authority over the financial operations of the statistical program. The BLS requires financial reporting that will produce the information that is needed to monitor the financial activities of the BLS Occupational Safety and Health Statistics grantees.

II. Current Actions

Continued collection of grantee financial information is necessary to maintain an effective program of collection, compilation and analysis of occupational safety and health statistics, as authorized by the Occupational Safety and Health Act of 1970 (Pub. L. 91–596). The burden estimates are based on actual experience of grantees competing the forms. Public comments on the accuracy of the burden estimates, as well as suggestions for reducing the burden, are encouraged.

Type of Review: Revision of a currently approved collection.

Agency: Bureau of Labor Statistics.

Title: BLS Occupational Safety and Health Statistics Federal/State

Cooperative Agreement (Application Package).

OMB Number: 1220–0149.

Frequency: Annually and Quarterly.

Affected Public: State governments.

Number of Respondents: 57

Estimated Time Per Respondent: 6 Hours.

Total Burden Hours: 342 Hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC this 29th day of June 1998.

W. Stuart Rust, Jr.,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 98–17799 Filed 7–2–98; 8:45 am]

BILLING CODE 4510–24–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)] This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed reinstatement of the "Contingent Work Supplement to the Current Population Survey."

A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the addresses section of this notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before September 4, 1998. The Bureau of Labor Statistics is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Send comments to Karin G. Kurz, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 3255, 2 Massachusetts Avenue, NE, Washington, DC 20212. Ms. Kurz can be reached on 202–606–7628 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

I. Background

The Current Population Survey (CPS) has been the principal source of the official Government Statistics on employment and unemployment for over 50 years. Labor force data are collected through the CPS under authority of Title 29, United States Code, Sections 1 and 2. Since the mid-1980's, there has been a growing belief among labor market researchers that employers require greater flexibility in their use of labor. As a result, many workers find themselves in "contingent jobs" that are structured to last for only a limited duration or in alternative employment arrangements such as independent contracting, on-call work, and working through temporary help agencies or contract companies. It is feared that workers with such employment may have little job security, low pay, and no fringe benefits. This CPS supplement would provide objective information about "contingent work."

II. Current Actions

The contingent work supplement provides information on the number and characteristics of workers in contingent jobs, that is, jobs which are structured to last only a limited period of time. The survey also provides information about workers in several alternative employment arrangements, including those working as independent contractors and on-call workers, as well as those working through temporary help agencies or contract companies.

Type of Review: Reinstatement, with change, of previously approved collection for which approval has expired.

Agency: Bureau of Labor Statistics.

Title: Contingent Work Supplement to the Current Population Survey.

OMB Number: 1220–0153.

Affected Public: Individuals or households.

Total Respondents: 48,000.

Frequency: One-time only.

Total Responses: 48,000.

Average Time Per Response: 8 minutes.

Estimated Total Burden Hours: 6,400 hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC this 29th day of June 1998.

W. Stuart Rust, Jr.,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 98–17800 Filed 7–2–98; 8:45 am]

BILLING CODE 4510–24–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Advisory Committee on Construction Safety and Health; Notice of Open Meeting

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

SUMMARY: Notice is hereby given that the Advisory Committee on Construction Safety and Health (ACCSH) will meet July 22–23, 1998, at the Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, DC. This meeting is open to the public.

DATES: This ACCSH meeting will be held on July 22 and 23, 1998, as described further in the body of this document.

SUPPLEMENTARY INFORMATION: For further information contact Theresa

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Berry, Office of Public Affairs, Room N–3647, Telephone (202) 219–8615, Ext. 106, at the Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Washington, DC, 20210.

An official record of the meeting will be available for public inspection at the OSHA Docket Office, Room N–2625, Telephone 202–219–7894. All ACCSH meetings and those of its workgroups are open to the public. Individuals with disabilities requiring reasonable accommodations should contact Theresa Berry no later than July 17 at the address above.

ACCSH was established under section 107(e)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and section 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656).

ACCSH will meet from 9 a.m. to 4:30 p.m. on Wednesday, July 22, and from 9 a.m. to 1:15 p.m. on Thursday, July 23, in Rooms N–3437 A, B and C.

The following items will be discussed at the meeting on July 22:

- A proposed standard regarding employer responsibility to pay for Personal Protective Equipment.
- Status of Data Collection on OSHA's 170 form.
- OSHA Reinvention.
- OSHA's Strategic Plan for Construction.
- Multi-Employer Citation Policy.
- A proposed standard on steel erection (Subpart R) developed by the Steel Erection Negotiated Rulemaking Advisory Committee (SENRAC).
- Fall Protection (Subpart M).
- OSHA's Electronic Information Systems.

Also on July 22, ACCSH Work Groups on Sanitation and on Confined Space will present reports.

The following items will be discussed at the meeting on July 23:

- Hexavalent Chromium Rulemaking.
- Crystalline Silica Standard Development.
- The Directorate of Construction update report.
- Powered Industrial Trucks—Final Standard Regarding Training Requirements for Powered Industrial Trucks.
- A Report by the Bureau of Labor Statistics on Highway Construction Injuries and Fatalities.

Interested persons may submit written data, views or comments, preferably with 20 copies, to Theresa Berry, at the address above. Those submissions received prior to the meeting will be provided to ACCSH and will be included in the record of the meeting.

Interested persons may also request to make an oral presentation by notifying Theresa Berry before the meeting. The request must state the amount of time desired, the interest that the person represents, and a brief outline of the presentation. ACCSH may grant requests, as time permits, at the discretion of the Chair of ACCSH.

Signed at Washington, DC, this 29th day of June, 1998.

Charles N. Jeffress,

Assistant Secretary of Labor.

[FR Doc. 98–17797 Filed 7–2–98; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 98–088]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below are assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATES: July 6, 1998.

FOR FURTHER INFORMATION CONTACT: Beth Vrioni, Patent Counsel, Kennedy Space Center, Mail Stop MM–E, at (407) 867–6225.

NASA Case No. KSC–11940: Conducting Composition of Matter;

NASA Case No. SSC–00049: Plant Chlorophyll Content Imager;

NASA Case No. SSC–00050: Plant Chlorophyll Content Meter.

Dated: June 25, 1998.

Edward A. Frankle,

General Counsel.

[FR Doc. 98–17732 Filed 7–2–98; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 98–086]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below are assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATES: July 6, 1998.

FOR FURTHER INFORMATION CONTACT: Office of the Patent Counsel, Langley Research Center, Mail Stop 212, Hampton, VA 23681–0001; telephone (757) 864–9260.

NASA Case No. LAR 15564–1–SB: Method of Controlling Laser Wavelength(s);

NASA Case No. LAR 15562–1: Method and Apparatus to Assess Optimum Strength During Processing of Precipitation Strengthened Alloys;

NASA Case No. LAR 15666–1: An Airplane Design Concept Having an In Board-Wing Bounded by Fuselages Mounted at Each Wing Tip;

NASA Case No. LAR 15745–1: Prepreg and Composites Made from Polyimide "Salt-Lake" Solution;

NASA Case No. LAR 15040–2: Method and Apparatus for Histological Human Tissue Characterization Using Ultrasound;

NASA Case No. LAR 15534–3: Method of Preparing Polymers With Low Melt Viscosity (DIV. of–1).

Dated: June 26, 1998.

Edward A. Frankle,

General Counsel.

[FR Doc. 98–17733 Filed 7–2–98; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 98–090]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below are assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATES: July 6, 1998.

FOR FURTHER INFORMATION CONTACT: Kent N. Stone, Patent Attorney, Lewis Research Center, Mail Stop 500–118, Cleveland, Ohio 44135–3191; telephone (216) 433–8855, fax (216) 433–6790.

NASA Case No. LEW–16,489–1: Nozzle Partial Circumference Flow Modifier;

NASA Case No. LEW–16,231–2–CIP: Resilient of Braided Rope Seal;

NASA Case No. LEW–16,398–1: High Resolution Scanning Reflectarray Antenna;

NASA Case No. LEW–16,519–1: Method of Stabilization of Sic-Based Gas Sensor Using an Alloy Deposited on the C-face of SiC;

Dated: June 29, 1998.

Edward A. Frankle,

General Counsel.

[FR Doc. 98–17821 Filed 7–2–98; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 98–089]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Availability of Inventions for Licensing.

SUMMARY: The inventions listed below are assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATE: July 6, 1998.

FOR FURTHER INFORMATION CONTACT: Kathleen Dal Bon, Patent Counsel, Ames Research Center, Mail Code 202A–3, Moffett Field, CA 94035; telephone (650) 604–5104, fax (650) 604–1592.

NASA Case No. ARC–14057–3GE: Photonic Switching Devices Using Light Bullets;

NASA Case No. ARC–14151–1SB: Microvolume Ionization Detector;

NASA Case No. ARC–14236–1GE: System for Objective Measurement of Visual Quality of Digital Video;

NASA Case No. ARC–15007–1LE: MARS VE The Virtual Exploration Mission CD–ROM;

NASA Case No. ARC–14240–1GE: Vibration Characterization Algorithm;

NASA Case No. ARC–14268–1SB: Automated Traffic Management System and Method;

NASA Case No. ARC–14246–1SB: Doping Method of Semiconducting Atomic Chains.

Dated: June 30, 1998.

Edward A. Frankle,

General Counsel.

[FR Doc. 98–17822 Filed 7–2–98; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency proposes to request approval for a collection of information to help management to make decisions regarding the location of, and services provided by, regional records services facilities. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be received on or before September 4, 1998 to be assured of consideration.

ADDRESSES: Comments should be sent to: Paperwork Reduction Act Comments (NHP), Room 3200, National Archives and Records Administration, 8601 Adelphi Rd, College Park, MD 20740–6001; or faxed to 301–713–6913; or electronically mailed to tamee.fechhelm@arch2.nara.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number 301–713–6730, or fax number 301–713–6913.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. The comments and suggestions should address one or more of the following points: (a) Whether the proposed information collection is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of information technology. The comments that are submitted will be summarized and included in the NARA request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this notice, NARA is soliciting comments concerning the following information collection:

Title: Locations for NARA Regional Research Services.

OMB number: None.

Agency form number: None.

Type of review: Regular.

Affected public: Individuals and households, business and other for-profit organizations, nonprofit organizations and institutions, state, local, and Federal government agencies, Federally acknowledged or state-recognized Native American tribes or groups, who engage in research at a NARA regional records service facility.

Estimated number of respondents: 5,000.

Estimated time per response: 10 minutes.

Frequency of response: One time.

Estimated total annual burden hours: 835 hours.

Abstract: A goal in NARA's Strategic Plan is to spend less for the space we occupy so the money can be used to support services for our customers. We are looking at the buildings we occupy and the services we provide at those locations to decide what kind of facilities we need and where they should be located to best serve all of our customers.

Dated: June 25, 1998.

L. Reynolds Cahoon,

Assistant Archivist for Human Resources and Information Services.

[FR Doc. 98–17816 Filed 7–2–98; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act Meeting

TIME AND DATE: 10:00 a.m., Tuesday, July 7, 1998.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

MATTER TO BE CONSIDERED:

1. Personnel Action. Closed pursuant to exemptions (2) and (6).

FOR FURTHER INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone 703–518–6304.

Becky Baker,

Secretary of the Board.

[FR Doc. 98–17865 Filed 6–30–98; 5:01 pm]

BILLING CODE 7535–01–M

NATIONAL TRANSPORTATIONS SAFETY BOARD

Sunshine Act Meeting

TIME AND DATE: 9:30 a.m., Tuesday, July 14, 1998.

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PLACE: NTSB Board Room, 5th Floor, 490 L' Enfant Plaza, S.W., Washington, D.C. 20594.

STATUS: OPEN.

MATTERS TO BE CONSIDERED:

6912A—Railroad Accident Report—Derailment of Amtrak Train 4, on the Burlington Northern Santa Fe Railway, Kingman, Arizona, August 9, 1997.

6667A—Marine Accident Report—Fire aboard the Tug *Scandia* and the Subsequent Grounding of the Tug and Tank Barge *North Cape,* Moonstone, Beach, South Kingston, Rhode Island, January 19, 1996.

NEWS MEDIA CONTACT: Telephone: (202) 314–6100

FOR MORE INFORMATION CONTACT: Rhonda Underwood, (202) 314–6065.

Rhonda Underwood,

Federal Register Liaison Officer.

[FR Doc. 98–17930 Filed 7–1–98; 12:19 pm]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–461]

In the Matter of Illinois Power and Clinton Power Station; Confirmatory Order Modifying License Effective Immediately

I

Illinois Power (IP or the Licensee) is the holder of Facility Operating License No. NPF–62, which authorizes operation of Clinton Power Station located in DeWitt County, Illinois.

II

The staff of the U.S. Nuclear Regulatory Commission (NRC) has been concerned that Thermo-Lag 330–1 fire barrier systems installed by licensees may not provide the level of fire endurance intended and that licensees that use Thermo-Lag 330–1 fire barriers may not be meeting regulatory requirements. During the 1992 to 1994 timeframe, the NRC staff issued Generic Letter (GL) 92–08, "Thermo-Lag 330–1 Fire Barriers," and subsequent requests for additional information that requested licensees to submit plans and schedules for resolving the Thermo-Lag issue. The NRC staff has obtained and reviewed all licensees' corrective plans and schedules. The staff is concerned that some licensees may not be making adequate progress toward resolving the plant-specific issues, and that some implementation schedules may be either too tenuous or too protracted. For example, several licensees informed the NRC staff that their completion dates had slipped by 6 months to as much as 3 years. For plants that have completion action scheduled beyond 1997, the NRC staff has met with these licensees to discuss the progress of the licensees' corrective actions and the extent of licensee management attention regarding completion of Thermo-Lag corrective actions. In addition, the NRC staff discussed with licensees the possibility of accelerating their completion schedules.

IP was one of the licensees with which the NRC staff held meetings. At these meetings, the NRC staff reviewed with IP the schedule of Thermo-Lag corrective actions described in the IP submittals to the NRC. Based on the information submitted by IP, and provided during the meetings, the NRC staff has concluded that the schedules presented by IP are reasonable. This conclusion is based on the (1) amount of installed Thermo-Lag, (2) the complexity of the plant-specific fire barrier configurations and issues, (3) the need to perform certain plant modifications during outages as opposed to those that can be performed while the plant is at power, and (4) integration with other significant, but unrelated issues that IP is addressing at its plant. In order to remove compensatory measures such as fire watches, it has been determined that resolution of the Thermo-Lag corrective actions by IP must be completed in accordance with current IP schedules. By letter dated May 3, 1998, the NRC staff notified IP of its plan to incorporate IP's schedule commitment into a requirement by issuance of an order and requested consent from the Licensee. By letter dated May 22, 1998, the Licensee provided its consent to issuance of a Confirmatory Order.

III

The Licensee's commitment as set forth in its letter of May 22, 1998, is acceptable and is necessary for the NRC to conclude that public health and safety are reasonably assured. To preclude any schedule slippage and to assure public health and safety, the NRC staff has determined that the Licensee's commitment in its May 22, 1998, letter be confirmed by this Order. The Licensee has agreed to this action. Based on the above, and the Licensee's consent, this Order is immediately effective upon issuance.

IV

Accordingly, pursuant to sections 103, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 50, *It is hereby ordered,* effective immediately, that:

Illinois Power (IP) complete final implementation of Thermo-Lag 330–1 fire barrier corrective actions at Clinton Power Station as described in the June 19, 1997, and March 30, 1998, submittals to the NRC, in addition to the repair of the butt joint described in the March 28, 1995, submittal to the NRC, by December 31, 1998.

The Director, Office of Nuclear Reactor Regulation, may relax or rescind, in writing, any provisions of this Confirmatory Order upon a showing by the Licensee of good cause.

V

Any person adversely affected by this Confirmatory Order, other than the Licensee, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Attention: Docketing and Services Section, Washington, DC 20555. Copies of the hearing request shall also be sent to the Director, Office of Nuclear Reactor Regulation, U. S. Nuclear Regulatory Commission, Washington, DC 20555, to the Deputy Assistant General Counsel for Enforcement at the same address, to the Regional Administrator, NRC Region III, 801 Warrenville Road, Lisle, IL 60532–4351, and to the Licensee. If such a person requests a hearing, that person shall set forth with particularity the manner in which his/her interest is adversely affected by this Order and shall address criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any such hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this Order.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland this 26th day of June 1998.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 98–17773 Filed 7–2–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–22]

Westinghouse Electric Corporation (CBS Corporation) Westinghouse Test Reactor; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility License No. TR–2, now held by the CBS Corporation, formerly named the Westinghouse Electric Corporation. The license authorizes possession only of the Westinghouse Test Reactor (WTR), located in Westmoreland County, Pennsylvania.

Environmental Assessment

Identification of the Proposed Action

The proposed action would amend Facility License No. TR–2 for the WTR to reflect the change in the legal name of the licensee from Westinghouse Electric Corporation to CBS Corporation, which occurred on December 1, 1997.

The proposed action is in accordance with the licensee's application for amendment dated December 22, 1997, as supplemented on June 15, 1998.

Need for the Proposed Action

The proposed action is needed to accurately reflect the legal name of the licensee.

Environmental Impacts of the Proposed Action

The proposed action does not modify the WTR facility configuration, procedures or requirements, or affect licensed activities. The employees responsible for the licensed WTR facility will still be responsible notwithstanding the new name of the licensee. The proposed action will not affect the financial qualifications of the licensee to possess and decommission the facility.

In light of the foregoing, the Commission concludes that the change will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there will be no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action is administrative in nature and does not involve any physical features of the plant. Thus, it does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

No alternatives appear that will have different or lesser effect on the use of available resources.

Agencies and Persons Contacted

In accordance with its stated policy, on June 23, 1998, the NRC staff consulted with the Pennsylvania State Official, Ray Woods, of the Bureau of Radiation Protection, Pennsylvania Department of Environmental Protection, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's submittals dated December 22, 1997 and June 15, 1998, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC.

Dated at Rockville, Maryland, this 26th day of June 1998.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

Director, Non-Power Reactors and Decommissioning Project Directorate, Division of Reactor Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 98–17774 Filed 7–2–98; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Rel No. IC–23287; 812–10696]

Cash Management Portfolio, et al.; Notice of Application

June 26, 1998.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under sections 6(c) and 17(b) of the Investment Company Act of 1940 (the "Act") from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants seek an order to permit redemption in-kind of shares of certain registered investment companies by certain shareholders who are affiliated persons of the investment companies.

APPLICANTS: Cash Management Portfolio, Treasury Money Portfolio, Tax Free Money Portfolio, NY Tax Free Money Portfolio, International Equity Portfolio, Utility Portfolio, Equity 500 Index Portfolio, Short/Intermediate U.S. Government Securities Portfolio, Asset Management Portfolio, Capital Appreciation Portfolio, Intermediate Tax Free Portfolio, BT Investment Portfolios (each a "Portfolio"), BT Investment Funds, BT Institutional Funds, BT Pyramid Mutual Funds, BT Advisor Funds (each a "Fund"), and Bankers Trust Company (the "Investment Advisor"). Applicants also request relief for each subsequently created series of the Funds and the Portfolios and any other registered open-end investment company advised by, or substantially all of whose assets are invested in a Portfolio advised by, the Investment Advisor or any entity controlling, controlled by or under common control with the Investment Advisor.[1]

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[1] All investment companies that currently intend to rely on the order have been named as applicants,

Continued

FILING DATES: The application was filed on June 6, 1997, and amended on March 17, 1998.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the SEC orders a hearing. Interested persons any request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 21, 1998 and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW, Washington, DC 20549. Applicants, 130 Liberty Street, New York, NY 10006.

FOR FURTHER INFORMATION CONTACT: Lisa McCrea, Attorney Adviser, at (202) 942–0562, or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 5th Street, NW, Washington, DC 20549 (tel. 202–942–8090).

Applicants' Representations

1. Each of the Funds and the Portfolios is registered as an open-end management investment company under the Act. The Investment Advisor, a New York banking corporation and a wholly-owned subsidiary of Bankers Trust New York Corporation, is exempt from registration under the Investment Advisers Act of 1940. The Investment Advisor serves an investment adviser to each of the Portfolios and certain of the Funds. Certain other Funds are feeder funds ("Feeder Funds") in a master-feeder structure and seek to achieve their investment objectives by investing all of their assets in a Portfolio with an identical investment objective.

2. Shares of the BT PreservationPlus Fund (the "PreservationPlus Fund"), a Feeder Fund that is a series of the BT Pyramid Mutual Funds, are offered solely to participant-directed employee benefit plans meeting specific criteria ("Plans"). The PreservationPlus Fund invests all of its assets in the PreservationPlus Portfolio. The PreservationPlus Portfolio's investment objective is a high level of current income while seeking to maintain a stable value per share.

3. Each of the Portfolios, including the PreservationPlus Portfolio, is authorized to sell its shares to investors other than Feeder Funds. The PreservationPlus Fund, however, is the sole shareholder of the PreservationPlus Portfolio.

4. The PreservationPlus Portfolio enters into contracts ("Wrapper Agreements") with financial institutions, such as insurance companies and banks ("Wrapper Providers"), that are intended by the PreservationPlus Portfolio to stabilize the value per share of the PreservationPlus Portfolio and the PreservationPlus Fund by offsetting fluctuations in the value of the portfolio securities under certain conditions. Each Wrapper Agreement obligates the Wrapper Provider to maintain the book value of a portion of the PreservationPlus Portfolio's assets ("Covered Assets") up to a specified maximum dollar amount, upon the occurrence of certain events.

5. Applicants request relief to permit in-kind redemptions of shares of the Portfolios and/or the Funds by (a) any shareholder of a Fund that owns five percent or more of the outstanding voting securities of the Fund; (b) any shareholder of a Feeder Fund that owns five percent or more of the outstanding voting securities of a Portfolio; and (c) any shareholder of a Portfolio, other than a Feeder Fund, that owns five percent or more of the outstanding voting securities of the Portfolio (collectively, "Affiliated Shareholders").[2] With respect to the PreservationPlus Fund, the requested relief would extend only to non-participant directed redemptions by Plans, and only to redemptions that exceed $500,000 or 1% of the net asset value of the PreservationPlus Fund.

6. Under the requested relief, the PreservationPlus Fund would make a redemption in-kind in portfolio securities and in Wrapper Agreements. The PreservationPlus Fund would assign to the redeeming Plan one or more Wrapper Agreements (the "Cloned Wrapper Agreements") issued by the Wrapper Providers covering the portfolio securities distributed in-kind. The Cloned Wrapper Agreements would represent the redeeming Plan's proportional interest in Wrapper Agreements covering the PreservationPlus Fund's assets covered by Wrapper Agreements. The terms and conditions of the Cloned Wrapper Agreements provided to a redeeming Plan will be the same or substantially similar to the terms and conditions of the Wrapper Agreements held by the PreservationPlus Portfolio.[3] The distribution of portfolio securities and Cloned Wrapper Agreements to a redeeming Plan will be proportionate to each other in order to achieve the PreservationPlus Funds' investment objective of maintaining a stable value per share for both the redeeming Plan and the PreservationPlus Fund's remaining shareholders.

7. The PreservationPlus Portfolio intends to make in-kind distributions of mortgage-backed securities in its portfolio based upon groups or "baskets" of such securities, all of which share common characteristics, rather than a pro-rata basis of each individual pool of mortgages. Consequently, rather than receiving a pro-rata distribution of every individual mortgage pool, a redeeming Plan will receive a pro-rata distribution of securities from each different type of mortgage pool (each a "Basket"), proportionate to the PreservationPlus Portfolio's holdings. The Baskets would be determined by application of the Lehman Brothers Mortgage-Backed Securities Index. A redeeming shareholder would receive a pro-rata share of each Basket of securities held by the PreservationPlus Portfolio.

Legal Analysis

1. Section 17(a)(2) of the Act makes it unlawful for an affiliated person of a registered investment company or an affiliated person of such a person, acting as principal, to knowingly "purchase" from such registered investment company any security or other property (except securities of which the seller is the issuer). Section 2(a)(3)(A) of the Act defines *affiliated person* to include any person owning 5% or more of the outstanding voting securities of such other person.

2. Section 17(b) authorizes the SEC to exempt a proposed transaction from section 17(a) provided that: (a) the terms of the proposed transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the transaction is

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and any other existing or future investment company that subsequently may rely on the order will comply with its terms and conditions.

[2] Each of the Funds, other than the PreservationPlus Fund, has elected to be governed by rule 18f–1 under the Act. Any redemption in-kind by the Fund, therefore, will comply with the requirements of that rule.

[3] The PreservationPlus Fund may incur costs in obtaining Cloned Wrapper Agreements from Wrapper Providers. These costs will be payable from, and are not expected to exceed, any applicable redemption fee.

consistent with the policy of the investment company, as recited in its registration statement and reports filed under the Act; and (c) the proposed transaction is consistent with the general purposes of the Act.

3. Section 6(c) of the Act provides that the SEC may exempt classes of persons or transactions from the Act, where an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Applicants request an order under sections 6(c) and 17(b) of the Act exempting applicants from section 17(a) of the Act to permit Affiliated Shareholders to redeem their shares in-kind. The requested order would not apply to redemptions by shareholders who are affiliated persons of a Fund or Portfolio within the meaning of sections 2(a)(3) (B) through (F) of the Act.

5. Applicants submit that the proposed transactions meet the standards set forth in sections 6(c) and 17(b) of the Act. Applicants believe that the use of proposed objective standards for the selection and valuation of securities to be distributed in an in-kind redemption to an Affiliated Shareholder will ensure that the proposed transactions will be on terms that are reasonable and fair to the Portfolios, the Affiliated Shareholders, and non-Affiliated Shareholders, and will not involve overreaching on the part of any person.

6. Applicants submit that the proposed transactions are consistent with the investment policy of each Fund and Portfolio. Applicants further submit that the proposed transactions are consistent with the general purposes of the Act because no Affiliated Shareholder would receive any advantage over any other shareholder if the proposed transactions are effected. Affiliated Shareholders who wish to redeem shares would receive the same in-kind distribution of securities, and in the case of the PreservationPlus Fund, Cloned Wrapper Agreements, and cash on the same basis as other shareholders wishing to redeem their shares.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. The portfolio securities distributed to Affiliated Shareholders and non-Affiliated Shareholders pursuant to a redemption in-kind (the "In-Kind Portfolio Securities") will be limited to securities that are traded on a public securities market or for which quoted bid and asked prices are available.

2. The In-Kind Portfolio Securities will be distributed to Affiliated Shareholders on a pro rata basis after excluding: (a) securities which, if distributed, would be required to be registered under the Securities Act of 1933; and (b) securities issued by entities in countries which restrict or prohibit the holding of securities by non-nationals other than through qualified investment vehicles, such as the Portfolios. Cash will be paid for that portion of the Portfolio's assets represented by cash equivalents (such as certificates of deposit, commercial paper, and repurchase agreements) and other assets that are not readily distributable (including receivables and prepaid expenses), net of all liabilities (including accounts payable). In addition, cash will be distributed in lieu of portfolio securities not amounting to round lots or fractional shares.

3. The terms and conditions of the Cloned Wrapper Agreements will be substantially similar to those Wrapper Agreements held by the PreservationPlus Portfolio.

4. The board of trustees of a Fund or Portfolio ("Board"), including a majority of the disinterested trustees, will determine no less frequently than annually: (a) whether the In-Kind Portfolio Securities and Cloned Wrapper Agreements have been distributed in accordance with conditions 1, 2 and 3; and (b) whether the distribution of any such In-Kind Portfolio Securities and Cloned Wrapper Agreements is consistent with the policies of the relevant Fund or Portfolio as reflected in the prospectus of the Fund or the Portfolio. In addition, each Board shall make and approve such changes as the Board deems necessary in its procedures for monitoring compliance by applicants with the terms and conditions of the application.

5. The relevant Fund or Portfolio will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any redemption in-kind to an Affiliated Shareholder occurred, the first two years in an easily accessible place, a written record of each such redemption setting forth a description of each security distributed, the identity of the Affiliated Shareholder, the terms of the distribution, and the information or materials upon which the valuation was made.

6. In-Kind Portfolio Securities and Cloned Wrapper Agreements distributed to Affiliated Shareholders and non-Affiliated Shareholders will be valued in the same manner as they would be valued for computing a Fund's or a Portfolio's net asset value per share.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–17712 Filed 7–2–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Releases No. IC–23289, 812–11120]

The Evergreen Equity Trust, et al.; Notice of Application

June 26, 1998.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an order under section 17(b) of the Investment Company Act of 1940 (the "Act") for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain series of registered open-end management investment companies to acquire all of the assets and certain stated liabilities of certain series of another registered open-end management investment company.

APPLICANTS: Evergreen Equity Trust, Evergreen Select Equity Trust, Evergreen International Trust, Evergreen Fixed Income Trust, Evergreen Select Fixed Income Trust, Evergreen Municipal Trust, Evergreen Money Market Trust, Evergreen Select Money Market Trust (together with their series, the "Evergreen Funds"), CoreFunds, Inc. (with its series, the "CoreFunds" and together with the Evergreen Funds, the "Funds"), and First Union National Bank ("FUND").

FILING DATES: The application was filed on April 23, 1998 and amended on June 24, 1998. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING ON NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 21, 1998, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate or service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

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ADDRESSES: Secretary, SEC, 450 Fifth Street, NW, Washington, DC 20549. Applicants: FUNB, 201 S. College Street, Charlotte, North Carolina 20288; CoreFunds, Inc., 530 East Swedesford Road, Wayne, Pennsylvania 19087; The Evergreen Funds, 200 Berkeley Street, Boston, Massachusetts 02116.

FOR FURTHER INFORMATION CONTACT: John K. Forst, Attorney Advisor, at (202) 942–0569, or Edward P. Macdonald, Branch Chief, at (202) 942–0564, (Division of Investment Management, Office of Investment Company Regulation.)

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549 (tel. 202–942–8090).

Applicant's Representations

1. The CoreFunds is a Maryland corporation registered under the Act as an open-end management investment company. CoreFunds consist of twenty-one separate series, nineteen of which are the selling funds ("Selling Funds")[1] CoreStates Investment Advisers, Inc. ("CSIA") is registered under the Investment Advisers Act 1940 ("Advisers Act") and is the investment adviser for the CoreFunds.

2. The Evergreen Funds are Delaware business trusts and each is registered under the Act as an open-end management investment company. Nineteen of the Evergreen Funds' series are the acquiring funds ("Acquiring Funds"). FUNB, a subsidiary of First Union Corporation ("First Union"), is a national banking association. FUNB is not required to register under the Advisers Act. The Capital Management Group, a division of FUNB and two of FUNB's subsidiaries, Evergreen Asset Management Corp. and Keystone Investment Management Company as well as Meridian Investment Company, an indirect wholly-owned subsidiary of First Union are the investment advisers to the Evergreen Funds. Evergreen Asset Management Corp. and Keystone Investment Management Company are each registered under the Advisers Act. FUNB, as a fiduciary for its customers, owns of record 5% (in some cases 25%) or more of the outstanding voting securities of each of the Selling Funds or their respective Acquiring Funds.

3. On April 30, 1998, CoreStates Financial merged with and into a wholly-owned subsidiary of First Union (the "Merger"). CSIA was a wholly-owned, indirect subsidiary of CoreStates Financial. As a result of the Merger, CSIA became a wholly-owned subsidiary of FUNB. .

4. On February 6 and 11, 1998 respectively, the board of CoreFunds and each Evergreen Fund (the "Boards"), including a majority of the directors/trustees who are not "interested persons" under section 2(a)(19) of the Act (the "Independent Directors"), approved plans of reorganization under which the Acquiring Funds will acquire corresponding Selling Funds with similar investment objectives (the "Plans"). Pursuant to the Plans, each Selling Fund has agreed to sell all of its assets and certain stated liabilities to the corresponding Acquiring Fund in exchange for shares of the Acquiring Fund (the "Reorganizations.")[2] As a result of the Reorganizations, each Selling Fund shareholder will receive Acquiring Fund shares having an aggregate net asset value equal to the aggregate net asset value of the corresponding Selling Fund's shares held by that shareholder calculated as of the close of business immediately prior to the date on which the Reorganizations will occur. Applicants expect that the Reorganizations will occur on or about July 27, 1998 (the "Closing Date").

5. The Selling Funds, except for the money market funds, offer four classes of shares: Classes A Individual, B Individual, C Individual, and Y (Institutional) Shares. Certain of the Acquiring Funds offer one or more of six classes of shares, which are Classes A, B, C, Y, Institutional, and Institutional Service Shares.

6. Under the Plans, holders of Class A and Class B Shares of CoreFunds Balanced Fund, CoreFunds Intermediate Municipal Bond Fund, CoreFunds New Jersey Municipal Bond Fund, CoreFunds Pennsylvania Municipal Bond Fund, CoreFunds Cash Reserve Fund, CoreFunds Tax-Free Reserve Fund, CoreFunds Treasury Reserve Fund, CoreFunds International Growth Fund, CoreFunds Government Income Fund, and CoreFunds Core Equity Fund will receive Class A or B Shares of the corresponding Acquiring Fund. Holders of Class A and B Shares of the remaining Selling Funds will receive Institutional Service Shares of the corresponding Acquiring Fund. Holders of Class C Shares of the CoreFunds Cash Reserve Fund, CoreFunds Tax-Free Reserve Fund and CoreFunds Treasury Reserve Fund will receive Class A Shares of the corresponding Acquiring Fund. Holders of Class C Shares of the remaining Selling Funds will receive Institutional Service Shares of the corresponding Acquiring Fund. Holders of Class Y Shares of the CoreFunds Balanced Fund, CoreFunds Intermediate Municipal Bond Fund, CoreFunds New Jersey Municipal Bond Fund, CoreFunds Pennsylvania Municipal Bond Fund, CoreFunds Cash Reserve Fund, CoreFunds Tax-Free Reserve Fund, CoreFunds Treasury Reserve Fund, CoreFunds International Growth Fund, CoreFunds Government Income Fund, and CoreFunds Core Equity Fund will receive Class Y Shares of the corresponding Acquiring Fund. Holders of Class Y Shares of the remaining Selling Funds will receive Institutional Shares of the corresponding Acquiring Fund.

7. Class Y (Institutional) Shares of the Selling Fund and Class Y and Institutional Shares of the Acquiring Funds are not subject to any asset-based distribution or administrative service fees. Class C Shares of the Selling Funds and Institutional Service Shares of the Acquiring Funds are subject to an asset-based distribution fee. Class A Individual and Class A Shares are subject to varying front-end sales charges and asset-based distribution fees. Class B Individual and Class B Shares are subject to varying contingent deferred sales charges and asset-based distribution fees. No initial sales charge will be imposed in connection with Class A Shares and no contingent

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[1] The CoreFunds Elite Government Reserve Fund has not commenced operations as the date of the filing of the application and is not being acquired by the Evergreen Funds. The CoreFunds Treasury Reserve Fund will reorganize into the Evergreen Treasury Money Market Fund and will rely on rule 17a–8. Accordingly, these three series are not parties to this application.

[2] The Selling Funds and the corresponding Acquiring Funds are: CoreFunds Balanced Fund and Evergreen Foundation Fund; CoreFunds Growth Equity Fund and Evergreen Select Strategic Growth Fund; CoreFunds International Growth Fund and Evergreen International Growth Fund; CoreFunds Government Income Fund and Evergreen U.S. Government Fund; CoreFunds Bond Fund and Evergreen Select Income Plus Fund; CoreFunds Short-Intermediate Bond Fund and Evergreen Select Fixed Income Fund; CoreFunds Short-Term Income Fund and Evergreen Select Limited Duration Fund; CoreFunds Intermediate Municipal Bond Fund and Evergreen High Grade Tax Free Fund; CoreFunds New Jersey Municipal Bond Fund and Evergreen New Jersey Tax-Free Income Fund; CoreFunds Pennsylvania Municipal Bond Fund and Evergreen Pennsylvania Tax-Free Fund; CoreFunds Cash Reserve Fund and Evergreen Money Market Fund; CoreFunds Tax-Free Reserve Fund and Evergreen Municipal Money Market Fund; CoreFunds Elite Cash Reserve Fund and Evergreen Select Money Market Fund; CoreFunds Elite Tax-Free Reserve Fund and Evergreen Select Municipal Money Market Fund; CoreFunds Elite Treasury Reserve Fund and Evergreen Select Treasury Money Market Fund; CoreFunds Global Bond Fund and Evergreen Select International Bond Fund; CoreFunds Core Equity Fund and Evergreen Stock Selector Fund; CoreFunds Equity Index Fund and Evergreen Select Equity Index Fund; CoreFunds Special Equity Fund and Evergreen Select Special Equity Fund.

deferred sales charge will be imposed with respect to Class B Institutional Service Shares.

8. The investment objectives of each Selling Fund and its corresponding Acquiring Fund are substantially similar. The investment restrictions and limitations of each Selling Fund and its corresponding Acquiring Fund also are substantially similar, but in some cases involve differences that reflect the differences in the general investment strategies utilized by the Funds.

9. The Boards, including a majority of Independent Directors, approved the Reorganizations in the best interests of existing shareholders of the Funds and determined that the interests of existing shareholders will not be diluted. The Boards considered a number of factors in authorizing the Reorganizations, including: (a) The terms and conditions of the Reorganizations; (b) whether the Reorganizations would result in the dilution of shareholders' interests; (c) expense ratios of the Funds, fees and expenses of the Reorganizations; (d) the comparative performance records of the Funds; (e) compatibility of the Funds' investment objectives and policies; (f) the investment experience, expertise and resources of the Funds' advisers; (g) service features available to shareholders of the respective Acquiring Fund and Selling Fund; (h) the fact that FUNB will bear the expenses incurred by the Funds in connection with the Reorganizations; (i) the fact that the Acquiring Funds will assume the identified liabilities of the Selling Funds; and (j) the expected federal income tax consequences of the Reorganizations. FUNB will pay the expenses of the Reorganizations other than the Acquiring Funds' federal and state registration fees.

10. The Plans may be terminated by either the Selling or Acquiring Fund at or prior to the Closing Date if the other party breaches any provision of a Plan that was to be performed and the breach is not cured within 30 days or a condition precedent to the terminating party's obligations has not been met and it appears that the condition precedent will not or cannot be met.

11. Registration statements on Form N–14 containing preliminary combined prospectus/proxy statements for each Fund Reorganization, were filed with the SEC between April 10, 1998 and June 10, 1998. A final prospectus/proxy was mailed to shareholders of the Selling Funds on June 10, 1998, except for the CoreFunds Global Bond Fund the prospectus/proxy for which will be mailed on or about July 10, 1998. A special meeting of the Selling Funds' shareholders will be held on or about July 17, 1998 for all Selling Funds except for the CoreFunds Global Bond Fund the meeting of whose shareholders will be held on or about August 17, 1998.

12. The consummation of each Reorganization under the Plans is subject to a number of conditions precedent, including: (a) The Plans have been approved by the Boards and each of the Funds' shareholders in the manner required by applicable law; (b) management of each Selling Fund solicits proxies from its shareholders seeking approval of the Reorganizations; (c) the Funds have received opinions of counsel stating, among other things, that each Reorganization will not result in federal income taxes for the Fund or its shareholders; and (d) the Funds have received from the SEC an order exempting the Reorganizations from the provisions of section 17(a) of the Act. Applicants agree not to make any material changes to the Plans that affect the application without prior SEC approval.

Applicants' Legal Analysis

1. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or any affiliated person of the person, acting as principal, knowingly from selling any security to, or purchasing any security from the company. Section 2(a)(3) of the Act defines the term *affiliated person* of another person to include: (a) Any person directly or indirectly owning, controlling, or holding with power to vote, 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the other person; (c) any person directly or indirectly controlling, controlled by, or under common control with, the other person; and (d) if the other person is an investment company, any investment adviser of the person.

2. Rule 17a–8 under the Act exempts from the prohibitions of section 17(a) of the Act mergers, consolidations, or purchases or sales of substantially all of the assets of registered investment companies that are affiliated persons solely by reason of having a common investment adviser, common directors, and/or common officers, provided that certain conditions are satisfied.

3. Applicants believe that they cannot rely on rule 17a–8 under the Act because the Funds may be affiliated for reasons other than those set forth in the rule. The Selling Funds may be affiliated persons of FUNB because FUNB, as fiduciary for its customers, owns of record 5% or more of the outstanding securities of the Selling Funds. FUNB, in turn, is an affiliated person of the Acquiring Funds because FUNB, or one of its affiliates, serves as adviser to the Acquiring Funds. In addition, the Acquiring Funds may be affiliated persons of FUNB because FUNB, as fiduciary for its customers, owns of record 5% or more of the outstanding securities of the Acquiring Funds.

4. Section 17(b) of the Act provides that the SEC may exempt a transaction from section 17(a) of the Act if evidence establishes that (a) the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policy of each registered investment company concerned; and (c) the proposed transaction is consistent with the general purposes of the Act.

5. Applicants request an order under section 17(b) of the Act exempting them from section 17(a) of the Act to the extent necessary to consummate the Reorganizations. Applicants submit that the Reorganizations satisfy the provisions of section 17(b) of the Act. Applicants state that the Board of each of the Funds has determined that the transactions are in the best interests of the shareholders and that the interests of the existing shareholders will not be diluted as a result of the Reorganizations. In addition, applicants state that the exchange of the Selling Funds' shares for shares of the Acquiring Funds will be based on the relative net asset values.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–17783 Filed 7–2–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–23288; File No. 812–11004]

Phoenix Home Life Mutual Insurance Company, et al.; Notice of Application

June 26, 1998.

AGENCY: Securities and Exchange Commission ("Commission"

ACTION: Notice of application ("Application") for order pursuant to Section 26(b) and Section 17(b) of the Investment Company Act of 1940 (the "Act" or the "1940 Act").

Summary of Application: Applicants seek an order approving the proposed substitution of shares of the Phoenix Money Market Series of the Phoenix Edge Series Fund (the "Substitute Fund") for shares of the Templeton Money Market Series of the Templeton Variable Products Series Fund (the "Current Fund")(the "Substitution"). Applicants also seek an order pursuant to Section 17(b) of the Act granting exemptions from Section 17(a) to permit Applicants to: (1) effect the Substitution by redeeming shares of the Current Fund in-kind and using the proceeds to purchase shares of the Substitute Fund; and (2) merge two investment divisions of Phoenix Home Life Variable Accumulation Account (the "Account") which will be holding shares of the same Substitute Fund as a result of the Substitution.

Applicants: Phoenix Home Life Mutual Insurance Company ("Phoenix") and the Account.

Filing Date: The application was filed on February 12, 1998.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission no later than 5:30 p.m. on July 21, 1998, and must be accompanied by proof of service on the Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Applicants, c/o Phoenix Home Life Mutual Insurance Company, One American Row, P.O. Box 5056, Hartford, Connecticut 06102–5056.

FOR FURTHER INFORMATION CONTACT: Keith E. Carpenter, Senior Counsel, or Kevin M. Kirchoff, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: the following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the Commission (tel. (202) 942–8090).

Applicants' Representations

1. Phoenix is a mutual insurance company existing under New York law and is licensed to do business in all states, as well as in the District of Columbia and Puerto Rico. Phoenix offers individual and group variable immediate and deferred annuity contracts and single premium and flexible premium variable life insurance policies.

2. Phoenix established the Account on June 21, 1982, pursuant to the provisions of the insurance laws of the state of Connecticut. The Account is a segregated investment account registered with the Commission as a unit investment trust pursuant to the provisions of the 1940 Act. The Account is divided into subaccounts ("Subaccounts") that correspond to the portfolios of the Phoenix Edge Series Fund (the "Phoenix Trust") and the Templeton Variable Products Series Fund (the "Templeton Trust"), including the Phoenix Money Market Series (the "Phoenix Fund") and the Templeton Money Market Series (the "Templeton Fund"). The Account serves as the funding medium for certain variable annuity contracts issued and administered by Phoenix. WS Griffith & Co., Inc. serves as principal underwriter for the flexible premium variable annuity contract (the "Contract") involved in the Substitution.

3. The deferred variable annuity Contract offered by the Account currently provides for investment in five Subaccounts, each of which invests solely in shares of a different portfolio of the Templeton Trust.

4. On April 18, 1986, the Phoenix Trust filed its initial registration statement with the Commission on Form N–1A under the Securities Act of 1933 ("1933 Act") and the 1940 Act. The Phoenix Trust is a series type investment company, organized as a Massachusetts business trust on February 18, 1986, that currently has ten separate investment portfolios (referred to individually as a "Fund") that have differing investment objectives, policies and restrictions. Each Fund is managed in compliance with diversification requirements under the Internal Revenue Code of 1986, as amended, (the "Code"). Shares of the Funds of the Phoenix Trust are currently sold only to separate accounts of Phoenix and its affiliates to fund variable life insurance policies or variable annuity contracts. Phoenix Investment Counsel, Inc. (the "Phoenix Adviser") serves as investment adviser to the Phoenix Fund.

5. On February 25, 1988, the Templeton Trust filed its initial registration statement with the Commission on Form N–1A under the 1993 Act and the 1940 Act. The Templeton trust is a series type investment company, organized as a Massachusetts business trust on February 25, 1998, that currently has nine separate investment portfolios (referred to individually as a "Fund") that have differing investment objectives, policies and restrictions. Each Fund is managed in compliance with diversification requirements under the Code. Shares of the Funds of the Templeton Trust are sold only to insurance company separate accounts to fund variable life insurance policies or variable annuity contracts. Templeton Investment Counsel, Inc. (the "Templeton Adviser") services as investment adviser to the Templeton Fund.

6. The Templeton Fund as an individual investment alternative has not generated substantial interest of holders of Contracts ("Owners") in recent years. On December 31, 1997, the Templeton Fund had $15.77 million in assets, compared to $14.09 million at the end of 1996, $20.72 million at the end of 1995 and $33.09 million at the end of 1994, an aggregate decrease of 52% from 1994 to 1997 and 57.4% from 1994 to 1996.

7. Applicants believe the Phoenix Fund, with assets of $126.48 million on December 31, 1997, offer Owners a larger fund with similar investment policies, providing a potential for economies of scale. The Applicants believe that they can better serve the interests of Owners by using the Phoenix Fund rather than the Templeton Fund as a funding vehicle for the Contracts.

8. Phoenix proposes to effect a substitution of shares of the Phoenix Fund for all shares of the Templeton Fund attributable to the Contract. Phoenix will pay all expenses and transaction costs associated with the Substitution, including any applicable brokerage commissions. Applicants state that concurrent with the filing of the Application with the Commission, Phoenix will have filed with the Commission and mailed to Owners a supplement to the prospectus of the Account to provide Owners and prospective investors with information concerning the proposed Substitution.

9. Phoenix will schedule the Substitution to occur as soon as practicable following the issuance of the requested order so as to maximize the benefits to be realized from the Substitution.

10. Within five days after the Substitution, Phoenix will send to Owners written notice of the Substitution (the "Notice") that identifies the shares of the Templeton Fund that have been eliminated and the shares of the Phoenix Fund that have been substituted. Owners will be advised in the Notice that for a period of 30 days from the mailing of the Notice, Owners may transfer all assets, as substituted, to any other available Subaccount, without limitation and without charge. Moreover, any owner-initiated transfers of all available assets from the Subaccount investing in the Phoenix Fund to a Subaccount investing in certain other portfolios of Templeton Variable Products Series Fund, from the date of the Notice to 30 days thereafter, will not be counted as transfer requests under any contractual provisions of the Contracts that limit the number of allowable transfers. The period from the date of the Notice to 30 days thereafter is referred to herein as the "Free Transfer Period."

11. Following the Substitution, Owners will be afforded the same contract rights, including surrender and other transfer rights with regard to amounts invested under the Contracts, as they currently have. Any applicable contingent deferred sales loads will be imposed.

12. Immediately following the Substitution, Phoenix will combine the Subaccount invested in the Templeton Fund with the Subaccount invested in the Phoenix Fund. Phoenix will reflect this treatment in disclosure documents for the Account, the Financial Statements of the Account and the Form N–SAR annual reports filed by the Account.

13. Phoenix will redeem all shares of the Templeton Fund it currently holds on behalf of the Account at the close of business on the effective date of the Substitution. In connection with the redemption of all shares of the Templeton Fund held by Phoenix, it is expected that the Templeton Fund will incur brokerage fees and expenses in connection with such redemption. To reduce the impact of such fees and expenses on the Templeton Fund, the redemption of shares will be effected partly for cash and partly for portfolio securities redeemed "in-kind." By this procedures, at the effective date of the Substitution, the Templeton Fund will transfer to the Account cash proceeds and/or portfolio securities held by the Templeton Fund and the Account will use such cash proceeds and/or portfolio securities to purchase shares of the Substitute Fund. The Templeton Trust will effect the redemption-in-kind and the transfers of portfolio securities in a manner that is consistent with the investment objectives and policies and diversification requirements applicable to the Substitute Fund. Phoenix will take appropriate steps to assure that the portfolio securities selected by the Templeton Adviser for redemptions-in-kind are suitable investments for the Substitute Fund. In effecting the redemption-in-king and transfers, the Templeton Trust will comply with the conditions of Rule 18f–1 under the 1940 Act.

14. The portfolio securities redeemed in-king will be used together with the cash proceeds to purchase the shares of the Substitute Fund. The Applicants have determined that partially effecting the redemption of shares of the Templeton Fund in-kind is appropriate, based on the current similarity of certain of the portfolio investments of the Templeton Fund to those of the Substitute Fund. The valuation of any "in-kind" redemptions will be made on a basis consistent with the normal valuation procedures of the Templeton Fund and the normal valuation procedures of the Substitute Fund.

15. In all cases, Phoenix, on behalf of the Account, will simultaneously place redemption requests with the Templeton Fund and purchase orders with the Substitute Fund so that purchases will be for the exact amount of the redemption proceeds. As a result, at all times, monies attributable to Owners whose funds are currently invested in the Templeton Fund will remain fully invested.

16. The full net asset value of the redeemed shares held by the Account will be reflected in the Owners' accumulation unit or annuity unit values following the Substitution. Phoenix hereby undertakes to assume all transaction costs and expenses relating to the Substitution, including any direct or indirect costs of liquidating the assets of the Templeton Fund, so that the full net asset value of the redeemed shares of the Templeton Fund held by the Account will be reflected in the Owners' accumulation unit or annuity unit values following the Substitution.

17. The Templeton Adviser and the Phoenix Adviser have been fully advised of the terms of the Substitution. Phoenix anticipates that the Templeton Adviser and the Phoenix Adviser, to the extent appropriate, will conduct the trading of portfolio securities in a manner that provides for the anticipated redemptions of shares held by the Account.

Applicant's Legal Analysis

1. Section 26(b) of the Act makes it unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security unless the Commission approves the substitution. The Commission will approve a substitution if the evidence establishes that it is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

2. The purpose of Section 26(b) is to protect the expectation of investors in a unit investment trust that the unit investment trust will accumulate shares of a particular issuer by preventing unscrutinized substitutions which might, in effect, force shareholders dissatisfied with the substituted security to redeem their shares, thereby possibly incurring either a loss of the sales load deducted from initial premium payments, an additional sales load upon reinvestment of the redemption proceeds, or both. Moreover, in the insurance product context, a contractowner forced to redeem is very likely to suffer adverse tax consequences. Section 26(b) affords this protection to investors by preventing a depositor or trustee of a unit investment trust holding the shares of one issuer from substituting for those shares of another issuer, unless the Commission approves that substitution.

3. The Substitution involves: (a) Funds with substantially identical investment objectives, policies and restrictions; (b) Funds with comparable investment strategies and levels of risk exposure; (c) a Substitute Fund exhibiting equivalent or better prior investment performance than the Current Fund; and (d) a Substitute Fund with a substantially larger size than the Current Fund, which should promote greater economies of scale that may help to lower expense ratios and further improve investment performance. Applicants therefore believe that their request for an order of approval satisfies the standards for relief of Section 26(b).

4. The Substitution will not result in the type of costly forced redemption that Section 26(b) was intended to guard against and, for the following reasons, is consistent with the protection of investors and the purposes fairly intended by the Act:

(a) The Substitution involves interests that have objectives, policies and restrictions the same as or substantially similar to the objectives, policies and restrictions of the Fund being replaced so as to continue fulfilling

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contractowners' objectives and expectations.

(b) The costs of the Substitution will be borne by the Applicants and will not be borne by contractowners. No charges will be assessed to effect the Substitution.

(c) The Substitution will, in all cases, be at net asset values of the respective shares without the imposition of any transfer or similar charge and with no change in the amount of any contractowner's account value.

(d) The proposed Substitution will not cause fees and charges under the Contracts currently being paid by contractowners to be greater after the proposed Substitution than before the proposed Substitution.

(e) The contractowners have been given notice of the Substitution and will have an opportunity to reallocate contract values among other available Funds without the imposition of any transfer charge or limitation, nor will any such transfers from the date of the initial notice through a date 30 days following the Substitution count against the number of free transfers permitted in a year.

(f) Within five days after the Substitution, Phoenix will send to contractowners written Notice that the Substitution has occurred, identifying the Fund that was substituted and disclosing the Substitute Fund.

(g) The Substitution will in no way alter the insurance benefits to contractowners or the contractual obligations of Phoenix.

(h) The Substitution will in no way alter the tax benefits to contractowners. Counsel for Phoenix has advised that the Substitution will not give rise to any tax consequences to the contractowners.

5. Section 17(a)(1) of the Act prohibits any affiliated person, or an affiliate of an affiliated person, of a registered investment company from selling any security or other property to such registered investment company. Section 17(a)(2) of the Act prohibits any affiliated person from purchasing any security or other property from such registered investment company.

6. Applicants anticipate that the Substitution will be effected by redeeming shares of the Current Fund in-kind and then using those assets to purchase shares of the Substitute Fund. This redemption and purchase in-kind involves the purchase of property from the Current Fund by the separate account, an affiliated person of that Fund, and the sale of property to the Substitute Fund by the separate account, which may be considered an affiliate of the Substitute Fund.

7. Similarly, where two investment divisions holding shares of the same Substitute Fund are combined into a single investment division, the transfer of assets could be said to involve purchase and sale transactions between the investment divisions by an affiliated person.

8. Applicants request an order pursuant to Section 17(b) of the Act exempting the in-kind redemption and purchase and the merger of certain investment divisions from the provisions of Section 17(a). Section 17(b) of the Act provides that the Commission shall grant an order exempting a proposed transaction from Section 17(a) if evidence establishes that: (a) the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policy of each registered investment company; and (c) the proposed transaction is consistent with the general purposes of the Act.

9. Applicants represent that the terms of the in-kind redemption and purchase are reasonable and fair and do not involve overreaching on the part of any person concerned and that the interests of contractowners will not be diluted. The in-kind redemption and purchase will be done at values consistent with the objectives and policies of both the Current and Substitute Funds. The asset transfers will be reviewed to assure that the assets meet the objectives and policies of the Substitute Fund and that they are valued under the appropriate valuation procedures of the Current and Substitute Funds. In-kind redemption and purchase will reduce the brokerage costs that would otherwise be incurred in connection with the Substitution.

10. Applicants represent that the merger of the investment divisions is intended to reduce administrative costs and thereby benefit contractowners with assets in those investment divisions. The purchase and sale transactions will be effected based on the net asset value of the shares held in the investment divisions and the value of the units of the investment division involved. Therefore, there will be no change in value to any contractowner.

Conclusion

For the reasons summarized above, Applicants assert that the requested orders meet the standards set forth in Sections 26(b) and 17(b), respectively, and should, therefore, be granted.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–17715 Filed 7–2–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–26891]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

June 26, 1998.

Notice is hereby given that the following filling(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transactions(s) summarized below. The application(s) and/or declaration(s) and any amendments is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by July 21, 1998, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After July 21, 1998, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

New England Electric System (70–9167)

New England Electric System ("NEES"), 25 Research Drive, Westborough, Massachusetts 01582, a registered holding company, has filed a post-effective amendment to its declaration under sections 6(a) and 7 of the Act and rule 54 under the Act.

By order dated March 25, 1998 (HCAR No. 26849) ("March Order"), the Commission authorized NEES to issue, no later than December 31, 2002, up to one million shares of its common stock to be used to acquire the stock or assets of one or more "energy-related companies," as defined in rule 58 under the Act. The March Order authorized NEES to make the acquisitions directly or indirectly through a nonutility subsidiary of NEES.

NEES now proposes to increase its authorization under the March Order to issue an additional one million shares of its common stock, no later than December 31, 2002, totalling two million shares of its common stock available to be used to acquire the stock or assets of one or more "energy-related companies," as defined in rule 58 under the Act.

Central and South West Corporation, et al. (70–9119)

Central and South West Corporation ("CSW"), a registered holding company, and Central and South West Services, Inc., a service company subsidiary of CSW ("Services" and, together with CSW, "Applicants"), both at 1616 Woodall Rodgers Freeway, P.O. Box 660164, Dallas, Texas 75266, have filed an application-declaration under sections 6(a), 7, 9(a), 10, 11 and 12(b) of the Act, and rules 45 and 54 under the Act.

The Applicants request authority through December 31, 2003 to permit: (a) Services to engage in the business of marketing, selling, leasing and renting to consumers certain electric bicycles, electric tricycles, electric skateboards and electric scooters ("Electric Vehicles" or "EVs"), as well as retrofit kits to convert traditional bicycles to electric bicycles (collectively, "EV Sales & Leasing"); (b) Services to provide financing to, or guarantee borrowings by, creditworthy commercial and non-commercial customers other than individuals in connection with their purchase or lease of EVs ("EV Customer Financing") utilizing funds available to Services through its participation in the CSW money pool; and (c) Services to use borrowings from the CSW money pool to fund the management, operation and administrative costs of the EV Business and to finance the EV Business by making loans and providing guarantees and other credit support to commercial and institutional customers, and CSW to provide guarantees and other credit support on behalf of Services, up to an aggregate amount outstanding at any time of $25 million ("EV Business Financing", and together with EV Sales & Leasing and EV Customer Financing, "EV Business").

Services proposes to provide EV Sales & Leasing activities to sporting equipment stores, bicycle shops, non-commercial entities including universities and government organizations and, on a smaller scale, to individuals via the Internet. In connection with EV Sales & Leasing, Services proposes to provide the EV Customer Financing to support the purchase of Electric Vehicles and to encourage public utilization of Electric Vehicles for transportation. The Applicants will obtain funds to finance the EV Business through the CSW money pool, as authorized by the Commission under prior orders. EV Business Financing would be conducted through use of the CSW money pool, as authorized by Commission orders dated March 31, 1993, September 28, 1993, March 18, 1994, June 15, 1994, February 1, 1995, March 21, 1995, March 28, 1997 and April 3, 1998 (HCAR Nos. 25777, 25897, 26007, 26066, 26226, 26254, 26697 and 26854, respectively).

EV Customer Financing provided by Services may take the form of guarantees, capital leases, operating leases or promissory notes with terms of one to five years, with pricing to be competitive with that readily available in the market for similar financial instruments. Loans made by Services directly or, with respect to which Services, or CSW on behalf of Services, is providing a guarantee, will have an average annual interest rate not to exceed prime plus 7%. These loans may be unsecured or secured by a lien or other security interest in the Electric Vehicle or other real or personal property other than utility assets. Services will obtain funding through its participation in the CSW money pool system. In some instances, the Applicants expect that Services may place the EV Customer Financing with third party lenders and leasing companies.

By increasing the availability of Electric Vehicles through sales and financing efforts, the Applicants hope to advance new electro-technologies and the use of electricity as an alternative source of fuel for vehicles. The Applicants also anticipate that the marketing and sale of new technologies associated with the Electric Vehicles will increase customer awareness of other potential uses of electricity, resulting in an increase in overall demand for electric service, both within the states in CSW's service areas and in surrounding regions. CSW has four operating company subsidiaries—Public Service Company of Oklahoma, Southwestern Electric Power Company, West Texas Utilities and Central Power & Light Company ("Operating Companies")—which service portions of Texas, Oklahoma, Louisiana and Arkansas ("Service Areas"). The Applicants expect that promotion of a new market for Electric Vehicles will spur demand for electricity and help the Operating Companies make a successful transition from a regulated industry to a competitive one. EV Sales & Leasing activities are also expected to enhance CSW's name recognition and customer loyalty.

The Applicants propose to engage in the EV Business both within the Service Areas of the CSW Operating Companies and in all other areas of the United States. During the twelve-month period beginning on the first day of January in the year following the date the Applicants commence the EV Business under approval of the Commission, and for each subsequent calendar year, total revenues of Services derived from the EV Business in the states comprising the Service Areas will exceed total revenues of Services derived from the EV Business in all other states.

The Applicants will treat its EV Business as a separate cost an revenue center for accounting purposes. CSW proposes to provide EV Business Financing to Services in an aggregate amount outstanding at any time of up to $25 million. These funds would be designated for specific use by Services in support of the EV Business. CSW further proposes to guarantee or to act as surety on bonds, indebtedness and performance and other obligations undertaken by Services in connection with its EV Business. Guarantees or arrangements may be made from time to time through December 31, 2002, and will expire or terminate no later than December 31, 2003. The total amount of all loans and guarantees for which authorization is sought will not exceed $25 million at any time outstanding.

The Applicants state that Services currently has an insufficient staff to engage in the EV Business and will hire outside individuals or firms to conduct the EV Business activities. Hiring will be done on a contract basis, and the additional personnel will be deemed independent contractors of Services. These independent contractors will be paid by Applicants through commissions only and will receive no salary or employee benefits from Applicants. Through the date of the filing of the application-declaration, Applicants have executed one agreement with a manufacturer or certain Electric Vehicles which gives Applicants the right to market, sell, lease and rent these vehicles in several states.

Indiana Michigan Power Company (70–9315)

Indiana Michigan Power Company ("I&M"), One Summit Square, P.O. Box

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60, Fort Wayne, Indiana 46801, an electric public utility subsidiary company of American Electric Power Company, Inc., a registered holding company, has filed an application-declaration under sections 6(a), 7, 9(a) and 10 and rule 54 under the Act.

I&M proposes to guarantee loan payments, including principal, interest and penalties, on a promissory note ("Note") from one of its industrial customers, Iron Dynamics, Inc. ("IDI"), an Indiana corporation, which is constructing a main mill substation, power distribution facilities from main mill to coal preparation facilities, coal reparation facilities and submerged arc furnace transformers and vaults ("Equipment") to be installed on IDI's property in DeKalb, Indiana, which is in I&M's service territory. The Note will evidence a loan by GE Capital Corporation ("GE Capital") or a similar lender ("Lender") to IDI in an amount up to $6.5 million to acquire the Equipment. I&M will supply electric service to IDI's facility.

The loan will be made under a loan agreement ("Loan Agreement") which provides, among other things, that the interest rate on the Note may be variable or fixed. The variable interest rate will be equal to an index rate ("Index Rate") plus 1.75%. On the date the initial loan is made, the index Rate will be the interest rate equal to the per annum interest rate for commercial paper issued by GE Capital for the period of time closest to 90-days on such date ("CPR"), and the Index Rate will be adjusted every 90 days and be equal to the CPR in effect on the tenth day preceding the end of each 90 day period during the term of the loan. If, for any reason, GE Capital does not issue the commercial paper on the applicable date, the CPR will be equal to the rate listed for "3 Month" commercial paper under the column indicating an average rate as stated in the Federal Reserve Statistical Release H. 15 (519) for the calendar month preceding the calendar month in which the 90-day period ends. If, for any reason, the Federal Reserve Statistical Release H.15 (519) is no longer published, the CPR will be equal to the latest commercial paper rate for high grade unsecured notes of 90-day maturity sold through dealers by major corporations in multiples of $1,000, as indicated in the "Money Rates" column of the Wall Street Journal, Eastern Edition, published on the tenth day prior to the end of each 90-day period or the first business day thereafter.

Under the terms of the Loan Agreement, IDI may elect to convert the interest rate on the Note to a fixed rate. The fixed rate will be equal to 1.75% over the average of one, three and five-year U.S. Treasuries as published in the Wall Street Journal on the date of IDI's election to convert to a fixed rate. IDI is responsible to the Lender for any costs incurred as a result of converting to a fixed rate.

The Notes will mature in not more than 96 months and be secured by a first lien on the Equipment. There will be no consideration paid by IDI for the guarantee.

In an alternative to I&M's loan guarantee, I&M requests authority to make a direct loan to IDI and to acquire the Note on substantially the same terms as the loan from GE Capital or Lender to IDI.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–17716 Filed 7–2–98; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40137; File No. SR–NASD–98–43]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. to Extend the Deadline for Presently Registered Representatives to Apply for the Equity Trader, Series 55 Examination

June 26, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 12, 1998, the National Association of Securities Dealers, Inc. ("NASD" or "Association") through its wholly-owned subsidiary, NASD Regulation, Inc. ("NASDR") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASDR. The NASDR has designated this proposal as one constituting a stated policy, practice, or interpretation with respect to the meaning of an existing rule under Section 19(b)(3)(A)(i) of the Act,[3] which renders the rule effective upon the Commission's receipt of this filing. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASDR is proposing to amend NASD Membership and Registration Rule 1032 to change the date by which registered representatives who currently trade equity securities in the Nasdaq Stock Market (Nasdaq) and/or over-the-counter must apply for Equity Trader registration. Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

Rule 1032. Categories of Representative Registration

* * * * *

(f) Limited Representative—Equity Trader

* * * * *

Before registration as a Limited Representative—Equity Trader as defined in subparagraph (1) hereof may become effective, an applicant must:

* * * * *

(B) pass an appropriate Qualification Examination for Limited Representative-Equity Trader. Any person *who was performing any of the activities described in paragraph (f)(1) above on or prior to May 1, 1998 and* who has filed an application to take this examination by [(date thirty (30) days after the effective date of this rule)] *August 31, 1998* must pass the examination by [(24 months after effective date above)] *May 1, 2000.* Any person who is eligible for this extended qualification period and who fails this examination during [such] the twenty-four (24) month time period *commencing on May 1, 1998 and ending on May 1, 2000* must wait *thirty* (30) days from the date of failure to take the examination again. Any person, *other than a person who is eligible for the extended qualification period,* who files an application to take this qualification examination after [(date thirty (30) days after the effective date of this rule)] *May 1, 1998* must pass this examination before conducting such activities as described in paragraph (f)(1) above. In no event may a person who is eligible for the extended qualification period function as an Equity Trader beyond the 24-month period without having successfully passed the appropriate qualification examination.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(i).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASDR included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASDR has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On January 2, 1998, the Commission approved the NASD's proposal to amend NASD Rule 1032 to add an additional category of representative registration.[4] Specifically, Rule 1032(f) requires each registered representative who engages in proprietary or agency trades of equities, preferred securities or convertible debt securities otherwise than on a securities exchange, or who directly supervises such activities (*i.e.,* functioning as an "Equity Trader"), to register as a Limited Representative-Equity Trader. In order to register as a Limited Representatives-Equity Trader, the representative must be registered as a General Securities Representative or as a Limited Representative-Corporate Securities, and must pass the Series 55 examination.[5] The rule contains an exemption for representatives whose principal trading activities involve executing orders on behalf of an affiliated investment company that is registered with SEC under the Investment Company Act of 1940.

The rule provides that presently registered representatives who file an application to take the Series 55 examination within 30 days of the effective date of the rule must pass the Series 55 examination within 2 years of the effective date of the rule. The effective date of the rule was April 1, 1998, which was announced in Notice to Members 98–17. Accordingly, a presently registered representative had *until* May 1, 1998 to file an application to take the Series 55 examination and *until* May 1, 2000 to receive a passing score on the exam. The rule also provides that any person, including a presently registered representative, who files an application to take the Series 55 examination *after* May 1, 1998 must pass the Series 55 examination *before* functioning as an Equity Trader.

It has come to the NASDR's attention that many presently registered representatives who would have been eligible for the two year grace period to pass the Series 55 examination failed to file applications by May 1, 1998. Thus, such registered representatives must immediately cease functioning as Equity Traders until they pass the Series 55 examination. As discussed above, the original proposal provided presently registered representatives 30 days from the effective date of the rule to file applications to take the Series 55 examination. The NASDR believed this would provide such representatives sufficient time to file the requisite applications. Unfortunately, this has not been the case. If the deadline is not extended, those registered representatives who failed to file applications by the deadline will be forced to cease certain activities, which could cause disruptions at NASD member firms and could cause harm to customers. The NASDR does not believe the markets or customers will be served by a strict application of this administrative deadline. Consequently, the NASDR is proposing to extend the deadline for filing an application from May 1, 1998 until August 31, 1998. This will allow a registered representative who had been eligible for the two year grace period but failed to file an application by May 1, 1998 to file an application by August 31, 1998 and continue to function as an Equity Trader until he/she receives a passing score on the Series 55 examination. However, such registered representative cannot continue functioning as an Equity Trader after May 1, 2000 unless he/she receives a passing score on the Series 55 examination before May 1, 2000. Any person not functioning as an Equity trader on or before May 1, 1998 must pass the Series 55 examination before functioning as such.

2. Statutory Basis

The NASDR believes the proposed rule change is consistent with Section 15A(b)(6) of the Act,[6] which requires, among other things, that the Association's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The NASDR believes the proposal is consistent with the Act because it continues to require presently registered representatives to receive a passing score on the Series 55 examination before May 1, 2000 and to cease conducting certain specified activities if a passing score is not received by that date. The proposed change only allows certain registered representatives additional time to file applications to take the Series 55 examination.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASDR does not believe that the proposed rule change will impose a burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration or enforcement of an existing rule of the Association and, therefore, has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and subparagraph (e) of Rule 19b–4 thereunder.[8]

At any time within 60 days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule

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[4] *See* Securities Exchange Act Release No. 39516, 63 FR 1520 (January 9, 1998) (order approving File No. SR–NASD–97–21).

[5] Registered representatives who have been "grandfathered" from taking the Series 7 or the Series 62 examinations will not be required to take either examination in order to take the Series 55 examination.

[6] 15 U.S.C. 78o–3(b)(6).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 19b–4(e).

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change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC. Copies of such filing also will be available for inspection and copying at the NASD. All submissions should refer to File No. SR–NASD–98–43 and should be submitted by July 27, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–17710 Filed 7–2–98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40140; File No. SR–NASD–98–26]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Partial Approval to Amendment No. 4 to Proposed Rule Change by the National Association of Securities Dealers, Inc. to Institute, on a Pilot Basis, New Primary Nasdaq Market Maker Standards for Nasdaq National Market Securities

June 26, 1998.

I. Introduction

On March 19, 1998, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its wholly-owned subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to: (a) implement, on a pilot basis, new Primary Nasdaq Market Maker ("PMM") standards for all Nasdaq National Market ("NNM") securities; (b) extend the NASD's Short Sale Rule pilot until November 1, 1998; and (c) extend the suspension of existing PMM standards until May 1, 1998. On March 30, 1998, the Commission issued notice of the filing and approved, on an accelerated basis, the portions of the filing extending the NASD's Short Sale Rule pilot and the suspension of existing PMM standards.[3]

On April 30, 1998, Nasdaq filed Amendment No. 3 to the proposal,[4] proposing to: (a) extend the comment period by 30 days to May 27, 1998; (b) continue to suspend the current PMM standards until July 1, 1998; (c) extend the NASD's Short Sale Rule pilot until January 4, 1999; (d) change the dates during which the PMM pilot would run to July 1, 1998, through January 4, 1999; and (e) amend subparagraph (g) of NASD Rule 4612 to change the method for determining how market makers that are not managers or co-managers in an underwriting syndicate of a secondary offering may qualify as PMMs. Also on April 30, 1998, the Commission issued notice of Amendment No. 3 and approved, on an accelerated basis, Nasdaq's request to continue to suspend the current PMM standards until July 1, 1998.[5] The Commission also extended the comment period for the proposed rule change.

On June 24, 1998, Nasdaq filed Amendment No. 4 to the proposal,[6] proposing to: (a) extend the comment period to July 27, 1998; (b) continue to suspend the current PMM standards until October 1, 1998; and (c) change the dates during which the PMM pilot would run to October 1, 1998, until April 1, 1999.

Background

Presently, NASD Rule 4612 provides that a member registered as a Nasdaq market maker pursuant to NASD Rule 4611 may be deemed a PMM if that member meets certain threshold standards. The implementation of the SEC Order Handling Rules[7] and what some perceive as a concurrent move toward a more order-driven, rather than a quote-driven, market raised questions about the continued relevance of those PMM standards. As a result, such standards were suspended beginning in early 1997.[8] Currently, all market makers are designated as PMMs.

Since February 1997, Nasdaq has worked to develop PMM standards that are more meaningful in what may be an increasingly order-driven environment and that better identify firms engaged in responsible market making activities deserving of the benefits associated with being a PMM, such as being exempt from NASD Rule 3350, the NASD's Short Sale Rule. The NASD now proposes to extend the current suspension of the existing PMM standards and to implement new standards on a pilot basis from October 1, 1998, until April 1, 1999. The NASD intends the new standards to better evaluate whether a market maker provides meaningful liquidity to the market. To determine whether a particular market maker is such a provider of liquidity, Nasdaq will analyze that market maker's trading activity using a new test.

For the reasons discussed below, the Commission has determined to grant accelerated approval of Nasdaq's request, in Amendment No. 4, to continue to suspend the current PMM standards until October 1, 1998. Further, given the proposal's complexity and the Commission's desire to give the public sufficient time to consider the proposal, the Commission has extended the comment period to the proposed rule change, as amended, to July 27, 1998.

II. Proposed Rule Change

As discussed in detail in Securities Exchange Act Release No. 39819, Nasdaq is proposing a new set of PMM standards. In the current filing, Nasdaq would amend the timing of the proposed pilot through which the NASD, the SEC, and the public may evaluate those new standards.

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[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 39819 (March 30, 1998) 63 FR 16841 (April 6, 1998).

[4] *See* letter from Robert E. Aber, Senior Vice President and General Counsel, Nasdaq, to Richard Strasser, Assistant Director, Division, of Market Regulation ("Division"), SEC, dated April 29, 1998. Securities Exchange Act Release No. 39819 discussed Amendment No. 1 and Amendment No. 2 to the filing, which were filed with the Commission on March 25, and 26, 1998, respectively.

[5] *See* Securities Exchange Act Release No. 39936 (April 30, 1998) 63 FR 25253 (May 7, 1998).

[6] *See* letter from Robert E. Aber, Senior Vice President and General Counsel, Nasdaq, to Richard Strasser, Assistant Director, Division, SEC, dated June 24, 1998.

[7] On August 29, 1996, the Commission promulgated a new rule, the Limit Order Display Rule (Exchange Act Rule 11Ac1–4) and adopted amendments to the Quote Rule (Exchange Act Rule 11Ac1–1), which together are designed to enhance the quality of published quotations for securities and promote competition and pricing efficiency in U.S. securities markets (collectively, the "Order Handling Rules"). *See* Securities Exchange Act Release No. 37619A (September 6, 1996) 61 FR 48290 (September 12, 1996).

[8] *See* Securities Exchange Act Release No. 38294 (February 14, 1997) 62 FR 8289 (February 24, 1997) (approving temporary suspension of PMM standards); Securities Exchange Act Release No. 39198 (October 3, 1997) 62 FR 53365 (October 14, 1997) (extending suspension through April 1, 1998); Securities Exchange Act Release No. 39819 (March 30, 1998) 63 FR 16841 (April 6, 1998) (extending suspension through May 1, 1998); Securities Exchange Act Release No. 39936 (April 30, 1998) 63 FR 25253 (May 7, 1998) (extending suspension through July 1, 1998).

The proposed rule language, as amended, follows. Additions are italicized; deletions are bracketed.

Rule 4612

(a)–(g) No Change

(h) [The Board of Governors may modify the threshold standards set forth in paragraphs (a) and (b) above if it finds that maintenance of such standards would result in an adverse impact on a class of investors or on Nasdaq.] *This rule shall be in effect beginning October 1, 1998, and remain in effect until April 1, 1999.*

* * * * *

III. Discussion

After careful consideration, the Commission has concluded, for the reasons set forth below, that the extension of the current suspension of existing PMM standards until October 1, 1998, is consistent with the requirements of the Exchange Act and the rules and regulations thereunder. Extending the suspension of the current PMM standards to accommodate implementing the new pilot is consistent with Section 15A(b)(6)[9] of the Exchange Act. Section 15A(b)(6) of the Exchange Act requires that the NASD's rules be designed, among other things, to remove impediments to and perfect the mechanism of a free and open market and a national market system and to promote just and equitable principles of trade. The Commission believes that continued suspension of the current PMM standards will facilitate Nasdaq's efforts in implementing more meaningful PMM standards which should help to enhance market liquidity by rewarding those market makers that meet the new standards. As a result, continuing the suspension of the current PMM standards is consistent with Section 15A(b)(6) of the Exchange Act.

In finding that the suspension of the existing PMM standards is consistent with the Exchange Act, the Commission reserves judgment on the merits of the NASD's Short Sale Rule, any market maker exemptions to that rule, and the proposed new PMM standards. The Commission recognizes that the Short Sale Rule already has generated significant public comment. Such commentary, along with any further comment on the interaction of the Short Sale Rule with the proposed new PMM standards, will help guide the Commission's evaluation of the Short Sale Rule and new PMM standards. During the PMM pilot period, the Commission anticipates that the NASD will continue to address the Commission's questions and concerns and provide the Commission staff with any relevant information about the practical effects and the operation of the revised PMM standards and possible interaction between those standards and the NASD's Short Sale Rule.

As proposed, the new PMM standards will become effective October 1, 1998, when the suspension of the existing PMM standards, under Amendment No. 4, expires. Nasdaq notes that currently all market makers registered in a security are PMMs due to the suspension of the previous PMM standards, and will continue to be so designated on the pilot's proposed start date of October 1, 1998. Under the one-month look-back provision in the PMM pilot program, Nasdaq will consider the previous calendar month and the current month to determine a market maker's continued PMM eligibility if the market maker attained PMM status in a security during the previous month, but fails to meet the applicable thresholds for the current month. To give PMMs the full benefit of the one-month look-back period and to allow market makers time to adjust their trading activity to the new standards, Nasdaq proposes to implement the new standards so that no market maker that is designated as a PMM when the pilot begins on October 1, 1998, will lose its PMM status—based on a failure to meet the new PMM standards—until December 3, 1998. Nasdaq believes, and the Commission agrees, that it is fair to give market makers this time to make necessary adjustments to their trading activity to help them maintain their PMM designation, particularly since PMM standards have been suspended for more than a year and the proposed new PMM standards are more stringent than the previous standards. The PMM pilot, pursuant to Amendment No. 4, would run until April 1, 1999.

The Commission finds good cause for approving the extension of the suspension of existing PMM standards prior to the 30th day after the date of publication of notice of the filing in the **Federal Register**. It could be disruptive to market making to reintroduce outdated PMM standards for a brief period prior to implementing a new PMM pilot. Further, the current PMM standards have been suspended until July 1, 1998, at which time the old PMM standards—which are not a meaningful measure of a market maker's liquidity-providing activity—would be used again to determine market makers' PMM status. To ensure continuity in the PMM standards and the regulation of short selling activity, to maintain orderly markets, and to avoid confusion, it is necessary to continue the suspension of the prior PMM standards until the new standards are implemented on October 1, 1998.

IV. Solicitation of Comments

Given the proposal's complexity and the Commission's desire to give the public sufficient time to consider the proposal, the Commission hereby grants Nasdaq's request to extend the comment period for the proposed rule change, as amended, to July 27, 1998. Since making the proposal, the NASD has issued reports to all Nasdaq market makers in NNM issues to show how those market makers would have performed for April and May of 1998 had the proposed PMM standards been in place. The NASD also posted on The Nasdaq Trader Web Site[10] a stock-by-stock analysis of what percentage of market makers in each stock would have been PMMs under the proposed PMM standards in April and May of 1998. The Commission expects such data will allow market participants to submit more meaningful comments.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Exchange Act. In particular, the Commission requests that commenters provide alternative PMM standards, explaining why such alternative standards better identify and reward market participants who provide meaningful liquidity to the Nasdaq market. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–98–26 and should be submitted by July 27, 1998.

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[9] 15 U.S.C. 78o–3(b)(6).

[10] *See* http://www.nasdaqtrader.com.

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V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[11] that the portion of Amendment No. 4 to the proposed rule change, SR–NASD–98–26, that extends the suspension of the current PMM standards to October 1, 1998, be and hereby is approved on an accelerated basis.[12]

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–17718 Filed 7–2–98; 8:45 am]

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[11] 15 U.S.C. 78s(b)(2).

[12] In partially approving the proposal, the Commission has considered the approved portion's impact on efficiency, competition, and capital formation. Moreover, the pilot program, if fully implemented, likely will provide the Commission with data necessary to enable it to evaluate the impact of the proposed PMM standards on the Nasdaq market and market participants. 15 U.S.C. 78c(f).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40139; File No. SR–NASD–97–26]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Order Granting Accelerated Approval to Amendment No. 5 Relating to an Extension of the Pilot for the NASD's Rule Permitting Market Makers To Display Their Actual Quotation Size

June 26, 1998.

I. Background

On June 25, 1998, the National Association of Securities Dealers, Inc. ("NASD"), through its wholly-owned subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("Commission" or "SEC") Amendment No. 5 to a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act"),[1] and Rule 19b–4 thereunder,[2] to amend NASD Rule 4613(a)(1)(C), seeking to extend through July 31, 1998, the pilot program in which market makers may quote their actual size (*i.e.*, one normal unit of trading) in 150 Nasdaq stocks ("Actual Size Rule").

The Commission is publishing this notice to solicit comments from interested persons and is approving Amendment No. 5 on an accelerated basis.

II. Proposed Rule Change

The NASD proposes to amend NASD Rule 4613(a)(1)(C) to extend the Actual Size Rule through July 31, 1998. The text of the proposed rule change is as follows. (Additions are italicized; deletions are bracketed.)

* * * * *

4613. Character of Quotations

(a) Two-Sided Quotations

(1) No Change

(A)–(B) No Change

(C) As part of a pilot program implemented by The Nasdaq Stock Market, during the period January 20, 1997 through at least [June 30, 1998] *July 31, 1998*, a registered market maker in a security listed on the Nasdaq Stock Market that became subject to mandatory compliance with SEC Rule 11Ac1–4 on January 20, 1997 or identified by Nasdaq as being otherwise subject to the pilot program as expanded and approved by the Commission must display a quotation size for at least one normal unit of trading (or a larger multiple thereof) when it is not displaying a limit order in compliance with SEC Rule 11Ac1–4, provided, however, that a registered market maker may augment its displayed quotation size to display limit orders priced at the market maker's quotation.

* * * * *

III. Discussion

On August 29, 1996, the Commission promulgated a new rule, the Limit Order Display Rule[3] and adopted amendments to the Quote Rule,[4] which together are designed to enhance the quality of published quotations for securities and promote competition and pricing efficiency in U.S. securities markets (collectively, the "Order Handling Rules").[5] To facilitate implementation of the Order Handling Rules and accommodate changes in the Nasdaq market that these rules brought about, the Commission later approved a variety of amendments to NASD Rules concerning Nasdaq's Small Order Execution System ("SOES") and the SelectNet Service ("SelectNet").[6]

In particular, the Commission temporarily approved a pilot program[7] whereby Nasdaq market makers in the first 50 stocks subject to the Commission's Order Handling Rules were only required to display a minimum quotation size of one normal unit of trading when quoting solely for their own proprietary accounts.[8] For non-pilot Nasdaq stocks, the minimum quotations size requirements of 1,000, 500, or 200 shares remained the same.[9]

Although the first 50 stocks were chosen to provide a broad cross section of the most liquid Nasdaq stocks, on October 29, 1997, the Commission approved an NASD proposal to amend NASD Rule 4613(a)(1)(C) to expand the pilot program to 150 Nasdaq stocks. The Commission also extended the pilot until March 28, 1998.[10] The additional 100 stocks were part of an enhanced sample designed to better represent the entire Nasdaq market. The Commission approved the expansion in response to comment letters suggesting that the first 50 stocks did not sufficiently represent the Nasdaq market because all 20 of the largest Nasdaq stocks were subject to the 100 share minimum. Thus, some commenters suggested that it was difficult to gauge the Actual Size Rule's effect on large Nasdaq stocks since there were no sufficiently large non-pilot stocks with which to compare those in the pilot.

The NASD has concluded an analysis of an expanded pilot, and on March 5, 1998, it filed with the Commission a proposed rule change to apply permanently the Actual Size Rule to all Nasdaq Stocks.[11] As part of that filing, the NASD published a 127-page economic study of the 150-stock pilot ("March 1998 Study").

In the March 1998 Study, the NASD concluded that:

- The Actual Size Rule did not affect the market quality—in terms of spreads, volatility, depth, or liquidity—of pilot stocks.
- The Actual Size Rule has not altered the ability of investors to access market maker capital. For pilot stocks,

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.11Ac1–4.

[4] 17 CFR 240.11Ac1–1.

[5] *See* Exchange Act Release No. 37619A (September 6, 1997) 64 FR 48290 (September 12, 1996).

[6] *See* Exchange Act Release No. 38156 (January 10, 1997) 62 FR 2415 (January 16, 1997) (order partially approving SR–NASD–96–43).

[7] *Id.*

[8] The Actual Size Rule does not affect a market maker's obligation to display the full size of a customer limit order. If a market maker is required to display a customer limit order for 200 or more shares, it must display a quote size reflecting the size of the customer's order, absent an exception from the Limit Order Display Rule. Market makers may display a greater quotation size if they so choose or if required to do so by the Limit Order Display Rule.

[9] *See* NASD Rule 4613(a)(2).

[10] *See* Exchange Act Release No. 39285 (October 29, 1997), 62 FR 59932 (November 5, 1997).

[11] *See* Exchange Act Release No. 39760 (March 16, 1998) 63 FR 13694 (March 23, 1998) (SR–NASD–98–21).

retail investors continued to have substantial and reasonable access to dealer capital via both SOES and marker maker proprietary automatic execution systems.

- There was no evidence of any material difference in market quality of pilot stocks and peer non-pilot stocks during the market stress on October 27 and 28, 1997.

To provide the Commission with sufficient time to review the public comments before determining whether to expand the Actual Size Rule to all Nasdaq stocks on a permanent basis, the NASD proposes to extend the current 150-stock pilot through July 31, 1998.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Exchange Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–97–26 and should be submitted by July 27, 1998.

V. Commission's Findings and Order Granting Accelerated Approval of Amendment No. 5 to the Proposed Rule Change

The Commission approved the Actual Size Rule on a pilot basis so that its effects could be assessed. In doing so, the Commission stated that it believed that a reduction in the quotation size requirement could reduce the risks that market makers must take, produce accurate and informative quotations, and encourage market makers to maintain competitive prices even in the changing market conditions resulting from the Order Handling Rules.

As discussed above, the NASD has produced an extensive economic analysis of the pilot. The data appears to suggest that the pilot has not resulted in harm to the Nasdaq market. Indeed, as discussed above, the Actual Size Rule appears to be an appropriate adjustment of market making obligations in light of the changing market dynamics resulting from the Order Handling Rules. Nevertheless, the pilot report is lengthy and the Commission has received hundreds of comment letters on both the report and the NASD's proposal to adopt permanently the Actual Size Rule.[12] Extending the pilot through July 31, 1998, should provide the Commission with sufficient time to review the public comments before determining whether to expand the Actual Size Rule to all Nasdaq stocks on a permanent basis.

For the reasons discussed above, the Commission finds that the NASD's proposal is consistent with the Exchange Act and the rules and regulations thereunder applicable to a national securities association and has determined to approve the extension of the pilot through July 31, 1998. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing in the **Federal Register** to permit the NASD to continue the pilot on an uninterrupted basis for an additional month.

Accordingly, the Commission believes that the proposed rule change (SR–NASD–97–26) is consistent with Sections 15A(b)(6) and (b)(9) of the Exchange Act[13] and

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[14] that the proposed rule change, SR–NASD–97–26, be and hereby is approved through July 31, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–17784 Filed 7–2–98; 8:45 am]

BILLING CODE 8010–01–M

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[12] *Id.*

[13] In approving this rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. The proposed rule change will provide the Commission with additional time to review the public comments before determining whether to expand the Actual Size Rule to all Nasdaq stocks on a permanent basis. Since the Commission believes that the data discussed above indicates that the pilot has not harmed the Nasdaq market thus far, the net effect of approving the proposed rule change will be positive. 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78s(b)(2).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40132; File No. SR–OCC–97–02]

Self-Regulatory Organizations; the Options Clearing Corporation; Order Granting Approval of a Proposed Rule Change Regarding the Issuance, Clearance, and Settlement of Options on Unit Investment Trust Interests and Investment Company Shares That Hold Portfolios or Baskets of Common Stock

June 25, 1998.

On February 21, 1997, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–OCC–97–02) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] On February 21, 1997, May 14, 1997, and June 11, 1998, OCC amended the proposed rule change. Notice of the proposal was published in the **Federal Register** on June 9, 1997.[2] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

The rule change amends OCC's existing by-laws and rules to accommodate the issuance, clearance, and settlement of options on exchange listed securities representing units of beneficial interests in open-end unit investment trusts ("trust units") and in open-end management investment companies ("fund shares") that hold securities based on an index or a portfolio of common stocks, such as shares that have been proposed for trading by the American Stock Exchange ("Amex").[3] The Amex currently trades trust units know as Portfolio Depository Receipts ("SPDRs") based on the Standard & Poor's ("S&P") 500 index and on the S&P MidCap 400 index. SPDRs are trust units that represent beneficial ownership in the SPDR trust[4]

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[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 38706 (June 2, 1997), 62 FR 31468.

[3] Securities Exchange Act Release No. 38308 (February 19, 1997), 62 FR 8467 [File No. SR–Amex–96–44]. The Chicago Board Options Exchange has filed a proposed rule change to trade similar products. Securities Exchange Act Release No. 38342 (February 26, 1997), 62 FR 10098 [File No. SR–CBOE–97–03].

[4] The SPDR trust was established to accumulate and hold a portfolio of common stocks that is intended to track the price performance and dividend yield of a particular S&P index.

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and trade similarly to shares of common stock.

The Amex also trades fund shares known as World Equity Benchmark Shares ("WEBS") which are issued by an open-end management investment company consisting of seventeen separate series based on seventeen foreign equity market indexes.[5] The investment objective of each series is to provide results that correspond to the aggregate price and yield performance of publicly traded securities in a particular market as represented by a particular foreign equity index.

The Amex has proposed trading options on exchange-traded trust units and fund shares pursuant to the same rules and procedures that are generally applicable to trading in options on equity securities with only minor differences that affect their clearance and settlement.[6] These differences are that options on trust units and fund shares would be listed as European-style options only and that each option contract would cover 1000 trust units or fund shares as the unit of trading.

The general rights of a holder of a single call equity option contract are set forth in Article VI, Section 9(a) of OCC's by-laws, and the general rights of a holder of a single put equity option contract are set forth in Article VI, Section 9(b) of OCC's by-laws. Because options on trust units or fund shares are deemed equity option contracts under OCC's rules, OCC is amending Section 9(a) and (b) of Article VI to set forth the general rights of a holder of a single European-style equity call option[7] and a single European-style equity put option,[8] respectively. Furthermore, OCC is amending Interpretations and Policy .01 to Section 9, which provides that subsections (a) and (b) of Section 9 apply only to stock option contracts to clarify that the term "stock option contracts" will include option contracts on publicly traded interests in trust units, fund shares, or shares in entities similar to investment companies that hold portfolios or baskets of common stock.

OCC is adding Interpretation and Policy .01 to Article VI, Section 10 of the by-laws to reflect that, for series of options in which the underlying security is trust units or fund shares, the unit of trading is the amount of the underlying security deliverable upon the exercise of the option as specified by the exchange on which the option is traded unless otherwise specified by OCC in accordance with its by-laws and rules.

In addition, OCC is adding Rule 807 to its rules. The rule contains essentially the same provisions as those found in Interpretations and Policy .08 to Article VI, Section 11 of the by-laws.[9] Rule 807 sets forth the general provision that when a flexibly structured option contract with a European-style expiration has been adjusted to require upon exercise the delivery of a fixed amount of cash, the expiration date with respect to the option will be accelerated to fall on or shortly after the date on which the conversion of the underlying security to a right to receive cash occurs. The ability to accelerate an expiration date following an adjustment calling for a fixed amount of cash was added specifically to accommodate European-style, flexibly-structured equity options. Without the ability to accelerate, the option position would have to be maintained until it could be exercised at its regular expiration. For the same reason, OCC is making this applicable to all European-style stock option contracts. In connection with the addition of Rule 807, OCC is amending the term "expiration date" as defined in Article I, Section 1 of OCC's by-laws, to provide that the expiration date of a stock option contract is subject to the acceleration provisions of the new rule.

II. Discussion

Section 17A(b)(3)(F) of the Act[10] requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds in its custody or control or for which it is responsible. The Commission believes the rule change is consistent with OCC's obligation under the Act because OCC will clear and settle options on trust units and fund shares by using existing OCC systems, rules, and procedures. Thus, OCC should be able to implement the clearance and settlement of options on trust units and fund shares in a safe manner consistent with its statutory obligation due to the similarity of options on trust units and fund shares to option products currently cleared and settled by OCC.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–OCC–97–02) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–17717 Filed 7–2–98; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[License No. 04/04–0273]

Capital Across America, L.P.; Notice of Issuance of a Small Business Investment Company License

On April 21, 1998, an application was filed by Capital Across America, L.P., 414 Union Street, Suite 2025, Nashville, Tennessee 37219, with the Small Business Administration (SBA) pursuant to Section 107.300 of the Regulations governing small business investment companies (13 CFR 107.300 (1997)) for a license to operate as a small business investment company.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 04/04–0273 on June 17, 1998, to Capital Across America, L.P. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: June 17, 1998.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 98–17714 Filed 7–2–98; 8:45 am]

BILLING CODE 8025–01–P

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[5] The initial series offered by this investment company are: the Australia Index Series; the Austria Index Series; the Belgium Index Series; the Canada Index Series; the France Index Series; the Germany Index Series; the Hong Kong Index Series; the Italy Index Series; the Japan Index Series; the Malaysia Index Series; the Mexico (Free) Index Series; the Netherlands Index Series; the Singapore (Free) Index Series; the Spain Index Series; the Sweden Index Series; the Switzerland Index Series; and the United Kingdom Index Series.

[6] *Supra* note 3.

[7] A holder of a single European-style call option contract will have the right on and only on the expiration date, expiring at the expiration time on such date, to purchase from OCC at the aggregate exercise price the number of units of the underlying security represented by such option contract.

[8] A holder of a single European-style put option contract will have the right on and only on the expiration date, expiring at the expiration time on such date, to sell to OCC at the aggregate exercise price the number of units of the underlying security represented by such option contract.

[9] Section 11 sets forth the general rules pertaining to adjustments on stock option contracts. OCC has deleted Section .08 from the Interpretations and Policies and moved these provisions to new Rule 807.

[10] 15 U.S.C. 78q–1(b)(3)(F).

[11] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[License No. 02/03–0185]

J.P. Morgan Investment Corporation; Notice of Request for Exemption

On April 30, 1998, J.P. Morgan Investment Corporation (the "Licensee"), a Delaware corporation and SBIC Licensee number 02/03–0185, filed a request to the SBA pursuant to Section 107.730(a)(1) of the Regulations governing small business investment companies (13 CFR 107.730(a)(1)(1998)) for an exemption allowing the Licensee to invest in a newly formed business, The RiskMetrics Group, LLC. Sixty Wall Street SBIC Fund, L.P., a Delaware limited partnership and SBIC License No. 02/02–0563 may also request permission to invest in RiskMetrics Group, LLC.

The RiskMetrics Group, LLC is currently in need of additional capital, however, the Licensee can only offer this assistance to The RiskMetrics Group, LLC upon receipt of a prior written exemption from SBA. The exemption requested is the basis for this notice, and this notice is required pursuant to Section 107.730(g) of the Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on this exemption request to the Associate Administrator for Investment, Small Business Administration, 409 3rd Street, SW, Washington, DC 20416. A copy of this Notice will be published in a newspaper of general circulation in New York, New York.

Dated: June 24, 1998.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 98–17823 Filed 7–2–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3095]

Commonwealth of Kentucky (and Contiguous Counties in West Virginia)

Martin County and the contiguous Counties of Floyd, Johnson, Lawrence, and Pike in Kentucky, and Mingo and Wayne Counties in West Virginia constitute a disaster area as a result of damages caused by heavy rains and flash flooding that occurred on June 11, 1998. Applications for loans for physical damages as a result of this disaster may be filed until the close of business on August 24, 1998 and for economic injury until the close of business on March 24, 1999 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

The interest rates are:

For Physical Damage

Homeowners With Credit Available Elsewhere: 7.000%.

Homeowners Without Credit Available Elsewhere: 3.500%.

Businesses With Credit Available Elsewhere: 8.000%.

Businesses and Non-Profit Organizations Without Credit Available Elsewhere: 4.000%.

Others (Including Non-Profit Organizations) With Credit Available Elsewhere: 7.125%.

For Economic Injury

Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere: 4.000%.

The numbers assigned to this disaster for physical damages are 309506 for Kentucky and 309606 for West Virginia. For economic injury the numbers are 990600 for Kentucky and 990700 for West Virginia.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 24, 1998.

Aida Alvarez,

Administrator.

[FR Doc. 98–17706 Filed 7–2–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3093]

State of New York

Saratoga County and the contiguous Counties of Albany, Fulton, Hamilton, Montgomery, Rensselaer, Schenectady, Warren, and Washington in the State of New York constitute a disaster area as a result of damages caused tornadoes and high winds that occurred on May 31, 1998. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on August 21, 1998 and for economic injury until the close of business on March 22, 1999 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Boulevard South, 3rd Floor, Niagara Falls, NY 14303.

The interest rates are:

For Physical Damage

Homeowners With Credit Available Elsewhere: 7.000%.

Homeowners Without Credit Available Elsewhere: 3.500%.

Businesses With Credit Available Elsewhere: 8.000%.

Businesses and Non-Profit Organizations Without Credit: Available Elsewhere. 4.000%.

Others (Including Non-Profit Organizations) With Credit Available Elsewhere: 7.125%.

For Economic Injury

Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere: 4.000%.

The numbers assigned to this disaster are 309312 for physical damage and 990200 for economic injury.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 22, 1998.

Aida Alvarez,

Administrator.

[FR Doc. 98–17707 Filed 7–2–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3090]

State of Oregon

As a result of the President's major disaster declaration on June 12, 1998, I find that Crook County, Oregon constitutes a disaster area due to damages caused by flooding that occurred May 28 through June 3, 1998. Applications for loans for physical damages as a result of this disaster may be filed until the close of business on August 11, 1998, and for loans for economic injury until the close of business on March 12, 1999 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 4 Office, PO Box 13795, Sacramento, CA 95853–4795.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Deschutes, Grant, Harney, Jefferson, and Wheeler in the State of Oregon may be filed until the specified date at the above location.

The interest rates are:

Physical Damage

Homeowners With Credit Available Elsewhere: 7.000%.

Homeowners Without Credit Available Elsewhere: 3.500%.

Businesses With Credit Available Elsewhere: 8.000%.

Businesses Without Credit Available Elsewhere: 4.000%.

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Others (Including Non-Profit Organizations) With Credit Available Elsewhere: 7.125%.

For Economic Injury

Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere: 4.000%.

The number assigned to this disaster for physical damage is 309006 and for economic injury the number is 988800.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 19, 1998.

Herbert L. Mitchell,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 98–17708 Filed 7–2–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3089; Amendment #1]

Commonwealth of Pennsylvania

In accordance with a notice from the Federal Emergency Management Agency dated June 16, 1998, the above-numbered Declaration is hereby amended to include Beaver, Pike, and Susquehanna Counties in the Commonwealth of Pennsylvania as a disaster area due to damages caused by severe storms, tornadoes, and flooding that occurred May 31 through June 2, 1998. In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the previously designated locations: Lawrence, Monroe, and Wayne Counties in Pennsylvania; Columbiana, County, Ohio; Hancock County, West Virginia; Warren and Sussex Counties in New Jersey; and Broome Orange, Sullivan, and Tioga Counties in New York.

Any counties contiguous to the above-name primary counties and not listed herein have been previously declared.

All other information remains the same, i.e., the deadline for filing applications for physical damage is August 7, 1998 and for economic injury the termination date is March 8, 1999.

The economic injury numbers are 990800 for Ohio; 990900 for West Virginia; 991000 for New Jersey; and 991100 for New York.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 24, 1998.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 98–17709 Filed 7–2–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3078; Amendment #5]

State of Tennessee

In accordance with information received from the Federal Emergency Management Agency, the above-numbered Declaration is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to July 19, 1998.

All other information remains the same, i.e., the deadline for filing applications for economic injury is January 20, 1999.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 24, 1998.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 98–17713 Filed 7–2–98; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 2845]

The Bureau of Personnel, Recruitment Office; Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Department of State.

ACTION: 60-Day Notice of Proposed Information Collection; Application for Federal Employment (DS–1950).

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. This process is conducted in accordance with the Paperwork Reduction Act of 1995.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Extension of a currently approved collection.

Originating Office: Bureau of Personnel, Recruitment Office.

Title of Information Collection: Application for Federal Employment.

Frequency: Yearly.

Form Number: DS–1950.

Respondents: Used by individuals to apply for certain excepted positions at the Department of State.

Estimated Number of Respondents: 25,000.

Average Hours Per Response: 30 minutes.

Total Estimated Burden: 12,500 hours.

Public comments are being solicited to permit the agency to—

- Evaluate whether the proposed information collection is necessary for the proper performance of the agency functions.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER INFORMATION CONTACT: Comments regarding the collection listed in this notice or requests for copies of the proposed collection and supporting documents should be directed to Charles S. Cunningham, Directives Management Branch, U.S. Department of State, Washington, DC 20520, (202) 647–0596.

Dated: June 18, 1998.

Fernando Burbano,

Chief Information Officer.

[FR Doc. 98–17740 Filed 7–2–98; 8:45 am]

BILLING CODE 4710–15–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Free Area Trade of the Americas

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of initiation of Free Trade of the Americas (FTAA) negotiations; request for pubic comment on initial U.S. objectives for the nine negotiating groups.

SUMMARY: The Trade Staff Committee (TPSC) is providing notice of the United States' participation in trade negotiations with the 33 countries in the Western Hemisphere participating in the Summit of the Americas [1] and of the

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[1] Antigua and Barbuda, Argentina, Bahamas, Barbados, Belize, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Dominica, Dominican Republic, Ecuador, El Saledor, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, St. Kitts and

principles and objectives for the negotiations to which the 34 countries have agreed. The TPSC invites public comment on initial U.S. objectives for each of the nine FTAA negotiating groups.

FOR FURTHER INFORMATION CONTACT: For procedural questions concerning public comments contact Gloria Blue, Executive Secretary, Trade Policy Staff Committee, Office of the United States Trade Representative, (202) 395–3475. All questions concerning the negotiations should be directed to Karen M. Lezny, Director for the Free Trade Area of the Americas, Office of the Western Hemisphere, Office of the United States Trade Representative, (202) 395–5190.

SUPPLEMENTARY INFORMATION: On December 11, 1994, President Clinton and the 33 other democratically-elected leaders in the Western Hemisphere met in Miami, Florida for the first Summit of the Americas. They agreed to conclude negotiations on a Free Trade Area of the Americas (FTAA) by the year 2005, and to achieve concrete progress toward that objective by the end of the century. The 34 leaders agreed to negotiate a balanced and comprehensive agreement covering the following areas, among others: tariffs and non-tariff barriers affecting trade in goods and services; agriculture; subsidies; investment; intellectual property rights; government procurement; technical barriers to trade; safeguards; rules of origin; antidumping and countervailing duties; sanitary and phytosanitary standards and procedures; dispute resolution; and competition policy. The 34 Western Hemisphere ministers responsible for grade met four times; in June 1995 in Denver, Colorado; in March 1996 in Cartagena, Colombia; in May 1997 in Belo Horizonte, Brazil; and, in March 1998 in San Jose, Costa Rica, in order to prepare for the negotiation of the FTAA Agreement. The trade ministers created 11 working groups that collected and analyzed information on existing trade-related measures in each area to assist them in their preparations.

At the San Jose meeting in March 1998, the trade ministers recommended that the Western Hemisphere leaders initiate the negotiations and provided them recommendations on the structure, objectives, principles, and venues of the negotiations. The trade ministers reaffirmed the principles and objectives that have guided work on the FTAA since Miami, including that the agreement will be balanced, comprehensive, and WTO-consistent. They also reaffirmed that the agreement will constitute a single undertaking; will take into account the needs, economic conditions and opportunities of the smaller economies; and, will not raise additional barriers to the trade of other countries. The ministers pledged to continue to avoid to the greatest extent possible the adoption of policies that adversely affect trade in the hemisphere. They also reiterated that the negotiation of the FTAA will take into account the broad social and economic agenda contained in the Miami Declaration of Principles and Plan of Action with a view to contributing to raising living standards, to improving the working conditions of all people in the Americas and to better protecting the environment.

On April 18–19, 1998, President Clinton and his 33 counterparts in the Western Hemisphere initiated the Free Trade Area of the Americas negotiations at the Summit of the Americas meeting in Santiago, Chile. The leaders agreed to the general framework proposed by the 34 trade ministers, which include the establishment initially of nine negotiating groups to be guided by general principles and objectives and specified objectives as agreed by the ministers in March 1998. The leaders also agreed to the establishment of a Trade Negotiation Committee (TNC) composed of the 34 vice ministers responsible for trade to oversee the negotiation. The TNC held its first meeting on June 17–19 in Buenos Aires. Three other entities also were established: a Committee of Government Representatives on Civil Society, a joint public-private sector Experts Committee on Electronic Commerce, and a Consultative Group on Smaller Economies.

The nine negotiating groups are for: Market Access,[2] Agriculture; Investment; Services; Government Procurement; Dispute Settlement; Intellectual Property Rights; Subsidies, Antidumping and Countervailing Duties; and Competition Policy. They will begin their work no later than September 30, 1998 and will meet in Miami, Florida. The negotiating groups will be guided in their work by the general principles and objectives as well as the specific objectives agreed by the ministers, as set out in Annex I and Annex II of the San Jose Declaration, reproduced below.

The establishment of nine negotiating groups is an initial structure for the negotiations. This structure is flexible and is expected to be modified over time as required to assist the negotiations.

Since the Santiago Summit, USTR has held informal consultations with various sectors of civil society, including consumer, labor, business and environmental interests, which have expressed views and an interest in commenting on U.S. positions and objectives for the nine negotiating groups.

Public Comments

To prepare for the initial meetings of the nine negotiating groups starting in September 1998, the TPSC invites written comment on what should be the U.S. positions and objectives with respect to each of the negotiating groups. U.S. negotiators seek input beyond the general principles and objectives and specific objectives agreed to in San Jose by the United States as one of the 34-countries.

USTR will seek additional public comment separately on other issues related to the FTAA, including the Committee of Government Representatives on Civil Society and concerning the economic effects of the removal of duties and nontariff barriers to trade among FTAA participating countries.

Those persons wishing to submit written comments should provide twenty (20) typed copies (in English) no later than Wednesday, July 29, 1998, to Gloria Blue, Executive Secretary, Trade Policy Staff Committee, Office of the U.S. Trade Representative, Room 501, 600 17th Street, NW, Washington, D.C., 20508. Comments should state clearly the position taken and should describe the specific information supporting that position.

If the submission contains business confidential information, twenty copies of a non-confidential version must also be submitted. A justification as to why the information contained in the submission should be treated confidentially must be included in the submission. In addition, any submissions containing business confidential information must be clearly marked "Confidential" at the top and bottom of the cover page (or letter) and of each succeeding page of the

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Nevis, St. Lucia, St. Vincent and the Grenadines, Suriname, Trinidad and Tobago, Uruguay, United States, and Venezuela.

[2] The market access negotiating group will cover tariffs, non-tariff measures, standards and technical barriers to trade (for both agricultural and industrial products), customs procedures (for both agricultural and industrial products), rules of origin (for both agricultural and industrial products), and safeguards (for both agricultural and industrial products). The agriculture negotiating group will cover tariff, non-tariff measures, sanitary and phytosanitary measure (for both agricultural and industrial products), and export subsidies and other trade-distorting practices affecting agricultural products in the Hemisphere.

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submission. The version that does not contain confidential information should also be clearly marked, at the top and bottom of each page, "public version" or "non-confidential."

Written comments submitted in connection with this request, except for information granted "business confidential" status pursuant to 15 CFR 2003.6, will be available for public inspection in the USTR Reading Room, Room 101, Office of the United States Trade Representative, 600 17th. St., N.W., Washington, D.C. An appointment to review the file may be made by calling Brenda Webb (202) 395–6186. The Reading Room is open to the public from 9:30 a.m. to 12 noon, and from 1 p.m. to 4 p.m. Monday through Friday.

Frederick L. Montgomery,
Chairman, Trade Policy Staff Committee.

San Jose Declaration

Annex I—General Principles and Objectives

The negotiations for the construction of the FTAA will be guided by the following General Principles and Objectives:

General Principles

(a) Decisions in the FTAA negotiating process will be made by consensus.

(b) Negotiations will be conducted in a transparent manner to ensure mutual advantage and increased benefits to all participants of the FTAA.

(c) The FTAA Agreement will be consistent with the rules and disciplines of the WTO. With this purpose, the participating countries reiterate their commitment to multilateral rules and disciplines, in particular Article XXIV of the General Agreement on Tariffs and Trade (GATT) 1994 and its Uruguay Round Understanding, and Article V of the General Agreement on Trade in Services (GATS).

(d) The FTAA should improve upon WTO rules and disciplines wherever possible and appropriate, taking into account the full implications of the rights and obligations of countries as members of the WTO.

(e) The negotiations will begin simultaneously in all issue areas. The initiation, conduct and outcome of the negotiations of the FTAA shall be treated as parts of a single undertaking which will embody the rights and obligations as mutually agreed upon.

(f) The FTAA can co-exist with bilateral and sub-regional agreements, to the extent that the rights and obligations under these agreements are not covered by or go beyond the rights and obligations of the FTAA.

(g) Countries may negotiate and accept the obligations of the FTAA individually or as members of a sub-regional integration group negotiating as a unit.

(h) Special attention should be given to the needs, economic conditions (including transition costs and possible internal dislocations) and opportunities of smaller economies, to ensure their full participation in the FTAA process.

(i) The rights and obligations of the FTAA will be shared by all countries. In the negotiation of the various thematic areas, measures such as technical assistance in specific areas and longer periods for implementing the obligations could be included on a case by case basis, in order to facilitate the adjustment of smaller economies and the full participation of all countries in the FTAA.

(j) The measures agreed upon to facilitate the integration of smaller economies in the FTAA process shall be transparent, simple and easily applicable, recognizing the degree of heterogeneity among them.

(k) All countries shall ensure that their laws, regulations and administrative procedures conform to their obligations under the FTAA agreement.

(l) In order to ensure the full participation of all countries in the FTAA, the differences in their level of development should be taken into account.

General Objectives

(a) To promote prosperity through increased economic integration and free trade among the countries of our Hemisphere, which are key factors for raising standards of living, improving the working conditions of people in the Americas and better protecting the environment.

(b) To establish a Free Trade Area, in which barriers to trade in goods and services and investment will be progressively eliminated, concluding negotiations no later than 2005 and achieving concrete progress toward the attainment of this objective by the end of this century.

(c) To maximize market openness through high levels of disciplines through a balanced and comprehensive agreement.

(d) To provide opportunities to facilitate the integration of the smaller economies in the FTAA process in order to realize their opportunities and increase their level of development.

(e) To strive to make our trade liberalization and environmental policies mutually supportive, taking into account work undertaken by the WTO and other international organizations.

(f) To further secure, in accordance with our respective laws and regulations, the observance and promotion of worker rights, renewing our commitment to the observance of internationally recognized core labor standards and acknowledging that the International Labor organization is the competent body to set and deal with those core labor standards.

Annex II—Objectives by Issue Area

We have agreed that the negotiations for the construction of the FTAA, in the different issue area, will be guided by the following objectives:

Market Access

(a) Consistent with the provisions of the WTO, including article XXIV of the General Agreement on Tariffs and Trade (GATT 1994) and its Understanding on the Interpretation of Article XXIV of the General Agreement on Tariffs and Trade 1994, to progressively eliminate, tariffs, and non tariff barriers, as well as other measures with equivalent effects, which restrict trade between participating countries.

(b) All tariffs will be subject to negotiation.

(c) Different trade liberalization timetables may be negotiated.

(d) To facilitate the integration of smaller economies and their full participation in the FTAA negotiations.

Agriculture

(a) The objectives of the negotiating group on Market Access shall apply to trade in agricultural products. Rules of origin, customs procedures and Technical Barriers to Trade issues will be addressed in the Market Access negotiating group.

(b) To ensure that sanitary and phytosanitary measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries or a disguised restriction to international trade, in order to prevent protectionist trade practices and facilitate trade in the hemisphere. Consistent with the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement), said measures will only be applied to achieve the appropriate level of protection for human, animal or plant life or health, will be based on scientific principles, and will not be maintained without sufficient scientific evidence.

Negotiations in this area involve identifying and developing measures needed to facilitate trade, following and examining in depth the provisions set down in the WTO/SPS Agreement.

(c) To eliminate agricultural export subsidies affecting trade in the Hemisphere.

(d) To identify other trade-distorting practices for agricultural products, including those that have an effect equivalent to agriculture export subsidies, and bring them under greater discipline.

(e) Agricultural products covered are the goods referred to in Annex I of the WTO Agriculture Agreement.

(f) Incorporate progress made in the multilateral negotiations on agriculture to be held according to Article 20 of the Agreement on Agriculture, as well as the results of the review of the SPS Agreement.

Rules of Origin

(a) To develop an efficient and transparent system of rules of origin, including nomenclature and certificates of origin, in order to facilitate the exchange of goods, without creating unnecessary obstacles to trade.

Customs Procedures

(a) To simplify customs procedures, in order to facilitate trade and reduce administrative costs.

(b) To create and implement mechanisms to exchange information in customs issues among FTAA countries.

(c) To design effective systems to detect and combat fraud and other illicit customs activities, without creating unnecessary obstacles to foreign trade.

(d) To promote customs mechanisms and measures that ensure operations be conducted with transparency, efficiency, integrity and responsibility.

Investment

(a) To establish a fair and transparent legal framework to promote investment through the creation of a stable and predictable environment that protects the investor, his investment and related flows, without creating obstacles to investments from outside the hemisphere.

Standards and Technical Barriers to Trade

(a) To eliminate and prevent unnecessary technical barriers to trade in the FTAA, based on the proposals contained in the Common Objectives Paper approved by the Working Group.

Subsidies, Antidumping and Countervailing Duties

(a) To examine ways to deepen, if appropriate, existing disciplines provided in the WTO Agreement on Subsidies and Countervailing Measures and enhance compliance with the terms of the WTO Agreement on Subsidies and Countervailing Measures.

(b) To achieve a common understanding with a view to improving, where possible, the rules and procedures regarding the operation and application of trade remedy laws in order to not create unjustified barriers to trade in the Hemisphere.

Government Procurement

(a) The broad objective of negotiations in government procurement is to expand access to the government procurement markets of the FTAA countries.

More specifically, the objectives are:

(a) To achieve a normative framework that ensures openness and transparency of government procurement processes, without necessarily implying the establishment of identical government procurement systems in all countries;

(b) To ensure non-discrimination in government procurement within a scope to be negotiated;

(c) To ensure impartial and fair review for the resolution of procurement complaints and appeals by suppliers and the effective implementation of such resolutions.

Intellectual Property Rights

(a) To reduce distortions in trade in the Hemisphere and promote and ensure adequate and effective protection to intellectual property rights. Changes in technology must be considered.

Services

(a) Establish disciplines to progressively liberalize trade in services, so as to permit the achievement of a hemispheric free trade area under conditions of certainty and transparency;

(b) Ensure the integration of smaller economies into the FTAA process.

Competition Policy

The objectives of the negotiations are:

(a) General Objectives:

- To guarantee that the benefits of the FTAA liberalization process not be undermined by anti-competitive business practices.

(b) Specific Objectives:

- To advance towards the establishment of juridical and institutional coverage at the national, sub-regional or regional level, that proscribes the carrying out of anti-competitive business practices;
- To develop mechanisms that facilitate and promote the development of competition policy and guarantee the enforcement of regulations on free competition among and within countries of the Hemisphere.

Dispute Settlement

(a) To establish a fair, transparent and effective mechanism for dispute settlement among FTAA countries, taking into account *inter alia* the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes.

(b) To design ways to facilitate and promote the use of arbitration and other alternative dispute settlement mechanisms, to solve private trade controversies in the framework of the FTAA.

Work in different groups may be interrelated, such as agriculture and market access; services and investment; competition policy and subsidies, antidumping and countervailing duties; among others. The TNC shall identify linkages and outline appropriate procedures to ensure timely and effective coordination. We agree to give the mandate to the relevant negotiating groups to study issues relating to: the interaction between trade and competition policy, including antidumping measures; market access and agriculture, in order to identify any areas that may merit further consideration by us. The groups involved will report their results to the TNC no later than December 2000. This is without prejudice to decisions made by the TNC to dissolve, establish or merge groups. Likewise, the negotiating groups may establish ad-hoc working groups.

[FR Doc. 98–17723 Filed 7–2–98; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on March 30, 1998 [63 FR 15257].

DATES: Comments must be submitted on or before August 5, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Scott, Office Engineering, Federal Highway Administration, U.S. Department of Transportation, HNG–10, Room 3134, 400 7th St., SW., Washington, DC 20590–0001, telephone (202) 366–4104. Office hours are from 7:45 a.m. to 4:15 p.m., E.T., Monday thru Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Federal Highway Administration (FHWA)

1. *Title:* Develop and Submit Utility Accommodation Policies.

OMB Number: 2125–0514.

Type of Request: Extension of a currently approved collection.

Form(s): N/A.

Affected Public: State highway agencies.

Abstract: The FHWA has elected to fulfill its statutory obligations regarding utility accommodation by requiring the State highway agencies to develop and submit to FHWA a policy statement on the authority of utilities to use and occupy highway rights-of-way; the State's authority to regulate such use; and the policies and/or procedures employed for accommodating utilities within the rights-of-way of Federal-aid highway projects. Upon approval of the policy statement, the State highway agency may take any action required in accordance with the approved policy statement without case-by-case review by the FHWA. Utility accommodation policy statements have previously been approved by the FHWA for all the 50 State highway agencies and the highway agencies of the District of Columbia and the Commonwealth of Puerto Rico. Even so, these policy statements must periodically be reviewed to see if updating is necessary, and must periodically be updated to reflect policy changes.

Estimated Total Annual Burden: The estimated total annual reporting burden is 2,800 hours.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725—17th Street, NW., Washington, DC 20503, Attention FHWA Desk Officer.

Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and

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clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publishing in the **Federal Register.**

Issued in Washington, DC, on June 29, 1998.

Phillip A. Leach,

Clearance Officer, United States Department of Transportation.

[FR Doc. 98–17719 Filed 7–2–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Form and Recordkeeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 USC Chapter 3501, et seq.), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describe the nature of the information collections and its expected burden, The **Federal Register** Notice with a 60-day comment period soliciting comments was published on April 13, 1998 [63 FR 18072].

DATES: Comments must be submitted on or before August 5, 1998.

FOR FURTHER INFORMATION CONTACT: Bernie Stankus, Office of Airline Information, K–25, Bureau of Transportation Statistics, 400 7th Street, SW., Room 3430, Washington, DC 20590 (202) 366–4387.

SUPPLEMENTARY INFORMATION:

Bureau of Transportation Statistics (BTS)

Title: Airline Service Quality Performance.

OMB Control Number: 2138–0041.

Type of Request: Extension of a Currently Approved Collection.

Form No.: None.

Affected Entities: Large domestic passenger air carriers—Alaska Airlines, America West Airlines, American Airlines, Continental Air Lines, Delta Air Lines, Northwest Airlines, Southwest Airlines, Trans World Airlines, United Air Lines, US Airways.

Abstract: Since Part 234 has been effective, carriers' quality of service has improved, resulting in a decrease in the number of consumer complaints. The Department discloses the carriers' on-time performances and mishandled baggage information to the public. Airline passengers are now more informed to make carrier selections based on the quality of service provided.

Aircraft tail number, wheels-up and wheels-down time gives the FAA valuable data for pinpointing and analyzing air traffic delays. Wheels-up and wheels-down time are used in conjunction with departure and arrival times to show the extent of ground delays. Elapsed flight time (computed from the wheels-up time and the wheels-down time) reveals delays experienced in the air. The reporting of the aircraft tail number allows the FAA to track an aircraft through the air network, which enables the FAA to study the ripple effects of delays at hub airports. Data by aircraft type allows the FAA to calculate the capacity impacted by air traffic congestion. The data can be analyzed for airport design changes, new equipment purchases, the planning of new runways or airports based on current and projected airport delays, and traffic levels.

Estimated Annual Burden Hours: 1,440 hours.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725—17th Street, NW, Washington, DC 20503, ATTN: DOT/BTS Desk Officer. Comments are invited on: whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collections; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collections of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect when OMB receives it within 30 days of publication.

Issued in Washington, DC on June 29, 1998.

Phillip A. Leach,

Clearance Officer, United States Department of Transportation.

[FR Doc. 98–17725 Filed 7–2–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on March 9, 1998 [63 FR 11472].

DATES: Comments must be submitted on or before August 5, 1998.

FOR FURTHER INFORMATION CONTACT: Ms. Judith Street, Room 612, Federal Aviation Administration, Corporate Information Division, ABC–100, 800 Independence Ave., SW., Washington, DC 20591.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: High Density Traffic Airports Slot Allocation and Transfer Methods.

OMB Number: 2120–0524.

Type of Request: Extension of a currently approved collection.

Form(s): N/A.

Affected Public: Business or other for profit.

Abstract: High Density Traffic Airports Slot Allocation and Transfer Methods. The FAA uses this information to allocate slots and maintain accurate records of slot transfers at the High Density Traffic Airports. The information will be provided by air carriers and commuter operators or other persons holding a slot at High Density Traffic Airports.

Estimated annual burden: 1800 hours.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725—17th Street, NW., Washington, DC 20503, Attention FAA Desk Officer.

Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publishing in the **Federal Register**.

Issued in Washington, DC, on June 25, 1998.

Phillip A. Leach,

Clearance Officer, United States Department of Transportation.

[FR Doc. 98–17726 Filed 7–2–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and approval. The ICR describes the nature of the information collections and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on March 16, 1998 [63 FR 12858].

DATES: Comments must be submitted on or before August 5, 1998.

FOR FURTHER INFORMATION CONTACT: Michael Robinson, NHTSA Information Collection Clearance Officer at (202) 366–9456.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration (NHTSA)

Title: 1998 Motor Vehicle Occupant Safety Survey.

OMB Control Number: 2127—New.

Type of Request: New collection.

Form(s): DTHH22–98–R–05080.

Affected Public: Individuals or households.

Abstract: NHTSA proposes to conduct a 1998 Motor Vehicle Occupant Safety Survey by telephone among a national probability sample of 8,000 adults (age 16 and older). Participation by respondents would be voluntary. NHTSA's information needs require seat belt and child safety seat sections too large to merge into a single survey instrument without producing an inordinate burden on respondents. Rather than reduce these sections, the proposed survey instrument would be divided into two series of modules. Each module would be administered to one-half the total number of subjects to be interviewed. Module Series #1 of the questionnaire would focus on seat belts and include smaller sections on air bags, motorcyclist safety, and general driving (including speed). Module Series #2 would focus on child safety seats, accompanied by smaller sections on bicyclist safety and Emergency Medical Services. Both series would contain sections on crash injury experience, and on drinking and driving because of the extensive impact of alcohol on the highway safety problem. Some basic seat belt questions contained in Module Series #1 would be duplicated on Module Series #2. In conducting the proposed survey, the interviewers would use computer-assisted telephone interviewing to reduce interview length and minimize recording errors. A Spanish-language translation and bilingual interviewers would be used to minimize language barriers to participation. The proposed survey would be anonymous and confidential.

Description of the Need for the Information and Proposed Use of the Information—The National Highway Traffic Safety Administration (NHTSA) was established to reduce the mounting number of deaths, injuries and economic losses resulting from motor vehicle crashes on the Nation's highways. As part of this statutory mandate, NHTSA is authorized to conduct research as a foundation for the development of motor vehicle standards and traffic safety programs.

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725—17th Street, NW., Washington, DC 20503, Attention DOT Desk Officer. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Issued in Washington, DC, on June 26, 1998.

Philip A. Leach,

Clearance Officer, United States Department of Transportation.

[FR Doc. 98–17727 Filed 7–2–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection(ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on March 9, 1998 [63 FR 11472].

DATES: Comments must be submitted on or before August 5, 1998.

FOR FURTHER INFORMATION CONTACT: Judith Street, ABC–100; Federal Aviation Administration; 800 Independence Avenue, SW.; Washington, DC 20591; Telephone number (202) 267–9895.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Certification Procedures for Products and Parts, FAR 21.

OMB Control Number: 2120–0018.

Type of Request: Extension of a currently approved collection.

Affected Public: Aircraft parts designers, manufacturers, and aircraft owners.

Abstract: 14 CFR part 21 prescribes certification procedures for aircraft, aircraft engines, propellers, products and parts. Information collected is used to determine compliance and applicant eligibility.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725—17th Street, NW.,

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Washington, DC 20503, Attention FAA Desk Officer.

Comments are Invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect when OMB receives it within 30 days of publication.

Issued in Washington, DC, on June 26, 1998.

Phillip A. Leach,

Clearance Officer, United States Department of Transportation.

[FR Doc. 98–17728 Filed 7–2–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending June 26, 1998

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–97–2768.

Date Filed: June 24, 1998.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: July 22, 1998.

Description: Application of Far Eastern Air Transport Corporation pursuant to 49 U.S.C. Sections 41302, and 211.13 and Subpart Q of the Regulations, requests an Amendment to its Application for a Foreign Air Carrier Permit to engage in scheduled and charter foreign air transportation of persons, property and mail from points behind Taiwan via Taiwan and intermediate points to a point or points in the United States and beyond.

Dorothy W. Walker,

Federal Register Liaison.

[FR Doc. 98–17812 Filed 7–2–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings, Agreements Filed During the Week Ending June 26, 1998

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. Sections 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–98–3975

Date Filed: June 23, 1998

Parties: Members of the International Air Transport Association

Subject:

PTC3 Telex Mail Vote 945

Korea-Russia fares (TC3 points in Russia)

Intended effective date: July 1, 1998

Docket Number: OST–98–3985

Date Filed: June 25, 1998

Parties: Members of the International Air Transport Association

Subject:

PTC12 USA-EUR 0052 dated June 23, 1998

USA-Europe Expedited Resos (excluding Austria, Belgium, Germany, Neth, Scand & Switz)

r–1—002j r–3—044ss r–5—015h
r–2—054ss r–4—064ss r–6—015v

Intended effective date: expedited August 1, 1998

Docket Number: OST–98–3986

Date Filed: June 25, 1998

Parties: Members of the International Air Transport Association

Subject:

PTC ME-AFR 0014 dated June 23, 1998

Middle East-Africa Expedited Reso 002t

Intended effective date: August 1, 1998

Docket Number: OST–98–3987

Date Filed: June 25, 1998

Parties: Members of the International Air Transport Association

Subject:

CTC COMP 0100 dated May 19, 1998

Composite Cargo Resolutions r1–12

CTC COMP 0103 dated May 19, 1998

Worldwide Area Cargo Resolutions R13–46

MINUTES—CTC COMP 0105 dated May 29, 1998

TABLES—CTC1 RATES 0007 dated June 19, 1998, CTC1 RATES 0008 dated June 19, 1998, CTC2 ME RATES 0008 dated June 23, 1998, CTC2 EUR-ME RATES 0010 dated June 23, 1998, CTC3 RATES 0008 dated June 19, 1998, CTC3 RATES 0009 dated June 19, 1998, CTC31 N/C RATES 0005 dated June 23, 1998, CTC31 S RATES 0003 dated June 23, 1998, CTC123 RATES 0006 dated June 23, 1998

Intended effective date: October 1, 1998.

Dorothy W. Walker,

Federal Register Liaison.

[FR Doc. 98–17813 Filed 7–2–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Intelligent Transportation Society of America; Public Meeting

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Public Meeting.

SUMMARY: The Intelligent Transportation Society of America (ITS AMERICA) will hold a meeting of its Board of Directors on Wednesday, August 5, 1998. The meeting begins at 9:30 a.m. The letter designations that follow each item mean the following: (I) is an information item; (A) is an action item; (D) is a discussion item. The General Session includes the following items: (1) Introductions and ITS America Antitrust Policy and Conflict of Interest Statements; (2) Review and Approval of Previous Meeting's Minutes (A); (3) Federal Reports (I/D); (4) Board Retreat Report-Out—TBD (A)—(a) Topic #1—Board Internal Policy Direction: Governance Structure; Executive Limitations; Scope of Board Activities; (b) Topic #2—Board External Policy Direction & Priority Objectives: Federal Advisory Role; International Role; Training Role; State Chapter Relationship; (5) Intelligent Vehicle Initiative RFI Response Analysis (A); (6) Coordinating Council Workshop Report (A), (a) Topic #1—Role of the Coordinating Council; (b) Topic #2—Review of IVI Analysis; (c) Topic #3—TEA–21 Deployment Policy: Deployment Integration, and Architecture and Standards Conformity; (7) State Chapters Council Report (I); (8) ITS America Association Report (I); (9) President's Report (I/D); (10) Other Program Business.

11:30 a.m. Business Session (U.S. DOT participants excused. Board Members, ITS America Members, and Staff only.) (11) Report of the Membership Committee (I); (12) Report of the Administrative Policy and Finance Committee (I/D); (13) Report of the Nominating Committee (A); (14) Other Business; (15) Adjournment until October 11, 1998, Board of Directors Meeting in Conjunction with the Fifth ITS World Congress at the Inter-Continental Hotel, Seoul, Korea (not a Federal Advisory Committee Meeting).

ITS AMERICA provides a forum for national discussion and recommendations on ITS activities including programs, research needs, strategic planning, standards, international liaison, and priorities.

The charter for the utilization of ITS AMERICA establishes this organization as an advisory committee under the Federal Advisory Committee Act (FACA) 5 USC app. 2, when it provides advice or recommendations to DOT officials on ITS policies and programs. (56 FR 9400, March 6, 1991).

DATES: The Board of Directors of ITS AMERICA will meet on Wednesday, August 5, 1998, from 9:30 a.m.–noon.

ADDRESSES: The Hyatt Regency Savannah, #2 W. Bay Street, Savannah, Georgia, 31401. Phone: (912) 238–1234. Fax: (912) 944–3678.

FOR FURTHER INFORMATION CONTACT: Materials associated with this meeting may be examined at the offices of ITS AMERICA, 400 Virginia Avenue SW., Suite 800, Washington, DC 20024. Persons needing further information or who request to speak at this meeting should contact Kenneth Faunteroy at ITS AMERICA by telephone at (202) 484–4130 or by FAX at (202) 484–3483. The DOT contact is Mary C. Pigott, FHWA, HVH–1, Washington, DC 20590, (202) 366–9230. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except for legal holidays.

(23 U.S.C. 315; 49 CFR 1.48)

Issued on: June 29, 1998.

Jeffrey Paniati,

Deputy Director, ITS Joint Program Office.

[FR Doc. 98–17746 Filed 7–2–98; 8:45 am]

BILLING CODE 4910-22-P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Environmental Impact Statement on New Rochelle Intermodal Transportation Center Project, New Rochelle, New York

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of intent to prepare an environmental impact statement (EIS).

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended, and as implemented by the Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500–1508) and Federal Transit Administration (FTA) regulations under 23 CFR Part 771, the FTA and the Westchester County Department of Transportation (WCDOT) intend to prepare an Environmental Impact Statement (EIS) to assess the impacts of a project known as the New Rochelle Intermodal Transportation Center. The EIS will also comply with the requirements of the 1990 Clean Air Act Amendments (CAAA) and Executive Order 12898 on Environmental Justice.

The project consists of a proposed multi-level garage and other vehicular and pedestrian circulation improvements to be constructed on the site of the existing at-grade parking lot along the southbound Metro-North railroad tracks at the New Rochelle Train Station in New Rochelle (Westchester County), New York. The proposed project is intended to be financed through FTA and local funding sources. The project is being administered by the City of New Rochelle (City) Department of Development on behalf of WCDOT.

The proposed garage and station site redesign are intended to better serve Metro-North and Amtrak train operations, Westchester County bus service, taxi and private bus operations, and commuters parking at the station, and improve pedestrian and vehicle circulation. The proposed project includes a new 1,000-space parking structure, improved vehicular and pedestrian circulation, bicycle storage, and separate taxi, bus, and auto passenger pick up/drop off areas. The project will be designed to be in character with the New Rochelle train station building on the project site.

In addition to assessing the proposed intermodal center, the EIS will evaluate the No Build alternative and any other reasonable alternatives determined through the scoping process. Scoping will occur both through correspondence with interested persons, organizations, and federal, state, and local agencies and through a public meeting.

Involved agencies may include: National Railroad Passenger Corporation (Amtrak), New York State Thruway Authority, Metro-North Railroad (MTA), and New York State Historic Preservation Office (SHPO).

DATES: *Comment Due Date:* Written comments on the scope of alternatives and impacts to be considered should be sent to the City of New Rochelle by and will be accepted by the Department up to thirty days following the close of the public scoping meeting. Oral comments may be given at the scoping meeting. *Scoping Meeting:* A public scoping meeting will be held on Tuesday, July 21, 1998, 8:00 PM, in City Hall, 515 North Avenue, New Rochelle, NY.

ADDRESSES: *Written comments* on the project scope should be sent to Mark Stellato, City of New Rochelle, Department of Development, New Rochelle City Hall, 515 North Avenue, New Rochelle, NY 10801.

FOR FURTHER INFORMATION CONTACT: Anthony G. Carr, Director, Planning and Program Development, Federal Transit Administration, at 212–264–8162.

SUPPLEMENATRY INFORMATION:

Scoping

The FTA is initiating a scoping process for the purpose of determining the scope of issues to be addressed in the EIS. All interested individuals, organizations, and Federal, State, and local agencies are invited to participate in identifying any significant social, economic, and environmental issues related to the proposed project and defining the alternatives to be evaluated in the EIS. A draft Scoping Document describing the purpose of the project and impact issues is being mailed to affected Federal, State, and local agencies as well as interested parties. Copies of the draft Scoping Document may be obtained from Mark Stellato, City of New Rochelle Department of Development at (914) 654–2191.

Following a presentation on the project, comments on the scope of the EIS will be received and transcribed at this meeting. Scoping comments may be submitted at the public scoping meeting and/or submitted in writing at the address listed above. It is important that interested parties and Federal, State, and local agencies take this opportunity to identify environmental concerns that should be addressed in the EIS. Further, because the preliminary design components of the New Rochelle Intermodal Transportation Center Project are currently being formulated and refined, the scoping process offers an opportunity to incorporate public environmental concerns into the urban design and engineering processes of the project.

Description of Study Area and Project Need

The proposed action (New Rochelle Intermodal Transportation Center) includes the construction of a 1,000-space, multi-level parking garage on the site of the existing New Rochelle train station as well as the reconfiguration and redesign of the train station site to

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create an intermodal transportation center. The New Rochelle train station is located in the central business district of the City of New Rochelle, Westchester County, New York. The station site is bordered on the north by the New England Section (I–95) of the New York State Thruway; on the south by Metro-North's New Haven Division; on the east by North Avenue, and on the west by Division Street. It is a major commuter stop along the MTA Metro-North Railroad's New Haven Division as well as Amtrak's New England Express, Springfield, and Vermont lines. In addition, the New Rochelle station will be the only stop in Westchester for Amtrak's high speed Northeast Corridor service between Washington, DC and Boston, Massachusetts. The station is also a hub for the County's Bee-Line bus service.

The City, the New York State Department of Transportation, and WCDOT will consolidate to the maximum extent feasible various transportation services into a single intermodal hub adjacent to the train station building. The overall goals and objectives of this project are to provide a convenient, secure, operationally efficient transportation center which considers internal circulation, site access, user friendliness, bus pick up and drop-off areas, commuter parking, ADA access, taxi layover, kiss-and-ride, and pedestrian as well as bicycle access.

Alternatives

The EIS will evaluate reasonable alternatives that will assist in achieving the objectives of the New Rochelle Intermodal Transportation Center Project. Alternatives to be analyzed would include a No Build Alternative under which no change to the New Rochelle Station would occur. Other alternatives to be considered would be developed during the scoping and public comment period and could include design alternatives.

Probable Effects/Potential Impacts for Analysis

The EIS will evaluate all potential significant social, economic, and environmental impacts of the alternatives. Primary issues include traffic and transportation, air quality, noise, and the landmark-eligibility of the Train Station Building. Both positive and negative impacts will be evaluated for the construction period and for the long term period of operation. Measures to mitigate adverse impacts will be identified, where reasonable and appropriate. The Build year for the proposed project is anticipated to be 2001.

FTA and State Procedures

The EIS process will be conducted in accordance with the regulations and guidance established by NEPA, as well as FTA's regulations under 23 CFR 771 and associated guidance documents.

Following the completion of the scoping process, a draft EIS will be prepared and made available for public review. There will be a 45-day public comment period and public hearing on the draft EIS. After its publication and the public hearing, a final EIS will be prepared with appropriate revisions and additions responding to all substantive comments received. The final EIS will serve as the basis for a Record of Decision issued on the proposed action.

Because the proposed action also includes actions by New York State, county, and local agencies, it will also be assessed in accordance with the New York State Environmental Quality Review Act (SEQRA). The City of New Rochelle will serve as the lead agency for SEQRA documentation. The content and format of the Federal EIS will be designed to also meet the requirements of SEQRA for the action. All time frames, public notices, public hearings, and comment periods will be coordinated in accordance with both NEPA and SEQRA requirements.

Issued on: June 30, 1998.

Letitia Thompson,

Regional Administrator.

[FR Doc. 98–17820 Filed 7–2–98; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–97–3125; Notice 02]

RIN 2127–AH04

Final Theft Data; Motor Vehicle Theft Prevention Standard

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Publication of final theft data.

SUMMARY: This document publishes the final data on thefts of model year (MY) 1996 passenger motor vehicles that occurred in calendar year (CY) 1996. The final 1996 theft data indicate a decrease in the vehicle theft rate when compared to the theft rate experienced in CY/MY 1995. The final theft rate for MY 1996 passenger vehicles stolen in calendar year 1996 (3.28 thefts per thousand vehicles produced) decreased by 8.1 percent from the theft rate for CY/MY 1995 vehicles (3.57 thefts per thousand vehicles produced). Publication of these data fulfills NHTSA's statutory obligation to periodically obtain accurate and timely theft data and publish the information for review and comment. The data were calculated for informational purposes only.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalind Proctor, Office of Planning and Consumer Programs, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590. Ms. Proctor's telephone number is (202) 366–0846. Her fax number is (202) 493–2739.

SUPPLEMENTARY INFORMATION: NHTSA administers a program for reducing motor vehicle theft. The central feature of this program is the Federal Motor Vehicle Theft Prevention Standard, 49 CFR Part 541. The standard specifies performance requirements for inscribing and affixing vehicle identification numbers (VINs) onto certain major original equipment and replacement parts of high-theft lines of passenger motor vehicles.

The agency is required by 49 U.S.C. 33104(b)(4) to periodically obtain, from the most reliable source, accurate and timely theft data and publish the data for review and comment. To fulfill this statutory mandate, NHTSA has published theft data annually beginning with MYs 1983/84. Continuing to fulfill the section 33104(b)(4) mandate, this document reports the final theft data for CY 1996, the most recent calendar year for which data are available.

In calculating the 1996 theft rates, NHTSA followed the same procedures it used in calculating the MY 1995 theft rates. (For 1995 theft data calculations, see 62 FR 44416, August 21, 1997.) As in all previous reports, NHTSA's data were based on information provided to NHTSA by the National Crime Information Center (NCIC) of the Federal Bureau of Investigation. The NCIC is a government system that receives vehicle theft information from nearly 23,000 criminal justice agencies and other law enforcement authorities throughout the United States. The NCIC data also include reported thefts of self-insured and uninsured vehicles, not all of which are reported to other data sources.

The 1996 theft rate for each vehicle line was calculated by dividing the number of reported thefts of MY 1996 vehicles of that line stolen during calendar year 1996 by the total number of vehicles in that line manufactured for MY 1996, as reported to the Environmental Protection Agency (EPA).

The final 1996 theft data show a decrease in the vehicle theft rate when compared to the theft rate experienced in CY/MY 1995. The final theft rate for MY 1996 passenger vehicles stolen in CY 1996 decreased to 3.28 thefts per thousand vehicles produced, a decrease of 8.1 percent from the rate of 3.57 thefts per thousand vehicles experienced by MY 1995 vehicles in CY 1995. For MY 1996 vehicles, out of a total of 204 vehicle lines, 71 lines had a theft rate higher than 3.5826 per thousand vehicles, the established median theft rate for MYs 1990/1991. (See 59 FR 12400, March 16, 1994.) Of the 71 vehicle lines with a theft rate higher than 3.5826, 67 are passenger car lines, 4 are multipurpose passenger vehicle lines, and none are light-duty truck lines.

On Monday, February 9, 1998, NHTSA published the preliminary theft rates for CY 1996 passenger motor vehicles in the **Federal Register** (63 FR 6603). The agency tentatively ranked each of the MY 1996 vehicle lines in descending order of theft rate. The public was requested to comment on the accuracy of the data and to provide final production figures for individual vehicle lines. In response to the February 1998 notice, the agency received written comments from the Chrysler Corporation (Chrysler), the General Motors Corporation (GM) and Mercedes-Benz of North America (Mercedes). In their comments, all three manufacturers provided the agency with either corrected production figures or nameplate changes for their vehicle lines. (The written corrections are available at the docket number cited at the beginning of this notice.)

The agency used all written comments to make the necessary adjustments to its data. As a result of the adjustments, the final theft rate and ranking of the vehicle lines changed from those published in the February 1998 notice.

In its comments, Chrysler commented that the Chrysler Sebring Convertible and the Chrysler Sebring Coupe are completely different vehicles. They had been erroneously listed as one vehicle line entry with combined theft and production figures. In response to Chrysler's comment, NHTSA is making the necessary corrections to list these two vehicle lines as separate entries in the final theft listing. As a result of these corrections, the Chrysler Sebring previously ranked No. 44 with a theft rate of 4.7341 is now listed as the Chrysler Sebring Convertible ranked No. 98 with a theft rate of 2.7315 and the Chrysler Sebring Coupe ranked No. 12 with a theft rate of 7.6859. Additionally, Chrysler commented that the listing erroneously omitted the Jeep Wrangler vehicle line. After further review of vehicle production data and confirmation by Chrysler, it was revealed that the Jeep Wrangler vehicle line was not produced for MY 1996. Therefore, the Chrysler Jeep Wrangler vehicle line will remain unlisted.

Chrysler also informed the agency that the production volume for the Jeep Cherokee was erroneously listed. In response to this comment, the production volume for the Jeep Cherokee has been corrected and the final theft list has been revised accordingly. As a result of the correction, the Jeep Cherokee previously ranked No. 88 with a theft rate of 3.0596, remains ranked the same but now has a theft rate of 3.0878. Chrysler also informed the agency that the production volume for the Dodge B1500/B2500 line was incorrect. After further analysis of the production volumes, it was confirmed with Chrysler that the production volume listed by the agency was not in error. Therefore, the production volume and the theft rate for this line will remain unchanged.

GM informed the agency that the nameplate for the Oldsmobile Cutlass Ciera SL should be changed to the Oldsmobile Ciera, the Chevrolet Lumina APV should be changed to the Chevrolet Lumina Minivan, the Oldsmobile Bravada APV should be changed to the Oldsmobile Bravada, the Oldsmobile 88 should be changed to Oldsmobile Eighty-Eight, and the Oldsmobile 98 should be changed to Oldsmobile Ninety-Eight. The final theft list has been modified to reflect these changes.

Additionally, Mercedes informed the agency that because the 124 line has been replaced by the 210 line, beginning with MY 1996, the nameplate for the 124 (E-Class) vehicle line should be changed to the 210 (E-Class) vehicle line. The final theft list has been revised accordingly.

The following list represents NHTSA's final calculation of theft rates for all 1996 passenger motor vehicle lines. This list is intended to inform the public of calendar year 1996 motor vehicle thefts of model year 1996 vehicles and does not have any effect on the obligations of regulated parties under 49 U.S.C. Chapter 331, Theft Prevention.

THEFT RATES OF MODEL YEAR 1996 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 1996

	Manufacturer	Make/model (line)	Thefts 1996	Production (Mfr's) 1996	1996 (per 1,000 vehicles produced) theft rate
1	MITSUBISHI	DIAMANTE	28	600	46.6667
2	MAZDA	MX-3	1	27	37.0370
3	ROLLS-ROYCE	SILVER DAWN	1	31	32.2581
4	TOYOTA	SUPRA	7	275	25.4545
5	CHRYSLER CORP.	INTREPID [1]	8	465	17.2043
6	MITSUBISHI	MIRAGE	364	31,933	11.3989
7	TOYOTA	LEXUS GS	27	2,535	10.6509
8	MITSUBISHI	MONTERO	112	11,026	10.1578
9	NISSAN	300ZX	28	2,893	9.6785
10	CHRYSLER CORP.	DODGE STEALTH	3	358	8.3799
11	NISSAN	STANZA ALTIMA	719	92,478	7.7748
12	CHRYSLER CORP.	SEBRING COUPE	250	32,527	7.6859
13	CHRYSLER CORP.	PLYMOUTH NEON	779	103,871	7.4997
14	BMW	8	2	267	7.4906
15	TOYOTA	LEXUS SC	34	4,785	7.1055
16	CHRYSLER CORP.	DODGE NEON	926	131,821	7.0247
17	CHRYSLER CORP.	JEEP GRAND CHEROKEE	1,978	281,814	7.0188
18	SAAB	SAAB 9000	23	3,284	7.0037
19	MITSUBISHI	GALANT	371	54,673	6.7858

THEFT RATES OF MODEL YEAR 1996 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 1996—Continued

	Manufacturer	Make/model (line)	Thefts 1996	Production (Mfr's) 1996	1996 (per 1,000 vehicles produced) theft rate
20	GENERAL MOTORS	CHEVROLET CORVETTE	137	21,008	6.5213
21	ROLLS-ROYCE	SILVER SPUR	1	155	6.4516
22	HYUNDAI	ACCENT	300	46,691	6.4252
23	MITSUBISHI	ECLIPSE	323	51,055	6.3265
24	CHRYSLER CORP.	DODGE STRATUS	622	99,683	6.2398
25	HONDA/ACURA	NSX	3	486	6.1728
26	SUZUKI	SWIFT	12	2,087	5.7499
27	NISSAN	MAXIMA	893	156,602	5.7024
28	MITSUBISHI	EXPO	7	1,230	5.6911
29	FORD MOTOR CO.	MERCURY TRACER	74	13,199	5.6065
30	HYUNDAI	SONATA	54	9,694	5.5705
31	TOYOTA	TERCEL	335	60,704	5.5186
32	FORD MOTOR CO.	MUSTANG	696	126,357	5.5082
33	CHRYSLER CORP.	NEW YORKER/LHS	209	38,284	5.4592
34	TOYOTA	COROLLA	1,136	210,277	5.4024
35	SUZUKI	ESTEEM	32	5,926	5.3999
36	NISSAN	SENTRA/200SX	894	168,554	5.3039
37	GENERAL MOTORS	OLDSMOBILE CIERA	658	124,817	5.2717
38	MERCEDES BENZ	129 (SL-CLASS)	29	5,530	5.2441
39	TOYOTA	LEXUS LS	120	22,919	5.2358
40	HONDA	PRELUDE	50	9,683	5.1637
41	CHRYSLER CORP.	DODGE INTREPID	714	145,289	4.9143
42	GENERAL MOTORS	OLDSMOBILE ACHIEVA	173	35,605	4.8589
43	MAZDA	MILLENIA	56	11,669	4.7990
44	CHRYSLER CORP.	PLYMOUTH BREEZE	224	46,718	4.7947
45	FORD MOTOR CO.	ASPIRE	143	30,287	4.7215
46	GENERAL MOTORS	CHEVROLET CORSICA	675	149,133	4.5262
47	NISSAN	INFINITI J30	24	5,340	4.4944
48	FORD MOTOR CO.	ESCORT	553	125,391	4.4102
49	TOYOTA	4-RUNNER	295	67,361	4.3794
50	MERCEDES BENZ	140 (S-CLASS)	58	13,320	4.3544
51	HONDA	ACCORD	1,629	377,911	4.3105
52	CHRYSLER CORP.	STRATUS[1]	1	232	4.3103
53	GENERAL MOTORS	CHEVROLET LUMINA MINIVAN	101	23,522	4.2939
54	GENERAL MOTORS	CHEVROLET CAMARO	261	61,449	4.2474
55	GENERAL MOTORS	BUICK CENTURY	391	92,430	4.2302
56	GENERAL MOTORS	GEO METRO	355	84,371	4.2076
57	TOYOTA	CAMRY	1,447	344,599	4.1991
58	NISSAN	INFINITI Q45	17	4,059	4.1882
59	MITSUBISHI	3000GT	21	5,127	4.0960
60	TOYOTA	PASEO	28	6,837	4.0954
61	NISSAN	240SX	30	7,334	4.0905
62	FORD MOTOR CO.	CONTOUR	653	167,572	3.8968
63	BMW	M3	6	1,561	3.8437
64	GENERAL MOTORS	PONTIAC GRAND AM	790	206,435	3.8269
65	MAZDA	626/MX–6	320	84,528	3.7857
66	GENERAL MOTORS	PONTIAC FIREBIRD	116	31,038	3.7374
67	GENERAL MOTORS	CHEVROLET CAVALIER	1,001	269,595	3.7130
68	FORD MOTOR CO.	MERCURY MYSTIQUE	189	51,666	3.6581
69	BMW	3	140	38,444	3.6417
70	HONDA	DEL SOL	11	3,034	3.6256
71	HONDA/ACURA	INTEGRA	177	49,077	3.6066
72	CHRYSLER CORP.	CIRRUS	156	43,695	3.5702
73	SUZUKI	SIDEKICK	67	18,982	3.5297
74	GENERAL MOTORS	CHEVROLET BERETTA	152	43,270	3.5128
75	HONDA/ACURA	TL	132	37,629	3.5079
76	FORD MOTOR CO.	LINCOLN TOWN CAR	314	90,750	3.4601
77	GENERAL MOTORS	PONTIAC TRANS SPORT	56	16,355	3.4240
78	HYUNDAI	ELANTRA	96	28,040	3.4237
79	FORD MOTOR CO.	EXPLORER	1,427	419,288	3.4034
80	CHRYSLER CORP.	EAGLE VISION	43	12,830	3.3515
81	KIA MOTORS	SEPHIA	89	27,048	3.2904
82	MAZDA	PROTÉGÉ	196	59,602	3.2885
83	CHRYSLER CORP.	DODGE AVENGER	126	38,949	3.2350
84	CHRYSLER CORP.	EAGLE SUMMIT	3	932	3.2189
85	AUDI	CABRIOLET	4	1,258	3.1797
86	CHRYSLER CORP.	DODGE B1500/B2500 VAN	5	1,594	3.1368
87	BMW	7	19	6,134	3.0975

THEFT RATES OF MODEL YEAR 1996 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 1996—Continued

	Manufacturer	Make/model (line)	Thefts 1996	Production (Mfr's) 1996	1996 (per 1,000 vehicles produced) theft rate
88 ...	CHRYSLER CORP.	JEEP CHEROKEE	575	186,217	3.0878
89 ...	FORD MOTOR CO.	THUNDERBIRD	259	85,015	3.0465
90 ...	GENERAL MOTORS	PONTIAC GRAND PRIX	232	77,375	2.9984
91 ...	TOYOTA	LEXUS ES	121	41,140	2.9412
92 ...	GENERAL MOTORS	GEO PRIZM	215	73,200	2.9372
93 ...	GENERAL MOTORS	BUICK SKYLARK	121	41,856	2.8909
94 ...	CHRYSLER CORP.	EAGLE TALON	33	11,518	2.8651
95 ...	NISSAN	PATHFINDER	161	56,635	2.8428
96 ...	NISSAN	INFINITI I30	100	35,950	2.7816
97 ...	CHRYSLER CORP.	DODGE VIPER	5	1,812	2.7594
98 ...	CHRYSLER CORP.	SEBRING CONVERTIBLE	131	47,959	2.7315
99 ...	TOYOTA	CELICA	28	10,293	2.7203
100 ...	ISUZU	TROOPER	48	17,881	2.6844
101 ...	GENERAL MOTORS	CADILLAC DEVILLE	285	107,649	2.6475
102 ...	FORD MOTOR CO.	PROBE	79	30,146	2.6206
103 ...	FORD MOTOR CO.	TAURUS	1,031	393,897	2.6174
104 ...	ISUZU	RODEO	115	44,067	2.6097
105 ...	GENERAL MOTORS	PONTIAC SUNFIRE	251	97,143	2.5838
106 ...	CHRYSLER CORP.	DODGE DAKOTA PICKUP TRUCK	249	96,653	2.5762
107 ...	GENERAL MOTORS	GEO TRACKER	138	53,907	2.5600
108 ...	HONDA	CIVIC	598	233,620	2.5597
109 ...	FORD MOTOR CO.	LINCOLN MARK VIII	34	13,331	2.5504
110 ...	PORSCHE	911	19	7,456	2.5483
111 ...	TOYOTA	TACOMA PICKUP TRUCK	322	132,011	2.4392
112 ...	VOLKSWAGEN	JETTA	202	83,898	2.4077
113 ...	GENERAL MOTORS	PONTIAC BONNEVILLE	166	69,642	2.3836
114 ...	FORD MOTOR CO.	MERCURY SABLE	293	123,305	2.3762
115 ...	JAGUAR	XJ6	18	7,658	2.3505
116 ...	GENERAL MOTORS	OLDSMOBILE SILHOUETTE	14	6,128	2.2846
117 ...	GENERAL MOTORS	CHEVROLET CAPRICE	135	60,201	2.2425
118 ...	CHRYSLER CORP.	PLYMOUTH VOYAGER	411	183,469	2.2402
119 ...	GENERAL MOTORS	CHEVROLET BLAZER S–10	569	254,875	2.2325
120 ...	HONDA/ACURA	SLX	8	3,589	2.2290
121 ...	CHRYSLER CORP.	NEON[1]	2	909	2.2002
122 ...	TOYOTA	AVALON	145	65,924	2.1995
123 ...	MAZDA	MX–5 MIATA	41	18,994	2.1586
124 ...	NISSAN	INFINITI G20	33	15,509	2.1278
125 ...	GENERAL MOTORS	OLDSMOBILE CUTLASS SUPREME	157	74,371	2.1110
126 ...	TOYOTA	T100 PICKUP TRUCK	80	37,941	2.1085
127 ...	FORD MOTOR CO	MERCURY COUGAR	80	38,919	2.0556
128 ...	GENERAL MOTORS	GMC JIMMY S–15	170	83,199	2.0433
129 ...	GENERAL MOTORS	CADILLAC ELDORADO	40	20,040	1.9960
130 ...	GENERAL MOTORS	BUICK REGAL	199	99,729	1.9954
131 ...	MERCEDES BENZ	202 (C–CLASS)	48	24,200	1.9835
132 ...	GENERAL MOTORS	CHEVROLET LUMINA/MONTE CARLO	596	302,831	1.9694
133 ...	JAGUAR	XJ12	1	509	1.9646
134 ...	HONDA	PASSPORT	49	25,041	1.9568
135 ...	VOLKSWAGEN	CABRIO	10	5,155	1.9399
136 ...	VOLVO	850	118	60,899	1.9376
137 ...	GENERAL MOTORS	CHEVROLET ASTRO VAN	143	74,183	1.9277
138 ...	TOYOTA	RAV4	81	42,646	1.8994
139 ...	CHRYSLER CORP	DODGE CARAVAN	629	344,553	1.8256
140 ...	NISSAN	PICKUP TRUCK	179	99,156	1.8052
141 ...	TOYOTA	PREVIA VAN	14	8,022	1.7452
142 ...	FORD MOTOR CO	RANGER PICKUP TRUCK	490	282,203	1.7363
143 ...	HONDA/ACURA	3.5RL	26	15,176	1.7132
144 ...	GENERAL MOTORS	CHEVROLET S–10 PICKUP TRUCK	350	208,469	1.6789
145 ...	FORD MOTOR CO	WINDSTAR VAN	376	231,107	1.6270
146 ...	GENERAL MOTORS	SATURN SC	82	50,439	1.6257
147 ...	AUDI	A4	25	15,407	1.6226
148 ...	GENERAL MOTORS	OLDSMOBILE BRAVADA	20	12,525	1.5968
149 ...	MAZDA	B SERIES PICKUP TRUCK	73	45,730	1.5963
150 ...	VOLKSWAGEN	GOLF/GTI	36	22,747	1.5826
151 ...	JAGUAR	XJS	5	3,235	1.5456
152 ...	GENERAL MOTORS	OLDSMOBILE EIGHTY-EIGHT	83	53,916	1.5394
153 ...	MERCEDES BENZ	210 (E–CLASS)	29	19,001	1.5262
154 ...	FORD MOTOR CO	LINCOLN CONTINENTAL	41	27,829	1.4733
155 ...	GENERAL MOTORS	GMC SONOMA PICKUP TRUCK	73	50,795	1.4371

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THEFT RATES OF MODEL YEAR 1996 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 1996—Continued

	Manufacturer	Make/model (line)	Thefts 1996	Production (Mfr's) 1996	1996 (per 1,000 vehicles produced) theft rate
156	FORD MOTOR CO	MERCURY GRAND MARQUIS	136	95,020	1.4313
157	SUZUKI	X-90	7	4,907	1.4265
158	GENERAL MOTORS	GMC SAFARI VAN	32	22,540	1.4197
159	CHRYSLER CORP	CONCORDE	71	50,123	1.4165
160	GENERAL MOTORS	CADILLAC SEVILLE	46	33,641	1.3674
161	VOLKSWAGEN	PASSAT	25	18,770	1.3319
162	GENERAL MOTORS	SATURN SL	273	210,472	1.2971
163	JAGUAR	VANDEN PLAS	6	4,688	1.2799
164	FORD MOTOR CO	AEROSTAR VAN	75	59,468	1.2612
165	NISSAN	QUEST	56	45,543	1.2296
166	GENERAL MOTORS	BUICK RIVIERA	20	17,389	1.1502
167	GENERAL MOTORS	BUICK PARK AVENUE	53	47,008	1.1275
168	MAZDA	MPV	16	14,595	1.0963
169	VOLVO	960	20	18,266	1.0949
170	CHRYSLER CORP	TOWN & COUNTRY MPV	113	105,993	1.0661
171	KIA MOTORS	SPORTAGE	9	8,638	1.0419
172	SUBARU	LEGACY	82	79,809	1.0275
173	ISUZU	HOMBRE PICKUP TRUCK	13	12,993	1.0005
174	ISUZU	OASIS	4	4,001	0.9998
175	FORD MOTOR CO.	MERCURY VILLAGER MPV	53	57,403	0.9233
176	GENERAL MOTORS	OLDSMOBILE AURORA	20	22,349	0.8949
177	FORD MOTOR CO.	CROWN VICTORIA	95	108,250	0.8776
178	CHRYSLER CORP.	CARAVAN[1]	1	1,140	0.8772
179	SUBARU	IMPREZA	14	16,337	0.8570
180	GENERAL MOTORS	SATURN SW	14	16,539	0.8465
181	SAAB	SAAB 900	19	22,516	0.8438
182	GENERAL MOTORS	CADILLAC FLEETWOOD	7	8,346	0.8387
183	GENERAL MOTORS	BUICK FUNERAL COACH/HEARSE	1	1,457	0.6863
184	GENERAL MOTORS	BUICK LESABRE	33	52,129	0.6330
185	BMW	Z3	6	11,542	0.5198
186	GENERAL MOTORS	BUICK ROADMASTER	11	21,495	0.5117
187	HONDA	ODYSSEY	8	19,266	0.4152
188	GENERAL MOTORS	OLDSMOBILE NINETY-EIGHT	5	14,383	0.3476
189	AUDI	A6	3	9,269	0.3237
190	FIAT	FERRARI F355	0	286	0.0000
191	GENERAL MOTORS	GMC C1500 SIERRA PICKUP	0	5,912	0.0000
192	GENERAL MOTORS	GMC G1500/2500 SAVANA VAN	0	2,113	0.0000
193	GENERAL MOTORS	CHEVROLET G1500/2500 CHEVY VAN	0	9,271	0.0000
194	GENERAL MOTORS	CHEVROLET C1500 PICKUP	0	14,441	0.0000
195	GENERAL MOTORS	CADILLAC LIMOUSINE	0	1,598	0.0000
196	JAGUAR	XJR	0	506	0.0000
197	LAMBORGHINI	DB132/DIABLO	0	35	00.0000
198	MITSUBISHI	PICKUP TRUCK	0	725	0.0000
199	ROLLS-ROYCE	BENTLEY CONTINENTAL R	0	47	0.0000
200	ROLLS-ROYCE	BENTLEY BROOKLANDS	0	87	0.0000
201	ROLLS-ROYCE	BENTLEY AZURE	0	84	0.0000
202	ROLLS-ROYCE	BENTLEY TURBO R/TURBO RL	0	66	0.0000
203	SUBARU	SVX	0	852	0.0000
204	VECTOR AEROMOTIVE	AVTECH SC/M12	0	11	0.0000

[1] Special production of vehicles for sale only in Puerto Rico under the Chrysler nameplate.

Issued on: June 25, 1998.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 98–17778 Filed 7–2–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–31 (Sub-No. 34X)]

Grand Trunk Western Railroad Incorporated—Abandonment Exemption—in Oakland County, MI

Grand Trunk Western Railroad Incorporated (GTW) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a 0.73-mile line of its railroad on the Cass City Subdivision between milepost 0.72 and milepost 1.25 in Oakland County, Pontiac, MI. The line traverses United States Postal Service Zip Code 48342.[1]

GTW has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic that previously moved over the line can be rerouted over other GTW lines;[2] (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

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[1] On June 24, 1998, GTW informed the Board that the actual mileage for the line is 0.53 instead of 0.73 as stated in its verified notice.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment— Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on August 5, 1998, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[3] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[4] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by July 16, 1998. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by July 27, 1998, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Robert P. vom Eigen, Esq., Hopkins & Sutter, 888 Sixteenth Street, NW, Washington, DC 20006.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

GTW has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by July 10, 1998. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), GTW shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by GTW's filing of a notice of consummation by July 6, 1999, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: June 29, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–17602 Filed 7–2–98; 8:45 am]

BILLING CODE 4915-00-P

DEPARTMENT OF THE TREASURY

Customs Service

Announcement of Second Test of General Aviation Telephonic Entry (Gate II)

AGENCY: Customs Service, Treasury.

ACTION: General notice.

SUMMARY: This notice announces Customs plan to conduct a second general test to evaluate further the effectiveness of new operational procedures regarding the processing of aircraft by way of telephonic entry of certain pre-registered, passenger-carrying, general aviation aircraft flights entering the United States directly from Canada. This second test will expand the scope of participation to ports with one full-time inspector and will include approved small charter/air taxi aircraft returning with crew members only. This notice invites public comments concerning any aspect of the test, informs interested members of the public of the eligibility requirements for voluntary participation in the test, and describes the basis on which Customs will select participants for the test.

EFFECTIVE DATES: Applications will be available and accepted at the Customs office located at the Detroit Metropolitan Airport beginning July 6, 1998. The test will commence no earlier than August 5, 1998, and will be evaluated after 1 year. Comments must be received on or before August 5, 1998.

ADDRESSES: Applications to participate in the program test are available from and should be mailed to the Detroit Metropolitan Airport: U.S. Customs Service, GATE Program Center, International Terminal; Detroit Metropolitan Airport, Detroit, Michigan 48242. Written comments regarding this notice should be addressed to: U.S. Customs Service, Passenger Process Owner, Passenger Operations Division, 1300 Pennsylvania Ave., NW, Room 5.4–D, Washington, DC 20229–0001.

FOR FURTHER INFORMATION CONTACT: Priscilla Frink (202) 927–1323.

SUPPLEMENTARY INFORMATION:

Background

On November 4, 1996, Customs implemented the General Aviation Telephonic Entry (GATE) Program on a test basis to evaluate the effectiveness of a new operations procedure regarding the telephonic entry of certain pre-registered, passenger-carrying, general aviation aircraft flights entering the United States directly from Canada (*see* 61 FR 46902, dated September 5, 1996). The test was to last one year and the results evaluated. Although the initial test was to be open to all eligible flights along the northern border, because of personnel constraints and other matters, many flights could not participate in the GATE test.

Accordingly, because the evaluation of the initial test yielded only partial results and an analysis of the comments received showed a willingness to participate in GATE by the traveling community if only the program were more readily available, Customs has decided to conduct a second test of GATE. This second test will expand the scope of participation to ports with one full-time inspector and will allow approved small charter/air taxi aircraft returning with crew members only. Customs will implement the second test for not less than 1 year; however, the

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[2] In its environmental and historic reports, GTW stated that traffic has not moved over this line segment in "excess of one year" which conflicted with the certification in the notice of exemption. On June 24, 1998, GTW informed the Board that no traffic has moved over the line segment since October 1995.

[3] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[4] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

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test may be extended for an additional time period not to exceed 180 days.

For programs designed to evaluate the effectiveness of new technology or operational procedures regarding the processing of passengers, vessels, or merchandise, § 101.9(a) of the Customs Regulations (19 CFR 101.9(a)) implements the general testing procedures. This test is established pursuant to that regulation.

I. Description of Proposed Test

The Concept of Telephonic Entry

Any aircraft arriving in the United States from a foreign airport or place is required to (1) give advance notification of its arrival, (2) immediately report its arrival to Customs, and (3) land at the airport designated by Customs for entry. *See*, 19 U.S.C. 1433(c) and implementing Customs Regulations at 19 CFR Part 122, subparts C and D. Individual passengers are also required to report their arrival to Customs. *See*, 19 U.S.C. 1459 and implementing Customs Regulations at 19 CFR Part 123. Because historical data on certain general aviation aircraft (aircraft comprising private and corporate aircraft, and air ambulances that have a seating capacity of fifteen or fewer passengers) indicated a high degree of compliance with Customs and other federal agency reporting laws, Customs developed the GATE program to allow certain pre-registered, passenger-carrying flights of such aircraft to report their entry telephonically when entering the United States directly from Canada. To provide a means for measuring the effectiveness of GATE, random inspections were built into the program. Thus, the GATE program was designed to combine the proven benefits of facilitation and selectivity, thereby freeing valuable Customs resources for use in other areas.

The initial test was implemented at designated airports located nation-wide for flights entering the United States directly from Canada. (Flights arriving from areas south of the United States that were subject to the provisions of § 122.23 (19 CFR 122.23) were not eligible for this test). During the test period, pilots gave advance notice of their arrival—from a minimum of 3 hours up to a maximum of 72 hours in advance—to Customs by calling 1–800–98–CLEAR, and approved flights received advance clearance to land at a designated airport, provided the pilot(s) received a telephonic entry number.

Regulatory Provisions Affected

During this second GATE test, participants again will be provided with a telephonic entry number in lieu of having to comply with normal inspection requirements. Accordingly, for test participants the normal arrival reporting and landing requirements of Parts 122 and 123 of the Customs Regulations (*see*, 19 CFR Parts 122, subparts C and D, and 123) will not be followed. However, participants will still be subject to civil and criminal penalties and sanctions for any violations of other U.S. Customs laws.

II. Eligibility Criteria

A. Aircraft & Airports

Only U.S.- and Canadian-registered general aviation aircraft that will arrive in the United States directly from Canada are eligible to participate in the GATE test. For purposes of this test, the term *general aviation aircraft* means aircraft comprising private and corporate aircraft, approved small charter/air taxi aircraft and air ambulances that have a seating capacity of fifteen or fewer passengers that are returning to the U.S. with crew members only.

Aircraft transiting Canada are not eligible for this test. Also, flights that arrive from areas south of the United States and are subject to the provisions of § 122.23 (19 CFR 122.23) are not eligible for this test. Further, aircraft that will carry cargo, merchandise requiring the payment of Customs duties, restricted or prohibited food products or other articles, or monetary instruments in excess of $10,000, will not qualify for this test.

GATE flights will be allowed to land at airports within a port of entry and most airports that are located within a reasonable commuting distance from a port of entry, provided the local port director having jurisdiction over the airport has designated the airport for GATE-test use. Although many airport locations have already been approved for GATE participation, other airports located outside of a port of entry may be approved by the local port director, based on a review of the facility after it is requested as a designated airport on an application. In such cases, the port director will take the following factors into consideration in determining whether to designate an airport for GATE-test use:

—Willingness of the airport operator to participate in the GATE test;
—The distance to the airport from the nearest Customs port of entry (so that random inspections can be performed), commuting time required for Customs officers, and Customs officer safety;
—Whether a secure place to work is provided at the airport; and
—Whether communications equipment is accessible.

B. Persons

Participation in the GATE test is voluntary. Only U.S. citizens, permanent resident aliens of the United States, Canadian citizens, or landed immigrants in Canada from Commonwealth countries, and who are regular passengers or flight crews of pre-registered flights, will be considered for this test. Each applicant must have a "face to face" inspection with either a U.S. Immigration or Customs officer, which clearly demonstrates the person's right to legally enter the United States, and must agree to carry all necessary personal identification and immigration documents.

Persons with evidence of a pending or past investigation which establishes illegal or dishonest conduct, persons involved in a violation of Customs laws (for example, civil, controlled substance violations, smuggling), and persons found to be inadmissible under the immigration laws of the United States are not eligible for this test.

Participation in this test will not constitute confidential information, and lists of participants will be made available to the public upon written request.

III. Test Application Procedure

General aviation aircraft owners, operators, and pilots who wish to have their passenger-carrying flights considered for participation in the GATE test should contact the Customs office at Detroit Metropolitan Airport in Michigan at the address listed at the front of this document to request an application for General Aviation Telephonic Entry Program form (Customs Form 442). Applications must be filed with the Customs port at Detroit Metropolitan Airport in Michigan 30 days prior to the date of the first scheduled flight in order to be considered for participation in the GATE test.

Selection Standards

Applicants will be approved/denied for the GATE test based on whether the personnel/aircraft information provided on the CF 442 meets all the above eligibility criteria. The port of Detroit, Michigan will determine the qualifications of all passengers/pilots/aircraft, and a letter approving or denying the test application will be sent to the applicant. Aircraft owners/operators must agree not to allow their general aviation aircraft to carry passengers who are not listed and approved on the application. (To allow for the proper accounting of last-minute personnel changes to an application already on file with Customs, an Application Addendum form must be completed and sent to the Customs office at Detroit Metropolitan Airport). Further, aircraft owners/operators must agree not to allow persons to carry dutiable/commercial merchandise, restricted or prohibited food products or other articles, or monetary instruments of $10,000 or more on test flights.

If an application is denied for any reason other than because a particular airport is not designated for GATE-test use (for example, a denial based on information concerning passengers, pilots, or the aircraft), the applicant may appeal the decision to the Detroit Port Director within 10 working days from receipt of the denial letter. If the appeal to the Port Director results in another denial, then the applicant may appeal directly to the Passenger Process Owner at Customs Headquarters within 10 working days from receipt of the second denial letter.

IV. Test Evaluation Criteria

Customs will review all public comments received concerning any aspect of the test program or procedures, finalize procedures in light of those comments, form problem-solving teams, and establish baseline measures and evaluation methods and criteria. After the second test period is concluded, evaluations of the test will be conducted and final results will be made available to the public upon request.

Dated: June 26, 1998.

John B. McGowan,

Acting Assistant Commissioner, Office of Field Operations.

[FR Doc. 98–17818 Filed 7–2–98; 8:45 am]

BILLING CODE 4820-02-P

UNITED STATES INFORMATION AGENCY

Vietnam Fulbright: Foreign Student Exchange Program

ACTION: Request for proposals.

SUMMARY: The Office of Academic Programs of the United States Information Agency's Bureau of Educational and Cultural Affairs announces an open competition for an assistance award. Public and private non-profit organizations meeting the provisions described in IRS regulation 26 CFR 1.501(c) may apply to manage a student exchange program. The program would bring 20–25, mid-career Vietnamese each year to the U.S. in order to pursue a Master's degree, or in some cases a Ph.D., in fields related to economic development to include—but not limited to—economics, business, public policy, public administration, law, and international relations. The proposal must also include renewal costs for approximately 30–35 Vietnamese Fulbright students currently studying in the U.S. (mostly second-year, but some third-year students).

Overall grant-making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Pub. L. 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world." The funding authority for the program cited above is provided through the Fulbright-Hays Act.

The program must conform with Agency requirements and guidelines outlined in the Solicitation Package. USIA projects and programs are subject to the availability of funds.

Announcement Title And Number: All communications with USIA concerning this RFP should refer to the announcement's title and reference number E/AEF–99–01.

Deadline for Proposals: All copies must be received at the U.S. Information Agency by 5 p.m. Washington, DC time on Friday, July 31, 1998. Faxed documents will not be accepted at any time. Documents postmarked by the due date but received at a later date will not be accepted. The grant should begin on or about October 1, 1998.

Duration: October 1, 1998–September 30, 2000.

FOR FURTHER INFORMATION CONTACT: The Office of Academic Programs, Academic Exchange Programs Divisions/East Asia Fulbright Branch, E/AEF, Room 208, U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547, phone: (202) 619–6788/5404, fax: (202) 401–1728; email: sborja@usia.gov to request a Solicitation Package containing more detailed information. Please request required application forms, and standard guidelines for preparing proposals, including specific criteria for preparation of the proposal budget.

To Download A Solicitation Package Via Internet: The entire Solicitation Package may be downloaded from USIA's website at http://www.usia.gov/education/rfps. Please read all information before downloading.

To Receive A Solicitation Package Via Fax on Demand: The entire Solicitation Package may be received via the Bureau's "Grants Information Fax on Demand System", which is accessed by calling 202/401–7616. Please request a "Catalog" of available documents and order numbers when first entering the system.

Please specify *USIA Program Officer Sue Borja* on all inquiries and correspondences. Interested applicants should read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFP deadline has passed, Agency staff may not discuss this competition in any way with applicants until the Bureau proposal review process has been completed.

Submissions: Applicants must follow all instructions given in the Solicitation Package. The original and 10 copies of the application should be sent to: U.S. Information Agency, Ref.: E/AEF–99–01, Office of Grants Management, E/XE, Room 326, 301 4th Street, SW., Washington, DC 20547.

Applicants must also submit the "Executive Summary" and "Proposal Narrative" sections of the proposal on a 3.5" diskette, formatted for DOS. This material must be provided in ASCII text (DOS) format with a maximum line length of 65 characters. USIS will transmit these files electronically to USIS posts overseas for their review, with the goal of reducing the time it takes to get posts' comments for the Agency's grants review process.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including—but not limited to—ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the "Support for Diversity" section for specific suggestions on incorporating diversity into the total proposal. Pub. L. 104–319

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provides that "in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy," USIA "shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries." Proposals should account for advancement of this goal in their program contents, to the full extent deemed feasible.

SUPPLEMENTARY INFORMATION:

Overview

The United States Information Agency has supported a Vietnamese student exchange program since 1992 which has enabled over a hundred and fifty Vietnamese students to pursue two-year Master's degrees (as well as some Ph.Ds) in economics, business, public policy and administration, law, and international relations at a wide range of U.S. colleges and universities.

The goals of the program are to foster mutual understanding and strengthen ties between the two countries and to support the U.S. foreign policy goal of promoting the establishment of a modern market economy in Vietnam.

Guidelines

The program should focus on selection 20–25 mid-career scholars and managers each year from throughout the country from those Vietnamese institutions critical to the economic transition. The program must include the following components: recruitment, selection, pre-academic and academic placement, pre-departure support and orientation, grantee administration, and evaluation. The grantee must maintain continuous liaison with the United States Information Service (USIS) in Vietnam and with the USIA Fulbright Office in Washington concerning the management of the program. The Vietnam Fulbright program is a component of the U.S. government's foreign policy with Vietnam as well as a member of the overall Fulbright Program which currently operates in over 140 countries worldwide.

Recruitment

Through continued and regular negotiation and resulting agreement with the Vietnamese government (including the Vietnamese Ministry of Education and Training), the recruitment and selection process has been, and must remain, an open and independent operation. Recruitment must include continued efforts to stimulate interest in the Fulbright program and careful interviewing, testing, and application counseling in order to develop a pool of qualified applicants to submit to a panel review for final recommendation to USIA. Recruitment should include in-country workshops and group meetings with potential candidates who have submitted curricula vita and initial essays, including an impromptu writing test for English ability. This should be followed by in-depth, one-on-one interviews from which a pool of applicants is invited to submit full applications for review by a selection panel.

Recruitment begins in the spring, 18 months prior to the fall semester in which the students are to begin their academic program (most, if not all, students will need to enroll in a summer English and/or pre-academic program). Please note that for the FY99 program, the current grantee already began recruiting students in the spring of 1998 for academic year 1999–2000. Therefore, if a new grantee is selected by USIA, then the former grantee and USIA would work out the transfer of the student information and files to the successor grantee.

Selection

The final pool of applicants is prepared for panel review complete with TOEFL scores and a written evaluation from each applicant. Panels are held in the fall one year prior to the academic year in which the award is due to begin.

The independent selection panel must consist of a group of scholars experienced in the fields of study and professional education programs targeted in this program. The panelists should also have some knowledge of, or experience with, U.S.-Vietnam educational exchanges, the Vietnamese education system, and other education systems in which the Vietnamese might have studied as undergraduates—such as those of Eastern Europe and the former Soviet Union. USIA reserves the right to review the panel member selection. The selection panel reviews the applicants' files, selects awardees for final approval by the J. William Fulbright Foreign Scholarship Board, and advises on university placement for the awardees.

Pre-academic and Academic Placement

The grantee will place the selected students at English language summer programs and pre-academic programs, as necessary, and at academic programs at a range of appropriate universities and colleges in the U.S. Placement includes negotiating for cost share (tuition reduction/waivers, etc.) from the universities and colleges.

Pre-departure Support and Orientation

The grantee will provide pre-departure orientation counseling (academic, social, and cultural adjustment) and logistical support for the selected Vietnamese students. The grantee will ensure personal contact and follow-up contact with the Vietnamese authorities, maintain contact with the U.S. Embassy Consular Office and the Vietnamese officials who process the students' visas, make travel arrangements to the U.S. for the selected Vietnamese students and provide them with any other assistance needed.

Student Administration/Supervision

During the period of the award, the grantee organization will maintain regular contact with the students to provide assistance, monitor academic work, and deal with any problems that might arise. The grantee will establish a series of mailings to students regarding taxes, financial payments, reports, exit travel arrangements, and invitations to meetings/orientations. Students are required to submit one formal report at mid-point of their award which is to be shared with USIA.

Evaluation

During the period of their award, the students will report on the progress of their research and the quality of their reception at their institutions of affiliation. The grantee will organize an exit interview before the student departures from the U.S.

Programs must comply with J–1 visa regulations. Please refer to the program's specific guidelines (POGI) in the Solicitation Package for further details.

Proposed Budget

Organizations must submit a comprehensive line-item budget based on the specific guidance in the Solicitation Package. The award may not exceed $1,800,000 for both new and renewal students.

"Grants awarded to eligible organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000".

Applicants must submit a comprehensive budget for the entire program. There must be a summary budget as well as a breakdown reflecting both the administrative budget and the program budget. For further clarification, applicants may provide separate sub-budgets for each program component, phase, location, or activity in order to facilitate USIA decisions on funding.

Allowable costs for the program include the following:

(1) Program participant costs: travel, test fees, pre-departure expenses, pre-academic/English training, tuition, stipend, tax withholding, educational materials, enrichment programs;

(2) Renewal costs for current Vietnamese Fulbright students (estimate 30–35);

(3) Staff salaries and benefits;

(4) Domestic/International travel and per diem for recruitment, selection, orientation of students;

(5) Reproduction, communication, supplies; and

(6) Overhead/Indirect costs.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. Eligible proposals will be forwarded to panels of USIA officers for advisory review. All eligible proposals will be reviewed by the program office, as well as the USIA Office of East Asian and Pacific Affairs, and the USIA post overseas, where appropriate. Proposals may be reviewed by the Office of the General Counsel or by other Agency elements. Funding decisions are at the discretion of the USIA Associate Director for Educational and Cultural Affairs. Final technical authority for assistance awards (grants or cooperative agreements) resides with the USIA grants officer.

Review Criteria

Technical eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank-ordered and all carry equal weight in the proposal evaluation:

1. *Quality of the program idea:* Proposals should exhibit originality, substance, precision, and relevance to Agency mission.

2. *Program planning:* Detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described above.

3. *Ability to achieve program objectives:* Objectives should be reasonable, feasible, and flexible. Proposals should clearly demonstrate how the institution will meet the program's objectives and plan.

4. *Multiplier effect/impact:* Proposed programs hold strengthen long-term mutual understanding, including maximum sharing of information and establishment of long-term institutional and individual linkages.

5. *Support of Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities). The Vietnamese Fulbright students should come from throughout Vietnam, from a variety of institutions, and represent both genders as equally as possible.

6. *Institutional Capacity:* Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals.

7. *Institution's Record/Ability:* Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Agency grants as determined by USIA's Office of Contracts. The Agency will consider the past performance of prior recipients and the demonstrated potential of new applicants.

8. *Follow-on Activities:* Proposals should provide a plan for continued follow-on activity (without USIA support) which ensures that USIA-supported programs are not isolated events.

9. *Project Evaluation:* Proposals should include a plan to evaluate the activity's success, both as the activities unfold and at the end of the program. A draft survey questionnaire or other evaluation technique plus description of a methodology that will be used to link outcomes to original project objectives is recommended. Successful applicants will be expected to submit intermediate reports after each project component is concluded, or quarterly, whichever is less frequent.

10. *Cost-effectiveness:* The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate.

11. *Cost-sharing:* Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

12. *Value to U.S.-Partner Country Relations:* Proposed projects should receive positive assessments by USIA's geographic area desk and overseas officers of program need, potential impact, and significance in the partner country.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. The Agency reserves the right to reduce, revise, or increase proposal budget in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, then allocated and committed through internal USIA procedures.

Dated: June 26, 1998.

John P. Loiello,

Associate Director for Educational and Cultural Affairs.

[FR Doc. 98–17769 Filed 7–2–98; 8:45 am]

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Corrections

Federal Register
Vol. 63, No. 128
Monday, July 6, 1998

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 422

[HCFA-1030-IFC]

RIN 0938-AI29

Medicare Program; Establishment of the Medicare+Choice Program

Correction

In rule document 98–16731 beginning on page 34968, in the issue of Friday, June 26, 1998, make the following corrections:

PART 422—[CORRECTED]

1. On page 35067, in the first column, in amendatory instruction 7., in the third line, "422.522" should read "422.552".

2. On the same page, in the same column, in amendatory instruction 7., in the fifth line, "44" should read "422".

BILLING CODE 1505-01-D

federal register

Monday
July 6, 1998

Part II

Environmental Protection Agency

Reissuance of NPDES General Permits for Storm Water Discharges From Construction Activities in Region 6; Notice

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ENVIRONMENTAL PROTECTION AGENCY

[FRL–6119–7]

Reissuance of NPDES General Permits for Storm Water Discharges from Construction Activities in Region 6

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final NPDES general permits.

SUMMARY: Region 6 is issuing the final National Pollutant Discharge Elimination System (NPDES) general permits for storm water discharges associated with construction activity in Region 6. EPA first issued permits for these activities in September 1992. These permits subsequently expired in September 1997. Today's permits, which replace those expired permits, are similar to the permits issued in 1992. The main changes from those 1992 permits are summarized in the **SUPPLEMENTARY INFORMATION** section, below.

ADDRESSES: The index to the administrative record and the complete administrative record are available at the Water Docket, MC–4101, U.S. EPA, 401 M Street SW, Washington, DC 20460. Copies of information in the record are available upon request. A reasonable fee may be charged for copying. The index to the administrative record is also available from EPA Region 6, Water Quality Protection Division, Customer Service Branch (6WQ–CA) 1445 Ross Avenue, Suite 1200, Dallas, TX 75202.

DATES: These general permits shall be effective on July 6, 1998.

NOTICE OF INTENT: A NOTICE OF INTENT (NOI) FORM MUST BE SUBMITTED TO OBTAIN COVERAGE FOR STORM WATER DISCHARGES UNDER THESE PERMITS. THE NOI FORM IS GIVEN IN ADDENDUM C OF THESE PERMITS. DEADLINES FOR SUBMITTAL OF NOI'S ARE PROVIDED IN PART II.A OF THE PERMITS.

FOR FURTHER INFORMATION CONTACT: For further information on the NPDES Construction General Permits, call the EPA Region 6 Storm Water Hotline at 1–800–245–6510. Information is also available through the EPA Region 6's storm water web site at "http://www.epa.gov/region6/sw/ and on the PIPES bulletin board web site at "http://pipes.ehsg.saic.com/pipes.htm".

SUPPLEMENTARY INFORMATION:

Contents

I. Introduction
II. Answers to Common Questions
III. Section 401 Certification and Coastal Zone Management Act
IV. Endangered Species Protection
V. Historic Properties Protection
VI. Regulatory Review (Executive Order 12866)
VII. Unfunded Mandates Reform Act
VIII. Paperwork Reduction Act
IX. Regulatory Flexibility Act

I. Introduction

The United States Environmental Protection Agency Region 6 office is reissuing the general permits which authorizes the discharge storm water associated with construction activity. As used in this permit, "storm water associated with construction activity" means construction activity disturbing at least five acres, or construction activity disturbing less than five acres which is part of a larger common plan of development or sale with the potential to disturb cumulatively five or more acres (*See* 40 CFR 122.26(b)(14)(x)).

These permits replace the previous Baseline Construction General Permits which were issued for a five-year term in September 1992. The most significant changes from the 1992 permits are:

► New conditions to protect listed endangered and threatened species and critical habitats;

► Expanded coverage to construction sites under five acres of disturbed land which are not part of a larger common plan of development or sale when an operator has been designated by the Director to obtain coverage.

► A requirement to post at the construction site the confirmation of permit coverage (the permit number or copy of the Notice of Intent (NOI) if a permit number has not yet been assigned) including a brief description of the project;

► Storm water pollution prevention plan performance objectives have been added.

These general permits for storm water discharges associated with construction activity was proposed on June 2, 1997 (62 FR 29786), and are hereby issued for the following areas in Region 6: The States of New Mexico and Texas; Indian Country lands in Louisiana, Oklahoma, Texas and New Mexico (except Navajo Reservation Lands and Ute Mountain Reservation Lands); and oil and gas construction in the State of Oklahoma.

II. Answers to Common Questions

In this section, EPA provides answers to some of the more common questions on the construction storm water permitting program. These answers are fairly broad and may not take into account all scenarios possible at construction sites. More details on these issues are provided at 63 FR 7858 (February 17, 1998) in the "Summary of Responses to Comments on the Proposed Permit" section of the reissuance of NPDES General Permits From Construction Activities for Regions 1, 2, 3, 7, 8, 9 and 10.

How do I Know if I Need a Permit?

You need a storm water permit if you can be considered an "operator" of the construction activity that would result in the "discharge of storm water associated with construction activity." You must become a permittee if you meet either of the following two criteria:

► You have operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications; or

► You have day-to-day operational control of those activities at a project which are necessary to ensure compliance with a storm water pollution prevention plan (SWPPP) for the site or other permit conditions (e.g., you are authorized to direct workers at a site to carry out activities required by the SWPPP or comply with other permit conditions).

There may be more than one party at a site performing the tasks relating to "operational control" as defined above. Depending on the site and the relationship between the parties (e.g., owner, developer), there can either be a single party acting as site operator and consequently be responsible for obtaining permit coverage, or there can be two or more operators with all needing permit coverage. The following are three general operator scenarios (variations on any of the three are possible as the number of "owners" and contractors increases):

► *Owner as Sole Permittee.* The property owner designs the structures for the site, develops and implements the SWPPP, and serves as general contractor (or has an on-site representative with full authority to direct day-to-day operations). He may be the only party that needs a permit, in which case everyone else on the site may be considered subcontractors and not need permit coverage.

► *Contractor as Sole Permittee.* The property owner hires a construction company to design the project, prepare the SWPPP, and supervise implementation of the plan and compliance with the permit (e.g., a "turnkey" project). Here, the contractor would be the only party needing a permit. It is under this scenario that an individual having a personal residence built for his own use (e.g., not those to be sold for profit or used as rental property) would not be considered an operator. EPA believes that the general contractor, being a professional in the building industry, should be the entity rather than the individual who is better equipped to meet the requirements of both applying for permit coverage and developing and properly implementing a SWPPP. However, individuals would meet the definition of "operator" and require permit coverage in instances where they perform general contracting duties for construction of their personal residences.

► *Owner and Contractor as Co-Permittees.* The owner retains control over any changes to site plans, SWPPPs, or storm water conveyance or control designs; but the contractor is responsible for overseeing actual earth disturbing activities and daily implementation of SWPPP and other permit conditions. In this case, both parties may need coverage.

However, you are probably not an operator and subsequently do not need permit coverage if:

► You are a subcontractor hired by, and under the supervision of, the owner or a general contractor (i.e., if the contractor directs your activities on-site, you probably are not an operator); or

► your activities on site result in earth disturbance and you are not legally a subcontractor, but a SWPPP specifically identifies someone other than you (or your subcontractor) as the party having operational control to address the impacts your activities may have on storm water quality (i.e., another operator has assumed responsibility for the impacts of your construction activities). This particular provision will apply to most utility service line installations. For further information concerning whether utility service line installations meet the definition of operator and require permit coverage, see the discussion under "Installation of Utility Service Lines" in Section VIII, Summary Response to Public Comments of the Fact Sheet.

In addition, for purposes of this permit and determining who is an operator, "owner" refers to the party that owns the structure being built. Ownership of the land where construction is occurring does not necessarily imply the property owner is an operator (e.g., a landowner whose property is being disturbed by construction of a gas pipeline). Likewise, if the erection of a structure has been contracted for, but possession of the title or lease to the land or structure is not to occur until after construction, the would-be owner may not be considered an operator (e.g., having a house built by a residential homebuilder).

My Project Will Disturb Less Than Five Acres, but it May Be Part of a "Larger Common Plan of Development or Sale." How Can I Tell and What Must I do?

If your smaller project is part of a larger common plan of development or sale that collectively will disturb five or more acres (e.g., you are building on six half-acre residential lots in a 10-acre development or are putting in a parking lot in a large retail center) you need permit coverage. The "plan" in a common plan of development or sale is broadly defined as any announcement or piece of documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating construction activities may occur on a specific plot. You must still meet the definition of operator in order to be required to get permit coverage, regardless of the acreage you personally disturb. As a subcontractor, it is unlikely you would need a permit.

For some situations where less than five acres of the original common plan of development remain undeveloped, a permit may not be needed for the construction projects "filling in" the last parts of the common plan of development. A case in which a permit would not be needed is where several empty lots totaling less than five acres remain after the rest of the project had been completed, providing stabilization had also been completed for the entire project. However, if the total area of all the undeveloped lots in the original common plan of development was more than five acres, a permit would be needed.

When Can You Consider Future Construction on a Property To Be Part of a Separate Plan of Development or Sale?

In many cases, a common plan of development or sale consists of many small construction projects that collectively add up to five (5) or more acres of total disturbed land. For example, an original common plan of development for a residential subdivision might lay out the streets, house lots, and areas for parks, schools and commercial development that the developer plans to build or sell to others for development. All these areas would remain part of the common plan of development or sale until the intended construction occurs. After this initial plan is completed for a particular parcel, any subsequent development or redevelopment of that parcel would be regarded as a new plan of development, and would then be subject to the five-acre cutoff for storm water permitting.

What Must I do to Satisfy The Permit Eligibility Requirements Related to Endangered Species?

In order to be eligible for this permit, you must follow the procedures and examples found in Addendum A for the protection of endangered species. You cannot submit your NOI until you are able to certify your eligibility for the permit. Enough lead time should be built into your project schedule to accomplish these procedures. If another operator has certified eligibility for the project (or at least the portion of the project you will be working on) in his NOI, you will usually be able to rely on his certification of project eligibility and not have to repeat the process. EPA created this "coat tail" eligibility option for protection of endangered species to allow the site developer/owner to obtain up-front "clearance" for a project, thereby avoiding duplication of effort by his contractors and unnecessary delays in construction.

What Does the Permit Require Regarding Historic Preservation?

Today's permit does not currently impose requirements related to historic preservation, though EPA may modify the permit at a later date after further discussions with the Advisory Council on Historic Preservation. Therefore, under today's permit, EPA will conduct consultations as it did under the pre-existing Baseline Construction General Permit on a case-by-case basis as needed. Removal of the proposed permit provisions related to historic preservation in no way relieves applicants and permittees of their obligations to comply with applicable State, Tribal or local laws for the preservation of historic properties. EPA reminds permittees that according to section 110(k) of the National Historic Preservation Act (NHPA), an intentional action to significantly adversely affect historic resources with intent to avoid Federal historic preservation requirements may jeopardize future permit coverage for such a permittee.

How Many Notices of Intent (NOIs) Must I Submit? Where and When Are They Sent?

You only need to submit one NOI to cover all activities on any one common plan of development or sale. The site map you develop for the storm water pollution prevention plan identifies which parts of the overall project are

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under your control. For example, if you are a homebuilder in a residential development, you need submit only one NOI to cover all your lots, even if they are on opposite sides of the development.

The NOI must be postmarked two days before you begin work on site. The address for submitting NOIs is found in the instruction portion of the NOI form and in Part II.C. of the CGP. You must also look in Part X of the permit to determine if copies of the NOI form are to be sent to a State or Indian Tribe.

If I Am on an ongoing Construction Project, do I Have to Fill in a New NOI To Be Covered by the Permit?

Yes, if you are on an ongoing construction project, a construction project which started prior to the effective date of this permit, you must complete a revised NOI Form (EPA Form 3510–9) to obtain coverage under this permit. However, applicants who have previously submitted an NOI for permit coverage prior to the effective date of this permit have the option to leave the section regarding Addendum A on endangered species blank unless there is a potential impact on endangered species or their habitat.

How do I Know Which Permit Conditions Apply to Me?

You are responsible for complying with all parts of the permit that are applicable to the construction activities you perform. Part III.E. of the permit defines the roles of various operators at a site. In addition, several States and Indian Tribes require alternative or additional permit conditions, and these can be found in Part X of the permit.

Do I Have Flexibility in Preparing the Storm Water Pollution Prevention Plan (SWPPP) and Selecting Best Management Practices (BMPs) for My Site?

Storm water pollution prevention plan requirements were designed to allow maximum flexibility to develop the needed storm water controls based on the specifics of the site. Some of the factors you might consider include: more stringent local development requirements and/or building codes; precipitation patterns for the area at the time the project will be underway; soil types; slopes; layout of structures for the site; sensitivity of nearby water bodies; safety concerns of the storm water controls (e.g., potential hazards of water in storm water retention ponds to the safety of children; the potential of drawing birds to retention ponds and the hazards they pose to aircraft); and coordination with other site operators.

Must Every Permittee Have His Own Separate SWPPP or Is a Joint Plan Allowed?

The only requirement is that there be at least one SWPPP for a site which incorporates the required elements for all operators, but there can be separate plans if individual permittees so desire. EPA encourages permittees to explore possible cost savings by having a joint SWPPP for several operators. For example, the prime developer could assume the inspection responsibilities for the entire site, while each homebuilder shares in the installation and maintenance of sediment traps serving common areas.

If a Project Will Not Be Completed Before This Permit Expires, How Can I Keep Permit Coverage?

If the permit is reissued or replaced with a new one before the current one expires, you will need to comply with whatever conditions the new permit requires in order to transition coverage from the old permit. This usually includes submitting a new NOI. If the permit expires before a replacement permit can be issued, the permit will be administratively "continued." You are automatically covered under the continued permit, without needing to submit anything to EPA, until the earliest of:

► The permit being reissued or replaced;

► Submittal of a Notice of Termination (NOT);

► Issuance of an individual permit for your activity; or

► The Director issues a formal decision not to reissue the permit, at which time you must seek coverage under an alternative permit.

When Can I Terminate Permit Coverage? Can I Terminate Coverage (i.e., Liability for Permit Compliance) Before the Entire Project Is Finished?

You can submit an NOT for your portion of a site providing: (1) You have achieved final stabilization of the portion of the site for which you are a permittee (including, if applicable, returning agricultural land to its pre-construction agricultural use); (2) another operator/permittee has assumed control according to Part VI.G.2.c. of the permit over all areas of the site that have not been finally stabilized which you were responsible for (for example, a developer can pass permit responsibility for lots in a subdivision to the homebuilder who purchases those lots, providing the homebuilder has filed his own NOI); or (3) for residential construction only, you have completed temporary stabilization and the residence has been transferred to the homeowner.

III. Section 401 Certification and Coastal Zone Management Act

Section 401 of the Clean Water Act states that EPA may not issue an NPDES permit until the State in which the discharge will originate grants or waives certification to ensure compliance with appropriate requirements of the Act and State law. The Region has received section 401 certification from the appropriate States and Indian Tribes for all facilities covered by today's permits. Additional permit requirements were required as a condition of certification by the State of Texas and by the Pueblos of Isleta, Nambe, Picuris, Pojoaque, Sandia, Tesuque and Santa Clara in New Mexico. These additional permit requirements are contained in Part X of the permits.

The Coastal Zone Management Act (CZMA) requires all Federal permitting actions to be reviewed for consistency with each approved State Coastal Zone Management Plan. Texas is the only State covered by these permits that has an approved Coastal Zone Management Plan. EPA Region 6 has determined that the permit is consistent with the Texas Coastal Zone Management Plan. The Texas Coastal Zone Management Plan procedures for Federal consistency with Coastal Management Program goals and policies (31 TAC 506.12) state that if an activity requiring a state agency or subdivision action above thresholds requires an equivalent Federal permit, the Texas Coastal Coordination Council may determine the consistency of the state agency/subdivision action or the Federal permit, but not both. Permittees whose construction projects are located within the boundary of the Texas Coastal Management Program above thresholds will be required, as a part of pre-construction project approval, to have a consistency review by the Texas Council. An additional consistency review by the Texas Coastal Coordination Council of the storm water discharges from these construction projects covered by today's permit is, therefore, not required.

IV. Endangered Species Protection

A. Background

The Construction General Permit (CGP) also contains conditions to ensure the activities regulated by it are protective of species that are listed under the Endangered Species Act (ESA) as endangered or threatened (known as "listed species"), and listed species habitat that is designated under the ESA as critical ("critical habitat"). In addition, the permit's coverage does not extend to discharges and discharge-related activities likely to jeopardize the continued existence of species proposed but not yet listed as endangered or threatened or result in the adverse modification of habitat proposed to be designated critical habitat.

The ESA places several different requirements on activities covered by the CGP. First, section 9 of the ESA and the ESA implementing regulations generally prohibit any person from "taking" a listed animal species (e.g., harassing or harming it) unless the take is authorized under the ESA. This prohibition applies to all entities and includes EPA, permit applicants, permittees and the public at large. Second, section 7(a)(2) of the ESA requires that Federal agencies consult with the Fish and Wildlife Service (FWS) or the National Marine Fisheries Service (NMFS) ("the Services") to insure that any action authorized, funded or carried out by them (also known as "agency actions") are not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of critical habitat. Jeopardizing the continued existence of a listed species means to engage in an action that reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing the reproduction, numbers or distribution of that species (*See* 40 CFR 402.02).

The ESA section 7 implementing regulations at 50 CFR 402 apply this consultation requirement to any action authorized by a Federal agency that may affect listed species or critical habitat, including permits. This effect, among other things, can be beneficial, detrimental, direct and indirect. The issuance of the CGP by EPA is thus subject to the ESA section 7(a)(2) consultation requirements. Finally, ESA section 7(a)(1) directs Federal agencies to use their authority to further the purposes of the ESA by carrying out programs for the conservation of listed species, and section 7(a)(4) directs Federal agencies to confer with the Services on Agency actions likely to jeopardize the existence of species proposed but not yet finally listed or result in the adverse modification of critical habitat proposed to be designated.

The ESA regulations provide for two types of consultation: formal and informal. Informal consultation is an optional process that includes discussions, correspondence, etc. between the Services and a Federal agency or a designated non-Federal representative (NFR) to determine whether a Federal action is likely to have an adverse effect on listed species or critical habitat. During informal consultation the Services may suggest modifications to the action that a Federal agency, permit applicant or non-Federal representative could implement to avoid likely adverse effects to listed species or critical habitat. If adverse effects are likely and those effects cannot be addressed through informal consultation, then formal consultation generally occurs.

Also of relevance for the CGP are ESA section 10 incidental taking permits. Section 10 of the ESA allows persons, including non-Federal entities to incidentally take listed animal species, where otherwise prohibited, through the issuance of a permit after development of a habitat conservation plan (HCP). These procedures were developed to allow non-Federal entities such as developers to, among other things, alter habitat without incurring takings liability where take is minimized to the extent practicable.

B. Conditions in the June 2, 1997 Proposed Permit To Protect Species and Critical Habitat

The CGP was proposed with a number of conditions to ensure that storm water discharges and best management practices (BMPs) to control storm water runoff were protective of listed species or critical habitat. Specifically, coverage under the proposed CGP would be granted only under the following circumstances:

1. An applicant's storm water discharges or BMPs to control storm water runoff were not likely to adversely affect listed species (identified in Addendum A of the permit) or critical habitat; or

2. The applicant's activity was previously authorized under § 7 or § 10 of the Endangered Species Act (ESA) and that authorization addressed storm water discharges and BMPs to control storm water runoff; or

3. The applicant's activity was considered as part of a larger, more comprehensive assessment of impacts on endangered and threatened species under § 7 or § 10 of the ESA which accounted for storm water discharges and BMPs to control storm water runoff; or

4. Consultation under § 7 of the ESA was conducted for the applicant's activity which resulted in either a no jeopardy opinion or a written concurrence on a finding of no likelihood of adverse effects; or

5. The applicant's activity was considered as part of a larger, more comprehensive site-specific assessment of impacts on endangered and threatened species by the owner or other operator of the site and that permittee certified eligibility under items 1., 2., 3. or 4. above.

The proposal required that applicants assess the impacts of their "storm water discharges" and "BMPs to control storm water runoff" on listed species and critical habitat that are located "in proximity" to the those discharges and BMPs when developing Storm Water Pollution Prevention Plans (SWPPPs) as part of the application process. The proposed CGP also required applicants to include measures in SWPPPs to protect listed species and critical habitat. "In proximity" was defined in Addendum A to include species:

► Located in the path or immediate area through which or over which contaminated point source storm water flows from construction activities to the point of discharge into the receiving water;

► Located in the immediate vicinity of, or nearby, the point of discharge into receiving waters; or

► Located in the area of a site where storm water BMPs are planned or are to be constructed.

EPA also solicited comment on whether the area or scope of impacts to be considered by applicants should be broadened to encompass listed species found on the entire construction site and not just those species found "in proximity" as currently defined in Addendum A.

Failure by permittees to abide by measures in their SWPPPs to protect species and critical habitat would invalidate permit coverage. Attached to the proposed permits were instructions (Addendum A) to assist permit applicants in making this inquiry. The proposal indicated that a county-by-county species list would be included in Addendum A of the final permit to assist applicants in determining if listed species might be "in proximity" to storm water discharges and BMPs. EPA did not provide a draft species list in proposed Addendum A. Instead, EPA referred commenters to a similar species list that was used for an earlier EPA-issued storm water permit, the Multisector Storm Water General Permit, that was issued on September 29, 1995 (*See* 62 FR 29792, note 12, June 2, 1997).

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C. Final CGP Conditions To Protect Listed Species

On April 28, 1997, EPA entered into formal consultation with the Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) (the "Services") for issuance of the CGP. After discussions with the Services, EPA terminated formal consultation and entered into ESA section 7 informal consultation and conferencing with the Fish and Wildlife Service (FWS) and the National Fisheries Service Services (NMFS) on June 11, 1997. On November 4, and 26, 1997, EPA completed ESA informal consultation when NMFS and FWS provided their respective concurrences with EPA's finding that issuance of the CGP was not likely to adversely affect listed species or critical habitat. However, the negotiations on CGP did not consider ongoing construction projects; i.e., construction projects which started prior to the effective date of these permits.

In January, 1998, Region 6 decided to address ESA certification issues for ongoing construction projects before finalizing the permit. In February, 1998, EPA Region 6 began a supplemental informal consultation with FWS and NMFS on language to clarify requirements for ongoing construction activity. EPA Region 6 completed ESA informal section 7 consultation and conferencing when FWS and NMFS provided their concurrences that issuance of these permits is unlikely to adversely affect listed species or critical habitat on June 9, and 15, respectively. With the completion of these consultations, EPA Region 6 has reduced the administrative burden associated with obtaining permit coverage for ongoing construction projects for the federal agencies and the regulated community.

Based on that consultation and in consideration of comments received on the June 2, 1997, proposal, EPA has placed the following conditions in the permit to protect listed species and critical habitat (*See* Part I.B.3.e). Coverage under the CGP is available for construction projects only if:

a. The storm water discharges and storm water discharge-related activities are not likely to adversely affect listed species or critical habitat (Part I.B.3.e.(2)(a)); or

b. Formal or informal consultation with the Services under section 7 of the Endangered Species Act (ESA) has been concluded which addresses the effects of the applicant's storm water discharges and storm water discharge-related activities on listed species and critical habitat and the consultation results in either a no jeopardy opinion or a written concurrence by the Service(s) on a finding that the applicant's storm water discharges and storm water discharge-related activities are not likely to adversely affect listed species or critical habitat. A section 7 consultation may occur in the context of another Federal on (e.g., an ESA section 7 consultation was performed for issuance of a wetlands dredge and fill permit for the project, or as part of a National Environmental Policy Act [NEPA] review); or

c. The applicant's construction activities are covered by a permit under section 10 of the ESA and that permit addresses the effects of the applicant's storm water discharges and storm water discharge-related activities on listed species and critical habitat (Part I.B.3.e.(2)(c)); or

d. The applicant's storm water discharges and storm water discharge-related activities were already addressed in another operator's certification of eligibility under Part I.B.3.e.(2)(a), (b), or (c) which included the applicant's project area. By certifying eligibility under Part I.B.3.e.(2)(d), the applicant agrees to comply with any measures or controls upon which the other operator's certification under Part I.B.3.e.(2)(a), (b) or (c) was based.

The CGP requires that applicants consider effects to listed species and critical habitat when developing SWPPPs and require that those plans include measures, as appropriate, to protect those resources. Failure by permittees to abide by measures in the SWPPPs to protect species and critical habitat may invalidate permit coverage.

This permit requires all projects commencing construction after the effective date of this permit, to follow the procedures provided in Addendum A of the permit when applying for permit coverage. The Director may also require any existing permittee or applicant to provide documentation of eligibility for this permit using the procedures in Addendum A, where EPA or the Fish and Wildlife Services determine that there is a potential impaction on endangered or threatened species or a critical habitat. Nothing in the permit relieves applicants which are under construction as of the effective date of this permit of their obligations they may have to comply with any requirements of the Endangered Species Act.

Addendum A contains instructions to assist permit applicants in making this inquiry. Those instructions require that applicants ascertain: (1) If their construction activities would occur in critical habitat; (2) whether listed species are in the project area; and (3) whether the applicant's storm water discharges and discharge-related activities are likely to adversely affect listed species or critical habitat. If adverse effects are likely, then applicants would have to meet one of the eligibility requirements of Part I.B.3.e.(2)(b)–(d) (paragraphs b., c., and d. above) to receive permit coverage. "Discharge-related activities" include activities which cause point source storm water pollutant discharges including but not limited to excavation, site development, and other surface disturbing activities, and measures to control, reduce or prevent storm water pollution including the siting, construction and operation of BMPs. The "project area" includes:

1. Area(s) on the construction site where storm water discharges originate and flow towards the point of discharge into the receiving waters (this includes the entire area or areas where excavation, site development, or other ground disturbance activities occur), and the immediate vicinity;
2. Area(s) where storm water discharges flow from the construction site to the point of discharge into receiving waters;
3. Area(s) where storm water from construction activities discharges into the receiving waters and the area(s) in the immediate vicinity of the point of discharge; and
4. Area(s) where storm water BMPs will be constructed and operated, including any area(s) where storm water flows to and from BMPs.

The project area will vary with the size and structure of the construction activity, the nature and quantity of the storm water discharges, the measures (including BMPs) to control storm water runoff, and the type of receiving waters.

Addendum A also contains information on where to find information on listed and proposed species organized by State and county to assist applicants in determining if further inquiry is necessary as to whether listed species are present in the project area. Applicants can check the Office of Wastewater Management's website (http://www.epa.gov/owm). CGP applicants can also get updated species information for their county by calling the appropriate FWS or NMFS office. EPA Region 6 applicants can also contact the EPA Region 6 Storm Water Hotline (1–800–245–6510) for updated species information.

The CGP also requires that applicants comply with any conditions imposed under the eligibility requirements of Part I.B.3.e.(2)a., b., c., or d. above to remain eligible for coverage under this permit. Such conditions must be incorporated in the applicant's SWPPP. The CGP does not authorize any prohibited take (as defined under section 3 of the ESA and 50 CFR 17.3) of endangered or threatened species unless such takes are authorized under sections 7 or 10 of the ESA. The CGP does not authorize any storm water discharges or storm water discharge-related activities that are likely to jeopardize the continued existence of any species that are listed or proposed to be listed as endangered or threatened under the ESA or result in the adverse modification or destruction of habitat that is designated or proposed to be designated as critical under the ESA.

It is EPA's intention to provide permit applicants with the greatest possible flexibility in meeting permit requirements for protecting listed species and critical habitat. Thus, EPA is allowing applicants to use either section 7 or section 10 ESA mechanisms to address situations where adverse effects are likely (*See* Part I.B.3.e.(2)(b) and (c)). Also, to give applicants additional flexibility in meeting the Part I.B.3.e. eligibility requirements and with the timing of informal consultations, the permit automatically designates CGP applicants as non-Federal representatives for the purpose of carrying out informal consultation. However, EPA notes that meeting ESA requirements raises difficult implementation issues on how to best ensure that the permits are protective of listed species and critical habitats without unduly burdening permit applicants, permittees, and State, local, and Federal governmental entities. Thus, EPA intends in the future to review those permit conditions and procedures that relate to the ESA and the protection of historic resources to see how well that goal has been achieved and may revise the permits if necessary to better achieve that goal.

V. Historic Property Protection

A. Background

The National Historic Preservation Act of 1966, as amended, (NHPA) establishes a national historic preservation program for the identification and protection of historic properties and resources. Under the NHPA, identification of historic properties is coordinated by the State Historic Preservation Officers (SHPOs), Tribal Historic Preservation Officers (THPOs) or other Tribal Representatives (in the absence of a THPO). Section 106 of the NHPA requires Federal agencies to take into account the effects of their actions on historic properties that are listed or eligible for listing on the National Register of Historic Places and to seek comments from the Advisory Council on Historic Preservation (ACHP). The permit was proposed with a number of conditions pertaining to the consideration of historic properties. EPA has decided to not include those conditions because the ACHP and the National Conference of State Historic Preservation Officers (NCSHPO) have requested that EPA not include such conditions in the final permit at this time. The ACHP and the NCSHPO have recommended that EPA issue the permit but recommend that EPA continue working with them and Tribes regarding the possible development of a more comprehensive and efficient approach to ensure that effects to historic properties are given appropriate consideration while ensuring undue burdens are not imposed on applicants and regulatory authorities. EPA plans to continue working with the ACHP, NCSHPO and Tribes on this effort and may modify the permit to incorporate procedures regarding the protection of historic resources at a later date.

B. Future CGP Conditions To Protect or Consider Effects to Historic Properties

In response to comments received on the permit proposal and because the Agency is still discussing historic preservation with the Advisory Council on Historic Preservation (ACHP), the final permit reserves permit requirements related to historic preservation. Today's final permit does not include the eligibility restrictions and evaluation requirements from the proposed permit. After future discussions with the ACHP, EPA may modify the permit to reflect those discussions.

VI. Regulatory Review (Executive Order 12866)

Under Executive Order 12866, (58 FR 51735 [October 4, 1993]) the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or Tribal governments or communities; create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. It has been determined that this re-issued general permit is not a "significant regulatory action" under the terms of Executive Order 12866.

VII. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under UMRA section 202, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, UMRA § 205 generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of UMRA § 205 do not apply when they are inconsistent with applicable law. Moreover, UMRA § 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes an explanation with the final rule why the alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under UMRA § 203 a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating and advising small governments on compliance with the regulatory requirements.

A. UMRA Section 202 and the Construction General Permit

UMRA § 202 requires a written statement containing certain assessments, estimates and analyses prior to the promulgation of certain general notices of proposed rulemaking (2 U.S.C. 1532). UMRA § 421(10) defines

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"rule" based on the definition of rule in the Regulatory Flexibility Act. Section 601 of the Regulatory Flexibility Act defines "rule" to mean any rule for which an agency publishes a general notice of proposed rulemaking pursuant to § 553 of the Administrative Procedure Act. EPA does not propose to issue NPDES general permits based on APA § 553. Instead, EPA relies on publication of general permits in the **Federal Register** in order to provide "an opportunity for a hearing" under CWA § 402(a), 33 U.S.C. 1342(a). Nonetheless, EPA has evaluated permitting alternatives for regulation of storm water discharges associated with construction activity. The general permit that EPA proposes to re-issue would be virtually the same NPDES general permit for construction that many construction operators have used over the past five years. Furthermore, general permits provide a more cost and time efficient alternative for the regulated community to obtain NPDES permit coverage than that provided through individually drafted permits.

B. UMRA Section 203 and the Construction General Permit

Agencies are required to prepare small government agency plans under UMRA § 203 prior to establishing any regulatory requirement that might significantly or uniquely affect small governments. "Regulatory requirements" might, for example, include the requirements of these NPDES general permits for discharges associated with construction activity, especially if a municipality sought coverage under one of the general permits. EPA envisions that some municipalities—those with municipal separate storm sewer systems serving a population over 100,000—may elect to seek coverage under these proposed general permits. For many municipalities, however, a permit application is not required until August 7, 2001, for a storm water discharge associated with construction activity where the construction site is owned or operated by a municipality with a population of less than 100,000. (See 40 CFR 122.26(e)(1)(ii) and (g)).

In any event, any such permit requirements would not significantly affect small governments because most State laws already provide for the control of sedimentation and erosion in a similar manner as today's general permit. Permit requirements also would not uniquely affect small governments because compliance with the permit's conditions affects small governments in the same manner as any other entity seeking coverage under the permit. Thus, UMRA § 203 would not apply.

VIII. Paperwork Reduction Act

On June 2, 1997, EPA solicited comments on the proposed revision to the current Information Collection Request (ICR) document for this permit (ICR approved OMB; OMB No. 2040–0086, expiration, August 31, 1998) to accommodate the increased information requirements in the new NOI for the construction general permit (62 FR 29826). A revised NOI form has been approved (EPA Form 3510–9 OMB No. 2040–0188.) This revised form is included in the permit in Addendum C. EPA estimates an increase in the burden associated with filling out the NOI form for the permit due to added requirements under the Endangered Species Act. EPA also anticipates a small increase in the time because of the requirement to submit an NOT upon completion of construction activities.

IX. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, a Federal agency must prepare an initial regulatory flexibility analysis "for any proposed rule" for which the agency "is required by section 553 of [the Administrative Procedure Act (APA)], or any other law, to publish general notice of proposed rulemaking." The RFA exempts from this requirement any rule that the issuing agency certifies "will not, if promulgated, have a significant economic impact on a substantial number of small entities."

EPA did not prepare an initial regulatory flexibility analysis (IRFA) for the proposed CGP. (Note that in today's action, EPA is issuing a separate general permit for each jurisdiction where EPA issues permits; i.e., in certain States, Indian Country lands and Federal facilities within certain States. However, for purposes of readability, reference is made to the permits in the singular form such as "permit" or "CGP" rather than in plural form.) In the notice of the proposed permit, EPA explained its view that issuance of an NPDES general permit is not subject to rulemaking requirements, including the requirement for a general notice of proposed rulemaking, under APA section 553 or any other law, and is thus not subject to the RFA requirement to prepare an IRFA. Nevertheless, in keeping with EPA's policy to consider the impact of its actions on small entities even when it is not legally required to do so, the Agency considered the potential impact of the permit on small entities that would be eligible for coverage under the permit. EPA concluded that the permit, if issued as drafted, would not have a significant impact on a substantial number of small entities. EPA based its conclusion on the fact that the draft permit was largely the same as the previous permit issued in 1992 and, to the extent it differed, provided dischargers with more flexibility than that permit allowed.

Some commenters on the proposed CGP disagreed with EPA's conclusions that NPDES general permits are not subject to rulemaking requirements and that the proposed permit would not have a significant impact on small entities. They asserted that the CGP is subject to rulemaking requirements and thus the RFA, and that the Agency should have prepared an IRFA for the permit.

In light of the comments received, EPA further considered whether NPDES general permits are subject to rulemaking requirements. The Agency reviewed its previous NPDES general permitting actions and related statements in the **Federal Register** or elsewhere. This review suggests that the Agency has generally treated NPDES general permits effectively as rules, though at times it has given contrary indications as to whether these actions are rules or permits. EPA also reviewed again the applicable law, including the CWA, relevant CWA case law and the APA, as well as the Attorney General's Manual on the APA (1947). On the basis of its review, EPA has concluded, as set forth in the proposal, that NPDES general permits are permits under the APA and thus not subject to APA rulemaking requirements or the RFA.

The APA defines two broad, mutually exclusive categories of agency action—"rules" and "orders." Its definition of "rule" encompasses "an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency * * *" APA section 551(4). Its definition of "order" is residual: "a final disposition * * * of an agency in a matter other than rule making but including *licensing.*" APA section 551(6) (emphasis added). The APA defines "license" to "include * * * an agency permit * * *" APA section 551(8). The APA thus categorizes a permit as an order, which by the APA's definition is not a rule.

Section 553 of the APA establishes "rule making" requirements. The APA defines *rule making* as "the agency process for formulating, amending, or repealing a rule." APA § 551(5). By its terms, then, § 553 applies only to "rules" and not also to "orders," which include permits. As the Attorney General's Manual on the APA explains, "the entire Act is based upon a dichotomy between rule making and adjudication [the agency process for formulation of an order]" (p. 14).

The CWA specifies the use of permits for authorizing the discharge of pollutants to waters of the United States. Section 301(a) of the CWA prohibits discharges of pollutants "[except as in compliance with" specified sections of the CWA, including section 402. 33 U.S.C. 1311(a). Section 402 of the CWA authorizes EPA "to issue a permit for the discharge of any pollutant * * *, notwithstanding section [301(a) of the CWA]." 33 U.S.C. 1342(a). Thus, the only circumstances in which a discharge of pollution may be authorized is where the Agency has issued a permit for the discharge. Courts, recognizing that a permit is the necessary condition-precedent to any lawful discharge, specifically suggested the use of area-wide and general permits as a mechanism for addressing the Agency's need to issue a substantial number of permits. See *NRDC* v. *Train*, 396 F.Supp. 1393, 1402 (D.D.C. 1975); *NRDC* v. *Costle*, 568 F.2d 1369, 1381. (D.C. Cir. 1977). Adopting the courts' suggestion, EPA has made increasing use of general permits in its CWA regulatory program, particularly for storm water discharges.

In the Agency's view, the fact that an NPDES general permit may apply to a large number of different dischargers does not convert it from a permit into a rule. As noted above, the courts which have faced the issue of how EPA can permit large numbers of discharges under the CWA have suggested use of a general *permit*, not a rule. Under the APA, the two terms are mutually exclusive. Moreover, an NPDES general permit retains unique characteristics that distinguish a permit from a rule. First, today's NPDES general permit for storm water discharges associated with construction activity is effective only with respect to those dischargers that *choose* to be bound by the permit. Thus, unlike the typical rule, this NPDES general permit does not impose immediately effective obligations of general applicability. A discharger must choose to be covered by this general permit and so notify EPA. A discharger always retains the option of obtaining its own individual permit. Relatedly, the terms of the NPDES general permit are enforceable only against dischargers that choose to make use of the permit. If a source discharges without authorization of a general or an individual permit, the discharger violates § 301 of the Act for discharging without a permit, not for violating the terms of an NPDES general permit.

Because the CWA and its case law make clear that NPDES permits are the congressionally chosen vehicle for authorizing discharges of pollutants to waters of the United States, the APA's rulemaking requirements are inapplicable to issuance of such permits, including today's general permit. Further, while the CWA requires that NPDES permits be issued only after an opportunity for a hearing, it does not require publication of a general notice of proposed rulemaking. Thus, NPDES permitting is not subject to the requirement to publish a general notice of proposed rulemaking under the APA or any other law. Accordingly, it is not subject to the RFA.

At the same time, the Agency recognizes that the question of the applicability of the APA, and thus the RFA, to the issuance of a general permit is a difficult one, given the fact that a large number of dischargers may choose to use the general permit. Indeed, the point of issuing a general permit is to provide a speedier means of permitting large number of sources and save dischargers and EPA time and effort. Since the Agency hopes that many dischargers will make use of a general permit and since the CWA requires EPA to provide an opportunity for "a hearing" prior to issuance of a permit, EPA provides the public with notice of a draft general permit and an opportunity to comment on it. From public comments, EPA learns how to better craft a general permit to make it appropriate for, and acceptable to, the largest number of potential permittees. This same process also provides an opportunity for EPA to consider the potential impact of general permit terms on small entities and how to craft the permit to avoid any undue burden on small entities. This process, however, is voluntary, and does not trigger rulemaking or RFA requirements.

In the case of the CGP being issued today, the Agency has considered and addressed the potential impact of the general permit on small entities in a manner that would meet the requirements of the RFA if it applied. Specifically, EPA has analyzed the potential impact of the general permit on small entities and found that it will not have a significant economic impact on a substantial number of small entities. Like the previous general permit that it replaces (the Baseline Construction General Permit), the permit will make available to many small entities, particularly operators of construction sites, a streamlined process for obtaining authorization to discharge. Of the possible permitting mechanisms available to dischargers subject to the CWA, NPDES general permits are designed to reduce the reporting and monitoring burden associated with NPDES permit authorization, especially for small entities with discharges having comparatively less potential for environmental degradation than discharges typically regulated under individual NPDES permits. Thus, general permits like the permit at issue here provide small entities with a permitting application option that is much less burdensome than NPDES individual permit applications.

Furthermore, the general permit is virtually identical to its predecessor, the Baseline Construction General Permit, under which many construction operators have operated during the past five years. Moreover, the other new provisions of the permit have been designed to minimize burdens on small entities, including eliminating the requirement that construction site operators require that their contractors and subcontractors sign a standard certification statement agreeing to abide by storm water pollution prevention plan provisions developed for a project. In today's general permit, only the operator(s) of a construction site are required to satisfy certification requirements under the permit. EPA believes this modification from the prior permit should reduce any such adverse economic impacts on both operators and contractors/subcontractors who, in many instances, are small entities. In view of the foregoing, the Regional Administrators find that the final general permit, even if it were a rule, will not have a significant economic impact on a substantial number of small entities.

Storm Water General Permit for Construction Activities in Region 6

NPDES Permit No. [See Part I.A.]

Authorization to Discharge Under the National Pollutant Discharge Elimination System

In compliance with the provisions of the Clean Water Act, as amended, (33 U.S.C. 1251 et. seq.), except as provided in Part I.B.3 of this permit, operators of construction activities located in an area specified in Part I.A. and who submit a Notice of Intent in accordance with Part II, are authorized to discharge pollutants to waters of the United States in accordance with the conditions and requirements set forth herein.

This permit shall become effective on [insert the date of publication of the final permit in the **Federal Register**].

This permit and the authorization to discharge shall expire at midnight, July 7, 2003.

Signed: June 24, 1998.

William B. Hathaway,

Director, Water Quality Protection Division.

NPDES General Permits for Storm Water Discharges from Construction Activities

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Part I. Coverage Under This Permit

A. Permit Area

The permit language is structured as if it were a single permit, with State, Indian Country land, or other area-specific conditions specified in Part X. Permit coverage is actually provided by legally separate and distinctly numbered permits covering each of the following areas:

Region 6

LAR10*##I: Indian Country lands in the State of Louisiana
NMR10*###: The State of New Mexico, except Indian Country lands
NMR10*##I: Indian Country lands in the State of New Mexico, except Navajo Reservation Lands and Ute Mountain Reservation Lands
OKR10*##I: Indian Country lands in the State of Oklahoma
OKR10*##F: Oil and Gas Sites in State of Oklahoma
TXR10*###: The State of Texas, except Indian Country lands
TXR10*##I: Indian Country lands in the State of Texas

B. Eligibility

1. Permittees are authorized to discharge pollutants in storm water runoff associated with construction activities as defined in 40 CFR 122.26(b)(14)(x) and those construction site discharges designated by the Director as needing a storm water permit under 122.26(a)(1)(v) or under 122.26(a)(9) and 122.26(g)(1)(i). Discharges identified under Part I.B.3 are excluded from coverage. Any discharge authorized by a different NPDES permit may be commingled with discharges authorized by this permit.

2. This permit also authorizes storm water discharges from support activities (e.g., concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, borrow areas) provided:

a. The support activity is directly related to a construction site that is required to have NPDES permit coverage for discharges of storm water associated with construction activity;

b. The support activity is not a commercial operation serving multiple unrelated construction projects by different operators, and does not operate beyond the completion of the construction activity at the last construction project it supports; and

c. Appropriate controls and measures are identified in a storm water pollution prevention plan covering the discharges from the support activity areas.

3. Limitations on Coverage

a. *Post Construction Discharges.* This permit does not authorize storm water discharges that originate from the site *after* construction activities have been completed and the site, including any temporary support activity site, has undergone final stabilization. Industrial post-construction storm water discharges may need to be covered by a separate NPDES permit.

b. *Discharges Mixed with Non-Storm Water.* This permit does not authorize discharges that are mixed with sources of non-storm water, other than those discharges which are identified in Part III.A.2. or 3. (exceptions to prohibition on non-storm water discharges) and are in compliance with Part IV.D.5 (non-storm water discharges).

c. *Discharges Covered by Another Permit.* This permit does not authorize storm water discharges associated with construction activity that have been covered under an individual permit or required to obtain coverage under an alternative general permit in accordance with Part VI.L.

d. *Discharges Threatening Water Quality.* This permit does not authorize storm water discharges from construction sites that the Director (EPA) determines will cause, or have reasonable potential to cause or contribute to, violations of water quality standards. Where such determinations have been made, the Director may notify the operator(s) that an individual permit application is necessary in accordance with Part VI.L. However, the Director may authorize coverage under this permit after appropriate controls and implementation procedures designed to bring the discharges into compliance with water quality standards have been included in the storm water pollution prevention plan;

e. *Storm water discharges and storm water discharge-related activities that are not protective of Federally listed endangered and threatened ("listed") species or designated critical habitat ("critical habitat").*

(1) For the purposes of complying with the Part I.B.3.e. eligibility requirements, "storm water discharge-related activities" include:

(a) Activities which cause, contribute to, or result in point source storm water pollutant discharges, including but not limited to: excavation, site development, grading and other surface disturbance activities; and

(b) Measures to control storm water including the siting, construction and operation of best management practices

(BMPs) to control, reduce or prevent storm water pollution.

(2) Coverage under this permit is available only if the applicant certifies that it meets at least one of the criteria in paragraphs (a)–(d) below. Failure to continue to meet one of these criteria during the term of the permit will render a permittee ineligible for coverage under this permit.

(a) The storm water discharges and storm water discharge-related activities are not likely to adversely affect listed species or critical habitat; or

(b) Formal or informal consultation with the Fish and Wildlife Service and/or the National Marine Fisheries Service (the "Services") under section 7 of the Endangered Species Act (ESA) has been concluded which addresses the effects of the applicant's storm water discharges and storm water discharge-related activities on listed species and critical habitat and the consultation results in either a no jeopardy opinion or a written concurrence by the Service(s) on a finding that the applicant's storm water discharges and storm water discharge-related activities are not likely to adversely affect listed species or critical habitat. A section 7 consultation may occur in the context of another Federal action (e.g., a ESA section 7 consultation was performed for issuance of a wetlands dredge and fill permit for the project, or as part of a National Environmental Policy Act (NEPA) review); or

(c) The applicant's construction activities are authorized under section 10 of the ESA and that authorization addresses the effects of the applicant's storm water discharges and storm water discharge-related activities on listed species and critical habitat; or

(d) The applicant's storm water discharges and storm water discharge-related activities were already addressed in another operator's certification of eligibility under Part I.B.3.e.(2)(a), (b), or (c) which included the applicant's project area. By certifying eligibility under Part I.B.3.e.(2)(d), the applicant agrees to comply with any measures or controls upon which the other operator's certification under Part I.B.3.e.(2)(a), (b) or (c) was based.

(3) For all projects commencing construction after the effective date of this permit, applicants must follow the procedures provided at Addendum A of this permit when applying for permit coverage. The Director may also require any existing permittee or applicant to provide documentation of eligibility for this permit using the procedures in Addendum A, where EPA or the Fish and Wildlife Services determine that there is a potential impaction on endangered or threatened species or a critical habitat. Nothing in this permit relieves applicants which are under construction as of the effective date of this permit of their obligations they may have to comply with any requirements of the Endangered Species Act.

(4) The applicant must comply with any applicable terms, conditions or other requirements developed in the process of meeting eligibility requirements of Part I.B.3.e.(2)(a), (b), (c), or (d) above to remain eligible for coverage under this permit. Such terms and conditions must be incorporated in the applicant's storm water pollution prevention plan.

(5) Applicants who choose to conduct informal consultation to meet the eligibility requirements of Part I.B.3.e.(2)(b) are automatically designated as non-Federal representatives under this permit. See 50 CFR 402.08. Applicants who choose to conduct informal consultation as a non-Federal representatives must notify EPA and the appropriate Service office in writing of that decision.

(6) This permit does not authorize any storm water discharges where the discharges or storm water discharge-related activities cause prohibited "take" (as defined under section 3 of the Endangered Species Act and 50 CFR 17.3) of endangered or threatened species unless such takes are authorized under sections 7 or 10 of the Endangered Species Act.

(7) This permit does not authorize any storm water discharges where the discharges or storm water discharge-related activities are likely to jeopardize the continued existence of any species that are listed or proposed to be listed as endangered or threatened under the ESA or result in the adverse modification or destruction of habitat that is designated or proposed to be designated as critical under the ESA.

f. *Storm water Discharges and Storm Water Discharge-Related Activities with Unconsidered Adverse Effects on Historic Properties.* (Reserved)

C. Obtaining Authorization

1. In order for storm water discharges from construction activities to be authorized under this general permit, an operator must:

a. Meet the Part I.B eligibility requirements;

b. Except as provided in Parts II.A.5 and II.A.6, develop a storm water pollution prevention plan (SWPPP) covering either the entire site or all portions of the site for which they are operators (see definition in Part IX.N) according to the requirements in Part IV. A "joint" SWPPP may be developed and implemented as a cooperative effort where there is more than one operator at a site; and

c. Submit a Notice of Intent (NOI) in accordance with the requirements of Part II, using an NOI form provided in Addendum C of this permit. Only one NOI need be submitted to cover all of the permittee's activities on the common plan of development or sale (e.g., you do not need to submit a separate NOI for each separate lot in a residential subdivision or for two separate buildings being constructed at a manufacturing facility, provided your SWPPP covers each area for which you are an operator). The SWPPP must be implemented upon commencement of construction activities.

2. Any new operator on site, including those who replace an operator who has previously obtained permit coverage, must submit an NOI to obtain permit coverage.

3. Unless notified by the Director to the contrary, operators who submit a correctly completed NOI in accordance with the requirements of this permit are authorized to discharge storm water from construction activities under the terms and conditions of this permit two (2) days after the date that the NOI is postmarked. The Director may deny coverage under this permit and require submittal of an application for an individual NPDES permit based on a review of the NOI or other information (see Part VI.L).

D. Terminating Coverage

1. Permittees wishing to terminate coverage under this permit must submit a Notice of Termination (NOT) in accordance with Part VIII of this permit. Compliance with this permit is required until an NOT is submitted. The permittee's authorization to discharge under this permit terminates at midnight of the day the NOT is signed.

2. All permittees must submit a NOT within thirty (30) days after one or more of the following conditions have been met:

a. Final stabilization (see definition Part IX.I) has been achieved on all portions of the site for which the permittee is responsible (including if applicable, returning agricultural land to its pre-construction agricultural use);

b. Another operator/permittee has assumed control according to Part VI.G.2.c. over all areas of the site that have not been finally stabilized; or

c. For residential construction only, temporary stabilization has been completed and the residence has been transferred to the homeowner.

Enforcement actions may be taken if a permittee submits a NOT without meeting one or more of these conditions.

Part II. Notice of Intent Requirements

A. Deadlines for Notification

1. Except as provided in Parts II.A.3, II.A.4, II.A.5 or II.A.6 below, parties defined as operators (see definition in Part IX.N) due to their operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications, must submit a Notice of Intent (NOI) in accordance with the requirements of this Part at least two (2) days prior to the commencement of construction activities (i.e., the initial disturbance of soils associated with clearing, grading, excavation activities, or other construction activities).

2. Except as provided in Parts II.A.3, II.A.4, II.A.5 or II.A.6 below, parties defined as operators (see definition in Part IX.N) due to their day-to-day operational control over activities at a project which are necessary to ensure compliance with a storm water pollution prevention plan or other permit conditions (e.g., general contractor, erosion control contractor) must submit a NOI at least two (2) days prior to commencing work on-site.

3. For storm water discharges from construction projects where the operator changes, including instances where an operator is added after a NOI has been submitted under Parts II.A.1 or II.A.2, the new operator must submit a NOI at least two (2) days before assuming operational control over site specifications or commencing work on-site.

4. Operators are not prohibited from submitting late NOIs. When a late NOI is submitted, authorization is only for discharges that occur after permit coverage is granted. The Agency reserves the right to take appropriate enforcement actions for any unpermitted activities that may have occurred between the time construction commenced and authorization of future discharges is granted (typically 2 days after a complete NOI is submitted).

5. Operators of on-going construction projects as of the effective date of this permit which received authorization to discharge for these projects under the 1992 baseline construction general permit must:

a. Submit a NOI according to Part II.B. within 90 days of the effective date of this permit. If the permittee is eligible to submit a Notice of Termination (e.g., construction is finished and final stabilization has been achieved) before the 90th day, a new NOI is not required to be submitted;

b. For the first 90 days from the effective date of this permit, comply with the terms and conditions of the 1992 baseline construction general permit they were previously authorized under; and

c. Update their storm water pollution prevention plan to comply with the requirements of Part IV within 90 days after the effective date of this permit.

6. Operators of on-going construction projects as of the effective date of this permit which did *not* receive authorization to discharge for these projects under the 1992 baseline construction general permit must:

a. Prepare and comply with an interim storm water pollution prevention plan in accordance with the 1992 baseline construction general permit prior to submitting an NOI;

b. Submit a NOI according to Part II.B; and

c. Update their storm water pollution prevention plan to comply with the requirements of Part IV within 90 days after the effective date of this permit.

B. Contents of Notice of Intent (NOI)

1. Use of Revised NOI Form

The revised NOI form [EPA Form 3510-9] shall be signed in accordance with Part VI.G of this permit and shall include the following information:

a. The name, address, and telephone number of the operator filing the NOI for permit coverage;

b. An indication of whether the operator is a Federal, State, Tribal, private, or other public entity;

c. The name (or other identifier), address, county, and latitude/longitude of the construction project or site;

d. An indication of whether the project or site is located on Indian Country lands;

e. Confirmation that a storm water pollution prevention plan (SWPPP) has been developed or will be developed prior to commencing construction activities, and that the SWPPP will be compliant with any applicable local sediment and erosion control plans. Copies of SWPPPs or permits should *not* be included with the NOI submission;

f. Optional information: the location where the SWPPP may be viewed and the name and telephone number of a contact person for scheduling viewing times;

g. The name of the receiving water(s);

h. Estimates of project start and completion dates, and estimates of the number of acres of the site on which soil will be disturbed (if less than 1 acre, enter "1");

i. Based on the instructions in Addendum A, whether any listed or proposed threatened or endangered species, or designated critical habitat, are in proximity to the storm water discharges or storm water discharge-related activities to be covered by this permit;

j. Under which section(s) of Part I.B.3.e. (Endangered Species) the applicant is certifying eligibility; and

Note that as of the effective date of this permit, reporting of information relating to the preservation of historic properties has been reserved and is not required at this time. Such reservation in no way relieves applicants or permittees from any otherwise applicable obligations or liabilities related to historic preservation under State, Tribal or local law. After further discussions between EPA and the Advisory Council on Historic Preservation, the Agency may modify the permit. Any such modification may affect future Notice of Intent reporting requirements.

C. Where To Submit

1. NOIs must be signed in accordance with Part VI.G. and sent to the following address: Storm Water Notice of Intent (4203), US EPA, 401 M Street, SW, Washington, DC 20460.

Part III. Special Conditions, Management Practices, and Other Non-Numeric Limitations

A. Prohibition on Non-Storm Water Discharges

1. Except as provided in Parts I.B.2 or 3 and III.A.2 or 3, all discharges covered by this permit shall be composed entirely of storm water associated with construction activity.

2. Discharges of material other than storm water that are in compliance with an NPDES permit (other than this permit) issued for that discharge may be discharged or mixed with discharges authorized by this permit.

3. The following non-storm water discharges from active construction sites are authorized by this permit provided the non-storm water component of the discharge is in compliance with Part IV.D.5 (non-storm water discharges): discharges from fire fighting activities; fire hydrant flushings; waters used to wash vehicles where detergents are not used; water used to control dust in accordance with Part IV.D.2.c.(2); potable water sources including waterline flushings; routine external building wash down which does not use detergents; pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used; air

conditioning condensate; uncontaminated ground water or spring water; and foundation or footing drains where flows are not contaminated with process materials such as solvents.

B. Releases in Excess of Reportable Quantities

The discharge of hazardous substances or oil in the storm water discharge(s) from a facility shall be prevented or minimized in accordance with the applicable storm water pollution prevention plan for the facility. This permit does not relieve the permittee of the reporting requirements of 40 CFR 110, 40 CFR 117 and 40 CFR 302. Where a release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR 110, 40 CFR 117 or 40 CFR 302, occurs during a 24 hour period:

1. The permittee is required to notify the National Response Center (NRC) (800–424–8802; in the Washington, DC, metropolitan area call 202–426–2675) in accordance with the requirements of 40 CFR 110, 40 CFR 117 and 40 CFR 302 as soon as he or she has knowledge of the discharge;

2. The storm water pollution prevention plan required under Part IV of this permit must be modified within 14 calendar days of knowledge of the release to: provide a description of the release, the circumstances leading to the release, and the date of the release. In addition, the plan must be reviewed to identify measures to prevent the reoccurrence of such releases and to respond to such releases, and the plan must be modified where appropriate.

C. Spills

This permit does not authorize the discharge of hazardous substances or oil resulting from an on-site spill.

D. Discharge Compliance With Water Quality Standards

Operators seeking coverage under this permit shall not be causing or have the reasonable potential to cause or contribute to a violation of a water quality standard. Where a discharge is already authorized under this permit and is later determined to cause or have the reasonable potential to cause or contribute to the violation of an applicable water quality standard, the Director will notify the operator of such violation(s). The permittee shall take all necessary actions to ensure future discharges do not cause or contribute to the violation of a water quality standard and document these actions in the storm water pollution prevention plan. If violations remain or re-occur, then coverage under this permit may be terminated by the Director, and an alternative general permit or individual permit may be issued. Compliance with this requirement does not preclude any enforcement activity as provided by the Clean Water Act for the underlying violation.

E. Responsibilities of Operators

Permittees may meet one or both of the operational control components in the definition of "operator" found in Part IX.N. Either Parts III.E.1 or III.E.2 or both will apply depending on the type of operational control exerted by an individual permittee. Part III.E.3 applies to all permittees.

1. Permittees with operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications (e.g., developer or owner), must:

a. Ensure the project specifications that they develop meet the minimum requirements of Part IV (Storm Water Pollution Prevention Plans (SWPPP)) and all other applicable conditions;

b. Ensure that the SWPPP indicates the areas of the project where they have operational control over project specifications (including the ability to make modifications in specifications), and ensure all other permittees implementing portions of the SWPPP impacted by any changes they make to the plan are notified of such modifications in a timely manner; and

c. Ensure that the SWPPP for portions of the project where they are operators indicates the name and NPDES permit number for parties with day-to-day operational control of those activities necessary to ensure compliance with the SWPPP or other permit conditions. If these parties have not been identified at the time the SWPPP is initially developed, the permittee with operational control over project specifications shall be considered to be the responsible party until such time as the authority is transferred to another party (e.g., general contractor) and the plan updated.

2. Permittee(s) with day-to-day operational control of those activities at a project which are necessary to ensure compliance with a SWPPP for the site or other permit conditions (e.g., general contractor) must:

a. Ensure that the SWPPP for portions of the project where they are operators meets the minimum requirements of Part IV (Storm Water Pollution Prevention Plan) and identifies the parties responsible for implementation of control measures identified in the plan;

b. Ensure that the SWPPP indicates areas of the project where they have operational control over day-to-day activities;

c. Ensure that the SWPPP for portions of the project where they are operators indicates the name and NPDES permit number of the party(ies) with operational control over project specifications (including the ability to make modifications in specifications);

3. Permittees with operational control over only a portion of a larger construction project (e.g., one of four homebuilders in a subdivision) are responsible for compliance with all applicable terms and conditions of this permit as it relates to their activities on their portion of the construction site, including protection of endangered species and implementation of BMPs and other controls required by the SWPPP. Permittees shall ensure either directly or through coordination with other permittees, that their activities do not render another party's pollution controls ineffective. Permittees must either implement their portions of a common SWPPP or develop and implement their own SWPPP.

F. Consistency With the Texas Coastal Management Program

This permit does not relieve permittees whose construction project is located within the boundary of the Texas Coastal Management Program of their responsibility to insure consistency with all applicable requirements of this State program. While pre-construction approval of development projects is not within the jurisdiction of the Federal NPDES permit program, State or local pre-construction project approvals and/or permits may be required. The permittee's Storm Water Pollution Prevention Plan must be consistent with any storm water discharge-related requirements established pursuant to, or necessary to be consistent with, the Texas Coastal Management Program. This permit may be reopened, upon petition by the State, to include more stringent discharge requirements applying to areas within the State's designated coastal zone.

The Texas Coastal Management Program boundary covers part or all of the following Texas Counties: Aransas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Harris, Jackson, Jefferson, Kenedy, Kleberg, Matagorda, Nueces, Orange, Refugio, San Patricio, Victoria, and Willacy. To determine if a construction project is located within the Texas Coastal Zone, and if so, the applicable requirements of the Texas Coastal Management Program, please

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contact the Texas General Land Office's Coastal Hotline at 1–800–85–BEACH or access their Internet site at "http://red.glo.state.tx.us/res-mgmt/coastal/". Information is also available from the Texas Coastal Coordination Council's Coastal Permitting Assistance Office at 1–888–3–PERMIT or via the Internet at "http://red.glo.state.tx.us/coastalpermits/".

Part IV. Storm Water Pollution Prevention Plans

At least one storm water pollution prevention plan (SWPPP) shall be developed for each construction project or site covered by this permit. For more effective coordination of BMPs and opportunities for cost sharing, a cooperative effort by the different operators at a site to prepare and participate in a comprehensive SWPPP is encouraged. Individual operators at a site may, but are not required, to develop separate SWPPPs that cover only their portion of the project provided reference is made to other operators at the site. In instances where there is more than one SWPPP for a site, coordination must be conducted between the permittees to ensure the storm water discharge controls and other measures are consistent with one another (e.g., provisions to protect listed species and critical habitat).

Storm water pollution prevention plans shall be prepared in accordance with good engineering practices. The SWPPP shall identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges from the construction site. The SWPPP shall describe and ensure the implementation of practices which will be used to reduce the pollutants in storm water discharges associated with construction activity at the construction site and assure compliance with the terms and conditions of this permit.

When developing SWPPPs, applicants must follow the procedures in Addendum A of this permit to determine whether listed endangered or threatened species or critical habitat would be affected by the applicant's storm water discharges or storm water discharge-related activities. Any information on whether listed species or critical habitat are found in proximity to the construction site must be included in the SWPPP. Any terms or conditions that are imposed under the eligibility requirements of Part I.B.3.e and Addendum A of this permit to protect listed species or critical habitat from storm water discharges or storm water discharge-related activity must be incorporated into the SWPPP. Permittees must implement the applicable provisions of the SWPPP required under this part as a condition of this permit.

A. Deadlines for Plan Preparation and Compliance

The storm water pollution prevention plan shall:

1. Be completed prior to the submittal of an NOI to be covered under this permit (except as provided in Parts II.A.5 and II.A.6) updated as appropriate; and

2. Provide for compliance with the terms and schedule of the SWPPP beginning with the initiation of construction activities.

B. Signature, Plan Review and Making Plans Available

1. The SWPPP shall be signed in accordance with Part VI.G, and be retained on-site at the facility which generates the storm water discharge in accordance with Part V (Retention of Records) of this permit.

2. The permittee shall post a notice near the main entrance of the construction site with the following information:

a. The NPDES permit number for the project or a copy of the NOI if a permit number has not yet been assigned;

b. The name and telephone number of a local contact person;

c. A brief description of the project; and

d. The location of the SWPPP if the site is inactive or does not have an on-site location to store the plan.

If posting this information near a main entrance is infeasible due to safety concerns, the notice shall be posted in a local public building. If the construction project is a linear construction project (e.g., pipeline, highway, etc.), the notice must be placed in a publicly accessible location near where construction is actively underway and moved as necessary. This permit does not provide the public with any right to trespass on a construction site for any reason, including inspection of a site; nor does this permit require that permittees allow members of the public access to a construction site.

3. The permittee shall make SWPPPs available upon request to the Director, a State, Tribal or local agency approving sediment and erosion plans, grading plans, or storm water management plans; local government officials; or the operator of a municipal separate storm sewer receiving discharges from the site. The copy of the SWPPP that is required to be kept on-site or locally available must be made available to the Director for review at the time of an on-site inspection. Also, in the interest of public involvement, EPA encourages permittees to make their SWPPPs available to the public for viewing during normal business hours.

4. The Director may notify the permittee at any time that the SWPPP does not meet one or more of the minimum requirements of this Part. Such notification shall identify those provision of this permit which are not being met by the SWPPP as well as those requiring modification in order to meet the minimum requirements of this Part. Within seven (7) calendar days of receipt of such notification from the Director (or as otherwise provided by the Director), the permittee shall make the required changes to the SWPPP and shall submit to the Director a written certification that the requested changes have been made. The Director may take appropriate enforcement action for the period of time the permittee was operating under a plan that did not meet the minimum requirements of this permit.

C. Keeping Plans Current

The permittee must amend the storm water pollution prevention plan whenever:

1. There is a change in design, construction, operation, or maintenance which has a significant effect on the discharge of pollutants to the waters of the United States which has not been addressed in the SWPPP; or

2. Inspections or investigations by site operators, local, State, Tribal or Federal officials indicate the SWPPP is proving ineffective in eliminating or significantly minimizing pollutants from sources identified under Part IV.D.1 of this permit, or is otherwise not achieving the general objectives of controlling pollutants in storm water discharges associated with construction activity.

D. Contents of Plan

The storm water pollution prevention plan (SWPPP) shall include the following items:

1. Site Description

Each SWPPP shall provide a description of potential pollutant sources and other information as indicated below:

a. A description of the nature of the construction activity;

b. A description of the intended sequence of major activities which disturb soils for major portions of the site (e.g., grubbing, excavation, grading, utilities and infrastructure installation);

c. Estimates of the total area of the site and the total area of the site that is expected to be disturbed by excavation, grading, or other activities including off-site borrow and fill areas;

d. An estimate of the runoff coefficient of the site for both the pre-construction and post-construction conditions and data describing the soil or the quality of any discharge from the site;

e. A general location map (e.g., a portion of a city or county map) and a site map indicating the following: drainage patterns and approximate slopes anticipated after major grading activities; areas of soil disturbance; areas which will not be disturbed; locations of major structural and nonstructural controls identified in the SWPPP; locations where stabilization practices are expected to occur; locations of off-site material, waste, borrow or equipment storage areas; surface waters (including wetlands); and locations where storm water discharges to a surface water;

f. Location and description of any discharge associated with industrial activity other than construction, including storm water discharges from dedicated asphalt plants and dedicated concrete plants, which is covered by this permit;

g. The name of the receiving water(s) and the areal extent and description of wetland or other special aquatic sites (as described under 40 CFR 230.3(q–1)) at or near the site which will be disturbed or which will receive discharges from disturbed areas of the project;

h. A copy of the permit requirements (attaching a copy of this permit is acceptable);

i. Information on whether listed endangered or threatened species, or critical habitat, are found in proximity to the construction activity and whether such species may be affected by the applicant's storm water discharges or storm water discharge-related activities; and

j. Information on whether storm water discharges or storm water discharge-related activities would have an affect on a property that is listed or eligible for listing on the National Register of Historic Places; where effects may occur, any written agreements with the State Historic Preservation Officer, Tribal Historic Preservation Officer, or other Tribal leader to mitigate those effects.

2. Controls

Each SWPPP shall include a description of appropriate control measures (i.e., BMPs) that will be implemented as part of the construction activity to control pollutants in storm water discharges. The SWPPP must clearly describe for each major activity identified in Part IV.D.1.b: (a) appropriate control measures and the general timing (or sequence) during the construction process that the measures will be implemented; and (b) which permittee is responsible for implementation (e.g., perimeter controls for one portion of the site will be installed by Contractor A after the clearing and grubbing necessary for installation of the measure, but before the clearing and grubbing for the remaining portions of the site; and perimeter controls will be actively maintained by Contractor B until final stabilization of those portions of the site up-gradient of the perimeter control; and temporary perimeter controls will be removed by the owner after final stabilization). The description and implementation of control measures shall address the following minimum components:

a. *Erosion and Sediment Controls.*

(1) Short and Long Term Goals and Criteria:

(a) The construction-phase erosion and sediment controls should be designed to retain sediment on site to the extent practicable.

(b) All control measures must be properly selected, installed, and maintained in accordance with the manufacturers specifications and good engineering practices. If periodic inspections or other information indicates a control has been used inappropriately, or incorrectly, the permittee must replace or modify the control for site situations.

(c) If sediment escapes the construction site, off-site accumulations of sediment must be removed at a frequency sufficient to minimize offsite impacts (e.g., fugitive sediment in street could be washed into storm sewers by the next rain and/or pose a safety hazard to users of public streets).

(d) Sediment must be removed from sediment traps or sedimentation ponds when design capacity has been reduced by 50%.

(e) Litter, construction debris, and construction chemicals exposed to storm water shall be prevented from becoming a pollutant source for storm water discharges (e.g., screening outfalls, picked up daily).

(f) Offsite material storage areas (also including overburden and stockpiles of dirt, borrow areas, etc.) used solely by the permitted project are considered a part of the project and shall be addressed in the SWPPP.

(2) *Stabilization Practices:* The SWPPP must include a description of interim and permanent stabilization practices for the site, including a schedule of when the practices will be implemented. Site plans should ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized. Stabilization practices may include but are not limited to: establishment of temporary vegetation, establishment of permanent vegetation, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees, preservation of mature vegetation, and other appropriate measures. Use of impervious surfaces for stabilization should be avoided.

The following records shall be maintained and attached to the SWPPP: the dates when major grading activities occur; the dates when construction activities temporarily or permanently cease on a portion of the site; and the dates when stabilization measures are initiated.

Except as provided in Parts IV.D.2.a.(2)(a), (b), and (c) below, stabilization measures shall be initiated as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than 14 days after the construction activity in that portion of the site has temporarily or permanently ceased.

(a) Where the initiation of stabilization measures by the 14th day after construction activity temporary or permanently cease is precluded by snow cover or frozen ground conditions, stabilization measures shall be initiated as soon as practicable.

(b) Where construction activity on a portion of the site is temporarily ceased, and earth disturbing activities will be resumed within 21 days, temporary stabilization measures do not have to be initiated on that portion of site.

(c) In arid areas (areas with an average annual rainfall of 0 to 10 inches), semi-arid areas (areas with an average annual rainfall of 10 to 20 inches), and areas experiencing droughts where the initiation of stabilization measures by the 14th day after construction activity has temporarily or permanently ceased is precluded by seasonal arid conditions, stabilization measures shall be initiated as soon as practicable.

(3) *Structural Practices:* The SWPPP must include a description of structural practices to divert flows from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable. Structural practices may include but are not limited to: silt fences, earth dikes, drainage swales, sediment traps, check dams, subsurface drains, pipe slope drains, level spreaders, storm drain inlet protection,

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rock outlet protection, reinforced soil retaining systems, gabions, and temporary or permanent sediment basins. Placement of structural practices in floodplains should be avoided to the degree attainable. The installation of these devices may be subject to section 404 of the CWA.

(a) For common drainage locations that serve an area with ten (10) or more acres disturbed at one time, a temporary (or permanent) sediment basin that provides storage for a calculated volume of runoff from a 2 year, 24 hour storm from each disturbed acre drained, or equivalent control measures, shall be provided where attainable until final stabilization of the site. Where no such calculation has been performed, a temporary (or permanent) sediment basin providing 3,600 cubic feet of storage per acre drained, or equivalent control measures, shall be provided where attainable until final stabilization of the site. When computing the number of acres draining into a common location it is not necessary to include flows from offsite areas and flows from onsite areas that are either undisturbed or have undergone final stabilization where such flows are diverted around both the disturbed area and the sediment basin.

In determining whether installing a sediment basin is attainable, the permittee may consider factors such as site soils, slope, available area on site, etc. In any event, the permittee must consider public safety, especially as it relates to children, as a design factor for the sediment basin and alternative sediment controls shall be used where site limitations would preclude a safe design. For drainage locations which serve ten (10) or more disturbed acres at one time and where a temporary sediment basin or equivalent controls is not attainable, smaller sediment basins and/or sediment traps should be used. Where neither the sediment basin nor equivalent controls are attainable due to site limitations, silt fences, vegetative buffer strips, or equivalent sediment controls are required for all down slope boundaries of the construction area and for those side slope boundaries deemed appropriate as dictated by individual site conditions. EPA encourages the use of a combination of sediment and erosion control measures in order to achieve maximum pollutant removal.

(b) For drainage locations serving less than 10 acres, smaller sediment basins and/or sediment traps should be used. At a minimum, silt fences, vegetative buffer strips, or equivalent sediment controls are required for all down slope boundaries (and for those side slope boundaries deemed appropriate as dictated by individual site conditions) of the construction area unless a sediment basin providing storage for a calculated volume of runoff from a 2 year, 24 hour storm or 3,600 cubic feet of storage per acre drained is provided. EPA encourages the use of a combination of sediment and erosion control measures in order to achieve maximum pollutant removal.

b. *Storm Water Management.* A description of measures that will be installed during the construction process to control pollutants in storm water discharges that will occur after construction operations have been completed must be included in the SWPPP. Structural measures should be placed on upland soils to the degree attainable. The installation of these devices may also require a separate permit under section 404 of the CWA. Permittees are only responsible for the installation and maintenance of storm water management measures prior to final stabilization of the site, and are not responsible for maintenance after storm water discharges associated with construction activity have been eliminated from the site. However, post-construction storm water BMPs that discharge pollutants from point sources once construction is completed may, in themselves, need authorization under a separate NPDES permit.

(1) Such practices may include but are not limited to: storm water detention structures (including wet ponds); storm water retention structures; flow attenuation by use of open vegetated swales and natural depressions; infiltration of runoff onsite; and sequential systems (which combine several practices). The SWPPP shall include an explanation of the technical basis used to select the practices to control pollution where flows exceed predevelopment levels.

(2) Velocity dissipation devices shall be placed at discharge locations and along the length of any outfall channel to provide a non-erosive flow velocity from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected (e.g., no significant changes in the hydrological regime of the receiving water).

c. *Other Controls.*

(1) No solid materials, including building materials, shall be discharged to waters of the United States, except as authorized by a permit issued under section 404 of the CWA.

(2) Off-site vehicle tracking of sediments and the generation of dust shall be minimized.

(3) The SWPPP shall be consistent with applicable State, Tribal and/or local waste disposal, sanitary sewer or septic system regulations to the extent these are located within the permitted area.

(4) The SWPPP shall include a description of construction and waste materials expected to be stored on-site with updates as appropriate. The SWPPP shall also include a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to storm water, and spill prevention and response.

(5) The SWPPP shall include a description of pollutant sources from areas other than construction (including storm water discharges from dedicated asphalt plants and dedicated concrete plants), and a description of controls and measures that will be implemented at those sites to minimize pollutant discharges.

(6) The SWPPP shall include a description of measures necessary to protect listed endangered or threatened species, or critical habitat, including any terms or conditions that are imposed under the eligibility requirements of Part I.B.3.e(4) of this permit. Failure to describe and implement such measures will result in storm water discharges from construction activities that are ineligible for coverage under this permit.

d. *Approved State, Tribal or Local Plans.*

(1) Permittees which discharge storm water associated with construction activities must ensure their storm water pollution prevention plan is consistent with requirements specified in applicable sediment and erosion site plans or site permits, or storm water management site plans or site permits approved by State, Tribal or local officials.

(2) Storm water pollution prevention plans must be updated as necessary to remain consistent with any changes applicable to protecting surface water resources in sediment and erosion site plans or site permits, or storm water management site plans or site permits approved by State, Tribal or local officials for which the permittee receives written notice.

3. Maintenance

All erosion and sediment control measures and other protective measures identified in the SWPPP must be maintained in effective operating condition. If site inspections required by Part IV.D.4. identify BMPs that are not operating effectively, maintenance shall be performed before the next anticipated storm event, or as necessary to maintain the continued effectiveness of storm water controls. If maintenance prior to the next anticipated storm event is impracticable, maintenance must be scheduled and accomplished as soon as practicable.

4. Inspections

Qualified personnel (provided by the permittee or cooperatively by multiple permittees) shall inspect disturbed areas of the construction site that have not been finally stabilized, areas used for storage of materials that are exposed to precipitation, structural control measures, and locations where vehicles enter or exit the site, at least once every fourteen (14) calendar days and within 24 hours of the end of a storm event of 0.5 inches or greater.

Where sites have been finally or temporarily stabilized, runoff is unlikely due to winter conditions (e.g., site is covered with snow, ice, or frozen ground exists), or during seasonal arid periods in arid areas (areas with an average annual rainfall of 0 to 10 inches) and semi-arid areas (areas with an average annual rainfall of 10 to 20 inches) such inspections shall be conducted at least once every month.

Permittees are eligible for a waiver of monthly inspection requirements until one month before thawing conditions are expected to result in a discharge if all of the following requirements are met: (1) the project is located in an area where frozen conditions are anticipated to continue for extended periods of time (i.e., more than one month); (2) land disturbance activities have been suspended; and (3) the beginning and ending dates of the waiver period are documented in the SWPPP.

a. Disturbed areas and areas used for storage of materials that are exposed to precipitation shall be inspected for evidence of, or the potential for, pollutants entering the drainage system. Sediment and erosion control measures identified in the SWPPP shall be observed to ensure that they are operating correctly. Where discharge locations or points are accessible, they shall be inspected to ascertain whether erosion control measures are effective in preventing significant impacts to receiving waters. Where discharge locations are inaccessible, nearby downstream locations shall be inspected to the extent that such inspections are practicable. Locations where vehicles enter or exit the site shall be inspected for evidence of offsite sediment tracking.

b. Based on the results of the inspection, the SWPPP shall be modified as necessary (e.g., show additional controls on map required by Part IV.D.1; revise description of controls required by Part IV.D.2) to include additional or modified BMPs designed to correct problems identified. Revisions to the SWPPP shall be completed within 7 calendar days following the inspection. If existing BMPs need to be modified or if additional BMPs are necessary, implementation shall be completed before the next anticipated storm event. If implementation before the next anticipated storm event is impracticable, they shall be implemented as soon as practicable.

c. A report summarizing the scope of the inspection, name(s) and qualifications of personnel making the inspection, the date(s) of the inspection, and major observations relating to the implementation of the SWPPP shall be made and retained as part of the SWPPP for at least three years from the date that the site is finally stabilized. Major observations should include: the location(s) of discharges of sediment or other pollutants from the site; location(s) of BMPs that need to be maintained; location(s) of BMPs that failed to operate as designed or proved inadequate for a particular location; and location(s) where additional BMPs are needed that did not exist at the time of inspection. Actions taken in accordance with Part IV.D.4.b of this permit shall be made and retained as part of the storm water pollution prevention plan for at least three years from the date that the site is finally stabilized. Such reports shall identify any incidents of non-compliance. Where a report does not identify any incidents of non-compliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part VI.G of this permit.

5. Non-Storm Water Discharges

Except for flows from fire fighting activities, sources of non-storm water listed in Part III.A.2 or 3 of this permit that are combined with storm water discharges associated with construction activity must be identified in the SWPPP. The SWPPP shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

Part V. Retention of Records

A. Documents

The permittee shall retain copies of storm water pollution prevention plans and all reports required by this permit, and records of all data used to complete the Notice of Intent to be covered by this permit, for a period of at least three years from the date that the site is finally stabilized. This period may be extended by request of the Director at any time.

B. Accessibility

The permittee shall retain a copy of the storm water pollution prevention plan required by this permit (including a copy of the permit language) at the construction site (or other local location accessible to the Director, a State, Tribal or local agency approving sediment and erosion plans, grading plans, or storm water management plans; local government officials; or the operator of a municipal separate storm sewer receiving discharges from the site) from the date of project initiation to the date of final stabilization. Permittees with day-to-day operational control over SWPPP implementation shall have a copy of the SWPPP available at a central location on-site for the use of all operators and those identified as having responsibilities under the SWPPP whenever they are on the construction site.

C. Addresses

Except for the submittal of NOIs and NOTs (see Parts II.C and VIII.B, respectively), all written correspondence concerning discharges in any State, Indian Country land or from any Federal facility covered under this permit and directed to the EPA, including the submittal of individual permit applications, shall be sent to the address listed below: United States EPA, Region 6, Storm Water Staff, Enforcement and Compliance Assurance Division (GEN-WC), EPA SW Construction GP, P.O. Box 50625, Dallas, TX 75205.

Part VI. Standard Permit Conditions

A. Duty To Comply

1. The Permittee Must Comply With All Conditions of This Permit

Any permit noncompliance constitutes a violation of CWA and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

2. Penalties for Violations of Permit Conditions

The Director will adjust the civil and administrative penalties listed below in accordance with the Civil Monetary Penalty Inflation Adjustment Rule (**Federal Register**: December 31, 1996, Volume 61, Number 252, pages 69359–69366, as corrected, March 20, 1997, Volume 62, Number 54, pages 13514–

13517) as mandated by the Debt Collection Improvement Act of 1996 for inflation on a periodic basis. This rule allows EPA's penalties to keep pace with inflation. The Agency is required to review its penalties at least once every four years thereafter and to adjust them as necessary for inflation according to a specified formula. The civil and administrative penalties listed below were adjusted for inflation starting in 1996.

a. *Criminal.*

(1) Negligent Violations. The CWA provides that any person who negligently violates permit conditions implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or both.

(2) Knowing Violations. The CWA provides that any person who knowingly violates permit conditions implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than $5,000 nor more than $50,000 per day of violation, or by imprisonment for not more than 3 years, or both.

(3) Knowing Endangerment. The CWA provides that any person who knowingly violates permit conditions implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act and who knows at that time that he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not more than $250,000, or by imprisonment for not more than 15 years, or both.

(4) False Statement. The CWA provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under the Act, shall upon conviction, be punished by a fine of not more than $10,000 or by imprisonment for not more than two years, or by both. If a conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $20,000 per day of violation, or by imprisonment of not more than four years, or by both. (See section 309.c.4 of the Clean Water Act).

b. *Civil Penalties.* The CWA provides that any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed $27,500 per day for each violation.

c. *Administrative Penalties.* The CWA provides that any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to an administrative penalty, as follows:

(1) *Class I Penalty.* Not to exceed $11,000 per violation nor shall the maximum amount exceed $27,500.

(2) *Class II Penalty.* Not to exceed $11,000 per day for each day during which the violation continues, nor shall the maximum amount exceed $137,500.

B. Continuation of the Expired General Permit

If this permit is not reissued or replaced prior to the expiration date, it will be administratively continued in accordance with the Administrative Procedures Act and remain in force and effect. Any permittee who was granted permit coverage prior to the expiration date will automatically remain covered by the continued permit until the *earlier* of:

1. Reissuance or replacement of this permit, at which time the permittee must comply with the Notice of Intent conditions of the new permit to maintain authorization to discharge; or
2. The permittee's submittal of a Notice of Termination; or
3. Issuance of an individual permit for the permittee's discharges; or
4. A formal permit decision by the Director not to reissue this general permit, at which time the permittee must seek coverage under an alternative general permit or an individual permit.

C. Need To Halt or Reduce Activity Not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

D. Duty To Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

E. Duty To Provide Information

The permittee shall furnish to the Director or an authorized representative of the Director any information which is requested to determine compliance with this permit or other information.

F. Other Information

When the permittee becomes aware that he or she failed to submit any relevant facts or submitted incorrect information in the Notice of Intent or in any other report to the Director, he or she shall promptly submit such facts or information.

G. Signatory Requirements

All Notices of Intent, Notices of Termination, storm water pollution prevention plans, reports, certifications or information either submitted to the Director or the operator of a large or medium municipal separate storm sewer system, or that this permit requires be maintained by the permittee, shall be signed as follows:

1. All Notices of Intent and Notices of Termination shall be signed as follows:

a. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or the manager of one or more manufacturing, production or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25,000,000 (in second-quarter 1980 dollars) if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

c. For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes (1) the chief executive officer of the agency, or (2) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

2. All reports required by this permit and other information requested by the Director or authorized representative of the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

a. The authorization is made in writing by a person described above and submitted to the Director.

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of manager, operator, superintendent, or position of equivalent responsibility or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position).

c. *Changes to Authorization.* If an authorization under Part II.B is no longer accurate because a different operator has responsibility for the overall operation of the construction site, a new Notice of Intent satisfying the requirements of Part II.B must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative. The change in authorization must be submitted within the time frame specified in Part II.A.3, and sent to the address specified in Part II.C.

d. *Certification.* Any person signing documents under Part VI.G shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

H. Penalties for Falsification of Reports

Section 309(c)(4) of the Clean Water Act provides that any person who knowingly makes any false material statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than two years, or by both.

I. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under section 311 of the CWA or section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).

J. Property Rights

The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges, nor does it authorize any injury to private property nor any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

K. Severability

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby.

L. Requiring an Individual Permit or an Alternative General Permit

1. The Director may require any person authorized by this permit to apply for and/or obtain either an individual NPDES permit or an alternative NPDES general permit. Any interested person may petition the Director to take action under this paragraph. Where the Director requires a permittee authorized to discharge under this permit to apply for an individual NPDES permit, the Director shall notify the permittee in writing that a permit application is required. This notification shall include a brief statement of the reasons for this decision, an application form, a statement setting a deadline for the permittee to file the application, and a statement that on the effective date of issuance or denial of the individual NPDES permit or the alternative general permit as it applies to the individual permittee, coverage under this general permit shall automatically terminate. Applications shall be submitted to the appropriate Regional Office indicated in Part V.C of this permit. The Director may grant additional time to submit the application upon request of the applicant. If a permittee fails to submit in a timely manner an individual NPDES permit application as required by the Director under this paragraph, then the applicability of this permit to the individual NPDES permittee is automatically terminated at the end of the day specified by the Director for application submittal.

2. Any permittee authorized by this permit may request to be excluded from the coverage of this permit by applying for an individual permit. In such cases, the permittee shall submit an individual application in accordance with the requirements of 40 CFR 122.26(c)(1)(ii), with reasons supporting the request, to the Director at the address for the appropriate Regional Office indicated in Part V.C of this permit. The request may be granted by issuance of any individual permit or an alternative general permit if the reasons cited by the permittee are adequate to support the request.

3. When an individual NPDES permit is issued to a permittee otherwise subject to this permit, or the permittee is authorized to discharge under an alternative NPDES general permit, the applicability of this permit to the individual NPDES permittee is automatically terminated on the effective date of the individual permit or the date of authorization of coverage under the alternative general permit, whichever the case may be. When an individual NPDES permit is denied to an owner or operator otherwise subject to this permit, or the owner or operator is denied for coverage under an alternative NPDES general permit, the applicability of this permit to the individual NPDES permittee is automatically terminated on the date of such denial, unless otherwise specified by the Director.

M. State/Tribal Environmental Laws

1. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State/Tribal law or regulation under authority preserved by section 510 of the Act.

2. No condition of this permit shall release the permittee from any responsibility or requirements under other environmental statutes or regulations.

N. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit and with the requirements of storm water pollution prevention plans. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed by a permittee only when necessary to achieve compliance with the conditions of this permit.

O. Inspection and Entry

The permittee shall allow the Director or an authorized representative of EPA, the State/Tribe, or, in the case of a construction site which discharges

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through a municipal separate storm sewer, an authorized representative of the municipal owner/operator or the separate storm sewer receiving the discharge, upon the presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit;

2. Have access to and copy at reasonable times, any records that must be kept under the conditions of this permit; and

3. Inspect at reasonable times any facilities or equipment (including monitoring and control equipment).

P. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

Part VII. Reopener Clause

A. If there is evidence indicating that the storm water discharges authorized by this permit cause, have the reasonable potential to cause or contribute to, a violation of a water quality standard, the permittee may be required to obtain an individual permit or an alternative general permit in accordance with Part I.C of this permit, or the permit may be modified to include different limitations and/or requirements.

B. Permit modification or revocation will be conducted according to 40 CFR 122.62, 122.63, 122.64 and 124.5.

C. EPA may propose a modification to this permit after further discussions between the Agency and the Advisory Council on Historic Preservation for the protection of historic properties.

Part VIII. Termination of Coverage

A. Notice of Termination

Permittees must submit a completed Notice of Termination (NOT) that is signed in accordance with Part VI.G of this permit when one or more of the conditions contained in Part I.D.2. (Terminating Coverage) have been met at a construction project. The NOT form found in Addendum D will be used unless it has been replaced by a revised version by the Director. The Notice of Termination shall include the following information:

1. The NPDES permit number for the storm water discharge identified by the Notice of Termination;

2. An indication of whether the storm water discharges associated with construction activity have been eliminated (i.e., regulated discharges of storm water are being terminated) or the permittee is no longer an operator at the site;

3. The name, address and telephone number of the permittee submitting the Notice of Termination;

4. The name of the project and street address (or a description of location if no street address is available) of the construction site for which the notification is submitted;

5. The latitude and longitude of the construction site; and

6. The following certification, signed in accordance with Part VI.G (signatory requirements) of this permit. For construction projects with more than one permittee and/or operator, the permittee need only make this certification for those portions of the construction site where the permittee was authorized under this permit and not for areas where the permittee was not an operator:

"I certify under penalty of law that all storm water discharges associated with industrial activity from the identified facility that authorized by a general permit have been eliminated or that I am no longer the operator of the facility or construction site. I understand that by submitting this notice of termination, I am no longer authorized to discharge storm water associated with industrial activity under this general permit, and that discharging pollutants in storm water associated with industrial activity to waters of the United States is unlawful under the Clean Water Act where the discharge is not authorized by a NPDES permit. I also understand that the submittal of this Notice of Termination does not release an operator from liability for any violations of this permit or the Clean Water Act."

For the purposes of this certification, elimination of storm water discharges associated with construction activity means that all disturbed soils at the portion of the construction site where the operator had control have been finally stabilized (as defined in Part IX.I) and temporary erosion and sediment control measures have been removed or will be removed at an appropriate time to ensure final stabilization is maintained, or that all storm water discharges associated with construction activities from the identified site that are authorized by a NPDES general permit have otherwise been eliminated from the portion of the construction site where the operator had control.

B. Addresses

1. All Notices of Termination, signed in accordance with Part VI.G of this permit, are to be submitted using the form provided by the Director (or a photocopy thereof), to the address specified on the NOT form.

Part IX. Definitions

A. *Best Management Practices* ("BMPs") means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

B. *Control Measure* as used in this permit, refers to any Best Management Practice or other method used to prevent or reduce the discharge of pollutants to waters of the United States.

C. *Commencement of Construction* the initial disturbance of soils associated with clearing, grading, or excavating activities or other construction activities.

D. *CWA* means the Clean Water Act or the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.*

E. *Director* means the Regional Administrator of the Environmental Protection Agency or an authorized representative.

F. *Discharge* when used without qualification means the "discharge of a pollutant."

G. *Discharge of Storm Water Associated With Construction Activity* as used in this permit, refers to a discharge of pollutants in storm water runoff from areas where soil disturbing activities (e.g., clearing, grading, or excavation), construction materials or equipment storage or maintenance (e.g., fill piles, borrow areas, concrete truck washout, fueling), or other industrial storm water directly related to the construction process (e.g., concrete or asphalt batch plants) are located.

H. *Facility or Activity* means any NPDES "point source" or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the NPDES program.

I. *Final Stabilization* means that either:

1. All soil disturbing activities at the site have been completed and a uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover with a density of 70% of the native background vegetative cover for the area

has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed. In some parts of the country, background native vegetation will cover less than 100% of the ground (e.g., arid areas, beaches). Establishing at least 70% of the natural cover of native vegetation meets the vegetative cover criteria for final stabilization (e.g., if the native vegetation covers 50% of the ground, 70% of 50% would require 35% total cover for final stabilization; on a beach with no natural vegetation, no stabilization is required); or

2. For individual lots in residential construction by either: (a) the homebuilder completing final stabilization as specified above, or (b) the homebuilder establishing temporary stabilization including perimeter controls for an individual lot prior to occupation of the home by the homeowner and informing the homeowner of the need for, and benefits of, final stabilization. (Homeowners typically have an incentive to put in landscaping functionally equivalent to final stabilization as quick as possible to keep mud out of their homes and off their sidewalks and driveways.); or

3. For construction projects on land used for agricultural purposes (e.g., pipelines across crop or range land), final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to "waters of the United States," and areas which are not being returned to their preconstruction agricultural use must meet the final stabilization criteria in (1) or (2) above.

J. *Flow-Weighted Composite Sample* means a composite sample consisting of a mixture of aliquots collected at a constant time interval, where the volume of each aliquot is proportional to the flow rate of the discharge.

K. *Large and Medium Municipal Separate Storm Sewer System* means all municipal separate storm sewers that are either:

1. Located in an incorporated place (city) with a population of 100,000 or more as determined by the latest Decennial Census by the Bureau of Census (these cities are listed in Appendices F and G of 40 CFR 122); or

2. Located in the counties with unincorporated urbanized populations of 100,000 or more, except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties (these counties are listed in Appendices H and I of 40 CFR 122); or

3. Owned or operated by a municipality other than those described in paragraph (i) or (ii) and that are designated by the Director as part of the large or medium municipal separate storm sewer system.

L. *NOI* means Notice of Intent to be covered by this permit (see Part II of this permit).

M. *NOT* means Notice of Termination (see Part VIII of this permit).

N. *Operator* for the purpose of this permit and in the context of storm water associated with construction activity, means any party associated with a construction project that meets either of the following two criteria:

1. The party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or

2. The party has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a storm water pollution prevention plan for the site or other permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the SWPPP or comply with other permit conditions).

This definition is provided to inform permittees of EPA's interpretation of how the regulatory definitions of "owner or operator" and "facility or activity" are applied to discharges of storm water associated with construction activity.

O. *Owner or operator* means the owner or operator of any "facility or activity" subject to regulation under the NPDES program.

P. *Point Source* means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.

Q. *Pollutant* is defined at 40 CFR 122.2. A partial listing from this definition includes: dredged spoil, solid waste, sewage, garbage, sewage sludge, chemical wastes, biological materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial or municipal waste.

R. *Runoff coefficient* means the fraction of total rainfall that will appear at the conveyance as runoff.

S. *Storm Water* means storm water runoff, snow melt runoff, and surface runoff and drainage.

T. *Storm Water Associated With Industrial Activity* is defined at 40 CFR 122.26(b)(14) and incorporated here by reference. Most relevant to this permit is 40 CFR 122.26(b)(14)(x), which relates to construction activity including clearing, grading and excavation activities that result in the disturbance of five (5) or more acres of total land area, or are part of a larger common plan of development or sale.

U. *Waters of the United States* means:

1. All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

2. All interstate waters, including interstate "wetlands";

3. All other waters such as interstate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:

a. Which are or could be used by interstate or foreign travelers for recreational or other purposes;

b. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or

c. Which are used or could be used for industrial purposes by industries in interstate commerce;

4. All impoundments of waters otherwise defined as waters of the United States under this definition;

5. Tributaries of waters identified in paragraphs (a) through (d) of this definition;

6. The territorial sea; and

7. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs 1. through 6. of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the CWA (other than cooling ponds for steam electric generation stations per 40 CFR 423 which also meet the criteria of this definition) are not waters of the United States. Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean

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Water Act jurisdiction remains with EPA.

Part X. Permit Conditions Applicable to Specific States and Indian Country Lands

The provisions of this Part provide additions to the applicable conditions of Parts I through IX of this permit to reflect specific additional conditions required as part of the State or Tribal CWA Section 401 certification process. The additional revisions and requirements listed below are set forth in connection with, and only apply to, the following States and Indian Country lands.

1. LAR10##I: Indian Country Lands in the State of Louisiana*

No additional requirements.

2. NMR10###: The State of New Mexico, Except Indian Country Lands*

No additional requirements.

3. NMR10##I: Indian Country Lands in the State of New Mexico, Except Navajo Reservation Lands (see Region 9) and Ute Mountain Reservation Lands (see Region 8)*

a. *Pueblo of Isleta.* Copies of Notices of Intent (NOI), Notices of Termination (NOT), and Storm Water Pollution Prevention Plans (SWPPPs) must be submitted to the Pueblo of Isleta's Environment Department, Water Quality Program.

(1) Part II.C.2 of the permit is added as follows:

Special NOI Requirements for the Pueblo of Isleta. NOIs shall also be submitted to the Pueblo of Isleta's Environment Department, Water Quality Program, concurrently with their submission to EPA at the following address: Isleta Environment Department, Water Quality Program, Pueblo of Isleta, PO Box 1270, Isleta, New Mexico 87022.

(2) Part VIII.B.2 is added to the permit as follows:

Special NOI Requirements for the Pueblo of Isleta. NOTs shall also be submitted to the Pueblo of Isleta's Environment Department, Water Quality Program, concurrently with their submission to EPA. NOTs are to be sent to the address given in Part II.C.2.

(3) Part IV.A.3 is added to the permit as follows:

Special Storm Water Pollution Prevention Plan Requirements for the Pueblo of Isleta. Storm water pollution prevention plans must be submitted to the Pueblo of Isleta Environment Department, Water Quality Program, ten working days prior to commencing the project on Pueblo of Isleta tribal lands. SWPPPs are to be sent to the address given in Part II.C.2.

b. *Pueblo of Nambe.* Copies of Notices of Intent (NOI), Notices of Termination (NOT), and Storm Water Pollution Prevention Plans (SWPPPs) must be submitted to the Pueblo of Nambe Department of Environment and Natural Resources.

(1) Part II.C.2 is added to the permit as follows:

Special NOI Requirements for the Pueblo of Nambe. NOIs shall also be submitted to the Pueblo of Nambe Department of Environment and Natural Resources at the same time they are submitted to EPA at the following address: Pueblo of Nambe, Department of Environment and Natural Resources, Route 1 Box 11788, Santa Fe, New Mexico 87501, Phone (505) 455–2036, Fax (505) 455–2038.

(2) Part VIII.B.2 is added to the permit as follows:

Special NOT Requirements for the Pueblo of Nambe. NOTs shall also be submitted to the Pueblo of Nambe Department of Environment and Natural Resources at the same time they are submitted to EPA. NOTs are to be sent to the address given in Part II.C.2.

(3) Part IV.A.3 is added to the permit as follows:

Special Storm Water Pollution Prevention Plan Requirements for the Pueblo of Nambe. Storm water pollution prevention plans must be submitted to the Pueblo of Nambe Department of Environment and Natural Resources before the project on Pueblo of Nambe tribal lands begins. SWPPPs are to be sent to the address given in Part II.C.2.

c. *Pueblo of Picuris.* Copies of Notices of Intent (NOI), Notices of Termination (NOT), and Storm Water Pollution Prevention Plans (SWPPPs) must be submitted to the Pueblo of Picuris Environment Department.

(1) Part II.C.2 is added to the permit as follows:

Special NOI Requirements for the Pueblo of Picuris. NOIs shall also be submitted to the Pueblo of Picuris Environment Department at the same time they are submitted to EPA at the following address: Pueblo of Picuris, Environment Department, P.O. Box 127, Penasco, New Mexico 87553, Phone (505) 587–2519, Fax (505) 587–1071.

(2) Part VIII.B.2 is added to the permit as follows:

Special NOT Requirements for the Pueblo of Picuris. NOTs shall also be submitted to the Pueblo of Picuris Environment Department at the same time they are submitted to EPA. NOTs are to be sent to the address given in Part II.C.2.

(3) Part IV.A.3 is added to the permit as follows:

Special Storm Water Pollution Prevention Plan Requirements for the Pueblo of Picuris. Storm water pollution prevention plans must be submitted to the Picuris Environment Department before the project on Pueblo of Picuris tribal lands begins. SWPPPs are to be sent to the address given in Part II.C.2.

d. *Pueblo of Pojoaque.* Copies of Notices of Intent (NOI), Notices of Termination (NOT), and Storm Water Pollution Prevention Plans (SWPPPs) must be submitted to the Pueblo of Pojoaque Environment Department Director.

(1) Part II.C.2 is added to the permit as follows:

Special NOI Requirements for the Pueblo of Pojoaque. NOIs shall also be submitted to the Pueblo of Pojoaque Environment Department Director at the same time they are submitted to EPA at the following address: Pueblo of Pojoaque, Environment Department, Route 11, P.O. Box 208, Santa Fe, New Mexico 87501, Phone (505) 455–3383, Fax (505) 455–3633.

(2) Part VIII.B.2 of the permit is added as follows:

Special NOT Requirements for the Pueblo of Pojoaque. NOTs shall also be submitted to the Pueblo of Pojoaque Environment Department Director at the same time they are submitted to EPA. NOTs are to be sent to the address given in Part II.C.2.

(3) Part IV.A.3 is added to the permit as follows:

Special Storm Water Pollution Prevention Plan Requirements for the Pueblo of Pojoaque. Storm water pollution prevention plans must be submitted to the Pueblo of Pojoaque Environment Department Director before the project on Pueblo of Pojoaque tribal lands begins. SWPPPs are to be sent to the address given in Part II.C.2.

e. *Pueblo of San Juan.* No additional requirements.

f. *Pueblo of Sandia.* Copies of Notices of Intent (NOI), Notices of Termination (NOT), and Storm Water Pollution Prevention Plans (SWPPPs) must be submitted to the Pueblo of Sandia Environment Department.

(1) Part II.C.2 of the permit is added as follows:

Special NOI Requirements for the Pueblo of Sandia. NOIs shall also be submitted to the Pueblo of Sandia Environment Department at the same time they are submitted to EPA at the following address: Pueblo of Sandia, Environment Department, Box 6008, Bernalillo, New Mexico 87004, Phone (505) 867–4533; Fax (505) 867–9235.

(2) Part VIII.B.2 is added to the permit as follows:

Special NOT Requirements for the Pueblo of Sandia. NOTs shall also be submitted to the Pueblo of Sandia Environment Department at the same time they are submitted to EPA. NOTs are to be sent to the address given in Part II.C.2.

(3) Part IV.A.3 is added to the permit as follows:

Special Storm Water Pollution Prevention Plan Requirements for the Pueblo of Sandia. Storm water pollution prevention plans must be submitted to the Pueblo of Sandia Environment Department before commencement of the project on Pueblo of Sandia tribal lands. SWPPPs are to be sent to the address given in Part II.C.2.

g. *Pueblo of Tesuque.* Copies of Notices of Intent (NOI), Notices of Termination (NOT), Storm Water Pollution Prevention Plans (SWPPPs), inspection reports, all certifications and "other information" must be submitted, by hand delivery or certified mail, to the Pueblo of Tesuque.

(1) Part II.C.2 of the permit is added as follows:

Special NOI Requirements for the Pueblo of Tesuque. NOIs shall also be submitted to the Pueblo of Tesuque at least five (5) days prior to any ground disturbing activity at the following address: Pueblo of Tesuque, Environment Department, Route 5, Box 3260–T, Santa Fe, New Mexico 87501, Phone (505) 983–2667; Fax (505) 982–2331.

(2) Part VIII.B.2 is added to the permit as follows:

Special NOT Requirements for the Pueblo of Tesuque. NOTs shall also be submitted to the Pueblo of Tesuque at the same time they are submitted to EPA. NOTs are to be sent to the address given in Part II.C.2.

(3) Part IV.A.3 is added to the permit as follows:

Special Storm Water Pollution Prevention Plan Requirements for the Pueblo of Tesuque. Storm water pollution prevention plans must be submitted to the Pueblo of Tesuque at least five (5) days prior to any ground disturbing activity on Pueblo of Tesuque tribal lands. SWPPPs are to be sent to the address given in Part II.C.2.

(4) Part V.D is added to the permit as follows:

Special Reporting Requirements for the Pueblo of Tesuque. Copies of all certifications required by Section IV.D, and copies of "other information" required by Section VI.F shall be provided to the Pueblo of Tesuque, by hand delivery or certified mail. Also, copies of all inspection reports required under Section IV.D.4.c. shall be submitted within five (5) days of completion of the inspection. All information sent to the Pueblo of Tesuque is to be sent to the address given in Part II.C.2.

h. *Santa Clara Pueblo.* Copies of Notices of Intent (NOI) and Notices of Termination (NOT) must be submitted to the Santa Clara Pueblo Governors Office with a copy to the Office of Environmental Affairs.

(1) Part I.C.4. is added to the permit as follows:

Special Authorization Requirements for the Santa Clara Pueblo. Prior to submitting a Notice of Intent, the operator must obtain permission from the Santa Clara Governors Office to do the construction. If the project is approved by the tribal administration, the operator may proceed with submitting a Notice of Intent (NOI).

(2) Part II.C.2 is added to the permit as follows:

Special NOI Requirements for the Santa Clara Pueblo. NOIs shall also be submitted to the Santa Clara Pueblo Governors Office with a copy to the Office of Environmental Affairs at least two (2) weeks prior to the start of construction at the following address: Santa Clara Governors Office, PO Box 580, Espanola, New Mexico 87532, Phone (505) 753–7326; Fax (505) 753–8988.

(3) Part VIII.B.2 is added to the permit as follows:

Special NOT Requirements for the Santa Clara Pueblo. NOTs shall also be submitted to the Santa Clara Pueblo Governors Office with a copy to the Office of Environmental Affairs at least two (2) weeks prior to the start of construction. NOTs are to be sent to the address given in Part II.C.2.

i. All Other Indian Country lands in New Mexico. No additional requirements.

4. OKR10##I: Indian Country Lands in the State of Oklahoma*

No additional requirements.

5. OKR10##F: Oil and Gas Sites in the State of Oklahoma*

No additional requirements.

6. TXR10###: The State of Texas, Except Indian Country Lands*

a. Part III of the permit is modified as follows: Change the title of Part III. (*Special Conditions, Management Practices, and other Non-Numeric Limitations*) to: *Part III. Special Conditions, Management Practices, and other Limitations.*

b. Part III.G is added to the permit as follows:

Special Numeric Limitations for Discharges from Ready-Mixed Concrete Plants in the State of Texas, except Indian Country lands. All discharges of storm water from ready-mixed concrete plants covered by this permit must comply with the following limitations:

pH—Between 6.0 and 9.0 standard units
Oil and Grease—15 mg/l as a daily maximum
Total Suspended Solids—65 mg/l as a daily maximum

These limitations must be taken into account when designing the storm water control measures to be used for areas draining any ready-mixed concrete plants operated by the permittee.

7. TXR10##I: Indian Country Lands in the State of Texas*

No additional requirements.

Addendum A—Endangered Species

I. Instructions for Applicants

A. Background

To meet its obligations under the Clean Water Act and the Endangered Species Act (ESA) and to promote those Acts' goals, the Environmental Protection Agency (EPA) is seeking to ensure the activities regulated by the Construction General Permit (CGP) are protective of endangered and threatened species and critical habitat. To ensure that those goals are met, applicants for CGP coverage are required under Part I.B.3.e. to assess the impacts of their storm water discharges and storm water discharge-related activities on Federally listed endangered and threatened species ("listed species") and designated critical habitat ("critical habitat") by following Steps One through Six listed below. EPA strongly recommends that applicants follow these steps at the earliest possible stage to ensure that measures to protect listed species and critical habitat are incorporated early in the planning process. At minimum, the procedures should be followed when developing the storm water pollution prevention plan.

Permittees and applicants also have an independent ESA obligation to ensure that their activities do not result in any prohibited "takes" of listed species.[1] Many of the measures required in the CGP and in these instructions to protect species may also assist permittees in ensuring that their construction activities do not result in a prohibited take of species in violation of § 9 of the ESA. Applicants who plan construction activities in areas that harbor endangered and threatened species are advised to ensure that

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[1] Section 9 of the ESA prohibits any person from "taking" a listed species (e.g., harassing or harming it) unless: (1) the taking is authorized through a "incidental take statement" as part of undergoing ESA § 7 formal consultation; (2) where an incidental take permit is obtained under ESA § 10 (which requires the development of a habitat conservation plan); or (3) where otherwise authorized or exempted under the ESA. This prohibition applies to all entities including private individuals, businesses, and governments.

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they are protected from potential takings liability under ESA §9 by obtaining either an ESA §10 permit or by requesting formal consultation under ESA §7 (as described in more detail in Step Seven below). Applicants who seek protection from takings liability should be aware that it is possible that some specific construction activities may be too unrelated to storm water discharges to be afforded incidental take coverage through an ESA §7 consultation that is performed to meet the eligibility requirements for CGP coverage. In such instances, applicants should apply for an ESA §10 permit. Where applicants are not sure whether to pursue a §10 permit or a §7 consultation for takings protection, they should confer with the appropriate Fish and Wildlife Service (FWS) or National Marine Fisheries Service (NMFS) office.

This permit provides for the possibility of multiple permittees at a construction site. Applicants should be aware that in many cases they can meet the permit eligibility requirements by relying on another operator's certification of eligibility under Part I.B.3.e.(2)(a), (b), or (c). This is allowed under Part I.B.3.e.(2)(d) of the permit. However, the other operator's certification must apply to the applicant's project area and must address the effects from the applicant's storm water discharges and storm water discharge-related activities on listed species and critical habitat. By certifying eligibility under Part I.B.3.e.(2)(d), the applicant agrees to comply with any measures or controls upon which the other operator's certification under Part I.B.3.e.(2)(a), (b) or (c) was based. This situation will typically occur where a developer or primary contractor, such as one for construction of a subdivision or industrial park, conducts a comprehensive assessment of effects on listed species and critical habitat for the entire construction project, certifies eligibility under Part I.B.3.e.(2)(a), (b) or (c), and that certification is relied upon by other operators (i.e., contractors) at the site. However, applicants that consider relying on another operator's certification should carefully review that certification along with any supporting information. If an applicant does not believe that the operator's certification provides adequate coverage for the applicant's storm water discharges and storm water discharge-related activities or for the applicant's particular project area, the applicant should provide its own independent certification under Part I.B.3.e.(2)(a), (b), or (c).

B. Procedures

To receive coverage under the Construction General Permit, applicants must assess the potential effects of their storm water discharges and storm water discharge-related activities on listed species and their critical habitat. To make this assessment, applicants must follow the steps outlined below prior to completing and submitting Notice of Intent (NOI) form. Applicants who are able to certify eligibility under Parts I.B.3.e.(2)(b), (c) or (d) because of a previously issued ESA §10 permit, a previously completed ESA §7 consultation, or because the applicant's activities were already addressed in another operator's certification of eligibility may proceed directly to Step Six.

Note.—The revised NOI form which was included in the CGP (*see* 62 FR 29822–29823, June 2, 1997) requires that applicants provide detailed certification information on listed species. That form is still under development and is not expected to be finalized before this permit is issued. Until the revised NOI form is finalized, applicants must use the existing NOI form which does not contain the specific certification provisions relating to listed species and critical habitats at construction projects. However, use of the existing NOI form does not relieve applicants of their obligation to follow the procedures listed below to determine if their construction storm water discharges or storm water discharge-related activities meet permit eligibility requirements for the protection of listed species and critical habitat. By following these instructions, applicants will have sufficient information on listed species and critical habitat in order to complete either the existing or revised NOI form and sign the certification statement.

Step One: Determine if the Construction Site Is Found Within Designated Critical Habitat for Listed Species

Some, but not all, listed species have designated critical habitat. Exact locations of such habitat is provided in the Service regulations at 50 CFR Parts 17 and 226. To determine if their construction site occurs within designated critical habitat, applicants should either:

- Contact the nearest Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NMFS) Office. A list of FWS and NMFS offices is found in Section II of this Addendum; or
- Contact the State or Tribal Natural Heritage Centers. These centers compile and disseminate information on Federally listed and other protected species. They frequently have the most current information on listed species and critical habitat. A list of these centers is provided in Section III of this Addendum; or
- Review those regulations (which can be found in many larger libraries).

If the construction site is not located in designated critical habitat, then the applicant does not need to consider impacts to critical habitat when following Steps Two through Six below. If the site is located within critical habitat, then the applicant must look at impacts to critical habitat when following Steps Two through Six. Note that many but not all measures imposed to protect listed species under these steps will also protect critical habitat. Thus, meeting the eligibility requirements of this permit may require measures to protect critical habitat that are separate from those to protect listed species.

Step Two: Determine if Listed Species Are Located in the County(ies) Where the Construction Activity Will Occur

Section IV of the Addendum contains a county-by-county list of listed endangered and threatened species ("listed species"), and proposed endangered and threatened species ("proposed species"). Since the list was current as of September 1, 1997, applicants must also check with other sources for updated species and county information. These sources include: Sections II and III of this Addendum; EPA's Office of Wastewater Management's web page at "http://www.epa.gov/owm" where updates of the county-by-county list will be posted on a periodic basis; **Federal Register** Notices; State wildlife protection offices; a biologist or similar professional in the environmental field; or any other method which can be reasonably expected to provide this information. Applicants with construction projects located in EPA Region 2 and Region 6 can call the Storm Water General Permits Hotline at (800) 245–6510 for further assistance, while applicants with projects located in EPA Regions 1, 3, 7, 8, 9 and 10 may contact the appropriate EPA Regional Office.

Where a facility is located in more than one county, the lists for all counties should be reviewed. Where a facility discharges into a water body which serves as a border between counties or which crosses a county line which is in the immediate vicinity of the point of discharge, applicants should also review the species list for the county which lies immediately downstream or is across the water body from the point of discharge.

After a review of the available information from the sources mentioned above, if no listed species are located in a facility's county or if a facility's county is not listed, and the construction site is not located in critical habitat as described under Step One, an applicant is eligible for CGP coverage without further inquiry into the presence of, or effect to, listed species. The applicant must check the appropriate certification item on the revised NOI form (Part I.B.3.e.(2)(a)).

Once the applicant has determined which listed species are located in his or her facility's county, the applicant must follow Step Three.

Step Three: Determine if any Federally Listed Endangered and Threatened Species May Be Present in the Project Area

The project area consists of:

- The areas on the construction site where storm water discharges originate and flow toward the point of discharge into the receiving waters (including areas where excavation, site development, or other ground disturbance activities occur) and the immediate vicinity.

Example(s)

1. Where bald eagles nest in a tree that is on or bordering a construction site and could be disturbed by the construction activity.
2. Where grading causes storm water to flow into a small wetland or other habitat that is on the site which contains listed species.

- The areas where storm water discharges flow from the construction site to the point of discharge into receiving waters.

Example(s)

1. Where storm water flows into a ditch, swale, or gully which leads to receiving waters and where listed species (such as amphibians) are found in the ditch, swale, or gully.

- The areas where storm water from construction activities discharge into receiving waters and the areas in the immediate vicinity of the point of discharge.

Example(s)

1. Where storm water from construction activities discharges into a stream segment that is known to harbor listed aquatic species.

- The areas where storm water BMPs will be constructed and operated, including any areas where storm water flows to and from BMPs.

Example(s)

1. Where a storm water retention pond would be built.

The project area will vary with the size and structure of the construction activity, the nature and quantity of the storm water discharges, the storm water discharge-related activities and the type of receiving water. Given the number of construction activities potentially covered by the CGP, no specific method to determine whether listed species may be located in the project area is required for coverage under the CGP. Instead, applicants should use the method which allows them to determine, to the best of their knowledge, whether listed species are located in their project area. These methods may include:

- Conducting visual inspections: This method may be particularly suitable for construction sites that are smaller in size or located in non-natural settings such as highly urbanized areas or industrial parks where there is little or no natural habitat, or for construction activities that discharge directly into municipal storm water collection systems.
- Contacting the nearest State or Tribal wildlife agency, the Fish and Wildlife Service (FWS), or the National Marine Fisheries Service (NMFS). Many endangered and threatened species are found in well-defined areas or habitats. Such information is frequently known to State, Tribal, or Federal wildlife agencies. A list of FWS and NMFS offices is provided in Section II of this Addendum below.
- Contacting local/regional conservation groups or the State or Tribal Natural Heritage Centers (see Section III of this Addendum). State and local conservation groups may have location specific listed species information. The Natural Heritage Centers inventory species and their locations and maintain lists of sightings and habitats.
- Submitting a data request to a Natural Heritage Center. Many of these centers will provide site specific information on the presence of listed species in a project area. Some of these centers will charge a fee for researching data requests.
- Conducting a formal biological survey. Larger construction sites with extensive storm water discharges may choose to conduct biological surveys as the most effective way to assess whether species are located in the project area and whether there are likely adverse effects. Biological surveys are frequently performed by environmental consulting firms. A biological survey can be used to follow Steps Four through Six of these instructions.
- Conducting an environmental assessment under the National Environmental Policy Act (NEPA). Some construction activities may require environmental assessments under NEPA. Such assessments may indicate if listed species are in the project area. Coverage under the CGP does not trigger such an assessment because the permit does not regulate any dischargers subject to New Source Performance Standards under Section 306 of the Clean Water Act, and is thus statutorily exempted from NEPA. *See* CWA § 511(c). However, some construction activities might require review under NEPA because of Federal funding or other Federal involvement in the project.

If no species are found in the project area, an applicant is eligible for CGP coverage. Applicants must provide the necessary certification on the revised NOI form. If listed species are found in the project area, applicants must indicate the location and nature of this presence in the storm water pollution prevention plan and follow Step Four.

Step Four: Determine if Listed Species or Critical Habitat Are Likely To Be Adversely Affected by the Construction Activity's Storm Water Discharges or Storm Water Discharge-Related Activities

To receive CGP coverage, applicants must assess whether their storm water discharges or storm water discharge-related activities are likely to adversely affect listed species or critical habitat. "Storm water discharge-related activities" include:

- Activities which cause, contribute to, or result in point source storm water pollutant discharges, including but not limited to excavation, site development, grading, and other surface disturbance activities; and
- Measures to control storm water discharges including the siting, construction, operation of best management practices (BMPs) to control, reduce or prevent storm water pollution.

Potential adverse effects from storm water discharges and storm water discharge-related activities include:

- *Hydrological.* Storm water discharges may cause siltation, sedimentation or induce other changes in receiving waters such as temperature, salinity or pH. These effects will vary with the amount of storm water discharged and the volume and condition of the receiving water. Where a storm water discharge constitutes a minute portion of the total volume of the receiving water, adverse hydrological effects are less likely. Construction activity itself may also alter drainage patterns on a site where construction occurs which can impact listed species or critical habitat.
- *Habitat.* Excavation, site development, grading, and other surface disturbance activities from construction activities, including the installation or placement of storm water BMPs, may adversely affect listed species or their habitat. Storm water may drain or inundate listed species habitat.
- *Toxicity.* In some cases, pollutants in storm water may have toxic effects on listed species.

The scope of effects to consider will vary with each site. If the applicant is having difficulty in determining whether his or her project is likely to adversely Affect a listed species or critical habitat, then the appropriate office of the FWS, NMFS or Natural Heritage Center listed in Sections II and III of this Addendum should be contacted for assistance. If adverse effects are not likely, then the applicant should make the appropriate certification on the revised NOI form and apply for coverage under the permit. If adverse effects are likely, applicants must follow Step Five.

Step Five: Determine if Measures Can Be Implemented To Avoid Any Adverse Effects

If an applicant makes a preliminary determination that adverse effects are likely, it can still receive coverage under Part I.B.3.e.(2)(a) of the CGP if appropriate measures are undertaken to avoid or eliminate the likelihood of adverse effects prior to applying for permit coverage. These measures may involve relatively simple changes to construction activities such as re-routing a storm water discharge to bypass an area where species are located, relocating BMPs, or by changing the "footprint" of the construction activity. Applicants may wish to contact the FWS and/or NMFS to see what appropriate measures might be suitable to avoid or eliminate the likelihood of adverse impacts to listed species and/or critical habitat. (See 50 CFR 402.13(b).) This can entail the initiation of informal consultation with the FWS and/or NMFS which is described in more detail in Step Six.

If applicants adopt measures to avoid or eliminate adverse effects, they must continue to abide by those measures during the course of permit coverage. These measures must be described in the storm water pollution prevention plan and may be enforceable as permit conditions. If appropriate measures to avoid the likelihood of adverse effects are not available to the applicant, the applicant must follow Step Six.

Step Six: Determine if the Eligibility Requirements of Part I.B.3.e.(2)(b)–(d) Can Be Met

Where adverse effects are likely, the applicant must contact the EPA and FWS/NMFS. Applicants may still be eligible for CGP coverage if any likely adverse effects can be addressed through meeting the criteria of Part I.B.3.e.(2)(b)–(d) of the permit. These criteria are as follows:

1. An ESA Section 7 Consultation Is Performed for the Applicant's Activity (See Part I.B.3.e.(2)(b)

Formal or informal ESA § 7 consultation is performed with the FWS and/or NMFS which addresses the effects of the applicant's storm water discharges and storm water discharge-related activities on listed species and critical habitat. The formal consultation must result in either a "no jeopardy opinion" or a "jeopardy opinion" that identifies reasonable and prudent alternatives to avoid jeopardy which are to be implemented by the applicant. The informal consultation must result in a written concurrence by the Service(s) on a finding that the applicant's storm water discharge(s) and storm water discharge-related activities are not likely to adversely affect listed species or critical habitat (for informal consultation, see 50 CFR 402.13).

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Most consultations are accomplished through informal consultation. By the terms of this permit, EPA has automatically designated applicants as non-Federal representatives for the purpose of conducting informal consultations. *See* Part I.B.3.e.(5) and 50 CFR 402.08 and 402.13. When conducting informal ESA § 7 consultation as a non-Federal representative, applicants must follow the procedures found in 50 CFR 402 of the ESA regulations.

Applicants must also notify EPA and the Services of their intention and agreement to conduct consultation as a non-Federal representative. Consultation may occur in the context of another Federal action at the construction site (e.g., where ESA § 7 consultation was performed for issuance of a wetlands dredge and fill permit for the project or where a NEPA review is performed for the project which incorporates a section 7 consultation). Any terms and conditions developed through consultations to protect listed species and critical habitat must be incorporated into the SWPPP. As noted above, applicants may, if they wish, initiate consultation with the Services at Step Five.

Whether ESA § 7 consultation must be performed with either the FWS, NMFS or both Services depends on the listed species which may be affected by the applicant's activity. In general, NMFS has jurisdiction over marine, estuarine, and anadromous species. Applicants should also be aware that while formal § 7 consultation provides protection from incidental takings liability, informal consultation does not.

2. An Incidental Taking Permit Under Section 10 of the ESA Is Issued for the Applicants Activity (See Part I.B.3.e.(2)(c))

The applicant's construction activities are authorized through the issuance of a permit under § 10 of the ESA and that authorization addresses the effects of the applicant's storm water discharge(s) and storm water discharge-related activities on listed species and critical habitat. Applicants must follow FWS and/or NMFS procedures when applying for an ESA Section 10 permit (see 50 CFR § 17.22(b)(1) (FWS) and § 222.22 (NMFS)). Application instructions for Section 10 permits for NMFS species can be obtained by (1) accessing the "Office of Protected Resources" sector of the NMFS Home Page at "http://www.nmfs.gov" or by contacting the National Marine Fisheries Service, Office of Protected Resources, Endangered Species Division, F/PR3, 1315 East-West Highway, Silver Spring, Maryland 20910; telephone (301) 713–1401, fax (301) 713–0376.

3. The Applicant Is Covered Under the Eligibility Certification of Another Operator for the Project Area (See Part I.B.3.e.(2)(d))

The applicant's storm water discharges and storm water discharge-related activities were already addressed in another operator's certification of eligibility under Part I.B.3.e.(2)(b), or (c) which also included the applicant's project area. By certifying eligibility under Part I.B.3.e.(2)(d), the applicant agrees to comply with any measures or controls upon which the other operator's certification under Part I.B.3.e.(2)(a), (b) or (c) was based. Certification under Part I.B.3.e.(2)(d) is discussed in more detail in Section I.A. of this addendum.

The applicant must comply with any terms and conditions imposed under the eligibility requirements of paragraphs I.B.3.e(2)(a), (b), (c), (d) to ensure that its storm water discharges and storm water discharge-related activities are protective of listed species and/or critical habitat. Such terms and conditions must be incorporated in the project's SWPPP. If the eligibility requirements of Part I.B.3.e.(2)(a)-(d) cannot be met, then the applicant may not receive coverage under the CGP. Applicants should then consider applying to EPA for an individual permit.

II. List of Fish and Wildlife Service and National Marine Fisheries Service Offices

A. U.S. Fish and Wildlife Service Offices

National Website for Endangered Species Information

Endangered Species Home page: http://www.fws.gov/r9endspp/endspp.html

Regional, State, Field and Project Offices

USFWS Region Two

Regional Office

Division Chief, Endangered Species, U.S. Fish and Wildlife Service, ARD Ecological Services, P.O. Box 1306, Albuquerque, NM 87103

State, Field, and Project Offices (Region Two)

Field Supervisor, U.S. Fish and Wildlife Service, Corpus Christi Field Office, 6300 Ocean Dr., Campus Box 338, Corpus Christi, TX 78412
Field Supervisor, U.S. Fish and Wildlife Service, Arlington Field Office, 711 Stadium Dr., East, Suite 252, Arlington, TX 76011
Field Supervisor, U.S. Fish and Wildlife Service, Clear Lake Field Office, 17629 El Camino Real, Suite 211, Houston, TX 77058
Field Supervisor, U.S. Fish and Wildlife Service, Oklahoma Field Office, 222 S. Houston, Suite a, Tulsa, OK 74127
Field Supervisor, U.S. Fish and Wildlife Service, New Mexico Field Office, 2105 Osuna, NE, Albuquerque, NM 87113
Field Supervisor, U.S. Fish and Wildlife Service, Austin Ecological Serv. Field Office, 10711 Burnet Road, Suite 200, Austin, TX 78758
Field Supervisor, U.S. Fish and Wildlife Service, Arizona State Office, 2321 W. Royal Palm Road, Suite 103, Phoenix, AZ 85021–4951

USFWS Region Four

Regional Office

Division Chief, Endangered Species, U.S. Fish and Wildlife Service, ARD—Ecological Services, 1875 Century Blvd., Suite 200, Atlanta, GA 30345

State, Field, and Project Offices (Region Four)

Field Supervisor, U.S. Fish and Wildlife Service, Panama City Field Office, 1612 June Avenue, Panama City, FL 32405–3721
Field Supervisor, U.S. Fish and Wildlife Service, South Florida Ecosystem Field Office, 1360 U.S. Hwy 1, #5; P.O. Box 2676, Vero Beach, FL 32961–2676
Field Supervisor, U.S. Fish and Wildlife Service, Caribbean Field Office, P.O. Box 491, Boqueron, PR 00622
Field Supervisor, U.S. Fish and Wildlife Service, Puerto Rican Parrot Field Office, P.O. Box 1600, Rio Grande, PR 00745
Field Supervisor, U.S. Fish and Wildlife Service, Brunswick Field Office, 4270 Norwich Street, Brunswick, GA 31520–2523
Field Supervisor, U.S. Fish and Wildlife Service, Jacksonville Field Office, 6620 Southpoint Drive S., Suite 310, Jacksonville, FL 32216–0912
Field Supervisor, U.S. Fish and Wildlife Service, Charleston Field Office, 217 Ft. Johnson Road, P.O. Box 12559, Charleston, SC 29422–2559
Field Supervisor, U.S. Fish and Wildlife Service, Clemson F.O., Dept. of Forest Resources, 261 Lehotsky Hall, Box 341003, Clemson, SC 29634–1003
Field Supervisor, U.S. Fish and Wildlife Service, Raleigh Field Office, P.O. Box 33726, Raleigh, NC 27636–3726
Field Supervisor, U.S. Fish and Wildlife Service, Cookeville Field Office, 446 Neal Street, Cookeville, TN 38501
Field Supervisor, U.S. Fish and Wildlife Service, Asheville Field Office, 160 Zillicoa Street, Asheville, NC 28801
Field Supervisor, U.S. Fish and Wildlife Service, Daphne Field Office, P.O. Drawer 1190, Daphne, AL 36526
Field Supervisor, U.S. Fish and Wildlife Service, Vicksburg Field Office, 2524 S. Frontage Road, Suite B, Vicksburg, MS 39180–5206
Field Supervisor, U.S. Fish and Wildlife Svc., Lafayette Field Office, Brandywine II, Suite 102, 825 Kaliste Saloom Road, Lafayette, LA 70508
Field Supervisor, U.S. Fish and Wildlife Service, Jackson Field Office, 6578 Dogwood View Pkwy Suite A, Jackson, MS 39213

B. National Marine Fisheries Service Offices

The National Marine Fisheries Service is developing a database to provide county and territorial water (up to three miles offshore) information on the presence of endangered and threatened species and critical habitat. The database is projected to be available to the public sometime in December 1997. The database should be found at the "Office of Protected Resources" site on the NMFS Homepage at "http://www.nmfs.gov".

Regional and Field Office

Southeast Region

Protective Species Management Branch, National Marine Fisheries Service, Southeast Region, 9721 Executive Center Drive, St. Petersburg, Florida 33702–2432

III. Natural Heritage Centers

The Natural Heritage Network comprises 85 biodiversity data centers throughout the Western Hemisphere. These centers collect, organize, and share data relating to endangered and threatened species and habitat. The network was developed to inform land-use decisions for developers, corporations, conservationists, and government agencies and is also consulted for research and educational purposes. The centers maintain a Natural Heritage Network Control Server Website (http://www.heritage.tnc.org) which provides website and other access to a large number of specific biodiversity centers. Some of these centers are listed below:

Oklahoma Natural Heritage Inventory

Oklahoma Biological Survey, 111 East Chesapeake Street, University of Oklahoma, Norman, OK 73019–0575, 405/325–1985 Fax: 405/325–7702, Web site: http://obssun02.uoknor.edu/biosurvey/onhi/home.html

Louisiana Natural Heritage Program

Department of Wildlife & Fisheries, P.O. Box 98000, Baton Rouge, LA 70898–9000, 504/765–2821 Fax: 504/765–2607

Navajo Natural Heritage Program

P.O. Box 1480, Window Rock, Navajo Nation, AZ 86515, (520) 871–7603, (520) 871–7069 (FAX)

Texas Biological and Conservation Data System

3000 South IH–35, Suite 100, Austin, TX 78704, 512/912–7011 Fax: 512/912–7058

IV. County List of Endangered and Threatened Species

Please see February 17, 1998, **Federal Register** Vol. 63 no. 31 for county by county listing or contact EPA Region 6 Storm Water Hotline (1–800–245–6510). EPA's Office of Wastewater Management's web page at "http://www.epa.gov/owm" will post periodic updates of the county-by-county list. You may also check the list of endangered and threatened species published by the Fish and Wildlife Service on the Endangered Species Home Page (http://www.fws.gov/~r9endspp/enddspp.htm) which is also attached to the FWS Home Page in the "Nationwide Activities Category". List of species under NMFS jurisdiction can be found on the NMFS Homepage (http:www.nmfs.gov) under the "Protected Resources Program." Lists and maps of critical habitat can be found in the Code of Federal Regulations (CFRs) at 50 CFR parts 17 and 226.

Addendum B—Historic Properties (Reserved)

Instructions related to historic preservation have not been included in the permit at this time. EPA may modify the permit to include such provisions at a later date. This does not relieve applicants or permittees of their responsibility to comply with applicable State, Tribal or local laws for the protection of historic properties.

Addendum C—Revised Notice of Intent Form

The Notice of Intent form (EPA3510–9) replaces the Notice of Intent form (EPA 3510–6 (8–98)). The revised form is contained in this Addendum. According to the provisions in Part II.B.1 of this permit, applicants are reminded they must certify that they meet all eligibility requirements of Part I.B. of this permit and are informing the Director of their intent to be covered by, and comply with, those terms and conditions. These conditions include certifications that the applicant's storm water discharges and storm water-related discharge activities will not adversely affect listed endangered or threatened species, or their critical habitat. EPA may modify this permit to include provisions relating to historic preservation.

BILLING CODE 6560–50–P

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THIS FORM REPLACES PREVIOUS FORM 3510-6 (8-98)
See Reverse for Instructions

Form Approved. OMB No. 2040-0188

NPDES FORM

EPA

United States Environmental Protection Agency
Washington, DC 20460

Notice of Intent (NOI) for Storm Water Discharges Associated with CONSTRUCTION ACTIVITY Under a NPDES General Permit

Submission of this Notice of Intent constitutes notice that the party identified in Section I of this form intends to be authorized by a NPDES permit issued for storm water discharges associated with construction activity in the State/Indian Country Land identified in Section II of this form. Submission of this Notice of Intent also constitutes notice that the party identified in Section I of this form meets the eligibility requirements in Part I.B. of the general permit (including those related to protection of endangered species determined through the procedures in Addendum A of the general permit), understands that continued authorization to discharge is contingent on maintaining permit eligibility, and that implementation of the Storm Water Pollution Prevention Plan required under Part IV of the general permit will begin at the time the permittee commences work on the construction project identified in Secion II below. IN ORDER TO OBTAIN AUTHORIZATION, ALL INFORMATION REQUESTED MUST BE INCLUDED ON THIS FORM. SEE INSTRUCTIONS ON BACK OF FORM.

I. Owner/Operator (Applicant) Information

Name: ______ Phone: ______

Address: ______ Status of Owner/Operator: ☐

City: ______ State: ______ Zip Code: ______

II. Project/Site Information

Is the facility located on Indian Country Lands? Yes ☐ No ☐

Project Name: ______

Project Address/Location: ______

City: ______ State: ______ Zip Code: ______

Latitude: ______ Longitude: ______ County: ______

Has the Storm Water Pollution Prevention Plan (SWPPP) been prepared? Yes ☐ No ☐

Optional: Address of location of SWPPP for viewing ☐ Address in Section I above ☐ Address in Section II above ☐ Other address (if known) below:

SWPPP Address: ______ Phone: ______

City: ______ State: ______ Zip Code: ______

Name of Receiving Water: ______

Month Day Year Estimated Construction Start Date

Month Day Year Estimated Completion Date

Estimate of area to be disturbed (to nearest acre): ______

Estimate of Likelihood of Discharge (choose only one):

1. ☐ Unlikely
2. ☐ Once per month
3. ☐ Once per week
4. ☐ Once per day
5. ☐ Continual

Based on instruction provided in Addendum A of the permit, are there any listed endangered or threatened species, or designated critical habitat in the project area?

Yes ☐ No ☐

I have satisfied permit eligibility with regard to protection of endangered species through the indicated section of Part I.B.3.e.(2) of the permit (check one or more boxes):

(a) ☐ (b) ☐ (c) ☐ (d) ☐

III. Certification

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage this system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Print Name: ______ Date: ______

Signature: ______

EPA Form 3510-9 replaced 3510-6 (8-98)

EPA

Instructions – EPA Form 3510-9

Notice of Intent (NOI) for Storm Water Discharges Associated with Construction Activity to be Covered Under a NPDES Permit

Form Approved. OMB No. 2040-0188

Who Must File a Notice of Intent Form

Under the provisions of the Clean Water Act, as amended, (33 U.S.C. 1251 et.seq.; the Act), except as provided by Part I.B.3 the permit, Federal law prohibits discharges of pollutants in storm water from construction activities without a National Pollutant Discharge Elimination System Permit. Operator(s) of construction sites where 5 or more acres are disturbed, smaller sites that are part of a larger common plan of development or sale where there is a cumulative disturbance of at least 5 acres, or any site designated by the Director, must submit an NOI to obtain coverage under an NPDES Storm Water Construction General Permit. If you have questions about whether you need a permit under the NPDES Storm Water program, or if you need information as to whether a particular program is administered by EPA or a State agency, write to or telephone the Notice of Intent Processing Center at (703) 931-3230.

Where to File NOI Form

NOIs must be sent to the following address:

Storm Water Notice of Intent (4203)
USEPA
401 M. Street, SW
Washington, D.C. 20460

Do not send Storm Water Pollution Prevention Plans (SWPPPs) to the above address. For overnight/express delivery of NOIs, please include the room number 2104 Northeast Mall and phone number (202) 260-9541 in the address.

When to File

This form must be filed at least 48 hours before construction begins.

Completing the Form

OBTAIN AND READ A COPY OF THE APPROPRIATE EPA STORM WATER CONSTRUCTION GENERAL PERMIT FOR YOUR AREA. To complete this form, type or print, using uppercase letters, in the appropriate areas only. Please place each character between the marks (abbreviate if necessary to stay within the number of characters allowed for each item). Use one space for breaks between words, but not for punctuation marks unless they are needed to clarify your response. If you have any questions on this form, call the Notice of Intent Processing Center at (703) 931-3230.

Section I. Facility Owner/Operator (Applicant) Information

Provide the legal name, mailing address, and telephone number of the person, firm, public organization, or any other entity that meet either of the following two criteria: (1) they have operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or (2) they have the day-to-day operational control of those activities at the project necessary to ensure compliance with SWPPP requirements or other permit conditions. Each person that meets either of these criteria must file this form. Do not use a colloquial name. Correspondence for the permit will be sent to this address.

Enter the appropriate letter to indicate the legal status of the owner/operator of the project: F = Federal; S = State; M = Public (other than federal or state); P = Private.

Section II. Project/Site Information

Enter the official or legal name and complete street address, including city, county, state, zip code, and phone number of the project or site. If it lacks a street address, indicate with a general statement the location of the site (e.g., Intersection of State Highways 61 and 34). Complete site information must be provided for permit coverage to be granted.

The applicant must also provide the latitude and longitude of the facility in degrees, minutes, and seconds to the nearest 15 seconds. The latitude and longitude of your facility can be located on USGS quadrangle maps. Quadrangle maps can be obtained by calling 1-800 USA MAPS. Longitude and latitude may also be obtained at the Census Bureau Internet site: http://www.census.gov/cgi-bin/gazetteer.

Latitude and longitude for a facility in decimal form must be converted to degrees, minutes and seconds for proper entry on the NOI form. To convert decimal latitude or longitude to degrees, minutes, and seconds, follow the steps in the following example.

Convert decimal latitude 45.1234567 to degrees, minutes, and seconds.

1) The numbers to the left of the decimal point are degrees.
2) To obtain minutes, multiply the first four numbers to the right of the decimal point by 0.006. 1234 x .006 = 7.404.
3) The numbers to the left of the decimal point in the result obtained in step 2 are the minutes: 7'.
4) To obtain seconds, multiply the remaining three numbers to the right of the decimal from the result in step 2 by 0.06: 404 x 0.06 = 24.24. Since the numbers to the right of the decimal point are not used, the result is 24".
5) The conversion for 45.1234 = 45° 7' 24".

Indicate whether the project is on Indian Country Lands.

Indicate if the Storm Water Pollution Prevention Plan (SWPPP) has been developed. Refer to Part IV of the general permit for information on SWPPPs. To be eligible for coverage, a SWPPP must have been prepared.

Optional: Provide the address and phone number where the SWPPP can be viewed if different from addresses previously given. Check appropriate box.

Enter the name of the closest water body which receives the project's construction storm water discharge.

Enter the estimated construction start and completion dates using four digits for the year (i.e. 05/27/1998).

Enter the estimated area to be disturbed including but not limited to: grubbing, excavation, grading, and utilities and infrastructure installation. Indicate to the nearest acre; if less than 1 acre, enter "1." Note: 1 acre = 43,560 sq. ft.

Indicate your best estimate of the likelihood of storm water discharges from the project. EPA recognizes that actual discharges may differ from this estimate due to unforeseen or chance circumstances.

Indicate if there are any listed endangered or threatened species, or designated critical habitat in the project area.

Indicate which Part of the permit that the applicant is eligible with regard to protection of endangered or threatened species, or designated critical habitat.

Section III. Certification

Federal Statutes provide for severe penalties for submitting false information on this application form. Federal regulations require this application to be signed as follows:

For a corporation: by a responsible corporate officer, which means: (i) president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

For a partnership or sole proprietorship: by a general partner of the proprietor, or

For a municipality, state, federal, or other public facility: by either a principal executive or ranking elected official. An unsigned or undated NOI form will not be granted permit coverage.

Paperwork Reduction Act Notice

Public reporting burden for this application is estimated to average 3.7 hours. This estimate includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Send comments regarding the burden estimate, any other aspect of the collection of information, or suggestions for improving this form, including any suggestions which may increase or reduce this burden to: Director, OPPE Regulatory Information Division (2137), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460. Include the OMB control number on any correspondence. Do not send the completed form to this address.

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Addendum D—Notice of Termination Form

From the effective date of this permit, permittees are to use the existing Notice of Termination form (EPA Form 3510–7) contained in this Addendum until they are instructed by the Director (EPA) to use a revised version. Permittees are to complete, sign and submit the form in accordance with Part VIII of the permit when terminating permit coverage at a construction project when one or more or the conditions contained in Part I.D.2 have been met.

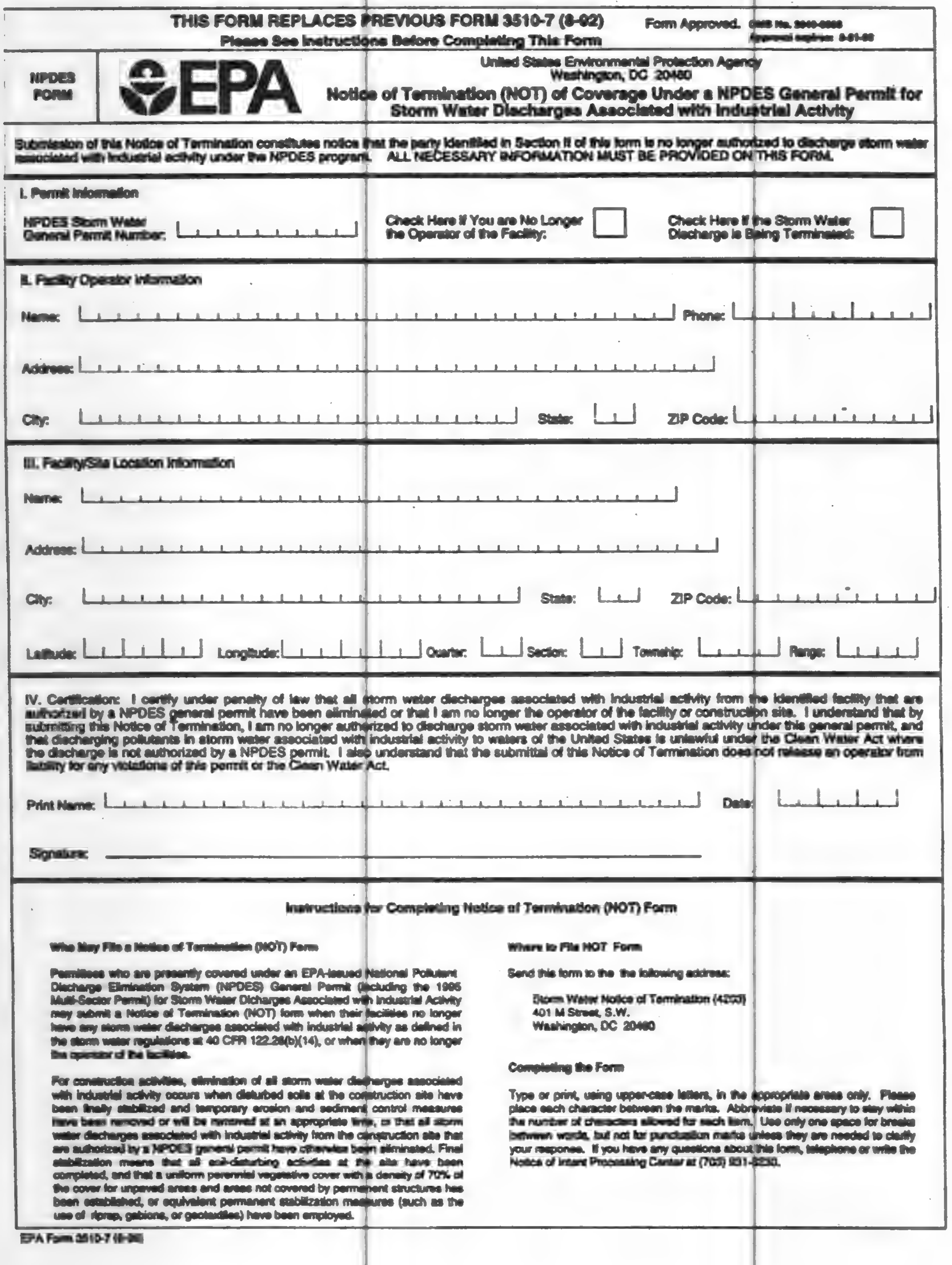

THIS FORM REPLACES PREVIOUS FORM 3510-7 (8-92)
Please See Instructions Before Completing This Form

Form Approved. [illegible]
[illegible]

NPDES FORM

United States Environmental Protection Agency
Washington, DC 20460

Notice of Termination (NOT) of Coverage Under a NPDES General Permit for Storm Water Discharges Associated with Industrial Activity

Submission of this Notice of Termination constitutes notice that the party identified in Section II of this form is no longer authorized to discharge storm water associated with industrial activity under the NPDES program. ALL NECESSARY INFORMATION MUST BE PROVIDED ON THIS FORM.

I. Permit Information

NPDES Storm Water General Permit Number:

Check Here If You are No Longer the Operator of the Facility: ☐

Check Here If the Storm Water Discharge is Being Terminated: ☐

II. Facility Operator Information

Name:
Phone:
Address:
City:
State:
ZIP Code:

III. Facility/Site Location Information

Name:
Address:
City:
State:
ZIP Code:
Latitude:
Longitude:
Quarter:
Section:
Township:
Range:

IV. Certification: I certify under penalty of law that all storm water discharges associated with industrial activity from the identified facility that are authorized by a NPDES general permit have been eliminated or that I am no longer the operator of the facility or construction site. I understand that by submitting this Notice of Termination, I am no longer authorized to discharge storm water associated with industrial activity under this general permit, and that discharging pollutants in storm water associated with industrial activity to waters of the United States is unlawful under the Clean Water Act where the discharge is not authorized by a NPDES permit. I also understand that the submittal of this Notice of Termination does not release an operator from liability for any violations of this permit or the Clean Water Act.

Print Name:
Date:
Signature:

Instructions for Completing Notice of Termination (NOT) Form

Who May File a Notice of Termination (NOT) Form

Permittees who are presently covered under an EPA-issued National Pollutant Discharge Elimination System (NPDES) General Permit (including the 1995 Multi-Sector Permit) for Storm Water Dicharges Associated with Industrial Activity may submit a Notice of Termination (NOT) form when their facilities no longer have any storm water discharges associated with industrial activity as defined in the storm water regulations at 40 CFR 122.26(b)(14), or when they are no longer the operator of the facilities.

For construction activities, elimination of all storm water discharges associated with industrial activity occurs when disturbed soils at the construction site have been finally stabilized and temporary erosion and sediment control measures have been removed or will be removed at an appropriate time, or that all storm water discharges associated with industrial activity from the construction site that are authorized by a NPDES general permit have otherwise been eliminated. Final stabilization means that all soil-disturbing activities at the site have been completed, and that a uniform perennial vegetative cover with a density of 70% of the cover for unpaved areas and areas not covered by permanent structures has been established, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.

Where to File NOT Form

Send this form to the the following address:

Storm Water Notice of Termination (4203)
401 M Street, S.W.
Washington, DC 20460

Completing the Form

Type or print, using upper-case letters, in the appropriate areas only. Please place each character between the marks. Abbreviate if necessary to stay within the number of characters allowed for each item. Use only one space for breaks between words, but not for punctuation marks unless they are needed to clarify your response. If you have any questions about this form, telephone or write the Notice of Intent Processing Center at (703) 931-3230.

EPA Form 3510-7 (8-98)

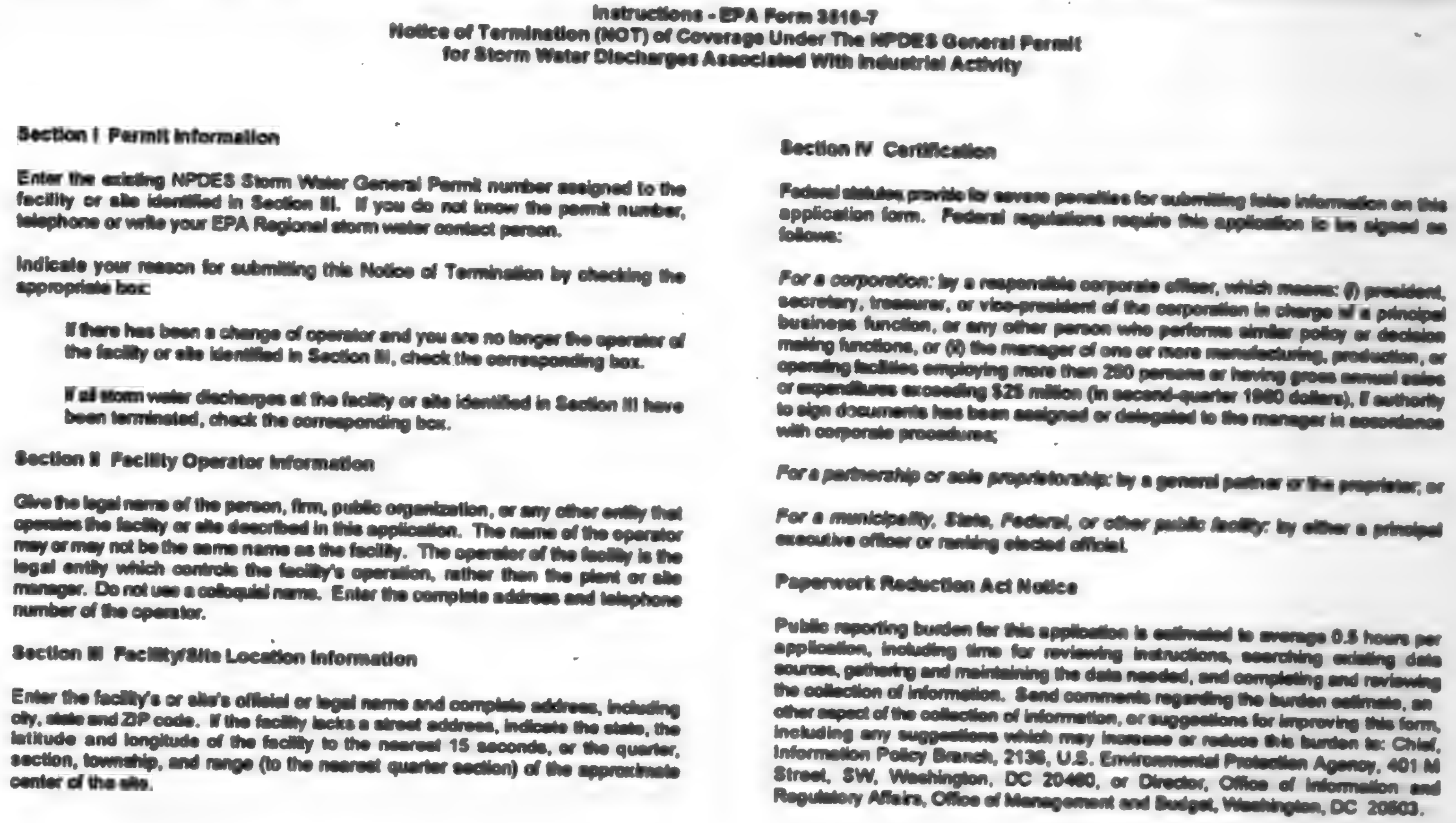

Instructions - EPA Form 3510-7
Notice of Termination (NOT) of Coverage Under The NPDES General Permit for Storm Water Discharges Associated With Industrial Activity

Section I Permit Information

Enter the existing NPDES Storm Water General Permit number assigned to the facility or site identified in Section III. If you do not know the permit number, telephone or write your EPA Regional storm water contact person.

Indicate your reason for submitting this Notice of Termination by checking the appropriate box:

> If there has been a change of operator and you are no longer the operator of the facility or site identified in Section III, check the corresponding box.
>
> If all storm water discharges at the facility or site identified in Section III have been terminated, check the corresponding box.

Section II Facility Operator Information

Give the legal name of the person, firm, public organization, or any other entity that operates the facility or site described in this application. The name of the operator may or may not be the same name as the facility. The operator of the facility is the legal entity which controls the facility's operation, rather than the plant or site manager. Do not use a colloquial name. Enter the complete address and telephone number of the operator.

Section III Facility/Site Location Information

Enter the facility's or site's official or legal name and complete address, including city, state and ZIP code. If the facility lacks a street address, indicate the state, the latitude and longitude of the facility to the nearest 15 seconds, or the quarter, section, township, and range (to the nearest quarter section) of the approximate center of the site.

Section IV Certification

Federal statutes provide for severe penalties for submitting false information on this application form. Federal regulations require this application to be signed as follows:

For a corporation: by a responsible corporate officer, which means: (i) president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

For a partnership or sole proprietorship: by a general partner or the proprietor; or

For a municipality, State, Federal, or other public facility: by either a principal executive officer or ranking elected official.

Paperwork Reduction Act Notice

Public reporting burden for this application is estimated to average 0.5 hours per application, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate, any other aspect of the collection of information, or suggestions for improving this form, including any suggestions which may increase or reduce this burden to: Chief, Information Policy Branch, 2136, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, or Director, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

[FR Doc. 98–17521 Filed 7–2–98; 8:45 am]

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federal register

Monday
July 6, 1998

Part III

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Parts 13, 16, 32 and 52

Federal Acquisition Regulation; Electronic Funds Transfer; Proposed Rule

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 13, 16, 32 and 52

[FAR Case 91–118]

RIN 9000–AG49

Federal Acquisition Regulation; Electronic Funds Transfer

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing to amend the Federal Acquisition Regulation (FAR) to address the use of electronic funds transfers (EFT) for Federal contract payments and to facilitate implementation of Public Law 104–134 which mandates payment by EFT in certain situations. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

DATES: Comments should be submitted on or before September 4, 1998 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4035, Washington, DC 20405.

E-mail comments submitted over the Internet should be addressed to: farcase.91–118@gsa.gov.

Please cite FAR case 91–118 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, 1800 F Street, NW, Room 4035, Washington, DC 20405, (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Mr. Jeremy Olson, Procurement Analyst, at (202) 501–3221. Please cite FAR case 91–118.

SUPPLEMENTARY INFORMATION:

A. Background

An interim rule was published in the **Federal Register** on August 29, 1996 (61 FR 45770) to implement subsection (x)(1) of the Debt Collection Improvement Act of 1996. The Debt Collection Improvement Act is chapter 10 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104–134). Subsection (x)(1) amends 31 U.S.C. 3332 to require, beginning July 26, 1996, that all Federal payments to a recipient who becomes eligible for that type of payment shall be made by electronic funds transfer. The statute provides an exemption for payments to certain recipients, and stipulates that the Department of the Treasury is responsible for issuing regulations necessary for carrying out the statute. On July 26, 1996, the Department of the Treasury's Financial Management Service issued an interim rule (61 FR 39254) which added Part 208 to Title 31, Code of Federal Regulations, to provide regulations for payments through EFT.

This proposed FAR rule differs significantly from the interim FAR rule. One of the main differences is the location where the Government will receive the contractor's EFT information. The interim rule clauses at 52.232–33, Mandatory Information for Electronic Funds Transfer Payment, and 52.232–34, Optional Information for Electronic Funds Transfer Payment, require the contractor to submit that information directly to the payment office. The proposed rule revises these two contract clauses with new language at 52.232–33, Payment by Electronic Funds Transfer (CCR), and 52.232–34, Payment by Electronic Funds Transfer (Non-CCR). The new clause at 52.232–33 is prescribed when the payment office uses the Central Contract Registration (CCR) database as its source of EFT information. The new clause at 52.232–34 is used when the contractor submits EFT information to a source other than the CCR database.

The proposed rule also recognizes that agencies may use differing administrative approaches in the collection, tracking, and maintenance of contractor EFT banking information. The two most distinctly different approaches are those that involve obtaining contractor banking information prior to award (as a condition of award) as opposed to obtaining that information after award (as a normal contract performance duty).

The proposed rule also differs from the interim rule by more rigidly requiring payment by EFT except for two categories of exceptions described at FAR 32.1103–1: "non-banked contractors" and "non-EFT system". In contrast, the interim rule provides the clause at 52.232–34 for optional submission of EFT information by the contractor for payments occurring on or before January 1, 1999. The determination whether a particular payment must be made by EFT is made by the payment official. In addition, the proposed rule contains three new clauses at 52.232–X1, Designation of Office for Government Receipt of EFT Information, 52.232–X2, Payment by Third Party, and 52.232–X3, Multiple Payment Arrangements. The clause at 52.232–X1 is prescribed when the Government has designated an office other than the payment office to receive the contractor's EFT information. The clause at 52.232–X2 is prescribed when payment on a written contract is made by a third party on behalf of the Government (*e.g.*, Governmentwide commercial purchase card). The clause at 52.232–X3 is prescribed when the contract or agreement provides for the use of delivery orders and provides for multiple types of payment arrangements. The solicitation provision at 52.232–X4, Submission of EFT Information with Offer, is prescribed when the Government has determined that EFT banking information is to be submitted prior to award, along with the offer.

Public comments were received from sixteen sources. All comments were considered in the development of this proposed rule.

B. Regulatory Flexibility Act

The rule may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* because the majority of small entities will have payment made by EFT under their contracts. An Initial Regulatory Flexibility Analysis (IRFA) was performed in conjunction with the interim rule published at 61 FR 45770, August 29, 1996, and a revised Initial Regulatory Flexibility Analysis has been performed in conjunction with this proposed rule. The analysis is summarized as follows:

> The rule will apply, prior to January 2, 1999, to all small businesses who enter into contracts with the Federal Government except for two categories: "Non-banked" contractors" and "Non-EFT system". "Non-banked contractors" are those contractors who do not have an account at a domestic United States financial institution and do not have an authorized payment agent. These contractors are waived from the requirement to be paid by EFT, upon submission of a certificate. Contractors are also exempt from receiving payment by EFT if agencies are unable to make payment because of system limitations. This "non-EFT system" category consists of contracts (1) in which the cognizant payment offices are not capable of making payment through EFT; (2) that are paid in other than U.S. dollars; (3) that are classified; (4) that are awarded by a deployed

contracting officer in the course of military operations; and (5) where payments are received by, or on behalf of, the contractor outside the United States or Puerto Rico. On and after January 2, 1999, however, payments under all contracts, subject to implementing regulations of the Secretary of the Treasury, are required to be made by EFT. To date no supporting data has been collected, therefore there is no estimate available of the number of small businesses that will be subject to the rule.

A copy of the IRFA has been submitted to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the FAR Secretariat. Comments from small entities concerning the affected FAR subparts shall also be considered in accordance with Section 610 of the Act. Such comments must be submitted separately and cite FAR case 91–118 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Public Law 96–511) applies because the proposed rule contains information collection requirements. The Office of Management and Budget has approved an information collection concerning Electronic Funds Transfer (9000–0144) through August 31, 1999, based on the requirements in the interim rule for contractors to provide EFT information for each contract award. The proposed rule decreases the collection requirements since the rule permits contractors to provide EFT information to the CCR database on an annual basis, rather than per contract award.

Annual Reporting Burden: Public reporting burden for this collection of information is estimated to average .5 hours per response, including the time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: *Respondents:* 14,000; *Responses per respondent:* 10; *Total annual responses:* 140,000; *Preparation hours per response:* .5; and *Total response burden hours:* 70,000.

D. Request for Comments Regarding Paperwork Burden

Members of the public are invited to comment on the recordkeeping and information collection requirements and estimates set forth above. Please send comments to: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Mr. Peter N. Weiss, FAR Desk Officer, New Executive Office Building, Room 10102, 725 17th Street, NW, Washington, DC 20503.

Also send a copy of any comments to the FAR Secretariat at the address shown under ADDRESSES. Please cite FAR case 91–118, Electronic Funds Transfer, in all correspondence related to this estimate.

List of Subjects in 48 CFR Parts 13, 16, 32 and 52

Government procurement.

Dated: June 23, 1998.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, it is proposed that 48 CFR Parts 13, 16, 32 and 52 be amended as set forth below:

1. The authority citation for 48 CFR Parts 13, 16, 32 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 13—SIMPLIFIED ACQUISITION PROCEDURES

2. Section 13.301 is amended in paragraph (c)(3) by adding a sentence at the end to read as follows:

13.301 Governmentwide commercial purchase card.

* * * * *

(c) * * *

(3) * * * See 32.1105(d) for instructions for use of the appropriate clause when payment under a written contract will be made through use of the card.

3. Section 13.302–1 is amended by revising paragraph (e) to read as follows:

13.302–1 General.

* * * * *

(e) In accordance with 31 U.S.C. 3332, electronic funds transfer (EFT) is required for payments except as provided in 32.1103–1. See Subpart 32.11 for instructions for use of the appropriate clause in purchase orders. When obtaining verbal quotes, the contracting officer shall inform the quoter of the EFT clause that will be in any resulting purchase order.

PART 16—TYPES OF CONTRACTS

4. Section 16.505 is amended in paragraph (a) by redesignating paragraph (a)(6)(viii) as (a)(6)(ix) and by adding a new (a)(6)(viii) to read as follows:

16.505 Ordering.

(a) * * *

(6) * * *

(viii) Method of payment and payment office, if not specified in the contract (see 32.1105(e)).

* * * * *

PART 32—CONTRACT FINANCING

5. Subpart 32.11 is revised to read as follows:

Subpart 32.11—Electronic Funds Transfer

Sec.
32.1100 Scope of subpart.
32.1101 Statutory requirements.
32.1102 Definitions.
32.1103 Policy.
32.1103–1 Applicability.
32.1103–2 Protection of EFT information.
32.1103–3 Assignment of claims.
32.1103–4 EFT mechanisms.
32.1103–5 Government inability to make EFT payment.
32.1103–6 Payment information.
32.1103–7 EFT for contracts awarded from solicitations issued prior to July 26, 1996.
32.1104 Payment by Governmentwide commercial purchase card.
32.1105 Solicitation provision and contract clauses.

Subpart 32.11—Electronic Fund Transfer

32.1100 Scope of subpart.

This subpart provides policy and procedures for providing financing and delivery payments to contractors by electronic funds transfer (EFT).

32.1101 Statutory requirements.

For contracts resulting from solicitations issued on or after July 26, 1996, 31 U.S.C. 3332, as implemented by Department of the Treasury regulations, requires payment be made by EFT in most situations (see 32.1103–1). For all contracts, regardless of solicitation date, 31 U.S.C. 3332 requires, subject to implementing regulations of the Secretary of the Treasury, that all payments made after January 1, 1999, be made by EFT.

32.1102 Definitions.

EFT information means information necessary for making a payment by electronic funds transfer through specified EFT mechanisms.

Electronic Funds Transfer (EFT) means any transfer of funds, other than a transaction originated by cash, check, or similar paper instrument, that is initiated through an electronic terminal, telephone, computer, or magnetic tape, for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account. The term includes Automated Clearing House transfers, Federal Reserve Wire

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transfers, transfers made at automatic teller machines, and point-of-sale terminals (*e.g.,* Governmentwide commercial purchase cards).

Governmentwide commercial purchase card, as used in this part, means a card that is similar in nature to a commercial credit card that is used to make financing and delivery payments for supplies and services. The purchase card is an EFT method and it may be used as a means to meet the requirement to pay by EFT, to the extent that purchase card limits do not preclude such payments.

Payment information means the payment advice provided by the Government to the contractor that identifies what the payment is for, any computations or adjustments made by the Government, and any information required by the Prompt Payment Act.

32.1103 Policy.

Except as authorized by this subpart or otherwise authorized in accordance with Treasury regulations at 31 CFR 208, all types of contract payments shall be made by an EFT method.

32.1103–1 Applicability.

Pursuant to 31 U.S.C. 3332, payment through EFT is the required method of contract payment. However, certain classes of contracts have been authorized limited exceptions from the requirement to pay by EFT.

(a) Non-Banked Contractors. Through January 1, 1999, contractors that do not have an account at a domestic United States financial institution and do not have an authorized payment agent are waived from the requirement to be paid by EFT, upon submission of a certification (see paragraph (b) of the EFT clauses at 52.232–33 and 52.232–34).

(b) Non-EFT System. (1) If the Government office making payment under the contract is not capable of making payment through EFT, payment by other than EFT is authorized, subject to the requirements of 31 CFR 208.3(c) (see 32.1103–5).

(2) Except as provided in 32.1103–4(b), if the payment is to be received by or on behalf of the contractor, outside the United States and Puerto Rico, payment shall be made by other than EFT.

(3) Except as provided in 32.1103–4(b), if a contract is paid in other than United States currency, payment shall be made by other than EFT.

(4) If a contract is a classified contract (see 4.401), the contract shall provide for payment by other than EFT where payment by EFT could compromise the safeguarding of classified information or national security, or where arrangements for appropriate EFT payments would be impractical due to security considerations.

(5) If a contract is awarded by a deployed contracting officer in the course of military operations, including, but not limited to, contingency operations as defined in 10 U.S.C. 101(a)(13), or if a contract is awarded by any contracting officer in the conduct of emergency operations, such as responses to natural disasters or national or civil emergencies, the contract shall provide for payment by other than EFT where—

(i) EFT is not known to be possible; or

(ii) EFT payment would not support the objectives of the operation.

32.1103–2 Protection of EFT information.

The Government shall protect against improper disclosure of contractors' EFT information.

32.1103–3 Assignment of claims.

The use of EFT payment methods is not a substitute for a properly executed assignment of claims in accordance with Subpart 32.8. EFT information that shows the ultimate recipient of the transfer to be other than the contractor, in the absence of a proper assignment of claims, is considered to be incorrect EFT information within the meaning of the "Suspension of Payment" paragraphs of the EFT clauses at 52.232–33 and 52.232–34.

32.1103–4 EFT mechanisms.

(a) *Domestic EFT.* The EFT clauses at 52.232–33 and 52.232–34 are designed for use with the domestic United States banking system, using United States currency, and only the specified mechanisms of EFT (U.S. Automated Clearing House, and Federal Reserve Wire Transfer System). The head of the agency shall not authorize the use of any other EFT mechanism for domestic EFT without the prior concurrence of the office or agency responsible for making payments.

(b) *Non-Domestic EFT Mechanisms and Non-United States Currency.* For payments received by or on behalf of the contractor outside the United States and Puerto Rico or for contracts paid in non-United States currency, payment shall be made by other than EFT. However, if the head of an agency determines that a particular non-domestic EFT mechanism is appropriate and safe for use outside the domestic United States, or for payments of non-United States currency, the head of the agency may authorize appropriate use of EFT. Any such determination shall not be made effective without the prior concurrence of the office or agency responsible for making payments.

32.1103–5 Government inability to make EFT payment.

(a) If the Government payment office is not capable of making payment by EFT, the Government is relieved of the requirement to pay by EFT if the agency complies with 31 CFR 208.3(c), which requires written notice and submittal of an implementation plan to the Department of the Treasury, Financial Management Service.

(b) If the payment office does not have or loses the ability to release payment by EFT under a contract that requires payment by EFT, to the extent authorized by 31 CFR 208, the payment office shall make necessary payments pursuant to paragraph (a)(2) of the clause at either 52.232–33 or 52.232–34 until such time as it can make EFT payments.

32.1103–6 Payment information.

The payment or disbursing office shall forward to the contractor available payment information that is suitable for transmission as of the date of release of the electronic funds transfer instruction to the Federal Reserve System.

32.1103–7 EFT for contracts awarded from solicitations issued prior to July 26, 1996.

(a) Prior to January 2, 1999, payment by EFT is not required on contracts resulting from solicitations issued prior to July 26, 1996. However, while not statutorily required, it is nevertheless Federal policy to maximize the use of EFT. For contracts to be paid by payment offices capable of making EFT payments, the contracting officer is encouraged to use EFT, whenever reasonable, in any contract resulting from a pre-July 26, 1996, solicitation for which the contractor is willing to accept payment by EFT. The contractor's willingness to accept payment by EFT constitutes sufficient consideration for modification of existing contracts to incorporate EFT.

(b) Regardless of the solicitation date of the contract, all payments to be made after January 1, 1999, shall be made by EFT, to the extent required by the implementing regulations of the Secretary of the Treasury, whether or not an EFT clause is included in the contract.

32.1104 Payment by Governmentwide commercial purchase card.

A Governmentwide commercial purchase card charge authorizes the Third Party (*e.g.,* financial institution) that issued the purchase card to make immediate payment to the contractor.

That payment is reimbursed at a later date by a subsequent payment by the Government to the Third Party.

(a) The clause at 52.232–X2, Payment by Third Party, governs when a contractor submits a charge against the purchase card for contract payment. The clause provides that the contractor shall make such payment requests by a charge to a Government account with the Third Party at the time the payment clause(s) of the contract authorizes the contractor to submit a request for payment and for the amount due in accordance with the terms of the contract. To the extent that such a payment would otherwise be approved, the charge against the purchase card should not be disputed when the charge is reported to the Government by the Third Party. To the extent that such payment would otherwise not have been approved, an authorized individual (see 1.603–3(b)) shall take action to remove the charge, such as by disputing the charge with the Third Party or by requesting that the contractor credit the charge back to the Government under the contract.

(b) Written contracts to be paid by purchase card should include the clause 52.232–X2, Payment by Third Party, as prescribed by 32.1105(d). However, payment by a purchase card may also be made under a contract that does not contain the clause to the extent the contractor agrees to accept that method of payment.

(c) The clause at 52.232–X2, Payment by Third Party, requires that the Third Party and the particular purchase card to be used be identified elsewhere in the contract. The purchase card account number should not be included in the contract, but should be separately provided.

32.1105 Solicitation provision and contract clauses.

(a) Unless payment will be made exclusively through use of the Governmentwide commercial purchase card or other third party payment arrangement (see 13.301 and paragraph (d) of this section) or an exception listed in 32.1103–1(b)(2) through (5) applies—

(1) The contracting officer shall insert the clause at 52.232–33, Payment by Electronic Funds Transfer (CCR), in all solicitations and contracts if the payment office uses the CCR database as its source of EFT information. The contracting officer also shall insert this clause if the payment office does not currently have the ability to make payment by EFT, but will use the CCR database as its source of EFT information when it begins making payments by EFT.

(2)(i) The contracting officer shall insert the clause at 52.232–34, Payment by Electronic Funds Transfer (Non-CCR), in all other solicitations and contracts. The contracting officer also shall insert this clause if the payment office does not currently have the ability to make payment by EFT, but will use a source other than the CCR database for EFT information when it begins making payments by EFT.

(ii)(A) If permitted by agency procedures, the contracting officer may insert in paragraph (c)(1) of the clause, a particular time after award, such as a fixed number of days. However, in no event shall the time period be later than 15 days prior to submission of the first request for payment.

(B) If no agency procedures are prescribed, the time period inserted in paragraph (c)(1) of the clause shall be "no later than 15 days prior to submission of the first request for payment."

(b) If the head of the agency has made a determination in accordance with 32.1103–4(b) to use a nondomestic EFT mechanism, the contracting officer shall insert in solicitations and contracts a clause substantially the same as 52.232–33 or 52.232–34 that clearly addresses the non-domestic EFT mechanism.

(c) If EFT information is to be submitted to other than the payment office in accordance with agency procedures, the contracting officer shall insert in solicitations and contracts the clause at 52.232–X1, Designation of Office for Government Receipt of EFT Information, or a clause substantially the same as 52.232–X1 that clearly informs the contractor of where to send the EFT information.

(d) If payment under a written contract will be made by a charge to a Government account with a third party such as a Governmentwide commercial purchase card, then the contracting officer shall insert the clause at 52.232–X2, Payment by Third Party, in solicitations and contracts. Payment by a purchase card may also be made under a contract that does not contain the clause at 52.232–X2, to the extent the contractor agrees to accept that method of payment.

(e) If the contract or agreement provides for the use of delivery orders, and provides for a choice of payment methods for individual orders, the contracting officer shall insert, in the solicitation and contract or agreement, the clause at 52.232–X3, Multiple Payment Arrangements, and, to the extent they are applicable, the clauses at—

(1) 52.232–33, Payment by Electronic Funds Transfer (CCR);

(2) 52.232–34, Payment by Electronic Funds Transfer (Non-CCR); and

(3) 52.232–X2, Payment by Third Party.

(f) If more than one disbursing office will make payment under a contract, the contracting officer shall include the EFT clause appropriate for each office and shall identify the applicability by disbursing office and contract line item.

(g) If the solicitation contains the clause at 52.232–34, Payment by Electronic Funds Transfer (Non-CCR), and an offeror is required to submit EFT information prior to award, the contracting officer shall insert in the solicitation the provision at 52.232–X4, Submission of Electronic Funds Transfer Information with Offer, or a provision substantially the same.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

6. Section 52.212–4 is amended by revising the clause date and the third sentence in paragraph (i) to read as follows:

52.212–4 Contract Terms and Conditions—Commercial Items.

* * * * *

Contract Terms and Conditions—Commercial Items (Date)

* * * * *

(i) *Payment.* * * * If the Government makes payment by Electronic Funds Transfer (EFT), see 52.212–5 for the appropriate EFT clause. * * *

* * * * *

7. Section 52.212–5 is amended by revising the clause date; and in paragraph (b) by redesignating (b)(16) and (17) as (19) and (20), respectively, and by adding new paragraphs (16), (17), and (18) to read as follows:

52.212–5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items.

* * * * *

Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items (Date)

* * * * *

(b) * * *

_____ (16) 52.232–33, Payment by Electronic Funds Transfer (CCR) (31 U.S.C. 3332).

_____ (17) 52.232–34, Payment by Electronic Funds Transfer (Non-CCR) (31 U.S.C. 3332).

_____ (18) 52.232–X2, Payment by Third Party (31 U.S.C. 3332).

* * * * *

8. Section 52.213–4 is amended by revising the clause date; by removingparagraph (a)(2)(vi) and redesignating paragraphs (a)(2)(vii) through (a)(2)(ix) as (a)(2)(vi) through

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(a)(2)(viii); and by adding paragraphs (b)(1)(ix) and (b)(1)(x) to read as follows:

52.213–4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).

Terms and Conditions—Simplified Acquisition (Other Than Commercial Items) (Date)

* * * * *

(b) * * *
(1) * * *

* * * * *

(ix) 52.232–33, Payment by Electronic Funds Transfer (CCR) (Date). (Applies when payment will be made by EFT and the payment office uses the Central Contractor Registration database as its source of EFT information.)

(x) 52.232–34, Payment by Electronic Funds Transfer (Non-CCR) (Date). (Applies when payment will be made by EFT and the payment office does not use the Central Contractor Registration database as its source of EFT information.)

* * * * *

9. Sections 52.232–33 and 52.232–34 are revised and new sections 52.232-X1 through 52.232–X4 are added to read as follows:

52.232–33 Payment by Electronic Funds Transfer (CCR).

As prescribed in 32.1105(a)(1), insert the following clause:

Payment by Electronic Funds Transfer (CCR) (Date)

(a) *Method of payment.* (1) All payments by the Government under this contract shall be made by electronic funds transfer (EFT), except as provided in paragraph (a)(2) or (b) of this clause. As used in this clause, the term EFT refers to the funds transfer and may also include the payment information transfer.

(2) In the event the Government is unable to release one or more payments by EFT, the Contractor agrees to either—

(i) Accept payment by check or some other mutually agreeable method of payment; or

(ii) Request the Government to extend the payment due date until such time as the Government can make payment by EFT (but see paragraph (e) of this clause).

(b) *Alternative contractor certification.* If the Contractor certifies in writing, as part of its registration with the Central Contractor Registration (CCR) database (FAR 4.503), that it does not have an account with a financial institution and does not have an authorized payment agent, payment shall be made by check to the remittance address contained in the CCR database. All contractor certifications will expire on January 1, 1999.

(c) *Contractor's EFT information.* Except as provided in paragraph (b) of this clause, the Government shall make payment to the Contractor using the EFT information contained in the CCR database. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the CCR database.

(d) *Mechanisms for EFT payment.* The Government may make payment by EFT through either an Automated Clearing House (ACH) subject to the banking laws of the United States or the Federal Reserve Wire Transfer System.

(e) *Suspension of Payment.* If the Contractor's EFT information in the CCR database is incorrect and the Contractor has not certified under paragraph (b) of this clause, then the Government need not make payment to the Contractor under this contract until correct EFT information or certification is entered into the CCR database; and any invoice or contract financing request shall be deemed not to be a proper invoice for the purpose of prompt payment under this contract. The prompt payment terms of the contract regarding notice of an improper invoice and delays in accrual of interest penalties apply.

(f) *Contractor EFT arrangements.* If the Contractor has identified multiple payment receiving points (*i.e.*, more than one remittance address and/or EFT information set) in the CCR database, and the Contractor has not notified the Government of the payment receiving point applicable to this contract, the Government shall make payment to the first payment receiving point (EFT information set or remittance address as applicable) listed in the CCR database.

(g) *Liability for uncompleted or erroneous transfers.* (1) If an uncompleted or erroneous transfer occurs because the Government failed to use the Contractor's EFT information in the correct manner, the Government remains responsible for—

(i) Making a correct payment;

(ii) Paying any prompt payment penalty due; and

(iii) Recovering any erroneously directed funds.

(2) If an uncompleted or erroneous transfer occurs because the Contractor's EFT information was incorrect, or was revised within 30 days of Government release of the EFT payment transaction instruction to the Federal Reserve System, and—

(i) If the funds are no longer under the control of the payment office, the Government is deemed to have made payment and the Contractor is responsible for recovery of any erroneously directed funds; or

(ii) If the funds remain under the control of the payment office, the Government shall not make payment, and the provisions of paragraph (e) shall apply.

(h) *EFT and prompt payment.* A payment shall be deemed to have been made in a timely manner in accordance with the prompt payment terms of this contract if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.

(i) *EFT and assignment of claims.* If the Contractor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Contractor shall require as a condition of any such assignment, that the assignee shall register in the CCR database and shall be paid by EFT in accordance with the terms of this clause. In all respects, the requirements of this clause shall apply to the assignee as if it were the Contractor. EFT information that shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to the Government, is incorrect EFT information within the meaning of paragraph (e) of this clause.

(j) *Liability for change of EFT information by financial agent.* The Government is not liable for errors resulting from changes to EFT information made by the Contractor's financial agent.

(k) *Payment information.* The payment or disbursing office shall forward to the Contractor available payment information that is suitable for transmission as of the date of release of the electronic funds transfer instruction to the Federal Reserve System. The Government may request the Contractor to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, the Government does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the Government. If the Contractor has certified in accordance with paragraph (b) of this clause or if the Government otherwise makes payment by check in accordance with paragraph (a) of this clause, the Government shall mail the payment information to the remittance address contained in the CCR database.

(End of clause)

52.232–34 Payment by Electronic Funds Transfer (Non-CCR).

As prescribed in 32.1105(a)(2), insert the following clause:

Payment by Electronic Funds Transfer (Non-CCR) (Date)

(a) *Method of Payment.* (1) All payments by the Government under this contract shall be made by electronic funds transfer (EFT), except as provided in paragraph (a)(2) or (b) of this clause. As used in this clause, the term EFT refers to the funds transfer and may also include the payment information transfer.

(2) In the event the Government is unable to release one or more payments by EFT, the Contractor agrees to either—

(i) Accept payment by check or some other mutually agreeable method of payment; or

(ii) Request the Government to extend the payment due dates until such time as the Government makes payment by EFT (but see paragraph (e) of this clause).

(b) *Alternative Contractor Certification.* If the Contractor certifies in writing to the designated office (see paragraph (c)(1) of this clause) that is does not have an account with a financial institution and does not have an authorized payment agent, payment shall be made by check to the remittance address specified in this contract and the Contractor need not provide EFT information. All contractor certifications will expire on January 1, 1999. For any payments to be made after January 1, 1999, the Contractor shall provide EFT information as described in paragraph (k) of this clause and payment shall be made by EFT.

(c) *Mandatory submission of Contractor's EFT information.* (1) Except as provided in paragraph (b) of this clause, the Contractor is required, as a condition to any invoice or contract financing payment under this contract, to provide the Government with the information required to make payment by EFT (see paragraph (k) of this clause). The Contractor shall provide this information directly to the office designated in this contract to receive that information (hereafter: "designated office") by [*Insert date, days after award, or days before first request as prescribed by Agency head; if not prescribed, insert "no later than 15 days prior to submission of the first request for payment"*]. If not otherwise specified in this contract, the payment office is the designated office for receipt of the Contractor's EFT information. If more than one designated office is named for the contract, the Contractor shall provide a separate notice to each office. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the designated office(s).

(2) If the Contractor provides EFT information applicable to multiple contracts, the Contractor shall specifically state the applicability of this EFT information in terms acceptable to the designated office. However, EFT information supplied to a designated office shall be applicable only to contracts which identify that designated office as the office to receive EFT information for that contract.

(d) *Mechanisms for EFT Payment.* The Government may make payment by EFT through either an Automated Clearing House (ACH) subject to the banking laws of the United States or the Federal Reserve Wire Transfer System.

(e) *Suspension of Payment.* (1) The Government is not required to make any payment under this contract until after receipt, by the designated office, of the correct EFT payment information from the Contractor or a certificate submitted in accordance with paragraph (b) of this clause. Until receipt of the correct EFT information or certificate, any invoice or contract financing request shall be deemed not to be a proper invoice for the purpose of prompt payment under this contract. The prompt payment terms of the contract regarding notice of an improper invoice and delays in accrual of interest penalties apply.

(2) If the EFT information changes after submission of correct EFT information, the Government shall begin using the changed EFT information no later than 30 days after its receipt to the extent payment is made by EFT. However, the Contractor may request that no further payments be made until the updated EFT information is implemented by the payment office. If such suspension would result in a late payment under the prompt payment terms of this contract, the Contractor's request for suspension shall extend the due date for payment by the number of days of the suspension.

(f) *Liability for uncompleted or erroneous transfers.* (1) If an uncompleted or erroneous transfer occurs because the Government failed to use the Contractor's EFT information in the correct manner, the Government remains responsible for—

(i) Making a correct payment;

(ii) Paying any prompt payment penalty due; and

(iii) Recovering any erroneously directed funds.

(2) If an uncompleted or erroneous transfer occurs because the Contractor's EFT information was incorrect, or was revised within 30 days of Government release of the EFT payment transaction instruction to the Federal Reserve System, and—

(i) If the funds are no longer under the control of the payment office, the Government is deemed to have made payment and the Contractor is responsible for recovery of any erroneously directed funds; or

(ii) If the funds remain under the control of the payment office, the Government shall not make payment and the provisions of paragraph (e) shall apply.

(g) *EFT and prompt payment.* A payment shall be deemed to have been made in a timely manner in accordance with the prompt payment terms of this contract if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.

(h) *EFT and assignment of claims.* If the Contractor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Contractor shall require as a condition of any such assignment, that the assignee shall provide the EFT information required by paragraph (k) of this clause to the designated office, and shall be paid by EFT in accordance with the terms of this clause. In all respects, the requirements of this clause shall apply to the assignee as if it were the Contractor. EFT information that shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to the Government, is incorrect EFT information within the meaning of paragraph (e) of this clause.

(i) *Liability for change of EFT information by financial agent.* The Government is not liable for errors resulting from changes to EFT information provided by the Contractor's financial agent.

(j) *Payment information.* The payment or disbursing office shall forward to the Contractor available payment information that is suitable for transmission as of the date of release of the electronic funds transfer instruction to the Federal Reserve System. The Government may request the Contractor to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, the Government does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the Government. If the Contractor has certified in accordance with paragraph (b) of this clause or if the Government otherwise makes payment by check in accordance with paragraph (a) of this clause, the Government shall mail the payment information to the remittance address in the contract.

(k) *EFT Information.* The Contractor shall provide the following information to the designated office. The Contractor may supply this data for this or multiple contracts (see paragraph (c) of this clause). The Contractor shall designate a single financial agent per contract capable of receiving and processing the EFT using the EFT methods described in paragraph (d) of this clause.

(1) The contract number (or other procurement identification number).

(2) The Contractor's name and remittance address, as stated in the contract(s).

(3) The signature (manual or electronic, as appropriate), title, and telephone number of the Contractor official authorized to provide this information.

(4) The name, address, and 9-digit Routing Transit Number of the Contractor's financial agent.

(5) The Contractor's account number and the type of account (checking, saving, or lockbox).

(6) The Federal Reserve Wire Transfer System telegraphic abbreviation of the Contractor's financial agent.

(7) If the Contractor's financial agent is not directly on-line to the Federal Reserve Wire Transfer System and, therefore, not the receiver of the wire transfer payment, the Contractor shall also provide the name, address, telegraphic abbreviation, and 9-digit Routing Transit Number of the correspondent financial institution receiving the wire transfer payment.

(End of clause)

52.232–X1 Designation of Office for Government Receipt of EFT Information.

As prescribed in 32.1105(c) insert the following clause:

Designation of Office for Government Receipt of EFT Information (Date)

(a) As provided for in paragraph (c) of the clause at 52.232–34, Payment by Electronic Funds Transfer (Non-CCR), the Government has designated the following office as the office to receive the Contractor's EFT information, in lieu of the payment office of this contract.

(b) The Contractor shall send all EFT information, and any changes of EFT information to the office designated in paragraph (c) of this clause. The Contractor shall not send EFT information to the payment office, or any other office than that designated in paragraph (c). The Government need not use any EFT information sent to any office other than that designated in paragraph (c).

(c) Designated Office:

Name: ______________________
Mailing Address: ______________________
____
____
Telephone Number: ______________________
Person to Contact: ______________________
Electronic Address: ______________________

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(End of clause)

52.232–X2 Payment by Third Party.

As prescribed in 32.1105(d), insert the following clause:

Payment by Third Party (Date)

(a) *General.* The Contractor agrees to accept payments due under this contract, through payment by a Third Party in lieu of payment directly from the Government, in accordance with the terms of this clause. The Third Party and the particular Governmentwide commercial purchase card to be used are identified elsewhere in this contract.

(b) *Contractor payment request.* In accordance with those clauses of this contract that authorize the Contractor to submit invoices, contract financing requests, other payment requests, or as provided in other clauses providing for payment to the Contractor, the Contractor shall make such payment requests through a charge to the Government account with the Third Party, at the time and for the amount due in accordance with the terms of this contract.

(c) *Payment.* The Contractor and the Third Party shall agree that payments due under this contract shall be made upon submittal of payment requests to the Third Party in accordance with the terms and conditions of an agreement between the Contractor, the Contractor's financial agent (if any), and the Third Party and its agents (if any). No payment shall be due the Contractor until such agreement is made. Payments made or due by the Third Party under this clause are not payments made by the Government and are not subject to the Prompt Payment Act or any implementation thereof in this contract.

(d) *Documentation.* Documentation of each charge against the Government's account shall be provided to the Contracting Officer upon request.

(e) *Assignment of Claims.* Notwithstanding any other provision of this contract, if any payment is made under this clause, then no payment under this contract shall be assigned under the provisions of the Assignment of Claims terms of this contract or the Assignment of Claims Act of 1940, as amended, 31 U.S.C. 3727, 41 U.S.C. 15.

(f) *Other Payment Terms.* The other payment terms of this contract shall govern the content and submission of payment requests. If any clause requires information or documents in or with the payment request, that is not provided for in the Third Party agreement referenced in paragraph (c) of this clause, the Contractor shall obtain instructions from the Contracting Officer before submitting such a payment request.

(End of clause)

53.232–X3 Multiple Payment Arrangements.

As prescribed in 32.1105(e), insert the following clause:

Multiple Payment Arrangements (Date)

This contract or agreement provides for payments to the Contractor through several alternative methods. The applicability of specific methods of payment and the designation of the payment office(s) are either stated—

(a) Elsewhere in this contract or agreement; or

(b) In individual orders placed under this contract or agreement.

(End of clause)

52.232–X4 Submission of Electronic Funds Transfer Information with Offer.

As prescribed in 32.1105(g), insert the following provision:

Submission of Electronic Funds Transfer Information With Offer (Date)

The offeror shall provide, with its offer, the following information that is required to make payment by electronic funds transfer (EFT) under any contract that results from this solicitation. This submission satisfies the requirement to provide EFT information under paragraphs (c)(1) and (k) of the clause at 52.232–34, Payment By Electronic Funds Transfer (Non-CCR).

(1) The solicitation number (or other procurement identification number).

(2) The offeror's name and remittance address, as stated in the offer.

(3) The signature (manual or electronic, as appropriate), title, and telephone number of the offeror's official authorized to provide this information.

(4) The name, address, and 9-digit Routing Transit Number of the offeror's financial agent.

(5) The offeror's account number and the type of account (checking, saving, or lockbox).

(6) The Federal Reserve Wire Transfer System telegraphic abbreviation of the offeror's financial agent.

(7) If the offeror's financial agent is not directly on-line to the Federal Reserve Wire Transfer System and, therefore, not the receiver of the wire transfer payment, the offeror shall also provide the name, address, telegraphic abbreviation, and 9-digit Routing Transit Number of the correspondent financial institution receiving the wire transfer payment.

(End of provision)

[FR Doc. 98–17148 Filed 7–2–98; 8:45 am]

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federal register

Monday
July 6, 1998

Part IV

The President

Proclamation 7107—To Modify Duty-Free Treatment Under the Generalized System of Preferences

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Presidential Documents

Title 3—

The President

Proclamation 7107 of June 30, 1998

To Modify Duty-Free Treatment Under the Generalized System of Preferences

By the President of the United States of America

A Proclamation

1. Pursuant to sections 501, 503(a)(1)(A), and 503(c)(1) of title V of the Trade Act of 1974, as amended ("the 1974 Act") (19 U.S.C. 2461, 2463(a)(1)(A), and 2463(c)(1)), as amended, the President may designate or withdraw designation of specified articles provided for in the Harmonized Tariff Schedule of the United States (HTS) as eligible for preferential tariff treatment under the Generalized System of Preferences (GSP) when imported from designated beneficiary developing countries.

2. Pursuant to section 503(c)(2)(A) of the 1974 Act (19 U.S.C. 2463(c)(2)(A)), beneficiary developing countries, except those designated as least-developed beneficiary developing countries pursuant to section 503(c)(2)(D) of the 1974 Act (19 U.S.C. 2463(c)(2)(D)), are subject to competitive need limitations on the preferential treatment afforded under the GSP to eligible articles.

3. Pursuant to section 503(c)(2)(C) of the 1974 Act (19 U.S.C. 2463(c)(2)(C)), a country that is no longer treated as a beneficiary developing country with respect to an eligible article may be redesignated as a beneficiary developing country with respect to such article if imports of such article from such country did not exceed the competitive need limitations in section 503(c)(2)(A) of the 1974 Act (19 U.S.C. 2463(c)(2)(A)), during the preceding calendar year.

4. Pursuant to section 503(c)(2)(F) of the 1974 Act (19 U.S.C. 2463(c)(2)(F)), the President may disregard the competitive need limitation provided in section 503(c)(2)(A)(i)(II) of the 1974 Act (19 U.S.C. 2463(c)(2)(A)(i)(II)) with respect to any eligible article if the aggregate appraised value of the imports of such article into the United States during the preceding calendar year does not exceed the applicable amount set forth in section 503(c)(2)(F)(ii) of the 1974 Act (19 U.S.C. 2463(c)(2)(F)(ii)).

5. Pursuant to section 503(d) of the 1974 Act (19 U.S.C. 2463(d)), the President may waive the application of the competitive need limitations in section 503(c)(2)(A) with respect to any eligible article of any beneficiary developing country if certain conditions are met.

6. Section 507(2) of the 1974 Act (19 U.S.C. 2467(2)) provides that in the case of an association of countries which is a free trade area or customs union, or which is contributing to comprehensive regional economic integration among its members through appropriate means, including, but not limited to, the reduction of duties, the President may provide that all members of such association other than members which are barred from designation under section 502(b) of the 1974 Act (19 U.S.C. 2462(b)) shall be treated as one country for purposes of title V of the 1974 Act.

7. Pursuant to sections 501 and 503(a)(1)(A) of the 1974 Act, and after receiving advice from the International Trade Commission in accordance with section 503(e), I have determined to designate certain articles, previously designated under section 503(a)(1)(B), as eligible articles from additional beneficiary developing countries. In order to do so, it is necessary to subdivide and amend the nomenclature of existing subheadings of the HTS.

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For certain articles, I have decided that the effective date of designation shall be determined by the United States Trade Representative (USTR).

8. Pursuant to section 503(c)(1) of the 1974 Act, I have determined to limit the application of duty-free treatment accorded to certain articles from certain beneficiary developing countries.

9. Pursuant to section 503(c)(2)(A) of the 1974 Act, I have determined that certain beneficiary developing countries should not receive preferential tariff treatment under the GSP with respect to certain eligible articles imported in quantities that exceed the applicable competitive need limitation.

10. Pursuant to section 503(c)(2)(C) of the 1974 Act, I have determined that certain countries should be redesignated as beneficiary developing countries with respect to certain eligible articles that previously had been imported in quantities exceeding the competitive need limitations of section 503(c)(2)(A).

11. Pursuant to section 503(c)(2)(F) of the 1974 Act, I have determined that the competitive need limitation provided in section 503(c)(2)(A)(i)(II) should be waived with respect to certain eligible articles from certain beneficiary developing countries. For certain articles, I have decided that the effective date of the waiver shall be determined by the USTR.

12. Pursuant to section 503(d) of the 1974 Act, I have determined that the competitive need limitations of section 503(c)(2)(A) should be waived with respect to certain eligible articles from certain beneficiary developing countries. I have received the advice of the International Trade Commission on whether any industries in the United States are likely to be adversely affected by such waivers, and I have determined, based on that advice and on the considerations described in sections 501 and 502(c), that such waivers are in the national economic interest of the United States. For a certain article, I have decided that the effective date of the waiver shall be determined by the USTR.

13. Pursuant to section 507(2) of the 1974 Act, I have determined that members of the West African Economic and Monetary Union (WAEMU) should be treated as one country for purposes of title V of the 1974 Act.

14. Pursuant to section 507(2) of the 1974 Act, I have determined that members of the Southern African Development Community (SADC) should be treated as one country for purposes of title V of the 1974 Act. The USTR shall determine which specific members of the SADC are to be included in the designation under section 507(2) of the 1974 Act and shall determine the effective date or dates of the designation. The USTR shall announce by publication in the **Federal Register** the specific SADC members to be included in the designation and the effective date or dates.

15. Pursuant to section 507(2) of the 1974 Act, I have determined that members of the Tripartite Commission for East African Cooperation (EAC) should be treated as one country for purposes of title V of the 1974 Act. The USTR shall determine which specific members of the EAC are to be included in the designation under section 507(2) of the 1974 Act and shall determine the effective date or dates of the designation. The USTR shall announce by publication in the **Federal Register** the specific EAC members to be included in the designation and the effective date or dates.

16. Section 604 of the 1974 Act, as amended (19 U.S.C. 2483), authorizes the President to embody in the HTS the substance of the relevant provisions of that Act, and of other acts affecting import treatment, and actions thereunder, including the removal, modification, continuance, or imposition of any rate of duty or other import restriction.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States of America, including but not limited to title V and section 604 of the 1974 Act, do proclaim that:

(1) In order to provide that one or more countries that have not been treated as beneficiary developing countries with respect to one or more eligible articles should be designated as beneficiary developing countries with respect to such article or articles for purposes of the GSP, and that one or more countries should not be treated as beneficiary developing countries with respect to one or more eligible articles for purposes of the GSP, general note 4 to the HTS is modified as provided in section A of Annex I and section A of Annex IV to this proclamation.

(2) In order to designate certain articles, previously designated under section 503(a)(1)(B), as eligible articles from additional beneficiary developing countries, the HTS is modified by amending and subdividing the nomenclature of existing HTS subheadings as provided in section B of Annex I to this proclamation.

(3)(a) In order to designate certain articles as eligible articles for purposes of the GSP when imported from any beneficiary developing country, the Rates of Duty 1-Special subcolumn for certain HTS subheadings is modified as provided in section C(1) of Annex I and section B of Annex IV to this proclamation.

(b) In order to designate certain articles, previously designated under section 503(a)(1)(B), as eligible articles from additional beneficiary developing countries, the Rates of Duty 1-Special subcolumn for the HTS subheadings enumerated in section C(2) of Annex I to this proclamation is modified as provided in such section.

(c) In order to provide preferential tariff treatment under the GSP to beneficiary developing countries that have been excluded from the benefits of the GSP for certain eligible articles, the Rates of Duty 1-Special subcolumn for each of the HTS subheadings enumerated in section C(3) of Annex I to this proclamation is modified as provided in such section.

(d) In order to provide that one or more countries should not be treated as a beneficiary developing country with respect to certain eligible articles for purposes of the GSP, the Rates of Duty 1-Special subcolumn for each of the HTS subheadings enumerated in section C(4) of Annex I to this proclamation is modified as provided in such section.

(4) A waiver of the application of section 503(c)(2)(A) of the 1974 Act shall apply to the eligible articles in the HTS subheadings and to the beneficiary developing countries set forth in Annex II and in section C of Annex IV to this proclamation.

(5) In order to provide for the continuation of previously proclaimed staged reductions of duties in the Rates of Duty 1-General subcolumn for goods that fall in the HTS subheadings modified by section B of Annex I to this proclamation and that are entered, or withdrawn from warehouse for consumption, on or after the dates specified in section A of Annex III to this proclamation, the rate of duty in the HTS set forth in such subcolumn for each of the HTS subheadings enumerated in section A of Annex III to this proclamation is deleted and the rate of duty provided in such section is inserted in lieu thereof.

(6) In order to provide for the continuation of previously proclaimed staged reductions of duties in the Rates of Duty 1-Special subcolumn for certain goods of Mexico that fall in the HTS subheadings modified by section B of Annex I to this proclamation and effective with respect to goods of Mexico under the terms of general note 12 to the HTS that are entered, or withdrawn from warehouse for consumption, on or after the dates specified in section B of Annex III to this proclamation, the rate of duty in the HTS set forth in such subcolumn followed by the symbol "MX" in parentheses for each of the HTS subheadings enumerated in section B of Annex III to this proclamation is deleted and the rate of duty provided in such section is inserted in lieu thereof.

(7) In order to reflect in the HTS the decision that members of the WAEMU should be treated as one country for purposes of title V of the

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1974 Act, and to enumerate the member countries, general note 4(a) to the HTS is modified as provided in Annex V to this proclamation.

(8) In order to reflect in the HTS the decision that members of the SADC should be treated as one country for purposes of title V of the 1974 Act, and to enumerate those member countries that should benefit from such designation, general note 4(a) to the HTS is to be modified as set forth in a notice or notices that the USTR shall cause to be published in the **Federal Register**. Such notice or notices should direct the insertion in general note 4(a) of the title of the association and the names of those member countries that should be treated as one country for purposes of title V of the 1974 Act, and should specify the effective date of such designation.

(9) In order to reflect in the HTS the decision that members of the EAC should be treated as one country for purposes of title V of the 1974 Act, and to enumerate those member countries that should benefit from such designation, general note 4(a) to the HTS is to be modified as set forth in a notice or notices that the USTR shall cause to be published in the **Federal Register**. Such notice or notices should direct the insertion in general note 4(a) of the title of the association and the names of those member countries that should be treated as one country for purposes of title V of the 1974 Act, and should specify the effective date of such designation.

(10) Any provisions of previous proclamations and Executive orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

(11)(a) The modifications made by Annex I to this proclamation shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after July 1, 1998.

(b) The action taken in Annex II to this proclamation shall be effective on the date of signature of this proclamation.

(c) The modifications made by Annex III to this proclamation shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the dates set forth in such Annex.

(d) The modifications made by Annex IV to this proclamation shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after a date to be announced in the **Federal Register** by the USTR.

(e) The modification made by Annex V to this proclamation shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date of signature of this proclamation.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of June, in the year of our Lord nineteen hundred and ninety-eight, and of the Independence of the United States of America the two hundred and twenty-second.

William J. Clinton

Billing code 3195–01–P

Annex I

Modifications to the Harmonized Tariff Schedule of the United States ("HTS")

Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after July 1, 1998.

Section A. General note 4(d) to the Harmonized Tariff Schedule of the United States ("HTS") is modified, as provided in this section.

(1). deleting the following HTS subheadings and the country set out opposite such subheadings:

0711.40.00	India
0811.20.20	Chile
4411.19.40	Brazil
7103.99.10	Thailand
7615.19.10	Thailand
8108.90.60	Russia
8112.11.60	Kazakhstan
8409.99.99	Brazil

(2). by deleting the country set out opposite the following subheading:

2916.31.15	Estonia
8409.99.91	Brazil
9025.11.20	Brazil

(3). by adding, in numerical sequence, the following HTS provisions and countries set out opposite them:

0202.30.10	Argentina
0708.90.30	Ecuador
0710.29.30	Ecuador
0711.30.00	Turkey
0712.90.74	Turkey
0802.50.20	Turkey
0802.90.80	Guatemala
1006.30.10	India
1602.50.09	Argentina
1604.15.00	Chile
1701.91.42	Jamaica
2002.90.40	Turkey
2009.30.10	Honduras
2101.20.32	India
2106.90.06	Colombia
2208.90.05	Trinidad and Tobago
2401.20.57	Indonesia
2516.90.00	South Africa
3204.12.20	Argentina; India
3204.12.30	Argentina; India
3204.12.45	Argentina; India
3204.12.50	Argentina; India
3824.90.28	India
3920.62.00	India
4104.39.40	Argentina
4409.10.40	Chile
4412.22.50	Indonesia
4809.10.20	Guatemala
6501.00.60	Colombia
7113.19.29	India
7117.90.55	Peru
7202.50.00	Russia
7206.90.00	Trinidad and Tobago
7307.91.30	Brazil
7401.10.00	India
7407.22.30	Russia
7409.39.50	Hungary
7411.21.50	Trinidad and Tobago
7614.90.20	Venezuela
7904.00.00	South Africa
8525.20.05	Philippines
8528.12.16	Thailand
8534.00.00	Thailand
8606.30.00	India
8708.40.50	Brazil
9001.30.00	Indonesia
9614.20.60	Turkey

Annex I (continued)

Section A. (con.)

(4). by adding, in alphabetical order, the country or countries set out opposite the following HTS subheadings:

1604.14.50	Indonesia
1806.10.65	India
2825.30.00	South Africa
2840.11.00	Turkey
2840.19.00	Turkey
2841.90.10	South Africa
2843.30.00	Colombia
2849.90.50	South Africa
2901.29.50	South Africa
2907.29.25	South Africa
3817.10.50	Indonesia
4106.12.00	Pakistan
4412.29.45	Ecuador
7113.19.50	Turkey
8531.20.00	Philippines

Section B. The Harmonized Tariff Schedule of the United States ("HTS") is modified, as provided in this section.

The following provisions supersedes matter now in the HTS. Bracketed matter is included to assist in the understanding of proclaimed modifications. The subheadings and superior text are set forth in columnar format, and material in such columns is inserted in the columns of the HTS designated "Heading/Subheading", "Article Description", "Rates of Duty 1 General", "Rates of Duty 1 Special", and "Rates of Duty 2", respectively.

(1). HTS subheading 0712.90.75 is superseded by:

	[Dried vegetables, whole, cut, sliced,...:]			
	[Other vegetables; mixtures of...:]			
	"Tomatoes:			
0712.90.74	In powder..............................	10.1%	Free (A*,CA,E, IL,J,MX)	35%
0712.90.78	Other..................................	10.1%	Free (A+,CA,E, IL,J,MX)	35%"

(2). HTS subheading 2002.90.00 is superseded by:

	[Tomatoes prepared or preserved...:]			
"2002.90	Other:			
2002.90.40	In powder..................................	12.3%	Free (A*,CA,E IL,J) 5.7% (MX)	50%
2002.90.80	Other......................................	12.3%	Free (A+,CA,E, IL,J) 5.7% (MX)	50%"

Section C. An article's preferential tariff treatment under the Generalized System of Preferences ("GSP") in the Harmonized Tariff Schedule of the United States ("HTS") is modified as provided in this section.

(1). For HTS subheading 0703.10.40, the Rates of Duty 1-Special subcolumn is modified by deleting the symbol "A+" in the parentheses following the "Free" rate and by inserting the symbol "A" in lieu thereof.

(2). For the following HTS subheadings, the Rates of Duty 1-Special subcolumn is modified by deleting the symbol "A+" in the parentheses following the "Free" rate and by inserting the symbol "A*" in lieu thereof.

3204.12.20
3204.12.30
3204.12.45
3204.12.50
3824.90.28

Annex I (continued)

Section A. (con.)

(3). For the following HTS subheadings, the Rates of Duty 1-Special subcolumn is modified by deleting the symbol "A*" and inserting an "A" in lieu thereof.

0711.40.00
0811.20.20
4411.19.40
7103.99.10
7615.19.10
8108.90.60
8112.11.60
8409.99.99

(4). For the following HTS provisions, the Rates of Duty 1-Special subcolumn is modified by deleting the symbol "A" and inserting an "A*" in lieu thereof:

0202.30.10
0708.90.30
0710.29.30
0711.30.00
0802.50.20
0802.90.80
1006.30.10
1602.50.09
1604.15.00
1701.91.42
2009.30.10
2101.20.32
2106.90.06
2208.90.05
2401.20.57
2516.90.00
3920.62.00
4104.39.40
4409.10.40
4412.22.50
4809.10.20
6501.00.60
7113.19.29
7117.90.55
7202.50.00
7206.90.00
7307.91.30
7401.10.00
7407.22.30
7409.39.50
7411.21.50
7614.90.20
7904.00.00
8525.20.05
8528.12.16
8534.00.00
8606.30.00
8708.40.50
9001.30.00
9614.20.60

Annex II

Harmonized Tariff Schedule of the United States ("HTS") Subheadings and Countries Granted Waivers of the Application of Section 503(c)(2)(A) of the 1974 Act

HTS Subheading	Country
0811.20.20	Chile
1604.30.20	Russia
2933.71.00	Russia
8108.90.60	Russia

Annex III

Staged Rate Modifications to the Harmonized Tariff Schedule of the United States ("HTS")

Section A. For the following HTS subheadings, the Rates of Duty 1-General subcolumn is modified on January 1 of each of the years indicated in the table below by deleting the existing rate of duty and inserting in lieu thereof the rate of duty specified for such year.

HTS Subheading	1999	2000
0712.90.74	9.4%	8.7%
0712.90.78	9.4%	8.7%
2002.90.40	11.9%	11.6%
2002.90.80	11.9%	11.6%

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Annex IV (continued)

Section B. For the following HTS subheadings, the Rates of Duty 1-Special subcolumn is modified on January 1 of each of the dates in the table below by deleting the existing rate of duty preceding the symbol "MX" in parentheses in such subcolumn and inserting in lieu thereof the rate of duty specified below for such date.

HTS Subheading	1999	2000	2001	2002	2003
2002.90.40	4.6%	3.4%	2.3%	1.1%	Free
2002.90.80	4.6%	3.4%	2.3%	1.1%	Free

Annex IV

Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after a date to be announced in the *Federal Register* by the United States Trade Representative, the following actions shall take effect.

Section A. General note 4(d) to the Harmonized Tariff Schedule of the United States ("HTS") is modified by deleting the country set out opposite the following HTS subheadings:

2825.30.00 South Africa
2841.90.10 South Africa
2849.90.50 South Africa
2907.29.25 South Africa

Section B. Modifications to the Harmonized Tariff Schedule of the United States ("HTS") of an article's preferential tariff treatment under the Generalized System of Preferences ("GSP").

For the following HTS subheadings, the Rates of Duty 1-Special subcolumn is modified by deleting the symbol "A+," in the parentheses following the "Free" rate and by inserting the symbol "A," in lieu thereof.

7108.12.50
7108.13.70
8704.10.50

Section C. A waiver of the application of section 503(c)(2)(A) of the 1974 Act shall apply to imports of eligible articles from South Africa that are provided for in HTS subheading 2849.90.50.

Annex V

Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date of signature of this proclamation, general note 4(a) of the Harmonized Tariff Schedule of the United States is modified

Annex IV (continued)

by adding to the "Association of Countries (treated as one country)", the following:

"Member Countries of the West African Economic and Monetary Union (WAEMU)"

Consisting of:

Benin
Burkina Faso
Cote d'Ivoire
Guinea-Bissau
Mali
Niger
Senegal
Togo"

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

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H.R. 1847/P.L. 105–184

Telemarketing Fraud Prevention Act of 1998 (June 23, 1998; 112 Stat. 520)

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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period July 1, 1996 to June 30, 1997. The volume issued July 1, 1996, should be retained.

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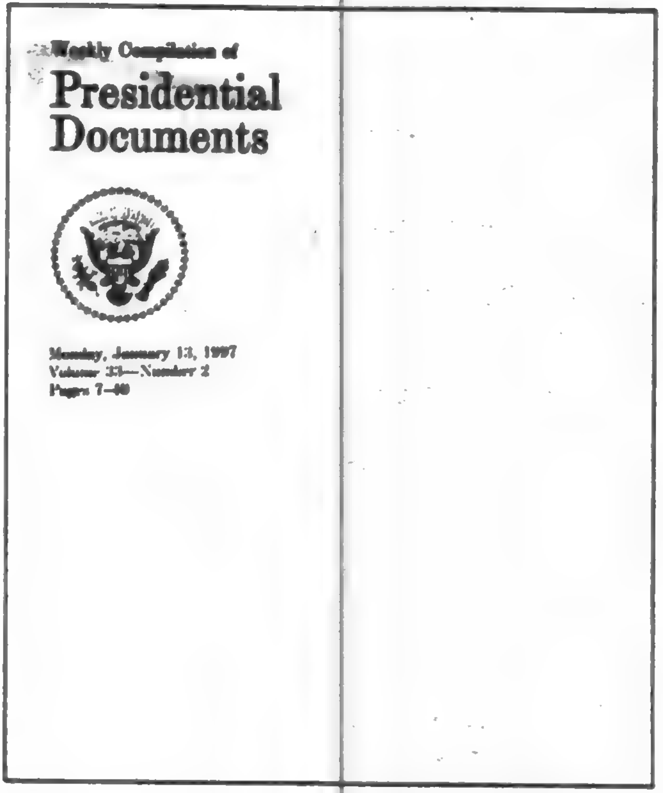
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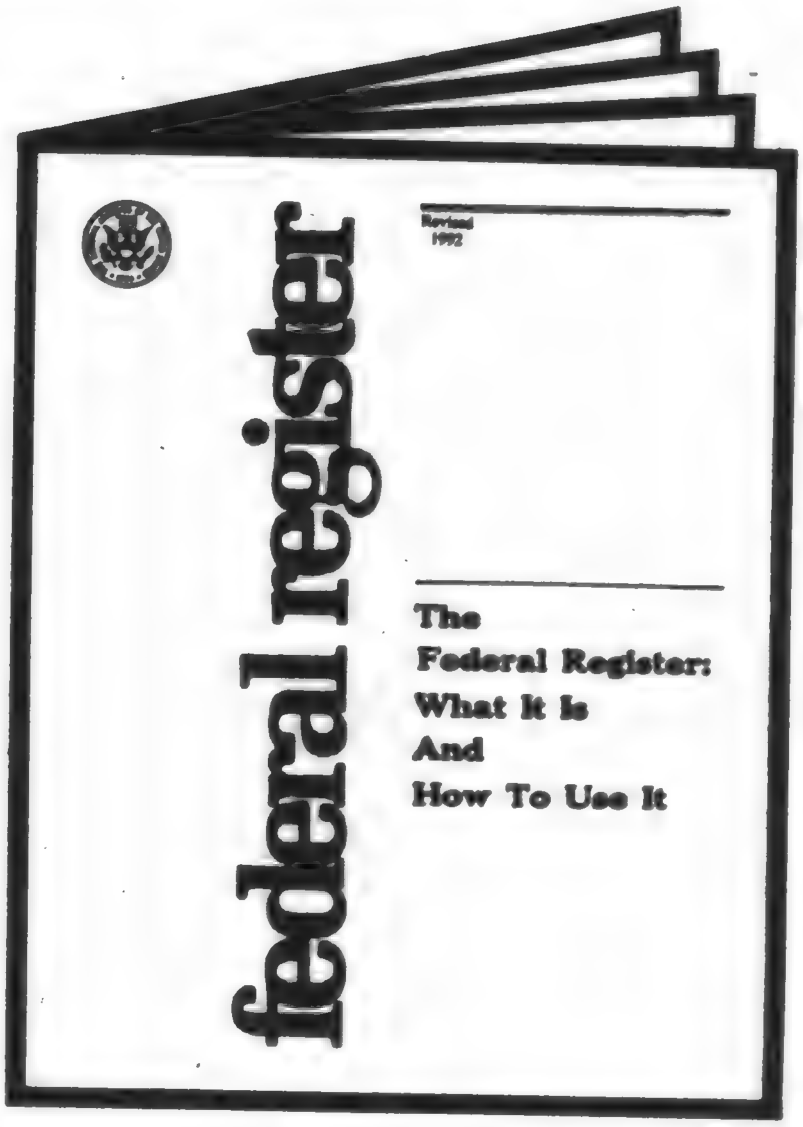
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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

FARM CREDIT ADMINISTRATION

12 CFR Parts 611, 614, 620, and 630

RIN 3052–AB67

Organization; Loan Policies and Operations; Disclosure to Shareholders; Disclosure to Investors in Systemwide and Consolidated Bank Debt Obligations of the Farm Credit System; Other Financing Institutions

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration (FCA or Agency), through the FCA Board (Board), issues a final rule amending its regulations that govern the funding and discount relationship between Farm Credit System (Farm Credit, FCS, or System) banks that operate under title I of the Farm Credit Act of 1971, as amended (Act), and non-System other financing institutions (OFIs). The final rule substantially expands access to System funding so OFIs can provide more short- and intermediate-term credit to parties who are eligible to borrow under sections 2.4(a) and (b) of the Act. The FCA has repealed several non-statutory limits on OFI eligibility. The final rule assures access to any creditworthy OFI that is significantly involved in agricultural lending and demonstrates a continuing need for funds to serve its agricultural borrowers. Under certain circumstances, OFIs may seek financing from a Farm Credit Bank (FCB) or agricultural credit bank (ACB) other than the System bank that is chartered to serve its territory. The final rule requires FCBs and ACBs to finance OFIs only on a fully secured basis and to have full recourse to the OFI's capital.

EFFECTIVE DATE: This regulation shall become effective 30 days after publication in the **Federal Register** during which either or both houses of Congress are in session. Notice of the effective date will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Eric Howard, Policy Analyst or S. Robert Coleman, Senior Policy Analyst, Regulation and Policy Division, Office of Policy Analysis, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498,

or

Richard A. Katz, Senior Attorney, Regulatory Enforcement Division, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION: This final rule completes a 2-year effort by the FCA to revise these regulations so that farmers, ranchers, and other eligible rural residents have greater access to credit through OFIs that are financed by FCBs and ACBs. On May 17, 1996, the FCA published an Advance Notice of Proposed Rulemaking seeking comments on how these regulations could be more responsive to the credit needs of OFIs and their borrowers. *See* 61 FR 24907. In response to these comments, the FCA proposed a rule that substantially revised the regulations in subpart P of part 614. *See* 62 FR 38223 (July 17, 1997). After considering the comments received, the FCA Board adopts a final rule that provides greater opportunities for OFIs to obtain funding from FCS banks so they can finance agriculture, aquaculture, and other specified rural credit needs.

Sixteen comment letters were received in response to the proposed rule. Of this total, comments were received from 4 trade associations, 5 FCS banks (one comment letter came from 2 FCS banks that are jointly-managed), 4 System direct lender associations, a federation representing System production credit associations (PCAs), a commercial bank, a commercial bank holding company, and an existing OFI. Four trade associations submitted comments on behalf of their members: the American Bankers Association (ABA); the Independent Bankers Association of America (IBAA); the North Dakota Bankers Association (NDBA); and the Farm Credit Council (Council).

The comment letters revealed a diverse range of views about OFI access to System funding. All System direct lender association commenters, except one, opposed any revision to the existing OFI regulation because of their concerns over competition. One commercial bank supported the proposed rule and urged the FCA to adopt it as a final rule without revision. Three commercial bank trade associations recognized the FCA's efforts to improve OFI access to System funding, but they recommended modifications to the rule. The remaining commenters focused on specific issues that were important to their institutions.

Commercial bank trade associations opined that the FCA's regulatory proposal made progress toward granting OFIs more access to System funding. However, these commenters believe that several provisions of the statute discourage many commercial banks from becoming OFIs. The most commonly cited statutory impediments to greater commercial bank participation in this program include: (1) No authority for OFIs to obtain System bank funding[1] for long-term mortgages; (2) lack of OFI representation on the boards of FCS funding banks; and (3) the need to offer borrower rights. For these reasons, the commenters again asked the FCA to support legislative initiatives that would remodel the FCS so it is similar to the Federal Home Loan Bank System. As the commenters acknowledge, the existing statute does not enable the FCA to accommodate some of their requests, and therefore, these issues are not addressed by this rulemaking.

Several PCA commenters expressed concern that expanded OFI access would place them at a competitive disadvantage. These commenters asked the FCA to enact regulations that provide PCAs with more business opportunities before final OFI regulations are adopted. Although several commenters stated that PCAs cannot effectively compete with OFIs until their intermediate-term lending authorities are expanded, section 1.10(b) of the Act establishes the maximum timeframe for intermediate-term loans.

The FCA has considered the concerns of the commenters and adopts a final rule that balances the needs of these parties. The final rule incorporates

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[1] As used in this preamble, references to Farm Credit banks apply only to FCBs and ACBs. Although the bank for cooperatives is also a System bank, it lacks statutory authority to finance the OFIs identified in section 1.7(b) of the Act.

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many of the commenters' suggestions and promotes a safe and sound lending relationship between System funding banks and their OFIs. The changes increase availability of credit to farmers, ranchers, aquatic producers and harvesters, and other eligible rural borrowers.

I. OFI Access

A. Proposed Rule and Comments

The FCA proposed a two-tier approach for OFIs to establish their eligibility for a funding and discount relationship with a System bank. Under § 614.4540(a), any financial institution that operates under one of the charters specified in section 1.7(b)(1)(B) of the Act may borrow from an FCB or ACB. Additionally, § 614.4540(b) assures access to creditworthy OFIs that have at least 15 percent of their loans to agricultural or aquatic producers and enter into a 2-year funding agreement with an FCB or ACB. The regulations require OFIs to use System funding only to extend short- and intermediate-term credit to eligible persons for authorized purposes under sections 1.10(b) and 2.4(a) and (b) of the Act. This new approach enables more OFIs to borrow from System banks, and as a result, farmers and ranchers should have greater access to affordable and dependable credit.

The FCA proposed to repeal the following eligibility provisions of the existing regulations that are not required by the Act:

- The 60-percent loan-to-deposit ratio for OFIs that are depository institutions;
- The requirement that OFIs primarily use locally generated funds for lending operations;
- The automatic denial of access to any entity that primarily finances the sale of products by its affiliates;
- Consideration of an OFI applicant's relationship with its affiliates and subsidiaries; and
- A mandatory non-use fee for OFIs that fail to maintain a specified average daily loan balance.

The FCA received comments on proposed § 614.4540 from the ABA, IBAA, NDBA, and the Council. These commenters supported the repeal of the non-statutory OFI eligibility criteria that are identified above. The final rule repeals these provisions.

Although all four trade associations supported greater OFI access to System funding, they expressed differing views on the need to modify proposed § 614.4540. The NDBA supported the two-tier approach for OFI access. The Council requested that the FCA amend the regulation so it expressly conveys that System funding banks have discretion to deny the credit application of any OFI that is not covered by § 614.4540(b).

The ABA and IBAA requested amendments that would favor their respective constituencies. The IBAA believes that the regulation should favor small, rural community banks whereas the ABA opined that all banks that provide agricultural credit should be entitled to System funding. The IBAA commented that no lender should be granted access to the FCS unless agricultural loans comprise at least 10 percent of its loan portfolio. Although the IBAA supports the 15-percent threshold for assured access, it believes that OFIs that meet this criterion should be entitled to preferred status and special benefits, such as the lowest cost of funds from System banks and greater flexibility concerning collateral requirements. In contrast, the ABA suggested that any commercial bank should be assured access under final § 614.4540(b) if agricultural loans comprise at least 10 percent of its loan portfolio, or exceed a fixed dollar amount, such as $5,000,000. In the ABA's view, the final rule should include a fixed dollar threshold because agricultural loans often comprise a small percentage of the loan portfolios of large commercial banks that are major providers of agricultural credit. This commenter believes that these large commercial banks deserve assured access to System funding.

The ABA also asked the FCA to reorganize proposed § 614.4540. The commenter suggested that the FCA relocate the provisions in proposed § 614.4540(b) that enable FCBs and ACBs to deny the funding requests of OFIs that are assured access to § 614.4540(c), which governs denials. The ABA stated that this change would clearly communicate the FCA's expectations to System banks and make this regulation more user-friendly.

The IBAA requested that the FCA assume a more active role in collecting and reporting information about the efforts of each System bank to provide agricultural credit through OFIs. Specifically, the commenter suggested that the FCA appoint an Ombudsman to review complaints by OFIs. Additionally, the IBAA recommended that the FCA's Annual Report contain comprehensive information about the number of OFI applications, the number of funding requests that are either approved or denied, a summary of the reasons for denial, and the total amount of funds that System banks advance to OFIs. The IBAA also asked that the final regulations require outside board members to represent OFI interests and establish target goals for the minimum number of new commercial bank OFIs that each System bank will approve every year.

B. Final Rule

Final § 614.4540 retains the two-tier approach to OFI eligibility as proposed. The FCA continues to believe that this regulatory approach best implements the requirements of the Act. Section 1.7(b) of the Act and its legislative history indicate that Congress intended that Farm Credit banks primarily provide financial assistance to small, local OFIs, but it did not exclude other agricultural creditors from this program.[2]

The FCA was not persuaded by the IBAA's request to exclude large financial institutions and the ABA's request to grant most large commercial banks the same assured access to FCS funding as small, local OFIs. Accordingly, the FCA does not adopt the IBAA's recommendation to amend § 614.4540(a) so that OFI applicants are automatically denied access to FCS funding if agricultural loans comprise less than 10 percent of their loan portfolios. In addition, the final regulation does not incorporate the ABA's request that final § 614.4540(b) grant assured access to OFIs that have at least $5,000,000 or 10 percent of their loan portfolio in agricultural loans. The FCA emphasizes that the final regulation allows any institution, including large financial institutions, to fund or discount their agricultural loans with an FCB or ACB, but it does not assure access to creditworthy OFIs unless they have at least 15 percent of their loans in agriculture and enter into a 2-year funding relationship. The FCA continues to believe that the 15-percent threshold is the best measure of whether an OFI is significantly involved in agricultural or aquatic lending, as section 1.7(b)(4)(B)(i) of the Act requires.

The IBAA requested that the final regulation require FCBs and ACBs to provide the lowest cost of funds and other special benefits to OFIs that are entitled to assured access. This request would unnecessarily involve the regulator in the daily business decisions of System banks. Additionally, final § 614.4590 requires Farm Credit banks to treat their OFIs equitably and to determine loan rates through an objective process. The FCA believes that System funding banks should retain discretion to negotiate the price of funding and other loan terms with OFIs. The final rule fulfills the FCA's responsibility to ensure that FCBs and ACBs abide by their statutory mission to finance creditworthy OFIs in a safe and sound manner.

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[2] See H.R. 96–1287, 96th Cong., 2d. Sess., (1980), 21, 32–34. *See also* 126 Cong. Rec. H 10960–64 (daily ed. Nov. 19, 1980).

Many of the ABA's suggestions for reorganizing § 614.4540 have been incorporated into the final rule. The FCA adopts proposed § 614.4540(a) as a final regulation, without revision. This provision allows FCBs and ACBs to fund and discount short- and intermediate-term agricultural, aquatic, processing and marketing, farm-related business, and rural home loans for any financial institution that operates under a charter specified in section 1.7(b)(1)(B) of the Act. As amended, final § 614.4540(b) grants assured access to creditworthy OFIs that maintain at least 15 percent of their loan volume to agricultural and aquatic producers and enter into a 2-year funding or discount relationship with an FCB or ACB. Final § 614.4540(c) retains the requirement in the proposed regulation that FCBs and ACBs establish objective policies and loan underwriting standards for determining the creditworthiness of each OFI applicant. Under final § 614.4540(d), FCBs and ACBs can deny the funding requests of creditworthy OFIs that satisfy the conditions in § 614.4540(b) only if such requests: (1) Adversely affect the Farm Credit bank's ability to achieve and maintain established or projected capital levels or raise funds in the money markets; or (2) otherwise expose the Farm Credit bank to safety and soundness risks. The Council requested that the FCA amend § 614.4540(a) so it expressly conveys that System funding banks have discretion to deny the credit application of any OFI that is not assured access. This revision is unnecessary because § 614.4540(c) requires FCBs and ACBs to develop loan underwriting standards for all OFI applicants. As a result, the framework of this regulation provides FCS banks appropriate discretion, under their policies and loan underwriting standards, to deny the funding requests of OFIs that are not assured access.

Commercial bank trade associations commented that the proposed regulation did not require System funding banks to explain their reason for denying an OFI's application. In response to this concern, the FCA adds § 614.4540(e) that requires System banks to expeditiously process all OFI funding requests and to promptly provide all applicants written notification of the credit decision. Additionally, System banks must provide the applicant with specific reasons for any adverse credit decision.

In response to the IBAA's recommendation about comprehensive reporting on OFIs, the FCA adds new § 614.4540(f), which requires the board of directors of each FCB and ACB to receive annual written reports about the scope of their OFI program activities during the preceding fiscal year. The FCA expects that these annual reports will identify:

- The number of OFI applicants by category (such as commercial banks, credit unions, agricultural credit corporations, etc.);
- The number of approved and denied OFI applications;
- A summary of the reasons for denying OFI applications;
- The total amount of funds advanced to OFIs; and
- Other information necessary to evaluate the success of the System bank's OFI program.

Periodically, the FCA may issue special calls for this information.

The FCA does not adopt the IBAA's request to appoint an OFI Ombudsman because there are more efficient ways for the FCA to address concerns that OFIs may raise. The FCA Board does not accept the IBAA's request that the Agency appoint outside board members to represent OFI interests and to establish target goals for OFI lending. The FCA has no authority under the Act to appoint directors to the boards of Farm Credit banks. In further response to the IBAA, the Agency believes that this rule offers FCS banks sufficient business incentives to extend more credit to OFIs. Additionally, a creditworthy OFI has the option to seek funding from another System funding bank if its designated FCB or ACB denies or fails to approve its application.

II. Place of Discount

Proposed § 614.4550 addresses place of discount for OFIs. Proposed § 614.4550(a) specifies that an FCB or ACB provide funding, discount and other financial assistance to any OFI whose headquarters is located within the funding bank's chartered territory. Under proposed § 614.4550(b), an FCB or ACB could finance an OFI whose headquarters is not located in its chartered territory if the System funding bank identified in § 614.4550(a) consents, denies the OFI's application, or otherwise fails to approve the funding request pursuant to Regulation B of the Board of Governors of the Federal Reserve System, 12 CFR 202.2(f).

The ABA, IBAA, NDBA, three FCBs and two PCAs commented on the place of discount rule. AgFirst FCB supported the FCA's proposal. This commenter believes that the proposal best enables FCS banks to fund OFIs in today's market. The IBAA suggested that the FCA modify its proposal to allow an OFI that is dissatisfied with its System funding bank to seek financing from any other FCB or ACB. The ABA and the NDBA urged the FCA to remove all geographic restrictions on place of discount. These commenters believe that geographic restrictions hamper the success of the OFI program because non-System financial institutions are required to seek funding from a System bank that is owned and controlled by their competitors. The FCB of Texas asserted that the existing regulation governing place of discount is sound and should not be changed. The commenter believes that the FCA's proposal will ultimately lead to unsafe and unsound competition between FCS banks for OFI business. The FCB of Texas opposed the proposal to make an OFI's headquarters the sole factor to determine the place of discount. Finally, two PCAs made the FCA aware of their concerns that associations lack similar opportunities to seek funding from other FCBs or ACBs. After the comment period expired, the FCA received an inquiry from an FCB about whether existing OFIs would be required to change their place of discount once the proposed regulation became final.

The FCA Board believed the proposed rule established a balanced approach concerning the place of discount for OFIs. Traditionally, OFIs have been required to establish a funding or discount relationship with a System bank owned and controlled by their competitors. Several commenters believe that this factor explains why the program has not been widely used by commercial banks and other potential OFIs. The FCA has addressed this concern by proposing a regulation that provides additional flexibility concerning place of discount to OFI applicants.

The FCA believes that some limitations on the place of discount for OFIs are appropriate because FCS charters specify territories that System institutions serve. Direct lender associations do not have the same options to obtain financing from other FCBs and ACBs, and therefore, the recommendations of the three commercial bank trade associations would not treat FCS direct lender associations fairly. Additionally, the ABA's and NDBA's suggestion would deny an FCB or ACB the first opportunity to finance OFIs operating in its chartered territory. The final rule permits OFIs to apply to any System funding bank after the designated FCS bank rejects or fails to approve the OFI's application. The FCA was not persuaded by the FCB of Texas' argument that changes to the place of discount rule will lead to destructive competition that will ultimately undermine the safety and soundness of the FCS.

In response to the comments, the FCA has modified proposed § 614.4550 to provide additional flexibility regarding an OFI's place of discount. The final regulation continues to require OFIs to apply first to the FCS bank that serves the territory where the OFI operates. The FCA recognizes that some OFIs operate in the chartered territory of two or more FCS banks. Under the final regulation, an OFI may select the FCS funding bank that serves the territory where the OFI is headquartered, or alternatively, where more than 50 percent of the OFI's outstanding loan volume is concentrated.

If the designated funding bank denies, or otherwise fails to approve an OFI's completed application within 60 days, final § 614.4550(b) allows the OFI to apply to any other FCB or ACB. Under final § 614.4550(c), the designated FCS bank may also grant an OFI its consent to seek financing from any other System funding bank. The FCA has redesignated this consent provision as final § 614.4550(c) to enhance the clarity of the regulation. A new provision, § 614.4550(d), states that an OFI is not required to terminate an established funding or discount relationship with its System funding bank if the OFI subsequently relocates its headquarters or experiences a shift in its loan volume concentration.

As mentioned earlier, the FCB of Texas urged the FCA to retain the existing regulation on place of discount. However, the FCB of Texas asked the FCA to consider three alternatives if the final regulation allows OFIs to seek funding from other FCS banks. First, the commenter requested that the FCA modify the regulation to provide the designated FCS bank with the "right of first refusal" for any lending agreement that an OFI negotiated with another System bank. Second, the commenter wanted the FCA to determine whether another FCS bank should be permitted to finance each OFI that has been denied credit from the designated System bank for safety and soundness reasons. Finally, the FCB of Texas asked the FCA to clarify that the regulation prohibits an OFI from "shopping" FCS banks for funding on a loan-by-loan basis. The commenter sought confirmation that the regulation does not allow an existing OFI to fund or discount individual loans with another System bank if its funding bank rejects those same loans.

The FCA believes a specific "right of first refusal" is unnecessary because the designated System bank will have already denied or failed to approve the OFI's initial application. The requirement that an OFI first seek funding from its designated bank is the equivalent of a "right of first refusal." In response to the commenter's second request, the FCA need not determine whether another FCB or ACB can finance an OFI that has been denied credit by its designated funding bank because § 614.4540(c) requires each FCB and ACB to establish its own objective policies and loan underwriting standards for determining an OFI applicant's creditworthiness. The FCA will examine the extension of credit to OFIs in the same context of safety and soundness as it does other risks held in the funding bank's portfolio. The FCA clarifies that the regulation does not permit an OFI to "shop" for FCS funding on a loan-by-loan basis because § 614.4560(a)(1) requires all OFIs to execute a general financing agreement (GFA) to establish a funding or discount relationship with a System funding bank. Under the circumstances, § 614.4550(b) applies to the overall relationship between an FCB or ACB and the OFI, not a specific discounted loan.

III. Requirements for OFI Funding Relationships

Proposed § 614.4560 implements several statutory provisions that govern the funding and discount relationship between OFIs and System funding banks. More specifically, each OFI is required to: (1) Execute a GFA with its System funding bank; (2) purchase non-voting stock in the System funding bank pursuant to the bank's bylaws; (3) extend credit only to parties and for purposes that are authorized by sections 1.10(b) and 2.4(a) and (b) of the Act; (4) adhere to portfolio limitations on non-farm rural home loans and certain processing and marketing loans; and (5) comply with statutory and regulatory borrower rights requirements for all agricultural and aquatic loans that an FCB or ACB funds or discounts. Additionally, proposed § 614.4560(e) implements section 5.21 of the Act, which enables the FCA to examine non-depository OFIs and obtain examination reports from the State regulators of commercial banks, trust companies, and savings associations. Under this regulatory provision, OFIs are required to execute the applicable consent forms or releases before they obtain financing from an FCB or ACB. Section 5.22 of the Act enables the FCA to receive examination reports directly from other Federal regulatory agencies.

The FCA proposed to repeal existing § 614.4650, which contains five criteria for a System funding bank to revoke or suspend an OFI's line of credit. The FCA expects each FCS bank to incorporate criteria for revoking or suspending its funding relationship with an OFI into its policies and loan underwriting standards. This issue should also be addressed in the GFA between an OFI and the System funding bank.

The FCA received only one comment about proposed § 614.4560. The IBAA commented that the FCA should establish general guidelines for FCBs and ACBs to follow when they negotiate GFAs with their OFIs. Additionally, the commenter suggested that the FCA consult with OFIs to develop a model GFA.

The FCA recently adopted a GFA rule that eliminated Agency prior-approval of GFAs. See 63 FR 12401, March 13, 1998. The new rule addresses the IBAA's concerns because they provide general guidelines for developing GFAs between System funding banks and OFIs. However, the FCA does not believe it should interfere in the business operations of System banks by negotiating with OFIs to develop a model GFA. The FCA adopts proposed § 614.4560 as a final regulation.

IV. Recourse and Security Requirements

Proposed § 614.4570 would prohibit any FCB or ACB from extending credit to an OFI on an unsecured, limited, or non-recourse basis. Proposed § 614.4570(a) requires an OFI to endorse all obligations that it funds or discounts through an FCB or ACB with full recourse or its unconditional guarantee. Proposed § 614.4570(b)(1) requires each OFI to pledge all notes, drafts, and other obligations that are funded or discounted with the FCB or ACB as collateral for the credit extension. Proposed § 614.4570(b)(2) obligates each FCB or ACB to perfect its security interest in such obligations and the proceeds thereunder in accordance with applicable State law.

A. Full Recourse

An existing OFI, the Council, and two jointly managed FCBs opposed the full recourse requirement in § 614.4570(a). The existing OFI commented that the full recourse requirement would seriously jeopardize any new opportunities that the new regulation creates for expanded OFI access. One of the jointly managed FCBs expressed concern about how the full recourse requirement in the proposal would affect its relationship with an existing OFI and potential opportunities to finance new OFIs in the future. The Council believes recourse to an OFI's capital should be subject to negotiation between the parties, and each System bank's loan underwriting standards should address this issue.

From a safety and soundness perspective, FCBs and ACBs need full recourse to an OFI's capital in the event of default. Full recourse is necessary because the final rule significantly expands OFI access to the FCS and it repeals many existing regulatory restraints on the funding and discount relationship between System banks and their OFIs. Section 1.7(b)(3)(A) of the Act prohibits a System bank from funding an OFI if its aggregate liabilities exceed ten times its paid-in and unimpaired capital and surplus. In light of this statutory safety and soundness requirement, the FCA believes that it is prudent for FCS banks to have full recourse to an OFI's capital. Additionally, the regulations in 12 CFR part 615, subpart H, require FCS lenders to hold sufficient capital as a cushion against risk in all loans. Full recourse to an OFI's capital strengthens the FCS funding bank's risk-bearing capacity. System funding banks are required to have full recourse to the capital of direct lender associations. Since OFIs have access to other sources of funds, they may expose System funding banks to greater risk of loss than direct lender associations.

B. Security

The FCA received comments from the ABA, IBAA, and the Council about the security OFIs are required to pledge under proposed § 614.4570(b). The ABA and the IBAA requested that the final regulation provide OFIs with additional flexibility to pledge other types of collateral to their FCS funding bank. The ABA opposed § 614.4570(b) because it requires OFIs to pledge all loans that are actually funded by the FCS bank as primary collateral. The commenter believes the requirement is particularly burdensome due to the tracking and recordkeeping that it entails. The ABA recommended that an OFI be allowed to pledge unrelated agricultural loans as collateral. The Council commented that loan perfection should be determined by the FCS funding bank's underwriting standards.

The security requirements of § 614.4570(b) ensure compliance with two sections of the Act. First, section 1.7(b) of the Act requires OFIs to use funds from a title I bank only for the purpose of extending short- and intermediate-term credit to eligible borrowers for authorized purposes under section 2.4(a) and (b) of the Act. Second, OFIs are required to track which loans are funded or discounted through the FCB or ACB funding relationship to ensure compliance with the borrower rights requirements of the Act. In light of these statutory requirements, the FCA does not adopt the ABA's suggestion to allow an OFI to pledge other agricultural loans as primary collateral to a System funding bank. However, § 614.4570(c) permits System funding banks to accept long-term mortgages on agricultural assets as supplemental collateral. Final § 614.4570(b)(2) requires that FCBs and ACBs perfect, in accordance with State law, a senior security interest in any and all obligations that an OFI pledges as collateral.

In summary, the FCA's new regulatory approach for OFI financing affords OFIs greater flexibility and additional access to the FCS. To ensure the safe and sound implementation of the OFI program, the FCA adopts proposed § 614.4570 as a final regulation without revision.

V. Limitation on the Extension of Funding, Discount and Other Similar Financial Assistance to an OFI

Proposed § 614.4580 derives from section 1.7(b)(3) of the Act. This statutory provision prohibits a System funding bank from extending credit to an OFI if its aggregate liabilities exceed ten times its paid-in and unimpaired capital and surplus, or a lesser amount established by the laws of the jurisdiction creating the OFI.

The IBAA commented that the FCA should discourage FCBs and ACBs from establishing less than a 10:1 capital ratio, except under rare circumstances. The commenter expressed concerns that a more stringent capital requirement could raise an OFI's cost of borrowing from the System, and make this program less attractive to potential OFI applicants.

The FCA expects each FCB and ACB to develop loan underwriting standards that address OFI capital requirements. Compliance with these loan underwriting standards are the basis for determining safety and soundness in credit extensions. The FCA believes System banks need the flexibility to tailor underwriting standards to manage the risks from OFIs, based on the banks' risk-bearing capacity. As a safety and soundness regulator, the FCA will not preclude FCBs and ACBs from establishing a capital requirement that is more stringent than the 10:1 ratio in the statute. However, the final rule requires FCS funding banks to treat OFIs equitably in this and other matters. The FCA adopts proposed § 614.4580 as a final regulation.

VI. Lending Limit to a Single OFI Borrower

The FCA proposed to eliminate the existing regulatory lending limit on extensions of credit that OFIs make to their borrowers with FCS funds. The proposal acknowledged that some OFIs will remain subject to the lending limit that their primary regulator imposes under applicable Federal or State law. Additionally, the FCA expects each FCB or ACB to prudently manage the risk exposure caused by concentrations in OFI loan portfolios through its loan underwriting standards and the GFA.

The FCA solicited commenters' views on whether the final rule should contain a lending limit on extensions of credit that an OFI makes to its borrowers with FCS funds. Additionally, the FCA requested suggestions for other approaches to manage and control risks originating through OFI lending relationships.

The ABA, IBAA, and the Council supported the repeal of the existing 50-percent lending limit on OFI borrowers. These commenters advised the FCA that the repeal of the lending limit would enhance the Farm Credit banks' ability to finance OFIs. These trade associations also claimed that the repeal of existing § 614.4565 would not imperil the safety and soundness of System banks that maintain adequate loan underwriting standards. The IBAA requested that the final regulation prohibit FCBs and ACBs from establishing a lending limit *below* 50 percent. The IBAA also expressed concern that the FCA's proposal would impose the Federal or State lending limit on the affiliates and subsidiaries of regulated financial institutions.

As the FCA originally proposed, the final rule repeals the lending limit in existing § 614.4565. In response to the IBAA, the FCA observes that OFIs remain subject to any lending limit imposed by Federal or State law. If the OFI is not subject to a Federal or State lending limit, the funding banks' underwriting standards and the GFA will address single borrower concentration risks in the OFI's portfolio. The FCA rejects the IBAA suggestion that the final rule prohibit FCBs and ACBs from establishing a

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lending limit of less than 50 percent because it is inconsistent with safety and soundness. The underwriting standards of each Farm Credit bank should ensure that concentrations in an OFI's loan portfolio do not expose the bank to unacceptable levels of risk.

VII. Equitable Treatment of OFIs and FCS Associations

Proposed § 614.4590 promotes the equitable treatment of OFIs and direct lender associations. Proposed § 614.4590(a) would require FCBs and ACBs to apply objective loan underwriting standards for both types of borrowers. Under proposed § 614.4590(b), the total charges a Farm Credit bank assesses an OFI must be comparable to the charges it imposes on direct lender associations. Furthermore, any variation in funding costs must be attributed to differences in credit risk and administrative costs.

The IBAA and the NDBA commented on proposed § 614.4590. According to the IBAA, references to "similar" underwriting standards and "comparable" overall cost of funds in the proposed regulation grants System banks too much discretion. The IBAA asserts that the interest rates and the overall cost of funds should be equal for both OFIs and direct lender associations. For this reason, the commenter believes that the final regulation should require System banks to disclose pricing information about their loans to FCS direct lender associations. According to the IBAA, "equal treatment" entails lower stock purchase requirements and mandatory dividend payments to OFIs because they are not afforded voting rights and other privileges. The NDBA commented that the final rule should require FCBs and ACBs to adopt "objective and uniform underwriting standards and pricing requirements."

The FCA observes that there are fundamental differences between OFIs and direct lender associations. These differences make it difficult to compare the treatment of these two types of financial institutions. The following factors illustrate some of the basic differences between OFIs and direct lender associations that preclude identical treatment:

- OFIs have access to several funding sources whereas direct lender associations are required to borrow from their designated funding bank.
- Direct lender associations have significant amounts of capital invested in their System funding bank, but most OFIs do not.
- As part of a cooperative system, direct lender associations share in System gains and losses. In contrast, OFIs have limited exposure to System losses in the FCS.
- Administrative costs for funding a direct lender association and an OFI differ because OFIs are not required to maintain a long-term commitment with an FCB or ACB.

Under these circumstances, the regulations can only require FCBs and ACBs to treat OFIs and direct lender associations equitably, but not equally. The FCA expects System funding banks to treat similarly situated associations and OFIs comparably. Any variation in the overall amounts that System funding banks charge OFIs and direct lender associations for capitalization requirements, interest rates, and fees shall be attributed to differences in credit risk and administrative costs.

The FCA does not adopt any of the IBAA's suggestions for revising this regulation. The final regulation does not require dividend payments to OFIs, or establish OFI investment levels in System funding banks because the FCA regulations do not impose business practices on FCS institutions in the absence of compelling public policy or safety and soundness reasons. The final regulation does not compel FCS funding banks to charge identical rates to OFIs and FCS direct lender associations, and therefore, it is unnecessary for FCBs and ACBs to disclose pricing information for direct lender associations.

The FCA finds merit in the NDBA's suggestion that § 614.4590(a) should require FCBs and ACBs to establish comparable and objective loan pricing standards for both OFIs and direct lender associations. Accordingly, the FCA has incorporated this revision into final § 614.4590(a). Additionally, the FCA substitutes "comparable" for "similar" in final § 614.4590(a) so that the language used throughout this regulation is consistent.

VIII. Miscellaneous Issues

A. Association Funding of OFIs

One association asked the FCA to clarify that PCAs and agricultural credit associations can establish and manage OFI relationships on authority delegated by their System banks. The commenter observed that such a program, established under System bank guidelines, would become a natural adjunct to the participation authorities that associations now exercise. Although the Act authorizes only FCBs and ACBs to provide funding to OFIs, the FCA believes that direct lender associations have considerable opportunities for involvement in their funding bank's OFI relationships. Indeed, as funding banks have increasingly become wholesale lenders, associations may be in a position to recruit OFIs, assess the risk in the retail loans or collateral, and service the credit relationship on behalf of the bank. Through their participation authorities, associations may form effective alliances with other agricultural lenders for the benefit of farmers and ranchers.

B. Small Business Investment Companies

A commercial bank holding company commented that the final regulation should permit Small Business Investment Companies (SBICs) to participate in the OFI program. According to the commenter, SBICs and similar state-chartered entities need access to additional stable pools of funds to support their agricultural lending operations. The commenter also suggested that the FCA follow the lead of the Federal Housing Finance Board and permit System banks to invest directly in SBICs.

SBICs do not qualify as OFIs because they do not have one of the charters specified in section 1.7(b)(1)(B) of the Act. Additionally, Federal and State laws effectively preclude SBICs from participating in the OFI program. As a result, the final regulation does not allow SBICs to become OFIs.

The OFI regulations do not implement the investment authorities of FCS banks under sections 1.5(15) and 3.1(13)(A) of the Act. An existing investment regulation, § 615.5140, does not authorize System banks to invest in SBIC equities. However, the FCA recently proposed amendments to § 615.5140, and the Agency will consider the commenter's request when it deliberates on the final investment regulation.

C. Insolvency

The FCA received no comments about proposed § 614.4600, which governs the insolvency of OFIs. The FCA adopts proposed § 614.4600 as a final rule.

List of Subjects

12 CFR Part 611

Agriculture, Banks, Banking, Rural areas.

12 CFR Part 614

Agriculture, Banks, Banking, Flood insurance, Foreign trade, Reporting and recordkeeping requirements, Rural areas.

12 CFR Part 620

Accounting, Agriculture, Banks, Banking, Reporting and recordkeeping requirements, Rural areas.

12 CFR Part 630

Accounting, Agriculture, Banks, Banking, Credit, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Rural areas.

For the reasons stated in the preamble, parts 611, 614, 620, and 630 of chapter VI, title 12 of the Code of Federal Regulations are amended to read as follows:

PART 611—ORGANIZATION

1. The authority citation for part 611 continues to read as follows:

Authority: Secs. 1.3, 1.13, 2.0, 2.10, 3.0, 3.21, 4.12, 4.15, 4.21, 5.9, 5.10, 5.17, 7.0–7.13, 8.5(e) of the Farm Credit Act (12 U.S.C. 2011, 2021, 2071, 2091, 2121, 2142, 2183, 2203, 2209, 2243, 2244, 2252, 2279a–2279f–1, 2279aa–5(e)); secs. 411 and 412 of Pub. L. 100–233, 101 Stat. 1568, 1638; secs. 409 and 414 of Pub. L. 100–399, 102 Stat. 989, 1003, and 1004.

Subpart P—Termination of Farm Credit Status—Associations

2. Section 611.1205 is amended by revising paragraph (c) to read as follows:

§ 611.1205 Definitions.

* * * * *

(c) *OFI* means an other financing institution that has established a funding and discount relationship with a Farm Credit Bank or an agricultural credit bank pursuant to section 1.7(b)(1) of the Act and the regulations in subpart P of part 614.

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PART 614—LOAN POLICIES AND OPERATIONS

3. The authority citation for part 614 continues to read as follows:

Authority: 42 U.S.C. 4012a, 4104a, 4104b, 4106, and 4128; secs. 1.3, 1.5, 1.6, 1.7, 1.9, 1.10, 1.11, 2.0, 2.2, 2.3, 2.4, 2.10, 2.12, 2.13, 2.15, 3.0, 3.1, 3.3, 3.7, 3.8, 3.10, 3.20, 3.28, 4.3A, 4.12, 4.12A, 4.13, 4.13B, 4.14, 4.14A, 4.14C, 4.14D, 4.14E, 4.18, 4.18A, 4.19, 4.36, 4.37, 5.9, 5.10, 5.17, 7.0, 7.2, 7.6, 7.7, 7.8, 7.12, 7.13, 8.0, 8.5, 8.9 of the Farm Credit Act (12 U.S.C. 2011, 2013, 2014, 2015, 2017, 2018, 2019, 2071, 2073, 2074, 2075, 2091, 2093, 2094, 2096, 2121, 2122, 2124, 2128, 2129, 2131, 2141, 2149, 2154a, 2183, 2184, 2199, 2201, 2202, 2202a, 2202c, 2202d, 2202e, 2206, 2206a, 2207, 2219a, 2219b, 2243, 2244, 2252, 2279a, 2279a–2, 2279b, 2279b–1, 2279b–2, 2279f, 2279f–1, 2279aa, 2279aa–5, 2279aa–9); sec. 413 of Pub. L. 100–233, 101 Stat. 1568, 1639.

Subpart J—Lending Limits

4. Section 614.4350 is amended by revising paragraph (a) to read as follows:

§ 614.4350 Definitions.

* * * * *

(a) *Borrower* means an individual, partnership, joint venture, trust, corporation, or other business entity (except a Farm Credit System association or other financing institution that complies with the criteria in section 1.7(b) of the Act and the regulations in subpart P of this part) to which an institution has made a loan or a commitment to make a loan either directly or indirectly.

* * * * *

5. Subpart P of part 614 is revised to read as follows:

Subpart P—Farm Credit Bank and Agricultural Credit Bank Financing of Other Financing Institutions

Sec.
614.4540 Other financing institution access to Farm Credit Banks and agricultural credit banks for funding, discount, and other similar financial assistance.
614.4550 Place of discount.
614.4560 Requirements for OFI funding relationships.
614.4570 Recourse and security.
614.4580 Limitation on the extension of funding, discount and other similar financial assistance to an OFI.
614.4590 Equitable treatment of OFIs and Farm Credit System associations.
614.4600 Insolvency of an OFI.

Subpart P—Farm Credit Bank and Agricultural Credit Bank Financing of Other Financing Institutions

§ 614.4540 Other financing institution access to Farm Credit Banks and agricultural credit banks for funding, discount, and other similar financial assistance.

(a) *Basic criteria for access.* Any national bank, State bank, trust company, agriculture credit corporation, incorporated livestock loan company, savings association, credit union, or any association of agricultural producers engaged in the making of loans to farmers and ranchers, and any corporation engaged in the making of loans to producers or harvesters of aquatic products may become an other financing institution (OFI) that funds, discounts, and obtains other similar financial assistance from a Farm Credit Bank or agricultural credit bank in order to extend short- and intermediate-term credit to eligible borrowers for authorized purposes pursuant to sections 1.10(b) and 2.4(a) and (b) of the Act. Each OFI shall be duly organized and qualified to make loans and leases under the laws of each jurisdiction in which it operates.

(b) *Assured access.* Each Farm Credit Bank or agricultural credit bank must fund, discount, or provide other similar financial assistance to any creditworthy OFI that:

(1) Maintains at least 15 percent of its loan volume at a seasonal peak in loans and leases to farmers, ranchers, aquatic producers and harvesters. The Farm Credit Bank or agricultural credit bank shall not include the loan assets of the OFI's parent, affiliates, or subsidiaries when determining compliance with the requirement of this paragraph; and

(2) Executes a general financing agreement with the Farm Credit Bank or agricultural credit bank that establishes a financing or discount relationship for at least 2 years.

(c) *Underwriting standards.* Each Farm Credit Bank and agricultural credit bank shall establish objective policies and loan underwriting standards for determining the creditworthiness of each OFI applicant.

(d) *Denial of OFI access.* A Farm Credit Bank or an agricultural credit bank may deny the funding request of any creditworthy OFI that meets the conditions in paragraph (b) of this section only when such request would:

(1) Adversely affect a Farm Credit Bank or agricultural credit bank's ability to:

(i) Achieve and maintain established or projected capital levels; or

(ii) Raise funds in the money markets; or

(2) Otherwise expose the Farm Credit Bank or agricultural credit bank to safety and soundness risks.

(e) *Notice to applicants.* Each Farm Credit Bank or agricultural credit bank shall render its decision on an OFI application in as expeditious a manner as is practicable. Upon reaching a decision on an application, the Farm Credit Bank or agricultural credit bank shall provide prompt written notice of its decision to the applicant. When the Farm Credit Bank or agricultural credit bank makes an adverse credit decision on an application, the written notice shall include the specific reason(s) for the decision.

(f) *Reports to the board of directors.* Each Farm Credit Bank and agricultural credit bank shall provide its board of directors with a written annual report regarding the scope of OFI program activities during the preceding fiscal year.

§ 614.4550 Place of discount.

(a) A Farm Credit Bank or agricultural credit bank may provide funding, discounting, or other similar financial assistance to any OFI applicant that:

(1) Maintains its headquarters in such funding bank's chartered territory; or

(2) Has more than 50 percent of its outstanding loan volume to eligible

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borrowers who conduct agricultural or aquatic operations in such funding bank's chartered territory.

(b) If the Farm Credit Bank or agricultural credit bank identified in paragraph (a) of this section denies or otherwise fails to approve an OFI's funding request within 60 days of receipt of a "completed application" as defined by 12 CFR 202.2(f), the OFI may apply to any other Farm Credit Bank or agricultural credit bank for funding, discounting, or other similar financial assistance.

(c) The Farm Credit Bank or agricultural credit bank may grant its consent for an OFI identified in paragraph (a) of this section to seek financing from another Farm Credit Bank or agricultural credit bank.

(d) No OFI shall be required to terminate its existing funding or discount relationship with a Farm Credit Bank or agricultural credit bank if, at a subsequent time, an OFI relocates its headquarters to the chartered territory of another Farm Credit Bank or agricultural credit bank or the loan volume in the relevant territory falls below 50 percent.

§ 614.4560 Requirements for OFI funding relationships.

(a) As a condition for extending funding, discount and other similar financial assistance to an OFI, each Farm Credit Bank or agricultural credit bank shall require every OFI to:

(1) Execute a general financing agreement pursuant to the regulations in subpart C of part 614; and

(2) Purchase non-voting stock in its Farm Credit Bank or agricultural credit bank pursuant to the bank's bylaws.

(b) A Farm Credit Bank or agricultural credit bank shall extend funding, discount and other similar financial assistance to an OFI only for purposes and terms authorized under sections 1.10(b) and 2.4(a) and (b) of the Act.

(c) Rural home loans to borrowers who are not *bona fide* farmers, ranchers, and aquatic producers and harvesters are subject to the restrictions in § 613.3030 of this chapter. Loans that an OFI makes to processing and marketing operators who supply less than 20 percent of the throughput shall be included in the calculation that § 613.3010(b)(1) of this chapter establishes for Farm Credit Banks and agricultural credit banks.

(d) The borrower rights requirements in part C of title IV of the Act, and section 4.36 of the Act, and the regulations in subparts K, L, and N of part 614 shall apply to all loans that an OFI funds or discounts through a Farm Credit Bank or agricultural credit bank, unless such loans are subject to the Truth-in-Lending Act, 15 U.S.C. 1601 *et seq.*

(e) As a condition for obtaining funding, discount and other similar financial assistance from a Farm Credit Bank or agricultural credit bank, all State banks, trust companies, or State-chartered savings associations shall execute a written consent that authorizes their State regulators to furnish examination reports to the Farm Credit Administration upon its request. Any OFI that is not a depository institution shall consent in writing to examination by the Farm Credit Administration as a condition precedent for obtaining funding, discount and other similar financial assistance from a Farm Credit Bank or agricultural credit bank, and file such consent with its Farm Credit funding bank.

§ 614.4570 Recourse and security.

(a) *Full recourse and guarantee.* All obligations that are funded or discounted through a Farm Credit Bank or agricultural credit bank shall be endorsed with the full recourse or unconditional guarantee of the OFI.

(b) *General collateral.* (1) Each Farm Credit Bank and agricultural credit bank shall take as collateral all notes, drafts, and other obligations that it funds or discounts for each OFI; and

(2) Each Farm Credit Bank and agricultural credit bank shall perfect, in accordance with State law, a senior security interest in any and all obligations and the proceeds thereunder that the OFI pledges as collateral.

(c) *Supplemental collateral.* (1) Each Farm Credit Bank and agricultural credit bank shall develop policies and loan underwriting standards that establish uniform and objective requirements to determine the need and amount of supplemental collateral or other credit enhancements that each OFI shall provide as a condition for obtaining funding, discount and other similar financial assistance from such Farm Credit bank.

(2) The amount, type, and quality of supplemental collateral or other credit enhancements required for each OFI shall be established in the general financing agreement and shall be proportional to the level of risk that the OFI poses to the Farm Credit Bank or agricultural credit bank.

§ 614.4580 Limitation on the extension of funding, discount and other similar financial assistance to an OFI.

(a) No obligation shall be purchased from or discounted for and no loan shall be made or other similar financial assistance extended by a Farm Credit Bank or agricultural credit bank to an OFI if the amount of such obligation added to the aggregate liabilities of such OFI, whether direct or contingent (other than *bona fide* deposit liabilities), exceeds ten times the paid-in and unimpaired capital and surplus of such OFI or the amount of such liabilities permitted under the laws of the jurisdiction creating such OFI, whichever is less.

(b) It shall be unlawful for any national bank that is indebted to any Farm Credit Bank or agricultural credit bank, on paper discounted or purchased, to incur any additional indebtedness, if by virtue of such additional indebtedness its aggregate liabilities, direct or contingent, will exceed the limitation described in paragraph (a) of this section.

§ 614.4590 Equitable treatment of OFIs and Farm Credit System associations.

(a) Each Farm Credit Bank and agricultural credit bank shall apply comparable and objective loan underwriting standards and pricing requirements to both OFIs and Farm Credit System direct lender associations.

(b) The total charges that a Farm Credit Bank or agricultural credit bank assesses an OFI through capitalization requirements, interest rates, and fees shall be comparable to the charges that the same Farm Credit Bank or agricultural credit bank imposes on its direct lender associations. Any variation between the overall funding costs that OFIs and direct lender associations are charged by the same funding bank shall result from differences in credit risk and administrative costs to the Farm Credit Bank or agricultural credit bank.

§ 614.4600 Insolvency of an OFI.

If an OFI that is indebted to a Farm Credit Bank or agricultural credit bank becomes insolvent, is in process of liquidation, or fails to service its loans properly, the Farm Credit Bank or agricultural credit bank may take over such loans and other assets that the OFI pledged as collateral. Once the Farm Credit Bank or agricultural credit bank exercises its remedies, it shall have the authority to make additional advances, to grant renewals and extensions, and to take such other actions as may be necessary to collect and service loans to the OFI's borrower. The funding Farm Credit Bank or agricultural credit bank may also liquidate the OFI's loans and other assets in order to achieve repayment of the debt.

PART 620—DISCLOSURE TO SHAREHOLDERS

6. The authority citation for part 620 continues to read as follows:

Authority: Secs. 5.17, 5.19, 8.11 of the Farm Credit Act (12 U.S.C. 2252, 2254, 2279aa–11); sec. 424 of Pub. L. 100–233, 101 Stat. 1568, 1656.

Subpart B—Annual Report to Shareholders

§ 620.5 [Amended]

7. Section 620.5 is amended by removing the word "financial" and adding in its place the word "financing"; and by removing the words ", as defined in § 614.4540(e) of this chapter" in paragraph (a)(8).

PART 630—DISCLOSURE TO INVESTORS IN SYSTEMWIDE AND CONSOLIDATED BANK DEBT OBLIGATIONS OF THE FARM CREDIT SYSTEM

8. The authority citation for part 630 continues to read as follows:

Authority: Secs. 5.17, 5.19 of the Farm Credit Act (12 U.S.C. 2252, 2254).

Subpart B—Annual Report to Investors

§ 630.20 [Amended]

9. Section 630.20 is amended by removing the words ", as defined in § 614.4540(e) of this chapter" in paragraph (a)(1)(v).

Dated: June 26, 1998.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 98–17844 Filed 7–6–98; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–155–AD; Amendment 39–10643; AD 98–14–10]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–400, 757, 767, and 777 Series Airplanes Equipped with AlliedSignal RIA–35B Instrument Landing System Receivers

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Boeing Model 747–400, 757, 767, and 777 series airplanes. This action requires a revision to the Airplane Flight Manual (AFM) to prohibit certain types of approaches if only one instrument landing system (ILS) receiver is operational. This action also requires repetitive inspections to detect certain faults of all RIA–35B ILS receivers, and replacement of discrepant ILS receivers with new, serviceable, or modified units; or, alternatively, an additional revision to the AFM and installation of a placard to prohibit certain operations. This AD also provides for optional terminating action for the AFM revisions and repetitive inspections. This amendment is prompted by a report of errors in the glide slope deviation provided by an ILS receiver. The actions specified in this AD are intended to detect and correct faulty ILS receivers, and to ensure that the flightcrew is advised of the potential hazard of performing ILS approaches using a localizer deviation from a faulty ILS receiver and also advised of the procedures necessary to address that hazard. Erroneous localizer deviation could result in a landing outside the lateral boundary of the runway.

DATES: Effective July 22, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 22, 1998.

Comments for inclusion in the Rules Docket must be received on or before September 8, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–155–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from AlliedSignal Aerospace, Technical Publications, Dept. 65–70, P.O. Box 52170, Phoenix, Arizona 85072–2170. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jay Yi, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1013; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: The FAA has received a report indicating that, during a test flight of a Boeing airplane, the flightcrew detected discrepancies in the glide slope deviation provided by one of the onboard Instrument Landing System (ILS) receivers. (The glide slope is the flight path that an airplane is to follow when making an ILS landing. The display of the glide slope deviation indicates the position of the airplane relative to the glide slope and indicates to the flightcrew whether the airplane needs to be at a higher or lower altitude to be on the normal approach flight path.) The discrepancies in the glide slope deviation provided by the discrepant ILS receiver resulted in the display showing that the airplane was on the glide slope, when the airplane was approximately one dot low on the glide slope (as determined from the data provided by the ILS receivers that were operating correctly). The flightcrew received no annunciation that there were discrepancies between the glide slope deviations being provided by the ILS receivers.

An investigation conducted by AlliedSignal, the manufacturer of the RIA–35B ILS receivers installed on the airplane, has revealed that the discrepancies in the glide slope deviation were caused by failure of an internal component of the ILS receiver due to that component's sensitivity to temperature. Due to the nature of the failure, that component also could fail on other airplanes.

The same ILS receiver provides localizer deviation. (The display of the localizer deviation indicates the position of the airplane relative to the center line of the runway during an ILS landing.) Faults in the ILS receiver, if not corrected, could result in a landing outside the lateral boundary of the runway. If a faulty ILS receiver provides a localizer deviation that contains errors that are not detected by the flightcrew, use of a single ILS receiver for ILS or localizer approaches could result in the pilot being directed to land the airplane outside the lateral boundary of the runway. If the localizer deviations generated by two of the ILS receivers onboard the airplane contain errors that are not detected by the flightcrew, during category II and III operations, the autopilot system may land the airplane outside the lateral boundary of the runway.

The FAA finds that flightcrews are not currently provided with adequate information necessary to address the potential hazard of performing an ILS or localizer approach using a localizer deviation provided by a faulty ILS receiver. Therefore, the FAA has determined that flightcrews must be provided with such information and must be made aware that certain types

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of operations are prohibited when only one RIA–35B ILS receiver (with the affected part number) is operational.

The RIA–35B ILS receivers installed on certain Boeing Model 747–400, 757, 767, and 777 series airplanes are the same type as those on the affected Boeing airplane. Therefore, those Boeing Model 747–400, 757, 767, and 777 series airplanes may be subject to the same unsafe condition.

Explanation of Relevant Service Information

The FAA has reviewed and approved AlliedSignal Electronic and Avionics Systems Service Bulletin M–4426 (RIA–35B–34–6), Revision 3, dated May 1998, which describes procedures for modifying RIA–35B ILS receivers, part number (P/N) 066–50006–0101. The modification includes removing the radio frequency (RF) assembly; modifying the RF module by cutting two solder-side tracks, installing two 221-ohm resistors, and replacing components U8009 and U8206; and reinstalling the modified RF assembly. Once modified, the P/N of the ILS receiver is converted to 066–50006–1101. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to detect and correct faulty ILS receivers, and to ensure that the flightcrew is advised of the potential hazard of performing ILS approaches using a localizer deviation from a faulty ILS receiver and also advised of the procedures necessary to address that hazard. This AD requires a revision to the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to prohibit ILS or localizer approaches if only one ILS receiver is operational. This AD also requires repetitive visual inspections for faults stored in the internal fault memory of all RIA–35B ILS receivers, P/N 066–50006–0101; or, alternatively, an additional revision to the Limitations Section of the AFM and installation of a placard in the cockpit to prohibit category II and III operations. For cases where certain faults are detected in the internal fault memory, this AD also requires replacement of the faulty ILS receiver with a new, serviceable, or modified part. If accomplished, replacement of all ILS receivers, P/N 066–50006–0101, with modified ILS receivers terminates the repetitive inspections and AFM revisions described previously.

Explanation of the Applicability of the Rule

The FAA may consider separate rulemaking to address the identified unsafe condition on other transport category airplanes equipped with the affected ILS receiver. The FAA notes that its general policy is that, when an unsafe condition results from the installation of an appliance or other item that is installed in a limited number of airplane models, an AD is issued so that it is applicable to those airplanes, rather than the item. The reason for this is simple: making the AD applicable to the airplane models on which the item is installed ensures that operators of those airplanes will be notified directly of the unsafe condition and the action required to correct it. While it is assumed that an operator will know the models of airplanes that it operates, there is a potential that the operator will not know or be aware of specific items that are installed on its airplanes. Therefore, calling out the airplane model as the subject of the AD prevents "unknowing non-compliance" on the part of the operator.

Interim Action

This is considered to be interim action. The FAA is considering further rulemaking action to supersede this AD to require replacement of all existing RIA–35B ILS receivers with modified parts. However, the planned compliance time for such replacement is sufficiently long so that notice and opportunity for prior public comment will be practicable.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption ADDRESSES. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–NM–155–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

98–14–10 Boeing: Amendment 39–10643. Docket 98–NM–155–AD.

Applicability: Model 747–400, 757, 767, and 777 series airplanes; equipped with AlliedSignal RIA–35B Instrument Landing System (ILS) receivers, part number (P/N) 066–50006–0101; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct faulty ILS receivers, and to ensure that the flightcrew is advised of the potential hazard of performing ILS approaches using a localizer deviation from a faulty ILS receiver and also advised of the procedures necessary to address that hazard, accomplish the following:

(a) Within 10 days after the effective date of this AD, revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following statement. This may be accomplished by inserting a copy of this AD into the AFM.

Any Instrument Landing System (ILS) or Localizer approach with only one operative AlliedSignal ILS receiver, P/N 066–50006–0101, installed is prohibited.

Note 2: On Model 747–400 and 777 series airplanes, the existence of only one operative ILS receiver is indicated by the Engine Indication and Crew Alerting System advisory message, "SNGL SOURCE ILS." On Model 757 and 767 series airplanes, failure of an ILS receiver is indicated by an ILS flag on the display of the Electronic Flight Instrument System when approach mode is selected.

(b) Within 30 days after the effective date of this AD, accomplish the requirements of either paragraph (b)(1) or (b)(2) of this AD.

(1) Perform a visual inspection of the 64 flight legs of the internal fault memory of all AlliedSignal RIA–35B ILS receivers, P/N 066–50006–0101, for fault codes "Nl" (glide slope antialias fault) or "Nm" (localizer antialias fault). Repeat the inspection thereafter at intervals not to exceed 64 flight cycles. If any fault code "Nl" or "Nm" is found, prior to further flight, replace the existing ILS receiver with a new or serviceable ILS receiver having the same P/N; or with an ILS receiver that has been modified to P/N 066–50006–1101 in accordance with AlliedSignal Electronic and Avionics Systems Service Bulletin M–4426 (RIA–35B–34–6), Revision 3, dated May 1998. Installation of an ILS receiver that has been modified (and the P/N converted) in accordance with the service bulletin constitutes terminating action for the inspection requirement of paragraph (b)(1) of this AD for that part.

(2) Accomplish the actions required by paragraphs (b)(2)(i) and (b)(2)(ii) of this AD.

(i) Revise the Limitations Section of the FAA-approved AFM to include the following statement. This may be accomplished by inserting a copy of this AD into the AFM.

Category II and III operations are prohibited with AlliedSignal ILS receiver P/N 066–50006–0101 installed.

(ii) Install a placard on the forward instrument panel of the cockpit in clear view of the pilots, which states:

"Category II and III operations are prohibited."

(c) Replacement of all existing RIA–35B ILS receivers, P/N 066–50006–0101, with RIA–35B ILS receivers that have been modified in accordance with AlliedSignal Electronic and Avionics Systems Service Bulletin M–4426 (RIA–35B–34–6), Revision 3, dated May 1998; and that have had their P/N's converted to 066–50006–1101; constitutes terminating action for the requirements of this AD. After the replacement has been accomplished, the AFM limitations required by paragraphs (a) and (b)(2)(i) of this AD may be removed from the AFM, and the placard required by (b)(2)(ii) may be removed from the cockpit.

Note 3: Modification of all AlliedSignal RIA–35B ILS receivers, P/N 066–50006–0101, prior to the effective date of this AD in accordance with AlliedSignal Electronic and Avionics Systems Service Bulletin M–4426 (RIA–35B–34–6), dated December 1997; Revision 1, dated January 1998; or Revision 2, dated April 1998; is considered acceptable for compliance with the applicable action specified in this amendment.

(d) As of the effective date of this AD, no person shall install on any airplane an RIA–35B ILS receiver, P/N 066–50006–0101, that has been found to be discrepant (that is, on which fault codes "Nl" or "Nm" were found during an inspection of the internal fault memory) unless the discrepancy has been corrected by modifying the ILS receiver in accordance with AlliedSignal Electronic and Avionics Systems Service Bulletin M–4426 (RIA–35B–34–6), Revision 3, dated May 1998.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(f) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(g) The modification, if accomplished, shall be done in accordance with AlliedSignal Electronic and Avionics Systems Service Bulletin M–4426 (RIA–35B–34–6), Revision 3, dated May 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from AlliedSignal Aerospace, Technical Publications, Dept. 65–70, P.O. Box 52170, Phoenix, Arizona 85072–2170. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on July 22, 1998.

Issued in Renton, Washington, on June 29, 1998.

Vi L. Lipski,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–17914 Filed 7–6–98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–139–AD; Amendment 39–10648; AD 98–14–15]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 Series Airplanes, and Model F27 Mark 050 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

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SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Fokker Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes, and Model F27 Mark 050 series airplanes, that requires revising the Airplane Flight Manual to modify the limitation that prohibits positioning the power levers below the flight idle stop during flight, and to provide a statement of the consequences of positioning the power levers below the flight idle stop during flight. This amendment is prompted by incidents and accidents involving airplanes equipped with turboprop engines in which the ground propeller beta range was used improperly during flight. The actions specified by this AD are intended to prevent loss of airplane controllability caused by the power levers being positioned below the flight idle stop while the airplane is in flight.

EFFECTIVE DATE: Effective August 11, 1998.

ADDRESSES: Information pertaining to this rulemaking action may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mark Quam, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (425) 227–2145; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Fokker Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes, and Model F27 Mark 050 series airplanes, was published in the **Federal Register** on March 20, 1998 (63 FR 13569). That action proposed to require revising the FAA-approved Airplane Flight Manual to modify the limitation that prohibits positioning the power levers below the flight idle stop during flight, and to provide a statement of the consequences of positioning the power levers below the flight idle stop during flight.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

Request to Install Automatic Flight Idle Stop Mechanical System

The commenter supports the proposed rule, but remarks that, as an added measure of safety, the FAA should consider the addition of a mechanical means to preclude such selection. The mechanical means referenced by the commenter would be in the form of an automatic flight idle stop. The FAA acknowledges the commenter's concern, and may consider additional rulemaking to address that concern in the future on certain airplanes. However, until such final action is identified, the FAA considers it appropriate to proceed with issuance of this final rule. No change to the final rule is required.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Interim Action

This is considered interim action until final action is identified, at which time the FAA may consider further rulemaking.

Cost Impact

The FAA estimates that 49 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $2,940, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

98–14–15 Fokker Services B.V.: Amendment 39–10648. Docket 97–NM–139–AD.

Applicability: All Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes, and Model F27 Mark 050 series airplanes; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of airplane controllability caused by the power levers being positioned below the flight idle stop while the airplane is in flight, accomplish the following:

(a) Within 30 days after the effective date of this AD, revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following statements as specified in paragraph (a)(1) or (a)(2) of this AD, as applicable. This action may be accomplished by inserting a copy of this AD into the AFM.

(1) For Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes, insert the following:

"Warning: Ground fine pitch must not be selected in flight. This may lead to loss of control from which recovery may not be possible."

(2) For Model F27 Mark 050 series airplanes, insert the following:

"Warning: Do not attempt to select ground idle in flight. In case of failure of the flight idle stop, this would lead to loss of control from which recovery may not be possible."

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) This amendment becomes effective on August 11, 1998.

Issued in Renton, Washington, on June 30, 1998.

Vi L. Lipski,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–17948 Filed 7–6–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–72–AD; Amendment 39–10647; AD 98–14–14]

RIN 2120–AA64

Airworthiness Directives; Turbopropeller-Powered McDonnell Douglas Model DC–3 and DC–3C Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–3 and DC–3C series airplanes, that requires revising the Airplane Flight Manual (AFM) to modify the limitation that prohibits positioning the power levers below the flight idle stop during flight, and to provide a statement of the consequences of positioning the power levers below the flight idle stop during flight. This amendment is prompted by incidents and accidents involving airplanes equipped with turboprop engines in which the ground propeller beta range was used improperly during flight. The actions specified by this AD are intended to prevent loss of airplane controllability, or engine overspeed and consequent loss of engine power caused by the power levers being positioned below the flight idle stop while the airplane is in flight.

EFFECTIVE DATE: August 11, 1998.

ADDRESSES: Information pertaining to this amendment may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Frank Hoerman, Aerospace Engineer, Flight Test Branch, ANM–160L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5371; fax (562) 625–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–3 and DC–3C series airplanes was published in the **Federal Register** on January 8, 1998 (63 FR 1072). That action proposed to require revising the Limitations Section of the Airplane Flight Manual (AFM) to prohibit the positioning of the power levers below the flight idle stop while the airplane is in flight, and to add a statement of the consequences of positioning the power levers below the flight idle stop while the airplane is in flight.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Interim Action

This is considered interim action until final action is identified, at which time the FAA may consider further rulemaking.

Cost Impact

There are approximately 21 turbopropeller-powered McDonnell Douglas Model DC–3 and DC–3C series airplanes of the affected design in the worldwide fleet. The FAA estimates that 5 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $300, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

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PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

98–14–14 McDonnell Douglas: Amendment 39–10647. Docket 97–NM–72–AD.

Applicability: All turbopropeller-powered McDonnell Douglas Model DC–3 and DC–3C series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of airplane controllability, or engine overspeed and consequent loss of engine power caused by the power levers being positioned below the flight idle stop while the airplane is in flight, accomplish the following:

(a) For turbopropeller-powered McDonnell Douglas Model DC–3 and DC–3C series airplanes on which Rolls-Royce Dart 510 engines are installed: Within 30 days after the effective date of this AD, revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following statements. This action may be accomplished by inserting a copy of this AD into the AFM.

"Positioning of power levers below the flight idle stop (i.e., including ground fine pitch) while the airplane is in flight is prohibited. Such positioning may lead to loss of airplane control or may result in an overspeed condition with consequent loss of engine power."

(b) For turbopropeller-powered McDonnell Douglas Model DC–3 and DC–3C series airplanes other than those identified in paragraph (a) of this AD: Within 30 days after the effective date of this AD, revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following statements. This action may be accomplished by inserting a copy of this AD into the AFM.

"Positioning of power levers below the flight idle stop while the airplane is in flight is prohibited. Such positioning may lead to loss of airplane control or may result in an overspeed condition with consequent loss of engine power."

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Operations Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) This amendment becomes effective on August 11, 1998.

Issued in Renton, Washington, on June 30, 1998.

Vi L. Lipski,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–17955 Filed 7–6–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AWP–14]

Revision of Class D Airspace, San Diego, North Island NAS, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action will amend the Class D airspace area operating times at San Diego, North Island Naval Air Station, (NZY) Halsey Field, CA. In April of 1998 the U.S. Navy reduced the hours of operation of the Air Traffic Control Tower (ATCT) at NZY. The reduction of the ATCT hours of operation has made this action necessary. The intended effect of this action is to modify the hours of the NZY Class D airspace area in the legal description of the controlled airspace. This action does not involve a change in the dimensions or operating requirements of that airspace containing Instrument Flight Rules (IFR) operations at NZY.

DATES: EFFECTIVE DATE: 0901 UTC October 8, 1998. *Comment date:* Comments for inclusion in the Rules Docket must be received on or before August 6, 1998.

ADDRESSES: Send comments on the direct final rule in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace Branch, AWP–520, Docket No. 98–AWP–14, Air Traffic Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

The official docket may be examined in the Office of the Assistant Chief Counsel, Western-Pacific Region, Federal Aviation Administration, Room 6007, 15000 Aviation Boulevard, Lawndale, California 90261.

An informal docket may also be examined during normal business hours at the Office of the Manager, Airspace Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: Debra Trindle, Airspace Specialist, Airspace Branch, AWP–520, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6613.

SUPPLEMENTARY INFORMATION: This action will change the airspace legal description to reflect the new operating hours of the Class D airspace area of NZY. The 1998 reduction of the ATCT hours of operation has made this action necessary. The intended effect of this action is to modify the hours of the NZY Class D airspace area in the legal description of the controlled airspace. Class D airspace areas are published in Paragraph 5000 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designation listed in this document would be published subsequently in this Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and therefore is issuing it as a direct final rule. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments are they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98-AWP-16." The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reason discussed in the preamble, this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air)

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 5000 Class D Airspace

* * * * *

AWP CA D San Diego, North Island NAS, CA [Revised]

San Diego, North Island NAS (Halsey Field), CA
(lat. 32°41′57″ N, long. 117°12′55″ W)

That airspace extending upward from the surface to but not including 2,800 feet MSL within a 4.3-mile radius of North Island NAS (Halsey Field), excluding the airspace within the San Diego, CA, Class B airspace area. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Los Angeles, California, on June 23, 1998.

John G. Clancy,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 98–17858 Filed 7–6–98; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 304

Regulatory Review and Regulatory Flexibility Act Review of Rules and Regulations Issued Under the Hobby Protection Act

AGENCY: Federal Trade Commission.

ACTION: Confirmation of rule.

SUMMARY: The Federal Trade Commission (FTC or Commission) has completed its regulatory review and Regulatory Flexibility Act (RFA) review of the Rules and Regulations Issued Under the Hobby Protection Act. The Rule regulates the marking of imitation political and numismatic items. Pursuant to its regulatory review, the Commission concludes that the Rule continues to be valuable both to consumers and firms. The Commission also certifies, pursuant to the RFA, that the Rule has not had a significant economic impact upon a substantial number of small or other entities or otherwise merits revision.

DATES: This action is effective as of July 7, 1998.

FOR FURTHER INFORMATION CONTACT: Robert E. Easton, Special Assistant, Division of Enforcement, Bureau of Consumer Protection, FTC, Washington, DC 20580, (202) 326–3029.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Commission has determined, as part of its oversight responsibilities, to review its rules and guides periodically to seek information about their costs and benefits and their regulatory and economic impact. The information obtained assists the Commission in identifying rules and guides that warrant modification or rescission. Where appropriate, the Commission will, as it did in this review, combine such periodic general reviews with reviews seeking information about the economic impact of the rule on small business firms as required by the Regulatory Flexibility Act.

II. Background

On November 29, 1973, Congress passed the Hobby Protection Act (Act).[1] The Act requires manufacturers and importers of "imitation political items"[2] to mark "plainly and permanently" such items with the

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[1] 15 U.S.C. 2101–2106.

[2] An imitation political item is "an item which purports to be, but in fact is not, an original political item, or which is a reproduction, copy, or counterfeit of an original political item." 15 U.S.C. 2106(2).

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"calendar year" such items were manufactured. The Act also requires manufacturers and importers of "imitation numismatic items"[3] to mark "plainly and permanently" such items with the word "copy."[4] The Act further provides that the Commission is to promulgate regulations for determining the "manner and form" imitation political items and imitation numismatic items are to be permanently marked with the calendar year of manufacture or the word "copy."[5]

In response to that requirement, in 1975 the Commission issued Rules and Regulations under the Hobby Protection Act (Rule).[6] The Rule tracks the definitions of terms used in the Act and implements the Act's "plain and permanent" marking requirements by establishing the sizes and dimensions of the letters and numerals to be used, the location of the marking on the item, and how to mark incusable (*i.e.*, those that can be impressed with a stamp) and nonincusable items. The Commission amended the Rule in 1988 to provide additional guidance on the minimum size of letters for the word "copy" as a proportion of the diameter of coin reproductions.[7]

As discussed below, the comments received in this review appear to reflect a high level of compliance as to the two products covered by the Act and Rule (*i.e.*, imitation political and numismatic items). Many comments also proposed that the Commission expand coverage of the Act and Rule to address problems involving the selling (passing off) as originals of reproductions of antiques and collectibles not covered by the Act and Rule. The Commission does not propose amending the Rule as requested because it does not have authority under the Act to expand coverage of the Act or Rule. In addition, existing laws and informational material currently available address many of the concerns raised by these comments.

III. Regulatory Review and Regulatory Flexibility Questions and Comments

The Commission received a total of 1,145 comments in response to its March 25, 1997 **Federal Register** request for comments.[8] Of that number, nearly 1,000 comments were form letters that advocated expanding coverage of the Act and Rules to all antiques and collectibles.[9] Of the other comments, four were from national associations,[10] four from hobby newspapers,[11] one from a private mint,[12] one from the United States Mint,[13] and the remaining were from individual collectors,[14] dealers,[15] and local associations.[16]

The Commission discusses the comments in two section: In section A, the Commission analyzes the comments relating to the products covered by the Act and Rule ("covered products"); and, in section B, the Commission discusses the comments relating to alleged problems with products outside the coverage of the Act and Rule.

A. Comments Relating to Covered Products

1. Support for the Rule

As noted previously, the Act and Rule's scope are limited to imitation political and numismatic items. The comments uniformly stated that there is a continuing need for the Rule and that is has been successful in protecting consumers from the passing off of reproductions of the covered items.[17] Indeed, two comments indicated that the Rule's protective value may have increased over the years as technological changes that have made it easier to make high quality reproductions of political and numismatic items have also made it easier to deceive consumers.[18]

The few comments addressing the issue of what costs the Rule imposes on purchasers indicated that the costs are slight and outweighed by the benefits. For example, one commenter wrote that, "[a]ssuming that the costs of affixing the word 'copy' or the date is reflected in the selling price, it would appear that the increase per item would be an insignificant amount that any purchaser would be willing to pay by reason of the protection afforded by the rule."[19] Another commenter stated that the process of stamping the word "copy" on coins "has no significant bearing on the price of any individual piece."[20] One commenter noted that the Rule saves purchasers money because it lessens that chance of purchasing a fake.[21]

In addition, the comments indicated that the Rule does not impose significant burdens or costs on firms subject to its requirements. The comments addressing this issue uniformly stated that the Rule has not imposed significant costs on subject firms[22] and in fact has benefitted them.[23] No comment suggested any changes in the Rule to reduce costs.[24]

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[3] An imitation numismatic item is "an item which purports to be, but in fact is not, an original numismatic item or which is a reproduction, copy, or counterfeit of an original numismatic item." 15 U.S.C. 2106(4).

[4] 15 U.S.C. 2101(b).

[5] 15 U.S.C. 2101(c).

[6] 16 CFR Part 304.

[7] 53 FR 38942 (1988). Prior to the amendment, if a coin were too small to comply with the minimum letter size requirements, the manufacturer or importer had to individually request from the Commission a variance from those requirements. Because imitation miniature coins were becoming more common, the Commission determined that it was in the public interest to allow the placing of the word "copy" on miniature imitation coins in sizes that could be reduced proportionately with the size of the item.

[8] 62 FR 14049 (1997). The comments have been filed on the Commission's public record as Document Nos. B21938200001, B21938200002, etc. The comments are cited in this notice by the name of the commenter, a shortened version of the comment number, and the relevant page(s) of the comment, e.g., Daugherty, 493, 1. All Rule review comments are on the public record and are available for public inspection in the Public Reference Room, Room 130, Federal Trade Commission, 6th and Pennsylvania Ave., NW, Washington, DC, from 8:30 a.m. to 5:00 p.m., Monday through Friday, except federal holidays.

[9] Seven hundred twenty-one comments were form letters cut out or photo-copied from an Antique Week newspaper or based thereon (e.g., Lubitz, 61, 1), 223 were form letters from collectors and dealers of Nippon porcelain (e.g., Dersheimer, 59, 1), and 34 comments used or were based upon an Antiques Journal form letter (e.g., Mercier, 4, 1).

[10] American Numismatic Association (ANA), 94; American Political Items Collectors (APIC), 515; Antique & Collectibles Dealers Association, Inc., 495; and Appraisers Association of America, Inc., 494 and 526.

[11] Antique & Collectors Reproduction News, 497; Antique Week, 499 and 540; Antiques Journal, 4; and Coin World, 514.

[12] Gallery Mint Museum (Gallery Mint), 398.

[13] U.S. Mint, 511.

[14] See, e.g., Barrie, 19.

[15] See, e.g., Dilinger, 103.

[16] See, e.g., Wayne County (PA) Antique Dealers Assoc., 517.

[17] See, e.g., APIC, 7, 1; Mint, 511, 1; Prestwood, 512, 1; and Feeling, 254, 1. For example, APIC stated that, "We still have some reproductions today, but the problem is not serious, thanks to the Hobby Protection Act, and enforcement of the Act. Further, most campaign items reproduced since the early 1970's are in compliance with the Act, marked in accordance with the regulations." APIC, 7, 1. The United States Mint similarly favored continued coverage of imitation numismatic items because, "[t]he numismatic area is prone to opportunism, and sanctions for objectionable behavior are hard to impose. The Hobby Protection Act works as a preventive to counter attempts to pass off reproductions as genuine coins." Mint, 511, 1. Other comments similarly agree that the current Act protects the political memorabilia and numismatic collecting areas and should be continued. See, e.g., Lubitz, 61, 1.

[18] APIC pointed out that the advent of color copying machines, color computer technology, and digital image creation and enhancement has increased the capability of individuals to "create, maintain, use, transfer, and reproduce high quality images." APIC, 515, 7. ANA stated that, "[a]ny change in relevant technology would only increase the ability to manufacture more deceiving replicas." ANA, 94, 3.

[19] ANA, 94, 2.

[20] Gallery Mint, 398, 2.

[21] APIC, 515, 3.

[22] See e.g., APIC: "The costs imposed, if any, have been *de minimis*. The cost of adding a few more letters to a printing job * * * when the job is going to be undertaken regardless is negligible." APIC, 515 6. See also ANA, 94, 2; Coin World, 514, 3; and Gallery Mint, 398, 3.

[23] APIC, 515 6; and ANA, 94, 2.

[24] A few comments noted that the Rule technically overlaps with certain federal

Commenters that addressed the issue of whether the Rule imposes significant costs on small businesses indicated that the Rule imposes only *de minimis* costs on small firms[25] and several commenters stated there is no difference in the cost of compliance for small or large firms,[26] and that these costs are no different than a small business would incur under standard and prudent business practices.[27] For this reason, no commenters believed changes to the Rule were needed to reduce small business costs.[28]

Some comments indicated that the Rule is valuable to manufacturers and firms. One commenter stated that, "The rules * * * have benefitted firms which intend to be good players. The rules have provided a standard means of denoting lawful status as a 'copy' which in turn has been recognized and accepted in the hobby and consumer marketplace."[29] Similarly, another commenter noted the addition of the word "copy" or the date of manufacture may avoid litigation costs resulting from the intentional or unintentional sale of unmarked items as originals.[30]

2. Proposed amendments regarding covered products

a. Double-sided marking of "copy" on numismatic items.

One comment suggested amending the Rule to require that the word "copy" be marked on both sides of imitation numismatic items.[31] The Rule currently requires that the word "copy" be marked on either side of the coin (i.e., either the obverse or the reverse side of the item).[32] The comment argued that marking "copy" on only one side does not let potential buyers know that a replica on exhibit with only one side displayed or in an advertisement is an imitation because "copy" may be on the side not displayed.

The Commission has concluded that a requirement that "copy" be marked on both sides of an imitation coin is not warranted. The comments indicate that the current requirement for marking coins on only one side is highly successful. Regarding exhibited coins, the potential buyer would normally have the opportunity to fully view and physically handle the item, thus affording the opportunity to see the "copy" marking prior to purchase.

Regarding the concern that the word "copy" may not be displayed in advertising,[33] the Commission believes that coin depictions in advertising are likely to be small, making any "copy" marking proportionately even smaller. Double-sided marking of a coin is therefore unlikely to result in a prominent disclosure of the word "copy," and thus would not remedy the alleged problem raised in the comment.

The Commission also believes that double-sided marking would not be without costs. Although the costs of marking "copy" on an additional side of the item might be slight, there would still be some cost to manufacturers. In addition, double-sided marking might detract from the esthetic appeal of the replica and could have adverse effects on the market for imitation numismatic items.

b. Require that all political items be marked with year of manufacture.

The Rule currently requires that *imitation* political items be marked with the date of manufacture. One comment recommended broadening the Rule to require that *all* political items, both original and imitation, be permanently and prominently marked with the year that the manufacturing process was completed.[34] According to the comment, requiring that the date of manufacture appear on all political items would prevent the consumer confusion and deception that occurs with certain types of political buttons. According to this comment, manufacturers routinely print excess "button papers" so that if they receive additional orders during the campaign they will not need to print additional papers. These excess papers may not be manufactured into finished political buttons, however, until years later. For example, the comment described a situation in which paper sheets of images created and printed in 1920 for the 1920 Cox-Roosevelt campaign were not put on buttons until 1997.

The Commission does not propose to expand the Rule to require the marking of original political items. First, the Commission does not have the authority to require such marking under the Act, which requires the marking of only imitation items. Second, the problem raised by the comment is already covered by the Act and Rule. The Act and Rule define "Original political item" as including "any political button * * * produced for use in any political cause."[35] Until button paper is incorporated into a political button, a political button cannot have been "produced" for use in any political cause. A subsequently produced political button therefore would not be an "original political item" as defined in the Act and Rule. The type of button described by the comment would thus be an imitation political item that, under the current Rule, must be marked with the year of manufacture.

c. Replace minimum size requirements for required markings with a performanced-based standard.

The Rule currently mandates the font style and minimum size for the markings required by the Rule[36] but allows the minimum marking size for imitation numismatic items to be proportional to the size of the item.[37] The FRN asked whether the Commission should amend the Rule to replace the mandated minimum sizes with a performance-based standard, for example, with a clear and prominent disclosure requirement.[38]

Five commenters involved in the numismatic field addressed this issue. Three of those five favored keeping the existing size standards because they believe that the precise requirements of the current standard provide clear guidance as to what is lawful. According to these comments, a performance standard would introduce uncertainty that could cause delay, additional costs, or lead to litigation.[39] Two comments appeared to favor a performance-based standard, although both comments also noted the benefits of mandated size requirements.

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counterfeiting laws (Gallery Mint, 396, 3; and Ganz, 1, 1) and a consumer protection law in California (APIC, 515, 6). These comments, however, did not state that the Rule conflicted with these laws or that overlaps caused additional costs or burdens to small entities or other companies, or in any other way adversely affected businesses or consumers. The Commission, therefore, concludes that these minor overlaps do not warrant modification of the Rule.

[25] The Gallery Mint commented that while compliance with the Rule involves more time in production or die set-up, this is "just the nature of the business" and the requirements are "very easy to adhere to." Gallery Mint, 396, 4. See also APIC, 515, 7; and Coin World, 514, 3.

[26] See, e.g., ANA: "The cost of affixing the word 'copy' or the date would be the same for large and small firms." ANA, 94, 3.

[27] Coin World, 514, 3, and APIC, 515, 6.

[28] See. e.g., APIC. 515, 6; ANA, 94, 3; and Coin World, 514, 3.

[29] See. e.g., APIC, 515, 6.

[30] ANA, 94, 2.

[31] Coin World, 514, 3.

[32] 16 CFR 304.6(b)(2).

[33] The Act and Rule do not have requirements that address the advertising of covered products. The requirements address only the marking of the imitation numismatic or political item. Of course, misrepresenting a copy as an original in advertising would constitute a "deceptive" practice in violation of § 5 of the FTC Act. 15 U.S.C. 45.

[34] APIC, 515, 4.

[35] 15 U.S.C. 2106; and 16 CFR 304.1.

[36] *See* 16 CFR 304.5(3) and (4) (imitation political items) and 304.6(3) and (4) (imitation numismatic items).

[37] For example, the minimum total horizontal dimension of the word "copy" should be six millimeters or "not less than one-half of the diameter of the reproduction." 16 CFR 304.6(3).

[38] 62 FR 14049.

[39] ANA, 94, 3; *Coin World*, 514, 3; and, Ganz, 1, 1.

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Although one comment noted that in general mandated disclaimers are often so small as to render them worthless,[40] this comment also stated that the current Rule, with its mandated size standard, has materially lessened the amount of counterfeit political items in the marketplace.[41] This comment voiced support for modification of the current standard to a performance-based standard coupled with a "though not smaller than" requirement, with the caveat that "the result must be at least as effective as the status quo."[42] Another comment supported adoption of a performance-based standard, specifically a clear and prominent standard, while at the same time expressing concern that "there is too much room for individual translation" without specific size requirements.[43]

The Commission has determined to keep the present minimum size standard. As noted previously, the comments indicated generally that the current standard is working well and does not impose significant costs on small entities or others. Second, several comments indicated that the certainty provided by the current standard allows them to plan and anticipate costs, and that a performance-based standard would eliminate these benefits and could cause confusion. Finally, the current standard already addresses a concern of those suggesting that the Commission consider a performance-based standard by allowing a minimum size for the word "copy" that is proportional to the size of the imitation numismatic item.

B. Comments Relating to Expanding Coverage of the Act and Rule to Antiques and Collectibles in General

As previously noted, the scope of the Act and Rule is limited to imitation political and numismatic items. This section discusses the numerous comments that related to products not presently covered by the Act and Rule.[44] In essence, these comments state that reproductions of many types of antiques and collectibles are being passed off as originals, causing economic harm to collectors and dealers. Because of improvements in technology, the comments alleged, even knowledgeable persons have difficulty differentiating the reproductions from the originals. The comments suggested two amendments to the Rules to address these problems. First, some comments proposed that the coverage of the Act and Rule be expanded to all reproductions of antiques and collectibles. Second, many comments also recommended that the Commission require permanent country-of-origin labeling for all reproductions of antiques and collectibles.

After carefully considering these proposals, the Commission has determined not to amend the Rule as suggested. First, as discussed above, the Hobby Protection Act applies only to imitation political and numismatic items. The Act does not provide the commission with authority to expand the Rule beyond the Congressionally mandated scope of the Act to cover all reproductions. The Commission also notes that existing laws and other resources address many of the problems discussed in the comments. In particular, country-of-origin marking for imports is under the jurisdiction of the U.S. Customs Service. Because many comments indicated that foreign-made reproductions pose the greatest problems, the Commission has brought the issues raised in this proceeding to the attention of the Customs Service, which has authority to take action where goods fail to bear a required country-of-origin marking.

1. The Scope and Source of the Passing-Off Problem

The comments suggested that there are many categories of collectibles subject to being passed off,[45] and that the volume of reproductions being offered for sale as originals may be large.[46] The comments provided several explanations for the passing-off problems. First, the comments uniformly stated that the quality of reproductions has greatly improved to the point that reproductions can be virtually indistinguishable from the originals.[47] Several comments noted that even experts may not be able to distinguish originals from reproductions.[48]

The comments appeared to agree that the quality of reproductions has improved, but were not in agreement regarding how these reproductions come to be passed off as originals. According to one commenter, the problem is not with reproductions being made for decorative purposes and sold in retail stores, where it is likely that purchasers are aware that they are buying reproductions. The problem begins when a reproduction subsequently enters the secondary market and may be passed off as an original.[49] Other commenters, however, argued that reproductions are intentionally sold as originals.[50]

The comments indicated that reproductions are made both overseas and domestically.[51] Although the comments do not present quantitative data that establishes the number of foreign-made reproductions being sold as originals in the United States, the majority of the commenters indicated that they believe the problems lie chiefly in overseas production.[52]

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[40] APIC, 515, 10.

[41] *Id.* at 2.

[42] *Id.* at 10.

[43] Gallery Mint, 396, 5.

[44] As described above, the Commission received over 1,000 letters advocating that the Act or Rule be expanded to cover all antiques and collectibles. *E.g.*, Sprowls, 276, 1; Bucher, 244, 1; Anderson, 58, 2; and Whitehouse, 20, 1. Many comments also described specific examples of individual instances involving the passing off of a reproduction as an original.

[45] As one comment stated, "Fake and Repros exist in almost every sector of the collecting hobby." Donaldson, 11,1. The comments cite the passing off of the following products, among others: Nippon porcelain (Puckett, 45 1 and 223 form letter comments); Cambridge glassware (Upton, 505, 1); Griswold cast iron cookware (Smith, 498, 1); Coca Cola memorabilia and postcards (Wildman, 40, 1; Rutledge, 43, 1); antique quilts, transferware, majolica, and ironstone (Nickel, 18, 1); Tiffany lamps (Curry, 575, 1); calendars, calendar plates, almanacs and calender art (Moses, 74, 1); Parrish and Nutting prints, powder horns and scrimshaw, Shaker items, Sterling Victorian match safes and lockets, Brilliant period cut glass patterns, Galle art glass, and perfume and scent bottles (Donaldson, 11, 1); and confederate veteran reunion badges and medals (Finlayson, 240, 1).

[46] See, e.g., Berndt, 52, 1; and LaBatt, 366, 1. These comments state that the commenter has visited many venues that allegedly sell reproductions as originals.

[47] See, e.g., Chervenka, 497, 2; "Now, antique reproduction importers are manufacturing goods that are virtually identical copies of old originals including factory names, artist signatures and trademarks. Many of these new pieces * * * are cast in molds taken directly from old originals. This means new pieces do not just loosely resemble the original, they are an exact clone of the original."

[48] Thoe, 540, 2; and Skeim, 225, 1.

[49] Billings, 22, 1.

[50] See, e.g., Tucker, 495, 1, who states that reproductions are made overseas, shipped to the United States with country-of-origin labels attached which then are removed somewhere in the distribution system and sold as originals. According to the commenter "[t]his is fraud and * * * [t]he manufacturers of these items are well aware of what happens." Another commenter claims that, "[m]ost of these items [reproductions] are expressly made to fool the general public as to authenticity." Porta, 572, 1.

[51] One comment noted that both domestic and overseas companies have mastered techniques for making pottery, wood, metals, and glass appear to be hundreds of years old. Thoe, 540, 1.

[52] See, e.g., Tucker, 495, 1. The comments state that a variety of countries are the sources of reproductions. For example, one comment states that Brazil, France, Italy, and several Far East countries export all types of reproductions of antiques and collectibles while the Philippines manufactures "antique" oak furniture which is imported into the United States and sold as authentic antiques. Sprowls, 276, 1. Another comment alleges that Galle glassware reproductions are "being mass produced" in Romania, China, and Japan while Roseville pottery is being produced in China. Chervenka, 497, 2.

Several comments also cite the domestic production of replicas that are passed off as originals. See, e.g., Finlayson, 240, 1.

The comments present numerous anecdotes regarding the harm caused by passing off. Although these anecdotes do not present information sufficient to quantify or determine the amount of economic and other harm caused, the following is a summary of the adverse effects noted in the comments: That the individual buyer pays considerably more than the product is worth;[53] that owners of original antiques or collectibles which are heavily reproduced lose the value of their investment;[54] that the uncertainty regarding the genuineness of antiques and collectibles dissuade persons from purchasing originals or from becoming collectors, which also adversely affects businesses that deal in originals.[55]

2. Proposals To Expand Coverage of the Rule to Non-Covered Products

Many comments propose that the coverage of the Act be expanded to all antiques and collectibles.[56] A number of comments suggest, as an alternative to expanding the coverage of the Act or in addition to such expansion, that both foreign and domestic reproductions be marked permanently with the country-of-origin. The comments generally suggested that foreign reproductions with country-of-origin labels that are non-permanent are the primary source of the passing-off problem.[57] For several reasons, however, the Commission does not propose to adopt the remedies suggested by the comments.

First, the Act does not provide the Commission with legal authority to expand the coverage of the Act to all antiques and collectibles. The plain language of the Act encompasses only numismatic and political items and directs the Commission to promulgate rules regarding the marking of only these covered products. For this reason, the Commission cannot amend the Rule to include products not itemized in the Act to require the marking of items not covered by the Act.

Second, the Commission believes that existing federal and state laws adequately address the key issues raised in the comments. For example, the majority of comments cited imported reproduction as the most significant source of passed-off goods. Well-established laws and regulations already in existence address country-of-origin markings for goods imported into the United States. Specifically, country-of-origin marking for imports is under the jurisdiction of the U.S. Customs Service, which enforces the Tariff Act.[58] Under the Tariff Act, every article of foreign origin must be legible, indelibly, and permanently marked in a conspicuous place to indicate the country of origin. The Act also allows the container of an imported good to bear the origin marking rather than the good itself, as long as the good reaches the ultimate purchaser in the container. Under the Tariff Act, then, a permanent marking is a marking that will remain on the article or container until it reaches the ultimate purchaser, although the marking may be removed by the ultimate purchaser and need not be of a permanence to remain affixed once in his or her possession. This marking may not be removed prior to delivery to the ultimate purchaser, however, and anyone who removes this marking prior to such delivery could be subject to prosecution and criminal penalties.

Commission staff has brought the concerns regarding foreign origin marking raised in this proceeding to the attention of the Customs Service because Customs regulations have an impact on several of the problems discussed in the comments. For example, several comments indicated their belief that country-of-origin labels are deliberately removed.[59] The Customs Service urges persons with information regarding the violative removal of required country-of-origin markings to write to: Office of Field Operations, ATTN: Commercial Enforcement Branch, U.S. Customs Service, 1300 Pennsylvania Ave., NW, Washington, DC 20229 or to call Customs' toll free Commercial Fraud Hotline, 1–800–ITS–FAKE.

In addition to the deliberate removal of country-of-origin labels, many comments suggested that the lack of truly permanent country-of-origin labels on reproductions results in these reproductions being passed off as originals in the secondary market.

The Commission declines to prohibit the legal removal or loss of country-of-origin labels and does not have authority under the Act to require the origin marking of domestic reproductions. Other legal remedies are available, however. For example, passing off can be prosecuted as criminal fraud[60] or as civil fraud in a lawsuit by the buyer.[61] Additionally, if the passing off involves illegal trademark infringement, it may be actionable in a private lawsuit under the Lanham Act.[62] Further, a pattern or practice of significant affirmative misrepresentations or failures to disclose material information relating to reproductions passed off as originals may violate Section 5 of the Federal Trade Commission Act.[63]

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[53] See, e.g., Chervenka, 497, 2, describing circumstances in which buyers mistook new Galle glassware for old and paid $10,000 for a reproduction which cost about $500 wholesale and paid $3,500 for a different reproduction which cost $450 wholesale. Another example mentioned was a buyer allegedly spending "tens of thousands" of dollars for a Tiffany lamp at "one of the better known auction houses that employed in-house experts" only to find out later that it was not genuine and worth less. Craig, 575, 1.

[54] Due to the glut of reproductions, "[m]any older people who wish to sell their antiques and collectible are not getting the full value" (Dillinger, 103, 1) while some collections "will never recover their value because of the flood of * * * reproductions." Nickel, 18, 1.

[55] The comments allege that uncertainties of investment value caused by reproductions "scare off novices who might otherwise collect these items [original antiques and collectibles]" (Billings, 22, 1) and make collectors not buy "for fear of reproductions." Skeim, 225, 1. Dealers have commented that customers' fear of buying reproductions have adversely affected their business. Vierling, 532, 1; and Craven, 508, 1.

[56] The 721 comments generated from the Antique Week form comment stated that the Act should be expanded to all antiques and collectibles and that the Commission recommend such expansion to Congress. E.g., Lubitz, 61, 1. The 223 comments using or based on the Nippon Collector's Club form letter as well as the 34 comments using or based upon the Antiques Journal form letter urged the extension of the regulatory powers of the Act to require permanent, non-removable marking for collectibles other than those currently covered. E.g., Dersheimer, 59, 1; and Mercier, 4, 1. Additionally, numerous non-form comments suggested the expansion of coverage of the Act to other antiques and collectibles. E.g., Gregory, 5, 1; Ritchie, 9, 1; Nickel, 18, 1; SeGall, 28, 1; Castle, 295, 1; James, 381, 1; Reid, 415, 1; Fendelman, 494, 1; and Curry, 575, 1. Presumably, these comments intend that all antiques and collectibles would be marked with the word "copy" or the date of manufacture.

[57] See, e.g., Brady, 47, 1. See also Reynolds, 169, 1; Barrie, 19, 2; Cotton, 21, 1; Berndt, 52, 1; and Carner, 213, 1.

[58] 19 U.S.C. 1304. The Tariff Act of 1930, as amended, and implementing regulations (19 CFR 134) are available at Customs Website: "www.customs.ustreas.gov".

[59] See note 50 supra.

[60] *E.g.*, Castle, 295, Attachment 1 (describing a criminal law enforcement inquiry regarding reproduction "acid cutback" lamps and vases and bronze statues being sold as antiques).

[61] Section 2–721 of the Uniform Commercial Code provides civil remedies for material misrepresentation and fraud in sales transactions;

[62] 15 U.S.C. 1125. See also Goehe, 528, 1 (describing collector's club successful law suit against manufacturer of reproductions that had illegally obtained logo trademark).

[63] Section 5 of the Federal Trade Commission Act prohibits deceptive acts or practices in commerce. 15 U.S.C. 45. A deceptive act or practice is one that is likely to mislead consumers acting reasonably under the circumstances. See Cliffdale Associates, Inc., 103 F.T.C. 110 (1984). As a matter of policy, however, the Commission does not generally intervene in individual disputes. Generally, the instances of passing off described in the comments reflect specific individual transactions, rather than a pattern or practice of passing off. Where the Commission obtains evidence of such a pattern or practice, however, it can take action. For example, the Commission recently sued a company that had telemarketed purportedly rare "error" postage stamps to consumers as valuable, safe, and liquid investments, at highly inflated prices. *FTC* v. *Equifin International, Inc.*, Financial Frontiers, and F. Jerold Hildreth, No. CV–97–4526–DT (CWx) (C.D. Cal. Dec. 11, 1997).

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In addition to legal remedies, the record indicates that there are non-legal resources available to educate consumers about antiques and collectibles and thus reduce consumers' susceptibility to the practice of passing off. For example, several newsletters and hobby newspapers regularly warn and advise buyers of antiques and collectibles about reproductions of specific items and classes of items[64] Many comments also indicate that there are collector clubs for many categories of collectibles that provide members with similar information. Commission staff will explore whether there is a role for the Commission in these efforts to increase consumer awareness.

IV. Conclusion

The comments uniformly favor retention of the Rule and state that there is a continuing need for the Rule with regard to currently covered products, i.e., imitation numismatic and political items; that the Rule provides benefits to consumers and industry; that the Rule does not impose substantial economic burdens; and that the benefits of the Rule outweigh the minimal costs it imposes. Although the comments addressing the impact of the Rule on small entities were minimal, these comments, including comments from major national associations in the numismatic and political items trade, indicate that the Rule does not place significant burdens on small entities. Accordingly, the Commission certifies that the Rule has not had a significant impact on a substantial number of small entities.

Although many comments recommended that the Act and Rule be expanded to cover all antiques and collectibles, the Commission does not have the authority under the Act to expand the Rule in this manner. In addition, there are a variety of legal and non-legal resources that address many of the issues raised by the commenters favoring expansion of the Act's coverage. Accordingly, the Commission has determined to retain the current Rule and is terminating this review.

List of Subjects in 16 CFR Part 304

Hobbies, Labeling, Trade practices.

Authority: The Federal Trade Commission Act, 15 U.S.C. 41–58 and the Regulatory Flexibility Act, 5 U.S.C. 601.

By direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 98–17929 Filed 7–6–98; 8:45 am]

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SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

RIN 0960–AE53

Administrative Review Process; Identification and Referral of Cases for Quality Review Under the Appeals Council's Authority To Review Cases on Its Own Motion

AGENCY: Social Security Administration (SSA).

ACTION: Final rule.

SUMMARY: We are amending our regulations to include rules under which a decision or order of dismissal that is issued after the filing of a request for a hearing by an administrative law judge (ALJ) may be referred to the Appeals Council for possible review under the Appeals Council's existing authority to review cases on its own motion. These final rules codify identification and referral procedures that we currently use to ensure the accuracy of decisions that ALJs and other adjudicators make at the ALJ-hearing step (hearing level) of the administrative review process. The rules also codify new quality assurance procedures to ensure the quality of dispositions at the hearing level.

DATES: This rule is effective August 6, 1998.

FOR FURTHER INFORMATION CONTACT: Harry J. Short, Legal Assistant, Office of Process and Innovation Management, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–6243 for information about this notice. For information on eligibility or claiming benefits, call our national toll-free number, 1–800–772–1213.

SUPPLEMENTARY INFORMATION:

Background

Under procedures set forth in §§ 404.967 ff. and 416.1467 ff., and pursuant to a direct delegation of authority from the Commissioner of Social Security, the Appeals Council, a component in our Office of Hearings and Appeals (OHA), reviews hearing decisions and orders of dismissal issued by ALJs and decisions issued by certain other adjudicators. The Appeals Council may review an ALJ's decision or dismissal of a hearing request at the request of a party to the action or, pursuant to §§ 404.969 and 416.1469, on its own motion. Through the exercise of its authority to review cases, the Appeals Council is responsible for ensuring that the final decisions of the Commissioner of Social Security in claims arising under titles II and XVI of the Social Security Act (the Act), as amended, are proper and in accordance with the law, regulations, and rulings.

The Appeals Council's authority to review cases on its own motion also applies, at present, to two types of hearing-level cases that do not result in decisions by ALJs. Under §§ 404.942 and 416.1442, attorney advisors in OHA are authorized until July 1, 1998, to conduct certain prehearing proceedings and to issue, where warranted by the documentary evidence, wholly favorable decisions. Under the provisions of §§ 404.942 (e)(2) and (f)(3) and 416.1442 (e)(2) and (f)(3), such decisions are subject to review under the own-motion authority of the Appeals Council established in §§ 404.969 and 416.1469. In addition, under §§ 404.943 and 416.1443, adjudication officers are authorized, for test purposes, to conduct certain prehearing proceedings and to issue, where warranted by the documentary evidence, wholly favorable decisions. Under the provisions of §§ 404.943(c)(2)(ii) and 416.1443(c)(2)(ii), such decisions are also subject to review on the Appeals Council's own motion.

Under our regulations on the Appeals Council's procedures, if the Appeals Council decides to review a case in response to a request for review or on its own motion, it may issue a decision or remand the case to an ALJ. The Appeals Council may also dismiss a request for hearing for any reason that the ALJ could have dismissed the request.

A decision by the Appeals Council "to review" a hearing-level decision means that the Appeals Council assumes jurisdiction and causes that decision not to be the final decision of the Commissioner of Social Security. A decision that the Appeals Council "reviews" will be replaced by a new final decision or dismissal order of the Appeals Council or, if a hearing or other hearing-level proceedings are required, by a decision or dismissal order issued following remand of the case from the Council to an ALJ.

A decision by the Appeals Council to review a case is made when, following a consideration of the case to determine if review is appropriate, the Council issues a notice of its decision to review. The Council's standard notice of review advises the parties of the reasons for the review and (unless the Council issues a wholly favorable decision upon taking review) the issues to be considered in proceedings before the Council or before an ALJ on remand. In instances in which the Council reviews a hearing level decision that has been issued based on the documentary evidence without the holding of an oral hearing by an ALJ, the parties have the right to such a hearing, except where the parties waive that right in writing.

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[64] See Chervenka, 497, 3 (publisher of Antique & Collectors Reproduction News) and Antique Week, 499, attachments.

The existing provisions in §§ 404.969 and 416.1469 on the Appeals Council's authority to review cases on its own motion provide that the Appeals Council itself may decide to review a case within 60 days after the date of the hearing decision or dismissal and that, if the Council does review a case under this authority, it will provide notice to the parties to the hearing decision or dismissal action. Sections 404.969 and 416.1469 do not currently address the procedures used in identifying and referring cases to the Appeals Council for it to consider for possible review on its own motion.

The Appeals Council *may* review any case on its own motion pursuant to §§ 404.969 and 416.1469. The conditions under which the Appeals Council *will* review a case, on request for review or on its own motion, are set forth in §§ 404.970 and 416.1470. Those sections provide that the Council will review a case if: (1) There appears to be an abuse of discretion by the ALJ; (2) there is an error of law; (3) the action, findings or conclusions of the ALJ are not supported by substantial evidence; or (4) there is a broad policy or procedural issue that may affect the general public interest. Sections 404.970 and 416.1470 further provide that the Council will also review a case if new and material evidence is submitted that relates to the period on or before the date of the ALJ's decision and the Council finds, upon evaluating the evidence of record and the additional evidence, that an action, a finding or a conclusion of the ALJ is contrary to the weight of the evidence currently of record as a whole.

In fiscal year 1996 (FY '96), the Appeals Council received 99,735 requests for review. In FY '97, the number of requests for review received by the Appeals Council rose to 112,528. Most of these requests were for review of unfavorable decisions and dismissal actions; some concerned partially favorable decisions; and a few concerned decisions that were wholly favorable regarding the benefits claimed, but were found by a party to the decision to be less than fully satisfactory for some other reason.

In FY '96, the Appeals Council considered 8,502 cases for possible review under its own-motion authority; in FY '97, the Council considered 8,012 cases for possible review under that authority. Almost all of these cases involved favorable hearing-level decisions that were referred to the Appeals Council under one of two types of identification and referral procedures we currently use—random sample procedures, which generated the majority of this workload, and "protest" procedures.

Existing Identification and Referral Procedures

The Appeals Council considers, for possible review on its own motion, a national random sample of favorable ALJ decisions that have not been implemented, and, as resources permit, a random sample of unappealed denial decisions and dismissals. We conduct these random sample procedures pursuant to sections 205(a), 702(a)(4) and 1631(d) of the Act, which give the Commissioner of Social Security general responsibility and authority for program administration and oversight.

The Appeals Council also considers, for possible review on its own motion, a random sample of wholly favorable decisions issued by attorney advisors under the provisions of §§ 404.942 and 416.1442. Wholly favorable decisions issued by adjudication officers under the provisions of §§ 404.943 and 416.1443 are also identified by random sampling for referral to the Appeals Council for possible own-motion review. These procedures have been established in accordance with commitments we made, in publishing the final rules for the attorney advisor and adjudication officer provisions, to assess carefully the quality of the decisions issued by the attorney advisors and the adjudication officers (see 60 FR 34126, 34127 (1995) and 60 FR 47469, 47471 (1995), respectively).

Our existing identification and referral procedures also include those under which the SSA components responsible for effectuating hearing-level decisions—SSA Processing Centers (PCs) and Field Offices (FOs)—refer ("protest") certain cases to the Appeals Council for possible review under its own motion authority. The PCs, which include our Program Service Centers and the Office of Disability and International Operations, refer cases directly to the Appeals Council; FOs forward cases to a PC or an SSA Regional Office, which decides if the PC or the Regional Commissioner should make a referral to the Council.

Decisions by ALJs, attorney advisors and adjudication officers are all subject to referral to the Appeals Council under our protest procedures. Almost all protested decisions are favorable decisions because almost all of the ALJ decisions that require implementation are wholly or partially favorable decisions under which benefit payments are to be effectuated (initiated or continued), and because all decisions issued by attorney advisors and adjudication officers are wholly favorable. In protesting a decision, an effectuating component may recommend that the decision be made more or less favorable or unfavorable. The Appeals Council, however, will decide whether to review such a case, and the appropriate disposition if it decides to review a case, based on its consideration of the record and the hearing-level decision.

Effectuating components refer a case if they believe the need for referral is clear (not dependent on a judgment factor) because: (1) the decision contains a clerical error which affects the outcome of the claim; (2) the decision is contrary to the Act, regulations or rulings; or (3) the decision cannot be effectuated because its intent is unclear as to an issue affecting the claim's outcome.

Effectuating components refer cases to the Appeals Council by written memoranda. If the Council decides to review a referred case, it provides the parties a copy of the effectuating component's referral memorandum with the notice by which it advises the parties that it will review the case.

We are amending our regulations to include rules on the existing random sample and protest procedures discussed above. We have decided to codify these procedures in connection with the decision we made, in furtherance of the *Plan for a New Disability Claim Process* (59 FR 47887 (1994) (henceforth, the *Disability Redesign Plan*)), to strengthen the Appeals Council's own-motion functions by establishing a new process for identifying and referring cases for possible review under the Council's existing own-motion authority.

New Identification and Referral Procedures

The Appeals Council currently considers only a small percentage of all favorable decisions issued at the hearing level for possible review under its own-motion authority. (The Council's workload in this area represented fewer than 3 percent of such decisions in FY

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'96 and FY '97.) In addition, the processes currently used to select decisions for possible review on the Appeals Council's own motion are generally not designed to identify, in any systematic way, hearing-level decisions that are more likely to be incorrect. The random sample processes bringing cases before the Appeals Council do not identify cases other than by techniques designed to assure randomness of selection within broadly identified categories (i.e., allowances, unappealed denials, and dismissals). The identification of "protest" cases that occurs in the effectuation process is a secondary function of a process that is principally focused on the prompt payment of benefits.

Based on the above considerations, we are establishing procedures under which our Office of Quality Assurance and Performance Assessment (OQA), the SSA component that oversees SSA's quality assurance function, will examine certain allowance decisions at the hearing level that have been selected through statistical sampling techniques. OQA will refer to the Appeals Council for possible review the decisions it believes meet the criteria for review by the Council. Decisions that have been issued at the hearing level will initially be included in this examination process by random sampling. As we develop the computer systems and other technical capacities needed to support this function, we will use selective sampling techniques that rely on case profiling and other sampling methods that can identify cases which involve problematic issues or fact patterns that increase the likelihood of error.

Under the new process, upon referral of a case by OQA, the Appeals Council will consider the case and OQA's reasons for believing that the decision should be reviewed. The Appeals Council will decide whether to review the case in accordance with §§ 404.969–404.970 and/or 416.1469–416.1470. If it decides to review the case, the Appeals Council will provide the parties a copy of OQA's referral, which will be in writing, with its notice of review. The 60-day time limit for the Appeals Council to initiate review of a case under the authority and standards provided in §§ 404.969–404.970 and 416.1469–416.1470 will apply to cases the Council considers for review in response to referrals from OQA.

The Act does not specify how SSA should review hearing-level decisions. We believe that the new procedures we are establishing, in combination with the existing identification and referral procedures that we are including in our regulations, are appropriate procedures for carrying out the program oversight responsibilities of the Commissioner of Social Security.

An important purpose of the new procedures is to increase our ability to identify policy issues that should be clarified through publication of regulations or rulings. We plan to monitor how our policies are understood and implemented through a post-adjudicative evaluation process in which we will analyze differences of view between the Appeals Council and OQA concerning cases referred under the new procedures. We believe this post-adjudicative process, in conjunction with the new OQA referral process, will increase our ability to identify needed policy clarifications.

Regulatory Provisions

As revised in these final rules, §§ 404.969 and 416.1469 set forth the Appeals Council's own-motion authority and state that we refer cases to the Appeals Council for it to consider reviewing under that authority. Sections 404.969 and 416.1469 also describe the identification and referral procedures we will follow and the actions the Appeals Council will take in cases it considers for possible review on its own motion. These sections apply to all cases that our regulations make subject to own-motion review by the Council.

Sections 404.969(b) and 416.1469(b) specify that we will identify a case for referral to the Appeals Council for possible review under its own-motion authority before we effectuate a decision in the case. These sections provide that we will identify cases for referral through random and selective sampling techniques, that we may examine cases identified by sampling to assess whether the criteria for review by the Appeals Council are met, and that we will also identify cases for referral through the evaluation of cases we conduct in order to effectuate decisions.

Under §§ 404.969(b)(1) and 416.1469(b)(1), we may conduct random and selective sampling of cases involving all types of actions that occur at the hearing level of the administrative review process (i.e., wholly or partially favorable decisions, unfavorable decisions, or dismissals) and any type of title II or title XVI benefits (i.e., different types of benefits based on disability and benefits not based on disability). Our decision to adopt these rules rests on our conclusion that we should increase the number of favorable disability decisions the Appeals Council considers for possible review on its own motion to better balance the Council's review of favorable and unfavorable decisions. However, the Council's existing authority to review cases on its own motion covers all types of title II and title XVI cases adjudicated at the hearing level, and these final rules will allow use of the identification and referral procedures being set forth with respect to all such cases.

Sections 404.969(b)(1) and 416.1469(b)(1) specify that we will use selective sampling to identify cases that exhibit problematic issues or fact patterns that may increase the likelihood of error. Under these provisions, the factors considered in random and selective sampling shall not include the identity of the decisionmaker or the identity of the office issuing the decision.

Sections 404.969(b)(1) and 416.1469(b)(1) also authorize, but do not require, that we examine cases that have been identified through random or selective sampling. Cases may be identified for referral by random or selective sampling. The purpose of the examination of cases that we may conduct is to refine the identification of cases in which one or more of the criteria for own-motion review by the Appeals Council may be met.

Sections 404.969(b)(2) and 416.1469(b)(2) provide that effectuating components will identify cases for referral under criteria they presently use to identify cases that they believe exhibit clear error and other circumstances preventing effectuation of a decision. Any type of decision requiring effectuation may be identified for referral under these provisions.

Under §§ 404.969(c) and 416.1469(c), we will make referrals that occur as the result of a case examination or the effectuation process in writing. The written referral will state the referring component's reasons for believing that the Appeals Council should review the case on its own motion. Sections 404.969(c) and 416.1469(c) also provide that referrals resulting from selective sampling without a case examination may be accompanied by a written statement identifying the issue(s) or fact pattern that caused the referral, and that referrals resulting from random sampling without a case examination will only identify the case as a random sample case. A statement of the issue(s) or fact pattern identified in selective sampling may be computer generated.

Sections 404.969(d) and 416.1469(d) specify that the Appeals Council's notice of review will include a copy of any written referral provided to the Appeals Council. These provisions also include language clearly stating our long-standing policy that issuance of the notice of review establishes when a decision to conduct a review occurs (see

Hearings and Appeals Litigation Law Manual (HALLEX), section I–3–301).

Sections 404.969(d) and 416.1469(d) also state our policy that when the Appeals Council is unable to decide whether to review a case on its own motion within the 60-day period in which it may do so, it may consider whether the decision should be reopened under the provisions of §§ 404.987 and/or 416.1487, which authorize the Council to reopen a decision that has become administratively final on its own initiative or at the request of a party to the decision, if a condition for reopening stated in §§ 404.988 or 416.1488 is present. Inclusion of this statement in the regulations clarifies our long-standing policy that the Appeals Council may also reopen final decisions in accordance with §§ 404.987, 404.988, 416.1487, and 416.1488 after the 60 days for initiating review under §§ 404.969 and 416.1469 have expired (see Social Security Acquiescence Ruling (AR) 87–2(11)).

Sections 404.969(d) and 416.1469(d) also state, finally, that if the Appeals Council decides to review a decision on its own motion or to reopen a decision as provided in these rules, the notice of review or the notice of reopening issued by the Appeals Council will include, where appropriate, information concerning the interim benefit provisions of section 223(h) or section 1631(a)(8) of the Act, as appropriate. This provision reflects existing practices we follow under these statutory provisions.

Public Comments

These regulatory provisions were published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on September 25, 1997 (62 FR 50266). We received statements in response to the NPRM from 15 individuals and organizations. The individuals responding included ALJs employed by SSA and attorneys who represent individuals claiming rights under the Social Security and supplemental security income (SSI) programs. The organizations responding included a number of legal aid groups and four professional associations: The Association of Administrative Law Judges, Inc., the National Association of Disability Examiners, the National Council of Disability Determination Directors, and the National Organization of Social Security Claimants' Representatives.

Some commenters endorsed the proposed rules, with or without recommending changes in the rules; others opposed the rules, with or without recommending changes in the event of their adoption. Other commenters accepted the general appropriateness of rules like those proposed while also recommending changes in the final rules or requesting assurances about how the rules would be applied. Generally, the commenters who opposed the rules raised issues about the bases for the proposed rules and contended that they were intended to intimidate ALJs and would be unfair to claimants in general and to individuals whose cases were included in the new procedures. Comments favoring adoption of the rules generally emphasized the appropriateness of better balancing the review of favorable and unfavorable decisions issued at the ALJ-hearing step of the administrative review process.

The NPRM referred to the component that would perform the case examinations included in the proposed new quality assurance procedures as the "Office of Program and Integrity Reviews." (*See* 62 FR 50266, 50268.) Since publication of the NPRM, this component's name has been changed to the "Office of Quality Assurance and Performance Assessment." We have used the new name and its acronym, "OQA," in the above discussion of these final rules and in the following discussion of the public comments and our responses.

Because some of the comments were detailed, we have condensed, summarized or paraphrased them. We have, however, tried to summarize the commenters' views accurately and to respond to all of the significant issues raised by the commenters that are within the scope of the proposed rules. For the reasons explained below in our responses to specific comments, we have not adopted the recommendations against promulgating these final rules or some of the specific recommendations we received for changing the rules as proposed. However, in response to the comments, as discussed below, we are clarifying the intent of the rules in several respects and making five clarifying changes in the regulatory language. For reasons discussed following the discussion of the comments and our responses, we are also making one editorial change in the regulatory language that is not in response to a specific comment.

Comment: One commenter thought that the proposed rules would blur the roles of the Appeals Council and OQA and shift to the Appeals Council trend-spotting and policymaking functions that should be performed by OQA.

Response: The Appeals Council has traditionally used its adjudicative experience as a basis for providing comments and recommendations in SSA's policymaking processes. An important purpose of the new procedures is to make better use of the Council's adjudicative experience for policymaking purposes. If the case disposition the Appeals Council makes in response to a referral from OQA indicates that the case may pose a significant policy or program issue, a post-adjudicative evaluation will be performed. OHA will participate in such evaluations to assure that the Council's adjudicative experience is reflected in the assessment of the policy and program issues the cases present. These procedures represent a new way to make use of the Appeals Council's experience in our policymaking processes; the procedures do not, in our judgment, blur the Council's role as an adjudicative body.

Comment: One commenter stated that we should specify, as we have already done with respect to our selective sampling procedures, that the identity of the decisionmaker or the office issuing a decision will also not be a factor in our random sampling and "protest" procedures.

Response: Because the random sampling procedures we are adopting may be applied to variously defined categories of cases (e.g., unfavorable decisions issued between given dates), we believe it would be appropriate to specify, in accordance with our intent, that the identity of the decisionmaker or of the office issuing the decision will not be a factor in either our random or our selective sampling procedures. Accordingly, we have modified the provisions of §§ 404.969(b)(1) and 416.1469(b)(1), and the description of these regulatory provisions set forth above, to make this point clear.

We believe that the identity of the decisionmaker or office would clearly not be a factor that might be encompassed within the criteria stated in §§ 404.969(b)(2) and 416.1469(b)(2) for identifying cases for referral as a result of the effectuation process. Therefore, we are not modifying the language of those provisions in response to this comment.

Comment: Several commenters were concerned about the proposed provisions of §§ 404.969(d) and 416.1469(d) that stated: "If it is unable to decide within the applicable 60-day period whether to review a decision or dismissal, the Appeals Council may consider the case to determine if the decision or dismissal should be reopened pursuant to § 404.987 [416.1487]." These commenters expressed views to the effect that these

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provisions would effectively do away with the 60-day limit on own-motion review and make the grounds for own-motion review applicable for reopening purposes.

Response: As we discussed in the preamble to the NPRM and in the above description of the regulatory provisions, the language in question in this comment is intended to allow the Appeals Council to "consider whether the decision should be reopened under the provisions of §§ 404.987 and/or 416.1487, which authorize the Council to reopen a final decision on its own initiative or at the request of a party to a decision, if a condition for reopening stated in §§ 404.988 and/or 416.1488 is present." The regulatory provisions as proposed reflected that intent by stating that the Council will consider if it should reopen the decision or dismissal action "pursuant to § 404.987 [416.1487]", because those sections make reopening contingent on satisfaction of the requirements set forth in §§ 404.988 and 416.1488. However, to make it unmistakably clear that we intend this provision to allow a decision to be reopened only if a condition for reopening described in §§ 404.988 or 416.1488 is present and the time limits established in those sections are also satisfied, we have modified the regulatory language to provide that the Appeals Council may determine if a decision or dismissal received under §§ 404.969 or 416.1469 "should be reopened pursuant to §§ 404.987 and 404.988 [416.1487 and 416.1488]."

Comment: Several commenters thought that the intent of the proposed provisions concerning reopening in §§ 404.969(d) and 416.1469(d) should be clarified relative to the decision of the United States Court of Appeals for the Eleventh Circuit in *Butterworth* v. *Bowen*, 796 F.2d 1379 (11th Cir. 1986).

Response: In *Butterworth*, the Court of Appeals for the Eleventh Circuit held that the Appeals Council could reopen an ALJ's decision only if the case is "properly before" the Council, and that the circumstances in which the Council would have an ALJ's decision properly before it did not include those in which it had considered, but not timely taken, own-motion review. The court concluded that: "[W]e have not held that the Secretary is precluded from initiating the reopening and revising of cases. We have only given section 404.969 its necessary force and recognized that it limits somewhat the reopening jurisdiction of the Appeals Council."

We acquiesced in the holding in *Butterworth* by publishing AR 87–2(11). We issued this ruling because we determined that the court's holding conflicted with our longstanding policies that the Appeals Council may reopen any ALJ decision if the requirements in §§ 404.987 and 404.988 or 416.1487 and 416.1488 are met, and that such reopening actions are subject only to the time limits set forth in those regulations and not to time limits in any other regulations, including the 60-day time limit in §§ 404.969 and 416.1469.

In accordance with the provisions of 20 CFR § 404.985(e)(4) and 416.1485(e)(4), we are rescinding AR 87–2(11). Sections 404.985(e)(4) and 416.1485(e)(4) provide that an AR may be rescinded as obsolete if we subsequently clarify, modify or revoke the regulation or ruling that was the subject of the circuit court holding for which the AR was issued. As explained in a notice of the rescission of AR 87–2 that we are publishing concurrently with these final rules (*see* the notices section of this **Federal Register**), we are rescinding this AR as obsolete based on the language that we are including in §§ 404.969(d) and 416.1469(d) in these final rules to clearly state our policy that the Appeals Council has authority to reopen, in accordance with the requirements of §§ 404.987, 404.988, 416.1487, and 416.1488, ALJ decisions that come before it for possible own-motion review. This language establishes that a case that has come before the Appeals Council under the provisions of §§ 404.969 or 416.1469, and for which the 60-day period for taking own-motion review has lapsed, is properly before the Council for the purpose of considering reopening under the existing regulations on reopening. This language also establishes that it is our intent that the Appeals Council's authority to reopen an ALJ's decision in accordance with the provisions of those regulations, which establish conditions for reopening that differ from the conditions for own-motion review, should not be subject to the 60-day time limit in §§ 404.969 and 416.1469.

Comment: Several commenters believed that fundamental fairness requires the Agency to accord ALJ decisions such finality as to preclude the Appeals Council from reopening ALJ decisions referred to it for possible own-motion review.

Response: Our regulations on reopening and revising determinations and decisions allow us to reopen final, favorable and unfavorable determinations and decisions under stated conditions, on our initiative and at the request of claimants. These regulations enable us to provide relief to individuals whose claims should not have been denied and to protect the integrity of the Social Security and SSI programs by reopening favorable determinations and decisions that should not have been made. If an individual is dissatisfied with a revised determination or decision made after reopening, the individual may request further administrative or judicial review, as appropriate. We believe that our rules on reopening are fundamentally fair and that they do not deny appropriate finality to ALJ decisions or to any of our final dispositions, all of which are subject to the same rules of reopening.

Comment: Two commenters thought that, since these rules contemplate that the number of favorable decisions reviewed by the Appeals Council will increase, the rules should provide for informing claimants of their rights to interim benefits under sections 223(h) and 1631(a)(8) of the Act.

Response: Sections 223(h) and 1631(a)(8) of the Act provide that, where an ALJ has determined after a hearing that an individual is entitled to Social Security benefits based on disability or is eligible for SSI benefits based on disability or blindness, and the Commissioner of Social Security has not issued a final decision within 110 days after the date of the ALJ's decision, such benefits shall be currently paid for the months during the period specified in section 223(h) or section 1631(a)(8), as appropriate. Any benefits paid under these sections will not be considered overpayments unless the benefits were fraudulently obtained. We have implemented sections 223(h) and 1631(a)(8) through guidance provided in our Program Operations Manual System (POMS), sections DI 42010.205 ff. and SI 02007.001 ff., and in our HALLEX, section I–3–655. We pay interim benefits under our procedures if an ALJ has issued a favorable decision in a claim for initial or continuing benefits based on disability or blindness, the Appeals Council has either initiated review of the decision under its own-motion authority or reopened the decision pursuant to our reopening regulations, 110 days have elapsed since the date of the ALJ's decision, and the Commissioner has not issued a final decision.

The notice the Appeals Council issues upon initiating own-motion review or reopening of a decision covered by section 223(h) or section 1631(a)(8) advises claimants of the interim benefit provisions of those sections. However, we believe it would be appropriate, in response to this comment, to include language in §§ 404.969(d) and 416.1469(d) to inform claimants that they will be advised of the interim benefit provisions of section 223(h) or section 1631(a)(8), if appropriate, where the Appeals Council reviews a favorable ALJ decision on its own motion or reopens such a decision as provided in the regulations. Accordingly, we have added such language and modified the description of these regulatory provisions set forth above to reflect this addition.

Comment: One commenter stated that the proposed rule changes were being made "pursuant to" section 304(g) of Pub. Law 96–265, the provision of the Social Security Disability Amendments of 1980 commonly referred to as the Bellmon Amendment. Two other commenters also thought that the proposed rules relied on this statutory provision for their basis or authority.

Response: As discussed above and in the preamble to the NPRM, we are amending our regulations to include these new quality assurance procedures to further the goals of the *Disability Redesign Plan*. More specifically, we are including these procedures to better balance the Appeals Council's review of favorable and unfavorable decisions and to increase our ability to identify policy issues that should be clarified through publication of regulations or rulings.

The statutory authority under which we are adopting these rules includes sections 205(a), 702(a)(5), and 1631(d) of the Act, which give the Commissioner of Social Security broad authority to establish rules and procedures governing the process for determining claims for benefits under titles II and XVI. We are also proceeding under sections 205(b) and 1631(c)(1) of the Act, which, in addition to directing the Commissioner to hold hearings and render decisions on the basis of evidence adduced at the hearing, also provide that: "[t]he Commissioner * * * is further authorized, on the Commissioner's own motion, to hold such hearings and to conduct such investigations and other proceedings as the Commissioner may deem necessary or proper for the administration of this title."

These rules are not being promulgated to carry out the provisions of section 304(g) of Pub. Law 96–265 although this provision remains in effect and supports the general proposition that SSA should conduct some form of own-motion review of disability decisions issued by ALJs. Because authority beyond that provided in the Act is not required for the purposes of these rules, we have decided not to revise the authority citations for Subpart J, Part 404, and Subpart N, Part 416, to include references to section 304.

Comment: One commenter thought that the new quality assurance procedures would misinterpret section 304(g) of Pub. Law 96–265 to justify focusing exclusively on allowance decisions.

Response: In promulgating these rules, we are interpreting section 304(g) of Pub. Law 96–265 to be consistent with the Commissioner of Social Security exercising his discretion to design and implement a program, like that established in these rules, for having the Appeals Council consider for review, on its own motion, disability decisions issued by ALJs. We believe this interpretation comports with the intent of section 304(g).

As discussed above and in the NPRM, these rules are intended to achieve a better balance in the Appeals Council's review of favorable and unfavorable decisions. While more than half of the unfavorable decisions issued by ALJs in recent years have been made subject to possible review by the Appeals Council as a result of claimant appeals, the number of favorable decisions the Council considers for possible review has represented less than three percent of the favorable decisions of ALJs (see above). We believe that we can achieve a better balance in the review of favorable and unfavorable decisions by including in the workload of favorable decisions the Council considers a relatively small number of cases that have been referred to the Council because they involve problematic issues or fact patterns that may increase the likelihood of error. As previously discussed, we believe that post-adjudicative evaluation of such cases can increase our ability to identify significant policy and program issues and to make appropriate improvements in our policies. Under these new rules, the Council's review functions should be better balanced in the sense that the amount of meaningful information they generate concerning issues and fact patterns that cause erroneous allowances will more nearly balance the extensive information that is already available, as a result of the request for review process and judicial review, about issues and fact patterns that cause erroneous disallowances.

The preambles to the NPRM and these final rules specify that the Appeals Council's existing authority to review cases on its own motion covers all types of title II and title XVI cases. These rules will allow use of the identification and referral procedures they set forth with respect to all such cases. Sections 404.969(b)(1) and 416.1469(b)(1), as proposed and as adopted, state: "We may use random and selective sampling to identify cases involving any type of action (i.e., wholly or partially favorable decisions, unfavorable decisions, or dismissals) and any type of benefits (i.e., benefits based on disability and benefits not based on disability)." Thus, while we currently see a need to better balance the review of favorable disability decisions by ALJs with the review of unfavorable disability decisions by ALJs, we are not preoccupied with the review of the former type of cases and are, instead, mindful of the need to ensure that we will have the flexibility in the future to use these new random and selective sampling techniques to bring to the Council's attention any mix of cases that it needs to consider to contribute in the most meaningful manner possible to our ability to assure the quality of our decisionmaking.

Comment: One commenter referred to the proposed procedures as the "Bellmon Review Program II" and contended that the "selective sampling" procedures proposed in the NPRM were actually "targeting" procedures.

Response: The issues and controversies that arose concerning the Bellmon Review Program of the 1980s are beyond the scope of the NPRM by which we proposed these new quality assurance procedures. However, for the reasons discussed below, we believe that it is important to distinguish these new procedures from that earlier program.

In *Association of Administrative Law Judges* v. *Heckler*, 594 F.Supp. 1132, 1143 (D.D.C. 1984), the court concluded that an incautiousness which it perceived in the Agency's use of terms such as "targeting" could have "tended to corrupt" the ability of the ALJs to decide cases impartially. It is our intent, in promulgating these new procedures, to use terminology that properly reflects the appropriate purpose of these rules and to avoid using terms, such as "targeting," that could incorrectly cause the procedures to seem intimidating. Given the controversy that came to be associated with the Bellmon Review Program, the new program we are establishing could also be made incorrectly to seem intimidating by referring to it as the "Bellmon Review Program II."

Comment: One commenter contended that the distinction between "targeting" ALJs and "targeting" profile cases is immaterial because selective sampling is necessarily "chilling" if it is associated with allowance rates or "targeting" of any sort, especially in the "close" cases that ALJs are called on to decide.

Response: We believe that there are multiple, meaningful differences

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between case-selection procedures that identify case samples based on case profiles, while also excluding the identity of the ALJ or the hearing office as factors that may be considered in the selection of cases, and case-selection procedures that use the identity of the ALJ or the hearing office in the selection of cases. We also believe that the case-selection procedures we are establishing will have no chilling effect on the ability of ALJs to decide cases impartially, free from Agency influence.

In the Bellmon Review Program of the 1980s, favorable decisions of individual ALJs were initially included in the program based on the rate at which the ALJ allowed cases. The rate at which the Appeals Council reviewed an ALJ's decisions on its own motion was thereafter used to determine both the percentage of the ALJ's decisions included in the ongoing program and the time during which the ALJ's decisions would continue to be subject to possible review under the program. By contrast, under the program we are now establishing, no case will be included in the program based on the ALJ's allowance rate, or any other characteristic of the ALJ or of his or her record in deciding cases, because this program excludes the identity of the ALJ as a selection factor. These final rules will not cause the favorable decisions of any ALJ to be included in our random or selective sampling procedures, either at the start of the program or through its operation, at a higher rate than are the favorable decisions of any other ALJ, except as chance in random selection or in the distribution of cases presenting problematic issues or fact patterns causes minor variations.

Under the new program, we will not advise adjudicators of the particular case profiles that we are using at any given time to identify cases for possible inclusion in the selective sampling portion of the new procedures. Our selective sampling of cases will also typically involve one or more random elements as a result of the techniques used in gathering and controlling the size of samples. For example, from all the cases that exhibit a profile, we might actually select only those in which the final digit of the Social Security number is odd and/or the decision is issued between certain dates. Thus, even if an ALJ becomes aware of the use of a particular profile, the ALJ will not necessarily know that a decision fitting that profile will be included in the sample we gather concerning it. The ALJ will also not know whether a case that is included in a selective sample will be referred by OQA to the Appeals Council for possible own-motion review. By contrast, under the Bellmon Review Program of the early 1980s, an ALJ could know that 100%, 75%, 50%, or 25% of his or her favorable decisions would be subject to consideration for possible own-motion review by the Appeals Council. To appreciate the contrast between the new procedures we are establishing and past practices, it should also be noted that, prior to 1975, the Appeals Council, through its staff, routinely considered *all* ALJ favorable decisions for possible review on the Council's own motion.

Under the current process, the unfavorable decisions of ALJs are substantially more likely than their favorable decisions to be reviewed (by the Appeals Council or a Federal court). Our decision to better balance the Appeals Council's review of favorable and unfavorable decisions by establishing these new procedures will lessen this existing imbalance in a non-threatening way and, we believe, promote independence and impartiality in decisionmaking.

Comment: One commenter thought the proposed procedures would be "chilling" based on the view that no need exists to affect actual cases and that the Agency could improve decisionmaking sufficiently through education, training and improved policymaking.

Response: We believe it is necessary to have the Appeals Council review and act on cases referred to it under these procedures, where a condition warranting review is present. The Appeals Council's issuance of decisions reversing an adjudicator's decision and orders of remand serves to correct error in individual cases. The Council's actions also instruct individual adjudicators in the correct application of Agency policy. We believe we cannot commit resources to increasing the Appeals Council's consideration of favorable decisions without also making the fullest possible use of its review functions to improve decisionmaking. While we also intend to use knowledge and information gained through the new procedures to improve policymaking (and to train adjudicators in the resulting policy improvements), that intent does not obviate the need to use the Appeals Council's review functions in all appropriate ways.

We do not believe the independence of ALJs to issue favorable decisions will be "chilled" by subjecting such decisions to possible change as a consequence of these identification and referral procedures. The Commissioner's responsibility to administer the Social Security and SSI programs and to make final decisions determining eligibility for benefits imposes on the Commissioner a duty to ensure consistency and impartiality in the decisionmaking process. The decisionmaking authority of ALJs is an authority to decide cases impartially in a manner consistent with Agency policy; that authority is not such that it should be "chilled" by any appropriate action the Commissioner may take to ensure that his final decisions, favorable as well as unfavorable, comply with the law, regulations and rulings. Establishing quality assurance procedures that make it possible for the Appeals Council to better balance its review of favorable and unfavorable decisions is an appropriate action by the Commissioner of Social Security.

Comment: Citing a memorandum that the Appeals Council recently issued in connection with a specific case, one commenter contended that SSA intends to pressure ALJs through feedback mechanisms reminiscent of a feedback system associated with the Bellmon Review Program.

Response: In addition to providing feedback to ALJs through decisions and remand orders of the Appeals Council, the Bellmon Review Program of the early 1980s included, as a controversial element that was never fully implemented, a companion, multi-stage system that was intended to provide individualized, extra-adjudicative feedback and counseling on the results of own-motion review under the program and, thereby, to promote long term improvement in the decisionmaking of the affected ALJs. We have not proposed, either in the *Disability Redesign Plan* or in the NPRM for these rules, to establish any ongoing, systematic process for providing ALJs extra-adjudicative, individualized feedback in which we would try to use the results of own-motion review by the Appeals Council to change an ALJ's decisionmaking practices. These final rules intend that the quality of ALJ decisionmaking should be improved principally through the instructional effect of the remand orders and reversal decisions that the Appeals Council will issue to individual ALJs under its own-motion authority, and through the publication of clarifying regulations and rulings that we will develop based on these new quality assurance procedures and make available to all adjudicators, with additional training as appropriate.

These rules establish no program for providing individualized feedback and contemplate no feedback activities that could properly be viewed as threatening by individual ALJs or the Corps of ALJs as a whole. The memorandum cited in this comment was issued in a trial-run we conducted of these new procedures in which the Appeals Council did not actually exercise its own-motion authority. The memorandum was issued to provide some feedback in a situation in which the Appeals Council had not exercised its own-motion authority and, thus, could not provide feedback in the form of an order of remand or a reversal decision.

Comment: One commenter contended that the elimination of the request for Appeals Council review step in the administrative review process contemplated in the *Disability Redesign Plan* will greatly reduce the number of appealed denial decisions, and that SSA's past practices provide a convincing basis for concluding that the vast majority of decisions subject to selective sampling will be allowance decisions.

Response: The *Disability Redesign Plan* contemplates that favorable and unfavorable decisions would be subject to review on the Appeals Council's own motion in a redesigned disability claims process in which the request for review step is eliminated. We have recently begun testing elimination of that step of the existing process in a limited number of disability claims in which an ALJ issues a decision that is less than fully favorable (62 FR 49598 (1997)). If we eliminated the request for review step as it is presently constituted in the disability claims process (as we would do only after we have completed the above test, evaluated the test results, consulted with key stakeholders, and promulgated the necessary regulations through public notice and comment procedures), we would seek to refer to the Appeals Council, for possible review on its own motion, that mix of favorable and unfavorable decisions that would best ensure, through their consideration by the Council, the overall quality of ALJ decisionmaking. Considering our responsibility to assure the accuracy of unfavorable as well as favorable decisions, and the adverse effects on our ability to manage the Social Security and SSI programs effectively that could be expected to arise if we did not assure the quality of the unfavorable decisions subject to judicial review, we would have important reasons to refer to the Appeals Council a sufficient number of unfavorable decisions to permit us to provide meaningful Agency feedback to the ALJs and to identify policy issues that should be clarified through publication of regulations or rulings.

Comment: Pointing out that the time the Appeals Council currently requires to process its large request-for-review workload is high, several commenters expressed the view that it would be unconscionable to devote limited resources to the Council's own-motion workloads and thereby subject claimants who have requested review to additional delays.

Response: We recognized in the *Disability Redesign Plan* (59 FR 47889–47890) that placing additional resources into the existing disability claim process is not a viable alternative for increasing our ability to provide high-quality, responsible service to the public, and that we need to undertake longer-term strategies to address the service delivery problems affecting the disability process. We are adopting these final rules to take a step in accomplishing the goals of the disability redesign, the effectuation of which will inevitably entail acceptance of some temporary reductions in some aspects of service delivery in exchange for achieving long-term improvements. However, it should also be noted that the rules we are adopting give us substantial flexibility to determine the number of cases the Appeals Council considers for possible own-motion review as a result of random and selective sampling, and that we expect the rules to result in no change in the number of cases that are "protested" to the Council by effectuating components. Therefore, we anticipate that we will be able to manage the implementation of the new procedures in a way which minimizes any temporary reductions in service.

Comment: One commenter stated that use of statistical case profiles in selecting cases to be brought before the Appeals Council is not within the Appeals Council's "own-motion jurisdiction," that the "mindset" associated with use of such a procedure is one that easily allows for disregarding the established administrative review process.

Response: Under section 702(a)(7) of the Act, which accords the Commissioner of Social Security full authority to assign duties and delegate authority to officers and employees of SSA, the Commissioner has delegated to the Appeals Council exclusive authority to decide to conduct and to perform own-motion review of hearing-level decisions. However, there are other functions that must be accomplished for SSA to carry out head-of-agency, own-motion review of hearing-level decisions issued nationwide. Such other functions include identifying and referring to the Appeals Council cases that the Council may consider for possible review under its own-motion authority. SSA has heretofore assigned identification and referral functions to various components, including those that perform random sampling and those that "protest" ALJ decisions. Under these final rules, the responsibility for identifying and referring cases to the Council is expanded to include OQA and the components that will perform operational-support functions in our new selective sampling and examination procedures.

The use of case profiles in selective sampling is a function within the Agency's authority that may properly be assigned to the Appeals Council, OHA, and other SSA components. Promulgating regulations to include such procedures in the set of procedures SSA uses to exercise the Commissioner's own-motion authority does not denote a mindset prone to disregard the administrative appeals process. Instead, that action constitutes an appropriate initiative to improve the disability claims process through rulemaking.

Comment: One commenter stated that the proposed quality review program would likely ignore the substantial evidence rule as related to the findings and conclusions of ALJs, and that the proposed program will allow the Appeals Council to "second guess" the ALJ's findings and conclusions concerning the credibility of evidence based on "factors outside the record." Another commenter stated that we must make it clear that the standard for review will be the substantial evidence standard.

Response: The Appeals Council retains authority under §§ 404.969, 404.970, 416.1469 and 416.1470 to review a case, on request for review or on its own motion, for any reason. It is the practice of the Appeals Council, generally, to deny a request for review, or to decline to review a case on its own motion, if the case does not meet at least one of the criteria for review stated in §§ 404.970 and 416.1470, which set forth the reasons for which the Appeals Council "will" review a case. (*See* HALLEX sections I–3–301–I–3–307.)

Under the provisions of §§ 404.970(a) and 416.1470(a), the Appeals Council will review a case if the ALJ's decision is not supported by substantial evidence or if another of the criteria for review stated in those sections is met. Under the provisions of §§ 404.970(b) and 416.1470(b), if new and material evidence is submitted to the Appeals Council that relates to the period on or before the date of the hearing-level decision, the Appeals Council will consider the "entire record", including the new and material evidence submitted, and will decide to review the case if "it finds that the [ALJ's] action, findings, or conclusion is contrary to the

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weight of the evidence currently of record."

The additional evidence that the Appeals Council considers under §§ 404.970(b) and 416.1470(b) (if the evidence is new and material and relevant to the period at issue) is typically submitted by claimants or their representatives. In addition, under our existing "protest" procedures, effectuating components sometimes attach to their memoranda to the Appeals Council potential evidentiary items encountered in the activities these components conduct to effectuate decisions. Thus, for example, if an updated earnings report that has been secured to determine benefit amounts appears to show that the claimant engaged in substantial gainful activity after the date on which the hearing-level decision found that disability began, the effectuating component may submit the earnings report to the Appeals Council as an attachment to a protest memorandum. Under these final rules, effectuating components will attach such items to the written referrals they make under §§ 404.969(c) and 416.1469(c).

Evidence that the Appeals Council considers under §§ 404.970(b) and 416.1470(b) to determine whether to review a case is not part of the record of the decision that has been made at the hearing level, of course, but it is part of the administrative record in any further proceedings that may occur in the case. If the Council reviews the case and a new decision is issued, any evidentiary items received under these provisions are made part of the record for decision that is established, either by an ALJ following remand or, if the Appeals Council is able to issue a fully favorable decision, by the Council.

When a case-examination is conducted by OQA under the new quality assurance procedures established by these final rules, the OQA analyst who conducts the examination may consult with a medical or psychological consultant to gain insight into whether the decision at the hearing level was supported by the record upon which it was based. Insights gained through such consultations may be reflected in the written referrals that OQA will prepare, as provided in §§ 404.969(c) and 416.1469(c), to state its reasons for believing that the Appeals Council should review the decision on its own motion. However, the written referrals made by OQA will attach no statement or writing by a consultant that could activate the additional-evidence provisions of § 404.970(b) or § 416.1470(b). Those provisions will also not be activated by the written referral itself, which will document the procedural history of the case and express OQA's reasons for believing the case should be reviewed. The written referral will not constitute an evidentiary item to be weighed in decisionmaking. In deciding whether to review cases referred by OQA, the Appeals Council will apply the criteria set forth in §§ 404.970(a) and 416.1470(a). If the Council reviews the case, OQA's written referral will be included in the procedural portion of the overall administrative record of the case, but will not be part of the evidentiary record upon which any subsequent decision is based.

Comment: Several commenters thought that the selective sampling of allowance decisions would be unfair to individuals whose cases meet an applicable case profile. The reasons given for this view included that such individuals would effectively face a higher standard of proof than other individuals (as a result of the chilling effect on ALJ readiness to reach a favorable decision and the existence of a pre-judgment in favor of denial), and that the decisions of these individuals would be placed at special risk by being subjected to procedures that other favorable decisions do not face.

Response: We have already discussed our reasons for believing that these new procedures will not intimidate ALJs or chill their decisional independence. We further note here that use of selective sampling to identify cases based on the presence of problematic issues or fact patterns involves, not a pre-judgment that these cases should be denied, but a judgment that the chance of error in the cases so identified is elevated as compared to the chance of error in cases that do not involve such issues and patterns, and that consideration of the cases presenting such issues and patterns provides an increased opportunity to identify error and policy issues that should be clarified through publication of regulations or rulings.

It is true, of course, that the cases of claimants whose allowance decisions are selected for consideration for own-motion review will be subjected to an examination not given to other cases and/or possible review by the Appeals Council. However, for the reasons discussed below, we believe that these rules minimize the number of cases we need to expose to possible review on the Council's own motion.

Cases selected for possible own-motion review will be equally affected whether chosen by random or selective sampling procedures. The effects of own-motion procedures (which can include providing some individuals who receive unfavorable decisions additional administrative consideration through no action of their own) could not be wholly eliminated except by subjecting all cases to own-motion consideration or by eliminating own-motion functions altogether. The first of these options is not currently feasible, and the second would be inconsistent with the responsibility of the Commissioner of Social Security to ensure consistency and uniformity in the allocation of benefits through his final decisions.

Our decision to promulgate these rules rests on the judgment that use of selective sampling procedures, together with our existing random sampling and "protest" procedures, represents the best way to minimize the number of cases we need to subject to possible own-motion review while also maximizing the use we can make of our own-motion capacities to identify erroneous decisions and to monitor operation of the claims process effectively. Use of case examinations by OQA in conjunction with selective sampling refines the identification of cases that should be subjected to consideration by the Appeals Council for own-motion review and reduces the number of cases that we need to subject to such consideration.

In our judgment, the procedures we are adopting in these final rules to improve the disability claims process are in accord with the following views the United States Supreme Court expressed in *Califano* v. *Boles*, 443 U.S. 282, 285 (1979), concerning how fairness can best be assured to individuals seeking Social Security benefits:

> * * * the Court has been sensitive to the special difficulties presented by the mass administration of the social security system. After the legislative task of classification is completed, the administrative goal is accuracy and promptness in the actual allocation of benefits pursuant to those classifications. The magnitude of that task is not amenable to the full trappings of the adversary process lest again benefit levels be threatened by the costs of administration. *Mathews* v. *Eldridge*, 424 U.S. 319, 343–349, 96 S.Ct. 893, 906–910, 47 L.Ed.2d. 18 (1976); *Richardson* v. *Perales*, 402 U.S. 389, 406, 91 S.Ct. 1420, 1430, 28 L.Ed.2d. 842 (1971). Fairness can best be assured by Congress and the Social Security Administration through sound managerial techniques and quality control designed to achieve an acceptable rate of error.

Comment: Several commenters expressed concern that SSA has not specified the case profiles that will be used in selective sampling. One commenter contended that this omission violated the principle that regulations should not be vague and indefinite. Another commenter contended that SSA would expose ALJs to claims of bias by not identifying through notice and comment procedures the types of cases to be "targeted."

Response: We are not specifying the problematic issues or fact patterns that will be used in defining the case profiles to be employed in selective sampling because these issues and fact patterns will change over time and we will need flexibility to address such changes. In addition, as we explained above in discussing the distinctions between "targeting" and the selective sampling procedures we are establishing, we do not plan to advise adjudicators of the particular case profiles we are using at any given time. Considering that it will also always be clear that neither the identity of the decisionmaker nor the identity of the office issuing the decision has been a factor in the selection of a case, we believe that these rules will not in any way expose decisionmakers to charges of bias.

Comment: One commenter believed that the proposed rules would create "internal procedures" and a new layer of administrative "review" without providing claimants the right to participate in those procedures/review and to understand the criteria that the examining component and the Appeals Council apply, until a determination to review the favorable decision has been made.

Response: These final rules add no new layer of administrative review. The only "review" of an ALJ's decision that can occur under our regulations, as currently established and as amended by these rules, is the "review" that occurs if and when, following its preliminary consideration of a case, the Appeals Council decides to review a case and announces its decision to review in a notice of review. For the purposes of the Social Security and SSI claims process, "own motion" review means a review that is initiated absent any motion/appeal or input by the claimant. The activities SSA conducts to decide whether to exercise its own-motion authority (*i.e.*, identification and referral procedures and the preliminary consideration of cases that the Appeals Council conducts, with the assistance of its staff) *are* internal functions; they constitute the way this large Agency decides whether to exercise its authority to initiate review of cases unilaterally. Where the claimant has not requested review, the proceedings in which the claimant has a due process right of participation are limited to those that occur if the Appeals Council decides, for the Agency, to review the case.

Under these final rules, the Appeals Council retains exclusive authority to decide to review a hearing-level case. The criteria the Council will apply in deciding whether to review cases will remain, as discussed above, those it currently applies under §§ 404.969, 404.970, 416.1469, and 416.1470. In addition, the examination of cases that OQA conducts under these final rules will be for the purpose of assessing whether the criteria for review by the Appeals Council may be met (or, in OQA's view, are met). To make this point clear, we have modified the provisions of §§ 404.969(b)(1) and 416.1469(b)(1) that state the purpose of the case examinations. We have also modified the explanation of the case examination set forth above.

Comment: Two commenters likened the procedures proposed in the NPRM to the procedures of the SSA Representation Project, a test project of the 1980s in which an SSA representative could participate in certain ALJ hearings and refer cases to the Appeals Council for possible own-motion review. It was contended that OQA's function in the new procedures would be like that of the SSA representative and would involve the kind of advocacy that was criticized in *Salling* v. *Bowen*, 641 F. Supp. 1046 (W.D.Va. 1986).

Response: Under these final rules, OQA will examine cases that have been initially identified through random and selective sampling procedures to determine if a case should be the subject of a referral and, if that issue is resolved in the affirmative, to state its reasons for believing that the decision is not supported and should be considered by the Appeals Council for possible review under its own-motion authority. OQA, as the SSA component responsible for SSA's quality assurance functions, will examine cases with no prior involvement in those cases that might, even arguably, affect its ability to impartially assess whether a referral is warranted under the applicable law, regulations and rulings. The Appeals Council, which will decide if own-motion review is appropriate, has, like ALJs and all other SSA decisionmakers, no adjudicative duty other than to assure that cases are decided impartially in accordance with Agency policy as established through law, regulations, and rulings.

Based on the above considerations, we see no significant similarity between the SSA Representation Project and the quality assurance procedures we are establishing in these final rules. We also believe that these procedures support our ability to continue to provide informal, nonadversarial adjudication of cases in a high-volume process.

Comment: One commenter indicated that, if SSA did not abandon the proposed rules, it should amend the rules to provide that SSA will not use the data gathered to keep records on ALJs or individual hearing offices regarding allowance or own-motion rates or any similar information, to prohibit the instituting of any form of continuing education for "targeted" ALJs, and to provide for publishing any data gathered in the program to all ALJs without mention of the name of any ALJ or hearing office.

Response: As we discussed above, there will be no "targeting" of ALJs under these rules, which preclude consideration of the identity of a decisionmaker or of a decisionmaking office and of any data concerning matters such as a decisionmaker's allowance or own-motion rate, in the random sampling, selective sampling, and case-effectuation procedures we are establishing in these final rules. We intend that these rules should improve decisional quality principally through the instructional effects of the Appeals Council's adjudicative actions and through the policy clarifications we will develop based on these new quality assurance procedures. The rules establish no program for providing individualized feedback, contemplate no feedback activities that should be threatening to individual ALJs or the Corps of ALJs as a whole, and do not authorize or contemplate publishing data on named ALJs or hearing offices.

We are not adopting the recommendation of this commenter that we should modify these final rules to prescribe the uses that will be made of data gathered as a result of the quality assurance procedures we are establishing by these rules. The uses of management information is not a matter within the scope of these rules.

Comment: One commenter believed that the new process would be subject to the same harsh criticism as the "targeted" reviews of the early 1980s absent satisfaction of the following requirements: "Both the process for selecting decisions to review and the criteria used in the review must be scrupulously fair and free from bias. Selection of cases must be made randomly. Individual ALJs cannot become targets. Allowance and denial rates have no part in the selection process. Reviewers must be clear that their standard for review is one of substantial evidence supporting the ALJ's decision."

Response: For reasons discussed above generally in response to other comments, and as we further explain below specifically, we believe that the new quality assurance procedures we are establishing in these final rules exhibit each of the characteristics urged by this commenter. We note that while the new procedures provide for selective as well as random sampling, our selective sampling of cases will typically involve random elements and will be scrupulously fair and free from bias.

Individual ALJs cannot become targets under those procedures and allowance and denial rates have no part in the selection process. The new procedures and these rules cause no change in the criteria for reviewing hearing level decisions and orders of dismissal, or in the practices the Appeal Council follows in applying the substantial evidence standard and other criteria in deciding whether to review a case.

Other Changes

We have modified the provisions of §§ 404.969(b)(2) and 416.1469(b)(2), and the explanation of those provisions set forth above, to emphasize that a referral resulting from the effectuating process rests on the belief of an effectuating component that a decision cannot be effectuated (for a reason stated in those provisions) and does not represent a pre-judgement by the Agency that review of the decision is appropriate. The Appeals Council retains exclusive authority under these final rules to decide for the Agency whether a hearing-level decision should be reviewed.

Regulatory Procedures

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these rules do meet the criteria for a significant regulatory action under Executive Order 12866. They were therefore submitted to OMB for review. These rules do not adversely affect State, local or tribal governments. The rules are expected to result in administrative costs of less than $5 million annually and to have no significant impact on program costs. Therefore, we have not prepared a cost benefit analysis under Executive Order 12866.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities because these rules affect only individuals. Therefore, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

These regulations impose no new reporting or record keeping requirements requiring OMB clearance.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security-Disability Insurance; 96.002, Social Security-Retirement Insurance; 96.003, Social Security-Special Benefits for Persons Aged 72 and Over; 96.004, Social Security-Survivors Insurance; 96.006, Supplemental Security Income)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Death benefits, Disability benefits, Old-Age, Survivors and Disability Insurance, Reporting and recordkeeping requirements, Social Security.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental Security Income (SSI), Reporting and recordkeeping requirements.

Dated: May 27, 1998.

Kenneth S. Apfel,

Commissioner of Social Security.

For the reasons set out in the preamble, subpart J of part 404 and subpart N of part 416 of chapter III of title 20 of the Code of Federal Regulations are amended as set forth below.

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950-)

20 CFR part 404, Subpart J, is amended as follows:

1. The authority citation for subpart J of part 404 continues to read as follows:

Authority: Secs. 201(j), 205(a), (b), (d)–(h), and (j), 221, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 401(j), 405(a), (b), (d)–(h), and (j), 421, 425, and 902(a)(5)); 31 U.S.C. 3720A; sec. 5, Pub. L. 97–455, 96 Stat. 2500 (42 U.S.C. 405 note); secs. 5, 6(c)–(e), and 15, Pub. L. 98–460, 98 Stat. 1802 (42 U.S.C. 421 note).

2. Section 404.969 is revised to read as follows:

§ 404.969 Appeals Council initiates review.

(a) *General.* Anytime within 60 days after the date of a decision or dismissal that is subject to review under this section, the Appeals Council may decide on its own motion to review the action that was taken in your case. We may refer your case to the Appeals Council for it to consider reviewing under this authority.

(b) *Identification of cases.* We will identify a case for referral to the Appeals Council for possible review under its own-motion authority before we effectuate a decision in the case. We will identify cases for referral to the Appeals Council through random and selective sampling techniques, which we may use in association with examination of the cases identified by sampling. We will also identify cases for referral to the Appeals Council through the evaluation of cases we conduct in order to effectuate decisions.

(1) *Random and selective sampling and case examinations.* We may use random and selective sampling to identify cases involving any type of action (i.e., wholly or partially favorable decisions, unfavorable decisions, or dismissals) and any type of benefits (i.e., benefits based on disability and benefits not based on disability). We will use selective sampling to identify cases that exhibit problematic issues or fact patterns that increase the likelihood of error. Neither our random sampling procedures nor our selective sampling procedures will identify cases based on the identity of the decisionmaker or the identity of the office issuing the decision. We may examine cases that have been identified through random or selective sampling to refine the identification of cases that may meet the criteria for review by the Appeals Council.

(2) *Identification as a result of the effectuation process.* We may refer a case requiring effectuation to the Appeals Council if, in the view of the effectuating component, the decision cannot be effectuated because it contains a clerical error affecting the outcome of the claim; the decision is clearly inconsistent with the Social Security Act, the regulations, or a published ruling; or the decision is unclear regarding a matter that affects the claim's outcome.

(c) *Referral of cases.* We will make referrals that occur as the result of a case examination or the effectuation process in writing. The written referral based on the results of such a case examination or the effectuation process will state the referring component's reasons for believing that the Appeals Council should review the case on its own motion. Referrals that result from selective sampling without a case examination may be accompanied by a written statement identifying the issue(s) or fact pattern that caused the referral. Referrals that result from random sampling without a case examination will only identify the case as a random sample case.

(d) *Appeals Council's action.* If the Appeals Council decides to review a decision or dismissal on its own motion, it will mail a notice of review to all the parties as provided in § 404.973. The Appeals Council will include with that notice a copy of any written referral it has received under paragraph (c) of this section. The Appeals Council's decision to review a case is established by its issuance of the notice of review. If it is unable to decide within the applicable 60-day period whether to review a decision or dismissal, the Appeals Council may consider the case to determine if the decision or dismissal should be reopened pursuant to §§ 404.987 and 404.988. If the Appeals Council decides to review a decision on its own motion or to reopen a decision as provided in §§ 404.987 and 404.988, the notice of review or the notice of reopening issued by the Appeals Council will advise, where appropriate, that interim benefits will be payable if a final decision has not been issued within 110 days after the date of the decision that is reviewed or reopened, and that any interim benefits paid will not be considered overpayments unless the benefits are fraudulently obtained.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

20 CFR Part 416, Subpart N, is amended as follows:

1. The authority citation for subpart N continues to read as follows:

Authority: Sec. 702(a)(5), 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1383, and 1383b).

2. Section 416.1469 is revised to read as follows:

§ 416.1469 Appeals Council initiates review.

(a) *General.* Anytime within 60 days after the date of a decision or dismissal that is subject to review under this section, the Appeals Council may decide on its own motion to review the action that was taken in your case. We may refer your case to the Appeals Council for it to consider reviewing under this authority.

(b) *Identification of cases.* We will identify a case for referral to the Appeals Council for possible review under its own-motion authority before we effectuate a decision in the case. We will identify cases for referral to the Appeals Council through random and selective sampling techniques, which we may use in association with examination of the cases identified by sampling. We will also identify cases for referral to the Appeals Council through the evaluation of cases we conduct in order to effectuate decisions.

(1) *Random and selective sampling and case examinations.* We may use random and selective sampling to identify cases involving any type of action (i.e., wholly or partially favorable decisions, unfavorable decisions, or dismissals) and any type of benefits (i.e., benefits based on disability and benefits not based on disability). We will use selective sampling to identify cases that exhibit problematic issues or fact patterns that increase the likelihood of error. Neither our random sampling procedures nor our selective sampling procedures will identify cases based on the identity of the decisionmaker or the identity of the office issuing the decision. We may examine cases that have been identified through random or selective sampling to refine the identification of cases that may meet the criteria for review by the Appeals Council.

(2) *Identification as a result of the effectuation process.* We may refer a case requiring effectuation to the Appeals Council if, in the view of the effectuating component, the decision cannot be effectuated because it contains a clerical error affecting the outcome of the claim; the decision is clearly inconsistent with the Social Security Act, the regulations, or a published ruling; or the decision is unclear regarding a matter that affects the claim's outcome.

(c) *Referral of cases.* We will make referrals that occur as the result of a case examination or the effectuation process in writing. The written referral based on the results of such a case examination or the effectuation process will state the referring component's reasons for believing that the Appeals Council should review the case on its own motion. Referrals that result from selective sampling without a case examination may be accompanied by a written statement identifying the issue(s) or fact pattern that caused the referral. Referrals that result from random sampling without a case examination will only identify the case as a random sample case.

(d) *Appeals Council's action.* If the Appeals Council decides to review a decision or dismissal on its own motion, it will mail a notice of review to all the parties as provided in § 416.1473. The Appeals Council will include with that notice a copy of any written referral it has received under paragraph (c) of this section. The Appeals Council's decision to review a case is established by its issuance of the notice of review. If it is unable to decide within the applicable 60-day period whether to review a decision or dismissal, the Appeals Council may consider the case to determine if the decision or dismissal should be reopened pursuant to §§ 416.1487 and 416.1488. If the Appeals Council decides to review a decision on its own motion or to reopen a decision as provided in §§ 416.1487 and 416.1488, the notice of review or the notice of reopening issued by the Appeals Council will advise, where appropriate, that interim benefits will be payable if a final decision has not been issued within 110 days after the date of the decision that is reviewed or reopened, and that any interim benefits paid will not be considered overpayments unless the benefits are fraudulently obtained.

[FR Doc. 98–17633 Filed 7–6–98; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF STATE

22 CFR Part 140

[Public Notice 2840]

Bureau for International Narcotics and Law Enforcement Affairs; Prohibition on Assistance to Drug Traffickers

AGENCY: Department of State (Bureau for International Narcotics and Law Enforcement Affairs).

ACTION: Final rule.

SUMMARY: The Department of State issues these regulations to implement Section 487 of the Foreign Assistance Act of 1961, as amended ("FAA") (22 U.S.C. 2291f).

Section 487(a) directs the President to take all reasonable steps to ensure that assistance provided under the Foreign Assistance Act or the Arms Export Control Act is not provided to or through any individual or entity that the President knows or has reason to believe has been convicted of a violation of, or a conspiracy to violate, any law or regulation of the United States, a State or the District of Columbia, or a foreign country relating to narcotic or psychotropic drugs or other controlled substances; or is or has been an illicit trafficker in any such controlled substance or is or has been a knowing assistor, abettor, conspirator, or colluder with others in the illicit trafficking of any such substance. This rule establishes a single government-wide enforcement mechanism for Section 487. The regulations seek to achieve rigorous statutory enforcement in a

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manner consistent with efficient foreign assistance program administration. They also seek to ensure protection of the procedural rights and interests of assistance recipients.

DATES: Effective date: October 5, 1998.

FOR FURTHER INFORMATION CONTACT: Office of Policy, Planning and Coordination, Bureau for International Narcotics and Law Enforcement Affairs, Department of State, 202–647–0457, or Office of Law Enforcement and Intelligence, Office of the Legal Adviser, Department of State, 202–647–7324.

SUPPLEMENTARY INFORMATION: This rule implements Section 487 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. Sec. 2291f). The requirements of Section 487 are described in the Summary, above. The law further directs that regulations be issued to carry out the section and be submitted to Congress before they take effect. The responsibilities of the President under Section 487 have been delegated to the Secretary of State (E.O. 12163). The Secretary of State is issuing these regulations and has delegated the responsibility for their implementation to the Assistant Secretary for International Narcotics and Law Enforcement Affairs. The regulations are set forth in a new part of the Code of Federal Regulations, 22 CFR Part 140. Proposed regulations were published for comment on Feb. 9, 1995 (60 FR 7737) and modifications have been made in light of comments received. The regulations have been submitted to Congress, as required by Section 487(c).

The procedures prescribed by these regulations apply to assistance under the Foreign Assistance Act of 1961, as amended, and the Arms Export Control Act. The regulations are set up in three Subparts: General (Subpart A, §§ 140.1–140.3); Applicability (Subpart B, § 140.4); and Enforcement (Subpart C, §§ 140.5–140.14).

The General Subpart (Subpart A) provides a statement of the regulations' purpose (§ 140.1), based upon the language of Section 487 of the Foreign Assistance Act; identifies the authorities for issuance of the regulations (§ 140.2); and defines key terms used in the regulations (§ 140.3). The broad coverage of the regulations is reflected in the definitions of drug trafficking (§ 140.3(e)), money laundering (§ 140.3(f)), and narcotics offense (§ 140.3(g)), which are intended to be comprehensive. As noted in the definition of drug trafficking, it encompasses drug-related money laundering. One commenting agency asked for further definition of the terms "illicit," "illicitly," and "criminal." That comment was not adopted because we believe such definitions are not necessary. We note that the terms encompass activities that are illicit or illegal under the laws applicable to such activities.

Two of the key terms defined in the regulations are "covered country" (§ 140.3(d)) and "covered assistance" (§ 140.3(c)). The term "covered country" corresponds to those countries listed on the "majors list," i.e., the list of major illicit drug producing countries and major drug-transit countries, as determined annually by the President and transmitted to the appropriate Congressional committees as required by section 490(h) of the FAA.

The term "covered assistance" is defined broadly, while excluding assessed contributions to an international organization and assistance that by operation of law is not subject to Section 487. The definition further provides that assistance in amounts less than $100,000 is excluded unless it pertains to: recipients of scholarships, fellowships, or participant training; or a covered individual or entity reasonably suspected of being or having been involved in drug trafficking by the agency providing assistance. These definitions are intended to ensure rigorous application of the statutory prohibition on assistance to drug traffickers, while fostering efficient program administration. Several comments requested a more complete listing of assistance that would be excluded from the term "covered assistance" by operation of other laws. Because such a list depends on specific statutory exemptions and is subect to change, we have concluded that further guidance in this area is more appropriately left to the implementing regulations of the relevant agency, which will be in a better position to keep the guidance current.

One agency recommended the addition of a definition of the term "convicted;" that definition has been added as § 140.3(a).

For ease of reference, the term "covered individual or entity" is defined in § 140.4, where it is used, rather than in the definition section. Likewise, the term "key individual" is described in § 140.6(a)(3), where it is introduced.

The term "Country Narcotics Coordinator" is defined in section 140.3(b). Comments from one agency acknowledged that the definition is drafted to preserve flexibility by not specifying particular positions at U.S. posts abroad but recommended further clarification to ensure that a designated CNC would be qualified to handle sensitive law enforcement information. The definition has not been changed, but we note that the CNC is a key position often held by the Deputy Chief of Mission at a U.S. diplomatic post. In the event that another person were assigned to exercise these functions, that person would necessarily have equally appropriate clearances to handle sensitive law enforcement information.

The Applicability Subpart (Subpart B) explains the scope of the regulations. Their applicability is keyed primarily to "covered individuals and entities" that receive or provide direct or first-tier "covered assistance" and are located or providing assistance within a "covered country." Concerns were raised that the definition of a "covered country" as one on the list of major illicit drug producing or drug-transit countries issued annually pursuant to section 490(h) of the Foreign Assistance Act of 1961, as amended, would preclude action concerning assistance to a portion of a country or to another country on which relevant information is developed after issuance of the list. In response, § 104.4(b) has been rewritten to include coverage of assistance within any other country, or portion thereof, that the Secretary of State or the Secretary's designee may at any time determine should be treated as if it were a covered country in order to fulfill the purpose of the regulations (§ 140.4(b)(1)). Furthermore, the regulations have been drafted carefully to ensure they are given their full statutory scope, *i.e.*, that they are applied whenever an agency providing covered assistance has reasonable grounds to suspect that a proposed recipient individual or entity may be or may have been involved in drug trafficking or may have been convicted of a narcotics offense regardless of the country involved (§ 140.4(b)(2); see also §§ 140.3(c)(2), 140.7(a), 140.9(a) and 140.11).

The regulations are also applicable where a government agency providing covered assistance within a covered country has specifically designated a recipient beyond the first tier (see §§ 140.4(a), 140.7(b)). Additionally, they apply to individuals who receive a scholarship, fellowship, or participant training (unless the assistance is provided through a multilateral institution or international organization and the recipient has not been designated by the agency providing assistance). Further assurance that drug traffickers will not receive assistance is provided by the requirement that where an agency providing covered assistance to a multilateral institution or international organization does not designate the assistance recipient, the agency's agreement with the multilateral institution or international organization shall stipulate that such entity is to make reasonable efforts to ensure that the assistance is not diverted in support of drug trafficking (§ 140.7(c)).

The factual circumstances that give rise to application of the regulations are highly varied and may, on occasion, have potentially serious or sensitive foreign relations, national security, or law enforcement consequences. In rare circumstances, such potential consequences may require that, in fulfilling the statutory requirements of Section 487, the procedures set forth in the regulations be expanded, modified, utilized in a different manner or not utilized. This necessary flexibility is provided in the initial clause of § 140.4. In response to comments by one agency raising concerns about possible disclosure of law enforcement investigatory information, however, that section has been amended to provide that §§ 140.13 and 140.14 will apply in all cases.

The Enforcement Subpart (Subpart C) contains an overview (§ 140.5), which outlines the Subpart's scope. The applicable determination procedures, criteria to be applied in deciding whether to withhold assistance or take other measures, and procedures concerning violations identified subsequent to the obligation of funds are set forth in the Enforcement Subpart. The applicability of these procedures varies depending on the nature of the proposed recipient. The general framework is set forth in § 140.6, in the context of covered assistance to foreign government entities. Variations of that framework are set forth in separate sections for: multilateral institutions and international organizations (§ 140.7); recipients of scholarships, fellowships, and participant training (§ 140.8); other non-governmental entities and individuals (§ 140.9); and intermediate credit institutions (§ 140.10). (Note: In § 140.9 the use of the phrase "non-governmental entity" is meant to encompass a broader category of organizations than might be encompassed by the term "non-governmental organization" or its acronym, "NGO." As explained in § 140.9, it includes not only private voluntary agencies and educational institutions, but also for-profit firms and any other non-governmental organizations.)

The determination procedures set forth in the regulations are applied by the Country Narcotics Coordinator (as defined in § 140.3(b)), who is responsible in the first instance for reviewing available information to determine whether a proposed assistance recipient is to be granted or denied assistance or whether other measures are to be taken to structure the provision of the assistance in such a way as to meet the requirements of Section 487 of the Foreign Assistance Act (§ 140.6(a)). Comments from one agency pointed out that agencies providing information that will be used for this purpose have a strong interest in how the system for reviewing information as required under § 140.6(a)(1) is developed and suggested that parameters of such a system be included in the regulations. We have decided not to change the regulations on this point although we will provide guidance to CNCs separately on this matter in order to preserve flexibility in developing and adjusting such a system over time. Nevertheless, the State Department will consult with agencies that supply information in developing that guidance. An agency proposing assistance is responsible for providing the Country Narcotics Coordinator with the name of each key individual within a prospective recipient entity who may be expected to control or benefit from assistance as well as other relevant information that is readily available (§ 140.6(a)(3)). Questions as to who should be included in the group of key individuals will be resolved by the CNC, with review by the Assistant Secretary for INL at the request of the agency.

Section 140.6(a)(6) further provides that it is the Assistant Secretary of State for International Narcotics and Law Enforcement Affairs (rather than the Country Narcotics Coordinator), in consultation with appropriate bureaus and agencies, who ordinarily will make any decision to withhold assistance or take other measures based on information or allegations that a key individual who is a senior government official of a foreign government has been convicted of a narcotics offense or has been engaged in drug trafficking. Personal involvement at or above the Assistant Secretary of State level is appropriate in such a case because it involves inherently sensitive foreign policy issues.

The regulations provide a two-week period, extendable if necessary for another two weeks, within which the Country Narcotics Coordinator, in consultation with the agency proposing the assistance and other appropriate bureaus and agencies, is to make a determination whether assistance is to be provided or withheld, or other measures are to be taken to meet the requirements of section 487. The reference to other appropriate bureaus and agencies was added in response to a comment from one agency noting that the decision would need to be made on the basis of information supplied by other, often law enforcement, agencies. Section 140.6(b) outlines the factors to be considered in determining whether to withhold assistance or take other measures. In response to comments from one agency requesting additional guidance concerning the standard "reasonable belief," we have changed that term as used in 140.6(b) to the exact words of the statute, "reason to believe" that a proposed recipient has been engaged in drug trafficking activities. When there is evidence that might lead to such a finding, the CNC will decide whether reports are credible and sources reliable, thus providing a reason to believe rather than merely raising a suspicion.

In response to comments requesting further guidance on implementation, a new subsection (b)(3)(v) has been added to make clear that measures other than denial of assistance may be appropriate in certain cases where a negative determination is made as to one or more key individuals.

The enforcement procedures applicable to recipients of scholarships, fellowships, and participant training (§ 140.8) and to other non-governmental entities and individuals (§ 140.9) include a pre-approval certification process. The regulations specify that false certification may subject the signatory to U.S. criminal prosecution under 18 U.S.C. 1001. (*See* §§ 140.8(b), 140.9(c).) Although this penalty is described in the regulations, it is established independently by the referenced statute. The identification of a penalty in the regulations is not meant to limit the application of any criminal or civil penalty otherwise applicable.

Section 140.10 concerns the procedures applicable to intermediate credit institutions. Such institutions are to be treated as either foreign government entities or non-governmental entities, depending on the nature of the particular institution. Section 140.10 also requires that agreements with such intermediate credit institutions include a contract clause concerning a refund procedure applicable to loans exceeding $1,000 made by any intermediate credit institution.

Section 140.11 clarifies that the enforcement procedures established by §§ 140.6–140.10 are not exhaustive, but represent only the minimum applicable procedures implementing Section 487 of the Foreign Assistance Act.

The remaining provisions of the regulations establish notification and

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review procedures. One agency commented that only the law enforcement agency whose investigation may be affected by disclosure of information is in a position to make a determination regarding the appropriateness of notifications and any decision to provide additional information. In response to these comments, § 140.13(a) has been amended to ensure that no information beyond the statutory basis for withholding, suspending or terminating assistance to a foreign government or entity will be provided without the agreement of the originating agency. Special care has also been taken to minimize the risk that notification will interfere with an ongoing criminal investigation (§ 140.13(b)). An agency proposing covered assistance may request review of a Country Narcotics Coordinator's decision that the assistance must be withheld or other measures taken to comply with section 487 (§ 140.12). In addition, where the prospective assistance recipient is a U.S. entity, U.S. citizen, or permanent U.S. resident, a Country Narcotics Coordinator's preliminary decision to withhold assistance is referred to the Assistant Secretary of State for International Narcotics and Law Enforcement Affairs for final determination (§ 140.14). As with § 140.13, in response to comments, § 140.14(a) has been revised to provide that decisions on appropriate action concerning U.S. entities and individuals will be taken in consultation not only with the agency proposing the assistance but also the agency or agencies that provided information reviewed or relied upon in making the preliminary decision. One agency expressed concerns that procedures previously anticipated for review of denials of assistance under this section could be viewed as introducing a standard of proof inconsistent with section 487 and could lead to disclosure of classified materials or law enforcement investigative information. The section has been amended to remove references to pre-existing review procedures which would not ordinarily be applicable in the context of assistance grants. Section 140.14(b) also now states explicitly that the regulations shall not be interpreted to create a right to classified information or law enforcement investigatory information by such entity or individual.

This amendment involves a foreign affairs function of the United States, as well as public grants, benefits and contracts, and is accordingly not subject to the requirements of the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996. It is also exempt from review under Executive Order 12866 but has been reviewed internally by the Department to ensure consistency with the purposes thereof.

List of Subjects in 22 CFR Part 140

Drug traffic control, Foreign aid.

For the reasons set out in the preamble, 22 CFR 140 is added to subchapter N as follows:

PART 140—PROHIBITION ON ASSISTANCE TO DRUG TRAFFICKERS

Subpart A—General

Sec.
140.1 Purpose.
140.2 Authorities.
140.3 Definitions.

Subpart B—Applicability

140.4 Applicability.

Subpart C—Enforcement

140.5 Overview.
140.6 Foreign government entities.
140.7 Multilateral institutions and international organizations.
140.8 Recipients of scholarships, fellowships, and participant training.
140.9 Other non-governmental entities and individuals.
140.10 Intermediate credit institutions.
140.11 Minimum enforcement procedures.
140.12 Interagency review procedures.
140.13 Notification to foreign entities and individuals.
140.14 Special procedures for U.S. entities and individuals.

Authority: 22 U.S.C. 2651a(a)(4).

Subpart A—General

§ 140.1 Purpose.

(a) This part implements Section 487 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. Sec. 2291f).

(b) Section 487(a) directs the President to "take all reasonable steps" to ensure that assistance under the Foreign Assistance Act of 1961 (FAA) and the Arms Export Control Act (AECA) "is not provided to or through any individual or entity that the President knows or has reason to believe":

(1) has been convicted of a violation of, or a conspiracy to violate, any law or regulation of the United States, a State or the District of Columbia, or a foreign country relating [to] narcotic or psychotropic drugs or other controlled substances; or

(2) is or has been an illicit trafficker in any such controlled substance or is or has been a knowing assistor, abettor, conspirator, or colluder with others in the illicit trafficking in any such substance.

§ 140.2 Authorities.

Authority to implement FAA Section 487 was delegated by the President to the Secretary of State by E.O. 12163, as amended, and further delegated by the Secretary to the Assistant Secretary of State for International Narcotics and Law Enforcement Affairs by Delegation of Authority No. 145, dated Feb. 4, 1980 (45 FR 11655), as amended.

§ 140.3 Definitions.

The following definitions shall apply for the purpose of this part:

(a) Convicted. The act of being found guilty of or legally responsible for a criminal offense, and receiving a conviction or judgment by a court of competent jurisdiction, whether by verdict or plea, and including convictions entered upon a plea of nolo contendere.

(b) Country Narcotics Coordinator. The individual assigned by the Chief of Mission of a U.S. diplomatic post, in consultation with the Assistant Secretary of State for International Narcotics and Law Enforcement Affairs, in each foreign country to coordinate United States government policies and activities within a country related to counternarcotics efforts.

(c) Covered assistance. Any assistance provided by an agency of the United States government under the FAA or AECA, except that it does *not* include:

(1) Assistance that by operation of the law is not subject to FAA Section 487, such as:

(i) Disaster relief and rehabilitation provided under Chapter 9 of Part I of the FAA; and

(ii) Assistance provided to small farmers when part of a community-based alternative development program under Part I or Chapter 4 of Part II of the FAA;

(2) Assistance in a total amount less than $100,000 regarding a specific activity, program, or agreement, except that the procedures in § 140.8 for recipients of scholarships, fellowships, and participant training shall apply regardless of amount. However, assistance shall be deemed covered assistance regardless of amount if the agency providing assistance has reasonable grounds to suspect that a covered individual or entity may be or may have been involved in drug trafficking; or

(3) Payments of dues or other assessed contributions to an international organization.

(d) Covered country. A country that has been determined by the President to be either a "major illicit drug producing" or "major drug-transit" country under Chapter 8 of Part I of the

FAA. The list of covered countries is submitted to Congress annually and set forth in the International Narcotics Control Strategy Report.

(e) Drug trafficking. Any activity undertaken illicitly to cultivate, produce, manufacture, distribute, sell, finance or transport, or to assist, abet, conspire, or collude with others in illicit activities, including money laundering, relating to narcotic or psychotropic drugs, precursor chemicals, or other controlled substances.

(f) Money laundering. The process whereby proceeds of criminal activity are transported, transferred, transformed, converted, or intermingled with legally acquired funds, for the purpose of concealing or disguising the true nature, source, disposition, movement, or ownership of those proceeds. The goal of money laundering is to make funds derived from or associated with illicit activity appear to have been acquired legally.

(g) Narcotics offense. A violation of, or a conspiracy to violate, any law or regulation of the United States, a State or the District of Columbia, or a foreign country relating to narcotic or psychotropic drugs or other controlled substances.

Subpart B—Applicability

§ 140.4 Applicability.

Except as otherwise provided herein or as otherwise specially determined by the Secretary of State or the Secretary's designee (except that decisions on notification and/or disclosure shall in all cases be subject to the provisions of §§ 140.13 through 140.14), the procedures prescribed by this part apply to any "covered individual or entity," i.e., any individual or entity, including a foreign government entity, a multilateral institution or international organization, or a U.S. or foreign non-governmental entity: (a)(1) That is receiving or providing covered assistance as a party to a grant, loan, guarantee, cooperative agreement, contract, or other direct agreement with an agency of the United States (a "first-tier" recipient); or

(2) That is receiving covered assistance

(A) Beyond the first tier if specifically designated to receive such assistance by a U.S. government agency; or

(B) In the form of a scholarship, fellowship, or participant training, except certain recipients funded through a multilateral institution or international organization, as provided in § 140.7(c); and

(b)(1) That is located in or providing covered assistance within a covered country or within any other country, or portion thereof, that the Secretary of State or the Secretary's designee may at any time determine should be treated, in order to fulfill the purpose of this part, as if it were a covered country; or

(2) As to which the agency providing assistance or any other interested agency has reasonable grounds to suspect current or past involvement in drug trafficking or conviction of a narcotics offense, regardless of whether the assistance is provided within a covered country.

Examples:

(1) Under a $500,000 bilateral grant agreement with the Agency for International Development providing covered assistance, Ministry Y of Government A, the government of a covered country, enters into a $150,000 contract with Corporation X. Ministry Y is a covered entity. However, Corporation X is *not* a covered entity because the contract is *not* a direct contract with an agency of the United States.

(2) Under a $1,000,000 grant from the Department of State providing covered assistance, Corporation B makes a $120,000 subgrant to University Y for the training of 12 individuals. If Corporation B is located in or providing assistance within a covered country, it is a covered entity and the 12 individuals receiving participant training are covered individuals. University Y is *not* a covered entity.

(3) University C, which is not located in a covered country, receives a $1 million regional assistance research project grant from the Agency for International development, $80,000 of which is provided for research in covered countries. University C is *not* a covered entity. (However, if $100,000 or more were provided for research in a covered country or countries, or if University C were located in a covered country, then University C would be a covered entity.)

Subpart C—Enforcement

§ 140.5 Overview.

This subpart sets forth the enforcement procedures applicable pursuant to § 140.4 to the various types of covered individuals and entities with respect to covered assistance. Section 140.6 establishes the procedures applicable to foreign government entities, including any such entity that is covered by the definition of a "foreign state" set forth in the Foreign Sovereign Immunities Act, 28 U.S.C. Sec. 1603(a). Section 140.7 establishes the procedures applicable to multilateral institutions and international organizations. Section 140.8 establishes the procedures applicable to recipients of scholarships and fellowships and participant trainees. Section 140.9 establishes the procedures applicable to non-governmental entities. Section 140.10 sets forth additional procedures applicable to intermediate credit institutions. Sections 140.11 through 140.14 contain general provisions related to the enforcement process.

§ 140.6 Foreign government entities.

(a) *Determination Procedures.* (1) The Country Narcotics Coordinator shall be responsible for establishing a system for reviewing available information regarding narcotics offense convictions and drug trafficking of proposed assistance recipients under this section and, except under the circumstances described in § 140.6(a)(6), determining whether a proposed recipient is to be denied such assistance or other measures are to be taken as a result of the application of FAA Section 487.

(2) Prior to providing covered assistance to or through a proposed recipient, the agency providing the assistance shall provide the Country Narcotics Coordinator in the country in which the proposed recipient is located or, as appropriate, where assistance is to be provided, the information specified in § 140.6(a)(3) in order that the Country Narcotics Coordinator may carry out his or her responsibilities under this part.

(3) In each case, the agency proposing the assistance shall provide to the Country Narcotics Coordinator the name of each key individual within the recipient entity who may be expected to control or benefit from assistance as well as other relevant identifying information (e.g., address, date of birth) that is readily available. If a question arises concerning who should be included within the group of key individuals of an entity, the agency providing the assistance shall consult with the Country Narcotics Coordinator, and the decision shall be made by the Country Narcotics Coordinator. If the agency proposing the assistance disagrees with the Country Narcotics Coordinator's decision regarding who should be included within the group of key individuals, the agency may request that the decision be reviewed by the Assistant Secretary of State for International Narcotics and Law Enforcement Affairs in consultation with other appropriate bureaus and agencies. Any such review undertaken by the Assistant Secretary of State for International Narcotics and Law Enforcement Affairs shall be completed expeditiously.

(4) Within fourteen calendar days after receiving the name of a proposed recipient and other relevant information, the Country Narcotics Coordinator shall determine whether any available information may warrant withholding assistance or taking other measures under this part, based on the

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criteria set forth in § 140.6(b). If, during that period, the Country Narcotics Coordinator determines that available information does not so indicate, he or she shall notify the proposing agency that the assistance may be provided to the proposed recipient.

(5) If, during the initial fourteen-day period, the Country Narcotics Coordinator determines that information exists that may warrant withholding assistance or taking other measures under this part, then the Country Narcotics Coordinator shall have another fourteen calendar days to make a final determination whether the assistance shall be provided or withheld or such other measures taken.

(6) A decision to withhold assistance or to take other measures based on information or allegations that a key individual who is a senior government official of the host nation has been convicted of a narcotics offense or has been engaged in drug trafficking shall be made by the Assistant Secretary of State for International Narcotics and Law Enforcement Affairs, or by a higher ranking official of the Department of State, in consultation with other appropriate bureaus and agencies. For the purpose of this part, "senior government official" includes host nation officials at or above the vice minister level, heads of host nation law enforcement agencies, and general or flag officers of the host nation armed forces.

(b) *Criteria to be Applied.* (1) A decision to withhold assistance or take other measures shall be based on knowledge or reason to believe that the proposed recipient, within the past ten years, has:

(i) Been *convicted* of a narcotics offense as defined in this part; or

(ii) Been *engaged* in drug trafficking, regardless of whether there has been a conviction.

(2) Factors that may support a decision to withhold assistance or take other measures based on reason to believe that the proposed recipient has been engaged in drug trafficking activities within the past ten years when there has been no conviction of such an offense may include, but are not limited to, the following:

(i) Admission of participation in such activities;

(ii) A long record of arrests for drug trafficking activities with an unexplained failure to prosecute by the local government;

(iii) Adequate reliable information indicating involvement in drug trafficking.

(3) If the Country Narcotics Coordinator knows or has reason to believe that a key individual (as described in § 140.6(a)(3)) within a proposed recipient entity has been convicted of a narcotics offense or has been engaged in drug trafficking under the terms of this part, the Country Narcotics Coordinator must then decide whether withholding assistance from the entity or taking other measures to structure the provision of assistance to meet the requirements of section 487 is warranted. This decision shall be made in consultation with the agency proposing the assistance and other appropriate bureaus and agencies. In making this determination, the Country Narcotics Coordinator shall take into account:

(i) The extent to which such individual would have control over assistance received;

(ii) The extent to which such individual could benefit personally from the assistance;

(iii) Whether such individual has acted alone or in collaboration with others associated with the entity;

(iv) The degree to which financial or other resources of the entity itself have been used to support drug trafficking; and

(v) Whether the provision of assistance to the entity can be structured in such a way as to exclude from the effective control or benefit of the assistance any key individuals with respect to whom a negative determination has been made.

(c) *Violations Identified Subsequent to Obligation.* The foregoing procedures provide for a determination before funds are obligated. If, however, subsequent to an obligation of funds an assistance recipient or a key individual of such recipient is found to have been convicted of a narcotics offense or to have been engaged in drug trafficking (e.g., the head of a recipient entity changes during the course of an activity and the new head is found to have been engaged in drug trafficking), appropriate action should be taken, including, if necessary, termination of the assistance. Agreements shall be written to permit termination of assistance in such circumstances.

§ 140.7 Multilateral institutions and international organizations.

Assistance provided to or through multilateral institutions or international organizations is subject to this part as follows:

(a) Where the government agency providing assistance has reasonable grounds to suspect that a recipient multilateral institution or international organization may be or may have been involved in drug trafficking, the provisions of § 140.6 shall apply.

(b) Where the government agency providing assistance designates the recipient of assistance from the multilateral institution or international organization and the designated recipient is a covered individual or entity, the provisions of this part shall apply as if the assistance were provided directly to the designated recipient.

(c) Where the government agency providing assistance does not designate the recipient of assistance from the multilateral institution or international organization, this part do not apply, other than as provided in paragraph (a) of this section, except that the agency's agreement with the multilateral institution or international organization shall stipulate that such entity is to make reasonable efforts, as necessary, to ensure that the assistance is not diverted in support of drug trafficking.

Example:

The State Department provides $600,000 to the United Nations for the United Nations Drug Control Program, specifically designating that Government D of a covered country receive $150,000 and Corporation E receive $60,000 for training programs in a covered country. Individuals who will receive training are not specifically designated by the State Department. The United Nations is a covered entity based on § 140.4(a)(1); Government D is a covered entity based on §§ 140.4(b) and 140.7(b); Corporation E is not a covered entity under §§ 140.4(b) and 140.7(b) because it has been designated to receive less than $100,000 in assistance (§ 140.3(c)(2)). Participant trainees are not covered individuals because they fall under the exception contained in § 140.7(c) (see also § 140.4(a)(2)).

§ 140.8 Recipients of scholarships, fellowships, and participant training.

(a) *Procedures.* Individuals who are located in a covered country and who are proposed recipients of scholarships, fellowships, or participant training, except those falling under the exception contained in § 140.7(c), are subject to the review procedures, criteria, and procedures concerning violations identified subsequent to obligation of funds set forth in § 140.6. Such review of recipient individuals is in addition to the provisions applicable to the recipient entity providing the assistance.

(b) *Certifications.* Individuals who are located in a covered country and who are proposed recipients of scholarships, fellowships, or participant training shall also be required to certify prior to approval that, within the last ten years, they have not been convicted of a narcotics offense, have not been engaged in drug trafficking, and have not knowingly assisted, abetted, conspired, or colluded with others in drug trafficking. False certification may subject the assistance recipient to U.S. criminal prosecution under 18 U.S.C. Sec. 1001 and to withdrawal of assistance under this part.

§ 140.9 Other non-governmental entities and individuals.

(a) *Procedures.* Section 140.9 applies to private voluntary agencies, educational institutions, for-profit firms, other non-governmental entities and private individuals. A non-governmental entity that is not organized under the laws of the United States shall be subject to the review procedures and criteria set forth in § 140.6(a) and (b). A non-governmental entity that is organized under the laws of the United States shall not be subject to such review procedures and criteria. However, an agency providing assistance shall follow such review procedures and criteria, as modified by section § 140.14, if the agency has reasonable grounds to suspect that a proposed U.S. non-governmental entity or a key individual of such entity may be or may have been involved in drug trafficking or may have been convicted of a narcotics offense. Procedures set forth in § 140.6(c) concerning violations identified subsequent to obligation shall apply to both U.S. and foreign non-governmental entities.

Examples:

(1) A $100,000 grant to a covered U.S. university for participant training would not be subject to the review procedures and criteria in § 140.6(a) and (b). However, a proposed participant would be subject to the review procedures and criteria in § 140.6(a) and (b) as part of the agency's approval process.

(2) A $100,000 grant to a covered foreign private voluntary agency for participant training would be subject to the review procedures and criteria in § 140.6(a) and (b). In addition, each proposed participant would be subject to the review procedures and criteria in § 140.6(a) and (b) as part of the agency's approval process.

(b) *Refunds.* A clause shall be included in grants, contracts, and other agreements with both U.S. and foreign non-governmental entities requiring that assistance provided to or through such an entity that is subsequently found to have been engaged in drug trafficking, as defined in this part, shall be subject to refund or recall.

(c) *Certifications.* Prior to approval of covered assistance, key individuals (as described in § 140.6(a)(3)) in both U.S. and foreign non-governmental entities shall be required to certify that, within the last ten years, they have not been convicted of a narcotics offense, have not been engaged in drug trafficking and have not knowingly assisted, abetted, conspired, or colluded with others in drug trafficking. False certification may subject the signatory to U.S. criminal prosecution under 18 U.S.C. Sec. 1001.

§ 140.10 Intermediate credit institutions.

(a) Treatment as Non-Governmental Entity or as a Foreign Government Entity. Intermediate credit institutions ("ICIs") shall be subject to either the procedures applicable to foreign government entities or those applicable to non-governmental entities, depending on the nature of the specific entity. The Assistant Secretary of State for International Narcotics and Law Enforcement Affairs or the Assistant Secretary's designee, in consultation with the agency proposing the assistance and other appropriate bureaus and agencies, shall determine (consistent with the definition of "foreign state" set forth in the Foreign Sovereign Immunities Act, 28 U.S.C. 1603(a) and made applicable by § 140.5) whether the ICI will be treated as a non-governmental entity or a foreign government entity.

(b) *Refunds.* In addition to measures required as a consequence of an ICI's treatment as a non-governmental entity or a foreign government entity, a clause shall be included in agreements with all ICIs requiring that any loan greater than $1,000 provided by the ICI to an individual or entity subsequently found to have been convicted of a narcotics offense or engaged in drug trafficking, as defined in this part, shall be subject to refund or recall.

§ 140.11 Minimum enforcement procedures.

Sections 140.6 through 140.10 represent the minimum procedures that each agency providing assistance must apply in order to implement FAA Section 487. Under individual circumstances, however, additional measures may be appropriate. In those cases, agencies providing assistance are encouraged to take additional steps, as necessary, to ensure that the statutory restrictions are enforced.

§ 140.12 Interagency review procedures.

If the agency proposing the assistance disagrees with a determination by the Country Narcotics Coordinator to withhold assistance or take other measures, the agency may request that the determination be reviewed by the Assistant Secretary of State for International Narcotics and Law Enforcement Affairs in coordination with other appropriate bureaus and agencies. Unless otherwise determined by the Assistant Secretary of State for International Narcotics and Law Enforcement Affairs, the assistance shall continue to be withheld pending resolution of the review.

§ 140.13 Notification to foreign entities and individuals.

(a) Unless otherwise determined under § 140.13(b), if a determination has been made that assistance to a foreign entity or individual is to be withheld, suspended, or terminated under this part, the agency administering such assistance shall so inform the affected entity or individual. Except as the agency administering such assistance, the Country Narcotics Coordinator, and the agency or agencies that are the source of information that formed the basis for withholding, suspending, or terminating assistance may otherwise agree, the entity or individual shall be notified solely of the statutory basis for withholding, suspending, or terminating assistance.

(b) Before such notification, the Country Narcotics Coordinator shall be responsible for ascertaining, in coordination with the investigating agency, that notification would not interfere with an on-going criminal investigation. If the investigating agency believes that there is a significant risk of such interference, the Country Narcotics Coordinator, in coordination with the investigating agency, shall determine the means of compliance with this statute that best minimizes such risk.

§ 140.14 Special procedures for U.S. entities and individuals.

(a) If the Country Narcotics Coordinator makes a preliminary decision that evidence exists to justify withholding, suspending, or terminating assistance to a U.S. entity, U.S. citizen, or permanent U.S. resident, the matter shall be referred immediately to the Assistant Secretary of State for International Narcotics and Law Enforcement Affairs for appropriate action, to be taken in consultation with the agency proposing the assistance and the agency or agencies that provided information reviewed or relied upon in making the preliminary decision.

(b) If a determination is made that assistance is to be withheld, suspended, or terminated under this part, the Assistant Secretary of State for International Narcotics and Law Enforcement Affairs, or the Assistant Secretary's designee, shall notify the affected U.S. entity, U.S. citizen, or permanent U.S. resident and provide such entity or individual with an opportunity to respond before action is taken. In no event, shall this part be interpreted to create a right to classified

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information or law enforcement investigatory information by such entity or individual.

Dated: May 31, 1998.

Madeleine K. Albright,

Secretary of State.

[FR Doc. 98–17870 Filed 7–6–98; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[SIPTRAX NO. DC–25–2010a; FRL–6120–3]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; 15 Percent Plan for the Metropolitan Washington, D.C. Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is granting conditional approval of a State Implementation Plan (SIP) revision submitted by the District of Columbia (the District) to meet the 15 percent reasonable further progress implementation plan (15% plan) requirements of the Clean Air Act (the Act) for the District's portion of the Metropolitan Washington, D.C. ozone nonattainment area. EPA is granting conditional approval because the District's enhanced inspection maintenance (I/M) program, which is one of the many control measures adopted by the District to achieve the 15% reduction in volatile organic compounds (VOC), has only been conditionally approved, the 15% plan must also be conditionally approved. The intended effect of this action is to conditionally approve the 15% plan submitted by the District of Columbia in accordance with the Clean Air Act.

DATES: This direct final rule is effective on September 8, 1998 without further notice, unless EPA receives adverse comment by August 6, 1998. If adverse comment is received, EPA will publish a timely document withdrawing the rule.

ADDRESSES: Comments may be mailed to David L. Arnold, Chief, Ozone and Mobile Sources Branch, Mailcode 3AP21, U.S. Environmental Protection Agency—Region III, 841 Chestnut Building, Philadelphia, Pennsylvania, 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Persons interested in examining these documents should schedule an appointment with the contact person (listed below) at least 24 hours before the visiting day. Copies of the documents relevant to this action are also available at the District of Columbia Department of Public Health, Air Quality Division, 2100 Martin Luther King Ave, S.E., Washington, DC 20020.

FOR FURTHER INFORMATION CONTACT: Christopher Cripps, Ozone and Mobile Sources Branch (3AP21), U.S. EPA—Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103, or by telephone at (215) 814–2179. Questions may also be addressed via e-mail, at: cripps.christopher@epamail.epa.gov [Please note that only written comments can be accepted for inclusion in the docket.]

SUPPLEMENTARY INFORMATION: On April 16, 1998 the District of Columbia Department of Health (DoH) submitted a revision to its State Implementation Plan (SIP) for the Washington, D.C. ozone nonattainment area. The revision consists of a plan to achieve a fifteen percent reduction from 1990 base year levels in volatile organic compound (VOC) emissions. During the summertime months, VOC emissions contribute significantly to the formation of ground level ozone, and many volatile organic compounds are also toxic or hazardous air pollutants.

I. Background

The Washington, D.C. metropolitan area is classified as a serious ozone nonattainment area. Section 182(b)(1) of the Act requires ozone nonattainment areas classified as moderate or above to develop plans to meet specific reasonable further progress, also known as rate-of-progress (ROP), for the reduction of VOC emissions. Specifically, section 182(b)(1) requires a SIP revision to reduce by 1996 VOC emissions by fifteen percent from 1990 baseline levels in the area while accounting for growth in VOC emissions from 1990 to 1996. These "15% plans" were due to be submitted to EPA by November 15, 1993, with the reductions to occur within 6 years (i.e., November 15, 1996). The Act sets limitations on the creditability of certain control measures towards reasonable further progress. Specifically, states cannot take credit for reductions achieved by Federal Motor Vehicle Control Program (FMVCP) measures (e.g., new car emissions standards) promulgated prior to 1990; or for reductions stemming from regulations promulgated pursuant to section 211(h) of the Act to lower the volatility [i.e., Reid Vapor Pressure (RVP)] of gasoline. Furthermore, section 182(b)(1) of the Act does not allow credit towards reasonable further progress for post-1990 corrections to existing motor vehicle inspection and maintenance (I/M) programs or corrections to reasonably available control technology (RACT) rules, since these programs were required to be in-place prior to 1990. In addition to these restrictions, a creditable measure must be either in the SIP, result from a national rule promulgated by EPA or be contained in a permit issued under Title V of the Act. Any measure must result in real, permanent, quantifiable and enforceable emission reductions to be creditable toward the 15% goal.

The Washington, D.C. ozone nonattainment area consists of the entire District of Columbia, five counties in Northern Virginia and five counties in Maryland. Virginia, Maryland and the District all must demonstrate reasonable further progress for the Washington, D.C. nonattainment area. The Commonwealth of Virginia, State of Maryland and the District of Columbia in conjunction with municipal planning organizations collaborated on a coordinated 15% plan for the entire Metropolitan Washington, D.C. nonattainment area (regional 15% plan). This was done under the auspices of the regional air quality planning committee, the Metropolitan Washington Air Quality Committee (MWAQC), and with the assistance of the local municipal planning organization, the Metropolitan Washington Council of Governments (MWCOG), to ensure coordination of air quality and transportation planning.[1]

Although the plan was developed by a regional approach, each jurisdiction is required to submit its 15% plan to EPA as a revision to its SIP.

Because the reasonable further progress requirements such as the 15% plan affect transportation improvement plans, municipal planning organizations have historically been heavily involved in air quality planning in the

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[1] The Act addresses interstate coordination for inter-state nonattainment areas (42 U.S.C. 7504) mainly for nonattainment planning. Because the interstate air quality planning organization involved, the MWAQC, meets the requirements of section 174 of the Act, EPA believes all interstate coordination requirements have been fulfilled. In the absence of an agreement to prepare a nonattainment area-wide plan, each state could have developed and submitted a SIP revision to obtain the 15% reasonable further progress requirement independently of the others. The MWAQC process also ensures that the consultation between air quality and transportation planning agencies is performed as required under the Act (42 U.S.C. 7506(c)) and under EPA's transportation conformity final rule (40 CFR 93.100).

Washington, D.C. area. As explained in further detail below, the regional 15% plan determined the regional target level, regional projections of growth and finally the total amount of creditable reductions required under the reasonable further progress requirement in the entire Washington, D.C. ozone nonattainment area. The three jurisdictions, the State of Maryland, the Commonwealth of Virginia and the District agreed to apportion this total amount of required creditable reductions among the three jurisdictions. EPA is taking action today only on the District's 15% plan submittal, which addresses only the District's responsibility for the 15% plan in the Washington, D.C. metropolitan area.

The 15% plan for the District of Columbia was submitted by the Mayor's designated official, the Director of the District of Columbia DoH, on April 16, 1998. The April 16, 1998 submittal effectively superseded previous submittals. On May 15, 1995, the District submitted a 15% plan SIP for the District's portion of Washington, D.C. ozone nonattainment area. On November 3, 1997 the District submitted a Phase I attainment plan which included revisions to the 1990 base year inventory and to the 15% plan SIP revision. This amended 15% plan SIP revision was based upon the revised 1990 base year emissions inventory and upon revised projections in growth in emissions which came to light during the preparation of the Phase I attainment plan. The November 3, 1997 15% plan SIP revision did not however reflect changes in the District's motor vehicle enhanced inspection and maintenance (I/M) program. The April 16, 1998 15% plan SIP revision does reflect the District's current enhanced I/M program.

EPA has reviewed the District's April 16, 1998 15% plan SIP revision, and a single factor prevents a full approval of the District of Columbia's 15% plan SIP. A detailed discussion of the EPA's analysis of the District's 15% plan SIP revision is included below in the 'Analysis' portion of this rulemaking action and also in the technical support document (TSD) for this action. (Copies of the TSD are available, upon request, from the EPA Regional Office listed in the ADDRESSES section of this notice.) Because this one measure, the District's enhanced I/M program, has been conditionally approved into the District of Columbia's SIP, under section 182(b)(2)(D), EPA can only grant a conditional approval of the emission reduction credits for this measure and, therefore, can only grant conditional approval of the District of Columbia's 15% plan SIP revision. Satisfying the condition for full approval of the enhanced I/M program, namely that the April 30, 1999 start date be met, will satisfy the conditional approval of the District's 15% plan as well.

II. Analysis of the SIP Revision

A. Base Year Emission Inventory

The baseline from which states must determine the required reductions for 15 percent planning is the 1990 base year emission inventory. The inventory is broken down into several emissions source categories: stationary point, area, on-road mobile sources, and off-road mobile sources. The base year inventory includes emissions of all sources within the nonattainment area and certain large point sources within twenty-five miles of the boundary. A sub-set of the 1990 base year inventory is the 1990 rate-of-progress (ROP) inventory which includes only anthropogenic (man-made) emissions actually within the nonattainment area boundaries. The District of Columbia submitted a formal SIP revision containing its official 1990 base year emission inventory on January 13, 1993 and submitted revisions on November 3, 1997. In the Final Rules section of this **Federal Register**, EPA is also approving the District's November 3, 1997 SIP revision consisting of revisions to the 1990 base year emission inventory as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in that direct final rule.

B. Growth in Emissions Between 1990 and 1996

EPA has interpreted the Act to require that reasonable further progress towards attainment of the ozone standard must be obtained after offsetting any growth expected to occur over that period. Therefore, to meet the 15% reasonable further progress requirement, a state must enact measures achieving sufficient emissions reductions to offset projected growth in VOC emissions, in addition to a 15 percent reduction of VOC emissions. Thus, an estimate of growth in VOC emissions and emissions related activity from 1990 to 1996 is necessary for demonstrating reasonable further progress. Growth for all source categories other than on-road mobile sources, is calculated by multiplying the 1990 base year inventory by acceptable forecasting indicators. For these categories, growth must be determined separately for each source, or by source category, since sources typically grow at different rates. EPA's inventory preparation guidance recommends the following indicators, as applied to emission units in the case of stationary sources or to a source category in the case of area sources, in order of preference: product output, value added, earnings, employment. Population can also serve as an acceptable surrogate indicator.

Growth for on-road mobile sources is determined projecting future year vehicle miles traveled (VMT) and speeds using a traffic demand model that represents the highway network in the Washington, D.C. area. (The same highway network and traffic demand model is also used for conformity determinations.) These results are multiplied by emission factors appropriate for the forecast year that were generated by EPA's Mobile 5.0b emission factor model.

The District's 15% plan contains growth projections for point, area, on-road motor vehicle, and non-road vehicle source categories. For a detailed description of the growth methodologies used by the District, please refer to the TSD for this action. EPA is approving the District's 1990–1996 emissions growth projections.

C. Enhanced Vehicle Inspection and Maintenance (I/M) Program

Section 182(b)(1) of the Act requires that states containing ozone nonattainment areas classified as moderate or above prepare SIP revisions that provide for a 15 percent VOC emissions reduction by November 15, 1996. Most of the 15% plan SIP revisions originally submitted to the EPA contained enhanced I/M programs because this program achieves more VOC emission reductions than most, if not all other, control strategies. However, because most states experienced substantial difficulties with these enhanced I/M programs, only a few states are currently actually testing cars using their original enhanced I/M protocols.

In September 1995, EPA finalized revisions to its enhanced I/M rule allowing states significant flexibility in designing I/M programs appropriate for their needs (See 60 FR 48029, September 18, 1995). Subsequently, Congress enacted the National Highway Systems Designation Act of 1995 (NHSDA), which provides states with additional flexibility in determining the design of enhanced I/M programs. The substantial amount of time needed by states to re-design enhanced I/M programs in accordance with the guidance contained within the NHSDA,

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secure state legislative approval when necessary, and set up the infrastructure to perform the testing program has precluded states that revise their I/M programs from obtaining emission reductions from such revised programs by November 15, 1996.

The District submitted a SIP revision amending the District's existing I/M program on July 13, 1995 and supplemented this submittal on March 27, 1996 under the NHSDA. On October 10, 1996, EPA published a proposed disapproval of the July 13, 1995 and March 27, 1996 SIP revisions. The proposed disapproval listed numerous major and minor deficiencies. On November 27, 1997, the District submitted a completely revised enhanced I/M SIP revision. The November 27, 1997 enhanced I/M SIP revision completely revised the testing method from that contained in the earlier SIP revisions. On March 30, 1998 (63 FR 15118), EPA proposed to conditionally approve this enhanced I/M SIP revision. EPA also withdrew its previously proposed disapproval action of an enhanced I/M SIP revision submitted by the District of Columbia on July 13, 1995 and supplemented March 27, 1996 because that action was no longer germane, given that the District's submittal of November 27, 1997 completely replaced those earlier submittals. No comments were received on EPA's proposed conditional approval of the District's enhanced I/M program. On June 2, 1998, EPA published its final conditional approval (63 FR 29955).

Given the heavy reliance by many states upon enhanced I/M programs to help achieve the 15% reduction in VOC emissions required under section 182(b)(1) of the Act, the recent NHSDA and regulatory changes regarding enhanced I/M programs, EPA believes that it was not possible for many states to achieve the portion of the 15% reductions that are attributed to I/M by November 15, 1996. Under these circumstances, disapproval of the 15% plan SIP revisions would serve no purpose. Consequently, under certain circumstances, EPA has allowed states that re-designed their enhanced I/M programs to receive emission reduction credit from these programs within their 15% plans, even though the emissions reductions from the I/M program will occur after November 15, 1996. The provisions for crediting reductions for enhanced I/M programs are contained in two documents: "Date by which States Need to Achieve all the Reductions Needed for the 15 Percent Plan from I/M and Guidance for Recalculation," note from John Seitz and Margo Oge, dated August 13, 1996, and "Modeling 15 Percent VOC Reductions from I/M in 1999—Supplemental Guidance," memorandum from Gay MacGregor and Sally Shaver, dated December 23, 1996.

Specifically, EPA is approving SIP revisions if the emissions reductions from the revised, enhanced I/M programs, as well as from the other 15% plan SIP measures, will achieve the 15% level as soon after November 15, 1996 as practicable, pursuant to a February 12, 1997 memorandum from John Seitz and Richard Ossias entitled, "15 Percent VOC SIP Approvals and the 'As Soon As Practicable' Test." To make this "as soon as practicable" determination, EPA must determine that the SIP contains all VOC control strategies that are practicable for the nonattainment area in question and that meaningfully accelerate the date by which the 15% level is achieved. EPA does not believe that measures meaningfully accelerate the date by which the 15% reduction is achieved if they provide an insignificant amount of reductions.

The EPA has examined other available SIP measures to determine if they are practicable for the District's portion of the Washington, D.C. area and if they would meaningfully accelerate the date by which the area reaches the 15% level of reductions. The EPA has determined that the District's SIP does contain the appropriate measures. Measures for which the District took credit in the 15% plan are identified in Table 1, below, as "In 15% Plan" and are not available as a possible alternative to enhanced I/M. Measures in Table 1 identified as being "Pre-1990" were implemented prior to 1990 under rules adopted by the District and thus are not available as a possible alternative to enhanced I/M. The other programs that the District included in its 15% plan submittal result in less than a 1.3 tons per day reduction and do not deliver in the aggregate, anything close to the reductions achieved by enhanced I/M.

TABLE 1.—VOC CONTROL MEASURES ANALYZED IN THE DISTRICT'S 15 PERCENT PLAN SUBMITTAL PLAN

Measures	VOC reductions (tons/day)
Area Source Measures:	
AIM Coatings—Federal Rule	In 15% Plan
Consumer Solvents—Federal Rule	In 15% Plan
Solvent Cleaning—Substitution	0.1
Graphic Arts—Web Offset Control	0.5
Autobody Refinishing—ACT control	In 15% Plan
Cutback Asphalt—100% Ban	0.0
Other Dry Cleaning	0.2
Stage I Enhancement	0.4
Stage II Vapor Recovery	Pre-1990
Nonroad—Reformulated Gasoline	In 15% Plan
Point Source Measures:	
Flexographic Printing	0.0
Gravure Printing	<0.1
Web Offset Lithography	Pre-1990
Non-mandated On-Road Mobile Measures:	
Reformulated Gasoline	In 15% Plan
I/M Reductions:	
High Enhanced in 15% Plan	In 15% Plan

EPA believes that the enhanced I/M program is the only measure that will significantly accelerate the date by which the 15% reduction requirement will be achieved. EPA is allowing enhanced I/M reductions which occur out until November 15, 1999 to count toward the 15% emission reduction level for the 15% plan, because in doing so, the District will reach a 15% reduction in VOC emissions as soon as practicable.

The District claimed a total of 3.8 tons per day credit from enhanced I/M in its 15% plan. In the 15% plan, the District evaluated the enhanced I/M program using EPA's Mobile 5.0b model with assumptions that called for implementation of a centralized, IM240 test with pressure and purge testing, and a program start date of April 30, 1999. EPA has determined that the enhanced I/M program for the District's portion of the Washington, D.C. nonattainment area does achieve the credited reductions from enhanced I/M as soon as practicable. The District's enhanced I/M program is a biennial, centralized, test-only program network using EPA's IM240 test. EPA believes that the District cannot accelerate the reductions by initially requiring annual testing because:

(1) Without additional testing stations other requirements of the enhanced I/M rule relating to motorist convenience would suffer. Motorist convenience is one important aspect that affects public acceptance and effectiveness of the I/M program.

(2) Additional infrastructure changes (e.g., more testing equipment, enlarging or building new testing stations, and the hiring and training of additional inspectors) to the enhanced I/M program would not come on-line in time to afford a substantial increase the amount of reductions realized before November 15, 1999.

(3) The cost effectiveness of the program would be adversely affected because the additional costs would not result in a corresponding amount of reductions.

Because the District's revised enhanced I/M program is designed to meet EPA's high-enhanced performance standard, EPA believes that the District's program will achieve 3.8 tons per day of reductions by 1999 credited in the District's 15% plan.

D. Target Level Emissions/Emission Reductions Needs

The regional 15% plan calculates a target level of emissions to meet the 15% reasonable further progress requirement over the entire nonattainment area. The regional 15% plan contains a projection of emissions growth from 1990 to 1996 and in effect apportions among the three jurisdictions the amount of creditable emission reductions that each jurisdiction must achieve in order for the entire nonattainment area to achieve a 15% reduction in VOC emissions net of growth. Each jurisdiction then adopted the regional plan, which identified the amount of creditable emission reductions which that jurisdiction must achieve for the regional plan to get a 15% reduction accounting for any growth. The regional plan calculated the "target level" of 1996 VOC emissions, in accordance with applicable EPA guidance.

EPA has interpreted section 182(b) of the Act to require that the base year VOC emission inventory be adjusted to account for reductions in VOC emissions that would have occurred from the pre-1990 FMVCP and RVP programs. To meet EPA's applicable guidance on this requirement, the regional plan contains a calculation of the reductions occurring between 1990 and 1996 from the pre-1990 Tier 0 FMVCP and RVP programs and the result of subtracting these reductions from the 1990 ROP inventory. The net result of this calculation yielded the 1990 "adjusted base year inventory adjusted to 1996."

The District's 15% plan relies upon reductions from the District's revised, enhanced I/M programs to achieve the required 15% level as soon after November 15, 1996 as practicable, but not later than 1999. Under EPA's applicable guidance for 15% plans that rely upon reductions from enhanced I/M after 1996, the target level must also incorporate the effects of the pre-1990 Tier 0 FMVCP on 1990 emissions due to turnover in vehicles between 1996 and 1999. To meet EPA's applicable guidance on this requirement the regional plan also contains a calculation of the non-creditable reductions from the pre-1990 Tier 0 FMVCP and RVP programs between 1990 and 1999 and the result of subtracting these reductions from the 1990 ROP inventory. The result of this calculation yielded the 1990 "adjusted base year inventory adjusted to 1999". The difference between the 1990 "adjusted base year inventory adjusted to 1996" and 1990 "adjusted base year inventory adjusted to 1999" yields the "fleet turnover correction" (FTC).

The next step is to calculate the base 1996 VOC target level of emissions. This is eighty-five percent (85%) of the 1990 adjusted base year inventory for 1996. This number represents what the emissions inventory should have been in 1996 if the 15% target level in order to achieve the 15% reduction. To account for the effects on VOC emissions due to the Tier 0 FMVCP between 1996 and 1999 the FTC is subtracted from the base 1996 VOC target level of emissions to yield the final, corrected 1996 VOC target level of emissions. The emission reduction needs to achieve the target level is just the difference between the 1996 projected uncontrolled inventory and the final, corrected 1996 VOC target level. Table 2, below, summarizes the calculations for the 1996 VOC target level for the entire Washington, D.C. ozone nonattainment area.

TABLE 2.—REQUIRED REDUCTIONS FOR THE WASHINGTON, D.C. AREA'S 15% PLAN

[In tons of VOC per day]

Item	District of Columbia	Maryland	Virginia	Washington D.C. area totals
Washington, D.C. Area Target Level Calculation				
1 1990 ROP Inventory	60.3	241.7	226.5	528.7
2 1990 Adjusted Base Year Inventory adjusted to 1996	51.2	215.1	196.8	463.1
3 1990 Adjusted Base Year Inventory adjusted to 1999	49.9	210.9	193.3	454.1
4 FTC Adjustment (Line 2 minus Line 3)	1.3	4.2	3.5	9.0
5 Base 1996 target Level = 85% of Line 2 (0.85 × Line 2)	43.5	182.8	167.3	393.6
6 Final, Corrected 1996 Regional Target Level (Line 5 minus Line 4)	42.2	178.6	163.8	384.6
7 Projected 1996 Uncontrolled Emissions	48.5	234.7	219.4	502.4
8 Required Regional Emission Reductions (Line 8 minus Line 7)*	....	....	....	117.8
9 Apportioned State Emission Reductions*	8.5	57.5	51.7	117.7

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TABLE 2.—REQUIRED REDUCTIONS FOR THE WASHINGTON, D.C. AREA'S 15% PLAN—Continued

[In tons of VOC per day]

Item	District of Columbia	Maryland	Virginia	Washington D.C. area totals
10 Total Reductions Claimed in the District's 15% Plan	9.2	N/A	N/A	....

* The small discrepancy between values is due to rounding the apportioned emission reductions to the nearest tenth.

The emission reductions required to meet the 15% reasonable further progress requirement equals the difference between the projected 1996 emissions under the current control strategy ("the 1996 uncontrolled emissions") and the target level. This amount reflects a 15% reduction from the adjusted base year inventory and any reductions necessary to offset emissions growth projected to occur between 1990 and 1996. The Washington, D.C. area's regional VOC target level is 384.8 tons per day. EPA has determined that this regional target level and emission reduction needs for the Metropolitan Washington, D.C. nonattainment area have been properly calculated in accordance with EPA guidance.

E. Control Strategies in the District's 15% Plan

The specific measures adopted (either through state or federal rules) are addressed, in detail, in the District's 15% plan. The following is a brief description of each control measure that the District has claimed credit for in the submitted 15% plan, as well as the results of EPA's review of the use of that strategy towards the Act's rate-of-progress requirement.

F. Fully Creditable Emission Control Strategies

EPA is granting full credit to the District of Columbia's 15% plan SIP with reductions from the following six measures:

1. Reformulated Gasoline (RFG)

Section 211(k) of the Act requires that, beginning January 1, 1995, only reformulated gasoline be sold or dispensed in ozone nonattainment areas classified as severe or above. Gasoline is reformulated to reduce combustion by-products and to produce fewer evaporative emissions. Section 211(k)(6) allows other nonattainment areas to "opt-in" to the program. The District submitted a request to opt-in to the reformulated gasoline program, which EPA approved on April 1, 1992 (57 FR 11677). The District claims a reduction of 1.1 tons per day from their 1996 projected uncontrolled on-road mobile source emissions using EPA's Mobile 5.0b emission factor model to determine the emission benefit. EPA has reviewed the District's calculation of the benefits for this measure and finds the amount of reduction the District claims is reasonable and acceptable.

2. Off-Road Use of Reformulated Gasoline

The use of reformulated gasoline will also result in reduced emissions from off-road engines such as outboard motors for boats and lawn mower engines, commonly used in summer months. The District claims a reduction of 0.1 tons per day from their 1996 projected uncontrolled off-road mobile source emissions. The District used guidance provided on August 18, 1993 by EPA's Office of Mobile Sources on the VOC emission benefits for non-road equipment which are in a nonattainment area that uses Federal Phase I RFG. The District has correctly used the guidance to compute the VOC emission reductions for this measure. The EPA agrees with this projected reduction in the District's 15% plan and the 0.1 tons per day emission benefit resulting from this measure are creditable.

3. Post 1990 Federal Motor Vehicle Control Program (FMVCP Tier 1) and Detergent Additives

EPA promulgated a national rule establishing "new car" standards for 1994 and newer model year light-duty vehicles and light-duty trucks on June 5, 1991 (56 FR 25724). Since the standards were adopted after the Clean Air Act was amended in 1990, the resulting emission reductions are creditable toward the 15 percent reduction goal.

On November 1, 1994, EPA promulgated a national rule establishing Federal standards for detergent additives for gasoline as required by the Act (59 FR 54706). This regulation requires, beginning January 1, 1995, that gasoline sold nationwide contain additives to prevent accumulation of deposits in engines and fuel systems. Preventing such deposits maintains the efficiencies of engine systems and reduces VOC emissions resulting from engine efficiency degradation.

The District claimed a reduction of 1.5 tons per day from the Tier 1 Federal Motor Vehicle Control Program and the Gasoline Detergent Additive Rule using EPA's Mobile 5.0b emission factor model to determine the emission benefits. EPA has reviewed the District's methodology used in calculating of the benefits for this measure and finds the amount of reduction that the District claims is reasonable and acceptable. EPA believes this measure and the 1.5 tons per day emission benefit is fully creditable in the District's 15% plan.

4. Architectural and Industrial Maintenance Coatings (AIM)

Emission reductions have been projected for AIM coatings due to the expected promulgation by the EPA of a national rule. VOC emissions emanate from the evaporation of solvents used in the coating process. In EPA's most recent policy memorandum on AIM credits, "Update on the Credit for the 15 Percent Rate-of-Progress Plans for Reductions from the Architectural and Industrial Maintenance (AIM) Coatings Rule", dated March 7, 1996, EPA allowed states to claim a 20% reduction of total AIM emissions from the national rule. The District claimed a 20% reduction in AIM emissions under its 15% plan, which is a reduction of 1.6 tons per day from their 1996 projected uncontrolled AIM coating emissions. In the March 7, 1996 memorandum, EPA allowed states to continue to claim a 20% reduction of total AIM emissions from the national rule in their 15% plans although the emission reductions were not expected to occur until April 1997. As a result of legal challenges to the proposed national rule, EPA has negotiated a compliance date of no earlier than January 1, 1998. If the final rule does not provide the amount of credit indicated in the memorandum that states can claim in their 15% plans, the District is responsible for developing measures to make up the shortfall. With this caveat, EPA believes use of emissions reductions from EPA's expected national AIM rule is acceptable towards the 15% plan target. Therefore, the 1.6 tons per day are an acceptable credit claim in the District's 15% plan.

5. Consumer and Commercial Products

Section 183(e) of the Act required EPA to conduct a study of VOC emissions from consumer and commercial products and to compile a regulatory priority list. EPA is then required to regulate those categories that account for 80% of the consumer product emissions in ozone nonattainment areas. Group I of EPA's regulatory schedule lists 24 categories of consumer products to be regulated by national rule, including personal, household, and automotive products. EPA intends to issue a final rule covering these products in the near future. EPA policy allows states to claim up to a 20% reduction of total consumer product emissions towards the reasonable further progress requirement. The District claimed a 20% reduction or the equivalent reduction of 0.6 tons per day from their 1996 projected uncontrolled consumer and commercial products emissions in its 15% plan. For the reasons discussed above under the AIM rule, EPA believes the 0.6 tons per day projected reduction in the District's 15% plan is creditable. Again, if this final rule does not provide the amount of credit indicated in the memorandum that states can claim in their 15% plans, the District is responsible for developing measures to make up the shortfall.

6. Automobile Refinishing

EPA is in the process of adopting a national rule to control VOC emissions from solvent evaporation through reformulation of coatings used in auto body refinishing processes. These coatings are typically used by industry and small businesses, or by vehicle owners. VOC emissions emanate from the evaporation of solvents used in the coating process. In a November 29, 1994 memorandum, "Credit for the 15 Percent Rate-of-Progress Plans for Reductions from the Architectural and Industrial Maintenance (AIM) Coating Rule and the Autobody Refinishing Rule," EPA set forth policy on the creditable reductions to be assumed from the national rule for auto body refinishing. That memorandum allowed for a 37% reduction from current emissions with an assumption of 100% rule effectiveness (presuming the coating application instructions were being followed). The District's approach was consistent with EPA's guidance to determine the creditable emissions from this rule and claimed a reduction of 0.5 tons per day from their 1996 projected uncontrolled auto body emissions in its 15% plan. For the reasons discussed above under the AIM rule, the EPA believes the 0.5 tons per day projected reduction in the District's 15% plan is creditable. Again, if this final rule does not provide the amount of credit indicated in the memorandum that states can claim in their 15% plans, the District is responsible for developing measures to make up the shortfall.

G. Conditionally Creditable Emission Control Strategies

EPA is conditionally granting credit to the District's 15% plan SIP with reductions from the District's enhanced vehicle inspection and maintenance (I/M) Program. The District claimed a total of 3.8 tons per day credit for this measure. In the 15% plan, the District evaluated the I/M program using EPA's Mobile 5.0b emission factor model with a program start date of April 30, 1999. The effect of the April 30, 1999 start date was factored by interpolating the results of two runs of EPA's Mobile 5.0b emission factor model. The first run used assumptions that called for implementation of a centralized, test-only, IM240 test with pressure and purge testing and an anti-tampering program inspection. The second run used assumptions that reflected implementation of the District's 1990 program which was a centralized, test-only using an idle test. The District used the same highway network model that was used to determine the 1990 base year inventory, and the adjusted base year inventories, and the 1996 on-road VOC emissions budget used for transportation conformity purposes.

EPA has determined that the I/M program for the District's portion of the Washington, D.C. nonattainment area does achieve reductions from I/M as soon as practicable for the reasons discussed previously in this notice under "Enhanced Vehicle Inspection and Maintenance (I/M) Program." The District's I/M program is a biennial, centralized, test-only program network using EPA's IM240 test.

Because the District's revised I/M program is designed to meet EPA's high-enhanced performance standard and will implement the same number of testing cycles between start-up and November 1999 as that modeled for credit in the 15% plan, EPA believes that the District's program will achieve the claimed 3.8 tons per day of reductions by 1999. EPA has also determined that the credits from the enhanced I/M program were determined in accordance with applicable EPA guidance.

However, section 182(b)(2)(D) requires that EPA grant credit for measures approved into the SIP. Because EPA's approval of the District's enhanced I/M SIP is conditioned upon the District meeting the April 30, 1999 start date, EPA can only approve the reduction credits claimed from enhanced I/M conditioned upon the District meeting the April 30, 1999 start date.

H. Reasonable Further Progress

Table 3 below summarizes the proposed creditable measures from the District's 15% plan for the Washington, D.C. area.

TABLE 3.—CREDITABLE REDUCTIONS IN THE DISTRICT'S 15 PERCENT PLAN FOR THE WASHINGTON, D.C. AREA

[Tons VOC per day]

CREDITABLE REDUCTIONS	
Tier 1 FMVCP and gasoline Detergent Additive Rule	1.5
Reformulated Gasoline:	
On-Road	1.1
Off-Road	0.1
Auto Refinishing	0.5
AIM	1.6
Consumer/Commercial Products	0.6
Sub-Total Creditable	5.4
CONDITIONALLY CREDITABLE REDUCTIONS	
Enhanced Inspection & Maintenance	3.8

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TABLE 3.—CREDITABLE REDUCTIONS IN THE DISTRICT'S 15 PERCENT PLAN FOR THE WASHINGTON, D.C. AREA—Continued

[Tons VOC per day]

Sub-Total Conditionally Creditable	3.8
Total Fully and Conditionally Creditable Reductions	9.2

The District's 15% plan SIP revision contains reductions of 9.2 tons per day which exceeds the District's needs of 8.5 tons per day. Of these 9.2 tons per day EPA is proposing to fully credit the District of Columbia's 15% plan SIP with 5.4 tons per day of reductions and credit the 15% plan SIP with 3.8 tons per day conditioned the District meeting the conditioned listed in the June 2, 1998 conditional approval of the enhanced I/M testing program.

I. Transportation Conformity Budgets

Under EPA's transportation conformity rule the 15% plan is a control strategy SIP. This plan establishes a budget of 133.7 tons per day of VOC emissions for on-road mobile sources throughout the entire Metropolitan Washington, D.C. ozone nonattainment area and does not establish a budget for nitrogen oxides (NO_X) emissions. However, on November 3, 1997 the District of Columbia submitted a complete, SIP revision which included reasonable further progress plan to achieve a nine percent reduction in VOC and NO_X emissions after 1996 (post-1996 plan). This November 3, 1997 SIP revision also established a VOC budget for 1999 of 123.3 tons per day for on-road mobile sources for the entire Metropolitan Washington, D.C. ozone nonattainment area and also establishes a NO_X budget for 1999. Under the conformity rule, EPA believes that the VOC and NO_X budgets established by the November 3, 1997 post-1996 plan are currently the controlling budgets for conformity determinations for 1999 and later years. The next conformity determination in the Washington, D.C. area will consider only 1999 and later years. The budget in the post-1996 plan specifically addresses the 1999 reasonable further progress milestone year whereas the 15% plan establishes a budget for the prior reasonable further progress milestone year of 1996. The time period for the budget in the 15% plan has passed. The post-1996 plan also establishes more stringent VOC budget than the 15% plan.

J. Summary

EPA's review of this material indicates that the District's 15% plan SIP revision meets the requirements of the Act and applicable EPA guidance. EPA is conditionally approving the District of Columbia's SIP revision for a 15% reduction in VOC emissions, which was submitted on April 16, 1998.

EPA is approving this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse or critical comments be filed. This rule will be effective September 8, 1998 without further notice unless the Agency receives adverse comments by August 6, 1998.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule did not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on the proposed rule. Only parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this rule will be effective on September 8, 1998 and no further action will be taken on the proposed rule.

III. Final Action

EPA is conditionally approving the revision to the District of Columbia SIP submitted on April 16, 1998 consisting of its 15% plan. EPA's approval is conditioned upon the District meeting the April 30, 1999 start date committed to and contained in its November 27, 1997 enhanced I/M SIP revision submittal. The conversion from conditional approval to full approval or to disapproval will be dependent upon whether or not the District meets the start date of April 30, 1999 committed to in the enhanced I/M SIP revision. If the District starts the enhanced I/M testing program on or before April 30, 1999, then any final conditional approval shall convert to a full approval of the SIP revision. If the District fails to fully implement enhanced I/M testing in the District by April 30, 1999, EPA would notify the District by letter that the condition has not been met and that any final conditional approval has converted to a disapproval, and the clock for imposition of sanctions under section 179(a) of the Act would start as of the date of the letter. Subsequently, a notice would be published in the **Federal Register** announcing that the 15% plan SIP revision has been disapproved.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

A. Executive Orders 12866 and 13045

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

The final rule is not subject to E.O. 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks," because it is not an "economically significant" action under E.O. 12866.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000. Conditional approvals of SIP submittals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, EPA certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

If the conditional approval is converted to a disapproval under section 110(k), based on the State's failure to meet the commitment, it will not affect any existing state requirements applicable to small entities. Federal disapproval of the state submittal does not affect its state-enforceability. Moreover, EPA's disapproval of the submittal does not impose a new Federal requirement. Therefore, EPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements nor does it substitute a new federal requirement.

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule. EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 8, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action regarding approval of the District of Columbia's 15% plan SIP revision may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Ozone.

Dated: June 23, 1998.

Thomas Voltaggio,

Acting Regional Administrator, Region III.

40 CFR part 52, subpart J of chapter I, title 40 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart J—District of Columbia

2. Section 52.473 is amended by designating the existing paragraph as (a) and adding paragraph (b) to read as follows:

§ 52.473 Conditional Approval.

* * * * *

(b) EPA is conditionally approving as a revision to the District of Columbia State Implementation Plan the 15 Percent Rate of Progress Plan for the District of Columbia's portion of the Metropolitan Washington, D.C. ozone nonattainment area, submitted by the Director of the District of Columbia Department of Public Health on April 16, 1998. EPA's approval is conditioned upon the District meeting the April 30, 1999 start date committed to and contained in its November 27, 1997 enhanced I/M SIP revision submittal. The conversion from conditional approval to full approval or to disapproval will be dependent upon whether or not the District meets the start date of April 30, 1999 committed to in the enhanced I/M SIP revision. If the District starts the enhanced testing program on or before April 30, 1999, then any final conditional approval shall convert to a full approval of the SIP revision. If the District fails to fully implement enhanced I/M testing in the District by April 30, 1999, EPA would notify the District by letter that the condition has not been met and that this final conditional approval has converted to a disapproval, and the clock for imposition of sanctions under section 179(a) of the Act would start as of the date of the letter. Subsequently, a notice would be published in the **Federal Register** announcing that the 15% plan SIP revision has been disapproved.

[FR Doc. 98–17966 Filed 7–6–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH115–2; FRL–6120–7]

Approval and Promulgation of Maintenance Plan Revisions; Ohio

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) is finalizing a May 21, 1998, proposal to approve an Ohio State Implementation Plan (SIP) revision to remove the air quality triggers from each of the following Ohio maintenance area contingency plans: Canton (Stark County), Cleveland (Lorain, Cuyahoga, Lake, Ashtabula, Geauga, Medina, Summit and Portage Counties), Columbus (Franklin, Delaware and Licking Counties), Steubenville (Jefferson County), Toledo (Lucas and Wood Counties), Youngstown (Mahoning and Trumbull Counties) as well as Clinton County, Columbiana County and Preble County.

EFFECTIVE DATE: This action will be effective on July 7, 1998.

ADDRESSES: Copies of the documents relevant to this action are available for inspection during normal business hours at the following locations:

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Regulation Development Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604. Please contact Scott Hamilton at (312) 353–4775 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Scott Hamilton, Environmental Scientist, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–4775.

SUPPLEMENTARY INFORMATION:

I. Background

On May 21, 1998, USEPA published a proposed rule proposing to approve an April 27, 1998, request from Ohio to remove the air quality triggers from contingency plans in the Ohio areas subject to the first round of one hour ozone standard revocations. The areas subject to the first round of revocations attained the one hour ozone standard based on air monitoring data from 1994–1996. The May 21, 1998, proposal solicited written comments from May 21, 1998 to June 22, 1998. No comments were received regarding this proposal.

On June 5, 1998, a final rulemaking was published revoking the one hour ozone standard for the following Ohio maintenance areas (63 FR 31013): Canton (Stark County), Cleveland (Lorain, Cuyahoga, Lake, Ashtabula, Geauga, Medina, Summit and Portage Counties), Columbus (Franklin, Delaware and Licking Counties), Steubenville (Jefferson County), Toledo (Lucas and Wood Counties), Youngstown (Mahoning and Trumbull Counties) as well as Clinton County, Columbiana County and Preble County.

II. Response to Public Comments

The public comment period on USEPA's proposal to approve Ohio's request ended on June 22, 1998. No public comments were received on USEPA's proposed approval.

III. USEPA Final Action

USEPA is approving in final the maintenance plan revisions to remove the air quality triggers in the Ohio ozone maintenance areas listed in the Summary section of this document.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Administrative Procedure Act

This action will be effective immediately upon publication in the **Federal Register** pursuant to the Administrative Procedure Act, 5 U.S.C. 553(d)(1) and (3) (APA) for good cause. A delayed effective date is unnecessary due to the nature of this action, which removes certain SIP measures related to the 1-hour ozone standard, which has been revoked. The thirty day delay of the effective date of this action generally required by the Administrative Procedure Act is unwarranted in that it does not serve the public interest to unnecessarily delay the effective date of this action.

V. Administrative Requirements

(A) Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

(B) Executive Order 13045

This rule is not subject to Executive Order 13045, titled "Protection of Children's Health from Environmental Health Risks and Safety Risks," because it is not an "economically significant" action under Executive Order 12866.

(C) Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

(D) Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, USEPA must undertake various actions in association with any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. This Federal action approves the removal of pre-existing requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or the private sector, result from this action.

(E) Audit Privilege and Immunity Law

Nothing in this action should be construed as making any determination or expressing any position regarding Ohio's audit privilege and immunity law (sections 3745.70—3745.73 of the Ohio Revised Code). USEPA will be reviewing the effect of the Ohio audit privilege and immunity law on various Ohio environmental programs, including those under the Clean Air Act, and taking appropriate action(s), if any, after thorough analysis and opportunity for Ohio to state and explain its views and positions on the issues raised by the law. The action taken herein does not express or imply any viewpoint on the question of whether there are legal deficiencies in this or any Ohio Clean Air Act program resulting from the effect of the audit privilege and immunity law. As a consequence of the review process, the regulations subject to the action taken herein may be disapproved, federal approval for the Clean Air Act program under which they are implemented may be withdrawn, or other appropriate action may be taken, as necessary.

(F) Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. USEPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

(G) Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 8, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

VI. List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Nitrogen oxides, Implementation plans.

Dated: June 25, 1998.

William E. Muno,

Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et. seq.*

Subpart KK—Ohio

2. Section 52.1885 is amended by adding paragraph (a)(8) to read as follows:

§ 52.1885 Control Strategy: Ozone

(a) * * *

(8) Approval—On April 27, 1998, Ohio submitted a revision to remove the air quality triggers from the ozone maintenance plans for the following areas in Ohio: Canton (Stark County), Cleveland (Lorain, Cuyahoga, Lake, Ashtabula, Geauga, Medina, Summit and Portage Counties), Columbus (Franklin, Delaware and Licking Counties), Steubenville (Jefferson County), Toledo (Lucas and Wood Counties), Youngstown (Mahoning and Trumbull Counties) as well as Clinton County, Columbiana County, and Preble County.

[FR Doc. 98–17972 Filed 7–6–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6119–9]

Washington: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: Washington has applied for Final authorization of a revision to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The EPA has reviewed Washington's application and determined that its hazardous waste program revision satisfies all of the requirements necessary to qualify for Final authorization. Unless adverse written comments are received during the review and comment period provided in this direct final rule, EPA's decision to approve Washington's hazardous waste program revision will take effect as provided below. Washington's application for program revision is available for public review and comment.

DATES: This Final authorization for Washington shall be effective October 5, 1998, if EPA receives no adverse comment on this document by August 6, 1998. Should EPA receive adverse comments, EPA will withdraw this rule before the effective date by publishing a notice of withdrawal in the **Federal Register**. Any comments on Washington's program revision application must be filed by August 6, 1998. Written comments may also be provided to the address below by August 6, 1998. If no adverse comments are received by August 6, 1998, the immediate final rule will take effect and no further action will be taken on the companion proposal, which appears in the proposed rules section elsewhere in this issue of the **Federal Register**.

ADDRESSES: Copies of the Washington program revision application and the materials which EPA used in evaluating the revision are available for inspection and copying during normal business hours at the following addresses: U.S. Environmental Protection Agency, Region 10, Library, 1200 Sixth Avenue, Seattle, WA 98101, contact at (206) 553–1259; and the Washington Department of Ecology, 300 Desmond Drive, Lacey, WA 98503, contact Patricia Hervieux, (360) 407–6756. Written comments should be sent to Nina Kocourek, U.S. Environmental Protection Agency, Region 10, WCM–122, 1200 Sixth Avenue, Seattle, WA 98101, (206) 553–6502.

FOR FURTHER INFORMATION CONTACT: Nina Kocourek, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, WCM–122, Seattle, WA 98101, (206) 553–6502.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of the RCRA 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program.

Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in Title 40 of the Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

The revision requested by Washington in its current application is not a result of a change to EPA's rules or regulations, nor is it a result of changes to Washington's rules and regulations. Washington's application for revision results from unique agreements between Washington, the United States and the Puyallup Tribe of Indians. Washington seeks revision of its authorized program to include "non-trust lands" within the exterior boundaries of the Puyallup Indian reservation (hereafter referred to as the "1873 Survey Area" or "Survey Area") pursuant to a settlement agreement finalized in 1988 and ratified by Congress in 1989, which allows Washington to seek authorization for such lands after consultation and communication with the Puyallup Tribe.

B. Washington

The State of Washington initially received Final Authorization on January 30, 1986 (51 FR 3782), effective January 31, 1986 (51 FR 3782), to implement its base hazardous waste management program. Washington received authorization for revisions to its program on November 23, 1987 (52 FR 35556, 9/22/87), October 16, 1990 (55 FR 33695, 8/17/90), November 4, 1994 (59 FR 55322, 11/4/94), and April 29, 1996 (41 FR 7736, 2/29/96)

On June 16, 1998, Washington submitted a final complete program application to revise its program to include non-trust lands within the 1873 Survey Area of the Puyallup Tribe reservation. Today, Washington is

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seeking approval of its program revision in accordance with 40 CFR 271.21(b)(3).

The EPA reviewed Washington's application, and now makes an immediate final decision, subject to receipt of adverse written comment, that Washington's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final Authorization. Consequently, EPA intends to grant Final Authorization to Washington for the revision.

As provided in the Proposed Rules section of today's FR, the public may submit written comments on EPA's proposed final decision until August 6, 1998. Copies of Washington's application for program revision are available for inspection and copying at the locations indicated in the **ADDRESSES** section of this document.

If EPA does not receive adverse written comment on Washington's program revision by the end of the comment period, the authorization of Washington's revision shall become effective 90 days from the date this document is published and EPA will take no further action on the companion document appearing in the Proposed Rules section of today's **Federal Register**. If the Agency does receive adverse written comment, it will publish a notice withdrawing this immediate final rule before its effective date. EPA then will address the comments in a later final rule based on the companion document appearing in the Proposed Rules section of today's **Federal Register**. EPA may not provide additional opportunity for comment. Any parties interested in commenting should do so in accordance with the time frame provided in today's **Federal Register**.

1. State's Revision Request

The State of Washington applied to the EPA to revise its authorized hazardous waste program to include "non-trust lands within the 1873 Survey Area of the Puyallup Reservation," as defined in the Washington Indian (Puyallup) Land Claims Settlement, 25 U.S.C. 1773 *et seq.*, also cited as the Puyallup Tribe of Indians Settlement Act (hereafter "Settlement Act"), as part of the State's authorized program. The Settlement Act allocates jurisdiction according to an "Agreement between the Puyallup Tribe of Indians, local Governments in Pierce County, the State of Washington, the United States of America, and certain private property owners," (August 27, 1988), hereafter referred to as the "Settlement Agreement." See 25 U.S.C. 1773–1773j. Relying on the Congressional ratification provided in the agreement, the State of Washington is seeking authorization to include non-trust lands within the 1873 Survey Area as part of its authorized program. The State of Washington is not requesting authorization for any new federal rules with this program revision.

2. Analysis of State Submission on Revision of Program

In support of its original interim base program application, Washington asserted it had jurisdiction generally over all lands within state borders. However for the limited purpose of supporting its request for this revision, the State relied solely on the Settlement Act, 25 U.S.C. 1773 *et seq.*, as the basis for its assertion of jurisdiction over non-trust lands within the 1873 Survey Area.

The Settlement Act ratified and confirmed the 1988 Settlement Agreement. Pursuant to the Settlement Act, the "Tribe shall retain and exercise jurisdiction, and the United States and the State and political subdivisions thereof shall retain and exercise jurisdiction, as provided in the Settlement Agreement and Technical Documents and, where not provided therein, as otherwise provided by Federal law." 25 U.S.C. 1773g. The Settlement Agreement provides, for the purposes of the Agreement, that "the federal, state and local governments have exclusive jurisdiction for the administration and implementation of federal, state and local environmental laws on non-trust lands within the 1873 Survey Area." Settlement Agreement, Section VIII(A)(3).

The Settlement Agreement defines the 1873 Survey area as the "area which is within the area demarked by the high water line as meandered and the upland boundaries, as shown on the plat map of the 1873 Survey of the Puyallup Indian Reservation conducted by the United States General Land Office and filed in 1874." 25 U.S.C. 1773j(1). "Trust lands" are defined in the Settlement Agreement to include both "trust land" or "land in trust status," meaning "land or any interest in land the title to which is held in trust by the United States for an individual Indian or Tribe," as well as "restricted land" or "land in restricted status," meaning "land the title to which is held by an individual Indian or Tribe and which can be alienated or encumbered by the owner only with the approval of the Secretary of the Interior." Settlement Agreement, Section VIII(A). "Non-trust lands" exclude those lands defined as "trust lands" under the Settlement Agreement.

Pursuant to the Settlement Agreement, "any federal delegation under the federal environmental laws within the 1873 Survey Area for non-trust lands will be solely to the State of Washington or its political subdivisions, and any federal delegation under the federal environmental laws within the 1873 Survey Area for trust lands will be solely to the Tribe." Settlement Agreement, Section VIII(A)(3). All parties to the Settlement Agreement concur that the term "delegation" was intended to encompass "authorization" as well as "delegation" of federal programs.

Washington's application to extend its authorized program to the non-trust lands within the Survey Area, like its predecessor base program application, attempts to reach into Indian country without limiting that reach to non-Indians. Washington relies on the Settlement Act which ratifies the Settlement Agreement, a document which itself is silent on the issue of jurisdiction over Indians in Indian country on non-trust lands in the Survey Area. In analyzing Washington's application, EPA's starting place is the Settlement Agreement.

The EPA believes the language in the Settlement Agreement with respect to the retention of Federal jurisdiction and the deference given to Federal law in the absence of other controlling law is significant to clarifying the authorization EPA is granting to Washington. Neither the EPA nor the Puyallup Tribe of Indians believes the Settlement Agreement changed operative federal law or superseded relevant case law on the issue of authority over Indians or Indian activities. In *Washington Department of Ecology* v. *EPA*, 752 F.2d 1465 (9th Cir. 1985), the Ninth Circuit held that states generally were precluded from exercising jurisdiction over Indians in Indian country unless Congress clearly expressed an intention to permit such jurisdiction. Both EPA and the Puyallup Tribe of Indians believe the case is relevant to the issues of state jurisdiction related to this authorization.

In that case, the Court held that "EPA reasonably interpreted RCRA not to grant state jurisdiction over the activities of Indians in Indian country." *Id.* at 1469. The Court found this conclusion to be well grounded in federal Indian law and went on to say: "States are generally precluded from exercising jurisdiction over Indians in Indian country unless Congress has clearly expressed an intention to permit it." *Id.* Moreover, "the United States in its role as primary guarantor of Indian interests legitimately may decide that * * * tribal concerns can best be addressed by maintaining federal control over Indian lands. EPA's interpretation of RCRA permits this option." *Id.* at 1470. The Court expressly did not decide "the question of whether Washington is empowered to create a program reaching into Indian country when that reach is limited to non-Indians." *Id.* at 1467. Washington's proposed program, which was the basis of the lawsuit, clearly attempted to reach Indians in Indian country. *Id.*

The Settlement Agreement provides for federal environmental laws within the 1873 Survey Area on non-trust lands to be delegated solely to the State of Washington or its political subdivisions. Settlement Agreement Section VIII.A.3. In carrying out delegated authority, the State and Tribe agree to involve each other in a consultative manner. *Id.* The Settlement Agreement also provides that "the State and its political subdivisions will retain and exercise all jurisdiction and governmental authority over all non-trust lands and the activities conducted thereon and as provided in federal law over non-Indians." Settlement at Section VIII. A.4. Based on the language of the Settlement Agreement as it was ratified by Congress in the Settlement Act, EPA believes that Washington can be authorized for the RCRA program over the non-trust lands within the 1873 Survey Area with limitations.

EPA finds the Settlement Act is not a clear expression of congressional intent to permit the state to exercise jurisdiction over Indians or Indian activities on non-trust lands in the Survey Area. The Settlement Act ratifies the Settlement Agreement, including its provisions for retaining federal jurisdiction, and does not change applicable case law and federal Indian law concerning State jurisdiction over Indians and Indian activities. *See* Settlement Agreement at Section VIII.A.3 and 4. Without a clear expression of intent in the Settlement Agreement as ratified by the Settlement Act to confer jurisdiction on the State over Indians or Indian activities within the 1873 Survey Area, EPA finds that Washington has not adequately demonstrated jurisdiction over Indians or Indian activities within the 1873 Survey Area. The authorization will therefore be limited to non-trust lands within the Survey Area and will not extend to Indians or Indian activities on those non-trust lands. EPA will retain jurisdiction over trust lands and over Indians and Indian activities on non-trust lands within the Survey Area. EPA believes this is consistent with the language and intent of both the Settlement Act and Settlement Agreement and is otherwise consistent with federal Indian law.

A final issue to be addressed in today's rule is the State of Washington's Regulatory Reform Act of 1995 ("Act"). By letters dated June 10, 1997 and November 20, 1997, EPA expressed its belief that the State's Act conflicted with the necessary enforcement authority required for authorization of federal environmental programs to the State. The Act provided that if a conflict existed between the Act and federal program delegation requirements, conflicting provisions could be rendered inoperative upon notice to the Governor. The Attorney General for the State of Washington acknowledged that the Act precluded the State from assessing a civil penalty except where a violation either was of a specific permit term or condition, was a repeat violation, was a violation for which the violator did not come into compliance within a specified period of time, or had a probability of placing a person in danger of death or bodily harm, causing more than minor environmental harm, or causing physical damage to the property of another in excess of one thousand dollars. Subsequently, on December 10, 1997, in accordance with State law, RCW 43.05.902, the State formally notified the Governor of Washington that a conflict existed with the Act and certain federal laws and programs. As a result of the determination of an existing conflict, sections 605, 606, 607(3) and 608 of the Act (prohibiting the State from issuing civil penalties) were deemed to be inoperative to several State programs including the Hazardous Waste Program. In reliance on this determination, EPA believes the conflict has been addressed by rendering inoperative those portions of the Act that conflicted with the State's authorized RCRA program and with this revision request. In addition, EPA is relying on the State's interpretation of another technical assistance law, RCW 43.21A.085 and .087, finding that the law does not conflict with federal authorization requirements because it is a discretionary program, to conclude that the law does not impinge on the State's authority to administer federal environmental programs, including the RCRA program. EPA understands from the State's interpretation that technical assistance visits conducted by the State will not be conducted under the authority of RCW 43.21A.085 and .087.

C. Decision

EPA has reviewed Washington's application and has made a decision that the State's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. EPA has determined that the State of Washington has submitted a sufficient analysis to support its assertion of authority over the non-trust lands within the 1873 Survey Area of the Puyallup Reservation, as defined in the Settlement Act, except over Indians or Indian activities. Consequently, EPA intends to grant final authorization revising Washington's hazardous waste program to include the non-trust lands within the 1873 Survey Area of the Puyallup Reservation but limiting the authorization so that the revised program does not extend to Indians or Indian activities within the Survey Area.

Washington will implement the revised authorized program in the same manner that the program is implemented elsewhere in the State. This includes all aspects of the authorized program such as waste designation requirements; generator, transporter, and recycling requirements; treatment, storage and disposal (TSD) facility requirements; all permitting procedures; corrective action requirements; and compliance monitoring, and enforcement procedures.

All permits issued by U.S. EPA Region 10 on non-trust lands within the 1873 Survey Area prior to final authorization of this revision will continue to be administered by U.S. EPA Region 10 until the issuance or reissuance after modification of a State RCRA permit. Upon the effective date of the issuance, or reissuance after modification to incorporate authorized State requirements, of a State RCRA permit, those EPA-issued permit provisions which the State is authorized to administer and enforce will expire. HSWA provisions for which the State is not authorized will continue in effect under the EPA-issued permit. EPA will continue to implement and enforce HSWA provisions for which the state is not authorized.

I conclude that Washington's application for a program revision meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Washington is granted Final Authorization to operate its hazardous waste program as revised. Washington now has responsibility for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the HSWA and excluding from its revised program authority over Indians or Indian activities within the 1873 Survey Area. Washington also has

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primary enforcement responsibilities for the non-trust lands within the 1873 Survey Area except over Indians and Indian activities within the 1873 Survey Area. EPA will retain jurisdiction over trust lands and over Indians and Indian activities on non-trust lands within the Survey Area. EPA retains the right to conduct inspections under section 3007 of RCRA, 42 U.S.C. 6927, and to take enforcement actions under sections 3008, 3013 and 7003 of RCRA, 42 U.S.C. 6928, 6934 and 6973.

D. Codification in Part 272

The EPA uses 40 CFR part 272 for codification of the decision to authorize Washington's program and for incorporation by reference of those provisions of the State's authorized statutes and regulations EPA will enforce under sections 3008, 3013 and 7003 of RCRA. Therefore, EPA is reserving amendment of 40 CFR part 272, subpart WW, until a later date.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of certain regulatory actions on state, local, and tribal governments and the private sector. Under sections 202 and 205 of the UMRA, EPA generally must prepare a written statement of economic and regulatory alternatives analyses for proposed and final rules with Federal mandates, as defined by the UMRA, that may result in expenditures to State, local, and tribal governments, in the aggregate or to the private sector of $100 million or more in any one year. The section 202 and 205 requirements do not apply to today's action because this rule does not contain a Federal mandate that may result in annual expenditures of $100 million or more for State, local and/or tribal governments in the aggregate, or the private sector. Further, as it applies to the State, this action does not impose a Federal intergovernmental mandate because UMRA does not include duties arising from participation in a voluntary federal program. Today's rule effects an administrative change by authorizing the State to implement its hazardous waste program in lieu of the Federal RCRA program for the non-trust lands within the 1873 Survey Area except over Indians and Indian activities within the 1873 Survey Area. To the extent that the State's hazardous waste program is more stringent than the Federal program, any new requirements imposed on the regulated community apply by virtue of state law; not because of any new Federal requirement imposed pursuant to today's rule.

The requirements of section 203 of UMRA also do not apply to today's action. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, section 203 of the UMRA requires EPA to develop a small government agency plan. This rule contains no regulatory requirements that might significantly or uniquely affect small governments.

Certification Under the Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996), whenever an agency is required to publish a notice of proposed rulemaking under the Administrative Procedure Act or any other statute, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). This analysis is not required, however, if the agency's administrator certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The EPA has determined that this rule will not have a significant economic impact on a substantial number of small entities. Today's rule does not impose any federal requirements on regulated entities, whether large or small. Instead, today's rule effects an administrative change by authorizing the State to implement its hazardous waste program in lieu of the Federal RCRA program for the non-trust lands within the 1873 Survey Area except over Indians and Indian activities within the 1873 Survey Area. Today's rule carries out Congress' intent under both RCRA and the Settlement Act that states should be authorized to implement their own hazardous waste programs as long as those programs are equivalent to, and no less stringent than, the Federal hazardous waste program. In this case, to the extent that the State's hazardous waste program is more stringent than the Federal program, any new requirements imposed on the regulated community apply by virtue of state law; not because of any new Federal requirement imposed pursuant to today's rule.

Pursuant to the provision at 5 U.S.C. 605(b), the Agency hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report which includes a copy of the rule to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of section 6 of Executive Order 12866.

Compliance With Executive Order 12875

Executive Order 12875 restricts, to the extent feasible and permitted by law, the promulgation of any regulation that is not required by statute and that creates a mandate upon a state, local or Tribal government, subject to criteria provided in the order. Today's rule does not impose a mandate upon a State, local or Tribal government. Today's rule effects an administrative change by authorizing the State to implement its hazardous waste program in lieu of the Federal RCRA program for the non-trust lands within the 1873 Survey Area except over Indians and Indian activities within the Area. As such, the final rule is not subject to the requirements of Executive Order 12875.

Compliance With Executive Order 13045

Executive Order 13045 applies to any rule that the Office of Management and Budget determines is "economically significant," as defined under Executive Order 12866, and where EPA determines the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The Agency has determined that the final rule is not a covered regulatory action as defined in the Executive Order because it is not economically significant and is not a health or safety risk-based determination. Today's rule effects an administrative change by authorizing the State to implement its hazardous waste program in lieu of the Federal RCRA program for the non-trust lands within the 1873 Survey Area except over Indians and Indian activities within the 1873 Survey Area. As such, the final rule is not subject to the requirements of Executive Order 13045.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Pub. L. 104–113, section 12(d) (15 U.S.C. 272), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary standards.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: June 24, 1998.

Chuck Clarke,

Regional Administrator.

[FR Doc. 98–17682 Filed 7–6–98; 8:45 am]

BILLING CODE 6560-50-U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 1, 2, 5, 15, 18, 21, 22, 24, 26, 73, 74, 78, 80, 87, 90, 95, 97, and 101

[ET Docket No. 97–94; FCC 98–58]

Streamlining the Equipment Authorization Process

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its rules to simplify the equipment authorization processes, deregulate the authorization requirements for certain types of equipment, and begin implementation of an electronic filing system for equipment authorization applications. These actions will greatly reduce the complexity and burden of the Commission's equipment authorization requirements so that products can be introduced to the market more rapidly. We believe these actions will greatly benefit both large and small manufacturers and encourage the development of innovative products that best meet consumers' needs.

EFFECTIVE DATE: October 5, 1998.

FOR FURTHER INFORMATION CONTACT: Hugh L. Van Tuyl, (202) 418–7506 or Julius P. Knapp, (202) 418–2468, Office of Engineering and Technology.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order*, ET Docket 97–94, FCC 98–58, adopted April 2, 1998, and released April 16, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's duplication contractor, International Transcription Service, (202) 857–3800, 1231 20th Street, N.W. Washington, D.C. 20036.

Summary of the Report and Order

1. On March 13, 1997, the Commission adopted a *Notice of Proposed Rule Making* (*Notice*) 62 FR 24383, May 5, 1997, in the above captioned proceeding. The *Notice* proposed to amend parts 2, 15, 18 and other rule parts to: (1) simplify our existing equipment authorization processes; (2) deregulate the equipment authorization requirements for certain types of equipment; and (3) provide for electronic filing of applications for equipment authorization. The proposals were designed to reduce the burden of the equipment authorization program on manufacturers.

2. We are adopting many of the proposed changes to simplify the authorization process and relax the equipment authorization requirements for certain devices, as well as making the rule changes necessary to implement an electronic filing system for applications.

Simplification of Existing Equipment Authorization Processes

3. There are currently five different equipment authorization procedures specified in Subpart J of Part 2 of the Commission's Rules. The following is a brief description of each procedure:

Type acceptance calls for the manufacturer or importer to submit a written application for review and approval by the Commission. The application must include a complete technical description of the product and a test report showing compliance with the technical requirements. The type acceptance procedure has traditionally been applied to radio transmitters that are used in authorized radio services, such as commercial and private mobile radio services.

Certification is similar to type acceptance. The manufacturer or importer must submit a written application that includes a technical description of the product and a test report showing compliance with the Commission's technical standards. Certification has traditionally been used for low power, unlicensed consumer devices that operate under Parts 15 and 18 of the rules.

Notification requires submittal of a written application, but no test report is required unless specifically requested by the Commission. Notification has been used for a variety of products that demonstrated a good record of compliance, but the Commission found it appropriate to maintain some degree of oversight.

Declaration of Conformity (DoC) is a relatively new self-approval procedure that was established in connection with the Commission's deregulation of the certification requirements for personal computer equipment. The DoC procedure calls for the manufacturer or importer to test the equipment to determine compliance with the FCC standards. The laboratory performing

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the measurements must be accredited by either the National Institute of Standards and Technology (NIST) or the American Association for Laboratory Accreditation (A2LA). A copy of the declaration of conformity, listing the party responsible for compliance, must be included in the literature furnished with the product.

Verification is also a manufacturer self-approval procedure, but unlike the DoC procedure does not require use of an accredited test laboratory and does not require a declaration of compliance to be supplied with the equipment. Verification has been used primarily for certain non-consumer devices operating under parts 15 and 18 of the rules, such as business computers and industrial heating and welding equipment that use radio frequency energy.

4. In order to reduce the complexity of having so many authorization procedures, we proposed to reduce the number to three, which we believe to be the minimum necessary for an effective program. Specifically, we proposed to eliminate the notification procedure, and to combine the type acceptance procedure with certification. We proposed to retain the two self-authorization procedures, verification and declaration of conformity, although we requested comments on the possibility of combining them.

Elimination of the Notification Procedure

5. The notification procedure requires the filing of an application form with the Commission, but it does not require the submittal of any measurement results. This procedure provides us with a record of the equipment being marketed, but we do not review any test data to confirm the compliance of the equipment. We are eliminating the notification procedure. Equipment currently under the notification procedure will be placed in the less stringent DoC or verification procedure.

Combining of Type Acceptance and Certification

6. The current certification and type acceptance procedures are very similar, in that both require the filing of an application form and technical report, and the filing procedure is the same for both. The primary difference is that certain technical information filed with the application is different. In light of this, we believe that it is more efficient to combine them into a single category. We have found in our dealings with the public, parties that are less familiar with the equipment authorization program frequently are confused by the multiple authorization procedures currently contained in the rules. Having a single procedure for equipment that must be authorized by the Commission will make the rules more understandable and thereby promote compliance. Moreover, we note that the term "certification" is generally used worldwide for a system requiring a third-party product approval. Accordingly, we are simplifying the rules by combining the type acceptance and certification procedures into a single procedure called "certification".

Retention of Verification and Declaration of Conformity as Separate Processes

7. We believe there is merit to retaining verification and DoC as separate procedures. Verification is clearly appropriate for equipment that has an excellent record of compliance, where the measurement methods are well known and understood, and where it is relatively easy to determine the party responsible for compliance. The Declaration of Conformity procedure provides added safeguards that are necessary to ensure compliance for certain products that have a greater potential for causing interference or where issues about the proper measurement method may arise. Accordingly, we are making no changes to the verification and DoC procedures.

Relaxation of the Equipment Authorization Requirements for Certain Devices

8. Section 302(a) of the Act states, "* * * *governs the interference potential of devices which in their operation are capable of emitting radio frequency energy* * * *" Section 302(a) of the Act is not intended to require a Commission approval for every type of radio frequency equipment before it can be imported or marketed in the United States. Rather, it gives the Commission authority to make *reasonable* regulations governing the interference potential or radio frequency devices, *consistent with the public interest.* We note that the *Notice* did not propose to change the technical standards governing radio frequency devices; only the methods of authorizing certain devices.

Part 15 Devices

9. The current part 15 rules require TV interface devices and certain receivers to be authorized through the certification procedure. Other receivers and Cable System Terminal Devices (CSTDs) are required to be authorized through the notification procedure. The *Notice* proposed to change the authorization requirement for TV interface devices and receivers, except scanning receivers, to DoC. The *Notice* also proposed to change the authorization requirement for CSTDs from notification to certification.

10. VCRs and many receivers are widely deployed, mass-marketed consumer devices. VCRs that do not comply with the technical standards have the potential for causing interference to television reception, because they generate a signal on television frequencies. In addition, we have occasionally found receivers on the market that do not comply with the rules. We note that both VCRs and receivers require measurements of radio emissions that require considerable skill. For these reasons, we believe that the authorization process for VCRs and receivers should be relaxed to the DoC procedure, rather than verification. However, for the time being we will continue to allow receivers that are contained in a transceiver subject to certification to be authorized under the verification procedure. We will for now also provide the option of obtaining a grant of certification for VCRs and receivers. Any laboratory accredited to perform DoC testing of personal computers and peripherals may perform DoC testing of VCRs and receivers, since the ANSI C63.4–1992 measurement procedure is used for testing all of these devices. We note that there are already many laboratories accredited to perform such testing.

11. The *Notice* proposed to tighten the authorization requirement for CSTDs from notification to certification. We proposed that action in recognition of the fact that there is a large market for "pirate" cable boxes, which allow the viewing of scrambled cable channels without payment to the cable provider.

12. While we recognize that cable signal theft is a serious concern, upon review we believe that attempts to address this problem through our equipment authorization program would likely create substantial administrative burdens and delays in the availability of cable system terminal devices. We believe that our proper focus with regard to CSTDs should be on compliance with our radio emissions standards. Accordingly, we are relaxing the equipment authorization requirement for CSTDs to the DoC procedure, consistent with the requirements for receivers and VCRs.

Part 18 Devices

13. Part 18 consumer ISM equipment has had a reasonably good record of compliance with the FCC requirements. However, these devices could easily cause interference if they did not

conform with our standards because significant radio energy can be radiated into the airwaves. We also note that the measurement of radio emissions from these products requires considerable skill. We believe that relaxing the authorization requirement to the DoC procedure is appropriate, because it relieves manufacturers of the burden of obtaining an approval, but still provides a degree of certainty that the equipment will comply with the standards. We will, for now, allow the option of obtaining certification. We recognize that there are currently no laboratories accredited specifically for part 18 testing, but we are working with the appropriate organizations to establish such accreditation provisions. We note that there are certain similarities between part 15 and part 18 compliance testing. Therefore, until such time as an accreditation procedure is established for part 18 testing, we will accept measurement results from a laboratory accredited for part 15 testing for the purpose of a part 18 DoC.

14. We believe that a compliance statement and a label are necessary to allow identification of equipment that has been tested for compliance, and for identification of the responsible party. Accordingly, we are adopting a requirement for a short compliance statement and simple label on the device. We will require part 18 equipment authorized under the DoC procedure to be labelled with the FCC logo, as we currently require for part 15 equipment authorized under the DoC procedure. The FCC logo was selected to be a recognizable indicator that the device complies with the FCC standards, similar to the use of the "UL" logo to show compliance with Underwriters Laboratory standards, or the "CE" logo to indicate compliance with European standards. We decline to change the requirements contained in § 18.213 since they serve a useful purpose in informing users of the interference potential of the device and any maintenance that may be required for continued compliance with the rules. Finally, we are taking this opportunity to remove the provisions of § 18.205 requiring the filing of a description of the measurement facility used for testing part 18 equipment. This is merely an editorial change, because § 2.948 already requires the same information.

Licensed Transmitters

15. We proposed to change the authorization procedure from notification to either verification or DoC for transmitters operating in licensed services as listed:

- Wildlife tracking and ocean buoys operating under part 5.
- Part 101 point-to-point microwave transmitters.
- Part 73 AM transmitters, FM transmitters, television transmitters, and antenna phase monitors.
- Part 74 Auxiliary Broadcast aural STLs, aural intercity relays, aural STL boosters, aural intercity relay boosters, TV STLs, TV intercity relays, TV translator relays and TV microwave boosters.
- Part 78 Cable Television Relay fixed transmitters.
- Part 80 INMARSAT equipment.
- Part 87 406 MHz emergency locator transmitters.

16. We continue to believe that the authorization requirements for these transmitters may be relaxed, due to the excellent record of compliance compiled thus far. While we initially proposed DoC for certain parts 74, 78 and 101 transmitters in the *Notice*, we now believe that verification would be more appropriate. These transmitters are operated under the terms of a license. Therefore, we can locate and contact a licensee to resolve any interference problems that may develop. In addition, there is currently no laboratory accreditation program for laboratories testing parts 74, 78 and 101 transmitters. Therefore, we are eliminating the notification requirement for all transmitters on the list delineated above, including those under parts 74, 78 and 101, and replacing it with a verification requirement. We will continue to monitor the compliance of this equipment, and may revisit our decision to eliminate the authorization requirements if significant compliance problems develop.

Authorization Changes for Other Devices

17. We requested comments on whether there are other devices not covered above for which the authorization requirements could be relaxed. Motorola requested that we move Family Radio Service transmitters operating under part 95 from certification to DoC, because the equipment is low powered and is based on established designs. The Family Radio Service is a relatively new service, established only in 1996. *See Amendment of Part 95 of the Commission's Rules to Establish a Very Short Distance Two-way Voice Radio Service* in WT 95–102, 11 FCC Rcd 12977 (1996), 61 FR 28768, June 6, 1996. We do not feel that there has been sufficient time to demonstrate a history of compliance which would warrant relaxing the authorization requirements for the equipment used in the service. Accordingly, we decline to place Family Radio Service transmitters under DoC at this time.

18. Ericsson requested that part 22 and part 90 analog base stations be subject to verification, and that part 22 and part 90 analog mobile equipment be subject to DoC since the test procedures are widely known and the equipment has an excellent record of compliance. We have concerns about deregulating the equipment authorization requirements for part 22 and part 90 transmitters due to the need to ensure compliance with recent changes to the technical rules. Also, certain parts 22 and 90 mobile and portable transmitters are subject to recently adopted requirements for routine evaluation for RF exposure. We therefore do not believe that verification is appropriate for the base stations, nor do we believe DoC is appropriate for the mobile stations. However, we will monitor the situation and, if appropriate, will consider relaxing the equipment authorization requirements for the aforementioned equipment in the future.

19. We have concerns about keyless entry transmitters used on automobiles. They are widely deployed, and therefore have a high potential for causing interference if they do not comply with the technical standards. While we do not believe it is appropriate to relax the authorization requirements for keyless entry and passive antitheft devices at this time, we will reevaluate this finding in the future.

Electronic Filing

20. The *Notice* proposed that the Commission adopt an electronic filing system for equipment authorization applications. We believe that the implementation of an electronic filing system will significantly reduce the processing time of equipment authorization applications. Such a system will eliminate the delays associated with filing applications in Pittsburgh, transporting them to the FCC Laboratory and manually logging them in. Also, an electronic system will allow parallel processing of applications, so the administrative and technical reviews can be done simultaneously, thus further reducing the processing time.

21. The Commission has hired a contractor to do the programming of the electronic filing system. Testing of the system began in March, 1998, and we expect that it will soon be fully operational. *See* Public Notice, "OET Prototype Electronic Form 731", released February 27, 1998.

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22. We will require all equipment authorization applications to be filed electronically one year after the effective date of these rules. Prior to that date, we will accept both paper and electronically filed applications while manufacturers become familiar with the new system. We will be amenable to consideration of waiver requests from small businesses that find it a hardship to file applications electronically. We are adding a new paragraph to Section 2.911 indicating that the electronic equivalent of a signature will be accepted in electronically filed applications.

Filing Fees

23. The filing fees for equipment are set at a level based upon the amount of time that is necessary to review applications. Applications for certification of equipment under parts 15 and 18 often require greater review time in comparison to applications for equipment under other rule parts. Consequently, there is a higher fee for those applications. We see no reason to change the current fee of $450 for transmitters used in licensed services. Accordingly, we will set the filing fees as proposed in the *Notice*.

Radio Equipment List

24. The *Notice* proposed to eliminate the Radio Equipment List, since the information in the list is available through other sources. Information on transmitters that have been approved is available electronically from the FCC Internet site and the Public Access Link (PAL) system. In addition, inquiries can be made by telephone to the "status desk" at the Commission's Laboratory. The Commission also releases monthly Public Notices announcing the grants of applications. Because this information is available from various sources, we do not see a need to continue the Radio Equipment List. We disagree that elimination of the list will make it more difficult to locate the manufacturer of equipment which has caused interference, since the information is readily available. We are not making any changes to Section 101.103(d)(2)(ii) of the rules.

Submission of Samples

25. Parties marketing equipment are required to supply a sample to the Commission for testing within 60 days of a request by the Commission. However, in cases involving harmful interference or safety of life, a sample must be supplied within 14 days. We believe that 60 days, or even 30 days, is more time than necessary for supplying a sample in most cases, and could therefore result in noncompliant equipment remaining on the market for a longer period of time. Accordingly, we are adopting a 14 day time limit for supplying test samples to the Commission as proposed in the *Notice*. We recognize that 14 days may not be sufficient in some cases when there are difficulties in supplying a sample. We will continue to consider extensions of time upon submission of a showing of good cause in those cases, as the rules currently allow. We decline to establish a procedure for vouchers or reimbursement of sample purchase costs at this time, due to the complexities involved.

Transfers of Control

26. The *Notice* proposed to clarify the rules that apply to corporate mergers, buyouts and acquisitions involving grantees of equipment authorization. We proposed to combine Sections 2.929, 2.934 and 2.935 of the rules to clarify when an equipment authorization may be assigned or transferred to another party, and when new applications must be filed.

27. Prior to 1989, the Commission's rules required the filing of a new application whenever a change was made to the trade name under which equipment is marketed. In 1989, the Commission eliminated that requirement. However, it appears that Section 2.929 was inadvertently not updated at that time to reflect that change. We are adopting the revised rule on transfers and assignments proposed in the *Notice*, but we are eliminating the reference to filing a new application for name changes.

Transition Provisions

28. The changes adopted here simplify and streamline the equipment authorization procedures. Since they are deregulatory in nature, only a short transition period is necessary. Accordingly, we are making the rules effective October 5, 1998. However, in order to allow manufacturers to obtain the maximum benefit from the changes, equipment may be authorized under the relaxed procedures (i.e.—Declaration of Conformity or verification) effective September 8, 1998.

29. Accordingly, It Is Ordered that parts 0, 1, 2, 5, 15, 18, 21, 22, 24, 26, 73, 74, 78, 80, 87, 90, 95, 97 and 101 of the Commission's Rules and Regulations Are Amended, as specified in the Rule Changes attachment and are effective October 5, 1998. This action is taken pursuant to sections 4(i), 301, 302, 303(e), 303(f), 303(r), 304 and 307 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 301, 302, 303(e), 303(f), 303(r), 304 and 307.

Final Regulatory Flexibility Analysis

30. As required by the Regulatory Flexibility Act ("RFA"),[1] an Initial Regulatory Flexibility Analysis ("IRFA") was incorporated in "*Amendment of Parts 2, 15, 18 and Other Parts of the Commission's Rules to Simplify and Streamline the Equipment Authorization Process for Radio Frequency Equipment*", *Notice of Proposed Rule Making* ("*Notice*"), in ET Docket No. 97–94, 62 FR 24383, May 5, 1997. The Commission sought written public comment on the proposals in the *Notice*, including comment on the IRFA. The Commission's Final Regulatory Flexibility Analysis ("FRFA") in this Report and Order conforms to the RFA.[2]

31. *Need For and Objective of the Rules.*

The Commission is amending parts 2, 15, 18 and other parts of its rules to simplify the equipment authorization processes, deregulate the equipment authorization requirements for certain types of equipment, and begin implementation of an electronic filing system for equipment authorization applications. These actions will greatly reduce the complexity and burden of the Commission's equipment authorization requirements. They will also improve the efficiency of the equipment authorization process so that products can be introduced to the market more rapidly. They will reduce the number of applications required to be filed with the Commission annually from about 3500 to approximately 1800, significantly reducing paperwork requirements on manufacturers. We expect that this action will result in savings of at least $100 million to manufacturers of the products covered by the changes. The provision for electronic filing of applications should significantly reduce the current applications time. We believe these actions will greatly benefit both large and small manufacturers and encourage the development of innovative products that best meet consumer's needs.

32. *Summary of Significant Issues Raised by Public Comments in Response to the IRFA.*

In the IRFA we stated that proposals in this proceeding would result in a significant decrease in equipment authorization applications that must be filed with the Commission. We believe that small entities will benefit from these proposals because in many cases they will no longer be required to file applications with the Commission. Also, small entities will benefit from the simpler regulations and streamlined process for equipment that continues to require authorization by the FCC. We solicited comments regarding these conclusions. No comments were submitted directly in response to the IRFA.

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[1] *See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601 *et. seq.*, has been amended by the Contract With America Advancement Act of 1996, Public Law No. 104–121, 110 Stat 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1966 (SBREFA).

[2] *See* 5 U.S.C. 604.

33. *Description and Estimate of the Number of Small Entities to Which the Rules Will Apply.*

The RFA generally defines small entity as having the same meaning as the terms "small business" "small organization," and "small governmental jurisdictions."[3] In addition, the term "small business" is the same meaning as the term "small business concern" under the Small Business Act ("SBA"), 15 U.S.C. 632, unless the Commission has developed one or more definitions that are appropriate to its activities.[4] Under the SBA, a "small business concern" is one that (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any individual criteria established by the Small Business Administration (SBA).[5]

34. The Commission has not developed a definition of small entities applicable to RF Equipment manufacturers. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to manufacturers of "Radio and Television Broadcasting and Communications Equipment." According to the SBA's regulation, an RF manufacturer must have 750 or fewer employees in order to qualify as a small business.[6] Census Bureau data indicates that there are 858 companies in the United States that manufacture radio and television broadcasting and communications equipment, and that 778 of these firms have fewer than 750 employees and would classified as small entities.[7] We believe that many of the companies that manufacture RF equipment may qualify as small entities.

35. *Description of Projected Reporting, Recordkeeping and Other Compliance Requirements.*

There are currently five different equipment authorization procedures. They are type acceptance, certification, notification, verification and Declaration of Conformity (DoC). We are proposing to eliminate the notification procedure, and to combine the type acceptance procedure with the certification procedure. Equipment currently under the notification procedure will be placed in the less stringent DoC or verification procedure, as appropriate. Both verification and DoC are self-authorization procedures, which allow equipment to be marketed without approval from the FCC once it has been tested and found to comply with the FCC rules. However, the DoC procedure has an additional requirement to test the equipment at an accredited laboratory, which provides a higher degree of confidence that a device will be measured correctly. It also has additional requirements for labelling and information supplied with the product, which allows the Commission to more easily locate the manufacturer in the event the equipment causes interference.

36. Applications for equipment authorization will be required to be filed electronically one year after the effective date of the rules. The equipment required to file will typically consist of a personal computer with an internet connection, a document scanner, a digital camera and software to convert data to the proper format. The equipment is readily available, or applicants can contract with others (e.g.—equipment testing laboratories) who have the equipment.

37. *Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered.*

Simplification of Equipment Authorization Categories

38. The Commission requested comments on its proposal to eliminate the notification category of equipment authorization, and to combine the type acceptance with the certification category of authorization. It also requested comments on whether to combine the DoC and verification procedures.

39. There was no opposition to eliminating the notification procedure, but the Commission received comments concerning combining type acceptance with certification. Motorola stated that the change could be a source of confusion, and Rockwell had concerns that the structure of the proposed rules could be improved. The Commission believes that having three different authorization procedures for equipment requiring approval is an even greater source of confusion than the proposal, particularly for small entities which may not be familiar with the rules. Accordingly, the Commission is eliminating the notification procedure, and combining type acceptance and certification into a single procedure called "certification" for equipment requiring an approval. The structure of the proposed rules is being modified as recommended by Rockwell to make them simpler for both large and small entities to understand.

40. The comments did not support combining the DoC and verification procedures. The DoC procedure is relatively new, and the Commission has expended resources educating small entities about it, so making changes to it at this point would cause confusion. Also, since there is a need to maintain a higher degree of confidence that certain equipment complies with standards to reduce the potential for causing harmful interference, the Commission believes it is necessary to keep the DoC procedure separate from the verification procedure.

Deregulation of Equipment Authorization Requirements

41. The Commission proposed to relax the authorization requirement for equipment operating under various parts of the rules. The comments generally supported relaxing the requirements, and several parties supported even further relaxation than the Commission proposed. Rockwell requested that we place most part 15 receivers under verification, and CEMA requested that we place VCRs under verification. Ford recommended that we move certain Part 15 low power transmitters to DoC and Motorola recommended that we move part 95 Family Radio Service transmitters to DoC. Finally, Ericsson requested that certain parts 22 and 90 transmitters be moved to DoC or verification.

42. The further relaxation in the authorization requirements proposed in the comments would reduce the burden on small entities manufacturing those devices. However, in relaxing the authorization requirements for equipment, the Commission must also consider whether there is an increased likelihood of harmful interference being caused. The Commission has carefully considered the requests made in the comments, and is concerned that relaxing the authorization requirement for these devices beyond what was proposed would result in too great a risk of interference to communication services. The authorization requirements selected by the

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[3] 5 U.S.C. 601(6).

[4] 5 U.S.C. 601(3) (incorporating by reference the definition of "small business concern" in 5 U.S.C. 632).

[5] 15 U.S.C. 632.

[6] *See* 13 CFR 121.201, Standard Industrial Classification (SIC) Code 3663.

[7] *See* U.S. Department of Commerce, 1992 Census of Transportation, Communications and Utilities (issued May 1995), SIC category 3663.

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Commission for each type of equipment are believed to be the least burdensome necessary to minimize the risk of interference, and will therefore have the least impact on small entities.

Electronic Filing

43. The Commission proposed to implement an electronic filing system for equipment authorization applications. It also solicited comments on whether the system should be mandatory or whether paper applications should continue to be accepted. The comments supported developing an electronic filing system, but some parties expressed concern about whether the Commission would mandate electronic filing, which could be burdensome for some entities.

44. The Commission believes that the implementation of an electronic filing system will significantly reduce the processing time of equipment authorization applications. Such a system would eliminate the delays associated with filing applications in Pittsburgh, transporting them to the Commission's Laboratory and manually logging them in. It would also allow parallel processing of applications, so the administrative and technical reviews can be done simultaneously, thus further reducing the processing time. Such a system will benefit small entities by reducing the costs caused by delays in marketing new equipment. We have decided to make the system mandatory, since the equipment required to electronically file applications is readily available. However, we will continue to accept paper applications for a period of one year to minimize the impact on small entities.

45. *Report to Congress.* The Commission shall send a copy of this Final Regulatory Flexibility Analysis, along with this First Report and Order, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801(a)(1)(A), and the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 0

Reporting and recordkeeping requirements.

47 CFR Parts 1 and 2

Radio, Reporting and recordkeeping requirements.

47 CFR Part 5

Radio.

47 CFR Part 15

Communications equipment.

47 CFR Part 18

Business and industry, Scientific equipment.

47 CFR Parts 21, 22, and 24

Communications equipment, Radio.

47 CFR Part 26

Radio.

47 CFR Parts 73, 74, 78, 80, 87, 90, 95, 97, and 101

Communications equipment, Radio.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

Rules Changes

For the reasons discussed in the preamble Parts 0, 1, 2, 5, 15, 18, 21, 22, 24, 26, 73, 74, 78, 80, 87, 90, 95, 97 and 101 of Title 47 of the Code of Federal Regulations are amended as follows:

PART 0—COMMISSION ORGANIZATION

1. The authority citation for part 0 continues to read as follows:

Authority: Secs. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155.

§ 0.31 [Amended]

2. Section 0.31, paragraph (j) is amended by removing the term "type approval and acceptance, and certification" and adding in its place "approval".

§ 0.401 [Amended]

3. Section 0.401, paragraph (a)(2) is amended by revising the second sentence to read "The mailing address is: Federal Communications Commission, Equipment Authorization Division, 7435 Oakland Mills Road, Columbia, MD 21046".

§ 0.406 [Amended]

4. Section 0.406, paragraph (b)(3) is amended by removing the term "type acceptance and type approval" and adding in its place "authorization".

§ 0.433 [Removed]

5. Section 0.433 is removed.

§ 0.453 [Amended]

6. Section 0.453, paragraph (k) is amended by removing the term "(Type accepted, type approved, certified and notified)".

§ 0.455 [Amended]

7. Section 0.455, paragraph (e)(3) is amended by removing the term "(type accepted, type approval, certification, or advance approval of subscription television systems)".

§ 0.457 [Amended]

8. Section 0.457, paragraph (d)(1)(ii) is amended by removing the term "(type acceptance, type approval, certification, or advance approval of subscription television systems)".

PART 1—PRACTICE AND PROCEDURE

9. The authority citation for part 1 continues to read as follows:

Authority: 15 U.S.C. 79 *et seq.*; 47 U.S.C. 151, 154(i), 154(j), 155, 225, and 303(r).

§ 1.77 [Amended]

10. Section 1.77, paragraph (g) is amended by removing the term "type approval and type acceptance" and adding in its place "certification", and removing the reference to "subpart F" and adding in its place "subpart J".

11. Section 1.1103 is revised to read as follows:

§ 1.1103 Schedule of charges for equipment authorization, experimental radio services, ship inspections and international telecommunications settlements.

Action	FCC form No.	Fee amount	Payment type code	Address
1. Certification:				
a. Receivers (except TV and FM).	731	350	EEC	Federal Communications Commission, Equipment Approval Services, P.O. Box 358315, Pittsburgh, PA 15251–5315.
b. Devices under Parts 11, 15 and 18 (except receivers).	731	895	EGC	Federal Communications Commission, Equipment Approval Services, P.O. Box 358315, Pittsburgh, PA 15251–5315.
c. All other devices	731	450	EFT	Federal Communications Commission, Equipment Approval Services, P.O. Box 358315, Pittsburgh, PA 15251–5315.

Action	FCC form No.	Fee amount	Payment type code	Address
d. Modifications and Class II Permissive Changes.	731	45	EAC	Federal Communications Commission, Equipment Approval Services, P.O. Box 358315, Pittsburgh, PA 15251–5315.
e. Request for Confidentiality	731 or 159 & Corres.	130	EBC	Federal Communications Commission, Equipment Approval Services, P.O. Box 358315, Pittsburgh, PA 15251–5315.
2. Advance Approval for Subscription TV System.	159 & Corres	2,740	EIS	Federal Communications Commission, Equipment Approval Services, P.O. Box 358315, Pittsburgh, PA 15251–5315.
a. Request for Confidentiality	159 & Corres	130	EBS	Federal Communications Commission, Equipment Approval Services, P.O. Box 358315, Pittsburgh, PA 15251–5315.
3. Assignment of Applicant Code:				
a. New applicants for all application types except Subscription TV.	159 & Corres	45	EAG	Federal Communications Commission, Equipment Approval Services, P.O. Box 358315, Pittsburgh, PA 15251–5315.
4. Experimental Radio Service:				
a. New Station Authorization	442	45	EAE	Federal Communications Commission, Equipment Approval Services, P.O. Box 358320, Pittsburgh, PA 15251–5320.
b. Modification of Authorization.	442	45	EAE	Federal Communications Commission, Equipment Approval Services, P.O. Box 358320, Pittsburgh, PA 15251–5320.
c. Renewal of Station Authorization.	405	45	EAE	Federal Communications Commission, Equipment Approval Services, P.O. Box 358320, Pittsburgh, PA 15251–5320.
d. Assignment or Transfer of Control.	702 or 703	45	EAE	Federal Communications Commission, Equipment Approval Services, P.O. Box 358320, Pittsburgh, PA 15251–5320.
e. Special Temporary Authority.	159 & Corres	45	EAE	Federal Communications Commission, Equipment Approval Services, P.O. Box 358320, Pittsburgh, PA 15251–5320.
f. Additional fee required for any of the above applications that request confidentiality.	159 & Corres	45	EAE	Federal Communications Commission, Equipment Approval Services, P.O. Box 358320, Pittsburgh, PA 15251–5320.
5. Ship Inspections:				
a. Passenger Vessel Under Title III, Part III.	801	390	FCS	Federal Communications Commission, P.O. Box 358110, Pittsburgh, PA 15251–5110.
b. Oceangoing Vessel Under Title III, Part II.	801	755	FFS	Federal Communications Commission, P.O. Box 358110, Pittsburgh, PA 15251–5110.
c. Vessels Under the Great Lakes Agreement.	801	110	FDS	Federal Communications Commission, P.O. Box 358110, Pittsburgh, PA 15251–5110.
d. Vessels Under the Safety of Life at Sea (SOLAS) Convention.	801	660	FES	Federal Communications Commission, P.O. Box 358110, Pittsburgh, PA 15251–5110.
e. Temporary Waiver of Inspection.	159 & Corres	75	FBS	Federal Communications Commission, P.O. Box 358110, Pittsburgh, PA 15251–5110.
6. International Telecommunications Settlements Administrative Fee for Collections (per line item).	99	2	IAT	Licensees will be billed.

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

12. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302, 303, 307, and 336, unless otherwise noted.

13. Section 2.803, paragraph (a)(1) is revised to read as follows:

§ 2.803 Marketing of radio frequency devices prior to equipment authorization.

(a) * * *

(1) In the case of a device subject to certification, such device has been authorized by the Commission in accordance with the rules in this chapter and is properly identified and labelled as required by § 2.925 and other relevant sections in this chapter; or

* * * * *

§ 2.901 [Amended]

14. Section 2.901, paragraph (a) is amended by removing the term "type acceptance, certification, registration or notification" and adding in its place "certification or registration". Paragraph (b) is amended by removing the term "type acceptance, certification or notification" and adding in its place "certification".

§ 2.904 [Removed]

15. Section 2.904 is removed.

§ 2.905 [Removed]

16. Section 2.905 is removed.

17. Section 2.907, paragraph (a) is revised to read as follows:

§ 2.907 Certification.

(a) Certification is an equipment authorization issued by the Commission, based on representations

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and test data submitted by the applicant.

* * * * *

18. Section 2.911 is amended by adding a new paragraph (g) to read as follows:

§ 2.911 Written application required.

* * * * *

(g) "Signed," as used in this section, means an original handwritten signature; however, the Office of Engineering and Technology may allow signature by any symbol executed or adopted by the applicant with the intent that such symbol be a signature, including symbols formed by computer-generated electronic impulses.

19. Section 2.913 is amended by revising paragraph (b) and adding a new paragraph (c) as follows:

§ 2.913 Submittal of equipment authorization application or information to the Commission.

* * * * *

(b) Any information or equipment samples requested by the Commission pursuant to the provisions of subpart J of this part shall, unless otherwise directed, be submitted to the Federal Communications Commission, Equipment Authorization Division, 7435 Oakland Mills Road, Columbia, Maryland 21046.

(c) Effective October 5, 1999, all applications for equipment authorization must be filed electronically. The Commission will be amenable to consideration of waiver requests from small businesses that find it a hardship to file applications electronically. Information on the procedures for electronically filing equipment authorization applications can be obtained from the address in paragraph (b) of this section.

20. Section 2.915, paragraphs (a) introductory text and (c) are revised to read as follows:

§ 2.915 Grant of application.

(a) The Commission will grant an application for certification if it finds from an examination of the application and supporting data, or other matter which it may officially notice, that:

* * * * *

(c) Certification shall not attach to any equipment, nor shall any equipment authorization be deemed effective, until the application has been granted.

§ 2.924 [Amended]

21. Section 2.924 is amended by revising the second sentence to read as follows:

* * * * *

A device will be considered to be electrically identical if no changes are made to the device authorized by the Commission, or if the changes made to the device would be treated as class I permissive changes within the scope of § 2.1043(b)(1).

* * * * *

22. Section 2.929 is revised to read as follows:

§ 2.929 Changes in name, address, ownership or control of grantee.

(a) An equipment authorization issued by the Commission may not be assigned, exchanged or in any other way transferred to a second party, except as provided in this section.

(b) The grantee of an equipment authorization may license or otherwise authorize a second party to manufacture the equipment covered by the grant of the equipment authorization provided:

(1) The equipment manufactured by such second party bears the FCC Identifier as is set out in the grant of the equipment authorization.

Note to paragraph (b)(1): Any change in the FCC Identifier desired as a result of such production or marketing agreement will require the filing of a new application for an equipment authorization as specified in § 2.933.

(2) The grantee of the equipment authorization shall continue to be responsible to the Commission for the equipment produced pursuant to such an agreement.

(c) Whenever there is a change in the name and/or address of the grantee of an equipment authorization, written notice of such change(s) shall be submitted to the Commission within 30 days after the grantee starts using the new name and/or address.

(d) In the case of transactions affecting the grantee, such as a transfer of control or sale to another company, mergers, or transfer of manufacturing rights, notice must be given to the Commission in writing within 60 days after the consummation of the transaction. Depending on the circumstances in each case, the Commission may require new applications for equipment authorization. In reaching a decision the Commission will consider whether the acquiring party can adequately ensure and accept responsibility for continued compliance with the regulations. In general, new applications for each device will not be required. A single application for equipment authorization may be filed covering all the affected equipment.

23. Section 2.931 is revised to read as follows:

§ 2.931 Responsibility of the grantee.

In accepting a grant of an equipment authorization, the grantee warrants that each unit of equipment marketed under such grant and bearing the identification specified in the grant will conform to the unit that was measured and that the data (design and rated operational characteristics) filed with the application for certification continues to be representative of the equipment being produced under such grant within the variation that can be expected due to quantity production and testing on a statistical basis.

24. Section 2.932 is revised to read as follows:

§ 2.932 Modification of equipment.

(a) A new application for an equipment authorization shall be filed whenever there is a change in the design, circuitry or construction of an equipment or device for which an equipment authorization has been issued, except as provided in paragraphs (b) through (d) of this section.

(b) Permissive changes may be made in certificated equipment, and equipment that was authorized under the former type acceptance procedure, pursuant to § 2.1043.

(c) Permissive changes may be made in equipment that was authorized under the former notification procedure without submittal of information to the Commission, unless the equipment is currently subject to authorization under the certification procedure. However, the grantee shall submit information documenting continued compliance with the pertinent requirements upon request.

(d) All requests for permissive changes submitted to the Commission must be accompanied by the anti-drug abuse certification required under § 1.2002 of this chapter.

25. Section 2.933 is revised to read as follows:

§ 2.933 Change in identification of equipment.

(a) A new application for equipment authorization shall be filed whenever there is a change in the FCC Identifier for the equipment with or without a change in design, circuitry or construction. However, a change in the model/type number or trade name performed in accordance with the provisions in § 2.924 of this chapter is not considered to be a change in identification and does not require additional authorization from the Commission.

(b) An application filed pursuant to paragraph (a) of this section where no change in design, circuitry or construction is involved, need not be accompanied by a resubmission of equipment or measurement or test data customarily required with a new application, unless specifically requested by the Commission. In lieu thereof, the applicant shall attach a statement setting out:

(1) The original identification used on the equipment prior to the change in identification.

(2) The date of the original grant of the equipment authorization.

(3) How the equipment bearing the modified identification differs from the original equipment.

(4) Whether the original test results continue to be representative of and applicable to the equipment bearing the changed identification.

(5) The photographs required by § 2.1033(b)(7) or § 2.1033(c)(12) showing the exterior appearance of the equipment, including the operating controls available to the user and the identification label. Photographs of the construction, the component placement on the chassis, and the chassis assembly are not required to be submitted unless specifically requested by the Commission.

(c) If the change in the FCC Identifier also involves a change in design or circuitry which falls outside the purview of a permissive change described in § 2.1043, a complete application shall be filed pursuant to § 2.911.

§ 2.934 [Removed]

26. Section 2.934 is removed.

§ 2.935 [Removed]

27. Section 2.935 is removed.

28. Section 2.938 is amended by revising paragraph (c) to read as follows:

§ 2.938 Retention of records.

* * * * *

(c) The records listed in paragraph (a) of this section shall be retained for one year for equipment subject to authorization under the certification procedure or former type acceptance procedure, or for two years for equipment subject to authorization under any other procedure, after the manufacture of said equipment has been permanently discontinued, or until the conclusion of an investigation or a proceeding if the responsible party (or, under paragraph (b) of this section, the manufacturer) is officially notified that an investigation or any other administrative proceeding involving its equipment has been instituted.

* * * * *

§ 2.943 [Amended]

29. Section 2.943, paragraph (a) is amended by removing the words "for type acceptance, certification or notification".

30. Section 2.946 is revised to read as follows:

§ 2.946 Penalty for failure to provide test samples and data.

(a) Any responsible party, as defined in § 2.909, or any party who markets equipment subject to the provisions of this chapter, shall provide test sample(s) or data upon request by the Commission. Failure to comply with such a request within 14 days may be cause for forfeiture, pursuant to § 1.80 of this chapter, or other administrative sanctions such as suspending action on any applications for equipment authorization submitted by such party while the matter is being resolved.

(b) The Commission may consider extensions of time upon submission of a showing of good cause.

§ 2.948 [Amended]

31. Section 2.948, paragraph (a)(2) first sentence is amended by removing the words "or the notification".

§ 2.971 [Removed]

32. The undesignated center heading "Notification" and § 2.971 are removed.

§ 2.973 [Removed]

33. Section 2.973 is removed.

§ 2.975 [Removed]

34. Section 2.975 is removed.

§ 2.977 [Removed]

35. Section 2.977 is removed.

§ 2.981 [Removed]

36. The undesignated center heading "Type Acceptance" and § 2.981 is removed.

§ 2.983 [Removed]

37. Section 2.983 is removed.

§ 2.985 [Redesignated as § 2.1046]

38. Section 2.985 is redesignated as new § 2.1046, and the reference to "§ 2.983(d)(5)" in paragraph (a) is removed and add in its place "§ 2.1033(c)(8)".

§ 2.987 [Redesignated as § 2.1047]

39. Section 2.987 is redesignated as new § 2.1047, and the reference to "§ 2.989" in paragraph (c) is removed and add in its place "§ 2.1049".

§ 2.989 [Redesignated as § 2.1049]

40. Section 2.989 is redesignated as new § 2.1049.

§ 2.991 [Redesignated as § 2.1051]

41. Section 2.991 is redesignated as new § 2.1051, and the reference to "§ 2.989" is removed and add in its place "§ 2.1049".

§ 2.993 [Redesignated as § 2.1053]

42. Section 2.993 is redesignated as new § 2.1053, and the reference to "§ 2.989" is removed and add in its place "§ 2.1049".

§ 2.995 [Redesignated as § 2.1055]

43. Section 2.995 is redesignated as § 2.1055.

§ 2.997 [Redesignated as § 2.1057]

44. Section 2.997 is redesignated as § 2.1057, and the references to "§§ 2.991 and 2.993" in paragraph (a) are removed and add in its place "§§ 2.1051 and 2.1053", respectively.

§ 2.999 [Removed]

45. Section 2.999 is removed.

§ 2.1001 [Removed]

46. Section 2.1001 is removed.

§ 2.1005 [Removed]

47. Section 2.1005 is removed.

48. Section 2.1033 is revised to read as follows:

§ 2.1033 Application for certification.

(a) An application for certification shall be filed on FCC Form 731 with all questions answered. Items that do not apply shall be so noted.

(b) Applications for equipment operating under Parts 11, 15 and 18 of the rules shall be accompanied by a technical report containing the following information:

(1) The full name and mailing address of the manufacturer of the device and the applicant for certification.

(2) FCC identifier.

(3) A copy of the installation and operating instructions to be furnished the user. A draft copy of the instructions may be submitted if the actual document is not available. The actual document shall be furnished to the FCC when it becomes available.

(4) A brief description of the circuit functions of the device along with a statement describing how the device operates. This statement should contain a description of the ground system and antenna, if any, used with the device.

(5) A block diagram showing the frequency of all oscillators in the device. The signal path and frequency shall be indicated at each block. The tuning range(s) and intermediate frequency(ies) shall be indicated at each block. A schematic diagram is also required for intentional radiators.

(6) A report of measurements showing compliance with the pertinent FCC technical requirements. This report shall identify the test procedure used (e.g., specify the FCC test procedure, or industry test procedure that was used), the date the measurements were made,

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the location where the measurements were made, and the device that was tested (model and serial number, if available). The report shall include sample calculations showing how the measurement results were converted for comparison with the technical requirements.

(7) A sufficient number of photographs to clearly show the exterior appearance, the construction, the component placement on the chassis, and the chassis assembly. The exterior views shall show the overall appearance, the antenna used with the device (if any), the controls available to the user, and the required identification label in sufficient detail so that the name and FCC identifier can be read. In lieu of a photograph of the label, a sample label (or facsimile thereof) may be submitted together with a sketch showing where this label will be placed on the equipment. Photographs shall be of size A4 (21 cm × 29.7 cm) or 8 × 10 inches (20.3 cm × 25.4 cm). Smaller photographs may be submitted provided they are sharp and clear, show the necessary detail, and are mounted on A4 (21 cm × 29.7 cm) or 8.5 × 11 inch (21.6 cm × 27.9 cm) paper. A sample label or facsimile together with the sketch showing the placement of this label shall be on the same size paper.

(8) If the equipment for which certification is being sought must be tested with peripheral or accessory devices connected or installed, a brief description of those peripherals or accessories. The peripheral or accessory devices shall be unmodified, commercially available equipment.

(9) For equipment subject to the provisions of part 15 of this chapter, the application shall indicate if the equipment is being authorized pursuant to the transition provisions in § 15.37 of this chapter.

(10) Applications for the certification of direct sequence spread spectrum transmitters under part 15 shall be accompanied by an exhibit demonstrating compliance with the processing gain provisions of § 15.247(e) of this chapter. Applications for the certification of frequency hopping transmitters under part 15 shall be accompanied by an exhibit describing compliance of the associated receiver or receivers with § 15.247(a)(1) of this chapter.

(11) Applications for the certification of scanning receivers shall include a statement describing the methods used to comply with the design requirements of § 15.121(a) of this chapter or the marketing requirements of § 15.121(b) of this chapter.

(c) Applications for equipment other than that operating under parts 15 and 18 of the rules shall be accompanied by a technical report containing the following information:

(1) The full name and mailing address of the manufacturer of the device and the applicant for certification.

(2) FCC identifier.

(3) A copy of the installation and operating instructions to be furnished the user. A draft copy of the instructions may be submitted if the actual document is not available. The actual document shall be furnished to the FCC when it becomes available.

(4) Type or types of emission.

(5) Frequency range.

(6) Range of operating power values or specific operating power levels, and description of any means provided for variation of operating power.

(7) Maximum power rating as defined in the applicable part(s) of the rules.

(8) The dc voltages applied to and dc currents into the several elements of the final radio frequency amplifying device for normal operation over the power range.

(9) Tune-up procedure over the power range, or at specific operating power levels.

(10) A schematic diagram and a description of all circuitry and devices provided for determining and stabilizing frequency, for suppression of spurious radiation, for limiting modulation, and for limiting power.

(11) A photograph or drawing of the equipment identification plate or label showing the information to be placed thereon.

(12) Photographs (8″ x 10″) of the equipment of sufficient clarity to reveal equipment construction and layout, including meters, if any, and labels for controls and meters and sufficient views of the internal construction to define component placement and chassis assembly. Insofar as these requirements are met by photographs or drawings contained in instruction manuals supplied with the certification request, additional photographs are necessary only to complete the required showing.

(13) For equipment employing digital modulation techniques, a detailed description of the modulation system to be used, including the response characteristics (frequency, phase and amplitude) of any filters provided, and a description of the modulating wavetrain, shall be submitted for the maximum rated conditions under which the equipment will be operated.

(14) The data required by §§ 2.1046 through 2.1057, inclusive, measured in accordance with the procedures set out in § 2.1041.

(15) The application for certification of an external radio frequency power amplifier under part 97 of this chapter need not be accompanied by the data required by paragraph (b)(14) of this section. In lieu thereof, measurements shall be submitted to show compliance with the technical specifications in subpart C of part 97 of this chapter and such information as required by § 2.1060 of this part.

(16) An application for certification of an AM broadcast stereophonic exciter-generator intended for interfacing with existing certified, or formerly type accepted or notified transmitters must include measurements made on a complete stereophonic transmitter. The instruction book must include complete specifications and circuit requirements for interconnecting with existing transmitters. The instruction book must also provide a full description of the equipment and measurement procedures to monitor modulation and to verify that the combination of stereo exciter-generator and transmitter meet the emission limitations of § 73.44.

(17) A single application may be filed for a composite system that incorporates devices subject to certification under multiple rule parts, however, the appropriate fee must be included for each device. Separate applications must be filed if different FCC Identifiers will be used for each device.

49. Section 2.1041 is revised to read as follows:

§ 2.1041 Measurement procedure.

For equipment operating under parts 15 and 18, the measurement procedures are specified in the rules governing the particular device for which certification is requested. For equipment operating in the authorized radio services, measurements are required as specified in §§ 2.1046, 2.1047, 2.1049, 2.1051, 2.1053, 2.1055 and 2.1057. See also § 2.947.

50. Section 2.1043 is revised to read as follows:

§ 2.1043 Changes in certificated equipment.

(a) Changes to the basic frequency determining and stabilizing circuitry (including clock or data rates), frequency multiplication stages, basic modulator circuit or maximum power or field strength ratings shall not be performed without application for and authorization of a new grant of certification. Variations in electrical or mechanical construction, other than these indicated items, are permitted provided the variations either do not affect the characteristics required to be reported to the Commission or the variations are made in compliance with the other provisions of this section.

(b) Two classes of permissive changes may be made in certificated equipment without requiring a new application for and grant of certification. Neither class of change shall result in a change in identification.

(1) A Class I permissive change includes those modifications in the equipment which do not degrade the characteristics reported by the manufacturer and accepted by the Commission when certification is granted. No filing with the Commission is required for a Class I permissive change.

(2) A Class II permissive change includes those modifications which degrade the performance characteristics as reported to the Commission at the time of the initial certification. Such degraded performance must still meet the minimum requirements of the applicable rules. When a Class II permissive change is made by the grantee, the grantee shall supply the Commission with complete information and the results of tests of the characteristics affected by such change. The modified equipment shall not be marketed under the existing grant of certification prior to acknowledgement by the Commission that the change is acceptable.

(3) Except as specified below, permissive changes, as detailed above, shall be made only by the holder of the grant of certification. Changes by any party other than the grantee require a new application for and grant of certification.

(c) A grantee desiring to make a change other than a permissive change shall file an application on FCC Form 731 accompanied by the required fees. The grantee shall attach a description of the change(s) to be made and a statement indicating whether the change(s) will be made in all units (including previous production) or will be made only in those units produced after the change is authorized.

(d) A modification which results in a change in the identification of a device with or without change in circuitry requires a new application for, and grant of certification. If the changes affect the characteristics required to be reported, a complete application shall be filed. If the characteristics required to be reported are not changed the abbreviated procedure of § 2.933 may be used.

(e) Equipment that has been certificated or formerly type accepted for use in the Amateur Radio Service pursuant to the requirements of part 97 of this chapter may be modified without regard to the conditions specified in paragraph (b) of this section, provided the following conditions are met:

(1) Any person performing such modifications on equipment used under part 97 of this chapter must possess a valid amateur radio operator license of the class required for the use of the equipment being modified.

(2) Modifications made pursuant to this paragraph are limited to equipment used at licensed amateur radio stations.

(3) Modifications specified or performed by equipment manufacturers or suppliers must be in accordance with the requirements set forth in paragraph (b) of this section.

(4) Modifications specified or performed by licensees in the Amateur Radio Service on equipment other than that at specific licensed amateur radio stations must be in accordance with the requirements set forth in paragraph (b) of this section.

(5) The station licensee shall be responsible for ensuring that modified equipment used at his station will comply with the applicable technical standards in part 97 of this chapter.

(f) For equipment other than that operating under parts 15 or 18, when a Class II permissive change is made by other than the grantee of certification, the information and data specified in paragraph (b)(2) of this section shall be supplied by the person making the change. The modified equipment shall not be operated under an authorization of the Commission prior to acknowledgement by the Commission that the change is acceptable.

(g) The interconnection of a certificated or formerly type accepted AM broadcast stereophonic exciter-generator with a certificated or formerly type accepted AM broadcast transmitter in accordance with the manufacturer's instructions and upon completion of measurements showing that the modified transmitter meets the emission limitation requirements of § 73.44 is defined as a Class I permissive change for compliance with this section.

(h) The interconnection of a multiplexing exciter with a certificated or formerly type accepted AM broadcast transmitter in accordance with the manufacturer's instructions without electrical or mechanical modification of the transmitter circuits and completion of equipment performance measurements showing the transmitter meets the minimum performance requirements applicable thereto is defined as a Class I permissive change for compliance with this section.

(i) The addition of TV broadcast subcarrier generators to a certificated or formerly type accepted TV broadcast transmitter or the addition of FM broadcast subcarrier generators to a type accepted FM broadcast transmitter, provided the transmitter exciter is designed for subcarrier operation without mechanical or electrical alterations to the exciter or other transmitter circuits.

(j) The addition of TV broadcast stereophonic generators to a certificated or formerly type accepted TV broadcast transmitter or the addition of FM broadcast stereophonic generators to a certificated or formerly type accepted FM broadcast transmitter, provided the transmitter exciter is designed for stereophonic sound operation without mechanical or electrical alterations to the exciter or other transmitter circuits.

(k) The addition of subscription TV encoding equipment for which the FCC has granted advance approval under the provisions of § 2.1400 in subpart M and § 73.644(c) of part 73 to a certificated or formerly type accepted transmitter is considered a Class I permissive change.

(l) Notwithstanding the provisions of this section, broadcast licensees or permittees are permitted to modify certificated or formerly type accepted equipment pursuant to § 73.1690 of the FCC's rules.

51. A new § 2.1060 is added to read as follows:

§ 2.1060 Equipment for use in the amateur radio service.

(a) The general provisions of §§ 2.925, 2.1031, 2.1033, 2.1041, 2.1043, 2.1051, 2.1053 and 2.1057 shall apply to applications for, and grants of, certification for equipment operated under the requirements of part 97 of this chapter, the Amateur Radio Service.

(b) When performing the tests specified in §§ 2.1051 and 2.1053 of this part, the center of the transmitted bandwidth shall be within the operating frequency band by an amount equal to 50 percent of the bandwidth utilized for the tests. In addition, said tests shall be made on at least one frequency in each of the bands within which the equipment is capable of tuning.

(c) Any supplier of an external radio frequency power amplifier kit as defined by § 97.3(a)(17) of this chapter shall comply with the following requirements:

(1) Assembly of one unit of a specific type shall be made in exact accordance with the instructions being supplied with the product being marketed. If all of the necessary components are not normally furnished with the kit, assembly shall be made using the recommended components.

(2) The measurement data required for certification shall be obtained for this

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unit and submitted with the certification application. Unless otherwise requested, it is not necessary to submit this unit with the application.

(3) A copy of the exact instructions which will be provided for assembly of the equipment shall be provided in addition to other material required by § 2.1033 of this part.

(4) The identification label required by § 2.925 of this part shall be permanently affixed to the assembled unit and shall be of sufficient size so as to be easily read. The following information shall be shown on the label:

(Name of Grantee of Certification)

FCC ID: (The number assigned to the equipment by the grantor)

This amplifier can be expected to comply with part 97 of the FCC Regulations when assembled and aligned in strict accordance with the instruction manual using components with the kit or an exact equivalent thereof.

(Title and signature of responsible representative of Grantee)

Statement of Compliance

I state that I have constructed this equipment in accordance with the instruction manual and using the parts furnished by the supplier of this kit.

(Signature)
(Date)

(Amateur call sign) (Class of license)

(Expiration date of license)

To be signed by the person responsible for proper assembly of kit.)

(5) If requested, an unassembled unit shall be provided for assembly and test by the Commission. Shipping charges to and from the Commission's Laboratory shall be borne by the applicant.

(d) Certification of external radio frequency power amplifiers and amplifier kits may be denied when denial serves the public interest, convenience and necessity by preventing the use of these amplifiers in services other than the Amateur Radio Service. Other uses of these amplifiers, such as in the Citizens Band Radio Service, are prohibited (§ 95.411 of this chapter). Examples of features which may result in the denial of certification are contained in § 97.317 of this chapter.

PART 5—EXPERIMENTAL RADIO SERVICES (OTHER THAN BROADCAST)

52. The authority citation for part 5 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply sec. 301, 48 Stat. 1081, as amended; 47 U.S.C. 301.

§ 5.108 [Amended]

53. Section 5.108, paragraph (a) is amended by removing the term "type accepted" and adding in its place "verified".

54. Section 5.109 is revised to read as follows:

§ 5.109 Acceptability of transmitters for licensing.

All transmitters used at stations licensed for wildlife and ocean buoy tracking and telemetering operations pursuant to § 5.108 shall be verified pursuant to subpart J of part 2 of this chapter.

PART 15—RADIO FREQUENCY DEVICES

55. The authority citation for part 15 continues to read as follows:

Authority: 47 U.S.C. 154, 302, 303, 304, 307 and 544A.

§ 15.19 [Amended]

56. Section 15.19, paragraph (a) introductory text is amended by removing the word "notification,".

§ 15.25 [Amended]

57. Section 15.25, paragraph (b) introductory text is amended by removing the term "notified" and adding in its place "authorized under the Declaration of Conformity procedure," paragraph (b)(2) is amended by removing the term "notification" and adding in its place "Declaration of Conformity" and paragraph (c) is amended by removing the term "or notification".

§ 15.31 [Amended]

58. Section 15.31, paragraph (b) is amended by removing the term "notification or". Paragraph (f)(3) is amended by removing the term "notification" and adding in its place "Declaration of Conformity".

§ 15.35 [Amended]

59. Section 15.35, paragraph (c) is amended by removing the term "notification" and adding in its place "Declaration of Conformity".

60. Section 15.101, paragraphs (a) and (b) are revised to read as follows:

§ 15.101 Equipment authorization of unintentional radiators.

(a) Except as otherwise exempted in §§ 15.23, 15.103, and 15.113, unintentional radiators shall be authorized prior to the initiation of marketing, as follows:

Type of device	Equipment authorization required
TV broadcast receiver	Verification.
FM broadcast receiver	Verification.
CB receiver	Declaration of Conformity or Certification.
Superregenerative receiver	Declaration of Conformity or Certification.
Scanning receiver	Certification.
All other receivers subject to part 15	Declaration of Conformity or Certification.
TV interface device	Declaration of Conformity or Certification.
Cable system terminal device	Declaration of Conformity.
Stand-alone cable input selector switch	Verification.
Class B personal computers and peripherals	Declaration of Conformity or Certification.
CPU boards and internal power supplies used with Class B personal computers.	Declaration of Conformity or Certification.
Class B personal computers assembled using authorized CPU boards or power supplies..	Declaration of Conformity.
Class B external switching power supplies	Verification.
Other Class B digital devices & peripherals	Verification.
Class A digital devices, peripherals & external switching power supplies..	Verification.
All other devices	Verification.

Note to table: Where the above table indicates more than one category of authorization for a device, the party responsible for compliance has the option to select the type of authorization.

(b) Only those receivers that operate (tune) within the frequency range of 30–960 MHz and CB receivers are subject to the authorizations shown in paragraph (a) of this section. However, receivers indicated as being subject to Declaration of Conformity that are contained within a transceiver, the transmitter portion of which is subject to certification, shall be authorized under the verification procedure. Receivers operating above 960 MHz or below 30 MHz, except for CB receivers, are exempt from complying with the technical provisions of this part but are subject to § 15.5.

* * * * *

§ 15.214 [Amended]

61. Section 15.214, paragraph (a) is amended by revising the last sentence to read as follows:

(a) * * * The application shall include a fee for certification of each type of transmitter and for certification, if appropriate, for each type of receiver included in the system.

* * * * *

PART 18—INDUSTRIAL, SCIENTIFIC, AND MEDICAL EQUIPMENT

62. The authority citation for part 18 continues to read as follows:

Authority: 47 U.S.C. 4, 301, 302, 303, 304, 307.

63. Section 18.203, paragraph (a) is revised to read as follows:

§ 18.203 Equipment authorization.

(a) Consumer ISM equipment, unless otherwise specified, must be authorized under either the Declaration of Conformity or certification procedure prior to use or marketing. An application for certification shall be filed with the Commission on an FCC Form 731, pursuant to the relevant sections in part 2, subpart J of this chapter and shall also be accompanied by:

(1) A description of measurement facilities pursuant to § 2.948, or reference to such information already on file with the Commission.

(2) A technical report pursuant to §§ 18.207 and 18.311.

* * * * *

§ 18.205 [Removed]

64. Section 18.205 is removed.

§ 18.207 [Amended]

65. Section 18.207, paragraph (a) is amended by correcting "§ 18.205" to read "§ 2.948".

66. Section 18.209 is revised to read as follows:

§ 18.209 Identification of authorized equipment.

(a) Each device for which a grant of equipment authorization is issued under this part shall be identified pursuant to the applicable provisions of subpart J of part 2 of this chapter. Changes in the identification of authorized equipment may be made pursuant to § 2.933 of part 2 of this chapter. FCC Identifiers as described in §§ 2.925 and 2.926 of this chapter shall not be used on equipment subject to verification or Declaration of Conformity.

(b) Devices authorized under the Declaration of Conformity procedure shall be labelled with the logo shown below. The label shall not be a stick-on, paper label. It shall be permanently affixed to the product and shall be readily visible to the purchaser at the time of purchase, as described in § 2.925(d) of this chapter. "Permanently affixed" means that the label is etched, engraved, stamped, silkscreened, indelibly printed, or otherwise permanently marked on a permanently attached part of the equipment or on a nameplate of metal, plastic, or other material fastened to the equipment by welding, riveting, or a permanent adhesive. The label must be designed to last the expected lifetime of the equipment in the environment in which the equipment may be operated and must not be readily detachable. The logo follows:

67. A new § 18.212 is added to read as follows:

§ 18.212 Compliance information.

(a) Equipment authorized under the Declaration of Conformity procedure shall include the following compliance information in lieu of the information required by § 2.1077.

(1) Identification of the product, e.g., name and model number.

(2) A statement similar to the following:

This device complies with Part 18 of the FCC Rules.

(3) The name and address of the responsible party as defined in § 2.909 of the rules. This party must be located within the United States.

(b) The compliance information may be placed in the instruction manual, on a separate sheet, or on the packaging. There is no specific format for this information.

PART 21—DOMESTIC PUBLIC FIXED RADIO SERVICES

68. The authority citation for part 21 continues to read as follows:

Authority: Secs. 1, 2, 4, 201–205, 208, 215, 218, 303, 307, 313, 403, 404, 410, 602, 48 Stat. as amended, 1064, 1066, 1070–1073, 1076, 1077, 1080, 1082, 1083, 1087, 1094, 1098, 1102; 47 U.S.C. 151, 154, 201–205, 208, 215, 218, 303, 307, 313, 314, 403, 404, 602; 47 U.S.C. 552, 554.

§ 21.42 [Amended]

69. Section 21.42, paragraph (c)(1)(i) is amended by removing the term "type-accepted" each place it appears and adding in its place "certificated", and by removing the term "type notified" each place it appears.

§ 21.120 [Amended]

70. Section 21.120, paragraph (a) is amended by removing the term "type accepted" and adding in its place "certificated". Paragraphs (b) and (c) are amended by removing the term "type acceptance or notification" and adding in its place "certification" and by removing the last sentence in each of paragraphs (b) and (c).

§ 21.907 [Amended]

71. Section 21.907, paragraphs (c) and (d) are amended by removing the term "type-accepted" and adding in its place "certificated".

PART 22—PUBLIC MOBILE SERVICES

72. The authority citation for part 22 continues to read as follows:

Authority: 47 U.S.C. 154, 222, 303, 309 and 332.

§ 22.99 [Amended]

73. Section 22.99, the definition of *emission mask* is amended by removing the term "type acceptance" and adding in its place "certification".

§ 22.377 [Amended]

74. Section 22.377, existing paragraph (c) is removed, paragraph (d) is redesignated as paragraph (c), the section heading, introductory text, paragraphs (a), (b) and newly redesignated (c) are amended by removing the term "type-acceptance" and adding in its place "certification" each place it appears and removing the term "type-accepted" and adding in its place "certificated".

§ 22.379 [Amended]

75. Section 22.379(a) is amended by removing the term "type-accepted" and adding in its place "certificated".

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PART 24—PERSONAL COMMUNICATIONS SERVICES

76. The authority citation for part 24 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302, 303, 309 and 332.

§ 24.51 [Amended]

77. Section 24.51, existing paragraph (b) is removed, paragraphs (c) and (d) are redesignated as paragraphs (b) and (c), paragraph (a) and newly redesignated paragraph (c) are amended by removing the term "type acceptance" each place it appears and adding in its place "certification". Newly redesignated paragraph (b) is amended by removing the last sentence.

PART 26—GENERAL WIRELESS COMMUNICATIONS SERVICE

78. The authority citation for part 26 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302, 303, 309 and 332, unless otherwise noted.

79. Section 26.51 is revised to read as follows:

§ 26.51 Equipment authorization.

(a) Each transmitter utilized for operation under this part and each transmitter marketed, as set forth in § 2.803 of this chapter, must be of a type that has been authorized by the Commission under its type certification procedure.

(b) Any manufacturer of radio transmitting equipment to be used in these services may request equipment authorization following the procedures set forth in Subpart J of part 2 of this chapter. Equipment authorization for an individual transmitter may be requested by an applicant for a station authorization by following the procedures set forth in part 2 of this chapter.

PART 73—RADIO BROADCAST SERVICES

80. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

81. Section 73.53 is amended by revising paragraphs (a), (b) introductory text, and (b)(10) to read as follows:

§ 73.53 Requirements for authorization of antenna monitors.

(a) Antenna monitors shall be verified for compliance with the technical requirements in this section. The procedure for verification is specified in subpart J of part 2 of the FCC's rules.

(b) An antenna monitor shall meet the following specifications:

* * * * *

(10) Complete and correct schematic diagrams and operating instructions shall be retained by the party responsible for verification of the equipment and submitted to the FCC upon request. For the purpose of equipment authorization, these diagrams and instructions shall be considered as part of the monitor.

* * * * *

82. Section 73.1660 is revised to read as follows:

§ 73.1660 Acceptability of broadcast transmitters.

(a) An AM, FM or TV transmitter shall be verified for compliance with the requirements of this part following the procedures described in part 2 of the FCC rules.

(b) A permittee or licensee planning to modify a transmitter which has been approved by the FCC or verified for compliance must follow the requirements contained in § 73.1690.

(c) A transmitter which was in use prior to January 30, 1955, may continue to be used by the licensee, and successors or assignees, if it continues to comply with the technical requirements for the type of station at which it is used.

(d) AM stereophonic exciter-generators for interfacing with approved or verified AM transmitters may be certified upon request from any manufacturer in accordance with the procedures described in part 2 of the FCC rules. Broadcast licensees may modify their certified AM stereophonic exciter-generators in accordance with § 73.1690.

(e) Additional rules covering certification and verification, modification of authorized transmitters, and withdrawal of a grant of authorization are contained in part 2 of the FCC rules.

83. Section 73.1665, paragraph (c) and the note that follows are revised to read as follows:

§ 73.1665 Main transmitters.

* * * * *

(c) A licensee may, without further authority or notification to the FCC, replace an existing main transmitter or install additional main transmitter(s) for use with the authorized antenna if the replacement or additional transmitter(s) has been verified for compliance. Within 10 days after commencement of regular use of the replacement or additional transmitter(s), equipment performance measurements, as prescribed for the type of station are to be completed.

Note to paragraph (c): Pending the availability of AM broadcast transmitters that are approved or verified for use in the 1605–1705 kHz band, transmitters that are approved or verified for use in the 535–1605 kHz band may be utilized in the 1605–1705 kHz band if it is shown that the requirements of § 73.44 have been met. Verification or FCC approval of the transmitter will supersede the applicability of this note.

PART 74—EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

84. The authority citation for part 74 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 307, and 554.

85. Section 74.451, the section heading is revised to read as follows:

§ 74.451 Certification of equipment.

§ 74.451 [Amended]

Paragraphs (a), (b), (c), (d) and (f) are amended by removing the term "type accepted" each place it appears and adding in its place "certificated" and by removing the term "type acceptance" each place it appears and adding in its place "certification". The last sentence of paragraph (c) is removed.

§ 74.452 [Amended]

86. Section 74.452, paragraphs (b) and (d) are amended by removing the term "type accepted" each place it appears and adding in its place "certificated".

§ 74.462 [Amended]

87. Section 74.462, paragraph (a) is amended by removing the term "type accepted" each place it appears and adding in its place "certificated", footnote 4 of the table in paragraph (b) is amended by removing the term "type accepted" and adding in its place "certificated" and removing the term "Radio Equipment List" and adding in its place "database".

88. Section 74.550 is revised to read as follows:

§ 74.550 Equipment authorization.

Each authorization for aural broadcast STL, ICR, and booster stations shall require the use of equipment which has been certificated or verified. Equipment which has not been approved under the equipment authorization program and which was in service prior to July 1, 1993, may be retained solely for temporary uses necessary to restore or maintain regular service provided by approved equipment, because the main or primary unit has failed or requires servicing. Such temporary uses may not interfere with or impede the establishment of other aural broadcast auxiliary links and may not occur during more than 720 cumulative hours per year. Should interference occur, the licensee must take all steps necessary to eliminate it, up to and including cessation of operation of the auxiliary transmitter. All unapproved equipment retained for temporary use must have been in the possession of the licensee prior to July 1, 1993, and may not be obtained from other sources. Equipment designed exclusively for fixed operation shall be authorized under the verification procedure. The equipment authorization procedures are contained in subpart J of part 2 of the rules.

Note to § 74.550: Consistent with the note to § 74.502(a), grandfathered equipment in the 942–944 MHz band and STL/ICR users of these frequencies in Puerto Rico are also required to come into compliance by July 1, 1993. The backup provisions described above apply to these stations also.

§ 74.632 [Amended]

89. Section 74.632, paragraph (a) is amended by removing the term "type accepted" and adding in its place "authorized as required".

§ 74.651 [Amended]

90. Section 74.651, paragraph (a)(1) is amended by removing the term "type accepted or notified" and adding in its place "authorized".

91. Section 74.655 is revised to read as follows:

§ 74.655 Authorization of equipment.

(a) Except as provided in paragraph (b) of this section, all transmitting equipment first marketed for use under this subpart or placed into service after October 1, 1981, must be authorized under the certification or verification procedure, as detailed in paragraph (f) of this section. Equipment which is used at a station licensed prior to October 1, 1985, which has not been authorized as detailed in paragraph (f) of this section, may continue to be used by the licensee or its successors or assignees, provided that if operation of such equipment causes harmful interference due to its failure to comply with the technical standards set forth in this subpart, the FCC may, at its discretion, require the licensee to take such corrective action as is necessary to eliminate the interference. However, such equipment may not be further marketed or reused under part 74 after October 1, 1985. Transmitters designed for use in the 31.0 to 31.3 GHz band shall be authorized under the verification procedure.

(b) Certification or verification is not required for transmitters used in conjunction with TV pickup stations operating with a peak output power not greater than 250 mW. Pickup stations operating in excess of 250 mW licensed pursuant to applications accepted for filing prior to October 1, 1980 may continue operation subject to periodic renewal. If operation of such equipment causes harmful interference the FCC may, at its discretion, require the licensee to take such corrective action as is necessary to eliminate the interference.

(c) The license of a TV auxiliary station may replace transmitting equipment with authorized equipment, as detailed under paragraph (f) of this section, without prior FCC approval, provided the proposed changes will not depart from any of the terms of the station or system authorization or the Commission's technical rules governing this service, and also provided that any changes made to authorized transmitting equipment is in compliance with the provisions of part 2 of the FCC rules concerning modifications to authorized equipment.

(d) Any manufacturer of a transmitter to be used in this service may authorize the equipment under the certification or verification procedure, as appropriate, following the procedures set forth in subpart J of part 2 of the FCC rules.

(e) An applicant for a TV broadcast auxiliary station may also authorize an individual transmitter, as specified in paragraph (f) of this section, by following the procedures set forth in subpart J of part 2 of the FCC rules and regulations.

(f) Transmitters designed to be used exclusively for a TV STL station, a TV intercity relay station, a TV translator relay station, or a TV microwave booster station, shall be authorized under verification. All other transmitters will be authorized under the certification procedure.

§ 74.750 [Amended]

92. Section 74.750, paragraph (a), (b), (c) introductory text and (g) are amended by removing the term "type accepted" each place it appears and adding in it place "certificated". Paragraph (e) introductory text and (e)(1), (e)(2), (e)(3), (e)(4) are amended by removing the term "type accepted" each place its appears and adding in its place "certificated" and by removing the term "type acceptance" each place it appears and adding in its place "certification". The last two sentences of paragraph (e)(1) are removed.

§ 74.751 [Amended]

93. Section 74.751, paragraphs (a) and (b)(1) are amended by removing the term "type accepted" and adding in its place "certificated".

94. Section 74.851, the section heading is revised to read as follows:

§ 74.851 Certification of equipment.

§ 74.851 [Amended]

Paragraphs (a), (b), (c), (e) and (f) are amended by removing the term "type accepted" each place its appears and adding in its place "certificated" and by removing the term "type acceptance" each place it appears and adding in its place "certification". The last sentence of paragraph (c) is removed.

§ 74.852 [Amended]

95. Section 74.852, paragraph (a) is amended by removing the term "type accepted" each place it appears and adding in its place "certificated".

§ 74.861 [Amended]

96. Section 74.861, paragraph (b) is amended by removing the term "type accepted" and adding in its place "certificated", and removing the term "type acceptance" and adding in its place "certification".

§ 74.938 [Amended]

97. Section 74.938 is amended by removing the term "type accepted" and adding in its place "certificated", and removing the term "type acceptance" each place it appears and adding in its place "certification".

§ 74.939 [Amended]

98. Section 74.939, paragraph (j) is amended by removing the term "type acceptance" and adding in its place "certification".

§ 74.950 [Amended]

99. Section 74.950, paragraph (f) introductory text is amended by removing the term "type accepted" and adding in its place "certificated".

§ 74.951 [Amended]

100. Section 74.951, paragraph (a) is amended by removing the term "type accepted" and adding in its place "certificated".

§ 74.952 [Amended]

101. Section 74.952, paragraph (a) is redesignated as paragraph (b), the introductory text is redesignated as paragraph (a), and newly redesignated paragraphs (a) and (b) are amended by removing the term "type accepted" and adding in its place "certificated", and newly redesignated paragraph (b) is amended removing the term "type acceptance" each place it appears and adding in its place "certification".

§ 74.1235 [Amended]

102. Section 74.1235(e) is amended by removing the term "type-accepted" each place it appears and adding in its place "certificated".

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103. Section 74.1250 is amended by revising paragraphs (a), (b) and (c) introductory text to read as follows:

§ 74.1250 Transmitters and associated equipment.

(a) FM translator and booster transmitting apparatus, and exciters employed to provide a locally generated and modulated input signal to translator and booster equipment, used by stations authorized under the provisions of this subpart must be certificated upon the request of any manufacturer of transmitters in accordance with this section and subpart J of part 2 of this chapter. In addition, FM translator and booster stations may use FM broadcast transmitting apparatus verified or approved under the provisions of part 73 of this chapter.

(b) Transmitting antennas, antennas used to receive signals to be rebroadcast, and transmission lines are not subject to the requirement for certification.

(c) The following requirements must be met before translator, booster or exciter equipment will be certificated in accordance with this section:

* * * * *

§ 74.1251 [Amended]

104. Section 74.1251, paragraph (a) is amended by removing the term "type accepted" and adding in its place "certificated", and revising the reference "§ 2.1001" to read "Part 2". Paragraph (b)(1) is amended by removing the term "type accepted" and adding in its place "certificated".

PART 78—CABLE TELEVISION RELAY SERVICE

105. The authority citation for part 78 continues to read as follows:

Authority: Secs. 2, 3, 4, 301, 303, 307, 308, 309, 48 Stat., as amended, 1064, 1065, 1066, 1081, 1082, 1083, 1084, 1085; 47 U.S.C. 152, 153, 154, 301, 303, 307, 308, 309.

106. Section 78.107 is amended by removing paragraph (a) and by redesignating paragraphs (b), (c), (d) and (e) as paragraphs (a), (b), (c), and (d). The newly redesignated paragraph (a) is amended by revising paragraph (a) introductory text, and paragraph (a)(2) to read as follows:

§ 78.107 Equipment and installation.

(a) Applications for new cable television relay stations, other than fixed stations, will not be accepted unless the equipment specified therein has been certificated. In the case of fixed stations, the equipment must be authorized under the verification procedure for use pursuant to the provisions of this subpart. Transmitters designed for use in the 31.0 to 31.3 GHz band shall be authorized under the verification procedure.

(1) * * *

(2) Neither certification nor verification is required for the following transmitters:

* * * * *

Part 78 Index [Amended]

107. The alphabetical index to part 78 is amended by removing the entry for "Equipment list, Type accepted", and removing the entry for "Type accepted equipment" and adding in its place "Certificated equipment".

PART 80—STATIONS IN THE MARITIME SERVICES

108. The authority citation for part 80 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, 307(e) unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609; 3 UST 3450, 3 UST 4726, 12 UST 2377.

§ 80.29 [Amended]

109. Section 80.29, the table in paragraph (a) is amended by removing the term "type-accepted" and adding in its place "authorized" in the second column.

§ 80.43 [Amended]

110. Section 80.43 is amended by removing the term "type accepted" and adding in its place "authorized".

§ 80.203 [Amended]

111. Section 80.203, paragraph (a) is amended by removing the term "type accepted" and adding in its place "certificated" in the first sentence, removing the term "type acceptance" and adding in its place "certification" in the second sentence, and removing the term "type accepted or type approved" and adding in its place "authorized" in the last sentence. Paragraphs (d), (f), (h), (g), (i), (j), (k), (l) and (m)(2) are amended by removing the term "type accepted" each place it appears and adding in its place "certificated" and removing the term "type acceptance" each place its appears and adding in its place "certification". Paragraph (k) is amended by removing the last sentence.

§ 80.205 [Amended]

112. Section 80.205, paragraph (a), footnote 11 is amended by removing the term "type accepted" and adding in its place "approved".

§ 80.207 [Amended]

113. Section 80.207, paragraph (d), footnotes 2 and 5 are amended by removing the term "type accepted" and adding in its place "approved".

114. In the first column of the table in the entries in paragraph (a) of § 80.209, paragraphs (1)(ii), (1)(iii) and (1)(iv) are amended by removing the terms "type accepted or type approved" and "type approved" and adding in its place "approved". Footnote 1 following the table, is amended by removing the term "type acceptance" and adding in its place "approval". Footnote 2 is amended by removing the term "type accepted" and adding in its place "approved".

§ 80.215 [Amended]

115. Section 80.215, in paragraph (e)(3), footnote 8 is amended by removing the term "type acceptance" and adding in its place "Certification".

§ 80.221 [Amended]

116. Section 80.221, paragraph (d) is amended by removing the term "type accepted" and adding in its place "certificated".

§ 80.251 [Amended]

117. Section 80.251, paragraph (a) is amended by removing the term "type acceptance" and adding in its place "certification", and in paragraph (b) by removing the term "type accepted" and adding in its place "certificated".

§ 80.253 [Amended]

118. Section 80.253, in paragraph (a), footnote 1 is amended by removing the term "type accepted or type approved" and adding in its place "approved". Footnote 2 is amended by removing the term "type accepted or type approval" and adding in its place "approved".

§ 80.255 [Amended]

119. Section 80.255, paragraph (a), footnotes 1 and 2 are amended by removing the terms "type accepted or type approved" and adding in its place "approved".

§ 80.259 [Amended]

120. Section 80.259, paragraph (a) introductory text is amended by removing the term "type acceptance" and adding in its place "certification", paragraphs (a)(1) and (a)(2) are amended by removing the term "type approved" and adding in its place "approved".

§ 80.265 [Amended]

121. Section 80.265, following the table in paragraph (b)(1), footnotes 1 and 2 are amended by removing the terms "type accepted or type approved" and adding in its place "approved". Footnote 3 is amended by removing the word "type". Paragraph (c)(1), the footnote to the table is amended by

removing the term "type approved" and adding in its place "approved". Paragraph (e)(2) is amended by removing the term "type accepted" and adding in its place "certificated".

§ 80.267 [Amended]

122. Section 80.267, paragraph (a)(1), following the table, footnotes 1 and 2 are amended by removing the term "type accepted or type approved" and adding in its place "approved".

§ 80.271 [Amended]

123. Section 80.271, paragraphs (b), (c) and (d) are amended by removing the term "type accepted" and adding in its place "certificated". Paragraph (e) is amended by removing the term "Radio Equipment List" and adding in its place "database".

§ 80.605 [Amended]

124. Section 80.605, paragraph (b) is amended by removing the term "type acceptance" each place it appears and adding in its place "certification" .

§ 80.812 [Amended]

125. Section 80.812 is amended by removing the term "of a type accepted" and adding in its place "certificated".

§ 80.814 [Amended]

126. Section 80.814 is amended by removing the term "of a type accepted" and adding in its place "certificated".

§ 80.829 [Amended]

127. Section 80.829, paragraph (b) is amended by removing the term "type accepted" and adding in its place "certificated".

§ 80.831 [Amended]

128. Section 80.831, paragraph (a) is amended by removing the term "type accepted" and adding in its place "certificated".

§ 80.833 [Amended]

129. Section 80.833, paragraph (a) is amended by removing the term "type accepted" and adding in its place "certificated".

§ 80.836 [Amended]

130. Section 80.836, paragraph (c)(3)(i) is amended by removing the term "type accepted" and adding in its place "certificated".

§ 80.856 [Amended]

131. Section 80.856 is amended by removing the term "type accepted" and adding in its place "certificated".

§ 80.873 [Amended]

132. Section 80.873, paragraph (d)(3) is amended by removing the term "type accepted" and adding in its place "certificated".

§ 80.874 [Amended]

133. Section 80.874, paragraph (a) is amended by removing the term "type accepted" and adding in its place "certificated".

§ 80.911 [Amended]

134. Section 80.911, paragraph (c) is amended by removing the term "type accepted" and adding in its place "certificated".

§ 80.1053 [Amended]

135. Section 80.1053, paragraph (c) is amended by removing the term "type accepted" each place it appears and adding in its place "certificated", and by removing the term "type acceptance" each place it appears and adding in its place "certification".

§ 80.1059 [Amended]

136. Section 80.1059, paragraph (e) is amended by removing the term "type acceptance" and adding in its place "certification".

§ 80.1061 [Amended]

137. Section 80.1061, paragraphs (c) and (d) are amended by removing the term "type acceptance" and adding in its place "certification".

§ 80.1103 [Amended]

138. Section 80.1103, paragraph (a) is amended by removing the term "type accepted" and adding in its place "certificated" and by removing the term "notified" and adding in its "verified". Paragraph (b) is amended by removing the term "type acceptance" and adding in its place "certification", and paragraph (c) is amended by removing the term "notification" and adding in its place "verification" and by removing the term "certificate" and adding in its place "certification".

PART 87—AVIATION SERVICES

139. The authority citation for part 87 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, 307(e) unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–156, 301–609.

§ 87.39 [Amended]

140. Section 87.39 is amended by removing the term "type accepted" and adding in its place "certificated".

§ 87.131 [Amended]

141. Section 87.131, footnote 5 of the table, is amended by removing the term "type accepted" and adding in its place "certificated", and footnote 7 is amended by removing the term "type acceptance" and adding in its place "certification".

§ 87.133 [Amended]

142. Section 87.133, paragraph (a), footnote 3 of the table is amended by removing the term "type accepted or type approved" and adding in its place "approved". Footnotes 4 and 5 are amended by removing the term "type accepted" and adding in its place "approved". Footnote 11 is amended by removing the term "type acceptance" and adding in its place "certification".

§ 87.137 [Amended]

143. Section 87.137, paragraph (a), footnotes 3 and 15 of the table are amended by removing the term "type accepted" and adding in its place "approved". Footnote 4 is amended by removing the term "type acceptance" and adding in its place "approval".

§ 87.139 [Amended]

144. Section 87.139, paragraph (g) is amended by removing the term "type accepted" and adding in its place "approved".

145. Section 87.145 is revised to read as follows:

§ 87.145 Acceptability of transmitters for licensing.

(a) Each transmitter must be certificated for use in these services, except as listed in paragraph (c) of this section. However, aircraft stations which transmit on maritime mobile frequencies must use transmitters certificated for use in ship stations in accordance with part 80 of this chapter. Certification under part 80 is not required for aircraft earth stations transmitting on maritime mobile-satellite frequencies. Such stations must be certificated under part 87.

(b) Some radio equipment installed on air carrier aircraft must meet the requirements of the Commission and the requirements of the FAA. The FAA requirements may be obtained from the FAA, Aircraft Maintenance Division, 800 Independence Ave., SW., Washington, DC 20591.

(c) The equipment listed below is exempted from certification. The operation of transmitters which have not been certificated must not result in harmful interference due to the failure of those transmitters to comply with technical standards of this subpart.

(1) Development or Civil Air Patrol transmitters.

(2) Flight test station transmitters for limited periods where justified.

(3) U.S. Government transmitters furnished in the performance of a U.S. Government contract if the use of

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certificated equipment would increase the cost of the contract or if the transmitter will be incorporated in the finished product. However, such equipment must meet the technical standards contained in this subpart.

(4) ELTs verified in accordance with § 87.147(e).

(5) Signal generators when used as radionavigation land test stations (MTF).

(d) Aircraft earth stations must correct their transmit frequencies for Doppler effect relative to the satellite. The transmitted signal may not deviate more than 335 Hz from the desired transmit frequency. (This is a root sum square error which assumes zero error for the received ground earth station signal and includes the AES transmit/receive frequency reference error and the AES automatic frequency control residual errors.) The applicant must attest that the equipment provides adequate Doppler effect compensation and where applicable, that measurements have been made that demonstrate compliance. Submission of data demonstrating compliance is not required unless requested by the Commission.

146. Section 87.147 is amended by revising paragraphs (a), (b), (c), (d) introductory text, (d)(2), and (e) to read as follows:

§ 87.147 Authorization of equipment.

(a) Certification may be requested by following the procedures in part 2 of this chapter. Aircraft transmitters must meet the requirements over an ambient temperature range of −20 degrees to +50 degrees Celsius.

(b) ELTs manufactured after October 1, 1988, must meet the output power characteristics contained in § 87.141(i) when tested in accordance with the Signal Enhancement Test contained in subpart N, part 2 of this chapter. A report of the measurements must be submitted with each application for certification. ELTs that meet the output power characteristics of the section must have a permanent label prominently displayed on the outer casing state, "Meets FCC Rule for improved satellite detection." This label, however, must not be placed on the equipment without authorization to do so by the Commission. Application for such authorization may be made either by submission of a new application for certification accompanied by the required fee and all information and test data required by parts 2 and 87 of this chapter or, for ELTs approved prior to October 1, 1988, a letter requesting such authorization, including appropriate test data and a showing that all units produced under the original equipment authorization comply with the requirements of this paragraph without change to the original circuitry.

(c) An applicant for a station license may request certification for an individual transmitter by following the procedure in part 2 of this chapter. Such a transmitter will be individually certified and so noted on the station license.

(d) An applicant for certification of equipment intended for transmission in any of the frequency bands listed in paragraph (d)(3) of this section must notify the FAA of the filing of a certification application. The letter of notification must be mailed to: FAA, Spectrum Engineering Division, 800 Independence Ave. SW., Washington, DC 20591 no later than the date of filing of the application with the Commission.

(1) * * *

(2) The certification application must include a copy of the notification letter to the FAA. The Commission will not act for 21 days after receipt of the application to afford the FAA an opportunity to comment. If the FAA objects to the application for equipment authorization, it should mail its objection with a showing that the equipment is incompatible with the National Airspace System to: Office of Engineering and Technology Laboratory, Authorization and Evaluation Division, 7435 Oakland Mills Rd., Columbia, MD 21046. If the Commission receives such an objection, the Commission will consider the FAA showing before taking final action on the application.

(3) * * *

(e) Verification reports for ELTs capable of operating on the frequency 406.025 MHz must include sufficient documentation to show that the ELT meets the requirements of § 87.199(a). A letter notifying the FAA of the ELT verification must be mailed to: FAA, Spectrum Engineering Division, 800 Independence Avenue SW., Washington, DC 20591.

§ 87.189 [Amended]

147. Section 87.189, paragraph (b) is amended by removing the term "type-accepted" and adding in its place "certificated".

148. Section 87.199 is amended by revising paragraphs (c) and (d) to read as follows:

§ 87.199 Special requirements for 406.025 MHz ELTs.

* * * * *

(c) Prior to verification of a 406.025 MHz ELT, the ELT must be certified by a test facility recognized by one of the COSPAS/SARSAT Partners that the equipment satisfies the design characteristics associated with the COSPAS/SARSAT document COSPAS/SARSAT 406 MHz Distress Beacon Type Approval Standard (C/S T.007). Additionally, an independent test facility must certify that the ELT complies with the electrical and environmental standards associated with the RTCA Recommended Standards.

(d) The procedures for verification are contained in subpart J of part 2 of this chapter.

* * * * *

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

149. The authority citation for part 90 continues to read as follows:

Authority: Secs. 4, 251–2, 303, 309, and 332, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 251–2, 303, 309 and 332, unless otherwise noted.

§ 90.5 [Amended]

150. Section 90.5, paragraph (c) is amended by removing the term "type acceptance and type approval" and adding in its place "certification".

§ 90.20 [Amended]

151. Section 90.20, paragraph (e)(5)(i), (f)(4) and (f)(5) are amended by removing the term "type accepted" and adding in its place "certificated".

§ 90.35 [Amended]

152. Section 90.35, paragraph (c)(22) is amended by removing the term "type accepted" and adding in its place "certificated".

§ 90.65 [Amended]

153. Section 90.65, paragraph (c)(11) is amended by removing the term "type accepted" and adding in its place "certificated".

§ 90.103 [Amended]

154. Section 90.103, paragraphs (c)(23) and (c)(24) are amended by removing the term "type accepted" and adding in its place "certificated".

155. Section 90.129 is amended by revising paragraph (b) to read as follows:

§ 90.129 Supplemental information to be routinely submitted with applications.

* * * * *

(b) Description of any equipment proposed to be used if it is not approved for use under this part.

* * * * *

156. Section 90.203 is amended by revising paragraph (a) and paragraph (b) introductory text and paragraphs (c), (e), (f), (h)(2), (j)(2) introductory text, (j)(4)

introductory text, (j)(5), (j)(6) introductory text, (j)(6)(i)(A), (j)(7), (j)(8), and (k) to read as follows:

§ 90.203 Certification required.

(a) Except as specified in paragraph (b) of this section, each transmitter utilized for operation under this part and each transmitter marketed as set forth in § 2.803 of this chapter must be of a type which has been certificated for use under this part.

(1) [Reserved]

(2) Any manufacturer of radio transmitting equipment (including signal boosters) to be used in these services may request certification for such equipment following the procedures set forth in subpart J of part 2 of this chapter. Certification for an individual transmitter or signal booster also may be requested by an applicant for a station authorization by following the procedure set forth in part 2 of this chapter. Such equipment if approved will be individually enumerated on the station authorization.

(b) Certification is not required for the following:

* * * * *

(c) Radiolocation transmitters for use in public safety and land transportation applications marketed prior to January 1, 1974, must meet the applicable technical standards in this part, pursuant to § 2.803 of this chapter.

* * * * *

(e) Except as provided in paragraph (g) of this section, transmitters designed to operate above 25 MHz shall not be certificated for use under this part if the operator can program and transmit on frequencies, other than those programmed by the manufacturer, service or maintenance personnel, using the equipment's external operation controls.

(f) Except as provided in paragraph (g) of this section, transmitters designed to operate above 25 MHz that have been approved prior to January 15, 1988, and that permit the operator, by using external controls, to program the transmitter's operating frequencies, shall not be manufactured in, or imported into the United States after March 15, 1988. Marketing of these transmitters shall not be permitted after March 15, 1989.

* * * * *

(h) * * *

(2) The part 90 certification limits the use of the equipment to operations only under § 90.423.

(i) Equipment certificated after February 16, 1988 and marketed for public safety operation in the 821–824/866–869 MHz bands must have the capability to be programmed for operation on the mutual aid channels as designated in § 90.617(a) of the rules.

(j) * * *

(2) Applications for certification received on or after February 14, 1997 will only be granted for equipment with the following channel bandwidths:

* * * * *

(3) Applications for part 90 certification of transmitters designed to operate on frequencies in the 150–174 MHz and/or 421–512 MHz bands, received on or after February 14, 1997, must include a certification that the equipment meets a spectrum efficiency standard of one voice channel per 12.5 kHz of channel bandwidth. Additionally, if the equipment is capable of transmitting data, has transmitter output power greater than 500 mW, and has a channel bandwidth of more than 6.25 kHz, the equipment must be capable of supporting a minimum data rate of 4800 bits per second per 6.25 kHz of channel bandwidth.

(4) Applications for certification received on or after January 1, 2005, except for hand-held transmitters with an output power of two watts or less, will only be granted for equipment with the following channel bandwidths:

* * * * *

(5) Applications for part 90 certification of transmitters designed to operate on frequencies in the 150–174 MHz and/or 421–512 MHz bands, received on or after January 1, 2005, must include a certification that the equipment meets a spectrum efficiency standard of one voice channel per 6.25 kHz of channel bandwidth. Additionally, if the equipment is capable of transmitting data, has transmitter output power greater than 500 mW, and has a channel bandwidth of more than 6.25 kHz, the equipment must be capable of supporting a minimum data rate of 4800 bits per second per 6.25 kHz of channel bandwidth.

(6) Modification and permissive changes to certification grants.

(i) * * *

(A) Transmitters that have the inherent capability for multi-mode or narrowband operation allowed in paragraphs (j)(2) and (j)(4) of this section, may have their grant of certification modified (reissued) upon demonstrating that the original unit complies with the technical requirements for operation; and

(B) * * *

(ii) * * *

(7) Transmitters designed for one-way paging operations will be certificated with a 25 kHz channel bandwidth and are exempt from the spectrum efficiency requirements of paragraphs (j)(3) and (j)(5) of this section.

(8) The Commission's Equipment Authorization Division may, on a case by case basis, grant certification to equipment with slower data rates than specified in paragraphs (j)(3) and (j)(5) of this section, provided that a technical analysis is submitted with the application which describes why the slower data rate will provide more spectral efficiency than the standard data rate.

* * * * *

(k)(1) For transmitters operating on frequencies in the 220–222 MHz band, certification will only be granted for equipment with channel bandwidths up to 5 kHz, except that certification will be granted for equipment operating on 220–222 MHz band Channels 1 through 160 (220.0025 through 220.7975/221.0025 through 221.7975), 171 through 180 (220.8525 through 220.8975/221.8525 through 221.8975), and 186 through 200 (220.9275 through 220.9975/221.9275 through 221.9975) with channel bandwidths greater than 5 kHz if the equipment meets the following spectrum efficiency standard: Applications for part 90 certification of transmitters designed to operate on frequencies in the 220–222 MHz band must include a statement that the equipment meets a spectrum efficiency standard of at least one voice channel per 5 kHz of channel bandwidth (for voice communications), and a data rate of at least 4,800 bits per second per 5 kHz of channel bandwidth (for data communications). Certification for transmitters operating on 220–222 MHz band Channels 1 through 160 (220.0025 through 220.7975/221.0025 through 221.7975), 171 through 180 (220.8525 through 220.8975/221.8525 through 221.8975), and 186 through 200 (220.9275 through 220.9975/221.9275 through 221.9975) with channel bandwidths greater than 5 kHz will be granted without the requirement that a statement be included that the equipment meets the spectrum efficiency standard if the requests for certification of such transmitters are filed after December 31, 2001.

(2) Certification may be granted on a case-by-case basis by the Commission's Equipment Authorization Division for equipment operating on 220–222 MHz band Channels 1 through 160 (220.0025 through 220.7975/221.0025 through 221.7975), 171 through 180 (220.8525 through 220.8975/221.8525 through 221.8975), and 186 through 200 (220.9275 through 220.9975/221.9275

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through 221.9975) with channel bandwidths greater than 5 kHz and not satisfying the spectrum efficiency standard identified in paragraph (k)(1) of this section, if requests for part 90 certification of such transmitters are accompanied by a technical analysis that satisfactorily demonstrates that the transmitters will provide more spectral efficiency than that which would be provided by use of the spectrum efficiency standard.

§ 90.211 [Amended]

157. Section 90.211, paragraph (b) is amended by removing the term "type acceptance" each place it appears and adding in its place "certification".

§ 90.219 [Amended]

158. Section 90.219, paragraph (e) is amended by removing the term "type-accepted" and adding in its place "certificated".

§ 90.237 [Amended]

159. Section 90.237, paragraphs (c) and (g) are amended by removing the term "type-accepted" each place it appears and adding in its place "certificated".

§ 90.241 [Amended]

160. Section 90.241, paragraph (c)(12) is amended by removing the term "Type accepted" and adding in its place "certificated".

§ 90.269 [Amended]

161. Section 90.269, paragraph (a)(2) is amended by removing the term "type accepted" and adding in its place "certificated".

PART 95—PERSONAL RADIO SERVICES

162. The authority citation for part 95 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303.

§ 95.117 [Amended]

163. Section 95.117, paragraph (a)(4) is amended by removing the term "type-accepted" and adding in its place "certificated".

§ 95.129 [Amended]

164. Section 95.129, paragraphs (a), (b)(1) and (b)(2) are amended by removing the term "type-accepted" and adding in its place "certificated".

§ 95.133 [Amended]

165. Section 95.133, paragraphs (a) and (b) are amended by removing the term "type-accepted" each place it appear and adding in its place "certificated".

166. Section 95.209 is revised to read as follows:

§ 95.209 (R/C Rule 9) What equipment may I use at my R/C station?

(a) Your R/C station may transmit only with:

(1) An FCC certificated R/C transmitter (certificated means the FCC has determined that certain radio equipment is capable of meeting recommended standards for operation); or

(2) A non-certificated R/C transmitter on Channels 26.995–27.255 MHz if it complies with the technical standards (see part 95, subpart E).

(3) Use of a transmitter outside of the band 26.955–27.255 MHz which is not certificated voids your authority to operate the station. Use of a transmitter in the band 26.995–27.255 MHz which does not comply with the technical standards voids your authority to operate the station.

(b) You may examine a list of certificated transmitters at any FCC field office.

(c) Your R/C station may transmit with a transmitter assembled from a kit.

(d) You must not make, or have made, any internal modification to a certificated transmitter. (See R/C Rule 22.) Any internal modification to a certificated transmitter cancels the certification, and use of such a transmitter voids your authority to operate the station.

§ 95.221 [Amended]

167. Section 95.221, paragraph (b) is amended by removing the term "type accepted" and adding in its place "certificated".

§ 95.222 [Amended]

168. Section 95.222, paragraph (b)(2) is amended by removing the term "type accepted" and adding in its place "certificated".

§ 95.225 [Amended]

169. Section 95.225, paragraph (a)(2) is amended by removing the term "type-accepted" and adding in its place "certificated".

§ 95.409 [Amended]

170. Section 95.409, paragraphs (a) and (b) are amended by removing the term "type-accepted" each place it appears and adding in its place "certificated", and by removing the term "type acceptance" each place it appears and adding in its place "certification".

§ 95.411 [Amended]

171. Section 95.411, paragraph (a) introductory text is amended by removing the term "type-accepted" and adding in its place "certificated".

§ 95.425 [Amended]

172. Section 95.425, paragraph (b)(2) is amended by removing the term "type accepted" and adding in its place "certificated".

§ 95.428 [Amended]

173. Section 95.428, paragraph (a)(2) is amended by removing the term "type-accepted" and adding in its place "certificated".

§ 95.601 [Amended]

174. Section 95.601 is amended by removing the term "type acceptance or type certification" and adding in its place "certification".

§ 95.603 [Amended]

175. Section 95.603 the section heading is revised, paragraphs (a), (b), (c) and (e) are amended by removing the term "type accepted" each place it appears and adding in its place "certificated".

§ 95.603 Certification required.

176. Section 95.605 is revised to read as follows:

§ 95.605 Certification procedures.

Any entity may request certification for its transmitter when the transmitter is used in the GMRS, R/C, CB, IVDS, LPRS, or FRS following the procedures in part 2 of this chapter.

§ 95.607 [Amended]

177. Section 95.607, introductory text and paragraph (a) are revised by removing the term "type accepted" and adding in its place "certificated", and removing the term "type acceptance" each place it appears and adding in its place "certification".

§ 95.635 [Amended]

178. Section 95.635, the table in paragraph (b) is amended by removing the term "type accepted" each place it appears and adding in its place "authorized".

§ 95.645 [Amended]

179. The undesignated center heading preceding § 95.645 is revised to read as follows: "CERTIFICATION REQUIREMENTS".

180. Section 95.645, paragraph (b) is amended by removing the term "type accepted" and adding in its place "certificated".

§ 95.653 [Amended]

181. Section 95.653, paragraph (a) is amended by removing the term "type acceptance" and adding in its place "certification".

§ 95.655 [Amended]

182. Section 95.655, paragraph (a) is amended by removing the term "type accepted" each place it appears and adding in its place "certificated", and removing the term "type acceptance" and adding in its place "certification".

§ 95.665 [Amended]

183. The undesignated center heading preceding § 95.665 is revised to read as follows: "ADDITIONAL CERTIFICATION REQUIREMENTS FOR CB TRANSMITTERS."

§ 95.669 [Amended]

184. Section 95.669, paragraph (a)(1) is amended by removing the term "type acceptance" and adding in its place "certification".

185. Section 95.851 is revised to read as follows:

§ 95.851 Certification.

Each CTS and RTU transmitter must be certificated for use in the IVDS in accordance with subpart J of part 2 of this chapter.

§ 95.857 [Amended]

186. Section 95.857, paragraph (c) is amended by removing the term "type acceptance" and adding in its place "certification".

PART 97—AMATEUR RADIO SERVICE

187. The authority citation for part 97 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609, unless otherwise noted.

188. Section 97.315, the section heading is revised to read as follows:

§ 97.315 Certification of external RF power amplifiers.

Paragraphs (a), (b) and (c) are amended by removing the term "type acceptance" each place it appears and adding in its place "certification", and by removing the term "type accepted" each place it appears and adding in its place "certificated". Paragraph (c) is amended by removing the first sentence, and by removing the term "on this list" and adding in its place "in the Commission's database".

189. Section 97.317, the section heading is revised to read as follows:

§ 97.317 Standards for certification of external RF power amplifiers.

Paragraphs (a), (b) and (c) are amended by removing the term "type acceptance" each place it appears and adding in its place "certification".

PART 101—FIXED MICROWAVE SERVICES

190. The authority citation for part 101 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 101.61 [Amended]

191. Section 101.61, paragraph (c)(1)(i) is amended by removing the term "type-accepted (or type-notified)" each place it appears and adding in its place "certificated or verified."

§ 101.107 [Amended]

192. Section 101.107, footnote 4 following the table is amended by removing the term "type accepted" and adding in its place "authorized".

§ 101.133 [Amended]

193. Section 101.133, paragraph (a) is amended by removing the term "type-accepted" and adding in its place "certificated".

194. Section 101.139 is revised to read as follows:

§ 101.139 Authorization of transmitters.

(a) Except for transmitters used at developmental stations or for fixed point-to-point operation pursuant to subparts H and I of this part, each transmitter must be a type which has been certificated by the Commission for use under the applicable rules of this part. Transmitters used in the private operational fixed and common carrier fixed point-to-point microwave services under subparts H and I of this part must be of a type that has been verified for compliance. Transmitters designed for use in the 31.0 to 31.3 GHz band will be authorized under the verification procedure.

(b) Any manufacturer of a transmitter to be produced for use under the rules of this part may request certification or obtain verification by following the applicable procedures set forth in part 2 of this chapter.

(c) Certification for an individual transmitter may also be requested by an applicant for a station authorization, pursuant to the procedures set forth in part 2 of this chapter.

(d) A transmitter presently shown on an instrument of authorization, which operates on an assigned frequency in the 890–940 MHz band and has not been certificated, may continue to be used by the licensee without certification provided such transmitter continues otherwise to comply with the applicable rules and regulations of the Commission.

(e) Certification or verification is not required for portable transmitters operating with peak output power not greater than 250 mW. If operation of such equipment causes harmful interference the FCC may, at its discretion, require the licensee to take such corrective action as is necessary to eliminate the interference.

(f) After July 15, 1996, the manufacturer (except for export) or importation of equipment employing digital modulation techniques in the 3700–4200, 5925–6425, 6525–6875, 10,550–10,680 and 10,700–11,700 MHz bands must meet the minimum payload capacity requirements of § 101.141.

§ 101.141 [Amended]

195. Section 101.141, paragraph (a)(2) is amended by removing the term "type accepted" and adding in its place "certificated".

§ 101.151 [Amended]

196. Section 101.151, paragraph (e) is amended by removing the term "Type-accepted" and adding in its place "Certificated".

[FR Doc. 98–17670 Filed 7–6–98; 8:45 am]

BILLING CODE 6712–01–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 980629161–8161–01; I.D. 061798A]

RIN 0648–AL39

Atlantic Tuna Fisheries; Atlantic Bluefin Tuna

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Rescission of prohibition.

SUMMARY: NMFS issues this notification announcing the rescission of the prohibition of the use of aircraft to assist fishing vessel operators in the location and capture of Atlantic bluefin tuna (BFT). This rescission is in compliance with a June 10, 1998, Order of the United States District Court for Massachusetts (Court), which overturned the regulations banning the use of spotter planes in other than the Purse Seine and Harpoon categories.

DATES: Effective June 10, 1998.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin, 301–713–2347, or Mark Murray-Brown, 978–281–9260.

SUPPLEMENTARY INFORMATION: NMFS, in accordance with the authority of the Atlantic Tunas Convention Act (16

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U.S.C. 971 *et seq.*), amended the regulations found at 50 CFR Part 285 governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction to prohibit the use of spotter aircraft in assisting BFT vessels in other than the Harpoon and Purse Seine categories (62 FR 38485, July 18, 1997).

In response to a lawsuit filed by the Atlantic Fish Spotters Association, the Court, on June 10, 1998, overturned the prohibition on the use of spotter aircraft in assisting BFT vessels in other than the Harpoon and Purse Seine categories, as codified in 50 CFR Part 285. Therefore, consistent with the judicial order, spotter aircraft may now assist vessels in all categories, and the prohibition at 50 CFR Part 285 is rescinded.

Classification

This action is not significant for purposes of review under E.O. 12866.

The Assistant Administrator for Fisheries finds good cause under 5 U.S.C. 553(b)(B) to waive the requirement to provide prior notice and an opportunity for public comment as such procedures are unnecessary. This rule, which rescinds an existing rule, is being issued pursuant to a court order invalidating the existing rule. NMFS has no discretion to consider alternatives to the issuance of this rule implementing the order. As such, prior notice and an opportunity for public comment are unnecessary because NMFS has no authority to alter the provisions of this rule. Because this action relieves a restriction, under 5 U.S.C. 553(d)(1), it is not subject to a delay in effective date.

List of Subjects in 50 CFR Part 285

Fisheries, Fishing, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: June 30, 1998.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 285 is amended to read as follows:

PART 285—ATLANTIC TUNA FISHERIES

1. The authority citation for part 285 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.*

§ 285.31 [Amended]

2. In § 285.31, paragraph (a)(40) is removed.

§ 285.33 [Amended]

3. In § 285.33, paragraph (b) is removed and reserved.

[FR Doc. 98–17938 Filed 7–1–98; 3:39 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 660

[Docket No. 971229312–7312–01; I.D. 062698A]

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Trip Limit Changes

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Fishing restrictions; request for comments.

SUMMARY: NMFS announces changes to the trip limits to the Pacific Coast groundfish limited entry fishery for the *Sebastes* complex south of Cape Mendocino, to the coastwide open access fisheries for widow rockfish, canary rockfish, the *Sebastes* complex, and lingcod, and to the open access nontrawl sablefish fishery north of 36°00' N. lat. In addition, closure of the open access fishery for lingcod is announced for August 1, 1998. Trip limits for the Washington Coastal Treaty tribes for canary rockfish and lingcod also are announced. These actions, which are authorized by the Pacific Coast Groundfish Fishery Management Plan (FMP), are intended to keep landings within the 1998 harvest guidelines (HGs) and allocations for these species.

DATES: Effective 0001 hours local time (l.t.) July 1, 1998, except the change to the trip limit for the *Sebastes* complex for limited entry trawl vessels in the "B" platoon becomes effective at 0001 hours l.t. July 16, 1998, and closure of the open access lingcod fishery occurs at 0001 hours on August 1, 1998. These changes remain in effect, unless modified, superceded or rescinded, until the effective date of the 1999 annual specifications and management measures for the Pacific Coast groundfish fishery, which will be published in the **Federal Register**. Comments will be accepted through July 22, 1998.

ADDRESSES: Submit comments to William Stelle, Jr., Administrator, Northwest Region (Regional Administrator), NMFS, 7600 Sand Point Way NE., Bldg. 1, Seattle WA 98115–0070; or William Hogarth, Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: Bill Robinson, Northwest Region, NMFS, 206–526–6140; or Svein Fougner, Southwest Region, NMFS, 526–980–4040.

SUPPLEMENTARY INFORMATION: The following changes to current management measures were recommended by the Pacific Fishery Management Council (Council) at its June 23–26, 1998, meeting in Seattle, WA, in consultation with the States of Washington, Oregon, and California.

Limited Entry Fishery

The *Sebastes* complex means all rockfish managed by the FMP except Pacific ocean perch, widow rockfish, shortbelly rockfish, and shortspine and longspine thornyheads.

Currently the *Sebastes* complex is managed with 2-month cumulative trip limits: 40,000 lb (18,144 kg) north of Cape Mendocino and 150,000 lb (68,039 kg) south of Cape Mendocino. Within the cumulative limits for the *Sebastes* complex, no more than 13,000 lb (5897 kg) may be yellowtail rockfish north of Cape Mendocino, no more than 2,000 lb (907 kg) may be bocaccio south of Cape Mendocino, and no more than 15,000 lb (6,804 kg) may be canary rockfish coastwide.

The best available information at the June Council meeting indicated that the 4,677 mt limited entry allocation for the *Sebastes* complex in the Eureka-Monterey-Conception area would be reached between August 27 and September 18, 1998, if the rate of landings is not curtailed. The Council recommended that the current 2-month cumulative trip limit of 150,000 lb (68,039 kg) south of Cape Mendocino be reduced to 40,000 lb (18,144 kg), the same as north of Cape Mendocino, which makes one, consistent coastwide limit for the complex. The limited entry limits for yellowtail rockfish, bocaccio, and canary rockfish are not changed.

Open Access Fishery

Widow rockfish. Currently, the open access fishery for widow rockfish is managed by a 1-month cumulative trip limit of 15,000 lb (6,804 kg), which is half the limited entry 2-month cumulative limit. The best available information at the June Council meeting indicated that the 158–mt open access allocation would be reached between August 2, 1998, and November 9, 1998, if the rate of landings is not slowed. The Council, therefore, recommended an immediate reduction of the cumulative 1-month trip limit to 3,000 lb (1,361 kg) to extend the fishery as long as possible during the year. Washington Coastal Treaty tribes will implement the same limit for their fisheries.

Canary rockfish. Canary rockfish is a component of the *Sebastes* complex. Currently, the open access fishery for canary rockfish is managed by a 1-month cumulative trip limit of 7,500 lb (3,402 kg), which is half the limited entry 2-month cumulative limit. The best available information at the June Council meeting indicated that the 90 mt open access allocation would be reached by July 6, 1998, if the rate of landings is not slowed. Because canary rockfish are unavoidable in other fisheries, the Council recommended a 1-month cumulative trip limit of 200 lb (91 kg) to accommodate minor amounts of unavoidable incidental catch. The harvest guideline may be exceeded by a slight amount, but a complete closure is not recommended because most incidentally-caught canary rockfish are not expected to survive if returned to sea.

The trip limit for Washington Coastal Treaty tribes will be 300 lb (136 kg) "per trip" for canary rockfish taken in their tribal longline fisheries, which is expected to result in a harvest of about 5–7 mt, consistent with tribal landings in recent years.

Sebastes complex/rockfish limits. The Council recommended that the overall, 40,000 lb (18,144 kg) monthly cumulative trip limit for all rockfish in the open access fishery be removed, and replaced with a 33,000 lb (14,969 kg) monthly cumulative trip limit for the *Sebastes* complex. In doing so, the open access fishery is constrained adequately by limits on the major rockfish components (3,000 lb (1,361 kg) for widow rockfish, 4,000 lb (1,814 kg) for Pacific ocean perch (POP), and 33,000 lb (14,969 kg) for the *Sebastes* complex) that add up to 40,000 lb (18,144 kg) per month. This is intended to simplify complicated regulations, and to discourage additional effort on species that are fully utilized.

Lingcod. Currently the open access fishery for lingcod is managed with a 2-month cumulative trip limit of 1,000 lb (454 kg); all lingcod must be larger than 24 inches (61 cm) total length. (The preamble to the annual management measures at 63 FR 419 (January 6, 1998) stated that the 24–inch (61 cm) total length size limit applied to all commercial and recreational lingcod, but this was inadvertently deleted in the open access trip limit. This document confirms that the 24–inch (61 cm) size limit was intended to apply to the open access fishery as well.) The 60:40 percent limits that apply in the limited entry fishery do not apply to lingcod caught in the open access fishery. The best available information at the June Council meeting indicated that the 76 mt open access allocation for lingcod would be reached by July 18 through August 1, 1998, if the rate of landings is not slowed. The Council recommended that the open access fishery for lingcod be slowed significantly by implementing a 250 lb (113 kg) cumulative monthly trip limit, for the month of July only, followed by complete closure for all open access gears starting on August 1, 1998. This enables the lingcod open access allocation to be achieved but not exceeded, while providing the industry with adequate notice of the pending closure. The 250 lb (113 kg) monthly trip limit is implemented immediately because even the current limit of 1,000 lb (454 kg) per 2 months could easily be taken if the closure were not implemented at the beginning of the next 2-month cumulative period on July 1. Survivability of released lingcod appears to be high.

The trip limit for Washington Coastal Treaty tribes will be 300 lb (136 kg) "per trip" for lingcod taken in their tribal fisheries, which is expected to result in harvest of about 1 mt, consistent with tribal landings in recent years.

Nontrawl sablefish. Currently the open access, nontrawl fishery for sablefish is managed with a 300 lb (136 kg) daily trip limit, which counts toward a 700 lb (318 kg) cumulative limit per 2-month period. The non-trawl fishery includes hook-and-line, pot, setnet, and trammel nets. (The 60:40 percent limits that apply in the limited entry trawl fishery do not apply to nontrawl sablefish in the open access fishery.) The best available information at the June Council meeting indicated that the 278 mt open access allocation for sablefish north of 36°00′ N. lat. would not be reached. The Council recommended that the 2-month cumulative open access limit be increased to 1,800 lb (816 kg), the same as currently in effect for the limited entry nontrawl sablefish fishery north of 36°00′ N. lat., with the intent that the open access allocation will be achieved in 1998.

NMFS Action

For the reasons stated above, NMFS concurs with the Council's recommendations and announces the following changes to the 1998 annual management measures (63 FR 419, January 6, 1998, as amended).

1. In Section IV., under *B. Limited Entry Fishery*, paragraphs (2)(b) and (2)(c) are revised to read as follows:

B. *Limited Entry Fishery*

* * * * *

(2) * * *

(b) *Cumulative trip limits.* The coastwide cumulative trip limit for the *Sebastes* complex is 40,000 lb (18,144 kg) per vessel per 2-month period. Within the cumulative trip limit for the *Sebastes* complex, no more than 13,000 lb (5,897 kg) may be yellowtail rockfish taken and retained north of Cape Mendocino; no more than 2,000 lb (907 kg) may be bocaccio taken and retained south of Cape Mendocino; and no more than 15,000 lb (6,804 kg) may be canary rockfish.

(c) The 60 percent monthly limits, which are the maximum amounts that may be taken and retained, possessed, or landed in either month in a 2-month period are: For the *Sebastes* complex coastwide, 24,000 lb (10,866 kg); for yellowtail rockfish, 7,800 lb (3,538 kg) north of Cape Mendocino; for bocaccio, 1,200 lb (5,443 kg) south of Cape Mendocino; and for canary rockfish coastwide, 9,000 lb (4,082 kg).

* * * * *

2. In Section IV., under *C. Trip Limits in the Open Access Fishery*, paragraph 1 introductory text, (1)(a), and (1)(b) are revised; paragraphs (1)(c) through (e) are added; and (2)(a)(i) and (3) are revised.

C. *Trip Limits in the Open Access Fishery*

* * * * *

(1) *Rockfish.* Rockfish means all rockfish as defined at 50 CFR 660.302, which includes the *Sebastes* complex, shortbelly rockfish, widow rockfish, POP, and thornyheads (longspine and shortspine). The *Sebastes* complex contains all other species of rockfish, including yellowtail rockfish, bocaccio, canary rockfish, and black rockfish. The following limits for rockfish in this paragraph C. (1) apply to all open access gear, including exempted trawl gear, unless otherwise specified.

(a) *All rockfish.* The trip limit for rockfish taken with hook-and-line or pot gear is 10,000 lb (4,536 kg) per vessel per fishing trip. Rockfish taken under this trip limit count toward cumulative trip limits.

(b) *Thornyheads.*

(i) *North of Pt. Conception.* Thornyheads (shortspine and longspine) may not be taken and retained, possessed, or landed north of Pt. Conception, except for a daily trip limit of 100 lb (45 kg) that applies to vessels engaged in fishing for pink shrimp.

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(ii) *South of Pt. Conception*. The daily trip limit for thornyheads is 50 lb (23 kg).

(c) *Widow rockfish*. The cumulative monthly trip limit for widow rockfish is 3,000 lb (1,361 kg).

(d) *POP*. The 50 percent monthly limit for POP is 4,000 lb (1,814 kg).

(e) *Sebastes complex*. The monthly cumulative limit for the *Sebastes* complex is 33,000 lb (14,969 kg) coastwide. The individual trip limits for species in the *Sebastes* complex in paragraph C. (d) are counted toward monthly limits for the *Sebastes* complex or rockfish, as applicable, and also apply to exempted trawl gear.

(i) *Yellowtail rockfish*. The 50 percent monthly limit for yellowtail rockfish is 6,500 lb (2,948 kg) north of Cape Mendocino.

(ii) *Bocaccio*.

(A) *All open access gear except setnets or trammel nets*. For all open access gear except setnets or trammel nets, the 50 percent monthly limit for bocaccio is 1,000 lb (454 kg) south of Cape Mendocino, of which no more than 500 lb (227 kg) per trip may be taken and retained with hook-and-line or pot gear.

(B) *Setnets or trammel nets* (legal only south of 38° N. lat.): For set nets or trammel nets, the cumulative monthly trip limit is 2,000 lb (907 kg).

(iii) *Canary rockfish*. The cumulative monthly trip limit for canary rockfish is 200 lb (91 kg).

(iv) *Black rockfish*. The trip limit at 50 CFR 660.323(a)(i) for black rockfish caught with hook-and-line gear also applies and is counted toward the cumulative *Sebastes* and rockfish limits. (The black rockfish limit is also stated in paragraph IV.B.7.)

(2) * * *

(a) * * *

(i) *North of 36°00' N. lat*. North of 36°00' N. lat. the daily trip limit for sablefish is 300 lb (136 kg), which counts toward a cumulative trip limit of 1,800 lb (816 kg) per 2-month period. The 2-month cumulative trip limit may be taken at any time during the 2-month period; there is no 60 percent monthly limit for the open access fishery.

* * * * *

(3) *Lingcod*.

(a) The monthly cumulative trip limit for lingcod is 250 lb (113 kg) during July 1998. All lingcod must be longer than 24 inches (61 cm) total length.

(b) Effective August 1, 1998, lingcod may not be taken and retained, possessed, or landed by any open access gear, including exempted trawl gear, coastwide.

* * * * *

V. Washington Coastal Tribal Fisheries [Amended]

3. In the second column, the fifth paragraph from the top is designated as *A. Sablefish*; the sixth paragraph from the top is designated as *B. Rockfish* and revised. In the third column, the first complete paragraph is designated as *C. Whiting*; and paragraph *D. Lingcod* is added to read as follows:

V. Washington Coastal Tribal Fisheries

* * * * *

B. Rockfish: For the commercial harvest of black rockfish off Washington State, an HG of: 20,000 lb (9,072 kg) north of Cape Alava (48° 09' 30" N. lat.) and 10,000 lb (4,536 kg) between Destruction Island (47° 40' 00" N. lat.) and Leadbetter Point (46° 38' 10" N. lat.). This 30,000 lb (13.6 mt) is subtracted from the HG for the northern *Sebastes* complex.

(1) Thornyheads taken and retained with longline gear are subject to a 300 lb (136 kg) trip limit, which is expected to result in landings of 8,000–10,000 lb (3–5 mt).

(2) Canary rockfish taken and retained with longline gear are subject to a 300 lb (136 kg) trip limit, which is expected to result in landings of 10,000–15,000 lbs (5–7 mt).

(3) Widow rockfish taken and retained with any gear are subject to a 3,000 lb (1,361 kg) monthly cumulative limit.

* * * * *

D. Lingcod: Lingcod taken and retained with any gear are subject to a 300 lb trip limit.

* * * * *

Classification

These actions are authorized by the regulations implementing the FMP. The determination to take these actions is based on the most recent data available. The aggregate data upon which the determinations are based are available for public inspection at the Office of the Administrator, Northwest Region, NMFS (see ADDRESSES) during business hours. Because of the need for immediate action to implement these changes at the beginning of the next 2-month cumulative trip limit period and because the public had an opportunity to comment on the action at the June 1998 Council meeting, NMFS has determined that good cause exists for this document to be published without affording a prior opportunity for public comment or a 30-day delayed effectiveness period. These actions are taken under the authority of 50 CFR 660.323(b)(1) and are exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq*.

Dated: June 30, 1998.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–17863 Filed 7–1–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 980501115–8160–02; I.D. 032498A]

RIN 0648–AK86

Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Compensation for Collecting Resource Information

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Emergency rule.

SUMMARY: This action, authorized by the Magnuson-Stevens Conservation and Management Act (Magnuson-Stevens Act), implements provisions by which a vessel owner or operator who has collected resource information according to a NMFS-approved protocol may be compensated with the opportunity to harvest fish in excess of current vessel limits and/or outside other restrictions. This action is intended to improve the types and amounts of scientific information available for use in stock assessments and management of the Pacific coast groundfish fishery. This action must be implemented under the Magnuson-Stevens Act emergency rulemaking authority so that NMFS may contract with commercial fishing vessels to conduct resource surveys during the summer of 1998. The Pacific Fishery Management Council (Council) is considering an amendment to the Pacific Coast Groundfish Fishery Management Plan (PCGFMP) that would continue this compensation initiative beyond 1998.

DATES: Effective July 1, 1998 through January 4, 1999.

ADDRESSES: Send comments to William Stelle, Jr., Administrator, Northwest Region, (Regional Administrator) NMFS, 7600 Sand Point Way NE., Seattle, WA 98115; or William T. Hogarth, Administrator, Southwest Region, (Regional Administrator) NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213. Copies of the environmental assessment/regulatory impact review are also available from that address. Send comments regarding the burden estimate or any other aspect of the collection-of-information requirements in this emergency rule, including suggestions for reducing the burden, to one of the NMFS addresses and to the Office on Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (ATTN: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Katherine A. King at 206–526–6140.

SUPPLEMENTARY INFORMATION: NMFS is implementing an emergency rule to allow owners or operators of vessels that collect resource information to be compensated with the opportunity to harvest fish in excess of current vessel limits and/or outside other restrictions [hereinafter "compensated with fish"]. The Council recommended this action at its November 1997 meeting in Portland, OR, with the intent that NMFS proceed with this rule immediately so that NMFS may so contract with commercial fishing vessels to conduct resource surveys during the summer of 1998.

A proposed rule was published on May 15, 1998 (at 63 FR 27035), requesting public comments through June 5, 1998. One comment was received, which resulted in no change to the final rule, and NMFS made one clarification regarding accounting for fish used as compensation. The final rule is substantively the same as proposed. See the preamble to the proposed rule for additional background information.

Background

On October 11, 1996, the Magnuson-Stevens Act was amended to authorize the Secretary of Commerce (Secretary) to use the private sector to provide vessels, equipment, and services necessary to survey fishery resources and to pay for these surveys through the sale of fish taken during the survey or, if the quality or amount of fish is not adequate, on a subsequent commercial fishing trip (sec. 402(e)). Section 303(b)(11) of the Magnuson-Stevens Act enables the Secretary to "reserve a portion of the allowable biological catch of the fishery for use in scientific research." A vessel that is chartered by NMFS to conduct resource surveys becomes a "scientific research vessel" as defined at 50 CFR 600.10, and it must not conduct commercial fishing on the same trip during which a resource survey is conducted.

These provisions must be in place by early July 1998 in order to include compensation with fish as a component of contracts NMFS will award to commercial fishing vessels to conduct resource surveys during the summer of 1998. Stock assessments for the Dover sole/thornyhead/trawl-caught sablefish complex are controversial and have resulted in serious concern over the amount and accuracy of survey data. NMFS is committed to addressing these concerns. However, Federal fiscal constraints have precluded gathering the information needed. This is further compounded by the unavailability of the NOAA ship *Miller Freeman*, the principle vessel used for conducting resource surveys in this fishery, during much of 1998. Implementation of these provisions would enable NMFS to expand sampling in the annual slope survey that provides data for the stock assessments for these and other groundfish species. There is inadequate time to amend the PCGFMP to provide for using fish as compensation (and subtracting the compensation fish from acceptable biological catch (ABC)) before the slope survey is scheduled to begin in August 1998. Therefore, NMFS is implementing this rule under the Secretary's emergency rulemaking authority of the Magnuson-Stevens Act so that these provisions may be implemented in time to support the 1998 slope survey. The Council is preparing an amendment to the PCGFMP for later implementation.

Compensation for a Vessel Conducting a Resource Survey

The Magnuson-Stevens Act authorizes the Secretary, in consultation with the Council and the fishing industry, to structure competitive solicitations by which a vessel's owner or operator may compete for a contract with NMFS to conduct a resource survey. Resource surveys generally are conducted from chartered fishing vessels, chartered university vessels, and dedicated NOAA vessels. In a resource survey, all samples (fish) are collected according to a specified research plan or protocol. NMFS distinguishes survey activities by a scientific research vessel from commercial fishing activities according to a process of acknowledging scientific research described at 50 CFR 600.745(a). NMFS frequently uses this mechanism to conduct surveys from chartered fishing vessels, and, in some cases, some of the sample has been retained by the vessel owner/operator for sale to reduce waste and to defray some of the costs of the charter. However, any additional harvest taken on a subsequent commercial trip as payment for the resource survey would not be considered scientific research. This additional harvest was not authorized under the old provisions of the Magnuson-Stevens Act.

The new provisions of the Magnuson-Stevens Act provide the authority to go beyond allowing the retention and sale of fish caught during the course of a resource survey by providing compensation through the opportunity to harvest fish in excess of current vessel limits and/or outside of other restrictions. This rule authorizes such "compensation fishing" through the issuance of an exempted fishing permit (EFP) in the Pacific Coast groundfish fishery, which would enable the vessel to exceed trip limits (and/or to be exempt from other specified management restrictions) so that the compensation amount could be achieved. The compensation EFP would include terms and conditions that would limit the authorized activities. Conditions for disposition of bycatch or any excess catch and for reporting the value of the amount landed and other appropriate terms and conditions would be specified in the EFP. If the PCGFMP is amended, it is anticipated that compensation fishing would occur no later than the end of September of the year after the survey occurred. Compensation fishing must take place during the period specified in the EFP and must be conducted according to the terms and conditions of the EFP. The compensation EFP may also require the vessel owner or operator to keep separate records of compensation fishing conducted after the survey is completed and to submit them to NMFS within a specified period of time after the compensation fishing is completed.

Process

The process incorporates selection of commercial vessels to be used to conduct the resource surveys, issuance of compensation EFPs to provide for compensation with fish, and adjustment of the ABC to account for the compensation fish used.

Competitive Offers

NMFS may initiate a competitive solicitation, i.e., request for proposals (RFP), to select vessels to conduct resource surveys that use fish as full or partial compensation. The RFP would be publicized in the *Commerce Business Daily* and would specify the factors that NMFS would use in evaluating the proposals. Vessel owners would be expected to submit offers to conduct the resource survey for a combination of dollars and compensation fish.

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Council Consultation and Approval

At a Council meeting, NMFS would consult with the Council and receive public comment on upcoming resource surveys to be conducted with groundfish used as whole or partial compensation. For each proposal, NMFS would present (1) the maximum number of vessels expected or needed to conduct the survey, (2) an estimate of the species and amount of fish likely to be needed to compensate the vessel, (3) the time frame in which the survey and the compensation fish would be taken, and (4) the year in which the compensation fish would be deducted from the ABC before determining the harvest guideline (HG) or quota. This is, in effect, equivalent to NMFS presenting a compensation EFP application to the Council for the compensation amounts. In general, compensation fish should be similar to surveyed species, but there may be reasons to provide compensation with healthier, more abundant, less restricted, or more easily targeted species. For example, NMFS may decline to pay a vessel with species that are, or are expected to be, overfished, that are subject to overfishing, or that are unavoidably caught with species that are overfished or subject to overfishing. NMFS may also want to take into account other factors such as expected discards and incidental catches of other species. If the Council does not approve the proposal to use fish as compensation to pay for a resource survey, NMFS will not use fish, other than fish taken during the scientific research, as compensation for that survey.

Awarding the Contract

NMFS would negotiate and award the resource survey contracts in accordance with normal Federal procurement procedures. The contract would include any conditions and limits on compensation fishing, including a requirement for the vessel to have on board (1) a letter of acknowledgment of research signed by the Regional Administrator or designee, while conducting any resource survey, and (2) the compensation EFP while conducting compensation fishing and for a period of at least 15 days after the end of any applicable cumulative trip limit period in which compensation fishing occurred.

Retention of Samples

All fishing on a resource survey trip would be required to be conducted according to scientific protocol and would be considered scientific research. However, the owner or operator of the vessel could retain and sell some fish caught while conducting the survey as compensation for the vessel's participation. Retention of samples for sale would be at the discretion of the chief scientist on board, who would consult with the vessel captain. Collection of scientific information and samples would be the highest priority and might interfere with the vessel's ability to retain market-quality fish.

Issuance of the Compensation EFP

Upon successful completion of the resource survey and of the determination concerning the amount and/or value of the survey sample that was retained for sale as payment for conducting the survey, NMFS would issue a compensation EFP to the owner or operator of the vessel if full compensation has not been achieved by cash payment and retention of the survey sample. The compensation EFP would allow the vessel an opportunity to exceed the current commercial fishing limits by the total amount of compensation fish needed. The amount of compensation fish needed is the amount of fish specified in the contract less the amount and/or value of the survey sample retained for sale. The compensation EFP also could exempt the vessel from other specified management measures.

Accounting for Compensation Fish

Because the species and amounts of fish used as compensation would not be determined until the contract is awarded, it may not be possible to deduct the amount of compensation fish from the ABC or HG in the year that the fish are caught. Even if this could be done, it would cause great confusion with the many allocations and limits that were set before the compensation amounts were known. Therefore, the compensation fish will be deducted from the ABC the year after they are caught. During the annual specification process (50 CFR 660.321(b)), NMFS would advise the Council of the total amount of fish caught during the year as compensation for conducting a resource survey, which then would be deducted from the following year's ABCs before setting the HGs or quotas. (If compensation fish are taken too late in the year so that landings data are not available to be deducted from the next year's ABC, it will be deducted in the next management cycle practicable.)

Compensation for a Commercial Vessel Collecting Resource Information—an EFP With a Compensation Clause

NMFS also intends to conduct smaller scale cooperative projects on vessels that are operating in the commercial fishery. This type of activity would not be considered scientific research under 50 CFR 600.745(a) because it would not be conducted by a scientific research vessel, even though the vessels would be collecting resource information according to strict scientific standards approved by NMFS. For small-scale cooperative projects, NMFS could issue EFPs to fishing vessels collecting the resource information. The EFP would require the vessel to conduct specific activities and allow it to retain and sell a limited amount of fish above the amount it could take under its regular trip limit. After the resource information has been obtained, the EFP could authorize the vessel to sell the fish that were in the sample. This would be a standard EFP, issued under the procedures at 50 CFR 600.745(b). Fish caught under this EFP would be counted against the ABCs and HGs or quotas in the year they are caught.

In some circumstances, NMFS might want to allow the vessel to harvest slightly more fish than necessary for the particular project. For the sablefish depth-specific sampling EFP expected in 1998, a vessel would be able to retain the sample plus a modest compensation amount, no larger than the size of the sample, above its normal trip limits. Samples in these cases generally would be expected to involve less than 500–1,500 lb (227–680 kg) of fish per vessel per month. The extra fish would compensate the vessel for the extra work involved in collecting the samples, encourage vessels to participate in surveys, and utilize more of the fish taken during the surveys that are surplus to sampling needs. NMFS could propose the amount of fish that would be used as compensation, or the EFP applicant could propose an amount in the EFP application. In these cases, when NMFS announces receipt of the EFP application and requests comments as required under 50 CFR 600.745(b), NMFS also announces a window period during which vessels would have an opportunity to submit EFP applications. NMFS contemplates two ways of issuing such EFPs: First, the EFPs could be issued to individuals implementing a protocol approved by NMFS. NMFS would consider the qualified applicants, issue EFPs to all of them, select participation by lottery, issue EFPs to the first applicants, or use other impartial selection methods. Second, NMFS could issue the EFP to a NMFS element or to a state or other Federal research agency, and the research agency's proposal would include an impartial way of selecting fishing vessel participants that would receive individual EFPs under the umbrella EFP held by the research agency.

Biological and Socio-economic Impacts

The biological impacts of using fish as compensation are expected to be neutral in the short term and positive in the long term. In the short term, the amount of fish used as compensation will be within the ABC, and ,therefore, within current acceptable biological levels. In the long term, the additional information that is gathered because NMFS is able to compensate vessels with fish will provide more and better data for use in stock assessments, resulting in better management of the stock and less likelihood of overfishing. This should lead to better stock assessments and to a better long-term prognosis for a sustainable fishery, contributing to stability in the fishing industry and in the resources upon which the industry depends. A more detailed discussion is found in the preamble to the proposed rule and the environmental assessment for this action.

Comment and Response

One comment was received during the public comment period. It was supportive of the rule but requested a broader distribution of the RFP soliciting charter vessels to conduct resource surveys. NMFS agrees that a wide distribution is a good idea and will attempt to do so. In fact, notification of the RFP for the 1998 slope survey was submitted to each holder of a limited entry trawl permit for the groundfish fishery off Washington, Oregon, and California. However, distribution of the RFP is part of the Federal procurement process and is not governed by this rule; a description was included in the preamble of the proposed rule as background information. Therefore, no change is made to this rule.

Clarification

NMFS has changed the rule slightly to clarify that compensation fish caught too late in 1998 to be counted against the 1999 ABC may be deducted in the next management cycle practicable, e.g., 2000. Other minor editorial changes have been made for clarity and to meet publication format requirements.

Classification

The Assistant Administrator (AA) finds that the need to implement these measures in a timely manner so that vessels collecting resource information may be compensated with fish constitutes good cause under authority contained in 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date. If the rule was not made effective for 30 days, NMFS would be unable to issue fish compensation contracts in a timely manner to vessels needed to conduct the August 1998 slope survey. This would be contrary to the public interest because sufficient funds are not available to compensate all of the vessels needed to conduct an adequate survey. The result would be a reduced survey with less data to determine the status of the resource. Also, it is unnecessary to delay the rule because the survey does not directly affect the activities of the 1998 fishery and there are no compliance requirements for participants in the survey.

This emergency rule has been determined to be not significant for purposes of Executive Order 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule would not have a significant economic impact on a substantial number of small entities. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not prepared.

This emergency rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA). Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number. The collection of this information has been approved by the Office of Management and Budget, under OMB control number 0648–0203 for Federal fishing permits. The public reporting burden for applications for exempted fishery permits is estimated at 1 hour per response; burden for reporting by exempted fishing permittees is estimated at 30 minutes per response. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and revising the collection of information. Send comments regarding these burden estimates or any other aspect of the data requirements, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (ATTN: NOAA Desk Officer).

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: June 30, 1998.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 660.306, paragraph (y) is added to read as follows:

§ 660.306 Prohibitions.

* * * * *

(y) Fish for groundfish in violation of any terms or conditions attached to an EFP under § 660.350.

3. In part 660, subpart G, a new § 660.350 is added to read as follows:

§ 660.350 Compensation with fish for collecting resource information—exempted fishing permits off Washington, Oregon, and California.

In addition to the reasons stated in § 600.745(b)(1) of this chapter, an EFP may be issued under this subpart G for the purpose of compensating the owner or operator of a vessel for collecting resource information according to a protocol approved by NMFS. The EFP would allow a vessel to retain fish as compensation in excess of trip limits, or to be exempt from other specified management measures for the Pacific coast groundfish fishery.

(a) *Compensation EFP.* A compensation EFP may be issued to the owner or operator of a vessel that conducted a resource survey according to a contract with NMFS. A vessel's total compensation from all sources (in terms of dollars or amount of fish and including fish from survey samples or compensation fish) will be determined through normal Federal procurement procedures. The compensation EFP will specify the maximum amount or value of fish that may be retained by the vessel after the resource survey is completed.

(1) *Competitive offers.* NMFS may initiate a competitive solicitation (request for proposals or RFP) to select

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vessels to conduct resource surveys that use fish as full or partial compensation, following normal Federal procurement procedures.

(2) *Consultation and approval.* At a Council meeting, NMFS will consult with the Council and receive public comment on upcoming resource surveys to be conducted if groundfish could be used as whole or partial compensation. Generally, compensation fish would be similar to surveyed species, but there may be reasons to provide payment with healthier, more abundant, less restricted stocks, or more easily targeted species. For example, NMFS may decline to pay a vessel with species that are, or are expected to be, overfished, or that are subject to overfishing, or that are unavoidably caught with species that are overfished or subject to overfishing. NMFS also may also consider levels of discards, bycatch, and other factors. If the Council does not approve providing whole or partial compensation for the conduct of a survey, NMFS will not use fish, other than fish taken during the scientific research, as compensation for that survey. For each proposal, NMFS will present:

(i) The maximum number of vessels expected or needed to conduct the survey,

(ii) An estimate of the species and amount of fish likely to be needed as compensation,

(iii) When the survey and compensation fish would be taken, and

(iv) The year in which the compensation fish would be deducted from the ABC before determining the harvest guideline or quota.

(3) *Issuance of the compensation EFP.* Upon successful completion of the survey, NMFS will issue a "compensation EFP" to the vessel if it has not been fully compensated. The procedures in § 600.745(b)(1) through (b)(4) of this chapter do not apply to a compensation EFP issued under this subpart for the Pacific coast groundfish fishery (50 CFR part 660, subpart G).

(4) *Terms and conditions of the compensation EFP.* Conditions for disposition of bycatch or any excess catch, for reporting the value of the amount landed, and other appropriate terms and conditions will be specified in the EFP. Compensation fishing must occur during the period specified in the EFP, but no later than the end of September of the fishing year following the survey, and must be conducted according to the terms and conditions of the EFP.

(5) *Reporting the compensation catch.* The compensation EFP may require the vessel owner or operator to keep separate records of compensation fishing and to submit them to NMFS within a specified period of time after the compensation fishing is completed.

(6) *Accounting for the compensation fish.* As part of the annual specification process (§ 660.321), NMFS will advise the Council of the amount of fish retained under a compensation EFP, which then will be deducted from the next year's ABCs before setting the HGs or quotas. Fish taken too late in the year to be deducted from the following year's ABC will be accounted for in the next management cycle practicable.

(b) *EFP with a compensation clause.* An EFP may be issued to a commercial fishing vessel for the purpose of collecting resource information in excess of current management limits (§ 600.745(b) of this chapter). The EFP may include a compensation clause that allows the participating vessel to be compensated with fish for its efforts to collect resource information according to NMFS' approved protocol. If compensation with fish is requested in an EFP application, or proposed by NMFS, the following provisions apply in addition to those at § 600.745(b) of this chapter.

(1) *Application.* In addition to the requirements in § 600.745(b) of this chapter, application for an EFP with a compensation clause must clearly state whether a vessel's participation is contingent upon compensation with groundfish and, if so, the minimum amount (in metric tons, round weight) and the species. As with other EFPs issued under § 600.745 of this chapter, the application may be submitted by any individual, including a state fishery management agency or other research institution.

(2) *Denial.* In addition to the reasons stated in § 600.745(b)(3)(iii) of this chapter, the application will be denied if the requested compensation fishery, species, or amount is unacceptable for reasons such as, but not limited to, the following: NMFS concludes the value of the resource information is not commensurate with the value of the compensation fish; the proposed compensation involves species that are (or are expected to be) overfished or subject to overfishing, fishing in times or areas where fishing is otherwise prohibited or severely restricted, or fishing for species that would involve unavoidable bycatch of species that are overfished or subject to overfishing; or NMFS concludes the information can reasonably be obtained at less cost to the resource.

(3) *Window period for other applications.* If the RA or designee agrees that compensation should be considered, then a window period will be announced in the **Federal Register** during which additional participants will have an opportunity to apply. This notification would be made at the same time as announcement of receipt of the application and request for comments required under § 660.745(b). If there are more qualified applicants than needed for a particular time and area, NMFS will choose among the qualified vessels, either randomly, in order of receipt of the completed application, or by other impartial selection methods. If the permit applicant is a state, university, or Federal entity other than NMFS and NMFS approves the selection method, the permit applicant may chose among the qualified vessels, either randomly, in order of receipt of the vessel application, or by other impartial selection methods.

(4) *Terms and conditions.* The EFP will specify the amounts that may be taken as scientific samples and as compensation, the time period during which the compensation fishing must occur, management measures that are waived while fishing under the EFP, and other terms and conditions appropriate to the fishery and the collection of resource information. NMFS may require compensation fishing to occur on the same trip that the resource information is collected.

(5) *Accounting for the catch.* Samples taken under this EFP, as well as any compensation fish, are counted toward the current year's catch or landings.

[FR Doc. 98-17937 Filed 7-1-98; 3:32 pm]

BILLING CODE 3510-22-F

Proposed Rules

Federal Register
Vol. 63, No. 129
Tuesday, July 7, 1998

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–179–AD]

RIN 2120–AA64

Airworthiness Directives; de Havilland Model DHC–8–100, –200, and –300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all de Havilland Model DHC–8–100, –200, and –300 series airplanes. This proposal would require installation of a placard on the instrument panel of the cockpit to advise the flightcrew that positioning of the power levers below the flight idle stop during flight is prohibited. This proposal also would require eventual installation of a system that would prevent such positioning of the power levers during flight. Such installation would terminate the requirement for installation of a placard. This proposal is prompted by reports of operation of the airplane with the power levers positioned below the flight idle stop during flight. The actions specified by the proposed AD are intended to prevent such positioning of the power levers below the flight idle stop during flight, which could cause engine overspeed, possible engine damage or failure, and consequent reduced controllability of the airplane.

DATES: Comments must be received by October 5, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–179–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

Information concerning this proposed rule may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: James E. Delisio, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7521; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–NM–179–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–179–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports of operation of the airplane with the power levers positioned below the flight idle stop during flight on de Havilland Model DHC–8–100, –200, and –300 series airplanes. One report indicated that such operation resulted in significant engine damage.

When the power levers are positioned below the flight idle stop during flight, the propellers operate in the beta range. Under these conditions, it is possible for air loads to back-drive the propeller, which could result in overspeed of the propeller and power turbine of the engine. ("Beta," as defined in this proposed rule, is the range of propeller operation intended for use during taxi, ground idle, or reverse operations, as controlled by the power lever settings aft of the flight idle stop.)

Operation of the propellers in the beta range during flight due to positioning of the power levers below the flight idle stop, could result in engine overspeed, possible engine damage or failure, and consequent reduced controllability of the airplane.

U.S. Type Certification of the Airplane

This airplane model is manufactured in Canada and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. The FAA has reviewed all available information and determined that AD action is necessary for products of these type designs that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require installation of a placard on the instrument panel of the cockpit to advise the flightcrew that positioning of the power levers below the flight idle stop during flight is prohibited. Additionally, the proposed AD would require eventual installation of an FAA-approved system that would prevent

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such positioning of the power levers during flight. Installation of that system would eliminate the requirement for installation of the placard. Installation of such an FAA-approved system would be required to be accomplished in accordance with a method approved by the FAA.

Additionally, the FAA has included a provision [paragraph (c) of the proposal] for Master Minimum Equipment List (MMEL) relief in the event the system proposed in paragraph (b) of the proposal malfunctions or the use of an override (if installed) has been necessary. If provision is not made for MMEL relief, the system required by paragraph (b) would be required all of the time. Absence of such MMEL relief could create a burden for operators if required maintenance or repair was not readily available at certain airports or locations. The proposed MMEL relief is based on the condition that the existing manual power lever flight idle gate and lifting finger trigger latch design is retained and remains fully functional. This is consistent with the current MMEL that makes no mention of the flight idle gate and lifting finger trigger latch design, which means these devices must be operational at all times.

Cost Impact

The FAA estimates that 185 de Havilland Model DHC–8–100, and –200, and –300 series airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the installation of the placard, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed placard installation on U.S. operators is estimated to be $11,100, or $60 per airplane.

Since the manufacturer has not yet developed a specific system commensurate with the requirements of this proposal, the FAA is unable to provide specific information as to the number of work hours or cost of parts that would be required to accomplish the proposed installation. However, based on similar installations of such systems accomplished previously on other airplane models, the FAA can reasonably estimate that approximately 130 work hours per airplane may be necessary to accomplish the system installation. The FAA also estimates that required parts would cost approximately $10,000 per airplane. Based on these figures, the cost impact of the proposed system installation on U.S. operators is estimated to be $3,293,000, or $17,800 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The FAA recognizes that the obligation to maintain aircraft in an airworthy condition is vital, but sometimes expensive. Because AD's require specific actions to address specific unsafe conditions, they appear to impose costs that would not otherwise be borne by operators. However, because of the general obligation of operators to maintain aircraft in an airworthy condition, this appearance is deceptive. Attributing those costs solely to the issuance of this AD is unrealistic because, in the interest of maintaining safe aircraft, prudent operators would accomplish the required actions even if they were not required to do so by the AD.

A full cost-benefit analysis has not been accomplished for this proposed AD. As a matter of law, in order to be airworthy, an aircraft must conform to its type design and be in a condition for safe operation. The type design is approved only after the FAA makes a determination that it complies with all applicable airworthiness requirements. In adopting and maintaining those requirements, the FAA already has made the determination that they establish a level of safety that is cost-beneficial. When the FAA, as in this proposed AD, makes a finding of an unsafe condition, this means that the original cost-benefit level of safety is no longer being achieved and that the proposed actions are necessary to restore that level of safety. Because this level of safety has already been determined to be cost-beneficial, a full cost-benefit analysis for this proposed AD would be redundant and unnecessary.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

De Havilland: Docket 98–NM–179–AD.

Applicability: All Model DHC–8–100, –200, and –300 airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent positioning of the power levers below the flight idle stop during flight, which could cause engine overspeed, possible engine damage or failure, and consequent reduced controllability of the airplane, accomplish the following:

(a) Within 30 days after the effective date of this AD, install a placard in a prominent location on the instrument panel of the cockpit that states:

Positioning of the power levers below the flight idle stop during flight is prohibited.

Such positioning may lead to loss of airplane control, or may result in an engine overspeed condition and consequent loss of engine power.

(b) Within 1 year after the effective date of this AD, install a system that would prevent positioning the power levers below the flight idle stop during flight, in accordance with a method approved by the Manager, New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate. Following accomplishment of that installation, the placard required by paragraph (a) of this AD may be removed.

(c) In the event that the system required by paragraph (b) of this AD malfunctions, or if the use of an override (if installed) has been necessary, the airplane may be operated for two days to a location where required maintenance/repair can be performed, provided the system required by paragraph (b) of this AD has been properly deactivated and placarded for flightcrew awareness, in accordance with the FAA-approved Master Minimum Equipment List (MMEL).

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on June 29, 1998.

Vi L. Lipski,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–17915 Filed 7–6–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–157–AD]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Dornier Model 328–100 series airplanes. This proposal would require repetitive lubrication of the engine control push-pull cables. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent ice from building up on the engine control push-pull cables, which could result in friction or jamming of the engine controls, and consequent reduced controllability of the airplane.

DATES: Comments must be received by August 6, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–157–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Fairchild Dornier, Dornier Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–NM–157–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–157–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, notified the FAA that an unsafe condition may exist on all Dornier Model 328–100 series airplanes. The LBA advises that it has received several reports of ice building up on the engine control push-pull cables during flight, which prompted operators to descend to a lower altitude (higher temperature) to melt off any build-up. Investigation revealed that the ice builds up on and around the conduit seal housing for the engine control push-pull cables. Such build-up of ice on the engine control push-pull cables, if not corrected, could result in friction or jamming of the engine controls, and consequent reduced controllability of the airplane.

Explanation of Relevant Service Information

Dornier has issued Alert Service Bulletins ASB–328–76–022, dated December 22, 1997, and ASB–328–76–015, Revision 3, dated January 9, 1998, which describe procedures for repetitive lubrication of the engine control push-pull cables at two locations along the cables. The LBA classified these alert service bulletins as mandatory and issued German airworthiness directives 1998–105, dated January 30, 1998, and 1997–148/3, dated February 26, 1998, in order to assure the continued airworthiness of these airplanes in Germany.

FAA's Conclusions

This airplane model is manufactured in Germany and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement,

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the LBA has kept the FAA informed of the situation described above. The FAA has examined the findings of the LBA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the alert service bulletins described previously.

Interim Action

This is considered to be interim action. The manufacturer has advised that it currently is developing a modification that will positively address the unsafe condition addressed by this AD. Once this modification is developed, approved, and available, the FAA may consider additional rulemaking.

Cost Impact

The FAA estimates that 50 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 4 work hours per airplane to accomplish the proposed lubrication, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $12,000, or $240 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Dornier Luftfahrt GmbH: Docket 98–NM–157–AD.

Applicability: All Model 328–100 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent ice from building up on the engine control push-pull cables, which could result in friction or jamming of the engine controls, and consequent reduced controllability of the airplane, accomplish the following:

(a) Within 2 months after the effective date of this AD, lubricate the engine control push-pull cables in accordance with Dornier Alert Service Bulletins ASB–328–76–022, dated December 22, 1997, and ASB–328–76–015, Revision 3, dated January 9, 1998. Repeat the lubrication thereafter at intervals not to exceed 300 flight hours.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in German airworthiness directives 1998–105, dated January 30, 1998, and 1997–148/3, dated February 26, 1998.

Issued in Renton, Washington, on June 30, 1998.

Stewart R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–17959 Filed 7–6–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–307–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300, A310, and A300–600 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Airbus Model A300, A310, and A300–600 series airplanes. This proposal would require repetitive visual inspections to detect cracked or broken door stop fittings on the fuselage frame of the forward passenger doors, and replacement of any cracked or broken fitting with a new fitting. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to detect and correct

cracked or broken door stop fittings of the forward passenger doors, which could result in failure of the door stop fittings, consequent reduced structural integrity of the door support structure, and sudden loss of cabin pressure in the passenger compartment.

DATES: Comments must be received by August 6, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–307–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 97–NM–307–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–307–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on all Airbus Model A300, A310, and A300–600 series airplanes. The DGAC advises that, during full scale fatigue testing of Airbus Model A330 and A340 series airplanes, cracked and broken door stop fittings were discovered on the fuselage frame of the left and right forward passenger doors. The broken door stops were found between 27,000 and 60,000 simulated flight cycles. As a result of these findings, another analysis of fatigue loading on Model A300, A310, and A300–600 series airplanes was performed. The results of this analysis demonstrated that similar fractures also may occur on these airplanes because of the design similarities. Such cracked or broken door stop fittings, if not detected and corrected, could result in failure of the door stop fittings, consequent reduced structural integrity of the door support structure, and sudden loss of cabin pressure in the passenger compartment.

Explanation of Relevant Service Information

Airbus has issued Service Bulletins A300–53–0309 (for Model A300 series airplanes); A310–53–2087 (for Model A310 series airplanes); and A300–53–6060 (for Model A300–600 series airplanes); all dated March 19, 1997; which describe procedures for repetitive visual inspections to detect cracked or broken door stop fittings on the fuselage frame of the forward passenger doors, and replacement of any cracked or broken fitting with a new fitting. Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition. The DGAC classified these service bulletins as mandatory and issued French airworthiness directive 97–124–223(B), dated June 4, 1997, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletins described previously, except as discussed below.

Differences Between Proposed Rule and Service Bulletin

Operators should note that, although the Airbus service bulletins reference the Master Minimum Equipment List (MMEL) for appropriate compliance times for repair of cracked or broken door stop fittings, this proposed AD would not permit further flight if cracks are detected in the door stop fittings. The FAA has determined that, because of the safety implications and consequences associated with such cracking, any subject door stop fitting that is found to be cracked, must be replaced prior to further flight.

Cost Impact

The FAA estimates that 103 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $12,360, or $120 per airplane, per inspection cycle.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects

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on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Docket 97–NM–307–AD.

Applicability: All Model A300, A310, and A300–600 series airplanes; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct cracked or broken door stop fittings of the forward passenger doors, which could result in failure of the door stop fittings, consequent reduced structural integrity of the door support structure, and sudden loss of cabin pressure in the passenger compartment, accomplish the following:

(a) Prior to the accumulation of the total flight cycles specified in the "Threshold" column of paragraph 1.B.(5) of the Planning Information of Airbus Service Bulletin A300–53–0309 (for Model A300 series airplanes); A310–53–2087 (for Model A310 series airplanes); or A300–53–6060 (for Model A300–600 series airplanes); all dated March 19, 1997; as applicable; or within 200 flight cycles after the effective date of this AD, whichever occurs later; accomplish paragraphs (a)(1) and (a)(2) of this AD.

(1) Perform a visual inspection of the left and right forward passenger door stop fittings to detect cracked or broken door stop fittings, in accordance with the applicable service bulletin. And

(2) Thereafter, repeat the visual inspection at the intervals specified in the "Intervals" column of paragraph 1.B.(5) of the Planning Information of the applicable service bulletin.

(b) If any cracked or broken door stop fitting is detected during any inspection required by paragraph (a)(1) or (a)(2) of this AD, prior to further flight, replace the door stop fitting with a new fitting in accordance with Airbus Service Bulletin A300–53–0309 (for Model A300 series airplanes); A310–53–2087 (for Model A310 series airplanes); or A300–53–6060 (for Model A300–600 series airplanes); all dated March 19, 1997; as applicable. Thereafter, repeat the visual inspections at the intervals specified in the "Intervals" column of paragraph 1.B.(5) of the Planning Information of the applicable service bulletin.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in French airworthiness directive 97–124–223(B), dated June 4, 1997.

Issued in Renton, Washington, on June 30, 1998.

Stewart R. Miller,

Acting Manager,

Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–17958 Filed 7–6–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–96–AD]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Dornier Model 328–100 series airplanes. This proposal would require a one-time inspection of direct current (DC) power unit 1VE to determine whether electrical connections are correctly installed and stud nuts are correctly torqued, and corrective actions, if necessary. For certain airplanes, this proposal also would require replacement of the existing DC power unit 1VE with a modified DC power unit. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent overheating of electrical connections, which could result in electrical arcing and consequent fire.

DATES: Comments must be received by August 6, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–96–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from FAIRCHILD DORNIER, DORNIER Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. This information may be examined at the

FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–M–96–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–96–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, notified the FAA that an unsafe condition may exist on certain Dornier Model 328–100 series airplanes. The LBA advises that it has received reports of overheating of the electrical connection studs on direct current (DC) power unit 1VE, which has been attributed to incorrectly installed terminals and spring washers, and incorrect torquing of the stud nuts. The LBA also has received reports of overheating and burning of the mounting plate of the bus bar of the auxiliary power unit in the DC power unit 1VE, which have been attributed to an incorrectly torqued bus bar screw. Such overheating of electrical connections, if not corrected, could result in electrical arcing and consequent fire.

Explanation of Relevant Service Information

The manufacturer has issued Dornier Alert Service Bulletin ASB–328–24–018, dated August 5, 1997. The alert service bulletin describes procedures for a one-time visual inspection of the electrical connections of DC power unit 1VE to determine whether terminals and spring washers are installed correctly, and a one-time torque inspection of the stud nuts to determine whether they are torqued correctly. Figure 1 and Table 1 of this alert service bulletin specify criteria for ensuring correct installation of the terminals and spring washers and correct torquing of the stud nuts.

The manufacturer also has issued Dornier Alert Service Bulletin ASB–328–24–021, dated November 25, 1997, which describes procedures for removing DC power unit 1VE and installing a modified DC power unit. Dornier Alert Service Bulletin ASB–328–24–021 refers to l'Equipement et la Construction Electrique (ECE) Alert Service Bulletin ASB 230GC02Y–24–001, dated November 24, 1997, as an additional source of service information for accomplishing the modification of the DC power unit. That ECE alert service bulletin describes procedures for inspecting the glass mounting plate of the auxiliary power unit (APU) bus bar in the DC power unit 1VE for heat damage, installing a shim, and performing a one-time inspection of the APU bus bar screw to ensure that it is correctly torqued.

Accomplishment of the actions specified in the Dornier alert service bulletins is intended to adequately address the identified unsafe condition. The LBA classified these Dornier alert service bulletins as mandatory and issued German airworthiness directive 97–322, dated November 20, 1997, and German airworthiness directive 97–354, dated December 18, 1997, in order to assure the continued airworthiness of these airplanes in Germany.

FAA's Conclusions

This airplane model is manufactured in Germany and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above. The FAA has examined the findings of the LBA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the Dornier alert service bulletins described previously.

Cost Impact

The FAA estimates that 50 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 1 work hour per airplane to accomplish the proposed inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this proposed inspection on U.S. operators is estimated to be $3,000, or $60 per airplane.

It would take approximately 4 work hours per airplane to accomplish the proposed replacement, at an average labor rate of $60 per work hour. Required parts would be provided by the manufacturer at no cost to the operators. Based on these figures, the cost impact of this proposed replacement on U.S. operators is estimated to be $12,000, or $240 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Dornier Luftfahrt GmbH: Docket 98–NM–96–AD.

Applicability: Model 328–100 series airplanes, as listed in Dornier Alert Service Bulletin ASB–328–24–021, dated November 25, 1997; or Dornier Alert Service Bulletin ASB–328–24–018, dated August 5, 1997; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent overheating of electrical connections, which could result in electrical arcing and consequent fire, accomplish the following:

(a) For airplanes listed in Dornier Alert Service Bulletin ASB–328–24–018, dated August 5, 1997: Within 10 days after the effective date of this AD, perform the actions required by paragraphs (a)(1) and (a)(2) of this AD, in accordance with Dornier Alert Service Bulletin ASB–328–24–018, dated August 5, 1997.

(1) Perform a one-time visual inspection of direct current (DC) power unit 1VE to determine whether electrical connections are installed correctly, in accordance with the Accomplishment Instructions of the alert service bulletin. If any discrepancy is detected, prior to further flight, install the connections in accordance with Figure 1 of the alert service bulletin.

(2) Perform a one-time torque inspection of the stud nuts of DC power unit 1VE to determine whether they are torqued correctly, in accordance with the Accomplishment Instructions of the alert service bulletin. If any discrepancy is found, prior to further flight, torque in accordance with Table 1 of the alert service bulletin.

(b) For airplanes listed in Dornier Alert Service Bulletin ASB–328–24–021, dated November 25, 1997: Within 10 days after the effective date of this AD, replace the existing DC power unit 1VE with a modified DC power unit, in accordance with Dornier Alert Service Bulletin ASB–328–24–021, dated November 25, 1997.

Note 2: Dornier Alert Service Bulletin 328–24–021, dated November 25, 1997, refers to l'Equipement et la Construction Electrique Alert Service Bulletin ASB 230GC02Y–24–001, dated November 24, 1997, as an additional source of service information for accomplishing the modification of the DC power unit.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 4: The subject of this AD is addressed in German airworthiness directive 97–322, dated November 20, 1997; and German airworthiness directive 97–354, dated December 18, 1997.

Issued in Renton, Washington, on June 30, 1998.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–17957 Filed 7–6–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–158–AD]

RIN 2120–AA64

Airworthiness Directives; Aerospatiale Model SN–601 (Corvette) Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Aerospatiale Model SN–601 (Corvette) series airplanes. This proposal would require repetitive inspections to detect corrosion, cracking, or rupture of the support arms of the aileron balance weights; and repair, if necessary. Accomplishment of the repair would terminate the repetitive inspection requirement of this AD. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent corrosion, cracking, or rupture of the support arms of the aileron balance weights, which may cause reduced flutter damping or jamming of the aileron, and consequent reduced controllability of the airplane.

DATES: Comments must be received by August 6, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–158–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–NM–158–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–158–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on all Aerospatiale Model SN–601 (Corvette) series airplanes. The DGAC advises that two cases of failure of the support arms of the aileron balance weights have occurred on one in-service airplane. Subsequent inspection of seven additional airplanes revealed one case of cracking of a support arm of the aileron balance weight. Investigation revealed that the cracking developed from the end bending radius, through or close to the rear rivet hole of the anchor nut plate. Corrosion evidence also was found in the same area. Such corrosion, cracking, or rupture of the support arms of the aileron balance weights, if not corrected, could result in reduced flutter damping or jamming of the aileron, and consequent reduced controllability of the airplane.

Explanation of Relevant Service Information

Aerospatiale has issued All Operators Telex (AOT) A/BTE/AM 499.368/95, dated March 7, 1995, which describes procedures for repetitive detailed visual inspections to detect corrosion, cracking, or rupture of the support arms of the aileron balance weights, and repair, if necessary. Accomplishment of the repair would eliminate the need for the repetitive inspections. Accomplishment of the action specified in the AOT is intended to adequately address the identified unsafe condition. The DGAC classified this AOT as mandatory and issued French airworthiness directive 95–054–019 (B), dated March 29, 1995, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the AOT described previously, except as discussed below.

Differences Between Proposed Rule and the Parallel French AD

Operators should note that, although the French airworthiness directive specifies that the manufacturer may be contacted for disposition of certain repair conditions, this proposal would require the repair of those conditions to be accomplished in accordance with a method approved by either the FAA, or the DGAC (or its delegated agent). In light of the type of repair that would be required to address the identified unsafe condition, and in consonance with existing bilateral airworthiness agreements, the FAA has determined that, for this proposed AD, a repair approved by either the FAA or the DGAC would be acceptable for compliance with this proposed AD.

Cost Impact

The FAA estimates that 2 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators is estimated to be $240, or $120 per airplane, per inspection cycle.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

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List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Aerospatiale: Docket 98–NM–158–AD.

Applicability: All Model SN–601 (Corvette) series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent corrosion, cracking, or rupture of the support arms of the aileron balance weights, which may cause reduced flutter damping or jamming of the aileron, and consequent reduced controllability of the airplane, accomplish the following:

(a) Within 10 landings or 10 days after the effective date of this AD, whichever occurs later: Perform a detailed visual inspection to detect corrosion, cracking, or rupture of the support arms of the aileron balance weights, in accordance with Aerospatiale All Operators Telex (AOT) A/BTE/AM 499.368/95, dated March 7, 1995.

(1) If no corrosion, cracking, or rupture is detected on the support arms, repeat the inspection thereafter at intervals not to exceed 200 flight hours or 6 months, whichever occurs earlier.

(2) If any corrosion, cracking, or rupture is detected on the support arms: Except as provided by paragraph (b) of this AD, prior to further flight, repair in accordance with the AOT. Accomplishment of this repair constitutes terminating action for the repetitive inspection requirements of this AD.

(b) If any corrosion, cracking, or rupture is detected on the support arms, and Aerospatiale All Operators Telex (AOT) A/BTE/AM 499.368/95, dated March 7, 1995, specifies to contact Aerospatiale for an appropriate repair: Prior to further flight, repair in accordance with a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the Direction Générale de l'Aviation Civile (or its delegated agent).

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in French airworthiness directive 95–054–019 (B), dated March 29, 1995.

Issued in Renton, Washington, on June 30, 1998.

Vi L. Lipski,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–17956 Filed 7–6–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–185–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes Equipped with Pratt & Whitney Model JT9D–70 Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, that currently requires repetitive inspections to detect fatigue cracking of the spring beams on the outboard struts; replacement of cracked spring beams with new or serviceable spring beams; and follow-on actions. That action also provides an optional terminating action for the repetitive inspections. This action would remove that optional terminating action, and would require a new terminating action. This proposal is prompted by the development of an improved process for manufacturing titanium spring beams that will eliminate the embedded porosity flaws in the existing spring beams from which fatigue cracking can originate. The actions specified by this proposal are intended to prevent fatigue cracking of the spring beam, which could result in loss of an outboard strut.

DATES: Comments must be received by August 21, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–185–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tamara L. Anderson, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2771; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 97–NM–185–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–185–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On November 30, 1994, the FAA issued AD 94–25–01, amendment 39–9085 (59 FR 63003, December 7, 1994), applicable to certain Boeing Model 747 series airplanes, to require repetitive detailed visual inspections to detect fatigue cracking of the spring beams on the outboard struts; replacement of cracked spring beams with new or serviceable spring beams; and follow-on actions. That action also provides an optional terminating action for the repetitive inspections.

AD 94–25–01 was prompted by a report of failure of a spring beam due to cracking that was propagated by fatigue. The requirements of that AD are intended to prevent failure of the spring beam, which could result in loss of an outboard strut.

Actions Since Issuance of Previous Rule

Since the issuance of that AD, the FAA has determined that the specified optional terminating action, if accomplished, would not adequately address the unsafe condition. Neither the fluorescent dye penetrant inspection nor the zero-time overhaul, which are part of the optional terminating action, would detect the porosity flaws that are embedded within the titanium material of the existing spring beams. In addition, an improved process for manufacturing titanium spring beams has been developed that will eliminate the embedded porosity flaws in the existing spring beams from which fatigue cracking can originate. Such fatigue cracking, if not corrected, could result in loss of an outboard strut.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Service Bulletin 747–54–2177, dated June 27, 1996, which describes procedures for replacement of the spring beams on the outboard struts with new, improved spring beams, which would eliminate the need for the repetitive inspections of the spring beams.

In addition, the FAA has reviewed and approved Boeing Service Bulletin 747–54A2171, Revision 1, dated June 27, 1996, which changes the original issue of the alert service bulletin (which was referenced in AD 94–25–01 as the appropriate source of service information). This revision changes the repetitive inspection intervals and the terminating action. Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 94–25–01 to continue to require the repetitive inspections to detect fatigue cracking of the spring beams on the outboard struts, and to remove the follow-on actions. For certain airplanes, this proposed AD would reinstate the repetitive inspections of AD 94–25–01 to detect fatigue cracking of the spring beams on the outboard struts. In addition, the proposed AD would remove the current optional terminating action, and would require a new terminating action for the repetitive inspections. The actions would be required to be accomplished in accordance with Boeing Service Bulletin 747–54–2177 and Boeing Alert Service Bulletin 747–54A2171.

Cost Impact

There are approximately 7 airplanes of the affected design in the worldwide fleet. The FAA estimates that 5 airplanes of U.S. registry would be affected by this proposed AD.

The inspections that are currently required by AD 94–25–01, and retained in this proposed AD, take approximately 40 work hours per airplane, per inspection cycle, to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required inspections on U.S. operators is estimated to be$12,000, or $2,400 per airplane, per inspection cycle.

The new replacement proposed by this AD would take approximately 376 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would cost approximately $105,000 per airplane. Based on these figures, the cost impact of the replacement proposed by this AD on U.S. operators is estimated to be$637,800, or $127,560 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the current or proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9085 (59 FR 63003, December 7, 1994), and by

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adding a new airworthiness directive (AD), to read as follows:

Boeing: Docket 97–NM–185–AD. Supersedes AD 94–25–01, Amendment 39–9085.

Applicability: Model 747 series airplanes, line numbers 202 through 396 inclusive, equipped with Pratt & Whitney Model JT9D–70 engines; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking of the spring beam, which could result in loss of an outboard strut, accomplish the following:

(a) Prior to the accumulation of 10,000 total flight cycles, or within 30 days after December 22, 1994 (the effective date of AD 94–25–01), whichever occurs later, perform a detailed visual inspection to detect fatigue cracking of the spring beams on the outboard struts, in accordance with Boeing Alert Service Bulletin 747–54A2171, dated October 31, 1994, or Revision 1, dated June 27, 1996. (Remove the gap covers and fairing access panels to perform this inspection.)

(1) If no cracking is detected, repeat the visual inspection thereafter at intervals not to exceed 300 flight cycles until the requirements of paragraph (d) of this AD have been accomplished.

(2) If any cracking is detected, prior to further flight, accomplish the replacement actions specified in paragraph (d) of this AD.

Note 2: Accomplishment of the optional terminating action specified in paragraph (b) of AD 94–25–01 does not constitute terminating action for the requirements of this AD.

(b) For airplanes that have accomplished terminating action in accordance with paragraph (b) of AD 94–25–01: Within 1,000 flight cycles after accomplishment of the terminating action specified by AD 94–25–01, or within 90 days after the effective date of this AD, whichever occurs later, perform a detailed visual inspection to detect fatigue cracking of the spring beams on the outboard struts, in accordance with Boeing Alert Service Bulletin 747–54A2171, dated October 31, 1994, or Revision 1, dated June 27, 1996.

(1) If no cracking is detected, repeat the detailed visual inspection thereafter at intervals not to exceed 300 flight cycles until the requirements of paragraph (d) of thisAD have been accomplished.

(2) If any cracking is detected, prior to further flight, accomplish the replacement actions specified in paragraph (d) of this AD.

(c) For airplanes that have accomplished installation of the Boeing-inspected spare titanium spring beams in accordance with Boeing Service Bulletin 747–54A2171,Revision 1, dated June 27, 1996: Within 3,000 flight cycles after accomplishment of the installation of the spare spring beams, or within 90 days after the effective date of thisAD, whichever occurs later, perform a detailed visual inspection to detect fatigue cracking of the spring beams on the outboard struts, in accordance with Boeing AlertService Bulletin 747–54A2171, dated October 31, 1994, or Revision 1, dated June 27, 1996.

(1) If no cracking is detected, repeat the detailed visual inspection thereafter at intervals not to exceed 300 flight cycles until the requirements of paragraph (d) of thisAD have been accomplished.

(2) If any cracking is detected, prior to further flight, accomplish the replacement actions specified in paragraph (d) of this AD.

(d) For all airplanes: Prior to the accumulation of 10,000 total flight cycles, or within 18 months after the effective date of this AD, whichever occurs later, replace the spring beams on the outboard struts with new, improved spring beams, in accordance with Boeing Service Bulletin 747–54–2177, dated June 27, 1996. Accomplishment of this replacement constitutes terminating action for the repetitive inspection requirements of this AD.

(e) As of the effective date of this AD, no person shall install a spring beam assembly, part numbers 65B89175–5, –6, –9, –10, –13, –14, –19, and –20, on any airplane.

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager,Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(g) Special flight permits may be issued in accordance with sections §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on June 30, 1998.

Vi L. Lipski,

Acting Manager, Transport Airplane Directorate,Aircraft Certification Service.

[FR Doc. 98–17947 Filed 7–6–98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–167–AD]

RIN 2120–AA64

Airworthiness Directives; British Aerospace (Jetstream) Model 4101 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain British Aerospace (Jetstream) Model 4101 airplanes. This proposal would require modification of the attach points of the uplock system of the nose landing gear (NLG). This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent wear of the attach points of the uplock system of the NLG; such wear could result in damage to the adjacent emergency hydraulic system, or jamming of the uplock system and consequent inability to extend and retract the NLG.

DATES: Comments must be received by August 6, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98-NM–167-AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from AI(R) American Support , Inc., 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98-NM-167-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 98-NM-167-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, notified the FAA that an unsafe condition may exist on certain British Aerospace (Jetstream) Model 4101 airplanes. The CAA advises that it has received reports of wear of the attach points of the uplock system of the nose landing gear (NLG). Investigation revealed that the wear is due to excessive loads from the uplock system, which caused excessive movement of the uplock mechanisms. Such wear of the attach points of the NLG uplock system, if not corrected, could result in damage to the adjacent emergency hydraulic system, or jamming of the uplock system and consequent inability to extend and retract the NLG.

Explanation of Relevant Service Information

The manufacturer has issued Jetstream Alert Service Bulletin J41-53-041, dated July 25, 1997, which describes procedures for modification of the attach points of the uplock system of the NLG. The modification involves installation of nested angle stiffeners on the "Z" members near the NLG and removal and replacement of the distance tubes and pieces with new distance tubes and pieces. Accomplishment of the actions specified in the alert service bulletin is intended to adequately address the identified unsafe condition. The CAA classified this alert service bulletin as mandatory and issued British airworthiness directive 009-07-97 in order to assure the continued airworthiness of these airplanes in the United Kingdom.

FAA's Conclusions

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the alert service bulletin described previously.

Cost Impact

The FAA estimates that 58 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 10 work hours per airplane to accomplish the proposed modification, and that the average labor rate is $60 per work hour. Required parts would cost approximately $170 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $44,660, or $770 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

British Aerospace Regional Aircraft [Formerly Jetstream Aircraft Limited; British Aerospace (Commercial Aircraft) Limited]: Docket 98-NM-167-AD.

Applicability: Jetstream Model 4101 airplanes, constructor's numbers 41004 through 41100 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been

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modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent wear of the attach points of the uplock system of the nose landing gear (NLG), which could result in damage to the adjacent emergency hydraulic system, or jamming of the uplock system, and consequent inability to extend and retract the NLG, accomplish the following:

(a) Prior to the accumulation of 9,000 total landings, or within 1,000 landings after the effective date of this AD, whichever occurs later, modify the attach points of the uplock system of the NLG, in accordance with Jetstream Alert Service Bulletin J41–53–041, dated July 25, 1997.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in British airworthiness directive 009–07–97.

Issued in Renton, Washington, on June 30, 1998.

Vi L. Lipski,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–17950 Filed 7–6–98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 275 and 279

[Release No. IA–1728; IC–23293; File No. S7–20–98]

RIN 3235–AH45

Investment Adviser Year 2000 Reports

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Securities and Exchange Commission ("Commission") is publishing for comment a proposed new rule and form under the Investment Advisers Act of 1940 that would require most registered investment advisers to file with the Commission a report regarding preparations for the Year 2000 computer problem. The reports would inform the Commission about the steps that investment advisers have taken, and will take, to prepare for the challenges posed by the Year 2000 problem.

DATES: Comments must be received on or before August 10, 1998.

ADDRESSES: Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Stop 6–9, Washington, D.C. 20549. Comments also may be submitted electronically to the following E-mail address: rule-comments@sec.gov. All comment letters should refer to File No. S7–20–98; this file number should be included on the subject line if E-mail is used. Comment letters will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Electronically submitted comment letters also will be posted on the Commission's Internet web site (http://www.sec.gov).

FOR FURTHER INFORMATION CONTACT: Arthur B. Laby, Special Counsel, at (202) 942–0716, Task Force on Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, N.W., Mail Stop 5–6, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission today is requesting public comment on proposed rule 204–5 [17 CFR 275.204–5] and Form ADV-Y2K [17 CFR 279.9] under the Investment Advisers Act of 1940 ("Advisers Act") [15 U.S.C. 80b].

I. Background

The Commission is undertaking a review of U.S. public companies and the U.S. securities industry to examine whether they will be prepared for the computer challenges associated with the Year 2000.[1] As part of this initiative, in March 1998, the Commission requested comment on proposed rule changes that would require certain broker-dealers [2] and transfer agents [3] to file with the Commission a report on Year 2000 readiness. The Commission today is requesting comment on a new rule and form that would require most investment advisers registered with the Commission under the Advisers Act to file a report on Year 2000 readiness.

Investment advisers ("advisers") manage approximately $13 trillion of savings of American families. These assets are managed on behalf of investors directly, as well as indirectly through financial institutions such as employee benefit plans, trusts, hedge funds and mutual funds. Mutual funds alone control over $5 trillion of assets,[4] 35 percent of which are estimated to be retirement plan assets.[5] Thus, investment advisers play a key role in the economic life of America today.

Advisers manage these assets using computer systems that connect them with the markets, service providers and clients. In addition, advisers depend upon internal computer systems for various management, compliance and recordkeeping functions.[6] The development and growth of the Internet has made advisory clients more dependent upon their advisers' computer systems to provide them with information about their adviser and their portfolios. The failure of the advisers' or third parties' computer systems to function properly as a result of the Year 2000 problem could threaten the ability of advisers to manage properly client assets, communicate information to their clients and comply with the federal securities laws.

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[1] On January 1, 2000, certain computer systems may function erroneously if necessary modifications have not been made because, among other things, the systems may read incorrectly the date 01/01/00 as being the year 1900 or another incorrect date. Problems may arise earlier than January 1, 2000, because dates after December 31, 1999, already are being entered into computer programs and may be misread.

[2] Reports to be Made by Certain Brokers and Dealers, Exchange Act Release No. 39724 (Mar. 5, 1998) [63 FR 12056 (Mar. 12, 1998)].

[3] Reports to be Made by Transfer Agents, Exchange Act Release No. 39726 (Mar. 5, 1998) [63 FR 12062 (Mar. 12, 1998)].

[4] The Investment Company Institute, Current Statistical Releases, Trends in Mutual Fund Investing, April 1998, available at <http://www.ici.org/facts__figures/trends__0498html>.

[5] The Investment Company Institute, Retirement Statistics, Retirement Plans Hold 35 Percent of Mutual Fund Assets (Oct. 14, 1997), available at <http://www.ici.org/retirement/retirement__statistics96.html>.

[6] Under the federal securities laws, advisers and investment companies are obligated to make, and keep current, certain books and records relating to their business. *See* rule 204–2 under the Advisers Act [17 CFR 275.204–2]; rule 31a-1 under the Investment Company Act of 1940 [17 CFR 270.31a-1].

Investment companies ("funds") also are highly dependent on sophisticated computer systems to communicate with their advisers and other third parties such as underwriters, brokers, transfer agents, custodians and sub-advisers. To manage their portfolios, calculate net asset values, keep accurate records, process shareholder purchases and redemptions, and timely deliver disclosure documents and account statements, funds and their advisers continuously must exchange information with each other and with their service providers. A breakdown in this exchange of information could interfere with the day-to-day management of fund portfolios, delay shareholder transactions and compromise recordkeeping and other compliance systems.

The Commission has identified six steps of preparation that advisers and funds can take to prepare for the Year 2000 computer problem. These steps are: (i) Awareness of potential Year 2000 problems; (ii) assessment of steps advisers and funds must take to avoid Year 2000 problems; (iii) implementation of the steps to avoid Year 2000 problems; (iv) internal testing of software designed to avoid Year 2000 problems; (v) point-to-point testing of software designed to avoid Year 2000 problems (*i.e.*, testing with service providers such as broker-dealers, custodians, transfer agents and distributors); and (vi) implementation of tested software that will avoid Year 2000 problems. By taking these steps now, advisers and funds more likely can solve potential Year 2000 problems well in advance of December 31, 1999.

The Commission has for some time recognized the challenges that the Year 2000 poses for advisers and funds. Since 1996, Commission examiners have raised Year 2000 concerns during adviser and fund examinations to increase awareness of, and encourage aggressive and timely action to address, Year 2000 problems. In 1997, Chairman Levitt sent a letter to all registered investment advisers warning of the consequences of not being Year 2000 compliant and urging them to make preparations for the Year 2000 their highest priority. In 1997, the staff provided guidance on the disclosure obligations of advisers and funds.[7] Commissioners and members of the staff have met with industry and professional groups to express these concerns.

Today, the Commission is proposing to require most advisers registered with the Commission to complete and submit a report to the Commission on their preparedness for the Year 2000 problem. The reports will help the Commission evaluate the readiness of advisers for the Year 2000 problem, identify those advisers and funds that pose a significant risk to their clients and shareholders, and evaluate the adequacy of disclosure made by these firms regarding the Year 2000 problem. Finally, the proposed rule will permit the Commission to make the reports about Year 2000 preparations of advisers and funds available to the public and to fulfill Congressional requests for information regarding the securities industry's readiness for the Year 2000 problem.

II. Discussion

The Commission is proposing new rule 204–5, which would require most investment advisers registered with the Commission to file with the Commission new Form ADV-Y2K.[8] Form ADV-Y2K would be filed by each investment adviser that (i) is registered with the Commission, and (ii) has at least $25 million of assets under management[9] or is an adviser to an investment company registered under the Investment Company Act of 1940.[10] The form would have to be filed no later than 30 days after the rule becomes effective, and an updated form would have to be filed no later than eight months from the date of the first filing. The second filing would reflect progress made in preparing for the Year 2000 problem up to that time.

Proposed Form ADV–Y2K has two parts. Part I would be completed by all respondents and would contain 11 questions about the adviser's preparation for the Year 2000 problem with respect to all of the adviser's clients. The questions all would be in multiple choice or fill-in-the-blank format, and advisers would be required to respond to each question. Part II would consist of questions similar to those in Part I and would be completed by advisers to a registered fund or a group of registered funds.

Investment companies are frequently organized into groups, called "complexes" or "families," that realize efficiencies by sharing administrative functions. The instructions to Part II of the proposed form specify that each adviser (or sub-adviser) to a fund must complete Part II with respect to an entire complex if the adviser advises a single fund (or a series) in the complex. An adviser, however, need not complete Part II for the complex or a fund (or a series) with respect to which another adviser is completing Part II.[11] The effect of the proposed approach would permit multiple advisers to funds in a single fund complex to decide among themselves which adviser will be responsible for completing Part II with respect to the complex, but would assure that the Commission receives Year 2000 information with respect to most funds. Comment is requested on this proposed approach.

The instructions are designed so that the reporting adviser for a fund complex would likely be the adviser that has administrative responsibilities for the complex and thus is in the best position to report on the Year 2000 readiness of the complex—even if that adviser does not provide advice for all funds in the complex.[12] An adviser responding to

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[7] Staff Legal Bulletin No. 5 (CF/IM) (revised), Jan. 12, 1998, available at <http://www.sec.gov/rules/othern/slbcf5.htm>.

[8] Under section 204 of the Advisers Act, the Commission has the authority to require every registered investment adviser to make and keep such reports that the Commission, by rule, may prescribe. 15 U.S.C. 80b-4. Form ADV-Y2K, like all forms filed with the Commission by investment advisers, would be publicly available. *See* section 210(a) of the Advisers Act [15 U.S.C. 80b-10(a)].

[9] The amount of assets under management for purposes of Form ADV-Y2K would be the amount reported on Schedule I of the adviser's most recently filed Form ADV, or the most recent amendment to Form ADV.

[10] 15 U.S.C. 80a. As a result of the National Securities Markets Improvement Act of 1996, Pub. L. No. 104–290, 110 Stat. 3416 (1996) (codified in scattered sections of the United States Code), which amended the Advisers Act, generally only advisers that have at least $25 million of assets under management or that advise a registered investment company can register with the Commission. Advisers in the four states that do not regulate investment advisers, advisers with principal places of business in foreign countries, and other advisers exempt from the $25 million assets under management limitation may still register with the Commission. *See* rule 203A–2 under the Advisers Act [17 CFR 275.203A–2]. The $25 million assets under management reporting threshold, however, would exclude most of those advisers from the proposed Form ADV–Y2K filing requirement.

[11] The Commission intentionally has not proposed to define the term complex or family to give advisers flexibility to report for groups they administer.

[12] In some cases, a third party administrator that is not a registered investment adviser may be in the best position to report on the Year 2000 readiness of the complex. In such cases, the third party administrator could complete the form on behalf of one of the advisers to a fund in the complex, although the adviser would have the obligation to file the report. The Commission is requiring advisers, as opposed to other firms, such as administrators, to file the form because, under section 204 of the Advisers Act, the Commission

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Part II on behalf of multiple complexes would complete multiple versions of Part II, one for each complex.[13]

The form would require each responding investment adviser to provide the Commission with information relating to the following areas: (1) The scope and status of the adviser's Year 2000 compliance plan; (2) the commitment by the adviser of resources and personnel (including consultants) to address Year 2000 issues; (3) the systems that may be affected by the Year 2000 problem; (4) progress on each of the six steps of preparation identified above;[14] (5) contingency plans in the event that the adviser experiences Year 2000 difficulties after December 31, 1999;[15] and (6) the readiness of third parties upon whom the adviser relies for critical systems. The report would be required to be signed by an authorized person that participates in managing or directing the adviser's affairs, but would not be required to be attested to by an independent public accountant. Comment is requested on whether an attestation by an independent public accountant should be required.

The Commission understands that an adviser or fund may rely on multiple systems that are at different stages of preparation for the Year 2000 problem. An adviser or fund, for example, may use separate systems for portfolio management, financial planning and client services. In those cases, the Commission is asking the reporting adviser to take a qualitative average and present the most accurate picture practicable of the preparedness of the systems of the adviser or the fund. In requiring a qualitative average, the Commission intends to be flexible and take a common sense approach. If an adviser, for example, uses two computer systems that are at different stages of preparedness, but one of those systems is more critical than the other, the adviser should base its responses primarily on the more critical system. Comment is requested on this approach, and on whether alternative ways to request information for multiple systems is desirable. Would it be preferable, for instance, to require advisers and funds to respond to questions about their preparedness for the Year 2000 problem on a system-by-system basis? Comment also is requested on what information advisers to funds underlying variable insurance contracts should be required to provide regarding systems supporting the contracts and the separate accounts and insurance companies issuing the contracts?

Advisers would be required to file Form ADV–Y2K by fax; a paper filing would not be accepted. Instructions in the form would direct advisers to use specified fax numbers. The Commission believes that all advisers have access to a fax machine and that, as a result, this filing method will reduce filing burdens. Comment is requested on the Commission's assumption that all advisers will be able easily to file the form by fax.

III. General Request for Comment

Any interested persons wishing to submit written comments on the proposed rule and form that are the subject of this release, suggest additional changes, or submit comments on other matters that might have an effect on the proposal contained in this release, are requested to do so.

IV. Cost/Benefit Analysis

The Commission is sensitive to the costs and benefits imposed by its rules, and understands that completing Form ADV–Y2K may impose costs on advisers and funds.[16] As discussed below, the Commission believes that the costs imposed by requiring advisers to complete Form ADV–Y2K are necessary and justified in light of the need to make information on the Year 2000 problem available to investors, Congress and the Commission.

The Commission believes that requiring advisers to report on their readiness for the Year 2000 problem would yield several important benefits, both direct and indirect. As discussed above, the Year 2000 reports required by the rule would yield direct benefits because they would help the Commission evaluate the preparedness of advisers and funds for the Year 2000 computer problem. The reports also would identify advisers and funds that may not be preparing for the Year 2000 problem and may pose a risk to their clients and shareholders. The reports also would identify disclosure by advisers and funds regarding risks associated with the Year 2000 problem that may be inadequate. Finally, the reports would permit the Commission to make information available to the public and to fulfill requests by members of Congress for information regarding the securities industry's readiness for the Year 2000 problem.

The Year 2000 reports also would yield important indirect benefits. By requiring the Year 2000 reports now, some advisers and funds, whose Year 2000 preparedness efforts to date have been inadequate, may be persuaded to accelerate their efforts, which would save them significant costs in the future if they failed to meet the Year 2000 challenge.[17] This indirect benefit is difficult to quantify because it is hard to estimate the costs that could be incurred if computer systems of advisers and funds fail to function properly after December 31, 1999.[18] Moreover, if the systems of advisers and funds were to fail after December 31, 1999, it could have negative effects not only for the advisers and funds themselves, but also for investors and third parties, such as underwriters, brokers, transfer agents, custodians, sub-advisers and other service providers.

Avoiding the harm to third parties may be one of most important benefits to proper preparation for the Year 2000 problem. Most firms' computer systems today depend on the systems of many other firms and individuals. If even one of these systems were to fail, this could have negative repercussions on the systems of other firms with which its computers interface. The failure to address this interdependence may be one of the greatest harms stemming from the Year 2000 problem.[19] The benefit of avoiding this harm from occurring,

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has the statutory authority to require only advisers to file such reports.

[13] See proposed Instructions for Part II of Form ADV–Y2K.

[14] One of the six steps is testing. The form contains questions about the progress of both point-to-point testing, also known as bilateral testing, and about industry-wide testing, also known as street-wide testing, to date. Much of the industry-wide testing to take place has been arranged by the Securities Industry Association (SIA). The SIA has arranged to test all aspects of its members' businesses for Year 2000 compliance and has included transactions with funds as one of the tests for its members.

[15] Contingency planning should provide for adequate protections for critical systems if computer interfaces fail or unexpected problems are experienced with operating systems and infrastructure software. In addition, contingency plans should provide for the failure of external systems. The plans should anticipate the failure of a vendor, for example, that services critical applications and should provide for the possibility that an investor may experience Year 2000 problems.

[16] *See infra* section VI of this release for the Commission's estimate of the costs that the proposed rule will impose on affected advisers and funds.

[17] It has been estimated that without corrective measures, ninety percent of all computer applications worldwide may fail, or fail to function properly, because of the inability properly to recognize the date change. Maggie Parent, Morgan Stanley Year 2000 Issue Paper (May 1997), available at <http://www.ms.com/odyssey.html>.

[18] The Securities Industry Association has stated that the transition to the Year 2000 is the largest business and technology effort that the world has ever experienced. See SIA, Year 2000, available at <http://www.sia.com/year_2000/index.html>.

[19] C. Lawrence Meador and Leland G. Freeman, Year 2000: The Domino Effect, Datamation (Jan. 1997), available at <http://www.datamation.com/PlugIn/issues/1997/jan/01depend.html>.

although difficult to quantify, may be extremely significant to investors, firms and the economy in general.

The proposed rule would impose some additional costs on advisers and funds. Advisers may need to spend resources obtaining answers to questions in the form, completing the form and submitting it to the Commission. These costs may vary from adviser to adviser. Small advisers, for example, may spend comparatively little time completing the form because small advisers likely have fewer systems and one person may be responsible for all of the systems. This person is likely to have all of the information necessary to complete the form and can do so in a few minutes. Larger advisers may require more time. Larger advisers are more likely to have more computer systems and it is possible that the adviser would have to draw on the knowledge of several individuals to complete the form.

The Commission estimates that there are approximately 7,500 investment advisers registered with the Commission, approximately 6,500 of which would be required to file Form ADV–Y2K. Although the time needed to comply with the rule could vary from adviser to adviser, the Commission estimates that a respondent will devote approximately two employee hours of time to completing Part I of the form. In addition, approximately 891 registered investment advisers have registered investment companies as clients. Therefore, those 891 advisers may be required to spend an additional two hours completing Part II of the form on behalf of a fund or fund complex. These estimates are based on field-testing of the form by the Commission's Office of Compliance, Inspections and Examinations. The total annual burden will be 14,782 hours ((6,500 advisers × 2 hours) + (891 advisers × 2 hours)). The form will likely be completed by information technology professionals. The Commission estimates the hourly wage rate for these professionals to be $100 per hour. Therefore, the Commission estimates that the total annual cost of completing the forms is $1,478,200. The Commission believes that the proposed rule would not impose significant additional costs on investment advisers.

The Commission believes that the costs imposed by the rule are insignificant compared to the benefits. If advisers and funds are not prepared for the Year 2000 problem, the effect on advisers and funds, and their clients and third party service providers, could be very substantial. The chance of ameliorating the Year 2000 problem with respect to advisers and funds justifies the minimal costs involved.

The Commission requests comment on the effect of the proposed rule on individual investment advisers and on the profession as a whole. Commenters should provide data and analyses relating to the costs and benefits associated with the proposed rule. Comment is requested on the costs of filing Form ADV–Y2K by fax with the Commission. This information would assist the Commission in its evaluation of the costs and benefits that may result if the proposed rule is adopted.

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996, the Commission is also requesting information regarding the potential effect of the proposed rule on the economy on an annual basis. Commenters should provide empirical data to support their views.

Comment is requested on this cost/benefit analysis. Commenters are requested to provide views and empirical data relating to any costs and benefits associated with the proposed rule.

V. Summary of Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis ("IRFA"), in accordance with the provisions of the Regulatory Flexibility Act,[20] regarding the proposed rule. As discussed more fully in the IRFA, few or none of the advisers that the proposed rule would affect are small entities, as defined by new Commission rules.[21] The IRFA states that the purpose of the proposed rule is for the Commission to ascertain what steps advisers and funds are taking to avoid Year 2000 problems.

The IRFA sets forth the statutory authority for the proposed rule. The IRFA also discusses the effect of the proposed rule on advisers that are small entities. An adviser generally is a small entity (i) if it manages assets of $25 million or less reported on Form ADV–T [17 CFR 279.3] or its most recent Schedule I to Form ADV [17 CFR 279.1], (ii) if it does not have total assets of $5 million or more on the last day of the most recent fiscal year, and (iii) if it is not in a control relationship with another investment adviser that is not a small entity. The Commission estimates that there are approximately 7,500 registered advisers, approximately 1000 of which are small entities. The Commission estimates that few or none of the small entities would be required to complete Form ADV–Y2K.

Under the terms of the rule, only an adviser that is (i) registered with the Commission, *and* (ii) has assets under management of not less than $25 million or is an investment adviser to an investment company registered under the Investment Company Act must file Form ADV–Y2K. Since the new definition of small entity establishes a threshold of $25 million under management, most or all small entities would be exempted from the rule by its terms. In addition, the Commission believes that few or no investment advisers that have less than $25 million under management have more than $5 million in assets or are in a control relationship with an entity that is not considered a small entity. Finally, the only small entities that still would be subject to the rule are those small entities that advise a registered investment company. The Commission is not aware of any small entity that advises a registered investment company. Comment is requested on the number of small entities that would not be subject to the rule.[22]

The IRFA states that the proposed rule would impose new reporting requirements because most investment advisers would have to file with the Commission a new form regarding their readiness for the Year 2000 problem. The Commission estimates that, on average, a respondent would devote approximately two employee hours of preparation time to completing Part I of the form in 1998 and again in 1999. If the adviser is required to complete Part II, it would devote approximately an additional two hours to completing the form in 1998 and in 1999. The IRFA states that the Commission estimates that few or no small entities would be required to complete Form ADV–Y2K. The IRFA states that the proposed rule would not impose any other reporting, recordkeeping, or compliance requirements, and that the Commission believes that there are no rules that duplicate, overlap, or conflict with the proposed rule.

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[20] 5 U.S.C. 603.

[21] The Commission recently adopted revised definitions of "small entity." *See* Definitions of "Small Business" or "Small Organization" Under the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Exchange Act of 1934, and the Securities Act of 1933, Investment Adviser Act Release No. 1727 (June 24, 1998). The revised definition of small investment adviser for Regulatory Flexibility Act purposes reflects the National Securities Markets Improvement Act. If the Commission adopts the proposed rule, the new definitions of small entities would be effective before the final rule would be adopted.

[22] If the Commission were to adopt a final rule, it may prepare a Regulatory Flexibility Act Certification stating that the rule will not have a substantial impact on small entities.

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The analysis discusses the various alternatives considered by the Commission in connection with the proposed rule that might minimize the effect on small entities, including: (a) The establishment of differing compliance or reporting requirements or timetables that take into account the resources of small entities; (b) the clarification, consolidation, or simplification of compliance and reporting requirements under the proposed rule for small entities; (c) the use of performance rather than design standards; and (d) an exemption from coverage of the rule or any part of it, for small entities. The Commission has determined that it is not feasible to further clarify, consolidate, or simplify the proposed rule for small entities.

As discussed in the analysis, most or all small entities are exempted from the rule. The Commission believes that it would be inconsistent with the purpose of the rule proposal to further exempt small entities from the proposed rule or to use performance standards to specify different requirements for small entities. As discussed in the IRFA, investment advisers registered with the Commission would be required to file Form ADV–Y2K because they likely have substantial financial exposure to the market and investors.

In the IRFA, the Commission encourages the submission of written comments with respect to all aspects of the IRFA. In particular, the Commission is interested in comments that specify costs of compliance with the proposed rule, and suggest alternatives that would accomplish the objective of the proposed rule. A copy of the IRFA may be obtained by contacting Arthur B. Laby, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, N.W., Mail Stop 5–6, Washington, D.C. 20549.

VI. Paperwork Reduction Act

The proposed rule contains collection of information requirements within the meaning of the Paperwork Reduction Act of 1995,[23] and the Commission has submitted them to the Office of Management and Budget for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. The title for the collection of information is: "Proposed Rule 204–5" and "Form ADV–Y2K."

Collection of information by the Commission is contemplated by the proposed rule because registered advisers would have to file new Form ADV–Y2K with the Commission. Advisers would be required to file Form ADV–Y2K twice, first no later than 30 days after the rule is effective and again eight months from the date that the first filing must be made. The form is necessary for the Commission to assess the steps advisers are taking to manage and avoid Year 2000 problems.

The Commission estimates that there are approximately 7,500 investment advisers registered with the Commission, approximately 6,500 of which would be required to file Form ADV–Y2K. Although the amount of time needed to comply with the rule could vary from adviser to adviser, the Commission estimates that, on average, a respondent would devote approximately two employee hours of preparation time to completing Part I of the form, and an additional two employee hours to completing Part II of the form, if the adviser is required to complete Part II. This estimate is based on field-testing of Form ADV–Y2K by the Commission's Office of Compliance, Inspections and Examinations. The total annual burden will be 14,782 hours ((6,500 advisers × 2 hours) + (891 advisers × 2 hours)). It is important to note that this burden would be incurred only twice, once in 1998 and once in 1999. The rule would not impose an ongoing reporting requirement.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number. Filing of this form is mandatory. The principal purpose of this collection of information is to enable the Commission to address the Year 2000 problem faced by advisers and funds. The Commission would use the information, among other things, to assess the readiness of advisers and funds for the Year 2000 problem and make the information available to the public, to assist the Commission in its inspection and examination program and to report to Congress on the readiness of advisers and funds for the Year 2000 problem. Any member of the public may direct to the Commission any comments concerning the accuracy of the burden estimate of this form, and any suggestions for reducing this burden.

Pursuant to 44 U.S.C. 3506(c)(2)(B), the Commission solicits commenters to:

(i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) evaluate the accuracy of the Commission's estimate of the burden of the proposed collection of information;

(iii) enhance the quality, utility and clarity of the information to be collected; and

(iv) minimize the burden of collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.

Persons desiring to submit comments on the collection of information requirements should direct them to the following persons: Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503; and Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, and refer to File No. S7–20–98. OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this release in the **Federal Register**, so a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of this publication.

VII. Statutory Authority

The Commission is proposing new Rule 204–5 and new Form ADV–Y2K pursuant to the authority set forth in sections 204 and 211(a) of the Investment Advisers Act of 1940 [15 U.S.C. 80b–4 and 80b–11(a)].

List of Subjects in 17 CFR Parts 275 and 279

Reporting and recordkeeping requirements, Securities.

Text of Proposed Rules and Form

For the reasons set out in the preamble, Title 17, Chapter II of the Code of Federal Regulations is proposed to be amended as follows:

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

1. The authority citation for Part 275 continues to read in part as follows:

Authority: 15 U.S.C. 80b–2(a)(17), 80b–3, 80b–4, 80b–6(4), 80b–6a, 80b–11, unless otherwise noted.

* * * * *

2. Section 275.204–4 is added and reserved and § 275.204–5 is added to read as follows:

§ 275.204–4 Reserved.

§ 275.204–5 Year 2000 reports.

Every investment adviser registered with the Commission that has assets under management of not less than $25 million or is an investment adviser to an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1) must file with the Commission by fax in accordance with the instructions in the form:

---

[23] 44 U.S.C. 3501.

(a) A completed Form ADV–Y2K (17 CFR 279.9) no later than [30 days after the rule becomes effective]; and

(b) An additional Form ADV–Y2K, no later than [eight months from the date that the first filing must be made], reflecting information as of the date of the filing.

PART 279—FORMS PRESCRIBED UNDER THE INVESTMENT ADVISERS ACT OF 1940

3. The authority citation for Part 279 continues to read as follows:

Authority: The Investment Advisers Act of 1940, 15 U.S.C. 80b-1, *et seq.*

4. Section 279.9 and Form ADV–Y2K are added to read as follows:

§ 279.9 Form ADV-Y2K.

This form must be filed pursuant to § 275.204–5 of this chapter by certain investment advisers.

By the Commission.

Dated: June 30, 1998.

Margaret H. McFarland,

Deputy Secretary.

Note: The text of the following Form ADV-Y2K will not appear in the Code of Federal Regulations.

BILLING CODE 8010-01-P

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OMB APPROVAL
OMB Number: 3235-0nnn
Expires:
Estimated average burden
hours per response:

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

Form for Reporting on Preparations for the Year 2000

[PLEASE TYPE ALL RESPONSES]

Name of Adviser:

SEC File Number:
801-

Address of Principal Place of Business (Do Not Use Post Office Box):

(city) (state) (zip code)

Contact Person Responsible for Completing This Form:
Name:

Title:

Phone: ____________________

Business Address:

(city) (state) (zip code)

E-mail: ________________________________

EXECUTION

The undersigned represents that he or she is executing this Form on behalf of, and with the authority of, the registrant. (The person executing the form does not necessarily have to be the contact person above.)

The undersigned and registrant represent that the information contained in this form is current, true and complete to the best of his or her knowledge.

Date:	Name of Registrant:	By (Signature):
Typed Name:		Title:

Attention: **Registrants are reminded that it is a violation of section 207 of the Advisers Act to make any untrue statements of a material fact in any report filed with the Commission, or willfully to omit to state in any such report any material fact that is required to be stated in the form.**

SEC 2436 (7-98)

Form ADV-Y2K

GENERAL INSTRUCTIONS

Throughout these instructions and the form, we will refer to the investment advisory firm on behalf of which the form is being completed as "you."

Who Must File

You must complete this report and file it with the SEC if you were registered with the SEC on [the effective date of the form] and either:

- you have assets under management of $25 million or more as reported on your current Form ADV, or
- you advise an investment company registered under the Investment Company Act of 1940.

When Must You File

You must file this form twice. Initially, on [30 days after the effective date of the form], and then on [a date approximately eight months later]. The second report will serve to update the first report. The information in both reports must be current as of the date the reports are signed.

How the Form is Filed

The SEC is using a new filing method that we hope you will find more convenient. You must fax your reports to the Commission at one of the following fax numbers:

[Fax numbers]

The faxes must arrive at the SEC by the deadlines given above.

If necessary to explain your responses, you may attach additional information, however, do not write explanatory notes next to the questions.

Potential persons who are to respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB number.

The information contained in the reports submitted on this Form will assist the Commission in evaluating whether investment advisers will be prepared for the computer challenges associated with the Year 2000, identify advisers and funds that may not be prepared for the Year 2000 problem, and permit the Commission to fulfill Congressional requests for information regarding the securities industry's readiness for the Year 2000. Responses to the questions in this Form are mandatory. The completed Forms will be publicly available.

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Form ADV-Y2K

PART I Information on Preparations by Investment Advisers for the Year 2000 Problem

Instructions for Part I

1. If you are required to file Form ADV-Y2K, you must complete Part I. Complete Part I even if you also will be completing Part II because you are an adviser to an investment company.
2. Include in your answers to Part I your investment adviser affiliates that are *not* required to file this report.
3. Answer Part I with respect to all of your computer systems, including systems that service only investment company clients.
4. If you have computer systems for which you have made different amounts of progress in preparing for the Year 2000 problem, base your responses on a qualitative average of your systems. Give greater weight to mission-critical systems, and systems used for a large number of clients, than to other systems.
5. If more than one answer to a question is applicable, mark all answers that apply.

PART I.

1. Year 2000 compliance plan

(a) Do you have a plan for Year 2000 compliance to address whether your computer systems will operate correctly after December 31, 1999?
Yes ☐ No ☐

Consider as a plan, or as part of a plan, efforts to contact vendors of software systems you use.

(b) If *no*, are you:

☐ Developing a written plan — it is scheduled to be completed by: MM/DD/YYYY

☐ Not developing a plan because you do not plan to be conducting business after January 1, 2000 — plan to be out of business by: MM/DD/YYYY

☐ Other (please specify on a separate attachment)

If you have no plan, go on to question 2

(c) If the answer to question 1(a) is *yes*, does the plan address external interfaces with third party computer systems that communicate with your systems?
Yes ☐ No ☐

(d) Is your Year 2000 compliance plan in writing?
Yes ☐ No ☐

(e) Who has approved the plan? (check all that apply)

☐ No approval ☐ Board of directors ☐ Corporate officers ☐ Executive management

☐ Head of Information Technology or equivalent ☐ Employees

(f) Has the plan been discussed with your outside auditors?
Yes ☐ No ☐

(g) What is the scope of coverage of the plan? (check all that apply)

☐ All systems ☐ Mission-critical systems ☐ Physical facilities ☐ Communications systems

(h) Which of your facilities does the plan cover? (check all that apply)

☐ Our primary facility ☐ Certain U.S. facilities ☐ All U.S. facilities ☐ Certain facilities worldwide

☐ All facilities worldwide ☐ We have no international facilities

Form ADV-Y2K

(i) Are your activities for non-U.S. clients covered by the plan? Yes ☐ No ☐ not applicable ☐

2. Funding for Year 2000 compliance

(a) Please indicate the month your fiscal year begins:

(b) Has specific funding been allocated for fiscal year 1998, fiscal year 1999, or fiscal year 2000, for your Year 2000 compliance plan?

(i) 1998 ☐ Yes ☐ No
(ii) 1999 ☐ Yes ☐ No
(iii) 2000 ☐ Yes ☐ No

If funding has not yet been allocated for fiscal year 1999 or fiscal year 2000, mark "no"
If you marked "no" for 1998, 1999, and 2000, go on to question 3

(c) What is your specific 1998 fiscal year budget allocation for Year 2000 compliance (including operating and capital expenditures)?

☐ Less than $1,000 ☐ $1,001 - $10,000 ☐ $10,001 - $50,000 ☐ $50,001 - $100,000
☐ $100,001 - $500,000 ☐ $500,001 - $1 million ☐ $1-2 million ☐ $2-5 million ☐ $5-10 million
☐ $10-20 million ☐ $20-50 million ☐ $50-100 million ☐ over $100 million

(d) What items are contained in your1998 fiscal year budget for Year 2000 compliance? (check all that apply)

☐ Assessment of the problem ☐ Correction of systems ☐ Replacement of systems ☐ Internal testing
☐ Point-to-point testing (including testing with broker-dealers, custodians, transfer agents and other service providers)
☐ Training ☐ SIA industry-wide testing ☐ Implementation of contingency plans

If you marked "no" for 1999 and 2000 in question 2(b), go on to question 3

(e) What is your specific 1999 fiscal year budget allocation for Year 2000 compliance (including operating and capital expenditures)?

☐ Less than $1,000 ☐ $1,001 - $10,000 ☐ $10,001 - $50,000 ☐ $50,001 - $100,000
☐ $100,001 - $500,000 ☐ $500,001 - $1 million ☐ $1-2 million ☐ $2-5 million ☐ $5-10 million
☐ $10-20 million ☐ $20-50 million ☐ $50-100 million ☐ over $100 million

(f) What items are contained in your 1999 fiscal year budget for Year 2000 compliance? (check all that apply)

☐ Assessment of the problem ☐ Correction of systems ☐ Replacement of systems ☐ Internal testing
☐ Point-to-point testing (including testing with broker-dealers, custodians, transfer agents and other service providers)
☐ Training ☐ SIA industry-wide testing ☐ Implementation of contingency plans

If you marked "no" for 2000 in question 2(b), go on to question 3

(g) What is your specific 2000 fiscal year budget allocation for Year 2000 compliance (including operating and capital expenditures)?

☐ Less than $1,000 ☐ $1,001 - $10,000 ☐ $10,001 - $50,000 ☐ $50,001 - $100,000
☐ $100,001 - $500,000 ☐ $500,001 - $1 million ☐ $1-2 million ☐ $2-5 million ☐ $5-10 million
☐ $10-20 million ☐ $20-50 million ☐ $50-100 million ☐ over $100 million

(h) What items are contained in your 2000 fiscal year budget for Year 2000 compliance? (check all that apply)

☐ Assessment of the problem ☐ Correction of systems ☐ Replacement of systems ☐ Internal testing
☐ Point-to-point testing (including testing with broker-dealers, custodians, transfer agents and other service providers)
☐ Training ☐ SIA industry-wide testing ☐ Implementation of contingency plans

3. Persons responsible for Year 2000 compliance

(a) Has one or more individuals been designated as responsible for your Year 2000 compliance? Yes ☐ No ☐

Include both employees and consultants

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(b) If *yes*, provide the following information on the person primarily responsible:

Name: ____________________________

Title: ____________________________

Business Address: ____________________________

(city) (state) (zip code)

Provide information for one person only

4. Staffing for Year 2000

(a) Is this a full-time project for at least one individual? Yes ☐ No ☐

Include both employees and consultants

(b) If *yes*, how many individuals are working full time on Year 2000 compliance?

☐ 1 ☐ 2-5 ☐ 6-10 ☐ 11-20 ☐ 21-50

☐ 51-100 ☐ 101-200 ☐ over 200

(c) Have you hired third parties to assist you on Year 2000 issues? Yes ☐ No ☐

(d) If *yes*, what function(s) are the third parties performing? (check all that apply)

☐ Assessment of the problem ☐ Correction of systems ☐ Replacement of systems ☐ Internal testing

☐ Point-to-point testing (including testing with broker-dealers, custodians, transfer agents and other service providers)

☐ Training ☐ SIA industry-wide testing ☐ Implementation of contingency plans

☐ Vendor assessment ☐ Other (please specify on a separate attachment)

(e) If you have not completed staffing your Year 2000 project, are you:

☐ Defining resources — this will be completed by: MM/DD/YYYY

☐ Unable to find sufficient staffing resources

☐ Handling the staffing as part of your ongoing business operations

5. Inventory of systems

(a) Have you inventoried all of your systems? Yes ☐ No ☐

(b) What is the nature of the computer systems you utilize? (check all that apply)

☐ Off-the-shelf ☐ Vendor provided ☐ Developed in-house (custom made)

☐ Other (please specify on a separate attachment)

(c) Have you identified your mission-critical systems? Yes ☐ No ☐

(d) If *no*, this will be completed by: MM/DD/YYYY

(e) Have you determined which of your mission-critical systems are not currently Year 2000 compliant? Yes ☐ No ☐

Form ADV-Y2K

6. Awareness of the problem

What steps have you taken to enhance awareness of potential Year 2000 problems? (check all that apply)

☐ None to date ☐ Designated individuals for Year 2000 compliance ☐ Presentations to the Adviser's Board

☐ Presentations to management ☐ Presentations to employees ☐ Contacted third parties

☐ Other (please specify on a separate attachment)

7. Progress on preparing mission-critical systems for the Year 2000

What is your progress on the following stages of preparation for the Year 2000?

(a) **Assessment** of steps you will take to address Year 2000 problems with your mission-critical systems (including preparing an inventory of computer systems affected by the Year 2000):

☐ 0% complete ☐ 1-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete

If not completed, assessment expected to be completed by: MM/DD/YYYY

(b) **Implementation** of steps you will take to address Year 2000 problems with your mission-critical systems:

☐ 0% complete ☐ 1-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete

If not completed, implementation of steps expected to be completed by: MM/DD/YYYY

(c) **Testing** of your internal mission-critical systems:

☐ 0% complete ☐ 1-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete

If not completed, testing expected to be completed by: MM/DD/YYYY

(d) Did your testing of internal mission-critical systems result in material exceptions that remain unresolved as of this filing?

Yes ☐ No ☐ not applicable ☐

(e) **Point-to-point testing** of your mission-critical systems (including testing with broker-dealers, custodians, transfer agents and other service providers):

☐ 0% complete ☐ 1-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete

If not completed, point-to-point testing expected to be completed by: MM/DD/YYYY

(f) Did your point-to-point testing of mission-critical systems result in material exceptions that remain unresolved as of this filing?

Yes ☐ No ☐ not applicable ☐

(g) **Implementation of tested software** to address Year 2000 problems with your mission-critical systems:

☐ 0% complete ☐ 1-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete

If not completed, implementation of tested software expected to be completed by: MM/DD/YYYY

8. Progress on preparing all other systems for the Year 2000

What is your progress on the following stages of preparation for the Year 2000?

(a) **Assessment** of steps you will take to address Year 2000 problems with your non-mission-critical systems (including preparing an inventory of computer systems affected by the Year 2000):

☐ 0% complete ☐ 1-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete

If not completed, assessment expected to be completed by: MM/DD/YYYY

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(b) **Implementation of steps** you will take to address Year 2000 problems with your non-mission-critical systems:

☐ 0% complete ☐ 1-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete

If not completed, implementation of steps expected to be completed by: MM/DD/YYYY

(c) **Testing** of your non-mission-critical internal systems:

☐ 0% complete ☐ 1-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete

If not completed, internal testing expected to be completed by: MM/DD/YYYY

(d) Did your testing of internal non-mission-critical systems result in material exceptions that remain unresolved as of this filing?

Yes ☐ No ☐ not applicable ☐

(e) **Point-to-point testing** of your non-mission-critical systems (including testing with broker-dealers, custodians, transfer agents and other service providers):

☐ 0% complete ☐ 1-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete

If not completed, point-to-point testing expected to be completed by: MM/DD/YYYY

(f) Did your point-to-point testing result in material exceptions that remain unresolved as of this filing?

Yes ☐ No ☐ not applicable ☐

(g) **Implementation of tested software** to address Year 2000 problems with your non-mission-critical systems:

☐ 0% complete ☐ 1-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete

If not completed, implementation of software expected to be completed by: MM/DD/YYYY

9. Contingency plans

(a) Do you have a contingency plan for your systems if, after December 31, 1999, you have computer problems caused by the Year 2000?

Yes ☐ No ☐

(b) If *yes*, is the contingency plan in writing?

Yes ☐ No ☐

(c) If *no*, what is your progress in preparing a contingency plan?

☐ 0% complete ☐ 1-25% ☐ 26-50% ☐ 51-75% ☐ 76-99%

Contingency plan expected to be completed by: MM/DD/YYYY

(d) What is the scope of coverage of the contingency plan? (check all that apply)

☐ No systems ☐ Mission-critical systems ☐ Physical facilities ☐ Communications systems ☐ All systems

(e) Who has approved the contingency plan? (check all that apply)

☐ No approval ☐ Board of directors ☐ Corporate officers ☐ Executive management

☐ Head of Information Technology or equivalent ☐ Employees

10. Third parties who provide mission-critical systems

(a) Have you identified all third parties upon whom you rely for your mission-critical systems?

Yes ☐ No ☐

(b) If *yes*, on how many third parties do you rely for your mission-critical systems:

(c) With what percentage of third parties upon whom you rely for mission-critical systems have you had contact regarding the third parties' readiness for the Year 2000?

☐ 0% ☐ 1-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ 100%

If not all, contact expected to be completed by: MM/DD/YYYY

(d) Has any third party on whom you rely for mission-critical systems declined or failed to provide you with assurances that it is undertaking the necessary steps to prepare for the Year 2000?

Yes ☐ No ☐ not applicable ☐

(e) If *yes*, what number of third parties providing mission-critical systems have failed to provide such assurances:

(f) Does your contingency plan account for third parties whose systems may fail after December 31, 1999?

Yes ☐ No ☐ We have no contingency plan ☐

11. Indicate the amount of your assets managed as reported in your last amended Form ADV (add the two amounts reported in Items 18B and 19B of Part I of Form ADV).

$_______________ (to the nearest whole dollar)

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Form ADV-Y2K

PART II Information About Preparations by Investment Company Clients of Investment Advisers for the Year 2000

Instructions for Part II

1. If you are an adviser or sub-adviser to an investment company registered under the Investment Company Act of 1940 ("fund") you also must complete Part II with respect to that fund *and* any other fund in the same fund "complex" or "family" *unless* another adviser is submitting a Form ADV-Y2K that covers that investment company.

   Note: under this instruction, advisers to a fund complex with multiple advisers can decide among themselves which will complete and submit Form ADV-Y2K.

2. Answer Part II with respect to all computer systems used by the fund complex. If the complex has computer systems for which different amounts of progress in preparing for the Year 2000 problem have been made, base your responses on a qualitative average of the systems. Give greater weight to mission-critical systems than to other systems.

PART II

1. Identify the investment company or companies, or the fund complex, on whose behalf you are filing this form. Provide the name and ten-letter identifier for the complex used in Item 19C of Form N-SAR if available. If no answer to Item 19C was provided, provide the full name of the complex.

   Name of investment company or companies, or fund complex:

   Ten-letter identifier in Form N-SAR:

2. Year 2000 compliance plan

   (a) Does the investment company you advise have a plan for Year 2000 compliance to address whether its computer systems will operate correctly after December 31, 1999? Yes ☐ No ☐

   Consider as a plan, or as part of a plan, efforts to contact vendors of software systems used.

   (b) If *no*, is the investment company:

   ☐ Developing a plan — it is scheduled to be completed by: MM/DD/YYYY

   ☐ Not developing a plan because the investment company does not plan to be conducting business after January 1, 2000 — plan to be out of business by: MM/DD/YYYY

   ☐ Other (please specify on a separate attachment)

   If the investment company has no plan, go on to question 3

   (c) Does the plan address external interfaces with third party computer systems that communicate with the investment company's systems? Yes ☐ No ☐

   (d) Is the Year 2000 compliance plan in writing? Yes ☐ No ☐

   (e) Who has approved the plan? (check all that apply)

   ☐ No approval ☐ Board of directors ☐ Corporate officers ☐ Executive management

   ☐ Head of Information Technology or equivalent ☐ Employees

   (f) Has the plan been discussed with outside auditors? Yes ☐ No ☐

   (g) What is the scope of coverage of the plan? (check all that apply)

   ☐ All systems ☐ Mission-critical systems ☐ Physical facilities ☐ Communications systems

Form ADV-Y2K

(h) Which facilities does the plan cover? (check all that apply)

☐ The primary facility ☐ Certain U.S. facilities ☐ All U.S. facilities ☐ Certain facilities worldwide
☐ All facilities worldwide ☐ There are no international facilities

(i) Who had primary responsibility for preparing the Year 2000 plan?

☐ The fund ☐ An adviser ☐ A sub-adviser ☐ An administrator ☐ A transfer agent
☐ A custodian ☐ A broker-dealer ☐ Other

3. Persons responsible for Year 2000 compliance

(a) Has one or more individuals been designated as responsible for Year 2000 compliance? Yes ☐ No ☐

Include employees and consultants

(b) If *yes*, provide the following information on the person primarily responsible:

Name:

Title:

Business Address:

(city) (state) (zip code)

Provide information for one person only

4. Staffing for Year 2000

(a) Is this a full-time project for at least one individual? Yes ☐ No ☐

Include employees and consultants

(b) If *yes*, how many individuals are working full time on Year 2000 compliance?

☐ 1 ☐ 2-5 ☐ 6-10 ☐ 11-20 ☐ 21-50
☐ 51-100 ☐ 101-200 ☐ over 200

(c) Have third parties been hired to assist on Year 2000 issues? Yes ☐ No ☐

(d) If *yes*, what function(s) are the third parties performing? (check all that apply)

☐ Assessment of the problem ☐ Correction of systems ☐ Replacement of systems ☐ Internal testing
☐ Point-to-point testing (including testing with broker-dealers, custodians, transfer agents and other service providers)
☐ Training ☐ SIA industry-wide testing ☐ Implementation of contingency plans ☐ Vendor assessment
☐ Other (please specify on a separate attachment)

(e) If the investment company has not completed staffing on the Year 2000 project, is it:

☐ Defining resources — this will be completed by: MM/DD/YYYY
☐ Unable to find sufficient staffing resources
☐ Handling the staffing as part of ongoing business operations

5. Inventory of systems

(a) Has the investment company inventoried all of its systems? Yes ☐ No ☐

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(b) What is the nature of the computer systems utilized:

☐ Off-the-shelf ☐ Vendor provided ☐ Developed in-house (custom made) ☐ Other

(c) Has the investment company identified its mission-critical systems? Yes ☐ No ☐

(d) If no, this will be completed by: MM/DD/YYYY

(e) Has the investment company determined which mission-critical systems are not currently Year 2000 compliant? Yes ☐ No ☐

6. Awareness of the problem

What steps have been taken to enhance awareness of potential Year 2000 problems? (check all that apply)

☐ None to date ☐ Designated individuals for Year 2000 compliance

☐ Presentations to the investment company's Board ☐ Presentations to management

☐ Presentations to employees ☐ Contacted third parties

7. Progress on preparing mission-critical systems for the Year 2000

What is the investment company's progress on the following stages of preparation for the Year 2000?

(a) **Assessment of steps** the investment company will take to address Year 2000 problems with its mission-critical systems (including preparing an inventory of computer systems affected by Year 2000):

☐ 0% complete ☐ 1-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete

If not completed, assessment expected to be completed by: MM/DD/YYYY

(b) **Implementation of steps** the investment company will take to address Year 2000 problems with its mission-critical systems:

☐ 0% complete ☐ 1-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete

If not completed, implementation expected to be completed by: MM/DD/YYYY

(c) **Testing** of internal mission-critical systems:

☐ 0% complete ☐ 1-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete

If not completed, internal testing of mission-critical systems expected to be completed by: MM/DD/YYYY

(d) Did testing of internal mission-critical systems result in material exceptions that remain unresolved as of this filing? Yes ☐ No ☐ not applicable ☐

(e) **Point-to-point testing** of mission-critical systems (including testing with broker-dealers, custodians, transfer agents and other service providers):

☐ 0% complete ☐ 1-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete

If not completed, point-to-point testing of mission-critical systems expected to be completed by: MM/DD/YYYY

(f) Did point-to-point testing of mission-critical systems result in material exceptions that remain unresolved as of this filing? Yes ☐ No ☐ not applicable ☐

(g) **Implementation of tested software** to address Year 2000 problems with mission-critical systems:

☐ 0% complete ☐ 1-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete

If not completed, implementation of software expected to be completed by: MM/DD/YYYY

Form ADV-Y2K

8. Progress on preparing all other systems for the Year 2000

What is the investment company's progress on the following stages of preparation for the Year 2000?

(a) **Assessment of steps that must be taken to address Year 2000 problems with non-mission-critical systems (including preparing an inventory of computer systems affected by the Year 2000):**

☐ 0% complete ☐ 1-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete

If not completed, assessment expected to be completed by: MM/DD/YYYY

(b) **Implementation of steps that must be taken to address Year 2000 problems with non-mission-critical systems:**

☐ 0% complete ☐ 1-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete

If not completed, implementation expected to be completed by: MM/DD/YYYY

(c) **Testing of internal non-mission-critical systems:**

☐ 0% complete ☐ 1-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete

If not completed, internal testing expected to be completed by: MM/DD/YYYY

(d) Did testing of internal non-mission-critical systems result in material exceptions that remain unresolved as of this filing?

Yes ☐ No ☐ not applicable ☐

(e) **Point-to-point testing of non-mission-critical systems (including testing with broker-dealers, custodians, transfer agents and other service providers):**

☐ 0% complete ☐ 1-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete

If not completed, point-to-point testing expected to be completed by: MM/DD/YYYY

(f) Did point-to-point testing of non-mission-critical systems result in material exceptions that remain unresolved as of this filing?

Yes ☐ No ☐ not applicable ☐

(g) **Implementation of tested software to address Year 2000 problems with non-mission-critical systems:**

☐ 0% complete ☐ 1-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete

If not completed, implementation of software expected to be completed by: MM/DD/YYYY

9. Contingency plans

(a) Does the investment company have a contingency plan for its systems if, after December 31, 1999, it has computer problems caused by the Year 2000?

Yes ☐ No ☐

(b) If *yes*, is the contingency plan in writing?

Yes ☐ No ☐

(c) What is the scope of coverage of the contingency plan?

☐ No systems ☐ Mission-critical systems ☐ Physical facilities ☐ Communications systems ☐ All systems

(d) Who has approved the contingency plan? (check all that apply)

☐ No approval ☐ Board of directors ☐ Corporate officers ☐ Executive management

☐ Head of Information Technology or equivalent ☐ Employees

(e) If the investment company has no contingency plan, what is the progress in preparing a contingency plan?

☐ 0% ☐ 1-25% ☐ 26-50% ☐ 51-75% ☐ 76-99%

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10. Third parties who provide mission-critical systems

(a) Has the investment company identified all third parties upon whom it relies for mission-critical systems?

Yes ☐ No ☐

(b) If *yes*, upon how many third parties does it rely for mission-critical systems:

(c) With what percentage of third parties upon whom the investment company relies for mission-critical systems has the adviser had contact regarding the third parties' readiness for the Year 2000?

☐ 0% ☐ 1-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ 100%

If not all, contact expected to be completed by: MM/DD/YYYY

(d) Has any third party upon whom the investment company relies for mission-critical systems declined or failed to provide assurances that it is undertaking the necessary steps to prepare for the Year 2000?

Yes ☐ No ☐ not applicable ☐

(e) If *yes*, what number of third parties providing mission-critical systems have failed to provide such assurances:

(f) Does the contingency plan account for third parties whose systems may fail after December 31, 1999?

☐ Yes ☐ No ☐ The investment company has no contingency plan

11. How often is the board of directors of the investment company apprised of progress in the investment company's Year 2000 compliance efforts?

☐ Not informed ☐ Weekly ☐ Monthly ☐ Quarterly ☐ Annually ☐ From time to time

12. Indicate the amount of assets that are covered by this report. Do not double-count assets in arrangements where one investment vehicle is a mere conduit for an investment in another fund (*i.e.*, assets in a two-tier structure, such as a "master/feeder" structure or a unit investment trust that issues periodic payment plans or that is an insurance company separate account).

$________________(to the nearest whole dollar)

[FR Doc. 98-17927 Filed 7-6-98; 8:45 am]

BILLING CODE 8010-01-C

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

RIN 0720–AA46

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); TRICARE Prime Enrollment Procedures

AGENCY: Office of the Secretary, DOD.

ACTION: Proposed rule.

SUMMARY: This proposed rule modifies the TRICARE Prime enrollment for active duty families by specifying that the enrollment period is continuous rather than a 12 month enrollment period and it allows monthly installment payments of enrollment fees for those beneficiaries required to pay an annual fee in order to enroll in TRICARE Prime. These modifications are being made because TRICARE will soon be available wordwide for active duty family members.

DATES: Public comments must be received by September 8, 1998.

ADDRESSES: Forward comments to: TRICARE Support Office (TSO), Program Development Branch, Aurora, CO 80045–6900.

FOR FURTHER INFORMATION CONTACT: Kathleen Larkin, Office of the Assistant Secretary of Defense (Health Affairs), telephone (703) 681–1742.

SUPPLEMENTARY INFORMATION:

I. Proposed Changes Regarding The TRICARE Prime Enrollment Period

This proposes a change to the TRICARE Prime enrollment period from a 12-month enrollment period to continuous enrollment until such time as the enrollee opts to disenroll from TRICARE Prime. TRICARE Prime was originally designed so that enrollees would be required to take positive action to continue their enrollment in TRICARE Prime at or before their 12-month anniversary date. Positive action to reenroll was required because TRICARE implementation was not available in all regions of the country and overseas locations. Now the TRICARE will soon be available worldwide for active duty family members, the requirement that beneficiaries must take positive steps to remain enrolled is not longer necessary. The proposed rule allows the enrollee to remain enrolled in TRICARE Prime until the enrollee takes positive steps to disenroll from TRICARE Prime, or is no longer eligible for TRICARE Prime.

II. Proposed Change to Installment Payments of Enrollment Fees

When we first instituted the requirement for annual TRICARE Prime enrollment fees for certain beneficiary categories, we allowed for quarterly installment payments of the enrollment fees. In keeping with the nature of continuous enrollment, retirees, their families, and other beneficiaries required to pay an annual enrollment fee will be offered additional flexibility in fee payment by allowing for monthly installment payments of enrollment fees.

III. Regulatory Procedures

Executive Order 12866 requires certain regulatory assessments for any significant regulatory action, defined as one which would result in an annual effect on the economy of $100 million or more, or have other substantial impacts.

The Regulatory Flexibility Act (RFA) requires that each federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities.

This is not a significant regulatory action under the provisions of Executive Order 12866, and it would not have a significant impact on a substantial number of small entities.

The proposed rule will not impose additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Public comments are invited. All comments will be carefully considered. A discussion of the major issues received by public comments will be included with the issuance of the permanent final rule, anticipated approximately 60 days after the end of the comment period.

List of Subjects in 32 CFR Part 199

Administrative practice and procedures, Claims, Fraud, Health care, Health insurance, Individuals with disabilities, Military personnel, Reporting and recordkeeping requirements.

Accordingly, 32 CFR part 199 is proposed to be amended as follows:

PART 199—[AMENDED]

1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55.

2. Section 199.17 is proposed to be amended by revising paragraphs (o)(2) and (o)(3), redesignating paragraphs (o)(4) and (o)(5) as paragraphs (o)(5) and (o)(6), respectively, and adding a new paragraph (o)(4) to read as follows:

§ 199.17 TRICARE program.

* * * * *

(o) *TRICARE program enrollment procedures.* * * *

(2) *Enrollment period.* Beneficiaries who select the TRICARE Prime option remain enrolled in TRICARE Prime until they take action to disenroll, are no longer eligible for enrollment in TRICARE Prime, or for failure to pay required enrollment fees. There is no minimum length of time an enrollee must remain enrolled in TRICARE Prime before they are eligible to disenroll. Disenrollment for failure to pay enrollment fees is outlined in paragraph (o)(3) of this section.

(3) *Installment payments of enrollment fee.* The enrollment fee required by § 199.18(c) may be paid in monthly or quarterly installments. For beneficiaries paying enrollment fees on an installment basis, failure to make a required installment payment on a timely basis (including a grace period, as determined by the Director, (CHAMPUS) will result in termination of the beneficiary's enrollment in Prime and disqualification from future enrollment in Prime for a period of one year.

(4) *Disenrollment.* Any beneficiary for whom enrollment in Prime is voluntary may disenroll at any time. Disenrollment will take effect in accordance with administrative procedures established by the Assistant Secretary of Defense (Health Affairs) or his or her designee. Beneficiaries who disenroll will not be eligible to reenroll in Prime for a one year period from the effective date of the disenrollment. This one year exclusion may be waived by the Assistant Secretary of Defense (Health Affairs) or his or her designee based on extraordinary circumstances.

* * * * *

Dated: June 30, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–17849 Filed 7–6–98; 8:45 am]

BILLING CODE 5000–04–M

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[SIPTRAX NO. DC-25-2010a; FRL-6120-2]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; 15 Percent Plan for the Washington, DC Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the District of Columbia for the purpose of establishing the District's plan to meet the 15 percent reasonable further progress implementation plan (15% plan) requirements of the Clean Air Act for the District's portion of the Washington, DC ozone nonattainment area. In the Final Rules section of this Federal Register, EPA is approving the District's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the technical support document prepared for the direct final rule. If no adverse comments are received in response to the direct final rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by August 6, 1998.

ADDRESSES: Written comments on this action should be addressed to David L. Arnold, Chief, Ozone and Mobile Sources Branch, Mailcode 3AP21, U.S. Environmental Protection Agency—Region III, 841 Chestnut Building, Philadelphia, Pennsylvania, 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Pennsylvania 19103. Persons interested in examining these documents should schedule an appointment with the contact person (listed below) at least 24 hours before the visiting day. Copies of the documents relevant to this action are also available at the District of Columbia Department of Health, Air Quality Division, 2100 Martin Luther King Ave, SE, Washington, DC 20020.

FOR FURTHER INFORMATION CONTACT: Christopher Cripps at the EPA Region III address above, or by telephone at (215) 814-2179. Questions may also be addressed via e-mail, at the following address: cripps.christopher@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the above Region III address.

SUPPLEMENTARY INFORMATION: See the information pertaining to the conditional approval of the District's 15% plan provided in the Direct Final action of the same title which is located in the Rules and Regulations section of this Federal Register.

Authority: 42 U.S.C. 7401 et seq.

Dated: June 23, 1998.

Thomas Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 98-17967 Filed 7-6-98; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-6120-1]

Washington: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve a revision to Washington's authorized hazardous waste program. In the final rules section of today's Federal Register, EPA is approving the State's request as an immediate final rule without a prior proposal because EPA views this action as noncontroversial and anticipates no adverse comments. A detailed rationale for approving the State's request is set forth in the immediate final rule. If no adverse written comments are received in response to the immediate final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse written comments, EPA will withdraw the immediate final rule before the effective date by publishing a notice of withdrawal in the Federal Register. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments on this proposed rule must be received on or before August 6, 1998.

ADDRESSES: Written comments referring to Docket Number 6120-1 may be mailed to Nina Kocourek, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, WCM-122, Seattle, WA 98101, Phone: (206) 553-6502. Copies of the materials submitted by Washington may be examined during normal business hours at the following locations: EPA Region 10 Library, 1200 Sixth Avenue, Seattle, WA 98101, contact: (206) 553-1259; and the Washington Department of Ecology, 300 Desmond Drive, Lacey, WA, 98503, contact Patricia Hervieux, (360) 407-6756.

FOR FURTHER INFORMATION CONTACT: Nina Kocourek, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, WCM-122, Seattle, WA 98101. Phone: (206) 553-6502.

SUPPLEMENTARY INFORMATION:

For additional information see the immediate final rule published in the rules section of today's Federal Register.

Dated: June 24, 1998.

Chuck Clarke,

Regional Administrator.

[FR Doc. 98-17683 Filed 7-6-98; 8:45 am]

BILLING CODE 6560-50-U

Notices

Federal Register
Vol. 63, No. 129
Tuesday, July 7, 1998

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

RIN 0584–AC62

Federal Means-Tested Public Benefits

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: The term "Federal means-tested public benefit" is used in several sections of Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) which restricts welfare and public benefits for aliens. The purpose of this notice is to set forth the U. S. Department of Agriculture's interpretation of the term as it applies to the food assistance programs administered by the Food and Nutrition Service (FNS). This notice announces that the Food Stamp Program and the food assistance block grant programs in Puerto Rico, the Commonwealth of the Northern Marianna Islands and American Samoa are Federal means-tested programs. It announces that the other food assistance programs administered by FNS, e.g., those under the Child Nutrition Act and the School Lunch Act are not Federal means-tested programs, or are excepted from the application of this term, for purposes of PRWORA. (Section 402 of PRWORA limits participation in the Food Stamp Program to certain specific categories of aliens. These restrictions as well as other related issues will be addressed in a separate rule.)

EFFECTIVE DATE: This notice is effective on July 7, 1998.

FOR FURTHER INFORMATION CONTACT: Judith M. Seymour, Chief, Certification Policy Branch, Program Development Division, Food Stamp Program, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302; Telephone: (703) 305–2520. The internet address is: Judy_Seymour@FCS.USDA.Gov.

SUPPLEMENTARY INFORMATION:

Regulatory Flexibility Act

This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and thus is exempt from the provisions of this Act.

Paperwork Reduction Act of 1995

This notice contains no reporting or recordkeeping requirements subject to approval by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995.

Executive Order 12866

This notice has been reviewed by the Office of Management and Budget under Executive Order 12866 and been determined to be significant.

Executive Order 12372

The food assistance programs administered by the Food and Nutrition Service are listed in the Catalog of Federal Domestic Assistance as follows:

10.550	Food Distribution
10.551	Food Stamps
10.553	School Breakfast Program
10.555	National School Lunch Program
10.556	Special Milk Program for Children
10.557	Special Supplemental Nutrition Program for Women, Infants and Children
10.558	Child and Adult Care Food Program
10.559	Summer Food Service Program for Children
10.564	Nutrition Education and Training Program
10.565	Commodity Supplemental Food Program
10.566	Nutrition Assistance for Puerto Rico
10.567	Food Distribution Program on Indian Reservations
10.569	Emergency Food Assistance Program (Food Commodities)
10.570	Nutrition Program for the Elderly
10.572	WIC Farmers' Market Nutrition Program
10.573	Homeless Children Nutrition Program.

The Food Stamp Program and the food assistance programs in Puerto Rico, American Samoa and the Commonwealth of the Northern Mariana Islands are excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials. The other food programs listed above are not excluded.

Background

The term "Federal means-tested public benefit" is used in the following sections of PRWORA:

Section 402—This section contains the criteria for determining if qualified aliens can be eligible for food stamps, including the specific timeframes governing the eligibility of aliens for purposes of the Food Stamp Program. Subsection (a)(2)(B)(ii)(I) provides that any qualifying quarter of work creditable after December 31, 1996, in which an alien received a Federal means-tested public benefit cannot be included when determining whether the alien has the 40 quarters needed for eligibility for food stamp benefits.

Section 403—With specified exceptions, a qualified alien who enters the U.S. on or after August 22, 1996, is ineligible for any Federal means-tested public benefit for 5 years from the date of entry. As noted above the specific timeframes governing the Food Stamp Program are included in section 402.

Sections 421(a) and (b)—In determining the eligibility and benefits of an alien for any Federal means-tested public benefit, the income and resources of the alien are deemed to include the income and resources of any person who signs an affidavit of support. The deeming period continues until the alien becomes a citizen or has worked 40 qualifying quarters, not counting quarters in which the alien received any Federal means-tested public benefit.

Section 423—This section amended Title II of the Immigration and Nationality Act to add requirements for the sponsor's affidavit of support. It provides that no affidavit may be used to establish that an alien is not excludable as a public charge unless the affidavit is executed as a contract which is legally enforceable against the sponsor by any agency which provides any means-tested public benefits. Section 423(e) provides that upon notification that a sponsored alien has received any benefit under any means-tested public benefits program, the appropriate agency shall request reimbursement by the sponsor in the amount of such assistance. The Food Stamp Program is not listed among the benefits excepted from this provision. Assistance or benefits under the National School Lunch Act and Child Nutrition Act of 1966 are specifically

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listed as benefits not subject to reimbursement.

Section 435—This section contains a description of qualifying quarters of work and disallows any quarter worked by a spouse or parent in which the spouse or parent received a Federal means-tested public benefit.

The law; however, does not include a definition of "Federal means-tested public benefit." Therefore, each Executive Branch agency whose programs may be subject to the PRWORA provisions is responsible for identifying the benefits to which the term applies.

Definition of Federal Means-Tested Public Benefit

The Department has determined that the Food Stamp Program and the block grant food assistance programs in Puerto Rico, American Samoa, and the Commonwealth of the Northern Mariana Islands are "Federal means-tested public benefit(s)" for purposes of Title IV of PRWORA. Based on the legislative history of PRWORA, the Department interprets the term to refer only to mandatory spending programs. The Department of Health and Human Services (62 FR 45256, August 26, 1997) and the Social Security Administration (62 FR 45284, August 26, 1997) have interpreted the term in a similar fashion. The food assistance programs listed above are mandatory spending programs.

The Department has determined that the following Special Nutrition Programs are either not a Federal means-tested public benefit, or are exempted from the application of the term, for purposes of Title IV of PRWORA.

The Nutrition Program for the Elderly
Food services provided through Summer Camps pursuant to § 4(c) of the Agricultural and Nutrition Protection Act of 1973 (7 U.S.C. 612c note)
Disaster Commodity Distribution
The National School Lunch Program
The School Breakfast Program
The Special Milk Program
The Child and Adult Care Food Program
The Homeless Children Nutrition Program
The Summer Food Service Program for Children
The Special Supplemental Nutrition Program for Women, Infants, and Children
The WIC Farmers' Market Nutrition Program
The Commodity Supplemental Food Program
The Emergency Food Assistance Program
The Food Distribution Program on Indian Reservations

Regulatory Impact Analysis

Designation: This action has been designated as significant.

Decrease in Number of Eligible Aliens: Effective August 22, 1996 for applicants and no later than August 22, 1997 for participating households, PROWRA made most aliens ineligible for food stamps. Exceptions were made for certain asylees, refugees, Cubans, Haitian, Amerasians, deportees, and persons with a military connection. An exception was also made to allow aliens admitted as lawful permanent residents to be eligible if they have earned or can be credited with at least 40 quarters (about 10 years) of qualified work. This notice only affects the eligibility of lawful permanent residents who can be credited with at least 40 quarters of work. After 12/31/96, a quarter cannot count if the person was receiving a Federal means-tested public benefit during that quarter.

Savings: By counting food stamp benefits as a Federal means-tested public benefit, the Federal government may realize an estimated savings of as much as $10 million a year for 10 years. This occurs because most aliens admitted as a lawful permanent resident became ineligible 8/22/97, thus any period of food stamp participation between 1/1/97 and 8/22/97 would delay their fulfillment of the 40 quarter work requirement; which, in turn, delays their eligibility. This reduces program costs over the 10-year time period. The maximum length of time when participating permanent resident aliens could have been working and their work would not be counted toward the quarters of coverage is 8 months, the time between January 1, 1997, and August 22, 1997. In any one year, the estimated savings come from only those participants who would have achieved their 40 quarters in that year and do not when they are not allowed to include the quarters earned between January 1997 and August 1997 when they also received food stamps. Assuming that among those working, 1/40th are in their 39th quarter, 1/40th are in their 38th quarter, etc., then no more than 4/40th or 10 percent can have their benefits delayed in any year.

Consistency: A Department of Health and Human Service (HHS) notice published on 8/26/97 (62 FR 45256) and a Social Security Administration notice published on 8/26/97 (62 FR 45284) have determined that Federal means-tested public assistance benefits applies to means-tested mandatory spending programs. Therefore, this interpretation is consistent with that of other agencies. The DHHS determined that its notice was economically significant based on $5.1 billion in savings from all of the alien restrictions contained in PRWORA for purposes of the Medicaid Program rather than just the definition of a Federal means-tested public benefit. The Social Security Administration did not designate its notice. USDA is designating this notice as significant because it affects the eligibility of aliens, but it is limiting the cost estimate to the costs associated with the provisions concerning the definition of a Federal means-tested public benefit.

Effect on small entities: State and local welfare agencies are affected to the extent that they administer the Program. The notice will affect a number of aliens who could otherwise qualify for food stamp participation. The changes and the resulting decrease in benefits will have a negative secondary effect on revenues of the approximately 190,000 food stamp retailers nationwide.

Dated: June 25, 1998.

Shirley R. Watkins,

Under Secretary, Food, Nutrition, and Consumer Services.

[FR Doc. 98–17932 Filed 7–6–98; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 98–031N]

Technologies for the Detection and Reduction of Pathogens To Improve Food Safety

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice; Request for Technical Papers and Presenters

SUMMARY: The Food Safety and Inspection Service will hold a conference on "Technology to Improve Food Safety" on July 28, 1998, in Washington, DC. The purpose of the conference is to focus on emerging technologies that aid in the detection of pathogens and on pathogen interventions that help to ensure food safety within the farm-to-table continuum. The emphasis will be on both existing and emerging technologies to detect pathogens, including those which are close to practical application within the farm-to-table continuum.

DATES: The conference will be held from 8:30 a.m. to 5:00 p.m. on July 28, 1998. Abstracts of scientific papers must be received no later than COB July 8, 1998; the final papers no later than COB July 20, 1998. The Conference will be held in two sessions: Technologies for Reducing Pathogens and Technologies for Detecting Pathogens. Please specify for which session the paper is intended. Two copies of the abstracts and final papers should be sent to Ms. Mary Harris at the address below.

ADDRESSES: The meeting will be held in the Federal Hall Ballroom of the Washington Plaza Hotel, 10 Thomas Circle, NW, Washington, DC 20005. To register for the meeting, contact Ms. Harris at (202) 501–7315, FAX to (202) 501–7615, or E-mail to mary.harris@usda.gov. If a sign language interpreter or other special accommodation is necessary, please contact Ms. Harris by July 14, 1998. Ms. Harris' address is FSIS, Franklin Court Building, Room 6904, 1099 14th Street, NW, Washington, DC 20250–3700. All technical papers, comments, and data about the meeting will be available for public viewing after August 15, 1998, in the FSIS Docket Room, Room 102, Cotton Annex Building, 300 12th Street, SW, Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Hudnall, Assistant Deputy Administrator, Office of Policy, Program Development, and Evaluation at (202) 205–0495 or FAX to (202) 401–1760.

SUPPLEMENTARY INFORMATION:

Background

On April 12 and 13, 1995, FSIS convened a scientific and technical conference in Chicago as part of a series of outreach activities associated with the Pathogen Reduction/Hazard Analysis and Critical Control Point (HACCP) proposed rule. The purpose of the conference was to solicit public comment about what actions FSIS should take to encourage innovative technologies that could contribute to overall efforts to improve food safety. The upcoming July 28 conference is intended to be a follow-up to the 1995 conference. FSIS continues to believe that the development and proper use of technology can contribute significantly to ensuring the safety of the food supply, and the Agency will continue to foster such development and use. The upcoming conference will explore current food technology and should stimulate the development of beneficial innovations to ensure food safety, particularly with regard to the reduction of pathogens.

Since the 1995 conference, many meat and poultry plants have implemented 3 interventions, such as steam pasteurization and carcass rinses, that are effective in reducing pathogens on meat and poultry. New developments also have been made in irradiation technology. The conference will provide an opportunity to disseminate information that can lead to the timely introduction of these and other beneficial emerging technologies into more establishments.

1998 Conference Agenda

The conference will consist of two sessions:

Session I: "Technologies for Reducing Pathogens"

This session will cover emerging technologies for reducing pathogens throughout the farm-to-table continuum. FSIS has stressed the importance of a farm-to-table approach to food safety. Although FSIS does not have authority to impose controls at the farm level, it continues to believe that public concerns about pathogens and foodborne illness will stimulate action at this level to help improve food safety. In slaughter and processing plants, the Agency continues to be interested in advances that will enhance the safety of meat and poultry products. In addition, FSIS is working with the Food and Drug Administration and State and local food regulatory officials to ensure that food safety issues are adequately addressed in transport, retail, storage, and food service settings. The Agency remains firmly committed to its farm-to-table strategy.

Session II: "Technologies for Detecting Pathogens"

This session will address both existing and emerging technologies to detect pathogens, including those which are close to practical application within the farm-to-table continuum.

At each session, invited speakers from FSIS, other government agencies, industry, consumer groups, and academia will give presentations. In addition, FSIS is soliciting the submission of technical papers on emerging technology and will invite selected submitters to give 5-minute presentations summarizing their papers. If the same subject is covered in more than one paper, FSIS will have the authors combine their presentations for a single 5-minute presentation or select the author of the first paper submitted on the subject. FSIS will moderate each session and will be joined by a panel consisting of representatives from government agencies, industry, academia, and consumer groups. This panel will have an opportunity to question the presenters and to discuss the technology. Each session will conclude with an open discussion period to allow participants to briefly state their views and ask questions.

Speakers or other interested persons who will require exhibition space or special equipment to enhance their presentations should specify their needs by contacting Ms. Mary Harris at the address above. This request should be included with the paper. Based on the number of requests for space received by July 8, 1998, FSIS will determine whether it will be able to make exhibition space available.

Done in Washington, DC, on June 26, 1998.

Thomas J. Billy,

Administrator.

[FR Doc. 98–17637 Filed 7–6–98; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 98–034N]

Microbiology Laboratory Guidebook

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of availability.

SUMMARY: The Food Safety and Inspection Service (FSIS) is making available for purchase the revised, 1998, 3rd edition of the Microbiology Laboratory Guidebook.

FOR FURTHER INFORMATION CONTACT: Dr. Richard P. Mageau, U.S. Department of Agriculture, Food Safety and Inspection Service, Office of Public Health and Science, Microbiology Division, Room 3714—Franklin Court, 1400 Independence Avenue, SW., Washington, DC 20250–3700.

SUPPLEMENTARY INFORMATION: The Microbiology Division of the Office of Public Health and Science, FSIS, announces the availability for purchase of the revised, 1998, 3rd edition of the Microbiology Laboratory Guidebook. The Guidebook contains current protocols for analytical tests required by FSIS in its regulation of meat, poultry and egg products. Specifically, microbiological methods are presented for sample preparation, isolation and identification of the major food borne pathogenic microorganisms and their toxins, meat tissue species identification, and the detection of extraneous materials and antimicrobial residues. Media and reagent formulations, and Most Probable Number Tables are contained in an appendix.

This document may be purchased as the Microbiology Laboratory Guidebook, 3rd edition, 1998, stock #001–000–04656–0, at a price of $57.00 Domestic and $71.25 Foreign from:

Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954, (Fax) 202–512–2233.

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Done in Washington, DC on: June 26, 1998.

Thomas J. Billy,

Administrator.

[FR Doc. 98–17838 Filed 7–6–98; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Meeting of Advisory Committee on Emerging Markets

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the provisions of section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that the second meeting of the Advisory Committee on Emerging Markets will be held July 16, 1998. The role of the committee is to provide information and advice, based upon knowledge and expertise of the members, useful to the U.S. Department of Agriculture (USDA) in implementing the Emerging Markets Program. The committee will also advise USDA on ways to increase the involvement of the U.S. private sector in cooperative work with emerging markets in food and rural business systems and review proposals submitted to the Program.

DATES: The meeting will be held Thursday, July 16, 1998, from 9:00 a.m. to 4:00 p.m.

ADDRESSES: The meeting will be held at the U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, DC 20250.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to review and discuss those proposals the Emerging Markets Office has received which may qualify for Emerging Markets Program funding. The minutes of the meeting announced in this Notice shall be available for review. The meeting is open to the public and members of the public may provide comments in writing to Douglas Freeman, Foreign Agricultural Service, room 6506 South Building, U.S. Department of Agriculture, 14th and Independence Ave., SW., Washington, DC 20250, but should not make any oral comments at the meeting unless invited to do so by the Co-chairpersons.

Signed at Washington, DC, June 26, 1998.

Timothy J. Galvin,

Acting Administrator, Foreign Agricultural Service.

[FR Doc. 98–17836 Filed 7–6–98; 8:45 am]

BILLING CODE 3410–10–M

ASSASSINATION RECORDS REVIEW BOARD

Formal Determinations, Additional Releases and Corrections

AGENCY: Assassination Records Review Board.

ACTION: Notice.

SUMMARY: The Assassination Records Review Board (Review Board) met in a closed meeting on June 17, 1998, and made formal determinations on the release of records under the President John F. Kennedy Assassination Records Collection Act of 1992 (JFK Act). By issuing this notice, the Review Board complies with the section of the JFK Act that requires the Review Board to publish the results of its decisions in the **Federal Register** within 14 days of the date of the decision.

FOR FURTHER INFORMATION CONTACT: Peter Voth, Assassination Records Review Board, Second Floor, Washington, DC 20530, (202) 724–0088, fax (202) 724–0457. The public may obtain an electronic copy of the complete document-by-document determinations by contacting <Eileen_Sullivan@jfk-arrb.gov>.

SUPPLEMENTARY INFORMATION: This notice complies with the requirements of the President John F. Kennedy Assassination Records Collection Act of 1992, 44 U.S.C. 2107.9(c)(4)(A) (1992). On June 17, 1998, the Review Board made formal determinations on records it reviewed under the JFK Act.

Notice of Formal Determinations

3 Church Committee Documents: Postponed in Part until 10/2017

5 CIA Documents: Postponed in Part until 05/2001

686 CIA Documents: Postponed in Part until 10/2017

212 FBI Documents: Postponed in Part until 10/2017

16 Ford Library Documents: Postponed in Part until 10/2017

2 HSCA Documents: Postponed in Part until 10/2017

2 JCS Documents: Postponed in Part until 10/2017

128 US ARMY Documents: Postponed in Part until 10/2017

Notice of Other Releases

After consultation with appropriate Federal agencies, the Review Board announces that documents from the following agencies are now being opened in full: 4 CIA documents; 712 FBI documents; 36 Ford Library documents; 3 HSCA documents; 33 JCS documents; 161 NSC documents; 82 U.S. Army (Califano) documents; 22 U.S. Army (IRR) documents.

Notice of Corrections

On April 13, 1998 the Review Board made formal determinations that were published in the April 30, 1998 **Federal Register** (FR 98–23717, 63 FR 12345). At that time, the following documents were not included in the list of formal determinations because record identification numbers had not yet been assigned to them:

HSCA Documents: Postponed in Part

180–10147–10327; 2; 10/2017
180–10147–10354; 16; 10/2017
180–10147–10355; 6; 10/2017
180–10147–10356; 13; 10/2017
180–10147–10357; 4; 10/2017
180–10147–10358; 8; 10/2017
180–10147–10359; 1; 10/2017

Dated: June 30, 1998.

T. Jeremy Gunn,

Executive Director.

[FR Doc. 98–17977 Filed 7–6–98; 8:45 am]

BILLING CODE 6118–01–P

BROADCASTING BOARD OF GOVERNORS

Sunshine Act Meeting

DATE AND TIME: July 14, 1998; 9:30 a.m.

PLACE: Cohen Building, Room 3321, 330 Independence Ave., SW., Washington, DC 20547.

CLOSED MEETING: The members of the Broadcasting Board of Governors (BBG) will meet in closed session to review and discuss a number of issues relating to U.S. Government-funded nonmilitary international broadcasting. They will address internal procedural, budgetary, and personnel issues, as well as sensitive foreign policy issues relating to potential options in the U.S. international broadcasting field. This meeting is closed because if open it likely would either disclose matters that would be properly classified to be kept secret in the interest of foreign policy under the appropriate executive order (5 U.S.C. 552b.(c)(1)) or would disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. (5 U.S.C. 552b.(c)(9)(B)). In addition, part of the discussion will relate solely to the internal personnel and organizational issues of the BBG or the International Broadcasting Bureau. (5 U.S.C. 552b.(c) (2) and (6)).

CONTACT PERSON FOR MORE INFORMATION: Persons interested in obtaining more information should contact Brenda Massey at (202) 401–3736.

Dated: July 2, 1998.

David W. Burke,

Chairman.

[FR Doc. 98–18124 Filed 7–2–98; 3:05 pm]

BILLING CODE 8230-01-M

COMMODITY FUTURES TRADING COMMISSION

Petition of the London Clearing House Limited for Exemption Pursuant to Section 4(c) of the Commodity Exchange Act

AGENCY: Commidity Futures Trading Commission.

ACTION: Notice of petition for exemption and request for comment.

SUMMARY: The London Clearing House Limited ("LCH") has submitted a petition dated June 15, 1998 ("Petition") to the Commodity Futures Trading Commission ("Commission") requesting an exemption, pursuant to Section 4(c) of the Commodity Exchange Act ("Act" or "CEA"), in connection with LCH's proposed provision of clearing services for certain swap agreements. The Commission believes that publication of the Petition for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commission Exchange Act. The Petition also may be accessed on the Commission's Internet web site (http://www.cftc.gov) and may be obtained through the Commission's Office of the Secretariat.

DATES: Comments must be received on or before September 8, 1998.

ADDRESSES: Comments should be submitted to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 1155 21st Street, NW, Washington, DC 20581. Comments also may be sent by facsimile to (202) 418–5521 or by electronic mail to secretary @cftc.gov. Reference should be made to the Petition of LCH.

FOR FURTHER INFORMATION CONTACT: Thomas E. Joseph, Division of Trading and Markets, Commodity Futures Trading Commission, 1155 21st Street NW Washington, DC 20581. Telephone number (202) 418–5430.

SUPPLEMENTARY INFORMATION:

I. Background

By petition dated June 15, 1998, the LCH applied pursuant to Section 4(c) of the Act[1] for an exemption from all provisions of the Act (except for Sections 2(a)(1)(B), 4b and 4o of the Act, and the provisions of Sections 6(c) and 9(a)(2) of the Act to the extent these provisions prohibit manipulation of the market price of any commodity in interstate commerce or for future delivery on or subject to the rules of any contract market and Section 32.9 of the CFTC's Rules) to qualified U.S. entities that utilize [the LCH facility] to clear transactions in "swap agreements" (as such term is defined in CFTC Rule 35.1(b)).[2]

LCH has developed a clearing facility for swap agreements ("SwapClear") which is scheduled to commence operations in mid-1999.[3] The facility will be used to clear interest rate swaps and forward rate agreements in the following currencies: U.S. dollars, Japanese yen, Euros (and the eleven underlying currencies), British pounds, and possibly Canadian dollars.[4] Participation will be limited to large institutions that participate as dealers in the swap market and that meet specified financial and operational standards.[5]

LCH states that it will not provide any facility for arranging or executing transactions and will have no impact on the way counterparties negotiate or effect swap transactions.[6] It will perform credit enhancement, risk management, and position administration functions for those swaps that qualified participants choose to submit for clearing.[7] LCH will net payment amounts due to or from a clearing member related to swaps with other obligations due to or from the clearing member where possible, including amounts related to exchange-traded business.[8]

In the Petition, LCH summarizes the principal features of its risk management procedures.[9] It also describes the regulatory regime to which it is subject in the United Kingdom[10] and its internal governance procedures.[11]

LCH asserts that the Petition satisfies the statutory standards for relief. In particular, LCH argues that:

(1) The exchange trading requirements should not apply to swap agreements cleared through SwapClear because SwapClear will not impact current OTC trading arrangements;[12]

Swap agreements cleared through SwapClear will be entered into solely by wholesale market participants whose qualifications exceed Congressional standards regarding appropriate persons and Commission standards for "eligible swap participants";[13]

(3) The proposed relief is consistent with the public interest and the purpose of the Act;[14]

(4) The proposed relief will have no material adverse effect on Commission or contract market regulatory or self-regulatory responsibilities;[15] and

(5) The proposed Exemption is pro-competitive.[16]

II. Request for Comment

The Commission requests comment on all the aspect of the LCH Petition. In this regard, the Commission directs the attention of commenters to the issues raised in the discussion of swaps clearing in the OTC derivatives concept release.[17] In addition, the Commission requests comment on any specific features of the LCH proposal that may raise issues particular to that proposal. Such features might include the location of LCH outside the United States, the status of LCH as a regulated entity in the United Kingdom, and LCH's plans to integrate its proposed new clearing operations in some respects with its established exchange clearing operations.

Copies of the Petition are available for inspection at the Office of the Secretariat at the above address. Copies also may be obtained through the Office of the Secretariat at the above address or by telephone at 202–418–5100 or on the Commission's Internet web site (http://www.cftc.gov).

Issued in Washington, DC, on June 30, 1998 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–17922 Filed 7–6–98; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Washington Headquarters Services, Real Estate and Facilities, Defense Protective Services.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Washington

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[1] 7 U.S.C. 6(c).

[2] Petition at 2.

[3] Id.

[4] Id at 14.

[5] Id. at 12–13.

[6] Id. at 9.

[7] Id.

[8] Id. at 10.

[9] Id. at 15–17.

[10] Id. at 17–18.

[11] Id. at 19.

[12] Id. at 21–22.

[13] Id. at 23.

[14] Id. at 23–33.

[15] Id. at 34–39.

[16] Id. at 39–42.

[17] See 63 FR 26114, 26122–26123 (May 12, 1998).

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Headquarters Services announces the proposed extension of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by September 8, 1998.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Department of Defense, Washington Headquarters Services, Real Estate and Facilities Directorate, Defense Protective Services, ATTN: Mr. Barry Jones, Room 2E170A, 1155 Defense Pentagon, Washington, DC 20301–1155.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instrument, please write to the above address, or call Security Services, Defense Protective Services, Washington Headquarters Services, at (703) 695–4668.

Title, Associated Form, and OMB Number: DoD Building Pass Application; DD Form 2249; OMB Number 0704–0328.

Needs and Uses: The information is used by officials of Security Services, Defense Protective Services, Washington Headquarters Services to maintain a listing of personnel who are authorized a DoD Building Pass.

Affected Public: Individuals or households; Business or other for-profit.

Annual Burden Hours: 10,200.

Number of Respondents: 102,000.

Responses per Respondent: 1.

Average Burden per Response: 6 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

This requirement provides for the collection of information from applicants for Department of Defense (DoD) Building Passes. The information collected from the DD From 2249, "DoD Building Pass Application," is used to verify need and to issue a DoD Building Pass to DoD personnel, other authorized U.S. Government personnel, and DoD consultants and experts who regularly work in or require frequent and continuing access to DoD owned or occupied buildings in the National Capital Region.

Dated: June 30, 1998.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–17847 Filed 7–6–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Partnership Council Meeting

AGENCY: Department of Defense.

ACTION: Notice of Meeting.

SUMMARY: The Department of Defense (DoD) announces a meeting of the Defense Partnership Council. Notice of this meeting is required under the Federal Advisory Committee Act. This meeting is open to the public. The topics to be covered will include matters related to the enhancement of Labor-Management Partnerships throughout DoD.

DATES: The meeting is to be held July 22, 1998, in room 1E801, Conference Room 7, the Pentagon, from 1:00 p.m. until 3:00 p.m. Comments should be received by July 15, 1998, in order to be considered at the July 22 meeting.

ADDRESSES: We invite interested persons and organizations to submit written comments or recommendations. Mail or deliver your comments or recommendations to Mr. Kenneth Oprisko at the address shown below. Seating is limited and available on a first-come, first-serve basis. Individuals wishing to attend who do not possess an appropriate Pentagon building pass should call the below listed telephone number to obtain instructions for entry into the Pentagon. Handicapped individuals wishing to attend should also call the below listed telephone number to obtain appropriate accommodations.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Oprisko, Chief, Labor Relations Branch, Field Advisory Services Division, Defense Civilian Personnel Management Service, 1400 Key Blvd, Suite B–200, Arlington, VA 22209–5144, (703) 696–6301, ext. 704.

Dated: June 29, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–17848 Filed 7–6–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board 1998 Summer Study Task Forces on Joint Operations Superiority in the 21st Century, and DoD Logistics Transformation

AGENCY: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board 1998 Summer Study Task Forces on Joint Operations Superiority in the 21st Century, and DoD Logistics Transformation will meet in closed session on August 3–14, 1998 at the Beckman Center, Irvine, California.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Forces will focus on how new capabilities, operational concepts, and different force characteristics can be developed and integrated to underwrite Joint Vision 2010; and focus on providing the warfighter with responsive logistic support across the range of missions, threats, and environments DoD is likely to face in the 21st Century.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. App. II, (1994)), it has been determined that these DSB Task Force meetings concern matters listed in 5 U.S.C. 552b(c)(1) (1994), and that accordingly these meeting will be closed to the public.

Dated: June 30, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–17852 Filed 7–6–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Threat Reduction Advisory Committee

AGENCY: Department of Defense, Office of the Undersecretary of Defense (Acquisition and Technology)

ACTION: Notice of meeting.

SUMMARY: The Threat Reduction Advisory Committee will meet in closed session on July 15, 1998. The Committee was recently established to advise the Undersecretary of Defense (Acquisition and Technology) with respect to technology security, counterproliferation, chemical and biological defense, sustainment of the nuclear weapons stockpile, and other matters related to the Defense Threat Reduction Agency's mission.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended 5 U.S.C., Appendix II, has been determined that matters affecting national security, as covered by 5 U.S.C. 552b(c)(1)(1988), will be presented throughout the meeting, and that, accordingly, the meeting will be closed to the public.

DATES: Wednesday, 15, July 1998 (8:00 am to 4:00 pm).

ADDRESSES: Room 3E869, the Pentagon, Washington, DC 20301.

FOR FURTHER INFORMATION CONTACT: Maj Joseph D. Pierce, Defense Threat Reduction Agency Transition Team, Room 3B263, Pentagon, Washington, DC, 20301–3050. Telephone: (703) 695–5486.

Dated: June 30, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–17850 Filed 7–6–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Revised Non-Foreign Overseas Per Diem Rates

AGENCY: DoD Per Diem, Travel and Transportation Allowance Committee.

ACTION: Notice of revised Non-Foreign Overseas Per Diem Rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 201. This bulletin lists revisions in the per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possessions of the United States. AEA changes announced in Bulletin Number 194 remain in effect. Bulletin Number 201 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: July 1, 1998.

SUPPLEMENTARY INFORMATION: This document gives notice of revisions in per diem rates prescribed by the Per Diem Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. It supersedes Civilian Personnel Per Diem Bulletin Number 200. Distribution of Civilian Personnel Per Diem Bulletins by mail was discontinued. Per Diem Bulletin published periodically in the **Federal Register** now constitute the only notification of revisions in per diem rates to agencies and establishments outside the Department of Defense. For more information or questions about per diem rates, please contact your local travel office. The text of the Bulletin follows:

Dated: June 30, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5000–04–M

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Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
ALASKA:				
ANCHORAGE [INCL NAV RES]				
05/01 -- 09/30	151	62	213	06/01/98
10/01 -- 04/30	86	56	142	03/01/98
BARROW	110	70	180	06/01/98
BETHEL	103	65	168	03/01/98
CORDOVA	85	62	147	03/01/98
CRAIG				
05/01 -- 08/31	95	66	161	05/01/97
09/01 -- 04/30	79	64	143	05/01/97
DENALI NATIONAL PARK				
06/01 -- 08/31	115	52	167	03/01/98
09/01 -- 05/31	90	50	140	03/01/98
DUTCH HARBOR-UNALASKA	110	69	179	03/01/98
EARECKSON AIR STATION	72	55	127	03/01/98
EIELSON AFB				
05/15 -- 09/15	121	60	181	03/01/98
09/16 -- 05/14	75	56	131	03/01/98
ELMENDORF AFB				
05/01 -- 09/30	151	62	213	06/01/98
10/01 -- 04/30	86	56	142	03/01/98
FAIRBANKS				
05/15 -- 09/15	121	60	181	03/01/98
09/16 -- 05/14	75	56	131	03/01/98
FT. RICHARDSON				
05/01 -- 09/30	151	62	213	06/01/98
10/01 -- 04/30	86	56	142	03/01/98
FT. WAINWRIGHT				
05/15 -- 09/15	121	60	181	03/01/98
09/16 -- 05/14	75	56	131	03/01/98
GLENNALLEN	86	53	139	08/01/97
HEALY				
06/01 -- 08/31	115	52	167	03/01/98
09/01 -- 05/31	90	50	140	03/01/98
HOMER				
05/01 -- 09/30	116	66	182	03/01/98
10/01 -- 04/30	87	64	151	03/01/98
JUNEAU	89	72	161	03/01/98
KENAI-SOLDOTNA				
04/01 -- 09/30	109	61	170	03/01/98
10/01 -- 03/31	74	59	133	03/01/98

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
KENNICOTT	149	84	233	08/01/97
KETCHIKAN				
05/01 -- 09/30	100	74	174	03/01/98
10/01 -- 04/30	85	73	158	03/01/98
KLAWOCK				
05/01 -- 08/31	95	66	161	05/01/97
09/01 -- 04/30	79	64	143	05/01/97
KODIAK				
04/16 -- 09/30	98	69	167	03/01/98
10/01 -- 04/15	88	68	156	03/01/98
KOTZEBUE				
05/16 -- 09/15	101	81	182	04/01/97
09/16 -- 05/15	90	80	170	04/01/97
KULIS AGS				
05/01 -- 09/30	151	62	213	06/01/98
10/01 -- 04/30	86	56	142	03/01/98
MCCARTHY	149	84	233	08/01/97
MURPHY DOME				
05/15 -- 09/15	121	60	181	03/01/98
09/16 -- 05/14	75	56	131	03/01/98
NOME	83	63	146	03/01/98
PETERSBURG	76	62	138	03/01/98
SEWARD				
05/01 -- 09/15	114	62	176	03/01/98
09/16 -- 04/30	78	59	137	03/01/98
SITKA-MT. EDGECOMBE				
04/01 -- 09/04	101	60	161	03/01/98
09/05 -- 03/31	83	59	142	03/01/98
SKAGWAY				
05/01 -- 09/30	100	74	174	03/01/98
10/01 -- 04/30	85	73	158	03/01/98
SPRUCE CAPE				
04/16 -- 09/30	98	69	167	03/01/98
10/01 -- 04/15	88	68	156	03/01/98
TANANA	83	63	146	03/01/98
UMIAT	125	107	232	08/01/97
VALDEZ				
05/15 -- 09/15	105	65	170	03/01/98
09/16 -- 05/14	84	62	146	03/01/98
WASILLA	79	72	151	03/01/98
WRANGELL				
05/01 -- 09/30	100	74	174	03/01/98
10/01 -- 04/30	85	73	158	03/01/98

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LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
[OTHER]	72	55	127	03/01/98
AMERICAN SAMOA:				
AMERICAN SAMOA	73	53	126	03/01/97
GUAM:				
GUAM (INCL ALL MIL INSTAL)	150	79	229	05/01/98
HAWAII:				
CAMP H M SMITH	110	61	171	07/01/97
EASTPAC NAVAL COMP TELE AREA	110	61	171	07/01/97
FT. DERUSSEY	110	61	171	07/01/97
FT. SHAFTER	110	61	171	07/01/97
HICKAM AFB	110	61	171	07/01/97
HONOLULU NAVAL & MC RES CTR	110	61	171	07/01/97
ISLE OF HAWAII: HILO	80	52	132	06/01/98
ISLE OF HAWAII: OTHER	100	54	154	06/01/98
ISLE OF KAUAI				
05/01 -- 11/30	115	62	177	06/01/98
12/01 -- 04/30	136	64	200	06/01/98
ISLE OF KURE	60	41	101	07/01/97
ISLE OF MAUI	112	64	176	06/01/98
ISLE OF OAHU	110	61	171	07/01/97
KANEOHE BAY MC BASE	110	61	171	07/01/97
KEKAHA PACIFIC MISSILE RANGE FAC				
05/01 -- 11/30	115	62	177	06/01/98
12/01 -- 04/30	136	64	200	06/01/98
KILAUEA MILITARY CAMP	80	52	132	06/01/98
LULUALEI NAVAL MAGAZINE	110	61	171	07/01/97
NAS BARBERS POINT	110	61	171	07/01/97
PEARL HARBOR [INCL ALL MILITARY]	110	61	171	07/01/97
SCHOFIELD BARRACKS	110	61	171	07/01/97
WHEELER ARMY AIRFIELD	110	61	171	07/01/97
[OTHER]	79	62	141	06/01/93
JOHNSTON ATOLL:				
JOHNSTON ATOLL	13	9	22	07/01/97
MIDWAY ISLANDS:				
MIDWAY ISLANDS [INCL ALL MIL]	60	41	101	07/01/97
NORTHERN MARIANA ISLANDS:				
ROTA	105	71	176	05/01/97
SAIPAN	170	78	248	05/01/97
[OTHER]	61	53	114	05/01/97

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
PUERTO RICO:				
BAYAMON				
05/01 -- 11/28	108	66	174	06/01/98
11/29 -- 04/30	136	69	205	06/01/98
CAROLINA				
05/01 -- 11/28	108	66	174	06/01/98
11/29 -- 04/30	136	69	205	06/01/98
DORADO	189	76	265	06/01/98
FAJARDO [INCL CEIBA, LUQUILLO & HUMACAO]	82	60	142	03/01/98
FT. BUCHANAN [INCL GSA SVC CTR, GUAYNABO]				
05/01 -- 11/28	108	66	174	06/01/98
11/29 -- 04/30	136	69	205	06/01/98
LUIS MUNOZ MARIN IAP AGS				
05/01 -- 11/28	108	66	174	06/01/98
11/29 -- 04/30	136	69	205	06/01/98
MAYAGUEZ	94	60	154	06/01/98
PONCE	96	67	163	06/01/98
ROOSEVELT ROADS & NAV STA	82	60	142	03/01/98
SABANA SECA [INCL ALL MILITARY]				
05/01 -- 11/28	108	66	174	06/01/98
11/29 -- 04/30	136	69	205	06/01/98
SAN JUAN & NAV RES STA				
05/01 -- 11/28	108	66	174	06/01/98
11/29 -- 04/30	136	69	205	06/01/98
[OTHER]	66	54	120	06/01/98
VIRGIN ISLANDS (U.S.):				
ST. CROIX				
04/15 -- 12/14	109	80	189	07/01/97
12/15 -- 04/14	129	82	211	07/01/97
ST. JOHN				
06/01 -- 12/15	228	79	307	07/01/97
12/16 -- 05/31	344	91	435	07/01/97
ST. THOMAS				
04/15 -- 12/18	215	76	291	07/01/97
12/19 -- 04/14	322	87	409	07/01/97
WAKE ISLAND:				
WAKE ISLAND	60	40	100	07/01/98

[FR Doc. 98–17851 Filed 7–6–98; 8:45 am]
BILLING CODE 8000-04-C

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DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Prepare an Environmental Impact Statement for the Marine Corps Heritage Center at Marine Corps Base Quantico, VA

Pursuant to the National Environmental Policy Act as implemented by the Council on Environmental Quality regulations (40 CFR Parts 1500–1508), the U.S. Marine Corps intends to prepare an Environmental Impact Statement (EIS) to evaluate the environmental effects of constructing and operating a Heritage Center complex at or adjacent to Marine Corps Base (MCB) Quantico for Marine Corps personnel, their families and the general public. This Center would consolidate existing interpretive and curatorial functions that are located at MCB Quantico, VA, and the Washington Navy Yard, Washington, DC.

The Marine Corps Air Ground Museum, located at MCB Quantico, holds many of the items in the Marine Corps collections and also provides items to other DOD museums, the Smithsonian Museum, and other civilian museums. The proposed Heritage Center would facilitate and enhance the presentation of Marine Corps artifacts and history, promote professional military educational opportunities and accommodate unique military events and conferences. Currently, the dispersed locations used to protect the heritage of the Marine Corps do not have adequate facilities for preservation of artifacts or adequate space for displays and historic interpretation presentations.

Locations on and off-base that meet requirements for siting the Heritage Center will be evaluated in the EIS. The siting criteria includes sufficient size and suitability in order to accommodate facilities (e.g., buildings, parking, roads), and provide visual and noise buffers; proximity to Interstate 95 and/or U.S. Route 1 in order to facilitate traffic to/from the site; and proximity to MCB Quantico in order to support educational requirements of the Base and obtain educational and facility support from the Base.

Environmental issues to be addressed in the EIS include: geological resources, biological resources, water resources, noise, air quality, land use compatibility, cultural resources, socioeconomics, environmental justice, public health and safety, transportation/circulation, aesthetics, utilities, hazardous materials, and solid waste.

The Marine Corps will initiate a scoping process for the purpose of determining the extent of issues to be addressed and identifying the significant issues related to this action. The Marine Corps will a hold public scoping meeting to assist in identification of important issues associated with the general development plan of the Heritage Center and alternative sites. The time and location of this meeting will be announced at a later date and advertised in local area newspapers. Questions regarding the scoping process should be mailed to: Commanding Officer, Engineering Field Activity Chesapeake, Naval Facilities Engineering Command, Building 212, Washington Navy Yard, Washington, DC 20374–2121 (Attn: Mr. Matthew Hess, code 20E), telephone (202) 685–3062.

Dated: June 29, 1998.

Duncan Holaday,

Deputy Assistant Secretary of the Navy (Installations and Facilities).

Lou Rae Langevin,

LT, JAGC, USN, Alternate Federal Register Liaison Officer.

[FR Doc. 98–17833 Filed 7–6–98; 8:45 am]

BILLING CODE 3810–FF–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Acting Deputy Chief Information Officer, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before September 8, 1998.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Deputy Chief Information Officer, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: June 30, 1998.

Hazel Fiers

Acting Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: Regular

Title: Guaranty Agency Monthly Claims and Collection Report

Frequency: Annually

Affected Public: Business or other for-profit, State, local or Tribal Gov't SEAs or LEAs

Reporting and Recordkeeping Hour Burden:

Responses: 444
Burden Hours: 2,220

Abstract: The ED Form 1189 is used by a guaranty agency to request payments of reinsurance for default, bankruptcy, death, disability claims paid to lenders and costs incurred for SPA, closed schools, false certification, lender of last resort and lender referral fee payments. Agencies use the form to make payments owed to ED for collections on defaulted loans.

[FR Doc. 98–17875 Filed 7–6–98; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

ACTION: Submission for OMB review; comment request

SUMMARY: The Acting Deputy Chief Information Officer, Office of the Chief Information Officer, invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before August 6, 1998.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Deputy Chief Information Officer, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: June 30, 1998.

Hazel Fiers,

Acting Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of Educational Research and Improvement

Type of Review: Reinstatement.

Title: 1999 National Household Education Survey (NHES: 99).

Frequency: Annually.

Affected Public: Individuals or households.

Reporting and Recordkeeping Hour Burden:

Responses: 107,155.
Burden Hours: 15,826.

Abstract: The NHES: 99 will be a telephone survey of households remeasuring key indicators from past NHES surveys related to such topics as Early Childhood Care and Program Participation, Parent/Family Involvement in Education; Youth Civic Involvement, and Adult Education. Respondents will be parents of children from birth through 12th grade, youth enrolled in grades 6 through 12, and adults age 16 and older and not enrolled in grade 12 or below. The collection will provide information on the National Household Education Goals which pertain to school readiness (Goal 1), student achievement and citizenship (Goal 3), adult literacy and lifelong learning (Goal 6), and parental participation (Goal 8), and the U.S. Department of Education's Strategic Plan of 1998–2000.

Office of the Under Secretary

Type of Review: New.

Title: Local Implementation of Federal Programs.

Frequency: One time.

Affected Public: State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 849.
Burden Hours: 872.

Abstract: The Department of Education is charged with evaluating Title I of ESEA and other elementary and secondary education legislation enacted by the 103rd Congress. These studies will collect information on the operations and effects at the district level of legislative provisions and federal assistance, in the context of state education reform efforts. Findings will be used in reporting to Congress and improving information dissemination. Respondents are local superintendents, directors of federal programs, directors of research and assessment, and school principals.

[FR Doc. 98–17874 Filed 7–6–98; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No.: 84.129B]

Rehabilitation Training: Rehabilitation Long-Term Training—Vocational Rehabilitation Counseling; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1999.

Purpose of Program: The Rehabilitation Long-Term Training program provides financial assistance for—

(1) Projects that provide basic or advanced training leading to an academic degree in areas of personnel shortages in rehabilitation as identified by the Secretary.

(2) Projects that provide a specified series of courses or program of study leading to award of a certificate in areas of personnel shortages in rehabilitation as identified by the Secretary; and

(3) Projects that provide support for medical residents enrolled in residency training programs in the specialty of physical medicine and rehabilitation.

Eligible Applicants: State agencies and other public or nonprofit agencies and organizations, including Indian Tribes and institutions of higher education, are eligible for assistance under the Rehabilitation Long-Term Training program.

Deadline for Transmittal of Applications: August 31, 1998.

Deadline for Intergovernmental Review: October 30, 1998.

Applications Available: July 10, 1998.

Available Funds: $1,900,000.

Estimated Range of Awards: $80,000 to $100,000.

Estimated Average Size of Awards: $100,000.

Estimated Number of Awards: 19.

Note: The Department is not bound by any estimates in this notice.

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Maximum Award: In no case does the Secretary make an award greater than $100,000 for a single budget period of 12 months. The Secretary rejects and does not consider an application that proposes a budget exceeding this maximum amount.

Project Period: Up to 60 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b). The regulations for this program in 34 CFR Parts 385 and 386.

Priorities

Absolute Priority: Under 34 CFR 75.105(c)(3) and 34 CFR 386.1(b) the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority:

Projects that would provide training in vocational rehabilitation counseling, which the Secretary has identified as an area of personnel shortage.

Invitational Priorities: Within the absolute priority specified in this notice, the Secretary is particularly interested in applications that meet one of the following invitational priorities. However, under 34 CFR 75.105(c)(1) an application that meets one of these invitational priorities does not receive competitive or absolute preference over other applications:

Invitational Priority 1—Master's Program

Projects that would offer training at the master's level through established graduate rehabilitation counseling programs that are accredited by the Council on Rehabilitation Education.

Invitational Priority 2—Doctoral Program

Projects that would offer training at the doctoral level through established graduate rehabilitation counseling programs that are accredited by the Council on Rehabilitation Education.

For Applications Contact: The Grants and Contracts Service Team (GCST), U.S. Department of Education, 600 Independence Avenue, S.W., (Room 3317, Switzer Building), Washington, D.C. 20202–2550; or call (202) 205–8351. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday. The preferred method for requesting applications is to FAX your request to (202) 205–8717.

Individuals with disabilities may obtain a copy of the application package in an alternate format by contacting the GCST. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

For Further Information Contact: Sylvia Johnson, U.S. Department of Education, 600 Independence Avenue, S.W., (Room 3318, Switzer Building), Washington, D.C. 20202–2649. Telephone (202) 205–9312. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg.htm

http://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office toll free at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletin and Press Releases.

Note: The official version of a document is the document published in the **Federal Register**.

Program Authority: 29 U.S.C. 774.

Dated: June 30, 1998.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 98–17949 Filed 7–6–98; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Savannah River Site

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Savannah River Site.

DATES AND TIMES:

Monday, July 27, 1998:
  1:00 p.m. (Nuclear Materials Management Subcommittee)
  6:30 p.m.–7:00 p.m. (Public Comment Session)
  7:00 p.m.–9:00 p.m. (Individual Subcommittee Meetings)
Tuesday, July 28, 1998:
  8:30 a.m.–4:00 p.m.

ADDRESSES: All meetings will be held at: University of South Carolina—Aiken, 71 University Parkway, Aiken, South Carolina 29801.

FOR FURTHER INFORMATION CONTACT: Gerri Flemming, Public Accountability Specialist, Environmental Restoration and Solid Waste Division, Department of Energy Savannah River Operations Office, P.O. Box A, Aiken, S.C. 29802; (803) 725–5374.

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management and related activities.

Tentative Agenda

Monday, July 27, 1998

1:00 p.m.
  Nuclear materials management
6:30 p.m.
  Public comment session (5-minute rule)
7:00 p.m.
  Issues-based subcommittee meetings
9:00 p.m.
  Adjourn

Tuesday, July 28, 1998

8:30 a.m.
  Approval of minutes, agency updates (~ 15 minutes)
  Public comment session (5-minute rule) (~ 10 minutes)
  Nuclear materials management subcommittee (~ 1 hour 30 minutes)
  —Surplus Plutonium Draft Environmental Impact Statement
  —SRS Draft Spent Nuclear Fuel Environmental Impact Statement

—Nuclear Regulatory Commission pilot program—receiving basin for offsite fuels
—National Academy of Science presentation (tentative)
Defense Nuclear Facilities Safety Board (tentative: ~ 30 minutes)
Intersite workshop trip report (~ 15 minutes)
Environmental Management integration position (~ 30 minutes)
—SRS Citizens' Advisory Board home page demonstration
12:00 p.m.
Lunch
Environmental remediation and waste management subcommittee report (~ 1 hour 30 minutes)
Administrative subcommittee report (~ 30 minutes)
—Bylaws ammendment proposal
—Election of budget chair
Risk management & future use subcommittee report (~ 1 hour)
Outreach subcommittee report (~ 15 minutes)
Public comment session (5-minute rule) (~ 10 minutes)
4:00 p.m.
Adjourn

If necessary, time will be allotted after public comments for items added to the agenda, and administrative details. A final agenda will be available at the meeting Monday, July 27, 1998.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Gerri Flemming's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday -Friday except Federal holidays. Minutes will also be available by writing to Gerri Flemming, Department of Energy Savannah River Operations Office, P.O. Box A, Aiken, S.C. 29802, or by calling her at (803) 725–5374.

Issued at Washington, DC on June 29, 1998.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 98–17926 Filed 7–6–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Department of Energy, Los Alamos National Laboratory

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Los Alamos National Laboratory

DATES: Tuesday, July 28, 1998: 6:00 p.m.–9:00 p.m.; 6:30 p.m. to 7:00 p.m. (public comment session)

ADDRESSES: El Convento (near the U.S. Post Office), 1 Bond Street, Española, New Mexico.

FOR FURTHER INFORMATION CONTACT: Ms. Ann DuBois, Northern New Mexico Citizens' Advisory Board, Los Alamos National Laboratory, 528 35th Street, Los Alamos, New Mexico 87544, (505) 665–5048.

SUPPLEMENTARY INFORMATION: Purpose of the Board: The purpose of the Advisory Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

6:00 p.m. Call to Order by DOE
6:00 p.m. Welcome by Chair, Roll Call, Approval of Agenda and Minutes
6:30 p.m. Public Comments
7:00 p.m. Break
7:15 p.m. Board Business
9:00 p.m. Adjourn

Public Participation: The meeting is open to the public. The public may file written statements with the Committee, either before or after the meeting. A sign-up sheet will also be available at the door of the meeting room to indicate a request to address the Board. Individuals who wish to make oral presentations, other than during the public comment period, should contact Ms. Ann DuBois at (505) 665–5048 five (5) business days prior to the meeting to request that the Board consider the item for inclusion at this or a future meeting. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to Mr. Mat Johansen, Deputy Designated Federal Officer, Department of Energy, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87185–5400.

Issued at Washington, DC on July 1, 1998.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 98–17939 Filed 7–6–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Secretary of Energy Advisory Board; Notice of Open Meeting

AGENCY: Department of Energy.

SUMMARY: Consistent with the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting: Name: Secretary of Energy Advisory Board—Task Force on Education.

DATES AND TIMES: Monday, July 20, 1998, 8:30 am–3:30 pm.

ADDRESSES: U.S. Department of Energy, DOE Training Center (Suite 800), 950 L'Enfant Plaza, SW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Bruce Bornfleth, Secretary of Energy Advisory Board (AB–1), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585, (202) 586–4040 or (202) 586–6279 (fax).

SUPPLEMENTARY INFORMATION: The purpose of the Task Force on Education is to provide information and recommendations to the Secretary of Energy Advisory Board on ways to make the Department's scientific, technical and supercomputing capabilities more available to our Nation's schools, colleges and universities, and to provide recommendations on how the Department can best enhance science, technology, engineering and mathematics education in the United States. The Task Force on Education will prepare a report for submission to the Secretary of Energy Advisory Board.

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Tentative Agenda

Monday, July 20, 1998

8:30–8:45 am—Welcome and Opening Remarks—Dr. Hanna Gray, Task Force Chair

8:45–11:30 am—Discussion of Scientific Literacy—Facilitated by Dr. Leon Lederman

11:30–12:30 pm—Lunch Break

12:30–2:45 pm—Presentation & Discussion of Teacher Training—Facilitated by Dr. Hanna Gray

2:45–3:15 pm—Discussion of Task Force Action Plan—Facilitated by Dr. Hanna Gray

3:15–3:30 pm—Public Comment Period

This agenda is subject to change. The final agenda will be available at the meeting.

Public Participation: The Chair of the Task Force is empowered to conduct the meeting in a fashion that will, in the Chairman's judgment, facilitate the orderly conduct of business. During its meeting in Washington, DC., the Task Force welcomes public comment. Members of the public will be heard in the order in which they sign up at the beginning of the meeting. The Task Force will make every effort to hear the views of all interested parties. Written comments may be submitted to Skila Harris, Executive Director, Secretary of Energy Advisory Board, AB–1, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585.

Minutes: Minutes and a transcript of the meeting will be available for public review and copying approximately 30 days following the meeting at the Freedom of Information Public Reading Room, 1E–190 Forrestal Building, 1000 Independence Avenue, SW, Washington, DC, between 9:00 AM and 4:00 PM, Monday through Friday except Federal holidays. Information on the Task Force on Education and future reports may be found at the Secretary of Energy Advisory Board's web site, located at http://www.hr.doe.gov/seab.

Issued at Washington, DC, on July 1, 1998.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 98–17940 Filed 7–6–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–2783–000]

Bridgeport Energy L.L.C.; Notice of Issuance of Order

June 30, 1998.

Bridgeport Energy L.L.C. (Bridgeport) filed an application for Commission authorization to engage in wholesale power sales at market-based rates, and for certain waivers and authorizations. In particular, Bridgeport requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by Bridgeport. On June 24, 1998, the Commission issued an Order Accepting For Filing Market-Based Rates (Order), in the above-docketed proceeding.

The Commission's June 24, 1998 Order granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (C), (D), and (F):

(C) Within 30 days of the date of issuance of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by Bridgeport should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(D) Absent a request to be heard within the period set forth in Ordering Paragraph (C) above, Bridgeport is hereby authorized to issue securities and assume obligations and liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of Bridgeport, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(F) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of Bridgeport's issuances of securities or assumptions of liabilities. . . .

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is July 24, 1998.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17882 Filed 7–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT98–70–000]

Colorado Interstate Gas Company; Notice of Filing of Refund Report

June 30, 1998.

Take notice that on June 26, 1998, Colorado Interstate Gas Company (CIG) filed a refund report pursuant to Docket No. RP98–217–000. Refunds were paid by CIG on June 12, 1998.

CIG states that the report summarizes refunds made by CIG to its customers for the period January 1, 1997 through December 31, 1997, pursuant to Docket No. RP98–217–00.

CIG states that copies of CIG's filing have been served on CIG's transportation customers, interested state commissions, and all parties to the proceedings.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before July 7, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17897 Filed 7–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–218–001]

Colorado Interstate Gas Company; Notice of Tariff Filing

June 30, 1998.

Take notice that on June 25, 1998, Colorado Interstate Gas Company (CIG), tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the Tariff sheets listed in Appendix A to the filing, to be effective June 15, 1998.

CIG states the tariff sheets are filed in compliance with Order issued June 10, 1998 in Docket No. RP98-218-000. This Order approved CIG's Park and Loan Service subject to conditions and further review. CIG further states it has requested waiver of Section 154.203(b) of the Commission's Regulations to make some minor housekeeping changes and has responded to questions asked in the Order.

CIG states that copies of this compliance filing have been served on CIG's jurisdictional customers and public bodies.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17899 Filed 7–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT98–63–000]

Columbia Gas Transmission Corporation; Notice of Refund Report

June 30, 1998.

Take notice that on June 25, 1998, Columbia Gas Transmission Corporation (Columbia) filed a refund report to comply with the settlement of the Gas Research Institute's (GRI) Docket No. RP98–217–001.

On June 10, 1998 Columbia passed on the 1997 refund received on May 29, 1998, from the GRI, as a result of the settlement in Docket RP98–217–001. This Docket was approved by the Federal Energy Regulatory Commission (Commission) on April 29, 1998. The refund credits made on June 10, 1998 reflected Columbia's eligible firm customers pro rata amounts.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 0426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before July 7, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17890 Filed 7–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–255–000]

Columbia Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

June 30, 1998.

Take notice that on June 24, 1998, Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised sheet bearing a proposed effective date of August 1, 1998:

Fifth Revised Sheet No. 456

Columbia states that pursuant to the Commission's Order issued April 16, 1998 in Docket No. RM96–1–007 (Order No. 587–G) Standards for Business Practices of Interstate Natural Gas Pipelines, Columbia tenders for filing the above listed tariff sheet adopting Version 1.2 as the current GISB standards. Columbia is also revising Sheet No. 456 to incorporate, by reference, Standard 4.3.16 (Version 1.2) which states that documents identified in GISB Standard 4.3.6 should be made available in HTML or RTF format.

Columbia states that copies of its filing have been mailed to all firm customers, interruptible customers, and affected state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any peson wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17901 Filed 7–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT98–62–000]

Columbia Gulf Transmission Company; Notice of Refund Report

June 30, 1998.

Take notice that on June 25, 1998, Columbia Gulf Transmission Company (Columbia Gulf) filed a refund report to comply with the settlement of the Gas Research Institute's (GRI) Docket No. RP98–217–001.

On June 10, 1998, Columbia Gulf passed on the 1997 refund received on May 29, 1998, from the GRI, as a result of the settlement in Docket RP98–217–001. This Docket was approved by the Federal Energy Regulatory Commission (Commission) on April 29, 1998. The refund credits made on June 10, 1998 reflected Columbia Gulf's eligible firm customers pro rata amounts.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be

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filed on or before July 7, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17889 Filed 7–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–256–000]

Columbia Gulf Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

June 30, 1998.

Take notice that on June 24, 1998, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised sheet, bearing a proposed effective date of August 1, 1998:

Second Revised Sheet No. 286

Columbia Gulf states that pursuant to the Commission's Order issued April 16, 1998 in Docket No. RM96–1–007 (Order No. 587–G) Standards for Business Practices of Interstate Natural Gas Pipelines, Columbia Gulf tenders for filing the above listed tariff sheet adopting Version 1.2 as the current GISB standards. Columbia Gulf is also revising Sheet No. 286 to incorporate, by reference, Standard 4.3.16 (Version 1.2) which states that documents identified in GISB Standard 4.3.6 should be made available in HTML or RTF format.

Columbia Gulf states that copies of its filing have been mailed to all firm customers, interruptible customers, and affected state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as proved in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17902 Filed: 7–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER98–2680–000, ER98–2681–000 and ER98–2682–000]

Duke Energy Moss Landing LLC, Duke Energy Morro Bay LLC, Duke Energy Oakland LLC; Notice of Issuance of Order

June 30, 1998.

Duke Energy Moss Landing LLC (Duke/Moss Landing), Duke Energy Morro Bay LLC (Duke/Morro Bay), and Duke Energy Oakland LLC (Duke/Oakland), three separate subsidiaries of Duke Energy Corporation, filed separate proposals to sell power at wholesale at market-based rates. The power the applicants propose to sell at market-based rates will be produced from three generating units they are in the process of acquiring from Pacific Gas & Electric Company. Their applications also requested certain waivers and authorizations. In particular, Duke/Moss Landing, Duke/Morro Bay, and Duke/Oakland requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by Duke/Moss Landing, Duke/Morro Bay, and Duke/Oakland. On June 25, 1998, the Commission issued an Order Accepting For Filing Proposed Tariffs For Market-Based Power Sales (Order), in the above-docketed proceedings.

The Commission's June 25, 1998 Order granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (E), (F), and (H):

(E) Within 30 days of the date of issuance of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(F) Absent a request to be heard within the period set forth in Ordering Paragraph (E) above, Duke/Moss Landing, Duke/Morro Bay, and Duke/Oakland are hereby authorized to issue securities and assume obligations and liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of Duke/Moss Landing, Duke/Morro Bay, and Duke/Oakland, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(H) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of issuances of securities or assumptions of liabilities * * *.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is July 27, 1998.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17881 Filed 7–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–2624–000]

Duke Energy New Smyrna Beach Power Company Ltd., L.L.P.; Notice of Issuance of Order

June 30, 1998.

Duke Energy New Smyrna Beach Power Company Ltd., L.L.P. (Duke New Smyrna), an indirect wholly-owned subsidiary of Duke Energy Corporation, filed an application requesting Commission authorization to sell electric capacity and energy at market-based rates, and for certain waivers and authorizations. In particular, Duke New Smyrna requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by Duke New Smyrna. On June 25, 1998, the Commission issued an Order Accepting For Filing Proposed Tariffs For Market-Based Power Sales And Reassignment Of Transmission Capacity

(Order), in the above-docketed proceeding.

The Commission's June 25, 1998 Order granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (G), (H), and (J):

(G) Within 30 days of the date of this order any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by Duke New Smyrna should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(H) Absent a request to be heard within the period set forth in Ordering Paragraph (G) above, Duke New Smyrna is hereby authorized to issue securities and assume obligations and liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of Duke New Smyrna, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(J) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of Duke New Smyrna's issuances of securities or assumptions of liabilities

* * *

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is July 27, 1998.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17880 Filed 7–6–98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT98–69–000]

East Tennessee Natural Gas Company; Notice of Refund Report

June 30, 1988.

Take notice that on June 26, 1998, East Tennessee Natural Gas Company (East Tennessee) filed a refund report pursuant to Ordering Paragraph (c) of the Commission's February 22, 1995, order in Gas Research Institute (GRI), Docket No. RP95–124–000.

East Tennessee states that East Tennessee received a refund from GRI in the amount of $225,767.

East Tennessee states that it has these refunded amounts to firm transportation customers that received nondiscounted service during 1997 by adjustments to their June invoices.

East Tennessee states that copies of this filing have been mailed to each of East Tennessee's customers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before July 7, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17896 Filed 7–6–98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT98–65–000]

El Paso Natural Gas Company; Notice of Report of GRI Refunds

June 30, 1998.

Take notice that on June 26, 1998, El Paso Natural Gas Company (El Paso) submitted its Report of Gas Research Institute (GRI) Refunds for 1997 pursuant to Subpart F of Part 154 of the Commission's Regulations and ordering paragraph (C) of the Commission's order issued on February 22, 1995 at Docket No. RP95–124–000.

On May 29, 1998, El Paso received a refund from GRI for overcollections for the calendar year 1997 in the amount of $435,572.00. On June 11, 1998, El Paso states that it refunded its eligible firm shippers as required by the February 22, 1995 order by crediting each shipper's applicable transportation invoice.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before July 7, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17892 Filed 7–6–98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–287–019]

El Paso Natural Gas Company; Notice of Compliance Filing

June 30, 1998.

Take notice that on June 26, 1998, El Paso Natural Gas Company (El Paso) tendered for filing a Letter Agreement between El Paso and Dynegy Marketing and Trade, formerly Natural Gas Clearinghouse.

El Paso states that the Letter Agreement is being filed to comply with the Commission's order issued June 11, 1998 at Docket Nos. RP97–287–010 *et al.* and is proposed to become effective on that date.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public

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inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17898 Filed 7–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–611–000]

Florida Gas Transmission Company; Notice of Request Under Blanket Authorization

June 30, 1998.

Take notice that on June 15, 1998, Florida Gas Transmission Company (FGT), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP98–611–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to certificate the existing Carencro Meter Station and appurtenant facilities in Lafayette Parish, Louisiana, constructed under FGT's blanket certificate issued in Docket No. CP82–553–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

FGT states that the delivery point is not prohibited by its existing tariff and that it has sufficient capacity to accomplish deliveries without deteriment or disadvantage to other customers. The proposed delivery point will not have an effect on FGT's peak day and annual deliveries and the total volumes delivered will not exceed total volumes authorized prior to this request.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17885 Filed 7–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT98–61–000]

Florida Gas Transmission Company; Notice of Refund Report

June 30, 1998.

Take notice that on June 25, 1998, Florida Gas Transmission Company (FGT) tendered for filing a refund report reflecting a Gas Research Institute (GRI) refund received May 29, 1998, which FGT refunded to its eligible firm shippers on June 12, 1998.

In compliance with the Commission's February 22, 1995 Order in Docket No. RP95–124–000, FGT states that it has allocated refunds of $985,562 to firm shippers on a pro rata basis based on amounts paid through GRI surcharges during 1997.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before July 7, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17909 Filed 7–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–254–000]

Kern River Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

June 30, 1998.

Take notice that on June 24, 1998, Kern River Gas Transmission Company (Kern River) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, to become effective August 1, 1998.

First Revised Sheet No. 82–A
First Revised Sheet No. 101–A
Fourth Revised Sheet No. 128
Fourth Revised Sheet No. 129
Fourth Revised Sheet No. 131

Kern River states that the purpose of this filing is to submit tariff sheets which implement Version 1.2 of the GISB standards pursuant to Order No. 587–G and as required by Section 284.10(b) of the Commission's regulations.

Kern River states that a copy of this filing has been served upon its customers and interested state regulatory commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17900 Filed 7–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT98-68-000]

KN Interstate Gas Transmission Co.; Notice of Refund Report Filing

June 30, 1998.

Take notice that on June 26, 1998, KN Interstate Gas Transmission Co. (KNI) filed a refund report pursuant to the Commission's February 22, 1995 Order issued in Docket No. RP95-124-000. The refund report shows the refund received by KNI from Gas Research Institute overcollections in the amount of $238,004 and the pro rata allocation of that refund amount to KNI's eligible firm customers.

KNI states that copies of the filing were served upon all affected firm customers of KNI and applicable state agencies.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before July 7; 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of the filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98-17895 Filed 7-6-98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT98-66-000]

Mojave Pipeline Company; Notice of Report of GRI Refunds

June 30, 1998.

Take notice that on June 26, 1998, Mojave Pipeline Company (Mojave) submitted its Report of Gas Research Institute (GRI) Refunds for 1997 pursuant to Subpart F of Part 154 of the Commission's Regulations and ordering paragraph (C) of the Commission's order issued on February 22, 1995 at Docket No. RP95-124-000.

On May 29, 1998, Mojave received a refund from GRI for overcollections for the calendar year 1997 in the amount of $204,730.00. on June 11, 1998, Mojave states that it refunded its eligible firm shippers as required by the February 22, 1995 order by crediting each shipper's applicable transportation invoice.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before July 7, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98-17893 Filed 7-6-98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98-250-000]

NorAm Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

June 30, 1998.

Take notice that on June 26, 1998, NorAm Gas Transmission Company (NGT) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following revised tariff sheets to be effective November 1, 1998:

Thirteenth Revised Sheet No. 5
Thirteenth Revised Sheet No. 6
Fifth Revised Sheet No. 162
First Revised Sheet No. 322
Fiirst Revised Sheet No. 323

NGT states that the purpose of this filing is to implement an Electric Power Costs (EPC) Tracker designed to recover the cost of electric power consumed in the operation of electric compressors on NGT's system. NGT further states that the EPC Tracker proposed in its filing will not result in incremental fuel costs to its shippers.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98-17905 Filed 7-6-98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98-630-000]

Northern Natural Gas Company; Notice of Request Under Blanket Authorization

June 30, 1998.

Take notice that on June 23, 1998, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68103-0330, filed in Docket No. CP98-630-000 a request pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216) for permission and approval to abandon, by removal, 12 small volume measuring stations located in Iowa. Northern makes such request under its blanket certificate issued in Docket No. CP82-401-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Northern states that ten landowners in Dallas County, Iowa; one landowner in Buchanan County; and one landowner in Boone County, Iowa have all, through written consent, requested that Northern remove the respective small volume measuring station from their property. In their request, each end-user specifically stated that they no longer desire natural gas service.

Any person or the Commission's staff may, within 45 days after issuance of

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the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17907 Filed 7–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–257–000]

Northwest Pipeline Corporation; Notice of Compliance Filing

June 30, 1998.

Take notice that on June 25, 1998, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to become effective August 1, 1998:

Fourth Revised Sheet No. 212
First Revised Sheet No. 265–B
Fourth Revised Sheet No. 279
First Revised Sheet No. 279–C
Fifth Revised Sheet No. 280
Third Revised Sheet No. 281
Sixth Revised Sheet No. 282

Northwest states that the purpose of this filing is to submit tariff sheets which implement Version 1.2 of the GISB standards pursuant to Order No. 587–G and as required by Section 284.10(b) of the Commission's regulations.

Northwest states that a copy of this filing has been served upon Northwest's customers and interested state regulatory commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17903 Filed 7–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–2878–000]

Ormond Beach Power Generation, L.L.C.; Notice of Issuance of Order

June 30, 1998.

Ormond Beach Power Generation, L.L.C. (Ormond Beach) filed an application for Commission authorization for market-based rates for the wholesale sale of electric power from an electric generating facility it is acquiring in Oxnard, California, and for certain waivers and authorizations. In particular, Ormond Beach requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by Ormond Beach. On June 24, 1998, the Commission issued an Order Accepting For Filing Tariff For Market-Based Power Sales Rates (Order), in the above-docketed proceeding.

The Commission's June 24, 1998 Order granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (D), (E), and (G):

(D) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by Ormond Beach should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(E) Absent a request to be heard within the period set forth in Ordering Paragraph (D) above, Ormond Beach is hereby authorized to issue securities and assume obligations and liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of Ormond Beach, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(G) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of Ormond Beach's issuances of securities or assumptions of liabilities. . . .

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is July 24, 1998.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE, Washington, DC 20426.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17883 Filed 7–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 77–110]

Pacific Gas and Electric Company; Notice Extending Time To File Responses

June 30, 1998.

On May 19, 1998, a notice was issued extending until June 15, 1998 the time to file comments on Pacific Gas and Electric Company's (PG&E) March 31, 1998 submittal in this proceeding intended to implement fishery recommendations for the Potter Valley Project No. 77 that were jointly developed by PG&E with federal and state resource agencies (63 FR 28502). On June 24, 1998, PG&E requested an extension of time until July 10, 1998 to respond to the motions to intervene and protests of the Sonoma County Water Agency and the Round Valley Indian Tribes. An answer may not be made to a protest unless otherwise ordered by the decisional authority (18 CFR 385.213(a)(2)). Because the Round Valley Tribes have submitted an alternative proposal to PG&E's proposal and because it may otherwise assist the Commission's deliberations in this matter, responses to submittals made by June 15, 1998 will be permitted, and the period for such responses is extended to July 10, 1998.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17884 Filed 7–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT98–60–000]

PG&E Gas Transmission, Northwest Corporation; Notice of Refund Report

June 30, 1998.

Take notice that on June 25, 1998, PG&E Gas Transmission, Northwest Corporation (PG&E GT–NW) tendered for filing a report of refunds made for calendar year 1997 in accordance with the Commission's Order of September 27, 1996 (76 FERC ¶ 61,337 (1996)) in Gas Research Institute (GRI) Docket No. RP96–267–000 and the Commission's Orders of February 22, 1995 (70 FERC ¶ 61,205 (1995)) and May 3, 1995 (71 FERC ¶ 61,131 (1995)) in Gas Research Institute Docket Nos. RP95–124–000, *et al.*

PG&E GT–NW asserts these Orders required it to credit eligible firm customers with refunds received from GRI and to file a report with the Commission within 15 days of making such refunds. The refund is allocated to customers based on each customer's pro-rata contributions to PG&E GT–NW's GRI surcharge collections on non-discounted firm transportation during 1997, and has been reflected as credits on customer invoices issued June 9, 1998.

PG&E GT–NW further states a copy of this filing has been served upon its jurisdictional customers and interested state regulatory agencies, and will be posted to all recipients of a share of the refund.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before July 7, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17908 Filed 7–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No GT98–59–000]

Questar Pipeline Company; Notice of Refund Report

June 30, 1998.

Take notice that on June 24, 1998, Questar Pipeline Company (Questar) tendered for filing a Gas Research Institute (GRI) Tier 1 Refund Report in compliance with the Commission's February 22, 1995, Order Approving Refund Methodology for 1994 Overcollection in Docket No. RP95–124–000 (February 22 Order).

Questar states that on May 29, 1998, it received a $517,396 refund from GRI, representing an overcollection of the 1997 GRI Tier 1 funding target level set for Questar by GRI. Questar states that on June 12, 1998, in compliance with the February 22 Order, it sent the GRI Tier 1 refund, pro rata, to its eligible firm customers. Questar further states, that in compliance with the February 22 Order, the GRI refund was exclusive of interest.

Questar states that a copy of the refund report has been served upon its affected transportation customers who received a refund and the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before July 7, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17888 Filed 7–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–258–000]

Sabine Pipe Line Company; Notice of Proposed Changes in FERC Gas Tariff

June 30, 1998.

Take notice that on June 25, 1998, Sabine Pipe Line Company (Sabine) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, to become effective August 1, 1998:

First Revised Sheet No. 285
Second Revised Sheet No. 286

Sabine states that the instant filing reflects changes to Sabine's Tariff required to more closely reflect the requirements of Sections 250.16 and 161.3(f) of the Commission's regulations regarding the reporting of information related to the transportation of natural gas on Sabine's system with respect to Sabine's marketing affiliate.

Sabine states that copies of this filing are being mailed to its customers, state commissions and other interested parties.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commissin's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17904 Filed 7–6–98; 8:45 am]

BILLING CODE 6717–01–M

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT98–64–000]

Southern Natural Gas Company; Notice of Refund Report

June 30, 1998.

Take notice that on June 25, 1998 Southern Natural Gas Company (Southern) tendered for filing with the Commission a Refund Report reflecting its refund of certain amounts to its eligible firm shippers. These amounts represent a flow-through of refunds received from the Gas Research Institute (GRI).

The report states that Southern refunded $1,546,985 to its eligible shippers on June 12, 1998, which represents the amount received from GRI as required by the Commission's Order dated February 22, 1996.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.W., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before July 7, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17891 Filed 7–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT98–67–000]

Tennessee Gas Pipeline Company; Notice of Refund Report

June 30, 1998.

Take notice that on June 26, 1998, Tennessee Gas Pipeline Company (Tennessee) tendered for filing a refund report pursuant to Ordering Paragraph (c) of the Commission's February 22, 1995, order in Gas Research Institute (GRI), Docket No. RP95–124–000.

Tennessee states that Tennessee received a refund from GRI in the amount of $1,170,085.

Tennessee states that it has refunded these amounts to its firm transportation customers that received nondiscounted service during 1997 by adjustmenting their June invoices.

Tennessee states that copies of this filing have been mailed to each of Tennessee's customers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before July 7, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17894 Filed 7–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–633–000]

Texas Gas Transmission Corporation; Notice of Request Under Blanket Authorization

June 30, 1998.

Take notice that on June 23, 1998, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP98–633–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to operate a delivery tap, located in Hopkins County, Kentucky, under Texas Gas' blanket certificate issued in Docket No. CP82–407–000, pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Texas Gas proposes to operate an existing delivery tap, located at Mile 4+2823 on Texas Gas' Slaughters-Nortonville 10-Inch Line in Hopkins County, Kentucky, to enable Western Kentucky Gas Company (Western), a local distribution company, to serve a right-of-way grantor with natural gas requirements which will exceed 200 MMBtu of natural gas per day.

Texas Gas states that this tap was constructed by Texas Gas under the automatic authorization of Section 157.211(a)(1) of the Commission's Regulation's following the execution of a letter agreement between Texas Gas and Western, dated January 29, 1998 (agreement), to permit Western to render gas service to right-of-way grantor Allen Hayden. Texas Gas declares that under the agreement, Western would own and operate the measurement facilities, placed into service on March 27, 1998, and reimburse Texas Gas for the cost of its facilities. Texas Gas asserts Western has informed them that the estimated daily usage for this facility is expected to be 250 Mcf per day. Texas Gas states that because such usage exceeds the 200 MMBtu required for automatic authorization for a delivery tap, Texas Gas requests authorization to deliver up to 250 Mcf of natural gas per day to Western at this delivery tap.

Texas Gas declares that the above proposal will not have a significant effect on Texas Gas' peak day and annual deliveries as Western has not requested an increase in contract quantity, and service to Western through this point can be accomplished without detriment to Texas Gas' other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is field within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17887 Filed 7–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98-632-000]

Williams Gas Pipeline Central, Inc.; Notice of Request Under Blanket Authorization

June 30, 1998.

Take notice that on June 23, 1998, Williams Gas Pipeline Central, Inc. (Williams), Post Office Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP98-632-000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to install and operate a tap, measuring, regulating and appurtenant facilities, in Woodward County, Oklahoma, for the delivery of transportation gas to Arkla, a NorAm Energy Company (Arkla). Williams makes such request under its blanket certificate issued in Docket No. CP82-479-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Williams is requesting authorization to install a tap on its Canadian-Blackwell 26-inch pipeline, in Woodward County, to deliver transportation gas to Arkla for use in a hog farm. Specifically, it is estimated that approximately 8,562 dekatherms (Dt) will be delivered the first year, increasing to approximately 105,282 Dt within five years. Williams further estimates the peak day volumes to be 159 Dt the first year, increasing to approximately 1,056 Dt within five years. Williams indicates that it does not anticipate such deliveries will have any effect on existing customers, because the estimated delivery volumes will not exceed previously authorized volumes.

Williams estimates the cost to construct these facilities to be $42,488.00, stating Arkla has reimbursed Williams for the facilities. Accordingly, Arkla will own and Williams will operate and maintain the facilities.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Acting Secretary.

[FR Doc. 98-17886 Filed 7-6-98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98-260-000]

Wyoming Interstate Company, Ltd., Notice of Proposed Changes in FERC Gas Tariff

June 30, 1998.

Take notice that on June 26, 1998, Wyoming Interstate Company, Ltd. (WIC), tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 2, the tariff sheets listed on Appendix A to the filing, to be effective August 1, 1998.

WIC states that the purpose of this filing is to conform WIC's Second Revised Volume No. 2 tariff to requirements of Order No. 587-G that interstate pipelines transporting pursuant to Section 284.223 of the Commission's Regulations conform their tariffs to include Version 1.2 of the GISB Standard.

WIC further states that copies of this filing have been served on WIC's jurisdictional customers and public bodies.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98-17906 Filed 7-6-98; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6121-4]

Science Advisory Board; Notification of Public Advisory Committee Meetings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92-463, notification is hereby given that various committees/subcommittees of the Science Advisory Board (SAB) will meet on the dates and times described below. All times noted are Eastern Time. All meetings are open to the public, however, seating is limited and available on a first come basis. Documents that are the subject of SAB reviews are normally available from the originating U.S. Environmental Protection Agency (EPA) office and are *not* available from the SAB Office. Public drafts of SAB reports are available to the Agency and the public from the SAB office. Details on availability are noted below.

1. Environmental Engineering Committee (EEC) Subcommittee

The EEC's Quality Management Subcommittee will meet Tuesday July 21, 1998 in Room 3709 of the Mall at the U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460. The meeting will begin at 9:30 am and adjourn no later than 6:00 pm. The Subcommittee reviewed the quality management program and project-level documents at its April 27-29, 1998 public meeting (see 63 FR 17000, April 7, 1998). The Subcommittee is scheduled to complete its review September 22-24, 1998 (location to be determined) to review implementation of EPA's quality system. The purpose of the July 21 meeting is to define what needs to be done and to schedule and assign the work for the September meeting.

For Further Information—For further information concerning this meeting, please contact the following individuals. Any member of the public wishing further information concerning the meeting should contact Mr. Robert

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Flaak, Team Leader and Designated Federal Officer (DFO), Committee Operations Staff, Science Advisory Board (1400), U.S. Environmental Protection Agency, Washington DC 20460; (202) 260–5133; FAX (202) 260–7118; or E-Mail at flaak.robert@epa.gov. Copies of the agenda will be available from Mrs. Dorothy Clark, Management Assistant, approximately a week before the meeting. Mrs. Clark can be reached at (202) 260–4126, FAX (202) 260–7118, or E-Mail at clark.dorothy@epa.gov, or at the above address.

Any member of the public wishing to submit oral comments at the meeting must contact Mr. Robert Flaak (address above) *in writing* no later than noon on July 16. The request should identify the name of the individual who will make the presentation, the organization represented, and an outline of the issues to be addressed. At least 35 copies of any written comments to the Committee are to be given to the DFO no later than the time of the presentation; these will be distributed to the Committee and the interested public.

2. Environmental Engineering Committee (EEC)

The Environmental Engineering Committee will meet Wednesday through Friday, July 22–24, 1998 in Room 3709 of the Mall at the U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460. The meeting will begin at 8:30 am on July 22 and adjourn no later than 3:30 pm on July 24.

At its February 5–6, 1998 meeting, the EEC authorized members to draft commentaries on four initiative areas: (a) Uncertainty in Environmental Technology Performance; (b) TCLP: From Waste Classification to Source Term Prediction; (c) Natural Hazards: A Framework for Control of Environmental Impacts; and (d) Waste Utilization. The Committee also authorized members to develop information on the five following areas: (a) P2: Barriers to Implementation and Social Science; (b) Potential Sources of Endocrine Disruptors; (c) Potential Sources of $PM_{2.5}$; (d) Potential Use of Measurements for Process Control to Reduce Dioxin Emissions from Combustion Sources; and (e) EPA (and other environmental) Strategy & Goals.

EEC members will brief the Committee on: (a) the four proposed initiatives, and on what information they have developed in the other five areas; (b) the progress of the EEC's Retrospective Subcommittee efforts to establish attributes for successful proactive technical advice; and (c) on the activities of the EEC's Quality Management Subcommittee. The EEC will discuss potential FY 98 and FY 99 activities. SAB staff may brief the Committee on the progress of tasks identified at the Science Advisory Board's (SAB) November 1997 Strategic Retreat and the SAB's Integrated Risk Project. Technical staff from EPA and the public may also brief the Committee on relevant Agency activities that bear on these efforts.

For Further Information—For further information concerning this meeting, please contact the following individuals. Any member of the public wishing further information concerning the meeting should contact Mr. Robert Flaak, Team Leader and DFO, Committee Operations Staff, Science Advisory Board (1400), U.S. Environmental Protection Agency, Washington DC 20460; (202) 260–5133; FAX (202) 260–7118; or E-Mail at flaak.robert@epa.gov. Copies of the agenda will be available from Mrs. Dorothy Clark, Management Assistant, approximately a week before the meeting. Mrs. Clark can be reached at (202) 260–4126, FAX (202) 260–7118, or E-Mail at clark.dorothy@epa.gov, or at the above address.

Any member of the public wishing to submit oral comments at the meeting must contact Mr. Robert Flaak (address above) *in writing* no later than noon on July 16. The request should identify the name of the individual who will make the presentation, the organization represented, and an outline of the issues to be addressed. At least 35 copies of any written comments to the Committee are to be given to the DFO no later than the time of the presentation; these will be distributed to the Committee and the interested public.

3. Radiation Advisory Committee (RAC)

The Science Advisory Board's (SAB's) Radiation Advisory Committee (RAC) will conduct a public meeting on Wednesday, July 22 and Thursday, July 23, 1998. The meeting will convene each day at 9:00 am in the Administrator's Conference Room 1103 West Tower, U.S. EPA Headquarters, 401 M Street, S.W., Washington, DC 20460 and adjourn no later than 5:30 pm each day.

At this meeting, the RAC will briefly discuss projects that are planned for review in Fiscal Year (FY) 1999, conduct closure reviews on two draft reports being developed by subcommittees of the RAC, and be briefed on a number of radiation-related topics by the staff of the Office of Radiation and Indoor Air (ORIA).

Beginning on Wednesday, July 22, 1998, the RAC will attempt a closure review of a draft report prepared by its Uncertainty in Radiogenic Risk Subcommittee (URRS) on its review of the Agency's draft "Uncertainty Analysis for Estimating Radiogenic Cancer Risks," dated October 1997. The URRS held two public meetings on November 20, 1997 (62 FR 55249, October 23, 1997) and on March 4, 1998 (63 FR 6927, February 11, 1998). The charge questions to the Subcommittee are: (a) Are the relevant major sources of uncertainties addressed?; (b) Is the overall approach to quantifying and combining uncertainties appropriate?; and (c) Are the mathematical functions used to characterize the various sources of uncertainty reasonable, in view of available scientific information?

The RAC will also attempt a closure review of a draft report being prepared by its Federal Guidance Report Review Subcommittee (FGRRS) on its review of the Agency's Interim Version of Federal Guidance Report (FGR) Number 13, Part I, Health Risks From Low-Level Environmental Exposure to Radionuclides, EPA 402–R–97–014, dated January 1998. This report provides cancer mortality and morbidity risk coefficients for internal and external exposures to about 100 radionuclides. The methodology combines the radiogenic cancer risk models previously reviewed by the SAB's RAC (EPA–SAB–RAC–LTR–93–004—see end of notice for ordering information) with dose rates from radionuclide intakes or external exposures to calculate health risks to the public.

The RAC's FGRRS held a public meeting on May 7 and 8, 1998, and a public teleconference on June 2, 1998. Both were advertised in 63 FR 17000, April 7, 1998. The charge to the RAC's FGRRS is as follows: (a) Is the methodology employed for calculating health risks from radionuclide intakes and external exposure acceptable?; (b) In light of available scientific information, have the major uncertainties been identified and put into proper perspective?; and (c) Is the proposed method for extending the list of radionuclides to include all those tabulated in Federal Guidance Reports 11 and 12 reasonable?

The RAC will be briefed on: (a) Biological Effects of Ionizing Radiation (BEIR) VI; (b) the status of a white paper on estimating cancer risks for indoor radon as a basis for establishing cancer risks for radon; (c) a revised radon risk assessment which looks at the National Academy of Sciences (NAS) recommendations for a model coming out of their final peer reviews; (d) the NAS study of Diffuse Naturally-

Occurring Radioactive Material (NORM) and the forthcoming ORIA draft scoping document; and (e) Multi-Agency Laboratory Analytical Procedures (MARLAP). The RAC also plans to discuss the Agency's response to the SAB's review of the Multi-Agency Radiation Survey and Site Investigation Manual (MARSSIM), dated December 4, 1997. Other topics may be discussed as time permits.

For Further Information—For further information on the meeting contact Dr. K. Jack Kooyoomjian, Designated Federal Officer, Radiation Advisory Committee, Science Advisory Board (1400), U.S. EPA, Washington, DC 20460, phone (202)–260–2560; fax (202)–260–7118; or via E-Mail at: kooyoomjian.jack@epa.gov. Any member of the public wishing further information concerning the meeting, including a draft meeting agenda, should contact Mrs. Diana L. Pozun, Management Assistant, at (202) 260–8432; FAX (202) 260–7118, or via E-Mail at: pozun.diana@epa.gov. Members of the public who wish to make a brief oral presentation to the Committee during the meeting must contact Dr. K. Jack Kooyoomjian in writing (address above) no later than noon, Wednesday, July 15, 1998 in order to be included on the Agenda.

For questions pertaining to the review of uncertainty analysis for estimating radiogenic cancer risks or pertaining to the review of the Federal Guidance Report 13, Part I and to obtain copies of the documents to be discussed, please contact Mr. Brian Littleton, ORIA (6601J), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, (202) 564-9216; FAX (202) 565–2043; or via E-Mail at: littleton.brian@epa.gov.

4. Secondary Data Use Subcommittee of the Executive Committee (EC)

The Secondary Data Use Subcommittee of the Science Advisory Board's (SAB) Executive Committee will meet Thursday, July 30, 1998 in Conference Room 3709 Mall, U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460. The meeting will begin at 9:00 am and adjourn no later than 5:00 pm.

Purpose—The purpose of this meeting is to begin the SAB's project to provide advice to the Agency on the appropriate secondary use of EPA regulatory data bases. This review was requested by the Center for Environmental Information and Statistics (CEIS) in EPA's Office for Policy, Planning and Evaluation (OPPE).

The CEIS is in the process of reviewing 30 major EPA regulatory databases for their potential use in secondary data analyses (i.e., for uses other than that for which they were originally collected). The Agency's regulatory data bases were designed to be used in making enforcement, compliance and standard setting decisions. The CEIS reviews will try to determine the extent to which these observational data bases can be used for other purposes such as assessment of environmental conditions and trends, scientifically based studies of cross-media relationships, and human health or environmental risk assessment.

The tentative charge to the Subcommittee is to: (a) Provide consultations on the overall process of suitability review; (b) Review CEIS's reviews for technical quality, comprehensiveness and clarity; (c) Provide consultation on developing minimum criteria or characteristics that a database should possess if it is to be used for scientific purposes such as exposure assessment; (d) Make recommendations for areas where the CEIS should develop new quantitative methods for the use of secondary EPA databases; and (e) Set up a workshop which brings together Agency and external experts to discuss the various issues and concerns regarding the secondary use of administrative and observational EPA databases.

At the July 30 meeting, the Subcommittee expects to hear a briefing on the Agency's secondary use review program, discuss the overall approach, and plan the Subcommittees work, which is expected to extend over several meetings.

For Further Information—Copies of the review documents and background materials are available from Dr. N. Phillip Ross, Chief Statistician, Center for Environmental Information and Statistics (2163), U.S. EPA, 401 M Street SW, Washington, D.C. 20460, telephone (202) 260–5244, fax (202) 260–5880, or via E-Mail at: ross.np@epa.gov.

Copies of the meeting agenda are available from Mrs. Priscilla Tillery-Gadson, Staff Secretary, Executive Committee, Science Advisory Board (1400), U.S. EPA, Washington DC 20460, telephone (202) 260–4126, fax (202) 260–9232, or via E-Mail at: tillery.priscilla@epa.gov.

Members of the public who wish to make a brief oral presentation to the Committee during the meeting must contact Mrs. Anne Barton, Designated Federal Officer (DFO) for the Secondary Data Use Subcommittee, *in writing* no later than noon Thursday July 23, at Science Advisory Board (1400), U.S. Environmental Protection Agency, Washington DC 20460; FAX (202) 260–9232; or via E-Mail at barton.anne@epa.gov. The request should identify the name of the individual who will make the presentation and an outline of the issues to be addressed. At least 35 copies of any written comments to the Committee are to be given to the DFO no later than the time of the presentation; these will be distributed to the Subcommittee and the interested public. To discuss technical aspects of the meeting, please contact Mrs. Barton by telephone at (202) 260–9280.

5. Research Strategies Advisory Committee (RSAC)

The Research Strategies Advisory Committee (RSAC) will meet on Friday, July 31, 1998 in Conference Room 3709 of the Mall, U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460. The meeting will begin at 8:30 am and adjourn no later than 5:00 pm.

Purpose—The purpose of the meeting is to advise EPA on science-related aspects of its FY 2000 budget request. The Committee will use resource data (figures) from EPA's FY 1998 operating plan and FY 1999 proposed budgets. The review will include the entire science and technology (S&T) account, not simply the ORD budget, which was the focus of the February 1998 RSAC review (see 63 FR 6927, February 11, 1998). While the Committee will not receive quantitative information concerning the FY 2000 budget (since this information is neither complete nor publicly available at this time), the Agency will provide general information about the priorities that will likely be reflected in the FY 2000 budget.

The SAB is being asked to advise the Agency on: (a) the budget allocations and trends that are reflected in the FY 1998 and the FY 1999 budget figures; (b) the priorities identified for FY 2000; and (c) the thrusts and balances that they would recommend for FY 2000.

For Further Information—Single copies of the review materials are available from Mr. Robert Flaak, Designated Federal Officer for the Research Strategies Advisory Committee (see below for contact information).

Copies of the meeting agenda are available from Mrs. Mary Winston, Management Assistant, Committee Operations Staff, Science Advisory Board (1400), U.S. EPA, 401 M Street SW, Washington DC 20460, telephone (202) 260–4126, fax (202) 260–7118, or via E-Mail at: winston.mary@epa.gov.

Members of the public who wish to make a brief oral presentation to the Committee during the meeting must contact Mr. Flaak *in writing* no later

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than noon Thursday July 23, at Science Advisory Board (1400), U.S. Environmental Protection Agency, Washington DC 20460; (202) 260–5133; FAX (202) 260–9232; or via E-Mail at flaak.robert@epa.gov. The request should identify the name of the individual who will make the presentation and an outline of the issues to be addressed. At least 35 copies of any written comments to the Committee are to be given to the DFO no later than the time of the presentation; these will be distributed to the Subcommittee and the interested public.

6. Residual Risk Strategies Subcommittee of the Executive Committee (EC)

The Residual Risk Subcommittee of the Executive Committee of the Science Advisory Board (SAB) will meet on Monday, August 3, 1998 in the Main Auditorium of the US EPA, Office of Research and Development, Environmental Research Center, 86 T.W. Alexander Drive Research Triangle Park, North Carolina 27711. The meeting will begin at 8:30 am and adjourn no later than 5:00 pm.

Purpose—The purpose of the meeting is to conduct a review of the Agency's Draft Residual Risk Report to Congress. This document presents the Agency's response to the section 112(f)(1) mandate and the proposed strategy for addressing the risks remaining from particular classes of air emission sources once Maximum Achievable Control Technology (MACT) standards have been adopted.

The tentative charge to the SAB is as follows: (a) Within the context and scope of the section 112(f)(1) requirements, has the Draft Residual Risk Report to Congress (Report) properly interpreted and considered the technical advice from previous reports, including: (1) the NRC's 1994 report "Science and Judgment in Risk Assessment" and (2) the 1997 report from the Commission on Risk Assessment and Risk Management in developing its risk assessment methodology and residual risk strategy?; (b) Does the Report identify and appropriately describe the most relevant methods (and their associated Agency documents) for assessing residual risk from stationary sources?;© Does the Report provide an adequate characterization of the data needs for the risk assessment methods?; (d) Does the Report provide an adequate approach to describing the inherent uncertainties associated with assessment of residual risks?; and (e) Does the Report adequately address the range of scientific and technical issues that underlie a residual risk assessment?

For Further Information—Copies of the draft Report may be obtained from the Air and Radiation Docket and Information Center (MC–6102), Docket No. A–97–39, U.S. Environmental Protection Agency, 401 M Street SW, Room M–1500, Washington, DC 20460, telephone (202) 260–7548, between the hours of 8:00 am and 4:00 pm, Monday through Friday, excluding legal holidays. Copies may also be downloaded from the following Internet address: http://www.epa.gov/ttn/oarpg/t3rc.html . Contact Mr. Dennis Pagano, Office of Air Quality Planning and Standards (OAQPS); (919) 541–0502; or via E-Mail at: pagano.dennis@epa.mail if you have question about the Report.

Any member of the public wishing to submit brief oral comments at the meeting must contact Dr. Donald Barnes, Designated Federal Officer (DFO) for the Subcommittee, in writing no later than noon on Monday, July 20. Dr. Barnes can be reached at Science Advisory Board (1400), U.S. Environmental Protection Agency, Washington DC 20460; (202) 260–4126; FAX (202) 260–9232; or E-Mail at barnes.don@epa.gov. The request should identify the name of the individual who will make the presentation, the organization represented, and an outline of the issues to be addressed. At least 35 copies of any written comments to the Committee are to be given to the DFO no later than the time of the presentation; these will be distributed to the Committee and the interested public.

7. Environmental Engineering Committee (EEC) Subcommittee

The EEC's Retrospective Subcommittee will meet Friday August 14 from 9:00 am to 4:00 pm in Room E–308, Kitson Hall, Francis College of Engineering, University of Massachusetts, Lowell, One University Avenue, North Campus, Lowell, MA 01854. At this meeting, the Subcommittee plans to prepare a commentary on attributes for successful proactive technical advice.

For Further Information—For further information concerning this meeting, please contact the individuals listed below. Any member of the public wishing further information concerning the meeting should contact Mrs. Kathleen Conway, DFO for the EEC, Committee Operations Staff, Science Advisory Board (1400), U.S. Environmental Protection Agency, Washington DC 20460; (202) 260–2558; FAX (202) 260–7118; or via E-Mail at: conway.kathleen@epa.gov. Copies of the agenda will be available from Mrs. Dorothy Clark, Management Assistant, a week before the meeting. Mrs. Clark can be reached at (202) 260-4126, FAX (202) 260–7118, or via E-Mail at: clark.dorothy@.epa.gov, or at the above address.

Members of the public who wish to make a brief oral presentation to the Committee during the meeting must contact Mrs. Kathleen Conway (address above) *in writing* no later than noon on Wednesday, July 29. The request should identify the name of the individual who will make the presentation, the organization represented, and an outline of the issues to be addressed. At least 35 copies of any written comments to the Committee are to be given to the DFO no later than the time of the presentation; these will be distributed to the Committee and the interested public.

Providing Oral or Written Comments at SAB Meetings

The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, for meetings, opportunities for oral comment will usually be limited to no more than five minutes per speaker and no more than thirty minutes total. Written comments (at least 35 copies) received in the SAB Staff Office sufficiently prior to a meeting date (usually one week before the meeting), may be mailed to the relevant SAB committee or subcommittee; comments received too close to the meeting date will normally be provided to the committee at its meeting. Written comments may be provided to the relevant committee or subcommittee up until the time of the meeting. Public comments (written or oral) should focus on scientific or technical aspects of the matters before the Committee at its meeting.

Information concerning the Science Advisory Board, its structure, function, and composition, may be found in the current Annual Report of the Staff Director, as well as copies of SAB prepared reports mentioned in this FR document. These are available from the SAB's Committee Evaluation and Support Staff (CESS) by contacting US EPA, Science Advisory Board (1400), Attention: CESS, Washington, DC 20460 or via telephone (202) 260–4126 or via fax (202) 260–1889. Please provide the SAB report number, if known, when making a request. Many of the reports and additional information concerning the SAB can be found on the SAB Home Page at: http://www.epa.gov/sab.

Individuals requiring special accommodation at SAB meetings, including wheelchair access, should contact the appropriate DFO at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: June 30, 1998.

A. Robert Flaak,

Acting Staff Director, Science Advisory Board.

[FR Doc. 98–17965 Filed 7–6–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[PF–814; FRL–5796–6]

Notice of Filing of Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by the docket control number PF–814, must be received on or before August 6, 1998.

ADDRESSES: By mail submit written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 119, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Follow the instructions under "SUPPLEMENTARY INFORMATION." No confidential business information should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager listed in the table below:

Product Manager	Office location/telephone number	Address
Bipin Gandhi (PM 5)	Rm. 4W53, CS #2, 703–308–8380, e-mail:gandhi.bipin@epamail.epa.gov.	1921 Jefferson Davis Hwy, Arlington, VA
Cynthia Giles-Parker (PM 22).	Rm. 229, CM #2, 703–305–7740, e-mail: giles-parker.cynthia@epamail.epa.gov.	Do.

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice of filing, as well as the public version, has been established for this notice of filing under docket control number [PF–814] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in "ADDRESSES" at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number (insert docket number) and appropriate petition number. Electronic comments on notice may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Agricultural commodities, Food additives, Feed additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 24,1998.

Peter Caulkins, Acting

Director, Registration Division, Office of Pesticide Programs.

Summaries of Petitions

Petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioners and represent the views of the petitioners. EPA is publishing the petition summaries verbatim without editing them in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

1. Rhodia Inc.

PP 6E4714

EPA has received a pesticide petition (PP 6E4714) from Rhodia Inc., CN 7500 Cranbury NJ 08512-7500 proposing pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR 180.1001 to establish an exemption from the requirement of a tolerance for Sucroglycerides derived from 21 CFR-approved fats and oils in or on the raw agricultural commodity after harvest. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of

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the petition. Additional data may be needed before EPA rules on the petition.

A. Toxicological Profile

As part of the EPA policy statement on inert ingredients published in the **Federal Register** of April 22, 1987 (52 FR 13305) (FRL 3190-1), the Agency set forth a list of studies which would generally be used to evaluate the risks posed by the presence of an inert ingredient in a pesticide formulation. However, where it can be determined without that data that the inert ingredient will present minimal or no risk, the Agency generally does not require some or all of the listed studies to rule on the proposed tolerance or exemption from the requirement of a tolerance for an inert ingredient.

The data we believe supports establishing an exemption from tolerances is summarized below. More detailed information has been provided to the Agency in previous submissions.

Sucroglycerides are a mixture of substances, primarily of mono- and di-glycerides and sucrose esters of fatty acids. The product is produced through a process of transesterification of an edible fat or oil with sucrose in the presence of a solvent. The resulting crude mixture is purified by vacuum distillation, counter-current extraction, and further distillation to remove solvent and other impurities.

Rhodia has conducted studies on the physicochemical characteristics of a sucroglyceride derived from palm oil. The studies evaluated the product chemistry, solubility, and the octanol/water partition coefficient of sucroglycerides.

1. *Acute toxicity*. The LD_{50} of palm oil-derived sucroglyceride is estimated to be greater than 30 grams/kg. In addition, early studies of sucroglycerides use in the diets of bottle-feeding calves indicated a lack of toxic response and an increased weight gain and improved food utilization.

Sucrose esters of fatty acids are approved for food use and mono- and di-glycerides are GRAS-approved additives; sucroglycerides are GRAS-approved and approved for food use in Europe; sucrose esters of fatty acids and mono- and di-glycerides are unlikely to be dermally absorbed.

Preliminary attempts to examine the potential environmental toxicity of Sucroglycerides have been made, but were not possible due to the physicochemical properties of the material. Sucroglycerides have the consistency of wax at low temperatures and petroleum jelly when warmed. In addition, as can be seen from the determination of the octanol/water partition coefficient, sucroglycerides are not water soluble (estimated Ko/w > 3.38 x 106), thereby precluding aquatic toxicity testing.

2. *Genotoxicty*. The components of sucroglycerides already have regulatory acceptance as agricultural inerts exempted from tolerance; sucroglycerides are a complex mixture of sucrose esters of fatty acids and mono- and di-glycerides derived from FDA-approved edible fats and oils. None of the components of sucroglycerides are genotoxic.

3. *Reproductive and developmental toxicity*. An early study of the potential effects of Sucroglycerides on reproduction in rats indicated that there were no effects on reproduction, pup survival and development, or pup anomalies at dietary dose levels up to 2%.

4. *Subchronic toxicity*. In 1980 a 13-week subchronic toxicity study of Sucroglycerides with an 8-week "recovery period" was conducted in beagle dogs. This study utilized doses as high as 20% of the total dietary intake. Decrease body weight gains (bwt) were observed in the 10% and 20% dose groups. These animals showed a significant weight gain recovery during the post-treatment period. No dose-related changes were noted in hematology, urinalysis, ophthalmoscopy, gross pathology or organ weights. Increased alkaline phosphatase and SGPT levels and fatty changes in the liver were noted for some animals in the high dose group, but most returned to normal during the recovery phase. Results should be interpreted keeping in mind that 20% of sucroglycerides in the diet represents a significant change in the normal dietary composition and could possibly cause changes in the nutritional status of the animals.

5. *Chronic toxicity*. A chronic toxicity/carcinogenicity study of Sucroglycerides was conducted in rats in 1982. Sprague-Dawley rats received 0%, 5%, 10%, or 20% sucroglycerides in the diet for 2-years. Clinical observations associated with treatment were pale feces and poor grooming. Survival was greater among treated rats than controls. Treated rats showed a dose-related decrease in weight gain during the early part of the study, particularly in males. Weight gain then became similar to that of controls until the last few weeks of the study when control rats lost more weight than did treated rats. Alkaline phosphatase and SGPT levels were elevated for high dose animals until week 25, but were comparable to controls during weeks 51-102. No treatment-related changes in hematology, ophthalmoscopy, gross pathology, organ weights, or tumorigenesis were reported.

6. *Animal metabolism*. Sucroglycerides are derived from a variety of 21 CFR-approved edible fats and oils including, but not limited to, lard, tallow, palm oil, rapeseed (canola) oil, and coconut oil. Mono- and di-glycerides are GRAS substances 21 CFR 184.1505 and already have regulatory acceptance as agricultural inerts and adjuvants exempted from tolerance requirements (under 40 CFR 80.1001(c)), as do sucrose, fatty acids conforming to 21 CFR 172.860, methyl esters of edible fats and oils, and sucrose esters of fatty acids such as sorbitan fatty acid esters.

7. *Metabolite toxicology*. The components of sucroglycerides and related substances already have regulatory acceptance as agricultural inerts exempted from tolerance requirements

8. *Endocrine disruption*. Sucroglycerides are not derived from, nor contain any compounds which are known to be, or are suspected to be, endocrine disruptors. Sucroglycerides are derived from a variety of 21 CFR-approved edible fats and oils including, but not limited to, lard, tallow, palm oil, rapeseed (canola) oil, and coconut oil. Mono- and di-glycerides are GRAS substances 21 CFR 184.1505 and already have regulatory acceptance as agricultural inerts and adjuvants exempted from tolerance requirements (under 40 CFR 180.1001(c)), as do sucrose fatty acids conforming to 21 CFR 172.860, methyl esters of edible fats and oils, and sucrose esters of fatty acids such as sorbitan fatty acid esters.

B. Aggregate Exposure

Consistent with section 408(c)(2)(B) of FFDCA, Rhodia, Inc. believes that, based on our prior submissions (as Rhone-Poulenc, Inc.), EPA now has sufficient data to assess the hazards of sucroglycerides and to make a determination on aggregate exposure, consistent with section 408(b)(2), for tolerance exemptions for the residues of sucroglycerides on growing crops, raw agricultural commodities after harvest and animals.

1. *Dietary exposure*—i. *From food and feed uses, drinking water, and non-dietary exposures*. For the purposes of assessing the potential dietary exposure under these exemptions, Rhodia, Inc. considered that under these exemptions sucroglycerides could be present in all raw and processed agricultural commodities although, due to a lack of water solubility (octanol/water partition coefficient was estimated as Ko/w > 3.38 x 106) no drinking water exposure

was possible. Non-occupational, non-dietary exposure is highly unlikely given that the inhalation potential or dermal absorption of these substances are not feasible. No concerns for risks associated with any potential exposure scenarios are reasonably foreseeable.

ii. Sucroglycerides are derived from a variety of 21 CFR-approved edible fats and oils including, but not limited to, lard, tallow, palm oil, rapeseed (canola) oil, and coconut oil. Mono- and di-glycerides are GRAS substances 21 CFR.184.1505 and already have regulatory acceptance as agricultural inerts and adjuvants exempted from tolerance requirements (under 40 CFR 180.1001(c)), as do sucrose fatty acids conforming to 21 CFR 172.860, methyl esters of edible fats and oils, and sucrose esters of fatty acids such as sorbitan fatty acid esters.

iii. Sucroglycerides derived from edible fats and oils have been granted Self-Affirmed GRAS status in the U.S and are approved for food use in Europe and by the WHO Joint Expert Committee on Foods (JECFA), with an Acceptable Daily Intake (ADI) of 0-20 mg/kg/day. Sucroglycerides are currently marketed by Rhodia, Inc. for food use. Sucroglycerides, including those derived from palm oil, hydrogenated palm oil, tallow, rapeseed oil, castor oil, and coconut oil have been used safely in foods in Europe since the early 1960s.

2. *Drinking water.* Sucroglycerides are insoluble in water, hence exposure from drinking water is not considered to be a route of exposure.

3. *Non-dietary exposure.* Non-occupational, non-dietary exposure is highly unlikely given that the inhalation potential or dermal absorption of these substances are not feasible. No concerns for risks associated with any potential exposure scenarios are reasonably foreseeable.

C. Cumulative Effects

Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance or tolerance exemption, the Agency consider "available information" concerning the cumulative effects of a particular chemical's residues and "other substances that have a common mechanism of toxicity." In the case of sucroglycerides, the lack of observed toxicity of these substances after acute and chronic exposure would suggest that a cumulative risk assessment is therefore not necessary.

D. Safety Determination

1. *U.S. population.* Sucroglycerides derived from edible fats and oils have been granted Self-Affirmed GRAS status in the U.S and are approved for food use in Europe and by the WHO Joint Expert Committee on Foods (JECFA), with an Acceptable Dietary Intake (ADI) of 0-20 mg/kg/day. Sucroglycerides are derived from a variety of 21 CFR-approved edible fats and oils including, but not limited to, lard, tallow, palm oil, rapeseed (canola) oil, and coconut oil. Mono- and di-glycerides are GRAS substances 21 CFR 184.1505 and already have regulatory acceptance as agricultural inerts and adjuvants exempted from tolerance requirements (under 40 CFR 180.1001(c)), as do sucrose, fatty acids conforming to 21 CFR 172.860, methyl esters of edible fats and oils, and sucrose esters of fatty acids such as sorbitan fatty acid esters.

Based on these materials' low-risk profiles, there is a reasonable certainty that no harm to the U.S. population will result from aggregate exposure to sucroglycerides.

2. *Infants and children.* FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for pre- and postnatal toxicity and the completeness of the data base unless EPA concludes that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through the use of margin of exposure analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

Due to the extensive available toxicology database including a reproductive toxicity study and studies of sucroglycerides in the diets of bottle-fed calves, and the low expected toxicity of these compounds, Rhodia, Inc. does not believe a safety factor analysis is necessary in assessing the risk of these compounds. For the same reasons we believe the additional safety factor is unnecessary.

E. International Tolerances

Sucroglycerides derived from edible fats and oils are approved for food use in Europe and by the WHO JECFA, with an ADI of 0-20 mg/kg/day. Sucroglycerides are currently marketed by Rhodia, Inc. for food use. Sucroglycerides, including those derived from palm oil, hydrogenated palm oil, tallow, rapeseed oil, castor oil, and coconut oil have been used safely in foods in Europe since the early 1960s.

There are no Codex Alimentarius Commission (Codex), Canadian or Mexican residue limits for sucroglycerides, which have been granted self-affirmed GRAS status in the U.S.

F. Conclusion

Based on the information and data considered, Rhodia, Inc. proposes that exemption from the requirements of a tolerance be established for Sucroglycerides derived from 21 CFR-approved fats and oils when used in accordance with good agricultural practice as inert ingredients in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest (under 40 CFR.180.1001(c)).

2. Rhone-Poulenc Ag Company

PP 8F4969

EPA has received a pesticide petition (PP 8F4969) from Rhone-Poulenc Ag Company, P.O. Box 12014, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709, proposing pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of fosetyl-Al (aluminum tris(O-ethylphosphonate) in or on the raw agricultural commodity bananas at 3.0 parts per million (ppm). EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism.* The metabolism of fosetyl-Al in plants is adequately understood. Adequate data on the nature of the residues in plants, including identification of major metabolites and degradates of fosetyl-Al, are available. Radiolabeled studies on the uptake, translocation and metabolism in plants show that the chemical proceeds through hydrolytic cleavage of the ethyl ester. The major residues are fosetyl-Al, phosphorus acid and ethanol. The tolerances are established for the parent only, that is fosetyl-Al. There is no reasonable expectation of residues occurring in eggs, milk, and meat of livestock and poultry since there are no livestock feed items associated with commodities treated with fosetyl-Al. Relating specifically to the proposed tolerance on bananas, no processed food or livestock feed items are associated with this commodity. Accordingly, tolerances in meat, animal byproducts and milk are not necessary.

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2. *Analytical method.* Adequate methods are available for enforcement purposes. There are two analytical methods acceptable for determining residues of fosetyl-Al in plants: a gas chromatography method is available for enforcement of tolerance in pineapple and is listed as Method I in PAM, Vol. II; a GC/phosphorus specific flame photometric detector (FPD-P) method (Rhone-Poulenc Method No. 163) for citrus has undergone a successful method tryout on oranges and has been sent to the FDA for inclusion in PAM as Method II.

3. *Magnitude of residues.* Seven field sites in six Latin American countries were treated in two applications at the rate of 4.8 Kg/ha/application. Two of the seven trials also included a 2x rate application. Applications were made by two methods: foliar spray by ground equipment and tree injection into the pseudostem. The applications were made approximately 70-days apart with a PHI of 0- days for the foliar treatments and 1-day for the injection treatments. Each plot included both bagged and unbagged bunches. Fosetyl-Al residues greater than the LOT were found in 22 of the 96 treated banana samples. Residues were highest in the 1x and 2x foliar unbagged treatments, averaging 0.45 ppm from the 1x treatment and 0.69 ppm from the 2x treatment. Residues were very low from all foliar bagged and all injection treatments, averaging at or below the LOT. Residues from all treated samples ranged from no detects to 1.99 ppm.

B. Toxicological Profile

1. *Acute toxicity.* Fosetyl-Al presents a minimal acute hazard. The acute toxicity data support that acute exposure is unlikely to constitute any significant risk. A complete battery of acute toxicity studies for fosetyl-Al technical have been conducted. The LD_{50} from the acute oral rat is 5.4 g/kg and the LD_{50} from an acute dermal rabbit study is >2 g/kg. The LC_{50} for a rat inhalation study is >1.73 mg/L. The acute oral rat and primary dermal irritation studies indicate category IV toxicity. A guinea pig dermal sensitization study shows fosetyl-Al is not a skin sensitizer. The primary eye irritation study in rabbits shows fosetyl-Al to be an eye irritant with Category I toxicity.

2. *Genotoxicity.* Fosetyl-Al is neither mutagenic nor genotoxic. The genetic toxicity potential of fosetyl-Al was assessed in several assays. Eight mutagenicity tests performed with fosetyl-Al were negative. The tests included two Ames assays with S. typhimurium, two phase induction assays using *E. coli*, two micronucleus studies in mice, one DNA repair assay using *E. coli* and one mutation assay in Saccharomyces cereviseae.

3. *Reproductive and developmental toxicity.* Fosetyl-Al is not a reproductive toxicant and shows no evidence of estrogenic or androgenic related effects. In a 3-generation reproduction study, fosetyl-Al was administered to rats at dietary levels of 0, 6,000, 12,000 or 24,000 ppm. No adverse effects on reproductive performance or pup survival were observed in any dose group. The LEL was established at 12,000 ppm based on effects on animal weights and urinary tract changes. The NOEL for all effects was 6,000 ppm. Developmental toxicity studies were conducted with technical grade fosetyl-Al in rats and rabbits. These studies are summarized below.

i. *Rat.* A teratology study in rats dosed via oral gavage at 500, 1,000 or 4,000 mg/kg/day showed a developmental NOEL of 1,000 mg/kg. At 4,000 mg/kg, there was maternal toxicity, as evidenced by effects on animal weights, maternal deaths, increased resorptions and delayed fetal ossification.

ii. *Rabbit.* A rabbit teratology study showed no toxic effects at oral doses up to 500 mg/kg. Effects of fosetyl-Al on fetal development were observed only in the rat at a dose producing severe maternal toxicity. In the absence of maternal toxicity, no adverse effects on fetal development were observed, i.e. at 1,000 milligram/kilograms/day (mg/kg/day) in rats or at 500 mg/kg/day in rabbits.

4. *Subchronic toxicity.* In subchronic studies, no significant toxicity was observed even at doses exceeding the limit of 1,000 mg/kg/day.

i. A 21-day dermal study in rabbits showed mild to moderate skin irritation and a NOEL of 1.5 g/kg/day.

ii. A 90-day feeding study in rats showed a NOEL of >5,000 ppm; the LEL was 25,000 ppm with extramedullary hematopoiesis in the spleen.

iii. A 90-day dog feeding study showed a NOEL of 10,000 ppm and a LEL at 50,000 ppm, at which the test animals had a lower serum potassium level than untreated animals.

5. *Chronic toxicity.* Chronic toxicity studies have been conducted in dogs and rats.

i. *Dog.* Fosetyl-Al was fed to dogs for 2-years at concentrations of 0, 10,000, 20,000, and 40,000 ppm. The NOEL was 10,000 ppm, equivalent to 250 mg/kg/day. The LEL was 20,000 ppm based on a slight degenerative effect on the testes. These testicular changes, as well as a few scattered clinical changes, were seen in the high dose dogs. No effects were observed in the urinary tract.

ii. *Rat.* Fosetyl-Al was administered via admixture in the diet to CD rats at target levels of 0, 2,000, 8,000, and 30,000/40,000 ppm for approximately 2-years. Based on these levels, respective doses were 100, 400 and 2,000/1,500 mg/kg/day. After 2-weeks at 40,000 ppm, this dietary level was reduced to 30,000 ppm due to the occurrence of red coloration of the urine and a decrease in body weight gain. Although these findings were no longer apparent after week 2, analytical verification of dietary levels revealed that the highest dietary level ranged from approximately 38,000 to 61,000 ppm during the first 32 weeks of the study. No significant differences in bwt or food consumption were noted at 2,000 or 8,000 ppm. No biologically significant differences were observed in ophthalmoscopy, hematology, clinical chemistry, or urinalysis for treated and control animals. Calculi in the urinary bladder were observed for several male and female rats in the high dose group. Non-neoplastic findings consisted of epithelial hyperplasia and inflammation in the urinary bladders of males at 30,000/40,000 ppm. Increased incidences of hydronephrosis, inflammation, and epithelial hyperplasia in the kidney were also observed in males from the high dose group. Females from the same group exhibited increased incidences of epithelial hyperplasia in the urinary bladder and hydronephrosis in the kidney. The NOEL in the chronic rat study was 8,000 ppm (400 mg/kg/day).

iii. *Conclusion.* The lowest NOEL for chronic effects of fosetyl-Al is 10,000 ppm (250 mg/kg/day) based on the dog study. This NOEL is based on minor changes at 20,000 ppm. In the rat, calculi in the urinary bladder and related histopathological changes in the bladder and kidneys of males and females were observed at 30,000/40,000 ppm.

6. *Carcinogenicity.* Long-term feeding studies were conducted with technical grade fosetyl-Al in mice and rats and with monosodium phosphite, the primary urinary metabolite of fosetyl-Al, in rats. These studies, in addition to a mechanistic study in rats, are described below:

i. *Rat.* Fosetyl-Al was administered via admixture in the diet to CD rats at target levels of 0, 2,000, 8,000, and 30,000/40,000 ppm for approximately 2-years. After 2-weeks at 40,000 ppm, this dietary level was reduced to 30,000 ppm due to the occurrence of red coloration of the urine and a decrease in body weight gain. Although these findings were no longer apparent after week 2, analytical verification of dietary levels revealed that the highest dietary level ranged from approximately 38,000 to 61,000 ppm during the first 32 weeks of the study. Calculi in the urinary bladder were observed for several male and female rats at 30,000/40,000 ppm. Microscopic examination revealed transitional cell carcinomas and papillomas in the urinary bladders of high dose males. In addition, a statistically significant increase in adrenal pheochromocytomas (benign and malignant combined) was observed in males at 8,000 and 30,000/40,000 ppm. The adrenal slides were independently reread by two consulting pathologists who found no significant dose-related increases in the incidence of pheochromocytomas or hyperplasia. The NOEL for fosetyl-Al in the chronic rat study was 8,000 ppm. A subsequent mechanistic study in rats conducted with dietary levels of 8,000, 30,000 and 50,000 ppm demonstrated that the massive doses of 30,000 and 50,000 ppm fosetyl-Al alter calcium/phosphorous homeostasis resulting in severe acute renal injury, similar to that observed in the chromic rat study, and the formation of calculi in kidneys, ureters, and bladder. Under conditions of chronic exposure, these effects could lead to the formation of bladder tumors as seen in the chronic rat study. At 8,000 ppm, no evidence of renal injury was observed, a result consistent with the absence of bladder tumors. Thus, the bladder tumors induced by fosetyl-Al were the result of acute renal injury followed by a chronic toxic reaction rather than a true carcinogenic effect. An oncogenicity study in rats was conducted with monosodium phosphite administered via dietary mixture at levels of 2,000, 8,000, and 32,000 ppm. No evidence of oncogenicity was observed in this study.

ii. *Mouse.* A 2-year feeding/carcinogenicity study was conducted in mice fed diets containing fosetyl-Al at 0, 2,500, 10,000, or 20,000/30,000 ppm. The 20,000 ppm dose was increased to 30,000 ppm during week 19 of the study. The NOEL for all effects was 20,000/30,000 ppm (3,000/4,500 mg/kg/day). There were no carcinogenic effects observed under the conditions of this study.

iii. *Conclusion.* The Office of Pesticide Programs', Health Effects Division, Carcinogenicity Peer Review Committee (CPRC) concluded in their report of June 29, 1993 that the pesticidal use of fosetyl-Al is unlikely to pose a carcinogenic hazard for humans given that:

a. Tumors develop in rats under extreme conditions that are unlikely to be achieved other than under laboratory conditions (at a dose in excess of the OPP dose limit for carcinogenicity studies).

b. Tumors in rats are believed to develop only at doses that produce stones.

c. Human dietary exposure to fosetyl-Al is only about one-500,000th of the NOEL for stone formation in the rat (the most sensitive experimental model).

d. The dose of fosetyl-Al which can be absorbed dermally by applicators is also probably too low to result in stone formation. EPA has therefore chosen to use the Reference Dose (RfD) to quantify dietary risk to humans.

7. *Neurotoxicity.* No evidence of neurotoxic potential has ever been observed with fosetyl-Al. Fosetyl-Al does not have a chemical function associated with neurotoxicity. No signs of neurotoxicity have been recorded in any study conducted with fosetyl-Al.

8. *Animal metabolism.* Rat metabolism studies showed that most of the radiolabel rapidly appeared in exhaled carbon dioxide. There was also some radiolabel excreted in the urine as phosphite, along with a smaller amount as the unchanged parent compound. It appears that fosetyl-Al is essentially completely absorbed after ingestion and extensively hydrolyzed to carbon dioxide which is exhaled. The phosphite is excreted in the urine without further oxidation to phosphate. Aluminum does not appear to be absorbed to a significant extent from the gastrointestinal tract.

9. *Metabolite toxicology.* There are no metabolites of toxicological concern. The tolerances are established for the parent only, that is fosetyl-Al.

10. *Endocrine disruption.* No evidence of estrogenic or androgenic effects were noted in any study with fosetyl-Al. No adverse effects on mating or fertility indices and gestation, live birth, or weaning indices were noted in a 3-generation rat reproduction study at doses well above EPA's limit of 1,000 mg/kg/day. Therefore, fosetyl-Al does not have any effect on the endocrine system.

C. Aggregate Exposure

1. *Dietary exposure*—i. *Chronic risk.* Based upon all available data, EPA has established an RfD of 3.0 mg/kg/day using a 100 fold safety factor to account for inter- and intra-species differences and a NOEL of 250 mg/kg/bwt/day from a 2-year feeding study in dogs. A chronic dietary risk assessment was prepared using established and proposed tolerance residue levels, 1987 food consumption data, and 100% crop treated. The calculated potential exposure for the U.S. population is 0.065760 mg/kg bwt/day. Potential exposure for nursing and non-nursing infants less than 1-year old, children aged 1 to 6-years, and children aged 7 to 12-years is calculated to be 0.022485, 0.134076, 0.116682, and 0.069637 mg/kg bwt/day, respectively. This results in utilization of 2.2, 4.5, 3.9, and 2.3% of the RfD for the whole U.S. population, non-nursing infants less than 1-year old, children aged 1 to 6- years, and children aged 7 to 12-years, respectively. Thus, the dietary exposure for fosetyl-Al is well below the RfD of 3.0 mg/kg/day and is negligible for all segments of the population including infants and children.

ii. *Acute risk.* Based on a lack of acute toxicity and the large margins of exposure in the chronic dietary assessment, fosetyl-Al does not pose any acute dietary risks.

2. *Food.* The dietary exposure assessment accounts for all anticipated dietary exposure for a tolerance of 3.0 ppm on bananas, which is the subject of this request, and all other active and pending tolerances for fosetyl-Al. The active tolerances are for asparagus, avocados, blueberries, brassica, caneberries, citrus, cucurbits, ginseng, hops (dried), leafy vegetables, pineapple, onions (dry bulb), pome fruit, strawberries, and tomatoes. Pesticide petitions proposing the establishment of tolerances for Fosetyl-Al on grapes and macadamia nuts (IR-4) have also been submitted to the Agency.

3. *Drinking water.* There is no established maximum contaminant level (MCL) or health advisory level (HAL) for fosetyl-Al. The potential for ground water and/or surface water contamination by fosetyl-Al and its degradates is expected to be very low, in most cases, due to the rapid degradation of the compound in soil to non-toxic degradates under both aerobic and anaerobic conditions. Under aerobic laboratory conditions, the half-life of fosetyl-Al is between 1 and 1.5 hours in loamy sand, silt loam, and clay loam and 20 minutes in sandy loam soil. The degradation proceeds through the hydrolysis of the ethyl ester bond, resulting in the formation of phosphorous acid and ethanol. The ethanol is further degraded into carbon dioxide. Based on the short half-life of fosetyl-Al and the known fate of phosphates under anaerobic conditions, EPA determined that an anaerobic soil metabolism study was not necessary. An anaerobic aquatic soil metabolism study was conducted. When anaerobic conditions were established by flooding soil, the half-life was 40 hours with silty

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clay loam, and 14 hours with sandy loam soil.

4. *Non-dietary exposure*. In addition to agricultural uses, fosetyl-Al is registered on ornamentals and turf under the brand names CHIPCO Aliette WDG, and Aliette HG. CHIPCO Aliette WDG is sold to professional applicators only, which includes lawn care operators (LCO). All residential uses of CHIPCO Aliette WDG are applied by an LCO. Typically, LCOs use fungicides for ornamentals and turf on an as needed basis only in part because of high cost, variable performance, and little residual control. In 1994, LCOs made an estimated 206,200 acre treatments in total for all fungicides representing less than 1% of the available acreage of 32,740,000 assuming each acre was treated once (Kline & Company, Inc.). CHIPCO Aliette WDG is estimated to have been used on less than 3% of the acres treated with commercial landscapes (turf and ornamentals) constituting the majority of the use by LCOs. Therefore, fosetyl-Al is used by LCOs on less than 0.03% of the total available acres. Aliette HG is not currently being sold but plans are to introduce this product on the market in 1998 on a limited geographical scale. The product will be available to the home consumer in single dose packages for residential use on turf and ornamentals. Available market research information indicates that a total of 1.7 million pounds fungicide (active ingredient) are sold annually for use by the home owner. Since Aliette HG will just be entering the market, only very small quantities of the product are expected to be sold. The maximum amount expected to be sold for the next few years is approximately 1% of the total 1.7 million pounds of fungicide products available to the home owner for residential use on turf and ornamentals. This use of the product is therefore expected to have a negligible impact on the aggregate exposure for fosetyl-Al.

5. *Conclusion*. Considering that fosetyl-Al is applied by LCOs on about 0.03% of available lawn acres (the majority being commercial landscapes), the likelihood of post application exposure occurring, particularly in a residential situation, is extremely low. The use of fosetyl-Al by the homeowner constitutes a minor use of the product since only small quantities are expected to be sold in 1998. Other applications by professional operators, e.g. golf courses, nurseries, sod farms, present only very limited exposure to a limited population of adults but do not pose any exposure to small children. Thus, the ornamental and turf uses are not expected to add significantly to the aggregate exposure for fosetyl-Al, and only dietary exposure has been taken into consideration for risk assessment purposes.

D. Cumulative Effects

Effects associated with fosetyl-Al are unlikely to be cumulative with any other compound. The formation of calculi and bladder tumors in rats is the only significant toxicological effect observed with fosetyl-Al. These effects were observed in rat only at a dose which not only exceeds estimated human exposure by several orders of magnitude but is in excess of the OPP dose limit for carcinogenicity studies. Therefore, an aggregate assessment based on common mechanisms of toxicity is not appropriate as exposure to humans will be well below the levels producing calculi and bladder tumors in rats. Further, considering the rapid elimination of fosetyl-Al in the rat metabolism study, any effects associated with fosetyl-Al are unlikely to be cumulative with any other compound. Based on these reasons, only the potential risks of fosetyl-Al are considered in the exposure assessment.

E. Safety Determination

1. *U.S. population*. Based upon all available data, EPA has established an RfD of 3.0 mg/kg/day using a 100 fold safety factor to account for inter- and intra-species differences and a NOEL of 250 mg/kg bwt/day from a 2-year feeding study in dogs. A chronic dietary risk assessment using established and proposed tolerance residue levels, 1987 food consumption data, and 100% crop treated results in utilization of 2.2, 4.5, 3.9, and 2.3% of the RfD for the whole U.S. population, non-nursing infants less than 1-year old, children aged 1 to 6-years, and children aged 7 to 12-years, respectively. Thus, the dietary exposure for fosetyl-Al is well below the RfD of 3.0 mg/kg/day and is negligible for all segments of the population including infants and children.

2. *Infants and children—Adequate margin of safety*. In assessing the potential for additional sensitivity of infants and children to residues of fosetyl-Al, the available developmental and reproductive toxicity studies and the potential for endocrine modulation were considered. Developmental toxicity studies in two species indicate that fosetyl-Al has no teratogenic potential at any dose level. Further, no adverse effects on fetal development were observed in rabbits at doses up to 500 mg/kg/day or in rats at doses up to 1,000 mg/kg/day. In a 3-generation rat reproduction study, no adverse effects on reproductive performance or pup survival were observed up to 24,000 ppm (equivalent to a dose well above EPA's limit dose of 1,000 mg/kg/day). Maternal and developmental NOELs and LELs were comparable in all studies indicating no increase in susceptibility of developing organisms. Further, fosetyl-Al has no endocrine-modulation characteristics as demonstrated by the lack of endocrine effects in developmental, reproductive, subchronic, and chronic studies. Since registration of fosetyl-Al in 1983, EPA has assessed the safety of this molecule several times and has concluded repeatedly that the level of dietary exposure is sufficiently low to provide ample margins of safety to guard against any potential adverse effects of fosetyl-Al. Considering the conservative exposure assumptions in setting the tolerances and the dietary risk assessment assuming 100% crop treated, less than 5% of the RfD is utilized for non-nursing infants less than 1-year old, children aged 1 to 6-years, and children aged 7 to 12-years. The probability of non-occupational sources of exposure to fosetyl-Al is negligible. Therefore, based upon the completeness and reliability of the toxicity data and the conservative exposure assessment, there is a reasonable certainty that no harm will result to infants and children from exposure to the residues of fosetyl-Al and no additional uncertainty factor is warranted.

F. International Tolerances

There are presently no Codex maximum residue levels established for residues of fosetyl-Al on any crop.

[FR Doc. 98-17808 Filed 7-6-98; 8:45 am]

BILLING CODE 6560-50-F

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6121-3]

Proposed CERCLA Administrative De Minimis Contributor Settlement With Mesa Oil, Inc.—Rocky Flats Industrial Park Site in Jefferson County, Colorado

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice and request for public comment.

SUMMARY: In accordance with the requirements of section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative *de minimis*

settlement under section 122(g) of CERCLA, 42 U.S.C. 622(g) with Mesa Oil, Inc. ("MESA"), concerning the Rocky Flats Industrial Park site located in the 17000 block of Colorado Highway 72, approximately 2 miles east of the intersection of Colorado Highways 93 and 72, in Jefferson County, Colorado (the "Site"). The settlement, embodied in a proposed Administrative Order on Consent ("AOC"), is designed to resolve Mesa's liability at the Site through a covenant not to sue under sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607, and section 7003 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6973, subject to certain reopening provisions. The proposed AOC requires Mesa to pay a total of $2,000.00 in cash together with the approximately $50,000.00 of in-kind work contributed by Mesa to site investigation and remediation efforts at the Site, to address its liability to the United States related to past and future response actions at the Site.

Opportunity for comment

For thirty (30) days following the date of publication of this notice, the Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at the EPA Superfund Record Center, 999 18th Street, 5th Floor, in Denver, CO. Commenters may request an opportunity for a public meeting in the affected area in accordance with section 7003(d) of RCRA, 42 U.S.C. 6973(d).

DATES: Comments must be submitted on or before August 6, 1998.

ADDRESSES: The proposed settlement and additional background information relating to the settlement are available for public inspection at the EPA Superfund Records Center, 999 18th Street, 5th Floor, in Denver, CO. Comments and requests for a copy of the proposed settlement should be addressed to Carol Pokorny, Enforcement Specialist (8ENF-T), Technical Enforcement Program, U.S. Environmental Protection Agency, 999 18th Street, Suite 500, Denver, CO 80202–2466, and should reference the Rocky Flats Industrial Park Site, Jefferson County, CO and EPA Docket No. CERCLA–VIII–98–13.

FOR FURTHER INFORMATION CONTACT: Carol Pokorny, Enforcement Specialist (8ENF–T), Technical Enforcement Program, U.S. Environmental Protection Agency, 999 18th Street, Suite 500, Denver, CO 80202–2466, (303) 312–6970.

SUPPLEMENTARY INFORMATION: Notice of proposed administrative *de minimis* contributor settlement under section 122(g) of CERCLA, 42 U.S.C. 9622(g): In accordance with section 122(i) of CERCLA, 42 U.S.C. 9622(i), notification is hereby given that the terms of the AOC have been agreed to by Mesa. By the terms of the proposed AOC, Mesa will pay $2,000.00 cash to the Hazardous Substance Superfund for its release of 75 gallons of used oil containing hazardous substances. In addition to its cash payment, Mesa has contributed in-kind services valued at approximately $50,000.00 to the characterization and remediation of the Site. The in-kind services represent work Mesa has conducted in anticipation of this settlement and were not otherwise required by law. The total dollar amount which Mesa will pay to the Agency represents approximately 0.01538% of the estimated total cost of remediation. EPA estimates that the total response costs incurred and to be incurred at or in connection with the Site by the United States and by private parties to be approximately $13,000,000.00.

In exchange for payment and Mesa's remediation and investigatory work at the Site, EPA will provide Mesa with a covenant not to sue under sections 106 and 107(a) of CERCLA, 42 U.S.C. 9606 and 9607(a), and under section 7003 of the Solid Waste Disposal Act, as amended (also known as the Resource Conservation and Recovery Act), which will resolve Mesa's liability at the Site. The settlement also provides Mesa with contribution protection. Under the terms of the AOC, the United States reserves the right to institute judicial or administrative proceedings against Mesa seeking to compel Mesa to perform response actions relating to the Site, and/or to reimburse the United States for additional costs of response, if information not contained in EPA's administrative site file as of the effective date of the AOC is discovered which indicates that Mesa contributed hazardous substances to the Site in an amount greater than 6,690 gallons or hazardous substances which are significantly more toxic or are of significantly greater hazardous effect than other hazardous substances at the Site.

Dated: June 16, 1998.

Carol Rushin,

Assistant Regional Administrator, Office of Enforcement, Compliance and Environmental Justice, Region VIII.

[FR Doc. 98–17964 Filed 7–6–98; 8:45 am]

BILLING CODE 6560-50-M

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Regular Meeting; Sunshine Act

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), that the July 9, 1998 regular meeting of the Farm Credit Administration Board (Board) will not be held. The Board will hold a special meeting at 9:00 a.m. on Tuesday, July 14, 1998. An agenda for this meeting will be published at a later date.

FOR FURTHER INFORMATION CONTACT: Floyd Fithian, Secretary to the Farm Credit Administration Board, (703) 883–4025, TDD (703) 883–4444.

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

Dated: July 1, 1998.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 98–18048 Filed 7–2–98; 11:33 am]

BILLING CODE 6705-01-P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 92–237; DA 98–1317]

North American Numbering Council; Meeting

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: On July 1, 1998, the Commission released a public notice announcing the July 22–23,1998, meeting and agenda of the North American Numbering Council (NANC). The intended effect of this action is to make the public aware of the NANC's next meeting and its Agenda

FOR FURTHER INFORMATION CONTACT: Linda Simms, at (202) 418–2330 or via the Internet at lsimms@fcc.gov. The address is: Network Services Division, Common Carrier Bureau, Federal Communications Commission, 2000 M Street, NW, Suite 235, Washington, DC 20554. The fax number is: (202) 418–7314. The TTY number is: (202) 418–0484.

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SUPPLEMENTARY INFORMATION: Released: June 30, 1998.

The next meeting of the North American Numbering Council (NANC) will be held on Wednesday, July 22, 1998, from 8:30 a.m., until 5:00 p.m., and on Thursday, July 23, 1998, from 8:30 a.m., until 12 noon at the Federal Communications Commission, 1919 M Street, NW, Room 856, Washington, DC.

This meeting will be open to members of the general public. The FCC will attempt to accommodate as many people as possible. Admittance, however will be limited to the seating available. The public may submit written statements to the NANC, which must be received two business days before the meeting. In addition, oral statements at the meeting by parties or entities not represented on the NANC will be permitted to the extent time permits. Such statements will be limited to five minutes in length by any one party or entity, and requests to make an oral statement must be received two business days before each meeting. Requests to make an oral statement or provide written comments to the NANC should be sent to Linda Simms at the address under **FOR FURTHER INFORMATION CONTACT**, stated above.

Proposed Agenda

The planned agenda for the July 22–23, meeting is as follows:

1. Approval of meeting minutes.
2. Local Number Portability Administration (LNPA) Working Group Report. Report out on estimate of times to complete preport (PP) with efficient data representation (EDR), and port on demand (POD) architectures.
3. N11 Ad Hoc Working Group Report and Recommendation. Responsibilities under First Report and Order and Further Notice of Proposed Rulemaking, In the Matter of Use of N11 Codes and Other Abbreviated Dialing Arrangements, CC Docket 92–105, FCC 97–51.
4. Numbering Resource Optimization Working Group Report. Discussion and review status of telephone number reservation recommendation.
5. Industry Numbering Committee Report. Tutorial on service provider inventory and industry inventory intervals; including service provider request date to the pooling administrator; pooling administrator allocation date and actual effective date for a block to be put into service.
6. Cost Recovery Working Group Report.
7. COCUS and Proposed Line Number Utilization Survey. Discussion and review of contributions on question of complete, timely and accurate data reporting; obtaining forecasts from resellers, and the issue of audits.
8. North American Numbering Plan Administration (NANPA) report on statement of work for net costs associated with extension to 1000s block number pooling administration.

Federal Communications Commission.

Geraldine A. Matise,

Chief, Network Services Division, Common Carrier Bureau.

[FR Doc. 98–17976 Filed 7–6–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 98–1239]

Notice of Publix Network Corporation's Telecommunications Relay Services (TRS) Certification; CC Docket No. 90–571 and NSD-L–98–65

Released: June 30, 1998.

Notice is hereby given that the application for certification of the Publix Network Corporation's Interstate Telecommunication Relay Services (TRS) program has been granted, subject to the condition described below, pursuant to Title IV of the Americans with Disabilities Act of 1990, 47 U.S.C. 225(f)(2), and section 64.605(b) of the Commission's rules, 47 CFR 64.605(b). On the basis of Publix Network Corporation's application, the Commission has determined that:

(1) The TRS program of Publix Network Corporation meets or exceeds all operational, technical, and functional minimum standards contained in section 64.604 the Commission's rules, 47 CFR 64.604;

(2) The TRS program of Publix Network Corporation makes available adequate procedures and remedies for enforcing the requirements of the program; and,

(3) the TRS program of Publix Network Corporation in no way conflicts with federal law.

On May 14, 1998, the Commission adopted a Notice of Proposed Rulemaking that proposes ways to enhance the quality of existing telecommunications relay services (TRS) and expand those services for better use by individuals with speech disabilities. See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 98–67, FCC 98–90 (rel. May 20, 1998). Because the Commission may adopt changes to the rules governing relay programs, including state relay programs, the certification granted herein is conditioned on a demonstration of compliance with any new rules ultimately adopted by the Commission. The Commission will provide guidance to the states on demonstrating compliance with such rule changes.

This certification, as conditioned herein, is effective immediately and shall remain in effect until July 25, 2003. One year prior to the expiration of this certification, July 25, 2002, Publix Network Corporation may apply for renewal of their TRS program certification by filing documentation in accordance with the Commission's rules, pursuant to 47 CFR 64.605(a) and (b).

A copy of the certification letter is available for public inspection at the Commission's Common Carrier Bureau, Network Services Division, Room 235, 2000 M Street, NW, Washington, DC, Monday through Thursday, 8:30 a.m. to 3:00 p.m. (closed 12:30 to 1:30 p.m.) and the FCC Reference Center, Room 239, 1919 M Street, NW, Washington, DC, daily, from 9:00 a.m. to 4:30 p.m..

FOR FURTHER INFORMATION CONTACT: Al McCloud, (202) 418–2499, amccloud@fcc.gov; Helene Nankin, (202) 418–1466, hnankin@fcc.gov; or Kris Monteith, (202) 418–1098, kmonteit@fcc.gov, (TTY, 202–418–0484), at the Network Services Division, Common Carrier Bureau, Federal Communications Commission.

Federal Communications Commission.

Geraldine A. Matise,

Chief, Network Services Division, Common Carrier Bureau.

[FR Doc. 98–17925 Filed 7–6–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[CS Docket No. 98–102, FCC 98–137]

Annual Assessment of the Status of Competition in Markets for the Delivery of Video Programming

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry.

SUMMARY: The Commission is required to report annually to Congress on the status of competition in markets for the delivery of video programming. On June 23, 1998, the Commission adopted a *Notice of Inquiry* to solicit information from the public for use in preparing the competition report that is to be submitted to Congress in December 1998. The *Notice of Inquiry* will provide parties with an opportunity to submit

comments and information to be used in conjunction with publicly available information and filings submitted in relevant Commission proceedings to assess the extent of competition in the market for the delivery of video programming.

DATES: Comments are due by July 31, 1998, and reply comments are due by August 31, 1998.

ADDRESSES: Office of the Secretary, Room 222, Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Marcia Glauberman, Cable Services Bureau, (202) 418–7200 or TTY (202) 418–7172.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Inquiry* in CS Docket No. 98–102, FCC 98–137, adopted June 23, 1998, and released June 26, 1998. The complete text of this *Notice of Inquiry* is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, DC, 20554, and may also be purchased from the Commission's copy contractor, International Transcription Service ("ITS, Inc."), (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Synopsis of the Notice of Inquiry

1. Section 628(g) of the Communications Act of 1934, as amended ("Communications Act"), 47 U.S.C. 548(g), requires the Commission to deliver an annual report to Congress on the status of competition in markets for the delivery of video programming. The *Notice of Inquiry* (*"NOI"*) is designed to assist the Commission in gathering the information, data and public comment necessary to prepare its fifth annual report on competition in markets for the delivery of video programming ("1998 Competition Report"). The Commission expects to use the information submitted by commenters to supplement publicly available information and relevant comments that have been filed in other Commission proceedings.

2. For the 1998 Competition Report, we request information and comment regarding the cable industry, existing and potential competitors in markets for the delivery of video programming, and the prospects for increasing competition in these markets. We seek information to update our assessment of the status of competition and on changes in the competitive environment since our *1997 Competition Report*, summarized at 63 FR 10222 (March 2, 1998), was submitted to Congress. Commenters also are invited to identify and comment on existing statutory provisions and Commission regulations they perceive as restraining competition or inhibiting development of robust competition in markets for the delivery of video programming. We note that, pursuant to section 623(c)(4) of the Communications Act, the Commission's authority under section 623(c)(3) to review complaints submitted by local franchising authorities concerning increases in rates for cable programming service ("CPS") tiers sunsets on March 31, 1999. *See* 47 U.S.C. 543(c)(3) and (c)(4). The information gathered in this report will present the last comprehensive picture of the state of cable competition prior to the sunset date. For this year's report, to the extent feasible, we ask parties to submit data and information that are current as June 30, 1998.

3. As in previous reports, we seek factual information and statistical data regarding the status of video programming distributors using different technologies, and changes that have occurred in the past year. We ask for information on multichannel video programming distributors ("MPVDs") using predominantly wired distribution technologies, including cable systems, private cable or satellite master antenna television ("SMATV") systems, and open video systems ("OVS"). We also request data for those relying predominantly on wireless distribution technologies, such as over-the-air broadcast television, multichannel multipoint distribution service ("MMDS"), instructional television fixed service ("ITFS"), local multipoint distribution service ("LMDS"), direct broadcast satellite ("DBS") service, and home satellite dish ("HSD") service.

4. In addition to statistical data on each of these delivery services, we seek information regarding: (a) the number of homes passed (for wired technologies) and the number of homes capable of receiving service (for wireless technologies); (b) the number of operators; (c) the identities of the ten largest operators (national market only); (d) the number of subscribers and penetration rates; (e) channel capacities and the number and types of channels offered; and (f) the number and types of services offered. In addition, we request financial information for each technology, including firm and industry revenues, in the aggregate and by sources (e.g., subscriber revenues, advertising revenues, programming revenues); cash flow; changes in stock prices; investments; capital acquisition; and capital expenditures.

5. For each video programming distribution technology, we also request information describing: (a) technological advances (e.g., deployment of digital services) that make or may make the technology competitive; (b) the effort (including steps, costs and time) needed to increase the number of homes passed or capable of receiving service; (c) the effort (including steps, costs and time) needed to increase the number of channels and types of services offered; and (d) regulatory and judicial developments that affect the use of different technologies. In addition, in evaluating the extent of competition among various MVPDs' services or technologies, we seek information and analysis on the degree to which viewers or consumers consider the different types of MVPDs to be substitutes and on the extent to which customers have switched from one provider or technology to another one.

6. In the *NOI*, we request information on interservice competition and service to multiple dwelling unit ("MDU") buildings. We further seek information that will allow us to compare the cost to consumers of subscriptions to, and equipment needed to receive, alternative MVPD services (cable, DBS, MMDS, SMATV, or OVS) and to permit us to better understand the factors considered by consumers when choosing among alternative MVPDs. Further, we seek comment on the appropriate method for comparing the services and costs of different MVPDs.

7. As in prior reports, we will provide updated information in the 1998 Competition Report on the structure of, and rivalry in, markets for the delivery of video programming. To evaluate market concentration at the local, regional and national levels, we ask commenters to provide updated information on industry transactions, including information on mergers, acquisitions, consolidations, swaps and trades, cross-ownership, and other structural developments that affect distributors' delivery of video programming. In local markets where incumbent cable operators face competition from one or more other video programming distributors, we seek information on: (a) the identity of the competitors; (b) the distribution technology used by each competitor; (c) the date that each competitor entered the market; (d) the location of the market, including whether it is predominantly urban or rural; (e) an estimate of the subscribership and market share for the services of each competitor; (f) a description of the service offerings of each competitor; (g) differentiation strategies each competitor is pursuing; and (h) the prices charged for the service offerings.

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8. With respect to regional concentration (i.e., "clustering"), for cable and other MVPDs, we seek information on the geographic areas served by particular companies and comment regarding the effects industry consolidation and clustering have had on competition. We also seek data regarding current national subscribership levels of all MVPDs, changes in these levels since the *1997 Competition Report*, and the reasons for these changes, including whether such changes are the result of merger and acquisition activity, marketing strategies, or other factors. We also would like to evaluate MVPD service providers in the economic context of the larger communications marketplace based on their relative size and resources (e.g., revenues) and the extent to which participants have the ability to enter each others' market.

9. In the 1998 Competition Report, we will update information on existing and planned programming services, with particular focus on those programming services that are affiliated with video programming distributors. We seek information and ask a variety of questions on programming services that are affiliated with cable operators, affiliated with non-cable video programming distributors and unaffiliated with any MVPD.

10. For this year's report, we also request information on the various program options offered by each MVPD technology, including exclusive program offerings, the number of channels available, and the comparability of the program options and packages available with each technology. We ask whether there are certain programming services or specific classes of service that an MVPD needs to provide to subscribers in order to be successful. We request information regarding the extent that local cable operators or broadcasters are providing local or regional news or sports channels. In addition, we solicit information on the extent to which MVPDs offer or plan to offer electronic programming guides. We also seek information on the extent to which MVPDs are now offering or plan to offer consumers discrete programming choices (i.e., service on an "a la carte" or individual channel basis) rather than programming service packages (i.e., tiers of programming services) and the technical feasibility of offering programming in a customized manner. Moreover, we seek information and comment regarding public, educational and governmental ("PEG") access and leased access channels.

11. We further seek information and analysis regarding the effect of increased programming costs on rates, especially for cable service. We request information and comment on the factors that affect programming costs for cable operators and other MVPDs. We also ask about the extent to which the increased programming costs are passed through to MVPD subscribers and to advertisers.

12. As in previous reports, we will update our assessment of our program access, program carriage and channel occupancy rules. Commenters are asked to provide information regarding the effectiveness of these rules. We request information on whether the coverage of the program access rules is appropriate, on whether there have been any cases of MVPDs being denied programming when a satellite delivered service becomes terrestrially delivered or by non-vertically integrated programmers, and on any other issues of concern relating to the availability and distribution of programming.

13. We seek updated information on various technological advances that may affect industry structure and competition in markets for the delivery of video programming, including system upgrades and the deployment of digital technology. We ask whether upgrades are being undertaken only in specific geographic areas and whether they are conducted mainly in response to competitive entry. We seek information on the feasibility of combining distribution technologies (e.g., DBS and SMATV) and data regarding MVPDs' current use of combined distribution technologies. We also solicit data on estimated roll-out or launch dates for new technologies. In addition, we note that an important aspect of the technological developments taking place relates to the deployment of set top boxes, integrated receiver/decoders, or receivers that facilitate or differentiate MVPD service offering. We ask commenters to identify and describe each type of device, including its function and capabilities, its costs and availability to consumers.

14. Currently, basic and cable programming service rates are deregulated where a cable operator faces "effective competition" as defined in the Communications Act, 47 U.S.C. 543(l). We seek comment on whether the existing test for effective competition is an appropriate measurement of the existence of competition. Where commenters believe it is not the correct measure of competition, all or in part, we ask for suggested alternative means for determining competition.

15. In the last two reports, we examined several case studies of local markets where cable operators faced actual competition from MVPD entrants. We seek updated information on the effects of actual and potential competition in these and other local markets where consumers have, or soon will have, a choice among MVPDs, including specific data regarding areas where head-to-head competition exists between cable and other MVPDs, or among various types of MVPDs, and information on how such competition has affected prices, service offerings, quality of service, and other relevant factors.

16. We also would like to gather information on video delivery competition for and within MDUs. We request information on how common is it for consumers to have options to choose between or among MVPD services within a particular MDU and how program offerings and prices charged by competing MVPDs serving MDUs compare. We solicit information on how many exclusive service contracts, and how many so-called "perpetual" exclusive contracts, exist in MDUs at present and whether their use is increasing or decreasing. We request comment on the impact that the recent inside wiring, over-the-air reception device ("OTARD"), and cable bulk rate rules have had on MDU competition.

17. Finally, we request information regarding existing or potential regulatory impediments that may deter entry or prevent expansion of competitive opportunities in video program delivery markets. We also ask commenters to identify specific Commission rules, policies or regulations that ought to be reexamined in light of current competitive opportunities within multichannel video programming markets.

Administrative Matters:

Ex Parte

18. There are no ex parte or disclosure requirements applicable to this proceeding pursuant to 47 CFR 1.1204(a)(4).

Comment Dates

19. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before July 31, 1998, and reply comments on or before August 31, 1998. To file formally in this proceeding, participants must file an original and four copies of all comments, reply comments and supporting comments. If participants

want each Commissioner to receive a personal copy of their comments, an original plus ten copies must be filed. Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239) of the Federal Communications Commission, 1919 M Street, NW, Washington, DC 20554.

Ordering Clauses

20. This Notice of Inquiry is issued pursuant to authority contained in sections 4(i), 4(j), 403 and 628(g) of the Communications Act of 1934, as amended.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–17831 Filed 7–6–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:02 a.m. on Wednesday, July 1, 1998, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's supervisory activities.

In calling the meeting, the Board determined, on motion of Vice Chairman Andrew C. Hove, Jr., seconded by Director Joseph H. Neely (Appointive), concurred in by Mr. Richard M. Riccobono, acting in the place and stead of Director Ellen S. Seidman (Director, Office of Thrift Supervision), Director Julia L. Williams (Acting Comtroller of the Currency), and Chairman Donna Tanoue, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Dated: July 1, 1998.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 98–18024 Filed 7–2–98; 10:22 am]

BILLING CODE 6714–01–M

FEDERAL HOUSING FINANCE BOARD

Sunshine Act Meeting

Announcing an Open Meeting of the Board

TIME AND DATE: 10:00 a.m., Wednesday, July 8, 1998.

PLACE: Board Room, Floor, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

STATUS: The entire meeting will be open to the public.

MATTERS TO BE CONSIDERED DURING PORTIONS OPEN TO THE PUBLIC:

—Revisions to Procedures for Review of Disputed Supervisory Determinations
—Appointment of Federal Home Loan Bank Directors of Dallas and Topeka

CONTACT PERSON FOR MORE INFORMATION: Elaine L. Baker, Secretary to the Board, (202) 408–2837.

William W. Ginsberg,

Managing Director.

[FR Doc. 98–18122 Filed 7–2–98; 3:10 pm]

BILLING CODE 6725–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 20, 1998.

A. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. *Lonnie E. Clark*, Chandler, Minnesota; to acquire additional voting shares of Chandler Bancshares, Inc., Chandler, Minnesota, and thereby indirectly acquire State Bank of Chandler, Chandler, Minnesota.

B. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. *Leonard R. Scoleri and Synthia L. Scoleri*, both of Guernsey, Wyoming; to acquire voting shares of Community Bankshares of Wyoming, Guernsey, Wyoming, and thereby indirectly acquire Oregon Trail Bank, Guernsey, Wyoming.

Board of Governors of the Federal Reserve System, June 30, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–17864 Filed 7-7-98; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 30, 1998.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104

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Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. *The Colonial BancGroup, Inc.*, Montgomery, Alabama; to acquire 100 percent of the voting shares of FirstBank, Dallas, Texas.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. *First Illinois Bancorp, Inc.*, East St. Louis, Illinois; to acquire 100 percent of the voting shares of Duchesne Bank, St. Peters, Missouri.

C. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. *Merchants Holding Company*, Winona, Minnesota; to acquire 100 percent of the voting shares of Primo Financial Services, Inc., Hastings, Minnesota, and thereby indirectly acquire Hampton Bank, Hampton, Minnesota.

D. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. *Commerce Bancshares, Inc.*, Kansas City, Missouri, and its wholly owned subsidiary, CBI-Kansas, Inc., Missouri; to acquire and thereby merge with Columbus Bancshares, Inc., Columbus, Kansas, and thereby indirectly acquire Columbus State Bank, Columbus, Kansas.

Board of Governors of the Federal Reserve System, June 30, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98-17866 Filed 7-6-98; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 31, 1998.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. *Marfa Bancshares, Inc.*, Marfa, Texas, and Marfa Delaware Bancshares, Inc., Wilmington, Delaware; to become bank holding companies by acquiring 100 percent of the voting shares of The Marfa National Bank, Marfa, Texas.

Board of Governors of the Federal Reserve System, July 1, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98-17945 Filed 7-6-98; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 20, 1998.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. *BOK Financial Corporation*, Tulsa Oklahoma; to acquire Alliance Securities Corp., Tulsa, Oklahoma, and thereby indirectly acquire Leo Oppenheim & Co., Inc., Oklahoma City, Oklahoma, and thereby continue to engage in previously authorized underwriting and dealing in, to a limited extent, certain municipal revenue bonds,1-4 family mortgage related securities, consumer recievable related securities, and commercial paper; acting as agent in the private placement of all types of securities pursuant to § 225.28(b)(7)(iii) of Regulation Y, providing investment advisory services, pursuant to § 225.28(b)(6) of Regulation Y, underwriting and dealing in bank-eligible securities, pursuant to § 225.28(b)(8)(i), and providing securities brokerage services, pursuant to § 225.28(b)(7)(i) of Regulation Y.

Board of Governors of the Federal Reserve System, June 30, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98-17862 Filed 7-6-98; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated.

The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 21, 1998.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. *National City Bancshares, Inc.*, Evansville, Indiana; to acquire Princeton Federal Bank, FSB, Princeton, Kentucky, and thereby engage in the activities of operating a thrift, pursuant to § 225.28(b)(4) of Regulation Y.

Board of Governors of the Federal Reserve System, July 1, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–17946 Filed 7–6–98; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:00 a.m., Monday, July 13, 1998.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.bog.frb.fed.us for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: July 2, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–18142 Filed 7–2–98; 3:42 pm]

BILLING CODE 6210-01-P

FEDERAL TRADE COMMISSION

[File No. 981–0173]

Global Industrial Technologies, Inc.; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before September 8, 1998.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Joseph Krauss, FTC/H–383, Washington, D.C. 20580. (202) 326–2713.

SUPPLEMENTARY INFORMATION: Pusuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for June 26, 1998), on the World Wide Web, at "http://www.ftc.gov/os/actions97.htm." A paper copy can be obtained from the FTC Public Reference Room, Room H–130, Sixth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580, either in person or by calling (202)326–3627. Public comment is invited. Such commenters or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission ("Commission") has accepted, subject to final approval, an Agreement Containing Consent Order ("Agreement") from Global Industrial Technologies, Inc. ("proposed respondent").

The proposed Order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the Agreement and the comments received and will decide whether it should withdraw from the Agreement or make final the Agreement's proposed Order.

The Commission's investigation of this matter concerns the proposed acquisition by Global of all of the outstanding shares of AP Green Industries, Inc. ("AP Green") through a cash tender offer. Global and AP Green are two leading U.S. manufacturers of refractories. Refractories are heat-resistant materials used to line furnaces in industries that involve the heating or containment of solids, liquids, or gases at high temperatures. The Commission's proposed complaint alleges that Global and AP Green compete with each other in the United States market for glass-furnace silica refractories. Glass-furnace silica refractories are used in the glass industry to build the roofs and other portions of glass-melting furnaces.

The Agreement Containing Consent Order would, if finally accepted by the Commission, settle charges that the acquisition may substantially lessen competition in the production and sale of glass-furnace silica refractories in the United States and lead to a monopoly in that line of commerce. The Commission has reason to believe that the acquisition agreement violates Section 5 of the Federal Trade Commission Act and the acquisition would have anticompetitive effects and would violate Section 7 of the Clayton Act and Section 5 of the Federal Trade Commission Act if consummated, unless an effective remedy eliminates such anticompetitive effects.

The Commission's Complaint alleges that glass-furnace silica refractories provide unique characteristics, and that as a result, the use of these materials would not be diminished by even a large price increase. The Complaint further alleges that imports of glass-furnace silica refractories are small.

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Global and AP Green are the only two producers of glass-furnace silica refractories in the United States, and entry of other producers is unlikely and would be time consuming. The Commission's Complaint alleges that the proposed acquisition, which would result in a monopoly in the United States, would lessen competition by eliminating competition between Global and AP Green, and would lead to higher prices and less product innovation.

The proposed Order accepted for public comment contains provisions that would require Global to divest AP Green's glass-furnace silica refractories business to Robert R. Worthen and Dennis R. Williams (jointly or through a corporation called Utah Refractories Corp.) in a manner that receives the prior approval of the Commission within 30 days of the date the proposed Order was accepted for public comment, or if such divestiture fails, to another buyer that receives the prior approval of the Commission in a manner that receives the prior approval of the Commission within 90 days of the date the proposed Order was accepted for public comment. The divestiture includes the AP Green manufacturing plant located in Lehi, Utah, where AP Green produces silica refractories, together with the sources of raw materials used to manufacture silica refractories and all other assets relating to the research, development, production, sale, or distribution of silica refractories, but excluding AP Green's manufacturing facility in Sproul, Pennsylvania. Global's divestiture of the AP Green silica refractories business, if completed, would satisfy the requirements of the Order and remedy the lessening of competition alleged in the Complaint.

If Global fails to divest AP Green's silica refractories business within 90 days of the date the proposed Order was accepted for public comment, then the Commission may appoint a trustee to divest AP Green's silica refractories business, or, at the option of the trustee, Global's Northeast, Maryland manufacturing plant, where Global produces silica refractories, together with the sources of raw materials used to manufacture silica refractories and all other assets relating to the research, development, production, sale, or distribution of silica refractories, but excluding Global's manufacturing facility in Calhoun, Georgia.

The Order also contains a provision requiring Global to maintain the viability and marketability of the Global and AP Green silica refractories businesses pending the divestiture.

The consent is crafted to preserve the current competitive state of the U.S. market for glass-furnace silica refractories. The consent will maintain the AP Green silica plant as an independent supplier of glass-furnace silica refractories for U.S. customers. Thus, there will continue to be two domestic sources of the product, as there were prior to the proposed merger.

The purpose of this analysis is to facilitate public comment on the proposed Order. Comments should also be directed to whether the pre-approved buyers, Robert R. Worthen and Dennis R. Williams and their corporation, Utah Refractories Corp., will be financially viable and able to replace the competition lost by this acquisition. This analysis is not intended to constitute an official interpretation of the Agreement or the proposed Order or in any way to modify the terms of the Agreement or the proposed Order.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 98–17933 Filed 7–6–98; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 972–3157]

Herbal Worldwide Holdings Corp., et al.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis To Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before September 8, 1998.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Tom Carter or Susan Arthur, Dallas Regional Office, Federal Trade Commission, 100 N. Central Expressway, Suite 500, Dallas, TX. 75201. (214) 979–9350.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis To Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for June 26, 1998), on the World Wide Web, at "http://www.ftc.gov/os/actions97.htm." A paper copy can be obtained from the FTC Public Reference Room, Room H–130, Sixth Street and Pennsylvania Avenue, NW, Washington, DC 20580, either in person or by calling (202) 326–3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from Herbal Worldwide Holdings Corp., José Diaz, and Eduardo N. Naranjo (hereinafter "respondents"). Respondents are marketers of an over-the-counter weight loss product called "Fattaché."

The proposed consent order has been placed on the public record for sixty (60) days for the reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and any comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

This matter has focused on respondents' Spanish-language television advertisement for Fattaché. The ingredients in Fattaché include psyllium, chitosan, glucomannan, and apple pectin.

The proposed complaint alleges that respondents made unsubstantiated claims that: (1) Fattaché causes weight loss without a change in diet: (2) Fattaché prevents the absorption of ingested fat; (3) Fattaché helps eliminate ingested fat before it is absorbed, and (4) testimonials from consumers appearing in advertisements for Fattaché reflect the typical or ordinary experience of members of the public who use Fattaché.

Parts I and II of the proposed order prohibit the respondents from making the challenged claims, unless at the time of the representation, the respondents possess and rely on competent and reliable scientific evidence that substantiates the representation. Part II of the order also requires that if the respondents do not have substantiation for claims made through the use of consumer testimonials, that the advertisement disclose the results that users can generally expect to achieve, or the limited applicability of the endorser's experience to what users can generally expect to achieve.

Because this matter involves substances that could be regulated by the FDA as a food or drug, Part III of the order includes a "safe harbor" allowing the respondents to make any claims approved in any new drug application, or in any tentative final or final standard promulgated by that agency. In addition, Part IV of the proposed order includes a safe harbor for representations specifically permitted by regulations promulgated by the FDA pursuant to the Nutrition Labeling and Education Act of 1990.

The proposed order also requires the respondents to maintain materials relied on to substantiate clams covered by the order; to provide a copy of the consent agreement to all employees or representatives with duties affecting compliance with the terms of the order; and to file one or more compliance reports detailing compliance with the order.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order, or to modify in any way their terms.

Benjamin J. Berman.

Acting Secretary.

[FR Doc. 98–17934 Filed 7–6–98; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 972–3071]

Nutrivida, Inc., et al.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—emobodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before September 8, 1998.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Jeffrey Klurfeld or Erika Wodinsky, San Francisco Regional Office, Federal Trade Commission, 901 Market Street, Suite 570, San Francisco, CA. 94103. (415) 356–5270.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for June 26, 1998), on the World Wide Web, at "http://www.ftc.gov/os/actions97.htm." A paper copy can be obtained from the FTC Public Reference Room, Room H–130, Sixth Street and Pennsylvania Avenue, NW, Washington, DC 20580, either in person or by calling (202) 326–3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed consent order from Nutrivida Inc. ("Nutrivida") and Frank Huerta, an officer and director of the company.

The proposed consent order has been placed on the public record for sixty (60) days for the receipt of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and comments received and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

This matter concerns Spanish language television advertisements, including program length "infomercials," for the proposed respondents' Cartilet shark cartilage capsules. The Commission's complaint alleges that the proposed respondents made unsubstantiated representations that: (1) Cartilet shark cartilage capsules are effective in the symptomatic relief, treatment, or cure of cancer; (2) Cartilet shark cartilage capsules are effective in the symptomatic relief or treatment of rheumatism, arthritis, diabetes, fibroids, bursitis, circulatory problems, and cysts; and (3) testimonial from a consumer who appears in the advertisements for Cartilet shark cartilage capsules reflects the typical or ordinary experience of members of the public who use the product. The Commission's complaint also alleges that the proposed respondents falsely represented that studies prove that Cartilet shark cartilage capsules are effective in the symptomatic relief or treatment of cancer, arthritis, and diabetes and that the proposed respondents misrepresented that their infomercial for the Cartilet shark cartilage capsules was an independent television program and not paid advertising.

Paragraph I of the proposed order prohibits proposed respondents from representing that Nutrivida's Cartilet shark cartilage capsules or any other product are effective in the symptomatic relief, treatment, or cure of cancer or that Nutrivida's Cartilet shark cartilage capsules are effective in the symptomatic relief or treatment of rheumatism, arthritis, diabetes, fibroids, bursitis, circulatory problems, and cysts; unless, at the time the representation is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

Paragraph II of the proposed order would prohibit for Cartilet shark cartilage capsules or any food, dietary supplement, or drug, representations about the health benefits, performance, or efficacy of such product unless, at the time the representation is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

Paragraph III of the proposed order would prohibit for Cartilet shark cartilage capsules or any food, dietary supplement or drug, misrepresentations about the existence, contents, validity,

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results, conclusions, or interpretations of any test, study, or research.

Paragraph IV of the proposed order would prohibit for any food, dietary supplement or drug the representation that the experience represented by any user testimonial or endorsement of the product represents the typical or ordinary experience of members of the public who use the food, dietary supplement or drug, unless: at the time it is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation; or respondents disclose in the same language as the predominant language that is used in the advertisement, clearly and prominently, and in close proximity to the endorsement or testimonial, either (1) what the generally expected results would be for users of the food, dietary supplement or drug, or (2) the limited applicability of the endorser's experience to what consumers may generally expect to achieve, that is, the consumers should not expect to experience similar results.

Part V and VI of the proposed order contain provisions permitting certain claims that are approved for labeling by the FDA, either under the Nutrition Labeling and Education Act, a tentative or final standard or under any new drug application approved by the FDA.

Part VII of the proposed order would require proposed respondents to disclose "THE PROGRAM YOU ARE WATCHING IS A PAID ADVERTISEMENT FOR [THE PRODUCT OR SERVICE]" in television advertisements fifteen (15) minutes in length or longer, and to disclose a similar audio message in radio advertisements of fifteen (15) minutes in length or longer.

Part VIII of the proposed order contains record keeping requirements for materials that substantiate, qualify, or contradict claims covered by the proposed order. Part IX of the proposed order requires distribution of a copy of the order to current and future officers and agents. Part X provides for Commission notification upon a change in the corporate respondent and Part XI requires Commission notification when the individual respondent changes his business or employment. Part XII requires the proposed respondents to keep and maintain all records demonstrating compliance with the terms and provisions of the order. Part XIII provides for the termination of the order after twenty years under certain circumstances.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 98–17935 Filed 7–6–98; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 981–0211]

Sky Chefs, Inc., et al.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before September 8, 1998.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Phillip Broyles, FTC/S–2105, Washington, DC 20580. (202) 326–2805.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for June 29, 1998), on the World Wide Web, at "http://www.ftc.gov/os/actions97.htm." A paper copy can be obtained from the FTC Public Reference Room, Room H–130, Sixth Street and Pennsylvania Avenue, NW, Washington, DC 20580, either in person or by calling (202) 326-3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

I. Introduction

The Federal Trade Commission ("Commission") has accepted from Sky Chef, Inc., and its parents, Onex Corporation and Gerald W. Schwartz (collectively "Proposed Respondents") an Agreement Containing Consent Order ("Proposed Consent Order"). The Proposed Consent Order remedies the likely anticompetitive effects in the delivery of catering services to airlines at McCarran International Airport in Las Vegas, Nevada, that arise from the proposed acquisition of Ogden Aviation Food Services, Inc., by Proposed Respondents.

II. Description of the Parties and the Transaction

Sky Chefs, Inc., headquartered in Arlington, Texas, provides catering services to airlines in the United States and abroad. Its parent company, Onex Corporation, operates through a number of other subsidiaries that are involved in chain restaurant food service, electronics manufacturing, and other businesses. During 1997, Sky Chefs had total revenues of over $1 billion.

Ogden Corporation, headquartered in New York, is a global company providing a wide range of services in the aviation, entertainment, and energy industries. Ogden's wholly-owned indirect subsidiary, Ogden Aviation Food Services, Inc., and its wholly-owned subsidiary, Ogden Aviation Food Services (ALC), Inc., operate 11 kitchens serving in-flight food to more than 85 airlines at a number of locations, including eight major U.S. airports. Revenues for in-flight catering in 1997 are reported at $164 million.

On March 6, 1998, the parties signed a letter of intent contemplating that Sky Chefs, Inc., would purchase 100% of the voting common stock of Ogden Aviation Food Services, Inc., from Ogden Corporation. On May 7, 1998, the parties signed a stock purchase agreement that excluded the assets of Ogden's Las Vegas flight kitchen. On May 22, 1998, Ogden entered into an agreement to sell the Las Vegas flight kitchen to Dobbs International Services, Inc.

III. The Proposed Complaint and Consent Order

The Commission has entered into an agreement containing a Proposed Consent Order with Proposed Respondents in settlement of a proposed complaint alleging that the acquisition as originally proposed violates Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45, and that consummation of the acquisition as originally proposed would violate Section 7 of the Clayton Act, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act. The complaint alleges that the acquisition will lessen competition in the delivery of catering services to airlines at McCarran International Airport in Las Vegas, Nevada.

To remedy the alleged anticompetitive effects of proposed acquisition, the Proposed Consent Order prohibits Proposed Respondents, for ten (10) years after the consent order becomes final, from acquiring any concern that controls Ogden's Las Vegas catering operations without prior approval from the Commission. It also requires that, for ten (10) years, Proposed Respondents provide prior notice to the Commission before acquiring their only in-flight catering competitor at any airport in the United States.

Proposed Respondents are required to file annual compliance reports with the Commission for the next ten (10) years, with the first report due one year after the proposed order becomes final.

IV. Resolution of Antitrust Concerns

The Proposed Consent Order alleviates the alleged antitrust concerns arising from the acquisition in the delivery of catering services to airlines at McCarran International Airport in Las Vegas, Nevada.

In-flight caterers provide meals and beverages for consumption during aircraft flights. Catering services include the purchasing of food in accordance with airline specifications, preparation of meals, stocking of beverage carts, delivery of meals and carts to the aircraft, loading the galley, unloading of in-coming carts, utensils and trash, and cleaning and storage of carts and utensils.

Both Sky Chefs and Ogden provide in-flight catering services at McCarran International Airport in Las Vegas through their flight kitchens located at or near that airport. McCarran International Airport is a relevant antitrust geographic market because caterers at that airport could profitably raise prices by a small but significant and nontransitory amount without losing enough sales to flight kitchens in other areas to make such an increase unprofitable. Airlines cannot economically turn to other areas to obtain their Las Vegas catering services because of additional costs and quality problems associated with flying food in from more distant sources.

Sky Chefs and Ogden are the only companies that sell catering services to airlines at McCarran International Airport. The acquisition as originally proposed would eliminate Sky Chefs and Ogden as independent competitors in the provision of in-flight catering services at McCarran International Airport. The acquisition also would increase the ability of the combined Sky Chefs/Ogden business unilaterally to raise prices and reduce the quality of catering services at McCarran International Airport. New entry would not be timely, likely or sufficient to defeat an anticompetitive price increase or quality reduction. An entrant would need to capture a large share of the catering business at McCarran International Airport in order to reach a viable scale of operation. Such new entry would entail substantial sunk costs.

To remedy the potential anticompetitive effects of the transaction as originally proposed, Proposed Respondents and Ogden amended their stock purchase agreement to exclude Ogden's in-flight catering assets serving the Las Vegas airport. Subsequently, Ogden sold its Las Vegas in-flight catering assets to Dobbs International Services. The Proposed Consent Order prohibits Proposed Respondents, for ten (10) years, from acquiring an interest in those assets.

V. Opportunity for Public Comments

The Proposed Consent Order has been placed on the public record for sixty (60) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the Proposed Consent Order and the comments received and will decide whether it should withdraw from the Proposed Consent Order or make the order final.

The purpose of this analysis is to invite public comment on the Proposed Consent Order to aid the Commission in its determination of whether to make final the Proposed Consent Order. This analysis does not constitute an official interpretation of the Proposed Consent Order, nor is it intended to modify the terms of the Proposed Consent Order in any way.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 98–17936 Filed 7–6–98; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Notice of Meeting

In accordance with section 10 (d) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2) announcement is made of the following special emphasis panel scheduled to meet during the month of July 1998:

Name: Health Care Policy and Research Special Emphasis Panel.

Date and Time: July 10, 1998 8:30 a.m.

Place: Doubletree Hotel, 1750 Rockville Pike, Montrose Room, Rockville, Maryland 20852.

Open July 10, 8:30 a.m. to 9:00 a.m. Closed for remainder of meeting.

Purpose: This Panel is charged with conducting the initial review of grant applications requesting support for small research projects focused on the quality, appropriateness, and effectiveness of health care services and access to those services.

Agenda: The open session of the meeting on July 10, from 8:30 a.m. to 9:00 a.m. will be devoted to a business meeting covering administrative matters. During the closed session, the Panel will be reviewing and discussing grant applications. In accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C., Appendix 2 and 5 U.S.C., 552b (c)(6), the Administrator, Agency for Health Care Policy and Research, has made a formal determination that this latter session will be closed because the discussions are likely to reveal personal information concerning individuals associated with the grant applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a roster of members, minutes of the meeting, or other relevant information should contact Jenny Griffith, Committee Management Officer, Agency for Health Care Policy and Research, Suite 400, 2101 East Jefferson Street, Rockville, Maryland 20852, Telephone (301) 594–1455 × 1036.

Agenda items for this meeting are subject to change as priorities dictate.

Dated: June 23, 1998.

John M. Eisenberg,

Admistrator.

[FR Doc. 98–17924 Filed 7–6–98; 8:45 am]

BILLING CODE 4160–90–M

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

General Reorganization; Statement of Organization, Functions, and Delegations of Authority

Part E, Chapter E (Agency for Health Care Policy and Research), of the Statement of Organization, functions, and Delegations of Authority for the Department of Health and Human Service (61 FR 15955–58, April 10, 1996, and 62 FR 61511–12, November 18, 1997) is amended to reflect organizational changes within the Agency for Health Care Policy and Research (AHCPR). This action is necessitated by a reordering of Agency priorities and the need to more effectively align and utilize Agency resources. The principal organizational and functional changes required by this action involve:

A. Abolishing the Office of Planning and Evaluation, with certain functions being reassigned to other components in AHCPR;

B. Abolishing the Center for Information Technology, with a limited number of its functions absorbed by other components of the Agency;

C. Retitling the Office of Scientific Affairs to be more reflective of expanded functions, and;

D. Establishing a staff-level office within the Office of the Administrator to carry out the functions of the Center for Health Information Dissemination, which will subsequently be abolished by this action.

Other minor changes have been made consistent with this reorganization.

Under *Section E–10, Organization,* delete entries A. through M. and insert the following:

A. Immediate Office of the Administrator
B. Office of Management
C. Office of Policy Analysis
D. Office of Research Review, Education, and Policy
E. Office of Health Care Information
F. Center for Cost and Financing Studies
G. Center for Organization and Delivery Studies
H. Center for Outcomes and Effectiveness Research
I. Center for Primary Care Research
J. Center for Quality Measurement and Improvement
K. Center for Practice and Technology Assessment

Under *Section E–20, Functions,* delete the titles and statements for the *Office of Planning and Evaluation (EAB),* the *Office of Scientific Affairs (EAE),* the *Center for Health Information Dissemination (EF),* and the *Center for Information Technology (EG).*

Within the statement for the *Immediate Office of the Administrator (EA),* delete (2) and insert the following: "(2) plans, directs, coordinates, and evaluates the Agency's research, training programs, and dissemination activities, including particular focus areas, such as special populations, initiatives, and administrative policies and procedures;".

Within the statement for the *Office of Policy Analysis (EAC),* make the following changes:

Delete (6) and insert the following: "(6) coordinates the legislative activities of the Agency including the development of legislative proposals and analysis of health legislative initiatives, and reports to Congress;"

Following (8), insert the following: "(9) coordinates review and clearance of Department and other Federal policies and regulations; and" and renumber the old (9) as (10).

Following the statement for the *Office of Policy Analysis (EAC),* insert the following:

Office of Research Review, Education, and Policy (EAE). Directs the scientific review process for grants and Small Business Innovation Research (SBIR) contracts, the assignment of applications to Agency Centers, manages Agency research training programs, and evaluates the scientific contribution of proposed and on-going research, demonstrations, and evaluations. Specifically: (1) directs the process for selecting, reviewing, and funding grants and reviewing SBIR contracts for scientific merit and program relevance; (2) assigns grant applications to Centers for administrative action; (3) manages the process for making funding decisions for grants; (4) directs Agency research training programs and implementation of the National Research Service Award authority; (5) manages the committee management and scientific integrity processes for the intramural and extramural programs of the Agency; (6) develops and coordinates clearance of peer review regulations, as required, policy notices and program announcements; (7) facilitates Agency-wide communication and coordination regarding extramural policy, planning, and analysis; and (8) represents the Agency in meetings with experts and organizations on issues related to the administration of the Agency's scientific programs.

Office of Health Care Information (EAF). Designs, develops, implements, and manages programs for disseminating the results of Agency activities. Specifically: (1) Communicates the results and significance of health services research and other AHCPR initiatives to the health care industry, health care providers, consumers and patients, policy makers, researchers, and the media with particular emphasis on communicating AHCPR initiatives in the ways each of these constituencies are most interested; (2) manages the editing, publication, and information distribution processes of the Agency, including Freedom of Information Act administration; (3) provides the administrative support for reference services and the distribution of technical information to Agency staff; (4) manages the public affairs activities of the Agency, Agency clearinghouse for responding to requests for information and technical assistance, and a program for consumer information about health care research findings; (5) directs a user liaison program to provide health care research and policy findings to Federal, State and local public officials, and other audiences as appropriate; (6) evaluates the effectiveness of Agency dissemination strategies and implements changes indicated by such evaluations; and (7) represents the Agency in meetings with Department and Public Health Service representatives on press releases, media events, and publication clearance.

All delegations and redelegations of authority to officers and employees of the Agency for Health Care Policy and Research which were in effect immediately prior to the effective date of this reorganization shall continue in effect pending further redelegation, provided they are consistent with this reorganization.

These changes are effective upon date of signature.

Dated: June 18, 1998.

John M. Eisenberg,
Administrator.

[FR Doc. 98–17923 Filed 7–6–98; 8:45 am]

BILLING CODE 4160-90-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Clinical Laboratory Improvement Advisory Committee (CLIAC): Meeting

Name: CLIAC, Workgroup on Genetic Testing.

Times and Dates: 8:30 a.m.–5 p.m., July 30, 1998; 8:30 a.m.–5 p.m., July 31, 1998.

Place: CDC, Koger Center, Williams Building, Conference Rooms 1802 and 1805, 2877 Brandywine Road, Atlanta, Georgia 30341.

Status: Open to the public, limited only by the space available. The meeting rooms accommodate approximately 85 people.

Purpose: This workgroup advises CLIAC on issues related to Genetic Testing.

Matters to be Discussed: The workgroup will discuss and revise recommendations for general or specific Clinical Laboratory Improvement Amendments (CLIA) requirements for pre-analytic, analytic, and post-analytic components of genetic testing.

Agenda items are subject to change as priorities dictate.

Contact Person for Additional Information: John C. Ridderhof, Dr. P.H., Division of Laboratory Systems, Public Health Practice Program Office, CDC, 4770 Buford Highway, NW Mailstop G-25, Atlanta, Georgia 30341, telephone 770/488-8076, FAX 770/488-8282.

Dated: June 26, 1998.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–17917 Filed 7–6–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Meeting

National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) announces the following meeting.

Name: Laboratory Evaluation of Novel Personal Heat Strain Monitors in Young and Older Wearers of Protective Clothing.

Time and Date: 1 p.m.–3:30 p.m., July 21, 1998.

Location: NIOSH, CDC, Room H–203, 1095 Willowdale Road, Morgantown, WV 26505.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 35 people.

Purpose: Participants will provide NIOSH with their individual advice and comments regarding the technical and scientific aspects of the study protocol, A Laboratory Evaluation of Novel Personal Heat Strain Monitors in Young and Older Wearers of Protective Clothing, being conducted at NIOSH. Participants on the peer review panel will review the study protocol and provide individual advice on the conduct of this study. Viewpoints and suggestions from industry, labor, academia, other governmental agencies, and the public are invited.

Contact Person for Additional Information: Nina L. Turner, NIOSH, CDC, M/S 35, 1095 Willowdale Road, Morgantown, West Virginia, 26505–2888, telephone 304/285–5976.

Dated: June 30, 1998.

Carolyn J. Russell.

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–17916 Filed 7–6–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98F–0492]

ICI PLC; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that ICI PLC has filed a petition proposing that the food additive regulations be amended to provide for the expanded safe use of N,N-bis (2-hydroxyethyl) alkyl (C_{13}-C_{15}) amine as an antistatic agent in polypropylene homo- and copolymers intended for contact with food.

FOR FURTHER INFORMATION CONTACT: Ellen M. Waldron, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3089.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5)), notice is given that a food additive petition (FAP 8B4602) has been filed by ICI PLC, c/o ICI Surfactants, P.O. Box 8340, Wilmington, DE 19803–8340. The petition proposes to amend the food additive regulations in § 178.3130 *Antistatic and/or antifogging agents in food-packing materials* (21 CFR 178.3130) to provide for the expanded safe use of N,N-bis (2-hydroxyethyl) alkyl (C_{13}-C_{15}) amine as an antistatic agent in polypropylene homo- and copolymers intended for contact with food.

The agency has determined under 21 CFR 25.32(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: June 17, 1998.

Linda M. Tarantino,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 98–17877 Filed 7–6–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Team Biologics; Workshop for Manufacturers of Licensed In Vitro Diagnostics

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

The Food and Drug Administration (FDA), Center for Biologics Evaluation and Research (CBER) and the Office of Regulatory Affairs (ORA) is announcing the following workshop for the biologics industry: Team Biologics: Workshop for Manufacturers of Licensed In Vitro Diagnostics. The topics to be discussed include information for manufacturers of licensed in vitro diagnostics on team biologics, good manufacturing practices, and compliance and enforcement issues. Questions submitted by industry prior to the workshop will be addressed by FDA staff.

Date and Time: The workshop will be held on Friday, August 7, 1998, 8 a.m. to 5 p.m.

Location: The workshop will be held at the Hyatt Regency Bethesda, One Bethesda Metro, Bethesda, MD 20814, 301–657–6406.

Contact: Kathy A. Eberhart, Food and Drug Administration, Center for Biologics Evaluation and Research (HFM–49), 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–827–2000, FAX 301–827–3079, e-mail "eberhart@cber.fda.gov".

Registration: Fax registration information (including name, title, firm name, address, telephone, and fax number) and questions to the contact person by Friday, July 24, 1998. There is no registration fee for the workshop. Space is limited, therefore interested parties are encouraged to register early.

If you need special accommodations due to a disability, please contact Kathy A. Eberhart at least 7 days in advance.

SUPPLEMENTARY INFORMATION: FDA has established a framework for a partnership between ORA and CBER called Team Biologics. This partnership will use the diverse skills and knowledge of both ORA and CBER staffs to focus resources on inspectional and compliance issues in the biologics area.

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The goal of Team Biologics is to ensure the quality and safety of biological products and quickly resolve inconsistencies and bring products into compliance. It is designed to promote uniformity between CBER and the field and among FDA field components associated with inspections, policy implementation, and current good manufacturing practice interpretation.

In April 1998, the responsibility for inspecting manufacturers of licensed in vitro diagnostics was transferred to Team Biologics investigators. The purpose of this workshop is to provide an overview of the Team Biologics concept to this segment of regulated industry, share the agency's experience with Team Biologics' inspections of manufacturers of licensed in vitro diagnostics to date, and provide manufacturers with an overview of FDA's expectations under this program.

The agenda and any other relevant information will be available electronically via the Internet at "http://www.fda.gov/cber/scireg.htm".

Transcripts: Transcripts of the workshop may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the workshop at a cost of 10 cents per page. FDA will videotape the workshop and copies of the tapes will also be made available through the Freedom of Information Office.

Dated: June 20, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–17878 Filed 7–6–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[FDA 225–96–6000]

Memorandum of Understanding Between the Food and Drug Administration and the Defense Alliance for Advanced Medical Terminology

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing notice of a memorandum of understanding (MOU) between FDA and the Defense Alliance for Advanced Medical Terminology (DAAMT). The purpose of the MOU is to enable government agencies to exchange information and jointly pursue research endeavors related to medical device safety and effectiveness.

DATES: The agreement became effective October 17, 1996.

FOR FURTHER INFORMATION CONTACT: Thomas B. Shope, Center for Devices and Radiological Health (HFZ–140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3314, ext. 32.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 20.108(c), which states that all written agreements and memoranda of understanding between FDA and others shall be published in the **Federal Register**, the agency is publishing notice of an MOU.

Dated: June 26, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

BILLING CODE 4160–01–F

MEMORANDUM OF UNDERSTANDING
BETWEEN THE
DEFENSE ALLIANCE FOR ADVANCED MEDICAL TECHNOLOGY
AND THE
U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
FOOD AND DRUG ADMINISTRATION

September 1996

I. Purpose: A collaborative arrangement will be established between the Food and Drug Administration's Center for Devices and Radiological Health (FDA) and the Defense Alliance for Advanced Medical Technology (DAAMT). As the Department of Defense and other Government agencies move toward dual use and application of emerging technologies, especially in the area of applying these technologies to the development of new medical devices, improved cooperation, coordination and communication between the agencies sponsoring research and the FDA is in the national interest. This agreement will enable engineers, physicians and scientists from each organization to exchange information and jointly pursue research endeavors related to medical device safety and effectiveness.

II. Background: Over the past century, a vast array of technologies and technology support infrastructure has been developed for the national security requirements of the United States. Most of these resources reside under either the Department of Defense or the Department of Energy and are part of the science and technology base within the national laboratory structure. These resources have been directed primarily toward developing conventional and nuclear weapons systems used in defense.

With the recent changes in policy, priorities and alignments occasioned by the dissolution of the Soviet Union and the changing face of world political/social/economic realities, goals and resource utilization within the U.S. Government have been reevaluated, especially in the defense-related agencies. As a result, new priorities in technological development have emerged. Chief among these is the concept of dual-use technologies. Dual-use technology is basically the application of technologies to fields outside the initial field developing the technology. Increasing emphasis has been placed upon dual use by the current administration. As a result, the defense technology base is having to adapt to new paradigms in the area of technology development and cross-agency cooperation. Adding to the emphasis on dual use is the necessity for maintaining a viable technology base that can still meet the needs of the national defense. Meaningful dual-use technology guarantees a broader application base for the technology, while in no way detracting from the primary mission or capability of the laboratory performing the research. These highly desirable attributes are beginning to foster a wave of innovative thinking on multiple applications for defense technologies.

One of the most attractive and beneficial areas in which dual-use technology can be applied is the field of medical technology. Many of the technologies that have been

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developed for defense applications are directly applicable to the medical field. This is not surprising given the striking similarities that can be found between the medical and the defense fields. For example, the concepts of target, target signature, identification of friend or foe, all have close analogs in the medical field (tissue identification, tissue biopsy, determination of benign versus malignant tissue). Further, not just technologies, but methodologies developed for use in the defense fields can also be applied to medical programs (test and evaluation planning, problem solving, and technology strategies to name a few). Unfortunately, there has been limited communication between the medical and defense technology communities. There are a variety of reasons for this, not the least of which are differences in culture and training between the two communities. Nonetheless, there still remain significant ways in which these two communities can work together for the benefit of both, as well as society.

Toward this end, the Defense Alliance for Advanced Medical Technology (DAAMT) was organized to provide a basis and framework to:

- break down the barriers that impede communication between the two communities.
- generate and promote innovative concepts and applications of defense technologies to the medical field and vice versa.
- identify and pursue resources and support for these applications and concepts.
- develop, improve, and enable the transition of these technologies and concepts to the Government and private sector to promote current national goals of improved health care and national defense.

The DAAMT was established by a Memorandum of Understanding between the USAF Wright Laboratory and the Walter Reed Army Institute of Research in October 1994 for an Alliance for the Cooperate Pursuit and Development of Defense Technologies for Medical Applications. Since its establishment, several other Federal agencies have joined DAAMT.

III. Substance of Agreement:

A. FDA's Center for Devices and Radiological Health will participate as a full member in the DAAMT without any transfer of funds from the FDA to the DAAMT. In place of the DAAMT membership fee, FDA will, through CDRH, contribute to the DAAMT goals and objectives by providing to DAAMT members, their contractors and other interested parties expert consultation regarding the regulatory process for medical devices and medical device development, testing and evaluation (both pre-clinical and clinical). The FDA will also provide consultation and training on regulatory requirements applicable to new devices. The FDA will also collaborate with DAAMT members by both providing access to FDA specialized laboratory facilities and participating in projects utilizing DAAMT-member specialized laboratory facilities for specific projects of mutual interest. Specific projects will be planned and executed on a project-by-project basis by mutual agreement of the parties involved. Should specific projects require the transfer of funds, assignment of staff or permanent transfer of equipment, an appropriate Interagency Agreement will be developed for that purpose.

B. The DAAMT will include the FDA in its projects and endeavors to promote dual use of medical device technology and technology relevant to medical device development. DAAMT members will collaborate with FDA by providing access to their specialized laboratory facilities and participate in projects utilizing FDA's specialized laboratories. Specific projects will be planned and executed on a project-by-project basis by mutual agreement of the parties involved.

C. The Memorandum of Understanding between USAF Wright Laboratory and Walter Reed Army Institute of Research, Division of Surgery for an Alliance for the Cooperative Pursuit and Development of Defense Technologies for Medical Applications dated 4 October 1994 and the Addendum to that Memorandum of Understanding dated 10 February 1995 shall provide the basis for the organization and operation of the Defense Alliance for Advanced Medical Technology and the Food and Drug Administration's participation in the DAAMT.

IV. Name and Address of Participating Parties:

Defense Alliance for Advanced Medical Technology
Colonel William P. Wiesmann, Chair
Walter Reed Army Institute of Research
Division of Surgery, Building 40
14th and Dahlia Streets
Washington, DC 20307
TELEPHONE: (202) 782-3791

Center for Devices and Radiological Health
Food and Drug Administration, DHHS
9200 Corporate Boulevard
Rockville, Maryland 20850
TELEPHONE: (301) 443-4690

V. Liaison Officers:

For the Defense Alliance for Advanced Medical Technology:

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William P. Wiesmann, M.D.
Colonel, USA, Medical Corps
Director, Division of Surgery, Walter Reed Army Institute of Research
Chair, Defense Alliance for Advanced Medical Technology
Division of Surgery, Building 40
14th and Dahlia Streets
Washington, DC 20307
TELEPHONE: (202) 782-3791

For the Food and Drug Administration:

Elizabeth D. Jacobson, Ph.D.
Deputy Director for Science, Center for Devices and Radiological Health, FDA
9200 Corporate Boulevard (HFZ-2)
Rockville, Maryland 20850
TELEPHONE: (301) 443-4690

FDA Technical Liaison:

Thomas B. Shope, Ph.D.
Acting Director, Division of Electronics and Computer Science (HFZ-140)
Office of Science and Technology
Center for Devices and Radiological Health, FDA
Rockville, Maryland 20857
TELEPHONE: (301) 443-3314, Extension 32

VI. Period of Agreement: This agreement becomes effective upon acceptance by both parties, and will continue in effect for a period of five (5) years from date of signature. It may be modified by mutual written consent or terminated by either party upon a 30-day advance written notice to the other party. During the last six (6) months of the agreement, it will be reviewed by both parties as to the need to continue the agreement.

VII. Funding of Project: No funding will be provided by the FDA to DAAMT as part of this agreement. FDA personnel and laboratories will collaborate with other members of the DAAMT on projects of mutual interest. Facilities and equipment of each party will be made available to the other in accordance with individual project plans and agreements.

VIII. Reporting Requirements: Reporting responsibility will be determined on a case-by-case basis based upon project requirements. Reports will be provided as necessary to all DAAMT members.

IX. Schedules and Milestones: Schedules and milestones for collaborative projects will be developed by mutual agreement for individual projects.

X. Disposition of Data: The project plan for each collaborative project will specify the disposition of data which may result from the project. Data collected by DAAMT members, including FDA, in the course of collective activities will be shared as described in the specific project plan. If the results of data collected in joint activities are published, both DAAMT and the FDA will be acknowledged. Data, whose disclosure by FDA is prohibited, will not be shared unless appropriate safeguards are established in the individual project plan.

XI. Sharing Data and Information: FDA and DAAMT recognize the need to protect trade secret, confidential commercial, financial, personal and medical information from disclosure. However, FDA and DAAMT believe that an exchange of data and information to the extent allowed by law is necessary to achieve the ends of this agreement. Therefore, to the extent allowed under 21 U.S.C. § 331(j), 21 U.S.C. § 360j(c), 42 U.S.C. § 353g(d), 42 U.S.C. § 263i(e), and 21 C.F.R. Part 20, FDA agrees to share data and information with DAAMT upon request.

XII. Disclosure of Data and Information in Response to Requests: If disclosure of data or information exchanged under this MOU is requested by a request under the Freedom of Information Act, a Congressional inquiry, or pursuant to other regulatory responsibilities, the agency that receives the request shall notify the agency that provided the information if they are not the same agency. The notified agency will be responsible for making any needed contact with the submitter of the protected information and will accept the responsibility for evaluating the submitter's comments prior to rendering the disclosure determination.

To preserve maximum control over actual disclosure of its own records, each agency shall retain legal authority and the commensurate responsibility over disclosure of those documents provided to the other agency.

XIII. Government Property/Facilities: Both parties will make available personnel and facilities as required by individual projects based on the mutually developed project plans.

APPROVED AND ACCEPTED for the Defense Alliance for Advanced Medical Technology

BY William P Wiesmann 10/17/96

William P. Wiesmann, M.D. DATE
COL, USA, MC
Chair, Defense Alliance for Advanced Medical Technology

APPROVED AND ACCEPTED for the Food and Drug Administration

BY Elizabeth D Jacobson 10/17/96

Elizabeth D. Jacobson, Ph.D. DATE
Deputy Director for Science
Center for Devices and Radiological Health
Food and Drug Administration

[FR Doc. 98–17859 Filed 7–6–98; 8:45 am]
BILLING CODE 4160-01-C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D-0265]

Guidance for Industry on Qualifying for Pediatric Exclusivity; Availability; Request for Submissions

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; request for submissions.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled "Qualifying for Pediatric Exclusivity Under Section 505A of the Federal Food, Drug, and Cosmetic Act." FDA is also requesting the submission of proposed pediatric study requests. This guidance is intended to assist industry in interpreting newly enacted provisions of the Food and Drug Administration Modernization Act of 1997 (Modernization Act). This guidance will remain in effect until superseded by regulations or new guidance.

DATES: Written comments may be submitted on the guidance by October 5, 1998. General comments on agency guidance documents are welcome at any time. Sponsors of applications for marketed drugs that appear in the priority section of the "List of Approved Drugs for Which Additional Pediatric Information May Produce Health Benefits in the Pediatric Population" (the list) (see Docket No. 98N-0056) (63 FR 27733) for which any exclusivity or patent period expires on or before March 31, 1999, should submit proposed pediatric study requests to the appropriate new drug review division with a facsimile copy to Khyati N. Roberts (address below) on or before August 31, 1998, for expedited consideration.

ADDRESSES: Submit written requests for single copies of "Qualifying for Pediatric Exclusivity Under Section 505A of the Federal Food, Drug, and Cosmetic Act" to the Drug Information Branch (HFD-210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, or the Manufacturers Assistance and Communications Staff (HFM-42), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852-1448. Send one self-addressed adhesive label to assist in processing your requests. Submit written comments on the guidance to the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. See the **Supplementary Information** section of this document for electronic access to the draft guidance.

FOR FURTHER INFORMATION CONTACT: Khyati N. Roberts, Center for Drug Evaluation and Research (HFD-6), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-594-6779, FAX 301-594-5493, e-mail "robertsk@cder.fda.gov", or David W. Feigal, Center for Biologics Evaluation and Research (HFM-6), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301-827-0376, FAX 301-827-0440, e-mail "feigal@cber.fda.gov".

SUPPLEMENTARY INFORMATION:

I. Description of the Guidance

FDA is announcing the availability of a guidance for industry entitled "Qualifying for Pediatric Exclusivity Under Section 505A of the Federal Food, Drug, and Cosmetic Act." Section 111 of the Modernization Act (Pub. L. 105-115), signed into law by President Clinton on November 21, 1997, created section 505A of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355a). Section 505A of the act permits certain applications to obtain an additional 6 months of marketing exclusivity if, in accordance with the requirements of the statute, the sponsor submits information relating to the use of the drug in the pediatric population. FDA plans to issue regulations through notice-and-comment rulemaking to implement the pediatric exclusivity provisions of the Modernization Act. The agency is publishing this procedural guidance to explain how the agency intends to implement section 505A of the act in the interim. The guidance will be updated as appropriate. This guidance will remain in effect until superseded by regulations or new guidance.

This guidance describes FDA's current thinking on how sponsors may qualify for pediatric exclusivity under section 505A of the act. The guidance includes the following topics: (1) Whether studies for certain drugs will be requested under section 505A(a) or (c), (2) the definition of pediatric studies, (3) the content and format of an FDA request for pediatric studies, (4) how an applicant can obtain an FDA written request, (5) the content of a written agreement for the conduct of pediatric studies, (6) the definition of commonly accepted scientific principles, (7) the filing of reports of studies, (8) acceptance of studies by FDA, (9) scope and nature of pediatric exclusivity, (10) publication of exclusivity determinations, and (11) treatment of information submitted in support of a request for pediatric exclusivity.

This guidance document is being implemented immediately without prior public comment because the guidance is needed to implement the Modernization Act. However, the agency wishes to solicit comment from the public, and it is providing a 90-day comment period and establishing a docket for the receipt of comments. FDA will also consider comments on pediatric exclusivity submitted to Docket No. 98N-0056 (containing the "List of Approved Drugs for Which Additional Pediatric Information May Produce Health Benefits in the Pediatric Population") before July 7, 1998.

This guidance document represents the agency's current thinking on the implementation of section 505A of the act and pediatric exclusivity. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both.

Submit written comments on the guidance to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one

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copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

II. Request for Proposed Pediatric Study Requests

Sponsors of applications for marketed drugs that appear in the priority section of the list (see Docket No. 98N–0056) for which any exclusivity or patent period expires on or before March 31, 1999, should submit proposed pediatric study requests to the appropriate new drug review division with a facsimile copy to Khyati N. Roberts (address above) on or before August 17, 1998, for expedited consideration. These sponsors should label their proposals "Proposed Pediatric Study Request—Expiration on or Before March 31, 1999." FDA will endeavor to issue Written Requests on or before October 15, 1998, for adequate proposals or as soon thereafter as possible. FDA will ask sponsors of proposals that are submitted before August 31, 1998, and that are not adequate to resubmit their proposal. The resubmitted proposal will be processed based on the date of resubmission. Other proposed pediatric study requests may also be submitted during this period, but they will be processed in the order described in the guidance. As FDA gains experience with this process, it may provide additional guidance regarding the timing of a proposed pediatric study request.

III. Paperwork Reduction Act of 1995

This notice contains no new collections of information. The information requested for proposed pediatric studies is already covered by the collection of information on IND regulations (21 CFR part 312) submitted to OMB for review and clearance. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), OMB approved the information collection and assigned OMB control number 0910–0014. The approval expires on December 31, 1999.

IV. Electronic Access

Copies of this guidance for industry are available on the Internet at "http://www.fda.gov/cder/guidance/index.htm" and at "http://www.fda.gov/cber/guidelines.htm".

Dated: June 24, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 98–17876 Filed 7–6–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications.

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

PRT–844263

Applicant: Dr. Brenda Molano-Flores, Illinois Natural History Survey/Midewin National Tallgrass Prairie, Wilmington, Illinois.

The applicant requests a permit to take (collect infructescence, flowers, and leaf tissue samples) endangered Leafy Prairie Clover (*Dalea foliosa*) plants located in the Midewin National Tallgrass Prairie (Federal jurisdiction). Activities are proposed for scientific research aimed at survival and enhancement of the species in the wild.

PRT–842503

Applicant: Robert Mies and Kimberly Williams, The Organization for Bat Conservation, Williamston, Michigan.

The applicant requests an amendment to permit number PRT–842503 to take (capture, handle, band) endangered Indiana Bat (*Myotis sodalis*) at locations within the States of Region 3 (Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin) where they occur. Activities are proposed for scientific research aimed at survival and enhancement of the species in the wild.

Written data or comments should be submitted to the Regional Director, U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, and must be received within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056. Telephone: (612/713–5332); FAX: (612/713–5292).

Dated: June 25, 1998.

Matthias A. Kerschbaum,

Acting Assistant Regional Director, IL, IN, MO (Ecological Services), Region 3, Fort Snelling, Minnesota.

[FR Doc. 98–17860 Filed 7–6–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–310–1310–01–24–1A]

Extension of Currently Approved Information Collection; OMB Approval Number 1004–0034

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is announcing its intention to request extension of approval for the collection of information from those persons who wish to transfer interest in oil and gas or geothermal leases by assignment of record title, or transfer operating rights (sublease) in oil and gas or geothermal leases under the terms of the mineral leasing laws.

DATES: Comments on the proposed information collection must be received by September 8, 1998, to be considered.

ADDRESSES: Comments may be mailed to: Regulatory Management Team (420), Bureau of Land Management, 1849 C Street NW, Room 401 LS Bldg., Washington, D.C. 20240.

Comments may be sent via Internet to: !WO140attmail.com. Please include "Attn: 1004–0034" and your name and return address in your Internet message.

Comments may be hand delivered to the Bureau of Land Management Administrative Record, Room 401 L Street, NW, Washington, D.C.

Comments will be available for public review at the L Street address during regular business hours (7:45 A.M. to 4:15 P.M., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Barbara Gamble, Fluids Minerals Group, (202) 452–0340.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 1320.12(a), the BLM is required to provide 60-day notice in the **Federal Register** concerning a collection of information contained in published current rules to solicit comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

The Mineral Leasing Act of 1920 (30 U.S.C. 181 *et seq.*) and the Geothermal Steam Act of 1970 (30 U.S.C. 1001–1025) authorize the Secretary of the Interior to issue leases for development of Federal oil and gas and geothermal resources. The Act of August 7, 1947 (Mineral Leasing Act of Acquired Lands), authorizes the Secretary to lease lands acquired by the United States (30 U.S.C. 341–359). The Department of the Interior Appropriations Act of 1981 (42 U.S.C. 6508) provides for the competitive leasing of lands for oil and gas in the National Petroleum Reserve-Alaska (NPR–A). The Attorney General's Opinion of April 2, 1941 (40 Op. Atty. Gen. 41) provides the basis under which the Secretary can issue certain leases for lands being drained of oil and gas. The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 *et seq.*) provides the authority for leasing lands acquired from the General Services Administration.

The regulations at 43 CFR 3106, 3135, and 3206 outline the procedures for assigning record title interest and transferring operating rights in a lease to explore for, develop, and produce oil and gas resources and geothermal resources respectively.

The information provided by an applicant is needed to comply with the regulations in order to process assignments of record title interest or transfers of operating rights (sublease) in a lease for oil and gas or geothermal resources issued under the provisions of the laws cited above.

The information collection requirements are submitted to the BLM by the assignor/transferor in accordance with 30 U.S.C. 187a, which specifies that leases may be assigned or subleased "subject to final approval by the Secretary," and with the regulations at 43 CFR 3106, 3135, and 3241. The forms are submitted to the appropriate BLM office only when the transferor/assignor initiates the action and are used to assign/transfer all or part of a record title interest, of operating rights, or overriding royalty or similar interest in a lease to another party under the terms of the mineral leasing laws.

Since the filing of the assignment or transfer for final Secretarial approval is required by law, the forms are used to help the assignor/transferor provide the basic information needed by the BLM to identify ownership of the interest being assigned/transferred and qualifications of the transferee/assignee to take interest. The information is necessary to ensure that the assignee/transferee is qualified, in accordance with the statutory requirements, to obtain the interest sought in an oil and gas or geothermal lease and that excessive acreage is not acquired in violation of statutory limits.

It is estimated that approximately 60,000 reports will be filed annually with an estimated completion time of ½ hour each, for a total annual burden of 30,000 hours. Respondents are individuals, small businesses, and large corporations.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will also become part of the public record.

Dated: June 29, 1998.

Carole Smith,

Bureau Clearance Officer.

[FR Doc. 98–17931 Filed 7–6–98; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before June 27, 1998. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St. NW, NC400, Washington, DC 20240. Written comments should be submitted by July 22, 1998.

Carol D. Shull,

Keeper of the National Register.

ARKANSAS

Lawrence County

Buercklin, Dr. F.W., House, 104 Main St., Portia, 98000882

Faulkner County

Sailor, C.L., House, Wilson St., Bigelow, 98000880

Little River County

St. Barnabas Episcopal Church, Jct. of Tracy Lawrence Ave. and Bell St., Foreman, 98000910

Prairie County

Barrett—Rogers Building, 100 N. Hazen Ave., Hazen, 98000881

COLORADO

Jefferson County

Churches Ranch, 17999 W. 60th Ave., Arvada, 98000883

CONNECTICUT

Fairfield County

Kings Highway North Historic District, Roughly along Kings Hwy. N, from Wilton Rd. to Woodside Ave., Westport, 98000884

GEORGIA

Gwinnett County

Alcovy Road Grist Mill, 1564 Alcovy Rd., Dacula vicinity, 98000885

HAWAII

Honolulu County

Schofield Barracks Historic District, Roughly bounded by Foote Ave., Wright Ave., McMahon Rd., and Wright-Smith Rd., Wahiawa vicinity, 98000889

MARYLAND

Anne Arundel County

Howard's Inheritance, 721 Howard's Loop, Annapolis vicinity, 98000887

Charles County

Hermitage, The, Washington Ave., La Plata, 98000886

MONTANA

Chouteau County

Square Butte Jail, Salsbury Ave., Square Butte, 98000888

NEBRASKA

Douglas County

Beebe and Runyan Furniture Showroom and Warehouse (Warehouses in Omaha MPS), 105 S. 9th St., Omaha, 98000895

Hospe, Anton, Music Warehouse (Warehouses in Omaha MPS), 109–111 S. 10th St., Omaha, 98000896

Kirschbraun and Sons Creamery, Inc. (Warehouses in Omaha MPS), 901 Dodge St., Omaha, 98000894

Saline County

Sokol Pavilion, 315 S. Wilson St., Wilber, 98000892

Sarpy County

Springfield Community Hall, 104 Main St., Springfield, 98000893

Scotts Bluff County

Fontenelle Apartment House, 1424 Fourth Ave., Scottsbluff, 98000891

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NORTH CAROLINA

Cabarrus County

Boger—Hartsell Farm, Jct. of US–801 and NC1148, Concord vicinity, 98000890

PENNSYLVANIA

Fayette County

Gallatin School, 165 Gallatin Ave., Uniontown, 98000902

Newmyer, Peter and Jonathan, Farm, 3165 Richey Rd., Bullskin Township, 98000901

Mifflin County

Embassy Theatre, 6 S. Main St., Lewistown, 98000899

Montgomery County

Oak Park Historic District, Roughly along Oak Park Rd., Park Ave., Oak Blvd., Forest Ave., and Squirrel Ln., Hatfiels Township, 98000897

Philadelphia County

Fair Hill Burial Ground, Roughly along Germantown, and Indiana Aves., Ninth, and Cambria Sts., Philadelphia, 98000900

Pike County

Milford Historic District, Roughly along Broad, Harford, Ann, Catharine, High, and Fourth Sts., Milford, 98000898

Westmoreland County

Mount Pleasant Historic District, Roughly along Main, S. Church, Eagle, Walnut and College Sts., Mount Pleasant, 98000903

New Kensington Downtown Historic District (Aluminum Industry Resources of Southwestern Pennslyvania), Roughly bounded by 8th Ave., 3rd St., 11th Ave., and Barnes Ave., New Kensington, 98000904

UTAH

Sanpete County

Metcalf, James and Caroline M., House, 290 E 500 S, Gunnison, 98000905

VERMONT

Orange County

Fairlee Railroad Depot, Between US 5 and Boston and Maine Railroad Tracks, Failee, 98000906

WYOMING

Albany County

North Albany Clubhouse, Address Restricted, Garrett Route vicinity, 98000908

Park County

Ralston Community Clubhouse, 969 Carbon St., Ralston, 98000907

Sweetwater County

Taliaferro House, 106 Cedar St., Rock Springs, 98000909

A Request for Removal has been received for the following resources:

OREGON

Lincoln County

Drift Creek Covered Bridge (Oregon Covered Bridges TR), Drift Creek Rd., over Drift Creek, Lincoln City vicinity, 79002106

Yamhill County

Dayton Opera House (Dayton MPS), 318 Ferry St., Dayton, 87000342

Dayton Auto and Transfer Co. Building (Dayton MPS), 411 Ferry St., Dayton, 87000337

[FR Doc. 98–17861 Filed 7–6–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

Bureau of Justice Assistance

[OJP(BJA)–1150]

Prison Industry Enhancement Certification Program Guideline

AGENCY: Office of Justice Programs, Bureau of Justice Assistance (BJA), Justice.

ACTION: Proposed Guideline for public comment.

SUMMARY: The Office of Justice Programs, Bureau of Justice Assistance (BJA), is issuing this proposed revision to the Prison Industry Enhancement Certification Program (PIECP) Guideline, 50 FR 12661–64 (March 29, 1985). Under Title 18 U.S.C. 1761(c), BJA certification excepts participating agencies from certain Federal restraints placed on the marketability of prison-made goods by permitting the transport of such goods in interstate commerce and the sale of such goods to the Federal government. This guideline reflects efforts by the Bureau of Justice Assistance to enhance guidance to the field through amendments proposed to the initial guideline published in March 1985. Since that time, there have been amendments to the statutory authority governing the administration of the PIECP and operations issues emerging at cost accounting centers. As a result, BJA seeks to clarify for the field the applicable statutes and guidelines. This revision provides a more comprehensive and responsive document to promote compliance with and direction for PIECP.

The publication of this proposed guideline is considered to be a Federal action that will not significantly affect the quality of the human environment. Therefore, the preparation of an environmental impact statement is not necessary.

DATES: All comments received on or before September 8, 1998 will be considered in drafting the Final Guideline.

ADDRESSES: Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice, 810 Seventh Street, N.W., Washington, D.C. 20531.

FOR FURTHER INFORMATION CONTACT: J.A. Marshall, Acting Chief, Corrections Branch, Bureau of Justice Assistance (202) 616–3215.

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I. Introduction: Program Purposes and Objectives

The Prison Industry Enhancement Certification Program (PIECP), codified at 18 U.S.C. 1761(c), was first authorized by the Justice System Improvement Act of 1979, Pub. L. 96–157, 93 Stat. 1215. The PIECP was expanded from 7 to 20 pilot projects under the Justice Assistance Act of 1984, Pub. L. 98–473 § 609k(a)(1), 98 Stat. 2077, 2102. In 1990, The Crime Control Act of 1990, Pub.L. 101–647 § 2906, 104 Stat. 4789, 4914, raised to 50 the number of PIECP projects that may be excepted by the Bureau of Justice Assistance (BJA) from certain Federal restrictions on the marketability of prison-made goods, including the Ashurst-Sumners Act (18 U.S.C. 1761(a)) and the Walsh-Healey Act (41 U.S.C. 35).

PIECP has grown since its inception in 1979, with 38 prison work pilot projects now certified throughout the country. Prison administrators find PIECP participation an effective way to address idleness among ever-increasing prison populations and as a cost-efficient method for providing inmates with marketable job skills. Taxpayers benefit because PIECP inmate wage deductions result in reductions in incarceration costs. Inmate wages benefit society, generally, in that deduction amounts are authorized to address victim compensation, inmate family support needs, and taxes. Lastly, PIECP industries obtain broad market access for their products because they are excepted from the Ashurst-Sumners Act prohibition against the interstate transport of prison-made goods and from the Walsh-Healey Act prohibition against certain contract sales of prison-made goods to the Federal government.

BJA issued a Guideline to implement this program (50 FR 12661–64) on March 29, 1985 and now publishes revisions in this Proposed Guideline to provide programmatic clarification based on experience gained over the past 13 years. The legislative underpinnings of relevant laws are examined to ensure that program administration practices are consistent with Congressional intent and that the scope of their applicability is clearly defined. Refined administrative practices are set forth for comment.

II. Background of the Prison Industry Enhancement Certification Program (PIECP)

a. Legislative History

1. Unregulated Prison Labor

The 19th Century evolution of industrial capitalism and private sector use of prisoner labor spawned a number of conditions that adversely affected several major segments of society. By the turn of the 20th Century, these segments joined in an organized appeal to Congress and state legislatures nationwide. They collectively asserted that the production and distribution of unregulated prisoner-made goods in interstate commerce needed to be eliminated or, at a minimum, controlled.

Human rights activists turned the public's attention to poor prison work conditions and inmate exploitation. Organized labor argued that the demand for prison-made products, anywhere, necessarily displaced a possible demand for the product of free labor. Free enterprise manufacturers were disturbed because manufacturers of prison-made goods did not bear the burden of overhead costs borne by private industry competitors, such goods were being sold at below market prices. The viability of private industry competition was thereby undercut. In December 1924, Herbert Hoover, as Secretary of Commerce, held a conference on the subject of the "ruinous and unfair competition between prison-made products and free industry and labor." 70 *Cong. Rec.* S656 (1928).

Then-Secretary Hoover authorized an advisory committee to study the problem. This committee issued a report in 1928 wherein Arthur Davenport, Chairman of the Advisory Committee on Prison Industries, submitted the following report conclusions to Congress:

> (1) Certain major factors in the normal cost of production which must be met by all manufacturers are entirely absent in the case of prison industries. If anything approaching normal efficiencies of operation can be attained with the use of prison facilities and labor, the total costs of production are obviously below those of the manufacturer who must meet large overhead expenses as well as employ free labor.
>
> (2) It is the universal belief that prisoners should be usefully occupied whether as a part of their punishment or as a means of rehabilitation by teaching them the habits of industry. To this end nearly every State * * * provid[es] productive work for their prisoners * * *
>
> (3) The volume of goods produced by prison labor is already very large in some lines, but as more prisoners are put to work, and the industries become more efficient, the output of our prisons will be greatly increased.
>
> (4) The effect of placing on the open market a volume of goods which have been produced below normal costs, is to lower prices and disorganize the market * * *. The increase in prison production which is predicted will exaggerate this evil and make it difficult if not impossible for manufacturers employing free labor to exist in trade where the prison output becomes heavy.
>
> (5) The solution of this problem, if prison production is to continue * * *. would seem to be the elimination, in one way or another, of the direct price competition of the prison products with so called "free products" * * *. 70 *Cong. Rec.* S656 (1928).

In closing, Chairman Davenport urged that solutions be found, "[o]therwise either prison industries must cease and prisoners kept in idleness or the manufacture of products competing with prison output will become impossible. Either of these developments would be disastrous * * *." *See* S. Rep. No. 344, 70th Cong., 1st Sess., re-printed, *Cong. Rec.* S656 (Dec.15, 1928), "Statement of Prison Labor Problems as Shown by Report of Senate Committee."

Even if a state prohibited its own correctional institutions from producing and marketing prison-made goods, that same state had no jurisdiction to control such goods produced in other states, transported in interstate commerce and sold within its boundaries. As an initial solution to this problem, Congress enacted the Hawes-Cooper Act in 1929, Pub. L. 70–669, 45 Stat. 1084, re-codified by Pub. L. 95–473, 92 Stat. 1449 (1978) [formerly codified at 49 U.S.C. 11507, omitted in the revision of Title 49 by Pub. L. 104–88, Title I § 102(a), 109 Stat. 804 (effective January 1, 1996); *See* S. Rep. No. 104–176]. This law divested prison-made products of their interstate character upon their arrival in the state of their destination and permitted the laws of that state to become operative with respect to the sale and distribution of such products. It was described, at the time of enactment, as an enabling act because it did not prohibit the transportation of convict-made goods or force the enactment of state legislation.

In 1935, Congress enacted the Ashurst-Sumners Act, Pub. L. 74–215, 49 Stat. 494 (1935), which authorized Federal criminal prosecutions of violations of state laws enacted pursuant to the Hawes-Cooper Act. Subsequent amendments to this law, including Pub. L. 76–851, 54 Stat. 1134 (1940), strengthened Federal enforcement authority by making any transport of prison-made goods in interstate commerce a Federal criminal offense. As amended, 18 U.S.C. 1761(a) now provides:

> Whoever knowingly transports in interstate commerce or from any foreign country into the United States any goods, wares, or merchandise manufactured, produced, or mined, wholly or in part by convicts or prisoners, except convicts or prisoners on parole, supervised release, or probation, or in any penal or reformatory institution, shall be fined [under this title] or imprisoned not more than two years, or both. [herein referred to as the Ashurst-Sumners Act].

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Certain prison-made products were excepted by statute from the Ashurst-Sumners Act prohibition, including "agricultural commodities or parts for the repair of farm machinery" as well as "commodities manufactured in a Federal, District of Columbia or State institution for use by the Federal Government, or by the District of Columbia, or by any State or Political subdivision of a State or not-for-profit organizations." Title 18 U.S.C. 1761(b).

The Walsh-Healey Act, 49 Stat. 2036 (1936), as amended in 1979 by Pub. L. 90–351, § 827(b) and codified at 41 U.S.C. 35, also controls the production of prison-made goods. This statute prohibits the use of prison labor to fulfill general government contracts which exceed $10,000. BJA certification pursuant to § 1761(c) excepts prison-made goods produced by PIECP work pilot projects from the Walsh-Healey Act contracting restrictions, as well as the Ashurst-Sumners Act interstate transportation restrictions.

2. Prisoner Idleness and Prisoners' Need for Job Skills Training

The PIECP exception to the Ashurst-Sumners and the Walsh-Healey Act restrictions was introduced in the Senate in 1979 after the 1978 Pontiac, Illinois prison riot. In the wake of that uprising, Senator Charles Percy (R–IL) stated:

> . [L]ast summer in Pontiac, Illinois, our worst fears about the conditions in the Nation's prisons erupted into a nightmarish reality. The Pontiac prison riot of 1978 ended with three guards dead, three others seriously wounded, and $4 million in property damage * * *
>
> The shopping list of problems and deficiencies in our prison system is long and well known. Overcrowding, old and obsolete facilities, lack of training or educational programs, crime within prison walls, frustration on the part of guards and inmates are all a part of the dreary picture * * *. Recidivism is now a substantial element in our overall crime rate, and prisons are often accurately characterized as a "school for crime," rather than a deterrent to crime * * *. 125 Cong. Rec. S11834 (1979).

These concerns caused Congress to take measures to encourage prison industries, provided that they not engage in unfair competition with private sector businesses and labor. Senator Percy's bill, now referred to as the Prison Industries Enhancement Act, Section 827 of the Justice System Improvement Act of 1979, Pub. L. 96–157, § 827(a), 93 Stat. 1215, was enacted on December 27, 1979. As amended, it now offers 50 Federally certified projects an opportunity to participate in the interstate market, provided certain safeguards to free-world labor and industry, and to prisoner-workers themselves, are met. *See* The Crime Control Act of 1990, Pub. L. 101–647, § 2906, 104 Stat. at 4914.

In describing the purpose of his introduced legislation, Senator Percy explained (125 *Cong. Rec.* S11834 (1979)):

> My amendment would do two basic things: First, it would authorize the [BJA] to encourage development of pilot demonstration projects for prison industry at the State level, involving private sector industry * * *. Under this approach, prison programs benefit from the private business, develop access to new markets, and attract needed capital. The goal of these pilot projects would be to create as realistic a working environment as possible within the prison walls, while enabling an inmate to become more self-sufficient to the benefit of himself, the prison system, and the taxpayer.
>
> Secondly, my amendment creates a partial exemption to two Federal laws which severely restrict the ability of State prison industries to market their goods * * *. When these laws were enacted decades ago, they represented significant reforms against exploitation of prison labor. Over the years, however, they have developed into heavy-handed roadblocks to growth among * * * prison industry programs * * *.
>
> My amendment would provide limited exemptions to these restrictions where inmates have been paid a wage comparable to that paid for similar work in the private sector in the locality * * *.

The statutory exception that was enacted to establish PIECP is codified at 18 U.S.C. Section 1761(c):

> * * * [the Federal marketability prohibitions] shall also not apply to goods, wares, or merchandise manufactured, produced, or mined by convicts or prisoners who—
>
> (1) Are participating in one of not more than 50 non-Federal prison work pilot projects designated by the Director of the Bureau of Justice Assistance; * * *

To become eligible for Bureau of Justice Assistance (BJA) certification, an applicant state or local department of corrections must comply with specified statutory requirements. It must pay participating prisoners "wages not less than that paid for work of a similar nature in the locality in which the work was performed" and cannot take more than 80 percent in deductions from gross wages for specified purposes including taxes, reasonable charges for room and board, family support and victims' compensation. 18 U.S.C. 1761(c)(2).

Certain other conditions of employment must also be met. An eligible applicant cannot deprive participating offenders, solely because of their status as offenders, of the right to participate in benefits made available by the Federal or state government to other individuals on the basis of their employment, such as workmen's compensation. Title 18 U.S.C. 1761(c)(3). PIECP inmates must also participate on a voluntary basis and must have agreed to the specific deductions made from gross wages pursuant to 18 U.S.C. 1761(c)(2), and all other financial arrangements resulting from participation in such employment. Title 18 U.S.C. 1761(c)(4).

The note following 18 U.S.C. 1761, although not codified, is public law and adds two additional requirements on certified prison industries. The note requires participating prison industries to consult with local union organizations prior to initiating any project qualifying for a § 1761(c) exemption. Also, the qualifying applicant must ensure that paid inmate employment under the program will not result in the "displacement of employed workers, or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, or impair existing contracts for services." The Justice System Improvement Act of 1979 added these provisions, which became § 827(c) of the Omnibus Crime Control and Safe Streets Act of 1968. *See* Pub. L. 96–157, 93 Stat. 1215, reprinted in 1979 U.S.C.C.A.N. 2471. In 1984, § 827(c) was redesignated § 819 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended. *See* Pub. L. 98–473, 98 Stat. 2093.

If all eligibility requirements are met and an applicant agency acquires BJA certification, that agency is thereafter authorized to operate irrespective of Federal prohibitions on the marketing of state prison-made goods. Conversely, non-compliance with these statutory eligibility requirements could expose an industry to criminal prosecution under the Ashurst-Sumners Act. Title 18 U.S.C. 1761(a).

b. The PIECP Program

1. Current State of the Program

Currently, 38 departments of correction or umbrella authorities are PIECP Certificate Holders. Under the Justice System Improvement Act of 1979, Arizona, California, Idaho, Kansas, Minnesota, Nevada and Utah were certified. In 1984, under the Justice Assistance Act of 1984, 13 prison work pilot projects were certified in: Alaska, Belnap County (NH), Connecticut, Iowa, Maine, Missouri, Nebraska, New Mexico, Oklahoma, Oregon, South Carolina, Strafford County (NH) and Washington State. Under the Crime Control Act of 1990, the following additional state and local departments of corrections have been certified:

Colorado, Delaware, Florida, Hawaii, Indiana, Louisiana, Maryland, Montana, North Carolina, Ohio, Red River County (TX), South Dakota, Tennessee, Texas, the Texas Youth Commission, Vermont, Virginia and Wisconsin.

Over 125 private sector businesses now work in partnership with these PIECP certified correctional agencies to employ a total of about 2,500 inmates. Either the correctional agency or the private sector enterprise retains project authority to direct and control inmate labor, depending on the management model used. Project implementation has resulted in the production of myriad products, including such items as furniture, sheet metal, video equipment, clothing, food products, office products, mattresses, drapery, crutches, and road signs. In addition, although service industries were not a threat to the private sector in 1935 and, thus, were not included within the scope of the Ashurst-Sumners prohibition, a number of service industries have elected to comply with the PIECP requirements.

Between January 1979 and December 1996, PIECP projects generated approximately $75 million in gross wages for inmates. Nearly half of this amount was diverted to non-inmate recipients: $5.5 million was deducted for victims of crime, $16 million was deducted for room and board payments, $4.4 million was deducted for family support and about $8.9 million was withheld in local, State and Federal taxes.

BJA monitors the performance of PIECP work pilot projects to ensure that they operate in full compliance with all legislative and administrative program requirements. Under a grant to the Correctional Industries Association (CIA), prison industry professionals conduct regular, on-site reviews of all PIECP projects. BJA responds to matters involving possible non-compliance by taking appropriate remedial action such as providing technical assistance or proposing a corrective action plan.

2. Future Challenges

PIECP is utilized nationwide as a cost-efficient way to provide inmates with work experience and training in marketable job skills, as well as to reduce idleness among growing prison populations.

Over time, the limit on the authorized number of pilot projects has been raised to meet the demands of interested applicants. When Congress last increased the project ceiling to 50, the House took into consideration a waiting list of states and counties that had wanted to participate and noted that "the demand for certification by state and local governments indicates a need for this amendment which will enable the program to expand and other jurisdictions to apply." H.R. 681(I), 101st Cong. 202 (1990).

BJA administers PIECP with the objective of making participation available to as many qualified applicants as possible, within the limit imposed by statutory ceiling. This Guideline provides applicants with clarity as to Federal participation requirements, as well as programmatic flexibility to allow for PIECP Project growth in ways that are responsive to local needs. The Federal requirements are intended to ensure that the interests of the private sector and organized labor are protected. In this way, BJA's administrative practices are intended to address the concerns reflected in the legislative history antecedent to the enactment of earlier Federal regulation of prison-made goods, the Hawes-Cooper Act.

Finally, this revised Guideline addresses novel issues presented by new PIECP participants, the private sector prisons. These entities are unique in that they render an essential service traditionally undertaken by public agencies and they do so for a profit. Thus, BJA has altered some PIECP program requirements to insure program implementation remains consistent with Congressional intent. Congress enacted PIECP to introduce public departments of correction to private sector profit-making enterprises. Therefore, private prison industries are invited to participate in PIECP only as Cost Accounting Centers designated under the authority of certified public departments of correction.

c. Request for Comments

Comments on revisions described in this Proposed Guideline must be submitted to BJA no later than 60 days following the date of publication and will be considered in the drafting of the Final Guideline. Existing Certificate Holders and designated Cost Accounting Centers will be provided with a time period of one year, after the publication date of the Final Guideline, to make whatever program adjustments are necessary to come into full compliance.

III. Program Guidance

a. PIECP Purposes

- To provide a cost-efficient means to address inmate idleness and to provide inmates with work experience and training in marketable job skills. BJA encourages private sector PIECP partners to consider post-incarceration employment to PIECP inmate workers.
- Through inmate wage deductions, to increase advantages to the public by providing departments of correction with a means for collecting taxes and partially recovering for inmate room and board costs, by providing crime victims with a greater opportunity to obtain compensation, as well as by promoting inmate family support.
- Through PIECP participation conditions, to prevent unfair competition between prison-made goods and private sector goods.
- To prevent the exploitation of prison labor.

b. Definitions

Benefits refers to inmate benefit coverage required by 18 U.S.C. 1761(c)(3). PIECP projects must provide inmate workers appropriate benefits comparable to those made available by the Federal or state government to private sector employees. The scope of appropriate benefits coverage is impacted by whether management of the Cost Accounting Center is structured as an employer or customer model and whether the inmate labor work force is controlled by a public agency or the private sector.

BJA refers to the Bureau of Justice Assistance within the Office of Justice Programs, U.S. Department of Justice.

Certificate Holder refers to a public department of corrections, or an alternate umbrella authority, which is approved by BJA for PIECP Project certification. Certificate Holders assume monitoring and designation responsibilities with respect to their designated Cost Accounting Centers. All PIECP prison-made goods are produced within Cost Accounting Centers that a Certificate Holder designates within itself, its private prison agents or, in the case or an umbrella authority, within its membership agencies.

Certification refers to an exercise of BJA's discretionary authority to designate a Prison Work Pilot Project pursuant to Title 18 U.S.C. 1761(c). BJA may issue either standard or a provisional certifications to applicant projects. BJA certified projects are excepted from certain Federal marketability restraints on the transport of prison-made goods in interstate commerce, including 18 U.S.C. 1761(a), and sales to the Federal government in excess of $10,000, 41 U.S.C. 35.

Cost Accounting Center (CAC) refers to a distinct PIECP goods production unit of the industries system that is managed as a separate accounting entity under the authority of a Certificate Holder. All PIECP production activities

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are conducted within the context of a designated CAC which, generally, is structured either as a Customer or Employer Model. All designated CACs must operate in compliance with the provisions set forth in 18 U.S.C. 1761(c) and this Guideline.

Customer Model is a form of a PIECP Cost Accounting Center management structure. In this model, the private sector is engaged in a CAC enterprise only to the extent that it purchases all or a significant portion of the output of a prison-based business owned and operated by the CAC agency. A customer model private sector partner assumes no major role in industry operations, does not direct production and has no control over inmate labor. These functions are performed, rather, by a department of corrections.

Deductions. CACs may elect to take deductions from a PIECP inmate worker's wages for certain authorized items. Deductions from PIECP inmate gross wages, if taken, may be made only for those items specified in 18 U.S.C. 1761(c)(2), including: Payment of taxes, reasonable charges for room and board, allocations for family support and contributions to any funds established by law to compensate victims of crime (no less than 5 percent and no more than 20 percent). In no event may a PIECP inmate worker's total deductions exceed 80 percent of gross wages and each and every PIECP inmate worker must agree, in advance, to all deductions from gross wages.

Designation is an exercise of a Certificate Holder's discretionary authority to bring a CAC within its certified PIECP Project. This exercise of authority results in an extension of PIECP exception status and an imposition of compliance requirements on an identified CAC operating within the certified PIECP Project.

Employer Model is a form of a PIECP management structure. In this model, the private sector owns and operates the CAC by controlling the hiring, firing, training, supervision, and payment of the inmate work force. The department of corrections assumes no major role in industry operations, does not direct production, and exercises minimum control over inmate labor performance. These functions are performed, rather, by the private sector.

Goods include tangible items, wares, and merchandise.

Locality means the geographic area impacted by the presence of a PIECP CAC operation. For PIECP CACs, it is relevant with regard to: determining prevailing wage, providing consultation to appropriate labor and private sector organizations, and determining whether a PIECP CAC operation will displace the private sector labor force. All locality determinations must be documented as part of a Notice of Designation. As used in the calculation of CAC wage rates, *locality* is usually a matter for definition by the appropriate state agency which normally determines wage rates (i.e., the State Department of Economic Security).

Minimum wage means the Federal minimum wage which is the lowest possible wage that can be paid to private sector employees under the Fair Labor Standards Act, 29 U.S.C. 206. Any special wage program, excepted by law from the minimum wage requirement in the private sector, may be utilized by a PIECP CAC as long as the CAC meets the same program participation conditions as private sector participants.

Monitoring refers to the process of examining Prison Work Pilot Project activities to ensure continuing compliance with 18 U.S.C. 1761(c) and this Guideline. It includes, at a minimum, BJA's receipt and analysis of performance reports and on-site CAC monitoring visits by BJA, BJA contractors and Certificate Holders.

NEPA means the National Environmental Policy Act, Pub. L. 91–190, 83 Stat. 852 (1970) (codified as amended at 42 U.S.C. 4321–4347; implemented under 40 C.F.R. pt. 1500).

Participation means engaging in the activities and operations of an 18 U.S.C. 1761(c) excepted PIECP Project.

PIECP means the Prison Industry Enhancement Certification Program as authorized by 18 U.S.C. 1761(c).

PIECP Exception Status. Any PIECP Project which produces prison-made goods pursuant to and under the conditions set forth in 18 U.S.C. 1761(c) is excepted from certain Federal restraints imposed on the marketability of prison-made goods, including 18 U.S.C. 1761(a) and 41 U.S.C. 35.

PIECP Inmate Worker is a convict or prisoner who provides labor for a Prison Work Pilot Project certified under 18 U.S.C. 1761(c); the prisoner benefits from PIECP by receiving training and work experience.

Prevailing wage is a wage rate which is not less than that paid for work of a similar nature in the locality in which the work is to be performed, 18 U.S.C. 1761(c)(2).

Prison-made goods include all goods, wares, and merchandise manufactured, produced, or mined, wholly or in part, by convicts or prisoners (except convicts or prisoners on parole or probation), or in any penal or reformatory institution.

Prison Industry means an organized utilization of inmate labor to produce goods or render services.

Prison Work Pilot Project (PIECP Project) refers to one of 50 possible projects which may be designated by the Director of BJA under 18 U.S.C. 1761(c). This term encompasses the operations of the Certificate Holder's designated Cost Accounting Centers (CACs). Any Prison Work Pilot Project may consist of one or more CACs.

Prisoner includes prison and jail inmates, convicts and incarcerated juvenile offenders, and does not include prisoners on parole, probation, or supervised release. Title 18 U.S.C. 1761(a) does not regulate the transport of goods produced by prisoners on parole, supervised release, or probation.

Production is the forming anew or transforming of marketable goods. The term includes mining and manufacture and excludes services.

Provisional Certification is issued by BJA in instances where an applicant has not yet come into full compliance with all PIECP requirements, but such compliance appears imminent. It entitles the holder to PIECP exception status for an identified period of time, may be made contingent upon the occurrence of identified conditions, and may or may not be renewed by BJA.

Statutory Exception Status refers to a prison industry which meets the statutory requirements set forth in 18 U.S.C. 1761(b), and is thereby entitled to an exception from the prohibition set forth in 18 U.S.C. 1761(a).

Supervised Release. 18 U.S.C. 1761(a) states that the Ashurst-Sumners Act prohibition does not apply to "convicts on parole, supervised release, or probation." The reference to "supervised release" was added to § 1761(a) in 1984, Pub. L. 98–473, § 223, and is responsive to changes made at that same time in state and Federal Sentencing Guidelines. Policy statements issued by the U.S. Sentencing Commission explain that supervised release is a "new form of post-imprisonment supervision created by the Sentencing Reform Act." *See* Federal Sentencing Guidelines, 18 U.S.C.A. ch. 7, pt. A (1997).

Umbrella Authority refers to a type of Certificate Holder which is authorized by law to administer a PIECP Project and which consists of state and/or local correctional agencies located within the same state. A certified umbrella authority may designate CACs within its membership agencies, as well as within members' private prisons, and assumes responsibility for monitoring compliance with respect to those same centers.

c. BJA's Initial Considerations for Determining Propriety of Work Pilot Project Certification

1. BJA's Exercise of Discretionary Authority To Define and Certify 50 Prison Work Pilot Projects

(A) BJA may exercise discretionary authority to designate up to 50 PIECP Pilot Projects, 18 U.S.C. 1761(c).

(B) BJA may define PIECP eligibility qualifications and, in accordance with its own definitions, may exercise agency discretion to extend or withdraw certification privileges, as it deems appropriate.

2. Threshold Inquiry for Determining Applicability of PIECP Exception Status

Appropriate PIECP participants include prison industries whose activities would likely violate the 18 U.S.C. 1761(a) prohibition and would likely not fit within an 18 U.S.C. 1761(b) exception. BJA has devised an administrative approach for identifying such industries. This approach incorporates relevant § 1761 (a) and (b) considerations, including whether a given prison-made item qualifies as an excepted agricultural product, whether a given prison industry activity qualifies as an unregulated service, and whether a product distribution activity qualifies as an intrastate distribution of goods. These considerations are reflected in the following threshold inquiry, which BJA will use to determine whether a prison industry should be encouraged to apply for PIECP exception status:

(A) Is a statutory exception applicable under 18 U.S.C. 1761(b)? The following prison-made items are excepted from the prohibition set forth in § 1761(a):

- Parts for the repair of farm machinery; or
- Commodities manufactured in a Federal, District of Columbia, or state institution for use by the Federal Government, or by the District of Columbia or by any state or political subdivision of a state or not-for-profit organizations. This exception is intended to inure to the benefit of the Federal Government, the District of Columbia, the states (or political subdivisions thereof) and not-for-profit organizations and is not intended to benefit private prisons; or
- Agricultural commodities grown or cultivated on a farm which retain continuing substantial identity through processing stages, if any. In making the determination as to whether a processing stage changes a product from an agricultural commodity to a manufactured commodity, a relevant consideration is whether the processing is incidental or ancillary to agricultural commodity growth and or cultivation. If the processing is incidental or ancillary in nature and is commonly undertaken by agricultural enterprises, then it would likely fall within the scope of the statutory exception.

(B) Could the contemplated activity trigger 18 U.S.C. § 1761(a) by resulting in a production of goods by inmates in any penal or reformatory institution? The production of goods, which is regulated by 18 U.S.C. 1761(a), must be distinguished from inmate services which are not regulated by the criminal prohibition. The following factors are relevant in determining whether a given activity results in the production of prison-made goods:

- Has a tangible item been produced, manufactured or mined?
- Has a tangible item been formed or transformed?
- Has the activity resulted the creation of property or in a new, marketable item?

(C) Could the contemplated activity trigger 18 U.S.C. 1761(a) by resulting in a post-production, interstate transportation of prison-made goods?

- Will there be transportation of prison-made goods into the flow of interstate commerce, i.e., across state lines or from a foreign country into the United States?
- Is there a commercial economic enterprise present?

BJA will use this preliminary threshold inquiry to instill greater consistency in PIECP eligibility decision-making. If a prison industry activity falls within the scope of the § 1761(b) statutory exception, the involved industry need not seek § 1761(c) exception status to avoid § 1761(a) criminal sanctions. Additionally, if a prison industry activity would not result in the production of goods, interstate transport of prison-made goods, or would not in any other way trigger § 1761(a), the involved industry need not seek compliance with the requirements set forth in § 1761(c) or this Guideline.

This threshold inquiry was devised only for 18 U.S.C. 1761(c) programmatic purposes and does not reflect the Department of Justice's 18 U.S.C. 1761(a) prosecution guidelines. Thus, reliance on this Guideline, or any BJA determination based thereon, is not a complete defense to any civil or criminal action, but would depend on other factors as well.

d. Mandatory Program Criteria for PIECP Participation

1. *Eligibility.* All public departments of correction and juvenile justice agencies authorized by law to administer prison industry programs are eligible to apply for PIECP certification; such public agencies are also eligible members of umbrella authorities, authorized by law to administer prison industry programs, that are seeking certification. PIECP Certificate Holders may designate CACs within themselves, as well as within private prisons with which they contract for incarceration services and which are located in the same state. Private prison industries may participate in PIECP only as designated CACs and as part of certified PIECP Projects located within their respective states. Non-compliance by any one designated CAC may result in PIECP exception status suspension and/or termination as to that CAC, and if warranted, its respective Certificate Holder. Also, within a reasonable period of time after certification, each Certificate Holder must have at least one CAC producing goods and operating pursuant to its authority or risk losing certification.

2. *Prevailing Wage.* PIECP inmate workers must receive wages at a rate which is not less than that paid for work of a similar nature in the locality in which the work is to be performed. This requirement benefits society by allowing for the development of prison industries while protecting private businesses from unfair competition that would otherwise stem from the flow of low-cost, prison-made goods into the marketplace. PIECP participants must, therefore, implement the prevailing wage requirements under like conditions experienced by private sector competition. In this regard, the following requirements are applicable:

(A) Section 1761(c) requires that the PIECP wage amount be set exclusively in relation to the amount of pay received by similarly situated non-inmate workers. The statute does not allow other cost variables to be taken into consideration, such as unique expenses incurred as a result of undertaking production within the prison environment.

(B) Prevailing wage verification must be obtained by the appropriate state agency which determines wage rates (usually the Department of Economic Security).

(C) When making PIECP prevailing wage verifications and re-verifications, the responsible state agency should recommend the utilization of a non-inmate wage scale which will not result in the displacement of non-inmate workers performing similar work in the relevant locality.

(D) The PIECP prevailing wage must be received by those inmate workers performing notable tasks necessary to produce and / or transport goods in

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interstate commerce. If a similarly situated, private sector company is paying wages to obtain services that are necessary to production, e.g. refuse pickup, then the PIECP CAC must also pay such wages to the inmate provider of like services. In determining which tasks are covered, the following considerations are relevant: the amount of inmate time involved, effort and skill necessary to accomplish the task, the regularity of task performance, and whether the task would have been performed by the inmate absent PIECP production.

(E) The prevailing wage must be verified prior to the initiation of PIECP participation. Annually, thereafter, the PIECP participant must re-verify the adopted wage to ensure that it continues to be comparable to wages paid for work of a similar nature in the locality in which the project is located.

(F) If no such verification can be obtained from the State Department of Economic Security, or other similar department, the PIECP participant is responsible for establishing a reasonable prevailing wage. In such instances, the participant should retain on file, for BJA's review:

(1) relevant wage data from a sufficient number of competitors in the locality;

(2) data analyses for determining a reasonable prevailing wage result; and

(3) if possible, a written assessment of the reasonableness of the resulting prevailing wage determination by an appropriate state agency which normally determines wage rates.

(G) The PIECP prevailing wage can not be set below the Federal minimum wage, as defined in the Fair Labor Standards Act (FLSA), 29 U.S.C. 201 *et seq.* Payment of the Federal minimum wage, however, does not automatically achieve compliance with the prevailing wage requirement unless the prevailing wage for the comparable private sector industries is, in fact, the Federal minimum wage.

(H) Overtime, at one and a half times the rate of regular or prevailing wage, must be paid for prisoner hours worked in excess of 40 hours per week. *See* 29 U.S.C. 207(a) (a payment standard imposed on private sector competition).

(I) If a CAC pays a wage based on piece work, the project must apply a calculation to convert regular wages paid into a comparable hourly wage. The calculation should be used as a routine check to ensure that inmate workers, paid according to piece rate work, do not receive less than the Federal minimum wage. In instances where the CAC is paying Federal minimum wage and such a wage is less than the industry standard for the prevailing wage, the CAC must be able to identify inmate worker performance variances as justification for the wage rate.

(J) BJA strongly encourages the use of wage plans that take into consideration a PIECP worker's experience, seniority, and performance.

3. Non-Inmate Worker Displacement. PIECP CAC operations must not result in displacement of employed workers; be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality; or significantly impair existing contracts. The term "displacement," as used in this provision, includes all such prohibited activities, as well as the transfer of private sector jobs to PIECP inmates. This prohibition is intended to protect the private sector partner's non-inmate employees, as well as all other non-inmate workers who perform work of a similar nature in the same locality in which the CAC is located.

(A) Regarding the possibility of displacement among non-inmate employees of private sector partners in the same locality as the CAC:

(1) BJA will presume non-compliance where there is a non-inmate worker's job replacement by a PIECP inmate worker or where a non-inmate worker's job function is eliminated or adversely impacted, to a significant degree, and there is a concomitant assumption of a similar job function by a PIECP inmate worker. When evaluating such circumstances, BJA will not consider the private sector partner's intent or economic viability.

(2) Prior to CAC initiation, the CAC applicant must provide BJA with written documentation reflecting the private sector partner's agreement not to displace its non-inmate employees with PIECP inmate labor in violation of the 18 U.S.C. 1761(c) statutory note.

(B) Prior to project initiation, all CAC applicants must show through written verification by the State Department of Economic Security (or other appropriate state agency) that the PIECP project will not result in displacement of non-inmate workers performing the same work, regardless of wage rate. In cases where an appropriate state agency cannot provide this service, the applicant CAC should propose to and confer with BJA as to alternative measures to address this requirement.

(C) In instances where BJA finds that CAC implementation results in private sector worker displacement, the CAC must either cease its operations or comply with a BJA-approved corrective action plan, if BJA proposes such a plan under Section IV. f. of this Guideline, *infra.*

(D) BJA strongly recommends that CAC job development be oriented toward the creation of new jobs within the locality.

4. *Benefits.* PIECP projects must provide inmate workers appropriate benefits comparable to those made available by the Federal or State Government to private sector employees, including workers' compensation and, under certain circumstances, Social Security.

(A) By statute, in some states, inmates are not eligible to participate in workers' compensation programs. Provision of comparable workers' compensation benefits is acceptable as long as the CAC can demonstrate comparability of such benefits with those secured by the Federal or state Government for private sector employees.

(B) The PIECP CAC management model impacts whether the CAC must provide Social Security benefits to PIECP inmate workers. Where the employer model is utilized and the private sector directs and controls the PIECP inmate worker, the PIECP participant must provide PIECP inmate workers with Social Security benefits. Where a customer model is utilized and the state directs or controls the PIECP inmate worker, BJA recognizes the applicability of other provisions of Federal law which may operate to preclude the provision of PIECP inmates with certain benefits, including Social Security.

5. *Deductions.* Participating CAC's are not required to take deductions from PIECP inmate wages. However, if a CAC exercises its discretion to take deductions from a PIECP inmates' gross wages, such deductions can be taken only under the following conditions:

(A) Deductions from gross wages, if made, may be withheld only for the following authorized purposes:

(1) taxes (Federal, state, local);

(2) in the case of a state prisoner, reasonable charges for room and board as determined by regulations issued by the Chief State Correctional Officer;

(3) allocations for support of family pursuant to state statute, court order, or agreement by the offender; and

(4) contributions of not more than 20 percent, but not less than 5 percent of gross wages to any fund established by law to compensate the victims of crime.

Such deductions, in aggregate, cannot exceed 80 percent of gross wages.

(B) PIECP inmate workers must be paid, credited with, or otherwise benefit legally from, the 20 percent gross remainder. In this regard, the CAC may direct the 20 percent gross remainder to a PIECP inmate worker's expense accounts, savings accounts, or toward the settling of the worker's legal obligations, including the payment of fines and restitution.

(C) Each Certificate Holder, through its respective Chief State Correctional Officer, retains flexibility with respect to determining appropriate room and board charges that may be deducted from PIECP inmate workers' gross wages.

(1) Consistent with 18 U.S.C. § 1761(c)(2)(B), BJA requires only that such charges be reasonable as determined by regulations issued by the Chief State Correctional Officer, in the case of state prisoners. In the case of non-state prisoners, this determination shall be made in accordance with regulations issued by the Chief Correctional Officer of the state in which the PIECP inmate is incarcerated.

(2) The legislative history of 18 U.S.C. § 1761(c) reflects a congressional intent to permit the use of the room and board deduction to lower costs otherwise incurred by the public for inmate incarceration. Thus, prior to making room and board deductions, private prison CACs must obtain written approval of such a proposed deduction from the Chief State Correctional Officers for the states in which the PIECP inmate workers were convicted.

(D) A PIECP inmate's gross wages may be subjected to a deduction for the purpose compensating crime victims if the deducted amount is deposited into a fund established by law for the purpose of providing crime victim compensation. State crime victim compensation funds typically qualify as authorized recipients of such deducted amounts. Amounts deducted by private prison CACs should be deposited in the crime victim compensation funds established in those states in which the PIECP inmates were convicted.

6. Voluntary PIECP Inmate Worker Participation. The Inmate Worker must indicate, in writing, that he or she:

(A) agrees voluntarily to participate in the PIECP project, and

(B) agrees voluntarily, and in advance, to specific deductions made from gross wages, as well as all other financial arrangements made as to earned PIECP wages.

7. Consultation with Organized Labor. PIECP CACs must:

(A) consult with representatives of local union central bodies or similar labor union organizations prior to the initiation of any certified or designated CAC project. CACs should consult with as many of such organizations as have members which may be affected by the types of work to be performed by the PIECP inmates. If there are no local union bodies or labor organizations, consultation must be made with state union bodies or similar state-wide labor organizations.

(B) provide adequate information about the contemplated PIECP participation such as, at a minimum, an identification of the scope of the intended CAC and projected initiation date, as well as an explanation of the fact that statutory consultation is required and comments are invited. CACs should retain documentation reflecting provision of adequate consultation.

8. Consultation with Local Private Industry. PIECP CACs must:

(A) consult with representatives of local businesses that may be economically impacted by CAC production prior to beginning operations, and

(B) provide adequate information about the contemplated PIECP participation such as, at a minimum, an identification of the scope of the intended CAC and projected initiation date as well as an explanation of the fact that statutory consultation is required and comments are invited. CACs should retain documentation reflecting provision of adequate consultation.

9. Compliance with the National Environmental Policy Act (NEPA). The review and approval of PIECP certification applications as well as the designation of PIECP CACs must comply with NEPA and other related Federal environmental review requirements. *See* NEPA, 42 U.S.C. 4321–4347 and 40 C.F.R. pt. 1500. *See also* 28 C.F.R. pt. 61 (Department of Justice procedures for implementing NEPA); 28 C.F.R. pt. 61 app. D (procedures specific to Federal actions undertaken by the Office of Justice Programs).

(A) A BJA PIECP certification, or a CAC designation under an issued certification, constitutes a "Federal action," as defined by 40 C.F.R. § 1508.18 of the Council on Environmental Quality's (CEQ) regulations for implementing NEPA. Consistent with the CEQ regulations, PIECP applicants and CACs are required to submit for BJA review environmental data and information regarding their proposed activities and, if necessary, environmental assessments. Applicants and CACs must also assist BJA in the preparation of any required environmental impact statements.

(B) Title 28 C.F.R. Part 61 App. D provides NEPA compliance guidance to PIECP applicants and CACs, including the following:

(1) Actions entailing minor renovation projects or remodeling do not normally require an environment impact statement or an environmental assessment, unless, for example the actions would be located in or potentially affect a floodplain; a wetland; a listed species or critical habitat for an endangered species; or a property that is listed on or may be eligible for listing on the National Register of Historic Places.

(2) Actions that normally require an environmental assessment, but not necessarily an environmental impact statement include: renovations and expansions that change the basic prior use of a facility or substantially change its size; change in use of an existing facility that results in the increased production of liquid, gaseous, or solid wastes; new construction; research and technology whose anticipated and future application could be expected to have an effect on the environment; and new operations involving the use of hazardous, toxic, radioactive, or odorous materials. Assessments of such activities which result in BJA "findings of significant impact" will necessitate the preparation of environmental impact statements in compliance with NEPA and its implementing regulations.

(3) Additionally, no certification will be approved nor can any designation be provided or maintained if the application or designation includes a facility in non-compliance with any Federal, state, or local environmental law or regulation.

IV. PIECP Administration

a. Certificate Holders. BJA may exercise its discretionary authority to certify up to 50 PIECP Projects. Eligible applicants may seek certification by submitting an application to BJA in accordance with the requirements set forth in BJA's PIECP Certification Application, which will be provided upon request, and subpart IV.a.2, *infra*. BJA's review of submitted applications will be conducted as outlined in subparts IV.a.3 and a.4, *infra*. Once a certificate is issued, the holder assumes the authority and responsibilities set forth in subparts IV.a.5 and a.6, *infra*.

1. Project Structure. All public departments of correction, authorized by law to administer prison industry programs, are eligible to apply for BJA certification. Certified applicants may designate one or a number of Cost Accounting Centers (CACs) under their authority. Certificate Holders may also designate CACs within private prisons with which they contract for incarceration services and which are located in their respective states. BJA

will consider alternative program structures suggested by certification applicants, including, but not limited to, applicant umbrella authorities, as described in subpart III. D. 1, supra.

2. Application Content. All applications for PIECP Project Certification shall include the following:

(A) Assurances of Authority. The Certificate Holder must provide written assurance to BJA that it has in place appropriate statutory and administrative authority to meet all mandatory program criteria and, in particular, to monitor CAC compliance throughout the proposed PIECP Project.

(B) Documentation to Show Compliance with Mandatory Program Criteria. The applicant must submit all documentation necessary to show CAC compliance with the nine mandatory program criteria outlined in Section III. d., *supra*.

(C) Project Description. The applicant must describe key project elements, including the process to be used to designate and monitor compliance of CACs with 18 U.S.C. § 1761(c) and this Guideline.

3. BJA Review. PIECP applications will be reviewed by BJA on a first-come, first-served basis. Awards of certification are discretionary exercises of authority by BJA under 18 U.S.C. 1761(c). No certification will be awarded, however, unless there is a determination that the applicant has met the mandatory participation criteria outlined in this Guideline. Applicants will be notified in writing of BJA's award or denial of certification. The hearing and appeal procedures set forth in 28 C.F.R. Part 18 do not apply to denied PIECP applicants. Certified applicants will be informed of the effective date of BJA's certification.

4. Standard or Provisional Certification. A standard certification may be issued by BJA to an approved Certificate Holder applicant when all mandatory program criteria have been met. When one or more mandatory program criteria have not been met, but when steps have been taken to ensure that those criteria will be met within a reasonable period of time, then a provisional certification may be issued by BJA in instances where the withholding of certification would significantly impair the applicant's ability to further develop its project. The terms of the provisional certification will be made specific to the nature of the unmet mandatory criteria and may be made contingent upon the occurrence of identified conditions. Provisional certifications may be issued for no longer than one year from the date of issuance and may be subject to renewal, at BJA's discretion.

5. Certificate Holder Designation Authority:

(A) The Certificate Holder may exercise CAC designation authority with respect to CACs operating under its authority, including in private prisons with which it contracts for incarceration services and which are located in its respective state. To exercise this authority, a Certificate Holder must first determine that a proposed CAC has complied with the requirements set forth in this Guideline and in 18 U.S.C. 1761(c). Whenever the Certificate Holder elects to exercise this authority after certification application approval, it must submit a Notice of Designation Form to BJA that provides the following information and documentation:

(1) Cost Accounting Center Name and Location;

(2) Proposed number of workers;

(3) Item(s) to be produced;

(4) Proposed consumer market (including anticipated geographic distribution);

(5) Description of private sector involvement, including models that will be used in working with private enterprise;

(6) Locality determination, and supporting justification;

(7) Description of inmate compensation plans;

(8) Documentation of prevailing verification;

(9) Identification of deductions to be taken and percentage of each from PIECP inmate's gross wages;

(10) Documentation of private sector partner's agreement not to displace its non-inmate employees with PIECP inmate labor determination;

(11) Documentation of non-displacement verification;

(12) As to any CACs within private prisons, written state approval of a proposed room and board deduction, in compliance with Section III.d.5.(D) of this Guideline, supra; and

(13) Documentation of the environmental impacts of the CAC's existing and proposed activities.

(B) The Certificate Holder may, in its own discretion, undesignate any previously designated CAC. In such instances, the Certificate Holder must submit to BJA an Undesignation Form providing the following information:

(1) Cost Accounting Center Name and Location;

(2) Reasons for Undesignation; and

(3) Effective Date of Undesignation.

(C) BJA may, at any time deemed necessary to resolve compliance concerns and upon the issuance of written notice, suspend a Certificate Holder's authority to designate additional Cost Accounting Centers.

6. Certificate Holder Monitoring Responsibilities: As to all designated CACs, the Certificate Holder must assume the following monitoring responsibilities:

(A) Undertake all reporting and evaluation activities deemed necessary to ensure continuing designated CAC compliance; and

(B) Respond to all BJA requests for information and cooperation aimed at ensuring Project compliance.

b. Cost Accounting Centers' PIECP Exception Status. A CAC is entitled to operate under PIECP exception status.

1. To retain this status, the CAC must comply with all PIECP participation obligations to its Certificate Holder and to BJA, including:

(A) Maintaining continuous compliance with the requirements set forth in 18 U.S.C. 1761(c) and in III.d), *supra*, of this Guideline; and

(B) Responding to all monitoring requests for information and cooperation aimed at maintaining continued compliance with this Guideline.

2. The CAC must promptly report to the Certificate Holder any contemplated change in operations which may affect its ability to maintain statutory and regulatory compliance.

c. Compliance Reviews:

1. Performance Reports. Within 30 days following the close of each calendar quarter, each CAC must submit a quarterly performance report to its Certificate Holder in a form prescribed by BJA. The performance report describes activities undertaken during the prescribed period. A consolidated report of all CAC activity must be submitted to BJA by the Certificate Holder within 45 days following the close of each calendar quarter.

2. Monitoring Reviews. BJA and BJA technical assistance contractors are authorized to perform desk and on-site reviews of all PIECP participants, including all CACs, as deemed necessary. On-site reviewers may request access to any and all documentation necessary to assist in determining compliance with the requirements of this guideline and 18 U.S.C. 1761. Monitored participants will be advised in writing of the results of any such reviews. Immediate corrective action must be taken to address determinations of non-compliance and/or to respond to issues that raise compliance related concerns for BJA.

d. BJA's PIECP Administration. BJA's PIECP responsibilities include the following:

1. Review and approval of Certificate Holder PIECP applications;

2. Monitoring to determine compliance status of operations within all CACs;

3. PIECP exception status termination or suspension for cause related to substantial non-compliance;

4. Liaison with other Federal agencies that may affect PIECP operations;

5. Provision of compliance-related technical assistance; and

6. Any and all other functions necessary to administer the program in compliance with 18 U.S.C. 1761(c).

e. PIECP Exception Status Suspension/Termination

1. Notice of Possible Compliance Violation. Alleged facts indicative of non-compliance shall be communicated in writing by BJA to the involved Certificate Holder and the involved designated CAC. These parties must respond to the allegations, in writing, within 15 days after receipt of the notice of non-compliance determination. Immediate corrective action must be taken to address determinations of non-compliance.

2. Voluntary Compliance Agreements. If BJA determines that noncompliant practices persist, BJA may, in its discretion, propose a voluntary compliance agreement to the involved Certificate Holder.

3. Failure to Achieve Compliance and Effect of Non-Compliance. If a voluntary compliance agreement is not presented by BJA or is not accepted or adequately implemented by the Certificate Holder within 30 days after receipt of such an agreement, BJA may suspend the Certificate Holder's certification and/or CAC exception status.

4. PIECP Exception Status Suspension and Termination. A certification may be terminated by BJA if it has been inactive (no production within a designated CAC) or suspended for six consecutive months. A certification and/or designation may be suspended, and six months thereafter, terminated upon: (1) Issuance of a notice of a determination that the Certificate Holder and/or designated CAC is not acting in compliance with the requirements of 18 U.S.C. 1761, this Guideline or the conditions set forth in its certificate; or (2) in the discretion of the Director of BJA and upon a re-definition of a PIECP Project authorized under 18 U.S.C. 1761(c). Termination or suspension of the exception status of one designated CAC will not automatically impact the PIECP exception status of other CACs under the same certification unless the PIECP Project certification is suspended or terminated. The hearing and appeal procedures set forth in 28 C.F.R. Part 18 do not apply to PIECP applicants or participants who have had PIECP exception status suspended or terminated under this provision.

Dated: June 26, 1998.

Nancy Gist,

Director, Bureau of Justice Assistance.

[FR Doc. 98–17757 Filed 7–6–98; 8:45 am]

BILLING CODE 4410–18–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 98–087]

NASA Advisory Council (NAC), Space Science Advisory Committee (SScAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science Advisory Committee.

DATES: Wednesday, July 29, 1998, 8:30 a.m. to 5:30 p.m.; Thursday, July 30, 1998, 8:00 a.m. to 6:00 p.m.; Friday, July 31, 1998, 8:30 a.m. to 12:30 p.m.

ADDRESSES: MIC 6, NASA Headquarters, 300 E Street, SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Jeffrey Rosendhal, Code S, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–2470.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The agenda for the meeting is as follows:

—OSS Program and Budget Status
—Science Metrics/FY 2000 Performance Plan
—Final Report of the R&A and MO&DA Task Force
—Theme Status Reports/Reports from Subcommittees
—Research Program Update
—Technology Program Status and Planning

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: June 24, 1998.

Matthew Crouch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 98–17953 Filed 7–6–98; 8:45 am]

BILLING CODE 7510–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–295 and 50–304]

Commonwealth Edison Company; (Zion Nuclear Power Station, Units 1 and 2); Exemption

I

Commonwealth Edison Company (ComEd, the licensee) is the holder of Facility Operating License Nos. DPR–39 and DPR–48, which authorize operation of the Zion Nuclear Power Station, Units 1 and 2. The licenses provide, among other things, that the licensee is subject to all rules, regulations, and orders of the Commission now or hereafter in effect.

II

In its letter dated March 12, 1998, ComEd requested an exemption from the Commission's regulations. Pursuant to 10 CFR 50.34(b), each application for a license to operate a facility shall include a Final Safety Analysis Report (FSAR). This report shall include information that describes the facility, presents the design bases and the limits on its operation and presents a safety analysis of the structure, systems and components of the facility.

Title 10 of the *Code of Federal Regulations*, Part 50, Section 71 (10 CFR 50.71), "Maintenance of records, making of reports," states that all light-water nuclear power reactors shall update their FSAR periodically. Pursuant to 10 CFR 50.71(e)(4), the time interval for the subsequent FSAR updates must not exceed 24 months. The last full update of the Zion FSAR was submitted to the NRC on July 5, 1996. Consequently, the next update would be required to be submitted no later than July 1998. However, ComEd is requesting an exemption from this requirement to allow them to update the FSAR to reflect the present condition of the units.

By letters dated February 13, 1998, and March 9, 1998, ComEd informed the NRC that Zion Nuclear Power Station, Units 1 and 2, have permanently ceased operations and both units are completely defueled and all fuel has been placed in the spent fuel pool for long-term storage. By letter dated May 4, 1998, the NRC acknowledged Zion's permanent cessation of power operation and permanent removal of fuel from the reactor vessels.

Many of the systems and components previously required for safety are no longer needed because the Zion units are permanently shut down. Therefore, updating the current FSAR will provide

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a description of components and systems that are no longer relevant to safety. Instead ComEd has proposed and committed to prepare and submit an update to the FSAR reflecting the permanently defueled condition of Zion, Units 1 and 2, by December 31, 1998. This update will become Zion's Defueled Safety Analysis Report (DSAR).

Because ComEd's board decision on January 14, 1998, to shut down Zion was unexpected, ComEd staff did not have adequate time to develop the DSAR. Therefore, ComEd is requesting an extension of the update interval to allow sufficient time to develop and submit the DSAR. In their letter dated March 12, 1998, ComEd stated that many of the technical, administrative, and management resources needed to develop a DSAR are the same as those that would be involved in updating the FSAR. Consequently, updating the current FSAR by July 1998, would result either in a delay in developing a DSAR or in the expenditure of significant additional resources to develop a DSAR while preparing an FSAR update submittal in parallel.

III

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50 (1) when the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. Special circumstances are present whenever, according to 10 CFR 50.12(a)(2)(ii), "Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule. * * *"

The underlying purpose of 10 CFR 50.71 is to provide updated information and descriptions which are needed to permit understanding of the system designs and their relationships to safety evaluations. The last update to the Zion FSAR was submitted on July 5, 1996. Therefore, the next update is due no later than July 1998. However, because ComEd has permanently ceased operation of the Zion Nuclear Power Station, Units 1 and 2, many of the systems and components that were previously required for the safe operation of the plants are no longer needed. Therefore, by updating the current FSAR, ComEd would be providing information on equipment and systems that are no longer relevant to the safety of the plant. ComEd has committed to providing Zion's DSAR by December 1998. This DSAR update will meet the underlying purpose of the rule in which the status of equipment and systems relevant to a non-operating plant will be provided to NRC and docketed. Furthermore, this exemption will have no impact on the ability of structures, systems, and components to perform the safety functions required with the plant permanently shut down and defueled.

IV

For the foregoing reasons, the NRC staff has concluded that the licensee's proposed use of the alternate date for submittal of the DSAR will not present an undue risk to public health and safety and is consistent with the common defense and security. The NRC staff has determined that there are special circumstances present, as specified in 10 CFR 50.12(a)(2)(ii), in that the DSAR will provide the required information relevant to the current status of the plant.

Accordingly, the Commission has determined that pursuant to 10 CFR 50.12(a), an exemption is authorized by law, will not endanger life or property or the common defense and security and is, otherwise, in the public interest. Therefore, the Commission hereby grants an exemption from the requirements of 10 CFR 50.71(e)(4) in that ComEd may extend its Updated Final Safety Analysis Report submittal date from July 1998 to December 31, 1998.

Pursuant to 10 CFR 51.32, the Commission has determined that granting this exemption will not have a significant effect on the quality of the human environment (63 FR 35294).

This exemption is effective upon issuance.

Dated at Rockville, MD, this 30th day of June 1998.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 98–17921 Filed 7–6–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Atomic Safety and Licensing Board Panel

[Docket No. 55–22234–SP; ASLBP No. 98–745–01–SP]

Randall L. Herring, Operator License for Catawba Nuclear Station; Notice of Hearing

June 30, 1998.

Notice is hereby given that, by Memorandum and Order dated June 30, 1998, the Presiding Officer has granted the request of Mr. Randall L. Herring for a hearing on the NRC Staff's denial of his application for an operator license for the Catawba Nuclear Station. The hearing is to be conducted under the Commission's informal hearing procedures set forth in 10 CFR Part 2, Subpart L. Administrative Judge Charles Bechhoefer has been designated Presiding Officer to conduct this hearing, and the Presiding Officer has appointed Administrative Judge Richard F. Cole to serve as his Special Assistant in developing a suitable record. 63 FR 34197 (June 23, 1998). The parties to this proceeding are limited to Mr. Herring and the NRC Staff.

Further details are provided in the Presiding Officer's Memorandum and Order (Hearing File and Specification of Claims), dated June 30, 1998. As there set forth, this informal adjudication may be decided entirely on the basis of the parties' written filings, together with relevant documents. In addition, the Presiding Officer has discretion to entertain oral presentations from the parties, as authorized by 10 CFR 2.1235, should he determine that such course of action would be necessary or useful in creating an adequate record for decision.

Materials concerning this proceeding are on file at the Commission's Public Document Room, 2120 L. St. N.W., Washington D.C. 20555.

Rockville, Maryland, June 30, 1998.

Presiding Officer.

Charles Bechhoefer,

Administrative Judge.

[FR Doc. 98–17918 Filed 7–6–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–309]

Maine Yankee Atomic Power Company; Maine Yankee Atomic Power Station; Exemption

I

Maine Yankee Atomic Power Company (MYAPCo or the licensee) is the holder of Facility Operating License No. DPR–36, which authorizes operation of Maine Yankee Atomic Power Station (Maine Yankee). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (the Commission) now or hereafter in effect. The facility is a pressurized-water reactor located on the licensee's site in Lincoln County, Maine. On August 7, 1997, the licensee informed the Commission that it had decided to permanently cease operations at Maine Yankee and that all fuel had been permanently removed from the reactor. In accordance with 10 CFR 50.82(a)(2), the certifications in the letter modified the facility operating license to permanently withdraw MYAPCo's authority to operate the reactor and to load fuel in the reactor vessel.

II

It is stated in 10 CFR 73.55, "Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage," paragraph (a), that "The licensee shall establish and maintain an onsite physical protection system and security organization which will have as its objective to provide high assurance that activities involving special nuclear material are not inimical to the common defense and security and do not constitute an unreasonable risk to the public health and safety."

By letter dated November 25, 1997, the licensee requested 11 exemptions from certain requirements of 10 CFR 73.55. Eight exemptions are being granted at this time as follows: (1) 10 CFR 73.55(a)—an exemption from the requirement that a licensed senior operator suspend safeguards measures and assigning that authority to a certified fuel handler; (2) 10 CFR 73.55(e)(1)—an exemption from the requirement that the secondary power supply be located in a security area; (3)—10 CFR 73.55(d)(1) "an exemption from the requirement that a last access control point at the entrance to the protected area be bullet resistant; (4) 10 CFR 73.55(h)(3)'an exemption reducing the required number of guards and armed trained personnel; (5) 10 CFR 73.55(e)(1)—an exemption from the requirement for a secondary alarm station, (6) 10 CFR 73.55(f)(4)—exemption from the requirement that non-portable communication equipment located in the central alarm station remain operable from independent power sources if normal power is lost, (7) 10 CFR 73.55(e)(1)—exemption from the requirement that an alarm station be located outside the protected area, and (8) 10 CFR 73.55(e)(1) and (c)(6)—exemption from the requirement that the alarm station and new control room be bullet resistant. The proposed exemption is a preliminary step toward enabling MYAPCo to revise the Maine Yankee Security Plan under 10 CFR 50.54(p) to implement a defueled security plan that was developed to protect against radiological sabotage at a permanently shutdown reactor facility with all fuel stored in the spent fuel storage pool.

III

Pursuant to 10 CFR 73.5, "Specific exemptions," the Commission may, upon application of any interested person or upon its own initiative, grant such exemptions in this part as it determines are authorized by law and will not endanger life or property or the common defense and security, and are otherwise in the public interest. The *Code of Federal Regulations* at 10 CFR 73.55 allows the Commission to authorize a licensee to provide alternative measures for protection against radiological sabotage, provided the licensee demonstrates that the proposed measures meet the general performance requirements of the regulation and that the overall level of system performance provides protection against radiological sabotage equivalent to that provided by the regulation.

The underlying purpose of 10 CFR 73.55 is to provide reasonable assurance that adequate security measures can be taken in the event of an act of radiological sabotage. Because of its permanently shutdown and defueled condition, the radiological risk from Maine Yankee is less than the risk from an operating unit. With more than 16 months of radiological and heat decay since the plant was shut down on December 6, 1996, the potential source term associated with the remaining design-basis accidents and radiological sabotage has decreased significantly.

IV

For the foregoing reasons, the Commission has determined that the proposed alternative measures for protection against radiological sabotage meet the same assurance objective and the general performance requirements of 10 CFR 73.55 associated with the reduced risk of radiological sabotage for a permanently shutdown reactor site that has all of the fuel in the spent fuel pool. In addition, the staff has determined that the overall level of the proposed system's performance, as limited by this exemption, would not result in a reduction in the physical protection capabilities for the protection of special nuclear material or of Maine Yankee. Specifically, a limited exemption is being granted for eight (8) specific areas in which the licensee is authorized to modify the existing security plan commitments commensurate with the security threats associated with a permanently shutdown and defueled site, as follows: (1) 10 CFR 73.55(a)—an exemption from the requirement that a licensed senior operator suspend safeguards measures and assigning that authority to a certified fuel handler; (2) 10 CFR 73.55(e)(1)—an exemption from the requirement that the secondary power supply be located in a security area; (3) 10 CFR 73.55(d)(1)—an exemption from the requirement that a last access control point at the entrance to the protected area be bullet resistant; (4) 10 CFR 73.55(h)(3)—an exemption reducing the required number of guards and armed trained personnel; (5) 10 CFR 73.55(e)(1)—an exemption from the requirement a secondary alarm station; (6) 10 CFR 73.55(f)(4)—exemption from the requirement that non-portable communication equipment located in the central alarm station; remain operable from independent power sources if normal power is lost; (7) 10 CFR 73.55(e)(1)—exemption from the requirement that an alarm station be located outside the protected area; and (8) 10 CFR 73.55(e)(1) and (c)(6)—exemption from the requirement that the alarm station and new control room be bullet resistant.

Accordingly, the Commission has determined that pursuant to 10 CFR 73.5, this exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest. Therefore, the Commission hereby grants MYAPCo a limited exemption as described above from those requirements of 10 CFR 73.55 at Maine Yankee in its permanently defueled condition.

Pursuant to 10 CFR 51.32, the Commission has determined that this exemption will not have a significant effect on the quality of the human

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environment (63 FR 35295, dated June 29, 1998).

This exemption is effective upon issuance.

Dated at Rockville, MD, this 29th day of June 1998.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 98–17920 Filed 7–6–98; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–382]

Entergy Operations, Inc.; Waterford Steam Electric Station, Unit 3; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–38, issued to Entergy Operations, Inc., (the licensee), for operation of the Waterford Steam Electric Station, Unit 3 (Waterford 3), located in St. Charles Parish, Louisiana.

Environmental Assessment

Identification of the Proposed Action

The proposed action would change the Waterford 3 Technical Specifications to allow an increase in the Waterford 3 Spent Fuel Pool (SFP) storage capacity from 1088 to 2398 fuel assemblies, and to allow an increase in the maximum fuel enrichment from 4.9 w/o (weight percent) to 5.0 w/o U–235. The increase in spent fuel storage capacity is achieved by replacing the existing spent fuel storage racks by the higher density racks, a process referred to herein as "reracking." The proposed action is in accordance with the licensee's application for license amendment dated March 27, 1997, as supplemented by letters dated April 3, July 21, October 23, November 13, and December 12, 1997, January 21, January 29, March 23, May 1, May 19, May 21, May 28, and June 12, 1998.

The Need for the Proposed Action

The Waterford 3 SFP currently contains 1088 storage cells in 16 spent fuel racks and full core off-load capability would be lost in the year 2000. Under the proposed reracking, the 16 existing racks, which contain Boraflex as the neutron absorber, would be removed and replaced by new high density modules. There are no commercial independent spent fuel storage facilities operating in the U.S., nor are there any domestic reprocessing facilities; therefore, the projected loss of storage capacity in the Waterford 3 SFP would affect the licensee's ability to operate Waterford 3. The proposed amendment will provide a full core off-load capability through the end of Cycle 19 (Year 2018).

Environmental Impacts of the Proposed Action

Radiological Impacts

The Waterford 3 uses waste treatment systems designed to collect and process gaseous, liquid, and solid waste that might contain radioactive material. These radioactive waste treatment systems are evaluated in the Final Environmental Statement (FES) dated March 1973. The proposed rerack will not involve any change in the waste treatment systems described in the FES.

Radioactive Material Released to the Atmosphere

During reactor operation, a small percentage of the fuel assemblies in the core are expected to develop leaks, resulting in a release of fission products to the reactor coolant. The storage of additional spent fuel assemblies in the SFP will not significantly affect the release of radioactive gases from the SFP since fission products generally do not escape from the SFP.

The higher fuel burnup used in the new rack analysis will result in a higher concentration of Krypton-85 (Kr-85) in the reactor coolant, some of which will be introduced into the SFP water during refuelings. Accounting for this increased Kr-85 concentration in the SFP water, the licensee calculated that the Kr-85 concentration in the air in the fuel handling building would be two orders of magnitude lower than the permissible effluent concentration for the general public (Appendix B of 10 CFR Part 20).

Iodine-131 released from spent fuel assemblies to the SFP water will not be significantly increased due to the expansion of the fuel storage capacity since the Iodine-131 inventory in the fuel will decay to negligible levels between refuelings.

Most of the tritium in the SFP water results from activation of boron and lithium in the primary coolant. A relatively small amount of tritium is produced during reactor operation by the fission process within the reactor fuel. The subsequent diffusion of the tritium through the fuel and cladding represents a small contribution to the total amount of tritium in the SFP water. Tritium releases from the fuel assemblies to the reactor coolant occur mainly during reactor operation and, to a limited extent, shortly after shutdown. Since a small portion of the tritium is due to fission in the fuel, the increased fuel burnup will result in an increase in the amount of tritium in the reactor coolant.

Most airborne releases of tritium from nuclear power plants result during refuelings from evaporation of reactor coolant, which contains tritium in higher concentrations than in the SFP. The storage of additional spent fuel assemblies in the SFP is not expected to increase the SFP bulk water temperature significantly above the 155° used in the design analysis and, therefore, evaporation rates from the SFP are not expected to increase. The higher tritium concentrations in the SFP water are expected to result in higher airborne tritium levels in the fuel handling building. However, the licensee has calculated these tritium levels to be lower than the permissible effluent concentrations for the general public contained in Appendix B of 10 CFR Part 20.

Solid Radioactive Wastes

Spent resins are generated by the processing of SFP water through the SFP purification system. These spent resins are replaced about two to four times a year and are disposed of as solid radioactive waste. The licensee will use a vacuum system with an underwater filtration unit to clean the floor of the Cask Storage Pit prior to reracking and the floor of the SFP following removal of the old SFP rack modules. Vacuuming of the SFP and Cask Storage Pit will remove any extraneous debris, reduce general contamination levels prior to diving operations, and ensure visual clarity in the SFP to facilitate diving operations and SFP rack changeout. The licensee also plans on hydrolazing the old fuel rack modules with demineralized water before removal from the SFP to remove any loose crud from the modules. If necessary, the licensee may also use a wire brush or equivalent abrasive tool to assist in the removal of hot particles. The licensee does not expect that the additional fuel storage made possible by the increased storage capacity will result in a significant change in the generation of solid radwaste (in the form of spent resins).

Once the old SFP rack modules have been hydrolazed, they will be placed into anti-contamination bags and loaded into shipping containers for shipment offsite for decontamination and disposal. The licensee has stated that the shipping containers and procedures will conform to all applicable U.S.

Department of Transportation (DOT) and/or U.S. NRC regulations.

Liquid Radioactive Wastes

There should not be a significant increase in the liquid release of radionuclides from the plant as a result of the modifications. The SFP cooling and purification system operates as a closed system. The SFP ion exchanger resins remove soluble radioactive materials from the SFP water and the frequency of resin changeout may increase during the installation of the new racks due to the more frequent fuel shuffling and underwater hydrolazing of the old racks during removal. When the resins are changed out, a small amount of resin sluice water is released. However, the amount of liquid radioactive released to the environment as a result of the proposed reracking is expected to be negligible.

Occupational Doses

Radiation Protection personnel will constantly monitor the doses to the workers during the reracking operation. Divers used to perform work in the SFP will be equipped with five remote readout radiation detectors, which will be continuously monitored by Radiation Protection personnel. The total occupational dose to plant workers as a result of the reracking operation is estimated to be between 6 and 12 person-rem. This dose estimate is comparable to doses for similar SFP modifications performed at other plants. The upcoming reracking operation will follow detailed procedures prepared with full consideration of ALARA principles. On the basis of our review of the Waterford 3 proposal, the staff concludes that the Waterford 3 SFP rack modification can be performed in a manner that will ensure that doses to workers will be maintained as low as is reasonably achievable (ALARA). The estimated dose of 6 to 12 person-rem to perform the proposed SFP rerack is a small fraction of the annual collective dose accrued at Waterford 3.

Uranium Fuel Cycle and Transportation

The environmental impacts of transportation resulting from the use of higher enrichment fuel are discussed in the staff assessment entitled "NRC Assessment of the Environmental Effects of Transportation Resulting from Extended Fuel Enrichment and Irradiation," dated July 7, 1988. This was published in the **Federal Register** on August 11, 1988 (53 FR 30355), as corrected on August 24, 1988 (53 FR 32322), in connection with an Environmental Assessment and Finding of No Significant Impact related to the Sheron Harris Nuclear Power Plant, Unit 1. As indicated therein, the environmental cost contribution of an increase in fuel enrichment of up to 5 weight percent U–235 and irradiation limits of up to 60 gigawatt days per metric ton (GWD/MT) are either unchanged, or may in fact be reduced from those summarized in Table S–4 as set forth in 10 CFR 51.52(c). These findings are applicable to the proposed amendment for Waterford 3. Accordingly, the Commission concludes that this proposed action would result in no significant radiological environmental impact.

Accident Considerations

In its application, the licensee evaluated the possible consequences of a fuel handling accident to determine the thyroid and whole-body doses at the Exclusion Area Boundary (EAB), Low Population Zone (LPZ), and Control Room. The proposed reracking of the Waterford 3 SFP will not affect any of the assumptions or inputs used in evaluating the dose consequences of a fuel handling accident and therefore will not result in an increase in the doses from a postulated fuel handling accident.

Nonradiological Impact

The proposed amendment does not modify land use at the site; no new facilities or laydown areas are needed to support the rerack or operation after rerack; therefore, the proposed amendment does not affect land use or land with historical or archeological sites. The proposed action does not result in any significant changes to the types and amounts of effluents that may be released offsite. Therefore, no changes or different types of nonradiological environmental impacts are expected as a result of the amendment.

Summary

The Commission has completed its evaluation of the proposed action. The change will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not affect nonradiological plant effluents. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would not result in any significant change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Waterford 3.

Agencies and Persons Consulted

In accordance with its stated policy, on June 17, 1998, the staff consulted with the Louisiana State official, Dr. Stan Shaw of the Louisiana Radiation Protection Division, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment.

Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated March 27, 1997, as supplemented by letters dated April 3, July 21, October 23, November 13, and December 12, 1997, January 21, January 29, March 23, May 1, May 19, May 21, May 28, and June 12, 1998, which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, LA 70122.

Dated at Rockville, Maryland, this 30th day of June 1998.

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For the Nuclear Regulatory Commission.

John N. Hannon,

Director, Project Directorate IV-1, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–17919 Filed 7–6–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATES: Weeks of July 6, 13, 20, and 27, 1998.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of July 6

Thursday, July 9

11:30 a.m.—Affirmation Session (Public Meeting) (if needed).

Week of July 13—Tentative

Friday, July 17

9:30 a.m.—Public Meeting on Stakeholders' Concerns (Public Meeting) (Contact: Annette Vietti-Cook, 301–415–1969).
11:30 a.m.—Affirmation Session (Public meeting) (if needed).

Week of July 20—Tentative

Tuesday, July 21

1:30 p.m.—Meeting with Advisory Committee on Nuclear Waste (ACNW) (Public Meeting) (Contact: John Larkins, 301–415–7360).
3:00 p.m.—Affirmation Session (Public Meeting) (If needed).

Week of July 27—Tentative

Wednesday, July 29

2:00 p.m.—Briefing on Operating Reactors and Fuel Facilities (Public Meeting) (Contact: Glenn Tracy, 301–415–1725).
4:00 p.m.—Affirmation Session (Public Meeting) (If needed).

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (Recording)—(301) 415–1292. Contact person for more information: Bill Hill (301) 415–1661.

The NRC Commission Meeting Schedule can be found on the Internet at:

http://www.nrc.gov/SECY/smj/schedule.htm

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

Dated: July 2, 1998.

William M. Hill, Jr.,

Secy, Tracking Officer, Office of the Secretary.

[FR Doc. 98–18123 Filed 7–2–98; 3:10 pm]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request for Review of an Information Collection: RI 25–37

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) has submitted to the Office of Management and Budget a request for review of an information collection. Form RI 25–37, Evidence to Prove Dependency of a Child, is designed to collect sufficient information for the OPM to be able to determine whether the surviving child of a deceased Federal employee is eligible to receive benefits as a dependent child.

Approximately 250 forms are completed annually. We estimate it takes approximately 60 minutes to assemble the needed documentation. The annual burden is 250 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, or E-mail to mbtoomey@opm.gov

DATES: Comments on this proposal should be received on or before August 6, 1998.

ADDRESSES: Send or deliver comments to: Lorraine E. Dettman, Chief, Operations Support Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW, Room 3349, Washington, DC 20415 and Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW, Room 10235, Washington, DC 20503.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT: Dory Zamani, Budget & Administrative Services Division, (202) 606–0623.

Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 98–17840 Filed 7–6–98; 8:45 am]

BILLING CODE 6325–01–P

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request; OPM Form 1203

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), the Office of Personnel Management (OPM) is submitting a request to the Office of Management and Budget (OMB) for approval of a form which collects information from the public. OPM Form 1203, Occupational Supplement Series—Form C, is an optical scan form designed to collect applicant information and qualifications in a format suitable for automated processing and to create basic applicant records for an automated examining system. OPM uses the form to carry out their responsibility for open competitive examining for admission to the competitive service in accordance with section 3304, 5 U.S.C.

Approximately 500,000 forms are completed each year with an average completion time of 27 minutes. For copies of this proposal, call Mary Beth Smith-Toomey on (202) 606–8358 or email to mbtoomey@opm.gov.

DATES: Comments on this proposal should be received on or before August 6, 1998.

ADDRESSES: Send or deliver comments to: Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, New Executive Office Building, Room 10235, NW., Washington, DC 20503, and Mrs. Crystal A. Wilson, U.S. Office of Personnel Management, Nationwide Examining Policy Office, 1900 E Street, NW, Room 2458, Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Crystal A. Wilson, (202) 606–1010.

Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 98–17842 Filed 7–6–98; 8:45 am]

BILLING CODE 6325–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Review; Comment Request for Reclearance of Expiring Information Collection; Form RI 25–14

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) has submitted to the Office of Management and Budget a request for reclearance of an information collection. RI 25–14, Self-Certification of Full-Time School Attendance, is used to survey survivor annuitants who are between the ages of 18 and 22 to determine if they meet the requirement of Section 8341(a) (C), and Section 8441, title 5, U.S. Code, to receive benefits as a student.

Approximately 14,000 Self-Certification and Full-Time School Attendance forms are completed annually; each requires approximately 12 minutes to complete, for a total public burden of 2,800 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, or E-mail to mbtoomey@opm.gov

DATES: Comments on this proposal should be received on or before August 6, 1998.

ADDRESSES: Send or deliver comments to—

Lorraine E. Dettman, Chief, Operations Support Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW, Room 3349, Washington, DC 20415, and Joseph Lackey, OPM Desk Officer, Office of Information & Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW, Room 10235, Washington, DC 20503.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT: Dory Zamani, Budget & Administrative Services Division, (202) 606–0623.

Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 98–17843 Filed 7–6–98; 8:45 am]

BILLING CODE 6325–01–P

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Striker Industries, Inc., Common Stock, $.50 Par Value) File No. 1–13118

June 30, 1998.

Striker Industries, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security ("Security") from listing and registration on the Boston Stock Exchange, Inc. ("BSE" or "Exchange").

The reasons cited in the application for withdrawing the Security from listing and registration include the following:

The Company is not at present in compliance with the minimum shareholders' equity maintenance requirement mandated by the Rules of the Exchange for continued listing of the Company's Security on the Exchange.

The Company discussed the shareholders' equity maintenance requirement with the Listing Manager at the BSE and received an extension of time within which to attempt to comply with the requirement, but was unable to do so within the time frame of the extension. The Company subsequently filed with the Exchange for voluntary withdrawal and delisting, requesting a no objection letter from the Exchange. Consequently, so far as is known to the Company, it has complied with the Rules of the Exchange governing the delisting of securities.

The Company notified the Exchange on June 15, 1998, that it was requesting the withdrawal and delisting of its Security from the Exchange, and, in a letter dated June 16, 1998, the Exchange raised no objection to such withdrawal and delisting.

The Company's Security also trades on the NASDAQ SmallCap Market.

Any interested person may, on or before July 22, 1998, submit by letter to the Security of the Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors.

The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–17928 Filed 7–6–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40138; File No. SR–NYSE–98–02]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the New York Stock Exchange, Inc. to Include Rules 392, 460.30, 80A(b), 79A.15 and 105 in its Minor Disciplinary Fine System under Exchange Rule 476A

June 26, 1998.

I. Introduction

On January 20, 1998, the New York Stock Exchange, Incorporated ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] a proposed rule change amending its "List of Exchange Rule Violations and Fines Applicable Thereto Pursuant to Rule 476A" and its reporting plan for 476A violations to include the items proposed for addition to the list of rules subject to Rule 476A. The proposed rule change was published for comment in Securities Exchange Act Release No. 39980 (May 8, 1998), 63 FR 27339 (May 18, 1998). No comments were received on the proposal. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description of the Proposal

On March 11, 1985, the Commission approved a NYSE plan for the abbreviated reporting of minor rule violations. The NYSE Minor Rule Violation Plan ("MRVP"), as embodied in NYSE Rule 476A, provides that the Exchange may designate violations of certain rules as minor rule violations. The Exchange may impose a fine, not to exceed $5000, on any member or member organization for a violation of the delineated rules by issuing a citation with a specific penalty.[2] The Exchange

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[1] 15 U.S.C. 78s(b)(1).

[2] The list of delineated rules is contained in Supplementary Material to NYSE Rule 476A. Only

Continued

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also retains the option of bringing violations of rules subject to NYSE Rule 476A to full disciplinary proceedings. The Exchange proposed that the failure to comply with the provisions of (1) Rule 392 and Rule 460.30 which require notification to the Exchange by member organizations when they are participating in or engaging in certain activities related to an offering of securities listed on the Exchange; (2) Rule 80A(b) which prohibits entry of stop orders for the remainder of any trading day on which "sidecar" procedures have been invoked; (3) Rule 79A.15 which requires specialists to publish bids and offers upon receipt of limit orders; and (4) Rule 105 and its Guidelines regarding specialists' speciality stock options transactions and the reporting of such transactions be included in the rule. The Exchange proposed the additions to broaden the regulatory responses available to the Exchange in effectively inducing compliance with all aspects of the rules.

III. Discussion

The Commission believes that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with Section 6(b)(5) which requires that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.[3]

The Exchange's proposal is also consistent with the requirements in Sections 6(b)(1)[4] and 6(b)(6)[5] requiring that the rules of an exchange enforce compliance and provide appropriate discipline for violations of Commission and Exchange rules. Moreover, because NYSE Rule 476A provides procedural rights to the person fined and permits a disciplined person to request a full hearing on the matter, the proposal provides a fair procedure for the disciplining of members and persons associated with members, consistent with Sections 6(b)(7)[6] and 6(d)(1)[7] of the Act.

The Commission believes that the Exchange's proposal, adding five additional rules to those subject to the imposition of fines under Rule 476A reinforces the obligations of exchange specialists. Most notably, by adding NYSE Rule 79A.15 to the MRVP, the Commission believes that the Exchange is emphasizing the importance of the obligation of an exchange specialist to immediately display certain customer limit orders in accordance with the Commission's Limit Order Display Rule[8] and NYSE Rule 79A.15. The Commission believes that displaying customer limit orders benefits investors by providing enhanced execution opportunities and improved transparency.[9]

The Commission expects that the Exchange has the appropriate surveillance procedures to easily identify a specialist who fails to display a customer limit order immediately or is relying on an automated system that does not display limit orders immediately.[10] The Commission, therefore, believes that because certain violations of the Limit Order Rule are amenable to efficient and equitable enforcement they are appropriate for inclusion in NYSE Rule 476A. The Commission expects, however, because a violation of NYSE Rule 79A.15 amounts to a violation of a federal securities law, that the Exchange will err on the side of caution in disposing of such violations under the Plan.[11] The Commission expects the Exchange to continue to resolve more serious violations of rules through the use of formal disciplinary procedures, as in the case of an egregious violation or habitual offender.

IV. Conclusion

For the foregoing reasons, the Commission believes that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with Sections 6(b)(1), 6(b)(5), 6(b)(6), 6(b)(7), 6(d)(1) and 19(d) of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act[12] and Rule 19d–1(c)(2) thereunder,[13] that the proposed rule change (SR–NYSE–98–02) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–17834 Filed 7–6–98; 8:45 am]

BILLING CODE 8010–01–M

SOCIAL SECURITY ADMINISTRATION

Rescission of Social Security Acquiescence Ruling 87–2(11)

AGENCY: Social Security Administration.

ACTION: Notice of rescission of Social Security acquiescence Ruling 87–2(11)—*Butterworth* v. *Bowen*, 796 F.2d 1379 (11th Cir. 1986).

SUMMARY: In accordance with 20 CFR 404.985(e), 416.1485(e) and 402.35(b)(2), the Commissioner of Social Security gives notice of the rescission of Social Security Acquiescence Ruling 87–2(11).

EFFECTIVE DATE: August 6, 1998.

FOR FURTHER INFORMATION CONTACT: Gary Sargent, Litigation Staff, Social Security Administration, 6401 Security boulevard, Baltimore, MD 21235, (410) 965–1695.

SUPPLEMENTARY INFORMATION: A Social Security Acquiescence Ruling explains how we will apply a holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act (the Act) or regulations when the Government has decided not to seek further review of the case or is unsuccessful on further review.

As provided by 20 CFR 404.985(e)(4) and 416.1485(e)(4), a Social Security Acquiescence Ruling may be rescinded as obsolete if we subsequently clarify, modify or revoke the regulation or ruling that was the subject of the circuit court holding for which the Acquiescence Ruling was issued.

On May 1, 1987, we issued Acquiescence Ruling 87–2(11) to reflect the holding in *Butterworth* v. *Bowen*, 796 F.2d 1379 (11th Cir. 1986), that the Social Security Administration's Appeals Council[1] is authorized to

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those fines that are not in excess of $2,500 are subject to the periodic reporting requirements of SEC Rule 19d–1(c).

[3] 15 U.S.C. 78f(b)(5).

[4] 15 U.S.C. 78f(b)(1).

[5] 15 U.S.C. 78f(b)(6).

[6] 15 U.S.C. 78f(b)(7).

[7] 15 U.S.C. 78f(d)(1).

[8] 17 CFR 240.11Ac1–4.

[9] *See* Securities Exchange Act Release 37619A (September 6, 1996), 61 FR 48290 (September 12, 1996)("Adopting Release").

[10] A specialist is not displaying customer limit orders *immediately* if the specialist regularly executes customer limit orders at, for example, the 27th second after receipt. As stated in the Adopting Release, the requirement that a limit order be displayed "immediately" means that the limit order must be displayed as soon as practicable, but *no later* than 30 seconds after receipt under normal market conditions. This 30 seconds is an outer limit under normal market conditions and is not to be interpreted as a 30-second safe harbor.

[11] For example, the Commission expects that the Exchange would not issue several cautionary letters before instituting the fines under the Plan or aggregate multiple violations of the rules before instituting abbreviated disciplinary procedures under the Plan or, if necessary, full disciplinary procedures.

[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 240.19d–1(c)(2).

[14] 17 CFR 200.30–3(a)(2).

[1] Under the Social Security Independence and Program Improvements Act of 1994, Pub. L. No. 103–296, effective March 31, 1995, SSA became an

initiate reopening of Administrative Law Judge (ALJ) decisions only when the decision "is properly before it." The court explained several methods by which an ALJ decision may be properly before the Appeals Council including when the Council timely takes own motion review of a decision. Furthermore, the court's holding limited the reopening jurisdiction of the Appeals Council by specifically requiring timely own motion review to begin within the 60-day time period provided in 20 CFR 404.969.

Concurrent with the rescission of this Ruling, we are publishing our final rules amending sections 404.969 and 416.1469 of Social Security Regulations Nos. 4 and 16 (20 CFR 404.969 and 416.1469), to clarify when the Appeals Council has own motion review authority to reopen and revise ALJ decisions in accordance with the provisions of 20 CFR 404.987, 404.988, 416.1487 and 416.1488. The final rules provide in paragraphs 404.969(d) and 416.1469(d) that if the Appeals Council is unable to decide within the applicable 60-day period whether to review a decision or dismissal, it may consider at a later time whether the decision or dismissal should be reopened and revised under 20 CFR 404.987, 404.988, 416.1487 and 416.1488. Under the final rules, the Appeals Council's authority to reopen and revise ALJ decisions is not limited by the 60-day period provided in paragraphs 404.969(a) and 416.1469(a).

Because the final rules address the *Butterworth* court's concerns and explain that the Appeals Council's authority to reopen and revise ALJ decisions is not subject to the 60-day period provided in paragraphs 404.969(a) and 416.1469(a), we are rescinding Acquiescence Ruling 87–2(11). The final rules and this rescission restore uniformity to our nationwide system of rules in accordance with our commitment to the goal of administering our programs through uniform national standards as discussed in the preamble to the 1998 acquiescence regulations, 63 FR 24927 (May 6, 1998).

(Catalog of Federal Domestic Assistance Program Nos. 96.001 Social Security—Disability Insurance; 96.002 Social Security—Retirement Insurance; 96.003 Special Benefits for Persons Aged 72 and Over; 96.004 Social Security—Survivors Insurance; 96.006 Supplemental Security Income)

Dated: May 27, 1998.

Kenneth S. Apfel,

Commissioner of Social Security.

[FR Doc. 98–17839 Filed 7–6–98; 8:45 am]

BILLING CODE 4190-29-M

DEPARTMENT OF STATE

Intelligence and Research Bureau; Announcement of FY 1998 Grants Under the Research and Training Program on Eastern Europe and the Independent States of the Former Soviet Union (Title VIII)

[Public Notice 2846]

On May 5, 1998, Deputy Secretary of State Strobe Talbott approved the recommendations of the Advisory Committee for the Study of Eastern Europe and the Independent States of the Former Soviet Union. The Title VIII program, administered by the Department of State, seeks to build expertise among Americans on Russia, Eurasia, and Eastern Europe through support for advanced research, language training, and other activities both in the US and in the region. FY 1998 grant recipients are listed below.

1. American Council of Learned Societies

Grant: $250,000 (EE/Baltic States).

Purpose: To support competitions for dissertation and postdoctoral research fellowships and the Junior Scholars Training Program.

Contact: Jason Parker, Executive Associate, American Council of Learned Societies, 228 East 45th Street, New York, NY 10017–3398, (212) 697–1505 (ext. 134/135), Fax (212) 949–8058, www.ACLS.org, e-mail: Jason@ACLS.org.

2. American Council of Teachers of Russian

Grant: $371,830 (300,000–NIS, $71,830–EE).

Purpose: To support 64 graduate students, postdoctoral scholars, and young faculty in Russian, Eurasian, or Central European studies for advanced on-site language training or research.

Contact: Margaret Stephenson, ACTR, 1776 Massachusetts Avenue, N.W., Suite 700, Washington, D.C. 20036, (202) 833–7522, Fax (202) 833–7523, www.ACTR.org, e-mail: Stephens@ACTR.org.

3. University of Illinois at Urbana-Champaign

Grant: $126,519 ($95,000–NIS; $31,519–EE).

Purpose: To provide support for the Summer Research Laboratory and the Slavic Reference Service.

Contact: Dianne Merridith, Program Administrator, Russian and East European Center, University of Illinois at Urbana-Champaign, 104 International Studies Building, 910 South Fifth Street, Champaign, IL 61820, (217) 333–1244, Fax (217) 333–1582, www.UIUC.edu, e-mail: DianneM@UIUC.EDU

4. Institute of International Education

Grant: $120,000 ($60,000–NIS, $60,000–EE).

Purpose: To support 15 Professional Development Fellowships for young professionals in fields related to public service and civil policy in the NIS and Eastern Europe.

Contact: Andrew Small, Institute Of International Education, US Student Program Division, 809 United Nations Plaza, New York, NY 10017–3580, (212) 883–8200, Fax (212) 984–5325, www.IIE.org, e-mail: ASmall@IIE.org.

5. International Research and Exchanges Board

Grant: $925,000 ($600,000–NIS; $325,000–EE).

Purpose: To support its programs for Individual Advanced Research Opportunities; Short-term Travel Grants; Special Projects in Library and Information Service Grants; and Policy Forums.

Contact: Paul Ashin, IREX, 1616 H Street, N.W., Washington, D.C. 20006, (202) 628–8188, www.IREX.org, e-mail: Pashin@IREX.Org.

6. National Academy of Sciences

Grant: $195,000 ($98,000–NIS, $97,000–EE).

Purpose: To support four Young Investigator Programs and 20 grants for a program on "Governance in Post-Communist Societies," focusing on science and democratization and organized crime, terrorism, and Weapons of Mass Destruction.

Contact: Steven Deets, Office for Central Europe and Eurasia, National Academy of Sciences/National Research Council, 2102 Constitution Avenue, N.W., (FO 2014), Washington, D.C. 20418, (202) 334–2644, Fax (202) 334–2614, www.NAS.edu, e-mail: SDeets@NAS.EDU.

7. National Council for Eurasian and East European Research

Grant: $1,273,800 ($900,000–NIS; $373,800,000–EE).

Purpose: To support the Research Contract and Fellowship Grant Programs and for the Policy Research Fellowships for junior postdoctoral scholars in the NIS.

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independent Agency in the Executive Branch of the United States Government and was provided ultimate responsibility for administering the Social Security and Supplemental Security Income programs under titles II and XVI of the Act. Prior to march 31, 1995, the Secretary of Health and Human Services had such responsibility.

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Contact: Robert Huber, President, NCEEER, 1755 Massachusetts Avenue, N.W., Suite 304, Washington, D.C. 20036, (202) 387–0168, Fax (202) 387–1608, www.NCEEER.com, e-mail: NCEEER@IX.Netcom.com.

8. Social Science Research Council

Grant: $770,000 ($750,000–NIS, $20,000–EE).

Purpose: To support a national fellowship program for dissertation completion and for postdoctoral research and a competition for grants to American institutions for language training.

Contact: Judith Sedaitis, Staff Associate, Social Science Research Council, 810 7th Avenue, New York, NY 10019, (212) 377–2700, Fax (212) 377–2727, www.SSRC.org, e-mail: Sedaites@SSRC.org.

9. The Woodrow Wilson Center for International Scholars

Grant: $742,851 ($480,000–NIS; $262,851–EE).

Purpose: To support research scholarships, short-term grants, research fellowships and internships; meetings; and outreach publication.

Contact: Nancy Popson, Program Associate, Kennan Institute, (202) 287–3400, Fax (202) 287–3772, wwics.si.edu, e-mail: Popsonna@WWIC.SI.Edu. Or, Kristin Hunter Program Associate, East European Studies, East and West European, Program, The Wilson Center, 370 L'Enfant Promenade, Suite 704, Washington, D.C. 20024–2518, (202) 287–3000, Fax (202) 287–3772, wwics.si.edu, e-mail: EES-WWC@erols.com.

Dated: June 22, 1998.

Kenneth E. Roberts,

Executive Director, Advisory Committee for Study of Eastern Europe and the Independent States of the Former Soviet Union.

[FR Doc. 98–17845 Filed 7–6–98; 8:45 am]

BILLING CODE 4710–22–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Aviation Rulemaking Advisory Committee to discuss aircraft certification procedures issues.

DATES: The meeting will be held on July 22, 1998, at 9:00 a.m.

ADDRESSES: The meeting will be held at the General Aviation Manufacturers Association, 1400 K Street, NW, Suite 801, Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Terry Stubblefield, Transportation Industry Analyst, Office of Rulemaking (ARM–208), 800 Independence Avenue, SW., Washington, DC 20591. Telephone: (202) 267–7624; FAX: (202) 267–5075.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee to discuss aircraft certification procedures issues. This meeting will be held on July 22, 1998, at 9:00 a.m. at the General Aviation Manufacturers Association, 1400 K Street, NW, Suite 801, Washington, DC.

The agenda for this meeting will include:

(1) A status report from the International Certification Procedures Harmonization Working Group on disposition of comments received in response to the "Type Certification Procedures for Changed Products" Notice of Proposed Rulemaking (NPRM). This working group's activities are nearing completion, and it is expected that this will be the last report. The next action anticipated by the working group will be a ballot vote;

(2) A status report on the Delegation System Working Group's "Establishment of Organization Designation Authorization Procedures" NPRM, advisory circular and FAA order;.

(3) A status report from the Parts Working Group and Production Certification Working Group on the parts 21 and 45 "Production Certification and Parts Manufacturing" NPRM.

Attendance is open to the interested public but may be limited to the space available. The public must make arrangements in advance to present oral statements at the meeting or may present written statements to the committee at any time. In addition, sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under "For Further Information Contact."

Issued in Washington, DC, on June 29, 1998.

Brian Yanez,

Assistant Executive Director for Aircraft Certification Procedures, Aviation Rulemaking Advisory Committee.

[FR Doc. 98–17855 Filed 7–6–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In May 1998, there were eight applications approved. Additionally, seven approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: City of Springfield Airport Board, Springfield, Missouri.

Application Number: 97–03–C–00–SGF.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in this Decision: $6,370.614.

Earliest Charge Effective Date: July 1, 1998.

Estimated Charge Expiration Date: July 1, 2005.

Class of Air Carriers Not Required To Collect PFC's:

Non-scheduled Part 135 air taxi commercial operators.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Springfield/Branson Regional Airport.

Brief Description of Projects Approved for Collection and Use:

Terminal area master plan.

Flight information display system.

Airport snow removal equipment (SRE).

Commuter walkways.

PFC administrative costs.

Brief Description of Project Partially Approved for Collection and Use: Leasehold acquisition, roadway improvements, baggage claim, and ground transportation expansion.

Determination: Partially approved. (1) The tenant relocation is not eligible in accordance with paragraph 595(a). (2) The leasehold acquisition is disapproved. (3) The facility areas dedicated to ground commerce, which are determined to be the loading area occupied by the tour buses, limousines, taxis, private shuttles, and any dedicated roadway specifically for such ground commerce vehicles, are ineligible. (4) The number of charter aircraft presently utilizing the airport and forecasted for the next five years do not justify the addition of two gates. Therefore, this element would not preserve or enhance capacity, and thus is not approved for use of PFC funding.

Brief Description of Withdrawn Project: Airport runway extension, parallel taxiway, and secondary instrument landing system.

Determination: This project was withdrawn by the public agency in its letter dated December 12, 1997. Therefore, the FAA will not rule on this project in this decision.

Decision Date: May 1, 1998.

FOR FURTHER INFORMATION CONTACT: Lorna Sandridge, Central Region Airports Division, (816) 426–4730.

Public Agency: County of Delta, Escanaba, Michigan.

Application Number: 98–05–C–00–ESC.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in this Decision: $196,095.

Earliest Charge Effective Date: August 1, 1998.

Estimated Charge Expiration Date: October 1, 2000.

Class of Air Carriers not Required to Collect PFC's: Part 135 air taxi and charter carriers.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Delta County Airport.

Brief Description of Projects Approved for Collection and Use:

Acquire land and remove obstructions.

Remove obstructions from runway 36 approach.

Acquire land.

Acquire land and remove obstructions.

Acquire passenger lift.

New terminal building (design only).

Construct air carrier apron.

Construct connecting taxiway.

Construct airport entrance road.

Construct vehicular parking lot (non-revenue).

Decision Date: May 12, 1998.

FOR FURTHER INFORMATION CONTACT: Jon Gilbert, Detroit Airports District Office, (734) 487–7281.

Public Agency: City of Burlington, Vermont.

Application Number: 98–02–C–00–BTV. .

Application Type: Impose and use a PFC.

PFC Level: $3.00 .

Total PFC Revenue Approved in this Decision: $40,000.

Earliest Charge Effective Date: February 1, 2006.

Estimated Charge Expiration Date: March 1, 2006.

Class of Air Carriers not Required to Collect PFC's: On demand air taxi commercial operators that (1) do not enplane or deplane passengers at the airport's main passenger terminal building and (2) enplane less than 200 passengers per year at the airport.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Burlington International Airport.

Brief Description of Project Approved for Collection and Use:

Expand terminal/landside.

South commuter ramp expansion.

Brief Description of Project Approved for Collection and Use: PFC application costs.

Decision Date: May 15, 1998.

FOR FURTHER INFORMATION CONTACT: Priscilla Scott, New England Region Airports Division, (781) 238–7614.

Public Agency: City of Waco, Texas.

Application Number: 98–02–C–00–ACT.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in this Decision: $2,081,400.

Earliest Permissible Charge Effective Date: October 1, 1999.

Estimated Charge Expiration Date: June 1, 2013.

Class of Air Carriers Not Required to Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use:

Terminal renovation and expansion.

PFC administrative costs.

Decision Date: May 19, 1998.

FOR FURTHER INFORMATION CONTACT: Ben Guttery, Southwest Region Airports Division, (817) 222–5614.

Public Agency: MBS International Airport Commission, Saginaw, Michigan.

Application Number: 98–02–C–00–MBS.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in this Decision: $812,050.

Earliest Charge Effective Date: December 1, 1998.

Estimated Charge Expiration Date: January 1, 2000.

Class of Air Carriers Not Required to Collect PFC's: Part 135 air taxi/commercial operators.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at MBS International Airport.

Brief Description of Projects Approved for Collection and Use:

Expand and rehabilitate SRE building.

Expand general aviation apron.

Rehabilitate perimeter road.

Rehabilitate SRE building apron.

Rehabilitate service road.

Acquire SRE (spreader).

Acquire SRE (snow plow).

Construct water main.

Construct aircraft rescue and firefighting (ARFF) building (design only).

Construct new ARFF building.

Acquire SRE (sweeper).

Airport storm drainage study.

Design of runway 5/23 and taxiway system rehabilitation.

Decision Date: May 22, 1998.

FOR FURTHER INFORMATION CONTACT: Jon Gilbert, Detroit Airports District Office, (734) 487–7281.

Public Agency: St. Louis Airport Authority, St. Louis, Missouri.

Application Number: 98–04–I–00–STL.

Application Type: Impose a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in this Decision: $135,000,000.

Earliest Permissible Charge Effective Date: June 1, 1998.

Estimated Charge Expiration Date: September 1, 2001.

Class of Air Carriers Not Required to Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class

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accounts for less than 1 percent of the total annual enplanements at Lambert-St. Louis International Airport.

Brief Description of Projects Approved for Collection Only:

Property and business acquisition for natural Bridge Road relocation (phase I).

Land acquisition for Natural Bridge Road relocation (phase II).

Land acquisition for new runway 12R/30L site preparation work.

Early road work.

Design fees for roads and runway (including program management consultant/airport development program consultant fees.

Decision Date: May 22, 1998.

FOR FURTHER INFORMATION CONTACT: Lorna Sandridge, Central Region Airports Division, (816) 426-4730.

Public Agency: Columbus Municipal Airport Authority, Columbus, Ohio.

Application Number: 97-06-C-00-CMH.

Application Type: Impose and use a PFC.

PFC level: $3.00.

Total PFC Revenue Approved in This Decision: $40,005,400.

Earliest Charge Effective Date: January 1, 2002.

Estimated Charge Expiration Date: January 1, 2004.

Class of Air Carriers not Required to Collection PFC's; Air taxi/commercial operators.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Port Columbus International Airport (CMH).

Brief Description of Projects Approved for Collection at CMH and Use at CMH:

Skycap baggage improvements.

Structure removal from runway 28L building restriction line.

Digital image acquisition and identification card production system.

Runway 10R/28L centerline improvements.

Development and enhancement study.

Tree removal.

Terminal exit doors modifications.

Multi-user flight information display system.

ARFF rapid intervention vehicle.

Terminal modernization program.

Taxiway E lighting.

International Gateway/Stelzer Road interchange justification study.

Terminal ramp aircraft parking pads.

Lane apron and connector/taxiway C-1 overlay.

Terminal apron rehabilitation (design).

International Gateway (road) improvements.

Residential soundproofing phases II-IV.

Ticket counter/baggage claim expansion study.

Addendum to 1993 Part 150 noise exposure maps and noise compatibility plan.

Landside building program: scope definition and design standards.

Reconfigure post office on the air operations area (access control improvements).

Terminal entrance improvements.

Public address system.

Terminal directional signage.

Runway distance measuring equipment.

Airport economic impact analysis.

Wetland delineation study.

Signage and graphics consulting services.

Airfield lighting electrical vault.

Safety and security equipment.

Relocation of taxiway G lighting.

Brief Description of Projects Approved for Collection at CMH and use at Bolton Field:

Automated weather observation system.

Drainage improvements.

Terminal restrooms/Americans with Disabilities Act requirements.

Engineering and consulting services.

Runway 4 end centerline rehabilitation.

Tree removal.

Brief Description of Projects Approved in Part for Collection At CMH and Use At CMH: North airfield improvements: extension of Bridgeway Avenue, land acquisition, construction of apron, construction of taxiway, sanitary sewer relocation, environmental mitigation/site work.

Determination: Partially approved. The water service upgrade portion of the project was determined to be ineligible under paragraph 568 of FAA Order 5100.38A, Airport Improvement Program (AIP) Handbook. The public agency did not establish in its application that the proposed water line, or a portion thereof, would serve eligible airport development.

Chiller replacement/purge equipment.

Determination: Partially approved. Utility projects are eligible to the extent they are needed to serve eligible airport development. The allowable cost of any installation serving both eligible and ineligible areas or facilities must be prorated. The FAA has determined that approximately 72 percent of the total project costs are eligible.

Terminal gate alterations/consolidation.

Determination: Partially approved. Terminal building projects involve work in both eligible and ineligible areas. PFC eligibility is limited to public-use areas that are directly related to the movement of passengers and baggage in air carrier and commuter service terminal facilities within the boundaries of the airport. The FAA has determined that approximately 72 percent of the total project costs are eligible.

West sanitary pumping station and 8-inch force main.

Determination: Partially approved. The public agency requested 100 percent PFC funding for this project. However, utility projects are only eligible to the extent they are needed to serve eligible airport development. The allowable cost of any installation serving both eligible and ineligible areas or facilities will be a prorated share of the total cost. The FAA has determined that approximately 72 percent of the total project costs are eligible.

Runway 10L/28R navigational aids.

Determination: Partially approved. The approved amount was reduced from the amount requested to account for the issuance of two AIP grants.

North airfield T-hangar apron (taxilanes only).

Determination: Partially approved. PFC eligibility is limited to the public use apron, access drive, and perimeter fencing. In addition, the site work is eligible on a prorated basis for that portion of the project determined to be eligible.

Concourse B renovations.

Determination: Partially approved. Certain elements of this project, such as carpet replacement, are not eligible in accordance with Appendix 2 of FAA Order 5100.38A, AIP Handbook.

Landside building program—design and construction: terminal expansion and entrance improvements (terminal modernization, phase IV) and signage and graphic improvements; expansion of the terminal curbfront and International Gateway from Sawyer Road to the terminal.

Determination: Partially approved. Certain items mentioned in the project description, such as the parking structure site preparation and portions of the airport roadways exlusively serving parking facilities, rental car facilities, and other non-aeronautical facilities, are not eligible.

East sanitary lift station replacement.

Determination: Partially approved. Utility projects are eligible to the extent they are needed to serve eligible airport development. The allowable cost of any installation serving both eligible and ineligible areas or facilities will be a prorated share of the total project cost. The FAA has determined that approximately 72 percent of the total project costs are eligible.

PFC application formulation expense: environmental overview; application legal services; other application costs.

Determination: Partially approved. The environmental review is not considered a PFC application formulation expense; however, this is considered to be an eligible element of a planning study under AIP criteria, paragraph 406(r) of FAA Order 5100.38A, AIP Handbook. The approved amount was reduced from the amount requested based on actual costs as shown in the public agency's letter dated December 19, 1997.

Backflow prevention valves.

Determination: Partially approved. Utility projects are eligible to the extent they are needed to serve eligible airport development. The allowable cost of any installation serving both eligible and ineligible areas or facilities will be a prorated share of the total project cost. The FAA has determined that approximately 72 percent of the total project costs are eligible.

Terminal heating piping replacement.

Determination: Partially approved. Terminal building projects involve work in both eligible and ineligible areas. PFC funding is limited to non revenue producing public-use areas that are directly related to the movement of passengers and baggage in air commerce within the boundaries of the airport. The FAA has determined that approximately 72 percent of the total project costs are eligible.

Brief Description of Projects Disapproved for Collection at CMH and Use at CMH: Satellite landing system.

Determination: Disapproved. This project has been determined to not be justified under PFC criteria. The requested global positioning system differential ground station equipment is not required for precision approaches at CMH. In addition, this equipment is not yet approved by the FAA for installation.

Signage standards manual.

Determination: Disapproved. This project does not meet the objectives test for FPC eligibility in § 158.15(a).

South ramp settlement study.

Determination: Disapproved. Paragraph 300(b) of FAA Order 5100.38A (October 24, 1989) indicates that the separate funding of projects for the preparation of plans and specifications is allowable if the airport development has every expectation of beginning within 2 years. Inasmuch as this project was completed in 1993 and a project to correct the settlement problem has not been started and is not in this application, the FAA has no expectation that this project will be started within 2 years, as required by § 158.33(a)(1). In addition, the FAA has determined that this project does not confirm to the eligible master planning elements in paragraph 406 of FAA Order 5100.38A, and is not, therefore, considered to be eligible planning work. Therefore, this study/preliminary engineering project is being disapproved at this time.

Bolton Field—airport layout plan and Exhibit A.

Determination: Disapproved. This project does not meet the objective test for PFC eligibility in § 158.15(a), namely it does not preserve or enhance safety, security, or capacity; reduce noise or mitigate noise impacts; not does it furnish opportunities for enhanced competition.

Decision Date: May 29, 1998.

FOR FURTHER INFORMATION CONTACT: Mary Jagiello, Detroit Airports District Office, (313) 487–7296.

Public Agency: Ports of Chelan and Douglas, Wenatchee Washington.

Application Number: 98–02–00–EAT.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in this Decision: $307,000.

Earliest Charge Effective Date: June 1, 1998.

Estimated Charge Expiration Date: October 1, 2000.

Class of Air Carriers not Required to Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use:

Reconstruct runway 12/30.

Property acquisition on approach runway 30.

Properry acquisition on approach runway 12.

Taxiway G lighting and signage.

Access road improvements.

Acquire passenger access lift.

Equipment storage building for SRE.

Acquire SRE.

Decision Date: May 29, 1998.

FOR FURTHER INFORMATION CONTACT: Mary Vargas, Seattle Airports District Office, (425) 227–2660.

AMENDMENTS TO PFC APPROVALS

Amendment No. city, state	Approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
93–02–C–02–MEI, Meridian, MS	03/26/98	$155,223	$154,390	12/01/00	12/01/00
97–04–C–01–MEI, Meridian, MS	04/24/98	32,500	45,000	12/01/00	03/01/01
93–01–C–01–MRY, Monterey, CA	04/30/98	3,960,855	5,455,672	06/01/00	12/01/01
97–02–C–01–DSM, Des Moines, IA	05/08/98	3,574,928	9,713,654	07/01/99	12/01/01
95–03–C–02–GPT, Gulfport, MS	05/19/98	3,464,600	4,608,400	12/01/01	02/01/02
95–01–C–01–CMI, Champaign, IL	05/21/98	1,154,307	1,327,400	11/01/98	06/01/99
94–01–C–01–LBE, Latrobe, PA	05/29/98	187,286	1,397,687	10/01/98	05/01/13

Issued in Washington, DC on June 26, 1998.

Eric Gabler,

Manager, Passenger Facility Charge Branch.

[FR Doc. 98–17854 Filed 7–6–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Traffic Alert and Collision Avoidance System (TCAS) Airborne Equipment, TCAS II

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability for public comment.

SUMMARY: This notice announces the availability of and requests comments on a proposed Technical Standard Order (TSO) pertaining to traffic alert and collision avoidance system (TCAS) airborne equipment, TCAS II. The proposed TSO prescribes the minimum operational performance standards that TCAS II equipment must meet to be identified with the marking "TSO–C119b."

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DATES: Comments must identify the TSO file number and be received on or before August 17, 1998.

ADDRESSES: Send all comments on the proposed technical standard order to: Technical Programs and Continued Airworthiness Branch, AIR–120, Aircraft Engineering Division, Aircraft Certification Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. Or deliver comments to: Federal Aviation Administration, Room 815, 800 Independence Avenue, SW., Washington, DC 20591. Comments must identify the TSO file number.

FOR FURTHER INFORMATION CONTACT: Ms. Bobbie J. Smith, Technical Programs and Continued Airworthiness Branch, AIR–120, Aircraft Engineering Division, Aircraft Certification Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, FAX No. (202) 267–5340.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on the proposed TSO listed in this notice by submitting such written data, views, or arguments as they desire to the above specified address. Comments received on the proposed technical standard order may be examined, before and after the comment closing date, in Room 815, FAA Headquarters Building (FOB–10A), 800 Independence Avenue, SW., Washington, DC 20591, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m. All communications received on or before the closing date for comments specified above will be considered by the Director of the Aircraft Certification Service before issuing the final TSO.

Background

This TSO is proposed to provide for performance enhancement to Traffic Alert and Collision Avoidance System II (TCAS II) Airborne Equipment. There have been a significant number of changes to the TCAS II software. Version 7.0 of the TCAS II will also be utilized by ICAO member states with the mandates for equipage of Airborne Collision Avoidance System (ACAS II). Areas of improvement include TCAS–TCAS reversal, horizontal miss distance filtering, surveillance improvements to extend effective range and reduce interference in high density traffic areas, reduction of nuisance Traffic Advisories operating in Reduced Vertical Separation Minimum (RVSM) airspace, etc. Also, display and aural changes were made to improve flight crew recognition and understanding issues.

Marking is addition to those required by 14 CFR 21.607 would be required for TSO–C119b articles.

The proposed TSO would require the TSOA holder to provide the article purchaser with certain data described in Paragraph 5 of proposed TSO–C119b. Data that would be furnished with each manufactured article includes operating instructions and equipment limitations, installation procedures, limitations, and related information, equipment specifications and designations, maintenance instructions, and environmental qualification forms. Additional information would be required for articles that accomplish additional functions; that information would need to be sent to the purchaser once, even if several identical articles are purchased.

How to Obtain Copies

A copy of the proposed TSO–C119b may be obtained via Internet (http:/www.faa.gov/avr/air/100home.htm) or on request from the office listed under **FOR FURTHER INFORMATION CONTACT.** Copies of RTCA, Inc. Document No. DO–185A, "Minimum Operational Performance Standards for An Active Traffic Alert and Collision Avoidance System II (TCAS II) Airborne Equipment," dated December 16, 1997. RTCA Document No. 160D, "Environmental Conditions and Test Procedures for Airborne Equipment," dated July 29, 1997; and RTCA Document No. DO–178B, "Software Considerations in Airborne Systems and Equipment Certification," dated 1, 1992, may be purchased from the RTCA Inc., 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036.

Issued in Washington, DC, on June 30, 1998.

Abbas A. Rizvi,

Acting Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 98–17943 Filed 7–6–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with title 49 CFR 211.9 and 211.41, notice is hereby given that the following railroads have petitioned the Federal Railroad Administration (FRA) for exemption from or waiver of compliance with a requirement of its safety standards. Their petitions are described below, including the regulatory provisions involved, and the nature of the relief being requested.

Interested parties are invited to participate in these proceedings by submitting written views, data or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis of their request.

All communications concerning these proceedings should identify the appropriate waiver petition docket number and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street SW., Mail Stop 10, Washington, DC 20590.

Communications received within 45 days of the date of publication of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m. to 5 p.m.) in Room 7051, 1120 Vermont Street, NW., Washington, DC. The individual petitions are as follows:

National Railroad Passenger Corporation (Amtrak)

FRA Waiver Petition Docket No. HS–98–01

Amtrak requests a waiver to maintain train and engine employee's hours of duty records in an electronic program in lieu of manually signed paper records.

Florida East Coast Railway Company (FEC)

FRA Waiver Petition Docket No. HS–98–02

FEC requests a waiver to utilize their "Paperless Time Ticket Program" to produce an electronic record of train and engine employee hours of duty in lieu of manually signed paper records.

Both Amtrak and the FEC request a waiver of compliance with certain provisions of FRA Safety Regulations (Hours of Service of Railroad Employees). The waivers requested seek relief from Title 49 Code of Federal Regulations (CFR) Part 228.9(a)(1) for each railroad to utilize a computerized system of recording hours of duty data. Part 228.9(a)(1) requires that records maintained under Part 228 be signed by the employee whose time is being recorded, or in the case of train and engine crews, signed by the ranking crew member. Amtrak and the FEC seek to utilize a secure computerized program of recording hours of duty information which would not comply with the above requirements for a "signature" of the employee or ranking crew member. Amtrak and the FEC propose that each railroad's train and engine employee will have his or her own unique identification number and personal identification number (PIN). The PIN will remain confidential to the employee. When accessing the computer for input of the hours of service record, required by § 228.11, the (PIN) will not appear on the computer screen when the employee enters his or her number. All data entered under access gained through use of the confidential PIN will be electronically stamped with the entering employee's name. The program will display the electronic signature on the employee's hours of duty record. Amtrak and the FEC requests a waiver to use the electronic stamp to satisfy the signature requirements of the "Hours of Service of Railroad Employees." The railroads maintain that the change is in the best interests of all parties, in that, it will reduce unnecessary paperwork and the costs associated therewith while providing the railroads, its employees and the FRA with a superior level of information on a more timely basis than is currently available.

Issued in Washington, DC on June 29, 1998.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 98–17827 Filed 7–6–98; 8:45 am]

BILLING CODE 4910-6-P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Delays in Processing of Exemption Applications

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of Applications Delayed more than 180 days.

SUMMARY: In accordance with the requirements of 49 U.S.C. 5117(c), RSPA is publishing the following list of exemption applications that have been in process for 180 days or more. The reason(s) for delay and the expected completion date for action on each application is provided in association with each identified application.

FOR FURTHER INFORMATION CONTACT: J. Suzanne Hedgepeth, Director, Office of Hazardous Materials, Exemptions and Approvals, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590–0001, (202) 366–4535.

Key to "Reasons for Delay"

1. Awaiting additional information from applicant.
2. Extensive public comment under review.
3. Application is technically very complex and is of significant impact or precedent-setting and requires extensive analysis.
4. Staff review delayed by other priority issues or volume of exemption applications.

Meaning of Application Number Suffixes

N—New application
M—Modification request
PM—Party to application with modification request

Issued in Washington, DC, on June 24, 1998.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials Exemptions and Approvals.

Application No.	Applicant	Reason for delay	Estimated date of completion
	NEW EXEMPTION APPLICATIONS		
11540–N	Convenience Products, Fenton, MO	1	7/31/1998
11591–N	Clearwater Distributors, Inc., Woodridge, NY	4	7/31/1998
11682–N	Cryolor, Argancy, 57365 Ennery—France	4	7/31/1998
11687–N	Tri Tank Corp., Syracuse, NY	4	7/31/1998
11699–N	GEO Specialty Chemicals, Bastrop, LA	4	7/31/1998
11735–N	R.D. Offutt Co., Park Rapids, MN	4	7/31/1998
11751–N	Delta Resigns & Refractories, Detroit, MI	4	7/31/1998
11761–N	Vulcan Chemicals, Birmingham, AL	4	7/31/1998
11765–N	Laidlaw Environmental Services, Inc., Columbia, SC	4	7/31/1998
11767–N	Ausimont USA, Inc., Thorofare, NJ	4	7/31/1998
	NEW EXEMPTION APPLICATIONS		
11774–N	Safety Disposal System, Inc., Opa Locka, FL	1	7/31/98
11783–N	Peoples Natural Gas, Rosemount, MN	4	7/31/98
11815–N	Union Pacific Railroad Co. et al, Omaha, NE	4	7/31/98
11817–N	FIBA Technologies, Inc., Westboro, MA	4	7/31/98
11821–N	Wyoming Department of Transportation, Cheyenne, WY	4	7/31/98
11862–N	The BOC Group, Murray Hill, NJ	4	7/31/98
11882–N	FMC Corporation, Philadelphia, PA	4	7/31/98
11883–N	Brownie Tank Mfg., Co., Minneapolis, MN	4	7/31/98
11884–N	Degussa Corporation, Ridgefield Park, NJ	4	7/31/98
11894–N	Quicksilver Fiberglass Manufacturing Ltd., Strome, Alberta, CN	4	7/31/98
	NEW EXEMPTION APPLICATIONS		
11911–N	Transfer Flow, Inc., Chico, CA	4	07/31/1998
11915–N	Lockheed Martin Aeronautical Systems, Marietta, GA	4	07/31/1998
11916–N	CP Industries, Inc., McKeesport, PA	4	07/31/1998
11927–N	Alaska Marine Lines, Seattle, WA	4	07/31/1998
11934–N	UtiliCorp United, Inc., Omaha, NE	4	07/31/1998
11938–N	Steel Shipping Container Institute, Washington, DC	4	07/31/1998
11947–N	Patts Fabrication & Services, Odessa, TX	4	08/31/1998
11954–N	Republic Environmental Systems (PA), Inc., Hatfield, PA	4	08/31/1998
11970–N	Exxon Chemical, Inc., Baytown, TX	4	08/31/1998

Application No.	Applicant	Reason for delay	Estimated date of completion
11971–N	Regional Airline Association, Washington, DC	4	08/31/1998
	NEW EXEMPTION APPLICATIONS		
11982–N	Webasto Thermosystems, Inc., Madison Heights, MI	4	09/30/1998
11983–N	Degussa Corporation, Ridgefield Park, NJ	4	09/30/1998
12001–N	Albermarle Corporation, Baton Rouge, LA	4	09/30/1998
12003–N	Degussa Corporation Ridgefield Park, NJ	4	09/30/1998
12004–N	Alfa SA, Portugal	4	09/30/1998
12020–N	Rhone-Poulenc, Inc., Shelton, CT	4	09/30/1998
	MODIFICATIONS TO EXEMPTIONS		
3216–M	E.I. DuPont de Nemours & Co., Inc., Wilmington, DE	4	09/30/1998
4354–M	PPG Industries, Inc., Pittsburgh, PA	1	07/29/1998
4661–M	Cyprus Foote Mineral Co., Kings Mountain, NC	4	07/29/1998
6610–M	ARCO Chemical Co., Newtown Square, PA	4	07/29/1998
6971–M	Chem Service, West Chester, PA	4	06/30/1998
	NEW EXEMPTION APPLICATIONS		
7879–M	Halliburton Energy Services, Inc., Duncan, OK	4	07/29/1998
8556–M	Air Products & Chemicals, Inc., Allentown, PA	4	07/29/1998
0649–M	Propack, Inc., Essington, PA	4	07/29/1998
2669–M	ERMEWA, Inc., Houston, TX	4	07/29/1998
8199–M	Halliburton Energy Services, Inc., Duncan, OK	4	07/30/1998
01381–M	Betz Dearborn, Inc., Trevose, PA	4	07/30/1998
03651–M	U.S. Enrichment Corporation, Bethesda, MD	4	07/30/1998
04291–M	Baker Performance Chemicals, Inc., Houston, TX	4	07/30/1998
06771–M	Primus AB, S–171 26 Solna, SW	4	07/30/1998
09961–M	Kosdon Enterprises, Ventura, CA	4	07/30/1998
	NEW EXEMPTION APPLICATIONS		
11058–M	Spex Certiprep Inc., Metuchen, NJ	4	07/30/1998
11167–M	ECO–Pak Specialty Packaging, Elizabethton, TN	4	07/30/1998
11254–M	Schlumberger Oilfield Services, Sugar Land, TX	4	07/31/1998
11375–M	Oceaneering Space Systems, Houston, TX	4	08/31/1998
11378–M	Astrotech Space Operations, Inc., Titusville, FL	4	07/30/1998
11458–M	Reckitt & Colman, Inc., Montvale, NJ	4	07/30/1998
11516–M	Falcon Safety Products, Inc., Somerville, NJ	4	07/30/1998
	PARTIES TO EXEMPTION APPLICATIONS WITH MODIFICATION		
11352–PM	PepsiCo, Inc., Arlington, TX	4	07/30/1998

[FR Doc. 98–17941 Filed 7–6–98; 8:45 am]
BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

June 25, 1998.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before August 6, 1998 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0685.

Form Number: IRS Form 1363.

Type of Review: Extension.

Title: Export Exemption Certificate.

Description: This form is used by air carriers of property by air to justify the tax-free transport of property. It is used by IRS as proof of tax exempt status of each shipment.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents/Recordkeepers: 100,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping: 3 hr., 50 min.

Learning about the law or the form: 18 min.

Preparing, copying, assembling, and sending the form to the IRS: 22 min.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 450,000 hours.

OMB Number: 1545–0798.

Form Number: None.

Type of Review: Extension.

Title: 26 CFR 31.6001–1: Records in General; 26 CFR 31.6001–2: Additional Records Under FICA; 26 CFR 31.6001–3: Additional Records Under Railroad Retirement Tax Act; 26 CFR 31.6001–5: Additional Records in Connection with Collection of Income Tax at Source on Wages; and 26 CFR 31.6001–6: Notice by District Director Requiring Returns, Statements, or the Keeping of Records.

Description: Internal Revenue Code (IRC) section 6001 requires, in part, that every person liable for tax, or for the collection of that tax keep such records and comply with such rules and regulations as the Secretary may from time to time prescribe. 26 CFR 31.6001 has special application to employment taxes. These records are needed to ensure compliance with the Code.

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Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions, Farms, Federal Government, State, Local or Tribal Government.

Estimated Number of Recordkeepers: 5,676,263.

Estimated Burden Hours Per Recordkeeper: 5 hours, 20 minutes.

Estimated Total Recordkeeping Burden: 30,273,950 hours.

OMB Number: 1545–0834.

Form Number: None.

Type of Review: Revision.

Title: Regulations Under Tax Conventions—Ireland.

Description: This information is needed to secure for individuals and businesses the benefits to which they are entitled under the tax convention and to facilitate the administration and enforcement of the tax laws of the United States.

Respondents: Individuals or households, Business or other for-profit.

Estimated Number of Respondents: 20.

Estimated Burden Hours Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 5 hours.

OMB Number: 1545–1212.

Form Number: IRS Form 706–QDT.

Type of Review: Revision.

Title: U.S. Estate Tax Return for Qualified Domestic Trusts.

Description: Form 706–QDT is used by the trustee or the designated filer to compute and report the Federal estate tax imposed on qualified domestic trusts by Internal Revenue.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions, Farms, Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents/Recordkeepers: 80.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping: 1 hr., 12 min.

Learning about the law or the form: 43 min.

Preparing the form: 1 hr., 30 min.

Copying, assembling, and sending the form to the IRS: 1 hr., 3 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 357 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–17867 Filed 7–6–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

June 25, 1998.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before August 6, 1998 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1021.

Form Number: IRS Form 8594.

Type of Review: Extension.

Title: Asset Acquisition Statement.

Description: Form 8594 is used by the buyer and seller of assets to which goodwill or going concern value can attach to report the allocation of the purchase price among the transferred assets.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents/Recordkeepers: 20,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping: 8 hr., 51 min.

Learning about the law or the form: 1 hr., 35 min.

Preparing, copying, assembling, and sending the form to the IRS: 1 hr., 49 min.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 245,000 hours.

OMB Number: 1545–1600.

Notice Number: Notice 98–25.

Type of Review: Extension.

Title: Election to Continue to Treat Trust as a United States Person.

Description: The notice provides the procedures and requirements for making the election to remain a domestic trust.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions, Farms, Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents: 500,000.

Estimated Burden Hours Per Respondent: 30 minutes.

Estimated Total Recordkeeping Burden: 250,000 hours.

OMB Number: 1545–1602.

Notice Number: Notice 98–23.

Type of Review: Extension.

Title: Taxation of Social Security Benefits Under U.S.-Canada Income Tax Treaty.

Description: The notice provides guidance regarding recent changes to the taxation of social security benefits under the U.S.-Canada income tax treaty and the availability of refunds in some cases for taxes paid on benefits received in 1996 and 1997.

Respondents: Individuals or households.

Estimated Number of Respondents: 50,000.

Estimated Burden Hours Per Respondent: 30 minutes.

Frequency of Response: Other (one time).

Estimated Total Reporting Burden: 25,000 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–17868 Filed 7–6–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

June 25, 1998.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

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Dates: Written comments should be received on or before August 6, 1998 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0884.
Form Number: IRS Form 8279.
Type of Review: Extension.
Title: Election to be Treated as a FSC or as a Small FSC.

Description: A foreign corporation and its shareholders must elect to be a Foreign Sales Corporation (FSC) or Small FSC. Form 8279 is used to make the election. Form 8279 provide IRS with the necessary information to determine that the foreign corporation qualifies to be a FSC, number and types of shareholders, and tax year of the FSC and its principal shareholder.

Respondents: Business or other for-profit

Estimated Number of Respondents/Recordkeepers: 5,000

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping: 4 hr., 32 min.

Learning about the law or the form: 1 hr., 47 min.

Preparing and sending the form to the IRS: 1 hr., 56 min.

Frequency of Response: Other (one-time election).

Estimated Total Reporting/Recordkeeping Burden: 41,350 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.
[FR Doc. 98–17869 Filed 7–6–98; 8:45 am]
BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

June 29, 1998.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before July 22, 1998 to be assured of consideration.

SPECIAL REQUEST: In order to conduct the focus group interviews described below within the next 150 days, the Department of the Treasury is requesting that the Office of Management and Budget (OMB) review and approve this information collection by July 15, 1998. To obtain a copy of this study, please contact the Internal Revenue Service Clearance Officer at the address listed below.

Internal Revenue Service (IRS)

OMB Number: 1545–1432.
Project Number: M:SP:V 98–015–G.
Type of Review: Revision.
Title: Focus Group Sessions and Cognitive (In-Depth) Interviews for the Analysis and Redesign of Publication 594.

Description: In order to improve tax compliance, the Service needs to evaluate the understandability and usability of Publication 594 by meeting with taxpayers whose past tax history indicates that they received this publication as part of their tax process with the IRS.

Respondents: Individuals or households, Business or other for-profit.

Estimated Number of Respondents: 28.

Estimated Burden Hours Per Respondent: 4 hours.

Frequency of Response: Other (one-time only).

Estimated Total Reporting Burden: 282 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, N.W., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.
[FR Doc. 98–17871 Filed 7–6–98; 8:45 am]
BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Rreview; Comment Request

June 29, 1998.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before July 22, 1998 to be assured of consideration.

SPECIAL REQUEST: In order to conduct the focus group interviews described below on July 13, 1998, the Department of the Treasury is requesting that the Office of Management and Budget (OMB) review and approve this information collection by July 6, 1998. To obtain a copy of this study, please contact the Internal Revenue Service Clearance Officer at the address listed below.

Internal Revenue Service (IRS)

OMB Number: 1545–1432.
Project Number: M:SP:V 98–017–G.
Type of Review: Revision.
Title: Child Tax Credit Focus Groups.

Description: The Tax Forms and Publications Division must design forms and other materials that accurately reflect the law as passed by Congress (Child Tax Credit enacted by Congress as part of the Taxpayer Relief Act of 1997). Faced with the challenge of keeping the reporting requirements imposed by the law upon taxpayers as simple as possible, the division wishes to gain taxpayer reaction to the materials it is developing. The division believes focus groups will provide valuable information from taxpayers that can be used as part of the development process.

The focus groups will be held in Washington, DC (July 13); Boston, Massachusetts (July 15); Los Angeles, California (July 16); Chicago, Illinois (July 20); and Richmond, Virginia (July 21).

Respondents: Individuals or households.

Estimated Number of Respondents: 100.

Estimated Burden Hours Per Respondent: 3 hours, 30 minutes.

Frequency of Response: Other (one-time only).

Estimated Total Reporting Burden: 282 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, N.W., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–17872 Filed 7–6–98; 8:45 am]

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DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

June 29, 1998.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before July 22, 1998 to be assured of consideration.

SPECIAL REQUEST: In order to conduct the focus group interviews described below as soon as possible, the Department of the Treasury is requesting that the Office of Management and Budget (OMB) review and approve this information collection by July 10, 1998. To obtain a copy of this study, please contact the Internal Revenue Service Clearance Officer at the address listed below.

Internal Revenue Service (IRS)

OMB Number: 1545–1432.

Project Number: M:SP:V 98–018–G.

Type of Review: Revision.

Title: Schedule D Focus Groups.

Description: A significant number of taxpayers who should have attached Schedule D (Form 1040) to their tax return did not do so, resulting in the necessity of corresponding with the taxpayer to request the missing schedule, inconveniencing the taxpayer and increasing processing costs. The Tax Forms and Publications Division would like to meet with some of the taxpayers, to find out what differences in the forms or instructions might have led them to attach the schedule. This will be useful in creating forms and instructions for next year, both in relating to the Schedule D issue, and in communicating any future tax law changes.

Respondents: Individuals or households.

Estimated Number of Respondents: 20.

Estimated Burden Hours Per Respondent: 2 hours, 34 minutes.

Frequency of Response: Other (one-time only).

Estimated Total Reporting Burden: 70 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, N.W., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–17873 Filed 7–6–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1040 and Schedules A, B, C, C–EZ, D, D–1, E, EIC, F, H, J, R and SE

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1040, U.S. Individual Income Tax Return, and Schedules A, B, C, C–EZ, D, D–1, E, EIC, F, H, J, R, and SE.

DATES: Written comments should be received on or before July 8, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: U.S. Individual Income Tax Return.

OMB Number: 1545–0074.

Form Number: 1040 and Schedules A, B, C, C–EZ, D, D–1, E, IC, F, H, J, R, and SE.

Abstract: These forms are used by individuals to report their income tax liability. The data is used to verify that the items reported on the forms are correct, and also for general statistical use.

Current Actions: The major changes are as follows: Form 1040.

(1) Line 6c, column (4), was revised to allow taxpayers to indicate which dependents qualify for the child tax credit (one of the requirements is that the child must be a dependent). The information previously in column (4) regarding the number of months the dependent lived in the taxpayer's home is removed.

(2) New line 24 was added for the student loan interest deduction to reflect new Internal Revenue Code section 221. The deduction will be computed on a new worksheet in the instructions.

(3) New line 43 was added for the child tax credit to reflect new Code section 24. The credit will be computed on a new worksheet in the instructions. Also, line 60 was added for the additional (refundable) amount of the child tax credit. The additional credit is allowed by Code section 32(n), and it will be computed on Form 8812.

(4) New line 44 was added for the education credits (the Hope and lifetime learning credits) allowed by Code section 25A, which will be computed on Form 8863.

Schedule B

Lines 7 through 10 were removed. The amount of ordinary dividends from box 1 of Form 1099–DIV will be entered on line 5 of Schedule B instead of the amount of gross dividends. It will no longer be necessary to enter the amount of capital gain distributions and nontaxable distributions and subtract the total of those amounts from the total gross dividends. Capital gain distributions will be reported only on Schedule D. Nontaxable distributions will not be reported at all, as they are not needed to compute the tax.

Schedule J

New Schedule J, Farm Income Averaging, was created to implement Code section 1301, which was added by the Taxpayer Relief Act of 1997.

Schedule R

The physician's statement was deleted from the form and moved to the

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instructions because there is no need for it to be filed with the tax return.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 69,384,249.

Estimated Time Per Respondent: Varies.

Estimated Total Annual Burden Hours: 1,143,129,008.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information 5 technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 26, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–17824 Filed 7–6–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1040A and Schedules 1, 2, 3, and EIC

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1040A, U.S. Individual Income Tax Return, and Schedules 1, 2, 3, and EIC.

DATES: Written comments should be received on or before September 8, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: U.S. Individual Income Tax Return.

OMB Number: 1545–0085.

Form Number: 1040A and Schedules 1, 2, 3, and EIC.

Abstract: This form is used by individuals to report their income subject to income tax and to compute their correct tax liability. The data are used to verify that the income reported on the form is correct and are also for statistics use.

Current Actions: The major changes are as follows: Form 1040A.

(1) Line 6c, column (4), was revised to allow taxpayers to indicate which dependents qualify for the child tax credit (one of the requirements is that the child must be a dependent). The information previously in column (4) regarding the number of months the dependent lived in the taxpayer's home is removed.

(2) New line 16 was added for the student loan interest deduction to reflect new Internal Revenue Code section 221. The deduction will be computed on a new worksheet in the instructions. Line 17 was added to total the adjustments, which will be subtracted from total income (line 14) to arrive at adjusted gross income (line 18).

(3) New line 28 was added for the child tax credit to reflect new Code section 24. The credit will be computed on a new worksheet in the instructions. Also, line 38 was added for the additional (refundable) amount of the child tax credit. The additional credit is allowed by Code section 32(n), and it will be computed on Form 8812.

(4) New line 29 was added for the education credits (the Hope and lifetime learning credits) allowed by Code section 25A, which will be computed on Form 8863.

(5) Line 27, household employment taxes, has been removed from Form 1040A to gain room for the new lines needed as a result of new law. The few taxpayers who have household employment taxes and had been filing Form 1040A will now need to file Form 1040.

Schedule 3

The physician's statement was deleted from the form and moved to the instructions because there is no need for it to be filed with the tax return.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 26,051,305.

Estimated Time Per Respondent: Varies.

Estimated Total Annual Burden Hours: 200,524,903.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 26, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–17826 Filed 7–6–98; 8:45 am]

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July 7, 1998

Part II

Environmental Protection Agency

40 CFR Part 131
Water Quality Standards Regulation; Proposed Rule

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 131

[FRL–OW–6119–9]

RIN–2040–AC56

Water Quality Standards Regulation

AGENCY: Environmental Protection Agency.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: EPA is today publishing this advance notice of proposed rule making (ANPRM) seeking comments from interested parties on possible revisions to the Water Quality Standards Regulation at 40 CFR Part 131. This ANPRM is intended to initiate discussions on what if any changes are needed in the national water quality standards program to improve the effectiveness of water quality standards in restoring and maintaining the quality of the Nation's waters. EPA will consider all comments before deciding whether to propose revisions to the regulation. EPA is particularly interested in comments on certain key portions of the current Water Quality Standards Regulation (the regulation) contained in 40 CFR Part 131, which establishes requirements for adoption of water quality standards pursuant to section 303 of the Clean Water Act (CWA or the Act). This ANPRM identifies specific issues on which EPA solicits comment. In addition to the specific issues on which EPA solicits comments, EPA is interested in comments on any other aspects of the program. EPA requests comments with the objectives of: supporting watershed or place-based environmental water quality management, ensuring that current water quality criteria and water quality assessment science can be easily incorporated into State and Tribal water quality programs, and enhancing effective implementation of the Act.

DATES: Written comments must be submitted by midnight January 4, 1999.

ADDRESSES: Send written comments to W–98–01, WQS-ANPRM Comment Clerk, Water Docket, MC 4101, US EPA, 401 M Street, S.W., Washington, D.C. 20460. Comments may also be submitted electronically to OW-Docket@epamail.epa.gov. The record is available for inspection from 9:00 to 4:00 p.m., Monday through Friday, excluding legal holidays at the Water Docket, East Tower Basement, USEPA, 401 M St., S.W., Washington, D.C. For access to docket materials, please call (202) 260–3027 to schedule an appointment.

FOR FURTHER INFORMATION CONTACT: Rob Wood at U.S. EPA Standards and Applied Science Division (4305), 401 M Street SW, Washington, DC 20460 (e-mail: WOOD.ROBERT@EPA.GOV) (telephone: 202–260–9536).

SUPPLEMENTARY INFORMATION: EPA will hold a series of full-day public meetings for the purpose of discussion and debate on the issues presented in this notice. EPA plans to hold the public meetings during the 180-day public comment period on this notice. Dates, times and locations of public meetings will be announced to the public.

A. Potentially Affected Entities

This ANPRM by itself will have no regulatory impact or effect. The ANPRM does contain EPA interpretations of core areas of the regulation as well as EPA thinking about how the regulation may need to be changed. As discussed in more detail below, this ANPRM marks the beginning of a national dialogue on possible changes to the water quality standards regulation and program. If changes to the regulation are proposed and ultimately made final, to the extent such changes would require and/or authorize changes to State and Tribal water quality standards, States and authorized Tribes would be affected. If changes to State and Tribal water quality standards result from any final rule that EPA may promulgate in the future, entities subject to compliance with State or Tribal water quality standards would also potentially be affected. For example, States and Tribes authorized to implement the National Pollutant Discharge Elimination System (NPDES) Permit Program would need to ensure that permits they issue include any limitations on discharges necessary to comply with any water quality standards established as a result of any subsequent final rulemaking. Therefore, entities discharging pollutants to waters of the United States under NPDES could be affected by subsequent proposed and final rulemaking. Categories and entities that may ultimately be affected include:

Category	Examples of potentially affected entities
State, Tribes and Jurisdictional Governments	States, Tribes authorized to administer water quality standards, and jurisdictional governments.
Industry	Industrial dischargers of pollutants to waters of the U.S.
Municipalities	Publicly-owned treatment works discharging pollutants to waters of the U.S.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities that could be affected by any subsequent final rulemaking. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. Water Docket Information

The record for this notice has been established under docket number W–98–01 and includes supporting documentation. When submitting written comments to the Water Docket, (see **ADDRESSES** section above) please reference docket number [W–98–01] and submit an original and three copies of your comments and enclosures (including references). To ensure that EPA can read, understand and therefore properly respond to comments, the Agency would prefer that commenters cite the specific question(s) in the notice to which each comment refers. The questions presented in this notice for public comment are organized by subsection and numbered. Each question has a unique number (for example III.B.3.a., question 1) for this purpose.

Comments must be received or postmarked by midnight January 4, 1999. Commenters who want EPA to acknowledge receipt of their comments should enclose a self-addressed, stamped envelope. No facsimiles (faxes) will be accepted.

Electronic comments are encouraged and may be submitted to the Water Docket (see **ADDRESSES** section above). Electronic comments must be submitted as an ASCII file or a WordPerfect file avoiding the use of special characters and any form of encryption. Electronic comments must be identified by the docket number, [W–98–01], and be received by midnight of January 4, 1999. Comments and data will also be accepted on disks in WP5.1 format or

ASCII file format. No confidential business information (CBI) should be sent via e-mail.

The remainder of this Supplementary Information section is organized as follows:

I. Purpose and Objectives of This ANPRM
  A. General Purpose and Vision
  B. Objectives
II. Introduction to Water Quality Standards
  A. Statutory History
  B. Regulatory History
  C. Water Quality Guidance for the Great Lakes System
III. Program Areas for Public Comment
  A. Introduction
  B. Uses
  1. Background
  2. Refined Designated Uses
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  a. Attainability of Uses
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  d. Alternatives to "Downgrade" of the Designated Use
  i. Variances
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  C. Criteria
  1. Background
  2. Ambient Water Quality Criteria to Protect Aquatic Life
  3. Site-Specific Criteria
  4. Narrative Water Quality Criteria
  5. State or Tribe Derived Criteria
  6. Water Quality Criteria for Priority Pollutants
  7. Criteria for Non-Priority Pollutants with Toxic Effects
  8. Criteria Where Data or Guidance is Limited
  9. Toxicity Criteria
  10. Sediment Quality Criteria
  11. Biological Criteria
  12. Wildlife Criteria
  13. Physical Criteria
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  a. Risk Levels
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  D. Antidegradation
  1. Background
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  3. 40 CFR 131.12 (a)(1) "tier 1"
  a. Tier 1 Implementation
  4. 40 CFR 131.12 (a)(2) "tier 2"
  a. Identification of "High Quality" Waters
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  i. Triggers for tier 2 Review
  ii. "Necessary" Lowering of Water Quality
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V. Regulatory Assessment Requirements
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  B. The Regulatory Flexibility Act (RFA) as Amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996
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I. Purpose and Objectives of This ANPRM

A. General Purpose and Vision

On February 14, 1998, the visionary "Clean Water Action Plan" was announced by the Administrator of EPA and the Secretary of Agriculture. The "Clean Water Action Plan" is a blueprint for restoring and protecting the Nation's precious water resources. A key element of the plan is advancement of the watershed approach to water quality protection. EPA's belief is that refining designated uses and implementing better more integrated water quality criteria to protect the refined uses, two important themes of this ANPRM, are essential steps in carrying out the blueprint presented. Revision of the water quality standards regulation can be an essential component in implementing the vision of the "Clean Water Action Plan."

States, Tribes and EPA have developed functional water quality standards programs under the current regulation and these programs have provided the basis for significant water quality improvement in the United States. Simply put, the current regulation is not broken. Rather, with the renewed interest in watershed management combined with improved methods for water quality assessment, a comprehensive evaluation for the purpose of strengthening the regulation is appropriate at this time. EPA and the public need to examine whether changes in the regulation could enhance water quality management on a watershed basis and focus resources on areas of greatest concern. A review of the regulation will also complement similar outreach discussions EPA is currently undertaking for the purposes of reviewing the water quality planning and management and total maximum daily load (TMDL) programs as well as aspects of the NPDES program. EPA is committed to ensuring that these programs, combined, form an even stronger integrated basis for water quality planning, priority setting and implementation on a watershed basis.

In recent years there has been a rising level of scrutiny placed on water quality standards and the State, Tribal and EPA decisions based on water quality standards. The increased scrutiny comes from virtually all parties affected by water quality-based decisions and is evidenced by the growing tide of challenges to State standards, EPA policies and guidance, and individual water quality-based decisions. Remaining water quality problems in the U.S. are often difficult to assess, define and solve. Once agreed upon, the solutions will be less conventional than we are used to and may result in different regulatory approaches. Examples of such problems include aquatic and riparian habitat destruction from municipal and agricultural run-off and fish tissue contamination from chemicals with many and diverse sources.

EPA believes that this scrutiny will continue and that an evaluation of the water quality standards program and its regulatory and policy underpinnings to identify where these program underpinnings may need to be strengthened, clarified or revised is imperative. Our task under the Clean Water Act is to ensure adequate water quality even where it is difficult to do so. To accomplish this task, EPA envisions a national water quality standards program in which: the best possible information on whether designated uses are being attained and how to attain and maintain them is available and used; water quality criteria are selected from a wide-ranging menu of scientifically sound criteria that can be tailored to each watershed; national norms of consistency and flexibility in State and Tribal water quality standards are clear; and innovative, cost-effective approaches are

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encouraged. To realize this vision, EPA believes that a structured national debate is needed to identify a focused set of issues that may ultimately lead to changes to the water quality standards regulation and policy.

The ANPRM process allows EPA to begin this work by consulting with all interested parties to find out what changes, if any, are necessary and desirable, to make the water quality standards regulation more responsive to current needs and to identify opportunities for further clarifications of policy and guidance by EPA. In the fourteen years since EPA last revised the water quality standards regulation, interested parties have gained considerable experience in developing and implementing water quality standards. This experience will provide valuable information for review of these regulations.

The most significant shift in water quality management programs in recent years has been the increased emphasis on the use of watershed based programs. It is increasingly apparent that EPA, States, Tribes, municipalities and the public share a common view that water quality programs, including water quality standards, can be better tailored to the characteristics, problems, risks and implementation tools available in individual watersheds or basins with meaningful involvement of the local communities. The water quality standards regulation should ensure that States and Tribes have the flexibility to define the water quality standards and hence the environmental objectives of a water body according to the characteristics of the ecosystem and the needs of the water's users within the bounds established under the CWA. The regulation must allow the States and Tribes to tailor water body use designations and criteria to protect these uses within individual basins or watersheds based on the needs in the basin. The present use of broad, jurisdiction-wide use classifications and lists of associated chemical criteria may be at once too general and too narrow for some waters, lacking the refinement necessary to tailor water quality management actions to specific watersheds. This general approach reflects the historical lack of information on specific basins or water bodies and the need to ensure that all waters receive adequate protection. Additionally, it should be made clear how much flexibility States and Tribes have to adjust use designations as information improves about whether a designated use or a higher use can be attained and to reflect natural and human caused changes in water quality that may have occurred. The challenge for EPA, States and Tribes is to identify and use opportunities to refine use designations for waters where it makes sense and better match the water quality criteria to the refined use, thus making water quality standards more flexible. In addition, to more effectively implement the standards, the criteria that are used need to better integrate multiple stressors and their cumulative impacts in order to more effectively protect designated uses.

Significant scientific advancements in recent years have added to the ability to assess environmental impacts and risks related to changes in water quality. As they are further developed, new and emerging sophisticated and integrated analytical tools such as bioassessment, criteria for bioaccumulative chemicals, sediment quality criteria and toxicity assessments will increasingly allow States, Tribes, EPA and the public to characterize better the ecological condition of water resources. At present, this improving capability, used in a tailored watershed planning and management framework, can enhance the ability of States and Tribes to characterize and protect locally agreed upon goals for maintaining and protecting the chemical, physical and biological integrity of individual basins. In the long term, chemical, physical and biological assessment methods will continue to improve. As they do, the water quality standards program should be designed to accommodate effectively the new science. In the meantime, progress should not be stalled by incomplete knowledge.

With the new science and assessment methodologies, however, come new challenges for States and Tribes to identify the resources necessary to make use of these advances. One of the main themes of this ANPRM is the need for better data, and new types of data, in order to support a more refined approach to water quality protection. EPA recognizes, however, that efforts to obtain such data, and develop the analytical capacity to integrate it into existing regulatory programs, could encounter significant resource constraints in some States and Tribes. EPA is well aware that in order for a new, data-intensive, watershed-specific approach to succeed, it must be workable for the States and Tribes that will have to implement it. EPA welcomes comments regarding concerns over resource constraints and ideas for how to address them.

The water quality standards program must protect the nation's waters as envisioned in the CWA. It must establish requirements that are necessary to attain and maintain healthy, sustainable ecosystems. It must be flexible enough for States and Tribes to ensure that standards are protecting water quality in a way that makes sense. EPA seeks to avoid a program that results in costly requirements that have little or no environmental benefit. Thus EPA intends to use its experience and that of the States, Tribes, municipalities, the regulated community, environmental groups and the general public in implementing and utilizing water quality standards over the last fourteen years, to evaluate the regulation and determine if changes are needed to allow greater State, Tribal and local flexibility to develop innovative, cost-effective ways to protect water quality.

EPA may determine through the ANPRM process that the concepts described above can be better integrated into water quality management decision making through development of new or revised policies and guidance rather than revisions to the regulation. Because of this possibility, EPA is reserving its decision whether to propose and finalize revisions to the regulation. At minimum, EPA believes that any revisions to the water quality standards regulation should result in a regulation that can be used to render protective, tailored, site-specific water quality-based decisions that bear reasonable compliance costs for the regulated community, as well as reasonable implementation costs for States, Tribes and EPA. At the same time, the regulation should allow sufficient flexibility to States and Tribes, if they choose, to implement water quality standards programs in a manner that is no more burdensome than under the existing regulation.

B. Objectives

In publishing this ANPRM, EPA is beginning a review of the regulation in a public forum in an attempt to identify possible amendments to the regulation, and new guidance or policy that may be needed to address three distinct objectives. They are: (1) to eliminate any barriers and develop incentives to enhance State and Tribal implementation of watershed-based water quality planning and management; (2) to enhance State and Tribal capability to incorporate current criteria and water quality assessment science into their water quality standards programs, and; (3) to improve the regulation so that it may be implemented more efficiently and effectively (including cost-effectively). Meeting these three objectives, EPA believes, will facilitate further water quality improvements locally and nationally. EPA urges commenters to keep all three main objectives in mind when reviewing, analyzing and commenting on this ANPRM.

II. Introduction to Water Quality Standards

A. Statutory History

The first comprehensive legislation for water pollution control was the Water Pollution Control Act of 1948 (Pub. L. 845, 80th Congress). This law adopted principles of State-Federal cooperative program development, limited federal enforcement authority, and limited federal financial assistance. These principles were continued in the Federal Water Pollution Control Act (Pub. L. 660, 84th Congress) in 1956 and in the Water Quality Act of 1965. Under the 1965 Act, States were directed to develop water quality standards establishing water quality goals for interstate waters. By the early 1970's, all the States had adopted such water quality standards. Since then, States have revised their standards to reflect new scientific information, the impact on water quality of economic development and the results of water quality controls.

Due to enforcement complexities and other problems, an approach based solely on water quality standards was deemed too weak to make a difference. The purely water quality-based approach prior to 1972 lacked enforceable Federal mandates and standards, and a strong impetus to implement plans for water quality improvement. The result was an incomplete program that in Congress' view needed strengthening. In the Federal Water Pollution Control Act Amendments of 1972 (Pub. L. 92–500, Clean Water Act or CWA), Congress established the National Pollutant Discharge Elimination System (NPDES) whereby each point source discharger to waters of the U.S. is required to obtain a discharge permit. The 1972 Amendments required EPA to establish technology-based effluent limitations that are to be incorporated into NPDES permits. In addition, the amendments extended the water quality standards program to intrastate waters and required NPDES permits to be consistent with applicable State water quality standards. Thus, the CWA established complementary technology-based and water quality-based approaches to water pollution control. Now, after nearly 25 years of investment in technology-based controls and some $70 billion in sewage treatment plant construction, attention is turning back to water quality standards as a mechanism to make improvements in water quality beyond those that have been achieved through technology-based controls.

Water quality standards serve as the foundation for the water-quality based approach to pollution control and are a fundamental component of watershed management. Water quality standards are State or Tribal law or regulation that: define the water quality goals of a water body, or segment thereof, by designating the use or uses to be made of the water; set criteria necessary to protect the uses; and protect water quality through antidegradation provisions. Although the CWA gives EPA an important role in determining appropriate minimum levels of protection and providing national oversight, it also gives considerable flexibility and discretion to States and Tribes to design their own programs and establish levels of protection above the national minimum. States and Tribes adopt water quality standards to protect public health or welfare, enhance the quality of water, and serve the purposes of the Act. "Serve the purposes of the Act" (as defined in Sections 101(a), 101(a)(2), and 303(c) of the Act) means that water quality standards should: (1) include provisions for restoring and maintaining chemical, physical, and biological integrity of State and Tribal waters, (2) provide, wherever attainable, water quality for the protection and propagation of fish, shellfish, and wildlife and recreation in and on the water ("fishable/swimmable"), and (3) consider the use and value of State and Tribal waters for public water supplies, propagation of fish and wildlife, recreation, agricultural and industrial purposes, and navigation. See 40 CFR 131.2.

Section 303(c) of the CWA establishes the basis for the current water quality standards program. Section 303(c):

1. Defines water quality standards;
2. Identifies acceptable beneficial uses: public water supply, propagation of fish and wildlife, recreational purposes, agricultural and industrial water supplies and navigation;
3. Requires that State and Tribal standards protect public health or welfare, enhance the quality of water and serve the purposes of the Act;
4. Requires that States and Tribes review their standards every three years;
5. Establishes the process for EPA review of State and Tribal standards, including where necessary the promulgation of a superseding Federal rule in cases where a State's or Tribe's standards are not consistent with applicable requirements of the CWA or in situations where the Administrator determines that Federal standards are necessary to meet the requirements of the Act.

The decade of the 1970's saw State and EPA attention focus on creating the infrastructure necessary to support the NPDES permit program and development of technology-based effluent limitations. While the water quality standards program continued, it was a low priority in the overall CWA program. In the early 1980's, it began to be recognized that greater attention to the water quality-based approach to pollution control would be needed to effectively protect and enhance all of the nation's waters.

The first statutory evidence of this was the enactment of a CWA requirement that after December 29, 1984, no construction grant could be awarded for projects that discharged into stream segments which had not, at least once since December 1981, had their water quality standards reviewed and revised or new standards adopted as appropriate under Section 303(c). (Public Law 97–117, Section 24, "Revised Water Quality Standards.") The efforts by the States to comply with this one-time requirement essentially made the States' water quality standards current as of that date for segments with publicly-owned treatment works (POTWs) discharging into them.

Additional impetus to the water quality standards program occurred on February 4, 1987, when Congress enacted the Water Quality Act of 1987 (Pub. L. 100–4). Congressional impatience with the lack of progress in State adoption of standards for toxics (which had been a national program priority since the early 1980's) resulted in the 1987 adoption of new water quality standard provisions in the Water Quality Act amendments. These amendments reflected Congress' conclusion that toxic pollutants in water are one of the most pressing water pollution problems. One concern Congress had was that States were relying, for the most part, on narrative criteria to control toxics (e.g., "no toxics in toxic amounts"), which made development of effluent limitations in permits difficult. To remedy this, Congress adopted section 303(c)(2)(B), which essentially required development of numeric criteria for those water body segments where toxic pollutants were likely to adversely affect designated uses.

The 1987 Amendments gave new teeth to the control of toxic pollutants. As Senator Mitchell put it, Section 303(c)(2)(B) requires "States to identify waters that do not meet water quality

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standards due to the discharge of toxic substances, to adopt numerical criteria for the pollutants in such waters, and to establish effluent limitations for individual discharges to such water bodies." (From Senator Mitchell, 133 Cong. Rec. S733.) To assist States in complying with Section 303(c)(2)(B), EPA issued program guidance in December 1988 and instituted an expanded program of training and technical assistance.

Section 518 was another major addition in the 1987 Amendments to the Act. This section extended participation in the water quality standards and 401 certification programs to certain Indian Tribes. The Act directed EPA to establish procedures by which a Tribe could "qualify for treatment as a State," at its option, for purposes of administering the standards and 401 certification programs. The Act also required EPA to create a mechanism to resolve disputes that might develop when unreasonable consequences arise from a Tribe and a State or another Tribe adopting different water quality standards on common bodies of water.

Furthermore, with the 1987 Amendments, the Act explicitly recognized EPA's antidegradation policy for the first time. The intent of the antidegradation policy in EPA's regulation was and is to protect existing uses and the level of water quality necessary to protect existing uses and to provide a means for assessing activities that may impact high quality waters and ruling on whether such projects could proceed. Section 303(d)(4) of the Act requires that water quality standards in those waters that meet or exceed levels necessary to support designated uses "may be revised only if such revision is subject to and consistent with the antidegradation policy established under this section."

B. Regulatory History

In the late 1960's and early 1970's the water quality standards program was initiated and administered based on minimal guidance and Federal policies—many of which are still reflected in the water quality standards program today.

EPA first promulgated a water quality standards regulation in 1975 (40 CFR 130.17, 40 *FR* 55334, November 28, 1975) as part of EPA's water quality management regulations mandated under Section 303(e) of the Act. As discussed earlier, the standards program had a relatively low priority during this time. This was reflected in the minimal requirements of the first Water Quality Standards Regulation. Few requirements on designating water uses and procedures were included. The Regulation was general, requiring "appropriate" water quality criteria necessary to support designated uses and incorporating the antidegradation policy. Toxic pollutants or any other specific criteria were not mentioned.

Some States developed detailed water quality standards regulations while others adopted only general provisions which proved to be of limited use in the management of increasingly complex water quality problems and created disparities in requirements on regulated entities. The few water quality criteria that were adopted addressed a limited number of pollutants and primarily described fundamental water quality conditions (e.g., pH, temperature, dissolved oxygen and suspended solids) or dealt with conventional pollutants.

In the late 1970s, EPA determined that existing State water quality standards needed to be better developed. EPA moved to strengthen the water quality program to complement the technology based controls. EPA amended the Water Quality Standards Regulation to explicitly address toxic criteria requirements in State standards and other legal and programmatic issues. November 8, 1983 (54 *FR* 51400). This regulation is more comprehensive than its predecessor and includes more specific regulatory and procedural requirements. The 1983 regulation created the concept of use attainability analysis, added detail on the adoption of numeric criteria including authorization for site-specific criteria, and listed specific procedural requirements and definitions not included in the original 1975 regulation. The regulation specified the roles of the States and EPA and the administrative requirements for States in adopting and submitting their standards to EPA for review. It also delineated the EPA requirements for review of State standards and promulgation of federal standards.

The 1983 regulation provided States (and subsequently in 1991) Tribes with the option of refining their use designation process by allowing them to establish subcategories of uses, such as cold water and warm water aquatic life designations. The 1983 regulation also clarified that States (and subsequently Tribes) may adopt discretionary policies affecting the implementation of standards, such as mixing zones, low flows, and variances.

In support of the 1983 Regulation, EPA simultaneously issued program guidance entitled *Water Quality Standards Handbook* (December, 1983). The Handbook provided guidance on the interpretation and implementation of the Water Quality Standards Regulation. This document also contained information on scientific and technical analyses that are used in making decisions that would impact water quality standards. EPA also developed the *Technical Support Document for Water Quality-Based Toxics Control* (EPA 44/4–85–032, September, 1985) (TSD) which provided additional guidance for implementing State water quality standards. In 1991, EPA revised and expanded the TSD. (EPA 505/2–90–001, March 1991). In 1994, EPA issued the *Water Quality Standards Handbook: Second Edition* (EPA–823–B–94–006, August 1994).

To accelerate compliance with CWA section 303(c)(2)(B) (created by the 1987 Water Quality Act), EPA started action in 1990 to promulgate numeric water quality criteria for those States that had not adopted sufficient water quality standards for toxic pollutants. The intent of the rulemaking, known as the National Toxics Rule, was to strengthen State water quality management programs by increasing the level of protection afforded to aquatic life and human health through the adoption of all available criteria for toxic pollutants listed under 307(a) of the CWA (priority pollutants) present or likely to be present in State waters. This action culminated on December 22, 1992, with EPA promulgating Federal water quality criteria for priority toxic pollutants for 14 States and Territories (see 57 FR 60848).

Subsequent to the promulgation of criteria under the National Toxics Rule, EPA altered its national policy on the expression of aquatic life criteria for metals. On May 4, 1995 at 60 FR 22228, EPA issued a stay of several metals criteria (expressed as total recoverable metal) previously promulgated under the National Toxics Rule for the protection of aquatic life. EPA simultaneously issued an interim final rule that changed these metal criteria promulgated under the National Toxics Rule from the total recoverable form to the dissolved form.

The Water Quality Standards Regulation was amended in 1991 to implement Section 518 of the Act to expand the standards program to include Indian Tribes (56 FR 64893, December 12, 1991). EPA added 40 CFR 131.7 to describe the requirements of the issue dispute resolution mechanism (to resolve unreasonable consequences that may arise between a Tribe and a State or another Tribe when differing water quality standards have been adopted for a common body of water) and 40 CFR 131.8 to establish the procedures by which a Tribe applies for authorization to assume the responsibilities of the water quality standards and section 401 certification programs.

Fourteen years since its last major revision, the water quality standards regulation is undergoing review and potential revision in light of experiences gained in its implementation by States, Tribes, EPA and the public. The review is intended to reflect the changing nature of the program and to identify specific changes that will strengthen water quality protection and restoration, facilitate watershed management initiatives, and incorporate evolving water quality criteria and assessment science into water quality standards programs. Based on the review and the comments expected on the ANPRM, EPA may decide to revise parts of the regulation and/or change some of its existing policies and guidance for the water quality standards program.

Water quality standards are essential to a wide range of surface water activities, including: (1) setting and revising water quality goals for watersheds and/or individual water bodies, (2) monitoring water quality to provide information upon which water quality-based decisions will be made, (3) calculating total maximum daily loads (TMDLs), waste load allocations (WLAs) for point sources of pollution, and load allocations (LAs) for natural background and nonpoint sources of pollution, (4) developing water quality management plans which prescribe the regulatory, construction, and management activities necessary to meet the water body goals, (5) calculating NPDES water quality-based effluent limitations for point sources, in the absence of TMDLs, WLAs, LAs, and/or water quality management plans, (6) preparing various reports and lists that document the condition of the State's or Tribe's water quality, and (7) developing, revising, and implementing an effective section 319 management program which outlines the State's or Tribe's control strategy for nonpoint sources of pollution.

Note: The term "State" as used in this Notice refers to the fifty States, all Territories of the United States, and the District of Columbia. The term "Tribe" or "Tribal" as used in this Notice generally refers to all Indian Tribes authorized to administer the water quality standards. On occasion, the term "Tribe" or "Tribal" refers to Indian Tribes that are eligible to seek authorization to administer the water quality standards, but have not yet secured such authorization. There are some parts of the law and regulation where "State" is now interpreted to mean "State or Tribe."

C. Water Quality Guidance for the Great Lakes System

On March 23, 1995, EPA published in the **Federal Register** its Water Quality Guidance for the Great Lakes System (60 FR 15366, March 23, 1995) (Great Lakes Guidance). The Guidance consists of water quality criteria for 29 pollutants to protect aquatic life, wildlife, and human health, and detailed methodologies to develop criteria for additional pollutants; implementation procedures to develop more consistent, enforceable water quality-based effluent limits in discharge permits, as well as TMDLs of pollutants that can be allowed to reach the Great Lakes and their tributaries from all sources; and antidegradation policies and procedures.

Section 118(c)(2) of the Clean Water Act (CWA) (Pub. L. 92–500 as amended by the Great Lakes Critical Programs Act of 1990 (CPA), Pub. L. 101–596, November 16, 1990) required EPA to publish proposed and final water quality guidance on minimum water quality standards, antidegradation policies, and implementation procedures for the Great Lakes System. EPA responded to these requirements by initiating a rulemaking, publishing the Proposed Water Quality Guidance for the Great Lakes System (proposed Guidance) in the **Federal Register** on April 16, 1993 (58 FR 20802). EPA also published four subsequent documents in the **Federal Register** identifying corrections and requesting comments on additional related materials. EPA received over 26,500 pages of comments, data, and information from over 6,000 commenters in response to these documents and from meetings with members of the public.

After reviewing and analyzing the information in the proposal and these comments, EPA developed and published the Great Lakes Guidance, codified at 40 CFR Part 132. Part 132 contains six appendixes of detailed methodologies, policies, and procedures. Detailed discussion of the final Guidance is provided in "Final Water Quality Guidance for the Great Lakes System: Supplementary Information Document" (SID), (EPA, 1995, 820–B–95–001) and in additional technical and supporting documents which are available in the docket for the rulemaking. Copies of the SID and other supporting documents are also available from EPA in electronic format, or in printed form for a fee upon request.

Developing the Great Lakes Guidance was an enormous effort based on extensive public comment and analysis on some of the same issues that are addressed in this ANPRM. One principal difference between the provisions in the Great Lakes Guidance and the regulation, policy and guidance that is the subject of this ANPRM is that where the Great Lakes Guidance addressed programs in the Great Lakes States only, this ANPRM addresses the national water quality standards regulation and program, and thus the programs of all States and Tribes with water quality standards authority. Where the Great Lakes Guidance addressed an issue or issue area that is also addressed in the ANPRM, that analysis and conclusion may or may not be relevant to the discussion of the national program. Where it is, today's ANPRM identifies the specific relevant Great Lakes Guidance provisions in the specific issue discussions. Many of the provisions in the Great Lakes Guidance were developed to address the unique problems in the Great Lakes Basin that stem from known contamination by bioaccumulative chemicals and the long retention time of water in the Lakes. Commenters should keep in mind that the Great Lakes provisions were derived for States that are in the Great Lakes Basin in whole or part and should consider the uniqueness of the Great Lakes Basin when evaluating Great Lakes Guidance provisions for application outside of the Great Lakes Basin.

III. Program Areas for Public Comment

A. Introduction

Entering its 33rd year, the water quality standards program has begun to evolve from one with a narrow focus on establishing water body uses and adopting chemical criteria for basic water quality characteristics addressing the most obvious sources of pollution to a more comprehensive program. In recent years the scientific community has developed greater knowledge of the full range of stressors adversely impacting surface waters. EPA believes the water quality standards program should evolve to keep pace with expanding science to address water quality problems in a more comprehensive way, accommodating more specific and sophisticated water use classifications, criteria for more pollutants, new forms of criteria and companion ecological and health indicators, and closer integration with other programs. At the same time, EPA realizes that such an evolution could require a significant increase in analytical resources from States, Tribes and the regulated community, and that changes to the existing program must be structured in a way that is workable.

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This is an appropriate time to begin a structured national debate aimed at identifying the focused changes necessary to strengthen the underpinnings of water quality standards and implementation. In the fourteen years since the regulation was last revised, there have been numerous scientific developments, statutory changes, court decisions, and implementation issues affecting the water quality standards program. The shift in program focus beyond just chemical contamination to include ecosystem protection and watershed approaches necessitates reexamining basic program concepts. In addition, there is an opportunity to address possible barriers to effective water quality improvements where it is determined that regulatory changes are possible under existing law.

In recent years, EPA has heard from the States and Tribes as well as the environmental and regulated communities regarding the necessity and focus of a revision to the water quality standards regulation. As indicated by the wide range of issues and options presented in this advance notice, views of the different stakeholder groups often differ considerably. Many stakeholders believe that a revised regulation is needed for continued improvements in water quality protection. Others believe changes are needed to allow more flexible, cost-effective approaches by States and Tribes. Conversely, many stakeholders have said that the regulation is sufficient and does not need to be reviewed.

A key issue presented here relates to the degree of specificity necessary should EPA revise the regulation. There are many who support a more flexible regulation to allow States and Tribes to address new and changing circumstances. Under a more flexible regulation, States and Tribes could more easily tailor their programs to deal with pressing water quality restoration and protection needs that are not well addressed presently. Others support a regulation with more specific regulatory requirements. The latter would promote a more consistent minimal level of protection in State and Tribal water quality standards, provide more clarity on standards issues, and serve as a stronger tool in encouraging States and Tribes to take appropriate restoration and protection actions. EPA urges commenters to consider the appropriate balance between flexibility, national consistency, and consistency within States and Tribes when commenting on any of the ideas presented in this notice.

One of the outcomes of this ANPRM and follow-on actions can be establishment of a clearer set of national minimum policies and implementation procedures on which EPA will reliably and predictably base its approval and disapproval decisions on State and Tribal water quality standards submittals. EPA remains committed to making consistent decisions from State to State and Tribe to Tribe and State to Tribe to meet our obligation to ensure an appropriate level of protection nationally and that the goals of the Act are achieved. Clarifying these national norms will serve to better articulate the norms of protection from State to State and Tribe to Tribe and State to Tribe and also to clarify national norms of flexibility. Defining the appropriate level of consistency, in turn, defines the appropriate degree level of flexibility. In addition, establishing norms of consistency and flexibility should help to resolve State or Tribal differences with EPA on water quality standards early in the process, before the approval/disapproval stage.

While the following discussion describes specific areas and issues for public review, the public is welcome to comment on any aspect of the water quality standards program. EPA emphasizes, however, that publication of this Notice does not commit the Agency to proceeding with a regulatory change. EPA has not decided whether it will, in fact, propose regulatory amendments, and, if proposed, how extensive that effort might be. This decision will be made after considering the comments received and the need to address other priority activities as well as any Congressional and Executive Branch directives. A potential outcome of this public review may be additional guidance and/or policies rather than regulatory changes.

EPA has not determined the next steps it will take after evaluation of all the comments received on this ANPRM. It is likely that any follow-on proposed rule to amend 40 CFR 131 would focus on a relatively narrow set of issues and that many other issues could be resolved through policy and guidance. EPA requests that commenters identify the five to seven issues considered highest priority for possible regulatory amendments. The summary section at the end of this notice contains a brief summary of the potential changes to the water quality standards regulation that are discussed and considered in this ANPRM. The list of potential changes includes the full range of potential changes to the regulation on which EPA is specifically requesting comment. Each potential change to the regulation is discussed in detail in the corresponding section of the ANPRM.

B. Uses

1. Background

Section 131.10 of the current regulation describes States' and authorized Tribes' responsibilities for designating and protecting uses. The regulation requires that States and Tribes specify the water uses to be achieved and protected; requires protection of downstream uses; allows for sub-category and seasonal uses, for instance, to differentiate between cold water and warm water fisheries; sets out minimum attainability criteria; lists six factors of which at least one must be satisfied to justify removal of designated uses which are not existing uses; prohibits removal of existing uses; establishes a mandatory upgrading of uses which are existing but not designated; and establishes conditions and requirements for conducting use attainability analyses.

These provisions make a distinction between existing and designated uses and set out specific requirements to ensure protection of these two broad use categories. Designated uses are defined as those uses specified in water quality standards for each water body or segment whether or not they are being attained. EPA interprets existing uses as those uses actually attained in the water body on or after November 28, 1975 (the date of EPA's initial water quality standards regulation), whether or not they are included in water quality standards. 40 CFR 131.3(e). Designated uses focus on the attainable condition while existing uses focus on the past or present condition. Section 131.10 then links these two broad use categories in a manner which intends to ensure that States and Tribes designate appropriate water uses, reflecting both the existing and attainable uses of each water body. For this discussion it is important to consider both the distinction between and linkage of designated and existing uses.

It is in designating uses that States and Tribes establish the environmental goals for their water resources, and it is in designating uses that States and Tribes are allowed to evaluate the attainability of those goals. Because water quality standards perform the dual function of establishing water quality goals and ultimately serving as the regulatory basis for water quality-based treatment controls and strategies, typically, although not exclusively, via water quality criteria protecting those uses, a State or Tribe often weighs the environmental, social and economic consequences of its decisions in designating uses. The regulation allows the State or Tribe some flexibility in weighing these considerations and adjusting these goals over time. Reaching a conclusion on the uses that appropriately reflect the potential for a water body, determining the attainability of those goals, and appropriately evaluating the consequences of a designation, however, can be a difficult and controversial task. Appropriate application of this process involves a balancing of environmental, scientific, technical, and economic and social considerations as well as public opinion and is therefore one of the most challenging areas of the current regulation.

To direct this decision making-process, the regulation establishes requirements that must be followed when designating uses or concluding that attaining a use is infeasible. When performing this attainability analysis, a State or Tribe considers physical, chemical, biological and economic factors that may limit the potential for achieving the goal use.

EPA's current water quality regulation effectively establishes a "rebuttable presumption" that "fishable/swimmable" uses are attainable and therefore should apply to a water body unless it is affirmatively demonstrated that such uses are not attainable. EPA believes that the rebuttable presumption policy reflected in these regulations is an essential foundation for effective implementation of the Clean Water Act as a whole. The "use" of a water body is the most fundamental articulation of its role in the aquatic and human environments, and all of the water quality protections established by the CWA follow from the water's designated use. This approach preserves States' and Tribes' paramount role in establishing water quality standards, in this instance, in weighing any available evidence regarding the attainable uses of a particular water body. The rebuttable presumption approach does not restrict the discretion that States and Tribes have to determine that "fishable/swimmable" uses are not, in fact, attainable in a particular case. Rather, if the water quality goals articulated by Congress are not to be met in a particular water body, the regulations simply require that such a determination be based upon a credible, "structured scientific assessment" of use attainability.

Because there is a presumption that the uses specified in sections 101(a)(2) and 303(c) of the Clean Water Act are attainable (protection and propagation of fish, shellfish and wildlife and recreation in and on the water [101(a)(2)]; public water supplies, propagation of fish and wildlife, recreational purposes, agricultural purposes, and navigation [303(c)(2)(A)]), the criteria for overcoming that presumption are carefully circumscribed. The economic use removal test, for example, requires a showing that the cost of compliance with the use(s) would result in "substantial and widespread economic and social impact." This is a high threshold to ensure that the interim goals of section 101(a)(2) and the section 303(c) uses are not abandoned without appropriate cause.

The general construction of the § 131.10 requirements for designating uses, supplemented with specific Agency guidance, has worked well in most situations over the last 14 years, and the use designation process is well established in State and Tribal water quality standards programs. There are, however, a number of new issues that have arisen since the 1983 regulation was promulgated. Often these new issues are associated with site-specific decision-making, and EPA expects the trend toward site-specific application of water quality standards will accelerate as States and Tribes begin implementing watershed protection programs, using field biological information to more precisely describe aquatic communities to be protected or restored, and applying new watershed or ecosystem-specific approaches to criteria development. As explained in the "Objectives" discussion in this document, one of the principal reasons for this notice is to determine whether or not the current regulation is sufficiently flexible to accommodate an expected shift in program emphasis beyond chemical contaminants to ecosystem protection and watershed approaches that will necessarily place greater emphasis on integrated assessments of both chemical and non-chemical stressors and watershed-specific decision-making.

While it is important to identify potential barriers to needed flexibility, commenters should identify, as well, any changes or clarification that may be needed to ensure that an appropriate level of national consistency is maintained across and within all jurisdictions. In this section of the notice, EPA seeks comment on the following issues: (1) refined designated uses with more focus on watersheds and ecosystems, (2) existing uses, (3) attainability and removal of designated uses, and (4) alternatives to removal of designated uses.

2. Refined Designated Uses

The current regulation at 40 CFR 131.10(a), based on section 303 of the CWA, requires that States and authorized Tribes specify appropriate water uses to be achieved and protected, taking into consideration the use and value of water for public water supplies, protection and propagation of fish, shellfish and wildlife, recreation in and on the water, agricultural, industrial, and other purposes including navigation. The regulation also allows, but does not require, States and Tribes to identify more specific sub-categories of these general use categories.

Over the years, States and Tribes have created many different use classification systems ranging from a straightforward replication of uses specifically listed in section 303 of the Act to more complex systems that express designated uses in very specific terms or establish sub-classifications which identify different levels of protection. For example, some States simply specify "water supply" as a use classification applicable throughout the State while others may identify several specific sub-categories related to the quality of the raw water supply and anticipated treatment requirements. Similarly, some States designate general "aquatic life" uses while others list a variety of sub-categories based on a range of aquatic community types which may include descriptions of core aquatic species representative of each sub-category. Although a variety of approaches have evolved and become established in State and Tribal programs, the current regulation is not specific about the level of precision States or Tribes must achieve in designating uses.

There are advantages and drawbacks for either the general or specific use classification systems and it is not clear that either is necessarily superior in ensuring full protection of State or Tribal water quality. There is, however, a need for the use designation process, whether implementing a general or specific classification system, to clearly articulate and differentiate intended levels of protection with enough specificity so that decision-makers can appropriately develop and implement the standards on a site-or watershed-specific basis and so that the public can understand, identify with, and influence the goals set for waters they care about.

Lack of precision in uses and criteria assigned to protect those uses can inadvertently result in either a lesser or greater level of protection than was actually intended when the water quality standards were adopted. Although the designated use specificity

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issue may apply to any of the Section 303 general use categories, it may be most relevant for aquatic life uses. Aquatic communities can vary significantly from water body-to-water body. As noted above, however, State and Tribal use classifications generally do not reflect the variability among aquatic community types and may list, instead, very general descriptions such as "aquatic life" as the designated use. Where this is the case, it is possible that measurable changes in aquatic community composition or production could occur at a specific site and still satisfy the definition of "aquatic life," *unless* somewhere in its process the State or Tribe has documented information about its specific intent in applying the "aquatic life" classification to each water body. For example, an activity that causes the discharge of sediment, altering the physical habitat in the receiving water body, could result in a measurable change in aquatic community structure and function (e.g., the types of aquatic species found in that segment). Yet, that activity may arguably satisfy a general "aquatic life" use protection requirement simply because of a lack of specificity in the regulatory description of that designated use. In this case, lack of precision in the designation or description of the use could result in under protection of the resource, unless somewhere in the State or Tribal process an intended level of protection is specified.

Alternatively, lack of precision in uses and assigned criteria could result in standards that are over protective, resulting in application of unnecessary control requirements. In assigning criteria to protect general use classifications, a State or Tribe must ensure that the criteria are sufficiently protective to safeguard the full range of waters in the State or Tribe (i.e., criteria would be based on the most sensitive use). While this approach will result in full protection of all State or Tribal waters, the approach has been challenged, especially for aquatic life uses, where evidence suggests that the general use and criteria will require controls more stringent than needed to protect either the existing or potential aquatic community for a specific water body. Although EPA supports broad application of statewide or tribe-wide criteria to ensure that sensitive uses are protected where site-specific information is lacking, the Agency's current thinking is that there is a growing need to more precisely tailor use descriptions and criteria to match site-specific conditions, ensuring that uses and criteria provide an appropriate level of protection which, to the extent possible, is neither over nor under protective. This concept was reflected in the Agency's 1994 Combined Sewer Overflow Policy (59 FR 18688).

The level of protection issue is one of both use and criteria. To have a meaningful effect, a more precise use description must be accompanied by more focused criteria, appropriately tailored to the refined use description. EPA recognizes that, at present, national or statewide or tribe-wide criteria generally are not sufficiently precise to distinguish among all of the various sub-categories of uses. As water quality standards issues become more watershed-specific or site-specific, however, the trend will very likely be toward more specific use descriptions and; because the essential purpose of the criteria is to describe, evaluate attainment of, and protect the designated use; more site-specific criteria development.

A potential constraint for refining the aquatic life uses would be the resource commitment often associated with developing a comprehensive biological database. Because of the resource constraints, it may be difficult for a State or Tribe to develop designated uses (or use descriptions) for each segment that include a detailed biological description of the aquatic community to be protected. Simply from a practical standpoint, it may be more workable to reserve such precise determinations for watershed-specific decision-making. Therefore, in highlighting the issue of greater specificity, EPA is suggesting that one, but perhaps not the only, way to resolve this issue is to mandate much greater specificity in a State or Tribal use classification structure.

Obviously, there is a need for designated use descriptions in State and Tribal regulation to be defined, at a minimum, with sufficient specificity to ensure existing and potential uses will be protected and/or attained. The difficulty is in striking a balance between specificity sufficient to ensure uses are appropriately protected and flexibility needed to allow efficient widespread application of a classification system to all State or Tribal waters. A question has been raised about, and EPA is considering, whether or not the current regulation and guidance provide the framework needed to strike the appropriate balance and the guidance on when and how to refine uses.

Aquatic Life

An issue related to the manner in which States and Tribes define designated aquatic life uses is the occasional confusion expressed between the actual intent of the CWA section 101(a)(2) interim goals and the "fishable/swimmable" short hand expression often used to describe those interim goals. EPA acknowledges that the phrase "fishable/swimmable" does not fully describe the intent and scope of the CWA section 101(a)(2) interim goals. The confusion over the expression "fishable" often surfaces where there is an action aimed at removing an aquatic life use from a particular water body where there are no sport or commercial fisheries. In these instances, an argument is often made that the water body does not meet the "fishable" intent of the section 101(a)(2) interim goals because the water body naturally supports only "minnows" and/or aquatic invertebrates. EPA believes this is an unacceptable argument for removing an aquatic life designated use or excluding an aquatic life designated use. As explained in EPA's Questions and Answers on Antidegradation (USEPA, 1985, p. 3), the Agency considers the protection afforded by standards to focus on an appropriately representative aquatic community whether or not that community includes sport or commercial fish:

> The fact that sport or commercial fish are not present does not mean that the water may not be supporting an aquatic life protection function. An existing aquatic community composed entirely of invertebrates and plants, such as may be found in a pristine tributary alpine stream, should be protected whether or not such a stream supports a fishery. Even though the shorthand expression "fishable/swimmable" is often used, the actual objective of the Act is to restore the chemical, physical and biological integrity of our Nation's waters (Section 101(a)). The term "aquatic life" would more accurately reflect the protection of the aquatic community that was intended in Section 101(a)(2) of the Act.

Thus, EPA's current interpretation of the regulation means that the Agency will not approve State or Tribal action to exclude aquatic life protection based on a conclusion that a water body does not support a "fishery", implying a sport or commercial fishery. EPA's current thinking is that it would improve the regulatory text to reflect this interpretation explicitly.

More specific to this discussion of refined designated uses is the question of whether or not the Agency should mandate that a minimum "aquatic life" use sub-category or sub-categories be included in all State or Tribal designated use classification systems to ensure appropriate protection of waters which do not support commercial or sport fisheries (or any fish).

Refined Designated Uses and Use Attainability Requirements

There is one additional issue related to the refined designated use discussion that should be addressed. A question has been raised about the applicability of the use attainability requirements when establishing refined designated uses (with particular emphasis of aquatic life uses). The question raised is: since refined designated uses may be less inclusive than broad designations, will EPA consider development of a more refined use description to be a change in use subject to the use attainability requirements? Under current regulation, the combination of a new use sub-category and less stringent criteria triggers the use attainability requirements in § 131.10 of the Federal regulation (see § 131.10(j)(2)). However, it is possible that under certain circumstances, this requirement could be modified.

Such a modification would focus on the kind of information that should accompany any refined use classification based on a more precise biological description, whether or not formal use attainability assessment requirements apply. Essentially, there are two issues to be addressed: (1) does the refined description of the aquatic community reflect the reference condition (i.e., natural states) for the kinds of waters to which the new classification is to be applied? and (2) are any newly proposed criteria scientifically defensible? These are basic questions which would have to be addressed whether or not the use attainability requirements were invoked. As a result, a proposal to refine use categories will have to be accompanied by a rationale explaining how it was determined that the proposed biological description appropriately reflects the potential for waters to which the new sub-classification is to be applied. If warranted, this refined description can then serve as the basis for deriving defensible and appropriate criteria specific to the new sub-classification.

Request for Comment Refining Use Designations

EPA seeks comment on the following questions:

1. The current regulation is not specific about the level of precision States or Tribes must achieve in designating uses. The regulation allows for subcategories of uses, but does not mandate such an approach. Should the regulation be revised to promote or require greater specificity in designated uses, particularly for aquatic life uses, to support watershed-specific decision-making such as is anticipated in implementing watershed or place-based initiatives?

2. Where a State or Tribe utilizes broadly-defined designated uses, could the desired level of specificity be adequately addressed in State or Tribal standards that clearly articulate the intent of the designated uses as they would apply to specific waters of the State or Tribe?

3. If EPA were to specify a required level of precision in establishing use categories, what factors should be considered in prescribing a level of specificity? That is, what factors should be considered in striking a balance between specificity sufficient to ensure uses are afforded an appropriate level of protection and flexibility/efficiency needed to allow widespread application of the classification system?

4. At a minimum, should the regulation require that State and Tribal aquatic life use categories include a sub-category or sub-categories that may be assigned to protect aquatic communities that do not include a "fishery"? Alternatively, should the regulation explicitly reflect EPA's current interpretation of the regulations to the effect that State and Tribal aquatic life classification systems protect a range of aquatic communities whether or not there are sport or commercial fish (or any fish) present?

5. Should the use attainability requirements in 131.10(j)(2) be modified to recognize situations where scientifically defensible less stringent criteria may be appropriate for refined uses which reflect the reference condition for particular waters?

3. Existing Uses

a. Protection of Existing Uses. The requirement to protect existing uses is addressed in two places in the current regulation—Section 131.10, designation of uses and Section 131.12, antidegradation. (see discussion of antidegradation, "tier 1", in section III.D of this document) As discussed in the background section above, the regulation defines "existing uses" as "those uses actually attained in the water body on or after November 28, 1975, whether or not they are included in the water quality standards." (40 CFR 131.3(e)) As a result, the focus of existing uses, is on the past or present condition of the water body. Furthermore, by establishing requirements prohibiting the removal of existing uses and ensuring those uses will be appropriately recognized in State and Tribal water quality standards, the current regulation ensures that the better of the past or present condition, at a minimum, will be maintained and protected. Determining whether or not an existing use has occurred in the past or is currently in place is not always a straightforward task, however, and over the years, a number of questions have been raised about exactly what the "existing use" provisions in 131.10 require. These questions generally fall into two categories: (1) what is the link between existing uses and the State or Tribal use classification system? and (2) what is the relationship between existing uses, existing water quality and potential uses, i.e. uses that may be attainable in the water body whether or not those uses are presently designated for the water body or are presently being attained?

The first question addresses the relationship between the existing use protection provisions in Section 131.10 and State or Tribal use classification systems. There appears to be some confusion on this point. The confusion seems to center on what may appear to be conflicting mandates—protect what is there and allow no further erosion of water quality, and appropriately designate the existing use in regulation using the established classification system. The existing use definition and the requirement that existing uses be protected suggests to some that the description of existing uses is constrained by the way in which a State or Tribe has described its designated uses in its classification system. That is, they argue that an existing use, to be adequately protected, needs to fit into one of the categories or sub-categories established in State or Tribal regulation, and as a result, a decision about whether or not a use is "existing" is likewise constrained by the use descriptions and criteria established in that classification system.

For purposes of Section 131.10, this is generally the case. Again, this Section of the Federal regulation establishes two requirements with respect to existing use protection: (1) a prohibition against removal of a designated use where that use is determined to be an existing use, and (2) a requirement that existing uses be protected by State or Tribal regulation. To ensure a workable process, EPA interprets Section 131.10 as necessarily recognizing a linkage between the existing use protection provisions and the established State or Tribal use classification system. This interpretation of the regulatory framework, however, also presumes a responsibility on the part of a State or Tribe to establish a classification system that is sufficiently flexible and/or

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encompassing to assure an appropriate level of protection for the anticipated range of existing uses (see discussion on refined designated uses in this chapter).

As explained earlier in the discussion on refined designated uses, a variety of use classification systems has evolved and become established in State and Tribal programs. Although there are likely some advantages to a more refined use classification system when it comes to protecting existing uses (more precise categories in which to fit the existing use), such a system may not be necessary as long as the State or Tribal standards clearly articulate the intended and appropriate level of protection for existing uses (again, see discussion of refined designated uses). The following example illustrates the point. An acid bog is a water body type which may be fairly widespread but which, as a classification type, may not appear in many State or Tribal standards. Where the aquatic characteristics of an acid bog are discovered to constitute an existing use, a State or Tribe could: (1) establish a classification type and criteria for acid bogs to ensure appropriate protection by way of a specific designation, or (2) classify the bog within the existing, general classification system, e.g., warm water aquatic life, and adopt any needed site-specific criteria to ensure the existing nature and quality of this specific water resource is protected. Either approach can result in an appropriate level of protection and there may not be a need for States or Tribes to include an "acid bog" water body type in their classification system. Under either approach the standards must articulate clearly the intended and appropriate level of protection, ensuring protection of the existing use.

It is also important to remember that the existing use provisions in both §§ 131.10 and 131.12 must be considered together. The classification requirements in § 131.10 ensure that all existing uses will be recognized and protected through appropriate classification of those water bodies in the standards (and/or application of appropriate site-specific criteria where the existing classification system is broadly constructed). The antidegradation-based existing use protection provision guarantees that individual activities on individual water bodies will be examined to ensure those activities will not eliminate existing uses, whether or not those uses are currently recognized in the State or Tribal standards. The antidegradation provisions, through the general requirement that existing uses be protected, ensure immediate protection from specific activities which may threaten the existing use, and the classification requirements ensure recognition and longer-term protection from any present or future stressors through specific designation in the standards. Both these provisions apply and should not be considered in isolation. Together they constitute the existing use protection requirements, ensuring the existing uses and water quality to support those uses are maintained and protected.

The second question addresses the relationship between existing uses, existing water quality and potential uses. The Agency's guidance, Questions and Answers on Antidegradation, August, 1985 (Notice of Availability, 50 *FR* 34546, August 26, 1985 [included as appendices to *Water Quality Standards Handbook*, cited above]) addresses this issue, in part. The answer to "question 7" states: "an existing use can be established by demonstrating that fishing, swimming, or other uses have actually occurred since November 28, 1975, or that the water quality is suitable to allow such uses to occur (unless there are physical problems which prevent the use regardless of water quality)." Using an example of a healthy shellfish community which is not currently being harvested, the answer goes on to explain that the existence of a use (past or present) is not dependent solely upon a demonstration that the use is being satisfied in a functional sense (i.e., in this case, the shellfish harvested). In this example, "shellfish harvesting" is considered an existing use, even though there is presently no harvesting underway, because the water quality and habitat support a healthy shellfish community suitable for harvesting. The answer further explains that to assume otherwise "* * * would be to say that the only time an aquatic protection use 'exists' is if someone succeeds in catching fish." As illustrated in this example, the existing use question must address both the current or past functional use *and* the current or past (since November 28, 1975) water quality, and the intent of the regulation is to ensure the existing use and the water quality necessary to support that use are maintained and protected. Thus, in this example, the shellfish harvesting use is to be protected by designated uses in water quality standards.

The shellfish example is a good one in that it clearly illustrates EPA's position that an existing use finding can be made either where the use is or has been "actually attained" or where the water quality necessary to support the use is in place even if the use, itself, is not currently established, as long as other site-specific factors, for example physical problems like flow or substrate, would not, despite the suitable water quality, prevent attainment of the use. The "other factors" caution is important in understanding EPA's position on existing uses. In making an existing use determination, there is a link between the use and water quality. To be considered an existing use, the use must have been actually attained in the past, is now attained or water quality is sufficient to support the use. However, for some sites, water quality, alone, may be an insufficient basis for making an existing use finding if there are other factors that would prohibit the use from taking place regardless of the quality of the water at a site. In the shellfish example, the necessary water quality is present, and there are no obvious limiting factors which would prohibit present or future shellfish harvesting.

Although this example is useful in illustrating important principles in implementing existing use protection requirements, it is a rather straightforward example. An appropriate resolution of the existing/designated use issue may be somewhat less clear-cut where either the existing water quality or the existing use is marginal (i.e., it is difficult to determine whether or not the use is actually attained, or whether or not there are factors, other than water quality, that could prohibit the use). It is in addressing these situations that questions have been raised about what the current regulation requires. A principal difficulty in addressing these questions may lie in resolving the linkage between the present and past conditions protected by the "existing uses" provisions and the attainable or potential condition protected by "designated uses" provisions. It may be useful to evaluate this issue by considering the link between existing and designated uses established in the current regulation.

Obviously, any decision about whether or not a use is an "existing use" must be a water body-specific determination. The existing use determination is, therefore, site-specific, and decisions should consider water quality and other limiting factors such as the physical habitat specific to a particular water body. A few examples may help illustrate the issue. A somewhat common existing use question applies to primary contact recreation: If a few people on a few occasions "swim" in a water body that does not have the quality or physical characteristics to support swimming, is this an existing use, even if the water body is posted "no swimming" due to bacterial contamination and lacks the physical features to actually support swimming? The straightforward answer to this question is that "swimming" is not an existing use because the present (or past) condition does not support that use. This conclusion is based on the very limited actual "use" and, more importantly, the lack of suitable water quality and physical characteristics that would support a recreational swimming use now or in the future (as determined by the water quality requirements and recreational swimming considerations, including safety considerations, in the State or Tribal classification system for primary contact recreation).

A question has been raised as to how to interpret the regulation in the context of this example. One could determine that because the water body is not suitable for swimming, and has not been since 1975, primary contact recreation is not an existing use. Alternatively, one could determine primary contact recreation to be an existing use because the water body was actually used for swimming, even though the use was occasional and water quality and physical characteristics were not acceptable to support such a use. EPA believes the first alternative is the better interpretation of Agency regulations and guidance in this example, because the use is not established and the water quality and other factors would appear to prohibit actually attaining a recreational swimming use.

Stating that this is an appropriate interpretation of the regulation means that EPA would not object if a State or Tribe reached a conclusion, in a similar case, that this was not an existing use. As noted above, however, existing use decisions are very site-specific, and it is possible that, on a specific water body under similar circumstances, a different conclusion could be reached by a State or Tribe based on public comment at a hearing and a decision to take a protective approach to the incidental use for that specific resource. The Federal requirements do not prohibit a State or Tribe from taking a more protective approach than would be required by the water quality standards regulation.

Although, in the above example, a State or Tribe could conclude that primary contact recreation is not an existing use, it may well be an attainable use that must be protected as a designated use by the State's or Tribe's water quality standards. This finding would depend on whether the physical condition of the water body is suitable for swimming and whether the water quality problems limiting the use are controllable. (See 40 CFR 131.10(j) and discussion on use attainability analysis below). The point is that, although the existing use provisions most directly address past or present conditions, decisions about existing uses generally are not made in isolation. With respect to uses contained in CWA Section 101(a)(2), the regulation links existing and designated uses, and it may be useful to view these provisions as a continuum in examining the broader question of use protection.

Some States and Tribes have recognized that continuum in developing use attainability guidance for recreational uses which includes questions about the actual use, existing water quality, water quality potential, recreational facilities, location, safety considerations, physical conditions of the water body, and access

Note: access here means restricted access, as in fenced property; access is not intended to suggest the "remoteness" of the water body; in EPA's view, remoteness is not a valid basis for an attainability decision on recreation.

When all of these factors are considered, the adopted water quality standards are consistent with both the existing and designated use provisions. For example, suppose a city has created a greenway along a stream that receives wastewater effluent upstream of the greenway and has posted "no swimming" signs. The greenway attracts children leading to the inevitable "unauthorized" swimming. If the physical condition of the stream is suitable for swimming, the swimming occurs on a frequent basis and the greenway provides recreational facilities and access, the only factor limiting the use may be a water quality problem that in the judgement of the State or Tribe can be controlled to achieve the primary contact use. The linkage between existing and designated uses encourages the evaluation of this full suite of factors in making a decision about whether or not primary contact recreation should be protected.

A similar existing use question is often raised for aquatic life uses where the existing aquatic community is impaired as a result of marginal water quality. A common example in the western part of the country is a mountain stream impaired by historic hard rock mining (with the impacts occurring well before November 28, 1975). Although the physical condition of the stream may represent ideal trout habitat, the trout population may be severely limited, in poor condition or absent as a result of the toxic effects of metals. In its classification system, however, a State or Tribe may describe and designate this type of stream as a "salmonid spawning" use based on its physical habitat and potential. For streams such as these, where a few adult trout are present but there is no evidence of younger age classes, the question is asked—is this an existing "salmonid spawning" use?

Again, the appropriate answer, based on EPA regulations and guidance, is that this is not an existing use (although it may nonetheless be an appropriate designated use if it has the potential to support salmonid spawning). The current use, matching the classification description, is absent, and the limiting water quality problems have been in existence prior to November 28, 1975. (This does not mean, necessarily, there is not some existing aquatic life use which would then serve as the regulatory "floor" for this water body; see the "limited" aquatic life use discussion in the use attainability analysis discussion in this section below and the "tier 1" discussion in the antidegradation section, III. D) As in the "swimming" example, however, there can be a gradation of conditions, and occasionally it may be difficult to draw a bright line and conclude, with confidence, that this is where the existing use begins.

In situations similar to this impaired stream example, where the existing water quality problems are considered controllable by the State or Tribe, arguments have been made on both sides of the existing use issue: the salmonid spawning use is not existing, *or* the salmonid spawning use is in place, albeit currently at an impaired level. Disputes about the correct interpretation of Agency guidance become even more difficult to resolve where the existing impacts to water quality are not as great as those in the above example. Often streams impacted by historical mining, such as the one described above, are headwater streams. As the water moves downstream, clean water tributaries reduce the effect of the metals contamination, and fish, in number, begin to move into these "improved" waters. Nevertheless, many such streams would be considered impaired when compared to unaffected, similar waters (reference streams). And, despite supporting "fairly good numbers" of trout, the existing water quality in such streams often exceeds the chronic and, occasionally, acute standards for metals. In situations such as these, States and Tribes have had difficulty in reaching conclusions about whether or not an existing use, matching the classification, is in place. Because States and Tribes may evaluate existing uses when they are designating uses, threshold existing use determinations may lead to questions about the potential for the water body and the appropriate designated uses for it.

EPA's current interpretation is that the existing use should be identified either where the use has taken place or the water quality sufficient to support the use has existed since November 28, 1975, or both. That is to say, State and Tribal existing use decisions can be based on a finding that the use, as defined in the classification system, and/or the water quality needed to support the use is in place (and there are no other factors that would prohibit actually attaining the use). This interpretation does not fully address the issue of partially impaired uses. Thus, a fuller explanation may be needed in the regulation or policy of how that interpretation is applied where the use or the water quality may be somewhat impaired. EPA is considering whether changes to the regulation or additional guidance is needed to explain the Agency's position and to offer direction in making such determinations.

Request for Comment on Existing Uses

EPA seeks comment on the following questions:

1. Does EPA need to further clarify the existing use protection provisions in § 131.10, more clearly explaining that existing uses are defined by the uses made of water bodies and existing water quality, where that quality is or was sufficient to allow the use to occur (and there are no other limiting factors)? If so, will the clarification require a regulatory amendment or can the needed clarification be accomplished in Agency policy or guidance?

2. Does EPA need to expand its guidance to explain how the current regulation addresses existing use decisions where there is some semblance of a use even though the water quality is insufficient to support the use in, for example a safe or healthful manner? Should this additional guidance clarify the linkage between existing and designated uses?

3. Should the regulatory definition of "existing use" at 40 CFR 131.3(e) be modified? If so, how?

4. Use Attainability.

a. Attainability of Uses. States and Tribes may remove a designated use, that is not an existing use, if they can demonstrate that attaining the designated use is infeasible. (40 CFR 131.10(g)) The current regulation identifies the factors that must be considered in making such a demonstration. As explained in the regulation, existing uses, by definition, are attainable and must be protected by designated uses in water quality standards (40 CFR 131.10(h)(1), 131.10(i) and 131.12(a)(1)). Further, at a minimum, uses are considered attainable if they can be achieved by implementing effluent limits required under Sections 301(b) and 306 of the Clean Water Act (Act) and by implementing cost-effective and reasonable best management practices (BMPs) for nonpoint source control. (40 CFR 131.10(h)(2)).

These existing uses, technology and BMP provisions establish the basic regulatory threshold test for what the attainable use of a water body is and thus what the minimum use designation for the particular water body must be. Where either the use is existing or the use can be attained through implementation of Clean Water Act technology requirements and/or implementation of applicable State requirements regarding BMPs for nonpoint source control, 40 CFR 131.10(h) establishes that the use is attainable and must be designated. Once a use is designated, it is presumed to be attainable and may not be removed (downgraded) unless the State or Tribe can demonstrate that attaining the designated use is not feasible based on one of the six use removal criteria (40 CFR 131.10(g)). Therefore, uses are considered attainable if: (1) the use is existing; (2) the use can be attained through application of CWA technology requirements and/or State or Tribe required BMPs; or, (3) none of the use removal criteria is satisfied. EPA has in the past recommended that these use removal criteria referenced under number 3 above, serve as additional tests, over and above numbers 1 and 2 above, for determining when a use is attainable. Clearly these use removal criteria (131.10(g)) are designed to determine whether a use is attainable and therefore can serve that purpose equally effectively when considering whether to remove a designated use (the situation where they are clearly required to be used) and when considering whether a use is attainable and should be designated. The discussion below on use attainability analysis (UAA) and non section 101(a)(2) uses further discusses the relationship between designation of attainable uses, UAAs, and the analysis required to justify use removal. That discussion solicits comment on whether the use removal criteria at § 131.10(g), in addition to being the regulatory justifications for use removal, should, consistent with EPA's interpretation of the regulation, be included in the basic elements of a UAA.

Despite what EPA believes are fairly clear guidelines in the current regulation and guidance, questions have been raised about EPA's minimum attainability requirements. The Agency's current thinking is that basic attainability requirements, the methods for demonstrating attainability, the circumstances under which attainability analysis must be done, and what that analysis must consist of should be clarified in the regulation.

b. Removal of Designated Uses. The regulation (at 40 CFR 131.10(g)) specifies that States and Tribes may remove a designated use which is not an existing use if attainment of a use is not feasible due to the following:

(1) Naturally occurring pollutant concentrations prevent the attainment of a use; or,

(2) Natural, ephemeral, intermittent, or low flow conditions or water levels prevent the attainment of the use, unless these conditions may be compensated for by the discharge of sufficient volume of effluent discharges without violating State or Tribal water conservation requirements to enable uses to be met; or,

(3) Human caused conditions or sources of pollution prevent the attainment of the use and cannot be remedied or would cause more environmental damage to correct than to leave in place; or;

(4) Dams, diversions or other types of hydrological modifications preclude the attainment of the use, and it is not feasible to restore the water body to its original condition or operate such modification in a way that would result in the attainment of a use; or,

(5) Physical conditions related to the natural features of the water body, such as the lack of a proper substrate, cover, flow, depth, pools, riffles, and the like, unrelated to water quality, preclude attainment of aquatic life protection uses; or,

(6) Controls more stringent than those required by Sections 301(b) and 306 of the Act would result in substantial and widespread economic and social impact.

The use removal criteria were included in the regulation to address those circumstances where the attainability of certain uses would be precluded by conditions over which the water quality protection provisions in the regulation had little or no control. The uncontrollable conditions considered most likely to limit attainability were: natural water quality or habitat limitations, irretrievable human-caused contamination or conditions, or insupportable economic and social costs. These general conditions, then, formed the basis for the six use removal criteria. Although EPA believes the use removal criteria have functioned reasonably well, the growing number and reoccurring nature of the questions raised about these criteria have convinced EPA of the need to review this central element of the program.

Some have argued that the six criteria and their interpretation are overly stringent, making any proposal to remove a designated use futile even where a use was "mistakenly" designated. Others argue that the use removal criteria and their interpretation are overly generous, granting the possibility of use removal where the principal stressor is a condition which should not be immune from the water quality protection provisions in the federal regulation (operation of dams is one example used in arguing this position). Others complain that there seems to be no national consistency in the way the use removal criteria are interpreted by EPA, the States or the Tribes. And, finally, questions also have been raised about whether or not the criteria adequately address or apply to all uses equally. The key to appropriate application of the use removal criteria is to focus on whether or not a condition, at a specific site, would preclude attaining a designated use. A decision on this question is not always straightforward however, and as a result, there are questions about the application of the use removal criteria. A few examples may help the discussion.

Criterion number 1 allows removal of a designated use where "naturally occurring pollutant concentrations prevent attainment of the use." A reoccurring question about this provision is: under what circumstances should "naturally occurring pollutant concentrations" be the justification for use removal versus the basis for calculating site-specific criteria, acknowledging that the natural condition defines the existing use? Often, the numerical criteria assigned to the designated use are the initial benchmark for estimating whether or not a designated use will be attained. In this approach, a comparison of the natural condition with the numerical criteria is used in the evaluation of attainability. Where such an analysis demonstrates clearly that the naturally occurring pollutant concentrations would *preclude* the designated use, the use may be removed. There are, however, examples of situations where statewide or national criteria for one or more contaminants are exceeded, and yet the available information on the overall condition of the water indicate the use is supported. This situation is most common for aquatic life uses where local populations of aquatic organisms may have acclimated to natural conditions outside the estimated "normal" tolerance range, where species on the edge of their distribution are reproducing but are physiologically stressed or where broadly derived criteria may not be appropriate for the particular aquatic community at that site. In such a situation, the observed condition of the resource obviously will take precedence over the predicted condition, and the natural water quality will form the basis for site-specific criteria since the use is clearly not precluded. Again, the key to answering the use removal question is to determine whether or not "natural conditions" preclude attainment of the use, and because of the site-specific circumstances discussed above, answering this question involves more than a simple comparison of numeric criteria with the natural condition.

Criterion number 2 allows removal of a designated use where natural, ephemeral, intermittent, or low flow conditions would preclude the use unless these conditions may be compensated for by the discharge of sufficient volume of effluent discharges without violating State or Tribal water conservation requirements to enable uses to be met (emphasis added). Questions have been raised about exactly what the above italicized language means. EPA's interpretation of this phrase is that, where an effluent discharge creates an essentially perennial flow for what naturally would be ephemeral or intermittent waters, the resulting aquatic community is to be protected. EPA's current thinking is that in situations such as these, the second criterion for use removal means that a State or Tribe cannot remove a use of a water body where the augmented flow supports an aquatic life use.

Criterion number 4 allows removal of a use where dams, diversions or other types of hydrological modifications preclude the attainment of the use, and it is not feasible to restore the water body to its original condition or operate such modification in a way that would result in the attainment of a use. As indicated above, some have argued that operation of dams is an inappropriate basis for concluding that Section 101(a)(2) uses are not attainable, and they have suggested this criterion be removed from the regulation. In arguing this position, these commenters have pointed to the 1986 amendments to the Federal Power Act (Electric Consumer's Protection Act, or ECPA) and the legislative history of these amendments as an indication of Congress' intent to give equal priority to protecting and restoring fish and wildlife habitat even where dams exist. Specifically, the ECPA states:

> * * *In deciding whether to issue any license the (Federal Energy Regulatory Commission), in addition to the power and development purposes for which licenses are issued, shall give equal consideration to the purposes of energy conservation, the protection, mitigation of damages to, and enhancement of fish and wildlife (including related spawning grounds and habitat), the protection of recreational opportunities, and the preservation of other aspects of environmental quality. (ECPA amending the Federal Power Act, Section 4(e), 16 U.S.C. Section 797(e))

The legislative history, these commenters believe, provides a particularly clear indication of congressional intent to protect and restore aquatic life uses. They specifically point to that part of the record which states that no one "expect[s] 'business as usual,'" but rather the expectation is that:

> [P]rojects licensed years earlier must undergo the scrutiny of today's values as provided in this law and other environmental laws applicable to such projects. If nonpower values cannot be adequately protected, FERC should exercise its authority to restrict or, particularly in the case of original licenses, even deny a license on a waterway. (H.R. Rep. No. 99–934, 99th Cong., 2d Sess. (1986) at 22)

Groups arguing for removal of criterion 4 use the amendments to the Federal Power Act as an example of the recognition being given today's environmental values and the importance of restoring and enhancing the aquatic habitats and recreational uses of water resources. They maintain that "...the Water Quality Rule should be updated to recognize that aquatic and recreational uses can not be removed based simply on the existence of a dam." EPA's current thinking is that the above rationale and legislative history raise a serious question about whether the existence of a dam and the infeasibility of operating that dam in a way that will result in attaining the designated use, measured against today's values, is sufficient reason to remove a designated use. EPA is interested in commenters views on this issue.

Criterion number 5 allows removal of a designated use where physical conditions related to the natural features of the water body, such as the lack of proper substrate, cover, flow, depth, pools, riffles, and the like, unrelated to water quality, preclude attainment of

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aquatic life protection uses. Notwithstanding the reference to aquatic life uses in 131.10(g)(5), some have argued that recreational uses, especially swimming uses, might also be limited by physical factors (especially where safety is an issue), and they have asked whether or not the physical factors consideration could be applied to evaluations of recreational use attainability. As now written, the regulatory language would not allow consideration of physical factors, alone, as the basis for removing a designated recreational use. In the preamble to the 1983 regulation, EPA explained that, while the Agency recognized that physical factors also affect recreational uses, States, and now Tribes, would need to give consideration to incidental uses of the water body even though it may not make sense to encourage use of a stream for swimming because of the flow, depth or velocity of the water. Instead, the preamble discussion explained that based on prudent public health considerations, the use protection question was not to be judged wholly on an analysis of the water body's suitability for swimming but rather on whether or not swimming would actually occur. EPA's current thinking is that physical factors, alone, would not be sufficient justification for removing or failing to designate a primary contact recreation use.

EPA's suggested approach to the recreational use question has been for States and Tribes to look at a suite of factors such as, the actual use, existing water quality, water quality potential, access, recreational facilities, location, safety considerations, and physical conditions of the water body in making any use attainability decision. The guidance suggests that any one of these factors, alone, may not be sufficient to conclude that designation of the use is not warranted. Nevertheless, there clearly are situations such as high flows caused by storm events where the physical conditions of a water body would make swimming, if not impossible, extremely dangerous. It is in addressing situations such as these that questions have been raised about the applicability of physical factors to the recreational use issue. The question is sometimes posed in terms of whether or not a State or Tribe would incur some liability by designating or continuing to designate such waters as swimmable. They argue that a reasonable, common sense approach is to acknowledge that there are certain waters for which primary contact recreation is not an attainable use solely because of the physical condition of the water. EPA is, therefore, considering whether the regulation or Agency guidance should be amended to allow consideration of physical factors, alone, as the basis for removing or not designating primary contact recreational uses.

The above discussion is about EPA's interpretation of the conditions that would have to be satisfied to either remove or not designate recreational uses. As explained earlier in this section, satisfying those conditions gives a State or Tribe the option of either removing or not designating the use. It does not, however, create an obligation. A specific example may help. A western State was concerned, partly for liability reasons, about designating swimming uses for a number of waters where the physical conditions and other factors made swimming, if it did occur, unwise. Although available information indicated the actual swimming use was limited or nonexistent, the State also wanted to ensure protection of that use, based on public health considerations, should it occur. The issue for the State was striking the appropriate balance between the two concerns: the possibility of inadvertently encouraging swimming where it should not occur because of safety considerations and protecting that use if it did occur. To resolve this issue, the State designated these waters for secondary contact recreation but assigned primary contact recreation bacteriological criteria to provide an appropriate level of protection should swimming occur, however unlikely. In this way, the State felt it did not inappropriately encourage swimming in these waters, but if swimming did occur, the required water quality would provide an appropriate level of protection. This is an approach to the "incidental use" issue, discussed in the existing use section of this chapter, that, while acknowledging uncertainty, errs on the side of protectiveness.

Consistency

EPA has provided guidance on implementing the requirements in § 131.10(g). Although EPA believes the guidance has been fairly comprehensive and has functioned reasonably well, the growing number and recurring nature of the questions raised about implementation of the use removal criteria have convinced EPA to solicit comments on the need for additional guidance or regulatory changes to ensure appropriate and consistent application of the use removal criteria.

As indicated in the introduction to this discussion, one of the reoccurring concerns about implementation of §§ 131.10(j) and 131.10(g) with respect to designating or removing uses, is that to some, there are instances of inconsistency in the way the § 131.10(g)(1)–(6) criteria are interpreted by EPA, the States or the Tribes. One example that has been cited is that the application of the fish consumption use is dissimilar in different regions of the country. In one area of the country, some maintain, the fish consumption use is applied to all waters assigned any aquatic life use without regard to whether or not there is a credible exposure pathway to humans by way of contaminated fish. In other areas of the country, the application of the fish consumption use allows consideration of occurrence, size and species of fish present and evidence that fishing actually occurs as a basis for concluding that there is a potential exposure pathway and the use should be designated. An associated consistency issue has to do with the manner in which the terms in § 131.10(g) are interpreted. An example is the term "feasible" in criterion number 4. Feasibility could be based on technical considerations, such as the ability to operate an impoundment in an efficient manner that does not degrade water quality, as EPA intended when it originally wrote the regulation. Alternatively, some have suggested that feasibility could be based on economic considerations or a balanced consideration of cost and technology (EPA's current thinking is that the term "feasible" in use removal criterion number 4, regarding the operation of dams should continue to refer to technical feasibility and not to economic feasibility. Criterion number 6, not number 4, is the appropriate avenue to address economic feasibility of attaining the designated use because it establishes an appropriate test of economic infeasibleness.)

EPA's view is that the use removal criteria should be clear and consistently interpreted. Questions and/or positions such as those described above suggest there may be a need for additional guidance on or interpretation of § 131.10(g) to ensure the § 131.10(g) criteria are consistently interpreted and applied, and to address whether review under § 131.10(g) could be done for categories of sources.

c. Use Attainability Analysis. A use attainability analysis (UAA) is a structured scientific assessment of the factors affecting the attainment of uses specified in section 101(a)(2) of the Act (the "fishable/swimmable" uses). The factors to be considered in such an analysis include the physical, chemical, biological, and economic use removal criteria described in the current regulation (40 CFR 131.10(g)(1)–(6)). The current regulation (40 CFR 131.10(j)) establishes the requirement that States and Tribes conduct a UAA when designating uses that do not include the section 101(a)(2) uses, removing section 101(a)(2) uses, or designating new subcategories of section 101(a)(2) uses that require less stringent criteria.

New Information for Waters Without Section 101(a)(2) Use Designations

The current regulation (§ 131.20(a)) specifically requires the re-examination of water bodies with less than Section 101(a)(2) use designations every three years to determine if new information has become available. If new information indicates that a use is attainable, the State or Tribe is to revise the use accordingly. EPA interprets the current regulation as requiring review of past UAA-based use designation decisions when there is new information that could have a bearing on that use designation decision.

The 1983 preamble to the regulation explained that a State or Tribe need only conduct a UAA once for a given water body. The preamble went on to explain, however, that where the UAA is used as justification for removing a section 101(a)(2) use or failing to designate a section 101(a)(2) use, the State is required to review the basis for that decision in subsequent triennial reviews to determine whether or not the circumstances have changed in a way that would alter the original decision. EPA recognizes that the requirement to review new information about past UAA-based use designation decisions, because it creates a demand for further analysis of the decision by the State or Tribe, can serve to discourage States and Tribes from generating new information. EPA's current thinking is that interested parties should be encouraged to generate and consider relevant information that could have a bearing on the use designation decision for a particular water and that the trigger for reviewing past use designation decisions should be clear. In addition, EPA is interested in comments on whether there should be some definable burden placed on the State or Tribe to actively seek information for such waters. The Agency may need to be more specific in requiring that States and Tribes specify the procedures they will use in identifying water bodies where "new information" has become available and ensuring new information is generated where appropriate.

UAAs and Non Section 101(a)(2) Uses

The current regulation indicates that the UAA requirements apply to uses specified in Section 101(a)(2) of the Act. The regulation at 40 CFR 131.10(j) specifically requires that a State or Tribe conduct a UAA where: "(1) the State [or Tribe] designates or has designated uses that do not include the uses specified in Section 101(a)(2) of the Act, or (2) the State [or Tribe] wishes to remove a designated use that is specified in Section 101(a)(2) of the Act or to adopt subcategories of uses specified in Section 101(a)(2) of the Act which require less stringent criteria." Although the regulation at 40 CFR 131.10(g) has always provided that States and Tribes may not remove a designated use unless they can demonstrate that attaining the use is not feasible, the regulatory language does not expressly require the State or Tribe to conduct a UAA as defined in 40 CFR 131.10(j) before a use not referenced in section 101(a)(2) may be removed. As a result, some have questioned whether or not the UAA requirements actually apply to uses other than those referenced in Section 101(a)(2), such as water supply or agriculture. EPA's position on this issue is that, while the analysis to downgrade a use not included in CWA section 101(a)(2) is not expressly referenced in § 131.10(j), 40 CFR 131.10(g) of its own terms requires the State or Tribe to document whether any use being considered for removal is attainable under the six criteria outlined in that section. Where such a use is shown to be attainable, it may not be removed (downgraded). In practice, EPA believes there is no cognizable difference between these two analyses. EPA is thus considering whether it should combine these elements of 40 CFR 131.10(g) and 131.10(j) or otherwise clarify the relationship between these provisions in the regulation. Given EPA's position that the regulation requires the use attainability of a water body to be documented before any of its uses may be removed, EPA is interested in a discussion of specific attainability issues that might arise in applying the UAA requirements to non-Section 101(a)(2) uses such as water supply or agriculture.

Information in UAAs

The regulation is not specific about what a UAA should contain other than the general description contained in the definition of a UAA at 40 CFR 131.3(g). Instead, EPA has issued various national and regional guidance documents to assist with the completion of such analyses. Some have suggested, however, that the regulation be amended to provide more specificity on information needed in a UAA. Topics for consideration might include: what specific questions should a use attainability analysis address? what are the data requirements? and what are the requirements for reporting the results of the analysis? EPA seeks comment on this issue.

UAAs and Refinement of "Fishable/Swimmable" Use Designation

As long as a State or Tribe designates uses that fall within the broad range of uses consistent with the section 101(a)(2) goals, there is no requirement to conduct a UAA. In fact, 40 CFR 131.10(k) explicitly states that "a State is not required to conduct a use attainability analysis . . . whenever designating uses which include those specified in section 101(a)(2) of the Act." As a result, there does not appear to be a mechanism that ensures State or Tribal waters are not under-classified (i.e., a use subcategory is designated for a water when a higher or more protective subcategory is actually attainable). Some have suggested that the regulation be amended or guidance clarified to require a UAA (i.e., a structured scientific assessment) whenever an aquatic life use is designated (or refined) to ensure the level of protection assigned matches the potential for the water body. EPA's current thinking is that there needs to be a solid underlying rationale for use designations. One of the emerging themes from EPA and the larger community of parties interested in further protecting water quality is that refining designated uses and tailoring suites of criteria to the refined uses in watersheds is an important future direction of this program. Clearly for this approach to succeed, a solid evaluation of attainability must be at the heart of any decision to characterize designated uses in greater detail than has been the norm. EPA is interested in comment on this view, in particular as it relates to the rebuttable presumption that the generic uses described as fishable/swimmable are attainable.

Thresholds for Aquatic Life Use Designation

In part 2 of this section, "Refined Designated Uses", there is a discussion explaining EPA's position that the definition of "aquatic life" is not limited to those waters that support "fisheries." That discussion explains that a more biologically-grounded definition of aquatic life would be sufficiently expansive to include aquatic communities made up, for example,

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entirely of invertebrate organisms. This broad definition of "aquatic life uses" has an impact on the manner in which UAAs are planned and evaluated. The current regulation allows States and Tribes to designate uses for certain waters that do not include the section 101(a)(2) uses, where such uses are not attainable. As a result, some States and Tribes have waters which have not been assigned an aquatic life designated use. However, if aquatic life uses are defined broadly, as EPA believes they should be, there would be very few, if any, waters that would not be considered as supporting some type of existing aquatic life use.

Aquatic communities form a continuum, making it difficult, if not impossible in the biological sense, to identify where the threshold for aquatic life use begins. As a result, some have suggested that a broad definition of aquatic life would appear to revoke the option of excluding aquatic life protection from a water body since essentially all waters support some level of aquatic life. They have suggested, therefore, that there is a need to identify a threshold, based on some physical rather than biological limitation, that could be used as an acceptable justification for concluding that an aquatic life use is not attainable. For example, some States and Tribes have urged the use of a flow-based threshold to justify a conclusion that an aquatic life use in not attainable. Generally, ephemeral waters (waters whose channel does not intersect the ground water table and which are dependent on precipitation events for their flow) are suggested as an appropriate threshold. In a biological sense, this may not be a satisfactory solution since there are ecologically important ephemeral waters which should receive aquatic life use protection regardless of the temporal nature of the flow. This is especially true for many ephemeral wetlands. EPA is considering whether changes are needed in the regulation or guidance to address whether, and under what circumstances, UAAs may be used to justify a non-aquatic life use classification, given the broad range of aquatic communities that may exist.

Request for Comments on Use Removal and Use Attainability

EPA seeks comment on the following questions:

1. Although EPA believes the use removal criteria in § 131.10(g) have functioned reasonably well, questions have been raised about the applicability of specific section 131.10(g) criteria and the manner in which EPA interprets those criteria. EPA seeks comment on the use removal criteria. Are the six criteria sufficiently comprehensive or should other factors be considered as a basis for removing designated uses? Are the criteria too comprehensive and are certain of the criteria inappropriate as a basis for designated use removal? Is there a need to modify the existing criteria to more clearly address the full range of use removal issues that have developed since the regulation was originally published?

2. Even with the statements in the current regulation, questions have been raised about the minimum requirements of a use attainability analysis. Is there need for further clarification in guidance, policy or in the regulatory text on this issue?

3. Triennial review of UAA-based use designations that do not include section 101(a)(2) uses, are currently triggered only when new information becomes available. Should EPA require that States and Tribes specify procedures they will use in identifying what constitutes new information and thus when the review of the UAA-based use designations is required?

4. Although 40 CFR 131.10(g) requires an assessment of attainability before removal of any designated use, the regulatory language does not expressly require an analysis called a UAA as specified in 40 CFR 131.10(j) any time a State or Tribe seeks to designate a non section 101(a)(2) use. EPA, however, believes that the analysis under either provision is equivalent. Should the current regulation be revised to clarify that the UAA requirements apply to any "downgrade" of a use and not just the CWA Section 101(a)(2) uses? Can any needed clarification be achieved through guidance or policy? EPA would be interested in comments on factors to be considered in evaluating the attainability of non Section 101(a)(2) uses, such as water supply or agricultural uses which generally take place after the water is diverted from the natural water body.

5. How should the water quality standards regulation, guidance or policy be modified to provide more specificity on appropriate factors to consider in developing a use attainability analysis?

6. In order to ensure the present aquatic life use designation (or use subcategory) matches the attainable level of aquatic life use in a water body, should the water quality standards regulation, policy or guidance be modified to clarify that a periodic review of designated uses is required where a State or Tribe has designated only marginal or limited aquatic life uses?

7. Are changes needed in the water quality standards regulation, policy or EPA guidance to address whether, and under what circumstances, use attainability analyses may be used to justify a non-aquatic life use classification, given the broad range of aquatic communities that may exist?

d. Alternatives to "Downgrade" of the Designated Use. As discussed above, where a State or Tribe believes that a particular designated use is not attainable, States and Tribes have the option of refining a water body's designated use, for example by creating subcategories of the use and describing the use in more detail. A subcategory can, and may need to be, water body-specific if the State's or Tribe's use classification system is not sufficiently precise to accommodate the subcategory of designated use for the water body in question. States and Tribes also have the option of removing the designated use and replacing the removed use with a new one that, under the regulation, reflects attainable conditions in the water body. Use removal and to a lesser extent refinement are also commonly referred to as use "downgrade." Both of these options, refinement and removal of the designated use, are not time-limited. That is, the designated use that results from exercising either of these options becomes the new goal use of the water body. In the following discussion, three alternatives to use downgrade that have been used by States are presented. They are variances, temporary standards, and ambient-based criteria. These alternatives are less "draconian" than use downgrading in the sense that they can provide adjustments to particular aspects of the standards—*i.e.*, to the criteria for particular pollutants or the criteria as applied to certain dischargers—without changing the designated use and the full suite of criteria to protect the designated use. EPA's current thinking is that often the attainable condition of particular water bodies is not well understood due to uncertainty about expected results of water quality improvement actions. In such situations, EPA believes it may be appropriate to implement water quality protection actions, assess the results of those actions, and implement additional measures where necessary to continue to improve water quality. EPA believes that iterative assessment and implementation in these types of situations is probably the best way to gain an understanding of the ultimate attainable condition of the water body. The mechanisms described below may be well-suited to this situation because they leave the designated use of the water body, the ultimate goal, in place while providing a defined period of time (in the case of variances and temporary standards) to document, through implementation and assessment, the water quality improvements that are possible through various measures and thus, the attainability of the goal.

i. Variances. One option authorized under the regulation that is used by some States or Tribes is the water quality standard variance. A variance is a short-term exemption from meeting certain otherwise applicable water quality standards. EPA authorizes States and Tribes to include variances in their water quality standards. (see 40 CFR 131.13). Agency guidance on variances identifies what the Agency believes to be the essential elements of a variance:

—a variance should be granted only where there is a demonstration that one of the use removal factors (40 CFR 131.10(g)) has been satisfied;
—a variance is granted to an individual discharger for a specific pollutant(s) and does not otherwise modify the standards;
—a variance identifies and justifies the numerical criteria that will apply during the existence of the variance;
—a variance is established as close to the underlying numerical criteria as is possible;
—a variance is reviewed every three years, at a minimum, and extended only where the conditions for granting the variance still apply;
—upon expiration, of the variance, the underlying numerical criteria have full regulatory effect;
—a variance does not exempt the discharger from compliance with applicable technology or other water quality-based limits; and
—a variance does not affect effluent limitations for other dischargers.

With these safeguards in place, the principal difference between a variance and a downgrade of a designated use is that a variance is temporary. That is, when the variance expires, an affirmative showing would be needed to continue it, or the underlying standards are applicable. Because a variance is temporary, it actively supports the improved water quality goal, and it can, under appropriate circumstances serve as an environmentally preferable alternative to what otherwise might become a permanent change in a designated use.

Historically, the intent of the variance provision has been to: provide a mechanism by which permits can be written to meet a modified standard where discharger compliance with the underlying water quality standard is demonstrated to be infeasible within the meaning of § 131.10(g) at the present time (e.g., meeting the standard would cause substantial and widespread social and economic impact); encourage maintenance of original standards as goals rather than removing uses that may be ultimately attainable; and ensure the highest level of water quality achievable during the term of the variance.

EPA has approved State and Tribal use of variances when the individual variance is included in State or Tribal water quality standards, each variance is subject to the same public review as other changes in water quality standards, the State or Tribe demonstrates that meeting the standard is unattainable based on one or more of the grounds listed in 40 CFR 131.10(g) for removing a designated use, existing uses are protected, the variance secures the highest level of water quality attainable short of achieving the standard and the State or Tribe demonstrates that advanced treatment and alternative effluent control strategies have been considered (See 48 FR 51400, 51403 (Nov. 8, 1983); Water Quality Standards (WQS) Handbook at 5–12; Memorandum from EPA's Office of Water, "Variances in Water Quality Standards," March 15, 1985; and Decision of the General Counsel No. 58, In Re Bethlehem Steel Corporation, March 29, 1977).

The Preamble to the 1983 water quality standards regulation revision suggested that substantial and widespread social and economic impact, the sixth element for use removal under § 131.10(g), is an important and appropriate test that, if met, could be used as the basis for granting a variance (see 48 *FR* 51403). Subsequently, on March 15, 1985, EPA issued further guidance on the conditions under which a variance might be granted. The 1985 EPA Office of Water guidance explained that it would be appropriate to grant short-term variances to individual dischargers based on any of the six factors for removing a designated use as listed at § 131.10(g). As variances represent a temporary downgrade in the water quality standards, EPA reasoned that more stringent treatment of variances than permanent downgrades would not be appropriate. In practice, however, the only factor that is commonly used to grant a discharger-specific variance is the economic test. The Office of Water guidance continued to interpret variances as being limited to individual dischargers.

In "Guidance for State Implementation of Water Quality Standards for CWA Section 303(c)(2)(B)" (December 1988; Notice of Availability published at 54 FR 346, January 5, 1989), EPA recommends that States and Tribes adopt a variance provision whenever adopting statewide or tribe-wide criteria for a large number of toxic pollutants for human health or aquatic life protection. The rationale behind this recommendation was to avoid unreasonable consequences from adopting State- or Reservation-wide criteria which could underestimate or overestimate the toxic potential of some pollutants in a specific water body.

The Water Quality Guidance for the Great Lakes System (Great Lakes Guidance) published March 1995 by EPA (56 FR 15366, March 23, 1995; 40 CFR section 132) contains provisions allowing for variances from water quality standards. Variances granted under the Great Lakes Guidance are pollutant-specific and point source-specific and are limited to five years or the term of the NPDES permit implementing the variance, whichever is less. Variances may be granted for any of the reasons listed at 40 CFR 131.10(g) for which a use downgrade may be considered. Like all revisions to State or Tribal water quality standards, EPA review and approval is required of any variance granted by a State or Tribe and variances may be renewed following the same procedure originally used for applying for a variance. Variances are also subject to review as part of a State's or Tribes triennial review of water quality standards. Multiple discharger variances (a variance that applies to multiple point sources discharging to the same water body) are also allowed under the Great Lakes Guidance. Variances granted under the Great Lakes Guidance provisions may not jeopardize the continued existence of any Federally listed threatened or endangered species. Further, under the Guidance, variances are not available for new or recommencing discharges. A recommencing discharge is a source that recommences discharge after terminating operations. (40 CFR 122.2).

The Great Lakes Guidance was developed in concert with many other provisions addressing designated uses, criteria, antidegradation and various implementation policies for the Great Lakes States and Tribes. Any evaluation of the level of protection afforded water quality under the Great Lakes Guidance variance procedures should be made in the context of the Great Lakes Guidance as a whole. Similarly, the water quality standards regulation is more than simply the sum of its parts. Any

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approach to the implementation of water quality standards variances must be evaluated in the context of the entire regulation.

EPA is considering whether implementation of the variance provision has been a useful component of the water quality standards program, and the overall program for protection of water quality standards. In 1990, EPA conducted a survey of State variances and variance provisions (National Assessment of State Variance Procedures, Report, November 1990, Office of Water Regulations and Standards). This study showed that variances had been granted on a very limited basis. In fact, only 16 out of 57 States and Territories had granted variances and some of those had done so infrequently. EPA lacks detailed information on why variances are not being significantly utilized in most States and Tribes. EPA is interested in information regarding alternative mechanisms that are being used by States or Tribes in lieu of variances to provide necessary short term and temporary relief from applicable criteria, and how any alternative approaches address the feasibility of ultimately attaining the criteria associated with the underlying designated use.

EPA is considering whether it would be useful to include in the regulation more explicit language reflecting current EPA thinking and practice regarding variances. As explained above, in order to issue variances, States or Tribes must include variances as part of the State's or Tribe's water quality standards. EPA believes, however, that in some instances States may be misusing variances. For example, over the years, there have been instances where a State has improperly granted a "variance" from compliance with NPDES permit limits, failing to include these variances within the water quality standards themselves. There has also been some confusion regarding the necessity of formal adoption of individual variances into State and Tribal water quality standards and whether the public participation process associated with NPDES permit issuance sufficiently addresses those same needs for variance adoption. EPA is also considering whether to specify the degree to which individual dischargers must document the continued need for a variance before the variance can be renewed at each triennial review. EPA is considering whether the water quality standards regulation should provide more specific guidelines on the use and content of variance policies. EPA's current thinking is that the regulation may need to articulate certain aspects of variances more explicitly, including:

- explicit reference to the criteria listed in 40 CFR 131.10(g) as the criteria for granting a variance;
- explicit statement that the granting of a variance may not result in any loss or impairment of an existing use;
- explicit statement that before a variance can be granted, the applicant must provide documentation that treatment more advanced than that required by sections 303(c)(2)(A) and (B) of the CWA has been carefully considered, and that alternative effluent control strategies have been evaluated and reasonable progress is being made toward meeting the underlying or original standards;
- explicit statement requiring the highest level of water quality achievable under the relaxed, interim standard during the period of the variance.
- explicit statment that a variance shall not be granted if standards will be attained by implementing cost-effective and reasonable best management practices for nonpoint source control.

EPA believes that such a clarification of its policy regarding variances could serve to encourage proper use of variances by States and Tribes while at the same time reducing the possibility of inappropriate use.

ii. Temporary Standards. As indicated in the discussion on variances above, the 1985 EPA Office of Water guidance explained that it would be appropriate to grant short-term variances to individual dischargers based on *any* of the six factors for removing a designated use as listed at § 131.10(g). Of the six use removal factors, the first five address water quality and habitat features of the water body as a whole. These same factors are not, however, ideally suited to making decisions about the capabilities of individual dischargers. For example, it is not immediately clear how use removal factor five, "physical conditions related to natural features of a water body * * * preclude attainment of a use", could be applied to a decision about an individual discharger. On the other hand, the sixth factor, the substantial and widespread economic and social impact factor, is well suited to decisions about individual dischargers which explains why the economic hardship test has been historically applied in evaluating variances.

Several States have applied factors similar to the first five use removal factors in establishing variances for entire water body segments or portions of water body segments. These States sometimes refer to these as "temporary standards" or "temporary modifications". This has been done where the problems in a water body are significant and widespread, involving point and nonpoint sources of pollution and their impacts on water quality and habitat, that is waters significantly impaired by multiple sources and not just one or a few point sources. For example, where historic mining practices have severely impaired both water quality and habitat throughout a headwater basin, temporary standards have been used. Rather than downgrading these waters, the States have applied temporary standards with specific expiration dates for certain pollutants affected by the historic mining practices. In this way, the States have maintained designated uses and underlying criteria for other pollutants, while recognizing that existing ambient conditions for certain pollutants are not correctable in the short-term. In such cases, the temporary standards provide a basis for permit limits in the shorter-term. The temporary standards approach is then used by these States as the basis for remediation of damaged water resources because the underlying designated use and criteria to protect that use actively drive water quality improvements in the longer-term. EPA Regional Offices have approved the use of such temporary standards.

Temporary standards have been implemented to date with little specific Agency guidance on a water body approach to variances. EPA is considering whether the water quality standards regulation or guidance should specifically address temporary standards. EPA's current thinking is that if the regulation or Agency guidance were to specifically address temporary standards, such regulation or guidance would need to address certain relevant issues including: application criteria to be used in deciding which waters might qualify for temporary standards; a way of identifying the existing, impaired water quality conditions; a mechanism for specifying the water quality needed to fully attain the anticipated uses; and a plan and driving mechanism aimed at achieving needed water quality and habitat improvements to fully support compliance with the designated uses.

Where EPA has provided guidance to individual States on use of State temporary standards provisions, EPA has advised that any temporary standard should:

- be granted only where there is a demonstration that one of the use removal factors (40 CFR 131.10(g)(1) through (6) has been satisfied;

—be granted for a specific water body or portion of a specific water body as defined in State standards;
—identify and justify the numerical criteria that will apply during the existence of the temporary standard and identify a "remediation plan" aimed at compliance with the underlying designated uses and criteria;
—be established as close to the underlying numerical criteria as is possible;
—be reviewed every three years, at a minimum, and extended only where the conditions for granting the temporary standard still apply;
—be in effect only for the specified term of the temporary standard (or extension thereof), and upon expiration of the temporary standard, the underlying numerical criteria have full regulatory effect;
—not exempt any discharge to the water body from compliance with applicable technology or water quality-based limits (based on the temporary standards) or best management practices;
—not apply to any new discharger to the water body; and
—protect existing uses.

EPA is considering whether the use of temporary standards represents a viable alternative to use refinement or removal. EPA is also considering whether the regulation or guidance should explicitly address use of temporary standards, including specific limitations on the use of temporary standards like those listed above.

iii. Ambient-based Criteria. On a limited basis, States have developed and EPA has approved "ambient-based criteria." These ambient-based criteria have been developed for specific water bodies and pollutants where such criteria are shown to protect the designated use and the existing use. EPA believes that ambient-based criteria can be preferable to a "downgrade" of a use because the underlying designated use is retained and because they may be limited to only a small subset of pollutants.

EPA has issued a policy memorandum concerning one type of ambient-based criteria, site-specific criteria for aquatic life protection that are based on natural conditions. (See Memorandum from Tudor T. Davies, Director Office of Science and Technology, Subject: Establishing Site-Specific Aquatic Life Criteria Equal to Natural Background, November 5, 1997.) This policy states that States and Tribes may establish site-specific aquatic life criteria equal to natural background conditions, but such criteria must be scientifically defensible. Additionally, the State's or Tribe's water quality standards should contain or provide specific authority for site-specific criteria based on natural background. States and Tribes should also identify procedures for determining natural background. EPA's current policy also states that the State or Tribal procedure for determining natural background needs to be specific enough to establish natural background concentration accurately and reproducibly. States and Tribes should also provide for public notice and comment on the provision, the procedure and the site-specific application of the procedure. The States or Tribes will also need to document the resulting site-specific criteria in its water quality standards, including specifying the water body segment the site-specific criterion applies to. This can be accomplished through adopting the site-specific criteria into the State and Tribal water quality standards, or, alternatively by appending the site-specific criteria to the water quality standards.

In addition, a second approach that some States have used and EPA has approved is where the State or Tribe could have met the test for downgrading a use under 40 CFR 131.10(g)(3) *i.e.*, "Human caused conditions or sources of pollution prevent the attainment of the use and cannot be remedied or would cause more environmental damage to correct than to leave in place", but instead of downgrading the use, the State or Tribe established certain criteria based on ambient conditions where those ambient conditions were shown to be irreversible. In addition to assuring that the existing use is protected, EPA is interested in assuring that where the ambient concentration of a pollutant cannot be improved, *i.e.*, it is irreversible, that such condition be maintained and not made worse. When this occurs, EPA believes that for other pollutants in the same water body for which applicable criteria are being or can be met, those criteria should remain in place and not be made less protective via a use downgrade. EPA's current thinking is that the ambient-based criteria need to be the best attainable. In addition, EPA's current thinking is that in order to establish ambient-based criteria, the State or Tribe should conduct an analysis equivalent to a use attainability analysis for a downgrade that should include a thorough description of the biota that will be protected via applicable water quality criteria (both the unchanged pre-existing criteria and the ambient-based criteria).

EPA is interested in hearing comments regarding these ambient-based criteria mechanisms, and specifically whether the regulation should discuss these mechanisms more specifically, and whether the regulation should be more explicit about the biological evaluation necessary to describe the aquatic life use being protected. EPA is also interested in comments on whether the other relief mechanisms based on the § 131.10(g) reasons, such as variances and temporary standards, should also require criteria which reflect the best attainable conditions.

Request for Comments on Alternatives to Downgrading a Designated Use

EPA seeks comment on the following questions:

1. EPA requests comment on whether variances, temporary standards and/or ambient-based criteria can under certain circumstances offer an environmentally preferable alternative to refinement or removal (downgrade) of the designated use? Under what circumstances?

2. Does the current water quality standards regulation or Agency guidance or policy discourage persons from seeking variances and/or discourage States and Tribes from granting variances (including temporary standards)? What components of the procedures are most problematic?

3. Reflecting EPA's current interpretation of the regulation, should the regulation make explicit that individual variances and temporary standards must be documented in a State's or Tribe's water quality standards before implementation as part of NPDES permits?

4. Reflecting EPA's current interpretation of the CWA and the regulation, should the regulation contain express reference to the factors listed in 40 CFR 131.10(g) as the criteria under which a variance (including temporary standards) from water quality standards will be allowed? Should any of these factors be deleted? Should any new factors be added?

5. Reflecting EPA's current interpretation of the CWA and the regulation regarding existing uses, should the variance portion of the regulation at 40 CFR 131.13 underscore that the granting of a variance must not result in any loss or impairment of an existing use, for example by cross-referencing the requirement at 40 CFR 131.12(a)(1) that existing uses must be protected?

6. To reflect current practice and EPA guidance, should the regulation be

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amended to require documentation by either the applicant or the State or Tribe demonstrating that treatment more advanced than that required by sections 303(c)(2)(A) and (B) of the CWA has been carefully considered, and that alternative effluent control strategies have been evaluated and reasonable progress is being made toward meeting the underlying or original standards?

7. Should the regulation require that States and Tribes document in their water quality standards the criteria that are applicable to the water body or segment thereof during the period of a variance or temporary standards?

8. Should the regulation discuss ambient-based criteria mechanisms more specifically?

9. Should the regulation be more explicit about the biological evaluation necessary to describe the aquatic life use being protected where ambient-based criteria are used?

10. EPA is also interested in comments on whether the other relief mechanisms based on the § 131.10(g) reasons, such as variances and temporary standards, should in the regulation, expressly be required to require criteria which reflect the best attainable conditions?

11. Do the alternatives to use removal help address pulsed or intermittent impacts, such as those from urban and rural runoff?

C. Criteria

The following section discusses water quality criteria in the water quality standards programs. EPA is considering the implementation of and effectiveness of different types of criteria and on the desirability of changes to the water quality standards regulation as it pertains to criteria. The scope of the criteria section includes all Clean Water Act criteria for which EPA has issued national criteria guidance, and several types of criteria for which there is no national criteria guidance but where criteria guidance and policy are being contemplated.

1. Background

Water quality criteria are levels of individual pollutants or water quality characteristics, or descriptions of conditions of a water body that, if met, will generally protect the designated use of the water. EPA, under section 304(a) of the Act, periodically publishes recommendations (guidance) for use by States and Tribes to set water quality criteria. Water quality criteria are developed to protect aquatic life and human health, and in some cases wildlife, from the deleterious effects of pollutants and other effects of pollution. There are three principal categories of water quality criteria: criteria to protect human health, criteria to protect aquatic life, and criteria to protect wildlife. Within these broad categories, there are different types of criteria, for example within the human health category, there are chemical-specific and microbiological criteria. Within the aquatic life category, there are chemical-specific criteria, toxicity criteria, biological criteria, sediment criteria and physical criteria such as habitat and flow balance. These criteria may be expressed in either narrative or numeric forms. Many of these criteria may be developed to apply generally, or they may be developed to apply to site-specific situations. The CWA section 303(a)–(c) requires all States, and any Tribe that has water quality program authority, to evaluate the need for water quality criteria to protect a designated use and then adopt water quality criteria (either EPA's or its own) sufficient to protect uses designated for State or Tribal waters. Economic and technological factors (e.g., the ability of analytical techniques to detect the pollutant and treatment cost considerations) may not be used to justify adoption of criteria that do not protect the designated use.

Narrative criteria are descriptions of conditions necessary for the water body to attain its designated use. Often expressed as "free from" certain characteristics, narrative criteria can be the basis for controlling nuisance conditions, e.g. floating debris or objectionable deposits. Narrative criteria are often the basis for limiting toxicity in discharges. States and Tribes establish narrative criteria where numeric criteria cannot be established or to supplement numeric criteria under 40 CFR 131.11(b)(2). When a water body is classified for more than one use, criteria necessary to protect the most sensitive use must be applied to the water body. 40 CFR 131.11(a).

CWA section 304(a) directs EPA to develop criteria guidance. These criteria recommendations assist States and Tribes in developing water quality standards. The AWQC are published pursuant to Section 304(a)(1) of the CWA which states:

> The Administrator * * * shall develop and publish * * * (and from time to time thereafter revise) criteria for water quality accurately reflecting the latest scientific knowledge (A) on the kind and extent of all identifiable effects on health and welfare including, but not limited to, plankton, fish, shellfish, wildlife, plant life, shorelines, beaches, esthetics, and recreation which may be expected from the presence of pollutants in any body of water, including ground water; (B) on the concentration and dispersal of pollutants, or their byproducts, through biological, physical, and chemical processes; and (C) on the effects of pollutants on the biological community diversity, productivity, and stability, including information on the factors affecting rates of eutrophication and rates of organic and inorganic sedimentation for varying types of receiving waters.

Pursuant to section 304(a), EPA has developed to date, aquatic life criteria guidance for 31 chemicals and human health criteria guidance for 100 chemicals. For the most part, States and Tribes have found such EPA criteria guidance useful in setting standards to protect designated uses. Since 1980, most States and Tribes have adopted at least some of the criteria guidance published by EPA pursuant to CWA section 304(a). However, EPA's resources available to develop criteria guidance are limited. Thus, there are cases where the scientific information or data necessary to develop criteria exist but EPA has been unable to establish section 304(a) criteria guidance.

States and Tribes may establish numeric criteria using CWA section 304(a) criteria guidance, section 304(a) criteria guidance modified to reflect site-specific conditions, or other scientifically defensible methods. 40 CFR 131.11(b)(1). There are situations where EPA relies on the 304(a) criteria guidance when promulgating replacement standards for a State or Tribe pursuant to section 303(c). EPA promulgation of 304(a) criteria for States or Tribes is discussed in more detail below.

Numeric criteria are values expressed as levels, concentrations, toxicity units, or other numbers deemed necessary to protect designated uses. Water quality criteria developed under Section 304(a) are based solely on data and scientific judgments on the relationship between pollutant concentrations and environmental and human health effects. EPA criteria under section 304(a) do not reflect consideration of economic impacts or the technological feasibility of meeting the chemical concentrations in ambient water. As discussed below, 304(a) criteria are used by States and Tribes to establish water quality standards, and ultimately provide a basis for controlling discharges or releases of pollutants.

Numeric criteria are important because they provide a proven effective basis for implementation of the CWA. For example, these criteria often form the basis for NPDES water quality-based permit limits for point source dischargers and for establishing TMDLs for a water body as a whole. Numeric criteria can also be useful in assessing and managing nonpoint source pollution problems.

The Act uses the term "criteria" in two separate ways. In section 303(c), the term is part of the definition of a water quality standard. That is, a water quality standard is comprised of designated uses, and the criteria necessary to protect those uses. Thus, States and Tribes are required to adopt regulations that contain legally enforceable criteria. However, in section 304(a) the term "criteria" is used in the scientific sense. That is, under section 304(a), EPA develops scientifically sound criteria guidance which may form the basis for State, Tribal or Federal adoption of water quality standards pursuant to section 303(c). Thus, two distinct purposes are served by the section 304(a) criteria. The first is as guidance to the States and Tribes in the development and adoption of water quality criteria that will protect designated uses, and the second is as the basis for promulgation of legally enforceable water quality criteria by the State or Tribe, or via a superseding Federal rule when such action is necessary.

As with all science, new information leads to new insights concerning pollutant impacts on water quality. This ongoing evolution affects two important and inter-related responsibilities of the Agency, which are carried out concurrently. First, from time to time EPA revises the 304(a) water quality criteria to reflect the latest data and advances in criteria science. EPA compiles the current water quality criteria guidance from time to time in a series of guidance documents: the Green Book in 1968, the Blue Book in 1972, the Red Book in 1976, and the Gold Book in 1986. The second responsibility pertains to the requirements of section 303(c).

As part of the water quality standards triennial review process defined in section 303(c)(1), the States and Tribes are responsible for maintaining and revising water quality standards. Section 303(c)(1) requires States and Tribes to review, and modify if appropriate, their water quality standards at least once every three years. If EPA determines that a new or revised standard is not consistent with the requirements of the CWA, or EPA determines that a revised standard is necessary to meet the requirements of the Act, Section 303(c)(4) authorizes EPA to promulgate replacement water quality standards. From time to time EPA has chosen to undertake such promulgations. In doing so, EPA considers the most current available scientific information, such as toxicity data and exposure assumptions.

With a number of Federal promulgations of water quality criteria under section 303(c)(4) occurring over time, or the publication of a new or revised 304(a) criteria guidance document, the criteria value(s) in an earlier Federal action may differ from the value(s) in a subsequent Federal action. This has led to some confusion among the public with regard to what EPA's current section 304(a) water quality criteria may be for a given chemical at any given time, and, what values EPA would promulgate for a State or Tribe under section 303(c). Currently, EPA interprets the most recent Federal action, whether taken pursuant to 303(c) or 304(a), as establishing the current section 304(a) criteria guidance. When EPA determines that a Federal rule is necessary to correct deficiencies in State criteria, EPA looks to the most recent criteria science, as articulated in either section 304(a) criteria guidance or EPA's most recent statement contained in a proposed or final section 303(c) rule.

To date, the most recent Federal recalculation of section 304(a) criteria occurred in the proposed California Toxics Rule (CTR)(62 FR 42160), July 30, 1997. The proposed CTR was undertaken pursuant to CWA section 303(c)(2)(B). In the Water Quality Act of 1987, Congress increased the emphasis on numeric criteria for toxic pollutants by enacting section 303(c)(2)(B). This section requires all States and any Tribe with water quality standards authority to adopt ambient water quality criteria for toxics (priority pollutants) for which EPA has published criteria under section 304(a), and for which the discharge or presence could reasonably be expected to interfere with the designated use adopted by the State or Tribe. In adopting such criteria, States and Tribes must establish numerical values based on: (1) 304(a) criteria; (2) 304(a) criteria modified to reflect site-specific conditions; or, (3) other scientifically defensible methods.

Again, EPA views the criteria program as constantly evolving. Whenever new or revised criteria are published, whether under 304(a) or a rule under 303(c), that action establishes the Agency's most current section 304(a) criteria guidance.

Whenever a State or Tribe revises its water quality criteria EPA compares the State criteria values and the basis of their derivation to the criteria contained in the most recent Federal action (either 303(c)(4) rule making or 304(a) criteria guidance publication). Thus, there may be cases where the applicable policies and science have evolved such that EPA would be comparing State or Tribe adopted criteria values to Federal criteria values other than those in older rules or criteria guidance to determine whether to approve the State's or Tribes's criteria. This approach is necessary to encourage State and Tribal adoption of the most recent section 304(a) criteria.

2. Ambient Water Quality Criteria to Protect Aquatic Life

Aquatic life criteria are scientifically-derived values, derived by States, Tribes, or EPA, to protect aquatic life from the deleterious effects of pollutants in ambient water. States and Tribes may use EPA's section 304(a) criteria guidance in developing such criteria. When developing numeric aquatic life criteria, States and Tribes usually express two concentrations; one that protects against acute effects (effects from short term exposure) and one that protects against chronic effects (effects from long term exposure). The short-term concentration is expressed as a Criterion Maximum Concentration (CMC) and is the highest ambient concentration of a toxicant to which aquatic organisms may be exposed for a short time period without causing an unacceptable effect. The long-term concentration is expressed as a Criterion Continuous Concentration (CCC) and is the highest ambient concentration of a toxicant to which aquatic organisms can be continuously exposed without causing an unacceptable effect.

Water quality criteria to protect aquatic life consist of three components—magnitude, duration and frequency. Magnitude refers to the acceptable concentration of a pollutant. Duration is the period of time (averaging period) over which the ambient concentration is averaged for comparison with criteria concentrations. Frequency is how often the criteria can be exceeded to allow the aquatic community sufficient time to recover from excursions of aquatic life criteria and to thrive after recovery.

The numerical aquatic life criteria are expressed as short-term and long-term concentrations in order that the criteria more accurately reflect toxicological and practical realities. The combination of a Criterion Maximum Concentration (CMC), over a one-hour acute duration (a short-term average acute limit), and a Criterion Continuous Concentration (CCC), over a four-day chronic duration (a long-term average chronic limit) provide protection of aquatic life and its uses. Recommended averaging periods are kept relatively short because excursions higher than the average can

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kill or cause substantial damage in short periods.

The frequency limitations specify that both the acute and chronic criteria may be exceeded once in a three-year period on the average. The recommended once in a three-year period coupled with the 4-day chronic averaging period used for the CCC approximately corresponds to the historically used criterion concentrations that occurs in a once-in-ten year seven-day-average low flow (7Q10). The once-in-three-year period coupled with the one-hour acute averaging period used for the CMC approximately corresponds to the historically used criterion concentration that occurs in a once-in-ten year one-day-average low flow (1Q10)

The method by which EPA derives criteria is updated from time to time, to incorporate advances in the science. To overcome the limitations in the previous approaches to duration and frequency, a new risk assessment methodology is being developed. EPA expects that the new risk assessment methodology will include an approach that will better handle variable concentrations by use of a kinetic-based toxicity model coupled with a population response model. A kinetic-based toxicity model considers the speed at which effects appear in different individuals and at different concentrations. The kinetic-based model allows prediction of the toxicity of any series of time-variable concentrations. It can predict how often effects would occur, and what fraction of individuals in the species would be affected.

To weigh the full impact that a particular time series of concentrations would have on the exposed population of a species, an additional factor is being considered: how long it takes to replace those individuals lost due to the toxic effects. Consideration of this involves the use of a population model indicating rates of recovery of different taxonomic groups to stresses. The intent of this part of the derivation is to allow the toxic impact to be portrayed as the overall average reduction in the number of individuals in a species, both during lethal or sublethal periods and during recovery periods, accounting for both partial lethality and partial recovery.

Request for public comment on Aquatic Life Criteria

EPA requests comments on the following question:

1. Prior to completion of all of the aquatic life methodology revisions, should EPA use the tools that have thus far been developed (the kinetic model of individual organism response to derive the appropriate duration/averaging period of the criterion or to evaluate mixing zone alternatives and the population effects model to derive the allowable frequency of excursion above the criterion) to re-examine and possibly revise its recommendations on the duration and frequency of criteria excursions?

3. Site-Specific Criteria

EPA also provides guidance on how States and Tribes may develop site-specific numeric aquatic life criteria that are either more or less stringent than the criteria adopted by the State or Tribe and that would normally apply to a water body. Currently, national guidance only has recommendations and methods for establishing site-specific water quality criteria for aquatic life but guidance is under development for deriving site-specific sediment quality criteria as well.

The regulation currently specifies that States and Tribes may adopt numeric criteria based on published CWA section 304(a) guidance, section 304(a) guidance modified to reflect site-specific conditions, or other scientifically defensible methods. 40 CFR 131.11(b). EPA recognizes that States and Tribes may want to develop numeric criteria that vary from CWA section 304(a) guidance for specific waters (e.g., where chemical and physical characteristics of local waters alter the bioavailability and/or toxicity of a pollutant; or when the species or community actually present or desired may be more or less sensitive than the species or community represented by the criteria database.) In such situations, a site-specific criterion may be appropriate. EPA has developed and continues to develop guidance to assist States and Tribes in the development of site-specific criteria. (See *Water Quality Standards Handbook, Second Edition,* EPA 823–B–94–005a, August, 1994, pp 3–38 through 3–45 and documents cited therein.)

Site-specific criteria are allowed by regulation and must be submitted to EPA for review and approval, as are any changes to a WQS. The regulation at 40 CFR 131.11(b)(1) specifically provides States and authorized Tribes with the opportunity to adopt water quality criteria that are "* * * modified to reflect site specific conditions." Under 40 CFR 131.5(a)(2), EPA reviews State and Tribal standards to determine "whether a State has adopted criteria to protect the designated uses" and whether such criteria are scientifically defensible (40 CFR 131.11(b)).

Existing guidance and practice are that EPA will approve site-specific criteria developed on the basis of sound scientific rationales.

Currently, EPA has specified three scientifically defensible procedures that States and Tribes may follow in deriving site-specific aquatic life criteria. These are the Recalculation Procedure, the Water-Effect Ratio Procedure and the Resident Species Procedure. These procedures can be found in the Water *Quality Standards Handbook* (USEPA, 1994). States may also develop other procedures for deriving such criteria as long as they are scientifically defensible. EPA also recognizes there may be naturally occurring concentrations of pollutants that may exceed the national criteria guidance published under Section 304(a) of the Clean Water Act.

The Great Lakes Guidance contains a procedure for developing site-specific criteria for protection of wildlife. While the Great Lakes States and Tribes must adopt a procedure consistent with that procedure, other States and Tribes may derive site-specific criteria using the procedure in the Great Lakes Guidance and such criteria can be more or less stringent than the applicable wildlife criteria where scientifically defensible. This is most likely to be in cases where a site-specific Bioaccumulation Factor (BAF) has been developed.

The Great Lakes Guidance also provides a procedure for modifying human health criteria on a site-specific basis based on differences in fish consumption or BAF. With regard to aquatic life criteria, if a State or Tribe could demonstrate that physical or hydrological conditions preclude aquatic life from remaining at a site for a period of time in which acute or chronic effects may occur, less stringent site-specific aquatic life criteria are allowed.

EPA's current thinking is that States and Tribes should identify in their water quality standards the methods they intend to use for site-specific criteria development and generally the circumstances under which such criteria may be developed. Additional discussion and request for comment on emerging rationales and methods for site-specific criteria, beyond that described and referenced above, is contained in section B.4.d of this notice, entitled "Alternatives to Removal of the Designated Use."

Request for Comments on Site-Specific Criteria

EPA seeks public comment on the following questions:

1. Should the regulation be modified to require States and Tribes to specifically authorize and identify the procedures for developing site-specific water quality criteria? Would additional EPA guidance be necessary?

2. Should the regulation or EPA guidance specify the circumstances under which site-specific criteria are necessary?

3. Does EPA need to develop guidance, policy, or clarify the regulation regarding site-specific criteria based on ambient conditions?

4. Should EPA explore broadening the concept of site-specific criteria to include watershed-specific or ecosystem-specific criteria perhaps in conjunction with a refined use designation? If so, what type of additional guidance or policy is necessary to fully explain these concepts and are any changes to the regulation needed to enable and/or facilitate use of watershed or ecosystem-specific criteria?

4. Narrative Water Quality Criteria

Narrative criteria can be an effective tool for controlling the discharge of pollutants when numeric criteria are not available. Narrative criteria, which have become known as "free froms", were first developed in 1968 and continue to be used in State and Tribal water quality standards. EPA guidance explains that these "free froms" apply to all waters of the United States at all flow conditions (including ephemeral and intermittent streams) (see *Water Quality Standards Handbook: Second Edition* (EPA–823-B–94–006, August 1994). Narrative 'free from' criteria guidance indicates that all waters be free from substances, for example, that (a) cause toxicity to aquatic life or human health, (b) settle to form objectionable deposits, (c) float as debris, oil, scum and other materials in concentrations that form nuisances, (d) produce objectionable color, odor, taste or turbidity, or (e) produce undesirable aquatic life or result in the dominance of nuisance species.

The toxic "free froms" include protection from both chronic and acute toxicity and include all pollutants which cause toxic effects, including but not limited to those listed under Section 307(a) if necessary to protect the designated use. All States have adopted narrative water quality criteria pursuant to section 303(c). See 48 FR 51400–51402, November 8, 1983. EPA guidance interprets these "free froms," as with all criteria, to apply to the ambient water quality, not distinguishing between point sources and nonpoint sources of toxicity.

Currently, 40 CFR 131.11(a)(2) of the water quality standards regulation requires States and Tribes that have established narrative criteria for toxic pollutants to identify the methods by which the State or Tribe intends to regulate point source discharges of toxic pollutants based on such narrative criteria. EPA regulations at 40 CFR 122.44(d)(1)(v) and (vi) require narrative criteria to be implemented through NPDES permit limits. More specifically, when the permitting authority determines that a discharge causes, has the reasonable potential to cause, or contributes to an excursion above a narrative criterion, the permit must, under most circumstances, contain effluent limits for whole effluent toxicity. In addition, where the permitting authority determines that a specific pollutant for which the State or Tribe has not adopted a chemical criterion is in a discharge in an amount that causes, has the reasonable potential to cause, or contributes to an excursion above a narrative criterion, the permit must contain effluent limits for that pollutant that are based on an interpretation of the State's or Tribe's narrative criterion. The regulation provides three options for interpreting the narrative criterion, and in addition, EPA has provided guidance on this requirement in both the Technical Support Document for Water Quality-Based Toxics Control and the Water Quality Standards Handbook (both Cited above). The guidance advises States and Tribes to develop implementation procedures that explain the application and integration of all mechanisms used by the State or Tribe to ensure that narrative criteria are attained (e.g., chemical-specific requirements, whole effluent toxicity requirements, and biological criteria, where biological criteria programs have been developed by the State or Tribe). The rationale for this approach is that comprehensive written procedures facilitate implementation decisions, reduce inconsistencies that can result in different requirements for similar situations, and promote effective and sensible application of narrative toxics criteria.

Although all States and Tribes have some type of customary practice for implementing narrative criteria, and many States and Tribes have developed implementation policies on narrowly defined topics (e.g., to explain application of whole effluent toxicity testing requirements), very few, if any, States and Tribes have developed comprehensive written implementation procedures that address all of the narrative toxics criteria implementation issues. The result may be inconsistent application of narrative toxics requirements within those States and Tribes that have not developed such procedures. In addition, the lack of documented methods makes it difficult for EPA to evaluate whether aquatic life and or human health is being adequately protected.

Request for Comments on Narrative Criteria

EPA seeks public comment on the following questions:

1. Should the regulation require adoption of "free froms" and similar criteria as being the minimum floor allowable under the Clean Water Act.

2. Reflecting current practice, should the regulation specify that States and Tribes are required to adopt narrative criteria for all waters?

3. At this time, EPA has limited information about how States and Tribes are implementing narrative criteria with regard to nonpoint source activities. How can narrative criteria best be implemented in the nonpoint source context and what might EPA do, including modifying the regulation, to enhance or further the use of narrative criteria?

4. Does the existing requirement for States and Tribes to identify methods for implementing narrative toxics criteria need to be clarified, and if so, should EPA clarify the requirement with additional guidance, or with revisions to the regulation?

5. What minimum elements should be included in an implementation method for narrative toxics criteria? Should implementation methods describe application and integration of all of the various mechanisms used to regulate point sources, or should such methods focus on only certain aspects of toxics control (e.g., chemical-specific limits, whole effluent toxicity limits)?

6. The current regulation requires the State or Tribe to identify the method by which the State or Tribe intends to regulate point source discharges of toxic pollutants on water quality limited segments based on such narrative criteria.

Should this narrative criteria translation method apply only to point source discharges of toxic pollutants on water quality limited segments or to both point and non-point sources?

7. Should the regulation more explicitly require implementation procedures for narrative criteria other than toxics criteria? Should the regulation include minimum requirements for these implementation procedures?

5. State or Tribe Derived Criteria

States and Tribes may develop their own criteria although the water quality standards regulation 40 CFR 131.11 provides that where such criteria are less stringent than 304(a) criteria

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guidance, the State or Tribe must demonstrate the criteria are scientifically defensible. Despite this available flexibility, and for a variety of reasons, most States and Tribes are reluctant to derive their own criteria. EPA is evaluating whether either changes to the water quality standards regulation or development of additional guidance would assist State or Tribal efforts to develop protective criteria. For example, for many pollutants where EPA criteria guidance has not been issued, information is available which would be useful in determining a protective water quality criterion. Sources of such information include relevant scientific literature, EPA's Integrated Risk Information System (IRIS), EPA's Aquatic Toxicity Database (AQUIRE), a database of high quality aquatic life toxicity data (under development), and other sources.

Request for Comment on State or Tribal Derived Criteria

EPA requests comment on the following question:

1. Would changes to the water quality standards regulation or development of additional guidance assist State or Tribal efforts to derive criteria? What changes or guidance would be most helpful?

6. Water Quality Criteria for Priority Pollutants

EPA has not revised the water quality standards regulation to incorporate CWA section 303(c)(2)(B) which was added to the CWA in 1987. EPA has, however, issued guidance on how States and Tribes may comply with section 303(c)(2)(B). The "Guidance for State Implementation of Water Quality Standards for CWA Section 303(c)(2)(B):December, 1988" provides three options for compliance:

Option 1 States and Tribes may adopt Statewide or Reservation-wide numeric chemical-specific criteria for all priority toxic pollutants where EPA has issued CWA section 304(a) criteria guidance.

Option 2 States and Tribes may adopt numeric chemical-specific criteria for those stream segments where the State or Tribe determines that the priority toxic pollutants for which EPA has issued CWA section 304(a) criteria guidance are present and can reasonably be expected to interfere with designated uses.

Option 3 States or Tribes may adopt a chemical-specific translator procedure that can be used to develop numeric criteria as needed.

The phrase "translator procedure" in this context means a method for translating a State's or Tribe's narrative toxics criterion into chemical-specific, numeric criteria sufficient to comply with CWA section 303(c)(2)(B). As discussed in EPA guidance ("Guidance for State Implementation of Water Quality Standards for CWA Section 303(c)(2)(B)," December 1988, Notice of Availability at 54 FR 346, January 5, 1989), such translator procedures generally identify the equations, protocols, and data sources that are used to translate narrative criteria into derived chemical-specific criteria. Such translator procedures are different from the narrative criteria implementation procedures required in 40 CFR 131.11(a)(2) of the water quality standards regulation in that such implementation procedures must be adopted into the State's or Tribe's regulations and generally describe all mechanisms that are used and integrated to attain narrative criteria, including chemical-specific, whole effluent toxicity, and biological methods (see the discussion of narrative criteria implementation procedures in subsection (c)(6) above). EPA believes that revisions to the water quality standards regulation to incorporate the CWA section 303(c)(2)(B) requirements would enhance public understanding of EPA's implementation of the provision.

EPA's guidance on CWA section 303(c)(2)(B) established a presumption that any information indicating that such pollutants are discharged or present in surface waters (now or in the future) may be considered sufficient justification to require adoption or derivation of numeric criteria. The guidance made clear that the requirement to adopt (or derive) criteria applies not just to pollutants that are already affecting surface waters, but also to pollutants that have the potential to affect surface waters in the future. The rationale for this approach is that it is important to have numeric criteria applied to waters where current or future activities may result in sources of priority toxics that warrant regulatory controls or other pollution abatement or assessment activities. This interpretation of section 303(c)(2)(B) is now reflected in EPA guidance included in the *Technical Support Document (TSD) for Water Quality-Based Toxics Control* (TSD) and the *Water Quality Standards Handbook* (see page 30 in the TSD).

In implementing CWA section 303(c)(2)(B), many States and Tribes have adopted statewide or reservation-wide criteria for all priority toxics where EPA has issued CWA section 304(a) criteria guidance. Taking this approach eliminates the need to determine whether a "reasonable expectation" for use interference exists on a water body-by-water body basis, and thus greatly simplifies the process for establishing numeric criteria for priority toxics. In other States and Tribes, however, broad application of numeric criteria for priority toxics has not occurred, and the "reasonable expectation" question has been a significant implementation issue. EPA is considering whether its existing guidance on this issue is adequate to support equitable decisions nationally.

Another issue stemming from CWA section 303(c)(2)(B) implementation concerns the State or Tribe option to develop a "translator procedure" to achieve compliance. In EPA's CWA section 303(c)(2)(B) guidance, this approach was described as Option 3. The guidance intended to be used are the 1980 Human Health Guidelines and 1985 Aquatic Life Guidelines. All of which have been both peer reviewed and publicly reviewed and thus meet the requirements of "scientific defensibility" under 40 CFR 131.11.

Although EPA believes that adoption of such chemical-specific translator procedures potentially provide a State or Tribe with a useful means of establishing criteria, there are several issues associated with the use of such procedures. For example:

(1) It may be difficult for the public to stay abreast of the current applicable criteria where a State or Tribe does not routinely publish an updated list of State or Tribe criteria and provide wide distribution.

(2) Public participation may occur primarily on the details of the procedure itself, rather than the pollutant-specific criteria resulting from application of the procedure.

(3) Without requirements to submit to EPA for review and approval the individual criteria generated using the translator procedure, there could be a tendency to not include such criteria in the State's or Tribe's water quality standards at the time they are generated.

A third issue that arises from State and Tribal efforts to implement CWA section 303(c)(2)(B) concerns the provision for priority toxic pollutants that are not the subject of CWA section 304(a) criteria guidance. Where such numeric criteria guidance is not available, and where necessary to protect the designated uses, CWA section 303(c)(2)(B) provides that when a State or Tribe (1) reviews Water Quality Standards or (2) revises or adopts new standards pursuant to this paragraph, States and Tribes are to adopt criteria based on biological monitoring or assessment methods.

When adopting criteria based on biological monitoring or assessment methods, States and Tribes currently have considerable latitude to devise an approach to satisfy the requirement. For example, States and Tribes may establish ambient criteria for the parameter toxicity. Alternatively, States and Tribes could adopt narrative biological criteria. Clearly, a variety of approaches, representing a range of resource commitments, may be used to satisfy this requirement. All of these approaches must meet the test of "scientific defensibility" and be consistent with the goals of the CWA.

Request for Comments on Water Quality Criteria for Priority Pollutants

EPA seeks public comment on the following questions:

1. With regard to compliance with section CWA section 303(c)(2)(B), would it be better to include only a general requirement, such as one which repeats the language in the statute itself, or should the regulation reflect EPA's interpretation of the options to achieve compliance with the provision?
2. Have problems or issues arisen in the implementation of CWA section 303(c)(2)(B) that may need to be addressed by changes in the regulation or revised EPA guidance?
3. What factors should be considered in determining whether a "reasonable expectation" for use interference exists? How has the "reasonable expectation" threshold decision been interpreted and addressed by the States or Tribes? Does EPA need to clarify when a "reasonable expectation" for use interference exists, and if so, should the Agency clarify the requirement by issuing additional guidance, by issuing regulatory requirements, or a combination of the two approaches?
4. Where a State or Tribe adopts a chemical-specific translator procedure for derivation of numeric criteria, what process should the State or Tribe follow to ensure that notice of State derived criteria is provided to the public?
5. Should EPA require States or Tribes using translator procedures to publish an updated list of criteria for all water bodies?
6. Should EPA revise the regulation to explicitly require that, where a translator procedure is used to derive criteria, public participation is required for each individual criterion, even where an opportunity for public participation was previously provided when the procedure itself was adopted?
7. Should submission of each criterion derived using translator mechanisms for review and approval or disapproval be a requirement, even where EPA previously reviewed and approved the procedure itself? If so, should implementation of derived criteria (e.g., in NPDES permit renewal and development) proceed even where EPA has not yet issued an approval/disapproval decision?
8. Does this statutory provision need to be further clarified and interpreted by the Agency? Should changes to the water quality standards regulation or Agency guidance be pursued?

7. Criteria for Non-Priority Pollutants with Toxic Effects

Over the years, an issue which has periodically arisen, particularly for non-priority pollutants, has been the proper approach to identifying the circumstances for which adoption of numeric criteria is required. Currently, the regulation does not elaborate on how this question should be addressed; it only provides the general mandate to adopt criteria "sufficient to protect uses."

EPA's current thinking is that the regulation should probably be modified to further specify the circumstances under which numeric criteria for non-priority pollutants must be adopted. One approach would be to model the requirements for non-priority pollutants after the requirements included in CWA section 303(c)(2)(B) for priority pollutants. That is, for non-priority pollutants where EPA has issued criteria guidance, the regulation could require adoption of numeric chemical-specific criteria where the discharge or presence of the pollutant can reasonably be expected to interfere with designated uses. EPA could define "reasonable expectation" broadly to support adoption of criteria before new pollution sources are proposed, or more narrowly for non-priority pollutants, limiting such a requirement for adoption of criteria to only those water bodies and pollutants where uses are already being interfered with, or where pollution sources now exist or are certain to occur in the near future. Establishing Such a requirement would encourage development of criteria for commonly-discharged and highly toxic pollutants like ammonia and chlorine that are currently not considered priority pollutants under section 307(a) of the CWA.

Strengthening the requirements for adoption of criteria for non-priority pollutants would address a concern of some that many of the CWA section 307(a) priority pollutants are no longer an appropriate focal point for State, Tribe and EPA toxic control efforts (e.g., some of the pesticides included on that list are no longer in widespread use).

Request for Comments on Criteria for Non-Priority Pollutants With Toxic Effects

EPA seeks public comment on the following questions:

1. For what specific pollutants and under what circumstances should adoption of criteria for non-priority pollutants be required by regulation?
2. Should EPA amend the water quality standards regulation or issue additional guidance to clarify when adoption of numeric chemical-specific criteria for non priority pollutants is necessary to "protect designated uses"?
3. Should EPA require States or Tribes to adopt narrative criteria and a narrative criteria translation method for both 307(a) and other pollutants which elicit toxic effects on organisms?

8. Criteria Where Data or Guidance is Limited

A key issue facing States and Tribes seeking to develop aquatic life and human health criteria concerns the data requirements necessary to support derivation of a criterion. (In developing national CWA section 304(a) criteria guidance, EPA has established minimum data requirements.) When sufficient, acceptable data are not available, however, many States and Tribes have resorted to adoption of lowest observed effect levels (LOELs) as criteria in order to ensure that some level of protection is in place. LOELs are based on the lowest observed concentration of a chemical at which a statistically significant adverse effect was observed in an aquatic test organism. However, EPA would counsel against adoption of water quality criteria based on LOELs alone because they may not ensure protection of aquatic life uses since: (1) they represent effect concentrations, and (2) there may be significant limitations in the database upon which they are supported.

Thus, if this approach is used, States and Tribes are encouraged to use safety factors to approximate better a protective water quality level. The particular safety factor employed generally depends on the amount and quality of data concerning the LOEL. EPA has approved this approach in particular instances because criteria based on such LOELs provide more protection than no criteria at all.

A better approach to developing values with sparse data was developed and promulgated by EPA as part of the Water Quality Guidance for the Great Lakes System (Great Lakes Guidance). Under that Guidance's Tier II procedure, States and Tribes derive values to interpret the narrative criteria for

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pollutants where the minimum data requirements for derivation of a criterion are not satisfied (see appendix C of 40 CFR Part 132.) These values are then used in place of the absent criteria as the basis for NPDES permit limits where needed. EPA's current thinking is that this approach for establishing values for interpreting the narrative for pollutants where data are limited is preferable to adoption of criteria based on a LOEL.

The Tier II methodology in the Great Lakes Guidance is designed to be used in the absence of the full set of data needed to meet criteria data requirements. For pollutants for which criteria have not been adopted into State or Tribal water quality standards, Great Lakes States must, under the guidance, use methodologies consistent with either the criteria (GLI Tier I) or Tier II methodologies, depending on the data available to implement their existing narrative water quality criteria that prohibit toxic pollutants in toxic amounts in all waters.

In adopting the Great Lakes Tier II methodology, EPA, working with the States, determined that there is a need to regulate pollutants more consistently in the Great Lakes System when faced with limited data on which to base criteria. Many of the Great Lakes States are already employing procedures similar to the approach in the final Guidance to implement narrative criteria. EPA determined the Tier II approach improves upon existing mechanisms by utilizing all available data. The Tier II aquatic life methodology is used to derive Tier II values which can be calculated with fewer toxicity data than under the Tier I water quality criteria methodology. Tier II values can, in certain instances, be based on toxicity data from a single taxonomic family, provided the data are acceptable. The Tier II methodology generally produces more stringent values than the Tier I criteria methodology, to reflect greater uncertainty in the absence of additional toxicity data. As more data become available, the derived Tier II values tend to become less conservative. That is, they more closely approximate Tier I numeric criteria.

States and Tribes may also develop their own criteria derivation procedure under option 3 of EPA's CWA section 303(c)(2)(B) guidance for priority toxic pollutants. This approach allows for timely derivation of criteria based on the latest available data, and may be used to derive criteria for pollutants for which EPA has not issued guidance. However, as for all criteria, such a procedure would need to result in criteria that are scientifically defensible, so again the issue of minimum data requirements is important.

Request for Comment on Criteria Where Data or Guidance is Limited

EPA requests comment on the following questions:

1. Should adoption of a lowest observed effect concentration be considered an acceptable option where no other criteria guidance is available, or should use of an uncertainty factor (e.g., 0.1, 0.5) be required to better approximate a protective water quality level? If an uncertainty factor is used, should that factor vary based on the amount and quality of data used to drive the LOEL? If so how?
2. Should EPA develop a method for derivation of alternative values for pollutants where the minimum data requirements included in EPA's criteria guidelines are not satisfied, such as the tier 2 procedure in EPA's Water Quality Guidance for the Great Lakes System?
3. How applicable should the Tier 2 process be to States and Tribes outside of the Great Lakes? Does the regulation need to be modified to include Tier 2 specifically for the entire country?
4. Does the information included in EPA's toxicity databases (e.g., IRIS, AQUIRE) need to be made more accessible to States, Tribes, or others seeking to develop their own criteria? If so, how can this be accomplished?

9. Toxicity Criteria

Toxicity criteria are an additional type of water quality criteria used to protect aquatic life. Toxicity criteria are expressed in terms of "toxic units" that cause toxic effects to aquatic organisms and are determined by exposing aquatic organisms to water samples (e.g., ambient water or effluent discharges). Whole effluent toxicity (WET) testing can be effective for controlling discharges containing multiple pollutants. It can also provide a method for addressing synergistic and antagonistic effects on aquatic life.

EPA is considering revising the water quality standards regulation to require States and Tribes with water quality standards authority to develop a numeric quantification of acceptable surface water levels for the parameter "toxicity." Doing so would implement the narrative criteria that waters be "free from" toxics in toxic amounts. Currently, States and Tribes use various approaches to implementing their narrative criteria, including using numeric toxicity values and implementing them through NPDES permits. However, there is no current requirement for States or Tribes to specify numeric criteria for toxicity in their water quality standards. Under current requirements and guidance, States and Tribes do not always specify implementation of toxicity criteria and test methods as a required means to implement the narrative water quality criteria.

Toxicity is commonly measured by exposing test organisms (e.g. Ceriodaphnia, Fathead minnow) to various concentrations of chemicals or chemical mixtures in water. EPA has promulgated methods for measuring aquatic toxicity in effluents and surface waters in 40 CFR Part 136. EPA provided a recommendation on the allowable magnitude of this parameter in the 1991 Technical Support Document for Water Quality-based Toxics Control (TSD) that would facilitate State or Tribal implementation of such a requirement. The recommendation reads: For protection against acute toxicity, "the criterion maximum concentration (CMC) should not exceed 0.3 acute toxic units to the most sensitive of at least 3 test species; for chronic protection, the criterion continuous concentration (CCC) should not exceed 1.0 chronic toxic units to the most sensitive of at least 3 test species." Such a quantification serves, in conjunction with numeric criteria for individual pollutants and biological criteria, to establish an integrated and fully protective basis for assessment and control of pollutants.

Request for Comment on Toxicity Criteria

EPA seeks public comment on the following question:

1. Should the regulation be modified to explicitly require States and Tribes to adopt numeric toxicity criteria, or alternatively to use toxicity values and test methods as a required means to interpret and implement the narrative criteria? Or, is the current practice acceptable, whereby some States or Tribes have numeric toxicity criteria, some utilize toxicity methods to interpret their narrative requirements of no toxics in toxic amounts, and others use toxicity mainly as a tool to assess effluent quality, but not as the basis for permit limits?

10. Sediment Quality Criteria

Sediment quality criteria (SQC) are being developed by EPA pursuant to sections 304(a)(1) and 118(c)(7)(C) of the CWA in recognition that many water bodies are not meeting water quality goals even though ambient water quality criteria are being met. (See "The Incidence and Severity of Sediment Contamination in Surface Waters of the

United States, Volume 1; National Sediment Inventory," Office of Science and Technology, September 1997, EPA–823–R–97–006.) The contaminants of interest are those that preferentially partition to sediments, become sequestered, and remain bioavailable to the aquatic community. SQC are intended to protect against chronic effects to benthic organisms resulting from sediment contamination. The development and implementation of SQC is intended primarily to enable development of pollutant-specific State standards and NPDES permit limits needed for implementation of a more effective source control program. In addition, SQC will be useful in other programs, such as developing clean-up levels for sediment remediation activities and in evaluating sediments dredged from the Nation's waterways.

Sediment quality criteria have been proposed for five non-ionic organic compounds: acenapthene, dieldrin, endrin, fluoranthene, and phenanthrene. See, Technical Basis for Deriving Sediment Quality Criteria for Nonionic Organic Contaminants for the Protection of Benthic Organisms by Using Equilibrium Partitioning (EPA–822–R–93–011); Acenapthene (EPA–822–R–93–013); Dieldrin (EPA–822–R–93–015); Endrin (EPA–822–R–93–016); Fluoranthene (EPA–822–R–93–012); Phenanthrene (EPA–822–R–93–014). In addition to non-ionic organic compounds, the Agency also is working to develop SQC for metals. After considering public comments, EPA intends to publish final SQC dieldrin and aldrin in final form. The proposed criteria for acenapthene, fluoranthene, and phenanthrene will not go final; instead, EPA plans to propose a total PAH sediment criterion. In addition to its work on SQC, the Agency also is working to develop standardized methods for performing chronic sediment bioassay tests.

The EPA Science Advisory Board subcommittee reviewing SQC for non-ionic organics concluded that: "these criteria not be used as stand-alone, pass-fail values for all applications." (EPA–SAB–EPEC–93–002). EPA is developing a users manual to provide guidance on use of SQC in a regulatory context to ensure consistency with that recommendation. The guidance would recommend that SQC be used in conjunction with chronic sediment bioassay tests in determining compliance with State standards, such as in interpreting the narrative criterion of no toxics in toxic amounts. Such an approach is currently being developed in more detail, and the users guidance will be made available to the public for comment prior to being finalized.

Request for Comment on Sediment Quality Criteria

EPA seeks public comment on the following questions:

1. Should the current regulation be revised to specifically address sediment quality criteria, and if so, what should such revisions address?
2. What chemicals or classes of compounds should receive priority for development of SQC?

11. Biological Criteria

Biological Integrity, Assessments and Criteria

The Clean Water Act directs EPA to work with States and Tribes to restore and maintain the biological integrity of the Nation's surface waters (CWA 101(a), 303, 518(e)). Biological integrity is defined as a balanced, integrated, adaptive community of organisms having a species composition, diversity, and functional organization comparable to that of the natural habitat of a region (Karr and Dudley, EPA–440/5–90–004, 1981). Biological integrity does not necessarily represent an aquatic system untouched by human influence, but does represent one that is balanced, adaptive and reflects natural evolutionary processes. Designated uses and criteria to protect those uses in State and Tribal water quality standards programs provide the means to achieve biological integrity.

To more fully protect aquatic resources and provide more comprehensive assessments of aquatic life use attainment, it is EPA's policy that States and Tribes should designate aquatic life uses for their waters that appropriately address biological integrity and adopt biological criteria necessary to protect those uses (EPA–823–B–93–002, Office of Water Memorandum to EPA Regions, Policy on Bioassessment and Biological Criteria, 1991). Designated uses to support aquatic life can cover a broad range, or continuum, of biological conditions with some waters being closer to the ideal of biological integrity than others. The attainable levels of biological integrity for any water is a State and/or Tribal determination involving public participation.

For example, the State of Maine used the water quality classification law to establish the minimum standards for three levels of biological integrity. These levels correspond to the water quality classification system and are increasingly restrictive, proceeding from the minimum state standard, Class C, to Class A, the most protective standard. These refinements serve to explicitly specify the designated aquatic life uses that apply to each classification category. Class C requires that the structure and function of the biological community be maintained and provides for the support of all indigenous fish species. The intermediate standard of Class B requires that there be no detrimental changes to the aquatic community, that all indigenous species are supported and that habitat be unimpaired. The Class A standard requires that aquatic life be "as naturally occurs" and habitat be characterized as "natural." Within Class A, there is even a subset, Class AA, that further specifies "free-flowing" habitat. Waters with the Class AA designation are protected from any additional discharge or alteration. Under this system, attainment of the aquatic life classification standards for a given water body is evaluated using numeric biological criteria that were statistically derived from a statewide database. The numeric biological criteria are slated to go to rule-making in 1998.

Biological assessments are used to evaluate the condition of a water body using direct measurements of the resident biota in surface waters. Biological assessments integrate the cumulative impacts of chemical, physical, and biological stressors on aquatic life. Biological criteria, derived from biological assessment information, can be used to define State and Tribal water quality goals for aquatic life by directly characterizing the desired biological condition for an aquatic life use designation. Biological criteria are narrative descriptions or numerical values that describe the reference condition of the aquatic biota inhabiting waters of a specific designated aquatic life use (EPA–440/5–90–004). Biological criteria are based on integrated measures, or indices, of the composition, diversity, and functional organization of a reference aquatic community. The reference condition describes the attainable biological conditions for water body segments with common characteristics within the same biogeographic region. In summary, biological criteria provide a direct measure of the desired condition of the aquatic biota. This capability serves a dual purpose—goal setting and environmental impact analysis. Biological assessments are then conducted to evaluate if a water body is attaining its designated aquatic life use.

Biological criteria can play an important role in water quality programs and when properly implemented, complement and support

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other methods and criteria, such as chemical water quality criteria and whole effluent toxicity criteria. The latter are measures, or indicators, of environmental stress and exposure whereas the biological assessments and criteria measure the cumulative effects of stressors on the aquatic community, whether chemical, physical or biological stressors, singly or in combination. A water quality program that employs the full array of methods and criteria will develop the information needed for more accurate assessment of impairment and effective resource management.

The linkage of biological effects, stressor identification and exposure assessment is particularly important when there are multiple stressors impacting a water body, especially when a watershed management approach is taken, or where wet weather flows are a major source of impairment in the water body. A comprehensive water quality program with biological, chemical, toxicity, and physical components will enable States and Tribes to make better decisions and focus limited resources to maximize environmental gain. A critical issue facing EPA's National Water Program is the manner and extent to which biological assessments and criteria should be incorporated into water quality programs to transition to a more comprehensive water quality control program that will better identify impairments and track improvements. This includes integrating biological assessments and criteria into use designations and attainability analyses, watershed management strategies and source control requirements.

Biological criteria typically include measures of the types, abundance, and condition of aquatic plants and animals, providing information on the status and function of the aquatic community in response to the cumulative impact of both chemical and nonchemical stressors. For example, Ohio uses a multi metric approach to develop numeric biological criteria for two different assemblages: benthic macro invertebrates (bottom dwelling insects, etc.) and fish (Yoder, 1995). Biological indices have been derived that integrate measurable structural and functional characteristics of the in-stream fish and macro invertebrate communities which help assess the health of the community. Structural characteristics are based on measures of biological community structure such as diversity or taxa richness (e.g. total number of taxonomic groups) and the representation of specific taxonomic groups (e.g. number of mayfly or caddisfly taxonomic groups) within the community. Functional characteristics include measures of biological function such as feeding strategy (e.g. percent carnivores, omnivores), environmental tolerance (e.g. number of intolerant and tolerant species), and disease symptoms (e.g. percent diseased species and anomalies, including deformities, eroded fins, lesions and external tumors in fish).

The Ohio biological criteria were developed based on ecoregional reference conditions and provide a quantitative biological description of the State's designated aquatic life uses for warm water rivers and streams, including exceptional, general, modified and limited warm water habitat. The description and derivation of the indices and ecoregions are contained in the "Biological Criteria for the Protection of Aquatic Life: Volume II. Users Manual for Biological Field Assessment of Ohio Surface Waters" cited in Ohio's Water Quality Standards. Ohio uses biological criteria to support all aspects of its water quality management program (Yoder, 1995). Ohio's approach is another example of how a State can adopt biologically-based refined designated aquatic life uses and biological criteria consistent with EPA's policy.

Application of Biological Assessments and Criteria in State and Tribal Water Programs

Biological assessments and criteria can be an important component of State and Tribal watershed management programs by assisting in prioritization and targeting of actions, setting restoration goals and performance standards, and documenting results. For example, North Carolina has adopted narrative biological criteria into its water quality standards regulation that references standardized methods for data collection and analysis for fish and macro invertebrate communities. Specific biological indices, metrics, or numeric criteria are not included in the water quality standards regulation. However, by citing the standardized methods in the State's water quality standards, North Carolina established a mechanism for consistent, quantitative translation of the narrative biological criteria. Under the State's five year basin-wide management program, benthic macro invertebrate and fish community data are presented in individual basin-wide assessment reports. Macroinvertebrate and fish community surveys, special studies, and other water quality sampling activities are conducted in the second and third years of the cycle to provide information for assessing status and trends through the basin. Water quality management plans are being developed for all of the State's major river basins on five year cycles.

Biological assessments and criteria can fulfill several assessment functions within the NPDES permitting process. In conjunction with pollutant concentration and toxicity data, biological assessments can be used to detect previously undetected chemical water quality problems and to evaluate the effectiveness of control actions. Biological findings of use impairment can trigger the necessary technical investigations which can identify the source or sources of impairment and determine appropriate corrective measures through point or nonpoint source controls as appropriate. The State of Maine uses biological assessments and criteria to evaluate the effectiveness of controls and to inform the permit review process. Aquatic life criteria are specified in the water quality classification law and attainment is assessed using quantitative data and a multi variate statistical model. Findings of biological impairment trigger management intervention to identify possible causes. Permits have been modified and enforcement actions initiated to address biological impacts. Alternatively, favorable biological findings have been used in a tiered approach to re-direct limited agency and permittee resources to more urgent concerns.

In Maryland, investigators use bioassessments as an integral part of the Rapid Stream Assessment Technique (RSAT) to conduct watershed-wide stream quality reconnaissance, rapid screening of general storm water BMP performance and for elucidating general watershed land use—stream quality relationships (Galli, J., 1997). In Michigan, biological assessments have been used in the Wayne County Rouge River National Wet Weather Demonstration Project to identify impacts and to guide decision-makers and the public in evaluating options for preventing, reducing and minimizing pollution loading impacts on the river under a watershed approach to wet weather pollution management (Cave, 1997).

Biological assessments and criteria can be useful in evaluating highly variable or diffuse sources of pollution such as storm water runoff. These types of point source pollution do not lend themselves well to traditional chemical water quality monitoring and a biological assessment of their cumulative impact may effectively evaluate these discharges and the success of control actions.

Bioassessments have been successfully used in Florida to assess the cumulative impacts of multiple pollution sources within a watershed, in particular, storm water runoff and other nonpoint source discharges (McCarron, Livingston and Frydenborg, 1997). The Florida Storm water/Nonpoint Source Bioassessment Projects have found that bioassessments, over time, help reflect impacts from the fluctuating environmental conditions and highly variable pollutant inputs of wet weather discharges. Bioassessments also help to evaluate the habitat degradation typically associated with Storm water discharges. Bioassessments were also identified by key storm water experts from across the Nation as an important environmental indicator tool for assessing the impacts of storm water runoff and the effectiveness of storm water management strategies (Claytor and Brown, 1996).

When attempting to identify the specific sources of use impairment (stressors), the role that biological assessments and criteria will play needs to be carefully defined. Stressor identifications based solely on biological information may be straightforward in certain water bodies where a single source is the cause of impairment. In these cases, paired bioassessments, conducted above and below the discharge point, or in the vicinity of the source, may readily identify the degree of impairment and the efficacy of chosen control strategies. In small urban watersheds, dominated by storm water runoff, bioassessments and criteria may provide a direct means to measure and control the storm water impacts.

However, in complex water bodies, where numerous sources contribute to the observed biological impairment, it may be difficult for bioassessments to distinguish the relative degrees of impairment from each contributing source. Given these situations, EPA anticipates that a stressor identification evaluation (SIE) procedure will need to be developed to provide the technical tools and information that watershed managers can use to identify and evaluate the different sources of impairment that the bioassessments reveal and the specific stressors associated with each source (e.g. flow, turbidity, temperature, metals, etc.).

Guidance on Development of Biological Criteria

EPA has developed and will continue to develop technical guidance on conducting bioassessments and developing biological criteria for the following specific water body types: streams and wadable rivers, lakes and reservoirs, estuaries and near coastal waters, wetlands and large rivers. Technical guidance for streams and small rivers biological assessments and criteria was published in 1996 (EPA 822–B–96–001). Publication of technical guidance on lakes and reservoirs is expected in 1998 followed by guidance on estuaries and near coastal waters by 1999. Technical guidance development for wetlands was initiated in 1997 and for large rivers in 1998. Completion of these documents is planned within 5 years.

Guidance on Implementation of Biological Criteria

EPA is currently considering how to best advance State and Tribal adoption and implementation of biological criteria. A draft discussion document on implementation of biological criteria by States and Tribes sets forth an iterative, step-wise approach to development of biological criteria and adoption in State and Tribal water quality standards. (draft guidance document on biological criteria implementation, EPA, March 1998) Elements of a stepwise approach could include:

(1) establishment of a long term goal to restore and maintain biological integrity of State or Tribal surface waters where determined feasible;

(2) implementation plan for development of biological criteria for specific water body types, including time frame;

(3) development of standardized biological assessment methods, regional reference conditions, and biological database to support refinement of designated aquatic life uses and development of biological criteria;

(4) adoption of narrative biological criteria into water quality standards;

(5) adoption of quantitatively-based biological criteria in water quality standards.

In developing a flexible, stepwise approach, EPA is evaluating options for adoption of biological criteria that would result in the consistent translation of narrative biological criteria into numeric criteria (e.g. quantitatively-based biological criteria). A quantitatively-based biological criteria could be defined as:

(1) A narrative statement adopted into State or Tribal water quality standards that describes specific designated aquatic life uses and cites technical procedures existing outside of regulation. The technical procedures result in the translation of the narrative statement into quantitative measures; including description of how biological assessment data is collected and analyzed, and how the biological criteria are developed.

—and/or—

(2) A narrative statement as above plus the adoption of the technical procedures or the actual numeric biological criteria in State or Tribal water quality standards.

These two options for adopting quantitatively-based biological criteria are based on existing State models such as Maine, North Carolina and Ohio (EPA 230–R–96–007). North Carolina has adopted a narrative biological criteria for its aquatic life use classification and cites in the water quality standard regulation the standardized methods for data collection and analysis. Maine and Ohio have developed more refined classifications of their aquatic life uses and developed biological criteria for each specific use. Both States cite technical manuals specifying standardized methods. Ohio has adopted its numeric biological criteria directly into its standards regulation. As mentioned earlier, the Maine Department of Environmental Protection is currently embarking on a rule making process to adopt its existing standardized field methods, statistical analysis protocols and numeric classification criterion (numeric biological criteria) into its water quality regulation. Similar to Ohio, these rules will codify the technical procedures for determining attainment of aquatic life use classification. EPA describes these various States' work for consideration as possible models of biological criteria that would result in the consistent translation of narrative biological criteria into numeric criteria (e.g. quantitatively-based biological criteria).

A Regulatory Requirement for Biological Criteria

EPA is considering whether it should explicitly require States and Tribes to adopt biological criteria in either the narrative or numeric form, and, if not, whether an alternative approach to encouraging the use of biological criteria is appropriate. Some States and Tribes have already allocated resources to biological criteria development because a regulatory requirement is anticipated at some time in the future. Others have been unwilling to commit resources to development of biological criteria before specifically required to do so. Concerns have also been raised about yet another regulatory requirement to be imposed over existing requirements that are still not fully implemented—adding new layers of requirements in a piecemeal fashion without adequate resources. EPA is sensitive to the concern that

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generating the data and developing the analytical capacity to incorporate biological criteria into water quality standards may present a significant resource challenge to some States and Tribes.

Advocates for a requirement for States and authorized Tribes to adopt biological criteria argue that States and Tribes will not implement biological criteria in a timely manner, if at all, without an explicit Federal regulatory requirement. The viewpoint has been expressed that States and authorized Tribes will not adequately increase program emphasis or resources if biological criteria are not required and, as a consequence, biological criteria will be relegated to a lesser role then chemical water quality criteria or whole effluent toxicity. Some States have either direct (i.e. executive orders, legislative mandates) or indirect limitations on adopting new regulations and policies that are more stringent than that required by Federal legislation. Adopting biological criteria may be seen in some States and Tribes as exceeding minimum Federal requirements. Concern has been expressed that without biological criteria as a fundamental component of a State or Tribal water quality standards program, transition of water quality standards programs to a more integrated ecosystem approach with an emphasis on watersheds will not succeed.

Adoption of Narrative Biological Criteria

As an alternative to requiring adoption of numeric biological criteria, EPA could require States and Tribes to adopt a narrative biological criteria. The narrative biological criteria could be a statement of intent adopted in a State's or Tribe's water quality standards to formally consider the fate and status of aquatic biological communities and to establish the framework for the consistent and quantitative translation of a State's or Tribe's designated aquatic life uses and development of numeric biological criteria. EPA has published a document on procedures for initiating narrative biological criteria (EPA–822–B–92–002). An example of a narrative biological criteria based upon that publication follows:

> The State will preserve, protect, and restore the water resources in their most natural condition deemed attainable. The condition of these water bodies shall be determined from the measures of physical, chemical, and biological characteristics of each surface water body type, according to its designated use. As a component of these measurements, the biological quality of any given water system shall be assessed by comparison to a reference condition(s) based upon similar regional hydrologic and watershed characteristics (reference standardized methods and operating protocols).
>
> Where attainable, such reference conditions or reaches of water courses shall be those observed to support the variety and abundance of aquatic life in the region as is expected to be or has been historically found in natural settings essentially undisturbed or minimally disturbed by human impacts, development or discharges. This condition shall be determined by consistent sampling and reliable measures of selected indicated communities of flora and/or fauna as established by [cite appropriate State agency or agencies] and may be used in conjunction with acceptable chemical, physical, and microbial water quality measurements and records judged to be appropriate to this purpose.
>
> Regulations and other management efforts relative to these criteria shall be consistent with the objective of preserving, protecting and restoring the most natural communities of fish, shellfish, and wildlife attainable in these waters; and shall protect against degradation of the highest existing or subsequently attained uses or biological conditions pursuant to State antidegradation requirement.

EPA is considering what could constitute approvable narrative biological criteria and the feasibility of EPA promulgating narrative biological criteria where a State or Tribe fails to adopt such criteria.

Time Frame for Adoption of Biological Criteria in State and Tribal Water Quality Standards

In 1991 EPA issued a policy that established as a long-term Agency goal the development and adoption of biological criteria in State and Tribal water quality programs (Transmittal of Final Policy on Biological Assessments and Criteria, memorandum from Tudor Davies, Director of the EPA Office of Science and Technology, to Regional Water Management Division Directors, June, 1991). EPA has identified as a program priority during the FY1997–1999 Water Quality Standards Triennium that States and Tribes initiate and continue to expand development of scientifically defensible biological-based classification systems (FY 1997–1999 Water Quality Standards Priorities, memorandum from Tudor Davies, Director of the EPA Office of Science and Technology, July 22, 1996). Based on State experiences, development of biological criteria can range between five to ten years, depending on several factors such as available resources, existing State expertise, existing data bases and geographic variability. If EPA were to require or recommend that States and Tribes adopt biological criteria, EPA would need to determine appropriate time frames for adoption and implementation of these criteria. EPA is considering whether the following are reasonable and appropriate time frames for adoption of biological criteria in State and Tribal water quality programs:

1. narrative biological criteria for streams and an implementation plan for development of quantitatively-based biological criteria for streams in the 2000–2003 Water Quality Standards Triennium.
2. narrative biological criteria and an implementation plan for development of quantitatively-based biological criteria for other applicable water body types (e.g. lakes and reservoirs, estuaries and near coastal waters, large rivers and wetlands) within ten years following EPA publication of technical guidance.

Linkage of Biological Criteria to Stressor-Identification

One of the potential benefits of developing a biological criteria program is the increased ability to assess water quality impairment due to nonpoint source pollution, broadening the scope of most water quality-based programs beyond regulation of effluent discharges. However, many currently regulated point source dischargers are skeptical that greater focus on nonpoint source would actually occur, particularly considering the time and resource constraints on most State and Tribal programs. Industry and municipalities are concerned that biological criteria bring an additional layer of regulatory and associated costs and that they may be an easy target for additional requirements whether their discharge is the source of impairment or not. EPA recognizes that the role biological assessments and criteria will play to help identify specific stressors or sources of use impairment will need to be carefully defined and is interested in practical, effective approaches to evaluate potential stressors and sources of impairment when a water body fails biological criteria.

Request for Comment on Biological Criteria, Assessment and Implementation

EPA is soliciting comment on the following questions:

1. Should EPA amend the regulation to explicitly require States and Tribes to adopt biological criteria or are there alternative approaches that EPA should consider? Should EPA seek to ensure that biological criteria will be developed and implemented in all State and Tribal water quality programs?
2. If EPA were to explicitly require States and Tribes to adopt biological

criteria, should it require a narrative only, or a combination of both narrative and numeric criteria as described in the draft implementation guidance (e.g quantitatively-based biological criteria)? What should EPA promulgate if a State or Tribe fails to adopt biological criteria in its water quality standards?

3. If EPA were to explicitly require biological criteria, what is a reasonable time frame for State or Tribal adoption?

4. What are practical, effective approaches to identify and evaluate potential stressors and sources of impairment when a water body fails biological criteria?

5. In what ways can biological criteria and biological assessments be used to effectively manage known stressors or sources of impairment, including urban and rural runoff?

12. Wildlife Criteria

Wildlife criteria are designed to protect mammals and birds from adverse impacts from pollutants due to consumption of food or water from a water body. A wildlife criteria methodology applicable to the Great Lakes Basin and a few wildlife criteria were published as part of the Great Lakes Guidance. EPA does not have an active wildlife criteria guidance program at this time but it is a potential emerging criteria program. The wildlife criteria that EPA promulgated in the Great Lakes Guidance are for the following four chemicals: DDT (and metabolites), mercury, PCBs, and dioxin (2,3,7,8–TCDD).

Request for Comment on Wildlife Criteria

EPA requests comment on the following question:

1. Does the regulation need to be clarified to specifically address the development of wildlife criteria guidance for the protection of aquatic dependent wildlife?

13. Physical Criteria

Physical criteria is a concept that takes into account the physical attributes of the aquatic environment; such as quality of habitat and hydrologic balance. Commenters on the draft ANPRM identified physical habitat and hydrologic balance criteria as additional important forms of criteria that should be discussed in the ANPRM. EPA agrees that physical habitat parameters, including flow, are important and often overlooked parameters that influence and at some sites control whether or not an aquatic life use is or will be attained. For example, research referenced by Schueler (see Schueler, T. The Importance of Imperviousness. Watershed Protection Techniques, Fall 1994) suggests that in many small urban streams substantial loadings from municipal separate storm sewer systems are severely degrading the aquatic habitat. The authors suggest that the primary cause of this habitat impairment is the high volume and velocity of the storm water flows into this type of stream. The high flows exceed the peaks in the natural flow regime of these streams and as a result stream bank erosion, turbidity and siltation occur and the local habitat is degraded. Further habitat destruction in larger downstream receiving waters often results from the physical deterioration of the upstream urban systems. For example, some recent studies have shown that in some lakes the biggest source of silt and sediment deposition into the lake is actually from the eroded material that comes directly out of the stream bed and stream banks that are scoured out during elevated wet weather peak discharges and extended hydrographs. This can lead to eutrophication, increased turbidity, decreased light penetration, submerged aquatic vegetation (SAV) loss, spawning bed smothering, and shellfish habitat damage.

Studies of this phenomenon suggest that until these man-made flow regimes are better managed and the resulting stresses to physical habitat corrected, no amount of control of pollutants is likely to restore the aquatic ecosystem to a level more closely resembling a natural state.

The character of natural waters is obviously affected by wet weather events. Flowing waters, especially, can change dramatically with the seasons and in response to specific precipitation events. Seasonal and event driven changes in flows, sediment loads, temperature, etc. are common and natural processes which are integral to the maintenance of natural waters and their aquatic communities. Human-caused changes to the landscape, however, have altered these natural processes, and for many waters, the altered flows and the contamination now associated with wet weather discharges (discharges that occur in whole or in part as the result of wet weather events) present significant environmental problems. Although these problems are generally well recognized, they have been difficult to address effectively precisely because of their magnitude and variable nature.

The CWA's objectives include the protection and restoration of the physical integrity of our nation's waters. Scientific experts agree that overall physical habitat loss is the single biggest factor in the loss of aquatic species. Physical habitat damage and loss to the nation's waters includes: (1) Wetlands losses; (2) the denuding of stream banks through unwise forestry, farming, mining, and urbanization; (3) the embedding of stream bottoms with fine-grained silt from poorly designed and managed farm and construction sites; (4) the damming of river systems; (5) the channelization and/or concrete lining of rivers and streams; (6) the obliteration of ephemeral and first-order streams and springs during urbanization and; (7) the widening and deepening of stream channels due to high-velocity urban storm flows.

All seven of these phenomena are common forms of aquatic habitat damage and loss, and yet there is little national guidance to address the physical parameters that contribute to these impacts. In addition, EPA does not have a clear picture of how often physical habitat parameters, including flow are used by States and Tribes to assess, manage, and/or regulate activities that damage habitat. Some commenters on the draft asserted that water quality criteria guidance is needed to address these forms of habitat loss, to create threshold values to protect designated uses and to provide measuring tools for monitoring watershed and water body health. EPA agrees that further investigation of the role of physical habitat parameters, including hydrologic balance, in water quality standards programs is necessary. EPA is considering the relative importance of such criteria guidance as compared to other forms of criteria guidance such as ambient water quality criteria, sediment criteria and biological criteria; and on the likelihood that States and Tribes would develop and implement such criteria if technical guidance and supporting policy were available. EPA is also interested in identifying examples of where such criteria guidance has already been used as the basis for assessing, managing and protecting water quality.

With respect to hydrologic balance, EPA discusses the issue in the antidegradation section of this ANPRM. Some commenters on the draft ANPRM suggested that maintaining hydrologic balance in surface waters, though important in the context of antidegradation, is also important for other aspects of water quality standards. These commenters suggested that hydrologic balance should be part of basic water quality criteria guidance for watershed and water body assessment and for long-term urban storm water abatement and prevention plans under

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the storm water NPDES program, as well as for the traditional NPDES program.

EPA is further interested in issues associated with hydrologic imbalances created by various industries and land operations, and the options for researching and creating a set of hydrologic balance criteria guidance. These could include, for instance, regional minimum stream flow criteria on a seasonal or average monthly basis, a groundwater-recharge criterion meant to maintain adequate stream base flow, and a peak-flood and bank full discharge prevention criterion, perhaps based on hydrologic regions of the country.

Request for Comment on Physical Criteria

EPA seeks comment on the following questions:

1. Would it be useful to explicitly identify physical criteria such as habitat and hydrologic balance in 40 CFR 131 as a valid form of criteria that States and Tribes can adopt in their water quality standards?
2. Would EPA technical guidance on physical criteria be useful to States and Tribes? Is it necessary?
3. What are some examples of physical criteria that are being used today and what are they being used for?
4. What should be the principal uses for physical criteria? Would these help address pulsed or intermittent impacts, such as those from urban and rural runoff?

14. Human Health

Human health water quality criteria are scientifically derived values developed by States, Tribes, or EPA to protect human health from the deleterious effects of carcinogens and noncarcinogenic toxicants. Human health criteria take into account the health effects from the consumption of aquatic organisms and drinking water. Human health criteria are based on the potential of carcinogens and noncarcinogenic toxicants to cause adverse impacts to human health. When adopting criteria to protect human health, a State or Tribe may use EPA's Section 304(a) criteria documents or other information on factors to derive human health criteria. However, if a State or Tribe decides to adopt criteria less stringent than recommended by EPA, the State or Tribe must provide documentation which supports that the approach is based on sound scientific rationale.

Changes to the Human Health Criteria Methodology are anticipated for proposal in the **Federal Register** in 1998. These changes to the 1980 ambient water quality criteria (AWQC) derivation guidelines (45 FR 79347) are intended to reflect the many significant scientific advances that have occurred during the past 17 years in such key areas as cancer and noncancer risk assessments, exposure assessments and bioaccumulation. Comments on any of the key area issues, as well as implementation issues, are welcome and should be made during the public comment period following the anticipated 1998 proposal.

The following discussion focuses on three key policy-related issues, including: choice of risk levels; fish consumption assumptions and environmental justice, and the use of maximum contaminant levels.

a. Risk Levels. Criteria for specific pollutants for the protection of human health rely in part on risk levels (incidence of cancer). Numeric criteria for carcinogens are based on three inter-related assumptions: exposure, cancer potency, and risk level. Exposure considerations are based on a wide range of factors, including an estimate of the rate of fish and drinking water consumption, an estimate of the body weight of an exposed individual, and an estimate of the rate of a chemical's relative tendency to bioaccumulate in fish tissue as compared to the surrounding water. Cancer potency factors ($q1^*$) provide a measure of a chemical's potential to cause cancer, and are typically derived from studies on laboratory animals. The risk level represents an incremental increase in cancer incidences resulting from exposure to the chemical.

EPA guidance sets forth a range of criteria values that result in calculated risk levels of 10^{-5}, 10^{-6}, and 10^{-7} for informational purposes. Most States and Tribes select either a 10^{-5} or 10^{-6} risk level as an appropriate value, i.e., one additional cancer incidence per one hundred thousand or one million exposed individuals, respectively. This level seems to represent some general scientific and public consensus that the cancer risks are acceptably small or insignificant. States and Tribes, however, are not limited to selecting among the risk levels published in the CWA section 304(a) guidance documents.

If exposure assumptions are changed, while the assumed risk level remains the same, the criterion will change accordingly. The risk to people who intake more than the default exposure assumptions increases with the degree of change in the intake rates. For example, if the State or Tribe chooses to protect at a risk level of 10^{-5} and assumes a fish consumption rate of 6.5 gm/day, but some individuals within the State or Tribe actually eat 65 gm/day of fish, the criterion actually protects those individuals at a risk level of 1 x 10^{-4} (one additional cancer case per 10,000 people). The risk level can change based on the relative change in each parameter. When adopting these standards, States and Tribes are strongly encouraged to provide documentation that the assumptions made in establishing the criteria are reasonable and adequately protect the population, including highly exposed subpopulations at the risk level asserted in the States' and Tribes' standards. EPA strongly encourages States and Tribes to highlight these provisions of their standards during the public participation process.

EPA's current criteria documents indicate the risk level within a range of 10^{-5} to 10^{-7} for the general population. The policy has been to allow States and Tribes to select appropriate risk levels and is consistent with the framework of the CWA that recognizes and supports State and Tribal primacy in making risk management decisions to protect its population provided that the goals of the Act are met. EPA's approval of different cancer risk levels to protect human health in different States or Tribes is subject to debate. Many have questioned States' and Tribes' selection and EPA's approval of various risk levels to protect human health. Some assert that EPA should require all States and Tribes to adopt a single risk level. Others believe EPA should require States and Tribes to develop data on the different exposure assumptions that may be present within the State or Tribe.

With regard to subpopulations that may consume higher amounts of fish than is assumed for the general population, EPA's Great Lakes Guidance stated that a risk level of 10^{-4} for such subpopulations in the Great Lakes basin can be protective.

In a draft proposal of the water quality criteria methodology revisions, EPA is considering proposing that risk levels in the range of 10^{-4} to 10^{-6} be adopted in deriving criteria. However, the proposed revisions also note that care must be taken in situations where the AWQC includes fish intake levels based on the general population to ensure that the risk to more highly exposed subgroups (subsistence, minority) does not exceed the 10^{-4} risk level. Furthermore, EPA is considering proposing the 10^{-6} risk level as the level that ensures protection for all exposed population groups. As stated before, all comments regarding methodology, including risk levels, should be made during the public comment period following the anticipated 1998 Human Health Criteria Methodology proposal.

EPA intends to foster consistent approaches between Agency program offices, including its approach to determining allowable risk levels. The Food Quality Protection Act of 1996 (FQPA) amended the Federal Food, Drug and Cosmetic Act (FFDCA) to prohibit EPA from issuing tolerances for pesticide residues in or on food unless the Agency determined that there is a "reasonable certainty" that the residues will result in "no harm." Tolerances are allowable levels of chemicals in food; food containing residues in excess of a tolerance may not be sold in commerce. The legislative history of FQPA indicated Congressional support for EPA's view that reasonable certainty of no harm would generally be met when a non-threshold risk is below a 10^{-6} level. For threshold risks, the legislative history contained general support for a margin of safety of 100, except that the Statute required the Agency to add an additional 10-fold margin of safety to protect infants and children, unless the Agency concluded on the basis of reliable data that a different margin would be safe for infants and children. In determining whether dietary exposures are safe, the FQPA also directs EPA to consider non-occupational exposures to chemicals used as pesticides, and to aggregate risks from chemicals that share a common mechanism of toxicity. EPA's Office of Pesticide Programs is in the process of developing new policies in response to the FQPA. EPA's Office of Water will consider these policies when they are completed.

b. Fish Consumption Assumptions. EPA's recommended human health criteria under CWA section 304(a) guidance are currently derived with a fish consumption rate of 6.5 grams per day (roughly one quarter ounce of fish and shellfish). This value represents an average based on market survey data gathered in 1973–74, and reflects a national average for all consumers and nonconsumers of fish and shellfish from estuarine and fresh waters. Again, EPA intends to propose revisions to the human health methodology for deriving ambient water quality criteria, including revisions of the fish consumption rate. Some assumptions regarding fish consumption and criteria policy are also discussed in FR Vol. 61, No. 239, 65183 (December 11, 1996).

EPA recognizes that, while important, the national fish consumption estimate is one of many different parameters used to set ambient water quality criteria to protect human health and that the interactions of these parameters adds substantial complexity to the methodology. However, because this component is easily understood, it receives the most attention from the general public. Overall, EPA considers its human health criteria methodologies to be conservative and protective of human health.

EPA also recognizes that there are subpopulations that consume greater quantities of fish and has considered this as part of the human health methodology for developing water quality criteria. State and Tribal human health criteria are often based on a risk level of 10^{-5} or 10^{-6} to protect people inclined to consume higher quantities than the average. In addition, with regulatory actions for carcinogens, individuals consuming even 20 times the 6.5 gram amount would still be protected at the 10^{-4} risk level. (EPA is *not* proposing a national risk level of 10^{-4} here, rather EPA is acknowledging that the level of risk is relative to the consumption of fish (i.e., it is greater for individuals consuming more fish than the national average).

A similar rationale for the protectiveness of a criterion may not apply to non-carcinogenic pollutants (i.e., RfD-based chemicals), where significantly higher fish consumption rates may (when combined with other exposure sources) result in exposures significantly exceeding the RfD. Although there are safety factors associated with an RfD, they are related to uncertainties associated with the toxicological evaluation, not with the sources and levels of exposure. Therefore, significantly higher intakes may require more stringent criteria to protect human health.

EPA is seeking ways to implement Executive Order 12898 (February 16, 1994, 59 FR 7629) regarding environmental justice to ensure that water quality criteria are developed taking into account populations such as Native Americans and other minorities, as well as other subsistence fishers. This would include working with the scientific community and the public to improve EPA's health assessments and risk assessments and incorporate relevant issues into its policies and guidance. This also includes mechanisms for public participation (e.g., meetings) for the purposes of fact-finding, receiving comments, and conducting inquiries concerning environmental justice.

Relevant to water quality standards, EPA recognizes the need to address issues regarding different fish consumption patterns among subsistence, minority populations. EPA acknowledges that these groups may consume a greater quantity of fish than the national average. In addition, these groups have asserted that States and Tribes should be required to take a more aggressive role in protecting them.

Guidance for Assessing Chemical Contaminated Data for Use in Fish Advisories (Vol. 1–IV, USEPA, 1993 and 1994) notes that fish and shellfish consumption rates vary greatly for sections of the U.S. population (e.g., by gender, race, age, cultural and recreational activity, and income levels). Given the wide variations in consumption patterns, it would not seem to be possible for States and Tribes to provide the same level of protection from contaminated fish for all consumers. EPA believes criteria should ensure adequate protection of all significant populations and subpopulations from reasonable risks.

States and Tribes are encouraged to consider local surveys when selecting fish consumption rates to protect their populations since the national average value may not be indicative of local consumption habits. In its Water Quality Guidance for the Great Lakes System (60 FR 15366, March 23, 1995), EPA included a Great Lakes-specific fish consumption rate of 15 grams per day. This rate was based on several fish consumption surveys from the Great Lakes (see 60 FR 15366 at 15374, March 23, 1995.) EPA has also published for external peer review "Draft Guidance for Conducting Fish and Wildlife Consumption Surveys." (U.S. EPA 1997).

States and Tribes could be encouraged to modify criteria on a site-specific basis to provide additional protection appropriate for highly exposed subpopulations. That is, where high-end consumers would not be adequately protected by criteria derived using the default fish intake assumption, the State or Tribe may modify this assumption to provide appropriate additional protection. Again, such a recommendation was made in the Great Lakes Guidance. This preference will also be stated in the proposed revisions to the human health methodology for deriving ambient water quality criteria.

c. Maximum Contaminant Levels. Under the Safe Drinking Water Act (SDWA), EPA develops chemical-specific numeric values for use in protecting public drinking water supplies. They are maximum contaminant level goals (MCLGs) and maximum contaminant levels (MCLs). A MCLG is a non-enforceable concentration of a drinking water contaminant that is protective of

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adverse human health effects and allows an adequate margin of safety. A MCL is the maximum permissible level of a contaminant in water which is delivered to any user of a public water system. MCLGs are based solely on human health considerations (i.e., an identified adverse effect to human health, combined with an exposure intake estimate). In contrast, MCLs are to be as close to the MCLG as feasible, taking into consideration the availability and the cost of treatment technologies as well as the availability of analytical methodologies. When these two additional factors beyond health (treatment cost and analytical factors) are considered, the MCL for some chemicals is a higher (i.e., less stringent) value than the MCLG. However, there are also many chemicals for which the MCL is equal to the MCLG. This is particularly true for noncarcinogens. Over 80% of all current MCLs for noncarcinogens are identical to the corresponding MCLG for that substance. For carcinogens, MCLs are always higher than MCLGs because MCLGs for carcinogens are routinely set to zero.

Some States and Tribes utilize MCLs and MCLGs, as criteria to protect human health under the CWA. For some chemicals, the MCL or MCLG is more stringent than CWA section 304(a) human health criteria. In other cases, CWA criteria are more stringent than the MCL or MCLG. These differences come about for three basic reasons. First, as noted above, the 304(a) criteria under the CWA and MCLGs under the SDWA are strictly health-based values that do not account for treatment costs or analytical limitations. The MCL, however, does take into account treatment costs and analytical limitations. Second, the methodologies used to calculate the 304(a) criterion and the MCLG—both health-based values—for the same chemical often differ. Third, the MCLG and the 304(a) criterion sometimes have been calculated at different times, often years apart, using the current risk and exposure information at the time. Where different information on risk and exposure was used, differences in the numerical values can be expected.

It is important to consider some of the methodological differences between the derivation of 304(a) criteria and MCLs and MCLGs. Although the methods under SDWA and CWA both use the same reference dose (RfD) or cancer potency slope, and both methods assume a 70 kg adult and consumption of 2 liters of water per day, there are several important differences. One difference is that MCLGs for chemicals that are known or likely carcinogens are usually set equal to zero, while CWA section 304(a) criteria for carcinogens are based on an incremental cancer risk level and are never set equal to zero. For chemicals with limited evidence of carcinogenicity, the MCLG is usually based on the chemical's reference dose (RfD) for noncancer effects with the application of an additional uncertainty factor of 1 to 10 to account for its possible carcinogenicity. In contrast, the 1980 CWA section 304(a) criteria guidelines do not differentiate among carcinogens with respect to the weight of evidence grouping; all were derived based on lifetime carcinogenic risk levels.

Another important difference between the two methodologies is that a single determined risk value (single reference dose or single cancer risk value within the 10^{-4} to 10^{-6} range) is used in setting an MCLG, while CWA section 304(a) criteria have been derived for each of the three incremental risk levels spanning 10^{-5} to 10^{-7}, with the decision on which value to adopt left to the State or Tribe.

Another important methodological difference is in the approach to accounting for exposure sources. MCLGs for RfD-based chemicals developed under the SDWA follow a relative source contribution (RSC) approach in which the percentage of exposure that is attributed to drinking water is determined relative to the total exposure from all sources (e.g., drinking water, food, air). The rationale for this approach is to ensure that an individual's total exposure to a chemical does not exceed the RfD. To develop CWA human health criteria for noncarcinogens, the 1980 CWA National Guidelines recommended taking non-fish dietary sources and inhalation into account. However, data on these other sources were generally not available. Therefore, it was typically assumed that an individual's total exposure to a chemical came solely from drinking water from the water body and consumption of fish and shellfish living in the water body. Also, CWA criteria are based on a prediction of exposure from fish and shellfish using a bioconcentration factor (BCF) to estimate the bioconcentration of the individual chemical, and a fish/shellfish consumption rate. To date, under the current MCLG methodology, BCFs have not been used in the exposure estimates and fish/shellfish consumption rates have been only marginally accounted for (e.g., via general FDA dietary estimate or conservative default assumption).

Because of the differences in the approach to exposure and the basis of toxicity values, the health-based drinking water goal (MCLG) is sometimes more stringent than the CWA human health criterion (304(a) criterion). However, the opposite is sometimes true. An example of the former is 1,4-dichlorobenzene, for which both the MCL and MCLG are 75 ug/L and the 304(a) criterion (for protection of human health from the exposures of drinking water and consuming contaminated fish) is 400 ug/L. In this case, the MCLG was developed based on an assumption that 20% of the total exposure is from drinking water (the RSC factor applied to this noncarcinogen), whereas the CWA criterion effectively assumes that non-water exposure is negligible. Additional sources of difference between the two values are: (1) the BCF/BAF for 1,4-dichlorobenzene is low and thus does not make the 304(a) value significantly lower; (2) the MCLG was derived from an RfD of 0.1 mg/kg/day, while the 304(a) criterion utilized an Acceptable Daily Intake (ADI, now replaced by the use of RfDs) of 0.013 mg/kg/day; and, (3) the MCLG included a safety factor of 10,000, whereas the water quality criterion included a safety factor of only 1,000.

In contrast, for noncarcinogens where the BCF/BAF is high, the CWA criteria may be roughly equivalent or more stringent than the health-based drinking water levels because of the considerable exposure via fish/shellfish consumption that is assumed in deriving the CWA criteria. As with the previous example, the difference may be compounded if the toxicological values have a different basis. An example is endrin, for which the MCL and MCLG are 2 ug/L and the CWA section 304(a) human health criterion (again, for protection from the exposures of drinking water and consuming contaminated fish) is 0.76 ug/L. In this case, the drinking water level is, again, developed based on the RSC assumption of 20%, whereas the CWA criterion assumes that non-water exposure is negligible. However, the BCF/BAF for endrin is quite high (3,970) and drives the 304(a) value significantly lower. Furthermore, the MCLG was derived from an RfD of 3.0×10^{-4} mg/kg/day, while the CWA criterion utilized an ADI of 1.0×10^{-3} mg/kg/day. With endrin, both the MCLG and the water quality criterion included a safety factor of 100.

Of course as noted above, the MCL takes into account the cost or availability of treatment technology or analytical methods, and may be much less stringent than the CWA human health criterion, regardless of the exposure assumptions or toxicological basis (e.g., 1,1,2-trichloroethane).

Because of the differing methods used to implement the SDWA and the CWA, EPA has recommended that, where consideration of available treatment technology, costs, or availability of analytical methodologies has resulted in MCLs that are less protective than MCLGs or CWA section 304(a) criteria, States and Tribes should consider using MCLGs and/or health-based CWA section 304(a) criteria to protect surface waters that are designated for water supply use under the State's or Tribe's water quality standards. Furthermore, when adopting water quality criteria to protect a surface water designated for drinking water supply use, States and Tribes should carefully consider what value (e.g., the MCLG or the 304(a) value) provides a defensible estimate of the water quality level necessary to fully protect the use, and whether relevant exposure routes have been adequately considered in the derivation of each value.

EPA stated its policy on the use of Section 304(a) human health criteria versus MCLs in 45 FR 79318, November 28, 1980. Additionally, a memorandum from R. Hanmer to the EPA Regional Water Management Division Directors dated December 12, 1988, provided detailed guidance with regard to this policy. Specifically, for the protection of public water supplies, EPA encouraged the use of MCLs. When fish ingestion is considered an important activity, EPA recommended the use of 304(a) criteria to protect human health. In all cases, if a 304(a) criterion did not exist for a chemical, an MCL was deemed a suitable level of protection.

The forthcoming proposed human health criteria guidelines (scheduled for publication in 1998 and cited above) are expected to recommend a slightly different approach. Although EPA considers the use of MCLs to protect surface waters under the CWA to be acceptable in the absence of 304(a) criteria, EPA expects to recommend that:

—MCLs only be used when they are numerically the same as the MCLG and only when the sole concern is the protection of public water supply sources (e.g., where the chemically toxic form in water is not the form found in fish tissue and, therefore, fish ingestion exposure is not an issue of concern);

—where consideration of available treatment technology, costs, or availability of analytical methodologies has resulted in MCLs that are different than MCLG values or 304(a) criteria, States and Tribes consider using MCLGs and/or 304(a) criteria to protect surface waters designated for water supply use;

—where fish consumption is an existing or potential activity, States and Tribes ensure that their adopted human health criteria adequately address this exposure route;

—where fish consumption is a designated use, States and Tribes use 304(a) criteria to protect that use because fish consumption and bioaccumulation are explicitly addressed by the 304(a) methodology;

—where water monitored at existing drinking water intakes has concentrations at or below MCLGs, then the water could be considered to meet a CWA designated use as a drinking water supply and a criterion reflecting that level could be adopted; and,

—for carcinogens where the MCLG is equal to zero, States and Tribes base a criteria value at the drinking water intake on an acceptable cancer risk level (i.e., a level within the range of 10–4 to 10–6), to protect human health. It is not intended that MCLGs of zero would be used as the basis for State or Tribal water quality criteria.

As States and Tribes may be more stringent than EPA, States and Tribes may adopt an MCL or MCLG as a water quality criterion that is more stringent than EPA's recommended section 304(a) criterion. In situations where a recommended 304(a) criterion is less protective than an MCL, EPA expects to recommend in the 1998 human health criteria methodology proposal use of the MCL instead of the recommended 304(a) criterion because it would help to ensure adequate source water protection and avoid costly compliance problems for downstream water supply utilities.

EPA has considered extensively this issue of equivalency between the drinking water component of CWA section 304(a) criteria and MCLGs or MCLs. EPA expects to move toward similar assessment methodologies (including its exposure and relative source contribution [RSC] policies) for deriving CWA criteria and MCLGs. Consistent exposure evaluation methodologies for deriving CWA 304(a) criteria for human health protection *and* MCLGs under SDWA, would, over time, eliminate the need to consider using MCLs for adopting State water quality standards. In the meantime, where there are differences between the MCLG and the 304(a) criteria for human health protection, EPA expects to continue to recommend using as the water quality criterion the value that, in the judgement of the State or Tribe, best accounts for the relevant routes of exposure. Of course, EPA will also approve use of the more stringent value.

Request for Comments on Human Health Criteria

EPA seeks public comment on the following questions:

1. Should the regulation require, or should guidance recommend, higher intake assumptions for site-specific or regional situations when subpopulations that are highly exposed have been identified? If so, what should be the basis for such intake assumptions?

2. Should the regulation be modified to clarify (beyond the guidance being proposed in 1998) the use of MCLs and MCLGs in State water quality standards? [Note: Comments on the establishment of similar assessment methodologies for deriving CWA criteria and MCLGs should be made during the public comment period following the anticipated 1998 Human Health Criteria Methodology proposal.]

15. Microbiological Criteria

Currently EPA has a criteria document titled "Ambient Water Quality Criteria for Bacteria—1986" which provides information on microbiological indicator organisms, sampling frequencies, and risk based criteria guidance which States and Tribes can use in establishing State or Tribal standards, especially for recreational waters. The indicators used are the Enterococci for fresh and salt waters (33/100mL and 35/100mL respectively) and *E. Coli* for fresh waters (126/100mL). It is recommended that sampling be performed on a weekly basis and the acceptability criteria are based on a running average level of the indicators on a monthly basis. The EPA Office of Research has completed a new Enterococci method (See "Membrane Filter Test Method for Enterococci in Water," EPA–821–R–97–004, May 1997). This indicator method allows samples to be read in 24 hours rather than the 48 hours of the old Enterococci method.

In 1997, EPA established the Beaches Environmental Assessment Closure and Health Program ("BEACH" Program) to protect the health of beach goers through assistance to State, Tribal, and local health officials in designing, developing and implementing beach monitoring and advisory programs. The BEACH Program will also survey local beach authorities about their programs and develop an Internet website to provide the public with information on local beach water quality conditions,

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beach advisories and closures, and health risks associated with swimming in contaminated water.

While the Enterococci and *E. Coli* indicators and criteria guidance are satisfactory for determining risks from acute gastrointestinal disease they are not necessarily acceptable for determining risks from enteric viruses nor from pathogenic enteric protozoa such as *Giardia* and *Crypto Sporidium* since these pathogens are much more resistant environmentally and experience different treatment effectiveness. EPA is currently evaluating how it may develop human health criteria for protection from these organisms.

EPA may conduct additional research to develop indicator methods for non-enteric pathogens that cause skin, respiratory, eye, ear, and throat infections that are not detected by the current indicator methods. EPA also intends to examine the phenomenon of regrowth of the current indicators on soil and vegetation in tropical areas, and if deemed necessary add indicator development studies to replace the current indicators in tropical recreational areas. Further studies are proposed to examine rapid chemical indicators of fecal pollution to see if a tiered sampling protocol can be established for recreational water monitoring. Also, EPA plans to examine the development of improved monitoring strategies that States, Tribes and local authorities could use to assess the true impact of pollution during wet weather events. Finally, EPA will examine various computer models that could be used to predict microbial pollution from storm water events in watersheds and at recreational areas. These models would be validated by microbiological monitoring.

Request for Public Comment on Microbiological Criteria

EPA seeks public comment on the following questions:

1. Where and how is it best to conduct future programs to determine the safety of recreational waters?
2. What communication strategies would best inform the public about pathogen exposures?
3. What guidance should EPA provide to States, Tribes, and local governments on how to conduct beach monitoring activities?

16. Nutrient Criteria

In the National Water Quality Inventory 1994 Report to Congress, nutrients (nitrogen and phosphorous) are cited as one of the leading causes of water quality impairment in our Nation's rivers, lakes and estuaries. While nutrients are essential to the health of aquatic ecosystems, excessive nutrient loadings can result in the growth of aquatic weeds and algae, leading to oxygen depletion, increased fish and macro invertebrate mortality and other water quality impairments. In December 1995, EPA held a National Nutrient Assessment Workshop with the goal of developing a comprehensive nutrient strategy which would provide tools that can be used in assessing and controlling nutrients in all types of water bodies. Major conclusions from that workshop were: (1) a single set of national nutrient criteria is not a realistic goal, and (2) nutrient criteria need to be set on an ecoregional or watershed basis. EPA has since been developing a national nutrient strategy in order to communicate the specific approach and activities necessary to meet the goals and major conclusions of the National Nutrient Assessment Workshop.

On February 14, 1998, the "Clean Water Action Plan" was announced by the Administrator of EPA and the Secretary of Agriculture. The "Clean Water Action Plan" is a blueprint for restoring and protecting the Nation's precious water resources. As part of this Action Plan, EPA intends to identify the major sources of nitrogen and phosphorous in our waters and to identify actions to address these sources. In particular, EPA intends to accelerate development of nutrient criteria guidance for waters in every geographic region in the country, so that EPA and the States and Tribes can begin implementing a criteria system for nitrogen and phosphorous runoff for lakes, rivers, and estuaries by the year 2000. EPA will assist States and Tribes in adopting numeric water quality criteria for nitrogen and phosphorous, which EPA expects will take the form either of State- or Tribe-derived criteria where data is available, or criteria based on EPA default ranges applicable to their ecoregion(s). Where a State or Tribe does not adopt appropriate nutrient standards, EPA intends to begin the process of promulgating nutrient standards. To support meeting these expectations, EPA anticipates the following actions described below.

First, EPA intends to publish a National Nutrient Strategy which will present currently available tools for assessing eutrophication, identify important implementation issues related to controlling eutrophication, and provide the Agency's plan for developing water body-type guidance on nutrient over enrichment.

This national strategy will also present EPA's expectations for action on the part of States and Tribes, namely, development of numeric nutrient criteria and standards on a regional/watershed basis. Second, by the end of the year 2000, EPA expects to publish the water body-type guidance documents which would serve as "user manuals" for assessing and controlling nutrient over enrichment for specific water body types: lakes and reservoirs, rivers and streams, and estuarine and coastal waters. These documents will include techniques for assessing the trophic state of a water body and a methodology for developing region-specific nutrient criteria. In each document, EPA intends to provide regional nutrient ranges for phosphorus and nitrogen (and other parameters), which EPA would expect States and Tribes to use in setting nutrient criteria in the absence of any criterion that has been developed site-specifically. EPA intends to use existing State and Tribal projects and data, supplemented with new regional case studies and demonstration projects that are being conducted to collect information in data-limited areas of the country. An important component in developing default nutrient values is determining the appropriate scale of application (e.g., watershed, ecoregion, Northern lakes/Southern lakes, etc.). Finally, in order to promote the use of the water body-specific guidance, and ensure the development of nutrient criteria on a watershed or ecoregional basis nationwide, EPA will undertake several activities, including: (1) training in EPA regions and States, and Tribes, through the use of Regional Technical Assistance Centers; (2) appointing EPA Regional Nutrient Coordinators who will oversee the development and implementation of nutrient criteria and standards in each of the EPA Regions; and (3) offering assistance grants which will provide financial support to States and Tribes in their efforts to assemble existing data, including nutrient endpoint data, and to establish nutrient criteria either by watershed or ecoregion, where sufficient data are available.

Request for Comments on Nutrient Criteria

EPA requests comment on the following questions:

1. Should the regulation specifically require States and Tribes to adopt and implement numeric nutrient criteria?
2. What capabilities do States and Tribes have right now for developing and implementing water quality criteria for nutrients?

3. What are the institutional impediments to collecting nutrient data and developing nutrient standards, for example, staff numbers and expertise and financial resources?

4. Which States or Tribes are using an ecoregion or watershed approach to develop numeric nutrient standards (EPA is aware of some States doing this)? For those States and Tribes that do not, on what scale do their nutrient standards apply—statewide or by water body type?

D. Antidegradation

1. Background

The Federal antidegradation policy has its roots in the Water Quality Act of 1965 (Pub. L. 89–234), which stated in its declaration of policy, "The purpose of this Act is to enhance the quality and value of our water resources and to establish national policy for the prevention, control, and abatement of water pollution." Policy guidelines established by the Department of the Interior in 1966 for use in the approval of States' water quality standards contained additional direction on antidegradation, stating that "In no case will standards providing for less than existing quality be acceptable" and "The water quality standards proposed by a state should provide for: . . . The maintenance and protection of quality and use or uses of waters now of a high quality or of a quality suitable for present and potential future uses." Secretary of the Interior Udall further defined the Federal policy on antidegradation in 1968, when he said that each State was to include a statement similar to the following in their water quality standards:

> Waters whose existing quality is better than the established standards as of the date on which such standards become effective will be maintained at their existing high quality. These and other waters of a State will not be lowered in water quality unless and until it has been affirmatively demonstrated to the State water pollution control agency and the Department of the Interior that such change is justifiable as a result of necessary economic or social development and will not interfere with or become injurious to any assigned uses made of, or presently possible in, such waters. This will require that any industrial, public or private project or development which would constitute a new source of pollution or an increased source of pollution to high quality waters will be required, as part of the initial project design, to provide the highest and best degree of waste treatment available under existing technology, and, since these are also Federal standards, these waste treatment requirements will be developed cooperatively.

The Federal Water Pollution Control Act Amendments of 1972 (Pub. L. 92–500) continued to emphasize the prevention of pollution and, in 1973, EPA developed guidance for State water quality standards under the Amendments that essentially repeated the 1968 statements of Secretary Udall.

In 1975, EPA promulgated regulations at 40 CFR 130.17(e) that required the States to develop an antidegradation policy and implementation procedures. The 1975 rule contained provisions that are very similar to those in 40 CFR 131.12, and provided protection for existing uses, high quality waters, high quality waters that constituted an outstanding National resource, and waters impaired by thermal discharges. EPA issued final rules on November 8, 1983 (48 FR 51400) that retained, with certain changes, the 1975 antidegradation policy and incorporated it into the regulations at 40 CFR 131.12. The changes to the 1975 antidegradation policy are discussed in the preamble to the 1983 rulemaking (48 FR 51402–51403), but they were generally intended to clarify the policy with no change in coverage or effect. An exception to this was the change in the provisions applicable to outstanding National resource waters, which eliminated the strict "no degradation" requirement in favor of a limited exception for activities that result in temporary and short-term lowering of water quality. The 1983 regulation (40 CFR 131.12(a)) provides that a State or Tribe is to identify its method for implementing the antidegradation policy, i.e., decision measures for assessing activities that may impact the integrity of a water body.

The 1987 Water Quality Act Amendments to the Clean Water Act (CWA) explicitly incorporated reference to antidegradation policies in section 303(d)(4)(B), which requires that such antidegradation requirements be satisfied prior to modifying certain NPDES permits to include less stringent effluent limitations (this concept is referred to as antibacksliding).

On March 23, 1995, EPA published the final Water Quality Guidance for the Great Lakes System (the Great Lakes Guidance). The Great Lakes Guidance includes an antidegradation component that is intended to work in conjunction with the other components of the Great Lakes Guidance to address the most pressing threats to water quality in the Great Lakes. In order to achieve this end, the focus of the antidegradation component is on decisions pertaining to new or increased loadings of specified bioaccumulative chemicals of concern within the Great Lakes basin. For other types of pollutants, States and Tribes are required to comply with the existing regulations at 40 CFR 131.12.

In the course of establishing a framework for making decisions regarding increased loadings of bioaccumulative chemicals of concern, the Great Lakes Guidance touches on a number of issues. The Great Lakes Guidance provides a procedure for identifying high quality waters on a pollutant-by-pollutant basis. The Great Lakes Guidance also defines how a significant lowering of water quality will be identified for purposes of determining whether or not an antidegradation review is required. Finally, the Great Lakes Guidance includes implementation procedures that describe how an antidegradation review should be conducted. In all cases, the antidegradation components of the Great Lakes Guidance are tailored to the control of bioaccumulative chemicals of concern; other solutions may be necessitated by environmental threats faced elsewhere in the Nation.

EPA's current thinking is that on a national scale, antidegradation is not being used as effectively as it could be and that a structured national debate on antidegradation is key to improvement. The debate needs to identify deficiencies in antidegradation policy and implementation provisions and begin the process of strengthening antidegradation as a meaningful mechanism to attain and maintain water quality standards. EPA invites comments and suggestions on the three-tiered approach currently in use and described below, as well as possible other approaches to more effectively accomplish the intent of the antidegradation requirements. As part of the "Clean Water Action Plan" announced on February 14, 1998 by the Administrator of EPA and the Secretary of Agriculture, EPA plans to develop additional guidance on Antidegradation. The discussion below articulates current EPA thinking in several areas of antidegradation. Elements of this current EPA thinking will likely be incorporated into the Antidegradation guidance EPA develops under the "Clean Water Action Plan."

2. General Description of Antidegradation

An antidegradation policy performs an essential function as part of the of States' and Tribes' water quality standards. Designated uses establish the water quality goals for the water body, water quality criteria define the minimum conditions necessary to achieve the goals and an antidegradation policy specifies the framework to be used in making

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decisions regarding changes in water quality. The intent of an antidegradation policy is to ensure that in all cases, at a minimum, water quality necessary to support existing uses is maintained (tier 1), that where water quality is better than the minimum level necessary to support protection and propagation of fish, shellfish and wildlife, and recreation in and on the water ("fishable/swimmable"), that water quality is also maintained and protected unless, through a public process, some lowering of water quality is deemed to be necessary to allow important economic or social development to occur (tier 2), and to identify water bodies of exceptional recreational or ecological significance and maintain and protect water quality in such water bodies (tier 3). Antidegradation plays a critical role in allowing States and Tribes to maintain and protect the finite public resource of clean water and ensure that decisions to allow reductions in water quality are made in a public manner and serve the public good.

The watershed approach may be a powerful tool to achieving antidegradation goals (i.e., maintaining the chemical, physical, and biological integrity of the Nation's waters). Many and varied uses are made of the Nation's waters and in some cases, these uses conflict. The ability of particular waters to accommodate all uses is limited. High quality surface waters are an important and finite resource whose availability affects the health, welfare, and economic well-being of all the citizens of the United States. When operating properly, the antidegradation policies of States and Tribes ensure that water quality is conserved where possible and lowered only when necessary, and that those affected by the lowering of water quality have a say in the final decision. As a result, antidegradation policies are well-suited to assist States, Tribes and local communities in establishing and achieving watershed goals. Sensitive or highly valued water bodies can be identified and protected from degradation through outstanding national resource water (ONRW) or related designations. In other water bodies, where water quality is better than the minimum necessary to support fish and aquatic life and recreation, water quality should be maintained unless there is a demonstrated need to lower water quality. Consistent with the watershed approach and community-based environmental management, States' and Tribes' antidegradation policies and procedures can be a basis for a systematic and accessible planning process that protects against development having negative impacts on water quality. Additional authorities exist at the local level beyond State, Tribal and federal authorities which may allow additional protections to be put in place in accordance with the watershed management plan.

The water quality standards regulation requires each State and authorized Tribe to adopt, as part of its water quality standards, an antidegradation policy consistent with 40 CFR 131.12 and identify implementation methods for such a policy. This antidegradation policy provides a multi-level approach for the protection of water quality and applies to both point and non-point source activities. The level of protection that is provided to a specific segment depends upon a number of factors (e.g., a key determinant is whether existing water quality is found to exceed levels necessary to support "fishable/swimmable" uses). Antidegradation requirements are typically triggered when an activity is proposed that may have some effect on existing water quality. Such activities are reviewed to determine, based on the level of antidegradation protection afforded to the affected water body segment, whether the proposed activity can be authorized. "Antidegradation reviews" under all three tiers of antidegradation should be documented and subjected to public review and comment (e.g., as part of the public review of the water quality certification, NPDES permit, or other regulatory action).

Identifying the universe of activities that trigger antidegradation requirements is a fundamental and often controversial issue because of the number and variety of activities that can affect water quality. Clearly, a wide range of activities that affect water quality may be subject to antidegradation requirements, and States and Tribes have considerable flexibility in applying antidegradation policies.

The federal antidegradation requirements do not create, nor were they intended to create, State or Tribal regulatory authority over otherwise unregulated activities. It is the position of EPA that, at a minimum, States and authorized Tribes must apply antidegradation requirements to activities that are "regulated" under State, Tribal, or federal law (i.e., any activity that requires a permit or a water quality certification pursuant to State, Tribal or federal law, such as CWA § 402 NPDES permits or CWA § 404 dredge and fill permits, any activity requiring a CWA § 401 certification, any activity subject to State or Tribal nonpoint source control requirements or regulations, and any activity which is otherwise subject to State or Tribal regulations that specify that water quality standards are applicable). Where a State or Tribe wishes to require antidegradation reviews for activities that are not currently "regulated" under this definition, EPA recommends that a complete discussion of the activities requiring an antidegradation review be included in the State or Tribal water quality standards or other State or Tribal regulation. Although States and authorized Tribes have discretion to apply antidegradation requirements more broadly than minimally required, application of antidegradation requirements to activities that are otherwise unregulated under State, Tribal, and federal water law is not required by the federal water quality standards regulation.

EPA's current thinking is that antidegradation principles can and should be considered in connection with a number of activities even where application of the antidegradation review requirements is not explicitly required by the regulation. EPA is interested in identifying ways to better implement antidegradation, especially for activities such as urban and agricultural run-off. As part of general planning for development that is likely to affect surface water quality, it makes sense to consider existing ambient water quality and evaluate available means to protect that water quality. Thus, although a State or Tribe may not require a formal antidegradation review for a particular activity (e.g., an unregulated nonpoint source), there may still be value in applying the antidegradation principles in an analysis of potential environmental impacts.

In sum, EPA's current thinking is that the antidegradation policy is significantly underused as a tool to attain and maintain water quality and plan for and channel important economic and social development that can impact water quality. EPA believes this is especially true for nonpoint source run-off. This ANPRM provides an opportunity to identify and evaluate options for clarifying and strengthening antidegradation policy and its implementation.

States and authorized Tribes often submit implementation procedures to EPA for review as part of the water quality standards triennial review required by section 303(c) of the Act. This enables EPA to determine if the implementation procedures fulfill the requirements of the antidegradation policy. The antidegradation policy itself is expressly required by 40 CFR 131.20(c) to be submitted to EPA for review. EPA's longstanding policy is that the implementation procedure should also be submitted to EPA for review. Often, however, implementation procedures are not submitted to EPA. EPA's current thinking is that an important change to the regulation would be to clarify under 40 CFR section 131.20(c) that State and Tribal antidegradation implementation procedures (in addition to the policy) must be included in the submittal of a State's or Tribe's water quality standards. Such a change could establish the foundation for additional substantive changes to the regulation concerning national norms for antidegradation implementation procedures.

A State's or Tribe's implementation method is on occasion so constructed as to essentially set aside the intent of the antidegradation policy. EPA has disapproved this aspect of State standards where the implementation procedure is inconsistent with the policy. Revising the regulation to specify requirements addressing the content of such implementation procedures (e.g., a core set of issues that must be resolved), and clarifying that implementation procedures must be included in the submittal package, may help to clarify EPA's role in determining whether State or Tribal antidegradation implementation procedures adequately uphold and implement the State's or Tribe's antidegradation policy. In addition, specifying in the regulation the basic elements of an implementation procedure could serve to better establish national norms for State and tribal antidegradation procedures. EPA is considering whether it would assist States and Tribes if the regulation were amended to identify the basic elements that must be included in an antidegradation implementation method.

Guidance on developing antidegradation implementation methods is provided through EPA's Regional Offices. EPA has not issued national guidance on these implementation methods and is interested in comments on whether national guidance on antidegradation implementation methods is needed, and whether elements of such guidance should be referenced or included in the Regulation.

Request for Comments on General Antidegradation Policy

EPA requests comment on the following questions:

1. What changes or clarifications could be made to the current tiered approach to protecting waters under antidegradation that would streamline and enhance antidegradation implementation?
2. Should the regulation be amended to identify the basic elements that must be included in an antidegradation implementation method and would such changes assist States and Tribes in understanding the requirements and in utilizing the flexibility available?
3. Is national guidance on antidegradation implementation methods needed and should elements of such guidance be referenced or included in the Regulation?

3. 40 CFR 131.12 (a)(1) "tier 1"

Section 131.12 (a)(1) of the antidegradation policy contained in the water quality standards regulation requires that existing uses and the water quality necessary to protect them be maintained and protected. This provision, in effect, establishes the floor of water quality in the U.S. It also protects the environment where the existing use of a water body happens to be better than the use designated by the State or Tribe. An existing use as defined in 40 CFR 131.3 can be established by demonstrating that a use has actually occurred since November 28, 1975, or that the water quality is suitable to allow such uses to occur, whether or not such uses are designated uses for the water body in question. All waters of the U.S. are subject to tier 1 protection. In general, waters that are subject to only tier 1 antidegradation policies are those water bodies that do not exceed the CWA Section 101(a)(2) goals, or do not have assimilative capacity to receive additional quantities of a pollutant(s) without jeopardizing the existing use. Existing uses and additional issues related to defining them and their relationship to designated uses are further discussed in section III(B)(3) of this document.

Antidegradation policies are generally implemented for tier 1 by a review procedure that evaluates any discharge to determine whether it would impair an existing use. Prior to authorizing any proposed activity, a State or authorized Tribe shall ensure that water quality sufficient to protect existing uses fully will be achieved. In addition to ensuring that existing uses will be protected, the State or Tribe should ensure that all existing uses are designated in accordance with 40 CFR 131.10(i).

a. Tier 1 Implementation. In order to implement tier 1, a State or Tribe must define what is meant by the term "existing in-stream water use" (40 CFR 131.12(a)(1)) and must also be able to identify the level of water quality that is required to permit an existing use to continue to occur. Section 131.3 defines existing uses as, "those uses actually attained in the water body on or after November 28, 1975 * * *" Traditionally, when establishing designated uses, States and Tribes tend to define uses in terms of broad classes, such as warm water fishery or secondary contact recreation. Inherent in each of the broad use categories are specific uses that may be affected by a change in water quality. For example, a warm water fishery designated use may include the existing use of large mouth bass fishery. Many people would be upset if the warm water fishery designated use was protected in such a way as to allow a decline in the bass population. The central question faced by States and Tribes in determining whether or not a proposed action will impact existing uses is whether each specific use within a use class must be maintained (each individual type of species), or whether only the use class itself must be maintained (allow changes in species composition, but maintain a fishery). State and Tribal interpretations of this requirement vary considerably and are often tied to the degree of precision the State or Tribe achieves in defining designated uses.

Many States and some Tribes have addressed these questions by using the same degree of precision for both designated and existing uses. EPA's current thinking is that this is an acceptable approach as long as the State's or Tribe's designated uses and criteria applicable to those uses are adequate to ensure that existing uses are maintained under the federal antidegradation provisions. It would not be acceptable, for example, for a state to allow the loss of an existing natural cold water community in favor of a warm water community because both satisfy the general use designation of "aquatic life." Nor would it be acceptable to allow shifts from existing pollution intolerant communities to communities that tolerate degraded conditions. The advantage of this approach is that the same criteria used to protect the designated use can be assumed to also protect the existing use. Under this approach, however, the protection afforded to existing uses is limited by the degree of refinement associated with the designated uses. States and Tribes that have more specific designated uses (i.e., including a number of use sub-categories) can potentially provide more protection by addressing more subtle changes to the existing use. States and

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Tribes with less specific designated uses would have less precision associated with their existing use protection scheme.

An important tier 1 implementation issue concerns how a State or Tribe will prevent negative or harmful impacts to existing uses when water quality criteria that have been established to protect the designated uses are not adequate to protect the existing uses. For example, a regulated discharge of uncontaminated sediment may result in significant negative or harmful impacts to aquatic life habitat and loss of aquatic life use. In such cases, where clean sediment or siltation criteria have not been developed for the site, and where the State or Tribe has not established clear procedures to implement narrative criteria governing sedimentation, it may be difficult to prohibit such loss of use, particularly where a State or Tribe has not adopted biological criteria.

A second example arises where a proposed activity will result in the discharge of a substance for which numeric criteria have not been adopted by the State or Tribe, but sufficient data to derive criteria or a numeric translation of the narrative criteria are available. Where a range of numeric criteria can potentially be justified for the particular substance to protect the designated and/or existing use, it may be difficult or contentious for the State or Tribe to derive effluent limits protective of the existing use.

A third example arises where a proposed hydrologic modification will result in diminished flow in a water body and create the potential for loss of existing aquatic life use either through increased temperatures or turbidity, or loss of habitat. State and Tribal water quality criteria generally do not describe minimum acceptable flows and may not, by themselves, adequately protect against such loss of use. In *P.U.D. No. 1 of Jefferson County and City of Tacoma* v. *Washington Department of Ecology*, (114 S.Ct 1900 (1994)), the Supreme Court ruled that State certifications under section 401 of the CWA may include conditions to ensure compliance not only with a State's water quality criteria, but also with a State's designated uses or antidegradation policy. The Court concluded that a State could require, in this case, a dam to be designed and operated in such a way as to maintain stream flows necessary to protect the designated use of a stream. While this specific case had to do with a dam and stream flows necessary to protect a use, it should be noted that the opinion applies more broadly than to just flow and that in addition to maintenance of in-stream flows to protect water quality standards, States may also apply any other parameter that may not be specifically identified in the State's standards. EPA notes that where such implementation methods are spelled out, as a practical matter, they may be more easily implemented. (See related discussion in Section III.B. on uses). EPA believes that tier 1 methods or policies for addressing situations such as those described above may need to be included in an antidegradation implementation procedure.

Request for Comments on Antidegradation Tier 1

EPA specifically requests public comment on the following questions:

1. Do State and Tribal programs under the existing regulation do an adequate job of protecting existing in-stream uses?
2. Is a more detailed definition of "existing in-stream water uses" needed in the regulation? Should it be the same as "existing uses?'
3. Should the regulation define what constitutes loss of an existing in-stream water use?
4. Should a clear approach to maintaining and protecting existing uses that may not be adequately protected by strict application of water quality criteria be a required element of an antidegradation implementation procedure?
5. Should the regulation specify under antidegradation that protection of both existing and designated uses is required?

4. 40 CFR 131.12 (a)(2) "tier 2"

"Tier 2" (§ 131.12(a)(2)) antidegradation policies are intended to protect the waters in which water quality is better than necessary to support propagation of fish, shellfish and wildlife, and recreation in and on the water body. These are called high quality waters. For such high quality waters, existing water quality must be maintained and protected unless it is demonstrated that a lowering of water quality is necessary to accommodate important economic or social development. The protection of high quality waters envisioned by the regulation encourages a systematic, public decision making process for determining whether or not to allow limited deterioration of water quality in high quality waters.

a. Identification of "High Quality" Waters. Identifying waters that are "high quality" and subject to tier 2 protection is an important antidegradation issue. The water quality standards regulation requires application of tier 2 requirements "where the quality of the waters exceed levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water." However, the regulation does not include specific guidelines for identifying high quality waters. Various EPA guidance documents, including those issued by EPA's Regional offices, make a variety of suggestions concerning approaches to defining tier 2 waters. Not surprisingly, States and Tribes have developed various ways to identify tier 2 waters.

Existing approaches for identifying high quality waters fall into two basic categories: (1) pollutant-by-pollutant approaches, and (2) water body-by-water body approaches. States and Tribes following the first approach determine whether water quality is better than applicable criteria for specific pollutants that would be affected by the proposed activity. Thus, available assimilative capacity for any given pollutant is always subject to tier 2 protection, regardless of whether the criteria for other pollutants are satisfied. Such determinations are made at the time of the antidegradation review (i.e., as activities that may degrade water quality are proposed). States and Tribes following the second approach weigh a variety of factors to judge a water body segment's overall quality. Such determinations may be made prior to the antidegradation review (i.e., the State or Tribe may assign "high quality" designations in the State or Tribal standards), or during the course of the antidegradation review. Under this water body-by-water body approach, sometimes referred to as the "designational" approach, assimilative capacity for a given pollutant may not be subject to tier 2 protection if, overall, the segment is not deemed "high quality."

There are advantages and disadvantages to each approach. EPA's current thinking is that neither approach is clearly superior and that either, when properly implemented, is acceptable. EPA has approved both approaches in State standards. Some States and Tribes have found the pollutant-by-pollutant approach to be easier to implement because the need for an overall assessment considering various factors is avoided. Also, decisions are driven strictly by water column data (i.e., rather than judgments concerning a segment's overall value or quality) and thus may be less susceptible to challenge. The pollutant-by-pollutant approach may result in more waters receiving some degree of tier 2 protection because it would cover waters that are clearly not attaining goal uses (i.e., waters which are not supporting "fishable/swimmable" goal uses but that possess assimilative capacity for one or more pollutant).

The water body-by-water body approach, on the other hand, allows for a weighted assessment of chemical, physical, biological, and other information (e.g., unique ecological or scenic attributes). In this regard, the water body-by-water body approach may be better suited to EPA's stated vision for the water quality standards program: refined designated uses with tailored criteria, complete information on uses and use attainability, and clear national norms. The water body-by-water body approach preserves water quality even if criteria for certain pollutants are not attained or if criteria for certain uses may be limited, such as fish consumption. This approach also allows for the high quality water decision to be made in advance of the antidegradation review (and included in the water quality standards for the segment), which may facilitate implementation. A water body-by-water body approach also allows States and Tribes to focus limited resources on protecting higher-value State or Tribal waters. The water body-by-water body approach can also distinguish between high quality waters and high water quality and preserve high quality waters on the basis of physical and biological attributes, rather than high water quality attributes alone. However, the flexibility of the water body-by-water body approach is also its principal disadvantage where a State or Tribe does not develop inclusive qualification criteria. For example, where a State's or Tribe's implementation guidelines define a narrow universe of waters, many deserving high quality waters may not receive tier 2 protection. Thus water quality may actually decrease in the waters not classified for tier 2 protection without a public review of the development decision. Also, a potential problem can arise if the process of identifying high quality waters becomes so complicated, resource-intensive, and data-intensive that the primary purpose of tier 2 (i.e., seeking to maintain and protect existing quality by identifying whether there are reasonable less-degrading or non-degrading alternatives) is not adequately accomplished. In other words, the limited resources available for water quality protection could be spent on the identification process at the expense of analysis of the necessity for degradation.

b. Tier 2 Implementation. The current regulation provides a great deal of flexibility to States and Tribes in implementing tier 2 requirements. Some States and Tribes devote little effort to implementing their tier 2 requirements, some States and Tribes apply tier 2 requirements in an inconsistent or infrequent manner, and other States and Tribes have active programs that routinely and consistently implement tier 2. In general, those States and Tribes that actively implement their tier 2 requirements do so by conducting an antidegradation review to determine whether proposed activities that might affect water quality may be authorized. EPA's current sense is that the antidegradation policy, in reality, has little effect on decisions related to surface water quality unless the State or Tribe adopts an implementation procedure and uses it. EPA currently reviews all State and Tribal water quality standards at the time of adoption/revision to ensure they establish a clear approach to implementation. A brief discussion of a number of the major implementation issues is presented below.

i. Triggers for tier 2 Review. Although not discussed in 40 CFR 131.12 of the water quality standards regulation, State and on occasion Tribal tier 2 implementation procedures often include guidelines which are used to determine when the water quality degradation that will result from a proposed activity is significant enough to warrant further antidegradation review. Where the degradation is not significant, the antidegradation review is typically terminated for that proposed activity. The significance evaluation is usually conducted on a pollutant-by-pollutant basis, even where a water body-by-water body approach is used to identify high quality waters, and significant degradation for any one pollutant triggers further review for that pollutant.

Applying antidegradation requirements only to activities that will result in significant degradation is a useful approach that allows States and Tribes to focus limited resources where they may result in the greatest environmental protection. However, there is a great deal of variation in how States and Tribes define significant degradation. Significance tests range from simple to complex, involve qualitative or quantitative measures or both, and may vary depending upon the type of pollutant (e.g., the approach may be different for highly toxic or bioaccumulative pollutants). In some cases, States have also created categorical exemptions from tier 2 review (e.g., they have exempted entire categories of activities from antidegradation reviews based on a general finding that such activities do not result in significant degradation). States or Tribes that define a high threshold of significance may be unduly restricting the number of proposed activities that are subject to a full antidegradation review. Further the approach currently used by some States may not adequately prevent cumulative water quality degradation on a watershed scale. The current regulation does not specify a significance threshold below which an antidegradation review would not be required. EPA's current thinking is that a clear national norm regarding this "significance test" is necessary and should be developed and established in either the regulation or national guidance.

A related issue concerns whether tier 2 should be applied to pollutants where numeric criteria have not been adopted. For example, where there is a proposed discharge of a pollutant to a "high quality" segment, and the background concentration of the pollutant is at or near zero in the water body, should significant degradation be evaluated and should it be evaluated any differently where numeric criteria for the pollutant have not been adopted? For example, where a State or Tribe lacks numeric criteria for nutrients such as nitrogen and phosphorus (a common occurrence), increased discharges of these nutrients can be expected to result in changes in plant life or species diversity. If the State or Tribe relies entirely on a pollutant loadings comparison to numeric criteria for the tier 2 evaluation, new loadings of nutrients may not even be evaluated under tier 2.

EPA's sense is that, in practice, the current tier 2 requirements tend to be used to protect high quality waters only where such high quality supports fishing and swimming uses. However, limiting tier 2 protection to assimilative capacity associated with only fishing and swimming uses means that the protection afforded by tier 2 can end up being narrower than intended. For example, where a water has unique ecological significance (e.g., acid bog or thermal spring) not captured by "fishable/swimmable," the State or Tribe may not believe it is appropriate to designate the water as high quality under tier 2. In this case, the unique ecological characteristic would warrant protection as an existing use. The State or Tribe also has the option of designating the water ONRW, yet, as discussed elsewhere in this section, EPA believes that many States and Tribes are not inclined to designate waters ONRW. The result in this example is that a water with unique

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ecological significance that may warrant a relatively high level of protection, falls through the crack between tiers 1 and 2 where the State or Tribe interprets the level of protection afforded by those tiers too narrowly.

ii. "Necessary" Lowering of Water Quality. The water quality standards regulation requires that the water quality of high quality waters not be lowered unless the State or Tribe determines that such degradation is necessary to accommodate important social and economic development. Given the variety of available engineering approaches to pollution control and the emerging importance of pollution prevention, the finding of necessity is among the most important and useful aspects of an antidegradation program and potentially an extremely useful tool in the context of watershed planning. An approach that has been recommended by EPA is to require the proponent of the proposed activity to develop an analysis of pollution control/pollution prevention alternatives. In conducting its antidegradation review, the State or Tribe then ensures that all feasible alternatives to allowing the degradation have been adequately evaluated, and that the least degrading reasonable alternative is implemented. Also, note that where less-degrading alternatives are more costly than the pollution controls associated with the proposal, the State or Tribe should determine whether the costs of the less-degrading alternative are reasonable. EPA believes that such an alternatives analysis approach can be an effective tool for maintaining and protecting existing assimilative capacity. EPA's current thinking is that specifying what would constitute an acceptable alternatives analysis in the regulation, could result in the addition of substance and rigor to the "tier 2" antidegradation reviews conducted by States and Tribes.

iii. Identification of "Important" Social or Economic Activities. Another task that must be completed as part of an antidegradation review is to evaluate whether a proposed activity that will result in degradation is necessary to accommodate important social or economic development in the area in which the waters are located. (40 CFR 131.12(a)(2)) The significance of determining if an activity will provide for important social or economic benefit is that, absent important social or economic benefit, degradation under tier 2 must not be allowed. Factors that may be addressed in such an evaluation include: (a) employment (i.e., increasing, maintaining, or avoiding a reduction in employment), (b) increased production, (c) improved community tax base, (d) housing, and (e) correction of an environmental or public health problem. Some States or Tribes have addressed this issue by requiring the applicant to bear the burden of demonstrating the social and economic importance of the proposed activity. However, approaches for evaluating social and economic importance vary widely. EPA published *Interim Economic Guidance for Water Quality Standards: Workbook*, Appendix M to the "Water quality Standards Handbook—Second Edition" in March 1995 (EPA–823–B–95–002, March 1995). This guidance specifically addresses the determination of social and economic importance in the context of a tier 2 antidegradation review and should be useful to States and Tribes in determining the relative economic consequences of various development proposals and their relationship to water quality standards. EPA's current thinking is that determining the social and economic importance of a proposed activity is an important public question best addressed by State, Tribal or local interests, perhaps as part of the development of a basin plan.

iv. Tier 2 and Identification of Waters under CWA Section 303(d). Section 303(d) of the Clean Water Act and EPA regulations require States to develop lists of waters that do not meet State water quality standards, even after point sources of pollution install the minimum required levels of pollution control technology. Section 303(d) lists must be submitted to EPA every two years. The waters on the lists are called water quality-limited waters and are defined in EPA regulations as waters "where it is known that water quality does not meet applicable water quality standards, and/or is not expected to meet applicable water quality standards, even after the application of the technology-based effluent limitations required by section 301(b) and 306 of the [Clean Water] Act." 40 CFR 130.2(j). States are then required to develop total maximum daily loads (TMDLs) for water quality-limited waters.

EPA's current policy is that States include waters on section 303(d) lists if applicable water quality standards are not met or are not expected to be met by the next list submission deadline, i.e., within two years (see memorandum from Robert Wayland, Director Office of Wetlands, Oceans and Watersheds, to Water Management Division Directors, Regions I–X, Directors Great Water Body Programs and Water Quality Branch Chiefs, Regions I–X, Subject: National Clarifying Guidance for 1998 State and Territory Section 303(d) Listing Decisions, August 27, 1997). In determining whether to list waters, States should consider all aspects of applicable water quality standards, including narrative and numeric criteria, designated uses, and antidegradation policies.

EPA is currently discussing with stakeholders possible changes and clarifications to the water body listing regulations and guidance under section 303(d) of the Act. Changes and/or clarifications could include a statement in the regulation, or a clarification, that identifies existing tier 2 antidegradation analyses and decisions as "existing and readily available water quality-related data and information" that must be considered under 40 CFR 130.7(b)(5) when deciding whether to place a water body on a section 303(d) list. Information from existing antidegradation tier 2 reviews on assimilative capacity for particular water bodies could be used to determine whether a water body is likely to not meet water quality standards in the near future and thus required to be included on the section 303(d) list. In addition, EPA could amend the existing antidegradation regulations to direct States and Tribes to consider the 303(d) listing status of a water body, and the information supporting that status, when determining whether a proposed activity that is expected to degrade water quality in that water body can be authorized under tier 2 of the State's or Tribe's antidegradation provisions.

v. Achieving all cost-effective and reasonable best management practices for nonpoint sources. This implementation issue arises from one sentence that is included in the federal antidegradation policy at 40 CFR 131.12(a)(2):

> Further, the State shall assure that there shall be achieved the highest statutory and regulatory requirements for all new and existing point sources and all cost-effective and reasonable best management practices for nonpoint source control.

This sentence has been somewhat controversial over the years because it could be interpreted to require a State or Tribe to include, in its water quality standards, a provision requiring adoption of authority for, as well as achievement of, best management practices (BMPs) for nonpoint sources prior to allowing degradation of high quality waters. EPA has interpreted 131.12(a)(2) as not requiring a State or Tribe to establish BMP requirements for nonpoint sources where such BMP requirements do not exist. As EPA clarified in a February 22, 1994 guidance memorandum, State and

Tribal antidegradation rules need only include provisions to assure achievement of BMPs that are required under State or Tribal nonpoint source control laws or regulations. (Memorandum from Tudor T. Davies, Director EPA Office of Science and Technology to EPA Water Management Division Directors, Regions I–X, Subject: Interpretation of Federal Antidegradation Regulatory Requirement, February 22, 1994) Thus, States and Tribes that have adopted nonpoint source controls must assure that such controls are properly implemented before authorization is granted to allow point source degradation of water quality.

EPA's current thinking is that the term "all cost-effective and reasonable best management practices for nonpoint source control" in 40 CFR 131.12(a)(2) would be more effective if read more broadly. In other words, the term could include nonpoint source best management practices established through Federal, State, Tribal, and local authorities and programs that address activities on the land or water that create or exacerbate impacts to surface waters. This construction is consistent with EPA's Total Maximum Daily Load (TMDL) program under Section 303(d) of the Clean Water Act. There, EPA's current policy is that in achieving pollutant load reductions from nonpoint sources, EPA and States should work in partnership, using all available Federal, State, and local authorities and programs. As EPA stated in an August 1997 TMDL guidance memorandum, States are expected to achieve nonpoint source pollutant load reductions through such authorities and programs, including non-regulatory, regulatory, or incentive-based programs. EPA is considering applying the same test to § 131.12(a)(2).

In addition, EPA's current thinking is that it may be time to begin to more actively ensure implementation of this requirement: to implement cost effective and reasonable best management practices for nonpoint source control before allowing lowering of water quality in a water body. One way to do this would be to specify that State and Tribal antidegradation implementation procedures include a step under which States and Tribes inventory their nonpoint source authorities and programs, and, as part of each antidegradation review, include in the record documentation on how those authorities and programs were applied to activities in a watershed in which additional loadings subject to an antidegradation review have been considered. Emphasizing this requirement by specifying it as a required aspect of a State or Tribal antidegradation implementation procedure, in EPA's view, would facilitate use of antidegradation policy as a tool to ensure that nonpoint sources are controlled where possible in accordance with water quality standards, before any additional assimilative capacity in a water body can be allocated to an activity. EPA is interested in comment on this current thinking and specifically on whether it would be helpful to revise the regulation to clarify the relationship between nonpoint source controls and tier 2 antidegradation requirements.

In summary, numerous stakeholders have commented to EPA that antidegradation reviews are conducted inconsistently across the country and that EPA should attempt to improve the national consistency of such reviews. EPA is interested in comment on the appropriate balance between national consistency and State and Tribal flexibility in the implementation of the tier 2 provision and on what changes may be needed to the regulation or EPA policy or guidance to ensure that the tier 2 provision is implemented in a nationally consistent manner that is consistent with the intent of the antidegradation provision, and whether a consistent approach should be the goal of States' and Tribes' watershed programs.

Request for Comments on Antidegradation Tier 2

EPA requests comment on the following questions:

1. Does the existing requirement to apply tier 2 "where the quality of the waters exceed levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water" while at the same time "protecting existing uses fully" need to be clarified with respect to which waters are afforded tier 2 antidegradation protection, and if so, should the Agency clarify the requirement with additional guidance, or with revisions to the regulation?

2. What factors should be considered in identifying "high quality" waters? Should the decision be based strictly on chemical water column quality (i.e., a pollutant-by-pollutant approach), or should a segment's overall quality or other factors be considered (i.e., a water body-by-water body approach)?

3. Given EPA's current thinking that both approaches may be acceptable and neither is necessarily superior, are the two approaches compatible and could they be implemented together?

4. Should application of tier 2 be clarified so that protection of assimilative capacity associated with non-fishable/swimmable uses is clearly required?

5. What methods are currently being used by States and Tribes to define "significant degradation"?

6. How should "significant degradation" be defined? Is there a need for a nationally consistent approach? Should EPA issue additional guidance, or revise the regulation to include, for purposes of implementing tier 2 requirements, a definition of significant degradation? Are categorical exemptions appropriate, and if so, under what circumstances?

7. How should cumulative effects in a watershed be considered in assessing the significance of the degradation that will occur as a result of a proposed activity?

8. How should the "necessity" of degradation be determined? When should the costs of less degrading alternatives be considered reasonable?

9. How should significant degradation be evaluated for pollutants where no numeric criterion has been adopted?

10. Is additional Agency guidance or regulatory requirements necessary to help States and Tribes address social and economic importance (e.g., additional methods or options beyond those discussed in the March 1995 Interim Economic Guidance document)?

11. Should evaluating the importance of proposed discharges be entirely a State or Tribal determination and not be a required element for EPA review?

12. Would it be appropriate to revise the regulation to clarify the relationship between nonpoint source controls and tier 2 antidegradation requirements?

13. Should EPA revise the regulation to expressly state that States and Tribes are to consider the 303(d) listing status of a water body, and the information supporting that status, when determining whether a proposed activity that is expected to degrade water quality in that water body can be authorized under tier 2 of the State's or Tribe's antidegradation provisions?

14. Is greater consistency between individual State and Tribal programs desirable and, if so, what changes may be needed to the regulation or EPA guidance to ensure that the tier 2 provision is implemented in a nationally consistent manner?

5. 40 CFR 131.12 (a)(3) "Tier 3"

Tier 3 of the antidegradation policy is intended to identify and protect waters of extraordinary ecological, recreational or other significance. Tier 3 of the antidegradation policy incorporates the

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concept of Outstanding National Resource Waters (ONRW). The rationale for this provision is that some water bodies are of such high quality or of such exceptional ecological significance that the commonly applied designated uses such as warm water fishery and primary contact recreation and criteria to protect those uses are not suitable or may not provide adequate protection to maintain the high water quality or ecological significance in a given water body.

ONRWs are intended to include the highest quality waters of the United States. Additionally, the ONRW antidegradation classification offers special protection for waters of "exceptional ecological significance," i.e., those water bodies which are important, unique, or sensitive ecologically, but whose water quality, as measured by the traditional characteristics such as dissolved oxygen or pH, may not be particularly high, such as thermal springs. Waters of exceptional ecological significance also include waters whose characteristics cannot adequately be described by traditional parameters (such as wetlands and estuaries).

Tier 3 of the antidegradation policy provides the highest level of protection to water bodies by prohibiting the lowering of water quality. The only exception to this prohibition as discussed in the preamble to the water quality standards regulation is for activities that result in short-term and temporary changes in the water quality of the ONRW. EPA guidance has not defined temporary and short-term specifically, but views these terms as limiting water quality degradation for weeks or months, not years. The intent is to limit degradation to the shortest possible time.

a. Designating ONRWs. The designation of water bodies as ONRWs has been limited in its application. Overall, there are relatively few water bodies designated as ONRWs in the United States, although some States have designated a high percentage of State waters as ONRWs. Several States have been reluctant to adopt ONRWs because of concerns regarding the process for adopting ONRW classifications and the level of protection afforded to a water once it is classified as an ONRW.

Regarding the process for adoption of ONRWs, the existing regulation requires the State or Tribe to provide an ONRW level of protection in their antidegradation policies, but there is no requirement that any water body be so designated or any specificity as to how that is to be done. One way to address this issue may be for EPA to amend the regulation to require States and Tribes to establish a nomination process with criteria guidelines in which the public could petition the State or Tribe for designation of certain waters as ONRWs. It would then be up to the State or Tribe to set criteria for the ONRW selection process with the final decision made by the State or Tribe after consideration of the public comment. EPA currently recommends three categories of waters which could be eligible for ONRW designation: waters of (1) National and State parks, (2) wildlife refuges, and (3) exceptional recreational or ecological significance.

Regarding the level of protection that is afforded to a water body once it is classified as an ONRW, a common concern is that classifying a water as ONRW will result in a federal prohibition on any further development of any kind in the watershed. As described above, the federal antidegradation policy regarding ONRWs is that once classified as an ONRW, the water quality of the ONRW must be maintained and protected. One way, but perhaps not the only way, to ensure that the water quality is maintained and protected would be to prohibit activities that would generate additional pollutant loads and or water quality impacts in the ONRW. This approach is commonly referred to as "no new or increased discharge" and was explained by EPA in its promulgation of antidegradation provisions for the State of Pennsylvania in 1996 (61 FR 64816, December 9, 1996). As discussed in the Pennsylvania rule, the federal policy requiring the water quality to be maintained and protected is subject to some interpretation by States and Tribes.

EPA believes there is considerable uncertainty from jurisdiction to jurisdiction concerning the impact of the ONRW classification on the local community or the State or Tribe. How will the State or Tribe handle future needs for development in the area of the ONRW? What role does EPA play in ensuring that the State or Tribe provides the highest protection measures to ONRWs? EPA's current thinking is that this "no further development in the watershed prohibition" may be an overly strict interpretation of the protection required by tier 3 and that a public debate is necessary to clarify the level or range of protection that is afforded to a water by classifying it as an ONRW, and how that level or range should be determined.

One way to remove uncertainty surrounding the implications of ONRW designations is for States and Tribes to adopt concurrent with the ONRW the implementation methods for that water body that define what attributes of the water will be protected and how this will be accomplished by both point and nonpoint sources. It may make sense for the regulation to include this requirement in order for all parties concerned to know the impact on development of such a designation before adopting an ONRW.

i. Relationship of Tier 3 to the Wild and Scenic Rivers Act. Additionally some States have not adopted waters as ONRWs when there has been concern regarding ONRW requirements and the requirements of a wild, scenic, or recreational water body. Although the Department of Interior (DoI) founded the antidegradation policy from which the concept of an outstanding national resource water (ONRW) that EPA currently uses evolved, an ONRW is different from the Wild and Scenic Rivers program administered by DoI. ONRWs are designated by the State or Tribe in their water quality standards. Wild and scenic rivers are given their designation by Congress or the Department of Interior pursuant to the Federal Wild and Scenic Rivers Act. The main purpose of the Wild and Scenic Rivers Act is to keep waters free-flowing. The main purpose of an ONRW designation is to maintain and protect high quality waters that constitute outstanding resources due, for example, to their exceptional recreational or ecological significance, which can include free-flowing water. EPA does not see any conflict between these two programs.

b. Tier 3 Implementation. EPA in chapter 4 of the Water Quality Standards Handbook interprets the "water quality to be maintained and protected" provision of the regulation as requiring no new or increased discharges to ONRWs and no new or increased discharge to tributaries to ONRWs that would result in lower water quality in the ONRWs. The only exception is for short-term and temporary changes. In contrast, some States, Tribes, and EPA Regions have interpreted this provision to allow new discharges as long as the water quality is either maintained or improved. Alternatively, some States, Tribes and Regions have interpreted water quality in terms of the characteristics for which the water body was selected to be an ONRW and have strictly maintained those characteristics while allowing other characteristics to become degraded. EPA has also allowed a proposed activity that will result in a new or expanded source where the applicant agrees to implement or finance upstream controls of point or nonpoint sources sufficient to offset the water quality effects of the proposed activity. This offset is generally called trading and is accomplished through a TMDL pursuant to CWA Section 303(d) requirements. Such TMDLs include an appropriate margin of safety and address, in particular, the uncertainties associated with any proposed nonpoint source controls, as well as variability in effluent quality for point sources.

This variability in interpretation has created ONRWs across the Nation that vary in terms of the stringency of point source controls, and types of water bodies considered to be ONRWs. Restrictions on physical changes have also been implemented in an inconsistent manner. EPA is considering whether the existing ONRW protection program is addressing an appropriate universe of waters and whether the flexibility provided under the regulation, in terms of coverage and protection requirements, needs to be further restricted, maintained, or expanded. It may make sense to have an ONRW designation which is permanent and allows no change in water quality and applicable to few waters while creating a subset of waters which can have some change in water quality under certain circumstances.

c. Tier 2½. Several States and Tribes have already created, as part of their antidegradation policy, a provision that is in between EPA's recommended tier 2—high quality waters and tier 3—Outstanding National Resource Waters, sometimes referred to as Tier 2½. This additional tier is given various names, such as Outstanding State Resource Waters, Outstanding Tribal Waters, Special Protection Waters, or Water of Exceptional Significance. When it supplements tier 2 and tier 3 provisions, EPA has accepted this provision as being consistent with the intent and spirit of the antidegradation policy. Inclusion of a tier 2½ within the regulation would encourage States and Tribes to apply more stringent controls than would be required under tier 2 but with more flexibility to make adjustments in criteria and permitting decisions than would normally be allowed if the water body in question were designated as an ONRW. Any additional flexibility that might be created by a tier 2½ classification to allow additional activities that could marginally affect water quality, might not be necessary where a State or Tribe (or EPA) considers such flexibility to already exist in the context of the ONRW classification. In commenting on the flexibility afforded by the tier 2½ classification, commenters are urged to state their understanding of the flexibility currently afforded in the ONRW classification.

Request for Comments on Antidegradation Tier 3

EPA seeks comment on the following questions:

1. Should EPA add definitions of important terms to the ONRW part of the regulation, including a definition of "degradation" which clarifies that temporary or short-term effects on ONRW waters could be authorized? Should definitions of "short-term" and "significant" also be included?

2. Should EPA require States and authorized Tribes to establish both a process and qualification criteria which would allow the public to nominate waters for the ONRW designation? Would EPA guidance be helpful?

3. Should the tier 2½ antidegradation policy concept be explicitly recognized in the federal regulation and what, if any, limits or factors for application of the tier should be included?

4. States (and Tribes) have differing interpretations of the level of protection afforded ONRWs. Should EPA further specify in the regulation what maintaining and protecting water quality in ONRWs means?

6. 40 CFR 131.12 (a)(4) "Thermal Discharges"

The requirement to prevent potential water quality impairment associated with thermal discharges contained in § 131.12 (a)(4) of the regulation is intended to coordinate the requirements and procedures of the antidegradation policy with those established in the CWA for setting thermal discharge limitations. Regulations implementing section 316 may be found at 40 CFR 124.66. The statutory scheme and legislative history indicate that limitations developed under section 316 take precedence over other requirements of the CWA. EPA is not requesting comment on this section of the regulation. This provision is mentioned here only in the interest of completeness.

E. Mixing Zones

1. Background

The current regulation (at 40 CFR 131.13) describes States' and Tribes' discretionary authority to include, in their water quality standards, policies that affect the implementation of those standards. For example, States and Tribes may adopt policies on mixing zones, variances, and schedules of compliance for water quality-based NPDES permit limits. If included in their water quality standards or other implementing regulations, States and Tribes are required to submit such policies to EPA for review and approval. The policies governing the implementation of water quality standards are inseparable from the standards themselves and, consequently, EPA reviews both to determine whether implementation policies are compatible with the State or Tribal water quality standards provisions, technically well founded and consistent with the CWA.

Concerns have been expressed both by the regulated community and environmental groups over the lack of specificity in State and Tribal mixing zone policies and implementation procedures adopted under this general policies provision. These groups believe that this lack of specificity may result in rather subjective and inconsistent implementation of water quality standards, from site-to-site. EPA has also, through its ten regional offices, not always applied uniform standards in reviewing individual States' and Tribes' mixing zone provisions.

In encouraging the implementation of water quality management activities consistent with a broader watershed approach, EPA has encountered inconsistent implementation of mixing zone provisions across State and Tribal borders, within whole watersheds, and sometimes along a single water body. Remedies to water quality problems designed along watershed boundaries can be limited in their effectiveness as a result of differing policies, procedures and treatment of the same water body by different authorities. A certain amount of flexibility is, however, essential when dealing with complex water quality problems on a watershed or basin scale. EPA's current thinking is that it is preferable to be more explicit about where the program requires consistency and where flexibility is allowed or encouraged.

The current regulation does not articulate any EPA requirements regarding the content of mixing zone implementation procedures. Rather, EPA guidance addressing mixing zones, and stream design flows is contained in several documents, including the *Water Quality Standards Handbook: Second Edition* (the Handbook) and the *Technical Support Document for Water Quality-based Toxics Control, March, 1991* (the TSD). Although program and technical guidance identifies the approaches to standards implementation which EPA recommends and considers protective of water quality, guidance is not equally effective at delineating what constitutes

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minimally acceptable content or the approaches EPA considers to be not approvable or inconsistent with the CWA. Further, most regulatory agencies, as well as the regulated community, are most concerned with what is required rather than what is recommended. Policy or guidance is not binding whereas regulation is. Guidance is better designed to provide detailed descriptions of the variety of technically sound implementation approaches and their underlying scientific basis; regulation provides the clearest direction regarding required minimal program content and identification of those components of the program where flexibility is allowed.

EPA is considering an expansion of the section of the regulation addressing general policies to provide clear, detailed and specific direction to States and Tribes on the development and content of mixing zone policies and implementation procedures. EPA's current thinking is that greater specificity within this portion of the regulation may be needed to clarify the minimum necessary elements of State and Tribal mixing zone policy and implementation procedures. EPA's current thinking is that this area of the regulation needs to articulate a clear level of national consistency in mixing zone implementation that results in a consistent level of protection across the country and at the same time, where State and Tribal flexibility is not only encouraged, but possibly essential to program efficiency and accuracy.

2. EPA Policy and Guidance on Mixing Zones

The concept of mixing zones as a regulatory tool to address the incomplete mixing of wastewater discharges in receiving waters has been embraced by both EPA and its predecessor agencies as part of a larger regulatory effort to ensure that point source discharges of wastes do not impair beneficial uses. EPA interprets the CWA as allowing the use of mixing zones as long as the provisions addressing toxicity at section 101(a)(3) are met and the designated uses of the water body as a whole are protected. One court has considered the application of a mixing zone in a discharge permit and upheld EPA's use of a limited mixing zone (*See Hercules* v. *EPA*, 598 F.2d 91 (D.C. Cir. 1978)). The concept of a mixing zone is covered by a series of guidance documents issued by EPA and its predecessor agencies (see, for example: *Water Quality Criteria* (Green Book), Federal Water Pollution Control Administration, 1968, pp. 29–31; *Water Quality Criteria 1972* (Blue Book), EPA, March 1973, pp. 112–115, 231–232, 403–457; *Guidelines for Developing or Revising Water Quality Standards*, January 1973; *Chapter 5—Guidelines for State and Areawide Water Quality Management Program Development*, November, 1976; *Allocated Impact Zones for Areas of Non-Compliance*, EPA Region 1, October 1986; *The Water Quality Standards Handbook*, August, 1994, pp.5–1 to 5–11; *Technical Support Document for Water Quality-based Toxics Control* (TSD), March, 1991, pp. 31–34, 56–60, 69–89).

Many definitions of mixing zones have been offered, differing primarily by perspective (i.e., engineering, hydrological, ecological, regulatory) and their application. From a hydrological/engineering perspective, mixing zones can be defined based upon the recognition of incomplete mixing of an effluent with its receiving water (e.g., "that area or volume of dilution water necessary to reduce contaminant concentrations to some acceptable level or to a totally mixed condition"). Biologically, mixing zones can be defined based on the premise that surface water quality criteria can be exceeded under limited circumstances without causing unacceptable toxicity or, more broadly, impairment of the designated beneficial uses (e.g., "the area contiguous to a discharge where receiving water quality is not required to meet water quality criteria nor other requirements applicable to the receiving water").

EPA's policy on the use of mixing zones has evolved since its early recognition within general water quality guidance, primarily in association with the institution and evolution of the NPDES permit program (e.g., the TSD). Initially, guidance emphasized the need to ensure that the biological integrity of the aquatic community in the receiving stream was protected and that such determinations must be based on site-specific evaluations. In the late 1980's EPA and authorized NPDES States began increasing the development and issuance of water quality-based effluent limits. With this increase, came a demand for widely applicable national guidance to support those programs. EPA and States, in essence, needed wasteload allocation and water quality-based permit limit derivation methods that were relatively simple to use and could be implemented with little site-specific data. EPA met this demand by issuing revised guidance (the TSD and Handbook, cited above, are examples) and by accepting a wide range of State mixing zone practices. As a result, mixing zone provisions have become less prescriptive than earlier guidance that envisioned data rich, site-specific studies, and more reliant on often cursory evaluations, general mixing assumptions, and best professional judgement.

EPA's current policy addresses mixing zones as allocated impact zones (AIZs) where certain numeric water quality criteria may be exceeded as long as: there is no lethality to organisms passing through the mixing zone, there are no significant risks to human health, and the designated and existing uses of the water body are not impaired as a result. These AIZs or mixing zones, if disproportionately large, could unacceptably impact the integrity of the aquatic ecosystem and have unanticipated ecological consequences on the water body as a whole resulting in impairment of the designated or existing uses. Therefore, EPA's policy has emphasized a holistic approach to mixing zone regulation which considers location, size, shape, outfall design and in-zone quality. Mixing zone guidance produced by EPA since 1972 has consistently emphasized the need to protect both nonmotile benthic and sessile organisms in the mixing zone as well as swimming and drifting organisms (Water Quality Criteria 1972). States and Tribes, however, have focused primarily, if not exclusively, on the protection of swimming and drifting organisms and the need to provide "zones of passage" within waters with mixing zones. In its dependence upon conditions protective of swimming and drifting organisms to define mixing zones, this approach results in an incomplete implementation of the original concept supporting mixing zones. As originally designed, EPA's mixing zone policy provided for the prevention of lethality to swimming and drifting organisms by limiting the size of the mixing zone and to nonmotile organisms by limiting the placement or location of mixing zones.

Although existing EPA guidance on the implementation of mixing zones (cited above) is quite detailed, at present, the regulation itself simply provides that States and Tribes may adopt, as part of their water quality standards, mixing zone policies and that such policies are subject to EPA review and approval (40 CFR 131.13). In addition, EPA may separately review individual State and, once approved to administer NPDES, Tribal mixing zone determinations as part of the wasteload allocation and NPDES permit review process, outside the standards adoption and review process to ensure appropriate implementation of the State's mixing zone policy.

EPA is considering expanding the current provisions at 40 CFR 131.13 addressing State and Tribal development of mixing zone policies within their water quality standards program to address the content and design of those policies.

3. State and Tribal Mixing Zone Policies

While there are advantages to the more flexible general approach adopted in the late 1980's, the generality of the current regulation has led to some uncertainty as to what constitutes an approvable mixing zone policy. Because the regulation lacks detailed requirements concerning EPA's standards of review of State and Tribal mixing zone provisions, EPA is considering changing the language regarding State and Tribal adoption of mixing zone policies to address specifically the content of such policies. EPA's current thinking is that greater specificity would provide for increased public participation in State, Tribal and Federal decision-making; a clearer understanding by the State, Tribe and public of what EPA considers an approvable mixing zone policy; a reduction in the number of NPDES permit appeals and objections based on differing interpretations of a State or Tribal mixing zone policy; and a more consistent review of State and Tribal submissions by EPA itself.

Fundamental to any such policy, EPA is considering requiring States and Tribes to indicate explicitly in their water quality standards whether or not they allow mixing zones for each of the various uses designated for a given water body. Such provisions could address mixing zones applied to either acute or chronic aquatic life and other water quality criteria (e.g., public water supply, livestock watering, wildlife protection, etc.). Under this approach, if the State or Tribe does not explicitly authorize mixing zones, then no mixing zones would be allowed in State or Tribal waters, and all applicable criteria would have to be met at the end-of-pipe. (Memorandum from Robert Perciasepe, Assistant Administrator for Water to Water Program Directors, Regions I-X, Subject: EPA Guidance on Application of State Mixing Zone Policies in EPA-Issued NPDES Permits, August 6, 1996). Alternatively, States and Tribes could determine that such prohibitions would be applied to only a subset of uses or pollutants rather than across all use categories and pollutants. Some States or Tribes have used this approach to prohibit mixing zones in their highest use classes (e.g., class AA), while allowing mixing zones in more highly impacted watersheds (e.g., class C or D waters).

States and Tribes could also be required to specify the conditions under which mixing zones are allowed in each site-specific application and the limitations to those applications (e.g., size, shape, length, placement, etc.). In addition, States and Tribes could be required to identify any circumstances, pollutants, locations or conditions for which the use of mixing zones is prohibited. States and Tribes could specify circumstances where only chronic mixing zones would be allowed (i.e., no acute mixing zone or zone-of-initial dilution) and circumstances where acute and/or chronic mixing zones would be prohibited. Current EPA guidance, for example, recommends States and Tribes consider prohibition of mixing zones when bioaccumulative pollutants are present in the discharge or where an effluent is known to attract biota. Other circumstances where mixing zone prohibitions or location restrictions might be appropriate include areas used by aquatic life for breeding or feeding, locations of shellfish beds, locations of critical habitat for threatened and endangered species, across tributary mouths, shallows, near shore areas and in areas of critical habitat.

This change would clarify in the regulation the State and Tribal general authority to provide mixing zones, the scope of that authority, and the site-specific factors evaluated by States and Tribes when deciding whether a mixing zone is authorized in each individual case. EPA is considering making this potential clarification to the regulation, its implications, and how mixing zone policies can be designed to better support and foster a watershed management framework.

4. Mixing Zone Requirements

Some States and Tribes that have adopted mixing zone provisions within their water quality standards have not specified mixing zone requirements (e.g., water quality within mixing zones, the allowable size of mixing zones, etc.) under their mixing zone policies. EPA is therefore considering including as regulatory requirements certain specifications derived from EPA's guidance on mixing zones. Regarding policy content, EPA might revise the regulation to require that State and Tribal mixing zone policies address a minimum number of elements. Those required elements might include provisions that: identify conditions and circumstances (e.g., particular locations) when mixing zones are not permitted; identify any pollutants or classes of pollutants for which mixing zones are prohibited; identify the mechanisms to be used to ensure that mixing zones do not impinge on ecologically or recreationally sensitive areas; identify the mechanisms to be used to determine complete and incomplete mixing of effluent and receiving water; identify conditions when a mixing analysis is required; identify default design flows for implementing criteria; identify maximum allowable mixing zone size and configuration, as well as how mixing zones dimensions are determined; specify what water quality conditions must be met within mixing zones; state whether zones of initial dilution are allowed; and state whether there are special conditions established for bioaccumulative pollutants.

Identification in the regulation of minimum elements of State or Tribal mixing zones procedures would establish the basis for EPA review and approval of State and Tribal mixing zone provisions. It would also facilitate the review of individual mixing zone determinations made under the wasteload allocation/permit approval process by EPA, other agencies and the public. This would not significantly change EPA's guidance or current approach to mixing zone policies. Rather, it would clarify and codify the basis by which EPA will review and approve or disapprove State and Tribal mixing zone policies and their site-specific implementation through NPDES permits.

As discussed previously, EPA's mixing zone guidance is premised fundamentally on the prevention of lethality within the mixing zone and siting such that areas of critical habitat are avoided, resulting in the protection of designated uses. One aspect of this guidance is that, for aquatic life uses, water quality within the mixing zone should be such that, at a specified concentration of a contaminant (i.e., magnitude), any "swimming or drifting" organism would not remain in the mixing zone long enough to receive an exposure that is sufficiently long (i.e., duration) to cause lethality. If the combination of the concentration of a given pollutant or the combined effect of multiple pollutants (e.g., whole effluent toxicity) in a discharge and the duration of exposure to that concentration are low enough, there is no lethality within the mixing zone, and the criteria (magnitude and duration components together) are met.

This approach, however, only provides protection in situations in which water column organisms pass in and out of the mixing zone. This interpretation does not adequately

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protect stationary or sessile organisms within the mixing zone; organisms that remain within the mixing zone for extended periods because the mixing zone extends into feeding or breeding areas or critical habitat (e.g., tributary mouths, shallows, shoreline habitat in large, fast-flowing rivers); critical habitat areas for endangered or threatened species; or instances where mixing zone conditions attract organisms. EPA's mixing zone policy and guidance address those instances where the provisions protecting swimming and drifting organisms are not adequate to protect nonmotile benthic and sessile organisms or critical habitat areas by limiting the location, size and shape of mixing zones. In some instances, this policy has been implemented in a fragmented manner. In such instances, these latter restrictions to mixing zone placement are inadequately addressed. EPA always has discretion to object to, and take over if necessary, permits that provide site-specific mixing zones in cases where such mixing zones would fail to protect all aspects of designated uses. However, oversight of individual permits is not an efficient approach to resolving program-level issues. To clarify the meaning of its policy and ensure a more complete implementation of protective mixing zone provisions, EPA is considering changes to the regulation.

EPA could require that State and Tribal mixing zone policies specifically identify prohibitions (where appropriate) or limit mixing zones where necessary to protect existing or designated uses. Some States and Tribes already include prohibitions against the use of mixing zones where they could intrude upon public drinking water supply intakes or public swimming beaches, or where mixing zones prove to be attractive to aquatic life or wildlife (e.g., water temperature). EPA might require that State and Tribal mixing zone provisions specifically address instances such as these where restrictions on mixing zones are appropriate. Additionally, EPA is considering requiring that State and Tribal water quality standards include a description of the State's or Tribe's methodology for specifying the location, geographic boundaries, size, shape and in-zone quality of mixing zones.

EPA could also clarify its current policy that an approvable mixing zone methodology must be scientifically defensible and ensure the protection of designated uses in the water body as a whole. This would require that the methodology, at a minimum, be sufficiently precise to support consistent regulatory actions (e.g., an NPDES permit). EPA is considering this change to ensure that State and Tribal mixing zones do not adversely affect the integrity of State and Tribal waters and to address inconsistent allocation of mixing zones from site-to-site. Under this approach, for example, when a State or Tribe assumes that either complete or incomplete mixing occurs, the State's or Tribe's implementation procedure could require the analyses supporting the mix assumption to be documented in the record (e.g., permit fact sheet). EPA is considering the need for additional language in the water quality standards regulation to clarify the essential elements of State or Tribal mixing zone provisions and, alternatively, whether such language would be better established in guidance. EPA's current thinking is that a certain amount of professional judgement is necessary in making site-specific mixing zone determinations and that clarifications to the regulation regarding the minimum mixing zone policies and implementation procedures should not preclude such flexibility. However, the policy and implementation procedures should be clarified so that the guidelines and framework for making site-specific mixing zone determinations are clear to everyone.

5. Mixing Analyses

The above discussion focuses on establishing State and Tribal mixing zone policies and procedures. The following discussion addresses the application of such procedures in individual permitting decisions.

Where point source discharges mix in a slow or “incomplete” manner with receiving waters and the State or Tribe has authority to provide a mixing zone, EPA guidance recommends that a mixing zone analysis be incorporated into the derivation of water quality-based effluent limits (WQBELs) in NPDES permits. The mixing zone analysis should demonstrate compliance with State or Tribal mixing zone requirements (e.g., size, shape, location and in-zone quality) that are included in the water quality standards. Providing a mixing zone in incomplete-mix situations acknowledges the mixing behavior of the discharge and limits excursions above criteria to a specified zone. Where a discharge mixes with the receiving water in a rapid and “complete” manner, by definition a mixing zone analysis is not needed and an evaluation of the assimilative capacity of the receiving water and a dilution allowance based on stream design flow conditions specified in the State or Tribal water quality standards is often incorporated into the derivation of WQBELs.

Presently, all State-issued NPDES permits are reviewable by EPA. EPA may object to individual permits and assume authority to issue such permits. When EPA is the permit issuing authority, it must follow the applicable State or Tribal water quality standards and ensure that any water quality-based effluent limits in the permit are derived from and comply with the applicable State or Tribal water quality requirements. A permit that does not include a defensible mixing zone analysis might not fully protect downstream designated uses. A common example is where a discharge mixes slowly (i.e., incomplete mixing is occurring), but the permit limit is based on an assumption that the entire design flow of the stream rapidly and completely dilutes the effluent. When this does not occur and not all of the dilution water mixes rapidly with the effluent discharge, the result may be a lengthy downstream plume (i.e., mixture of effluent and surface water) with water quality characteristics that exceed applicable chemical-specific or toxicity criteria, are potentially lethal to aquatic life, and may impair the designated use. Such plumes are of concern because:

(1) Chemical-specific criteria, ambient toxicity criteria or other narrative criteria may not be achieved in the extended plume;

(2) Effluent plumes can extend far downstream, causing impact beyond the limited area of a mixing zone and resulting in use impairment;

(3) There may be intakes for public drinking water systems located downstream, but within reach of an extended plume;

(4) Effluent plumes may be located along the shore in shallow waters that are critical nursery areas for sensitive species and which constitute important or critical habitat, particularly in large, channelized rivers;

(5) Aquatic life might be attracted to the plume because of its temperature differential or other characteristics;

(6) Threatened or endangered species may reside within or near the plume area, and

(7) Additional dischargers may be located downstream and the cumulative effects of all discharges may not be adequately considered, particularly regarding unintended overlapping plumes.

EPA believes the rate of ambient mixing and the complete versus incomplete mix decision is a critical but frequently overlooked component of water quality-based permitting.

Although a mixing zone analyses requires site-specific information and additional resources, EPA believes that the approach currently followed by some States and Tribes might be too simplistic, might allow lethality within areas of critical habitat or ecological importance and may not fully protect designated uses. EPA's current thinking is that the regulation should be made more explicit as to the circumstances under which mixing zones must be supported by site-specific data and analysis. EPA is considering the need for specific requirements within the regulation governing the development and content of mixing zone analysis procedures as part of State and Tribal implementation procedures.

6. Narrative Criteria for Mixing Zones

Historically, States have relied on narrative criteria as a means to provide baseline protection for water quality, to address toxicity from combinations of pollutants or unknown pollutants through whole effluent toxicity testing and limits, and to control pollutants for which there are no chemical-specific criteria available. EPA has consistently maintained that prevention of nuisance conditions (e.g., materials that will settle to form objectionable deposits, floating debris, oil, scum, foam and other matter, toxic conditions, etc.); through the application of narrative criteria, apply to all waters, at all times, including mixing zones. Despite this long-standing policy, EPA is unaware if, in practice, States and Tribes have had any difficulty ensuring the maintenance of these narrative criteria within mixing zones. EPA is interested in comment which might identify any instances where the application of narrative criteria has created difficulties for States and Tribes implementing these provisions in mixing zones.

In addition, EPA has traditionally interpreted these narrative "free froms" as including a prohibition against lethality in all waters, including within mixing zones. However, lethality is a non-conservative endpoint for measuring toxicity. Section 101(a)(3) of the CWA establishes a goal of prohibiting "the discharge of toxic pollutants in toxic amounts" which could be interpreted as applying to chronic as well as acute toxicity. EPA guidance on appropriate water quality within mixing zones also recommends that "the total time-toxicity exposure history must not cause deleterious effects in exposed populations of important species, including post-exposure effects" (EPA, 1973). EPA is considering how such an interpretation (i.e., applying chronic toxicity endpoints to water quality within a mixing zone) could be implemented in the context of the application of narrative criteria within a mixing zone.

Guidance developed by EPA in 1985 (TSD) established a rationale for allowing zones-of-initial-dilution (ZIDs) or acute mixing zones. That guidance limited the use of ZIDs to extremely small areas of the receiving water under limited conditions and to discharges using rapid diffusers which produce effluent discharge velocities exceeding 10 feet per second. That guidance was premised on the rationale that organisms would be *physically* precluded from maintaining a position within the ZID, thus preventing lethal exposures. Benthic and sessile organisms were also protected where ZID placement was controlled and directed away from such critical areas (e.g., near shore, shallows, etc.). In addition, EPA reasoned, high rate diffusers achieve compliance with both acute and chronic criteria within a smaller area, utilizing less receiving water volume for dilution than other discharge designs. Consequently, high rate diffusers are believed to provide greater protection of water quality by their rapid dispersion of effluent within a smaller volume of surface water. Where acute criteria are not applied at the end-of-pipe, current EPA guidance provides for a number of alternative means of protecting against lethality in a mixing zone, even in situations that do not rely on high rate diffusers. Alternatives to requiring compliance with acute criteria at the end-of-pipe or employing a high-rate diffuser to ensure compliance "within a very short distance from the outfall" require a significant amount of site-specific data. Such site-specific data could be requested of NPDES permit applicants. It is EPA's experience that the collection of this kind of data does not occur on a routine basis. EPA is interested in public comment on the relationship between ZIDs or acute mixing zones and narrative criteria prohibitions against lethality and States' and Tribes' experiences with the application of acute mixing zones under varying site-specific and discharge-specific conditions. EPA is also interested in comments on whether the water quality benefits of using high rate diffusers justify potentially detrimental effects on stream bed or shore line habitat.

7. Mixing Zones for Bioaccumulative Pollutants

States and Tribes should exercise caution when evaluating whether a mixing zone is appropriate in cases where bioaccumulative pollutants are present. The impacts of bioaccumulative compounds may extend beyond the boundaries of a given mixing zone with resulting impairment of a water body's designated uses, particularly where stationary species (e.g. shellfish) are present, where uncertainties exist regarding the assimilative capacity of a water body or where bioaccumulation in the food chain is known to be a problem. Sediment contamination has also become a major concern in both flowing and non-flowing water bodies. Concerns about sediment contamination require additional attention since typical mixing zone evaluations focus only on water column toxicity. The effects of persistent and bioaccumulative pollutants may not be detected for some distance from the point of discharge, well outside the mixing zone, or possibly not in the water column at all. Some members of the public have expressed concern regarding the use of mixing zones in situations where bioaccumulative pollutants are present in a discharge and have urged EPA to develop specific regulatory requirements prohibiting the use of mixing zones where these pollutants are present.

Mixing zone policies are developed to address complete and incomplete mixing conditions associated with point source discharges. These policies identify whether mixing zones are allowed and define how a State or Tribe will limit the amount of surface water allocated to mixing under a variety of circumstances. These circumstances include considerations specific to the effluent and pollutants discharged (e.g., toxicity, solubility) and to the water body receiving the waste (e.g., shallow, flowing or non-flowing, high flow or low flow, critical habitat). The potential for bioaccumulation problems can depend on a number of site-specific factors and the use of mixing zones for bioaccumulative pollutants may be best dealt with on a site- or basin-specific basis. EPA's mixing zone guidance emphasizes that the determination by a State or Tribe that a mixing zone is appropriate must be preceded by a separate determination that there is available assimilative capacity in the receiving water. Localized water quality concerns are to be balanced with the larger scale issue of overall pollutant loading to the entire water body or segment. Perhaps concerns about the fate and transport of bioaccumulative pollutants are more effectively addressed under total maximum daily load (TMDL) development and determinations of assimilative capacity which incorporate information on water

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column, sediment and tissue contamination. EPA is considering the appropriateness of using mixing zones when controlling for bioaccumulative pollutants.

As discussed in more detail in Section C of this Notice, EPA has recently developed methodologies for deriving sediment quality criteria for non-ionic organics and metals and has proposed sediment quality criteria for five organics. In addition, EPA is working on implementation procedures or a "user's guide" for these sediment criteria which will address risk management decisions such as the application of mixing zones.

The regulatory impact of special restrictions on mixing zones for a particular family of pollutants is largely determined by how that family of pollutants is defined within the regulation. The issue of definition of bioaccumulative pollutants is also addressed in the discussion of water quality criteria in Section C of this notice.

In its Great Lakes Guidance, EPA established a twelve year phase out of mixing zones for existing discharges of bioaccumulative chemicals of concern (BCCs) in the Great Lakes Basin and a ban on such mixing zones for new discharges (effective March 1997). The Great Lakes Guidance also allowed States and Tribes to establish limited exceptions to the mixing zone phase-out for existing discharges based on water conservation or economic and technical considerations. The general prohibition on mixing zones for BCCs was established largely because of the persistent and toxic nature of even minute amounts of BCCs in the environment; an effect amplified in the Great Lakes by the tendency of the Lakes to act as "sinks" for pollutants discharged to the Great Lakes Basin. In addition, there are documented problems with effects of BCCs in Great Lakes waters (e.g., contamination of Great Lakes salmonid sport fisheries with PCBs and Basin-wide mercury contamination). The Great Lakes Guidance provision phasing out mixing zones for BCCs reflected the Agency's thinking that, in general, mixing zone allowances for BCCs are not appropriate.

On June 6, 1997, the United States Court of Appeals for the District of Columbia Circuit issued its decision in *American Iron and Steel Institute, et al. v. EPA, 115 F.3d 979 (D.C. Cir. 1997).* The Court's decision upheld the Great Lakes Guidance on all but three issues. One of these three issues was the phase out of on mixing zones for BCCs. Specifically, the Court vacated the final Guidance insofar as it would eliminate mixing zones for bioaccumulative chemicals of concern (BCCs). While the Court acknowledged the possibility of environmental benefit of the mixing zone provisions, the Court found that EPA failed to show that the provisions were justified in light of the costs. EPA continues to support elimination of mixing zones for BCCs within the Great Lakes Basin wherever it is technically and economically feasible to do so. Thus, EPA intends to propose reinstating this provision in the near future.

8. Stream Design Flow Policies

States and Tribes typically identify, within their water quality standards, stream design flow conditions to implement numeric water quality criteria. The stream flow conditions are typically expressed as predictable low flow conditions below which numeric water quality criteria do not apply. Examples of commonly used stream design flows include: the lowest seven consecutive day average stream flow that has the annual probability of occurring once in ten years (7Q10); the lowest single day stream flow that has the annual probability of occurring once in ten years (1Q10); and the harmonic mean stream flow. The stream design flows typically employed with aquatic life criteria (i.e., 7Q10 and 1Q10), sometimes referred to as critical low flows or drought flows, are intended to define stream flow conditions at and above which the designated uses are presumed to exist and applicable numeric water quality criteria must be met in order for those uses to be attained. The underlying concept is that these low flow events are a part of the dynamic hydrologic character of all flowing water bodies. Low flow conditions present special challenges to the integrity of the aquatic community. Even under these low flow conditions, however, the long-term beneficial use could be maintained unless toxic conditions stress the aquatic community beyond its ability to tolerate and recover.

In practice, stream design flows serve several purposes in addition to defining the minimum stream flows below which numeric water quality criteria do not apply. Many States and Tribes have used the stream design flows, or fractions thereof, to define the amount of stream flow that can be assumed to always be available to dilute effluent. Under rapid and complete mixing conditions, the entire stream design flow is used as the basis for determining permit limits. That is, no mixing zone is necessary. Under slow or incomplete mixing conditions, where a mixing zone is necessary, fractions of stream design flow are used to calculate assimilative capacity on which permit limits can be based; in other words, to crudely define the mixing zone. Often this default approach is used by regulatory agencies in response to limited resources, lack of site-specific information and the time pressures of permit reissuance. This default approach to defining the mixing zone is, in EPA's view, acceptable as long as the mixing of the effluent in the receiving water occurs away from critical areas and the amount of dilution provided is conservative for a broad range of possible effluent/receiving water dilution scenarios. However, where a complete mixing assumption does not hold true, such as where an effluent plume does not disperse quickly, and too much of the receiving water is allocated for dilution, this default assumption approach will not ensure attainment of water quality standards because numeric water quality criteria will be exceeded in a larger area than anticipated (outside the regulatory mixing zone). The default use of fractions of stream design flows instead of more exacting mixing zone determinations is not always appropriate. In some instances, the effluent plume may never fully mix with the specified amount of receiving water, resulting in plumes where criteria are exceeded extending far beyond what may be considered protective of designated uses or allowed under standards. EPA has recommended that site-specific information on the mixing characteristics of a discharge be collected to verify the level of protection assumed to be provided to a water body using default mixing zone provisions.

EPA believes it is important for individual States and Tribes to make consistent dilution allowance decisions from one site to the next. Requiring States and Tribes, as part of their water quality standards, to specify how dilution allowances under complete and incomplete mix situations will be established may be an appropriate way to ensure consistent decision-making.

To best define dilution allowances for implementing water quality standards, it is useful to define both stream design flows and effluent design flows. In particular, a distinction should be made between the stream design flows to be used for different ambient water quality criteria (e.g., aquatic life acute, aquatic life chronic, human health carcinogen). In addition, effluent design flows may vary in some cases based upon seasonal changes or production cycles. Stream design flows may be applied as a maximum dilution allowance or adjusted in individual cases based on any stream-specific or pollutant-specific considerations. Stream design flows, if they are used, must correspond to the duration and frequency components of the ambient water quality criteria contained in the State or Tribal water quality standards. Currently, States and Tribes must justify the scientific validity of their stream design flow policies where they differ from EPA's recommendations. States and Tribes may also establish specific guidelines for restricting dilution allowances in individual cases (e.g., States and Tribes may adopt special restrictions on dilution allowances for human health criteria where a discharge is within 2 miles of a drinking water intake).

EPA's Great Lakes Guidance and its Technical Support Document for Water Quality-Based Toxics Control identify acute and chronic stream design flows to be utilized in drafting permit limits. The Guidance establishes a 7Q10 or 4-day, 3-year biologically-based stream design flow for implementation of the aquatic life criterion continuous concentration (chronic criteria); a 1Q10 for the implementation of the aquatic life criterion maximum concentration (acute criteria); harmonic mean flow for implementation of human health criteria; and a 90Q10 for the implementation of wildlife criteria.

In cases where complete and rapid mixing of effluent with receiving water does not occur, site-specific mixing determinations must be made. Although the selection of fractions of stream design flows for the assignment of available dilution for point source discharges does affect the size of the regulatory mixing zone, such default assignments are not hydrologically linked to the actual behavior of the effluent plume in the receiving water, may not protect swimming and drifting organisms or sessile or benthic organisms and are not equivalent to a mixing analysis. There may be other instances where the reliance on a fixed percentage of flow or cross-sectional area of the receiving stream in lieu of an actual mixing analysis may not reflect the mixing behavior of an effluent. In some high dilution situations, there may be more rapid dilution occurring than is assumed in dilution calculations.

If complete and instantaneous mixing actually occurs, using less than 100% of the design flow can be a means of accounting for situations where the actual assimilative capacity of the water body is unknown. States and Tribes typically determine water body assimilative capacity based on ambient background concentration of a pollutant, when data on such concentrations is available. The assimilative capacity is the difference between the background level of a pollutant and the highest level that would comply with the water quality criterion. Where information on all sources of a given contaminant to a specific water body is incomplete, or where the State or Tribe wishes to reserve assimilative capacity for the future, States and Tribes should allocate less than 100% of the assimilative capacity of that water body at design flow by utilizing less than 100% of the design flow for dilution. EPA is interested in comment addressing the use of these stream design flows or fractions of stream design flows in setting mixing zones and in reserving assimilative capacity in a water body.

The Great Lakes Guidance allows States and Tribes to use default assumptions for available dilution in the absence of site-specific mixing data. The default dilution assumption for open waters (e.g., lakes) provides for ten-to-one dilution. The Guidance also allows for a demonstration to determine actual mixing zone water quality, size, placement and behavior. Under the Guidance, for open waters, in no case can mixing zone size exceed that area in which discharge-induced mixing occurs. As a default, the Guidance restricts the mixing zone for protection of aquatic life from acute effects (i.e., the dilution allowed in calculating limits based on an acute aquatic life criterion or CMC) to 2 parts receiving water to 1 part effluent, at water body design flow or volume.

As a default for implementing criteria for the protection of aquatic life from chronic effects (CCC) in flowing waters (e.g., rivers and streams), the Great Lakes Guidance allows States and Tribes to use up to 25% of the design flow for dilution. If a site-specific mixing analysis is performed, a larger mixing zone may be established. Mixing zones for acute aquatic life criteria in flowing waters are limited to the final acute value or FAV (2× the acute criterion) just as in open waters. EPA is interested in comment on whether this FAV default "cap" approach is appropriate for waters outside the Great Lakes Basin.

As stated above, the Great Lakes Guidance allows increases above the default mixing zone allowances when site-specific mixing zone analyses are conducted. These demonstrations compile data on the mixing behavior of the effluent at a particular site (e.g., the size, shape and location of the mixing zone). The Guidance also required that mixing zones maintain existing and designated uses and comply with narrative water quality criteria (e.g., "free froms").

The Great Lakes Guidance also specifies that mixing zones may not jeopardize the existence of threatened or endangered species or their critical habitat.

EPA advocates the watershed approach to water quality protection. For the water quality standards program, the emphasis has been toward refinement of designated uses and incorporation of new and emerging sophisticated and integrated analytical tools as a means to better characterize the ecological condition of water resources and more effectively protect designated uses (see section I(A) "General Purpose and Vision" of this document). The development and implementation of mixing zone policies by States and Tribes constitutes risk management at the sub-watershed level. EPA has consistently emphasized the need to ensure that State and Tribal mixing zone provisions protect the designated uses of receiving waters. Site-specific data collected through a mixing zone analysis will ensure that designated uses will be protected the loss of ecological integrity from the discharge of effluents will be prevented. An emphasis on the protection of designated uses and maintenance of ecological integrity is essential to the watershed approach. The watershed approach requires increased site-specific information on local aquatic systems and an assessment of the impact of all discharges to local ecosystems. The watershed approach also depends upon the meaningful involvement of local communities in risk management decision-making. Explicit, clear implementation policies provide the public with the information necessary to understand decisions being made by regulators and the impact of those decisions on local resources.

Request for Comments on Mixing Zone Policies and Implementation Procedures

EPA requests comment on the following questions:

1. Should the regulation be changed to expressly require States and Tribes to include a statement in their water quality standards indicating whether mixing zones are allowed?
2. Should the regulation be changed to expressly require States and Tribes to specify procedures by which mixing zone decisions for individual discharges would be made?
3. Should the regulation be modified to identify the minimum requirements or elements for State and Tribal mixing zone policies (including size, location, and methodologies)?

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4. Consistent with current EPA policy, should the regulation explicitly require narrative criteria to apply in mixing zones?

5. Should the regulation require States and Tribes to identify in their mixing zone provisions what minimum water quality conditions are required within mixing zones?

6. Are there any circumstances, types of pollutants or water body types (e.g., wet weather discharges) where mixing zones should be restricted or prohibited?

7. Should mixing zones for bioaccumulative pollutants be prohibited? If so, under what circumstances? Should such prohibitions be addressed on a water body- or basin-specific basis? Should EPA allow exceptions to any such prohibitions?

8. Should the regulation require States and Tribes to specify procedures and decision criteria for evaluating complete and incomplete mixing?

9. Should the regulation require different mixing zone/dilution procedures for complete and incompletely mixed situations?

10. Should an assumption of rapid and complete mixing within State and Tribal implementation procedures be prohibited except where a defensible technical rationale is included in each site-specific determination?

11. Should the regulation explicitly allow the use of default mixing zone assumptions based on fractions of stream design flow in the absence of site-specific data?

12. Should the regulation be clarified, consistent with current EPA policy, to require States and Tribes to identify the water body design flows or volumes upon which their water quality standards are based?

F. Wetlands as Waters of the United States

The current water quality standards regulation contains no definition of "waters of the United States," although this term is used in the definition of "water quality standards." The phrase "waters of the United States" has been defined elsewhere in Federal regulations, including regulations governing the National Pollutant Discharge Elimination System (NPDES). That definition at 40 CFR 122.2 includes wetlands whose use, degradation or destruction could affect interstate commerce and wetlands adjacent to other waters of the U.S. However, because this definition does not appear in 40 CFR 131, some have questioned whether Part 131 applies to wetlands. EPA's position is that the Part 131 regulations do apply to wetlands. EPA is considering including the definition for "waters of the United States" under the standards regulation as well, or, at a minimum, cross-referencing the definition at 40 CFR 122.2 as a means of clarifying that the existing regulation applies to wetlands that fall within the definition of waters of the United States. Currently, EPA plans no review or revision of the existing definition of "waters of the United States" as part of any revision of the water quality standards regulation. Therefore, under the ANPRM, EPA is interested in comment limited to whether the existing definition should be included within the standards regulation in some form.

EPA believes that some States or Tribes may not be providing the same protection to wetlands that they provide to other surface waters, including designation of attainable uses consistent with the CWA and assignment of protective water quality criteria. Therefore, EPA wishes to emphasize that wetlands require the same protection under water quality standards as other waters of the U.S. Section 303 of the CWA requires the protection of all "waters of the U.S." under standards. Addition of the definition of "waters of the U.S." under a revision of the regulations would not constitute an expansion of authority or application, but merely a clarification of those requirements already contained within the CWA. Treatment of jurisdictional issues would not be affected by such a revision, including treatment of waters constructed as waste treatment systems (e.g., wetlands constructed for wastewater treatment). Notwithstanding protection of wetlands under other provisions of the CWA (e.g., Section 404), Section 303 clearly establishes a baseline level of protection applicable to all waters. Further, it is this treatment under water quality standards which provides for protection of wetlands as applied under Section 404.

Necessary components of water quality standards for wetlands are designated uses and criteria, as defined in 40 CFR 131.6. EPA recognizes that uses and criteria should reflect the unique physical, chemical and biological characteristics of wetlands. States and Tribes are encouraged to develop and adopt appropriate classification systems which provide protection of beneficial uses of wetlands through the application of physical, chemical and biological criteria. EPA also recognizes that certain parameters, conditions or even pollutants may be most appropriately addressed by criteria which specifically reflect differences between wetlands and other surface waters.

Request for Comments on Wetlands

EPA requests public comment on the following questions:

1. Should "waters of the United States" be defined in the water quality standards regulation?

2. Should EPA provide explicit reference in the regulation to the applicability of water quality standards to wetlands?

3. Do the current regulation and existing guidance provide the necessary regulatory clarity, technical tools, and incentives for States and Tribes to develop appropriate standards for wetlands?

4. Are specific programmatic changes needed to facilitate the development of water quality standards for wetlands?

G. Independent Application Policy

1. Introduction

Section 101(a) of the Clean Water Act states: "The objective of this Act is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters." To this end, States and Tribes designate single or multiple uses for their waters including aquatic life protection. For the purposes of assessing the extent to which aquatic life is protected and whether actions to protect aquatic life are needed, the CWA requires that States and Tribes adopt water quality criteria necessary to support designated uses. For waters where aquatic life protection is an applicable designated use, the extension of the CWA requires States and Tribes to adopt criteria protective of aquatic life. Taken together, chemical, physical, and biological integrity define the overall ecological integrity of an aquatic ecosystem. Over the years, EPA, States and Tribes have developed various tools to assess the extent to which water quality attains this objective. These tools have been developed to build on and support the capabilities of each other and provide a comprehensive set of elements necessary for implementing water quality standards and achieving the objective of the CWA. EPA policy and guidance recommends that States and Tribes use chemical-specific, toxicity, and biological criteria to monitor and protect designated uses. In 1991, EPA established its policy on independent application (U.S. EPA, transmittal memorandum of final policy on biological assessment and criteria from Tudor Davies to Regions, June 19, 1991). EPA's independent application policy speaks to how assessments based on these three kinds of criteria are to be integrated into all forms of water quality management decision-making. EPA's independent application policy and the ensuing discussion here address the issue of how the three different kinds of assessments are interpreted only in the context of protection of aquatic life and aquatic life uses and not in the context of protection of human health or wildlife.

With the advent of different ways of assessing the health of aquatic systems comes the possibility of conflicting results. To address such conflicts, EPA developed the policy of independent application. Independent application states that where different types of monitoring data are available for assessment of whether a water body is attaining aquatic life uses or for identifying the potential of pollution sources to cause or contribute to non attainment of aquatic life uses, any one assessment is sufficient to identify an existing or potential impact/impairment, and no one assessment can be used to override a finding of existing or potential impact or impairment based on another assessment. The independent application policy takes into account that each assessment provides unique insights into the integrity and health of an aquatic system. In addition, each assessment approach has differing strengths and limitations, and assesses different stressors and their effects, or potential effects, on aquatic systems. For example, while biological assessments can provide information in determining the cumulative effect of past or current impacts from multiple stressors, these assessments may be limited in their ability to predict, and therefore prevent, impacts. While chemical-specific assessments are useful to evaluate and predict ecosystem impacts from single pollutants, chemical-specific methods are unable to assess the combined interactions of pollutants (e.g., additivity). Similar to biological assessments, toxicity testing provides a means of evaluating the aggregate toxic effects of pollutants, and like chemical assessments, can also be used when testing effluent to predict single chemical impacts. One of the limitations of toxicity testing, however, is that the identification of pollutants causing toxicity is not always possible or cost-effective. Each of these three assessment approaches relies on different kinds of water quality data, measures different endpoints and, in practice, will be interpreted in the context of implementing a water quality management program that includes assessment and pollution control. EPA's policy on independent application is based on the premise that any valid, representative data indicating an actual or projected water quality impairment must not be ignored when determining the appropriate action to be taken. Independent application recognizes the strengths and limitations of all three assessment approaches.

The next three sections briefly describe three assessment approaches (biological, toxicological and chemical) one could likely be evaluating when using independent application. Those three sections are then followed by two parallel discussions on different uses of water quality data. One use relates to the NPDES permits program to determine whether a permit must contain water quality-based chemical or toxicity limits, and what those numeric limits should be. The other relates to the use of such data to evaluate the quality, or condition, of waters under the CWA section 305(b) and 303(d) programs. At the core of both of these contexts is the question "are the present applicable water quality criteria complete and appropriate for the water body, and how are we to measure attainment of the present or future criteria that apply to any water body in question?" Thus, in its most basic sense, independent application remains a water quality standards question. Any changes to or clarifications of the policy on independent application must therefore be considered first under the rubric of water quality standards and then in the separate contexts of permitting and water quality evaluation which are based on water quality standards.

States and Tribes routinely determine whether water bodies are attaining their designated uses and whether existing pollution controls adequately protect those uses. Some States and Tribes have recommended to EPA that it modify the independent application policy. Currently, EPA's policy of independent application is the same for both NPDES permitting and water quality assessment programs. However, EPA recognizes that each of the programs has somewhat different data needs and attributes. Therefore, today's notice separates the two distinct uses of independent application to better focus the discussion.

a. Biological Assessments. Biological assessments are based on quantifying differences between expected biological community attributes such as structure, function and condition (known as a reference condition) and the biological community attributes found at a specific site being evaluated. The extent to which the community at the site deviates from the reference conditions is indicative of the degree of impairment at the specific site. The strength of biological assessments is their ability to provide a direct measure of the health of aquatic ecosystems. Biological assessments are also able to detect non-chemical impacts (e.g., habitat loss, sedimentation, temperature effects) in addition to chemical toxicity problems.

States and Tribes that use biological assessments, use them primarily to evaluate the ecological condition of water bodies and to determine whether a water body is healthy, threatened, or impaired (i.e., aquatic life use attainment decisions). In some instances, States and Tribes have used biological assessments to establish monitoring requirements in an NPDES permit, but generally, most use bioassessments to make non-regulatory, general, water resource management decisions. Data from a biological assessment can be compared to a gradient that shows the reference (expected) conditions without impairment on one end and the worst situation on the other. States and Tribes generally use the results to determine whether additional measures are needed to protect the water segment, or determine how close to attainment an impaired system is. Biological assessments can also play a role in linking impairment to causative agents. This link is often not definitive, but can be very useful in helping to identify the causes and sources of many impairments. Some States and Tribes have used indicator species or groups to distinguish effects of toxicity from effects of organic enrichment. For example, one State documented that a midgefly larvae is found to be predominant in areas contaminated by electroplating or metal wastes. Although biological assessments cannot be used to predict conditions in a mathematical modeling sense, over time they can be used to indicate the direction of change, and the degree of that change, in the condition at a particular site. This information, where it is based on enough data using relatively sensitive appropriate metrics, can be very valuable in deciding whether the current condition is likely to be maintained under similar conditions in the future, or whether there are early warning signs of biological impacts giving reason to believe that additional regulatory actions may be needed to prevent water quality standards impairment. Regulatory actions that are a response to measured change in biological condition will tend to be restorative more than preventative (i.e.,

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once biological impact is measured, by definition, that impact was not prevented). Although, slight changes that are not sufficient to render a water in non-attainment of its aquatic life use, can provide early warning of potentially more significant future changes. In contrast, as noted above, regulatory actions based on impairment predicted, for example via a chemical-specific modeling analysis, tend to be preventative. To the extent that conditions in a water body do change (e.g., flow), biological assessments do not reveal potential future impacts under other exposure conditions (e.g., low-flow conditions). Programmatically, there are concerns regarding quality assurance and quality control for various biological assessment techniques since they have yet to be promulgated, or standardized, in any EPA programs. This is mainly due to the site-specific nature of biological assessments. Implementation of biological criteria is also discussed in section (B) of this notice.

b. Toxicological Assessments. Toxicological assessments are conducted by exposing aquatic organisms to effluent or ambient water samples or sediment samples in a laboratory and determining the effects on the exposed organisms. Because toxicity assessments evaluate the overall effects of the entire suite of constituents in a sample, they are ideal for identifying interactions between chemicals that can alter the expected effects of individual chemicals on exposed organisms. Toxicity assessments also capture the toxic effects of chemical compounds not commonly monitored for or for which chemical-specific criteria are lacking. In addition, because it can be manipulated in the laboratory, toxicity testing can predict the likelihood of ecological impacts before they occur. This allows safeguards to be put into place before an actual ecological impact occurs.

Toxicity assessments are usually limited by the variety of species that can be cultured in the laboratory. While numerous test species can be used to evaluate the toxicity of individual samples, typically only two or three species are used for such tests. By comparison, eight different families are required to develop chemical-specific criteria. For some toxicants, the broader sensitivity range provided by testing eight different families is particularly important, for example, where the mode of toxicity action is specific (e.g., pesticides). Identifying the cause of toxicity can, in some situations, be a difficult, expensive, and lengthy process. Another consideration is that toxicity testing does not detect habitat perturbations which can greatly limit a water resources aquatic life use. Finally, toxicity assessments are only valid for as long as all the sample testing conditions remain the same. Ambient conditions affecting toxicity may change over time necessitating additional testing.

c. Chemical Assessments. Chemical assessments measure individual chemical constituents (e.g., copper, lead) or chemical conditions (e.g., pH, temperature, hardness, organic content) in a medium. Chemical assessments may be performed on effluent or ambient water samples or sediment samples. Chemical analyses are usually simpler to conduct and generally less expensive than toxicity assessments or bioassessments, particularly if there are only a few chemicals of concern, but the information from these tests may provide limited insight into the ecological condition of the water body. If information is available on pollutant persistence and degradation, modeling can be used to predict pollutant fate and transport under a variety of exposure scenarios. Further, chemical-specific assessments are ideal for predicting the likelihood of ecological impacts where they may not yet have occurred either because a proposed activity affecting water quality has not been implemented or critical exposure conditions have not yet been experienced by the aquatic community. For these reasons, regulatory actions based on chemical-specific assessment can be preventative as well as restorative.

Basing regulatory and management decisions on chemical assessment of water quality is an important and proven aspect of water quality assessment and protection. However, as an indirect measure of aquatic health, one of the principal limitations to chemical assessments is dependence upon chemical-specific benchmarks (such as chemical water quality criteria) for determining whether water quality is suitable or unsuitable for attaining and maintaining aquatic life uses. As noted elsewhere in this notice, stressors other than specific chemicals in a water body are often a significant or even predominant cause of nonattainment of aquatic life uses. EPA's current thinking is that complete reliance on chemical-specific assessments of water quality is too narrow of a focus and fails to provide information on other important ecosystem stressors. In addition, as noted elsewhere in this notice, there are currently water quality criteria for the protection of aquatic life for 31 chemicals. There are tens of thousands of chemicals discharged into surface waters. (Note, however, that the chemicals for which there are criteria tend to be the most frequently discharged). Thus there is the added problem of too few criteria and too many chemicals, making it inappropriate to rely *exclusively* on the chemical-specific approach. Another substantial limitation of chemical-specific benchmarks is that for a given site, the benchmarks that are used, may not be the best that are available to reflect the level of protection applicable at the site. For example, site-specific aquatic life criteria are generally different (higher or lower) than the national recommendations for the same chemical. And yet absent site-specific criteria, the national recommendations are often used.

2. Independent Application and Water Quality Assessments

a. Independent Application. States and Tribes often collect or have access to monitoring data that measure the concentration of specific chemicals in an effluent or water body, the level of toxicity present in ambient water or discharges to a water body and/or the biological community composition within a water body. These data are then interpreted by comparing them to reference conditions or criteria to determine whether or not aquatic life uses are attained. EPA's 1991 policy on independent application was explicit about the use of independent application in water quality programs: "This policy, therefore, states that appropriate action should be taken when any one of the three types of assessment determines that the standard is not attained. States and Tribes are encouraged to implement and integrate all three approaches into their water quality programs and apply them in combination or independently as site-specific conditions and assessment objectives dictate." In implementing this policy, EPA recommends that data from the three assessment approaches be applied independently in water quality programs since each method provides unique and distinct information on the characteristics of the water body. In other words, EPA recommends that differences in assessment results be resolved in one of two ways: either presume an adverse impact when any one source of data indicates an adverse impact, or reevaluate the complete data set and modify the applicable criteria to account for the new site-specific information. Given EPA's mission to protect the environment and absent definitive data to demonstrate that an assessment is in error or otherwise biased, EPA presumes where an assessment indicates impairment, that assessment is valid.

In the context of applying the independent application policy to the assessment of water bodies, there are two distinct CWA provisions to consider: (1) section 305(b), which requires States and Tribes to report to EPA and EPA to report to Congress a description of the quality of the Nation's waters; and (2) section 303(d), which relates to identification of waters where technology-based limitations and other required controls are not stringent enough to ensure that applicable water quality standards will be attained and maintained. With respect to the section 305(b) Report, the CWA broadly calls for States and Tribes to assess water quality conditions in a biennial report. EPA transmits these reports to Congress, together with an analysis of the reports describing water quality conditions. Because these are water quality assessment reports that States and Tribes submit to EPA, and not specific regulatory decisions, there may be sufficient flexibility in the interpretation of data to allow a more integrated approach to evaluating limitations and inconsistencies in the interpretation of data produced under various approaches. For example, direct assessments of the condition of the waters (e.g., biological assessment) could be weighted more heavily than indirect measurements (e.g., chemical and toxicity).

With respect to section 303(d), the CWA and EPA's implementing regulations require States and Tribes to identify those waters for which technology-based limitations and other required controls are not stringent enough to achieve water quality standards applicable to such waters. *See* 303(d)(1)(A), 40 CFR 130.7(b)(1). When identifying waters pursuant to 303(d), the methods used to determine non-attainment of standards for water quality reporting under 305(b) should also be used. However, water bodies are eliminated from 303(d) list consideration if technology-based controls or other required Federal, State, Tribal or local requirements will result in the attainment of applicable water quality standards. TMDLS developed to secure restoration of designated uses are largely dependent upon chemical criteria and assessment to define acceptable pollutant loadings.

The question arises as to whether States and Tribes have the flexibility to exclude a water body from 305(b) reports and 303(d), i.e., conclude that the designated use was protected, even in the face of data indicating one or more excursions of the applicable chemical-specific water quality criteria. EPA would like to consider possible mechanisms under the existing CWA and the legal theories supporting them to address these questions.

As with determining the need for regulatory controls (permit limits), similar data evaluation issues face States, Tribes and EPA in performing water body assessments for purposes of sections 303(d) and 305(b) of the CWA. With respect to such assessments, EPA's goals for States and Tribes are twofold: (1) to encourage the use of chemical, toxicological, physical and biological data in making water body assessments; and, (2) to ensure that the data are interpreted and reported in a consistent and scientifically defensible manner so that documents such as the 305(b) report to Congress provide valid and useful information on the status of the Nation's waters as a whole, irrespective of State or Tribal boundaries.

EPA recognizes that there may be instances where these goals appear to be in conflict. It is possible that as States and Tribes implement biological assessment programs, they may identify new areas of impact that were previously undetected using other assessment techniques and that this may lead to a reluctance on the part of States and Tribes to develop the expertise necessary to conduct biological assessments. Although this tendency is contrary to the goals and objectives of the CWA, the fact is that addressing new and previously unaddressed threats to surface water quality places additional strain on already limited State and Tribal resources. Some also feel that adherence to a strict independent application policy for assessment purposes discourages the use of more data than minimally needed to make an aquatic life use assessment. In most cases, the minimal amount of data would be a chemical grab sample for a few water quality characteristics such as temperature, pH, BOD, or dissolved oxygen. Collecting minimal data for assessment reporting is much easier and less resource intensive for States and Tribes that are required to increase their reporting coverage, and these States and Tribes would not have to deal with differing interpretation of assessment results.

However, EPA believes that placement of waters on section 303(d) and section 305(b) lists should be based on broad thorough assessment data, not on limited and narrow data. The former will help ensure that targeted water quality controls and management actions are appropriate and will result in water quality standards attainment; the latter can result in significant outlays of State and Tribal resources targeted on waters where water quality problems are not well understood. EPA is considering how best to obtain accurate, high-quality assessment data and how to reconcile differences between assessments conducted using different techniques in a manner that fosters consistency and remains scientifically defensible.

b. Alternatives to Independent Application.

There is considerable sentiment among various stakeholder groups that there is a need to better incorporate more comprehensive data, particularly biological data, into the water quality assessment framework described above and that doing so will facilitate collection and use of more integrated and insightful water quality data. EPA shares this view. Some have used the term "weight-of-evidence" to describe an alternative to the present EPA policy of independent application that could facilitate integration of chemical, physical, toxicological and biological data into the assessment program. However, EPA recognizes that individuals' views about the meaning of the term "weight of evidence" vary considerably and this variation should be addressed. The term "weight-of-evidence" has been interpreted by some to mean that one approach to assessment, e.g., biological, could routinely be used to override conclusions drawn using another assessment technique, e.g., chemical. EPA believes that approach is hierarchical, not a weight-of-evidence approach. EPA's position is that each approach, chemical, toxicological, physical and biological has inherent strengths and limitations and that all valid water quality assessment data generated under any of these approaches should be used in assessing the health of aquatic ecosystems, in ways that adequately take into account the strengths and limitations of each approach.

EPA's current thinking is that as forms of water quality assessment data have become broader (chemical, physical, biological and toxicological), and as the amount of such data increases, the water quality standards and assessment programs need to facilitate continued collection and use of such data, and that doing so will lead to more thorough water quality assessments, more insightful water quality criteria, and better descriptions of aquatic life designated uses. EPA would not support an approach that could lead to collecting fewer and narrower water quality data by States, Tribes and dischargers. On the contrary,

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EPA's current thinking is that to employ a weight-of-evidence approach, a State or Tribe (or EPA) would need to have a comprehensive set of water quality data to evaluate the chemical, physical, toxicological and biological conditions in a water and to conduct ecological impact assessment to determine the precise causes of impacts (chemical, physical, biological, and toxicological) and how best to address them. EPA's current thinking is that the most appropriate context for using a weight-of-evidence approach would be in establishing criteria. In addition, as discussed below, EPA is interested in evaluating the use of a weight-of-evidence approach for assessment and reporting under section 305(b) of the CWA. However, once the criteria are established for a water body, the assessment for purposes of listing under section 303(d) of the CWA and permitting under NPDES, must be based on all applicable water quality criteria.

EPA's 305(b) reporting guidelines interpret the independent application policy to apply to aquatic life use assessments for State 305(b) reports, not just to permitting for protecting waters due to reasonable potential to violate water quality standards. This policy helps protect against dismissing valuable information when evaluating aquatic life use attainment, particularly in detecting impairment. This approach is most protective when there is limited data available and when there is no documentation on the rigor of the assessment. EPA is concerned that lack of information can provide false confidence about the health of the nation's water bodies. However, EPA is now developing a comprehensive approach for conducting aquatic life use assessments which integrates chemical, toxicological, physical and biological data, and includes consideration of the strengths and limitations of the assessment methods and the data. This shift toward more integrated assessments is reflected in EPA's most recent guidance to the States and Tribes on conducting 305(b) assessments, particularly in determining nonattainment (EPA's Guidelines for Preparation of the 1996 State Water Quality Assessments (305(b)) reports, EPA 841 B–95–001) and is the primary focus of the Office of Water's Criteria and Standards program Plan. The 1996 305(b) guidelines are consistent with the Policy on Independent Application while incorporating a weight-of-evidence approach in determining the degree of impairment (partial or nonsupport). The 1996 guidelines do not allow for a finding of full support, or attainment, of aquatic life use when there are differences in assessment results. Under certain circumstances, however, the guidelines allow for the possibility of a finding of partial support, even where results of different assessments are not fully consistent. Generally, *in assessing severity of impairment*, assessments based on data with high levels of information, or rigor, should be weighted more heavily than those based on data with low levels of information, and, rigorous biological data should be weighted more heavily than other data types. EPA recommends that the results of biological assessments, especially those with high levels of information, be the basis for the overall aquatic life use support (ALUS) determination if the data indicate impairment. This is because rigorous biological data provide a direct measure of the status of the aquatic biota and detect the cumulative impact of multiple stressors on the aquatic community, including new or previously undetected stressors.

Determining the level of information or rigor for each assessment is a critical component of the 305(b) guidelines on making an ALUS determination. The levels of information allow characterization of the quality and the temporal and spatial coverage of the data States and Tribes utilize to conduct their use assessments. Levels of information are identified for assessments based on biological, physical, chemical and toxicological data. For example, measures of the condition of the aquatic community using indices incorporating multiple assemblages of aquatic organisms based on a regional reference approach would rate higher than a measure of a single organism or single metric or annual fixed station monitoring for chemical contaminants. Likewise, three years of bi-monthly fixed station monitoring for chemical contaminants would rate higher than annual fixed station monitoring for the same chemicals or a biological measure of a single organism or metric. Understanding the breadth and robustness of the assessment methods used in evaluating whether a water body is attaining its designated aquatic life use is important information for EPA, the States, and the public.

In the future, EPA will be evaluating possible scenarios where a finding of full support could be justified despite differences in assessment results. For example, a finding of full support based on rigorous biological data may be justified despite differences with chemical specific assessment results *depending* on the magnitude and frequency of the chemical exceedances and the applicability of the chemical benchmark to the site. It will be important for EPA to carefully evaluate such potential scenarios and to define the adequate data requirements and level of rigor necessary to support a determination of full support despite differences in assessment results. Equally important, EPA will need to carefully consider the ramifications of such determinations on other parts of its water program.

Another permutation of the weight-of-evidence approach to aquatic life use assessment is to establish a hierarchy in which the results of one method could always override the other methods should there be difference in assessment results. Most frequently, it has been argued that biological assessments could always override chemical assessments in determining whether the designated aquatic life uses are being attained. Some prefer this approach because a rigorous biological assessment provides a direct measure of existing ecosystem health and have expressed concern that the policy of independent application oversimplifies the relationship among different data sets used to assess current water quality conditions. Proponents of this approach contend that biological assessment is an integrated assessment that incorporates the information that would be provided through either chemical or toxicological assessments into a single, comprehensive measure of aquatic ecosystem health. Some advocate the acceptance of rigorous biological data as the ultimate arbiter of aquatic life use attainment. They also suggest that, at least with respect to current aquatic life condition assessments, chemical, toxicological, and biological assessments are not independent; each measures the same assessment endpoint, but from different stressors. These proponents say that biological assessment is the only assessment approach available to integrate and reflect current effects from chemical, toxicological, physical, and nonpoint source stressors. Because of this they suggest that rigorous data based on biological assessments and criteria should automatically supersede data from other sources when determining aquatic life use attainment. Some contend that if biological data demonstrate that biological criteria are attained, then the water body is attaining its designated use, even if other monitoring data such as toxicological or chemical data demonstrate an excursion, or potential for an excursion, above a water quality criterion.

Some also contend that rigorous biological assessments should be used to supersede assessments based on predicted impacts such as water quality modeling and wasteload allocations in decision making for aquatic life use assessments. One concern with this perspective is that non-rigorous biological assessments could be used in such situations, though EPA has 305(b) reporting guidance which suggest minimum quality of biological assessments that could also be used for these situations. In this guidance, EPA recommends using more than one assemblage (fish and/or macro invertebrates/and or algae), several index values or metrics (multiple metrics), an index period for sampling, and ecoregional or other biogeographic regional calibration.

EPA agrees that rigorous biological assessment based on adequate site-specific data is a direct assessment of aquatic ecosystem health, unlike chemical and toxicity assessments. However, biological assessments are less well suited for use in preventing water quality impacts and will only reflect impacts once they have occurred. Though this may be less of a concern in waters with a relatively constant level of discharge where there has been ongoing biological assessment. A second objective of water quality assessment under the CWA, beyond assessing when the aquatic life use is impaired, is assessing when stressors, if left unchecked, will cause impairment. As discussed above, the chemical-specific approach is especially strong for use in identifying and predicting impacts before they happen.

EPA is concerned that the use of a hierarchical approach may ignore or undermine valuable information, whether that information is biological, physical, chemical, or toxicological, and not trigger the appropriate action to address the inconsistency (e.g., evaluation of existing criteria and development of site-specific criteria). Therefore, EPA does not support such an approach. EPA has a number of concerns with any approach wherein data from certain assessment techniques may be automatically superseded by those from others. A primary concern is the failure of such a system to make use of all valuable information. In all cases, criteria, whether chemical-specific, toxicological, physical or biological, are derived with the intent of identifying a threshold beyond which unacceptable impacts to aquatic ecosystems are expected to occur. In most cases, it is expected that when different assessment techniques (i.e., chemical and biological) are used for determining attainment of aquatic life uses, the techniques will yield similar results if all are done rigorously. In addition, it is expected to be rare for chemical assessments to indicate nonattainment where biological assessment indicate attainment; analyses conducted by the State of Ohio confirm this. (See Yoder, C., "Answering Some Concerns about Biological Criteria Based on Experiences in Ohio."). However, it is also expected that in certain cases, different assessment techniques will result in different determinations of aquatic life use attainment due to the fact that each technique evaluates aquatic life use attainment differently, and some take into account safety factors for ensuring future attainment while others focus on the current status of the condition. When different assessment techniques that are intended to measure similar environmental endpoints and yield comparable results fail to do so, it may be an indication that assumptions underlying the criteria are not valid for a particular site, or that the data were not rigorous.

While in some cases it may be appropriate to weigh one set of data more heavily than another in making a use attainment determination, in others it may be preferable to take advantage of such circumstances as opportunities to validate and cross-check criteria, making adjustments as indicated by the data. This could result, for example, in an adjustment to a specific chemical criterion in a particular water if rigorous biological assessment indicated that such an adjustment is appropriate. Such information is also useful to EPA in improving national criteria development methodologies.

Lack of comparability in assessments is also a concern for either a weight-of-evidence or a hierarchical approach to aquatic life use assessments. Therefore, it is important that there be a common understanding between States, Tribes and EPA as to how conflicts in data interpretation will be resolved in evaluating and reporting water quality. Developing comparable methods to handle data conflicts will make comparisons between States and Tribes more useful, such as in 305(b) reports. Without a consistent approach to resolving data conflicts, assessments of water quality data at the national level becomes problematic. EPA's policy of independent application is one way of providing a consistent and defensible framework for data evaluation in order to minimize this problem.

Request for Comments on integration of data in water quality assessments

EPA is interested in comment on how chemical, physical, toxicological, and biological assessments can be effectively incorporated and implemented in State and Tribal water quality standards programs to achieve the goals of the CWA.

EPA requests comments on the following questions:

1. How can conflicting interpretations of water quality assessment data be reconciled in a scientifically defensible manner? Should each kind of water quality information stand alone as a scientific measure of current water quality conditions and ecosystem health? Alternatively, are there situations where one type of data should be given more weight than another in determining use attainment?
2. How should States and Tribes evaluate water quality information generated using chemical, toxicological, physical, and biological methods when determining use attainment status?
3. When interpretation of water quality data indicate inconsistent results, what factors (i.e., data richness), if any, should EPA consider relevant to determining "appropriate actions"?
4. Should EPA explicitly address in the water quality standards regulation the evaluation assessments using chemical, toxicological, physical and biological assessment methods?
5. Should an approach be instituted where independent application may be relaxed for water quality assessment strategies and decisions when a State or Tribe has established a comprehensive monitoring and assessment program including biological monitoring and assessment? What guidelines should be used to evaluate a State or Tribal biological monitoring and assessment program?
6. How should the policy of independent application address the distinction between situations where adequate rigorous data are available for each assessment technique and situations where available data for one or more of the assessment techniques are limited in quantity or quality? Specifically, should the policy be modified to more explicitly encourage or require, where feasible, additional monitoring, particularly where limited data are to be used as a basis for regulatory action?

3. Independent Application and NPDES Permitting

a. Independent Application. Clean Water Act section 101(a) states that "[t]he objective of this Act is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters." In the context of implementing water quality-based pollution controls under the NPDES program, EPA has maintained that independent

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application of all forms of water quality assessment data (i.e., chemical, physical, toxicological and biological) is clearly consistent with this objective. In addition to restoring impaired surface waters, water quality-based pollution controls are often implemented to prevent water quality standards impairment that projections indicate will occur in the absence of the water quality-based controls. Thus, predictive assessment tools are necessary and have proven effective in the NPDES water quality-based program.

An important question in NPDES permitting that EPA's policy of independent application was specifically developed to address is: how should differences in interpretation of water quality data produced using different water quality assessment techniques for aquatic life uses be reconciled? Upon examination of this question, EPA determined that differences in data interpretation do not necessarily equate to contradictory results. Different assessment results may be complementary since the different approaches can measure different aspects of water quality. For aquatic life uses, all three data types (chemical, toxicological, and biological) provide useful information and should be used to protect designated uses. Because the different types of assessments often focus on different aspects of aquatic community health and each has different strengths and limitations, it is possible that any one type of assessment may fail to detect impairments, or potential impairments of the designated use. For that reason, EPA's current interpretation of the CWA and its implementing regulations is that all three types of data (chemical, toxicological, and biological) should be used when evaluating the reasonable potential for a discharge to cause or contribute to an excursion above a water quality criterion and, if one approach indicates that water quality is, or will be, impacted, the results from the other methods could not be used to refute that finding. Under this approach, where "reasonable potential" is found, the NPDES permitting authorities must take appropriate "actions;" that is, implement water quality-based effluent limits that are derived from and comply with the applicable water quality criteria. These "actions" may also include additional monitoring to determine whether a problem exists, or to derive site-specific criteria if a particular criterion is found to be inaccurate for a site. The policy on independent application is presented in further detail in Chapter 1 of EPA's 1991 Technical Support Document for Water Quality-based Toxics Control (TSD) and in chapter 1 of EPA's Water Quality Standards Handbook—Second Edition, September 1994 (Handbook) (both documents cited above).

In the Great Lakes Guidance, EPA maintained its policy of independent application with respect to determining the need for water quality-based effluent limits, making it an explicit implementation requirement in the Great Lakes States. The Guidance, in Appendix F, Procedure 5, section F "Other Applicable Conditions," states "When determining whether WQBELs are necessary, information from chemical-specific, whole effluent toxicity and biological assessments shall be considered independently." (40 CFR Part 132, Appendix F, Procedure 5, Section F.3.).

In the permitting context, EPA's independent application policy reflects language in sections 301(b)(1)(C) and 303 of the CWA and permit regulations implementing these statutory provisions at 40 CFR 122.44(d). Pursuant to section 303 of the CWA, States and Tribes adopt chemical-specific numeric criteria and toxicity criteria as part of their water quality standards. Section 303(c)(2)(B) of the CWA further requires States and Tribes to adopt, as part of their water quality standards, numeric criteria for toxic pollutants for which EPA has published guidance under section 304(a), and whose discharge or presence in State or Tribal waters could reasonably be expected to interfere with the designated uses adopted by the State or Tribe for those waters. (As discussed elsewhere in this document, all States and Tribes have narrative water quality criteria as well.)

Section 301(b)(1)(C) of the CWA requires effluent limitations in NPDES permits that are "necessary to meet water quality standards" or necessary to "implement any applicable water quality standard." Consistent with this provision, EPA's permitting regulations at 40 CFR 122.44(d) require that effluent limits be imposed where the discharge has the "reasonable potential" to cause or contribute to an excursion above water quality criteria and specifically describe how those limits are to be expressed (e.g., chemical-specific versus WET limits). Therefore, once a numeric (or narrative) water quality criterion becomes part of a State's or Tribe's water quality standards, and a permitting authority determines that a discharge of a pollutant would have a reasonable potential to cause or contribute to an excursion above the applicable numeric or narrative criterion, the regulation requires that a limit for that pollutant be established as necessary to meet the water quality criterion. Although the CWA specifies that permit limits must meet water quality standards, it is the permitting regulations that specify the factors that must be considered when determining whether or not there is reasonable potential to cause or contribute to an excursion above a State or Tribal water quality standard, and specifically describe how such limits are to be expressed.

EPA regulations at 40 CFR 122.44(d)(1)(iii)–(v) describe the conditions under which water quality-based effluent limits for specific chemicals and for whole effluent toxicity are required in NPDES permits. While these regulations do not specifically use the term "independent application," the concept is expressly laid out. These regulations require chemical-specific limits when the permitting authority determines there is a reasonable potential for the discharge to cause or contribute to the excursion above the chemical-specific criterion. Likewise, the regulations require limits for whole effluent toxicity if the permitting authority determines there is a reasonable potential for the discharge to cause or contribute to the excursion above the numeric criterion for toxicity or narrative criterion for water quality. Except under limited circumstances (where the State or Tribe lacks a chemical-specific criterion for a pollutant of concern), these regulations do not allow a permitting authority to forgo one type of limit, e.g. a chemical limit, where another type of data, e.g., toxicity, indicate no toxicity. Instead, the two types of data are required to be considered independently.

The independent application policy provides a consistent and coherent protocol for resolving conflicts in interpreting monitoring data when determining "reasonable potential." Where such conflicts exist and cannot be reconciled, independent application directs States and Tribes to presume that the data that indicate a current or potential impact are valid and to take appropriate steps to prevent or remediate the impact. The reconciliation phase allows a State or Tribe to gather additional or more detailed data prior to taking regulatory action. Data interpretation conflicts may be best addressed by identifying the cause of the conflict and recalibrating the models and criteria to better reflect the newly acquired site-specific information. However, if the causes of the data interpretation conflicts cannot be resolved, under independent application, the State or Tribe must take action based on the data indicating impairment or the reasonable potential for impairment of the water body.

EPA believes this procedure for addressing conflicting interpretations of monitoring data is appropriate for a number of reasons. First, as stated earlier, each of the different assessment techniques monitors aquatic ecosystem health from a slightly different perspective. Consequently, it is entirely plausible that only one of the assessment techniques would detect a real or potential impact. Second, assuming that the data generated by the different techniques are of comparable quality and relevance, an indication of a water quality problem using any of the techniques is sufficient reason to implement controls. That being the case, EPA believes the independent application of water quality data in determining when water quality-based effluent limits are necessary for individual dischargers is consistent with the CWA.

Reconciliation of data interpretation conflicts allows flexible evaluation of data. Once a permit application is received from a discharger, States and Tribes frequently engage in discussions with the discharger over the quality and representativeness of the data. This period of data review and evaluation is also an ideal time for addressing any data interpretation conflicts in order to ensure that permitting decisions are defensible and the permit limits that are imposed are necessary to protect designated uses. States and Tribes, together with permittees, may obtain additional data to verify earlier data or conduct timely studies to support the development of site-specific criteria. Ultimately, these site-specific criteria may serve as the basis for a permit limit, or a decision that it is not necessary to limit a pollutant in a particular discharge. All of the actions above are consistent with the independent application policy and the CWA.

Critics of EPA's policy believe either that data from certain types of water quality assessments have inherently greater value than data obtained by other means or that, in a sense, data quality and ecological significance should be averaged, such that if data obtained from two different assessment methods agree and data from a third disagree with the other two, the two could "outweigh" the one. In either case, all of the available data would be considered together, under the assumption that each assessment technique measures a similar endpoint. Under such an approach to data evaluation, limits on effluent toxicity would be appropriate and acceptable as surrogates for chemical-specific limits. Similarly, biological assessment data that do not indicate unacceptable levels of impact on the biological community could serve as the basis for a decision not to include either chemical-specific or effluent toxicity limits designed to support an aquatic life use in a facility's discharge permit. Proponents of this view argue that independent application forces them to take inappropriate regulatory actions when faced with conflicting assessment data. EPA does not agree in principle with this view.

b. Alternatives to Independent Application. States, Tribes, municipalities, and dischargers have expressed concerns that the policy of independent application results in more protection than is necessary to attain and maintain aquatic life designated uses. Many express a preference for an approach which invests data obtained using certain assessment techniques with greater credibility than those obtained in other ways. Such an approach, as discussed above, is sometimes referred to as a weight-of-evidence approach. Under such an alternative approach, assuming a high level of confidence in all the available data, one form of data—usually it is argued biological data— would be the ultimate arbiter of whether water quality-based effluent limits are needed in a discharger's permit. To determine, for example, whether a water quality-based effluent limit is needed for a particular chemical pollutant, the risk of adverse impact on the aquatic community would be determined based on all of the available data relying more heavily on high quality, thorough biological data and on the judgment of the individual conducting the evaluation. Several States and members of the regulated community have advanced this approach as preferable to EPA's independent application policy, arguing that such flexibility to exercise judgment is appropriate.

EPA's current thinking is that it should not promote an alternative approach to making "reasonable potential" decisions that places greater emphasis on biological data. Instead, EPA's current thinking is that such an evaluation of water quality and ecosystem health to determine the appropriate and applicable criteria against which discharges will be evaluated is most appropriately done during the setting of the applicable criteria for a water body. In that arena, it may be feasible to use biological assessment as a basis for determining the appropriate criteria for a given water body. However, once the criteria are set, EPA believes that the current regulation requires "reasonable potential" evaluations against all the applicable criteria, and that the policy of independent application in this context is appropriate.

If biological data indicate that designated uses are being attained in spite of projected or actual chemical-specific criteria exceedances, then additional site-specific analysis should be done to ensure that controls are developed that are necessary to adequately protect the water body from use impairment. Site-specific approaches could include mixing zone studies, more refined water quality modeling to support wasteload allocation, or the development of site-specific criteria. In any case, chemical-specific and toxicity criteria are proven and necessary bases of water quality-based effluent limits. In "reasonable potential" analysis, chemical-specific monitoring is usually focused on pollutant concentrations in the effluent and the projected ambient result of those concentrations being discharged. Thus, this type of analysis commonly yields projected rather than measured water quality impacts. Where biological impact is not detected using biological assessment methods, it is possible that impairment that is projected and plausible, may simply have not yet occurred. However, where discharges to a stream have been relatively constant over time and there has been ongoing biological assessment, this would be less of a concern. EPA's view is that it would be inappropriate to ignore projected impairment simply because the impairment has not yet been observed in the environment.

An additional argument in favor of retaining the independent application policy for "reasonable potential" determinations has to do with the suitability of certain types of data and the unsuitability of others for certain applications within the water pollution control program. For example, biological data are not amenable in the same way as chemical-specific data for use in waste load allocations, load allocations, total maximum daily load calculations or antidegradation reviews. An approach that would allow biological data to negate a finding of "reasonable potential" would suggest possible site-specific inadequacies of particular criteria without providing the information needed to determine definitively whether or not the criteria are appropriate or what any alternative criteria should be. As a consequence, a void would be created in the implementation of State or Tribal water quality standards which would render them unable to perform all of their

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intended functions. Proponents of independent application contend that instead of discarding data and invalidating criteria where conflicting interpretations exist, an effort should be made to determine why the interpretations conflict and to refine the applicable criteria to better reflect the conditions found at the site. Taking this step would ensure that, over time, a full suite of appropriate criteria would be developed for every site and that all appropriate and necessary pollution controls are implemented. In addition, such an approach is consistent with the CWA. Some States and Tribes may be concerned, however, that revising water quality standards, especially where such revision is to deal with a single permitting decision, may be so resource intensive that it is not a realistic option.

As discussed above, if numeric water quality criteria exist and are applicable to a water body, permits for dischargers to the water body must ensure that those criteria are met under section 301(b)(1)(C) and the implementing regulations at 40 CFR 122.44(d). On occasion, States, Tribes and dischargers have asserted that biological and toxicity data from specific waters conflict with chemical data. EPA's current thinking is that instances of clear disagreement between biological and toxicity data and chemical data are infrequent. Based on this belief, EPA would not support a radical shift away from chemical criteria and limits or toxicity criteria and limits. Those tools are simply too important as proven tools for assessing potential impacts to surface waters and improving water quality. EPA's current thinking also suggests that it is important for there to be flexibility to resolve instances of disagreement between different forms of data and that perhaps mechanisms for such flexibility can be clarified or improved. EPA's current thinking is that through collection of broader and more thorough water quality data, EPA, States and Tribes will be able to develop more complete profiles of water body conditions and stressors and that through such evaluation the "necessary actions" (e.g., water quality-based effluent limits for one or more pollutants, listing of the water body as not attaining its aquatic life designated use, or best management practices to address nonpoint sources of pollution) to improve water quality in a given water will become more obvious.

Disagreement between biological, toxicity and chemical data for the same water is cited by some States and dischargers as a potential situation in which independent application would force unnecessary and burdensome requirements on dischargers. Those opposed to independent application of criteria would like to see States and Tribes given greater latitude to determine when limits based on a given criterion are necessary. They suggest that this could be achieved if States and Tribes were to include, in the chemical-specific criteria or toxicity criteria portions of their water quality standards, statements explaining circumstances under which the otherwise applicable criteria would not apply at a particular site or would have to undergo some review and revision, while assuring the designated use of the water body would be maintained. Such circumstances could include where the form of the pollutant in the effluent or receiving water is not the form addressed by the chemical criterion in the State or Tribe's standards; or, where a substantial amount of biological and or toxicity data indicate that discharges of the pollutant at levels that would exceed the chemical criteria are not causing the aquatic life use in a particular water body or segment of the water to be impaired. If these conditions could be met, permitting authorities would have the flexibility to determine that a numeric water quality-based effluent limit for the pollutant in question is not required, or that an alternate limit should apply. This type of flexibility, to rely on biological evaluations *in the criteria setting phase,* where data are sufficient to support such flexibility, could be a strong incentive for States and Tribes to develop stronger biological criteria and assessment programs including monitoring reference areas and complete chemical and toxicity monitoring programs, including site-specific data on most sensitive species to chemical(s) for which flexibility is being sought. EPA approval of water quality standards implementing such an option requires acceptance of an interpretation that sections 301(b)(1)(C) and 303(c)(2)(B) of the CWA allow States and Tribes to identify, within their water quality standards, conditions or circumstances which would render specific numeric criteria not applicable to certain waters in specific instances, or alternatively in need of refinement.

EPA has significant technical questions about how such an option could be implemented within the context of a State's or Tribe's water quality standards. EPA is especially interested in detailed technical comments describing how such an option would be included in a State's or Tribe's water quality standards, how such an option would ensure protection of designated uses in water bodies where criteria are deemed not applicable. In addition, EPA is soliciting comment on specific procedures that could be used by a State or Tribe to arrive at a decision that a criterion is not applicable at a specific site. In particular, EPA is interested in technical evaluations of what types of data would be necessary to support such a decision, the quantity and quality of the data and how the data would be evaluated. Finally, EPA seeks detailed technical comments indicating how other elements of the water quality standards program would function in situations where chemical or toxicological water quality criteria were adjusted based on biological assessments. For example, if a State or Tribe were to employ the option discussed above, it is not apparent how critical water quality program elements such as determining the need for permit limits or whether or not a new discharge could be allowed to a stream segment could occur absent chemical-specific or toxicity-based criteria applicable to the water body. To be workable, this option may need to be paired with a scientifically defensible mechanism for making decisions about activities such as permit limits and load increases. Since chemical criteria and chemical-specific interpretations of narrative criteria currently are the principal benchmark used for these functions, would pursuing the option discussed above be workable, or would it introduce a level of complexity into State and Tribal water quality standards that could result in slowed or suspended water pollution control programs, and expose aquatic ecosystems to greater risk because of the lack of an identified threshold of impact?

EPA's current thinking is that significant flexibility already exists within the current regulatory framework to account for available biological and toxicity data. For example, numeric criteria, once adopted, may be modified to better reflect conditions at a specific site. Bioassessment and toxicity data can play a valuable role in identifying sites where conditions differ sufficiently from those assumed in the calculation of the national or State or Tribe-wide criteria to warrant site-specific modification of the criteria. Bioassessment and toxicity data can also provide useful information in identifying instances where a given constituent in an effluent is toxicologically distinct from a similar substance for which a criterion is available, indicating the need for a separate criterion for the constituent in question. Establishing site-specific criteria would provide relief similar to that contemplated in the option proposed above.

Lastly, public participation is a basic tenet of the water quality standards development process. Public participation is also sought in the context of issuing NPDES permits. During standards development, public input is sought to assist the regulatory agency in identifying the appropriate water quality goals for the waters under the jurisdiction of a State or Tribe. During NPDES permit issuance, public input is again sought to verify that the permit proposed to be issued is consistent with the water quality goals. Some assert that these two public participation steps seek input on different questions and are not interchangeable. Does the weight-of-evidence option discussed above reduce the opportunity for meaningful public participation in the standards setting process by making it more difficult for the public to determine which water quality criteria will apply to which water bodies, and, as a result, what the water quality goals for an individual water body are? EPA is considering how a weight-of-evidence approach might be implemented in a manner that does not restrict the opportunities for meaningful public participation in the water quality goal setting process.

Request for Comments on Independent Application

EPA requests comment on the following questions:

1. What is the rationale for modifying the independent application policy as it pertains to NPDES permitting? Under what circumstances could it be justified?

2. If there are circumstances where an approach other than independent application is acceptable, should any one type of water quality data receive greater weight and why?

3. How should States and Tribes evaluate effluent data generated using chemical, toxicity and biological methods in determining reasonable potential to cause or contribute to an impairment?

4. Would checks or oversight mechanisms be necessary to ensure that where decisions about reasonable potential are based on chemical, toxicity and biological methods, such decisions are made with integrity? For example, EPA or public oversight?

5. Are there any cases which indicate that either chemical-specific, whole effluent toxicity or biological approaches do not legitimately represent some aspect of use attainment?

6. Should EPA explicitly incorporate into the water quality standards regulation the independent application policy?

7. Should independent application be addressed the same or differently for permitting than for assessment and use attainment decisions under 305(b) reporting and 303(d) listing?

8. If EPA were to separate the use of independent application in determining the use attainment status of a water body from the use of independent application when determining reasonable potential for an effluent, what approach, independent application, weight-of-evidence, or hierarchical, should be used for use attainment decisions? NPDES permitting? What would the implications be if the programs used two different policies?

9. Would a policy allowing numeric criteria to not apply to all waters where supported by scientifically defensible data be workable? Would it unnecessarily complicate the regulatory program, for example by delaying the issuance of permits? Are existing mechanisms of criteria setting and permit issuance sufficiently flexible?

IV. Summary and Potential Program and Regulation Changes

EPA believes that the water quality standards program and decisions it yields will continue to be the focus of growing pressure and scrutiny as solutions to remaining surface water quality problems in this country are found to be increasingly elusive, difficult, and/or expensive. The task set forth by the Clean Water Act is to improve water quality even where it is difficult to do so. To accomplish this task, EPA envisions a national water quality standards program in which: the best possible information on whether designated uses are being attained and how to attain and maintain them is available and used; water quality criteria are selected from a wide-ranging menu of scientifically sound criteria and tailored to each watershed; and national norms of consistency and flexibility in State and Tribal water quality standards are clear.

With this vision in mind, EPA, through this ANPRM, begins a review of the water quality standards regulation in a public forum in an attempt to identify possible amendments to the regulation and new guidance or policy that may be needed to address three distinct objectives: (1) eliminate any barriers to, and otherwise enhance State and Tribal implementation of, watershed-based water quality planning and management; (2) facilitate use of new, more integrated water quality assessment and criteria science in water quality standards programs, and; (3) improve the regulation so that it can be implemented more efficiently and effectively (including cost-effectively).

The preceding pages of this ANPRM outline current regulatory provisions, accompanying guidance and policy, and current practices in the core areas of the water quality standards program. Each section of the ANPRM identifies issues that have been raised to EPA that come out of the collective experiences of States, Tribes, cities, industry and environmental advocates, as well as EPA's experience. The issue discussions are followed by specific questions that are intended to elicit focused comments. It is important for commenters to focus on these specific questions as a vehicle for developing comments. It is equally important for commenters to develop ideas that address the three objectives above in a more general sense and to identify the five to seven highest priority issues the commenter believes EPA should address in a follow-on regulatory proposal. EPA welcomes ideas on how the water quality standards regulation, policy and or guidance can be revised to facilitate water quality management on a watershed basis. In requesting comment on eliminating barriers to and facilitating implementation of watershed-based water quality planning and management, EPA directs commenters' attention primarily to the sections on designated uses, criteria, antidegradation, mixing zones and independent application. In requesting comment on how to facilitate use of new, more integrated water quality assessment and criteria science in water quality standards, EPA directs commenters' attention primarily to the sections on biological criteria, and independent application. In requesting comment on how to improve the efficiency and effectiveness (including cost-effectiveness) of the water quality standards program, all sections of the ANPRM are relevant for review.

EPA seeks a water quality standards program that protects the nation's waters as envisioned in the CWA, that establishes requirements that are necessary to attain and maintain healthy and sustainable ecosystems, and that is flexible enough for States and Tribes to protect water quality and at the same time avoid costly requirements that have little or no environmental benefit.

Below is a brief summary outline of the potential changes to the water quality standards program and

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regulation that are discussed and considered in this ANPRM. The list of potential changes includes the potential changes to the program and regulation on which EPA is specifically requesting comment. Each area of potential change is discussed in detail in the specified section of the ANPRM. It is possible that EPA will ultimately propose some of the changes outlined below. It is also possible that EPA will conclude based on the public comments it receives that some or all of the issues presented in the ANPRM can be best addressed through non-regulatory mechanisms such as guidance or policy.

A. Uses

1. Refinement of use designations to achieve increased specificity in aquatic life and recreation uses being protected.

2. Minimum elements of a use attainability analysis (UAA).

3. When is UAA required/not required?

a. UAAs whenever an aquatic life use is designated (beyond fishable/swimmable) to see if the use reflects the highest potential for the water body.

b. Periodic review of marginal or limited aquatic life use designations.

c. When is a use considered attainable?

d. Conditions under which refinements in designated uses may be considered actions not requiring analysis to support use removal and alternatively the conditions under which such action is considered a use removal requiring justification under § 131.10(g).

e. Circumstances under which UAA is required and circumstances under which UAA must be reviewed.

4. Removal of designated uses.

a. Minimum aquatic life uses for all waters, because even degraded water bodies support some form of aquatic life.

b. Evaluate use removal provision at § 131.1(10)(g) allowing removal of a use due to the existence/operation of a dam.

c. Clarify whether the physical factors reason for removing a use includes removal of a recreational use due to poor physical access to the water. Alternatively, the removal of a use for physical factors could be limited to aquatic life uses only.

d. Clarify in § 131.10 that at least one of the six use removal criteria must be met to remove any use, not just aquatic life and recreation uses.

5. Alternatives to use downgrade such as variances, temporary standards and ambient-based criteria.

a. Recognize site-specific criteria set to natural background levels as a permissible alternative to use downgrade.

b. Recognize site-specific criteria set to irreversible anthropogenic background levels as a permissible alternative to use downgrade.

B. Criteria

1. Ambient Water Quality criteria for Aquatic Life Protection.

a. Examination and possible interim revisions to EPA recommendations on the duration and frequency of criteria excursions to account for organism response model and population response model.

2. Site-specific criteria and procedures.

a. Specify that States and Tribes must have regulatory procedures for establishing site-specific criteria.

b. Minimum requirements for development of site-specific criteria.

3. Narrative criteria and interpretation procedures.

a. Identify additional methods for implementation of narrative criteria.

b. Clarify that States and Tribes are required to adopt narrative criteria for all waters. (all States already have).

4. Codification of CWA requirement to adopt numeric toxics criteria.

a. Define "reasonable expectation" under 303(c)(2)(B). ("States and Tribes may adopt numeric chemical-specific criteria for those stream segments where the State or Tribe determines that the priority toxic pollutants for which EPA has issued CWA section 304(a) criteria guidance are present and can reasonably be expected to interfere with designated uses." emphasis added)

5. Chemical criteria beyond priority pollutants.

a. Develop and recommend or require criteria for certain non-priority pollutants.

6. Numeric values in the absence of criteria or data sufficient for criteria.

a. States and Tribes develop method for derivation of alternative values where minimum data requirements for criteria not satisfied. Specific EPA derivation procedure or guidelines.

7. Require or recommend that State and Tribes adopt numeric toxicity criteria.

8. Sediment quality criteria.

a. Require or recommend that States and Tribes adopt sediment criteria (narrative or numeric).

b. Specify in regulation that States and Tribes have the flexibility to adopt sediment quality criteria.

9. Biological criteria.

a. Require or recommend that States and Tribes adopt biological criteria (narrative or numeric).

b. Specify in regulation that States and Tribes have the flexibility to adopt biological criteria.

c. Specify linkage between biological criteria and stressor identification.

10. Wildlife Criteria.

a. Recognize in regulatory text that wildlife criteria are valid forms of water quality criteria.

b. Recognize in regulatory text that wildlife criteria endpoints other than bioaccumulation endpoints are valid bases for wildlife criteria.

11. Physical criteria: Existing and potential future role of.

a. Identify physical criteria such as habitat (including clean sediment) and hydrologic balance criteria in 40 CFR 131 as valid forms of criteria that States and Tribes can adopt in their water quality standards.

12. Human Health Criteria.

a. Higher fish consumption assumptions for site-specific or regional situations when subpopulations that are highly exposed have been identified.

b. Clarification of the use of MCLs and MCLGs in State and Tribal water quality standards.

C. Antidegradation

1. Minimum elements of State and Tribal antidegradation implementation procedures.

a. Revise regulation to include the minimum elements of a State and Tribal antidegradation implementation method.

b. Revise the regulation to explicitly say that State and Tribal antidegradation implementation procedures (in addition to just the policy) must be submitted in triennial review package and are reviewable by EPA.

2. Tier 1 protection (protection of existing uses).

a. Define or clarify what constitutes loss of an existing in-stream water use.

b. Specify that a clear approach to maintaining and protecting existing uses that may not be adequately protected by strict application of water quality criteria is a required element of an antidegradation implementation procedure.

3. Waters covered by tier 2 level protection.

a. Clarify waters subject to tier 2 level protection.

b. Clarify tier 2 provision requiring all cost effective and reasonable best management practices for nonpoint sources prior to allowing a lowering of water quality.

c. Clarify that States and Tribes are to consider the 303(d) listing status of a water body, and the information supporting that status, when determining whether a proposed activity that is expected to degrade water quality in that water body can be authorized under tier 2 of the State's or Tribe's antidegradation provisions.

4. Outstanding national resource water (ONRW) classification, level of protection, and public role in nominating.

a. Public nomination of ONRWs.

b. Level of protection afforded to ONRWs.

5. Creation of Antidegradation tier 2.5.

a. Revise the regulation to explicitly recognize tier 2.5 protection.

D. Mixing Zone Policy and Implementation Procedures

1. Specify that, to use mixing zones, States and Tribes must indicate in their water quality standards whether they allow mixing zones, conditions under which mixing zones are allowed, minimum requirements for mixing zones.

2. Procedures and decision criteria used in addressing complete and incomplete mixing.

3. Site-specific technical justification for rapid and complete mix assumption.

4. State and Tribe policies and procedures to address rate of mixing.

5. Clarify in regulation that narrative criteria apply in mixing zones.

6. Restrict Mixing zones for bioaccumulative chemicals of concern.

E. Applicability of Water Quality Standards to Wetlands

1. Clarify in 40 CFR Part 131 that wetlands with interstate commerce connection are waters of the U.S. requiring water quality standards.

F. Evaluation of EPA Policy of Independent Application (IA)

1. Increase use of chemical, toxicological, physical and biological data in making water body assessments in a consistent and scientifically defensible manner.

2. Specify how, and the circumstances under which, different forms of assessments (chemical, toxicological, physical and biological) can be used together to determine:

a. When a designated aquatic life use is or is not attained,

b. The type and value of criteria that should apply to a water, and

c. When water quality-based effluent limits are required in a permit.

3. Specify the adequate data base and level of rigor necessary in biological assessments to support a determination of full use support despite differences in assessment results.

In addition to the potential program and regulation changes outlined above, EPA is also requesting comment on the costs and benefits and potential reporting and record keeping requirements that might be associated with these changes. These issues are discussed more fully in the next section.

V. Regulatory Assessment Requirements

A. Executive Order (E.O.) 12866, Regulatory Planning and Review

Under Executive Order 12866, [58 **Federal Register** 51,735 (October 4, 1993)] the Agency must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

While this advance notice of proposed rule making establishes no regulatory requirements it could ultimately result in a rule that would satisfy one or more of the above criteria. It has therefore been determined that this action is a "significant regulatory action" under the terms of Executive Order (E.O.) 12866. As such this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations have been documented in the public record.

Under the terms of E.O. 12866, EPA is to prepare for any significant regulatory action an assessment of its potential costs and benefits. If that action satisfies the first of the criteria listed above, this assessment must include, to the extent feasible, a quantification of these costs and benefits, the underlying analyses supporting such quantification, and an assessment of the costs and benefits of reasonably feasible alternatives to the planned regulation. Because the purpose of this notice is to initiate a structured national debate on a broad set of issues rather than to propose specific regulatory changes, it is not feasible to quantify the costs and benefits of any resulting regulations at this time. The Agency is aware, however, that this notice could lead to a regulatory action for which the preparation of a quantitative assessment of costs and benefits would be appropriate. The Agency is thus requesting comment on the costs and benefits of any of the possible regulatory changes discussed in this notice, as well as on appropriate methodologies for assessing them. The Agency would be particularly interested to hear from States and Tribes that may already have experience implementing some of the measures discussed in this Notice and may already have prepared analyses of the costs and/or benefits of such measures. Other members of the public are also encouraged to submit any data they may have on the costs and benefits of specific measures (e.g., conducting biological assessments).

B. The Regulatory Flexibility Act (RFA) as Amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996

Under the RFA, (5 U.S.C. 601 *et seq.*), as amended by SBREFA, for proposed rules, EPA generally is required to conduct an initial regulatory flexibility analysis (IRFA) describing the impact of the regulatory action on small entities as part of rulemaking. However, under section 605(b) of the RFA, if the Administrator for the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities, EPA is not required to prepare an IRFA. The requirement applies to proposed rules only and as this notice is an ANPRM, these requirements do not apply to this notice.

C. Paperwork Reduction Act

Under the implementing regulations for the Paperwork Reduction Act, an agency is required to certify that any agency-sponsored collection of information from the public is necessary for the proper performance of its functions, has practical utility, is not unnecessarily duplicative of information otherwise reasonably accessible to the agency, and reduces to the extent practicable and appropriate the burden on those required to provide the information (5 CFR 1320.9). Any proposed collection of information must be submitted, along with this certification, to the Office of Management and Budget for approval before it goes into effect. Most of the potential regulatory changes discussed in this Notice could entail new reporting and record keeping requirements for States and Tribes and/or members of the regulated public. EPA

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is interested in comments on any and all aspects of these potential paperwork requirements, and in particular on how they should be structured to fulfill the requirements that they have practical utility, are not unnecessarily duplicative of other available information, and are the least burdensome necessary to satisfy the purposes of the Water Quality Standards Program.

Dated: June 25, 1998.

Robert Perciasepe,

Assistant Administrator for Water.

[FR Doc. 98–17513 Filed 7–6–98; 8:45 am]

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federal register

Tuesday
July 7, 1998

Part III

Department of Education

Office of Special Education and Rehabilitative Services; National Institute on Disability and Rehabilitation Research; Notice Inviting Applications for New Awards for Rehabilitation Research and Training Centers Fiscal Year (FY) 1998; Notice

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DEPARTMENT OF EDUCATION

[CFDA No.: 84.133B]

Office of Special Education and Rehabilitative Services; National Institute on Disability and Rehabilitation Research; Notice Inviting Applications for New Awards for Rehabilitation Research and Training Centers for Fiscal Year (FY) 1998

AGENCY: Department of Education.

ACTION: Correction notice.

SUMMARY: On June 23, 1998 a notice inviting applications for new awards for Rehabilitation Research and Training Centers (RRTCs) for FY 1998 was published in the **Federal Register** (63 FR 34233). This notice corrects the maximum award amount per year for three of the RRTCs as indicated in the following table:

APPLICATION NOTICE FOR FISCAL YEAR 1998 REHABILITATION RESEARCH AND TRAINING CENTERS, CFDA NO. 84–133B

Funding priority	Maximum award amount (per year)*
Disability and Employment Policy	$900,000
State Service Systems	700,000
Workplace Supports	700,000

*Note: The Secretary will reject without consideration or evaluation any application that proposes a project funding level that exceeds the stated maximum award amount per year (See 34 CFR 75.104(b)).

FOR FURTHER INFORMATION CONTACT: Donna Nangle, U.S. Department of Education, Room 3423, Switzer Building, 600 Maryland Avenue, SW, Washington, DC 20202–2645. Telephone: (202) 205–5880. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–9136. Internet: Donna_Nangle@ed.gov

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Authority: 29 U.S.C. 760–762.

Dated: June 30, 1998.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

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Part IV

Environmental Protection Agency

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40 CFR Part 136

Guidelines Establishing Test Procedures for the Analysis of Pollutants; Available Cyanide; Proposed Rule

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 136

[FRL–6121–5]

RIN 2040–AC76

Guidelines Establishing Test Procedures for the Analysis of Pollutants; Available Cyanide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This proposed regulation would amend the Guidelines Establishing Test Procedures for the Analysis of Pollutants under Section 304(h) of the Clean Water Act by adding Method OIA–1677: Available Cyanide by Flow Injection, Ligand Exchange, and Amperometry. Method OIA–1677 employs flow injection analysis (FIA) to measure "available cyanide." Method OIA–1677 is being proposed as an additional test procedure for measuring the same cyanide species as are measured by currently approved methods for cyanide amenable to chlorination (CATC). In some matrices, CATC methods are subject to significant test interferences. In contrast, Method OIA–1677 demonstrates greater specificity for cyanide for matrices in which interferences have been encountered using CATC methods. In addition, Method OIA–1677 measures cyanide at lower concentrations and offers improved precision and accuracy over currently approved CATC methods. Method OIA–1677 also offers improved laboratory safety and reduces laboratory waste compared to currently approved CATC methods. This significantly reduces the generation of hazardous waste by the laboratory. Cyanide analysis by Method OIA–1677 is also more rapid than by currently approved methods.

DATES: Comments on this proposal must be submitted on or before September 8, 1998.

ADDRESSES: Send written comments on the proposed rule to "Method OIA–1677" Comment Clerk (Docket #W–98–08); Water Docket (4101); Environmental Protection Agency; 401 M Street, SW., Washington, DC 20460. Commenters are requested to submit any references cited in their comments. Commenters are also requested to submit an original and 3 copies of their written comments and enclosures. Commenters that want receipt of their comments acknowledged should include a self addressed, stamped envelope. All comments must be postmarked or delivered by hand. No facsimiles (faxes) will be accepted.

Data available: A copy of the supporting documents cited in this proposal is available for review at EPA's Water Docket; 401 M Street, SW, East Tower Basement, Washington, DC 20460. For access to docket materials, call (202) 260–3027 between 9 a.m. and 3:30 p.m. for an appointment. An electronic version of Method OIA–1677 will be available via the Internet at http://www.epa.gov/OST/Tools.

FOR FURTHER INFORMATION CONTACT: Dr. Maria Gomez-Taylor, Engineering and Analysis Division (4303), USEPA Office of Science and Technology, 401 M Street, SW, Washington, DC 20460, or call (202) 260–1639.

SUPPLEMENTARY INFORMATION:

Potentially Affected Entities

EPA Regions, as well as States, Territories and Tribes authorized to implement the National Pollutant Discharge Elimination System (NPDES) program, issue permits that comply with the technology-based and water quality-based requirements of the Clean Water Act. In doing so, the NPDES permitting authority, including authorized States, Territories, and Tribes, make a number of discretionary choices associated with permit writing, including the selection of pollutants to be measured and, in many cases, limited in permits. If EPA has "approved" standardized testing procedures (i.e., promulgated through rulemaking) for a given pollutant, the NPDES permit must include one of the approved testing procedures or an approved alternate test procedure. Therefore, entities with NPDES permits could be affected by the standardization of testing procedures in this rulemaking. These entities may be affected because NPDES permits may incorporate one of the standardized testing procedures in today's rulemaking. In addition, when a State, Territory, or authorized Tribe provides certification of federal licenses under Clean Water Act section 401, States, Territories and Tribes are directed to use the standardized testing procedures. Categories and entities that may ultimately be affected include:

Category	Examples of potentially affected entities
State and Territorial Governments and Indian Tribes	States, Territories, and Tribes authorized to administer the NPDES permitting program; States, Territories, and Tribes providing certification under Clean Water Act section 401; Governmental NPDES permittees.
Industry	Industrial NPDES permittees.
Municipalities	Publicly-owned treatment works with NPDES permits.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. This table lists the types of entities that EPA is now aware could potentially be affected by this action. Other types of entities not listed in the table could also be affected. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

I. Authority

Today's proposal is pursuant to the authority of sections 301, 304(h), and 501(a) of the Clean Water Act (CWA), 33 U.S.C. 1314(h), 1361(a) (the "Act"). Section 301 of the Act prohibits the discharge of any pollutant into navigable waters unless the discharge complies with a National Pollutant Discharge Elimination System (NPDES) permit, issued under section 402 of the Act. Section 304(h) of the Act requires the Administrator of the EPA to "promulgate guidelines establishing test procedures for the analysis of pollutants that shall include the factors which must be provided in any certification pursuant to section 401 of this Act or permit applications pursuant to section 402 of this Act." Section 501(a) of the Act authorizes the Administrator to "prescribe such regulations as are necessary to carry out his function under this Act." The Administrator also has made these test procedures applicable to monitoring and reporting of NPDES permits (40 CFR part 122, § 122.21, 122.41, 122.44, and 123.25), and implementation of the pretreatment standards issued under section 307 of the Act (40 CFR part 403, §§ 403.10 and 402.12).

II. Background

A. Cyanide

Cyanides are, as a class, one of the toxic pollutants pursuant to section 307(a)(1) of CWA (see the list of toxic pollutants at 40 CFR 401.15). Total cyanide is a priority pollutant as derived from the toxic pollutant list (see 40 CFR Part 423, Appendix A).

In the context of analytical methods, cyanide or cyanides refers to the group of simple and complex chemical compounds that can be determined as cyanide ion (CN^-). Cyanides are of the form $A(CN)_x$, where A is an alkali such as sodium or potassium, or a metal such as calcium, and x is the number of CN groups attached to A. Cyanides are present in aqueous solutions as CN^- and as hydrocyanic acid (HCN or hydrogen cyanide). The proportion of CN^- and HCN in solution is dependent on the pH and the dissociation constant for HCN. At low pH, the cyanide exits as HCN; at high pH, it exists as CN^-. At the near-neutral or slightly acidic pH of most natural waters, nearly all cyanide is present as HCN. Most of the metal cyanides are insoluble or only slightly soluble in water but may form a variety of soluble cyanide complexes when a cyanide such as potassium or sodium cyanide is present.

Hydrogen cyanide is the cyanide species most toxic to aquatic life. The toxicity of the other cyanides is attributable to the degree of their dissociation and conversion to HCN. Some cyano-metal complexes, such as those of zinc and cadmium, dissociate almost totally (i.e., a knowledge of the complex can be used to determine the amount of cyanide). Other cyano-metal complexes, such as those of iron, dissociate little. For these complexes, a large amount can be present without cyanide being detected. Still, other complexes, such as mercury, nickel, and silver, dissociate partially and only under certain conditions. For complexes that release some, but not all, of the cyanide ion, the amount of dissociation must be known to determine the amount of cyanide. This total, partial, or near lack of dissociation presents a difficulty in the determination of cyanides, as explained below.

B. Need for Improved Methods for Cyanide

Methods proposed in Guidelines Establishing Test Procedures for the Analysis of Pollutants under section 304(h) of the Clean Water Act are listed at Title 40 of the Code of Federal Regulations, § 136.3. EPA had received numerous letters and comments regarding interference problems when the currently approved methods were used to test certain sample matrices and was therefore aware of the need for a cyanide method that reduced or eliminated these interferences. A method for measuring available cyanide by flow injection analysis (FIA) had been developed by ALPKEM in cooperation with the University of Nevada at Reno, Mackay School of Mines in 1995. Besides overcoming most matrix effect problems, Method OIA–1677 uses amperometry as an innovative technology to improve the detection of available cyanide. Method OIA–1677 is faster, more accurate and precise, and allows determination of available cyanide at lower concentrations than currently approved methods. Method OIA–1677 is also safer because it requires a smaller amount of a potentially hazardous sample, requires less manual operations where accidents could lead to exposure, and uses less hazardous substances in the sample preparation and determinative steps.

C. Methods for Determination of Cyanide

Methods presently approved at 40 CFR Part 136 measure cyanide in two ways: as "total cyanide" and "cyanide amenable to chlorination" (CATC). A third way is as "weak-acid dissociable" (WAD) cyanide but there is presently no approved method for WAD cyanide in 40 CFR Part 136. Methods for determination of total cyanide attempt to measure all cyanide species that may dissociate in the environment over time and when exposed to natural forces (e.g., heat, light, water of varying hardness, pH) but ultimately fail to do so because many species cannot be dissociated completely under normal laboratory conditions. The CATC and WAD methods, and Method OIA–1677, which employs ligand exchange, all attempt to measure "available" cyanide, i.e., cyanide species that dissociate in the presence of chlorine and/or acid. The species of cyanide measured by these methods are cyanide ion (CN^-), hydrogen cyanide (HCN), and the cyano-complexes of zinc, copper, cadmium, mercury, nickel, and silver. The net result is that the WAD, CATC, and OIA–1677 methods all measure nearly the same species of cyanide. The term "available cyanide" is used in Method OIA–1677 because the chlorination reaction used in the CATC methods is not employed, although the cyanides determined are the same.

Methods for total cyanide employ reflux distillation in the presence of sulfuric acid and magnesium chloride to dissociate CN_- from cyanide-metal complexes. This process is more vigorous than the dissociation processes used in the WAD, CATC, and ligand-exchange methods, and a greater number of cyanide species are dissociated in the distillation process. The HCN liberated during the distillation is captured in an aqueous solution of sodium hydroxide and the cyanide in the solution is determined spectrophotometrically or titrimetrically.

Cyanide amenable to chlorination (CATC) is determined by chlorinating the available cyanide in the sample using calcium hypochlorite ($Ca(OCl)_2$), measuring the HCN using the total procedure, and finding the CATC concentration by difference between the total cyanide measured before and after the chlorination.

Available cyanide is determined in Method OIA–1677 by flow injection, ligand exchange, and amperometric detection. The ligand-exchange reagents displace cyanide from cyano-metal complexes. Further details of Method OIA–1677 are given in a description of the method below.

As stated above, no method measures all species of cyanides because several species (such as cobalt and gold cyanides) are so stable that they are either not dissociated or are only slightly dissociated in the reflux distillation or chlorination processes. Method OIA–1677 and CATC methods measure easily dissociable and partially dissociable species. Most notable among the partially dissociable species are the certain cyanides of nickel, mercury, and silver when these cyanides are present at high concentrations (ca 2 mg/L). These cyanides are recovered in the range of 55—85 percent in the CATC methods. In contrast, these species are recovered completely in Method OIA–1677, and this is the significant difference between the performance of Method OIA–1677 and approved methods for CATC. As a result, if a sample contains high concentrations of certain cyanides of nickel, mercury, or silver, the result will be somewhat higher when Method OIA–1677 is used, provided no interferences are present. At concentrations below approximately 0.2 mg/L, the recoveries of these cyanides from CATC methods and Method OIA–1677 are all approximately equivalent and near 100 percent.

D. Effect of Interferences on Cyanide Methods

The CATC determination is highly susceptible to interferences, as many substances other than cyanides can react in the chlorination process. For an overview of the nature and magnitude of these interferences, see the paper

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presented by Goldberg, et. al. at the Seventeenth Annual EPA Conference on Analysis of Pollutants in the Environment, May 3–5, 1994 (available from the EPA Sample Control Center, 300 N. Lee Street, Alexandria, VA 22314 (703–519–1140). Interferences in the CATC determination may be by thiocyanate (SCN^-), sulfide (S^{2-}), carbonates (HCO_3^-, CO_3^{2-}), nitrite (NO_2^-), oxidants (ClO_4^-, O_3, H_2O_2), bisulfite (HSO_3^-), formaldehyde (HCHO), surfactants, and metals. Method OIA–1677 is either not susceptible to these interferences or contains procedures that eliminate these interferences or mitigate their effects. The reason that this method is much less susceptible to interferences than the approved CATC methods is that the chlorination reaction is not employed. Rather, the aqueous sample passes a gas diffusion membrane through which the HCN diffuses, as explained in greater detail in the later section of this preamble that describes Method OIA–1677. With approval of Method OIA–1677, EPA believes that most of the reported interference problems in the determination of cyanide would be overcome.

Interferences in the CATC methods normally produce an inflated result for cyanide and, in many instances, the measured level exceeds the concentration for total cyanide, potentially providing a more controversial result in some regulatory contexts. Because Method OIA–1677 is nearly immune to the interferences that inflate results from CATC methods, the result of an analysis using Method OIA–1677 will nearly always be lower, and therefore closer to the true value for cyanide than a result from an analysis using a CATC method. The only exception may be for an analysis in which interferences are not present but certain cyanides of nickel, mercury, or silver are present at high concentrations, as described above. Therefore, the tradeoff in use of Method OIA–1677 versus presently approved CATC methods is that, with Method OIA–1677, there is a reduced susceptibility to interferences, whereas with approved CATC methods, there is a somewhat decreased result if certain cyanides of nickel, mercury, or silver are present at high concentrations. EPA believes that the tradeoff heavily favors use of Method OIA–1677 based on the expected susceptibility of CATC methods to interferences combined with the small probability that a cyanide of nickel, mercury, and silver will be present at a high concentration and be the dominant cyanide in a given discharge. Dominance is important because if a cyanide of nickel, mercury, or silver is present at a concentration that is small in comparison to another cyanide present, the effect on the measured cyanide concentration will be diminished in proportion to the concentration relative to the other cyanide.

Because the lowest result for a given cyanide determination can be produced by either Method OIA–1677 or by a presently approved CATC method, dischargers will likely choose the method that produces the lowest result. The adverse environmental impact to choosing presently approved CATC methods is that not all of the nickel, mercury, or silver cyanide will be recovered (and measured), if any of these cyanides are present.

E. Regulatory Effects of Use of Different Methods

A regulatory problem may occur when a sample of a given discharge is split and a discharger chooses Method OIA–1677 and a regulatory authority chooses an approved CATC method (or vice versa) and one result shows a violation of a permit limit and the other does not. EPA believes that the difference can be worked out in technical discussions between the discharger and the regulatory authority based on the data produced. If these data show that an interference was present, Method OIA–1677 will likely produce the lower result and this result should be relied upon. On the other hand, if the discharger knows that nickel, mercury or silver cyanide is present in the discharge in high concentration and is dominant, the result from the CATC method would be appropriate because it is most consistent with the method used for permit development. Further, it is unlikely that a discharger would select Method OIA–1677 if it knew that a cyanide of nickel, mercury, or silver was present at high concentration, unless interferences were so large that they overwhelmed the effect of the greater recovery. The concern would then be that the regulatory authority employed Method OIA–1677, not knowing that a cyanide of nickel, mercury, or silver was present at a high concentration and dominant in the discharge. However, the discharger could inform the regulatory authority of this presence and may rely upon the text in this preamble and in the technical literature to convince the regulatory authority that the violation is a result of the regulatory authority's use of Method OIA–1677. Finally, EPA believes that occurrences of this problem will be rare and it is more likely that use of Method OIA–1677 will produce a lower result because it is nearly interference free.

F. Analysis Time

The reflux distillation procedure required by CATC methods, including setup and measurement, takes approximately two hours to perform. Therefore, determination of CATC takes approximately four hours of analysis time. In contrast, Method OIA–1677 takes approximately two minutes to perform. This difference will be especially significant for laboratories performing many CATC analyses.

III. Summary of Proposed Rule

A. Introduction

This proposed rule would make available at part 136 an additional test procedure for measurement of available cyanide. Currently approved methods for measurement of available cyanide are based on sample chlorination. Method OIA–1677 as proposed today uses a flow injection/ligand exchange technique to measure available cyanide. Although Method OIA–1677 and chlorination methods both measure available cyanide, it is possible that the results produced by the two techniques will vary slightly, as detailed above. EPA offers Method OIA–1677 as another testing procedure for a variety of purposes including: permit applications and compliance monitoring under the National Pollutant Discharge Elimination System (NPDES) under CWA Section 402; ambient water quality monitoring; CWA Section 401 certifications; development of new effluent limitations guidelines, pretreatment standards, and new source performance standards in EPA's water programs; and for general laboratory use. This rulemaking does not propose to repeal any of the currently approved methods that test for available cyanide. For NPDES permits, the permitting authority should decide which method is appropriate for the specific NPDES permit based on the circumstances of the particular effluent measured. If the permitting authority does not specify the method to be used for the determination of available cyanide, a discharger would be able to use Method OIA–1677 or any of the presently approved CATC methods.

B. Summary of Proposed Method OIA–1677

Method OIA–1677 is divided into two parts: sample pretreatment and cyanide quantification via amperometric detection. In the sample pretreatment step, ligand-exchange reagents are added to a 100–mL sample. The ligand-exchange reagents displace cyanide ions (CN^-) from weak and intermediate strength metallo-cyanide complexes.

In the flow-injection analysis system, a 200–μL aliquot of the pretreated sample is injected into the flow injection manifold. The addition of hydrochloric acid converts cyanide ion to hydrogen cyanide (HCN). The hydrogen cyanide diffuses through a membrane into an alkaline receiving solution where it is converted back to cyanide ion (CN^-). The amount of cyanide ion in the alkaline receiving solution is measured amperometrically with a silver working electrode, silver/silver chloride reference electrode, and platinum counter electrode at an applied potential of zero volt. The current generated in the cell is proportional to the concentration of cyanide in the original sample, as determined by calibration.

C. Comparison of Method OIA–1677 to Current Methods

Methods currently approved for determination of available cyanide all test for CATC. Although they represent the best methods available to date, these methods are prone to matrix interference problems. EPA considers Method OIA–1677 to be a significant addition to the suite of analytical testing procedures for available cyanide because it (1) has greater specificity for cyanide in matrices where interferences have been encountered using currently approved methods, (2) has improved precision and accuracy compared to currently approved CATC cyanide methods, (3) measures available cyanide at lower concentrations, (4) offers improved analyst safety, (5) shortens sample analysis time, and (6) reduces laboratory waste.

Method OIA–1677 is not subject to interferences from organic species. The flow-injection technique of Method OIA–1677 excludes all interferences, except sulfide. Sulfide is eliminated by treating the sample with lead carbonate and removing the insoluble lead sulfide by filtration prior to introduction of the sample to the amperometric cell used for cyanide detection.

Method OIA–1677 was tested against two existing cyanide methods: Method 335.1, an EPA-approved CATC method, and Standard Method (SM) 4500 CN^- I, a weak-acid dissociable (WAD) cyanide method. Comparative recovery and precision data were generated from simple metallo-cyanide species in reagent water. Recovery and precision of each method was comparable for the easily dissociable cyanide species. Method OIA–1677 showed superior precision and recoveries of mercury cyanide complexes.

While Method 335.1 does not specify a method detection limit, colorimetric detection is "sensitive" to approximately 5 μg/L. The method detection limit (MDL; described at 40 CFR part 136, Appendix B) is 0.5 μg/L for Method OIA–1677, as determined in a multi-laboratory study.

Method OIA–1677 offers improved analyst safety for two reasons. The first reason centers on the generation of hydrogen cyanide gas, a highly toxic compound. Although the proposed flow-injection analysis (FIA) method and currently approved CATC methods all generate HCN, the currently approved methods generate a larger quantity of gas during distillation in an open distillation system. As such, extra care must be taken to prevent accidental release of HCN into the laboratory atmosphere. Method OIA–1677, because it tests a much smaller sample, generates significantly less HCN. In addition, the gas is contained in a closed system with little possibility for release. The second reason for improved safety centers on the use of hazardous substances. Currently approved CATC methods require use of hazardous substances in the distillation and color developing processes. These hazardous substances include hydrochloric acid, pyridine, barbituric acid, chloramine-T, and pyrazolone. Method OIA–1677 requires only hydrochloric acid at a much lower concentration than is used in CATC procedures.

Method OIA–1677 offers a reduced analysis time which should increase sample throughput in the laboratory. Method OIA–1677 uses an automated mixing of the sample with hydrochloric acid and exposure to the gas diffusion membrane in order for the sample concentration to be determined. This process takes approximately two minutes per sample. As a comparison, Method 335.1 requires a one-hour distillation procedure plus the time necessary to add and develop the sample color to determine the presence of cyanide.

Less laboratory waste is generated in Method 1667 because it requires a much smaller sample size for testing. Method 335.1 requires handling a sample size of 500 mL for distillation. Method OIA–1677 requires the addition of the ligand exchange reagents to 100 mL of sample, from which 40–250 μL is used for analysis. This reduces the amount of both hazardous sample and toxic reagents that must be handled and subsequently disposed.

D. Quality Control

The quality control (QC) in Method OIA–1677 is more extensive than the QC in currently approved methods for CATC. Method OIA–1677 contains all of the standardized QC tests proposed in EPA's streamlining initiative (62 FR 14976) and used in the 40 CFR part 136, Appendix A methods. An initial demonstration of laboratory capability is required and consists of: (1) An MDL study to demonstrate that the laboratory is able to achieve the MDL and minimum level of quantification (ML) specified in Method OIA–1677; and (2) an initial precision and recovery (IPR) test, consisting of the analysis of four reagent water samples spiked with the reference standard, to demonstrate the laboratory's ability to generate acceptable precision and recovery. An important component of these and other QC tests required in Method OIA–1677 is the use of mercuric cyanide ($Hg(CN)_2$) as the reference standard for spiking. Mercuric cyanide was chosen because it is fully recovered in Method OIA–1677 and weak-acid dissociable (WAD) methods, whereas mercuric cyanide is only partially recovered in the CATC method. Therefore, mercuric cyanide demonstrates the ability of the ligand-exchange reagents to liberate cyanide from moderately strong metal-cyano complexes. Method OIA–1677 requires the use of standards of known composition and purity, which facilitates more accurate determination of recovery and precision and minimizes variability that may be introduced from spiking substances of unknown or indeterminate purity.

Ongoing QC consists of the following tests that would need to accompany each analytical batch, i.e., a set of 10 samples or less pretreated at the same time:

- Verification of calibration of the flow injection analysis/amperometric detection system, to verify that instrument response has not deviated significantly from that obtained during calibration.
- Analysis of a matrix spike (MS) and matrix spike duplicate (MSD) to demonstrate method accuracy and precision and to monitor matrix interferences. $Hg(CN)_2$ is the reference standard used for spiking.
- Analysis of a laboratory blank to demonstrate freedom from contamination.
- Analysis of a laboratory control sample to demonstrate that the method remains under control.

Method OIA–1677 contains QC acceptance criteria for all QC tests. Compliance with these criteria allows a

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data user to evaluate the quality of the results. This increases the reliability of results and provides a means for laboratories and data users to monitor analytical performance, thereby providing a basis for sound, defensible data.

E. Performance-based Measurement System

On October 6, 1997, EPA published a Notice of the Agency's intent to implement a Performance Based Measurement System (PBMS) in all of its programs to the extent feasible (62 FR 52098). The Agency is currently determining the specific steps necessary to implement PBMS in its programs and preparing an implementation plan. Final decisions have not yet been made concerning the implementation of PBMS in water programs. However, EPA is currently evaluating what relevant performance characteristics should be specified for monitoring methods used in the water programs under a PBMS approach to ensure adequate data quality. EPA would then specify performance requirements in its regulations to ensure that any method used for determination of a regulated analyte is at least equivalent to the performance achieved by other currently approved methods. Our expectation is that EPA will publish its PBMS implementation strategy for water programs in the **Federal Register** by the end of calendar year 1998.

Under PBMS, the analyst would have flexibility to modify Method OIA–1677 or to use another method for the determination of available cyanide provided the analyst demonstrates that the performance achieved is at least equivalent to the approved method(s). Since inter-laboratory performance data exists for Method OIA–1677, EPA is proposing that these data be used to specify what performance characteristics would be required for measurement of available cyanide under PBMS. EPA is considering the following performance requirements for the use of modified or alternative methods for the measurement of available cyanide: (1) it measures the same cyanide species; (2) it achieves an MDL that is equal or less than the MDL in Method OIA–1677, or one-third the regulatory compliance level, whichever is greater; and (3) it meets all the performance criteria specified in Table 1 of Method OIA–1677 (initial precision and recovery, ongoing precision and recovery, calibration verification, and matrix spike/matrix spike duplicate). The process for demonstrating acceptable performance is specified in Section 9 of the method.

Once EPA has made its final determinations regarding implementation of PBMS in programs under the Clean Water Act, EPA would incorporate specific provisions of PBMS into its regulations, which may include specification of the performance characteristics for measurement of available cyanide and for other regulated pollutants in the water program regulations.

EPA requests public comments on whether the performance characteristics identified above (see Method OIA–1677 for performance criteria) would be relevant performance characteristics under PBMS, and whether there are other performance requirements that the Agency should consider under PBMS for the measurement of available cyanide.

IV. Validation of the Method OIA–1677

ALPKEM developed the version of Method OIA–1677 proposed today according to procedures set forth in EPA's *Guide to Method Flexibility and Approval of EPA Water Methods* (EPA–821–D–96–004, December 1996) which is available from the EPA's Water Resource Center (phone: 202–260–7786). The version of Method OIA–1677 proposed today responds to comments from users of earlier versions, results of the intra- and interlaboratory studies, as well as results from several single-laboratory MDL studies.

A. Intralaboratory Validation Study Results

Prior to interlaboratory testing, ALPKEM conducted a single-laboratory validation study both to refine the method and to demonstrate the method's specificity and selectivity. Those study results, described briefly here, are detailed in the *Report of the Draft Method OIA–1677 Single Laboratory Validation Study* that is included in the docket for this proposed rule.

The single-laboratory study consisted of three sets of tests to establish (1) the ability of Method OIA–1677 to identify the various species of "free" metallo-cyanide complexes, (2) the ability of Method OIA–1677 to identify cyanide in the presence of interferences, and (3) the recovery and precision of Method OIA–1677 compared to EPA Method 335.1 and SM 4500 CN–I. To determine Method OIA–1677's identification of "free" metallo-cyanide complexes, two different concentrations of 11 different metallo-cyanide complexes were each analyzed individually in triplicate, for a total of 66 analyses. Method OIA–1677 yielded recoveries ranging from 97 to 104 percent for six of the eleven complexes (cadmium, copper, mercury, nickel, silver, and zinc). However, as with the currently approved methods for available cyanide, Method OIA–1677 did not determine cyanide in iron, gold, and cobalt cyanide complexes.

To test the ability of Method OIA–1677's to identify cyanide in the presence of other species, two different concentrations of 11 interferents were analyzed in triplicate for a single cyanide test solution, resulting in a second set of 66 analyses. Even in the presence of these interferents, cyanide recoveries ranged from 99 to 103 percent.

To compare the performance of Method OIA–1677 to the performance of approved methods, 2 different concentrations of the same 11 "free" metallo-cyanide complexes given above were analyzed individually in triplicate by the EPA-approved CATC Method 335.1, SM 4500 CN–I, and Method OIA–1677. This resulted in a third set of 66 data points. These results show improved recoveries and reduced relative standard deviations for Method OIA–1677 compared to both the SM 4500 CN–I and the CATC methods for selected analytes. For the mercury cyanide complexes, recovery improved from 59 percent for SM 4500 CN–I to 99 percent for Method OIA–1677. High levels of interferences in the nickel and silver determinations showed similar improvements over the CATC method. However, data for zinc, cadmium, copper were comparable among the three cyanide procedures. There was no recovery and thus no method improvement for cobalt, gold, or iron cyanide complexes.

B. Interlaboratory Validation Study Results

In association with the Analytical Methods Staff (AMS) in EPA's Office of Water, ALPKEM conducted an interlaboratory validation study. Those study results, briefly described here, are detailed in a report titled, *The Interlaboratory Validation of Method OIA–1677*, and are included in the docket for this proposed rule.

The purpose of the interlaboratory study was (1) to confirm the performance of Method OIA–1677 in multiple laboratories, (2) to assess Method OIA–1677 interlaboratory data variability, and (3) to develop Method OIA–1677 QC acceptance criteria.

Nine laboratories participated in the interlaboratory method validation study, working cooperatively as the WAD Cyanide Round Robin Group. Each laboratory analyzed an identical set of nine field samples using Method OIA–1677. These field samples were collected from nine different effluents ranging from a publicly owned treatment works (POTW) to an industry likely to contain cyanide in its effluent. Each sample was analyzed in triplicate using the FIA procedure for a total of 243 analyses (9 laboratories × 9 samples in triplicate).

Along with the analysis of the field samples, each laboratory performed all required QC analyses, including initial calibration, calibration verification, determination of initial precision and recovery, blank analysis, determination of ongoing precision and recovery (OPR), determination of matrix spike recovery and matrix spike duplicate recovery (MS/MSD) in each sample type, assessment of recovery of cyanide as $Hg(CN)_2$ spiked into samples (ligand-exchange reagent performance check or LERPC). In addition, each laboratory performed an MDL study.

The relative standard deviation (RSD) of results across all laboratories and all samples was 12 percent. The mean sample recoveries across all effluent types tested was 96 percent, and the MS and MSD mean recoveries were 99 percent across all effluent types tested. These results exceed generally accepted norms for analytical chemistry results.

Prior to collection of interlaboratory data, one study participant submitted comments that focused on the difficulty in addition of the proper amounts of WAD A & WAD B ligand-exchange reagents to a sample. The difficulty occurred because of the variability of drop size. The method was modified to designate a specific volume of ligand-exchange reagent rather than a certain number of drops. The modified method was distributed to interlaboratory study participants prior to testing.

C. Development of Quality Control Acceptance Criteria

Data from the interlaboratory study were used to develop QC acceptance criteria for Method OIA–1677. Laboratory procedures and QC calculations are fully described in the interlaboratory study report. Criteria were developed for initial precision and recovery (IPR), ongoing precision and recovery (OPR), and recovery of cyanide as $Hg(CN)_2$ spiked into reagent water samples (ligand-exchange reagent performance check, LERPC). QC acceptance criteria for the IPR, OPR, matrix spike (MS), matrix spike duplicate (MSD), and relative percent difference (RPD) for the MS and MSD were calculated using procedures described in EPA's Streamlining Guide. In addition to those procedures, QC acceptance criteria also were developed for $Hg(CN)_2$ at the upper level of the analytical range. Criteria for this LERPC test were developed according to the same procedure as for the IPR test.

D. Method Detection Limit Studies

Nine single-laboratory MDL studies were performed as part of the effort to determine MDLs and minimum levels (MLs). The MDL is defined as the minimum concentration of a substance that can be measured and reported with 99 percent confidence that the analyte concentration is greater than zero. To determine the MDL, the laboratories were required to follow the procedure in Appendix B to 40 CFR part 136.

In the Appendix B procedure, seven aliquots of reagent water are spiked with the analyte or analytes of interest and analyzed by the proposed method. For the MDL studies, KCN was used as the spiking material. Spike levels were in the range of one to five times the estimated detection limit. Following addition of KCN, cyanide levels in each of the seven aliquots was determined. The MDL was determined to be 0.5 µg/L CN^-.

The minimum level of quantitation (ML) is defined as the level at which the entire analytical system produces a recognizable signal and an acceptable calibration point. The ML is determined by multiplying the MDL by 3.18 and rounding the resulting value to the number nearest to (1, 2, or 5) x 10^n, where n is an integer. The ML for Method OIA–1677 was calculated to be 1.0 µg/L CN^-. However, because this calculated value was below the lowest calibration standard used in the MDL study, the ML was set at the level of that standard, 2.0 µg/L CN^-. Results of the MDL studies, along with the relevant calculations, are detailed in the interlaboratory study report.

V. Status of Currently Approved Methods

This action proposes to make Method OIA–1677 available for measurement of available cyanide. The previously approved methods for analysis of available cyanide, EPA Method 335.1, SM 4500–CN G, and ASTM D2036–91(B), would not be withdrawn or otherwise affected by this regulation. EPA specifically invites comment on this aspect of the proposal, including the possible consequences and solutions if EPA were to withdraw any such methods.

VI. Regulatory Requirements

A. Executive Order 12866

Under Executive Order 12866, (58 FR 51735 (October 4, 1993)) the Agency must determine whether a regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may: (1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order."

This regulation is not significant because it approves a testing procedure for use in compliance monitoring and data gathering but does not require its use. It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small

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governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's proposed rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, or Tribal governments or the private sector. The proposed rule would impose no enforceable duty on any State, local or Tribal governments or the private sector. This rule proposes alternative analytical tests procedures which merely standardize the procedures when testing is otherwise required by a regulatory agency. Therefore, the proposed rule is not subject to the requirements of sections 202 and 205 of the UMRA. EPA invites comment on its conclusions regarding whether alternate test procedures constitute a federal mandate.

EPA has determined that this proposed rule contains no regulatory requirements that might significantly or uniquely affect small governments and thus this proposed rule is not subject to the requirements of section 203 of UMRA. This proposed rule would simply approve an additional test procedure for measurements that may be required under the CWA.

C. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities. This regulation simply approves an additional testing procedure for the measurement of available cyanide which may be required in the implementation of the CWA.

D. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, EPA must submit an information collection request covering information collection requirements in proposed rules to the Office of Management and Budget (OMB) for review and approval. This rule contains no information collection requirements. Therefore, preparation of an information collection request to accompany this rule is unnecessary.

E. National Technology Transfer and Advancement Act of 1995

Under § 12(d) of the National Technology Transfer and Advancement Act ("NTTAA"), the Agency is required to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., material specifications, test methods, sampling procedures, business practice, etc.) that are developed or adopted by voluntary consensus standard bodies. Where available and potentially applicable standards are not used by EPA, the Act requires the Agency to provide Congress, through the Office of Management and Budget (OMB), an explanation for the reasons for not using such standards.

Proposal of Method OIA–1677 is the result of a collaborative effort between OI Analytical, a private sector vendor, and EPA. Method OIA–1677 applies the innovative technologies of ligand exchange, flow injection analysis (FIA), and amperometric detection to the determination of available cyanide, a pollutant regulated under the Clean Water Act. Approval of Method OIA–1677 would allow use of these technologies to overcome interference problems commonly encountered in the determination of available cyanide and would thereby provide more reliable results for compliance determinations.

EPA's search of the technical literature revealed that there are no consensus methods for determination of "available cyanide by flow injection/ligand exchange/amperometry," although ASTM is in the balloting process for approval of such a method. The ASTM method may differ slightly from Method OIA–1677. If ASTM approves such a method prior to final action on today's proposal and EPA determines that the ASTM method is suitable for compliance monitoring and other purposes, EPA may take final action to promulgate the ASTM method (without additional invitation for public comment in the **Federal Register**) when the Agency takes final action to promulgate Method OIA–1677 if the ASTM method ultimately developed does not differ significantly from Method OIA–1677. EPA invites public comments on the Agency's proposed method as well as on any other existing, potentially applicable voluntary consensus standards which the Agency should consider for the determination of available cyanide or cyanide amenable to chlorination by flow injection/ligand exchange/amperometry.

F. Executive Order 13045

The Executive Order, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that EPA determines (1) "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children; and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets the E.O. 13045 as encompassing only those regulatory actions that are risk based or health based, such that the analysis required under section 5–501 of the E.O. has the potential to influence the regulation. This rule is not subject to E.O. 13045 because it does not involve decisions regarding environmental health or safety risks.

VII. Request for Comments

EPA requests public comments and information on this proposed rule. Specifically, EPA invites comment on the appropriateness Method OIA–1677 for cyanide analysis, the utility of Method OIA–1677 for monitoring, the QC acceptance criteria in Method OIA–1677, and the comparability of results with CATC methods and results produced by Method OIA-1677, and EPA's proposed decision not to withdraw other, existing approved methods for determination of available cyanide by CATC.

List of Subjects in 40 CFR Part 136

Environmental protection, Analytical methods, Monitoring, Reporting and record keeping requirements, Waste treatment and disposal, Water pollution control.

Dated: June 29, 1998.

Carol M. Browner,

Administrator.

In consideration of the preceding, USEPA proposes to amend title 40, chapter I of the Code of Federal Regulations as follows:

PART 136—[AMENDED]

1. The authority citation for part 136 continues to read as follows:

Authority: Secs. 301, 304(h), 307, and 501(a) Pub. L. 95–217, Stat. 1566, *et seq.* (33 U.S.C. 1251, *et seq.*) (The Federal Water Pollution Control Act Amendments of 1972 as amended by the Clean Water Act of 1977 and the Water Quality Act of 1987), 33 U.S.C. 1314 and 1361; 86 Stat. 816, Pub. L. 92–500; 91 Stat. 1567, Pub. L. 92–217; Stat. 7, Pub. L. 100–4 (The "Act").

2. Section 136.3, paragraph (a), Table IB is amended by revising entry 24 and adding a new footnote 42 to read as follows:

§ 136.3 Identification of test procedures.

(a) * * *

TABLE IB.—LIST OF APPROVED INORGANIC TEST PROCEDURES

Parameter units and method	Reference (method number or page)				
	EPA[1,35]	Standard methods 18th ed.	ASTM	USGS[2]	Other
* *	*	*	*	*	*
24. Available Cyanide, mg/L Cyanide amenable to chlorination (CATC), Manual distillation with $MgCl_2$ followed by titrimetry or spectrophotometry.	....	335.14500–CN G ..	D2036–91(B)	....	
Available, Flow injection and ligand exchange, followed by amperometry.	....	....	....	....	OIA–1677.[42]
* *	*	*	*	*	*

Table IB Notes:

[1] "Methods for Chemical Analysis of Water and Wastes", Environmental Protection Agency, Environmental Monitoring Systems Laboratory-Cincinnati (EMSL–C1), EPA–600/4–79–020, Revised March 1983 and 1979 where applicable.

[2] Fishman, M.J., et al, "Methods for Analysis of Inorganic Substances in Water and Fluvial Sediments," U.S. Department of the Interior, Techniques of Water—Resource Investigations of the U.S. Geological Survey, Denver, CO, Revised 1989, unless otherwise stated.

* * * * * * *

[35] Precision and recovery statements for the atomic absorption direct aspiration and graphite furnace methods, and for the spectrophotometric SDDC method for arsenic are provided in Appendix D of the part titled, "Precision and Recovery Statements for Methods for Measuring Metals".

* * * * * * *

[42] Cyanide, Available, Method OIA–1677 (Flow Injection Analysis/Ligand Exchange), ALPKEM, a division of OI Analytical, Box 648, Wilsonville, OR 97070.

* * * * * * *

3. In part 136, appendix A is amended by adding Method OIA–1677 following Method 1625 to read as follows:

Appendix A to part 136—Methods for Organic Chemical Analysis of Municipal and Industrial Wastewater

* * * * *

Method OIA–1677, November 1997—Available Cyanide by Flow Injection, Ligand Exchange, and Amperometry

1.0 Scope and Application

1.1 This method is for determination of available cyanide in water and wastewater by flow injection, ligand exchange, and amperometric titration. The method is for use in EPA's data gathering and monitoring programs associated with the Clean Water Act, Resource Conservation and Recovery Act, Comprehensive Environmental Response, Compensation and Liability Act, and Safe Drinking Water Act.

1.2 Cyanide ion (CN^-), hydrogen cyanide in water (HCN_{aq}), and the cyano-complexes of zinc, copper, cadmium, mercury, nickel, and silver may be determined by this method (see Section 17.2.1).

1.3 The presence of polysulfides and colloidal material may prove intractable for application of this method.

1.4 The method detection limit (MDL) is 0.5 µg/L and the minimum level (ML) is 2.0 µg/L. The dynamic range is approximately 2.0 µg/L (ppb) to 5.0 mg/L (ppm) cyanide ion using a 200 µL sample loop volume. Higher concentrations can be determined by dilution of the original sample or by reducing volume of the sample loop.

1.5 This method is for use by analysts experienced with flow injection equipment or under close supervision of such qualified persons.

1.6 The laboratory is permitted to modify the method to overcome interferences or to lower the cost of measurements, provided that all performance criteria in this method are met. Requirements for establishing method equivalency are given in Section 9.1.2.

2.0 Summary of Method

2.1 The analytical procedure employed for determination of available cyanide is divided into two parts: sample pretreatment and cyanide detection. In the pretreatment step, ligand-exchange reagents are added at room temperature to 100 mL of a cyanide-containing sample. The ligand-exchange reagents form thermodynamically stable complexes with the transition metal ions listed in Section 1.2, resulting in the release of cyanide ion from the metal-cyano complexes. Cyanide detection is accomplished using a flow-injection analysis (FIA) system (Reference 15.6). A 200-µL aliquot of the pre-treated sample is injected into the flow injection manifold of the system. The addition of hydrochloric acid converts cyanide ion to hydrogen cyanide (HCN) that passes under a gas diffusion membrane. The HCN diffuses through the membrane into an alkaline receiving solution where it is converted back to cyanide ion. The cyanide ion is monitored amperometrically with a silver working electrode, silver/silver chloride reference electrode, and platinum/stainless steel counter electrode, at an applied potential of zero volt. The current generated is proportional to the cyanide concentration present in the original sample. Total analysis time is approximately two minutes.

2.2 The quality of the analysis is assured through reproducible calibration and testing of the FIA system.

2.3 A flow diagram of the FIA system is shown in Figure 1.

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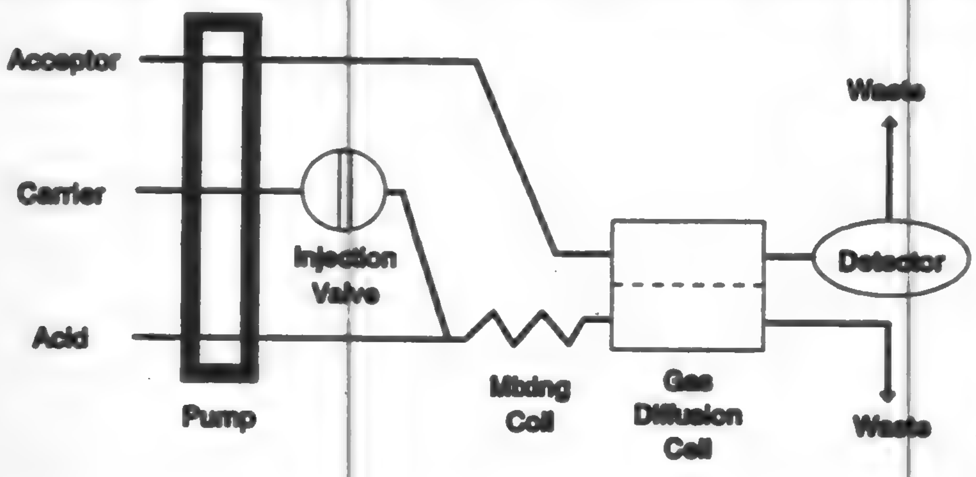

Figure 1. Flow injection Manifold used in the quantification of cyanide in the pretreated sample. Carrier (0.1 M HCl); Acid (0.1 M HCl); Acceptor (0.1 M NaOH).

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3.0 Definitions.

Definitions for terms used in this method are given in the glossary at the end of the method.

4.0 Interferences.

4.1 Solvents, reagents, glassware, and other sample-processing hardware may yield artifacts that affect results. Specific selection of reagents or purification of these reagents may be required.

4.2 All materials used in the analysis shall be demonstrated to be free from interferences under the conditions of analysis by running laboratory blanks as described in Section 9.4.

4.3 Glassware is cleaned by washing in hot water containing detergent, rinsing with tap and reagent water, and drying in an area free from interferences.

4.4 Interferences extracted from samples will vary considerably from source to source, depending upon the diversity of the site being sampled.

4.5 Sulfide is a positive interferent in this method (References 15.3 and 15.4), because an acidified sample containing sulfide liberates hydrogen sulfide that is passed through the membrane and produces a signal at the silver electrode. In addition, sulfide ion reacts with cyanide ion in solution to reduce its concentration over time. To overcome this interference, the sulfide ion must be precipitated with lead ion immediately upon sample collection. Sulfide ion and lead sulfide react with cyanide ion to form thiocyanate which is not detected in the analytical system. Tests have shown (Reference 15.7) that if lead carbonate is used for sulfide precipitation, the supernate containing cyanide must be filtered immediately to avoid loss of cyanide through reaction with precipitated lead sulfide (Section 8.2.1).

4.6 Though not interferences, substances that react with cyanide should also be removed from samples at time of collection. These substances include water soluble aldehydes that form cyanohydrins and oxidants such as hypochlorite and sulfite. Water soluble aldehydes react with cyanide to form cyanohydrins that are not detected by the analytical system; hypochlorite and sulfite oxidize cyanide to non-volatile forms. Procedures for the removal of these substances are provided in Sections 8.2.2 and 8.2.3.

4.7 Tests conducted using samples containing large amounts of colloids indicate that cyanide losses are rapid when colloids are present. Filtration can be used to remove colloids, but may have an adverse effect on measured cyanide levels. This method should not be applied to samples with large amounts of colloids unless the laboratory is able to demonstrate that cyanide concentration measurements in a sample are not affected by filtration.

5.0 Safety.

5.1 The toxicity or carcinogenicity of each compound or reagent used in this method has not been precisely determined; however, each chemical compound should be treated as a potential health hazard. Exposure to these compounds should be reduced to the lowest possible level.

5.2 Cyanides and cyanide solutions.

WARNING: The cyanide ion, hydrocyanic acid, all cyanide salts, and most metal-cyanide complexes are extremely dangerous. As a contact poison, cyanide need not be ingested to produce toxicity. Also, cyanide solutions produce fatally toxic hydrogen cyanide gas when acidified. For these reasons, it is mandatory that work with cyanide be carried out in a well-ventilated hood by properly trained personnel wearing adequate protective equipment.

5.3 Sodium hydroxide solutions.

CAUTION: Considerable heat is generated upon dissolution of sodium hydroxide in water. It may be advisable to cool the container in an ice bath when preparing sodium hydroxide solutions.

5.4 Unknown samples may contain high concentrations of volatile toxic compounds. Sample containers should be opened in a hood and handled with gloves to prevent exposure.

5.5 This method does not address all safety issues associated with its use. The laboratory is responsible for maintaining a safe work environment and a current awareness file of OSHA regulations regarding the safe handling of the chemicals specified in this method. A reference file of material safety data sheets (MSDSs) should be available to all personnel involved in these analyses. Additional information on laboratory safety can be found in References 15.8 and 15.9.

6.0 Equipment and Supplies

Note: Brand names, suppliers, and part numbers are for illustrative purposes only. No endorsement is implied. Equivalent performance may be achieved using apparatus and materials other than those specified here, but demonstration of equivalent performance that meets the requirements of this method is the responsibility of the laboratory.

6.1 Flow injection analysis (FIA) system—ALPKEM Model 3202 (Reference 15.5), or equivalent, consisting of the following:

6.1.1 Injection valve capable of injecting 40 to 300 µL samples.

6.1.2 Gas diffusion manifold with a microporous Teflon® or polypropylene membrane.

6.1.3 Amperometric detection system with:

6.1.3.1 Silver working electrode.

6.1.3.2 Ag/AgCl reference electrode.

6.1.3.3 Pt/stainless steel counter electrode.

6.1.3.4 Applied potential of 0.0 volt.

6.2 Sampling equipment—Sample bottle, amber glass, 1.1-L, with polytetrafluoroethylene (PTFE)-lined cap. Clean by washing with detergent and water, rinsing with two aliquots of reagent water, and drying by baking at 110–150 °C for one hour minimum.

6.3 Standard laboratory equipment including volumetric flasks, pipettes, syringes, etc, all cleaned, rinsed and dried per bottle cleaning procedure in Section 6.2.

7.0 Reagents and Standards.

7.1 Reagent water—Water in which cyanide and potentially interfering substances are not detected at the MDL of this method. It may be generated by any one of the methods listed below. Reagent water generated by these methods shall be tested for purity utilizing the procedure in Section 11.

7.1.1 Activated carbon—Pass distilled or deionized water through an activated carbon bed (Calgon Filtrasorb-300 or equivalent).

7.1.2 Water purifier—Pass distilled or deionized water through a purifier (Millipore Super Q, or equivalent).

7.2 Sodium hydroxide—ACS reagent grade.

7.3 Potassium cyanide—ACS reagent grade.

7.4 Mercury (II) cyanide, ≥99% purity—Aldrich Chemical Company Catalog No. 20,814–0, or equivalent.

7.5 Silver nitrate—ACS reagent grade. Aldrich Chemical Company Catalog No. 20,913–9, or equivalent.

7.6 Hydrochloric acid—approximately 37%, ACS reagent grade.

7.7 Preparation of stock solutions. Observe the warning in Section 5.2.

7.7.1 Silver nitrate solution, 0.0192 N—Weigh 3.27 g of $AgNO_3$ into a 1-L volumetric flask and bring to the mark with reagent water.

7.7.2 Rhodanine solution, 0.2 mg/mL in acetone—Weigh 20 mg of p-dimethylaminobenzal rhodanine (Aldrich Chemical Co. Catalog No. 11,456–8, or equivalent) in a 100-mL volumetric flask and dilute to the mark with acetone.

7.7.3 Potassium cyanide stock solution, 1000 mg/L

7.7.3.1 Dissolve approximately 2 g (approximately 20 pellets) of sodium hydroxide in approximately 500 mL of reagent water contained in a 1-liter volumetric flask. Observe the caution in Section 5.3. Add 2.51 g of potassium cyanide (Aldrich Chemical Co. Catalog No. 20,781–0, or equivalent), dilute to one liter with reagent water, and mix well. Store KCN solution in an amber glass container at 0–4°C.

7.7.3.2 Standardize the KCN solution (Section 7.7.3.1) by adding 0.5 mL of rhodanine solution (Section 7.7.2) to 25 mL of KCN solution and titrating with $AgNO_3$ solution (Section 7.7.1) until the color changes from canary yellow to a salmon hue. Based on the determined KCN concentration, dilute the KCN solution to an appropriate volume so the final concentration is 1.00 g/L, using the following equation:

Equation 1

$x \times v = 1 g/L \times 1 L$

Where:

x=concentration of KCN solution determined from titrations

v=volume of KCN solution needed to prepare 1 L of 1 g/L KCN solution

If the concentration is not 1.00 g/L, correct the intermediate and working calibration concentrations accordingly.

7.7.4 1M sodium hydroxide—Dissolve 40 g of sodium hydroxide pellets in approximately 500 mL of reagent water in a 1-liter volumetric flask, observing the caution in Section 5.3. Dilute to one liter with reagent water. Store in an amber bottle at room temperature.

7.8 Secondary standards.

7.8.1 Cyanide, 100 mg/L—Dilute 100.0 mL of cyanide stock solution (Section 7.7.3.2) and 10 mL of 1M sodium hydroxide (Section 7.7.4) to one liter with reagent water (Section 7.1). Store in an amber glass bottle at 0–4°C.

7.8.2 Cyanide, 10 mg/L—Dilute 10.0 mL of cyanide stock solution and 10 mL of 1M sodium hydroxide to one liter with reagent water. Store in an amber glass bottle at 0–4°C.

7.8.3 Cyanide, 1 mg/L—Dilute 1.0 mL of cyanide stock solution and 1 mL of 1M sodium hydroxide to one liter with reagent water. Store in an amber glass bottle at 0–4°C.

7.8.4 Cyanide working calibration standard solutions (2—5000 µg/L as cyanide)—Working calibration standards may be prepared to cover the desired calibration range by adding the appropriate volumes of secondary standards (Sections 7.8.1, 7.8.2, 7.8.3) to 100 mL volumetric flasks that contain 40 mL of reagent water 7.1) and 1 mL of 1M sodium hydroxide (Section 7.7.4). Dilute the solutions to 100 mL with reagent water. Prepare working calibration standards daily. The following table provides the quantity of secondary standard necessary to prepare working standards of the specified concentration.

Working calibration standard concentration (µg/L)	Secondary standard solution volume		
	Secondary standard concentration (section 7.8.3) 1 mg/L	Secondary standard concentration (section 7.8.2) 10 mg/L	Secondary standard concentration (section 7.8.1) 100 mg/L
0.000			
2.0	0.200		
5.0	0.500	0.050	
10.0	1.00	0.100	
50.0	5.00	0.500	0.050
100	10.0	1.00	0.100
200	20.0	2.00	0.200
500	50.0	5.00	0.500
1000		10.0	1.00
3000		30.0	3.00
5000		50.0	5.00

If desired, the laboratory may extend the analytical working range by using standards that cover more than one calibration range, so long as the requirements of Section 10.3 are met.

7.9 Sample Preservation Reagents.

7.9.1 The presence of sulfide may result in the conversion of cyanide to thiocyanate. While lead acetate test paper has been recommended for determining the presence of sulfide in samples, the test is generally unreliable and is typically not usable for sulfide concentrations below approximately 1 ppm. The use of lead carbonate (Aldrich Chemical Co. Catalog No. 33,637–8, or equivalent), followed by immediate filtration of the sample is required whenever sulfide ion is present. If the presence of sulfide is suspected but not verifiable from the use of lead acetate test paper, two samples may be collected, one without lead carbonate addition and another with lead carbonate addition followed by immediate filtration. Analyze both samples. If sulfide is present, the preserved sample should contain higher levels of cyanide than the unpreserved sample. Lead acetate test paper may be used, but should be tested for minimum level of sulfide detection by spiking reagent water aliquots with decreasing levels of sulfide and determining the lowest level of sulfide detection attainable. The spiked samples are tested with lead acetate test paper moistened with acetate buffer solution. The buffer solution is prepared by dissolving 146 g anhydrous sodium acetate, or 243 g sodium acetate trihydrate in 400 mL of reagent water, followed by addition of 480 g concentrated acetic acid. Dilute the solution to 1 L with reagent water. Each new batch of test paper and/or acetate buffer should be tested to determine the lowest level of sulfide ion detection prior to use.

7.9.2 Ethylenediamine solution—In a 100 mL volumetric flask, dilute 3.5 mL pharmaceutical-grade anhydrous ethylenediamine (Aldrich Chemical Co. Catalog No. 24,072–9, or equivalent) with reagent water.

7.9.3 Ascorbic acid—Crystals—Aldrich Chemical Co. Catalog No. 26,855–0, or equivalent.

7.10 FIA Reagents.

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7.10.1 Carrier and acid reagent (0.1M hydrochloric acid)—Dilute 8 mL of concentrated hydrochloric acid to one liter with reagent water.

7.10.2 Acceptor stock solution (5M sodium hydroxide)—Dissolve 200 grams of sodium hydroxide in 700 mL of reagent water with stirring, observing the caution in Section 5.3. Dilute to one liter with reagent water.

7.10.3 Acceptor reagent (0.1M sodium hydroxide)—Dilute 20 mL of sodium hydroxide solution (Section 7.7.4) to 1000 mL with reagent water.

7.10.4 Ligand-exchange reagent A–ALPKEM part number A001416, or equivalent.

7.10.5 Ligand-exchange reagent B–ALPKEM part number A001417, or equivalent.

7.11 Quality control solutions.

7.11.1 Mercury (II) cyanide stock solution (1000 mg/L as cyanide)—Weigh 0.486 g of mercury (II) cyanide (Section 7.4) in a 100-mL volumetric flask. Add 10–20 mL of reagent water and 1 mL of 1M sodium hydroxide solution (Section 7.7.4). Swirl to mix. Dilute to the mark with reagent water.

7.11.2 Laboratory control sample (LCS)—Place 2.00 mL of the mercury (II) cyanide stock solution (Section 7.11.1) in a 100-mL volumetric flask and dilute to the mark with reagent water to provide a final cyanide concentration of 2.00 mg/L.

8.0 Sample Collection, Preservation, and Storage.

8.1 Sample collection and preservation—Samples are collected using manual (grab) techniques and are preserved immediately upon collection.

8.1.1 Grab sampling—Collect samples in amber glass bottles with PTFE-lined caps cleaned according to the procedure in Section 6.2. Immediately after collection, preserve the sample using any or all of the preservation techniques (Section 8.2), followed by adjustment of the sample pH to ≥12 by addition of 1M sodium hydroxide and refrigeration at 0–4°C.

8.1.2 Compositing—Compositing is performed by combining aliquots of grab samples only. Automated compositing equipment may not be used because cyanide may react or degrade during the sampling period. Preserve and refrigerate each grab sample immediately after collection (Sections 8.1.1 and 8.2) until compositing.

8.1.3 Shipment—If the sample will be shipped by common carrier or mail, limit the pH to a range of 12.0–12.3. (See the footnote to 40 CFR 136.3(e), Table II, for the column headed "Preservation.")

8.2 Preservation techniques.

8.2.1 Samples containing sulfide ion—Test samples with lead acetate test paper (Section 7.9.1) to determine the presence or absence of sulfide ion. If sulfide ion is present, treat the sample with sufficient solid lead carbonate (Section 7.9.1) to remove sulfide (as evidenced by lead acetate test paper) and immediately filter into another sample bottle to remove precipitated lead sulfide. If sulfide ion is suspected to be present, but its presence is not detected by this test, two samples should be collected. One is treated for the presence of sulfide and immediately filtered, while the second sample is not treated for sulfide. Both samples must be analyzed by the laboratory. (Tests conducted prior to the interlaboratory validation of this method showed significant and rapid losses of cyanides when lead sulfide was allowed to remain in contact with the sample during holding times of three days and less. As a result, the immediate filtration of samples preserved with lead carbonate is essential (Reference 15.6).

8.2.2 Samples containing water soluble aldehydes—Treat samples containing or suspected to contain formaldehyde, acetaldehyde, or other water soluble aldehydes with 20 mL of 3.5% ethylenediamine solution (Section 7.9.2) per liter of sample.

8.2.3 Samples known or suspected to contain chlorine, hypochlorite, and/or sulfite—Treat with 0.6 g of ascorbic acid (Section 7.9.3) per liter of sample. EPA Method 330.4 or 330.5 may be used for the measurement of residual chlorine (Reference 15.1).

8.3 Sample holding time—Maximum holding time for samples preserved as above is 14 days. Unpreserved samples must be analyzed within 24 hours, or sooner if a change in cyanide concentration will occur. (See the footnotes to Table II at 40 CFR 136.3(e).)

9.0 Quality Control.

9.1 Each laboratory that uses this method is required to operate a formal quality assurance program (Reference 15.9). The minimum requirements of this program consist of an initial demonstration of laboratory capability, and the periodic analysis of LCSs and MS/MSDs as a continuing check on performance. Laboratory performance is compared to established performance criteria to determine if the results of the analyses meet the performance characteristics of the method.

9.1.1 The laboratory shall make an initial demonstration of the ability to generate acceptable precision and accuracy with this method. This ability is established as described in Section 9.2.

9.1.2 In recognition of advances that are occurring in analytical technology, and to allow the laboratory to overcome sample matrix interferences, the laboratory is permitted certain options to improve performance or lower the costs of measurements. Alternate determinative techniques, such as the substitution of spectroscopic or immuno-assay techniques, and changes that degrade method performance, are not allowed. If an analytical technique other than the techniques specified in this method is used, that technique must have a specificity equal to or better than the specificity of the techniques in this method for the analytes of interest.

9.1.2.1 Each time a modification is made to this method, the laboratory is required to repeat the procedure in Section 9.2. If the detection limit of the method will be affected by the change, the laboratory must demonstrate that the MDL is equal to or less than the MDL in Section 1.4 or one-third the regulatory compliance level, whichever is greater. If calibration will be affected by the change, the laboratory must recalibrate the instrument per Section 10.3.

9.1.2.2 The laboratory is required to maintain records of modifications made to this method. These records include the information in this subsection, at a minimum.

9.1.2.2.1 The names, titles, addresses, and telephone numbers of the analyst(s) who performed the analyses and modification, and of the quality control officer who witnessed and will verify the analyses and modification.

9.1.2.2.2 A narrative stating the reason(s) for the modification.

9.1.2.2.3 Results from all quality control (QC) tests comparing the modified method to this method including:

(a) calibration (Section 10.3)
(b) calibration verification (Section 9.5)
(c) initial precision and recovery (Section 9.2)
(d) analysis of blanks (Section 9.4)
(e) laboratory control sample (Section 9.6)
(f) matrix spike and matrix spike duplicate (Section 9.3)
(g) MDL (Section 1.4)

9.1.2.2.4 Data that will allow an independent reviewer to validate each determination by tracing the instrument output (peak height, area, or other signal) to the final result. These data are to include:

(a) sample numbers and other identifiers
(b) analysis dates and times
(c) analysis sequence/run chronology
(d) sample weight or volume
(e) sample volume prior to each cleanup step, if applicable
(f) sample volume after each cleanup step, if applicable
(g) final sample volume prior to injection (Sections 10 and 11)
(h) injection volume (Sections 10 and 11)
(i) dilution data, differentiating between dilution of a sample or modified sample (Sections 10 and 11)
(j) instrument and operating conditions
(k) other operating conditions (temperature, flow rates, etc.)
(l) detector (operating condition, etc.)
(m) printer tapes, disks, and other recording of raw data
(n) quantitation reports, data system outputs, and other data necessary to link raw data to the results reported

9.1.3 Analyses of matrix spike and matrix spike duplicate samples are required to demonstrate method accuracy and precision and to monitor matrix interferences (interferences caused by the sample matrix). The procedure and QC criteria for spiking are described in Section 9.3.

9.1.4 Analyses of blanks are required to demonstrate freedom from contamination and that the compounds of interest and interfering compounds have not been carried over from a previous analysis. The procedures and criteria for analysis of a blank are described in Section 9.4.

9.1.5 The laboratory shall, on an ongoing basis, demonstrate through the analysis of the LCS (Section 7.11.2) that the analysis system is in control. This procedure is described in Section 9.6.

9.1.6 The laboratory should maintain records to define the quality of data that is generated. Development of accuracy statements is described in Sections 9.3.8 and 9.6.3.

9.1.7 Accompanying QC for the determination of cyanide is required per analytical batch. An analytical batch is a set of samples analyzed at the same time, to a maximum of 10 samples. Each analytical batch of 10 or fewer samples must be accompanied by a laboratory blank (Section 9.4), an LCS (Section 9.6), and a matrix spike and matrix spike duplicate (MS/MSD, Section 9.3), resulting in a minimum of five analyses (1 sample, 1 blank, 1 LCS, 1 MS, and 1 MSD) and a maximum of 14 analyses (10 samples, 1 blank, 1 LCS, 1 MS, and 1 MSD) in the batch. If greater than 10 samples are analyzed at one time, the samples must be separated into analytical batches of 10 or fewer samples.

9.2 Initial demonstration of laboratory capability.

9.2.1 Method Detection Limit (MDL)—To establish the ability to detect cyanide at low levels, the laboratory shall determine the MDL per the procedure in 40 CFR 136, Appendix B (Reference 15.4) using the apparatus, reagents, and standards that will be used in the practice of this method. An MDL less than or equal to the MDL listed in Section 1.4 must be achieved prior to practice of this method.

9.2.2 Initial Precision and Recovery (IPR)—To establish the ability to generate acceptable precision and accuracy, the laboratory shall perform the following operations:

9.2.2.1 Analyze four samples of the LCS (Section 7.11.2) according to the procedure beginning in Section 10.

9.2.2.2 Using the results of the set of four analyses, compute the average percent recovery (X) and the standard deviation of the percent recovery (s) for cyanide. Use Equation 2 for calculation of the standard deviation of the percent recovery.

Equation 2

$$s = \sqrt{\frac{\sum x^2 - \frac{\left(\sum x\right)^2}{n}}{n-1}}$$

Where:

n = Number of samples
x = Percent recovery in each sample

9.2.3 Compare s and X with the acceptance criteria specified in Table 1. If s exceeds the precision limit or X falls outside the range for recovery, system performance is unacceptable and the problem must be found and corrected before analyses can begin.

9.3 Matrix spike/matrix spike duplicate (MS/MSD)—The laboratory shall spike, in duplicate, a minimum of 10 percent of all samples (one sample in duplicate in each batch of ten samples) from a given discharge.

9.3.1 The concentration of the spike in the sample shall be determined as follows:

9.3.1.1 If, as in compliance monitoring, the concentration of cyanide in the sample is being checked against a regulatory concentration limit, the spiking level shall be at that limit or at 1 to 5 times higher than the background concentration of the sample (determined in Section 9.3.2), whichever concentration is higher.

9.3.1.2 If the concentration of cyanide in a sample is not being checked against a limit, the spike shall be at the concentration of the LCS or at 1 to 5 times higher than the background concentration, whichever concentration is higher.

9.3.2 Analyze one sample aliquot out of each set of ten samples from each discharge according to the procedure beginning in Section 11 to determine the background concentration (B) of cyanide.

9.3.2.1 Spike this sample with the amount of mercury (II) cyanide stock solution (Section 7.11.1) necessary to produce a cyanide concentration in the sample of 2 mg/L. If necessary, prepare another stock solution appropriate to produce a level in the sample at the regulatory compliance limit or at 1 to 5 times the background concentration (per Section 9.3.1).

9.3.2.2 Spike two additional sample aliquots with the spiking solution and analyze these aliquots to determine the concentration after spiking (A).

9.3.3 Calculate the percent recovery of cyanide in each aliquot using Equation 3.

Equation 3

$$p = \frac{100\,(A-B)}{T}$$

Where:

P = Percent recovery
A = Measured concentration of cyanide after spiking
B = Measured background concentration of cyanide
T = True concentration of the spike

9.3.4 Compare the recovery to the QC acceptance criteria in Table 1. If recovery is outside of the acceptance criteria, and the recovery of the LCS in the ongoing precision and recovery test (Section 9.6) for the analytical batch is within the acceptance criteria, an interference is present. In this case, the result may not be reported for regulatory compliance purposes.

9.3.5 If the results of both the MS/MSD and the LCS test fail the acceptance criteria, the analytical system is judged to be out of control. In this case, the problem shall be identified and corrected, and the analytical batch reanalyzed.

9.3.6 Calculate the relative percent difference (RPD) between the two spiked sample results (Section 9.3, not between the two percent recoveries) using Equation 4.

Equation 4

$$\mathrm{RPD} = \frac{|D_1 - D_2|}{(D_1 + D_2)/2} \times 100SC$$

Where:

RPD = Relative percent difference
D_1 = Concentration of cyanide in the spiked sample
D_2 = Concentration of cyanide in the spiked duplicate sample

9.3.7 Compare the precision to the RPD criteria in Table 1. If the RPD is greater than the acceptance criteria, the analytical system is judged to be out of control, and the problem must be immediately identified and corrected, and the analytical batch reanalyzed.

9.3.8 As part of the QC program for the laboratory, method precision and accuracy for samples should be assessed and records should be maintained. After the analysis of five spiked samples in which the recovery passes the test in Section 9.3.4, compute the average percent recovery (P_a) and the standard deviation of the percent recovery (s_p). Express the accuracy assessment as a percent recovery interval from $P_a - 2s_p$ to $P_a + 2s_p$. For example, if $P_a = 90\%$ and $s_p = 10\%$ for five analyses, the accuracy interval is expressed as 70—110%. Update the accuracy assessment on a regular basis (e.g., after each five to ten new accuracy measurements).

9.4 Laboratory blanks—Laboratory reagent water blanks are analyzed to demonstrate freedom from contamination.

9.4.1 Analyze a reagent water blank initially (i.e., with the tests in Section 9.2) and with each analytical batch. The blank must be subjected to the same procedural steps as a sample.

9.4.2 If cyanide is detected in the blank at a concentration greater than the ML, analysis of samples is halted until the source of contamination is eliminated and a blank shows no evidence of contamination.

9.5 Calibration verification—Verify calibration of the analytical equipment before and after each analytical batch of 14 or fewer measurements. (The 14 measurements will normally be 10 samples, 1 reagent blank, 1 LCS, 1 MS, and 1 MSD). Verification is accomplished by analyzing the mid-range calibration standard and verifying that it is within the QC acceptance criteria for recovery in Table 1. (The concentration of the calibration verification depends on the calibration range being used.) Failure to verify calibration within the acceptance criteria requires recalibration of the analysis system.

9.6 Laboratory control sample (LCS)—To demonstrate that the analytical system is in control, and acceptable precision and accuracy is being maintained with each analytical batch, the laboratory shall perform the following operations.

9.6.1 Analyze a LCS (Section 7.11.2) with each analytical batch according to the procedure in Section 10.

9.6.2 If the results for the LCS are within the acceptance criteria specified in Table 1, analysis of the batch may continue. If, however, the concentration is not within this range, the analytical process is not in control. In this event, correct the problem, repeat the LCS test, and reanalyze the batch.

9.6.3 The laboratory should add results that pass the specification in Section 9.6.2 to IPR and previous LCS data and update QC charts to form a graphic representation of continued laboratory performance. The laboratory should also develop a statement of laboratory data quality for cyanide by calculating the average percent recovery (R) and the standard deviation of the percent recovery (S_r). Express the accuracy as a recovery interval from $R - 2s_r$ to $R + 2s_r$. For example, if $R = 95\%$ and $s_r = 5\%$, the accuracy is 85% to 105%.

9.7 Reference Sample—To demonstrate that the analytical system is in control, the

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laboratory should periodically test an external reference sample, such as a Standard Reference Material (SRM) if an SRM is available from the National Institutes of Standards and Technology (NIST). The reference sample should be analyzed quarterly, at a minimum. Corrective action should be taken if the measured concentration significantly differs from the stated concentration.

10.0 Calibration and Standardization.

This section describes the procedure to calibrate and standardize the FIA system prior to cyanide determination.

10.1 Instrument setup.

10.1.1 Set up the FIA system and establish initial operating conditions necessary for determination of cyanide. If the FIA system is computerized, establish a method for multi-point calibration and for determining the cyanide concentration in each sample.

10.1.2 Verify that the reagents are flowing smoothly through the FIA system and that the flow cell is purged of air bubbles.

10.2 Instrument Stabilization

10.2.1 Load a 10 mg/L KCN standard (Section 7.8.2) into the sampling valve and inject into the FIA system.

10.2.2 Continue to inject 10 mg/L KCN standards until 3 successive peak height or area results are within 2% RSD, indicating that the electrode system is stabilized.

10.2.3 Following stabilization, inject the highest concentration calibration standard until 3 successive peak height or area results are within 2% RSD indicating stabilization at the top of the calibration range.

10.3 External standard calibration.

10.3.1 Inject each of a minimum of 3 calibration standards. One of the standards should be at the minimum level (ML) unless measurements are to be made at higher levels. The other concentrations should correspond to the expected range of concentrations found in samples or should define the working range of the FIA system.

10.3.2 Using injections of a constant volume, analyze each calibration standard according to Section 11 and record peak height or area responses against the concentration. The results can be used to prepare a calibration curve. Alternatively, if the ratio of response to amount injected (calibration factor) is constant over the working range (<10% RSD), linearity through the origin can be assumed and the averaged calibration factor (area/concentration) can be used in place of a calibration curve.

11.0 Procedure.

This section describes the procedure for determination of available cyanide using the FIA system.

11.1 Analysis of standards, samples, and blanks.

11.1.1 Ligand-exchange reagent treatment of standards, samples, and blanks.

11.1.2 To 100-mL of cyanide-containing sample (or standard or blank) at pH of approximately 12, add 100 µL of ligand-exchange reagent Part B (Section 7.10.5), 50 µL of ligand-exchange reagent Part A (Section 7.10.4), and mix thoroughly. Load the sample, standard, or blank into the sample loop.

Note: The ligand-exchange reagents, when added to 100 mL of sample at the specified volume, will liberate cyanide from metal complexes of intermediate stability up to 5 mg/L cyanide ion. If higher concentrations are anticipated, add additional ligand-exchange reagent, as appropriate, or dilute the sample.

11.1.3 Inject the sample and begin data collection. When data collection is complete, analyze the next sample, standard or blank in the batch until analyses of all samples in the batch are completed.

12.0 Data Analysis and Calculations.

12.1 Calculate the concentration of material in the sample, standard or blank from the peak height or area using the calibration curve or calibration factor determined in Section 10.3.

12.2 Reporting.

12.2.1 Samples—Report results to three significant figures for cyanide concentrations found above the ML (Section 1.4) in all samples. Report results below the ML as <5 mg/L, or as required by the permitting authority or permit.

12.2.2 Blanks—Report results to three significant figures for cyanide concentrations found above the MDL (Section 1.3). Do not report results below the MDL unless required by the permitting authority or in the permit.

13.0 Method Performance.

13.1 Method detection limit (MDL)—MDLs from nine laboratories were pooled to develop the MDL of 0.5 µg/L given in Section 1.4 (Reference 15.12).

13.2 Data obtained from single laboratory testing of the method are summarized in Table 2 and show recoveries and reproducibility for "free" forms of cyanide, including the recovery and reproducibility of silver, nickel, mercurous and mercuric cyanide species. Determination of these species tends to be problematic with other methods for the determination of available cyanide. As it is the case with other methods used for available cyanide, iron cyanide species were not recovered and recoveries for gold and cobalt species were zero or very low. The complete results from the single laboratory study are available in the *Report of the Draft OIA Method 1677 Single Laboratory Validation Study* (Reference 15.11).

13.3 Listed in Table 1 are the QC acceptance criteria developed from an interlaboratory validation study of this method. This study was conducted following procedures specified in the *Guide to Method Flexibility and Approval of EPA Water Methods* (Reference 15.10). In this study, a total of nine laboratories performed analyses for various water matrices. Table 3 shows a summary of the interlaboratory results which include the accuracy and precision data as % recoveries and relative standard deviations. In addition to spikes of easily dissociable cyanides, some samples contained known amounts of cyanides that are not recoverable (e.g., Pt and Fe complexes) and thiocyanate was spiked to one sample to investigate the potential for interference. The complete study results are available in the *Report of the Draft OIA Method 1677 Interlaboratory Validation Study* (Reference 15.12).

14.0 Pollution Prevention and Waste Management.

14.1 It is the laboratory's responsibility to comply with all federal, State, and local regulations governing waste management, particularly the hazardous waste identification rules and land-disposal restrictions. In addition, it is the laboratory's responsibility to protect air, water, and land resources by minimizing and controlling all releases from fume hoods and bench operations. Also, compliance is required with any sewage discharge permits and regulations.

14.2 Samples containing cyanide, certain metals, and acids at a pH of less than 2 are hazardous and must be treated before being poured down a drain or must be handled as hazardous waste.

14.3 For further information on waste management, consult *Less is Better: Laboratory Chemical Management for Waste Reduction*, Section 15.8.

15.0 References.

15.1 Environmental Monitoring Systems Laboratory. EPA Method 335.1. In: *Methods for the Chemical Analysis of Water and Wastes* (EPA/600/4–79–020). Environmental Protection Agency, Cincinnati, Ohio. Revised March 1983.

15.2 American Public Health Association, American Waterworks Association, Water Pollution Control Board. *Methods Section 4500–CN in Standard Methods for the Examination of Water and Wastewater*, 19th Edition. American Public Health Association, Washington, DC, 1995.

15.3 Ingersol, D.; Harris, W.R.; Bomberger, D.C.; Coulson, D.M. *Development and Evaluation Procedures for the Analysis of Simple Cyanides, Total Cyanides, and Thiocyanate in Water and Waste Water* (EPA–600/4–83–054), 1983.

15.4 *Code of Federal Regulations*, Title 40, Part 136, Appendix B. U.S. Government Printing Office, Washington, D.C., 1994.

15.5 ALPKEM CNSolution Model 3202 Manual. Available from ALPKEM, a division of OI Analytical, Box 648, Wilsonville, OR 97070.

15.6 Milosavljevic, E.B.; Solujic, L.; Hendrix, J.L. *Environmental Science and Technology*, Vol. 29, No. 2, 1995, pp 426–430.

15.7 Wilmont, J.C.; Solujic, L.; Milosavljevic, E. B.; Hendrix, J.L.; Reader, W.S. Analyst, June 1996, Vol. 121, pp 799–801. Formation of Thiocyanate During Removal of Sulfide as Lead Sulfide Prior to Cyanide Determination.

15.8 Less is Better: Laboratory Chemical Management for Waste Reduction. Available from the American Chemical Society, Department of Government Regulations and Science Policy, 1155 16th Street, NW, Washington, DC 20036.

15.9 Handbook for Analytical Quality Control in Water and Wastewater Laboratories (EPA–600/4–79–019), USEPA, NERL, Cincinnati, Ohio 45268 (March 1979).

15.10 Guide to Method Flexibility and Approval of EPA Water Methods, December, 1996, (EPA–821–D–96–004). Available from the National Technical Information Service (PB97–117766).

15.11 Report of the Draft OIA Method 1677 Single Laboratory Validation Study, November 1996. Available from ALPKEM, a division of OI Analytical, Box 648, Wilsonville, OR 97070.

15.12 Report of the Draft OIA Method 1677 Interlaboratory Validation Study, March 1997. Available from ALPKEM, a division of OI Analytical, Box 648, Wilsonville, OR 97070.

16.0 Tables

TABLE 1.—QUALITY CONTROL ACCEPTANCE CRITERIA

Criterion	Required recovery range (%)	Precision
Initial precision and recovery	92–122	<5.1% RSD
Ongoing precision and recovery (Laboratory control sample)	82–132	N/A
Calibration verification	86–118	N/A
Matrix spike/matrix spike duplicate	82–130	<11% RPD

TABLE 2.—Species-Dependent Cyanide Recoveries Using Draft Method 1677[1]

Species	0.20 µg/mL CN^-	2.00 µg/mL CN^-
$[Zn(CN)_4]^{2-}$	97.4 (0.7)	98.5 (0.7)
$[Cd(CN)_4]^{2-}$	100.0 (0.8)	100.0 (0.2)
$[Cu(CN)_4]^{2-}$	100.9 (1.3)	99.0 (0.6)
$[Ag(CN)_4]^{3-}$	101.8 (0.9)	100.0 (0.5)
$[Ni(CN)_4]^{2-}$	104.3 (0.2)	103.0 (0.5)
$[Hg(CN)_4]^{2-}$	100.0 (0.6)	99.0 (0.3)
$Hg(CN)_2$	103.4 (0.4)	98.0 (0.3)
$[Fe(CN)_4]^{4-}$	0.0	0.0
$[Fe(CN)_6]^{3-}$	0.0	0.0
$[Au(CN)_2]^-$	[2] 1.3 (0.0)	0.0
$[Co(CN)_6]^{3-}$	[2] 2.9 (0.0)	[2] 2.0 (0.0)

[1] Values are % recoveries; numbers in parentheses are percent relative standard deviations.
[2] Commercial product contains some free cyanide.

TABLE 3.—CYANIDE RECOVERIES FROM VARIOUS AQUEOUS MATRICES

Sample	Sample CN concentration	Added CN[1] concentration	Average % recovery	% RSD
Reagent water w/0.01M NaOH	0 µg/L	100 µg/L as KCN	108	4.0
POTW secondary effluent	3.0 µg/L	100 µg/L as KCN; 2 mg/L as $[Pt(CN)_6]^{4-}$	102	7.0
Petroleum Refinery Secondary Effluent	9.9 µg/L	2 mg/L as KCN; 5 mg/L as $[Fe(CN)_6]^{4-}$	57	21
Coke Plant Secondary Effluent	14.0 µg/L	50 µg/L as KCN	95	4.0
Rolling Mill Direct Filter Effluent	4.0 µg/L	None	80	41
Metals Finishing Indirect Primary Effluent	1.0 µg/L	200 µg/L as KCN; 2 mg/L as KSCN	92	16
Reagent water w/0.01M NaOH	0 µg/L	200 µg/L as KCN	101	8.0
Reagent water w/0.01M NaOH	0 µg/L	10 mg/L as KCN; 10 mg/L as $[Pt(CN)_6]^{4-}$	103	2.0
Mining Tailing Pond Effluent	842 µg/L	4 mg/L as KCN	96	3.0

[1] Cyano-complexes of Pt and Fe were added to the POTW and petroleum refinery effluents, respectively; and thiocyanate was added to the metals finishing effluent to demonstrate that the FI/LE system does not determine these forms of cyanide.

17.0 Glossary of Definitions and Purposes.

The definitions and purposes are specific to this method but have been conformed to common usage as much as possible.

17.1 Units of weights and measures and their abbreviations

17.1.1 Symbols.

°C degrees Celsius
% percent
± plus or minus
≥ greater than or equal to

17.1.2 Alphabetical characters.

g gram
L liter
mg milligram
mg/L milligram per liter
µg microgram
µg/L microgram per liter
µmL milliliter
ppm parts per million
ppb parts per billion
M molar solution

17.2 Definitions.

17.2.1 Available cyanide consists of cyanide ion (CN^-), hydrogen cyanide in water (HCN_{aq}) and the cyano-complexes of zinc, copper, cadmium, mercury, nickel, and silver.

17.2.2 Calibration blank—A 100 mL volume of reagent water treated with the ligand-exchange reagents and analyzed using the FIA procedure.

17.2.3 Calibration standard (CAL)—A solution prepared from the dilution of stock standard solutions. A 100 mL aliquot of each of the CALs are subjected to the analysis procedure. The resulting observations are used to calibrate the instrument response with respect to the analyte concentration.

17.2.4 Discharge—Specific discharge (also known as "matrix type") means a sample medium with common characteristics across a given industrial category or industrial subcategory. Examples include: C-stage effluents from chlorine bleach mills in the Pulp, Paper, and Paperboard industrial category; effluent from the continuous casting subcategory of the Iron and Steel industrial category; publicly owned treatment work (POTW) sludge; and in-process streams in the Atlantic and Gulf Coast Hand-shucked Oyster Processing subcategory. Specific discharge also means a discharge with characteristics different from other discharges. Therefore, if there are multiple discharges from a facility all with the same characteristics, these are the same discharge for the purpose of demonstrating equivalency of a method modification. In this context, "characteristics" means that results of the matrix spike and matrix spike duplicate (MS/MSD) tests with the unmodified method meet the QC acceptance criteria for recovery and relative percent difference (RPD).

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17.2.5 Initial precision and recovery (IPR)—Four aliquots of the LRB spiked with the analytes of interest and used to establish the ability to generate acceptable precision and accuracy. An IPR is performed the first time this method is used and any time the method or instrumentation is modified.

17.2.6 Laboratory control sample (LCS)—An aliquot of LRB to which a quantity of mercury (II) cyanide stock solution is added in the laboratory. The LCS is analyzed like a sample. Its purpose is to determine whether the methodology is in control and whether the laboratory is capable of making accurate and precise measurements.

17.2.7 Laboratory reagent blank (LRB)—An aliquot of reagent water that is treated like a sample including exposure to all glassware, equipment, and reagents that are used with other samples. The LRB is used to determine if the method analyte or other interferences are present in the laboratory environment, reagents, or apparatus.

17.2.8 Matrix spike/matrix spike duplicate (MS/MSD)—An aliquot of an environmental sample to which a quantity of the method analyte is added in the laboratory. MS/MSDs are analyzed like a sample. Their purpose is to determine whether the sample matrix contributes bias to the analytical results. The background concentration of the analyte in the sample matrix must be determined in a separate aliquot and the measured values in the MS/MSD corrected for the background concentration.

17.2.9 Minimum level (ML)—The level at which the entire analytical system shall give a recognizable signal and acceptable calibration point, taking into account method specific sample and injection volumes.

17.2.10 Ongoing Precision and Recovery (OPR)—See Laboratory control sample.

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federal register

Tuesday
July 7, 1998

Part V

Department of Education

Safe and Drug-Free Schools and Communities National Programs—Federal Activities Grants Program; Office of Elementary and Secondary Education—Safe and Drug-Free Schools and Communities National Programs; Combined Notice Inviting Applications for New Awards for Fiscal Year 1998; Notices

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DEPARTMENT OF EDUCATION

Safe and Drug-Free Schools and Communities National Programs; Federal Activities Grants Program

AGENCY: Department of Education.

ACTION: Notice of final priorities and selection criteria for fiscal year 1998.

SUMMARY: The Secretary announces final priorities and selection criteria for fiscal year (FY) 1998 under the Safe and Drug-Free Schools and Communities (SDFSC) National Programs Federal Activities Grants Program. The Secretary takes this action to focus Federal financial assistance on identified national needs to promote the creation of safe and orderly learning environments for all students and to encourage the development of systems to collect data related to youth drug use and violent behavior.

EFFECTIVE DATE: These priorities take effect August 6, 1998.

FOR FURTHER INFORMATION CONTACT: For further information about the two priorities under the Safe and Drug-Free Schools and Communities National Programs Federal Activities Grants Program, contact the Safe and Drug-Free Schools Program, U.S. Department of Education, 600 Independence Avenue, SW., Room 603 Portals, Washington, D.C. 20202–6123. Telephone: (202) 260–3954. FAX (202) 260–3748. Internet: http://www.Patricia_Rattler@ed.gov.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern time, Monday through Friday.

Note: This notice of final priority does *not* solicit applications. A notice inviting applications under these competitions is published elsewhere in this issue of the **Federal Register**.

SUPPLEMENTARY INFORMATION: This notice contains two final priorities and related selection criteria for fiscal year 1998. Under absolute priority one (CFDA 84.184G, State and Local Educational Agency Drug and Violence Prevention Data Collection), the Secretary may make awards for up to 24 months. Under absolute priority number two (CFDA 84.184J), Model Demonstration Programs, the Secretary may award cooperative agreements for up to 60 months. Cooperative agreements funded through this priority will serve as national demonstration sites to test strategies, assess effectiveness, and make a major contribution to the development and dissemination of models and components of models that can be used by school districts and other youth-serving agencies nationwide.

On May 19, 1998, the Secretary published the proposed priorities for these competitions in a Notice of Request for Public Comments in the **Federal Register** (63 FR 27646). In response to comments received, the Secretary made no modifications, as noted in the following section—Analysis of Comments and Changes—of this notice of final priorities.

Analysis of Comments and Changes

In response to the Secretary's invitation to comment on the proposed priorities, the Department received four responses. These included responses from local educational agencies, a State agency, and an individual. Comments that did not suggest changes in the priority language are not addressed. An analysis of the comments, organized by priority, follows.

Priority 1—State and Local Educational Agency Drug and Violence Prevention Data Collection

Comment: One commenter suggested strengthening the language in this priority concerning coordination with other existing data collection efforts by requiring applicants to document other existing data collection activities and how they will collaborate with them. The commenter suggested requiring letters from youth-serving agencies in other, non-educational domains as part of applications to help demonstrate collaboration.

Discussion: The language in the proposed priority requires applicants to describe how efforts proposed as part of the project have been coordinated with and will not duplicate existing data collection efforts. The proposed change in the priority would require a level of proof that is unnecessary in order to permit evaluation of a proposal.

Changes: None.

Priority 2—Model Demonstration Programs to Create Safe and Orderly Learning Environments in Schools

Comments: Two commenters proposed modifications to this priority that would limit the variety of program models that could be implemented with a grant under this priority.

Discussion: The existing language in the priority is specifically designed to include a wide range of possible program models that meet general criteria. The proposed limitations would significantly reduce the flexibility provided in the original language.

Changes: None.

Comment: One commenter suggested that language in the priority be revised to require that the entire model program proposed be based on research, not just specific components or strategies.

Discussion: The language in the proposed priority is intended to solicit applications that combine multiple strategies and programs into a model program that will comprehensively address the risk factors that predispose youth to drug use and violent behavior. Because research-based information about the effect of combined strategies and programs as a comprehensive model is limited, the proposed priority language allows applicants the flexibility to propose model programs that combine research-based programs and strategies in innovative or untested ways.

Changes: None.

Priorities: Under 34 CFR 75.105(c)(3) and the Safe and Drug-Free Schools and Communities Act of 1994, the Secretary gives an absolute preference to applications that meet one of the following priorities. The Secretary funds under this competition only applications that meet one of these absolute priorities.

Absolute Priority 1 and Selection Criteria—State and Local Educational Agency Drug and Violence Prevention Data Collection (CFDA 84.184G)

Priority 1:

Under this priority, applicants must propose projects that—

(1) Develop, improve, expand, or enhance the collection of data related to youth drug use and violence; and

(2) Develop and implement processes to ensure that high-quality data are used to form policy, assess needs, select interventions, and assess the success of drug and violence prevention activities funded under the SDFSCA State Grants Program. Projects may be State-wide in scope or limited to an individual local educational agency, or a consortium of local educational agencies, with a student enrollment that exceeds 30,000.

Projects must address drug and violence prevention data for students in general, not just for a sub-set of the population (e.g., non-English speaking students or hearing-impaired students).

To be considered for funding under this competition, a project must include—

(1) Concrete plans, with time lines, that detail how the results of new or improved data collection efforts will be incorporated into State and local educational agency efforts to assess needs, select interventions, and assess success of drug and violence prevention efforts;

(2) Outcome-based performance indicators that will be used to judge the success of the project;

(3) A description of how efforts proposed as part of the project have been coordinated with and will not duplicate data collection efforts being implemented by other State or local agencies; and

(4) If the applicant is other than a State or local educational agency, evidence of commitment from the State educational agency (for State-wide projects) or from the superintendent of schools (for local projects).

Selection Criteria

(a)(1) The Secretary uses the following selection criteria to evaluate proposals submitted under this priority.

The maximum score for all of the criteria in this section is 100 points.

The maximum score for each criterion is indicated in parentheses with the criterion.

(b) *The criteria.* —

1. *Need for project.* (15 points)

In determining need for the proposed project, the following factors are considered:

(a) The magnitude of the need for the services to be provided or the activities to be carried out by the proposed project.

(b) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses.

2. *Significance.* (25 points)

In determining the significance of the proposed project, the following factors are considered:

(a) The significance of the problem or issues to be addressed by the proposed project.

(b) The likelihood that the proposed project will result in system change or improvement.

(c) The extent to which the proposed project is likely to build local capacity to provide, improve, or expand services that address the needs of the target population.

3. *Quality of the project design.* (25 points)

In determining the quality of the design of the proposed project, the following factors are considered:

(a) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(b) The extent to which the proposed project is designed to build capacity and yield results that will extend beyond the period of Federal financial assistance.

(c) The extent to which the proposed project will be coordinated with similar or related efforts, and with other appropriate community, State, and Federal resources.

4. *Adequacy of resources.* (15 points)

In determining the adequacy of resources for the proposed project, the following factors are considered:

(a) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project.

(b) The potential for the incorporation of project purposes, activities or benefits into the ongoing program of the agency or organization at the end of Federal funding.

5. *Quality of the management plan* (10 points).

In determining the quality of the management plan for the proposed project, the following factor is considered: The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, time lines, and milestones for accomplishing project tasks.

6. *Quality of the project evaluation.* (10 points)

In determining the quality of the evaluation to be conducted for the proposed project, the following factor is considered: The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

Absolute Priority 2 and Selection Criteria—Model Demonstration Programs to Create Safe and Orderly Learning Environments in Schools (CFDA 84.184J)

Priority 2:

Projects proposed under this priority are expected to comprehensively address multiple factors that predispose youth to drug use and violent behavior. Therefore, projects will not be funded for: (a) basic support of existing programs; (b) replication of a single program of demonstrated effectiveness, or (c) less than $500,000 or more than $1 million.

Projects supported under this priority will be funded for implementation in one site for three years and for replication in additional sites for two years. Projects will be reviewed during the third year to examine, among other factors, the degree to which the evaluation findings at the original site are promising, and the quality of the evaluation design proposed to test the model at other sites during years four and five. Projects that fail to demonstrate effectiveness at the original site will not be funded to test the model's replication in other sites.

Under this priority, applicants must propose projects that:

(1) Develop and implement a model with specific components or strategies that are based on theory, research, or evaluation data;

(2) Identify outcomes intended to result in behavioral change in youth served and other indicators of the effectiveness of the model (e.g., improved bonding to school and to the community, reductions in disciplinary referrals, absence of firearms and other weapons in schools, acquisition of pro-social skills, and reductions in alcohol, tobacco, and other drug use by the target population);

(3) Evaluate the model by using multiple measures to determine the effectiveness of the model and its components or strategies; and

(4) Produce detailed documentation of procedures and materials that would enable others to replicate the model as implemented at the original site.

Applicants must provide the following : (a) recent and historical data on drug use by youth; (b) data that describe patterns of violence and disruptive acts in schools; (c) rates of referral to juvenile justice authorities for bringing weapons to school, drug use or possession, and violent criminal acts; (d) evidence of gang and violence problems in the target community, and (e) demographic information for the geographic area in which the school is located.

Selection Criteria

(a)(1) The Secretary uses the following selection criteria to evaluate proposals submitted under this priority.

The maximum score for all of the criteria in this section is 100 points.

(2) The maximum score for each criterion is indicated in parentheses.

(b) *The criteria.* —

1. *Significance.* (30 points)

In determining the significance of the proposed project, the following factors are considered:

(a) The potential contribution of the proposed project to the development and advancement of theory, knowledge, and practices in the field of study.

(b) The extent to which the proposed project is likely to yield findings that may be utilized by other appropriate agencies and organizations.

(c) The potential replicability of the proposed project or strategies, including, as appropriate, the potential for implementation in a variety of settings.

2. *Quality of the project design.* (25 points)

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In determining the quality of the design of the proposed project, the following factors are considered:

(a) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(b) The extent to which there is a conceptual framework underlying the proposed research or demonstration activities and the quality of that framework.

(c) The extent to which the design of the proposed project reflects up-to-date knowledge from research and effective practice.

(d) The quality of the proposed demonstration design and procedures for documenting project activities and results;

(e) The extent to which the proposed project represents an exceptional approach to the priority or priorities established for the competition.

3. *Adequacy of resources.* (10 points)

In determining the adequacy of resources for the proposed project, the following factors are considered:

(a) The relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project.

(b) The extent to which the costs are reasonable in relation to the objectives, design and potential significance of the proposed project.

4. *Quality of the management plan.* (10 points)

In determining the quality of the management plan, the following factors will be considered:

(a) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, time lines, and milestones for accomplishing project tasks.

(b) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

5. *Quality of the project evaluation.* (25 points)

In determining the quality of the evaluation, the following factors will be considered:

(a) The extent to which the methods of the evaluation are thorough, feasible, and appropriate to the goals, objectives and outcomes of the proposed project.

(b) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Departments's specific plans and actions for this program.

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Note: The official version of this document is the document published in the **Federal Register**.

(Catalog of Federal Domestic Assistance Numbers 84.184G and 84.184J, Safe and Drug-Free Schools and Communities Act National Programs—Federal Activities Grants Program.)

Dated: July 2, 1998.

Gerald N. Tirozzi,

Assistant Secretary, Office of Elementary and Secondary Education.

[FR Doc. 98–18033 Filed 7–6–98; 8:45 am]

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DEPARTMENT OF EDUCATION

[CFDA Nos.: 84.184G and 84.184J]

Office of Elementary and Secondary Education—Safe and Drug-Free Schools and Communities National Programs; Combined Notice Inviting Applications for New Awards for Fiscal Year 1998

Purpose of Program: The National Programs portion of the SDFSCA supports the development of innovative programs that (1) provide models or proven effective practices that will assist schools and communities around the Nation to improve their programs funded under the State Grants portion of the SDFSCA; and (2) develop, implement, evaluate, and disseminate new or improved approaches to creating safe and orderly learning environments in schools.

Eligible Applicants: State and local educational agencies, institutions of higher education, other nonprofit agencies, organizations, and individuals, and any combination of these types of entities.

Applications Available: July 2, 1998.

Deadline for Receipt of Applications: August 6, 1998.

Note: All applications must be received on or before the deadline date. This requirement takes exception to the Education Department General Administrative Regulations (EDGAR), 34 CFR 75.102. In accordance with the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, this amendment to EDGAR makes procedural changes only and does not establish new substantive policy. Therefore, under 5 U.S.C. 553(b)(A), proposed rulemaking is not required.

Deadline for Intergovernmental Review: September 8, 1998.

CFDA No. and name	Range of awards	Estimated average size of awards	Estimated number of awards	Estimated available funds	Project period
84.184G State and Local Educational Agency Drug and Violence Prevention Data Collection.	$400,000 to $600,000 (estimated).	$500,000	6	$3,000,000	Up to 24 months.

CFDA No. and name	Range of awards	Estimated average size of awards	Estimated number of awards	Estimated available funds	Project period
84.184J Model Demonstration Programs to Create Safe and Orderly Learning Environments in Schools.	$500,000 to $1,000,000 (absolute).	750,000	8	5,000,000	Up to 60 months.[1]

[1] Initial award period for 36 months; after review of evaluation findings, project may be replicated at additional sites for 24 months.

Note: Range of awards, average size of awards, number of awards and available funding in this notice are estimates only. The Department is not bound by any estimate in this notice. Funding estimates cited for these programs represent single year support for a project period only. Funding for the second and third years of these projects is subject both to the availability of future years' funds and the approval of continuation (see 34 CFR 75.253).

Applicable Regulations

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86 (note: The regulations in 34 CFR part 86 apply to institutions of higher education only); (b) 34 CFR parts 98 and 99; and (c) the notice of final priorities and selection criteria, as published elsewhere in this issue of the **Federal Register** applies to these competitions.

Federal Activities Grants Program Competitions (CFDA 84.184G and 84.184J)

Absolute Priority 1—State and Local Educational Agency Drug and Violence Prevention Data Collection (CFDA 84.184G)

Program Authority: 20 U.S.C. 7131.

Absolute Priority 2—Model Demonstration Projects to Create Safe and Orderly Learning Environments in Schools (CFDA 84.184J)

Program Authority: 20 U.S.C. 7131.

For Applications or Information Contact: Safe and Drug-Free Schools Programs, 600 Independence Avenue, SW., Suite 604 Portals, Washington, DC 20202–6123. Telephone: (202) 260–3954. By facsimile (202) 260–3748. Internet: http://www.ed.gov/offices/OESE/SDFS. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; on the Internet Gopher Service (at gopher://gcs.ed.gov). However the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

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Program Authority: 20 U.S.C. 7131.

Dated: July 2, 1998.

Gerald N. Tirozzi,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 98–18034 Filed 7–6–98; 8:45 am]

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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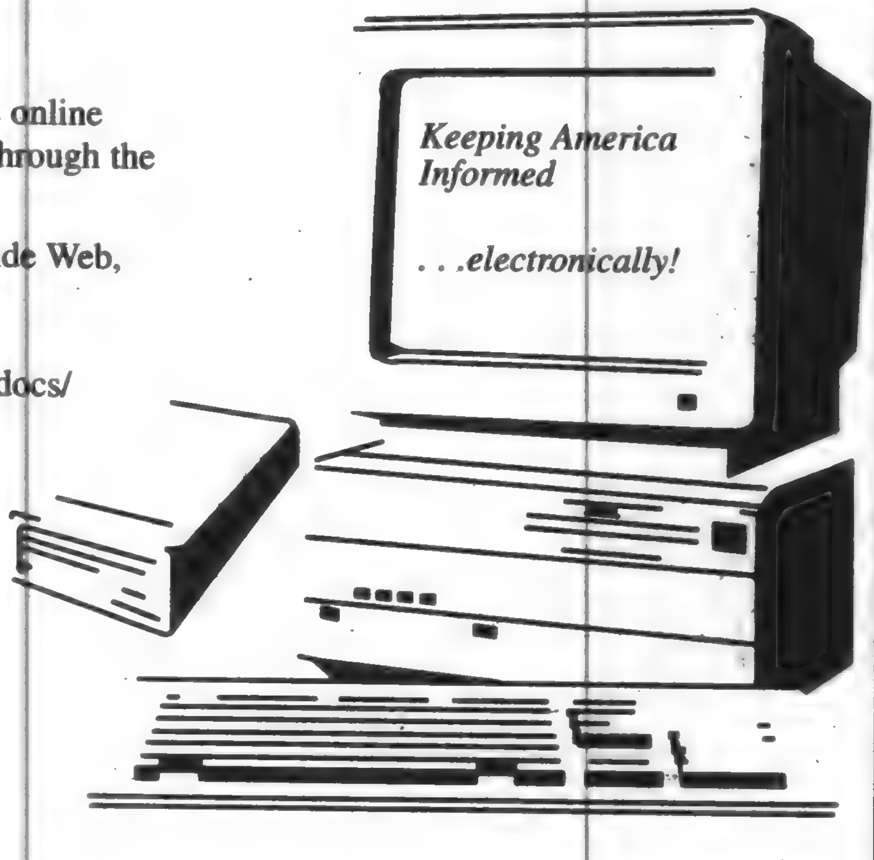

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Rules and Regulations

Federal Register

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Wednesday, July 8, 1998

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–123–AD; Amendment 39–10645; AD 98–14–12]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Dornier Model 328–100 series airplanes, that requires a one-time visual inspection to detect cracking in the axle adapter of the shock absorber of the nose landing gear (NLG), and corrective actions, if necessary. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to correct cracking in the axle adapter of the shock absorber of the NLG, which could result in failure of the NLG and consequent damage to the airplane structure.

DATES: Effective August 12, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 12, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from FAIRCHILD DORNIER, DORNIER Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Dornier Model 328–100 series airplanes was published in the **Federal Register** on May 12, 1998 (63 FR 26112). That action proposed to require a one-time visual inspection to detect cracking in the axle adapter of the shock absorber of the nose landing gear (NLG), and corrective actions, if necessary.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 50 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the inspection required by this AD on U.S. operators is estimated to be $3,000, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

98–14–12 Dornier Luftfahrt GMBH: Amendment 39–10645. Docket 98–NM–123–AD.

Applicability: Model 328–100 series airplanes, equipped with nose landing gear (NLG) having serial numbers below IL113; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an

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alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To correct cracking in the axle adapter of the shock absorber of the NLG, which could cause failure of the NLG and consequent damage to the airplane structure, accomplish the following:

(a) Within 300 flight hours after the effective date of this AD, perform a one-time visual inspection to detect cracking in the axle adapter of the NLG shock absorber, in accordance with Dornier Service Bulletin SB–328–32–213, dated April 16, 1997.

(1) If no cracking is detected, no further action is required by this AD.

(2) If any cracking is detected, prior to further flight, remove the NLG shock absorber and replace it with a new or serviceable part, in accordance with the service bulletin.

Note 2: Dornier Service Bulletin SB–328–32–213, dated April 16, 1997, references Messier-Dowty Service Bulletin 800–32–027, dated May 7, 1997, as an additional source of service information to accomplish the inspection, removal, and repair.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The actions shall be done in accordance with Dornier Service Bulletin SB–328–32–213, dated April 16, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from FAIRCHILD DORNIER, DORNIER Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC 20401.

Note 4: The subject of this AD is addressed in German airworthiness directive 97–142, dated May 22, 1997.

(e) This amendment becomes effective on August 12, 1998.

Issued in Renton, Washington, on June 29, 1998.

Vi L. Lipski,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–17913 Filed 7–7–98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–132–AD; Amendment 39–10646; AD 98–14–13]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300, A310, A300–600 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A300, A310, and A300–600 series airplanes. This amendment requires a one-time operational test and repetitive functional tests of the free fall control mechanism of the landing gear to ensure proper release of the main landing gear (MLG), and corrective action, if necessary. This amendment also requires eventual modification of the free fall control mechanism of the landing gear, which constitutes terminating action for the repetitive functional tests. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent malfunction of the free fall control mechanism of the landing gear, which could result in the inability to extend the MLG in the event of failure of the hydraulic extension system.

DATES: Effective August 12, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 12, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A300, A310, and A300–600 series airplanes was published in the **Federal Register** on May 14, 1998 (63 FR 26742). That action proposed to require a one-time operational test and repetitive functional tests of the free fall control mechanism of the landing gear to ensure proper release of the main landing gear (MLG), and corrective action, if necessary. That action also proposed to require eventual modification of the free fall control mechanism of the landing gear, which constitutes terminating action for the repetitive functional tests.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 24 Model A300 series airplanes, 41 Model A310 series airplanes, and 61 Model A300–600 series airplanes of U.S. registry will be affected by this AD.

It will take approximately 3 work hours per airplane to accomplish the required operational test, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the required operational test on U.S. operators is estimated to be $22,680, or $180 per airplane.

It will take approximately 2 work hours per airplane to accomplish the required functional test, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the required functional test on U.S. operators is estimated to be $15,120, or $120 per airplane, per test cycle.

It will take approximately 26 work hours per airplane to accomplish the required modification on the Model A300 and A300–600 series airplanes, at an average labor rate of $60 per work hour. Required parts will cost approximately $2,630 per airplane. Based on these figures, the cost impact of the required modification on U.S. operators of Model A300 or A300–600 series airplanes is estimated to be $356,150, or $4,190 per airplane.

It will take approximately 28 work hours per airplane to accomplish the required modification on the Model A310 series airplanes, at an average labor rate of $60 per work hour. Required parts will cost approximately $3,710 per airplane. Based on these figures, the cost impact of the required modification on U.S. operators of Model A310 series airplanes is estimated to be $220,990, or $5,390 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

98–14–13 Airbus Industrie: Amendment 39–10646. Docket 98–NM–132–AD.

Applicability: Model A300, A310, and A300–600 series airplanes; on which Airbus Industrie Modification 02781 has been accomplished, and on which Airbus Industrie Modification 03433 or 04443 has not been accomplished; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent malfunction of the free fall control mechanism of the landing gear, which could result in the inability to extend the main landing gear (MLG) in the event of failure of the hydraulic extension system, accomplish the following:

(a) Within 600 flight hours after the effective date of this AD, perform a one-time operational test of the free fall control mechanism of the landing gear to ensure proper release of the MLG for extension by free fall, in accordance with Airbus Industrie All Operator Telex (AOT) 32–14, dated February 3, 1997, or Revision 01, dated March 13, 1997. If any discrepancy is detected in the functioning of the free fall control mechanism of the landing gear, prior to further flight, readjust the mechanism, and repeat the operational test in accordance with the AOT. If any discrepancy is detected in the second operational test, prior to further flight, rerig the free fall control mechanism in accordance with the AOT, and accomplish the actions required by paragraph (b) of this AD.

(b) Within 10 months after the effective date of this AD, perform a functional test of the free fall control mechanism of the landing gear to ensure proper release of the MLG for extension by free fall, in accordance with Airbus Industrie AOT 32–14, dated February 3, 1997, or Revision 01, dated March 13, 1997. Thereafter, repeat the functional test of the free fall control mechanism of the landing gear at intervals not to exceed 12 months, until the modification required by paragraph (c) of this AD has been accomplished. During any test performed in accordance with paragraph (b) of this AD, if the free fall control mechanism of the landing gear fails to fully extend the MLG, prior to further flight, readjust or rerig the mechanism in accordance with the AOT.

(c) Within 66 months after the effective date of this AD, modify the free fall control mechanism of the landing gear in accordance with Airbus Industrie Service Bulletin A300–32–0425, Revision 01 (for Model A300 series airplanes); A310–32–2111, Revision 01 (for Model A310 series airplanes); or A300–32–6072, Revision 01 (for Model A300–600 series airplanes); all dated October 10, 1997; as applicable. Accomplishment of the modification constitutes terminating action for the repetitive functional tests required by paragraph (b) of this AD.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) The actions shall be done in accordance with the following Airbus Industrie service information, as applicable:

- All Operator Telex (AOT) 32–14, dated February 3, 1997;
- All Operator Telex (AOT) 32–14, Revision 01, dated March 13, 1997;
- Service Bulletin A300–32–0425, Revision 01, dated October 10, 1997;
- Service Bulletin A310–32–2111, Revision 01, dated October 10, 1997; or
- Service Bulletin A300–32–6072, Revision 01, dated October 10, 1997.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in French airworthiness directive 97–113–221(B)R1, dated December 3, 1997.

(g) This amendment becomes effective on August 12, 1998.

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Issued in Renton, Washington, on June 29, 1998.

Vi L. Lipski,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–17912 Filed 7–7–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–93–AD; Amendment 39–10644; AD 98–14–11]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A319, A320, and A321 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Airbus Model A319, A320, and A321 series airplanes, that requires repetitive inspections for discrepancies of the lock bolt for the pintle pin on the main landing gear (MLG), and follow-on corrective actions, if necessary. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to detect and correct a rotated, damaged, or missing lock bolt, which could result in disengagement of the pintle pin from the bearing, and consequent collapse of the MLG during landing.

DATES: Effective August 12, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 12, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Airbus Model A319, A320, and A321 series airplanes was published in the **Federal Register** on May 12, 1998 (63 FR 26111). That action proposed to require repetitive inspections for discrepancies of the lock bolt for the pintle pin on the main landing gear (MLG), and follow-on corrective actions, if necessary.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

The commenters support the proposed rule.

Explanation of Changes Made to This Final Rule

In the proposal, the FAA inadvertently omitted reference to Revision 1, dated June 13, 1994, of Airbus Service Bulletin A320–32–1119. Therefore, the FAA has revised the final rule accordingly.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator or increase the scope of the AD.

Interim Action

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Cost Impact

The FAA estimates that 120 airplanes of U.S. registry will be affected by this AD. It will take approximately 1 work hour per airplane to accomplish the required inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection required by this AD on U.S. operators is estimated to be $7,200, or $60 per airplane, per inspection cycle.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

98–14–11 Airbus Industrie: Amendment 39–10644. Docket 98–NM–93–AD.

Applicability: All Model A319, A320, and A321 series airplanes; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct a rotated, damaged, or missing lock bolt, which could result in disengagement of the pintle pin from the bearing, and consequent collapse of the main landing gear (MLG) during landing, accomplish the following:

(a) Perform a detailed visual inspection to detect discrepancies (rotation, damage, and absence) of the lock bolt for the pintle pin on the MLG, in accordance with Airbus All Operator Telex (AOT) 32–17, Revision 01, dated November 6, 1997, at the latest of the times specified in paragraphs (a)(1), (a)(2), and (a)(3), of this AD. If any discrepancy is detected, prior to further flight, perform corrective actions, as applicable, in accordance with the AOT. Repeat the inspection thereafter at intervals not to exceed 1,000 flight cycles or 15 months, whichever occurs first.

(1) Within 30 months since the airplane's date of manufacture or prior to the accumulation of 2,000 total flight cycles, whichever occurs first.

(2) Within 15 months or 1,000 flight cycles after the last gear replacement or accomplishment of Airbus Service Bulletin A320–32–1119, Revision 1, dated June 13, 1994, whichever occurs first.

(3) Within 500 flight cycles after the effective date of this AD.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The actions shall be done in accordance with Airbus All Operator Telex (AOT) 32–17, Revision 01, dated November 6, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in French airworthiness directive 97–385–112(B), dated December 17, 1997.

(e) This amendment becomes effective on August 12, 1998.

Issued in Renton, Washington, on June 29, 1998.

Vi L. Lipski,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–17911 Filed 7–7–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–86–AD; Amendment 39–10448; AD 98–07–26]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects two typographical errors that appeared in airworthiness directive (AD) 98–07–26, which was published in the **Federal Register** on April 6, 1998 (63 FR 16681). The typographical errors resulted in a reference to an incorrect part number and incorrect section of the referenced service information. This AD is applicable to certain Boeing Model 767 series airplanes. This AD requires detailed visual inspection(s) for damage or chafing of certain electrical wire bundles and for clearance between the wire bundles and adjacent forward galley air chiller; and follow-on corrective actions.

DATES: Effective April 21, 1998.

The incorporation by reference of certain publications listed in the regulations was previously approved by the Director of the Federal Register as of April 21, 1998 (63 FR 16681, April 6, 1998).

FOR FURTHER INFORMATION CONTACT: Elias Natsiopoulos, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1279; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: Airworthiness Directive (AD) 98–07–26, amendment 39–10448, applicable to certain Boeing Model 767 series airplanes, was published in the **Federal Register** on April 6, 1998 (63 FR 16681). That AD requires detailed visual inspection(s) for damage or chafing of certain electrical wire bundles and for clearance between the wire bundles and adjacent forward galley air chiller; and follow-on corrective actions.

As published, that AD contained two typographical errors in paragraphs (a)(1)(ii), (a)(2), (a)(3)(ii), and (a)(4). First, those paragraphs identified "Section 20–00–11" of the Boeing Standard Wiring Practices Manual as the appropriate source of service information for accomplishment of the actions. However, the correct section should have been identified as "Section 20–10–11." Second, those paragraphs identified "TFX–2X standard wall thickness (sleeve)" as one of the appropriate materials to protect the bundles. However, part number (P/N) "TFX–2X" was indicated inadvertently in those paragraphs instead of the correct P/N "TFE–2X." (In fact, P/N "TFX–2X" does not exist.)

Since no other part of the regulatory information has been changed, the final rule is not being republished.

The effective date of this AD remains April 21, 1998.

In final rule, FR Doc. 98–8705, published on April 6, 1998 (63 FR 16681), make the following corrections:

§ 39.13 [Corrected]

1. On page 16683, in the first column, paragraph (a)(1)(ii) of AD 98–07–26 is corrected to read as follows:

* * * * *

(a) * * *

(1) * * *

(ii) Prior to further flight, install protective tape or sleeve over the wire bundles, in accordance with Section 20–10–11 of the Boeing Standard Wiring Practices Manual. Operators shall use one of the following materials to protect the bundles: RT876 (sleeve), TFE–2X standard wall thickness (sleeve), P–440 (tape), Scotch 70 (tape), or CHR–A–2005 (tape).

* * * * *

2. On page 16683, in the first column, paragraph (a)(2) of AD 98–07–26 is corrected to read as follows:

* * * * *

(a) * * *

(2) If no damage or chafing is detected and inadequate clearance exists, prior to further flight, modify the routing of the wire bundles in accordance with the Boeing message, and install protective tape or sleeve over the wire bundles in accordance with Section 20–10–11 of the Boeing Standard Wiring Practices Manual. Operators shall use one of the following materials to protect the bundles: RT876 (sleeve), TFE–2X

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standard wall thickness (sleeve), P–440 (tape), Scotch 70 (tape), or CHR–A–2005 (tape).

* * * * *

3. On page 16683, in the first column, paragraph (a)(3)(ii) of AD 98–07–26 is corrected to read as follows:

* * * * *

(a) * * *
(3) * * *
(ii) Prior to further flight, install protective tape or sleeve over the wire bundles in accordance with Section 20–10–11 of the Boeing Standard Wiring Practices Manual. Operators shall use one of the following materials to protect the bundles: RT876 (sleeve), TFE–2X standard wall thickness (sleeve), P–440 (tape), Scotch 70 (tape), or CHR–A–2005 (tape).

* * * * *

4. On page 16683, in the first and second columns, paragraph (a)(4) of AD 98–07–26 is corrected to read as follows:

* * * * *

(a) * * *
(4) If damage or chafing is detected and inadequate clearance exists, prior to further flight, repair and modify the routing of the wire bundles in accordance with the Boeing message, and install protective tape or sleeve over the wire bundles in accordance with Section 20–10–11 of the Boeing Standard Wiring Practices Manual. Operators shall use one of the following materials to protect the bundles: RT876 (sleeve), TFE–2X standard wall thickness (sleeve), P–440 (tape), Scotch 70 (tape), or CHR–A–2005 (tape).

* * * * *

Issued in Renton, Washington, on June 29, 1998.

Vi L. Lipski,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–17910 Filed 7–7–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–145–AD; Amendment 39–10650; AD 98–14–17]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, that currently requires disconnection of the electrical connector to the scavenge pump of the center wing tank. That AD also requires a one-time inspection to identify the part number of the electrical connector; and replacement of the pump with a new or serviceable pump, if necessary. This amendment requires a one-time inspection to identify the part number of the scavenge pump motor-impeller unit; and corrective action, if necessary. This amendment is prompted by a report of damage to the internal wiring of a scavenge pump that had been replaced in accordance with the existing AD. The actions specified in this AD are intended to prevent potential failures within the electrical motor assembly of the scavenge pump, which could result in leakage of fuel from the electrical connector into the main landing gear wheel well, or electrical arcing within the scavenge pump motor; these conditions could result in a fuel fire in the wheel well.

DATES: Effective July 23, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 23, 1998.

Comments for inclusion in the Rules Docket must be received on or before September 8, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–145–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Chris Hartonas, Aerospace Engineer, Systems & Equipment Branch, ANM–130S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2864; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: On November 26, 1997, the FAA issued AD 97–25–06, amendment 39–10230 (62 FR 63622, December 1, 1997), applicable to certain Boeing Model 747 series airplanes. [A correction of the rule was published in the **Federal Register** on January 2, 1998 (63 FR 4).] That action requires disconnection of the electrical connector to the scavenge pump of the center wing tank; a one-time inspection to identify the part number of the electrical connector; and replacement of the pump with a new or serviceable pump, if necessary. That action was prompted by findings from a design review and analysis of scavenge pumps installed on certain Boeing Model 747 series airplanes that was undertaken as part of an accident investigation. The actions required by that AD are intended to prevent potential failures within the electrical motor assembly of the scavenge pump, which could result in leakage of fuel from the electrical connector into the main landing gear wheel well, or electrical arcing within the scavenge pump motor; these conditions could result in a fuel fire in the wheel well.

Actions Since Issuance of Previous Rule

Since the issuance of that AD, the FAA has received a report of damage to the internal wiring of a scavenge pump; the connector of that scavenge pump had been replaced with a Lear Romec-supplied connector, in accordance with the requirements of the existing AD. The damage to the wiring has been attributed to that replacement connector's longer backshell, which provides insufficient clearance for the attachment screw of the internal ground wire of the scavenge pump motor, and can cause interference between the screw and the connector. Such wiring damage, if not corrected, could cause short circuiting and failures within the electrical motor assembly; such failures could result in leakage of fuel from the electrical connector into the main landing gear wheel well, or electrical arcing within the scavenge pump motor, and consequent fuel fire in the wheel well.

Explanation of Relevant Service Information

As a result of this recent finding, Boeing has issued Alert Service Bulletin 747–28A2215, dated May 14, 1998, which describes procedures for a one-time inspection to identify the part number for the installed scavenge pump motor-impeller unit; and corrective action, if necessary. The alert service bulletin provides operators a choice of three corrective actions. First, operators may replace the scavenge pump with a different model scavenge pump. Second, operators may replace the scavenge pump with a scavenge pump that has been modified in accordance with Lear Romec Service Bulletin RR24680 28–002, dated May 4, 1998.

(Lear Romec is the manufacturer of the subject scavenge pump.) This modification involves removal of the connector ground jumper lead wire and its attachment screw. Accomplishment of the modification will provide additional room for, and will prevent short circuit damage to, the wires inside the scavenge pump motor. Third, operators may deactivate the scavenge pump. The FAA has reviewed and approved the Boeing and Lear Romec service bulletins.

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of this same type design, this AD supersedes AD 97–25–06 to require a one-time inspection to identify the part number for the installed scavenge pump motor-impeller unit; and corrective action, if necessary.

Differences Between This AD and the Relevant Service Information

This AD differs from Boeing Alert Service Bulletin 747–28A2215, dated May 14, 1998. The alert service bulletin specifies that the scavenge pump may be replaced with a scavenge pump having "a different part number." However, this AD specifically requires that the replacement scavenge pump be either a scavenge pump having part number 60B92403–12, –13, or –18 (Intertechnique); or a scavenge pump that has been modified in accordance with Lear Romec Service Bulletin RR24680 28–002, dated May 4, 1998.

Also, the Boeing alert service bulletin specifies that a modified pump may be reidentified as having one of two given part numbers. However, this AD requires that the pump modified in accordance with Lear Romec Service Bulletin RR24680 28–002 be reidentified as Boeing P/N 60B92403–51.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption ADDRESSES. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–NM–145–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–10230 (63 FR 4, January 2, 1998), and by adding a new airworthiness directive (AD), amendment 39–10650, to read as follows:

98–14–17 Boeing: Amendment 39–10650. Docket 98–NM–145–AD. Supersedes AD 97–25–06, Amendment 39–10230.

Applicability: Model 747 series airplanes, line positions 001 through 971 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent potential failures within the electrical motor assembly of the scavenge pump, which could result in leakage of fuel from the electrical connector into the main landing gear wheel well, electrical arcing within the scavenge pump motor, or a fuel fire in the wheel well; accomplish the following:

(a) Within 60 days after the effective date of this AD, perform a one-time inspection to determine the part number (P/N) of the installed scavenge pump motor-impeller unit, in accordance with Boeing Alert Service Bulletin 747–28A2215, dated May 14, 1998.

(1) If the P/N is neither Boeing P/N 60B92403–5 nor Lear Romec P/N RR24680, no further action is required by this AD.

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(2) If the P/N is either Boeing P/N 60B92403–5 or Lear Romec P/N RR24680, prior to further flight, accomplish paragraph either (a)(2)(i) or (a)(2)(ii) of this AD.

(i) Replace the scavenge pump with a new or serviceable scavenge pump having P/N 60B92403–12, –13, or –18 (Intertechnique); or with a new or serviceable scavenge pump having P/N 60B92403–51 (Lear Romec).

(ii) Deactivate the scavenge pump. The airplane may be operated with the scavenge pump deactivated, in accordance with the provisions and limitations specified in the operator's FAA-approved Master Minimum Equipment List.

Note 2: Boeing Alert Service Bulletin 747–28A2215, dated May 14, 1998, refers to the 747 Dispatch Deviation Guide as another source of service information for deactivation of the scavenge pump.

(b) As of the effective date of this AD, no person shall install on any airplane a scavenge pump having either Boeing P/N 60B92403–5 or Lear Romec P/N RR24680.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The actions shall be done in accordance with Boeing Alert Service Bulletin 747–28A2215, dated May 14, 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on July 23, 1998.

Issued in Renton, Washington, on June 30, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–17951 Filed 7–7–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ASW–35]

Revision of Class D Airspace; San Antonio, Kelly AFB, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This amendment revises Class D airspace at San Antonio, Kelly AFB, TX. The closure of Standard Airport, San Antonio, TX, and the relocation of the Kelly AFB tactical air navigation (TACAN) have made this rule necessary. The intended effect of this action is to provide adequate controlled airspace for aircraft operating in the vicinity of Kelly AFB, San Antonio, TX.

DATES: Effective 0901 UTC, October 8, 1998. Comments must be received on or before August 24, 1998.

ADDRESSES: Send comments on the rule in triplicate to Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Docket No. 98–ASW–35, Fort Worth, TX 76193–0520.

The official docket may be examined in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 2601 Meacham Boulevard, Room 663, Fort Worth, TX, between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Room 414, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone 817–222–5593.

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR part 71 revises the Class D airspace at San Antonio, Kelly AFB, TX. The closure of Standard Airport, San Antonio, TX, and the relocation of the Kelly AFB TACAN have made this rule necessary. The intended effect of this action is to provide adequate controlled airspace for aircraft operating in the vicinity of Kelly AFB, San Antonio, TX.

Class D airspace designations are published in Paragraph 5000 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR § 71.1. The Class D airspace designation listed in this document will be published subsequently in the order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in any adverse or negative comment and therefore is issuing it as a direct final rule. A substantial number of previous opportunities provided to the public to comment on substantially identical actions have resulted in negligible adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment, is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action is needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98–ASW–35." The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Further, the FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments and only involves an established body of technical regulations that require frequent and routine amendments to keep them operationally current. Therefore, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. Since this rule involves routine matters that will only affect air traffic procedures and air navigation, it does not warrant preparation of a Regulatory Flexibility Analysis because the anticipated impact is so minimal.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, *Airspace Designations and Reporting Points*, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 5000 Class D airspace areas.

* * * * *

ASW TX D San Antonio, Kelly AFB, TX [Revised]

San Antonio, Kelly AFB, TX
(lat. 29°22′49″N., long. 98°35′03″W.)
Kelly TACAN
(lat. 29°23′30″N., long. 98°34′52″W.)
San Antonio, Stinson Municipal Airport, TX
(lat. 29°20′13″N., long. 98°28′16″W.)

That airspace extending upward from the surface to and including 3,200 feet MSL within a 4.5-mile radius of Kelly AFB and within 1.5 miles each side of the 339° radial of the Kelly TACAN extending from the 4.5-mile radius to 4.8 miles northwest of the airport excluding that airspace southeast of a line between the intersection of the 4.5-mile radius of Kelly AFB and the 4.1-mile radius of Stinson Municipal Airport and excluding that airspace within the San Antonio International Airport, TX Class C airspace area.

* * * * *

Issued in Fort Worth, TX, on June 30, 1998.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 98–18102 Filed 7–7–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ASW–39]

Establishment of Class E Airspace; Theodore, AL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This amendment establishes Class E airspace at Theodore, AL. The development of a global positioning system (GPS) standard instrument approach procedure (SIAP), helicopter point-in-space approach, to a heliport in the Theodore, AL, area has made this rule necessary. This action is intended to provide adequate controlled airspace extending upward from 700 feet or more above the surface for instrument flight rules (IFR) operations to the heliport.

DATES: Effective 0901 UTC, October 8, 1998.

Comments must be received on or before August 24, 1998.

ADDRESSES: Send comments on the rule in triplicate to Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Docket No. 98–ASW–39, Fort Worth, TX 76193–0520.

The official docket may be examined in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 2601 Meacham Boulevard, Room 663, Fort Worth, TX, between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Room 414, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone 817–222–5593.

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR part 71 establishes Class E airspace at Theodore, AL. The development of a GPS SIAP, helicopter point-in-space approach, to a heliport in the Theodore, AL, area has made this rule necessary. This action is intended to provide adequate controlled airspace extending upward from 700 feet or more above the surface for IFR operations to the heliport.

Class E airspace designations are published in Paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR § 71.1. The Class E airspace designation listed in this document will be published subsequently in the order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in any adverse or negative comment and therefore is issuing it as a direct final rule. A substantial number of previous opportunities provided to the public to comment on substantially identical actions have resulted in negligible adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment, is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will

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publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action is needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98–ASW–39." The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Further, the FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments and only involves an established body of technical regulations that require frequent and routine amendments to keep them operationally current. Therefore, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. Since this rule involves routine matters that will only affect air traffic procedures and air navigation, it does not warrant preparation of a Regulatory Flexibility Analysis because the anticipated impact is so minimal.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, *Airspace Designations and Reporting Points*, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005: Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ASO AL E5 Theodore, AL [New]

Point In Space Coordinates
(Lat. 30°25′06″ N., long. 88°10′45″ W.)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the point in space in Theodore, AL.

* * * * *

Issued in Fort Worth, TX, on June 30, 1998.

Albert L. Viselli,
Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 98–18106 Filed 7–7–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ASW–38]

Revision of Class E Airspace; Pascagoula, MS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This amendment revises the Class E airspace at Pascagoula, MS. The development of a global positioning system (GPS) standard instrument approach procedures (SIAP), helicopter point-in-space approach, to a heliport in the Pascagoula, MS, area has made this rule necessary. This action is intended to provide adequate controlled airspace extending upward from 700 feet or more above the surface for instrument flight rules (IFR) operations to the heliport.

DATES: Effective 0901 UTC, October 8, 1998.

Comments must be received on or before August 24, 1998.

ADDRESSES: Send comments on the rule in triplicate to Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Docket No. 98–ASW–38, Fort Worth, TX 76193–0520. The official docket may be examined in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 2601 Meacham Boulevard, Room 663, Fort Worth, TX, between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Room 414, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone 817–222–5593.

SUPPLEMENTARY INFORMATION:

This amendment to 14 CFR part 71 revises the Class E airspace at

Pascagoula, MS. The development of a GPS SIAP, helicopter point-in-space approach, to a heliport in the Pascagoula, MS, area has made this rule necessary. This action is intended to provide adequate controlled airspace extending upward from 700 feet or more above the surface for IFR operations to the heliport.

Class E airspace designations are published in Paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR § 71.1. The Class E airspace designation listed in this document will be published subsequently in the order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in any adverse or negative comment and therefore is issuing it as a direct final rule. A substantial number of previous opportunities provided to the public to comment on substantially identical actions have resulted in negligible adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment, is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action is needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98–ASW–38." The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Further, the FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments and only involves and established body of technical regulations that require frequent and routine amendments to keep them operationally current. Therefore, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. Since this rule involves routine matters that will only affect air traffic procedures and air navigation, it does not warrant preparation of a Regulatory Flexibility Analysis because the anticipated impact is so minimal.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air), Adoption of the Amendment.

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, *Airspace Designations and Reporting Points*, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005: Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ASO MS E5 Pascagoula, MS [Revised]

Pascagoula, Trent Lott International Airport, MS
(Lat. 30°27′46″ N., long. 88°31′45″ W.)
Point In Space Coordinates
Lat. 30°19′22″ N., long. 88°29′49″ W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Trent Lott International Airport and that airspace within a 6-mile radius of the point in space in Pascagoula, MS.

* * * * *

Issued in Fort Worth, TX, on June 30, 1998.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 98–18105 Filed 7–7–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ASW–37]

Revision of Class E Airspace; Cameron, LA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This amendment revises the Class E airspace at Cameron, LA. The development of global positioning system (GPS) standard instrument approach procedures (SIAP), helicopter point-in-space approaches, to heliports in the Cameron, LA, area has made this

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rule necessary. This action is intended to provide adequate controlled airspace extending upward from 700 feet or more above the surface for instrument flight rules (IFR) operations to the heliports.

DATES: Effective 0901 UTC, October 8, 1998. Comments must be received on or before August 24, 1998.

ADDRESSES: Send comments on the rule in triplicate to Manager, Airspace Branch, Air traffic Division, Federal Aviation Administration, Southwest Region, Docket No. 98–ASW–37, Forth Worth, TX 76193–0520.

The official docket may be examined in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 2601 Meacham Boulevard, Room 663, Fort Worth, TX, between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Room 414, Forth Worth, TX.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone 817–222–5593.

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR part 71 revises the Class E airspace at Cameron, LA. The development of GPS SIAP, helicopter point-in-space approaches, to heliports in the Cameron, LA, area has made this rule necessary. This action is intended to provide adequate controlled airspace extending upward from 700 feet or more above the surface for IFR operations to the heliports.

Class E airspace designations are published in Paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR § 71.1. The Class E airspace designation listed in this document will be published subsequently in the order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in any adverse or negative comment and therefore is issuing it as a direct final rule. A substantial number of previous opportunities provided to the public to comment on substantially identical actions have resulted in negligible adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment, is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive within the comment period, an adverse or negative comment or written notice of intent to submit such acomment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action is needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98–ASW –37." The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Further, the FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments and only involves an established body of technical regulations that require frequent and routine amendments to keep them operationally current. Therefore, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. Since this rule involves routine matters that will only affect air traffic procedures and air navigation, it does not warrant preparation of a Regulatory Flexibility Analysis because the anticipated impact is so minimal.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, *Airspace Designations and Reporting Points*, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ASW LA E5 Cameron, LA [Revised]

Point in Space Coordinates
(lat. 29°47′30″ N., long. 98°18′40″ W.)

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the point in space in Cameron, LA, excluding that airspace within the Grand Chenier, LA, Class E airspace area.

* * * * *

Issued in Fort Worth, TX, on June 30, 1998.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 98–18104 Filed 7–7–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ASW–36]

Revision of Class E Airspace; Morgan City, LA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This amendment revises the Class E airspace at Morgan City, LA. The development of global positioning system (GPS) standard instrument approach procedures (SIAP), helicopter point-in-space approaches, to heliports in the Morgan City, LA, area has made this rule necessary. This action is intended to provide adequate controlled airspace extending upward from 700 feet or more above the surface for instrument flight rules (IFR) operations to the heliports.

DATES: Effective 0901 UTC, October 8, 1998.

Comments must be received on or before August 24, 1998.

ADDRESSES: Send comments on the rule in triplicate to Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Docket No. 98–ASW–36, Fort Worth, TX 76193–0520.

The official docket may be examined in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 2601 Meacham Boulevard, Room 663, Fort Worth, TX, between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Room 414, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone 817–222–5593.

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR part 71 revises the Class E airspace at Morgan City, LA. The development of GPS SIAP, helicopter point-in-space approaches, to heliports in the Morgan City, LA, area has made this rule necessary. This action is intended to provide adequate controlled airspace extending upward from 700 feet or more above the surface for IFR operations to the heliports.

Class E airspace designations are published in Paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR § 71.1. The Class E airspace designation listed in this document will be published subsequently in the order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in any adverse or negative comment and therefore is issuing it as a direct final rule. A substantial number of previous opportunities provided to the public to comment on substantially identical actions have resulted in negligible adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment, is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action is needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98–ASW–36." The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federal Assessment.

Further, the FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments and only involves an established body of technical regulations that require frequent and routine amendments to keep them operationally current. Therefore, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. Since this rule involves routine matters that will only affect air traffic procedures and air navigation, it does not warrant preparation of a Regulatory Flexibility Analysis because the anticipated impact is so minimal.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

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Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, *Airspace Designations and Reporting Points*, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005: Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ASW LA E5 Morgan City, LA [Revised]

Point In Space Coordinates
(lat. 29°40′00″N., long. 91°07′17″W.)

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the point in space in Morgan City, LA, excluding that airspace within the Patterson, LA, Class E airspace area.

* * * * *

Issued in Fort Worth, TX, on June 30, 1998.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 98–18103 Filed 7–7–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ASW–34]

Revision of Class E Airspace; Refugio, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This amendment revises Class E airspace at Refugio, TX. The development of two global positioning system (GPS) standard instrument approach procedures (SIAP) to the Mellon Ranch Airport at Refugio, TX, has made this rule necessary. This action is intended to provide adequate controlled airspace extending upward from 700 feet or more above the surface for instrument flight rules (IFR) operations to the Mellon Ranch Airport, Refugio, TX.

DATES: Effective 0901 UTC, October 8, 1998. Comments must be received on or before August 24, 1998.

ADDRESSES: Send comments on the rule in triplicate to Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Docket No. 98–ASW–34, Fort Worth, TX 76193–0520. The official docket may be examined in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 2601 Meacham Boulevard, Room 663, Fort Worth, TX, between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Room 414, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone 817–222–5593.

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR part 71 revises the Class E airspace at Refugio, TX. The development of two GPS SIAP's to the Mellon Ranch Airport, Refugio, TX, has made this rule necessary. This action is intended to provide adequate controlled airspace extending upward from 700 feet or more above the surface for IFR operations to the Mellon Ranch Airport, Refugio, TX.

Class E airspace designations are published in Paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR § 71.1. The Class E airspace designation listed in this document will be published subsequently in the order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in any adverse or negative comment and therefore is issuing it as a direct final rule. A substantial number of previous opportunities provided to the public to comment on substantially identical actions have resulted in negligible adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment, is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action is needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98–ASW–34." The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Further, the FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments and only involves an established body of technical regulations that requires frequent and routine amendments to keep them operationally current. Therefore, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. Since this rule involves routine matters that will only affect air traffic procedures and air navigation, it does not warrant preparation of a Regulatory Flexibility Analysis because the anticipated impact is so minimal.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, *Airspace Designations and Reporting Points*, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ASW TX E5 Refugio, TX [Revised]

Refugio, Mellon Ranch Airport, TX
(lat. 28°16′51″N., long. 97°12′41″W.)
Mellon Ranch NDB
(lat. 28°16′48″N., long. 97°12′21″W.)
Refugio, Rooke Field, TX
(lat. 28°17′37″N., long. 97°19′23″W.)

That airspace extending upward from 700 feet above the surface within a 6.8-mile radius of Mellon Ranch Airport and within 2.7 miles each side of the 345° bearing from the Mellon Ranch NDB extending from the 6.8-mile radius to 7.4 miles north of the airport and within 2.7 miles each side of the 145° bearing from the Mellon Ranch NDB extending from the 6.8-mile radius to 7.4 miles south of the airport, excluding that airspace within a ½ mile radius of Refugio, Rooke Field, TX, and excluding that airspace within the Rockport, TX, Class E airspace area.

* * * * *

Issued in Fort Worth, TX, on June 30, 1998.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 98–18101 Filed 7–7–98; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ASW–21]

Revocation of Class E Airspace; Spofford, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This notice confirms the effective date of a direct final rule which revokes the Class E airspace at Spofford, TX.

EFFECTIVE DATE: The direct final rule published at 63 FR 16888 is effective 0901 UTC, August 13, 1998.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone: 817–222–5593.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on April 7, 1998 (63 FR 16888). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on August 13, 1998. No adverse comments were received, and thus this action confirms that this direct final rule will be effective on that date.

Issued in Fort Worth, TX, on June 30, 1998.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 98–18100 Filed 7–7–98; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ASW–33]

Establishment of Class E Airspace; Johnson City, TX.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This amendment establishes Class E airspace at Johnson City, TX. The development of two global positioning system (GPS) standard instrument approach procedures (SIAP) to the Harris Ranch Airport at Johnson City, TX, has made this rule necessary. This action is intended to provide adequate controlled airspace extending upward from 700 feet or more above the surface for instrument flight rules (IFR) operations to the Harris Ranch Airport, Johnson City, TX.

DATES: Effective 0901 UTC, October 8, 1998. Comments must be received on or before August 24, 1998.

ADDRESSES: Send comments on the rule in triplicate to Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Docket No. 98–ASW–33, Fort Worth, TX 76193–0520.

The official docket may be examined in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 2601 Meacham Boulevard, Room 663, Forth Worth, TX, between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Room 414, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone 817–222–5593.

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SUPPLEMENTARY INFORMATION: This amendment to 14 CFR part 71 establishes the Class E airspace at Johnson City, TX. The development of two GPS SIAP's to the Harris Ranch Airport, Johnson City, TX, has made this rule necessary. This action is intended to provide adequate controlled airspace extending upward from 700 feet or more above the surface for IFR operations to the Harris Ranch Airport, Johnson City, TX.

Class E airspace designations are published in Paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR § 71.1. The Class E airspace designation listed in this document will be published subsequently in the order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in any adverse or negative comment and therefore is issuing it as a direct final rule. A substantial number of previous opportunities provided to the public to comment on substantially identical actions have resulted in negligible adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment, is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action is needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98–ASW–33." The postcard will be date stamped and returned to the commenter.

Ageny Findings

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Further, the FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments and only involves an established body of technical regulations that require frequent and routine amendments to keep them operationally current. Therefore, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. Since this rule involves routine matters that will only affect air traffic procedures and air navigation, it does not warrant preparation of a Regulatory Flexibility Analysis because the anticipated impact is so minimal.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, *Airspace Designations and Reporting Points,* dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the Earth.

* * * * *

ASW TX E5 Johnson City, TX [New]

Johnson City, Harris Ranch Airport, TX
(lat. 30°13′11″ N., long. 98°18′09″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Harris Ranch Airport.

* * * * *

Issued in Fort Worth, TX, on June 30, 1998.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 98–18099 Filed 7–7–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF JUSTICE

28 CFR Part 0

[AG Order No. 2167–98]

Office of the Inspector General

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This rule sets forth the organization, authority, and functions of the Office of the Inspector General, U.S. Department of Justice (OIG). The OIG is an independent entity within the Department of Justice under the general supervision of the Attorney General that conducts investigations, audits, inspections, and management reviews of Department personnel, programs, and operations. Investigations may concern alleged criminal, civil, and/or administrative wrongdoing by certain

Department employees, entities doing business with the Department, and third parties seeking to improperly influence Department employees. Audits, inspections, and management reviews are designed to determine the efficiency and effectiveness of Department programs; to prevent, detect, and eliminate fraud, waste, and abuse; and to recommend, where appropriate, improvements in operations.

EFFECTIVE DATE: June 25, 1998.

FOR FURTHER INFORMATION CONTACT: Howard L. Sribnick, General Counsel, Office of the Inspector General, Department of Justice, 950 Pennsylvania Avenue, N.W., Room 4261, Washington, D.C. 20530, telephone (202) 616–0646.

SUPPLEMENTARY INFORMATION: This section was not published for public comment because it pertains to a matter of internal Department management. In accordance with 5 U.S.C. 605(b), the Attorney General certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities and does not have an effect beyond the internal operating procedures of the Department or the OIG. This rule is not considered to be a rule within the meaning of section 3(d) of Executive Order 12866, nor does this rule have federalism implications warranting the preparation of a federalism assessment in accordance with section 6 of Executive Order 12612.

List of Subjects in 28 CFR Part 0

Authority delegations (Government agencies), Government employees, Organizations and functions (Government agencies), Whistleblowing.

Accordingly, by virtue of the authority vested in me as Attorney General, including 5 U.S.C. 301 and 28 U.S.C. 509, 510, Part 0 of title 28 of the Code of Federal Regulations is amended as follows:

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

1. The authority citation for Part 0 continues to read as follows:

Authority: 5 U.S.C. 302; 28 U.S.C. 509, 510, 515–519.

2. A new subpart E–4 is added to read as follows:

Subpart E–4—Office of the Inspector General

Sec.

0.29 Organization.
0.29a General functions.
0.29b Reporting allegations of waste, fraud, or abuse.
0.29c Reporting allegations of employee misconduct.
0.29d Whistleblower protection for FBI employees.
0.29e Relationship to other departmental units.
0.29f Confidentiality.
0.29g Reprisals.
0.29h Specific authorities of the Inspector General.
0.29i Audit, inspection, and review authority.
0.29j Law enforcement authority.

Subpart E–4—Office of the Inspector General

§ 0.29 Organization.

(a) The Office of the Inspector General (OIG) is composed of the Inspector General; the Deputy Inspector General; the Audit, Inspections, Investigations, and Management and Planning Divisions; the Special Investigations and Review Unit; and the Office of General Counsel.

(b) The OIG is headquartered in Washington, DC. Investigations Field Offices and Audit Regional Offices are located in Washington, DC and throughout the United States. For a listing of specific office locations, see the OIG Internet Website at http://www.usdoj.gov/oig.

§ 0.29a General functions.

(a) The OIG is a statutorily created independent entity within the Department of Justice subject to the general supervision of the Attorney General that conducts and supervises audits, inspections, and investigations relating to the programs and operations of the Department; recommends policies to promote economy, efficiency, and effectiveness and to prevent and detect fraud and abuse in Departmental programs and operations; and keeps the Attorney General and Congress informed about the problems and deficiencies relating to the administration of the Department and the necessity for and progress of corrective action.

(b) In order to carry out its responsibilities the OIG:

(1) Audits and inspects Department programs and operations as well as non-Department entities contracting with or receiving benefits from the Department;

(2) Investigates allegations of criminal wrongdoing and administrative misconduct on the part of Department employees, as provided in § 0.29c of this subpart;

(3) Investigates allegations that individuals and entities outside of the Department have engaged in activity that adversely affects the Department's programs and operations;

(4) Undertakes sensitive investigations of Department operations and/or personnel, often at the request of senior Department officials or Congress.

§ 0.29b Reporting allegations of waste, fraud, or abuse.

Employees shall report evidence and non-frivolous allegations of waste, fraud, or abuse relating to the programs and operations of the Department to the OIG or to a supervisor for referral to the OIG.

§ 0.29c Reporting allegations of employee misconduct.

(a) *Reporting to the OIG.* Evidence and non-frivolous allegations of serious misconduct by Department employees shall be reported to the OIG except as provided in § 0.29c(b) through (d) of this section.

(b) *Reporting to the Department's Office of Professional Responsibility (DOJ–OPR).* Employees shall report to DOJ–OPR evidence and non-frivolous allegations of serious misconduct by Department attorneys that relate to the exercise of their authority to investigate, litigate, or provide legal advice. Employees shall also report to DOJ–OPR evidence and non-frivolous allegations of serious misconduct by Department law enforcement personnel that are related to allegations of misconduct by a Department attorney that relate to the exercise of the attorney's authority to investigate, litigate, or provide legal advice.

(c) *Reporting to the Drug Enforcement Administration Office of Professional Responsibility (DEA–OPR).* Evidence and non-frivolous allegations of serious misconduct by employees of the Drug Enforcement Administration (DEA) shall be reported to the Drug Enforcement Administration Office of Professional Responsibility (DEA–OPR) or to the Deputy Attorney General.

(d) *Reporting to the Federal Bureau of Investigation Office of Professional Responsibility (FBI–OPR).* Evidence and non-frivolous allegations of serious misconduct by employees of the Federal Bureau of Investigation (FBI) shall be reported to the FBI–OPR except as provided in § 0.29d of this subpart, or to the Deputy Attorney General.

§ 0.29d Whistleblower protection for FBI employees.

(a) *Protected disclosures by FBI employees.* Disclosures of information by an FBI employee that the employee reasonably believes evidences a violation of any law, rule, or regulation, or mismanagement, gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety are protected disclosures and may be reported to the OIG, DOJ–OPR, or FBI–OPR. The OIG and DOJ–OPR shall refer such allegations to FBI–OPR for investigation unless the Deputy Attorney General determines that such referral shall not be made.

(b) *Allegations of retaliation against FBI employees.* Allegations of retaliation against an employee of the FBI who makes a protected disclosure shall be reported to the OIG, DOJ–OPR, or the Deputy Attorney General.

§ 0.29e Relationship to other departmental units.

(a) The OIG works cooperatively with other Department components to assure that allegations of employee misconduct are investigated by the appropriate entity:

(1) The OIG refers to DOJ–OPR, FBI–OPR, or DEA–OPR allegations of misconduct within their respective jurisdiction and may refer to another component the investigation of an allegation of that component;

(2) DOJ–OPR refers to the OIG, FBI–OPR, or DEA–OPR allegations involving misconduct by Department attorneys or investigators that do not relate to the exercise of an attorney's authority to investigate, litigate, or provide legal advice;

(3) The FBI and DEA provide contemporaneous notice to the OIG of all allegations of serious criminal conduct and serious administrative misconduct regarding their respective senior employees (grade 15 and above) and all work-related serious criminal conduct (except travel voucher fraud or false statements) regarding their other employees;

(4) The OIG and the FBI notify each other of the existence of criminal investigations that fall within their joint jurisdiction to investigate crimes involving the operations of the Department, except where such notification could compromise the integrity of an investigation;

(5) Other Department components report to the OIG all allegations of serious misconduct involving any of their employees except allegations involving Department attorneys and investigators that relate to an attorney's authority to litigate, investigate, or provide legal advice;

(6) At the request of the Inspector General, the Deputy Attorney General may assign to the OIG a matter within the investigative jurisdiction of another internal investigative component. In such instances, the OIG shall either:

(i) Notify the component of its request to the Deputy Attorney General or

(ii) Request that the Deputy Attorney General determine that such notification would undermine the integrity of the investigation nor jeopardize the interests of the complainant.

(7) While an issue of investigative jurisdiction or assignment is pending before the Deputy Attorney General, neither the OIG nor the other investigative component shall undertake any investigative activity without authorization from the Deputy Attorney General.

(b) OIG investigations that result in findings of potential criminal misconduct or civil liability are referred to the appropriate prosecutorial or litigative office.

(c) The OIG advises DOJ–OPR of the existence and results of any investigation that reflects upon the ethics, competence, or integrity of a Department attorney for appropriate action by DOJ–OPR.

(d) OIG investigations that result in findings of administrative misconduct are reported to management for appropriate disposition.

§ 0.29f Confidentiality.

The Inspector General shall not, during the pendency of an investigation, disclose the identity of an employee who submits a complaint to the OIG without the employee's consent, unless the Inspector General determines that such disclosure is unavoidable in the course of the investigation.

§ 0.29g Reprisals.

Any employee who has authority to take, direct others to take, recommend, or approve any personnel action shall not, with respect to such authority, take or threaten to take any action against any employee as a reprisal for the employee making a complaint or disclosing information to the OIG unless the complaint was made or the information was disclosed with knowledge that it was false or with willful disregard for its truth or falsity.

§ 0.29h Specific authorities of the Inspector General.

The Inspector General is authorized to:

(a) Conduct investigations and issue reports relating to the administration of the programs and operations of the Department as are, in the judgment of the Inspector General, necessary or desirable;

(b) Receive and investigate complaints or information from an employee of the Department concerning the possible existence of an activity constituting a violation of law, rules, or regulations, or mismanagement, gross waste of funds, an abuse of authority, or a substantial and specific danger to the public health and safety;

(c) Have direct and prompt access to the Attorney General when necessary for any purpose pertaining to the performance of the functions and responsibilities of the OIG;

(d) Have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to the Department and its components that relate to programs and operations with respect to which the OIG has responsibilities unless the Attorney General notifies the Inspector General, in writing, that such access shall not be available because it is necessary to prevent the disclosure of

(1) Sensitive information concerning ongoing civil or criminal investigations or proceedings;

(2) Undercover operations;

(3) The identity of confidential sources, including protected witnesses;

(4) Intelligence or counterintelligence matters; or

(5) Other matters the disclosure of which would constitute a serious threat to national security or significantly impair the national interests of the United States;

(e) Request such information or assistance as may be necessary for carrying out the duties and responsibilities of the OIG from any office, board, division, or component of the Department, and any Federal, State, or local governmental agency or unit thereof;

(f) Issue subpoenas to individuals, and entities, other than Federal government agencies, for the production of information, records, data, and other documentary evidence necessary to carry out the functions of the OIG;

(g) Obtain information from Federal government agencies by means other than subpoena and advise the head of such agency whenever information is unreasonably refused or not provided;

(h) Select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the OIG;

(i) Employ on a temporary basis such experts and consultants as may be necessary to carry out the duties of the OIG;

(j) Enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out the duties of the OIG;

(k) Take from any person an oath, affirmation, or affidavit whenever necessary in the performance of the functions of the OIG.

§ 0.29i Audit, inspection, and review authority.

The OIG is authorized to perform audits, inspections, and reviews of the programs and operations of the Department of Justice and of entities contracting with or obtaining benefits from the Department.

§ 0.29j Law enforcement authority.

Special Agents of the OIG are deputized on an annual basis as Deputy United States Marshals at the direction of the Deputy Attorney General and are authorized to:

(a) Detect and assist in the prosecution of crimes in violation of the laws of the United States and to conduct such other investigations regarding matters that are within the jurisdiction of the Inspector General;

(b) Carry firearms;

(c) Seek and execute search and arrest warrants;

(d) Arrest without warrant any person committing any offense in the presence of an OIG Special Agent or whom the Agent has reasonable grounds to believe has committed or is committing a felony;

(e) Serve legal writs, summons, complaints, and subpoenas issued by the Inspector General or by a Federal grand jury;

(f) Receive, transport, and provide safekeeping of arrestees and other persons in the custody of the Attorney General, or detained aliens.

Dated: June 25, 1998.

Janet Reno,

Attorney General.

[FR Doc. 98–17770 Filed 7–7–98; 8:45 am]

BILLING CODE 4410-BC-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05–98–046]

RIN 2115–AE46

Special Local Regulations for Marine Events; Norfolk Harbor, Elizabeth River, Norfolk and Portsmouth, Virginia

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

SUMMARY: This notice implements the special local regulations at 33 CFR 100.501 during the start of Rendezvous Mile Market Zero, a marine event to be held on September 5, 1998. These special local regulations are necessary to control vessel traffic in the vicinity of Norfolk Harbor due to the confined nature of the waterway and expected vessel congestion during the start of the event. The effect will be to restrict general navigation in the regulated area for the safety of event participants, spectator craft and other vessels transiting the event area.

EFFECTIVE DATE: 33 CFR 100.501 is effective from 10 a.m. to 2 p.m. on September 5, 1998.

FOR FURTHER INFORMATION CONTACT: Chief Warrant Officer D. Merrill, Marine Events Coordinator, Commander, Coast Guard Group Hampton Roads, 4000 Coast Guard Blvd., Portsmouth, VA 23703–2199, (757) 483–8568.

SUPPLEMENTARY INFORMATION: Ports Events, Inc., will sponsor the Rendezvous, Mile Marker Zero, marine event on September 5, 1998. The event will consist of 100 powerboats, ranging in length from 20′ to 60′. The participants will be divided into 4 groups of 25 boats, with each group starting at 10 minute intervals from the Portsmouth seawall area of the Elizabeth River. They will run to Hampton Roads and return. A large spectator fleet is anticipated. Therefore, to ensure the safety of the racers, spectators and transiting vessels, 33 CFR 100.501 will be in effect during the start of the event. Under provisions of 33 CFR 100.501, a vessel may not enter the regulated area unless it receives permission from the Coast Guard Patrol Commander. Because these restrictions will be in effect for a limited period, they should not result in a significant disruption of maritime traffic.

Dated: June 23, 1998.

P.M. Stillman,

Captain, U.S. Coast Guard, Acting Commander, Fifth Coast Guard District.

[FR Doc. 98–18118 Filed 7–7–98; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05–98–045]

RIN 2115–AE46

Special Local Regulations for Marine Events; Virginia is for Lovers Cup Unlimited Hydroplane Races, Willoughby Bay, Norfolk, Virginia

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: Special local regulations are being adopted for the Virginia is for Lovers Cup Unlimited Hydroplane Races to be held in Willoughby Bay, Norfolk, Virginia. The event will be held from 8 a.m. to 4 p.m. EDT (Eastern Daylight Time) July 18 & 19, 1998. These special local regulations are necessary to control vessel traffic in the immediate vicinity of this event. The effect will be to restrict general navigation in the regulated area for the safety of spectators and participants.

EFFECTIVE DATES: This regulation is effective from 8 a.m. to 4 p.m. EDT on July 18 & 19, 1998.

FOR FURTHER INFORMATION CONTACT: CWO D. Merrill, Marine Events Coordinator, Commander, Coast Guard Group Hampton Roads, 4000 Coast Guard Blvd., Portsmouth, Virginia 23703, (757) 483–8521.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impractical. The request to hold the event was not submitted until May 26, 1998. Publishing a notice of proposed rulemaking and delaying its effective date would be contrary to safety interests, since immediate action is needed to minimize potential danger to the public posed by the large number of racing vessels participating in this event.

Discussion of Regulations

On July 18 & 19, 1998, the City of Norfolk will sponsor the Virginia is for Lovers Cup Unlimited Hydroplane Races in Willoughby Bay. The event will consist of hydroplanes, hydrolights, Grand Prix and Jersey Speed Skiffs racing at high speeds along a 2-mile oval course. Except for participants in the Virginia is for Lovers Cup Unlimited Hydroplane Races and vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area without the permission of the Patrol Commander. The Patrol Commander will allow non-participating vessel to transit the event area between races. These regulations are necessary to control spectator craft and provide for the safety of life and property on navigable waters during the event.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review

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by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory procedures of DOT is unnecessary. Entry into the regulated area will only be prohibited while the race boats are actually competing. Since vessels will be allowed to transit the event area between heats, the impacts on routine navigation are expected to be minimal.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). This rule does not impose any new restrictions on vessel traffic, but merely changes effective dates of a regulation. Therefore, the Coast Guard certifies under Section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601–612) that this temporary final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

These regulations contain no collection of information requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(h) of COMSTINST M16475.1C, this rule is categorically excluded from further environmental documentation. Special local regulations issued in conjunction with a regatta or marine parade are excluded under that authority.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Temporary Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations is amended as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary Section 100.35–T05–045 is added to read as follows:

§ 100.35–T05–045 Willoughby Bay, Norfolk, Virginia.

(a) *Definitions:*

(1) *Regulated area.* The waters of Willoughby Bay from shoreline to shoreline, and the approaches to Willoughby Bay bounded by a line drawn westerly from the northern corner of Willoughby Spit located at latitude 36°58′06″ North, longitude 76°17′58″ West, to Willoughby Bay Channel Light 7 (LLNR 10595) located at latitude 36°58′06″ North, longitude 76°18′18″ West; thence southwesterly to the shoreline at the Norfolk Naval Base located at latitude 36°57′21″ North, longitude 76°18′27″ West. All coordinates reference Datum: NAD 1983.

(2) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Group Hampton Roads.

(b) *Special Local Regulations:*

(1) Except for participants in the Virginia is for Lovers Cup Unlimited Hydroplane Races and vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area without the permission of the Patrol Commander.

(2) The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(ii) Proceed as directed by any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(3) The Patrol Commander will allow vessel traffic to transit the event area between races.

(c) *Effective dates:* This section is effective from 8 a.m. to 4 p.m. EDT on July 18 and July 19, 1998.

Dated: June 23, 1998.

P.M. Stillman,

Captain, U.S. Coast Guard Acting Commander, Fifth Coast Guard District.

[FR Doc. 98–18116 Filed 7–7–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05–98–047]

RIN 2115–AE46

Special Location Regulations for Marine Events; Dragon Boat Races, Inner Harbor, Baltimore, Maryland

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: Special local regulations are being adopted for Dragon Boat Races to be held in the Inner Harbor, Baltimore, Maryland. The event will be held from 7 a.m. to 6 p.m. on September 19, 1998. These special local regulations are necessary to control vessel traffic in the immediate vicinity of this event. The effect will be to restrict general navigation in the regulated area for the safety of event participants.

EFFECTIVE DATE: This regulation is effective from 7 a.m. to 6 p.m. on September 19, 1998.

FOR FURTHER INFORMATION CONTACT: CWO R. Houck, Marine Events Coordinator, Commander, Coast Guard Activities Baltimore, 2401 Hawkins Point Road, Building 70, Baltimore, Maryland 21226–1761, (410) 576–2674.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation because following normal rulemaking procedures would have been impractical. The request to hold the event was not submitted until June 6, 1998, and there is not sufficient time remaining for a notice and comment period before the event. Therefore, publishing a notice of proposed rulemaking would be contrary to safety interests, since immediate action is needed to minimize potential danger to the participants in this event

Discussion of Regulations

On September 19, 1998, Associated Catholic Charities, Inc., will sponsor the Dragon Boat Races in the Inner Harbor. The event will consist of 36 teams rowing Chinese Dragon Boats in heats of 2 to 4 boats for a distance of 400 meters. Except for participants in the Dragon

Boat Races and vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area without the permission of the Patrol Commander. The Patrol Commander will allow vessel traffic to transit the event area between races. These regulations are necessary to control other vessels transiting the event area and provide for the safety of life and property on navigable waters during the event.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under the order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory procedures of DOT is unnecessary. Entry into the regulated area will only be prohibited while the Dragon Boats are actually competing. Since vessels will be allowed to transit the event area between heats, the impacts on routine navigation are expected to be minimal.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Because it expects the impact of this rule to be minimal, the Coast Guard certifies under Section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601–612) that this temporary final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

These regulations contain no collection of information requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(h) of COMDTINST M16475.1C, this rule is categorically excluded from further environmental documentation. Special local regulations issued in conjunction with a regatta or marine parade are excluded under that authority.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Temporary Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations is amended as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary Section 100.35–T05–047 is added to read as follows:

§ 100.35–T05–047 Inner Harbor, Baltimore, Maryland.

(a) *Definitions:*

(1) *Regulated area:* The waters of the Inner Harbor from shoreline to shoreline, bounded on the east by a line drawn along longitude 76°36′30″ West. All coordinates reference Datum: NAD 1983.

(2) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Activities Baltimore.

(b) *Special Local Regulations:*

(1) Except for participants in the Dragon Boat Races and vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area without the permission of the Patrol Commander.

(2) The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(ii) Proceed as directed by any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(3) The Patrol Commander will allow vessel traffic to transit the event area between races.

(c) *Effective dates:* This section is effective from 7 a.m. to 6 p.m. on September 19, 1998.

Dated: June 23, 1998.

P.M. Stillman,

Captain, U.S. Coast Guard Acting Commander, Fifth Coast Guard District.

[FR Doc. 98–18115 Filed 7–7–98; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP New Orleans, LA 98–009]

RIN 2115–AA97

Safety Zone Regulations; Baptiste Collette Bayou Channel, Mile 11.5, Left Descending Bank, Lower Mississippi River, Above Head of Passes

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone within the Baptiste Collette Bayou Channel, Mile 11.5, Left Descending Bank, Lower Mississippi River, Above Head of Passes, extending the entire width of the channel. The safety zone has been established to protect vessels transiting the area from hazardous conditions associated with severe shoaling and the concurrent U.S. Army Corps of Engineers dredging operations.

EFFECTIVE DATES: This regulation becomes effective on May 9, 1998, commencing at 5:00 p.m. local time. It will be terminated when the U.S. Corps of Engineers dredging operations are complete on August 2, 1998.

FOR FURTHER INFORMATION CONTACT: LT Zachary Pickett (504) 589–4222. U.S. Coast Guard Marine Safety Office, 1615 Poydras St., New Orleans, LA 70112–1254.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking will not be published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to respond to the potential hazards to local marine traffic involved.

Drafting Information: The drafter of this regulation is LT Zachary Pickett, Project Manager for the Captain of the

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Port, and LT(jg) M.A. Woodruff, Project Counsel, Eighth Coast Guard District Legal Office.

Background and Purpose

The hazardous condition requiring this regulation is a result of severe shoaling within the Baptiste Collette Bayou Channel. The U.S. Army Corps of Engineers is currently dredging this channel thereby restricting navigation. A safety zone is needed to protect vessels transiting the area. This regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of Part 165.

Regulatory Evaluation

This temporary rule is not a significant regulatory evaluation under Section 3(f) of Executive Order 12866 and is not significant under the "Department of Transportation Regulatory Policies and Procedures" (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full regulatory evaluation is unnecessary. This regulation will only be in effect for a short period of time, and the impacts on routine navigation are expected to be minimal.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this regulation will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Since the impact of this regulation on non-participating small entities is expected to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation will only be in effect for several hours and the impacts on small entities are expected to be minimal.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that it does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that under figure 2–1, paragraph (34)(g) of Commandant Instruction M16475.1C, this proposal is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Safety measures, Vessels, Waterways.

Regulation: In consideration of the foregoing, Subpart F of Part 165 of Chapter 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A new § 165.T08–024 is added to read as follows:

§ 165.T08–024 Safety Zone:

(a) *Location.* The following area is a safety zone: Baptiste Collette Bayou Channel, Lower Mississippi River, Mile 11.5, Left Descending Bank, Above Head of Passes in the vicinity of Venice, Louisiana extending the entire width of the channel.

(b) *Effective date.* This section becomes effective on May 9, 1998, commencing at 5:00 p.m. local time. It will be terminated when the U.S. Army Corps of Engineers completes dredging operations on August 2, 1998.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, no vessel may operate within the safety zone contrary to this regulation.

(2) The Baptiste Collette Channel is restricted to vessels with drafts of five feet or less. All vessels shall comply with this draft restriction unless otherwise directed in Marine Information Broadcasts.

(3) A one way traffic pattern is in effect and being regulated by the U.S. Army Corps of Engineers M/V BRETON or as directed in Marine Information Broadcasts.

(4) All vessels shall observe a no meeting or passing zone while transiting Baptiste Collette or as directed in Marine Information Broadcasts.

(5) The west side (red) of the channel is closed from marker #6 to the sea buoy/entrance buoy. Passing will only be allowed on the east side (green) of the channel and only at the top of each hour or as directed by the U.S. Army Corps of Engineers M/V BRETON.

Dated: May 8, 1998.

G.D. Marsh,

Captain, U.S. Coast Guard, Captain of the Port.

[FR Doc. 98–18117 Filed 7–7–98; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 049–1049a; FRL–6118–3]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This final action approves revised Missouri rule 10 CSR 10–6.030 as a revision to the Missouri State Implementation Plan (SIP). This rule revision was submitted by the state of Missouri to incorporate the most current EPA guidance on capture efficiency methods for volatile organic compound emission control systems.

DATES: This direct final rule is effective on September 8, 1998 without further notice, unless the EPA receives adverse comment by August 7, 1998. If adverse comment is received, the EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to Kim Johnson, Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101. Copies of the documents relevant to this action are available for public inspection during normal business hours at the: Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and the EPA Air & Radiation Docket and Information Center, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Kim Johnson at (913) 551–7975.

SUPPLEMENTARY INFORMATION: This revision to Missouri rule 10 CSR 10–6.030 incorporates capture efficiency methods as identified in the EPA's February 7, 1995, memorandum entitled, "Revised Capture Efficiency Guidance for Control of Volatile Organic

Compound Emissions," and the EPA's January 9, 1994, technical document entitled, "Guidelines for Determining Capture Efficiency." Capture efficiency is the measure of the fraction of all organic vapors generated by a process that are directed to an abatement or recovery device. Capture efficiency and destruction efficiency need to be determined in order to calculate the overall control efficiency of any control device.

The EPA's Revised Capture Efficiency Guidance Document is the result of a 12-month EPA study of alternatives with potential to reduce capture efficiency testing costs. This guidance document reduces costs by recommending protocols, presenting criteria by which alternative procedures can be approved, and establishing the reporting requirements for using alternative procedures. Guidelines are also included for selecting and testing representative process lines at a facility and for testing multiple lines in combination.

This rule amendment also incorporates specific methods to determine capture efficiency for automobile and light-duty truck topcoat operations entitled, "Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Topcoat Operations," as amended by Section 23–Determining Spraybooth VOC Capture Efficiency dated March 8, 1996.

I. Final Action

The EPA is taking final action to approve as a revision to the SIP the amendment to rule 10 CSR 10–6.030, "Sampling Methods for Air Pollution Sources," submitted by the state of Missouri on December 17, 1996.

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, the EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective September 8, 1998 without further notice unless the Agency receives relevant adverse comments by August 7, 1998.

If the EPA receives such comments, then the EPA will publish a document withdrawing the final rule and informing the public that the rule did not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. Only parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on September 8, 1998 and no further action will be taken on the proposed rule.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors, and in relation to relevant statutory and regulatory requirements.

II. Administrative Requirements

A. Executive Orders 12866 and 13045

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

The final rule is not subject to Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks," because it is not an "economically significant" action under Executive Order 12866.

B. Regulatory Flexibility

The Regulatory Flexibility Act generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities.

SIP approvals under section 110 and subchapter I, Part D of the Clean Air Act (CAA) do not create any new requirements but simply approve requirements that the state is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids the EPA to base its actions concerning SIPs on such grounds (*Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2)).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, the EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, the EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves preexisting requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 8, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the

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purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 12, 1998.

William Rice,

Acting Regional Administrator, Region VII.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart AA—Missouri

2. Section 52.1320 is amended by adding paragraph (c)(106) to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

(106) On December 17, 1996, the Missouri Department of Natural Resources submitted a revised rule pertaining to capture efficiency.

(i) Incorporation by reference.

(A) Revised regulation 10 CSR 10–6.030 entitled, "Sampling Methods for Air Pollution Sources," effective November 30, 1996.

[FR Doc. 98–17973 Filed 7–7–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DC038–2009a, MD058–3026a, VA083–5035a; FRL–6120–5]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia, Virginia, Maryland; 1990 Base Year Emission Inventory for the Metropolitan Washington, DC Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the District of Columbia (the District), the State of Maryland and the Commonwealth of Virginia State Implementation Plans (SIP) which pertain to the 1990 base year ozone emission inventory for the Washington, DC–MD–VA Consolidated Metropolitan Statistical Area (CMSA). This area, commonly referred to as the Metropolitan Washington, D.C. area, is classified as a serious ozone nonattainment area. These SIP revisions were prepared by the District, the Commonwealth of Virginia and the State of Maryland with the assistance of the Metropolitan Washington Council of Governments and were submitted for the purpose of revising the 1990 baseline of volatile organic compound (VOC) and nitrogen oxides (NOx) emissions that contribute to ozone nonattainment problems in the Metropolitan Washington, D.C. area. The intended effect of this action is to approve amendments to the 1990 base year ozone emission inventory for the Metropolitan Washington, D.C. area in accordance with the Clean Air Act.

DATES: This direct final rule is effective on September 8, 1998 without further notice, unless EPA receives adverse comment by August 7, 1998. If adverse comment is received, EPA will publish a timely document withdrawing this rule.

ADDRESSES: Comments may be mailed to David L. Arnold, Chief, Ozone & Mobile Sources Branch, Mailcode 3AP21, Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the District of Columbia Department of Health, Air Quality Division, 2100 Martin Luther King Ave., S.E., Washington, DC 20020; the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland 21224; and the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Christopher Cripps, (215) 814–2179, at EPA Region III address, or via e-mail at cripps.christopher@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the above Region III address.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Clean Air Act (the Act), States have the responsibility to inventory emissions contributing to national ambient air quality standard nonattainment, to track these emissions over time, and to ensure that control strategies are being implemented that reduce emissions and move areas towards attainment. The 1990 base year emissions inventory is the primary inventory from which the periodic inventory, the rate-of-progress (ROP) target level and projection inventories, and the modeling inventory are derived. The Act requires ozone nonattainment areas designated as moderate, serious, severe, and extreme to submit a plan within three years of 1990 to reduce VOC emissions by 15 percent within six years after 1990 (15% ROP plan). The baseline level of emissions, from which the 15 percent reduction is calculated, is determined by adjusting the base year VOC inventory to exclude biogenic emissions and to exclude certain emission reductions not creditable towards the 15% plan. The Act further requires ozone nonattainment areas designated as serious, severe, and extreme to submit a plan within four years of 1990 to reduce VOC emissions by a further nine percent in the period between six and nine years after 1990 (post-1996 ROP plan). The Act allows reductions in NOx emissions after 1990 to be substituted for VOC reductions in the post-96 ROP plan. When NOx reductions are substituted, the baseline level of emissions, from which the NOx reduction percentage is calculated, is determined by adjusting the base year NOx inventory to exclude certain emission reductions not creditable towards the 15% plan. Further information on these inventories and their purpose can be found in the following documents issued by EPA:

Emission Inventory Requirements for Ozone State Implementation Plans, Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina, March 1991

Guidance on the Adjusted Base Year Emissions Inventory and the 1996 Target for 15 Percent Rate of Progress Plans, Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina, October 1992.

Guidance on the Post '96 Rate-of-Progress Plan (RPP) and Attainment Demonstration (Corrected version of February 18, 1994), Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina, February 18, 1994.

The 1990 base year inventory may also serve as part of statewide inventories for purposes of regional modeling in transport areas. The 1990 base year inventory plays an important role in modeling demonstrations for areas classified as moderate and above that are located outside transport regions. The air quality planning requirements for marginal to extreme ozone nonattainment areas are set out in section 182(a)–(e) of Title I of the Act. The EPA has issued a General Preamble describing EPA's preliminary views on how EPA intends to review SIP revisions submitted under Title I of the Act, including requirements for the preparation of the 1990 base year inventory (see 57 FR 13502 April 16, 1992; and 57 FR 18070 April 28, 1992). Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of Title I and its supporting rationale. In today's rulemaking action on the Metropolitan Washington, DC ozone nonattainment area's 1990 base year emissions inventory, EPA is applying its interpretations taking into consideration the specific factual issues presented.

Those states containing ozone nonattainment areas classified as marginal to extreme are required under section 182(a)(1) of the Act to submit a final, comprehensive, accurate, and current inventory of actual ozone season, weekday emissions from all sources within 2 years of enactment (November 15, 1992). This inventory is for calendar year 1990 and is denoted as the 1990 base year inventory. It includes both anthropogenic and biogenic sources of VOC, NO_X, and carbon monoxide (CO) emissions. The inventory is to address actual VOC, NO_X, and CO emissions for the area during peak ozone season, which is generally comprised of the summer months. All emissions from stationary point and area sources, as well as highway and non-road mobile sources, and biogenic emissions within the nonattainment area, are to be included in the compilation.

Air quality planning in the Washington, DC ozone nonattainment area is done jointly by the District of Columbia, Maryland, Virginia and the Metropolitan Washington Air Quality Committee (MWAQC). The MWAQC, composed of state and local elected officials, state air quality and transportation planning directors and the Chair of the National Capital Region Transportation Planning Board, ensures interstate air quality planning consultation requirements of sections 182(j) and 174 are fulfilled and has been certified under section 174 as the air quality planning organization for the Washington, DC ozone nonattainment area by the Governors of Maryland and Virginia and the Mayor of the District of Columbia. The MWAQC recommends air quality planning measures and approves ROP plans both of which the states adopt as SIP revisions. The MWAQC relies upon the three air planning agencies including the District of Columbia's Air Quality Division, Environmental Health Division, Department of Health (formerly the Air Resources Management Division of the Department of Consumer and Regulatory Affairs) and upon the Metropolitan Washington Council of Governments (MWCOG) for technical support. Each jurisdiction adopts the MWAQC-approved plan as a revision to its SIP.

In July 1996 the MWAQC and the Washington, DC ozone nonattainment area states began revisions to their 15% ROP plans in conjunction with the post-1996 ROP plans. At this time certain portions of the 1990 base year inventory were refined to utilize better information such as that relating to traffic demand modeling, updated information on point source emissions, and to correct certain errors in the inventory found while the states were auditing the inventory in preparation for the attainment demonstration modeling.

The update to the point source inventory reflects changes in emission factors, replacement of emission factors with actual stack testing results, correction of coding errors in boiler firing type and correction in the associated emission factor, and improved reporting by sources. The changes in area source emissions estimates are attributable to changes in several categories, including, "coal consumption," which includes residential, commercial/institutional, and industrial consumption. These changes resulted from the use of a corrected emissions factor for under-fired stokers in the commercial/institutional and industrial categories and a corrected emissions factor for the residential category. In addition, the spatial allocation approach for commercial, institutional and non-point source industrial fossil-fuel combustion categories was changed to use employment as the activity surrogate, instead of population. Other revisions in area source emissions result from use of better 1990 information available for the military airports, structure fires and certain industrial surface coating categories.

The changes in area source emissions estimates are attributable to changes in estimates of activity split between the weekend and weekday use of recreational boating and lawn and garden equipment and in the Reid vapor pressure (RVP) of gasoline used in the area in 1990. The 1990 inventory was based upon an EPA supplied inventory that did not accurately reflect the 1990 summer RVP of 8.3 psi nor the proper activity split between the weekend and weekday use of recreational boating and lawn and garden equipment.

The mobile source inventory was developed by using a network-based travel demand model which is the same network used for transportation conformity purposes. The refinements to the 1990 mobile source emissions inventory are attributable to refinements implemented in the traffic modeling process. These refinements are designed to provide a better feedback relationship between congested traffic speeds on the network and the gravity model. Additionally, updated land use assumptions, actual 1990 census data for households and population data and the Regional Employment Census for employment data were used in the refinements. These updated assumptions are slightly lower than the "projected" 1990 assumptions used for the initial 1990 inventory submittals.

II. Criteria for Approval

There are general and specific components of an acceptable emission inventory. In general, a state must meet the minimum requirements for reporting by source category. Specifically, the source requirements are detailed below.

The base year emission inventory is approvable if it passes Levels I, II, and III of the review process. Detailed Level I and II review procedures can be found in the following document; "Quality Review Guidelines for 1990 Base Year Emission Inventories," Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC, July 27, 1992. Level III review procedures are specified in a memorandum from David Mobley and G.T. Helms to the Regions "1990 O_3/CO SIP Emission Inventory Level III Acceptance Criteria," October 7, 1992 and revised in a memorandum from John Seitz to the Regional Air Directors dated June 24, 1993.

The Levels I and II review process is used to determine that all components of the base year inventory are present. The review also evaluates the level of supporting documentation provided by the state and assesses whether the emissions were developed according to current EPA guidance. The data quality

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is also evaluated. The Level III review process, as outlined here, consists of 10 criteria. For a base year emission inventory to be acceptable it must pass all of the following acceptable criteria:

A. An approved Inventory Preparation Plan (IPP) must be provided and the Quality Assurance (QA) program contained in the IPP must be performed and its implementation documented.

B. Adequate documentation must be provided that enables the reviewer to determine the emission estimation procedures and the data sources used to develop the inventory.

C. The point source inventory must be complete.

D. Point source emissions must be prepared or calculated according to the current EPA guidance.

E. The area source inventory must be complete.

F. The area source emissions must be prepared or calculated according to the current EPA guidance.

G. Biogenic emissions must be prepared according to current EPA guidance or another approved technique.

H. The method (e.g., a network transportation planning model) used to develop vehicle miles traveled (VMT) estimates must follow EPA guidance, which is detailed in the document, "Procedures for Emission Inventory Preparation, Volume IV: Mobile Sources," Environmental Protection Agency, Office of Mobile Sources and Office of Air Quality Planning and Standards, Ann Arbor, Michigan, and Research Triangle Park, North Carolina, December 1992. The VMT development methods must be adequately described and documented in the inventory report.

I. The EPA's MOBILE emission factor model must be correctly used to produce emission factors for each of the vehicle classes.

J. Non-road mobile emissions must be prepared according to current EPA guidance for all of the source categories.

III. The District's, Virginia's and Maryland's Submittals

On November 3, 1997, the Department of Consumer and Regulatory Affairs (DCRA) for the District of Columbia submitted the revised 1990 base year emission inventories as a formal revision to the District's State Implementation Plan (SIP). On December 24, 1997 the Maryland Department of the Environment submitted the revised 1990 base year emission inventories as a formal revision to the Maryland SIP, and on December 17, 1997 the Virginia Department of Environmental Quality submitted the revised 1990 base year emission inventories as a formal revision to the Virginia SIP. EPA reviewed this submittal to determine completeness shortly after submittal, in accordance with the completeness criteria set out at 40 CFR Part 51, Appendix V (1991), as amended by 57 FR 42216 (August 26, 1991). The submittals were determined to be complete on December 10, 1997, January 13, 1998 and January 12, 1998 for the District's, Maryland's and Virginia's submittals, respectively.

IV. EPA Analysis of the SIP Revisions

Based on EPA's Level I, II, and III review findings, the District, Maryland and Virginia have satisfied all of EPA's requirements for providing a comprehensive and accurate 1990 base year inventory of actual emissions for the Metropolitan Washington, D.C. ozone nonattainment area.

There were no deficiencies found during the Level I and II review. The Level I and II checklists are contained in the TSD prepared for this action.

A summary of EPA's Level III findings is given below:

A. The Inventory Preparation Plan (IPP) and Quality Assurance (QA) program have been approved and implemented. These were approved on March 27, 1992, August 11, 1992 and August 27, 1992 for the District, Maryland and Virginia, respectively.

B. The documentation was adequate for all emission types (stationary point, area, highway mobile, on-road mobile and biogenic sources) for the reviewer to determine the estimation procedures and data sources used to develop the inventory.

C. The point source inventory was found to be complete.

D. The point source emissions were estimated according to EPA guidance.

E. The area source inventory was found to be complete.

F. The area source emissions were estimated according to EPA guidance.

G. The biogenic source emissions were estimated using the Biogenic Emission Inventory System (PC–BEIS) in accordance with EPA guidance.

H. The method used to develop VMT estimates was adequately described and documented.

I. The mobile model was used correctly.

J. The non-road mobile emission estimates were correctly prepared in accordance with EPA guidance.

Thus, EPA has determined that the District's, the State of Maryland's and the Commonwealth of Virginia's submittals meet the essential reporting and documentation requirements for a 1990 base year emission inventory.

A summary of the emission inventories broken down by point, area, biogenic, on-road, and non-road mobile sources is presented for VOC, NO_X, and CO emissions in the tables below.

METROPOLITAN WASHINGTON, DC OZONE SEASON EMISSIONS IN TONS PER DAY BY JURISDICTION

[1990 Base-Year VOC Inventory]

	District of Columbia	Maryland	Virginia	Area total
Point Source Emissions	1.0	5.5	8.1	14.6
Area Source Emissions	20.0	94.2	77.0	191.2
Non-Road Mobile Emissions	5.5	32.1	32.8	70.4
On-Road Mobile Emissions	32.6	108.4	110.1	251.1
Biogenic Emissions	3.2	225.9	147.4	376.5
Total	62.3	466.1	375.4	903.8

METROPOLITAN WASHINGTON, DC OZONE SEASON EMISSIONS IN TONS PER DAY BY JURISDICTION

[1990 Base-Year NO_X Inventory]

	District of Columbia	Maryland	Virginia	Total
Point Source Emissions	7.6	267.4	59.8	334.8

METROPOLITAN WASHINGTON, DC OZONE SEASON EMISSIONS IN TONS PER DAY BY JURISDICTION—Continued

[1990 Base-Year NO_X Inventory]

	District of Columbia	Maryland	Virginia	Total
Area Source Emissions	3.4	15.8	28.1	47.3
Non-Road Mobile Emissions	5.5	43.5	36.0	85.0
On-Road Mobile Emissions	25.8	129.1	106.8	261.7
Biogenic Emissions	NA	NA	NA	NA
Total	42.3	455.8	230.7	728.8

METROPOLITAN WASHINGTON, DC OZONE SEASON EMISSIONS IN TONS PER DAY BY JURISDICTION

[1990 Base-Year Carbon Monoxide (CO) Inventory]

	District of Columbia	Maryland	Virginia	Total
Point Source Emissions	4.3	51.8	3.6	59.7
Area Source Emissions	2.7	9.8	49.6	62.1
Non-Road Mobile Emissions	145	427.4	365	937.4
On-Road Mobile Emissions	248.3	901.5	909.1	2058.9
Biogenic Emissions	NA	NA	NA	NA
Total	400.3	1390.5	1327.3	3118.1

EPA has determined that the submittals made by the District, Maryland and Virginia satisfy the relevant requirements of the Act. EPA's detailed review of the emission inventories is contained in a Technical Support Document (TSD) which is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section above.

EPA is approving this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse or critical comments be filed. This rule will be effective September 8, 1998 without further notice unless the Agency receives adverse comments by August 7, 1998.

Should EPA receive such comments, then EPA will publish a document informing the public that this rule did not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this rule. Only parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this rule will be effective on September 8, 1998 and no further action will be taken on the proposed rule.

If adverse comments are received that do not pertain to all paragraphs in this rule, those paragraphs not affected by the adverse comments will be finalized in the manner described here. Only those paragraphs which receive adverse comments will be withdrawn in the manner described here.

V. Final Action

EPA is approving the revised 1990 base year ozone emission inventory for VOC and NO_X submitted by the District of Columbia, State of Maryland and the Commonwealth of Virginia for the Metropolitan Washington, D.C. ozone nonattainment area. The inventory revisions concern VOC, and NO_X emissions from point, area, highway mobile, and non-road mobile biogenic emissions.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision of any SIP. Each request for revision to a SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

VI. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

The final rule is not subject to E.O. 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks," because it is not an "economically significant" action under E.O. 12866.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000. SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule. EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 8, 1998. Filing a petition for reconsideration by the Administrator of this rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action, regarding the 1990 emission inventory for the Washington, DC ozone nonattainment area submitted by the District of Columbia, State of Maryland and Commonwealth of Virginia, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and record keeping requirements, and SIP requirements.

Dated: June 23, 1998.

Thomas Voltaggio,

Acting Regional Administrator, Region III.

Part 52, Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart J—District of Columbia

2. Section 52.474 is amended by adding paragraph (c) to read as follows:

§ 52.474 1990 Base Year Emission Inventory.

* * * * *

(c) EPA approves as a revision to the District of Columbia State Implementation Plan an amendment to the 1990 base year emission inventories for the District's portion of the Metropolitan Washington, D.C. ozone nonattainment area submitted by the Director, Department of Consumer and Regulatory Affairs, on November 3, 1997. This submittal consists of amendments to the 1990 base year point, area, highway mobile, and non-road source emission inventories in the area for the following pollutants: volatile organic compounds (VOC), and oxides of nitrogen (NO_X).

Subpart V—Maryland

3. Section 52.1075 is amended by adding paragraph (f) to read as follows:

§ 52.1075 1990 Base Year Emission Inventory.

* * * * *

(f) EPA approves as a revision to the Maryland State Implementation Plan an amendment to the 1990 base year emission inventories for the Maryland portion of the Metropolitan Washington DC ozone nonattainment area submitted by the Secretary of Maryland of the Department Environment on December 24, 1997. This submittal consists of amendments to the 1990 base year point, area, highway mobile, and non-road mobile source emission inventories in the area for the following pollutants: Volatile organic compounds (VOC), and oxides of nitrogen (NO_X).

Subpart VV—Virginia

4. Section 52.2425 is amended by adding paragraph (d) to read as follows:

§ 52.2425 1990 Base Year Emission Inventory.

* * * * *

(d) EPA approves as a revision to the Virginia State Implementation Plan amendments to the 1990 base year emission inventories for the Northern Virginia ozone nonattainment area submitted by the Director, Virginia Department Environmental Quality, on December 17, 1997. This submittal consists of amendments to the 1990 base year point, area, non-road mobile, and on-road mobile source emission inventories for the following pollutants: volatile organic compounds (VOC), and oxides of nitrogen (NO_X).

[FR Doc. 98–17971 Filed 7–7–98; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[MT-001-0004a; FRL-6122-2]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Montana; Control of Landfill Gas Emissions From Existing Municipal Solid Waste Landfills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving the Montana plan and associated regulations for implementing the Municipal Solid Waste (MSW) Landfill Emission Guidelines at 40 CFR part 60, subpart Cc, which were required pursuant to section 111(d) of the Clean Air Act (Act). The State's plan was submitted to EPA on July 2, 1997 in accordance with the requirements for adoption and submittal of State plans for designated facilities in 40 CFR part 60, subpart B. The State's plan establishes performance standards for existing MSW landfills and provides for the implementation and enforcement of those standards. EPA finds that Montana's plan for existing MSW landfills adequately addresses all of the Federal requirements applicable to such plans.

DATES: This direct final rule is effective on September 8 1998 without further notice, unless EPA receives adverse comment by August 7, 1998. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments on this action may be mailed to Vicki Stamper, 8P2–A, at the EPA Region VIII Office listed. Copies of the documents relative to this action are available for inspection during normal business hours at the Air Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466. Copies of the State documents relevant to this action are available for public inspection at the Montana Department of Environmental Quality, 1520 East 6th Avenue, P.O. Box 200901, Helena, Montana 59620–0901.

FOR FURTHER INFORMATION CONTACT: Vicki Stamper, EPA Region VIII, (303) 312–6445.

SUPPLEMENTARY INFORMATION:

I. Background

Under section 111(d) of the Act, EPA has established procedures whereby States submit plans to control certain existing sources of "designated pollutants." Designated pollutants are defined as pollutants for which a standard of performance for new sources applies under section 111, but which are not "criteria pollutants" (i.e., pollutants for which National Ambient Air Quality Standards (NAAQS) are set pursuant to sections 108 and 109 of the Act) or hazardous air pollutants (HAPs) regulated under section 112 of the Act. As required by section 111(d) of the Act, EPA established a process at 40 CFR part 60, subpart B, which States must follow in adopting and submitting a section 111(d) plan. Whenever EPA promulgates a new source performance standard (NSPS) that controls a designated pollutant, EPA establishes emissions guidelines in accordance with 40 CFR 60.22 which contain information pertinent to the control of the designated pollutant from that NSPS source category (i.e., the "designated facility" as defined at 40 CFR 60.21(b)). Thus, a State's section 111(d) plan for a designated facility must comply with the emission guideline for that source category as well as 40 CFR part 60, subpart B.

On March 12, 1996, EPA published Emission Guidelines (EG) for existing MSW landfills at 40 CFR part 60, subpart Cc (40 CFR 60.30c–60.36c) and NSPS for new MSW Landfills at 40 CFR part 60, subpart WWW (40 CFR 60.750–60.759). (See 61 FR 9905–29.) The pollutant regulated by the NSPS and EG is MSW landfill emissions, which contain a mixture of volatile organic compounds (VOCs), other organic compounds, methane, and HAPs. VOC emissions can contribute to ozone formation which can result in adverse effects to human health and vegetation. The health effects of HAPs include cancer, respiratory irritation, and damage to the nervous system. Methane emissions contribute to global climate change and can result in fires or explosions when they accumulate in structures on or off the landfill site. To determine whether control is required, nonmethane organic compounds (NMOCs) are measured as a surrogate for MSW landfill emissions. Thus, NMOC is considered the designated pollutant. The designated facility which is subject to the EG is each existing MSW landfill (as defined in 40 CFR 60.31c) for which construction, reconstruction or modification was commenced before May 30, 1991.

Pursuant to 40 CFR 60.23(a), States were required to either (1) submit a plan for the control of the designated pollutant to which the EG applies or (2) submit a negative declaration if there were no designated facilities in the State, within nine months after publication of the EG, or by December 12, 1996.

EPA has been involved in litigation over the requirements of the MSW landfill EG and NSPS since the summer of 1996. On November 13, 1997, EPA issued a notice of proposed settlement in *National Solid Wastes Management Association* v. *Browner*, et. al., No. 96–1152 (D.C. Cir), in accordance with section 113(g) of the Act. (See 62 FR 60898.) It is important to note that the proposed settlement does not vacate or void the existing MSW landfill EG or NSPS. Pursuant to the proposed settlement agreement, EPA published a direct final rulemaking on June 16, 1998, in which EPA is amending 40 CFR part 60, subparts Cc and WWW, to add clarifying language, make editorial amendments, and to correct typographical errors. See 63 FR 32783–4, 32743–53. EPA regulations at 40 CFR 60.23(a)(2) provide that a State has nine months to adopt and submit any necessary State Plan revisions after publication of a final revised emission guideline document. Thus, States are not yet required to submit State Plan revisions to address the June 16, 1998 direct final amendments to the EG. In addition, as stated in the June 16, 1998 preamble, the changes to 40 CFR part 60, subparts Cc and WWW, do not significantly modify the requirements of those subparts. See 63 FR 32744. Accordingly, the MSW landfill EG published on March 12, 1996 was used as a basis for EPA's review of Montana's submittal.

II. Analysis of State's Submittal

On July 2, 1997, the State of Montana submitted its plan and regulations (hereafter referred to as the "State Plan") for implementing EPA's MSW landfill EG. The Montana State Plan includes the "Section 111(d) Plan for Municipal Solid Waste Landfills" and the State's implementing regulations in Sections 17.8.302(1)(j) and 17.8.340 of the Administrative Rules of Montana (ARM).

Montana has incorporated by reference the EG of 40 CFR part 60, subpart Cc, at ARM 17.8.302(1)(j). In addition, ARM 17.8.340(4) provides that designated MSW landfill facilities under 40 CFR part 60, subpart Cc, shall comply with the requirements in 40 CFR 60.33c, 60.34c, and 60.35c that are applicable to designated facilities and that must be included in a State plan for approval. Montana has also adopted compliance deadlines in ARM 17.8.340(4)(b) to comply with the compliance timelines of the EG and the increments of progress requirements of 40 CFR part 60, subpart B. Thus, the State's regulations adequately address the requirements of the EG, including the required applicability, emission limitations, test methods and procedures, reporting and recordkeeping requirements, and compliance times. Specifically, Montana's regulation requires that existing MSW landfills that: (1) Accepted waste since November 8, 1987; (2) have a design capacity equal to or greater than 2.5 million megagrams (Mg) or 2.5 million m^3; and (3) have a NMOC emission rate, calculated in accordance with the procedures of 40 CFR 60.754, equal to or greater than 50 Mg/year to complete installation of a gas collection and control system meeting the requirements of 40 CFR 60.752 within twenty-seven months from the date of EPA approval of the State Plan (or, for those existing MSW landfills whose NMOC emission rate is less than 50 Mg/yr on the date EPA approves the State Plan, within twenty-seven months after submittal of an NMOC emission rate report showing NMOC emissions equal to or greater than 50 Mg/yr).

The State Plan also includes documentation showing that all requirements of 40 CFR part 60, subpart B have been met. Specifically, the State Plan includes a demonstration of legal authority to adopt and implement the plan, an emissions inventory, increments of progress compliance deadlines, a commitment to submit to EPA annual State progress reports on

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plan implementation and enforcement, and documentation that the State addressed the public participation requirements of 40 CFR 60.23. In addition, as stated above, the State has adopted emission standards and compliance schedules into an enforceable State regulation that is no less stringent than the EG.

Consequently, EPA finds that the State Plan meets all of the requirements applicable to such plans in 40 CFR part 60, subparts B and Cc. The State did not, however, submit evidence of authority to regulate existing MSW landfills in Indian Country. Therefore, EPA is not approving this State Plan as it relates to those sources.

More detailed information on the requirements for an approvable plan and Montana's submittal can be found in the Technical Support Document (TSD) accompanying this notice, which is available upon request.

III. Final Action

Based on the rationale discussed above and in further detail in the TSD associated with this action, EPA is approving Montana's section 111(d) plan and its implementing regulations in ARM 17.8.302(1)(j) and ARM 17.8.340, as submitted on July 2, 1997, for the control of landfill gas from existing MSW landfills, except for those existing MSW landfills located in Indian Country. As provided by 40 CFR 60.28(c), any revisions to Montana's State Plan or associated regulations will not be considered part of the applicable plan until submitted by the State in accordance with 40 CFR 60.28(a) or (b), as applicable, and until approved by EPA in accordance with 40 CFR part 60, subpart B.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State Plan. Each request for revision to a State Plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the Proposed Rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the State Plan should adverse comments be filed. This rule will be effective September 8, 1998 without further notice unless the Agency receives adverse comments by August 7, 1998.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. Any parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on September 8, 1998 and no further action will be taken on the proposed rule.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled "Regulatory Planning and Review," review.

The final rule is not subject to Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks," because it is not an "economically significant" action under Executive Order 12866.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because State Plan approvals under section 111 of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal State Plan approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Clean Air Act forbids EPA to base its actions concerning State Plans on such grounds. *Union Electric Co.*, v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. section 804(2).

E. Audit Privilege and Immunity Law

Nothing in this action should be construed as making any determination or expressing any position regarding Montana's audit privilege and penalty immunity law [The Voluntary Environmental Audit Act, 75–1–101 *et seq.*, M.C.A. (H.B. 293, effective October 1, 1997)] or its impact upon any approved provision in the State Plan, including the submittal at issue here.

The action taken herein does not express or imply any viewpoint on the question of whether there are legal deficiencies in this or any other Clean Air Act program resulting from the effect of Montana's audit privilege and penalty immunity law. A State audit privilege and penalty immunity law can affect only State enforcement and cannot have any impact on Federal enforcement authorities. EPA may at any time invoke its authority under the Clean Air Act, including, for example, sections 113, 114, 167, 205, 211, or 213, to enforce the requirements or prohibitions of the State Plan, independently of any State enforcement effort. In addition, citizen enforcement under section 304 of the Clean Air Act is likewise unaffected by a State audit privilege and penalty immunity law.

F. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 8 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review must be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Methane, Municipal solid waste landfills, Nonmethane organic compounds, Reporting and recordkeeping requirements.

Dated: June 29, 1998.

Jack W. McGraw,

Acting Regional Administrator, Region VIII.

40 CFR part 62, subpart BB, is amended as follows:

PART 62—[AMENDED]

1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Subpart BB is added to read as follows:

Subpart BB—Montana

Landfill Gas Emissions From Existing Municipal Solid Waste Landfills

Sec.
62.6600 Identification of plan.
62.6601 Identification of sources.
62.6602 Effective date.

Subpart BB—Montana

Landfill Gas Emissions From Existing Municipal Solid Waste Landfills

§ 62.6600 Identification of plan.

"Section 111(d) Plan for Municipal Solid Waste Landfills" and the associated State regulations in sections 17.8.302(1)(j) and 17.8.340 of the Administrative Rules of Montana, submitted by the State on July 2, 1997.

§ 62.6601 Identification of sources.

The plan applies to all existing municipal solid waste landfills for which construction, reconstruction, or modification was commenced before May 30, 1991 that accepted waste at any time since November 8, 1987 or that have additional capacity available for future waste deposition, as described in 40 CFR part 60, subpart Cc.

§ 62.6602 Effective date.

The effective date of the plan for municipal solid waste landfills is September 8, 1998.

[FR Doc. 98–18082 Filed 7–7–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6119–6]

National Oil and Hazardous Substances Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of partial deletion of the Hanford 100-Area (USDOE) Superfund site from the National Priorities List.

SUMMARY: The United States Environmental Protection Agency (EPA) Region 10 announces the deletion of portions of the Hanford 100-Area (USDOE) Superfund Site. The portions deleted are waste areas located in the 100–IU–1 and 100–IU–3 Operable Units. The 100–IU–1 and IU–3 Operable Units are part of the Hanford 100 Area NPL Site located at the U.S. Department of Energy (DOE) Hanford Site, located in southeastern Washington State. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). This partial deletion pertains to all known waste areas located in the 100–IU–1 and 100–IU–3 Operable Units. EPA and the Washington State Department of Ecology have determined that no further cleanup under CERCLA is required and that the selected remedy has been protective of public health, welfare, and the environment.

EFFECTIVE DATE: July 8, 1998.

FOR FURTHER INFORMATION CONTACT: Dennis Faulk, Superfund Site Manager, USEPA, 712 Swift #5, Richland, Washington 99352; (509) 376–8631.

SUPPLEMENTARY INFORMATION: The partial deletion of the Hanford 100-Area (USDOE) NPL Site applies specifically to the 100–IU–1 and 100–IU–3 Operable Unit waste areas located at the U.S. Department of Energy (DOE) Hanford Site, located in southeastern Washington State. The waste areas in the 100–IU–1 and 100–IU–3 Operable Units were cleaned up by the DOE between 1992 and 1994 using expedited response actions (ERA). At the Hanford Site, the term ERA is used to describe actions taken under CERCLA removal authority as described in 40 CFR 300.415. In February 1996, a no further action record of decision was signed documenting that previous ERA's had removed all contaminants from the waste areas in the 100–IU–1 and 100–IU–3 Operable Units to below cleanup levels for residential use established under the Washington State Model Toxics Control Act (MTCA). It should be noted, cleanup activities are continuing at other operable units of the Hanford 100 Area NPL Site.

This partial deletion is in accordance with 40 CFR 300.425(e) and the Notice of Policy Change: Partial Deletion of Sites Listed on the National Priorities List, (60 FR 55466 (Nov. 1, 1995)).

A Notice of Intent to Delete for Partial Deletion was published on May 22, 1998 (63 FR 28317). The closing date for comments on the Notice of Intent to Delete was June 20, 1998. EPA received no comments.

EPA identifies sites on the NPL that appear to present a significant risk to human health or the environment. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions in the unlikely event that conditions at the site warrant such action. Deletion of the waste areas from the NPL does not itself

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create, alter, or revoke any individual rights or obligations.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: June 24, 1998.

Chuck Clarke,

Regional Administrator, Region 10.

For the reasons set out in the preamble, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

2. Table 2 of appendix B to part 300 is amended by adding a "P" in the Notes column for the "Hanford 100-Area (USDOE) in Benton County, WA" to read as follows:

Appendix B to Part 300—National Priorities List

Table 2.—Federal Facilities Section

St	Site name	City/County	Notes (a)
*	* * * *	*	*
WA	Hanford 100-Area (USDOE)	Benton County	P
*	* * * *	*	*

(a) * * *

P = Sites with partial deletion(s).

[FR Doc. 98–17684 Filed 7–7–98; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF DEFENSE

48 CFR Part 235

[DFARS Case 97–D002]

Defense Federal Acquisition Regulation Supplement; Streamlined Research and Development Contracting; Correction

AGENCY: Department of Defense (DOD).

ACTION: Correction to interim rule.

SUMMARY: The Department of Defense is issuing a correction to the preamble to the interim rule published at 63 FR 34605, June 25, 1998, pertaining to streamlined research and development contracting.

EFFECTIVE DATE: June 25, 1998.

FOR FURTHER INFORMATION CONTACT: Defense Acquisition Regulations Council, Attn: Mr. Michael Pelkey, (703) 602–0131.

Correction

In the issue of Thursday, June 25, 1998, on page 34605, in the second column, the last sentence of the **Background** section is corrected to read as follows: "This interim rule supersedes the interim rule published under DFARS Case 96–D028 on April 4, 1997 (62 FR 16099)."

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

[FR Doc. 98–18098 Filed 7–7–98; 8:45 am]

BILLING CODE 5000-04-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 199

[RSPA Docket PS–128; Amendment 199–15]

RIN 2137–AC84

Drug and Alcohol Testing; Substance Abuse Professional Evaluation for Drug Use; Correction

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule; correction.

SUMMARY: On March 17, 1998, RSPA published a final rule in the **Federal Register** (63 FR 12998) titled "Drug and Alcohol Testing; Substance Abuse Professional Evaluation for Drug Use." This final rule modified procedures in its drug testing regulations by requiring a face-to-face evaluation by substance abuse professionals (SAP) for pipeline employees who have either received a positive drug test or have refused a drug test required by RSPA. It also revised the word "employee" to "covered employee" and added the definition of "covered function." This document makes minor corrections to restore text that was in the original version of the regulations, but was inadvertently left out of the Final Rule.

DATES: Effective on July 8, 1998.

FOR FURTHER INFORMATION CONTACT: Catrina M. Pavlik, Drug/Alcohol Program Analyst, Research and Special Programs Administration, Office of Pipeline Safety, Room 2335, 400 Seventh Street, SW, Washington, DC 20590. Telephone: (202) 366–6199, Fax: (202) 366–4566, e-mail: catrina.pavlik@RSPA.dot.gov.

SUPPLEMENTARY INFORMATION:

Correction of Publication

When RSPA published the final rule in the **Federal Register**, it inadvertently left out text that was stated in the original version of the regulations. This text was in the original version of the regulations and was inadvertently left out of the final rule text, so RSPA does not need further rulemaking action to correct the text. This final rule corrects the text. RSPA regrets any confusion the omission may have caused.

Accordingly, the publication on March 17, 1998, of the final rule, **Federal Register** Doc. 98–6859 (63 FR 12998), is corrected as follows:

§ 199.7 [Corrected]

1. On page 13000, in the second column, add amendatory instruction 2a and an amendment to § 199.79(a)(3) to read as follows:

2a. Section 199.7 is amended by revising paragraph (a)(3) to read as follows:

§ 199.7 Anti-drug plan.

* * * * *

(a) * * *

(3) The name and address of the operator's Medical Review Officer, and Substance Abuse Professional; and

* * * * *

2. On page 13000, in the second column, in § 199.11, paragraph (e) is correctly revised as follows:

§ 199.11 Drug tests required.

* * * * *

(e) *Return to duty testing.* A covered employee who refuses to take or has a positive drug test may not return to duty in the covered function until the covered employee has been evaluated face-to-face by a SAP, has properly followed any prescribed assistance, has passed a return-to-duty drug test administered under this part, and the SAP has determined that the employee may return to duty.

* * * * *

§ 199.15 [Corrected]

3. On page 13000, in the second column, add amendatory instruction 3a and an amendment to § 199.15 to read as follows:

3a. Section 199.15 is amended by removing paragraphs (c)(3) and (c)(4) and by redesignating paragraph (c)(5) as (c)(3).

Issued in Washington, DC, on June 29, 1998.

Kelley S. Coyner,

Deputy Administrator.

[FR Doc. 98–17720 Filed 7–7–98; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 971208297–8054–02; I.D. 070298A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Western Regulatory Area of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 1998 total allowable catch (TAC) of Pacific ocean perch in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 3, 1998, until 2400 hrs, A.l.t., December 31, 1998.

FOR FURTHER INFORMATION CONTACT: Thomas Pearson, 907–486–6919.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR part 600 and 50 CFR part 679.

The amount of the 1998 TAC of Pacific ocean perch in the Western Regulatory Area of the Gulf of Alaska was established by the Final 1998 Harvest Specifications of Groundfish for the GOA (63 FR 12027, March 12, 1998) as 1,810 metric tons (mt), determined in accordance with § 679.20(c)(3)(ii).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 1998 TAC for Pacific ocean perch will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 1,610 mt, and is setting aside the remaining 200 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the Western Regulatory Area.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent overharvesting the 1998 TAC of Pacific ocean perch for the Western Regulatory Area of the GOA. A delay in the effective date is impracticable and contrary to the public interest. Further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action should not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by 50 CFR 679.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 2, 1998.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–18119 Filed 7–2–98; 4:02 pm]

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Proposed Rules

Federal Register
Vol. 63, No. 130
Wednesday, July 8, 1998

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–23–AD]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company Models 1900, 1900C, and 1900D Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to supersede Airworthiness Directive (AD) 97–14–16, which currently requires repetitively inspecting the flap aft roller bearings and flap attachment brackets for indications of contact (wear), inspecting for elongation of the holes in the flap attachment brackets, repairing or replacing any part showing wear, and replacing any bracket with elongated holes on Raytheon Aircraft Company (Raytheon) Models 1900, 1900C, and 1900D airplanes. The proposed AD would retain the actions required in AD 97–14–16, and would increase the number of repetitive inspections by reducing the number of ground-air-ground (GAG) cycles allowed between inspections. The proposed AD would also lower the total GAG cycles accumulated before the required initial inspection. The actions specified by the proposed AD are intended to prevent asymmetric flaps, jammed flaps, and/or possible interference between the flap and the aileron, which could inhibit aileron travel and result in possible loss of roll control of the airplane.

DATES: Comments must be received on or before September 18, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–23–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Steven E. Potter, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4124; facsimile: (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98–CE–23–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–23–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

AD 97–14–16, Amendment 39–10074, (62 FR 37128, July 11, 1997) currently requires repetitively inspecting the flap aft roller bearings and flap attachment brackets for indications of contact (wear), inspecting for elongation of the holes in the flap attachment brackets, repairing or replacing any part showing wear, and replacing any bracket found with elongated holes on Raytheon Models 1900, 1900C, and 1900D airplanes.

Actions Since Issuance of Previous Rule

Since the issuance of AD 97–14–16, the manufacturer has reported to the FAA that another incident of flap roll bearings wearing on the flap attachment brackets has occurred on a Raytheon 1900 series airplane. This makes a total of five incidents of aileron interference on these airplanes. Because the most recent incident occurred at a much lower number of GAG cycles than the preceding incidents, the FAA believes the number of flights accumulated before the initial and repetitive inspections required in AD 97–14–16 should be reduced.

Relevant Service Information

Raytheon has issued Safety Communiqué No. 137, dated May, 1997, which specifies procedures for inspecting the flap attachment brackets for signs of wear, and inspecting the aft roller bearing attachment holes for elongation. If wear from contact is visible or the roller bearing attachment holes are elongated, the Safety Communiqué specifies procedures for repairing or replacing the part. The new service information issued, Raytheon Aircraft Mandatory Service Bulletin No. SB 27–3158, Issued: June, 1998, is basically the same action as the information referenced above, except for a change in the initial and repetitive compliance times.

The FAA's Determination

After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that AD action should be taken to preclude interference between the flap and the aileron, which could help prevent aileron travel.

This condition, if not corrected, could result in loss of directional control of the airplane during critical phases of flight.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Raytheon Models 1900, 1900C, and 1900D airplanes of the same type design, the proposed AD would supersede AD 97–14–16 with a new AD. The proposed AD would require the same actions required in AD 97–14–16, which are:

- —Repetitively inspecting the outboard flap attachment brackets and aft roller bearings for wear;
- —Inspecting for elongation of the holes in the flap attachment brackets;
- —Repairing or replacing any part showing wear; and
- —Replacing any bracket found with elongated holes.

In addition, the proposed AD would change the compliance time by reducing the required number of GAG cycles accumulated prior to the initial inspection and the number of GAG cycles required between the repetitive inspections.

Differences Between the Service Bulletin and the Proposed AD

The Raytheon Aircraft Mandatory Service Bulletin No. SB 27–3158, Issued: June, 1998, specifies that the initial inspection be accomplished at the accumulation of 1,200 GAG cycles, with the repetitive inspections occurring every 1,200 GAG cycles. The FAA is proposing that the GAG cycles be reduced to 600 for the initial inspections and 600 GAG cycles between the repetitive inspections. The FAA is using GAG cycles while the Raytheon service information is using flap cycles, which varies by a factor of two.

The FAA's reason for reducing the GAG cycles by half is that the unsafe condition could occur during critical phases of flight. The FAA must also consider that an unsafe condition on commuter aircraft warrants additional caution.

Justification of Compliance Time and Determination of the Effective Date of This AD

Wear of the flap aft roller bearings and flap attachment brackets and elongation of the flap attachment bracket holes occur over time. Examination of the most recent referenced incident and all information available to the FAA indicates that this problem has the potential of becoming detectable at around 1,200 flap cycles. To ensure that this unsafe condition does not occur during flight, the FAA is using 2 flap cycles per ground-air-ground cycle; therefore the proposed initial inspection would be required at a total accumulation of 600 GAG cycles. The repetitive inspection would be required every 600 GAG cycles.

These airplanes are utilized primarily in commuter service. Operators of these airplanes average anywhere from 8 GAG cycles per day to 14 GAG cycles per day. Based on these averages, operators of Raytheon 1900 series airplanes would reach the above thresholds between 42 days to 75 days from the initial service date of the airplane, and every 42 to 75 days after each repetitive inspection.

For these reasons, the FAA has determined that the inspections required by the proposed AD should occur "Upon the accumulation of 600 total GAG cycles, or within the next 100 GAG cycles after the effective date of this AD, whichever occurs later, or within 600 GAG cycles from the date of the last inspection required by AD 97–14–16, unless already accomplished, and thereafter at intervals not to exceed 600 GAG cycles." The 100 GAG cycles for the initial compliance time is utilized to allow a grace period for those airplanes already over the 600 GAG cycle time, so as not to inadvertently ground the affected airplanes.

Cost Impact

The FAA estimates that 527 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 2 workhours per airplane to accomplish the proposed inspection, that it would take approximately 8 workhours to accomplish the proposed repair, and that the average labor rate is approximately $60 an hour. Parts cost approximately $440 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $63,240, or $120 per airplane

These figures are calculated on the basis that the proposed inspection would be the only cost required. The proposed repair would be on the condition that damage would be found as a result of the inspection.

The cost impact to the owner/operators of the affected airplanes could possibly double since the FAA is proposing a reduction of the number of required GAG cycles between the proposed inspections. The FAA is not able to determine the number of repetitive inspections that would occur over the life of the airplane.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Airworthiness Directive (AD) 97–14–16, Amendment 39–10074 (62 FR 37128, July 11, 1997), and by adding a new AD to read as follows:

Raytheon Aircraft Company (Type Certificate No. A24CE formerly held by the Beech Aircraft Corporation): Docket No. 98–CE–23–AD; Supersedes AD 97–14–16, Amendment 39–10074.

Applicability: The following model and serial number airplanes, certificated in any category:

Model	Serial Nos.
1900	UA–1 and UA–3.

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Model	Serial Nos.
1900C	UB–1 through UB–74, and UC–1 through UC–174.
1900C (C–12J)	UD–1 through UD–6.
1900D	UE–1 through all serial numbers.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

Note 2: The compliance time of this AD takes precedence over the compliance time set out in the Raytheon Aircraft Mandatory Service Bulletin No. SB 27-3158, Issued: June, 1998.

Note 3: If the owners/operators of the affected airplane have not kept track of GAG cycles, hours time-in-service (TIS) may be substituted by multiplying each hour TIS by 2, to calculate the number of GAG cycles. For example, 1,300 hours TIS would equal 2,600 GAG cycles.

To prevent asymmetric flaps, jammed flaps, and/or possible interference between the flap and the aileron, which could inhibit aileron travel and result in possible loss of roll control of the airplane, accomplish the following:

(a) Upon the accumulation of 600 total ground-air-ground (GAG) cycles, or within 600 GAG cycles from the date of the last inspection required by AD 97–14–16, or within the next 100 GAG cycles after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 600 GAG cycles, inspect the outboard flap attachment brackets and aft roller bearings on both wings for visible wear and elongation of the bracket holes in accordance with instructions 1 through 17 in Raytheon Aircraft (Raytheon) Mandatory Service Bulletin No. SB 27–3158, Issued: June, 1998.

(b) Prior to further flight, repair or replace any worn or damaged part in accordance with Temporary Revision No. 57–1 to the Raytheon Aircraft Beech 1900 Airliner Series Structural Repair Manual P/N 114–590021–9B, dated May 16, 1997; Reissued June 30, 1092.

(c) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office (ACO), Room 100, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209.

(1) The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager. Wichita ACO.

(2) Alternative methods of compliance approved for AD 97–14–16 are not considered approved as alternative methods of compliance for this AD.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

(e) All persons affected by this directive may obtain copies of the document referred to herein upon request to Raytheon Aircraft Company, 9709 E. Central, P. O. Box 85, Wichita, Kansas 67201–0085; or may examine this document at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(f) This amendment supersedes AD 97–14–16, Amendment 39–10074.

Issued in Kansas City, Missouri, on June 29, 1998.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–18008 Filed 7–7–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 61

RIN 1076–AD89

Preparation of Rolls of Indians

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs is amending its regulations governing the compilation of rolls of Indians in order to reopen the enrollment application process for the Sisseton and Wahpeton Mississippi Sioux Tribe. The amendment reopens the enrollment period to comply with a directive of the Eighth Circuit of Appeals.

DATES: Comments must be received on or before September 8, 1998.

ADDRESSES: Comments are to be mailed to Daisy West, Office of Tribal Services, Bureau of Indian Affairs, 1849 C Street, NW, MS 4603–MIB, Washington, DC 20240; or, hand delivered to Room 4603 at the same address.

FOR FURTHER INFORMATION CONTACT: Daisy West, Bureau of Indian Affairs (202) 208–2475.

SUPPLEMENTARY INFORMATION:

Background

The Bureau of Indian Affairs must reopen the enrollment application process authorized under 25 U.S.C. 1300d–3(b) to give individuals another opportunity to file applications to share in the Sisseton and Wahpeton Mississippi Sioux judgment fund distribution. The Eighth Circuit of Appeals decision in *Loudner v. U.S.*, 108 (f). 3d 896 (8th Cir. 1997), held that the Bureau of Indian Affairs did not give proper notice of the application period, and that 5 months was not a sufficient time period within which to file applications, in light of the long delay in distribution of the fund. The proposed rule is intended to reopen the enrollment period in order to allow sufficient time for eligible persons to enroll.

Additional Notice and Public Meetings

The Bureau of Indian Affairs is taking several steps to ensure that all potential applicants are informed of the reopening of the comment period. We will notify all BIA Area Directors and Agency Superintendents and require them to post notices in area offices, agency offices, community centers on and near reservations, and in Indian Health Clinics. We will also notify tribal newspapers and newspapers of general circulation in major communities in Montana, North Dakota, South Dakota, Nebraska, and Minnesota.

Additionally, we will hold community meetings on Indian reservations identified from the 1909 roll, including: Cheyenne River, Crow Creek, Upper Sioux, Sisseton-Wahpeton, Spirit Lake, Fort Peck, Standing Rock, Lower Brule, Yankton, Rosebud, and Pine Ridge. At each meeting we will:

(1) Inform potential beneficiaries of the reopening of the enrollment process for this judgment fund;

(2) Inform potential beneficiaries of eligibility criteria; and

(3) Help applicants to prepare and file applications.

Previously Submitted Applications

We have on file applications submitted under § 61.4(s) that we denied because we received them after November 1, 1973. We will now process these applications. If you previously filed an application that we denied, you may wish to confirm that we have it and are processing it. To do this, please call Daisy West at (202) 208–2475.

Application Deadline

We have not established an application deadline in this proposed rule. In order to allow adequate time for submitting and processing applications, we will establish a deadline using the following three steps.

Step 1. On day 180 after the final rule becomes effective, we will count all applications that we have received.

Step 2. We will note the date on which we complete processing of 90 percent of the applications that we receive by the date in step 1.

Step 3. The application deadline will be 90 days after the date in step 2.

For example, if we receive 10 applications by the date in step 1, the final application deadline date will be 90 days after we process 9 applications. Similarly, if we receive 10,000 applications by the date in step 1, the final application deadline date will be 90 days after we process 9,000 applications.

After we establish the application deadline, we will notify the same area directors, agency superintendents, and local newspapers that we notify after publishing this rule. This notice will include application/enrollment criteria.

Regulatory Planning and Review (E.O. 12866)

This document is not a significant rule and is not subject to review by the Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(3) This rule does not alter the budgetary effects or entitlement, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This rule does not raise novel legal or policy issues.

Regulatory Flexibility Act

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because it makes technical changes that do not affect the substance of the rules there is no economic effect at all, other than to improve the utility of the rules for users.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

(1) Does not have an annual effect on the economy of $100 million or more.

(2) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(3) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (1 USC 1531, *et seq.*) is not required.

Takings (E.O. 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. A takings implication assessment is not required.

Federalism (E.O. 12612)

In accordance with Executive Order 12630, the rule does not have significant takings implications. A takings . implication assessment is not required.

Civil Justice Reform (E.O. 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

This rule requires collection of information from many enrollees. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department has submitted a copy of the application to the Office of Management and Budget (OMB) for its review.

1. Information Collection Request

We are seeking your comments on the following Information Collection Request.

Type of review: New.

Title: Application to Share in the Mississippi Sioux Judgment Funds as a Lineal Descendant of the Sisseton and Wahpeton Mississippi Sioux Tribes Pursuant to the Act of October 25, 1972, 25 U.S.C. 1300d–3(b).

Effected Entities: Individual Indians.

Abstract: Subsection 1300d–3(b) requires the Secretary of the Interior to prepare a roll of the lineal descendants of the Sisseton and Wahpeton Mississippi Sioux Tribe, that were living on October 25, 1972, and are not enrolled with the Spirit Lake Tribe of North Dakota (formerly Devils Lake Sioux Tribe), the Sisseton-Wahpeton Sioux of South Dakota, or the Assiniboine and Sioux Tribe of the Fort Peck Reservation. We previously published enrollment regulations in 25 CFR 61.4(s)(2) that established a 5-month period for accepting enrollment applications. In 1994, 14 plaintiffs sued seeking to enjoin the per capita distribution payment, and to require us to accept additional applications for enrollment to share in the distribution of the judgment funds. The Court found that publication notice and an approximate 5-month notice period to apply as a lineal descendant beneficiary under the 1972 Distribution Act was insufficient notice and is therefore void. *Loudner, et arm's-length contract v. U.S.*, 108 F. 3d 896 (8th Cir. 1997). As a result of the decision in this case, we are reopening the enrollment application period. We will establish and publicize the ending date of the enrollment period after we have processed most of the applications.

Burden Statement: The estimated hour burden of the collection of information is 5,000 hours. We expect the enrollment application period to last 2 to 3 years, with 5,000 applications filed the first year and 5,000 additional applications filed during the following 2 years. The applicants are required to file only once during the estimated 3-year enrollment application process.

We will not conduct or require individuals to respond to a collection of information until we obtain a valid Office of Management and Budget control number. We will print the approval number on the form.

2. Request for Comments

We need your comments to:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.

(b) Evaluate the accuracy of our estimated burden for the proposed collection of information, including the methodology and assumptions we used.

(c) Enhance the quality, utility, and clarity of the information that we want to collect.

(d) Minimize the burden of the collection of information on those who are to respond. This includes possibly using automated or electronic collection techniques or information technology.

OMB must approve or disapprove this collection of information between 30 and 60 days after this document appears in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for sending comments to us on the proposed regulations.

National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 is not required.

List of Subjects in 25 CFR Part 61

Indians, Indians—claims.

For the reasons set out in the preamble, Part 61 of Chapter 1 of Title 25 of the Code of Federal Regulations is proposed to be amended as set forth below.

PART 61—PREPARATION OF ROLLS OF INDIANS

1. The authority citation for 25 CFR Part 61 is revised to read as follows:

Authority: 5 U.S.C. 301; 25 U.S.C. 2 and 9, 1300d–3(b), 1401 *et seq.*

2. In § 61.4, paragraph (s) is revised to read as follows:

§ 61.4 Qualifications for enrollment and the deadline for filing application forms.

* * * * *

(s) *Sisseton and Wahpeton Mississippi Sioux Tribe.* (1) Persons meeting the criteria in this paragraph are entitled to enroll under 25 U.S.C. 1300d–3(b) to share in the distribution of certain funds derived from a judgment awarded to the Mississippi Sioux Indians. To be eligible a person must:

(i) Be a lineal descendent of the Sisseton and Wahpeton Mississippi Sioux Tribe;

(ii) Be born on or before October 25, 1972;

(iii) Be living on October 25, 1972;

(iv) Appear in records and rolls acceptable to the Secretary or have a lineal ancestor whose name appears in these records; and

(v) Not be a member of any of the following tribes:

(A) The Spirit Lake Tribe (formerly known as the Devils Lake Sioux Tribe of South Dakota);

(B) The Sisseton and Wahpeton Sioux Tribe of South Dakota; or

(C) The Assiniboine and Sioux Tribes of the Fort Peck Reservation.

(2) The initial enrollment application period that closed on November 1, 1973, is reopened as of the date on which this rule is published in final. The application period will remain open until further notice.

* * * * *

Dated: April 23, 1998.

Kevin Gover,

Assistant Secretary for Indian Affairs.

[FR Doc. 98–17984 Filed 7–7–98; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 206

RIN 1010–AC09

Establishing Oil Value for Royalty Due on Federal Leases

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of reopening the public comment period.

SUMMARY: The Minerals Management Service (MMS) hereby gives notice that it is reopening the public comment period on a second supplementary proposed rulemaking, which was published in the **Federal Register** on February 6, 1998, (63 FR 6113). The proposed rule amends the royalty valuation regulations for crude oil produced from Federal leases. In response to issues raised on the February 6, 1998, second supplementary proposed rulemaking, MMS will reopen the comment period from July 9, 1998, to July 24, 1998.

DATE: Comments must be submitted on or before July 24, 1998.

ADDRESSES: Mail comments, suggestions, or objections about this supplementary proposed rule to: Minerals Management Service, Royalty Management Program, Rules and Publications Staff, P.O. Box 25165, MS 3021, Denver, Colorado 80225–0165. E-mail address is RMP.comments@mms.gov.

FOR FURTHER INFORMATION CONTACT: David S. Guzy, Chief, Rules and Publications Staff, telephone number (303) 231–3432, fax (303) 231–3385, e-mail RMP.comments@mms.gov.

SUPPLEMENTARY INFORMATION: MMS is reopening the comment period for the February 6 second supplementary proposed rulemaking for a two-week period from July 9 to July 24. All comments received during this comment period will be posted on MMS's web site at http://www.rmp.mms.gov/ library/readroom/readrm.htm. It is unnecessary to resubmit comments previously submitted regarding this rulemaking.

Dated: July 2, 1998.

Phillip D. Sykora,

Acting Associate Director for Royalty Management.

[FR Doc. 98–18051 Filed 7–7–98; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 944

[SPATS No. UT–039–FOR]

Utah Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of a proposed amendment to the Utah regulatory program (the "Utah program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Utah's amendment proposes changes in requirements for coal mine permit application approval in section 40–10–11 of the Utah Code Annotated (UCA) (hereafter, also the "Utah Code"). The State proposes the changes to update language used to describe the approval process and information documented during that process. In addition, Utah proposes a change to subsection (f) of UCA 40–10–11(2) to clarify limitations on authority of the Division and to the Board of Oil, Gas and Mining with respect to property right disputes. Utah also proposes to revise provisions applicable to a permit applicant's list of violations of air and water protection at subsection (3) of section 40–10–11 in response to an amendment required by OSM and described at 30 CFR 944.16(f)(2).

The amendment is intended to revise the Utah program to be consistent with the Surface Mining Control and Reclamation Act of 1977 (SMCRA) regulations and to improve operational efficiency.

DATES: Written comments must be received by 4:00 p.m., m.d.t. August 7, 1998. If requested, a public hearing on the proposed amendment will be held on August 2, 1998. Requests to present oral testimony at the hearing must be received by 4:00 p.m., m.d.t. on July 23, 1998.

ADDRESSES: Written comments should be mailed or hand delivered to James F. Fulton at the address listed below.

Copies of the Utah program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Denver Field Division.

James F. Fulton, Chief, Denver Field Division, Office of Surface Mining Reclamation and Enforcement, 1999 Broadway, Suite 3320, Denver, Colorado 80202–5733, Telephone: (303) 844–1424.

Lowell P. Braxton, Acting Director, Division of Oil, Gas and Mining, 1594 West North Temple, Suite 1210, P.O. Box 145801, Salt Lake City, Utah 84114–5801, Telephone: (801) 538–5340.

FOR FURTHER INFORMATION CONTACT: James F. Fulton, Chief, Denver Field Division, Telephone: (303) 844–1424.

SUPPLEMENTARY INFORMATION:

I. Background on the Utah Program

On January 21, 1981, the Secretary of the Interior conditionally approved the Utah program. General background information on the Utah program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Utah program can be found in the January 21, 1981, **Federal Register** (46 FR 5899). Subsequent actions concerning Utah's program and program amendments can be found at 30 CFR 944.15, 944.16, and 944.30.

II. Proposed Amendment

By letter dated June 8, 1998, (administrative record No. UT–1117) Utah submitted a proposed amendment (SPATS No. UT–039–FOR, administrative record No. 1117) to its program pursuant to SMCRA (30 U.S.C. 1201 *et seq.*). Utah submitted the proposed amendment at its own initiative and in response to a requirement imposed by the Director resulting from OSM's review of a previous amendment to the Utah Code.

The proposed amendment consists of revisions to UCA 40–10–11. This section of the Utah Code pertains to actions by the Division of Oil, Gas and Mining (the Division) to approve or deny coal mine permit applications. It also includes provisions for considering, in the permit approval/denial process, an applicant's violations of air and water protection provisions and whether an area proposed for mining includes prime farmlands.

Most of Utah's proposed changes reword existing provisions of UCA 40–10–11 in current writing style and break-up existing provisions into subsections. In that context, specific changes Utah proposes include: Revising existing UCA 40–10–11(1) to include new subsections (1)(a)(i) and (ii), (1)(b), (1)(c), and (1)(c)(i) and (ii); revising UCA 40–10–11(2)(d) to include new subsections 2(d)(i) and 2(d)(ii); adding new subsections (e)(i)(A) and (B) to UCA 40–10–11(2)(e)(i); revising UCA 40–10–11(2)(f)(i) to include (f)(i)(A) and (B); changing UCA 40–10–11(3) to include new subsections (3)(a)(i), (ii) and (3)(b) and (c); and breaking-up existing UCA 40–10–11(4)(a)(i) and (ii). Utah also proposes to update language under several parts of UCA 40–10–11(1), (2), (3), (4) and (5).

In two cases, the State's proposed changes add new provisions to the Utah Code. At UCA 40–10–11((2)(f)(i)(B), Utah proposes to add a statement to the effect that nothing in UCA 40–10–11(2) shall be construed "* * * to authorize the board or division to adjudicate property right disputes * * *" in cases where permit applications involve lands on which the mineral estate has been severed from the private surface estate. Second, in new subsection (c) of UCA 40–10–11(3), Utah proposes to preclude permit issuance in cases in which the Board finds that an applicant or operator controls or has controlled mining operations with a demonstrated pattern of willful violations of SMCRA, the implementing regulations, or of any state or federal programs enacted under SMCRA or under other provisions of the approved Utah program, in addition to violations of the Utah Code. The State proposes this new provision in response to the requirement described at 30 CFR 944.16(f)(2) that the Utah Code's provision for denying permits on the basis of patterns of violations be no less stringent than the Federal counterpart provision at section 510(c) of SMCRA. The required amendment resulted from OSM's review of a previous amendment to the Utah Code (UT–024–FOR; 60 FR 37002, July 19, 1995; administrative record No. UT–1066). OSM later reiterated the need for Utah to amend UCA 40–10–11(3) in its review of Code amendment UT–035–FOR (62 FR 41845, August 4, 1997; administrative record No. UT–1098).

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If OSM finds the amendment adequate, it will become part of the Utah program.

1. Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. OSM will not necessarily consider comments in the final rulemaking that it receives after the time indicated under "DATES" or that it receives at locations other than the Denver Field Division. OSM will not necessarily include such comments in the admininstrative record, either.

2. Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., m.d.t. on July 23, 1998. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**. OSM will arrange the location and time of the hearing with those persons requesting the hearing. OSM will not hold a public hearing if no one requests an opportunity to testify at a hearing.

OSM requests that commenters file a written statement at the time of the hearing because doing so will greatly assist the transcriber. If commenters submit written statements in advance of the hearing, OSM will be able to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

3. Public Meeting

OSM may hold a public meeting if only one person requests an opportunity to testify at a public hearing. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible OSM will post notices of meetings at the locations listed under **ADDRESSES**. OSM will make a written

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summary of each meeting part of the administrative record.

IV. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12988

The Department of the Interior conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and determined that his rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementating Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

6. Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 944

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 29, 1998.

Richard J. Seibel,

Regional Director, Western Regional Coordinating Center.

[FR Doc. 98–18096 Filed 7–7–98; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[049–1049b; FRL–6118–2]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve revised Missouri rule 10 CSR 10–6.030 as a revision to the State Implementation Plan (SIP). This revision, submitted by the state on December 17, 1996, incorporates into the rule the most current EPA guidance on capture efficiency methods for volatile organic compound emission control systems.

In the final rules section of the **Federal Register**, the EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to the direct final rule, no further activity is contemplated in relation to that rule. If the EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on the direct final rule. Any parties interested in commenting on the rule should do so at this time.

DATES: Comments must be received in writing by August 7, 1998.

ADDRESSES: Comments may be mailed to Kim Johnson, Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Kim Johnson at (913) 551–7975.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the rules section of the **Federal Register**.

Authority: 42 U.S.C. 7401 et seq.

Dated: May 26, 1998.

William Rice,

Acting Regional Administrator, Region VII.

[FR Doc. 98–17974 Filed 7–7–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DC038–2009b, MD058–3026b, VA083–5035b; FRL–6120–5]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia, Virginia, Maryland—1990 Base Year Emission Inventory for the Metropolitan Washington DC Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revisions submitted by the District of Columbia, State of Maryland and Commonwealth of Virginia for the purpose of establishing purpose of revising the 1990 ozone base year emission inventories for the Metropolitan Washington, D.C. ozone nonattainment area. In the Final Rules section of this **Federal Register**, EPA is approving these States' SIP revisions as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to the direct final rule, no further activity is contemplated in relation to that rule. If EPA receives adverse comments, the direct final rule

will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on the direct final rule. Any parties interested in commenting on that rule should do so at this time.

DATES: Comments must be received in writing by August 7, 1998.

ADDRESSES: Written comments should be addressed to David L. Arnold, Chief, Ozone & Mobile Sources Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the District of Columbia Department of Public Health, Air Quality Division, 2100 Martin Luther King Ave, S.E., Washington, DC 20020; Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224; and the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia, 23219.

FOR FURTHER INFORMATION CONTACT: Christopher Cripps, (215) 814–2179, at EPA Region III address above, or via e-mail at cripps.christopher@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the above Region III address.

SUPPLEMENTARY INFORMATION: See the information pertaining to the approval of the 1990 emission inventory for the Washington, DC ozone nonattainment area submitted by the District of Columbia, State of Maryland and Commonwealth of Virginia provided in the Direct Final action of the same title which is located in the Rules and Regulations section of this **Federal Register**.

Authority: 42 U.S.C. 7401 et seq.

Dated: June 23, 1998.

Thomas Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 98–17970 Filed 7–7–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[MT–001–0004b; FRL–6122–3]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Montana; Control of Landfill Gas Emissions From Existing Municipal Solid Waste Landfills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve the Montana plan and its associated regulations for implementing the Municipal Solid Waste (MSW) Landfill Emission Guidelines at 40 CFR part 60, subpart Cc, which were required pursuant to section 111(d) of the Clean Air Act (Act). The State's plan, which was submitted to EPA on July 2, 1997, establishes performance standards for existing MSW landfills and provides for the implementation and enforcement of those standards.

In the Final Rules section of this **Federal Register**, the EPA is approving the State's submittal in a direct final rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to the direct final rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing on or before August 7, 1998.

ADDRESSES: Written comments on this action may be mailed to Vicki Stamper, 8P2–A, at the EPA Region VIII Office listed. Copies of the documents relevant to this proposed rule are available for public inspection during normal business hours at the Air Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466. Copies of the State documents relevant to this proposed rule are available for public inspection at the Montana Department of Environmental Quality, 1520 East 6th Avenue, P.O. Box 200901, Helena, Montana 59620–0901.

FOR FURTHER INFORMATION CONTACT: Vicki Stamper, EPA Region VIII, (303) 312–6445.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title which is located in the Rules and Regulations Section of this **Federal Register**.

Dated: June 29, 1998.

Jack W. McGraw,

Acting Regional Administrator, Region VIII.

[FR Doc. 98–18061 Filed 7–7–98; 8:45 am]

BILLING CODE 6560–50–P

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Notices

Federal Register
Vol. 63, No. 130
Wednesday, July 8, 1998

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Foreign Currencies Available for the Development of Foreign Markets

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice.

SUMMARY: The Foreign Agricultural Service ("FAS") invites proposals from interested parties to use Tunisian or Moroccan currencies acquired by the United States government for market development projects and technical assistance activities in those countries. These currencies were acquired pursuant to agreements under title I of the Agricultural Trade Development and Assistance Act of 1954, (P.L. 480).

FOR FURTHER INFORMATION CONTACT: Evans Browne, Program Development Division, Export Credits, Foreign Agricultural Service, Room 4506, South Building, Stop 1034, U.S. Department of Agriculture, 1400 Independence Ave., SW, Washington, D.C. 20250–1034. Telephone: (202) 720–4228.

SUPPLEMENTARY INFORMATION: Title I, P.L. 480 authorizes the United States to finance the sale and exportation of agricultural commodities to foreign governments on concessional terms. Between 1986 and 1991, the United States entered into various title I, P.L. 480 agreements with foreign governments, including Tunisia and Morocco, on terms which required repayment to the United States in local currencies. These agreements were commonly referred to as constituting the "section 108 program." Most of the foreign currency received under the section 108 program was loaned by the United States to financial institutions in the host country which would, in turn, loan the funds to local businesses in order to foster economic development. After the local financial institutions repaid the United States, the funds could be made available for the development of markets for United States agricultural commodities. In addition, other local currency repaid to the United States could be used for agricultural technical assistance to foster and encourage the development of private enterprise institutions and infrastructure as the base for the production of food and related goods and services. Currently, Tunisian and Moroccan local currencies acquired under the section 108 program are available for the development of markets for United States agricultural commodities and for agricultural technical assistance activities.

Application Process

Responsibility for administering Departmental programs concerned with developing foreign markets for United States agricultural commodities and technical cooperation has been delegated to FAS. Parties interested in using Tunisian or Moroccan currency to develop markets for agricultural commodities, or to undertake technical assistance activities, in those countries should submit a proposal to: Evans Browne, Program Development Division, Export Credits, Foreign Agricultural Service, Room 4506, South Building, Stop 1034, U.S. Department of Agriculture, 1400 Independence Ave., SW., Washington, D.C. 20250–1034. Telephone: (202) 720–4228. Interested parties must submit Standard Form 424 (SF–424) in conjunction with their proposal. This form is available from the above address. FAS will review all proposals in accordance with the standards in this notice. Those organizations which requested section 108 funding as part of their 1998 Unified Export Strategy (UES) application should review this notice to determine if all information requested herein has been furnished. If so, such organizations need not re-apply in response to this announcement. FAS will accept additional and supplemental information supporting proposals already submitted in the UES application.

Proposals should outline, to the extent applicable, the following points:

- A description of the project to develop or expand a commercial market for a U.S. agricultural commodity or product, or a description of the technical assistance activity;
- An indication of funding sources and amounts to be contributed by the applicant to implement the project or technical assistance activity in addition to the local currency provided by FAS. This may include amounts contributed by private industry entities or host governments. Contributed resources may include cash, goods, and services;
- The average value of U.S. exports of the commodity or product promoted by the applicant for the years 1995–97;
- The average total value of world trade of the commodity or product promoted by the applicant during the years 1995–97;
- The total dollar value of projected U.S. exports of the commodity or product promoted by the applicant during 1998;
- A results-oriented means of measuring the success of the project or technical assistance activity and a plan for reporting progress to FAS. For example, the proposals should identify the constraints or barriers to trade faced by a particular product in a particular market; describe the strategy and activity(ies) that will be implemented to overcome such impediments; and finally, identify the goals and performance indicators which will be used to measure the effectiveness of the strategy and activities in achieving those goals;
- The administrative capabilities of the participant to implement the project or technical assistance activity;
- Proposals for technical assistance activities should also describe how the technical assistance will enhance the local market's food and rural business systems, and impact on transformation of the host country's economy to a free market system.

Review Process

FAS will review the proposals to identify projects that could contribute to the effective creation, expansion, or maintenance of foreign markets for U.S. agricultural commodities and products. When reviewing proposals to undertake generic activities, FAS will give priority to organizations that are industry-wide or nationwide in membership and scope. For such activities, U.S. agricultural trade associations will be used to the maximum extent possible. Recipients must demonstrate an ability to provide U.S.-based staff capable of developing, supervising, and carrying out projects overseas, and be willing and able to contribute resources to a joint project. FAS will also consider the likelihood of these activities influencing conditions affecting the level of U.S. exports; the size, in both budget and scope, of the proposed project; and, the likelihood of the market becoming a commercial market for U.S. agricultural commodities and products. FAS considers evaluation critical to the success of a market development project. In determining whether to approve a market development or technical assistance project, FAS will place great emphasis on the performance measures in the proposal and upon the plan for reporting progress to FAS.

Upon approval of a proposal, FAS will enter into an agreement with the entity submitting the proposal pursuant to which FAS will provide local currencies for carrying out the market development or technical assistance project. Agreements will incorporate, by reference, the proposal as approved by FAS.

General administrative requirements for implementation of any resultant agreement with non-profit institutions are found at 7 CFR part 3019, "Uniform Administrative Requirements for Grants and Cooperative Agreements with Institutions of Higher Education, Hospitals, and other Non-profit Organizations" except as may be necessitated by the use of foreign currencies or host country laws. Interested parties should familiarize themselves with these regulations.

FAS may announce in the future the availability of other local currencies in other countries for market development and technical assistance.

Signed at Washington D.C. on June 26, 1998.

Timothy J. Galvin,

Acting Administrator, Foreign Agricultural Service and Vice President, Commodity Credit Corporation.

[FR Doc. 98–18000 Filed 7–7–98; 8:45 am]

BILLING CODE 3410–10–M

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Assessment of Fees for Dairy Import Licenses

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice of the fee for dairy import licenses for the 1999 quota year.

SUMMARY: This notice announces that the fee to be charged for the 1999 tariff-rate quota year for each license issued to a person or firm by the Department of Agriculture authorizing the importation of certain dairy articles which are subject to tariff-rate quotas set forth in the Harmonized Tariff Schedule of the United States (HTS) will be $158.00 per license.

EFFECTIVE DATE: January 1, 1999.

FOR FURTHER INFORMATION CONTACT: Richard P. Warsack, Dairy Import Quota Manager, Import Policies and Programs Division, STOP 1021, U.S. Department of Agriculture, 1400 Independence Avenue, S.W., Washington, D.C. 20250–1021 or telephone at (202) 720–9439.

SUPPLEMENTARY INFORMATION: The Dairy Tariff-Rate Import Licensing Regulation promulgated by the Department of Agriculture and codified at 7 CFR 6.20–6.36 provides for the issuance of licenses to import certain dairy articles which are subject to tariff-rate quotas (TRQs) set forth in the HTS. Those dairy articles may only be entered into the United States at the in-quota TRQ tariff rates by or for the account of a person or firm to whom such licenses have been issued and only in accordance with the terms and conditions of the regulation.

Licenses are issued on a calendar year basis, and each license authorizes the license holder to import a specified quantity and type of dairy article from a specified country of origin. The use of licenses by the license holder to import dairy articles is monitored by the Dairy Import Quota Manager, Import Licensing Group, Import Policies and Programs Division, Foreign Agricultural Service, U.S. Department of Agriculture and the U.S. Customs Service.

The Regulation at 7 CFR 6.33(a) provides that a fee will be charged for each license issued to a person or firm by the Licensing Authority in order to reimburse the Department of Agriculture for the costs of administering the licensing system under this Regulation.

The Regulation at 7 CFR 6.33(a) also provides that the Licensing Authority will announce the annual fee for each license and that such fee will be set out in a notice to be published in the Federal Register. Accordingly, this notice sets out the fee for the licenses to be issued for the 1999 calendar year.

Notice

The total cost to the Department of Agriculture of administering the licensing system during 1998 has been determined to be $404,318 and the estimated number of licenses expected to be issued is 2,563. Of the total cost, $243,748 represent staff and supervisory costs directly to administering the licensing system during 1998; $50,320 represents the total computer costs to monitor and issue import licenses during 1998; and $110,250 represents other miscellaneous costs, including travel, postage, publications, forms, and an ADP system contractor.

Accordingly, notice is hereby given that the fee for each license issued to a person or firm for the 1999 calendar year, in accordance with 7 CFR 6.33, will be $158.00 per license.

Issued at Washington, D.C., June 23, 1998.

David J. Williams,

Licensing Authority.

[FR Doc. 98–18001 Filed 7–7–98; 8:45 am]

BILLING CODE 3410–10–M

DEPARTMENT OF AGRICULTURE

Forest Service

Skipping Cow Environmental Impact Statement

AGENCY: Forset Service, USDA.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: The USDA Forest Service will prepare an Environmental Impact Statement (EIS) for the proposed Skipping Cow Timber Sale. The timber sale is located in the Tongass National Forest, Stikine Area, Wrangell Ranger District, on Zarembo Island, within Value Comparison Units (VCU's) 458 and 459. The Tongass Land and Resource Management Plan (1997) provides the overall guidance (land use designations, goals, objectives, management prescriptions, standards and guidelines) to achieve the desired future condition for the area in which this project is proposed. This Forest Plan allocates portions of the project area into three management prescriptions: Timber Production, Modified Landscape, and Scenic Viewshed.

The purpose and need for the project is to respond to the goals and objectives identified by the Forest Plan for the timber and move Skipping Cow Project Area toward the desired future condition. The Forest Plan identified the following goals and objectives: (1) manage the timber resource for production of saw timber and other wood products from suitable timber lands made available for timber harvest, on an even-flow, long-term sustained yield basis and in an economically efficient manner (Forest Plan page 2–4); (2) seek to provide a timber supply sufficient to meet the annual market demand for Tongass National Forest timber, and the demand for the planning cycle (page 2–4); and (3) maintain and

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promote industrial wood production from suitable timber lands, providing a continuous supply of wood to meet society's needs (page 3–144). The Skipping Cow Timber Sale will be designed to produce desired resource values, products, and conditions in ways that also sustain the diversity and productivity of ecosystems (page 2–1).

The Skipping Cow Timber Sale is expected to provide a range of volume to the timber industry from 20 to 30 million board feet. The range of alternatives to be considered in the EIS will be determined during analysis and reflect issues raised during scoping.

The Proposed Action provides for: (1) construction of approximately 15.5 miles of specified road and additional temporary road; and (2) harvest between 900–1300 acres. The existing log transfer facility at Deep Bay Harbor will be used to transfer volume to the water. A variety of systems would be used for yarding, including helicopter, cable, skyline and shovel yarding systems.

A number of public comments have been received on this project. Based on comments from the public and other agencies during the preliminary scoping effort, the following issues have been identified. How will the design of the sale affect: harvest economics, access road management, Wind ecology (large scale blowdown), and winter deer habitat? These issues and other issues discovered during further scoping will be used to design alternatives to the proposed action and to identify the potential environmental effects of the proposed action and alternatives.

DATES: Comments concerning the scope of this project should be received by August 24, 1998.

ADDRESSES: Comments concerning the scope of this project should be sent to Jerry Jordan, ID Team Leader, Wrangell Ranger District, Tongass National Forest, Stikine Area; Attn: Skipping Cow EIS; P.O. Box 51, Wrangell, Alaska, 99929, phone (907) 874–2323.

SUPPLEMENTARY INFORMATION:

Public Participation

Public participation will be an integral component of the study process and will be especially important at several points during the analysis. The first is during the scoping process. The Forest Service will be seeking information, comments, and assistance from Federal, State, local agencies, individuals and organizations that may be interested in, or affected by, the proposed activities. The scoping process will include: (1) identification of significant issues: (2) identification of issues to be analyzed in depth; and (3) elimination of insignificant issues or those which have been covered by a previous environmental review. For the Forest Service to best use the scoping input, comments should be received by August 24, 1998.

Based on results of scoping and the resource capabilities within the project areas, alternatives including a "no action" alternative will be developed for the Draft Environmental Impact Statement (Draft EIS). The Draft EIS is projected to be filed with the Environmental Protection Agency (EPA) in January 1999. Public comment on the Draft EIS will be solicited for a minimum of 45 days from the date the EPA publishes the Notice of Availability in the **Federal Register**. The Final EIS is anticipated by June 1999.

To assist the Forest Service in identifying and considering issues and concerns of the proposed action, comments during scoping and comments on the Draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the Draft EIS. Comments may also address the adequacy of the alternatives formulated and discussed in the document. Reviewers may wish to refer to the Council on Environmental Quality (CEQ) Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

In addition, Federal Court decisions have established that reviewers of Draft EIS statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and concerns. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553, (1978). Environmental objections that could be raised at the draft environmental impact stage may be waived if not raised until after completion of the Final Environmental Impact Statement. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022, (9th Cir. 1986); and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338, (E.D. Wis. 1980). The reason for this is to ensure that comments and objections are made available to the Forest Service at a time when it can meaningfully consider and respond to them in the Draft EIS.

Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record on this proposed project and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR 215 or 217. Additionally, pursuant to 7 CFR 1.27(d) any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Requesters should be aware that, under FOIA, confidentiality may be granted in only very limited circumstances, such as protected trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within 7 days.

Responsible Official

Carol J. Jorgensen, Assistant Forest Supervisor, Stikine Area, Tongass National Forest, P.O. Box 309, Petersburg, Alaska 99833, is the responsible official. The responsible official will consider comments, responses, disclosure of environmental consequences, and applicable laws, regulations, and policies in making a decision and stating the rationale in the Record of Decision.

Dated: June 24, 1998.

Carol J. Jorgensen,

Assistant Forest Supervisor.

[FR Doc. 98–17986 Filed 7–7–98; 8:45 am]

BILLING CODE 3410–11–M

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Sunshine Act Meeting

In connection with its investigation into the cause of the explosion at the Sierra Chemical Company in Sparks, Nevada, on January 7, 1998, the U.S. Chemical Safety and Hazard Investigation Board announces, pursuant to the Government in the Sunshine Act, that it will convene a Board Meeting beginning at 10:00 a.m. local time on Wednesday, July 29, 1998, at the George Washington University Marvin Center, 800 21st Street, N.W., Washington, DC. This meeting will be open to the public. For more information, please contact the Chemical Safety and Hazard Investigation Board's Office of External Relations, telephone number (202) 261–

7600, or visit our web site at www.chemsafety.gov.

Phillip Cogan,

Special Assistant for External Relations.

[FR Doc. 98–18284 Filed 7–6–98; 2:45 pm]

BILLING CODE 6350-01-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 34–98]

Proposed Foreign-Trade Zone—Santa Maria, California Area Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Santa Maria Public Airport District, to establish a general-purpose foreign-trade zone in the Santa Maria, California area, adjacent to the Port San Luis, California, port of entry. The application was submitted pursuant to the provisions of the FTZ Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on June 30, 1998. The applicant is authorized to make the proposal under Section 6302 of the California Code.

The proposed new zone would consist of 2 sites (2,787 acres) in Santa Barbara County: *Site 1* (2,728 acres)—within and adjacent to the Santa Maria Public Airport, 3217 Terminal Drive, Santa Maria; and, *Site 2* (59 acres)—within the Vandenberg Air Force Base complex, approximately 20 miles southwest of the Santa Maria Airport. Site 1 is primarily owned by the applicant. Site 2 is owned by the Department of the Air Force but has been leased by Astrotech Space Operations, Inc., for a period of 20 years. Vandenberg Air Force Base has been designated the primary launch site for commercial space activity from the West Coast and pre-launch payload assembly activities would be conducted at proposed Site 2.

The application indicates a need for foreign-trade zone services in the Santa Maria area. Several firms have indicated an interest in using zone procedures for warehousing, airport related activities and the preparation of space flight hardware for launches into outer space. Specific manufacturing approvals are not being sought at this time. Requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

As part of the investigation, the Commerce examiner will hold a public hearing on August 5, 1998, 11:00 a.m., at the Santa Maria Hilton, 3455 Skyway Drive, Santa Maria, California 93455.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is September 8, 1998. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to September 21, 1998).

A copy of the application and accompanying exhibits will be available during this time for public inspection at the following locations:

Office of the Santa Maria Public Airport District, 3217 Terminal Drive, Santa Maria, CA 93455.

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th and Pennsylvania Avenue, NW, Washington, DC 20230.

Dated: June 30, 1998.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–18111 Filed 7–7–98; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act of 1995, Pub. L. 104–13.

Bureau: International Trade Administration.

Title: The Special American Business Internship Training (SABIT) Program Applications and Questionnaires.

Agency Form Number: N/A.

OMB Number: 0625–0225.

Type of Request: Regular Submission.

Burden: 2,137 hours.

Number of Respondents: 1,300.

Avg. Hours Per Response: Range from 15 minutes to 6 hours.

Needs and Uses: The Special American Business Internship Training (SABIT) programs of the Department of Commerce's International Trade Administration (ITA), is a key element in the U.S. Government's efforts to support the economic transition of the Newly Independent States (NIS) of the former Soviet Union. SABIT places business executives and scientists from the Independent States in U.S. firms for one-to-six month internships to gain firsthand experiences working in a market economy. This unique private sector-U.S. Government partnership was created in order to tap the U.S. private sector's expertise in assisting the NIS's transition to a market economy while boosting U.S.-NIS long-term trade.

Under the "regular" (grants) SABIT program, qualified U.S. firms will receive funds through a cooperative agreement with ITA to help defray the cost of hosting interns. The information collected by the Application is needed by the SABIT staff to recruit and screen respondents and provide U.S. firms with a pool of eligible candidates from which to select interns. Intern applications are required to determine the suitability of candidates for SABIT internships. Feedback surveys and end-of-internship reports are needed to enable SABIT to track the success of the program as regards trade between the U.S. and NIS, as well as to improve the content and administration of the programs.

The closing date for applications and supplemental materials is approximately 120 days after date of publication in the **Federal Register**. Pursuant to section 632(a) of the Foreign Assistance Act of 1961, as amended (the "Act") funding for the program will be provided by the Agency for International Development (A.I.D.).

Affected Public: Businesses or other for-profit, individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit, voluntary.

OMB Desk Officer: Victoria Baecher-Wassmer, (202) 395–5871.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, Departmental Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Victoria Baecher-Wassmer, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: July 1, 1998.

Linda Engelmeier,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 98–18043 Filed 7–7–98; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–503]

Iron Construction Castings From Canada: Notice of Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review, and Intent To Revoke Order in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice.

EFFECTIVE DATE: July 8, 1998.

SUMMARY: In response to the April 30, 1998 request by the Municipal Castings Fair Trade Council, the petitioner in this case, the Department of Commerce (the Department) is initiating a changed circumstances antidumping duty administrative review and issuing an intent to revoke in part the antidumping duty order on iron construction castings from Canada. The scope of the order currently includes valve, service, and meter boxes which are placed below ground to encase water, gas, or other valves, or water and gas meters, which are considered light castings. The petitioner has expressed no further interest in the relief provided by the antidumping duty order with respect to the importation and sale of valve, service, and meter boxes which are placed below ground to encase water, gas, or other valves, or water and gas meters, considered light castings. Accordingly, we have preliminarily determined to revoke the order on iron construction castings from Canada with respect to light castings.

Interested parties are invited to comment on these preliminary results.

FOR FURTHER INFORMATION CONTACT: Matthew Blaskovich or Irene Darzenta, AD/CVD Enforcement Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–4697 or (202) 482–6320.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351 (62 FR 27296, May 19, 1997).

Background

On March 5, 1986, the Department published the antidumping duty order on iron construction castings from Canada (51 FR 7600). Subsequently, on September 25, 1986, the Department published an amendment to the final determination in the less-than-fair-value (LTFV) investigation and to the antidumping duty order on iron construction castings from Canada (51 FR 34110). On April 30, 1998, the Municipal Castings Fair Trade Council (the petitioner), requested that the Department revoke, in part, the antidumping duty order with respect to light iron construction castings based on its lack of further interest.

Scope of the Order

The merchandise covered by the order consists of certain iron construction castings from Canada, limited to manhole covers, rings, and frames, catch basin grates and frames, cleanout covers and frames used for drainage or access purposes for public utility, water and sanitary systems, classifiable as heavy castings under Harmonized Tariff Schedule (HTS) item numbers 7325.10.0010 and 7325.10.0050; and to valve, service, and meter boxes which are placed below ground to encase water, gas, or other valves, or water and gas meters, classifiable as light castings under HTS item numbers 8306.29.0000 and 8310.00.0000. The HTS item numbers are provided for convenience and Customs purposes only. The written description remains dispositive.

Scope of the Changed Circumstances Administrative Review

Imports covered by this changed circumstances administrative review are shipments of light castings from Canada, as described above.

Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review, and Intent to Revoke in Part

Pursuant to section 751(d)(1) of the Act, the Department may partially revoke an antidumping duty order based on a review under section 751(b) of the Act (*i.e.*, a changed circumstances review). Section 751(b)(1) of the Act requires a changed circumstances administrative review to be conducted upon receipt of a request containing information concerning changed circumstances sufficient to warrant a review.

Section 351.222(g) of the Department's regulations provides that the Department will conduct a changed circumstances review under 19 CFR 351.216, and may revoke an order in whole or in part, if it determines that the producers accounting for substantially all of the production of the domestic like product have expressed a lack of interest in the order, in whole or in part. In addition, in the event that the Department concludes that expedited action is warranted, sections 351.221(c)(3)(ii) and 351.222(f)(2)(iv) of the regulations permit the Department to combine the notices of initiation and preliminary results. Therefore, in accordance with sections 751(b) of the Act and 19 CFR 351.216, 351.221, and 351.222, based on an affirmative statement of no interest by the petitioner in continuing the order with respect to light iron construction castings, as described above, we are initiating this changed circumstances administrative review. Based on the fact that no other interested parties have objected to the position taken by the petitioner, we have determined that expedited action is warranted, and we are combining these notices of initiation and preliminary results. We have preliminarily determined that there are changed circumstances sufficient to warrant partial revocation of the antidumping duty order on iron construction castings from Canada. Therefore, we are hereby notifying the public of our intent to revoke, in part, the antidumping duty order as it relates to imports of light iron construction castings.

If final revocation in part occurs, we intend to instruct the U.S. Customs Service (Customs) to end the suspension of liquidation of iron construction castings subject to this changed circumstances review on the effective date of the final notice of partial revocation, and to refund any estimated antidumping duties collected, for all unliquidated entries of such merchandise made on or after March 1, 1997. We will also instruct Customs to pay interest on such refunds in accordance with section 778 of the Act. The current requirement for a cash deposit of estimated antidumping duties will continue until publication of the final results of this changed circumstances review.

Public Comment

Interested parties may request a hearing and/or may submit case briefs and/or written comments no later than 30 days after the date of publication of these results. Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 35 days after the date of publication of these results. The Department will issue the final results of this changed circumstances review, which will include the results of its analysis of any issues raised in any such written comments, no later than 270 days after the date on which this review was initiated, or within 45 days if all parties agree to our preliminary results.

This notice is in accordance with section 751(b) of the Act (19 U.S.C. 1675(b)), and 19 CFR 351.216, 351.221, and 351.222.

Dated: June 30, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–18112 Filed 7–7–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–401–040]

Stainless Steel Plate from Sweden: Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review.

SUMMARY: In response to a request from the petitioners, the Department of Commerce (the Department) is conducting an administrative review of the antidumping finding on stainless steel plate from Sweden. The review covers two manufacturers/exporters of the subject merchandise to the United States and the period June 1, 1996 through May 31, 1997. We preliminarily determine that sales have been made below normal value ("NV"). If these preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs to assess antidumping duties based on the difference between export price ("EP") and NV.

Interested parties are invited to comment on these preliminary results. Parties which submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument (no longer than five pages, including footnotes).

EFFECTIVE DATE: July 8, 1998.

FOR FURTHER INFORMATION CONTACT: Heather Osborne or John Kugelman, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–3019 (Osborne), 482–0649 (Kugelman).

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are references to the provisions codified at 19 CFR Part 351 (62 FR 27296, May 19, 1997).

Background

The Department of the Treasury published an antidumping finding on stainless steel plate from Sweden on June 8, 1973 (38 FR 15079). The Department of Commerce published a notice of "Opportunity To Request Administrative Review" of the antidumping finding for the 1996/1997 review period on June 11, 1997 (62 FR 31786). On June 28, 1997, the petitioners, Allegheny Ludlum Steel Corp., G.O. Carlson, Inc., and Washington Steel Corporation filed a request for review of Uddeholms AB (Uddeholm) and Avesta Sheffield AB (Avesta). We initiated the review on August 1, 1997 (62 FR 41339).

Scope of the Review

Imports covered by this review are shipments of stainless steel plate which is commonly used in scientific and industrial equipment because of its resistance to staining, rusting and pitting. Stainless steel plate is classified under Harmonized Tariff schedule of the United States (HTSUS) item numbers 7219.11.00.00, 7219.12.00.05, 1209.12.00.15, 7219.12.00.45, 7219.12.00.65, 7219.12.00.70, 7219.12.00.80, 8219.21.00.05, 7219.21.00.50, 7219.22.00.05, 7219.22.00.10, 7219.22.00.30, 7219.22.00.60, 7219.31.00.10, 7219.31.00.50, 7220.11.00.00, 7222.30.00.00, and 7228.40.00.00. Although the subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

On November 21, 1997, Avesta and Avesta Sheffield NAD, Inc. requested clarification to determine whether stainless steel slabs that are manufactured in Great Britain and rolled into hot bands in Sweden are within the scope of the antidumping finding. On December 22, 1997, the Department determined that British slabs rolled into hot bands in Sweden are within the scope of the finding. The review covers the period June 1, 1996 through May 31, 1997. The Department is conducting this review in accordance within section 751 of the Act, as amended.

The Department may extend the deadline for completion of an administrative review if it determines that it is not practicable to complete the review within the statutory time limit of 365 days. (*See* 19 C.F.R. 351.2139(g)(2).) On February 24, 1998, the Department extended the time limit for these preliminary results to June 30, 1998. *See Stainless Steel Plate from Sweden; Extension of Time Limits for Antidumping Duty Administrative Review* (63 FR 10590, March 4, 1998).

United States Price (USP)

In calculating USP, the Department treated sales as constructed export price (CEP) sales, as defined in section 772(b) of the Act, because the merchandise was first sold to unaffiliated U.S. purchasers, before or after importation, by an affiliated seller in the United states. There were no export price sales during the period of review.

We based CEP on the delivered price to unaffiliated customers in the United States. We made adjustments, where applicable, for ocean freight, U.S. inland freight, U.S. brokerage and handling expenses, U.S. customs duties, early payment discounts, and rebates. In accordance with section 772(d)(1) of the Act, we made deductions for warranty expenses, royalties, slitting and cutting expenses, credit expenses, and indirect selling expenses associated with economic activity in the United States.

With respect to merchandise to which value was added in the United States by Avesta prior to sale to unaffiliated customers, we deducted the cost of further manufacturing in accordance with section 772(d)(2) of the Act. To arrive at the CEP, the gross unit price was further reduced for both Avesta and Uddeholm by an amount for profit pursuant to section 772(d)(3) of the Act.

Normal Value

In order to determine whether there were sufficient sales of stainless steel plate in the home market (HM) to serve as a viable basis for calculating NV, we compared the volume of home market sales of subject merchandise to the volume of subject merchandise sold in the United States, in accordance with section 773(a)(1)(C) of the Act. Avesta's aggregate volume of HM sales of the

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foreign like product was greater than five percent of its respective aggregate volume of U.S. sales of the subject merchandise. Therefore, for Avesta, we have based NV on HM sales. Uddeholm's aggregate volume of HM sales, on the other hand, was less than five percent of its U.S. sales of the subject merchandise. Therefore, we did not base NV for Uddeholm in its HM sales. Rather, because Canada constituted Uddeholm's largest third-country market, we based NV for Uddeholm on sales to that market.

Avesta made HM sales to both affiliated and unaffiliated distributors during the period of review. We included sales to affiliated distributors when we determined those sales to be at arms-length (i.e., at average prices that were 99.5 percent of more of prices to unaffiliated distributors). When prices to an affiliated distributor were, on average, less than 99.5 percent of the price to unaffiliated distributors, we excluded those sales to affiliated distributors from our calculation of NV. The Department's current policy is to consider transactions between affiliated parties as arm's-length if the prices to affiliated purchasers are on average at least 99.5 percent of the prices charged to unaffiliated purchasers. *See e.g., Certain Stainless Steel Wire Rods from France: Final Results of Antidumping Duty Administrative Review* (63 FR 30185, June 3, 1998).

For Avesta we made adjustments to NV for HM inland freight, quantity discounts, distributor discounts, credit expenses, and warranties.

For Uddeholm we made adjustments to NV for international freight, third-country inland freight, third-country inland insurance, third-country customs duties, early payment discounts, warehousing expenses, and credit expenses.

Level of Trade

In accordance with section 773(a)(7) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the EP or CEP transaction. The NV LOT is that of the starting price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive selling, general, and administrative (SG&A) expenses and profit. For EP sales, the U.S. LOT is also the level of the starting-price sale, which is usually from exporter to importer. For CEP sales, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different level of trade than EP or CEP sales, we examine the stages in the marketing process and selling functions along with the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). *See Notice of Final Determination of sales at Less Than Fair Value: Certain Cut-to Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

We requested information concerning the selling functions associated with each phase of marketing, or the equivalent, in each of Uddeholm's and Avesta's markets. For Avesta, we determined that one LOT existed in the home market. Avesta offered the same selling terms and conditions, and provided the same level of marketing assistance, customer service, and technical service to all of its home market customers. We also determined that one LOT exists for Uddeholm's third-country sales. Uddeholm offered the same level of inventory maintenance. technical advice, and after-sale servicing to all of its Canadian customers.

To determine whether Avesta and Uddeholm's CEP and NV sales were at the same LOT, we reviewed information submitted in their questionnaire responses regarding selling functions and marketing processes associated with both categories of sales.

The U.S. subsidiaries of both Uddeholm and Avesta performed selling functions such as inventory maintenance, after-sales servicing, technical advice, advertising, freight and delivery arrangement, and warranties. Although Avesta's actual sales in the home market and Uddeholm's actual sales in Canada were made at a marketing stage similar to that in the United States, and entailed essentially the same functions as described above, our comparison of LOTs does not include these selling functions because, as explained above, we are using the CEP methodology in making price comparisons. Thus, in determining the LOT for the U.S. sales, we only considered the selling activities reflected in the price after making the appropriate adjustments under section 772(d) of the Act. (*See, e.g., Certain Stainless Wire Rods from France: Final Results of Antidumping Duty Administrative Review* (61 FR 47874, September 11, 1996.)

Based on a comparison of the home market (or third-country market) and this CEP LOT, we find significantly different selling functions for both Avesta and Uddeholm. Avesta's and Uddeholm's CEP sales involve no sales administration beyond the processing of incoming production orders, no forward warehousing, no marketing calls to customers, no advertising or sales promotion, and no technical assistance or after-sale warranty expenses. We therefore determine that Avesta's and Uddeholm's CEP sales are at different LOTs than their respective home market or third-country sales.

As stated above, section 773(a)(7)(B) of the Act directs us to make an adjustment for differences in LOTs where such differences affect price comparability. However, because there is only a single LOT in the HM or third country market, we were unable to determine from information on the record whether differences in LOTs affected price comparability, Therefore, we did not make a LOT adjustment for Avesta and Uddeholm. Next, we examined whether a CEP offset is warranted in this case for Avesta and Uddeholm. As indicated above, in accordance with Section 773(a)(7)(B) of the Act, a CEP offset is warranted where NV is established at a LOT which constitutes a more advanced stage of distribution (or the equivalent) than the LOT or the CEP sale and the data available does not provide an appropriate basis to determine a LOT adjustment. We made a CEP offset pursuant to Section 773(a)(7)(B) of the Act because (1) we have determined that Avesta's and Uddeholm's respective home market or third-country LOT is different from the CEP LOT, but the data necessary to calculate the LOT adjustment is unavailable, and (2) for each company, NV has been established at a LOT which constitutes a more advanced state of distribution (or the equivalent) than its CEP LOT.

Sales Comparisons

To determine whether sales of stainless steel plate in the United States were made at less than NV, we compared USP to the NV, as described in the "United States Price" and "Normal Value" sections of this notice. In accordance with section 777(A) of the Act, we calculated monthly weighted-average prices for NV and compared these to individual U.S. transactions.

Preliminary Results of Review

We preliminarily determine that the following margins exist for the period June 1, 1996 through May 31, 1997:

Avesta	21.84 percent
Uddeholm	11.17 percent

Parties to this proceeding may request disclosure within five days of publication of this notice and any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 37 days after the date of publication, or the first working day thereafter. Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 35 days after the date of publication. The Department will publish the final results of this administrative review, which will include the results of its analysis of issues raised in any such written comments or at a hearing, within 120 days after the publication of this notice.

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. Because the inability to link sales with specific entries prevents calculation of duties on an entry-by-entry basis, we have calculated an importer-specific *ad valorem* assessment rate for the merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales made during the POR to the total entered value of the sales used to calculate these duties. This rate will be assessed uniformly on all entries of that particular importer made during the POR. The Department will issue appraisement instructions directly to Customs. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the determination and for future deposits of estimated duties.

Furthermore, the following deposit requirements will be effective upon completion of the final results of these administrative reviews for all shipments of stainless steel plate from Sweden entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of these administrative reviews, as provided by section 751(a)(1) of the Act: (1) the cash deposit rate for reviewed firms will be the rate established in the final results of administrative review, except if the rate is less than 0.50 percent, and therefore, *de minimis* within the meaning of 19 CFR 353.106, in which case the cash deposit rate will be zero; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original less-than-fair-value (LTFV) investigation or a previous review, the cash deposit will continue to be the most recent rate published in the final determination or final results for which the manufacturer or exporter received a company-specific rate; (3) if the exporter is not a firm covered in this review, or the original investigation, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise in the final results of these reviews, or the LTFV investigation; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review or the original fair value investigation, the cash deposit rate will be 4.46%.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during these review periods. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This determination is issued in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 30, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–18113 Filed 7–7–98; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 98–004R. Applicant: University of California at Los Angeles, Plasma Physics Laboratory, 405 Hilgard Avenue, P.O. Box 951547, Los Angeles, CA 90095–1547. Instrument: YAG Pumped Dye Laser. Manufacturer: Spectron Laser Systems, United Kingdom. Intended Use: Original notice of this resubmitted application was published in the **Federal Register** of February 18, 1998.

Docket Number: 98–032. Applicant: Massachusetts Institute of Technology, Center for Cancer Research, 77 Massachusetts Avenue, Cambridge, MA 02139. Instrument: Fish Tank System. Manufacturer: Klaus-Jurgen Schwarz, Germany. Intended Use: The instrument will be used for the study of the early development of the zebrafish embryo in order to identify genes that are required for a fish egg to develop normally into a perfect living fish embryo and ultimately into an adult fish. It is expected that the genes identified will help in understanding what goes wrong in human development that can lead to birth defects. Application accepted by Commissioner of Customs: June 19, 1998.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 98–18109 Filed 7–7–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

University of Michigan, Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 98–024. Applicant: University of Michigan, Ann Arbor, MI 48109–2150. Instrument: (3) Sensor Sets, Model ODIN 4. Manufacturer: A.D.C. GmbH, Germany. Intended Use:

See notice at 63 FR 27562, May 19, 1998.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. Reasons: The foreign instrument provides long and short range infrared sensors, a control algorithm and a driver interface for an "intelligent" cruise control system for automobiles. A private highway safety research organization advised August 1, 1996 that (1) these capabilities are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use (comparable case).

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 98–18110 Filed 7–7–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Environmental Technologies Trade Advisory Committee (ETTAC)

AGENCY: International Trade Administration, US Department of Commerce.

ACTION: Notice of Open Meeting.

SUMMARY: The Environmental Technologies Trade Advisory Committee will hold a plenary meeting from noon to 3:00 PM on July 21, 1998. The ETTAC was created on May 31, 1994, to advise the U.S. government on policies and programs to expand U.S. exports of environmental products and services.

DATE AND PLACE: July 21, 1998. The meeting will take place in Room 1863 of the Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

The plenary meeting will review the objectives and agendas of its five subcommittee working groups: Market Access, Trade Impediments, Government Resources, Finance, and Outreach. There will also be an update on the APEC trade liberalization process.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Sage Chandler, Department of Commerce, Office of Environmental Technologies Exports. Phone: 202–482–1500.

Dated: July 1, 1998.

Carlos Montoulieu,

Director, Office of Environmental Technologies Exports.

[FR Doc. 98–17978 Filed 7–7–98; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Monitoring of the Gulf of Mexico Shrimp Vessels

ACTION: Proposed Collection; Comment Request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before September 8, 1998.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Edward E. Burgess, 9721 Executive Center Drive North, St. Petersburg, FL, 33702, 813–570–5326.

SUPPLEMENTARY INFORMATION:

I. Abstract

Under the provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et. seq.) NOAA is responsible for management of the Nation's marine fisheries. As part of its efforts to enforce fishery regulations, NOAA has included in some of those regulations requirements for monitoring shrimp vessels in the Gulf of Mexico. The ability to monitor shrimping effort is necessary for the protection of red snapper in the Gulf of Mexico. The shrimp trawl fishery has a bycatch of juvenile red snapper and is a source of mortality of red snapper. Monitoring the shrimp fishery is necessary to determine management measures to reduce overfishing of red snapper. NOAA has previously received emergency Paperwork Reduction Act clearance for this collection under the Office of Management and Budget (OMB) control number, 0648–0343.

II. Method of Collection

The owner or operator of a vessel in the shrimp fishery in the Gulf of Mexico, if selected, must notify NMFS in advance of each trip so that a NMFS-approved observer may be embarked or have a Vessel Monitoring Device installed and in use when at sea.

III. Data

OMB Number: 0648–0343.

Form Number: N/A.

Type of Review: Regular submission.

Affected Public: Business and other for-profit organizations.

Estimated Number of Respondents: 150.

Estimated Time Per Response: .08 for notification 6.0 for vessel monitoring.

Estimated Total Annual Burden Hours: 308.

Estimated Total Annual Cost to Public: $150.00.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: July 1, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–17980 Filed 7–7–98; 8:45 am]

BILLING CODE 3510–22–P

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Seafood Inspection Services

ACTION: Proposed Collection; Comment Request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before September 8, 1998.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Rita Creitz, 1315 East-West Highway, Silver Spring, MD, 301–713–2355.

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Marine Fisheries Service (NMFS) operates a voluntary fee-for-service seafood inspection program (Program) under the authorities of the Agricultural Marketing Act of 1946, as amended, the Fish and Wildlife Act of 1956, and Reorganization Plan No. 4 of 1970. The regulations for the Program are contained in 50 CFR Part 260. The program offers inspection grading, and certification services, including the use of official quality grade marks which indicate that specific products have been Federally inspected. In addition, the NMFS inspection program is the only Federal entity which establishes quality grade standards for seafood marketed in the United States. Qualified participants are permitted to use the program's official quality grade marks on their products to facilitate trade of fishery products.

Participants in the inspection program are requested to submit specific information pertaining to the type of inspection service requested [§ 260.15]. In all cases, applicants provide the program information regarding the type of products to be inspected, the quantity, and location of the product. There are also application requirements if there is an appeal on previous inspection results [§ 260.36]. Participants requesting regular inspection services on a contractual basis also submit a contract [§ 260.96]. Participants interested in using official grade marks are required to submit product labels and specifications for review and approval to ensure compliance with mandatory labeling regulations established by the U.S. Food and Drug Administration as well as proper use of the Program's marks [§ 260.97(c)(12) and (13)].

Current regulations state requirements for approval of drawings and specifications prior to approval of facilities [§ 260.96(b) and (c)]. There are no respondents under this section. The Program will amend this part of the regulations in a future action.

In July 1992, NMFS announced new inspection services, which were fully based on guidelines recommended by the National Academy of Sciences, known as Hazard Analysis Critical Control Point (HACCP). The information collection requirements fall under § 260.15 of the regulations. These guidelines required that a facility's quality control system have a written plan of the operation, identification of control points with acceptance criteria and a corrective action plan, as well as identified personnel responsible for oversight of the system. HACCP requires continuing monitoring and recordkeeping by the facility's personnel.

Although HACCP involves substantial self-monitoring by the industry, the HACCP-based program is not a self-certification program. It relies on unannounced system audits by NMFS. The frequency of audits is determined by the ability of the firm to monitor its operation. By means of these audits, NMFS reviews the records produced through the program participant's self-monitoring. The audits determine whether the participant's HACCP-based system is in compliance by checking for overall sanitation, accordance with good manufacturing practices, labeling, and other requirements. In addition, in-process reviews, end-product sampling, and laboratory analyses are performed by NMFS at frequencies based on the potential consume risk associated with the product and/or the firm's history of compliance with the program's criteria.

The information collected is used to determine a participant's compliance with the program. The reported information, a HACCP plan, is needed only once. Other information is collected and kept by the participant as part of its routine monitoring activities. NMFS audits the participant's records on unannounced frequencies to further determine compliance.

The U.S. Food and Drug Administration (FDA) implemented mandatory HACCP seafood safety requirements in December 1997. The burden hours identified are those beyond the FDA's mandatory HACCP requirements. HACCP-related burden hours are identified separately below and are based on an estimate of 30 new HACCP facilities a year and include annual monitoring and recordkeeping estimates for 100 facilities already in the Program.

II. Method of Collection

Information will be obtained via telephone, fax, or hard-copy submission or audit conducted by NMFS personnel.

III. Data

OMB Number: 0648–0266.

Form Number: N/A.

Type of Review: Regular Submission.

Affected Public: Business and other for-profit organizations (participants in the NMFS voluntary seafood inspection program).

Estimated Number of Respondents, Response Times, and Total Burden:

Section 260.15 Application for Inspection Services

Estimated Number of Respondents: 6,952.

Estimated Time Per Response: 5 minutes.

Estimated Total Annual Burden Hours: 571.

Estimated Total Annual Cost to Public: $0.

Section 260.36 Application for Appeal

Estimated Number of Respondents: 75.

Estimated Time Per Response: 5 minutes.

Estimated Total Annual Burden Hours: 6.

Estimated Total Annual Cost to Public: $0.

Section 260.96 Contract Completion

Estimated Number of Respondents: 35.

Estimated Time Per Response: 5 minutes.

Estimated Total Annual Burden Hours: 3.

Estimated Total Annual Cost to Public: $0.

Section 260.96 (b) and (c) Drawing and Floor Plan Approval

Estimated Number of Respondents: 0.

Estimated Time Per Response: 0 minutes.

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Estimated Total Annual Burden Hours: 0.

Estimated Total Annual Cost to Public: $0.

Section 260.97(c) (12) and (13) Label and Specification Submission

Estimated Number of Respondents: 2,624.

Estimated Time Per Response: 16 minutes.

Estimated Total Annual Burden Hours: 700.

Estimated Total Annual Cost to Public: $0.

HACCP Participants

New Respondents

Estimated Number of Respondents: 30.

Estimated Time Per Response: 105 hours.

Estimated Total Annual Burden Hours: 3,150.

Estimated Total Annual Cost to Public: $0.

Current Respondents

Estimated Number of Respondents: 100.

Estimated Time Per Response: 80 hours.

Estimated Total Annual Burden Hours: 8,000.

Estimated Total Annual Cost to Public: $0.

Total Respondents: 7,082.

Total Burden Hours: 12,430.

Total Cost: $0—no capita expenditures required.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: July 1, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–17981 Filed 7–7–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051398B]

Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permit amendment.

SUMMARY: Notice is hereby given that the Southwest Fisheries Science Center, Honolulu Laboratory, NMFS, 2570 Dole Street, Honolulu, Hawaii 96822–2396, has been issued a permit to "take" Hawaiian monk seals (*Monachus* schauinslandi) for purposes of scientific research.

ADDRESSES: The amendment and related documents are available for review upon written request or by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213 (310/980–4001); and

Protected Species Program Coordinator, Pacific Area Office, Southwest Region, NMFS, 2570 Dole Street, Room 106, Honolulu, HI 96822–2396 (808/973–2987).

SUPPLEMENTARY INFORMATION: On April 15, 1998, notice was published in the **Federal Register** (63 FR 18377) that an amendment of Permit No. 848–1335, issued June 10, 1997 (62 FR 32586), had been requested by the above-named organization. The requested amendment has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the Regulations Governing the Taking, Importing, and Exporting of Endangered Fish and Wildlife (50 CFR part 222).

Issuance of this amendment, as required by the ESA, was based on a finding that such permit: (1) was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of this permit; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: June 30, 1998.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–18120 Filed 7–7–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 062998A]

Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permit amendment.

SUMMARY: Notice is hereby given that Moana Productions, Inc., 311 Portlock Road, Honolulu, Hawaii 96825, has been issued an amendment to Permit No. 867–1388 to take by Level B harassment several species of non-threatened, non-endangered marine mammals for purposes of commercial photography.

ADDRESSES: The amendment and related documents are available for review upon written request or by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS,

1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

Protected Species Program Manager, Pacific Area Office, NMFS, 2570 Dole Street, Room 106, Honolulu, HI 96822–2396 (808/973–2987);

Regional Administrator, Alaska Region, NMFS 709 W. 9th Street, Federal Building, Room 461, Box 21668, Juneau, Alaska 99802 (907/586–7012); and

Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., suite 4200, Long Beach, CA 90802 (562/980–4001).

FOR FURTHER INFORMATION CONTACT: Trevor Spradlin, 301/713–2289.

SUPPLEMENTARY INFORMATION: On May 28, 1998, notice was published in the **Federal Register** (63 FR 29181), had been requested by the above-named organization. The requested amendment has been granted under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et* *seq.*), and the provisions of § 216.39 of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Dated: July 1, 1998.

Ann Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–18121 Filed 7–7–98; 8:45 am]

BILLING CODE 3510–22–F

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND PLACE: 10:30 a.m., Tuesday, July 28, 1998.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Rule Enforcement Matter.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–18250 Filed 7–6–98; 2:22 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND PLACE: 2:00 p.m., Wednesday, July 29, 1998.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A Webb,

Secretary of the Commission.

[FR Doc. 98–18249 Filed 7–6–98; 2:22 p.m.]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

[DFARS Case 97–D035]

DD Form 2631, Performance Evaluation (Architect-Engineer)

AGENCY: Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed revision of DD Form 2631.

SUMMARY: The Director of Defense Procurement is proposing to revise the form used for preparation of contractor performance evaluations under architect-engineer (A–E) contracts. Additions are made to the form to provide a more complete listing of the disciplines and attributes to be evaluated under A–E contracts, and the descriptive rating terms are changed for consistency with the terms used in evaluating contractor performance under supply and service contracts.

DATES: Comments on the proposed revision should be submitted in writing to the address shown below on or before September 8, 1998.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax (703) 602–0350.

E-mail comments submitted over the Internet should be addressed to: dfars@acq.osd.mil

Please cite DFARS Case 97–D035 in all correspondence related to this issue. E-mail comments should cite DFARS Case 97–D035 in the subject line.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, telephone (703) 602–0131.

SUPPLEMENTARY INFORMATION:

A. Background

DoD uses DD Form 2631, Performance Evaluation (Architect-Engineer), to prepare contractor performance evaluations under A–E contracts. DD Form 2631 was developed primarily for conventional design work relating to construction of buildings and other structures. Changes to the form are needed to add disciplines and attributes associated with other types of work performed under A–E contracts, and to address small business subcontracting plan requirements. This proposed revision of the form adds the following to the list of disciplines and attributes to be evaluated under A–E contracts when applicable: Geospatial Information Services; Chemistry; Risk Assessment; Safety/Occupational Health; Hydrographic Surveying; Field Analysis; Innovative Approaches/Technologies; and Implementation of Small Business Subcontracting Plan.

In addition, the proposed revision changes the five overall rating terms in Block 12 of the form, for consistency with the terms used in evaluating contractor performance under supply and service contracts, as follows:

From/To

Excellent—Exceptional

Above Average—Very Good

Average—Satisfactory

Below Average—Marginal

Poor—Unsatisfactory

The proposed revision also removes the three descriptive terms (Outstanding, Satisfactory, and Unsatisfactory) used to rate the disciplines and attributes listed in Blocks 16, 17, and 19 of the form, and replaces these terms with the five terms proposed for use in the overall rating category.

B. Regulatory Flexibility Act

The proposed revision is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because the proposed changes to the form are not expected to significantly alter the manner in which contractor performance is evaluated under A–E contracts. Therefore, an initial regulatory flexibility analysis has not been performed. Comments are invited from small businesses and other interested parties. Please cite DFARS Case 98–D035 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed form does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, et seq.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

BILLING CODE 5000–04–M

Proposed Revision of DD Form 2631, Performance Evaluation (Architect-Engineer)

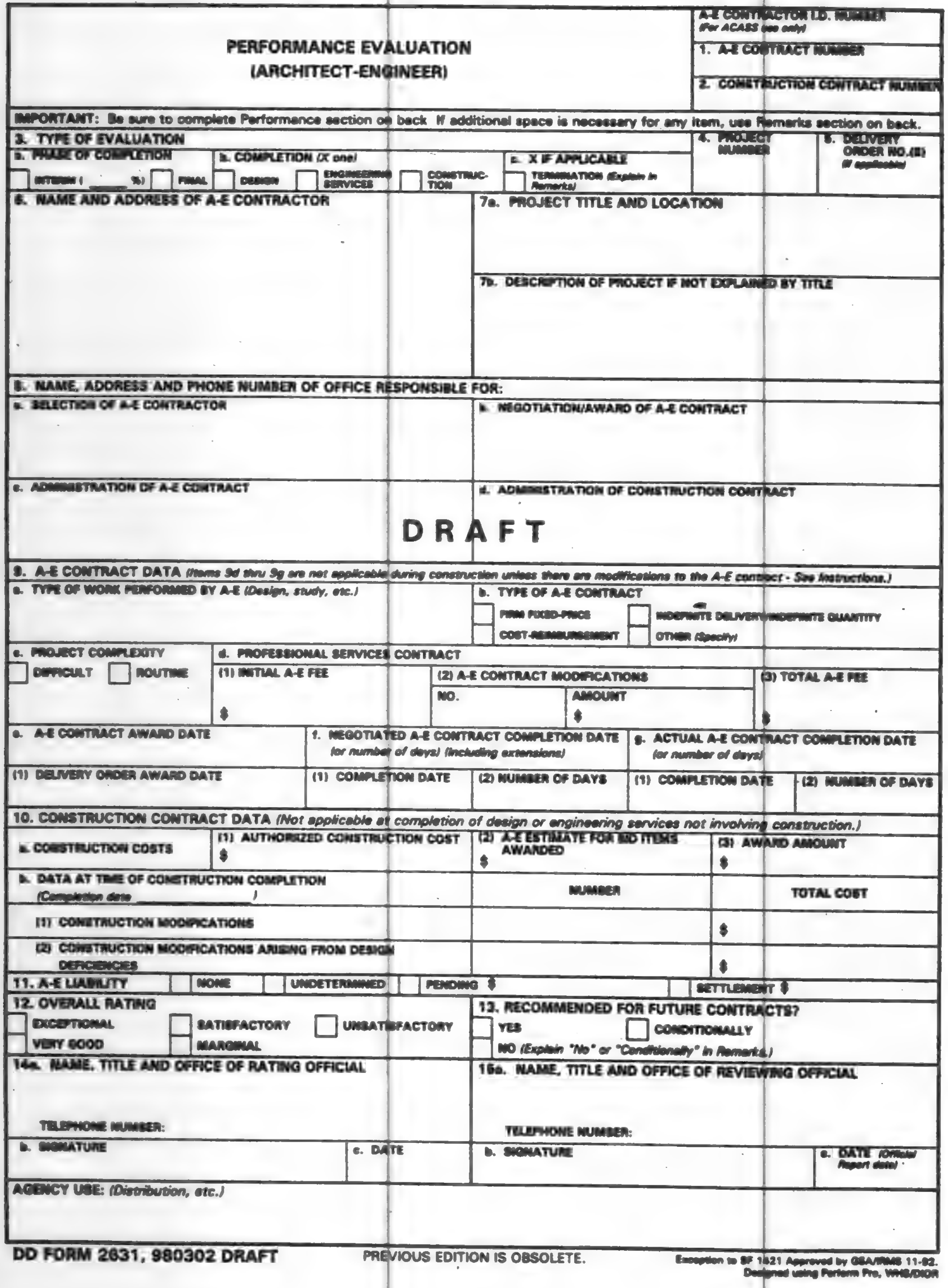

PERFORMANCE EVALUATION
(ARCHITECT-ENGINEER)

A-E CONTRACTOR I.D. NUMBER *(For ACASS use only)*

1. A-E CONTRACT NUMBER

2. CONSTRUCTION CONTRACT NUMBER

IMPORTANT: Be sure to complete Performance section on back. If additional space is necessary for any item, use Remarks section on back.

3. TYPE OF EVALUATION
a. PHASE OF COMPLETION ☐ INTERIM (____%) ☐ FINAL
b. COMPLETION *(X one)* ☐ DESIGN ☐ ENGINEERING SERVICES ☐ CONSTRUCTION
c. X IF APPLICABLE ☐ TERMINATION *(Explain in Remarks)*

4. PROJECT NUMBER

5. DELIVERY ORDER NO.(S) *(If applicable)*

6. NAME AND ADDRESS OF A-E CONTRACTOR

7a. PROJECT TITLE AND LOCATION

7b. DESCRIPTION OF PROJECT IF NOT EXPLAINED BY TITLE

8. NAME, ADDRESS AND PHONE NUMBER OF OFFICE RESPONSIBLE FOR:
a. SELECTION OF A-E CONTRACTOR
b. NEGOTIATION/AWARD OF A-E CONTRACT
c. ADMINISTRATION OF A-E CONTRACT
d. ADMINISTRATION OF CONSTRUCTION CONTRACT

DRAFT

9. A-E CONTRACT DATA *(Items 9d thru 9g are not applicable during construction unless there are modifications to the A-E contract - See Instructions.)*
a. TYPE OF WORK PERFORMED BY A-E *(Design, study, etc.)*
b. TYPE OF A-E CONTRACT ☐ FIRM FIXED-PRICE ☐ INDEFINITE DELIVERY/INDEFINITE QUANTITY ☐ COST-REIMBURSEMENT ☐ OTHER *(Specify)*
c. PROJECT COMPLEXITY ☐ DIFFICULT ☐ ROUTINE
d. PROFESSIONAL SERVICES CONTRACT
(1) INITIAL A-E FEE $
(2) A-E CONTRACT MODIFICATIONS NO. AMOUNT $
(3) TOTAL A-E FEE $
e. A-E CONTRACT AWARD DATE
(1) DELIVERY ORDER AWARD DATE
f. NEGOTIATED A-E CONTRACT COMPLETION DATE *(or number of days) (including extensions)*
(1) COMPLETION DATE (2) NUMBER OF DAYS
g. ACTUAL A-E CONTRACT COMPLETION DATE *(or number of days)*
(1) COMPLETION DATE (2) NUMBER OF DAYS

10. CONSTRUCTION CONTRACT DATA *(Not applicable at completion of design or engineering services not involving construction.)*

a. CONSTRUCTION COSTS	(1) AUTHORIZED CONSTRUCTION COST $	(2) A-E ESTIMATE FOR BID ITEMS AWARDED $	(3) AWARD AMOUNT $
b. DATA AT TIME OF CONSTRUCTION COMPLETION *(Completion date ____________)*		NUMBER	TOTAL COST
(1) CONSTRUCTION MODIFICATIONS			$
(2) CONSTRUCTION MODIFICATIONS ARISING FROM DESIGN DEFICIENCIES			$

11. A-E LIABILITY ☐ NONE ☐ UNDETERMINED ☐ PENDING $ ☐ SETTLEMENT $

12. OVERALL RATING ☐ EXCEPTIONAL ☐ VERY GOOD ☐ SATISFACTORY ☐ MARGINAL ☐ UNSATISFACTORY

13. RECOMMENDED FOR FUTURE CONTRACTS? ☐ YES ☐ CONDITIONALLY ☐ NO *(Explain "No" or "Conditionally" in Remarks.)*

14a. NAME, TITLE AND OFFICE OF RATING OFFICIAL
TELEPHONE NUMBER:
b. SIGNATURE
c. DATE

15a. NAME, TITLE AND OFFICE OF REVIEWING OFFICIAL
TELEPHONE NUMBER:
b. SIGNATURE
c. DATE *(Official Report date)*

AGENCY USE: *(Distribution, etc.)*

DD FORM 2631, 980302 DRAFT PREVIOUS EDITION IS OBSOLETE.

Exception to SF 1421 Approved by GSA/IRMS 11-92.
Designed using Perform Pro, WHS/DIOR

16. QUALITY OF A-E SERVICES BY DISCIPLINE *(Completion mandatory for both DESIGN and CONSTRUCTION phases and Engineering Services)*

a. DISCIPLINES *(If applicable)*	**DESIGN/SERVICES**					**CONSTRUCTION**				
	EXCEP-TIONAL	**VERY GOOD**	**SATIS-FACTORY**	**MARGINAL**	**UNSATIS-FACTORY**	**EXCEP-TIONAL**	**VERY GOOD**	**SATIS-FACTORY**	**MARGINAL**	**UNSATIS-FACTORY**
Architectural										
Structural										
Civil										
Mechanical										
Electrical										
Fire Protection										
Surveying, Mapping, & Geospatial Information Svcs.										
Cost Estimating										
Value Engineering										
Environmental Engineering										
Geotechnical Engineering										
Master Planning										
Hydrology										
Chemical Engineering										
Geology										
Chemistry										
Risk Assessment										
Safety/Occupational Health										
Hydrographic Surveying										

17. DESIGN PHASE OR ENGINEERING SERVICES *(Quality of A-E Services Evaluation)*

ATTRIBUTES *(If applicable)*	**EXCEP-TIONAL**	**VERY GOOD**	**SATIS-FACTORY**	**MARGINAL**	**UNSATIS-FACTORY**
Thoroughness of Site Investigation/Field Analysis					
Quality Control Procedures and Execution					
Plans/Specs Accurate and Coordinated					
Plans Clear and Detailed Sufficiently					
Management and Adherence to Schedules					
Meeting Cost Limitations					
Suitability of Design or Study Results					
Solution Environmentally Suitable					
Cooperativeness and Responsiveness					
Quality of Briefing and Presentations					
Innovative Approaches/Technologies					
Implementation of Sm. Business Subcontracting Plan					

16b. DISCIPLINE, NAME AND ADDRESS OF KEY CONSULTANT(S) *(If applicable)*

DRAFT

18. HOW MANY 100% FINAL RESUBMITTALS WERE REQUIRED BECAUSE OF POOR A-E PERFORMANCE?

19. CONSTRUCTION PHASE *(Quality of A-E Services Evaluation)*

ATTRIBUTES *(If applicable)*	**EXCEP-TIONAL**	**VERY GOOD**	**SATIS-FACTORY**	**MARGINAL**	**UNSATIS-FACTORY**
Plans Clear and Detailed Sufficiently					
Drawings Reflect True Conditions					
Plans/Specs Accurate and Coordinated					
Design Constructibility					
Cooperativeness and Responsiveness					
Timeliness and Quality of Processing Submittals					
Product & Equipment Selections Readily Available					
Timeliness of Answers to Design Questions					
Field Consultation and Investigations					
Quality of Construction Support Services					

20. REMARKS *(Attach additional sheet(s) or documentation if necessary)*

DD FORM 2831 (BACK), 980302 DRAFT

[FR Doc. 98–17982 Filed 7–7–98; 8:45 am]

BILLING CODE 5000–04–C

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DEPARTMENT OF DEFENSE

Department of the Army

Final Environmental Assessment for BRAC 95 Disposal and Reuse of Fort Missoula, MT

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: In accordance with Pub. L. 101–510 (as amended), the Defense Base Closure and Realignment Act of 1990, the Defense Base Closure and Realignment Commission recommended the closure of Fort Missoula, Montana.

The Final Environmental Assessment (EA) evaluates the environmental impacts of the disposal and subsequent reuse of the 52 acres. Alternatives examined in the EA include encumbered disposal of the property, unencumbered disposal of the property, and no action. Encumbered disposal refers to transfer or conveyance of property having restrictions on subsequent use as a result of any Army-imposed or legal restraint. Under the no action alternative, the Army would not dispose of property but would maintain it in caretaker status for an indefinite period.

While disposal of Fort Missoula is the Army's primary action, the EA also analyzes the potential environmental effects of reuse as a secondary action by means of evaluating intensity-based reuse scenarios. The Army's preferred alternative for disposal of Fort Missoula property is encumbered disposal, with encumbrances pertaining to the possible presence of lead-based paint and asbestos-containing material, and the requirement for a right of reentry for environmental clean-up.

A Notice of Intent (NOI) declaring the Army's intent to prepare an EA for the disposal and reuse of Fort Missoula was published in the **Federal Register** on September 22, 1995 (60 FR 49264).

DATES: Comments must be submitted on August 7, 1998. Comments received on this EA will be considered by the Army prior to initiating action.

COPIES: The Final EA is available for review at the Fort Missoula Public Library. A copy of the Final EA may be obtained by writing to Mr. Ken Brunner, U.S. Army Corps of Engineers, Seattle District (ATTN: CENWS–ED–TB–ER), 4735 East Marginal Way South, Seattle, Washington 98124–2255, or by facsimile at (206) 764–4470.

Dated: July 1, 1998.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army, (Environment, Safety and Occupational Health), OASA (I,L&E).

[FR Doc. 98–18014 Filed 7–7–98; 8:45 am]

BILLING CODE 6712–10–M

DEPARTMENT OF DEFENSE

Department of the Army

Notification of the U.S. Army Freedom of Information Act (FOIA) Citizen Guide for Accessing Army Information

AGENCY: U.S. Army, DoD.

ACTION: Notice.

SUMMARY: The Department of the Army Freedom of Information and Privacy Acts Office has prepared a Citizens Guide for public use in obtaining information from the Army. The Guide is a short, simple explanation of what the Freedom of Information Act is designed to do, and how a member of the public can use the document to access Army information.

FOR FURTHER INFORMATION CONTACT: Questions regarding the Freedom of Information Act Citizens Guide should be addressed to Rose Marie Christensen, phone (703) 806–5698, Chief, Department of the Army Freedom of Information/Privacy Acts Office, 7798 Cissna Road, Suite 205, Springfield, VA 22150–3166.

SUPPLEMENTARY INFORMATION: The Citizens Guide provides addresses and telephone numbers of each functional area within the Army. Electronic access of the guide can be obtained through the Internet using the following address: http://www.rmd.belvoir.army.mil/clickher.htm Additionally, limited paper copies of the document are also available. They can be obtained by contacting the Army Freedom of Information and Privacy Acts Office at the above address or telephone number.

Eric E. Tolbert,

Chief, Records Management Program Services.

[FR Doc. 98–18029 Filed 7–7–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Proposed Implementation of the Defense Table of Official Distances (DTOD) for Passenger Transportation and Travel Services

AGENCY: Military Traffic Management Command, DoD.

ACTION: Notice (Request for Comments).

SUMMARY: The Military Traffic Management Command (MTMC), as the Program Director for the Department of Defense (DoD), intends to utilize a new automated distance calculation product known as the Defense Table of Distances (DTOD) as part of the Groups Operational Passenger System (GOPAX). The DTOD will replace existing distance calculation products used within the DoD, such as DoD Official Table of Distances. The DTOD will become the DoD standard source for distance information worldwide. Commercially, DTOD is known as PC*MILER by ALK Associates, Inc. Carriers may continue to use other mileage sources for preparation of Offers of Service, and for their own business purposes. However, the DTOD/PC*MILER will be the DoD Standard for all distance calculations, analysis or audits for transportation services billed on a per mile (mileage) basis. Carriers and passenger service providers participating in the DoD passenger transportation and travel services programs must agree to be bound by the DTOD/PC*MILER distance calculations for payment and audit purposes.

DATES: Comments must be submitted on or before September 8, 1998.

ADDRESSES: Comments may be mailed to: Headquarters, Military Traffic Management Command, ATTN: MTOP–T, Room 617, 5611 Columbia Pike, Falls Church, VA 22041–5050.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the DTOD for MTMC Passenger Transportation and Travel Services Programs can be provided by contacting Ms. Beverly Cox at (703) 681–9444. Information regarding DTOD compliant commercial software and other technical information can be provided by contacting ALK Associates, Inc. at 1 (800) 377–MILE or on the Internet at www.pcmiler.com.

SUPPLEMENTARY INFORMATION:

1. The proposed effective date for use of the DTOD in DoD Passenger Transportation and Travel Services programs is 1 June 1999.

2. Existing Groups Operational Passenger System (GOPAX) mileage tables will be replaced by DTOD/PC*MILER software.

3. ALK Associates, Inc., will provide all interested parties the capability to license PC*MILER, to ensure the ability to consistently determine the exact mileage that the DOD uses for entitlement determination and audit purposes.

4. It is anticipated that transition to DTOD will have no significant impact upon passenger carriers since rates are not obtained or paid on a mileage basis, but rather on a per seat or per trip basis. While per seat cost and trip costs must consider distance, offerors will be free to establish their costs based on the distance calculation methods of their choice.

5. The DTOD/PC*MILER products will calculate both "shortest" and "practical" mileage. It will contain Standford Point Location Codes, military locations and other worldwide locations required by DoD. Updates and version control DTOD and PC*MILER will be consistent with industry practices. Carriers and/or other parties who choose to use PC*MILER will have opportunities to provide feedback to ALK Associates, Inc., the provider of DTOD software, regarding routings, database suggestions such as distance differences, road preference suggestions, road re-classifications, new locations, etc.

6. Interested parties are invited to provide comments concerning the use of the DTOD to the address provided above. Comments will be accepted for a period of 60 days from the publication date of this notice.

7. Regulatory Flexibility Act. This change is related to public contracts and is designed to standardize distance calculation for line-haul transportation. This change is not considered rule making within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612.

8. Paperwork Reduction Act. The Paperwork Reduction Act, 44 U.S.C. 3051 *et seq.*, does not apply because no information collection requirement or recordskeeping responsibilities are imposed on offerors, contractors, or members of the public.

Francis A. Galluzzo,

ADCSOPS Transportation Services.

[FR Doc. 98–18021 Filed 7–7–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Termination of Preparation of an Environmental Impact Statement (EIS) for the Red River Chloride Control Project (RRCCP), Texas and Oklahoma

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice.

SUMMARY: This notice announces the termination of work toward preparation of an EIS for the RRCCP. A Draft Supplement to the Final EIS for the project was filed with the Environmental Protection Agency and published in the **Federal Register** on May 5, 1995 (EIS No. 950177). The final Supplement was scheduled for release on January 8, 1996, but was delayed until May 13, 1996, and again until August 1996 so that additional information received during the review process could be considered and incorporated into the document.

As a result of public review comments, opposition from natural resource agencies, and Washington level review, it has been determined that the final Supplement will *not* be released and filed.

FOR FURTHER INFORMATION CONTACT: Questions or comments concerning the proposed action should be addressed to Mr. David L. Combs, Chief, Environmental Analysis and Compliance Branch, Tulsa District, U.S. Army Corps of Engineers, P.O. Box 61, Tulsa, Oklahoma 74121, telephone 918–669–7188.

SUPPLEMENTARY INFORMATION: During the National Environmental Policy Act process for the Supplement to the Final Environmental Impact Statement (SFEIS), several issues were identified as concerns by the public and commenting natural resource agencies. The major concerns were categorized into the following components: (1) hydrological, biological, and water quality issues concerning fish, aquatic invertebrates, algae/biofilm, aquatic macrophytes, wetland/riparian ecosystem components, along with continued function and integrity of the upper Red River ecosystem; (2) the Lake Texoma component, including chloride/turbidity relationships, chloride/fish reproduction issues, chloride/plankton community issues, chloride/nutrient dynamics issues, and impacts on lake sport fisheries, aesthetics, and recreational values; (3) a selenium component addressing selenium concentrations and impacts on biota; (4) changes in land use at the Area VI brine storage reservoir; (5) impacts on the potential to designate the upper Red River as a wild and scenic river; (6) man-made brines and associated reduction; (7) Section 401 water quality issues; (8) mitigation as it relates to indirect habitat losses resulting from irrigated cropland and direct impacts from construction of project components; (9) impacts on the commercial bait minnow fishery of the upper Red River; (10) Federally-listed threatened and endangered species; and (11) unquantifiable/undefined impacts.

In an attempt to resolve environmental concerns, the District participated in an Environmental Issue Resolution Process (EIRP) along with the project sponsor and the natural resource agencies. A steering committee was developed to oversee technical workgroups formed to address the major areas of concern which were identified as selenium accumulation, Lake Texoma productivity, and the upper Red River ecosystem. The ultimate goal was to develop an Environmental Operational Plan (EOP) acceptable to all agencies for inclusion into the SFEIS. The overall objective of the EOP was to protect against unacceptable environmental changes with the project.

Despite the efforts of all the agencies through the EIRP, areas of controversy regarding the potential for and/or the relative significance of impacts of the project remain for nearly every issue addressed during the process. Controversy remains regarding: (1) the amount of chloride loads being contributed by man-made sources; (2) the levels of significance of impacts to biota, specifically fishes, of the upper Red River due to reduction of chlorides and flow; (3) the use of surface storage impoundments and the potential for selenium accumulation; (4) the significance of chloride impact on lake turbidity in Lake Texoma and potential impacts on the lake fishery, and (5) the amount of mitigation lands required to mitigate project impacts.

Natural resource agency concerns for potential impacts associated with the RRCCP are warranted. However, the degree and severity of impacts are speculative and difficult to ascertain as many potential impacts are indirect and may or may not occur over the life of the project. Also, many of the impacts to the upper Red River ecosystem and Lake Texoma are difficult to address because of the complexity of these issues. Furthermore, many impacts may not be quantifiable prior to completion of extensive baseline data collection and long-term project monitoring. Adding to this difficulty is the fact that few long-term trend analyses have been conducted within the upper Red River Basin.

During the EIRP process, the District funded additional studies to more adequately address natural resource agency concerns and the severity of impacts. However, most study findings were unable to definitively quantify the magnitude of impacts, if any, attributable to the project. Consequently, there are still several unresolved issues that may only be resolved following long-term collection

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of baseline data, construction of the project, and long-term monitoring.

The project was recoordinated with the resource agencies in accordance with the Fish and Wildlife Coordination Act (FWCA), and the U.S. Fish and Wildlife Service (USFWS) issued a Draft FWCA Report for the project dated August 1994. The Service's position is, "The project not proceed as formulated due to unmitigable impacts to important fish and wildlife resources. Other alternatives, such as desalinization, effluent reclamation, and water blending, should be evaluated and incorporated into a limited project that meets the water requirements of the basin. Control of chlorides at Areas IV, XIII, and XIV should not be pursued as proposed due to their anticipated significant contribution to impacts to: (1) the Red River aquatic community; (2) the Lake Texoma sport fishery; (3) the Sandy Sanders Wildlife Management Area; (4) Federally-listed species; and (5) migratory birds and other resources from selenium contamination at the proposed brine storage sites. In July 1996, the USFWS furnished an Interim Final Supplemental FWCA report for the project. The Service's position with respect to the project remains unchanged.

Timothy L. Sanford,

Colonel, U.S. Army District Engineer.

[FR Doc. 98–18020 Filed 7–7–98; 8:45 am]

BILLING CODE 3710–39–M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the South River, Raritan River Basin, Combined Flood Control and Environmental Restoration Project, Middlesex County, New Jersey

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The New York District of the U.S. Army Corps of Engineers (Corps) is preparing a Draft Environmental Impact Statement (DEIS) for proposed measures to provide flood control protection and environmental restoration in the South River, Raritan River Basin, New Jersey. For this Notice of Intent, the Corps is considering protection measures to reduce damages caused by flooding and coastal storms. The EIS will be prepared according to the U.S. Army Corps of Engineers procedures for implementing the National Environmental Policy Act of 1969, as amended, (NEPA), 42 U.S.C. 4332(2)(C), and consistent with the U.S. Army Corps of Engineer's policy to facilitate public understanding and scrutiny of agency proposals. This notice of intent is published as required by the President's Council on Environmental Quality regulations implementing the provisions of NEPA, 40 CFR Parts 1500–1508.

FOR FURTHER INFORMATION CONTACT: Questions regarding the action can be addressed to Mark H. Burlas, Project Environmental Manager, phone (212) 264–4663, U.S. Army Corps of Engineers, New York District, Planning Division, 26 Federal Plaza New York, New York 10278–0090.

SUPPLEMENTARY INFORMATION:

1. Authorization

This study is authorized by a U.S. House of Representatives resolution dated May 13, 1993. The reconnaissance report, completed in May 1995, identified a potential plan of improvement that consists of two levees, each approximately 10,000 feet long along opposite banks of the South River. The levees would protect the communities of South River and Sayerville from a 100-year flood.

For environmental restoration, we identified a plan of improvement to restore the quality of the salt marsh near the Washington Canal. The plan would involve the replacement of low quality vegetation in 250 acres of wetlands to restore an important habitat.

2. Location of the Proposed Action

This study area is located within the lower Raritan River Basin in Middlesex County, New Jersey. The South River is the first major tributary of the Raritan River, located approximately 8.3 miles upstream of the Raritan River's mouth at the Raritan Bay.

The South River is formed by the confluence of Matchaponix and Manalapan Brooks, just above Duhernal Lake, and flows northward from Duhernal Lake Dam for a distance of approximately seven miles, at which point it splits into the old South River and the Washington Canal. It flows through the Townships of East Brunswick and Old Bridge, and the Boroughs of South River and Sayerville.

3. Reasonable Alternative Actions

In addition to the "No Action" alternative, the flood control component of the feasibility study will evaluate alternatives such as buy-outs, storm gates and flood walls to avoid and minimize impacts to coastal wetlands, as well as various levee layouts and heights. The environmental restoration component will analyze alternatives to restore degraded coastal marshes and tidal ecosystems.

4. Significant Issues Requiring In-Depth Analysis

1. Coastal Wetlands Impacts; 2. Impacts to Aquatic Resources; 3. Archaeological and Cultural Resources Impacts; 4. Hydrology Impacts; 5. Economic Impacts.

5. Environmental Review and Consultation

Review will be conducted as outlined in the Council on Environmental Quality regulations dated November 29, 1983 (40 CFR Parts 1500–1508) and U.S. Army Corps of Engineer regulation ER 200–2–2 dated March 4, 1988.

6. Public Scoping Meeting

A public scoping meeting is tentatively scheduled for July 16, 1998, at the South River Public Library, (55 Appleby Avenue, South River, New Jersey 08816) from 5:30 p.m. to 8:00 p.m.

7. Estimated Date of DEIS Availability

February 2000.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 98–18027 Filed 7–7–98; 8:45 am]

BILLING CODE 3710–06–M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Raritan Bay and Sandy Hook Bay, Combined Flood Control and Shore Protection Project, Union Beach, Monmouth County, New Jersey

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The New York District of the U.S. Army Corps of Engineers (Corps) is preparing a Draft Environmental Impact Statement (DEIS) for proposed measures to provide flood control and storm damage protection in Union Beach, New Jersey. For this Notice of Intent, the Corps is considering protection measures to reduce damages caused by flooding and coastal storms. The EIS will be prepared according to the U.S. Army Corps of Engineers procedures for implementing the National Environmental Policy Act of 1969, as amended, (NEPA), 42 U.S.C. 4332(2)(C), and consistent with the U.S. Army Corps of Engineer's policy to facilitate

public understanding and scrutiny of agency proposals. This notice of intent is published as required by the President's Council on Environmental Quality regulations implementing the provisions of NEPA, 40 CFR Parts 1500–1508.

FOR FURTHER INFORMATION CONTACT: Questions regarding the action can be addressed to Mark H. Burlas, Project Environmental Manager, phone (212) 264–4663, U.S. Army Corps of Engineers, New York District, Planning Division, 26 Federal Plaza New York, New York 10278–0090.

SUPPLEMENTARY INFORMATION:

1. Authorization

The existing Federal project was originally authorized by the Flood Control Act of 12 October 1962 as a dual purpose Beach Erosion Control and Hurricane Protection Project in accordance with House Document No. 464, 88th Congress, Second session. This project provided for beach fill, groins, and levees for various sections of the study area. The constructed project consists of segmented sections of beach fill and levees surrounding various communities in Old Bridge Township and Keansburg and East Keansburg. The current study was authorized by a resolution of the Committee on Public Works and Transportation, U.S. House of Representatives, adopted August 1, 1990. The feasibility study seeks to develop improvement plans to ascertain the most suitable long-term solution for the study area's flood and storm damage problems.

2. Location of the Proposed Action

The study area is located in the northern portion of Monmouth County, New Jersey. It occupies an approximate 1.8 square mile area of land along the coast of the Raritan Bay. The Borough of Union Beach is surrounded by the Raritan Bay to the north, East Creek to the east, the Township of Hazlet to the south and Chigarora Creek to the west. The study area is largely located in low elevation regions with numerous small creeks providing drainage. Currently, low-lying residential and commercial structures in the area are experiencing flooding caused by coastal storm inundation. This problem has progressively worsened in recent years due to loss of protective beaches and increased urbanization in the area with structures susceptible to flooding from rainfall and coastal storm surges, erosion and wave attack, combined with restrictions to channel flow in the tidal creek.

3. Reasonable Alternative Actions

In addition to the "No Action" alternative, the flood control component of the feasibility study will evaluate alternatives such as buy-outs, storm gates and floodwalls to avoid and minimize impacts to coastal wetlands, as well as various levee layouts and heights. The shore protection component will analyze alternatives such as the expansion of existing dunes and various improvements to existing beaches.

4. Significant Issues Requiring In-Depth Analysis

1. Coastal Wetlands Impacts; 2. Impacts to Aquatic Resources; 3. Archaeological and Cultural Resources Impacts; 4. Hydrology Impacts; 5. Economic Impacts.

5. Environmental Review and Consultation

Review will be conducted as outlined in the Council on Environmental Quality regulations dated November 29, 1983 (40 CFR Parts 1500–1508) and U.S. Army Corps of Engineer regulation ER 200–2–2 dated March 4, 1988.

6. Public Scoping Meeting

A public scoping meeting is tentatively scheduled for July 22, 1998, at the Hazlet Public Library, (251 Middle Road, Union Beach, New Jersey 07730) at 5:30 p.m.

7. Estimated Date of DEIS Availability

January 2000.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 98–18028 Filed 7–7–98; 8:45 am]

BILLING CODE 3710-06-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–282–000]

Cabot Oil & Gas Corporation v. CNG Transmission Corporation; Notice of Complaint

July 1, 1998.

Take notice that on June 29, 1998, pursuant to Rule 206 of the Rules of Practice and Procedure of the Commission, 18 CFR 385.206, Cabot Oil & Gas Corporation (COGC) tendered for filing a complaint respectfully requesting that the Commission: (1) expeditiously issue an injunctive order barring CNG Transmission Corporation (CNGT) from forcing producers or shippers/pool operators to purchase low flow meters to avoid having their service terminated on July 1, 1998; (2) issue an order clarifying that CNGT's FERC Gas tariff does not provide CNGT with the authority to unilaterally terminate service unless a producer or shipper/pool operator agrees to purchase low flow meters from CNGT; and (3) issue an order requiring CNGT to repurchase any low flow meters that it forced parties to purchase in violation of its FERC Gas Tariff.

Any person desiring to be heard or to protest said complaint should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214, 385.211. All such motions or protests should be filed on or before July 15, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. Answers to this complaint shall be due on or before July 15, 1998.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17999 Filed 7–7–98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–408–000 (Phase II)]

Columbia Gas Transmission Corp.; Notice of Informal Settlement Conference

July 1, 1998.

Take notice that an informal settlement conference will be convened in this proceeding on Thursday, July 9, 1998, at 10:00 a.m., at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC, 20426, for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervener status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact Thomas J. Burgess at (202) 208–

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2058 or David R. Cain at (202) 208–0917.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17990 Filed 7–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–634–000]

Gas Transport, Inc.; Notice of Request Under Blanket Authorization

July 1, 1998.

Take notice that on June 25, 1998, Gas Transport, Inc. (GTI), P.O. Box 430, Lancaster, Ohio 43130–0430, filed in Docket No. CP98–634–000 for approval under Sections 157.205 and 157.212 of the Commission's Regulations to construct and operate, a delivery point in order to deliver gas to West Virginia Power Company (WVPC) under GTI's blanket certificate issued in Docket No. CP86–291–000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

The delivery point is designated as GTI Line #1, #41+30. The delivery point will be located in Steele District, Wood County, West Virginia and will be used to deliver a maximum of 3,000 Dth per year. The cost is $2,500, for which GTI will be fully reimbursed by WVPC. The service will be provided under GTI's IT Rate Schedule.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17989 Filed 7–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–143–000]

Great Lakes Gas Transmission Limited Partnership; Notice of Site Visit

July 1, 1998.

On July 7, 1998, the Office of Pipeline Regulation staff will participate in an inspection of the route proposed by the Great Lakes Gas Transmission Limited Partnership for its Sault Looping Project, in Mackinac County, Michigan. The inspection will begin at 12:00 p.m. from the office of the U.S. Department of Agriculture, Forest Service, Hiawatha National Forest, Eastside Administrative Unit at 1498 West U.S. 2, St. Ignace, Michigan.

All interested parties may attend the inspection. Those planning to attend must provide their own transportation. For further information, please contact Paul McKee at (202) 208–1611.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17988 Filed 7–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1994]

Heber Light and Power Company; Notice of Authorization for Continued Project Operation

July 1, 1998.

On November 2, 1995, Heber Light and Power Company, licensee for the Snake Creek Project No. 1994, filed an application for a new or subsequent license pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. Project No. 1994 is located on Snake Creek in Wasatch County, Utah.

The license for Project No. 1994 was issued for a period ending June 30, 1998. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year to year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in Section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of Section 15 of the FPA, then, based on Section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b) (1998), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to Section 15 of the FPA, notice is hereby given that an annual license for Project No. 1994 is issued to Heber Light and Power Company for a period effective July 1, 1998, through June 30, 1999, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before June 30, 1999, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under Section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to Section 15 of the FPA, notice is hereby given that Heber Light and Power Company is authorized to continue operation of the Snake Creek Project No. 1994 until such time as the Commission acts on its application for subsequent license.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17992 Filed 7–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1982]

Northern States Power Company; Notice of Authorization for Continued Project Operation

July 1, 1998.

On June 24, 1996, Northern States Power Company, licensee for the Holcombe Project No. 1982, filed an application for a new or subsequent license pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. Project No. 1982 is located on the Chippewa River in Chippewa and Rusk Counties, Wisconsin.

The license for Project No. 1982 was issued for a period ending June 30, 1998. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year to year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in Section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of Section 15 of the FPA, then, based on Section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an applicaiton for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to Section 15 of the FPA, notice is hereby given that an annual license for Project No. 1982 is issued to Northern States Power Company for a period effective July 1, 1998, through June 30, 1999, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before June 30, 1999, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under Section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to Section 15 of the FPA, notice is hereby given that Northern States Power Company is authorized to continue operation of the Holcombe Project No. 1982 until such time as the Commission acts on its application for subsequent license.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17991 Filed 7–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–3267–000]

PSI Energy, Inc.; Notice of Filing

July 1, 1998.

Take notice that on June 9, 1998, PSI Energy, Inc., tendered for filing a Power Supply Agreement between Wabash Valley Power Association, Inc., PSI and Cinergy Services, Inc., dated January 1, 1998. This agreement is to succeed PSI's Rate Schedule FERC No. 241, the Interim Scheduled Power Agreement betwen itself and Wabash Valley Power Association, Inc.

Copies of the filing were served upon Wabash Valley Power Association, Inc., Indiana Utility Regulatory Commission and the Indiana Office of the Consumer Counsel.

PSI Energy, Inc., requests waiver of the Commission's notice requirements to allow the Interim Agreement to terminate as of year end 1997 and for the Long-Term Agreement to become effective January 1, 1998.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions and protests should be filed on or before July 10, 1998. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18061 Filed 7–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL98–53–001]

Public Service Company of New Hampshire; Notice of Filing

July 1, 1998.

Take notice that on June 15, 1998, Public Service Company of New Hampshire tendered for filing its compliance filing in the above-referenced docket.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before July 9, 1998. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18063 Filed 7–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP93–117–002]

San Diego Gas & Electric Company; Notice of Application for Amended Section 3 Authorization Request and for a Presidential Permit

July 1, 1998.

Take notice that on June 22, 1998, San Diego Gas & Electric Company (SDG&E), Post Office Box 1831, San Diego, CA 92101, filed in Docket No. CP93–117–002 an application pursuant to Section 3 of the Natural Gas Act (NGA), as amended, and Subpart B of Part 153 of the Commission's Regulations thereunder, for an order amending previous authorization and Presidential Permit for the siting, construction, and operation of pipeline facilities and the place of exit for the export of natural gas at the International Boundary between the United States and Mexico in San Diego County, California,[1] all as more fully set forth in the application which is on file with the Commission and open to public inspection.

SDG&E is a local distribution company (LDC), and as such is exempt from the Commission's jurisdiction under Section 1(c) of the NGA, the Hinshaw amendment, but is regulated

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[1] The original authorization and Presidential Permit were granted in Docket No. CP93–117–000, *San Diego Gas & Electric Company*, 64 FERC ¶61,221, *rehr'g denied*, 66 FERC ¶61,299 (1993).

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by the California Public Utilities Commission. In Docket No. CP93–117–000, SDG&E received authorization to construct, operate, and maintain a pipeline extending from SDG&E's existing distribution system to Otay Mesa, San Diego County, at the International Border with Mexico, and an associated meter station.

SDG&E states that between the time the Commission granted its original authorization in 1993 and the present, the area intended for the proposed border crossing has become thickly settled. SDG&E therefore requests permission to amend its authorization to:

1. Exclude the section of pipeline connecting SDG&E's existing system to the proposed facilities in the immediate vicinity of the border crossing;
2. Move the location of the border crossing 1.73 miles east to approximately 32° 33.2′ N by 116° 53.9′ W;
3. Reduce the pipeline size from 36 inches to 30 inches; and
4. Reduce the maximum capacity from 500 MMCF/day to 350 MMCF/day.

The facility will consist of a 100 foot by 120 foot meter station and 400 feet of 30-inch pipeline leading from the meter station to the International Boundary. Although not part of the Section 3 authorization, SDG&E proposes to build approximately 3 miles of pipeline connecting the proposed facilities with SDG&E's existing Hinshaw distribution system.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 22, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for SDG&E to appear or be represented at the hearing.

David P. Boergers,
Acting Secretary.

[FR Doc. 98–17987 Filed 7–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER98–6–000 and ER98–6–001]

USGen New England, Inc.; Notice of Issuance of Orders

July 1, 1998.

USGen New England, Inc. (USGenNE) filed an application for Commission authorization to engage in wholesale power sales at market-based rates, and for certain waivers and authorizations. In particular, USGenNE requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by USGenNE. On February 25, 1998, the Commission issued an Order that inadvertently did not include USGenNE's name in the Ordering Paragraphs that granted to USGenNE the waivers and blanket authorizations generally afforded to power marketers. On March 27, 1998, USGenNE filed a Request For Clarification or, In The Alternative, Request For Rehearing of the Commission's February 25 Order. On June 10, 1998, the Commission issued an Order on Clarification and Rehearing that clarified the earlier order regarding such waivers and blanket authorizations.

The Commission's February 25, 1998 and the June 10, 1998 Orders granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (J), (K), and (M) of the February 25, 1998 Order:

(J) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by USGenNE should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(K) Absent a request to be heard within the period set forth in Ordering Paragraph (J) above, USGenNE is hereby authorized to issue securities and assume obligations and liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of USGenNE, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(M) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of USGenNE's issuances of securities or assumptions of liabilities

* * *

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is July 10, 1998.

Copies of the full text of the Orders are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

David P. Boergers,
Acting Secretary.

[FR Doc. 98–18062 Filed 7–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing With the Commission

July 1, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Type of Application: Major License.
b. Project No.: P–2004–073.
c. Date Filed: September 2, 1997.
d. Applicant: Holyoke Water Power Company.
e. Name of Project: Holyoke Hydroelectric Project.
f. Location: On the Connecticut River in Hampden, Hampshire, and Franklin Counties, Massachusetts.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. §§ 791(a)—825(r).
h. Applicant Contact:

Ronald G. Chevalier, Vice President,
Holyoke Water Power Company, P.O.

Box 270, Hartford, CT 06141–0270, (860) 665–5315.
James J. Kearns, Project Manager, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141–0270, (860) 665–5936.
Catherine E. Shively, Counsel, Public Service Company of New Hampshire, 1000 Elm Street, Manchester, NH 03105, (603) 634–2326.

i. FERC Contact: Allan Creamer (202) 219–0365.

j. Comment Date: August 31, 1998.

k. Status of Environmental Analysis: This application has been accepted, but is not ready for environmental analysis at this time—see attached paragraph E1.

l. Description of Project: The proposed run-of-river project would consist of the following features: (1) an approximately 1,000-foot-long masonry dam to elevation of 97.47 feet National Geodetic Vertical datum, topped with a 3.1-foot-high rubber dam; (2) upstream and downstream fish passage facilities; (3) a 2,290-acre reservoir that extends approximately 25 miles upstream; (4) a three-level canal system adjacent to the river with headgates at the dam; (5) six separate hydroelectric facilities, named Hadley Falls Station, Riverside Station, Boatlock Station, Beebe-Holbrook Units, Skinner Unit and Chemical Units, and except for the Hadley Falls Station which has its intake structure adjacent to the canal headgate structure, the facilities withdraw water from the canal system; (6) a total nameplate capacity of 43,756 kilowatts; (7) transmission line connections; and (8) appurtenant facilities. The estimated average annual generation is about 223,389 megawatt-hours.

m. Purpose of Project: The power generated by the project is used for station service on site and sold to industrial customers in Holyoke, with the remainder transmitted to other utilities for resale outside of Holyoke.

n. This notice also consists of the following standard paragraphs: B1 and E1.

o. Available Locations of Application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files and Maintenance Branch, located at 888 First Street, N.E., Room 2A–1, Washington, D.C. 20426, or by calling (202) 208–2326. A copy is also available for inspection and reproduction at Holyoke Water Power Company, 1 Canal Street, Holyoke, Massachusetts 01040, (413) 536–9428.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules and Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protest, or motions to intervene must be received on or before the specified comment date for the particular application.

E1. Filing and Service of Responsive Documents—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions.

When the application is ready for environmental analysis, the Commission will issue a public notice and requesting comments, recommendations, terms and conditions, or prescriptions.

All filings must (1) bear in all capital letters the title "PROTEST" or "MOTION TO INTERVENE" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of the 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory, Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17993 Filed 7–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Competing Application Accepted for Filing With the Commission

July 1, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Type of Application: Major License.

b. Project No.: P–11607–000.

c. Date Filed: August 29, 1997.

d. Competing Applicant(s): Ashburnham Municipal Light Plant and Massachusetts Municipal Wholesale Electric Company.

e. Name of Project: Holyoke Hydroelectric Project.

f. Location: On the Connecticut River in Hampden, Hampshire, and Franklin Counties, Massachusetts.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. Competing Applicant(s) Contact:

Roger W. Bacon, Director, Power Services Division, Mass. Municipal Wholesale Elec. Company, Randall Road, P.O. Box 426, Ludlow, MA 01056, (413) 589–1041.
Jack LeMieur, Acting General Manager, Ashburnham Municipal Light Plant, 78 Central Street, P.O. Box 823, Ashburnham, MA 01430, (508) 827–4423.

i. FERC Contact: Allan Creamer (202) 219–0365.

j. Comment Date: August 31, 1998.

k. Status of Environmental Analysis: This application has been accepted, but is not ready for environmental analysis at this time—see attached paragraph E1.

l. Description of Project: The proposed run-of-river project would consist of the following features: (1) an approximately 1,000-foot-long masonry dam to elevation 97.47 feet National Geodetic Vertical datum, topped with a 3.1-foot-high rubber dam; (2) upstream and downstream fish passage facilities; (3) the Fish Lift Park adjoining the dam; (4) a 2,290-acre reservoir that extends approximately 25 miles upstream; (5) a three-level canal system adjacent to the river with headgates at the dam; (6) six separate hydroelectric facilities, named Hadley Falls Station, Riverside Station, Boatlock Station, Beebe-Holbrook Units, Skinner Unit and Chemical Units, and except for the Hadley Falls Station which has its intake structure adjacent to the canal headgate structure, the facilities withdraw water from the canal system; (7) a total nameplate capacity of 58,756 kilowatts (kW), consisting of the

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existing 43,756 kW project plus a 15,000 kW expansion at the Hadley Falls Station; (8) transmission line connections; and (9) appurtenant facilities. The estimated average annual generation is about 212,000 megawatt-hours (MWh), which would increase to about 257,600 MWh after completing the expansion in 2006.

m. Purpose of Project: The power generated by the project would be used within Holyoke Gas & Electric Department's distribution system, with a portion sold to the Massachusetts Municipal Wholesale Electric Company.

n. This notice also consists of the following standard paragraphs: A4, B1, and E1.

o. Available Locations of Application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files and Maintenance Branch, located at 888 First Street, N.E., Room 2A–1, Washington, D.C. 20426, or by calling (202) 208–2326. Copies are also available for inspection and reproduction at (1) the Ashburnham Municipal Light Plant, 78 Central Street, Ashburnham, Massachusetts 01430, and (2) the Holyoke Gas & Electric Department, 99 Suffolk Street, Holyoke, Massachusetts 01040.

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

B1. Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

E1. Filing and Service of Responsive Documents—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All filings must (1) bear in all capital letters the title "PROTEST" or "MOTION TO INTERVENE"; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–17998 Filed 7–7–98; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6122–5]

Agency Information Collection Activities: Proposed Collection; Comment Request; Outer Continental Shelf Air Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following proposed and/or continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Air Pollution Regulations for the Outer Continental Shelf (OCS) Activities: Reporting, Recordkeeping and Testing Requirements, OMB Control Number 2060–0249, ICR number 1601.03, expiration date: August 31, 1998. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before September 8, 1998.

ADDRESSES: A copy of the supporting statement may be obtained from the Ozone Policy and Strategies Group, Air Quality Strategies and Standards Division, Office of Air Quality Planning and Standards, MD–15, Research Triangle Park, NC 27711 or is available at http://www.epa.gov/ttn/oarpg/t1/fr__notice/ocs-icr.wpd. Comments must be mailed to David H. Stonefield, Ozone Policy and Strategies Group, Air Quality Strategies and Standards Division, MD–15, Environmental Protection Agency, Research Triangle Park, NC 27711.

FOR FURTHER INFORMATION CONTACT: David Stonefield, telephone: 919–541–5350, Facsimile: 919–541–0824, E-MAIL: stonefield.dave@epamail.epa.gov

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are air pollution sources which are located on the outer continental shelf along the Arctic, Atlantic, and Pacific Oceans and in the Gulf of Mexico east of longitude 87°30′.

Title: Air Pollution Regulations for the Outer Continental Shelf (OCS) Activities: Reporting, Recordkeeping and Testing Requirements, OMB Control Number 2060–0249, ICR number 1601.03, expiration date: August 31, 1998.

Abstract: Section 328 (Air Pollution From Outer Continental Shelf Activities) of the Clean Air Act (CAA) as amended in 1990, gives EPA responsibility for regulating air pollution from OCS sources located offshore of the States along the Arctic, Atlantic and Pacific coasts, and along the eastern Gulf of Mexico coast (off the coast of Florida).

The U.S. Department of Interior's Minerals Management Service (MMS) retained the responsibility for regulating air pollution from sources located in the western Gulf of Mexico. To comply with the requirements of section 328 of the CAA, EPA, on September 4, 1992 at 57 FR 40792, promulgated regulations to control air pollution from OCS sources in order to attain and maintain Federal and State ambient air quality standards and to meet other air quality goals. Sources located within 25 miles of a State's seaward boundary must comply with the same State/local air pollution control requirements as would be applicable if the source were located in the corresponding onshore area (COA). Sources located more than 25 miles from a State's seaward boundary (25-mile limit) must comply with EPA air pollution control regulations. The regulations are codified as part 55 of chapter I of title 40 of the *Code of Federal Regulations* (CFR).

The proposed ICR addresses the information collection burden to industry respondents who are subject to the reporting, recordkeeping, and testing requirements of the OCS air regulations. Industry respondents include owners or operators of existing and new or modified stationary sources. The proposed ICR also addresses the burden to the agencies who are responsible for implementing and enforcing the OCS regulations. The EPA has delegated the authority to implement and enforce the OCS regulations for sources located off the coast of California to four local air pollution control agencies. The EPA implements and enforces the regulations for all other sources under its jurisdiction. All burden estimates are calculated for the 3-year period beginning September 1, 1998 and ending August 31, 2001.

The type, quantity and submission requirements of information will depend on the type and location of the source. Exploration facilities are generally smaller sources which operate for a short period of time (2 to 6 months), are required to submit an application to operate and are required to submit a copy of their log book to document their operation. Development and production facilities are generally larger sources which operate for periods up to 30 years, are required to obtain new source review and operating permits, conduct initial and periodic emission tests, and submit compliance information on a routine basis.

The requirements for sources located or locating within 25 miles of the States' seaward boundaries are essentially the same as the requirements for the sources located in the COA. These requirements will depend upon whether the area is attaining the air quality standards and the local regulatory requirements. For example, a new source locating off the coast of a nonattainment area would have to meet the stringent requirements of the nonattainment area, such as smaller size cut-offs for new source review requirements and control requirements for the lowest achievable emission rate. While sources locating off an area which is attaining the standards would have higher cut-off requirements and control requirements for the best available control technology.

In addition, since EPA has delegated authority to implement and enforce the regulations to four southern California air pollution control districts, sources locating off the coast of those districts would be submitting their applications and data to the local districts.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: There are two types of respondents affected by this proposed ICR: new and existing sources. New sources must submit adequate information to determine if the sources will meet the appropriate new source review requirements. The annual average of these one-time-only burdens for the respondents is estimated to be 16,742 hours. Existing sources must submit information to obtain an operating permit and information on the sources' emissions. The annual burden for the existing sources is 16,308 hours. The total estimate annual burden for the respondents is 33,050 hours and an annualized cost of $1,775,646. The burden for the State and local agencies to implement and enforce the regulations is estimated to be 4,109 hours and an annualized cost of $158,476. The burden for the EPA to implement and enforce the regulations is estimated to be 4,114 hours and an annualized cost of $177,099. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to: review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: June 18, 1998.

John S. Seitz,

Director, Office of Air Quality Planning and Standards.

[FR Doc. 98–18064 Filed 7–7–98; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6122–1]

Notice of Shrimp Virus Management Work Shop

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Notice of shrimp virus management workshop.

SUMMARY: The Gulf of Mexico Program will jointly sponsor a Shrimp Virus Management Workshop. This workshop is a continuation of the shrimp virus work of the Joint Subcommittee on Aquaculture (JSA) of the President's Council on Science and Policy. This workshop is jointly sponsored by: the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service (DOC/NOAA/NMFS); U.S. Department of Agriculture, Cooperative State Research, Education and Extension Service (DOA/CREES) and Agricultural Research Service (DOA/ARS); and U.S. Environmental Protection Agency (USEPA) Gulf of Mexico Program. The purpose of the workshop is to utilize all of the data and input gathered from the June 1996 Shrimp Pathogen Workshop, the Report of the JSA Shrimp Virus Work Group from June 1997, the Stakeholder Meetings held in Summer 1997 and the Expert Workshop held in January 1998 to develop Management Options/Strategies for managing the threat of shrimp viruses to cultured and wild stocks of shrimp in the Gulf of Mexico and Southeastern U.S. Atlantic Waters.

DATES: The workshop will be held on July 28 & 29, 1998.

ADDRESSES: The workshop will be held at the Radisson Inn New Orleans Airport, 2150 Veterans Blvd., Kenner, LA. (504) 467–3111.

FOR FURTHER INFORMATION CONTACT: William D. Holland, Gulf of Mexico

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Program Office, Building 1103, Room 202, Stennis Space Center, MS 39529-6000 at (228) 688-3726; or for technical assistance contact, Dr. Tom McIlwain, Chairperson of the JSA Shrimp Virus Work Group, National Marine Fisheries Service, 3209 Frederick Street, Pascagoula, MS 39567 at (228)762-4591.

SUPPLEMENTARY INFORMATION: The workshop will be structured with case studies, drawing on the experiences of Mexico and the states of South Carolina, Texas, and Florida, in managing the threat of shrimp viruses in their respective jurisdictions. Breakout groups will cover conservation, aquaculture, the processing industry, and wild caught stocks.

The tentative agenda is as follows:

Tuesday, July 28, 1998

8:00 a.m.—Introduction and Charge to Working Group
8:15 a.m.—Case Study #1
9:15 a.m.—Case Study #2
10:15 a.m.—Break
10:30 a.m.—Case Study #3
11:15 a.m.—Case Study #4
12:00 n.—Lunch
1:00 p.m.—Working Group Sessions (4 Different Groups)
5:00 p.m.—Adjourn

Wednesday, July 29, 1998

8:00 a.m.—Working Group Sessions (continued)
10:15 a.m.—Break
10:30 a.m.—Conclusions/Working Group Reports
12:00 n.—Adjourn

The Workshop is open to the public.

Bryon O. Griffith,
Deputy Director, Gulf of Mexico Program.
[FR Doc. 98-18085 Filed 7-7-98; 8:45 am]
BILLING CODE 6560-50-U

ENVIRONMENTAL PROTECTION AGENCY

[OPP-66251; FRL 5796-6]

Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel certain pesticide registrations.

DATES: Unless a request is withdrawn by January 4, 1999, orders will be issued cancelling all of these registrations.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier, delivery, telephone number and e-mail: Rm. 216, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305-5761; e-mail: hollins.james@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, provides that a pesticide registrant may, at any time, request that any of its pesticide registrations be cancelled. The Act further provides that EPA must publish a notice of receipt of any such request in the **Federal Register** before acting on the request.

II. Intent to Cancel

This Notice announces receipt by the Agency of requests to cancel some five pesticide products registered under section 3 or 24(c) of FIFRA. These registrations are listed in sequence by registration number (or company number and 24(c) number) in the following Table 1.

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Product Name	Chemical Name
001757-00040	Amerstat 282	Methylenebis(thiocyanate)
005383-00060	Troysan 186	4,4-Dimethyloxazolidine
034704-00702	Clean Crop Butylate 6.7EC	*S*-Ethyl diisobutylthiocarbamate
034704-WA-97-0014	Clean Crop Carbaryl 4L	1-Naphthyl-*N*-methylcarbamate
045385-00046	Chem-Tox Low Odor Flea Spray	*O,O*-Diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate

Unless a request is withdrawn by the registrant within 180 days of publication of this notice, orders will be issued cancelling all of these registrations. Users of these pesticides or anyone else desiring the retention of a registration should contact the applicable registrant directly during this 180-day period. The following Table 2, includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA Company Number.

TABLE 2—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company No.	Company Name and Address
001757	Ashland Chemical Co., Drew Industrial Division, One Drew Plaza, Boonton, NJ 07005.
005383	Lewis & Harrison, Agent For: Troy Chemical Corp., 122 C St., NW., Ste. 740, Washington, DC 20001.
034704	Cherie Garner, Agent For: Platte Chemical Co Inc., Box 667, Greeley, CO 80632.
045385	CTX Inc., 481 Scotland Rd., Mchenry, IL 60050.

III. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to James A. Hollins, at the address given above, postmarked before January 4, 1999. This written withdrawal of the request for cancellation will apply only to the applicable 6(f)(1) request listed in this notice. If the product(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

IV. Provisions for Disposition of Existing Stocks

The effective date of cancellation will be the date of the cancellation order. The orders effecting these requested cancellations will generally permit a registrant to sell or distribute existing stocks for 1 year after the date the cancellation request was received. This policy is in accordance with the Agency's statement of policy as prescribed in **Federal Register** (56 FR 29362) June 26, 1991; [FRL 3846–4]. Exceptions to this general rule will be made if a product poses a risk concern, or is in noncompliance with reregistration requirements, or is subject to a data call-in. In all cases, product-specific disposition dates will be given in the cancellation orders.

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the affected product(s). Exceptions to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in Special Review actions, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: June 23, 1998.

Linda A. Travers,

Director, Information Resources and Services Division, Office of Pesticide Programs.

[FR Doc. 98–17730 Filed 7–7–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34125; FRL 5797–1]

Notice of Receipt of Requests for Amendments to Delete Uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice

SUMMARY: In accordance with Section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request for amendment by registrants to delete uses in certain pesticide registrations.

DATES: Unless a request is withdrawn, the Agency will approve these use deletions and the deletions will become effective on January 4, 1999.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier, delivery, telephone number and e-mail: Rm. 216, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5761; e-mail: hollins.james@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of FIFRA, provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

II. Intent to Delete Uses

This notice announces receipt by the Agency of applications from registrants to delete uses in the 62 pesticide registrations listed in the following Table 1. These registrations are listed by registration number, product names, active ingredients and the specific uses deleted. Users of these products who desire continued use on crops or sites being deleted should contact the applicable registrant before January 4, 1999 to discuss withdrawal of the applications for amendment. This 180-day period will also permit interested members of the public to intercede with registrants prior to the Agency approval of the deletion. *Note: Registration number(s) preceded by ** indicate a 90-day comment period.*

TABLE 1—REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Reg No.	Product Name	Active Ingredient	Delete From Label
000004–00224	Rotenone 5%	Rotenone	Use on cranberries
**000279–03023	Furadan 15G Insecticide-Nematicide	Carbofuran	Use on cranberries
000400–00399	Terraclor 75% Wettable Powder	Pentachloronitro-benzene	Foliar use on peanuts
000400–00402	Terraclor 10% Granular	Pentachloronitro-benzene	Foliar use on peanuts
000400–00453	Terraclor Flowable	Pentachloronitro-benzene	Foliar use on peanuts
000577–00541	Cuprinol Wood Preservative	Copper Naphthenate	Interior use
000577–00545	Clear Cuprinol Brand Wood Preservative Brand No. 20	Zinc Naphthenate	Interior use
001022–00409	Copper Naphthenate WR Wood Preservative Ready To Use	Copper Naphthenate	Interior use
001022–00507	Copper Naphthenate 1%	Copper Naphthenate	Interior use
001022–00518	CUNAPSOL–1	Copper Naphthenate	Interior use
001022–00522	CUNAPSOl–5	Copper Naphthenate	Interior use
001022–00523	CUNAPSON–2	Copper Naphthenate	Interior use
001022–00528	Copper Naphthenate Concentrate 8%	Copper Naphthenate	Interior use
001022–00536	Pol-Nu CURAP 20	Copper Naphthenate	Interior use

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TABLE 1—REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS—Continued

EPA Reg No.	Product Name	Active Ingredient	Delete From Label
001022–00568	Chapo-CU-NAP 800EC	Copper Naphthenate	Interior use
001022–00571	Chapco-CU-NAP 400	Copper Naphthenate	Interior use
001022–00579	CURAP 20 PK	Copper Naphthenate	Interior use
001409–00022	Marine Woodlife Ready to Use	Copper Naphthenate	Interior use
001719–00002	COP-R-TOX	Copper Naphthenate	Interior use
001719–00007	Zin-Tox Clear Wood Preserver 74–2	Zinc Naphthenate	Interior use
001719–00038	Zin-Tox 202 Water Based Wood Preservative		Interior use
001719–00039	B.P. COP-R-TOX 202 Water Reducible Wood Preserve time	Copper Naphthenate	Interior use
003008–00055	COP-R-Plastic Wood Preservative Compound	Copper Naphthenate	Interior use
003008–00073	Osmose COP-R-NAP	Copper Naphthenate	Interior use
003215–00004	Water Repellent Wood Preserver	Zinc Naphthenate	Interior use
004091–00006	Kelan-Strip Coppo Extra	Copper Naphthenate	Interior use
007115–00012	Chex-Flame Preservative Coating for Canvas	Copper Naphthenate	Interior use
007424–00001	Jasco Termin-8 Wood Preservative Green/Black	Copper Naphthenate	Interior use
007424–00009	Jasco ZPW Wood Perservative	Zinc Naphthenate	Interior use
007969–00078	Basagran M60 Herbicide	MCPA, dimethylamine; Sodium Bentazon	Use on rice
009630–00004	6% Copper NAP-ALL	Copper Naphthenate	Interior use
009630–00005	M-GARD S120 Wood Preservative	Copper Naphthenate	Interior use
009630–00006	8% Zinc NAP-ALL	Zinc Naphthenate	Interior use
009630–00007	Zinc Hydro-NAP	Zinc Naphthenate	Interior use
009630–00008	M-Guard W112	Copper Naphthenate	Interior use
009630–00010	M-GARD W550	Zinc Naphthenate	Interior use
009630–00011	M-GARD W510	Copper Naphthenate	Interior use
009630–00012	M-GARD S520	Copper Naphthenate	Interior use
009630–00015	M-GARD S540	Copper Naphthenate	Interior use
009630–00017	Germicide Agueous	Copper Naphthenate	Interior use
009630–00021	M-GARD S550	Zinc Naphthenate	Interior use
009630–00026	M-GARD G540	Copper Naphthenate	Interior use
009630–00031	M-GARD S510	Copper Naphthenate	Interior use
010465–00034	10–9–0 Green F.O. Wood Preservative	Copper Naphthenate	Interior use
010465–00035	Cunap Wrap	Copper Naphthenate	Interior use
030573–00002	Pyrellin E.C.	Pyrethrins	Use on cranberries
043437–00001	Dussek 6% Copper Naphthenate	Copper Naphthenate	Interior use
043437–00003	Dussek 8% Zinc Naphthenate	Zinc Naphthenate	
043437–00004	Copper Naphthenate	Copper Naphthenate	Interior use
051036–00246	Acephate Technical	Acephate	Pasture & range land, wasteland, forestry uses
054471–00005	Cunap Coat	Copper Naphthenate	Interior use
054734–00001	Protecto-Copp	Copper Naphthenate	Interior use
054734–00002	Protecto-Zin	Zinc Naphthenate	Interior use
059639–00041	Valent ORTHENE Technical	Acephate	Forestry uses
059639–00042	Valent ORTHENE MFG	Acephate	Pasture & rangeland uses
059639–00088	ORTHENE Turf, Tree & Ornamental WSP		Pasture & rangeland uses
060061–00009	Wolman Wood Preservative/Water Repellent Clear	Zinc Naphthenate	Interior use
060061–00016	No. 00 Ready to Use Copper Treat	Copper Naphthenate	Interior use
060061–00019	Copper Treat 120 Ready- To-Use	Copper Naphthenate	Interior use

TABLE 1—REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS—Continued

EPA Reg No.	Product Name	Active Ingredient	Delete From Label
066591-00001	Copper Green Wood Preservative	Copper Naphthenate	Interior use
066591-00003	Green's Clear Wood Preservative	Zinc Naphthenate	Interior use
066591-00005	Coppernate 250 Wood Preservative	Copper Naphthenate	Interior use

Note: Registration number(s) preceded by **indicate a 90–day comment period.

The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number.

TABLE 2—REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

Company No.	Company Name and Address
000004	Bonide Products, Inc., 2 Wurz Ave., Yorkville, NY 13495.
000279	FMC Corporation, Agricultural Products Group, 1735 Market Street, Philadelphia, PA 19103.
000400	Uniroyal Chemical Co., Inc., 74 Amity Road, Bethany CT 06524.
000577	Sherwin-Williams Co., 101 Prospect Avenue, Cleveland, OH 44115.
001022	IBC Manufacturing Co., 5968 Heisley Road, Mentor, OH 44060.
001409	Derusto-Woodlife, P.O. Box 277, Dayton, OH 45401.
001719	Mobile Paint Manufacturing Co., Box 717 – Theodore Inds. Park, Hamilton Road, Theodore, AL 36582.
003008	OSMOSE Wood Perserving, Inc., 980 Ellicott Street, Buffalo, MY 14209.
003125	Bayer Corp., 8400 Hawthorn Road, P.O. Box 4913, Kansas City, MO 64120.
004091	W.M. Barr & Co., 2105 Channel Avenue, Memphis, TN 38113.
007115	Building Care, 5300 W. 127th Street, Aslip, IL 60658.
007424	JASCO Chemical Co., 1710 Villa Street, Mountain View, CA 94042.
007969	BASE Corporation, P.O. Box 13528, Research Triangle Park, NC 27709.
009630	OMG Americas, Inc., 811 Sharon Drive, Westlock, OH 44145.
010465	Chemical Specialities, Inc., One Woodlawn Green, Suite 250, Charlotte, NC 28217.
030573	Webb Wright Corp., P.O. Box 1572, Fort Myers, FL 33902.
043437	Dussek Campbell Limited, C/o A.N. Deringer, Inc., Rd., #1, P.O. Box W432, Alexandria Bay, NY 13607.
051036	Micro Flo Company, P.O. Box 5948, Lakeland, FL 33807.
054471	Teniono Wood Perservatives, P.O. Box 707, Columbus, NE 68602.
054734	Lanco Mfg. Corp. URB, Aponte 5, San Lorenzo, PR 00754.
059639	Valent USA Corporation, 1333 N. California Blvd., Ste. 600, Walnut Creek, CA 94596.
060061	Kop-Coat, Inc., 436 Seventh Avenue, Pittsburgh, PA 15219.
066591	Green Products Co., 810 Market Street, Richmond, CA 94801.

III. Existing Stocks Provisions

The Agency has authorized registrants to sell or distribute product under the previously approved labeling for a period of 18 months after approval of the revision, unless other restrictions have been imposed, as in special review actions.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: June 23, 1998.

Linda A. Travers,

Director, Information Resources Services Division, Office of Pesticide Programs.

[FR Doc. 98–17731 Filed 7–7–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30375B/30429A; FRL–5799–1]

Certain Companies; Approval of Pesticide Product Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of applications to register the pesticide products PFR-MUP, PFR-97™ 20% WDG, and NEU 1160 Vegetable Oil Insecticide, containing active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: The Regulatory Action Leader, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 401

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M St., SW., Washington, DC 20460, listed in the table below:

Regulatory Action Leader	Office location/telephone number	Address
Shanaz Bacchus	Rm. 14, 9th floor, CM #2, 703–308–8097, e-mail: bacchus.shanaz@epamail.epa.gov.	1921 Jefferson Davis Hwy, Arlington, VA
Susanne Cerrelli	Rm. 14, 9th floor, CM #2, 703–308–8077, e-mail: cerrelli.susanne@epamail.epa.gov.	Do.

SUPPLEMENTARY INFORMATION:

Electronic Availability: Electronic copies of this document and the Fact Sheet are available from the EPA home page at the **Federal Register**-Environmental Documents entry for this document under "Laws and Regulations" (http://www.epa.gov/fedrgstr/).

EPA issued a notice, published in the **Federal Register** of November 2, 1994 (59 FR 54903) (FRL–4917–5), which announced that W. R. Grace and Company, 7379 Route 32, Columbia, MD 21044, had submitted applications to register the pesticide products PFR-MUP and PFR-97™ WDG (EPA File Symbols 11688–RL and 11688–RA), containing the new active ingredient *Paecilomyces fumosoroseus* Apopka Strain 97 at 7 and 12.5 percent respectively, an active ingredient not included in any previously registered products.

These applications were subsequently transferred to Thermo Trilogy Corporation, 9145 Guilford Road, Suite 100, Columbia, MD 21046. The applications were approved on April 22, 1998, with new assigned registration numbers for the products PFR-MUP for manufacturing use only in the formulation of insecticides (EPA Registration Number 70051-17) and PFR-97™ 20% WDG for use on whiteflies, aphids, thrips, spider mites, ornamentals, nonfood crops in greenhouses, and interiorscapes (EPA Registration Number 70051–19). (S.Bacchus)

EPA also published a notice in the **Federal Register** of February 20, 1997 (62 FR 7776) (FRL–5588–2), which announced that W. Neudorff GmbH KG Postfach 1209, an der Muhle 3, D-31860 Emmerthal, Germany, had submitted an application to register the pesticide product NEU 1160 Vegetable Oil Spray (EPA File Symbol 67702–U) containing the ingredient canola oil at 96 percent, an active ingredient not included in any previously registered product.

The application was approved on April 28, 1998, as NEU 1160 Vegetable Oil Insecticide (EPA Registration Number 67702–4), for use to control adelgids, aphids, cankerworms, caterpillars, fungus gnats, mites, and a variety of other insects on growing crops. (S. Cerrelli)

The Agency has considered all required data on risks associated with the proposed use of *Paecilomyces fumosoroseus* Apopka Strain 97 and canola oil, and information on social, economic, and environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the microbial or biochemical pesticide and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health safety determinations which show that use of *Paecilomyces fumosoroseus* Apopka Strain 97 and canola oil when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects to the environment.

More detailed information on these registrations is contained in an EPA Pesticide Fact Sheet on *Paecilomyces fumosoroseus* Apopka Strain 97 and canola oil.

A copy of these fact sheets, which provide a summary description of the pesticides, use patterns and formulations, science findings, and the Agency's regulatory position and rationale, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label, the list of data references, the data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 119, CM #2, Arlington, VA 22202 (703–305–5805). Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), 401 M St., SW., Washington, D.C. 20460. Such requests should: (1) Identify the product name and registration number and (2) specify the data or information desired.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Product registration.

Dated: June 25, 1998.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 98–18078 Filed 7–7–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30427B/30442A; FRL–5799–2]

Certain Companies; Approval of Pesticide Product Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of applications to register the pesticide products Game Stop, M-97-002 Kaolin, M-97-009 Kaolin, and M-96-018 Kaolin, containing active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: The Regulatory Action Leader, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, listed in the table below:

Regulatory Action Leader	Office location/telephone number	Address
Driss Benmhend	Rm. 37, 9th floor, CM #2, 703–308–9525, e-mail: benmhend.driss@epamail.epa.gov.	1921 Jefferson Davis Hwy, Arlington, VA
Sheila Moats	Rm. 14, 9th floor, CM #2, 703–308–1259, e-mail: moats.sheila@epamail.epa.gov.	Do.

SUPPLEMENTARY INFORMATION:

Electronic Availability: Electronic copies of this document and the Fact Sheet are available from the EPA home page at the **Federal Register**-Environmental Documents entry for this document under "Laws and Regulations" (http://www.epa.gov/fedrgstr/).

EPA issued a notice, published in the **Federal Register** of January 22, 1997 (62 FR 3287) (FRL–5582–4), which announced that Themac Incorporation P.O. Box 5209, Valdosta, GA 31603–5209, had submitted an application to register the pesticide product Game Stop a vertebrate repellent (EPA File Symbol 70061–R), containing the new active ingredient fish oil at 11.6 percent, an active ingredient not included in any previously registered product.

The application was approved on March 6, 1998, as Game Stop, (EPA Registration Number 70061–1) for terrestrial use application of liquid formulation to foliage and twigs of trees, shrubs, and ornamental plants which are fed upon by rabbits and deer. (S. Moats)

EPA also published a notice in the **Federal Register** of October 30, 1997 (62 FR 58729) (FRL–5751–4), which announced that Engelhard Corporation, 101 Wood Avenue, Iselin, NJ 08830, had submitted applications to register the pesticide products M-97-002, M-97-009, and M-96-018 (EPA File Symbols 70060–E, 70060–R, and 70060–G) containing the active ingredient kaolin at 99.4, 100, and 98.8 percent respectively, an active ingredient not included in any previously registered products.

The applications for these products were approved on March 17, 1998, as M-97-002 Kaolin, M-97-009 Kaolin, and M-97-018 Kaolin, as a broad spectrum agricultural repellent/protectant for controlling damage to crops from various insects, mites, fungal, and bacterial diseases (EPA Registration Numbers 70060–2, 70060–1, and 70060–3), respectively. (D. Benmhend)

The Agency has considered all required data on risks associated with the proposed use of fish oil and kaolin, and information on social, economic, and environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the chemical and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health safety determinations which show that use of fish oil and kaolin when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects to the environment.

More detailed information on these registrations is contained in an EPA Pesticide Fact Sheet on fish oil and kaolin.

A copy of these fact sheets, which provide a summary description of the pesticides, use patterns and formulations, science findings, and the Agency's regulatory position and rationale, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label, the list of data references, the data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 119, CM #2, Arlington, VA 22202 (703–305–5805). Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), 401 M St., SW., Washington, D.C. 20460. Such requests should: (1). Identify the product name and registration number and (2) specify the data or information desired.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Product registration.

Dated: June 24, 1998.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 98–18079 Filed 7–7–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PF–808; FRL–5791–6]

Notice of Filing of a Pesticide Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by the docket control number PF–808, must be received on or before August 7, 1998.

ADDRESSES: By mail submit written comments to: Public Information and Records Integrity Branch (7502C), Information Resources and Services Division, Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 119, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Follow the instructions under "SUPPLEMENTARY INFORMATION." No confidential business information should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 119 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Richard W. King, Regulatory Action Leader, Biopesticides and Pollution Prevention Division, (7511C), Office of Pesticide Programs,

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Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 14, 9th floor, CM #2, 1921 Jefferson Davis Highway, Arlington, VA. 22202, (703) 308–8052; e-mail: king.richard@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice of filing, as well as the public version, has been established for this notice of filing under docket control number [PF–808] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in "ADDRESSES" at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number [PF–808] and appropriate petition number. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Agricultural commodities, Food additives, Feed additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 29, 1998.

Kathleen D. Knox,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

Summaries of Petitions

Petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioners and represent the views of the petitioners. EPA is publishing the petition summaries verbatim without editing them in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Asahi Chemical Manufacturing Company

PP 7F4835

EPA has received a pesticide petition (PP 7F4835) from Asahi Manufacturing Company, Ltd., c/o Chemical Consultants International, Inc., 7270 West 98th Terrace, Suite 100, Overland Park, KS, 66212, proposing pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346(d), to amend 40 CFR part 180 to establish an amendment/expansion of an existing tolerance exemption for the biochemical pesticide Sodium o-Nitrophenolate, Sodium p-Nitrophenolate, and Sodium 5-Nitroguaiacolate in or on all crops.

Pursuant to section 408(d)(2)(A)(i) of the FFDCA, as amended, Asahi Manufacturing Company, Ltd. has submitted the following summary of information, data and arguments in support of their pesticide petition. This summary was prepared by Asahi Manufacturing Company, Ltd. and EPA has not fully evaluated the merits of the petition. The summary may have been edited by EPA if the terminology used was unclear, the summary contained extraneous material, or the summary was not clear that it reflected the conclusion of the petitioner and not necessarily EPA.

A. ATONIK® and Proposed Use Practices

ATONIK® is registered for use as a plant growth stimulator on cotton, rice and soybeans. Application should be made with the addition of a non-ionic surfactant.

1. *Cotton.* ATONIK® may be applied twice during the growing season in 40 to 60 gallons of water per acre. ATONIK® may be applied at 8 fluid ounces per acre at first bloom with a second application at 14 fluid ounces during early boll development.

2. *Rice.* ATONIK® may be applied twice during the growing season in 40 to 60 gallons of water. ATONIK® may be applied at 6 to 8 fluid ounces per acre at the beginning of panicle initiation with a second application of 6 to 8 fluid ounces at post anthesis.

3. *Soybeans.* ATONIK® may be applied twice during the growing season in 40 to 60 gallons of water. ATONIK® may be applied at 6 to 8 fluid ounces per acre 5 days after first bloom with a second application of 6 to 8 fluid ounces 3 to 4 weeks after first bloom.

B. Product Identity/Chemistry

ATONIK® is comprised of three active ingredients. These three active ingredients have each been exempted from the requirements of tolerance for cotton, rice and soybeans. The three active ingredients and the percentage of each in ATONIK® are:

i. Sodium o-Nitrophenolate 0.20%
ii. Sodium p-Nitrophenolate 0.30%
iii. Sodium 5-Nitroguaiacolate 0.10%

The Chemical properties of each of the three ingredients in ATONIK® and of ATONIK® itself are presented in section A of the submission. The three active ingredients have all been shown to be taken up into plants and immediately metabolized. Therefore, no measurable residues have been found or will be expected.

C. Mammalian Toxicological Profile

Acute toxicology studies place ATONIK® in Category IV. Acute toxicology studies place Sodium o-Nitrophenolate in Category II based upon the results of the primary eye study, Sodium p-Nitrophenolate is in Category II based upon the results of the acute oral and the primary eye studies and Sodium 5-Nitroguaiacolate is in Category I based upon the results of the primary eye study. ATONIK® was found to be a mild sensitizer in the guinea pig.

A subchronic oral feeding study was performed on the end-use product ATONIK® using dietary dose levels of 0, 5,000, 15,000 and 50,000 parts per million (ppm), which was equivalent to 515, 1,590, and 5,056 milligrams/kilograms (mg/kg/day) for male rats and 531, 1,723, and 6,553 mg/kg/day for female rats. The lowest observed effect level (LOEL) was 1,589 mg/kg/day for male rats and 1,723 mg/kg/day for female rats based upon decreased weight gains, changes in hematology parameters, relative organ weights of the liver and kidney, and pigment accumulation in kidney and spleen.

A developmental toxicity study in rats was conducted on ATONIK®. Administration was by gavage at dose levels of 0, 100, 300, and 600 mg/kg/day. Significantly decreased body weight gain and food consumption was observed at 600 mg/kg/day in the female rats. One death was noted and attributed to the test chemical. The maternal no observed effect level (NOEL) and LOEL were determined to be 300 and 600 mg/kg/day, respectively. No developmental toxicity was observed. The NOEL for developmental toxicity was determined to be 600 mg/kg/day.

The Ames Test, Mouse Micronucleus Assay and the Mouse Lymphoma Assay were each performed with each of the three active ingredients in ATONIK®. All results were negative.

The toxicity studies are sufficient to demonstrate that there are no foreseeable human or domestic animal health hazards possible from use of these active ingredients as plant regulators in the concentrations present in ATONIK®.

D. Aggregate Exposure

The end-use product, ATONIK®, contains the three active ingredients in very low concentrations. At the application rates employed, the level of active ingredient which may be present in any of the food or feed items would be far below the levels which demonstrated any effects in the subchronic oral feeding study, the developmental toxicity study or the mutagenicity studies. It can be shown that in order to reach a dose rate comparable to the LOEL of 1,600 mg/kg/day obtained in the subchronic oral feeding study, a person weighing 50 kg would have to consume all of the produce from 4 acres of crop every day.

Further, due to the rapid uptake and metabolism of the three active ingredients in the plants, it is most unlikely that any of the residue would be available for potential exposure.

Similarly, exposure of the residues to humans from consumption of water would be equally unlikely. There is no allowed use of the product containing the three active ingredients on lawns, rights-of-way, golf courses, or other areas where human exposure may result. Therefore, exposure from these areas would be non-existent.

E. Cumulative Exposure

Exposure through other pesticides and substances with the same mode of toxicity is not likely. What little toxicity that is observed is only observed at extremely high concentrations of these active ingredients.

F. Safety Determination

The three active ingredients in the end-use product, ATONIK®, are all biochemicals. The low toxicity of each of these alone and in combination, as discussed above, demonstates that these chemicals, at the rates established, will not pose any known risk to human health, either as children or as adults. These three active ingredients are already exempted from the requirements of a tolerance for use on cotton, rice and soybeans.

G. Effects on the Immune and Endocrine Systems

The Agency has no information to suggest that ATONIK® will have an effect on the immune and endocrine systems. The Agency is not requiring information on the endocrine effects of this biological pesticide at this time. Congress has allowed 3 years after August 3, 1996, for the Agency to implement a screening program with respect to endocrine effects.

H. Existing Tolerances

Exemptions from the requirements of a tolerance have already been established for residues of the biochemical plant regulators Sodium o-Nitrophenolate, Sodium p-Nitrophenolate, and Sodium 5-Nitroguaiacolate in or on the raw agricultural commodities cottonseed, cotton gin by products, rice, rice straw, soybeans, and soybean forage and hay.

I. International Tolerances

No known international tolerances have been granted for this pesticide. Therefore, based on the completeness and reliability of the toxicity data from the published literature and conservative exposure assessment, Asahi Manufacturing Company, Ltd., concludes that there is a reasonable certainty that no harm will result from aggregate exposure to residues of the ATONIK® including all anticipated dietary exposure and all non-occupational exposures.

[FR Doc. 98–18076 Filed 7–7–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–50842; FRL–5798–4]

Issuance of an Experimental Use Permit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted an experimental use permit to the following applicant. The permit is in accordance with, and subject to, the provisions of 40 CFR part 172, which defines EPA procedures with respect to the use of pesticides for experimental use purposes.

FOR FURTHER INFORMATION CONTACT: By mail: Sheila Moats, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: 9th Floor, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 308–1259, e-mail: moats.sheila@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permit:

70515–EUP–1. Issuance. J P BioRegulators, Inc., IR-4 Project Rutgers University, Cook College, P.O. Box 231, New Brunswick, NJ 08903–0231. This experimental use permit allows the use of 72 kilograms each year for the biochemical phospholipid: Lyso-PE (lysophosphatidylethanolamine) on 520 acres of apples, citrus, cranberries, grapes, peaches, pears, nectarines, strawberries, and tomatoes to evalaute pre-harvest and post-harvest ripening and storage shelf-life. The program is authorized only in the States of Arizona, California, Florida, Massachusetts, Michigan, Ohio, Washington, West Virginia, and Wisconsin. The program is effective from June 3, 1998 to June 1, 2001.

Persons wishing to review this experimental use permit are referred to the designated contact person. Inquires concerning this permit should be directed to the person cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Experimental use permits.

Dated: June 24, 1998.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 98–18077 Filed 7–7–98; 8:45 am]

BILLING CODE 6560–50–F

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ENVIRONMENTAL PROTECTION AGENCY

[FRL–6122–6]

Agency Information Collection Activities OMB Responses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notices.

SUMMARY: This notice announces the Office of Management and Budget's (OMB) responses to Agency clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

FOR FURTHER INFORMATION: Call Sandy Farmer at (202) 260–2740, or E-mail at "farmer.sandy@epamail.epa.gov", and please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency Clearance Requests

OMB Approvals

EPA ICR No. 1837.02; Four Private Party Surveys Regarding Prospective Purchaser Agreements and Comfort/Status Letters; was approved 06/15/98; OMB No. 2020–0013; expires 04/30/99.

EPA ICR No. 1011.04; Partial Updating of TSCA Inventory Data Base, Production and Site Reports; in 40 CFR Part 710; was approved 06/05/98; OMB No. 2070–0070; expires 06/30/2001.

EPA ICR No. 1136.05; NSPS for Petroleum Refinery Wastewater Systems Reporting and Record Keeping; in 40 CFR Part 60, Subpart QQQ; was approved 05/21/98; OMB No. 2060–0172; expires 12/31/2000.

EPA ICR No. 1365.05; Asbestos-Containing Materials in Schools Rule and Asbestos Model Accreditation Plan Rule (MAP); in 40 CFR Part 763, Subpart E; was approved 05/27/98; OMB No. 2070–0091; expires 05/31/2001.

EPA ICR No. 1050.06; NSPS for Storage Vessels of Petroleum Liquids, Construction, Reconstruction of Modification Commenced after May 18, 1978, and prior to July 23, 1984; in 40 CFR Part 60, Subpart Ka; was approved 06/01/98; OMB No. 2060–0121; expires 06/30/2001.

EPA ICR No. 1063.07; NSPS for Sewage Sludge Treatment Plant Incineration, Reporting and Record Keeping Requirements; in 40 CFR Part 60, Subpart O; was approved 06/17/98; OMB No. 2060–0035; expires 06/30/2001.

OMB Disapprovals

EPA ICR No. 1675.03; Non-road Spark-Ignition Engines at or below 19 Kilowatts, In-Use Testing Reporting and Record Keeping Requirements; OMB No. 2060–0292; was disapproved by OMB 05/21/98.

EPA ICR No. 1843.01; Non-road Spark-Ignition Engines at or below 19 Kilowatts, Application for the In-Use Credit Program for New Handheld Engines; was disapproved by OMB 05/20/98.

EPA ICR No. 1695.04; Control of Air Pollution; Emission Standards for New Non-road Spark-Ignition Engines at or below 19 Kilowatt; OMB No. 2060–0338; in 40 CFR Part 90, Subpart B; was disapproved by OMB 05/21/98.

EPA ICR No. 1845.01; Small Spark Ignition Manufacturers Production Line Testing; was disapproved by OMB 05/21/98.

EPA ICR No. 1857.01; Emission Reporting Requirements for Ozone SIP Revisions Relating to Statewide Budgets for Nox Emissions; was disapproved by OMB 06/05/98;

Extensions of Expiration Dates

EPA ICR No. 1637.03; Determining Conformity of General Federal Action to State Implementation Plans; in 40 CFR Part 51, Subpart W and 40 CFR Part 93, Subpart B; OMB No. 2060–0279; on 04/09/98 OMB extended the expiration date through 07/31/98.

EPA ICR No. 0277.10; Application for New or Amended Registration; in 40 CFR Part 52 and Part 58; OMB No. 2070–0060; on 05/29/98 OMB extended the expiration date through 09/30/98.

EPA ICR No. 1728.02; Municipal Water Pollution Prevention Program Evaluation (Self-Audit); in 40 CFR Part 104, Subpart B; OMB No. 2040–0181; on 05/29/98 OMB extended the expiration date through 11/30/98.

EPA ICR No. 0827.04; Construction Grants Program Information Collection Request; in 40 CFR Part 35, Subpart I; OMB No. 2040–0027; on 05/29/98 OMB extended the expiration date through 11/30/98.

EPA ICR No. 0596.05; Application and Summary Report for an Emergency Exemption for Pesticides; in 40 CFR Part 166; OMB No. 2070–0032; on 05/29/98 OMB extended the expiration date through 08/31/98.

EPA ICR No. 0107.05; Source Compliance and State Action Reporting; in 40 CFR Part 51, Subpart Q; OMB No. 2060–0096; on 06/10/98 OMB extended the expiration date through 10/31/98.

Dated: July 2, 1998.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 98–18073 Filed 7–7–98; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00543; FRL–5798–8]

Pesticides; Residue Data Guidelines on Grass Seed Screenings and Straw; Notice of Availability and Solicitation of Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This **Federal Register** notice announces the availability of the draft Pesticide Registration (PR) Notice entitled "Residue Data Guidelines on Grass Seed Screenings and Straw." EPA is soliciting comments on the proposed guidance amending and clarifying EPA's policy on data for grass seed screenings and straw derived from grass grown for seed. If, after reviewing any comments, EPA determines that changes to the PR Notice are warranted, the Agency will revise the draft PR Notice prior to release.

DATES: Written comments must be received on or before August 24, 1998.

ADDRESSES: By mail, submit written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 119, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Follow the instructions under Unit III. of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. The public docket is available for public inspection in Rm. 119 at the Virginia address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

For a copy of the PR Notice, contact William Hazel at the telephone number or address listed below.

FOR FURTHER INFORMATION CONTACT: By mail: William Hazel, Office of Pesticides Program, Health Effects Division (7509C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 6E, Crystal Station #1, 2800 Crystal Drive, Arlington, VA, (703) 305–7677, fax: 703–305–5147, e-mail: hazel.william@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Electronic Availability

A. Internet

Electronic copies of this document and the draft PR Notice also are available from the EPA Home Page at the Federal Register - Environmental Documents entry for this document under "Laws and Regulations" (http://www.epa.gov/fedrgstr/).

B. Fax-on-Demand

For Fax-on-Demand, use a faxphone to call 202–401–0527 and select item 6114 for a copy of the PR Notice.

II. Summary of the PR Notice

The draft PR Notice proposes that grass seed screenings and straw derived from grass grown for seed should be commodities on which residue data are provided. Under this amended policy, EPA would establish pesticide tolerances for these commodities based on such data if such tolerances are consistent with the safety standard under FFDCA.

Currently, the Residue Chemistry Guidelines (OPPTS 860 Series) do not clearly define whether data should be provided for pesticide residues in grass grown for seed. In the absence of such data, EPA cannot set tolerances for pesticide residues in animal commodities derived from grass grown for seed. In addition, on at least three occasions, concerns have been expressed by state regulatory agencies and some segments of the agricultural community in the Northwest over the absence of tolerances for residues of pesticides in grass seed screenings and straw.

Grass seed screenings were listed in the June 1994 version of Table II of the Subdivision O Guidelines as a raw agricultural commodity (RAC) and livestock feedstuff. However, in July 1995, the screenings were dropped from the table because they were not considered to be a significant livestock feed item by the criteria developed at that time. Based on the concerns raised by the various groups in the Northwest, EPA has reexamined this decision.

In conjunction with the deletion of minor feed commodities from Table 1 of the OPPTS Test Guidelines 860.1000 in 1996, EPA revoked tolerances for pesticide residues in or on those feed commodities. EPA did not intend for these revocations to have the consequence of rendering these commodities adulterated under FFDCA if they contain pesticide residues. To address this situation, EPA issued the following interpretation of its tolerance regulations:

> It is not EPA's intention that [revocation of tolerances for insignificant feed items] should have the effect of rendering the affected commodities adulterated due to the absence of a tolerance. Rather, EPA interprets its tolerance regulation for the principal RAC [raw agricultural commodities] as covering any insignificant livestock feed commodities (i.e., those not in Table I) of that crop as provided below. (62 FR 66020, December 17, 1997)

This interpretation addresses most of the insignificant feed commodities dropped from Table 1. However, this interpretation would not apply to grass seed screenings because there is no RAC associated with this feed item. Accordingly, EPA is proposing to reinstitute grass seed screenings as a livestock feed item on Table 1 of the OPPTS Test Guidelines 860.1000. This step would provide guidance to affected parties that residue data should be submitted on these commodities and the submission of these data would allow EPA to establish tolerances on these commodities. In addition, grass straw would be added to Table 1 of Guideline 860.1000 based on changes in practices and the resulting increasing use as a livestock feed.

III. Public Record and Electronic Submissions

The official record for this action, as well as the public version, has been established for this action under docket control number "OPP–00543" (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located at the Virginia address in "ADDRESSES" at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number "OPP–00543." Electronic comments on this document may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Pesticides.

Dated: July 1, 1998.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 98–18075 Filed 7–7–98; 8:45 am]

BILLING CODE [illegible]

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections Being Reviewed by the Federal Communications Commission

June 30, 1998.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

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DATES: Persons wishing to comment on this information collection should submit comments by September 8, 1998.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commission, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at 202–418–0217 or via internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0139.

Title: Application for Antenna Structure Registration.

Form No.: FCC 854, and FCC 854 ULS.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals; Businesses or other for-profit entities; Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 4,500.

Estimated Time Per Response: 30 minutes.

Frequency of Response: On occasion reporting requirements.

Cost to Respondents: $0.

Total Annual Burden: 2,250 hours

Needs and Uses: Section 303(q) of the Communications Act, as amended, authorizes the Commission to require the painting and/or illumination of radio towers in cases where there is a reasonable possibility that an antenna structure may cause a hazard to air navigation. The data collected is required by the Communications Act of 1934, as amended; FCC Rules Section 1.61(a), 17.4, 21.11(g), 25.113(c), 73.3533(c), 74.551(c), 74.651(d), 74.1251(d), 78.109(c), 95.83(a)(3), 97.15(d).

This FCC form is to be used for the purpose of registering structures used for wire or radio communication services within the United States, or to make changes to an existing registered structure, or to notify the Commission of the dismantlement of a structure. The Commission staff will evaluate the antenna data submitted by the tower owner and determine if Part 17 rule requirements are met and if any obstruction painting and/or lighting will be necessary. The tower owner will receive notification that the Commission has registered the structure, modification or dismantlement on FCC Form 854R, Antenna Structure Registration. Owners of new and modified towers must notify the Commission within 24 hours of construction completion and/or disposition of structure, using a portion of the FCC Form 854R which is detachable.

The Commission has completed the final phase of the initial two year registration period for the revised antenna structure registration process. We estimate a significant decrease (adjustment) in the number of total respondents from 43,000 to 4,500 and a decrease in the total annual burden from 21,500 hours to 2,250 hours as a result of a re-evaluation of receipts due to the program change implemented two years ago.

The Commission is currently developing a Universal Licensing System (ULS) which combines 11 separate databases into one. The databases are gradually being converted to ULS and use is subsequently being phased in. Antenna Structure Registration will be part of the ULS and Form 854 is being re-designed for use with ULS. We will need to maintain approval on both the current Form 854 and the Form 854ULS until ULS is fully implemented. At that time, we will submit a modification to the collection to reflect the obsolescence of the current FCC Form 854.

The Form 854ULS differs from the Form 854 as follows: ULS will assign a sequential file number to each filing for tracking purposes. The purpose of "Registration of an existing antenna structure" has been deleted and purposes of "Duplicate", "Withdraw pending", "Amendment" and "Cancel" have been added. When applicable, FCC 854ULS will collect "file number of pending application for antenna structure registration on file"; coordinates for center of structure array; contact representative information; overall height above mean sea level; and FAA notification issue date. Form 854ULS will collect only NAD83 datum of coordinates (no longer a NAD27 option). FCC 854ULS will not collect "issue date of most current registration"; nature of modification; FAA Regional Office name; "Date FAA Notification was filed"; or "FCC Painting and Lighting Paragraphs".

FCC 854ULS will collect Taxpayer Identification Number (TIN) of the antenna structure owner. For individuals, TIN is your Social Security Number; for other entities, it is Employer Identification Number (EIN). In order to use ULS, each antenna structure owner will be required to register their Taxpayer Identification Number and any associated registration numbers with the Commission. TIN will provide a "link" to all antenna structure registrations associated to any one owner. Use of Taxpayer Identification Number in the Universal Licensing System will allow pre-filling of data by searching the database and displaying all pertinent data associated to any given TIN, as well as for Debt Collection purposes. It will also improve and lessen the burden of the volume of data the public will have to enter for later filings. Taxpayer Identification Numbers (TINS) will not be displayed to the public. Additionally, we have updated the privacy act and public burden statements and the FAA Regional Office names and addresses.

The number of respondents is not being adjusted due to the new form. Antenna structure owners will be required to file either the current form or the new form, depending upon the timeframe in which the Antenna Structure Registration database is converted to ULS. Owners will be required to file the current form 854 until such time as a public notice is issued announcing conversion to ULS and requirements to begin using the Form 854ULS. Once Antenna Structure Registration is implemented in ULS, the current Form 854 process will no longer be available.

The estimated burden per form remains at 30 minutes. As users of ULS become more familiar with using the system, this burden estimate may need to be adjusted to reflect the electronic filing process. We encourage the use of electronic filing for antenna structure registration. ULS will provide many enhancements which are not available in the current interactive/electronic filing process.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–18041 Filed 7–7–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) submitted to OMB for Review and Approval

July 1, 1998.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection

of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number.

Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated information techniques or other forms of information technology.

DATES: Written comments should be submitted on or before August 7, 1998. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications, Room 234, 1919 M St., NW, Washington, DC 20554 or via internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at 202–418–0217 or via internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0360.

Title: Section 80.409(c), Public coast station logs.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit entities; Individuals or households; Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 316.

Estimated Time Per Response: 95 hours.

Frequency of Response: Recordkeeping requirement; On occasion reporting requirement.

Cost to Respondents: $0.

Total Annual Burden: 30,020 hours.

Needs and Uses: The recordkeeping requirement contained in this rule section is necessary to document the operation and public correspondence service of public coast radio telegraph, public coast radiotelephone stations, and Alaska-public fixed stations, including the logging of distress and safety calls where applicable. A retention period of more than one year is required where a log involves communications relating to a disaster, an investigation, or any claim or complaint. If the information were not collected, documentation concerning the above stations would not be available.

OMB Approval Number: 3060–0364.

Title: Section 80.409 (d) and (e), Ship radiotelegraph logs, ship, radiotelephone logs.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit entities; Not-for-profit institutions; State, Local or Tribal Governments.

Number of Respondents: 10,950 (10,150 compulsory equipped vessels + 800 high seas vessels).

Estimated Time Per Response: 47.3 hours.

Frequency of Response: Recordkeeping requirement; On occasion reporting requirement.

Cost to Respondents: $0.

Total Annual Burden: 517,935 hours.

Needs and Uses: The recordkeeping requirement contained in these rule sections is necessary to document that compulsory radio equipped vessels and high seas vessels maintain listening watches and logs as required by statutes and treaties (including treaty requirements contained in Appendix 11 of the International Radio Regulations, Chapter IV, Regulation 19 of the International Convention for the Safety of Life at Sea, the Bridge-to-Bridge Radio Telephone Act, the Great Lakes Agreement, and the Communications Act of 1934, as amended.) A retention period of more than one year is required where a log involves communications relating to a disaster, an investigation, or any claim or complaint. If the information were not collected, documentation concerning station operations would not be available and treaty requirements would not be complied with.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–18044 Filed 7–7–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting; FCC To Hold Open Commission Meeting Thursday, July 9, 1998

July 2, 1998.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, July 9, 1998, which is scheduled to commence at 9:30 a.m. in Room 856, at 1919 M Street, N.W., Washington, D.C.

Item No./Bureau	Subject
1. Cable Services.	Title: Carriage of the Transmissions of Digital Television Broadcast Stations; and Amendments to Part 76 of the Commission's Rules. Summary: The Commission will consider issues relating to the carriage of digital broadcast television stations by cable operators.
2. Common Carrier.	Title: Implementation of the Telecommunications Act of 1996; Amendment of Rules Governing Procedures to Be Followed When Formal Complaints are Filed Against Common Carriers (CC Docket No. 96–238). Summary: The Commission will consider action concerning procedures to create an accelerated docket to handle certain formal complaints filed against common carriers.

After consideration of these items, the Commission will hold an *en banc* presentation regarding provision of advanced services and expanded bandwidth under Section 706 of the Telecommunications Act of 1996. A Public Notice announcing this *en banc* hearing was issued June 30, 1998.

Additional information concerning this meeting may be obtained from Maureen Peratino or David Fiske, Office of Public Affairs, telephone number (202) 418–0500; TTY (202) 418–2555.

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, International Transcription Services, Inc. (ITS, Inc.) at (202) 857–3800; fax (202) 857–3805 and 857–3184; or TTY (202) 293–8810. These copies are available in paper format and alternative media, including large print/type; digital disk; and audio tape. ITS may be reached by e-mail: its_inc@ix.netcom.com. Their Internet address is http://www.itsi.com.

This meeting can be viewed over George Mason University's Capitol Connection. For information on this service call (703) 993–3100. The audio portion of the meeting will be broadcast live on the Internet via the FCC's Internet audio broadcast page at <http://www.fcc.gov/realaudio/>. The meeting can also be heard via telephone, for a fee, from National Narrowcast Network, telephone (202) 966–2211 or fax (202)

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966–1770; and from Conference Call USA (available only outside the Washington, D.C. metropolitan area), telephone 1–800–962–0044. Audio and video tapes of this meeting can be purchased from Infocus, 341 Victory Drive, Herndon, VA 20170, telephone (703) 834–0100; fax number (703) 834–0111.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–18239 Filed 7–6–98; 2:21 pm]

BILLING CODE 6712–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget (OMB) a request for OMB review and approval of the information collection system described below.

Type of Review: Revision of a currently approved collection.

Title: Acquisition Services Information Requirements.

Form Number: FDIC 3700/13; 3700/44; 3700/12, 3700/04A; 3700/29; 3700/33; 1600/04; 1600/10.

OMB Number: 3064–0072.

Annual Burden

Estimated annual number of respondents: 21,736.

Estimated time per response: Varies from 0.25 hours to one hour.

Average annual burden hours: 11,764 hours.

Expiration Date of OMB Clearance: May 31, 1999.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503.

FDIC Contact: Tamara R. Manly, (202) 898–7453, Office of the Executive Secretary, Room F–4058, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before [insert date 30 days after date of publication in the Federal Register] to both the OMB reviewer and the FDIC contact listed above.

ADDRESSES: Information about this submission, including copies of the proposed collection of information, may be obtained by calling or writing the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: The collection involves the submission of information on various forms by contractors who wish to do business, have done business, or are currently under contract with the FDIC. The information is used to enter contractors on the FDIC's nationwide contractor database (the National Contractor System); ensure compliance with established contractor ethics regulations (12 CFR 366); obtain information on a contractor's past performance for proposal evaluation purposes; and review a potential lessor's fitness and integrity prior to entering into a lease transaction. The proposed revisions to this collection would revise and update the following three forms: (1) *FDIC Background Investigation Questionnaire for Contractor Personnel and Management Officials* (FDIC 1600/04); (2) *FDIC Contractor Application* (FDIC 3700/13); and (3) *FDIC Leasing Representations and Certifications* (FDIC 3700/44); delete the *FDIC Fitness and Integrity Certifications* (FDIC 3700/04) and create the following three forms: (1) *FDIC Contractor Eligibility Representations and Certifications* (FDIC 3700/12); (2) *FDIC Contractor Representations and Certifications* (FDIC 3700/04A); and (3) *Notice and Authorization Pertaining to Consumer Reports Pursuant to the Fair Credit Reporting Act of 1970, 15 U.S.C. section 1681, et seq.* (FDIC 1600/10); and create the following two forms for obtaining past performance information on a contractor and documenting contractor change requests: (1) *Contractor Past Performance RFP Reference Check Questionnaire* (FDIC 3700/29) and (2) *Contractor Application Revision Request* (FDIC 3700/33).

Dated: July 2, 1998.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 98–18042 Filed 7–7–98; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register.**

Agreement No.: 203–011223–019

Title: Transpacific Stabilization Agreement

Parties: American President Lines, Ltd. and APL Co. PTE Ltd. (operating as a single carrier) Evergreen Marine Corp. (Taiwan) Ltd. Hanjin Shipping Co., Ltd., Hapag-Lloyd Container Linie Gmbh, Hyundai Merchant Marine Co., Ltd., Kawasaki Kisen Kaisha, Ltd., A.P. Moller-Maersk Line, Mitsui O.S.K. Lines, Ltd. Nippon Yusen Kaisha, Orient Overseas Container Line, Inc., P%O Nedlloyd B.V., P&O Nedlloyd Limited, Sea-Land Service, Inc., Yangming Marine Transport Corp.

Synopsis: The proposed modification clarifies and updates non-binding agreement authority with respect to guidelines, centralized processes, and the parties' obligations under the Agreement. It also deletes reference to a former member.

Agreement No.: 232–011491–004

Title: Lykes/Evergreen Reciprocal Space Charter, Sailing, and Cooperative Working Agreement

Parties: Lykes Lines Limited, LLC Evergreen Marine Corp. (Taiwan) Ltd.

Synopsis: The proposed Agreement changes the name of the Agreement by deleting the word reciprocal from the name, restates the Agreement, and makes some substantial and non-substantial changes to various articles in the Agreement.

Agreement No.: 217–011627.

Title: Yangming/Hanjin Slot Exchange Agreement.

Parties: Yangming Marine Transport Corporation Hanjin Shipping Co., Ltd.

Synopsis: The proposed Agreement authorizes the parties to exchange up to 500 TEUs of container space per week, both eastbound and westbound, on each others' vessels operating in the trade between East Asia and the east and west coasts of the United States.

Agreement No.: 201–200063–017.

Title: NYSA–ILA Tonnage Assessment Agreement.

Parties: New York Shipping Association, Inc. International Longshoremen's Association.

Synopsis: The proposed amendment reduces tonnage assessment rates on in house containers originating at or destined for certain North American points and also establishes a new container charge for waste paper and cardboard.

Dated: July 2, 1998.

By Order of the Federal Maritime Commission.

Ronald D. Murphy,

Assisant Secretary.

[FR Doc. 98–18088 Filed 7–7–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Revocations

The Federal Maritime Commission hereby gives notice that the following freight forwarder licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, effective on the corresponding revocation dates shown below:

License Number: 1915
Name: Alfonso X. Soto d/b/a Soto Forwarding Agency
Address: 1535 North Central Avenue, Brownsville, TX 78521
Date Revoked: March 31, 1998
Reason: Surrendered license voluntarily

Licsnse Number: 3580
Name: American International Brokerage, Inc.
Address: 3125 Ashley Phosphate Road, Suite 110–R, North Charleston, SC 29418
Date Revoked: May 3, 1998
Reason: Failed to maintain a valid surety bond

License Number: 3747
Name: Americargo International Forwarders, Inc.
Address: 8012 N.W. 29th Street, Miami, FL 33122–1077
Date Revoked: April 29, 1998
Reason: Failed to maintain a valid surety bond

License Number: 3104
Name: Associated International Consultants, Inc.
Address: 618 Central Avenue, Reserve, LA 70084
Date Revoked: May 23, 1998
Reason: Failed to maintain a valid surety bond

License Number: 3774
Name: AXO Industries, Inc.
Address: 1740 N.W. 94th Ave., Miami, FL 33172
Date Revoked: May 11, 1998
Reason: Surrendered license voluntarily

License Number: 3418
Name: Carinter Miami, Inc.
Address: 1338 N.W. 78th Avenue, Miami, FL 33126
Date Revoked: March 31, 1998
Reason: Surrendered license voluntarily

License Number 927
Name: CHR Greene International Company
Address: 8100 Mitchell Road, Suite 200, Eden Prairie, MN 55344
Date Revoked: March 1, 1998
Reason: Surrendered license voluntarily

License Number: 1470
Name: David W. Shenk & Co.
Address: 8610 Airport Blvd., Los Angeles, CA 90045
Date Revoked: May 7, 1998
Reason: Failed to maintain a valid surety bond

License Number: 2475
Name: Gunther George Schmid Associates, Inc.
Address: 9111 South La Cienega Blvd., Suite 210, Inglewood, CA 90301
Date Revoked: April 10, 1998
Reason: Failed to maintain a valid surety bond

License Number: 4038
Name: I Chen Chiang d/b/a Prestige Forwarding Co.
Address: 13630 Destino Place, Cerritos, CA 90703
Date Revoked: April 16, 1998
Reason: Surrendered license voluntarily

License Number: 3967
Name: Jet Logistics International Inc.
Address: 4232 Artesia Blvd., Torrance, CA 90504–3100
Date Revoked: May 14, 1998
Reason: Surrendered license voluntarily

License Number: 3897
Name: Maverick Distribution Services, Inc.
Address: 1111 Corporate Center Dr., Suite 204, Monterey Park, CA 91754
Date Revoked: April 6, 1998
Reason: Surrendered license voluntarily

License Number: 4025
Name: Quartet International
Address: 7508 Potrero Avenue, El Cerrito, CA 94530–2020
Date Revoked: April 14, 1998
Reason: Surrendered license voluntarily

License Number: 3480
Name: Transoceanic Shipping Co., Inc.
Address: 2151 N.W. 79th Ave., Miami, FL 33122
Date Revoked: December 31, 1997
Reason: Surrendered license voluntarily

License Number: 4322
Name: Trans Pacific Shipping, Inc.
Address: 350 South Crenshaw Blvd., Suite A–105, Torrance, CA 90503
Date Revoked: April 29, 1998
Reason: Failed to maintain a valid surety bond

License Number: 4336
Name: Worldwide Shipping & Agencies USA, Inc.
Address: 1360 Union Hill Road, Suite A, Alpharetta, GA 30201
Date Revoked: May 23, 1998
Reason: Failed to maintain a valid surety bond

Bryant L. VanBrakle,

Director, Bureau of Tariffs, Certification and Licensing.

[FR Doc. 98–18087 Filed 7–7–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MEDIATION AND CONCILIATION SERVICE

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Notice of Forms SF–424, SF–269a (LM–6), (LM–8), SF–270a (LM–7), (LM–9), and (LM–3) submitted for extension and review to the Office of Management and Budget.

SUMMARY: This notice announces that six information collection requests contained in the Federal Mediation and Conciliation Service (FMCS) agency forms are coming up for renewal. FMCS submitted to the Office of Management and Budget (OMB) a request for review of six FMCS forms: SF–424—Application for Federal Assistance, SF–269a (LM–6)—Request for Advance or Reimbursement, (LM–8)—Project Performance, SF–270a (LM–7)—Financial Status Report, (LM–9)—FMCS Grants Program Grantee Evaluation Questionnaire, and (LM–3)—Accounting System and Financial Capability Questionnaire. The request seeks OMB approval to extend the expiration date of Forms SF–424, SF–269a (LM–6), (LM–8), SF–270a (LM–7), (LM–9), and (LM–3) until October 31, 1998. FMCS is soliciting comments on specific aspects of the collection as described below.

DATES: Comments must be submitted on or before September 8, 1998.

ADDRESSES: Submit written comments identified by the appropriate agency form number by mail to Federal Mediation and Conciliation Service, Labor-Management Grants Program, 2100 K Street, NW, Room 714, Washington, DC 20427, ATTN: Karen Pierce. Copies of the complete agency forms may be obtained from the Labor

Management Grants Program at the above address or by contacting the person whose name appears under the section headed, FOR FURTHER INFORMATION CONTACT.

Comments and data may also be submitted by fax at (202) 606–4216 or electronically by sending electronic (e-mail) to pgmsvcs@fmcs.gov. All comments and data in electronic form must be identified by the appropriate agency form number. No confidential business information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of the information as "CBI". Information so marked will not be disclosed but a copy of the comment that does contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by FMCS without prior notice. All written comments will be available for inspection in Room 714 at the Washington, DC address above from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Peter L. Regner, Director, Program Services, FMCS 2100 K Street, NW, Washington, DC 20427 (202) 606–8181; Fax: (202) 606–4216.

SUPPLEMENTARY INFORMATION: Copies of each of the agency forms are available from the Labor-Management Grants Program, by calling, faxing, or writing, Ms. Karen Pierce at the above address. Please ask for the form by title and agency form number.

I. Formation Collection Requests

FMCS is seeking comments on the following information collection requests contained in FMCS agency forms.

Agency: Federal Mediation and Conciliation Service.

Form Number: OMB No. 3076–0006.

Type of Request: Extension of Expiration date of a currently approved collection without any change in the substance or method of collection.

Affected Entities: Potential applicants/grantees who received our grant application kit. Also, applicants/grantees who have received a grant from FMCS.

Frequency: a. Three of the forms, the SF–424, LM–6, and LM–9 are submitted at the applicant/grantee's discretion.

b. To conduct the quarterly submissions, LM–7/LM–8 forms are used. Less than quarterly reports would deprive FMCS of the opportunity to provide prompt technical assistance to deal with those problems identified in the report.

c. Once per application. The LM–3 is the only form to which a "similar information" requirement could apply. That form takes the requirement into consideration by accepting recent audit reports in lieu of applicant completion of items C2 through 9 and items D1 through 3.

Burden: SF–424 Application for Federal Assistance, SF–269a (LM–6) Request for Advance or Reimbursement—30 minutes, (LM–8) Project Performance—60 minutes, SF–270a (LM–7) Financial Status Report—30 minutes, (LM–9) FMCS Grants Program Evaluation Questionnaire—60 minutes, and (LM–3) Accounting System and Financial Capability Questionnaire—60 minutes.

Abstract: Except for the FMCS Forms LM–3 and LM–9, the forms under consideration herein are either required or recommended in OMB Circulars. The two exceptions are non-recurring forms, the former a questionnaire sent only to non-governmental potential grantees and the latter a questionnaire sent only to former grantees for voluntary completion and submission.

The collected information is used by FMCS to determine annual applicant suitability, to monitor quarterly grant project status, and for on-going program evaluation. If the information were not collected, there could be no accounting for the activities of the program. Actual use has been the same as intended use.

II. Requests for Comments

FMCS solicits comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.

(ii) Evaluate the accuracy of the agency's estimates of the burden of the proposed collection of information.

(iii) Enhance the quality, utility, and clarity of the information to be collected.

(iv) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated electronic collection technologies or other forms of information technology, e.g. permitting electronic and fax submission of responses.

III. The Public Docket

The official record is the paper records maintained at the address in ADDRESSES at the beginning of this document. FMCS will transfer all electronically received comments into printed form as they are received. These records are available for inspection from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

Dated: July 1, 1998.

Vella Traynham,

Deputy Director.

[FR Doc. 98–18006 Filed 7–7–98; 8:45 am]

BILLING CODE 6372–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 22, 1998.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. HBancorporation, Inc. Employee Stock Ownership Plan, Lawrenceville, Illinois; to acquire additional voting shares of HBancorporation, Inc., Lawrenceville, Illinois, and thereby indirectly acquire Heritage National Bank, Lawrenceville, Illinois.

Board of Governors of the Federal Reserve System, July 2, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–18091 Filed 7–7–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 31, 1998.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. *First American Corporation*, Nashville, Tennessee; to merge with CSB Financial Corporation, Ashland City, Tennessee, and thereby indirectly acquire Cheatham State Bank, Kingston Springs, Tennessee.

Board of Governors of the Federal Reserve System, July 2, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–18092 Filed 7–7–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 22, 1998.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. *The Colonial BancGroup, Inc.*, Montgomery, Alabama; to acquire ProImage, Inc., Macon, Georgia, and thereby engage in data processing activities, pursuant to § 225.28(b)(14) of Regulation Y.

Board of Governors of the Federal Reserve System, July 2, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–18093 Filed 7–7–98; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Announcement Number 99003]

Applied Research Program in Emerging Infections Investigations of Infectious Causes of Chronic Diseases; Notice of Availability of Funds for Fiscal Year 1999

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1999 funds for competitive grants and/or cooperative agreements to support applied research on emerging infections. This announcement specifically addresses infectious causes of chronic diseases.

CDC is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Immunization and Infectious Diseases. (For ordering a copy of Healthy People 2000, see the section Where to Obtain Additional Information.)

Authority

This program is authorized under sections 301(a) and 317(k)(2) of the Public Health Service Act, as amended [42 U.S.C. 241(a) and 247b(k)(2)].

Smoke-Free Workplace

CDC strongly encourages all grant recipients to provide a smoke-free workplace and to promote the non-use of all tobacco products, and Public Law 103–227, the Pro-Children's Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day-care, health-care and early childhood development services are provided to children.

Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and governments and their agencies. Thus, universities, colleges, research institutions, hospitals, other public and private nonprofit organizations, including State and local governments or their bona fide agents, federally recognized Indian tribal governments, Indian tribes or Indian tribal organizations are eligible to apply.

Note: Only one application will be accepted from any single applicant, organization, government, or agency.

Availability of Funds

Approximately $500,000 is available in FY 1999 to fund one to three awards. It is expected that the average award will be $500,000, ranging from $100,000 to $500,000. It is expected the award(s) will begin on or about March 1, 1999, and will be made for a 12-month budget period within a project period of up to three years. (These funding amounts are for the first 12-month budget period and include both direct and indirect costs.)

Funding estimates may vary and are subject to change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress and availability of funds.

Determination of Which Instrument to Use

Applicants must specify the type of award for which they are applying, either grant or cooperative agreement. CDC will review the applications in accordance with the evaluation criteria. Before issuing awards, CDC will determine whether a grant or cooperative agreement is the appropriate instrument based upon the need for substantial CDC involvement in the project.

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To assist applicants in making a determination as to which type of award to apply for, the following information is provided:

1. Grants

A research project grant is one in which substantial programmatic involvement by CDC is not anticipated by the recipient during the project period. Applicants for grants must demonstrate an ability to conduct the proposed research with minimal assistance, other than financial support, from CDC. This would include possessing sufficient resources for clinical, laboratory, and data management services and a level of scientific expertise to achieve the objectives described in their research proposal without substantial technical assistance from CDC.

2. Cooperative Agreements

A research project cooperative agreement is one in which CDC will assist recipients in conducting the proposed research. The application should be presented in a manner that demonstrates the applicant's ability to address the research problem in a collaborative manner with CDC.

Use of Funds

Restrictions on Lobbying

Applicants should be aware of restrictions on the use of HHS funds for lobbying of Federal or State legislative bodies. Under the provisions of 31 U.S.C. section 1352 (which has been in effect since December 23, 1989), recipients (and their subtier contractors) are prohibited from using appropriated Federal funds (other than profits from a Federal contract) for lobbying Congress or any Federal agency in connection with the award of a particular contract, grant, cooperative agreement, or loan. This includes grants/cooperative agreements that, in whole or in part, involve conferences for which Federal funds cannot be used directly or indirectly to encourage participants to lobby or to instruct participants on how to lobby.

In addition, the FY 1998 Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act (Public Law 105–78) states in sections 503(a) and (b) that no part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relations, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress or any State legislature, except in presentation to the Congress or any State legislature itself. No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature.

Background

In the United States (U.S.) and elsewhere, infectious diseases continue to threaten public health and contribute to the escalating costs of health care. While infectious diseases remain the leading cause of death in developing countries, the burden of illness and death due to chronic medical conditions has surpassed the role of infectious diseases in most industrialized countries. However, an increasing body of evidence now suggests that infectious agents play critical roles in several chronic diseases, including major problems such as cancer, heart disease, and diabetes mellitus. The emerging role of micro-organisms as etiologies for chronic diseases has important implications for therapy, prevention, and pathogenesis, and this topic merits research efforts designed with the public health implications of these new associations kept in mind.

Over the past decade, causative roles have been proposed or established for infectious agents in conditions as diverse as: duodenal ulcers and gastric cancer; juvenile onset diabetes mellitus; atherosclerosis; Kaposi's sarcoma; Guillain-Barre syndrome; Crohn's disease; cerebral palsy; preterm low birth weight, and infertility. The burden of evidence supporting some of these associations has been sufficient to introduce intervention trials (e.g., *Chlamydia pneumoniae* and atherosclerosis) and even consensus treatment standards (e.g., *Helicobacter pylori* and peptic ulcer disease), while other associations remain speculative at present. The fraction of a given chronic disease which can be attributed to specific infectious agents is unknown for the majority of conditions for which an association is now considered likely. Further, although several specific infections are now recognized causes of pre-term low birth weight, the proportion of infants born prematurely as a result of infectious diseases is not known, nor is the proportion of these occurrences which can be prevented through appropriate screening and treatment of infections prenatally.

CDC has developed a plan for revitalizing the nation's ability to identify, contain, and prevent illness from emerging infectious diseases (*Addressing Emerging Infectious Diseases Threats: A Prevention Strategy for the U.S.*). The plan includes applied research as a major objective, stressing the importance of integrating laboratory science and epidemiology to optimize public health practice in the U.S. CDC has developed an Extramural Applied Research Program in Emerging Infections (EARP) designed to fill gaps in existing support for research in emerging infectious disease surveillance, epidemiology, and prevention. This announcement specifically addresses investigations of infectious causes of chronic diseases and solicits applications in this area.

For additional reading on this topic, the following article is recommended: Lorber B. Are All Diseases Infectious? Ann Intern Med 1996;125:844–851.

Purpose

The purpose of the EARP is to provide financial and technical assistance for applied research projects on emerging infections in the U.S. As a component of EARP, the purpose of this grant/cooperative agreement announcement is to provide assistance for one or more projects addressing infectious causes of chronic diseases.

The objective is to address potential associations between one or more infectious agents and a chronic disease syndrome by conducting an investigation which either: (a) evaluates a suspected relation between a specific infectious agent and a chronic disease syndrome; (b) designs and tests an intervention strategy aimed at the infection as a means of reducing chronic disease sequelae; or (c) determines the health burden of a chronic disease attributable to the infectious agent. Note that in addition to the standard chronic disease syndromes such as cancer, heart disease, diabetes, etc., syndromes that may be addressed under this announcement include preterm low birth weight and infertility.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under A. (Recipient Activities), and CDC will be responsible for conducting activities under B. (CDC Activities) under cooperative agreements:

A. Recipient Activities

1. Develop a research protocol to conduct one or more of the following studies:

a. Evaluate a suspected association between one or more infections and a chronic disease syndrome.

b. Develop, implement, and evaluate a prevention strategy for reducing a chronic disease by addressing the associated infectious agent.

c. Determine the health burden of a chronic disease attributable to an associated infectious agent.

2. Conduct the proposed study using a pilot phase, where appropriate, to identify potential problems and make modifications to the research protocol.

3. Publish and/or otherwise disseminate results of the project.

B. CDC Activities (Cooperative Agreements)

1. Provide technical assistance in the design and conduct of the research.

2. Perform selected laboratory tests, as appropriate and necessary.

3. Participate in data management, the analysis of research data, and the interpretation and presentation of research findings.

4. Provide biological materials (e.g., strains, reagents, etc.) as necessary for studies.

Technical Reporting Requirements

Narrative progress reports are required semiannually. The first semiannual report is required with the second year's noncompeting continuation application and should cover program activities from the date of award for reporting in the first year of the project. The second semiannual report is due 90 days after the end of each budget period and should cover activities from the date of previous report. Progress reports should summarize tasks completed, problems encountered, and plans for continued research activities. Reports should also include copies of any publications resulting from the project.

An original and two copies of a Financial Status Report (FSR) are required no later than 90 days after the end of each budget period.

A final performance report and FSR are due no later than 90 days after the end of the project period. All reports are to be submitted to the Grants Management Branch, CDC.

Application

1. Pre-application Letter-of-Intent

In order to enable CDC to plan and review applications submitted under this Program Announcement, all parties intending to submit applications are requested to inform CDC of their intention to do so as soon as possible but not later than 30 business days prior to the application due date. Notification should include: (1) this program Announcement Number 99003, (2) name and address of institution, and (3) name, address, and telephone number of contact person. Notification can be provided by facsimile, postal mail, or electronic mail (E-mail) to Anne Schuchat, M.D., National Center for Infectious Diseases, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., Mailstop C–23, Atlanta, GA 30333, Facsimile (404) 639–3970, Internet acs1@cdc.gov.

2. Application Content

Applicants are strongly encouraged to develop applications in accordance with PHS Form 398 (Revised 5/95, OMB Control Number 0925–0001) information contained in this grant/cooperative agreement announcement and the instructions outlined below. In order to ensure an objective, impartial, and prompt review, applications must conform to these instructions.

The original and five (5) complete copies of the application must be UNSTAPLED and UNBOUND. ALL pages must be clearly numbered, and a complete index to the application and its appendices must be included. All typewritten materials must be single-spaced, using a font no smaller than size 12. All supplemental pages of the application (i.e., in addition to the 398 forms) must be on the 8½" by 11" white paper. All pages must be printed on ONE side only, with at least 1" margins, headers, and footers.

The application narrative must not exceed 12 pages (excluding budget and appendices). Unless indicated otherwise, all information requested below must appear in the narrative. Materials or information that should be part of the narrative will not be accepted if placed in the appendices. The application narrative must contain the following sections in the order presented below:

a. Abstract

Provide a brief (two pages maximum) abstract of the project. Clearly identify the project period proposed (not to exceed maximum of 3 years as indicated in Availability of Funds section). Clearly identify the type of award that is being applied for, grant or cooperative agreement.

b. Background and Need

Discuss the background and need for the proposed project. Demonstrate a clear understanding of the purpose and objectives of this program announcement. Discuss and demonstrate how the proposed project addresses an important gap which is of public health importance.

c. Capacity and Personnel

Describe applicant's past experience in conducting activities similar to that being proposed. Describe applicant's resources, facilities, and professional personnel that will be involved in conducting the project. Include in an appendix curriculum vitae for all professional personnel involved with the project. Describe plans for administration of the project and identify administrative resources/personnel that will be assigned to the project. Clearly identify specific assigned responsibilities for all key professional personnel. Provide in an appendix letters of support from all key participating non-applicant organizations, individuals, etc. (if any), which clearly indicate their commitment to participate as described in the operational plan. (Do not include letters of support from CDC personnel—they will not be accepted.)

d. Objectives and Technical Approach

Present specific objectives for the proposed research which are measurable and time-phased and are consistent with the Purpose and Recipient Activities of this announcement. Present a detailed operational plan for initiating and conducting the research which clearly and appropriately addresses these objectives (if proposing a multi-year project, provide a detailed description of first-year activities and a brief overview of subsequent-year activities). Include a clear description of applicant's technical approach/methods which are directly relevant to the above objectives. Describe specific study protocols or plans for the development of study protocols. Describe the nature and extent of collaboration with CDC (if proposing a cooperative agreement) and/or others during various phases of the research. Describe in detail a plan for evaluating progress toward achieving process and outcome project objectives. If the project will employ a particular research subject population, describe characteristics of the patient population and how research in this subject group will yield generalizable information. Describe contingency plans which acknowledge how the research will address likely obstacles and assure that the proposed task(s) can still be completed. Include sample size calculations where appropriate to assure that measurable objectives can be evaluated.

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e. Budget

Provide a line-item budget and accompanying detailed, line-by-line justification for the first year of the project that demonstrates the request is consistent with the purpose and objectives of this program. If requesting a multi-year project, provide estimated total budget (direct plus indirect) for subsequent years. If requesting funds for any contracts, provide the following information for each proposed contract: (1) Name of proposed contractor, (2) breakdown and justification for estimated costs, (3) description and scope of activities to be performed by contractor, (4) period of performance, and (5) method of contractor selection (e.g., sole-source or competitive solicitation).

f. Human Subjects

Whether or not exempt from DHHS regulations, if the proposed project involves human subjects, describe in an appendix adequate procedures for the protection of human subjects. Also, ensure that women, racial and ethnic minority populations are appropriately represented in applications for research involving human subjects.

Evaluation Criteria

The applications will be reviewed and evaluated according to the following criteria:

1. Background and Need (15 Points)

Extent to which applicant demonstrates a clear understanding of the background, purpose, and objectives of the project and the extent to which the proposed project addresses an area of public health importance not adequately addressed in ongoing programs.

2. Capacity (30 Points)

Extent to which applicant describes adequate resources and facilities (both technical and administrative) for conducting the project. Extent to which applicant documents that professional personnel involved in the project are qualified and have past experience and achievements in research related to that proposed as evidenced by curriculum vitae, publications, etc. If applicable, extent to which applicant includes letters of support from non-applicant organizations, individuals, etc., and the extent to which such letters clearly indicate the author's commitment to participate as described in the operational plan. If the proposed project includes evaluation of health conditions in a defined population, the extent to which generalizations from this particular study population to broader populations can be made.

3. Objectives and Technical Approach (55 Points Total)

a. Extent to which applicant describes objectives of the proposed research which are consistent with the purpose of this announcement and which are measurable and time-phased. (15 points)

b. Extent to which applicant presents a detailed operational plan for initiating and conducting the research which clearly and appropriately addresses all Recipient Activities. Extent to which the plan clearly describes applicant's technical approach/methods for conducting the proposed research and extent to which the approach/methods are appropriate and adequate to accomplish the objectives. Extent to which applicant describes specific study protocols or plans for the development of study protocols that are appropriate for achieving project objectives. Extent to which applicant describes adequate and appropriate collaboration with CDC (if proposing a cooperative agreement) and/or others during various phases of the project. If the proposed project involves human subjects, whether or not exempt from HHS regulations, the extent to which adequate procedures are described for the protection of human subjects, and extent to which protections appear adequate that women, racial and ethnic minority populations are appropriately represented in applications involving human research. (35 points)

c. Extent to which applicant provides a detailed and adequate plan for evaluating progress toward achieving project process and outcome objectives. (5 points)

4. Budget (Not Scored)

Extent to which the proposed budget is reasonable, clearly justifiable, and consistent with the intended use of grant/cooperative agreement funds.

Executive Order 12372 Review

This program is not subject to Executive Order 12372 Review.

Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 93.283.

Other Requirements

Paperwork Reduction Act

Projects that involve the collection of information from ten or more individuals and funded by the grant/cooperative agreement will be subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Human Subjects

If the proposed project involves research on human subjects, the applicant must comply with the Department of Health and Human Services Regulations (45 CFR Part 46) regarding the protection of human subjects. Assurance must be provided to demonstrate that the project will be subject to initial and continuing review by an appropriate institutional review committee. The applicant will be responsible for providing evidence of this assurance in accordance with the appropriate guidelines and form provided in the application kit.

In addition to other applicable committees, Indian Health Service (IHS) institutional review committees also must review the project if any component of IHS will be involved or will support the research. If the Native American community is involved, its Tribal government must also approve that portion of the project applicable to it.

Women, Racial and Ethnic Minorities

It is the policy of the CDC and the Agency for Toxic Substances and Disease Registry (ATSDR) to ensure that individuals of both sexes and the various racial and ethnic groups will be included in CDC/ATSDR-supported research projects involving human subjects, whenever feasible and appropriate. Racial and ethnic groups are those defined in OMB Directive No. 15 and include American Indian or Alaska Native, Asian, Black or African American, Hispanic or Latino, Native Hawaiian or Other Pacific Islander. Applicants shall ensure that women, racial and ethnic minority populations are appropriately represented in applications for research involving human subjects. Where clear and compelling rationale exist that inclusion is inappropriate or not feasible, this situation must be explained as part of the application. This policy does not apply to research studies when the investigator cannot control the race, ethnicity, and/or sex of subjects. Further guidance to this policy is contained in the **Federal Register**, Vol. 60, No. 179, pages 47947–47951, and dated Friday, September 15, 1995.

Animal Subjects

If the proposed project involves research on animal subjects, the applicant must comply with the "PHS Policy on Humane Care and Use of Laboratory Animals by Awardee Institutions." An applicant organization proposing to use vertebrate animals in PHS-supported activities must file an Animal Welfare Assurance with the Office for Protection from Research Risks at the National Institutes of Health.

Application Submission and Deadline

Applicants are strongly encouraged to submit the original and five complete copies of application PHS Form 398 (Revised 5/95, OMB Control Number 0925–0001) to Sharron P. Orum, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E–18, Atlanta, GA 30305, on or before October 1, 1998.

1. Deadline: Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date; or

b. Sent on or before the deadline date and received in time for submission to the objective review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. Late Applications: Applications which do not meet the criteria in 1.a. or 1.b. above are considered late applications. Late applications will not be considered and will be returned to the applicant.

Where To Obtain Additional Information

To receive additional written information and to request an application kit, call 1–888–GRANTS (1–888–472–6874). You will be asked to leave your name and address and will be instructed to identify the Announcement number of interest. (Please refer to Announcement Number 99003.) You will receive a complete program description, information on application procedures and application forms.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from Oppie M. Byrd, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 314, Mailstop E–18, Atlanta, GA 30305, telephone (404) 842–6546, Facsimile (404) 842–6513, Internet oxb3@cdc.gov. Programmatic technical assistance may be obtained from Anne Schuchat, M.D., National Center for Infectious Diseases, Division of Bacterial and Mycotic Diseases, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., Mailstop C–23, Atlanta, GA 30333, telephone (404) 639–4720, Internet acs1@cdc.gov.

Please refer to Announcement Number 99003 when requesting information regarding this program.

You may obtain this announcement from one of two Internet sites on the actual publication date: CDC's Home Page at http://www.cdc.gov or at the Government Printing Office Home Page (including free on-line access to the **Federal Register** at http://www.access.gpo.gov).

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report, Stock No. 017–001–00473–1) referenced in the Introduction through the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402–9325, telephone (202) 512–1800.

Dated: July 1, 1998.

Joseph R. Carter,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–18018 Filed 7–7–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Announcement Number 99005]

Applied Research Program in Emerging Infections Correlation of Environmental Monitoring of Microbial Agents With Disease Control; Notice of Availability of Funds for Fiscal Year 1999

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1999 funds for competitive grants and/or cooperative agreements to support applied research on emerging infections. This announcement specifically addresses the correlation of environmental monitoring of microbial agents with disease control.

CDC is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Immunization and Infectious Diseases. (For ordering a copy of Healthy People 2000, see the section Where to Obtain Additional Information.)

Authority

This program is authorized under Sections 301(a) and 317(k)(2) of the Public Health Service Act, as amended [42 U.S.C. 241(a) and 247b(k)(2)].

Smoke-Free Workplace

CDC strongly encourages all grant recipients to provide a smoke-free workplace and to promote the non-use of all tobacco products, and Public Law 103–227, the Pro-Children's Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day-care, health-care and early childhood development services are provided to children.

Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and governments and their agencies. Thus, universities, colleges, research institutions, hospitals, other public and private nonprofit organizations, including State and local governments or their bona fide agents are eligible to apply.

Note: An organization described in Section 501(c)(4) of the Internal Revenue Code of 1986 which engages in lobbying activities shall not be eligible to receive Federal funds constituting an award, grant, contract, loan, or any other form.

Only one application will be accepted from any single applicant, organization, government, or agency.

Availability of Funds

Approximately $500,000 is available in FY 1999 to fund one to three awards, ranging from $100,000 to $500,000. It is expected the award(s) will begin on or about March 1, 1999, and will be made for a 12-month budget period within a project period of up to three years. (The funding amounts listed above are for the first 12-month budget period and include both direct and indirect costs.) Funding estimates may vary and are subject to change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress and availability of funds.

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Determination of Which Instrument to Use

Applicants must specify the type of award for which they are applying, either grant or cooperative agreement. CDC will review the applications in accordance with the evaluation criteria. Before issuing awards, CDC will determine whether a grant or cooperative agreement is the appropriate instrument based upon the need for substantial CDC involvement in the project.

To assist applicants in making a determination as to which type of award to apply for, the following information is provided:

1. Grants

A research project grant is one in which substantial programmatic involvement by CDC is not anticipated by the recipient during the project period. Applicants for grants must demonstrate an ability to conduct the proposed research with minimal assistance, other than financial support, from CDC. This would include possessing sufficient resources for clinical, laboratory, and data management services and a level of scientific expertise to achieve the objectives described in their research proposal without substantial technical assistance from CDC.

2. Cooperative Agreements

A research project cooperative agreement is one in which CDC will assist recipients in conducting the proposed research. The application should be presented in a manner that demonstrates the applicant's ability to address the research problem in a collaborative manner with CDC.

Use of Funds

Restrictions on Lobbying

Applicants should be aware of restrictions on the use of HHS funds for lobbying of Federal or State legislative bodies. Under the provisions of 31 U.S.C. Section 1352 (which has been in effect since December 23, 1989), recipients (and their subtier contractors) are prohibited from using appropriated Federal funds (other than profits from a Federal contract) for lobbying Congress or any Federal agency in connection with the award of a particular contract, grant, cooperative agreement, or loan. This includes grants/cooperative agreements that, in whole or in part, involve conferences for which Federal funds cannot be used directly or indirectly to encourage participants to lobby or to instruct participants on how to lobby.

- In addition, the FY 1998 "Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act" (Public Law 105–78) states in Section 503 (a) and (b) that no part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relations, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress or any State legislature, except in presentation to the Congress or any State legislature itself. No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature.

Background

Once expected to be eliminated as a public health problem, infectious diseases remain the leading cause of death worldwide. In the United States (U.S.) and elsewhere, infectious diseases increasingly threaten public health and contribute significantly to the escalating costs of health care.

In 1992, the Institute of Medicine of the National Academy of Sciences published a report entitled *Emerging Infections, Microbial Threats to Health in the United States* highlighting the threat of emerging infections and making specific recommendations to address the threat. This report emphasized a critical leadership role for CDC in a national effort to detect and control infectious disease threats.

In partnership with other Federal agencies, State and local health departments, academic institutions, and others, CDC has developed a plan for revitalizing the nation's ability to identify, contain, and prevent illness from emerging infectious diseases. The plan, *Addressing Emerging Infectious Disease Threats; A Prevention Strategy for the United States,* includes applied research as a major objective, stressing the importance of integrating laboratory science and epidemiology to optimize public health practice in the U.S. CDC has developed an Extramural Applied Research Program in Emerging Infections (EARP) designed to fill gaps in existing support for research in emerging infectious disease surveillance, epidemiology, and prevention. This announcement specifically addresses the correlation of environmental monitoring of microbial agents with disease control.

The microorganisms present in the environment have played a role in the transmission of infectious diseases. *Legionella, Cryptosporidia, Cyclospora, Aspergillus,* and vancomycin-resistant enterococci are just a few examples of agents with public health significance. There are very few situations where the results of environmental monitoring have been correlated with disease control. A good example of a situation where correlation has been done is the microbial quality of water and dialysate in hemodialysis units. Here it has long been established that once bacteria (and in some instances endotoxin) go above certain concentrations (2,000 CFU/ml in dialysate, 200 CFU/ml in water, or 5 EU/ml in water used to reprocess hemodialyzers) the risk of patients developing bacteremia or a "pyrogenic" reaction during dialysis increases substantially. However, the correlation of environmental monitoring of microbial agents with disease control in other situations is unclear.

Legionnaires' disease (LD) occurs when an aerosol of water containing *Legionella* spp. is inhaled. There are 8,000–18,000 cases of LD that occur each year in the U.S., and 23 percent of case-patients reported to the CDC appear to have acquired the infection in a health-care facility. Recent investigations have demonstrated that nosocomial transmission from colonized hot water systems can occur for years or even decades unless the illness is recognized and the organism is eradicated. Case-fatality rates among patients with nosocomial LD may reach > 30 percent, particularly in immunocompromised individuals. In 1997, a survey of 253 National Nosocomial Infections Surveillance System (NNIS) hospitals indicated that 31 percent have identified cases of nosocomial LD since 1990 and in 41 percent of hospitals legionellae were recovered from the potable water systems. However, many hospitals with cases had done little to reduce colonization and prevent further transmission. Current CDC guidelines only state that an environmental investigation and intervention should be done after nosocomial cases are identified.

Vancomycin-resistant enterococci (VRE) were first reported in 1989 and have increased rapidly in incidence and prevalence in the interim. At 189 hospitals reporting to the NNIS system, the percentage of enterococcal isolates from all body sites that were resistant to vancomycin increased from 0.3 percent in 1989 to 10.5 percent in 1995.

Numerous hospital VRE outbreaks have been reported and contamination of environmental surfaces (e.g., bed rails, countertops) with VRE has been documented. Since VRE may survive routine cleaning and disinfection procedures, contamination of environmental surfaces may contribute to nosocomial transmission of VRE. There is a need to document the extent of environmental contamination with this organism, the extent to which such contamination contributes to nosocomial transmission, and the cleaning/disinfection procedures necessary to remove VRE.

Invasive aspergillosis is a threat to patients with compromised macrophage or neutrophil function (i.e., patients with neutropenia, receiving high-dose corticosteroid therapy) or with underlying chronic lung disease. *Aspergillus* spp., are ubiquitous and are routinely isolated from tap water, soil, decaying vegetation, wet paint, food, dust, and even sanitizing agents used in hospitals. Several outbreaks of aspergillosis have occurred during periods of construction in and around hospitals. Current recommendations are directed at controlling the production of aerosols during these periods. Additionally, there is evidence that higher aspergillosis spore counts contribute to higher rates of invasive disease among immunocompromised patients. However, there is not consensus about whether there should be a benchmark spore count or on the best methods to purify air.

Outbreaks of child-care-associated illness may be caused by many different agents and involve several different modes of transmission. The environment can play an important role in these outbreaks. Most environmental studies in child care settings have focused on enteric diseases. Toys and surfaces become contaminated either directly or indirectly by feces and body secretions from ill children. The incidence of diarrhea has been associated with isolation of fecal coliforms from hands of children and staff and from various environmental surfaces in child-care centers. Levels of environmental fecal coliforms have also been linked with diaper type and the use of over clothing in classes of non-toilet-trained children in child-care centers. Cytomegalovirus has also been isolated from hands and toys in a classroom with a high prevalence of infected children. Although respiratory infections account for the majority of illness episodes among children in child-care facilities, relatively little work has been done on the environmental aspects of these infections.

The relationship between results of environmental monitoring of microbial agents and the risk of infection from these agents in the environment remains largely undefined. In addressing this issue, it is necessary to consider the following requirements for environmental transmission of disease to take place: (1) presence of a microbial agent in the environment, (2) the organism must have sufficient virulence, (3) relatively high numbers of organisms, (4) mechanism of transmission from the environment to the host, (5) a successful portal of entry, and (6) a susceptible host.

Purpose

The purpose of the EARP is to provide financial and technical assistance for applied research projects on emerging infections in the U.S. As a component of EARP, the purpose of this grant/cooperative agreement announcement is to provide assistance for one or more projects addressing the correlation of environmental monitoring of microbial agents with disease control. Environmental monitoring may play an important role in infectious disease control. However, additional studies are needed to correlate results of environmental monitoring with human disease. Examples of areas needing attention include, but are not limited to, *Legionella* and *Cryptosporidia* in water, *Aspergillus* spores in air, vancomycin-resistant enterococci and other agents in hospital and child-care environments. Where appropriate, projects proposed may include interventions to evaluate detection methods.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under A. (Recipient Activities), and CDC will be responsible for conducting activities under B. (CDC Activities) under cooperative agreements:

A. Recipient Activities

1. Identify a microbial agent of increasing public health importance that has a known environmental reservoir (air, water, etc).
2. Conduct surveillance for human infections in a particular setting, e.g., child-care facilities, health-care facilities (hospitals, clinics, long-term care facilities), etc.
3. Define the relationship between finding the target organism in the environment and the risk of human disease in the target setting.
4. If feasible, determine the cost effectiveness of different options for microbial detection and disease control; determine interventions where appropriate.
5. Publish and/or otherwise disseminate study findings.

B. CDC Activities (Cooperative Agreements)

1. Provide technical assistance in the design and conduct of the research.
2. Perform selected laboratory tests, as appropriate and necessary.
3. Participate in data management, the analysis of research data, and the interpretation and presentation of research findings.
4. Provide biological materials (e.g., strains, reagents, etc.) as necessary for studies.

Technical Reporting Requirements

Narrative progress reports are required semiannually. The first semiannual report is required with the first noncompeting continuation application and should cover program activities from date of award. The second semiannual report is due 90 days after the end of each budget period and should cover activities from the date of previous report. Progress reports should summarize tasks completed, problems encountered, and plans for continued research activities. Reports should also include copies of any publications resulting from the project.

An original and two copies of a Financial Status Report (FSR) are required not later than 90 days after the end of each budget period.

A final performance report and FSR are due not later than 90 days after the end of the project period. All reports are to be submitted to the Grants Management Branch, CDC.

Application

1. Pre-application Letter-of-Intent

In order to enable CDC to plan the review of applications submitted under this Program Announcement, all parties intending to submit application(s) are requested to inform CDC of their intention to do so as soon as possible but not later than 30 business days prior to the application due date. Notification should include: (1) this program announcement number (99005), (2) name and address of institution, and (3) name, address, and phone number of contact person. Notification can be provided by Facsimile, postal mail, or electronic mail (E-mail) to: Matthew Arduino, Dr. P.H., National Center for Infectious Diseases, Centers for Disease Control and Prevention (CDC) 1600

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Clifton Road, NE., Mailstop C–1, Atlanta, GA 30333, Facsimile (404) 639–3822, E-mail mja4@cdc.gov.

2. Application Content

Applicants are strongly encouraged to develop applications in accordance with PHS Form 398 information contained in this grant/cooperative agreement announcement, and the instructions outlined below.

The original and five (5) complete copies of the application must be UNSTAPLED and UNBOUND. ALL pages must be clearly numbered, and a complete index to the application and its appendices must be included. All typewritten materials must be single-spaced, using a font no smaller than size 12. All supplemental pages of the application (i.e., in addition to the 398 forms) must be on the 8½″ by 11″ white paper. All pages must be printed on ONE side only, with at least 1″ margins, headers, and footers.

The application narrative must not exceed 12 pages (excluding budget and appendices). Unless indicated otherwise, all information requested below must appear in the narrative. Materials or information that should be part of the narrative will not be accepted if placed in the appendices. The application narrative must contain the following sections in the order presented below:

a. Abstract

Provide a brief (two pages maximum) abstract of the project. Clearly identify the project period proposed (not to exceed maximum of 3 years as indicated in Availability of Funds Section). Clearly identify the type of award that is being applied for, grant or cooperative agreement.

b. Background and Need

Discuss the background and need for the proposed project. Demonstrate a clear understanding of the purpose and objectives of this program announcement. Discuss and demonstrate how the proposed project addresses an important gap which is of public health importance.

c. Capacity and Personnel

Describe applicant's past experience in conducting activities similar to that being proposed. Describe applicant's resources, facilities, and professional personnel that will be involved in conducting the project. Clearly identify specific assigned responsibilities for all key professional personnel. Include in an appendix curriculum vitae for all professional personnel involved with the project. Describe plans for administration of the project and identify administrative resources/personnel that will be assigned to the project. Provide in an appendix letters of support from all key participating non-applicant organizations, individuals, etc. (if any), which clearly indicate their commitment to participate as described in the operational plan. (Do not include letters of support from CDC personnel—they will not be accepted.)

d. Objectives and Technical Approach

Present specific objectives for the proposed project which are measurable and time-phased and are consistent with the Purpose and Program Requirements (Recipient Activities) sections of this announcement. Present a detailed operational plan for initiating and conducting the project which clearly and appropriately addresses these objectives (if proposing a multi-year project, provide a detailed description of first-year activities and a brief overview of subsequent-year activities). Include a clear description of applicant's technical approach/methods which are directly relevant to the above objectives. Describe specific study protocols or plans for the development of study protocols. Describe the nature and extent of collaboration with CDC (if proposing a cooperative agreement) and/or others during various phases of the project. Describe in detail a plan for evaluating progress toward achieving process and outcome project objectives. If the project will employ a particular research subject population, describe characteristics of the patient population and how research in this subject group will yield generalizable information. Describe contingency plans which acknowledge how the project will address likely obstacles and assure that the proposed task(s) can still be completed. Include sample size calculations where appropriate to assure that measurable objectives can be evaluated.

e. Budget

Provide a line-item budget and accompanying detailed, line-by-line justification for the first year of the project that demonstrates the request is consistent with the purpose and objectives of this program. If requesting a multi-year project, provide estimated total budget (direct plus indirect) for subsequent years. If requesting funds for any contracts, provide the following information for each proposed contract: (1) Name of proposed contractor, (2) breakdown and justification for estimated costs, (3) description and scope of activities to be performed by contractor, (4) period of performance, and (5) method of contractor selection (e.g., sole-source or competitive solicitation).

f. Human Subjects

Whether or not exempt from DHHS regulations, if the proposed project involves human subjects, describe in an appendix adequate procedures for the protection of human subjects. Also, ensure that women, racial and ethnic minority populations are appropriately represented in applications for research involving human subjects.

Evaluation Criteria

Applications will be reviewed and evaluated according to the following criteria:

1. Background and Need (15 Points)

Extent to which applicant demonstrates a clear understanding of the background, purpose, and objectives of the project and the extent to which the proposed project addresses an area of public health importance not adequately addressed in ongoing programs.

2. Capacity (30 Points)

Extent to which applicant describes adequate resources and facilities (both technical and administrative) for conducting the project. Extent to which applicant documents that professional personnel involved in the project are qualified and have past experience and achievements in research related to that proposed as evidenced by curriculum vitae, publications, etc. Extent to which applicant clearly identifies specific assigned responsibilities of all key professional personnel. If applicable, extent to which applicant includes letters of support from non-applicant organizations, individuals, etc., and the extent to which such letters clearly indicate the author's commitment to participate as described in the operational plan.

3. Objectives and Technical Approach (55 Points Total)

a. Extent to which applicant describes objectives of the proposed project which are consistent with the purpose of this announcement and which are measurable and time-phased. (15 points)

b. Extent to which applicant presents a detailed operational plan for initiating and conducting the project which clearly and appropriately addresses all Recipient Activities. Extent to which the plan clearly describes applicant's technical approach/methods for conducting the proposed studies and extent to which the approach/methods are appropriate and adequate to accomplish the objectives. Extent to which applicant describes specific study protocols or plans for the development of study protocols that are appropriate for achieving project objectives. Extent to which applicant describes adequate and appropriate collaboration with CDC (if proposing a cooperative agreement) and/or others during various phases of the project. If the proposed project involves human subjects, whether or not exempt from the HHS regulations, the extent to which adequate procedures are described for the protection of human subjects, and the extent that women, racial and ethnic minority populations are appropriately represented in applications involving human research. (35 points)

c. Extent to which applicant provides a detailed and adequate plan for evaluating progress toward achieving project process and outcome objectives. (5 points)

4. Budget (Not Scored)

Extent to which the proposed budget is reasonable, clearly justifiable, and consistent with the intended use of grant/cooperative agreement funds.

Executive Order 12372 Review

This program is not subject to Executive Order 12372 Review.

Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 93.283.

Other Requirements

Paperwork Reduction Act

Projects that involve the collection of information from ten or more individuals and funded by the grant/cooperative agreement will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Human Subjects

If the proposed project involves research on human subjects, the applicant must comply with the Department of Health and Human Services Regulations (45 CFR Part 46) regarding the protection of human subjects. Assurance must be provided to demonstrate that the project will be subject to initial and continuing review by an appropriate institutional review committee. The applicant will be responsible for providing evidence of this assurance in accordance with the appropriate guidelines and form provided in the application kit.

In addition to other applicable committees, Indian Health Service (IHS) institutional review committees also must review the project if any component of IHS will be involved or will support the research. If the Native American community is involved, its tribal government must also approve that portion of the project applicable to it.

Women, Racial and Ethnic Minorities

It is the policy of the CDC and the Agency for Toxic Substances and Disease Registry (ATSDR) to ensure that individuals of both sexes and the various racial and ethnic groups will be included in CDC/ATSDR-supported research projects involving human subjects, whenever feasible and appropriate. Racial and ethnic groups are those defined in OMB Directive No. 15 and include American Indian or Alaska Native, Asian, Black or African American, Hispanic or Latino, Native Hawaiian or Other Pacific Islander. Applicants shall ensure that women, racial and ethnic minority populations are appropriately represented in applications for research involving human subjects. Where clear and compelling rationale exist that inclusion is inappropriate or not feasible, this situation must be explained as part of the application. This policy does not apply to research studies when the investigator cannot control the race, ethnicity, and/or sex of subjects. Further guidance to this policy is contained in the **Federal Register**, Vol. 60, No. 179, pages 47947–47951, and dated Friday, September 15, 1995.

Animal Subjects

If the proposed project involves research on animal subjects, the applicant must comply with the "PHS Policy on Humane Care and Use of Laboratory Animals by Awardee Institutions." An applicant organization proposing to use vertebrate animals in PHS-supported activities must file an Animal Welfare Assurance with the Office for Protection from Research Risks at the National Institutes of Health.

Application Submission and Deadline

The original and five complete copies of each application PHS Form 398 must be submitted to Sharron P. Orum, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E–18, Atlanta, GA 30305, on or before October 1, 1998.

1. Deadline: Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date; or

b. Sent on or before the deadline date and received in time for submission to the objective review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. Late Applications: Applications which do not meet the criteria in 1.a. or 1.b. above are considered late applications. Late applications will not be considered and will be returned to the applicant.

Where To Obtain Additional Information

To receive additional written information and to request an application kit, call 1–888–GRANTS (1–888 472–6874). You will be asked to leave your name and address and will be instructed to identify the announcement number of interest. (Please refer to Announcement Number 99005.) You will receive a complete program description, information on application procedures and application forms.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from Oppie M. Byrd, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 314, Mailstop E–18, Atlanta, GA 30305, telephone (404) 842–6546, Facsimile (404) 842–6513, Internet oxb3@cdc.gov.

Programmatic technical assistance may be obtained from Matthew J. Arduino, M.S., Dr.P.H., National Center for Infectious Diseases, Hospital Infections Program, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., Mailstop C–01, Atlanta, GA 30333, telephone (404) 639–2318, Internet mja4@cdc.gov.

You may obtain this announcement from one of two Internet sites on the actual publication date: CDC's homepage at http://www.cdc.gov or at the Government Printing Office homepage (including free on-line access to the **Federal Register** at http://www.access.gpo.gov).

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Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report, Stock No. 017–001–00473–1) referenced in the Introduction through the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402–9325, telephone: (202) 512–1800.

Dated: July 1, 1998.

Joseph R. Carter,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–18017 Filed 7–7–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention (CDC)

[Announcement 98043]

National Partnership for Human Immunodeficiency; Virus (HIV) Prevention; Notice of Availability of Funds for Fiscal Year 1998 Amendment

A notice announcing the availability of Fiscal Year 1998 funds for grants to support National Partnerships for Human Immunodeficiency Virus (HIV) Prevention Program was published in the **Federal Register** on June 3, 1998, [Vol. 63 FR No. 106]. The notice is amended as follows:

On page 30233, third column, under "Eligible Applicants", the first paragraph, line 12 should read: "Tax-exempt status is determined by the Internal Revenue Service (IRS) Code, Section 501(c). Tax-exempt status may be proved by either providing a copy of the pages from the IRS' most recent list of 501 (c) tax-exempt organizations or a copy of the current IRS Determination Letter."

On page 30238, second column, under "Submission and Deadline", the second paragraph should read: "On or before August 7, 1998, submit the application to: Julia Valentine Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 98043, Centers for Disease Control and Prevention (CDC), Room 300, 255 East Paces Ferry Road, NE, M/S E15, Atlanta, GA 30305–2209.

All other information and requirements of the notice remain the same.

Dated: July 1, 1998.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–18015 Filed 7–7–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 98085]

Young People in Alternative Education Settings: Preventing HIV and Other Sexually Transmitted Diseases Notice of Availability of Fiscal Year 1998 Funds; Amendment

A notice announcing the availability of fiscal year (FY) 1998 funds for cooperative agreements for the prevention of human immunodeficiency virus (HIV), and other sexually transmitted diseases (STDs) among young people in alternative educational settings was published in the **Federal Register** on June 24, 1998, [Vol. 63 FR Number 121]. The notice is amended as follows:

On page 34432, third column, under "Application Submission and Deadline", the second paragraph should read: "An original and two copies of the application PHS Form 5161–1 (Revised 5/96, OMB Number 0937–0189) must be submitted to Sharron P. Orum, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), Room 300, Mail Stop E–18, 255 East Paces Ferry Road, NE., Atlanta, GA 30305, on or before August 15, 1998."

All other information and requirements of the notice remain the same.

Dated: July 01, 1998.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–18023 Filed 7–7–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committees; Filing of Annual Reports

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that, as required by the Federal Advisory Committee Act, the agency has filed with the Library of Congress the annual reports of those FDA advisory committees that held closed meetings during fiscal year 1995, 1996, and 1997. FDA apologizes for the lateness in the filing of these reports due to circumstances beyond the agency's control.

ADDRESSES: Copies are available from the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, 301–443–1751.

FOR FURTHER INFORMATION CONTACT: Donna M. Combs, Committee Management Office (HFA–306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4820.

SUPPLEMENTARY INFORMATION: Under section 13 of the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR 14.60(c), FDA has filed with the Library of Congress the annual reports for the following FDA advisory committees that held closed meetings during the period October 1, 1994, through September 30, 1995:

Center for Biologics Evaluation and Research:

Allergenic Products Advisory Committee,

Biological Response Modifiers Advisory Committee,

Blood Products Advisory Committee,

Vaccines and Related Biological Products Advisory Committee.

Center for Drug Evaluation and Research:

Anesthetic and Life Support Drugs Advisory Committee,

Anti-Infective Drugs Advisory Committee,

Antiviral Drugs Advisory Committee,

Arthritis Advisory Committee,

Drug Abuse Advisory Committee,

Endocrinologic and Metabolic Drugs Advisory Committee,

Generic Drugs Advisory Committee,

Medical Imaging Drugs Advisory Committee,

Nonprescription Drugs Advisory Committee,

Oncologic Drugs Advisory Committee.

Center for Devices and Radiological Health:

Medical Devices Advisory Committee (consisting of reports for the Anesthesiology and Respiratory Therapy Devices Panel; Circulatory System Devices Panel; Clinical Chemistry and Clinical Toxicology

Devices Panel (did not include a closed session); Dental Products Panel; Ear, Nose, and Throat Devices Panel; Gastroenterology and Urology Devices Panel; General and Plastic Surgery Devices Panel; General Hospital and Personal Use Devices Panel; Hematology and Pathology Devices Panel; Immunology Devices Panel; Microbiology Devices Panel; Neurological Devices Panel; Obstetrics and Gynecology Devices Panel; Ophthalmic Devices Panel; Orthopedic and Rehabilitation Devices Panel; and the Radiological Devices Panel).

National Center for Toxicological Research:

Science Advisory Board to the National Center for Toxicological Research.

FDA is also announcing the availability of annual reports for the following advisory committees during the period October 1, 1995, through September 30, 1996:

Center for Biologics Evaluation and Research:

Allergenic Products Advisory Committee,

Blood Products Advisory Committee,

Vaccines and Related Biological Products Advisory Committee.

Center for Drug Evaluation and Research:

Anesthetic and Life Support Drugs Advisory Committee,

Antiviral Drugs Advisory Committee,

Endocrinologic and Metabolic Drugs Advisory Committee,

Medical Imaging Drugs Advisory Committee,

Oncologic Drugs Advisory Committee,

Pulmonary-Allergy Drugs Advisory Committee.

Center for Devices and Radiological Health:

Medical Devices Advisory Committee (consisting of reports for the Anesthesiology and Respiratory Therapy Devices Panel; Circulatory System Devices Panel; Clinical Chemistry and Clinical Toxicology Devices Panel; Dental Products Panel; Ear, Nose, and Throat Devices Panel; Gastroenterology and Urology Devices Panel; General and Plastic Surgery Devices Panel; General Hospital and Personal Use Devices Panel; Hematology and Pathology Devices Panel; Immunology Devices Panel; Microbiology Devices Panel; Neurological Devices Panel; Obstetrics and Gynecology Devices Panel; Ophthalmic Devices Panel; Orthopedic and Rehabilitation Devices Panel; and the Radiological Devices Panel).

National Center for Toxicological Research:

Science Advisory Board to the National Center for Toxicological Research.

FDA is also announcing the availability of annual reports for the following advisory committees during the period October 1, 1996, through September 30, 1997:

Center for Biologics Evaluation and Research:

Allergenic Products Advisory Committee,

Biological Response Modifiers Advisory Committee,

Blood Products Advisory Committee,

Vaccines and Related Biological Products Advisory Committee.

Center for Drug Evaluation and Research:

Anesthetic and Life Support Drugs Advisory Committee,

Anti-Infective Drugs Advisory Committee,

Antiviral Drugs Advisory Committee,

Arthritis Advisory Committee,

Cardiovascular and Renal Drugs Advisory Committee,

Drug Abuse Advisory Committee,

Dermatologic and Ophthalmic Drugs Advisory Committee,

Endocrinologic and Metabolic Drugs Advisory Committee,

Nonprescription Drugs Advisory Committee.

Center for Devices and Radiological Health:

Medical Devices Advisory Committee (consisting of reports for the Anesthesiology and Respiratory Therapy Devices Panel; Circulatory System Devices Panel; Clinical Chemistry and Clinical Toxicology Devices Panel; Ear, Nose and Throat Devices Panel; Gastroenterology and Urology Devices Panel; General and Plastic Surgery Devices Panel; General Hospital and Personal Use Devices Panel; Hematology and Pathology Devices Panel; Immunology Devices Panel; Neurological Devices Panel; Obstetrics and Gynecology Devices Panel; Ophthalmic Devices Panel; Orthopedic and Rehabilitation Devices Panel; and Radiological Devices Panel).

National Center for Toxicological Research:

Science Advisory Board to the National Center for Toxicological Research.

Annual reports are available for public inspection at: (1) The Library of Congress, Madison Bldg., Newspaper and Current Periodical Reading Room, 101 Independence Ave. SE., rm. 133, Washington, DC; and (2) the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 29, 1998.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 98–18143 Filed 7–7–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0363]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on reporting and recordkeeping requirements for new animal drugs for investigational use.

DATES: Submit written comments on the collection of information by September 8, 1998.

ADDRESSES: Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Denver Presley, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1472.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party.

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Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information listed below.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

New Animal Drugs for Investigational Use (21 CFR Part 511) (OMB Control Number 0910–0117—Reinstatement)

FDA has the responsibility under the Federal Food, Drug, and Cosmetic Act (the act), for approval of new animal drugs for investigational use. Section 512(j) of the act (21 U.S.C. 360b(j)), requires that a sponsor submit to FDA a "Notice of Claimed Investigational Exemption" INAD, prior to shipment of the new animal drug for clinical tests in animals. The regulations implementing statutory requirements for INAD approval have been codified under part 511 (21 CFR part 511). The INAD application must contain, among other things, the following specific information: (1) Identity of the new animal drug; (2) labeling; (3) statement of compliance of any nonclinical laboratory studies with good laboratory practices; and (4) name and address of each clinical investigator and the approximate number of animals to be treated or amount of new animal drug(s) to be shipped. Part 511 also requires that records be established and maintained to document the distribution and use of the investigational drug to assure that its use is safe, that distribution is controlled to prevent potential abuse, and that edible products of treated animals will not be distributed for food without proper authorization from FDA. The agency utilizes these required records under its "Bio-Research Monitoring Program" to monitor the validity of the studies and to assure that proper use of the drug is maintained by the investigator.

Investigational new animal drugs are sponsored primarily by drug industry firms, academic institutions, and the government. Investigators may include individuals from these entities as well as research firms and members of the medical profession. Respondents to this collection of information are both sponsors and investigators.

FDA estimates the burden for this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
511.1(b)(4)	190	6	1,147	8	9,176
511.1(b)(5)	190	1.5	287	140	40,180
511.1(b)(6)	190	.005	1	250	250
511.1(b)(8)(ii)	190	.005	1	20	20
511.1 (b)(9)	190	.16	30	8	240
Total Burden Hours					49,866

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
511.1(a)(3)	190	7.5	1,434	9	12,906
511.1(b)(3)	190	10	1,912	1	1,912
511.1(b)(7)(ii)	190	2	956	3.5	3,346
511.1(b)(8)(i)	190	4	956	3.5	3,346
Total Burden Hours					21,510

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The estimate of the time required for reporting requirements, record preparation, and maintenance for this collection of information is based on agency communication with industry. Additional information needed to make a final calculation of the total burden hours (i.e., the number of respondents, the number of recordkeepers, the number of INAD applications received, etc.) is derived from agency records.

Dated: June 30, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–18145 Filed 7–7–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98E–0308]

Determination of Regulatory Review Period for Purposes of Patent Extension; IVOMEC® EPRINEX™ Pour-On for Beef and Dairy Cattle

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for IVOMEC® EPRINEX™ Pour-On for Beef and Dairy Cattle and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that animal drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6620.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For animal drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the animal drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for an animal drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the animal drug product IVOMEC® EPRINEX™ Pour-On for Beef and Dairy Cattle (eprinomectin). IVOMEC® EPRINEX™ Pour-On for Beef and Dairy Cattle is indicated for treatment and control of gastrointestinal nematodes (adults and fourth stage larvae, L_4), lungworms (adults and L_4), cattle grubs (all parasitic stages), lice, mange mites, and flies. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for IVOMEC® EPRINEX™ Pour-On for Beef and Dairy Cattle (U.S. Patent No. 4,427,663) from Merck & Co., Inc., and the Patent and Trademark Office requested FDA's assistance in determining the patent's eligibility for patent term restoration. In a letter dated November 7, 1997, FDA advised the Patent and Trademark Office that this animal drug product had undergone a regulatory review period and that the approval of IVOMEC® EPRINEX™ Pour-On for Beef and Dairy Cattle represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for IVOMEC® EPRINEX™ Pour-On for Beef and Dairy Cattle is 2,492 days. Of this time, 2,475 days occurred during the testing phase of the regulatory review period, while 17 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 512(j) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360b(j)) became effective*: June 22, 1990. FDA has verified the applicant's claim that the date the investigational new animal drug application became effective was on June 22, 1990.
2. *The date the application was initially submitted with respect to the animal drug product under section 512(b) of the act:* March 31, 1997. The applicant claims March 27, 1997, as the date the new animal drug application (NADA) for IVOMEC® EPRINEX™ Pour-On for Beef and Dairy Cattle (NADA 141–079) was initially submitted. However, FDA records indicate that the date of FDA's official acknowledgement letter assigning a number to NADA 141–079 was March 31, 1997, which is considered to be the initially submitted date for NADA 141–079.
3. *The date the application was approved:* April 16, 1997. FDA has verified the applicant's claim that NADA 141-079 was approved on April 16, 1997.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,255 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before September 8, 1998, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before January 4, 1999 publication in the **Federal Register**), for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 23, 1998.

Thomas J. McGinnis,

Deputy Associate Commissioner for Health Affairs.

[FR Doc. 98–18141 Filed 7–7–98; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 78N–0070; DESI 1626]

Combination Drugs Containing Theophylline, Ephedrine Sulfate, and Hydroxyzine Hydrochloride; Withdrawal of Approval

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of the new drug applications (NDA's) for Marax Tablets and Marax

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Syrup. FDA is also declaring all identical, similar, and related drug products, not otherwise subject to an approved drug application, unlawful, including Brofed Tablets and Hydroxyzine Compound Syrup. Each of these products contains theophylline, ephedrine sulfate, and hydroxyzine hydrochloride. The basis of the withdrawals is that there is a lack of substantial evidence that these combination drugs are effective for the treatment of bronchial asthma.

EFFECTIVE DATE: August 7, 1998.

ADDRESSES: Requests for applicability of this notice to a specific product should be identified with the Docket and DESI numbers found in brackets in the heading of this document and directed to the Division of Prescription Drug Compliance and Surveillance (HFD–330), Center for Drug Evaluation and Research, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855.

FOR FURTHER INFORMATION CONTACT: Mary E. Catchings, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION: As part of the agency's drug efficacy program, in a notice published in the **Federal Register** of September 17, 1984 (49 FR 36443), the Commissioner of Food and Drugs granted an evidentiary hearing before an administrative law judge on the proposal to withdraw approval of NDA 11–768 for Marax Tablets and NDA 12–879 for Marax Syrup, each containing theophylline, ephedrine sulfate, and hydroxyzine hydrochloride. The NDA's are held by J. B. Roerig, Division of Pfizer, Inc. (Pfizer), 235 East 42d St., New York, NY 10017.

Other party participants were:

1. Barre-National, Inc., 4128 Haywood Ave., Baltimore, MD 21215 (Barre); Hydroxyzine Compound Syrup (no NDA).
2. Cord Laboratories, Inc. (now Geneva Pharmaceuticals, Inc.), 2555 West Midway Blvd., Broomfield, CO 80038 (Cord); Brofed Tablets (no NDA).
3. Barrows Research Group, Inc., 99 West Hawthorne Ave., Valley Stream, NY 11580 (Barrows). Unnamed drug product. Barrows later withdrew its hearing request.

Subsequently, in accordance with agreements to resolve, by other means, the issue of their drug products' effectiveness, Pfizer, Barre, and Cord withdrew their hearing requests. Under those agreements, FDA has concluded that Marax Tablets and Marax Syrup have not been shown to be effective, and FDA is now withdrawing approval of the NDA's for these products.

This notice applies to any drug product that is identical, related, or similar to these products and is not the subject of an approved NDA (21 CFR 310.6). Such products include Hydroxyzine Compound Syrup and Brofed Tablets, each of which contains theophylline, ephedrine sulfate, and hydroxyzine hydrochloride. Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Prescription Drug Compliance and Surveillance (address above).

The Director of the Center for Drug Evaluation and Research, under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and under the authority delegated to her (21 CFR 5.82), finds that on the basis of new information before her with respect to Marax Tablets and Marax Syrup, evaluated together with the evidence available to her when the applications were approved, there is a lack of substantial evidence that the products will have the effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

Therefore, based on the foregoing finding, approvals and all the amendments and supplements thereto of NDA 11–768 and NDA 12–879 are withdrawn effective August 7, 1998. Shipment in interstate commerce of the products listed above or of any identical, related, or similar product that is not the subject of an approved NDA will then be unlawful.

Dated: June 15, 1998.

Janet Woodcock,

Director, Center for Drug Evaluation and Research.

[FR Doc. 98–18140 Filed 7–7–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Anti-Infective Drugs Advisory Committee; Notice of Meeting; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appears in the **Federal Register** of June 25, 1998 (63 FR 34655). The notice announced a meeting of the Anti-Infective Drugs Advisory Committee, which was scheduled for July 29, 30, and 31, 1998. The document was published with an error. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Carolyn C. Harris, Office of Policy (HF–27), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2994.

In FR Doc. 98–16934 appearing on page 34655 in the **Federal Register** of Thursday, June 25, 1998, the following correction is made:

On page 34655, under the *Agenda* caption, in the 2d column, beginning in the 1st line, "http://www.fda.gov/cder/guidance.htm" is corrected to read "http://www.fda.gov/cder/guidance/index.htm".

Dated: July 1, 1998.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 98–18144 Filed 7–7–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Notice of Hearing: Reconsideration of Disapproval of New York Title XXI State Plan Amendment (SPA)

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on July 29, 1998; 10:00 a.m., Thirty-Eighth floor, 26 Federal Plaza, New York, New York 10278 to reconsider our decision to disapprove New York Title XXI SPA.

CLOSING DATE: Requests to participate in the hearing as a party must be received by the presiding officer by July 23, 1998.

FOR FURTHER INFORMATION CONTACT: Stan Katz, Presiding Officer, HCFA, C1–09–13, 7500 Security Boulevard, Baltimore, Maryland 21244, Telephone: (410)–786–2661.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to disapprove the New York Title XXI State Plan Amendment (SPA) submitted March 26, 1998.

Section 1116 of the Social Security Act (the Act) and 42 CFR Part 430 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. These requirements are made applicable under

Title XXI by section 2107(e)(2)(B). The Health Care Financing Administration (HCFA) is required to publish a copy of the notice to the State that informs the State of the time and place of the hearing and the issues to be considered. If we subsequently notify the State of additional issues that will be considered at the hearing, we will also publish that notice.

Any individual or group that wants to participate in the hearing as a party must petition the presiding officer within 15 days after publication of this notice, in accordance with the requirements contained at 42 CFR 430.76(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the presiding officer before the hearing begins in accordance with the requirements contained at 42 CFR 430.76(c). If the hearing is later rescheduled, the presiding officer will notify all participants.

New York submitted this SPA on March 26, 1998 to revise its approved Title XXI plan to change the effective date to October 1, 1997, from the previously approved date of April 15, 1998. This change in effective date would permit the State to claim enhanced matching payments for the operation of its Child Health Plus (CHP) program for the period from October 1, 1997 to April 14, 1998. The SPA was disapproved on April 1, 1998.

At issue in this reconsideration is whether the State is entitled to an effective date for its Title XXI plan which included a period during which the State was not operating a program which met the requirements of Title XXI (or the approved State plan). HCFA disapproved this SPA because of two elements of the State's CHP program, as in effect between October 1, 1997 and April 14, 1998, which were inconsistent with the requirements of Title XXI. First, premiums and cost sharing in effect during this period were inconsistent with the requirements of section 2103(e)(3)(A) of the Social Security Act. For example, the State CHP program provided for a $35 copayment for emergency services even if a child's family income was less than 150 percent of the poverty level. Also the CHP program permitted premiums for children with family incomes between 120 percent and 150 percent of the federal poverty level. Both of these charges were in amounts higher than those authorized under section 2103(e)(3)(A), which makes applicable the Medicaid premium and cost sharing limitations. Moreover, the State was not applying procedures to ensure "that children found through * * * screening to be eligible for medical assistance under the State Medicaid plan under title XIX are enrolled for such assistance under such plan" as required under section 2102(b)(3)(B) of the Social Security Act and guidance outlined in a letter to States on January 23, 1998.

Section 2106(c)(1) of the Act directs the Secretary to approve plans which "substantially comply with the requirements" of Title XXI. Under section 2106(a)(2)(B), a Title XXI plan "shall be effective beginning with a calendar quarter that is specified in the plan, but in no case earlier than October 1, 1997." However, this flexibility is limited by the requirement in section 2106(d)(1) that "[T]he State shall conduct the program in accordance with the plan (and any amendments) approved under subsection (c) and with the requirements of this title." Approval of the October 1, 1997 effective date was not warranted because the State was not operating its program in substantial compliance with the requirements of Title XXI or with the approved State plan during the period October 1, 1997 through April 14, 1998.

Under Section 2106(c) of the Social Security Act, the Secretary may approve, disapprove, or request additional information on a proposed Title XXI State Plan amendment within ninety days.

The Secretary has concluded that the State's amendment to its Title XXI Plan, submitted on March 26, 1998, to change the effective date of the plan, could not be approved because the State program during the period in question did not substantially comply with the requirements of Title XXI. Therefore, HCFA, in consultation with the Secretary, disapproved the amendment.

The notice to New York announcing an administrative hearing to reconsider the disapproval of its SPA reads as follows:

Ms. Barbara A. DeBuono, M.D.; M.P.H., Commissioner, State of New York, Department of Health, Corning Tower, Empire State Plaza, Albany, New York 12237.

Dear Ms. DeBuono: I am responding to your request for reconsideration of the decision to disapprove New York Title XXI State Plan Amendment (SPA) submitted March 26, 1998.

At issue in this reconsideration is whether the State is entitled to an effective date for its Title XXI plan which included a period during which the State was not operating a program which met the requirements of Title XXI (or the approved State plan). Specifically, the premiums and cost sharing provisions for the State's Child Health Plus program, in effect during the period in which the State seeks retroactive approval through this amendment, were inconsistent with the requirements of section 2103 (e)(3)(A) of the Social Security Act. In addition, the State was not applying procedures to ensure "that children found through * * * screening to be eligible for medical assistance under the State Medicaid plan under title XIX are enrolled for such assistance under such plan" as required under section 2102(b)(3)(B) of the Social Security Act and guidance outlined in a letter to States on January 23, 1998.

I am scheduling a hearing on your request for reconsideration to be held on July 29, 1998 on the Thirty-Eighth Floor, 26 Federal Plaza, New York, New York 10278.

If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties. The hearing will be governed by the procedures prescribed at 42 CFR, Part 430.

I am designating Mr. Stanley Katz as the presiding officer. If these arrangements present any problems, please contact the presiding officer. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the presiding officer to indicate acceptability of the hearing date that has been scheduled and provide names of the individuals who will represent the State at the hearing. The presiding officer may be reached at (410) 786–2661.

Sincerely,

Nancy-Ann Min DeParle,

Administrator.

Section 1116 of the Social Security Act (42 U.S.C. section 1316); 42 CFR section 430.18)

(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: June 29, 1998.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

[FR Doc. 98–18019 Filed 7–2–98; 10:31 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; An Evaluation of the National Cancer Institute Science Enrichment Program

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Cancer Institute (NCI), the National Institute of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

PROPOSED COLLECTION: *Title:* An Evaluation of the NCI Science

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Enrichment Program (SEP). *Type of Information Collection Request:* New. *Need and Use of Information Collection:* This evaluation will assess the effectiveness of the NCI SEP in meeting its goals of: (1) encouraging under-represented minority and under-served students who have just completed ninth grade to select careers in science, mathematics, and/or research, and (2) broadening and enriching students' science, research, and sociocultural backgrounds. The program is a five- to six-week residential program taking place on two university campuses—University of Kentucky, Lexington and San Diego State University—in summers 1998–2002. The five-year evaluation is designed as a controlled, longitudinal study, consisting of the five SEP cohorts and two cohorts of control group students who do not attend the program. The evaluation will provide NCI with valuable information regarding specific components that promote or limit the program's effectiveness, the extent to which the program has been implemented as planned, how much the two regional programs vary, and how the program can be improved or made more effective. NCI will use this information to make decisions regarding continuation and expansion of the program. *Frequency of Response:* Semi-annually. *Affected Public:* Individuals or households and Federal Government. *Type of Respondents:* High School and College students and parents. The annualized cost to respondents is estimated at $4,040.00.

The annual reporting burden is as follows:

Type of respondents	Number	Number of responses	Average hours	Annual hours
SEP Participants	342	2	.334	229
Control Group Students	133	3	.334	156
Parents	114	1	.167	19
Total				404

There are no Capital Costs, Operating Costs, and/or Maintenance Cost to report.

REQUEST FOR COMMENTS: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Mr. Frank Jackson, Office of Special Populations Research, National Cancer Institute, National Institutes of Health, Executive Plaza South, Room 320, 6120 Executive Boulevard, Rockville, MD 20852, or call non-toll-free number (301) 496–8589, or E-mail your request, including your address to: fj12i@nih.gov

COMMENTS DUE DATE: Comments regarding this information collection are best assured of having their full effect if received within 60 days of this publication.

Dated: June 29, 1998.

Reesa Nichols,

NCI Project Clearance Liaison.

[FR Doc. 98–18130 Filed 7–7–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given a meeting of the Board of Scientific Counselors, National Cancer Institute.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6). Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Cancer Institute, including consideration of personal qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Cancer Institute, Subcommittee A—Clinical Sciences and Epidemiology.

Date: July 13, 1998.

Open: 8:30 am to 9:20 am.

Agenda: Call to order by Board Chair; presentation by NCI Director regarding the Bypass Budget 2001; and one concept review.

Place: National Institutes of Health, NCI, Board of Scientific Counselors, Bldg 31, "C" Wing, 6th Floor, Conference Room 10, 9000 Rockville Pike, Bethesda, MD 20892.

Closed: 9:35 am to Adjournment.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, NCI, Board of Scientific Counselors, Bldg 31, "C" Wing, 6th Floor, Conference Room 10, 9000 Rockville Pike, Bethesda, MD 20892.

Contact Person: Judy A. Meitz, PhD, Executive Secretary, Office of Advisory Activities, Division of Extramural Activities, National Cancer Institute, National Institute of Health, 6130 Executive Boulevard/EPN—Room 609, Rockville, MD 20892–7410, 301/496–2378.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: June 29, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–18135 Filed 7–1–98; 8:45]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Research Resources Special Emphasis Panel, Comparative Medicine (Telephone Conference Call).

Date: July 14, 1998.

Time: 11:00 am to 12:00 pm.

Agenda: To review and evaluate grant applications.

Place: Office of Review, National Center for Research Resources, 6705 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Bela J. Gulyas, PhD, Director, Office of Review, National Center for Research Resources, National Institutes of Health, 6705 Rockledge Drive, MSC 7965, Room 6018, Bethesda, MD 20892, 301–435–0811.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333; 93.371, Biomedical Technology; 93.389, Research Infrastructure, National Institutes of Health, HHS)

Dated: June 29, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–18133 Filed 7–7–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel Pain/Symptom Research Training Software.

Date: July 14–15, 1998.

Time: 7:00 pm to 9:00 am.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Hilton Hotel, 620 Perry Parkway, Gaithersburg, MD 20877.

Contact Person: Anthony M. Coleho, PhD, NIH, NHLBI, DEA, Review Branch, 6701 Rockledge Drive, Room 7194, Bethesda, MD 20892–7924, (301) 435–0288.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: July 1, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–18132 Filed 7–7–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; National and Regional Meetings of the National Reading Panel

Notice is hereby given of the final scheduled regional meeting and one national meeting of the National Reading Panel.

The regional meeting will be held on July 9 at Murrah High School Auditorium, 1400 Murrah Drive, Jackson, MS 39202. This meeting will begin at 10:00 AM and is expected to adjourn at 3:00 or 4:00 PM. The entire meeting will be open to the public. Previous regional meetings were held as announced in Chicago, IL on May 29, Portland, OR on June 5, Houston, TX on June 8, and New York, NY on June 23.

The national meeting will be held on July 24 in Building 31, C-Wing, 6th floor Conference Room area, at National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892. The meeting is tentatively scheduled to begin at 9:00 AM and is expected to adjourn at 4:00 PM. The entire meeting will be open to the public.

The National Reading Panel was requested by Congress and created by the Director of the National Institute of Child Health and Human Development in consultation with the Secretary of Education. The Panel will study the effectiveness of various approaches to teaching children how to read and report on the best ways to apply these findings in classrooms at at home. Its members include prominent reading researchers, teachers, child development experts, leaders in elementary and higher education, and parents. The Chair of the Panel is Dr. Donald N. Langenberg, Chancellor of the University System of Maryland.

The Panel will build on the recently announced findings presented by the National Research Council's Committee on the Prevention of Reading Difficulties in Young Children. Based on a review of the literature, the Panel will: determine the readiness for application in the classroom of the results of these research studies; identify appropriate means to rapidly disseminate this information to facilitate effective reading instruction in the schools; and identify gaps in the knowledge base for reading instruction and the best ways to close these gaps.

The purpose of the meetings of the Panel will be to provide an opportunity for interaction between the panel members regarding the Panel's charge and to receive input from experts and the general public regarding that charge. Through these interactions the Panel hopes to make its task clear to others while gaining useful input from those it intends to inform. A period of time will be set aside for members of the public to address the Panel and express their views regarding the Panel's mission. Individuals desiring an opportunity to speak before the Panel should address their requests to F. William Dommel, Jr., Executive Director, National Reading Panel, c/o Ms. Amy Andryszak and either mail them to the Widmeyer-Baker Group, 1875 Connecticut Avenue, NW, Suite 800, Washington, D.C. 20009, or e-mail them to *amya@twbg.com,* or fax them to 202–667–0902. Requests for addressing the Panel should be received as soon as possible. Panel business permitting, each public speaker will be allowed five minutes to present his or her views. In the event of a large number of public speakers, the Panel Chair retains the option to further limit the presentation time allowed to each. Although the time permitted for oral

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presentations will be brief, the full text of all written comments submitted to the Panel will be made available to the Panel members for consideration.

For further information contact Ms. Amy Andryszak at 202–667–0901. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Amy Andryszak as soon as possible.

Dated: June 29, 1998.

Duane Alexander,

Director, National Institute of Child Health and Human Development.

[FR Doc. 98–18129 Filed 7–7–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: July 9, 1998.

Time: 1:00 pm to 2:30 pm.

Agenda: To review and evaluate grant applications.

Place: Parklawn Building—Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857 (Telephone Conference Call).

Contact Person: Victoria S. Levin, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Parklawn Building, 5600 Fishers Lane, Room 9C–26, Rockville, MD 20857, 301–443–6470.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: July 10, 1998.

Time: 1:00 pm to 2:00 pm.

Agenda: To review and evaluate grant applications.

Place: Parklawn Building—Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857 (Telephone Conference Call).

Contact Person: Jack D. Maser, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Parklawn Building, 5600 Fishers Lane, Room 9C–18, Rockville, MD 20857, 301–443–1340.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: July 14, 1998.

Time: 11:30 am to 1:00 pm.

Agenda: To review and evaluate grant applications.

Place: Parklawn Building—Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857 (Telephone Conference Call).

Contact Person: Mary Sue Krause, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Parklawn Building, 5600 Fishers Lane, Room 9C–26, Rockville, MD 20857, 301–443–6470.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: July 16, 1998.

Time: 8:30 am to 4:00 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 5520 Wisconsin Ave, Chevy Chase, MD 20815.

Contact Person: Mary Sue Krause, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Parklawn Building, 5600 Fishers Lane, Room 9C–26, Rockville, MD 20857, 301–443–6470.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: July 20, 1998.

Time: 12:00 pm to 1:00 pm.

Agenda: to review and evaluate grant applications.

Place: Parklawn Building—Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, (Telephone Conference Call).

Contact Person: Ron Schoenfield, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Parklawn Building, 5600 Fishers Lane, Room 9–101, Rockville, MD 20857, 301–443–3936.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: July 21, 1998.

Time: 10:00 am to 11:30 pm.

Agenda: To review and evaluate grant applications.

Place: Parklawn Building—Room 9C–26, Rockville, MD 20857, (Telephone Conference Call).

Contact Person: Mary Sue Krause, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Parklawn Building, 5600 Fishers Lane, Room 9C–26, Rockville, MD 20857, 301–443–6470.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: July 27, 1998.

Time: 2:00 pm to 3:00 pm.

Agenda: To review and evaluate grant applications.

Place: Parklawn Building—Room 9–101, Russell Martenson, 5600 Fishers Lane, Rockville, MD 20857, (Telephone Conference Call).

Contact Person: Russell E. Martenson, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, PHS, DHHS, Bethesda, MD 20892, 301–443–3936.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: July 1, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc 98–18131 Filed 7–7–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel Human Immune Resistance to Malaria in Endemic Areas.

Date: July 24, 1998.

Time: 9:00 am to adjournment.

Agenda: To review and evaluate grant applications.

US Embassy-London, 24 Grosvener Square.

Contact Person: Anna Ramsey-Ewing, PhD, Scientific Review Administrator, Solar Building Room 4C37, 6003 Executive Boulevard, Bethesda, MD 20892, 301–435–8536.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: July 1, 1998.

LaVeen Ponds,

Acting Committee Management Officer, NIH.

[FR Doc. 98–18136 Filed 7–7–98; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Microbiological and Immunological Sciences Special Emphasis Panel.

Date: July 16, 1998.

Time: 2:00 pm to 4:00 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Gerald Liddell, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4186, MSC 7808, Bethesda, MD 20892, 301–435–1150.

Name of Committee: Microbiological and Immunological Sciences Special Emphasis Panel.

Date: July 22, 1998.

Time: 12:00 pm to 2:00 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Gerald Liddel, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4186, MSC 7808, Bethesda, MD 20892, 301–435–1150.

Name of Committee: Clinical Sciences Special Emphasis Panel.

Date: July 28, 1998.

Time: 11:00 am to 1:00 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Gordon L. Johnson PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4136, MSC 7802, Bethesda, MD 20892, 301–435–1212.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892; 93.893, National Institutes of Health, HHS)

Dated: June 29, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–18134 Filed 7–7–98; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration (SAMHSA)

Notice of Meetings

Pursuant to Public Law 92–463, notice is hereby given of the following meetings of the SAMHSA Special Emphasis Panel I in July 1998.

Summaries of the meetings and rosters of the members may be obtained from: Ms. Dee Herman, Committee Management Liaison, SAMHSA, Office of Policy and Program Coordination, Division of Extramural Activities, Policy, and Review, 5600 Fishers Lane, Room 17–89, Rockville, Maryland 20857. Telephone: 301–443–7390.

Substantive program information may be obtained from the individual named as Contact for the meetings listed below.

The meetings will include the review, discussion and evaluation of individual grant applications. These discussions could reveal personal information concerning individuals associated with the applications. Accordingly, these meetings are concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b(c)(6) and 5 U.S.C. App. 2, § 10(d).

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Dates: July 6–10, 1998.

Place: Sheraton City Centre Hotel and Towers, 1143 New Hampshire Avenue, NW., Washington, DC 20037.

Closed: July 6–9, 1998, 9:00 a.m.–5:00 p.m.; July 10, 1998, 9:00 a.m.–adjournment.

Panel: Substance Abuse and Mental Health Services Administration Knowledge Dissemination Conference Grants PA 98–090.

Contact: Dorothy A. Sullivan, Review Administrator, Room 17–89, Parklawn Building, Telephone 301–443–9919; FAX: 301–443–3437.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Dates: July 14, 1998.

Place: Hyatt Regency at Crystal City, 2799 Jefferson Davis Highway, Arlington, VA 22202.

Closed: July 14, 1998, 8:30 a.m.–adjournment.

Panel: Center for Substance Abuse Prevention Cooperative Agreement for the Center for the Application of Prevention Technologies (CAPT) to Support the US/Mexico Border Four-State Substance Abuse Initiative SP 98–002.

Contact: Raquel Crider, Ph.D., Review Administrator, Room 17–89, Parklawn Building, Telephone: 301–443–5063 and FAX: 301–443–3437.

Committee: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Dates: July 20–22, 1998.

Place: Embassy Suites Hotel, Tenleytown, Room II, 4300 Military Road, NW., Washington, DC 20015.

Closed: July 20–21, 1998—9:00 a.m.–5:00 p.m.; July 22, 1998—9:00 a.m.–adjournment.

Panel: Center for Mental Health Services Cooperative Agreements for an HIV/AIDS Treatment Adherence, Health Outcomes, and Cost Study SM 98–007.

Contact: Phyllis Eveleth, Ph.D., Review Administrator, Room 17–89, Parklawn Building, Telephone: 301–443–2595; FAX: 301–443–3437.

Committee: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Dates: July 20–24, 1998.

Place: Sheraton City Centre Hotel & Towers, 1143 New Hampshire Avenue, NW., Washington, DC 20037.

Closed: July 20–23, 1998—9:00 a.m.–5:00 p.m.; July 24, 1998—9:00 a.m.–adjournment.

Panel: Center for Mental Health Services Community Action Grants for Service Systems Change—Basic Action Grant Program SM 98–003.

Contact: Michael F. Halasz, Ph.D., Review Administrator, Room 17–89, Parklawn Building, Telephone: 301–443–9919; FAX: 301–443–3437.

Committee: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Dates: July 20–24, 1998.

Place: Sheraton City Centre Hotel & Towers, 1143 New Hampshire Avenue, NW., Washington, DC 20037.

Closed: July 20–23, 1998—9:00 a.m.–5:00 p.m.; July 24, 1998—9:00 a.m.–adjournment.

Panel: Center for Mental Health Services Community Action Grants for Service Systems Change—Hispanic Priority Initiative SM 98–003.

Contact: Marco Montoya, Ph.D., Review Administrator, Room 17–89, Parklawn

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Building, Telephone: 301–443–7249; FAX: 301–443–3437.

Committee: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Dates: July 27–31, 1998.

Place: Hyatt Regency at Crystal City, 2799 Jefferson Davis Highway, Arlington, VA 22202.

Closed: July 27–30, 1998—8:30 a.m.–5:00 p.m.; July 31, 1998—8:30 a.m.–adjournment.

Panel: Center for Substance Abuse Treatment Cooperative Agreements to Study Women with Alcohol, Drug Abuse, and Mental Health (ADM) Disorders Who Have Histories of Violence TI 98–004 (Study Sites).

Contact: Allen Smith, Review Administrator, Room 17–89, Parklawn Building, Telephone: 301–443–2595; FAX: 301–443–3437.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Dated: July 1, 1998.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 98–18035 Filed 7–7–98; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration (SAMHSA)

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the following meeting of the SAMHSA Special Emphasis Panel II in July 1998.

A summary of the meeting may be obtained from: Ms. Dee Herman, Committee Management Liaison, SAMHSA, Office of Program Planning and Coordination (OPPC), Division of Extramural Activities, Policy, and Review, 5600 Fishers Lane, Room 17–89, Rockville, Maryland 20857. Telephone: (301) 443–7390.

Substantive program information may be obtained from the individual named as Contact for the meeting listed below.

The meeting will include the review, discussion and evaluation of individual contract proposals. These discussions could reveal personal information concerning individuals associated with the proposals and confidential and financial information about an individual's proposal. The discussion may also reveal information about procurement activities exempt from disclosure by statute and trade secrets and commercial or financial information obtained from a person and privileged and confidential. Accordingly, the meeting is concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b(c)(3), (4), and (6) and 5 U.S.C. App. 2, § 10(d).

Committee Name: SAMHSA Special Emphasis Panel II.

Meeting Date: July 20–22, 1998.

Place: Holiday Inn—Chevy Chase, Terrace Room, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Closed: July 20–21, 1998, 9:00 a.m.–5:00 p.m.; July 22, 1998, 9:00 a.m.–adjournment.

Contact: Michael Koscinski, Review Administrator, Room 17–89, Parklawn Building, Telephone: (301) 443–3042 and FAX: (301) 443–3437.

Dated: July 1, 1998.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 98–18045 Filed 7–7–98; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration (SAMHSA)

Notice of Meetings

Pursuant to Public Law 92–463, notice is hereby given of the following meetings of the SAMHSA Special Emphasis Panel I in August 1998.

Summaries of the meetings and rosters of the members may be obtained from: Ms. Dee Herman, Committee Management Liaison, SAMHSA, Office of Policy and Program Coordination, Division of Extramural Activities, Policy, and Review, 5600 Fishers Lane, Room 17–89, Rockville, Maryland 20857. Telephone: 301–443–7390.

Substantive program information may be obtained from the individual named as Contact for the meetings listed below.

The meetings will include the review, discussion and evaluation of individual grant applications. These discussions could reveal personal information concerning individuals associated with the applications. Accordingly, these meetings are concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b(c)(6) and 5 U.S.C. App.2, § 10(d).

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Dates: August 3–7, 1998.

Place: Hyatt Regency at Crystal City, 2799 Jefferson Davis Highway, Arlington, VA 22202.

Closed: August 3–6, 1998 9:00 a.m.–5:00 p.m.; August 7, 1998 9:00 a.m.–adjournment.

Panel: Center for Mental Health Services Statewide Family Network Grants SM 98–014.

Contact: George T. Lewis, Ph.D., Review Administrator, Room 17–89, Parklawn Building, Telephone 301-443–9919; FAX: 301–443–3437.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Dates: August 4–5, 1998.

Place: Hyatt Regency at Crystal City, 2799 Jefferson Davis Highway, Arlington, VA 22202.

Closed: August 4, 1998, 9:00 a.m.–5:00 p.m.; August 5, 1998, 9:00 a.m.–Adjournment.

Panel: Center for Mental Health Services National TA Centers SM 98–012.

Contact: Barbara Bates, Review Administrator, Room 17–89, Parklawn Building, Telephone: 301–443–9919 and FAX: 301–443–3437.

Committee: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Dates: August 6–7, 1998.

Place: Hyatt Regency at Crystal City, 2799 Jefferson Davis Highway, Arlington, VA 22202.

Closed: August 6, 1998—8:30 a.m.–5:00 p.m.; August 7, 1998—8:30 a.m.–adjournment.

Panel: Center for Substance Abuse Treatment Cooperative Agreements to Study Women with Alcohol, Drug Abuse and Mental Health (ADM) Disorders Who Have Histories of Violence TI 98–004 (Coordinating Centers).

Contact: Allen Smith, Review Administrator, Room 17–89, Parklawn Building, Telephone: 301–443–2595; FAX: 301–443–3437.

Dated: July 1, 1998.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 98–18046 Filed 7–7–98; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4349–N–26]

Submission for OMB Review: Comment Request

AGENCY: Office of the Assistant Secretary for Administration HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: August 7, 1998.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–1305. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: June 30, 1998.

David S. Cristy,

Director, IRM Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Title of Proposal: Technical Suitability of Product Program, Section 521 of the National Housing Act.

Office: Housing.

OMB Approval Number: 2502–0313.

Description of the Need for the Information and Its Proposed Use: This information is needed under HUD's Technical Suitability of Products Program to determine the acceptance of materials and products to be used in structures approved for mortgages insured under the National Housing Act. The respondents are the product manufacturers seeking acceptance.

Form Number: HUD Handbook 4950.1.

Respondents: Businesses or Other For-Profit.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
Information Collection	50		1		41		2,050
Recordkeeping	50		1		3		150

Total Estimated Burden Hours: 2,200.

Status: Reinstatement without Changes.

Contact: Marion Connell, HUD, (202) 708–6409, Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: June 30, 1998.

[FR Doc. 98–18050 Filed 7–7–98; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4373–N–01]

Utility Allowances for Use by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of Utility Allowances.

SUMMARY: This notice announces that the Department has established utility allowances in accordance with the Secretary's authority to regulate the Federal National Mortgage Association ("Fannie Mae") and the Federal Home Loan Mortgage Corporation ("Freddie Mac"). (Each enterprise is also referred to as a "Government Sponsored Enterprise" or "GSE"). These allowances are used to determine whether rental units financed by GSE mortgage purchases are affordable and may count toward the achievement of the income-based housing goals established by the Secretary. For these purposes, the allowances in this notice shall be added to the contract rent for rental units in which: (1) tenant income is not available; (2) contract rent does not include the cost of utilities; and (3) the GSE does not use the HUD Section 8 utility allowances.

EFFECTIVE DATE: July 1, 1998.

FOR FURTHER INFORMATION CONTACT: Janet Tasker, Director, Office of Government-Sponsored Enterprises Oversight, Department of Housing and Urban Development, Room 6154, 451 Seventh Street, S.W., Washington, DC 20410, telephone (202) 708–2224. (This is not a toll-free number). For hearing- and speech-impaired persons, this number may be accessed via TTY (text telephone) by calling the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Environmental Impact

In accordance with 40 CFR 1508.4 of the regulations of the Council on Environmental Quality and 24 CFR 50.20 (1) of the HUD regulation, the policies and procedures contained in this notice relate only to cost determinations that do not affect the physical condition of any building and, therefore, are categorically excluded from the requirements of the National Environmental Policy Act.

Background

The Federal Housing Enterprises Financial Safety and Soundness Act of 1992, enacted as Title XIII of the Housing and Community Development Act of 1992 (Pub. L.102–550, approved October 28, 1992, codified generally at 12 U.S.C. 4501–4561) ("the Act")[1] requires the Secretary, *inter alia*, to establish and monitor the performance of the GSEs in meeting annual goals for mortgage purchases on housing for low- and moderate-income families and

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[1] Unless otherwise specified, all sections cited herein are in the Federal Housing Enterprises Financial Safety and Soundness Act of 1992. Sections 1331–1336 of that Act are codified at 12 U.S.C. 4561–66.

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special affordable housing, i.e., housing meeting the needs of, and affordable to, low-income families in low-income areas and very low-income families. On January 2, 1996, the Secretary's regulation on the GSEs, codified at 24 CFR, part 81, became effective. (See 60 FR 61846, Dec. 1, 1995).

Under the Act and regulations, in considering whether a rental dwelling unit that is financed by a GSE mortgage purchase is affordable and counts toward any housing goal, the Secretary must consider the income of tenants if income information is available. Where income information is not available, rent on the dwelling unit is used as a proxy and compared to the rent levels affordable to very low-, low-, and moderate-income families and families whose incomes do not exceed 50 percent of the area median income ("especially low-income families").[2] To be considered affordable and count under the goal, the rent cannot exceed 30 percent of the maximum income level of the family's classification, with adjustments for unit size.[3]

Under the regulation, "rent" is defined as contract rent, but only where the contract rent includes the cost of all utilities.[4] In all other instances, rent is contract rent plus (1) the actual cost of utilities or (2) a utility allowance.[5] The regulation allows the GSEs to choose from two different utility allowances—the allowances used in the HUD Section 8 Program or the utility allowances derived from the American Housing Survey (AHS) and issued annually by the Secretary.[6]

On May 1, 1996, a notice was issued establishing the utility allowances for 1996 and 1997 (61 FR 19466). Those utility allowances were based on the Department's analysis of data from the 1993 AHS.

This notice announces the AHS-derived utility allowances for 1998 and 1999. In establishing these allowances, the Department analyzed 1995 AHS data on the mean costs, based on unit type (i.e., number of bedrooms), paid by renters in both multifamily and single-family properties for electricity, gas, oil, water, and other utilities.[7]

The GSEs were advised by letter dated May 12, 1998, that these allowances would be published in the **Federal Register** and that they would become effective on July 1, 1998, but could be implemented sooner at the GSEs' option.

The Utility Allowances

In accordance with sections 1321, 1331–33, and 1336 of the Federal Housing Enterprises Financial Safety and Soundness Act (12 U.S.C. 4541, 4561–63, and 4566), and as provided in paragraph (1) under the definition of "utility allowance" in section 81.2(b) of Title 24 of the Code of Federal Regulations, the AHS-derived utility allowances for 1998 and 1999 are as follows:

Type of property	Number of bedrooms in dwelling unit			
	Efficiency	1	2	3 or more
Multifamily	$51	$61	$79	$105
Single family	61	81	111	145

These utility allowances are applicable to the GSEs' determination of eligibility of rental units to count toward their annual housing goals and not to other programs or regulatory functions of the Department of Housing and Urban Development.

Effect of Notice Beyond 1999

For 2000 and thereafter, the Secretary shall establish AHS-derived utility allowances by subsequent notice. Pending establishment of such allowances for 2000 and thereafter, the allowances in this notice shall continue to be used by the GSEs.

Dated: July 1, 1998.

Andrew Cuomo,

Secretary.

[FR Doc. 98–18094 Filed 7–7–98; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

PRT–844265

Applicant: Zoological Society of San Diego, San Diego, CA.

The applicant requests a permit to export four captive-hatched Andean condors (*Vultur gyphus*) to Columbia to enhance the survival of the species through reintroduction into the wild.

PRT–843149

Applicant: International Snow Leopard Trust, Seattle, WA.

The applicant requests a permit to import and re-export non-invasively collected biological samples from endangered and threatened mammals in Asia, for the purpose of scientific research.

PRT–843877

Applicant: White Oak Conservation Center, Yulee, FL.

The applicant requests a permit to import six captive-held visayan deer (Cervus alfredi) from the Phillippines to enhance the survival of the species through captive breeding.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act,* by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North

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[2] Sections 1332(c) and 1333(c).

[3] Sections 1332(c)(2) and 1333(c)(2).

[4] 24 CFR 81.2.

[5] *Id.*

[6] *Id.*

[7] The AHS means have been adjusted to reflect the 5.7 percent increase in the Consumer Price Index for Fuel and Other Utilities (CPIFOU) between the fourth quarter of 1995 (the approximate midpoint of August 1995–February 1996, the period when the 1995 AHS was conducted) and the fourth quarter of 1997 and the projected 0.3 percent decrease in the CPIFOU between the fourth quarter of 1997 and the fourth quarter of 1998, as projected by Data Resources, Inc.

Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: July 2, 1998.

MaryEllen Amtower,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 98–18090 Filed 7–7–98; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Geological Survey

Federal Geographic Data Committee (FGDC); Public Comment on the Proposal To Develop the "NSDI Framework Road Data Model Standard" as a Federal Geographic Data Committee Standard

ACTION: Notice; Request for comments.

SUMMARY: The FGDC is soliciting public comments on the proposal to develop a "NSDI Framework Road Data Model Standard." If the proposal is approved, the standard will be developed following the FGDC standards development and approval process and will be considered for adoption by the FGDC.

In its assigned federal leadership role in the development of the National Spatial Data Infrastructure (NSDI), the Committee recognizes that FGDC standards must also meet the needs and recognize the views of State and local governments, academia, industry, and the public. The purpose of this notice is to solicit such views. The FGDC invites the community to review the proposal and comment on the objectives, scope, approach, and usability of the proposed standard; identify existing related standards; and indicate their interest in participating in the development of the standard.

DATES: Comments must be received on or before July 25, 1998.

CONTACT AND ADDRESSES: Comments may be submitted via Internet mail or by submitting electronic copy on diskette. Send comments via internet to: gdc-rdmod@www.fgdc.gov.

A soft copy version, on a 3.5 x 3.5 diskette in WordPerfect 5.0 or 6.0/6.1 format, along with one hardcopy version of the comments may be sent to the FGDC Secretariat (attn: Jennifer Fox) at U.S. Geological Survey, 590 National Center, 12201 Sunrise Valley Drive, Reston, Virginia, 20192.

SUPPLEMENTARY INFORMATION: Following is the complete proposal for the "NSDI Framework Road Data Model Standard".

Project Title: NSDI Framework Road Data Model Standard

Submitting Organization: FGDC Ground Transportation Subcommittee

Point of Contact: Bruce D. Spear, U.S. Department of Transportation, Bureau of Transportation Statistics (BTS), (202) 366–8870, bruce.spear@bts.gov

Objectives

To provide a logical data model for identifying unique road segments which are independent of cartographic or analytic network representation. These road segments will form the basis for maintenance of NSDI framework road data (through transactions or other means), and for establishing links among road segments and attribute data.

Scope

In accordance with the *FGDC Standards Reference Model*, the NSDI Framework Road Data Model is being proposed under the classification of a data content standard. However, it also includes mandatory standards for assigning and reporting identification codes as well as voluntary guidelines for data collection under the classification of a process standard.

This standard will specify a conceptual model for identifying physical road segments that are temporally stable and independent of any cartographic representation, scale, level of detail or network application, and a process for combining the road segments to create topologically connected analytical networks. The model will include a set of locational descriptors for each road segment included in the NSDI framework road layer, and a format for a unique identification code to be assigned to each identified segment. The standard will also specify a process for assigning, modifying and recording road segment identification codes.

Guidelines for selecting and locating the end points of appropriate road segments will be included as an informative appendix. The user of the standard does not have to follow the guidelines to be in conformance with the standard.

The basic road data model can be extended to cover other transportation networks including railroads, commercial waterways, pipelines, and public transit guideways. Other network layers may require different process standards for assigning and recording identification codes. These additional process standards are not included as part of this initial standard.

Justification/Benefits

There are currently no national standards for identifying, segmenting, or representing road segments in digital geo-spatial databases. Database developers segment road networks to satisfy their specific application needs; however, the specific segmentation scheme may not be appropriate for other applications. Furthermore, there is no standard approach for documenting the relationship between a digitized road segment and the physical road feature that it represents. Consequently, the exchange of attribute information between two different road databases representing the same geographic area is difficult, time consuming and error prone.

A national standard for identifying and documenting road segments will facilitate data exchange among different users by providing well defined, common reference segments that are tied to the physical road feature, rather than to any cartographic or network abstraction of that feature. Furthermore, the proposed standard road data model will allow users to create customized topological networks from the reference segments without modifying the properties of the reference segments themselves. This will facilitate transactional updates to framework road databases by allowing new road features to be added without changing existing road segments.

Development Approach

A Road Data Model Team will be assembled to review the technical development of the standard and to provide appropriate outreach to the transportation community. (See POTENTIAL PARTICIPANTS, below.)

An initial draft of the road data model will be prepared under contract, funded by BTS (in progress). The initial draft will be based, in large part, on the preliminary road data models emerging from the NSDI Framework Road Data Modeling Workshop, held at Wrightsville Beach, NC, in December 1997. These preliminary data models are compatible with the generic linear data model developed under the National Cooperative Highway Research Program (NCHRP) Project 20–27.

The initial draft will be reviewed by the Road Data Model Team and revised based on concerns and recommendations expressed by team members. Depending on the nature of the review comments, one or more meetings may be convened to resolve differences among the team. Team members will also be responsible for informing their constituencies about the road data model standard and for collecting and summarizing the requirements of their respective stakeholders groups.

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The road data model development effort will be closely coordinated with NCHRP Project 20–27 (Phase 3), which focuses in the development of implementation guidelines for multimodal transportation location reference systems. It will also provide a focus for possible follow-up workshops to Wrightsville Beach.

Once there is general agreement among the Road Data Model Team that the model meets agreed-upon requirements, the model will be submitted for formal public review through the FGDC's Standards Development Process.

Development and Completion Schedule

- Solicitation and selection of Road Data Model Team—May 1998.
- Initial draft of road data model by BTS contractor—June 1998.
- Review and revisions to road data model—summer and fall 1998.
- At least one meeting of the full team will take place after the initial road data model has been delivered and distributed to team members.
- Team members will be responsible for informing and soliciting feedback from their constituencies about the standards development effort through presentations at annual meetings, articles in newsletters, etc.
- The road data model will be prototyped on one or more road databases to assess implementation and maintenance issues, requirements for additional tools, etc.
- Revised draft of road data model prepared by BTS contractor and approved by majority of road data model team—December 1998
- Road Data Model Standard submitted for public review through FGDC—January 1999
- Informational presentations on road data model to be made at major transportation and GIS conferences, including TRB, GIS–T Symposium, etc.
- Final Road Data Model Standard approved as FGDC standard—June 1999.

Resources Required

Funding support for contractor to prepare initial road data model and to revise model in response to review comments will be borne by the Bureau of Transportation Statistics.

Participation on the Road Data Model Team will be on a voluntary basis. Time spent by team members to familiarize themselves with the NSDI framework and linear data models, review draft documents, participate in team meetings, and serve as liaison to their respective constituencies will be borne by each member's agency or organization. Some additional FGDC funding may be needed to support travel to meetings for some team members.

Potential Participants

Team members will include representatives from the FGDC Ground Transportation Subcommittee, Facilities Working Group, Base Cartographic Subcommittee, Cultural and Demographic Subcommittee, and Framework Focus Group. Additional representation will be sought from key transportation and spatial data stakeholders, including the Transportation Research Board (TRB) GIS–T Task Force, the Intelligent Transportation Systems (ITS) standards working group, the American Association of State Highway and Transportation Officials (AASHTO), the Open GIS Consortium (OGC) Transportation Work Group, NSGIC, NaCO, and other interested stakeholders.

Related Standards

There are a number of standards for roads and other transportation currently being promulgated by different stakeholders. In general these standards have been designed to meet the specific requirements of the stakeholder groups sponsoring their development, and do not generally satisfy the basic NSDI requirements for database sharing and transactional updating. Nevertheless, these standards will be investigated as part of this development effort to determine commonalities and opportunities for integration.

The ITS Standards and Protocol Subcommittee has proposed adoption of the Geographic Data Files (GDF) as its standard for digital road databases. This standard does not meet all of the requirements of the broader GIS for transportation (GIS–T) community, particularly with respect to location referencing.

The DIGEST/Vector Product Format standard is an interchange standard for spatial data used by the U.S. Department of Defense, NATO, and the Transportation Association of Canada. DIGEST/VPF. This standard, like GDF does not meet all of the requirements of the GIS–T community.

A draft Transportation Network Profile (TNP) was developed for the Spatial Data Transfer Standard (SDTS) several years ago, but was never submitted for formal adoption due to a number of unresolved issues. Adoption of a standard road data model may help resolve many of these outstanding issues, and lead to resumption of the SDTS TNP development.

A Ground Transportation Data Content Standard is being proposed to provide a common set of entity/attribute/domain definitions for transportation features. These two efforts will be closely coordinated, and the road data model will provide the foundation on which transportation features in the content standard will be defined.

ITS is also proposing the establishment of a national linear datum, consisting of well defined and accurately located control points from which linear measurements can be made along a road segment. The proposed road data model is compatible with the ITS linear datum. Every effort will be made during the development of the road data model to maintain this compatibility so that framework road segments can fully utilize the linear datum, if it is actually implemented.

Other Targeted Authorization Bodies

None at this time. However, depending on the acceptance of the proposed road data model by the transportation community, it may be appropriate to submit it to ANSI and ISO at a later date.

Dated: June 29, 1998.

Richard E. Witmer,

Chief, National Mapping Division.

[FR Doc. 98–18071 Filed 7–7–98; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice announces that the Bureau of Indian Affairs (BIA) in accordance with the Paperwork Reduction Act (44 U.S.C. 3506(c)(2)(A)) is soliciting comments on the proposed information collection for the Housing Improvement Program.

DATES: The agency must receive comments on or before September 8, 1998.

ADDRESSES: Mail comments and suggestions on the requirements to Mrs. June Henkel, Bureau of Indian Affairs, Office of Tribal Services, 1849 C Street, NW, MS–4603–MIB, Washington, DC 20240. Telephone (202) 208–3667.

FOR FURTHER INFORMATION CONTACT: Copies of the documents contained in the information collection request may be obtained by contacting Mrs. June Henkel, 202–208–3667.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Housing Improvement Program (HIP) Annual Program Performance Report, OMB No. 1076-(new) information collection complies with the requirements of 25 CFR Part 256, the Housing Improvement Program. The information is collected from tribes and BIA agencies and consolidated at the area office for the purpose of gathering data to determine the number and types of housing assistance provided. The data is also used by the administering agency or tribe to review program implementation, to benchmark program service population and to identify areas in need of additional services. The headquarters office uses the data to prepare the annual program budget justification.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

II. Request for Comments

We specifically request your comments concerning:

1. Whether the collection of information is necessary for the proper performance of the functions of the BIA, including whether the information will have practical utility;

2. The accuracy of the BIA's estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

3. The quality, utility, and clarity of the information to be collected; and,

4. How to minimize the burden of the information collection on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology.

III. Data

Title of the Collection of Information: U. S. Department of the Interior, Bureau of Indian Affairs, Housing Improvement Program, Annual Program Performance Report.

OMB Number: 1076-(new).

Affected Entities: Individual members of Indian tribes who are living on or near a reservation or in a legislatively mandated service area.

Frequency of Response: Annual.

Estimated Number of Annual Responses: 520.

Estimated Time per Application: 1 hour.

Estimated Total Annual Burden Hours: 520 hours.

Dated: June 22, 1998.

Kevin Gover,

Assistant Secretary-Indian Affairs.

[FR Doc. 98–17983 Filed 7–7–98; 8:45 am]

BILLING CODE 4310-02-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO 310 1310 03–2410; OMB Approval Number 1004–0160]

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). On April 7, 1998, the Bureau of Land Management (BLM) published a notice in the **Federal Register** (63 FR 17013) requesting comments on the collection. The comment period ended June 8, 1998. No comments were received. Copies of the proposed collection of information may be obtained by contacting the Bureau's Clearance Office at the phone number listed below.

OMB is required to respond to this request within 60 days but may respond after 30 days. For maximum consideration, your comments and suggestions on the requirement should be made within 30 days directly to the Office of Management and Budget, Interior Department Desk Officer (1004–0160), Office of Information and Regulatory Affairs, Washington, DC 20503, telephone (202) 395–7340. Please provide a copy of your comments to the Bureau Clearance Officer (WO–630) 1849 C St., NW., Room 401 LS Bldg., Washington, DC 20240.

Nature of Comments

We specifically request your comments on the following:

1. Whether the collection of information is necessary for the proper functioning of the Bureau of Land Management, including whether the information will have practical utility;

2. The accuracy of BLM's estimate of the burden of collecting the information, including the validity of the methodology and assumptions used;

3. The quality, utility, and clarity of the information to be collected; and

14. How to minimize the burden of collecting the information on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology.

Title: Geothermal Leasing Reports.

OMB Approval Number: 1004–0160.

Abstract: Information on diligent efforts toward utilization of geothermal resources, bona fide efforts to produce geothermal resources, and/or significant expenditures of funds made on geothermal leases is needed to comply with the provisions of the Geothermal Steam Act Amendments of 1988 (P.L. 100–443). The information is needed to determine if a geothermal lessee qualifies for lease extensions.

Form Numbers: N/A.

Frequency: On occasion.

Description of Respondents: Individuals, small businesses, large corporations.

Estimated Completion Time: 2 hours each form.

Annual Responses: 75.

Annual Burden Hours: 150.

Bureau Clearance Officer: Carole Smith (202) 452–0367.

Dated: June 27, 1998.

Carole Smith,

Bureau Clearance Officer.

[FR Doc. 98–18067 Filed 7–7–98; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–4210–05; N–61075]

Notice of Realty Action: Segregation Terminated, Lease/Conveyance for Recreation and Public Purposes

AGENCY: Bureau of Land Management.

ACTION: Segregation Terminated, Recreation and Public Purpose Lease/Conveyance.

SUMMARY: The following described public land in Las Vegas, Clark County, Nevada was segregated on July 23, 1997 for exchange purposes under serial number N–61855. The exchange segregation on the subject lands will be terminated upon publication of this notice in the **Federal Register**. The land has been examined and found suitable for lease/conveyance for recreational or public purposes under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.). Clark County proposes to use the lands for a public park.

Mount Diablo Meridian, Nevada

T. 22 S., R. 61 E.;

Sec. 33, Lots 52, 53, 59, 60.

Containing 20.0 acres, more or less, located at Gilespie St. and Chartan Ave.

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The land is not required for any federal purpose. The lease/conveyance is consistent with current Bureau planning for this area and would be in the public interest. The lease/patents, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe and will be subject to:

1. Easements in accordance with the Clark County Transportation Plan.

2. Those rights for distribution line purposes which have been granted to Nevada Power Company by Permit No. N–3281 under the Act of February 15, 1901 (43 USC 959).

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas Field Office, 4765 W. Vegas Drive, Las Vegas, Nevada.

Upon publication of this notice in the **Federal Register**, the above described land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease/conveyance under the Recreation and Public Purposes Act, leasing under the mineral leasing laws and disposals under the mineral material disposal laws. For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments regarding the proposed lease/conveyance for classification of the lands to the Las Vegas Field Office Manager, Las Vegas Field Office, 4765 Vegas Drive, Las Vegas, Nevada 89108.

Classification Comments: Interested parties may submit comments involving the suitability of the land for park sites. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments: Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a park site.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification of the land described in this Notice will become effective 60 days from the date of publication in the **Federal Register**. The lands will not be offered for lease/conveyance until after the classification becomes effective.

Dated: July 1, 1998.

Cheryl A. Ruffridge,

Acting Assistant Field Office Manager, Las Vegas, NV.

[FR Doc. 98–18030 Filed 7–7–98; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–4210–05; N–60836, N–60970]

Notice of Realty Action: Lease/Conveyance for Recreation and Public Purposes

AGENCY: Bureau of Land Management, Interior.

ACTION: Recreation and Public Purpose Lease/Conveyance.

SUMMARY: The following described public land in Las Vegas, Clark County, Nevada has been examined and found suitable for lease/conveyance for recreational or public purposes under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). Clark County proposes to use the lands for public parks.

N–60836

Mount Diablo Meridian, Nevada

T. 22 S., R. 61 E.,
Sec. 28, Lots 1–4, 14–16, 18–21, 31–34.

Containing 37.5 acres, more or less, located at Silverado Ranch Blvd. and Gilespie St.

N–60970

Mount Diablo Meridian, Nevada

T. 22 S., R. 60 E.,
Sec. 5, NE¼SW¼.

Containing 40.0 acres, more or less, located near Warm Springs Road and Durango Road.

The land is not required for any federal purpose. The lease/conveyance is consistent with current Bureau planning for this area and would be in the public interest. The lease/patents, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe

and for N–60836 will be subject to:

1. Easements in accordance with the Clark County Transportation Plan.

2. Those rights for distribution line purposes which have been granted to Sprint Central Telephone and Nevada Power Company by Permit No. N–32014 under the Act of October 21, 1976 (43 U.S.C. 1761).

3. Those rights for distribution line purposes which have been granted to Southern Nevada Water Authority by Permit No. N–60613 under the Act of October 21, 1976 (43 U.S.C. 1761).

and for N–60970 will be subject to:

1. Easements in accordance with the Clark County Transportation Plan.

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas Field Office, 4765 W. Vegas Drive, Las Vegas, Nevada.

Upon publication of this notice in the **Federal Register**, the above described land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease/conveyance under the Recreation and Public Purposes Act, leasing under the mineral leasing laws and disposals under the mineral material disposal laws.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments regarding the proposed lease/conveyance for classification of the lands to the Las Vegas Field Office Manager, Las Vegas Field Office, 4765 Vegas Drive, Las Vegas, Nevada 89108.

Classification Comments: Interested parties may submit comments involving the suitability of the land for park sites. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments: Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for park sites.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification of the land described in this Notice will become effective 60 days from the date of publication in the **Federal Register**. The lands will not be offered for lease/conveyance until after the classification becomes effective.

Dated: July 1, 1998.

Cheryl A. Ruffridge,

Acting Assistant Field Office Manager, Las Vegas, NV.

[FR Doc. 98–18031 Filed 7–7–98; 8:45 am]

BILLING CODE 4310–HC–U

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–067–1220–00; 8371]

California: Elimination of Dunes Vista Long Term Visitor Area

AGENCY: Bureau of Land Management.

ACTION: Notice.

SUMMARY: The Bureau of Land Management, El Centro Field Office will eliminate Dunes Vista as one of the designated Long-Term Visitor Areas available in the California Desert District.

EFFECTIVE DATE: September 15, 1998.

FOR FURTHER INFORMATION CONTACT: Elayn Briggs, Operations Staff Chief, at the Bureau of Land Management, El Centro Field Office, 1661 S. 4th St., El Centro, CA 92243, e-mail at ebriggs@ca.blm.gov, or call (760) 337–4440.

Dated: June 29, 1998.

Terry A. Reed,

Field Manager.

[FR Doc. 98–18069 Filed 7–7–98; 8:45 am]

BILLING CODE 4710–40–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

(CA–067–7123–00–6683)

Imperial Sand Dunes Recreation Area, Imperial County, CA; Planning Initiation

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management, El Centro Field Office will initiate a planning effort for the Imperial Sand Dunes Recreation Area in Imperial County, CA as of [the date of this publication]. This plan will replace the outdated existing Imperial Sand Dunes Recreation Area Management Plan written in 1987. The first stage of the planning effort will be to conduct open houses to gather public comments and concerns. Open houses are tentatively scheduled for San Diego, CA., Orange County, CA., and Phoenix, AZ. The Written comment period has been extended. Comments will be accepted through July 31, 1998 at the address below.

DATES: Dates and times will be published in local newspapers.

ADDRESSES: Locations will be published in local newspapers.

FOR FURTHER INFORMATION CONTACT: Elayn Briggs, Operations Staff Chief, at the Bureau of Land Management, El Centro Field Office, 1661 S. 4th St., El Centro, CA 92243, e-mail at ebriggs@ca.blm.gov, or call (760) 337–4400.

Dated: June 29, 1998.

Terry A. Reed,

Field Manager.

[FR Doc. 98–18068 Filed 7–7–98; 8:45 am]

BILLING CODE 4310–40–U

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–01; N–62297]

Notice of Proposed Withdrawal and Intent To Prepare a Planning Amendment to the Lahontan Resource Management Plan; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to withdraw 15,757.14 acres of reserved Federal minerals from mining and 166,906.28 acres of public lands from surface entry and mining, but not from sales, exchanges, recreation and public purposes, or mineral leasing to protect scenic and recreation values. This notice closes the lands from settlement, sale, location, and entry under the general land laws, including the mining laws, but not from sales, exchanges, recreation and public purposes, or mineral leasing. In addition, any non-Federal lands acquired through exchange, donation, or purchase within the boundaries of the described plan area would be closed to surface entry and mining during the 2-year period and would become part of the proposed withdrawal.

The Carson City District of the Bureau of Land Management proposes to amend the Lahontan Resource Management Plan to address future management of these same lands. The resource management plan amendment process will serve as the basis for decisions on resource protection and development and the need for a withdrawal. The Bureau of Land Management and Washoe County are cooperating in the preparation of this resource management plan amendment.

DATES: Comments should be received on or before October 6, 1998.

ADDRESSES: Comments should be sent to the Nevada State Director, BLM, P.O. Box 12000, Reno, Nevada 89520 or the Carson City Field Office Manager, 5665 Morgan Mill Road, Carson City, Nevada 89701.

FOR FURTHER INFORMATION CONTACT: Dennis J. Samuelson, BLM Nevada State Office, 702–861–6532 or Jo Ann Hufnagle, BLM Carson City Office, 702–885–6000.

SUPPLEMENTARY INFORMATION: On June 19, 1998, a petition was approved allowing the Bureau of Land Management to file an application to withdraw the following described reserved Federal minerals from location and entry under the mining laws and the following described public lands from settlement, sale, location, or entry under the general land laws, including the mining laws, but not from conveyances under Sections 203 and 206 of the Federal Land Policy and Management Act of 1976, as amended, the Recreation and Public Purposes Act, as amended, and the mineral leasing laws:

Mt. Diablo Meridian

(a) Public Lands

T. 20 N., R. 18 E.,
  Sec. 2, lots 1–4, inclusive, S½N½ (that portion north of the south boundary of R/W Nev-042776 for U.S. Highway 395).
T. 21 N., R. 18 E.,
  Sec. 4, lots 1–4, inclusive, S½NW¼, SW¼;
  Sec. 6, lots 11–14, inclusive;
  Sec. 8;
  Sec. 10;
  Sec. 12, N½, NW¼SW¼, S½SW¼, SW¼SE¼;
  Sec. 14;
  Sec. 18, lots 9–12, inclusive;
  Sec. 22;
  Sec. 26, lots 1 and 2, W½NW¼NE¼, NW¼, N½SW¼, W½SE¼;
  Sec. 27, W½NE¼, N½NW¼, SE¼NW¼;
  Sec. 34, NE¼, E½NW¼, E½W½NW¼, SW¼SW¼NW¼, N½N½SW¼,

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N½SE¼ (those portions north of the south boundary of R/W Nev-042776 for U.S. Highway 395).

T. 22 N., R. 18 E.,
Sec. 1, lots 1–4, inclusive, S½N½, S½;
Sec. 2, lots 1–4, inclusive, S½N½, S½;
Sec. 3, lots 1–4, inclusive, S½N½, S½;
Sec. 4, lots 5–20, inclusive;
Sec. 5, lots 5–8, inclusive, S½N½,S½;
Sec. 6, lots 3–6, inclusive;
Sec. 8, lots 1–12, inclusive, SW¼;
Secs. 9–11, inclusive;
Sec. 12, W½;
Sec. 13, W½;
Sec. 14, lots 1–8, inclusive, W½;
Secs. 15 to 17, inclusive;
Sec. 18, lots 1–4, inclusive;
Sec. 20, lots 1–8, inclusive, S½;
Sec. 21;
Sec. 22, lots 1–4, inclusive, NE¼, S½;
Sec. 23;
Sec. 24, lots 1–4, inclusive, SW¼;
Sec. 25, W½;
Secs. 26–29, inclusive;
Sec. 30, lots 1–4, inclusive;
Sec. 31, lots 3–7, inclusive;
Sec. 32, lots 1–6, inclusive, E½, E½NW¼, NE¼SW¼, S½SW¼;
Sec. 33;
Sec. 34, lots 1–8, inclusive, N½;
Sec. 35;
Sec. 36, lots 1–8, inclusive.

T. 23 N., R. 18 E.,
Sec. 7, lots 2–4, inclusive;
Sec. 8, lots 2–7, inclusive, SW¼NE¼, SE¼NW¼, NE¼SW¼, N½SE¼;
Sec. 9, lots 1–4, inclusive;
Sec. 12, lots 1–4, inclusive, S½NE¼, SE¼NW¼, E½SW¼;
Sec. 13, lots 1–10, inclusive, E½NW¼, SW¼SW¼;
Sec. 16, lots 1–10, inclusive, E½SE¼;
Sec. 17;
Sec. 18, lots 1–4, inclusive;
Sec. 19, lots 1–4, inclusive;
Sec. 20;
Sec. 21, lots 1–10, inclusive, NE¼NE¼;
Sec. 22, SE¼SW¼, SE¼;
Sec. 24, lots 1–6, W½NW¼, N½SW¼, SE¼SW¼, SE¼;
Sec. 25;
Sec. 26, lots 1–4, SE¼NE¼;
Sec. 27, NE¼, E½NW¼, S½;
Sec. 28, lots 1–12, inclusive, W½NE¼, SE¼NE¼;
Sec. 29;
Sec. 30, lots 1–4, inclusive;
Sec. 31, lots 1–4, inclusive;
Sec. 32, lots 1–4, inclusive, N½, N½S½;
Sec. 33, lots 1–12, inclusive, SE¼;
Sec. 34, lots 1–7, N½, SW¼SE¼;
Sec. 35, lots 1–6, inclusive, NE¼;
Sec. 36, lots 1–8, inclusive, N½.

T. 17 N., R. 19 E.,
Sec. 12, lots 1 and 2, NE¼, E½NW¼, S½SW¼, N½SE¼.

T. 20 N., R. 19 E.,
Sec. 1, W½ Lot 1 in NE¼, lot 2 in NE¼, lots 1 and 2 in NW¼;
Sec. 2, lots 1 and 2 in NE¼, lots 1 and 2 in NW¼, S½;
Sec. 4, S½SW¼;
Sec. 10, NW¼NE¼, N½NW¼;
Sec. 12;
Sec. 24, lots 1 and 4–8, inclusive, W½NE¼, E½SW¼, W½SE¼.

T. 21 N., R. 19 E.,
Sec. 1, lots 1–4, inclusive, S½N½, S½;
Sec. 2, lots 1–4, inclusive, S½N½, S½;
Sec. 8, N½NE¼, SE¼NE¼, E½SE¼;
Sec. 10;
Sec. 11, SW¼NE¼, W½NW¼, NE¼SW¼, W½SE¼;
Sec. 12;
Sec. 13;
Sec. 14; N½;
Sec. 16, N½,SE¼;
Sec. 22, SW¼;
Sec. 24, SE¼NW¼, SW¼;
Sec. 25;
Sec. 26, E½NE¼, NE¼SE¼;
Sec. 28, NE¼, N½SE¼, SE¼SE¼;
Sec. 36.

T. 22 N., R. 19 E.,
Sec. 1, lots 3–11, inclusive, SE¼NW¼, NE¼SW¼;
Sec. 2, lots 1–4, inclusive, S½N½, S½;
Sec. 3, lots 2–4, inclusive;
Sec. 4, lots 1–11, inclusive, S½NW¼, N½SW¼, NW¼SE¼;
Sec. 5, lots 1–4, inclusive, S½N½, S½;
Sec. 6, lots 1–7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 9, lots 1–4, inclusive, E½, E½W½;
Sec. 10;
Sec. 12;
Sec. 14, SE¼SW¼;
Sec. 15 W½;
Sec. 16, lots 1–4, inclusive, E½, E½W½;
Sec. 22;
Sec. 24;
Sec. 26, NE¼, NE¼NW¼, N½SE¼, SW¼SE¼;
Sec. 36.

T. 23 N., R. 19 E.,
Sec. 1, S½;
Sec. 2, S½;
Sec. 3, S½;
Sec. 4, S½;
Sec. 5, S½;
Sec. 6, lots 6–7, inclusive, E½SW¼, SE¼;
Sec. 7, lots 1–4, inclusive, E½, E½W½;
Secs. 8 to 17, inclusive;
Sec. 18, lots 1–4, inclusive, E½, E½W½;
Sec. 19, lots 1–4, inclusive, E½, E½W½;
Secs. 20–29, inclusive;
Sec. 30, lots 1–4, inclusive, E½, E½W½;
Sec. 31, lots 1–7, inclusive, NE¼, E½NW¼, NE¼SW¼, N½SE¼;
Sec. 32, lots 1–4, inclusive, N½, N½S½;
Sec. 33, lots 1–4, inclusive, N½, N½S½;
Sec. 34, lots 1–4, inclusive, N½, N½S½;
Sec. 35, N½;
Sec. 36, lots 1–7, inclusive, W½NE¼, NW¼, N½SW¼, NW¼SE¼.

T. 16 N., R. 20 E.,
Sec. 1, E½ of lot 2 in NE¼, lot 3;
Sec. 2, lots 1 and 2 in the NE¼, lots 1 and 2 in NW¼, N½S½, S½SW¼;
Sec. 3, lot 2 in NE¼, lot 2 in NW¼;
Sec. 4, lots 1 and 2 in NE¼, S½;
Sec. 10;
Sec. 11, N½NE¼NE¼, SE¼NE¼NE¼;
Sec. 14, irregular Washoe County portion within W½W½;
Sec. 16, SE¼SE¼;
Sec. 20, E½, E½SW¼, SW¼SW¼;
Sec. 30, lot 1 in NW¼, S½ of lot 2 in NW¼, lots 1 and 2 in SW¼, E½.

T. 17 N., R. 20 E.,
Sec. 1, lot 2 in NE¼, lot 2 in NW¼, SW¼SE¼;
Sec. 2, E½ of lot 1 in NE¼, lot 2 in NE¼, W½ of lot 1 in NW¼, lot 2 in NW¼, SW¼, W½SE¼;
Sec. 8, E½, SE¼NW¼, NE¼SW¼, S½SW¼;
Sec. 10, W½NE¼, SE¼NE¼, W½, SE¼;
Sec. 12, E½, S½NW¼, SW¼;
Sec. 14;
Sec. 16;
Sec. 18, E½E½, E½NE¼SW¼, NE¼SE¼SW¼, NE¼SE¼SW¼, E½NE¼NW¼SE¼, E½NW¼NW¼SE¼, S½NW¼SE¼, NE¼SW¼SE¼, S½SW¼SE¼;
Sec. 20, lots 1 and 2, N½, N½S½, SW¼SW¼, SE¼SE¼;
Sec. 21, SW¼NW¼SW¼, NW¼SW¼SW¼;
Sec. 22;
Sec. 24;
Sec. 25, S½NE¼, SE¼;
Sec. 26;
Sec. 28;
Sec. 29, lots 2 and 3;
Sec. 30, N½ of lot 1 in SW¼; E½;
Sec. 32, N½N½, SE¼NE¼, SW¼NW¼, E½SE¼;
Sec. 33, SW¼SW¼;
Sec. 34, lots 1 and 2, N½, SW¼, W½SE¼;
Sec. 35, lots 1 and 2, N½, E½SW¼, SE¼;
Sec. 36, lots 1–16, inclusive.

T. 18 N., R. 20 E.,
Sec. 4, lots 3–6, inclusive;
Sec. 26, SW¼SW¼;
Sec. 28, SW¼SW¼;
Sec. 33, NE¼NW¼;
Sec. 34, E½NW¼SE¼NE¼, S½SE¼NE¼, E½NW¼SW¼NW¼, W½SE¼SW¼NW¼, NW¼NW¼SW¼, S½NW¼SW¼, SW¼SW¼, N½N½NE¼SE¼, N½SW¼NE¼SE¼, S½SE¼NE¼SE¼, W½SW¼SW¼SE¼, W½SE¼SW¼SW¼SE¼, E½E½SE¼SW¼SE¼, NE¼NE¼SE¼SE¼, W½SE¼SE¼, S½SE¼SE¼SE¼.

T. 19 N., R. 20 E.,
Sec. 12, SE¼SW¼, SW¼SE¼;
Sec. 14, SE¼NE¼, SE¼;
Sec. 32, SE¼NE¼, S½S½NE¼SE¼, S½SE¼;
Sec. 34, W½NW¼NW¼NE¼NE¼, S½NW¼NE¼NE¼, W½SW¼NE¼NE¼, SE¼NE¼NE¼, E½NE¼NE¼NW¼NE¼, SE¼NE¼NW¼NE¼, W½NE¼NW¼NE¼, E½NW¼NW¼NE¼, S½NW¼NE¼, NE¼NE¼SW¼NE¼, E½NW¼NE¼SW¼NE¼, S½NE¼SW¼NE¼, W½NE¼NW¼SW¼NE¼, W½NW¼SW¼NE¼, SE¼NW¼SW¼NE¼, W½NE¼SW¼SW¼NE¼, W½SW¼SW¼NE¼, SE¼SW¼SW¼NE¼, SE¼SW¼NE¼, E½SE¼NE¼, E½W½SE¼NE¼, N½NW¼, NE¼SE¼NW¼, W½NW¼SE¼NW¼, NE¼SW¼, E½SE¼, NW¼SE¼, W½SW¼SE¼.

T. 20 N., R. 20 E.,
Sec. 5, lots 1–4, inclusive, S½N½, S½;
Sec. 6, lots 2 and 3, and 8–11, inclusive, SE¼NW¼, E½SW¼, S½SE¼;
Sec. 7, lots 1 and 2, 5–10, inclusive, W½NE¼, E½W½, E½W½SW¼;

Sec. 8, lot 1;
Sec. 9, SW¼;
Sec. 14, lots 4–5, E½SW¼, SE¼;
Sec. 16, N½NE¼, SW¼NE¼, W½, NW¼SE¼;
Sec. 20, S½NE¼, E½SW¼, SE¼;
Sec. 21, lots 3 and 4, NE¼SW¼;
Sec. 28, lots 15 and 16, lots 21–24, inclusive, 26, 29, lots 31–41, inclusive, SW¼NE¼, SW¼NW¼, SE¼;
Sec. 29, lots 9–15, N½NE¼, SE¼NE¼, NE¼SE¼, SW¼SE¼.
T. 21 N., R. 20 E.,
Sec. 2, lots 3–7, inclusive, SE¼NW¼, E½SW¼;
Sec. 3, lots 1–4, inclusive, S½N½, S½;
Sec. 5, lots 1–4, inclusive, S½N½, S½;
Sec. 6, lots 1–7, inclusive, S½NE¼, SW¼NW¼, E½SW¼, SE¼;
Sec. 7, lots 1–4, inclusive, NE¼, E½NW¼, E½SW¼, SE¼;
Sec. 8;
Sec. 10, lots 1–4, inclusive, W½E½, W½;
Sec. 12, lots 1 and 2;
Sec. 15, lots 3–5, inclusive, W½NE¼, E½SE¼NW¼, NE¼SW¼;
Sec. 17;
Sec. 18, lots 1–4, inclusive, E½, E½W½;
Sec. 19, lots 1–4, inclusive, E½, E½W½;
Sec. 20;
Sec. 22, lots 2–11, inclusive, SE¼NW¼, NE¼SW¼;
Sec. 28;
Sec. 29;
Sec. 30, lots 1–4, inclusive, E½, E½W½;
Sec. 31, lots 1–5, inclusive, E½, E½NW¼, NE¼SW¼;
Sec. 32.
T. 22 N., R. 20 E.,
Sec. 3, lots 3–7, inclusive, SE¼NW¼, E½SW¼;
Sec. 4, lots 1–4, inclusive, S½N½, S½;
Sec. 5, lots 1–4, inclusive, S½N½, S½;
Sec. 6, lots 1–7, inclusive, E½, E½W½;
Sec. 7, lots 1–4, inclusive, E½, E½W½;
Sec. 8;
Sec. 9;
Sec. 10, lots 1–4, inclusive, 8 and 9, SE¼NW¼, NE¼SW¼;
Sec. 15, W½;
Sec. 16;
Sec. 17;
Sec. 18, lots 1–4, inclusive, E½, E½W½;
Sec. 19, lots 1–4, inclusive, E½, E½W½;
Secs. 20–22, inclusive;
Sec. 23, lots 1–7, inclusive, SW¼NE¼, S½NW¼, SW¼, W½SE¼;
Sec. 26, lots 1–4, inclusive, W½E½, W½;
Sec. 27, lots 2–4, inclusive, N½, SW¼, N½SE¼, and all unpatented mining claims;
Sec. 28;
Sec. 29;
Sec. 30, lots 1–4, inclusive, E½, E½W½;
Sec. 31, lots 1–4, inclusive, E½, E½W½;
Secs. 32–34, inclusive;
Sec. 35, lots 5–7, 9 and 11–13, inclusive, N½N½, and all unpatented mining claims;
T. 23 N., R. 20 E.,
Sec. 7, S½, unsurveyed;
Sec. 8, S½;
Sec. 9, S½, partly unsurveyed;
Sec. 10, S½;
Sec. 11, N½SW¼, SW¼SW¼, E½SE¼;
Sec. 12, S½;
Sec. 14, S½NW¼, N½SW¼;
Sec. 15, S½NE¼, W½NE¼NW¼, NW¼NW¼, S½NW¼, SW¼, N½SE¼, SW¼SE¼;
Secs. 16–21, inclusive, unsurveyed;
Sec. 22, lots 2 and 3, lots 5–11, inclusive, SW¼SW¼;
Sec. 27, lots 1–7, inclusive, W½NE¼, NW¼, N½SW¼, NW¼SE¼;
Secs. 28–30, inclusive, unsurveyed;
Sec. 31, lots 1–4, inclusive, E½, E½W½;
Sec. 32;
Sec. 33, lots 1 and 2, W½NE¼, W½, SE¼;
Sec. 34.
T. 19 N., R. 21 E.,
Sec. 6, lots 1–6, inclusive, S½NE¼, SE¼;
Sec. 8, lots 1–4, inclusive, N½, N½S½;
Sec. 10, N½, N½SW¼, E½NW¼SW¼SW¼, SE¼SW¼SW¼SW¼, SE¼SW¼SW¼, SE¼SW¼, NW¼SE¼;
Sec. 16, NE¼, N½NW¼, SE¼NW¼;
Sec. 18, lot 1, N½NE¼.
T. 20 N., R. 21 E.,
Sec. 2, lots 1–4, inclusive, S½N½, S½;
Sec. 4, lots 1–4, inclusive, S½N½, S½;
Sec. 8,
Sec. 10;
Secs. 12–16, inclusive;
Sec. 18, lots 1–4, inclusive, N½NE¼, SW¼NE¼, W½SE¼, SE¼SE¼;
Secs. 20–29, inclusive;
Sec. 30, lots 1–4, inclusive, E½;
Sec. 31, lots 1–4, inclusive, E½;
Sec. 32;
Sec. 33, N½;
Sec. 34;
Sec. 35, N½N½, SE¼NE¼;
Sec. 36, lots 1, 4, 5, inclusive, N½, N½SW¼, NW¼SE¼.
T. 21 N., R. 21 E.,
Sec. 6, lot 7, SE¼SW¼;
Sec. 7, lot 1, NE¼NW¼;
Sec. 36.
T. 22 N., R. 21 E.,
Sec. 7, lot 5,
T. 23 N., R. 21 E.,
Sec. 7, lots 3–4, inclusive, E½SW¼, SE¼;
Sec. 8, N½SW¼, SE¼SW¼, SE¼;
Sec. 9, S½;
Sec. 10, S½;
Sec. 11, lots 1–3, inclusive, and 12, SW¼;
Sec. 14,
Sec. 15, lots 1 and 2, N½, W½SW¼, N½SE¼, SE¼SE¼, (excluding MS 37A, S 37B, MS 38, MS 39A, MS 39B, MS 3177A);
Sec. 16, excluding MS 3018A, MS 3018B, MS 3177A, MS 3465A, MS 3465B;
Sec. 17, NE¼, E½NW¼, S½, (excluding MS 3018A, MS 3018B, MS 3019A, MS 3019B, MS 3176A, MS3176B, MS 3465A, MS3465B);
Sec. 20, NE¼, E½SE¼, (excluding MS 3019A, MS 3019B, MS 3465A, MS3465B);
Sec. 21, N½, NE¼SW¼, N½SE¼, (excluding MS 3019A, MS 3019B, MS 3177A, MS 3465A, MS 3465B);
Sec. 22, lots 1–6, inclusive, NW¼NW¼, S½NW¼, N½SW¼, SE¼, (excluding MS 37A, MS 37B, MS 38, MS 39A, MS 39B, MS 3176A, MS 3176B, MS 3177A);
Sec. 23, lots 1 and 2, NE¼, NE¼NW¼, S½, (excluding MS 37A, MS 37B, MS 39A, MS 39B, MS 3174A, MS 3175A), MS 3176A, MS 3176B, MS 3177A);
Sec. 24, SW¼NW¼, W½SW¼, SE¼SW¼.
T. 20 N., R. 22 E.,
Sec. 2, lots 1–4, inclusive, S½N½, S½;
Sec. 4, lots 1–4, inclusive, S½N½, S½;
Sec. 6, lots 1–7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 8;
Sec. 10;
Sec. 12;
Sec. 14;
Sec. 16;
Sec. 18, lots 1–4, inclusive, E½, E½W½;
Sec. 19, lots 1–4, inclusive, E½, E½W½;
Sec. 20;
Sec. 22;
Sec. 24, N½NE¼, irregular Washoe County portion within W½;
Sec. 26, N½, N½S½;
Sec. 30, lots 1–4, inclusive, NE¼, E½W½.
T. 21 N., R. 22 E.,
Sec. 32;
Sec. 34;
Sec. 36.
T. 22 N., R. 22 E.,
Sec. 1, lots 1–3, inclusive, S½.
T. 20 N., R. 23 E.,
Sec. 6, lots 1–7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 8;
Sec. 18, lots 1–7, inclusive, NE¼, E½NW¼, NE¼SW¼, N½SE¼;
Sec. 20, N½N½, irregular Washoe County portion within SE¼NW¼.
T. 21 N., R. 23 E.,
Sec. 29, lots 5–10, inclusive, 12–13, inclusive, 16–18, inclusive, 21, 24, 27, 29 and 32;
Sec. 30, lots 5–10, inclusive, 13, 16–20, inclusive;
Sec. 32, lots 2–16, inclusive, and 18.

The area described aggregates 166,906.28 acres in Washoe County, Nevada.

(b) Reserved Federal Minerals

T. 22 N., R. 18 E.,
Sec. 12, E½;
Sec. 24, E½;
Sec. 36, E½.
T. 23 N., R. 18 E.,
Sec. 15, NE¼, E½NW¼, SE¼;
Sec. 16, W½NE¼, SE¼NE¼;
Sec. 22, NE¼, SE¼NW¼, NE¼SW¼;
T. 20 N., R. 19 E.,
Sec. 25, lots 1–7, inclusive, and 11, SW¼NE¼, SE¼NW¼, NE¼SW¼, NW¼SE¼, (those portions north of the south boundary of R/W Nev-042776 for U.S. Highway 395).
T. 21 N., R. 19 E.,
Sec. 4, lots 1–4, inclusive, S½N½, S½;
Sec. 6, lots 1–7, S½NE¼, SE¼NW¼, E½SW¼, SE¼.
T. 22 N., R. 19 E.,
Sec. 8;
Sec. 13, SW¼NE¼;
Sec. 14, E½, NW¼, N½SW¼, SW¼SW¼;
Sec. 18, lots 1–4, E½, E½W½;
Sec. 20;
Sec. 26, W½NW¼, SE¼NW¼, SW¼, SE¼SE¼;
Sec. 28;
Sec. 30, lots 1–4, E½, E½W½;
Sec. 31, lots 3 and 4, E½SW¼, SE¼;
Sec. 32;
Sec. 34.
T. 17 N., R. 20 E.,

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Sec. 18, lots 3–11, inclusive, W½NE¼SW¼, W½SE¼SW¼, SE¼SE¼SW¼, W½NE¼NW¼SE¼, W½NW¼NW¼SE¼, NW¼SW¼SE¼.
T. 18 N., R 20 E.,
  Sec. 34, NE¼SE¼NE¼, W½NW¼SE¼NE¼, NE¼SW¼NW¼, W½NW¼SW¼NW¼, SW¼SW¼NW¼, E½SE¼SW¼NW¼, E½SW¼, NE¼NW¼SW¼, S½N½NE¼SE¼, S½SW¼NE¼SE¼, N½SE¼NE¼SE¼, N½SW¼SE¼, NE¼SW¼SW¼SE¼, E½SE¼SW¼SW¼SE¼, W½SE¼SW¼SE¼, W½E½SE¼SW¼SE¼, NW¼NE¼SE¼SE¼, S½NE¼SE¼SE¼, N½SE¼SE¼SE¼.
T. 19 N., R. 20 E.,
  Sec. 2, SE¼SE¼;
  Sec. 11, SW¼NE¼;
  Sec. 26, W½E½, W½;
  Sec. 32, W½NE¼;
  Sec. 34, NE¼NE¼NE¼, NE¼NW¼NE¼NE¼, E½NW¼NW¼NE¼NE¼, E½SW¼NE¼NE¼, W½NE¼NE¼NW¼NE¼, W½NW¼NW¼NE¼, W½NW¼NE¼SW¼NE¼, E½NE¼NW¼SW¼NE¼, E½NE¼SW¼SW¼NE¼, W½W½SE¼NE¼, E½NW¼SE¼NW¼, SW¼SE¼NW¼, E½SW¼SE¼.
T. 20 N., R. 20 E.,
  Sec. 14, lots 1–3, inclusive, SW¼NE¼;
  Sec. 26, SW¼SE¼SW¼, W½SE¼SE¼SW¼;
  Sec. 28, E½SE¼SW¼NE¼NW¼, W½SW¼SE¼NE¼NW¼;
  Sec. 29, lot 8, NW¼SW¼, SE¼SW¼;
  Sec. 30, W½NE¼SE¼, SW¼SE¼.
T. 21 N., R. 20 E.,
  Sec. 1, lots 5–7, inclusive, and 10–22, inclusive;
  Sec. 2, lots 2, 8–46, inclusive, SW¼NE¼, NW¼NE¼SE¼, S½NE¼SE¼, W½SE, N½SE¼SE¼;
  Sec. 12, lots 3–12, inclusive, SW¼;
  Sec. 13, lots 1 and 4.
T. 22 N., R. 20 E.,
  Sec. 10, lots 5–7, inclusive, NE¼, NW¼SE¼;
  Sec. 14, lots 5–7, inclusive;
  Sec. 24, W½W½;
  Sec. 36, S½SE¼.
T. 23 N., R. 20 E.,
  Sec. 11, SE¼SW¼, W½SE¼;
  Sec. 14, W½E½, N½NW¼;
  Sec. 15, N½NE¼, E½NE¼NW¼;
T. 19 N., R. 21 E.,
  Sec. 10, W½NE¼SW¼SW¼, NW¼SW¼SW¼, N½SW¼SW¼SW¼, SW¼SW¼SW¼SW¼.
T. 21 N., R. 21 E.,
  Sec. 8, SE¼SW¼NE¼, S½SE¼NE¼, S½;
  Sec. 18, lots 1 and 2, S½NE¼NE¼, SE¼NE¼;
  Sec. 20, NE¼NW¼, SW¼NW¼.
T. 23 N., R. 21 E.,
  Sec. 8, SW¼SW¼;
  Sec. 17, W½NW¼, SW¼;
  Sec. 18, lot 1, E½NE¼, NW¼NE¼, NE¼NW¼;
  Sec. 19, lots 3 and 4, E½E½, SW¼NE¼, SE¼NW¼, E½SW¼, SE¼;
  Sec. 20, W½;
  Sec. 29, NW¼.
T. 22 N., R. 22 E.,
  Sec. 4, lots 1–4, S½N½, S½.

The federally owned minerals area described aggregates 15,757.14 acres in Washoe County, Nevada.

In addition, if any of the non-Federal lands in Washoe County within the area described below are acquired by the United States in the future by exchange, donation, or purchase, those lands will be included in this application and would be closed to surface entry and mining if acquired during the 2-year segregative period:

T. 21 N., R. 18 E., (on north and east side of U.S. Highway 395).
T. 22 N., R. 18 E.,
T. 23 N., R. 18 E., excepting sec. 1–5, inclusive, and the N½N½ of sec. 9–12, inclusive.
T. 20 N., R. 19 E., (on north and east side of U.S. Highway 395).
T. 21 N., R. 19 E.,
T. 22 N., R. 19 E.,
T. 23 N., R. 19 E., excepting sec. 4.
T. 16 N., R. 20 E.,
T. 17 N., R. 20 E., (on east side of U.S. Highway 395).
T. 18 N., R. 20 E., (on east side of U.S. Highway 395).
T. 19 N., R. 20 E., (on east side of U.S. Highway 395).
T. 20 N., R. 20 E.,
T. 21 N., R. 20 E.,
T. 22 N., R. 20 E.,
T. 23 N., R. 20 E., excepting sec. 2, 4 and 12.
T. 17 N., R. 21 E.,
T. 19 N., R. 21 E.,
T. 20 N., R. 21 E.,
T. 21 N., R. 21 E.,
T. 22 N., R. 21 E.,
T. 23 N., R. 21 E., (outside the boundaries of the Pyramid Lake Indian Reservation).
T. 20 N., R. 22 E.,
T. 21 N., R. 22 E.,
T. 22 N., R. 22 E.,
T. 23 N., R. 22 E., (outside the boundaries of the Pyramid Lake Indian Reservation).
T. 20 N., R. 23 E., sec. 5, 7, 17, 19 and 20.
T. 21 N., R. 23 E., sec. 28–32, inclusive.

The purpose of the withdrawal is to protect resource values in the open and mountainous terrain in the southern Washoe County urban, suburban and rural residential area. Washoe County has recently developed an Open Space System that identifies a large acreage of public lands as having open space values. Much of this acreage is identified in BLM's resource management plan for disposal for community expansion. The joint land use plan amendment will address future management of these lands and the need for a protective withdrawal.

The withdrawal application will be processed in accordance with the regulations set forth in 43 CFR Part 2300. Notice is hereby given that a public meeting in connection with the proposed withdrawal will be held at a later date. A notice of the time and place will be published in the **Federal Register** 30 days before the scheduled date of the meeting.

The public is invited to participate in the identification of issues related to the management of public lands within the Washoe County Urban Interface Plan Area located generally in southern Washoe County. Anticipated issues for the plan amendment are:

- Identification of public lands to be retained as open space
- Identification of public lands available to state or local agencies for recreation and public purposes
- Identification of public lands available for exchange
- Identification of lands with potential for future acquisition
- Developments and facilities consistent with open space
- Public workshops for the plan amendment will be announced in mailings and local newspapers.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal or plan amendment may present their views in writing to either the State Director or Field Office Manager.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will be segregated as specified above unless the application is denied or cancelled or the withdrawal is approved prior to that date. Rights-of-way, leases, permits and other discretionary temporary land uses will be considered by the authorized officer during this segregative period.

Planning documents and other pertinent materials may be examined at the Bureau of Land Management office in Carson City, 5665 Morgan Mill Road, between 7:30 a.m. and 5:00 p.m. Monday through Friday.

Dated: June 30, 1998.

William K. Stowers,

Lands Team Lead.

[FR Doc. 98–18016 Filed 7–7–98; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of revision of a currently approved information collection (OMB Control Number 1010–0058).

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, MMS invites the public and other Federal agencies to comment on a proposal to extend and revise the currently approved collection of information discussed below. The Paperwork Reduction Act of 1995 (PRA) provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number.

DATE: Submit written comments by September 8, 1998.

ADDRESSES: Mail or hand carry comments to the Department of the Interior; Minerals Management Service; attention: Rules Processing Team; Mail Stop 4024; 381 Elden Street; Herndon, Virginia 20170–4817.

FOR FURTHER INFORMATION CONTACT: Alexis London, Rules Processing Team, telephone (703) 787–1600. You may also contact Alexis London to obtain a copy of the collection of information at no cost.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR 250, Subpart I, Platforms and Structures, (1010–0058).

Abstract: The Outer Continental Shelf (OCS) Lands Act, 43 U.S.C. 1331 *et seq.*, gives the Secretary of the Interior (Secretary) the responsibility to preserve, protect, and develop oil and gas resources in the OCS in a manner that is consistent with the need to make such resources available to meet the Nation's energy needs as rapidly as possible; balance orderly energy resource development with protection of human, marine, and coastal environments; ensure the public a fair and equitable return on offshore resources in the OCS; and preserve and maintain free enterprise competition. Specifically, the OCS Lands Act (43 U.S.C. 1356) requires the issuance of "* * * regulations which require that any vessel, rig, platform, or other vehicle or structure * * * (2) which is used for activities pursuant to this subchapter, comply, * * * with such minimum standards of design, construction, alteration, and repair as the Secretary * * * establishes; * * *" The OCS Lands Act (43 U.S.C. 1332(6)) also states, "operations in the outer Continental Shelf should be conducted in a safe manner * * * to prevent or minimize the likelihood of * * * physical obstruction to other users of the water or subsoil and seabed, or other occurrences which may cause damage to the environment or to property, or endanger life or health."

To carry out these responsibilities, the Minerals Management Service (MMS) has issued rules governing structural safety of platforms and structures used in the OCS and their subsequent abandonment and site clearance. These rules and the associated information collection requirements are contained in 30 CFR part 250, subpart I, Platforms and Structures. In addition, MMS issues Notices to Lessees and Operators (NTLs) that clarify, explain, or interpret regulations and standards.

The MMS OCS Regions use the information submitted under subpart I to determine the structural integrity of all offshore structures and ensure that such integrity will be maintained throughout the useful life of these structures. The MMS uses the information to ascertain, on a case-by-case basis, that the platforms and structures are structurally sound and safe for their intended use to ensure safety of personnel and pollution prevention. The information is also necessary to assure that abandonment and site clearance are properly performed. More specifically, MMS uses the information to:

a. Review information concerning damage to a platform to assess the adequacy of proposed repairs.

b. Review plans for platform construction (construction is divided into three phases—design, fabrication, and installation) to ensure the structural integrity of the platform.

c. Review verification plans and reports for unique platforms to ensure that all nonstandard situations are given proper consideration during the design, fabrication, and installation phases of platform construction.

d. Review platform design, fabrication, and installation records to ensure that the platform is constructed according to approved plans.

e. Review inspection reports to ensure that platform integrity is maintained for the life of the platform.

f. Ensure that any object (wellheads, platforms, etc.) installed on the OCS is properly removed and the site cleared so as not to conflict with or harm other users of the OCS.

The currently approved information collection for Subpart I includes the burden for a proposed rule to add a § 250.145, Seismic Reassessment of California OCS Platforms. After considering the comments received on the proposed rule, MMS has decided to take no further action this proposed rule. We will formally announce this decision in the next publication of the Unified Agenda.

The MMS will protect proprietary information submitted with the plans in accordance with the Freedom of Information Act; 30 CFR 250.18, Data and information to be made available to the public; and 30 CFR Part 252, OCS Oil and Gas Information Program. No items of a sensitive nature are collected. Responses are mandatory.

Estimated Number and Description of Respondents: Approximately 130 Federal OCS sulphur or oil and gas lessees.

Frequency: The frequency of reporting is on occasion and varies by subpart I regulatory section.

Estimated Annual Reporting and Recordkeeping Hour Burden: 24,743 reporting burden hours; 7,150 recordkeeping burden hours. The estimated average annual burden per respondent is approximately 245 hours. This estimate: (a) reflects the elimination of the proposed burden for § 250.145, (b) updates the average number of annual responses, and (c) includes previously omitted burden estimates for current subpart I requirements.

Estimated Annual Reporting and Recordkeeping Cost Burden: In the previous request to OMB to approve this collection of information, we included a reporting cost burden associated with adding proposed § 250.145. The decision is take no further action on that proposed rule eliminates the estimated cost burden. We have identified no other information collection cost burdens for this collection of information.

Comments: The MMS will summarize written responses to this notice and address them in its submission for OMB approval. All comments will become a matter of public record. As a result of comments we receive and our consultations with a representative sample of respondents, we will make any necessary adjustments to the burden in our submission to OMB. In calculating the burden, MMS assumed that respondents perform many of the requirements and maintain records in the normal course of their activities. The MMS considers these to be usual and customary and took that into account in estimating the burden.

(1) The MMS specifically solicits comments on the following questions:

(a) Is the proposed collection of information necessary for MMS to properly perform its functions, and will it be useful?

(b) Are the estimates of the burden hours of the proposed collection reasonable?

(c) Do you have any suggestions that would enhance the quality, clarity, or usefulness of the information to be collected?

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(d) Is there a way to minimize the information collection burden on respondents, including through the use of appropriate automated electronic, mechanical, or other forms of information technology?

(2) In addition, the PRA requires agencies to estimate the total annual reporting and recordkeeping cost burden to respondents or recordkeepers resulting from the collection of information. We need to know if you have any. Your response should split the cost estimate into two components: (a) total capital and startup cost component; and (b) annual operation, maintenance, and purchase of service components. Your estimates should consider the costs to generate, maintain, and disclose or provide the information. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information; monitoring, sampling, drilling, and testing equipment; and record storage facilities. Generally, your estimates should not include equipment or services purchased: (i) before October 1, 1995; (ii) to comply with requirements not associated with the information collection; (iii) for reasons other than to provide information or keep records for the Government; or (iv) as part of customary and usual business or private practices.

MMS Information Collection Clearance Officer: Jo Ann Lauterbach, (202) 208–7744.

Dated: June 29, 1998.

William S. Cook,

Acting Chief, Engineering and Operations Division.

[FR Doc. 98–18070 Filed 7–7–98; 8:45 am]

BILLING CODE 4310–MR–U

DEPARTMENT OF THE INTERIOR

National Park Service

Submission of Package to Office of Management and Budget; Review Opportunity for Public Comment

AGENCY: Department of the Interior, National Park Service; Special Park Uses.

ACTION: Notice and request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3507) and 5 CFR, Part 1320, Reporting and Recordkeeping Requirements, the NPS invites public comments on: (1) The need for the information including whether the information has practical utility; (2) the accuracy of the reporting burden estimate; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

This notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget for review and comment. The ICR describes the nature of the information collection and it's expected cost and burden. It includes the actual information collection instruments. Copies of the ICR may be obtained from the NPS by calling Chip Davis at 202–208–5760.

There were no public comments received as a result of publishing in the **Federal Register** a 60 day notice of intention to request clearance of information.

DATES: Public comments will be accepted on or before August 7, 1998.

SEND COMMENTS TO: Office of Information and Regulatory Affairs of OMB, Attention Desk Officer for the Interior Department, Office of Management and Budget, Washington, DC 20530; and also to Chip Davis, Department of the Interior, National Park Service, phone 202/208–5760.

The OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days.

FOR FURTHER INFORMATION CONTACT: Chip Davis, Ranger Activities Division, National Park Service, 18th & C Streets, NW., Washington, DC 20240. Telephone 202/208–5760.

SUPPLEMENTARY INFORMATION: These information collections are associated with permits implementing provisions of agency regulations pertaining to the use of public lands (OMB control number 1024–0026). NPS form 10–114 (Special Use Permit) is the primary form used to apply for, consider, permit, and limit, uses of public lands. The uses considered under this information collection generally include those which make short term commercial use of park resources or which regulate activities not generally available to the public. Permitted activities include use of commercial vehicles in park areas and grazing in parks where permitted by law.

Title: Special Park Uses.

Estimated annual reporting burden: 27,050.

Estimated average burden hours per response: 1 hour.

Estimated average number of respondents: 28,250.

Diane M. Cooke,

Information Collection Clearance Officer, National Park Service.

[FR Doc. 98–18025 Filed 7–7–98; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Meeting

AGENCY: Department of the Interior, National Park Service.

ACTION: Notice of meeting.

SUMMARY: Fourth public meeting of the Advisory Council to the Partnership of the Boston Harbor Islands National Recreation Area to be held July 7, 1998, 4:00 p.m.–6:00 p.m. in the Piemonte Room, 5th Floor, Boston City Hall.

FOR FURTHER INFORMATION CONTACT: Mr. George Price, Project Manager, Boston Harbor Islands National Recreation Area, at 617–223–8666. Written comments can be addressed to George Price, Project Manager, Boston Harbor Islands National Recreation Area, 408 Atlantic Ave., Suite 228, Boston, MA 02110–3316.

SUPPLEMENTARY INFORMATION: The agenda for the meeting includes: Chairman's report; approval of the minutes of the July 16 and June 4 meetings; reports by the Advisory Council representatives to the Boston Harbor Islands Partnership; report on the Partnership Management Plan; reports from the National Park Service and the Island Alliance; other committee reports; public comment; old business; new business; and future meeting dates.

Public garages are located next to Quincy Market, or at the Government Center Garage. Nearby MBTA stations are Government Center, Haymarket, and State Street. Street-level handicapped access to City Hall is located at the entrance on Congress Street.

The 28 Advisory Council members were appointed by the Director of the National Park Service and represent: business, educational, cultural, and environmental entities; municipalities surrounding the harbor; and Native American interests. The Advisory Council was formed to advise and make recommendations to the Boston Harbor Islands Partnership with respect to the development and implementation of the Integrated Management Plan and the operation of this new national park area.

In 1996 Congress created the Boston Harbor Islands National Recreation Area to recognize the rich natural and cultural resources and history found on the 30 islands located in Boston Harbor. The legislation (P.L. 104–333) established a thirteen-member partnership to jointly manage the Islands. The 13-member Partnership represents city, state, federal and private agencies with responsibilities for the harbor islands.

Dated: June 30, 1998.

Bruce Jacobson,

Acting Project Manager, Boston Harbor Islands National Recreation Area.

[FR Doc. 98–18026 Filed 7–7–98; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 98–35; Exemption Application Nos. D–10546]

Grant of Amendment to Prohibited Transaction Exemption (PTE) 97–35 Involving the Amalgamated Bank of New York (the Bank) Located in New York, NY

AGENCY: Pension and Welfare Benefits Administration, U.S. Department of Labor.

ACTION: Grant of Amendment to PTE 97–35.

SUMMARY: This document contains a final exemption which amends PTE 97–35 (62 FR 41088, July 31, 1997), an individual administrative exemption involving the provision of banking services by the Bank to 22 employee benefit plans (the Plans) listed in the exemption, all of which are affiliated with the Union of Needletrades, Industrial and Textile Employees (UNITE), which is the majority and controlling shareholder in the Bank. These transactions are described in a notice of pendency that was published in the **Federal Register** on March 30, 1998 at 63 FR 15228.

EFFECTIVE DATE: This exemption is effective as of July 1, 1995, except for: (1) Plan investments in the LEI Fund, for which the effective date is January 3, 1998; (2) Plan investments in the LongView 500 Index Fund, for which the effective date is December 8, 1997; and (3) transactions involving the UNITE Staff Retirement Plan, for which the effective date is July 8, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Ron Willett, Office of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor, Washington, D.C. 20210, telephone (202) 219–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On March 30, 1998, the Department of Labor (the Department) published a notice of proposed exemption (the Notice) in the **Federal Register** (63 FR 15228) to amend PTE 97–35. PTE 97–35 provides an exemption from certain prohibited transaction restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 as amended (the Act), and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1986 as amended (the Code), by reason of section 4975(c)(1)(A) through (E) of the Code. The Notice was requested in an application filed on behalf of the Bank pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B(55 FR 32836, August 10, 1990) (the Procedures). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (5 USC App.1, 1996) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Accordingly, this exemption is being issued solely by the Department.

WRITTEN COMMENTS: The Notice gave interested persons the opportunity to comment and to request a public hearing on the matters described therein. The Department received one written comment and no hearing requests from interested persons following the dissemination of the Notice and supplemental statement.

The written comment received by the Department was submitted on behalf of the Bank concerning the effective date of a portion of the requested exemption, as proposed in the Notice. In this regard, the Notice proposed that the effective date for the final exemption be described as follows:

> *Effective Date:* This exemption will be effective as of July 1, 1995, except for: (1) Plan investments in the LEI Fund, for which the effective date will be January 3, 1998; (2) Plan investments in the LongView 500 Index Fund, for which the effective date will be the date on which the final amended exemption, if granted, is published in the Federal Register; and (3) transactions involving the UNITE Staff Retirement Plan, for which the effective date will be the date on which the final amended exemption, if granted, is published in the **Federal Register**.

The Bank states that in its exemption application a request was made for the final exemption to be effective as of the date the application was filed with the Department (i.e., December 4, 1997) with respect to Plan investments in the LongView 500 Fund (the 500 Fund), because the Bank had expected that Plan investments in the 500 Fund would occur shortly after such filing. However, in the Notice, the proposed effective date with respect to Plan investments in the 500 Fund was inadvertantly described as the date on which the final exemption, if granted, would be published in the Federal Register. In its comment, the Bank explains that the actual date of the first investment made by a Plan in the 500 Fund was December 8, 1997, when the ILGWU Death Benefit Plan (one of the Plans covered by PTE 97–35) made such an investment. Therefore, the Bank requests that the final exemption for Plan investments in the 500 Fund be effective as of December 8, 1997. In the final exemption, the Department has stated the effective date in accordance with the Bank's request, by inserting a reference to the appropriate date in both the definition of "Banking Services" in Section IV(c) and the effective date paragraph for this Grant notice.

Based on the entire application record, including the Bank's written comment regarding the Notice, the Department has determined to grant the amendment to PTE 97–35 with the modification to the effective date requested by the Bank.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which require, among other things, a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirements of section 401(a) of the Code that the plan operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

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(2) The exemption will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department finds that the exemption is administratively feasible, in the interests of the plans and their participants and beneficiaries and protective of the rights of the participant and beneficiaries;

(4) This exemption will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(5) This exemption is subject to the express condition that the Summary of Facts and Representations set forth in the proposed exemption relating to PTE 97–35, as amended by this grant notice, accurately describe, where relevant, the material terms of the transactions consummated pursuant to that exemption.

Exemption

Under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the Procedures cited above, the Department hereby amends PTE 97–35.

Section I—Transactions

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply, effective July 1, 1995 [except as otherwise indicated herein], to—

(A) The provision of banking services (Banking Services, as defined in section IV(C)) by the Amalgamated Bank of New York (the Bank) to certain employee benefit plans (the Plans, as defined in section IV(E)), which are maintained on behalf of members of the former International Ladies Garment Workers Union (ILGWU), which merged on July 1, 1995 with the Amalgamated Clothing and Textile Workers Union to form the Union of Needletrades, Industrial and Textile Employees (UNITE);

(B) The purchase by the Plans of certificates of deposit (CDs) issued by the Bank; and

(C) The deposit of Plans' assets in money market or other deposit accounts established by the Bank; provided that the applicable conditions of Section II and Section III are met.

Section II—Conditions

(A) The terms under which the Banking Services are provided by the Bank to the Plans, and those under which the Plans purchase CDs from the Bank or maintain deposit accounts with the Bank, are at least as favorable to the Plans as those which the Plans could obtain in arm's-length transactions with unrelated parties.

(B) The interests of each of the Plans with respect to the Bank's provision of Banking Services to the Plans, the purchase of CDs from the Bank by any of the Plans, and the deposit of Plan assets in deposit accounts established by the Bank, are represented by an Independent Fiduciary (as defined in section IV(D)).

(C) On a periodic basis, not less frequently than annually, an Authorizing Plan Fiduciary (as defined below in section IV(A)) with respect to each Plan authorizes the representation of the Plan's interests by the Independent Fiduciary and determines that the Banking Services and any CDs and depository accounts utilized by the Plan are necessary and appropriate for the establishment or operation of the Plan.

(D) With respect to the purchase by any of the Plans of certificates of deposit (CDs) issued by the Bank or the deposit of Plan assets in a money market account or other deposit account established at the Bank: (1) Such transaction complies with the conditions of section 408(b)(4) of the Act; (2) Any CD offered to the Plans by the Bank is also offered by the Bank in the ordinary course of its business with unrelated customers; and (3) Each CD purchased from the Bank by a Plan pays the maximum rate of interest for CDs of the same size and maturity being offered by the Bank to unrelated customers at the time of the transaction.

(E) The compensation received by the Bank for the provision of Banking Services to the Plan is not in excess of reasonable compensation within the meaning of section 408(b)(2) of the Act.

(F) Following the merger of the ILGWU into UNITE, the Independent Fiduciary made an initial written determination that (1) the Bank's provision of Banking Services to the Plans, (2) the deposit of Plan assets in depository accounts maintained by the Bank, and (3) the purchase by the Plans of CDs from the Bank, are in the best interests and protective of the participants and beneficiaries of each of the Plans.

(G) On a periodic basis, not less frequently than quarterly, the Bank provides the Independent Fiduciary with a written report (the Periodic Report) which includes the following items with respect to the period since the previous Periodic Report: (1) a listing of Banking Services provided to, all outstanding CDs purchased by, and deposit accounts maintained for each Plan; (2) a listing of all fees paid by the Plans to the Bank for the Banking Services, (3) the performance of the Bank with respect to all investment management services, (4) a description of any changes in the Banking Services, (5) an explanation of any problems experienced by the Bank in providing the Banking Services, (6) a description of any material adverse events affecting the Bank, and (7) any additional information requested by the Independent Fiduciary in the discharge of its obligations under this exemption.

(H) On a periodic basis, not less frequently than annually, the Independent Fiduciary reviews the Banking Services provided to each Plan by the Bank, the compensation received by the Bank for such services, any purchases by the Plan of CDs from the Bank, and any deposits of assets in deposit accounts maintained by the Bank, and makes the following written determinations:

(1) The continuation of the Bank's provision of Banking Services to the Plan for compensation is in the best interests and protective of the participants and beneficiaries of the Plan;

(2) The Bank is a solvent financial institution and has the capability to perform the services;

(3) The fees charged by the Bank are reasonable and appropriate;

(4) The services, the depository accounts, and the CDs are offered to the Plan on the same terms under which the Bank offers the services to unrelated Bank customers in the ordinary course of business; and

(5) Where the Banking Services include an investment management service, that the rate of return is not less favorable to the Plan than the rates on comparable investments involving unrelated parties.

(I) Copies of the Bank's periodic reports to the Independent Fiduciary are furnished to the Authorizing Plan Fiduciaries on a periodic basis, not less frequently than annually and not later than 90 days after the period to which they apply.

(J) The Independent Fiduciary is authorized to continue, amend, or terminate, without any penalty to any Plan (other than the payment of penalties required under federal or state banking regulations upon premature redemption of a CD), any arrangement involving: (1) the provision of Banking Services by the Bank to any of the Plans, (2) the deposit of Plan assets in a deposit account maintained by the Bank, or (3) any purchases by a Plan of CDs from the Bank;

(K) The Authorizing Plan Fiduciary may terminate, without penalty to the Plan (other than the payment of penalties required under federal or state banking regulations upon premature redemption of a CD), the Plan's participation in any arrangement involving: (1) the representation of the Plan's interests by the Independent Fiduciary, (2) the provision of Banking Services by the Bank to the Plan, (3) the deposit of Plan assets in a deposit account maintained by the Bank, or (4) the purchase by the Plan of CDs from the Bank.

Section III—Recordkeeping

(A) For a period of six years, the Bank and the Independent Fiduciary will maintain or cause to be maintained all written reports and other memoranda evidencing analyses and determinations made in satisfaction of conditions of this exemption, except that: (a) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of the Independent Fiduciary and the Bank, the records are lost or destroyed before the end of the six-year period; and (b) no party in interest other than the Bank and the Independent Fiduciary shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (B) below;

(B)(1) Except as provided in section (2) of this paragraph (B) and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (A) of this Section III shall be unconditionally available at their customary location during normal business hours for inspection by: (a) any duly authorized employee or representative of the U.S. Department of Labor or the Internal Revenue Service, (b) any employer participating in the Plans or any duly authorized employee or representative of such employer, and (c) any participant or beneficiary of the Plans or any duly authorized representative of such participant or beneficiary.

(2) None of the persons described in subsections (b) and (c) of section (1) above shall be authorized to examine trade secrets of the Independent Fiduciary or the Bank, or any of their affiliates, or any commercial, financial, or other information that is privileged or confidential.

Section IV—Definitions

(A) "Authorizing Plan Fiduciary" means, with respect to each Plan, the board of trustees of the Plan or other appropriate plan fiduciary with discretionary authority to make decisions with respect to the investment of Plan assets;

(B) "Bank" means the Amalgamated Bank of New York;

(C) "Banking Services" means (1) custodial, safekeeping, checking account, trustee services, and (2) investment management services involving (a) fixed income securities (either directly or through a collective investment fund maintained by the Bank), (b) the LongView Fund maintained by the Bank, (c) effective December 8, 1997, the LongView 500 Index Fund, and (d) effective January 3, 1998, the LEI Fund maintained by the Bank.

(D) "Independent Fiduciary" means a person, within the meaning of section 3(9) of the Act, who (1) is not an affiliate of the Union of Needletrades, Industrial & Textile Employees (UNITE) and any successor organization thereto by merger, consolidation or otherwise, (2) is not an officer, director, employee or partner of UNITE, (3) is not an entity in which UNITE has an ownership interest, (4) has no relationship with the Bank other than as Independent Fiduciary under this exemption, and (5) has acknowledged in writing that it is acting as a fiduciary under the Act. No person may serve as an Independent Fiduciary for the Plans for any fiscal year in which the gross income (other than fixed, non-discretionary retirement income) received by such person (or any partnership or corporation of which such person is an officer, director, or ten percent or more partner or shareholder) from UNITE and the Plans for that fiscal year exceed five (5) percent of such person's annual gross income from all sources for the prior fiscal year. An affiliate of a person is any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with the person. The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual. Initially, the Independent Fiduciary is U.S. Trust Company of California, N.A.

(E) "Plans" means any of the following employee benefit plans, and their successors by reason of merger, spin-off or otherwise:

International Ladies Garment Workers Union Nation Retirement Fund;
International Ladies Garment Workers Union Death Benefit Fund;
Health Fund of New York Coat, Suit, Dress, Rainwear & Allied Workers Union, ILGWU;
Health & Vacation Fund, Amalgamated Ladies Garment Cutters Union, Local 10;
ILGWU Eastern States Health & Welfare Fund;
ILGWU Office, Clerical & Misc. Employee Retirement Fund;
ILGWU Retirement Fund, Local 102;
Union Health Center Staff Retirement Fund;
Unity House 134 HREBIU Plan Fund;
Puerto Rican Health & Welfare Fund;
Health & Welfare Fund of Local 99, ILGWU;
Local 99 Exquisite Form Industries, Inc. Severance Fund;
Local 99 K-Mart Severance Fund;
Local 99 Kenwin Severance Fund;
Local 99 Lechters Severance Fund;
Local 99 Eleanor Shops Severance Fund;
Local 99 Monette Severance Fund;
Local 99 Moray, Inc. Severance Fund;
Local 99 Petri Stores, Inc. Severance Fund;
Local 99 Netco, Inc. Severance Fund;
Local 99 Misty Valley, Inc. Severance Fund;
Local 99 Norstan Apparel Shops, Inc. Severance Fund; and
UNITE Staff Retirement Plan, ILGWU Unit.

(F) "UNITE" means the Union of Needletrades, Industrial & Textile Employees and any successor organization thereto by merger, consolidation or otherwise.

EFFECTIVE DATE: This exemption is effective as of July 1, 1995, except for: (1) Plan investments in the LEI Fund, for which the effective date is January 3, 1998; (2) Plan investments in the LongView 500 Index Fund, for which the effective date is December 8, 1997; and (3) transactions involving the UNITE Staff Retirement Plan, for which the effective date is July 8, 1998.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application for exemption are true and complete and accurately describe all material terms of the transactions. In the case of continuing transactions, if any of the material facts or representations described in the application change, the

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exemption will cease to apply as of the date of such change. In the event of any such change, an application for a new exemption must be made to the Department.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the proposed exemption (i.e., the Notice) and the prior grant notice for PTE 97–35, which are cited above.

Signed at Washington, D.C., this 1st day of July, 1998.

Ivan L. Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 98–18011 Filed 7–7–98; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Withdrawal of Notice of Proposed Amendments to Prohibited Transaction Exemption (PTE 93–69) Involving the Navistar International Transportation Corporation (Navistar); Located in Chicago, IL and the Supplemental Program Committee of the Navistar International Transportation Corporation Retiree Health Benefit and Life Insurance Plan (Supplemental Program Committee) Located in Euclid, OH

[Exemption Application Nos. D–10470 and D–10576]

AGENCY: Pension and Welfare Benefits Administration, Department of Labor.

ACTION: On June 19, 1998 the Department of Labor (Department) published a notice of proposed amendments (the Notice) to PTE 93–69 (63 FR 33732). The Notice concerned proposed amendments to PTE 93–69 to permit the Supplemental Benefit Program Trust (Trust) to sell Navistar International Corporation (NIC) common stock to either NIC or Navistar after the expiration of the lockup period (July 1, 1998) and to allow William Craig, a member of the Supplemental Program Committee, to serve on the NIC board of directors.

In a comment letter dated June 18, 1998, Navistar's representative informed the Department that the Trust sold all of the shares which would have been the subject of the amendments. Since the Trust no longer holds the stock it no longer has the right to appoint any members of the board of directors of NIC.[1]

Due to the above noted changes regarding the facts and representations contained in the applications, the Department has determined to withdraw this notice of proposed amendments from the **Federal Register**. Accordingly, this notice of pendency is hereby withdrawn.

Signed at Washington, DC this 30th day of June, 1998.

Ivan L. Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 98–18009 Filed 7–7–98; 8:45 am]

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DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D–10438, et al.]

Proposed Exemptions; Toyota Motor Credit Corporation

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state: (1) the name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Attention: Application No. ____, stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5507, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Toyota Motor Credit Corporation and Certain of its Affiliates, Located in Torrance, California

[Application No. D–10438]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990).

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[1] PTE 93–69 provided, in part, an exemption from certain prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 for the acquisition and holding by the Navistar International Transportation Corporation Retiree Health Benefit and Life Insurance Plan of shares of Class B common stock and Series A preference stock of NIC.

Section I—Transactions

A. If the proposed exemption is granted, the restrictions of sections 406(a) and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply as of September 1, 1997, to the following transactions involving trusts and certificates evidencing interests therein:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the sponsor or underwriter and an employee benefit plan when the sponsor, servicer, trustee or insurer of a trust, the underwriter of the certificates representing an interest in the trust, or an obligor is a party in interest with respect to such plan;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates; and

(3) The continued holding of certificates acquired by a plan pursuant to Section I.A.(1) or (2).

Notwithstanding the foregoing, Section I.A. does not provide an exemption from the restrictions of sections 406(a)(1)(E), 406(a)(2) and 407 for the acquisition or holding of a certificate on behalf of an Excluded Plan, as defined in Section III.K. below, by any person who has discretionary authority or renders investment advice with respect to the assets of that Excluded Plan.[1]

B. If the proposed exemption is granted, the restrictions of sections 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(E) of the Code, shall not apply as of September 1, 1997, to:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the sponsor or underwriter and a plan when the person who has discretionary authority or renders investment advice with respect to the investment of plan assets in the certificates is (a) an obligor with respect to 5 percent or less of the fair market value of obligations or receivables contained in the trust, or (b) an affiliate of a person described in (a); if

(i) The plan is not an Excluded Plan;

(ii) Solely in the case of an acquisition of certificates in connection with the initial issuance of the certificates, at least 50 percent of each class of certificates in which plans have invested is acquired by persons independent of the members of the Restricted Group, as defined in Section III.L., and at least 50 percent of the aggregate interest in the trust is acquired by persons independent of the Restricted Group;

(iii) A plan's investment in each class of certificates does not exceed 25 percent of all of the certificates of that class outstanding at the time of the acquisition; and

(iv) Immediately after the acquisition of the certificates, no more than 25 percent of the assets of a plan with respect to which the person has discretionary authority or renders investment advice are invested in certificates representing an interest in a trust containing assets sold or serviced by the same entity.[2] For purposes of this paragraph B.(1)(iv) only, an entity shall not be considered to service assets contained in a trust if it is merely a subservicer of that trust;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates, provided that conditions set forth in paragraphs B.(1)(i), (iii), and (iv) are met; and

(3) The continued holding of certificates acquired by a plan pursuant to Section I.B.(1) or (2).

C. If the proposed exemption is granted, the restrictions of sections 406(a), (b) and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c) of the Code, shall not apply as of September 1, 1997 to transactions in connection with the servicing, management and operation of a trust, provided;

(1) Such transactions are carried out in accordance with the terms of a binding Pooling and Servicing Agreement; and

(2) The Pooling and Servicing Agreement is provided to, or described in all material respects in the prospectus or private placement memorandum provided to, investing plans before they purchase certificates issued by the trust.[3]

Notwithstanding the foregoing, Section I.C. does not provide an exemption from the restrictions of section 406(b) of the Act, or from the taxes imposed by reason of section 4975(c) of the Code, for the receipt of a fee by the servicer of the trust from a person other than the trustee or sponsor, unless such fee constitutes a "qualified administrative fee" as defined in Section III.S. below.

D. If the proposed exemption is granted, the restrictions of sections 406(a) and 407(a) of the Act and the taxes imposed by sections 4975(a) and (b) of the Code, by reason of sections 4975(c)(1) (A) through (D) of the Code, shall not apply as of September 1, 1997, to any transaction to which those restrictions or taxes would otherwise apply merely because a person is deemed to be a party in interest or disqualified person (including a fiduciary) with respect to a plan by virtue of providing services to the plan (or by virtue of having a relationship to such service provider as described in section 3(14)(F), (G), (H) or (I) of the Act or section 4975(e)(2)(F), (G), (H) or (I) of the Code), solely because of the plan's ownership of certificates.

Section II—General Conditions

A. The relief provided under Section I will be available only if the following conditions are met:

(1) The acquisition of certificates by a plan is on terms (including the certificate price) that are at least as favorable to the plan as such terms would be in an arm's-length transaction with an unrelated party;

(2) The rights and interests evidenced by the certificates are not subordinated to the rights and interests evidenced by other certificates of the same trust;

(3) The certificates acquired by the plan have received a rating at the time of such acquisition that is in one of the three highest generic rating categories from either Standard & Poor's Ratings Services, Moody's Investor Service, Inc., Duff & Phelps Inc., or Fitch Investors Service, Inc. (collectively, the Rating Agencies);

(4) The trustee is not an affiliate of any other member of the Restricted Group. However, the trustee shall not be

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[1] Section I.A. provides no relief from sections 406(a)(1)(E), 406(a)(2) and 407 for any person rendering investment advice to an Excluded Plan within the meaning of section 3(21)(A)(ii) and regulation 29 CFR 2510.3–21(c).

[2] For purposes of this exemption, each plan participating in a commingled fund (such as a bank collective trust fund or insurance company pooled separate account) shall be considered to own the same proportionate undivided interest in each asset of the commingled fund as its proportionate interest in the total assets of the commingled fund as calculated on the most recent preceding valuation date of the fund.

[3] In the case of a private placement memorandum, such memorandum must contain substantially the same information that would be disclosed in a prospectus if the offering of the certificates were made in a registered public offering under the Securities Act of 1933. In the Department's view, the private placement memorandum must contain sufficient information to permit plan fiduciaries to make informed investment decisions.

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considered to be an affiliate of a servicer solely because the trustee has succeeded to the rights and responsibilities of the servicer pursuant to the terms of the Pooling and Servicing Agreement providing for such succession upon the occurrence of one or more events of default by the servicer;

(5) The sum of all payments made to and retained by the underwriters in connection with the distribution or placement of certificates represents not more than reasonable compensation for underwriting or placing the certificates; the sum of all payments made to or retained by the sponsor pursuant to the assignment of obligations (or interest therein) to the trust represents not more than the fair market value of such obligation (or interest); and the sum of all payments made to and retained by the servicer represents not more than reasonable compensation for the servicer's services under the Pooling and Servicing Agreement and reimbursement of the servicer's reasonable expenses in connection therewith;

(6) The plan investing in such certificates is an "accredited investor" as defined in Rule 501(a)(1) of Regulation D of the Securities and Exchange Commission under the Securities Act of 1933;

(7) To the extent that the pool of leases used to create a portfolio for a trust is not closed on the date of the issuance of certificates by the trust, additional leases may be added during a period of no more than 15 consecutive months from the closing date used for the initial allocation of leases that was made to create such portfolio, provided that:

(a) all such additional leases meet the same terms and conditions for eligibility as the original leases used to create the portfolio (as described in the prospectus or private placement memorandum for such certificates), which terms and conditions have been approved by the Rating Agencies. Notwithstanding the foregoing, the terms and conditions for an "eligible lease" (as defined in Section III.X below) may be changed if such changes receive prior approval either by a majority vote of the outstanding certificateholders or by the Rating Agencies; and

(b) such additional leases do not result in the certificates receiving a lower credit rating from the Rating Agencies, upon termination of the period during which additional leases may be added to the portfolio, than the rating that was obtained at the time of the initial issuance of the certificates by the trust;

(8) Any additional period described in Section II.A.(7) must be described in the prospectus or private placement memorandum provided to investing plans;

(9) The average annual percentage lease rate (the Average Lease Rate) for the pool of leases in the portfolio for the trust, after the additional period described in Section II.A.(7), shall not be more than 200 basis points greater than the Average Lease Rate for the original pool of leases that was used to create such portfolio for the trust;

(10) For the duration of the additional period described in Section II.A.(7), principal collections that are reinvested in additional leases are first reinvested in the "eligible lease contract" (as defined in Section III.X. below) with the earliest origination date, then in the "eligible lease contract" with the next earliest origination date, and so forth, beginning with any lease contracts that have been reserved specifically for such purposes at the time of the initial allocation of leases to the pool of leases used to create the particular portfolio, but excluding those specific lease contracts reserved for allocation to or allocated to other pools of leases used to create other portfolios;

(11) The trustee of the trust (or the agent with which the trustee contracts to provide trust services) is a substantial financial institution or trust company experienced in trust activities and is familiar with its duties, responsibilities, and liabilities as a fiduciary under the Act. The trustee, as the legal owner of the obligations in the trust, enforces all the rights created in favor of certificateholders of such trust, including employee benefit plans subject to the Act;

(12) The Pooling and Servicing Agreement and other governing documents require that funds collected by the servicer with respect to trust assets be deposited on a monthly basis in a trust account, even though distributions on the certificates may be scheduled to be made less frequently than monthly, and invested in certain highly rated debt instruments known as "permitted investments'; and

(13) The Pooling and Servicing Agreement expressly provides that funds collected by the servicer with respect to trust assets are required to be deposited in a trust account within two business days after such collection, if TMCC's short-term unsecured debt is no longer rated P–1 by Moody's Investors Service and A–1 by Standard & Poor's Ratings Services (or successors thereto), unless such Rating Agencies accept an alternative arrangement.

B. Neither any underwriter, sponsor, trustee, servicer, insurer, or any obligor, unless it or any of its affiliates has discretionary authority or renders investment advice with respect to the plan assets used by a plan to acquire certificates, shall be denied the relief provided under Section I, if the provision in Section II.A.(6) above is not satisfied for the acquisition or holding by a plan of such certificates, provided that (1) such condition is disclosed in the prospectus or private placement memorandum; and (2) in the case of a private placement of certificates, the trustee obtains a representation from each initial purchaser which is a plan that it is in compliance with such condition, and obtains a covenant from each initial purchaser to the effect that, so long as such initial purchaser (or any transferee of such initial purchaser's certificates) is required to obtain from its transferee a representation regarding compliance with the Securities Act of 1933, any such transferees shall be required to make a written representation regarding compliance with the condition set forth in Section II.A.(6).

C. Toyota Motor Credit Corporation (TMCC) and its Affiliates abide by all securities and other laws applicable to any offering of interests in securitized assets, such as certificates in a trust as described herein, including those laws relating to disclosure of material litigation, investigations and contingent liabilities.

Section III—Definitions

For purposes of this proposed exemption:

A. "Certificate" means:

(1) A certificate.

(a) That represents a beneficial ownership interest in the assets of a trust; and

(b) That entitles the holder to pass-through payments of principal (except during the period described in Section II.A.(7), if any), interest, and/or other payments made in connection with the assets of such trust; or

(2) A certificate denominated as a debt instrument that is issued by and is an obligation of a trust;

With respect to certificates defined in Section III.A.(1) and (2) above, the underwriter shall be an entity which has received from the Department an individual prohibited transaction exemption relating to certificates which is substantially similar to this proposed exemption (as noted below in Section III.C.) and shall be either (i) the sole underwriter or the manager or co-manager of the underwriting syndicate, or (ii) a selling or placement agent.

For purposes of this proposed exemption, references to "certificates representing an interest in a trust" include certificates denominated as debt which are issued by a trust.

B. "Trust" means an investment pool, the corpus of which is held in trust and consists solely of:

(1) Either.

(a) Qualified motor vehicle leases (as defined in Section III.T.); or

(b) Fractional undivided interests in a trust containing assets described in paragraph (a) of this Section III.B.(1), where such fractional interest is not subordinated to any other interest in the same pool of qualified motor vehicle leases held by such trust;[4]

(2) Property which has secured any of the obligations described in Section III.B.(1);

(3) Undistributed cash or temporary investments made therewith maturing no later than the next date on which distributions are to be made to certificateholders, except during the period described in Section II.A.(7) above when temporary investments are made until such cash can be reinvested in additional leases described in paragraph (a) of this Section III.B.(1); and

(4) Rights of the trustee under the Pooling and Servicing Agreement, and rights under motor vehicle dealer agreements, any insurance policies, third-party guarantees, contracts of suretyship and other credit support arrangements for any obligations described in Section III.B.(1).

Notwithstanding the foregoing, the term "trust" does not include any investment pool unless: (i) the investment pool consists only of assets of the type which have been included in other investment pools, (ii) certificates evidencing interests in such other investment pools have been rated in one of the three highest categories by the Rating Agencies for at least one year prior to the plan's acquisition of certificates pursuant to this exemption, and (iii) certificates evidencing interests in such other investment pools have been purchased by investors other than plans for at least one year prior to the plan's acquisition of certificates pursuant to this exemption.

C. "Underwriter" means any investment banking firm that has received an individual prohibited transaction exemption from the Department that provides relief for so-called "asset-backed" securities that is substantially similar in format and structure to this proposed exemption (the Underwriter Exemptions);[5] or any person directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with such investment banking firm; and any member of an underwriting syndicate or selling group of which such firm or person described above is a manager or co-manager with respect to the certificates.

D. "Sponsor" means an entity affiliated with Toyota Motor Corporation that organizes a trust by depositing obligations therein in exchange for certificates.

E. "Master Servicer" means TMCC or an entity affiliated with TMCC that is a party to the Pooling and Servicing Agreement relating to trust assets and is fully responsible for servicing, directly or through subservicers, the assets of the trust.

F. "Subservicer" means TMCC or an entity affiliated with TMCC which, under the supervision of and on behalf of the master servicer, services leases contained in the trust, but is not a party to the Pooling and Servicing Agreement.

G. "Servicer" means TMCC or an entity affiliated with TMCC which services leases contained in the trust, including the master servicer and any subservicer.

H. "Trustee" means an entity that is independent of TMCC and its Affiliates which is the trustee of the trust. In the case of certificates which are denominated as debt instruments, "trustee" also means the trustee of the indenture trust.

I. "Insurer" means the insurer or guarantor of, or provider of other credit support for, a trust. Notwithstanding the foregoing, a person is not an insurer solely because it holds securities representing an interest in a trust which are of a class subordinated to certificates representing an interest in the same trust. In addition, a person is not an insurer if such person merely provides: (1) property damage or liability insurance to an Obligor with respect to a lease or leased vehicle; or (2) property damage, excess liability or contingent liability insurance to any lessor, sponsor or servicer, if such entities are included in the same insurance policy, with respect to a lease or leased vehicle.

J. "Obligor" means any person, other than the insurer, that is obligated to make payments for a lease in the trust.

K. "Excluded Plan" means any plan with respect to which any member of the Restricted Group is a "plan sponsor" within the meaning of section 3(16)(B) of the Act.

L. "Restricted Group" with respect to a class of certificates means:

(1) Each Underwriter;

(2) Each Insurer;

(3) The Sponsor;

(4) The Trustee;

(5) Each Servicer;

(6) Any Obligor with respect to obligations or receivables included in the trust constituting more than 5 percent of the aggregate unamortized principal balance of the assets in the trust, determined on the date of the initial issuance of certificates by the trust and at the end of the period described in Section II.A.(7); or

(7) Any Affiliate of a person described in (1)–(6) above.

M. "Affiliate" of another person includes:

(1) Any person, directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with such other person;

(2) Any officer, director, partner, employee, relative (as defined in section 3(15) of the Act), a brother, a sister, or a spouse of a brother or sister of such other person; and

(3) Any corporation or partnership of which such other person is an officer, director or partner.

N. "Control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

O. A person shall be "independent" of another person only if:

(1) Such person is not an Affiliate of that other person; and

(2) The other person, or an Affiliate thereof, is not a fiduciary who has investment management authority or renders investment advice with respect to assets of such person.

P. "Sale" includes the entrance into a forward delivery commitment (as defined in Section III.Q. below), provided:

(1) The terms of the forward delivery commitment (including any fee paid to the investing plan) are no less favorable to the plan than they would be in an arm's-length transaction with an unrelated party;

(2) The prospectus or private placement memorandum is provided to

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[4] It is the Department's view that the definition of "Trust" contained in Section III.B. includes a two-tier trust structure under which certificates issued by the first trust, which contains a pool of receivables described above, are transferred to a second trust which issues certificates that are sold to plans. However, the Department is of the further view that, since the exemption provides relief for the direct or indirect acquisition or disposition of certificates that are not subordinated, no relief would be available if the certificates held by the second trust were subordinated to the rights and interests evidenced by other certificates issued by the first trust.

[5] For a listing of the Underwriter Exemptions, see the description provided in the text of the operative language of Prohibited Transaction Exemption (PTE) 97–34 (62 FR 39021, July 21, 1997).

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an investing plan prior to the time the plan enters into the forward delivery commitment; and

(3) At the time of the delivery, all conditions of this proposed exemption applicable to sales are met.

Q. "Forward Delivery Commitment" means a contract for the purchase or sale of one or more certificates to be delivered at an agreed future settlement date. The term includes both mandatory contracts (which contemplate obligatory delivery and acceptance of the certificates) and optional contracts (which give one party the right but not the obligation to deliver certificates to, or demand delivery of certificates from, the other party).

R. "Reasonable Compensation" has the same meaning as that term is defined in 29 CFR 2550.408c–2.

S. "Qualified Administrative Fee" means a fee which meets the following criteria:

(1) The fee is triggered by an act or failure to act by the obligor other than the normal timely payment of amounts owing for the obligations;

(2) The servicer may not charge the fee absent the act or failure to act referred to in (1);

(3) The ability to charge the fee, the circumstances in which the fee may be charged, and an explanation of how the fee is calculated are set forth in the Pooling and Servicing Agreement; and

(4) The amount paid to investors in the trust shall not be reduced by the amount of any such fee waived by the servicer.

T. "Qualified Motor Vehicle Lease" means a lease of a motor vehicle where:

(1) The trust owns or holds a security interest in the lease;

(2) The trust owns or holds a security interest in the leased motor vehicle; and

(3) The trust's interest in the leased motor vehicle is at least as protective of the trust's rights as the trust would receive under a motor vehicle installment loan contract.

U. "Pooling and Servicing Agreement" means, collectively, (i) the securitization trust agreement between a sponsor and the trustee establishing a trust, (ii) the trust and servicing agreement relating to an origination trust and the servicing supplement thereto, and (iii) the supplemental agreement establishing a beneficial interest in certain specified origination trust assets (referred to herein as a "special unit of beneficial interest" or "SUBI"). In the case of certificates which are denominated as debt instruments, "Pooling and Servicing Agreement" also includes the indenture entered into by the trustee of the trust issuing such certificates and the indenture trustee.

V. "Lease Rate" means an implicit rate in each lease calculated as an annual percentage rate on a constant yield basis, based on the capitalized cost of the leased vehicle as determined under the particular lease contract for the vehicle. With respect to the determination of a "Lease Rate", each lease will provide for equal monthly payments such that at the end of the lease contract term the capitalized cost will have been amortized to an amount equal to the residual value of the leased vehicle established at the time of origination of such contract. The amount to which the capitalized cost has been amortized at any point in time will be the outstanding principal balance for the lease.

W. "Average Lease Rate" means the average annual percentage lease rate, as defined in Section III.V. above, for all leases included at any particular time in a portfolio used to create a trust from which certificates are issued.

X. "Eligible Lease" or "Eligible Lease Contract" means a Qualified Motor Vehicle Lease, as defined in Section III.T. above, which meets the eligibility criteria established for, among other things, the term of the lease, place of origination, date of origination, and provisions for default, as described in the particular prospectus or private placement memorandum for the certificates provided to investors, if such terms and conditions have been approved by the Rating Agencies prior to the issuance of such certificates.

Y. "Permitted Investments" means investments which: (i) are direct obligations of, or obligations fully guaranteed as to timely payment of principal and interest by, the United States or any agency or instrumentality thereof, provided that such obligations are backed by the full faith and credit of the United States, or (ii) have been rated (or the obligor has been rated) in one of the three highest generic rating categories by a Rating Agency; are described in the pooling and servicing agreement; and are permitted by the Rating Agency.

The Department notes that this proposed exemption, if granted, will be included within the meaning of the term "Underwriter Exemption" as it is defined in Section V(h) of the Grant of the Class Exemption for Certain Transactions Involving Insurance Company General Accounts, which was published in the **Federal Register** on July 12, 1995 (see PTE 95–60, 60 FR 35925).

Effective Date: This proposed exemption, if granted, will be effective for all transactions described herein which occur on or after September 1, 1997.

Summary of Facts and Representations

1. TMCC is a California corporation that has 34 branches in various locations in the United States. TMCC's primary business is providing retail leasing, retail and wholesale financing and certain other financial services to authorized Toyota and Lexus vehicle and Toyota industrial equipment dealers and their customers in the United States (excluding Hawaii). TMCC is a wholly-owned subsidiary of Toyota Motor Sales, U.S.A., Inc. (TMS), which is primarily engaged in the wholesale distribution of automobiles, light duty trucks, industrial equipment and related replacement parts and accessories throughout the United States (excluding Hawaii). Substantially all of TMS's products are either manufactured by its Affiliates or are purchased from Toyota Motor Corporation (TMC), which indirectly wholly owns TMS, or its Affiliates.

Toyota Leasing, Inc. (TLI) will be formed as a California corporation, and will be a wholly-owned, special purpose subsidiary of TMCC.

2. TMCC and its Subsidiaries,[6] including TLI (collectively, the Applicant) seek an exemption to permit employee benefit plans to invest in certificates indirectly representing undivided interests in a trust which contains motor vehicle leases and the motor vehicles related to those leases. The exemption TMCC seeks is substantially similar to the Underwriter Exemptions granted by the Department to various broker-dealers and banks to permit investments in, among other things, motor vehicle receivable investment trusts. In the exemption sought by TMCC, the primary asset of the trust in which investors have beneficial interests (i.e. the Securitization Trust) is a special unit of beneficial interest (SUBI) in a separate trust that actually holds the motor vehicle leases and related motor vehicles (i.e., the Origination Trust). The Underwriter Exemptions may also include such a two-tier trust structure (as noted above in Footnote 4). However, unlike the trusts described in the Underwriter Exemptions, the Securitization Trusts established by TMCC will not contain beneficial interests in fixed pools of assets (i.e. qualified motor vehicle leases and related motor vehicles) for at least a

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[6] For purposes hereof, the term "Subsidiary" means any corporation, partnership or other business entity controlled by TMCC.

year, as discussed further below. TMCC states that the Securitization Trusts meet all other requirements of the Underwriter Exemptions. Such requirements include: (i) that investor certificates covered by the exemption have received a rating from one of the Rating Agencies that is in one of the three highest generic rating categories; (ii) that there be no subordination of investor certificates purchased by employee benefit plans to the rights and interests evidenced by other certificates of the same trust; and (iii) that there be a pass-through of principal, interest and other payments received by the trust relating to the receivables beneficially owned by the trust, less certain specified servicing fees which are disclosed and approved by the investors prior to the acquisition of any trust certificates.

3. The Origination Trust is formed pursuant to a trust agreement between the sponsor of the Origination Trust and its trustee (the Origination Trustee). The sponsor of the Origination Trust is currently TLI, but could be another entity affiliated with TMC. The Origination Trustee is a wholly-owned subsidiary of an independent entity qualified to provide trust services, and in fact provides such services to the Origination Trust under contract with its subsidiary (i.e. the Trust Agent). TMCC represents that the Trust Agent will be a financial institution that is not affiliated in any way with TMCC, other than as a service provider. TMCC or an Affiliate acts as servicer (the Servicer) for all of the leases and leased vehicles owned by the Origination Trust, pursuant to an amended and restated trust and servicing agreement (the Origination Trust Agreement) with the Origination Trustee and one or more servicing supplements to the Origination Trust Agreement (collectively, the Servicing Agreement).

4. The assets of the Origination Trust include retail closed-end automobile and light-duty truck lease contracts assigned to the Origination Trust by certain dealers, the automobiles and light duty trucks relating thereto, all proceeds thereof (including any sale of such vehicles), payments made under certain insurance policies relating to such leases or the related lessees or leased vehicles, and all security deposits with respect to such lease contracts to the extent due to the lessor thereunder. TMCC is the initial holder of a sole beneficial interest (i.e. the "Undivided Trust Interest" or "UTI") in the Origination Trust.

The Origination Trust is open-ended; that is, as leases are originated by dealers, they will be assigned by the dealers directly to the Origination Trust and the Origination Trust will be listed as the owner of the related vehicles on the related certificates of title. When the aggregate dollar amount of leases and leased vehicles in the Origination Trust grows large enough to justify a securitization, TMCC, as holder of the UTI, may direct the trustee of the Origination Trust to segregate from among all the leases and leased vehicles within the Origination Trust a specified portfolio of leases and related leased vehicles. Pursuant to a supplement to the Origination Trust Agreement (known as a "SUBI" Supplement), the trustee then issues to TMCC a separate certificate representing a "Separate Unit of Beneficial Interest" or "SUBI" in that segregated portfolio. It is this SUBI that becomes the basis for a securitization and the creation of a separate Securitization Trust.

Any leases and leased vehicles held by the Origination Trust that are not included in a SUBI portfolio at the time of such segregation, as well as any new leases and related vehicles acquired subsequent to the specified date on which the new SUBI portfolio is identified, remain part of the UTI portfolio, and the original UTI continues to represent a beneficial interest therein.

New leases and related leased vehicles are added to the SUBI's segregated portfolio by TMCC in an aggregate amount approximately equal to principal collections on the leases and leased vehicles already allocated to the SUBI,[7] for a fixed period (which will be no more than fifteen consecutive months) after the closing date used for the initial allocation of leases made to create the SUBI portfolio. (This period is referred to hereafter as the "revolving period"). The applicant represents that this fixed "revolving period" for principal collections on the leases and leased vehicles is established so that the investor certificates issued by the Securitization Trust are treated as debt for Federal and state income tax purposes, but does not affect the characterization of those certificates as beneficial interests in the Securitization Trust property for accounting and other state law purposes.

After the "revolving period", the pool of leases and leased vehicles allocated to the SUBI (i.e. the SUBI portfolio) remains fixed. Any leases which are added to the SUBI portfolio during the "revolving period" must meet the same terms and conditions for eligibility as the original leases in the portfolio, as described in the prospectus or private placement memorandum, which terms and conditions have been approved by the Rating Agencies prior to the "revolving period". However, TMCC states that the terms and conditions for an "eligible lease" (as defined in Section III.X above) may be changed if such changes receive prior approval either by a majority vote of the outstanding certificateholders or by the Rating Agencies. Further, under the conditions of the proposed exemption, TMCC must ensure that the additional leases added to the SUBI portfolio do not result in the certificates receiving a lower credit rating from the Rating Agencies at the end of the "revolving period" than the rating that was obtained at the time of the initial issuance of the certificates by the trust (see Section II.A.(7)(b) above).

TMCC states that for the duration of the "revolving period", principal collections that are reinvested in additional leases are first reinvested in the "eligible lease contract" (as defined in Section III.X. above) with the earliest origination date, then in the "eligible lease contract" with the next earliest origination date, and so forth (i.e. on a "FIFO basis), beginning with any lease contracts that have been reserved by TMCC specifically for such purposes at the time of the initial allocation of leases to the particular SUBI portfolio. However, those lease contracts reserved for allocation to, or actually allocated to, other pools of leases (i.e. other SUBI portfolios used to create different trusts) will be excluded from the available additional leases to be added to the particular SUBI portfolio. TMCC states that no adverse selection procedures may be employed in selecting leases during the "revolving period". Thus, TMCC represents that it will not be able to manipulate the order in which leases are added to a particular SUBI portfolio during the "revolving period" in order to improve its economic position with respect to the assets held in a particular SUBI portfolio. TMCC states further that at all times there will be a clear identification within the Origination Trust of which leases and leased

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[7] TMCC represents that the aggregate amount of new leases added to a SUBI portfolio is approximately equal, rather than exactly equal, to principal collections on the existing leases because, when additional leases are added, the outstanding principal balance of the new leases is not always equal to the principal collections available for reinvestment. The uninvested principal amounts are held by the Securitization Trust in a cash account and temporarily invested in short-term investments, with interest thereon accruing to the Securitization Trust, until such amounts can be reinvested in additional leases for the SUBI portfolio. TMCC states that any uninvested principal amounts, and interest on such amounts, held by the Securitization Trust are distributed to the certificateholders once principal payments on the leases in the SUBI portfolio are passed-through to investors.

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vehicles belong in each SUBI portfolio and which belong in the UTI or "residual" portfolio. The holders of beneficial interests in each SUBI have also agreed in writing to rely solely upon the assets contained within their respective portfolios to satisfy any payment obligations.

This "revolving period" arrangement differs from the arrangements considered in the Underwriter Exemptions wherein each trust contains a "fixed pool" of assets and substitution of receivables by the trust sponsor is permitted only in the event of defects in documentation discovered within a limited time after the issuance of trust certificates. The Applicant states that during any "revolving period", the outstanding principal balance of the SUBI's portfolio of leases remains unchanged and the certificateholders receive only interest payments with respect to their certificates. Once the "revolving period" ends, principal payments are no longer reinvested but rather are paid out to certificateholders.

To the extent that leases added to the SUBI portfolio during the "revolving period" have a higher Lease Rate (as defined in Section III.V. above) than do the original leases in the SUBI portfolio at the time of the initial offering of the certificates to investors, total returns on the ultimate lease pool in excess of that promised to investors on the trust certificates may inure to affiliates of the Servicer. However, TMCC states that the Average Lease Rate (as defined in Section III.W. above) for the pool of leases allocated to a SUBI portfolio owned by a particular Securitization Trust, after accounting for all the leases added to the SUBI portfolio during the "revolving period", shall not be more than 200 basis points (i.e. 2 percent) greater than the Average Lease Rate for the leases in the SUBI portfolio on the closing date used for the initial allocation of leases to the SUBI portfolio owned by the Securitization Trust.

The Average Lease Rate for the leases in the trust at the time of the initial offering of the certificates is described in the prospectus or offering memorandum provided to investors. The Applicant represents that changes to the Average Lease Rate based on new leases added to a trust during the "revolving period" depend on current interest rates and market conditions as well as the amount of lessee prepayments and repossessions on the leased vehicles. Thus, potential plan investors at the time of the initial offering of trust certificates know the total dollar amount of leases in the trust, the Average Lease Rate on those leases, the fact that principal received by the trust during the "revolving period" is used to invest in additional leases, and the length of the "revolving period". Under the terms of the proposed exemption, potential plan investors shall also be provided with a statement disclosing the fact that the relief provided by the exemption shall be available to the Servicer and its affiliates only if the additional leases do not cause the Average Lease Rate for the leases in the pool after the "revolving period" to increase by more than 200 basis points.

5. Pursuant to the Servicing Agreement, TMCC, acting as Servicer on behalf of the Origination Trustee, selects the assets to be represented by each SUBI (as discussed above). Certificates representing the entire beneficial interest in each SUBI are issued to the sponsor of the Securitization Trust. The sponsor will be TLI, or another wholly-owned subsidiary of TMC (or a limited liability company or partnership in which a TMC subsidiary is a member). The sponsor creates the Securitization Trust and transfers a certificate representing the beneficial interest in the SUBI to the Securitization Trust, pursuant to a trust agreement between the sponsor and the trustee of the Securitization Trust (the Securitization Trustee).[8] The Securitization Trustee is an unrelated commercial institution with trust powers, meeting certain specified requirements. In addition, pursuant to the Securitization Trust Agreement, the Securitization Trust issues to its sponsor investor certificates representing fractional undivided interests in the Securitization Trust, the assets of which include the SUBI, which itself represents a beneficial interest in a portfolio of motor vehicle leases and related leased motor vehicles held by the Origination Trust.

6. The sponsor of the Securitization Trust sells the investor certificates to various outside investors, including employee benefit plans subject to the Act. In order to achieve the desired rating for such certificates, the sponsor may retain a subordinated interest in the Securitization Trust, as required by the Rating Agencies, so that unanticipated losses with the SUBI portfolio will first by borne by TMCC. With respect to the certificates sold to outside investors, there may be two or more classes of securities. The investor certificates are either publicly or privately offered.[9] Except under rare circumstances, physical certificates will not be issued to investors in a public senior class of certificates. Instead, the Securitization Trust will use a book-entry registration system through the Depository Trust Company (DTC), a limited-purpose trust company organized under New York law, which is a member of the Federal Reserve System, and a clearing agency under Section 17A of the Securities Exchange Act of 1934.

Investors are entitled to receive periodic payments of interest at a fixed certificate rate, and after the "revolving period" described above, payments of principal. Principal payments on the investor certificates will be made on each distribution date (i.e., monthly, quarterly, semi-annually or annually), based on formulas allocating among the classes of certificates the maximum amount distributable thereto on each such date and in each case subject to the amount actually collected on the receivables. All net collections collected for the assets underlying each SUBI, including all net proceeds from the sale of a vehicle upon repossession, early lease termination or maturity of the related lease, and, if so specified in the governing documents, earnings derived from temporary investment of trust funds prior to the next scheduled distribution date, are available to make payments on the investor certificates.

The price of the investor certificates, both in the initial offering and in the secondary market, is affected by market forces including investor demand. Certificate interest rates are set at the time of the pricing of each securitization. While the Average Lease Rate for the particular lease portfolio is a factor in the interest rates a Securitization Trust will be able to pay, the actual interest rate set for the certificates issued is determined by a combination of additional factors. Specifically, these factors include: (a) the then-current yields on U.S. Treasury Notes with a remaining term equivalent to the anticipated average life of the particular Securitization Trust, and (b) the then-current "spreads" on similarly-rated competitive investments available in the marketplace, as determined by the Rating Agencies. Once the certificate rate is set for the certificates issued by the Securitization Trust, that rate remains fixed for its duration, regardless of any changes to the Average Lease Rate of the SUBI portfolio occurring during the "revolving period". The price of an investor certificate and the certificate rate together determine the yield to investors. If an investor purchases a certificate at less than par, that discount augments the certificate rate; conversely, a certificate purchased at a premium yields less than the stated coupon.

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[8] TMCC or an affiliate retains a de minimis interest in each SUBI portfolio, which represents a subordinated interest in the portfolio, under requirements established by the Rating Agencies, in order to meet certain Federal tax code objectives.

[9] TMCC is not requesting an exemption for the purchase of any subordinated class of certificates by employee benefit plans. However, the applicant is requesting relief for prohibited transactions that may occur as a result of the investments in a trust made by an insurance company's general account which are considered to be "plan assets" under the recent U.S. Supreme Court decision in *John Hancock Mutual Life Insurance Co.* v. *Harris Trust & Savings Bank*, 114 S.Ct. 517 (1993) (Harris Trust). As a result of the decision in *Harris Trust* and the Department's plan assets regulation (see 29 CFR 2510.3–101), an insurance company investing general account assets could be viewed as a "benefit plan investor" for purposes of calculating the 25 percent significant participation test in section 2510. 3–101(f)(1) of the regulation.

The Department notes that Section III of the Class Exemption for Certain Transactions Involving Insurance Company General Accounts (PTE 95–60, 60 FR 35925, July 12, 1995) provides an exemption for transactions in connection with the operation of asset pool investment trusts notwithstanding that the certificates acquired by the general account are subordinated to the rights and interests evidenced by other certificates of the same trust. In this regard, the Department has included a paragraph at the end of the operative language of the proposed exemption which states that this exemption, if granted, will be included within the definition of the term "Underwriter Exemption" under Section V(h) of PTE 95–60. Therefore, the exemptive relief provided by PTE 95–60 will be available for subordinated investments in a trust described herein by insurance company general accounts.

7. TMCC represents that the certificates issued by a Securitization Trust may involve multi-class certificates. Such multi-class certificates may be one of two types: (i) "strip" certificates; and (ii) "fast-pay/slow-pay" certificates.

"Strip" certificates are a type of security in which the stream of interest payments on the underlying receivables is split from the flow of principal payments and separate classes of certificates are established, each representing rights to disproportionate payments of principal and interest.

"Fast-pay/slow-pay" certificates involve the issuance of classes of certificates having different stated maturities or the same maturities with different payment schedules. The only difference between these multi-class certificates and the single-class certificates is the order in which distributions are made to certificateholders.

The Applicant represents that any "strip" or "fast-pay/slow-pay" certificates issued by a trust will be the same as the type described in the Underwriter Exemptions previously granted by the Department. TMCC emphasizes that the rights of a plan purchasing such certificates will not be subordinated to the rights of another certificateholder in the event of default on any payment obligations for the certificates. With respect to "fast-pay/slow-pay" certificates, TMCC states that if the amount available for distribution to certificateholders is less than the amount required to be so distributed, all senior certificateholders then entitled to receive distributions would share in the amount distributed on a pro rata basis. Thus, if a trust issues subordinate certificates, holders of such subordinate certificates would not be able to share in the amount distributed on a pro rata basis.[10]

8. TMCC enters into arrangements with certain dealers allowing it to cause the assignment of leases and related vehicles originated by those dealers either directly to TMCC or to any other specified entity, including the Origination Trust. Once such leases and related vehicles are assigned to the Origination Trust for ultimate inclusion in a portfolio of SUBI assets for securitization as described above, TMCC is able to go to the capital markets directly for financing through the sale of certificates.

TMCC and/or one or more wholly-owned subsidiaries of TMCC, or limited liability companies or partnerships in which such a wholly-owned subsidiary is a member, are responsible for creating each SUBI, creating the Origination Trust and each Securitization Trust, and designating the Trust Agent and the Securitization Trustee.

The Trust Agent, its subsidiary the Origination Trustee, and the Securitization Trustee, are each independent entities, unrelated to TMCC, the underwriter or placement agent. The Origination Trustee is the legal owner of the motor vehicle leases and related leased motor vehicles allocated to a SUBI. The Securitization Trustee is the legal owner of the obligations in the Securitization Trust and is responsible for enforcing all the rights created thereby in favor of certificateholders, whether independently or through the Origination Trustee. The Applicant represents that each Securitization Trustee and Trust Agent are substantial financial institutions or trust companies experienced in trust activities. The Trust Agent and Securitization Trustee will receive a fee for their services, which will be paid out of assets of the Origination Trust or the Securitization Trust, as applicable. The method of compensating each for its service related to a SUBI is specified in the Servicing Agreement or Securitization Trust Agreement, as applicable, and disclosed in the prospectus or private placement memorandum relating to the offering of the investor certificates.

9. The Servicer administers the leases on behalf of the beneficial owners of the Origination Trust, including the holders of SUBI certificates and, indirectly, the holders of the investor certificates. The Servicer's functions involve monitoring of leases, maintenance of records, institution of proceedings in the event of default, and sale of vehicles after lease maturity, as well as certain functions relating to the qualifications and permits required to be obtained by the Origination Trustee.[11] The Servicer, the sponsor of the Origination Trust, and the sponsor of the Securitization Trust are unrelated to the underwriter and to DTC. DTC has public senior investor certificates registered in its name (or that of its nominee) and maintains procedures for the distribution of notices, reports, distributions and statements to certificateholders.

As compensation for performing its servicing duties for the Origination Trust, the Servicer is paid a fee equal to a specified percentage (usually no more than one percent) of the balance of the leases it services, including those leases allocated to the SUBI. The Servicer may receive additional compensation related to the SUBI in the form of interest on various accounts of the Origination Trust and/or the Securitization Trust containing proceeds of the leases and related leased motor vehicles allocated to each SUBI as well as interest on certain cash deposits. The Servicer is required to pay the administrative expenses of servicing the Origination Trust out of its servicing compensation.

The Servicer is also compensated to the extent it may provide credit enhancement to the Securitization Trust or otherwise arranges to obtain credit support from another party. This "credit support fee" may be aggregated with

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[10] In this regard, the Department notes that although it believes that either the "strip" or the "fast-pay/slow-pay" certificates described above are included within the scope of the proposed exemption, it further notes that no relief is provided under the exemption for plan investments in subordinate certificates (other than as permitted herein for certain insurance company general accounts). In addition, the Department notes that the conditions of the exemption would require that any "strip" or "fast-pay/slow-pay" certificates receive one of the three highest ratings available from the Rating Agencies and that such certificates not receive a lower credit rating upon termination of the period during which additional leases may be added to the SUBI portfolio.

The Department cautions plan fiduciaries to fully understand the risks involved with either "strip" or "fast-pay/slow-pay" certificates prior to any acquisitions of such certificates, and to make prudent determinations as to whether such certificates would adequately meet the investment objectives and liquidity needs of the plan.

[11] TMCC states that these functions are necessary since, as noted in Paragraph 4 above, the Origination Trust is the owner of, and holds title to, the vehicle unless the lessee chooses to purchase such vehicle under the terms of the lease.

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other servicing fees, and may be either paid out of the income received on the leases in excess of the certificate rate or paid in a lump sum at the time the Securitization Trust is established. The Servicer may be entitled to retain certain administrative fees paid by a third party, usually the obligor under a lease, provided that such fees are "qualified administrative fees" as defined under Section III.S. These administrative fees fall into four categories: (a) late payment fees; (b) acquisition fees; (c) deferral fees; and (d) other administrative fees or similar charges under the leases.

Payments on leases may be made by lessees to the Servicer at various times during the period preceding any date on which payments to the Origination Trust are due. In some cases, the Servicing Agreement may permit the Servicer to place these payments in non-interest bearing accounts in itself or to commingle such payments with its own funds prior to the distribution dates. In these cases, the Servicer would be entitled to the benefit derived from the use of the funds between the date of payment on a lease and the date payment is due to the Origination Trust. Commingled payments may not be protected from the creditors of the Servicer in the event of the Servicer's bankruptcy or receivership. In those instances when payments on leases are held in non-interest bearing accounts or are commingled with the Servicer's own funds, the Servicer is required to deposit these payments into an Origination Trust account by a date specified in the Servicing Agreement. TMCC states that the Servicing Agreement will require that payments into an Origination Trust account will be made monthly, even in cases where the certificates provide for distributions to be made quarterly, semi-annually or annually. Once funds are deposited in the Origination Trust account, such funds are required to be invested in highly rated debt instruments of the type described in the governing documents as "permitted investments".

TMCC represents that the Pooling and Servicing Agreement used in the transactions described herein will require that in the event that the rating for TMCC's short-term debt is reduced below a level specified by the Rating Agencies after the sale of the certificates, TMCC (as servicer) will be required to commence depositing collections with respect to trust assets in a trust account on a daily basis within two business days after collection, unless the applicable Rating Agencies have agreed in writing to an alternative arrangement to protect the interests of certificateholders.[12]

All compensation payable to the Servicer with regard to the leases allocated to a SUBI is set forth or referred to in the Servicing Agreement, and described in reasonable detail in the prospectus or private placement memorandum relating to the investor certificates.

10. Participating underwriters or placement agents receive a fee in connection with the securities underwriting or private placement of investor certificates. In a firm commitment underwriting, this fee would consist of the difference between what such underwriter receives for the certificates that it distributes and what it pays the sponsor of the Securitization Trust for those certificates.[13] In a private placement, the fee normally takes the form of an agency commission paid by the sponsor of the Securitization Trust.

The arrangements among underwriters typically are set forth in an "Agreement Among Underwriters", which gives the managing underwriter, as lead manager of the offer, the authority to act on behalf of all the underwriters. This agreement also imposes customary restrictions on the underwriters' dealings in the offered securities as are necessary to comply with securities laws and to ensure the orderly distribution of the offered securities.

11. TMCC represents that as the principal amount of the leases allocated to a SUBI is reduced by payments thereon and recoveries on the disposition of leased vehicles, the cost of separately administering the assets allocated to that SUBI generally increases, making the servicing of those assets prohibitively expensive at some point. Consequently, the Securitization Trust Agreement generally provides that the sponsor of the Securitization Trust may repurchase the SUBI when the aggregate principal balance of the investor certificates is reduced to a specified percentage (usually between 5 and 10 percent) of the initial aggregate investor certificate balance. The terms of such repurchase are specified therein and are at least equal to the unpaid principal balance on the investor certificates plus accrued interest. The supplement to the Origination Trust Agreement generally provides that upon such a repurchase of the Securitization Trust's interest in the SUBI by its sponsor, the Origination Trust may repurchase the entire SUBI from the sponsor and thereby terminate the SUBI. The terms of such repurchase are specified therein and generally are at least equal to the value of the pool of leases and leased vehicles allocated to the SUBI.

12. The senior class of investor certificates must receive a rating that is in one of the three highest generic rating categories available from one of the Rating Agencies. To attain the desired rating, the sponsor or its affiliates may establish a reserve fund for the benefit of certificateholders; retain or sell to third parties one or more classes of subordinated certificates; retain another subordinated interest in the trust; and/or obtain other forms of credit support from third parties. The amount of this credit support is set by the Rating Agencies at a level expected to be a multiple of the worst historical net credit loss experience for leases of automobiles and light-duty trucks such as those allocated to the SUBI.

TMCC states that the Rating Agencies, before granting AAA/Aaa ratings for the publicly issued securitization certificates, review the underlying portfolio of assets securing payment to the investors to determine, among other things, if (a) the principal value of the assets is sufficiently greater than the aggregate face amount of the investor certificates as to provide protection against defaults or losses, and (b) there is a sufficient "spread" between the overall yield, based on the Average Lease Rate (as adjusted by the discounting procedure described below), being earned on the portfolio and the certificate rate to cover servicing costs, expenses and losses. In the case of its public offerings of certificates, TMCC currently anticipates that (i) the face value of public investor senior certificates will not exceed a specified percentage (e.g. 92.5 percent) of the principal value of the underlying assets, and (ii) the "spread" between the overall yield, based on the Average Lease Rate (as adjusted by the discounting procedure described below), of the SUBI portfolio and the certificate rate will be approximately 100 to 300 basis points. Thus, for example, if the targeted "spread" were 200 basis points, a SUBI portfolio with a principal value of $100,000,000 would support the issuance of certificates with a face value of only $92,500,000, and a certificate rate of 6 percent per annum would require an overall yield, based on the Average Lease Rate (as adjusted by the discounting procedure described below), for that SUBI portfolio of approximately 8 percent per annum.

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[12] TMCC states that its short-term unsecured debt is currently rated P–1 by Moody's Investors Service and A–1 by Standard and Poor's Ratings Services.

[13] TMCC represents that a "best efforts" underwriting would not ordinarily be used for the investor certificates.

TMCC states that the Rating Agencies will always require a specific "spread" between the certificate rate and the overall yield for leases in the particular SUBI portfolio before providing their initial credit ratings for the certificates. TMCC must maintain this "spread" when leases are added to the SUBI portfolio during the "revolving period" or risk a lower credit rating for the certificates (see Section II.A.(7)(b) above).

For purposes of the securitization described above, TMCC represents that each individual lease should yield a rate of return, based on the Lease Rate (as defined in Section III.V. above), which is at least equal to the certificate rate plus the targeted spread. However, where the targeted spread is not met as to any lease based solely on the Lease Rate, the principal value of that lease will be discounted so that such lease is treated as having a "net investment value" less than its actual outstanding principal balance. In such instances, the lease is discounted to a level at which the actual lease charges to be collected under the lease (including expected principal payments) would yield, on a percentage basis, an overall rate of return which exceeds the certificate rate by the targeted spread. Thus, for each individual lease included in a securitization, its principal value is either: (a) its outstanding principal balance, if its Lease Rate is equal to or greater than the targeted spread; or (b) its discounted net investment value, if its Lease Rate is less than the targeted "spread".[14] TMCC states that the use of discounted aggregate net investment values in measuring the ratio of certificate face values to the discounted principal balance of the SUBI portfolio can only further assure that investors are paid interest and principal on their certificates on a timely basis.

13. In many cases, the Servicer may provide cash flow support to the trust pursuant to a contractual obligation to advance funds to the trust to the full extent that it determines that such advances are recoverable (a) out of late payments by the lessees, (b) from a permanent credit support provider (which may be itself) or, (c) in the case of a trust that issues subordinated certificates, from amounts otherwise distributable to holders of subordinated certificates. The Servicer would advance such funds in a timely manner. When the Servicer temporarily advances funds, the amount so advanced is recoverable by the Servicer out of future payments on or for leases or leased vehicles allocated to the SUBI to the extent that such amounts are not covered by the other sources described above, including payments from a permanent credit support provider.

If the Servicer fails to advance funds to the extent required by the applicable agreements, fails to call upon a credit support mechanism to provide funds to cover defaulted payments, or otherwise fails in its duties, the Securitization Trustee would be required to enforce the investor certificateholders' rights, in its capacity as a third-party beneficiary of the Servicing Agreement, as owner of the estate of the Securitization Trust, and as an indirect beneficial owner of the Origination Trust assets allocated to a SUBI (including rights under any credit support mechanism). Therefore, the Securitization Trustee, who is independent of the Servicer, ultimately has the right to enforce any credit support arrangement.

14. TMCC represents that there are protections in place to guard against a delay in calling upon the credit support to take advantage of the fact that the credit support declines proportionally with the decrease in the principal amount of the leases allocated to a SUBI as payments for these leases and the related vehicles are used to make payments to the Securitization Trust, as holder of an interest in the SUBI, and then to investors. These safeguards include the following:

(a) There is a disincentive to postponing credit losses because the sooner repossession or sale activities are commenced, the more value generally will be realized on the leased vehicle.

(b) The Servicer has servicing guidelines which include a general policy as to the allowable delinquency period after which a lessee's obligations ordinarily are deemed uncollectible. The Servicing Agreement requires the Servicer to follow its normal servicing guidelines. In addition, the Servicing Agreement sets forth the Servicer's general policy as to the period of time after which delinquent obligations ordinarily will be considered uncollectible.

(c) As frequently as payments are due on the investor certificates (monthly, quarterly, semi-annually, or annually, as set forth in the Securitization Trust Agreement), the Servicer is required to report to the Securitization Trustee the amount of all past-due payments and the amount of all Servicer advances, along with other current information as to collections on the leases, recoveries on the related leased vehicles, and draws upon the credit support. Further, the Servicer is required to deliver to the trustee annually a certificate from an executive officer of the Servicer stating that a review of the servicing activities has been made under such officer's supervision, and either stating that the Servicer has fulfilled all of its obligations under the Servicing Agreement or, if the Servicer has defaulted under any of its obligations, specifying any such default. The Servicer's reports are reviewed at least annually by independent accountants to ensure that the Servicer is following its normal servicing standards and that the reports conform to the Servicer's internal account records. The results of the independent accountants' review are delivered to the Securitization Trustee.

(d) In cases where the Servicer and an insurer providing credit support are affiliated or are the same entity, the credit support has a "floor" dollar amount that protects investors against the possibility that a large number of credit losses might occur towards the end of the life of the SUBI, whether due to Servicer advances or any other cause. The floor amount may be a fixed dollar amount or a specified formula amount. Once the floor amount has been reached, the Servicer lacks an incentive to postpone the recognition of credit losses because the credit support amount becomes a fixed dollar amount, subject to reduction only for actual draws on such amount. From the time that the floor amount is effective until the end of the life of the trust, there are no proportionate reductions in the credit support amount caused by reductions in the principal balance of the leases allocated to the SUBI. The Applicant states that where the floor is a fixed dollar amount, the amount of credit support ordinarily would increase as a percentage of the declining principal balance during the period that the floor is in effect.

15. In connection with the original issuance of investor certificates, a

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[14] For example, if the certificate rate for a transaction were 8 percent and the targeted spread were 200 basis points, then, in determining the aggregate face value amount of certificates that could be issued with respect to a given SUBI portfolio, TMCC could include each lease with a Lease Rate of 10 percent or more at its current outstanding principal balance without any discounting. However, if the portfolio included individual leases each with outstanding principal balances of $20,000 and Lease Rates of only 5 percent, then TMCC would have to "discount" the value of each such lease for purposes of the securitization to a low enough net investment value (approximately $18,000) so that the same overall monthly lease payment for each lease would now yield a Lease Rate of 10 percent. TMCC notes that any "discounting" of leases added to the SUBI portfolio during the "revolving period" will result in more leases being added to the portfolio in order to maintain a constant outstanding principal balance during such period. Thus, when interest rates used to determine the Lease Rate for leases added to a SUBI portfolio are declining, the "discounting" of leases adds more "collateral" to secure payments of the certificate rate.

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prospectus or private placement memorandum is furnished to all investors including investing plans. The prospectus or private placement memorandum contains information material to a plan fiduciary's decision to invest in the certificates, including:

(a) Information concerning the payment terms of the certificates, the rating of the certificates, and any material risk factors with respect to the certificates;

(b) A description of the Origination Trust and Securitization Trust as legal entities and a description of how they were formed by their respective sponsors;

(c) Identification of the Trust Agent, Origination Trustee and Securitization Trustee;

(d) A description of the leases and related leased vehicles allocated to each SUBI, including the diversification of the leases and vehicles, the principal terms of the leases, and their material legal aspects;

(e) A description of the sponsors of the Origination Trust and the Securitization Trust, and of the Servicer;

(f) A description of the servicing arrangements set forth in the Servicing Agreement, and the agreements governing the Origination Trust and the Securitization Trust, including a description of the Servicer's principal representations and warranties as to the leases and leased vehicles allocated to each SUBI and the remedies for any breach thereof;

(g) A description of the procedures for collection of payments on or for leases and related leased vehicles and for making distributions to the Securitization Trust, as holder of an interest in the SUBI, and then to investor certificateholders, and a description of the accounts into which such payments are deposited and from which such distributions are made;

(h) Identification of the servicing compensation and any fees for credit support that are deducted from payments on or for leases or related leased vehicles before distributions are made to investors;

(i) A description of periodic statements provided to the Securitization Trustee, and such statements that are provided or made available to investors by the Securitization Trustee;

(j) A description of the events that constitute events of default under the Servicing Agreement and a description of the Securitization Trustee's and the investors' remedies incident thereto;

(k) A description of any credit support;

(l) A general discussion of the principal Federal income tax consequences of the purchase, ownership and disposition of the investor certificates by a typical investor;

(m) A description of the underwriters' or placement agents' plan for distributing the certificates to investors; and

(n) Information about the scope and nature of the secondary market, if any, for the certificates.

Reports indicating the amount of payments of principal and interest are provided to investors as frequently as distributions are made to investors. Investors are also provided with periodic information statements setting forth material information concerning the leases and related vehicles allocated to each SUBI, including information as to the amount and number of delinquent and defaulted leases.

16. In the case of the offer and sale of investor certificates in a registered public offering, the Securitization Trustee, the Servicer or the sponsor of the Securitization Trust will file periodic reports as required by the Securities Exchange Act of 1934 (the 1934 Act). A Securitization Trust and its sponsor may, in some cases, discontinue making filings under the 1934 Act if permitted to do so under the provisions of that Act by exemptions contained therein.

At the time distributions are made to certificateholders, a report is delivered to the trustee as to the status of the Securitization Trust and each SUBI, including the assets allocated to the SUBI. Such report contains information regarding, among other things, the leases and related vehicles allocated to the SUBI, payments received or collected by the Servicer, the amount of prepayments, delinquencies, Servicer advances, defaults and foreclosures, the amount of any payments made pursuant to any credit support, and the amount of compensation payable to the Servicer. Such report is also delivered to or made available to the Rating Agency or Agencies that have rated the investor certificates. A statement based on this report is also provided to certificateholders either by the Securitization Trustee, the Servicer, or DTC as depository of the investor certificates, including a summary statement regarding the Securitization Trust and the assets allocated to the SUBI. The statement contains information regarding payments and prepayments, delinquencies, the remaining amount of credit support, a breakdown of payments between principal and interest and other information concerning the leases and leased vehicles allocated to the SUBI.

With respect to payments on the certificates, TMCC states that such payments are legally obligated to be made by the Securitization Trustee to DTC, the record owner of the certificates. TMCC represents that DTC makes payments to the beneficial owners of the certificates as required by New York Stock Exchange Regulations, SEC Regulations and the rules of the U.S. Federal Reserve Board.

17. In general, it is the policy of many underwriters to make a market for securities for which they are the lead or co-managing underwriter. It is also the policy of many placement agents to facilitate sales by investors who purchase certificates if the placement agent has acted as a principal or agent in the original private placement of the certificates and if the investors request the placement agent's assistance. In this regard, TMCC anticipates that underwriters will make a secondary market in investor certificates of trusts that are sponsored by TMCC and its Subsidiaries.

18. TMCC and its Subsidiaries represent that they will abide by all securities and other laws applicable to any offering of interests in securitized assets, such as certificates in a trust as described herein, including those laws relating to disclosure of material litigation, investigations and contingent liabilities.

TMCC has requested the relief proposed herein because, under the Department's regulation defining "plan assets" for investment purposes (see 29 CFR 2510.3–101), there could be a "look-through" to the underlying assets of the trust issuing certificates purchased by employee benefit plans when there is significant participation by benefit plan investors in a particular offering and the certificates are not considered to be "publicly-offered" securities. In this regard, TMCC states that many certificates are held by investors in street or nominee name. Thus, TMCC states that it is not always possible to identify whether the percentage interest in a trust held by benefit plan investors is or is not "significant" (29 CFR 2510.3–101(f)). TMCC states further that these problems are compounded as transactions occur in the secondary market. In addition, with respect to the "publicly-offered security" exception contained in the Department's regulation (29 CFR 2510.3–101(b)), TMCC states that it is difficult to determine whether each purchaser of a certificate is independent of all other purchasers or whether there are at least 100 independent investors which would make the certificates a "widely-held" class of securities (as required therein).

TMCC has requested that the proposed exemption be effective as of September 1, 1997, in order to cover any securitizations of motor vehicle leases and related vehicles since that time which may have involved significant participation by benefit plan investors.

19. In summary, the Applicant represents that the transactions for which exemptive relief is requested satisfy the statutory criteria of section 408(a) of the Act because:

(a) The Securitization Trust holds an interest in a SUBI, which generally represents beneficial interests in a "fixed pool" of leases and related leased vehicles, other than the obligation to reinvest principal collections on the leases and leased vehicles in additional qualifying leases and leased vehicles during a fixed "revolving period" of no more than 15 months.

(b) The Average Lease Rate for the leases in the portfolio used to create a trust, after accounting for all leases added to such portfolio during the "revolving period", will not exceed by more than 200 basis points the Average Lease Rate for the original portfolio of leases used to create the trust.

(c) Certificates in which employee benefit plans invest have been rated in one of the three highest rating categories by the Rating Agencies. To achieve the desired rating, one or more types of credit support are provided by the sponsor or its affiliates or are obtained from third parties. In addition, leases added to a trust portfolio during the "revolving period" will not result in the certificates receiving a lower credit rating from the Rating Agencies, at the end of the "revolving period", than the rating that was obtained at the time of the initial issuance of the certificates by the trust.

(d) All transactions for which TMCC seeks exemptive relief are governed by the Origination Trust Agreement, the SUBI Supplement, the Servicing Agreement and the Securitization Trust Agreement. These agreements as well as the prospectus or private placement memorandum are made available to plan fiduciaries for their review prior to the plan's investment in the certificates.

(e) The Pooling and Servicing Agreement expressly provides that funds collected by TMCC, as the servicer for trust assets, are required to be deposited in a trust account within two business days after such collection, if TMCC's short-term unsecured debt no longer continues to be rated P–1 by Moody's Investors Service and A–1 by Standard & Poor's Ratings Services (or successors thereto), unless such Rating Agencies accept an alternative arrangement.

(f) Exemptive relief from sections 406(b) and 407(a) of the Act for sales to employee benefit plans is substantially limited.

(g) The Applicant anticipates that underwriters will make a secondary market in investor certificates sponsored by TMCC and its Subsidiaries.

For Further Information Contact: Mr. E. F. Williams of the Department, telephone (202) 219–8194. (This is not a toll-free number.)

Kilpatrick Investment Company Employee's Pension Plan (the Plan); Located in Oklahoma City, Oklahoma

[Application No.: D–10607]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836,32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a) and 406(b)(1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of 4975(c)(1)(A) through (E) of the Code, shall not apply to the past sale (the Sale) of improved real property (the Property) by the Plan to the Kilpatrick Investment Company (the Company), a party in interest with respect to the Plan provided the following conditions were met at the time of the Sale: (1) the terms of the Sale were at least as favorable as those the Plan could have obtained in an arm's length transaction with an unrelated party; (2) the fair market value of the Property was determined by an independent and qualified real estate appraiser; (3) the Sale price was equal to the greater of the fair market value of the Property at the time of the Sale or $134,600 which represents the price the Plan originally paid for the Property plus the holding costs incurred by the Plan during the Plan's ownership of the Property; and (4) the Plan paid no commissions or expenses associated with the Sale.

Effective Date: If granted, this proposed exemption will be effective as of April 15, 1998.

Summary of Facts and Representations

1. The Plan is a defined benefit plan having six participants and beneficiaries as of February 19, 1998. The aggregate fair market value of the Plan's assets is $884,543 which is based upon the 1996 Plan's actuarial report. John Kilpatrick is the Plan trustee and owner of the Company.

2. The Property is a sixty year old industrial facility located on a 476,725 square foot site located at 800 N.W. 3rd Street, Moore, Oklahoma. The Plan purchased the Property from an unrelated third party on January 31, 1978 for $95,000 representing land cost of $15,000 and building cost $80,000. Since this time, the Plan has paid approximately $7,000 in land repairs, $15,900 in improvements and $16,555 ad valorem taxes. The warehouse portion of the Property has been leased to Show Productions, an unrelated third party for an annual rent of $6,000.

3. On February 4, 1998, the Property was appraised by Stephen V. Greer Company, Real Estate Appraisers and Consultants. The fair market value of the Property was calculated to be $78,500. In his appraisal report, Mr. Greer defined market value as the probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus. Mr. Greer noted that the overall quality of the building improvements of the Property is fair and the general condition of the Property is fair to poor. The useful economic life of these improvements is nearing its end. Redevelopment will be required to maximize the value of the site.

4. The Plan proposed to sell the Property in order to diversify its assets and invest in more liquid investments.[15] In February 1998, the Company applied for an exemption to permit a proposed sale of the Property by the Plan to the Company at the fair market value of the Property. However, during the Department's consideration of the exemption request, it became apparent to the Plan trustee that the Plan had invested significantly more in the Property than its appraised value. Thus, the Company proposed to purchase the Property at a price greater than the fair market value of the Property which represented an amount equal to the Plan's acquisition cost plus the holding costs of the Property totaling $134,600.

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[15] As of February 1998, the Plan's total investment in real estate accounted for 93% of the value of plan assets. The Department is expressing no opinion in this proposed exemption as to whether plan fiduciaries violated any of the fiduciary responsibility provisions of Part 4 of Title I of the Act in acquiring and holding such real estate. Section 404(a)(1)(C) states that a fiduciary shall discharge his duties with respect to a plan solely in the interest of the participants and beneficiaries by diversifying the investments of the plan so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

The Company stated that it would be in the position to purchase the Property at this price due to the fact that the Company had recently sold another piece of property for $150,000 with respect to which the Company was trying to complete a Code section 1031 like-kind exchange. The Company further states that based upon the section 1031 requirements, the like-kind exchange had to be completed by April 15, 1998, and the Company determined that due to the notice requirements of the exemption process, the exemption would not be granted before this date. Accordingly, the Company purchased the Property from the Plan on April 15, 1998. The applicant represents that the Sale was in the interest of the Plan because it permitted the Plan to fully recover the money it invested in the Property, and it appeared highly unlikely that the Plan could sell the Property to a third party in its current condition at such a price. In addition, the Plan incurred no expenses as a result of the Sale.

5. In summary, the applicant represents that the transaction satisfies the statutory criteria of the section 408(a) of the Act and section 4975(c)(2) of the Code because: (1) the Sale was a one-time transaction for cash; (2) the Plan paid no expenses associated with the Sale; and (3) the Plan received the greater of the fair market value as determined by an independent, qualified appraiser of the Property or $134,600 which represents the Plan's total investment in the Property.

For Further Information Contact: Allison Padams Lavigne of the Department, telephone (202)219–8971. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 1st day of July, 1998.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 98–18012 Filed 7–7–98; 8:45 am]

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DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Prohibited Transaction Exemption 98–32; Exemption Application No. D–10459, et al.]; Grant of Individual Exemptions; Union Bank of Switzerland

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Union Bank of Switzerland (UBS/Swiss) and UBS Securities, LLC (UBS Securities) Located in Zurich, Switzerland and New York, New York, Respectively

[Prohibited Transaction Exemption 98–32; Exemption Application Nos. D–10459 and D–10460]

Exemption

The restrictions of sections 406(a)(1)(A) through (D) and 406(b)(1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the (1) lending of securities to UBS/Swiss, UBS Securities, UBS Ltd. (UBS/UK), UBS Securities Limited (UBS/Japan) and their successors in interest, which are or will

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be affiliated domestic or foreign broker-dealers of UBS Securities,[1] by employee benefit plans (the Client Plans or Plans), including commingled investment funds holding plan assets, for which UBS/Swiss, acting through its New York branch in connection with securities lending activities (UBS NY), an affiliate of the proposed UBS Borrowers, may serve as a securities lending agent, sub-agent, or as a custodian or a directed trustee to Client Plans under either of two securities lending arrangements, referred to herein as "Plan A" or "Plan B"; and (2) the receipt of compensation by UBS NY in connection with these transactions.

This exemption is subject to the following conditions:

(a) For each Client Plan, neither UBS NY, any of the UBS Borrowers nor any affiliate of those entities has discretionary authority or control with respect to the investment of the Plan assets involved in the transaction, or renders investment advice [within the meaning of 29 CFR 2510.3–21(c)] with respect to those assets.

(b) With regard to—

(1) Plan A, under which UBS NY lends securities of a Client Plan to any UBS Borrowers in either an agency or sub-agency capacity, such arrangement is approved in advance by a Plan fiduciary who is independent of UBS NY and the UBS Borrower and is negotiated by UBS NY which acts as a liaison between the lender and the borrower to facilitate the securities lending transaction.[2]

(2) Plan B, under which the UBS Borrower directly negotiates the agreement with the fiduciary of a Client Plan, including a Plan for which UBS NY provides services with respect to the portfolio of securities to be loaned pursuant to an exclusive borrowing arrangement (the Exclusive Borrowing Arrangement), such Client Plan fiduciary is independent of both the UBS Borrower and UBS NY, and UBS NY does not participate in any such negotiations.

(c) The independent fiduciary of a Client Plan approves the general terms of the securities loan agreement (the Loan Agreement) between the Client Plan and the UBS Borrower.

(d) The terms of each loan of securities by a Client Plan to a UBS Borrower are at least as favorable to such Plan as those of a comparable arm's length transaction between unrelated parties.

(e) A Client Plan may terminate the agency or sub-agency arrangement under Plan A or an Exclusive Borrowing Agreement under Plan B at any time, without penalty, on five business days notice, whereupon the UBS Borrowers will deliver certificates for securities identical to the borrowed securities (or the equivalent thereof in the event of reorganization, recapitalization or merger of the issuer of the borrowed securities) to the Client Plan within—

(1) The customary delivery period for such securities;

(2) Five business days; or

(3) The time negotiated for such delivery by the Client Plan and the UBS Borrowers, whichever is less.

(f) The Client Plan or its designee receives from each UBS Borrower by physical delivery or by book entry in a securities depository located in the United States, wire transfer or similar means by the close of business on or before the day the loaned securities are delivered to the UBS Borrower, collateral consisting of U.S. currency, securities issued or guaranteed by the United States Government or its agencies or instrumentalities, or irrevocable bank letters of credit issued by a U.S. bank, other than UBS NY or an affiliate thereof, or any combination thereof, or other collateral permitted under PTE 81–6 as it may be amended or superseded.

(g) The market value (or in the case of a letter of credit, a stated amount) of the collateral on the close of business on the day preceding the day of the loan is initially at least 102 percent of the market value of the loaned securities. The applicable Loan Agreement gives the Client Plan a continuing security interest in and a lien on the collateral. The level of collateral is monitored daily (either by UBS NY under Plan A, or by UBS NY or another designee of the Client Plan under Plan B). If the market value of the collateral, on the close of trading on a business day is less than 100 percent of the market value of the loaned securities at the close of business on that day, the UBS Borrower is required to deliver, by the close of business on the next day, sufficient additional collateral to bring the level to at least 102 percent.

(h) Prior to entering into a Loan Agreement, the applicable UBS Borrower furnishes each Client Plan its most recently available audited and unaudited statements to UBS NY, and in turn, such statements are provided to the Client Plan before the Client Plan approves the terms of the Loan Agreement. The Loan Agreement contains a requirement that the applicable UBS Borrower must give prompt notice at the time of a loan of any material adverse changes in its financial condition since the date of the most recently furnished financial statements. If any such changes have taken place, UBS NY does not make any further loans to the UBS Borrower unless an independent fiduciary of the Client Plan is provided notice of any material change and approves the loan in view of the changed financial condition.

(i) In return for lending securities, the Client Plan either—

(1) Receives a reasonable fee, which is related to the value of the borrowed securities and the duration of the loan; or

(2) Has the opportunity to derive compensation through the investment of cash collateral. (Under such circumstances, the Client Plan may pay a loan rebate or similar fee to UBS Borrowers, if such fee is not greater than the fee the Client Plan would pay in a comparable arm's length transaction with an unrelated party.)

(j) All procedures regarding the securities lending activities will, at a minimum, conform to the applicable provisions of PTEs 81–6 and 82–63 as well as to applicable securities laws of the United States, Switzerland, the United Kingdom or Japan.

(k) UBS NY agrees to indemnify and hold harmless the Client Plan in the United States (including the sponsor and fiduciaries of such Client Plan) for any transactions covered by this exemption with a UBS Borrower so that the Client Plan does not have to litigate, in the case of a UBS Foreign Borrower, in a foreign jurisdiction nor sue the UBS Foreign Borrower to realize on the indemnification. Such indemnification, by UBS NY, is against any and all reasonably foreseeable damages, losses, liabilities, costs and expenses (including attorney's fees) which the Client Plan may incur or suffer, arising from any impermissible use by the UBS Borrower of the loaned securities or from an event of default arising from the UBS Borrower's failing to deliver loaned securities in accordance with the applicable Loan Agreement or to otherwise comply with the terms of such agreement, except to the extent that such losses or damages are caused by the Client Plan's own negligence.

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[1] For purposes of this exemption, UBS/Swiss, UBS/UK, UBS/Japan and their successors in interest are collectively referred to as the UBS Foreign Borrowers. In addition, UBS Securities, including its successor in interest, and the UBS Foreign Borrowers are together referred to herein as the UBS Borrowers or individually as a UBS Borrower.

[2] The Department, herein, is not providing exemptive relief for securities lending transactions engaged in by primary lending agents, other than UBS NY, beyond that provided pursuant to Prohibited Transaction Exemption (PTE) 81–6 (46 FR 7527, January 23, 1981, as amended at 52 FR 18754, May 19, 1987) and PTE 82–63 (47 FR 14804, April 6, 1982).

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(1) If any event of default occurs, UBS NY, promptly and at its own expense (subject to rights of subrogation in, to the collateral and against such borrower), purchases or causes to be purchased, for the account of the Client Plan, securities identical to the borrowed securities (or their equivalent as discussed above). If the collateral is insufficient to accomplish such purchase, UBS NY indemnifies the Client Plan for any shortfall in the collateral plus interest, if contractually applicable, on such amount and any transaction costs incurred (including attorney's fees of the Client Plan for legal actions arising out of the default on loans or failure to properly indemnify under this provision). Alternatively, if such replacement securities cannot be obtained on the open market, UBS NY pays the Client Plan the difference in U.S. dollars between the market value of the loaned securities and the market value of the related collateral on the date of the borrower's breach of its obligation to return the loaned securities.

(2) If, however, the event of default is caused by the UBS Borrower's failure to return the securities within the designated time, the Client Plan has the right to purchase securities identical to the borrowed securities and apply the collateral to payment of the purchase price and any other expenses of the Plan associated with the sale and/or purchase.

(l) The Client Plan receives the equivalent of all distributions made to holders of the borrowed securities, including all interest and dividends on the loaned securities during the loan period.

(m) Prior to any Client Plan's approval of the lending of its securities to any UBS Borrower, copies of the notice of proposed exemption (the Notice) and the final exemption are provided to the Client Plan.

(n) Each Client Plan receives monthly reports with respect to securities lending transactions, including, but not limited to, the information described in Representation 26 of the Summary of Facts and Representations (the Summary) of the Notice, so that an independent fiduciary of a Client Plan may monitor such transactions with the UBS Borrower.

(o) Only Client Plans with total assets having an aggregate market value of at least $50 million are permitted to lend securities to UBS Borrowers; provided, however, that—

(1) In the case of two or more Client Plans which are maintained by the same employer, controlled group of corporations or employee organization (i.e., the Related Plans), whose assets are commingled for investment purposes in a single master trust or any other entity the assets of which are "plan assets" under 29 CFR 2510.3–101 (the Plan Asset Regulation), which entity is engaged in securities lending arrangements with UBS Borrowers, the foregoing $50 million requirement is deemed satisfied if such trust or other entity has aggregate assets which are in excess of $50 million; provided that, if the fiduciary responsible for making the investment decision on behalf of such master trust or other entity is not the employer or an affiliate of the employer, such fiduciary has total assets under its management and control, exclusive of the $50 million threshold amount attributable to Client Plan investment in the commingled entity, which are in excess of $100 million.

(2) In the case of two or more Client Plans which are not maintained by the same employer, controlled group of corporations or employee organization (i.e., the Unrelated Client Plans), whose assets are commingled for investment purposes in a group trust or any other form of entity the assets of which are "plan assets" under the Plan Asset Regulation, which entity is engaged in securities lending arrangements with UBS Borrowers, the foregoing $50 million requirement is deemed satisfied if such trust or other entity has aggregate assets which are in excess of $50 million (excluding the assets of any Plan with respect to which the fiduciary responsible for making the investment decision on behalf of such group trust or other entity or any member of the controlled group of corporations including such fiduciary is the employer maintaining such Plan or an employee organization whose members are covered by such Plan). However, the fiduciary responsible for making the investment decision on behalf of such group trust or other entity—

(A) Has full investment responsibility with respect to Client Plan assets invested therein; and

(B) Has total assets under its management and control, exclusive of the $50 million threshold amount attributable to Client Plan investment in the commingled entity, which are in excess of $100 million.

(In addition, none of the entities described above must be formed for the sole purpose of making loans of securities.)

(p) With respect to any calendar quarter, at least 50 percent or more of the outstanding dollar value of securities loans negotiated on behalf of Client Plans will be to unrelated borrowers.

(q) In addition to the above, all loans involving UBS Foreign Borrowers, have the following requirements:

(1) Such Foreign Borrower is registered as a broker-dealer with the Securities and Futures Authority of the United Kingdom in the case of UBS/UK, the Swiss Federal Banking Commission in the case of UBS/Swiss, and the Ministry of Finance, in the case of UBS/Japan;

(2) Such Foreign Borrower is in compliance with all applicable provisions of Rule 15a–6 (17 CFR 240.15a–6) under the Securities Exchange Act of 1934 which provides for foreign broker-dealers a limited exemption from United States registration requirements;

(3) All collateral is maintained in United States dollars or U.S. dollar-denominated securities or letters of credit;

(4) All collateral is held in the United States and the situs of the securities lending agreements (either the Loan Agreement under Plan A or the Exclusive Borrowing Agreement under Plan B) is maintained in the United States under an arrangement that complies with the indicia of ownership requirements under section 404(b) of the Act and the regulations promulgated under 29 CFR 2550.404(b)–1; and

(5) Prior to a transaction involving a UBS Foreign Borrower, the applicable UBS Foreign Borrower—

(A) Agrees to submit to the jurisdiction of the United States;

(B) Agrees to appoint an agent for service of process in the United States, which may be an affiliate (the Process Agent);

(C) Consents to service of process on the Process Agent; and

(D) Agrees that enforcement by a Client Plan of the indemnity provided by UBS New York will occur in the United States courts.

(r) UBS NY and each UBS Foreign Borrower maintain, or cause to maintain within the United States for a period of six years from the date of such transaction, in a manner that is convenient and accessible for audit and examination, such records as are necessary to enable the persons described in paragraph (s)(1) to determine whether the conditions of the exemption have been met, except that—

(1) A prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of UBS NY and/or its affiliates, the records are lost or destroyed prior to the end of the six year period; and

(2) No party in interest other than UBS NY or its affiliates shall be subject to the civil penalty that may be assessed

under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for examination as required below by paragraph (s)(1).

(s)(1) Except as provided in subparagraph (s)(2) of this paragraph and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (r) are unconditionally available at their customary location during normal business hours by —

(A) Any duly authorized employee or representative of the Department, the Internal Revenue Service or the Securities and Exchange Commission;

(B) Any fiduciary of a participating Client Plan or any duly authorized representative of such fiduciary;

(C) Any contributing employer to any participating Client Plan or any duly authorized employee representative of such employer; and

(D) Any participant or beneficiary of any participating Client Plan, or any duly authorized representative of such participant or beneficiary.

(s)(2) None of the persons described above in paragraphs (s)(1)(B)—(s)(1)(D) of this paragraph (s)(1) are authorized to examine the trade secrets of UBS NY or its affiliates or commercial or financial information which is privileged or confidential.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the Notice published on March 31, 1998 at 63 FR 15452.

Written Comments

During the comment period, the Department received one written comment with respect to the Notice and no requests for a public hearing. The comment letter was submitted by UBS/Swiss and UBS Securities (together, the Applicants) and is intended to clarify the operative language of the Notice and the Summary. Presented below are a discussion of the Applicants' comments and the Department's responses.

General Comments

The Applicants wish to make the following general comments to reflect changed circumstances since the original filing of the exemption application.

1. *Successors in Interest.* The Applicants represent that there is currently a pending merger between UBS Swiss and Swiss Bank. The transaction, which has not been structured as an asset sale but rather as a transfer of stock, would result in the formation of a new entity that would be named "UBS AG." In effect, the Applicants state that the shareholders of UBS Swiss and Swiss Bank would surrender shares of stock in their respective entities in exchange for shares of UBS AG. Following the merger, UBS Securities would be renamed "Warburg Dillon Read LLC." The names of UBS/UK and UBS/Japan would remain unchanged. The Applicants state that they have obtained final regulatory approval and anticipate that the merger will be consummated by the end of June 1998.

To ensure that the requested exemption will still be effective following the merger, the Applicants have requested that it be revised, as necessary, to extend to successors in interest to the Applicants and their affiliates. Therefore, the Department has revised the operative language of the exemption by making it applicable to successors in interest to UBS Swiss, UBS Securities and their affiliates, including UBS NY and the UBS/UK and UBS/Japan.

2. *Representation 1(b) of the Summary.* The last sentence in the second paragraph of Representation 1(b) of the Summary states that "All borrowings by UBS Securities must conform to applicable provisions of the Federal Reserve Board's Regulation T." The Applicants note that Regulation T has been amended as of April 1, 1998 and therefore, believe that a representation as to compliance with Regulation T should be made only to the extent it is applicable to the UBS Borrower and the transaction. Accordingly, the Applicants suggest that the last sentence of Representation 1(b) be revised to read as follows:

> All borrowings by UBS Securities must conform to applicable provisions of the Federal Reserve Board's Regulation T, to the extent that such regulation is applicable to UBS Securities and to the transaction.

In concurrence, the Department has made the requested change in Representation 1(b) of the Notice.

Specific Comments

1. *Operative Language of the Notice and Representation 8 of the Summary.* In the operative language of the Notice, the introductory paragraph and Representation 8 of the Summary briefly state that UBS NY may serve as a securities lending agent, a sub-agent or as a custodian or a directed trustee to Client Plans under either of two securities lending arrangements, which are referred to therein as "Plan A" and "Plan B." To clarify the statements made in these paragraphs, the Applicants point out that when UBS NY effects securities lending activities on behalf of a Client Plan, it may be acting as a lending agent or a sub-agent pursuant to discrete agency documentation or pursuant to authority granted under a trust or custodial agreement with the Client Plan which expressly includes the securities lending activity.

The Department has noted the clarification offered by the Applicants.

2. *Condition (k) of the Notice and Representations 23 and 38 of the Summary.* The Applicants suggest that the Department revise Condition (k) of the Notice and Representation 23 and 38 of the Summary to reflect more accurately the scope of the indemnification given by UBS NY to a Client Plan. In this regard, the Applicants recommend that the second sentence of Condition (k) and the second sentence of Representation 38 be modified by striking the phrase "the failure of the UBS Borrower" and inserting the phrase "from an event of default arising from the UBS Borrower's failing * * *" after the word "or."

In response, the Department concurs with the requested modifications and has revised the Notice, accordingly. Although Representation 23 of the Summary contains language similar to that of Condition (k) and Representation 38, the Department has not made a corresponding change since the language contained therein already appears to embody the Applicants' requested modification.

3. *Condition (k)(1) of the Notice and Representation 23 of the Summary.* The Applicants note that UBS NY will perform its indemnity within one business day of the insolvency event (either by (1) paying the Client Plan the difference in U.S. dollars between the market value of the loaned securities and the market value of the related collateral on the date of the borrower's breach of its obligation to return the loaned securities or (2) by purchasing securities identical to the borrowed securities and applying the collateral to payment of the purchase price and any other expenses of the Client Plan that may be associated with the sale and/or purchase. Because UBS NY generally performs its indemnity by the next business day, the Applicants represent that UBS NY does not pay interest on any shortfall in collateral arising from other than reinvestment risk but it does bear the transaction costs of performing the indemnity. However, in the event UBS NY is ever required to pay interest to a Client Plan, the Applicants request that the phrase "if contractually applicable" be inserted following the reference to "interest" in Condition

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(k)(1) and in the second sentence of the second paragraph in Representation 23.

In response, the Department has made the change requested by the Applicants.

4. *Condition (o)(2)(A) of the Notice and Representation 28(a) of the Summary.*

Condition (o)(2) of the Notice provides that—

In the case of two or more Client Plans which are not maintained by the same employer, controlled group of corporations or employee organization (the Unrelated Client Plans), whose assets are commingled for investment purposes in a group trust or any other form of entity the assets of which are "plan assets" under the Plan Asset Regulation, which entity is engaged in securities lending arrangements with UBS Borrowers, the foregoing $50 million requirement is deemed satisfied if such trust or other entity has aggregate assets which are in excess of $50 million; provided that the fiduciary responsible for making the investment decision on behalf of such group trust or other entity—

(A) Is neither the sponsoring employer, a member of the controlled group of corporations, the employee organization, nor an affiliate;

(B) Has full investment responsibility with respect to Client Plan assets invested therein; and

(C) Has total assets under its management and control, exclusive of the $50 million threshold amount attributable to Client Plan investment in the commingled entity, which are in excess of $100 million.

Representation 28 of the Summary contains a similar provision. The Department believes that subparagraph (A) above and clause (a) of Representation 28 unnecessarily limit the ability of a Client Plan to effect securities loans under the proposed lending program, particularly in a situation where the independent investment manager's own in-house plan wishes to invest in the commingled investment vehicle. Therefore, the Department has modified the Condition and Representation to read as follows:

> In the case of two or more Client Plans which are not maintained by the same employer, controlled group of corporations or employee organization (i.e., the Unrelated Client Plans), whose assets are commingled for investment purposes in a group trust or any other form of entity the assets of which are "plan assets" under the Plan Asset Regulation, which entity is engaged in securities lending arrangements with UBS Borrowers, the foregoing $50 million requirement is satisfied if such trust or other entity has aggregate assets which are in excess of $50 million (excluding the assets of any Plan with respect to which the fiduciary responsible for making the investment decision on behalf of such group trust or other entity or any member of the controlled group of corporations including such fiduciary is the employer maintaining such Plan or an employee organization whose members are covered by such Plan). However, the fiduciary responsible for making the investment decision on behalf of such group trust or other entity—

(A) Has full investment responsibility with respect to plan assets invested therein; and

(B) Has total assets under its management and control, exclusive of the $50 million threshold amount attributable to plan investment in the commingled entity, which are in excess of $100 million.

In effect, the independent investment manager's own plan may participate in the commingled investment vehicle but for purposes of determining whether the $50 million aggregation requirement is met, the assets of the Unrelated Plans must be utilized.

5. *Condition (q)(5)(D) of the Notice and Representations 25(d) and 32(d) of the Summary.* Condition (q) of the Notice sets forth certain supplemental requirements for securities loans involving UBS Foreign Borrowers. Specifically, subparagraph 5 of Condition (q) describes the limited form of indemnity that is to be provided by the UBS Foreign Borrower to a Client Plan. For example, prior to a securities lending transaction, the UBS Foreign Borrower must (a) agree to submit to the jurisdiction of the United States; (b) agree to appoint an agent for service of legal process; and (c) consent to service of process on the Process Agent.

The Applicants note, however, that the language of Condition (q)(5)(D) of the Notice and Representations 25(d) and 32(d) of the Summary appears to have been added in error. These paragraphs state that the applicable UBS Foreign Borrower "agrees to be indemnified in the United States for any transaction covered by this exemption." Because no UBS Borrower will be indemnified under this exemption, the Applicants suggest that the language be clarified to state that the "UBS Foreign Borrower agrees that enforcement by a Client Plan of the indemnity provided by UBS New York will occur in the United States courts."

In response, the Department concurs with the clarification made by the Applicants and has made the requested change.

6. *Representation 11 of the Summary.* The Applicants request that the second sentence in the second paragraph of Representation 11 of the Summary be modified by inserting the phrase "will be the same as that approved by the Client Plan fiduciary in the Primary Lending Agreement." Therefore, the Department has revised the sentence to read as follows:

> Thus, for example, the form of Loan Agreement will be the same as that approved by the Client Plan fiduciary in the Primary Lending Agreement.

7. *Representation 27 of the Summary.* Representation 27 of the Summary describes the contents of the monthly report that will be given to the independent fiduciary of a Client Plan by UBS NY. Among other things, the monthly report will enable the Client Plan fiduciary to monitor securities lending activity, rates on loans to UBS Borrowers compared with loans to other brokers and the level of collateral. The Applicants wish to emphasize that while they cannot be required to divulge, in the monthly report, confidential information regarding securities loans made by outside lenders, they will disclose all of a Client Plan's outstanding securities loans that are made to UBS Borrowers. Therefore, the Applicants request that Representation 27 be revised, in part, as follows:

> In order to provide the means for monitoring lending activity, rates on loans to UBS Borrowers compared with loans to other brokers and the level of collateral on the loans, it is represented that the monthly report will show, on a daily basis, the market value of all of the Client Plan's outstanding securities loans to the UBS Borrower and to other borrowers as compared to the total collateral held for both categories of loans.

In response, the Department concurs with the Applicants' clarification of the monthly report and has made the requested change.

For further information regarding the Applicants' comments or other matters discussed herein, interested persons are encouraged to obtain copies of the exemption application file (Exemption Application Nos. D–10459 and D–10460) the Department is maintaining in this case. The complete application file, as well as all supplemental submissions received by the Department, are made available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, Room N–5638, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

Accordingly, after giving full consideration to the entire record, including the written comment provided by the Applicants, the Department has made the aforementioned changes to the Notice and has decided to grant the exemption subject to the modifications or clarifications described above.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Breland Investments, Inc. Profit Sharing Plan and Trust (the Plan) Located in Phoenix, Arizona

[Prohibited Transaction Exemption 98–33; Exemption Application No: D–10529]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to (1) the proposed loan (the Loan) by the individually directed account (the Account) in the Plan[3] of Dr. Albert E. Breland (Dr. Breland), to Mesa Scholastic Enterprises, a disqualified person with respect to the Plan, and (2) the personal guarantee of the Loan by Dr. Breland, a disqualified person with respect to the Plan, provided the following conditions are satisfied:

(a) the terms of the Loan are at least as favorable to the Account as those obtainable in an arm's length transaction with an unrelated party;

(b) the amount of the Loan does not exceed 25% of the assets in the Account;

(c) the Loan is secured by a first deed of trust on the commercial real property, which has been appraised by a qualified independent appraiser to have a fair market value not less than 150% of the outstanding balance of the Loan throughout its duration;

The Department received no comments or requests for a hearing in response to the Notice of Proposed Exemption (the Notice) published on Friday, May 29, 1998 at 63 FR 29458. However, in the paragraph entitled "Notice to Interested Persons" contained in the Notice, the word "Overland" should be deleted and the word "Breland" should be inserted in lieu thereof.

For a more complete statement of the summary of facts and representations supporting the Department's decision to grant this exemption, refer to the Notice.

For Further Information Contact: Mr. James Scott Frazier, telephone (202) 219–8881. (This is not a toll-free number).

Karen J. Hartley Profit Sharing Plan (P/S Plan) and Karen J. Hartley Money Purchase Pension Plan and Trust Agreement (M/P Plan, collectively; the Plans) Located in Eugene, Oregon

[Prohibited Transaction Exemption 98–34; Exemption Application Nos. D–10588 and D–10589]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the loan (the Loan) by the Plans to Karen J. Hartley, the trustee and sole participant of the Plans and, a disqualified person with respect to the Plans;[4] provided that the following conditions will be met:

1. The Loan will be structured such that each Plan will lend up to 25% of its assets. However, the aggregate amount of the Loan will not exceed $40,000 at any time;
2. The outstanding balance of the Loan will at no time exceed 25% of the Plans' aggregate assets;
3. The Plans will bear no expenses with respect to the proposed transaction;
4. The terms and conditions of the Loan will be at least as favorable to the Plans as those obtainable in arm's-length transaction with an unrelated party; and
5. The Loan will be adequately secured by collateral, which at all times will be equal to 100% of the outstanding principal amount of the Loan plus 6 months interest at the Loan's interest rate of 8.2%. In the event the collateral amount falls below this required amount, this exemption will no longer be available.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on May 18, 1998 at 63 FR 27332.

For Further Information Contact: Ekaterina A. Uzlyan of the Department at (202) 219–8883. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions do not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 1st day of July 1998.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 98–18010 Filed 7–7–98; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[98–092]

Notice of Agency Reports Under OMB Review

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of agency report forms under OMB review.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Public Law 104–13, 44 U.S.C. 3506(c)(2)(A)).

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[3] Because Dr. Breland is the only participant in the Plan, there is no jurisdiction under 29 CFR 2510.3–3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

[4] Pursuant to CFR 2510.3–3(b) and (c), the Department has no jurisdiction with respect to the Plans under Title I of the Act. However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

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DATES: All comments should be submitted on or before September 8, 1998.

ADDRESSES: All comments should be addressed to Ms. Darlene Ahalt, Goddard Space Flight Center, Greenbelt, MD.

FOR FURTHER INFORMATION CONTACT: Ms. Carmela Simonson, NASA Reports Officer, (202) 358–1223.

Title: Application for Volunteer Program.

OMB Number: 2700–0057.

Type of Review: Extension.

Need and Uses: The application is used to be considered as a Goddard Space Flight center Visitor Center Volunteer.

Affected Public: Individuals or households, Business or other for-profit, Not-for-profit institutions, Farms, Federal Government, State, local or Tribal Government.

Number of Respondents: 50.

Responses Per Respondent: 1.

Annual Responses: 50.

Hours Per Request: 1.

Annual Burden Hours: 50.

Frequency of Report: On occasion.

Donald J. Andreotta,

Deputy Chief Information Officer (Operations), Office of the Administrator.

[FR Doc. 98–18127 Filed 7–7–98; 8:45 am]

BILLING CODE 7510–01–U

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[98–091]

Notice of Agency Reports Under OMB Review

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of agency report forms under OMB review.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Public Law 104–13, 44 U.S.C. 3506(c)(2)(A)). This is a voluntary satisfaction survey of partners that are familiar with the Agency's operations.

DATES: All comments should be submitted on or before September 8, 1998.

ADDRESSES: All comments should be addressed to Ms. Carrie Sorrels, Code S, National Aeronautics and Space Administration, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Ms. Carmela Simonson, NASA Reports Officer, (202) 358–1223.

Title: Grants Proposal Writers and Peer Reviewers Customer Satisfaction Surveys.

OMB Number: 2700–0084.

Type of review: Reinstatement.

Need and Uses: The survey information will be used by NASA to improve the efficiency, quality, and timeliness of its grant process, as well as to strengthen its partnership with external customers.

Affected Public: Not-for-profit institutions, Federal Government.

Number of Respondents: 930.

Responses Per Respondent: 1.

Annual Responses: 744.

Hours Per Request: 15 min.

Annual Burden Hours: 62.

Frequency of Report: On occasion.

Donald J. Andreotta,

Deputy Chief Information Officer (Operations), Office of the Administrator.

[FR Doc. 98–18128 Filed 7–7–98; 8:45 am]

BILLING CODE 7510–01–U

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Combined Arts Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Combined Arts Panel, Literature Section (Creation & Presentation and Planning & Stabilization categories) to the National Council on the Arts will be held on August 4–6, 1998. The panel will meet from 9:00 a.m. to 7:00 p.m. on August 4 and August 5, and from 9:00 a.m. to 5:00 p.m. on August 6, in Room M–07 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC, 20506. A portion of this meeting, from 9:00 a.m. to 11:00 a.m. on August 6, will be open to the public for a policy discussion on field issues and needs, Leadership Initiatives, Millennium projects, and guidelines.

The remaining portions of this meeting, from 9:00 a.m. to 7:00 p.m. on August 4 and August 5, and from 11:00 a.m. to 5:00 p.m. on August 6, are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of May 14, 1998, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and, if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information will reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC, 20506, or call 202/682–5691.

Dated: July 1, 1998.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 98–17994 Filed 7–7–98; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Combined Arts Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Combined Arts Panel, Multidisciplinary Section (Planning & Stabilization category) to the National Council on the Arts will be held on August 4–5, 1998. The panel will meet from 9:00 a.m. to 5:30 p.m. on August 4 and from 9:00 a.m. to 4:30 p.m. on August 5, in Room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC, 20506. A portion of this meeting, from 11:00 a.m. to 12:30 p.m. on August 5, will be open to the public for a policy discussion on field issues and needs, Leadership Initiatives, Millennium projects, and guidelines.

The remaining portions of this meeting, from 9:00 a.m. to 5:30 p.m. on August 4 and from 12:30 p.m. to 4:30 p.m. on August 5, are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of May 14, 1998, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and, if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5691.

Dated: July 1, 1998.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 98–17995 Filed 7–7–98; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Combined Arts Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Combined Arts Panel, Media Arts (B) Section (Creation & Presentation category) to the National Council on the Arts will be held on July 20–22, 1998. The panel will meet from 9:00 a.m. to 6:30 p.m. on July 20 and 21 and from 9:00 a.m. to 4:00 p.m. on July 22, in Room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, D.C., 20506. A portion of this meeting, from 11:00 a.m. to 12:30 p.m. on July 22, will be open to the public for a policy discussion on field issues and needs, Leadership Initiatives, Millennium projects, and guidelines.

The remaining portions of this meeting, from 9:00 a.m. to 6:30 p.m. on July 20 and July 21, and from 9:00 a.m. to 11:00 a.m. and 12:30 p.m. to 4:00 p.m. on July 22, are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Endowment on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of May 14, 1998, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and, if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, N.W., Washington, D.C., 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, D.C., 20506, or call 202/682–5691.

Dated: July 1, 1998.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 98–17997 Filed 7–7–98; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Leadership Initiatives

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Leadership Initiatives Panel, ArtsREACH Section to the National Council on the Arts will be held on July 28–31, 1998. The panel will meet from 9:00 a.m. to 5:30 p.m. on July 28, from 8:30 a.m. to 7:30 p.m. on July 29, from 8:30 a.m. to 6:00 p.m. on July 30, and from 9:30 a.m. to 12:00 p.m. on July 31, in Room 730 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, D.C., 20506. A portion of this meeting, from 9:30 a.m. to 12:00 p.m. on July 31, will be open to the public for a policy discussion.

The remaining portions of this meeting, from 9:00 a.m. to 5:30 p.m. on July 28, from 8:30 a.m. to 7:30 p.m. on July 29, and from 8:30 a.m. to 6:00 p.m. on July 30, are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of May 14, 1998, these sessions will be closed to the public pursuant to subsection (c)(4),(6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and, if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, D.C., 20506, or call 202/682–5691.

Dated: July 1, 1998.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 98–17996 Filed 7–7–98; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 30–16055–ML–REN; ASLBP No. 96–707–02–ML–REN]

Advanced Medical Systems, Inc.; Notice of Reconstitution

Pursuant to the authority contained in 10 CFR 2.721 and 2.1207, the Presiding Officer in the captioned Subpart L proceeding is hereby replaced by appointing Administrative Judge B. Paul Cotter, Jr. as Presiding Officer in place of Administrative Judge Marshall E. Miller.

All correspondence, documents and other material shall be filed with the Presiding Officer in accordance with 10 CFR 2.1203 (1997). The address of the new Presiding Officer is: Chief Administrative Judge B. Paul Cotter, Jr., Atomic Safety and Licensing Board

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Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Issued at Rockville, Maryland this 1st day of July 1998.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 98–18039 Filed 7–7–98; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–317 and 50–318]

Baltimore Gas & Electric Company, Calvert Cliffs Nuclear Power Plant Units 1 and 2; Notice of Opportunity for a Hearing Regarding Renewal of Facility Operating Licenses Nos. DPR–53 and DPR–69 for an Additional 20-Year Period

The U.S. Nuclear Regulatory Commission (the Commission) is considering the renewal of facility operating licenses Nos. DPR–53 and DPR–69, which authorize Baltimore Gas & Electric Company (BG&E), the applicant, to operate its Calvert Cliffs Nuclear Power Plant (CCNPP), Units 1 and 2 at 2700 megawatts thermal. BG&E submitted an application to renew the operating licenses for its CCNPP units by letter dated April 8, 1998. A Notice of Receipt of Application, "Baltimore Gas & Electric Company; Calvert Cliffs Nuclear Power Plant Units 1 & 2; Notice of Receipt of Application for Renewal of Facility Operating Licenses Nos. DPR–53 and DPR–69 for an Additional 20-Year Period," was published on April 27, 1998, in the **Federal Register** (63 FR 20663). The renewed licenses would authorize the applicant to operate CCNPP Units 1 and 2 for an additional 20 years beyond the current 40-year period. The current license for Unit 1 expires on July 31, 2014, and the current license for Unit 2 expires on August 13, 2016.

Prior to issuance of the requested license renewals, the NRC will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the NRC's rules and regulations. In accordance with 10 CFR 54.29, the NRC will issue a renewed license upon its review and finding that actions have been identified and have been or will be taken with respect to (1) managing the effects of aging during the period of extended operation on the functionality of structures and components that have been identified to require an aging management review and (2) time-limited aging analyses that have been identified to require review such that there is reasonable assurance that the activities authorized by the renewed license will continue to be conducted in accordance with the current licensing basis (CLB) and that any changes made to the plant's CLB comply with the Act and the Commission's regulations. The NRC, in accordance with 10 CFR 51.95(c), will prepare an environmental impact statement which is a supplement to the Commission's NUREG–1437, "Generic Environmental Impact Statement for License Renewal of Nuclear Plants" (May 1996). A "Notice of Intent to Prepare an Environmental Impact Statement and Conduct Scoping Process" was issued on June 10, 1998, in the **Federal Register** (63 FR 31813). As discussed further below, in the event that a hearing is held, issues that may be litigated will be confined to those pertinent to the foregoing.

By August 7, 1998, the applicant may file a request for a hearing, and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene with respect to the license renewals in accordance with the provisions of 10 CFR 2.714. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C. and at the local public document room for the CCNPP Units 1 and 2 located in the Calvert County Public Library, 30 Duke Street, Prince Frederick, MD 20678. If the applicant files a request for a hearing or if any person whose interest may be affected by this proceeding files a request for a hearing and a petition for leave to intervene by the above date, the Commission or an Atomic Safety and Licensing Board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel will rule on the request(s) and/or petition(s), and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order. In the event that no request for hearing or petition for leave to intervene is filed by the above date, the NRC may, upon completion of its evaluations and upon making the findings required under 10 CFR Part 54 and Part 51, renew the licenses without further notice.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding, taking into consideration the limited scope of matters which may be considered pursuant to 10 CFR Parts 54 and 51. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order that may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend a petition, without requesting leave of the Board, up to 15 days prior to the holding of the first pre-hearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first pre-hearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the action under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Requests for a hearing and petitions for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, Gelman Building, 2120 L Street, NW, Washington, DC, by the above date. A copy of the request for a hearing and the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to R.F. Fleishman, Esquire, General Counsel, Baltimore Gas and Electric Company P.O. Box 1475, Baltimore, MD 21203.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions, and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer, or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (I)-(v) and 2.714(d).

For further details with respect to this action, see the application dated April 8, 1998, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW, Washington, DC 20555 and the Local Public Document Room for the CCNPP Units 1 and 2 located in the Calvert County Public Library, 30 Duke Street, Prince Frederick, MD 20678.

Dated at Rockville Maryland, this 1st day of July 1998.

For The Nuclear Regulatory Commission.

Stephen T. Hoffman,

Acting Director, License Renewal Project Directorate, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 98–18066 Filed 7–7–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–261]

Carolina Power & Light; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–23, issued to Carolina Power & Light (CP&L or the licensee), for operation of the H.B. Robinson Steam Electric Plant, Unit 2, located in Darlington County, South Carolina.

The proposed amendment would revise Technical Specification (TS) 3.7.8, "Ultimate Heat Sink (UHS)," to permit an 8-hour delay in UHS temperature restoration period prior to entering the plant shutdown required actions. Also, for the duration of the restoration, service water system (SWS) temperature will be monitored hourly, and should the temperature exceed 99 degrees F, the plant will enter TS 3.7.8 required action A.1, and be in MODE 3 within 6 hours.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6), for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

> Carolina Power & Light (CP&L) Company has evaluated the proposed Technical Specification change and has concluded that it does not involve a significant hazards consideration. The conclusion is in accordance with the criteria set forth in 10 CFR 50.92. The bases for the conclusion that the proposed change does not involve a significant hazards consideration are discussed below.
>
> 1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?
>
> The proposed change does not involve any physical alteration of plant systems, structures or components. The proposed change provides an allowed time for the plant condition resulting from service water temperature in excess of the design limit of 95°F. The Service Water System (SWS) temperature is not assumed to be an initiating condition of any accident analysis evaluated in the safety analysis report. Therefore, the allowance of a limited time for service water temperature to be in excess of the design limit does not involve an increase in the probability of an accident previously evaluated in the safety analysis report (SAR). The SWS supports operability of safety related systems used to mitigate the consequences of an accident. An increase in service water temperature in excess of the design limit is expected to be small due to the limited time allowed by the proposed change in conjunction with the generally slow rate of temperature increase experienced from thermal changes in Lake Robinson. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated in the SAR.
>
> 2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?
>
> The proposed change does not involve any physical alteration of plant systems, structures or components. The temperature of the service water when near or slightly above the service water design temperature does not introduce new failure mechanisms for systems, structures or components not already considered in the SAR. Therefore, the possibility of a new or different kind of accident from any accident previously evaluated is not created.
>
> 3. Does this change involve a significant reduction in a margin of safety?
>
> The proposed change will allow a small increase in service water temperature above the design basis limit for the service water system and delay the requirement to shutdown the plant when the service water system design limit is exceeded by 8 hours. There are design margins associated with systems, structures and components that are cooled by the service water system that are affected. The service water system temperature is an input assumption for mitigating the effects of design basis accidents. However, an increase in service water temperature in excess of design limit is expected to be small due to the limited time allowed by the proposed change in conjunction with the slow rate of temperature increase experienced from thermal changes in Lake Robinson. Therefore, there is no significant reduction in margin of safety associated with this change.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would

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result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 14-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By August 7, 1998, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Hartsville Memorial Library, 147 West College Avenue, Hartsville, South Carolina 29550. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to William D. Johnson, Vice President and Senior Counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated June 26, 1998, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room, located at the Hartsville Memorial Library, 147 West College Avenue, Hartsville, South Carolina 29550.

Dated at Rockville, Maryland, this 1st day of July 1998.

For the Nuclear Regulatory Commission.

Ram Subbaratnam,

Project Manager, Project Directorate II–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98–18064 Filed 7–7–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–16]

Virginia Electric and Power Company, Old Dominion Electric Cooperative; Notice of Issuance of Materials License SNM–2507 North Anna Independent Spent Fuel Storage Installation

The U.S. Nuclear Regulatory Commission (NRC or the Commission) has issued a Materials License under the provisions of Title 10 of the Code of Federal Regulations, Part 72 (10 CFR Part 72), to Virginia Electric and Power Company (Virginia Power) and Old Dominion Electric Cooperative (ODEC), authorizing receipt and storage of spent fuel in an independent spent fuel storage installation (ISFSI) located on site at its North Anna Power Station in Louisa County, Virginia.

The function of the ISFSI is to provide interim storage for up to 839.04 metric tons of uranium contained in approximately 1824 fuel assemblies from the North Anna Power Station, Units 1 and 2, in storage casks. Thirty two assemblies are to be loaded into each cask within the North Anna Power Station spent fuel enclosure at the plant and subsequently transferred to the onsite ISFSI. The cask that is authorized for use is the TN–32 designed by Transnuclear, Inc. The license for an ISFSI under 10 CFR Part 72 is issued for 20 years, but the licensee may seek to renew the license, if necessary, prior to its expiration.

The Commission's Office of Nuclear Material Safety and Safeguards (NMSS) has completed its environmental, safeguards, and safety reviews in support of issuance of this license.

Following receipt of the application filed May 9, 1995, a "Notice of Consideration of Issuance of Materials License for the Storage of Spent Fuel and Opportunity for Hearing" was published in the **Federal Register** on July 6, 1995 (60 FR 35237). The "Environmental Assessment (EA) Related to the Construction and Operation of the North Anna Independent Spent Fuel Storage Installation (dated March 28, 1997) and Finding of No Significant Impact," was issued and noticed in the **Federal Register** (62 FR 16202) in accordance with 10 CFR Part 51. The scope of the EA included the construction and operation of an ISFSI on the North Anna Power Station site including impacts derived from use of the TN–32 cask.

The staff has completed its safety review of the North Anna ISFSI site application and safety analysis report. The NRC staff's "Safety Evaluation Report for the North Anna Independent Spent Fuel Storage Installation" was issued on June 30, 1998. Materials License SNM–2507, the staff's Environmental Assessment, Safety Evaluation Report, and other documents related to this action are available for public inspection and for copying for a fee at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room at the Special Collections Department, Second Floor, Alderman Library, University of Virginia, Charlottesville, Virginia 22903–2498.

Dated at Rockville, Maryland, this 30th day of June 1998.

For the Nuclear Regulatory Commission.

William F. Kane,

Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 98–18065 Filed 7–7–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–213]

Connecticut Yankee Atomic Power Company; Haddam Neck Plant; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of its regulations to Facility Operating License No. DPR–61, a license held by the Connecticut Yankee Atomic Power Company (CYAPCO or the licensee). The exemption would apply to the Haddam Neck Plant, a permanently shutdown and defueled plant located at the CYAPCO site in Middlesex County, Connecticut.

Environmental Assessment

Identification of the Proposed Action

The proposed exemption would modify security requirements to eliminate certain equipment, relocate certain equipment, modify certain procedures, and reduce the number of armed responders, due to the permanently shutdown and defueled status of the Haddam Neck facility.

The proposed action is in accordance with the licensee's application dated June 19, 1997. The requested action would grant an exemption from certain requirements of 10 CFR 73.55, "Requirements for physical protection of licensed activities in nuclear power plant reactors against radiological sabotage."

Need for the Proposed Action

Haddam Neck was shut down on July 22, 1996. On December 5, 1996, the licensee informed the Commission that it had decided to permanently cease operations at Haddam Neck Plant and that all fuel had been permanently removed from the reactor. In accordance with 10 CFR 50.82(a)(2), the certifications in the letter modified the facility operating license to permanently withdraw CYAPCO's authority to operate the reactor and to load fuel into the reactor vessel. In this permanently shutdown condition, the facility poses a reduced risk to public health and safety. Because of this reduced risk, certain requirements of 10 CFR 73.55 are no longer appropriate. An exemption is required from portions of 10 CFR 73.55 to allow the licensee to implement a revised Defueled Security Plan that is appropriate for the permanently shutdown and defueled reactor facility.

Environmental Impact of the Proposed Action

The Commission has completed its evaluation of the proposed action. The Commission concludes that exemption from certain portions of 10 CFR 73.55 are acceptable given the reduced consequences of an act of sabotage resulting in the release of radioactive material contained in the spent fuel at a defueled reactor site.

The proposed change will not increase the probability or consequences of accidents, no changes are being made in the types of effluents that may be released off site, and there is no significant increase in the allowable individual or cumulative occupational exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does involve features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect non-radiological plant effluents and has no other environmental impact.

Therefore, the Commission concludes that there are no significant non-

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radiological impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded that there is no measurable environmental impact associated with the proposed action, any alternative with equal or greater environmental impact need not be evaluated. The principal alternative to the action would be to deny the request. Denial of the exemption request would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Haddam Neck Plant.

Agencies and Persons Consulted

In accordance with its stated policy, on July 1, 1998, the NRC staff consulted with Mr. Dwayne Gardner of the State of Connecticut, Department of Environmental Protection, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to this action, see the licensee's letter dated June 19, 1997, which is available for public inspection at the Commission's Public Document Room, Gelman Building, 2120 L Street, NW., Washington, DC, and at the Local Public Document Room at the Russell Public Library, 123 Broad Street, Middletown, Connecticut.

Dated at Rockville, Maryland, this 1st day of July 1998.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

Director, Non-Power Reactors and Decommissioning Project Directorate, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 98–18059 Filed 7–7–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Joint Meeting of the ACRS Subcommittees on Plant Operations and on Fire Protection; Notice of Meeting

The ACRS Subcommittees on Plant Operations and on Fire Protection will hold a joint meeting on July 29, 1998, at the NRC Region II Office, Atlanta Federal Center, 61 Forsyth Street, SW., Suite 23 T85, Atlanta, Georgia.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, July 29, 1998—8:30 a.m. until the conclusion of business

The Subcommittees will meet with the NRC Region II personnel to discuss Region II activities and other items of mutual interest, including significant operating events, on-line maintenance, plant performance review program, results of the pilot fire protection functional inspection, and other fire protection issues. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittees, their consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittees, along with any of their consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittees will then hear presentations by and hold discussions with representatives of Region II personnel and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor, can be obtained by contacting the cognizant ACRS staff engineer, Mr. Amarjit Singh (telephone 301/415–6899) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: July 1, 1998.

Medhat M. El-Zeftawy,

Acting Chief, Nuclear Reactors Branch.

[FR Doc. 98–18040 Filed 7–7–98; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A and B, and placed under Schedule C in the excepted service, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Patricia H. Paige, Staffing Reinvention Office, Employment Service (202) 606–0830.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR 213 on June 12, 1998 (63 FR 32258). Individual authorities established or revoked under Schedules A and B and established under Schedule C between May 1, 1998, and May 31, 1998, appear in the listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities as of June 30 is published annually.

Schedule A

No Schedule A authorities were established or revoked during May 1998.

Schedule B

No Schedule B authorities were established or revoked during May 1998.

Schedule C

The following Schedule C authorities were established during May 1998.

Department of Agriculture

Staff Assistant to the Chief, Natural Resources Conservation Service. Effective May 6, 1998.

Confidential Assistant to the Chief Financial Officer. Effective May 6, 1998.

Confidential Assistant to the Administrator, Economic Research Service. Effective May 19, 1998.

Department of Commerce

Senior Advisor to the Director, Office of Business Liaison. Effective May 12, 1998.

Director of Planning and Scheduling to the Deputy Chief of Staff for External Affairs. Effective May 12, 1998.

Director, Secretariat for Electronic Commerce to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning. Effective May 22, 1998.

Deputy Director of Advance to the Director of Advance, ffice of External Affairs. Effective May 26, 1998.

Department of Defense

Special Assistant for Health Care Policy to the Assistant Secretary of Defense for Legislative Affairs. Effective May 15, 1998.

Department of Education

Director, Corporate Liaison to the Assistant Secretary, Office of Intergovernmental and Interagency Affairs. Effective May 6, 1998.

Deputy Assistant Secretary for Intergovernmental and Constituent Relations to the Assistant Secretary, Office of Intergovernmental and Interagency Affairs. Effective May 21, 1998.

Department of Energy

Special Assistant for External Programs to the Director, Office of Nuclear Energy, Science and Technology. Effective May 13, 1998.

Department of Health and Human Services

Deputy Chief of Staff to the Chief of Staff. Effective May 6, 1998.

Congressional Liaison Specialist to the Deputy Assistant Secretary for Legislation (Congressional Liaison). Effective May 21, 1998.

Deputy Director for Operations to the Director of Intergovernmental Affairs. Effective May 21, 1998.

Deputy Director for Policy to the Director of Intergovernmental Affairs. Effective May 21, 1998.

Department of the Interior

Special Assistant to the Director, Bureau of Land Management. Effective May 6, 1998.

Communications Director to the Assistant Secretary for Indian Affairs. Effective May 20, 1998.

Special Assistant to the Director, Office of Communications. Effective May 21, 1998.

Department of Labor

Special Assistant to the Secretary of Labor. Effective May 8, 1998.

Department of State

Staff Assistant to the Senior Advisor to the Secretary and White House Liaison. Effective May 14, 1998.

Protocol Assistant to the Deputy Chief of Protocol. Effective May 22, 1998.

Federal Trade Commission

Special Assistant to the Commissioner. Effective May 27, 1998.

General Services Administration

Special Assistant to the Regional Administrator, Great Lakes Region. Effective May 22, 1998.

Office of Management and Budget

Staff Assistant to the Director, Office of Management and Budget. Effective May 6, 1998.

Office of National Drug Control Policy

Press Relations Assistant (Typing) to the Chief of Press Relations, Office of Public Affairs. Effective May 12, 1998.

Office of Personnel Management

Confidential Assistant to the Chief of Staff. Effective May 12, 1998.

Special Assistant to the Chief of Staff. Effective May 12, 1998.

Office of the United States Trade Representative

Congressional Affairs Specialist to the Assistant United States Trade Representative for Congressional Affairs. Effective May 13, 1998.

Small Business Administration

Deputy Assistant Administrator for Congressional and Legislative Affairs to the Assistant Administrator for Congressional and Legislative Affairs. Effective May 14, 1998.

Special Assistant to the Associate Deputy Administrator for Capital Access. Effective May 14, 1998.

Special Assistant to the Senior Advisor to the Administrator. Effective May 22, 1998.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., P. 218

Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 98–18032 Filed 7–7–98; 8:45 am]

BILLING CODE 6325–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Earnings Information Request.

(2) *Form(s) submitted:* G–19–F.

(3) *OMB Number:* 3220–0184.

(4) *Expiration date of current OMB clearance:* 9/30/1998.

(5) *Type of request:* Revision of a currently approved collection.

(6) *Respondents:* Individuals or households.

(7) *Estimated annual number of respondents:* 1,500.

(8) *Total annual responses:* 1,500.

(9) *Total annual reporting hours:* 200.

(10) *Collection description:* Under Section 2 of the Railroad Retirement Act, an annuity is not payable or is reduced for any month(s) in which the beneficiary works for a railroad or earns more than prescribed amounts. The collection obtains earnings information not previously or erroneously reported by a beneficiary.

Additional Information or Comments: Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and the OMB reviewer, Laura Oliven (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, D.C. 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 98–18072 Filed 7–7–98; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23295; 812–11106]

First American Investment Funds, Inc. et al.; Notice of Application

June 30, 1998.

AGENCY: Securities and Exchange Commission ("SEC").

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ACTION: Notice of application under section 17(b) of the Investment Company Act of 1940 (the "Act") for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Order requested to allow certain series of a registered open-end investment company to acquire all of the assets and liabilities of: (i) certain series of three registered open-end investment companies, and (ii) five registered closed-end investment companies. Because of certain affiliations, applicants may not rely on rule 17a–8 under the Act.

APPLICANTS: First American Investment Funds, Inc. ("FAIF"), U.S. Bank National Association ("U.S. Bank"), Piper Funds Inc. ("PFI"), Piper Funds Inc.-II ("PFI–II"), Piper Global Funds Inc. ("PGF"), the Americas Income Trust Inc. ("XUS"), Highlander Income Fund Inc. ("HLA"), American Government Income Fund Inc. ("AGF"), American Government Income Portfolio, Inc. ("AAF"), American Opportunity Income Fund Inc. ("OIF"), and Piper Capital Management Incorporated ("Piper Capital").

FILING DATES: The application was filed on April 15, 1998. Applicants have agreed to file an additional amendment, the substance of which is incorporated in this notice, during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 23, 1998 and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants: FAIF, Oaks, PA 19456; U.S. Bank, First Bank Place, 601 Second Avenue South, Minneapolis, MN 55480; PFI, PFI–II, PGF, XUS, HLA, AGF, AAF, OIF, and Piper Capital, 222 South Ninth Street, Minneapolis, MN 55402–3804.

FOR FURTHER INFORMATION CONTACT: Mary T. Geffroy, Senior Counsel, at (202) 942–0553, or Christine Y. Greenlees, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549 (tel. 202–942–8090).

Applicants' Representations

1. XUS, HLA, AGF, AAF, and OIF, each a Minnesota corporation, are closed-end management investment companies registered under the Act (collectively, the "Piper Closed-End Funds"). PFI, PFI–II, and PGF, each a Minnesota corporation, are open-end management investment companies registered under the Act (collectively; the "Piper Open-End Funds"). Each of the Piper Open-End Funds offers shares in certain series, some of which, together with the Piper Closed-End Funds, constitute the "Acquired Funds." PFI offers shares in 12 series, seven of which will be Acquired Funds. PFI–II offers a single portfolio, which will be an Acquired Fund. PGF offers two portfolios, each of which will be an Acquired Fund.

2. Piper Capital, a wholly-owned subsidiary of Piper Jaffray Companies Inc. ("Piper Jaffray"), is registered under the Investment Advisers Act of 1940 (the "Advisers Act") and is the investment adviser to the Acquired Funds. In addition to Piper Capital, Piper Jaffray's wholly-owned subsidiaries include Piper Jaffray Inc. ("Piper"), a broker-dealer, and Piper Trust Company ("Piper Trust"), which provides trust services to individuals and institutions. Piper Capital, Piper, Piper Trust, and their affiliates, all of which are part of a common control group (the "Piper Affiliates"), hold of record more than 5% of the outstanding shares of certain Acquired Funds.

3. FAIF,[1] a Maryland corporation, is an open-end investment company registered under the Act. FAIF currently offers shares in 24 series, seven of which will be "Acquiring Funds" (the "Existing FAIF Funds"). FAIF is creating several new series, four of which also will be Acquiring Funds (the "New FAIF Funds"). The Acquired Funds and the Acquiring Funds collectively are referred to as the "Funds."

4. U.S. Bank serves as investment adviser for the Existing FAIF Funds, and will serve as investment adviser for the New FAIF Funds. U.S. Bank is exempt from registration under the Advisers Act. U.S. Bank is a wholly-owned subsidiary of U.S. Bancorp, as is U.S. Bank Trust National Association ("U.S. Trust"). U.S. Bank, U.S. Trust, and their affiliates, all of which are part of a common control group (the "U.S. Bancorp Affiliates") hold of record more than 5% of the outstanding shares of certain Acquiring Funds. In addition, defined benefit plans for which the U.S. Bancorp Affiliates have funding obligations own more than 5% of the outstanding shares of certain Acquiring Funds.[2]

5. On May 1, 1998, U.S. Bancorp acquired Piper Jaffray (the "Merger"). As a result of the Merger, Piper Capital became an indirect wholly-owned subsidiary of U.S. Bancorp. In addition, U.S. Bank and U.S. Trust became affiliated with Piper Jaffray, Piper Capital, Piper Trust, and Piper, and all of these entities became part of a common control group.

6. On February 23, 1998, the board of directors of FAIF (the "FAIF Board"), including the disinterested directors, unanimously approved each of the reorganizations (the "Reorganizations"). On April 13, 1998, the boards of directors of the Piper Open-End Funds, XUS and HLA, including in each case the disinterested directors, unanimously approved the Reorganizations, including draft versions of the reorganization agreements between FAIF and the Acquired Funds (the "Reorganization Agreements"). On April 27, 1998, the boards of directors of AGF, AAF, and OIF, including in each case the disinterested directors, unanimously approved the Reorganizations. The consummation of the Reorganizations is expected to occur on or about July 24, 1998, for XUS and HLA, July 31, 1998, for the Piper Open-End Funds, and August 31, 1998, for AGF, AAF, and OIF (each, a "Closing").

7. Pursuant to the Reorganization Agreements, each Acquiring Fund proposes to acquire all of the assets and assume all of the liabilities of its corresponding Acquired Fund in exchange for shares of designated classes of the Acquiring Fund based on the Funds' relative net asset values.[3]

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[1] FAIF was incorporated in 1987 as "SECURAL Mutual Funds, Inc." and changed its name to "First American Investment Funds, Inc." in 1991.

[2] 5% or more of the outstanding shares of each Acquired Fund and its corresponding Acquiring Fund are owned by the Piper Affiliates, the U.S. Bancorp Affiliates, or both, except for AAF and FAIF Fixed Income Fund. AAF and FAIF Fixed Income Fund cannot rely on rule 17a–8 because defined benefit plans to which the U.S. Bancorp Affiliates have funding obligations own more than 5% of FAIF Fixed Income Fund.

[3] The Acquired Funds and the corresponding Acquiring Funds are: (i) PFI Small Company Growth Fund and FAIF Small Cap Growth Fund; (ii) PFI Emerging Growth Fund and FAIF Mid Cap

The number of Acquiring Fund shares to be issued in exchange for each Acquired Fund share of each class will be determined by dividing the net asset value of one Acquiring Fund share of the appropriate corresponding class by the net asset value of one Acquired Fund share of that class, computed as of the close of trading on the New York Stock Exchange on the date that the conditions to closing are satisfied or on a later date as the parties may agree (the "Effective Time"). Each Reorganization Agreement provides that, at the Effective Time, each Acquiring Fund will issue and distribute *pro rata* to its corresponding Acquired Fund's shareholders of record, determined as of the Effective Time, the Acquiring Fund shares issued in exchange for the Acquired Fund shares. Afterwards, no additional shares representing interests in the Acquired Fund will be issued, and the Acquired Fund will be liquidated. The distribution will be accomplished by the issuance of the Acquiring Fund shares to open accounts on the share records of the Acquiring Fund in the names of the Acquired Fund shareholders representing the number of Acquiring Fund shares due each shareholder pursuant to the Reorganization Agreement. Simultaneously, all issued and outstanding shares of the Acquired Fund will be canceled on the books of the Acquired Fund.

8. The Existing FAIF Funds offer shares in three classes (Classes A, B, and Y). The New FAIF Funds will offer shares in two classes (Classes A and Y). Only Class A and Class Y shares will be issued in the Reorganizations. Class A shares are not subject to a front-end sales charge. Purchases of $1 million or more are not subject to an initial sales charge, but are subject to a contingent deferred sales charge ("CDSC") if redeemed within 24 months after purchase. Class A shares are subject to shareholder servicing fees under a rule 12b–1 plan. Class Y shares are not subject to a front-end, contingent deferred, or other sales charge, a redemption fee, or rule 12b–1 distribution or shareholder servicing fees.

9. The Piper Open-End Funds offer shares in three classes (Classes A, B and Y). Class A shares are subject to a front-end sales charge. Purchases of $500,000 or more are not subject to an initial sales charge, but are subject to a CDSC if the shares are redeemed within a certain time period from the date of purchase. Class A shares of some of the Acquired Funds are subject to distribution and shareholder servicing fees under rule 12b–1 plans. Class B shares are subject to a front-end sales charge but may be subject to a CDSC. Class B shares are subject to shareholder servicing fees under rule 12b–1 plans. Class Y shares are not subject to either a front-end, contingent deferred, or other sales charge, a redemption fee, or rule 12b–1 distribution or shareholder servicing fees. Each Piper Closed-End Fund has one class of shares, which is traded on the New York Stock Exchange (except shares of HLA, which are traded on the American Stock Exchange). Investors thus incur brokerage commissions when purchasing and selling these shares.

10. As a result of the Reorganizations, holders of Class A and B shares of the Piper Open-End Funds will become holders of Class A shares of the corresponding Acquiring Funds, and holders of Class Y shares of the Piper Open-End Funds will become holders of Class Y shares of the corresponding Acquiring Funds. Shareholders of the Piper Closed-End Funds will receive Class A shares of the corresponding Acquiring Funds. No sales charge will be imposed on any of the Acquiring Fund shares to be issued to Acquired Fund shareholders in the Reorganizations.

11. The Funds pay to their respective investment advisers annual investment advisory fees. U.S. Bank has agreed that, for a two year period commencing on the Closing, it will waive fees and reimburse expenses to the Acquiring Funds to the extent necessary so that no Acquiring Fund will have total operating expenses in excess of those currently applicable to the corresponding Acquired Fund, except with respect to the Class Y shares of Piper Intermediate Bond Fund and OIF.

12. The investment objectives of each Acquired Fund and its corresponding Acquiring Fund are similar. The investment policies and restrictions of each Acquired Fund and its corresponding Acquiring Fund also are similar, but in some cases involve differences that reflect the differences in the general investment strategies utilized by the Funds.

13. The FAIF Board and the boards of directors of the Piper Open-End Funds and the Piper Closed-End Funds (collectively, the "Piper Boards," and together with the FAIF Board, the "Boards"), including in each case a majority of their disinterested directors, found that participation in the Reorganizations is in the best interests of each Acquired Fund and Acquiring Fund, and that the interests of existing shareholders of those Funds will not be diluted as a result of the Reorganizations.

14. In approving the Reorganizations, the Boards considered, among other things: (a) the compatibility of the investment objectives, policies, and restrictions of each Acquired Fund and its corresponding Acquiring Fund; (b) the advantages of each Reorganization; (c) the tax-free nature of the Reorganizations; (d) the terms and conditions of the Reorganization Agreements; (e) costs associated with the Reorganizations; and (f) investment advisory fees, rule 12b–1 fees, and sales charges that would become applicable to Acquired fund shareholders as a result of the Reorganizations.[4]

15. In addition, the Piper Boards considered, among other things: (a) the potential effect of the Reorganizations on the shareholders of the Acquired Funds; (b) the capabilities of U.S. Bank and other service providers to the Acquiring Funds; (c) the investment advisory and other fees paid by the Acquiring Funds, and the historical and projected expense ratios of the Acquiring funds as compared to those of the Acquired funds; (d) the potential economies of scale that may result from the Reorganization, given the fact that each of the Acquiring Funds, except for the New FAIF Funds, is larger than the corresponding Acquired Fund; (e) U.S. Bank's agreement to pay the expenses incurred in connection with the Reorganizations (except as described below), and to waive fees and reimburse expenses for the two year period commencing on the Closing; and (f) the effect on the shareholders of the Piper Closed-End Funds of a change from a closed-end investment company to a series of an open-end investment company. Also, with respect to the Piper Closed-End Funds, the board of directors of the Piper Closed-End Funds considered alternative structures.

16. U.S. Bank will be responsible for the expenses incurred in connection

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Growth Fund; (iii) PFI Growth Fund and FAIF Large Cap Growth Fund; (iv) PFI Growth and Income Fund and FAIF Large Cap Value Fund; (v) PFI Balanced Fund and FAIF Balanced Fund; (vi) PFI Intermediate Bond Fund and FAIF Intermediate Term Income Fund; (vii) PFI Government Income Fund and FAIF Fixed Income Fund; (viii) PGF Pacific European Growth Fund and FAIF International Fund; (ix) PGF Emerging Markets Growth Fund and FAIF Emerging Markets Fund; (x) PFI–II Adjustable Rate Mortgage Securities Fund and FAIF Adjustable Rate Mortgage Securities Fund; (xi) The Americas Income Trust and FAIF Strategic Income Fund; (xii) Highlander Income Fund and FAIF Strategic Income Fund; (xiii) American Government Income Fund and FAIF Fixed Income Fund; (xiv) American Government Income Portfolio and FAIF Fixed Income Fund; and (xv) American Opportunity Income Fund and FAIF Fixed Income Fund.

[4] The Boards noted that no sales charge will be imposed on any of the Acquiring Fund shares to be issued in the Reorganizations.

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with the Reorganizations, except the normal expenses incurred for regular annual meetings of the Piper Closed-End Funds, which will be borne by the Piper Closed-End Funds.

17. The Reorganization Agreements may be terminated prior to the Closing upon the mutual consent of both the respective Acquired Fund and FAIF, or by either the respective Acquired Fund or Acquiring Fund if its board of directors determines that proceeding with the Reorganization is inadvisable.

18. Registration statements on Form N–14 ("N–14 Registration Statements") were filed with the SEC on behalf of PFI, PFI–II, PGF, XUS and HLA on April 15, 1998. An N–14 Registration Statement was filed on behalf of AGF, AAF and OIF on May 18, 1998. Applicants mailed a prospectus/proxy statement to shareholders of the Acquired Funds (except AGF, AAF and OIF) on May 29, 1998. Applicants expect to mail a prospectus/proxy statement to shareholders of AGF, AAF and OIF on or about June 30, 1998.

19. Each Reorganization is subject to a number of conditions, including: (a) the Acquired Fund shareholders will have approved the Reorganization Agreement; (b) the Acquired Fund will have received an opinion of counsel with respect to the federal income tax aspects of the Reorganization; (c) applicants will have received exemptive relief from the SEC with respect to the issues that are the subject of the application; (d) the N–14 Registration Statements will have become effective; and (e) each Acquired Fund will have declared a dividend and/or other distribution in order to distribute all of its investment company taxable income, exempt-interest income, and realized net capital gain, if any for the taxable year. Applicants agree not to make any material changes to the Reorganization Agreements that affect the application without prior SEC approval.

Applicants' Legal Analysis

1. Section 17(a) of the act generally prohibits an affiliated person of a registered investment company, or an affiliated person of that person, acting as principal, from selling any security to, or purchasing any security from, the company. Section 2(a)(3) of the Act defines an "affiliated person" of another person to include (a) any person that directly or indirectly owns, controls, or holds with power to vote 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by the other person; (c) any person directly or indirectly controlling, controlled by, or under common control with the other person; and (d) if the other person is an investment company, any investment adviser of that company.

2. Rule 17a–8 under the act exempts from the prohibitions of section 17(a) mergers, consolidations, or purchases or sales of substantially all of the assets of registered investment companies that are affiliated persons solely by reason of having a common investment adviser, common directors/trustees, and/or common officers, provided that certain conditions set forth in the rule are satisfied.

3. Applicants believe that they may not rely on rule 17a–8 because the Funds may be affiliated for reasons other than those set forth in the rule. The U.S. Bancorp Affiliates hold of record more than 5% of the outstanding shares of certain Acquiring Funds and hold or share voting power and/or investment discretion with respect to a portion of those shares. In addition, defined benefit plans to which the U.S. Bancorp Affiliates have funding obligations own more than 5% of certain Acquiring Funds. The Piper Affiliates hold of record more than 5% of the outstanding shares of certain Acquired Funds and hold or share voting power and/or investment discretion with respect to a portion of those shares. Because of these ownership interests, and the fact that, as a result of the Merger, the U.S. Bancorp Affiliates are "affiliated persons" of the Acquired Funds and the Piper Affiliates are "affiliated persons" of the Acquiring Funds because they are under the common control of U.S. Bancorp, the Acquiring Funds may be deemed affiliated persons of affiliated persons of the Acquired Funds, and vice versa, for reasons not based solely on their common adviser. Consequently, applicants are requesting an order pursuant to section 17(b) of the Act exempting them from section 17(a) to the extent necessary to consummate the Reorganization.

4. Section 17(b) of the Act provides that the SEC may exempt a transaction from the provisions of section 17(a) if the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

5. Applicants submit that the terms of the Reorganizations satisfy the standards set forth in section 17(b), in that the terms are fair and reasonable and do not involve overreaching on the part of any person concerned. Applicants note that the Boards, including in each case a majority of their disinterested directors, found that participation in a Reorganization is in the best interests of each Acquired Fund and its corresponding Acquiring fund, and the intersts of existing shareholders of the Funds will not be diluted as a result of the Reorganizations. Applicants also note that the exchange of the Acquired Funds shares for the Acquiring Funds' shares will be based on the Funds' relative net asset values.

For the SEC, by the Division of Investment Manangement, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18005 Filed 7–7–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (International FiberCom, Inc., Common Stock, No Par Value; Common Stock Purchase Warrant) File No. 1–13278

July 1, 1998.

Internation FiberCom, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified securities ("Securities") from listing and registration on the Boston Stock Exchange, Inc. ("BSE" or "Exchange").

The reasons cited in the application for withdrawing the Securities from listing and registration include the following:

The Securities have been listed for trading on the Nasdaq SmallCap Market, the BSE, and the Philadelphia Stock Exchange, Inc. ("PHLX").

On June 8, 1998, the Company provided the BSE with certified resolutions of the Board of Directors authorizing the withdrawal of its Securities from listing on the BSE and also provided detailed reasons for such proposed withdrawal, and the facts in support thereof. In deciding to withdraw its Securities from listing on the BSE, the Company considered the direct and indirect costs and expenses attendant to maintaining multiple listing of its Securities on the Nasdaq SmallCap Market, the BSE, and the PHLX. Due to the low level of trading volume on the BSE and the recent changes to Section 18 of the Securities Act of 1933, as amended, under the National Securities Market Improvement Act of 1996, the Company does not see any particular advantage in the trading of its Securities on the BSE. The Company also believes that the trading of its Securities on multiple exchanges may fragment the market for its Securities.

The Exchange has informed the Company that is has no objection to the withdrawal of the Company's Securities from listing on the BSE.

By reason of Section 12 of the Act and the rules and regulations thereunder, the Company shall continue to be obligated to file reports under Section 13 of the Act.

Any interest person may, on or before July 22, 1998, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–18054 Filed 7–7–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (Met-Pro Corporation, Common Stock, $.10 Par Value) File No. 1–7763

July 1, 1998.

Met-Pro Corporation ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security ("Security") from listing and registration on the American Stock Exchange, Inc. ("Amex" or "Exchange").

The reasons cited in the application for withdrawing the Security from listing and registration include the following:

The Security of Met-Pro Corporation ("Company") has been listed for trading on the Amex and, pursuant to a Registration Statement on Form 8–A which became effective on June 18, 1998, the New York Stock Exchange, Inc. ("NYSE"). Trading in the Company's Security on the NYSE commenced at the opening of business on June 18, 1998, and concurrently therewith such Security was suspended from trading on the Amex.

The Company has complied with Rule 18 of the Amex by filing with such Exchange a certified copy of the resolutions adopted by the Company's Board of Directors authorizing the withdrawal of its Security from listing on the Amex and by setting forth in detail to such Exchange the reasons for such proposed withdrawal, and the facts in support thereof. In deciding to withdraw its security from listing on the Amex, the Company determined that, due to the potential increase in liquidity and visibility, it is in the best interests of the Company to list the Security for trading on the NYSE.

By letter dated June 10, 1998, the Exchange informed the Company that it had no objection to the withdrawal of the Company's Security from listing on the Amex.

By reason of Section 12 of the Act and the rules and regulations thereunder, the Company shall continue to be obligated to file reports under Section 13 of the Act with the Commission and the NYSE.

Any interested person may, on or before July 22, 1998, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–18055 Filed 7–7–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23297, 812–11036]

SR&F Base Trust, et al.; Notice of Application

July 1, 1998.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of an application under section 17(b) of the Investment Company Act of 1940 (the "Act") for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: SR&F Base Trust ("Base Trust") and Stein Roe Investment Trust ("Investment Trust") (collectively the "Trusts"), on behalf of their respective series SR&F Special Venture Portfolio (the "Portfolio") and Stein Roe Special Venture Fund ("Special Venture Fund"), seek an order to permit an in-kind redemption of shares of Special Venture Fund held by an affiliated person of Special Venture Fund, and a corresponding in-kind redemption of shares of the Portfolio held by Special Venture Fund.

APPLICANTS: Base Trust and Investment Trust.

FILING DATES: The application was filed on February 27, 1998 and amended on June 11, 1998.

HEARING OF NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on July 27, 1998 and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW, Washington, DC 20549, Applicants, c/o Kervin M. Carome, General Counsel, Stein Roe & Farnham Incorporated, One South Wacker Drive, Chicago, IL 60606.

FOR FURTHER INFORMATION CONTACT: John K. Forst, Attorney Advisory, at (202) 942–0569, or George J. Zornada, Branch Chief, at (202) 942–0564 (Division of Investment Management, Officer of Investment Company Regulation).

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SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549 (tel. (202) 942–8090).

Applicants' Representations

1. Base trust as registered under the Act as an open-end management investment company and organized as a Massachusetts common law trust. Base Trust currently offers twelve series, including the Portfolio. Base Trust is organized so that its series, including the Portfolio, serve as "master" funds in a master-feeder structure. Stein Roe & Farnham Incorporated ("Adviser") is registered under the Investment Advisers Act of 2940 and is the Portfolio's investment adviser.

2. Investment Trust is registered under the Act as an open-end management investment company and organized as a Massachusetts business trust. Investment Trust currently offers ten series, including the Special Venture Fund (collectively with the Portfolio, the "Funds"). Special Venture Fund is a "feeder" fund and invests all of its assets in the Portfolio. Liberty Mutual Insurance company (the "Affiliated Shareholder"), parent company of the Advisers, owns, in a separate account, approximately 2.45% of the outstanding shares of Special Venture Fund.[1]

3. The Affiliated Shareholder has advised applicants that it expects to redeem its interest in the Special Venture Fund. the Special Venture Fund's prospectus and statement of additional information provide that in certain circumstances, the Special Venture Fund may satisfy all or part of a redemption request by a distribution in-kind of securities. the boards of trustees, including all of the independent trustees, have determined that it would be in the best interest of the Funds and their shareholders to pay to the Affiliated Shareholder the redemption price for its shares in-kinds

Applicant's Legal Analysis

1. Section 17(a)(2) of the Act prohibits an affiliated person of a registered investment company, or an affiliated person of such person, acting as principal, form knowingly purchasing any security or other property except securities of which the seller is the issuer) from the registered investment company. Section 2(a)(3) of the Act defines "affiliated person" to include any person owing 5% or more of the outstanding voting securities of the other person (section 2(a)(3)(A)), any person directly or indirectly controlling, controlled by, or under common control with, such other person (section 2(a)(3)(C)), and, in the case of an investment company, any investment adviser to the company (section 2(a)(3)(E)).

2. Applicants state that, as the parent of the Adviser, the Affiliated Shareholder may be considered an affiliated person of an affiliated person of Special Venture Fund. The proposed in-kind redemption therefore may be prohibited by section 17(a)(2) of the Act.

3. Section 17(b) of the Act provides that, notwithstanding section 17(a) of the Act, the Commission shall exempt a proposed transaction from section 17(a) if evidence establishes that: (a) the terms of the proposed transaction are reasonable and fair and do not involve overreaching; (b) the proposed transaction is consistent with the policy of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

4. Applicants submit that the terms of the proposed in-kind redemption by the Affiliated Shareholder meet the standards set forth in section 17(b) of the Act. Applicants assert that the Affiliated Shareholder will have no choice as to the type of consideration to be received in connection with its redemption request, and neither the Adviser nor the Affiliated Shareholder will have any opportunity to select the specific portfolio securities to be distributed. Applicants further state that the Portfolio securities to be distributed in the proposed in-kind redemption will be valued according to an objective, verifiable standard and the in-kind redemption is consistent with the investment policies of the Funds. Applicants also believe that the proposed in-kind redemption is consistent with the general purposes of the Act because the Affiliated Shareholder would not receive any advantage not available to other shareholders.

Applicant's Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. The portfolio securities of the Portfolio distributed to Special Venture Fund and ultimately to the Affiliated Shareholder pursuant to the in-kind redemption (the "In-Kind Securities") will be limited to securities that are traded on a public securities market or for which quoted bid prices are available.

2. The In-Kind Securities will be distributed by the Portfolio on a *pro rata* basis after excluding: (a) securities which, if distributed, would be required to be registered under the Securities Act of 1933; and (b) certain Portfolio assets (such as futures and options contracts and repurchase agreements) that, although they may be liquid and marketable, must be traded through the marketplace or with the counterparty to the transaction in order to effect a change in beneficial ownership. Cash will be paid for that portion of the Portfolio's assets represented by cash equivalents (such as certificates of deposit, commercial paper, and repurchase agreements) and other assets which are not readily distributable (including receivables and prepaid expenses), net of all liabilities (including accounts payable). In addition, the Portfolio will distribute cash in lieu of securities held in its portfolio not amounting to round lots (or which would not amount to round lots if included in the in-kind distribution), fractional shares and accruals on such securities.

3. The In-Kind Securities distributed to Special Venture Fund and the Affiliated Shareholder will be valued in the same manner as they would be valued for purposes of computing the Portfolio's net asset value, which, in the case of securities traded on a public securities market for which quotations are available, is their last reported sales price on the exchange on which the securities are primarily traded or at the last sales price on the national securities market, or, if the securities are not listed on an exchange or the national securities market or if there is no such reported price, the most recent bid price.

4. The Funds will maintain and preserve for a period of not less than six years from the end of the fiscal year in which the in-kind redemption occurs, the first two years in an easily accessible place, a written record of such redemption setting forth a description of each security distributed, the terms of the distribution, and the information or materials upon which the valuation was made.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 98–18056 Filed 7–7–98; 8:45 am]

BILLING CODE 8010–01–M

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[1] As of December 31, 1997, the Special Venture Fund owned approximately 99.5% of the outstanding interest in the Portfolio.

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–23296]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

June 30, 1998.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of June, 1998. A copy of each application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth St., NW., Washington, DC 20549 (tel. 202–942–8090). An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 27, 1998, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary, SEC, 450 Fifth Street, NW., Washington, 20549. For Further Information Contact: Diane L. Titus, at (202) 942–0564, SEC, Division of Investment Management, Office of Investment Company Regulation, Mail Stop 5–6, 450 Fifth Street, NW., Washington, DC 20549.

Financial Reserves Fund [File No. 811–3476]

Summary: Applicant requests an order declaring that it has ceased to be an investment company. On August 30, 1994, applicant transferred its assets and liabilities to The Financial Reserves Portfolio ("Financial"), a series of The Victory Funds, based on the relative net asset values per share. The total expenses incurred in connection with the reorganization of applicant were $115,211 and were paid by KeyCorp., the parent company of the investment adviser for applicant and Financial.

Filing Dates: The application was filed on September 26, 1997, and amended on June 2, 1998.

Applicant's Address: 3435 Stelzer Road, Suite 1000, Columbus, Ohio 43219–8001.

Asia House Funds [File No. 811–8070]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On September 12, 1997, applicant distributed its net assets to its shareholders at the net asset value per share. Applicant's investment adviser, Asia House Investments, paid appropriately $7,386.46, and affiliates, ASEAN Growth Fund and Far East Growth Fund, paid $6,084.05 and $9,029.49, respectively, in expenses in connection with the liquidation.

Filing Dates: The application was filed on February 17, 1998 and amended on June 1, 1998.

Applicant's Address: 100 Church Street, Suite 307B, Evanston, IL 60201.

Van Kampen American Capital Government Target Fund [File No. 811–6127]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On December 16, 1997, applicant made a liquidating distribution at net asset value. Applicant's investment adviser, Van Kampen American Capital Asset Management Inc., paid all expenses in connection with the liquidation.

Filing Dates: The application was filed on December 29, 1997, and amended on June 2, 1998.

Applicant's Address: One Parkview Plaza, Oakbrook, Terrace, IL 60181.

Triple A and Government Series—1997, Inc. [File No. 811–6656]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On June 29, 1997, applicant made a liquidating distribution to its shareholders at net asset value. Applicant has two shareholders that have not yet surrendered their share certificates. As of June 5, 1998, cash amounting to approximately $20 was being held in a non-interest-bearing account with PNC Bank for these shareholders in accordance with applicable state law. Applicant paid approximately $8,700 in expenses related to the liquidation. Mitchell Hutchins, applicant's investment adviser, will be responsible for any additional expenses that may be incurred with respect to the liquidation.

Filing Dates: The application was filed on November 14, 1997, and amended on June 12, 1998.

Applicant's Address: 1285 Avenue of the Americas, New York, New York 10019.

Goldman Sachs Equity Portfolios, Inc. [File No. 811–6036]

Goldman Sachs Money market Trust [File No. 811–2598]

Summary: Each applicant seeks an order declaring that it has ceased to be an investment company. On April 30, 1997, each applicant transferred all of its assets and liabilities to the corresponding series of Goldman Sachs Trust ("Trust"), based on the relative net asset values per share. The Trust paid $687,143 in reorganization expenses.

Filing Date: Each application was filed on May 21, 1998.

Applicant's Address: 4900 Sears Tower, Chicago, IL 60606.

Schroder Asian Growth Fund, Inc. [File No. 811–8150]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On March 20, 1998, applicant converted from a closed-end investment company to an open-end investment company by transferring all of its assets and liabilities to Schroder All-Asia Fund, based on the relative net asset value per share of each fund. Expenses incurred in connection with the conversion totaled approximately $576,000 and were borne by applicant.

Filing Dates: The application was filed on April 27, 1998, and amended on June 24, 1998.

Applicant's Address: 787 Seventh Avenue, 34th Floor, New York, New York 10019.

Franklin Tax-Advantaged International Bond Fund [File No. 811–4849]

Franklin Tax-Advantaged U.S. Government Securities Fund [File No. 811–5007]

Franklin Tax-Advantaged High Yield Securities Fund [File No. 811–5008]

Summary: Each applicant, a California limited partnership, seeks an order declaring that it has ceased to be an investment company. As of June 27, 1997, each of Franklin Tax-Advantaged International Bond Fund and Franklin Tax-Advantaged U.S. Government Securities Fund had liquidated all to its assets and distributed the proceeds *pro rata* to or as directed by its partners. As of May 30, 1997, Franklin Tax-Advantaged High Yield Securities Fund had liquidated all of its assets and distributed the proceeds *pro rata* to or as directed by its partners. Expenses incurred in connection with each liquidation were approximately $7,158, $59,181, and $46,750, respectively, and were borne by each applicant.

Filing Dates: Each application was filed on March 23, 1998, and amended on June 4, 1998.

Applicants' Address: 777 Mariner Island Blvd., San Mateo, California 94404.

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The JPM Institutional Plus Funds [File No. 811–7900]

Summary: Applicant requests an order declaring that it has ceased to be an investment company. Between January 1994 and June 1994, all of applicant's public shareholders redeemed their shares at net asset value. On March 22, 1995, applicant's sole remaining shareholder, SFG Investors II Limited Partnership, redeemed its shares at net asset value. Applicant's investment adviser, Morgan Guaranty Trust Company of New York, paid approximately $21,550 in expenses relating to the liquidation.

Filing Dates: The application was filed on February 21, 1997, and amended on June 11, 1997, September 10, 1997, and May 29, 1998.

Applicant's Address: 6 St. James Avenue, Boston, Massachusetts 02116.

CAM Balanced Fund, Inc. [File No. 811–7713]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Date: The application was filed on May 27, 1998.

Applicant's Address: Three Radnor Corporate Center, Suite 300, Radnor, Pennsylvania 19087.

Putnam Qualified Dividend Income Fund [File No. 811–6055]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Date: The application was filed on May 27, 1998.

Applicant's Address: One Post Office Square, Boston, Massachusetts 02109.

The Victory Funds [File No. 811–3378]

Summary of Application: Applicant seeks an order declaring that it has ceased to be an investment company. One June 5, 1995, applicant transferred all of its assets to the Victory Portfolios (the "Acquiring Fund") in exchange for securities in that company, based on relative net asset values. Expenses totaled $1,464,629 and were paid by the parent company of the adviser to both the applicant and the Acquiring Fund.

Filing Dates: The application was filed on September 26, 1997 and amended on June 2, 1998.

Applicant's Address: 3435 Stelzer Road, Ste 1000, Columbus, Ohio 43219–8001.

Daily Cash Accumulation Fund, Inc. [File No. 811–2346]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On November 21, 1997, applicant transferred all of its assets to Money Market Trust, based on the relative net asset value per share. Applicant and Money Market Trust paid $563,300 and $86,600, respectively, in expenses in connection with the transaction.

Filing Dates: The application was filed on April 3, 1998 and amended on June 24, 1998.

Applicant's Address: 6803 South Tucson Way, Englewood, Colorado 80112.

Investors Trust [File No. 811–4945]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On September 26, 1996, pursuant to the applicable Reorganization Agreement, applicant's five series, Investors Trust Government Fund, Investors Trust Value Fund, Investors Trust Growth Fund, Investors Trust Tax Free Fund, and Investors Trust Adjustable Rate Fund, transferred their assets and stated liabilities into corresponding Acquiring Funds of the GE Funds. Expenses totaled $906,750, of which $809,058 was paid by GE Investment Management Incorporated, the adviser to the Acquiring Funds, and $97,692 was paid by GNA Capital Management, the adviser to the applicant.

Filing Dates: The application was filed on February 9, 1998 and amended on May 28, 1998.

Address: Applicant: Suite 5600, Two Union Square, 601 Union Street, Seattle, WA 98101.

A. T. Ohio Municipal Money Fund [File No. 811–4097]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On August 30, 1997, applicant transferred all of its assets to The Ohio Municipal Money Market Portfolio, a series of The Victory Funds, based on the relative net asset value per share. Keycorp, the parent of applicant's investment adviser, Society Asset Management Inc., paid $115,211 in expenses in connection with the transaction.

Filing Date: The application was filed on September 26, 1997, and applicant has agreed to file an amendment during the notice period.

Applicant's Address: 3435 Stelzer Road, Suite 1000, Columbus, Ohio 43219–8001.

The Exchange Fund of Boston, Inc. [File No. 811–2598]

Fiduciary Exchange Fund, Inc. [File No. 811–1409]

Second Fiduciary Exchange Fund, Inc. [File No. 811–1453]

Diversification Fund, Inc. [File No. 811–1003]

Capital Exchange Fund, Inc. [File No. 811–1339]

Depositors Fund Of Boston, Inc. [File No. 811–1295]

Summary: Each applicant seeks an order declaring that it has ceased to be an investment company. On October 31, 1997, each applicant transferred all of its assets and liabilities to corresponding series of Eaton Vance Series Trust ("Trust"), based on the relative net asset values per share. Applicant paid approximately $6,000 in reorganization expenses.

Filing Date: Each application was filed on May 22, 1998, and Fiduciary Exchange Fund, Inc. has agreed to file an amendment during the notice period.

Applicants' Address: 24 Federal Street, Boston, MA 02110.

Society's Collective Investment Retirement Fund [File No. 811–4895]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On December 18, 1994, pursuant to an Agreement and Plan of Reorganization, applicant's two series, the Balanced Portfolio Series and the U.S. Government Portfolio Series, transferred their assets into corresponding series of the Victory Portfolios based on relative net asset values per share. Expenses totaled $49,951 and were paid by the parent company of the adviser to both the applicant and the Victory Portfolios.

Filing Dates: The application was filed on October 1, 1997 and amended on June 2, 1998.

Address: Applicant, 3435 Stelzer Road, Ste 1000, Columbus, Ohio 43219–8001.

Putnam Information Sciences Trust [File No. 811–3672]

Putnam Intermediate Government Income Trust [File No. 811–5556]

Summary: Each applicant seeks an order declaring that it has ceased to be an investment company. On March 23, 1992, Putnam Information Sciences Trust transferred all of its assets and liabilities to Putnam New Opportunities Fund ("New Opportunities Fund"), based on the relative net asset values per share. Applicant and New Opportunities Fund paid approximately $108,400 and $25,600, respectively, in expenses related to the reorganization. On January 26, 1998, Putnam Intermediate Government Income Trust transferred all of its assets and liabilities to Putnam Mater Intermediate Income Trust (the "Master Fund"), based on the relative net asset values per share. Applicant and the Master Fund paid approximately $310,696 and $360,303, respectively, in expenses related to the reorganization.

Filing Date: Each application was filed on May 27, 1998.

Applicants' Address: One Post Office Square, Boston, Massachusetts 02109.

Dean Witter Managers' Select Fund [File No. 811–8053]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On April 27, 1998, applicant distributed its assets to Dean Witter InterCapital, Inc. ("Dean Witter"), applicant's investment adviser and sole shareholder. Applicant never made a public offering of its shares and does not propose to make a public offering or engage in any business activities.

Filing Date: The application was filed on May 8, 1998.

Applicant's Address: Two World Trade Center, New York, New York 10048.

Oppenheimer Fund [File No. 811–847]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On June 20, 1997, applicant transferred all of its assets to Oppenheimer Multiple Strategies Fund (the "Strategies Fund") at net asset value. Applicant and Strategies Fund bore $56,000 and $28,000, respectively, in expenses in connection with the transaction.

Filing Dates: The application was filed on April 21, 1998 and amended on June 12, 1998.

Applicant's Address: Two World Trade Center, New York, New York 10048–0203.

Oppenheimer Global Emerging Growth Fund [File No. 811–5381]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On June 20, 1997, applicant transferred all of its assets to Oppenheimer Global Fund (the "Global Fund") at net asset value. Applicant and Global Fund paid $66,754 and $27,923, respectively, in expenses in connection with the transaction.

Filing Dates: The application was filed on April 21, 1998 and amended on June 12, 1998.

Applicant's Address: Two World Trade Center, New York, New York 10048–0203.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18004 Filed 7–7–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40151; File No. S7–24–89]

Joint Industry Plan; Solicitation of Comments and Order Approving Request to Extend Temporary Effectiveness of Reporting Plan for Nasdaq/National Market Securities Traded on an Exchange on an Unlisted or Listed Basis, Submitted by the National Association of Securities Dealers, Inc., the Boston Stock Exchange, Inc., the Chicago Stock Exchange, Inc., and the Philadelphia Stock Exchange, Inc.

July 1, 1998.

I. Introduction

On June 30, 1998, the National Association of Securities Dealers, Inc. ("NASD"), on behalf of itself and the Boston Stock Exchange, Inc. ("BSE"), the Chicago Stock Exchange, Inc. ("CHX"), and the Philadelphia Stock Exchange, Inc. ("Phlx") submitted to the Securities and Exchange Commission ("Commission" or "SEC") a proposal to extend the operation of a joint transaction reporting plan ("Plan")[1] for Nasdaq/National Market ("Nasdaq/NM") (previously referred to as Nasdaq/NMS) securities traded on an exchange on an unlisted or listed basis.[2] The proposal would extend the effectiveness of the Plan, as amended by Revised Amendment No. 9, as defined in footnote 3, through December 31, 1998.[3] The Commission also is extending certain exemptive relief as described below. The June 1998 Extension Request also requests that the Commission approve the Plan, as amended, on a permanent basis on or before December 31, 1998. During the six-month extension of the Plan, the Commission will consider whether to approve the proposed Plan, as amended, on a permanent basis.

II. Background

The Plan governs the collection, consolidation and dissemination of quotation and transaction information for Nasdaq/NM securities listed on an exchange or traded on an exchange pursuant to a grant of UTP.[4] The Commission approved trading pursuant to the Plan on a one-year pilot basis, with the pilot period to commence when transaction reporting pursuant to the Plan commenced. The Commission originally approved the Plan on June 26, 1990.[5] Accordingly, the pilot period commenced on July 12, 1993 and was scheduled to expire on July 12, 1994.[6] The Plan has since been in operation on an extended pilot basis.[7]

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[1] *See* Letter from Robert E. Aber, Vice President and General Counsel, Nasdaq, to Jonathan G. Katz, Secretary, Commission, dated June 30, 1998 ("June 1998 Extension Request"). The June 1998 Extension Request also requests the Commission continue to provide exemptive relief, previously granted in connection with the Plan on a temporary basis, from Rules 11Ac1–2 and 11Aa3–1 under the Securities Exchange Act of 1934, as amended ("Act"). 15 U.S.C. 78a *et seq.* The signatories to the Plan are the Participants for purposes of this release, however, the BSE joined the Plan as a "limited participant" and reports quotation information and transaction reports only in Nasdaq/NM securities listed on the BSE. Originally, the American Stock Exchange, Inc. ("Amex") was a Participant but withdrew its participation from the Plan in August 1994.

[2] Section 12 of the Act generally requires an exchange to trade only those securities that the exchange lists, except that Section 12(f) of the Act permits unlisted trading privileges ("UTP") under certain circumstances. For example, Section 12(f), among other things, permits exchanges to trade certain securities that are traded over-the-counter ("OTC/UTP"), but only pursuant to a Commission order or rule. The present order fulfills this Section 12(f) requirement. For a more complete discussion of the Section 12(f) requirement, *see* November 1995 Extension Order, *infra* note 8.

[3] On March 18, 1996, the Commission solicited comment on a revenue sharing agreement among the Participants. *See* March 1996 Extension Order, *infra* note 8. Thereafter the Participants submitted certain technical revisions to the revenue sharing agreement ("Revised Amendment No. 9"). *See* Letter from Robert E. Aber, Vice President and General Counsel, Nasdaq, to Jonathan G. Katz, Secretary, Commission, dated September 13, 1996. *See also* September 1996 Extension Order, *infra* note 8.

[4] *See* Section 12(f)(2) of the Act.

[5] *See* Securities Exchange Act Release No. 28146 (June 26, 1990), 55 FR 27917 (July 6, 1990) ("1990 Plan Approval Order").

[6] *See* letter from David T. Rusoff, Foley & Lardner, to Betsy Prout, Division of Market Regulation ("Division"), SEC, dated May 9, 1994.

[7] *See* Securities Exchange Act Release No. 34371 (July 13, 1994), 59 FR 37103 (July 20, 1994); Securities Exchange Act Release No. 35221 (January 11, 1995), 60 FR 3886 (January 19, 1995); Securities Exchange Act Release No. 36102 (August 14, 1995), 60 FR 43626 (August 22, 1995); Securities Exchange Act Release No. 36226 (September 13, 1995), 60 FR 49029 (September 21, 1995); Securities Exchange Act Release No. 36368 (October 13, 1995), 60 FR 54091 (October 19, 1995); Securities Exchange Act Release No. 36481 (November 13, 1995), 60 FR 58119 (November 24, 1995) ("November 1995 Extension Order"); Securities Exchange Act Release

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III. Description of the Plan

The Plan provides for the collection from Plan Participants and the consolidation and dissemination to vendors, subscribers and others of quotation and transaction information in "eligible securities."[8] The Plan contains various provisions concerning its operation, including: Implementation of the Plan; Manner of Collecting, Processing, Sequencing, Making Available and Disseminating Last Sale Information; Reporting Requirements (including hours of operation); Standards and Methods of Ensuring Promptness, Accuracy and Completeness of Transaction Reports; Terms and Conditions Access; Description of Operation of Facility Contemplated by the Plan; Method and Frequency of Processor Evaluation; Written Understandings of Agreements Relating to Interpretation of, or Participation in, the Plan; Calculation of the Best Bid and Offer ("BBO"); Dispute Resolution; and Method of Determination and Imposition, and Amount of Fees and Charges.[9]

IV. Exemptive Relief

In conjunction with the Plan, on a temporary basis scheduled to expire on June 30, 1998, the Commission granted an exemption to vendors from Rule 11Ac1–2 under the Act regarding the calculation of the BBO[10] and granted the BSE an exemption from the provision of Rule 11Aa3–1 under the Act that requires transaction reporting plans to include market identifiers for transaction reports and last sale data. As discussed further below in the *Summary of Comments*, the Participants ask in the June 1998 Extension Request that the Commission grant an extension of the exemptive relief described above to vendors until the BBO calculation issue is resolved. Additionally, in the June 1998 Extension Request, the Participants also request that the Commission grant an extension of the exemptive relief described above to the BSE for as long as the BSE is a Limited Participant under the Plan.

V. Summary of Comments

In the December 1997 Extension Order, the Commission requested comment on the following issues: Whether the BBO calculation for securities traded pursuant to the Plan should be based on a price/time/size methodology or a price/size/time methodology; whether there is a need for a trade through rule, and the impact of the CHX's intended use of BRASS, as defined below.

With respect to the BBO calculation issue, the Nasdaq Board approved a recommendation to modify the methodology for calculating the BBO on Nasdaq in order to prioritize quotes based on a price/size/time algorithm instead of the current price/time/size algorithm, provided that Nasdaq market makers are subject to a minimum quote size requirement of 100 shares for at least 1,000 Nasdaq securities. In furtherance of this goal, on October 29, 1997, the Commission approved a NASD proposal to extend and expand the "Actual Size Rule"[11] to a total of 150 securities from 100 securities.[12] More recently, the NASD proposed to expand the Actual Size Rule to cover all Nasdaq securities and to implement this rule on a permanent basis.[13] In addition, the NASD submitted a proposed rule change to establish an integrated order delivery and execution system for directed orders and non-directed orders.[14] The proposed new system, if approved would replace the NASD's SOES and SelectNet systems and would have an impact on the Plan (*e.g.*, the manner in which Plan participants interact with orders and quotes displayed in Nasdaq).[15] As a result, the NASD and the Plan participants request an extension of the Plan until December 31, 1998 to afford the Plan participants time to resolve the BBO issue.[16]

With respect to the need for a trade through rule, the NASD continues to maintain in the June 1998 Extension Request that it would be more appropriate to address this issue once the issue of electronic access to Nasdaq market makers' quotes has been resolved.

With regard to the CHX's use of BRASS, by the end of 1998 the CHX intends to replace its existing trade support system for accessing securities subject to the Plan and begin using BRASS, developed by Automated Securities Clearance, Limited ("ASC"). BRASS is a trade support and order routing system which offers subscribers, generally broker-dealers, software and hardware to enable them to perform various functions. ASC grants its subscribers a license to operate the BRASS software through a customized computer terminal purchased from ASC or by running the BRASS software on their own terminals. The CHX has represented that ASC has specifically customized BRASS to meet the special

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No. 36589 (December 13, 1995), 60 FR 65696 (December 20); Securities Exchange Act Release No. 36650 (December 28, 1995), 61 FR 358 (January 4, 1996); Securities Exchange Act Release No. 36934 (March 6, 1996), 61 FR 10408 (March 13, 1996); Securities Exchange Act Release No. 36985 (March 18, 1996), 61 FR 12122 (March 25, 1996) ("March 1996 Extension Order"); Securities Exchange Act Release No. 37689 (September 16, 1996), 61 FR 50058 (September 24, 1996) ("September 1996 Extension Order"); Securities Exchange Act Release No. 37772 (October 1, 1996), 61 FR 52980 (October 9, 1996); Securities Exchange Act Release No. 38457 (March 31, 1997), 62 FR 16880 (April 8, 1997); Securities Exchange Act Release No. 38794 (June 30, 1997) 62 FR 36586 (July 8, 1997) ("June 1997 Extension Order"); and Securities Exchange Act Release No. 39505 (December 31, 1997) 63 FR 1515 ("December 1997 Extension Order").

[8] The Plan defines "eligible security" as any Nasdaq/NM security as to which unlisted trading privileges have been granted to a national securities exchange pursuant to Section 12(f) of the Act or that is listed on a national securities exchange.

[9] The full text of the Plan, as well as a "Concept Paper" describing the requirements of the Plan, are contained in the original filing which is available for inspection and copying in the Commission's public reference room.

[10] Rule 11Ac1–2 under the Act requires that the best bid or best offer be computed on a price/size/time algorithm in certain circumstances. Specifically, Rule 11Ac1–2 under the Act provides that "in the event two or more reporting market centers make available identical bids or offers for a reported security, the best bid or offer . . . shall be computed by ranking all such identical bids or offers . . . first by size . . . then by time." The exemption permits vendors to display the BBO for Nasdaq securities subject to the Plan on a price/time/size basis.

[11] *See* Securities Exchange Act Release No. 39285 (October 29, 1997), 62 FR 59932 (November 5, 1997).

[12] *See* Securities Exchange Act Release No. 38513 (April 15, 1997), 62 FR 19369 (April 21, 1997). Under the Actual Size Rule, market makers in certain Nasdaq securities are subject to a minimum quotation size requirement of 100 shares instead of the applicable small order execution system ("SOES") tier size for that security.

[13] *See* Securities Exchange Act Release No. 39760 (March 16, 1998), 63 FR 13894 (March 23, 1998).

[14] *See* Securities Exchange Act Release No. 39718 (March 4, 1998), 63 FR 12124 (March 12, 1998). ("IODES Proposal") Directed orders are those that an order-entry firm chooses to send to a specific Nasdaq market maker, electronic communications network ("ECN") or UTP exchange for delivery and execution. Non-directed orders are those that are not sent to a particular Nasdaq market maker or ECN. In other words, when the broker-dealer entering the order does not specify the particular Nasdaq market maker, ECN or UTP exchange it wants to access, the order will be sent to the next available executing participant quoting at the national BBO.

[15] Portions of the proposed new system are contingent on the approval of the request to implement the Actual Size Rule for all Nasdaq securities. The proposal does, however, contain alternative approaches if the Actual Size Rule is not approved for all Nasdaq securities. *See* IODES Proposal, supra note 14.

[16] The BSE submitted comments to the SEC concerning the proposed new order delivery and execution system's impact on the Plan, preservation of the BSE's rights concerning issues still not agreed upon or specifically covered by the Plan (specifically the need for a trade-through rule). *See* Comment letter No. 1511, SR–NASD–98–17 from Karen A. Aluise, Vice President, BSE to Jonathan G. Katz, Secretary, SEC dated May 14, 1998. In addition, the CHX submitted comments to the SEC concerning the IODES proposal and encouraged the Commission to grant permanent approval of the Plan. *See* Comment letter No. 1160, SR–NASD–98–17 from Patricia L. Levy, Senior Vice President and General Counsel, CHX to Jonathan G. Katz, Secretary, SEC dated May 13, 1998.

needs of the CHX. Among other things, Nasdaq market makers that already subscribe to BRASS will be able to route OTC/UTP orders to specialists on the CHX floor through a SelectNet linkage with BRASS workstations on the CHX floor. Conversely, CHX specialists will be able to route orders into SelectNet through their BRASS workstations.[17] The Commission notes that ASC will be subject to the Commission's inspection and examination procedures with regards to the specific customized BRASS system that ASC will provide to the CHX because ASC will be operating a facility of an exchange.

The Commission continues to solicit comment regarding the BBO calculation, the trade through rule and the CHX's use of the BRASS system as well as issues presented by changes occurring in the market place.

VI. Discussion

The Commission finds that an extension of temporary approval of the operation of the Plan, as amended, through December 31, 1998, is appropriate and in furtherance of Section 11A of the Act. The Commission believes that such extension will provide the Participants with additional time to seek Commission approval of pending proposals concerning the BBO calculation [18] and to begin to make reasonable proposals concerning a trade through rule to facilitate the trading of OTC securities pursuant to UTP. In addition, the Commission believes that the extension will afford the CHX adequate time to test the BRASS system, address any operating issues concerning its use and implement it. While the Commission continues to solicit comment on these matters, the Commission believes that these matters should be addressed directly by the Participants on or before September 30, 1998 so that the Commission may have ample time to determine whether to approve the Plan on a permanent basis by December 31, 1998.

The Commission also finds that it is appropriate to extend the exemptive relief from Rule 11Ac1–2 under the Act until the earlier of December 31, 1998 or until such time as the calculation methodology for the BBO is based on a price/size/time algorithm pursuant to a mutual agreement among the Participants approved by the Commission. The Commission further finds that it is appropriate to extend the exemptive relief from Rule 11Aa3–1 under the Act, that requires transaction reporting plans to include market identifiers for transaction reports and last sale data, to the BSE through December 31, 1998. The Commission believes that the extensions of the exemptive relief provided to vendors and the BSE, respectively, are consistent with the Act, the Rules thereunder, and specifically with the objectives set forth in Sections 12(f) and 11A of the Act and in Rules 11Aa3–1 and 11Aa3–2 thereunder.

VII. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the extension, including whether the extension is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed plan amendment that are filed with the Commission and all written communications relating to the proposed plan amendment between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. All submissions should refer to File No. S7–24–89 and should be submitted by [insert date 21 days from date of publication].

VIII. Conclusion

It is therefore ordered, pursuant to Sections 12(f) and 11A and the Act and paragraph (c)(2) of Rule 11Aa3–2 thereunder, that the Participants' request to extend the effectiveness of the Joint Transaction Reporting Plan, as amended, for Nasdaq/National Market securities traded on an exchange on an unlisted or listed basis through December 31, 1998, and certain exemptive relief until December 31, 1998, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18053 Filed 7–7–98; 8:45 am]

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[17] *See* December 1997 Extension Request and Letter from George T. Simon, Foley & Lardner to Howard L. Kramer, Senior Associate Director, Division, SEC, dated December 12, 1997 ("CHX Letter").

[18] *See e.g.*, Actual Size Rule Release, supra note 13 and IODES Proposal, supra note 14.

[19] 17 CFR 200.30–3(a)(29).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40143; File No. SR–Amex–97–38]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 1 to the Proposed Rule Change by the American Stock Exchange, Inc., Relating to the Exchange's Warrant Listing Guidelines.

June 29, 1998.

I. Introduction

On October 22, 1997, the American Stock Exchange, Inc. ("Amex" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend its *Company Guide* to revise its warrant listing and maintenance guidelines.

The proposed rule change was published for comment in the **Federal Register** on December 10, 1997.[3] No comments were received on the proposal. On April 3, 1998, Amex filed an Amendment to the proposed rule change.[4] This order approves the Amex proposal, as amended.

II. Description of the Proposal

The Amex proposes to amend its *Company Guide* to revise its warrant listing standards.[5] Currently, Section 105 provides that the Amex will not list warrants unless the underlying common stock is listed on the Amex or the New York Stock Exchange ("NYSE") and further provides that the Exchange will evaluate the warrant issuer's listing eligibility using the same financial and distribution guidelines as are applied to the listing of common stock.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 39392 (Dec. 3, 1997), 62 FR 65112.

[4] *See* Letter from Claudia Crowley, Special Counsel, Legal and Regulatory Policy, Amex, to Sharon Lawson, Senior Special Counsel, Division of Market Regulation, Commission, dated April 3, 1998 ("Amendment No. 1"). In Amendment No. 1, Amex proposes raising the initial warrant listing standards from 100,000 warrants with no public holder requirement, as originally proposed, to 200,000 warrants publicly held by not less than 100 public warrantholders. Amendment No. 1 makes several other clarifications which are discussed herein.

[5] The Amex has represented that the proposal would only affect warrants listed under Section 105 of the Exchange's *Company Guide* and not currency or other types of warrants listed pursuant to Section 106 or 107. *See* Amendment No. 1.

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Specifically, with respect to financial guidelines, the issuer of the warrants must meet the size and earnings requirements for common stock set forth in Section 101 (*i.e.*, stockholders equity of at least $4,000,000 and pre-tax income of at least $750,000 in its last fiscal year, or in two of its last three fiscal years). The Exchange believes that these guidelines are unnecessarily high when applied to the listing of warrants. In this regard, the Amex notes that a listed company is not required to meet the original listing guidelines when issuing additional shares of its common stock and that warrants are nothing more than a claim on a company to issue more stock that does not expose a company to financial risk. Thus, Amex believes that warrant issuers should not be subject to the same stringent financial requirements as required of issuers of common stock.

Similarly, Amex believes that the current original listing distribution requirements (*i.e.*, a minimum of 500,000 publicly held warrants and not less than 800 public warrantholders or 1,000,000 publicly held warrants and not less than 400 public warrantholders) are too high because price discovery occurs with the underlying security and, therefore, such a high degree of liquidity is not as important for the warrant.

As a result of the above, the Amex is proposing to amend Section 105, relating to initial listing requirements for warrants, and Section 1003, relating to maintenance requirements for warrants.[6] The Amex is proposing that Section 105 be amended to eliminate the express requirements that companies applying for listing of warrants must meet the size and earnings criteria for common stock. However, in addition to the current requirement that the underlying common stock (or other security underlying the warrant) must be listed on the Amex or the NYSE, the Amex is proposing to amend Section 105 to include a requirement that the underlying security must be in "good standing." The Amex has represented that for a company's common stock to be in "good standing," it must be above the numerical maintenance standards of the Amex or the NYSE.[7] Where common stock underlies the warrant, the "good standing" requirement results in a de facto size and earnings requirement for the issuer of the warrant.[8] The Amex also is proposing that Section 105 be amended to reduce the original listing distribution criteria for warrants from 500,000 warrants outstanding and not less than 800 public warrantholders or 1,000,000 publicly held warrants and not less than 400 public warrantholders to 200,000 warrants outstanding and not less than 100 public warrantholders.[9] In addition, recognizing that a minimum level of liquidity is necessary to support a public market, the Amex is proposing to amend Section 1003 to add a specific maintenance standard of at least 50,000 publicly held warrants in order for Amex to continue listing the warrants. The Amex also has represented that it would suspend or delist the warrants if the underlying common stock (or other security underlying the warrant) is suspended or delisted.[10]

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6(b)(5) in that it is designed to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.[11] Specifically, the Commission finds that revising the initial listing criteria and adopting specific maintenance requirements for warrants will serve to promote the public interest, protect investors and remove impediments to a free and open securities market by making more warrants eligible for trading on the Amex by reducing the numerical listing requirements while, at the same time, ensuring a minimum level of liquidity will exist to support the public trading market in such warrants.[12]

The development and enforcement of adequate standards governing the initial and continued listing of securities on an exchange is of critical importance to financial markets and the investing public. Listing standards serve as a means for a self-regulatory organization ("SRO") to screen issuers and provide listed status only to bona fide companies with sufficient float, investor base and trading interest to maintain fair and orderly markets. Once a security has been approved for initial listing, maintenance criteria allow an SRO to monitor the status and trading characteristics of that issue to ensure that it continues to meet the SRO's standards for market depth and liquidity.

The Commission believes that the proposed initial listing standards should help Amex to ensure that only substantial companies are eligible to have their warrants listed on the Exchange. While the proposed rule would no longer require issuers of warrants to meet the initial size and earnings requirements for issuers of common stock, the rule would require the common stock or other security underlying the warrant to be listed and in "good standing" on either the Amex or the NYSE.[13] This standard will ensure, at a minimum, that only issuers who meet the numerical continued listing standards for issuers of common stock (or other securities underlying the warrant) on the Amex or NYSE may list warrants on the Amex.[14] These requirements contain specific issuer standards including shareholders' equity, public float and earnings.[15] In addition, the Amex will not list a warrant if the security underlying the warrant has been suspended.

The Commission finds that it is not unreasonable for the Exchange to reduce the initial listing distribution criteria from 500,000 warrants publicly held and not less than 800 public warrant holders or 1,000,000 publicly held warrants and not less than 400 public warrantholders to 200,000 warrants publicly held and not less than 100 public warrantholders with a maintenance standard of 50,000 warrants publicly held. The Commission recognizes that the reduction in the initial listing standards is substantial. In reviewing the Amex's proposal the Commission has been particularly concerned about the lowered public holder requirement and the lack of such a public holder requirement for continued listing. While the Commission's determination on this issue was close, we have determined to approve the new standards based, in part, on the unique, completely derivative nature of warrants and the fact that they are exercisable into another security that must remain in "good standing" on its listed market. Accordingly, although the Commission is concerned about maintaining sufficient liquidity in the marketplace for listed warrants, the Commission believes that the revised initial listing criteria together with the added maintenance standard will serve to enable the Exchange to evaluate the propriety of continued exchange trading of warrants.

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[6] The Commission notes that currently the Exchange has no separate maintenance standards for warrants, but instead applies the general delisting provision in Section 1003.

[7] *See* Amendment No. 1. This representation clarifies that the underlying common stock must meet the objective numerical maintenance criteria rather than the subjective criteria that may permit a company to remain listed despite being below the numerical criteria.

[8] *See* Amex Company Guide, Sections 1001–1004; NYSE Rule 499.

[9] *See* Amendment No. 1.

[10] *See* Amendment No. 1.

[11] 15 U.S.C. 78f(b)(5).

[12] In approving the proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[13] This standard requires Amex to ensure the underlying security is meeting the numerical continued listing standards on the market where it is listed (*e.g.*, Amex of NYSE). We note that the mere fact that a security continues to be listed on the Amex or NYSE is not sufficient inquiry to determine if it is meeting the numerical continued listing criteria.

[14] Section 105 is, in the Commission's view, generally intended to provide listing standards for traditional corporate warrants where the issuer of the underlying security is the same as the warrant issuer. The Commission believes that an issuer desiring to list warrants on another issuers' security may be more appropriately listed under another listing standard depending on such factors as whether the issuer of the warrant holds the underlying securities. For example, if the issuer did not hold the securities underlying the warrants and/or the issuer did not have a pre-existing relationship with the issuer of the underlying security, we believe the warrant should not be listed under Section 105 for warrants. In any case, for the warrants that are appropriate for listing under Section 105, the Amex has stated that, if a third party issuer seeks to list warrants on the Exchange, the Amex will evaluate the listing eligibility of the warrants by applying the listing criteria in Section 105 to both the issuer of the warrants as well as to the issuer of the common stock underlying the warrants. *See* Letter from Michael Emen, Senior Vice President and Counsel—Securities, Legal and Regulatory Policy, Amex, to Sharon Lawson, Senior Special Counsel, Division of Market Regulation, Commission, dated June 16, 1998.

[15] *See* Amex Company Guide, Sections 1001–1004; NYSE Rule 499.

Finally, the Commission notes that warrants will trade under the Amex's existing regulatory regime for trading securities, and, therefore, the Commission believes that adequate safeguards are in place to ensure the protection of investors in warrants. In addition, the Amex will delist or suspend trading in warrants whenever the underlying equity security is delisted or suspended. Because warrants represent a claim on a company to issue stock, it is reasonable to expect the underlying equity security to meet the maintenance criteria of the exchange on which it is listed. It also would be undesirable to continue trading in listed warrants when the underlying equity security has been suspended or delisted and no longer trades in the secondary market.

The Commission finds good cause for approving Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. Amendment No. 1 raises the initial listing requirements from 100,000 warrants with no public warrantholder requirement, as originally proposed, to 200,000 warrants publicly held by not less than 100 public warrantholders. The Commission believes that these higher standards are appropriate and serve to protect investors and the public interest. In addition, the Commission notes that no comments were received when the original notice of the proposed rule change was published and that no new regulatory issues are presented in Amendment No. 1.

Accordingly, the Commission believes that good cause exists, consistent with Section 6(b)(5) and 19(b)(2)[16] of the Act, to approve Amendment No. 1 on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 1, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent comments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 522, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–97–38 and should be submitted by July 29, 1998.

For the foregoing reasons, the Commission finds that the Amex's amended proposal to revise original listing and maintenance requirements for Section 105 warrants is consistent with the requirements of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–Amex–97–38), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18003 Filed 7–7–98; 8:45 am]

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[16] 15 U.S.C. 78s(b)(2).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40150; File No. SR–CHX–98–16]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by The Chicago Stock Exchange, Incorporated Relating to the Trading of Nasdaq/NM Securities on the CHX

July 1, 1998.

On June 17, 1998, the Chicago Stock Exchange, Incorporated ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval of the proposed rule change.

I. Self-Regulatory Organizations Statement of the Terms of Substance of the Proposed Rule Change

The Exchange hereby requests a six month extension of the pilot program relating to the trading of Nasdaq/NM Securities on the Exchange that is currently due to expire on June 30, 1998. Specifically, the pilot program amended Article XX, Rule 37 and Article XX, Rule 43 of the Exchange's Rules and the Exchange proposes that the amendments remain in effect on a pilot basis through December 31, 1998.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and statutory basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

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[1] 15 U.S.C. 78s(b)(1).

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A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On May 4, 1987, the Commission approved certain CHX rules and procedures relating to the trading of Nasdaq/NM securities on the Exchange.[2] Among other things, these rules made the Exchange's BEST Rule guarantee (Article XX, Rule 37(a)) applicable to Nasdaq/NM securities and made Nasdaq/NM securities eligible for the automatic execution feature of the Exchange's Midwest Automated Execution System ("MAX system").[3]

On January 3, 1997, the Commission approved,[4] on a one year pilot basis, a program that eliminated the requirement that CHX specialist automatically execute orders in Nasdaq/NM securities when the specialists is not quoting at the national best bid or best offer ("NBBO").[5] When the Commission approved the program on a pilot basis, it stated that the arrangement in place for Exchange specialists to access OTC market makers was not an ideal linkage between the markets on a permanent basis and that the Exchange should work with Nasdaq to establish a more effective linkage. In addition, the Commission requested that the Exchange submit a report to the Commission describing the Exchange's experience with the pilot program. The Commission stated that the report should include a least six months worth of trading data. Due to programming issues, the pilot program was not implemented until April, 1997.

Six months of trading data did not become available until November, 1997. As a result, the Exchange requested an additional three month extension to collect the data and prepare the report for the Commission. On December 31, 1997, the Commission extended the pilot program for an additional three months, until March 31, 1998, to give the Exchange additional time to prepare and submit the report and to give the Commission adequate time to review the report prior to approving the pilot on a permanent basis.[6] The Exchange submitted the report to the Commission on January 30, 1998.

The Exchange, prior to the pilot expiring, requested another three month extension. On March 31, 1998, the Commission approved the pilot for an additional three month period, until June 30, 1998.[7] The Exchange now requests another extension of the current pilot program, through December 31, 1998.

Under the pilot program, specialists must continue to accept agency[8] market orders or marketable limit orders, but only for orders of 100 to 1000 shares in Nasdaq/NM securities rather than the 2099 share limit previously in place.[9] Specialists, however, must accept all agency limit orders in Nasdaq/NM securities from 100 up to and including 10,000 shares for placement in the limit order book. As described below, however, specialists are required to automatically execute Nasdaq/NM orders only if they are quoting at the NBBO where the order was received.

The pilot program requires the specialist to set the MAX auto-execution threshold at 1000 shares or greater for Nasdaq/NM securities. When a CHX specialist is quoting at the NBBO, orders for a number of shares less than or equal to the auto-execution threshold set by the specialist will be automatically executed (in an amount up to the size of the specialist's quote). Orders in securities quoted with a spread greater than the minimum variation are executed automatically after a fifteen second delay from the time the order is entered into MAX. The size of the specialist's bid or offer is then automatically decremented by the size of the execution. When the specialist's quote is exhausted, the system will generate an autoquote at an increment away from the NBBO, as determined by the specialist from time to time, for either 100 or 1000 shares, depending on the issue.[10]

When the specialist is not quoting a Nasdaq/NM security at the NBBO, it can elect, on an order-by-order basis, to manually execute orders in that security. If the specialist does not elect manual execution, MAX market and marketable limit orders in that security that are of a size equal to or less than the auto-execution threshold will automatically be executed at the NBBO after a twenty second delay.[11] If the specialist elects manual execution, the specialist must either manually execute the order at the NBBO or a better price or act as agent for the order in seeking to obtain the best available price for the order on a marketplace other than the Exchange. If the specialist decides to act as agent for the order, the pilot program requires the specialist to use order-routing systems to obtain an execution where appropriate. Market and marketable limit orders that are for a number of shares greater than the auto-execution threshold are not subject to these requirements, and may be canceled within one minute of being entered into MAX or designated as an open order.

2. Statutory Basis

The basis under the Act for the proposed rule change is the requirements under Section 6(b)(5)[12] that an exchange have rules that are designed, in part, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose a burden on competition.

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[2] *See* Securities Exchange Act Release No. 24424 (May 4, 1987), 52 FR 17868 (May 12, 1987) (ordering approving File No. SR–MSE–87–2). *See also* Securities Exchange Act Release Nos. 28146 (June 26, 1990) (order expanding the number of eligible Nasdaq/NM securities to 100); and 36102 (August 14, 1995) (ordering expanding the number of Nadaq/NM securities to 500).

[3] The MAX system may be used to provide an automated delivery and execution facility for orders that are eligible for execution under the Exchange's BEST Rule and certain other orders. *See* CHX, Art. XX, Rule 37(b). A MAX order that fits under the BEST parameters is executed pursuant to the BEST Rule via the MAX system. If an order is outside the BEST parameters, the BEST Rule does not apply, but MAX system handling rules do apply.

[4] *See* Securities Exchange Act Release No. 38119.

[5] The NBBO is the best bid or offer disseminated pursuant to SEC Rule 11Ac1–1.

[6] *See* Securities Exchange Act Release No. 39512 (December 31, 1997), 62 FR 1517 (January 9, 1998).

[7] *See* Securities Exchange Act Release No. 39823 (March 31, 1998).

[8] The term "agency order" means an order for the account of a customer, but shall not include professional orders as defined in CHX, Article XXX, Rule 2, interpretation and policy .04. The Rule defines a "professional order" as any order for the account of a broker-dealer, the account of an associated person of a broker-dealer, or any account in which a broker-dealer or an associated person of a broker-dealer has any direct or indirect interest.

[9] The 100 to 2099 share auto-acceptance threshold previously in place continues to apply to Dually Listed securities (those issues that are traded on the CHX and are listed on either the New York Stock Exchange or American Stock Exchange).

[10] Specifically, the autoquote is currently for one normal unit of trading (usually 100 shares) in issues that became subject to mandatory compliance with SEC Rule 11Ac1–4 on or prior to February 24, 1997, and for 1000 shares in other issues.

[11] The twenty second delay is designed, in part, to provide an opportunity for the order to receive price improvement from the specialist's displayed quote.

[12] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No comments were solicited or received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the Exchange. All submissions should refer to file number SR–CHX–98–16 and should be submitted by July 29, 1998.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the Exchange's proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[13] which requires that an exchange have rules designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission also believes that the proposal is consistent with Section 11A(a)(1)(C) and 11A(a)(1)(D) of the Act because the Exchange's proposal conforms CHX specialist obligations to those applicable to OTC market makers in Nasdaq/NM securities, while CHX provides a separate, competitive market for Nasdaq/NM securities.

The Commission notes however that, while the Exchange has been working towards establishing a linkage, specialists and OTC market makers do not yet have an effective method of routing orders to each other. The Commission expects the Exchange to continue to work towards establishing a linkage with the Nasdaq systems as requested in the January 3, 1997 order.[14] The Commission is approving the extension of the pilot so that the rules of the exchange will operate without interruption.

The Commission therefore finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**.

It is Therefore Ordered, pursuant to Section 19(b)(2),[15] that the proposed rule change (SR–CHX–98–16) be, and hereby is, approved through December 31, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18052 Filed 7–7–98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40146; File No. SR–NYSE–98–10]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc., and Amendment No. 1 Thereto, To Amend Exchange Rule 115 Regarding Disclosure of Specialists' Orders

June 30, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 17, 1998, the New York Stock Exchange, Inc. (the "NYSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. On June 23, 1998, the NYSE filed an amendment to the proposal.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to Exchange Rule 115, Disclosure of Specialists' Orders Prohibited. The text of the proposed rule change is available at the Office of the Secretary, the NYSE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NYSE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NYSE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Exchange Rule 115 prohibits disclosure of information in regard to orders on a specialist's book except in certain limited circumstances. This policy was first adopted as a rule in February 1934. Limited exceptions were adopted for disclosure when demonstrating methods of trading to visitors in 1938 and to implement the Intermarket Trading System in 1978. A third exception, approved in 1991, allows a specialist to provide

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[13] 15 U.S.C. 78f(b)(5).

[14] *See* Securities Exchange Act Release No. 38119 (January 3, 1997), 62 FR 1788 (January 13, 1997).

[15] 15 U.S.C. 78s(b)(2).

[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Agnes M. Gautier, Vice President, Market Surveillance, NYSE, to Richard Strasser, Assistant Director, Division of Market Regulation, Commission, dated June 17, 1998 ("Amendment No. 1"). In Amendment No. 1, the NYSE clarifies that percentage orders, under the proposed rule change, will be treated the same as other orders other than stop orders. The NYSE also notes that the proposed amendment to NYSE Rule 115, permitting a specialist to respond to an issuer's inquiry regarding buying and selling interest in its stock, is consistent with NYSE Rule 106, recent changes to the Exchange's Allocation Policy, and the duties of a specialist in that the proposal should promote a positive professional relationship between the specialist and the exchange-listed company. Furthermore, the Exchange notes it believes that non-member, non-issuer market participants are not disadvantaged by communications between the issuer and the specialist because the same information is available through a member's market probe of the specialist. The Exchange represents that under the proposed rule change issuers will not have direct access to the floor of the Exchange.

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information about buying or selling interest in the market at or near the prevailing quote in response to a market probe of a member.[4] The specialist must make this same information available, in a fair and impartial manner, to all members making a similar inquiry. The specialist must also be expressly authorized to release the names of buyers and sellers by the member who entered the order. The names of buyers and sellers refers to the names of members or member organizations entering orders or expressing interest with the specialist, and not the names of their customers.

The Exchange is proposing to amend Rule 115 to permit a specialist, acting solely in his or her capacity as a market maker (*i.e.*, while on the Floor), and responding to a market probe by a member, to give any information concerning buying and selling interest or orders he or she holds on the book in a stock.[5] This proposal deletes the limitation that such disclosed interest be "at or near the prevailing quote." However, with respect to stop orders on the book for a stock,[6] a specialist may disclose this information when the specialist judges that the member conducting the market probe has the intention to trade in the stock at a price at which such stop orders would be relevant. The additional restriction on the disclosure of stop orders will permit disclosure in legitimate circumstances, *e.g.*, when a proposed trade would be effected at a price which would trigger stop orders.

The proposal would also permit the specialist to disclose the identity of any buyer or seller represented on his book without being required to have express authorization from the member who entered the order to disclose the names of buyers and sellers, *i.e.*, the members or member organizations who are representing the buying and selling interest. Nevertheless, a member may request that the identity of a buyer or seller *not* be disclosed at any time, or in respect to a particular order left with a specialist.

The rule will continue to require a specialist to make any information available in a fair and impartial manner.

The Exchange believes that enabling specialists to provide information under amended Rule 115 will facilitate the bringing together of buyers and sellers in a more efficient manner. For example, information will be given to members acting in the capacity of agents for their customers, and thus, the benefits of having this information will inure to these customers by giving them a more complete picture of trading interest.

An added exception to Rule 115 is proposed to permit specialists to disclose information about orders on the book in their stock to listed companies, except for information pertaining to stop orders in the stock. The Exchange believes this will provide the opportunity for specialists to respond to listed companies' requests to be kept apprised concerning the market for their stocks.

2. Statutory Basis

The basis under the Act for this proposed rule change is section 11(b),[7] which prohibits a specialist from disclosing information on orders he or she holds "which is not available to all members. * * *" The Exchange believes that the change to NYSE Rule 115 is consistent with Section 11(b)[8] because it provides a mechanism for the fair and impartial disclosure of information by the specialist in a manner that is neither anti-competitive nor discriminatory. The specialist must respond to market probes by members with the same information being disclosed to each such member. With respect to the disclosure of stop orders, the rule's requirement that the specialist have a reasonable belief that the inquiry is fostered by an intent to trade at a relevant price supports the aims of Section 6(b)(5) of the Act[9] concerning the prevention of fraudulent or manipulative acts. Disclosure of certain information to issuers also supports the provisions of Section 6(b)(5)[10] with respect to creating a free and open market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if its finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Specifically, the Commission requests comments on whether the proposed provisions regarding issuer access to the specialist's book is consistent with the Act, including Section 6(b)(5) of the Act.[11] Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549.

Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–98–10 and should be submitted by July 29, 1998.

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[4] Securities Exchange Act Release No. 29318 (June 17, 1991) 56 FR 28937 (June 25, 1991).

[5] The proposal includes not only orders on the specialist's book, but also any percentage orders held by the specialist. *See* Amendment No. 1, *supra* note 3.

[6] A stop order is an order to buy or sell at the market when a definite price is reached either above (on a buy) or below (on a sell) the price that prevailed when the order was given. A stop order becomes a market order after a transaction at the stop price occurs. A stop-limit order is a stop order that designates a price limit. A stop-limited order becomes a limit order when a transaction takes place at the stop price. *See* NYSE Rule 13.

[7] 15 U.S.C. 78k(b).

[8] *Id.*

[9] 15 U.S.C. 78f(b)(5).

[10] *Id.*

[11] *Id.*

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98-18002 Filed 7-7-98; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new, and/or currently approved information collection.

DATES: Comments should be submitted on or before September 8, 1998.

FOR FURTHER INFORMATION CONTACT: Curtis B. Rich, Management Analyst, Small Business Administration, 409 3rd Street, S.W., Suite 5000, Washington, D.C. 20416. Phone Number: 202–205–6629.

SUPPLEMENTARY INFORMATION:

Title: "Executive Education Program Participant Profile".

Type of Request: New Collection.

Form No: N/A.

Description of Respondents: 8(a) Participants.

Annual Response: 300.

Annual Burden: 225.

Comments: Send all comments regarding this information collection to Cherina Hunter, General Business & Industry Specialist, Office of Minority Enterprise Development, Small Business Administration, 409 3rd Street S.W., Suite 8000, Washington, D.C. 20416. Phone No: 202–205–6412.

Send comments regarding whether this information collection is necessary for the proper performance of the function of the agency, accuracy of burden estimate, in addition to ways to minimize this estimate, and ways to enhance the quality.

Dated: July 2, 1998.

Vanessa Smith,

Acting Chief, Administrative Information Branch.

[FR Doc. 98-18137 Filed 7-7-98; 8:45 am]

BILLING CODE 8025-01-M

SMALL BUSINESS ADMINISTRATION

[License No.: 01/71-0369]

RFE VI SBIC, L.P.; Notice of Issuance of a Small Business Investment Company License

On March 9, 1998, an application was filed by RFE VI SBIC, L.P., at 36 Grove Street, New Canaan, Connecticut 06840, with the Small Business Administration (SBA) pursuant to Section 107.300 of the Regulations governing small business investment companies (13 CFR 107.300 (1997)) for a license to operate as a small business investment company.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 01/71-0369 on June 17, 1998, to RFE VI SBIC, L.P., to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: June 19, 1998.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 98-18139 Filed 7-7-98; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

[License No.: 06/76-0316]

SBIC Partners II, L.P.; Notice of Issuance of a Small Business Investment Company License

On December 22, 1997, an application was filed by SBIC Partners II, L.P., at 201 Main Street, Suite 2302, Fort Worth, TX 76102, with the Small Business Administration (SBA) pursuant to Section 107.300 of the Regulations governing small business investment companies (13 CFR 107.300 (1997)) for a license to operate as a small business investment company.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 06/76-0316 on June 16, 1998, to SBIC Partners II, L.P. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: June 19, 1998.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 98-18138 Filed 7-7-98; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

Interest rates

The Small Business Administration publishes an interest rate called the optional "peg" rate (13 CFR 120.214) on a quarterly basis. This rate is a weighted average cost of money to the government for maturities similar to the average SBA direct loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. This rate will be 5⅞ percent for the July—September quarter of FY 98.

Pursuant to 13 CFR 120.921(b), the maximum legal interest rate for a commercial loan which funds any portion of the cost of a project (see 13 CFR 120.801) shall be the greater of 6% over the New York prime rate or the limitation established by the constitution or laws of a given State. The initial rate for a fixed rate loan shall be the legal rate for the term of the loan.

Jane Palsgrove Butler,

Acting Associate Administrator for Financial Assistance.

[FR Doc. 98-17979 Filed 7-7-98; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements

AGENCY: Office of the Secretary, DOT

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements imposed upon the public which were transmitted by the Department of Transportation to the Office of Management and Budget (OMB) for its approval in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 USC Chapter 35). Section 3507 of Title 44 of the United States Code, requires that agencies prepare a notice for publication in the **Federal Register**, listing information collection request submitted to OMB for approval or renewal under that Act. OMB reviews and approves agency submissions in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments

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[12] 17 CFR 200.30-3(a)(12).

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on the proposed forms and the reporting and recordkeeping requirements.

OMB approval of an information collection requirement must be renewed at least once every three years.

The **Federal Register** Notice with a 60-day comment period soliciting comments on information collections 2120–0020 and 2120–0057 was published on March 9, 1998 [63 FR 11472–11473].

DATES: Comments on this notice must be received on or before August 7, 1998.

FOR FURTHER INFORMATION CONTACT: Copies of the DOT information collection requests submitted to OMB may be obtained from Ms. Judith Street, Federal Aviation Administration, Corporate Information Division, ABC–100, 800 Independence Ave., SW., (202) 267–9895, Washington, DC 20591.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

(1) *Title:* Maintenance, Preventive Maintenance, Rebuilding, and Alteration.

OMB Control Number: 2120–0020

Form(s): FAA Form 337.

Type of Request: Extension of a currently approved collection.

Affected Public: Certified mechanics, repair stations, and air carriers authorized to perform maintenance. Pilots are also authorized to perform and record preventive maintenance; however, the authorization applies only to those pilots who own or lease their aircraft for private operation.

Abstract: The information collection associated with 14 CFR part 43 is necessary to ensure that maintenance, rebuilding, or alteration of aircraft, aircraft components, etc., is performed by qualified individuals and at proper intervals. Further, maintenance records are essential to ensure that an aircraft is properly maintained and is mechanically safe for flight.

Estimated Burden: The estimated total annual burden is 1,377,897 hours.

(2) *Title:* Safety Improvement Report Accident Prevention Counselor Activity Reports.

OMB Control Number: 2120–0057.

Form(s): FAA Form 8740–5 and 2; FAA Form 8740–6.

Type Request: Extension of a currently approved collection.

Affected Public: Pilots, airport operators, charter and commuter aircraft operators engaging in air transportation.

Abstract: Safety Improvements Reports are used by airmen to notify the FAA of hazards to flight operations. Accident Prevention Counselor Activity Reports are used by counselors to advise the FAA of Accident Prevention Program Accomplishments.

Annual Estimated Burden: 1,762 hours.

ADDRESSES: Written comments on the DOT information collection request should be forwarded, within 30 days of publication, to Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, Washington, DC 20503, ATTN: FAA Desk Officer. If you anticipate submitting substantive comments, but find that more than 10 days from the date of publication are needed to prepare them, please notify the OMB official of your intent immediately.

COMMENTS ARE INVITED ON: whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collections; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Issued in Washington, DC, on July 1, 1998.

Phillip A. Leach,

Clearance Officer, United States Department of Transportation.

[FR Doc. 98–18022 Filed 7–7–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–1998–4007]

National Boating Safety Advisory Council; Vacancies

AGENCY: Coast Guard, DOT.

ACTION: Request for applications.

SUMMARY: The Coast Guard is seeking applications for appointment to membership on the National Boating Safety Advisory Council (NBSAC). NBSAC advises the Coast Guard on matters related to recreational boating safety.

DATES: Applications must reach the Coast Guard on or before September 30, 1998.

ADDRESSES: You may request an application form by writing to Commandant (G–OPB–1), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001; by calling 202–267–0950; or by faxing 202–267–4285. Submit application forms to the same address. This notice is available on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: For questions on this notice, contact Mr. A. J. Marmo, Executive Director of NBSAC, telephone (202) 267–0950, fax (202) 267–4285. For questions on viewing or submitting material to this docket, contact Dorothy Walker, Chief Dockets, Department of Transportation, 202–366–9329.

SUPPLEMENTARY INFORMATION: The National Boating Safety Advisory Council(NBSAC) was established by the Federal Boat Safety Act of 1971. It is a Federal advisory committee constituted under 5 U.S.C. App. 2. NBSAC provides advice to the Coast Guard regarding regulations and other major boating safety matters. Members for the Council are drawn equally from the following sectors of the boating community: State officials responsible for State boating safety programs; recreational boat and associated equipment manufacturers; and national recreational boating organizations and the general public. Members are appointed by the Secretary of Transportation.

The Council normally meets twice each year at a location selected by the Coast Guard. When attending meetings of the Council, members are provided travel expenses and per diem.

The Coast Guard will consider applications for the following seven positions that expire or become vacant in December 1998: two representatives of State officials responsible for State boating safety programs; three representatives of recreational boat and associated equipment manufacturers; and two representatives of the general public. Mayors are particularly encouraged to submit applications to fill appropriate vacancies. Applicants are considered for membership on the basis of their expertise, knowledge, and experience in recreational boating safety. Each member serves for a term of 3 years unless filling an unexpired term. Some members may serve consecutive terms.

In support of the policy of the Department of Transportation on gender and ethnic diversity, the Coast Guard encourages applications from qualified women and members of minority groups.

Applicants selected may be required to complete a Confidential Financial Disclosure Report (OGE Form 450). Neither the report nor the information it contains may be released to the public, except under an order issued by a

Federal court or as otherwise provided under the Privacy Act (4 U.S.C. 552a).

Dated: July 2, 1998.

Ernest R. Riutta,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Operations.

[FR Doc. 98–18114 Filed 7–7–98; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–98–3848; Notice 2]

Beall Trailers of Washington, Inc.; Grant of Application for Temporary Exemption From Federal Motor Vehicle Safety Standard No. 224

This notice grants the application by Beall Trailers of Washington, Inc., of Kent, Washington, ("Beall"), a wholly-owned subsidiary of Beall Corporation, for a one-year temporary exemption from Motor Vehicle Safety Standard No. 224 *Rear Impact Protection*. The basis of the application was that compliance would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard.

Notice of receipt of the application was published on May 19, 1998, and an opportunity afforded for comment (63 FR 27618).

Beall manufactures and sells dump body trailers. It produced a total of 311 trailers in 1997, of which 124 were dump body types. Standard No. 224 requires, effective January 26, 1998, that all trailers with a GVWR of 4536 Kg or more, including dump body types, be fitted with a rear impact guard that conforms to Standard No. 223 *Rear impact guards*. In its application, Beall stated that "alterations may have to be made to the trailer chassis or even raising the dump box to provide space for the retractable guard," indicating that a guard that retracts when the dump body is in operation is the solution it is seeking in order to comply. According to Beall, the company has "placed significant resources (time and money) towards the design of an acceptable guard. We have involved Montana State University professors from their Mechanical Engineering department. We have conducted Finite Element Analysis and traditional methods of design arriving at a plastically deforming guard that meets the standard, for nonasphalt carrying applications." The deforming guard does not retract, thus cannot be used on dump body trailers. Beall believed that its problem is similar to that experienced by other manufacturers manufacturing dump trailers. The company stated that "devices used in other countries do not meet FMVSS 224." It continues to study "hinged/retractable devices" but must overcome lack of space for a retracted device. The company said that it would strive to develop a device that would comply with Federal requirements while an exemption is in effect.

If an exemption is not granted, the company argued that substantial economic hardship will result. First, it would lose a trailer that accounts for 40 percent of its overall production. In addition, "some percentage of the remaining 60% would be lost since our customers typically purchase matching truck mounted dump bodies which may also be lost." Beall also believed that 31 of its 63 employees would have to be laid off if its application is denied. Maintenance of full employment would be in the public interest it argues. Beall's net income was $39,317 in 1995 and $72,213 in 1996. In the first 10 months of 1997, its net income before income taxes was $697,040. If the application is denied, it foresees a net loss of $71,445 for 1998.

No comments were received on the application.

NHTSA has analyzed the economic and regulatory situation that confronts Beall. The configuration of the company's dump trailer has presented it with an engineering problem that it was unable to resolve by the effective date of the standard, even though the company has studied devices used in other countries. Beall anticipates arriving at a solution within the year that its exemption would be in effect, and the company did not ask for the three full year exemption permitted under the hardship authority. Although a denial would not create an untenable economic situation, it would result in the company having a net loss for 1998. More ominously, a denial might also have the effect of eroding the market for the trailers that Beall could continue to produce "since our customers typically purchase matching truck mounted dump bodies."

NHTSA agrees that maintenance of full employment is in the public interest. The very low volume of the trailers that will be covered by an exemption limits the effect on safety of the trailers that will be produced under the exemption without a rear underride guard.

In consideration of the foregoing, it is hereby found that compliance with Standard No. 224 would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard, and that an exemption would be in the public interest and consistent with motor vehicle safety. Accordingly, Beall Trailers of Washington, Inc., is hereby granted NHTSA Temporary Exemption No. 98–5 from Federal Motor Vehicle Safety Standard No. 224 *Rear Impact Protection*, 49 CFR 571.224, expiring July 1, 1999.

Authority: 49 U.S.C. 30113; delegation of authority at 49 CFR 1.50.

Issued on: June 29, 1998.

Ricardo Martinez,

Administrator.

[FR Doc. 98–18095 Filed 7–7–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–545]

South Orient Railroad Company, Ltd.—Abandonment and Discontinuance of Trackage Rights—Between San Angelo and Presidio, TX

On June 18, 1998, the South Orient Railroad Company, Ltd. (SORC), filed an application with the Surface Transportation Board (Board) for permission to abandon its San Angelo-Presidio Line extending from milepost 722 near Mertzon station south of San Angelo to approximately milepost 945.3 at Alpine Junction and from approximately milepost 956.7 at Paisano Junction to the end of the line at milepost 1029.1 on the International Bridge near Presidio, a distance of approximately 296.4 miles;[1] and to discontinue its trackage rights over the Union Pacific Railroad Company's line extending from approximately milepost 945.3 at Alpine Junction to approximately milepost 956.7 at Paisano Junction, a distance of 11.4 miles, for a total distance of approximately 307 miles in Brewster, Crane, Crockett, Irion, Pecos, Presidio, Reagan, Tom Green, and Upton Counties, TX. The line includes the stations of Mertzon, milepost 745.7; Barnhart, milepost 771.6; Big Lake, milepost 790.6; Rankin, milepost 819.9; McCamey, milepost 838.6; Baldridge, milepost 863.8; Sulphur Jct., milepost 869.4; Fort Stockton, milepost 881.7; Belding, milepost 892.9; Hovey, milepost 917.2; Alpine, milepost 944.3; Alpine Jct., milepost 945.6; Paisano Jct., milepost 956.7; Paisano, milepost 956.9; Tinaja, milepost 989.3; Plata, milepost 993.7;

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[1] The line also includes an additional 14.4 miles of side track.

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Casa Piedra, milepost 1002.9; and Presidio, milepost 1026.7, and traverses through United States Postal Service ZIP Codes 76903, 76666, 76930, 76932, 79778, 76752, 79735, 79830, 79832, and 79845.

The line does not contain federally granted rights-of-way. Any documentation in SORC's possession will be made available promptly to those requesting it. The applicant's entire case for abandonment and discontinuance was filed with the application.

This line of railroad has been included in SORC's system narrative description in Category 1 since April 17, 1998.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

Any interested person may file with the Board written comments concerning the proposed abandonment and discontinuance or protests (including the protestant's entire opposition case), by August 3, 1998. All interested persons should be aware that following any abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 U.S.C. 10905 (49 CFR 1152.28) or for a trail use condition under 16 U.S.C. 1247(d) (49 CFR 1152.29) must be filed by August 3, 1998. Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27). The applicant's reply to any opposition statements and its response to trail use requests must be filed by August 17, 1998. *See* 49 CFR 1152.26(a).

Persons opposing the proposed abandonment and discontinuance that wish to participate actively and fully in the process should file a protest. Persons who may oppose the abandonment and discontinuance but who do not wish to participate fully in the process by appearing at any oral hearings or by submitting verified statements of witnesses containing detailed evidence should file comments. Persons interested only in seeking public use or trail use conditions should also file comments.

In addition, a commenting party or protestant may provide:

(i) An offer of financial assistance (OFA) for continued rail service under 49 U.S.C. 10904 (due 120 days after the application is filed or 10 days after the application is granted by the Board, whichever occurs sooner);

(ii) Recommended provisions for protection of the interests of employees;

(iii) A request for a public use condition under 49 U.S.C. 10905; and

(iv) A statement pertaining to prospective use of the right-of way for interim trail use and rail banking under 16 U.S.C. 1247(d) and 49 CFR 1152.29.

All filings in response to this notice must refer to STB Docket No. AB–545 and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001; and (2) Christopher E. V. Quinn, Oppenheimer Wolff & Donnelly (Illinois), Two Prudential Plaza, 45th Floor, 180 North Stetson Avenue, Chicago, IL 60601–6710. The original and 10 copies of all comments or protests shall be filed with the Board with a certificate of service. Except as otherwise set forth in part 1152, every document filed with the Board must be served on all parties to the abandonment and discontinuance proceeding. 49 CFR 1104.12(a).

The lines sought to be abandoned and discontinued will be available for subsidy or sale for continued rail use if the Board decides to permit the abandonment and discontinuance in accordance with applicable laws and regulations (49 U.S.C. 10904 and 49 CFR 1152.27). Each OFA must be accompanied by a $1,000 filing fee. *See* 49 CFR 1002.2(f)(25). No subsidy arrangement approved under 49 U.S.C. 10904 shall remain in effect for more than 1 year unless otherwise mutually agreed by the parties (49 U.S.C. 10904(f)(4)(B)). Applicant will promptly provide upon request to each interested party an estimate of the subsidy and minimum purchase price required to keep the line in operation. The carrier's representative to whom inquiries may be made concerning sale or subsidy terms is set forth above.

Persons seeking further information concerning the abandonment and discontinuance procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1545. [TDD for the hearing impaired is available at (202) 565–1695.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary), prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in abandonment proceedings normally will be made available within 33 days of the filing of the application. The deadline for submission of comments on the EA will generally be within 30 days of its service. The comments received will be addressed in the Board's decision. A supplemental EA or EIS may be issued where appropriate.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: June 30, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–17942 Filed 7–7–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request For Form 12040

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 12040, Order Blank for Charities Conducting Fund Raising Events.

DATES: Written comments should be received on or before September 8, 1998, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Order Blank for Charities Conducting Fund Raising Events.

OMB Number: 1545–1609.

Form Number: Form 12040.

Abstract: Form 12040 is used by charitable organizations to order forms and publications for information gathering and filing their return. This form is included in Publication 1391, Deductibility of Payments Made to Charities Conducting Fund-Raising Events.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 1,000.

Estimated Time Per Respondent: 3 minutes.

Estimated Total Annual Burden Hours: 50.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 30, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–18107 Filed 7–7–98; 8:45 am]

BILLING CODE 4830-01-U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request For Form 8812

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8812, Additional Child Tax Credit.

DATES: Written comments should be received on or before September 8, 1998, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Additional Child Tax Credit.

OMB Number: To be assigned later.

Form Number: 8812.

Abstract: Section 24 of the Internal Revenue Code allows taxpayers a credit for each dependent child who is under age 17 at the close of the taxpayer's tax year. The credit directly reduces the tax liability for the year and, if the taxpayer has three or more children, may be refundable. Form 8812 is used to compute the refundable amount of the credit.

Current Actions: This is a new collection of information.

Type of Review: New OMB approval.

Affected Public: Individuals or households.

Estimated Number of Respondents: 3,500,000.

Estimated Time Per Respondent: 50 minutes.

Estimated Total Annual Burden Hours: 2,905,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 30, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–18108 Filed 7–7–98; 8:45 am]

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Corrections

Federal Register
Vol. 63, No. 130
wednesday, July 8, 1998

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 204

Administrative Corrections

Correction

In rule document 98–16174 appearing on page 33248, in the issue of Thursday, June 18, 1998, make the following correction:

PART 204 [CORRECTED]

On page 33248, in the first column, amendatory instruction 2. is corrected to read as follows:

§ 204.4, 204.6 and 204.8 [Amended]

2. Footnotes 2-4 in § 204.4(c)(1)(vii) through (ix) and footnotes 5 through 8 in § 204.6(a)(1), (a)(4) and (b)(1)(v) and footnote 9 in § 204.8 are amended by revising "204.1" to read "204.4".

BILLING CODE 1505-01-D

DEPARTMENT OF JUSTICE

8 CFR Part 3

[EOIR No. 121P; AG Order No. 2162–98]

RIN 1125–AA23

Executive Office for Immigration Review; Motion to Reopen: Suspension of Deportation and Cancellation of Removal

Correction

In rule document 98–15588, beginning on page 31890, in the issue of Thursday, June 11, 1998, make the following correction:

§ 3.43 [Corrected]

On page 31894, in the third column, in the ninth line "(c)" should read "(C)".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 401 and 402

[USCG-1998-3976]

Great Lakes Pilotage; Reorganization of Regulations

Correction

In rule document 98–17269 beginning on page 35138, in the issue of Monday, June 29, 1998, make the following corrections:

§ 402.100 [Corrected]

1. On page 35140, in the first column, in amendatory instruction 11i., "Section 401.100." should read "Section 402.100.".

§ 401.211 [Corrected]

2. On page 35140, in the first column, in amendatory instruction 14c.,"401.211(a)(1), (b) and (3);" should read "401.211(a)(1), (b) and (e);".

§ 401.428 [Corrected]

3. On page 35140, in the second column, in amendatory instruction 14o., "401.438;" should read "401.428;".

§ 402.100 [Corrected]

4. On page 35140, in the second column, in amendatory instruction 14x., "401.100;" should read "402.100;".

§ 402.210 [Corrected]

5. On page 35140, in the second column, in amendatory instruction 14y., "401.210(a);" should read "402.210(a);".

§ 402.320 [Corrected]

6. On page 35140, in the second column, in amendatory instruction 14z., "401.320(a) introductory text;" should read "402.320(a) introductory text;".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 162 and 178

[T.D. 98–49]

RIN 1515–AB98

Prior Disclosure; Correction

Correction

In rule document 98–17431 appearing on page 35798, in the issue of Wednesday, July 1, 1998, make the following correction:

On page 35798, in the first column, the signature line should read as follows:

Harold M. Singer,
Chief, Regulations Branch.

BILLING CODE 1505-01-D

federal register

Wednesday
July 8, 1998

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants: Proposal To List the Contiguous United States Distinct Population Segment of the Canada Lynx; Proposed Rule

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AF03

Endangered and Threatened Wildlife and Plants; Proposal To List the Contiguous United States Distinct Population Segment of the Canada Lynx as a Threatened Species; and the Captive Population of Canada Lynx Within the Coterminous United States (lower 48 States) as Threatened Due to Similarity of Appearance, With a Special Rule

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to list the contiguous United States population segment of the Canada lynx (*Lynx canadensis*) as threatened, pursuant to the Endangered Species Act of 1973, as amended (Act). This population segment includes the States of Washington, Oregon, Idaho, Montana, Utah, Wyoming, Colorado, Minnesota, Wisconsin, Michigan, Maine, New Hampshire, Vermont, New York, Pennsylvania, and Massachusetts. The contiguous United States population segment of the Canada lynx is threatened by human alteration of forests, low numbers as a result of past overexploitation, expansion of the range of competitors (bobcats (*Felis rufus*) and coyotes (*Canis latrans*)), and elevated levels of human access into lynx habitat. This rule also lists the captive population of Canada lynx within the coterminous United States (lower 48 States) as threatened due to similarity of appearance with a special rule.

DATES: Comments from all interested parties must be received by September 30, 1998. Public hearing locations and dates are set forth in **SUPPLEMENTARY INFORMATION** section.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor U.S. Fish and Wildlife Service, Montana Field Office, 100 N. Park Ave., Suite 320, Helena, Montana 59601. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Kemper McMaster, Field Supervisor, Montana Field Office (see **ADDRESSES** section) (telephone 406/449–5225; facsimile 406/449–5339).

SUPPLEMENTARY INFORMATION: Public hearings on this proposal will be held in the following locations:

Western States

Colorado

Wednesday, July 22, 1998 from 7 p.m. until 9 p.m. at the Ramada Inn, 124 W. 6th St., Glenwood Springs, Colorado. This public hearing will be preceded by an informational open house from 6 p.m. to 7 p.m.

Tuesday, July 28, 1998, from 7 p.m. until 9 p.m. at the Sheraton Denver West, 360 Union Boulevard, Lakewood, Colorado. This public hearing will be preceded by an informational open house from 6 p.m. to 7 p.m.

Idaho

Thursday, September 10, 1998, from 2 p.m. until 4 p.m. and from 6 p.m. until 8 p.m. at the Coeur d'Alene Inn and Conference Center, 414 West Appleway Avenue, Coeur d'Alene, Idaho.

Montana

Tuesday, July 21, 1998, from 2 p.m. until 4 p.m. and from 6 p.m. until 8 p.m. at the Colonial Inn Best Western, 2301 Colonial Drive, Helena, Montana.

Wednesday, July 22, 1998, from 2 p.m. until 4 p.m. and from 6 p.m. until 8 p.m. at Cavanaugh's at Kalispell Center, 20 N. Main, Kalispell, Montana.

Oregon

Tuesday September 15, 1998, from 2 p.m. until 4 p.m. and from 6 p.m. until 8 p.m. at Eastern Oregon University, Hoke University Center, 1410 L Avenue, Rooms 201–203, LaGrande Oregon.

Washington

Tuesday, September 8, 1998, from 2 p.m. until 4 p.m. and from 6 p.m. until 8 p.m. at the Cedars Inn, 1 Appleway, Okanogan, Washington.

Wyoming

Wednesday, August 12, 1998, from 2 p.m until 4 p.m and from 6 p.m until 8 p.m. at the Cody Auditorium, Cody Club Room, 1234 Beck Avenue, Cody, Wyoming.

Eastern States

Maine

Tuesday, September 15, 1998 from 7 p.m. until 9 p.m. at the Old Town High School, 240 Stillwater Ave, Old Town, Maine.

Great Lakes States

Wisconsin

Tuesday, September 15, 1998 from 7 p.m. to 9 p.m. at the Northern Great Lakes Center on County Road G near Hwy 2, west of Ashland, Wisconsin. This public hearing will be preceded by an informational open house from 6 p.m. to 7 p.m.

Background

The Canada lynx is a medium-sized cat with long legs, large, well-furred paws, long tufts on the ears, and a short, black-tipped tail (McCord and Cardoza 1982). Adult males average 10 kilograms (kg) (22 pounds (lb)) in weight and 85 centimeters (cm) (33.5 inches (in)) in length (head to tail), and females average 8.5 kg (19 lb) and 82 cm (32 in) (Quinn and Parker 1987). The lynx's long legs and large feet make it highly adapted to hunting in deep snow.

The bobcat (*F. rufus*) is a North American relative of the Canada lynx. Compared to the lynx, the bobcat has smaller paws, shorter ear tufts, a more spotted pelage, and only the top of the tip of the tail is black. The paws of the lynx have twice the surface area of those of the bobcat (Quinn and Parker 1987). The lynx also differs in its body proportions in comparison to the bobcat. Lynx have longer legs, with hind legs that are longer than the front legs, giving the lynx a "stooped" appearance (Quinn and Parker 1987). Bobcats are largely restricted to habitats where deep snows do not accumulate (Koehler and Hornocker 1991). Hybridization between lynx and bobcat is unknown (Quinn and Parker 1987).

Classification of the Canada lynx (also called the North American lynx) has been subject to revision. The Service, in accordance with Wilson and Reeder (1993), recognizes the Canada lynx as *L. canadensis.* The Service previously used the name L. lynx canadensis for the Canada lynx (Jones *et al.* 1992; S. Williams, Texas Tech University, pers. comm. 1994). Other scientific names still in use include *Felis lynx or F. lynx canadensis* (Jones *et al.* 1986; Tumlison 1987).

The historical and present North American range of the Canada lynx north of the contiguous United States includes Alaska and that part of Canada that extends from the Yukon and Northwest Territories south to the United States border, and east to New Brunswick and Nova Scotia. In the contiguous United States, the lynx historically occurred in the Cascade Range of Washington and Oregon; the Rocky Mountains from Montana, Idaho, and Oregon south to Utah and Colorado; the western Great Lakes region; and the northeastern United States region from Maine, south to New York and Pennsylvania, and east to Massachusetts (McCord and Cardoza 1982; Quinn and Parker 1987).

In the contiguous United States, Canada lynx inhabit a mosaic between boreal forests and subalpine coniferous forest or northern hardwoods, whereas Canada lynx habitat in Canada and Alaska is the boreal forest ecosystem (Barbour *et al.* 1980; McCord and Cardoza 1982; Koehler and Aubry 1994; M. Hunter, University of Maine, pers. comm. 1994, Colorado Division of Wildlife 1997).

Canada lynx are specialized predators that are highly dependent on the snowshoe hare (*Lepus americanus*) for food. Snowshoe hare prefer diverse, early successional forests with stands of conifers and shrubby understories that provide for feeding and cover to escape from predators and protection during extreme weather (Wolfe *et al.* 1982, Monthey 1986, Koehler and Aubry 1994). Lynx usually concentrate their foraging activities in areas where hare activity is high (Koehler *et al.* 1979; Parker 1981; Ward and Krebs 1985; Hash 1990; Weaver 1993; Koehler and Aubry 1994; D. Winger, U.S. Forest Service, pers. comm. 1994).

Canada lynx utilize late successional forests with large woody debris, such as downed logs and windfalls, to provide denning sites with security and thermal cover for kittens (McCord and Cardoza 1982, Koehler 1990, Koehler and Brittell 1990). In Washington, lynx used lodgepole pine (*Pinus contorta*), spruce (*Picea* spp.), and subalpine fir (*Abies lasiocarpa*) forests older than 200 years for denning (Koehler and Brittell 1990). Based on information from the western United States, Koehler and Brittell (1990) concluded sites selected for denning also must provide for minimal disturbance by humans and proximity to foraging habitat (early successional forests), with denning stands at least 1 hectare (ha) (2.471 acres (ac)) in size.

Lynx require adequate travel cover (frequently intermediate successional forest stages) to provide connectivity within a forest landscape for security, movement within home ranges, and access between den sites and foraging areas (Brittell *et al.* 1989, Koehler and Aubry 1994). Such areas also may provide foraging opportunities.

The size and shape of Canada lynx home ranges appear related to the availability of prey and the density of lynx (Koehler and Aubry 1994). Documented home ranges vary from 12 to 243 square kilometers (sq km) (5–94 square miles (sq mi)) and larger (Saunders 1963; Brand *et al.* 1976; Mech 1980; Parker *et al.* 1983; Koehler and Aubry 1994).

The association between lynx and snowshoe hare is considered a classic predator-prey relationship (Saunders 1963; van Zyll de Jong 1966; Quinn and Parker 1987). In much of its North American range, Canada lynx populations fluctuate with the approximate 10-year hare cycle of abundance (Elton and Nicholson 1942); as hare populations increase, lynx populations increase. Generally, it is believed that when hare populations are at their cyclic high, they deplete their food resources and hare populations decline. This causes lynx populations to decline as a result of reduced reproductive success caused by an inadequate alternate food source (Nellis *et al.* 1972; Brand *et al.* 1976).

Snowshoe hare provide the prey quality necessary to support high density lynx populations (Brand and Keith 1979). Lynx also prey opportunistically on other small mammals and birds, particularly when hare populations decline (Nellis *et al.* 1972; Brand *et al.* 1976; McCord and Cardoza 1982). Apparently, a shift to alternate food sources may not compensate for the decrease in hares consumed (Koehler and Aubry 1994). The lower quality diet causes sudden decreases in the productivity of adult females, and decreased survival of young, which causes recruitment to the breeding population to essentially cease (Nellis *et al.* 1972; Brand and Keith 1979).

Based primarily on studies in the western mountains of the contiguous United States, it appears lynx and snowshoe hare in more southern latitudes may not exhibit strong population cycles (Dolbeer and Clark 1975; Wolff 1980; Buehler and Keith 1982; Brittell *et al.* 1989; Koehler 1990; Koehler and Aubry 1994). Wolff (1982 *in* Koehler and Aubry 1994) hypothesized that the presence of additional predators and competitors of hares at lower latitudes accounts for this pattern. The relative stability of hare populations in southern latitudes also may be a result of patchy, suboptimal habitat (Buehler and Keith 1982, Koehler 1990, Koehler and Aubry 1994).

Periodic increases in lynx numbers in the contiguous United States may be accentuated by dispersal of transient animals from Canadian populations. Canada lynx are capable of dispersing extremely long distances (Mech 1977; Brainerd 1985; Washington Department of Wildlife 1993); for example, a male was documented traveling 616 km (370 mi) (Brainerd 1985). Canada lynx may disperse long distances from their normal range to search for food when snowshoe hare populations decline (Ward and Krebs 1985; C. Pils, *in litt.* 1994; Koehler and Aubry 1994). Canada lynx also may disperse when local lynx densities are high (U.S. Fish and Wildlife Service 1977; Thiel 1987; J. Conley, Idaho Department of Fish and Game, *in litt.* 1994).

Because lynx occurrence throughout much of the contiguous United States is on the southern periphery of the species' range, there is speculation that presence of lynx in the contiguous United States is solely a consequence of dispersal from Canada. This has led to speculation that most of the United States may never have supported self-sustaining, resident[1] populations over time (T. Bremicker, Minnesota Department of Natural Resources, *in litt.* 1994; S. Fritts, U.S. Fish and Wildlife Service, *in litt.* 1994).

Based on the majority view of the respondents and the best scientific and commercial data available, the Service has determined that, historically, the Canada lynx was a resident species in 16 States in the contiguous United States, occurring in dispersed populations at relatively low densities (Rust 1946; Harger 1965; Nellis 1971; Henderson 1978; Brocke 1982; Mccord and Cardoza 1982; Brainerd 1985; Washington Department of Wildlife 1993; Koehler and Aubry 1994; Kurta 1995; T. Bailey, U.S. Fish and Wildlife Service, *in litt.* 1994; E. Bangs, U.S. Fish and Wildlife Service, pers. comm. 1994; P. Beir, Northern Arizona University, *in litt.* 1994; B. Berg, Minnesota Department of Natural Resources, pers. comm. 1994; P. Brussard, University of Nevada, *in litt.* 1994; G. Koehler, Independent Researcher, *in litt.* 1994; W. Krohn, University of Maine, *in litt.* 1994; J. Weaver, Independent Researcher, *in litt.* 1994). Furthermore, the historic and current presence of snowshoe hare populations, the lynx's primary food, within the same ecosystems in the contiguous United States (Adams 1959; Keener 1971; Dolbeer and Clark 1975; Buehler and Keith 1982; Fuller and Heisey 1986; Monthey 1986; Koehler 1991) supports the Service's conclusion.

The Service considers Canada lynx to have been historically resident within Maine, New Hampshire, Vermont, New York, Pennsylvania, Massachusetts, Michigan, Wisconsin, Minnesota,

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[1] Note: With respect to the lynx and the analysis presented in this document, the terms "resident" and "resident population" mean a group or subgroup of lynx in an area (e.g., Minnesota) or portion of a larger area (e.g., Great Lakes States) that is capable of long-term persistence, based on self-sustaining reproduction of young and successful recruitment of young into the breeding age cohort, without immigration of lynx from Canada. It is acknowledged that movements of lynx across the United States and Canada border did occur and that this migration was beneficial to the lynx in the contiguous United States.

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Montana, Wyoming, Washington, Oregon, Idaho, Utah, and Colorado.

While evidence suggests historical lynx numbers in the contiguous United States increased because of dispersal from lynx populations in northern latitudes during the cyclic peaks (Henderson 1978, Mech 1980), the Service does not conclude that dispersal from Canada was required to maintain the contiguous United States lynx population as viable. However, dispersal of Canada lynx into the contiguous United States may now be necessary to replenish lynx numbers because of the current status of lynx in the contiguous United States. In addition, the Service concludes that suitable Canada lynx habitat currently exists (and existed to a greater extent historically) in the contiguous United States (Rust 1946; Harger 1965; Nellis 1971; Washington Department of Wildlife 1993; Henderson 1978; B. Giddings, Montana Department of Fish, Wildlife, and Parks, *in litt.* 1994; S. Parren, Vermont Department of Fish and Wildlife, pers. comm. 1994; F. Hurley, *in litt.* 1994; and K. Staley, White Mountain National Forest, pers. comm. 1994).

Distribution and Status

Within the contiguous United States, the lynx population is divided regionally by ecological barriers consisting of unsuitable lynx habitat. These regions are the Northeast, the Great Lakes, and the Rocky Mountains/Cascades. To enhance the organization and clarity of this proposal, the regions are discussed separately below.

Northeast Region—Historically, lynx habitat in the Northeast United States existed in a mostly contiguous block of forest in the ecotone between boreal and deciduous forest. This forest has been described as sub-boreal forest (M. Hunter, University of Maine, pers. comm. 1994). Principal tree species include red spruce (*Picea rubens*) and balsam fir (*Abies balsamea*), interspersed with northern hardwoods such as sugar maple (*Acer saccharum*), yellow birch (*Betula alleghaniensis*), and American beech (*Fagus grandifolia*). Lynx once occurred from northern Maine, across northern New Hampshire and Vermont, to the Adirondacks in New York (McCord and Cardoza 1982) and probably occurred southward along the higher elevations of the mountain ranges in the region (Brocke 1982; K. Gustafson, New Hampshire Department of Fish and Game, pers. comm. 1994). Unfortunately, in records compiled prior to the 1970's, lynx were often not distinguished from bobcats (J. Cardoza, Massachusetts Division of Fisheries and Wildlife, pers. comm. 1994).

Snowshoe hare habitat in the region is characterized by spruce/fir softwood forests typical of boreal forests; a mixture of mature and successional softwood growth provides cover and browse for hares (Monthey 1986). Forested habitat in the region has increased because of land-use changes during the past century (Irland 1982, Litvaitis 1993). In some areas, there may be a gradual upward trend in the coniferous component as spruce and fir regenerate beneath the hardwood species that had established after large-scale logging and burning at the turn of the century (D. Degraff, U.S. Forest Service, pers. comm. 1994; F. Hurley, Maine Department of Inland Fisheries and Wildlife, *in litt.* 1994; J. Lanier, New Hampshire Fish and Game, pers. comm. 1994). Although localized habitat conditions have improved, reoccupation of these areas may be impeded by barriers to lynx immigration, such as paved roads with high-volume traffic, nonforested agricultural habitats, or other intervening areas of unsuitable habitat.

Although Maine, New Hampshire, Vermont, and New York report areas of suitable lynx habitat and/or prey base, low numbers of lynx are present only in Maine and lynx may be extirpated throughout the remainder of the Northeast Region (see discussion below). Much of the potential lynx habitat in this region is held in private ownership (Harper *et al.* 1990).

Maine—In Maine, historical accounts indicate that, although lynx probably were never abundant, they were resident in the State and that numbers of lynx fluctuated over the past 150 years (Maine Department of Inland Fisheries and Wildlife, *in litt.* 1997). Information on population size, trends, distribution, and factors influencing these variables are sparse and mostly anecdotal (F. Hurley, in litt. 1994). Lynx were bountied in Maine prior to the closure of hunting and trapping seasons in 1967.

Suitable habitat and prey to support lynx are abundant in northwestern Maine (F. Hurley, *in litt.* 1994). The Maine Department of Inland Fisheries and Wildlife classifies the lynx as a species of special concern (Matula 1997). The lynx is currently protected from hunting and trapping.

Although no reliable population estimates exist, in 1994 it was suggested that only 200 animals or less occur statewide (Maine Department of Inland Fisheries and Wildlife 1994). A statewide track survey, initiated during the 1994/1995 winter was conducted for 3 successive years. A total of 4,118, 1-km (0.62-mi) transects were surveyed. Lynx were encountered on 54 of the transects in nine townships, all during the first year of the survey (Maine Department of Inland Fisheries and Wildlife, *in litt.* 1997). However, biologists have encountered lynx tracks in northwestern Maine during the past three winters while conducting unrelated fieldwork (Maine Department of Inland Fisheries and Wildlife, *in litt.*, 1998). The Service concludes a resident lynx population exists in Maine.

New Hampshire—Lynx were intermittently bountied in New Hampshire until 1965. In response to the apparent declines in lynx abundance reflected in bounty numbers, the bounty was repealed and thereafter the lynx was provided full protection from legal harvest (Siegler 1971; Silver 1974; Litvaitis *et al.* 1991). Despite legal protection, the lynx population did not increase. Since 1980, the lynx has been listed as an endangered species by the New Hampshire Fish and Game Department. Two years of winter track surveys did not detect Canada lynx (Litvaitis *et al.* 1991). The Service concludes the Canada lynx is very rare and likely extirpated from New Hampshire.

Vermont—In Vermont, historically, lynx likely occurred at low densities in the northern part of the State. Quantitative data on the current abundance or distribution of lynx are unavailable. By the mid-1900's, Vermont had not had a documented breeding population of lynx for several decades (Osgood 1938 *in* Vermont Department of Fish and Wildlife 1987). Since 1972 the lynx has been listed by the State as endangered. One of the last verified occurrences of lynx in the State occurred in 1968, with periodic reports since then. Suitable habitat exists in the northeastern section and along mountain ridges in the State, and snowshoe hares are present in high numbers (S. Parren, Vermont Department of Fish and Wildlife, pers. comm. 1994; C. Groves, Green Mountain National Forest, pers. comm. 1994). Canada lynx is currently considered to be extirpated in Vermont (S. Parren, pers. comm. 1998). The Service concludes the Canada lynx is very rare and likely extirpated from Vermont.

New York State—Historically, lynx occurred in most northern regions of New York, the Adirondack Mountains, and the Catskill Mountains (K. Gustafson, pers. comm. 1994), but they are now considered extirpated (G. Parsons, New York State Department of Environmental Conservation, *in litt.* 1994). By the 1880's, the population was apparently approaching extirpation (Miller 1899 in Brocke 1982). Trapping and sighting records from the early 1900's to the present indicate that lynx occurred only infrequently. The most recent verified sighting was in 1980 (G. Parsons, *in litt.* 1994). An abundant prey base exists (Brocke 1982), but the habitat has been highly fragmented. Extensive road infrastructure and a lack of early successional coniferous forest in much of the potential habitat likely precludes natural lynx reestablishment in New York (G. Batchellor, New York State Department of Environmental Conservation, pers. comm. 1994; G. Parsons, *in litt.* 1994).

An effort to reintroduce Canada lynx into the Adirondack Mountains occurred from 1988 to 1990 (Brocke *et al.* 1990, D. Major, U.S. Fish and Wildlife Service, pers. comm. 1998), but success of the reintroduction remains doubtful. As of 1993, some Canada lynx were believed still present, but no reproduction had been documented (K. Gustafson, pers. comm. 1994). A collared lynx from the reintroduction effort was recently found near Ottawa, Ontario, Canada (M. Amaral, U.S. Fish and Wildlife Service, pers. comm. 1997). No verified occurrences in New York have been reported recently; however, both the State University of New York at Syracuse and the New York Department of Environmental Conservation maintain records of reported sightings. No further monitoring is planned. In New York, lynx are legally classified as a small game species with a closed season. The Service concludes the Canada lynx is very rare and probably extirpated from New York.

Pennsylvania/Massachusetts—In Pennsylvania and Massachusetts, located at the southernmost reaches of the historical range of the species in the Northeast United States (Hall and Kelson 1959), resident animals may have existed in the coniferous forests of higher elevations of mountain ranges, but accurate historical information is unavailable. Based on the lack of lynx habitat in these States, historically the animal was probably uncommon (J. Belfonti, *in litt.* 1994). Many individuals in these States may have dispersed from more northern regions during cyclic irruptions of the lynx populations in Canada (J. Belfonti, The Nature Conservancy, *in litt.* 1994). The last known record of a naturally occurring Canada lynx in Pennsylvania was in 1923 (J. Belfonti, *in litt.* 1994), and a possible record from 1930 exists for Massachusetts (J. Cardoza, *in litt.* 1994). The Service concludes lynx are extirpated from Pennsylvania and Massachusetts.

Great Lakes Region—Historically the lynx was found in the western Great Lakes States of Michigan, Wisconsin, and Minnesota. The habitat occupied by lynx in this region consists primarily of an ecotone between boreal and mixed deciduous forest and is a mosaic of balsam fir, eastern hemlock (*Tsuga canadensis*), eastern white pine (*Pinus strobus*), jack pine (*P. banksiana*), quaking aspen (*Populus tremuloides*), birch (*Betula spp.*), and maple (*Acer spp.*) (Barbour *et al.* 1980). Much of the lynx habitat in this region is in public ownership, primarily county, State, or national forests.

The lynx population in this region was regularly supplemented by dispersing lynx from Canada (Harger 1965; M. DonCarlos, *in litt.* 1994; C. Pils, *in litt.* 1994). Historically, Ontario and Manitoba had very strong, cyclic lynx populations from which individuals dispersed to search for food during periods when the hare populations crashed or during cyclic highs of lynx populations. However, trapping harvests during the period of extremely high pelt prices in the 1970's and 1980's substantially impacted Canadian lynx populations. As a result, harvest was closed temporarily and since has been closely regulated (I. McKay, Manitoba Natural Resources, *in litt.* 1994; M. Novak, Ontario Ministry of Natural Resources, pers. comm. 1994). Because of low numbers of lynx, Manitoba closed its season on lynx harvest from 1995 to 1997 (I. McKay, pers. comm. 1997). Although current habitat conditions along the Canada/United States border for lynx are mostly intact and suitable, dispersal into the Great Lakes States has been severely limited because of the reduced lynx population in Canada (D. Mech, pers comm. 1994; M. Novak, pers. comm. 1994).

Minnesota—In the past, Minnesota lynx populations fluctuated markedly during 10-year cycles and were influenced by influxes from Canada (Henderson 1978; Mech 1980; M. DonCarlos, Minnesota Department of Natural Resources, *in litt.* 1994). The resident lynx population was restricted to the northeastern area of the State; however, transients have been found throughout Minnesota (Gunderson 1978; Mech 1980).

Until 1965, lynx were bountied in Minnesota. In 1976, the lynx was classified as a game species and harvest seasons were established (M. DonCarlos, *in litt.* 1994). Harvest and bounty records for the State are available since 1930. Based on these records, highs in the lynx cycle were approximated to have occurred in 1940, 1952, 1962, and 1973 (Henderson 1978). Henderson (1978) estimated that during a 47-year period (1930–1976), the Minnesota lynx harvest was substantial, ranging from at least 50 to more than 200 per year during 29 seasons.

From the mid-1970's to the late 1980's, pelt prices were extremely high in Canada and the United States. Also, from 1979 to 1980, hare numbers were at their cyclic peak (M. DonCarlos, *in litt.* 1994). Despite these two factors, lynx harvest remained very low and the expected lynx peak for the early 1980's did not occur (B. Berg, pers. comm. 1994; M. DonCarlos, *in litt.* 1994). As a result, the harvest season was closed and remains closed today. Although lynx are currently considered rare (D. Mech, pers. comm. 1994), available habitat in northern Minnesota is capable of maintaining resident lynx populations (M. DonCarlos, *in litt.* 1994). Based on recent anecdotal information, the Service concludes that a resident population possibly exists in Minnesota (P. Burke, U.S. Fish and Wildlife Service, pers. comm. 1998).

Wisconsin—A resident lynx population likely has not existed in Wisconsin since 1900 (Thiel 1987). The presence of lynx in Wisconsin has been associated with the cyclic lynx population fluctuations in Canada (Thiel 1987). A bounty on lynx existed until 1957. Between 1948 and 1956, 19 lynx were harvested in the State; annual harvest ranged from zero (1954) to four (1952) (Wisconsin Department of Natural Resources 1993). Lynx were placed on the protected species list in 1957 and were classified as State endangered in 1972 (C. Pils, *in litt.* 1994). Between 1976 and 1984, 63 lynx observations were reported, with most reports from the northwestern area adjacent to Minnesota; seven lynx were reported from 1991–1993, two of which were mortalities (Wydeven 1992; Wydeven 1993; Wydeven in prep.; C. Pils, *in litt.* 1994). There were no sightings of lynx in 1994 or 1995 and one possible set of tracks was sighted in 1996 (U.S. Fish and Wildlife Service, *in litt.* 1997). Snowshoe hares occur across northern Wisconsin (Buehler and Keith 1982). Potential lynx habitat in northern Wisconsin has remained in an early- to mid-successional mixed coniferous forest condition since the early 1900's, with some limited older growth present but primarily confined to forested wetlands (D. Zastrow, Wisconsin Department of Natural Resources, pers. comm. 1998). The lynx has been reclassified as a State protected species with a closed season (A. Wydeven, Wisconsin Department of Natural

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Resources, pers. comm. 1998). Despite extensive review of historic and current information regarding the lynx in Wisconsin, neither Jackson (1961) nor Thiel (1987) were able to cite any evidence of breeding subsequent to the decline of the species in the 1800's. There has been a continued decline in confirmed sightings in recent years and the Service concludes that, based on available information, a resident population of lynx no longer exists in Wisconsin, although individual animals likely are present.

Michigan—In Michigan, historical reports indicate that the Canada lynx was resident and widespread throughout the upper and lower peninsula in the 19th century (Harger 1965). Lynx moved into the upper peninsula from Wisconsin or crossed the St. Mary's River from Ontario (Baker 1983). The limited ability for lynx dispersal from the upper to the lower peninsula, in addition to positive records of lynx in 23 lower peninsula counties, indicated that in the lower peninsula, Canada lynx were self-sustaining in the past (Harger 1965; Baker 1983). Canada lynx were believed extirpated from Michigan's lower peninsula in 1928, and by 1938 they were considered rare or extinct throughout the State (Harger 1965). The lynx persisted on Isle Royale in Lake Superior into the late 1970's (Peterson 1977 *in* Baker 1983). Based on the numbers and distribution of lynx reported from 1940 to 1965, particularly during 1962, Harger (1965) believed that lynx were repopulating Michigan as a result of improved habitat conditions in the upper peninsula.

The lynx was first listed as State endangered in 1974, but was not included on the list during revisions in 1976 and 1980. It was returned to the list as threatened in 1983 and its status upgraded to endangered in 1987, where it remains. As such, it is protected from harvest but conservation actions are limited because little is known about the species requirements (T. Weise, *in litt.* 1994).

Throughout the 1980's and 1990's, reports of lynx in the upper peninsula of Michigan have been rare; no lynx have been reported in the lower peninsula during this time period (T. Weise, Michigan Department of Natural Resources, *in litt.* 1994). The lynx's current distribution in Michigan is unknown but is likely limited to the upper peninsula. No surveys have been conducted to determine lynx numbers or range (T. Weise, *in litt.* 1994). The last breeding record was in 1976 (T. Weise, *in litt.* 1994). Suitable lynx habitat is currently available in Michigan's upper peninsula (T. Weise, *in litt.* 1994). Since the mid-1960's the trend of lynx numbers has been unknown. However, the Service concludes that low numbers of lynx may still occur in Michigan's upper peninsula with no increasing trend apparent.

Rocky Mountain/Cascades Region—Lynx currently are thought to be present in the western mountains of the contiguous United States in the Cascades Range of Washington, the Thompson-Okanogan Highlands of northern Washington, the Blue Mountains of Oregon, and the Rocky Mountains in Idaho, Montana, Wyoming, Utah, and Colorado.

Lynx habitat in Montana occurs primarily in the high elevation mountains. Principal tree species include lodgepole pine (*Pinus contorta*), Douglas fir (*Pseudotsuga menziesii*), and subalpine fir (*Abies lasiocarpa*) (Koehler *et al.* 1979, Hash 1990). In Washington, lynx live in boreal-type forests that occur in north central Washington along the east slope of the Cascade Mountain range and the Thompson-Okanogan Highlands. In Oregon, lynx habitat exists in the Blue Mountains in northeastern Oregon and the Cascades. Preferred lynx habitat in Idaho consists of dense coniferous, high elevation forest broken by small shrubby openings and coniferous swamps (Leptich 1990). Unsuitable habitat in Wyoming's Red Desert isolates the lynx population in Colorado and extreme southeastern Wyoming from that of the Rocky Mountains to the northwest (Thompson and Halfpenny 1989; Koehler and Aubry 1994). Colorado's montane and subalpine forest ecosystems are naturally highly fragmented (Findley and Anderson 1956 *in* Koehler and Aubry 1994, Thompson 1994). Utah is considered the southern margin of the Canada lynx range.

Washington—In Washington, resident Canada lynx were historically found in highest concentrations in the northeast and north central regions, along the east slope of the Cascade Mountains (Washington Department of Wildlife 1993). Nellis (1971) regarded lynx occurrence in Washington as rare to common. Records of lynx exist from the Mount Rainier National Park area in the central Cascades, south in the Cascades nearly to the Oregon border on Mount Adams, and in the Blue Mountains in the southeastern part of the State (Taylor and Shaw 1927 *in* Koehler and Aubry 1994, Dalquest 1948, Washington Department of Natural Resources 1996a). Washington has designated six "Lynx Management Zones" across north central Washington (Washington Department of Natural Resources 1996a). Currently, lynx occupy five of these zones: Okanogan, Kettle Range, the Wedge, Little Pend Oreille, and Salmo Priest. Additionally, lynx occupy the northern and southern Cascades of Washington (Washington Department of Natural Resources 1996a; C. Lee, U.S. Fish and Wildlife Service, pers. comm. 1998). Much of these areas are in Federal, Tribal, and State ownership.

A total harvest of 215 lynx was reported for the hunting and trapping seasons from 1960–61 to 1990–91, with peak harvests in 1969–70 (31 lynx) and 1976–77 (39 lynx) (Washington Department of Wildlife 1993). Following the 1976–77 season, lynx harvests decreased markedly, resulting in increasingly restrictive harvest regulations. Based on trapper interviews and track sighting, lynx densities in northeastern Washington appear to have been depressed during at least the past 20 years (Washington Department of Wildlife 1993). In response to markedly decreased harvests, regulations were tightened in 1977–78; lynx hunting and trapping seasons were closed in 1991 (Washington Department of Wildlife 1993).

The current lynx population in the State of Washington has been estimated at 96 to 191 individuals (Washington Department of Wildlife 1993). Brittell *et al.* (1989) estimated 225 lynx in Washington State. However, population estimates may be high because it was assumed that habitat suitability and lynx densities were similar across the range, which is not the case (Washington Department of Wildlife 1993). Since 1993, the lynx has been listed as a State threatened species (Washington Department of Wildlife 1993). The Service concludes that a resident lynx population exists in the State of Washington.

Oregon—Resident Canada lynx populations were historically low in Oregon (Koehler and Aubry 1994). Historic records exist from nine counties in Oregon (Bailey 1936, Nellis 1971). Recent observations of lynx have been reported from the Cascades and the Blue Mountains in northeastern Oregon (Csuti *et al.* 1997; E. Gaines, Oregon Natural Heritage Program, *in litt.* 1994; R. Anderson, Wallowa-Whitman National Forest, *in litt.* 1998). The Canada lynx is currently classified as a furbearer with a closed trapping and hunting season (E. Gaines, Oregon Natural Heritage Program, pers. comm. 1997). The Service concludes that a self-sustaining resident population does not exist in Oregon, but individual animals are present.

Idaho—According to Rust (1946), lynx were distributed throughout northern Idaho in the early 1940's, occurring in 8 of the 10 northern and north-central counties. In 1990, Hash reported stable or declining small lynx populations in Idaho. Harvest records were unreliable prior to the late 1980's because no distinction was made between lynx and large bobcats. In 1982, Idaho Department of Fish and Game initiated a mandatory pelt tagging program and the number of reported lynx harvests dropped to zero. Twelve lynx were reported harvested between 1978 and 1991 (M. Tera-Berns, Idaho Department of Fish and Game, pers. comm. 1997). No current population estimates are available (P. Harrington, U.S. Forest Service, pers, comm. 1994; J. Hayden, Idaho Department of Fish and Game, pers. comm. 1994). Recent confirmed lynx reports are scarce (J. Conley, Idaho Department of Fish and Game, *in litt.* 1994).

Prior to 1977, the species was considered a predator, subject to unrestricted harvest with no closed season and no bag limit. In 1990, in response to concern over the status of lynx in Idaho, the Idaho Department of Fish and Game instituted a statewide harvest quota of three lynx per year. Idaho closed the Canada lynx trapping/hunting season in the 1997/1998 season because the quota had not been filled in several years, although lynx remain classified as a furbearer. In 1995, a multiple agency Conservation Strategy was initiated to assess the conservation of the lynx and other forest carnivores (Idaho Department of Fish and Game *et al.* 1995; Roloff 1995). The Service concludes that a self-sustaining resident population does not exist in Idaho, but individual animals are present.

Montana—In Montana, Canada lynx were reported to be common (Nellis 1971) and were found throughout the western part of the State (B. Giddings, Montana Department of Fish, Wildlife, and Parks, *in litt.* 1994). After 1985, lynx populations in Montana were believed to be at or near their lowest levels in the past several decades (Hash 1990). Brainerd (1985) documented evidence of Canada lynx reproduction; however, more recent evidence of recruitment into the population has not been documented.

Until 1977, lynx in Montana were classified as nongame and were provided no regulatory protection (D. Childress, Montana Department of Fish, Wildlife, and Parks, *in litt.* 1990). Assessment of historic population levels or trends is difficult because lynx often were not distinguished from bobcats in harvest records prior to 1977. Between 1959 and 1967, estimates of statewide harvest ranged from a low of 36 in the 1961–62 season to a high of 376 during the 1963–64 season (Hoffman *et al.* 1969). However, these figures likely overestimate lynx abundance because they probably include bobcats. Since 1985, harvest records exist from 24 counties in the northwest, southwest, and west-central part of the State (B. Giddings, *in litt.* 1994). Hoffman *et al.* (1969) cited numerous records of lynx harvested in eastern Montana's Great Plains region between 1959 and 1967, but these records are suspect because of possible misidentification with bobcat.

Beginning in 1977, lynx were classified as a furbearer. A season length and licensing regulations were set, but no quota was imposed. Harvest records can reflect the status of lynx populations; however, the lynx harvest and, consequently, the lynx population likely were significantly influenced by extremely high pelt prices during the mid-1970's to late 1980's.

Since 1977, Montana's highest lynx harvest occurred in both 1979 and 1984 when 62 lynx were taken in each season (B. Giddings, *in litt.* 1994). Although quotas dropped incrementally from 135 to 40 over an 8-year period (1982–1989), lynx harvest never approached the quota levels, ranging from 62 to 15 animals taken per season (B. Giddings, *in litt.* 1994). After 1985, lynx harvests declined to record lows and lynx populations in Montana were believed to be at or near their lowest levels in the past several decades (Hash 1990). In response, a district of the Montana Trappers Association requested that lynx harvest be closed for one season (S. Conn, Montana Trappers Association, *in litt.* 1990). The State responded by decreasing the quota from 40 to 5 in 1990 (B. Giddings, in litt. 1994). During this period, the lowest annual harvest occurred in 1990, with two lynx taken while the quota was five (B. Giddings, *in litt.* 1994). From 1991 to the present, the quota has been two, which was filled annually or exceeded by one (1991) or two (1993) (B. Giddings, *in litt.* 1994).

The Montana Department of Fish, Wildlife, and Parks estimated the lynx population as 1,750 to 2,400 in 1977, 700 to 950 in 1982, and 1,040 lynx in 1994 (B. Giddings, *in litt.* 1994). These estimates were determined using a habitat area/density index. Habitat area estimates did not account for habitat areas that would be unsuitable for lynx.

Harvest records, winter track surveys conducted since 1990–91, and trapper logbooks, have led Montana Department of Fish, Wildlife, and Parks to conclude that the State's lynx population has recovered and is distributed across its historic range (B. Giddings, *in litt.* 1994). However, others familiar with lynx in the Rocky Mountain region suggest that these estimates are optimistic, and express serious concerns about the status of lynx in Montana (E. Bangs, pers. comm. 1994; M. Hornocker, Hornocker Wildlife Research Institute, Inc., *in litt.* 1994; G. Koehler, *in litt.* 1994; L. Nordstrom, U.S. Fish and Wildlife Service, *in litt.* 1994; M. Roy and S. Torbit, National Wildlife Federation, *in litt.* 1994). The Service concludes a resident population of lynx is present in Montana.

Wyoming—In Wyoming, Canada lynx are generally believed to have been uncommon in the State because of the limited availability of large areas of suitable habitat (Reeve *et al.* 1986; Clark and Stromberg 1987; Wyoming Game and Fish Department 1992). Until 1957, lynx were bountied in the State. Since 1973, the lynx has been listed as a protected nongame species. Nearly all historical and recent records of lynx in Wyoming are from the western mountain ranges, primarily within the Greater Yellowstone Ecosystem (Reeve *et al.* 1986). However, documented reports of lynx in Yellowstone National Park are rare (S. Consolo-Murphy, Yellowstone National Park, pers. comm. 1994). Elsewhere in Wyoming, lynx have been reported from the Uinta Mountains in the extreme southwest and the Big Horn Mountains in the north-central part of the State, although these are unconfirmed by field investigations (Reeve *et al.* 1986).

Only 12 records of lynx exist for Wyoming from 1981 to 1994 (C. Gillin, Wyoming Game and Fish Department, *in litt.* 1994). In late 1996 the Wyoming Game and Fish Department began a study to attempt to document the current range of the lynx. Two lynx have been trapped and collared in the Wyoming Range and continue to be tracked (B. Oakleaf, Wyoming Game and Fish Department, pers. comm. 1998). In addition, one lynx was confirmed in the Wind River Range in 1997 (B. Luce, Wyoming Game and Fish, pers. comm. 1997).

If lynx exist in southeastern Wyoming, they are isolated from the rest of the State by the Red Desert but are contiguous with Colorado lynx populations (J. Fitzgerald, University of Northern Colorado, pers. comm. 1994; J. Halfpenny, Independent Researcher, pers. comm. 1994; J. Weaver, pers. comm. 1994). None of the reports of lynx in the Medicine Bow and Laramie ranges in southeastern Wyoming have been confirmed to date (Reeve *et al.* 1986). The Service concludes that,

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although individual lynx are present, a resident population likely no longer exists in Wyoming.

Utah—In Utah, Canada lynx are thought to be nearly extirpated, although it is possible a few may exist in the high, inaccessible areas of the Uinta Mountains (B. Blackwell, Utah Department of Natural Resources, pers. comm. 1994). Sightings have been reported from most of the mountain ranges in Utah. However, because of misidentification with the bobcat, some of these records may not be valid (McKay 1991). Nearly all the reliable lynx reports are from the Uinta Mountain Range along the Wyoming border (McKay 1991). The lynx is listed as a State sensitive species. The Service concludes that a self-sustaining resident population does not exist in Utah, but individual animals may be present.

Colorado—Colorado represents the extreme southern edge of the range of the Canada lynx. Wyoming's Red Desert likely acts as a barrier that reduces or precludes opportunities for immigration and emigration, effectively isolating lynx in the southern Rocky Mountains in Colorado and Wyoming (Halfpenny *et al.* 1982; Koehler and Aubry 1994; G. Koehler, *in litt.* 1994; J. Weaver, *in litt.* 1994). It is likely Canada lynx never have been abundant in Colorado (Colorado Division of Wildlife *et al.* 1997), partially because its montane and subalpine forest ecosystems are naturally highly fragmented (Thompson 1994).

The lynx has been listed as a State endangered species since 1976 (Colorado Division of Wildlife *et al.* 1997). From the late 1800's to 1993, only 65 reliable lynx records exist; the last verified lynx specimens were taken in the early 1970's (J. Sheppard, Colorado Division of Wildlife, *in litt.* 1994). Since the late 1970's, intensive surveying efforts have revealed only minimal evidence of lynx presence (Halfpenny and Miller 1981; Thompson and Halfpenny 1989; Anderson 1990; Thompson and Halfpenny 1991; Andrews 1992; Carney 1993; Fitzgerald 1994; J. Sheppard, *in litt.* 1994; J. Halfpenny, pers. comm. 1994; Colorado Division of Wildlife *et al.* 1997). Lynx in Colorado are believed to be extremely rare and the long-term viability of the lynx in Colorado is questionable (Colorado Division of Wildlife *et al.* 1997). The Service concludes that a self-sustaining resident population does not exist in Colorado, but individual animals may be present.

Other Reports or Sightings—Lynx observations in Nevada, North Dakota, South Dakota, Iowa, Nebraska, Indiana, Ohio, and Virginia appear to be a result of transients dispersing during periods of high lynx density elsewhere (Hall and Kelson 1959; Burt 1954 *in* Brocke 1982; S. Johnson, Indiana Department of Natural Resources, *in litt.* 1994; P. Jones, Ohio Department of Natural Resources, *in litt.* 1994; W. Jobman, U.S. Fish and Wildlife Service, *in litt.* 1997; Smithsonian Institute, *in litt.* 1998). During the early 1960's, lynx moved into the Great Plains and the Midwest region of the United States during an apparent cyclic high in surrounding lynx populations (Gunderson 1978; Mech 1980; DeStefano 1987; South Dakota Natural Heritage Program, *in litt.* 1994). Based on the lynx's ecological requirements, such records likely represent dispersing, transient individuals, not resident populations.

Summary of Status—Based on information available to the Service at this time, the Service concludes that lynx were resident in 16 States in the contiguous United States. Currently, resident populations of lynx likely exist in Maine, Montana, Washington, and possibly Minnesota. States with recent records of individual lynx sightings, but possibly no longer sustaining self-supporting populations, include Wisconsin, Michigan, Oregon, Idaho, Wyoming, Utah, and Colorado. Lynx may be extirpated from New Hampshire, Vermont, New York, Pennsylvania, and Massachusetts.

Previous Federal Action

The Canada lynx was added to Appendix II of the Convention on International Trade in Endangered Species of Wild Flora and Fauna in 1977. The Service classified the Canada lynx as a category 2 candidate species in the December 30, 1982, Vertebrate Notice of Review (47 FR 58454). Category 2 species were those species for which information in the Service's possession indicated that listing was possibly appropriate, but for which substantive data on biological vulnerability and threats were not available to support a proposed rule. Candidate species are currently defined as those species for which the Service has sufficient information on file detailing biological vulnerability and threats to support issuance of a proposed rule, but issuance of the proposed rule is precluded by other listing actions. On October 6, 1992, the Service published a notice of a 90-day petition finding indicating that the August 22, 1991 petition did not present substantial information to indicate that listing the North Cascades population of the Canada lynx as endangered was warranted (57 FR 46007). A lawsuit was filed challenging the October 6, 1992, petition finding. On July 9, 1993, the Service published a notice indicating that it had revisited the North Cascades 90-day petition after receiving new information and again found that there was not substantial information to indicate that listing the population may be warranted (58 FR 36924). The Service announced in the finding that a status review would be conducted. In a settlement agreement dated November 30, 1993, the Service agreed to conduct a status review throughout the lower 48 States to determine if the species was threatened or endangered, and to complete the review and publish the finding by November 15, 1994. On February 2, 1994, the Service published a notice (59 FR 4887) announcing continuation of the status review that was initiated in 1982.

On April 27, 1994, the Service received a petition to list the coterminous United States population of "North American" lynx as threatened or endangered. Additionally, the petitioners requested that the southern Rocky Mountain population of the "North American" lynx in Wyoming and Colorado be emergency listed. A notice was published on August 26, 1994 (59 FR 44123), indicating that the petition presented substantial information that listing may be warranted, but that there was not substantial information to indicate that emergency listing may be warranted for the Southern Rocky Mountain population.

On December 27, 1994, the Service published a notice (59 FR 66507) of its 12-month finding as to the status of the Canada lynx in the 48 contiguous States, as directed by the settlement agreement and the petition, that listing was not warranted because of the lack of residency of lynx populations in the lower 48 States and the Service's inability to substantiate that threats such as "trapping, hunting, poaching, and present habitat destruction" actually "threaten the continued existence of the lynx in the wild." On January 30, 1996, the Defenders of Wildlife and 14 other plaintiffs challenged the Service's finding by filing a lawsuit.

On March 27, 1997, the U.S. District Court (District of Columbia) issued an order setting aside the not warranted finding and remanded it to the Service for further consideration. The Service was ordered to publish a 12-month finding on the status of the lynx within 60 days. On May 27, 1997, the Service published a 12-month petition finding (62 FR 28653) that the Canada lynx population in the contiguous United States was warranted for listing under the Act but precluded by higher priority listing actions. This warranted but precluded finding automatically elevated the Canada lynx to candidate species status. Candidate species are defined as those species for which the Service has sufficient information on file detailing biological vulnerability and threats to support issuance of a proposed rule, but issuance of the proposed rule is precluded by other listing actions.

On September 15, 1997, Defenders of Wildlife, *et al.* filed suit against the Service in the U.S, District Court, District of Columbia, arguing that the Service violated the Act in finding that listing the Canada lynx population in the contiguous United States was warranted but precluded. On December 22, 1997, the court denied the plaintiffs' motion to enforce judgement against the Service's May 1997 warranted but precluded finding for the Canada lynx population in the contiguous United States. At the same time, the court set an expedited schedule and hearing date (March 18, 1998) for the lawsuit filed in September 1997.

On February 12, 1998, the U.S. District Court approved a settlement agreement between the Service and the Plaintiffs that called for the Service to publish a proposed rule to list the Canada lynx in the contiguous United States by June 30, 1998. This proposed rule for the contiguous United States population of the Canada lynx fulfills the requirement of the settlement agreement and serves as the final 12-month warranted finding on the petitions to list the lynx.

Processing of this proposed rule conforms with the Service's Listing Priority Guidance for Fiscal Years 1998 and 1999, published on May 8, 1998 (63 FR 25502). The guidance clarifies the order in which the Service will process rulemakings giving highest priority (Tier 1) to processing emergency rules to add species to the Lists of Endangered and Threatened Wildlife and Plants (Lists); second priority (Tier 2) to processing final determinations on proposals to add species to the Lists, processing new proposals to add species to the Lists, processing administrative findings on petitions (to add species to the Lists, delist species, or reclassify listed species), and processing a limited number of proposed or final rules to delist or reclassify species; and third priority (Tier 3) to processing proposed or final rules designating critical habitat. Processing of this proposed rule is a Tier 2 action. At this time, this region has no pending Tier 1 actions and is progressing with work on Tier 2 actions. This proposed rule also conforms to earlier Service guidance on assignment of priorities to species under consideration for listing as endangered or threatened published in the **Federal Register** on September 21, 1983 (48 FR 43098). This guidance sets up a priority system from 1–12 based on immediacy and magnitude of threat and on species' taxonomy. In the Service's May 1997 finding the lynx was elevated to candidate status and given a listing priority of 3.

In accordance with the policy promulgated July 1, 1994 (59 FR 34270), the Service will solicit the opinions of independent Canada lynx experts and/or conservation biologists regarding the proposed rule. The purpose of such review is to ensure listing decisions are based on scientifically sound data, assumptions, and analyses, including input of appropriate experts and specialists. Peer reviewers will be identified through requests to research institutions, universities, and museums for individuals with recognized expertise with the subject matter. The reviewers will be asked to comment during the public comment period upon the specific assumptions and conclusions regarding the proposed listing and special rule. These comments will be considered in the preparation of the final rule as appropriate. In a status review of the lynx in 1994, prior to the publication of the Service's formal peer review policy, the Service solicited the comments of 31 independent experts and/or conservation biologists regarding the effects of cyclic Canada lynx movements from Canada to the contiguous United States. Of the 16 responses received, 9 respondents believed Canada lynx should be considered resident in portions of the contiguous United States, 1 did not (regarding the Great Lakes region only), and 6 did not specifically respond to the questions.

Summary of Factors Affecting the Species

Section 4 of the Act and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the Canada lynx (*Lynx canadensis*) are discussed below.

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Since the mid-to-late 1800's, several habitat-related factors influenced, and continue to contribute to, declines in local or regional Canada lynx populations. The most influential factor affecting lynx habitat is human alteration of the distribution and abundance, species composition, successional stages, and connectivity of forests, and the resulting changes in the forests' capacity to sustain lynx populations. Additionally, forest fragmentation isolates habitat into relatively small patches, thereby reducing the viability of wildlife that are dependent on larger areas of forest habitat (Litvaitis and Harrison 1989).

In all regions of the lynx range in the contiguous United States, timber harvest and its related activities are a predominant land use affecting lynx habitat. Forestry practices can be beneficial or detrimental for lynx depending on the method and timing by which they are conducted. Timber harvest can be used to achieve the early successional stages of forest preferred by snowshoe hares, although it takes time (15 years or more depending on the type of forest) for harvested areas to reach this stage (Monthey 1986, Quinn and Parker 1987, Koehler 1990, Koehler and Brittell 1990, Washington Department of Wildlife 1993). For example, in the West, thinning (either single tree or group selection), if implemented in a well-planned harvest prescription, can hasten the development of late-successional forests containing structures such as downed woody debris for thermal and security cover and for denning; early thinning to maximize tree-growth potential can be compatible with snowshoe hare and lynx habitat needs provided that stands are thinned before snowshoe hares recolonize the area (Koehler and Aubry 1994).

Intensive tree harvesting (e.g., large-scale clearcutting) can eliminate the mosaic of habitats necessary for Canada lynx survival, including late successional denning and early successional prey habitat. Specifically, these activities can result in reduced cover, unusable forest openings, and monotypic stands with a sparse understory that are unfavorable for Canada lynx and/or their prey (Brittell *et al.* 1989; de Vos and Matel 1952; Harger 1965; Hatler 1988; Koehler 1990; K. Gustafson, pers. comm. 1994; J. Lanier, pers. comm. 1994). Canada lynx avoid openings such as clearcuts, unforested areas, and grasslands (Koehler *et al.* 1979; Koehler and Brittell 1990, Murray *et al.* 1994) and snowshoe hares are also unlikely to use such areas because of the lack of cover (Koehler *et al.* 1979; H. Golden, Alaska Department

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of Fish and Game, pers. comm. 1994; Koehler and Aubry 1994).

Great Lakes and Northeast Region

Softwoods that provided Canada lynx habitat were logged extensively during the late 1800's and early 1900's (Jackson 1961; Barbour *et al.* 1980; Belcher 1980; Irland 1982). Over a relatively short period, timber extraction during this era resulted in the replacement of late-successional conifer forest with extensive tracts of very early successional habitat and eliminated cover for lynx and hare (Jackson 1961, Keener 1971). Coniferous forests also were cleared for agriculture during this period. In the Northeast Region, slash, accumulated during logging operations, fueled wildfires that burned vast acreages of softwood forest (Belcher 1980; J. Lanier, pers. comm. 1994). This sudden alteration of habitat likely resulted in sharp declines in snowshoe hare numbers over large areas, subsequently reducing Canada lynx numbers (Jackson 1961; Keener 1971; K. Gustafson, pers. comm. 1994; J. Lanier, pers. comm. 1994).

During these early periods of timber extraction in the Northeast and Great Lakes Regions, probable declines in Canada lynx numbers were concurrent with substantial increases in human populations and unregulated trapping in or near lynx habitat (K. Gustafson, pers. comm. 1994; J. Lanier, pers. comm. 1994). By the turn of the century in the Northeast Region, historical records indicate that lynx populations were declining or were nearly extirpated (Silver 1974; Vermont Department of Fish and Game 1987; K. Gustafson, *in litt.* 1994; G. Parsons, *in litt.* 1994).

The impacts of the logging conducted in the Northeast Region during the late 1800's continue to affect Canada lynx habitat. In Maine, softwood cover and dense sapling growth provided improved snowshoe hare habitat after timber harvest and fires in late successional forests (Monthey 1986). However, in the western sections of the Northeast Region, extensive tracts of predominantly softwood forests that were harvested and burned-over during the late 1800's and early 1900's were subsequently replaced with regenerating hardwoods (D. Degraff, pers. comm. 1994; J. Lanier, pers. comm. 1994). For a period of time, this extensive area would have been in the early successional habitat used by snowshoe hare. However, such extensive tracts did not provide the mosaic of forest habitats required by lynx and, as succession progressed, these tracts became unsuitable for both lynx and hare. Hardwood forests do not typically supply adequate cover for snowshoe hares (Monthey 1986). Additional declines in hare populations may have occurred during the 1940's and 1950's as a result of large-scale forest maturation (Litvaitis *et al.* 1991).

In Maine, large tracts of forest (some as large as 36-square mile townships) were harvested in the 1960's to reduce the incidence of spruce budworm. Harvesting of these large tracts create a simplified, monotypic forest over large areas, not a mosaic of forest stands. Passage of the State Forestry Practices Act has required clearcut size to be substantially reduced.

At higher elevations and northern latitudes in the Northeast, red spruce and balsam fir are important components of snowshoe hare habitat. Declines in red spruce forests have been documented, and drought, acid deposition, and other human-generated pollutants have been suggested as principal causes (Scott *et al.* 1984).

Lynx populations have not increased in the Northeast Region despite some apparent improvements in habitat. Forested habitat in the Northeast has increased because of land-use changes during the past century (Irland 1982; Litvaitis 1993). In some areas there may be a gradual upward trend in the coniferous component as spruce and fir regenerate beneath hardwood species (D. Degraff, pers. comm. 1994). Several of the Northeast States support adequate, if not abundant, snowshoe hare populations (C. Grove, Green Mountain National Forest, pers. comm. 1994; F. Hurley, *in litt.* 1994; J. Lanier, pers. comm. 1994).

Isolation of suitable habitat and lack of immigration apparently remain important factors in the continued absence of lynx populations in the Northeast Region (Litvaitis *et al.* 1991; W. Krohn, University of Maine, *in litt.* 1994; R. Lafond, Quebec Department of Recreation, Fish, and Game, pers. comm. 1994). Historically, resident Canada lynx populations in the Northeast were periodically supplemented with transient or dispersing individuals from the north (Litvaitis *et al.* 1991; J. Lanier, pers. comm. 1994). However, over the past several decades, Canada lynx numbers also declined in the southern portions of its range in Canada in response to overexploitation and clearing of forested habitat for agriculture, timber, and human settlement (Mills 1990; McAlpine and Heward 1993; Quebec Department of Recreation, Fish, and Game, *in litt.* 1993). The fragmented landscape across southern Quebec probably presents a substantial barrier to lynx attempting to disperse southward across the St. Lawrence River (W. Krohn, *in litt.* 1994; R. Lafond, pers. comm. 1994; J. Lanier, pers. comm. 1994; J. Litvaitis, University of New Hampshire, pers. comm. 1994). However, lynx from a resident population in a Quebec reserve south of the St. Lawrence should encounter little difficulty crossing into Maine (C. McLaughlin, Maine Department of Inland Fisheries and Wildlife, *in litt.* 1998). Similarly, movement of lynx into Maine from occupied habitat in New Brunswick should be possible.

Today, diminished numbers of Canada lynx in southern Canada and the paucity of functional dispersal routes from Canadian lynx populations have substantially restricted the opportunity for Canada lynx to recolonize suitable habitat in New York, Vermont, and New Hampshire (Litvaitis et al. 1991; W. Krohn, *in litt.* 1994; R. La Fond, pers. comm. 1994; J. Lanier, pers. comm. 1994).

In 1990, the U.S. Forest Service published a report that examined the northern forest lands in New York, Vermont, New Hampshire, and Maine (Harper *et al.* 1990). The 26-million acre study area encompassed most of the historic range of lynx in the region. Eighty-four percent of northern forest lands in the region are currently privately owned and 16 percent are in public ownership, of which only 300,000 acres are federally owned. Commercial forestry continues to be the dominant land use on 60 percent of the private lands in the northern forests. The rapid pace of subdivision for recreation home sites has been identified as a serious concern to maintaining the integrity of Northeast forests (Harper *et al.* 1990).

Habitat fragmentation from forestry management programs, agricultural conversions, and roadway construction may be limiting lynx in the Great Lakes States. However, insufficient information currently exists to assess the impact of these threats to lynx. Lynx habitat quality appeared to be increasing in Michigan's upper peninsula as of 1965 (Harger 1965); however, as of 1998, lynx numbers have not increased in response to predicted improved habitat (Kurta 1995).

Rocky Mountain/Cascades Region

The majority of Canada lynx habitat in the West occurs on public lands. Research linking forest management on Federal lands in the West to Canada lynx habitat requirements is minimal.

In the interior Columbia River basin of eastern Washington and Oregon, Idaho, and western Montana, timber harvest patterns, along with the exclusion of fire have converted much of the late successional stage forest to younger, mid-successional stage forests (U.S. Forest Service and Bureau of Land Management 1996). There has been an increase in fragmentation of forest lands and loss of connectivity within and between blocks of habitat, which has isolated some wildlife habitats and reduced the ability of some wildlife populations to move across the landscape (U.S. Forest Service and Bureau of Land Management 1997).

In the Seeley-Swan Valley in northwestern Montana, the forest landscape has become increasingly fragmented since 1930, consisting of smaller, more numerous patches with more edge and less interior habitat (Hart 1994). Fragmentation was caused by an extensive network of highway and forest roads, timber harvest, and residential construction. Timber harvest replaced fire as the dominant disturbance process (Hart 1994). Mature/overmature forests have declined in total area, while seedling and sapling seral stages have become more extensive (Hart 1994). The amount of predicted lynx habitat in the Seeley-Swan Valley has declined 36 percent since 1930 and became more fragmented over time (Hart 1994).

Recolonization of suitable lynx habitat within the State of Washington eventually may be precluded by the fragmentation of habitat and potential isolation from the lynx population in Canada (Washington Department of Wildlife 1993).

Fire has played an important role in forest ecology in western mountain ranges of the United States. Forest fires naturally maintained mosaics of early successional forest stands, unburnt bogs and swamps, and late-successional conifer forest forming ideal snowshoe hare and Canada lynx habitat (Todd 1985; Fischer and Bradley 1987; Quinn and Parker 1987). During the early twentieth century, Federal and State agencies in the contiguous United States enacted a policy of suppressing forest fires. The lack of adequate hare habitat in southern latitudes may be partially a result of fire suppression during the past 50 years (Koehler 1990). Suppression of forest fires in the West has allowed forests to mature, thereby reducing habitat suitability for snowshoe hares and Canada lynx (Brittell *et al.* 1989; Fox 1978; Koehler 1990; Washington Department of Wildlife 1993; T. Bailey, U.S. Fish and Wildlife Service, *in litt.* 1994; H. Golden, pers. comm. 1994). Fire suppression is most likely affecting lynx habitat in areas where historical frequency of fires is shorter than the length of time fires have been suppressed in the Region (P. Stickney, U.S. Forest Service, pers. comm. 1994).

In all regions of the contiguous United States lynx range, clearing of forests for urbanization, recreational developments such as ski areas, and agriculture has fragmented, degraded, or reduced the available suitable lynx habitat, reduced the prey base, and increased human disturbance and the likelihood of accidental trapping, shooting, or highway mortality (de Vos and Matel 1952; Harger 1965; Belcher 1980; Thiel 1987; Todd 1985; Thompson 1987; Harper *et al.* 1990; Brocke *et al.* 1991; Thompson and Halfpenny 1991; Colorado Division of Wildlife *et al.* 1997) (see factor E).

B. Overutilization for Commercial, Recreational, Scientific, or Education Purposes

The Service believes that the effects of an overharvest of Canada lynx during the 1970's and 1980's persist today and continue to reduce the potential for recovery of lynx populations in the contiguous United States by precluding repopulation of areas of suitable habitat. Where exploitation is intense and recruitment is low, trapping can significantly depress lynx populations (Koehler and Aubry 1994). Fewer Canada lynx of breeding age reduce the ability and degree to which lynx populations recover after population lows (de Vos and Matel 1952; Brand and Keith 1979; Todd 1985; Ward and Krebs 1985; Bailey *et al.* 1986; Hatler 1988; Brittell *et al.* 1989). Elton and Nicholson (1942) recognized that overharvest had the potential to diminish lynx populations to levels where the natural cycles of lynx populations could not occur.

Lynx behavior makes them susceptible to trapping. Canada lynx are easy to catch in traps (Bailey *et al.* 1986; Hatler 1988; Mills 1990). The potential number of traps a lynx encounters is increased when it moves long distances to search for prey. Canada lynx are more vulnerable to concentrated trapping efforts because lynx focus their hunting in areas where snowshoe hare densities are high (Ward and Krebs 1985). On the Kenai Peninsula, Alaska, juvenile lynx were five times more vulnerable to trapping than adults; several juvenile siblings can easily be trapped from a small area (Bailey *et al.* 1986). Trapping females that are accompanied by kittens often results in the death of those kittens because they are unable to feed and protect themselves (Bailey *et al.* 1986; Carbyn and Patriquin 1983; Parker *et al.* 1983). It is possible for a trapper to remove a large proportion of a local lynx population by trapping where lynx are concentrated (Carbyn and Patriquin 1983; Ward and Krebs 1985; Bailey *et al.* 1986; J. Weaver, pers. comm. 1994).

Human-induced mortality is the most important mortality factor for Canada lynx populations (Ward and Krebs 1985). Trapping mortality has been shown to be entirely additive (i.e., in addition to natural mortality) rather than compensatory (taking the place of natural mortality) (Brand and Keith 1979). In Minnesota, trapping was estimated to account for 81 percent of known lynx mortality during cyclic lows and 58 percent of mortality during cyclic highs (Henderson 1978). In numerous studies, trapping or shooting was documented as the cause of a substantial majority of Canada lynx mortalities (Mech 1980; Carbyn and Patriquin 1983; Ward and Krebs 1985; Bailey *et al.* 1986).

Unregulated trapping and hunting of Canada lynx continued for decades in the contiguous United States. Lynx were bountied in several States until relatively recently. Canada lynx were likely overexploited during periods of unregulated harvest in the Northeast and Great Lakes regions (K. Gustafson, pers. comm. 1994; J. Lanier, pers. comm. 1994). In the Rocky Mountains/Cascades Region, lynx population declines prior to 1940 were attributed to high trapping pressure (Nellis 1971).

Historically, lynx trapping provided a significant economic return in the fur trading industry. During periods of high pelt prices, the potential for obtaining even a single lynx pelt made trapping efforts worthwhile (Quinn and Parker 1987, Hatler 1988). This economic incentive increases the threat of over exploitation of Canada lynx populations.

The present low numbers of lynx in the contiguous United States and southern Canada are the residual effects of substantial overtrapping that occurred in the 1970's and 1980's, in response to unprecedented high pelt prices (Bailey *et al.* 1986; B. Berg, pers. comm. 1994; D. Mech, pers. comm. 1994; M. Novak, Ontario Ministry Natural Resources, pers. comm. 1994; A. Todd, Alberta Department of Forestry, Lands, and Wildlife, pers. comm. 1994). As a result of fur demands by the fashion industry, pelt prices began increasing around 1975 (Hatler 1988, Hash 1990). In Montana, the 1974 average pelt price was $63, but by 1978 the average price increased over 500 percent to $348 (B. Giddings, *in litt.* 1994). Lynx pelt prices peaked in the mid-1980's at nearly $500 and remained above $200 per pelt for 12 years until 1989. Pelt prices were comparable throughout the United States and

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Canada (Todd 1985; Hatler 1988; I. McKay, Manitoba Natural Resources, *in litt.* 1994; Quebec Department of Recreation, Fish, and Game, *in litt.* 1994).

The number of Montana bobcat and lynx trapping licenses is an example of a general index of trapper effort and also of the amount of trapping pressure on lynx populations. Records indicate that the price of pelts influenced the trapping effort. The average number of licensed lynx and bobcat trappers from 1972–73 through 1974–75 was 1,600 (B. Giddings, *in litt.* 1994). After the record high pelt prices in 1978–79, a total of nearly 5,000 trappers were licensed for the next season. Although information on licenses was not available after 1982, trapper effort likely remained high as long as pelt prices were high and lynx were being trapped. Records for other regions during this period demonstrate the same trend (Brand and Keith 1979; Todd 1985; Bailey *et al.* 1986; Hatler 1988; Washington Department of Wildlife 1993; M. DonCarlos, *in litt.* 1994; I. McKay, *in litt.* 1994; Quebec Department of Recreation, Fish, and Game, *in litt.* 1994).

This period of intense trapping pressure also occurred during a period of naturally declining Canada lynx numbers in Canada. Periods of population decline are critical times when trapping has a greater additive impact on a population's ability to recover from periodic lows (Brand and Keith 1979; Bailey *et al.* 1986). Alberta's lynx fur harvest during the 1975–76 cyclic low was still nearly 2 to 3 times higher than that during the preceding two cyclic lows (Todd 1985). In Quebec from 1976 to 1979, lynx harvest reached record highs for a period during a cyclic low in hare and lynx populations (Quebec Department of Recreation, Fish, and Game, *in litt.* 1993). These harvest levels are linked to the highest pelt prices ever recorded there and to a continuous and sustained increase in the number of trappers during the preceding decade.

The additive trapping mortality of Canada lynx during the 1970's and 1980's depleted the breeding stock of lynx populations in the United States and southern Canada, which limited the ability for lynx populations to subsequently recover and repopulate areas of suitable habitat. Lynx populations may have become so severely depleted that they cannot reach their former densities during the periods of abundant prey and maximum reproductive success (Quinn and Parker 1987; Hatler 1988). The lynx population of the 1980's and 1990's has reflected the over exploitation of the previous decade in the lack of cyclic lynx highs in parts of the contiguous United States and the lack of typical cyclic influxes of lynx from Canada, although data have indicated normal hare populations (M. DonCarlos, *in litt.* 1994; M. DonCarlos, pers. comm. 1994).

In response to substantially declining harvests during the 1970's and 1980's (indicating that lynx populations were being over exploited), Washington, Montana, Minnesota, Alberta, British Columbia, Manitoba, Ontario, Quebec, and Alaska severely restricted or closed their lynx harvest seasons (Bailey *et al.* 1986; Hatler 1988; Hash 1990; Washington Department of Wildlife 1993; S. Conn, *in litt.* 1990; M. DonCarlos, *in litt.* 1994; B. Giddings, *in litt.* 1994; R. McFetridge, Alberta Environmental Protection, *in litt.* 1994; I. McKay, *in litt.* 1994; M. Novak, pers. comm. 1994). Because of continued concern for lynx populations, none of the States have relaxed their restrictions, and many Canadian provinces still maintain careful control of lynx harvest (Alberta Environmental Protection 1993; Washington Department of Wildlife 1993; M. DonCarlos, *in litt.* 1994; B. Giddings, *in litt.* 1994; R. McFetridge, *in litt.* 1994; I. McKay pers. comm. 1997).

As of 1993, the lynx population in portions of Quebec apparently has not yet fully recovered despite adequate, increasing hare populations (Quebec Department of Recreation, Fish, and Game, *in litt.* 1993). Because of concern over a potentially declining lynx population, the British Columbia government closed the season on Canada lynx for a 3-year period in the mid-1990's (A. Fontana, British Columbia Department of Wildlife, pers. comm. 1994). Manitoba closed its lynx season Province-wide from 1995–1997 because of low lynx numbers (I. McKay, pers. comm. 1997).

States where lynx currently or historically occur declare harvest of lynx illegal, with the exception of Montana, where legal harvest is set by a limited statewide quota of two. In all States where the lynx was considered to be a resident species, lynx are included on the State's lists of endangered, threatened, protected, or regulated game species.

C. Disease or Predation

Disease and predation are not known to be factors threatening Canada lynx. However, in areas with human population centers, or high human densities in more rural areas, diseases of domestic animals may pose potential threats to lynx (R. Brocke, State University of New York, pers. comm. 1994).

D. Inadequacy of Existing Regulatory Mechanisms

There are no regulatory mechanisms that address the management or conservation of functional Canada lynx habitat, although most states provide the Canada lynx with protection from hunting and trapping.

Lynx are classified as endangered by 4 of the 16 States in the contiguous United States where the Canada lynx was considered to be a resident species, Vermont (1972), New Hampshire (1980), Michigan (1987), and Colorado (1976). Lynx are classified as threatened by Washington (1993). Utah has classified the lynx as a sensitive species. The lynx is classified as a species of special concern in Maine (1997) and in Wisconsin it is protected (1997). Two States officially classify them as extirpated: Pennsylvania (J. Belfonti, *in litt.* 1994) and Massachusetts (J. Cardoza, *in litt.* 1994). Five States classify lynx as small game or furbearers with closed seasons: Idaho (1997), New York (1967), Minnesota (1984), Wyoming (1973), and Oregon (1997).

A Canada lynx trapping season still occurs in Montana, but the legal, State wide quota is restricted to two animals. In response to declining harvests, Montana has substantially reduced the lynx quota since 1977 (when the lynx was added to the Convention on International Trade in Endangered Species (CITES) and Montana classified the species as a furbearer). Since 1991, the quota has been two for the entire State, which has been met or slightly exceeded annually (B. Giddings, pers. comm. 1998).

Estimates of illegal harvest of Canada lynx are unavailable for most areas. Illegal harvest has been a serious concern in localized areas in the past (Washington Department of Wildlife 1993).

On February 4, 1977, the Canada lynx was included in Appendix II of CITES. The CITES is an international treaty established to prevent international trade that may be detrimental to the survival of plants and animals. A CITES export permit must be issued by the exporting country before an Appendix II species may be shipped. The CITES permits may not be issued if the export will be detrimental to the survival of the species or if the specimens were not legally acquired. However, CITES does not itself regulate take or domestic trade.

Regulatory mechanisms to protect Canada lynx habitat are limited. Although the U.S. Forest Service classifies lynx as a sensitive species within the contiguous United States, few national forests have developed population viability objectives or management guidelines required by the National Forest Management Act for Canada lynx because of limited information about the species' requirements. All national forests are obligated to protect biological diversity on Federal lands.

In the northeast region, the Green Mountain National Forest Plan states that the national forest will develop management plans if and when an established Canada lynx population is detected (U.S. Forest Service 1986a). There are no specific regulations or guidelines pertaining to lynx habitat. The White Mountain National Forest Plan includes Canada lynx as an indicator species and limits recreational trail density in Canada lynx habitat. The forest plan calls for consideration of the needs of the species in planning alternatives, the monitoring of lynx populations, and for initiating or coordinating studies and/or recovery efforts (U.S. Forest Service 1986b).

In the Great Lakes region, some national forests apply standards for gray wolf (*Canis lupus*) to guide Canada lynx habitat management (M. Shedd, Superior National Forest, pers. comm. 1994). It is unknown whether wolf standards are appropriate for lynx.

Washington Department of Wildlife (1993) determined that habitat needs of Canada lynx had not been considered adequately while planning for timber harvest on national forest and State lands in some areas of the State.

Several lynx conservation plans exist or are under development. Such plans include the lynx habitat management guidelines for Washington (Washington Department of Fish and Wildlife 1993; R. Naney, Okanogan National Forest, *in litt.* 1994), the Idaho State conservation effort (Roloff 1995), Washington Department of Natural Resources conservation strategy (Washington Department of Natural Resources 1996a), Boise-Cascade Timber Corporation lynx habitat management plan in Washington (Whitwill and Roloff 1996), Kootenai National Forest in Montana (Kootenai National Forest 1997), and the Southern Rocky Mountains, Draft strategy for the conservation and reestablishment of lynx and wolverine in the southern Rocky Mountains (Colorado Division of Wildlife *et al.* 1997). At this time, there has been no comprehensive review of these plans to determine whether the guidelines in these plans have the ability to maintain or increase lynx populations. The degree to which these plans are or will be implemented and monitored varies.

Land use on private lands can have a great impact on Canada lynx habitat. The majority of Canada lynx habitat in the Northeast region occurs on private land, ranging from small residential lots to large industrial ownerships (Harper *et al.* 1990). All States in the region have various laws and regulations regarding environmental issues (Harper *et al.* 1990). Indirectly these regulations may promote the conservation of habitat; however, none are directed specifically to Canada lynx habitat conservation. In the Northeast region, the Northern Forest Lands Council has a charter to maintain traditional patterns of landownership and use; part of this effort includes a forest inventory (Northern Forest Lands Council, *in litt.* 1994). How this effort may affect the conservation of Canada lynx habitat is unknown.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Loss of suitable habitat for Canada lynx reduces the potential for population growth or recolonization of the lynx and further confines lynx to smaller, more isolated habitat units (Weaver 1993). Isolation increases the susceptibility of the lynx to human-caused threats, natural stochastic events, and effects of genetic bottlenecks (Andrews 1992; Weaver 1993). In the Rocky Mountain/Cascades Region much of lynx habitat is naturally disjunct and habitat connectivity is required across large geographic areas to facilitate dispersal and genetic exchange (Roloff 1995). The increased fragmentation of forest lands and loss of connectivity within and among blocks of habitat in the interior Columbia River basin of Washington, Oregon, Idaho, and Montana has reduced the ability of some wildlife populations to move across the landscape, resulting in long-term loss of genetic interchange (U.S. Forest Service and Bureau of Land Management 1997).

Elevated levels of human access into forests are a significant threat to Canada lynx because they increase the likelihood of lynx encountering people, which may result in displacement of lynx from their habitats and/or possible injuries or deaths by intentional or unintentional shooting, trapping, and vehicle accidents (Hatler 1988; Thiel 1987; Brittell *et al.* 1989; Koehler and Brittell 1990; Brocke *et al.* 1991; Andrew 1992; Washington Department of Wildlife 1993; Brocke *et al.* 1993; M. Hunter, University of Maine, pers. comm. 1994). Human access into Canada lynx habitat in many areas has increased over the last several decades because of increasing human populations and increased construction of roads and trails and the growing popularity of snowmobiles and offroad vehicles. In the interior Columbia River basin of Washington, Oregon, Idaho, and Montana, increased human access has decreased the availability of areas with low human activities, which are important to large forest carnivores, including lynx (U.S. Forest Service and Bureau of Land Management 1997).

Lynx will use some types of roads for hunting and travel (Koehler and Aubry 1994). Koehler and Aubry (1994) concluded road construction and maintenance are important components of lynx habitat management because they both destroy and create prey habitat, but also make lynx more vulnerable to human-caused mortalities. In the interior Columbia River basin of Washington, Oregon, Idaho, and Montana, high road densities were found primarily in intensively managed forest lands of both public and private ownership (U.S. Forest Service and Bureau of Land Management 1997).

Wide-ranging species are impacted by the increased road densities that often accompany human-caused forest fragmentation (Litvaitis 1993). The Loomis State Forest in Washington plans to construct a total of 615 mi of roads from 1996 to 2005 (Washington Department of Natural Resources 1996b). According to the plan, the density of roads in primary lynx habitat will be 1.91 to 3.04 road mi per square mile (sq mi) (Washington Department of Natural Resources 1996b). Even roads that are considered "closed" will continue to be accessible to snowmobiles, thereby allowing access to higher elevation lynx habitat by humans and lynx competitors.

In the Pioneer Mountains of Montana, a currently narrow, unpaved road is being paved and widened to further encourage already high recreational use of the forest (Harding Lawson Associates Infrastructure, Inc. 1996). The project area is occupied, high-quality lynx habitat, although lynx use of the area is currently restricted because of intense recreational use of the area (Harding Lawson Associates Infrastructure, Inc. 1996). Completion of this road project will impact lynx by causing further deterioration of lynx habitat, because increased human activity will sever lynx travel corridors and mortalities from vehicle collisions will increase (Harding Lawson Associates Infrastructure, Inc. 1996).

Blocks of suitable habitat, both public and private, are often dissected by extensive networks of paved roads. Traffic on highways has been shown to

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pose a considerable mortality risk to Canada lynx (Brocke *et al.* 1991; B. Ruediger, U.S. Forest Service, pers. comm. 1997). Highway densities are a contributing factor in the decline of carnivores, including the lynx, in the contiguous United States (Ruediger 1996). Dispersing or transient lynx are more vulnerable to traffic deaths than resident lynx because their movements over large areas increase their exposure to roads. In the Great Lakes States, recent records of lynx are from mortalities due to vehicle collisions, which could limit the potential for reestablishment of populations in Wisconsin or Michigan.

Increasing human access into Canada lynx habitat has increased the vulnerability of Canada lynx to both legal and illegal harvest in areas that, historically, were relatively isolated from humans (Todd 1985; McKay 1991; Washington Department of Wildlife 1993; M. Hunter, pers. comm. 1994). In the Uinta Mountains of Utah, most of the documented Canada lynx specimens were shot during deer hunting season in an area easily accessed by hunters (McKay 1991). In Washington, there is concern that human access may reduce the number of Canada lynx emigrating from British Columbia, further increasing the vulnerability of the remaining small population (Washington Department of Wildlife 1993). The high degree of access into Alberta's forests created by petroleum development and logging was suggested as an explanation for why Alberta produced a large proportion of the total Canadian lynx harvest in the 1970's and 1980's (Todd 1985).

Human access is a particularly important factor during periods when Canada lynx populations are low and concentrated in localized refugia. Brand and Keith (1979) indicated that refugia may have supported only adult lynx during population lows. Refugia were therefore critical for repopulating available range elsewhere when the population increased (Todd 1985). If such refugia were accessible to humans, local lynx populations could be easily extirpated by trapping, particularly if there are incentives such as high pelt prices (Carbyn and Patriquin 1983; Ward and Krebs 1985; Bailey *et al.* 1986; J. Weaver, pers. comm. 1994; Koehler and Aubry 1994).

The Canada lynx may be displaced or eliminated when competitors (e.g., bobcat, coyote) expand into its range (de Vos and Matel 1952; Parker *et al.* 1983; Quinn and Parker 1987; M. DonCarlos, pers. comm. 1994; D. Major, U.S. Fish and Wildlife Service, pers. comm. 1994; J. Weaver, pers. comm. 1994). The Canada lynx is at a competitive disadvantage against these other species because it is a specialized predator, whereas bobcat and coyotes are generalists that are able to feed on a wide variety of prey. Historically, bobcat and coyotes have not been able to compete with lynx in areas that receive deep snow cover, where lynx are much more highly adapted. Where Canada lynx and bobcat or coyote ranges overlapped, their niches were segregated by winter range conditions (McCord and Cardoza 1982; Parker *et al.* 1983; Quinn and Parker 1987). In Yukon, Canada, coyotes selected snow that was shallower and harder than that used by lynx (Murray *et al.* 1994).

Some biologists believe competition has played a significant role in the decline of Canada lynx (Brocke 1982; Parker *et al.* 1983; E. Bangs, U.S. Fish and Wildlife Service, pers. comm. 1994). Murray *et al.* (1994) speculate that, in Yukon, use of open spruce forests by lynx may have been to avoid areas where coyotes were present. In Utah, where more habitat is suitable for bobcat, it has been suggested that bobcat competition with Canada lynx resulted in the possible extirpation of Canada lynx from Utah (B. Blackwell, pers. comm. 1994). Research has detected direct competition in certain areas, as on Cape Breton Island where, without changes in forest habitat, bobcats displaced Canada lynx from all areas except high elevations, where snow accumulation limited the bobcat's range (Parker *et al.* 1983).

Competition between Canada lynx and other species may be facilitated through alteration of forests by timber harvest or other human activities. Modified habitat may be more suitable to Canada lynx competitors or may facilitate the establishment of a competitor after local extirpation of the lynx (McCord and Cardoza 1982; Quinn and Parker 1987). In the Northeast United States, extensive clearing of forests for timber and agriculture improved conditions for white-tailed deer (*Odocoileus virginianus*) populations, which subsequently may have influenced a northward expansion of bobcats into the region (K. Gustafson, pers. comm. 1994). Additionally, mild weather in some regions for the past decade has improved conditions and habitat for bobcat and coyotes, particularly by minimizing snow depth (Quinn and Parker 1987; J. Weaver, pers. comm. 1994). Coyotes have been colonizing Maine and New Hampshire since the 1970's (Litvaitis and Harrison 1989).

Competition during late winter, a time when lynx are already nutritionally stressed, may be especially detrimental to lynx (Koehler and Aubry 1994). Snowmobile trails and roads that are maintained for winter recreation and forest management activities enable coyotes and bobcats to access lynx winter habitat (Koehler and Aubry 1994).

Snowmobile use in the Great Lakes and Rocky Mountain/Cascades regions has resulted in an increase in both human presence and the prevalence of packed snow corridors in lynx habitat. The increased snowmobile use and the increased area in which snowmobiles are used likely diminishes habitat quality for lynx, and also decreases the lynx's competitive advantage in deep snow. This results in an increased threat posed by competitors, as a result of the increase in hard-packed snow trails.

Legal trapping activities for bobcat, coyotes, and other furbearers create a potential for incidental capture of lynx. The threat to resident lynx from legal trapping for other species may be limited because most bobcat or coyote trapping occurs in areas unlikely to support lynx (M. DonCarlos, pers. comm. 1994; K. Elowe, Maine Department of Inland Fisheries and Wildlife, pers. comm. 1994; J. Lanier, pers. comm. 1994; D. Mech, pers. comm. 1994; Maine Department of Inland Fisheries and Wildlife, *in litt.* 1997).

Where Canada lynx populations have been substantially reduced or extirpated in the contiguous United States, natural recolonization of suitable habitat likely will require lynx migration from other areas in the contiguous United States or Canada. However, because of the unsuitable habitat isolating Colorado and southeastern Wyoming from the remainder of the Rocky Mountains/Cascades, recolonization through immigration is extremely unlikely.

Winter navigation and associated ice breaking on the St. Mary's River between Ontario and Upper Michigan could be a potential threat to reestablishment or maintenance of a lynx population in that area. Presently, the St. Mary's River shipping channel is not kept open between January 15 and March 25. Ice breaking before or after that period could reduce the amount of time available for lynx to immigrate across the St. Mary's shipping channel from Ontario to Michigan (Robinson and Fuller 1980).

Distinct Population Segment

For a species to be listable under the Act, it must meet the definition of a "species" as provided in the Act. The Act defines "species" as a species, subspecies, or distinct population segment of a vertebrate species. On

February 7, 1996 (61 FR 4722), the Service and National Marine Fisheries Service published final policy guidance concerning recognition of Distinct Vertebrate Population Segments for consideration under the Act. It is necessary for the Service to use this Vertebrate Population Policy when it is considering listing a vertebrate species or species as endangered or threatened in only a portion of its range. In developing this proposed rule the Service evaluated whether Canada lynx in the contiguous United States constitutes a distinct population segment under the population policy.

While application of the vertebrate population policy may result in the identification of a greater number of potentially listable entities, the policy was developed specifically to allow for more refined application of the Act that better reflects the biological needs of the taxon being considered and avoids the inclusion of entities that may not require the considerable protections of the Act. This approach better serves Congress's intent that listing of distinct population segments be conducted "sparingly."

Under the vertebrate population policy, two elements, discreteness and significance, must be considered to determine whether a species' population meets the definition of a distinct population segment. If a population is discrete and significant, its status is evaluated using the five listing factors described in section 4(a)(1) of the Act to determine if it meets the definition of either threatened or endangered.

A species' population segment can be considered discrete from the remainder of the taxon if it satisfies either one of the following conditions: (1) "it is markedly separated from other populations of the same taxon as a consequence of physical, physiological, ecological, or behavioral factors," or (2) "it is delimited by international governmental boundaries within which differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms exist that are significant in light of section 4(a)(1)(D) of the Act." Given that the Service has determined that resident, viable numbers of Canada lynx exist in the contiguous United States (see Background section), the Service concludes that the contiguous United States population of the Canada lynx is discrete based on the international boundary between Canada and the contiguous United States because of differences in status and management of Canada lynx between the United States and Canada.

In Canada, management of forest lands and conservation of wildlife habitat varies depending on Provincial regulations. In Alberta, there is no law regulating forest practices and the status of Canada lynx in Alberta is of concern because of habitat-related threats as a result of logging (B. Triechel, Alberta Environmental Protection, pers. comm. 1997). There is no overarching forest practices legislation in Canada, such as the United States' National Forest Management Act, governing management of national lands and/or providing for consideration of wildlife habitat requirements. Additionally, in Canada, lynx harvest regulations vary, being regulated by individual Province or, in some cases, individual trapping district.

According to the Vertebrate Population policy, a population segment can be considered significant based on information such as the following: (1) "Persistence of the discrete population segment in an ecological setting unusual or unique for the taxon"; (2) "Evidence that loss of the discrete population segment would result in a significant gap in the range of the taxon"; (3) "Evidence that the discrete population segment represents the only surviving natural occurrence of a taxon that may be more abundant elsewhere as an introduced population outside its historic range;" and (4) "Evidence that the discrete population segment differs markedly from other populations of the species in its genetic characteristics."

In a general sense, Canada lynx in the contiguous United States might be considered biologically and/or ecologically significant simply because they represent the southern extent of the species' overall range. There are climatic and vegetational differences between Canada lynx habitat in the contiguous United States and that in northern latitudes in Canada and Alaska (Kuchler 1985). In the contiguous United States, Canada lynx inhabit a mosaic between boreal forests and subalpine coniferous forests or northern hardwoods, whereas in more northern latitudes, Canada lynx habitat is the boreal forest ecosystem (Barbour *et al.* 1980; McCord and Cardoza 1982; Koehler and Aubry 1994; M. Hunter, University of Maine, pers. comm. 1994; Colorado Division of Wildlife *et al.* 1997) (see Background section).

Canada lynx and snowshoe hare population dynamics in portions of the contiguous United States are different from those in northern Canada. Historically, Canada lynx and snowshoe hare populations in some areas of the contiguous United States have not exhibited the extreme cyclic population fluctuations of the northern latitudes for which Canada lynx are noted (Dolbeer and Clark 1975; Brittell *et al.* 1989; Wolff 1980; Buehler and Keith 1982; Koehler 1990; Koehler and Aubry 1994) (see Background section). This less cyclic population has been attributed to the lower quality and quantity of snowshoe hare habitat available in southern latitudes and/or the presence of additional snowshoe hare predators (Buehler and Keith 1982, Wolff 1982 *in* Koehler and Aubry 1994, Koehler 1990, Koehler and Aubry 1994).

Extirpation of the contiguous United States population of the Canada lynx would result in a significant gap in the range of the taxon. Canada lynx would not only be lost throughout a broad region of the United States, but a number of ecosystems would lose a top-level carnivore from their representative fauna.

After review and consideration of Canada lynx status and management in the contiguous United States and Canada, contacts with recognized experts, lynx life history, habitat, and population dynamics, the Service has determined that the Canada lynx in the contiguous United States is discrete and significant and, therefore, qualifies as a distinct population segment to be considered for listing under the Act.

Finding

Based on historic observations, trapping records and other evidence available to the Service at this time, the Service finds that, historically, Canada lynx were resident in 16 of the contiguous United States. The overall numbers and range of Canada lynx in the contiguous United States are substantially reduced from historic levels. Currently, resident populations of lynx likely exist in Maine, Montana, Washington, and possibly Minnesota. States with recent records of individual lynx sightings, but possibly no longer sustaining self-supporting populations, include Wisconsin, Michigan, Oregon, Idaho, Wyoming, Utah, and Colorado. Lynx may be extirpated from New Hampshire, Vermont, New York, Pennsylvania, and Massachusetts.

At present, lynx numbers in the contiguous United States have not recovered from the overexploitation by both unregulated and regulated trapping that occurred in the 1970's and 1980's. As a result, the other threats to the lynx described earlier under the "Summary of Factors Affecting the Species" section have a serious effect on the remaining population. Where Canada lynx numbers have been substantially reduced or extirpated, natural recolonization of suitable habitat likely

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will require lynx migration from other areas in the contiguous United States or Canada. In Maine, there is evidence that lynx move back and forth across the Canadian border, indicating that Maine lynx habitat is contiguous with occupied habitat in Quebec and possibly, New Brunswick (M. Amaral, *in litt.* 1998).

Forest management practices that result in the loss of diverse age structure, roading, urbanization, agriculture, recreational developments, and unnatural fire frequencies have altered suitable lynx habitat in many areas throughout the contiguous United States. As a result, many states may have insufficient habitat quality and/or quantity to sustain lynx or their prey.

The likelihood of lynx encountering people has dramatically increased over the last few decades as a result of elevated levels of human access into lynx habitat. Roads and trails, snowmobiles, offroad vehicles, and ski area developments enable human access into historically remote forests, thereby increasing the likelihood of lynx being displaced from otherwise suitable habitats and increasing the vulnerability of lynx to human-induced mortality.

Although the legal taking of lynx is highly restricted in the contiguous United States, existing regulatory mechanisms may be inadequate to protect the small, remnant lynx populations or to conserve Canada lynx habitat.

The cumulative effect of these habitat changes has been the creation of habitats and prey bases that are better able to support lynx competitors, such as bobcats and coyotes, rather than lynx. Bobcats are able to outcompete lynx except in habitats with excessive snow depths. Roads and packed snow trails have allowed bobcats and coyotes to access the winter habitats for which lynx are highly specialized.

Recently, some States, Federal agencies, and other entities have initiated survey and research efforts to better evaluate the status of the Canada lynx within the contiguous United States. Additionally, some States such as Washington, Colorado, and Idaho are in the process of developing strategies to conserve and restore lynx in their states.

Resident lynx populations still occur in Montana, Washington, Maine and, possibly, Minnesota. According to Montana Fish, Wildlife and Parks, Montana's lynx numbers are fairly stable. Therefore, the Service concludes that a designation as threatened is appropriate. A threatened species is defined in the Act as a species likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

Based on the preceding discussions and analyses, using the best available scientific and commercial information available, the Service finds that listing of the Canada lynx within the contiguous United States is warranted. The Service proposes to list the contiguous United States Canada lynx population segment (consisting of the States of Maine, New Hampshire, Vermont, New York, Pennsylvania, Massachusetts, Michigan, Wisconsin, Minnesota, Washington, Oregon, Idaho, Montana, Wyoming, Utah, and Colorado) as threatened.

Critical Habitat

Critical habitat is defined in section 3(5)(a) of the Act as— (i) the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection and; (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. The term "conservation" as defined in section 3(3) of the Act means "to use and the use of all methods and procedures necessary to bring any endangered or threatened species to the point at which the measures provided pursuant to this Act are no longer necessary," i.e., the species is recovered and can be removed from the list of endangered and threatened species.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for the Canada lynx at this time. Service regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exist—(1) the species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or (2) such designation of critical habitat would not be beneficial to the species.

In accordance with the definition of critical habitat provided by section 3(5)(A)(I) of the Act, the Service's regulations require the Service to consider those physical and biological features that are essential to the conservation of the species and that may require special management considerations or protection. Such requirements include, but are not limited to—(1) space for individual and population growth, and for normal behavior; (2) food, water, air, light, minerals, or other nutritional or physiological requirements; (3) cover or shelter; (4) sites for breeding, reproduction, rearing of offspring, germination, or seed dispersal; and, generally, (5) habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of a species.

Potential benefits of critical habitat designation derive from section 7(a)(2) of the Act, which requires Federal agencies, in consultation with the Service, to ensure that their actions are not likely to jeopardize the continued existence of listed species or to result in the destruction or adverse modification of critical habitat of such species. Critical habitat, by definition, applies only to Federal agency actions. The 50 CFR 402.02 defines "jeopardize the continued existence of" as meaning to engage in an action that would reasonably be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species. "Destruction or adverse modification" is defined as a direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. Such alterations include, but are not limited to, alterations adversely modifying any of those physical or biological features that were the basis for determining the habitat to be critical. Thus, in the section 7(a)(2) consultation process, the jeopardy analysis focuses on potential effects on the species' populations, whereas the destruction or adverse modification analysis focuses on habitat value.

Common to both a jeopardy and the destruction or adverse modification of critical habitat is the requirement that the Service find an appreciable effect on both the species' survival and recovery. This is in contrast to the public perception that the adverse modification standard sets a lower threshold for violation of section 7 than that for jeopardy. Thus, Federal actions satisfying the standard for adverse modification are nearly always found to also jeopardize the species concerned, and the existence of critical habitat designation does not materially affect the outcome of consultation. Biological opinions that conclude that a Federal agency action is likely to adversely modify critical habitat but is not likely to jeopardize the species for which it is designated are extremely rare historically; none have been issued in recent years. Thus, the Service believes that, from a section 7 consultation perspective, no additional conservation benefit would be achieved for the contiguous United States Canada lynx population by the designation of critical habitat.

Currently, in the contiguous United States, legal harvest of lynx is not a threat to the population because all States, except Montana, have closed seasons on the harvest of lynx. Montana has an extremely low quota, allowing two lynx to be harvested per season. Additionally, current prices for lynx pelts are relatively low so there is little incentive to trap lynx. However, should pelt prices increase again in the future, there will be strong incentive to trap lynx as evidenced by trapping records from the 1970's and 1980's (see Factor B, above). Designation of critical habitat would increase the vulnerability of lynx to poaching; therefore, the Service concludes it would not be prudent to designate critical habitat.

In the contiguous United States, Canada lynx inhabit a mosaic between boreal forests and subalpine coniferous forests or northern hardwoods, as described earlier in the Background section. Canada lynx are highly dependent on snowshoe hares to supply an adequate food source. Canada lynx concentrate their foraging activities in areas where hare activity is high. Snowshoe hares prefer structurally diverse forests, often early successional stages, with stands of conifers and shrubby understories that provide for feeding, escape from predators, and protection during extreme weather. For denning, it is believed Canada lynx require late successional forests that provide downed logs and windfalls for cover. Additionally, Canada lynx are highly mobile and can move long distances in search of prey (see Background section, above). Home range sizes vary widely (12 to 243 sq km (5–94 sq mi) depending primarily on the density of lynx and availability of prey in an area. For example, the estimated range of one male lynx would encompass all protected lands in the White Mountain National Forest in New Hampshire and Maine (Brocke *et al.* 1993).

The Service concludes it would not be beneficial to designate specific geographic locations as critical habitat because snowshoe hare habitat and lynx denning habitat will always shift spatially and temporally across the landscape as a result of natural (e.g., fire, forest maturation, seasonal) and human-caused changes (e.g., logging, thinning). Canada lynx would reasonably be expected to relocate in response to the natural dynamics of lynx population levels, prey availability, and habitat conditions, thereby making little use of specific areas designated as critical habitat.

Attempting to encompass lynx movements or the spatial shifts in lynx foraging or denning habitat that will occur over time by designating critical habitat on a large-scale (e.g., an entire national forest or wilderness area) would not be beneficial to the species. Under such a designation, it would be impracticable to assert that a single Federal action would appreciably diminish the value of critical habitat for both the survival and recovery of a listed species or that the entire expansive area requires special management or protection (the purpose of a critical habitat designation) for lynx. Additionally, Forest Plans that dictate how an entire national forest would be managed are already subject to review under section 7.

A large-scale designation would be over inclusive because it would contain many areas that never were or will be lynx habitat and areas that, although they may be used by lynx, would not require special management or protection for lynx. For example, in 1994, nearly 60 percent of the approximately 17 million acres of national forests in Montana were classified as roadless or designated wilderness areas (J. Gatchell, Montana Wilderness Association, pers. comm. 1994). However, a large proportion of these areas are not suitable lynx habitat because they consist of rock- and ice-covered mountaintops.

A substantial amount of Federal land exists in the Western and Great Lakes regions of the contiguous United States lynx population segment in Washington, Oregon, Idaho, Montana, Wyoming, Utah, Colorado, Minnesota, Wisconsin, and Michigan. Actions on these Federal lands are ensured of the benefit of review under section 7 of the Act, regardless of whether or not critical habitat is designated. Potential and occupied Canada lynx habitat exists primarily on Federal lands managed by the U.S. Forest Service. Additional Federal land managers include but are not limited to the National Park Service and Bureau of Land Management. Currently, the U.S. Forest Service, Bureau of Land Management, and the Service are developing a section 7 conferencing and consultation strategy to conserve lynx on the 56 National Forests and numerous Bureau of Land Management districts within its historic range in the contiguous United States (B. Ruediger, *in litt.* 1998).

Designation of critical habitat provides no limitations or constraints on private landowners if there is no Federal involvement and, as such, provides the species no conservation benefit. The amount of Federal land in the northeastern United States range of the lynx is small (primarily the White Mountain and Green Mountain National Forests in parts of Vermont, New Hampshire, and Maine) compared to the amount of non-Federal land. Because few Federal actions occur in the northeastern United States range of the lynx, project review under section 7 of the Act would be rarely required (M. Amaral, pers. comm. 1998).

In the Rocky Mountain/Cascades, Great Lakes, and Northeast regions of the lynx range, there are large parcels of land in corporate ownership. Actions on these lands will either have no Federal nexus or will require review under section 7 of the Act.

Protection of lynx habitat can be addressed in habitat conservation plans voluntarily developed by landowners under the section 10 permitting process. In the State of Washington, Canada lynx are covered under a multispecies Habitat Conservation Plan on forest lands owned by Plum Creek Timber Company in the central Cascades mountain range.

Therefore, because of the increased vulnerability of the lynx, the spatial and temporal changes in lynx foraging and denning habitats, the high mobility of individual lynx, the inability to control lynx habitat in Canada, and the fact that designation of critical habitat would provide little different or greater benefit than that provided by the jeopardy standard under section 7 regulations, the Service has determined that the designation of critical habitat for the contiguous United States population of the Canada lynx is not prudent.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness and conservation actions by Federal, State, and local agencies, private organizations, and individuals. The Act provides for possible land acquisition and cooperation with the States and requires

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that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

The contiguous United States population of the Canada lynx occurs on lands administered by the U.S. Forest Service, National Park Service, Bureau of Land Management; Tribal lands, State lands, and private lands. Examples of Federal agency actions that may require conference and/or consultation as described in the preceding paragraph include timber, silviculture/thinning, road construction, fire, and recreation management activities or plans by the Forest Service, Bureau of Land Management, and National Park Service; Federal highway projects, and U.S. Housing and Urban Development projects.

The Act and implementing regulations set forth a series of general prohibitions and exceptions that apply to all threatened wildlife. The prohibitions, codified at 50 CFR 17.21 and 17.31, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered or threatened wildlife under certain circumstances. Regulations governing permits are codified at 50 CFR 17.32. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in the course of otherwise lawful activities. For threatened species, permits also are available for zoological exhibition, educational purposes, or special purposes consistent with the purposes of the Act. Regulations governing permits for species listed as threatened due to similarity of appearance are codified at 50 CFR 17.52 and regulation implementing CITES are codified at 50 CFR part 23.

It is the policy of the Service (59 FR 34272; July 1, 1994) to identify to the maximum extent practicable at the time a species is listed those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of this listing on proposed and ongoing activities within the species' range.

For the contiguous United States population of the Canada lynx, the Service believes the following actions would not likely result in a violation of section 9:

(1) Actions that may affect Canada lynx in the contiguous United States that are authorized, funded or carried out by a Federal agency when the action is conducted in accordance with an incidental take statement issued by the Service pursuant to section 7 of the Act;

(2) Actions that may result in take of Canada lynx in the contiguous United States when the action is conducted in accordance with a permit under section 10 of the Act; For the contiguous United States population of the Canada lynx, the following actions likely would be considered a violation of section 9:

(1) Actions that take Canada lynx that are not authorized by either a permit under section 10 of the Act, or an incidental take permit under section 7 of the Act; the term "take" includes harassing, harming, pursuing, hunting, shooting, wounding, killing, trapping, capturing, or collecting, or attempting any of these actions;

(2) Possess, sell, deliver, carry, transport, or ship illegally taken Canada lynx;

(3) Interstate and foreign commerce (commerce across State and international boundaries) without the appropriate permits under section 10(a)(1)(a), 50 CFR 17.32 and/or CITES.

(4) Significant lynx habitat modification or degradation, including but not limited to forest management (e.g., logging, road construction and maintenance, prescribed fire), and recreational, urban, or agricultural development, to the point that it results in death or injury by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering.

Requests for copies of the regulations regarding listed wildlife and inquiries about prohibitions and permits may be addressed to U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225.

Special Rule

The implementing regulations for threatened wildlife under the Act incorporate the section 9 prohibitions for endangered wildlife (50 CFR 17.31), except when a special rule promulgated pursuant to section 4(d) applies (50 CFR 17.31(c)). Section 4(d) of the Act provides that whenever a species is listed as a threatened species, the Service shall issue regulations deemed necessary and advisable to provide for the conservation of the species. Conservation means the use of all methods and procedures necessary to bring the species to the point at which the protections of the Act are no longer necessary. Section 4(d) also states that the Service may, by regulation, extend to threatened species, prohibitions provided for endangered species under Section 9.

This special rule will provide for the take of captive-bred Canada lynx without permit, allow the continuation of the export of captive-bred Canada lynx under CITES export permits, and provide for the transportation of lynx skins in commerce within the United States. The export of properly tagged (with valid CITES export tag) skins from lynx documented as captive-bred will be permitted in accordance with part 23 of this chapter. Properly tagged skins may be transported in interstate trade without permits otherwise required under part 17.32.

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments, or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) Additional information concerning the range, distribution, and population size of the species;

(3) Current or planned activities in the subject area and their possible impacts on this species;

(4) Additional information pertaining to the promulgation of a special rule to provide States and Tribes the opportunity to maintain the lead role in protection, management, and recovery of the species through the voluntary development and implementation of a conservation plan. Such conservation plans would address activities having the potential to adversely impact lynx or lynx habitat, including activities that may result in the take of lynx incidental to otherwise lawful activities; provisions to avoid and minimize those impacts; and existing or planned conservation measures that will be implemented to result in a net recovery benefit for lynx. Potential activities to be addressed in such a plan may include trapping and hunting programs that target species other than lynx; forest management; road construction, maintenance and use; and recreational development. Approved conservation plans would authorize the non deliberate or non purposeful take of lynx incidental to otherwise lawful State or Tribal activities.

The final decision on this proposal will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Act provides for at least one public hearing on this proposal, if requested. However, given the high likelihood of several requests throughout the species' range, the Service has scheduled hearings in advance of any request. For additional information on public hearings, see the SUPPLEMENTARY INFORMATION section.

Similarity of Appearance

Section 4(e) of the Act authorizes the treatment of a species (or subspecies or population segment) as an endangered or threatened species even though it is not otherwise listed as endangered or threatened if: (a) The species so closely resembles in appearance an endangered or threatened species that enforcement personnel would have substantial difficulty in differentiating between listed and unlisted species; (b) the effect of this substantial difficulty is an additional threat to the endangered or threatened species; and (c) that such treatment will substantially facilitate the enforcement and further the policy of the Act.

The Canada lynx is included in Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). CITES is an international treaty that regulates international trade in certain animal and plant species. Exports of animals and plants listed on CITES Appendix II as a similarity of appearance species may occur only if the Scientific Authority has advised the Management Authority that such exports will not be detrimental to the survival of the look alike species, and if the Management Authority is satisfied that the animals or plants were not obtained in violation of laws for their protection. The Canada lynx was included in CITES Appendix II on February 4, 1977, as a part of the listing of all Felidae that were not already included in the appendices. A CITES export permit pursuant to 50 CFR part 23 must be issued by the exporting country before an Appendix II species may be shipped. All Felidae were included in Appendix II to enable better protection of look alike species that were or could be threatened with extinction without strict regulation of trade. After inclusion of the lynx (as well as the bobcat and river otter) in CITES Appendix II, the Service worked with the States to develop guidelines for State programs that would provide the information needed to satisfy CITES export requirements. Under the State CITES export programs, all skins to be exported are required to be tagged with a permanently attached, serially numbered tag that identified the species, State of origin, and season of taking. The tags are provided to the States by the Service. The States that were approved for export of lynx are Alaska, Idaho, Minnesota, Montana, and Washington. Canada lynx in Alaska are not encompassed by this listing, all existing CITES requirements remaining the same. Of the 48 contiguous States, Montana is the only State that still has a wild lynx harvest with a quota of two.

Currently there are facilities in Idaho, Minnesota, Montana, North Dakota, and Utah that raise captive-bred Canada lynx for commercial purposes. At least some of the farms report that their initial stock was obtained from Canada. From 1992 through 1997, Minnesota and Montana reported that a total of 139 lynx pelts were tagged for export under the CITES program and these primarily originated from farmed animals. The Service currently has an application pending for the export of 254 captive-bred lynx from Utah. These captive-bred specimens have neither a positive or negative effect on the species in the wild.

Current prices for lynx pelts are relatively low so there is little present incentive to trap lynx. However, should pelt prices increase again in the future, there could be strong incentive to trap wild lynx and export their pelts. Lynx are easy to trap and the illegal take of lynx may present an enforcement and inspection problem for Service personnel. Captive-bred Canada lynx cannot be effectively differentiated from wild Canada lynx by Service law enforcement and inspection personnel without proper tagging. For these reasons, the Service is listing the captive populations of Canada lynx within the United States as threatened due to similarity of appearance. However, under the latitude for threatened species afforded by the Act and 50 CFR 17.31(c) the Service is proposing to issue permits for captive-bred Canada lynx to facilitate the lawful export of Canada lynx. The listing of the captive populations of Canada lynx within the United States as threatened due to similarity of appearance eliminates the ability of persons to misrepresent illegally taken wild Canada lynx as captive-bred Canada lynx for commercial purposes.

This proposed rule would, in addition to the export under 50 CFR part 23 of live captive-bred Canada lynx, allow the export of skins derived from captive-bred populations of Canada lynx if the specimens are tagged with a CITES export tag and accompanied by a valid CITES export permit. The import of lawfully obtained Canada lynx pelts originating in the nation of Canada would continue to require the necessary CITES export permits, but no additional Endangered Species Act import permit would be required. Interstate transport and/or commerce in skins that are properly tagged with valid CITES export tags would be allowed without permits otherwise required under 50 CFR 17.32. The export or interstate transport of skins of Canada lynx taken incidental to otherwise lawful trapping for species other than Canada lynx will not be permitted under the special rule. The import of live specimens would require permits under the Act.

Regulations implementing the Endangered Species Act are set forth at 50 CFR part 17. Any person intending to engage in an activity for which a permit is required such as exporting lawfully obtained Canada lynx must, before commencing such activity, obtain a valid permit authorizing such activity. Permit requirements for threatened species are set forth at 50 CFR 17.31 and 17.32. Permit requirements for species

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listed by similarity of appearance are set forth at 50 CFR 17.52, with exceptions to permit requirements provided by special rule as proposed herein. The Service's general permit procedures are set forth at 50 CFR part 13. Uniform rules and procedures for the importation, exportation and transportation of wildlife are set forth at 50 CFR part 14.

In summary, CITES/Endangered Species Act permits will be required for U.S. captive-bred lynx being sold abroad. No U.S. Fish and Wildlife permits will be required for the importation of lynx products into the U.S., and permits will not be required for interstate transport and commerce in skins that are properly tagged with valid CITES export tags.

National Environmental Policy Act

The Fish and Wildlife Service has determined that Environmental Assessments and Environmental Impact Statements, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Required Determinations

The Service has examined this regulation under the Paperwork Reduction Act of 1995 and found it to contain no information collection requirements for which Office of Management and Budget (OMB) approval is required. Persons exporting captive-bred Canada lynx may continue to obtain permits which are already authorized under 50 CFR part 23 as approved by OMB and assigned clearance number 1018–0022.

The Service invites comments on the anticipated direct and indirect costs and benefits or cost savings associated with the special rule for the captive Canada lynx population. In particular the Service is interested in obtaining information on any significant economic impacts of the proposed rule on small public and private entities. Once we have reviewed the available information, we will prepare an initial regulatory flexibility analysis for the special rule and make this available for public review. This analysis will be revised as appropriate and incorporated into the record of compliance (ROC) certifying that the special rule complies with the various applicable statutory, Executive Order, and Departmental Manual requirements. Pursuant to the Endangered Species Act, the ROC is not applicable to the listing of the Canada lynx. In accordance with the criteria in Executive Order 12866, neither the listing nor the special rule are significant regulatory actions subject to review by the Office of Management and Budget.

References Cited

A complete list of all references cited herein, as well as others, is available upon request from the Montana Field Office (see **ADDRESSES** section).

Author

The primary author of this document is Lori H. Nordstrom, Montana Field Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, the Service hereby proposes to amend Part 17, Subchapter B of Chapter I, Title 50 of the U.S. Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend 17.11(h) by adding the following, in alphabetical order under "MAMMALS," to the List of Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
MAMMALS							
*	*	*	*	*	*	*	
Lynx, Canada	*Lynx canadensis.*	USA (WA, OR, WA, OR, ID, MT, ID, MT, UT, UT, WY, CO, MN, WY, CO, MN, WI, MI, ME, VT, WI, MI, ME, NH, NY, MA, VT, NH, NY, PA, MA, PA, AK), Canada.	(Unless bred in captivity)	T		N/A	N/A
Do	......do	......do	All captive animals within the coterminous U.S.A. (lower 48 States), activities as prohibited or allowed under 17.31, 17.32, 17.40(k), 17.52, and part 23.	T(S/A)		N/A	17.40(k)
*	*	*	*	*	*	*	

3. Amend § 17.40 by adding paragraph (k) to read as follows:

§ 17.40 Special rules—mammals.

* * * * *

(k) Canada lynx (*Lynx canadensis*) population—(1) *Prohibitions.* (i) Except as noted in paragraph (k)(2) of this section, all prohibitions of 50 CFR 17.31 and exemptions of 50 CFR 17.32 and 17.52 apply to the captive Canada lynx population within the coterminous United States (lower 48 States).

(2) *Exceptions.* (i) The Service may issue incidental take permits or permits authorizing activities that would otherwise be unlawful under paragraph (k)(1) of this section for education purposes, scientific purposes, the enhancement or propagation for survival of Canada lynx, zoological exhibition, and other conservation purposes consistent with the Act in accordance with 50 CFR 17.52 and pursuant to a section 6 coöperative agreement with a State, if applicable.

(ii) No permit will be required for taking of lawfully obtain captive-bred lynx. The Service may issue CITES export permits for captive-bred Canada lynx and properly tagged captive-bred Canada lynx skins in accordance with 50 CFR part 23. Interstate transport and or commerce in skins that are properly tagged with a valid CITES export tag would be allowed without a permit. The export or interstate transport of skins of Canada lynx taken incidental to otherwise lawful trapping for species other than Canada lynx will not be permitted.

Dated: June 26, 1998.

Donald Barry,

Acting Assistant Secretary, Fish and Wildlife and Parks.

[FR Doc. 98–17771 Filed 6–30–98; 11:22 am]

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Part III

Department of Education

Systems-Change Projects To Expand Employment Opportunities for Individuals With Mental or Physical Disabilities, or Both, Who Receive Public Support; Notices

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DEPARTMENT OF EDUCATION

RIN 1820–ZA11

Systems-Change Projects To Expand Employment Opportunities for Individuals With Mental or Physical Disabilities, or Both, Who Receive Public Support

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice of a final priority and definitions for fiscal year (FY) 1998 and subsequent years.

SUMMARY: The Secretary announces a final priority and definitions for Systems-Change Projects To Expand Employment Opportunities for Individuals With Mental or Physical Disabilities, or Both, Who Receive Public Support. The Secretary may use this priority and these definitions for competitions in FY 1998 and subsequent fiscal years. The Secretary takes this action to focus attention on an area of national need. The priority is intended to enhance collaboration in existing systems to increase competitive employment opportunities for individuals with disabilities who are participants in public support programs funded by Federal, State, and local agencies.

EFFECTIVE DATE: This priority and definitions take effect August 7, 1998.

FOR FURTHER INFORMATION CONTACT: Pedro Romero, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3316, MES Building, Washington, D.C. 20202–2650. Telephone: (202) 205–9797. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION: This notice contains a final priority and definitions for Systems-Change Projects To Expand Employment Opportunities for Individuals With Mental or Physical Disabilities, or Both, Who Receive Public Support. The authority for these projects is contained in section 12(a)(3) of the Rehabilitation Act of 1973, as amended (the Act) (29 U.S.C. 762(b)(3)). Under this competition the Secretary makes awards to consortiums consisting of, at a minimum, the State vocational rehabilitation agency, the State welfare agency, the State educational agency, the State agency responsible for administering the Medicaid program, and an agency administering an employment or employment training program supported by the U.S. Department of Labor.

On May 20, 1998, the Secretary published a notice of a proposed priority and definitions for this program in the **Federal Register** (63 FR 27806).

Analysis of Comments and Changes

In response to the Secretary's invitation in the notice of proposed priority and definitions, 14 parties submitted comments. An analysis of the comments and of the changes in the priority since publication of the notice of proposed priority and definitions follows. Technical and other minor changes—and suggested changes the Secretary is not legally authorized to make under the applicable statutory authority—are not addressed.

Comment: Two commenters stated that the priority should target specific sub-groups of individuals with disabilities. One commenter suggested that the priority specifically target adults with disabilities who are on public assistance but not eligible for assistance under Temporary Assistance to Needy Families (TANF). The other commenter recommended that the priority target hard-to-employ recipients of TANF.

Discussion: The Secretary believes that applicants should have the flexibility to identify the specific groups they wish to target under their proposed project as long as the targeted populations are comprised of individuals with disabilities who participate in public support programs funded by Federal, State, and local agencies.

Changes: None.

Comment: Two commenters stated that coordination between the Department of Education and both the Social Security Administration and the Department of Labor would enhance the priority. One of the commenters stated that there is a need for coordination between these projects and similar systems-change projects that will be funded by the Social Security Administration.

Discussion: The Office of Special Education and Rehabilitative Services, Department of Education (ED/OSERS), the Social Security Administration, Office of Disability (SSA/OD), the Department of Labor, and other Federal agencies are members of the Systems-Change Interagency Workgroup, which was established by ED/OSERS in accordance with Executive Order 13078, to develop barrier removal strategies and assist in the preparation of this priority. Additionally, SSA/OD is using this same priority language in a SSA/OD priority to support similar systems-change projects. ED/OSERS, SSA/OD, Labor, and the other Interagency Workgroup members will provide both the ED/OSERS and SSA/OD projects with ongoing technical assistance to ensure their success. Finally, projects supported by either agency will be required to develop partnership agreements with the local district offices of SSA and must participate in meetings of the Federal Interagency Workgroup—activities that will foster further coordination and collaboration between the projects and the Federal agencies.

Changes: None.

Comment: Two commenters suggested that educational institutions be involved in project activities.

Discussion: The Secretary agrees that input provided by the educational community is essential to any systems-change effort.

For that reason the priority as written requires that consortiums include a State's educational agency. In addition, consortiums have the discretion to include educational institutions as consortium members or partners, if those institutions would be able to effectively assist in removing barriers to employment for individuals with disabilities.

Changes: None.

Comment: One commenter stated that a consortium of non-profit organizations representing all individuals with disabilities should be empowered to lead projects funded under this priority.

Discussion: The Secretary believes that the State agencies administering public support programs and identified in this priority as required consortium members are most able to effectuate systems-change across State programs. Still, the Secretary encourages project participation by non-profit organizations that represent individuals with disabilities. Such organizations may assist consortiums, either as members or partners, in identifying systemic barriers and in developing and implementing strategies to remove those barriers.

Changes: None.

Comment: One commenter suggested that the Secretary clarify the reference to "employment and training organizations funded by the U.S. Department of Labor" under paragraph C(1) by requiring projects to develop partnership agreements specifically with community-based and other nonprofit employment and training organizations supported by the U.S. Department of Labor.

Discussion: The Secretary agrees that the suggested change is warranted.

Changes: The Secretary has revised paragraph C(1) by clarifying that projects may develop partnership agreements with community-based and other non-profit employment and training organizations funded by the U.S. Department of Labor.

Comment: Two commenters indicated that consumer involvement must be required in order to achieve meaningful and lasting results.

Discussion: The Secretary agrees that consumer involvement is essential to the success of projects funded under this priority and that the priority should better reflect the need for individuals with disabilities to participate in the development of project activities.

Changes: The Secretary has amended paragraph A to require that consortiums establish a Consumer Advisory Board consisting of individuals with disabilities and their representatives. This Board shall assist the consortiums in developing, implementing, and evaluating appropriate barrier-removal strategies.

Comment: One commenter expressed skepticism that the limited length of time that will likely be available for preparing project applications would allow for meaningful participation in the development of applications by Advisory Councils to consortium members.

Discussion: The Secretary agrees that meaningful participation in the development of the application by the Consortium members' Advisory Councils may be hindered by limited preparation time.

Nevertheless, the Secretary expects Advisory Councils to participate in developing applications to the extent possible and intends to facilitate their involvement by directly mailing applications to State agencies that have been identified as required consortium members once the final priority is published and by providing approximately two months for the development and submission of the application. Moreover, the final priority will require that Consumer Advisory Councils assist in developing barrier-removal strategies and in implementing and evaluating those strategies throughout the project period.

Changes: The Secretary has revised paragraph A(3) to require consortiums to seek consumer input during development of the application to the extent possible. In addition, paragraph A(5) requires consortiums to establish a Consumer Advisory Board that will assist in the development, implementation, and evaluation of barrier-removal strategies.

Comment: Two commenters believed that projects should be required to identify Federal-level barriers to employment and that the Federal Government should address these barriers to facilitate the projects' systems-change activities.

Discussion: Projects are not limited to identifying only State or local agency policies, practices, procedures, or rules that inhibit individuals with disabilities from becoming competitively employed. Pursuant to Executive Order 13078, members of the Systems-Change Interagency Workgroup will be working together to address Federal-level barriers, including those identified by funded projects. Thus, the Secretary encourages projects to identify Federal-level barriers to employment for people with disabilities and present relevant information to the Systems-Change Interagency Workgroup. Nevertheless, the priority requires that projects focus on those policies and practices with which the project can readily effectuate systems-change, *i.e.*, State or local policies within the control of consortium members.

Changes: None.

Comment: One commenter indicated that, although multiple State involvement may be feasible in some regions, submissions should not be given preference based on the number of States included in a given proposal.

Discussion: The Secretary does not propose to give preference to applications that serve multiple States.

Changes: None.

Comment: One commenter stated that the projects' focus on "employment" should include self-employment and small business ownership for adults and youths.

Discussion: The Secretary emphasizes that projects are expected to focus on increasing "competitive employment" opportunities for individuals with disabilities. Accordingly, projects may assist individuals with disabilities to achieve self-employment and small business employment outcomes, as long as those outcomes would be considered competitive, *i.e.*, the individual earns at least minimum wage and works in an integrated setting. The Secretary also believes that the priority should be amended to better reflect the required emphasis on competitive employment.

Changes: The Secretary has clarified the priority to require that projects focus on increasing competitive employment opportunities for individuals with disabilities. In addition the Secretary has added the term competitive employment, as defined in 34 CFR 361.5(b)(10), to the definition section of the priority.

Comment: One commenter stated that the external evaluation of funded projects needs to focus intently on improvements in practices by State agency staff.

Discussion: Projects funded under this priority must participate in an external evaluation at the Federal level that, among other things, will examine the effect of specific innovative systems-change approaches and strategies on State or local agency policies, practices, including staff practices across involved programs, and rules affecting the employment of individuals with dissabilities.

Changes: None.

Note: This notice of final priority does not solicit applications. In any year in which the Secretary chooses to use this priority, the Secretary invites applications through a notice in the **Federal Register**. A notice inviting applications under this competition is published elsewhere in this issue of the **Federal Register**.

Priority

Background

According to the 1994 Harris Survey of Americans with Disabilities, two-thirds of individuals with disabilities between the ages of 16 and 64 are not working. Many of these individuals receive financial support or services through programs funded by Federal, State, and local agencies. Examples of these programs include Temporary Aid to Needy Families (TANF), Supplemental Security Income (SSI), Social Security Disability Income (SSDI), Medicaid (including Medicaid waiver programs), Medicare, subsidized housing, and food stamps.

Statistical data reveal that of the 32 percent of adult recipients of Aid to Families with Dependent Children (AFDC) who had a work or functional disability, 15 percent were able to work despite their functional limitations (National Health Interview Survey on Disability, U.S. Department of Health and Human Services, 1994). Studies conducted in Kansas and Washington indicate that up to 60 percent of the current TANF recipients in those States have some type of disability. At the same time, the TANF program requires recipients to work and also limits the length of TANF assistance—recent developments that further underscore the need to reduce barriers to employment confronted by individuals with disabilities on public support.

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In addition, the proportion of individuals with disabilities receiving public support through SSI or SSDI continues to increase. Over the past decade, the total number of SSI and SSDI beneficiaries has doubled, and cash payments for these individuals increased to over $55 billion (World Institute on Disability, 1996). Social Security recipients often do not work since they would lose their Social Security and Medicaid benefits if their earnings increased beyond a threshold level. Thus, few individuals leave the Social Security system. New adult SSI recipients receive benefits for an average of 10 years, whereas individuals who receive SSI benefits as children remain on the rolls for an average of approximately 27 years (Rupp and Scott, 1995).

Many individuals participating in public support programs, including the programs discussed previously, are unable to obtain the services or supports they need to become competitively employed and achieve economic independence. Employment training programs that serve the general population, as well as employers themselves, are often unable to meet the specialized needs of these individuals. In addition, individuals with disabilities who are not eligible for State vocational rehabilitation services, or who do not believe that they need a comprehensive rehabilitation program, are still unlikely to receive work-related services from employment training programs that serve the general population. Consequently, many individuals with disabilities who are capable of working essentially "fall between the cracks." The Secretary expects that the models developed under the priority will demonstrate how employment training and other related programs can more effectively coordinate services so that individuals with disabilities can obtain competitive employment.

Seventy-nine percent of unemployed individuals with disabilities have indicated that they would prefer to be working (Harris Survey, 1994). The combination of the high costs associated with living with a disability, work-related expenses, and the reduction in public supports available to persons once they become employed often dissuade individuals with disabilities from pursuing competitive work. Some of the specific barriers to the employment that individuals with disabilities commonly confront include—

- Lack of adequate health insurance (*e.g.*, individuals' fear of losing public health care coverage, inability to obtain private medical insurance, or limited access to treatment and prescription services)
- Underutilization of existing work incentives from Social Security and other State and local agencies (*e.g.*, Plan for Achieving Self Support (PASS), and Impairment Related Work Expenses, section 1619 a and b of the Social Security Act)
- Lack of affordable, accessible housing and transportation
- Insufficient education and training services
- Lack of child care;
- Inadequate supports for employees with disabilities (*e.g.*, onsite and offsite job accommodations and long-term follow-along services)
- Inadequate supports for employers (*e.g.*, incentives for hiring, retaining, and promoting individuals with disabilities and technical assistance and follow-along consultation to assist employers in addressing the ongoing needs of employees with disabilities and to clarify employer misperceptions and misinformation).

Lack of information and coordination of public support programs can cause program-related barriers that inhibit individuals with disabilities from effectively using available services. In many instances, individuals with disabilities are simply unaware of existing employment-related programs, work incentives, or available services. Another common barrier is the lack of coordination between separate programs with separate eligibility criteria even though the same individuals often require services from each program. The Secretary expects projects to address these types of program-related barriers, as well as any other type of barrier that impedes individuals with disabilities from becoming employed and self-sufficient.

There is a critical need for greater coordination between multiple public programs that support individuals with disabilities that would foster increased economic self-sufficiency and a more efficient use of public resources. In an effort to address this need, the Secretary announces the following priority in order to provide a framework for assisting individuals with disabilities to reduce their reliance on various public support programs and obtain and maintain employment in the competitive labor market.

The requirements in the priority are designed to facilitate systems-change projects that eliminate barriers to employment for individuals with disabilities and are based on existing studies and reports, the experiences of State vocational rehabilitation agencies in working with individuals participating in other public support programs, and on information provided by other Federal agencies that administer disability-related programs. These Federal agencies were particularly helpful in assisting the Secretary to identify the employment-related barriers confronted by individuals with disabilities that the Secretary is targeting through this priority and to identify the types of State agencies whose participation in the project would be most critical to eliminating those barriers. The identified State agencies serve as members of a consortium that the systems-change project establishes under paragraph (A) of the priority.

The Secretary emphasizes that the model systems-change projects supported under this priority are part of a larger effort on the part of the Federal Government to create a coordinated and aggressive national policy to reduce the unemployment rate of individuals with disabilities and to assist those individuals in obtaining competitive jobs. This effort is directly reflected in Executive Order 13078, signed on March 13, 1998, entitled "Increasing Employment of Adults With Disabilities" (63 FR 13111, March 18, 1998). For example, Executive Order 13078, in part, calls for an analysis of existing programs and policies to determine what modifications and innovations may be necessary to remove work-related barriers experienced by individuals with disabilities; the development and recommendation of options for eliminating barriers to health insurance coverage for those with disabilities; and an analysis of work-related youth programs and the outcomes of these programs for young people with disabilities. The Secretary announces the following priority as one means of addressing the purposes of Executive Order 13078. As other Federal agencies design and carry out activities in response to the Executive order, it is expected that many of those activities will complement the systems-change projects funded under this priority.

The Secretary also emphasizes the need for projects supported under this priority to begin implementing strategies for removing barriers early in the project period in order for the project to have a measurable effect on the rate by which individuals with disabilities become competitively employed. For that reason, the Secretary expects project recipients to work with Rehabilitation Services Administration staff to ensure that planning steps, including development of partnership agreements and, if appropriate, submission of Medicaid waiver requests under paragraph (C) of the priority, are promptly completed and that projects begin implementing their barrier-removal strategies as soon as possible.

The purpose of the absolute priority is to establish five-year model demonstration projects that stimulate and advance systems change in order to expand competitive employment outcomes for individuals with mental or physical disabilities, or both, who are participants in Federal, State, and local public support programs (*e.g.*, TANF, SSI, SSDI, Medicaid, Medicare, subsidized housing, and food stamps, etc.)

Absolute Priority

Under 34 CFR 75.105(c)(3) and section 12(a)(3) of the Act, the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority:

A. General Requirements for Applicants

Applicants under this priority shall satisfy the following requirements:

(1) Applicants shall form a consortium of, at a minimum, the State vocational rehabilitation agency, the State welfare agency, the State educational agency, the State agency responsible for administering the Medicaid program, and an agency administering an employment or employment training program supported by the U.S. Department of Labor. Additional entities (*e.g.*, public and private non-profit organizations) that could effectively assist in removing barriers to employment for individuals with disabilities also may be included as part of the consortium.

(2) The members of the consortium shall either designate one of their members to apply for the grant or establish a separate, eligible legal entity to apply for the grant. The designated applicant shall serve as the grantee and be legally responsible for the use of all grant funds, overall fiscal and programmatic oversight of the project, and for ensuring that the project is carried out by consortium members in accordance with Federal requirements.

(3) Consortium members shall be substantially involved in the development of the application. To the extent possible, consortiums also shall involve consumers in the development of the application.

(4) The members of the consortium shall enter into an agreement that details the activities that each member plans to perform and that binds each member to the statements and assurances included in the application. Each member is legally responsible for carrying out the activities it agrees to perform and for using the funds that it receives under the agreement in accordance with Federal requirements that apply to the grant. The agreement must be submitted as part of the application.

(5) Consortiums shall establish a Consumer Advisory Board consisting of individuals with disabilities and, as appropriate, their representatives that will assist in the development, implementation, and evaluation of barrier-removal strategies.

(6) The application submitted under this priority also must identify the specific locality or region that would be served by the project.

B. Project Objectives

Projects supported under this priority must—

(1) Identify systemic barriers, including State or local agency policies, practices, procedures, or rules that inhibit individuals with disabilities who are participants in public support programs from becoming competitively employed.

(2) Develop and implement replicable strategies to remove identified barriers, including, at a minimum, strategies for—

(a) Establishing effective collaborative working relationships among project consortium members and their partners as described in paragraph (C)(1) of this priority (*e.g.*, providing interagency staff training and technical assistance on program requirements and services or collaboratively using labor market and job vacancy information);

(b) Establishing coordinated service delivery systems (*e.g.*, common intake and referral procedures, customer databases, and resource information) and developing innovative services and service approaches that address service gaps (*e.g.*, developing employee and employer support networks);

(c) Improving access to health insurance for individuals with disabilities who become employed;

(d) Increasing the use of existing resources by State and local agencies (*e.g.*, Medicaid waivers, Home Community Based Services waivers, Job Training Partnership Act income exemptions, and work incentive provisions such as Plan for Achieving Self Support);

(3) Design and implement an internal evaluation plan for which—

(a) The methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the project;

(b) The methods of evaluation provide for examining the effectiveness of project implementation strategies;

(c) The methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible;

(d) The methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes; and

(e) The evaluation will provide guidance about effective strategies suitable for replication or testing in other settings; and

(4) Disseminate information on effective systems-change approaches developed under these projects to Federal, State, and local stakeholders and facilitate the use of systems-change models in other geographic areas. As examples, consortiums may make presentations before national, State, or local conferences, consult with and provide technical assistance to other States or localities, develop Internet web sites, and distribute project publications.

C. Project Requirements

In carrying out the priority, the projects must—

(1) Develop partnership agreements, as described under **DEFINITIONS**, with the local district offices of the Social Security Administration; the State agency or agencies responsible for mental retardation, developmental disabilities, and mental health services; existing transportation or paratransit service providers; and appropriate public and private sector employers. Partnerships also may be formed with other appropriate entities identified by the consortium, including but not limited to, Centers for Independent Living, consumer advocacy organizations, economic development councils, Private Industry Councils, Governor's committees on the employment of persons with disabilities, developmental disabilities councils, mental health centers, community rehabilitation programs, Indian Tribes, labor unions, and community-based and other non-profit employment and training organizations funded by the U.S. Department of Labor;

(2) Make timely, formal requests for Medicaid waivers if necessary for projects to be able to implement developed strategies;

(3) Implement, in a timely manner, the strategies developed by the project

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to expand employment outcomes for individuals with mental or physical disabilities, or both;

(4) Participate, as appropriate, in meetings of a Federal Interagency Employment Initiative Workgroup and inform workgroup members of project activities; and

(5) Participate in, and provide data for, an external evaluation of the systems-change projects as directed by the Commissioner of the Rehabilitation Services Administration. The evaluation would examine—

(a) The effect of specific innovative systems-change approaches and strategies on State or local agency policies, practices, or rules affecting the employment of individuals with disabilities;

(b) The effect of specific innovative systems-change approaches and strategies on increasing the number of individuals with disabilities who obtain competitive employment, including job retention, promotion, and satisfaction, and wage growth; and

(c) The cost effectiveness of employment supports and services implemented by the project.

Definitions

Competitive employment, as defined in 34 CFR 361.5(b)(10), means work in the competitive labor market that is performed on a full-time or part-time basis in an integrated setting, and for which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals who are not disabled.

Consortium means a group of eligible parties formed by the applicant seeking a Federal award under this priority. Members of the consortium shall enter into an agreement and carry out their responsibilities consistent with the requirements in paragraph (A) of the priority. Members of the consortium shall also ensure that project partners carry out their agreed-upon activities.

Disability with respect to an individual means a physical or mental impairment that substantially limits one or more of the major life activities of that individual, having a record of such an impairment, or being regarded as having such an impairment.

Locality means specific geographical areas within a State or States.

Partner means an entity with which the consortium has entered into an agreement to carry out specific activities, goals, and objectives of the project.

Partnership agreement means a written arrangement between a consortium and its partners to carry out specific activities related to the project.

Public support means Federal, State, and local public programs that provide resources or services to individuals with disabilities. These programs include, but are not limited to, Temporary Aid to Needy Families (TANF), Supplemental Security Income (SSI), Social Security Disability Income (SSDI), Medicaid (including Medicaid waiver programs), Medicare, subsidized housing, and food stamps.

Region means two or more States participating in the project.

Selection Criteria

In evaluating an application for a new grant under this competition, the Secretary uses selection criteria chosen from the general selection criteria in § 75.210 of the Education Department General Administrative Regulations. The selection criteria to be used for this competition will be provided in the application package for this competition.

Electronic Access to This Document

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Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of this document is the document published in the **Federal Register**.

Goals 2000: Educate America Act

The Goals 2000: Educate America Act (Goals 2000) focuses the Nation's education reform efforts on the eight National Education Goals and provides a framework for meeting them. Goals 2000 promotes new partnerships to strengthen schools and expands the Department's capacities for helping communities to exchange ideas and obtain information needed to achieve the goals.

This final priority addresses the National Education Goal that every adult American, including individuals with disabilities, will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

Executive Order 12866

This final priority has been reviewed in accordance with Executive Order 12866. Under the terms of the order the Secretary has assessed the potential costs and benefits of this regulatory action.

The Secretary has determined that there are no costs associated with this priority. Announcement of this priority will not result in costs to State and local governments, recipients of grant funds, or to individuals with disabilities and their families. The benefit from this priority will be to focus activities and Federal assistance on increasing competitive employment outcomes for individuals with disabilities who are participants in public support programs through enhanced collaboration and coordination.

The Secretary has also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Program Authority: 29 U.S.C. 762(b)(3).

(Catalog of Federal Domestic Assistance Number 84.811A, Systems-Change Projects to Expand Employment Opportunities for Individuals With Mental or Physical Disabilities, or Both, Who Receive Public Support)

Dated: July 1, 1998.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 98–18057 Filed 7–7–98; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No.: 84.311A]

Systems-Change Projects to Expand Employment Opportunities for Individuals With Mental or Physical Disabilities, or Both, Who Receive Public Support; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1998

Purpose of Program: To provide financial assistance to model demonstration projects that stimulate and advance systems change in order to expand employment outcomes for individuals with mental or physical disabilities, or both, who are participants in Federal, State, and local public support programs.

Eligible Applicants: Consortiums composed of, at a minimum, the State vocational rehabilitation agency, the State welfare agency, the State educational agency, the State agency responsible for administering the Medicaid program, and an agency administering an employment or employment training program supported by the U.S. Department of Labor.

Deadline for Receipt of Applications: September 3, 1998.

In order to ensure timely receipt and processing of applications, an application must be received on or before the deadline date announced in this application notice. The Secretary will not consider an application for funding if it is not received by the deadline date unless the applicant can show proof that the application was: (1) sent by registered or certified mail not later than five days before the deadline date; or (2) sent by commercial carrier not later than two days before the deadline date. An applicant must show proof of mailing in accordance with 34 CFR 75.102 (d) and (e). Applications delivered by hand must be received by 4:00 p.m. (Eastern Time on the deadline date. For the purposes of this program competition, the Secretary does not apply 34 CFR 74.102(b) which requires an application to be mailed, rather than received, by the deadline date.

Note: All applications must be received on or before the deadline date. This requirement takes exception to the Education Department General Administrative Regulations (EDGAR), 34 CFR 75.102. In accordance with the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, this amendment to EDGAR makes procedural changes only and does not establish new substantive policy. Therefore, under 5 U.S.C. 553(b)(A), proposed rulemaking is not required.

Deadline for Intergovernmental Review: September 18, 1998.

Applications Available: July 8, 1998.

Available Funds: $1,000,000.

Estimated Range of Awards: $250,000–$600,000.

Estimated Average Size of Awards: $500,000.

Estimated Number of Awards: 2.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, and 85.

Selection Criteria: In evaluating an application for a new grant under this competition, the Secretary uses selection criteria chosen from the general selection criteria in § 75.210 of EDGAR. The selection criteria to be used for this competition will be provided in the application package for this competition.

For Applications Contact: The Grants and Contracts Service Team (GCST), U.S. Department of Education, 600 Independence Avenue, S.W., Room 3317, Switzer Building, Washington, D.C. 20202–2550. Telephone: (202) 205–8351. The preferred method for requesting applications is to FAX your request to (202) 205–8717. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain a copy of the application package in an alternate format by contacting the GCST. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

FOR FURTHER INFORMATION CONTACT: Pedro Romero, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3316, Switzer Building, Washington, D.C. 20202–2650. Telephone: (202) 205–9797. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

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Note: The official version of a document is the document published in the **Federal Register**.

Program Authority: Section 12(a)(3) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 762(b)(3)).

Dated: July 1, 1998.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 98–18058 Filed 7–7–98; 8:45 am]

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Part IV

Department of Health and Human Services

Super Notice of Funding Availability for National Competition Programs (National SuperNOFA); Notice of Reopening of Application Period for FHIP and Housing Counseling; and Technical Correction

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4361–N–02]

Super Notice of Funding Availability for National Competition Programs (National SuperNOFA); Reopening of Application Period for FHIP and Housing Counseling; and Technical Correction

AGENCY: Office of the Secretary, HUD.

ACTION: Reopening of the application periods for the FHIP and Housing Counseling Competitions under the National SuperNOFA; and Technical Correction to the Housing Counseling Program and TOP/EDSS NOFA.

SUMMARY: The purpose of this notice is to reopen the application periods for the education/training components of the Fair Housing Initiatives Program (FHIP), and the Housing Counseling Program under the National SuperNOFA published in the **Federal Register** on April 30, 1998. The application period for the National Lead Hazard Awareness Campaign Program, also announced under the April 30, 1998 National SuperNOFA, is not being reopened. This notice also makes a technical correction to the Housing Counseling Program and the TOP/EDSS NOFA published on April 30, 1998.

DATES: *Application Due Dates:* The application due date for the Fair Housing Initiatives Program (FHIP), and the Housing Counseling Program announced under the National SuperNOFA is *August 11, 1998.*

FOR FURTHER INFORMATION CONTACT: For information concerning the Fair Housing Initiatives Program, National Focus Education and Outreach Competition, you may contact Ivy Davis, Director, FHIP/FHAP Support Division at 202–708–0800 (this is not a toll-free number). Persons who use a text telephone (TTY) may call 1–800–290–1617.

For information concerning the National Housing Counseling Training Program you may contact the Marketing and Outreach Division at HUD Headquarters at 202–708–0317. Persons who use a text telephone may call the SuperNOFA Information Center at 1–800–HUD–2209.

For information concerning the TOP/EDSS NOFA, you may contact the Public Housing Information Resource Center at 1–800–955–2232. Persons who use a text telephone may call the SuperNOFA Information Center at 1–800–HUD–2209.

SUPPLEMENTARY INFORMATION:

Background

On April 30, 1998 (63 FR 15490), HUD published its National SuperNOFA announcing the availability of approximately $5,050,000 in HUD National Competition Programs operated and managed by the following HUD Offices: Fair Housing and Equal Opportunity (FHEO), Housing, and Lead Hazard Control [FR–4361–N–01]. The purpose of this notice is to reopen the application period for two of the three programs under the National SuperNOFA: Fair Housing Initiatives Program (FHIP) National Focus Education and Outreach, and the Housing Counseling Program. The application period is not being reopened for National Lead Hazard Awareness Campaign Program announced under the National SuperNOFA.

Reopening of the Application Periods for FHIP and Housing Counseling Programs Under National SuperNOFA

In the National SuperNOFA, HUD announced that the application due dates for the national education/training components of the Fair Housing Initiatives Program (FHIP), Housing Counseling Program and Hazard Control Program to be July 7, 1998. Due to changes from previous years in the requirements for collaborative efforts, the extension of the application due date for the FHIP and Housing Counseling Programs, announced under SuperNOFA I, published on March 31, 1998 (the extension notice was published on May 29, 1998) created a hardship for FHIP and Housing Counseling applicants trying to meet the July 7, 1998 deadline under the National SuperNOFA. Accordingly, to assist FHIP and Housing Counseling program applicants, HUD is reopening the application period and the new application due date is August 11, 1998. Applicants under both the FHIP and Housing Counseling Programs are not required to submit applications by the original July 7, 1998 application due date, but those applicants who submitted applications by the July 7, 1998 application due date are eligible to amend their applications if they choose to do so.

Technical Corrections to Housing Counseling Program NOFA and TOP/EDSS NOFA

In addition to reopening of the application period for the FHIP and Housing Counseling Programs announced under the National SuperNOFA, published on April 30, 1998, the following corrections are made:

1. In the Super Notice of Funding Availability for National Competition Programs (National SuperNOFA), published on April 30, 1998 (63 FR 23958), a correction is made to the Housing Counseling Training Program component of the National SuperNOFA. On page 23977, in the middle column, under Section I(D)(1), the first sentence of the first paragraph of this section is revised to read "Applicants must be public or private non-profit organizations with at least 2 years of relevant training experience."

2. In the Super Notice of Funding Availability (SuperNOFA) for Economic Development and Empowerment Programs, published on April 30, 1998 (63 FR 23876), a correction is made to a typographical error that appeared in the Consolidated Economic Development and Supportive Services and Tenant Opportunities Program component of this SuperNOFA (63 FR 23907). On page 23912, in the third column, under Section III((A)(6), the indicator number for the Resident Initiatives indicator is Indicator #7, not #8. Accordingly, paragraph (6), titled "PHMAP Score" is corrected to read as follows: "An applicant cannot have a PHMAP score less than a C for either Indicator #6, Financial Management, or Indicator #7, Resident Services/Community Building on its most recent PHMAP.

Dated: July 2, 1998.

Saul N. Ramirez, Jr.,

Acting Deputy Secretary.

[FR Doc. 98–18125 Filed 7–2–98; 4:02 pm]

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Part V

Department of Education

William D. Ford Federal Direct Loan Program; Federal Family Education Loan Program; Notice

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DEPARTMENT OF EDUCATION

William D. Ford Federal Direct Loan Program; Federal Family Education Loan Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice of interest rates for the William D. Ford Federal Direct Loan Program and the Federal Family Education Loan Program for the period July 1, 1998, through June 30, 1999.

SUMMARY: The Assistant Secretary for Postsecondary Education announces the interest rates for variable-rate loans made under the William D. Ford Federal Direct Loan (Direct Loan) Program and the Federal Family Education Loan (FFEL) Program for the period July 1, 1998–June 30, 1999.

FOR FURTHER INFORMATION CONTACT: For the FFEL Program: Brian Smith, Program Specialist. For the Direct Loan Program: Barbara F. Grayson, Program Specialist. Mailing address: Policy Development Division, Office of Postsecondary Education, U.S. Department of Education, Room 3045, ROB–3, 600 Independence Avenue, SW, Washington, DC 20202–5345. Telephone: (202) 708–8242. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Daylight time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape or computer diskette) on request to the contact persons listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION:

General

Section 455(b) of the Higher Education Act of 1965, as amended (the HEA), 20 U.S.C. 1087e(b), provides that variable interest rates apply to loans made under the Direct Loan Program. Section 427A of the HEA, 20 U.S.C. 1077a, provides that variable interest rates apply to certain loans made under the FFEL Program. The variable rates for Direct Loan Program loans and FFEL Program loans are determined annually and apply for each 12-month period beginning July 1 and ending June 30.

The formulas for determining the interest rates charged to borrowers for Direct Loan Program and FFEL Program loans, *except for Consolidation loans in both programs*, are provided in the following legislation:

- For Direct Loan Program loans for which the first disbursement is made before July 1, 1998, section 455 of the HEA (20 U.S.C. 1087e).
- For FFEL Program loans for which the first disbursement is made before July 1, 1998, section 427A of the HEA (20 U.S.C. 1077a).
- For FFEL Program loans and Direct Loan Program loans for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, section 8301 of Pub.L. 105–178 (the Transportation Equity Act for the 21st Century).

The interest rate calculations for all parent and student loans in the Direct Loan and FFEL programs *for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998*, are based on the bond equivalent rate of the 91-day Treasury bills auctioned at the final auction held before June 1.

The formulas for determining the interest rates charged to borrowers of Direct Consolidation loans and FFEL Consolidation loans are provided in the following legislation and regulation:

- For Direct Consolidation loans, 34 CFR 685.215(g).
- For FFEL Consolidation loans for which the consolidation loan application was received by an eligible lender before November 13, 1997, section 428C(c)(1) of the HEA (20 U.S.C. 1078–3(c)(1)).
- For FFEL Consolidation loans for which the consolidation loan application was received by an eligible lender on or after November 13, 1997, and before October 1, 1998, section 428C(c)(1)(D) of the HEA, 20 U.S.C. 1078–3(c)(1)(D) (as added by the Emergency Student Loan Consolidation Act of 1997).

Section 455(g) of the HEA, 20 U.S.C. 1087e(g), gives the Secretary discretion to establish the interest rates for Direct Consolidation loans. Under 34 CFR 685.215(g), for consolidation loans, the interest rate is the same as the interest rate for student and parent loans made during that time.

As described later in this notice, the interest rate for FFEL Consolidation Loans is set by statute.

The bond equivalent rate of the 91-day Treasury bills auctioned at the final auction held before June 1 of each year is used as the index to calculate annual interest rates charged to borrowers with the following loans:

Federal Direct Stafford/Ford loans (Direct Subsidized).

Federal Direct Unsubsidized Stafford/Ford loans (Direct Unsubsidized).

Federal Direct Subsidized Consolidation loans.

Federal Direct Unsubsidized Consolidation loans.

FFEL Stafford loans (subsidized and unsubsidized).

FFEL Consolidation loans for applications received on or after November 13, 1997.

Federal Direct PLUS loans for which the first disbursement is made on or after July 1, 1998.

Federal Direct PLUS Consolidation loans made on or after July 1, 1998.

FFEL PLUS loans for which the first disbursement was made on or after July 1, 1998.

The bond equivalent rate of the 52-week Treasury bills auctioned in the final auction held before June 1 of each year is used to calculate annual interest rates charged to borrowers with the following loans:

Federal Direct PLUS loans for which the first disbursement was made before July 1, 1998.

Federal Direct PLUS Consolidation loans for which the first disbursement was made before July 1, 1998.

FFEL PLUS loans for which the first disbursement was made before July 1, 1998.

FFEL Supplemental Loans for Students (SLS).

The bond equivalent rate of the 91-day Treasury bills auctioned on May 26, 1998, is 5.155 percent, which rounds to 5.16 percent.

The bond equivalent rate of 52-week Treasury bills auctioned on May 21, 1998, is 5.434 percent, which rounds to 5.43 percent.

William D. Ford Federal Direct Loan Program

Interest Rates for Direct Subsidized, Direct Unsubsidized, Direct Subsidized Consolidation, and Direct Unsubsidized Consolidation Loans

1. Direct Subsidized, Direct Unsubsidized, Direct Subsidized Consolidation, and Direct Unsubsidized Consolidation Loans for which the first disbursement was made prior to July 1, 1995—the interest rate may not exceed 8.25 percent: Pursuant to section 455(b)(1) of the HEA, 20 U.S.C. 1087e(b)(1), the interest rate for the period July 1, 1998, through June 30, 1999, is 8.25 percent (5.16 percent plus 3.1 percent equals 8.26 percent, which exceeds the 8.25 percent cap).

2. Direct Subsidized, Direct Unsubsidized, Direct Subsidized Consolidation, and Direct Unsubsidized Consolidation Loans for which the first disbursement was made on or after July 1, 1995, and before July 1, 1998—the interest rate may not exceed 8.25 percent:

(a) During the in-school, grace, and deferment periods: Pursuant to section

455(b)(2) of the HEA, 20 U.S.C. 1087e(b)(2), the interest rate for the period July 1, 1998, through June 30, 1999, is 7.66 percent (5.16 percent plus 2.5 percent equals 7.66 percent).

(b) During all other periods: Pursuant to section 455(b)(1) of the HEA, 20 U.S.C. 1087e(b)(1), the interest rate for the period July 1, 1998, through June 30, 1999, is 8.25 percent (5.16 percent plus 3.1 percent equals 8.26 percent, which exceeds the 8.25 percent cap).

3. Direct Subsidized and Direct Unsubsidized Loans for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998—the interest rate may not exceed 8.25 percent:

(a) During the in-school, grace, and deferment periods: Pursuant to section 8301 of Pub. L. 105–178, the interest rate for the period July 1, 1998, through June 30, 1999, is 6.86 percent (5.16 percent plus 1.7 percent equals 6.86 percent).

(b) During all other periods: Pursuant to section 8301 of Pub.L. 105–178, the interest rate for the period July 1, 1998, through June 30, 1999, is 7.46 percent (5.16 percent plus 2.3 percent equals 7.46 percent).

4. Direct Subsidized Consolidation and Direct Unsubsidized Consolidation Loans for which the first disbursement is made on or after July 1, 1998, or for which the consolidation loan application is received by the Secretary on or after July 1, 1998—the interest rate may not exceed 8.25 percent:

(a) During the in-school, grace, and deferment periods: Pursuant to section 455(g) of the HEA, 20 U.S.C. 1087e(g) and 34 CFR 685.215(g), the interest rate for the period July 1, 1998, through June 30, 1999, is 6.86 percent (5.16 percent plus 1.7 percent equals 6.86 percent).

(b) During all other periods: Pursuant to section 455(g) of the HEA, 20 U.S.C. 1087e(g) and 34 CFR 685.215(g), the interest rate for the period July 1, 1998, through June 30, 1999, is 7.46 percent (5.16 percent plus 2.3 percent equals 7.46 percent).

Interest Rates for Direct PLUS and Direct PLUS Consolidation Loans

1. Direct PLUS loans and Direct PLUS Consolidation loans for which the first disbursement was made before July 1, 1998: Pursuant to section 455(b)(4) of the HEA, 20 U.S.C. 1087(e)(b)(4), the interest rate for the period July 1, 1998, through June 30, 1999, is 8.53 percent (5.43 percent plus 3.1 percent equals 8.53 percent).

2. Direct PLUS loans for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998—the interest rate may not exceed 9 percent: Pursuant to section 8301 of Pub.L. 105–178, the interest rate for the period July 1, 1998, through June 30, 1999, is 8.26 percent (5.16 percent plus 3.1 percent equals 8.26 percent).

3. Direct PLUS Consolidation loans for which the first disbursement is made on or after July 1, 1998, or for which the consolidation loan application is received by the Secretary on or after July 1, 1998—the interest rate may not exceed 9 percent: Pursuant to section 455(g) of the HEA, 20 U.S.C. 1087e(g) and 34 CFR 685.215(g), the interest rate for the period July 1, 1998, through June 30, 1999, is 8.26 percent (5.16 percent plus 3.1 percent equals 8.26 percent).

Federal Family Education Loan Program

Interest Rates for "Converted" Variable-rate FFEL Stafford Loans

1. FFEL Stafford loans which were made with an interest rate of eight percent with an increase to ten percent and that were subject to the "windfall profits" provisions of section 427A(i)(1) of the Act, 20 U.S.C. 1077a(i)(7), and that have been converted to a variable interest rate—the interest rate may not exceed 10 percent: Pursuant to section 427A(i)(7)(A) of the HEA, 20 U.S.C. 1077a(i)(7)(A), the interest rate for the period July 1, 1998, through June 30, 1999, is 8.41 percent (5.16 percent plus 3.25 percent equals 8.41 percent).

2. Seven percent, eight percent, nine percent and eight/ten percent loans that were subject to the "windfall profits" provisions of section 427A(i)(3) of the HEA, 20 U.S.C. 1077a(i)(3), and that have been converted to a variable interest rate—the interest rate may not exceed seven percent, eight percent, nine percent, or ten percent, respectively: Pursuant to section 427A(i)(7)(A) of the Act, 20 U.S.C. 1077a(i)(7)(A), the interest rate for the period July 1, 1998, through June 30, 1999, is 7 percent for 7 percent loans, 8 percent for 8 percent loans, 8.26 percent for 9 percent loans, and 8.26 percent for 10 percent loans (5.16 percent plus 3.1 percent equals 8.26 percent, which exceeds the cap for 7 percent loans and 8 percent loans).

Interest Rates for Regular Variable-rate FFEL Stafford Loans

1. FFEL Stafford loans made to "new" borrowers for which the first disbursement was made (a) on or after October 1, 1992, but before July 1, 1994, or (b) on or after July 1, 1994, for a period of enrollment ending before July 1, 1994, (i.e., a late disbursement)—the interest rate may not exceed 9 percent: Pursuant to section 427A(e)(1) of the HEA, 20 U.S.C. 1077a(e)(1), the interest rate for the period July 1, 1998, through June 30, 1999, is 8.26 percent (5.16 percent plus 3.1 percent equals 8.26 percent).

2. FFEL Stafford loans made to all borrowers, regardless of prior borrowing, for a period of enrollment that includes or begins on or after July 1, 1994, for which the first disbursement was made on or after July 1, 1994, but before July 1, 1995—the interest rate may not exceed 8.25 percent: Pursuant to section 427A(f)(1) of the HEA, 20 U.S.C. 1077a(e)(1), the interest rate for the period July 1, 1998, through June 30, 1999, is 8.25 percent (5.16 percent plus 3.1 percent equals 8.26 percent which exceeds the 8.25 percent cap).

3. FFEL Stafford loans made to all borrowers, regardless of prior borrowing, for which the first disbursement was made on or after July 1, 1995, but before July 1, 1998—the interest rate may not exceed 8.25 percent:

(a) During the in-school, grace, or deferment period: Pursuant to section 427A(g)(2) of the HEA, 20 U.S.C. 1077a(g)(2), the interest rate for the period July 1, 1998, through June 30, 1999, is 7.66 (5.16 percent plus 2.5 percent equals 7.66 percent).

(b) During the repayment period (except deferment periods): Pursuant to section 427A(f)(1) of the HEA, 20 U.S.C. 1077a(f)(1), the interest rate for the period July 1, 1998, through June 30, 1999, is 8.25 percent (5.16 percent plus 3.1 percent equals 8.26 percent, which exceeds the 8.25 percent cap).

4. FFEL Stafford loans, for which the first disbursement is made on or after July 1, 1998, but before October 1, 1998—the interest rate may not exceed 8.25 percent:

(a) During the in-school, grace, and deferment periods: Pursuant to section 8301 of Pub.L. 105–178, the interest rate for the period July 1, 1998, through June 30, 1999, is 6.86 percent (5.16 percent plus 1.7 percent equals 6.86 percent).

(b) During all other periods: Pursuant to section 8301 of Pub.L. 105–178, the interest rate for the period July 1, 1998, through June 30, 1999, is 7.46 percent (5.16 percent plus 2.3 percent equals 7.46 percent).

Interest Rates for FFEL PLUS and FFEL Supplemental Loans for Students Loans

1. Variable-rate FFEL PLUS loans and FFEL SLS loans made before October 1, 1992—the interest rate may not exceed 12 percent: Pursuant to section 427A(c)(4)(B) of the HEA, 20 U.S.C. 1077a(c)(4)(B), the interest rate for the period July 1, 1998, through June 30,

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1999, is 8.68 percent (5.43 percent plus 3.25 percent equals 8.68 percent).

2. FFEL SLS loans for which the first disbursement was made on or after October 1, 1992, for a period of enrollment beginning before July 1, 1994—the interest rate may not exceed 11 percent: Pursuant to section 427(c)(4) of the HEA, 20 U.S.C. 1077a(c)(4), the interest rate for the period July 1, 1998, through June 30, 1999, is 8.53 percent (5.43 percent plus 3.1 percent equals 8.53 percent).

3. FFEL PLUS loans for which the first disbursement was made on or after October 1, 1992, but before July 1, 1994—the interest rate may not exceed 10 percent: Pursuant to section 427A(c)(4)(D) of the HEA, 20 U.S.C. 1077a(c)(4)(D), the interest rate for the period July 1, 1998, through June 30, 1999, is 8.53 percent (5.43 percent plus 3.1 percent equals 8.53 percent).

4. FFEL PLUS loans for which the first disbursement was made on or after July 1, 1994 but prior to July 1, 1998—the interest rate may not exceed 9 percent: Pursuant to section 427(c)(4)(E) of the HEA, 20 U.S.C. 1077a(c)(4)(E),the interest rate for the period July 1, 1998, through June 30, 1999, is 8.53 percent (5.43 percent plus 3.1 percent equals 8.53 percent).

5. FFEL PLUS loans for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998—the interest rate may not exceed 9 percent: Pursuant to section 8301 of Pub.L. 105–178, the interest rate for the period July 1, 1998, through June 30, 1999, is 8.26 percent (5.16 percent plus 3.1 percent equals 8.26 percent).

Interest Rates for FFEL Consolidation Loans

1. FFEL Consolidation loans made before July 1, 1994—the interest rate may not exceed 9 percent: Pursuant to section 428C(c)(1)(B) of the HEA, 20 U.S.C. 1078–3(c)(1)(B), the interest rate is the weighted average of the interest rates on the loans consolidated, rounded to the nearest whole percent.

2. FFEL Consolidation loans made on or after July 1, 1994, for which the consolidation loan application was received by an eligible lender before November 13, 1997: Pursuant to section 428C(c)(1)(C) of the HEA, 20 U.S.C. 1078–3(c)(1)(C), the interest rate is the weighted average of the interest rates on the loans consolidated, rounded upward to the nearest whole percent.

3. FFEL Consolidation loans for which the consolidation loan application is received by an eligible lender on or after November 13, 1997—the interest rate may not exceed 8.25 percent: Pursuant to section 428C(c)(1)(D) of the HEA, 20 U.S.C. 1078–3(c)(1)(D), the interest rate for the period July 1, 1998, through June 30, 1999, is 8.25 percent (5.16 percent plus 3.1 percent equals 8.26 percent which exceeds the 8.25 percent cap).

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Note: The official version of this document is the document published in the **Federal Register**.

(Authority: 20 U.S.C. 1077a and 20 U.S.C. 1087e).

Dated: July 6, 1998.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 98–18267 Filed 7–6–98; 2:40 pm]

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federal register

Wednesday
July 8, 1998

Part VI

Department of Health and Human Services

Food and Drug Administration

21 CFR Parts 101 and 120

Food Labeling: Warning and Notice Statement: Labeling of Juice Products; Final Rule

Hazard Analysis and Critical Control Point (HACCP); Procedures for the Safe and Sanitary Processing and Importing of Juice; Extension of Comment Period; Proposed Rule

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 97N–0524]

RIN 0910–AA43

Food Labeling: Warning and Notice Statement; Labeling of Juice Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is revising its food labeling regulations to require a warning statement on fruit and vegetable juice products that have not been processed to prevent, reduce, or eliminate pathogenic microorganisms that may be present. FDA is taking this action to inform consumers, particularly those at greatest risk, of the hazard posed by such juice products. FDA expects that providing this information to consumers will allow them to make informed decisions on whether to purchase and consume such juice products, thereby reducing the incidence of foodborne illnesses and deaths caused by the consumption of these products.

DATES: Effective September 8, 1998; however, compliance for juice other than apple juice or apple cider is not required until November 5, 1998.

FOR FURTHER INFORMATION CONTACT: Geraldine A. June, Center for Food Safety and Applied Nutrition (HFS–158), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–5099.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of August 28, 1997 (62 FR 45593), FDA published a notice of intent ("the notice of intent") that announced a comprehensive program to address the incidence of foodborne illness related to consumption of fresh juice and ultimately to address the safety of all juice products. In the notice of intent, the agency invited comment on the appropriateness of its strategy to: (1) Initiate rulemaking on a mandatory Hazard Analysis and Critical Control Point (HACCP) program for some or all juice products; (2) propose that the labels or the labeling of juice products not specifically processed to prevent, reduce, or eliminate pathogens bear a warning statement informing consumers of the risk of illness associated with consumption of the product; and (3) initiate several educational programs to minimize the hazards associated with consumption of fresh juices. The agency stated that it would address comments received within 15 days of publication of the notice of intent as part of any rule proposed by the agency and would consider all comments to the notice of intent received after 15 days in any final rulemaking.

FDA considered the comments received within 15 days of the notice of intent and other information available to the agency. Based on this information, FDA tentatively concluded in a proposed rule ("the HACCP proposal") (63 FR 20450, April 24, 1998) that the most effective way to ensure the safety of juice products is to process the products under a system of preventive control measures. Consequently, in the HACCP document, the agency proposed to require that juice products be processed under HACCP programs.

Although FDA had tentatively concluded that HACCP is the most effective means of ensuring the safety of juice products, it also tentatively concluded in a proposed rule ("the juice labeling proposal") (63 FR 20486, April 24, 1998), that there is an immediate need to inform consumers of the health risks associated with the consumption of juice products not processed to prevent, reduce, or eliminate pathogens that may be present. As fully discussed in the juice labeling proposal, FDA proposed that packaged untreated juice products[1] bear a warning statement informing at-risk consumers of the hazard posed by untreated juices to allow them to make informed decisions on whether to purchase and consume such products. Interested parties were given until May 26, 1998, to comment.

FDA prepared a single Preliminary Regulatory Impact Analysis (PRIA) that addressed both the juice labeling proposal and the HACCP proposal (63 FR 24254, May 1, 1998). Interested parties were given until May 26, 1998, to comment on aspects of the PRIA relating to the juice labeling proposal and until July 8, 1998, to comment on aspects of the PRIA relating to the HACCP proposal. Elsewhere in this issue of the **Federal Register**, FDA is announcing a 30-day extension of the comment period on the juice HACCP proposal to August 7, 1998.

FDA received approximately 85 responses to the notice of intent, each containing one or more comments. FDA addressed some of these comments in the juice labeling proposal. FDA subsequently received approximately 150 responses to the juice labeling proposal, each containing one or more comments. Responses to the notice of intent and to the juice labeling proposal were received from industry, trade organizations, consumers, consumer interest groups, academia, and State government agencies. Some of the comments supported the proposal. Other comments opposed the proposal or suggested modifications of various provisions of the proposal. The agency discusses below the significant comments bearing on the proposed labeling regulation and, when applicable, any revisions to the proposed regulation made in response to these comments. Responses to the notice of intent that bear on the juice labeling proposal and that were not addressed in that proposal are also addressed in this document. For simplicity, the agency's discussion does not categorize comments with regard to whether they were received in response to the notice of intent or in response to the juice labeling proposal.

Proposed § 101.17(g)(6) of the juice labeling proposal states that the requirements of that regulation would not apply to juice processed in a manner that will produce, at a minimum, a 5-log (i.e., 100,000-fold) reduction in the pertinent microorganism for a period at least as long as the shelf life of the product when stored under normal and moderate abuse conditions, where the "pertinent microorganism" is the most resistant microorganism of public health significance that is likely to occur in the juice. This provision is directly linked to the process controls for pathogen reduction (the pathogen reduction performance standard; proposed § 120.24 that is part of the agency's HACCP proposal. This standard is pivotal in both the juice labeling and juice HACCP proposals, and interested persons could comment on the standard in response to either or both proposals.

FDA received several requests to extend the comment period, e.g., for an additional 30 days, for an additional 45 days, or for an additional 60 days. Some of these requests discussed the fact that the proposed pathogen reduction performance standard was an important provision of both the juice labeling proposal and the HACCP proposal and stated that 30 days was an insufficient time to address that standard. In a memorandum dated June 5, 1998, from the Deputy Director of FDA's Regulations Policy and Management Staff to the Dockets Management Branch, FDA extended the comment period until June 22, 1998, for those persons who had requested an extension, in accordance with § 10.40(b)(3) (21 CFR 10.40(b)(3)). Thereafter, in a memorandum dated June 10, 1998, FDA extended the comment period until June 22, 1998, for all interested persons. The agency's memoranda noted that comments submitted to the juice labeling rule must be received in the Dockets Management Branch on or before 4:30 p.m., e.d.t., June 22, 1998, and that no other extensions would be considered. The public was notified of both extensions by placing copies of the two memoranda in the agency's public docket.

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[1] As discussed in the juice labeling proposal, the terms "juice" and "juice products" are used interchangeably. Thus, "juice" refers both to beverages that are composed exclusively of an aqueous liquid or liquids extracted from one or more fruits or vegetables and those beverages that contain other ingredients in addition to juice. Similarly, "juice product" refers both to beverages that contain only juice and beverages that are composed of juice and other ingredients.

In the remainder of this document, products not processed to prevent, reduce, or eliminate pathogens will be referred to as "untreated juice products." In addition, processing to "prevent, reduce, or eliminate" pathogens will be referred to as processing to "control" pathogens.

In this document FDA addresses those comments that were received on or before 4:30 p.m., e.d.t., June 22, 1998, in response to the notice of intent, in response to the juice labeling proposal, or in response to the HACCP proposal that bear on the proposed warning statement requirement or on the proposed pathogen reduction performance standard. However, in this document, FDA does not address any comments, received either in response to the notice of intent or in response to the juice labeling proposal, that bear on aspects of the HACCP proposal other than the pathogen reduction performance standard (proposed § 120.24). Those comments will be addressed in any final rule that the agency issues with respect to the HACCP proposal.

As noted, since the publication of the notice of intent in August 1997, FDA has intended to propose two regulations, a juice HACCP regulation and a juice warning statement regulation, that in combination with one another, as well as certain educational programs, would establish a comprehensive program to ensure the safety of fresh juice. As discussed in the juice labeling proposal, the warning statement requirement is designed to provide public health information during the development and implementation of a HACCP rule. FDA recognizes that as a result, certain provisions of the juice labeling proposal and the juice HACCP proposal are very closely linked, including the scope of each rule (e.g., what is defined as "juice") and the pathogen reduction standard (the so-called "5-log standard"). See also comment 40. The agency is also aware that the comment period announced in the juice HACCP proposal is continuing, and in fact, elsewhere in this issue of the **Federal Register**, the agency is announcing a 30-day extension of that comment period to August 7, 1998. Thus, comments are likely to be made on the HACCP proposal, including on these common issues, after the publication of this final rule.

Although there are these overlapping issues in the two juice rulemakings, FDA believes that the public health risk presented by untreated juice is such that it is essential that the warning statement rulemaking be completed and the rule implemented promptly. In order to complete the warning statement rulemaking, the agency must consider and respond to all significant comments on the juice labeling proposal, including those comments that relate to issues presented in both the HACCP and warning statement rulemakings. Thus, this final rule addresses and responds to all significant comments made on the juice labeling proposal; the resolution of these comments is based upon the administrative record of this proceeding at this time. Once the comment period closes on the HACCP proposal, FDA will evaluate all comments received on that proposal and utilize such information to develop a final HACCP rule for juice, if such a rule is supported by the record. To the extent that the agency's analysis of the record for the HACCP proceeding results in the resolution of a common issue or issues in a way that differs from the issue's resolution in this final rule, FDA will initiate the amendment of the juice labeling regulation to ensure conformance with any final HACCP rule.

II. Rationale for Warning Statement

A. Risk Associated with Consumption of Juices

In the notice of intent and the juice labeling proposal, FDA documented that certain juices have been the vehicle for outbreaks of foodborne illness (62 FR 45593). Consequently, in the juice labeling proposal, FDA proposed to require a warning statement for juice products to alert consumers, especially those at greatest risk, of the potential hazard so that they may make informed decisions on whether to purchase and consume such juice products.

1. Some comments contended that FDA has not conducted an adequate risk assessment and, therefore, has no basis to require a warning statement.

The agency performed a detailed evaluation of the hazards posed by untreated juices, which was filed in the administrative record of the HACCP proposal and was included as an appendix to the PRIA (Ref. 1). This evaluation was based on available scientific information and was appropriate to the circumstances. FDA believes that this evaluation provided an adequate assessment of risks and a sufficient basis for requiring a warning statement.

2. Many of the comments contended that the health hazard associated with juice products is not sufficient to justify a warning statement. Some of the comments asserted that the health hazard is limited to apple juice and, therefore, the remedies should be limited to apple juice. Another comment asserted that FDA's estimate of the risk of foodborne illness is inaccurate because that estimate did not consider recent steps taken by members of the juice industry to address microbial contamination. Some comments argued that most of the outbreaks have occurred because of poor manufacturing practices and suggested that FDA increase its inspection of food manufacturers rather than issue regulations to require a warning statement.

The agency does not agree with the comments that contend that the health hazard associated with the consumption of fresh juices is insufficient to justify requiring a warning statement. Risk is a function of two factors: Likelihood of occurrence of an event and severity of the event. As discussed in the HACCP proposal (63 FR 20450 at 20459), severity is the seriousness of the consequences of exposure to the hazard. Considerations of severity (e.g., impact of sequelae and magnitude and duration of illness or injury) can be helpful in understanding the public health impact of the hazard. Likelihood of occurrence of a hazard is generally judged based on processing experience, epidemiological data, and information in the technical literature.

As discussed in the juice labeling proposal, there are documented cases of foodborne illness associated with the consumption of various juice products contaminated with microorganisms such as *Escherichia coli* O157:H7, *Salmonella* species, *Cryptosporidium*, and *Vibrio cholerae*. These various microorganisms, which were found in apple juice, apple cider, orange juice, and frozen coconut milk, were associated with foodborne illness throughout the United States (e.g., in CA, CO, MA, NY, CT, NJ, MD, and WA) over a 6-year period (i.e., 1991 to 1996).

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Furthermore, some of the illnesses associated with certain untreated juice have been very severe (e.g., cases of long-term reactive arthritis and severe chronic illness); in one case, consumption of contaminated juice has resulted in death. As is the case with most food associated disease, because of the likelihood of underreporting, it is assumed that these outbreaks represent a fraction of the outbreaks and sporadic cases that actually occur.

Importantly, the comments did not provide the agency with additional data that either contradict FDA's detailed hazard evaluation (Ref. 1) or that could be used to reevaluate the health risks associated with consumption of untreated juice products. Therefore, the comments have not persuaded FDA that there is insufficient risk to warrant requiring a warning statement for untreated juice products.

The agency recognizes the recent steps taken by members of the juice industry to address microbial contamination. However, FDA notes that industry practices may vary. The agency is not aware that all members of the juice industry are addressing the potential for microbial contamination in an equally effective manner. Accordingly, the agency continues to see a need for a comprehensive Federal regulatory approach for all juice products.

FDA tentatively concluded in the HACCP proposal (63 FR 20450 at 20456) that a preventive system, such as HACCP, appears to offer the most effective long-term solution to control the significant microbial hazards, along with other hazards, that have become a problem with juice. Increased inspection, while having some beneficial impact on the safety of juices, is resource intensive to the agency. Even if funds were available to the agency for this purpose, the agency tentatively concluded in the HACCP proposal that increased inspection likely would not be the best way for the agency to utilize its resources to protect the public health. It is ultimately the responsibility of manufacturers to ensure that their products are safe.

Current good manufacturing practices (CGMP's) are plantwide operating procedures that also address sanitation. Although FDA supports the use of CGMP's, the agency also tentatively concluded in the proposed HACCP rule that the use of CGMP's alone would not be sufficient to control the problems with juices because CGMP's do not concentrate on the identification and prevention of food hazards.

Based on information the agency has received in response to the juice labeling proposal, FDA has concluded that the use of CGMP's and increased FDA inspections by themselves do not adequately address the safety of juices. Labeling addresses the need to provide a warning to consumers until juice processors implement measures to control pathogens.

3. Comments stated that the results of FDA's 1997 national cider mill survey indicate that the health risk posed by cider is not sufficient to warrant a warning label. Although the results of the survey have not been published, these comments asserted that no pathogenic bacteria were found in the cider samples evaluated by the agency.

These comments refer to a 1997 assignment in which FDA inspected fresh unpasteurized apple cider operations and collected in-line product for microbiological analysis at 237 establishments in 32 States. Although FDA has not issued its summary of results from this assignment, the agency notes that this assignment generated microbiological data at several stages of operation in these facilities including the incoming apples, wash water, apples taken after washing but before processing, and finished cider both preserved and unpreserved. The microbiological analyses at these various steps were for pathogens such as *E. coli* 0157:H7 and *Salmonella sp.* and also for fecal coliforms and generic *E. coli*, which are not foodborne pathogens, but are used as indicators of fecal contamination that could be a potential source for contamination by pathogens. It was the agency's intent to consider all of the data generated to assess microbiological safety factors for cider. The agency does not consider it appropriate to focus on any one aspect of its findings, i.e., the lack of any positive finding for pathogens in finished product, for drawing conclusions about the microbiological safety of cider.

This assignment did not result in the detection of any pathogens in a finished cider product intended to be sold to the public. However, FDA's preliminary findings from this assignment show that one firm's incoming apples tested positive for *Salmonella sp.* indicating that microbial hazards that necessitate effective control measures are reasonably likely to occur on incoming apples. Moreover, FDA's preliminary findings show that fecal coliforms and *E. coli* were found in the wash water used at several firms, indicating that the water is of poor quality. In addition a small number of finished cider products tested positive for fecal coliforms and generic *E. coli* was found in 14 percent of the finished product samples.

These findings further support the agency's action here in that they establish that risk factors such as pathogenic bacteria and fecal coliforms can exist in cider processing operations and could give rise to microbiological safety hazards in finished cider products. The findings of this FDA assignment clearly do not support the comment's contention that the health risk posed by cider is insufficient to justify a warning label.

4. Several of the comments that opposed warning statements on juice products contended that they are unnecessary. Two of these comments asserted that FDA should educate the consumer that the problem is not the juice, but rather, the fact that the juice is contaminated with animal feces and not properly processed.

FDA does not agree with this comment to the extent that it asserts that a warning statement should not be part of the Federal response to the problem of contaminated juice. Juice products that contain pathogenic microorganisms can be a vehicle for foodborne illness regardless of whether the microbial contamination arises from the source fruit or vegetable or from insanitation during manufacture. FDA's HACCP proposal is designed to ensure the safe and sanitary processing of juice. The warning statement, which is itself a form of education, is required only for those juices that have not been processed to achieve the pathogen reduction performance standard. Consumers, particularly those at greatest risk, need to know that untreated juice may contain harmful bacteria that could cause serious illness so that they may make informed choices. FDA expects that the warning statement will reduce the risk of illness because some of the at-risk consumers likely will choose not to expose themselves to the hazard.

B. Juice Products Versus Other Food Products That May Contain Pathogens

5. Several comments claimed that the agency's actions were discriminatory in nature and not proportional to the health hazard posed by unpasteurized juices. These comments questioned why other food products associated with recent foodborne illnesses are not required to bear warning statements (i.e., fruits, berries, eggs, melons, poultry, hamburgers, meat products, seafood, etc.).

The agency disagrees with these comments. Juice products historically have been consumed by individuals without treatment to control pathogenic microorganisms. In addition, the presence of some of the pathogens (i.e., *E. coli* O157:H7 and *Crytosporidium*) that have been responsible for recent outbreaks of foodborne illnesses associated with untreated juice products is a relatively new phenomenon. Therefore, consumers do not associate such pathogens, and the risk that they present, with the consumption of untreated juice. Accordingly, in the juice labeling proposal, the agency tentatively concluded that a juice warning statement is needed to protect the public health because consumers are unaware of the nature and magnitude of the hazard.

In contrast, other mechanisms are in place to reduce the risk of foodborne illness from consumption of many of the foods discussed in the comments. First, consumers have some awareness that meat and poultry products have the potential to contain harmful microorganisms; also, these foods ordinarily are cooked prior to consumption. Moreover, meat and poultry products that are regulated by the U.S. Department of Agriculture's Food Safety and Inspection Service (USDA/FSIS) are subject to that agency's HACCP regulations. In addition, regulations issued by USDA/FSIS require safe handling instructions on raw meat and poultry products advising consumers to thoroughly cook the products.

Other products mentioned in the comments are regulated with the goal of ensuring microbial safety. For example, seafood products are now required to comply with FDA's HACCP program for seafood products. Recently, FDA issued draft guidelines for good manufacturing practices and good agricultural practices regarding raw agricultural commodities (63 FR 18029, April 13, 1998). In addition, the agency recently requested public comment on its plan to implement a comprehensive "farm to table" strategy to decrease food safety risks associated with shell eggs (63 FR 27502, May 19, 1998).

Thus, FDA's requirement for a warning statement on untreated juice products has a rational foundation and is part of a comprehensive approach to solve a larger problem. The agency therefore finds no merit in the assertion that the agency's proposed actions are discriminatory when compared to the regulatory approaches that are already in place or that are being considered for other food products that have been associated with foodborne illness.

C. Regulatory Approach

6. Some comments asserted that the purpose of the juice labeling rule is to force manufacturers to pasteurize juices, particularly apple cider. Comments from some cider manufacturers contended that their customers don't want pasteurized cider, and a few of these comments contended that pasteurizing cider converts the product to apple juice.

While pasteurization is an effective and proven mechanism that has been shown to satisfy the pathogen reduction standard, it is not the only mechanism capable of achieving a 5-log reduction. As discussed in the HACCP proposal, the pathogen reduction performance standard is a performance-based, rather than process-based, standard. Thus, as addressed in response to comment 35, mechanisms other than pasteurization may be used to satisfy the pathogen reduction performance standard. Thus, FDA disagrees with these comments.

7. Some of the comments argued that a warning statement will not reduce the hazards associated with unpasteurized juice or make a safer juice industry.

The agency agrees that a warning statement will not directly reduce the hazards associated with juice products. However, the purpose of the warning statement is to provide consumers with information regarding the potential hazards associated with untreated juice and thereby to allow consumers, including those most vulnerable, to make informed choices. Thus, FDA expects that the warning statement will reduce the risk of illness because some of the at-risk consumers likely will choose not to expose themselves to the hazard.

The agency also acknowledges that warning statements will not directly make a safer juice industry. Indeed, it is for that very reason that the agency concurrently proposed a HACCP program to reduce or eliminate the hazards associated with juice products.

8. One comment contended that warning labels will encourage producers to ignore good manufacturing practices (GMP's) because of their belief that the presence of the warning statement will remove the producer's liability for the product.

The agency rejects the comment. The presence of the warning statement does not remove the manufacturers' responsibility of adhering to GMP's or his liability for the finished product. Regardless of this final rule, a juice product that is found to contain harmful bacteria would be adulterated under section 402(a)(1) of the act (21 U.S.C. 342(a)(1)) and thus, illegal.

9. One comment asserted that the requirement for a warning statement is contrary to agency policy of disallowing adulterated products to be sold. This comment also asked whether a juice product that bears the warning statement would be subject to recall if it were found to be contaminated with pathogenic microorganisms.

The evidence available at this time documents that there is a risk of foodborne illness from consumption of untreated juice. The agency does not contend, nor does the validity of the juice labeling proposal require, a showing that all unpasteurized juice is adulterated. Thus, FDA disagrees that requiring a warning statement essentially permits adulterated food to be marketed. As noted, the warning statement is intended to provide consumers important information not otherwise available on the label or in labeling (namely, that a risk of serious illness exists if the products are consumed by certain groups of the population.) Upon the effective date of this final rule, a covered product that does not comply with the labeling requirement would be misbranded under sections 201(n) and 403(a)(1) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(n) and 343(a)(1)). Regardless of this final rule, a juice product that is found to contain harmful bacteria would be adulterated under section 402(a)(1) of the act (21 U.S.C. 342(a)(1)) and thus, illegal. This adulterated status would persist regardless of whether product labeling included the warning statement.

Similarly, although FDA has no express authority to mandate the recall of adulterated foods, FDA fully expects that any manufacturer who has distributed an adulterated juice product would voluntarily recall that product as soon as a microbial contamination problem was identified.

10. Several comments suggested that FDA should implement HACCP requirements immediately rather than require warning labels on untreated juice products. Other comments supported the use of a warning statement on food products only as an interim measure until the agency establishes a more comprehensive solution to the problem of microbial contamination in juice.

In each of the recent agency documents regarding juice (i.e., the notice of intent (62 FR 45593 at 45594), the juice labeling proposal (63 FR 20486 at 20487), and the HACCP proposal (63 FR 20450 at 20457)), FDA tentatively concluded that the implementation of its proposed HACCP program is the most effective long-term measure for controlling pathogens and other safety concerns related to the production and distribution of juice products. As discussed in the juice labeling proposal, warning statements are intended to serve as a short-term alternative for almost all untreated juice products until

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HACCP programs that ensure that the juice will be processed in a manner that meets the pathogen reduction performance standard can be developed and implemented by the juice industry. Once such HACCP programs are in place, the agency does not presently foresee the need for a warning statement on products processed in a manner that meets the pathogen reduction performance standard, and this final rule is consistent with that view. However, the agency's proposed HACCP regulations would not cover: (1) The operation of a retail establishment; or (2) the operation of a very small business that is also a retail establishment and that makes juice on its premises, provided that the establishment's total sales of juice and juice products do not exceed 40,000 gallons per year, and provided that the establishment sells such juice directly to consumers or other retail establishments. Thus, it is likely that not all juice products will be produced under a HACCP system. In addition, a program as comprehensive as the agency's proposed HACCP program requires more time to implement than a labeling requirement. This is particularly true in light of the provision in the juice labeling proposal that the warning statement requirement may be met, in the short term, by labeling (i.e., a sign or placard that is displayed at the point of sale) rather than by application of the warning statement to the product label (proposed § 101.17(g)(3)). FDA believes that the warning statement, together with HACCP, makes the agency's response to this problem a comprehensive solution. Therefore, the agency is making no changes to its regulatory approach in response to these comments.

11. Several comments expressed the opinion that use of the terms "pasteurized" or "unpasteurized" alone is sufficient to inform consumers of potential risks associated with consumption of juice products. Some of these comments maintained that use of the term "fresh, unpasteurized" would more clearly indicate that the juice is unprocessed.

Other comments agreed with the agency's rationale in the juice labeling proposal that a warning statement that merely characterizes juice as "pasteurized" or "unpasteurized", without also including the information about the nature and magnitude of the hazard, would be incomplete. Some comments noted that unpasteurized juice may have a reputation among many consumers for being a particularly fresh and healthful food. These comments contended that it is important to ensure that product labeling meets both the needs of consumers who are at risk of serious illness as well as the needs of consumers who prefer to purchase untreated juice because they perceive such products to be healthful.

In the juice labeling proposal, the agency fully discussed its rationale for tentatively concluding that not providing information about the nature and magnitude of the hazard presented by untreated juices would constitute misbranding of the product. The agency is concerned that some consumers do not know the significance of pasteurization and, therefore, would not be able to make an informed decision on whether to purchase and consume the products. In focus group research, FDA determined that, while most participants had a good understanding of what pasteurization was, a significant number of the participants did not. The agency acknowledged that indicating whether a product is "pasteurized" or "unpasteurized" may be useful to consumers who are seeking to purchase either type product. However, FDA tentatively concluded that use of the terms "pasteurized" or "unpasteurized," alone, informs the consumer on the type of treatment, or lack of treatment, that a product has received and would not give consumers information about the risks presented by untreated juices. In reaching this tentative conclusion, the agency considered comments to the notice of intent that expressed opinions similar to the comments subsequently submitted to the juice labeling proposal. The latter comments provided no new information to provide a basis for FDA to change that tentative conclusion. Therefore, FDA is not adopting the suggested approach that, instead of the warning statement requirement, the agency require all juice products to be labeled as "pasteurized" or "unpasteurized." Nonetheless, as a general matter, statements that are truthful and not misleading are always permitted under the act. Thus, manufacturers who choose to make a statement, on the product label or in labeling, that describes a juice product as "pasteurized" or "unpasteurized" may do so as long as the statement is factually accurate and is not presented in a manner that would cause the statement to be misleading.

12. One comment questioned FDA's proposal to require that untreated juice products bear a warning statement in light of the fact that the agency does not require foods containing known allergens, such as peanuts, to bear a warning statement.

FDA disagrees with the suggestion contained in this comment. The purpose of a warning statement is to provide consumers with important information that did not otherwise appear on the product label or in labeling. FDA recognizes that many foods contain substances (e.g., peanuts) that cause an allergic response in those persons sensitive to the substance. Current food labeling regulations require, in virtually all cases, a complete listing in the ingredient statement of all of the ingredients of the food. Consequently, the label of foods containing such substances already provides sufficient information to allow sensitive individuals to avoid food products that contain substances to which they are allergic. Thus, as a general rule, a statement warning about the potential for an allergic reaction is not needed to protect the public health. With untreated juice, there is no other disclosure regarding the potential presence of pathogens in unprocessed juice, and, due to the relatively recent nature of such risk, sensitive individuals (which may be as much as 25 percent of the general population) (Ref. 2) are not aware of the hazard.

13. Some comments contended that warning statements are not generally effective at preventing the targeted behavior, pointing to the failure of warnings on other commodities, such as cigarettes and alcohol, to have the desired effect. Other comments considered it likely that the proposed warning statements would be effective because the risks associated with consuming untreated juice are not widely known or understood and consumers would use the new information to make informed choices that they were unable to make without the new information. Some comments advocated the use of brochures or pamphlets outlining the risks associated with consumption of untreated juices as an alternative to a warning statement.

In its focus group research on juice labeling, and in recent survey results (Ref. 3), FDA confirmed that consumers are largely unaware of the potential hazards of consuming untreated juice. Thus, the proposed warning statement contains information that is new to consumers. This fact separates the proposed warning statement from warning statements on other commodities such as alcohol or tobacco where the information contained in the statement is already widely known and familiar to most people. Research on warning statement effectiveness has identified the lack of new information in the warning statement as the principal reason that warning statements are ineffective (Ref. 4). Participants in the focus groups said that the information about the risks of untreated juice was new and would have a substantial impact on their juice product choices.

The agency agrees that the effectiveness of the warning statement would be enhanced by an educational campaign that provides consumers with materials such as brochures or pamphlets containing information giving a fuller context to the hazard. FDA is continuing to provide educational information to consumers concerning juice. However, the FDA focus group participants strongly expressed a need for product specific information that clearly identified a product, on its label, as "unpasteurized" and that described the nature of the hazard. The reasons given by the focus group participants were that this was new information to them and they considered such information necessary to make informed choices. Educational materials could be an adjunct to a warning statement, and the agency encourages firms to develop and provide them where possible. However, FDA believes that the warning statement required by this final rule is necessary to adequately and efficiently communicate to consumers the risks presented by unprocessed juice. Therefore, FDA declines the suggestion in the comments that educational materials such as brochures or pamphlets should substitute for the warning statement.

14. Several of the comments asserted that, in general, a warning statement would remind consumers of products such as cigarettes, which are well known to be a health hazard for the general population, or alcoholic beverages, which are well known to be harmful to the general population when consumed in excess or to a developing fetus when consumed by a pregnant woman. In essence, these comments contended that a warning statement on a juice product, which consumers perceive as healthful, is inappropriate because it casts that product in the same light as products that are a known health hazard.

FDA agrees that products such as cigarettes and alcohol have characteristics that present a known health hazard to the general population. However, these products also are subject to regulatory control mechanisms, other than warning statements, commensurate with their risk. Relative risk aside, FDA believes that the level of risk associated with untreated juice justifies the requirement for a warning statement. The focus group research reflects the importance of this information in that many focus group participants said that the risk information would have a substantial impact on their juice product selection. Even participants who said that they would continue to drink untreated juice products because of the perceived benefits also said that the information would influence whether they would give such products to their children.

15. Some comments maintained that a warning statement on covered juice products would be tantamount to stating that the products contain pathogens.

FDA does not agree with these comments. The agency's warning statement is carefully worded to state that the products in question "may contain" harmful bacteria. This statement is factually accurate.

16. Some comments pointed out that the National Advisory Committee on Microbiological Criteria for Foods (NACMCF) did not support warning statements.

The agency disagrees with the comments' view that NACMCF did not support a warning statement for juice products. In fact, NACMCF stated that it lacked sufficient data to evaluate the effectiveness of labeling statements as safety interventions or to help consumers make informed choices. Therefore, NACMCF declined to endorse labeling as an interim safety measure and instead endorsed implementation of a comprehensive HACCP program as a preventive system of hazard control to ensure the safe and sanitary processing of fruit and vegetable juices and juice products. As already discussed, the agency has likewise tentatively concluded in the HACCP proposal that a HACCP program for juice products is the best long-term strategy for public health protection; the juice warning statement is intended largely as an interim measure to inform consumers about the potential risk associated with untreated juice products until the application of HACCP principles increases the safety of juice products. Thus, FDA is making no changes to its regulatory approach in response to these comments.

17. Several comments questioned the precedent set by FDA in applying a warning label to fresh juice. The comments noted that requiring this warning label establishes a regulatory trend which, if continued, would result in virtually all foods carrying warnings. Having too many warnings on food would make the warnings meaningless.

FDA agrees that too many warning labels on foods could result in loss of consumer credibility and effectiveness. However, the agency does not agree that it is establishing a trend toward too many warning labels. The agency has used the authority under sections 201(n) and 403(a)(1) of the act only rarely to require warnings or other cautionary label statements. FDA cannot require labeling unless the need for it meets the statutory criteria of being necessary either to clarify existing label statements or because of consequences that may result from customary or usual use of the food.

18. A few comments cited an agency memorandum that is part of the administrative record of the juice labeling proposal (Ref. 5). These comments interpreted the memorandum to reflect the agency's opinion that warning statements are an ineffective method for communicating with consumers or that the agency does not have data that show that warning statements are effective in convincing target populations to avoid a particular substance.

The agency does not agree with these comments. The key point of the memorandum is that warning statements need to be evaluated in consumer testing because it is difficult for experts to anticipate consumers' assumptions and prior beliefs about a product and its potential hazards. The memorandum identified communication problems encountered with a variety of proposed warning statements and concluded that the remedy to these kinds of potential problems is to subject proposed warning statements to consumer testing to determine if they communicate as intended. The memorandum underscored the need to test proposed options for the juice warning statement, and the agency did so, with the results summarized in a report that is in the administrative record of this rulemaking. This consumer testing helped the agency to identify a statement that can inform consumers about a previously unrecognized hazard without being overly alarming.

In addition, these comments incorrectly suggest that FDA has no basis for believing that warning statements can be effective. In fact, the memorandum focuses on the communication effectiveness of warning statements rather than the broader policy question of how well warning statements work in the marketplace. The intent of warning statements is to provide consumers with information necessary to make informed choices. Qualitative research suggests that warning statements are effective in alerting vulnerable populations to potential risks but that consumers' ultimate decisions are based on a variety

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of considerations, including their prior experiences, personal preferences, the tradeoffs they are willing to make, and their awareness of particular risks gained by reading warning statements.

Because these comments misinterpret FDA's position, the agency is making no changes to its regulatory approach in response to these comments.

19. Some comments expressed the opinion that FDA acted contrary to public relations research theory by developing script guidelines used by focus group moderators. This comment asserted that, as a result, the focus group results were biased by FDA.

FDA disagrees with the assumption underlying this claim of bias—i.e., that the moderator of the focus groups was given a script. The agency has extensive experience conducting focus group studies, which are a qualitative type of research that generates discussion on the issues in question, allowing for many points of view and differing levels of interest and knowledge. The agency's goals in conducting focus group research are to understand how consumers think about the subject issues, to see how they react to language that the agency and other interested parties have suggested to convey health-related messages, and to uncover erroneous beliefs and assumptions about how consumers will think and respond to proposed communications. In FDA-sponsored focus group research, the moderator is a professionally trained neutral party, who is briefed on the subject matter of the study to the extent necessary to lead the discussion. The moderator works closely with FDA to ensure that the materials and questions meet the highest standards for the conduct of qualitative research. The moderator's guide is a primer to help the moderator cover the topics of interest rather than a "script." Accordingly, the agency finds no merit in the assertion in the comment that the focus group studies were biased.

20. Some comments contended that a warning statement could have a potentially negative impact on consumers by discouraging the consumption of all fruit and vegetable juice products, regardless of whether the products had been processed to control pathogenic microorganisms. Some of these comments expressed the opinion that this negative impact could potentially carry over to other healthful products such as fruits and vegetables.

These comments provided no data or other information to substantiate the assertion that a warning statement on untreated juice products will result in a decreased consumption of all juice products or of fruits and vegetables generally. Nonetheless, FDA will seek to minimize any remote possibility that consumers' reaction to the juice warning statement would be to avoid all juice products or to avoid fresh fruits and vegetables by emphasizing in the agency's ongoing consumer education initiative that: (1) Most juice products are processed to control pathogenic microorganisms and therefore are safe; (2) the warning statement has a limited and targeted scope based on the distinctive characteristics of untreated juice products; and (3) the warning statement will be a reliable cue to tell whether a product has or has not been processed to control pathogenic microorganisms. Accordingly, FDA concludes that the concerns raised in these comments provide no basis to alter the agency's regulatory approach.

In the juice labeling proposal, FDA acknowledged that it would take time for manufacturers to make label changes and deplete existing label inventories. Accordingly, FDA proposed that, as a temporary alternative to providing the information on the label, firms could provide the warning statement in labeling, e.g., signs or placards, at the point of purchase.[2] Under proposed § 101.17(g)(3)(i), manufacturers could provide the warning statement in labeling until January 1, 2000, the next uniform compliance date for other food labeling changes. To relieve the burden on small businesses, proposed § 101.17(g)(3)(ii) provided that small businesses could provide the warning statement in labeling until January 1, 2001.

21. Some comments contended that consumers may not notice the warning in a sign or placard at all. Other comments expressed concern that the message would not be apparent to the consumer when the product was ready to be consumed or would not be apparent to other members of the household who did not have the opportunity to see the sign at the point of purchase.

Other comments expressed concern that consumers would not correctly link the warning message with the appropriate juice product. The comments stated that, for example, a sign may be placed outside a refrigerator that contains both pasteurized and untreated juice products and the label of many juice products does not inform the consumer as to whether the product has been pasteurized. As a consequence, consumers could choose not to purchase any product at all.

The majority of comments that addressed the issue of labeling as an interim means of compliance with the warning statement requirement opposed the length of time that labeling would be allowed. Some comments pointed out that, if the urgency of the public health concern justified the shortening of the comment period, then FDA should not allow an extended time for the warning statement to appear on the label. Other comments contended that FDA's notice of intent provided ample notice to firms to prepare for label changes because FDA urged voluntary compliance at that time.

Some of these comments also opposed the additional time allowed for small businesses to place the warning statement on the labels of their products. The comments asserted that the public health concern existed whether or not the firm was small.

FDA finds merit in these comments. The agency agrees that placards and signs may be less effective than package labels for the purpose of communicating product-specific information to consumers. FDA's experience with the voluntary labeling of fresh fruits and vegetables in supermarkets also indicates that this is the case. While the agency found high levels of voluntary nutrition labeling in supermarkets, consumer research showed that only a small proportion of consumers reported that they had seen this labeling in stores (Ref. 6).

However, as a practical matter, producers of unpasteurized juice need time to modify their labels to include the warning statement. In response to the concerns about the effectiveness of signs and placards, FDA is reducing the length of time that it will permit manufacturers to provide the warning statement in labeling. The label change being required is not complex. FDA believes that small business will not experience more difficulty than large businesses in making the change. Therefore, FDA is giving small and large businesses the same amount of time to make the change. Accordingly, the effective date of this final rule applies equally to all manufacturers of packaged juices, regardless of size. Thus, this final rule (§ 101.17(g)(4)) provides that, except for unpackaged juices (which have no label), the required warning statement may be provided in labeling at point of purchase, until 1 year from the date of compliance with the final rule. In essence, this provision provides manufacturers the alternative of using labeling for a single juice season. This flexibility will postpone by a juice season a manufacturer's need to revise and reprint labels that would be affixed to packaged untreated juice products.[3] During this interim period, the agency's ongoing food safety education campaign will help consumers to look for, and understand, juice labeling posted at the point of purchase.

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[2] The term "label" means any written, printed, or graphic matter on the immediate container of an article (section 201(k) of the act). The term "labeling" means all labels and other written, printed, or graphic matter either on any article or its containers or wrappers, or accompanying such article (section 201(m) of the act). Thus, signs and placards that appear at point-of-sale are a type of labeling.

The agency acknowledges that there are some costs associated with this revision to the proposed rule. FDA's analysis of the economic impact of this revision is discussed in section VIII of this document.

22. Some comments suggested that a more appropriate interim measure than the use of signs or placards would be the application of the warning statement to the product label via stickers. One comment estimated the cost of placing stickers with the warning statement on packaged containers. For 1,000 bottles, the comment estimated the cost to be $28.25. The estimate in the comment was based on several assumptions. First, the time and cost to design the sticker is negligible. Second, the total cost to pay the bottle supplier to apply the 1,000 labels is 70 cents. Third, there are no printing charges beyond the basic per unit cost of the label.

FDA acknowledges that firms could comply with the warning statement requirement through the use of stickers. Many manufacturers may find it more convenient to apply the warning statement to packaged product by means of stickers than to provide signs or placards to all retailers who sell their product.

However, there are costs associated with using stickers to revise a label. FDA disagrees with the estimate included in the comment because FDA disagrees with the underlying assumptions presented in the comment. First, there are always costs of specifying to the printer what the sticker will say and the way it will look, as well as costs of finding the printer to produce the stickers. The agency estimates that these administrative costs are $100. Second, it is not feasible to have bottle suppliers place labels on bottles this close to the beginning of the juice seasons. As some comments noted, bottles and labels for this season are already in inventory and waiting for the beginning of processing. The agency estimates the cost of applying the labels by multiplying the average rural hourly cost of labor ($13.00) by the number of hours it would take to label 10,000 gallon size packages (the average size of plant that will be using the warning statement) and the cost of extra equipment needed to apply this volume of labels. The agency estimates this cost to be $600. Third, printers levy one time charges for set-up in addition to the basic per unit cost of labels. The agency has estimated total printing costs for a 10,000 gallon operation to be $250. Thus, the agency's estimate of the cost of achieving compliance within 60 days through use of stickers is approximately $1,000. This is in contrast to the $100 agency estimate of the cost of achieving compliance through use of signs or placards. Thus, while FDA considers stickers an acceptable means of revising a label, in light of the cost differential between labels and placards, the agency is not persuaded that it should mandate the use of labels with stickers for the 1998 juice season. Accordingly, FDA is making no additional changes to its provisions for interim compliance with the warning statement requirement through labeling in response to these comments.

23. Some comments that objected to allowing juice product manufacturers to use labeling while they change labels noted that the USDA requirement for safe handling instructions on raw meat and poultry, which was issued in response to a similar public health concern, was effective 60 days after its publication, with no temporary allowance for labeling.

FDA acknowledges that the final regulation requiring safe handling label statements on meat and poultry products (59 FR 14528, March 28, 1994) became effective for comminuted products 60 days after publication, with no temporary allowance for labeling. However, the comment failed to fully describe the circumstances surrounding the FSIS rulemaking. On August 16, 1993 (58 FR 43478), FSIS published an interim final rule requiring the safe handling statements, with opportunity for comment. On October 12, 1993 (58 FR 52856), FSIS published a final rule requiring the safe handling statements, with an immediate effective date. On November 4, 1993 (58 FR 58922), FSIS withdrew the October 12, 1993, rule as a result of litigation and reproposed its regulations requiring safe handling instructions. Finally, FSIS published the final rule cited by the comments, with an effective date of 60 days—i.e., May 27, 1994—for comminuted products.[4] Because the safe handling statements did not change between October 12, 1993, and March 28, 1994, the meat and poultry industry had approximately seven and one half months to prepare new labels. Moreover, in its rulemaking and subsequent FSIS Directives, FSIS allowed the use of any labels that bore the safe handling instructions proposed in August 1993, until the inventory was depleted.

Given these circumstances, the alternative provided by § 101.17(g)(4) that manufacturers may comply with the warning statement requirement through labeling is, as a practical matter, similar to the added time that manufacturers received to comply with the FSIS rule requiring safe handling statements as a result of FSIS' withdrawal of the October 12, 1993, rule. The agency believes that these comments require no changes to the provisions of § 101.17(g)(4).

III. Covered Products

A. Unpackaged Juices

In the juice labeling proposal, FDA proposed to require a warning statement on packaged juice products not processed to prevent, reduce, or eliminate pathogens. FDA specifically noted that the agency's proposal excluded unpackaged juice sold for immediate consumption (e.g., juice sold by the glass in restaurants, grocery stores or other food establishments). Comments from the restaurant industry supported the exclusion from the warning statement requirement of unpackaged juice sold for immediate consumption. Other comments requested that the warning statement requirement not exclude unpackaged juice products. In general, these comments asserted that unpackaged fresh juices pose the same risk as fresh juices sold in containers.

24. A few comments pointed out that unpackaged juices have accounted for some of the cases of serious illness that have been associated with consumption of fresh cider. Another comment expressed the view that contamination of fresh juices may be more likely in retail establishments that prepare unpackaged juices than in manufacturing facilities that prepare packaged juices because personnel who work in retail establishments may lack relevant training that ordinarily is provided to personnel who work in manufacturing facilities. Other comments contended that the agency's proposal that the warning statement

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[3] As discussed in section VI of this document, this final rule establishes a compliance date for apple juice and apple cider that will closely coincide with the 1998 fresh apple juice season. This final rule also establishes a compliance date for juice products other than apple juice and apple cider that will closely coincide with the 1998 fresh citrus juice season.

[4] The effective date for all other meat and poultry products was July 6, 1994.

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requirement apply only to packaged juices would create consumer confusion. For example, consumers would be unable to distinguish, in all circumstances, between unlabeled juice that had been processed to control pathogenic microorganisms and unlabeled juice that had not been so processed. Most of these comments asserted that the warning statement requirement should apply equally to packaged and to unpackaged juices.

As part of its decision to propose to require a warning label on untreated juice, FDA considered, among other things, the issues raised in these comments, and tentatively concluded not to specifically require the labeling of unpackaged juice. As stated in the juice labeling proposal, this approach is consistent with the agency's food labeling regulations which do not apply to food distributed to consumers in unpackaged form unless specifically noted in the regulations (63 FR 20486 at 20487). Because these comments did not provide any information that the agency had not considered at the time it published the proposal, the agency is maintaining its position to not include unpackaged juice in the scope of the warning labeling requirement.

B. Apple Juice Products versus Non-Apple Juice Products

Several comments, almost exclusively from citrus juice interests, asserted that the labeling requirement should apply only to apple juice and apple juice products and should not apply uniformly to juices of other fruits, especially citrus fruits, or to vegetable juices. The comments provided a number of reasons as justification for a differential application of the warning statement requirements. FDA discusses these specific comments, and the agency's response, below.

25. Some comments claimed that the extraction methods for citrus juices justify excluding such juices from the warning statement requirement. Specifically, comments asserted that the extraction of apple juice necessarily involves contact of the expressed juice with a substantial portion of the peel surface for an extended period of time, during which pathogenic organisms on the peel can pass into the juice. The comments asserted that, in contrast, the extraction of citrus juice involves contact of the expressed juice with a small fraction of the peel surface for a period of time much shorter than that for the extraction of apple juice, thereby limiting the opportunities for microorganisms on the peel to pass into the juice. In addition, one comment stated that the smooth surface and disposable outer peel of citrus fruit make it easier to sanitize and prepare citrus fruit for juice extraction. This comment also stated that drops (i.e., fruit that has fallen to the ground) are not used in the fresh citrus juice industry, the extraction method typically used allows less than 2 percent of the presanitized peel surface to come into contact with the juice, and the interior of the citrus fruit is sterile.

FDA does not agree that the described differences in juice extraction methods, with concomitant differences in peel/juice exposure, justify the selective application of the warning statement requirement. The agency acknowledges that the physical characteristics of citrus fruits may help to facilitate safe and sanitary citrus juice extraction operations. However, the comments did not include sufficient data to demonstrate that these factors are sufficient to ensure the safe and sanitary processing of citrus juices. Moreover, the significance of the peel-juice contact as a source of pathogens that may be present in the juice depends on the microbial load on the peel; that initial microbial load may vary with preextraction conditions. In addition, the comments provided no substantive information to establish the rate of transfer of pathogens from peel to expressed juice; thus, a minimum timeframe for contamination remains unknown.

26. One comment asserted that citrus juices should be exempt from the warning statement requirement because the citrus industry is rapidly adopting the following practices to achieve, at a minimum, a 3-log reduction in microbial count: (1) A grading line to remove compromised fruit; (2) rinsing stations; (3) washing fruit with commercial cleaning agent and brush scrubbing; (4) application of sanitizer; (5) heat dryers; (6) extraction equipment that minimizes the amount of peel that contacts the juice; and (7) imposition of good manufacturing practices (GMP's) set out in part 110 (21 CFR part 110).

The agency agrees that the described operations are major pathogen reduction steps and would likely result in a reduction of pathogen levels. Indeed, in the HACCP proposal, the agency acknowledged that it is possible that whole oranges with an intact skin may be processed so that pathogens on the surface of the fruit are destroyed (63 FR 20450 at 20478). However, once again, the comments provided no data or other substantive information to verify that such operations have been adopted industry-wide. In addition, the comments claimed only that these processing practices allowed the citrus industry to achieve, at a minimum, a 3-log reduction in microbial count. As noted, both in the proposed rule (proposed § 101.17(g)(6)) and in this final rule (§ 101.17(g)(7)), the pathogen reduction performance standard would require a 5-log reduction in pathogens. Moreover, consistent with customary scientific practices, the method that produces the 5-log reduction should be validated. Thus, the comments do not establish that the citrus juice industry is universally or automatically meeting the pathogen reduction standard established in this final rule. Accordingly, the comments did not provide a basis for the agency to exclude citrus juices from the warning statement requirement. However, as discussed later in this document (see comment 42), the agency believes that citrus processors should be able to achieve and validate a 5-log reduction.

27. Some comments asserted that the chemical composition of certain fruits and vegetables justifies differential application of the warning statement requirement.

The agency recognizes that various fruits and vegetables differ in their indigenous chemical composition. In fact, even within a variety of a particular fruit or vegetable, there can be some variation in composition depending on growing conditions. However, the comments provided no data to show how chemical composition of a juice bears on its safety. The comments also provided no data to show how chemical attributes that are unique to citrus products will ensure the safety of fresh citrus juices. Therefore, FDA does not agree that differences in chemical composition of various fruits and vegetables and their juices justify the comments' request that certain juices not be subject to the warning statement requirement.

28. Finally, some comments asserted that differences in the degree to which citrus juices have been associated with illness outbreaks justify exempting citrus juices from the warning statement requirement.

The agency disagrees. A 1997 study of recombinant *E. coli* 0157:H7 growth in apple juice and orange juice indicated that citrus juices provide an environment for growth of this microorganism (Ref. 9). In the study, there was only a small decline in numbers of *E. coli* 0157:H7 inoculated into orange juice over a 24-day period at refrigeration temperatures. The fact that *E. coli* 0157:H7 can survive in citrus juice and the fact that human illnesses from other pathogens have been traced epidemiologically to citrus juice demonstrates that, if contaminated, these juices have potential to cause human illness. Therefore, the agency finds no basis in the comments to conclude that the level of association of citrus juices with illnesses of public health significance is so low as to justify their exclusion from the warning statement requirement.

29. A few comments questioned whether the warning statement requirement should apply to carrot juice because there have been no outbreaks of illness linked to this product.

FDA acknowledges that there are no documented incidents of illness associated with carrot juice sold commercially. This lack of reported incidences may be due to lower exposure because of the total amount of carrot juice consumed. [5]

FDA believes that this absence of documented instances of illness does not justify exempting carrot juice from this final rule. According to information available to FDA, carrot juice is one of the top three fresh juices sold, following orange and apple juice. Because it is derived from a root vegetable, carrot juice has the potential to be directly contaminated with soilborne pathogens. In addition, carrot juice has a higher pH (i.e., it is less acidic) than juices such as apple juice or orange juice, and thus, will better support the growth of microorganisms, including pathogens, which a juice with a more acid pH is more likely to inhibit. In addition, carrot juice itself is a rich source of nutrients that will support microbial growth. Therefore, the agency concludes that there is no basis to exclude carrot juice from § 101.17.

30. Several comments requested clarification on which products are covered by the proposed rule. Comments asked whether a final product that contained a diluted pasteurized juice needed to be labeled if the final product itself is not pasteurized. Other comments inquired about citrus oils, juice concentrates not packaged directly for consumer sale, and lemon and lime juice concentrates that are not sold as beverages. A few comments asked whether certain juices were subject to the warning statement requirement because such juices are sold for use as ingredients in other beverages, such as wine or hard cider.

In considering these comments, FDA identified three questions that bear on whether a particular juice product is subject to the warning statement requirement. First, does the product meet the definition of "juice" in § 101.17(g)(1)? With respect to the specific products described in the comments, FDA advises that juice concentrates not packaged for retail sale to consumers meet the definition of "juice" in § 101.17(g)(1). Likewise, lemon and lime concentrates, which often are sold for use as ingredients in beverages such as a blend or "punch," also meet the definition of "juice" under § 101.17(g)(1). Finally, juices sold for use as an ingredient in either wine or hard cider, which are beverages, are "juice" within the meaning of § 101.17(g)(1). In contrast, citrus oils are not "juices" under § 101.17(g)(1) because they are not aqueous liquids.

The second question that bears on whether a particular juice product is subject to the warning statement requirement is whether a product that is "juice" within the meaning of § 101.17(g)(1) has been processed in a manner that satisfies the pathogen reduction performance standard in § 101.17(g)(7); if so, such "juice" is exempt from the warning statement requirement. Thus, neither a pasteurized juice concentrate nor a beverage containing such a concentrate would be subject to the warning statement requirement, as proposed, because a pasteurized "juice" satisfies the pathogen reduction performance standard.

The third question that bears on whether a particular juice product is subject to the warning statement requirement is whether the product is intended for retail sale to consumers or is being sold for use as an ingredient in the manufacture of another beverage. FDA acknowledges that, under proposed § 101.17(g)(1), the requirement for a warning statement applied to any juice sold as such or used as an ingredient in another beverage. FDA's proposal to require the warning statement on juice sold for use as an ingredient in another beverage was intended to ensure that manufacturers of beverages had access to information about whether a juice ingredient that they include in their product had been processed in a manner to satisfy the pathogen reduction performance standard. Such information is necessary to allow manufacturers of beverages to comply with the warning statement requirement. However, after consideration of the comments that questioned whether juice sold for use as an ingredient is subject to the warning statement requirement, FDA has reconsidered its proposal.

The warning statement is intended to inform consumers of the hazards presented by untreated juices so that they may make informed choices. Although the use of this warning statement on the label or in labeling of a juice product that is being shipped for use solely in the manufacture of other foods or that is to be processed, labeled, or repacked at a site other than originally processed could serve to inform manufacturers who receive the ingredient that the juice is untreated, the same goal of providing information to manufacturers could be accomplished by customary trade practices. For example, a statement that describes whether the juice has, or has not, been processed in a manner to meet FDA's pathogen reduction performance standard could be included on an invoice or product specification sheet.

Accordingly, in this final rule FDA is adding new § 101.17(g)(3) to clarify that juice that is not for distribution to retail consumers in the form shipped and that is for use solely in the manufacture of other foods or that is to be processed, labeled, or repacked at a site other than originally processed, is exempt from the warning statement requirement, provided that for juice that has not been processed in the manner described in § 101.17(g)(7), the lack of such processing is disclosed in documents accompanying the juice, in accordance with the practice of the trade.

C. The Proposed Pathogen Reduction Performance Standard

As discussed in section I of this document, proposed § 101.17(g)(6) of the juice labeling proposal is directly linked to the pathogen reduction performance standard that is part of the agency's HACCP proposal (proposed § 120.24). As discussed in both the juice labeling proposal and the HACCP proposal, these two proposed regulations would function together as a comprehensive program to address the incidence of foodborne illness related to consumption of fresh juices and to ultimately address the safety of all juice products.

31. Several comments opposed the pathogen reduction performance standard that FDA included in both the juice labeling proposal and the HACCP proposal. Under proposed § 101.17(g)(6), the requirement for a warning statement would not apply to juice processed in a manner that

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[5] Alternatively, it is possible that this lower rate of reported incidences is related to some inherent characteristics of this product. The agency is aware that research shows that carrot juice contains a broad spectrum of antimicrobial activity due to the presence of phytoallexins. This activity may be useful as a barrier to kill or prevent the growth of *Listeria monocytogenes* in particular, and may possibly also function to keep in check other foodborne pathogens and spoilage microorganisms. Nonetheless, the conditions under which the antimicrobial effects of carrot juice are manifested have not been fully defined. Accordingly, at this time, such research does not establish a basis to exclude carrot juice from the warning statement requirement.

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satisfies the pathogen reduction performance standard—i.e., juice processed such that there is, at a minimum, a 5-log (i.e., 100,000-fold) reduction in the pertinent microorganism for a period at least as long as the shelf life of the product when stored under normal and moderate abuse conditions. (The proposals defined the "pertinent microorganism" as the most resistant microorganism of public health significance that is likely to occur in the juice.) Some comments asserted that the 5-log performance standard is unnecessary and unreasonable and questioned the scientific basis of the NACMCF recommendation of that standard.

Based on information the agency has received in response to the juice labeling proposal, FDA has concluded that the pathogen reduction performance standard in proposed § 101.17(g)(6) is the most appropriate standard to ensure that juice is safe. The agency advises that no food processing method can be shown scientifically to achieve a "zero" probability that a pathogenic microorganism will be present in the processed food. However, food processing methods can be shown scientifically to reduce, by mathematical increments (i.e., by "logs"), the level of pathogens that may be present in food and as a result to reduce any potential risk of illness from the food. As explained in the HACCP proposal (63 FR 20450 at 20477), the 5-log reduction is a performance standard intended to provide assurance that juice produced consistent with this standard does not pose more than a tolerable level of risk of illness. FDA notes that the 5-log value was arrived at by consensus of the Fresh Produce Working Group of the NACMCF, and subsequently adopted by the NACMCF, as a target that would provide adequate public health assurances while minimizing the impact of treatments on the sensory attributes of the juices (Ref. 10).

With respect to the comment that questioned the basis for the NACMCF's recommendation, FDA advises that the agency relied on the collective judgment of this group of experts. The comment did not present specific challenges to the scientific basis underlying NACMCF's recommendation, nor did it provide a basis, data, or other information to support any other performance standard.

For these reasons, these comments have not persuaded FDA to make any changes to the pathogen reduction performance standard in proposed § 101.17(g)(6).

32. One comment suggested that a zero tolerance for *E. coli* O157:H7 would be more appropriate than the adoption of a performance standard. Another comment requested that a "safe harbor" bacterial load level be added to or used in lieu of the 5-log reduction criteria.

FDA disagrees with these comments. In general, FDA would consider a food product that contains pathogenic microorganisms to be adulterated under section 402(a)(1) of the act because it would contain a poisonous or deleterious substance that may render the food injurious to health. In contrast, FDA considers a total bacterial plate count as an indication that the food may have been prepared, packed or held under insanitary conditions. FDA would generally conduct an inspection of the processing facility to determine whether insanitary conditions exist in the facility. If insanitary conditions are found in the facility, any food produced under such conditions would be adulterated under section 402(a)(4) of the act.

The agency advises that while it could conceivably issue a tolerance for *E. coli* O157:H7, FDA has authority under section 402(a)(1) of the act to take regulatory action against any juice that contains a pathogenic microorganism that may render the juice injurious to health. Further, it would be impractical for juice processors to establish procedures to ensure actual compliance with such a tolerance because it would be necessary to channel a significant portion of the end product into testing to provide a statistically valid indication of compliance. Finally, a zero tolerance means the pathogens are undetectable in the food. For microbiological methods this is about one pathogen per 100 grams. For *E. coli* O157:H7, this is not a safe level. In contrast, the performance standard is a way to ensure that the presence of *E. coli* O157:H7 is much lower than that. In addition, the performance standard required in proposed § 101.17(g)(6) is a tool that can be applied in a practical manner to processing to ensure that all the juice has been processed to control pathogens.

Regarding the use of a "safe harbor" bacterial load level, FDA considers a "safe harbor" bacterial load level to mean a maximum total bacterial count. As discussed, under section 402(a)(4) of the act, very high aerobic plate counts may indicate that the food has been prepared, packed, or held under insanitary conditions, which may contribute to increased risk of pathogen occurrence and outgrowth. FDA has established regulations in part 110 concerning CGMP in manufacturing, packing, or holding human food that already apply to juice. Because these regulations directly address appropriate conditions for preparing, packing, and holding food, a "safe harbor" bacterial load level would not directly address such conditions, FDA concludes, based on comments received in response to the juice labeling proposal, that establishing a "safe harbor" bacterial load level is not necessary.

33. One comment stated that the proposed pathogen reduction performance standard is premature given that the source of *E. coli* 0157:H7 contamination in apples is not known. Additional comments questioned whether E. coli 0157:H7 could be found anywhere other than in bovine manure.

The agency disagrees that the proposed pathogen reduction performance standard is premature because the source of *E. coli* O157:H7 is unknown. First, although *E. coli* will likely be the "pertinent" microorganism of public health concern for apple juice, it may not be the "pertinent" microorganism for other juices. Second, in some outbreaks, a likely source has been determined (Ref. 11). Although *E. coli* O157:H7 may be found in bovine manure, there are other possible sources for this pathogen, such as deer manure (Ref. 12). Third, regardless of its source, *E. coli* O157:H7 is a pathogen that has been found to be present in fresh juice, including apple juice (Ref. 12). In fact, the agency's proposed pathogen reduction performance standard is a logical response to the comment's assertion that the source of *E. coli* O157:H7 in products such as apple juice is unknown. The knowledge that *E. coli* and other pathogens have been found in juice and have caused illness indicates that a processor must take steps (i.e., pathogen reduction steps to achieve the performance standard) to ensure that juice is safe. These steps must include prevention of contamination, destruction of any pathogens of concern that may be present, or both. If future research determines new sources of *E. coli* O157:H7 or other pathogens in juice products, processors could then develop appropriate measures to prevent contamination from these sources and apply measures that are determined to be effective toward the pathogen reduction performance standard.

34. Several comments requested clarification on which aspects of a process could be included for the purpose of meeting the proposed pathogen reduction performance standard. Respondents asked about the appropriate place in the production operation to start measuring pathogen reduction and whether specific farming,

harvesting, and processing practices may be counted toward meeting the proposed pathogen reduction performance standard.

The pathogen reduction process control can begin at the point at which the processor has control over the preparation of the product. The 5-log reduction may be accomplished cumulatively (e.g., through a combination of special culling, use of appropriate sanitizers, and specific extraction methods) or by a one-step process (e.g., pasteurization). The 5-log reduction standard is designed to achieve appropriate microbial risk reduction under all conditions that may be encountered in the manufacture of juice, including the conditions in which the fruit is grown and harvested. Therefore, farming, harvesting, and processing practices may be considered in achieving the 5-log reduction, so long as the processor has control over these activities and the control measures are effective.

35. FDA received a number of comments regarding achievement of the proposed pathogen reduction performance standard. Some comments expressed the opinion that the rule would in essence require pasteurization. Other comments asked about options for achieving the 5-log reduction, such as ultraviolet (UV) radiation, pulsed light, or sodium benzoate. Additionally, several comments indicated that instituting a "no dropped fruit" policy, using potable water, and following CGMP's would provide an adequate measure of safety for juice products.

FDA disagrees that the proposal would require pasteurization of juice products. While pasteurization currently may be the most practical process to achieve the proposed pathogen reduction performance standard, it is not the only alternative. A manufacturer who demonstrates that the measures discussed in the comments (i.e., use of UV radiation, pulsed light, and sodium benzoate) are effective in controlling pathogenic microorganisms may apply such measures in achieving the pathogen reduction performance standard.

FDA agrees that the various steps proposed in the comments (e.g., "no dropped fruit") have the potential to contribute to the reduction of microbial contamination. Animal manure, whether applied as fertilizer or from animals (e.g., cows, deer) present in orchards, can be a source of *E. coli* O157:H7. Not using produce that has come into contact with the ground reduces the risk of this contamination. However, there are other possible sources of contamination that may not be avoided as easily. For example, dust, insects, and birds may be vectors of contamination. Likewise, a water supply that does not meet the requirements of § 110.37(a) (21 CFR 110.37(a)) that any water that contacts food or food-contact surfaces be safe and of adequate sanitary quality may also be a source of contamination.

FDA believes that these comments require no changes to its proposed regulations.

36. Other comments asserted that adherence to State-enforced GMP's, quality assurance programs (QAP's), or HACCP programs, or any validated HACCP program should be as acceptable as a means of satisfying FDA's proposed pathogen reduction performance standard as would be adherence to the proposed Federal (i.e., FDA) HACCP program.

FDA recognizes that State GMP's, QAP's, and HACCP programs can serve as a useful foundation to assist processors in achieving public health goals and may in fact allow a manufacturer to attain the performance standard required by proposed § 101.17(g)(6). Nonetheless, these programs vary from State to State and may not exist in some States. Therefore, juice that is in interstate commerce may be subject to one or more State requirements or to no State requirements. Accordingly, FDA continues to see a need for a comprehensive Federal regulatory approach for all juice products.

The agency encourages processors to develop and use an appropriate HACCP program in the processing of juice. However, FDA emphasizes that it had tentatively concluded in the HACCP proposal that an appropriate HACCP program must include control measures that will produce, at a minimum, a 5-log reduction in a pertinent microorganism. As noted, the warning statement will not be required on products produced under a HACCP program validated to achieve the pathogen reduction performance standard described in proposed § 101.17(g)(6).

37. Several comments questioned why, as part of its HACCP program, the agency is proposing a pathogen reduction performance standard rather than requiring pasteurization. A few comments contended that to ensure the safety of juices, the agency should require that all juices be pasteurized. Other comments suggested that not all 5-log reduction methods are equally effective and that some could be less effective than pasteurization.

The agency does not believe that mandating pasteurization is necessary. Pasteurization is one method of achieving the pathogen reduction performance standard proposed in the HACCP rule and established in this rule as the basis for exemption from the warning statement requirement. FDA believes that establishing a performance standard rather than mandating the use of a particular process (such as pasteurization) provides flexibility in how the pathogen reduction can occur and will permit the development of new technology. Importantly, however, a performance standard will not preclude the use of pasteurization to achieve the standard. The agency recognizes that some methods may achieve a 5-log reduction in a more direct manner than other methods (i.e., in one step versus in several steps). Nevertheless, by its very definition, a 5-log reduction in the pertinent microorganism is the same reduction—i.e., a reduction by a factor of 100,000—regardless of the method used.

For these reasons, in this final rule, FDA is maintaining its performance standard approach rather than mandating pasteurization.

38. A few comments stated that pasteurization would not solve all the problems with juice and could provide a false sense of security to consumers.

The agency agrees with these comments. Pasteurization does not address all problems that may occur during the manufacture of juice and that have an adverse effect on public health. Recognition of the multiplicity of hazards that are reasonably likely to occur and of the need for their control is the basis for the agency's HACCP proposal.

39. One comment stated that the juice labeling rule was not necessary because the pH in cider is too low for pathogens to grow in it.

The agency agrees that acidic pH is generally considered to be an unfavorable environment for the survival of pathogens. However, as discussed in detail in both the labeling and HACCP proposals, there are documented cases of outbreaks of disease caused by *E. coli* O157:H7 or other pathogens in apple juice and apple cider. Indeed, these outbreaks are of particular concern because apple cider typically has an acidic pH (i.e., a pH of approximately 3.5 to 4.0), due to the presence of malic and lactic acids in apples. Contrary to longstanding beliefs regarding microbial tolerance of acidic environments, the available evidence shows that *E. coli* O157:H7 strains are tolerant of acid pH, particularly when held under refrigerated conditions consistent with juice manufacturing (Ref. 13). Therefore, the agency believes

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that while acidity may be lethal or inhibitory to some pathogens, it cannot be relied upon as a control measure to reduce the risk of foodborne illness.

40. A few comments asked that FDA provide a grace period on labeling compliance for processors using a validated HACCP program without the pathogen reduction performance standard until the proposed HACCP rule for juices becomes final.

As discussed in the HACCP proposal, the agency has tentatively concluded that an adequate HACCP program for juice must include the pathogen reduction performance standard in proposed § 120.24. Accordingly, the agency incorporated this standard into the juice labeling proposal in proposed § 101.17(g)(6). As discussed above, there are no data or other information in the comments to the juice labeling proposal that demonstrate that the proposed pathogen reduction performance standard is not the appropriate standard.

FDA acknowledges that comments that are submitted to the HACCP proposal may persuade the agency to implement an alternative to the pathogen reduction performance standard set out in the HACCP proposal. However, in the interim between the issuance of this final rule and any final rule based on the HACCP proposal, it is the agency's best judgment, based on the information in the administrative record of this proceeding, that any HACCP program that does not satisfy the proposed pathogen reduction standard—i.e., a 5-log reduction in the pertinent microorganism—cannot be considered adequate for safe juice production, and thus, cannot provide the basis for exempting a product from the warning statement requirement. Accordingly, in this final rule, FDA is retaining (as § 101.17(g)(7)(i)(A)) the provision of proposed § 101.17(g)(6) that the requirement for a warning statement not apply to juice processed in a manner that will produce, at a minimum, a 5-log (i.e., 100,000 fold) reduction in the pertinent microorganism for a period at least as long as the shelf life of the product when stored under normal and moderate abuse conditions.

However, in recognition of the fact that the agency has not completed its rulemaking on the HACCP proposal, in this final rule FDA is broadening the exemption from the warning statement requirement in proposed § 101.17(g)(6) to include (as § 101.17(g)(7)(i)(B)) juice processed in a manner that will achieve or exceed any pathogen reduction performance standard ultimately established in any final regulation requiring the application of HACCP principles to the processing of juice. In the event that the agency's judgment when it completes the HACCP rulemaking is that the interim pathogen reduction performance standard is more strict than necessary, this amendment will automatically ensure that manufacturers would be able to use the final HACCP pathogen reduction performance standard in determining whether their juice products require the warning statement. In the event that the agency's judgment when it completes the HACCP rulemaking is that the interim pathogen reduction performance standard should be altered, FDA will take the appropriate steps to amend this rule.

41. A few comments stated that a HACCP program (without a performance standard) is adequate because there is no evidence of foodborne illness in fresh apple juice or cider from processors using HACCP programs with GMP's, sanitation standard operating procedures (SSOP's), and raw material standard operating procedures (SOP's).

The issues raised in these comments are beyond the scope of this labeling document. The agency notes that it has tentatively concluded in the HACCP proposal that an appropriate HACCP program must include control measures that will produce, at a minimum a 5-log reduction in a pertinent microorganism. The basis for the proposed requirement was discussed in that proposal (63 FR 20450 at 20477). FDA will respond to these comments fully in the HACCP final rule.

42. Several comments requested guidance on how to determine if their process meets the 5-log reduction.

There are essentially two ways for processors to determine if their process accomplishes a 5-log reduction in a pertinent microorganism. Processors or other entities (such as researchers or a State) may test a particular process with a known level of the target pathogen or an appropriate surrogate microorganism that possesses similar properties to the target pathogen and determine whether the process is reducing the microorganism to the appropriate level. Alternatively, manufacturers of processing equipment or sanitizers may test the process that they are recommending for juice processing and supply the applicable information on their product to the juice processor. Consistent with customary scientific practices, the method that produces the 5-log reduction should be validated.

As discussed in the HACCP proposal (63 FR 20450 at 20478), the agency noted that it may be feasible for a processor to achieve a 5-log reduction in a target pathogen in citrus juice using a combination of CGMP's, sanitation SOP's, and the following three measures: (1) Culling and grading, (2) washing, brushing, and sanitizing, and (3) appropriate methods of extraction. If this procedure is validated, it is unlikely that processors of fresh orange juice, and perhaps other fresh citrus fruit juices, will have to implement pasteurization in order to achieve a 5-log reduction in pathogenic bacteria.

In fact, the agency believes that citrus processors should be able to achieve and validate a 5-log reduction without pasteurization. To provide more detail, a system that could achieve a 5-log reduction without pasteurization would likely include, at a minimum: Strict control of incoming material to ensure fruit are intact and clean (including not using dropped fruit); effective employee hygiene and facility sanitation; appropriate chemical sanitizers; juice extraction equipment that minimizes contact of juice with peel; refrigeration immediately after juicing; and bottling in a closed system to minimize environmental contamination. FDA would be willing to meet with manufacturers or groups of manufacturers to discuss and evaluate their proposed processes.

In addition, the agency will make available, in accordance with part 20 of the agency's regulations (21 CFR part 20), information on various processes that it learns have been validated to achieve a 5-log reduction in order to help processors meet the performance standard.

43. One comment requested a definition of "moderate abuse conditions."

Moderate abuse conditions, as described in the HACCP proposal (63 FR 20450 at 20478), occur when unusual circumstances arise during regular handling of the product. Unloading a truck on a hot day where the product may sit on a loading dock for a short period of time is one example of moderate abuse. Another example of moderate abuse is illustrated by a consumer who purchases a product on a warm day, places it in a car, and then runs errands before refrigerating the product. In FDA's view, moderate abuse does not include exposure to high temperatures for extended periods of time.

IV. The Warning Statement

A. General Comments

In the juice labeling proposal, FDA tentatively concluded that certain informational elements were essential to the warning statement, i.e., the statement of the hazard, a description of why the product may have the hazard, and an identification of the consumers at greatest risk. Consequently, FDA proposed to require the following warning statement on covered products:

> WARNING: This product has not been pasteurized and, therefore, may contain harmful bacteria which can cause serious illness in children, the elderly, and persons with weakened immune systems.

In this final rule, FDA is replacing the phrase "which can cause serious illness * * *" with the phrase "that can cause serious illness * * *". This change provides clarity and is not a substantive change.

44. Some comments generally opposed the language in the warning statement on the grounds that it is frightening, confusing or misleading. Some of these comments contended that consumers associate warning statements with products such as pesticides, poisons, or carcinogens.

The agency's intent in requiring a warning statement on untreated juices is to inform consumers that such juices may contain harmful bacteria that can cause serious illness in children, the elderly, and persons with weakened immune systems. This statement will ensure that consumers have the information that they need to make informed choices. To achieve this goal, the statement needs to present information about the hazard. By its very nature, any statement that informs consumers about a hazard, particularly a hazard that consumers do not expect, would be, to some extent, "frightening."

FDA conducted consumer focus group research to anticipate the likely impact of these statements on the public. This research tested variations in wording to evaluate whether different statements and specific words would produce exaggerated or inappropriate consumer understanding.

Some participants initially considered the warning statement to be alarming because it appeared to contradict their assumption, based on a lifetime of experience consuming these products, that all juices are safe and healthful foods. However, most of the focus group participants who were alarmed by the statements mistakenly assumed that juice products that they routinely consumed were not processed to control pathogenic microorganisms. After receiving information that untreated juice comprises less than 5 percent of all juice consumed, and that most juice products in supermarkets are processed to control pathogenic microorganisms, focus group participants were much less alarmed by the warning statements. Importantly, after receiving this information, many focus group participants appreciated the warning statement because they recognized that it would help them distinguish juice products that were more safe from those that are less safe because the latter products may contain pathogenic microorganisms. Even consumers of untreated juice products such as unpasteurized apple cider were reassured to know that the warning statement would be applied to a narrow and distinctive segment of juice products that had characteristics that specifically warranted the statement because such products had not been processed to control pathogenic microorganisms.

Based on this focus group research, FDA concludes that giving consumers accurate information on untreated juices to better inform their choices is likely to have the desired effect.

45. One comment suggested that the warning statement be changed to reflect that contamination of unpasteurized cider is the cause of a potential hazard. The comment contended that FDA's proposed statement seems to suggest that the presence of harmful bacteria is a matter of a statistical chance and is inherent in the cider, rather than a consequence of contamination of the cider.

FDA disagrees with this comment. While FDA has determined that the fact that bacteria may be present in juice is a material fact within the meaning of section 201(n) of the act, the agency is not persuaded that the process by which the bacteria came to be present is also material information. The comment did not provide a rationale for why the information on what causes bacteria to be present in juice is material with respect to the health hazard. Therefore, the agency is not making this suggested change.

B. Comments on the Term "Warning"

46. Some comments that supported the use of the word "WARNING" in the warning statement asserted that this very explicit term is necessary so that consumers notice and give appropriate attention to the hazard message. Other comments recommended specific alternatives to the term "WARNING," such as "NOTICE," "CONSUMER ADVISORY," "CONSUMER ALERT," "HAZARD NOTICE," "HAZARD ADVISORY," or "HAZARD ALERT." Some of these comments suggested that the term "WARNING" be used only for apple juice and that an alternative term, such as "NOTICE," "ATTENTION," or "CONSUMER ADVISORY" be used for juice products that pose a lower risk than that posed by apple juice. One comment noted that for oysters a consumer advisory rather than a warning statement is used to inform consumers of the hazard associated with *Vibrio vulnificus* which has a 50 percent mortality rate associated with illness. Comments acknowledged that the use of the same term for all juice products, even those perceived to be of lower risk, may nonetheless be necessary in the interest of uniformity.

FDA disagrees with those comments that suggested that another term be substituted for "warning" because the results of the focus group research support the use of the term "warning." Focus group participants examined warning statements that used four signal words, i.e., "WARNING," "NOTICE," "CAUTION," AND "ATTENTION." Participants preferred "WARNING" and "CAUTION" over "NOTICE" and "ATTENTION" because these terms were perceived to be stronger and more likely to cause consumers to read the message; participants believed that the word "WARNING" was the strongest term. In addition, in identifying their preferred warning statement, most participants preferred the message preceded by the signal word "WARNING." Other terms recommended in the comments, such as "CONSUMER ADVISORY," were not tested in the agency's consumer research. Terms such as "CONSUMER ADVISORY" or "CONSUMER ALERT" are moderate signal terms, falling between the stronger signal terms tested ("WARNING" and "CAUTION") and the weaker signal terms tested ("NOTICE" and "ATTENTION"). Consumers in the focus groups clearly preferred a strong signal to alert them to the warning statement. The term "WARNING" was viewed as a simple and unambiguous signal because it is a familiar word that most people readily understand. The comments that suggested alternative terms to "WARNING" did not provide consumer data or a compelling rationale to support their recommendations. FDA has conducted several studies of warning messages (in addition to juice) and has concluded that consumer testing of proposed language enhances the likelihood that warning messages will correctly communicate critical information (Ref. 5). Accordingly, because the relevant comments provided no consumer data or compelling rationale to support the use of alternative signal words, FDA has concluded that the warning statement for juice products should utilize the signal word "warning," a signal that is supported by consumer research data. Furthermore, the agency believes that

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warning is the more suitable term because it is consistent with past agency regulations (e.g., § 101.17(a), (b), (d)(1), and (e)) that use a term stronger than "notice."

The purpose of the warning statement is to inform consumers of the risks presented by certain juice products, thereby allowing them to make better decisions about the purchase and consumption of such products. This goal can only be achieved to the extent that consumers read and process the warning statement. Accordingly, FDA believes that it is appropriate to require the signal term that consumers say would be most likely to cause them to read the statement. Therefore, FDA is retaining "warning" as the signal word for the statement required by this rulemaking.

C. Comments on the Phrase "Has Not Been Pasteurized"

47. Some comments stated that the phrase "has not been pasteurized" is inappropriate in the context of the warning statement because it is misleading. A few of these comments asserted that pasteurization provides a safer product than other processes that would satisfy FDA's proposed pathogen reduction performance standard. These respondents contended that the use of "has not been pasteurized" is potentially harmful because consumers might believe that all products that did not bear such a warning statement had been pasteurized and were equally safe.

The agency disagrees with these comments. FDA maintains that products processed in a manner to achieve the pathogen reduction performance standard would achieve an appropriate level of safety, whether they had been processed by pasteurization or by some other means. Products that have not been processed to achieve the pathogen reduction performance standard would require the warning statement. Therefore, the agency concludes that the message that the consumers would take from the warning statement is that products bearing the warning may have potential hazards, whereas those not bearing the statement are processed to ensure safe products.

48. Some comments contended that the term "has not been pasteurized" is too narrow a term for the warning statement. While the comments did not oppose the term "pasteurized," the comments asserted that consumers should be made aware that pasteurization is not the only means by which juice products can be processed safely. The comments argued that technology can move quickly, and that use of the term "pasteurized" would limit the development of new technology for processing juice to destroy pathogenic microorganisms. Therefore, two of the comments suggested the following language: "this product has not been pasteurized or otherwise treated * * *."

FDA acknowledges that the term "has not been pasteurized" is not technically precise in the context of the warning statement, because products that have not been pasteurized, but have been otherwise processed to meet the pathogen reduction performance standard, do not need to bear the warning statement. In other words, the warning statement will not be required on all juice products that have not been pasteurized because those products subject to a process that achieves the 5-log reduction standard, other than pasteurization, do not need to bear the warning statement. However, as discussed in the juice labeling proposal, FDA proposed the phrase because consumer focus group participants understood the term "has not been pasteurized" better than the term "has not been specifically processed." Moreover, as discussed in the juice labeling proposal, the agency believes that the more important message, i.e., that juice products not treated to remove pathogens present some risk, particularly for certain population groups, will be clearly understood by consumers. The comments did not provide information to show that consumers would be confused by the warning statement. Therefore, the agency is not adopting this suggested modification to the warning statement.

D. Comments on the At-Risk Groups

Most comments supporting the proposed labeling requirements generally supported the proposed description of the consumers at risk, although some comments suggested that these groups should be better defined.

49. One comment maintained that the warning statement should be modified unless specific data can be presented on the risks and those at risk. Another comment questioned whether "children" meant persons under 18. Another comment suggested that the term "children" be replaced with the term "infants." This comment noted that when botulism was a concern in honey, only parents of children under 1 year old had to be concerned. Other comments stated that the term "children" was appropriate because there is no scientific basis for excluding older children and because parents will recognize that infants and young children are included in the broad category of "children."

Some comments questioned what is meant by the term, "elderly." One comment suggested that the term "elderly" be replaced with the term "senior (50 years or older)," whereas another comment recommended that "elderly" be replaced with "senior (55 years or older)."

FDA disagrees that the word "infants," which ordinarily refers to children less than 1 year old, should replace "children" in the warning statement because some of the foodborne illnesses associated with consumption of juice occurred in children older than 1 year. Therefore, FDA concludes that use of the word "infants" in lieu of "children" would be misleading.

In the juice labeling proposal, FDA relied on a task force report, from the Council for Agricultural Science and Technology (CAST), that concluded that certain groups (i.e., young children, the elderly, and persons who are immunocompromised) are at greatest risk of serious illness from exposure to foodborne pathogens (63 FR 20486 at 20489). The report did not define a precise age range for either "children" or "the elderly." The comment that questioned whether specific data was available to support FDA's description of the at-risk groups did not provide any data on which to refine the descriptive terms used in the report.

FDA recognizes that the terms "children" and "elderly" are not precise. They are terms chosen by the Council for Agricultural Science and Technology to reflect groups that, in general, have an immune system that is either incompletely developed or beginning to decline. Although the exact age at which a child's immune system is fully developed is not precisely defined and will depend on the individual development of the child, the task force report indicated that the incompletely developed immune system of infants and children younger than 5 makes this age group especially susceptible to foodborne illness. In addition, the report noted that the infective dose may be related to body weight, which would be less for younger children. Nonetheless, the median age of persons who experienced illness in a recent outbreak of *E. Coli* O157:H7 infections associated with juice products was five (Ref. 14); thus, as many individuals older than 5 years experienced illness as did those under 5 years. Therefore, the agency believes that the descriptive term for "children" in the warning statement should not be limited, e.g., to "young children" or to children 5 years and under.

Likewise, the task force report stated that elderly individuals undergo a decrease in immune function that makes them more susceptible to foodborne illness than the general population. The report both indicated that this decrease in the immune system can occur as early as 50 to 60 years of age and designated the term "elderly" to mean an individual over 65. Because the range given by the task force was so wide, the agency tentatively concluded that it had no basis for identifying a specific age for its category of "elderly" in the warning statement.

In the juice labeling proposal, FDA asked for comments on whether the age groups for children and the elderly could be better defined. Although some of the comments to the proposal suggested that the warning statement specify particular ages, the comments did not provide a substantive basis for any of these recommended ages. Accordingly, FDA is making no changes to the terms "children" or "the elderly" in the warning statement.

50. One comment stated that either the risk groups should be better defined or no risk groups should be mentioned at all.

FDA disagrees with this comment. Although the at-risk groups are not described as precisely as some might wish, as noted, there are few available data to identify the ages of children and adults who are at high risk. FDA has concluded that it is preferable to identify the at-risk groups with slightly imprecise terms than not to designate such groups at all. Therefore, FDA rejects this comment.

51. Several comments suggested that pregnant women be included as at-risk consumers. Only one comment provided any rationale for this addition, stating that pregnant women, who during their pregnancies have impaired immune systems, allegedly do not recognize that they are at greater risk of infection. Another comment pointed out that pregnant women are at risk of having miscarriages if they are infected with *Listeria*.

FDA disagrees with the suggestions that pregnant women be included in the at-risk groups. FDA acknowledges that the CAST report noted that the immune system of a pregnant woman is altered to some extent compared to that of a non-pregnant woman. In looking at the populations at greatest risk from foodborne pathogens, CAST identified pregnant women as a group at risk from *L. monocytogenes*, a widely distributed pathogen that has been associated with miscarriages. Nonetheless, there is no evidence that pregnant women or their fetuses are at any greater risk of serious illness from the foodborne pathogens associated with juices than the general population. The agency notes that *Listeria* has not been identified in the documented cases of illnesses associated with consumption of untreated juices. Therefore, FDA has no basis for determining that risk to a pregnancy from *Listeria* is any greater from the consumption of juices than from the consumption of all other foods.

52. Several comments stated that the term "serious illness" should be replaced with "life threatening illness." These comments asserted that it is important that high risk consumers are adequately informed of the potential risks and therefore, the language should be explicit enough so that they will avoid the product. According to one comment, the language should be explicit enough so that consumers will overcome the presumption that the warning is meant for someone else.

FDA disagrees with these comments. The term "serious illness" is an accurate description of the hazard. Moreover, the FDA focus group research tested a variety of messages that included the phrases "serious illness" and "life-threatening illness." The participants preferred a phrase such as "serious illness" because it conveyed a significant consequence without being too extreme. In addition, participants viewed "serious illness" as a strong statement for persons with weakened immune systems or immature immune systems such as young children. In contrast, participants viewed terms such as "life-threatening" or "death" as less credible. Thus, in addition to being objectively conceived, FDA focus group research confirmed that the phrase "serious illness" is subjectively understood. Accordingly, FDA is making no changes in response to these comments.

E. Comments on the Entire Warning Statement

53. In contrast to the comments that suggested alternatives for specific words or phrases in the proposed warning statement, a few comments suggested alternative wording for the entire warning statement. As examples, comments suggested statements such as the following:

> This is a natural product that has not been pasteurized or otherwise treated. There is a slight risk that it may inadvertently contain harmful bacteria that can cause serious illness in children, the elderly and persons with weakened immune systems.
>
> CONSUMER ADVISORY: Unless specifically processed, some juices may contain harmful bacteria known to cause serious illness. This product has not been processed to destroy these bacteria. The risk of life-threatening illness is greatest for children, the elderly, and persons with weakened immune systems.
>
> NOTICE: This product has not been processed to eliminate the possibility of harmful bacteria and, therefore, could cause serious illness to those with weak immune systems, and young children.
>
> Attention: This is a fresh juice. It has not been pasteurized. There is a small possibility it could be harmful to those with weak immune systems.

None of these comments provided a compelling rationale for why the suggested statement was more appropriate than FDA's proposed statement.

FDA's statement was developed and refined based on focus group research that tested multiple warning statements. Because the comments that suggested alternative wording for the entire statement did not provide a sufficient basis to dispute the findings of the focus group studies, FDA is not adopting any of these general suggestions.

F. Comments on Prominence and Placement

54. In the juice labeling proposal, the agency tentatively concluded that the warning statement should appear on the food label in a manner that makes it readily observable and likely to be read. Accordingly, FDA proposed that the statement appear prominently and conspicuously on the information panel or on the principal display panel (PDP) of the product label. Under § 101.2(c) (21 CFR 101.2(c)), information required to appear on the PDP and information panel must appear prominently and conspicuously in a type size no less than one-sixteenth inch. The agency also proposed that the word "warning" immediately precede the statement, appear in capital letters and bold type, and that the statement be set off in a box by use of hairlines.

In this final rule, FDA is revising proposed § 101.17(g)(4) (now § 101.17(g)(5)) to remove the provision that the term "WARNING" immediately precede the remainder of the warning statement. FDA is making this change, which is not substantive, because it is redundant with the requirements of § 101.17(g)(2), which explicitly places the term "WARNING" in front of the remainder of the statement.

55. One comment urged FDA to require that the warning statement appear on the PDP and not the information panel. The comment neither disputed the rationale that FDA presented in the juice labeling proposal in support of its proposal to allow the warning statement to appear on either the information panel or the PDP nor gave a reason for its request. Therefore,

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the agency is making no changes in the location of the warning statement in response to this comment.

56. One comment maintained that the statement should not be set off by hairlines and that the agency should follow the same guidelines that it used for other informational statements such as those for saccharin and phenylalanine.

The agency disagrees with this comment. The agency's recent experience with the Nutrition Facts panel has been that the use of hairlines (i.e., enclosing the critical information in a box) greatly increases the prominence of the information. Also, focus group research has shown that such boxes help consumers distinguish the message from other information on the food label. As noted, the warning statement will achieve its purpose only if it is seen and read by consumers. Therefore, the agency is making no changes in response to this comment.

57. A few comments that supported the use of warning statements on juice products stated that a minimum type size of one-sixteenth inch is too small to attract consumer attention. One comment asserted that the proposed type size is too small to be read by many of the elderly, who are one of the at-risk groups targeted by the warning statement. The comment recommended a type size no smaller than 8-point on labels. Another comment suggested a minimum type size of three-sixteenth inch.

The agency does not have data from the comments or elsewhere that indicate that consumers are unable to obtain the information from other warning statements required in § 101.17 and thus, has no reason to believe that consumers would not be able to obtain information from the warning statement in this rule. Accordingly, FDA is making no change to the minimum type size requirements for warning statements for unprocessed juice products.

V. Other Issues

58. A few comments urged FDA to require pasteurized juices to bear a label informing consumers that the product had been pasteurized. These comments contended that juices that have been pasteurized, i.e., heat treated, have lost some of their "beneficial" nutrients, e.g., pectin, and certain enzymes and vitamins, and that consumers have a right to this information. The comments further stated that requiring pasteurized juices to bear a label indicating that the product was pasteurized would prohibit manufacturers of pasteurized juice from labeling their products as "fresh."

The agency does not object to manufacturers voluntarily labeling their product as "pasteurized," when the product has, in fact, been heat treated in accordance with the practice of the trade. However, to require the term "pasteurized" on juice products the agency would have to find that such information was material in light of representations made about the product, or with respect to consequences that may result from use of the product. The comments did not provide the agency with any information on which to make either of these findings. Therefore, the agency is not requiring that the term "pasteurized" or any similar term, i.e., heat treated, appear on the label of juice that has been pasteurized. The agency advises that labeling a pasteurized juice product as "fresh" is a misbranding violation under section 403 of the act. Such products are subject to regulatory enforcement action.

59. Some comments questioned whether the requirement for a warning statement would apply to products that were manufactured by producers who process their own fruit and sell the resulting fresh juice products directly to consumers at their own retail markets, such as a roadside stand.

Whether the warning statement applies to these products depends on two factors: The "retail" status of the producer and the jurisdiction of the FDA.

The source of FDA's authority here is the act. Under the act, FDA's jurisdiction extends to those products, and the manufacturers and distributors of regulated products, that satisfy a necessary connection with interstate commerce. (See 21 U.S.C. 301 and 304.) Juice that is a product of solely intrastate activities (e.g., source of components, location of sales, etc.) is not subject to FDA's jurisdiction and thus, would not be subject to the warning statement requirement.

Nonetheless, in such circumstances, FDA customarily works with State regulatory agencies such as local health departments, who, like FDA, have a mission to protect the public health. Elsewhere in this final rule, FDA has addressed several comments submitted to the juice labeling proposal that described actions already taken by the States to work with producers to ensure the safety of juice products.

60. Several comments asked whether the responsibility for providing a placard or sign, which is an acceptable interim mechanism for manufacturers of packaged juices to comply with the juice labeling rule, lay with a manufacturer who produces the juice and sells it to a wholesaler or retailer or lay with the retailer who actually sells the juice to individual customers.

Under the applicable law, regulations, and agency policy, the firm that is identified as the manufacturer or distributor on the product label bears the principal responsibility to ensure that the product meets all applicable legal requirements, including labeling. However, retailers and wholesalers also have legal responsibility to ensure that products they sell are properly labeled. The legal basis for this shared responsibility is as follows.

Section 301 of the act (21 U.S.C. 331) prohibits the interstate shipment of a misbranded food and also prohibits the misbranding of a food after interstate shipment. In the case of the juice labeling rule, a juice product that is required to, but does not, bear the warning statement is misbranded within the meaning of sections 403(a)(1) and 201(n) of the act. A manufacturer or distributor who ships a misbranded juice product would violate section 301(a) of the act. Likewise, a retailer who fails to provide required labeling containing a warning statement would violate section 301(k). As is FDA's general practice, the agency would evaluate on a case-by-case basis any situation involving a possible misbranding of a covered juice product to determine whether any regulatory action was warranted.

61. Some comments asked whether States would be responsible for enforcing the warning statement requirement for products in intrastate commerce.

State enforcement activities related to this final rule will depend upon the specifics of each State's law (e.g., does that law provide for the automatic adoption of Federal regulations or does that law require a separate State process to establish a State standard?) and the exercise of the State's enforcement discretion.

As a practical matter, the agency is aware that a number of States have already begun to work with producers to improve the safety of juice products. One of FDA's goals in establishing a Federal requirement is to assist States in their efforts and to provide a model to encourage consistency in approach.

62. One comment strongly urged FDA to exempt all growers who process juice and sell directly to consumers at their own retail markets regardless of sales volume. The comment based the request on the belief that the labeling proposal exempted from the warning statement requirement growers who processed their own fruit and sold less than 40,000 gallons of the resulting juice products

directly to consumers and other retailers.

FDA is clarifying that its proposal to require warning statements on untreated juice products did not exempt juices produced by processors that sold less than 40,000 gallons. On the contrary, the agency proposed in the juice labeling proposal that the warning statement appear on the packages of all untreated juice products. Growers, in general, who process their own fruits and sell the resulting juice products commercially are not exempted by FDA from the warning statement requirement based on sales volume. The comment failed to provide the agency with a basis on which to exempt small growers from the labeling requirement, and therefore, the agency declines to do so.

63. Several comments objected to the abbreviated time for comments on the juice labeling proposal. One comment specifically asserted that the shortened comment period resulted in a denial of procedural due process to the industry and the public.

The juice labeling proposal provided interested persons with 30 days to comment on the proposal. In the proposed rule, the agency articulated the basis for its decision under Executive Order 12889 and FDA's regulations, § 10.40(b), for shortening the comment period to 30 days. Subsequently, several interested persons requested an extension of the time for comments. As discussed above, the agency ultimately extended, on June 10, 1998, under the authority of § 10.40(b)(3), the period for comments from all interested persons to June 22, 1998. The agency believes that this comment period is consistent with customary practice and agency regulations. The agency believes that the public health urgency that underlies this rulemaking is sufficient justification under Executive Order 12889 to shorten the comment period from 75 days, a conclusion not challenged in the comments. The agency also believes that the comment schedule of this rulemaking is in compliance with due process. FDA's process here is consistent with the requirements of the Administrative Procedure Act (5 U.S.C. 553). Such requirements are consistent with due process. (See *Bell Lines, Inc.* v. *U.S.*, 263 F. Supp. 40 (D. W. Va. 1967).)

VI. Effective Date

In the juice labeling proposal, FDA proposed that any final rule based on the proposal become effective 60 days after its date of publication in the **Federal Register**.

64. The majority of comments that addressed the proposed effective date supported a 60-day effective date because of the public health concern presented by untreated juices. A few comments asked that the agency change the effective date. One comment suggested that the effective date be changed from 60 to 120 days to allow small processors time to implement HACCP-based programs. Another comment asserted that the 60-day effective date was appropriate if FDA wanted to reach the 1998 apple cider season. That comment suggested, however, that the effective date for other juices be extended to 150 days.

As discussed in the juice labeling proposal, the agency has determined that the urgency of the public health concern with untreated juices requires the mandating of a warning statement as soon as possible, and, in particular, in time for the 1998 "cider season." The comments did not provide any information that contradicted FDA's tentative conclusion that an effective date of 60 days would be needed to coincide with the beginning of the fresh juice season for apple juice and apple cider. Accordingly, the agency is retaining the 60-day effective date for this final rule. Apple juice and apple cider must comply on the effective date of the final rule.

The overarching public health goal of this rulemaking is to provide information about the potential hazards of untreated juice products to consumers at the beginning of the next applicable "juice season." Apple juice and orange juice are the two most consumed juices in the United States, and together account for approximately 80 percent of all juice consumed in the United States (63 FR 24254 at 24365). As discussed in the PRIA (63 FR 24254 at 24273), information available to FDA indicates that the season for apple cider production runs primarily from September through December. Other information available to FDA indicates that the fresh juice season for citrus fruit generally runs from November through June (Ref. 15). Thus, the agency's public health goal can be achieved by establishing a compliance date for citrus juice products that coincides with the start of the fresh citrus juice season. FDA is not aware that the fresh juice season for any juice other than apple juice or apple cider begins as early as the apple juice and apple cider season. Accordingly, in this final rule, FDA is establishing a compliance date for all juices other than apple juice or apple cider at 120 days after the date of publication of the final rule.

As discussed above, in this final rule, § 101.17(g)(4) provides that the required warning statement may be provided in labeling at the point of purchase on a temporary basis until 1 year from the date of compliance with the final rule. In essence, this provision provides manufacturers the alternative of using labeling (e.g., signs or placards) for a single juice season. This flexibility will postpone by a juice season a manufacturer's need to revise and reprint labels that would be affixed to packaged untreated juice products.

VII. Summary of Provisions

In this final rule, FDA is revising its food labeling regulations by requiring a warning statement on fruit and vegetable juice products that have not been processed to prevent, reduce, or eliminate pathogenic microorganisms that may be present. FDA is taking this action to inform consumers that such juices may contain harmful bacteria that can cause serious illness in children, the elderly, and persons with weakened immune systems. FDA expects that providing this information to consumers will allow them to make informed decisions on whether to purchase and consume untreated juice products, thereby reducing the incidence of foodborne illnesses and deaths caused by the consumption of these products. The requirement that untreated juice products bear a warning statement is part of a comprehensive program, which may include the establishment of HACCP principles proposed for the processing of juice products, to address the incidence of foodborne illness related to consumption of fresh juices and to ultimately address the safety of all juice products.

This juice labeling final rule includes the following revisions to the juice labeling proposal:

(1) Section 101.17(g)(1) has been revised to remove the provision that any juice sold as such or used as an ingredient in beverages is subject to the warning statement requirement. This proposed provision, which specified those products that are subject to the warning statement requirement, became redundant with the final provisions of § 101.17(g)(2) and (g)(3).

(2) Section 101.17(g)(2) has been revised to reflect that, in addition to any juice that has not been processed to satisfy the pathogen reduction performance standard in § 101.17(g)(7), the warning statement requirement applies to any beverage containing juice where neither the juice ingredient nor the beverage has been processed to satisfy that standard. This, together with the exemption in § 101.17(g)(3), clarifies how FDA intended to cover juice used as an ingredient.

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(3) New § 101.17(g)(3) establishes an exclusion from the warning statement requirement for certain juice that is not for distribution to retail consumers in the form shipped and that is for use solely in the manufacture of other foods or is to be processed, labeled, or repacked at a site other than originally processed. A warning statement is not required for such juice even if it has not been processed in the manner described in § 101.17(g)(7), so long as the lack of such processing is disclosed in documents accompanying the juice, in accordance with the practice of the trade.

(4) Under § 101.17(g)(4), the compliance date for the rule depends on the nature of the juice. For apple juice and apple cider, the compliance date is 60 days after the date of publication in the **Federal Register**; for all juices other than apple juice and apple cider, the compliance date is 120 days after the date of publication in the **Federal Register**.

(5) Under § 101.17(g)(4), manufacturers of packaged juices may comply with the rule by means of point-of-sale labeling, e.g., through the use of signs or placards, for up to 1 year after the date for compliance with the rule. In essence, this provision provides all manufacturers, regardless of size, the alternative of using labeling for a single juice season.

(6) The provision in proposed § 101.17(g)(4) (now § 101.17(g)(5)) that the term "WARNING" immediately precede the remainder of the warning statement has been deleted because it is redundant with the requirements of § 101.17(g)(2).

(7) The provision in proposed § 101.17(g)(6) (now § 101.17(g)(7)) establishing the processing standard for juices to be exempt from the warning statement requirement has been broadened. It now includes juice processed in a manner that will achieve or exceed any pathogen reduction performance standard established in any final regulation requiring the application of HACCP principles to the processing of juice.

VIII. Final Regulatory Impact Analysis

FDA has examined the impacts of this final rule under Executive Order 12866. Executive Order 12866 directs Federal agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects; distributive impacts; and equity). According to Executive Order 12866, a regulatory action is "significant" if it meets any one of a number of specified conditions, including having an annual effect on the economy of $100 million or adversely affecting in a material way a sector of the economy, competition, or jobs or if it raises novel legal or policy issues. FDA finds that this final rule is a significant regulatory action as defined by Executive Order 12866.

In addition, FDA has determined that this rule is not a significant rule under the Unfunded Mandates Reform Act of 1995 (UMRA) requiring benefit-cost and other analyses. Under UMRA significant rule is defined as "a Federal mandate that may result in the expenditure by State, local and tribal governments in the aggregate, or by the private sector, of $100,000,000 (adjusted annually for inflation) in any 1 year."

Finally, in accordance with the Small Business Regulatory Enforcement and Fairness Act, the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget (the Administrator) has determined that this final rule is not a major rule for the purpose of congressional review. A major rule for this purpose is defined as one that the Administrator has determined has resulted or is likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In the **Federal Register** of May 1, 1998 (63 FR 24254), FDA published a Proposed Regulatory Impact Analysis (PRIA) analyzing the benefits, costs, and regulatory options of proposed regulations regarding warning statement requirements and HACCP for juice. FDA received several comments on the PRIA from juice processors, trade associations, and consumers. In this document, FDA is finalizing the labeling provisions. FDA intends to publish a final rule on the HACCP requirements at a later date. Thus, FDA is only analyzing the impacts of the warning statement requirement.

A. Regulatory Alternatives

1. Prohibit Display of Warning Statement on Signs

FDA received several comments objecting to the proposed provisions that would temporarily allow the use of signs or other labeling to communicate the warning statement.

65. Several comments stated that FDA did not accurately address the costs or benefits of this proposed provision. For example, some comments asserted that signs with the warning statement will communicate that all of the juice in a refrigerated case is subject to the warning statement and thereby impose costs on processors of pasteurized juice. Some other comments said that signs with the warning statement may not be close enough to the product to be effective in achieving the benefits that the agency seeks. FDA believes that the problems mentioned by these comments will not be significant. Both retailers and sales representatives of products to which the warning statements do not apply have a financial interest in ensuring that the warning statements (particularly in sign or placard form) are not used in a way that would create the appearance that the warning statement applies to a broader set of products than required by this rule. For example, retailers may place signs on individual shelves rather than over entire refrigerated cases. In some stores that do sell untreated juice, the untreated juice products are sold in separate refrigerators in the produce section while pasteurized juice is sold with the other refrigerated products. Thus, products that need to be accompanied by the warning statement may be physically separated from other juices. Also, the sign or placard could specify by name the products covered by the warning statement. For these reasons, the agency disagrees with these comments and declines to adjust estimates of the benefits or costs of the rule based on them.

2. Require a 5-Log Process

66. Some comments said that requiring a process to achieve a 5-log reduction in pathogens as the alternative to the warning statement on untreated juice is too expensive an alternative for small businesses that wish to avoid the warning statement. One comment from a small juice processor said that implementing pasteurization to achieve a 5-log reduction would cost $30,000. Some other comments asserted that all juice should be required to be pasteurized.

In the PRIA, FDA provided an estimate of the cost of pasteurization equipment developed especially for small juice processors ($18,200). The agency does acknowledge that this may be a significant cost for some small businesses. Although the agency is encouraging juice processors to implement pasteurization or other process controls sufficient to achieve a

5-log reduction in pathogens, FDA is not mandating a 5-log reduction at this time. Instead, this final rule permits processors to produce untreated juice and offer it for sale accompanied by the warning statement until a final HACCP regulation (if one is established) is in place. The agency believes that requiring a warning statement on untreated juice is the least stringent regulatory approach acceptable for untreated juice. Processors (especially processors of very small volumes of juice) may find that including the warning statement on untreated juice is a less expensive alternative to implementing a 5-log pathogen reduction process.

However, as noted, FDA believes that requiring pasteurization of all juice would unnecessarily restrict innovation and new product development. Such activities are important to maintain competitiveness in the food industry. Additionally, the agency believes that consumer choice would be unnecessarily restricted by requiring all firms to implement a single type of processing technology. Until the agency has the opportunity to review all comments received in response to the HACCP proposal, the agency is satisfied that the proposed approach is the best balance between achieving the intended benefits and allowing flexibility for production.

3. Require Preventive Controls

67. Some comments suggested that FDA should implement GMP or HACCP (preventive control) requirements immediately rather than require warning statements on untreated juice products. Other comments supported the use of a warning statement on food products only as an interim measure until the agency establishes a more comprehensive solution to the problem of microbial contamination in juice. FDA recognizes the importance of preventive controls and has tentatively concluded that it is essential to implement a HACCP regulation for juice. The agency also believes that it is essential to communicate the risks associated with untreated juice to consumers during the considerable amount of time that will be required for the agency to finalize and implement an inherently more complex HACCP regulation for juice.

4. Require Brochures

68. As described earlier, some comments supported the use of brochures or pamphlets outlining the risks associated with the consumption of untreated juices as an alternative to a label warning statement. FDA declines to require brochures as an alternative in this rule because the focus group research shows that brochures would generate fewer benefits than the approach taken in this rule. FDA further notes that requiring the distribution of a brochure with each package of juice is likely to be at least as costly as placing stickers on each package label.

5. Change Length of Time Signs are Allowed

69. Some comments opposed the length of time that signs with the warning statement would be allowed (until January 1, 2000, the next uniform compliance date for other food labeling changes and until January 1, 2001 for small businesses) under the proposed rule. These comments claimed that signs would be less effective than labels in communicating the warning information.

FDA finds merit in these comments. The agency agrees that placards and signs may be less effective than package labels for the purpose of communicating product-specific information to consumers. However, as a practical matter, producers of untreated juice need time to modify their package labels to include the warning statement. In response to the concerns about the effectiveness of signs and placards, in this final rule, FDA is reducing the length of time that the warning statement may be provided in labeling such as signs or placards. FDA has concluded that a full juice season provides all firms, whether large or small, sufficient time to comply with the label requirement. Accordingly, this final rule provides that the required label statement may be provided in labeling at point of purchase, for a period of 1 year from the date for compliance with the final rule. The interim use of signs, placards, or other labeling for 1 year from the date when compliance is required will, in essence, provide manufacturers the flexibility to use labeling for a single juice season.

B. Benefits

1. Estimates of Juice Consumption

70. One comment stated that FDA had underestimated the amount of untreated juice consumed and, therefore, had underestimated the number of cases of illness that would be addressed by the rule. FDA disagrees that the cases of illness addressed by the rule have been underestimated as a result of the agency's consumption estimates. FDA did not estimate the number of cases of illness based on consumption; instead, the agency estimated the number of cases of illness by multiplying confirmed illnesses associated with juice by factors accounting for the under reporting on foodborne illness. Thus, FDA does not agree with this comment.

2. Recent Activity Not Accounted For

71. Some comments asserted that the agency's estimates of illness are outdated because these estimates do not take into account the recent steps that the industry and State governments have taken to reduce risk associated with juice.

FDA has used the most up-to-date information available on foodborne illness associated with juice. Complete data from the Centers for Disease Control and Prevention for 1997 are not available. The agency acknowledges that industry and State governments have been working to reduce the public health risks associated with consumption of untreated juice, and FDA encourages these efforts and hopes that they continue. However, because FDA has no evidence that the industry and State government efforts have sufficiently minimized the risk associated with juice, the agency believes that the warning statement is needed to inform the choices of consumers. Further, the rule will provide an incentive to continue to improve upon these efforts. Where these efforts of industry achieve a 5-log reduction in pathogens, those processors using such processes are not required to apply the warning statement to their products.

3. Value of Information

72. Some comments said that consumers would value the information in the warning statement because it would increase their ability to make informed choices.

FDA agrees that to the extent that the warning statement lowers the cost to consumers of obtaining information, there is a benefit to consumers in addition to the reduction in illnesses estimated in the PRIA. Although FDA is unable to quantify this benefit, it is appropriately counted as an unquantified benefit of the final rule.

4. Impact of Warning Statement on Lawsuits

73. One comment claimed that the warning statement will protect processors from lawsuits and bad publicity because consumers of the product will be taking responsibility for the risk associated with the product. Another comment said that the warning statement will encourage more lawsuits because the warning statement will suggest to consumers that the juice may be the cause of their symptoms.

State liability laws and their interpretations vary. These conflicting comments provided no specifics on these issues. FDA is not able to evaluate the impact of the warning statement on the filing or adjudication of lawsuits. For this reason, the agency has not made

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any changes to the benefits or costs estimated for this rule based on these comments.

5. Benefits Summary

Table 1 shows the quantified benefits estimated for the labeling rule in both the PRIA and Final Regulatory Impact Analysis (FRIA (see section VIII of this document)). No comments persuaded the agency to change the quantified benefits of the rule. There are two additional unquantified benefits that, as a result of comments, the agency acknowledges. The first unquantified benefit is the value of the warning information to consumers regardless of changes in their consumption patterns; the agency is unable to quantify this benefit. Second, the agency believes that there will be some increase in benefits resulting from requiring the warning statement on package labels sooner than originally proposed; the agency is unable to quantify this benefit.

TABLE 1.—QUANTIFIED BENEFITS FOR LABELING RULE AS ESTIMATED IN PRIA AND FRIA

PRIA low estimate	FRIA low estimate	PRIA high estimate	FRIA high estimate
$1 million	$1 million	$6 million	$6 million

C. Costs

1. Effect of Warning Statement on Untreated Juice Sales

FDA received comments regarding the impact of the warning statement on sales of untreated juice. These effects stem from either consumer reaction, retailer response, or both.

74. Some comments said that the warning statement will have a negative effect on sales of untreated juice. FDA acknowledges this possible effect. In fact, the agency intends for the warning statement to reduce the consumption of untreated juice by consumers who are most at risk. The inevitable consequence of this goal is to have a negative effect on the sales of untreated juice.

FDA received one comment demonstrating that a market for unpasteurized juice does exist and may not be significantly harmed by the warning statement requirement of this rule. This comment from a juice processor stated that he produces both pasteurized and unpasteurized cider. The unpasteurized cider is sold accompanied by a leaflet warning consumers of the risk associated with untreated juice. This processor reports that 70 percent of his sales continue to come from unpasteurized cider.

FDA applauds this processor's responsible actions. The agency is not, in this rule, prohibiting the sale of untreated juice, nor does the agency believe that the warning statement will dissuade all consumers from purchasing untreated juice. FDA believes that at-risk consumers should carefully consider the consumption of untreated juice and the availability of the warning statement will allow informed decisionmaking by consumers. It is quite possible that this processor will see no change in the demand for either type of juice as a result of this rule, since the processor was already providing consumers with the warning information and offering them a product that has been subject to a 5-log reduction in pathogens. In fact, the agency believes that the experience of this processor shows that this rule will not have the extreme consequences described by some of the comments.

75. Some comments said that the warning statement will confuse consumers, that at-risk consumers will not be deterred from consuming untreated juice, and that consumers who are not at risk will be deterred from consuming juice.

FDA disagrees with these comments because the agency believes that the warning statement communicates a clear, appropriately targeted message. Importantly, the agency does not claim that all at-risk consumers will stop consuming untreated juice. FDA's estimates of consumption changes range from an expected 5 percent to a maximum of 16 percent. The comments that referred to a larger than 16 percent decline in consumption and sales during the last cider season were based on the effects of adverse publicity surrounding the outbreaks associated with untreated apple juice and cider, not on the effects of labeling. Any costs that resulted from adverse publicity that occurred before the agency first became involved in this issue are not attributable to this rulemaking. FDA believes that the decline in sales experienced by some producers in response to adverse general publicity are not indicative of the potential effects of labeling that provides true and not misleading information. Moreover, these sales declines have already occurred and cannot occur again for the same processors. However, the agency acknowledges that some consumers who are not at high risk may choose not to purchase untreated juice because of the warning statement. The agency believes that consumers are better off whenever they make better informed choices, and that better informed choices demonstrate unambiguously an increase in net societal benefits.

76. Some comments from juice processors said that retailers will refuse to sell products with warning statements. Some comments said that virtually all chain and large grocery stores have stopped selling untreated apple juice because of the publicity of the illnesses associated with untreated apple juice. In addition, some comments from citrus processors said that retailers would refuse to carry citrus juice with the warning statement just as apple juice processors have experienced. These comments stated that they expected a 50 percent reduction in sales because retail stores would not even offer consumers the choice of untreated juice with the warning statement. Some comments said, because of their concern that the warning labels will have a negative impact on citrus juice (including pasteurized as well as citrus fruit sold), that the warning statement would cause catastrophic damage to the Florida citrus industry.

FDA acknowledges that retailers may have this reaction to juice products with the warning statement. Like consumers who may decide not to purchase untreated juice because of the warning statement, retailers may decide not to buy untreated juice from wholesalers or processors for retail sale. The agency believes that the warning statement will have a minor effect on the choice of retailers to carry untreated juice products. For the most part retailers have already made a decision about carrying untreated apple juice based on the publicity of the illnesses associated with untreated apple juice. Also, the agency's estimates of the impact of the juice HACCP and warning statement proposals in the PRIA were based on the agency's conjecture that citrus processors may be able to achieve and validate a 5-log reduction without pasteurization (63 FR 20450 at 20478). If processors of untreated citrus juices are able to accomplish this then the citrus industry will experience little effect of this warning statement rule because citrus juices would then not require the warning statement. The agency does not believe that this rule will have a significant impact on the citrus industry.

77. Some comments said that retailers will refuse to place signs bearing warning statements so that processors will have to place the warning statements on the juice package. One comment representing retailers indicated that retailers did not want the agency to permit the warning statement to appear on signs.

If the only issue is whether the warning statement appears on signs or on package labels, then retailers could make it a condition of sale that the warning statement be on the product package so that they do not have to deal with signs. The agency believes that these issues are best left to the market to determine. Regardless of how these issues are resolved, they do not result in costs of the rule that should be included in the FRIA.

A reduction in sales of untreated juice as a result of the warning statement is not a social cost of the rule if the effect of the warning statement is to restore consumers to a correct understanding of the actual risk posed by consumption. In fact, all estimated gains to public health reflect the agency's belief that the effect of the warning statement is to enable consumers to more correctly account for this risk. However, if the warning statement results in exaggerated consumer risk perceptions, then the warning statement would result in excess reduction in the demand for untreated juice and new, unintended social costs. These new social costs would include reductions in both consumers' and producers' surplus. Thus, the magnitude of net social benefit depends on the extent to which the warning statement changes consumer risk perceptions so as to result in a new demand that overshoots or undershoots the socially optimal demand.

2. Effect of Warning Statement on Pasteurized Juice Sales

78. Some comments asserted that the warning statement will have a negative effect on the sales of pasteurized juice. One comment stated that the warning label would eliminate the competitive edge that untreated juice has over pasteurized juice. Another comment said that the warning statement will eliminate consumer confusion about the difference in risk between pasteurized and unpasteurized products.

FDA agrees that the warning statement referring specifically to unpasteurized products will provide consumers with more information and increase consumers' ability to make informed choices between the two types of juice. Comments that claimed that the warning statement would negatively affect sales of pasteurized juice provided no information or other justification for such statements. Likewise, the agency is unaware of any research showing that warning statements referring to one type of product have a negative impact on the sale of products to which the warning statement does not apply. FDA agrees with the comment that untreated juice will lose some competitive advantage with pasteurized juice. In fact, FDA believes it likely that the warning statement will have a small but positive effect on sales of pasteurized juice because the most likely alternative for consumers who wish to avoid juices covered by the warning statement (i.e., untreated juice) is the purchase and consumption of pasteurized juice, because the closest substitute for unpasteurized juice is probably pasteurized juice.

3. Effect of Warning Statement on International Trade

79. Some comments said that the warning statement could act as a non-tariff trade barrier both to U.S. processors who are interested in exporting untreated juice and to foreign processors who import untreated juice into the United States.

FDA disagrees with these comments. This rule is not a prohibited trade barrier. U.S. trade obligations permit the agency to establish measures that regulate the safety of imported foods as long as the measures are consistent with the Sanitary and Phytosanitary (SPS) agreement. Trade agreements administered by the World Trade Organization (WTO) require that WTO members not apply measures that are more restrictive to imported goods than to domestic goods, without science-based justification. This is not the case with this rule. Further the trade agreements require that measures be based on risk assessment, appropriate to the circumstances, taking into account available scientific information, relevant processes and production methods; and other relevant factors. The agency believes it carried out a comprehensive and science-based evaluation of the risks in making its decision to require a warning statement. The agency recognizes that its decision can impact trade, but believes that the resulting measure is fully consistent with the rights and obligations of the WTO agreements.

4. Cost of Label Change

80. Some comments stated that the warning statement should appear on product labels within 60 days of publication of the final rule. These comments said that label changes could be made by very small businesses easily, quickly, and at very low cost. Some other comments said that if the warning statement were required to be included on product labels this season, processors would suffer extreme hardship and expense. These comments requested more time before the warning statement is required to be placed on labels.

In the PRIA, FDA estimated the cost of label changes for compliance periods of different lengths. In light of these conflicting comments, the agency has further considered the costs of including the warning statement on package labels. As a result of these investigations, FDA is revising the estimate of the administrative costs of the label change in the case of this rule.

The comments outlined the activities and changes that are specific to the juice warning statement situation and identified the activities involved for this rule that are different from those for most label changes. The estimate for administrative costs in the PRIA was based on a model for calculating costs of labeling changes based on more comprehensive changes in food labels. FDA is convinced that the label change involved in this specific rule is simpler and therefore requires a lesser effort (Ref. 14). Because the agency is prescribing the exact words to be used in the warning statement and because affected processors have been so significantly alerted to FDA's intent to establish the rule, the administrative costs of determining the need to and manner in which to comply should be greatly reduced from other labeling change situations. FDA estimates that the administrative costs of making this label change would require 8 labor hours. At $13 per labor hour, the estimated administrative cost is approximately $100 for a 1-year compliance period. Table 2 shows the label change costs for different compliance periods as estimated in the PRIA and in this FRIA.

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TABLE 2.—INTEGRATED LABEL CHANGE COSTS PER SKU FOR DIFFERENT LENGTHS OF THE COMPLIANCE PERIOD

Item	2 Months PRIA	2 Months FRIA	6 Months PRIA	6 Months FRIA	1 Year PRIA	1 Year FRIA
Administrative Costs	$6,000	$700	$1,800	$200	$900	$100
Redesign Costs	$1,500	$1,500	$450	$450	$450	$450
Inventory Loss	$800	$800	$250	$250	$0	$0
Total Integrated Labels	$8,300	$3,000	$2,500	$900	$1,350	$550

81. Some comments suggested that stickers could be used to supplement existing labels within 2 months. The agency has investigated the cost of using stickers to augment the package labels so as to include the warning statement on packages without changing labels existing in inventory. Stickers would result in no redesign or inventory loss. However, there would be administrative costs for designing, ordering and coordinating placement of the stickers. The agency believes that the administrative cost for using stickers is significantly lower than that for integrated label changes in the same period of time. In addition to administrative costs, use of stickers would result in costs for printing the stickers and labor and equipment needed to apply the stickers. Table 3 shows the estimated cost for stickers for a very small juice processor producing approximately 10,000 gallons of juice per season. This size plant is typical of the processors likely to be affected by this rule.

TABLE 3.—LABEL STICKER COSTS

Item	Cost
Administrative Costs	$100
Printing Costs	$250
Application Costs	$600
Total Stickers	$1,000

5. Costs Summary

FDA has relied on the most recent data available to estimate risks of foodborne illness from untreated juice and the costs associated with this rulemaking. Information about baseline risk is somewhat older than information about cost; hence, estimates of baseline risk do not account for changes that may have occurred since public concern about the safety of untreated juice arose. However, cost estimates treat as "sunk" those expenditures that firms and consumers have made in recent years in response to concerns about the risks associated with untreated juice.

The quantifiable costs of this final rule include the cost of signs or placards, earlier implementation of pathogen controls to avoid warning statements, and changing container labels to include the warning statement.

In this final rule, FDA is requiring that the warning statement appear on products sooner than the proposed rule would have required. The costs estimated in the PRIA were based on a 2-year compliance period. The costs of label changes estimated in this FRIA are based on a 1-year compliance period (2,980 firms x $550 per firm = $1,639,000).

As discussed earlier, the agency acknowledges one category of unquantified costs that result from responses to the comments, specifically, the transaction cost of the working of the legal system for increased product liability lawsuits. The agency believes this cost will be small.

Table 4 shows the quantified costs estimated for the rule in the PRIA and FRIA.

TABLE 4.—COSTS ESTIMATED FOR RULE IN PRIA AND FRIA

Cost	PRIA Estimate	FRIA Estimate
Signs and Placards	$398,000	$398,000
Earlier Implementation of Pathogen Controls to Avoid Warning Statement	$2,688,000	$2,688,000
Container Labels	$1,301,000	$1,639,000
Total	$4,387,000	$4,725,000

IX. Final Regulatory Flexibility Analysis

FDA has examined the impacts of this final rule under the Regulatory Flexibility Act. The Regulatory Flexibility Act (5 U.S.C. 601–612) requires federal agencies to consider alternatives that would minimize the economic impact of their regulations on small businesses and other small entities. In compliance with the Regulatory Flexibility Act (RFA), FDA finds that this final rule will have a significant impact on a substantial number of small entities.

The agency has evaluated comments on the juice labeling proposal and on the Preliminary Regulatory Impact Analysis (PRIA) and Initial Regulatory Flexibility Analysis (IRFA) on matters that bear on small business impacts. The agency's responses to these comments are set out in the next section; that section is followed by a summary of the estimates of costs of this final rule to small businesses.

A. Responses to Comments

1. Warning Statement Effect on Viability of Small Businesses

82. Some comments asserted that the warning statement will harm the viability of small farm businesses. Some of these comments said that the price of purchasing, installing, and operating pathogen controls (so as to avoid application of the warning statement) was too much for small businesses to pay.

FDA acknowledges that the initiation of new pathogen controls may be a significant expenditure for some small businesses. However, the agency believes that the public health risk associated with untreated juice is significant enough to warrant requiring all juice either to be subject to pathogen controls or to bear a statement warning consumers of the health risks associated with untreated juice. These public health risks exist regardless of the size of the producer—small or large. Very few untreated juice processors are stand-alone businesses. Instead, virtually all are side businesses of orchards that use fruit not sent to packing houses for making juice. This primary business—growing fruit for whole packing—should not be adversely affected by this rule.

2. Expense of Label Changes for Small Businesses

83. As noted, some comments stated that the warning statement should be required to appear on product labels within 60 days of publication of the final rule. These comments said that label changes could be made by very small businesses easily, quickly, and at very low cost. Other comments asserted that if the warning statement was required to be included on product labels this season, processors would suffer extreme hardship and expense. These comments requested more time before the warning statement was required to be placed on labels.

As described in the FRIA above, FDA has revised the estimate of the administrative costs of the label change in the case of this rule. The agency has determined that it is appropriate to reduce the length of time that manufacturers will be permitted to provide the required warning statement in labeling, (e.g., on signs and placards) to up to 1 year from the date for compliance with the rule. This will allow the warning statement to appear on signs and placards for one juice season.

3. Coverage of Small Juice Processors

84. One comment requested that processors of less than 40,000 gallons of juice annually be exempt from the rule. The comment stated that small farmers use untreated juice production as an automatic stabilizer to augment their income from the sale of whole fruit, probably when growing conditions are bad. According to the comment, not all fruit grown in an orchard meets the size, shape and other standards necessary for it to be sold as whole fruit. It is not unusual for these culls to amount to 10 percent of the harvest; when crop growing conditions are less favorable (e.g., due to hail damage), the percentage of culls is greater. Farmers may sell culls to large processors for processed juice and other highly processed fruit products, or they may use culls to produce their own untreated juice. The comment asserted that culls used for untreated juice production return 300 percent to 400 percent more than culls sold for highly processed products. Other comments, however, said that small businesses should not be exempt from the rule.

FDA's labeling proposal did not exempt any juice processors. The agency understands that small businesses may lose some income as a result of this rule. The agency believes, however, that it is essential that consumers be informed of the risk associated with the consumption of untreated juice regardless of the size of the processor. The risk faced by the consumer is related only to the product and not to the size of the product's processor. The agency has sought to craft this rule in the most cost-effective manner in order to minimize the rule's burden on processors while still attaining the goals of the rule. Given this fact, the agency is not aware of any rational basis related to the rule's goal that would justify completely excluding small processors from the labeling requirement.

4. Level Playing Field for Business

85. Some comments asserted that the proposed rule gave unfair advantages to large corporations. Other comments claimed that the proposal would give undue consideration to small businesses. Comments on both sides of this issue requested that the agency establish "a level playing field" for business. FDA interprets a request for a "level playing field" as a request for equitable treatment. The RFA (as amended in 1995) and Executive Order 12866 require that FDA address the issue of equity. The agency has considered these issues, including regulatory alternatives that would reduce the burden on small businesses, and has determined that the risks to public health associated with untreated juice are such that small processors should not be excluded from the labeling requirement.

B. Objectives

The RFA requires a succinct statement of the purpose and objectives of any rule that will have a significant impact on a substantial number of small entities.

This rule responds to the need to alert consumers to the potential risk of foodborne illness from consumption of juice products not pasteurized or otherwise processed to destroy pathogens that may be present; these pathogens pose a risk of serious foodborne illness. FDA is requiring warning statements for such juice products to inform consumers of the potential hazard of pathogens in such products; such labeling is not required for juice that is processed to achieve a 5-log reduction in the pertinent microorganism. If FDA finalizes a rule requiring the application of HACCP principles to the processing of juice, the warning statement will no longer be required for those products that achieve a pathogen reduction that is equal to, or greater than, the standard established in a HACCP final rule.

C. Definition of Small Business and Number of Small Businesses Affected

The RFA requires a statement of the definition of small business used in the analysis and a description of the number of small entities affected.

Table 5 shows the definition of small business for each type of establishment affected by the rule and an estimate of the number of small entities of each type. The agency has applied the Small Business Administration (SBA) definitions of small business for this analysis.

TABLE 5.—APPROXIMATE NUMBER OF SMALL ESTABLISHMENTS COVERED BY THIS RULE

Type of Establishment	Standard Industry Classification Codes	SBA Definition of Small by Category	Percentage of Category Defined as Small by SBA	No. of Small Establishments Covered by Rule
Juice manufacturers in the OEI	2033, 2037	Less than 500 employees	75%	20
Roadside-type apple juice makers	2033, 2037	Less than 500 employees	100%	1,600
Roadside-type orange juice makers	2033, 2037	Less than 500 employees	100%	300
Grocery stores and supermarkets processing at point of sale	5411	Less than $20 million of annual sales	85%	1,100

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TABLE 5.—APPROXIMATE NUMBER OF SMALL ESTABLISHMENTS COVERED BY THIS RULE—Continued

Type of Establishment	Standard Industry Classification Codes	SBA Definition of Small by Category	Percentage of Category Defined as Small by SBA	No. of Small Establishments Covered by Rule
Total				3,020

D. Description of Impact on Small Entities

1. Costs to Small Entities

Table 6 shows the average cost for small entities that can reasonably predict, based on the proposed rule, that they will be required to implement an adequate HACCP program and will therefore implement 5-log pathogen controls (to avoid use of the warning statement) earlier than they would if the warning statement was not required for products without validated 5-log pathogen process controls. Table 6 also shows the average cost for small entities that will not expect to implement 5-log pathogen controls in the future. These entities will be required to adopt the warning statement for their products. The private costs to small businesses of the warning statement also include the lost revenue that results from a reduction in sales. These costs are not societal costs and are therefore not included in the costs estimated in the FRIA.

TABLE 6.—AVERAGE COST OF COMPLIANCE FOR SMALL ENTITIES

Item	Cost for Entities Covered by HACCP Rule	Cost for Entities not Covered by HACCP Rule
Sign or Placard		$100
Container Label Change		$550
Lost Sales Resulting From Warning Statement (for 5-16% loss on average sales of $20,000)		$1,000-$3,200
Early Implementation of 5-Log Pathogen Controls to Avoid Labeling	$16,000	
Total	$16,000	$1,650-$3,850

The impacts that the costs will have on a firm will vary depending on the total revenue derived from juice by a firm and the profit (return on sales) associated with juice production. Data on food manufacturing firms indicates that 75 percent of firms have a return on sales of less than 5 percent.

2. Professional Skills Required for Compliance

The RFA requires a description of the professional skills required for compliance with this rule. Compliance will require managerial skills necessary to design, order, and utilize signs and labels.

3. Recordkeeping Requirements

The RFA requires a description of the recordkeeping requirements of the rule. There are no recordkeeping requirements.

E. Description of Outreach to Small Entities

The RFA requires a description of the outreach activities taken by the agency to inform small entities about the rule and to encourage comments from small businesses.

In addition to publishing the proposed rule in the **Federal Register**, the agency published the rule on the FDA world-wide web site to make the text of the rule more easily and widely accessible. The web site contains instructions about how to submit comments to the agency. FDA officials have on several occasions made speeches and presentations at meetings where small entities have been represented by trade associations, legal counsel, and academic juice specialists who are providing assistance to small entities for commenting and complying. FDA has also made a number of special mailings of the rule to small entities requesting individual paper copies and has fielded a number of phone inquiries about the rule.

F. Minimizing the Burden on Small Entities

The RFA requires an evaluation of any regulatory overlaps and regulatory alternatives that would minimize the costs to small entities.

1. On Requiring a 5-Log Process

86. Some comments said that requiring a process to achieve a 5-log reduction in pathogens as the alternative to the warning statement on untreated juice was too expensive an alternative for small businesses that wish to avoid the warning statement. One comment asserted that implementing pasteurization to achieve a 5-log reduction would cost $30,000. Other comments claimed that all juice should be required to be pasteurized.

In the PRIA, FDA provided an estimate of the cost of pasteurization equipment developed especially for small juice processors ($18,200). The agency understands that this may be a significant cost for some small businesses. Although the agency is encouraging juice processors to implement pasteurization or other process controls sufficient to achieve a 5-log reduction in pathogens, at this time, FDA is not mandating a 5-log reduction. Instead, this final rule permits processors to produce untreated juice and offer it for sale accompanied by the warning statement until a final HACCP regulation (if one is established) requires such processors to implement process controls sufficient to achieve a 5-log reduction in pathogens. The agency believes that requiring a warning statement on untreated juice is the least stringent regulatory approach acceptable for untreated juice. Processors (especially processors of very small volumes of juice) may find that including the warning statement on untreated juice is a less expensive alternative to implementing a 5-log pathogen reduction process.

However, as noted earlier, FDA believes that requiring pasteurization of all juice would unnecessarily restrict innovation and new product and process development. Such activities are important to maintain competitiveness in the food industry. Additionally, the agency believes that consumer choice would be unnecessarily restricted by requiring all firms to implement a single type of processing technology. At this time, the agency is satisfied that the proposed approach is the best balance between achieving the intended benefits to consumers and allowing flexibility for production.

2. Change Length of Time Signs are Allowed for Small Businesses

The proposed rule would have allowed the use of signs or placards until January 1, 2000, the next uniform compliance date for other food labeling changes, and until January 1, 2001 for small businesses to relieve the burden on such businesses.

87. Some comments opposed the length of time that signs with the warning statement would be permitted. These comments asserted that signs would be less effective than labels in communicating the hazard information. Some of these comments also opposed the additional time allowed for small businesses to comply with the requirement that the warning statement appear on the labels of their products. The comments asserted that the public health concern with untreated juice existed whether the producing firm was large or small. Other comments supported giving small businesses additional time to place warning statements on packages.

The agency agrees that placards and signs may be somewhat less effective than labels for the purpose of communicating product-specific information to consumers. However, as a practical matter, producers of untreated juice need time to modify their labels to include the warning statement. In response to the concerns about the effectiveness of signs and placards, in this final rule, FDA is reducing the length of time that manufacturers will be allowed to provide the warning statement in labeling. The label change is not complex. FDA believes that small businesses will not experience more difficulty than large businesses in making the change. Therefore, FDA is giving small and large businesses the same amount of time to make the change. Accordingly, this final rule provides that the required warning statement may be provided in labeling at point of purchase until 1 year from the date that firms must comply with the requirements of the final rule. The interim use of labeling (e.g., signs or placards) for 1 year will, in essence, provide manufacturers the option of using labeling for a single juice season.

G. Summary of Regulatory Flexibility Analysis

FDA has examined the impact of the rule on small businesses in accordance with the RFA. This analysis, together with the FRIA and remainder of the preamble, constitutes the Final Regulatory Flexibility Analysis. FDA has determined that this rule will have a significant impact on a substantial number of small entities.

X. Environmental Impact

The agency has previously considered the environmental effects of this rule as announced in the proposed rule (63 FR 20486 at 20491). No new information or comments have been received that would affect the agency's previous determination that this action is of a type that does not individually or cumulatively have a significant impact on the human environment (21 CFR 25.30(k)). Thus, neither an environmental assessment nor an environmental impact statement is required.

XI. Paperwork Reduction Act of 1995

FDA concludes that the labeling requirements in this document are not subject to review by the Office of Management and Budget because they do not constitute a "collection of information" under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). Rather, the warning statement is "public disclosure of information originally supplied by the Federal government to the recipient for the purpose of disclosure to the public" (5 CFR 1320.3(c)(2)).

XII. References

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3. FDA memorandum, "Consumer Awareness of Unpasteurized Juice as a Risk," Brenda M. Derby to Elizabeth Campbell, June 22, 1998.

4. Stewart, D. W. and I. M. Martin, "Intended and Unintended Consequences of Warning Messages: A Review and Synthesis of Empirical Research," *Journal of Public Policy and Marketing*, 13(1):1–19, 1994.

5. FDA memorandum, Alan S. Levy to Kenneth Falci, June 26, 1997.

6. FDA memorandum, "Consumer Awareness of Voluntary Labeling," Brenda M. Derby to Elizabeth Campbell, June 22, 1998.

7. Fratamico, P. M., M. Y. Deng, T. P. Strobaugh, S. A. Palumbo, "Construction and Characterization of *Escherichia coli* 0157:H7 Strains Expressing Firefly Luciferase and Green Fluorescent Protein and Their Use in Survival Studies," *Journal of Food Protection*, 60(10):1167–1173, 1997.

8. FDA Memorandum, Robert L. Buchanan to the Record, June 15, 1998.

9. Centers for Disease Control, "*Salmonella typhimurium* Outbreak Traced to a Commercial Apple Cider—New Jersey," *Morbidity and Mortality Weekly Report*, 24:87–88, 1975.

10. Centers for Disease Control and Prevention, "Outbreaks of *Escherichia coli* O157:H7 Infection and Cryptosporidiosis Associated With Drinking Unpasteurized Apple Cider—Connecticut and New York, October 1996," *Morbidity and Mortality Weekly Report*, 46(1):4–8, 1997.

11. Miller, L. G. and C. W. Kaspar, "*Escherichia coli* 0157:H7 Acid Tolerance and Survival in Apple Cider," *Journal of Food Protection*, 57(6):460–464, 1994.

12. Centers for Disease Control and Prevention, "Outbreak of *Escherichia coli* O157:H7 Infections Associated with Drinking Unpasteurized Commercial Apple Juice—British Columbia, California, Colorado, and Washington, October 1996," *Morbidity and Mortality Weekly Report*, 45(44):975, 1996.

13. FDA Memorandum, David Zorn to Elizabeth Campbell, June 18, 1998.

14. FDA Memorandum, David Zorn to The Record, June 19, 1998.

List of Subjects in 21 CFR Part 101

Food labeling, Nutrition, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act, and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 101 is amended as follows:

PART 101—FOOD LABELING

1. The authority citation for 21 CFR part 101 continues to read as follows:

Authority: 15 U.S.C. 1453, 1454, 1455; 21 U.S.C. 321, 331, 342, 343, 348, 371.

2. Section 101.17 is amended by adding paragraph (g) to read as follows:

§ 101.17 Food labeling warning and notice statements.

* * * * *

(g) *Juices that have not been specifically processed to prevent, reduce, or eliminate the presence of pathogens.* (1) For purposes of this paragraph (g), "juice" means the aqueous liquid expressed or extracted from one or more fruits or vegetables, purees of the edible portions of one or more fruits or vegetables, or any concentrate of such liquid or puree.

(2) The label of:

(i) Any juice that has not been processed in the manner described in paragraph (g)(7) of this section; or

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(ii) Any beverage containing juice where neither the juice ingredient nor the beverage has been processed in the manner described in paragraph (g)(7) of this section, shall bear the following warning statement:

WARNING: This product has not been pasteurized and, therefore, may contain harmful bacteria that can cause serious illness in children, the elderly, and persons with weakened immune systems.

(3) The warning statement required by this paragraph (g) shall not apply to juice that is not for distribution to retail consumers in the form shipped and that is for use solely in the manufacture of other foods or that is to be processed, labeled, or repacked at a site other than originally processed, provided that for juice that has not been processed in the manner described in paragraph (g)(7) of this section, the lack of such processing is disclosed in documents accompanying the juice, in accordance with the practice of the trade.

(4) The warning statement required by paragraph (g)(2) of this section shall appear prominently and conspicuously on the information panel or on the principal display panel of the label of the container, except that:

(i) For apple juice or apple cider, the warning statement may appear in labeling, including signs or placards, until September 8, 1999;

(ii) For all juices other than apple juice or apple cider, the warning statement may appear in labeling, including signs or placards, until November 5, 1999.

(5) The word "WARNING" shall be capitalized and shall appear in bold type.

(6) The warning statement required by paragraph (g)(2) of this section, when on a label, shall be set off in a box by use of hairlines.

(7)(i) The requirements in this paragraph (g) shall not apply to a juice that has been processed in a manner that will produce, at a minimum, a reduction in the pertinent microorganism for a period at least as long as the shelf life of the product when stored under normal and moderate abuse conditions, of the following magnitude:

(A) A 5-log (i.e., 100,000-fold) reduction; or

(B) A reduction that is equal to, or greater than, the criterion established for process controls by any final regulation requiring the application of Hazard Analysis Critical Control Points (HACCP) principles to the processing of juice.

(ii) For the purposes of this paragraph (g), the "pertinent microorganism" is the most resistant microorganism of public health significance that is likely to occur in the juice.

Dated: July 2, 1998.

Michael A. Friedman,

Acting Commissioner of Food and Drugs.

Donna E. Shalala,

Secretary of Health and Human Services.

[FR Doc. 98–18287 Filed 7–6–98; 3:34 pm]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 120

[Docket Nos. 97N–0511, 93N–0325, and 97N–0296]

RIN 0910–AA43

Hazard Analysis and Critical Control Point (HACCP); Procedures for the Safe and Sanitary Processing and Importing of Juice; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; preliminary regulatory impact analysis; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) published in the **Federal Register** of April 24, 1998 (63 FR 20450), a proposed rule to ensure the safe and sanitary processing of fruit and vegetable juices and juice products. In addition, FDA published in the **Federal Register** of May 1, 1998 (63 FR 24254), the preliminary regulatory impact analysis (PRIA) and initial regulatory flexibility analysis (IRFA) on the costs and benefits of two FDA juice proposals, including one proposal to require the application of hazard analysis and critical control point (HACCP) principles to the processing of fruit and vegetable juice and juice products (the juice HACCP proposal). Interested persons were given until July 8, 1998, to comment on the juice HACCP proposal and the corresponding economic impact analyses. FDA has received a number of requests for an extension of the comment period. In response to these requests, the agency is extending the comment period until August 7, 1998, on the juice HACCP proposal and on those aspects of the PRIA and IRFA relevant to HACCP for juice and juice products.

DATES: Written comments must be received by August 7, 1998.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Geraldine A. June, Center for Food Safety and Applied Nutrition (HFS–158), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–5099.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 24, 1998 (63 FR 20450), FDA issued a proposed rule (the juice HACCP proposal) to ensure the safe and sanitary processing of fruit and vegetable juice and juice products. In addition, FDA published in the **Federal Register** of May 1, 1998 (63 FR 24254), the PRIA that it prepared under Executive Order 12866 and IRFA that it prepared under the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement and Fairness Act, on the costs and benefits of the juice HACCP proposal and a related juice labeling proposal (63 FR 20486). FDA issued the juice HACCP proposal and the juice labeling proposal because of the recent outbreaks of foodborne illness and deaths associated with the consumption of juice products that had not been pasteurized or otherwise processed to control pathogenic microorganisms.

Interested persons were given until July 8, 1998, to comment on the juice HACCP proposal and on those aspects of the PRIA and IRFA relevant to HACCP for juice and juice products. FDA has received a number of requests for an extension of the comment period. After evaluating these requests, the agency has decided to extend the comment period on the juice HACCP proposal and the corresponding economic analyses until August 7, 1998.

To be considered, written comments regarding the juice HACCP proposal and those aspects of the PRIA and IRFA relevant to the juice HACCP proposal must be received by August 7, 1998, by the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with Docket No. 97N–0511 (juice HACCP proposal) and/or Docket Nos. 93N–0325 and 97N–0296 (juice HACCP aspects of the PRIA and IRFA), as appropriate. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 6, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–18286 Filed 7–6–98; 3:34 pm]

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    - Correction; published 7-8-98

COMMENTS DUE NEXT WEEK

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- Pork promotion, research, and consumer information order; comments due by 7-13-98; published 6-11-98
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  - Southeastern States; comments due by 7-17-98; published 6-17-98

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    - Qatar; comments due by 7-13-98; published 5-12-98

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  - Cooperative funding; contributions for cooperative work, reimbursable payments by cooperators, and protection of Government's interest; comments due by 7-17-98; published 5-18-98

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  - Tobacco
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    - South Atlantic Fishery Management Council; hearings; comments due by 7-15-98; published 6-3-98
    - South Atlantic golden crab; comments due by 7-13-98; published 6-26-98
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  - Alternative fueled vehicle acquisition requirements for private and local government fleets; comments due by 7-16-98; published 4-17-98

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- Natural gas companies (Natural Gas Act):
  - Natural gas pipeline facilities and services on Outer Continental Shelf; alternative regulatory methods; comments due by 7-16-98; published 6-5-98

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  - Pennsylvania; comments due by 7-13-98; published 6-12-98
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  - Washington; comments due by 7-13-98; published 6-3-98

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  - Asylum and removal withholding procedures—
    - Applicants who establish persecution or who may be able to avoid persecution in his or her home country by relocating to another area of that country; comments due by 7-13-98; published 6-11-98

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    - Vacant position offers; retention regulations; comments due by 7-13-98; published 5-13-98

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  - Parts and accessories necessary for safe operation—
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LIST OF PUBLIC LAWS

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H.R. 1847/P.L. 105–184

Telemarketing Fraud Prevention Act of 1998 (June 23, 1998; 112 Stat. 520)

S. 1150/P.L. 105–185

Agricultural Research, Extension, and Education Reform Act of 1998 (June 23, 1998; 112 Stat. 523)

S. 1900/P.L. 105–186

U.S. Holocaust Assets Commission Act of 1998 (June 23, 1998; 112 Stat. 611)

H.R. 3811/P.L. 105–187

Deadbeat Parents Punishment Act of 1998 (June 24, 1998; 112 Stat. 618)

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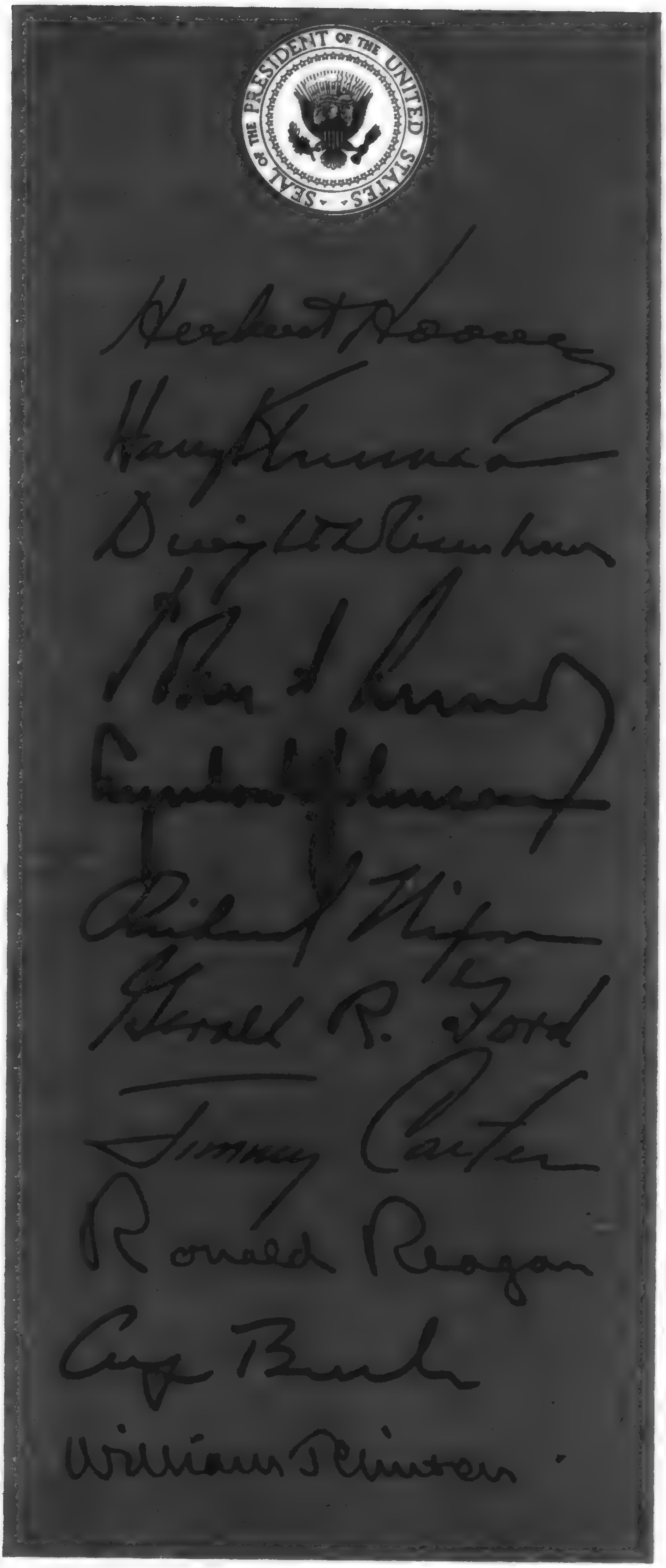

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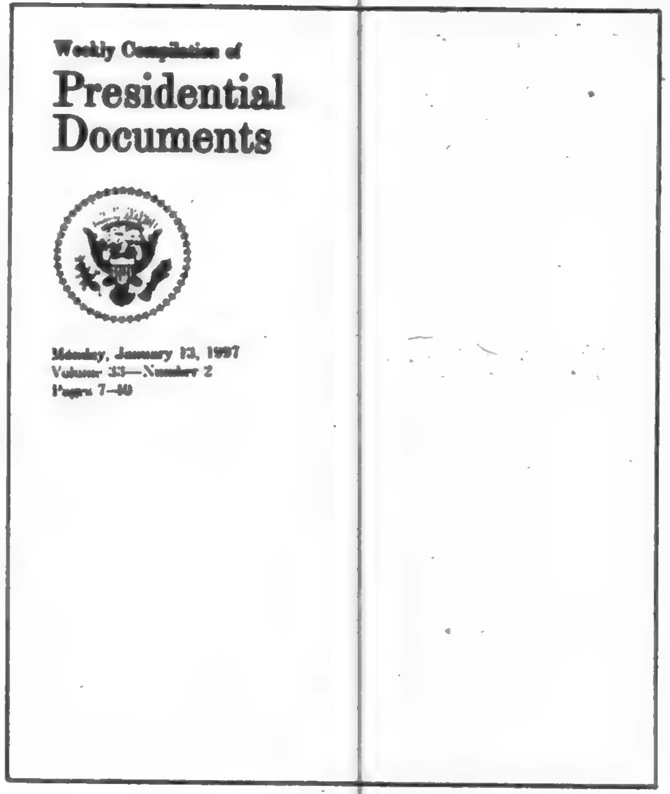

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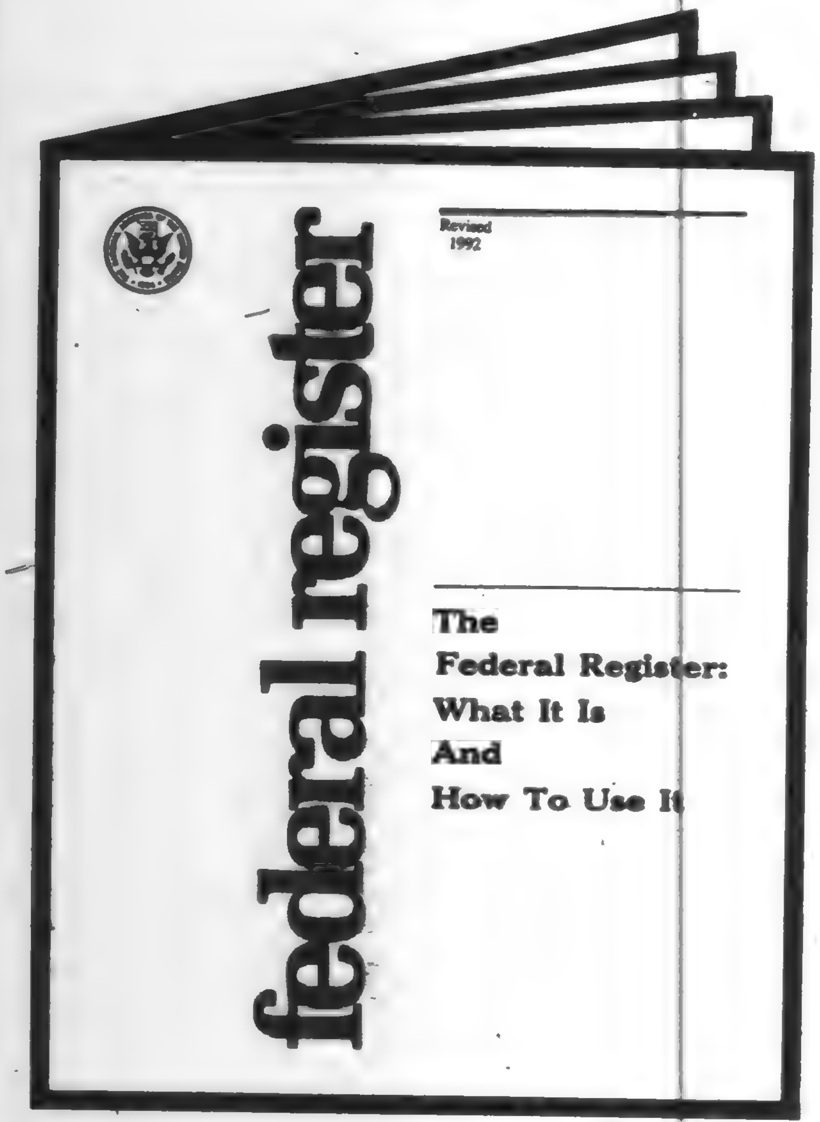

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Rules and Regulations

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NUCLEAR REGULATORY COMMISSION

10 CFR Part 34

RIN 3150–AE07

Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations; Clarifying Amendments and Corrections

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule: Clarifying and corrective amendments.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to clarify several ambiguities and to make corrections to the recently revised regulations governing licenses for industrial radiography and radiation safety requirements for industrial radiographic operations. This final rule is necessary to clarify the text to resolve these ambiguities and to make changes to correct some of the compliance dates specified in the revised rule. This rulemaking will clarify the Commission's intent regarding the implementation date for certain requirements. In particular, the final rule specified several dates, intended to be one year or two years after the effective date of the rule. The date published in the May 28, 1997, **Federal Register** inadvertently used the May 28 publication date, rather than the June 27 effective date. Therefore, this final rule specifies June 27, 1998, or June 27, 1999, as the correct effective date for implementation of those specific provisions.

EFFECTIVE DATE: July 9, 1998.

FOR FURTHER INFORMATION CONTACT: Donald O. Nellis, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6257, (e-mail address don@nrc.gov).

SUPPLEMENTARY INFORMATION:

On May 28, 1997 (62 FR 28948), the NRC published a final rule with an effective date of June 27, 1997 that revised 10 CFR Part 34, which applies to industrial radiography and its related safety requirements. Major changes in this revision included:

(1) A requirement for two qualified individuals to be present whenever radiography is performed at a location other than a permanent radiographic installation, one of whom must be a qualified radiographer and the other must be at least a qualified radiographers' assistant;

(2) A requirement for mandatory certification of radiographers;

(3) Specification of the qualifications and duties of the Radiation Safety Officer;

(4) Additional training requirements for radiographers' assistants; and

(5) Clarification of the definition of a permanent radiographic installation.

After its publication, the NRC was notified by numerous radiography licensees that certain ambiguities and minor errors existed in the May 28, 1997, final rule. This action corrects errors in the Supplementary Information and codified text of the May 28,1997, final rule and clarifies several provisions of the regulation to remove ambiguities.

1. In Supplementary Information, under Section II, Response to Public Comments on the Proposed Rule and Final Rule Provisions, the last paragraph in § 34.41, Conducting Industrial Radiographic Operations, discusses the addition of a requirement to have approved procedures before conducting specific types of radiographic operations and listed that requirement as § 34.41(d). This was an incorrect citation. The requirement was correctly added as § 34.41(c) in the regulation so that no change is needed and this discussion simply clarifies any confusion generated by the incorrect citation.

2. In Supplementary Information, under Section V, Implementation (62 FR 28962), the third paragraph states that licensees will have 1 year to comply with the new training requirements in § 34.43 (a) and (b). This citation is incorrect. Paragraphs (a)(1) and (a)(2) refer to the requirements for radiographer certification. The new training requirements for radiographers are in § 34.43(b) and the new training requirements for radiographers' assistants are in § 34.43(c). Section 34.43(h) correctly identifies the additional training requirements. The purpose of this discussion is to alleviate any confusion that may have resulted from the incorrect citation.

3. Section 34.27, Leak testing and replacement of sealed sources, included a new requirement for the leak testing of devices containing depleted uranium (DU) shielding. Two discrepancies have been noted. First, the condition for removing the exposure device from use for an evaluation of S-tube was incorrectly stated, and second, the implementation date for this requirement was not specified. This subject was addressed in the Supplementary Information under Section II, Public Comments, where it was pointed out that the purpose of the test was to detect wear in the guide tube that could cause control cable binding and inability to retract the source. Because the comments also pointed out that annual testing for DU was required and that testing services were readily available, the NRC believed that one year from the effective date of the final rule would be an acceptable date for compliance with this requirement. To remedy the text defining the condition for removing the exposure device from use, the third sentence of paragraph (e) is amended by using text similar to that in the first sentence of paragraph (d) to read:

> Should this testing reveal the presence of 185 Bq (0.005 microcuries) or more of removable DU contamination, the exposure device must be removed from use until an evaluation of the wear of the S-tube has been made.

In addition, to clarify that the implementation date for DU testing was one year from the effective date of the rule June 27, 1997 and not the publication date, May 28, 1997, § 34.27(e) is amended by adding a new sentence at the end of this paragraph to read:

> Licensees will have until June 27, 1998, to comply with the DU leak testing requirements of this paragraph.

4. Section 34.41, Conducting industrial radiographic operations, specifies that at least two qualified

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individuals must be present whenever radiography is performed outside of a permanent radiographic installation. Numerous inquiries were received concerning the implementation date for this requirement. The intent of the Commission was that licensees would have an implementation period of 1 year from the effective date of the rule to meet this requirement. (On May 28, 1997 (62 FR 28948), the NRC published a final rule with an effective date of June 27, 1997 that revised 10 CFR Part 34, which applies to industrial radiography and its related safety requirements.) This implementation period was selected to allow time to train new individuals as specified in § 34.43(h). To avoid confusion as to what was intended in the original **Federal Register** notice, a new paragraph (d) is added to § 34.41 to read:

(d) Licensees will have until June 27, 1998, to meet the requirements for having two qualified individuals present at locations other than a permanent radiographic installation as specified in paragraph (a) of this section.

5. Under Subpart D—Radiation Safety Requirements; § 34.42, Radiation Safety Officer for Industrial Radiography, paragraph (d) contains an incorrect date. The Supplementary Information Subsection V. Implementation; of the final rule, specifies that all current RSOs will have two years to implement the additional RSO training requirements specified in § 34.42(a) and to comply with the mandatory certification requirements in § 34.43(a)(2), 62 FR 28962. All extended times for implementation were from the effective date of the rule, June 27, 1997, and not from the publication date, May 28, 1997. The paragraph is revised to read:

(d) Licensees will have until June 27, 1999, to meet the requirements of paragraphs (a) or (b) of this section.

6. Under Subpart D—Radiation Safety Requirements § 34.43(a)(2) contains an incorrect date, May 28,1999, two years from the publication date rather than the correct date, June 27, 1999, two years from the effective date. The paragraph is revised to read:

(2) The licensee may, until June 27, 1999, allow an individual who has not met the requirements of paragraph (a)(1) of this section, to act as a radiographer after the individual has received training in the subjects outlined in paragraph (g) of this section and demonstrated an understanding of these subjects by successful completion of a written examination that was previously submitted to and approved by the Commission.

7. Under Subpart D—Radiation Safety Requirements, § 34.43, Training, paragraph (h) contains an incorrect date. The Supplementary Information Subsection V. Implementation; of the final rule, specifies that licensees will have 1 year from the effective date of the rule to comply with the additional training requirements specified in § 34.43 (a) and (b). 62 FR 28962. As stated in paragraph 2 above, the additional training requirements as set forth in § 34.43(b) refer to the training requirements for radiographers while the additional training requirements as set forth in § 34.43(c) refer to the training requirements for radiographers assistants. Also, as noted above, the effective date of the final rule was June 27, 1997, not May 28, 1997. The paragraph is revised to read:

(h) Licensees will have until June 27, 1998, to comply with the additional training requirements specified in paragraphs (b)(1) and (c)(1) of this section.

8. Under Subpart D—Radiation Safety Requirements, § 34.43 Training, does not specify a compliance date for radiographer certification in § 34.43(a)(1). The Supplementary Information Subsection V, Implementation; of the final rule, specifies that licensees will have 2 years from the effective date of the rule to affirm that all radiographers have met the certification requirements of § 34.43(a)(1). Records of radiographer certification maintained in accordance with § 34.79(a) will provide adequate evidence of compliance with the need to affirm radiographers have met the certification requirements of § 34.43(a)(1). A new paragraph (i) is added to this section to read:

(i) Licensees will have until June 27, 1999, to comply with the certification requirements specified in paragraph (a)(1) of this section. Records of radiographer certification maintained in accordance with § 34.79(a) provide appropriate affirmation of certification requirements specified in paragraph (a)(1) of this section.

Administrative Procedure Act

Because these amendments make minor corrective and clarifying changes to an existing regulation, the NRC has determined that good cause exists to dispense with the notice and comment provisions of the Administrative Procedure Act (APA) pursuant to 5 U.S.C. 553(b)(B). For the same reason, the NRC has determined that good cause exists to waive the 30-day deferred effective date provisions of the Administrative Procedure Act (5 U.S.C. 553(d)(3)). *See also:* 10 CFR 2.807.

Agreement State Compatibility

Although 10 CFR Part 34 is subject to various degrees of compatibility with regard to the Agreement States, these amendments make only minor corrective or clarifying changes in an existing regulation and are not expected to affect the compatibility of the Agreement State program.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described as a categorical exclusion in 10 CFR 51.22(c)(2). Therefore, neither an environmental statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget, approval number 3150–0007.

Public Protection Notification

If an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

Regulatory Analysis

This final rule does not impose any new requirements or additional costs to licensees because its purpose is solely administrative in that it simply corrects and clarifies the text of an existing regulation and does not result in any essential change. This constitutes the regulatory analysis for this final rule.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule, and therefore, that a backfit analysis is not required for this rulemaking since these amendments do not involve any provision that would impose backfits as defined in 10 CFR 50.109(a)(1).

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is "not a major rule" and has verified this determination with the Office of Information and Regulatory Affairs, Office of Management and Budget.

List of Subjects in 10 CFR Part 34

Criminal penalties, Packaging and containers, Radiation protection, Radiography, Reporting and recordkeeping requirements, Scientific equipment, Security measures.

For reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended; and U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR Part 34.

PART 34—LICENSES FOR INDUSTRIAL RADIOGRAPHY AND RADIATION SAFETY REQUIREMENTS FOR INDUSTRIAL RADIOGRAPHIC OPERATIONS

1. The authority citation for Part 34 continues to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Section 34.45 also issued under sec. 206, 88 Stat. 1246 (42 U.S.C. 5846).

2. Section 34.27, paragraph (e) is revised to read as follows:

§ 34.27 Leak testing and replacement of sealed sources.

* * * * *

(e) Each exposure device using depleted uranium (DU) shielding and an "S" tube configuration must be tested for DU contamination at intervals not to exceed 12 months. The analysis must be capable of detecting the presence of 185 Bq (0.005 microcuries) of radioactive material on the test sample and must be performed by a person specifically authorized by the Commission or an Agreement State to perform the analysis. Should such testing reveal the presence of 185 Bq (0.005 microcuries) or more of removable DU contamination, the exposure device must be removed from use until an evaluation of the wear on the S-tube has been made. Should the evaluation reveal that the S-tube is worn through, the device may not be used again. DU shielded devices do not have to be tested for DU contamination while in storage and not in use. Before using or transferring such a device however, the device must be tested for DU contamination if the interval of storage exceeded 12 months. A record of the DU leak-test must be made in accordance with § 34.67. Licensees will have until June 27, 1998, to comply with the DU leak-testing requirements of this paragraph.

3. In § 34.41, a new paragraph (d) is added to read as follows:

§ 34.41 Conducting industrial radiographic operations.

* * * * *

(d) Licensees will have until June 27, 1998, to meet the requirements for having two qualified individuals present at locations other than a permanent radiographic installation as specified in paragraph (a) of this section.

4. In § 34.42, paragraph (d) is revised to read as follows:

§ 34.42 Radiation Safety Officer for industrial radiography.

* * * * *

(d) Licensees will have until June 27, 1999, to meet the requirements of paragraph (a) or (b) of this section.

5. In § 34.43, paragraphs (a)(2) and (b) are revised, and paragraph (i) is added to read as follows:

§ 34.43 Training

(a) * * *

(2) The licensee may, until June 27, 1999, allow an individual who has not met the requirements of paragraph (a)(1) of this section, to act as a radiographer after the individual has received training in the subjects outlined in paragraph (g) of this section and demonstrated an understanding of these subjects by successful completion of a written examination that was previously submitted to and approved by the Commission.

* * * * *

(h) Licensees will have until June 27, 1998, to comply with the additional training requirements specified in paragraphs (b)(1) and (c)(1) of this section.

(i) Licensees will have until June 27, 1999 to comply with the certification requirements specified in paragraph (a)(1) of this section. Records of radiographer certification maintained in accordance with § 34.79(a) provide appropriate affirmation of certification requirements specified in paragraph (a)(1) of this section.

Dated at Rockville, Maryland, this 24th day of June, 1998.

For the Nuclear Regulatory Commission.

L. Joseph Callan,

Executive Director for Operations.

[FR Doc. 98–18229 Filed 7–8–98; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–31–AD; Amendment 39–10649; AD 98–14–16]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A300 series airplanes. This action requires repetitive inspections to detect cracks in the forward canted frames between fuselage frames 47a and 48 from stringer (STGR) 41 to STGR 43; and temporary repair, or replacement of the forward canted frame with a new frame, if necessary. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified in this AD are intended to detect and correct cracking in the forward canted frames, which could result in failure of the forward canted frame, and consequent reduced structural integrity of the airplane.

DATES: Effective July 24, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 24, 1998.

Comments for inclusion in the Rules Docket must be received on or before August 10, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–31–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington

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98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A300 series airplanes. The DGAC advises that it has been informed of several reported cases of fatigue cracking between frame 47a to 48 on the forward canted frame from stringer (STGR) 41 to STGR 43. These cracks were found on airplanes that had accumulated between 20,900 and 24,000 flight cycles. This condition, if not corrected, could result in failure of the forward canted frame, and consequent reduced structural integrity of the airplane.

Explanation of Relevant Service Information

Airbus has issued Service Bulletin A300–53–0314, dated January 14, 1997, which describes procedures for repetitive eddy current inspections to detect cracking in the forward canted frames between fuselage frames 47a and 48 from STGR 41 to STGR 43; and temporary repair, or replacement of the forward canted frame with a new forward canted frame, if necessary. Following accomplishment of the replacement, the service bulletin recommends accomplishment of the eddy current inspections at an extended threshold and interval. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

The DGAC classified this service bulletin as mandatory and issued French airworthiness directive 97–063–214(B), dated February 26, 1997, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.19) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to detect and correct cracking in the forward canted frames, which could result in failure of the forward canted frame, and consequent reduced structural integrity of the airplane. This AD requires accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Difference Between This AD and Related Service Information

Operators should note that, although the service bulletin specifies that the manufacturer may be contacted for disposition of certain repair conditions, this AD would require the repair of those conditions to be accomplished in accordance with a method approved by the FAA or the DGAC (or its delegated agent). In light of the type of repair that would be required to address the identified unsafe condition, and in consonance with existing bilateral airworthiness agreements, the FAA has determined that, for this AD, a repair approved by either the FAA or the DGAC would be acceptable for compliance with this AD.

Cost Impact

None of the airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would require approximately 3 work hours to accomplish the required inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this AD would be $180 per airplane, per inspection cycle.

Determination of Rule's Effective Date

Since this AD action does not affect any airplane that is currently on the U.S. register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, prior notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the **Federal Register**.

Comments Invited

Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–NM–31–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

98–14–16 Airbus: Amendment 39–10649. Docket 98–NM–31–AD.

Applicability: Model A300 series airplanes, certificated in any category, as listed below:

B2–1C, all serial numbers;
B2K–3C, all serial numbers;
B2–203, all serial numbers;
B4–203 having manufacturer's serial number 255; and
B4–2C having manufacturer's serial number 256.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct cracking in the forward canted frames, which could result in failure of the forward canted frame, and consequent reduced structural integrity of the airplane, accomplish the following:

(a) Perform an eddy current inspection to detect cracking in the forward canted frame between fuselage frames 47a and 48 from stringer 41 to stringer 43, in accordance with Airbus Service Bulletin A300–53–0314, dated January 14, 1997; at the time specified in paragraph (a)(1), (a)(2), (a)(3), or (a)(4) of this AD, as applicable. If no crack is detected, repeat the inspection thereafter at intervals not to exceed 2,100 flight cycles.

(1) For airplanes that have accumulated less than 11,000 flight cycles as of the effective date of this AD: Perform the inspection prior to the accumulation of 11,000 total flight cycles, or within 2,000 flight cycles after the effective date of this AD, whichever occurs later.

(2) For airplanes that have accumulated 11,000 or more total flight cycles, but less than 14,000 total flight cycles, as of the effective date of this AD: Perform the inspection within 2,000 flight cycles after the effective date of this AD.

(3) For airplanes that have accumulated 14,000 or more total flight cycles as of the effective date of this AD: Perform the inspection within 1,000 flight cycles after the effective date of this AD.

(4) For airplanes on which the forward canted frame has been replaced with a basic frame (A53833393–200, –201, –202, –203, –206, or –207): Perform the inspection prior to the accumulation of 11,000 total flight cycles since the frame replacement date, or within 2,100 flight cycles after the effective date of this AD, whichever occurs later.

(b) Except as provided by paragraph (d) of this AD, if any crack is detected during any inspection required by paragraph (a) of this AD, prior to further flight, accomplish the requirements of either paragraph (b)(1) or (b)(2) of this AD, in accordance with Airbus Service Bulletin A300–53–0314, dated January 14, 1997. Thereafter, inspect in accordance with the requirements of paragraph (c) of this AD.

(1) Replace the forward canted frame with a new forward canted frame. Or

(2) Perform the temporary repair and, within 1,600 flight cycles after accomplishment of the temporary repair, replace the forward canted frame with a new forward canted frame.

(c) Prior to accumulation of 24,600 flight cycles after replacement of the forward canted frame with a new forward canted frame, and thereafter at intervals not to exceed 3,200 flight cycles: Perform an eddy current inspection to detect cracking of the new forward canted frame in accordance with the requirements of paragraph (a) of this AD.

(d) For airplane having manufacturer's serial number 32: If any crack is detected during any inspection required by paragraph (a) of this AD, prior to further flight, repair the crack in accordance with a method approved by either the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, or the Direction Generale de l'Aviation Civile (DGAC) (or its delegated agent).

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(g) The actions shall be done in accordance with Airbus Service Bulletin A300–53–0314, dated January 14, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in French airworthiness directive 97–063–214(B), dated February 26, 1997.

(h) This amendment becomes effective on July 24, 1998.

Issued in Renton, Washington, on June 30, 1998.

Vi L. Lipski,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–17954 Filed 7–8–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–03–AD; Amendment 39–10487]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–215–6B11 (CL–415 Variant) Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to all Bombardier Model CL–215–6B11 (CL–415 Variant) series airplanes. This amendment requires revising the Airplane Flight Manual (AFM) to provide the flightcrew with procedures to address a temporary loss of battery bus power during engine failure and consequent erroneous indications of hydraulic system

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pressure, brake pressure, rudder pressure, and rudder and elevator reversion to manual mode. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified in this AD are intended to ensure that the flightcrew is advised of the potential hazard associated with a temporary loss of battery bus power during failure of the left engine or the left generator on the left engine and of the procedures necessary to address it.

DATES: Effective October 7, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 7, 1998.

Comments for inclusion in the Rules Docket must be received on or before August 10, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–03–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Rodrigo J. Huete, Flight Test Pilot, Systems and Flight Test Branch, ANE–172, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7518; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: Transport Canada Aviation (TCA), which is the airworthiness authority for Canada, notified the FAA that an unsafe condition may exist on all Bombardier Model CL–215–6B11 (CL–415 Variant) series airplanes. TCA advises that the manufacturer discovered a design anomaly in the course of reviewing the differences between the CL–215 and CL–415 variants. This anomaly could result in a temporary loss of battery bus power during failure of the left engine or the left generator on the left engine and consequent erroneous indications of hydraulic system pressure, brake pressure, rudder pressure, and rudder and elevator reversion to manual mode. If the flightcrew receives such erroneous indications, they would lack appropriate procedures to address them. This condition, if not corrected, could result in the flightcrew taking inappropriate actions which may adversely affect the rudder and elevator control systems.

Explanation of Relevant Service Information

Bombardier (formerly Canadair) has issued Canadair CL–415 Airplane Flight Manual (AFM) Temporary Revision No. 491/9, dated November 30, 1995, which describes procedures to advise the flightcrew of the potential hazard associated with a temporary loss of battery bus power during failure of the left engine or the left generator on the left engine and of the procedures necessary to address it. TCA classified this temporary revision to the AFM as mandatory and issued Canadian airworthiness directive CF–96–02, dated January 25, 1996, in order to assure the continued airworthiness of these airplanes in Canada.

FAA's Conclusions

This airplane model is manufactured in Canada and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, TCA has kept the FAA informed of the situation described above. The FAA has examined the findings of TCA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to ensure that the flightcrew is advised of the potential hazard associated with a temporary loss of battery bus power during failure of the left engine or the left generator on the left engine and of the procedures necessary to address it. This AD requires revising the Limitations and Emergency Procedures Sections of the AFM by incorporating the previously described temporary AFM revision to provide the flightcrew with procedures to address erroneous indications of hydraulic system pressure, brake pressure, rudder pressure, and rudder and elevator reversion to manual mode during engine failure.

Cost Impact

None of the airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would require approximately 1 work hour to accomplish the required AFM revision, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this AD would be $60 per airplane.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. The requirements of this direct final rule address an unsafe condition identified by a foreign civil airworthiness authority and do not impose a significant burden on any operator. In accordance with 14 CFR 11.17, unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment, is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received; at that time, the AD number will be specified, and the date on which the final rule will become effective will be confirmed. If the FAA does receive, within the comment period, a written adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption ADDRESSES. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–NM–03–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For reasons discussed in the preamble, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of it may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Bombardier Inc. (Formerly Canadair): Amendment 39–10487. Docket 98–NM–03–AD.

Applicability: All Bombardier Model CL–215–6B11 (CL–415 Variant) series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To ensure that the flightcrew is advised of the potential hazard associated with a temporary loss of battery bus power during failure of the left engine or the left generator on the left engine and of the procedures necessary to address it, accomplish the following:

(a) Within 10 days after the effective date of this AD, revise the Limitations and Emergency Procedures Sections of the Canadair CL–415 Airplane Flight Manual (AFM) by inserting a copy of Canadair Temporary Revision No. 491/9, dated November 30, 1995, into the AFM to provide the flightcrew with procedures to address erroneous indications of hydraulic system pressure, brake pressure, rudder pressure, and rudder and elevator reversion to manual mode during engine failure.

Note 2: When the temporary revision has been incorporated into general revisions of the AFM, the general revisions may be inserted into the AFM, provided the information contained in the general revision is identical to that specified in Canadair Temporary Revision No. 491/9.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Manager, New York ACO.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The AFM revision shall be done in accordance with Canadair CL–415 Airplane Flight Manual Temporary Revision No. 491/9, dated November 30, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centreville, Montreal, Quebec H3C 3G9, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in Canadian airworthiness directive CF–96–02, dated January 25, 1996.

(e) This amendment becomes effective on October 7, 1998.

Issued in Renton, Washington, on May 14, 1998.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–13404 Filed 7–8–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AWP–2]

Modification of Class E Airspace; Porterville, CA; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule; correction.

SUMMARY: This action corrects an error in the geographic coordinates of a Final Rule that was published in the **Federal Register** on April 20, 1998 (63 FR 19393), Airspace Docket No. 98–AWP–2. The final rule modified the Class E Airspace area at Porterville, CA.

EFFECTIVE DATE: 0901 UTC August 13, 1998.

FOR FURTHER INFORMATION CONTACT:

Larry Tonish, Airspace Specialist, Airspace Branch, AWP–520, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California, 90261, telephone (310) 725–6539.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 98–10303, Airspace Docket No. 98–AWP–2, published on April 20, 1998 (63 FR 19393), revised the geographic coordinates of the Class E airspace area at Porterville, CA. A typographical error was discovered in the geographic coordinates for the Porterville, CA, Class E airspace area. This action corrects that error.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the geographic coordinates for the Class E airspace area at Porterville, CA, as published in the **Federal Register** on April 20, 1998 (63 FR 19393), **Federal Register** Document 98–10303) are corrected as follows:

§7.1. [Corrected]

AWP CA E5 Porterville, CA [Corrected]

On page 19394, in column 2, for Porterville Municipal Airport, CA, beginning in line 7, correct long. 118° 47′20″ W" to read long. 118° 57′20″ W".

Issued in Los Angeles, California, on June 23, 1998.

John G. Clancy,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 98–17856 Filed 7–8–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

RIN 1010–AC46

Update of Documents Incorporated by Reference

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

SUMMARY: MMS is updating two documents incorporated by reference in regulations governing oil, gas, and sulphur operations in the Outer Continental Shelf (OCS). The two new editions will continue to ensure that lessees use the best available and safest technologies while operating in the OCS. This rule is also necessary because the previously referenced documents are no longer available. The updated documents are the sixth edition of the American Petroleum Institute's (API) Recommended Practice for Analysis, Design, Installation and Testing of Basic Surface Safety Systems for Offshore Production Platforms and the second edition of API's Manual of Petroleum Measurement Standards, Chapter 14, Section 8, Liquefied Petroleum Gas Measurement.

DATES: This rule is effective August 10, 1998. The incorporation by reference of publications listed in the regulation is approved by the Director of the Federal Register as of August 10, 1998.

FOR FURTHER INFORMATION CONTACT: Bill Hauser, Engineering and Research Branch, at (703) 787–1613.

SUPPLEMENTARY INFORMATION: MMS uses standards, specifications, and recommended practices developed by standard-setting organizations and the oil and gas industry as a means of establishing requirements for activities in the OCS. This practice, known as incorporation by reference, allows MMS to incorporate the requirements of technical documents into the regulations without increasing the volume of the Code of Federal Regulations (CFR). MMS currently incorporates by reference 83 documents into the offshore operating regulations.

The regulations found at 1 CFR part 51 govern how MMS and other Federal agencies incorporate various documents by reference. Agencies can only incorporate by reference through publication in the **Federal Register**. Agencies must also gain approval from the Director of the Federal Register for each publication incorporated by reference. Incorporation by reference of a document or publication is limited to the edition of the document or publication cited in the regulations. This means that newer editions, amendments, or revisions to documents already incorporated by reference in regulations are not part of MMS's regulations.

This rule updates the following two documents that are currently incorporated by reference into MMS regulations:

- American Petroleum Institute's (API) Recommended Practice (RP) 14C, Recommended Practice for Analysis, Design, Installation and Testing of Basic Surface Safety Systems for Offshore Production Platforms, Sixth Edition, March 1998 and
- Manual of Petroleum Measurement Standards (MPMS), Chapter 14, Section 8, Liquefied Petroleum Gas Measurement, Second Edition, July 1997.

MMS has reviewed these documents and has determined that the new editions must be incorporated into regulations to ensure the use of the best and safest technologies. Our review shows that the changes between the old and new editions are minor and will not impose undue cost on the offshore oil and gas industry. In addition, the old editions are not readily available to the affected parties because they are out of publication.

MMS is updating these documents via a final rule. The regulations found at 30 CFR 250.101(a)(2) allow updating documents without opportunity to comment when MMS determines that the revisions to a document result in safety improvements or represent new industry standard technology, and do not impose undue costs on the affected parties.

A summary of MMS' review of the new documents is provided below:

API RP 14C, Recommended Practice for Analysis, Design, Installation and Testing of Basic Surface Safety Systems for Offshore Production Platforms, Sixth Edition, March 1998.

This edition is an improvement over the fifth edition, which MMS chose not to incorporate into the regulations. MMS believed that the fifth edition contained errors, even after API issued an errata sheet to correct several errors. The sixth edition represents current technology and is a good replacement for the currently incorporated fourth edition, which was issued in September 1986. Furthermore, the fourth edition is no longer available from API.

Technical changes from the fourth edition include: (1) guidelines on procedures and location of detectors for platforms that process toxic hydrocarbons; (2) update of industry codes, standards, and recommended practices; (3) a discussion of hot surface protection and hot equipment shielding; (4) expansion and clarification of safety analysis tables; and (5) general technical updates to reflect changes in technology and production processes.

MPMS, Chapter 14, Section 8, Liquefied Petroleum Gas Measurement, Second Edition, July 1997.

This edition replaces the first edition which was issued in February 1983 and reaffirmed in May 1996. The changes between the two editions are minor.

In addition to updating the two documents, this rule also removes one document from incorporation by reference. It is API Spec 14D, Specification for Wellhead Surface Safety Valves and Underwater Safety Valves for Offshore Service, Ninth Edition, June 1, 1994, with Errata dated August 1, 1994. The specifications contained in API Spec 14D are now covered in API Spec 6A, Specification for Wellhead and Christmas Tree Equipment, and API Spec 6AV1, Specification for Verification Test of Wellhead Surface Safety Valves and Underwater Safety Valves for Offshore Service. These two documents are already incorporated by reference into our regulations.

As part of this rulemaking, MMS considered incorporating by reference the second edition of API RP 500, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class 1, Division 1 and Division 2 into our regulations. Upon review of this document, we decided that the second edition was significantly different than the currently incorporated first edition of API RP 500. Differences between the two editions center on the use of combustible gas detector systems in classified locations. MMS is in the process of evaluating these differences and will take appropriate steps.

MMS is also investigating the incorporation of the first edition of API RP 505, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class 1, Zone 0, Zone 1, and Zone 2 into our regulations. API recently released this document and it contains guidance on classifying locations in accordance with international concepts of zones versus API RP 500's use of divisions. MMS will be requesting public comment on the possible incorporation of this document.

Procedural Matters

This is a very simple rule. The rule's purpose is to update two documents that are currently incorporated by reference in the regulations. The differences between the newer documents and the older documents are very minor. If the differences were not minor, MMS could not update these documents via a final rule. The minor differences between the newer and older documents will not cause a significant economic effect on any entity (small or large). Therefore, this regulation's impact on the entire industry is minor.

Federalism (Executive Order (E.O.) 12612)

In accordance with E.O. 12612, the rule does not have significant Federalism implications. A Federalism assessment is not required.

Takings Implications Assessment (E.O. 12630)

In accordance with E.O. 12630, the rule does not have significant Takings Implications. A Takings Implication Assessment is not required.

Regulatory Planning and Review (E.O. 12866)

This document is not a significant rule and is not subject to review by the Office of Management and Budget (OMB) under E.O. 12866. This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. This rule does not raise novel legal or policy issues.

Clarity of This Regulation

E.O. 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this proposed rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (5) Is the description of the rule in the "Supplementary Information" section of this preamble helpful in understanding the rule?

What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, N.W., Washington, D.C. 20240. You may also e-mail the comments to this address: Exsec@ios.doi.gov.

Civil Justice Reform (E.O. 12988)

In accordance with E.O. 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

National Environmental Policy Act (NEPA) of 1969

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the NEPA of 1969 is not required.

Paperwork Reduction Act (PRA) of 1995

Department of the Interior (DOI) has determined that this regulation does not contain information collection requirements pursuant to PRA (44 U.S.C. 3501 *et seq.*). We will not be submitting an information collection request to OMB.

Regulatory Flexibility Act

DOI certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). In general, the entities that engage in offshore activities are not considered small due to the technical and financial resources and experience necessary to safely conduct such activities. DOI also determined that the indirect effects of this rule on small entities that provide support for offshore activities are small (in effect zero).

Your comments are important. The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small business about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MMS, call toll-free (888) 734-3247.

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Small Business Regulatory Enforcement Fairness ACT (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), SBREFA. This rule:

a. Does not have an annual effect on the economy of $100 million or more.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act of 1995

DOI has determined and certifies according to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rule will not impose a cost of $100 million or more in any year on State, local, and tribal governments, or the private sector.

List of Subjects in 30 CFR Part 250

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Incorporation by reference, Investigations, Mineral royalties, Oil and gas development and production, Oil and gas exploration, Oil and gas reserves, Penalties, Pipelines, Public lands—mineral resources, Public lands—rights-of-way, Reporting and recordkeeping requirements, Sulphur development and production, Sulphur exploration, Surety bonds.

Dated: June 19, 1998.

Bob Armstrong,

Assistant Secretary, Land and Minerals Management.

For the reasons stated in the preamble, Minerals Management Service (MMS) amends 30 CFR part 250 as follows:

PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

1. The authority citation for part 250 continues to read as follows:

Authority: 43 U.S.C. 1334.

2. In § 250.101, the following documents incorporated by reference in Table 1 in paragraph (e) are revised to read as follows:

§ 250.101 Documents incorporated by reference.

* * * * *

(e) * * *

Title of documents	Incorporated by reference at
API RP 14C, Recommended Practice for Analysis, Design, Installation and Testing of Basic Surface Safety Systems for Offshore Production Platforms, Sixth Edition, March 1998, API Stock No. G14C06.	§ 250.802(b), (e)(2); § 250.803(a), (b)(2)(i), (b)(4), (b)(5)(i), (b)(7), (b)(9)(v), (c)(2); § 250.804(a), (a)(5); § 250.1002(d); § 250.1004(b)(9); § 250.1628(c), (d)(2); § 250.1629(b)(2), (b)(4)(v); § 250.1630(a).
MPMS, Chapter 14, Section 8, Liquefied Petroleum Gas Measurement, Second Edition, July 1997, API Stock No. H14082.	§ 250.1203(b)(2).

* * * * *

3. In § 250.101, the following document in Table 1 in paragraph (e) is removed.

§ 250.101 Documents incorporated by reference.

* * * * *

(e) * * *

API Spec 14D, Specification for Wellhead Surface Safety Valves and Underwater Safety Valves for Offshore Service, Ninth Edition, June 1, 1994, with Errata dated August 1, 1994.	§ 250.806(a)(3).

* * * * *

4. In § 250.806, paragraph (a)(3) is revised to read as follows:

§ 250.806 Safety and pollution prevention equipment quality assurance requirements.

(a) * * *

(3) All SSV's and USV's must meet the technical specifications of API Spec 6A and 6AV1. All SSSV's must meet the technical specifications of API Spec 14A.

* * * * *

[FR Doc. 98-18089 Filed 7-8-98; 8:45 am]

BILLING CODE 4310-MR-P

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 588

Equal Employment Opportunity Discrimination Complaints

AGENCY: Assistant Secretary of the Army (Manpower and Reserve Affairs), DoD.

ACTION: Final rule.

SUMMARY: This document removes the Department of the Army's Equal Employment Opportunity Discrimination Complaints regulation codified in 32 CFR Chapter V. The part has served its purpose and no longer supports other related rules currently in existence. The Army is in the process, however, of revising its policies and procedures concerning Equal Employment Opportunity and will announce a future proposed rule for public comment.

DATES: This rule is effective July 9, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley L. Kelley, Jr., Office of the Assistant Secretary, 2nd Floor, 1941 Jefferson Davis Highway, Arlington, VA 22202-4508, (703) 607-1448.

SUPPLEMENTARY INFORMATION: Removal of Part 588 is based on the issuance of 29 CFR part 1614 which supersedes the EEOC 29 CFR part 1613.

List of Subjects in 32 CFR Part 588

Administrative practice and procedure, Equal employment opportunity, Government employees.

PART 588—[REMOVED]

Accordingly, under the authority of 5 U.S.C. 301, 32 CFR part 588 is removed.

Stanley L. Kelley, Jr.,

Director, Equal Employment Complaints and Compliance.

[FR Doc. 98–18226 Filed 7–8–98; 8:45 am]

BILLING CODE 3710–08–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6122–4]

National Oil and Hazardous Substances Pollution Contingency Plan National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of Deletion of Anaconda Aluminum/Milgo Electronics Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region 4 announces the deletion of the Anaconda Aluminum/Milgo Electronics Corporation Site in Miami, Florida, from the National Priorities List (NPL). The NPL is codified as Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR Part 300, which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended. EPA and the State of Florida Department of Environmental Protection (FDEP) have determined that the Site poses no significant threat to public health or the environment and therefore, no further response pursuant to CERCLA is appropriate.

EFFECTIVE DATE: July 9, 1998.

ADDRESSES: Comprehensive information on this Site is available at two information repositories located at: North Central Library, 10750 SW 211th Street, Miami, Florida 33189, (305) 693–4541 and U.S EPA Record Center, 61 Forsyth Street, Atlanta, Georgia 30303, (404) 562–8881.

FOR FURTHER INFORMATION CONTACT: Jim McGuire, South Site Management Branch, U.S. Environmental Protection Agency, 61 Forsyth Street, Atlanta, Georgia 30303, (404)562–8911.

SUPPLEMENTARY INFORMATION: The Anaconda Aluminum/Milgo Electronics Corporation Site in Miami, Florida, is being deleted from the NPL.

A Notice of Intent to Delete for this site was published on March 23, 1998 (63 FR 13816). The closing date for comments on the Notice of Intent to Delete was April 22, 1998. EPA received no comments and therefore did not prepare a Responsiveness Summary.

The EPA identifies sites which appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Sites on the NPL may be subject of Hazardous Substance Response Trust Fund (Fund-) financed remedial actions. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 301.425(e)(3) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL in the unlikely event that conditions at the site warrant such action. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: June 25, 1998.

A. Stanley Meiburg,

Acting Regional Administrator, USEPA Region 4.

40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp. p.351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp. p.193.

Appendix B—[Amended]

2. Table 1 of appendix B to part 300 is amended by removing the Site "Anaconda Aluminum Co./Milgo Electronics, Miami, Florida".

[FR Doc. 98–18074 Filed 7–8–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 96–128; DA 98–1101]

Pay Telephone Reclassification and Compensation Provisions

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for waiver.

SUMMARY: On June 10, 1998, the Common Carrier Bureau ("Bureau") granted limited waivers of certain requirements relating to the provision of payphone-specific coding digits, established earlier in this proceeding, to Southwestern Bell Telephone Company, Pacific Bell, and Nevada Bell (collectively, "SBC"). These limited waivers extend the waiver period for certain technical problems which were included in limited waivers previously granted by the Bureau.

EFFECTIVE DATE: June 9, 1998.

FOR FURTHER INFORMATION CONTACT: Greg Lipscomb, Formal Complaints and Information Branch, Enforcement Division, Common Carrier Bureau. (202) 418–0960.

SUPPLEMENTARY INFORMATION: A toll-free call transmitted by a local exchange carrier (LEC) to an interexchange carrier (IXC) carries with it billing information codes, called automatic number identification (ANI), supplied by the LEC that assists the IXC in properly billing the call. Currently, however, not all payphone calls carry the payphone-specific coding digits necessary to identify the calls as payphone calls, making per-call tracking and blocking more difficult.

In the *Payphone Orders,*[1] 61 FR 52307 (October 7, 1996) and 61 FR 65341 (December 12, 1996), the Commission imposed a requirement that LECs provide payphone-specific coding digits to payphone service providers (PSPs), and that PSPs provide those digits from their payphones before the PSPs can receive per-call compensation from IXCs for subscriber 800 and access code calls. The Commission also stated that, to be eligible for per-call compensation beginning October 7, 1997, payphones were required to transmit specific payphone coding digits as a part of their

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[1] *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996,* CC Docket No. 96–128, Report and Order, 61 FR 52307 (October 7, 1996), 11 FCC Rcd 20,541 (1996), ("*Report and Order*"); Order on Reconsideration, 61 FR 65341 (December 12, 1996), 11 FCC Rcd 21,233 (1996) ("*Order on Reconsideration*") (together the "*Payphone Orders*").

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ANI, which will assist in identifying payphones to compensation payers. Each payphone must transmit coding digits that specifically identify it as a payphone, and not merely as a restricted line. The Commission also clarified that by October 7, 1997, LECs had to make available to PSPs, on a tariffed basis, such coding digits as a part of the ANI for each payphone.

On October 7, 1997, the Bureau granted, on its own motion, pursuant to § 1.3 of the Commission's rules, a limited waiver, until March 9, 1998, of the payphone-specific coding requirement for those LECs and PSPs not yet able to provide transmission of such digits. On March 9, 1998, in the *Bureau Coding Digit Waiver Order*,[2] 63 FR 20534 (April 27, 1998), the Bureau again granted certain limited waivers, some of which expired on June 9, 1998. On May 22, 1998, SBC petitioned the Commission for extension of certain of the limited waivers that had been granted on March 9, 1998. On June 10, 1998, the Bureau granted, in part, SBC's petition. The limited waivers granted SBS on June 10, 1998 are subject to the same requirements as applied to the waivers granted for these same technical problems in the *Bureau Coding Digit Waiver Order*, 63 FR 20534 (April 27, 1998).

Specifically, the Bureau's June 10, 1998 order grants SBC limited waivers, until August 15, 1998, for provision of payphone-specific coding digits for 0-transfer calls from six DMS 200 traffic operator position system ("TOPS") switches; and until December 31, 1998, for 800-type database services calls routing to plain old telephone service ("POTS") phone numbers and 800-type database services calls routed to access tandem switches. The Bureau similarly grants payphone service providers ("PSPs") corresponding limited waivers of the requirement to provide payphone-specific coding digits before they can receive compensation from interexchange carriers ("IXCs") for the calls affected by SBC's technical problems.

The Bureau grants these limited waivers because it finds that special circumstances exist, and that granting these waivers will promote the public interest. These waivers are limited in time and scope, and relate to specific payphone coding digit implementation problems that SBC states affect a small percentage of the total number of payphone calls.

Accordingly, pursuant to authority contained in sections 1, 4, 201–205, 218, 226, and 276 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 201–205, 218, 226, and 276, and the authority delegated pursuant to Sections 0.91, 0.291 and 1.3 of the Commission's rules, 47 CFR 0.91, 0.291 and 1.3, it is ordered that the waiver extensions are granted to the extent described herein, and otherwise are denied.

It is further ordered that this order is effective immediately upon release thereof, and that the waivers included in this order are effective June 9, 1998.

List of Subjects in 47 CFR Part 64

Communications common carriers, Operator service access, Payphone compensation, Telephone.

Federal Communications Commission.

Lawrence E. Strickling,

Deputy Bureau Chief, Common Carrier Bureau.

[FR Doc. 98–18237 Filed 7–8–98; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 070298E]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery of the Gulf of Mexico; Texas Closure

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Adjustment of the ending date of the Texas closure.

SUMMARY: NMFS announces an adjustment of the ending date of the annual closure of the shrimp fishery in the exclusive economic zone (EEZ) off Texas. The closure is normally from May 15 through July 15 each year. This year the closure will end at 30 minutes after sunset on July 8, 1998. The Texas closure is intended to prohibit the harvest of brown shrimp during their major period of emigration from Texas estuaries to the Gulf of Mexico so the shrimp may reach a larger, more valuable size and to prevent the waste of brown shrimp that would be discarded in fishing operations because of their small size.

DATES: The EEZ off Texas is closed to trawling from 30 minutes after sunset, May 15, 1998, to 30 minutes after sunset, July 8, 1998.

FOR FURTHER INFORMATION CONTACT: Michael E. Justen, 727–570–5305.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico shrimp fishery is managed under the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act by regulations at 50 CFR part 622.

The EEZ off Texas is normally closed to all trawling each year from 30 minutes after sunset on May 15 to 30 minutes after sunset on July 15. The regulations at 50 CFR 622.34(h) describe the area of the Texas closure and provide for adjustments to the beginning and ending dates by the Director, Southeast Region, NMFS, under procedures and restrictions specified in the FMP.

This year, the Texas closure began on May 15, 1998. Biological data collected by the Texas Parks and Wildlife Department indicate that ending the closure on July 8, 1998, will provide adequate protection of small brown shrimp emigrating from the Texas estuaries and, therefore, will be consistent with the FMP's criteria for adjustment of the closure. Accordingly, the time and date for ending the Texas closure as provided at 50 CFR 622.34(h)(1) is changed from 30 minutes after sunset, July 15, 1998, to 30 minutes after sunset on July 8, 1998. Texas waters are also to be opened beginning at 30 minutes after sunset on July 8, 1998.

Classification

This action is taken under 50 CFR 622.34(h)(2) and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 2, 1998.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–18232 Filed 7–6–98; 4:22 pm]

BILLING CODE 3510–22–F

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[2] *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, Memorandum Opinion and Order, 63 FR 20534 (April 27, 1998), 13 FCC Rcd 4998 (1998) ("*Bureau Coding Digit Waiver Order*").

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 971208297–8054–02; I.D. 070298B]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Central Regulatory Area of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 1998 total allowable catch (TAC) of Pacific ocean perch in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 6, 1998, until 2400 hrs, A.l.t., December 31, 1998.

FOR FURTHER INFORMATION CONTACT: Thomas Pearson, 907–486-6919.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR part 600 and 50 CFR part 679.

The amount of the 1998 TAC of Pacific ocean perch in the Central Regulatory Area of the Gulf of Alaska was established by the Final 1998 Harvest Specifications of Groundfish for the GOA (63 FR 12027, March 12, 1998) as 6,600 metric tons (mt), determined in accordance with § 679.20(c)(3)(ii).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 1998 TAC for Pacific ocean perch will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 5,600 mt, and is setting aside the remaining 1,000 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the Central Regulatory Area of the GOA.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent overharvesting the 1998 TAC of Pacific ocean perch for the Central Regulatory Area of the GOA. A delay in the effective date is impracticable and contrary to the public interest. Further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action should not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by 50 CFR 679.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 2, 1998.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–18231 Filed 7–6–98; 4:22 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 971208297–8054–02; I.D. 070298C]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Eastern Regulatory Area of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch in the Eastern Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 1998 total allowable catch (TAC) of Pacific ocean perch in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 6, 1998, until 2400 hrs, A.l.t., December 31, 1998.

FOR FURTHER INFORMATION CONTACT: Thomas Pearson, 907–486-6919.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR part 600 and 50 CFR part 679.

The amount of the 1998 TAC of Pacific ocean perch in the Eastern Regulatory Area of the Gulf of Alaska was established by the Final 1998 Harvest Specifications of Groundfish for the GOA (63 FR 12027, March 12, 1998) as 2,366 metric tons (mt), determined in accordance with § 679.20(c)(3)(ii).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 1998 TAC for Pacific ocean perch will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 2,116 mt, and is setting aside the remaining 250 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the Eastern Regulatory Area of the GOA.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent overharvesting the 1998 TAC of Pacific ocean perch for the Eastern Regulatory Area of the GOA. A delay in the effective date is impracticable and contrary to the public interest. Further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action should not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by 50 CFR 679.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 2, 1998.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–18230 Filed 7–6–98; 4:22 pm]

BILLING CODE 3510–22–F

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–72–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100 and –200 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Boeing Model 737–100 and –200 series airplanes, that currently requires replacement of certain outboard and inboard wheel halves with improved wheel halves; cleaning and inspecting certain outboard and inboard wheel halves for corrosion, missing paint in large areas, and cracks; and repair or replacement of the wheel halves with serviceable wheel halves, if necessary. That AD was prompted by a review of the design of the flight control systems on Model 737 series airplanes. This action would require that the actions be accomplished in accordance with revised service information. The actions specified by the proposed AD are intended to prevent failure of the wheel flanges, which could result in damage to the hydraulics systems, jammed flight controls, loss of electrical power, or other combinations of failures; and consequent reduced controllability of the airplane.

DATES: Comments must be received by August 24, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–72–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Allied Signal Aerospace Company, Bendix Wheels and Brakes Division, South Bend, Indiana 46624; and Bendix, Aircraft Brake and Strut Division, 3520 Westmoor Street, South Bend, Indiana 46628–1373. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: David Herron, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2672; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–NM–72–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–72–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On August 4, 1997, the FAA issued AD 97–17–01, amendment 39–10102 (62 FR 43067, August 12, 1997), applicable to certain Boeing Model 737–100 and –200 series airplanes, to require replacement of certain outboard and inboard wheel halves with improved wheel halves; cleaning and inspecting certain outboard and inboard wheel halves for corrosion, missing paint in large areas, and cracks; and repair or replacement of the wheel halves with serviceable wheel halves, if necessary. That action was prompted by a review of the design of the flight control systems on Model 737 series airplanes. The requirements of that AD are intended to prevent failure of the wheel flanges, which could result in damage to the hydraulics systems, jammed flight controls, loss of electrical power, or other combinations of failures; and consequent reduced controllability of the airplane.

Explanation of Revised Service Information

Since the issuance of that AD, the FAA has been advised that Allied Signal Service Bulletin No. 737–32–026, dated April 26, 1988, which was referenced as the appropriate source of service information for accomplishment of the actions specified in that original AD, was incorrect. Subsequently, the FAA has reviewed and approved Allied Signal Service Bulletin No. 737–32–026, dated June 27, 1988. The procedures described in that revision are similar to those described in the earlier version of the service bulletin. However, among other things, this new version of the service bulletin differs from the original version in the following respects:

1. The effectivity listing in the revised service bulletin includes a new part number for inboard wheel halves.
2. The revised service bulletin provides a new option for repainting the wheels.
3. The revised service bulletin identifies specific serial numbers of wheel halves on which "beef-ups" were

accomplished, but inspections are still necessary.

Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 97–17–01 to continue to require replacement of certain outboard and inboard wheel halves with improved wheel halves; cleaning and inspecting certain outboard and inboard wheel halves for corrosion, missing paint in large areas, and cracks; and repair or replacement of the wheel halves with serviceable wheel halves, if necessary. The actions would be required to be accomplished in accordance with the revised service bulletin described previously.

Cost Impact

There are approximately 634 Boeing Model 737–100 and –200 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 241 airplanes of U.S. registry would be affected by this proposed AD.

Because this proposed AD would merely require that the actions currently required by AD 97–17–01 be accomplished in accordance with revised service information, the proposed AD would add no additional costs, and would require no additional work to be performed by affected operators. The current costs associated with this amendment are reiterated in their entirety (as follows) for the convenience of affected operators.

The FAA estimates that it will take approximately 4 work hours per airplane to accomplish the required replacement of wheel halves at an average labor rate of $60 per work hour. Required parts will cost approximately $20,212 per airplane. Based on these figures, the cost impact of the required replacement on U.S. operators is estimated to be $4,928,932, or $20,452 per airplane.

The FAA also estimates that it will take approximately 2 work hours per airplane to accomplish the required cleaning and inspection at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the required cleaning and inspection on U.S. operators is estimated to be $28,920, or $120 per airplane.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–10102 (62 FR 43067, August 12, 1997), and by adding a new airworthiness directive (AD), to read as follows:

Boeing: Docket 98–NM–72–AD. Supersedes AD 97–17–01, amendment 39–10102.

Applicability: Model 737–100 and –200 series airplanes equipped with Bendix main wheel assemblies having part number (P/N) 2601571–1, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the wheel flanges, which could result in damage to the hydraulics systems, jammed flight controls, loss of electrical power, or other combinations of failures; and consequent reduced controllability of the airplane; accomplish the following:

Note 2: Allied Signal, Aircraft Landing Systems, Service Information Letter (SIL) #619, dated February 26, 1997, is an additional source of service information for appropriate wheel half serial numbers.

(a) For airplanes equipped with a Bendix main wheel assembly having P/N 2601571–1 with an inboard wheel half with serial number (S/N) B–5898 or lower, or S/N H–1721 or lower; or with an outboard wheel half with S/N B–5898 or lower, or S/N H–0863 or lower; accomplish the following:

(1) Within 180 days after September 16, 1997 (the effective date of AD 97–17–01, amendment 39–10102, 62 FR 43067), and thereafter at each tire change until the replacement required by paragraph (b) of this AD is accomplished: Accomplish the actions specified in paragraphs (a)(1)(i), (a)(1)(ii), and (a)(1)(iii) of this AD, in accordance with the Accomplishment Instructions of Allied Signal Service Bulletin No. 737–32–026, dated June 27, 1988.

(i) Clean any inboard and outboard wheel half specified in paragraph (a) of this AD. And

(ii) Inspect the wheel halves for corrosion or missing paint. If any corrosion is found, or if any paint is missing in large areas, prior to further flight, strip or remove paint, and remove any corrosion. And

(iii) Perform an eddy current inspection to detect cracks of the bead seat area.

(2) If any cracking is found during the inspections required by this paragraph, prior to further flight, repair or replace the wheel halves with serviceable wheel halves in accordance with procedures specified in the Component Maintenance Manual.

(b) For airplanes equipped with a Bendix main wheel assembly having P/N 2601571–1 with an inboard wheel half with S/N B–5898 or lower, or S/N H–1721 or lower; or with an outboard wheel half with S/N B–5898 or lower, or S/N H–0863 or lower; accomplish the following: Within 2 years after September 16, 1997, accomplish the actions specified in paragraphs (b)(1) and (b)(2) of this AD, in accordance with Bendix SIL 392, Revision 1, dated November 15, 1979. Accomplishment of the replacement constitutes terminating action for the repetitive inspections required by paragraph (a) of this AD.

(1) Remove any inboard wheel half specified in paragraph (b) of this AD, and

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replace it with an inboard wheel half having P/N 2607046, S/N 5899 or greater, or S/N H–1722 or greater. And

(2) Remove any outboard wheel half specified in paragraph (b) of this AD, and replace it with an outboard wheel half having P/N 2607047, S/N B–5899 or greater, or S/N H–0864 or greater.

(c)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

(c)(2) Alternative methods of compliance, approved previously in accordance with AD 97–17–01, amendment 39–10102, are approved as alternative methods of compliance with this AD.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on July 1, 1998.

Stewart R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–18159 Filed 7–8–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket 97–NM–242–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–8 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Model DC–8 series airplanes. Among other things, this proposal would require repetitive leak tests of the lavatory drain systems and repair, if necessary; installation of a lever lock cap, vacuum breaker check valve or flush/fill line ball valve on the flush/fill line; periodic seal changes; and replacement of "donut" type waste drain valves installed in the waste drain system. This proposal is prompted by continuing reports of damage to engines, airframes, and to property on the ground, caused by "blue ice" that forms from leaking lavatory drain systems on transport category airplanes and subsequently dislodges from the airplane fuselage. The actions specified by this proposed AD are intended to prevent such damage associated with the problems of "blue ice."

DATES: Comments must be received by August 24, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–242–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Walter Eierman, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4317; telephone (562) 627–5336; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 97–NM–242–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–242–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

Over the past several years, the FAA has received numerous reports of leakage from the lavatory service systems on in-service transport category airplanes that resulted in the formation of "blue ice" on the fuselage. In some instances, the "blue ice" subsequently dislodged from the fuselage and was ingested into an engine. In several of these incidents, the ingestion of "blue ice" into an engine resulted in the loss of an engine fan blade, severe engine damage, and the inflight shutdown of the engine. In two cases, the loads created by the "blue ice" being ingested into the engine resulted in the engine being physically torn from the airplane. Damage to an engine, or the separation of an engine from the airplane, could result in reduced controllability of the airplane.

The FAA also has received reports of at least three incidents of damage to the airframe of various models of transport category airplanes that was caused by foreign objects dislodged from the forward toilet drain valve and flush/fill line. One report was of a dent on the right horizontal stabilizer leading edge on a Boeing Model 737 series airplane that was caused by "blue ice" that had formed from leakage through a flush/fill line; in this case, the flush/fill cap was missing from the line at the forward service panel. Numerous operators have stated that leakage from the flush/fill line is a significant source of problems associated with "blue ice." Such damage caused by "blue ice" could adversely affect the integrity of the fuselage skin or surface structures.

Additionally, there have been numerous reports of "blue ice" dislodging from airplanes and striking houses, cars, buildings, and other occupied areas on the ground. Although there have been no reports of any person being struck by "blue ice," the FAA considers that the large number of reported cases of "blue ice" falling from lavatory drain systems is sufficient to support the conclusion that "blue ice" presents an unsafe condition to people on the ground. Demographic studies have shown that population density has increased around airports, and probably will continue to increase. These are populations that are at greatest risk of damage and injury due to "blue ice" dislodging from an airplane during descent. Without actions to ensure that leaks from the lavatory drain systems are detected and corrected in a timely manner, "blue ice" incidents could go unchecked and eventually someone may be struck, perhaps fatally, by falling "blue ice."

Current Rules

In response to these incidents, the FAA has issued several AD's applicable to various transport category airplanes, and is currently considering additional rulemaking to address the problems associated with "blue ice" on other transport category airplanes.

Discussion of the Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the FAA is proposing this AD, which would require the following actions:

Paragraph (a) of the proposed AD would require periodic replacement of the valve seals of each lavatory drain system with new valve seals. This paragraph also would require repetitive leak tests of the lavatory dump valve and drain valve (either service panel or in-line drain valve). The leak test of panel valves would be required to be performed with a minimum of 3 pounds per square inch differential pressure (PSID) applied across the valve. If any leak is discovered during the leak checks, operators would be required either to repair the leak and retest it, or drain the lavatory system and placard it inoperative until repairs can be made.

In cases where the panel valve has both an inner seal and an outer cap seal, perform a visual inspection for damage or wear of the outer cap seal and seal surface. Any damaged parts detected would be required to be repaired or replaced prior to further flight, or the lavatory drained and placarded inoperative until repairs can be made.

Paragraph (a) of the proposed AD also requires replacement of all donut type drain system valves with another type of FAA-approved valve.

Additionally, the flush/fill line anti-siphon valve would be required to be leak checked. Seals of the anti-siphon (check) valve, flush/fill line cap, or flush/fill line ball valve would be required to be replaced periodically.

Paragraph (b) of the proposed AD would require that all operators install a lever lock cap on the flush/fill lines for all service panels, or install a flush/fill ball valve Kaiser Electroprecision part number series 0062–0009 on the flush/fill lines for all lavatories.

Paragraph (c) of the proposed AD would require that, before an operator places an airplane into service, a schedule for accomplishment of the leak tests required by this AD shall be established. This provision is intended to ensure that transferred airplanes are inspected in accordance with the AD on the same basis as if there were continuity in ownership, and that scheduling of the leak tests for each airplane is not delayed or postponed due to a transfer of ownership. Airplanes that have previously been subject to the AD would have to be checked in accordance with either the previous operator's or the new operator's schedule, whichever would result in the earlier accomplishment date for that leak test. Other airplanes would have to be inspected before an operator could begin operating them or in accordance with a schedule approved by the FAA Principal Maintenance Inspector (PMI), but within a period not to exceed 200 flight hours.

Economic Impact

There are approximately 306 Model DC–8 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 229 airplanes of U.S. Registry and 26 U.S. operators would be affected by this proposed AD.

The proposed waste drain system leak test and outer cap inspections would take approximately 6 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact on U.S. operators of the waste drain system leak test and outer cap inspection is estimated to be $82,440, or $360 per airplane, per test/inspection.

Certain airplanes (i.e., those that have "donut" type drain valve installed) may be required to be leak tested as many as 15 times each year. Certain other airplanes having other valve configurations would be required to be leak tested as few as 3 times each year. Based on these figures, the cost impact of this proposed requirement is estimated to be between $1,080 and $5,400 per airplane per year.

With regard to replacement of "donut" type drain valves, the cost of a new valve is approximately $1,200. However, the number of leakage tests for an airplane that flies an average of 3,000 flight hours a year is reduced from 15 tests to 3 tests, which essentially pays for the cost of the replacement valve, so that no additional net cost is incurred because of this change.

The FAA estimates that it would take approximately 1 work hour per airplane to accomplish a visual inspection of the service panel drain valve cap/door seal and seal mating surfaces, at an average labor rate of $60 per work hour. As with leak tests, certain airplanes would be required to be visually inspected as many as 15 times or as few as 3 times each year. Based on these figures, the cost impact of the proposed repetitive visual inspections is estimated to be between $180 and $900 per airplane per year.

The proposed installation of the flush/fill line cap would take approximately 1 hour per cap to accomplish, at an average labor rate of $60 per work hour. The cost of required parts would be $275 per cap. There are an average of 2.5 caps per airplane. Based on these figures, the cost impact on U.S. operators of these proposed requirements is estimated to be $171,178, or $748 per airplane.

The proposed seal replacements of the drain valves required by paragraph (a) of this AD would require approximately 2 work hours to accomplish, at an average labor cost of $60 per hour. The cost of required parts would be $200 per each seal change. Based on these figures, the cost impact on U.S. operators of these proposed requirements of this AD is estimated to be $73,280, or approximately $320 per airplane, per replacement.

The number of required work hours, as indicated above, is presented as if the accomplishment of the actions proposed in this AD were to be conducted as "stand alone" actions. However, in actual practice, these actions could be accomplished coincidentally or in combination with normally scheduled airplane inspections and other maintenance program tasks. Therefore, the actual number of necessary "additional" work hours would be minimal in many instances. Additionally, any costs associated with special airplane scheduling should be minimal.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the current or proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The FAA recognizes that the obligation to maintain aircraft in an airworthy condition is vital, but sometimes expensive. Because AD's require specific actions to address specific unsafe conditions, they appear to impose costs that would not otherwise be borne by operators. However, because of the general obligation of operators to maintain aircraft in an airworthy condition, this appearance is deceptive. Attributing those costs solely to the issuance of this AD is unrealistic because, in the interest of maintaining safe aircraft, prudent operators would accomplish the required actions even if they were not required to do so by the AD.

A full cost-benefit analysis has not been accomplished for this AD. As a matter of law, in order to be airworthy, an aircraft must conform to its type design and be in a condition for safe operation. The type design is approved only after the FAA makes a determination that it complies with all applicable airworthiness requirements. In adopting and maintaining those requirements, the FAA has already made the determination that they establish a level of safety that is cost-beneficial. When the FAA, as in this AD, makes a finding of an unsafe condition, this means that the original cost-beneficial level of safety is no longer being achieved and that the required actions are necessary to restore that level of safety. Because this level of safety has already been determined to be cost-beneficial, a full cost-benefit analysis for this AD would be redundant and unnecessary.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Docket 97–NM–242–AD.

Applicability: Model DC–8 series airplanes equipped with a lavatory drainage system; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition as not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless previously accomplished.

To prevent engine damage, airframe damage, and/or hazard to persons or property on the ground as a result of "blue ice" that has formed from leakage of the lavatory drain system or flush/fill system and dislodged from the airplane, accomplish the following:

(a) Accomplish the applicable requirements of paragraphs (a)(1) through (a)(9) of this AD at the time specified in each paragraph. For the waste drain system of any lavatory that incorporates more than one type of valve, only one of the waste drain system leak test procedures (the one that applies to the equipment with the longest leak test interval) must be conducted at each service panel location. During the performance of the waste drain system valve leak tests specified in this AD, fluid shall completely cover the upstream end of the valve being tested. The direction of the 3 pounds per square inch differential pressure (PSID) shall be applied in the same direction as occurs in flight; the other waste drain system valves shall be open, and the minimum time to maintain the differential pressure shall be 5 minutes. Any revision of the seal change intervals or leak test intervals must be approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note 2: Inclusion of a valve in this AD does not mean that the valve has been certified for installation in DC–8 series airplanes. Certification of the valve for installation in the airplane must be accomplished by means acceptable to the FAA, if the valve has not been previously certified.

(1) Replace the valve seals with new valve seals in accordance with the applicable schedule specified in paragraphs (a)(1)(i), (a)(1)(ii), and (a)(1)(iii) of this AD.

(i) For each lavatory drain system that has an in-line drain valve installed, Kaiser Electroprecision part number (p/n) series 2651–278: Replace the seals within 5,000 flight hours after the effective date of this AD, or within 48 months after the last documented seal change, whichever occurs later. Thereafter, replace the seals at intervals not to exceed 48 months.

(ii) For each lavatory drain system that has a Pneudraulics part number series 9527 valve: Replace the seals within 5,000 flight hours after the effective date of this AD, or within 18 months after the last documented seal change, whichever occurs later. Thereafter, replace the seals at intervals not to exceed 18 months or 6,000 flight hours, whichever occurs later.

(iii) For each lavatory drain system that has any other type of drain valve: Replace the seals within 5,000 flight hours after the effective date of this AD, or within 18 months after the last documented seal change, whichever occurs later. Thereafter, replace the seals at intervals not to exceed 18 months.

(2) For each lavatory drain system that has an in-line drain valve installed, Kaiser Electroprecision p/n series 2651–278: Within 4,500 flight hours after the effective date of this AD, and thereafter at intervals not to exceed 4,500 flight hours, accomplish the procedures specified in paragraphs (a)(2)(i) and (a)(2)(ii) of this AD.

(i) Conduct a leak test of the toilet tank dump valve (in-tank valve that is spring loaded closed and operable by a T-handle at the service panel) and the in-line drain valve. The toilet tank dump valve leak test must be performed by filling the toilet tank with a minimum of 10 gallons of water/rinsing fluid and testing for leakage after a period of 5 minutes. Take precautions to avoid overfilling the tank and spilling fluid into the airplane. The in-line drain valve leak test must be performed with a minimum of 3 PSID applied across the valve.

(ii) If a service panel valve or cap is installed, perform a visual inspection to detect wear or damage that may allow leakage of the service panel drain valve outer cap/door seal and the inner seal (if the valve has an inner door with a second positive seal), and the seal mating surfaces.

(3) For each lavatory drain system that has a service panel drain valve installed, Pneudraulics p/n series 9527: Within 2,000 flight hours after the effective date of this AD, and thereafter at intervals not to exceed 2,000 flight hours, accomplish the procedures specified in paragraphs (a)(3)(i) and (a)(3)(ii) of this AD.

(i) Conduct a leak test of the toilet tank dump valve and the service panel drain valve. The toilet tank dump valve leak test must be performed by filling the toilet tank with a minimum of 10 gallons of water/rinsing fluid and testing for leakage after a period of 5 minutes. Take precautions to avoid overfilling the tank and spilling fluid into the airplane. The leak test of the service panel drain valve must be performed with a minimum of 3 PSID applied across the valve inner door/closure device.

(ii) Perform a visual inspection of the outer cap/door and seal mating surface for wear or damage that may cause leakage.

(4) For each lavatory drain system that has a service panel drain valve installed, Kaiser Electroprecision p/n series 0218–0032, or Shaw Aero Devices part number/serial number as listed in Table 1 of this AD: Within 1,000 flight hours after the effective date of this AD, and thereafter at intervals not to exceed 1,000 flight hours, accomplish the procedures specified in paragraphs (a)(4)(i) and (a)(4)(ii) of this AD.

TABLE 1.—SHAW AERO VALVES APPROVED FOR 1,000 FLIGHT HOUR LEAK TEST INTERVAL

Shaw waste drain valve part No.	Serial No. of part No. Valve approved for 1,000-hour leak test interval
331 Series, 332 Series	All.
10101000B–A	None.
10101000B–A–1	0207–0212, 0219, 0226 and higher.
10101000BA2	0130 and higher.
10101000C–A–1	0277 and higher.
10101000C–J	None.
10101000C–J–2	None.
10101000CN OR C–N	3649 and higher.
Certain 10101000B valves	Any of these "B" series valves that incorporate the improvements of Shaw Service Bulletin 10101000B–38–1, dated October 7, 1994, and are marked "SBB38–1–58".
Certain 10101000C valves	Any of these "C" series valves that incorporate the improvements of Shaw Service Bulletin 10101000C–38–2 dated October 7, 1994, and are marked "SBC38–2–58".

(i) Conduct a leak test of the toilet tank dump valve and service panel drain valve. The toilet tank dump valve leak test must be performed by filling the toilet tank with a minimum of 10 gallons of water/rinsing fluid and testing for leakage after a period of 5 minutes. Take precautions to avoid overfilling the tank and spilling fluid into the airplane. The service panel drain valve leak test must be performed with a minimum of 3 PSID applied across the valve inner door/closure device.

(ii) Perform a visual inspection of the outer cap/door and seal mating surface for wear or damage that may cause leakage.

(5) For each lavatory drain system that has a service panel drain valve installed, Kaiser Electroprecision p/n series 0218–0026; or Shaw Aero Devices p/n series 10101000B or 10101000C [except as specified in paragraph (a)(4) of this AD]: Within 600 flight hours after the effective date of this AD, and thereafter at intervals not to exceed 600 flight hours, accomplish the procedures specified in paragraphs (a)(5)(i) and (a)(5)(ii) of this AD.

(i) Conduct a leak test of the toilet tank dump valve and the service panel drain valve. The leak test of the toilet tank dump valve must be performed by filling the toilet tank with a minimum of 10 gallons of water/rinsing fluid and testing for leakage after a period of 5 minutes. Take precautions to avoid overfilling the tank and spilling fluid into the airplane. The service panel drain valve leak test must be performed with a minimum of 3 PSID applied across the valve inner door/closure device.

(ii) Perform a visual inspection of the outer cap/door and seal mating surface for wear or damage that may cause leakage.

(6) For each lavatory drain system with a lavatory drain system valve that incorporates either "donut" plug, Kaiser Electroprecision p/n's 4259–20 or 4259–31; Kaiser Roylyn/Kaiser Electroprecision cap/flange p/n's 2651–194C, 2651–197C, 2651–216, 2651–219, 2651–235, 2651–256, 2651–258, 2651–259, 2651–260, 2651–275, 2651–282, 2651–286; Shaw Aero Devices assembly p/n 0008–100; or other FAA-approved equivalent parts; accomplish the requirements of paragraphs (a)(6)(i), (a)(6)(ii), and (a)(6)(iii) of this AD at the times specified in those paragraphs. For the purposes of this paragraph [(a)(6)], "FAA-approved equivalent part" means either a "donut" plug which mates with the cap/flange p/n's listed above, or a cap/flange which mates with the "donut" plug p/n's listed above, such that the cap/flange and "donut" plug are used together as an assembled valve.

(i) Within 200 flight hours after the effective date of this AD, and thereafter at intervals not to exceed 200 flight hours, conduct leak tests of the toilet tank dump valve and the service panel drain valve. The leak test of the toilet tank dump valve must be performed by filling the toilet tank with a minimum of 10 gallons of water/rinsing fluid and testing for leakage after a period of 5 minutes. Take precautions to avoid overfilling the tank and spilling fluid into the airplane. The service panel drain valve leak test must be performed with a minimum 3 PSID applied across the valve.

(ii) Perform a visual inspection of the outer door/cap and seal mating surface for wear or damage that may cause leakage. This inspection shall be accomplished in conjunction with the leak tests of paragraph (a)(6)(i).

(iii) Within 5,000 flight hours after the effective date of this AD, replace all the "donut" valves identified in paragraph (a)(6) of this AD with another type of FAA-approved valve. Following installation of the replacement valve, perform the appropriate leak tests and seal replacements at the intervals specified for that replacement valve, as applicable.

(7) For each lavatory drain system not addressed in paragraphs (a)(2), (a)(3), (a)(4), (a)(5), and (a)(6) of this AD: Within 200 flight hours after the effective date of this AD, and thereafter at intervals not to exceed 200 flight hours, accomplish the procedures specified in paragraphs (a)(7)(i) and (a)(7)(ii) of this AD.

(i) Conduct a leak test of the toilet tank dump valve and the service panel drain valve. The toilet tank dump valve leak test must be performed by filling the toilet tank with a minimum of 10 gallons of water/rinsing fluid and testing for leakage after a period of 5 minutes. Take precautions to avoid overfilling the tank and spilling fluid into the airplane. The leak test of the service panel drain valve must be performed with a minimum of 3 PSID applied across the valve inner door/closure device.

(ii) Perform a visual inspection of the outer cap/door and seal mating surface for wear or damage that may cause leakage.

(8) For flush/fill lines: Within 5,000 flight hours after the effective date of this AD, perform the requirements of paragraph (a)(8)(i) or (a)(8)(ii), as applicable; and paragraph (a)(8)(iii) of this AD. Thereafter, repeat these requirements at intervals not to exceed 5,000 flight hours, or 48 months after the last documented seal change, whichever occurs later.

(i) If a lever lock cap is installed on the flush/fill line of the subject lavatory, replace the seals on the toilet tank anti-siphon (check) valve and the flush/fill line cap. Perform a leak test of the toilet tank anti-siphon (check) valve with a minimum of 3 PSID across the valve, in accordance with the applicable portions of paragraph (a)(8)(ii)(A) of this AD.

(ii) If a vacuum breaker check valve, Monogram p/n series 3765–190, or Shaw Aero Devices p/n series 301–0009–01 is installed on the subject lavatory, replace the seals/o-rings in the valve. Perform a leak test of the vacuum breaker check valve and verify proper operation of the vent line vacuum breaker, in accordance with paragraphs (a)(8)(ii)(A) and (a)(8)(ii)(B) of this AD.

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(A) Leak test the toilet tank anti-siphon (check) valve or the vacuum breaker check valve by filling the toilet tank with water/rinsing fluid to a level such that the bowl is approximately half full (at least 2 inches above the flapper in the bowl). Apply 3 PSID across the valve in the same direction as occurs in flight. The vent line vacuum breaker on vacuum breaker check valves must be pinched closed or plugged for this leak test. If there is a cap/valve at the flush/fill line port, the cap/valve must be removed/open during the test. Check for leakage at the flush/fill line port for a period of 5 minutes.

(B) Verify proper operation of the vent line vacuum breaker by filling the tank and checking at the fill line port for back drainage after disconnecting the fluid source from the flush/fill line port. If back drainage does not occur, replace the vent line vacuum breaker or repair the vacuum breaker check valve, in accordance with the component maintenance manual to obtain proper back drainage. As an alternative to the test technique specified above, verify proper operation of the vent line vacuum breaker in accordance with the procedures of the applicable component maintenance manual.

(iii) If a flush/fill ball valve, Kaiser Electroprecision p/n series 0062–0009, is installed on the flush/fill line of the subject lavatory, replace the seals in the flush/fill ball valve and the toilet tank anti-siphon valve. Perform a leak test of the toilet tank anti-siphon valve with a minimum of 3 PSID across the valve, in accordance with paragraph (a)(8)(ii)(A) of this AD.

(9) If leakage is discovered during any leak test or inspection required by paragraph (a) of this AD, or if evidence of leakage is found at any other time, accomplish the requirements of paragraph (a)(9)(i), (a)(9)(ii), or (a)(9)(iii) of this AD, as applicable.

(i) If a leak is discovered, prior to further flight, repair the leak. Prior to further flight after repair, perform the appropriate leak test as specified in paragraph (a) of this AD, as applicable. Additionally, prior to returning the airplane to service, clean the surfaces adjacent to where the leakage occurred to clear them of any horizontal fluid residue streaks; such cleaning must be to the extent that any future appearance of a horizontal fluid residue streak will be taken to mean that the system is leaking again.

Note 3: For purposes of this AD, "leakage" is defined as any visible leakage, if observed during a leak test. At any other time (than during a leak test), "leakage" is defined as the presence of ice in the service panel, or horizontal fluid residue streaks/ice trails originating at the service panel. The fluid residue is usually, but not necessarily, blue in color.

(ii) If any worn or damaged seal is found, or if any damaged seal mating surface is found, prior to further flight, repair or replace it in accordance with the valve manufacturer's maintenance manual.

(iii) In lieu of performing the requirements of paragraph (a)(9)(i) or (a)(9)(ii): Prior to further flight, drain the affected lavatory system and placard the lavatory inoperative until repairs can be accomplished.

(b) For all airplanes: Unless accomplished previously, within 5,000 flight hours after the effective date of this AD, perform the actions specified in either paragraph (b)(1) or (b)(2) of this AD:

(1) Install an FAA-approved lever lock cap on the flush/fill lines for all lavatories. Or

(2) Install a vacuum break, Monogram p/n series 3765–190, or Shaw Aero Devices p/n series 301–0009–01, in the flush/fill lines for all lavatories. Or

(3) Install a flush/fill ball valve, Kaiser Electroprecision p/n series 0062–0009 on the flush/fill lines for all lavatories.

(c) For any affected airplane acquired after the effective date of this AD: Before any operator places into service any airplane subject to the requirements of this AD, a schedule for the accomplishment of the leak tests required by this AD shall be established in accordance with either paragraph (c)(1) or (c)(2) of this AD, as applicable. After each leak test has been performed once, each subsequent leak test must be performed in accordance with the new operator's schedule, in accordance with paragraph (a) of this AD.

(1) For airplanes that have been maintained previously in accordance with this AD, the first leak test to be performed by the new operator must be accomplished in accordance with the previous operator's schedule or with the new operator's schedule, whichever results in the earlier accomplishment date for that leak test.

(2) For airplanes that have not been previously maintained in accordance with this AD, the first leak test to be performed by the new operator must be accomplished prior to further flight, or in accordance with a schedule approved by the FAA Principal Maintenance Inspector (PMI), but within a period not to exceed 200 flight hours.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles ACO. Operators shall submit their requests through an appropriate FAA PMI, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on July 1, 1998.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–18158 Filed 7–8–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–01–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A320 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Airbus Model A320–111, –211, –212, and –231 series airplanes, that currently requires reinforcement of the tail section of the fuselage at frames 68 and 69. That AD was prompted by reports indicating that the tail section has struck the runway during takeoffs and landings. This action would add a requirement for reinforcement of the tail section of the fuselage at frames 65 to 67. This action also would revise the applicability of the existing AD. The actions specified by the proposed AD are intended to prevent structural damage to the tail section when it strikes the runway, which could result in depressurization of the fuselage during flight.

DATES: Comments must be received by August 10, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–01–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–NM–01–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–01–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On April 2, 1997, the FAA issued AD 97–08–04, amendment 39–9992 (62 FR 17532, April 10, 1997), applicable to certain Airbus Model A320–111, –211, –212, and –231 airplanes, to require reinforcement of the tail section of the fuselage at frames 68 and 69. That action was prompted by reports indicating that the tail section has struck the runway during takeoffs and landings. The requirements of that AD are intended to prevent structural damage to the tail section when it strikes the runway; that condition, if not detected, could result in depressurization of the fuselage during flight.

Actions Since Issuance of Previous AD

In the preamble to AD 97–08–04, the FAA specified that it may consider additional rulemaking to require modification of other affected fuselage frames once new service information was released by the manufacturer. The manufacturer has now released such information, and the FAA has determined that further rulemaking is indeed necessary; this proposed AD follows from that determination.

Explanation of New Service Information

The manufacturer has issued Airbus Service Bulletin A320–53–1131, dated July 24, 1997, which describes procedures for modification of the tail section of the airplane by reinforcing the fuselage structure at frames 65 to 67. The modification involves strengthening the fuselage structure at frames C65, C66, and C67 by installing new lower frames. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

The manufacturer also has issued Revision 1 of Airbus Service Bulletin A320–53–1110, dated November 27, 1995. The original issue of the service bulletin was referenced in the existing AD as an appropriate source of service information for modification of the tail section of the airplane at frames 68 and 69. Revision 1 is essentially identical to the original issue of the service bulletin; however, it revises references to certain part numbers.

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, classified these service bulletins as mandatory and issued French airworthiness directive 97–315–109(B), dated October 22, 1997, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 97–08–04 to continue to require reinforcement of the tail section of the fuselage at frames 68 and 69. The proposed AD would add a requirement for reinforcement of the tail section of the fuselage at frames 65 to 67. This action also would revise the applicability of the existing AD. The actions would be required to be accomplished in accordance with the service bulletins described previously.

Cost Impact

There are approximately 118 airplanes of U.S. registry that would be affected by this proposed AD.

The actions that are currently required by AD 97–08–04, and retained in this proposed AD, take approximately 196 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will be provided by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $1,387,680, or $11,760 per airplane.

The new actions that are proposed in this AD action would take approximately 488 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would be provided by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the proposed requirements of this AD on U.S. operators is estimated to be $3,455,040, or $29,280 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the current or proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if

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promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9992 (62 FR 17532, April 10, 1997), and by adding a new airworthiness directive (AD), to read as follows:

Airbus Industrie: Docket 98–NM–01–AD. Supersedes AD 97–08–04, Amendment 39–9992.

Applicability: Model A320 series airplanes on which Airbus Modification 22764 has not been installed, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent structural damage to the tail section when it strikes the runway, which could result in depressurization of the fuselage during flight, accomplish the following:

Restatement of Requirement of AD 97–08–04

(a) For airplanes listed in Airbus Service Bulletin A320–53–1110, dated August 28, 1995: Within 6 years after May 15, 1997 (the effective date of AD 97–08–04, amendment 39–9992), modify the fuselage by reinforcing frames 68 and 69 in accordance with Airbus Service Bulletin A320–53–1110, dated August 28, 1995; or Revision 1, dated November 27, 1995.

New Requirements of this AD

(b) For airplanes other than those identified in paragraph (a) of this AD: Within 5 years after the effective date of this AD, modify the fuselage by reinforcing frames 68 and 69 in accordance with Airbus Service Bulletin A320–53–1110, dated August 28, 1995, or Revision 1, dated November 27, 1995.

(c) For all airplanes: Within 5 years after the effective date of this AD, modify the fuselage by reinforcing frames 65 to 67 in accordance with Airbus Service Bulletin A320–53–1131, dated July 24, 1997.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in French airworthiness directive 97–315–109(B), dated October 22, 1997.

Issued in Renton, Washington, on July 1, 1998.

Stewart R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–18157 Filed 7–8–98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–92–AD]

RIN 2120–AA64

Airworthiness Directives; Mitsubishi Model YS–11 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Mitsubishi Model YS–11 series airplanes. This proposal would require repetitive inspections to detect fatigue cracking in the manhole doublers of the lower wing panels; and repair, if necessary. This proposal also would require eventual modification of screw holes in the manhole doublers of the lower wing panels. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to detect and correct fatigue cracking in the manhole doublers of the lower wing panels, which could result in failure of the wing structure.

DATES: Comments must be received by August 10, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–92–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Nihon Aeroplane Manufacturing, Toranomon Daiichi, Kotohire-Cho, Shiba, Minato-Ku, Tokyo, Japan. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: William Roberts, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5228; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 97–NM–92–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–92–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Japan Civil Aviation Bureau (JCAB), which is the airworthiness authority for Japan, notified the FAA that an unsafe condition may exist on all Mitsubishi Model YS–11 series airplanes. The JCAB advises that, during fatigue testing performed by the manufacturer, fatigue cracking was detected in the manhole doublers of a lower wing panel after 52,600 total flight cycles. The cracking has been attributed to stress concentrations caused by the manhole cutout and the screw holes. Cracks propagated quickly and also developed in the outer panel and stringer. Such fatigue cracking, if not detected and corrected, could progress to the wing skins and result in failure of the wing structure.

Explanation of Relevant Service Information

Mitsubishi has issued Nihon Aeroplane Manufacturing Company (NAMC) YS–11 Service Bulletin 57–77, Revision 2, dated September 14, 1994, which describes procedures for repetitive visual inspections to detect fatigue cracking in the manhole doublers of the lower wing panels; repair, if necessary; and modification of screw holes in the manhole doublers of the lower wing panels. The modification involves a fluorescent penetrant or high-frequency eddy current inspection to detect cracking in the manhole doublers and screw holes, cold working (cold expansion) of the screw holes, and follow-on actions to prevent corrosion. (These follow-on actions include applying primer, anticorrosive, and sealant.) Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

The JCAB classified this service bulletin as recommended and issued Japanese airworthiness directive TCD–3795–2–96, dated December 13, 1996, in order to assure the continued airworthiness of these airplanes in Japan.

Mitsubishi also has issued NAMC YS–11 Supplemental Inspection Document (SID) Publication Number YS-MR–201, dated November 11, 1994. Inspection Item 57–00–03 of the SID (hereinafter referred to as "the SID item") describes procedures for repetitive visual inspections to detect fatigue cracking in the manhole doublers of the lower wing panels. These inspections essentially are equivalent to the repetitive visual inspections that would be required by this proposed AD. The JCAB approved the SID; however, the FAA has not been informed of the issuance of a Japanese airworthiness directive that would require accomplishment of the SID program for these airplanes in Japan.

FAA's Conclusions

This airplane model is manufactured in Japan and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the JCAB has kept the FAA informed of the situation described above. The FAA has examined the findings of the JCAB, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Differences Between Proposed Rule, Service Information, and Japanese Airworthiness Directive

Operators should note that the SID item, described previously, specifies accomplishment of certain inspections that are equivalent to those that would be required by this proposed AD. However, because the inspections described in the SID have not been mandated previously by the FAA, and because failure to detect fatigue cracking in this area could result in the unsafe condition described previously, the FAA has determined that it is necessary to require accomplishment of these inspections, as well as modification of the affected area, via this proposed AD, in order to ensure the continued operational safety of these airplanes.

Operators also should note that the service bulletin and the Japanese airworthiness directive, described previously, specify that accomplishment of the modification eliminates the need for the repetitive inspections described in the service bulletin. However, the SID item provides for continued inspections following accomplishment of the modification. Therefore, this proposed AD requires repetitive inspections after accomplishment of the modification proposed by this AD.

Operators also should note that, although the service bulletin and the Japanese airworthiness directive specify accomplishment of the initial inspection prior to the accumulation of 60,000 total flight cycles, with a repetitive interval of 2,000 flight cycles, the SID item provides for an initial inspection prior to the accumulation of 45,000 total flight cycles and a repetitive inspection interval of 8,000 flight cycles. Following accomplishment of the modification described in the service bulletin, the SID item specifies that the repetitive interval is reduced to 6,000 flight cycles. In light of the compliance times recommended in the SID item, the FAA finds that the initial inspection must be accomplished prior to the accumulation of 45,000 total flight cycles. However, the FAA has determined that an inspection interval of 6,000 flight cycles is appropriate, both before and after accomplishment of the modification specified in the service bulletin.

Additionally, operators should note that the Japanese airworthiness directive specifies that modification of the screw holes in the manhole doublers of the lower wing panels be accomplished prior to the accumulation of 60,000 total flight cycles, or before December 13, 2000 (four years after the effective date of the Japanese airworthiness directive), whichever occurs later. In developing

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an appropriate compliance time for this proposed AD, the FAA considered not only the safety implications and the JCAB's recommendations, but also the manufacturer's recommendations. The manufacturer recommended accomplishment of the modification prior to the accumulation of 60,000 total flight cycles, or January 8, 1997 (four years after the issuance of the original service bulletin). The FAA also considered the fact that the referenced version of the service bulletin (which contains the procedures for accomplishing the required modification) has been available to all operators of Mitsubishi YS–11 series airplanes since September 1994. In light of all of these factors, the FAA finds that the modification must be accomplished prior to the accumulation of 60,000 total flight cycles, which represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Cost Impact

The FAA estimates that 25 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 30 work hours per airplane to accomplish the proposed inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators is estimated to be $45,000, or $1,800 per airplane, per inspection cycle.

It would take approximately 40 work hours per airplane to accomplish the proposed modification, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the modification proposed by this AD on U.S. operators is estimated to be $60,000, or $2,400 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Mitsubishi Heavy Industries, Ltd.: Docket 97–NM–92–AD.

Applicability: All Model YS–11 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking in the manhole doublers of the lower wing panels, which could result in failure of the wing structure, accomplish the following:

(a) Perform a visual inspection to detect cracking in the manhole doublers and around the screw holes of the lower wing panels, in accordance with Mitsubishi Nihon Aeroplane Manufacturing Company (NAMC) Service Bulletin 57–77, Revision 2, dated September 14, 1994, at the time specified in either paragraph (a)(1) or (a)(2) of this AD, as applicable. Repeat the inspection thereafter at intervals not to exceed 6,000 flight cycles.

(1) For airplanes that have accumulated fewer than 45,000 total flight cycles as of the effective date of this AD: Prior to the accumulation of 45,000 total flight cycles, or within 1 year after the effective date of this AD, whichever occurs later, perform the initial inspection.

(2) For airplanes that have accumulated 45,000 or more total flight cycles as of the effective date of this AD: Within 2,000 flight cycles or 1 year after the effective date of this AD, whichever occurs first, perform the initial inspection.

(b) Modify the screw holes in the manhole doublers of the lower wing panels, in accordance with Mitsubishi NAMC Service Bulletin 57–77, Revision 2, dated September 14, 1994, at the applicable time specified in either paragraph (b)(1) or (b)(2) of this AD. Thereafter, if any cracking is found, prior to further flight, repair the cracking in accordance with the service bulletin.

Note 2: Accomplishment of the modification specified in paragraph (b) does not constitute terminating action for the repetitive inspections of paragraph (a).

(1) If no cracking is found, prior to the accumulation of 60,000 total flight cycles, or within 1 year after the effective date of this AD, whichever occurs later, accomplish the modification in accordance with the service bulletin.

(2) If any cracking is found, prior to further flight, repair the cracking and accomplish the modification, in accordance with the service bulletin.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 4: The subject of this AD is addressed in Japanese airworthiness directive TCD–3795–2–96, dated December 13, 1996.

Issued in Renton, Washington, on July 1, 1998.

Stewart R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–18156 Filed 7–8–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–141–AD]

RIN 2120–AA64

Airworthiness Directives; Construcciones Aeronauticas, S.A. (CASA) Model C–212 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all CASA Model C–212 series airplanes. This proposal would require repetitive visual inspections for damage or "electrical spark marks" on the cover plates for the fuel pumps, and corrective actions, if necessary. This proposal also would require modification of the fuel pump installation by incorporating a non-conductive film on the cover plate, which would constitute terminating action for this AD. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent electrical shorting between the fuel pump electrical connections and the fuel pump cover plate, which could result in the ignition of fuel vapor, and consequent fuel tank explosion/fire.

DATES: Comments must be received by August 10, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–141–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Construcciones Aeronauticas, S.A., Getafe, Madrid, Spain. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–NM–141–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–141–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Dirección General de Aviación (DGAC), which is the airworthiness authority for Spain, notified the FAA that an unsafe condition may exist on all CASA Model C–212 series airplanes. The DGAC advises that an operator of this airplane model discovered "electrical spark marks" on several fuel pump cover plates, which indicated that electrical shorting was occurring. The main fuel pump cover plates had sustained the most damage, while the auxiliary fuel pump cover plates were only slightly damaged. The most severe damage involved the discoloration and deformation of the outer surface of the cover plate. Additionally, the isolated bushing for the positive screw was damaged, and "electrical spark marks" were also found between the positive screw and the fuel pump cartridge surface. Since other airplanes of this type design that are equipped with this particular pump and cover may be subject to such damage, an inspection of the affected area is warranted. Such electrical shorting between the fuel pump electrical connections and the fuel pump cover plate, if not corrected, could result in the ignition of fuel vapor, and consequent fuel tank explosion/fire.

Explanation of Relevant Service Information

The manufacturer has issued CASA Maintenance Instructions COM 212–252, Revision 0, dated July 15, 1996. This document describes procedures for repetitive visual inspections for damage or "electrical spark marks" on the cover plates for the fuel pumps, and corrective actions, if necessary. The corrective actions include inspections for overheating of wires, and for additional "electrical spark marks" between the positive screw terminal and the surrounding cartridge or pump face body; and modification of the cover plate to incorporate a non-conductive film. Such modification would eliminate the need for the repetitive inspections described previously. Accomplishment of the actions specified in the maintenance instructions is intended to adequately address the identified unsafe condition. The DGAC classified these maintenance instructions as mandatory and issued Spanish airworthiness directive 10/96, dated November 5, 1996, in order to assure the continued airworthiness of these airplanes in Spain.

FAA's Conclusions

This airplane model is manufactured in Spain and is type certificated for operation in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified

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in the maintenance instructions described previously, except as discussed below.

Differences Between Proposed Rule and Foreign AD

The proposed AD would differ from the parallel Spanish airworthiness directive in that the proposed AD would require the accomplishment of the terminating action for the repetitive inspections. The Spanish airworthiness directive provides for that action as optional.

Mandating the terminating action is based on the FAA's determination that long-term continued operational safety will be better assured by modifications or design changes to remove the source of the problem, rather than by repetitive inspections. The "electrical spark marks," which are the subject of the inspection required by the proposed AD, are indicative of previous electrical shorting, which in itself represents an immediate hazard because of the close proximity of fuel. Because the inspection technique does not allow detection of a discrepancy prior to the existence of an unsafe condition, repetitive inspections are not considered adequate for long-term continued operational safety.

Cost Impact

The FAA estimates that 38 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 1 work hour per airplane to accomplish the proposed inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators is estimated to be $2,280, or $60 per airplane.

It would take approximately 5 work hours per airplane to accomplish the proposed modification, at an average labor rate of $60 per work hour. The cost of required parts would be minimal. Based on these figures, the cost impact of the modification proposed by this AD on U.S. operators is estimated to be $11,400, or $300 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a 'significant regulatory action' under Executive Order 12866; (2) is not a 'significant rule' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Construcciones Aeronauticas, S.A. (CASA): Docket 98–NM–141–AD.

Applicability: All Model C–212 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent electrical shorting between the fuel pump electrical connections and the fuel pump cover plate, which could result in the ignition of fuel vapor, and consequent fuel tank explosion/fire, accomplish the following:

(a) Within 100 flight hours after the effective date of this AD, perform a visual inspection for damage or "electrical spark marks" on the cover plates for the fuel pumps, in accordance with CASA Maintenance Instructions COM 212–252, Revision 0, dated July 15, 1996.

(1) If no damage or "electrical spark mark" is detected, repeat the visual inspection thereafter at intervals not to exceed 300 flight hours until the terminating action identified in paragraph (b) of this AD is accomplished.

(2) If any damage or "electrical spark mark" is detected on the cover plate, prior to further flight, inspect the wires for overheating damage and the positive screw terminal of the fuel pump for "electrical spark marks" between the positive screw terminal and the surrounding cartridge or the pump body face; replace any damaged wire with a new or serviceable wire, and accomplish paragraph (a)(2)(i) or (a)(2)(ii) of this AD, as applicable, in accordance with the maintenance instructions.

(i) If no "electrical spark mark" is detected between the positive screw terminal and the surrounding cartridge or pump body face, prior to further flight, modify the fuel pump installation by incorporating a non-conductive film on the cover plate. Accomplishment of this modification constitutes terminating action for the requirements of this AD.

(ii) If any "electrical spark mark" is detected between the positive screw terminal and the surrounding cartridge or the pump body face, prior to further flight, modify the fuel pump installation by installing a new fuel pump and incorporating a non-conductive film on the cover plate. Accomplishment of this modification constitutes terminating action for the requirements of this AD.

(b) Within 12 months after the effective date of this AD, inspect the wires for overheating damage and the positive screw terminal of the fuel pump for "electrical spark marks" between the positive screw terminal and the surrounding cartridge or the pump body face; replace any damaged wire with a new or serviceable wire, and accomplish paragraph (a)(2)(i) or (a)(2)(ii) of this AD, as applicable, in accordance with CASA Maintenance Instructions COM 212–252, Revision 0, dated July 15, 1996, even if no damage or "electrical spark mark" has been detected on the cover plate. Accomplishment of this modification constitutes terminating action for the requirements of this AD.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance

Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in Spanish airworthiness directive 10/96, dated November 5, 1996.

Issued in Renton, Washington, on July 1, 1998.

S. R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–18155 Filed 7–8–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE TREASURY

31 CFR Part 103

RIN 1506–AA22

Financial Crimes Enforcement Network; Bank Secrecy Act Regulations; Suspicious Transaction Reporting by Casinos and Card Clubs; Open Working Meetings

AGENCY: Financial Crimes Enforcement Network, Treasury.

ACTION: Meetings on proposed regulations.

SUMMARY: The Financial Crimes Enforcement Network ("FinCEN") will hold four working meetings to give interested persons the opportunity to discuss with Treasury officials issues regarding proposed Bank Secrecy Act regulations relating to suspicious transaction reporting by casinos and card clubs.

DATES: Meeting 1: July 14, 1998 from 9:00 a.m. to 12:30 p.m., New Orleans, LA.

Meeting 2: July 23, 1998 from 9:00 a.m. to 12:30 p.m., Chicago, IL.

Meeting 3: August 6, 1998 from 9:00 a.m. to 12:30 p.m., Scottsdale, AZ.

Meeting 4: September 9, 1998 from 9:00 a.m. to 12:30 p.m., New York, NY.

ADDRESSES: Meeting 1: The Westin Canal Place, 100 Rue Iberville, New Orleans, LA 70130.

Meeting 2: Holiday Inn, Chicago City Centre, 300 East Ohio Street, Chicago, IL 60611.

Meeting 3: Scottsdale Hilton, 6333 North Scottsdale Road, Scottsdale, AZ 85250.

Meeting 4: New York Hilton and Towers, 1335 Avenue of the Americas, New York City, NY 10019.

FOR FURTHER INFORMATION CONTACT: About the proposed regulations: Len Senia, Senior Financial Enforcement Officer, FinCEN, at (703) 905–3931, or Cynthia Clark, Deputy Chief Counsel, FinCEN, at (703) 905–3758.

About meeting registration: Anna Fotias, Financial Crimes Policy Analyst, FinCEN, at (703) 905–3695.

SUPPLEMENTARY INFORMATION: On May 18, 1998, FinCEN issued proposed regulations (63 FR 27230) relating to suspicious transaction reporting by casinos and card clubs. The proposed regulations would require casinos and card clubs to report to the Treasury Department suspicious transactions involving at least $3,000 in funds or other assets, relevant to a possible violation of law or regulation. The proposed regulations would also require casinos and card clubs to establish procedures designed to detect occurrences or patterns of suspicious transactions and would make certain other changes to the requirements that casinos maintain Bank Secrecy Act compliance programs.

FinCEN is announcing today that it will hold four meetings to discuss issues relating to the proposed regulations. Although persons attending the meetings are encouraged to discuss any of their comments, concerns, or suggestions about the proposed regulations, FinCEN hopes that the meetings will include discussion of the following matters: (1) the $3,000 threshold for reporting suspicious transactions, (2) detecting suspicious transactions, (3) compliance program requirements for casinos and card clubs, and (4) specific areas in which additional guidance would be helpful.

The meetings are not intended as a substitute for FinCEN's request for written comments in the notice of proposed rulemaking published May 18, 1998. Rather, the meetings are intended to help make the comment process as productive as possible by providing a forum between the industry and FinCEN concerning issues relating to the proposed regulations. The meetings will be open to the public and will be recorded. A transcript of the meetings will be available for public inspection and copying. Accordingly, oral or written material not intended to be disclosed to the public should not be raised at the meetings.

Dated: July 2, 1998.

Stephen R. Kroll,

Federal Register Liaison Officer, Financial Crimes Enforcement Network.

[FR Doc. 98–18126 Filed 7–8–98; 8:45 am]

BILLING CODE 4820–03–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6121–9]

National Priorities List Update; Golden Strip Septic Tank Superfund Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Intent to Delete the Golden Strip Septic Tank Superfund Site from the National Priorities List (NPL).

SUMMARY: The United States Environmental Protection Agency (US EPA), Region 4, announces its intent to delete the Golden Strip Septic Tank Superfund Site from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environment Response, Compensation, and Liability Act (CERCLA) of 1980, as amended. EPA and the State of South Carolina Department of Health and Environmental Control (SCDHEC) have determined that all remedial action objectives have been met and the Site poses no significant threat to public health or the environment. Therefore, further remedial measures are not appropriate.

DATES: Comments concerning this Site may be submitted on or before August 10, 1998.

ADDRESSES: Comments may be mailed to: Craig Zeller, P.E., Waste Management Division—North Site Management Branch, U. S. Environmental Protection Agency, Region 4, 61 Forsyth St., SW, Atlanta, GA, 30303. You may also submit comments electronically, at the following Email Address, Zeller.Craig@EPAMail.EPA.gov.

Comprehensive information on this Site is available through the public docket, which is available for viewing at the Golden Strip Septic Tank Site information repositories at the following locations:

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Hendricks Branch Library, 626 N.E. Main Street, Simpsonville, SC 29681, (864) 963–9031.

U.S. EPA, Region 4, 61 Forsyth St., SW, Atlanta, GA, 30303, Mrs. Debbie Jourdan, 404–562–8862.

FOR FURTHER INFORMATION CONTACT: Craig Zeller, P.E. (404) 562–8827, or Cynthia Peurifoy (404) 562–8798, or toll free at 1–800–435–9233, at U.S. EPA, Region 4, 61 Forsyth St., SW, Atlanta, GA 30303.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Environmental Protection Agency (EPA), Region 4 announces its intent to delete the Golden Strip Septic Tank Site at Simpsonville, South Carolina, from the National Priorities List (NPL), Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) 40 CFR part 300, and requests comments on this deletion proposal. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of these sites. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions in the unlikely event that conditions at the site warrant such actions.

The EPA will accept comments on the proposal to delete this Site for thirty days after publication of this notice in the **Federal Register**.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses the procedures that EPA is using for this action. Section IV discusses the Golden Strip Septic Tank Site and explains how the Site meets the deletion criteria.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that sites may be deleted from, or recategorized on the NPL where no further response is appropriate. In making a determination to delete a site from the NPL, EPA shall consider, in consultation with the State, whether any of the following criteria have been met:

(i) Responsible parties or other parties have implemented all appropriate response actions required;

(ii) All appropriate response actions under CERCLA have been implemented, and no further response action by responsible parties is appropriate; or

(iii) The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the site above levels that allow for unlimited use and unrestricted exposure, EPA's policy is that a subsequent review of the site will be conducted at least every five years after the initiation of the remedial action at the site to ensure that the site remains protective of public health and the environment.

III. Deletion Procedures

The following procedures were used for the intended deletion of this Site: (1) EPA Region 4 has recommended deletion and has prepared the relevant documents; (2) The South Carolina Department of Health and Environmental Control (SCDHEC) has concurred with the proposed deletion decision; (3) Concurrent with this Notice of Intent to Delete, a notice has been published in the local newspaper and has been distributed to appropriate federal, state, and local officials and other interested parties announcing the commencement of a 30-day public comment period on the Notice of Intent to Delete; and (4) All relevant documents have been made available for public review in the local information repository and in the Regional Office.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for information purposes and to assist EPA management. As mentioned in Section II of this Notice, Section 300.425(e)(3) of the NCP states that deletion of a site from the NPL does not preclude eligibility for future response actions.

For deletion of this Site, EPA will accept and evaluate public comments on this Notice of Intent to Delete before making the final decision to delete. If necessary, the Agency will prepare a Responsiveness Summary to address any significant public comments received during the comment period.

The deletion occurs when the Regional Administrator places the final notice on the **Federal Register**. Generally, the NPL will reflect deletions in the final update following the Notice. Public notices and copies of the Responsiveness Summary will be made available to local residents by Region 4.

IV. Basis for Intended Deletion

The following Site summary provides the Agency's rationale for the proposal to delete this Site from the NPL.

A. Background

The GSST Site is located on a 55-acre parcel near Simpsonville, South Carolina. The Site is situated in a semi-rural area on a portion of a farm owned by Mrs. Lucille Rice, and is surrounded by the Holly Tree residential subdivision on the east, west and north sides. Primary access to the site is off Adams Mill Road which borders the site to the south. The Carrington Green subdivision is located across Adams Mill Road along the Site's southernmost boundary.

B. History

From 1960 through 1975, Mr. Buck Rice (now deceased) operated a septic tank hauling and disposal service from the GSST Site. During this period of active operation, industrial and septic wastes were discharged into five unlined wastewater lagoons located on Site. The total capacity of these five lagoons has been calculated at nearly 2.8 million gallons. Waste hauling and disposal activities at the GSST Site were reportedly discontinued in 1975. By 1978, three of the five lagoons (2, 3 and 5) were backfilled by pushing in the side walls of each unit and covering the sludge.

Preliminary investigations of the Site conducted by SCDHEC and EPA confirmed the presence of inorganic constituents such as cadmium, chromium, copper, lead and cyanide in the lagoon water and sludge. In June 1987, EPA placed the GSST Site on the National Priorities List (NPL).

C. Characterization of Risk

A group of responsible parties, known as the Golden Strip Task Group (GSTG), conducted the RI/FS under an Administrative Order by Consent (AOC) with EPA. RMT, Inc., on behalf of the Task Group, conducted the RI field work from September 1989 to March 1991, under EPA and SCDHEC oversight. Lagoon sludges and soils in close proximity to the lagoons were found to be impacted with inorganic constituents. Specifically, maximum concentrations detected in soil and sludge were 12,000 mg/kg cadmium, 97,200 mg/kg chromium, 69,900 mg/kg copper, 4,520 mg/kg cyanide, 5,290 mg/kg lead and 77,600 mg/kg zinc. Toxicity Characteristic Leaching Procedure (TCLP) analyses of lagoon sludge and affected soil demonstrated hazardous characteristics for cadmium. An estimated 1.9 million gallons of water was impounded in Lagoons 1 and 4 and this surface water was found to contain elevated levels of similar inorganic constituents. Three rounds of groundwater sampling indicated that groundwater quality had been affected to a limited extent in the immediate vicinity of the lagoons, but a discernible plume of groundwater contamination was not identified.

The Baseline Risk Assessment (BRA) concluded that the principal threat to human health posed by this site was exposure to impacted soils and sludges. A residential future-use scenario was utilized in the BRA to develop remedial action target concentrations (RATCs) for impacted soils/sludges. Site specific RATCs were calculated for each Constituent of Concern (COC) identified in the BRA. Data generated during the RI estimated that 28,000 cubic yards of soil/sludge exceeded the applicable RATCs. A Feasibility Study (FS) was performed to evaluate feasible remedial alternatives to address all soil/sludge above applicable RATCs, surface water impounded in Lagoons 1 and 4, and site groundwater.

On September 12, 1991, the Regional Administrator signed a Record of Decision (ROD), which selected a remedy for the GSST Site that was protective of human health and the environment. The major components of the selected remedy included:

- Excavation of all soil/sludge above applicable RATCs and treatment by solidification/stabilization to remove hazardous characteristics. Backfilling of treated material into on-site excavations within defined Area of Contamination (AOC);
- Establishment of Alternative Concentration Limits (ACLs) for on-site groundwater combined with a long-term monitoring program to monitor the effects of source control on the groundwater;
- Discharge of surface waters impounded in Lagoons 1 and 4 to Publicly Owned Treatment Works (POTW); and
- Establishment of Conservation Easement to control future use of property.

Active groundwater remediation in the vicinity of the lagoons was not determined reasonable or technically practicable using the decision criteria for ACLs specified in Section 121 of CERCLA. Generally, these include: (1) there is no discernible plume; (2) there are known or projected points of entry of site groundwater into surface water; (3) there is no statistically significant increase in waste constituents in the groundwater or in the surface water at the point of entry; (4) the selected remedy includes source control measures that are expected to have a positive influence on groundwater; and (5) the selected remedy includes enforceable measures that will preclude human exposure to groundwater.

D. Implementation of the Selected Remedy

In April 1992, the GSTG entered into a Consent Decree with EPA for implementation of the selected remedy. RMT, Inc. was selected by the task group to perform the necessary Remedial Design and Remedial Action activities required for successful remedy implementation and completion. Extensive treatability studies were conducted to identify cost-effective solidification/stabilization additives that could meet the established leaching and compressive strength performance criteria. It was determined that 30 percent Type I/II Portland cement (based on the dry weight of the soil/sludge matrix) could effectively stabilize and solidify the Site COCs.

The conservation easement, which placed certain restrictions on future site development and usage of the groundwater underlying the site, was filed in Greenville County R.M.C. on January 12, 1994 by Mr. Robert E. Dryden, on behalf of the task group. EPA and SCDHEC granted final approval of the Remedial Design documents and Performance Standards Verification Plan in February 1994. The Remedial Action Work Plan was accepted as Final by EPA and SCDHEC in July 1994. Heritage Environmental Services was selected as the Remedial Action contractor in June 1994 and began initial mobilization to the site on July 6, 1994.

The remedy was initiated in August 1994 by pre-treatment and discharge of the water from Lagoons 1 and 4 to the local sewer. The sludge in each lagoon was then stabilized with affected soil and cement kiln dust. The stabilized sludge and affected soil were then excavated and temporarily staged. Several pilot scale field demonstrations were conducted on the soil/sludge treatment system to evaluate scale-up effectiveness and to implement refinements, where necessary. Heritage Environmental Services demobilized in September 1994, while a supplemental sampling and analysis program was conducted to develop detailed excavation plans.

Screening sampling and analysis, confirmational sampling and analysis, and geostatistical modeling were employed to develop detailed excavation plans for the affected soils and to confirm that the affected soil and sludge had been removed. Heritage remobilized to the site in April 1995 and made several modifications to the pug-mill treatment system. In May 1995, full scale excavation began in Lagoon 1 and proceeded to Lagoon 5. These areas were excavated first so that the final landfill footprint could be excavated, prepared, and confirmed clean prior to the placement of treated soil/sludge. In August 1995, EPA and SCDHEC confirmed achievement of all excavation performance standards in this area and granted approval to proceed with placement of treated material.

Following a final treatment system demonstration, full-scale treatment of affected soils and sludges and further excavation activities proceeded concurrently. Once affected soils were removed, they were fed into a pug mill where they were blended with 30 percent Type I/II Portland cement and water to produce a soil-cement material. This soil-cement material was then taken to the on-site landfill, spread in 1-foot lifts, and compacted. The compacted soil-cement quickly hardened with a compressive strength of greater than 250 psi. This finished landfill was capped with more than 30 inches of soil and a vegetative cover was re-established. An approximated total of 57,000 cubic yards of soil-cement was placed into the on-site landfill cell.

On April 25, 1996, a Pre-Final Inspection was held on-site to verify that all punch list items had been completed. A detailed site walk revealed that all substantive items had been completed with the exception of establishing a vegetative cover and submittal of as-built drawings. The Remedial Action Report was submitted by RMT in June 1996 and approved by the EPA's North Site Management Branch Chief on July 12, 1996. The Final Close Out Report, which documented that the remedial action was successfully completed, was completed by EPA in September 1996.

The GSST Site meets all the site completion and close out procedures for NPL Sites as specified in OSWER Directive 9320.2–09, *Close Out Procedures for National Priorities List Sites (EPA/540/R–95/062, August 1995).* Specifically, excavation verification sampling confirms that all soil above RATCs has been removed, treatment verification sampling confirms that the solidified soil-cement matrix meets leachate and compressive strength performance standards, and that all cleanup actions specified in the ROD have been implemented. Confirmatory stream sampling, groundwater sampling, and a clean cap with vegetative cover provide further assurance that the site no longer poses any risks to human health and/or the environment. The only remaining activity to be performed is O&M which will be conducted by an assigned

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representative of the Golden Strip Task Group.

E. Operation and Maintenance

Post-closure activities at the GSST Site will be conducted by the GSTG's assigned representative following the guidelines contained in the EPA/SCDHEC approved Operation and Maintenance (O&M) Plan. Those O&M activities address a 30-year post-closure care monitoring period as specified by the ROD. These post-closure care activities include the following:

- Periodic inspections to verify the integrity of the cap, cover and security;
- Ongoing landscape maintenance to keep the integrity of the landfill cap intact;
- Periodic stream and groundwater monitoring to verify the performance of the remedy; and
- Submission of O&M evaluation reports to EPA/SCDHEC containing observations and any corrective actions taken to address issues of concern.

The surficial aquifer underlying the GSST Site has been monitored via sampling and analysis of 22 monitoring wells since 1989. Water quality and sediments of an unnamed stream passing through the site have also been monitored. Since only intermittent exceedances of drinking water standards were observed during the RI/FS, EPA and SCDHEC established ACLs for the site groundwater. During the Site Remedial Action, these ACLs have not been required, as groundwater quality has consistently remained below federally established drinking water levels (Maximum Contaminant Levels). Stream monitoring results continue to verify that the water quality or sediments have not been affected by past waste disposal activities.

F. Five-Year Review

Semi-annual groundwater and stream monitoring will continue up to the 5-year review which shall be conducted by July 1999. EPA and SCDHEC will evaluate the scope of future monitoring requirements at the completion of the five-year review.

One of the three criteria for deletion specifies that EPA may delete a site from the NPL if the responsible parties or other parties have implemented all appropriate response actions required. EPA, with the concurrence of SCDHEC, contends this criterion has been met. Subsequently, EPA is proposing deletion of this Site from the NPL. Documents supporting this action are available from the public docket.

Dated: June 22, 1998.

A. Stanley Meiburg,

Deputy Regional Administrator, U.S. EPA Region 4.

[FR Doc. 98-18083 Filed 7-8-98; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL MARITIME COMMISSION

46 CFR Part 514

[Docket No. 98-10]

Inquiry Into Automated Tariff Filing Systems as Proposed by the Pending Ocean Shipping Reform Act of 1998

AGENCY: Federal Maritime Commission.

ACTION: Notice of Inquiry.

SUMMARY: The purposes of this Inquiry are to determine an approach that will produce automated tariff publication systems that best comport with the directives of S. 414, the Ocean Shipping Reform Act of 1998, and its legislative history, and to determine whether ocean common carriers should be required to file service contracts electronically. The proposed legislation would alter, among other things, the manner by which ocean common carriers publish their tariffs under the Shipping Act of 1984, 46 U.S.C. app. § 1701 *et seq.*, by requiring them to publish their tariffs in private automated tariff systems. Comments are solicited on the possible requirements for such tariff filing systems and on the electronic filing of service contracts and publication of essential terms.

DATES: Comments due on or before August 10, 1998.

ADDRESSES: Send comments (original and 20 copies) to: Joseph C. Polking, Secretary, Federal Maritime Commission, 800 North Capitol Street, NW, Washington, DC 20573-0001, (202) 523-5725.

FOR FURTHER INFORMATION CONTACT: Bryant L. VanBrakle, Director, Bureau of Tariffs, Certification and Licensing, Federal Maritime Commission, 800 North Capitol Street, NW, Washington, DC 20573-0001, (202) 523-5796 and Thomas Panebianco, General Counsel, Federal Maritime Commission, 800 North Capitol Street, NW, Washington, DC 20573-0001, (202) 523-5740.

SUPPLEMENTARY INFORMATION: On April 21, 1998, the Senate passed S. 414, a bill entitled the "Ocean Shipping Reform Act of 1998" ("Reform Act"). The bill was subsequently referred to the House of Representatives, where it is presently awaiting either referral to appropriate committees or a vote by the full House. If the latter occurs prior to adjournment in the fall, the Federal Maritime Commission ("FMC" or "Commission") will have the task of proposing and adopting rules to implement the Reform Act in a very short time period, since the Reform Act generally takes effect on May 1, 1999, and the bill requires final implementing regulations to be promulgated by March 1, 1999.

The Reform Act amends the Shipping Act of 1984 (46 U.S.C. app. § 1701 *et seq.*) ("1984 Act") in several areas, altering the manner by which the United States regulates international ocean shipping. One of the most significant changes is in the treatment of common carrier tariffs, the publications which contain the rates and charges for their transportation services. Currently, common carriers and conferences must file their tariffs with the commission's Automated Tariff Filing and Information System ("ATFI"). Under the Reform Act, carriers no longer will have to file with the Commission, but will be required to publish their rates in private, automated tariff systems. These tariffs will have to be made available electronically to any person, without time, quantity, or other limitation, through appropriate access from remote locations, and a reasonable charge may be assessed for such access, except for Federal agencies. In addition, the Commission is charged with prescribing the requirements for the "accessibility and accuracy" of these automated tariff systems, unlike the "form and manner" requirements under the current law. The Commission also can prohibit the use of such systems, if they fail to meet the requirements it establishes.

It is against this background that the Commission is initiating this inquiry to solicit comments from the ocean transportation industry and the general public on how best to establish requirements for carriers' automated tariff systems. Such comments should assist the Commission in formulating and proposing a rule in this area in the event that the House passes S. 414 and it is signed into law by the President.

The primary function of the publication of tariffs is to provide the shipping public with reliable information on the price and service options to move particular commodities from point A to point B. This information would necessarily include all applicable assessorials, additional charges, and surcharges, so that the shipper can obtain a "bottom-line" price for the service it seeks. Consistent with the Reform Act's common carriage principles, shippers should be able to use this information to compare competing carriers' offerings and to assess whether they are being unreasonably discriminated against vis-a-vis their competitors. In addition, public tariff information enables carriers to monitor their competitors and adjust their pricing and service structures accordingly.

A perhaps no less important function of tariff publication is to permit the Commission to monitor the rate activity of carriers and conferences. In light of the fact that the Reform Act would continue to grant antitrust immunity for collective ratemaking, the ability to monitor collectively-established rates remains particularly important. The Commission also needs to be able to monitor carrier rate activity to ensure that the prohibited acts in section 10 of the Reform Act are not violated. In this regard, the Commission will always need a historical record of rate activity, perhaps commensurate with the five year statute of limitations in the Reform Act. In addition, the ability to monitor the rate activity of controlled carriers is crucial to the Commission's enforcement of the controlled carrier provisions of the Reform Act.

The problem facing the Commission and the industry is how to reconcile these basic purposes of tariff publication with the relative discretion Congress would grant carriers to develop their own automated tariff systems. The report of the Senate Committee on Commerce, Science, and Transportation, S. Rep. No. 61, 105th Cong., 1st Sess. (1997) ("Committee Report"), is instructive in this regard. The Committee noted that innovative private sector approaches, such as World Wide Web pages, should be encouraged, stating that common carriers should be free to develop their own means of tariff publication. Committee Report at 23. Although the Committee reiterated that there should be no government restraints on the design of a private tariff publication system, it also stated that such systems must assure the integrity of the common carrier's tariff and of the tariff system as a whole and provide the appropriate level of public access to tariff information. *Id.* The Committee also stated that tariff information should be "simplified and standardized." *Id.* The Committee further noted that the Commission will retain its authority to suspend or prohibit the use of tariffs found to violate the 1984 Act or other U.S. shipping laws. *Id.* at 22–23.

As a point of reference, because ATFI uses uniform transaction sets for tariff material,[1] it presents tariff information uniformly, and substantive tariff provisions are located identically within each carrier's tariff. In addition, carriers are required to provide electronic links within each tariff so that shippers can calculate a bottom-line freight charge. Under ATFI, the Commission also validates, among other things, specific ports and points listed to ensure industry-wide uniformity and requires that equipment descriptions be standardized.

The question thus becomes how to meld the various Congressional directives in the Reform Act and its legislative history to produce tariff publication requirements that fully comport with the letter and the spirit of the Reform Act. The Commission, therefore, is seeking public comment on how best to achieve this goal. Commenters should feel free to address any aspect of automated systems relevant to this inquiry. However, we have proposed some questions that may focus discussion in the proper direction:

1. What are the best methods for standardizing tariff information?

2. Should tariffs contain uniform rate/commodity/geographic scope searching mechanisms?

3. Describe any available options for standardizing commodity descriptions.

4. How can we ensure that the systems produce accurate bottom-line freight charges for shippers?

5. Should carriers be required to use uniform transaction sets (such as ATFI transaction sets) for the transmission of information in automated tariff systems?

6. How long should systems be required to maintain historical tariff information?

7. Describe how tariff systems can automatically block the publication of unlawful rate actions (*e.g.*, an increased cost to the shipper published to become effective less than 30 calendar days after publication; changes in a controlled carrier's tariff published to become effective less than 30 days after publication)?

8. How can the systems give the Commission the ability to void tariff material that contravenes the statute or its regulations?

9. How should tariff systems be structured to handle carrier requests for Commission approval of deviations from its rules, including increased costs to shippers to become effective less than 30 days after publication?

10. How can the Commission meet its responsibilities efficiently under sections 5, 6, 9 and 10 of the Act if faced with nonuniform tariff systems?

11. Could tariff systems be designed so that the Commission could access certain functionalities that might not otherwise be available to the general public (*e.g.*, to generate ad hoc and recurring reports, facilitate tariff review, and examines tariff's history)?

12. Could tariff systems be designed to automatically inform the Commission when an amendment is made?

13. How can tariff systems be designed to facilitate the Commission's suspension or prohibition of the use of tariffs or tariff material found to violate the 1984 Act or other U.S. shipping laws?

14. What standards should the Commission apply to measure the accuracy and accessibility of a carrier's automated tariff publication system?

15. How can tariffs be simplified?

In a related matter, the Reform Act directs carriers to file their service contracts with the Commission on a confidential basis. The Reform Act does not specify that these filings be done electronically. Service contracts under the 1984 Act are currently filed in paper form. In FY 1997 the Commission received 10,500 new contracts and nearly 29,000 amendments. This compares with 9,400 contracts and 19,500 amendments in FY 1996. By all indications, the number of service contract filings will continue to increase significantly, particularly under a statutory scheme providing greater confidentiality in contract terms. Accordingly, the Commission also is seeking comments in this inquiry regarding the electronic filing of service contracts with the Commission. Electronically filed service contracts, unlike the publicly available essential terms, would be available only to the Commission and its staff. Commenters favoring electronic filing may suggest possible approaches for implementing such filing, including issues regarding digitized signatures and text versus data format. Commenters are also requested to address the issues as they relate to the publication of certain essential terms in tariff format in private automated systems.

Now therefore, It is ordered that this Notice of Inquiry be published in the **Federal Register**.

By the Commission.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 98–18160 Filed 7–8–98; 8:45 am]

BILLING CODE 6730-01-M

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[1] ATFI's transaction sets prescribe specific requirements as to the data dictionary, field size, syntax, data elements, mandatory and optional fields, format, and segment definitions.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–105; RM–9295]

Radio Broadcasting Services; Madison, IN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Madison Broadcasting Company, seeking the allotment of Channel 266A to Madison, Indiana, as that community's second local FM transmission service. Coordinates used for this proposal are 38–49–15 and 85–18–46.

DATES: Comments must be filed on or before August 24, 1998, and reply comments on or before September 8, 1998.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Mark N. Lipp, Esq., Shook, Hardy & Bacon, 801 Pennsylvania Avenue, NW., Suite 600, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–105, adopted June 24, 1998, and released July 2, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–18236 Filed 7–8–98; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–106, RM–9277]

Radio Broadcasting Services; Missoula, MT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Dale A. Ganske d/b/a L. Topaz Enterprises, Inc. proposing the allotment of Channel 290A to Missoula, Montana, as that community's fifth FM broadcast service. The channel can be allotted to Missoula without a site restriction at coordinates 46–51–42 and 114–00–30. Canadian concurrence will be requested for this allotment.

DATES: Comments must be filed on or before August 24, 1998, and reply comments on or before September 8, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Dale A. Ganske, President, L. Topaz Enterprises, Inc., 5546–3 Century Ave., Middleton, Wisconsin 53562.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–106, adopted June 24, 1998, and released July 2, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–18235 Filed 7–8–98; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register

Vol. 63, No. 131

Thursday, July 9, 1998

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Cotton Storage Agreement Fees

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of fees.

SUMMARY: The purpose of this notice is to publish a schedule of fees to be paid to Commodity Credit Corporation (CCC) by cotton warehouse operators requesting to enter into a storage agreement or adjusting the capacity of an existing storage agreement.

EFFECTIVE DATE: July 1, 1998.

FOR FURTHER INFORMATION CONTACT: Howard Froehlich, Chief, Storage Contract Branch, Warehouse and Inventory Division, Farm Service Agency, United States Department of Agriculture, 1400 Independence Avenue, SW., STOP 0553, Washington, D.C. 20250–0553, telephone (202) 720–7398, FAX (202) 690–3123.

SUPPLEMENTARY INFORMATION:

Background

In accordance with the provisions of the Commodity Credit Corporation Charter Act (15 U.S.C. 714 *et seq.*), CCC enters into storage agreements with private cotton warehouse operators to provide for the storage of commodities owned by CCC or pledged as security to CCC for marketing assistance and price support loans.

Specifically, 7 CFR part 1427.1087 provides that all cotton warehouse operators who do not have an existing agreement with CCC for storage and handling of CCC-owned commodities or commodities pledged to CCC as loan collateral, but who desire such an agreement, must pay an application and examination fee for each warehouse for which CCC approval is sought prior to CCC conducting the original warehouse examination.

A review of the revenue collected for application and examination fees indicates that the fees collected are insufficient to meet costs incurred by CCC for warehouse examinations and contract origination administrative functions. Accordingly, beginning with the 1998–99 contract year, the fees are changed by increasing by 10 percent those fees that were applicable to the 1997–98 contract year. The fee change will be effective July 1, the beginning of the 1998–99 contract year.

The fee will be computed at the rate of $75 for each 1,000 bales of storage capacity or fraction thereof, but the fee will be not less than $150 nor more than $1,500.

Signed at Washington, DC, on July 2, 1998.

Bruce R. Weber,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 98–18270 Filed 7–8–98; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

Revised Land and Resource Management Plans, Boise National Forest and Payette National Forest, Idaho; Significant Amendment Land and Resource Management Plan, Sawtooth National Forest, ID

AGENCY: Forest Service, USDA.

ACTION: Supplement to notice of intent to prepare an Environmental Impact Statement in conjunction with revision of the Land and Resource Management Plans for the Boise and Payette National Forests, and significant amendment to the Land and Resource Management Plan for the Sawtooth National Forest located in Ada, Adams, Blaine, Boise, Camas, Canyon, Cassia, Custer, Elmore, Gem, Gooding, Idaho, Jerome, Lincoln, Minidoka, Owyhee, Payette, Twin Falls, Valley and Washington Counties, Idaho; Box Elder Country, Utah, and Malheur County, Oregon.

SUPPLEMENT: On June 29, 1998, Regional Forester Jack Blackwell made a decision to extend the comment period on the proposed programmatic action for the Revision of the Forest Plans for the Boise and Payette National Forests and the Significant Amendment of the Forest Plan for the Sawtooth National Forest. As defined in the **Federal Register**, Vol. 63, No. 79, dated Friday, April 24, 1998, the original comment period ended on June 25, 1998. In response to public requests, the comment period has been extended an additional 60 days and will now close on August 25, 1998.

For further information concerning this project, contact Jeff Foss, Boise National Forest Planner at 1249 South Vinnell Way, Boise, Idaho, 83709; Faye Krueger, Payette National Forest Planner at P.O. Box 1026, McCall, Idaho, 83638; or Sharon LaBrecque, Sawtooth National Forest Planner at 2647 Kimberly Road, Twin Falls, Idaho, 83301.

Comments concerning this project should be sent to Joey Pearson, Administrative Assistant, Payette National Forest, P.O. Box 1026, McCall, Idaho, 83638.

Dated: July 1, 1998.

Christopher L. Pyron,

Deputy Regional Forester, Administration.

[FR Doc. 98–18196 Filed 7–8–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Intent To Request an Extension of a Currently Approved Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13) and Office of Management and Budget (OMB) regulations at 5 CFR Part 1320 (60 FR 44978, August 29, 1995), this notice announces the intent of the National Agricultural Statistics Service (NASS) to request an extension of a currently approved information collection, the Equine Survey.

DATES: Comments on this notice must be received by September 14, 1998 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Rich Allen, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, 1400 Independence Avenue SW, Room 4117 South Building

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Washington, D.C. 20250–2000, (202) 720–4333.

SUPPLEMENTARY INFORMATION:

Title: Equine Survey.

OMB Number: 0535–0227.

Expiration Date of Approval: December 31, 1998.

Type of Request: Extension of a currently approved Information Collection.

Abstract: To improve information regarding the equine industry, several State Departments of Agriculture are expected to contract with the NASS to conduct an Equine Survey in their state within the next 3 years. Equine activities offer unusually varied opportunities for rural development. In addition to providing the livelihood for breeders, trainers, veterinarians, and many others, the horse remains important to recreation. Equine survey data will quantify the importance of the industry in the state. The number of operations, number of animals, and economic information will provide a focus on the importance of the equine industry to state economies. Income data provides a view of the benefits that the industry provides to the state economy and a ranking in terms of its relative importance within both the agricultural sector and the state's total economic sector. The expenditure information provides data regarding the multiplier effect of money from the equine industry, effects of wage rates paid to both permanent and part-time employees, and secondary businesses supported by the industry. The Equine Survey has approval from OMB for a 2 year period. NASS intends to request that the survey be approved for another 3 years. This data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority is governed by Section 1770 of the Food Security Act of 1985, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 35 minutes per response.

Respondents: Horse owners, breeders, trainers, boarders.

Estimated Number of Respondents: 58,000.

Estimated Total Annual Burden on Respondents: 33,800 hours.

Copies of this information collection and related instructions can be obtained without charge from Larry Gambrell, the Agency OMB Clearance Officer, at (202) 720–5778.

Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, other technological collection techniques, or other forms of information technology. Comments may be sent to: Larry Gambrell, Agency OMB Clearance Officer, U.S. Department of Agriculture, 1400 Independence Avenue SW, Room 4162 South Building, Washington, D.C. 20250–2000.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Signed at Washington, D.C., June 25, 1998.

Rich Allen,

Associate Administrator, National Agricultural Statistics Service.

[FR Doc. 98–18269 Filed 7–8–98; 8:45 am]

BILLING CODE 3410–20–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Georgia Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Georgia Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 1:00 p.m. on July 27, 1998, at the Sam Nunn Atlanta Federal Center, 61 Forsyth Street SW, Dining Room A, Atlanta, Georgia 30303. The purpose of the meeting is to discuss civil rights progress and/or problems and to plan for a symposium on "The Status of Civil Rights in Georgia."

Persons desiring additional information, or planning a presentation to the Committee, should contact Bobby D. Doctor, Director of the Southern Regional Office, 404–562–7000 (TDD 404–562–7004). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, June 26, 1998.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 98–18261 Filed 7–8–98; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Oregon Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Oregon Advisory Committee to the Commission will convene at 10:00 a.m. and adjourn at 4:00 p.m. on July 24, 1998, at the Double Tree Inn, Columbia River, 1401 North Hayden Island Drive, Portland, OR 97217. The purpose of the meeting is to plan a future project.

Persons desiring additional information, or planning a presentation to the Committee, should contact Philip Montez, Director of the Western Regional Office, 213–894–3437 (TDD 213–894–3435). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, July 1, 1998.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 98–18257 Filed 7–8–98; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement, Article 1904 NAFTA Panel Reviews; Request for Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of First Request for Panel Review.

SUMMARY: On June 5, 1998, the Director of Investigation and Research, Competition Bureau, Industry Canada filed a First Request for Panel Review

with the Canadian Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free-Trade Agreement. Panel review was requested of the final material injury determination made by the Canadian International Trade Tribunal, respecting Certain Prepared Baby Foods Originating In or Exported from the United States of America. This determination was published in the *Canada Gazette* 1998.I.1062, on May 9, 1998. The NAFTA Secretariat has assigned Case Number CDA-USA-98-1904-01 to this request.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, D.C. 20230, (202) 482-5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement ("Agreement") establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* ("Rules"). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686).

A first Request for Panel Review was filed with the Canadian Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on June 5, 1998, requesting panel review of the final material injury determination described above.

The Rules provide that:

(a) A Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is July 6, 1998);

(b) A Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is July 20, 1998); and

(c) The panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: June 15, 1998.

James R. Holbein,

United States Secretary, NAFTA Secretariat.

[FR Doc. 98-18260 Filed 7-8-98; 8:45 am]

BILLING CODE 3610-GT-P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Notice of Government Owned Inventions Available for Licensing

AGENCY: National Institute of Standards and Technology Commerce.

SUMMARY: The inventions listed below are owned in whole or in part by the U.S. Government, as represented by the Department of Commerce. The Department of Commerce's ownership interest in the inventions are available for licensing in accordance with 35 U.S.C. 207 and 37 CFR Part 404 to achieve expeditious commercialization of results of Federally funded research and development.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on these inventions may be obtained by writing to: National Institute of Standards and Technology, Industrial Partnerships Program, Building 820, Room 213, Gaithersburg, MD 20899; Fax 301-869-2751. Any request for information should include the NIST Docket No. and Title for the relevant invention as indicated below.

SUPPLEMENTARY INFORMATION: NIST may enter into a Cooperative Research and Development Agreement ("CRADA") with the licensee to perform further research on the inventions for purposes of commercialization. The inventions available for licensing are:

NIST Docket Number: 94-020/030.

Title: Miniature X-Ray Source.

Abstract: The invention is jointly owned by the U.S. Government, as represented by the Secretary of Commerce, and the United States Navy. The United States Navy has transferred custody of their interest in the invention to the National Institute of Standards and Technology. A miniature x-ray source only a few millimeters across has applications as an x-ray source for a number of medical applications including non-invasive intracavitary radiotherapy, diagnostic medical x-ray imaging, and intraoperative radiotherapy. Also, for example, an x-ray source according to the invention may be placed in the mouth of a patient and an x-ray film placed outside the mouth so as to obtain an image of the mandibular joint close to the ear. Other scientific applications for this tiny radiation source include small x-ray microscopes, fluorescence analysis absorptometry, radiography and x-ray tomography. The miniature x-ray source has a cathode which may comprise a gated array of field emission elements, an array of solid state miniature thermionic cathodes, or ferroelectric cathodes. Each of these cathodes can be manufactured using photolithographic and etching techniques commonly found in the semiconductor industry. The anode may be a foil, a thin film of metal deposited on the inside surface of a wall of the evacuated chamber or a self-supporting body of a metal that produces x-rays in response to electron impacts.

NIST Docket Number: 95-036US.

Title: X-Ray Lithography Mask Inspection System.

Abstract: The invention is jointly owned by the U.S. Government, as represented by the Secretary of Commerce, and Wisconsin Alumni Research Foundation. The invention uses an x-ray conversion microscope to form an enlarged image of the actual x-ray pattern that an x-ray mask would project onto a resist. Present x-ray mask inspection is done by electron microscopes where the image produced is representative of the interaction of high energy electrons with the features on the mask. The proposed technique would instead form images from the x-ray transmission of the mask, the quantity most relevant to the mask's performance in the x-ray lithography process.

NIST Docket Number: 96-022US.

Title: Methods For Machining Hard Materials Using Alcohols.

Abstract: This invention is jointly owned by the U.S. Government, as represented by the Secretary of Commerce, and the University of Maryland. The present invention provides a method for machining hard materials using the machining fluids containing long chain alcohol in which the machining fluid is applied to a machining tool and then lubricates the machining of the workpiece by the

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machining tool and protects the machining tool during machining. The method is particularly useful when used with machining tools having a Mohs hardness of at least 9 and is most particularly useful when used with diamond machining tools.

NIST Docket Number: 97–014US.

Title: Microroughness-Blind Optical Scattering Instrument.

Abstract: A microroughness-blind optical scanner for detecting particulate contamination on bare silicon wafers focuses p-polarized light onto the surface of a sample. Scattered light is collected through independently rotatable polarizers by one or more collection systems uniformly distributed over a hemispherical shell centered over the sample. The polarizer associated with each collection system is rotated to cancel the corresponding Jones vector, thereby preventing detection of microroughness-scattered light, yielding higher sensitivity to particulate defects. The sample is supported on a positioning system permitting the beam to be scanned over the sample surface of interest.

Dated: July 2, 1998.

Robert E. Hebner,

Acting Deputy Director.

[FR Doc. 98–18211 Filed 7–8–98; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Coastal Zone Management: Federal Consistency Appeal by Chevron U.S.A. Production Company by an Objection by the State of Florida Department of Community Affairs

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of appeal and request for comments.

Chevron U.S.A. Production Company (Appellant), filed with the Secretary of Commerce (Secretary) a notice of appeal pursuant to section 307(c)(3)(B) of the Coastal Zone Management Act of 1972 (CZMA), as amended, 16 U.S.C. 1451 *et seq.*, and the Department of Commerce's implementing regulations, 15 C.F.R. Part 930, Subpart H. The appeal is taken from an objection by the State of Florida (State) to the Appellant's consistency certification for a Development and Production Plan to produce up to 21 natural gas wells in the Destin Dome 56 Unit, some 15 miles from Florida waters and approximately 25 miles from Pensacola. The Appellant has certified that the project is consistent with the State's coastal management program.

The CZMA provides that a timely objection by a state precludes any federal agency from issuing licenses or permits for the activity unless the Secretary finds that the activity is either "consistent with the objectives" of the CZMA (Ground I) or "necessary in the interest of national security" (Ground II). Section 307(c)(3)(A). To make such a determination, the Secretary must find that the proposed project satisfies the requirements of 15 CFR 930.121 or 930.122.

The Appellant requests that the Secretary override the State's consistency objections based on Ground I. To make the determination that the proposed activity is "consistent with the objectives" of the CZMA, the Secretary must find that: (1) the proposed activity furthers one or more of the national objectives or purposes contained in §§ 302 or 303 of the CZMA, (2) the adverse effects of the proposed activity do not outweigh its contribution to the national interest, (3) the proposed activity will not violate the Clean Air Act or the Federal Water Pollution Control Act, and (4) no reasonable alternative is available that would permit the activity to be conducted in a manner consistent with the State's coastal management program. 15 CFR 930.121.

Public comments are invited on the findings that the Secretary must make as set forth in the regulations at 15 CFR 930.121. Comments are due within 30 days of the publication of this notice and should be sent to Ms. Mary O'Brien, Attorney-Adviser, Office of the Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1305 East-West Highway, Room 6111, Silver Spring, MD 20910. Copies of comments will also be forwarded to the Appellant and the State.

All nonconfidential documents submitted in this appeal are available for public inspection during business hours at the offices of the State and the Office of the Assistant General Counsel for Ocean Services.

FOR ADDITIONAL INFORMATION CONTACT: Ms. Mary O'Brien, Attorney-Adviser, Office of the Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1305 East-West Highway, Room 6111, Silver Spring, MD 20910, 301–713–2967.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance)

Dated: June 25, 1998.

Monica Medina,

General Counsel.

[FR Doc. 98–18192 Filed 7–8–98; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

ENVIRONMENTAL PROTECTION AGENCY

Coastal Nonpoint Pollution Control Program: Conditional Approvals, Findings Documents, Responses to Comments, and Records of Decision

AGENCY: National Oceanic and Atmospheric Administration, U.S. Department of Commerce, and the U.S. Environmental Protection Agency.

ACTION: Notice of Conditional Approval of Coastal Nonpoint Pollution Control Programs and Availability of Findings Documents, Responses to Comments, and Records of Decision for Alabama, Alaska, California, Connecticut, Hawaii, Louisiana, and Washington.

SUMMARY: Notice is hereby given of the conditional approval of the Coastal Nonpoint Pollution Control Programs (coastal nonpoint programs) and of the availability of the Findings Documents, Responses to Comments, and Records of Decision for Alabama, Alaska, California, Connecticut, Hawaii, Louisiana, and Washington. Section 6217 of the Coastal Zone Act Reauthorization Amendments (CZARA), 16 U.S.C. section 1455b, requires states and territories with coastal zone management programs that have received approval under section 306 of the Coastal Zone Management Act to develop and implement coastal nonpoint programs. Coastal states and territories were required to submit their coastal nonpoint programs to the National Oceanic and Atmospheric Administration (NOAA) and the U.S. Environmental Protection Agency (EPA) for approval in July 1995.

NOAA and EPA have approved, with conditions, the coastal nonpoint programs submitted by Alabama, Alaska, California, Connecticut, Hawaii, Louisiana, and Washington.

NOAA and EPA have prepared a Findings Document for each 6217 program submitted for approval. The Findings Documents were prepared by NOAA and EPA to provide the rationale for the agencies' decision to approve

each state and territory coastal nonpoint program. The Proposed Findings Documents, Environmental Assessments, and Findings of No Significant Impact prepared for the coastal nonpoint programs submitted by Alabama, Alaska, California, Connecticut, Hawaii, Louisiana, and Washington were made available for public comment in the **Federal Register**. Public comments were received and responses prepared on the Alabama, Alaska, California, Connecticut, Hawaii, and Louisiana programs.

In accordance with the National Environmental Policy Act (NEPA) NOAA has also prepared a Record of Decision on each program. The requirements of 40 CFR Parts 1500–1508 (Council on Environmental Quality (CEQ) regulations to implement the National Environmental Policy Act) apply to the preparation of a Record of Decision. Specifically, 40 CFR section 1505.2 requires an agency to prepare a concise public record of decision at the time of its decision on the action proposed in an environmental impact statement. The Record of Decision shall: (1) state what the decision was; (2) identify all alternatives considered, specifying the alternative considered to be environmentally preferable; and (3) state whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted.

In March 1996, NOAA published a programmatic environmental impact statement (PEIS) that assessed the environmental impacts associated with the approval of state and territory coastal nonpoint programs. The PEIS forms the basis for the environmental assessments NOAA has prepared for each state and territorial coastal nonpoint program submitted to NOAA and EPA for approval. In the PEIS, NOAA determined that the approval and conditional approval of coastal nonpoint in any significant adverse environmental impacts and that these programs will not result actions will have an overall beneficial effect on the environment. Because the PEIS served only as a "framework for decision" on individual state and territorial coastal nonpoint programs, and no actual decision was made following its publication, NOAA has prepared a NEPA Record of Decision on each individual state and territorial program submitted for review.

Copies of the Findings Documents, Responses to Comments, and Records of Decision may be obtained upon request from: Joseph A. Uravitch, Chief, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland, 20910, tel. (301) 713–3155, x195.

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration)

Dated: July 6, 1998.

Captain Evelyn J. Fields,

Acting Deputy Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.

Robert H. Wayland, III,

Director, Office of Wetlands, Oceans and Watersheds, Environmental Protection Agency.

[FR Doc. 98–18202 Filed 7–8–98; 8:45 am]

BILLING CODE 3510–12–M

COMMISSION OF FINE ARTS

Notice of Meeting

The next meeting of the Commission of Fine Arts is scheduled for 23 July 1998 at 10:00 AM in the Commission's offices at the National Building Museum (Pension Building), Suite 312, Judiciary Square, 441 F Street, N.W., Washington, D.C. 20001. The meeting will focus on a variety of projects affecting the appearance of the city.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address or call 202–504–2200. Individuals requiring sign language interpretation for the hearing impaired should contact the Secretary at least 10 days before the meeting date.

Dated in Washington, D.C. 29 June 1998.

Charles H. Atherton,

Secretary.

[FR Doc. 98–18262 Filed 7–8–98; 8:45 am]

BILLING CODE 6330–01–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment to Quota and Visa Requirements to Increase the Exemption for Properly Marked Commercial Sample Shipments From Various Countries

July 6, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing the exemption for properly marked commercial sample shipments.

EFFECTIVE DATE: September 1, 1998.

FOR FURTHER INFORMATION CONTACT: Brian F. Fennessy, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

Currently, shipments of properly marked commercial samples valued at U.S.$250 or less do not require a visa for entry into the United States and are not charged to applicable quotas. The Committee for the Implementation of Textile Agreements has reviewed the dollar limitation and has decided to increase the exemption from U.S.$250 to U.S.$800 for properly marked commercial sample shipments exported on or after September 1, 1998.

In addition to other requirements, U.S. Customs guidelines require that each imported sample must be indelibly marked "SAMPLE" in large letters in specific locations depending on the imported article.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to amend existing visa requirements.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 6, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, all directives issued to you which establish textile and apparel export visa requirements.

The Committee for the Implementation of Textile Agreements has decided to increase the dollar limitation for properly marked commercial sample shipments from U.S.$250 to U.S.$800. Effective on September 1, 1998, for products exported on or after September 1, 1998, shipments of properly marked commercial samples valued at U.S.$800 or less do not require a visa for entry into the United States and shall not be charged to applicable quotas.

Shipments entered or withdrawn from warehouse according to this directive which are not properly marked shall be subject to applicable quota and visa requirements.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

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Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–18234 Filed 7–8–98; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Reinstatement of Small Business Set-Asides for Certain Acquisitions Under the Small Business Competitiveness Demonstration Program

AGENCY: Department of Defense (DoD).

ACTION: Notice of reinstatement of small business set-asides under the Small Business Competitiveness Demonstration Program.

SUMMARY: The Director of Defense Procurement has reinstated the use of small business set-aside procedures for certain construction acquisitions issued by the Departments of the Army and Navy. Included in the reinstatement are solicitations issued under Standard Industrial Category Major Group 15 and Standard Industrial Category Code 1629 (Navy only).

EFFECTIVE DATE: June 17, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Sipple, OUSD (A&T), Director of Defense Procurement, Contract Policy Administration, Room 3C838, 3060 Defense Pentagon, Washington, DC 20301–3060, telephone (703) 695–8567.

SUPPLEMENTARY INFORMATION: The Office of Federal Procurement Policy (OFPP) implemented Title VII of Pub. L. 100–656 (15 U.S.C. 644 note) by issuance of the "Small Business Competitiveness Demonstration Program Test Plan" on August 31, 1989, amended April 16, 1993. The program was further implemented in Subpart 19.10 of the Federal Acquisition Regulation (FAR) and Subpart 219.10 of the Defense FAR Supplement (DFARS).

Under the program, small business set-asides were initially suspended for certain designated industry groups (DIGs). Agencies are required by paragraphs III.D.2.a and IV.A.4. of the OFPP test plan to reinstate the use of small business set-asides whenever the small business awards under any designated industry group falls below 40 percent or whenever small business awards under an Individual Standard Industrial Classification (SIC) Code within the designated industry group falls below 35 percent. Reinstatement is to be limited to the organizational elements (in the case of DoD, the individual military departments or other components) that failed to meet the small business participation goals.

For the 12 months ending March 1998, DoD awards in the industries shown below fell below the 40 percent (SIC Major Group 15) or 35 percent (SIC Code 1629) thresholds. Accordingly, pursuant to DFARS 219.1006(b)(2), the Director of Defense Procurement has directed reinstatement of small business set aside procedures for solicitations that involve the industry categories shown below. The reinstatement applies to solicitations issued by the applicable buying activities on or after June 17, 1998, or as soon thereafter as practicable:

Industry	Applicable to
Construction:.	
Major Group 15 (including SIC 1521, 1522, 1531, 1541, and 1542)	All Army and Navy Activities.
Major Group 16—SIC, Code 1629 only	All Navy Activities.

Consistent with the OFPP test plan, this reinstatement of set-asides will be periodically reviewed for continuation. Small business set-asides were reinstated DoD-wide for the DIG titled "Architectural and Engineering Services," by memorandum of September 30, 1991. That reinstatement remains in effect.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

[FR Doc. 98–18097 Filed 7–8–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF ENERGY

[Docket Nos. EA–105–A–CN, EA–168–A and EA–187]

Applications To Export Electric Energy; NorAm Energy Services, PG&E Energy, Merchant Energy Group

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of applications.

SUMMARY: NorAm Energy Services, Inc. (NES) has applied for renewal of its authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act. PG&E Energy Trading-Power, L.P. (PG&E) has applied to amend its authorization to export electric energy to Canada by adding additional transmission facilities, and Merchant Energy Group of the Americas, Inc. (MEGA) has applied for authority to transmit electric energy to Canada.

DATES: Comments, protests or requests to intervene must be submitted on or before August 10, 1998.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Power Im/Ex (FE–27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585–0350 (FAX 202–287–5736).

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) 202–586–9624 or Michael Skinker (Program Attorney) 202–586–6667.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

The Office of Fossil Energy (FE) of the Department of Energy (DOE) has received applications from the following companies for authorization to export electric energy to Canada:

Applicant	Application date	Docket No.
NorAm Energy Services Inc	6/18/98	EA–105–A–CN
PG&E Energy Trading-Power, L.P	6/23/98	EA–168–A
Merchant Energy Group of the Americas, Inc	6/25/98	EA–187

On August 16, 1996, FE authorized NES, a power marketer, to transmit electric energy from the United States to Canada. That authorization will expire on August 16, 1998. In Docket EA–105–A–CN, NES filed an application with FE for renewal of its export authority for a five year period.

On February 24, 1998, FE authorized PG&E to export electric energy from the United States to Canada using the transmission facilities of The Detroit Edison Company, Minnesota Power & Light Company, the New York Power Authority, and Niagara Mohawk Power Corporation. In the application in Docket No. EA–168–A, PG&E now seeks to add additional international transmission facilities to those already authorized.

In Docket No. EA–187, MEGA, a power marketer, proposes to export to Canada electric energy purchased from U.S. electric utilities, Federal power marketing agencies, and other entities authorized to sell power for resale.

Each of the above exporters propose to arrange for the delivery of electric energy to Canada over transmission facilities owned by Basin Electric Power Cooperative, Bonneville Power Administration, Bradfield Electric, Citizens Utilities, Detroit Edison Company, Eastern Maine Electric Cooperative, Joint Owners of the Highgate Project, Long Sault Incorporated, Maine Electric Power Company, Maine Public Service Company, Minnesota Power and Light Company, Minnkota Power Cooperative, New York Power Authority, Niagara Mohawk Power Corporation, Northern States Power and Vermont Electric Transmission Company.

The construction of each of the international transmission facilities to be utilized by these applicants, as more fully described in the applications, has previously been authorized by a Presidential permit issued pursuant to Executive Order 10485, as amended.

Procedural Matters

Any person desiring to become a party to this proceeding or to be heard by filing comments or protest to this application should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the FERC's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with the DOE on or before the date listed above.

Comments on NES's request to renew its export authorization to Canada should be clearly marked with Docket EA–105–A–CN. Additional copies are to be filed directly with Kevin P. Erwin, General Attorney, NorAm Energy Service, Inc., P.O. Box 4455, 1111 Louisiana, 7th Floor, Houston, Texas 77210–4455.

Comments on PG&E's application to amend its authorization to export electric energy to Canada should be marked with Docket EA–168–A. Additional copies are to be filed directly with Christopher A. Wilson, Esq., Assistant General Counsel, U.S. Generating Company, 7500 Old Georgetown Road, Suite 1300, Bethesda, MD 20814–6161 *and* Ms. Sarah Barpoulis, Senior Vice President, PG&E Energy Trading—Power, L.P., 7500 Old Georgetown Road, Suite 1300, Bethesda, MD 20814–6161.

Comments on MEGA's application to export electric energy to Canada should be clearly marked with Docket EA–187. Additional copies are to be filed directly with Joseph P. Limone, Esq., Legal Department, Merchant Energy Group of the Americas, Inc., 275 West Street, Suite 320, Annapolis, MD 21401.

A final decision will be made on these applications after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969 (NEPA), and a determination is made by the DOE that the proposed actions will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of these applications will be made available, upon request, for public inspection and copying at the address provided above. Further information may also be obtained on the program through the World Wide Web by accessing the Fossil Energy Home Page at http://www.fe.doe.gov then selecting "Regulatory" and "Electricity" from the options menus.

Issued in Washington, DC on July 2, 1998.

Ellen Russell,

Acting Manager, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 98–18213 Filed 7–8–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[FE Docket No. PP–188]

Application for Presidential Permit; Dynegy Power Corporation

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of Application.

SUMMARY: Dynegy Power Corp. (Dynegy), an independent power producer, has applied for a Presidential permit to construct, connect, operate and maintain a new electric transmission facility across the U.S. border with Mexico.

DATES: Comments, protests, or requests to intervene must be submitted on or before August 10, 1998.

ADDRESSES: Comments, protests, or requests to intervene should be addressed as follows: Office of Coal & Power Import and Export (FE–27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585–0350.

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) 202–586–9506 or Michael T. Skinker (Program Attorney) 202–586–6667.

SUPPLEMENTARY INFORMATION: The construction, connection, operation, and maintenance of facilities at the international border of the United States for the transmission of electric energy between the United States and a foreign country is prohibited in the absence of a Presidential permit issued pursuant to Executive Order (EO) 10485, as amended by EO 12038.

On July 1, 1998, Dynegy, formerly known as Destec Energy, Inc., a subsidiary of NGC Corporation, filed an application with the Office of Fossil Energy (FE) of the Department of Energy (DOE) for a Presidential permit. Dynegy proposes to construct a one-quarter mile double circuit 230-kilovolt (kV) transmission line to the U.S. border with Mexico from a 400 megawatt (MW) gas-fired electric powerplant it proposes to construct adjacent in Santa Teresa, Dona Ana County, New Mexico. At the border, the Dynegy transmission lines will interconnect with similar facilities owned by Comission Federal de Electricidad (CFE), the national electric utility of Mexico, and continue approximately 17 additional miles in Mexico to CFE's future Paso Del Norte Substation.

In its application Dynegy asserts that the facilities proposed herein are not to be interconnected with any other part of the U.S. electric power system thereby precluding third party use of these transmission facilities.

Prior to exporting electric energy to Mexico Dynegy will be required to obtain an authorization from DOE pursuant to section 202(e) of the Federal Power Act (FPA) (16 U.S.C. § 824a(e)).

Procedural Matters

Any person desiring to be heard or to protest this application should file a petition to intervene or protest at the address provided above in accordance with section 385.211 or 385.214 of the Federal Energy Regulatory

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Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214).

Fifteen copies of such petitions and protests should be filed with the DOE on or before the date listed above. Additional copies of such petitions to intervene or protest also should be filed directly with: Mr. David Kellermeyer, Dynegy Power Corp., 1000 Louisiana, Suite 5800, Houston, TX 77002–5050.

Before a Presidential permit may be issued or amended, the DOE must determine that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system and also consider the environmental impacts of the proposed action pursuant to the National Environmental Policy Act of 1969. DOE also must obtain the concurrence of the Secretary of State and the Secretary of Defense before taking final action on a Presidential permit application.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above. In addition, this application will be made available on the Internet on the Office of Fossil Energy's home page. The site is accessible at www.fe.doe.gov. Select "Regulatory" then "Electricity."

Issued in Washington, D.C., on July 2, 1998.

Ellen Russell,

Acting Manager, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 98–18212 Filed 7–8–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–274–000]

Black Marlin Pipeline Company; Notice of Proposed Changes to FERC Gas Tariff

July 2, 1998.

Take notice that on June 30, 1998, Black Marlin Pipeline Company (Black Marlin) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to be effective August 1, 1998:

Ninth Revised Sheet No. 4
Second Revised Sheet No. 213F

Black Marlin states that it is making this filing to (1) provide an increase in rates for its transportation services and (2) eliminate the interruptible revenue sharing mechanism from its tariff.

Black Marlin states that the tariff sheet filed herein reflects rates necessary to recover annual operating costs which Black Marlin expects to incur in performing service under its existing rate schedules, utilizing a Base Period ended March 31, 1998 adjusted for known and measurable changes anticipated to occur during the nine-month Test Period ending December 31, 1998.

The proposed rates are based on an overall cost of service for Black Marlin's jurisdictional services of $3.2 million (exclusive of the cost of service associated with Black Marlin's onshore NGPA Section 311 facilities), as compared to a cost of service of $3.1 million underlying the currently effective rates. Absent the instant rate case, Black Marlin would realize a revenue deficiency of $1.8 million as indicated by comparing the proposed rates with the currently effective rates applied to the Test Period volumes.

The major reasons for the proposed rate increase are: (1) a decrease in annual throughput from 31,101,046 MMBtu underlying the currently effective rates to 19,331,916 MMBtu for the Test Period because of declines in the deliverability of the reserves to which Black Marlin is connected; and (2) the impact of approximately $4.4 million in capital expenditures required to lower the portion of Black Marlin's line affected by a project of the U.S. Army Corps of Engineers and the Port of Houston Authority to widen and deepen the Houston Ship Channel.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18168 Filed 7–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–278–000]

CNG Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

July 2, 1998.

Take notice that on June 30, 1998, CNG Transmission Corporation (CNGT) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, with an effective date of August 1, 1998:

Thirty-Ninth Revised Sheet No. 32
Thirty-Ninth Revised Sheet No. 33

CNGT states that the purpose of this filing is to submit CNGT's quarterly revision of the Section 18.2.B. Surcharge, effective for the three-month period commencing August 1, 1998. The charge for the quarter ending July 31, 1998, has been $0.0032 per Dt, as authorized by Commission Order dated April 20, 1998, in Docket No. RP98–171. CNGT's proposed Section 18.2.B. surcharge for the next quarterly period is $0.0026 per Dt. The revised surcharge is designed to recover $16,088 in Stranded Account No. 858 Costs.

CNGT states that copies of this letter of transmittal and enclosures are being mailed to CNGT's customers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18172 Filed 7–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–631–000]

Columbia Gas Transmission Corporation; Notice of Request Under Blanket Authorization

July 2, 1998.

Take notice that on June 23, 1998, and supplemented on July 1, 1998, Columbia Gas Transmission Corporation (Columbia), 12801 Fair Lakes Parkway, Fairfax, Virginia 22030–0146, filed in Docket No. CP98–631–000, a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to construct and operate three points of delivery to Union Light Heat and Power Company (ULH) in Campbell County, Kentucky, under its blanket certificate issued in Docket No. CP83–76–000, pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Columbia requests authorization to construct and operate three new points of delivery for firm transportation and will provide the service pursuant to Columbia's blanket certification issued in Docket No. CP86–240–000. Columbia indicates that the transportation service will be provided under its Storage Service Transportation (SST) Rate Schedule. Columbia estimates the quantities to be delivered at each new point of delivery will be approximately 440 Dth/day and 160,600 Dth annually, within Columbia's authorized level of services. Columbia asserts that there is no impact on Columbia's existing design day and annual obligations to its customers as a result of the construction and operation of these delivery points for firm transportation service.

Columbia says the points of delivery have been requested by ULH to serve both residential and commercial customers. Columbia estimates the cost to construct these new points of delivery to be approximately $18,000, which includes "gross up" for income tax purposes. Columbia states that ULH will reimburse Columbia 100% of the actual cost of construction.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington D.C. 20426, pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18175 Filed 7–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–2–127–003]

Cove Point LNG Limited Partnership; Notice of Proposed Changes in FERC Gas Tariff

July 2, 1998.

Take notice that on June 29, 1998, Cove Point LNG Limited Partnership (Cove Point) tendered for filing to become a part of its FERC Gas Tariff, First Revised Volume No. 1, Substitute Third Revised Sheet No. 99, to be effective July 29, 1998.

Cove Point states that this tariff sheet is being filed in order to correct a page version and pagination error found in the tariff sheet submitted on June 10, 1998 in the above referenced proceeding.

Cove Point states that copies of the filing were served upon Cove Point's customers and interested State Commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18174 Filed 7–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–17–004]

Dauphin Island Gathering Partners; Notice of Proposed Changes in FERC Gas Tariff

July 2, 1998.

Take notice that on June 30, 1998, Dauphin Island Gathering Partners (DIGP) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheet listed below to become effective July 1, 1998. The modification to the listed tariff sheet is proposed to more accurately align the maximum daily quantity for OEDC Exploration & Producing, L.P. with anticipated production.

Second Revised Sheet No. 9A

DIGP states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18186 Filed 7–8–98; 8:45 am]

BILLING CODE 6717–01–M

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–266–000]

Discovery Gas Transmission LLC; Notice of Compliance Filing

July 2, 1998.

Take notice that on June 29, 1998, Discovery Gas Transmission LLC (Discovery) tendered for filing the tariff sheets listed on Attachment A to the filing, to become effective August 1, 1998.

Discovery states that the purpose of this filing is to comply with the Commission's order issued April 16, 1998, in Docket No. RM96–1–007.

Discovery states that the instant filing reflects changes to the General Terms and Conditions of Discovery's Tariff required to implement standards issued by GISB and adopted by the Commission in Order 587–G, issued April 16, 1998, in Docket No. RM 96–1–007. The filing also includes changes required by Commission Regulations Section 284.10(c)(3) (ii) through (v), including posting to Discovery's Internet web site of information required by GISB Standard 4.3.6. Discovery is also implementing changes to its FERC Gas Tariff reflecting the adoption of Section 284.10(c)(3)(i) of the Regulations relating to Internet web site communication of electronic information and transactions using the public Internet.

Discovery states that copies of this filing are being mailed to its customers, state commissions and other interested parties.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,
Acting Secretary.

[FR Doc. 98–18162 Filed 7–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT98–75–000]

Distrigas of Massachusetts Corporation; Notice of Refund Report

July 2, 1998.

Take notice that on June 29, 1998, Distrigas of Massachusetts Corporation (DOMAC) tendered for filing a Refund Report in compliance with the Commission's Order dated February 22, 1995 in Docket No. RP95–124–000.

DOMAC states that it received a Tier 1 refund from the Gas Research Institute in the amount of $16,839,000. DOMAC states that the refund results from overpayments by DOMAC for the 1997 calendar year. DOMAC states that it will not credit this refund to its customers because it does not pass through its GRI Funding obligations in its firm customers, and, therefore, no customers are eligible for such credits.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before July 9, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,
Acting Secretary.

[FR Doc. 98–18182 Filed 7–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–275–000]

Equitrans, L.P.; Notice of Proposed Changes in FERC Gas Tariff

July 2, 1998.

Take notice that on June 30, 1998, Equitrans, L.P. (Equitrans) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheet to become effective August 1, 1998:

Second Revised Sheet No. 269

Equitrans states that the purpose of this filing is to comply with the Federal Energy Regulatory Commission's Order No. 587–G issued on April 16, 1998 in Docket No. RM96–1–007 adopting new, revised and interpretation of the standards promulgated by the Gas Industry Standards Board (GISB). These standards require interstate natural gas pipelines to follow certain new and revised business practice procedures. The Commission directed pipelines to make a filing to change all references to GISB standards in their tariffs to Version 1.2 by August 1, 1998. This version number applies to all standards contained in GISB's Version 1.2 Standards Manuals, including standards that have not changed from the previous versions. In compliance, Equitrans filed adopt Version 1.2 in Section 35.1 of its General Terms and Conditions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,
Acting Secretary.

[FR Doc. 98–18169 Filed 7–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT98–77–000]

Equitrans, L.P.; Notice of Proposed Changes in FERC Gas Tariff

July 2, 1998.

Take notice that on June 30, 1998, Equitrans, L.P. (Equitrans), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, to become effective July 1, 1998.

Ninth Revised Sheet No. 400
Eleventh Revised Sheet No. 401

Equitrans states that this filing is made to update Equitrans index of customers. In Order No. 581 the Commission established a revised format for the Index of Customers to be included in the tariffs of interstate pipelines and required the pipelines to update the index on a quarterly basis to reflect changes in contract activity. Equitrans requests a waiver of the Commission's notice requirements to permit the tariff sheets to take effect on July 1, 1998, the first calendar quarter, in accordance with Order No. 581.

Equitrans states that a copy of its filing has been served upon its customers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18183 Filed 7–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–641–000]

Florida Gas Transmission Company; Notice of Request Under Blanket Authorization

July 2, 1998.

Take notice that on June 29, 1998, Florida Gas Transmission Company (FGT), 1400 Smith Street, Suite 3997, P.O. Box 1188, Houston, Texas 77251–1188, filed in Docket No. CP98–641–000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to construct, own, and operate a new delivery point, located in Manatee County, Florida to deliver natural gas for TECO Peoples Gas Inc. (TECO), under FGT's blanket certificate issued in Docket No. CP82–553–000, pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

FGT proposes to construct, own, and operate a tap, valve, electronic flow measurement (EFM) equipment, and approximately 100 feet of 6-inch connecting pipeline for TECO to deliver to a new meter station (PGS-Lakewood Ranch), located in Manatee County, Florida, at mile post 73.56 off FGT's 8-inch Sarasota Lateral.

FGT states that TECO will construct, own, and operate this new meter station with FGT constructing the tap, EFM, and connecting line. FGT declares that the proposed delivery capacity at this new point will be 32,500 MMBtu per day at line pressure. FGT asserts that TECO will reimburse FGT for all costs directly and indirectly incurred by FGT for the construction of the new delivery point. FGT states that the estimated total cost of the proposed construction is $74,500, inclusive of tax gross-up.

FGT Gas declares that the proposed gas deliveries at the subject point will be from currently existing certificated levels that will be released from existing service agreements and, therefore, will not have an impact on FGT's daily, annual, or peak day deliveries. FGT states that TECO will acquire relinquished volumes from existing customers to serve the new PGS-Lakewook Ranch meter station.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18176 Filed 7–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–279–000]

Great Lakes Gas Transmission Limited Partnership; Notice of Proposed Changes in FERC Gas Tariff

July 2, 1998.

Take notice that on June 30, 1998, Great Lakes Gas Transmission Limited Partnership (Great Lakes) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Fourth Revised Sheet No. 42, First Revised Sheet No. 42A, and Fourth Revised Sheet No. 50C, proposed to become effective August 1, 1998.

Great Lakes states that the tariff sheets are being filed to comply with Commission's Order No. 587–G issued on April 16, 1998, in Docket No. RM96–1–007. 83 FERC ¶ 61,029 (1998). In Order No. 587–G the Commission, inter alia, adopted Version 1.2 of the standards promulgated by the Gas Industry Standards Board (GISB), GISB's interpretations of certain standards, and regulations setting standards for the posting of information on Internet web sites. Great Lakes states that this compliance filing is being made to implement these standards, interpretations, and regulations.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18173 Filed 7–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–245–001]

High Island Offshore System; Notice of Compliance Filing

July 2, 1998.

Take notice that on June 29, 1998, High Island Offshore System (HIOS), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheet to be effective August 1, 1998:

First Revised Sheet No. 110C

HIOS asserts that the purpose of this filing is to correct an inadvertent error in pagination in its June 10, 1998 filing to comply with the Commission's Order No. 587–G in Docket No. RM96–1–007. That order requires pipelines to comply with the adoption of Version 1.2 of the GISB standards (284.10(b)) and the standards regarding the posting of information on websites and retention of electronic information (284.10(c)(3)(ii) through (v)).

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18188 Filed 7–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–271–000]

Iroquois Gas Transmission System, L.P.; Notice of Proposed Changes in FERC Gas Tariff

July 2, 1998.

Take notice that on June 30, 1998, Iroquois Gas Transmission System, L.P. (Iroquois) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets proposed to become effective August 1, 1998:

Sixth Revised Sheet No. 57
Fourth Revised Sheet No. 120

Iroquois states that these sheets were submitted in compliance with the provisions of Order No. 587–G, issued on April 16, 1998. The tariff sheets included herewith reflect the adoption of Version 1.2 of the GISB standards which have been incorporated into the Commission's regulations.

Iroquois states that copies of its filing were served on all jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18166 Filed 7–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–3006–000]

K & K Resources, Inc.; Notice of Issuance of Order

July 6, 1998.

K & K Resources, Inc. (K & K) submitted for filing a rate schedule under which K & K will engage in wholesale electric power and energy transactions as a marketer. K & K also requested waiver of various Commission regulations. In particular, K & K requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by K & K.

On July 1, 1998, pursuant to delegated authority, the Director, Division of Rate Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by K & K should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, K & K is authorized to issue securities and assume obligations or liabilities as a guarantor, endorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of K & K's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is July 31, 1998. Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street, N.E. Washington, D.C. 20426.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18207 Filed 7–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT98–73–000]

Kern River Gas Transmission Company; Notice of Refund Report

July 2, 1998.

Take notice that on June 26, 1998, Kern River Gas Transmission Company (Kern River) tendered for filing a report of Gas Research Institute (GRI) refunds made to its customers.

Kern River states that on May 29, 1998 it received a refund from the GRI in the amount of $663,119, representing an overcollection of the 1997 GRI Tier 1 funding target level set for Kern River by GRI. On June 12, 1998, Kern River credited the GRI refund, pro rata, to its eligible firm customers who received nondiscounted service during 1997.

Kern River states that a copy of this filing has been served upon Kern River's affected customers and interested state regulatory commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before July 9, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18180 Filed 7–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT98–46–001]

Koch Gateway Pipeline Company; Notice of Compliance Filing

July 2, 1998.

Take notice that on June 29, 1998, Koch Gateway Pipeline Company (Koch) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheet, to become effective July 1, 1998.

Substitute Eighth Revised Sheet No. 5200

Koch states that it is submitting the above tariff sheet to restore language inadvertently changed in its June 2, 1998 tariff filing to comply with the letter order issued.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18177 Filed 7–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–225–001]

Koch Gateway Pipeline Company; Notice of Compliance Filing

July 2, 1998.

Take notice that on June 29, 1998, Koch Gateway Pipeline Company (Koch) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheet, to be effective June 22, 1998.

Substitute Sixth Revised Sheet No. 1810

On May 22, 1998, Koch filed the Sixth Revised Sheet No. 1810 to the Fifth Revised Volume No. 1. The proposed revision reflected changes and clarifications to the calculation of the Average Storage Rate for the purposes of economically scheduling Interruptible Storage Service (ISS). On June 19, 1998, the Commission issued an Order Accepting Tariff Sheets Subject to Conditions rejecting Koch's proposed changes to the Average Storage Rate, while accepting Koch's proposed clarifications to the definition of the average fuel rate. Specifically, the Commission accepted Koch's valuation of fuel in the Average Storage Rate as the fuel reimbursement price posted monthly on Koch's EBB.

In compliance with the Commission's order of June 19, 1998, Koch submits for filing Substitute Sixth Revised Sheet No. 1810 to the Fifth Revised Volume No. 1 reinstating the previous provision for calculating the Average Storage Rate as stated on the Fourth Revised Sheet No. 1810. Also included is a provision defining the valuation of fuel in the Average Storage Rate as the fuel reimbursement price posted monthly on Koch's EBB.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18167 Filed 7–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–261–000]

National Fuel Gas Supply Corporation; Notice of Proposed Changes in FERC Gas Tariff

July 2, 1998.

Take notice that on June 29, 1998, National Fuel Gas Supply Corporation (National Fuel) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, Second Revised Sheet No. 457 and First Revised Sheet No. 458, with a proposed effective date of August 1, 1998.

National Fuel states that the purpose of this filing is to incorporate Version 1.2 of the GISB Standards by reference in compliance with Order No. 587–G, Standards for Business Practices of Interstate Natural Gas Pipelines.

National Fuel states that it is serving copies of this filing with its firm customers and interested state commissions. National Fuel states that copies are being served on all interruptible customers as of the date of the filing.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public

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inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18189 Filed 7–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–276–000]

Nautilus Pipeline Company, LLC; Notice of Proposed Changes in FERC Gas Tariff

July 2, 1998.

Take notice that on June 30, 1998, Nautilus Pipeline Company, LLC (Nautilus) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Second Revised Sheet No. 216, with an effective date of August 1, 1998.

Nautilus states that the filing is being made in compliance with Order No. 587–G issued by the Commission in Docket No. RM96–1–007. Nautilus states the purpose of this filing is to incorporate Version 1.2 of the Gas Industry Standards Board (GISB) standards into its tariff.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18170 Filed 7–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OA96–194–004]

Niagara Mohawk Power Corporation; Notice of Filing

July 2, 1998.

Take notice that on June 4, 1998, Niagara Mohawk Power Corporation tendered for filing its compliance filing the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before July 13, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18206 Filed 7–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–272–000]

Nora Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

July 2, 1998.

Take notice that on June 29, 1998, Nora Transmission Company (Nora) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets to become effective August 1, 1998:

Second Revised Sheets No. 172
Second Revised Sheets No. 173

Nora states that the purpose of this filing is to comply with the Commission's Order No. 587–G issued on April 16, 1998 in Docket No. RM96–1–007 adopting new, revised and interpretation of the standards promulgated by the Gas Industry Standards Board (GISB). These standards require interstate natural gas pipelines to follow certain new and revised business practice procedures. The Commission directed pipelines to make a filing to change all references to GISB standards in their tariffs to Version 1.2 by August 1, 1998. This version number applies to all standards contained in GISB's Version 1.2 Standards Manuals, including standards that have not changed from the previous versions. In compliance, Nora filed to adopt Version 1.2 in Section 38 of its General Terms and Conditions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18167 Filed 7–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT98–72–000]

Northwest Pipeline Corporation; Notice of Refund Report

July 2, 1998.

Take notice that on June 26, 1998, Northwest Pipeline Corporation (Northwest) tendered for filing a report of Gas Research Institute (GRI) refunds made to its customers.

Northwest states that on May 29, 1998 it received a refund from the GRI in the amount of $1,100,129, representing an overcollection of the 1997 GRI Tier 1 funding target level set for Northwest by GRI. On June 10, 1998, Northwest credited the GRI refund, pro rata, to its eligible firm customers who received nondiscounted service during 1997.

Northwest states that a copy of this filing has been served upon Northwest's affected customers and interested state regulatory commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before July 9, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18179 Filed 7–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP93–5–029 and RP93–96–009]

Northwest Pipeline Corporation; Notice of Refund Report

July 2, 1998.

Take notice that on June 29, 1998, Northwest Pipeline Corporation (Northwest) filed a refund report pursuant to the Commission's Order Accepting Compliance Filing issued on April 21, 1998, in its Docket No. RP93–5 general rate proceeding.

Northwest states that the refund covers the period from April 1, 1993, through October 31, 1994.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before July 9, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18185 Filed 7–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–277–000]

OkTex Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

July 2, 1998.

Take notice that on June 30, 1998, OkTex Pipeline Company (OkTex), tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets listed on Appendix A to the filing, with a proposed effective date of August 1, 1998.

OkTex states that the filing is being in compliance with the Commission's directives in Order No. 587–G.

OkTex states that the tariff sheets reflect the changes to OkTex's tariff that result from the Gas Industry Standards Board's (GISB) consensus standards that were adopted by the Commission in its April 16, 1998 Order No. 587–G in Docket No. RM96–1–007. OkTex further states that Order No. 587–G contemplates that OkTex will implement the GISB consensus standards for August 1998 business, and that the tariff sheets therefore reflect an effective date of August 1, 1998.

OkTex states that copies of the filing have been mailed to all affected customers and state regulatory commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18171 Filed 7–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–284–000]

Overthrust Pipeline Company; Notice of Tariff Filing

July 2, 1998.

Take notice that on June 29, 1998, Overthrust Pipeline Company (Overthrust) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1–A, Second Revised Sheet Nos. 37A, 78A, 78B, 78C and Third Revised Sheet No. 78, to be effective August 1, 1998.

Overthrust states that the filing is being made in compliance with Order No. 587–G, Final Rule, issued April 16, 1998, in Docket No. RM96–1–007.

Overthrust states that this filing is made in accordance with the Commission's directive to implement, by August 1, 1998, (1) 18 CFR 284.10(b), which incorporates by reference the Version 1.2 GISB standards and (2) 18 CFR 284.10(c)(3) (ii) through (v) relating to the standards for information posted on pipeline web sites, the content of information provided electronically, the use of numeric designations and retention of electronic information.

Overthrust states further that it seeks waiver of § 284.10(c)(3)(iii) of the Commission's regulations requiring pipelines that use a numeric or other designation to represent information, to make available to users an electronic cross-reference table between the numeric or other designation and the information represented by that designation. Overthrust explains that its gas-management system has been designed to use DUNS numbers for EDI computer-to-computer communications, as required by the GISB standards.

Overthrust explains further that because Dunn and Bradstreet has not yet agreed to permit pipelines to publish a cross-reference table as required by this regulation, Overthrust respectfully seeks waiver of § 284.10(c)(3)(iii) of the Commission's regulations until (1) Dunn and Bradstreet permits the development of a cross-reference table, or (2) the industry develops its own cross-reference table or ceases using numeric designations and returns to using names.

Overthrust states that a copy of this filing has been served upon its customers, the Public Service Commission of Wyoming and the Public Service Commission of Utah.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the

Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18191 Filed 7–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–263–000]

Questar Pipeline Company; Notice of Tariff Filing

July 2, 1998.

Take notice that on June 29, 1998, Questar Pipeline Company (Questar) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, First Revised Sheet No. 46C, Second Revised Sheet Nos. 47A, 99A, 99B, 99C, 99D and Third Revised Sheet No. 47, to be effective August 1, 1998.

Questar states that the filing is being made in compliance with Order No. 587–G, Final Rule, issued April 16, 1998, in Docket No. RM96–1–007.

Questar states that this filing is made in accordance with the Commission's directive to implement, by August 1, 1998, (1) 18 CFR 284.10(b), which incorporates by reference the Version 1.2 GISB standards and (2) 18 CFR 284.10(c)(3) (ii) through (v) relating to the standards for information posted on pipeline web sites, the content of information provided electronically, the use of numeric designations and retention of electronic information.

Questar explains that it seeks waiver of § 284.10(c)(3)(iii) of the Commission's regulations requiring pipelines that use a numeric or other designation to represent information, to make available to users an electronic cross-reference table between the numeric or other designation and the information represented by that designation. Questar explains further that its gas-management system has been designed to use DUNS numbers for EDI computer-to-computer communications, as required by the GISB standards.

Questar also explains that because Dunn and Bradstreet has not yet agreed to permit pipelines to publish a cross-reference table as required by this regulation, Questar respectfully seeks waiver of § 284.10(c)(3)(iii) of the Commission's regulations until (1) Dunn and Bradstreet permits the development of a cross-reference table or (2) the industry develops its own cross-reference table or ceases using numeric designations and returns to using names.

Questar states that a copy of this filing has been served upon its customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18190 Filed 7–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–265–000]

Sabine Pipe Line Company; Notice of Compliance Filing

July 2, 1998.

Take notice that on June 29, 1998, Sabine Pipe Line Company (Sabine) tendered for filing the tariff sheets listed on Attachment A to the filing, to become effective August 1, 1998.

Sabine states that the purpose of this filing is to comply with the Commission's order issued April 16, 1998, in Docket No. RM96–1–007.

Sabine states that the instant filing reflects changes to the General Terms and Conditions of its Tariff required to implement standards issued by GISB and adopted by the Commission in Order No. 587–G issued April 16, 1998, in Docket No. RM96–1–007. The filing also implements changes required by Commission Regulations Section 284.10(c)(3) (ii) through (v), including posting to Sabine's Internet web site of information required by GISB Standard 4.3.6. Sabine is also implementing changes to its FERC Gas Tariff reflecting the adoption of Section 284.10(c)(3)(i) of the Regulations relating to communication of electronic information and transactions using the public Internet.

Sabine states that copies of this filing are being mailed to its customers, state commissions and other interested parties.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18161 Filed 7–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MT98–13–000]

Tuscarora Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

July 2, 1998.

Take notice that on June 26, 1998, Tuscarora Gas Transmission Company (Tuscarora) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following revised tariff sheets, effective July 26, 1998.

First Revised Sheet No. 63
First Revised Sheet No. 66
First Revised Sheet No. 67

Tuscarora states that it is submitting these minor tariff revisions to comply with its current understanding of the requirements of the Commission's regulations. The revised tariff sheets reflect (i) the addition of the requirement in Section 250.16(b) that Tuscarora orally respond within 48 hours to complaints from shippers or potential shippers, and (ii) the elimination of certain categories of information no longer required from an affiliated shipper for a valid service request pursuant to Order No. 566.

Tuscarora states that copies of its filing were mailed to all affected customers and the state commissions of Nevada, Oregon and California.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18164 Filed 7–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–268–000]

Viking Gas Transmission Company; Notice of Proposed Changes in FERC Gas Traffic

July 2, 1998.

Take notice that on June 29, 1998, Viking Gas Transmission Company (Viking) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, with a proposed effective date of August 1, 1998.

Viking states that the purpose of this filing is to comply with the Commission's requirements set forth in Order No. 587–G, Standards for Business Practices of Interstate Natural Gas Pipelines, Docket No. RM96–1–007 issued on April 16, 1998. Under Order No. 587–G, the Commission incorporated by reference Version 1.2 of the Gas Industry Standards Board ("GISB") standards, including the following new standards: 1.4.6, 2.4.6, 4.3.5, 4.3.16, and 5.3.30. Pursuant to Order 587–G, Viking is filing to remove 4.3.4.

Viking states that copies of the filing have been mailed to all of its jurisdictional customers and to affected state regulatory commission.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Sections 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18163 Filed 7–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT98–71–000]

Williston Basin Interstate Pipeline Company; Notice of Refund Report

July 2, 1998.

Take notice that on June 26, 1997, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing with the Commission its Refund Report for 1997 Gas Research Institute (GRI) overcollections in compliance with the Commission's "Order Approving Refund Methodology for 1994 Overcollections" issued February 22, 1995 in GRI's Docket No. RP95–124–000.

Williston Basin states that on May 20, 1998, GRI filed with the Commission its "Revised Report on Refunds" in Docket No. RP98–217–001 in which it reported $160,236.00 was refunded to Williston Basin for 1997 GRI overcollections.

In addition, Williston Basin states that on June 11, 1998, refunds totaling $160,236.00 were sent to its applicable firm transportation shippers. Such refunds were based on the proportion of each applicable firm shipper's demand and commodity GRI charges paid during the 1997 calendar year to the total applicable firm shippers' GRI charges paid during the 1997 calendar year.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before July 9, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18178 Filed 7–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT98–74–000]

Williston Basin Interstate Pipeline Company; Notice of Tariff Filing

July 2, 1998.

Take notice that on June 29, 1998, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheet to become effective June 29, 1998:

Second Revised Volume No. 1
Third Revised Sheet No. 724

Williston Basin states that the revised tariff sheet is being filed to reflect the removal of a non-conforming Service Agreement which terminated by its own terms on April 30, 1998.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations.

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All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,
Acting Secretary.
[FR Doc. 98-18181 Filed 7-8-98; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98-269-000]

Wyoming Interstate Company, Ltd.; Notice of Proposed Changes in FERC Gas Tariff

July 2, 1998.

Take notice that on June 29, 1998, Wyoming Interstate Company, Ltd. (WIC), tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed in Appendix A to the filing, to be effective August 1, 1998.

WIC states that the purpose of this filing is to conform WIC's First Revised Volume No. 1 tariff to requirements of Order No. 587-G. As WIC's Volume No. 1 tariff is only for individually-certificated service, it is proposing to make these changes, and minor housekeeping changes related to capitalizing of defined terms, as a limited Section 4 tariff filing.

WIC further states that copies of this filing have been served on WIC's jurisdictional customers and public bodies.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,
Acting Secretary.
[FR Doc. 98-18164 Filed 7-8-98; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98-270-000]

Young Gas Storage Company, Ltd.; Notice of Proposed Changes in FERC Gas Tariff

July 2, 1998.

Take notice that on June 29, 1998, Young Gas Storage Company, Ltd. (Young), tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets listed in Appendix A to the filing, to be effective August 1, 1998.

Young states that the purpose of this compliance filing is to conform Young's tariff to requirements of Order No. 587-G that interstate pipelines transporting pursuant to Section 284.223 of the Commission's Regulations conform their tariffs to include Version 1.2 of the GISB Standards.

Young further states that copies of this filing have been served on Young's jurisdictional customers and public bodies.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,
Acting Secretary.
[FR Doc. 98-18165 Filed 7-8-98; 8:45 am]
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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG98-88-000, et al.]

East Syracuse Generating Company, L.P., et al. Electric Rate and Corporate Regulation Filings

June 29, 1998.

Take notice that the following filings have been made with the Commission:

1. East Syracuse Generating Company, L.P.

[Docket No. EG98-88-000]

Take notice that on June 16, 1998, East Syracuse Generating Company, L.P. (Applicant), with its principal office at 7500 Old Georgetown Road, 13th Floor, Bethesda, Maryland 20814-6161, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Applicant states that it will be engaged in owning and operating the East Syracuse project consisting of a 101 megawatt cogeneration facility located in East Syracuse, New York (the Eligible Facility) and selling electric energy exclusively at wholesale. Electric energy produced by the Eligible Facility is sold exclusively at wholesale.

Comment date: July 17, 1998, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Reliable Energy, Inc.

[Docket No. ER98-3261-000]

Take notice that on June 24, 1998, Reliable Energy, Inc., amended its Petition dated June 5, 1998, for acceptance of Reliable Energy, Inc's, FERC Rate Schedule No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market based rates; and the waiver of certain Commission Regulations.

Reliable Energy, Inc., intends to engage in wholesale electric power and energy purchases and sales as a marketer. Reliable Energy is not in the business of generating or transmitting electric power. Reliable Energy is a New Jersey corporation. It will act as power marketer and will also engage in other non-jurisdictional activities to facilitate efficient trade in the bulk power market such as power brokering, load aggregation, metering, energy management and consulting.

Comment date: July 14, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. Delmarva Power & Light Company

[Docket No. ER98-3464-000]

Take notice that on June 24, 1998, Delmarva Power & Light Company (Delmarva), tendered for filing 2nd Revised Supplement No. 9 to FERC Rate Schedule No. 99, with respect to Delmarva's partial requirements service agreement with the City of Seaford. The proposed change would decrease base demand and energy rates by 2.28%.

Delmarva proposes an effective date of March 1, 1998. Delmarva asserts that the decrease and the proposed effective date are in accord with the service agreement with the City of Seaford which provides for changes in rates that correspond to the level of changes in rates approved by the Delaware Public Service Commission for Delmarva's non-residential retail customers.

Copies of the filing were served on the City of Seaford and the Delaware Public Service Commission.

Comment date: July 14, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. Delmarva Power & Light Company

[Docket No. ER98-3465-000]

Take notice that on June 24, 1998, Delmarva Power & Light Company (Delmarva), tendered for filing a new Supplement No. 9 to FERC Rate Schedule No. 110, with respect to Delmarva's full requirements service agreement with the Town of Berlin. The proposed change would decrease base demand and energy rates by 2.77%.

Delmarva proposes an effective date of March 1, 1998. Delmarva asserts that the decrease and the proposed effective date are in accord with the service agreement with the Town of Berlin which provides for changes in rates that correspond to the level of changes in rates approved by the Maryland Public Service Commission for Delmarva's non-residential retail customers.

Copies of the filing were served on the Town of Berlin and the Maryland Public Service Commission.

Comment date: July 14, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Southwestern Public Service Company

[Docket No. ER98-3466-000]

Take notice that on June 24, 1998, New Century Services, Inc., on behalf of Southwestern Public Service Company (Southwestern), tendered for filing an executed Umbrella Service Agreement under Southwestern's market-based sales tariff with Lubbock Power & Light (LP&L). This Umbrella Service Agreement provides for Southwestern's sale and LP&L's purchase of capacity and energy at market-based rates pursuant to Southwestern's market-based sales tariff.

Southwestern requests that the Service Agreement become effective on June 19, 1998.

Comment date: July 14, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Southwestern Public Service Company

[Docket No. ER98-3467-000]

Take notice that on June 24, 1998, New Century Services, Inc., on behalf of Southwestern Public Service Company (Southwestern), tendered for filing an executed Umbrella Service Agreement under Southwestern's market-based sales tariff with Williams Energy Services Company (Williams). This umbrella service agreement provides for Southwestern's sale and Williams' purchase of capacity and energy at market-based rates pursuant to Southwestern's market-based sales tariff.

Southwestern requests that the service agreement become effective July 1, 1998.

Comment date: July 14, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Southwestern Public Service Company

[Docket No. ER98-3468-000]

Take notice that on June 24, 1998, New Century Services, Inc., on behalf of Southwestern Public Service Company (Southwestern), submitted an executed umbrella service agreement under Southwestern's market-based sales tariff with Southern Company Energy Marketing, L.P., (Southern). This Umbrella Service Agreement provides for Southwestern's sale and Southern's purchase of capacity and energy at market-based rates pursuant to Southwestern's market-based sales tariff.

Comment date: July 14, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Commonwealth Edison Company

[Docket No. ER98-3469-000]

Take notice that on June 24, 1998, Commonwealth Edison Company (ComEd), tendered for filing a Service Agreement For Network Integration Transmission Service between ComEd and the Illinois Municipal Electric Agency (IMEA), and a Network Operating Agreement between ComEd and the IMEA under the terms of ComEd's Open Access Transmission Tariff (OATT).

ComEd requests an effective date of June 1, 1998, for these two service agreements, and accordingly, seeks waiver of the Commission's notice requirements.

Copies of this filing were served on the IMEA, and the Illinois Commerce Commission.

Comment date: July 14, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. Great Bay Power Corporation

[Docket No. ER98-3470-000]

Take notice that on June 24, 1998, Great Bay Power Corporation (Great Bay), filed to amend its Market-Based Power Sales Tariff and for certain waivers typically granted to market-based rate sellers such as Great Bay. Great Bay Market-Based Power Sales Tariff is on file with the Commission as Great Bay Power Corporation, FERC Electric Tariff, Original Volume No. 2, and was accepted for filing by the Commission by letter order dated May 17, 1996 in Docket No. ER96-726-000. Great Bay requests an effective date of 30 days after this filing.

Comment date: July 14, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Northern Indiana Public Service Company

[Docket No. ER98-3471-000]

Take notice that on June 24, 1998, Northern Indiana Public Service Company (Northern Indiana), filed a Service Agreement pursuant to its Power Sales Tariff with Illinois Power Company (Illinois Power). Northern Indiana and Illinois Power have requested that the Service Agreement be allowed to become effective as of June 30, 1998.

Copies of this filing have been sent to Illinois Power Company, to the Indiana Utility Regulatory Commission, and to the Indiana Office of Utility Consumer Counselor.

Comment date: July 14, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Central Maine Power Company

[Docket No. ER98-3472-000]

Take notice that on June 24, 1998, Central Maine Power Company (CMP), tendered for filing an executed Market-Base Power Sales Schedule II Service Agreement for sale of capacity and or energy entered into with Montaup Electric Company. Service will be

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provided pursuant to CMP's Wholesale Market Tariff, designated rate schedule CMP—FERC Electric Tariff, Original Volume No. 4.

Comment date: July 14, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Central Maine Power Company

[Docket No. ER98–3473–000]

Take notice that on June 24, 1998, Central Maine Power Company (CMP), tendered for filing an executed service agreement for sale of capacity and or energy entered into with Scana Energy Marketing, Inc. Service will be provided pursuant to CMP's Wholesale Market Tariff, designated rate schedule CMP—FERC Electric Tariff, Original Volume No. 4.

Comment date: July 14, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. Central Maine Power Company

[Docket No. ER98–3474–000]

Take notice that on June 24, 1998, Central Maine Power Company (CMP), tendered for filing an executed service agreement for sale of capacity and/or energy entered into with Long Island Lighting Co. Service will be provided pursuant to CMP's Wholesale Market Tariff, designated rate schedule CMP—FERC Electric Tariff, Original Volume No. 4.

Comment date: July 14, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Central Maine Power Company

[Docket No. ER98–3475–000]

Please take notice that on June 24, 1998, Central Maine Power Company (CMP), tendered for filing an executed service agreement for sale of capacity and/or energy entered into with UNITIL Power Corp. Service will be provided pursuant to CMP's Wholesale Market Tariff, designated rate schedule CMP—FERC Electric Tariff, Original Volume No. 4.

Comment date: July 14, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. Northeast Utilities Service Company

[Docket No. ER98–3476–000]

Take notice that on June 24, 1998, Northeast Utilities Service Company (NUSCO), tendered for filing, on behalf of The Connecticut Light and Power Company (CL&P) and Holyoke Water Power Company, (including its wholly-owned subsidiary, Holyoke Power and Electric Company), together NU Companies, a Power Sales Agreement between NUSCO, as agent for NU Companies and the Town of Merrimac Municipal Light Department, dated June 16, 1998, in accordance with Section 205 of the Federal Power Act and Rule 35.13 of the Commission's Regulations.

NUSCO requests that the rate schedule become effective on July 1, 1998.

NUSCO states that copies of the rate schedule have been mailed to the parties to the Agreement, and the affected state utility commission.

Comment date: July 14, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. Northeast Utilities Service Company

[Docket No. ER98–3477–000]

Take notice that on June 24, 1998, Northeast Utilities Service Company (NUSCO), tendered for filing on behalf of The Connecticut Light and Power Company (CL&P) and Holyoke Water Power Company, (including its wholly-owned subsidiary, Holyoke Power and Electric Company), together NU Companies, a Power Sales Agreement between NUSCO, as agent for the NU Companies and the Town of Groveland Municipal Light Department, dated June 16, 1998 in accordance with Section 205 of the Federal Power Act and Rule 35.13 of the Commissions Regulations.

NUSCO requests that the rate schedule become effective on July 1, 1998. NUSCO states that copies of the rate schedule have been mailed to the parties to the Agreement, and the affected state utility commission.

Comment date: July 14, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. Infinergy Services, LLC

[Docket No. ER98–3478–000]

Take notice that on June 24, 1998, in accordance with 18 CFR 131.51, and Part 35.16 of the Commission Regulations regarding Notice of Succession in Ownership or Operation, INFINERGY Services, LLC, by letter dated June 15, 1998, notified the Commission that it hereby adopts," ratifies, and makes its own, in every respect all applicable rate schedules heretofore filed with the Federal Energy Regulatory Commission by Power Marketing Coal Services, Inc., in Docket No. ER97–1548.

The effective date of this change is June 15, 1998, and is effective for all power sales and purchase agreements between Power Marketing Coal Services, Inc., and other parties.

Comment date: July 14, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. Arizona Public Service Company

[Docket No. ER98–3479–000]

That notice that on June 24, 1998, Arizona Public Service Company (APS), tendered for filing revised Exhibits A and C to APS–FERC Rate Schedule No. 225, between APS and Citizens Utilities Company (Citizens), for the Operating Years 1997 and 1998.

Current rate levels are unaffected, revenue levels are unchanged from those currently on file with the Commission, and no other significant change in service to these or any other customer results from the revisions proposed herein. No new or modifications to existing facilities are required as a result of these revisions.

Copies of this filing have been served on Citizens and the Arizona Corporation Commission.

Comment date: July 14, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. American Electric Power Service Corporation

[Docket No. ER98–3480–000]

Take notice that on June 24, 1998, the American Electric Power Service Corporation (AEPSC), as agent for the operating utility subsidiaries of American Electric Power Company, Inc. (AEP Companies), tendered for filing Power Sales Tariff Service Agreements under the Wholesale Market Tariff of the AEP Operating Companies (Power Sales Tariff). The Power Sales Tariff was accepted for filing effective October 10, 1997 and has been designated AEP Operating Companies' FERC Electric Tariff, Original Volume No. 5.

AEPSC respectfully requests waiver of notice to permit the service agreements submitted with this filing to be made effective for service billed on or after May 29, 1998, with the exception of the service agreement with Questar Energy Trading, where an effective date of May 19, 1998, had been requested.

A copy of the filing was served upon the Parties and the State Utility Regulatory Commissions of Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

Comment date: July 14, 1998, in accordance with Standard Paragraph E at the end of this notice.

20. Consumers Energy Company

[Docket No. ER98–3481–000]

Take notice that on June 24, 1998, Consumers Energy Company (Consumers), tendered for filing an executed service agreement for Non-Firm Point-to-Point Transmission Service pursuant to the Joint Open Access Transmission Service Tariff filed on December 31, 1996, by Consumers and The Detroit Edison Company (Detroit Edison), with Morgan Stanley Capital Group Inc.

The service agreement filed qualifies for waiver of notice requirements pursuant to July 30, 1993, order issued by the Commission.

Consumers requests that such waiver be granted and that the Service Agreement be allowed to become effective June 16, 1998.

Copies of the filed agreement were served upon the Michigan Public Service Commission, Detroit Edison and the transmission customer.

Comment date: July 14, 1998, in accordance with Standard Paragraph E at the end of this notice.

21. Washington Water Power Company

[Docket No. ER98-3482-000]

Take notice that on June 24, 1998, Washington Water Power Company, tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13, unexecuted Service Agreements under WWP's FERC Electric Tariff First Revised Volume No. 9, with Constellation Power Source, Inc., and MIECO, Inc.

WWP requests waiver of the prior notice requirements and that the unexecuted Service Agreements become effective July 1, 1998.

Comment date: July 14, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,
Acting Secretary.

[FR Doc. 98-18210 Filed 7-8-98; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98-3483-000, et al.]

Rochester Gas and Electric Corporation, et al. Electric Rate and Corporate Regulation Filings

June 30, 1998.

Take notice that the following filings have been made with the Commission:

1. Rochester Gas and Electric Corporation

[Docket No. ER98-3483-000]

Take notice that on June 25, 1998, Rochester Gas and Electric Corporation (RG&E), filed a service agreement between RG&E and Williams Energy Services Company (Customer). This Service Agreement specifies that the Customer has agreed to the rates, terms and conditions of RG&E's Market-Based Rate Tariff, FERC Electric Rate Schedule, Original Volume No. 3 (Market Based Power Sales Tariff) accepted by the Commission in Docket No. ER97-3553-000 (80 FERC ¶ 61,284) (1997)).

RG&E requests waiver of the Commission's sixty (60) day notice requirements and an effective date of June 22, 1998, for and Williams Energy Services Company Service Agreement.

RG&E has served copies of the filing on the New York State Public Service Commission and on the Customer.

Comment date: July 15, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Northern States Power Company (Minnesota); Northern States Power Company (Wisconsin)

[Docket No. ER98-2640-001]

Take notice that on June 25, 1998, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (collectively referred to as NSP), submitted its Market-Based Electric Services Tariff in compliance with the Commission's June 12, 1998, order in the above-referenced docket.

Comment date: July 15, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. American Electric Power Service Corporation

[Docket No. ER98-3484-000]

Take notice that on June 25, 1998, the American Electric Power Service Corporation (AEPSC), tendered for filing executed service agreements with Merchant Energy Group of the Americas, Inc., Snohomish Public Utility District, Southern Company Energy Marketing, L.P., and Southern Company Services, Inc., as agent for Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company, under the Wholesale Market Tariff of the AEP Operating Companies (Power Sales Tariff). The Power Sales Tariff was accepted for filing effective October 10, 1997 and has been designated AEP Operating Companies' FERC Electric Tariff, Original Volume No. 5.

AEPSC respectfully requests waiver of Commission notice requirements and requests that the service agreements with Merchant Energy Group of Americas Inc., become effective May 8, 1998, Snohomish Public Utility District become effective May 2, 1998, Southern Company Services, Inc., become effective May 20, 1998, and Southern Company Energy Marketing, L.P., become effective May 19, 1998.

A copy of the filing was served upon the Parties and the State Utility Regulatory Commissions of Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

Comment date: July 15, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. UtiliCorp United Inc.

[Docket No. ER98-3485-000]

Take notice that on June 25, 1998, UtiliCorp United Inc. (UtiliCorp), filed service agreements with VTEC Energy, Inc., for service under its Non-Firm Point-to-Point open access service tariff for its operating divisions, Missouri Public Service, WestPlains Energy-Kansas and WestPlains Energy-Colorado.

UtiliCorp requests that the service agreements become effective on June 25, 1998, in order to comply with the Commission's filing requirements.

A copy of this filing has been served upon the Missouri Public Service Commission, Kansas Corporation Commission, Colorado Public Utilities Commission and VTEC Energy Inc.

Comment date: July 15, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. UtiliCorp United Inc.

[Docket No. ER98-3486-000]

Take notice that on June 25, 1998, UtiliCorp United Inc. (UtiliCorp), filed a service agreement with Basin Electric Power Cooperative for service under its Non-Firm Point-to-Point open access service tariff for its operating division, WestPlains Energy-Colorado.

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UtiliCorp requests that the service agreement become effective on June 25, 1998, in order to comply with the Commission's notice requirements.

A copy of this filing has been served upon the Colorado Public Utilities Commission and Basin Electric Power Cooperative.

Comment date: July 15, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Central Hudson Gas & Electric Corporation

[Docket No. ER98–3488–000]

Take notice that on June 25, 1998, Central Hudson Gas & Electric Corporation (Central Hudson), tendered for filing a proposed amendment to its Power Sales Tariff on file in Docket No. ER97–890 to permit sales to its power marketing affiliate, Central Hudson Enterprise Corporation (CHEC). Central Hudson has also submitted for filing a Power Sales Agreement with CHEC.

Central Hudson requests waiver of the Commission's notice requirements to permit the amendment to its Power Sales Tariff and its Power Sales Agreement to become effective August 1, 1998.

Comment date: July 15, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph:

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18205 Filed 7–8–98; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[FRL–6121–8]

Change in Minimum Oxygen Content Requirement for Reformulated Gasoline

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: EPA's reformulated gasoline (RFG) program contains various standards for RFG, including an oxygen content standard. When the RFG program was implemented, the per-gallon minimum standard applicable to RFG in all covered areas was 1.5% by weight. In 1997, pursuant to the RFG regulations, EPA increased this standard by 0.1% to 1.6% by weight for several of the RFG covered areas (and for certain refineries, importers and blenders) because these areas failed a series of compliance surveys for oxygen content in 1996. Certain covered areas have failed the oxygen compliance survey series for 1997, and EPA is increasing the per-gallon minimum standard applicable to these areas by 0.1%. Since the previous increases remain in effect, the per-gallon minimum oxygen requirement in all but one of these areas failing in 1997 will increase to 1.7% by weight. This notice announces the increased standard, and describes the covered areas and parties that are subject to the increased standard. The increased standard will help ensure that all covered areas receive the full benefit of the oxygen content requirement in the RFG program.

FOR FURTHER INFORMATION CONTACT: Stuart Romanow, Fuels and Energy Division, Office of Mobile Sources, Environmental Protection Agency, Washington D.C. (6406J) 202–564–9296.

SUPPLEMENTARY INFORMATION:

I. Regulatory Entities

Regulatory categories and entities potentially affected by this action include:

Category	Examples of affected entities
Industry	Refiners, importers, oxygenate blenders of reformulated gasoline.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. This table lists the types of entities that EPA is now aware could be potentially affected by this action. Other types of entities not listed in the table could also be affected. To determine whether your entity is affected by this action, you should carefully examine the existing provisions at 40 CFR 80.41. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

II. Background

Section 211(k) of the Clean Air Act requires that EPA establish standards for reformulated gasoline (RFG) to be used in specified ozone nonattainment areas (covered areas). The RFG requirements contain performance standards for reductions of emissions from motor vehicles of ozone forming volatile organic compounds and toxic pollutants.

Standards for RFG are contained in 40 CFR 80.41. Refiners and other parties subject to the standards can choose to comply on either a per gallon basis or to comply on average. The standards for compliance on average ("averaged standards") are numerically more stringent than the per gallon standards. The averaged standards for RFG are contained in § 80.41(b). These averaged standards include a per-gallon minimum requirement of 1.5 weight percent oxygen. This 1.5% per-gallon minimum oxygen requirement initially applied to all refineries, importers and blenders of RFG who elected to comply with the averaged standard for oxygen. However, as a result of oxygen survey series failures in 1996, EPA required that certain refineries, importers and blenders comply with a 1.6% minimum, beginning on September 29, 1997.[1] (The survey process and the consequences of oxygen survey series failures are described below.) The per-gallon minimum requirement is in addition to the requirement for 2.1 weight percent oxygen, on average. The average standard for oxygen must be met by a refiner or oxygenate blender for all of the RFG it produced at a refinery or blending facility, or for RFG imported by an importer, but these parties are not required to meet this standard for the RFG supplied to each covered area separately.

Any refiner, importer or oxygenate blender has the option of meeting the RFG standards on average or per gallon. If a party is subject to the averaged standards, then the requirement to conduct surveys, as specified in § 80.68, must be satisfied. In these surveys, RFG samples are collected at retail gasoline stations within covered areas and analyzed to determine if the RFG supplied to each covered area meets certain survey pass/fail criteria specified in § 80.68. An oxygen survey series failure occurs in a covered area if the annual average oxygen content for all of the samples is less than 2.00 weight percent. The purpose of the surveys and the tightened standards which result if a survey is failed is to ensure that averaging over a refiner's entire production as compared to separate averaging for each covered area does not lead to the reduced quality of RFG in any covered area.

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[1] See "Change in Minimum Oxygen Requirement for Reformulated Gasoline" 62 FR 41047 (July 31, 1997).

Since the implementation of the RFG program in 1995, these surveys have been conducted by the RFG Survey Association, a not-for-profit association of refiners, importers and blenders, using an EPA-approved survey design plan as required in the regulations. By letter dated January 30, 1998, the RFG Survey Association reported to EPA the results of its surveys for 1997, indicating that several survey areas failed to meet the annual average requirements of 2.00% oxygen by weight.[2] After reviewing the data EPA determined that 7 areas did fail the survey series for oxygen content.[3]

The following covered areas failed the oxygen survey series:

1. Baltimore, MD area [§ 80.70(g)].
2. Houston-Galveston-Brazoria, TX area [§ 80.70(h)].
3. The entire State of Rhode Island [§ 80.70(j)(12)].
4. The Dallas-Fort Worth, TX area comprised of [§ 80.70(j)(13)]:

Collin County
Dallas County
Denton County
Tarrant County

5. Norfolk-Virginia Beach-Newport News (Hampton Roads), VA area comprised of [§ 80.70(j)(14)]:

Chesapeake
Hampton
James City County
Newport News
Norfolk
Poquoson
Portsmouth
Suffolk
Virginia Beach
Williamsburg
York County

6. Richmond, VA area comprised of [§ 80.70(j)(14)]:

Charles City County
Chesterfield County
Colonial Heights
Hanover County
Henrico County
Hopewell
Richmond

7. Washington D.C. area comprised of [§ 80.70(j)(2), (j)(6), (j)(14)]:

The District of Columbia
Calvert County, MD
Charles County, MD
Frederick County, MD
Montgomery County, MD
Prince Georges County, MD
Alexandria, VA
Arlington County, VA
Fairfax, VA
Fairfax County, VA
Falls Church, VA
Loudoun County, VA
Manassas, VA
Manassas Park, VA
Prince William County, VA
Stafford County, VA

The boundaries of the covered areas are described in detail in § 80.70.

Under § 80.41(o), when a covered area fails an oxygen content survey series, the minimum oxygen content requirement for that covered area is made more stringent by increasing the per gallon minimum oxygen content standard for affected RFG subject to the averaging standard by 0.1%. This more stringent requirement applies beginning the year following the year of the failure. A more stringent requirement remains in effect for a covered area unless the area passes all oxygen content survey series in two consecutive years. Therefore, with the exception of the entire State of Rhode Island, the minimum per gallon oxygen requirement for the areas listed above is increased from 1.6% to 1.7% by weight. The minimum per gallon oxygen requirement for the entire State of Rhode Island is increased from 1.5% to 1.6% by weight. In addition, the minimum per gallon oxygen requirement for the Philadelphia-Wilmington-Trenton area and the Atlantic City, NJ area (Atlantic County and Cape May County), which failed oxygen content survey series in 1996, remains at 1.6% by weight.

The criteria identifying the refineries, importers and oxygenate blenders subject to adjusted standards are stated in § 80.41(q). In general, adjusted standards apply to RFG that is subject to an averaging standard ("averaged RFG") that is produced at a refinery or oxygenate blending facility if any averaged RFG from that refinery or facility supplied a failed covered area during 1996, or supplies the covered area during any year that the more stringent standards are in effect. The regulation provides for an exception based on certain volume limits [see 40 CFR § 80.41(q)(1)(iii)].

Thus, if a refiner has elected for a refinery to be subject to the average oxygen standard, and if even a small portion of the RFG produced at the refinery is used in an area subject to an oxygen ratchet, the entire volume of RFG produced at the refinery is subject to the more stringent oxygen standard regardless of which area receives the RFG. This result is true regardless of whether the refinery's gasoline was supplied to the city in question during 1997 or during a year when the more stringent oxygen standard applies.

Under § 80.41(q)(2), the applicability of adjusted standards to imported averaged RFG is specified by the Petroleum Administration for Defense District (PADD) in which the covered area is located and the PADD where the gasoline is imported. The covered areas that had oxygen survey series failures are located in PADDs I and III. Therefore, all RFG imported at facilities located in PADDs I, II, III or IV is subject to the adjusted oxygen standard. The states included in each PADD are identified in § 80.41(r). In addition, if any RFG imported into any other PADD supplies any of the covered areas with oxygen survey failures, the adjusted standard applies to that RFG, as well.

Under § 80.41(q)(3), any gasoline that is transported in a fungible manner by a pipeline, barge or vessel is considered to have supplied each covered area that is supplied with any gasoline by that pipeline, barge or vessel shipment unless the refiner or importer is able to establish that the gasoline it produced or imported was supplied only to a smaller number of covered areas.

Consider, for example, gasoline transported on the Colonial Pipeline, which supplies RFG to several cities that failed the oxygen survey in 1997. If a refinery's RFG was transported by the Colonial Pipeline any time during 1997, or any time during any year when the more stringent oxygen standard applies, the more stringent oxygen standard applies to all RFG produced at the refinery regardless of the market. In addition, there is a presumption that, due to fungible mixing, each refinery's RFG that is transported by the Colonial Pipeline is in part supplied to each city supplied by the Colonial Pipeline. This presumption is rebuttable, but the rebuttal normally would require a refiner to have transported its RFG in a non-fungible manner. Thus, the more stringent standard applies to a refinery whose gasoline is transported on the

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[2] Letter dated January 30, 1998 from Frank C. Lenski, President, RFG Survey Association, to Charles Freed, Director, Fuels and Energy Division, EPA.

[3] Letter dated March 4, 1998 from Charles Freed, EPA, to Frank Lenski, RFG Survey Association. Also see Memorandum dated March 20, 1998 from Stuart Romanow, Mechanical Engineer, Fuels and Energy Division to Charles Freed.

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Colonial Pipeline regardless of whether the refiner takes delivery of RFG in the specific cities that failed the oxygen survey.

The adjusted oxygen standard applies to all averaged RFG produced by a refinery or imported by an importer identified in § 80.41(q). In accordance with § 80.41(p), the effective date of this change is October 7, 1998.

Thus, under § 80.41(p) the more stringent oxygen standard applies at all points of the distribution system beginning on October 7, 1998, including terminals supplying the affected covered areas and retail outlets in the covered areas. However, EPA believes it may be difficult for all regulated parties to transition to the new oxygen standard by October 7, 1998. As a result, EPA intends to enforce the new oxygen standard in a manner that gives parties additional time. Refiners, importers, and oxygenate blenders will be required to meet the new oxygen standard beginning October 7, 1998. In the case of parties other than refiners, importers, oxygenate blenders, retailers and wholesale purchaser-consumers, (e.g., pipelines and terminals supplying gasoline to affected covered areas) EPA will enforce the new oxygen standard beginning December 7, 1998.[4] In the case of retail outlets and wholesale purchaser-consumer facilities located in the affected covered areas EPA will enforce the new oxygen standard beginning January 5, 1999. EPA has initiated a rulemaking to revise § 80.41(p) to reflect the need for additional downstream transition time when a standard is changed.

Dated: June 9, 1998.

Richard D. Wilson,

Acting Assistant Administrator for Air and Radiation.

Sylvia K. Lowrance,

Acting Assistant Administrator for Enforcement and Compliance Assurance.

[FR Doc. 98–18080 Filed 7–8–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6122–5]

Proposed Prospective Purchaser Agreement Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as Amended by the Superfund Amendments and Reauthorization Act, National Mine Tailings Pile Superfund Site, Park Hills, Missouri

AGENCY: Environmental Protection Agency.

ACTION: Proposal of CERCLA Prospective Purchaser Agreement for the National Mine Tailings Pile Superfund Site.

SUMMARY: Notice is hereby given that a proposed prospective purchaser agreement associated with the National Mine Tailings Pile Superfund Site, located in Park Hills, St. Francois, Missouri, was executed by the Agency on May 13, 1998, and concurred upon by the United States Department of Justice on June 9, 1998. The Site is part of an inactive lead and zinc mining area known as The Old Lead Belt. The agreement, between Classic Equine Equipment, Inc. ("the purchaser") and the United States Environmental Protection Agency ("EPA"), is subject to final approval after the comment period. The Prospective Purchaser Agreement would resolve certain potential EPA claims under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA").

Under this proposed agreement, the purchaser would be required to grade the property, cover it with stone, gravel, topsoil and grass and maintain the integrity of the surface so that no mining wastes remain at the ground surface and the potential for erosion is minimized.

The settlement also requires the purchaser to: restrict the use of groundwater; limit human or animal exposure to hazardous substances at the Site; ensure non-interference with the performance, operation, and maintenance of any selected response action; and ensure the integrity and effectiveness of any selected environmental response action, including monitoring of groundwater, soils, and sediments.

The purchaser is required to grant access to the property to EPA, its authorized officers, employees, representatives, and all other persons performing response actions under EPA oversight. If the purchaser fails to comply with the terms of the Agreement and Covenant Not to Sue, the purchaser would be liable for all litigation and other enforcement costs incurred by the United States to enforce this Agreement.

DATES: Comments must be submitted on or before August 10, 1998.

ADDRESSES: *Availability:* The proposed settlement is available for public inspection at the U.S. Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101. A copy of the proposed agreement may be obtained from Jack Generaux, Remedial Project Manager, U.S. Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101. Comments should reference "The National Mine Tailings Pile Site Prospective Purchaser Agreement" and should be forwarded to Jack Generaux, at the above address.

For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the proposed settlement. The Agency's response to any comments received will be available for public inspection at the U.S. Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Dave Cozad, Branch Chief, Office of Regional Counsel, United States Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101, (913) 551–7587.

Dated: June 29, 1998.

Dennis Grams, P.E.,

Regional Administrator, Region VII.

[FR Doc. 98–18086 Filed 7–8–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6122–9]

Internet Availability of 1996 Production/Capacity Data in the Sector Facility Indexing Project

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability.

SUMMARY: The Environmental Protection Agency (EPA) plans to include current environmental information in the Sector Facility Indexing Project (SFIP) as it becomes available. To that end, chemical release and transfer estimates for calendar year 1996 are now available from the Toxics Release Inventory. As the Agency incorporates the 1996 TRI

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[4] This supersedes the timing of the enforcement of the downstream oxygen standards discussed in "RFG/Anti-Dumping Questions and Answers, November 12, 1996". See question and answer under topic "SURVEYS 11/12/96".

data into SFIP, EPA is also working to include the 1996 production/capacity data because this is now the most relevant measure of facility size. As a result, the ratio of TRI releases and transfers/production will now include the 1996 production data. The 1996 year production or production capacity data for each of the SFIP facilities are now available on the SFIP Internet website with two exceptions:

(1) If a facility provided adequate documentation to support a change in its 1995 production value, this value is retained for 1996.

(2) If 1996 production/capacity information is not available, but 1995 year information is available and the facility is known to be in full operation.

The production or production capacity data are available for review and comment by the facilities. As was done during the data quality assurance review undertaken in the Fall of 1997, facilities may request a change in the production/capacity values by submitting a written request along with supporting documentation to the address below. Note that the basis of this value will not be changed (e.g., from capacity to actual production). All submissions should be postmarked by July 17, 1998, and sent to: SFIP, 55 Wheeler Street, Cambridge, MA 02138.

DATES: The 1996 production/capacity information to be incorporated within the SFIP is currently available for facility review until July 17, 1998.

ADDRESSES: Data may be accessed electronically via the Internet at the following address: http://www.epa.gov/oeca/sfi

FOR FURTHER INFORMATION CONTACT: Robert Lischinsky, U.S. Environmental Protection Agency, Office of Compliance (2223–A), 401 M Street, SW, Washington, DC 20460; telephone: (202)564–2628, fax: (202)564–0050; e-mail: lischinsky.robert@epa.gov

Dated: July 2, 1998.

Mamie Miller,

Branch Chief, Manufacturing Branch, Manufacturing Energy & Transportation Div, Office of Compliance.

[FR Doc. 98–18273 Filed 7–8–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Commission To Hold Bandwidth en banc Hearing July 9, 1998

June 30, 1998.

The Federal Communications Commission will hold an en banc hearing on Thursday, July 9, 1998, from 11:00 a.m. to 1:00 p.m., in the Commission Meeting Room (Room 856) at 1919 M. Street, NW., Washington, DC.

At the en banc hearing, the Commission will hear from panels of experts regarding bandwidth issues in the last mile of our nation's telecommunications infrastructure and in connectivity to and between our nation's small and rural communities. The panelists will also address how these issues impact the deployment of advanced telecommunications capabilities and broadband technologies in the United States.

The en banc is open to the public, and seating will be available on a first come, first served basis. The meeting can be viewed over George Mason University's Capitol Connection. For information on this service call (703) 993–3100. The en banc will also be carried live on the Internet. Internet users may listen to the real-time audio feed of the en banc by accessing the FCC Internet Audio Broadcast Home Page. Step-by-step instructions on how to listen to the audio broadcast, as well as information regarding the equipment and software needed, are available on the FCC Internet Audio Broadcast Home Page. The URL address for this home page is http://www.fcc.gov/realaudio/.

A transcript of the en banc will be available 10 days after the event on the FCC's Internet site. Transcripts may be obtained from the FCC's duplicating contractor, International Transcription Service, 1231 20th Street, NW., Washington, DC 20036, by calling ITS at (202) 857–3800 or faxing ITS at (202) 857–3805. Audio and video tapes of the En banc may be purchased from Infocus, 341 Victroy Drive, Herndon, VA 20170, by calling Infocus at (703) 834–0100 or by faxing Infocus at (703) 834–0111. The URL address for the FCC's Internet Home Page is http://www.fcc.gov.

For additional information contact: Marcelino Ford-Livene at (202) 418–2030; News media contact: Audrey Spivack (202) 418–0500; TTY access available at (202) 418–2555.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–18238 Filed 7–8–98; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

AGENCY: Federal Election Commission.

DATE & TIME: Tuesday, July 14, 1998 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE & TIME: Thursday, July 16, 1998 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C. (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Advisory Opinion 1998–12: Ashland Inc. Political Action Committee for Employees by counsel, Katrina W. Vega.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 98–18416 Filed 7–7–98; 12:39 pm]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 202–010424–039.

Title: The Dominican Republic Agreement.

Parties:

NPR, Inc. (d/b/a Navieras)
Sea-Land Service, Inc.
Crowley American Transport, Inc.
A.P. Moller-Maersk Line
Del Line, LLC
Seaboard Marine, Ltd.
Tecmarine Lines, Inc.
Tropical Shipping and Construction Co., Ltd.

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Synopsis: The proposed amendment would change Agreement provisions related to CY and CFS facilities as well as to the Agreement's voting provisions. It would also delete the neutral body policing provisions and modify the independent action provisions of the Agreement.

Agreement No.: 202–011259–015.

Title: United States/Southern Africa Conference.

Parties:

Lykes Lines Limited, LLC
Mediterranean Shipping Company S.A.
Safbank Line, Ltd.
Wilhelmsen Lines A/S

Synopsis: The proposed amendment adds language to specify the amount of time in which conference members have to vote on a telephone poll.

Agreement No.: 224–201055.

Title: Puerto Rico Ports Authority Pier A Lease Agreement.

Parties:

The Puerto Rico Ports Authority
Pan American Grain Mfg. Co., Inc.

Synopsis: The proposed agreement provides the lessee a long term lease of a warehouse on Pier A, a second right of preferential use of the berthing and platform area of that pier, as well as of an area adjacent to the warehouse, second only to the rights of the Puerto Rico Electric Power Authority. The term of the agreement runs through June 30, 2003, with the possibility of two 5-year extensions.

Dated: July 6, 1998.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 98–18227 Filed 7–8–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Fam Cargo International Company, Inc., 7392 NW 35th Terrace, Miami, FL 33152, Officer: Harold Garay, President

Boss Shipping, Inc., 8491 N.W. 17 Street, Unit 109, Miami, FL 33126, Officers: Sigrid Boldt, President, Maria Alicia Campos, Secretary.

Dated: July 6, 1998.

Joseph C. Polking,

Secretary.

[FR Doc. 98–18248 Filed 7–8–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 24, 1998.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. John Soldoveri, Totowa, New Jersey; to acquire additional voting shares of Greater Community Bancorp, Totowa, New Jersey, and thereby indirectly acquire additional voting shares of Great Falls Bank, Totowa, New Jersey, and Bergen Commercial Bank, Paramus, New Jersey.

B. Federal Reserve Bank of San Francisco (Maria Villanueva, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. Peter F. Stanton, Spokane, Washington; to acquire additional voting shares of W.T.B. Financial Corporation, Spokane, Washington, and thereby indirectly acquire Washington Trust Bank, Spokane, Washington.

Board of Governors of the Federal Reserve System, July 6, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–18283 Filed 7–8–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 3, 1998.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. Piraeus Bank, S.A., Athens, Greece; to become a bank holding company by acquiring 56 percent of the voting shares of Marathon Banking Corporation, Astoria, New York, and thereby indirectly acquire Marathon National Bank of New York, Astoria, New York.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Area Bancshares Corporation, Owensboro, Kentucky; to acquire 25 percent of the voting shares of Broadway Bank and Trust, Paducah, Kentucky.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. First Pecos Bancshares, Inc., Midland, Texas; to acquire 100 percent of the voting shares of First Alpine, Inc., Alpine, Texas, and thereby indirectly acquire Alpine Delaware Financial Corporation, Dover, Delaware, and First National Bank in Alpine, Alpine, Texas.

Board of Governors of the Federal Reserve System, July 6, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–18282 Filed 7–8–98; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 24, 1998.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Northern Trust Corporation, Chicago, Illinois; to engage *de novo* through its subsidiary, Northern Trust Bank, Federal Savings Bank, Bloomfield Hills, Michigan (in organization), and thereby engage in the operation of a savings association, pursuant to § 225.28(b)(4)(ii) of Regulation Y.

Board of Governors of the Federal Reserve System, July 6, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–18281 Filed 7–8–98; 8:45 am]

BILLING CODE 6210-01-F

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0043]

Submission for OMB Review; Comment Request Entitled Appraisal, Fair Annual Rental for Parking Spaces

AGENCY: Public Buildings Service, GSA.

ACTION: Notice of request for an extension to an existing OMB clearance (3090–0043).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Office of Acquisition Policy has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning Appraisal, Fair Annual Rental for Parking Spaces.

DATES: Comment Due Date: September 8, 1998.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: Edward Springer, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Marjorie Ashby, General Services Administration (MVP), 1800 F Street NW, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: William C. Wyrick, Public Buildings Service (202) 501–4407.

SUPPLEMENTARY INFORMATION:

A. Purpose

The GSA is requesting the Office of Management and Budget (OMB) to review and approve information collection, 3090–0043, concerning Appraisal, Fair Annual Rental for Parking Spaces. This form is needed by contract and staff appraisers to estimate the assessed parking rates for agencies occupying space in Federal and private buildings.

B. Annual Reporting Burden

Respondents: 260; *annual responses:* 1300; *average hours per response:* 1.6; *burden hours:* 2200.

Copy of Proposal: A copy of this proposal may be obtained from the GSA Acquisition Policy Division (MVP), Room 4011, GSA Building, 1800 F Street, NW, Washington, DC 20405, or by telephoning (202) 501–3822, or by faxing your request to (202) 501–3341.

Dated: June 19, 1998.

Ida M. Ustad,

Deputy Associate Administrator, Office of Acquisition Policy.

[FR Doc. 98–18193 Filed 7–8–98; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 98094]

Measuring the Risk for Transmission and Sequelae From Chlamydial Disease in the Era of Amplification Testing; Notice of Availability of Funds for Fiscal Year 1998

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1998 funds for a cooperative agreement program on Chlamydia trachomatis (Ct) infection in order to enhance strategies for prevention of STD-related infertility. Please reference the Attachment for background information relevant to this program announcement. This program addresses the "Healthy People 2000" priority area 19, Sexually Transmitted Diseases.

The purpose of this research program is to gain a better understanding of the risk for Ct disease transmission and sequelae in the context of new, highly sensitive diagnostic technologies. When patient specimens are subjected to both standard non-amplification tests (culture, enzyme immunoassay [EIA], direct fluorescent-antibody [DFA], DNA hybridization) and highly sensitive nucleic acid amplification tests such as the polymerase chain reaction [PCR], ligase chain reaction [LCR], or transcription mediated amplification [TMA], some proportion of patient specimens will test positive by one diagnostic measure, and negative by another. Rarely, a specimen will test positive by standard non-amplification tests and negative by more sensitive tests (+/−). Much more commonly, a specimen which is negative by standard diagnostic testing will test positive by highly sensitive nucleic acid amplification tests (−/+). Such discordant specimens have usually been classified as true positives, or false positives on the basis of a highly sensitive third confirmatory test targeting a different portion of the Ct

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genome [(−/+/+) or (−/+/−) respectively].

It is not clear to what extent (−/+) discordant specimens (positive by amplification test only) reflect collection of low quality specimens from infected individuals, a phase in the natural disease course of Ct infection, a subgroup of true positive tests (i.e., specimens from some infected persons will always be discordant), or false positive test results. If poor quality specimen collection is the dominant explanation, it is possible that discordant tests result from a small organism load detectible only by highly sensitive tests. If infectious stage, immunity, or menstrual cycle play a role, discordant specimens may be due to such factors as early infection, previous infection, partially treated infection, non-viable organisms, or spontaneously resolving infection. It is not known if persons with discordant specimens have the same risk for disease transmission and development of sequelae as those with concordant specimens. With limited resources for screening it will be important to define criteria to determine the adequacy of collected specimens, and to be able to measure both the risk of disease transmission and the risk for sequelae among persons whose specimens test positive by nucleic acid amplification tests in order to weigh the potential benefit against the added cost and technical demands of screening with amplification tests.

In addition to standard methods of observational data analysis, CDC envisions that data from this study will be used to generate parameter estimates to supplement later work with mathematical models to estimate (a) changes in disease transmissibility over the course of infection, (b) estimates of the critical interval between disease acquisition and development of irreversible sequelae, and (c) the optimal screening intervals to most efficiently interrupt disease transmission and prevent the development of sequelae in diverse epidemiologic situations.

B. Eligible Applicants

Applications may be submitted by public and private non-profit organizations and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, State and local governments or their bona fide agents, and federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations.

Note: Public Law 104–65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $700,000 is available in FY 1998 to fund approximately two awards. It is expected that the average award will be $350,000, ranging from $300,000 to $400,000. It is expected that the awards will begin on or about September 30, 1998 and will be made for a 12-month budget period within a project period of up to 3 years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Funding Preferences

Funding preferences may be given to (1) applications from particular geographic locations in order to achieve geographic balance or (2) applications from sites which differ from others in the prevalence of Ct (to select study sites diverse in stage of prevention program and phase in the Ct epidemic).

D. Program Requirements

In conducting activities to achieve this program, the recipient shall be responsible for the activities listed under 1. (Recipient Activities), and CDC shall be responsible for conducting activities listed under 2. (CDC Activities).

1. Recipient Activities

During the first 3–6 months of the study period, funded recipients will work as a group to develop a protocol that synthesizes ideas submitted by each funded site. Recipients will implement the protocol during the remaining months of the study period.

a. Collaborate on Study Design: Recipients will meet together to collectively develop a study protocol to be adopted across collaborating recipient sites. Collaborative activities will include (but may not be restricted to) the development of common data collection instruments, common specimen collection protocols, and common data management procedures.

b. Collaborate During Implementation of the Study: Collaboration will include: (1) communication regarding study progress; and (2) participation in across-site quality control procedures, and in regularly scheduled meetings and conference calls.

c. Conduct Productive and Scientifically Sound Studies: Recipients will identify, recruit, obtain informed consent forms, and enroll and follow to completion a minimum number of participants as specified by the study design and sample size requirements. Recipients will perform laboratory tests as determined by the study protocol, and will follow study participants over time as determined by the protocol.

d. Carry Out Site-Specific Analyses: Recipients may conduct analyses and publish manuscripts using data collected at their own site.

e. Share Data and Specimens: Recipients will take responsibility for cleaning and/or editing locally collected data, and sharing data and (when appropriate) specimens to allow for analysis of specific research questions.

f. Collaborate on Publication of Results: Researchers will develop at least one publication recording results from both study sites for a peer-reviewed journal.

g. Meet the requirements for approval of the study protocol specified by the recipients' local institutional human investigation review board (IRB).

2. CDC Activities

a. Provide Technical Assistance and Coordination: CDC staff will provide current scientific and programmatic information relevant to the project, and may provide technical guidance in the design and conduct of the research (including study design, operations and evaluation, and development and dissemination of study protocols, consent forms, and questionnaires). CDC will provide coordination of the project and will assist in designing a data management system.

b. Analyze Study Data and Coordinate Publication: CDC staff may assist in cross-site analyses of data gathered over the course of the study and may collaborate with recipients in developing at least one overall publication describing the multi-site project results.

c. Share Data and Specimens: CDC staff may coordinate the dissemination of data and specimens (when appropriate) to participating sites.

d. Monitor and Evaluate Scientific and Operational Accomplishments of the Project: This will be accomplished through periodic site visits, telephone calls, and review of technical reports and interim data analysis.

e. Meet the requirements for approval of the study protocol specified by the CDC's human investigation review board (IRB).

E. Application Content

Applicants should use the following study questions, as well as information in the Program Requirements, Other Requirements, and Evaluation Criteria sections of this announcement to develop the application content. Applications will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 25 double-spaced pages, printed on one side, with one inch margins, and unreduced font. Please include a table of contents.

Applicants should develop a research proposal outlining a single integrated study to address as many of the following study questions as they deem feasible, and consider study designs which would permit consideration of how patient gender, specimen type, and Ct "epidemic phase" (as evidenced by Ct prevalence, and trends in disease) affect the interpretation of the results. Site-specific differences in the Ct epidemic and local prevention program development may affect the proportion of collected specimens which come from prevalent versus incident cases, or symptomatic versus asymptomatic cases; these factors may influence the likelihood that a specimen tests positive by nucleic acid amplification test (NAAT) only, as well as modifying the risk for transmission and sequelae among infected persons. Because of this potential confounding, applicants for each site must demonstrate a sample size adequate to allow the chief research questions to be addressed conclusively at their (single) site (i.e. without relying on an aggregate data analysis).

Applicants must give evidence (in the form of a letter of agreement) that they will conduct their proposed study in collaboration with a State or local health department. Applications from State and local health departments must include evidence (in the form of a letter of agreement) that they will collaborate with a research institution.

Applicants should include a summary abstract at the front of the application listing their name and the proposed participating institutions, and outlining (in 300 words or less) the key, distinguishing methodologic and technical aspects of the proposed study.

The applicant should provide a line-item annualized budget with a budget narrative that justifies each line item and which anticipates the salaries of appropriate staff, travel for principal investigator(s) and project supervisor(s) to meet with CDC three times during the first year and two times per year thereafter, as well as costs related to the diagnosis and management of Ct and other concurrently diagnosed STDs. This could include the cost of anticipated partner tracing activities, longitudinal participation, and other needs.

Study Questions

(1) Is there a differential risk for disease transmission and development of the sequelae from Ct disease in persons with discordant compared to concordant test results? Are there laboratory correlates, such as quantification of bacterial load or a test for viability, which could be used to identify those at most risk for transmission or sequelae?

(2) What factors influence detection of Chlamydial antigen and the reproducibility of results, and how does detection of Ct disease by non-amplification and amplification methods vary over the course of infection? Factors which could be explored include the quality of the biologic specimen obtained, phase in the menstrual cycle or other characteristics of the infected person such as immune status, relative timing within the natural history of untreated Ct infection, co infection with other sexually transmitted disease(s), or the order in which specimens are collected when multiple specimens are obtained from the same person? To what extent are these factors influenced by the type of specimen collected (cervical, vaginal, urine)?

(3) What are the defining characteristics of false positive specimens (that subset of discordant patient specimens which test negative when subjected to a third, confirmatory test)? Are there any laboratory or clinical factors which could be used to predict those specimens likely to be false positives (proximity in testing wells, identical genotypes, low amplicon count)? Does the frequency of measurable clinical outcomes—such as evidence of transmission within a sexual partnership, or development of sequelae—concur with the "negative" classification such specimens would be accorded by a third confirmatory test?

Applicants are also encouraged to develop secondary study hypotheses which may be addressed at their own or all collaborating sites, depending on the level of interest among the collaborating investigators.

F. Submission and Deadline

1. Applications

Applicants should use Form PHS 398 (OMB Number 0925-0001) and adhere to the ERRATA Instruction sheet for form PHS-398 contained in the application kit. Please submit an original and five copies on or before August 14, 1998 to: Kathy Raible, Grants Management Specialist, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE, Room 300, M/S E-15, Atlanta, Georgia 30305.

2. Deadlines

A. Applications will meet the deadline if they are either:

1. Received on or before the deadline date; or
2. Sent on or before the deadline date and received in time for submission to the objective review committee. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be accepted as proof of timely mailing.)

B. Applications that do not meet the criteria in A.1. or A.2. above are considered late applications. Late applications will not be considered in current competition and will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent reviewer group appointed by CDC:

1. Background and Objectives (10 points)

Depth of knowledge regarding Ct transmission, including demonstrated understanding of the strengths and limitations of previous studies examining the issue. Demonstrated understanding of how introduction of new diagnostic tests may affect the scientific communities' understanding of transmissibility and could shape public health recommendations for screening, partner notification and patient follow up.

The extent to which the applicant provides a set of research objectives that are realistic, specific, and measurable, and reflect an optimal integration of the study questions outlined earlier in this announcement. Points will be awarded for attention to each of the possible modifying variables: (a) gender; (b) specimen type; and (c) epidemic phase of Ct in the study population.

2. Site Selection/Study Population (10 points)

The extent to which the selected study site and study population (including the choice of whether or not to include symptomatic persons) will enable the results from this research to be generalizeable to other settings or populations likely to be screened for Ct. Applications will be scored on the likely feasibility of completing the research in the proposed population. Highest points will be given to applications demonstrating the capacity to enroll persons at risk for Ct infection in numbers adequate to address a maximal number of research questions at a single site, and to undertake longitudinal follow-up of these persons as required by the study design.

The feasibility of utilizing the proposed study population will be evaluated on the basis of the applicant's:

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(a) outline of STD services available in their jurisdiction; (b) specification of the type of setting in which the proposed study would be conducted (e.g., family planning clinic, sexually transmitted diseases clinic, primary care clinic), and health care delivery system within which this setting exists (managed care, federally funded facility, University affiliated); (c) description of the population accessible at the proposed study site, including the number of people seen per month and per annum, with a tabulation by gender, age group <20, 20–24, 25–29, 30–34, 35–44 and ethnicity; and (d) description of the prevalence of Ct in population attending the proposed study site stratified by these same variables, with specification of whether study subjects will be limited to asymptomatic persons, or will include symptomatic individuals. The applicant's decision to include or exclude symptomatic individuals will be judged on the basis of the rationale provided, and demonstrated understanding of how such inclusion or exclusion might be expected to influence sample size requirements, and generalizeability of the study findings.

3. Methods (25 points)

Applications will be evaluated with regard to the appropriateness, efficiency, and adequacy of the research design and proposed methodology to answer the research questions. This evaluation will be based on the extent to which the application: (a) Describes a well conceived study design in clear terms; (b) describes the likely range of explanatory and outcome variables in each component of the study; (c) specifies appropriate comparison groups for analysis within each study component; (d) provides explicit outlines of sampling schemes, sample size calculations (including all assumptions made for the purposes of the calculations), and plans for handling sampling biases;[1] (e) gives evidence of access to the relevant data sources and the plan for data collection; and (f) clearly describes the specific quantitative and qualitative analytic techniques to be used to address the research questions.

4. Public Health Applicability (10 points)

Points will be awarded to study proposals which will utilize laboratory methods which could be easily applied to practice in public health clinical or laboratory settings with a minimum of additional training, resources, and infrastructure. For example, applications describing fast, practical means of assessing specimen adequacy and quantifying bacterial load would be awarded points because of the potential application of these techniques if these parameters are found to be key factors influencing the interpretation of discordant specimens and the risk for transmission and sequelae.

5. Quality Assurance (10 points)

The extent to which the applications present a sound plan (with specific procedures) to monitor the quality and consistency of clinical and laboratory specimens and data collection.

6. Research Capacity (25 points)

Applicants will be judged on their overall ability to perform the technical aspects of the project which include: (a) The availability and identification of study personnel with the needed experience and competence in research design, conduct, data collection (observational, clinical, and laboratory), analysis, and dissemination; (b) assurance that staff can be hired within 3 months of award of monies; (c) the availability of adequate laboratory, clinical, and administrative facilities and resources for the conduct of the proposed research, including a letter of agreement from the director of the laboratory services which will be conducting related laboratory studies; (d) documentation of access to the necessary study population including a letter of agreement from the administrators of proposed enrollment site; (e) plans for the administration of the project(s), including a detailed and realistic time line for the specified activities; (f) details of proposed collaboration between academia, federally funded clinics, laboratories, state and local health departments, etc., including letters of agreement between institutions; (g) demonstration of the applicant's ability, and willingness to collaborate in study design and analysis, including use of common study protocols and data collection instruments, and sharing data and (when appropriate) specimens; and (h) access to cost-efficient, locally available staff to complete data entry and data management.

7. Budget (not scored)

Budgets will be evaluated on the appropriateness of budget estimates in relation to the proposed research, and the extent to which the budget is reasonable, clearly justified, and consistent with the intended use of funds.

8. Human Subjects (not scored)

Does the application adequately address the requirements of 45 CFR Part 46 for the protection of human subjects?

____ Yes____ No

Comments: ________

9. Inclusion of Women, Ethnic, and Racial Groups (10 points)

The degree to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes: (a) The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation; (b) The proposed justification when representation is limited or absent; (c) A statement as to whether the design of the study is adequate to measure differences when warranted; and (d) A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits.

H. Other Requirements

1. Technical Reporting Requirements

An original and two copies of annual progress reports must be submitted no later than 30 days after the end of each budget period. An original and two copies of a financial status report (FSR) are required no later than 90 days after the end of each budget period. A final progress report and FSR are due no later than 90 days after the end of the project period. All reports are submitted to the Grants Management Branch, Procurement and Grants Office, CDC.

2. For Other Requirements, see the following enclosures

AR98–1 Human Subjects Requirements
AR98–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR98–4 HIV/AIDS Confidentiality Provisions
AR98–5 HIV Program Review Panel Requirements
AR98–9 Paperwork Reduction Act Requirements
AR98–10 Smoke-Free Workplace Requirements
AR98–11 Healthy People 2000
AR98–12 Lobbying Restrictions
AR98–14 Accounting System Requirements

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[1] Although applicants may describe a study which includes specimen collection and testing for the presence of other STDs (such as *Neisseria gonorrhea*), sample size estimates should be made with reference only to Chlamydia trachomatis prevalence and detection.

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 318 and 318A of the Public Health Service Act, 42 U.S.C. sections 247c and 247c–1, as amended. The Catalog of Federal Domestic Assistance number is 93.941.

J. Where To Obtain Additional Information

A complete program description, information on application procedures, an application package, and business management technical assistance may be obtained from Kathy Raible, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE, Room 300, Mail Stop E–15, Atlanta, Georgia 30305, telephone (404) 842–6649, or via email at: <kcr8@cdc.gov>.

Programmatic technical assistance may be obtained from Julie Schillinger, MD, MSc, Division of STD Prevention, NCHSTP, CDC, 1600 Clifton Road; Mailstop E–02, Atlanta, Georgia 30333, telephone (404) 639–8368, or via email at: <jus8@cdc.gov>.

This and other CDC announcements can be found on the CDC homepage (http://www.cdc.gov) under the "Funding" section. For your convenience, you may be able to retrieve a copy of the PHS Form 398 from (http://www.nih.gov/grants/funding/phs398/phs398.html).

Please Refer to Announcement Number 98094 When Requesting Information and Submitting an Application.

CDC will not send application kits by facsimile or express mail.

Potential applicants may obtain a copy of "Healthy People 2000" (Full Report, Stock No. 017–001–00474–0) or "Healthy People 2000" (Summary Report, Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 512–1800.

Dated: July 2, 1998.

John L. Williams,

Director, Procurement and Grants Office.

[FR Doc. 98–18199 Filed 7–8–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Announcement Number 98097]

Behavioral Intervention Research on The Prevention of Sexual Transmission of HIV By HIV-Seropositive Men Who Have Sex With Men

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1998 funds for a cooperative agreement program for the prevention of HIV transmission by HIV-seropositive men. This program addresses the "Healthy People 2000" priority area Human Immunodeficiency Virus (HIV) Infection.

The purpose of this program is to support research evaluating the outcome of interventions based on formative research that reduce the spread of HIV by men who have sex with men who know they are HIV seropositive. Consistent with this goal, funding under this program will support a randomized controlled trial to evaluate the effectiveness of intervention activities designed to motivate and support HIV-seropositive men who have sex with men in sustaining sexual practices that reduce the risk and prevent HIV transmission to partners who are sero-negative or of unknown serostatus.

The intervention proposed for the trial must be based on formative research, behavioral theory, and results of prior pilot evaluations. Because of the differential impact of HIV on men of color, both the prior formative research and the proposed intervention trial must be based on samples in which the majority of participants are men of color. The ultimate goal of this research is the identification of successful intervention strategies for HIV-seropositive men who have sex with men that are appropriate for implementation in community settings (e.g., local health departments, community-based organizations, health maintenance organizations) and that are suitable for replication in other community settings.

B. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, other public and private nonprofit organizations, state and local governments or their bona fide agents, and federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations. Public Law 104–65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan or any other form.

1. Funding Preference

This announcement is for behavioral intervention studies that build upon formative research findings regarding transmission risk among HIV-seropositive men who have sex with men. Because of the differential impact of HIV among men of color, preference will be given to applicants with documented ability to recruit research samples of HIV-seropositive men who have sex with men in which the majority of participants are men of color. In order to ensure the success of the proposed project, it is essential that applicants have access to sufficient numbers of HIV-seropositive men who have sex with men. Therefore, preference will also be given to applications from metropolitan areas having a 1997 AIDS incidence rate exceeding 50 per 100,000.

2. Funding Priorities

This announcement is for behavioral intervention studies that build upon research findings regarding transmission risk among HIV-seropositive men who have sex with men. This announcement will support behavioral intervention studies that build upon research findings regarding transmission risk among HIV-seropositive men from formative studies. This new research initiative will lead to the development of effective, feasible, and sustainable interventions that reduce the spread of HIV by men who know they are HIV seropositive. Consistent with this goal, funding under this program will support a randomized controlled trial to evaluate the effectiveness of intervention activities designed to motivate and support HIV-seropositive men who have sex with men in sustaining sexual practices that reduce the risk and prevent HIV transmission to partners who are sero-negative or of unknown serostatus.

C. Availability of Funds

Approximately $800,000 is available in FY 1998 to fund two awards. It is expected that the average award will be $400,000. Awards are expected to begin on or about September 30, 1998, and

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will be made for a 12-month budget period within a project period of up to three years. The funding estimate is subject to change.

Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities identified under Recipient Activities below and CDC will be responsible for the activities identified under CDC Activities below:

Recipient Activities

a. Develop research and intervention protocols and data collection instruments appropriate to conduct a randomized controlled intervention trial.

b. Establish procedures to maintain the rights and confidentiality of all study participants, including review of research activities by recipient's and CDC's Institutional Review Board (IRB).

c. Identify, recruit, obtain informed consent, and enroll an adequate number of research participants according to procedures specified in the study protocol.

d. Conduct intervention sessions, interviews, and other assessments according to the research protocol.

e. Summarize data and conduct data analyses.

f. Disseminate research findings in peer-reviewed journals and at professional meetings.

CDC Activities

a. Provide scientific and technical assistance in the design and development of the research, and evaluation protocols, selection of measures and instruments, operational plans and objectives, and data analysis strategies.

b. Provide scientific and technical coordination of the general operation of the research project, including data management support.

c. Participate in the analysis of data gathered from program activities and the reporting of results.

d. Conduct site visits to assess program progress.

e. Assist in the development of a research protocol for Institutional Review Board (IRB) review by all cooperating institutions participating in the research project. The CDC IRB will review and approve the protocol initially and on at least an annual basis until the research project is completed.

E. Application Content

The application may not exceed 30 double-spaced pages in length, excluding appendices (The appendices are the appropriate location for intervention protocols, references, and memoranda of agreement documenting collaboration with other agencies). Provide a one-page abstract of the proposal. Number all pages clearly and sequentially and include a complete index to the application and its appendices. Submit the original and each copy of the application UNSTAPLED and UNBOUND. Print all material, double spaced, in a 12-point or larger font on 8½″ by 11″ paper, with at least 1″ margins and printed on one side only.

Use the following outline.

1. Ability To Recruit HIV-Seropositive Men

a. Describe methods previously used to recruit community-based research samples of HIV seropositive men who have sex with men;

b. Describe the differential success of various recruitment strategies;

c. Describe the ethnic/racial background of participants in the research sample(s).

2. Formative Research With HIV-Seropositive Men

a. Describe methods used to collect qualitative and quantitative formative data regarding the HIV transmission risk and its determinants among HIV-seropositive men who have sex with men;

b. Summarize findings from the formative research phase, highlighting those with special relevance for the design of HIV prevention efforts;

c. Attach copies of all abstracts, presentations, and manuscripts that describe findings from the formative research phase;

d. Discuss ways in which HIV-seropositive men and their advocates or service providers were involved in the formative research phase.

3. Intervention Research Plan

a. Describe the hypotheses and outcomes that will be addressed as part of the intervention trial;

b. Describe the characteristics of HIV-seropositive men who have sex with men in the proposed study population and define the specific subgroups of HIV-seropositive men that will be the primary focus of the proposed research. Using available data, provide a rationale for any focus on specific population subgroups. Document ability to recruit sufficient numbers of men from the proposed target population;

c. Describe the research design and methods that will be employed in the intervention trial. Include information about randomization procedures, statistical power to detect hypothesized differences, primary (behavioral and biological) and secondary (relevant mediating variables) outcome measures, the reliability and validity of measures that will be used, and procedures for maximizing external and internal validity (e.g., sampling strategies and retention procedures, respectively);

d. Provide a detailed description of all intervention and comparison conditions that are proposed for the trial and give a rationale for each. Clearly specify the way in which proposed intervention activities are based on findings from the formative research and behavioral theory (include the intervention curriculum in the Appendix;

e. Describe procedures for involving the target population and their advocates or service providers in the design of research and intervention activities;

(1) State whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with communities and recognition of mutual benefits will be documented.

(2) Describe the proposed plan for the inclusion of racial and ethnic minority populations for appropriate representation.

f. Describe procedures for obtaining informed consent and maintaining participant confidentiality and;

g. Describe plans to develop specific documents necessary to replicate the intervention and to disseminate study findings to community and scientific audiences.

4. Research and Intervention Capability

a. Describe the research team and organizational setting;

b. Describe the professional training and relevant research experience of all staff;

c. Include in the appendix, memoranda of agreement that clearly and specifically document activities to be performed by any external experts, consultants, or collaborating agencies under the cooperative agreement.

5. Staffing, Facilities, And Time Line

a. Explain the proposed staffing, percentage of time each staff member commits to this and other projects, and division of duties and responsibilities for the project;

b. Describe support activities such as project oversight or data management that will contribute to the completion of all research activities;

c. Describe existing facilities, equipment, computer software, and data processing capacity;

d. Describe the procedures to ensure the security of research data and;

e. Provide a time line for the completion of the proposed research.

6. Budget

Provide a detailed, line-item budget for the project and a budget narrative that justifies each line-item.

F. Submission and Deadline

Submit the original and five copies of PHS–398 (OMB Number 0925–0001) (adhere to the instructions on the Errata Instruction Sheet for PHS 398). Forms are in the application kit.

On or before August 24, 1998, submit the application to: Julia Valentine, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 98097, Centers for Disease Control and Prevention (CDC), Room 300, 255 East Paces Ferry Road, NE, M/S E15, Atlanta, Georgia 30305–2209.

If your application does not arrive in time for submission to the independent review group, it will not be considered in the current competition unless you can provide proof that you mailed it on or before the deadline (i.e., receipt from U.S. Postal Service or a commercial carrier; private metered postmarks are not acceptable).

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Ability To Recruit HIV-Seropositive Men Who Have Sex With Men (20 points)

a. Quality and diversity of methods used to recruit community-based sample(s) of HIV-seropositive men who have sex with men;

b. Ability of applicant to provide data regarding the relative effectiveness of various strategies to recruit community-based samples of HIV-seropositive men who have sex with men;

c. Documented ability to recruit a research sample of HIV-seropositive men who have sex with men in which the majority of participants are men of color.

2. Familiarity With And Access to HIV-Seropositive Men (35 points)

a. Quality of the description of methods used to collect qualitative and quantitative data during formative research phase, including the documented ability to recruit adequate numbers of study participants;

b. Extent to which findings from the applicant's formative research demonstrates an in-depth understanding of the formative data regarding the HIV transmission risk, factors influencing risk taking behaviors, as well as the intervention and service needs of the proposed study population;

c. Extent to which the applicant has disseminated formative research findings regarding HIV-seropositive men who have sex with men to appropriate scientific and community audiences;

d. Quality and depth of the strategies used to involve and solicit input from a diverse group of HIV-seropositive men, their advocates, or service providers.

3. Intervention Research Plan (30 points)

a. Appropriateness of the proposed research hypotheses and intervention outcome measures;

b. Suitability of the proposed intervention subgroups and documented ability to recruit sufficient numbers of men who have sex with men from the proposed study population;

c. Quality and scientific rigor of the research design and methods that will be employed in the intervention trial;

d. Quality of the rationale and curricula for the intervention and comparison conditions, including the extent to which the proposed intervention activities are based on findings from the formative research and behavioral theory;

e. Extent to which the target population, their advocates, or service providers will be involved in the design of research and intervention activities;

f. Adequacy of procedures for obtaining informed consent and maintaining participant confidentiality and;

g. Quality of plans to develop appropriate materials for intervention replication and to disseminate study findings to community and scientific audiences.

4. Research and Intervention Capability (5 points)

a. Applicant's ability to carry out the proposed research as demonstrated by the training and experience of the proposed research team and organizational setting;

b. Ability of the applicant to conduct the proposed research as reflected in the training, research, and behavioral intervention experience of staff members and;

c. Extent to which services to be provided by external experts, consultants, or collaborating agencies are documented by memoranda of agreement in the appendix.

5. Staffing, Facilities, And Time Line (5 points)

a. Availability of qualified and experienced personnel with sufficient time dedicated to the proposed project. Presence of behavioral scientists in key leadership positions on the project;

b. Clarity of the described duties and responsibilities of project personnel;

c. Adequacy of the facilities, equipment, data management resources, and systems for ensuring data security and;

d. Specificity and reasonableness of time line.

6. The Degree to Which the Applicant Has Met the CDC Policy Requirements Regarding the Inclusion of Ethnic and Racial Groups in the Proposed Research (5 points)

This includes:

a. The proposed plan for the inclusion of racial and ethnic minority populations for appropriate representation;

b. The proposed justification when representation is limited or absent;

c. A statement as to whether the design of the study is adequate to measure differences when warranted;

d. A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with communities and recognition of mutual benefits.

7. Does the Application Adequately Address the Requirements of Title 45 CFR Part 46 For The Protection of Human Subjects?

____ YES ____ No

Comments: __________

8. Budget (not scored)

Extent to which the budget is reasonable, itemized, clearly justified, and consistent with the intended use of funds.

H. Other Requirements

1. Technical Reporting Requirements

Provide CDC with original plus two copies of

a. Semi-annual progress reports, no more than 30 days after the end of each reporting period. The progress reports must include the following for each program, function, or activity involved:

(1) A comparison of accomplishments of the goals established for the period;

(2) Reasons that any goals were not met and;

(3) A description of steps taken to overcome barriers to the goals for the period.

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2. Financial status report, no more than 90 days after the end of the budget period; and

3. Final financial and performance reports, no more than 90 days after the end of the project period.

Send all reports to: Julia Valentine, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), Room 300, 255 East Paces Ferry Road, NE, M/S E–15, Atlanta, GA 30305–2209.

4. The following additional requirements are applicable to this program. For a complete description of each, see Attachments.

AR98–1	Human Subjects Requirements
AR98–2	Requirements for Inclusion of Racial and Ethnic Minorities in Research
AR98–4	HIV/AIDS Confidentiality Provisions
AR98–5	HIV Program Review Panel Requirements
AR98–9	Paperwork Reduction Act Requirements
AR98–10	Smoke-Free Workplace Requirements
AR98–11	Healthy People 2000
AR98–12	Lobbying Restrictions

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under Section 301 and 317(k)(2), of the Public Health Service Act (42 U.S.C. 241 and 247b(k)(2)) as amended. The Catalog of Federal Domestic Assistance number is 93.941.

J. Where to Obtain Additional Information

To receive additional written information and to request an application kit, call 1–888–GRANTS4 (1–888–472–6874). You will be asked to leave your name and address and will be instructed to identify the Announcement number of interest.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Julia Valentine, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE, Room 300, Mailstop E–15, Atlanta, GA 30305, telephone: (404) 842–6871; Email *JXV1@CDC.GOV*.

Programmatic technical assistance may be obtained from: Robert Kohmescher Division of HIV/AIDS Prevention, National Center for HIV/STD/TB Prevention, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE, Mailstop E–44, Atlanta, GA 30333, telephone (404) 639–8302 Email *RNK1@CDC.GOV*.

This announcement will be available on CDC's home page at http://www.cdc.gov.

John L. Williams,

Director, Procurement and Grants Office.

[FR Doc. 98–18200 Filed 7–8–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Announcement 98081]

Notice of Availability of Fiscal Year 1998 Funds National Diabetes Prevention Center

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1998 funds for a cooperative agreement program for a National Diabetes Prevention Center whose functions will be to provide guidance and technical support regarding diabetes mellitus (DM) in Native American communities throughout the United States. Initial activities will target the challenges of DM in the Navajo Nation and the Zuni Pueblo tribe in the southwestern United States. If, and as additional funds become available, it is CDC's intent to expand this program to other Native American populations through collaboration with other federal agencies, such as, Indian Health Service (IHS). This program addresses the "Healthy People 2000" priority area(s) of Diabetes and Chronic Disabling Conditions. Native American populations have a high incidence and prevalence of diabetes and diabetes complications. The purpose of this initiative is to establish a National Diabetes Prevention Center in Gallup, New Mexico, that will serve as a focal point for developing and testing new prevention and control strategies to address the burden of diabetes in Native Americans. Components of the center will include, but are not limited to, systematic community needs assessment, design, and development of coherent, theory-based community programs, implementation of community interventions, and focused interventional research, surveillance, program evaluation, health professional and community training, and tribal capacity building activities for diabetes prevention and control. The goal is to develop, evaluate and disseminate culturally relevant community based public health prevention strategies for Native Americans. It is envisioned that documented experiences, qualitative, and quantitative research findings, strategies, and benefits from all center activities including initial targeted programs, will ultimately be applicable to other Indian tribes and similar populations. All these activities will require established experiences in qualitative and quantitative assessment, creative theory-based program development, systematic program evaluation, and management and supervisory activities. Cooperative partnerships will be important in center activities.

B. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and governments and their agencies. Thus, universities, colleges, research institutions, hospitals, other public and private organizations, including State and local governments or their bona fide agents, federally recognized Indian tribal governments, Indian tribes or Indian tribal organizations may apply.

Congress, through the Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Act, H.R. 2264, 1998 Conference Report, page S–12088 directed CDC to establish a National Diabetes Prevention Center in Gallup, New Mexico, with initial activities involving and targeting the Navajo Nation and Zuni Pueblo tribe in the southwest U.S.

Note: Public Law 104–65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $2.3 million is available in FY 1998 to fund this program. It is expected that this one award will begin on or about September 30, 1998, and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Direct Assistance

Applicants may request Federal personnel, equipment, or supplies as direct assistance, in lieu of a portion of financial assistance.

Use of Funds

Allowable Uses

Funds are awarded for a specifically defined purpose and must be targeted for implementation and management of the program. Funds can support lease of space and facilities, personnel, services directly related to the program, and the purchase of hardware and software for data collection, analysis, and project management and evaluation purposes.

Prohibited Uses

Cooperative agreement funds cannot be used for (1) construction, (2) renovation, (3) the purchase or lease of passenger vehicles or vans, (4) to supplant non-Federal funds that would otherwise be made available for this purpose, or (5) cost of regular clinical patient care.

D. Program Requirements

Work performed under this cooperative agreement will be the result of collaborative efforts between CDC, IHS, Native American populations, and the recipient. The establishment of a National Diabetes Prevention Center, with initial focus on the Navajo Nation and Zuni Pueblo tribe, is the overall major program direction. CDC will be available to provide assistance in the design and implementation of research methods and study design. As additional funds become available, it is CDC's intent to expand the Center's activities to address this program to other Native American populations with their own special and distinct needs for the challenges of DM. CDC will work collaboratively with the recipient in areas mutually agreed upon by IHS, the recipient, and tribal leadership.

In conducting activities to achieve the purpose of this program, the recipient shall be responsible for the activities described under 1., below, and CDC shall be responsible for carrying out the activities described under 2., below.

1. Recipient Activities

a. Establish and maintain an effective and adequate management and staffing plan. This plan should include a description of how the center will be established, organized and operated. Additionally, this plan should address expansion in future years to focus on unique needs related to DM among other tribes and target populations, including how decisions will be made regarding future tribes or populations. The success of the program will depend on recruiting and hiring staff in a timely manner. Staff should have the education, background, and experience to successfully conduct the activities proposed in this application.

b. Select, establish and maintain a Tribal Advisory Board of tribal members initially including members of the Navajo Nation, Zuni Pueblo tribe, and other tribes. The board will provide consultation, coordination, and linkage between the Native American communities and the recipient and participate in program and policy decisions.

c. Establish a Steering Committee which shall be the primary scientific governing body of the center and comprised of the Principal Investigator of the Center, Native American researchers, IHS, and CDC. The Steering Committee will provide advice and guidance concerning the continued evolution of the National Center, as well as the initial specific activities addressing the important needs of DM in Navajo Nation and Zuni Pueblo tribe, as well as development of research protocols, facilitating the conduct and monitoring of intervention studies, and reporting study results. The Steering Committee chairperson or designee will participate in Tribal Advisory Board meetings, and maintain on-going communication and updates with the Tribal Advisory Board.

d. Recipient will be responsible, with consultation with CDC, IHS, the Tribal Advisory Board, and the Steering Committee for the overall directives, strategies, planning, and functions of the National Center, including implementing research methods and study design, analysis, use of data, and dissemination of results via peer-reviewed scientific publications or other related material.

Recipient will provide lead initiative in protocol development, evaluation, data collection, quality control, data analysis and interpretation, the preparation of publications and presentation of findings. Assess how routinely available data can be used to establish an active surveillance system, and what new data will be needed. Undertake a pilot project to demonstrate how available data can be effectively used to identify priorities and to effect change. Establish an information clearinghouse that will assemble and disseminate information on health status, effectiveness and cost-effectiveness of interventions. Develop a formative evaluation plan for tribal and community relations, and the management and overall operations of the center.

e. Develop a multi-year, staged plan for community interventions and focused intervention research, targeting the members of the Navajo Nation and Zuni Pueblo tribe. As an initial component of the National Center, the recipient should address tribal relations throughout the project period and propose strategies and interventions that enhance tribal capacity to conduct proposed public health interventions. This plan should minimally include diabetes prevention interventions research in the following areas: Diabetes Care Interventions, Outreach Interventions, and Health Promotion Interventions. The plan should also address ways to protect human subjects involved in research activities including coordination with local institutional review boards and tribal councils.

1. Interventions research focused on Diabetes Care: These public health interventions are directed at persons with diabetes, their health care providers, and the health care system providing services to members of the Zuni Pueblo tribe and Navajo Nation. The goal is to increase access to and the quality of care provided to persons with diabetes. Research projects could examine methods of improving self-care practices related to diabetes management, appropriate care for children with diabetes or at high risk for diabetes, office practices and systems to more effectively accommodate the health care needs of persons with diabetes while being sensitive to the demands on providers and office staff, etc. The center will not engage in the direct delivery of services, but will work with the existing health care system to conduct public health research and programs. Important outcomes of diabetes care interventions are enhanced provider practices and facilitation of appropriate diabetes practice behaviors, development of patient empowerment programs, identification of barriers to care among under served populations, and coordination of existing services to better serve persons with diabetes.

2. Interventions research focused on Outreach: These interventions support targeted community diabetes screening directed at persons at high risk for diabetes who have not been previously diagnosed; and ensure that persons with previously diagnosed diabetes who may not be receiving regular care return to the health care system for monitoring and treatment and prevention services. Projects could examine screening children for type 2 diabetes, strategies for insuring that persons return for regular preventive services, etc. An important outcome of the Outreach Intervention(s) is improved, early access to diabetes care and the resulting reduction of preventable diabetic complications.

3. Interventions research focused on Health Promotion: These interventions are directed to the general population and seek to reduce risk factors associated with the development of diabetes, specifically by increasing physical activity and decreasing dietary fat intake. Research projects should be focused and targeted, e.g., examine interventions focusing on promoting lifestyle for prevention of diabetes among persons and children with risk factors, environmental and

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policy changes that will facilitate prevention of diabetes among persons with risk factors for the disease, etc. Health promotion interventions should be prioritized and target sub-populations for which the potential for impact is greatest.

Interventions must reflect an approach that addresses units of practice beyond the individual and beyond clinical care and services, and links the social, policy, and ecological/environmental variables that must be changed if a reduction in the burden of diabetes is to be achieved in this population. This plan will reflect information contained in the following:

a. Qualitative and quantitative assessment of community capacity to adopt, implement and sustain diabetes prevention and control interventions.

b. Community resource analysis and identification of community institutions, services, and organizations that can assist in achieving the center research goals for members of the Navajo Nation and Zuni Pueblo tribes.

c. Strategies and success markers to insure community and researcher consensus related to all activities of the Prevention Center.

d. Design relevant training opportunities for tribal members and researchers and others with key developmental and research duties.

e. A review of published and unpublished diabetes public health prevention interventions relevant to diabetes prevention and control in Native American populations.

f. Development of a science based and theory driven menu of interventions appropriate for members of the Navajo Nation and Zuni Pueblo tribe on review of interventions above. Strategies involving health promotion interventions should focus on populations with the greatest potential for impact, i.e. children.

g. Detailed focus group evaluations to review and respond to the menu of interventions above. This evaluation will consist of several focus groups, including all segments of society—formal and informal tribal leaders, industry leaders, tribal and Federal Government agencies, restaurants, schools, children, persons with diabetes and their families, local celebrities, churches, social clubs and organizations, health professionals, etc. Focus groups and expert panels should include tribal members, health service providers, experts in diabetes and community interventions research, and others.

h. Expert panel revision and prioritization of interventions based on focus group evaluations, evidence of effectiveness, cost-effectiveness, and sustainability.

i. Appropriate strategies to protect persons who will participate in center projects.

f. Establish mechanisms to insure active and meaningful participation of targeted communities in all phases of program assessment, development, implementation, and evaluation through appropriate Native American agencies and community institutions that have demonstrated the experience, capacity, and relationships needed with the target community which will enable them to successfully deliver intervention activities in the target community, for example, sub-contracts, grants, etc.

2. Centers for Disease Control and Prevention (CDC) Activities

a. Support and/or stimulate the recipient activities by collaborating and providing scientific and public health consultation and assistance in the development of National Center activities related to the cooperative agreement.

b. Assign CDC staff persons onsite to provide technical assistance to the center, including programs addressing the national challenges of DM in Native American communities as well as the initial targeted public health program with the Navajo Nation and Zuni Pueblo tribe.

c. Collaborate in protocol development, review for human subjects protection, evaluation, data collection, quality control, data analysis and interpretation, the preparation of publications and presentation of findings.

E. Application Content

Applicant should use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. The application will be evaluated on the criteria listed, so it is important to follow them in laying out the program plan. The narrative should be no more than 50 double-spaced pages, printed on one side, with one inch margins, and unreduced font. The application should contain:

1. Statement of Competence

a. Document evidence of existing experience, capabilities, expertise, etc., in areas of effective community needs assessment, theory-based public health programs, and effective strategy development; cooperative program implementation; and core public health program evaluation. Indicate evidence of formal presentation, publication and dissemination of important results and observations. Evidence of experience and formal training in community needs assessment; development of theory-based public health prevention programs; implementation of program activities; and qualitative and quantitative evaluations must be included. Documentation of experience and inclusion in the application of effective partnership development and utilization throughout all phases of the project must be explicit.

b. Clearly describe plans for establishing a National Center for public health prevention strategies targeting DM in Native American communities. Indicate sequential steps and strategies to establish a National Center; processes to insure broad collaboration and coordination among many potential partners, including, but not limited to, tribal nations, CDC and IHS; plans to systematically expand Center components to other Native American target-communities; strategies to evaluate effectiveness of a National Center, both as a leader in, and respondent to, the challenges of DM in Native American communities throughout the U.S.

c. As an initial activity of the center, describe proposed public health intervention methods targeting the Navajo Nation and Zuni Pueblo tribe. Provide a list or examples of publications, papers, and journals, and describe research or intervention activities previously conducted with the Navajo Nation and Zuni Pueblo tribe. Provide a narrative which demonstrates an understanding of the purpose of the cooperative agreement and the applicant's competence in working with these initial target populations within the context of the National Center; description of applicant's linkages, and relationships with Native American nations in general and specifically in the southwestern U.S.; experience in diabetes, applied prevention and community-based strategies; plans to engage investigators who have direct experience in establishing, working with, and/or researching diabetes related topics and community based interventions, and with a corresponding record of substantial publication in peer-reviewed scientific literature; and type of academic entity. Describe the education, professional background, and relevant experience of the principal investigator; as well as other essential investigators and consultants.

2. Objectives

Establish and submit long- and short-term objectives that are specific, measurable, time phased, realistic, and related to the purpose of this program—

a National Center and an initial public health community prevention strategy with the Navajo Nation and Zuni Pueblo tribe.

3. Operational Plan

Submit a plan that addresses the stated needs and purpose of the cooperative agreement. The plan should identify the major components of the program to include:

a. strategies/plans for protecting human subjects, and the inclusion of women, racial, and racial groups in the proposed research,

b. time table which displays the accomplishment of proposed activities, how activities will be accomplished, and who will be responsible for accomplishments,

c. methodology for selecting members of the Tribal Advisory Board and the nature and extent of the Board's activities,

d. names of individuals and/or organizations that will be proposed to serve on the Tribal Advisory Board, curriculum vitae/community service profiles, and letters of support, cooperation and partnership, including evidence of a plan to insure rotating participation on the Advisory Board,

e. methodology for assessing and building community capacity,

f. methodology for recruiting and remunerating focus group participants,

g. methodology for determining menu of theory-based public health strategies to reduce the burden of DM,

h. methodology for developing multi-year, staged plan for a National Center that would provide guidance and technical assistance to Native American communities throughout the U.S.,

i. methodology for the implementation of intervention strategies by appropriate organizations, agencies, individuals, and others who will assist in the delivery of intervention activity including competitive solicitation, for example, sub-contracts, grants, etc.,

j. methodology for developing the training component for the center,

k. methodology for establishing a surveillance system, and

l. methodology for establishing an information clearinghouse,

m. methodology for developing the multi-year, staged plan for community interventions and focused intervention research targeting members of the Navajo Nation and Zuni Pueblo tribe.

4. Partnership Development

Written indicators of cooperation and partnerships with individuals and/or organizations should be provided. Provide plans for consensus building, role clarification between partners, communications, collaboration and conflict resolution.

5. Center Management

Provide position descriptions and curricula vitae for center staff, including required knowledge, skills, and abilities and other desired qualifications and experience. Include an organization chart outlining line and staff authority. Provide problem-solving methods and program negotiation strategies intended to insure effective collaboration with tribes, CDC, IHS, Tribal Advisory Board, and Steering Committee. Provide plans for communication and coordination among all partners.

6. Evaluation Plan

Provide a plan to monitor progress and make intermediate corrections in the establishment and overall operations of the Diabetes Prevention Center. The plan should also address how the evaluation plan for intervention activities will be developed. Describe the qualifications of professionals (staff, contractors, etc.) responsible for evaluation. Qualitative and quantitative general assessment plans for the National Center should be included, as well as more specific evaluation plans for initial activities with the Navajo Nation and Zuni Pueblo tribe.

7. Budget

Submit a detailed budget and line item justification that is consistent with the purpose of the program.

Direct Assistance

To request new direct-assistance assignees, include:

1. Number of assignees requested
2. Description of the position and proposed duties

F. Submission and Deadline

Application

Submit the original and five copies of PHS–398 (OMB Number 0925–0001) (adhere to the instructions on the Errata Instruction Sheet for PHS 398). Forms are in the application kit. On or before August 7, 1998, submit the application to: Sharron P. Orum, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Announcement 98081, Centers for Disease Control and Prevention, Room 300, 255 East Paces Ferry Road, NE., Mail stop E–18, Atlanta, Georgia 30305–2209.

If application does not arrive in time for submission to the independent review group, it will not be considered in the current competition unless the applicant can provide proof that application was mailed on or before the deadline (i.e., receipt from U.S. Postal Service or a commercial carrier; private metered postmarks are not acceptable).

G. Evaluation Criteria (100 Points)

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

Competence (35 points): The degree to which the applicant demonstrates:

1. Demonstrated existing ability to carry out high quality research which addresses diabetes care, outreach and health promotion; as well as the necessary linkage among these three public health components. Specifically, the extent in which proposed research is focused on preventing or delaying development of disease, as well as public health approaches to secondary and tertiary prevention of complications of an already established disease will be carefully reviewed. In addition, strength of the applicant's experience and competence in diabetes and community-based intervention research for Native Americans. Also, clear evidence of an organizational commitment to scientific research as evidenced by: organizational statement that explicitly includes a research agenda, evidence of scientific productivity by the organization's researchers via published papers in peer reviewed journals, examples of recent scientific research projects conducted by the applicant, and the proportion of the organization's overall operating budget that is devoted to research.
2. Qualifications of the center director, and essential senior investigators.
3. Understanding of the purpose of the proposed program and its demonstrated ability to feasibly establish a National Center which will address strategies for reducing the burden of DM throughout Native American communities, as well as the specific, initial focus on the Navajo Nation and Zuni Pueblo tribe.

Objectives (10 points): The degree to which the proposed objectives are specific, time phased, and measurable and are consistent with the purpose of the announcement.

Operational Plan (20 points): The extent to which the operational plan appears adequate and appropriate to carry out both the development and management of the National Center, as well as the proposed community interventions, focused intervention research, and surveillance activities with the Navajo Nation and Zuni Pueblo tribe, to include a time line which identifies activities accomplished, how, and who is assigned responsibility.

Partnership Development (10 points): The degree to which the plan addresses consensus building, role clarification, communications and conflict resolution.

Center Management (10 points): The degree to which the organizational

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structure and staffing of the center appears sound and the feasibility of expansion plans to address other unique needs within Native American communities and special target populations. The degree to which expert consultants are engaged in achieving the objectives of the center.

Evaluation Plan (10 points): The quality of the proposed methods for evaluating all activities related to the program, including formative, process and impact evaluation.

Human Subjects (Not Weighted): Consistent with the requirements of the federal regulations on protection of human subjects in research (45 CFR Part 46), does the proposal provide an explanation of how research activities will be reviewed so that human subjects will be protected? Do any proposed research activities seem contrary to ethical research practice?

_____ Yes
_____ No
Comments_______________

Women, Racial, and Ethnic Minorities (5 points): The degree to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes:

1. The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation.
2. The proposed justification when representation is limited or absent.
3. A statement as to whether the design of the study is adequate to measure differences when warranted.
4. A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits.

Budget (Not Weighted): The extent to which the budget is reasonable and consistent with the purpose and objective of the program announcement.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with an original plus two copies of:

1. quarterly progress reports
2. financial status report, no more than 90 days after the end of the budget period.
3. final financial and performance reports, no more than 90 days after the end of the project period.

Send all reports to: Sharron P. Orum, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, Room 300, 255 East Paces Ferry Road, NE., MS E18, Atlanta, GA 30305–2209.

The following additional requirements are applicable to this program and are incorporated herein by reference. For a complete description of each, see Attachment 1 in the application kit.

AR98–1 Human Subjects Requirements
AR98–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR98–7 Executive Order 12372 Review
AR98–8 Public Health System Reporting Requirements
AR98–9 Paperwork Reduction Act Requirements
AR98–10 Smoke-Free Workplace Requirements
AR98–11 Healthy People 2000
AR98–12 Lobbying Restrictions
AR98–15 Proof of Non-Profit Status

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under the Public Health Service Act, Sections 317(k)(2) [42 U.S.C. 247b(k)(2)] and 301(a) [42 U.S.C. 241(a)], as amended. The Catalog of Federal Domestic Assistance number is 93.135.

J. Where to Obtain Additional Information

Please refer to Program Announcement 98081 when you request information. For a complete program description, information on application procedures, an application package, and business management technical assistance, contact: Sharron P. Orum, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Announcement 98081, Centers for Disease Control and Prevention, Room 300, 255 East Paces Ferry Road, NE., Mailstop E–18, Atlanta, GA 30305–2209, telephone (404) 842–6805, Email address spo2@cdc.gov.

See also the CDC home page on the Internet: http://www.cdc.gov.

For program technical assistance, contact: Mr. Bud Bowen, Program Director, Division of Diabetes Translation, Centers for Disease Control and Prevention, 4770 Buford Hwy, NE., Mailstop K–10, Atlanta, GA 30341–3724, telephone (770) 488–5013, Email address, gob0@cdc.gov.

Dated: July 2, 1998.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–18201 Filed 7–8–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Request for Topic Specific Comments on the Revision of the Vessel Sanitation Program's Operations Manual (1989)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of request for comments.

SUMMARY: This notice solicits topic specific information for consideration in revision of the Vessel Sanitation Program's (VSP) operations manual. The document was last revised in August 1989. Input from the cruise line industry and other interested parties is critical to this document. Comments and information provided will be used to draft a revised and expanded Operations Manual to reflect CDC's, the industry's, and others current knowledge. The specific topical areas for the revised manual are:

- Food Safety.
- Water Sanitation.
- Disease Surveillance.
- Childcare Sanitation.
- Housekeeping Sanitation.
- Pools, Spas, & Recreational Areas.
- Self-Inspection and Microbiological Monitoring.
- Indoor Air Quality.
- Toxic Substances.
- Waste Management.
- Integrated Pest Management.
- Administrative Guidelines.

DATES: To be considered in the manual revision process, written comments and additional information must be received by September 8, 1998.

ADDRESSES: Requests for copies of the current Operations Manual must be made by calling (770) 488–3141. Written comments on the existing document, or suggested changes or additions for a revised document should be sent by mail or facsimile to: Daniel Harper, Chief, VSP, Mailstop F16, 4770 Buford Highway, NE., Atlanta, GA, 30341–3724, facsimile (770) 488-4127, or e-mail DMH2@CDC.GOV

SUPPLEMENTARY INFORMATION:

The Vessel Sanitation Program (VSP) is a cooperative activity between the cruise ship industry and the Centers for Disease Control and Prevention (CDC), Public Health Service, U.S. Department of Health and Human Services. This program is authorized by the Public Health Service Act Sections 361–369 [42 U.S.C. 264–272], and implementing regulations found at 42 CFR Part 71. The purpose and goals of the VSP are to achieve and maintain a level of sanitation that will lower the risk for gastrointestinal and other disease outbreaks and assist the passenger line industry in its effort to provide a healthful environment for passengers and crew.

Comments and suggestions for revision of the manual must include appropriate text specific documentation and/or references providing the scientific support for any suggested change or addition to the current operations manual. The VSP will evaluate all comments and suggestions received and will draft a revised operations manual for discussion and review by interested parties and the public. The draft document will be circulated to the industry and others, and VSP will hold a public meeting in October or November, 1998, to allow discussion of the draft manual. The final draft of a revised operations manual is planned for January 1, 1999.

Dated: July 2, 1998.

Joseph R. Carter,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–18197 Filed 7–8–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–142]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

In Compliance with the Requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* ICR's contained in BPD–339, Examination and Treatment for Emergency Medical Conditions and Women in Labor, 42 CFR 488.18, 489.20, and 489.24; *Form No.:* HCFA–R–142, OMB # 0938–0667; *Use:* The information collection requirements contained in BPD–393, Examination and Treatment for Emergency Medical Conditions and Women in Labor contains requirements for hospitals to prevent them from inappropriately transferring individuals with emergency medical conditions, as mandated by Congress. HCFA will use this information to help assure compliance with this mandate and protect the public. This information is not contained elsewhere in regulations; *Frequency:* On occasion; *Affected Public:* Business or other for-profit, Individuals or Households, not-for-profit institutions, Federal Government, and State, Local or Tribal Government; *Number of Respondents:* 7,000; *Total Annual Responses:* 7,000; *Total Annual Hours:* 1.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: July 1, 1998.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA, Office of Information Services, Information Technology Investment Management Group, Division of HCFA Enterprise Standards.

[FR Doc. 98–18258 Filed 7–8–98; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–576]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Health Care Financing Administration, HHS. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Reinstatement, without change, of a previously approved collection for which approval has expired; *Title of Information Collection:* Organ Procurement Organization (OPO) Request for Designation and Supporting Regulations in 42 CFR 486.301–486.325; *Form No.:* HCFA–576 (OMB# 0938–0512); *Use:* The information provided on this form serves as a basis for certifying OPOs for participation in the Medicare and Medicaid programs and will indicate whether the OPO is meeting the specified performance standards for reimbursement of service. Additionally, the form is used for inputting minimal information into the Online Survey Certification Reporting (OSCAR) System.; *Frequency:* Annually; *Affected Public:* Business or other for-profit, and Not-for-profit institutions; *Number of Respondents:* 69; *Total Annual Responses:* 69; *Total Annual Hours:* 138.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

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Dated: July 1, 1998.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 98–18266 Filed 7–8–98; 8:45 am]

BILLING CODE 4120-03-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Extension of Public Comment Period on a Permit Application and an Environmental Assessment for Issuance of Permits to Allow Incidental Take of Endangered Species for Obyan Beach Resort Associates, Saipan, Commonwealth of the Northern Mariana Islands and the Commonwealth of the Northern Mariana Islands Department of Lands and Natural Resources

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of extension.

SUMMARY: This notice announces the extension of the public comment period on the above named permit application and Environmental Assessment for the proposed incidental take of listed species pursuant to the Endangered Species Act of 1973, as amended. In response to requests for a time extension, the original public comment period that closed June 23, 1998 (63 FR 31226), is reopened until July 24, 1998, to allow adequate time for review and response by the public.

DATES: Written comments on the permit application, Habitat Conservation Plan, Environmental Assessment, Implementation Agreement, and the Saipan Upland Mitigation Bank Agreement should be received on or before July 24, 1998.

ADDRESSES: Comments should be addressed to Mr. Brooks Harper, Field Supervisor, Fish and Wildlife Service, P.O. Box 50088, Honolulu, Hawaii 96850. Comments also may be sent by facsimile to telephone (808) 541–3470.

FOR FURTHER INFORMATION CONTACT: Mr. Brooks Harper or Ms. Gina Shultz, Pacific Islands Fish and Wildlife Office, telephone (808) 541–3441.

SUPPLEMENTARY INFORMATION: This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended, and National Environmental Policy Act regulations (40 CFR 1506.6). All comments received will become part of the public record and may be released.

Dated: July 2, 1998.

Thomas Dwyer,

Acting Regional Director, Region 1, Portland, Oregon.

[FR Doc. 98–18194 Filed 7–8–98; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

North American Wetlands Conservation Council; Meeting Announcement

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The North American Wetlands Conservation Council (Council) will meet July 8, 1998 to review proposals for funding submitted pursuant to the North American Wetlands Conservation Act. Upon completion of the Council's review, proposals will be submitted to the Migratory Bird Conservation Commission with recommendations for funding. The meeting is open to the public.

DATES: July 8, 1998, Kingston, Ontario, Canada—10:00 A.M.

ADDRESSES: The meeting will be held at the Holiday Inn Kingston Waterfront, located at 1 Princess Street, Kingston, Ontario, Canada. The North American Wetlands Conservation Council Coordinator is located at U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Suite 110, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: David A. Smith, Coordinator, North American Wetlands Conservation Council, (703) 358–1784.

SUPPLEMENTARY INFORMATION: In accordance with the North American Wetlands Conservation Act (Pub. L. 101–233, 103 Stat. 1968, December 13, 1989, as amended), the North American Wetlands Conservation Council is a Federal-State-private body which meets to consider wetland acquisition, restoration, enhancement and management projects for recommendation to and final approval by the Migratory Bird Conservation Commission. Proposals from State, Federal, and private sponsors require a minimum of 50 percent non-Federal matching funds.

Dated: July 2, 1998.

John G. Rogers,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 98–18288 Filed 7–8–98; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Geological Survey

Request for Public Comments on Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

A request revising and extending the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days; therefore, public comments should be submitted to OMB within 30 days in order to assure their maximum consideration. Comments and suggestions on the requirement should be made directly to the Desk Officer for the Interior Department, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 and to the Bureau Clearance Officer, U.S. Geological Survey, 807 National Center, Reston, VA 20192. As required by OMB regulations at 5 CFR 1320.8(d)(1), the U.S. Geological Survey solicits specific public comments regarding the proposed information collection as to:

1. whether the collection of information is necessary for the proper performance of the functions of the Bureau, including whether the information will have practical utility;
2. the accuracy of the Bureau's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
3. the utility, quality, and clarity of the information to be collected; and,
4. how to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology.

Title: Ferrous Metals Surveys.

Current OMB approval number: 1032–0006.

Abstract: Respondents supply the U.S. Geological Survey with domestic production and consumption data on ferrous and related metals. This information will be published as monthly and annual reports for use by Government agencies, industry, and the general public.

Bureau form numbers: Various (18 forms).

Frequency: Monthly and Annual.

Description of respondents: Producers and consumers of ferrous and related metals.

Annual Responses: 3,560.

Annual burden hours: 1,997.

Bureau clearance officer: John E. Cordyack, Jr., 703–648–7313.

John H. DeYoung, Jr.,

Chief Scientist, Minerals Information Team.

[FR Doc. 98–18195 Filed 7–8–98; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–050–1990–00]

Closure of Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Closure of public lands Saguache County, CO.

SUMMARY: Notice is hereby given that effective July 6, 1998 that certain public lands, including all existing roads and trails, in Saguache County are closed to the public. The purpose of this closure is to assure public health and safety by preventing contact with contaminated soils and vegetation in the identified area. This closure is made under the authority of 43 CFR 8364.1. The public lands affected by this emergency closure are specifically identified as follows: Saguache County, Colorado

T. 45N, R. 7E., NMPM

Section 26, S½SW¼SE¼SE¼,
  S½SE¼SW¼SE¼;
Section 35, N½NE¼NW¼NE¼,
  N½NE¼NE¼NE¼.
 20 acres total.

DATES: Effective July 6, 1998 and will remain in effect until July 5, 2000 unless revised, revoked or amended.

ADDRESSES: Bureau of Land Management, Canon City District Office, 3170 East Main Street, Canon City, Colorado 81212; Telephone (719) 269–8500; TDD (719) 269–8597 or Saguache Field Office, P.O Box 67, Saguache, CO 81149. Telephone (719) 655–2547.

FOR FURTHER INFORMATION CONTACT: Tom Goodwin, Saguache Field Office Manager, Saguache Field Office at the above address and phone number.

SUPPLEMENTARY INFORMATION: This closure does not apply to emergency, law enforcement, and federal or other government or contracted personnel and vehicles while being used for official or emergency purposes, or those persons with expressly authorized or otherwise officially approved by BLM. Violation of this order is punishable by fine and/or imprisonment as defined in 18 U.S.C. 3571. A copy of this Federal Register Notice and map showing the closure area is posted in the Canon City District Office and Saguache Field Office and in public places in the affected area.

Donnie R. Sparks,

District Manager.

[FR Doc. 98–18265 Filed 7–8–98; 8:45 am]

BILLING CODE 4310–JB–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–010–1430–00; GP8–0240]

Meeting Notice for South Steens Subcommittee of The Southeast Oregon Resource Advisory Council

AGENCY: Lakeview District, Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The South Steens Subcommittee of the Southeast Oregon Resource Advisory Council meeting that was scheduled for June 25 and 26, 1998, was postponed. The new meeting is scheduled for the Burns District BLM Office on July 30, 1998, at 8 am. Upon meeting, they will proceed to the South Steens allotment for a field trip. They will reconvene on July 31, 1998, at 8 am at the Burns District BLM Office. The purpose of this meeting is to gather information on the proposed projects associated with the Catlow Conservation Agreement.

DATES: July 30, 1998, and July 31, 1998.

FOR FURTHER INFORMATION CONTACT: Sonya Hickman, Bureau of Land Management, Lakeview District, P.O. Box 151, Lakeview, OR 97630, (Telephone 541–947–2177).

Scott R. Florence,

Acting Lakeview District Manager.

[FR Doc. 98–17985 Filed 7–8–98; 8:45 am]

BILLING CODE 4310–84–U

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–350–1020–00]

Notice of Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Northeast California Resource Advisory Council, Susanville, California, Interior.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committees Act (Public Law 92–463) and the Federal Land Policy and Management Act (Public Law 94–579), the U.S. Bureau of Land Management's Northeast California Resource Advisory Council will meet Thursday and Friday, August 13 and 14, 1998 at the Bureau of Land Management's Eagle Lake Field Office, 2950 Riverside Drive, Susanville, CA.

SUPPLEMENTARY INFORMATION: On Thursday, Aug. 13, the council will convene at 9 a.m. at the Eagle Lake Field Office and depart for a field tour of livestock grazing allotments in the BLM Eagle Lake Field Office area of responsibility. Members of the public are invited on the field tour, but they must provide their own transportation in a high-clearance vehicle. On Friday, Aug. 14, the council will convene at 8 a.m. in the conference room of the Eagle Lake Field Office for a business meeting. Agenda items include a recommendation on implementation of recreation user fees, implementation of healthy rangeland standards and guidelines, an update on the northeastern California mule deer project, an update on the proposed Pronghorn Area of Critical Environmental Concern, and a discussion about monitoring. Public comments will be taken at 1 p.m. Depending on the number of persons wishing to speak, a time limit could be established.

FOR ADDITIONAL INFORMATION: Contact Jeff Fontana, public affairs officer, at (530) 257–5381.

Linda D. Hansen,

Eagle Lake Field Manager.

[FR Doc. 98–18198 Filed 7–8–98; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–050–1020–00: GP8–0239]

Notice of Meeting of John Day-Snake Resource Advisory Council

AGENCY: Bureau of Land Management, Prineville District.

ACTION: Meeting of John Day-Snake Resource Advisory Council: Baker City, Oregon; August 13 & 14, 1998.

SUMMARY: A meeting of the John Day-Snake Resource Advisory Council will be held on August 13, 1998 from 8:00 a.m. to 5:00 p.m. at the Forest Service—BLM office, 3165 10th Street, Baker City, Oregon. On August 14, from 7:30 a.m. to 12 noon, the Council will take a field tour of Forest Service and BLM land near Baker City. The meeting is open to the public. Public comments

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will be received at 1:00 p.m. on August 13. The field tour is open to the public, but transportation will not be provided. The August 13 session will include a briefing on Interior Columbia Basin Ecosystem Management project—subbasin review process, future RAC program of work, approval of a subgroup nomination and selection process, Hells Canyon NRA subgroup charter and member approval, briefing on listing of new fish for threatened and endangered within the RAC area, and an update of the John Day River plan subgroup.

FOR FURTHER INFORMATION CONTACT: James L. Hancock, Bureau of Land Management, Prineville District Office, 3050 NE Third Street, P.O. Box 550, Prineville, Oregon 97754, or call 541–416–6700.

Dated: June 30, 1998.

James L. Hancock,

District Manager.

[FR Doc. 98–18259 Filed 7–8–98; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–030–5101–00–G022; NMNM 99276]

Right-of-Way Application; New Mexico

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice.

SUMMARY: This notice is to advise the public that the BLM Las Cruces Field Office, is proposing to issue a right-of-way grant to the Rio Grande Electric Cooperative, Inc., to construct a three phase overhead electrical distribution powerline (24.9 kV [phase-to-phase] and 14.4 kV [phase-to-ground]) from a substation in Dell City, Texas to a proposed pipeline pump station site located approximately 12 miles south of Piñon, New Mexico. The proposed overhead electrical distribution powerline will cross approximately 9 miles of New Mexico private land and 7.6 miles of Texas private land, approximately 10 miles of New Mexico State trust land, and 26. 2 miles of public land. The portion that crosses public land will be approximately 138,336 feet in length by 30 feet wide paralleling existing State Road 506 and County Roads EO28, FO42, and GOO1.

FOR FURTHER INFORMATION CONTACT: Lorraine J. Salas, Realty Specialist at the Bureau of Land Management, Las Cruces Field Office, 1800 Marquess, Las Cruces, New Mexico 88005, (505) 525–4388.

SUPPLEMENTARY INFORMATION: The following described public land have been identified as suitable for this action pursuant to Title V of the Federal Land Policy and Management Act of 1976, (90 Stat. 2776, 43 U.S.C. 1761) and subject to stipulations issued by the BLM.

New Mexico Principal Meridian

T. 22 S., R. 15 E.,
  Section 13, S½NE¼SE¼, NW¼SE¼, SE¼NE¼SW¼, and N½SE¼SW¼.
T. 23 S., R. 15 E.,
  Section 13, NE¼NE¼, SW¼NE¼, S½SE¼NW¼, NW¼NE¼SW¼, and NW¼SW¼;
  Section 14, SE¼SE¼SW¼, SE¼NE¼SE¼, NE¼SW¼SE¼, S½SW¼SE¼, and N½SE¼SE¼;
  Section 23, N½N½NW¼, SW¼SW¼NW¼, and SW¼SE¼SW¼;
  Section 25, SW¼SW¼SW¼;
  Section 26, SW¼NW¼NE¼, W½SW¼NE¼, SE¼SW¼NE¼, N½NE¼NW¼, SW¼NE¼NW¼, NE¼SE¼NW¼, E½SW¼NE¼, SE¼SW¼NE¼, SW¼NE¼SE¼, N½SE¼SE¼, and SE¼SE¼SE¼;
  Section 35, NE¼NE¼.
T. 24 S., R. 15 E.,
  Section 1, Lots 1 and 2, N½SE¼NE¼, and SE¼SE¼NE¼.
T. 22 S., R. 16 E.,
  Section 17, SW¼NW¼SW¼, SW¼SW¼, and SW¼SE¼SW¼;
  Section 18, Lot 3, and N½N½S½;
  Section 20, W½SW¼NE¼, NE¼NW¼, E½SE¼NW¼, NW¼SE¼, E½SW¼SE¼, and SW¼SE¼SE¼;
  Section 28, W½W½SW¼;
  Section 29, E½NE¼, and E½NE¼SE¼;
  Section 33: W½W½NW¼, W½NW¼SW¼, W½SW¼SW¼, and SE¼SW¼SW¼.
T. 23., R. 16 E.,
  Section 4, Lot 4, W½SE¼NW¼, NE¼NE¼SW¼, and SE¼SE¼SW¼;
  Section 7, Lot 4, SE¼SW¼, S½N½SE¼, NW¼SW¼SE¼, and N½SE¼SE¼;
  Section 8, S½NE¼, SE¼NW¼, W½NE¼SW¼, S½NW¼SW¼, and N½SW¼SW¼;
  Section 9, NE¼NW¼, SW¼NW¼, and NW¼SE¼NW¼;
  Section 18, Lot 1.
T. 24 S., R. 16 E.,
  Section 6, Lots 6 and 7, SE¼SW¼;
  Section 17, W½SW¼NW¼, NW¼SW¼, NE¼SW¼SW¼, and W½SE¼SW¼;
  Section 18, NE¼NE¼, and NE¼SE¼NE¼;
  Section 20, SW¼NW¼NE¼, SW¼NE¼, E½NE¼NW¼, SW¼NE¼SE¼, E½NW¼SE¼, W½SE¼SE¼, and SE¼SE¼SE¼;
  Section 28, SW¼NW¼NW¼, SW¼NW¼, W½NE¼SW¼, E½NW¼SW¼, N½SE¼SE¼, and SE¼SE¼SW¼;
  Section 29, NE¼NE¼NE¼;
  Section 33, W½NW¼NE¼, N½SW¼NE¼, SE¼SW¼NE¼, NE¼NE¼NW¼, and E½SE¼;
  Section 34, SW¼SW¼SW¼.
T. 25 S., R. 16 E.,
  Section 3, Lot 4, NE¼SW¼NW¼, W½SE¼NW¼, N½NE¼SW¼, SE¼NE¼SW¼, NE¼SE¼SW¼, and W½SW¼SE¼;
  Section 11, S½NW¼SE¼, NE¼SW¼SE¼, and SE¼SE¼;
  Section 12, SW¼SW¼SW¼;
  Section 13, N½N½.
T. 26 S., R. 17 E.,
  Section 9, W½W½;
  Section 16, W½W½;
  Section 21, NW¼NW¼, E½SW¼NW¼, SW¼SE¼NW¼, E½SE¼SW¼, and W½SW¼SE¼;
  Section 28, W½W½NE¼, W½SE¼, SE¼NW¼SE¼, W½SW¼SE¼, and SW¼SW¼SE¼;
  Section 34, Lot 1;
  Section 35, Lot 4.
  Containing 3,537.04 acres.

The purpose of this right-of-way is to provide electrical power to a proposed pump station for an Ultramar Diamond Shamrock existing pipeline. In addition, the new powerline will accommodate future growth in Otero County.

Dated: July 2, 1998.

Josie Banegas,

Acting Field Manager, Las Cruces.

[FR Doc. 98–18218 Filed 7–8–98; 8:45 am]

BILLING CODE 4310–VC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–942–08–1420–00]

Filing of Plats of Survey; Nevada

AGENCY: Bureau of Land Management.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested State and local government officials of the filing of Plats of Survey in Nevada.

EFFECTIVE DATES: Filing is effective at 10:00 a.m. on the dates indicated below.

FOR FURTHER INFORMATION CONTACT: Robert H. Thompson, Acting Chief, Cadastral Survey, Bureau of Land Management (BLM), Nevada State Office, 1340 Financial Blvd., P.O. Box 12000, Reno, Nevada 89520–0006; 702–861–6541.

SUPPLEMENTARY INFORMATION:

1. The Supplemental Plats of the following described lands were officially filed at the Nevada State Office, Reno, Nevada on June 26, 1998:

The supplemental plat, showing new lottings in section 12, Township 36 North, Range 49 East, Mount Diablo Meridian, Nevada, was accepted June 26, 1998.

The supplemental plat, showing new lottings in section 13, Township 36 North, Range 49 East, Mount Diablo

Meridian, Nevada, was accepted June 26, 1998.

The supplemental plat, showing amended lottings in section 18, Township 36 North, Range 50 East, Mount Diablo Meridian, Nevada, was accepted June 26, 1998.

The supplemental plat, showing amended lottings in section 30, Township 36 North, Range 50 East, Mount Diablo Meridian, Nevada, was accepted June 26, 1998.

These supplemental plats were prepared at the request of Barrick Goldstrike Mines, Incorporated.

2. The above-listed plats are now the basic records for describing the lands for all authorized purposes. These plats have been placed in the open files in the BLM Nevada State Office and are available to the public as a matter of information. Copies of the plats may be furnished to the public upon payment of the appropriate fees.

Dated: June 30, 1998.

Robert H. Thompson,

Acting Chief Cadastral Surveyor, Nevada.

[FR Doc. 98–18263 Filed 7–8–98; 8:45 am]

BILLING CODE 4310–HC–M

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–395]

Certain EPROM, EEPROM, Flash Memory, and Flash Microcontroller Semiconductor Devices, and Products Containing Same; Notice of Final Determination

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to find no violation of section 337 in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: John A. Wasleff, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3094.

SUPPLEMENTARY INFORMATION:

The Commission instituted this investigation on March 18, 1997, based on a complaint filed by Atmel Corporation. 62 Fed. Reg. 13706. The complaint named five respondents: Sanyo Electric Co., Ltd., Winbond Electronics Corporation and Winbond Electronics North America Corporation (collectively "Winbond"), Macronix International Co., Ltd. and Macronix America, Inc. (collectively "Macronix"). Silicon Storage Technology, Inc. ("SST") was permitted to intervene.

In its complaint, Atmel alleged that respondents violated section 337 by importing into the United States, selling for importation, and/or selling in the United States after importation electronic products and/or components that infringe one or more of claim 1 of U.S. Letters Patent 4,511,811, claim 1 of U.S. Letters Patent 4,673,829, claim 1 of U.S. Letters Patent 4,974,565 ("the '565 patent") and claims 1–9 of U.S. Letters Patent 4,451,903. The '565 patent was subsequently removed from the case. The presiding ALJ held an evidentiary hearing from December 8 to December 19, 1997.

On March 19, 1998, the ALJ issued his final ID finding that there was no violation of section 337. He found that neither claim 1 of U.S. Letters Patent 4,511,811 ("the '811 patent"), nor claim 1 of U.S. Letters Patent 4,673,829 ("the '829 patent"), nor claim 1 or claim 9 of U. S. Letters Patent 4,451,903 ("the '903 patent") was infringed by any product of the respondents or intervenor. He further found that the '903 patent was unenforceable because of waiver and implied license by legal estoppel, and that claims 2 through 8 of this patent are invalid for indefiniteness. He found that respondents and the intervenor had not demonstrated that any other claim at issue was invalid in view of any prior art before him, or that the '903 patent is void for failure to name a co-inventor. He found that complainant had not demonstrated that the '811 patent was entitled to an earlier date of invention than that appearing on the face of the patent. Finally, the ALJ found that there was a domestic industry with respect to all patents at issue.

On March 31, 1998, complainant Atmel filed a petition for review of the ALJ's final ID. On April 1, 1998, respondent Winbond filed a petition for review of the ALJ's ID. The other respondents and intervenor SST filed contingent petitions for review, raising issues to be considered in the event that the Commission determined to review certain of the ALJ's findings. In accordance with the Commission's directions, the parties filed their initial briefs on May 26, 1998, and their reply briefs on June 5, 1998. Complainant Atmel and respondent Winbond requested oral argument, which request is hereby denied.

Having examined the record in this investigation, including the ID, the review briefs, and the responses thereto, the Commission has determined that there is no violation of section 337. More specifically, the Commission finds that the '811 and '829 patents are invalid because of the preclusive effect of a decision of the United States District Court for the Northern District of California. The Commission also finds that the '903 patent is unenforceable for failure to name a co-inventor.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) and sections 210.42—.45 of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 210.42—.45).

Copies of the public version of the ID, the Commission's opinion, and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (http://www.usitc.gov).

By order of the Commission.[1]

Issued: July 2, 1998.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–18268 Filed 7–8–98; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Office of Community Oriented Policing Services; Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review; Grantee Satisfaction Survey.

The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until September 8, 1998. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are requested. Comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

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[1] Commissioner Miller did not participate in this investigation.

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(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the COPS Office, PPSE Division, 1100 Vermont Ave, NW., Washington, DC 20530–0001. Comments also may be submitted to the COPS Office via facsimile to 202–633–1386. In addition, comments may be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, 1001 G Street, NW., Washington, DC 20530.

Overview of this information collection:

(1) *Type of Information Collection:* New collection.

(2) *Title of the Form/Collection:* Grantee Satisfaction Survey.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form: COPS 27/01. Office of Community Oriented Policing Services, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* A sample of local law enforcement agencies that have received grant funding from the COPS Office will be surveyed regarding their perceptions and satisfaction with service received from the COPS Office.

The COPS Office has awarded hiring and redeployment grants, innovative grants, and training grants to over 10,000 law enforcement agencies nationwide. In addition to providing essential funding to enhance public safety and further the adoption of community policing by law enforcement agencies across the country, the COPS Office continues to strive to maintain a customer service orientation toward grant recipients. As such, the COPS Office is committed to providing grantees with ongoing service that reflects the highest standard of excellence and integrity in public service. The COPS Office is seeking systematic feedback from COPS grantees to track the Office's performance on a number of performance measures. This survey will allow the COPS Office to set performance goals that are consistent with the level of service that is desired by the law enforcement field and to adjust its provision of customer service as necessary to better serve its grantees.

The Grantee Satisfaction Survey will be administered to a sample of grantees via the telephone and will yield information on: the extent and content of contact between grantees and representatives of the COPS office either through phone calls, written correspondence, or site visits; satisfaction with these contacts as rated on a Likert-type scale; exposure to and satisfaction with COPS funded community policing training; and availability of and satisfaction with community policing publications produced by the COPS Office. These questions will allow the COPS Office to determine levels of satisfaction with service and will illuminate areas where the COPS Office can improve.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The Grantee Satisfaction Survey will be administered two times per year: Approximately 2,600 respondents per year, at 30 minutes per respondent (including record-keeping).

(6) *An estimate of the total public burden (in hours) associated with the collection:* Approximately 1,300 hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: July 1, 1998.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 98–18240 Filed 7–8–98; 8:45 am]

BILLING CODE 4410–AT–M

DEPARTMENT OF JUSTICE

Office of Community Oriented Policing Services; FY 1998 Community Policing Discretionary Grants

AGENCY: Office of Community Oriented Policing Services, Department of Justice.

ACTION: Notice of availability.

SUMMARY: The Department of Justice, Office of Community Oriented Policing Services ("COPS") announces the Visiting Fellowship Program designed to support training, technical assistance, research, program development and policy analysis to contribute to the use and enhancement of community policing to address crime and related problems in communities across the country.

The Visiting Fellowship Program is intended to offer researchers, law enforcement professionals, community leaders, and legal experts an opportunity to undertake independent research, problem development activities, and policy analysis designed to accomplish one or more of the following: improve police-citizen cooperation and communication; enhance police relationships with other components of the criminal justice system, as well as at all levels of local government; increase police and citizens' ability to solve community problems; facilitate the restructuring of law enforcement agencies to allow the most effective use of departmental and community resources; promote the effective flow and use of information both within and outside an agency; and improve law enforcement responsiveness to members of the community.

Visiting fellows will study a topic of mutual interest to the fellow and the COPS Office for up to 12 months. While in residence, fellows will contribute to the development of community policing programs that are national in scope.

DATES: The application deadline is August 7, 1998.

ADDRESSES: To obtain a copy of an application or for more information, call the U.S. Department of Justice Response Center at (202) 307–1480 or 1–800–421–6770.

FOR FURTHER INFORMATION CONTACT: The U.S. Department of Justice Response Center, (202) 307–1480 or 1–800–421–6770. The Visiting Fellowship Program application and information on the COPS Office also are available on the Internet via the COPS web site at: http://www.usdoj.gov/cops.

SUPPLEMENTARY INFORMATION:

Overview

The United States Department of Justice, Office of Community Oriented Policing Services (COPS) has been charged with the implementation of the Public Safety Partnerships and Community Policing Act of 1994 (Pub. L. 103–322). Under this law, the COPS Office provides grants, cooperative agreements, and technical assistance to increase police presence, improve police and community partnerships designed to address crime and disorder, and enhance public safety. The Visiting Fellowship Program, which complements the COPS Office's efforts to add 100,000 officers to our nation's streets and support the development of innovative community policing strategies, is one of a wide variety of policing programs supported under this law.

The Visiting Fellowship Program is intended to offer researchers, law enforcement professionals, community leaders, and legal experts an opportunity to undertake independent research, problem development activities, and policy analysis designed to accomplish one or more of the following: improve police-citizen cooperation and communication; enhance police relationships with other components of the criminal justice system, as well as at all levels of local government; increase police and citizens' ability to solve community problems innovatively; facilitate the restructuring of agencies to allow the fullest use of departmental and community resources; promote the effective flow and use of information both within and outside an agency; and improve law enforcement responsiveness to members of the community.

Visiting Fellows will study a topic of mutual interest to the Fellows and the COPS Office for up to 12 months. While in residence, Fellows will contribute to the development of community policing programs that are national in scope.

Two types of fellowships are available: (1) Community Policing Training and Technical Assistance Fellowships and (2) Program/Policy Support and Evaluation Fellowships. Community Policing Training and Technical Assistance Fellowships will offer police practitioners and community leaders the opportunity to participate in a community policing training program that is national in scope. Fellows will work to broaden their knowledge of a training area that is directly related to community policing. The experience is intended to encourage the further development, enhancement, or renewed exploration of a particular training expertise that supports community policing. Fellows will deliver this expertise innovatively as well as provide technical assistance to others.

Program/Policy Support and Evaluation Fellowships will offer police practitioners, researchers, and policy analysts the opportunity to support innovative community policing programs, to engage in scholarly research activities to assess the effectiveness of community policing approaches and to apply policy analysis skills to support the advancement of community policing nationwide. The experience is intended to encourage the further development, enhancement, or renewed exploration of program, policy and evaluation issues that support community policing. This work will be shared with policy makers and practitioners through a variety of forums.

Grants or cooperative agreements under the Visiting Fellowship Program may support salary, fringe benefits, travel essential to the project, and miscellaneous supplies or equipment in support of the project. Reasonable relocation expenses and the cost of temporary housing also may be permitted in cases of relocation from a Fellow's permanent address.

Under the Visiting Fellowship Program, the COPS Office may award grants or enter into cooperative agreements with individuals, public agencies, colleges or universities, nonprofit organizations, and profit-making organizations willing to waive their fees.

Receiving a grant or cooperative agreement under the Visiting Fellowship Program will not affect the eligibility of an agency to receive awards under other COPS programs.

The Catalog of Federal Domestic Assistance (CFDA) reference for this program is 16.710.

Dated: June 25, 1998.

Joseph E. Brann,

Director.

[FR Doc. 98–18252 Filed 7–8–98; 8:45 am]

BILLING CODE 4410–AT–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response Compensation and Liability Act

Notice is hereby given that on June 16, 1998, a proposed Consent Decree ("decree") in *United States of America* v. *Bell Atlantic—Virginia, Inc., et al.*, Civil Action No. 3:98 CV 372 was lodged with the United States District Court for the Eastern District of Virginia.

In this action, the United States sought recovery of costs incurred by the United States Environmental Protection Agency in response to the release and threat of release of hazardous substances at the C&R Battery site in Chesterfield County, Virginia. The decree requires seventeen parties who arranged for the disposal of hazardous substances at the C&R Battery site to reimburse the United States a total of $591,285.82.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Bell Atlantic—Virginia, Inc., et al.*, D.J. Ref. #90–11–2–892/1.

The decree may be examined at the Offices of the United States Attorney for the Eastern District of Virginia, 600 East Main Street, Suite 600, Richmond, Virginia 23219, at U.S. EPA Region 3, 841 Chestnut Street, Philadelphia, PA 19107 and the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy, please enclose a check in the amount of $28.25 (25 cents per page reproduction cost) payable to the Consent Decree Library. In requesting a copy exclusive of exhibits and defendants' signatures, please enclose a check in the amount of $4.50 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–18254 Filed 7–8–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental Policy, 28 CFR § 50.7, notice is hereby given that a Partial Consent Decree in *United States of America* v. *Calderon, et al.*, No. 96–2451 RLA (D. Puerto Rico), was lodged with the United States District Court for the District of Puerto Rico on June 10, 1998.

The proposed Partial Consent Decree would resolve the United States' allegations in this enforcement action against Defendant Construcciones Carro, the contractor who filled approximately .5 acres of herbaceous wetlands in Mayaguez Puerto Rico, without a permit under Section 404 of the Clean Water Act ("CWA"), 33 U.S.C. 1344.

The proposed Partial Consent Decree would require Defendant Carro to: (1) restore wetlands for the wetland areas impacted by the illegal discharges; and (2) pay a $10,000 civil penalty.

The Department of Justice will accept written comments relating to the

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proposed Partial Consent Decree for thirty (30) days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Attention: Melaine A. Williams, Environmental Defense Section, P.O. Box 23986, Washington, DC 20026–3986, and should refer to *United States* v. *Calderon, et al.*, DJ Reference No. 90–5–1–1–4413.

The proposed Partial Consent Decree may be examined at either the Clerk's Office, United States District Court, District of Puerto Rico, 150 Carlow Chardon Avenue, Hato Rey, Puerto Rico 00918–1756 (telephone number: 787–766–6160), or at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005 (telephone number: 202–624–0892). Requests for a copy of the Partial Consent Decree may be mailed to the Consent Decree Library at the above address, and must include a check in the amount of $12.75.

Letitia J. Grishaw,

Chief, Environmental Defense Section, Environment and Natural Resources Division, U.S. Department of Justice.

[FR Doc. 98–18255 Filed 7–8–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Water Act

Pursuant to 28 C.F.R. § 50.7, notice is hereby given that on June 26, 1998, a proposed Consent Decree in *United States* v. *The Municipality of Penn Hills*, Civil Action No. 91–1334, was lodged with the United States District Court for the Western District of Pennsylvania.

The United States has asserted, in a civil complaint under the Clean Water Act, 33 U.S.C. 1251 *et seq.*, that Penn Hills violated Section 301 of the Act, 33 U.S.C. § 1311 and its NPDES permits, issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342 by discharging pollutants in excess of its permit limits and by discharging raw sewage through unlawful bypasses within the collection and treatment systems. The United States also alleged that Penn Hills failed to properly dispose of sludge, failed to properly maintain and operate its facilities, and failed to monitor and report, as required in its NPDES permits.

Pursuant to Preliminary Injunction Orders issued by the Court during the litigation of this matter, Penn Hills has connected three of its collection systems to the ALCOSAN system, and has converted three treatment plants to equalization basins. In addition, Penn Hills has constructed additional equalization basins to collect hydraulic overflows to eliminate the unlawful bypassing of raw sewage into the rivers and tributaries of the Monongahela and Allegheny Rivers.

Under the proposed Consent Decree, Penn Hills shall monitor and report any future unauthorized flows, shall monitor and report on the usage of the equalization tanks, and shall make all necessary upgrades to the Plum Creek collection and treatment system. Penn Hills shall also pay a civil penalty of $525,000, with $300,000 to be paid to the United States and $225,000 to be paid to the Commonwealth of Pennsylvania. Finally, Penn Hills shall implement three Supplemental Environmental Projects. The first requires Penn Hills to develop, design, and build a Geographic Information system for the Penn Hills sanitary sewer collection and conveyance system. The second requires Penn Hills to perform street sweeping operations on a semi-annual basis. The third requires Penn Hills to implement a household hazardous waste collection and disposal program.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *The Municipality of Penn Hills*, Civil Action No. 91–1334, D.J. Ref. 90–5–1–1–3722.

The Consent Decree may be examined at the Office of the United States Attorney for the Western District of Pennsylvania, 633 Post Office and Courthouse, 7th & Grant Streets, Pittsburgh, PA 15219; at the Region III Environmental Protection Agency Library, Reference Desk, United States Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, 202–624–0892. A copy of the Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check in the amount of $15.25 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–18251 Filed 7–8–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 CFR § 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Robert Odabashian, et al.* was lodged with the United States District Court for the Western District of Tennessee on June 19, 1998 (95–2361 G/Bre). The United States filed a First Amended Complaint pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), as amended, against five defendants. The First Amended Complaint alleges that the defendants are liable under Section 107 of CERCLA for costs incurred by the United States Environmental Protection Agency during a cleanup of the Pulvair Corporation Superfund Site in Millington, Tennessee. Chevron Chemical Company, Kincaid Enterprises, and Universal Cooperatives, Inc. subsequently filed a third party complaint against E.I. DuPont De Nemours & Co. ("DuPont"), among others. The proposed Consent Decree settles the liability of DuPont. Under the Consent Decree, DuPont agrees to reimburse the United States in the amount of $75,000.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Washington, DC 20044; and refer to *United States* v. *Robert Odabashian, et al.*, DOJ Ref. #90–11–3–1474.

The proposed settlement agreement may be examined at the Office of the United States Attorney, Suite 410, 200 Jefferson Avenue, Memphis, TN 38103, and at the office of the Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, GA 30303; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $4.25 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–18253 Filed 7–8–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on April 1, 1998, Aernol Pharmaceutical, Inc., 189 Meister Avenue, Somerville, New Jersey 08876, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below.

Drug	Schedule
N-Ethylamphetamine (1475)	I
Difenoxin (9168)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II

The firm plans to manufacture the listed controlled substances to produce pharmaceutical products for its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than September 8, 1998.

Dated: June 10, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–18217 Filed 7–8–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 28, 1998, Chiragene, Inc., 7 Powder Horn Drive, Warren, New Jersey 07059, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below.

Drug	Schedule
N-Ethylamphetamine (1475)	I
2,5-Dimethoxyamphetamine (7396).	I
3,4-Methylenedioxyamphetamine (7400).	I
4-Methoxyamphetamine (7411)	I
Amphetamine (1100)	II
Methylphenidate (1724)	II

The firm plans to manufacture the listed controlled substances to supply their customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than September 8, 1998.

Dated: June 10, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–18216 Filed 7–8–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on April 19, 1998, Damocles 10, 3529 Lincoln Highway, Thorndale, Pennsylvania 19372, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below.

Drug	Schedule
Heroin (9200)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Phenmetrazine (1631)	II
Hydromorphone (9150)	II
Morphine (9300)	II

The firm plans to manufacture the listed controlled substances for the purpose of deuterium labeled internal standards for distribution to analytical laboratories.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than September 8, 1998.

Dated: June 30, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–18219 Filed 7–8–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By notice dated January 21, 1998, and published in the **Federal Register** on February 12, 1998 (63 FR 7181), Johnson & Johnson Pharmaceutical Partners, HC–02 Box 19250, KMO.1 Mamey Ward (HC–02 Box 19250), Gurabo, Puerto Rico 00778–9629, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of sufentanil (9740), a basic class of controlled substance listed in schedule II.

The firm plans to manufacture sufentanil for bulk distribution to its customers.

DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Johnson & Johnson Pharmaceutical Partners to manufacture sufentanil is consistent with the public interest at this time. Therefore, pursuant

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to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: June 30, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–18290 Filed 7–8–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated February 24, 1998, and published in the **Federal Register** on March 6, 1998, (63 FR 11310), Johnson Matthey, Inc., Custom Pharmaceuticals Department, 2003 Nolte Drive, West Deptford, New Jersey 08066, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below.

Drug	Schedule
Difenoxin (9168)	I
Propiram (9649)	I
Amphetamine (1100)	II
Methylphenidate (1724)	II
Phenylacetone (8501)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Hydrocodone (9193)	II
Meperidine (9230)	II
Thebaine (9333)	II
Alfentanil (9737)	II
Sufentanil (9740)	II
Carfentanil (9743)	II
Fentanyl (9801)	II

The plans to manufacture the listed controlled substances in bulk to supply final dosage form manufacturers.

DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Johnson Matthey, Inc. to manufacture the listed controlled substances is consistent with the public interest at this time. Therefore, pursuant to 21 U.S.C 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: June 10, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–18214 Filed 7–8–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on April 17, 1998, Radian International LLC, 14050 Summit Drive #121, P.O. Box 201088, Austin, Texas 78720–1088, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below.

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
N-Ethylamphetamine (1475)	I
N,N-Dimethylamphetamine (1480)	I
Aminorex (1585)	I
4-Methylaminorex (cis isomer) (1590).	I
Methaqualone (2565)	I
Alpha-Ethyltryptamine (7249)	I
Lysergic acid diethylamide (7315)	I
Tetrahydrocannabinols (7370)	I
Mescaline (7391)	I
3,4,5-Trimethoxyamphetamine (7390).	I
4-Bromo-2,5-dimethoxyamphetamine (7391).	I
4-Bromo-2,5-dimethoxyphenethylamine (7392).	I
4-Methyl-2,5-dimethoxyamphetamine (7395).	I
2,5-Dimethoxyamphetamine (7396).	I
2,5-Dimethoxy-4-ethylamphetamine (7399).	I
3,4-Methylenedioxyamphetamine (7400).	I
5-Methoxy-3,4-methylenedioxyamphetamine (7401).	I
N-Hydroxy-3,4-methylenedioxyamphetamine (7402).	I
3,4-Methylenedioxy-N-ethylamphetamine (7404).	I
3,4-Methylenedioxymethamphetamine (7405).	I
4-Methoxyamphetamine (7411)	I
Bufotenine (7433)	I
Diethyltryptamine (7434)	I
Dimethyltryptamine (7435)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
Codeine-N-oxide (9053)	I
Dihydromorphine (9145)	I
Heroin (9200)	I
Morphine-N-oxide (9307)	I
Normorphine (9313)	I
Pholcodine (9314)	I
Acetylmethadol (9601)	I
Allyprodine (9602)	I
Alphacetylmethadol except Levo-Alphacetylmethadol (9603).	I
Alphameprodine (9604)	I
Alphamethadol (9605)	I
Betcetylmethadol (9607)	I
Betameprodine (9608)	I
Betamethadol (9609)	I
Betaprodine (9611)	I
Hydromorphinol (9627)	I
Noracymethadol (9633)	I
Norlevorphanol (9634)	I
Normethadone (9635)	I
Trimeperidine (9646)	I
Para-Fluorofentanyl (9812)	I
3-Methylfentanyl (9813)	I
Alpha-methylfentanyl (9814)	I
Acetyl-alpha-methylfentanyl (9815).	I
Beta-hydroxyfentanyl (9830)	I
Beta-hydroxy-3-methylfentanyl (9831).	I
Alpha-Methylthiofentanyl (9832)	I
3-Methylthiofentanyl (9833)	I
Thiofentanyl (9835)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Phenmetrazine (1631)	II
Methylphenidate (1724)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Glutethimide (2550)	II
Nabilone (7379)	II
1-Phenylcyclohexylamine (7460)	II
Phencyclidine (7471)	II
1-Piperidinocyclohexanecarbonitrile (8603).	II
Alphaprodine (9010)	II
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Benzoylecgonine (9180)	II
Ethylmorphine (9190)	II
Hydrocodone (9193)	II
Levomethorphan (9210)	II
Isomethadone (9226)	II
Meperidine (9230)	II
Methadone (9250)	II
Methadone-intermediate (9254)	II
Morphine (9300)	II
Levo-alphacetylmethadol (9648)	II
Oxymorphone (9652)	II
Alfentanil (9737)	II
Sufentanil (9740)	II
Fentanyl (9801)	II

The firm plans to manufacture small quantities of the listed controlled substances to make deuterated and non-deuterated drug reference standards which will be distributed to analytical and forensic laboratories for drug testing programs.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than September 8, 1998.

Dated: June 30, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–18220 Filed 7–8–98; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Section 1301.34 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on April 17, 1998, Radian International LLC, 8501 North Mopac Blvd., P.O. Box 201088, Austin, Texas 78720, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below.

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
N-Ethylamphetamine (1475)	I
Ibogaine (7260)	I
4-Bromo-2,5-dimethoxyamphetamine (7391).	I
4-Bromo-2,5-dimethoxyphenethylamine (7392).	I
4-Methyl-2,5-dimethoxyamphetamine (7395).	I
2,5-Dimethoxyamphetamine (7396).	I
2,5-Dimethoxy-4-ethylamphetamine (7399).	I
3,4-Methylenedioxyamphetamine (7400).	I
5-Methoxy-e,4-methylenedioxyamphetamine (7401).	I
3,4-Methylenedioxy-N-ethylamphetamine (7404).	I
3,4-Methylenedioxymethamphetamine (7405).	I
4-Methoxyamphetamine (7411)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
Etorphine (except HCl) (9056)	I
Heroin (9200)	I
Pholcodine (9314)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Benzoylecgonine (9180)	II
Ethylmorphine (9190)	II
Meperidine (9230)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II
Thebaine (9333)	II
Levo-alphacetylmethadol (9648)	II
Oxymorphone (9652)	II

The firm plans to import small quantities of the listed controlled substances for the manufacture of analytical reference standards.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.43 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than August 10, 1998.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1301.34(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: June 24, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–18221 Filed 7–8–98; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on April 1, 1998, Research Biochemicals, Inc., which has changed its name to Sigma-Aldrich Research Biochemicals, Inc., One Three Strathmore Road, Attn: Richard A. Milius PhD, Natick, Massachusetts 01760, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below.

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
4-Bromo-2,5-dimethoxyamphetamine (7391).	I
4-Bromo-2,5-dimethoxyphenethylamine (7392).	I
2,5-Dimethoxyamphetamine (7396).	I
3,4-Methylenedioxyamphetamine (7400).	I
N-Hydroxy-3,4-methylenedioxyamphetamine (7402).	I
3,4-Methylenedioxy-N-ethylamphetamine (7404).	I
3,4-Methylenedioxymethamphetamine (7405).	I
1-[1-(2-Thienyl)cyclohexyl]piperidine (7470).	I
Heroin (9200)	I
Methamphetamine (1105)	II
Phencyclidine (7471)	II
Benzoylecgonine (9180)	II

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The firm plans to import small quantities of the listed controlled substance to manufacture laboratory reference standards and neurochemicals.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than September 8, 1998.

Dated: June 30, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–18222 Filed 7–8–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Section 1301.34 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on April 1, 1998, Research Biochemicals, Inc., which has changed its name to Sigma-Aldrich Research Biochemicals, Inc., One Three Strathmore Road, Attn: Richard A. Milius PhD, Natick, Massachusetts 01760, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Methaqualone (2565)	I
Ibogaine (7260)	I
Tetrahydrocannabinols (7370)	I
Bufotenine (7433)	I
Dimethyltryptamine (7435)	I
Etorphine (except HC1) (9056)	I
Methylphenidate (1724)	II
Pentobarbital (2270)	II
Diprenorphine (9058)	II
Etorphine Hydrochloride (99059)	II
Diphenoxylate (9170)	II
Metazocine (9240)	II
Methadone (9250)	II
Fentanyl (9801)	II

The firm plans to import small quantities of the listed controlled substances to manufacture laboratory reference standards and neurochemicals.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of these basic classes of controlled substances may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than August 10, 1998.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import basic classes of any controlled substances in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1301.34(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: June 24, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–18223 Filed 7–8–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Section 1301.34 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on March 31, 1998, Research Triangle Institute, Kenneth H. Davis, Jr., Hermann Building, East Institute Drive, P.O. Box 12194, Research Triangle Park, North Carolina 27709, made application by renewal to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Marihuana (7360)	I
Cocaine (9041)	II

The firm plans to import small quantities of the listed controlled substances for the National Institute of Drug Abuse and other clients.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of these basic classes of controlled substances may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.43 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than August 10, 1998.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import the basic classes of any controlled substances in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1301.34(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: June 10, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–18215 Filed 7–8–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Notice of Information Collection Under Review; Data Relating to Beneficiary of Private Bill.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" until September 8, 1998.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Data Relating to Beneficiary of Private Bill.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form G–79A. Investigations Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The information is needed to report on Private Bills to Congress when requested.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 100 responses at 1 Hour per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 100 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: July 1, 1998.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 98–18241 Filed 7–8–98; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review; Biographic Information.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" until September 8, 1998.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of response.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Biographic Information.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form G–325. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This form is used when it is necessary to check other agency records on applications or petitions submitted by applicants for benefits

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under the Immigration and Nationality Act. The form is also required for applicants of adjustment to permanent resident status and specific applicants for naturalization.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 1,144,994 Responses at 15 Minutes per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 286,249 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: July 1, 1998.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 98–18242 Filed 7–8–98; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review; Reengineered Foreign Students Pilot Program.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" until September 8, 1998.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Reengineered Foreign Students and Schools Pilot Program.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* No Agency Form Number. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Not-for-profit institutions, Business or other for-profit. The INS and the United States Information Agency (USIA) are initiating a pilot project to test a prototype of a Reengineered Foreign Student and School Program as mandated under Subtitle D, Section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. The purpose of the pilot is to test an administrative process to use a computer-supported notification and reporting process from schools to the INS regarding foreign students and exchange visitors through the duration of their status in the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 50 Respondents at 60 Hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 3,000 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: July 1, 1998.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 98–18243 Filed 7–8–98; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: New Information Collection: Screening Requirements of Carriers.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is contained in the supplemental portion of a Final Rule (INS No. 1807–95) which INS published in the **Federal Register** on April 30, 1998 at 63 FR 23643. The final rule provided for a 60-day public comment period for the information collection. No comments were received by the INS on this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until August 10,

1998. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Dan Chenok, Department of Justice Desk Officer, Room 10235, Washington, DC 20530; 202–395–7316.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies, estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* New information collection.

(2) *Title of the Form/Collection:* Screening Requirements of Carriers.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* No agency form number. Inspections Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. The information collection is used by the immigration and Naturalization Service to determine whether sufficient steps are taken by a carrier demonstrating improvement in the screening of its passengers in order for the carrier to be eligible for automatic fines mitigation.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 65 responses at 100 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 6,500 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: July 1, 1998.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 98–18244 Filed 7–8–98; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review; alien change of address card.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" until September 8, 1998.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection: Extension of a currently approved collection.*

(2) *Title of the Form/Collection:* Alien Change of Address Card.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form AR–11. Records Operations, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. Section 265 of the Immigration and Nationality Act requires aliens in the United States to inform the Immigration and Naturalization Service of any change of address. This form provides a standardized format for compliance.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 250,000 responses at 5 minutes (.083) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 20,750 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance

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Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: July 1, 1998.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 98–18246 Filed 7–8–98; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review; Freedom of Information/Privacy Act Request.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" until September 8, 1998.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Freedom of Information/Privacy Act Request.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form G–639, FOIA/PA Section, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This form is provided as a convenient means for persons to provide data necessary for identification of a particular record desired under FOIA/PA.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 25,000 responses at 15 Minutes per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 6,250 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: July 1, 1998.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 98–18247 Filed 7–8–98; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of a Change in Status of an Extended Benefits (EB) Period for Alaska

This notice announces a change in benefit period eligibility under the EB Program for Alaska.

Summary

The following change has occurred since the publication of the last notice regarding the State's EB status:

- May 16, 1998. Alaska's 13-week insured unemployment rate for the week ending May 16, 1998, fell below 6.0 percent and was less than 120 percent of the average for the corresponding period for the prior two years, causing Alaska to trigger "off" EB effective June 7, 1998.

Information for Claimants

The duration of benefits payable in the EB Program, and the terms and conditions on which they are payable, are governed by the Federal-State Extended Unemployment Compensation Act of 1970, as amended, and the operating instructions issued to the States by the U.S. Department of Labor. In the case of a State beginning an EB period, the State employment security agency will furnish a written notice of potential entitlement to each individual who has exhausted all rights to regular benefits and is potentially eligible for EB (20 CFR 615.13(c)(1)). In the case of a State ending an EB period, the State employment security agency will furnish a written notice of the EB period and its effect on individual rights to EB (20 CFR 615.13(c)(4)) to each individual who is filing a claim for EB.

Persons who believe they may be entitled to EB, or who wish to inquire about their rights under the programs, should contact the nearest State employment service office or unemployment compensation claims office in their locality.

Signed at Washington, D.C. on July 2, 1998.

Raymond Uhalde,

Acting Assistant Secretary of Labor for Employment and Training.

[FR Doc. 98–18224 Filed 7–8–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Dialogue on Unemployment Insurance Reform; Notice of Public Meetings

When President Clinton signed his 1999 budget proposals, he set in motion a reform of the Unemployment Insurance (UI) program. On March 13, 1998, Secretary of Labor Alexis Herman announced a "Dialogue" to examine the UI program and the related Employment Service IES) program in light of a changing economy. The framework for the "Dialogue" was set forth in the Dialogue Paper which as been mailed to stakeholders and other interested parties. This paper can also be found on the Internet at www.dol.gov. The "Dialogue" will allow interested parties to comment on a broad array of questions about the programs' effectiveness and will take place over the next year through several venues and forums, i.e., stakeholders meetings, public meetings. Major "Dialogue" issues for discussion include:

Individual Economic Adjustment: How well does the UI program help individuals unemployment workers by providing adequate financial resources and promoting transition to employment? Who should receive benefits; what kinds of reemployment services should he provided and how could these reemployment services be made more effective?

Macroeconomic Stabilizer: How well does the UI program serve as a counter-cyclical macroeconomic stabilizer—does it serve to stabilize the economy locally, regionally, nationally? How could the program's performance be improved?

Insurance Concepts: How well does the UI program operate in terms of core insurance principles of forward funding, risk pooling, and solvency? How well does the program accumulate resources for payment during periods of economic downturn? How well does the program operate in terms of pooling risks for employers and States? What are the consequences of diverging from these insurance principles?

Financing Benefits: How should the UI benefit financing structure work to assure efficiency, equity and incentives? To what extent should employer tax rates be based on experience with unemployment? How could employer reporting and record keeping be streamlined?

Financing Administration: How should the administration of the UI and ES programs be financed? How well does the administrative financing system respond to workload changes over the business cycle? How should the administrative financing system encourage efficient and cost-effective operations?

Federal-State System: How should the Federal-State partnership work to assure a basic national UI program that reflects differences among the States? How can the partnership be improved? Are any changes needed in the division of responsibilities, such as financing, benefit structures, or oversight? What should be the relationship between UI and ES? What form should ES take in the future?

Time and Place: Two meetings will be held, the first on August 4, 1998 in Seattle, Washington and the second on August 11, 1998 in Philadelphia, Pennsylvania. The Seattle meeting will be held at the Seattle Airport Doubletree Hotel, 18740 Pacific Highway South, from 10 a.m. to 3:30 p.m. The Philadelphia meeting will be held at the Philadelphia Airport Marriott Hotel, Arrivals Road, from 11:30 a.m. to 5:00 p.m. More meetings will be held.

Agenda: Agenda topics include the following:

(a) Opening remarks—purpose/overview of meeting, introduction of discussion leaders
(b) Description of Dialogue Issues
(c) Oral Testimony
(d) Open discussion of Dialogue Issues
(e) Closing remarks

Public Participation: The meeting will be open to the public. Seating will be available to the public on a first-come, first-served basis. Seats will be reserved for the media. Individuals with disabilities should contact the Regional Coordinators, listed below, if special accommodations are needed. Individuals or organizations wishing to present oral testimony should contact the Regional Coordinator, and those wishing to submit written statements should send five (5) copies to the Regional Coordinator.

For Additional Information Contact: Seattle Coordinators—Larry Heasty and Bill James (206 553–7700), U.S. Department of Labor/ETA, 1111 Third Ave., Suite 900, Seattle WA 98101–3213. Philadelphia Coordinators—Leo Bull (215 596—0778), Rosemary Williams—Raysor (215 596–1411), and April Hunt (215-596–0789), U.S. Department of Labor/ETA, P.O. Box 8796, Philadelphia, PA 19101

Signed at Washington, D.C. this 30th day of June 1998.

Raymond J. Uhalde,

Acting Assistant Secretary of Labor.

[FR Doc. 98–18225 Filed 7–8–98; 8:45 am]

BILLING CODE 4510–30–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–387 and 50–388]

Pennsylvania Power & Light Company, Susquehanna Steam Electric Station (Units 1 & 2); Confirmatory Order Modifying Licenses Effective Immediately

I

Pennsylvania Power & Light Company, (PP&L or the Licensee) is the holder of Facility Operating Licenses Nos. NPF–17 and NPF–22, which authorize operation of Susquehanna Steam Electric Station Units 1 and 2, located in Luzerne County, Pennsylvania.

II

The staff of the U.S. Nuclear Regulatory Commission (NRC) has been concerned that Thermo-Lag 330–1 fire barrier systems installed by licensees may not provide the level of fire endurance intended and that licensees that use Thermo-Lag 330–1 fire barriers may not be meeting regulatory requirements. During the 1992 to 1994 time frame, the NRC staff issued Generic Letter (GL) 92–08, "Thermo-Lag 330–1 Fire Barriers" and subsequent requests for additional information that requested licensees to submit plans and schedules for resolving the Thermo-Lag issue. The NRC staff has obtained and reviewed all licensees' corrective plans and implementation schedules. The staff is concerned that some licensees may not be making adequate progress toward resolving the plant-specific issues, and that some implementation schedules may be either too tenuous or too protracted. For example, several licensees informed the NRC staff that their completion dates had slipped by 6 months to as much as 3 years. For plants that have completion action scheduled beyond 1997, the NRC staff has met with the licensees to discuss the progress of the licensees' corrective actions and the extent of licensee management attention regarding completion of Thermo-Lag corrective actions.

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PP&L was one of the licensees with which the NRC staff held meetings. At these meetings, the NRC staff reviewed with PP&L the schedule of Thermo-Lag corrective actions described in the PP&L submittals to the NRC dated April 15, 1993; February 3 and December 22, 1994; August 2, 1995; February 4, 1997; and January 6 and May 4, 1998. Based on the information submitted by PP&L, the NRC staff has concluded that the schedules presented by PP&L are reasonable. This conclusion is based on the (1) amount of installed Thermo-Lag, (2) the complexity of the plant-specific fire barrier configurations and issues, and (3) the need to perform certain plant modifications during outages as opposed to those that can be performed while the plant is at power. In order to remove compensatory measures such as fire watches, it has been determined that resolution of the Thermo-Lag corrective actions by PP&L must be completed in accordance with current PP&L's schedules. By letter dated May 19, 1998, the NRC staff notified PP&L of its plan to incorporate PP&L's schedule commitment into a requirement by issuance of an Order and requested consent from the Licensee. By letter dated June 3, 1998, the Licensee provided its consent to issuance of a Confirmatory Order.

III

The Licensee's commitment as set forth in its letter of June 3, 1998, is acceptable and is necessary for the NRC to conclude that public health and safety are reasonably assured. To preclude any schedule slippage and to assure public health and safety, the NRC staff has determined that the Licensee's commitment in its June 3, 1998, letter be confirmed by this Order. The Licensee has agreed to this action. Based on the above, and the Licensee's consent, this Order is immediately effective upon issuance.

IV

Accordingly, pursuant to sections 103, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 50, IT IS HEREBY ORDERED, effective immediately, that:

> Pennsylvania Power & Light Company shall complete final implementation of Thermo-Lag 330–1 fire barrier corrective actions at Susquehanna Steam Electric Station, Units 1 and 2, described in the Pennsylvania Power & Light Company's submittals to the NRC dated April 15, 1993; February 3 and December 22, 1994; August 2, 1995; February 4, 1997; and January 6 and May 4, 1998, by completion of the April 2000 refueling outage for SSES, Unit 1. Overall work package closeout will be completed by the end of December 2000.

The Director, Office of Nuclear Reactor Regulation, may relax or rescind, in writing, any provisions of this Confirmatory Order upon a showing by the Licensee of good cause.

V

Any person adversely affected by this Confirmatory Order, other than the Licensee, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and include a statement of good cause for the extension.

Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Attention: Chief, Rulemaking and Adjudications Staff, Washington, D.C. 20555. Copies of the hearing request shall also be sent to the Director, Office of Nuclear Reactor Regulation, U. S. Nuclear Regulatory Commission, Washington, D. C. 20555, to the Deputy Assistant General Counsel for Enforcement at the same address, to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406–1415 and to the Licensee. If such a person requests a hearing, that person shall set forth with particularity the manner in which his/her interest is adversely affected by this Order and shall address criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any such hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this Order.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland this 2nd day of July 1998.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 98–18228 Filed 7–8–98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40161; International Series Release No. 1144; File No. 10–101]

Tradepoint Financial Networks plc; Notice of Application for Limited Volume Exemption From Registration as an Exchange Under Section 5 of the Securities Exchange Act

July 2, 1998.

AGENCY: Securities and Exchange Commission.

ACTION: Request for Comments.

SUMMARY: The Securities and Exchange Commission ("SEC" or "Commission") is soliciting comments on whether to grant an exemption from registration as an exchange under Section 5 of the Securities Exchange Act of 1934 ("Exchange Act") to Tradepoint Financial Networks plc on the basis of expected low volume.

DATES: Comments must be received on or before August 10, 1998.

ADDRESSES: Interested persons should submit three copies of their written data, views and opinions to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comments may also be submitted electronically at the following e-mail address: rule-comments@sec.gov. All comment letters should refer to File No. 10–101; this file number should be included on the subject line if comments are submitted using e-mail. All submissions will be available for public inspection and copying at the Commission's Public Reference Room, Room 1024, 450 Fifth Street, N.W., Washington, D.C. 20549. Electronically submitted comment letters will be posted on the Commission's Internet web site (http://www.sec.gov).

FOR FURTHER INFORMATION CONTACT: For questions or comments regarding this release, contact: Sheila C. Slevin, Assistant Director, at (202) 942–0796 or Constance B. Kiggins, Special Counsel, at (202) 942–0059; Division of Market Regulation, Securities and Exchange Commission, Mail Stop 10–1, 450 Fifth Street, N.W., Washington, D.C. 20549. For questions or comments regarding corporate disclosure and securities registration issues raised in this release, contact Paul Dudek, Office Chief, at (202) 942–2990, Division of Corporation Finance, Securities and Exchange Commission, Mail Stop 3–2, 450 Fifth Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

I. Introduction

Tradepoint Financial Networks plc (the "Company" or the "Exchange") operates as a securities exchange from facilities in London under the marketing name Tradepoint Stock Exchange. It is a Recognized Investment Exchange under section 37(3) of the U.K. Financial Services Act 1986. The Exchange does not have a physical trading floor; it is a screen-based electronic market for the trading of securities (the "Tradepoint System"). All of the securities currently traded through the Tradepoint System are listed on the London Stock Exchange (the "LSE"), which is the primary market for those securities.

By letter dated November 20, 1997, the Company filed with the Commission, pursuant to Section 5 of the Exchange Act, an application for exemption under Section 5 from registration as a national securities exchange under Section 6 of the Exchange Act if the Company operates the Tradepoint System in the United States. The Company anticipates that the Exchange will account for limited volume in trading of securities.[1]

II. Description of the Tradepoint System[2]

The Exchange is an alternative market to the LSE. As mentioned above, all of the stocks currently traded on the Exchange are listed on the LSE. The Exchange does not "list" securities; it offers trading only in securities listed on other exchanges, and presently offers trading only in certain securities listed on the LSE.

From its facilities in London, the Exchange supplies automated trading services to market-makers, broker-dealers and institutional investors (collectively, "Members") on identical terms and conditions. Potential Members must meet the eligibility requirements of the Exchange.[3] Members are not "members" of the Exchange in the sense that a member of a national securities exchange is a member: status as a Member of the Exchange does not carry voting rights or any other rights, other than the right to trade using the Tradepoint System.[4]

The Exchange provides to its Members an electronic, order-driven market that handles order entry and management, information display, matching, execution, and immediate trade publication and settlement message routing. Members are able to access the current market position in any security traded on the Exchange; monitor selected market information provided by the Exchange in real time; enter or revise orders; send orders to the relevant instant auction and/or periodic auction books for execution (described below); set up, access, and request trading and market reports; and input settlement routing instructions.

In addition to these functions, the Exchange also supports order processing and management of the order book; order book display and updating; maintenance of individual trading status books; maintenance and updating of individual stock watch lists; and market supervision, surveillance and compliance. Most of these functions are controlled by the Exchange, but allow for some customization by the Member.

The Exchange maintains an electronic order book for each traded security. Members enter a bid or an offer directly into the Tradepoint System. Orders have time/price priority. Those orders with the best bid or offer price are prioritized according to the time they are entered into the Tradepoint System. Prices and volumes are displayed automatically and simultaneously to all Members. Members have the option to display their entire order, or they may choose to display only part of their order; however, the minimum size for any order is one thousand shares. If only part of the order is displayed, the Member may direct the Tradepoint System to update the order when certain conditions have been met, such as when their displayed order has been filled. Orders that are not displayed are at the end of the queue for time priority, and when an undisplayed order becomes a displayed order, it goes into the electronic order book at the end of the queue. The Tradepoint System is anonymous; the names of the Members are not displayed to other Members and are revealed only upon clearance and settlement.

In order for a Member to access the Tradepoint System, he or she must have a Personal Identification Number ("PIN"), which is assigned by the Exchange.[5] Access to the Tradepoint System in the United Kingdom is currently available through an internal network of personal computers ("PCs"), via a stand alone PC, through a separate application on an existing Reuters RT terminal, ICV–Topic 3 Trader workstation, through a Liberty InterTrade Direct Screen, or through a Bloomberg terminal. Access to the Tradepoint System in the United States would be exclusively through Bloomberg terminals.[6] In the future, the Exchange's screens may be accessible from other distributors of information services.

The Exchange operates two types of auctions: instant and periodic. A security may be traded in either an instant auction or a periodic auction, but not both. In the instant auction, orders are matched electronically, in full or in part, at the posted and accepted price. Execution is automatic and continuous. Thus, a Member's orders are executed as soon as a contra-side order reaches the order book.

The periodic auction is used for smaller capitalization and infrequently traded securities. It allows orders for these securities to accumulate over a period of time at the end of which the central computer matches qualifying buy and sell orders at a "balance price."[7] All transactions in a given periodic auction take place at the balance price; during the period leading up to the auction, a projected balance price is recalculated each time a new order is entered into the Tradepoint System. This projected balance price is continuously displayed during the time before the auction. Orders can be

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[1] See Letter from Joseph S. Cohn, Davis Polk & Wardwell, counsel for the Company, to Jonathan G. Katz, Secretary, dated November 20, 1997, available in the Commission's Public Reference Room. On April 6, 1998, the Company filed an amendment to the filing. On June 30, 1998, the Company filed a second amendment to the filing. Both amendments are also available in the Commission's Public Reference Room.

[2] This description is based upon the material representations made by the Company in its application requesting the exemption, *see supra note* 1.

[3] These requirements are set forth in Tradepoint Market Rule 3.4 (see Exhibit A(2)(b) of the Company's application). Requirements include that the applicant is authorized to conduct investment business; that the applicant has arranged for clearing arrangements with an Exchange Clearing Member (a Member of the Exchange that is also a member of the London Clearing House, as more fully described below); and that the applicant meets the standards of financial responsibility and operational capability prescribed by the Exchange.

[4] The Company is listed on the Vancouver Stock Exchange and on the Alternative Investment Market of the LSE. Unlike U.S. national securities exchanges, which are owned by their members, the Exchange is a publicly held, for-profit company.

[5] All individuals who have access to the Tradepoint System must have completed training from representatives of the Exchange in the use of the System.

[6] Access from terminals other than Bloomberg in the U.S. would be considered a material change to the manner in which the Exchange is offering its services in the U.S. and would require SEC notification.

[7] The "balance price" is calculated so that the maximum possible number of buy and sell orders in the auction will be matched.

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amended and withdrawn up to the commencement of the periodic auction. Bids above and offers below the balance price are executed at the balance price (lowest offers and highest bids are filled first). Orders at the balance price are matched on a time priority basis, to the extent that there are equal bids and offers. Bids below and offers above the balance price are not filled, but they may remain on the Tradepoint System after the auction to be carried forward to the next auction at the Member's discretion. Periodic auctions take place at specified times during the trading day with the frequency determined by trading patterns in individual securities as well as other market requirements. There is no set time for the periodic auctions, and there is no set number of periodic auctions. According to the Exchange, the frequency of the periodic auctions is designed to maximize liquidity in each security.[8]

Members of the Exchange are also able to enter "cross trades." Cross trades are trades between two customers of the same firm that take place between the posted bid and offer. These orders are exposed to the Exchange's book prior to the cross. To effect a cross trade, a Member will simultaneously enter a bid and an offer for a security, which will match ("cross") after exposure to the electronic order book.[9] Thus, cross trades are entered into the Tradepoint System by the firm essentially for reporting purposes.

In addition, the Exchange may create a "specialist" capability for some of the stocks traded on the Exchange. The Exchange would enter into an arrangement with a specific Member who would commit to providing liquidity with respect to a particular security ("Committed Liquidity Provider" or "CLP"). The CLP would function in a manner similar to that of a specialist on a U.S. exchange. The CLP would enter a bid or an offer if none exists, or if the spread was greater than a maximum limit agreed upon by the Exchange and the CLP, or when the size of an order was smaller than an agreed upon minimum. There would be no more than one CLP for any security, and there would be no requirement that every security have a CLP. These orders would be subject to the same price and time priorities as other system orders. As payment, the CLP would receive a percentage of the Exchange's net transaction fees resulting from execution of the orders entered by the CLP.

All trades executed on the Exchange (including those involving a U.S. Member) must be registered with the London Clearing House ("LCH") for clearance and settlement through CREST (with the exception of cross trades, which are settled as described below).[10] All Members (including U.S. Members) must either be a member of the LCH ("Clearing Member") or have entered into a direct or indirect clearing arrangement with a Clearing Member ("Non-Clearing Member"). It is expected that U.S. Members would be Non-Clearing Members. Cross trades are settled directly through CREST by the Member that entered the trade (or by a sponsor of the Member that is a member of CREST). The LCH is not involved in the clearance and settlement of cross trades.

The settlement cycle in Great Britain is five business days, as opposed to three in the United States. Thus, U.S. Members' trades will not settle on the normal U.S. cycle, but on the U.K. cycle.

III. Trading by U.S. Members

The Exchange would permit U.S. Persons to become Members in accordance with its normal business procedures. However, to comply with the U.S. securities laws, the Exchange would offer two different levels of service—one for all U.S. Members ("Public Market") and one limited to U.S. Members who are non-U.S. persons, international agencies or "qualified institutional buyers" ("QIBs") as defined in Rule 144A under the Securities Act of 1933[11] ("Securities Act") ("QIB Market"). Bids and offers in securities registered in the U.S. in American Depositary Receipt ("ADR") form or in ordinary share form would be available in the Public Market; bids and offers in those securities that are not registered in the U.S. would be available only in the QIB Market. In addition, U.S. Members in the QIB Market would be required to resell any securities purchased on the Exchange through the Exchange or outside the United States. Such resales would be limited to other QIBs, international agencies, and non-U.S. persons.

Other than these restrictions, U.S. Members would trade on the Exchange under the same terms as non-U.S. Members.[12] For example, both periodic and instant auctions would take place on both the QIB and the Public Market. The type of auction that occurs would vary from security to security based on criteria unrelated to the security's registration status in the U.S. U.S. Members would also trade on the Exchange during London business hours.[13] In addition, U.S. Members would be subject to the same fees as all other Members.[14] As mentioned above, trades involving a U.S. Member would settle through the LCH in the normal U.K. settlement cycle.

IV. Exemption Standards

Section 5 of the Exchange Act requires that all exchanges subject to the jurisdiction of the United States either register with the Commission as a national securities exchange or obtain a Commission exemption from that requirement.[15] Section 5 authorizes the Commission to grant an exemption from registration if the Commission finds that, "by reason of the limited volume of transactions effected on [the] exchange, it is not practicable and not necessary or appropriate in the public interest for the protection of investors" to require such registration.[16]

In its order granting a limited volume exemption from registration as an exchange to the Arizona Stock Exchange ("AZX"),[17] the Commission used the "present volume levels of fully regulated national securities exchanges" as the benchmark for low volume for

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[8] Presently, the Exchange has suspended periodic auctions. When there is sufficient interest among Members, periodic auctions will resume. Members would be notified electronically as to the time a periodic auction would commence.

[9] If there is a bid or an offer on the Exchange's book that will match either side of the cross trade, however, that bid or offer will have priority over the bid or offer that is part of the cross, and will receive execution. As a result, half of the cross trade (or some portion of that side of the trade) would be left on the Exchange's book.

[10] After a trade is registered with the LCH, the LCH becomes the counterparty to both sides of that trade, guaranteeing settlement.

[11] 17 CFR 230.144A.

[12] The Exchange generally will not provide access to U.S. Members to securities for which there is a U.S. transfer agent or which are eligible for deposit at a registered clearing agency. However, U.S. Members may have access to such securities if the annual trading volume in the U.S. of such securities is less than ten percent of the securities' annual worldwide trading volume.

[13] Thus, the Exchange would be available to U.S. Members from 7:30 a.m. to 5:30 p.m. London time (2:30 a.m. to 12:30 p.m. Eastern Standard Time).

[14] See Exhibit N, Sections 4 and 6, of the Company's Form 1 filing for the specific fees charged by the Exchange.

[15] 15 U.S.C. 78e (1988). The Commission has published a release in order to solicit the public's comments on proposed rules that would permit, among other things, alternative trading systems to register as broker-dealers or as exchanges. See Exchange Act Release No. 39884 (April 17, 1998), 63 FR 23504 (April 29, 1998) ("Regulation ATS Proposing Release"). The limited volume exemption remains another choice for such systems. The Commission believes an exemption on the basis of low volume would only be appropriate, however, for a foreign market, such as the Exchange, that is also a low volume market in its home country. See the discussion at note 27 *infra*.

[16] 15 U.S.C. 78(e) (1988).

[17] See Exchange Act Release No. 28899 (Feb. 20, 1991), 56 FR 8377 (February 28, 1991). AZX was originally named Wunsch Auction Systems, Inc.

AZX.[18] Consequently, AZX's exemption order was conditioned upon its volume staying below that of the registered national securities exchange with the lowest average daily volume.[19]

Pursuant to a condition in the order granting relief from registration as an exchange, AZX trades only securities registered under the Exchange Act. As was the case with AZX, however, the Exchange has no U.S. operating history, so it is virtually impossible to predict what the Exchange's U.S. volume would be. The Exchange, however, currently trades certain securities listed on the LSE, only some of which are registered in the United States and trade on a market here, either as ADRs or as ordinary shares.[20] Therefore, the Commission believes that AZX's exemption standards are not the best benchmark for the Exchange. The Commission believes it is appropriate to consider the volume levels of the primary stock exchange in the U.K., the LSE, as well as the volume levels of U.S. national securities exchanges.[21]

Trading volume in the United States is generally measured in shares. In 1990, when AZX was granted an exemption, the average daily volume of all regional stock exchanges was 24.5 million shares and the average price of shares traded was $28.51.[22] In 1997, the average daily volume of all regional stock exchanges was 59.2 million shares and the average price of shares traded was $42.20. In 1997, the average daily volume on the LSE was 1.1 billion shares and the average price of shares traded was $6.04.[23] By contrast, the average daily volume of the Exchange in 1997 was 3.1 million shares.

As the numbers cited above for the LSE and the Exchange illustrate, the Exchange is a low-volume market in its home country. The Exchange's average daily volume in 1997 was significantly less than one percent of the LSE's average daily volume.

In the United Kingdom, the monetary value of trading is the common measure of a securities transaction and of overall market activity.[24] In the U.K., share prices are roughly one-seventh of what they are in the U.S. for a comparable security. This difference in share price is also reflected in the trading of ADRs in this country, where each ADR is generally a multiple of the ordinary shares that are traded on the LSE.[25]

Because of this difference in share price and volume, average daily share volume is not the best measure for a U.K. Recognized Investment Exchange proposing to operate as a limited volume exchange in the U.S. The average daily volume of the Exchange in 1997 was 3.1 million shares, and the average price of shares traded was $5.61.[26] This average daily volume, however, may not be indicative of what the Exchange's U.S. volume would be.

In order to adjust for these factors, the Commission is proposing to grant the Exchange's application for exemption from exchange registration, using dollar value as a benchmark for volume, rather than average daily number of shares traded. This will permit the Exchange to operate in the U.S. under a benchmark which more appropriately reflects the difference in dollar value between U.S. and U.K. markets, and the difference in the way trading is measured in the U.K. In addition, the Commission is proposing to condition the Exchange's operation in the U.S. upon it remaining a low volume exchange in the U.K.

Under the proposed Exemption, the Exchange would be exempt so long as (i) the average daily dollar value of trades (measured on a quarterly basis) involving a U.S. Member did not exceed $40 million,[27] and (ii) its worldwide average daily volume (measured on a quarterly basis) did not exceed ten percent of the average daily volume of the LSE. The limitation on the Exchange's worldwide trading volume would ensure that the Commission could reevaluate the appropriateness of the low volume exemption should the Exchange achieve significant volume relative to the LSE.

The Commission also proposes to exempt the Exchange from Rules 6a–1, 6a–2, 6a–3 and 24b–1 under the Exchange Act.[28] Rules 6a–1, 6a–2 and 6a–3 set forth the procedures regarding amendments and supplemental material exchanges must file. Essentially the same information required by these rules will be provided to the Commission by the Exchange under the other conditions the Division of Market Regulation is proposing (see V. **Conditions**, below). To require the Exchange to comply with these rules would be duplicative, and would not result in the Commission receiving the materials in as useful a form as proposed under the conditions set forth here.

Rule 24b–1 requires an exchange to make a copy of statements and exhibits filed with the Commission available to the public at its offices during reasonable business hours. Some of the information the Commission is proposing that the Exchange be required to file, however, is volume information which is substantially similar to the information required of broker-dealer trading systems under Rule 17a–23.[29] Information filed pursuant to Rule 17a–23 is confidential, and is not required of exchanges. In addition, the Commission

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[18] *Id.* at 17.

[19] For calendar year 1990, this was the Cincinnati Stock Exchange ("CSE"). In 1990 the CSE's average daily trading volume, expressed in shares, was 1,238,241. In 1996, AZX's volume threshold was increased to 5,965,346 shares, which was the average daily volume of shares traded on the Philadelphia Stock Exchange ("Phlx") in 1995. In 1995, the Phlx was the national securities exchange with the lowest average daily volume.

[20] As of June 30, 1998, the Exchange traded 72 securities whose issuers also have securities registered in the United States. This number may change in the future, as issuers' registration status under the Exchange Act changes. As a condition to an exemptive order, the Exchange would be required to inform the Commission of any changes in the registration status of the securities it trades. As described above, the registration status of a given security under the Securities Act and under the Exchange Act has an effect on how it will be traded through the Tradepoint System in the U.S.

[21] Similarly, it would be appropriate to consider the primary market in any other country from which a low volume exchange was applying for an exemption as a benchmark, as well as the volume levels of U.S. national securities exchanges.

[22] Securities Industry Association, 1996 Securities Industry Fact Book at 45.

[23] See Application of Tradepoint Investment Exchange, Amendment No. 2, Exhibit N, available in the Commission's Public Reference Room.

[24] According to the Exchange, commissions in the United Kingdom are also based on a percentage of the share price, rather than on the number of shares purchased.

[25] For example, British Airways PLC ("BAB") is traded on the New York Stock Exchange ("NYSE") in ADR form. On June 26, 1998, BAB closed at 106 7/16. The ADR ratio for BAB is 10:1; thus, each ADR is equivalent to ten ordinary shares. Glaxo Welcome PLC ("GLX") is also traded on the NYSE in ADR form. On June 26, GLX closed at 61 3/16. The ADR ratio for GLX is 2:1. SmithKline Beecham PLC ("SBH") is also traded on the NYSE in ADR form. On June 26, SBH closed at 61 1/8. The ADR ratio for SBA is 5:1. These securities would all be available for trading through the Exchange in their ordinary share form in the U.S. if the Exchange receives an exemption from exchange registration.

[26] See Application of Tradepoint Investment Exchange, Amendment No. 2, Exhibit N, available in the Commission's Public Reference Room.

[27] The Average price of shares traded on all regional exchanges in 1997 was $42.20. Thus, $40 million is equivalent to significantly less than 1.2 million shares a day, which was the original volume limitation placed on AZX.

[28] 17 CFR 240.6a–1, 17 CFR 240.6a–2, 17 CFR 240.6a–3 and 17 CFR 240.24b–1. Rules 6a–1, 6a–2 and 6a–3 have been proposed to be amended in the Commission's release on the regulation of alternative trading systems. See Regulation ATS Proposing Release *supra* note 15. Should the proposed rules be adopted, the Commission would re-evaluate the appropriateness of the exemption from Rules 6a–1, 6a–2 and 6a–3 for the Exchange.

[29] 17 CFR 240.17a–23. Rule 17a–23 is proposed to be repealed in the Commission's release on the regulation of alternative trading systems. See Regulation ATS Proposing Release, *supra* note 15 at IV.A. The recordkeeping requirements currently imposed under Rule 17a–23, however, would still be required under amendments to Rules 17a–3 and 17a–4 if the proposed rules are adopted. Because the Exchange's volume information would be needed by the Commission to determine if the thresholds had been reached, the Exchange would still be required to report volume information as outlined here.

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is proposing that the Exchange provide certain trading data regarding trades involving U.S. Members and trades involving non-U.S. Members. This data is confidential and proprietary and would not otherwise be public. Data of this nature is not currently required from any other registrant. This data is necessary so that the Commission may monitor the Exchange's compliance with the proposed volume limitations. For these reasons, and because the Exchange will have no offices in the U.S. and therefore would be making such information public in the United Kingdom, the Commission proposes to exempt the Exchange from Rule 24b–1 as well.

V. Conditions

The Commission proposes to impose other conditions on the Exchange besides the low volume requirements discussed above. In general, these conditions would allow the Commission to monitor the Exchange for compliance with all applicable sections of the Securities Act and the Exchange Act (such as the anti-fraud and securities registration sections), and would ensure that the Commission has access to books, records and personnel of the Exchange should the need arise.

Specifically, the Commission proposes to impose the following conditions on the operation of the Exchange in the U.S.: the Exchange would keep and provide to the Commission upon request (a) records regarding the identity of U.S. Members in the Tradepoint System and the identity of those denied participation in the Tradepoint System and the reason for such denial, as well as a description of the reason for terminating any former Member's capacity to use the Tradepoint System; (b) records regarding daily summaries of trading and time-sequenced records of each transaction involving a U.S. Member; (c) information disseminated to U.S. Members, such as quotation and transaction information regarding securities traded through the Tradepoint System, as well as market notices to Members and other communications (such as changes to the Market Rules); (d) daily pound and equivalent dollar value transactions, and daily share volume of business transacted through the Tradepoint System (separately for orders entered by non-U.S. and U.S. Members, and in the aggregate); (e) a list of securities for which U.S. orders are accepted; and (f) copies of Member application and criteria standards for selection used by the Exchange. The Exchange would also provide 30 days prior notice to the Commission of any material changes in the operation of the Tradepoint System.

Furthermore, the Exchange would supply to the Commission on a quarterly basis within thirty days of the end of each quarter: total volume and average daily volume of transactions effected through the system during the period and year-to-date aggregates of these numbers, expressed in (a) number of units of securities (for transactions in stock, number of ordinary shares; for transactions in securities other than stock, other appropriate commonly used measure of value of such securities); (b) number of transactions; and (c) monetary value (for transactions in stock, pound value and equivalent dollar value; for transactions in securities other than stock, other appropriate commonly used measure of value of such securities and equivalent dollar value). The Exchange would provide separate unit, transaction, and monetary volume and average daily volume information for the period covered by the report reflecting: (i) Tradepoint System activity in securities involving a U.S. Member and; (ii) Tradepoint System activity in securities not involving a U.S. Member. The primary market and hours for each type of security would also be identified.

The Exchange would also be required to adopt and implement procedures to conduct surveillance of trading by Exchange employees and adopt requirements to ensure the non-disclosure of confidential information in the possession of Exchange employees. In addition, in response to regulatory trading halts on U.S. markets, the Exchange would be required to either suspend trading on the Tradepoint System for U.S. Members or consult with the Commission with respect to a possible suspension of trading; cooperate with any investigation in connection with trading on the Tradepoint System conducted by the Commission, including allowing Commission staff access to the facilities, books and records and other documents, as well as employees for interviews; and to provide the Commission with any requested information (including documents) in connection with trading on the Tradepoint System. The Exchange would also be required to continue to operate at all times in accordance with all applicable U.K. laws. The Exchange would also be required to maintain an agent for service of process in the U.S. at all times that it was offering its services in the U.S.

The Exchange would also be required to maintain, at all times, certain provisions in its Member Agreement and its Market Rules relating to choice of law and choice of forum. Specifically, the Exchange would be required to retain provisions requiring that, in the event of a dispute involving a Member arising out of a transaction that occurred in the U.S., or that resulted in damages suffered in the U.S., the U.S. federal securities laws statutes would be applied if the cause of action is based upon fraudulent acts or omissions. These provisions are designed to satisfy the anti-waiver provision of the Exchange Act.[30]

The Exchange would also be required to disclose to its U.S. Members information regarding the trading priorities of the Exchange and the response time of orders entered into the Tradepoint System by U.S. Members as compared to the response time of orders entered by European or other non-U.S. Members. In addition, the Exchange would be required to disclose that the nature and timeliness of pre-trade and post-trade information provided by the Exchange differ from that provided by U.S. registered securities exchanges. Such information should include notification that trades executed through the Exchange are not reported to the U.S. Consolidated Tape; a description of clearance and settlement procedures and disclosure that the time for clearance and settlement under U.K. law is the date of the transaction plus five business days, as compared to three business days under U.S. law; and disclosure of any Tradepoint System limitations affecting capacity to disseminate timely information or to handle Members' orders during peak or other periods.

In addition, the exemptive order would be subject to amendment were the Exchange to offer trading in securities listed on any market (in the U.K. or otherwise) other than the LSE.

VI. Conclusion

The Commission believes that permitting the Exchange to operate in the U.S. would provide U.S. investors with greater opportunities to invest in foreign securities. At the same time, the Commission is concerned that U.S. investors who utilize the Exchange are afforded sufficient protection. Accordingly, the Commission requests comment regarding the Exchange's application for a limited volume exemption from registration as a national securities exchange under the Exchange Act. In particular, the Commission requests comment on: (1) Whether the Commission should grant the Exchange the exemption it seeks; (2)

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[30] The anti-waiver provision of the Exchange Act can be found in Section 29(a).

whether dollar value volume is an appropriate measure for determining limited volume; and (3) what conditions should apply to such an exemption.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18151 Filed 7–8–98; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40159; File No. SR–Amex–98–22]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange, Inc., Relating to an Increase in Position and Exercise Limits for Standardized Equity Options

July 1, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act" or "Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 24, 1998, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to amend Exchange Rule 904 to increase position and exercise limits for standardized equity options to three times their current levels.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Amex is proposing to increase the position and exercise limits for equity options traded on the Exchange to three times their current levels. Currently, Amex Rule 904 subjects equity options to one of the five different position limits depending on the trading volume and outstanding shares for the underlying security. Rule 905 establishes exercise limits for the corresponding options at the same levels.[3] The limits are: 4,500; 7,500; 10,500; 20,000; and 25,000; contracts on the same side of the market. Under the proposed changes the new limits will be; 13,500; 22,500; 31,500; 60,000; and 75,000. The Exchange believes sophisticated surveillance techniques at options exchanges adequately protect the integrity of the markets for the options that will be subject to these increased position and exercise limits.

Manipulation. The Amex believes that position and exercise limits, at their current levels, no longer serve their stated purpose. The Commission has stated that:

> Since the inception of standardized options trading, the options exchanges have had rules imposing limits on the aggregate number of options contracts that a member or customer could hold or exercise. These rules are intended to prevent the establishment of options positions that can be used or might create incentives to manipulate or disrupt the underlying market so as to benefit the options position. In particular, position and exercise limits are designed to minimize the potential for mini-manipulations and for corners or squeezes of the underlying market. In addition, such limits serve to reduce the possibility of disruption of the options market itself, especially, illiquid options classes.[4]

On the twenty-fifth anniversary of listed options trading, the Exchange believes that the existing surveillance procedures and reporting requirements at options exchanges and clearing firms that have been developed over the years are able to properly identify unusual and illegal trading activity. In addition, Amex believes that routine oversight inspections of Amex's regulatory programs by the Commission have not uncovered any material inconsistencies or shortcomings in the manner in which the Exchange's market surveillance is conducted. These procedures entail a daily monitoring of market movements via automated surveillance techniques to identify unusual activity in both the options and underlying stock. Further, the Exchange believes the significant increases in unhedged options capital charges resulting from a September 1997 adoption of risk-based haircuts and the Exchange margin requirements applicable to these products under Exchange rules serves as a more effective protection than position limits.[5]

Further, large stock holdings must be disclosed to the Commission by way of Schedule 13D or 13G.[6] Options positions are part of any reportable positions and cannot be legally hidden. In addition, Exchange Rule 906—which requires members to file reports with the Exchange for any customer who held aggregate long or short positions of 200 or more option contracts of any single class for the previous day—will remain unchanged and an important part of the Exchange's surveillance efforts.

Position and exercise limits restrict legitimate options use. In the Exchange's view, equity position limits prevent large customers like mutual funds and pension funds from using options to gain meaningful exposure to individual stocks, resulting in lost liquidity in both the options market and the stock market. The Exchange further believes that equity position limits also act as a barrier to the use of options by corporations wishing to implement options strategies with their own stock. For example, existing equity position limits could restrict the number of put options that could be sold under a corporate buyback program.[7]

Financial requirements. The Exchange believes that financial requirements imposed by the Exchange and by the Commission adequately address concerns that a member or its customer may try to maintain an inordinately large unhedged position in an equity option. Current margin, and risk-based haircut methodologies serve to limit the size of positions maintained by any one account by increasing the margin and/or capital that a member must maintain for a large position held by itself or by its customer. It should also be noted that the Exchange has the authority under paragraph (d)(2)(K) of Rule 462 to impose a higher margin requirement upon member or member organization when the Exchange determines a higher requirement is warranted. In addition, the Commission's net capital rule, Rule 15c3–1 under the Exchange Act, imposes a capital charge on members to the extent of any margin deficiency resulting from the higher margin requirement.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Rule 905 states "no member or member organization shall exercise, for any account in which such member or member organization has an interest or for the account of any partner, officer, director or employee thereof or for the account of any customer, a long position in any option contract of a class of options dealt in on the Exchange if as a result thereof such member or member organization, or partner, officer, director or employee thereof or customer acting alone or in concert with others, directly or indirectly has or will have exercised within any five (5) consecutive business days aggregate long positions in excess of: (i) the number of option contracts set forth as the position limit in Rule 904 in a class of options for which the underlying security is a stock. * * *"

[4] Exchange Act Release No. 39489 (December 24, 1997), 63 FR 276 (January 5, 1998).

[5] *See* Exchange Act Release No. 38248 (February 6, 1997), 62 FR 6474 (February 12, 1997) (adopting Risk Based Haircuts); and Amex Rule 462.

[6] Exchange Act Rule 13d–1.

[7] The Commission notes that issuers would, of course, need to comply with all applicable provisions of the federal securities laws in conducting their share repurchase programs.

Past increases have had no adverse consequences. Equity position limits have been gradually expanded from 1,000 contracts in 1973 to the current level of 25,000 contracts for the largest and most active stocks. In 1997, the SEC approved the elimination of position and exercise limits in FLEX Equity options under a two-year pilot program.[8] To date, there have been no adverse effects on the market as a result of the past increases in the limits for equity options or the elimination of position and exercise limits for FLEX Equity options.

Changes will allow options exchanges to compete more fairly with OTC markets. The Commission has stated that "limits must not be established at levels that are so low as to discourage participation in the options market by institutions and other investors with substantial hedging needs or to prevent specialists and market-makers from adequately meeting their obligations to maintain a fair and orderly market."[9] However, in today's market, equity position limits put listed options at a competitive disadvantage to over-the-counter derivatives. OTC dealers can execute options trades through overseas subsidiaries not subject to NASD regulation, and therefore not subject to position limits. As a result, the largest trades can go unobserved and unmonitored for regulatory and oversight purposes. Member firms continue to express concern to the Exchange that position limits on Amex products are an impediment to their business and that they have no choice but to move their business to off-shore markets where position limits are not an issue.

In addition, the Commission has recently approved the NASD's proposed rule change to raise position limits for conventional equity options (*i.e.*, those options not issued, or subject to issuance by the Options Clearing Corporation) to three times their current levels (which is the same as three times the levels established by current Exchange rules for standardized options).[10]

Because conventional options often have nearly the identical terms as standardized, Exchange-traded options, the Exchange believes the position limits for standardized options should be at least as high as those for conventional options. The proposed rule changes should help to attract business back to the Exchange where the trades will be subject to reporting requirements and surveillance. In its release approving the elimination of FLEX equity option limits for a two-year pilot period, the Commission states that the elimination of position limits will allow the listed options markets to better compete with the OTC market.[11]

> [T]he elimination of position and exercise limits for FLEX equity options allows the Exchanges to better compete with the growing OTC market in customized equity options, thereby encouraging fair competition among brokers and exchange markets. The attributes of the Exchanges' options markets versus an OTC market include, but are not limited to, a centralized market center, an auction market with posted transparent market quotations and transaction reporting, parameters and procedures for clearance and settlement, and the guarantee of the OCC for all contracts traded on the Exchanges.[12]

It should also be noted that individual stocks are not subject to position limits. Investors can theoretically hold 100% of a company's shares outstanding as long as they file the appropriate Schedule 13D or 13G. The Exchange believes the increase in the position and exercise limits will better enable the Exchange to complete against the OTC markets and is an appropriate and responsible increase given the nature of the Exchange's surveillance.

2. Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)[13] of the Act, in general, and furthers the objectives of Section 6(b)(5),[14] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Other

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, located at the above address. Copies of such filing will also be available for inspection and copying at the principal office of the self-regulatory organization. All submissions should refer to File No. SR-Amex-98–22 and should be submitted by July 30, 1998.

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[8] Exchange Act Release No. 39032 (September 9, 1997), 62 FR 48683 (September 16, 1997).

[9] *See* H.R. Rep. No. IFC–3, 96th Cong., 1st Sess. At 196–91 (Comm. Print 1978).

[10] Exchange Act Release No. 40087 (June 12, 1998), 63 FR 33746 (June 19, 1998). The NASD's position limit filing established position and exercise limits for conventional equity options identical to those being proposed by Amex in this filing.

[11] Exchange Act Release No. 39032 (September 9, 1997), 62 FR 48683 (September 16, 1997).

[12] *Id.* at 48685. The Commission notes that approval of the elimination of position and exercise limits for FLEX equity options was granted for a two-year pilot period and was based on several other factors including, in large part, additional safeguards adopted by the exchanges to allow them to monitor large options positions.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18147 Filed 7–8–98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40158; File No. SR–CBOE–98–23]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to the Elimination of Position and Exercise Limits for Options on Broad-Based Indexes

July 1, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act" or "Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 11, 1998, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to eliminate position and exercise limits for broad-based index options. The current reporting procedures, with slight modifications, which serve to identify large option holdings and hedging information, will remain in place.

The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The CBOE is proposing the elimination of position and exercise limits for broadbased index options for the reasons detailed below. The Exchange will, however, still require that member organizations file reports with the Exchange in the event that they maintain proprietary or customer positions in excess of Exchange established reporting thresholds in the different broad-based index option products.

Manipulation. The CBOE believes that position and exercise limits in broad-based index options no longer serve their stated purpose. The Commission has stated that:

> Since the inception of standardized options trading, the options exchanges have had rules imposing limits on the aggregate number of options contracts that a member or customer could hold or exercise. These rules are intended to prevent the establishment of options positions that can be used or might create incentives to manipulate or disrupt the underlying market so as to benefit the options position. In particular, position and exercise limits are designed to minimize the potential for mini-manipulations and for corners or squeezes of the underlying market. In addition such limits serve to reduce the possibility for disruption of the options market itself, especially in illiquid options classes.[3]

On the fifteenth anniversary of listed index options trading, the Exchange believes that the size of the market underlying broad-based index options is so large as to dispel any concerns regarding market manipulation. To date, there has not been a single disciplinary action involving manipulation in any broad-based index product listed on the Exchange. The Exchange believes that its fifteen years of experience conducting surveillance of index options and program trading activity is sufficient to identify improper activity. The CBOE believes that routine oversight inspections of CBOE's regulatory programs by the Commission have not uncovered any inconsistencies or shortcomings in the manner in which index option surveillance is conducted. These procedures entail a daily monitoring of market movements via automated surveillance techniques to identify unusual activity in both the options and underlying stock basket components. Moreover, the CBOE believes that current NYSE Market on Open and Market on Close procedures facilitate the orderly unwinding of large index program trades.[4] Further, the significant increases in unhedged options capital charges resulting from the September 1997 adoption of risk-based haircuts and the high margin requirements applicable to these products under Exchange rules serves as a more effective protection than position limits ever have or ever could.[5]

Competition. The Commission has stated that "limits must not be established at levels that are so low as to discourage participation in the options market by institutions and other investors with substantial hedging needs or to prevent specialists and market-makers from adequately meeting their obligations to maintain a fair and orderly market."[6] However, in today's market, the Exchange believes that position and exercise limits severely hamper CBOE's ability to compete with the OTC and futures markets. Investors who trade listed options on the CBOE are placed at a serious disadvantage in comparison to the OTC market where index options and other types of index based derivaties (*e.g.*, forwards and swaps) are not subject to position and exercise limits. Member firms continue to express concern to the Exchange that position limits on CBOE products are an impediment to their business and that they have no choice but to move their

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[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Exchange Act Release No. 39489 (December 24, 1997), 63 FR 276 (January 5, 1998) (SR–CBOE–97–11) (order approving an increase in OEX position and exercise limits).

[4] *See* NYSE Informational Memo Number 96–34 (November 8, 1996).

[5] *See* Exchange Act Release No. 34–38248 (February 6, 1997), 62 FR 6474 (February 12, 1997) (adopting Risk-Based Haircuts); and CBOE Rule 24.11 *Margins.*

[6] *See* H.R. Rep. No. IFC–3, 96th Cong., 1st Sess. At 189–91 (Comm. Print 1978).

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business to the OTC market where position limits are not an issue.

Position and exercise limits restrict legitimate options use. The Exchange believes that the current base limit for broad-based index options[7] is not adequate for the hedging needs of institutions which engage in trading strategies differing from those covered under the index hedge exemption policy (*e.g.*, delta hedges, OTC vs. listed hedges). Moreover, the current index hedge exemption, which requires a daily monitoring of positions and reports to the exchange is too cumbersome. CBOE and member firm compliance staff devote an inordinate amount of time monitoring a firm's position, when in fact, the firm is more than adequately capitalized to carry such sizeable option positions. The CBOE believes that, with the elimination of position limits for these products, staff resources could be better utilized elsewhere.

Financial requirements. The Exchange believes that financial requirements imposed by the Exchange and by the Commission adequately address concerns that a member or its customer may try to maintain an inordinately large unhedged position in a broad-based index option. Current margin, and risk-based haircut methodologies serve to limit the size of positions maintained by any one account by increasing the margin and/or capital that a member must maintain for a large position held by itself or by its customer.[8] It should also be noted that the Exchange has the authority under paragraph (h) of Rules 12.3 and 12.10 to impose a higher margin requirement upon the member of member organization when the Exchange determines a higher requirement is warranted. In addition, the Commission's net capital rule, Rule 15c3–1 under the Exchange Act, imposes a capital charge on members to the extent of any margin deficiency resulting from the higher margin requirement.

FLEX Equity options. In 1997, the SEC approved the elimination of position and exercise limits in FLEX Equity options under a two-year pilot program.[9] To date, there have been no adverse effects on the market as a result of the elimination of position and exercise limits. Member firms have commented favorably on this change and believe that it is the first step towards eliminating position and exercise limits in all option products. In its release approving the elimination of FLEX equity option limits for a two-year pilot, period, the Commission stated that the elimination of position limits will allow the listed options markets to better compete with the OTC market.[10]

> [T]he elimination of position and exercise limits for FLEX equity options allows the Exchanges to better compete with the growing OTC market in customized equity options, thereby encouraging fair competition among brokers and exchange markets. The attributes of the Exchanges' options markets versus an OTC market include, but are not limited to, a centralized market center, an auction market with posted transparent market quotations and transaction reporting, parameters and procedures for clearance and settlement, and the guarantee of the OCC for all contracts traded on the Exchanges.[11]

Reporting requirements. The Exchange will require that each member or member organization that maintains a position on the same side of the market in excess of 100,000 contracts in any broad based index option class, for its own account or for the account of a customer report certain information. This data would include, but would not be limited to, the option position, whether such position is hedged, and, if so, a description of the hedge and if applicable, the collateral used to carry the position. Exchange market-makers would continue to be exempt from this reporting requirement as market-maker information can be accessed through the Exchange's market surveillance systems. The Exchange proposes to increase the reporting level to 100,000 contracts[12] from the current levels (*i.e.*, 45,000 for SPX and 65,000 for OEX) for the following reasons. To date, information collected shows that member firms and customer accounts are hedged with either futures, options on futures or index options. This information can be obtained either through in-house surveillance systems, from the Chicago Mercantile Exchange or by contacting the member firm. Considering that the CBOE currently lists sixteen (16) different broad-based index option products, imposing a uniform reporting number will eliminate confusion. The CBOE believes that an increase in the reporting level to 100,000 contracts for all broad based index products will result in the collection of more meaningful information, and will lessen the administrative burden for member firms and for the Exchange staff. In addition, the general reporting requirement for customer accounts that maintain a position in excess of 200 contracts will remain at this level for broad based index options.[13] Last, it is important to note that the proposed 100,000 contract reporting requirement is above and beyond what is currently required in the OTC market. NASD member firms are only required to report index option positions in excess of 200 contracts and are not required to report any related hedging information.

2. Basis

The Exchange believes that the proposal is consistent with Section 6(b)[14] of the Act, in general, and Section 6(b)(5)[15] of the Act, in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule changes are consistent with Section 6(b) of the Act in general, and further the objectives of Section 6(b)(5), in particular, in that they are designed to promote just and equitable principles of trade and to protect investors and the public interest.

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[7] The base limits for broad-based index options are set forth in paragraph (a) of Rule 24.4. The limits range from 25,000 contracts in OEX to 1,000,000 contracts on options based on the Dow Jones Industrial Average ("DJIA"), which is a contract that is based on one-one hundredth of the value of the DJIA.

[8] Exchange Act Rule 15c3–1 requires a capital charge equal to the maximum potential loss on a broker-dealer's aggregate index position over a +(−) 10% market move. Exchange margin rules require margin on naked index options which are in or at-the-money equal to a 15% move in the underlying index; and a minimum 10% charge for naked out-of-the money contracts. At an index value of 9,000 this approximates to a $135,000 to $90,000 requirement per each unhedged contract. This compares to an approximate $36,000 requirement for an equivalent index futures contract position.

[9] Exchange Act Release No. 39032 (September 9, 1997), 62 FR 48683 (September 16, 1997) (order approving SR–CBOE–96–79).

[10] *Id.*

[11] *Id.* at 48685. The Commission notes that approval of the elimination of position and exercise limits for FLEX equity options for a two-year pilot period and was based on several other factors including, in large part, additional safeguards adopted by the exchanges to allow them to monitor large options positions.

[12] Currently only OEX and SPX are subject to reporting requirements beyond those required by Exchange Rule 4.13. The Exchange would expand this revised reporting requirement to all broad-based index options.

[13] *See* Exchange Rule 4.13 *Reports Related to Position Limits.*

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, located at the above address. Copies of such filing will also be available for inspection and copying at the principal office of the self-regulatory organization. All submissions should refer to File No. SR–CBOE–98–23 and should be submitted by July 30, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18146 Filed 7–8–98; 8:45 am]

BILLING CODE 8010–01–M

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[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40160; File No. SR–CBOE–98–25]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to a Change in Position and Exercise Limits for Equity Options

July 1, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act" or "Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 8, 1998, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to increase the position and exercise limits on equity options traded on the Exchange to three times their current levels.

The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The CBOE is proposing to increase the position and exercise limits for equity options traded on the Exchange to three times their current levels. Currently, Rule 4.11 subjects equity options to one of five different position limits depending on the trading volume and outstanding shares for the underlying security. Rule 4.12 establishes exercise limits for the corresponding options at the same levels.[3] The limits are: 4,500; 7,500; 10,500; 20,000; and 25,000 contracts on the same side of the market. Under the proposed changes the new limits will be: 13,500; 22,500; 31,500; 60,000; and 75,000. The Exchange believes sophisticated surveillance techniques at options exchanges adequately protect the integrity of the markets for the options that will be subject to these increased position and exercise limits.

Manipulation.

The CBOE believes that position and exercise limits, at their current levels, no longer serve their stated purpose. The Commission has stated that:

> Since the inception of standardized options trading, the options exchanges have had rules imposing limits on the aggregate number of options contracts that a member or customer could hold or exercise. These rules are intended to prevent the establishment of options positions that can be used or might create incentives to manipulate or disrupt the underlying market so as to benefit the options position. In particular, position and exercise limits are designed to minimize the potential for mini-manipulations and for corners or squeezes of the underlying market. In addition, such limits serve to reduce the possibility for disruption of the options market itself, especially in illiquid options classes.[4]

On the twenty-fifth anniversary of listed options trading, the Exchange believes that the existing surveillance procedures and reporting requirements at options exchanges and clearing firms that have been developed over the years are able to properly identify unusual and illegal trading activity. In addition, the CBOE believes that routine oversight inspections of CBOE's regulatory programs by the Commission have not uncovered any material inconsistencies or shortcomings in the manner in which the Exchange's market surveillance is conducted. These procedures entail a daily monitoring of market movements

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] CBOE Rule 4.12 states: "no member shall exercise, for any account in which it has an interest or for the account of any customer, a long position in any options contract where such member or customer, acting alone or in concert with others, directly or indirectly has or will have exercised within any five consecutive business days aggregate long positions in any class of options dealt in on the Exchange in excess of" the established limits set by the Exchange.

[4] Exchange Act Release No. 39489 (December 24, 1997), 63 FR 276 (January 5, 1998) (CBOE–97–11) (order approving an increase in OEX position and exercise limits).

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via automated surveillance techniques to identify unusual activity in both the options and underlying stock. Further, the Exchange believes the significant increases in unhedged options capital charges resulting from the September 1997 adoption of risk-based haircuts and the Exchange margin requirements applicable to these products under Exchange rules serves as a more effective protection than position limits.[5]

Furthermore, large stock holdings must be disclosed to the Commission by way of Schedule 13D or 13G.[6] Options positions are part of any reportable positions and cannot be legally hidden. In addition, Exchange Rule 4.13—which requires members to file reports with the Exchange for any customer who held aggregate long or short positions of 200 or more option contracts of any single class for the previous day—will remain unchanged and an important part of the Exchange's surveillance efforts.

Position and exercise limits restrict legitimate options use. In the Exchange's view, equity position limits prevent large customers like mutual funds and pensions funds from using options to gain meaningful exposure to individual stocks, resulting in lost liquidity in both the options market and the stock market. The Exchange further believes that equity position limits also act as a barrier to the use of options by corporations wishing to implement options strategies with their own stock. For example, existing equity position limits could restrict the number of put options that could be sold under a corporate buyback program.[7]

Financial requirements. The Exchange believes that financial requirements imposed by the Exchange and by the Commission adequately address concerns that a member or its customer may try to maintain an inordinately large unhedged position in an equity option. Current margin, and risk-based haircut methodologies serve to limit the size of positions maintained by any one account by increasing the margin and/or capital that a member must maintain for a large position held by itself or by its customer. It should also be noted that the Exchange has the authority under paragraph (h) of Rules 12.3 and 12.10 to impose a higher margin requirement upon the member or member organization when the Exchange determines a higher requirement is warranted. In addition, the Commission's net capital rule, Rule 15c3-1 under the Exchange Act, imposes a capital charge on members to the extent of any margin deficiency resulting from the higher margin requirement.

Past increases have had no adverse consequences. Equity position limits have been gradually expanded from 1,000 contracts in 1973 to the current level of 25,000 contracts for the largest and most active stocks. In 1997, the SEC approved the elimination of position and exercise limits in FLEX Equity options under a two-year pilot program.[8] To date, there have been no adverse affects on the market as a result of the past increases in the limits for equity options or the elimination of position and exercise limits for FLEX Equity options.

Changes will allow options exchanges to compete more fairly with OTC markets. The Commission has stated that "limits must not be established at levels that are so low as to discourage participation in the options market by institutions and other investors with substantial hedging needs or to prevent specialists and market-makers from adequately meeting their obligations to maintain a fair and orderly market."[9] However, in today's market, equity position limits put listed options at a competitive disadvantage to over-the-counter derivatives. OTC dealers can execute options trades through overseas subsidiaries not subject to NASD regulation, and therefore not subject to position limits. As a result, the largest trades can go unobserved and unmonitored for regulatory and oversight purposes. Member firms continue to express concern to the Exchange that position limits on CBOE products are an impediment to their business and that they have no choice but to move their business to off-shore markets where position limits are not an issue.

In addition, the NASD has recently filed a proposed rule change with the Commission[10] which proposes to raise the position limits for conventional equity options (*i.e.*, those options not issued, or subject to issuance by the Options Clearing Corporation) to three times their current levels (which is the same as three times the levels established by current Exchange rules for standardized options). Because conventional options often have nearly the identical terms as standardized, Exchange-traded options, the Exchange believes the position limits for standardized options should be at least as high as those for conventional options.

The proposed changes should help to attract business back to the Exchange where the trades will be subject to reporting requirements and surveillance. In its release approving the elimination of FLEX equity option limits for a two-year pilot period,[11] the Commission stated that the elimination of position limits will allow the listed options markets to better compete with the OTC market.

> [T]he elimination of position and exercise limits for FLEX equity options allows the Exchanges to better compete with the growing OTC market in customized equity options, thereby encouraging fair competition among brokers and exchange markets. The attributes of the Exchanges' options markets versus an OTC market include, but are not limited to, a centralized market center, an auction market with posted transparent market quotations and transaction reporting, parameters and procedures for clearance and settlement, and the guarantee of the OCC for all contracts traded on the Exchanges.[12]

It should also be noted that individual stocks are not subject to position limits. Investors can theoretically hold 100% of a company's shares outstanding as long as they file the appropriate Schedule 13D or 13G. The Exchange believes the increase in the position and exercise limits will better enable the Exchange to compete against the OTC markets and is an appropriate and responsible increase given the nature of the Exchange's surveillance.

2. Basis

The Exchange believes that the proposal is consistent with Section 6(b)[13] of the Act, in general, and Section

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[5] *See* Exchange Act Release No. 38248 (February 6, 1997), 62 FR 6474 (February 12, 1997) (adopting Risk Based Haircuts); and CBOE Rule 12.3 *Margins*.

[6] Exchange Act Rule 13d-1.

[7] The Commission notes that issuers would, of course, need to comply with all applicable provisions of the federal securities laws in conducting their share repurchase programs.

[8] *See* Exchange Act Release No. 39032 (September 9, 1997), 62 FR 48683 (September 16, 1997) (order approving SR-CBOE-96-79).

[9] *See* H.R. Rep. No. IFC-3, 96th Cong., 1st Sess. At 189-91 (Comm. Print 1978).

[10] *See* Exchange Act Release No. 39893 (April 21, 1998), 63 FR 23317 (April 28, 1998) (notice of SR-NASD-98-23). The Commission notes that the NASD's position limit filing was approved on June 12, 1998. The NASD's position limit filing established position and exercise limits for conventional equity options identical to those being proposed by CBOE in this filing. *See* Exchange Act Release No. 40087 (June 12, 1998), 63 FR 33746 (June 19, 1998).

[11] *See* Exchange Act Release No. 39032 (September 9, 1997), 62 FR 48683 (September 16, 1997).

[12] *Id.* at 48685. The Commission notes that approval of the elimination of position and exercise limits for FLEX equity options was granted for a two-year pilot period and was based on several other factors including, in large part, additional safeguards adopted by the exchanges to allow them to monitor large options positions.

[13] 15 U.S.C. 78f(b).

6(b)(5)[14] of the Act, in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, located at the above address. Copies of such filing will also be available for inspection and copying at the principal office of the self-regulatory organization. All submissions should refer to File No. SR–CBOE–98–25 and should be submitted by July 30, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18148 Filed 7–8–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40144; File No. SR–CHX–98–17]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change by the Chicago Stock Exchange, Inc., to Extend the Exchange's Clearing the Post Policy for Cabinet Securities

June 30, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 18, 1998, the Chicago Stock Exchange, Inc. ("CHX" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CHX. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval to the proposal.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the current pilot program that amends interpretation and policy .02 of CHX Rule 10 of Article XX and amends CHX Rule 11 of Article XX relating to clearing the post for cabinet securities on an interim basis until December 6, 1998, or until the Commission approves SR–CHX–98–13,[3] whichever occurs first. The initial six-month pilot program was approved by the Commission on January 6, 1998, and expires on July 6, 1998.[4] The text of the proposed rule change is as follows:

Additions are italicized; deletions are bracketed.

ARTICLE XX

Rule 10. Manner of Bidding and Offering.

No change in text.

. . . Interpretations and Policies

.02 Clearing the Post.

Policy. All orders received by floor brokers or originated by market makers on the floor of the Exchange must effectively clear the post before the orders may be routed to another market, either via the ITS System or through the use of alternative means.

Floor brokers who receive an order on the floor have a fiduciary responsibility to seek a best price execution for such order. This responsibility includes clearing of the Exchange's post prior to routing an order to another market so that other buying and selling interest at the post can be checked for a potential execution that may be as good as or better than the execution available in another market.

Market makers are required to provide depth and liquidity to the Exchange market, among other things. Exchange Rules require that all market maker transactions constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market. In so doing, market makers must adhere to traditional agency/auction market principles on the floor. Transactions by Exchange market makers on other exchanges which fail to clear the Exchange post do not constitute such a course of dealings.

Notwithstanding the above, it is understood that on occasion a customer will insist on special handling for a particular order that would preclude it from clearing the post on the Exchange floor. For example, a customer might request that a specific order be given a primary market execution. These situations must be documented and reported to the Exchange. Customer directives for special handling of all orders in a particular stock or all stocks, however, will not be considered as exceptions to the clearing the post policy.

All executions resulting from bids and offers reflected on Instinet terminals resident on the Exchange floor constitute "orders" which are "communicated" to the Exchange floor. Therefore, all orders resulting from interest reflected on Instinet terminals

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[14] 15 U.S.C. 78f(b)(5).

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Proposed rule change SR–CHX–98–13, which was filed with the Commission on June 10, 1998, (i) requests permanent approval of the policy that permits market makers to clear the cabinet post by phone, and (ii) proposes to expand this policy to include all securities traded on the trading floor.

[4] Securities Exchange Act Release No. 39519 (January 6, 1998), 63 FR 1965 (January 13, 1998).

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on the Exchange floor must be handled as any other order communicated to the floor. All such orders must be presented to the post during normal trading hours. All trades between Instinet and Exchange floor members are Exchange trades and must be executed on the Exchange.

Method of Clearing the Post. *Subject to Article XX, Rule 11 relating to cabinet securities.* [T]the Exchange's clearing the post policy requires the floor broker or market maker to be physically present at the post. A market maker, after requesting the specialist's market quote, must bid or offer the price and size of his intended interest at the post. A floor broker must clear the post by requesting a market quote from the specialist. If the specialist or any other member who has the post indicates an interest to trade at the price that was bid or offered by the market maker or the price of the floor broker's order (even though that order has not yet been bid or offered), then the trade may be consummated with the specialist (or whomever has the post) in accordance with existing Exchange priority, parity and precedence rules. If the specialist (or any other member who has the post) indicates interest to trade at that price but the member communicating the intended interest, including Instinet interest, determines not to consummate the trade with the specialist or such member, then, to preserve the Exchange's existing priority, parity and precedence rules, the trade may not be done with any other Exchange floor member. (See Article XXX, Rule 2). If the trade is consummated with the specialist or other member who has the post, the specialist (or any customer represented by the specialist) is not required to pay any fees to the broker or market maker in connection with the execution of the order, unless such fee is expressly authorized by an Exchange Rule. If the specialist does not indicate an interest to trade, then the trade may be consummated with another Exchange floor member on the Exchange floor with a resultant Exchange print.

Failure to clear the post may result in a "trade-through" or "trading ahead" of other floor interest. In addition, failure to properly clear the post may result in a violation of the Exchange's Just and Equitable Trade Principles Rule (Article VIII, Rule 7) and a market maker rule that requires all market maker transactions to constitute a course of dealing reasonably calculated to contribute to the maintenance of a fair and orderly market (Article XXXIV, Rule 1). Failure to properly clear the post may also subject the violator to a minor rule violation under the Exchange's Minor Rule Violation Plan.

Rule 11. Cabinet Securities

Stocks having no designated specialist unit of trading shall be assigned for dealings by use of cabinets and shall be dealt in at a location designated for that purpose.

The Exchange may also designate bonds which are to be dealt in by use of cabinets.

Bids and offers in securities dealt in by use of cabinets shall be written on cards, which shall be filed in the cabinets in the following sequence:

1. According to price, and
2. According to the time received at the cabinet.

Orders in such securities shall be filed according to the bids and offers filed in the cabinets, in the sequence indicated above, except that oral bids and offers in such securities may be made if not in conflict with bids and offers in the cabinets. *Oral bids and offers may be made by clearing the cabinet post by phone provided that such bids and offers are audibly announced at the cabinet post through a speaker system maintained by the Exchange.*

Every card placed in the cabinets shall bear a definite price and number of shares and no mark or identification shall be placed thereon to indicate it is other than a limited order at the price.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CHX included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The CHX has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to extend the Exchange's existing pilot program that permits market makers and floor brokers to clear the cabinet post by phone until the earlier of the two following occurrences; (i) December 6, 1998, or (ii) the Commission's approval of SR–CHX–98–13, whichever occurs first. The initial six-month pilot program was approved by the Commission on January 6, 1998 and is scheduled to expire on July 6, 1998.[5] In approving the original pilot program, the Commission requested that the Exchange file a report describing its experience with the program. On June 5, 1998, the Exchange filed such a report with the Commission. The purpose of this proposed rule change is to permit the current pilot to continue without interruption while the Commission considers the Exchange's proposal to expand the policy on a permanent basis to all securities traded on the Exchange.

In general, the clearing the post policy requires a floor broker or market maker to clear the post by his or her physical presence at the post. The purpose of this proposed rule change is to permit a floor broker or market maker to clear the post in cabinet securities by phone. The bids and offers made to clear the post by phone will be audibly announced at the cabinet post through a speaker system maintained by the Exchange.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act[6] in that it is designed to prevent fraudulent and manipulative acts and practices and to perfect the mechanism of a free and open market.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were either solicited or received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CHX–98–17 and should be submitted by July 30, 1998.

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[5] *Id.*

[6] 15 U.S.C. 78f(b)(5).

IV. Commission Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful review, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange. In particular, the proposal is consistent with Section 6(b)(5) of the Act[7] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to remove impediments to and perfect the mechanism of a free and open market. The Commission believes that allowing floor brokers or market makers to clear the post for cabinet securities while remaining at their respective posts will ensure that these floor brokers or market makers will be at their posts when they need to respond to orders in more liquid securities at a much faster pace.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the proposal in the **Federal Register** because the extension will permit the current pilot to continue without interruption while the Commission considers the Exchange's proposal to expand the policy on a permanent basis to all securities traded on the Exchange. The extension is only for five months (or until the Commission approves SR–CHX–98–13, if it decides to do so, whichever occurs first), and will merely preserve the *status quo*. Moreover, the original pilot was noticed for the full 21-day comment period and the Commission received no comments on the proposal.[8] The Commission's approval of the proposal to extend the pilot for five months has no bearing on, and should not be interpreted to suggest that the Commission ultimately will approve SR–CHX–98–13.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[9] that the proposed rule change (File No. SR–CHX–98–17) be, and hereby is, approved on an accelerated basis through December 6, 1998, or until the Commission approves SR–CHX–98–13, whichever occurs first.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18149 Filed 7–8–98; 8:45 am]

BILLING CODE 8010–01–M

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[7] *Id.*

[8] *See* Securities Exchange Act Release No. 39519, n.4 above.

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40152; File No. SR–CHX–98–14]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by the Chicago Stock Exchange, Inc. Relating to Exempt Credit by Market Makers

July 1, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 10, 1998, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to clarify an interpretation to Article XXXIV, Rule 16 of CHX's Rules relating to registered market makers' utilization of exempt credit.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CHX included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to clarify an interpretation to the Exchange's rules regarding market makers and exempt credit. The Exchange recently modified Interpretation .01 to Article XXXIV, Rule 16, to eliminate a reference to "creating or increasing a position," thereby including all transactions consummated on the Exchange or sent from the Exchange floor via ITS in determining a market makers' ability to use exempt credit.[3]

In making such a change to the interpretation, the Exchange did not intend to eliminate the requirement that volume be measured on an issue by issue basis. To eliminate any possibility that the change may be misinterpreted in that manner, the Exchange is clarifying the language of the interpretation to make it clear that volume is measured for a particular issue to determine a market makers' ability to use exempt credit for that issue. The text of the proposed rule change is as follows:

Additions are italicized.

ARTICLE XXXIV

Registered Market Makers—Equity Floor

Regulatory Status

RULE 16. No text change.

* * *Interpretations and Policies:

.01 Utilization of Exempt Credit. Exchange Members registered as equity market makers are members registered as specialists for purposes of the Securities Exchange Act of 1934 and as such are entitled to obtain exempt credit for financing their market maker transactions. Members and/or prospective members who are anticipating becoming registered as equity market makers as well as those clearing firms who are or will be carrying the accounts of market makers should be aware of the following interpretation relative to the use of such credit:

1. Only those transactions initiated on the Exchange Floor qualify as market maker transactions. This restriction prohibits the use of exempt credit where market maker orders are routed to the Floor from locations off the Floor.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 40016 (May 20, 1998), 63 FR 29276 (May 28, 1998).

2. Fifty percent (50%) of the quarterly share volume *in an issue* in a market maker account must result from transactions which are either consummated on the Exchange or sent from the Exchange Floor for execution in another market via ITS *in order for the market maker to be entitled to exempt credit for such issue.*

3. Only those positions which have been established as a direct result of bonafide equity market maker activity qualify for exempt credit treatment. This restriction precludes exempt credit financing based on an equity market maker registration for positions resulting from options exercises and assignments.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act[4] in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

(c) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change constitutes a stated policy, practice or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the Exchange it has become effective pursuant to Section 19(b)(3)(A) of the Act[5] and Rule 19b–4(e)(1)[6] thereunder.[7] At any time within 60 days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CHX. All submissions should refer to File No. SR–CHX–98–14 and should be submitted by July 30, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18150 Filed 7–8–98; 8:45 am]

BILLING CODE 8010–01–M

SOCIAL SECURITY ADMINISTRATION

Information Collection Activities: Proposed Collection Requests and Comment Requests

This notice lists information collection packages that will require submission to the Office of Management and Budget (OMB), as well as information collection packages submitted to OMB for clearance, in compliance with Public Law 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995.

I. The information collection(s) listed below require(s) extension(s) of the current OMB approval(s) or are proposed new collection(s):

Reporting Events—SSI—0960–0128. The information collected on Form SSA–8150–EV is used by the Social Security Administration (SSA) to determine eligibility for Supplemental Security Income (SSI) payments and to determine correct payment amounts. The respondents are SSI applicants and recipients.

Number of Respondents: 33,200.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Average Burden: 2,767 hours.

Written comments and recommendations regarding the information collection(s) should be sent within 60 days from the date of this publication, directly to the SSA Reports Clearance Officer at the following address: Social Security Administration, DCFAM, Attn: Frederick W. Brickenkamp, 6401 Security Blvd., 1–A–21 Operations Bldg., Baltimore, MD 21235.

In addition to your comments on the accuracy of the agency's burden estimate, we are soliciting comments on the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

II. The information collection(s) listed below have been submitted to OMB:

1. Representative Payee Report—0960–0068. Forms SSA–6230 and SSA–623 are used by SSA to determine the continuing suitability of an individual/organization to serve as representative payee. Form SSA–6230 is sent to parents, stepparents and grandparents with custody of minor children receiving Social Security benefits. Form SSA–623 is sent to all other payees with or without custody of the beneficiary. The respondents are individuals and organizations who serve as representative payees for SSI and Social Security beneficiaries.

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[4] 15 U.S.C. 78f(b)(5).

[5] 15 U.S.C. 78s(b)(3)(A).

[6] 17 CFR 240.19b–4(e).

[7] In reviewing the proposal, the Commission considered its impact on efficiency, competition and capital formation. 15 U.S.C. 78f(b).

[8] 17 CFR 200.30–3(a)(12).

	SSA-623	SSA-5230
Number of Respondents:	3,350,875	2,099,298
Frequency of Response:	1	1
Average Burden Per Response:	15 minutes	15 minutes
Estimated Annual Burden:	837,719 hrs	524,824 hrs

2. Request for Social Security Earnings Statement—0960–0525. The information on Form SSA–7050 is used by SSA to identify the requestor, to define the earnings information being requested, and to inform the requestor of the fee for such information. SSA then produces the requested statement. The respondents are individuals and organizations that use this form to request statements of earnings from SSA.

Number of Respondents: 44,000.

Frequency of Response: 1.

Average Burden Per Response: 11 minutes.

Estimated Average Burden: 8,067 hours.

3. Request for Change in Time/Place of Disability Hearing—0960–0348. The information on Form SSA–769 is used by SSA to provide claimants with a structured format to exercise their right to request a change in the time or place of a scheduled disability hearing. The information will be used as a basis for granting or denying requests for changes and for rescheduling hearings. The respondents are claimants who wish to request a change in the time or place of their disability hearing.

Number of Respondents: 7,483.

Frequency of Response: 1.

Average Burden Per Response: 8 minutes.

Estimated Average Burden: 998 hours.

4. Request for Reconsideration—Disability Cessation—0960–0349. The information on Form SSA–789 is used by SSA to schedule hearings and to develop additional evidence for individuals who have received an initial or revised determination that their disability ceased, did not exist, or is no longer disabling. The respondents are disability beneficiaries who file a claim for reconsideration.

Number of Respondents: 15,015.

Frequency of Response: 1.

Average Burden Per Response: 12 minutes.

Estimated Average Burden: 3,003 hours.

5. Summary of Evidence—0960–0430. The information on Form SSA–887 is used by State Disability Determination Services (DDS) to provide claimants with a list of medical/vocational reports pertaining to their disability. The form will aid claimants in reviewing the evidence in their folders and will be used by hearing officers in preparing for and conducting hearings. The respondents are State DDSs that make disability determinations.

Number of Respondents: 22,024.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Average Burden: 5,506 hours.

6. Report of Work Activity—Notice of Continuing Disability—0960–0108. The information collected on Form SSA–3945 will be used by SSA to determine whether an individual's work after entitlement to disability is cause for that entitlement to end. The respondents are individuals who report earnings after their entitlement to disability benefits.

Number of Respondents: 140,000.

Frequency of Response: 1.

Average Burden Per Response: 45 minutes.

Estimated Average Burden: 105,000 hours.

7. Employee Identification Statement—0960–0473. The information on Form SSA–4156 is used by SSA to resolve situations where two or more individuals have used the same Social Security Number (SSN), and an employer has erroneously reported earnings under an SSN. The respondents are employers involved in erroneous wage reporting.

Number of Respondents: 4,750.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Average Burden: 792 hours.

8. RSI/DI Quality Review Case Analysis-Sampled Number Holder; RSI/DI Quality Review Case Analysis-Auxiliaries/Survivors; RSI/DI Quality Review Case Analysis-Parent; RSI/DI Quality Review Case Analysis-Annual Earnings Test (AET)—0960–0555. The information on Forms SSA–2930, SSA–2931 and SSA–2932 is used by SSA to establish a national payment accuracy rate for all cases in payment status and to serve as a source of information regarding problem areas in the Retirement and Survivors Insurance (RSI) and Disability Insurance (DI) programs. The information is also used to measure the accuracy rate for newly adjudicated RSI/DI cases. SSA uses the information on Form SSA–4659 to evaluate the annual earnings test in order to determine its effectiveness. The results will be used to develop ongoing improvements in the process. The respondents are RSI and DI beneficiaries.

	SSA–2930	SSA–2931	SSA–2932	SSA–4659
Number of Respondents:	5,500	2,750	1,375	740
Frequency of Response:	1	1	1	1
Average Burden Per Response:	[1] 30	[1] 30	[1] 20	[1] 10
Estimated Annual Burden (Hours):	2,750	1,375	458	123

[1] Minutes.

Written comments and recommendations regarding the information collection(s) should be directed within 30 days to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses:

(OMB)

Office of Management and Budget,
OIRA, Attn: Laura Oliven, New
Executive Office Building, Room
10230, 725 17th St., NW, Washington,
D.C. 20503

(SSA)

Social Security Administration,
DCFAM, Attn: Frederick W.
Brickenkamp, 1–A–21 Operations
Bldg., 6401 Security Blvd., Baltimore,
MD 21235.

To receive a copy of any of the forms or clearance packages, call the SSA Reports Clearance Officer on (410) 965–4145 or write to him at the address listed above.

Dated: July 2, 1998.

Frederick W. Brickenkamp,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 98–18289 Filed 7–8–98; 8:45 am]

BILLING CODE 4190–29–U

DEPARTMENT OF STATE

[Public Notice 2860]

The Office of Overseas Schools; 60-Day Notice of Proposed Information Collection; the FS–573 (Overseas Schools Questionnaire), FS–573A (Information Regarding Professional Staff Members of Overseas Schools), FS–573B (Overseas School Summary Budget Information), and the FS–574 (Request for Assistance)

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collections described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. This process is conducted in accordance with the Paperwork Reduction Act of 1995.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Revision of a currently approved collection.

Originating Office: The Office of Overseas Schools of the Department of State (A/OPR/OS).

Title of Information Collection: Overseas Schools Questionnaire.

Frequency: Annually.

Form Number: FS–573.

Respondents: American sponsored schools overseas.

Estimated Number of Respondents: 199.

Average Hours Per Response: 15 minutes.

Total Estimated Burden: 50 hours.

Type of Request: Revision of a currently approved collection.

Originating Office: The Office of Overseas Schools of the Department of State (A/OPR/OS).

Title of Information Collection: Information Regarding Professional Staff Members of Overseas Schools.

Frequency: Annually.

Form Number: FS–573A.

Respondents: American sponsored schools overseas.

Estimated Number of Respondents: 199.

Average Hours Per Response: 15 minutes.

Total Estimated Burden: 50 hours.

Type of Request: Revision of a currently approved collection.

Originating Office: The Office of Overseas Schools of the Department of State (A/OPR/OS).

Title of Information Collection: Overseas School Summary Budget Information.

Frequency: Annually.

Form Number: FS–573B.

Respondents: American sponsored schools overseas.

Estimated Number of Respondents: 199.

Average Hours Per Response: 15 minutes.

Total Estimated Burden: 50 hours.

Type of Request: Revision of a currently approved collection.

Originating Office: The Office of Overseas Schools of the Department of State (A/OPR/OS).

Title of Information Collection: Request for Assistance.

Frequency: Annually.

Form Number: FS–574.

Respondents: American sponsored schools overseas.

Estimated Number of Respondents: 199.

Average Hours Per Response: 15 minutes.

Total Estimated Burden: 50 hours.

Public comments are being solicited to permit the agency to—

- Evaluate whether the proposed information collection is necessary for the proper performance of the agency functions.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR ADDITIONAL INFORMATION: Comments regarding the collection listed in this notice or requests for copies of the proposed collection and supporting documents should be directed to Charles S. Cunningham, Directives Management Branch, U.S. Department of State, Washington, DC 20520, (202) 647–0596.

Dated: June 29, 1998.

Fernando Burbano,

Chief Information Officer.

[FR Doc. 98–18264 Filed 7–8–98; 8:45 am]

BILLING CODE 4710–08–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Generalized System of Preferences (GSP); Notice of the Results of the 1997 Annual Review and 1998 De Minimis Waiver and Redesignation Reviews; Designation of Associations of Countries for Treatment as One Country

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of the GSP changes.

SUMMARY: This notice announces the disposition of the petitions accepted for review in the 1997 Annual Review of the GSP program, the results of the 1998 De Minimis Waiver and Redesignation Reviews, exclusions for products that exceeded the GSP competitive need limitations (CNLs), and the designation of the three associations of African countries each as eligible for treatment as a single country for purposes of the rule of origin requirements of the GSP program.

FOR FURTHER INFORMATION CONTACT: GSP Subcommittee, Office of the United States Trade Representative, 600 17th Street, NW., Room 518, Washington, D.C. 20508. The telephone number is (202) 395–6971. A press release on the GSP changes covered by this notice is available through the USTR Fax Retrieval System (202) 395–4809, or by contracting the USTR Office of the Public and Media Affairs at (202) 395–3230.

SUPPLEMENTARY INFORMATION: The GSP is provided for in Title V of the Trade Act of 1974, as amended (19 U.S.C. 2461–2465) (the 1974 Act). The President's decisions concerning the GSP changes addressed in this notice are also reflected in Proclamation No. 7107 of June 30, 1998. Unless otherwise specified, the changes in the GSP program addressed in this notice took effect on July 1, 1998.

In the 1997 Annual Review, the GSP Subcommittee of the Trade Policy Staff Committee accepted for review fifteen petitions to designate as eligible for GSP treatment certain articles that currently are designated as GSP eligible articles only from least-developed beneficiary developing countries, one petition to withdraw GSP eligibility for a certain article; and ten petitions for CNL waivers (62 FR 43408 and 62 FR 50426). The disposition of these petitions is indicated in Annex I of this notice.

In the 1998 De Minimis Waiver and Redesignation Reviews, the appraised import values during 1997 of each GSP-eligible article were reviewed to

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determine whether particular articles from particular GSP beneficiary developing countries exceeded the GSP CNLs. De minimis waivers were granted to certain articles which exceeded the 50 percent import share CNL, but for which the aggregate value of the imports of that article was below the 1997 de minimis level of $13.5 million. Annex II to this notice contains a list of these articles.

Certain articles that had previously exceeded GSP CNLs but that had fallen below the CNLs in 1997 ($80 million and 50 percent of U.S. imports of the article) were redesignated for GSP eligibility. These articles are listed in Annex III to this notice.

Articles that exceeded GSP CNLs in 1997, and that are newly excluded from GSP eligibility, are listed in Annex IV to this notice.

The President has determined that the members of the West African Economic and Monetary Union (WAEMU), the Southern African Development Community (SADC), and the Tripartite Commission for East African Cooperation (EAC) should each be treated as one country for purposes of the rule of origin of the GSP program. Proclamation No. 7107 of June 30, 1998 designated WAEMU as an association of countries that shall be treated as one country, and provides that the United States Trade Representative (USTR) shall announce in one or more **Federal Register** notices the effective dates of designation for countries in the SADC and EAC.

The USTR has determined that three members of the SADC-Botswana, Mauritius, and Tanzania-should be treated as one country for the purposes of the rule of origin requirements of the GSP program, effective on the date of publication of this notice. Annex V to this notice embodies this GSP change in the United States Harmonized Tariff Schedule.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

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Annex I. Decisions on Product Petitions of the 1997 GSP Annual Review

Case		Product		Decision
		A. Petitions to Add Products to GSP		
97-1	0409.00.00	Natural Honey		Denied
97-2	0703.10.40	Fresh Onions		Granted
97-3	0712.90.75	Tomato Powder (dried)		Granted*
97-4	0812.10.00	Cherries (provisionally preserved)		Denied
97-5	2002.90.00	Tomato Powder (prepared, not in vinegar)		Granted*
97-6	2917.12.10	Adipic Acid		Denied
97-7	3204.12.20	Acid Dyes		Granted**
97-8	3204.12.30	Acid Dyes		Granted**
97-9	3204.12.45	Acid Dyes		Granted**
97-10	3204.12.50	Acid Dyes		Granted**
97-11	3824.90.28	Vegetable Oil Distillate		Granted
97-12	7108.12.50	Unwrought Gold (for electronics, dental)		Granted***
97-13	7108.13.70	Semi- manufactured Gold		Granted***
97-14	8108.10.50	Unwrought Titanium		Pending
97-15	8704.10.50	Articulated Dump Trucks		Granted***
		B. Petition to Remove Product from GSP		
97-16	3920.62.00	Polyethylene Terephthalate Film		Granted
		C. Petitions to Waive Competitive Need Limits for [Country]		
97-17	0811.20.20	Raspberries (frozen)	[Chile]	Granted
97-18	1604.30.20	Caviar	[Russia]	Granted
97-19	2849.90.50	Carbides	[South Africa]	Granted***
97-20	2933.71.00	Caprolactam (6-Hexanelactam)	[Russia]	Granted
97-21	4011.10.10	Car Tires, Radial	[Brazil]	Denied
97-22	4011.10.50	Car Tires, Non -Radial.	[Brazil]	Denied
97-23	4011.20.10	Truck Tires, Radial	[Brazil]	Denied
97-24	4011.20.50	Truck Tires, Non-Radial.	[Brazil]	Denied
97-25	8108.90.60	Wrought Titanium	[Russia]	Granted
97-26	1701.11.10	Sugar	[Brazil]	Denied

* Except for Turkey

** Except for Argentina and India

*** Implementation dates for eligibility and CNL waiver to be established by USTR

ANNEX II De MINIMIS WAIVERS

HTSUS	BENEFICIARY	$ VALUE	SHARE OF US IMPORTS (1997)	DESCRIPTION
0304.10.30	Namibia	103,019	59.7%	Hake, filleted or minced, fresh or chilled
0305.20.20	Russia	18,500	100.0%	Sturgeon roe, dried, smoked, salted or in brine
0711.40.00	India	3,244,857	63.4%	Cucumbers including gherkins, provisionally preserved
0804.50.80	Thailand	1,424,365	51.1%	Guavas, mangoes, and mangosteens, dried
0813.40.10	Thailand	763,232	76.1%	Papayas, dried
1102.30.00	Thailand	3,321,954	78.7%	Rice flour
2008.99.35	Thailand	4,320,883	92.1%	Lychees and longans, otherwise prepared or preserved,
2309.90.70	Hungary	636,076	95.2%	Other preps nes with a basis of vitamin B12, for
2619.00.30	Venezuela	1,549,624	83.5%	Ferrous scale
2707.99.40	Venezuela	779,143	65.1%	Carbazole, from dist. of hi-temp coal tar or wt. of
2819.10.00	Kazakhstan	3,797,016	64.0%	Chromium trioxide
2825.30.00	Republic of South Africa*	11,030,395	99.7%	Vanadium oxides and hydroxides
2825.70.00	Chile	7,613,271	68.9%	Molybdenum oxides and hydroxides
2841.70.10	Chile	4,740,596	73.7%	Ammonium molybdate
2841.90.10	Republic of South Africa*	647,477	62.1%	Vanadates
2841.90.20	Kazakhstan	930,738	53.0%	Ammonium perrhenate
2903.23.00	Brazil	8,645,517	79.7%	Tetrachloroethylene (Perchloroethylene)
2903.61.10	Brazil	729,541	96.6%	Chlorobenzene
2903.69.05	Hungary	28,381	73.7%	3-Bromo-alpha,alpha,alpha-trifluorotoluene; and other
2907.29.25	Republic of South Africa*	131,704	57.2%	tert-Butylhydroquinone
2929.10.15	Brazil	2,207,908	86.6%	Mixtures of 2,4- apd 2,6-toluenediisocyanates
2931.00.25	Brazil	2,107,735	99.8%	Pesticides of aromatic organo-inorganic
2933.19.45	Slovakia	8,502	66.9%	Nonaromatic drugs of heterocyclic compounds with
2933.40.08	Hungary	402,977	100.0%	4,7-Dichloroquinoline
2938.10.00	Brazil	1,111,143	79.6%	Rutoside (Rutin) and its derivatives
3808.30.20	Brazil	1,426,893	82.9%	Herbicides, antisprouting products and plant-growth
4202.22.35	Philippines	366,450	92.6%	Handbags with or without shoulder strap or without
4412.13.25	Brazil	2,604,109	56.2%	Plywood sheet n/o 6 mm thick, tropical hard wood outer
4412.14.25	Brazil	6,109,853	95.9%	Plywood sheet n/o 6 mm thick, outer ply of nontropical
4412.19.10	Brazil	963,513	96.8%	Plywood of wood sheets, n/o 6 mm thick each, with outer
4412.29.15	Russia	6,320,630	72.7%	Plywood nesoi, at least one hardwood outer ply nesoi,
4412.92.10	Brazil	67,670	100.0%	Plywood nesoi, softwood outer plies,least 1 ply tropical
4412.99.15	Brazil	315,711	100.0%	Plywood nesoi,softwood outer plies,no tropical hardwood
4412.99.45	Brazil	755,428	85.1%	Plywood nesoi, softwood outer plies, no trop. hard wood
5607.30.20	Philippines	4,577,085	81.8%	Twine, cordage, rope and cables of abaca or other hard
6116.99.35	Thailand	58,468	68.4%	Gloves, mittens & mitts specially designed for sports,
6501.00.30	Czech Republic	2,360,882	52.6%	Hat forms, hat bodies and hoods, not blocked to shape or
7113.20.30	Mauritius	959,876	68.2%	Base metal clad w/precious metal clasps and parts
7202.80.00	Russia	3,997,199	90.0%	Ferrotungsten and ferrosilicon tungsten
7604.10.30	Slovenia	4,847,079	72.6%	Aluminum (o/than alloy), bar and rods, with a round
8112.91.50	Chile	5,912,127	77.4%	Rhenium, unwrought; rhenium, powders
8112.99.00	Chile	3,224,801	52.4%	Gallium, hafnium, indium, niobium, rhenium, and thallium
8410.13.00	Egypt	835,000	62.5%	Hydraulic turbines and water wheels
8419.81.10	Thailand	4,446,374	50.2%	Microwave ovens for making hot drinks or for cooking
8455.90.40	Russia	3,060,128	57.5%	Parts for metal-rolling mills, other than rolls
8525.20.28	Thailand	6,810,286	50.8%	Radio transceivers, low power, operating on frequencies
8528.21.34	Thailand	140,210	87.2%	Non-high definition color video monitors, nonprojection
8543.90.64	Thailand	1,831,602	74.2%	Printed circuit assemblies of ion implanters
9013.10.30	Ukraine	3,090,335	70.3%	Telescopic sights for rifles designed for infrared
9401.90.15	Czech Republic	2,109,419	66.4%	Parts of seats nesoi, for bent-wood seats
9506.19.40	Czech Republic	1,557,025	76.5%	Cross country snow-ski equipment nesoi, and parts
9601.90.20	Philippines	3,938,643	57.5%	Shell, worked and articles thereof

* Implementation dates for waivers to be established by USTR

(The descriptions are generic and unofficial. Official definitions are contained in the U.S. Harmonized Tariff Schedule under the relevant HTSUS numbers. The abbreviations nes, nesi, and nesoi in the descriptions indicate basket categories of articles not included in other related tariff lines)

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ANNEX III: REDESIGNATIONS

HTSUS	BENEFICIARY	$ VALUE /	SHARE OF US IMPORTS (1997)	DESCRIPTION
2916.31.15	Estonia	7,243,484	48.9%	Benzoic Acid
4411.19.40	Brazil	4,123,268	6.1%	Fiberboard nesi, density exceeding 0.8 g/cm3
7103.99.10	Thailand	27,275,630	22.7%	Precious or semiprecious stones, nesoi, cut but not set
7615.19.10	Thailand	17,625	0.1%	Aluminum, cast cooking and kitchen ware, enameled or glazed
8112.11.60	Kazakhstan	0	0.0%	Beryllium, unwrought; beryllium, powders
8409.99.91	Brazil	52,800,233	14.3%	Parts nesi, used solely or principally with the engines
8409.99.99	Brazil	39,612,490	13.4%	Parts nesi, used solely or principally with compression
9025.11.20	Brazil	945,127	35.6%	Clinical thermometers, liquid-filled, for direct reading

ANNEX IV : ARTICLES EXCEEDING COMPETITIVE NEED LIMITS

HTSUS	BENEFICIARY	$ VALUE	SHARE OF US IMPORTS (1997)	DESCRIPTION
1604.15.00	Chile	10,119,726	63.5%	Prepared or preserved mackerel, whole or in pieces
2843.30.00	Colombia	65,696,693	90.1%	Gold compounds
2901.29.50	Republic of South Africa	18,970,276	84.5%	Unsaturated acyclic hydrocarbons, nesoi, not derived
4104.39.40	Argentina	99,144,096	70.4%	Upholstery leather, of bovine and equine leather, nesi
4409.10.40	Chile	97,772,101	36.0%	Standard wood moldings of pine (Pinus spp.), continuous
7113.19.29	India	101,064,433	14.0%	Gold necklaces and neck chains (o/than of rope or mixed
7113.19.50	Turkey	85,512,595	3.7%	Precious metal (o/than silver) articles of jewelry
7202.50.00	Russia	19,622,884	82.8%	Ferrosilicon chromium
8525.20.05	Philippines	26,075,823	51.7%	Citizens Band (CB) transceivers, hand-held
8528.12.16	Thailand	82,991,345	41.4%	Non-high def. color television reception app.,
8531.20.00	Philippines	84,474,877	9.0%	Indicator panels incorporating liquid crystal devices
8534.00.00	Thailand	83,266,876	4.0%	Printed circuits, without elements (other than connecting
8708.40.50	Brazil	39,738,781	58.2%	Pts. & access. of mtr. vehic. of 8701, nesoi
9001.30.00	Indonesia	75,099,015	58.9%	Contact lenses

Annex V Treatment of Association of Countries as One for GSP

Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after June 30, 1998, general note 4(a) of the Harmonized Tariff Schedule of the United States is modified by adding to the "Associations of countries (treated as one country)", the following:

Member Countries of the Southern African Development Community (SADC)

Currently qualifying:

Botswana
Mauritius
Tanzania

[FR Doc. 98-18285 Filed 7-8-98; 8:45 am]

BILLING CODE 3190-01-C

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee; Air Carrier Operations Issues—New Task

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of new task assignment for the Aviation Rulemaking Advisory Committee (ARAC).

SUMMARY: Notice is given of a new task assigned to and accepted by the Aviation Rulemaking Advisory Committee (ARAC). This notice informs the public of the activities of ARAC.

FOR FURTHER INFORMATION CONTACT: Quentin Smith, Flight Standards Service, AFS–200, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

SUPPLEMENTARY INFORMATION:

Background

The FAA has established an Aviation Rulemaking Advisory Committee to provide advice and recommendations to the FAA Administrator, through the Associate Administrator for Regulation and Certification, on the full range of the FAA's rulemaking activities with respect to aviation-related issues. This includes obtaining advice and recommendations on the FAA's commitment to harmonize its Federal Aviation Regulations (FAR) and practices with its trading partners in Europe and Canada.

One area ARAC deals with is air carrier operations issues. These issues involve the operational requirements for air carriers, including crewmember requirements, airplane operating performance and limitations, and equipment requirements.

The Task

This notice is to inform the public that the FAA has asked ARAC to provide advice and recommendation on the following task, applicable to both Part 121 and 135 operations:

Provide a review and analysis of industry practice with regard to reserve duty for flight crewmembers. Recommend to the FAA a performance-based or other regulatory scheme whereby the public is ensured that each flight crewmember is provided with sufficient rest to safely perform flight deck duties at a minimal cost to certificate holders and operators. The task will be segmented by the working group according to the types of operations under Part 119, such as domestic, flag, etc.

The product expected as a result of this task is a report to the FAA that provides specific recommendations and proposed regulatory text, if appropriate, that will resolve the issue of reserve duty. Specifically, these recommendations must ensure that pilots are sufficiently rested for flight deck duty. These recommendations should also ensure that flight crewmember resources are utilized so that the economic burden for the certificate holder is minimized. The report will include the following:

1. A review of the current scientific data on the effects of fatigue in reserve duty. Consider conflicting opinions.
2. An analysis of the current reserve schemes and operational situations. This analysis should include each of the types of operations under Part 119 and, if appropriate, different operations within those types.
3. A recommendation of the standards and criteria to be used.
4. The recommendation must outline how the FAA will measure compliance.
5. The report must include industry-provided data for an FAA economic analysis. This data should include the effects on small operators and small businesses.
6. The report should include industry-provided data regarding the record-keeping burden on the public.

The Reserve Duty/Rest Requirements Working Group is expected to complete its work by December 1, 1998. The FAA anticipates that the ARAC on air carrier operations issues will meet on December 1 to receive the recommendation of the working group and that ARAC will submit its recommendation to the FAA within 30 days. Participants of the working group should be prepared to participate on a full-time basis for the 4-month duration of the task completion.

ARAC Acceptance of Task

ARAC has accepted the task and has chosen to establish a new Reserve Duty/Rest Requirements Working Group. The working group will serve as to staff ARAC to assist ARAC in the analysis of the assigned task. Working group recommendations must be reviewed and approved by ARAC. If ARAC accepts the working group's recommendations, it forwards them to the FAA as ARAC recommendations.

Working Group Activity

The Reserve Duty/Rest Requirements Working Group is expected to comply with the procedures adopted by ARAC. As part of the procedures, the working group is expected to:

1. Recommend a work plan for completion of the task, including the rationale supporting such a plan, for consideration at the meeting of ARAC to consider air carrier operations issues held following publication of this notice.
2. Give a detailed conceptual presentation of the proposed recommendations, prior to proceeding with the work stated in item 3 below.
3. Draft a report containing information and data identified previously.
4. Provide a status report if needed, at each meeting of ARAC held to consider air carrier operations issues. Interim status reports may also be required.

Participation in the Working Group

The Reserve Duty/Rest Requirements Working Group will be composed of experts having an interest in the assigned task. A working group member need not be a representative of a member of the full committee.

An individual who has expertise in the subject matter and wishes to become a member of the working group should write to the person listed under the caption **FOR FURTHER INFORMATION CONTACT** expressing that desire, describing his or her interest in the task, and stating the expertise he or she would bring to the working group. The FAA is specifically seeking expertise from all kinds of operations under Part 119, including Part 135 on-demand operations and helicopter operations. All requests to participate must be received no later than July 24, 1998. The requests will be reviewed by the assistant chair and the assistant executive director, and the individuals will be advised whether or not the request can be accommodated.

Individuals chosen for membership on the working group will be expected to represent their aviation community segment and participate actively in the working group (e.g., attend all meetings, provide written comments when requested to do so, etc.). They also will be expected to devote the resources necessary to ensure the ability of the working group to meet any assigned deadline(s). Members are expected to keep their management chain advised of working group activities and decisions to ensure that the agreed technical solutions do not conflict with their sponsoring organization's position when the subject being negotiated is presented to ARAC for a vote.

Once the working group has begun deliberations, members will not be added or substituted without the approval of the assistant chair, the

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assistant executive director, and the working group chair.

The Secretary of Transportation has determined that the formation and use of ARAC are necessary and in the public interest in connection with the performance of duties imposed on the FAA by law.

Meetings of ARAC will be open to the public. Meetings of the Reserve Duty/Rest Requirements Working Group will not be open to the public, except to the extent that individuals with an interest and expertise are selected to participate. No public announcement of working group meetings will be made.

Issued in Washington, DC, on July 2, 1998.

Quentin Smith,

Assistant Executive Director for Air Carrier Operations Issues, Aviation Rulemaking Advisory Committee.

[FR Doc. 98–18209 Filed 7–8–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Harrison County, Mississippi

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for an East Harrison County connector between Interstate 10 and United States Highway 90 in Biloxi, Mississippi.

FOR FURTHER INFORMATION CONTACT: Cecil Vick, Realty Officer/Environmental Coordinator, Federal Highway Administration, 666 North Street, Suite 105, Jackson, MS 39202–3199. Telephone: (601) 965–4217. Contacts at the State and local level, respectively are: Mr. Billie Barton, Environmental/Location Division Engineer, Mississippi Department of Transportation. P.O. Box 1850, Jackson, MS, 39215–1850, telephone: (601) 359–7920; and Mr. Ricky Lee, District Engineer, Mississippi Department of Transportation, P.O. Box 551, Hattiesburg, MS, 39403–0551, telephone (601) 544–6511.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Mississippi Department of Transportation (MDOT) will prepare an Environmental Impact Statement (EIS) on the proposed East Harrison County connector in Biloxi, Mississippi.

The proposed connector would be located in one of two corridor study areas; Corridor One would begin at Exit 41 (MS 67 interchange) crossing the Tchoutacabouffa River, Big Lake, and connecting to US 90 west of the Coliseum; Corridor Two would begin at Exit 44 (Cedar Lake Interchange) crossing Back Bay of Biloxi and connecting to US 90 west of Keesler Air Force Base. The connector is a proposed full control of access facility and interchanges will be studied at various locations.

Section 65–39–1(2), Mississippi Code 1972, annotated, authorized study of the connector and the Intermodal Surface Transportation Efficiency Act of 1998, authorized partial funding. Alternatives under consideration include (1) taking no action and (2) build alternative.

The FHWA and MDOT are seeking input as a part of the scoping process to assist in determining the clarifying issues relative to this project. Letters describing the purposed action and soliciting comments will be sent to appropriate federal, state, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. A formal scoping meeting with federal, state, and local agencies, and other interested parties will be held in the immediate future.

Coordination will be continued with appropriate federal, state, and local agencies, and to private organizations and citizens who have previously expressed or known to have interest in this proposal. A public involvement meeting will be held and a newsletter developed to keep the public informed. The draft EIS will be available for public and agency review and comment prior to the official public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments, and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Andrew H. Hughes,

Division Administrator, Jackson, Mississippi.

[FR Doc. 98–18256 Filed 7–8–98; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Customs Service

Extension to Application Period For The General Test Regarding The International Trade Prototype

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: This notice announces that Customs will allow a 30-day extension to importers and exporters wishing to apply to participate in, or provide written comments on, the International Trade Prototype (ITP). The ITP was previously announced in the **Federal Register** on June 3, 1998.

DATES: To apply for participation in the ITP, parties must submit the necessary information as outlined in the **Federal Register** notice of June 3, 1998 on or before August 7, 1998. Comments concerning the ITP must be submitted on or before August 7, 1998.

ADDRESSES: Applications for voluntary participation in, or written comments regarding, the ITP should be addressed to the U.S. Customs Service, International Trade Prototype Team, Attn: Linda LeBaron Grasley, 4455 Genesee Street, Bldg. 10, Room #342, Buffalo, New York 14225. Note that all comments received by U.S. Customs will be part of the public record.

FOR FURTHER INFORMATION CONTACT: For any prototype or participation questions please contact Daniel Buchanan, U.S. Customs Service at (617) 565–6236, or Linda LeBaron Grasley, U.S. Customs Service at (716) 626–0400 x 204, or Kevin Franklin, United Kingdom, Her Majesty's Custom and Excise at 011 44 171 865 4728 in London, England.

SUPPLEMENTARY INFORMATION:

Background

On June 3, 1998, Customs published a document in the **Federal Register** (63 FR 30288) announcing what is expected to be a series of prototypes collectively called the International Trade Prototype (ITP). This notice invited public comments concerning any aspect of the planned prototype, informed interested members of the public of the eligibility requirements for voluntary participation in the first phase of the first prototype called International Trade Prototype 1 (ITP1) and outlined the development and evaluation methodology to be used in the test. It was announced that in order to participate in ITP1, the necessary information, as outlined in that notice, must be filed with Customs and approval granted.

The June 3, 1998, notice announced that the first phase would commence no earlier than June 8, 1998, and would run for approximately six months with evaluations of the prototype occurring periodically. Comments concerning any aspect of this phase were requested to be received on or before July 6, 1998. Importers and exporters who wish to participate were to have submitted an application on or before July 6, 1998, including information that was set forth in the notice.

Today's document announces that Customs will allow a 30-day extension to importers and exporters wishing to provide comments or apply to participate in the International Trade Prototype. To apply for participation for the ITP or submit comments regarding the ITP, parties now have until August 7, 1998.

Dated: July 6, 1998.

Samuel H. Banks,

Acting Commissioner of Customs.

[FR Doc. 98–18233 Filed 7–8–98; 8:45 am]

BILLING CODE 4820–02–P

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Corrections

Federal Register
Vol. 63, No. 131
Thursday, July 9, 1998

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

15 CFR Part 280

[Docket Number: 980623159-8159-01]

RIN 0693-AB47

Implementation of the Fastener Quality Act

Correction

In rule document 98–17319, beginning on page 35507, in the issue of Tuesday, June 30, 1998, make the following corrections:

1. On page 35508, in the first column, the heading "**PART 280—FASTERNER QUALITY** " should read "**PART 280—FASTENER QUALITY** ".
2. On the same page, in the same column, in the 18th line "Qaulity" should read "Quality".

§ 280.12 [Corrected]

On page 35508, in the first column:

3. In paragraph (a), in the second line, "Qaulity" should read "Quality".
4. In paragraph (b), in the second line, "october" should read "October".
5. In paragraph (b), in the fourth line, "not" should read "been".
6. In paragraph (b), in the 8th line, "charteristics" should read "characteristics".
7. In paragraph (c), in the third line, "october" should read "October".

§ 280.602 [Corrected]

8. On page 35508, in the first column, in paragraph (k), in the second line, after "*prior*" insert "*to*".

§ 280.810 [Corrected]

9. On page 35508, in the second column, in paragraph (c)(3)(i)(A)(4), in the second line from the bottom, "Registrary" should read "Registrar".

BILLING CODE 1505-01-D

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

Correction

In notice document 98–17405, appearing on page 35931, in the issue of Wednesday, July 1, 1998, make the following corrections:

1. On page 35931, in the second column, below the 14th line, insert "*Agreement No.*: 224–200870–002".
2. On the same page, in the same column, below the 29th line, insert "*Agreement No.*: 224–201003–001".
3. On the same page in the third column, "*Agreement No.*: 224–201054" should be added after the third line.

BILLING CODE 1505-01-D

federal register

Thursday
July 9, 1998

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Parts 65, 66, and 147

Revision of Certification Requirements: Mechanics and Repairmen; Proposed Rules

Proposed Advisory Circulars, 66–XX: Aviation Maintenance Personnel Certification Regulations, Recurrent Training Requirements, and Aviation Maintenance Technician Training Program Providers Approval; Notice

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 65, 66, and 147

[Docket No. 27863; Notice No. 98–5]

RIN 2120–AF22

Revision of Certification Requirements: Mechanics and Repairmen

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to amend the Federal Aviation Regulations (FAR) that prescribe the certification and training requirements for mechanics and repairmen. Current regulations prescribing these requirements do not reflect the extensive differences in the maintenance skills required of currently certificated personnel, the significant technological advances that have occurred in the aviation industry, and the enhancements in training and instructional methods that have affected all aviation maintenance personnel. The proposed rule would consolidate and clarify all certification, training, and experience requirements for aviation maintenance personnel in a newly established part of the Code of Federal Regulations. The proposed rule would create additional certificates and ratings, and would modify the privileges and limitations of current certificates to respond more closely to the responsibilities of aviation maintenance personnel. In addition, the proposal would establish new training requirements that would enhance the technical capabilities of, and increase the level of professionalism among, aviation maintenance personnel. Further, as current rules do not provide the FAA with an accurate assessment of active aviation maintenance personnel, the proposal also would provide the FAA with essential demographic information that could be used to disseminate vital aviation safety and training information, thereby enhancing aviation safety. All of the proposals in this document have been extensively researched for the FAA by the Aviation Rulemaking Advisory Committee (ARAC) Part 65 Working Group, and all proposals made in this document are based on the ARAC's recommendations.

DATES: Comments must be received on or before November 6, 1998.

ADDRESSES: Comments on this proposed rule should be delivered or mailed, in triplicate, to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–200), Docket No. 27863, Room 915G, 800 Independence Avenue SW., Washington, DC 20591. Comments submitted must be marked: "Docket No. 27863." Comments also may be submitted electronically to the following Internet address: 9–NPRM–CMTS@faa.dot.gov. Comments may be examined in Room 915G on weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Leslie K. Vipond, AFS–350, Continuous Airworthiness Maintenance Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267–3269.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the proposals in this notice also are invited. Substantive comments should be accompanied by cost estimates. Comments should identify the regulatory docket or notice number and should be submitted in triplicate to the Rules Docket address specified above.

All comments received, as well as a report summarizing each substantive public contact with FAA personnel on this rulemaking, will be filed in the docket. The docket is available for public inspection before and after the comment closing date.

All comments received on or before the closing date will be considered by the Administrator before taking action on this proposed rulemaking. Late-filed comments will be considered to the extent practicable. The proposals contained in this notice may be changed in light of the comments received.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a pre-addressed, stamped postcard with those comments on which the following statement is made: "Comments to Docket No. 27863." The postcard will be date stamped and mailed to the commenter.

Availability of NPRMs

Using a modem and suitable communications software, an electronic copy of this document may be downloaded from the FAA regulations section of the FedWorld electronic bulletin board service (telephone: (703) 321–3339), the Government Printing Office's electronic bulletin board service (telephone: (202) 512–1661), or the FAA's Aviation Rulemaking Advisory Committee bulletin board service (telephone: (800) 322–2722).

Internet users may reach the FAA's webpage at http://www.faa.gov/avr/nprm/nprm.htm or the Government Printing Office's webpage at http://www.access.gpo.gov/nara for access to recently published rulemaking documents.

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9860. Communications must identify the notice number of this NPRM.

Persons interested in being placed on the mailing list for future NPRMs should request from the above office a copy of Advisory Circular (AC) No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

Statement of the Problem

In keeping with the FAA's policy of reviewing and upgrading regulations to ensure that they are consistent with changes in the aviation environment, the FAA has conducted a multiphase regulatory review to amend subparts D and E of 14 CFR part 65, which pertain to mechanics and repairmen. Since the recodification of the Civil Air Regulations into the FAR on August 10, 1962, a complete regulatory review of the certification requirements for these airmen has not been accomplished, and few significant revisions to these subparts have been made. However, numerous technological advances in the aviation industry, recent FAA and international regulatory activities, concerns over aging aircraft, and enhancements in training methods have significantly affected all aspects of aviation maintenance operations. Additionally, various and often conflicting interpretations of the existing regulations have resulted in confusion among the airmen for whom this part was intended. Based on these factors, the FAA has instituted this complete regulatory review of part 65, subparts D and E.

History

In November 1989, a joint industry/FAA part 65 review group was formed to evaluate and review certification requirements for mechanics and repairmen. The review group's objective was to develop and present a unified position on recommended changes to part 65. The group was composed of representatives from several aviation associations and was coordinated by the Professional Aviation Maintenance Association (PAMA). FAA interests were represented by the Aircraft Maintenance Division (AFS–300) of the FAA.

The review group conducted a series of panel discussions throughout the United States and, as a result, drafted the "Industry/FAA Part 65 Review Group Working Paper," which was completed on January 31, 1991. This paper presented the issues of general agreement within the review group and issues that the group believed would require further discussion.

In support of this regulatory review, the FAA also completed a historical review of part 65, subparts D and E, on October 22, 1991. This review revealed that, as of October 1991, there had been 17 amendments (1 of which was rescinded), 3 petitions for rulemaking, and 100 exemption actions to these subparts since recodification in 1962. In addition, one accident, the Aloha Airlines Boeing 737 structural failure on April 28, 1988, generated National Transportation Safety Board (NTSB) recommendations related to amending these subparts.

The three petitions for rulemaking addressed issues associated with establishing certificates and ratings for avionics and instrument technicians, recertifying mechanics, and allowing applicants for mechanic certificates who have not graduated from an aviation maintenance technician school approved under 14 CFR part 147 to take the oral and practical tests for a certificate or rating before completing the required written tests.

The majority of the requests for exemption, FAA policy letters, and legal interpretations regarding mechanics pertained to issues affecting inspection authorization renewal or to general eligibility and experience requirements. The majority of requests for similar actions concerning repairmen involved issues pertaining to certificate privileges and limitations.

During 1991, the FAA conducted a survey of FAA regional offices on the certification of mechanics, holders of inspection authorizations, and repairmen. A copy of this survey has been placed in Docket No. 27863.

The survey questions were derived from issues that were raised during FAA participation in listening sessions with aviation industry associations and the International Civil Aviation Organization (ICAO) Aircraft Maintenance Engineer Licensing Panel and from issues identified in legal interpretations, petitions for exemption, petitions for rulemaking, and enforcement actions.

Results of this survey showed clear support for: (1) replacing the term "mechanic" with "aviation maintenance technician"; (2) developing a system for granting additional privileges and limitations for mechanics; (3) encouraging additional FAA participation with ICAO and other aviation authorities to standardize training and certification of maintenance personnel; (4) using aviation maintenance instructor experience to satisfy recent experience requirements; (5) clarifying § 65.75(b), regarding written test requirements; (6) adding the term "facsimile" to § 65.16; and (7) developing a separate certificate or rating for balloon repairmen. The majority of the respondents supported changes in the English-language requirements for mechanics and repairmen, the continued acceptance of military aircraft maintenance experience as the basis for airframe and powerplant mechanic certification, and changes in the units of time (from months to hours) used in current § 65.77 to measure experience requirements for mechanics.

Further impetus for the part 65 review came with the establishment of the ARAC. The ARAC charter became effective on February 5, 1991 (56 FR 2190, January 22, 1991). It was most recently renewed on February 5, 1997 (FAA Order 1110.119C, Aviation Rulemaking Advisory Committee; March 3, 1997). The ARAC was established to assist the FAA in the rulemaking process by providing input from outside the Federal Government on major regulatory issues affecting aviation safety. The ARAC includes representatives of air carriers, manufacturers, general aviation, labor groups, colleges, universities, associations, airline passenger groups, and the general public. The ARAC's formation has given the FAA additional opportunities to solicit information directly from significantly affected parties, who meet and exchange ideas about proposed rules and existing rules that should be revised or eliminated. The FAA has received significant assistance from the ARAC in this review and in the formulation of the proposals in this NPRM.

At its first meeting on air carrier/general aviation maintenance issues on May 24, 1991 (56 FR 20492, May 3, 1991), the ARAC established the Part 65 Working Group. The ARAC tasked this Working Group to conduct a review of the certification requirements for mechanics, mechanics holding inspection authorizations, and repairmen. At that time, these requirements were in part 65, subparts D and E. Because the scope of the Working Group's task was extensive, the group divided its review of the certification requirements for aviation maintenance personnel into two phases.

Once the first phase of this review was complete, the ARAC analyzed the efforts of the Working Group and made a series of recommendations to the FAA, which resulted in the FAA's issuance of Notice No. 94–27 on August 17, 1994 (59 FR 42430). That NPRM proposed: (1) Establishing a separate part 66 for aviation maintenance personnel; (2) removing gender-specific terms from the original regulation; (3) changing the term "mechanic" to "aviation maintenance technician"; (4) changing the term "repairman" to "aviation repair specialist"; (5) establishing the equivalency of the aviation maintenance technician certificate and the aviation repair specialist certificate with current mechanic and repairman certificates; (6) allowing facsimiles to be used in the process of replacing lost or destroyed aviation maintenance technician and aviation repair specialist certificates; (7) requiring applicants to demonstrate English-language proficiency by reading and explaining appropriate maintenance publications and by writing defect and repair statements; (8) discontinuing the certification of aviation maintenance personnel who are employed outside the United States and who are not proficient in the English language; (9) requiring all aviation maintenance technician applicants to pass a written test that would examine their knowledge of all applicable maintenance regulations; (10) clarifying the requirement that each applicant for an aviation maintenance technician certificate pass all written tests before applying for oral and practical tests; (11) recognizing computer-based testing methods; (12) specifying all experience requirements in hours instead of months for initial certification; (13) establishing a basic competency requirement for aviation maintenance technicians; (14) allowing aviation maintenance technicians to use equipment-specific training as an additional means to qualify for the exercise of certificate

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privileges; (15) permitting aviation maintenance instructors to use instructional time to satisfy currency requirements; (16) establishing training requirements for aviation maintenance technicians who desire to use their certificates for compensation or hire; (17) extending the duration of an inspection authorization from 1 to 2 years; and (18) expanding the renewal options available to the holder of an inspection authorization.

After further work by the Part 65 Working Group and the rapid completion of the second phase of the Working Group's review of the certification requirements for mechanics and repairmen, the ARAC recommended that the FAA consolidate the proposals made in Notice 94–27 with those proposals made by the ARAC at the completion of the second phase of the regulatory review. This decision was based on the ARAC's evaluation that the proposals made in the second phase of the Part 65 Working Group's review of the certification requirements for aviation maintenance personnel would cause significant changes to the format and content of proposed part 66, as set forth in Notice No. 94–27, which proposed the changes recommended by the ARAC and the FAA after the completion of the first phase of the review. As a result of the creation of new subparts in proposed part 66 for the aviation maintenance technician (transport) (AMT(T)) certificate and the inspection authorization, the addition of a separate rating for aviation maintenance instructors, and the creation of an additional aviation repair specialist certificate, the ARAC determined that the general organization of part 66, as previously proposed, would be greatly altered.

The FAA, in an effort to avoid confusion in the implementation of the final rule, agreed with the ARAC's recommendation and determined that the changes proposed in the earlier NPRM and the additional changes proposed as a result of recommendations made at the completion of the second phase of the regulatory review should be reconciled and consolidated into a single NPRM containing both sets of proposals. Therefore, the FAA is withdrawing the initial NPRM in a document published elsewhere in this separate part of the **Federal Register**. The FAA contends that the creation of part 66, as set forth in the earlier proposal, followed by a series of sweeping changes to implement the additional proposals set forth in this NPRM, would have been confusing to the aviation maintenance community and would have hindered the implementation of the changes that the Working Group has set out to accomplish.

The proposals developed during both phases of the part 65 regulatory review, and set forth in this NPRM, cover a broad range of issues affecting the certification of aviation maintenance personnel. This NPRM reconciles the proposals made in the earlier NPRM with the proposals made as a result of the completion of the second phase of the ARAC's review of the certification requirements for aviation maintenance personnel. As stated previously, all of the proposals in this NPRM have been extensively researched for the FAA by the Part 65 Working Group, and all proposals made in this NPRM are based on the ARAC's recommendations.

General Discussion of the Proposal

Modification of the Previous Proposal

A majority of the proposals developed during the first phase of the regulatory review and set forth in Notice No. 94–27 also have been set forth in this proposal. Of those 18 specific proposals previously noted as being set forth in the earlier NPRM, fewer than half have been significantly modified in this NPRM.

Many of the discrepancies between the current proposal and the earlier NPRM resulted from the previous proposal to equate a mechanic certificate to an aviation maintenance technician (AMT) certificate. As a result of the completion of the second phase of this review, the FAA proposes the creation of AMT and AMT(T) certificates. The current mechanic certificate with airframe and powerplant ratings would be equivalent to the proposed AMT(T) certificate with an aircraft rating (with no loss of privileges) and not the AMT certificate, as stated in the earlier NPRM. The original proposal to change the term "mechanic" to "aviation maintenance technician" has, therefore, been modified to reflect the proposed change. All privileges granted to an AMT(T) with an aircraft rating, as set forth in this notice, would apply to the holder of a current mechanic certificate with airframe and powerplant ratings. The holder of the proposed AMT certificate with an aircraft rating would not possess the full approval for return-to-service privileges of the holder of either the current mechanic certificate with an airframe and powerplant rating or the proposed (and equivalent) AMT(T) certificate with an aircraft rating.

This proposal also would combine the current airframe and powerplant ratings into a single "aircraft" rating. The FAA would not issue any proposed certificates with airframe and powerplant ratings as stated in the previous NPRM.

In the earlier NPRM, information pertaining to inspection authorizations was found solely in the subpart of proposed part 66 that would pertain to AMTs. The current proposal, however, would create two certificates (the AMT and AMT(T)), both of whose holders would be eligible for inspection authorization privileges. Therefore, the proposal would remove those sections that pertain to inspection authorizations from the subpart, proposed in the earlier NPRM, that was applicable solely to the AMT certificate and place this information in a separate subpart applicable to AMT and AMT(T) certificates. Additionally, the proposal would not permit participation in current inspection programs recommended by the manufacturer or other inspection programs established by the registered owner or operator under 14 CFR § 91.409(f)(3) or (4), as a means of satisfying inspection authorization renewal requirements.

By establishing a new type of aviation repair specialist certificate based on proficiency in a designated specialty area but not linked to employment, this proposal significantly reorganizes the subpart of previously proposed part 66 applicable to aviation repair specialists. Although Notice No. 94–27 states that a valid repairman certificate would be equal to an aviation repair specialist certificate, under the proposal contained in this notice, the current repairman certificate would only be equivalent to the aviation repair specialist certificate issued on the basis of employment (ARS–II) and not to the aviation repair specialist certificate issued on the basis of proficiency in a designated specialty area (ARS–I) (unless the FAA issued the current repairman certificate based on compliance with a recognized national standard, such as that established for nondestructive inspection).

Additionally, as a result of comments received on the earlier NPRM, the proposal to specify practical experience requirements in hours for the issuance of an AMT certificate would be retained; however, the time interval in which recent experience requirements would be measured would continue to be stated in months. Also as a result of comments received, this proposal would propose a mandatory recurrent training requirement for AMTs and AMT(T)s who use their certificates for compensation or hire; however, this NPRM would not propose that this recurrent training consist of a minimum of 16 hours of recurrent training every

24 months, as stated in the previous NPRM. To afford aviation maintenance personnel greater latitude in the types of training that could be used to qualify for the exercise of certificate privileges, this proposal would change the more restrictive term "equipment-specific training," as set forth in the earlier proposal, to "appropriate training." The proposal also would permit training on the "tasks to be performed" to be used to qualify a person for the exercise of certificate privileges, rather than require training to be on the "equipment on which the work is to be performed." Therefore, completion of training sufficient to permit the exercise of certificate privileges would not need to be conducted on the identical make and model of an item on which subsequent work would be performed. Maintenance personnel would be permitted to complete training by performing similar maintenance tasks on different makes and models of equipment. This would provide maintenance personnel with increased opportunities to obtain qualifying training without causing any decrease in safety.

To decrease the possibility that a certificate holder would have to make any additional requests for a telegram or facsimile to be used as proof of certification after a replacement certificate has been requested, this NPRM also would increase the period of validity of telegrams and facsimiles used as proof of certification from 60 days to 90 days.

Additionally, the FAA has revised the certificate eligibility requirements relating to English-language proficiency to permit aviation maintenance personnel who are deaf, hard of hearing, speech impaired, or possess similar medical conditions, yet have a command of the English language, to meet certificate eligibility requirements. Therefore, the FAA has added a provision to the proposed certificate eligibility requirements that would permit an individual who has a demonstrated proficiency in the English language, but who may not be able to meet the proposed requirements because of a medical condition, to have limitations placed on his or her certificate that would permit the exercise of certificate privileges.

New Proposals Based on the Completion of the Second Phase of the Regulatory Review of the Certification Requirements for Mechanics and Repairmen

Additional proposals developed during Phase II of the regulatory review and set forth in this NPRM would: (1) establish AMT and AMT(T) certificates; (2) establish additional training requirements for individuals seeking the AMT(T) certificate with an aircraft rating; (3) consolidate current airframe and powerplant ratings into a proposed aircraft rating; (4) provide for the registration of holders of AMT and AMT(T) certificates; (5) establish an aviation maintenance instructor rating; (6) permit AMTs and AMT(T)s to perform maintenance on horizontal card liquid-filled compasses; (7) grant inspection authorization privileges based on the type of certificate held by an individual; (8) require applicants for the inspection authorization to successfully complete an inspection authorization refresher course before application; (9) establish an aviation repair specialist certificate that may be issued independent of employment (ARS–I), based on proficiency in designated specialty areas; (10) require the holder of any certificate issued under proposed part 66 to notify the FAA of a change of address to continue to exercise the privileges of the certificate; (11) establish procedures for the approval of AMT(T) training providers; (12) permit certain aviation maintenance technician schools to test applicants for the AMT certificate; (13) establish procedures by which the Administrator would be able to grant, by waiver, certificates to applicants who have not met certain requirements of proposed part 66; and (14) replace the term "written test" with "knowledge test".

The remainder of this preamble addresses the proposed changes resulting from both phases of the FAA's review of the certification requirements for mechanics and repairmen through a discussion of the principal issues and in a section-by-section analysis of the proposed rule.

Principal Issues

Establishment of a Separate Subpart for Aviation Maintenance Personnel

Current part 65, in addition to regulating the certification requirements for aviation maintenance personnel, regulates the certification of airmen such as aircraft dispatchers, air traffic control tower operators, and parachute riggers, whose certification requirements and duties differ markedly from those of aviation maintenance personnel. Current industry estimates indicate that there are more than 145,000 certificated mechanics and repairmen. Among personnel certificated by the FAA, the number of certificated aviation maintenance personnel is second only to the number of certificated pilots. Aviation maintenance personnel work in all aspects of the aviation environment, perform tasks vastly different from those performed by other airmen, and are affected by training and recent experience requirements that are substantially more extensive than those affecting other airmen currently regulated by part 65. The aviation maintenance sector is one of the most complex sectors of the aviation community, and all aviation maintenance personnel must possess many technical skills. Therefore, the FAA proposes to establish a new part 66 under the title "Certification: Aviation maintenance personnel." This new part would be created by removing subparts D (Mechanics) and E (Repairmen) from current part 65 and by using these existing subparts as the nucleus for the newly created subpart B (Aviation Maintenance Technicians), subpart C (Aviation Maintenance Technicians (Transport)), subpart D (Inspection Authorizations), and subpart E (Aviation Repair Specialists) under proposed part 66. The sections of current subpart A (General) of part 65 that apply to aviation maintenance personnel would be included in subpart A of proposed part 66.

The addition of this new part to the FAR is warranted because of the proposed creation of additional certificates and ratings for aviation maintenance personnel, the expansion of current certification requirements, and the increasing complexity of the training and experience requirements affecting aviation maintenance personnel.

Redesignation of the Term "Mechanic"

Because of changes in aircraft technology, the amount of specialized training required to perform aviation maintenance has increased significantly since the introduction of the term "mechanic." The highly complex and technical field of contemporary aviation maintenance requires substantially more than the manual skills typically associated with individuals classified as "mechanics." The FAA asserts that the term "aviation maintenance technician" more completely describes the types of skills necessary to maintain today's complex aircraft and more accurately reflects the level of professionalism found in the aviation maintenance industry. Additionally, adoption of the term "aviation maintenance technician" would standardize terminology throughout the aviation industry and make part 66 consistent with part 147 (which regulates aviation maintenance technician schools), aviation maintenance trade publications, and the

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civil aviation regulations of many ICAO member states. Accordingly, the FAA proposes not to use the term "mechanic" to designate certificates issued under proposed part 66.

Establishment of Aviation Maintenance Technician (AMT) Certificates and Aviation Maintenance Technician (Transport) (AMT(T)) Certificates

The Pilot and Aviation Maintenance Technician Blue Ribbon Panel, in its report titled "Pilots and Aviation Maintenance Technicians for the Twenty-First Century: An Assessment of Availability and Quality," noted that current FAA certification requirements do not give aviation maintenance personnel the entry-level experience and skills necessary for work involving transport-category aircraft that employ new technology. The panel further noted that because of the rapid acceleration of technological advances, the ability of AMTs to master this new technology without enhanced training is becoming exceedingly difficult. The Blue Ribbon Panel concluded that more preparation and training are required to meet the higher levels of qualification that the aviation maintenance industry demands.

The Blue Ribbon Panel strongly recommended that the FAA develop the means necessary to train aviation maintenance personnel to a level of expertise beyond the level currently required. The FAA agrees that this training must be accomplished to ensure that aviation maintenance personnel possess the necessary skills to maintain the sophisticated aircraft that are in service today.

In recognition of the increasing complexity and integrated nature of the systems found in transport-category airplanes and transport-category rotorcraft, and as a result of the Blue Ribbon Panel's and ARAC's recommendations, the FAA proposes the creation of the AMT certificate and the AMT(T) certificate.

Under the proposal, the holder of an AMT(T) certificate with an aircraft rating would possess full approval for return-to-service privileges for all types of aircraft, including those transport-category aircraft certificated under 14 CFR part 25 or 14 CFR part 29. Individuals obtaining this certificate and rating after the effective date of the rule would be required to complete additional training in those systems and procedures of critical importance to the maintenance of sophisticated transport-category aircraft. Holders of current mechanic certificates with airframe and powerplant ratings would not be required to obtain this additional training.

The holder of an AMT certificate with an aircraft rating would possess all the privileges of the AMT(T) certificate (and the equivalent mechanic certificate with airframe and powerplant ratings) except for full approval for return-to-service privileges of aircraft certificated under part 25 or part 29.

The proposal would, however, provide approval for return-to-service privileges, for any aircraft certificated under part 25 or part 29, to the holder of the proposed AMT certificate under certain limited and specified circumstances. The proposal recognizes that an AMT may occasionally be called on to perform relatively uncomplicated maintenance on aircraft certificated under part 25 or part 29. The holder of an AMT certificate would be permitted to approve these aircraft for return to service only after the performance of those preventive maintenance tasks specified in paragraph (c) of appendix A to 14 CFR part 43, or after the performance of certain tasks specified by the Administrator. Those additional tasks specified by the Administrator would be published in advisory material. These exceptions to permit the approval for return to service of an aircraft certificated under part 25 or 29 by an AMT recognize that in certain limited circumstances an AMT may be required to perform preventive maintenance (or other tasks specifically approved by the Administrator) on a transport-category aircraft and approve that aircraft for return to service. This need could arise at a remote location where an AMT(T) would not be available.

An AMT would be permitted to perform maintenance and preventive maintenance on transport-category aircraft but would be permitted to approve for return to service only the airframe, or aircraft engine, propeller, appliance, component, or part of the aircraft. The AMT certificate holder would not be permitted to approve the transport-category aircraft for return to service following the completion of tasks that are not specified in paragraph (c) of appendix A to part 43, or those tasks that have not otherwise been specified by the Administrator.

In formulating this proposed rule, the ARAC and the FAA considered requiring certificate holders operating under 14 CFR part 121 to ensure that any person approving its aircraft for return to service, regardless of the aircraft's certification basis, possess a current and valid AMT(T) certificate. This restriction would not apply, however, to approval for return to service of an aircraft after the performance of those tasks specified in paragraph (c) of appendix A to part 43 or other tasks approved by the Administrator. The FAA solicits comments on including the provisions of this proposal in part 121. Based on the comments received, the FAA may adopt such provisions in a final rule.

Under the proposed rule, current limitations pertaining to the approval of items for return to service after the completion of major repairs or major alterations would be retained for holders of the proposed AMT(T) certificate and the AMT certificate with an aircraft rating.

As a result of the regulatory changes to the certification requirements in this portion of the proposal and in the section of this proposal pertaining to the issuance of aviation repair specialist certificates (discussed below), the proposal would result in a certification process that would be compatible with that recommended by ICAO. The proposed certificate structure also would more closely reflect Transport Canada's proposed technician certification structure and would, therefore, facilitate the implementation of the fairly comprehensive provisions that pertain to the reciprocal acceptance of maintenance actions by U.S. and Canadian entities that operate under the terms of the U.S.-Canadian Bilateral Airworthiness Agreement.

Any current and valid mechanic certificate with airframe and powerplant ratings would be equivalent to an AMT(T) certificate with an aircraft rating. Therefore, any individual who possesses a mechanic certificate with airframe and powerplant ratings before the effective date of the rule would possess the same approval for return-to-service privileges as the holder of the proposed AMT(T) certificate with an aircraft rating. A valid mechanic certificate with an airframe and powerplant rating could be exchanged for an AMT(T) certificate with an aircraft rating. However, such an exchange would not be necessary because both certificates would continue to be recognized by the FAA and the privileges and limitations of the certificates would be identical.

After the effective date of the rule, the FAA would cease issuing and no longer recognize mechanic certificates with aircraft and aircraft engine ratings. Mechanic certificates with these ratings have not been issued since 1952. Individuals who hold valid mechanic certificates with aircraft and aircraft engine ratings and who intend to exercise the privileges of the AMT(T) certificate are encouraged to exchange these certificates for mechanic certificates with airframe and powerplant ratings, as specified in current § 65.73(b), before the effective date of the rule. If these individuals exchange their mechanic certificates with aircraft and aircraft engine ratings for mechanic certificates with airframe and powerplant ratings before the effective date of the rule, these individuals would hold the privileges of the AMT(T) certificate after the effective date of the rule. After the effective date of the rule, a mechanic certificate with aircraft and aircraft engine ratings could not be exchanged for a valid mechanic certificate with airframe and powerplant ratings or an AMT(T) certificate with an aircraft rating.

In addition, after the effective date of the rule, the FAA would cease issuing mechanic certificates with airframe and powerplant ratings. However, mechanic certificates with airframe and powerplant ratings issued before the effective date of the rule would continue to be recognized by the FAA. The proposal would not require holders of valid mechanic certificates with airframe and powerplant ratings to exchange their certificates for the proposed AMT(T) certificate. If the holder of a valid mechanic certificate with airframe and powerplant ratings wished to exchange his or her certificate for an AMT(T) certificate after the effective date of the rule, that individual could do so without having to receive any additional training. In the event of a lost or destroyed certificate, the holder of a valid mechanic certificate with airframe and powerplant ratings would be issued an AMT(T) certificate with an aircraft rating. A mechanic, however, would not be precluded from completing the AMT(T) training curriculum (or obtaining credit for previous equivalent training).

Establishment of Additional Training Requirements for Holders of the Aviation Maintenance Technician (Transport) Certificate

An essential prerequisite for an individual to obtain the proposed AMT(T) certificate would be the completion of an AMT(T) training program. Successful completion of this program would ensure that a person approving transport-category aircraft for return to service would possess the requisite level of expertise necessary to accomplish such tasks.

All aviation maintenance personnel must possess a basic level of knowledge and skill to maintain an aircraft properly and approve that aircraft for return to service. Therefore, the FAA contends that the complexity of large transport aircraft systems and the enhanced level of safety required in air carrier operations, where transport-category aircraft are primarily used, necessitate that aviation maintenance personnel approving these aircraft for return to service possess additional specialized skills and training.

The FAA recognizes that acquiring these skills is a time-consuming process and that today's mechanics often learn the requisite skills while working for an air carrier or repair station. However, whether a current mechanic has these skills cannot be readily discerned through a review of an individual's current certification record. The proposed AMT(T) certificate would ensure that all aviation maintenance personnel certificated after the effective date of the rule who approve transport-category aircraft for return to service possess these skills. The AMT(T) certificate also would provide the individual with a readily available, FAA-sanctioned recognition of a level of proficiency that previously could not be determined by reference to the individual's certificate.

Through the creation of this certificate, operators of aircraft certificated under part 25 or part 29 could be assured that the holder of an AMT(T) certificate issued after the effective date of the rule possesses the requisite knowledge and skill to approve these aircraft for return to service. This would enable operators to employ aviation maintenance personnel who could more rapidly meet the needs of their specific operating environment without having to participate in extensive operator-sponsored training programs before performing maintenance on these aircraft. Therefore, operators would be able to focus their training resources on aircraft type and difference training rather than on primary aircraft maintenance skills for transport-category aircraft. Aviation maintenance technician training schools also would be able to apply their training resources more efficiently and could spend more time training their students in the fundamental concepts and basic skills of aviation maintenance.

Under the proposal, an applicant for an AMT(T) certificate who does not already possess the equivalent mechanic certificate with airframe and powerplant ratings would only be required to possess a current and valid AMT certificate and present evidence that he or she has completed an AMT(T) training program, administered by an approved training provider, that meets specific curriculum requirements. These training requirements would be designed to ensure that the holder of the certificate is competent to approve these aircraft for return to service.

The proposed training requirements for the issuance of the AMT(T) certificate with an aircraft rating would place no burden on current mechanics with airframe and powerplant ratings. Currently certificated mechanics possess approval for return-to-service authority for aircraft certificated under part 25 and part 29. Any holder of a current and valid mechanic certificate with airframe and powerplant ratings would, therefore, possess the privileges of the AMT(T) certificate with the aircraft rating. The proposal would not require a certificate exchange, and the FAA would recognize a current mechanic certificate with airframe and powerplant ratings as being equivalent to the proposed AMT(T) certificate with the aircraft rating. As stated previously, if the holder of a valid mechanic certificate with airframe and powerplant ratings wished to exchange the certificate for an AMT(T) certificate with an aircraft rating, the individual could do so after the effective date of the rule without having to receive any additional training.

After the effective date of the proposed rule, individuals intending to obtain an AMT(T) certificate would have to possess a current and valid AMT certificate and attend and successfully complete an AMT(T) training program, given by an approved training provider, that consists of 573 hours of training in subjects of critical importance to individuals who maintain aircraft certificated under part 25 or part 29. Training would be provided in subject areas such as electronics, composites, publications, safety and environmental concerns, structural repair, and powerplants and systems. Inclusion of these specific subject areas and the determination of the specific amount of training time that would be devoted to each individual subject area were specifically recommended by the ARAC after extensive consultations with aviation maintenance personnel, aviation maintenance educators, and operators of transport-category aircraft.

The FAA, in conjunction with the ARAC and the Part 65 Working Group, has developed a detailed list of those individual subjects that it recommends should be required for inclusion in each subject area. The FAA has not, however, proposed that these individual subjects be included in the proposal, as their inclusion would require that any future proposal to change the subjects taught would have to be accomplished through rulemaking or through the grant of a petition for exemption. The FAA would publish, before the effective date of the

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final rule, a detailed list, in advisory material, of those subjects to be taught in an AMT(T) training program. By publishing this subject list in advisory material, the FAA could inform AMT(T) training providers of those subjects that should be taught in an AMT(T) training program and, in response to future developments in aviation technology, rapidly revise the list of subjects that are taught.

Because much of this training also can be obtained in aviation maintenance training programs used by certificate holders operating under 14 CFR part 121 or part 135, or repair stations certificated under 14 CFR part 145, individuals currently employed by these operators would be permitted to use the training gained in such programs to satisfy the requirements for the proposed AMT(T) certificate. However, these training programs would be required to meet the same standards as those of an AMT(T) training program administered by an approved training provider. The FAA contends that the flexibility provided by these training programs would enable the operator to tailor its training programs to meet current organizational maintenance requirements.

To refrain from unduly penalizing individuals currently possessing a mechanic certificate with a single rating, the effective date of the final rule is proposed for 18 months after its publication. This would permit these individuals to acquire either the airframe or powerplant rating, as appropriate, and facilitate the issuance of an AMT(T) certificate with an aircraft rating and its associated privileges and limitations. An individual possessing a mechanic certificate with a single rating would still be permitted to exercise the current privileges of that individual rating and those specified under proposed § 66.109, except as noted in proposed § 66.105.

Under the proposed rule, an individual holding a mechanic certificate with a single rating would be considered to hold the equivalent of an AMT(T) certificate limited to the privileges of the single rating. If the holder wished to exchange the certificate for an AMT(T) certificate, the AMT(T) certificate would include a specific endorsement limiting the certificate holder to the exercise of privileges identical to those of the current certificate and rating. In either case, the holder would not be permitted to approve for return to service the powerplant or propeller of any aircraft certificated under this chapter (or any related appliance, component, or part thereof) if the individual possessed only an airframe rating, or the airframe of any aircraft certificated under this chapter (or any related appliance, component, or part thereof) if the individual possessed only a powerplant rating. To have the limitation removed before the effective date of the rule, the individual would have to meet the knowledge, experience, and skill requirements necessary to obtain either the aircraft or powerplant rating, as appropriate. After the effective date of the rule, to have the limitation removed, the individual would have to receive the 573 hours of training required for the AMT(T) certificate. Therefore, the FAA strongly encourages anyone who holds a mechanic certificate with a single rating interested in obtaining an AMT(T) certificate without a limitation to obtain both the airframe and powerplant ratings before the effective date of the rule.

Additionally, certain individuals currently enrolled in aviation maintenance training programs may have enrolled in these training programs with the intent to apply only for one rating when they apply for the current mechanic certificate. To give these individuals the opportunity to complete their intended training without the additional expense of training for an unwanted rating, the FAA will continue to issue mechanic certificates and their associated ratings until the effective date of the rule. After that period, the FAA will only accept applications for, and issue, the proposed new certificates and ratings.

Most individuals currently enrolled in aviation maintenance training programs have enrolled in these programs with the intent of obtaining the approval for return-to-service privileges of the current mechanic certificate with both airframe and powerplant ratings. The FAA recognizes that some of these individuals may have only limited resources and may have enrolled in current mechanic training programs without notice of the proposed additional training requirements for the AMT(T) rating. The FAA contends that by establishing an effective date for the final rule as 18 months after its publication, these individuals would be provided with an adequate period of time to complete their training objectives and obtain mechanic certificates with airframe and powerplant ratings. Additionally, the FAA contends that the aviation maintenance training industry would require 18 months to develop adequate programs to train applicants for the AMT(T) certificate; therefore, a proposed effective date of 18 months after publication of the final rule is warranted.

Although the holder of a current mechanic certificate with airframe and powerplant ratings would possess the same privileges as the holder of an AMT(T) certificate with an aircraft rating and could exchange that mechanic certificate with airframe and powerplant ratings for an AMT(T) certificate with an aircraft rating without having to receive additional training, the FAA would encourage all current mechanics to complete the proposed training requirements for the AMT(T) certificate and aircraft rating.

Creation of an Aircraft Rating To Replace Current Airframe and Powerplant Ratings

In view of the integrated nature of today's aircraft and their associated systems, the FAA recognizes that the differences between the privileges and limitations conveyed by the current airframe and powerplant ratings are becoming less distinct. The FAA contends that the demands of current and future aviation technology require that aviation maintenance personnel have a broad-based level of knowledge. These demands frequently require the concurrent use of expertise associated with the disciplines of both airframe and powerplant maintenance.

Therefore, the proposal would require an applicant for an AMT certificate to possess the knowledge currently required of an applicant for the current mechanic certificate with both airframe and powerplant ratings at the time the individual applies for the proposed AMT certificate. The FAA contends that, by establishing an aircraft rating encompassing both the current airframe and powerplant ratings and by requiring an applicant to possess the training for both disciplines at the time of application for an AMT certificate, aviation maintenance personnel will better understand the nature and interrelationship of aviation systems as opposed to the individual maintenance disciplines. Such knowledge should lead to a greater understanding of how individual components affect other components within an aircraft and to a subsequent increase in the quality of aviation maintenance.

Similarly, an applicant for an AMT(T) certificate would be required to complete additional training that would encompass the disciplines of airframe and powerplant maintenance for transport-category aircraft and systems. After completion of this training, an applicant for an AMT(T) certificate would be awarded the AMT(T) certificate with an aircraft rating.

The proposal also would provide aviation maintenance technician schools with greater flexibility in developing their individual course curriculums. By requiring an applicant to apply for the consolidated aircraft rating, aviation maintenance technician schools would have the incentive to integrate the training requirements for each of the current ratings into a single consolidated program. This integration should result in a more productive and less costly use of the resources of these schools. It also should eliminate any duplication of training requirements found in seperate airframe and powerplant rating training programs.

As a result of the issuance of the aircraft rating to new applicants for the AMT certificate, the differentiation of tasks between current holders of the airframe rating or the powerplant rating would gradually diminish. To give the FAA the opportunity to develop new types of testing procedures to facilitate this change, the proposal would remove current regulatory language stating that the installation and maintenance of propellers is covered on the powerplant test and that an applicant for a powerplant rating must show the ability to make satisfactory minor repairs to, and minor alterations of, propellers. Although the FAA will continue to certificate applicants using these procedures, removing this language would permit the FAA to develop testing procedures that are more flexible and more appropriately suited to the integrated aviation maintenance environment.

Establishment of Recurrent Training Requirements for Certificated Aviation Maintenance Personnel

Under current part 65, there are no specific provisions that require recurrent training for certificated mechanics. Current §§ 121.375 and 135.433 require that an operator have a training program to ensure that persons performing maintenance or preventive maintenance functions be informed fully about procedures, techniques, and new equipment in use. Additionally, § 145.2(a) requires that repair stations performing maintenance for a part 121 operator comply with part 121, subpart L (which includes the requirements of § 121.375).

In an effort to ensure that all AMTs and AMT(T)s are fully informed of current maintenance practices in the rapidly changing aviation maintenance environment, the FAA proposes the adoption of recurrent training requirements for AMTs and AMT(T)s who use their certificates for compensation or hire. The proposal would particularly benefit AMTs and AMT(T)s who support operations conducted under part 91 and who do not receive training comparable to that received by AMTs and AMT(T)s who support operations conducted under part 121, part 135, or § 145.2(a). This proposal would ensure that all holders of AMT or AMT(T) certificates who exercise the privileges of their certificates for compensation or hire, and who have the sole responsibility for ensuring the airworthiness of the equipment on which they perform maintenance, meet training requirements similar to those in place for AMTs and AMT(T)s supporting operations under part 121, part 135, or § 145.2(a). In addition, this proposal also would ensure that all AMTs and AMT(T)s who support U.S.-certificated repair stations that do not have maintenance and preventive maintenance training programs receive comparable training.

Under the proposed rule, an AMT or AMT(T) who meets the prescribed work experience requirements and wishes to exercise, for compensation or hire, the privileges of the certificate or rating would be required to complete recurrent training.

Individuals who participate in currently required maintenance and preventive maintenance training programs provided by a certificate holder would meet the proposed recurrent training requirement. Individuals who do not receive recurrent training through a training program provided by a certificate holder could use a number of methods to meet the proposed requirement. An AMT refresher course, inspection authorization refresher course, or a series of such courses that are appropriate to the duties of an AMT or AMT(T) and acceptable to the Administrator could be used to satisfy the proposed recurrent training requirement. The FAA notes that by including a specific reference to the inspection authorization refresher course, the proposal seeks to encourage completion of this course by an AMT or AMT(T) who does not hold a current inspection authorization and, thereby, enhance that individual's understanding of the regulations relevant to the inspection authorization.

As an alternative to training provided in the form of an AMT, AMT(T), or inspection authorization refresher course, an AMT or AMT(T) who wishes to comply with the proposed recurrent training requirements and to exercise, for compensation or hire, the privileges of the certificate, may complete other training appropriate to the duties of an AMT or AMT(T). This training may be broad-based and would consist of any course, or series of courses, of instruction acceptable to the Administrator. A description of those additional types of courses that would be considered acceptable to the Administrator would be published in advisory material accompanying the publication of the final rule. For example, the completion of courses dealing with general maintenance practices or regulations applicable to maintenance operations would satisfy the intent of this proposed rule.

The FAA recognizes that many current mechanics who support part 91 operations, or other maintenance facilities without maintenance or preventive maintenance training programs in place, receive periodic maintenance training. For example, these mechanics may receive training through aviation training centers or manufacturers' courses. The proposed rule would permit this type of maintenance instruction to be credited toward completion of the proposed recurrent training requirement, provided the instruction is acceptable to the Administrator.

The proposal also would include specific provisions applicable to individuals exercising the privileges of their certificates while employed by an operator under part 121 or part 135, or by a repair station performing work for an operator under part 121. Such individuals would be considered to meet the recurrent training requirements set forth in the proposed rule.

In addition, an aviation maintenance instructor providing instruction for an aviation maintenance training program acceptable to the Administrator, or serving as the direct supervisor of individuals providing aviation maintenance instruction for an aviation maintenance training program acceptable to the Administrator, would meet the proposed recurrent training requirements. As a result of their position as aviation maintenance instructors, these individuals are continually exposed to current maintenance practices and often disseminate information about new practices, techniques, and equipment to the aviation maintenance community. These individuals would be considered fully informed about current maintenance practices.

The FAA notes, however, that an aviation maintenance instructor could meet the requirements for the exercise of the privileges of the aircraft rating but might not be able to exercise the privileges of the aviation maintenance instructor rating if the instructor has provided less than 300 hours of instruction or served as a supervisory

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instructor for less than 300 hours during the preceding 24 months. However, recent experience requirements for the aviation maintenance instructor rating could be met if the individual successfully completed an AMT refresher course (or other course of instruction acceptable to the Administrator and appropriate to the duties of an aviation maintenance instructor) or if the Administrator specifically determined that the individual met the standard prescribed for the issuance of the rating.

Although the FAA considered establishing a requirement that recurrent training consist of a minimum of 16 hours every 24 months for AMTs and AMT(T)s supporting operations under part 91 and working for compensation or hire, the FAA has not proposed such action in this NPRM. The inclusion of a 16-hour recurrent training requirement for these individuals had been recommended by some participants in the Part 65 Working Group; however, it was the general consensus of the group that the specific number of hours for any proposed recurrent training requirement should be determined at a later date. Although written comments were solicited from all members of the group to provide justification for a specific recurrent training requirement, the FAA did not receive written comments providing such justification.

Currently, the FAA is engaged in a number of studies and activities to determine the appropriate level of recurrent training for aviation maintenance personnel. Specifically, the FAA is conducting an expanded job task analysis of those tasks performed by all aviation maintenance personnel to determine the appropriate focus and depth of recurrent training. The FAA also is analyzing accident data and airmen violations in which maintenance elements were a causal factor and is surveying its field inspectors in an effort to develop recurrent training requirements. The FAA also is sponsoring an ongoing study to determine the feasibility of forming a national training council that is composed of individuals, representatives of the aviation maintenance industry, and the FAA to determine proposed training requirements for aviation maintenance personnel. As a result of these efforts, the FAA is evaluating the appropriateness of consolidating all maintenance training into a single future NPRM and issuing detailed advisory material to provide specific guidance for the completion of training requirements. The FAA strongly supports the concept of recurrent training for aviation maintenance personnel and has proposed a recurrent training requirement in proposed part 66 that would establish a basic recurrent training for aviation maintenance personnel.

The recurrent training required under this proposal, as set forth in proposed §§ 66.65 and 66.111, encompasses more types of training than the types of training that may be used to satisfy the provisions of proposed §§ 66.63 and 66.109 for the exercise of specific privileges granted to AMTs and AMT(T)s with an aircraft rating. "Training acceptable to the Administrator on the tasks to be performed," as set forth in proposed §§ 66.63 and 66.109, is encompassed within the concept of training "appropriate to the duties" of an AMT or AMT(T), as set forth in proposed §§ 66.65 and 66.111, and may be used to satisfy both requirements. However, compliance with the proposed recurrent training requirements of § 66.65 or § 66.111 does not automatically authorize the AMT to perform a specific task. For example, an AMT who received maintenance training on a specific make and model of aircraft, which enabled the AMT to perform work on that specific aircraft under proposed § 66.63 or § 66.109, also may credit the instruction received as satisfying the recurrent training requirements in proposed § 66.65 or § 66.111. The completion of a course in general maintenance procedures would not, however, provide the specialized level of training required by the proposal to permit an AMT or an AMT(T) to perform work on a specific make and model of aircraft. (The use of training to qualify for the exercise of certificate privileges is discussed more thoroughly below.)

An individual who exercises the privileges of an AMT certificate or an AMT(T) certificate, but not for compensation or hire, would not need to complete the proposed recurrent training requirements. These individuals perform only limited work on aircraft that they own or on a limited range of aeronautical equipment. In such cases, knowledge of a broad range of current maintenance technologies is not necessarily required. Although the FAA encourages these personnel to attend recurrent training, the FAA has determined that a mandatory recurrent training requirement for these individuals is not currently warranted.

The proposal also sets forth a provision that would permit an AMT or AMT(T) who has not met the work experience and proposed recurrent training requirements of the certificate within the preceding 24 months to exercise the privileges of the certificate (including for compensation or hire) by completing requalification training acceptable to the Administrator. A specific minimum time requirement and course content for requalification training has not been specified in the proposed regulation to provide instructors and examiners with greater flexibility in assisting noncurrent AMTs and AMT(T)s to achieve the required proficiency. To be considered acceptable to the Administrator, any requalification training would need to include a review of those regulations applicable to the maintenance, preventive maintenance, or alteration of aircraft under the provisions of the FAR.

The holder also may continue to exercise all of the privileges of the certificate and associated ratings if the Administrator finds that the AMT or AMT(T) is competent to exercise those privileges. Passing an oral and practical test with a designated examiner (currently, a designated mechanic examiner (DME)) also would satisfy all recent experience requirements.

In recognition of enhancements in training technology, the proposed rule also requires successful completion of these courses, rather than attendance and successful completion. Therefore, the Administrator may find self-study courses acceptable for fulfilling the requirements specified in proposed § 66.65 or § 66.111.

This proposal for continued aviation maintenance training addresses concerns such as those expressed in recent proposals to require formal training for all aircraft mechanic applicants. In conjunction with the issuance of a final rule, the FAA will develop policy on the content and conduct of any AMT refresher course, AMT(T) refresher course, the range of training considered appropriate to the duties of an AMT or AMT(T), and requalification training. Any AMT refresher course or AMT(T) refresher course should also include a substantial review of those regulations pertinent to the exercise of the privileges of the AMT certificate or AMT(T) certificate, as appropriate.

Registration of Holders of Aviation Maintenance Technician (AMT) Certificates and Aviation Maintenance Technician (Transport) (AMT(T)) Certificates

The FAA currently has no accurate means to determine the number or location of active aviation maintenance personnel. Without this demographic information, the FAA is unable to make accurate assessments of the status of the current mechanic population or provide currently active mechanics with essential safety and training information.

Based on the number of certificates issued, the FAA estimates that the number of certificated mechanics is second only to the number of certificated pilots. However, pilots (other than those of gliders or free balloons) are required to obtain a medical certificate issued under 14 CFR part 67 to exercise the privileges of their certificates. As a result of this process, the FAA is able to update its airman records effectively and make accurate assessments of the size of the active pilot population. Because no similar form of recurrent medical testing is required for current mechanics, the FAA is unable to assess accurately the number of active mechanics or delete deceased, inactive, or ineligible mechanics from its records. Therefore, any estimate of the current and active mechanic population is solely a matter of conjecture. Lack of this vital demographic information seriously hinders the FAA's ability to make accurate predictions of future industry requirements and to communicate important safety information to active mechanics.

In its report, the Blue Ribbon Panel expressed its concern about the FAA's aviation maintenance personnel records. The panel noted that, although the FAA issues approximately 20,000 mechanic certificates annually, the FAA has no procedures to identify the current number of active mechanics or to obtain other necessary demographic information pertaining to these individuals. In view of this finding, the panel recommended that the FAA conduct periodic registration of mechanics to obtain vital information about FAA-certificated aviation maintenance personnel and to ensure that these individuals could be provided with safety and training information whenever necessary. The Part 65 Working Group made a similar proposal to the ARAC, which concurred with the recommendation.

The FAA has accepted the ARAC and Blue Ribbon Panel recommendations; therefore, the FAA proposes to establish a periodic registration requirement for each holder of an AMT or AMT(T) certificate. In an effort to obtain a valid initial assessment of the current number of active aviation maintenance personnel, the FAA proposes that each AMT and AMT(T) be required to notify the FAA of his or her current address within 12 months after the effective date of this rule. The FAA contends that a 12-month period is sufficient to obtain a basic estimate of the current and active AMT and AMT(T) population and that any deviations from the estimate of the current population, as a result of changes to the AMT and AMT(T) population during the 12-month period, would be statistically insignificant. A 12-month period also would give all current certificate holders adequate notice of this proposed requirement and time to comply with the requirement.

After completion of this initial registration period, AMTs and AMT(T)s would be required to provide similar registration information during every subsequent 48-calendar-month period. The FAA considers that a 48-month continuing requirement is necessary to provide an up-to-date record of current and active AMTs and AMT(T)s. The FAA contends that changes to the AMT and AMT(T) populations, which occur as a result of the death of certificate holders or of personnel entering inactive status and not complying with current change of address requirements, would become statistically significant after a 48-month period. To ensure an accurate record of the size of the AMT and AMT(T) population, a reassessment would be required during each consecutive 48-month period.

In an effort to eliminate the repetitive submission of current address information to the FAA, an airman who notifies the FAA of a change of address, obtains an additional certificate, rating, or inspection authorization issued under this (or any other) part, or provides the FAA with current address information as a result of the application for an airman medical certificate during this period would be considered to have fulfilled the registration requirement.

The FAA has not proposed a periodic registration requirement for holders of aviation repair specialist certificates because holders of an aviation repair specialist certificate (except experimental aircraft builders) cannot exercise the privileges of that certificate without being employed by a certificated entity. Because the FAA could obtain any required demographic information pertaining to the holders of aviation repair specialist certificates from the operator or repair station under which an aviation repair specialist is exercising privileges, the proposal would not require the submission of registration information from aviation repair specialists. Therefore, the FAA contends that requiring the registration of aviation repair specialists would place an unnecessary burden on these individuals.

The responsibility for complying with the proposed registration requirement would rest solely on AMT and AMT(T) certificate holders. To simplify the proposed registration requirement for individual certificate holders, the FAA would only require AMT and AMT(T) certificate holders to provide their names and current addresses. The submission of any additional information would not be required, nor would the submission be required to be made on any specific form. To encourage compliance with these proposed requirements, an AMT or AMT(T) certificate holder who does not provide current address information to the FAA during the registration period would not be permitted to exercise the privileges of the certificate until that individual had complied with the proposed registration requirement.

The FAA specifically requests comments on its proposed registration of AMT and AMT(T) certificate holders. Based on its analysis of comments received, the FAA may adjust the lengths of the proposed initial and recurring registration periods.

Establishment of Training as an Additional Means for Aviation Maintenance Personnel To Qualify for the Exercise of Certificate Privileges

Through the use of training, the proposal would provide holders of AMT certificates and AMT(T) certificates with an additional means to remain qualified to approve for return to service any aircraft, airframe, aircraft engine, propeller, appliance, component, or part and to supervise the maintenance, preventive maintenance, alteration, and approval for return to service of these items.

Under current § 65.81, a certificated mechanic may supervise maintenance operations or approve and return to service an aircraft, appliance, or part if the certificate holder has: (1) Previously performed the work, (2) performed the work to the satisfaction of the Administrator, or (3) performed the work under the direct supervision of a certificated mechanic or repairman who has had previous experience with that specific task.

The proposal would allow AMTs and AMT(T)s to use appropriate training to obtain the competency necessary to supervise these operations or approve an item for return to service without previously having performed the work that is anticipated. Through the adoption of appropriate training to satisfy this experience requirement, the FAA recognizes enhancements in aviation maintenance training, which can provide the AMT with technical

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knowledge equivalent to knowledge gained in the work environment. However, in allowing training to replace actual work experience, the FAA would require an appropriate level of specificity between the training and the actual work to be performed or supervised. Therefore, the proposal would require that the training used to satisfy this requirement be appropriate to the equipment on which the work is to be performed. For example, a course of instruction detailing the maintenance tasks for the same make and model aircraft on which an AMT will perform work, or a course of instruction detailing the maintenance tasks for a part or appliance on which the individual will perform work, would satisfy the provisions of the proposed rule and permit the exercise of certificate privileges under proposed § 66.63 or § 66.109. Such courses may be provided by any manufacturer, individual, or organization whose training has been found acceptable to the Administrator.

Training of a more general nature, which may be used to satisfy recent experience requirements as proposed in §§ 66.65 and 66.111, may not be sufficiently specific to allow an AMT or AMT(T) to perform work on a specific aircraft, airframe, aircraft engine, propeller, appliance, component, or part. For example, a course in the FAR that is applicable to maintenance procedures would not satisfy the provisions of proposed § 66.63 or § 66.109 but could be used to satisfy the provisions of proposed § 66.65 or § 66.111, respectively.

The FAA also proposes to clarify the intent of current § 65.81 by proposing language in part 66 that would allow AMT and AMT(T) certificate holders who desire to exercise supervisory, return-to-service, or approval responsibilities, to demonstrate, to the satisfaction of the Administrator, the ability to perform the work. The current regulation requires actual performance of the work.

An additional change to the current rule would enhance the ability of noncurrent AMTs and AMT(T)s to meet the recent experience requirements to exercise the privileges of their certificates and ratings. The proposed rule would allow these individuals to credit the time they work under the supervision of a certificated AMT or AMT(T) toward recent experience requirements. The FAA considers that work performed by a certificated but noncurrent AMT or AMT(T) under such circumstances would provide the individual with a level of experience equivalent to actual performance of the work.

Use of Instructional Time by Aviation Maintenance Instructors To Satisfy Recent Experience Requirements

The purpose of recent experience requirements is to ensure that all aviation maintenance personnel are familiar with current maintenance practices and the applicable FAR. The aviation maintenance instructor must keep abreast of current maintenance practices in a wide variety of disciplines to provide high-quality instruction. Aviation maintenance instructors perform a critical function in the aviation maintenance education process, and the FAA believes that the changes set forth in the proposed rule would recognize this importance.

Under current § 65.83, there are no provisions for allowing individuals involved in aviation maintenance instruction to use that experience for maintaining the recent experience required to exercise the privileges of their certificate and ratings. The FAA recognizes that the experience gained while providing aviation maintenance instruction or directly supervising other aviation maintenance instructors is commensurate with the experience obtained while directly performing aviation maintenance. The FAA already recognizes instructional experience for holders of an inspection authorization in current § 65.91(c)(2). Within that section, the phrase "actively engaged" includes instructors who are exercising the privileges of their certificate and ratings at an aviation maintenance technician school certificated under part 147. Therefore, the FAA proposes to allow the use of instructional time to satisfy recent experience requirements for holders of the AMT and AMT(T) certificates.

Under the proposed rule, the holder of an AMT or AMT(T) certificate with an aircraft rating could meet recent experience requirements by serving as an aviation maintenance instructor or by directly supervising other aviation maintenance instructors. The instruction concerned would have to be directly related to aviation maintenance and acceptable to the Administrator so that the time an individual spends providing instruction or directly supervising other instructors is equivalent to the experience gained while performing aviation maintenance tasks. For example, instructional time provided for a part 147 aviation maintenance technician school, an approved air carrier maintenance training program, an approved training provider, or a manufacturer's training program would be acceptable and would meet the intent of the proposed rule.

AMT(T) Recent Experience Requirements

Because the AMT(T) certificate would upgrade the level of maintenance proficiency of those individuals performing maintenance on aircraft certificated under part 25 or part 29, or on any airframe, aircraft engine, propeller, appliance, or component part thereof, the FAA would require that all work experience necessary to meet recent experience requirements for retention of the privileges of this certificate be maintained through work performed or supervised, or through instruction given or supervised, on aircraft certificated under part 25 or part 29, or on any airframe, aircraft engine, propeller, appliance, component, or part thereof. The holder of an AMT(T) certificate who does not meet recent experience requirements on aircraft certificated under part 25 or part 29 could exercise the more limited privileges of the AMT certificate if the holder complies with the AMT certificate's corresponding recent experience requirements.

Approval of AMT(T) Training Providers

To ensure that applicants for the proposed AMT(T) certificate possess the necessary knowledge and skill to approve aircraft certificated under part 25 and part 29 for return to service, the FAA has proposed that applicants for this certificate be required to complete an AMT(T) training program. For this program, the proposal would set forth a curriculum that would be specifically geared to the needs of individuals performing maintenance on transport-category aircraft. Although the proposed curriculum would be comprehensive in nature, it also would be flexible enough to be modified easily to respond to changes in aviation maintenance practices and techniques.

To determine the subject areas in the proposed AMT(T) training curriculum and the amount of training to be provided in each subject area, the Part 65 Working Group conducted a survey of 13 air carriers. The survey requested that its participants specify the depth and breadth of skills that aviation maintenance personnel must possess to perform work on transport category aircraft and approve these aircraft for return to service. The results of this survey were reviewed by aviation maintenance educators within the Part 65 Working Group and consolidated into the AMT(T) training curriculum proposed in this notice. The proposed

AMT(T) training curriculum would require that 573 hours of training be offered in the six broad subject areas of advanced electronics, composites, structural repair, powerplants and systems, safety and environmental concerns, and publications. The specific amount of training required in each individual subject area is specified in appendix A to proposed part 66.

The basic requirements for approval of training providers administering this AMT(T) training program are similar to those specified for the approval of other training course requirements specified in this subchapter. In its administrative requirements, the program established by this proposal would correspond to other training courses referenced in this subchapter; however, it will differ most significantly from other training courses in that, under the proposal, the FAA may approve the provider of the training program and not specifically approve the training curriculum, as is currently the case with training programs developed to satisfy the requirements of part 147. By approving the training provider, as opposed to the training program itself, the FAA contends that the training provider would have the necessary flexibility to modify the curriculum of the training program rapidly to respond to advances in aviation maintenance technology, while continuing to ensure that acceptable standards of training are met.

To ensure that these programs meet current industry standards, the FAA would require that an outline of the training program be provided for review. In recognition of the diversity of current information retrieval systems, this outline could be submitted in paper or electronic format, or in any other format acceptable to the Administrator. The outline would contain information specifying those subject areas to be taught and the number of hours of instruction required. Additional subject areas also could be included.

Facilities, equipment, and material requirements would be similar to those found in other course requirements specified in this subchapter; however, the training provider would ensure that all instructors in a training program meet the requisite standards of technical competency.

Revisions to the training program outline would be submitted in a manner identical to that required for initial approval of the training provider. Based on the improved effectiveness of training methods, the FAA may permit training program revisions that would offer fewer than the specified number of hours of instruction in the complete training program or in a designated subject area. The training provider would be required to provide justification for such a reduction. A reduction would be permitted only if the quality of training provided did not decrease. Sufficient indicators of student participation and progress in the program would be required to be reported; however, if an approved training provider already provided this information to the FAA as a result of reporting requirements specified in another part, a duplicate submission of this information would not be required.

The FAA notes that an aviation maintenance technician school certificated under part 147 also could offer a combined AMT and AMT(T) training program. In such a circumstance, the school would be required to obtain approval as an AMT(T) training provider under proposed part 66. Instruction used to satisfy AMT course curriculum requirements also could be used to satisfy AMT(T) training program requirements resulting in a combined AMT and AMT(T) training curriculum with significantly fewer hours of training than required to obtain the AMT and AMT(T) certificates separately. Instruction used to satisfy both AMT course curriculum requirements and AMT(T) training program requirements would be specified in the training curriculum approved under part 147 for use by the aviation maintenance technician school. The approved training curriculum also would be required to meet the provisions of proposed appendix A to part 66.

The proposal also would require approved training providers to provide each student who successfully completes the training program with a statement of graduation. Those students who complete only a portion of a training program could, upon request, receive a record of the training completed.

Although the proposal would permit training providers to contract for services to assist in the provision of the required training, records of any such contracts would have to be forwarded to the FAA. The proposal also would reiterate that the training provider, not the party providing contract services, would ultimately be responsible for the conduct of the training program.

The proposal would permit a training provider, other than a certificate holder operating under part 121 or part 135, an aviation maintenance technician school certificated under part 147, or a repair station that performs work under § 145.2(a), to retain approval for a period of 24 months. Because the training programs of these certificate holders are routinely surveilled, a training provider that also is a certificate holder under any of these parts would retain approval for the duration of that certificate. However, approval may be canceled at any time by the FAA or, voluntarily, by the training provider, or as a result of change of ownership. Like other training courses specified in this subchapter, the proposal would require that applications for a training provider's renewal of approval be submitted 60 days before the expiration of the current approval.

Performance of Repairs and Alterations by AMTs and AMT(T)s on Horizontal-Card Liquid-Filled Compasses

The current rule prohibits the repair or alteration of instruments by mechanics. However, the aviation maintenance industry has recognized that aviation instruments vary significantly in complexity. A commenter to the short-term FAA regulatory review initiated in response to a recommendation from the Clinton Administration's "Initiative To Promote a Strong Competitive Aviation Industry" noted that the fairly simple task of replenishing magnetic compass fluid and changing the expansion diaphragm in a compass could be accomplished by a mechanic with no adverse effect on safety. The commenter stated that these instruments must often be sent to instrument repair shops for maintenance that mechanics can readily accomplish. This action frequently results in increased and unnecessary costs to the user and, for certain operators, an unwarranted loss of use of the aircraft.

The ARAC and the FAA concur with this assessment and contend that an AMT or an AMT(T) can readily perform maintenance on horizontal-card liquid-filled compasses. Therefore, the FAA proposes that an AMT or an AMT(T) be permitted to perform all maintenance actions on horizontal-card liquid-filled compasses and that the limitations of the current rule prohibiting the performance of repairs and alterations to these instruments be removed.

Establishment of an Aviation Maintenance Instructor Rating

Under the provisions of the current rule, persons providing aviation maintenance instruction are not required to demonstrate any degree of teaching proficiency. Flight instructors certificated under part 61 are currently required to pass a knowledge test on the subjects in which instruction is required by § 61.185(a). These subjects include: the learning process, elements of

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effective teaching, student evaluation and testing, course development, lesson planning, and classroom training techniques. Ground instructors certificated under subpart I of part 61 also are required to show a practical and theoretical knowledge of the subjects for which a rating is sought by passing a similar knowledge test.

Because it is necessary that the subject material taught by individuals providing aviation maintenance instruction be completely understood and adequately applied by students to the maintenance problems that they will eventually encounter in the aviation maintenance industry, the FAA, based on the ARAC's recommendation, proposes to create an aviation maintenance instructor rating that may be obtained by the holder of the AMT certificate or the AMT(T) certificate. The FAA contends that creation of this rating would serve to enhance the quality of aviation maintenance instruction that is provided in aviation maintenance programs. This enhancement would be accomplished by ensuring that aviation maintenance instructors possess not only technical proficiency in the subject material taught but also the requisite teaching competence to ensure that their students understand the material. Adoption of this proposal also would quantify and recognize the special skills required of an aviation maintenance educator, and would improve the images of aviation maintenance educators and aviation maintenance education.

The Blue Ribbon Panel also recognized these deficiencies. In its report, the panel noted that the instructional standards and the quality of aviation maintenance instruction often are questioned. It also noted that there was no certification, beyond that of a current mechanic certificate, needed to teach in an aviation maintenance technician school certificated under part 147. Therefore, the Blue Ribbon Panel recommended that qualification, certification, and recurrent training requirements be established for instructors who teach in part 147 schools.

Under the proposal, an applicant for an aviation maintenance instructor rating would be required to: hold a current and valid AMT certificate or a current and valid AMT(T) certificate for at least 3 years before application; present evidence that he or she has been actively engaged in the maintenance of aircraft for at least the 2-year period before application; and pass a knowledge test on instructional proficiency. The proposal recognizes the widespread use of computer-based testing in the administration of FAA examinations and, therefore, would require that a "knowledge test" rather than a "written test" be passed.

The FAA contends that the possession of an AMT certificate or an AMT(T) certificate is necessary to ensure the basic technical proficiency of the aviation maintenance instructor. The specific time period proposed for the possession of either certificate and the amount of time that the individual would be required to have been actively engaged in the maintenance of aircraft also are identical to the eligibility requirements for the issuance of an inspection authorization. The FAA contends that this minimum amount of actual work experience is required to give the aviation maintenance instructor the requisite practical experience necessary to explain the application of aviation maintenance concepts satisfactorily.

The proposed areas of educational theory and instructional techniques in which the prospective aviation maintenance instructor would be required to pass a knowledge test are the same areas that are currently tested on the fundamentals of instruction knowledge test for the flight instructor and ground instructor certificates. In recognition of other training that a prospective aviation maintenance instructor could receive, which would provide proficiency in educational theory and instructional techniques, an applicant would not be required to take this test if the applicant possesses a recognized degree in education or holds a current and valid State teaching certificate issued in the United States.

Under the proposal, any person providing or supervising aviation maintenance instruction within 12 months after the effective date of the rule at an aviation maintenance technician school certificated under part 147 would not be required to pass a knowledge test on those subjects specified in proposed § 66.69 to obtain the aviation maintenance instructor rating. To retain the ability to exercise the privileges of the proposed rating and maintain a high degree of instructional proficiency, the holder would be required to provide 300 hours of aviation maintenance instruction or serve as the supervisor of aviation maintenance instructors for a period of 300 hours within the preceding 24 months. For aviation maintenance instructors holding an AMT(T) certificate, this instruction would not need to be provided in transport-category aircraft or their associated systems. Recent experience requirements also could be maintained if the individual completed a refresher course acceptable to the Administrator and appropriate to the duties of an aviation maintenance instructor or if the Administrator determined that the aviation maintenance instructor continues to meet the standards prescribed for the issuance of the rating.

Current rules pertaining to the training of individuals at aviation maintenance technician schools certificated under part 147 require 1 instructor for each 25 students in a shop class. Because the current rule already recognizes the importance of qualified instructors in these classes, the FAA proposes that the best qualified providers of aviation maintenance education be available in these classes. Proposed §§ 147.23 and 147.36 would, therefore, require that these instructors also possess an aviation maintenance instructor rating. To enable instructors at these schools to acquire this rating, this requirement would not become effective until 12 months after the effective date of the rule.

The FAA also notes that certain subjects taught at aviation maintenance technician schools do not require the technical knowledge required of instructors who possess the AMT certificate or AMT(T) certificate. Therefore, the proposal would not require instructors who teach basic subjects (such as mathematics, physics, basic electricity, basic hydraulics, drawing, or similar subjects) at AMT schools that are certificated under part 147, to obtain an AMT or AMT(T) certificate and aviation maintenance instructor rating.

Establishment of Basic Competency Requirements for AMT Certificate Holders

Currently, § 65.79, which sets forth the skill requirements for a mechanic certificate, requires an applicant for a mechanic certificate to pass an oral and practical test covering the applicant's basic skills in performing practical projects covered by the written test. Because of the complexity of current aviation maintenance operations, the FAA proposes to establish a broad-based competency requirement for AMT certificate applicants under proposed § 66.59, which would encompass more than the skill requirements included in the current regulation.

Current interpretations of the existing regulation tend to emphasize the evaluation of basic skills that solely involve tasks requiring manual dexterity. Although mastery of these basic skills is invaluable, the FAA asserts that a more comprehensive level of competency, based on current aviation maintenance practices, is required of AMTs. The proposed rule would expand the evaluation of AMT applicants to include a demonstration of competency in technical tasks and aircraft maintenance more appropriate to the current aviation environment and the certificate and rating sought. Therefore, all training provided to an applicant for any certificate, rating, or inspection authorization issued under the proposed part should be conducted to a proficiency-based standard evidenced by demonstrated competency to perform required tasks.

Specification of Practical Experience Requirements in Hours

The FAA proposes that the practical experience requirements for a mechanic seeking airframe and powerplant ratings, currently expressed in § 65.77 as 30 months, be expressed as the equivalent number of hours (5,000 hours) in proposed § 66.57, for an applicant seeking the AMT certificate with an aircraft rating. The FAA also proposes that the practical experience requirements for a repairman seeking a certificate, currently expressed as 18 months in § 65.101, be expressed as its hour equivalent of 3,000 hours in proposed § 66.203, for Aviation Repair Specialist-II (ARS–II) certificate applicants.

A change to the hourly experience requirements would give the FAA and the aviation maintenance industry a simpler method to measure and verify the amount of practical work experience that the individual applicant possesses. The proposed revision also would enable aviation maintenance personnel working in part-time positions to quantify their work experience more easily. FAA Order 8300.10, "Airworthiness Inspector's Handbook," currently permits the practice of measuring part-time experience requirements in hours. The proposed rule would expand this current practice by measuring part-time and full-time experience in hours.

The FAA, in the previous NPRM, proposed that all experience requirements, as stated in current § 65.77; all recent experience requirements, as stated in current § 65.83; and all eligibility requirements, as stated in current § 65.101, be expressed in hours instead of months. In response to comments received detailing the difficulties that such a proposal would impose on the ability of part-time aviation maintenance personnel to meet proposed recent experience requirements for the exercise of certificate privileges, the FAA proposes only that the practical experience necessary for the AMT certificate with the aircraft rating and the eligibility requirements for the ARS–II certificate be expressed in hours. Proposed recent experience requirements for the exercise of certificate privileges, however, would be expressed in months.

As the proposed rule would eliminate the issuance of individual airframe and powerplant ratings, the provisions currently stated in § 65.77(a), which require 18 months of practical experience, appropriate to the rating sought, with the procedures, practices, tools, machine tools, and equipment generally used in constructing, maintaining, or altering airframes or powerplants, would be eliminated under the proposal.

Establishment of a Requirement for Aviation Maintenance Technicians To Pass a Knowledge Test on All Applicable FAR

Current regulations require an applicant for a mechanic certificate to pass a written test that includes the applicable provisions of part 43 and part 91. Because contemporary maintenance operations require the applicant to understand certification and maintenance regulations other than those found solely in part 43 and part 91, the FAA proposes that the knowledge requirements for the AMT certificate with an aircraft rating require an applicant to pass a knowledge test on the applicable provisions of the entire chapter. The proposal recognizes the use of computer-based testing by replacing the term "written test" with "knowledge test".

Clarification of Requirement To Pass All Knowledge Tests Before Applying for the Oral and Practical Tests

There has been some confusion among applicants for the current mechanic certificate who are not enrolled at aviation maintenance technician schools approved under part 147 with regard to the language of current § 65.75(b). The current section requires an individual to pass each section of the written test before applying for the oral and practical tests prescribed by § 65.79. The FAA believes that it is essential that the applicant display knowledge of the equipment and procedures to be used by the applicant before the oral and practical tests are given. The applicant must possess adequate knowledge before being permitted to take the oral and practical tests because it is this knowledge that enables an applicant to solve practical problems and demonstrate the ability to perform the work of a certificated AMT. In addition, when taking an oral or practical test, an applicant for a certificate must handle complex equipment; a lack of knowledge about the use of that equipment could injure the applicant or others. Therefore, the FAA has clarified the current requirement by proposing language that would require all applicants for the AMT certificate, except students enrolled at an aviation maintenance technician school approved under part 147, to pass all knowledge tests before applying for the oral and practical tests.

Demonstration of English-Language Proficiency

The proposal would require all applicants for an AMT certificate, AMT(T) certificate, or aviation repair specialist certificate to read, write, speak, and understand the English language.

The current rule requires only those applicants desiring to exercise the privileges of current certificates within the United States to comply with English-language proficiency requirements. It does not specify an appropriate means for the applicant to demonstrate this proficiency nor does it provide a mechanism for the Administrator to issue a certificate to an individual who may not meet these English-language proficiency requirements solely because of a medical condition.

The proposal would require the applicant to demonstrate English-language proficiency by reading and explaining appropriate maintenance publications and by writing defect and repair statements. This proposal recognizes the highly technical nature of aviation maintenance in today's aviation industry. Proficiency with the general terminology of the English language is not sufficient to ensure the competency of an FAA-certificated AMT or aviation repair specialist. The individual must be able to understand and master the complex and often very specialized language of airworthiness instructions and other terminology associated with the maintenance of highly sophisticated aviation equipment.

In addition, the current airframe, powerplant, and general written tests for mechanics are administered in the English language. Applicants taking these tests must be proficient in the English language to complete these examinations successfully. Although currently certificated repairmen are not required to take written tests, these individuals also work in environments that require more than mere proficiency in the English language. Because the

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FAA does not certify repairmen working under U.S.-certificated foreign repair stations and because of the need for all certificated repairmen to understand technical material written in English, the FAA proposes that all aviation repair specialists demonstrate proficiency in the English language.

In operations conducted at certificated U.S. air carriers, certificated U.S. commercial operators, and U.S.-certificated repair stations, the vast majority of technical information is conveyed in the English language. The FAA has determined that the proposed rule would guarantee a level of competency that would ensure that an applicant for either certificate is able to use all relevant maintenance publications effectively.

The proposal also would revise the current rule to permit the Administrator to issue certificates to applicants who are deaf, hard of hearing, speech impaired, or possess other similar medical conditions, yet have a demonstrated proficiency in the English language. Under the proposal, an applicant could be issued a certificate with specific limitations necessary for the safe maintenance, preventive maintenance, or alteration of aircraft if the applicant has a command of the English language, yet is unable to meet the proposed requirements solely because of a medical condition.

The FAA also proposes that exceptions found in current §§ 65.71 and 65.101, which permit the certification of mechanics and repairmen who are employed outside the United States but who are not proficient in the English language, be deleted from the proposed rule. The FAA proposes the inclusion of provisions in the proposed rule that would permit the Administrator to waive compliance with the proposed English-language proficiency requirement, in certain limited circumstances. The waiver provisions are discussed in more detail below.

Current holders of a mechanic certificate or repairman certificate who do not meet the English-language requirement but who are employed outside the United States by a certificated U.S. air carrier or a certificated U.S. repair station would continue to exercise the privileges of their certificates without a further showing of competency. Their certificates would remain endorsed, "Valid only outside the United States."

Waiver of Specific Certificate Requirements

The FAA recognizes that in certain distinct and special circumstances, deviations from compliance with the requirements of the FAR may be in the public interest. To afford the FAA with a means to respond rapidly to requests for deviations when such requests are in the public interest, the FAA proposes that certain provisions of the certification rules, contained in proposed part 66, be subject to waiver. The FAA has specifically identified two sets of circumstances where a waiver of the proposed certification requirements may be in the public interest. Therefore, the FAA proposes to include provisions in the proposed rule that would permit the issuance of certificates and ratings in deviation from the requirements of proposed §§ 66.51(b), 66.57, 66.201(b), and 66.203(b).

Although the FAA has proposed that all applicants for certificates issued under proposed part 66 be able to read, write, speak, and understand English, the FAA recognizes that in certain circumstances the issuance of an AMT, AMT(T), or aviation repair specialist certificate to an individual who does not meet this requirement may be necessary to ensure the continued airworthiness of U.S.-registered aircraft operating outside the United States. Only in such limited instances where no FAA-certificated AMT, AMT(T), or aviation repair specialist who can read, write, speak, and understand English is available to maintain a U.S.-registered aircraft overseas, will the FAA consider the issuance of a certificate. Any certificate issued in accordance with the proposed waiver provisions would contain an endorsement specifying that the certificate is valid only outside the United States and that the certificate holder may exercise the privileges of the certificate only while employed by a specific operator or certificate holder. Such restrictive endorsements would preclude any expansive use of the certificate's privileges to perform work outside the United States.

The FAA also recognizes that applicants for an AMT certificate may complete a significant portion of the required training at an aviation maintenance technician school certificated under part 147 but may be unable to complete the remaining portion of the required training. This situation frequently occurs as a result of the closing of an FAA-certificated aviation maintenance technician school or the relocation of a student to a portion of the country where an aviation maintenance technician school certificated under part 147 is not readily available. In such circumstances, the proposal would permit the FAA to issue an AMT certificate in deviation from the AMT training requirements specified in part 147 and, therefore, recognize an equivalent combination of formal training and work experience. The Administrator would, however, require the applicant to demonstrate specifically that he or she has received an amount of experience equivalent to that required of an applicant for the proposed certificate who has completed the training specified in part 147 for the issuance of the AMT certificate.

Issuance of any certificate under these provisions would be based on a demonstrated need and a finding that the applicant is able to safely exercise the privileges of the certificate and rating. An applicant also would be required to provide evidence sufficient to indicate that work experience used to satisfy part 147 training requirements that have not been completed is of equivalent scope and detail to ensure proficiency in those tasks specified in the training curriculum.

Recognition of New Testing Methods

In the area of testing administration, the FAA recognizes recent developments in training and testing technology and, therefore, has proposed to replace the term "written test" with "knowledge test". Because the results of some tests, such as those from recently approved computer-based testing, can be made immediately available to the applicant, the FAA proposes that a report of the knowledge test results be made available, as opposed to being sent, to an applicant who has taken an examination using computer-based testing.

Replacement of Lost or Destroyed Certificates by Facsimile or Telegram

The proposal would revise current procedures by permitting an airman who has lost a certificate issued under proposed part 66 to request a facsimile of the certificate from the FAA as confirmation of the certificate's original issuance. The proposal also would allow any request to the FAA to be made by facsimile and would permit the FAA to send directly to the airman a facsimile that the airman may carry as proof of the original certificate's issuance, for a period not to exceed 90 days. Adoption of the proposed changes would make the rule consistent with current practices implemented by the Airman Certification Branch (AVN–460) at the Aviation Standards National Field Office in Oklahoma City, Oklahoma. Current regulations specify the use of telegrams only and limit their validity to a 60-day period.

The proposed use of facsimiles, in addition to telegrams, reflects advancements in communications technology and would speed access to FAA services by permitting the use of other means, such as telephone facsimile or computer modem, to obtain a replacement certificate. The use of these means would speed the replacement of a lost certificate to an airman, thereby decreasing the time during which an airman may not exercise the privileges of a certificate or rating. Increasing the period of validity of telegrams and facsimiles used as proof of certification also would decrease the possibility of a certificate holder having to make any additional request for a replacement certificate. Similar provisions are under consideration for adoption in other parts of the FAR.

Extension of the Duration of an Inspection Authorization

Under the proposed rule, the duration of an inspection authorization would be extended, from the current 12-month period ending in March of each year, to a 24-month period ending on the last day of the 24th month after the date of issuance of the inspection authorization. Extending the duration of the inspection authorization would make the authorization consistent with FAA practices regarding the issuance of other renewable certificates, such as the flight instructor certificate. A 24-month renewal cycle would relieve the public of a significant regulatory burden and FAA Flight Standards District Offices of a considerable administrative burden, without compromising safety. Modifying the existing training and recent experience requirements to coincide with the adoption of a 24-month renewal cycle would give holders greater flexibility in meeting regulatory requirements.

Granting of Inspection Authorization Privileges Based on the Type of Technician Certificate Held by an Applicant

In view of the creation of the proposed AMT and AMT(T) certificates, the FAA proposes to delineate the privileges and limitations of the inspection authorization in a manner similar to that provided for by the AMT and AMT(T) certificates. Under the current rule, the FAR sections pertaining to the issuance of an inspection authorization are found in subpart B of part 65, which pertains solely to currently certificated mechanics. With the creation of the new certificates, the holder of an AMT certificate or the holder of an AMT(T) certificate can apply for an inspection authorization. The FAA, therefore, proposes to create a new subpart, solely applicable to the issuance of inspection authorizations to holders of either AMT or AMT(T) certificates. The FAA contends that the retention of the current regulatory structure for inspection authorization privileges and limitations, which is based on the possession of a single certificate, would be inconsistent with a certification structure that provides for two different types of certificates with different privileges and limitations.

An inspection authorization holder's privileges would be dependent on the privileges of the type of certificate held by the individual possessing the inspection authorization. Under the proposal, the privileges of an individual possessing an inspection authorization and holding a current and valid AMT(T) certificate with an aircraft rating would not be any different from the privileges of the holder of an inspection authorization possessing a current and valid mechanic certificate with airframe and powerplant ratings as specified in current § 65.95.

An individual possessing an inspection authorization with an AMT certificate that has an aircraft rating, however, would not be permitted to approve aircraft certificated under part 25 or part 29 for return to service after the completion of a major repair or alteration. This individual also would not be permitted to perform an annual inspection nor to perform or supervise an annual inspection on any aircraft certificated under part 25 or part 29.

The general eligibility requirements for an individual holding an AMT or AMT(T) certificate to obtain an inspection authorization would be the same as those specified under the current rule, with the exception that an individual seeking the more comprehensive privileges conferred on the holder of an inspection authorization with an AMT(T) certificate would be required to satisfy all eligibility requirements through the performance of work on aircraft certificated under part 25 or part 29, or on the airframes, aircraft engines, propellers, appliances, components, or parts of these aircraft. An individual intending to obtain these inspection authorization privileges would be required to have been actively engaged in this type of work for 2 years before application for the authorization and possess a current and valid AMT(T) certificate for at least 3 years before application. Current eligibility requirements and proposed eligibility requirements for the issuance of an inspection authorization to the holder of a mechanic certificate only require that the applicant have been actively engaged in the maintenance of any type of aircraft for 2 years before the date of application and hold a current and valid mechanic certificate for a period of at least 3 years. Essentially, the proposal would require that an individual intending to exercise the approval for return-to-service privileges of an inspection authorization with respect to aircraft certificated under part 25 or part 29 obtain the requisite experience for the inspection authorization through the maintenance of aircraft certificated under these parts. An AMT(T) with an inspection authorization who does not meet this requirement but meets the requirements for the holder of a AMT certificate with an inspection authorization would be permitted to exercise the privileges of the holder of an AMT certificate with an inspection authorization.

Renewal requirements would not change under the proposed rule, with the exception that an individual possessing an AMT(T) certificate who intends to obtain an inspection authorization and exercise the complete range of privileges available under the authorization must perform the requisite inspections on aircraft certificated under part 25 or part 29.

Because the inspection authorization has become the subject of a separate subpart, references to the inspection authorization in Subpart A " General have now been included in the proposed rule. Inclusion of references to the inspection authorization in this subpart would not affect any current privileges or limitations of an inspection authorization.

Requiring Applicants for the Inspection Authorization To Complete an Inspection Authorization Refresher Course Before Their Initial Application

The proposal would establish a requirement that all applicants for an inspection authorization successfully complete an inspection authorization refresher course during the 12 months before application for an inspection authorization. The current rule does not impose this requirement. Current renewal options available to the holder of an inspection authorization permit the holder to renew the inspection authorization indefinitely without having attended an inspection authorization refresher course. Therefore, the holder of a current inspection authorization may have never attended an inspection authorization refresher course.

FAA surveys indicate that standardization of inspection procedures and the proper completion and submission of required

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documentation are consistent problems among holders of inspection authorizations. Successful completion of an inspection authorization refresher course before initial application would ensure that all future holders of an inspection authorization were instructed in the uniform interpretation of regulatory and advisory material before exercising the privileges of the inspection authorization.

Expansion of Inspection Authorization Renewal Options

The proposal would permit the holder of an inspection authorization to use a combination of annual inspections, inspections of major repairs or major alterations, and complete progressive inspections to satisfy the renewal requirements for the inspection authorization. Such a provision would give the holder of an inspection authorization much greater flexibility in meeting renewal requirements. To facilitate the combination of these inspections with other inspection periods currently designated in months for the purpose of certificate renewal, the proposal would change the currently specified 90-day periods for inspections to 3-month periods.

Notice No. 94–27 proposed that the holder of an inspection authorization be permitted to use participation in current inspection programs, which are recommended by the manufacturer, or other inspection programs established by the registered owner or operator under § 91.409(f)(3) or (4), to satisfy renewal requirements. This proposal is not being included in this NPRM. Although the experience gained through participation in such inspection programs may be commensurate with the experience currently accepted to obtain the inspection authorization renewal, an inspection authorization is not required to participate in these inspection programs. The FAA deems it inappropriate to permit the holder of an inspection authorization to use participation in an inspection program that does not require an inspection authorization as a means (and possibly the sole means) of satisfying inspection authorization renewal requirements.

Under the current regulation, the holder of an inspection authorization may renew the inspection authorization by attending and successfully completing a refresher course, acceptable to the Administrator, of not less than 8 hours during the 12-month period preceding the application for renewal. The previously published NPRM would permit the holder to renew an inspection authorization by attending and successfully completing a refresher course, or series of courses, acceptable to the Administrator, of not less than 16 hours during the proposed 24-month period preceding the application for renewal. The FAA considered modifying the previously published NPRM to permit the holder to renew the inspection authorization by successfully completing an 8-hour course of instruction during the expanded 24-month renewal period. Comments made on this proposal by the ARAC on air carrier/general aviation maintenance issues, however, indicated that acceptance of this change would effectively halve the amount of recurrent training that the holder of an inspection authorization would receive when renewing the inspection authorization through the use of this option. After reviewing the ARAC's concerns, the FAA has determined that completion of a 16-hour inspection authorization refresher course, or series of courses, acceptable to the Administrator, during the expanded renewal period is necessary to provide a level of recurrent training equivalent to that currently required of individuals seeking to renew an inspection authorization through the use of this training option. Therefore, this NPRM retains the language of the earlier proposal.

Redesignation of the Term "Repairman"

In view of the specialized nature of aviation maintenance tasks performed by currently certificated repairmen, the FAA proposes that the term "aviation repair specialist" replace the term "repairman". The FAA contends that the term "aviation repair specialist" more accurately reflects the level of expertise required to maintain today's highly complex aviation systems. In addition, the use of the term "aviation repair specialist" would serve to increase the level of professionalism among aviation maintenance personnel. Adoption of the term would also be consistent with the FAA's policy of implementing gender-neutral regulations. The term "aviation repair specialist" would be used to describe the three types of aviation repair specialist certificates that could be issued under the proposal: (1) the aviation repair specialist certificate issued on the basis of proficiency in a designated specialty area (ARS–I), (2) the aviation repair specialist certificate issued on the basis of employment (ARS–II), and (3) the aviation repair specialist certificate issued to experimental aircraft builders (ARS–III).

The aviation repair specialist certificate issued on the basis of employment (ARS–II) would be the equivalent of the current repairman certificate, and the aviation repair specialist certificate issued to experimental aircraft builders (ARS–III) would be the equivalent of the current repairman certificate-experimental aircraft builder.

The aviation repair specialist certificate would not be issued to holders of the AMT or AMT(T) certificate because an AMT or AMT(T) certificate holder does not require an aviation repair specialist certificate to exercise approval for return-to-service authority. However, the AMT or AMT(T) may still require additional training to obtain the necessary competency to perform work on certain items and to approve these items for return to service. Completion of training equivalent to that required for the issuance of an aviation repair specialist certificate in a designated specialty area (ARS–I) would provide an AMT or AMT(T) with the qualifications necessary to perform work in that specialty area and would also serve as an indication that an AMT or AMT(T) possesses the qualifications necessary to exercise approval for return-to-service privileges in the specialty area.

Establishment of an Aviation Repair Specialist Certificate Based on Proficiency in Designated Specialty Areas That May Be Issued Independent of Employment

Currently, an applicant for a repairman certificate (with the exception of those issued to experimental aircraft builders) is required to possess the ability to perform the specific task for which he or she is employed and to obtain the recommendation of the certificated repair station, commercial operator, or air carrier by which that individual is employed. A repairman is not currently required to meet any uniform national standard for the specific discipline in which the individual performs work.

Extensive study by the Part 65 Working Group has indicated that the increasingly complex nature of aviation maintenance requires that an individual who performs work in certain specialized and highly technical areas should meet formal standardized qualifications. The ARAC concurred with the findings of the Part 65 Working Group in this matter and has made this recommendation to the FAA. The FAA accepts the ARAC recommendation and proposes to issue an aviation repair specialist certificate based on proficiency in designated specialty areas. The qualifications for the issuance of this proposed certificate would be based on nationally and internationally recognized standards (developed by the aviation maintenance industry) that the FAA considers essential for the performance of work in a highly specialized area. The FAA currently proposes to issue aviation repair specialist certificates with ratings based on proficiency in the areas of nondestructive inspection (NDI), composite structure repair, metal structure repair, and aircraft electronics. Although the FAA has defined a number of specialty areas, additional specialty areas are under consideration (such as glider and hot air balloon repair), and new and previously unknown disciplines also may emerge as specialty areas as technology advances. Therefore, additional certificates and ratings, issued by the Administrator, that recognize proficiency in these areas may be established later.

As a result of meeting these established qualifications, the proposal would permit the holder of an aviation repair specialist certificate issued on the basis of proficiency in a designated specialty area (ARS–I) to retain the certificate independent of employment by a certificated repair station, commercial operator, or air carrier. However, an individual intending to exercise the privileges of the proposed ARS–I certificate would only be permitted to perform those tasks for which the individual is certificated while employed by a certificated repair station, commercial operator, or air carrier, because approval for return-to-service authority would continue to rest with the employer, not the ARS–I certificate holder.

The proposed certificate would be issued directly to the applicant and would not be held by an aviation maintenance organization, as is the practice with the current repairman certificate. Therefore, the individual could leave the employment of any of these organizations and retain the certificate. However, the individual would not be able to exercise the privileges of the certificate until he or she had obtained a position with another certificated repair station, commercial operator, or air carrier. Accordingly, an ARS–I who is an independent contractor to a certificated repair station, commercial operator, or air carrier would not be permitted to exercise the privileges of the certificate.

Because the holder of the proposed certificate would have demonstrated a recognized level of proficiency to obtain the proposed certificate, the FAA contends that it would be unnecessary for the applicant to reapply for the certificate every time the individual changes his or her place of employment. Therefore, the certificate would remain valid until surrendered, suspended, or revoked.

The proposed ARS–I certificate would require the completion of an approved training course or program in the specialty area sought. This training and certification would ensure the technical competency of the individual. It would no longer be necessary for an employer to recommend an individual to perform work similar to that performed for a previous employer. An individual would obtain this new certificate by submitting evidence, acceptable to the Administrator, that demonstrates satisfactory completion of an approved aviation repair specialist training course for a rating in a designated specialty area or, before 12 months after the effective date of the rule, evidence of the ability to perform those tasks appropriate to the certificate and rating sought. Evidence of the ability to perform tasks appropriate to the rating sought could consist of a current repairman certificate with a rating that requires an applicant to possess a level of competency equivalent to that required for the issuance of an ARS–I certificate in one of the designated specialty areas (e.g., a repairman certificate with an NDI rating). However, the holder of a repairman certificate who provides evidence of competency in a specific area of technical expertise that is not equivalent to that required for an ARS–I certificate in a designated specialty area would need to provide additional evidence to indicate competency in the designated area. The FAA also notes that an individual possessing a mechanic certificate with an airframe rating would not need to apply for an ARS–I certificate as the privileges of the aviation repair specialist certificate would be encompassed in the privileges of the current mechanic certificate.

To ensure that an ARS–I certificate holder remains qualified to perform the tasks appropriate to the designated specialty area in a rapidly changing aviation maintenance environment, the proposal would require the holder to meet the current qualifications and proficiency requirements for the issuance of the certificate and rating in the designated specialty area. This requirement would be met through training to a proficiency-based standard evidenced by demonstrated competency to perform required tasks, and not through completion of a specified number of hours of training. The holder of both the ARS–I certificate and the ARS–II certificate also would be afforded the opportunity to meet this requirement through participation in training programs administered by the part 145 repair station, commercial operator, or air carrier by which the individual is employed. Because the proposed ARS–I certificate would be issued directly to an applicant, the proposal also would revise those general provisions of subpart A to include the appropriate references to this new certificate.

Although the FAA considered establishing a certification structure that would have eliminated the issuance of specialized certificates, the FAA contends that a certification structure that includes aviation repair specialist certificates is more appropriate. The FAA contends that the complex nature of current aviation maintenance technology requires the retention and training of individuals who are highly trained in technical specialties of a narrow scope. The retention of such highly trained individuals ensures the highest level of safety in the maintenance of complex components. The implementation of the proposed certification structure also ensures the continued existence of aviation maintenance personnel who have a more broad-based level of technical expertise and are able to assess the integrity of the various systems and components within an aircraft and approve an aircraft for return to service (AMT and AMT(T)). It also ensures the continued existence of aviation maintenance personnel trained in highly specialized areas of aviation maintenance (ARS–I, ARS–II, ARS–III). A certification structure containing a generalized certificate with approval for return-to-service privileges and a certificate indicative of proficiency in the more technical areas of aviation maintenance has been retained.

Notification of Change of Address for the Continued Exercise of Certificate Privileges

Current § 65.21 requires mechanics and repairmen to notify the FAA of a change of permanent address within 30 days. Although the current rule requires that an airman issued a certificate under this part provide such a notification, the airman may, under the current rule, continue to exercise the privileges of the certificate even if he or she fails to make the notification.

Pilots, like other individuals issued certificates under this part, also are required to notify the FAA of a change of their permanent address within 30 days. However, pilots may not continue to exercise the privileges of the certificate if they fail to comply with existing notification requirements.

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Recent FAA experience in using current address information records to provide information of concern to mechanics has indicated that current FAA records are inadequate to locate a significant percentage of certificate holders. Many of the notices sent to aviation maintenance personnel were returned to the FAA and were marked as being undeliverable. Because the FAA may periodically need to disseminate critical safety information rapidly to all aviation maintenance personnel, it is extremely important that the FAA have current address information for all certificate holders.

The FAA contends that current efforts to increase the level of professionalism in the aviation maintenance industry and to ensure that the FAA can rapidly notify aviation maintenance personnel of important safety-related matters warrant including in the proposal a provision that would prohibit the holder of any certificate issued under this part from exercising the privileges of the certificate if its holder did not comply with current notification requirements upon a change of permanent address. The FAA contends that, by withdrawing certificate privileges from a person who fails to comply with this requirement, a holder of a certificate issued under this part will be more diligent in complying with the essential requirement of notifying the FAA of his or her current address.

Testing of AMT Applicants by Designated Aviation Maintenance Technician Schools

Under the provisions of current § 61.71(b), the FAA permits certain pilot schools certificated under part 141 to test pilot applicants on the aeronautical knowledge and skill required to obtain certificates issued under part 61 without further testing by an FAA or FAA-designated pilot examiner. The FAA proposes to enact similar provisions for the testing of aviation maintenance personnel.

The proposal would permit an individual who has passed all applicable knowledge tests in the prescribed period and who has applied for an AMT certificate within 90 days after graduation from certain aviation maintenance technician schools to be considered as meeting the specific experience and competency requirements for the certificate, without further testing. Only those aviation maintenance technician schools certificated under part 147 and specifically authorized by the Administrator to test applicants on the experience and competency requirements for the AMT certificate would be able to conduct the testing necessary to satisfy the requirements of the proposal.

The proposal would provide applicants for an AMT certificate with an additional means to complete the required testing for the certificate. It also would expedite the certification process for qualified AMT applicants and reduce testing costs for the applicant.

In its review of the certification requirements for aviation maintenance personnel, the FAA also considered permitting graduates of certain aviation maintenance schools approved by Transport Canada to use training received at those schools toward completion of the training requirements for the issuance of an AMT certificate. The FAA has not included this proposal in this notice; however, the FAA contends that such a proposal could be readily implemented after the conclusion of a Bilateral Aviation Safety Agreement (BASA) with Canada.

The FAA specifically solicits comments on including provisions in proposed part 66 that would permit graduates of certain aviation maintenance schools approved by Transport Canada to use training received at those schools toward completion of the training requirements for the issuance of an AMT certificate. Based on the comments received, the FAA may adopt such provisions in a final rule.

Removal of Gender-Specific Terms

In accordance with the FAA's policy of implementing gender-neutral regulations and maintaining conformity with other recently revised certification regulations that are now gender neutral and in view of the increased role of women in the aviation maintenance profession, the FAA proposes to eliminate all gender-specific references that apply to aviation maintenance personnel from proposed part 66. These changes are reflected in the proposed amendment; however, specific changes are not listed in the section-by-section analysis.

Editorial Changes

To promote consistency between this proposed rule and the terminology used in current regulations, the proposal requires a number of editorial changes. Such changes include, but are not limited to, the use of the term "airframe, aircraft engine, propeller, appliance, component, or part" in those instances where the term "related appliance or part" is used; inclusion of the terms "certificate," "rating," or "authorization" where one or more terms have been inadvertently omitted; and a more expansive use of the term "person." These changes are noted in the section-by-section analysis and do not affect the substantive provisions of the proposed rule unless specifically noted.

Section-by-Section Analysis

Part 65 Certification: Air Traffic Control Tower Operators, Aircraft Dispatchers, and Parachute Riggers

Under the proposal, the title of part 65 would be amended to reflect the removal of subpart D (Mechanics) and subpart E (Repairmen) from this part. The proposed title of part 65 would specifically list only those airmen whose certification would continue to be regulated by this part. The current title of part 65 would be changed from "Certification: Airmen Other Than Flight Crewmembers" to "Certification: Air-Traffic Control Tower Operators, Aircraft Dispatchers, and Parachute Riggers."

Section 65.1 Applicability

Section 65.1 currently states that part 65 is applicable to air traffic control tower operators, aircraft dispatchers, mechanics, repairmen, and parachute riggers. Under the proposal, the certification of all aviation maintenance personnel would be regulated by part 66. The proposal would revise § 65.1 by limiting the applicability of this part to air traffic control tower operators, aircraft dispatchers, and parachute riggers.

Section 65.3 [Reserved]

Section 65.3 prescribes the certification requirements for foreign mechanics. Because the proposal would place the certification of aviation maintenance personnel under part 66, this section would be removed from part 65 and reserved. An equivalent section, § 66.3, is proposed for inclusion in proposed part 66.

Section 65.11 Application and Issue

Current § 65.11(c) prohibits a person whose mechanic certificate is suspended to apply for any rating to be added to that certificate during the period of suspension, and current § 65.11(d)(2) prohibits a person whose repairman or mechanic certificate is revoked from applying for either kind of certificate for 1 year after the date of revocation, unless the order of revocation provides otherwise. Because the proposal would place the certification of all aviation maintenance personnel under proposed part 66, that portion of § 65.11(c) that refers to the suspension of mechanic certificates and § 65.11(d)(2) in its entirety would be removed from part 65. The provisions of these paragraphs would be included in proposed § 66.5 (c) and (d).

Section 65.15 Duration of Certificates

Proposed § 65.15 would remove the reference to the repairman certificate found in current paragraph (a). As the provisions of current paragraph (b) apply only to the repairman certificate, this paragraph also would be removed. Its provisions would be found in proposed § 66.9. The remaining provisions of current paragraphs (a) and (c) would be retained in proposed paragraphs (a) and (b).

Part 65, Subpart D and Subpart E, §§ 65.71 Through 65.105 [Reserved]

The proposal would completely remove subpart D (Mechanics), consisting of §§ 65.71 through 65.95, and subpart E (Repairmen), consisting of §§ 65.101 through 65.105, from part 65 and would establish subpart B (Aviation Maintenance Technicians), subpart C (Aviation Maintenance Technicians (Transport)), subpart D (Inspection Authorizations), and subpart E (Aviation Repair Specialists) under part 66. The new subparts would be based on the subparts currently found in part 65.

Part 66 Certification: Aviation Maintenance Personnel

Under the proposal, a new part 66 prescribing the certification requirements solely for aviation maintenance personnel would be created. Part 66 would include subpart A (General), subpart B (Aviation Maintenance Technicians), subpart C (Aviation Maintenance Technicians (Transport)), subpart D (Inspection Authorizations), and subpart E (Aviation Repair Specialists). Proposed subpart A (General) would be based on part 65, subpart A, and modified to address regulatory concerns applicable to AMTs, AMT(T)s, and aviation repair specialists. Proposed subparts B, C, and D would be based on part 65, subpart D; and proposed subpart E would be based on part 65, subpart E. The proposal would establish the new part under the title "Certification: Aviation Maintenance Personnel."

Section 66.1 Applicability

Proposed § 66.1 sets forth the applicability of part 66. This proposed section is based on current § 65.1. This section would limit the applicability of this new part to AMTs, AMT(T)s, holders of inspection authorizations, and aviation repair specialists.

Section 66.3 Certification of Foreign Aviation Maintenance Personnel

Proposed § 66.3 prescribes the certification requirements for foreign AMTs and AMT(T)s. Because the proposal would not preclude foreign individuals from obtaining these proposed certificates, this section would refer to both subpart B and subpart C, the proposed subparts that list the certification requirements for these certificates. The proposed section is based on current § 65.3. There are no substantive differences between proposed § 66.3 and current § 65.3.

Section 66.5 Application and Issue

Proposed § 66.5 prescribes the application and issuance procedures for a certificate and ratings under this part. This proposed section is based on current § 65.11. There are no substantive differences between paragraphs (a) and (b) of the proposed section and current § 65.11, except for the inclusion of a reference to the inspection authorization and the replacement of the term "written test" with "knowledge test" in proposed paragraph (a). Proposed paragraphs (c) and (d) would differ from current § 65.11 (c) and (d) by the removal of references to air traffic control tower operators, aircraft dispatchers, and parachute riggers, and the inclusion of references to AMTs, AMT(T)s, and aviation repair specialists. Paragraph (c) of the proposed rule would include a reference to aviation repair specialists because the proposed ARS–I certificate, unlike the current repairman certificate, would be issued with ratings based on proficiency in designated specialty areas.

Section 66.7 Temporary Certificate

Proposed § 66.7 is based on current § 65.13 and refers to the issuance of temporary certificates. This section would be revised to reflect current practices by indicating that an applicant's qualifications, and not merely the application and supplementary documents submitted by the applicant, would be subject to review.

Section 66.9 Duration of Certificates

Proposed § 66.9 is based on current § 65.15 and establishes the duration of certificates issued under this part. Paragraph (a) of proposed § 66.9 would include the proposed AMT certificate, AMT(T) certificate, aviation repair specialist certificate issued on the basis of proficiency in a designated specialty area (ARS–I), and aviation repair specialist certificate issued to an experimental aircraft builder (ARS–III) among those certificates that are effective until surrendered, suspended, or revoked. The proposed rule corrects an earlier omission by including aviation repair specialist certificates issued to experimental aircraft builders (ARS–III) among those certificates that are effective until surrendered, suspended, or revoked. Proposed paragraph (b) does not change the intent of current § 65.15(b) and would state that an aviation repair specialist certificate issued on the basis of employment (ARS–II) remains effective until the holder is relieved from the duties for which the holder was employed and certificated. Proposed paragraph (c) retains the current requirement for a holder to return to the Administrator a certificate that has been suspended, revoked, or is no longer effective.

Section 66.11 Display of Certificate

Proposed § 66.11 is based on current §§ 65.89 and 65.105, which prescribe the display of mechanic and repairman certificates. The proposal would consolidate the certificate display requirements for all certificates under one section within part 66. There would be no substantive changes to current certificate display requirements.

Section 66.13 Change of Name: Replacement of Lost or Destroyed Certificate

Proposed § 66.13 is based on current § 65.16 and would revise current procedures by permitting an airman who has lost a certificate issued under part 66 to request a facsimile of the certificate from the FAA as confirmation of the certificate's original issuance. This proposed section also would allow any request to the FAA to be made by facsimile and would permit the FAA to send directly to the airman a telegram or facsimile that may be carried by the airman, for a period not to exceed 90 days, as proof of the original certificate's issuance.

Section 66.15 Change of Address

Proposed § 66.15 is based on current § 65.21 and would revise current requirements by prohibiting the holder of any certificate issued under this part from exercising the privileges of the certificate if the holder has not notified the FAA of a change in permanent mailing address within 30 days.

Section 66.17 Periodic Registration

Proposed § 66.17 would require that the holder of an AMT certificate or AMT(T) certificate notify the FAA of his or her current mailing address before the last day of the 12th calendar month after the effective date of the rule and

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before the last day of each 48-calendar-month period thereafter.

The proposal would not require these certificate holders to comply with this requirement if the holder has, within the same 12- or 48-calendar-month period for which a notification was required, provided this information to the FAA through the issuance of a certificate, rating, inspection authorization, or airman medical certificate, or through compliance with proposed § 66.13 or § 66.15. Any certificate holder failing to comply with this requirement would be prohibited from exercising the privileges of the certificate until the required notification had been made.

Section 66.19 Applications, Certificates, Logbooks, Reports, and Records: Falsification, Reproduction, or Alternation; Section 66.21 Tests: General Procedure; Section 66.23 Knowledge Tests: Cheating or Other Unauthorized Conduct; Section 66.25 Retesting After Failure; Section 66.27 Offenses Involving Alcohol or Drugs; and Section 66.29 Refusal To Submit to a Drug or Alcohol Test

Proposed §§ 66.19, 66.21, 66.23, 66.25, 66.27, and 66.29 are based on current §§ 65.20, 65.17, 65.18, 65.19, 65.12, and 65.23, respectively. These sections refer to the falsification, reproduction, or alteration of documents; general test procedures; cheating or other unauthorized conduct on knowledge tests; retesting after failure; offenses involving alcohol or drugs; and the refusal to submit to a drug or alcohol test. The only substantive difference between the proposed sections for part 66 and current corresponding sections in part 65 is the inclusion of specific provisions indicating the applicability of these sections to holders of inspection authorizations and the replacement of the term "written test" with "knowledge test" in proposed §§ 66.23 and 66.25.

Section 66.31 Waivers: Policy and Procedures

Proposed § 66.31 would describe the policy and procedures that would govern the issuance of certificates and ratings in deviation from the airman certification rules set forth in proposed §§ 66.51(b), 66.57, 66.201(b), and 66.203(b). The proposed section would indicate that the Administrator may issue certificates and ratings in deviation from these sections if the Administrator finds that the holder can safely exercise the privileges of the certificate and rating. Requests for issuance of a certificate or rating in accordance with this section would be required to be submitted to the FAA National Headquarters, Flight Standards Service.

Part 66, Subpart B Aviation Maintenance Technicians

The structure of part 66, subpart B, is based on the current structure of part 65, subpart D. Under the proposed rule, the title of part 66, subpart B, would be "Aviation Maintenance Technicians."

Section 66.51 Eligibility Requirements: General

Proposed § 66.51 is based on the current § 65.71. The language of proposed paragraph (b) differs from current § 65.71 by not only requiring an applicant for an AMT certificate to read, write, speak, and understand the English language, as is currently required, but also by requiring the applicant to demonstrate this knowledge by reading and explaining appropriate maintenance publications and by writing defect and repair statements. The proposal also differs from the current section in that it would include a provision for the Administrator to place such limitations on an applicant's certificate as are necessary for the safe maintenance, preventive maintenance, or alteration of aircraft if the applicant is unable to meet any of these requirements because of medical reasons. The proposal also would eliminate the issuance of certificates to individuals who cannot meet these requirements and are employed solely outside the United States by a U.S. air carrier.

The proposal would retain current requirements to pass all required tests within 24 months and to comply with any additional eligibility requirements for any rating sought.

Section 66.53 Ratings

Proposed § 66.53 would establish that aircraft and aviation maintenance instructor ratings would be issued under subpart B.

Section 66.55 Aircraft Rating: Knowledge Requirements

Proposed § 66.55 would establish the knowledge requirements for the aircraft rating. This proposed section is based on the knowledge requirements for the mechanic certificate found in current § 65.75. The proposal would revise these current knowledge requirements by not only including the current requirement that the applicant be tested on the applicable provisions of parts 43 and 91 but by requiring the applicant to pass a knowledge test that includes material on all relevant provisions of this chapter, therefore, expanding the knowledge required of an applicant.

The proposal also would require the applicant to pass all knowledge tests (as opposed to each section) before applying for the oral and practical tests for the rating sought unless the applicant was enrolled in certain aviation maintenance technician schools.

Because of the increased use of computer-based testing, the proposal would state that a report of the knowledge test results will be made available to the applicant upon completion of the test. Current rules pertaining to the testing of mechanic certificate applicants require the FAA to send the applicant a report of the test.

Section 66.57 Aircraft Rating: Experience Requirements

Proposed § 66.57 would establish the necessary experience requirements for the issuance of an AMT certificate with an aircraft rating. The experience requirements for the AMT certificate with an aircraft rating would be similar to those found in current § 65.77 for the mechanic certificate with an airframe and powerplant rating.

The proposal would permit an applicant to present either an appropriate graduation certificate or a certificate of completion from a certificated aviation maintenance technician school to show compliance with the necessary experience requirements. For those applicants seeking to meet AMT experience requirements through practical experience, the proposal would change the current 30 months of experience required of applicants for a mechanic certificate with airframe and powerplant ratings to 5,000 hours for applicants for an AMT certificate with an aircraft rating. The approximate full-time equivalent of 30 months is 5,000 hours. Because separate airframe and powerplant ratings will not be issued under an AMT certificate, the 18-month experience requirement pertaining to applicants for a separate rating, which is found in current § 65.77(a), has not been included in the proposed section.

Section 66.59 Aircraft Rating: Competency Requirements

Proposed § 66.59 would establish the competency requirements for applicants attempting to obtain an AMT certificate with an aircraft rating under this part. This proposed section is based on current § 65.79. The proposal would establish a basic competency requirement for an AMT by requiring the applicant to demonstrate competence in performing tasks appropriate to the rating sought. The proposal also would clarify the existing regulation to ensure that an applicant passed both an oral and a practical test appropriate to the rating sought.

Section 66.61 Certificated Aviation Maintenance Technician School Students

Proposed § 66.61 is based on current § 65.80 and would prescribe the specific requirements for testing students at aviation maintenance technician schools. Proposed paragraph (a) is based on the current section with no substantive differences. Proposed paragraph (b) would permit applicants who have successfully completed all applicable knowledge tests and who apply for an AMT certificate with an aircraft rating within 90 days after graduation from certain part 147 aviation maintenance technician schools (which have been specifically authorized by the Administrator to test the applicants on the applicable competency requirements) to be considered as meeting all applicable knowledge, experience, and competency requirements.

Section 66.63 Aircraft Rating: Privileges and Limitations

Proposed § 66.63, based on current §§ 65.81, 65.85, and 65.87 would define the privileges and limitations of an AMT certificate holder with an aircraft rating. Proposed paragraphs (a) and (b) are based on current § 65.81; however, the proposal would clarify and expand the manner in which an AMT may become qualified to supervise the maintenance, preventive maintenance, or alteration of any aircraft, or approve for return to service any aircraft, airframe, aircraft engine, propeller, appliance, component, or part thereof. In addition to those means specified in current § 65.81 for mechanics, the proposal would provide the holder of an AMT certificate and aircraft rating with an additional means to qualify for the exercise of these privileges. The holder of an AMT certificate would be permitted to exercise the privileges mentioned above if the AMT had received training on the tasks to be performed or had previously performed such work under the direct supervision of an appropriately rated certificate holder who also had received appropriate training on the tasks to be performed.

Additionally, the proposal would clarify the intent of current § 65.81 by permitting the holder of an AMT certificate with an aircraft rating to exercise the privileges of the certificate and rating by demonstrating the ability to perform the work to the satisfaction of the Administrator. The current regulation requires actual performance of the work.

Except for those restrictions imposed by proposed paragraph (d), an AMT with an aircraft rating would, under proposed paragraph (c), retain current privileges of a mechanic with an airframe and powerplant rating and would be permitted to perform the 100-hour inspection required by part 91.

Proposed paragraph (d)(1) would set forth limitations on the holder of an AMT certificate with an aircraft rating. These limitations currently are not applicable to the holder of a mechanic certificate with an airframe and powerplant rating. The holder of an AMT certificate with an aircraft rating would not be permitted to approve for return to service any aircraft certificated under part 25 or part 29, except after the performance of those tasks specified in paragraph (c) of appendix A to part 43 or after the performance of other tasks specified by the Administrator.

Proposed paragraph (d)(2) would prohibit an AMT with an aircraft rating from performing or supervising a major repair or major alteration of a propeller or any repair or alteration of instruments (other than a horizontal-card liquid-filled compass), unless the work is being performed for, and is under the direct supervision and control of, a repair station certificated under part 145 or an air carrier conducting operations under part 121 or part 135.

Proposed paragraph (d)(3) also would prohibit an AMT with an aircraft rating from approving for return to service any aircraft, airframe, aircraft engine, propeller, appliance, component, or part after completing a major repair or major alteration, or from approving for return to service any instrument other than a horizontal-card liquid-filled compass after completing any repair or alteration.

In paragraph (d)(4), the proposal would require that a certificated AMT understand current instructions for continued airworthiness and the maintenance instructions for the specific operation concerned to exercise the privileges of the certificate and rating. Current § 65.81 requires a mechanic to understand the more limited current instructions of the manufacturer and the maintenance manuals for the specific operation concerned.

Section 66.65 Aircraft Rating: Recent Experience Requirements

Proposed § 66.65 would prescribe the specific recent experience requirements for an AMT with an aircraft rating. This proposed section is based on current § 65.83. The proposal would permit the holder of an AMT certificate with an aircraft rating to satisfy proposed recent experience requirements by using those means currently available to the holder of a mechanic certificate to meet current recent experience requirements. The proposal also would permit the holder of an AMT certificate with an aircraft rating additional means to maintain the recent experience required to exercise the privileges of the certificate and rating. In addition to the means currently specified in § 65.83(a), the proposal would allow the AMT to meet the recent experience requirements to exercise the privileges of the certificate and rating if the person had served under the supervision of an AMT or AMT(T), provided aviation maintenance instruction under an aviation maintenance training program acceptable to the Administrator, or directly supervised other aviation maintenance instructors providing aviation maintenance instruction for a training program acceptable to the Administrator. The proposal also would allow the use of any combination of the proposed and current methods to maintain recent experience.

In addition to the proposed requirements set forth in proposed paragraph (a)(1), proposed paragraph (a)(2) would require the successful completion of recurrent training appropriate to the duties of an AMT if the individual desires to exercise the privileges of the certificate and rating for compensation or hire. This training may consist of an AMT refresher course, an inspection authorization refresher course, or any other course of instruction acceptable to the Administrator that is appropriate to the duties of an AMT. Additionally, an AMT could satisfy the proposed recurrent training requirement in the following manner: through participation in the required training program of a certificate holder with a maintenance and preventive maintenance training program required under § 121.375 or § 135.433 (as specified in proposed paragraph (a)(2)(ii)) or through participation in the training program of a U.S.-certificated repair station that performs work in accordance with § 145.2(a) or conducts a maintenance and preventive maintenance training program (as specified in proposed paragraph (a)(2)(iii)). An AMT also could satisfy the proposed recurrent training requirement by providing aviation maintenance instruction or by serving as the supervisor of persons providing aviation maintenance instruction.

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Proposed paragraph (b) would not require all AMTs to complete the new recurrent training requirements. An AMT who, within the preceding 24 months, has successfully completed a requalification course acceptable to the Administrator, or been found competent by the Administrator to exercise the privileges of the certificate, would not be subject to the proposed training requirements.

Proposed paragraph (c) sets forth the limitations on exercising, for compensation or hire, the privileges of the AMT certificate with an aircraft rating. It would permit an AMT who has met the requirements of proposed paragraph (a)(1), but not proposed paragraph (a)(2) or (b), to exercise the privileges of the certificate and rating, but not for compensation or hire.

Section 66.67 Aviation Maintenance Instructor Rating: Additional Eligibility Requirements

Proposed § 66.67 would set forth the additional eligibility requirements for applicants seeking an aviation maintenance instructor rating. Proposed paragraph (a)(1) would require an applicant to possess a current and valid AMT certificate, with an aircraft rating, that has been in effect for a total of at least 3 years. Proposed paragraph (a)(2) would require an applicant to have been actively engaged in maintaining aircraft for at least the 2-year period before the date of application.

An applicant also would be required, in proposed paragraph (a)(3), to have passed a knowledge test on those subjects pertinent to the exercise of the privileges of the aviation maintenance instructor rating. In lieu of passing such a test within 24 months of application for the rating, an applicant who could present evidence of recognized instructional proficiency, as stated in the proposed rule, would not be required to pass the knowledge test for the rating.

Proposed paragraph (b) would recognize the proficiency of experienced, yet noncertificated, instructors. An applicant who, within 12 months after the effective date of the rule, could present evidence acceptable to the Administrator that he or she had served as an aviation maintenance instructor or as the supervisor of aviation maintenance instructors at an aviation maintenance technician school certificated under part 147 would not be required to pass a knowledge test on instructional proficiency.

Section 66.69 Aviation Maintenance Instructor Rating: Instructional Knowledge and Proficiency

Proposed § 66.69 would specifically list those subjects in which an applicant for an aviation maintenance instructor rating would be required to demonstrate satisfactory instructional knowledge and proficiency. This material is identical to that contained in the Fundamentals of Instruction knowledge test.

Section 66.71 Aviation Maintenance Instructor Rating: Privileges and Limitations

Proposed § 66.71 would set forth the general privileges and limitations of the AMT certificate with an aviation maintenance instructor rating.

Section 66.73 Aviation Maintenance Instructor Rating: Recent Experience Requirements

Proposed § 66.73 would prescribe the specific recent experience requirements for an AMT with an aviation maintenance instructor rating. An individual holding this certificate and rating would not be permitted to exercise the privileges of the certificate and rating unless, within the preceding 24 months, the holder had provided 300 hours of aviation maintenance instruction or had supervised other aviation maintenance instructors for a period of 300 hours. The holder also would meet the proposed recent experience requirements upon completion of an AMT refresher course (or other course of instruction acceptable to the Administrator) or if the Administrator had made a determination that the holder met the standards prescribed for the issuance of the certificate and rating.

Part 66, Subpart C Aviation Maintenance Technicians (Transport)

The structure of part 66, subpart C, is based on the current structure of part 65, subpart D. Under the proposed rule, the title of part 66, subpart C, would become "Aviation Maintenance Technicians (Transport)."

Section 66.101 Eligibility Requirements: General

Proposed § 66.101 sets for the eligibility requirements for the proposed AMT(T) certificate. It would require all applicants for the AMT(T) certificate to hold a current and valid AMT certificate and to comply with any additional requirements for any rating sought. Because an applicant for an AMT(T) certificate would be required to hold a current and valid AMT certificate, an applicant would be required to have complied with proposed § 66.51. Therefore, these requirements have not been repeated in the proposed section.

Section 66.103 Ratings

Proposed § 66.103 would establish aircraft and aviation maintenance instructor ratings issued under subpart C.

Section 66.105 Transition to New Certificates and Ratings

Proposed § 66.105 would establish the equivalency of the mechanic certificate with airframe and powerplant ratings and the proposed AMT(T) certificate with the aircraft rating. Therefore, the privileges and limitations of the proposed AMT(T) certificate with an aircraft rating would be identical to those of the current mechanic certificate with airframe and powerplant ratings. As the FAA would continue to recognize mechanic certificates with either an airframe rating or a powerplant rating, proposed paragraphs (b) and (c) would set forth approval for return-to-service limitations on the holders of these certificates, which are identical to those found in current part 65.

Section 66.107 Aircraft Rating: Additional Eligibility Requirements

Proposed § 66.107 would set forth the additional eligibility requirements for the issuance of an AMT(T) certificate with an aircraft rating. An applicant would be required to successfully complete: an AMT(T) training program administered by an approved training provider; an AMT(T) training program approved under part 147; or a training program approved under part 121, subpart L, or part 135, subpart J. Training programs provided by a certificate holder would be required to meet the training program requirements specified in paragraph (d) of appendix A to proposed part 66.

Section 66.109 Aircraft Rating: Privileges and Limitations

Proposed § 66.109 is based on current §§ 65.81, 65.85, and 65.87, and would define the privileges and limitations of an AMT(T) certificate with an aircraft rating. Proposed § 66.109 is structurally similar to proposed § 66.63, which sets forth the privileges and limitations of the AMT certificate with an aircraft rating.

The holder of an AMT(T) certificate with an aircraft rating would possess all of the privileges provided to the holder of the AMT certificate with an aircraft rating, as set forth in proposed § 66.63. Proposed § 66.109(d), however, would not include the limitation placed on the holder of an AMT certificate with an aircraft rating found in proposed § 66.63

that precludes the holder from approving for return to service any aircraft certificated under part 25 or part 29.

Section 66.111 Aircraft Rating: Recent Experience Requirements

Proposed § 66.111 would prescribe the specific recent experience requirements for AMT(T)s with an aircraft rating. This proposed section is based on current § 65.83 and is structurally similar to proposed § 66.65. It would differ from proposed § 66.65 in that the maintenance, preventive maintenance, or alterations, which the AMT(T) with an aircraft rating would be required to have performed, supervised, or provided instruction in for at least 6 months within the preceding 24 months, would be required to be on an aircraft certificated under part 25 or part 29, or on any airframe, aircraft engine, propeller, appliance, component, or part thereof. The proposed recurrent training requirements would be identical to those proposed for the AMT. It also would permit the holder of an AMT(T) certificate who had not satisfied the recent experience requirements for an AMT(T) certificate, but had satisfied the recent experience requirements for an AMT certificate, to exercise the privileges of the AMT certificate.

Section 66.113 Aviation Maintenance Instructor Rating: Additional Eligibility Requirements

Proposed § 66.113 would set forth the eligibility requirements for applicants with an AMT(T) certificate and aircraft rating who are seeking an aviation maintenance instructor rating. The requirements of proposed § 66.113 would be similar to those established for an applicant with an AMT certificate and aircraft rating who is seeking an aviation maintenance instructor rating as set forth in proposed § 66.67.

The proposed section would differ from proposed § 66.67 in that it also would permit a person possessing an AMT certificate with an aviation maintenance instructor rating, who meets the requirements for the issuance of an AMT(T) certificate, to be issued an AMT(T) certificate with an aviation maintenance instructor rating, upon application.

Section 66.115 Aviation Maintenance Instructor Rating: Privileges and Limitations

Proposed § 66.115 would set forth the general privileges and limitations of the AMT(T) certificate with an aviation maintenance instructor rating.

Section 66.117 Aviation Maintenance Instructor Rating: Recent Experience Requirements

Proposed § 66.117 would prescribe the specific recent experience requirements for AMT(T)s with an aviation maintenance instructor rating. The recent experience requirements set forth for an AMT(T) with an aviation maintenance instructor rating would be identical to those set forth in proposed § 66.73 for an AMT with an aviation maintenance instructor rating. Because instructional skill is independent of the type of items on which an AMT(T) provides instruction, the aviation maintenance instruction that the individual would be required to provide to maintain recent experience, would not be required to pertain to aircraft certificated under part 25 or part 29, or to the airframes, aircraft engines, propellers, appliances, components, or parts thereof.

Section 66.119 Aviation Maintenance Technician (Transport) Training Providers

Proposed § 66.119 would set forth the requirements for those persons seeking approval as AMT(T) training providers. An applicant for approval as a training provider would be required to submit a written request for approval to the Administrator and to comply with appendix A to proposed part 66.

Proposed paragraph (b) would only require a certificate holder operating under part 121 or part 135, an aviation maintenance technician school certificated under part 147, or a certificated repair station operating pursuant to § 145.2(a) to request approval and show that its training program meets the requirements of paragraph (d) of appendix A to proposed part 66.

Part 66, Subpart D Inspection Authorizations

Proposed part 66, subpart D, would consolidate into a single subpart those portions of current part 65 that pertain to the issuance of inspection authorizations. Under the proposed rule, the title of part 66, subpart D, would become "Inspection Authorizations."

Section 66.151 Eligibility Requirements: General

Proposed § 66.151 is based on current § 65.91 and would set forth the general eligibility requirements for applicants for an inspection authorization. Proposed paragraph (a) would require an applicant to meet the requirements of current § 65.91(c) and would establish an additional requirement for applicants to have attended and successfully completed an inspection authorization course, acceptable to the Administrator, of not less than 8 hours of instruction during the 12-month period preceding the application. Attendance at such a course would ensure standardization of inspection procedures and a more uniform interpretation of regulatory and advisory material by holders of the inspection authorization. The proposal would permit the holder of an AMT certificate or an AMT(T) certificate to obtain an inspection authorization. It would also require the applicant to have passed a knowledge test on his or her ability to inspect according to safety standards for approving aircraft for return to service after all repairs and alterations.

Proposed paragraph (b) would set forth the requirements for an applicant seeking to remove the limitation imposed by proposed § 66.157(b). Proposed paragraph (b) would require an applicant seeking to inspect and approve for return to service any aircraft certificated under part 25 or part 29 (except those maintained in accordance with a continuous airworthiness maintenance program approved under part 121) to possess an AMT(T) certificate and to have been actively engaged, for at least the 2-year period before application, in the maintenance, preventive maintenance, or alteration of aircraft certificated under part 25 or part 29, or of any airframe, aircraft engine, propeller, appliance, component, or part thereof.

Proposed paragraph (c) would retain the current prohibition against applying for a retest within 90 days after a previous testing failure.

Section 66.153 Duration of Authorization

Proposed § 66.153 would prescribe the duration of an inspection authorization. This proposed section is based on current § 65.92, with two substantive differences. Under the proposal, the expiration date of the inspection authorization would be extended to the last day of the 24th month after its issuance. Under the current regulation, the inspection authorization expires on March 31 of each year. Additionally, the proposal would state that an inspection authorization would no longer be effective if its holder does not possess a current and valid AMT or AMT(T) certificate.

Section 66.155 Renewal of Authorization

Proposed § 66.155 would prescribe the renewal procedures for an

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inspection authorization and is based on current § 65.93. The proposed section would extend the inspection authorization renewal requirement to every 2 years so that it would correspond to the extension of the duration of the inspection authorization, as proposed in § 66.153. Applications for renewal would be required to be presented to the appropriate FAA office within 90 days before the date of an inspection authorization's expiration.

The proposal would retain current provisions specifying the renewal requirements for an inspection authorization and also would permit the holder of an inspection authorization to use a combination of annual inspections, inspections of major repairs or major alterations, and progressive inspections to satisfy renewal requirements. To facilitate the combination of these inspections, the proposal would change the currently specified 90-day period to a 3-month period.

Under the current regulation, the holder of an inspection authorization may renew the authorization by attending and successfully completing a refresher course, acceptable to the Administrator, of not less than 8 hours, during the 12-month period preceding the application for renewal. As the proposed rule would extend the duration of the inspection authorization from 12 months to 24 months, the amount of time required for the holder of an inspection authorization to renew an authorization by using this method, in lieu of other performance requirements, would be proportionally increased to 16 hours. The proposal would specify that this training could be accomplished through attendance at an inspection authorization refresher course or a series of courses, acceptable to the Administrator, during the expanded renewal period. The proposal recognizes recent developments in instructional techniques and, through the acceptance of a series of courses acceptable to the Administrator, would permit instructional methods that may differ from the standard classroom or lecture format.

Section 66.157 Privileges and Limitations

Proposed § 66.157 would prescribe the privileges and limitations of an inspection authorization. The privileges of the holder of an AMT(T) certificate with an inspection authorization are based on current § 65.95, with no substantive differences. The privileges of the holder of an AMT certificate with an inspection authorization are based on current § 65.95, with certain distinctions that reflect the privileges and limitations of the AMT certificate. The holder of an AMT certificate with an inspection authorization would possess those privileges specified in current § 65.95 except that the holder would not be permitted to inspect and approve aircraft certificated under part 25 or part 29 for return to service after completion of a major repair or a major alteration. The holder of an AMT certificate with an inspection authorization also would not be permitted to perform an annual inspection, or perform or supervise a progressive inspection, according to §§ 43.13 and 43.15, on aircraft that have been certificated under part 25 or part 29.

Part 66, Subpart E Aviation Repair Specialists

The structure of part 66, subpart E, is based on the current structure of part 65, subpart D. Under the proposed rule, the title of part 66, subpart E, would become "Aviation Repair Specialists."

Section 66.201 Aviation Repair Specialist Certificates Issued on the Basis of Proficiency in a Designated Specialty Area (ARS–I): Eligibility

Proposed § 66.201 would set forth the general eligibility requirements for an applicant seeking an aviation repair specialist certificate issued on the basis of proficiency in a designated specialty area (ARS–I). An applicant for this new certificate would be required to be at least 18 years of age and demonstrate the ability to read, write, speak, and understand the English language by reading and explaining appropriate maintenance publications, and by writing defect and repair statements. The Administrator, however, could place such limitations on an applicant's certificate as are necessary for the safe maintenance, preventive maintenance, or alteration of aircraft if the applicant is unable to meet any of these requirements because of medical reasons.

The applicant also would be required to present either an appropriate graduation certificate, a certificate of completion, or other documentary evidence acceptable to the Administrator, that demonstrates the satisfactory completion of an acceptable aviation repair specialist training course or program for a rating in a specialty area designated by the Administrator. Before 12 months after the effective date of the rule, evidence acceptable to the Administrator of the ability to perform those tasks appropriate to the certificate and rating in the designated specialty area sought, also could be presented.

Section 66.203 Aviation Repair Specialist Certificates Issued on the Basis of Employment (ARS–II): Eligibility

Proposed § 66.203 is based on current § 65.101 and would prescribe the general eligibility requirements for the aviation repair specialist certificate issued on the basis of employment (ARS–II). The language of proposed paragraph (b) differs from current § 65.101 in that it would not only require an applicant for an aviation repair specialist certificate to read, write, speak, and understand the English language but also would require the applicant to demonstrate this knowledge by reading and explaining appropriate maintenance publications and by writing defect and repair statements. The Administrator, however, could place such limitations on an applicant's certificate as are necessary for the safe maintenance, preventive maintenance, or alteration of aircraft if the applicant is unable to meet any of these requirements because of medical reasons. The proposal also differs from current § 65.101 in that it would eliminate the issuance of certificates to individuals who cannot read, write, speak, or understand the English language and who are employed solely outside the United States by a U.S.-certificated repair station, a U.S.-certificated commercial operator, or a U.S.-certificated air carrier. This change corresponds with proposed §§ 66.51 and 66.101, which eliminate the issuance of AMT and AMT(T) certificates under similar circumstances.

Proposed paragraph (c) differs from the current section in that it would provide a more comprehensive listing of items on which an applicant could be qualified to perform maintenance (aircraft, airframes, aircraft engines, propellers, appliances, components, and parts thereof). Proposed paragraph (d) would change the current reference in § 65.101(a)(3) from "its maintenance manuals" to "its certificate holder's manual".

Proposed paragraph (f)(1) would specify the current 18-month practical experience requirement in hours instead of months as set forth in current § 65.101(a)(5)(i). The 3,000 hours of experience specified in the proposal are approximately equal to the current 18-month experience requirement.

Section 66.205 Aviation Repair Specialist Certificates Issued to Experimental Aircraft Builders (ARS–III): Eligibility

Proposed § 66.205 is based on current § 65.104(a). The proposed section would change the term "repairman certificate-experimental aircraft builder" to "aviation repair specialist certificate issued to an experimental aircraft builder (ARS–III)." There are no substantive differences between the proposed section and current § 65.104(a).

Section 66.207 Transition to New Certificates

Proposed § 66.207 establishes the equivalency of the proposed ARS–II certificate with the repairman certificate specified in current § 65.101, and the equivalency of the proposed ARS–III certificate with the repairman certificate (experimental aircraft builder) specified in current § 65.104.

Section 66.209 Aviation Repair Specialist Certificates Issued on the Basis of Proficiency in a Designated Area (ARS–I): Privileges and Limitations

Proposed § 66.209 would set forth the general privileges and limitations of the aviation repair specialist certificate issued on the basis of proficiency in a designated specialty area (ARS–I). The holder of the certificate would be permitted to perform or supervise the maintenance, preventive maintenance, or alteration of aircraft, airframes, aircraft engines, propellers, appliances, components, and parts thereof appropriate to the designated specialty area for which the aviation repair specialist is certificated but only in connection with employment by a certificate holder operating under part 121, 135, or 145.

Proposed paragraph (b) would prohibit the holder from performing or supervising duties unless the individual understands the current instructions of the certificate holder employing the aviation repair specialist and the instructions for continued airworthiness that relate to the specific operations concerned.

Section 66.211 Aviation Repair Specialist Certificates Issued on the Basis of Employment (ARS–II): Privileges and Limitations

Proposed § 66.211 is based on current § 65.103 and would set forth the general privileges and limitations of the aviation repair specialist certificate issued on the basis of employment (ARS–II). Proposed paragraph (a) differs from the current section in that it would provide a more comprehensive listing of items on which an applicant could be qualified to perform work (aircraft, airframes, aircraft engines, propellers, appliances, components, and parts thereof). Proposed paragraph (b) is equivalent to current § 65.103(b).

Section 66.213 Aviation Repair Specialist Certificates Issued to Experimental Aircraft Builders (ARS–III): Privileges and Limitations

Proposed § 66.213 is based on current § 65.104(b), with no substantive changes.

Section 66.215 Aviation Repair Specialist Certificates Issued on the Basis of Proficiency in a Designated Specialty Area (ARS–I): Recent Experience Requirements

Proposed § 66.215 would set forth recent experience requirements for holders of aviation repair specialist certificates issued on the basis of proficiency in a designated specialty area (ARS–I). The holder would not be permitted to exercise the privileges of the certificate and rating unless the holder meets the current qualification and proficiency requirements for the issuance of the certificate and rating in the designated specialty area.

Part 66, Appendix A+Aviation Maintenance Technician (Transport) Training Program Curriculum Requirements

Proposed appendix A to part 66 would set forth the training program requirements for the AMT(T) curriculum. It would set forth the minimum requirements for the form and content of the training program outline and would establish minimum training program requirements. It also would permit the provision of training in additional subject areas not specified in the appendix and would establish procedures for the revision of an approved training provider's training program. The proposal also would describe the facilities, equipment, material, and instructor requirements necessary to conduct an AMT(T) training program.

The proposal would describe those student records that would be required to be retained by the training provider and the amount of credit the training provider could provide to a student for previous training. It also would require an approved training provider to furnish each student with a statement of graduation upon completion of the curriculum and, upon request, a record of training for any portion of the training program that has been completed.

The proposed appendix would set forth notification requirements for training providers in the event of a change of ownership, name, or location. It also would establish standards for the conduct of instruction provided by contract or agreement. In addition, the proposal would set forth specific periods for the duration of a training provider's approval and establish criteria for cancellation and renewal of the approval.

Section 147.23 Instructor Requirements

The proposal would amend current § 147.23 to require that an applicant for an aviation maintenance technician school certificate and rating(s) provide the number of instructors who hold appropriate AMT or AMT(T) certificates with aviation maintenance instructor ratings, that the Administrator determines is necessary to provide adequate supervision of the students. Twelve months after the effective date of the rule, at least 1 AMT with an aviation maintenance instructor rating, or 1 AMT(T) with an aviation maintenance instructor rating, would be required for every 25 students in each shop class.

Section 147.36 Maintenance Instructor Requirements

The proposal would amend current § 147.36 to require that each aviation maintenance technician school, after certification or addition of a rating, provide the number of instructors who hold appropriate AMT certificates with aviation maintenance instructor ratings or AMT(T) certificates with aviation maintenance instructor ratings, that the Administrator determines is necessary to provide adequate instruction for the students. Twelve months after the effective date of the rule, at least 1 AMT with an aviation maintenance instructor rating, or 1 AMT(T) with an aviation maintenance instructor rating, would be required for every 25 students in each shop class.

Paperwork Reduction Act

Proposed § 66.17 contains information collection requirements that are not contained in the current rule. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the FAA has submitted a copy of this proposed section to the Office of Management and Budget (OMB) for its review.

The FAA needs the information to be collected to determine the number of active AMT and AMT(T) certificate holders and to obtain current address information from these personnel so that safety-related data can be quickly distributed to these personnel when necessary. The FAA estimates that the additional burden of collecting this information during the first year of the proposed rule is 20,000 hours. One year after the effective date of the proposed

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rule, this information would be updated by holders of AMT and AMT(T) certificates once over a 48-month period. The estimated burden of collecting this information would be reduced to 5,000 hours annually.

The FAA estimates that this proposal will affect 120,000 certificate holders during the first year of the proposal and 30,000 certificate holders annually afterward.

Organizations and individuals desiring to submit comments on the information collection requirement should direct them to the Office of Information and Regulatory Affairs, OMB, Room 1235, New Executive Office Building, Washington, DC 20503; Attention: Desk Officer for Federal Aviation Administration. These comments should reflect whether the proposed collection is necessary; whether the agency's estimate of the burden is accurate; how the quality, utility, and clarity of the information to be collected can be enhanced; and how the burden of the collection can be minimized. A copy of the comments should be submitted to the FAA Rules Docket.

International Civil Aviation Organization and Joint Aviation Regulations

In keeping with U.S. obligations under the Convention on International Civil Aviation (ICAO), it is FAA policy to comply with ICAO Standards and Recommended Practices to the maximum extent practicable. The FAA is not aware of any differences that this proposal would present if adopted. Any differences that may be presented in comments to this proposal, however, will be taken into consideration.

Regulatory Evaluation Summary

Cost-Benefit Analysis

This section summarizes the full regulatory evaluation prepared by the FAA that provides more detailed estimates of the economic consequences of this regulatory action. This summary and the full evaluation quantify, to the extent practicable, estimated costs to the private sector, consumers, Federal, State and local governments, as well as anticipated benefits. The evaluation was conducted in accordance with Executive Order 12866, which directs that each Federal agency can propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify the costs. This document also includes an initial regulatory flexibility determination, required by the Regulatory Flexibility Act of 1980, and an international trade impact assessment, required by the Office of Management and Budget.

This document is considered a "non-significant regulatory action" under Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget. This document is also considered non-significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11034; February 2, 1979).

Costs

This proposed rule would revise the regulations that prescribe the certification and training requirements for mechanics and repairmen. Current regulations prescribing these certification requirements do not reflect the extensive differences in the maintenance skills required of currently certificated personnel, the significant technological advances that have occurred in the aviation industry, and the enhancements in training and instructional methods, that have affected all aviation maintenance personnel. The proposed rule would consolidate and clarify for aviation maintenance personnel all certification, training, experience, and currency requirements in a newly established 14 CFR part 66. This rulemaking would create additional certificates and ratings, and would modify the privileges and limitations of current certificates to respond more closely to the current responsibilities of aviation maintenance personnel. The proposed rule also would enhance the technical capabilities of, and increase the level of professionalism among, aviation maintenance personnel by establishing new training requirements.

The total quantifiable cost in second quarter 1996 dollars was estimated at between $219 million and $404 million over ten years (between $153.8 million and $283.8 million discounted). The cost range is a function of the estimated range of affected mechanics. The total quantifiable costs to all affected mechanics for obtaining an aviation maintenance technician (transport) (AMT(T)) certificate were estimated at between $146 million and $293 million over ten years (between $102.5 and $207.8 million discounted at 7 percent). The cost of the provision relating to recurrent training would range between $73 million and $111 million over ten years (between $51.3 million and $78.0 million, discounted).

Cost Savings

There are a number of potential sources of cost savings in the proposal. Improved training is expected to increase productivity between about $238 million and $595 million (between $167.2 million and $417.9 million, discounted over ten years). Elimination of course redundancy in the A & P curriculum could provide estimated cost savings between $166 million to $222 million over ten years (between $116.6 million and $155.9 million, discounted). Other changes could add approximately $18.1 million in cost savings over ten years ($12.7 million, discounted). The total potential cost savings would therefore range between $422.1 million and $817.0 million total over ten years (between $296.4 million and $573.8 million, discounted).

Based upon the low compliance cost coupled with the potential cost savings, the FAA concludes that the proposed rule is cost beneficial.

Initial Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) (Public Law 96–354; September 19, 1980) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. The RFA requires agencies to review rules that may have "a significant cost impact on a substantial number of small entities."

All of the major changes to the rules discussed in this NPRM would affect mechanics and repairmen, who are individuals rather than business entities or government entities. The revisions that impact maintenance schools would not exceed the cost-threshold level, as found in FAA Order 2100.14A, "Regulatory Flexibility Criteria and Guidance" (September 1986). Therefore, the FAA has determined that the proposed revisions would not have a significant economic impact on a substantial number of small entities.

International Trade Impact

The proposed rule would not affect international trade since the mechanics affected would not be employed by firms whose operations are of an international scale.

Unfunded Mandates Reform Act Assessment

This proposed rule does not contain any Federal intergovernmental or private sector mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

Federalism Implications

The regulations proposed herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Cross-Reference

To identify the location in proposed part 66 where present regulations (or portions thereof) pertaining to mechanics and repairmen would be found, the following cross-reference list is provided. (Current §§ 65.1 through 65.23, except for § 65.3, would not be deleted from part 65 as these sections would still pertain to those airmen who would continue to be regulated by that part.)

Old	New
65.1	66.1
65.3	66.3
65.11	66.5
65.12	66.27
65.13	66.7
65.15	66.9
65.16	66.13
65.17	66.21
65.18	66.23
65.19	66.25
65.20	66.19
65.21	66.15
65.23	66.29
65.71	66.51 and 66.101
65.73	66.53 and 66.103
65.75	66.55
65.77	66.57
65.79	66.59
65.80	66.61
65.81	66.63 and 66.109
65.83	66.65 and 66.111
65.85	66.63 and 66.109
65.87	66.63 and 66.109
65.89	66.11
65.91	66.151
65.92	66.153
65.93	66.155
65.95	66.157
65.101	66.203
65.103	66.211
65.104	66.205 and 66.213
65.105	66.11

The following list shows where the proposals contained in this document can be found in current part 65:

New	Old
66.1	65.1
66.3	65.3
66.5	65.11
66.7	65.13
66.9	65.15
66.11	65.89 and 65.105
66.13	65.16
66.15	65.21
66.17	New
66.19	65.20
66.21	65.17
66.23	65.18
66.25	65.19
66.27	65.12
66.29	65.23
66.31	New
66.51	65.71
66.53	65.73
66.55	65.75
66.57	65.77
66.59	65.79
66.61	65.80
66.63	65.81, 65.85, and 65.87
66.65	65.83
66.67	New
66.69	New
66.71	New
66.73	New
66.101	65.71
66.103	65.73
66.105	New
66.107	New
66.109	65.81, 65.85, and 65.87
66.111	65.83
66.113	New
66.115	New
66.117	New
66.119	New
66.151	65.91
66.153	65.92
66.155	65.93
66.157	65.95
66.201	New
66.203	65.101
66.205	65.104
66.207	New
66.209	New
66.211	65.103
66.213	65.104
66.215	New

List of Subjects

14 CFR Part 65

Air traffic controllers, Aircraft, Airmen, Airports, Alcohol abuse, Drug abuse, Reporting and recordkeeping requirements.

14 CFR Part 66

Air safety, Air transportation, Aircraft, Airmen, Alcohol abuse, Aviation safety, Drug abuse, Reporting and recordkeeping requirements.

14 CFR Part 147

Aircraft, Airmen, Educational facilities, Reporting and recordkeeping requirements, Schools.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Chapter I of 14 CFR as follows:

PART 65—CERTIFICATION: AIR TRAFFIC CONTROL TOWER OPERATORS, AIRCRAFT DISPATCHERS, AND PARACHUTE RIGGERS

1. The heading for part 65 is revised to read as set forth above.

2. The authority citation for part 65 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44703, 44707, 44709–44711, 45102–45103, 45301–45302.

§ 65.1 [Amended]

3. Section 65.1 is amended by removing paragraphs (c) and (d) and redesignating paragraph (e) as paragraph (c).

§ 65.3 [Removed and Reserved]

4. Section 65.3 is removed and reserved.

5. Section 65.11 is amended by revising paragraphs (c) and (d) to read as follows:

§ 65.11 Application and issue.

* * * * *

(c) Unless authorized by the Administrator, a person whose air traffic control tower operator certificate or parachute rigger certificate is suspended may not apply for any rating to be added to that certificate during the period of suspension.

(d) Unless the order of revocation provides otherwise, a person whose air traffic control tower operator, aircraft dispatcher, or parachute rigger certificate is revoked may not apply for the same kind of certificate for 1 year after the date of revocation.

6. Section 65.15 is revised to read as follows:

§ 65.15 Duration of certificates.

(a) A certificate or rating issued under this part is effective until it is surrendered, suspended, or revoked.

(b) The holder of a certificate issued under this part that is suspended, revoked, or is no longer effective, shall return that certificate to the Administrator.

Subpart D [Removed and Reserved]

7. Part 65, subpart D, consisting of §§ 65.71 through 65.95, is removed and reserved.

Subpart E [Removed and Reserved]

8. Part 65, subpart E, consisting of §§ 65.101 through 65.105, is removed and reserved.

9. Part 66 is added to read as follows:

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PART 66—CERTIFICATION: AVIATION MAINTENANCE PERSONNEL

Subpart A—General

Sec.

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66.215 Aviation repair specialist certificates issued on the basis of proficiency in a designated specialty area (ARS–I): Recent experience requirements.
Appendix A to Part 66—Aviation Maintenance Technician (Transport) Training Program Curriculum Requirements

Authority: 49 U.S.C. 106(g), 40113, 44701–44703, 44707, 44709–44711, 45102–45103, 45301–45302.

Subpart A—General

§ 66.1 Applicability.

(a) This part prescribes the requirements for issuing the certificates listed in paragraph (b) of this section and any associated rating or inspection authorization and the general operating rules for holders of those certificates, ratings, and inspection authorizations.

(b) The following certificates are issued under this part:

(1) Aviation maintenance technician.

(2) Aviation maintenance technician (transport).

(3) Aviation repair specialist.

§ 66.3 Certification of foreign aviation maintenance personnel.

A person who is neither a U.S. citizen nor a resident alien is issued a certificate under subpart B or C of this part, outside the United States, only when the Administrator finds that the certificate is needed for the operation or continued airworthiness of a U.S.-registered civil aircraft.

§ 66.5 Application and issue.

(a) Application for a certificate, rating, or inspection authorization under this part must be made on a form and in a manner prescribed by the Administrator. Each person who is neither a U.S. citizen nor a resident alien and who applies for a knowledge or practical test to be administered outside the United States or for any certificate, rating, or inspection authorization issued under this part must show evidence that the fee prescribed in appendix A to part 187 of this chapter has been paid.

(b) An applicant who meets the requirements of this part is entitled to an appropriate certificate, rating, or inspection authorization.

(c) Unless authorized by the Administrator, a person whose aviation maintenance technician certificate, aviation maintenance technician (transport) certificate, or aviation repair specialist certificate is suspended may not apply for any rating to be added to that certificate during the period of suspension.

(d) Unless the order of revocation provides otherwise, a person whose aviation maintenance technician certificate, aviation maintenance technician (transport) certificate, or aviation repair specialist certificate is revoked may not apply for any of these certificates for 1 year after the date of revocation.

§ 66.7 Temporary certificate.

A certificate or rating effective for a period of not more than 120 days may be issued to a qualified applicant, pending review of the applicant's qualifications and the issuance by the Administrator of the certificate or rating for which the application was made.

§ 66.9 Duration of certificates.

(a) An aviation maintenance technician certificate, an aviation maintenance technician (transport) certificate, an aviation repair specialist certificate issued on the basis of proficiency in a designated specialty area (ARS–I), an aviation repair specialist certificate issued to an experimental aircraft builder (ARS–III), or any rating issued under this part is effective until it is surrendered, suspended, or revoked.

(b) Unless it is sooner surrendered, suspended, or revoked, an aviation repair specialist certificate issued on the basis of employment (ARS–II) is effective until the holder of that certificate is relieved from the duties for which the holder was employed and certificated.

(c) The holder of a certificate issued under this part that is suspended, revoked, or no longer effective, shall return that certificate to the Administrator.

§ 66.11 Display of certificate.

Each person who holds an aviation maintenance technician certificate, an aviation maintenance technician (transport) certificate, or an aviation repair specialist certificate shall keep it within the immediate area where the person normally exercises the privileges of the certificate and shall present it for inspection upon the request of the Administrator or an authorized representative of the National Transportation Safety Board, or of any Federal, State, or local law enforcement officer.

§ 66.13 Change of name: Replacement of lost or destroyed certificate.

(a) An application for a change of name on a certificate issued under this part must be accompanied by the applicant's current certificate and the marriage license, court order, or other document verifying the change. The documents are returned to the applicant after inspection.

(b) An application for replacement of a lost or destroyed certificate is made by letter to the Department of Transportation, Federal Aviation Administration, Airman Certification Branch, Post Office Box 25082, Oklahoma City, Oklahoma 73125. The letter must—

(1) Contain the name in which the certificate was issued, the permanent mailing address (including ZIP Code), Social Security Number (if any), and date and place of birth of the certificate holder, and any available information regarding the grade, number, and date of issue of the certificate and the ratings on it; and

(2) Be accompanied by a check or money order for $2, payable to the Federal Aviation Administration.

(c) A person whose certificate issued under this part has been lost may obtain a telegram or facsimile from the Federal Aviation Administration confirming that it was issued. The telegram or facsimile may be carried as a certificate for a period not to exceed 90 days, pending the receipt of a duplicate certificate under paragraph (b) of this section, unless the person has been notified that the certificate has been suspended or revoked. The request for such a telegram or facsimile may be made by prepaid telegram or facsimile, stating the date on which a duplicate certificate was requested, or including the request for a duplicate and a money order for the appropriate amount. The request for a telegraphic or facsimile certificate should be sent to the office prescribed in paragraph (b) of this section.

§ 66.15 Change of address.

The holder of a certificate issued under this part who has made a change in permanent mailing address may not, after 30 days from that date, exercise the privileges of the certificate unless the holder has notified, in writing, the Department of Transportation, Federal Aviation Administration, Airman Certification Branch, Post Office Box 25082, Oklahoma City, Oklahoma 73125, of the new address.

§ 66.17 Periodic registration.

(a) Except as provided in paragraph (b) of this section, the holder of an aviation maintenance technician certificate or an aviation maintenance technician (transport) certificate shall, before the last day of the 12th calendar month after [date 12 months after the effective date of the final rule], and before the last day of each 48-calendar-month period thereafter, notify, in a form and manner prescribed by the Administrator, the Department of Transportation, Federal Aviation Administration, Airman Certification Branch, Post Office Box 25082, Oklahoma City, Oklahoma 73125, of his or her current mailing address.

(b) The holder of an aviation maintenance technician certificate or an aviation maintenance technician (transport) certificate need not comply with the notification provisions of paragraph (a) of this section if the holder has, within the same 12- or 48-calendar-month period for which a notification was required in paragraph (a) of this section—

(1) Been issued a certificate, rating, or inspection authorization under the provisions of this part;

(2) Been issued an airman medical certificate under the provisions of part 67 of this chapter; or

(3) Notified the Department of Transportation, Federal Aviation Administration, Airman Certification Branch, Post Office Box 25082, Oklahoma City, Oklahoma 73125, under the provisions of § 66.13 or § 66.15.

(c) The holder of an aviation maintenance technician certificate or an aviation maintenance technician (transport) certificate issued under this part, who has not complied with the requirements of this section may not exercise the privileges of the certificate until the notification required by this section has been made.

§ 66.19 Applications, certificates, logbooks, reports, and records: Falsification, reproduction, or alteration.

(a) No person may make or cause to be made—

(1) Any fraudulent or intentionally false statement on any application for a certificate, rating, or inspection authorization under this part;

(2) Any fraudulent or intentionally false entry in any logbook, record, or report that is required to be kept, made, or used to show compliance with any requirement for any certificate, rating, or inspection authorization under this part;

(3) Any reproduction, for fraudulent purpose, of any certificate, rating, or inspection authorization under this part; or

(4) Any alteration of any certificate, rating, or inspection authorization under this part.

(b) The commission by any person of an act prohibited under paragraph (a) of this section is a basis for suspending or revoking any airman certificate, rating, or inspection authorization held by that person.

§ 66.21 Tests: General procedure.

(a) Tests prescribed by or under this part are given at times and places, and by persons, designated by the Administrator.

(b) The minimum passing grade for each test is 70 percent.

§ 66.23 Knowledge tests: Cheating or other unauthorized conduct.

(a) Except as authorized by the Administrator, no person may—

(1) Copy, or intentionally remove, a knowledge test under this part;

(2) Give to another, or receive from another, any part or copy of that test;

(3) Give help on that test to, or receive help on that test from, any person during the period that the test is being given;

(4) Take any part of that test on behalf of another person;

(5) Use any material or aid during the period that the test is being given; or

(6) Intentionally cause, assist, or participate in any act prohibited by this paragraph (a).

(b) No person who commits an act prohibited by paragraph (a) of this section is eligible for any airman or ground instructor certificate, rating, or inspection authorization under this chapter for a period of 1 year after the date of that act. In addition, the commission of that act is a basis for suspending or revoking any airman or ground instructor certificate, rating, or inspection authorization held by that person.

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§ 66.25 Retesting after failure.

An applicant for a knowledge, oral, or practical test for a certificate, rating, or inspection authorization under this part, may apply for retesting—

(a) After 30 days after the date the applicant failed the test; or

(b) Before the 30 days have expired if the applicant presents a signed statement from an airman holding the certificate, rating, or inspection authorization sought by the applicant, which certifies that the airman has given the applicant additional instruction in each of the subjects failed and that the airman considers the applicant ready for retesting.

§ 66.27 Offenses involving alcohol or drugs.

(a) A conviction for the violation of any Federal or State statute relating to the growing, processing, manufacture, sale, disposition, possession, transportation, or importation of narcotic drugs, marihuana, or depressant or stimulant drugs or substances, is grounds for—

(1) Denial of an application for any certificate, rating, or inspection authorization issued under this part for a period of up to 1 year after the date of final conviction; or

(2) Suspension or revocation of any certificate, rating, or inspection authorization issued under this part.

(b) The commission of an act prohibited by § 91.19(a) of this chapter is grounds for—

(1) Denial of an application for a certificate, rating, or inspection authorization issued under this part for a period of up to 1 year after the date of that act; or

(2) Suspension or revocation of any certificate, rating, or inspection authorization issued under this part.

§ 66.29 Refusal to submit to a drug or alcohol test.

(a) This section applies to an employee who performs a function listed in appendix I or appendix J to part 121 of this chapter directly or by contract for a certificate holder operating under part 121 or part 135 of this chapter, or an operator as defined in § 135.1(c) of this chapter.

(b) Refusal by the holder of a certificate issued under this part to take a drug test required under the provisions of appendix I to part 121 of this chapter or an alcohol test required under the provisions of appendix J to part 121 of this chapter, is grounds for—

(1) Denial of an application for any certificate, rating, or inspection authorization issued under this part for a period of up to 1 year after the date of that refusal; and

(2) Suspension or revocation of any certificate, rating, or inspection authorization issued under this part.

§ 66.31 Waivers: Policy and procedures.

(a) If the Administrator finds that the holder can safely exercise the privileges of the certificate and rating, the Administrator may issue any certificate or associated rating, specified under the provisions of this part, that authorizes the holder to exercise the privileges and limitations of the certificate and rating in deviation from §§ 66.51(b), 66.57, 66.201(b), and 66.203(b).

(b) An application for a certificate and rating, issued under the provisions of paragraph (a) of this section, shall be made on a form and in a manner prescribed by the Administrator and must be submitted to FAA Headquarters, Flight Standards Service, Aircraft Maintenance Division (AFS'300), 800 Independence Avenue SW., Washington, DC 20591.

(c) A certificate or any associated rating, issued under the provisions of paragraph (a) of this section, is effective as specified in the certificate and rating.

Subpart B—Aviation Maintenance Technicians

§ 66.51 Eligibility requirements: General.

An applicant for an aviation maintenance technician certificate and any associated rating must—

(a) Be at least 18 years of age;

(b) Demonstrate the ability to read, write, speak, and understand the English language by reading and explaining appropriate maintenance publications and by writing defect and repair statements. If the applicant is unable to meet any of these requirements because of medical reasons, the Administrator may place such limitations on that applicant's certificate as are necessary for the safe maintenance, preventive maintenance, or alteration of aircraft;

(c) Comply with the knowledge, experience, and competency requirements prescribed for the rating sought;

(d) Comply with any additional eligibility requirements specified for the rating sought; and

(e) Pass all of the prescribed tests for the rating sought, within a period of 24 months.

§ 66.53 Ratings.

The following ratings are issued under this subpart:

(a) Aircraft.

(b) Aviation maintenance instructor.

§ 66.55 Aircraft rating: Knowledge requirements.

(a) Except as specified in § 66.61(a), each applicant for an aviation maintenance technician certificate with an aircraft rating must, after meeting the applicable requirements of § 66.57, pass the applicable knowledge tests covering the construction and maintenance of aircraft appropriate to the certificate and rating, the regulations in this subpart, and the relevant provisions of this chapter.

(b) Except as specified in § 66.61(a), each applicant must pass all applicable knowledge tests before applying for the oral and practical tests prescribed by § 66.59. A report of the knowledge tests will be made available to the applicant.

§ 66.57 Aircraft rating: Experience requirements.

Each applicant for an aviation maintenance technician certificate with an aircraft rating must present—

(a) An appropriate graduation certificate or a certificate of completion from a certificated aviation maintenance technician school; or

(b) Documentary evidence, acceptable to the Administrator, of at least 5,000 hours of practical experience with the procedures, practices, materials, tools, machine tools, and equipment generally used in constructing, maintaining, or altering aircraft.

§ 66.59 Aircraft rating: Competency requirements.

Each applicant for an aviation maintenance technician certificate with an aircraft rating must demonstrate competency in performing tasks appropriate to the certificate sought by passing both an oral and a practical test. These tests will be based on the subjects covered by the knowledge tests for the certificate and rating.

§ 66.61 Certificated aviation maintenance technician school students.

(a) Whenever an aviation maintenance technician school certificated under part 147 of this chapter demonstrates to an FAA inspector that one of its students has made satisfactory progress at the school and is prepared to take the oral and practical tests prescribed by § 66.59, that student may take those tests during the final subjects of that student's training in the approved curriculum before meeting the applicable experience requirements of § 66.57 and before passing the knowledge tests prescribed by § 66.55.

(b) An applicant for an aviation maintenance technician certificate and rating under this part who has successfully completed all applicable knowledge tests is considered to meet the knowledge, experience, and competency requirements prescribed for the rating sought if the applicant applies within 90 days after graduation from an aviation maintenance technician school, certificated under part 147 of this chapter, that is specifically authorized by the Administrator to test applicants on the competency requirements for the certificate and rating sought.

§ 66.63 Aircraft rating: Privileges and limitations.

(a) Except as specified in paragraph (d) of this section, a certificated aviation maintenance technician with an aircraft rating may perform the maintenance, preventive maintenance, or alteration to any aircraft, airframe, aircraft engine, propeller, appliance, component, or part thereof, and any additional duties in accordance with § 66.157.

(b) Except as specified in paragraph (d) of this section, a certificated aviation maintenance technician with an aircraft rating may supervise the maintenance, preventive maintenance, or alteration of, or after inspection, approve for return to service, any aircraft, airframe, aircraft engine, propeller, appliance, component, or part thereof provided the aviation maintenance technician, has—

(1) Satisfactorily performed the work at an earlier date;

(2) Demonstrated the ability to perform the work to the satisfaction of the Administrator;

(3) Received training acceptable to the Administrator on the tasks to be performed; or

(4) Performed the work while working under the direct supervision of a certificated aviation maintenance technician, certificated aviation maintenance technician (transport), or a certificated aviation repair specialist, who has—

(i) Had previous experience in the specific operation concerned; or

(ii) Received training acceptable to the Administrator on the tasks to be performed.

(c) Except as specified in paragraph (d) of this section, a certificated aviation maintenance technician with an aircraft rating may perform the 100-hour inspection required by part 91 of this chapter on any aircraft, airframe, aircraft engine, propeller, appliance, component, or part thereof, and approve that aircraft, airframe, aircraft engine, propeller, appliance, component, or part for return to service.

(d) A certificated aviation maintenance technician with an aircraft rating may not—

(1) Approve for return to service any aircraft certificated under part 25 or part 29 of this chapter except after the performance of—

(i) Those tasks specified in paragraph (c) of appendix A to part 43 of this chapter; or

(ii) Other tasks specified by the Administrator;

(2) Perform or supervise (unless under the direct supervision and control of a repair station certificated under part 145 of this chapter or of an air carrier operating under part 121 or part 135 of this chapter)—

(i) A major repair or major alteration of a propeller; or

(ii) Any repair or alteration of instruments other than a horizontal-card liquid-filled compass;

(3) Approve for return to service—

(i) Any aircraft, airframe, aircraft engine, propeller, appliance, component, or part thereof after completion of a major repair or major alteration; or

(ii) Any instrument other than a horizontal-card liquid-filled compass after completion of any repair or alteration;

(4) Exercise the privileges of the certificate unless the aviation maintenance technician understands the current instructions for continued airworthiness and the maintenance instructions for the specific operation concerned.

§ 66.65 Aircraft rating: Recent experience requirements.

(a) Except as provided in paragraphs (b) and (c) of this section, a certificated aviation maintenance technician with an aircraft rating may not exercise the privileges of the aircraft rating unless the aviation maintenance technician has—

(1) For at least 6 months within the preceding 24 months—

(i) Served as an aviation maintenance technician;

(ii) Served under the supervision of a certificated aviation maintenance technician or aviation maintenance technician (transport);

(iii) Technically supervised other aviation maintenance technicians;

(iv) Provided aviation maintenance instruction or served as the direct supervisor of persons providing aviation maintenance instruction for an aviation maintenance technician course or program acceptable to the Administrator;

(v) Supervised, in an executive capacity, the maintenance, preventive maintenance, or alteration of any aircraft, airframe, aircraft engine, propeller, appliance, component, or part thereof; or

(vi) Been engaged in any combination of paragraphs (a)(1)(i) through (a)(1)(v) of this section; and

(2) Within the preceding 24 months—

(i) Successfully completed an aviation maintenance technician refresher course, inspection authorization refresher course, or other course of instruction acceptable to the Administrator and appropriate to the duties of an aviation maintenance technician;

(ii) Performed maintenance or preventive maintenance for a certificate holder having a maintenance and preventive maintenance training program as required under § 121.375 or § 135.433 of this chapter;

(iii) Performed maintenance or preventive maintenance for a U.S.-certificated repair station that performs work in accordance with § 145.2(a) of this chapter or conducts a maintenance and preventive maintenance training program; or

(iv) Provided aviation maintenance instruction, or served as the direct supervisor of persons providing aviation maintenance instruction, for an aviation maintenance training course or program acceptable to the Administrator in which instruction is provided in the maintenance, preventive maintenance, or alteration of any aircraft, airframe, aircraft engine, propeller, appliance, component, or part thereof.

(b) A certificated aviation maintenance technician who has not met the requirements of paragraph (a) of this section may exercise the privileges of the certificate and rating (including for compensation or hire) if, within the preceding 24 months—

(1) The aviation maintenance technician has successfully completed a requalification course acceptable to the Administrator; or

(2) The Administrator has found the aviation maintenance technician competent to exercise the privileges of the certificate.

(c) A certificated aviation maintenance technician who has met the requirements of paragraph (a)(1) of this section, but has not met the requirements specified in paragraph (a)(2) or (b) of this section may exercise the privileges of the certificate and rating, but not for compensation or hire.

§ 66.67 Aviation maintenance instructor rating: Additional eligibility requirements.

(a) An applicant for an aviation maintenance technician certificate with an aviation maintenance instructor rating must—

(1) Hold a current and valid aviation maintenance technician certificate, with

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an aircraft rating, that has been in effect for a total of at least 3 years;

(2) Have been actively engaged, for at least the 2-year period before the date of application, in maintaining aircraft in accordance with this chapter; and

(3) Within 24 months of the date of application, pass a knowledge test on the subjects in which instruction is required under § 66.69 or, at the time of application—

(i) Hold a current and valid ground instructor or flight instructor certificate;

(ii) Present an appropriate graduation certificate, a certificate of completion, or other documentary evidence acceptable to the Administrator, that demonstrates the award of a degree in education, vocational education, technical education, or occupational education from an accredited institution; or

(iii) Hold a current and valid State teaching certificate, acceptable to the Administrator, that requires the holder to obtain proficiency in the subjects specified in § 66.69.

(b) Before [date 12 months after the effective date of the final rule], an applicant who can present evidence acceptable to the Administrator, that he or she has served as an aviation maintenance instructor, or as the supervisor of aviation maintenance instructors at an aviation maintenance school certificated under part 147 of this chapter, need not comply with the requirements of paragraph (a)(3) of this section.

§ 66.69 Aviation maintenance instructor rating: Instructional knowledge and proficiency.

An applicant for an aviation maintenance technician certificate with an aviation maintenance instructor rating must satisfactorily demonstrate instructional knowledge and proficiency in the following subjects:

(a) The learning process.

(b) Elements of effective teaching.

(c) Student evaluation and testing.

(d) Course development.

(e) Lesson planning.

(f) Classroom training techniques.

§ 66.71 Aviation maintenance instructor rating: Privileges and limitations.

A certificated aviation maintenance technician with an aviation maintenance instructor rating—

(a) May serve as an aviation maintenance instructor under the provisions of §§ 147.23 and 147.36 of this chapter; and

(b) May only exercise the privileges of that rating when holding a current and valid aviation maintenance technician certificate with an aircraft rating.

§ 66.73 Aviation maintenance instructor rating: Recent experience requirements.

A certificated aviation maintenance technician with an aviation maintenance instructor rating may not exercise the privileges of that rating unless within the preceding 24 months the individual—

(a) Has provided 300 hours of aviation maintenance instruction;

(b) Has, for a period of 300 hours, supervised other aviation maintenance instructors;

(c) Has successfully completed an aviation maintenance technician refresher course or other course of instruction acceptable to the Administrator and appropriate to the duties of an aviation maintenance instructor; or

(d) The Administrator has determined that the aviation maintenance technician meets the standards prescribed in this part for the issuance of the aviation maintenance technician certificate with the aviation maintenance instructor rating.

Subpart C—Aviation Maintenance Technicians (Transport)

§ 66.101 Eligibility requirements: General.

An applicant for an aviation maintenance technician (transport) certificate, must—

(a) Hold a current and valid aviation maintenance technician certificate with an aircraft rating; and

(b) Comply with any additional eligibility requirements specified for the rating sought.

§ 66.103 Ratings.

The following ratings are issued under this subpart:

(a) Aircraft.

(b) Aviation maintenance instructor.

§ 66.105 Transition to new certificates and ratings.

(a) A mechanic certificate with airframe and powerplant ratings that was issued before, and was valid on [date 12 months after the effective date of the final rule], is equal to an aviation maintenance technician (transport) certificate with an aircraft rating and may be exchanged for such a corresponding certificate and rating.

(b) The holder of a current and valid mechanic certificate with an airframe rating may exercise the privileges specified in § 66.109; however, the holder may not approve the powerplant or propeller of any aircraft certificated under this chapter and any related appliance, component, or part thereof, for return to service.

(c) The holder of a current and valid mechanic certificate with a powerplant rating may exercise the privileges specified in § 66.109; however, the holder may not approve the airframe of any aircraft certificated under this chapter and any related appliance, component, or part thereof, for return to service.

§ 66.107 Aircraft rating: Additional eligibility requirements.

An applicant for an aviation maintenance technician (transport) certificate with an aircraft rating must present an appropriate graduation certificate, a certificate of completion, or other documentary evidence acceptable to the Administrator, that demonstrates the satisfactory completion of—

(a) An aviation maintenance technician (transport) training program, administered by an approved training provider, that meets the requirements of appendix A to this part;

(b) An aviation maintenance technician (transport) training program approved under part 147 of this chapter that meets the requirements of paragraph (d) of appendix A to this part; or

(c) A training program approved under part 121, subpart L, or part 135, subpart J, of this chapter that meets the requirements of paragraph (d) of appendix A to this part.

§ 66.109 Aircraft rating: Privileges and limitations.

(a) Except as specified in paragraph (d) of this section, a certificated aviation maintenance technician (transport) with an aircraft rating may perform maintenance, preventive maintenance, or alteration on any aircraft, airframe, aircraft engine, propeller, appliance, or component part thereof, and any additional duties in accordance with § 66.157.

(b) Except as specified in paragraph (d) of this section, a certificated aviation maintenance technician (transport) may supervise the maintenance, preventive maintenance, or alteration of, and after inspection approve for return to service, any aircraft, airframe, aircraft engine, propeller, appliance, component, or part thereof, provided the aviation maintenance technician (transport) has—

(1) Satisfactorily performed the work at an earlier date;

(2) Demonstrated the ability to perform the work to the satisfaction of the Administrator;

(3) Received training acceptable to the Administrator on the tasks to be performed; or

(4) Performed the work while working under the direct supervision of a certificated aviation maintenance

technician, certificated aviation maintenance technician (transport), or certificated aviation repair specialist who has—

(i) Had previous experience in the specific operation concerned; or

(ii) Received training acceptable to the Administrator on the tasks to be performed.

(c) Except as specified in paragraph (d) of this section, a certificated aviation maintenance technician (transport) may perform the 100-hour inspection required by part 91 of this chapter on any aircraft, airframe, aircraft engine, propeller, appliance, component, or part thereof, and approve the aircraft, airframe, aircraft engine, propeller, appliance, component, or part for return to service.

(d) A certificated aviation maintenance technician (transport) with an aircraft rating may not—

(1) Perform or supervise (unless under the direct supervision and control of a repair station certificated under part 145 of this chapter or of an air carrier operating under part 121 or part 135 of this chapter)—

(i) A major repair or major alteration of a propeller; or

(ii) Any repair or alteration of instruments, other than a horizontal-card liquid-filled compass;

(2) Approve for return to service—

(i) Any aircraft, airframe, aircraft engine, propeller, appliance, component, or part thereof after completion of a major repair or major alteration; or

(ii) Any instrument other than a horizontal-card liquid-filled compass after completion of any repair or alteration;

(3) Exercise the privileges of the certificate unless the aviation maintenance technician (transport) understands the current instructions for continued airworthiness and the maintenance instructions for the specific operation concerned.

§ 66.111 Aircraft rating: Recent experience requirements.

(a) Except as provided in paragraphs (b) and (c) of this section, a certificated aviation maintenance technician (transport) with an aircraft rating may not exercise the privileges of the aircraft rating unless the aviation maintenance technician (transport) has—

(1) For at least 6 months within the preceding 24 months—

(i) Served as an aviation maintenance technician (transport) engaged in the maintenance, preventive maintenance, or alteration of aircraft certificated under part 25 or part 29 of this chapter, or of any airframe, aircraft engine, propeller, appliance, component, or part thereof;

(ii) Served under the supervision of a certificated aviation maintenance technician (transport) engaged in the maintenance, preventive maintenance, or alteration of aircraft certificated under part 25 or part 29 of this chapter, or of any airframe, aircraft engine, propeller, appliance, component, or part thereof;

(iii) Technically supervised other aviation maintenance technicians or aviation maintenance technicians (transport) engaged in the maintenance, preventive maintenance, or alteration of aircraft certificated under part 25 or part 29 of this chapter, or of any airframe, aircraft engine, propeller, appliance, component, or part thereof;

(iv) Provided aviation maintenance instruction or served as the direct supervisor of persons providing aviation maintenance instruction for an aviation maintenance training course or program acceptable to the Administrator, in which instruction is provided in the maintenance, preventive maintenance, or alteration of aircraft certificated under part 25 or part 29 of this chapter, or of any airframe, aircraft engine, propeller, appliance, component, or part thereof;

(v) Supervised, in an executive capacity, the maintenance, preventive maintenance, or alteration of aircraft certificated under part 25 or part 29 of this chapter, or of any airframe, aircraft engine, propeller, appliance, component, or part thereof; or

(vi) Been engaged in any combination of paragraphs (a)(1)(i) through (a)(1)(v) of this section; and

(2) Within the preceding 24 months—

(i) Successfully completed an aviation maintenance technician (transport) refresher course, inspection authorization refresher course, or course of instruction acceptable to the Administrator and appropriate to the duties of an aviation maintenance technician (transport);

(ii) Performed maintenance or preventive maintenance for a certificate holder with a maintenance and preventive maintenance training program required under § 121.375 or § 135.433 of this chapter;

(iii) Performed maintenance or preventive maintenance for a U.S.-certificated repair station that performs work in accordance with § 145.2(a) of this chapter or conducts a maintenance and preventive maintenance training program; or

(iv) Provided aviation maintenance instruction or served as the direct supervisor of persons providing aviation maintenance instruction for an aviation maintenance training course or program acceptable to the Administrator, in which instruction is provided in the maintenance, preventive maintenance, or alteration of aircraft, or of any airframe, aircraft engine, propeller, appliance, component, or part thereof.

(b) A certificated aviation maintenance technician (transport) who has not met the requirements of paragraph (a) of this section may exercise the privileges of the certificate and rating (including for compensation or hire) if, within the preceding 24 months—

(1) The aviation maintenance technician (transport) has successfully completed a requalification course acceptable to the Administrator; or

(2) The Administrator has found that the aviation maintenance technician (transport) is competent to exercise the privileges of the certificate.

(c) A certificated aviation maintenance technician (transport) who has met the requirements of paragraph (a)(1) of this section, but has not met the requirements specified in paragraph (a)(2) or (b) of this section, may exercise the privileges of the certificate and rating, but not for compensation or hire.

(d) The holder of an aviation maintenance technician (transport) certificate with an aircraft rating, who has not met the recent experience requirements of this section but has met the recent experience requirements of § 66.65 for the holder of an aviation maintenance technician certificate with an aircraft rating, may exercise the privileges of an aviation maintenance technician certificate with an aircraft rating until the recent experience requirements of this section have been met.

§ 66.113 Aviation maintenance instructor rating: Additional eligibility requirements.

(a) An applicant for an aviation maintenance technician (transport) certificate with an aviation maintenance instructor rating must—

(1) Hold a current and valid aviation maintenance technician (transport) certificate with an aircraft rating that has been in effect for a total of at least 3 years;

(2) Have been actively engaged, for at least the 2-year period before the date of application, in maintaining aircraft in accordance with this chapter; and

(3) Within 24 months of the date of application, pass a knowledge test on the subjects in which instruction is required under § 66.69 or, at the time of application—

(i) Hold a current and valid ground instructor or flight instructor certificate; or

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(ii) Present an appropriate graduation certificate, a certificate of completion, or other documentary evidence acceptable to the Administrator, that demonstrates the award of a degree in education, vocational education, technical education, or occupational education, from an accredited institution; or

(iii) Hold a current and valid State teaching certificate, acceptable to the Administrator, that requires the holder to obtain proficiency in the subjects specified in § 66.69.

(b) A person who meets the requirements for the issuance of an aviation maintenance technician (transport) certificate with an aircraft rating and who holds a current and valid aviation maintenance technician certificate with aircraft and aviation maintenance instructor ratings need not comply with the requirements of paragraph (a) of this section and will be issued an aviation maintenance technician (transport) certificate with aircraft and aviation maintenance instructor ratings upon application.

(c) Before [date 12 months after the effective date of the final rule], an applicant who can present evidence acceptable to the Administrator, that he or she has served as an aviation maintenance instructor or as the supervisor of aviation maintenance instructors at an aviation maintenance school certificated under part 147 of this chapter need not comply with the requirements of paragraph (a)(3) of this section.

§ 66.115 Aviation maintenance instructor rating: Privileges and limitations.

A certificated aviation maintenance technician (transport) with an aviation maintenance instructor rating—

(a) May serve as an aviation maintenance instructor under the provisions of §§ 147.23 and 147.36 of this chapter; and

(b) May only exercise the privileges of that rating when holding a current and valid aviation maintenance technician (transport) certificate with an aircraft rating.

§ 66.117 Aviation maintenance instructor rating: Recent experience requirements.

(a) A certificated aviation maintenance technician (transport) with an aviation maintenance instructor rating may not exercise the privileges of that rating unless within the preceding 24 months the individual—

(1) Has provided 300 hours of aviation maintenance instruction;

(2) Has for a period of 300 hours supervised other aviation maintenance instructors;

(3) Has successfully completed an aviation maintenance technician (transport) refresher course or other course of instruction acceptable to the Administrator and appropriate to the duties of an aviation maintenance instructor; or

(4) The Administrator has determined that the aviation maintenance technician (transport) meets the standards prescribed in this part for the issuance of the aviation maintenance technician (transport) certificate with the aviation maintenance instructor rating.

(b) The holder of an aviation maintenance technician (transport) certificate with an aviation maintenance instructor rating who has not met the recent experience requirements of this section but has met the recent experience requirements of § 66.73 for the holder of an aviation maintenance technician certificate with an aviation maintenance instructor rating, may exercise the privileges of an aviation maintenance technician certificate with the aviation maintenance instructor rating until the recent experience requirements of this section have been met.

§ 66.119 Aviation maintenance technician (transport) training providers.

(a) Except as specified in paragraph (b) of this section, an applicant for approval as a provider of an aviation maintenance technician (transport) training program specified in § 66.107(a) must—

(1) Submit a written request for approval to the Administrator; and

(2) Comply with the requirements of appendix A to this part.

(b) An applicant for approval as a provider of an aviation maintenance technician (transport) training program that is a certificate holder operating under part 121 or part 135 of this chapter, an aviation maintenance technician school certificated under part 147 of this chapter, or a repair station that performs maintenance, preventive maintenance, or alterations under § 145.2(a) of this chapter, must comply with paragraph (a)(1) of this section and submit evidence acceptable to the Administrator, that shows the training program meets the requirements of paragraph (d) of appendix A to this part.

Subpart D—Inspection Authorizations

§ 66.151 Eligibility requirements: General.

(a) To be eligible for an inspection authorization, an applicant must—

(1) Hold a current and valid aviation maintenance technician certificate or aviation maintenance technician (transport) certificate;

(2) Have held a current and valid aviation maintenance technician certificate or aviation maintenance technician (transport) certificate for a total of at least 3 years;

(3) Have been actively engaged, for at least the 2-year period before the date of application, in the maintenance of aircraft certificated and maintained in accordance with this chapter;

(4) Have a fixed base of operations at which the applicant may be located in person or by telephone during a normal working week but which need not be the place where the applicant will exercise inspection authority;

(5) Have available the equipment, facilities, and inspection data necessary to properly inspect airframes, aircraft engines, propellers, or any related component, part, or appliance;

(6) Pass a knowledge test that demonstrates the certificate holder's ability to inspect according to safety standards for approving aircraft for return to service after major and minor repairs, major and minor alterations, annual inspections, and progressive inspections, which are performed under part 43 of this chapter; and

(7) Successfully complete an inspection authorization refresher course acceptable to the Administrator, of not less than 8 hours of instruction during the 12-month period preceding the application.

(b) An applicant intending to inspect and approve for return to service any aircraft certificated under part 25 or part 29 of this chapter, except those aircraft maintained in accordance with a continuous airworthiness maintenance program approved under part 121 of this chapter must—

(1) Hold a current and valid aviation maintenance technician (transport) certificate; and

(2) Have been actively engaged, for at least the 2-year period before the date of application, in the maintenance, preventive maintenance, or alteration of aircraft certificated under part 25 or part 29 of this chapter, or of any airframe, aircraft engine, propeller, appliance, component, or part thereof.

(c) An applicant who fails the knowledge test prescribed in paragraph (a)(6) of this section may not apply for retesting until at least 90 days after the date of the test.

§ 66.153 Duration of authorization.

(a) Each inspection authorization expires on the last day of the 24th month after the date of issuance.

(b) An inspection authorization ceases to be effective whenever any of the following occurs:

(1) The authorization is surrendered, suspended, or revoked.

(2) The holder no longer has a fixed base of operation.

(3) The holder no longer has the equipment, facilities, or inspection data required by § 66.151(a)(5) for issuance of the authorization.

(4) The holder no longer holds a current and valid aviation maintenance technician certificate or aviation maintenance technician (transport) certificate, as appropriate.

(c) The holder of an inspection authorization that is suspended or revoked shall, upon the Administrator's request, return it to the Administrator.

§ 66.155 Renewal of authorization.

(a) To be eligible for renewal of an inspection authorization for a 2-year period, an applicant must, within 90 days before the expiration of the inspection authorization, present evidence at an FAA Flight Standards District Office or an International Field Office that the applicant still meets the requirements of § 66.151(a)(1) through (a)(5) and show that, during the current period that the applicant held the inspection authorization, the applicant has—

(1) Performed at least one annual inspection for each 3 months that the applicant held the current authority;

(2) Performed inspections of at least two major repairs or major alterations for each 3 months that the applicant held the current authority;

(3) Performed or supervised and approved at least one progressive inspection in accordance with standards prescribed by the Administrator for each 12 months that the applicant held the current authority;

(4) Performed any combination of paragraphs (a)(1) through (a)(3) of this section;

(5) Successfully completed an inspection authorization refresher course or series of courses acceptable to the Administrator, of not less than 16 hours of instruction during the 24-month period preceding the application for renewal; or

(6) Passed an oral test administered by an FAA inspector to determine that the applicant's knowledge of applicable regulations and standards is current.

(b) An applicant intending to remove the limitation specified in § 66.157(b) must present evidence that he or she still meets the requirements of § 66.151(a) and (b) and that the inspections or maintenance required to be performed or supervised and approved under paragraph (a) of this section involved aircraft certificated under part 25 or part 29 of this chapter, or any airframe, aircraft engine, propeller, appliance, component, or part thereof.

§ 66.157 Privileges and limitations.

(a) Except as specified in paragraphs (b) and (c) of this section, the holder of an inspection authorization with either a current and valid aviation maintenance technician certificate or a current and valid aviation maintenance technician (transport) certificate may:

(1) Inspect and approve for return to service any aircraft, airframe, aircraft engine, propeller appliance, component, or part thereof after completion of a major repair or major alteration performed in accordance with part 43 of this chapter and technical data approved by the Administrator.

(2) Perform an annual inspection, or perform or supervise a progressive inspection, according to §§ 43.13 and 43.15 of this chapter, on any aircraft and approve the aircraft for return to service.

(b) The holder of an inspection authorization with a current and valid aviation maintenance technician certificate may not inspect and approve for return to service any aircraft certificated under part 25 or part 29 of this chapter.

(c) The holder of an inspection authorization with either a current and valid aviation maintenance technician certificate or a current and valid aviation maintenance technician (transport) certificate may not inspect and approve for return to service any aircraft maintained in accordance with a continuous airworthiness maintenance program approved under part 121 of this chapter.

(d) When exercising the privileges of an inspection authorization, the holder shall keep it available for inspection by the aircraft owner and the aviation maintenance technician or aviation maintenance technician (transport) who submit the aircraft, repair, or alteration for approval (if any), and shall present it at the request of the Administrator or an authorized representative of the National Transportation Safety Board, or at the request of any Federal, State, or local law enforcement officer.

(e) If the holder of an inspection authorization changes his or her fixed base of operation, the holder may not exercise the privileges of the authorization until he or she has notified, in writing, the FAA Flight Standards District Office, or International Field Office, for the area in which the new base is located, of the change.

Subpart E—Aviation Repair Specialists

§ 66.201 Aviation repair specialist certificates issued on the basis of proficiency in a designated specialty area (ARS–I): Eligibility.

An applicant for an aviation repair specialist certificate and rating issued on the basis of proficiency in a designated specialty area (ARS–I) must—

(a) Be at least 18 years of age;

(b) Demonstrate the ability to read, write, speak, and understand the English language by reading and explaining appropriate maintenance publications and by writing defect and repair statements. If the applicant is unable to meet any of these requirements because of medical reasons, the Administrator may place such limitations on that applicant's certificate as are necessary for the safe maintenance, preventive maintenance, or alteration of aircraft; and

(c) Present either—

(1) An appropriate graduation certificate, a certificate of completion, or other documentary evidence acceptable to the Administrator, that demonstrates satisfactory completion of an aviation repair specialist training course or program for a rating in a specialty area designated by the Administrator; or

(2) Before [date 12 months after the effective date of the final rule], evidence acceptable to the Administrator, of the ability to perform those tasks appropriate to the certificate and rating in the designated specialty area sought.

§ 66.203 Aviation repair specialist certificates issued on the basis of employment (ARS–II): Eligibility.

An applicant for an employment-based aviation repair specialist certificate (ARS–II) must—

(a) Be at least 18 years of age;

(b) Demonstrate the ability to read, write, speak, and understand the English language by reading and explaining appropriate maintenance publications and by writing defect and repair statements. If the applicant is unable to meet any of these requirements because of medical reasons, the Administrator may place such limitations on that applicant's certificate as are necessary for the safe maintenance, preventive maintenance, or alteration of aircraft;

(c) Be specially qualified to perform maintenance on aircraft, airframes, aircraft engines, propellers, appliances, components, or parts thereof, that is appropriate to the job in which that person is employed;

(d) Be employed in a specific job that requires those special qualifications, by

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a certificated repair station or by a certificated commercial operator or certificated air carrier, that is required by its operating certificate or approved operations specifications to provide a continuous airworthiness maintenance program according to its certificate holder's manual;

(e) Be recommended for certification, by his or her employer and to the satisfaction of the Administrator, as able to satisfactorily maintain aircraft or appliances, components, or parts, appropriate to the job for which the person is employed; and

(f) Have either—

(1) At least 3,000 hours of practical experience in the procedures, practices, inspection methods, materials, tools, machine tools, and equipment generally used in the maintenance duties of the specific job for which the person is to be employed and certificated; or

(2) Completed formal training that is acceptable to the Administrator and specifically designed to qualify the applicant for the job in which the applicant is to be employed.

§ 66.205 Aviation repair specialist certificates issued to experimental aircraft builders (ARS–III): Eligibility.

An applicant for an aviation repair specialist certificate issued to an experimental aircraft builder (ARS–III), must—

(a) Be at least 18 years of age;

(b) Be the primary builder of the aircraft to which the privileges of the certificate are applicable;

(c) Show, to the satisfaction of the Administrator, that the individual has the requisite skill to determine whether the aircraft is in a condition for safe operation; and

(d) Be a citizen of the United States or an individual citizen of a foreign country who has been lawfully admitted for permanent residence in the United States.

§ 66.207 Transition to new certificates.

(a) A valid repairman certificate (other than a repairman certificate issued to an experimental aircraft builder) is equal to an aviation repair specialist certificate issued on the basis of employment (ARS'II).

(b) A valid repairman certificate (experimental aircraft builder) is equal to an aviation repair specialist certificate issued to an experimental aircraft builder (ARS–III).

§ 66.209 Aviation repair specialist certificates issued on the basis of proficiency in a designated specialty area (ARS'I): Privileges and limitations.

(a) The holder of an aviation repair specialist certificate issued on the basis of proficiency in a designated specialty area (ARS–I) may perform or supervise the maintenance, preventive maintenance, or alteration of aircraft, airframes, aircraft engines, propellers, appliances, components, and parts appropriate to the designated specialty area for which the aviation repair specialist is certificated, but only in connection with employment by a certificate holder operating under part 121 or part 135 of this chapter or a repair station certificated under part 145 of this chapter.

(b) The holder of an aviation repair specialist certificate issued on the basis of proficiency in a designated specialty area (ARS–I) may not perform or supervise duties under the aviation repair specialist certificate unless the individual understands the current instructions of the certificate holder by whom the aviation repair specialist is employed and the instructions for continued airworthiness that relate to the specific operations concerned.

§ 66.211 Aviation repair specialist certificates issued on the basis of employment (ARS–II): Privileges and limitations.

(a) The holder of an aviation repair specialist certificate issued on the basis of employment (ARS–II) may perform or supervise the maintenance, preventive maintenance, or alteration of aircraft, airframes, aircraft engines, propellers, appliances, components, and parts thereof appropriate to the job in which the aviation repair specialist is employed and certificated, but only in connection with duties for the certificate holder by whom the aviation repair specialist was employed and recommended.

(b) The holder of an aviation repair specialist certificate issued on the basis of employment (ARS–II) may not perform or supervise duties under the aviation repair specialist certificate unless the person understands the current instructions of the certificate holder by whom the aviation repair specialist is employed and the instructions for continued airworthiness that relate to the specific operations concerned.

§ 66.213 Aviation repair specialist certificates issued to experimental aircraft builders (ARS–III): Privileges and limitations.

The holder of an aviation repair specialist certificate issued to an experimental aircraft builder (ARS–III) may perform condition inspections on the aircraft constructed by the holder, in accordance with the operating limitations of that aircraft.

§ 66.215 Aviation repair specialist certificates issued on the basis of proficiency in a designated specialty area (ARS–I): Recent experience requirements.

The holder of an aviation repair specialist certificate issued on the basis of proficiency in a designated specialty area (ARS–I) may not exercise the privileges of the certificate unless the holder meets the current qualification and proficiency requirements for the issuance of the certificate and rating in the designated specialty area.

Appendix A to Part 66—Aviation Maintenance Technician (Transport) Training Program Curriculum Requirements

(a) *Form of training program outline.* An applicant for approval as a training provider must submit a training program outline to the Administrator. The training program outline may be submitted in paper, electronic, or any other form that is acceptable to the Administrator; however, it shall include a table of contents. The table of contents must specify those subject areas taught in the program and the number of curriculum hours allotted to each subject area.

(b) *Content of training program outline.* The training program outline must contain all of subject area headings specified in this appendix; however, the headings are not required to be arranged in the outline exactly as listed in this appendix. Any arrangement of headings and subheadings will be satisfactory provided that the outline indicates that instruction will be provided in each subject area for at least the minimum number of hours specified in this appendix. Each general subject area of the outline shall be subdivided in detail, showing the items to be covered.

(c) *Additional subject areas.* Any training provider may include additional subjects that are not specified in this appendix in the training program outline; however, the number of hours allotted to training in each subject area must be specified. Hourly requirements devoted to additional subject areas not specified in this appendix are not included in the determination of a program's compliance with the minimum training requirements specified in this appendix.

(d) *Minimum training program requirements.* Unless approved by the Administrator in accordance with paragraph (h) of this appendix, the following subject areas and classroom hours for each subject area are considered the minimum training requirements for an aviation maintenance technician (transport) training program:

Subject area	Classroom hours
Advanced electronics	229
Composites	62
Structural repair	86
Powerplants and systems	58
Safety and environment	69
Publications	69

Subject area	Class-room hours
Total Hours	573

(e) *Facilities, equipment, and material.* An applicant for authority to conduct a training program leading to the issuance of the aviation maintenance technician (transport) certificate must have the following facilities, equipment, and materials:

(1) Facilities—Suitable classrooms, laboratories, and shop facilities, adequate to accommodate the largest number of students scheduled for attendance at any one time, must be provided. Such classrooms, laboratories, and shop facilities shall be properly heated, lighted, and ventilated.

(2) Equipment and materials—Suitable devices for the instruction of each student in the theoretical and practical aspects of the subjects contained in the training program shall be provided. This material may include, but shall not be limited to, acceptable textbooks, operations manuals, chalkboards, calculators, computers, and visual aids.

(f) *Instructors.* The number of instructors available for conducting the program of instruction shall be determined according to the needs and facilities of the applicant. However, the ratio of students per instructor in each shop class may not exceed 25 students per 1 instructor.

(g) *Credit for previous training.* A training provider may evaluate an entrant's previous training and, where the training is verifiable and comparable to portions of the training program, the training provider may, as each individual case warrants, allow credit for such training, commensurate with accepted training practices. Before credit is allowed, the individual requesting credit must pass an examination given by the training provider, which is equivalent to those examinations given by the training provider for the same subject in the training program. Where credit is allowed, the basis for the allowance, the results of any tests used to establish the credit, and the total hours credited must be incorporated as a part of the student's records, as specified in paragraph (i) of this appendix.

(h) *Revision of training program.* (1) After initial approval of a training provider, the training provider may apply to the Administrator for a revision to the training program. Requests for the revision of a training program, which include modifications to the facilities, equipment, and material used, or a reduction in the number of hours of instruction provided to fewer than the specified minimum requirements, shall be accomplished in the same manner established for securing original approval of the training provider. Revisions must be submitted in such form that the revision can be readily included in the training program outline so that obsolete portions of the outline can be readily superseded by the revision.

(2) A modification of the training program, or a reduction in the number of hours of training provided to fewer than the specified minimum requirements, is based on improved training effectiveness because of the use of improved training methods and training aids, an increase in the quality of instruction, the use of special student entry requirements, the granting of credit for previous experience or training, or any combination thereof.

(3) The list of instructors may be revised at any time without request for approval, provided the minimum requirements are maintained and the local FAA principal maintenance inspector is notified of the revision.

(4) Whenever the Administrator finds that revisions are necessary for the continued adequacy of the training program, the training provider shall, after notification by the Administrator, make any changes in the training program, that the Administrator deems necessary.

(i) *Student records and reports.* Approval of a training provider may not be continued unless the training provider keeps an accurate record of each student, including a chronological log of all instruction, subjects covered, examinations, grades, and attendance records (including a record of the manner in which missed material was covered). To retain approval, a training provider also must prepare and transmit to the Federal Aviation Administration, not later than January 31 of each year, a report containing the following information:

(1) The names of all students graduated, student attendance records, and student grades for the program.

(2) The names of all students failed or dropped, together with school grades and reasons for dropping.

(3) Upon request, the Administrator may waive the reporting requirements specified in paragraphs (i)(1) and (2) of this appendix, for a training program that is part of an approved training course conducted under the following parts or subparts: part 121, subpart L; part 135, subpart J; or part 147 of this chapter.

(j) *Statement of graduation and records of training completion.* Each student who successfully completes a training program shall be given a statement of graduation. Each student who completes a portion of a training program shall, upon request, be given a record of the training completed.

(k) *Contracts or agreements.* (1) An approved training provider may contract with other persons to obtain suitable course work, curriculum, programs, instruction, aircraft, simulators, or other training devices or equipment.

(2) An approved training provider may contract with another person to conduct any portion or all of a training program. The approved training provider may not authorize that person to contract for the conduct of the program by a third party.

(3) In all cases, the approved training provider is responsible for the content and quality of the instruction provided.

(4) A copy of each contract authorized under this paragraph shall be retained by the approved training provider and is subject to review by the Administrator during the period of the contract and within 2 years after the termination of its provisions.

(l) *Change of ownership, name, or location.* (1) Change of ownership—Approval of a training provider may not be continued after the ownership of the training program has changed. The new owner must obtain a new approval by following the procedures prescribed for original approval.

(2) Change in name—An approved training provider or program, changed in name but not changed in ownership, remains valid if the change is reported within 30 days by the training provider to the local Flight Standards District Office.

(3) Change in location—Approval for a training provider remains in effect even though the approved training provider changes location if the change is reported by the training provider to the local Flight Standards District Office within 30 days. Approval may, however, be withdrawn if, after inspection, the facilities, equipment, and material at the new location do not meet the requirements of paragraph (e) of this appendix.

(m) *Cancellation of approval.* (1) Failure to meet or maintain any of the standards set forth in this appendix for the approval of a training provider shall be considered a sufficient reason for discontinuing approval of the training provider.

(2) If a training provider decides to cancel its approval voluntarily, the training provider shall send a letter requesting cancellation to the Administrator through the local Flight Standards District Office. The request shall contain the current letter of approval for the training provider.

(n) *Duration.* Unless an approved training provider is a certificate holder operating under part 121 or part 135 of this chapter, an aviation maintenance technician school certificated under part 147 of this chapter, or a repair station that performs work under § 145.2(a) of this chapter, the authority to operate a training program shall expire 24 months after the last day of the month in which the approval was issued. If the approved training provider is a certificate holder operating under part 121 or part 135 of this chapter, an aviation maintenance technician school certificated under part 147 of this chapter, or a repair station that performs work under § 145.2(a) of this chapter, the authority to operate a training program will remain effective for the duration of the holder's certificate.

(o) *Renewal.* Application for renewal of authority to conduct a training program shall be made by letter addressed to the Administrator through the local Flight Standards District Office at any time within 60 days before the expiration date of the current approval. Renewal of a training provider's approval will depend on the training program meeting established standards and the record of the training provider.

PART 147—AVIATION MAINTENANCE TECHNICIAN SCHOOLS

10. The authority citation for part 147 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44707–44709.

11. Section 147.23 is revised to read as follows:

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§ 147.23 Instructor requirements.

An applicant for an aviation maintenance technician school certificate and rating, or for an additional rating, must provide the number of instructors, determined by the Administrator to be sufficient to provide adequate supervision of the students, who hold appropriate aviation maintenance technician or aviation maintenance technician (transport) certificates with aviation maintenance instructor ratings; the instructors shall be provided after [date 12 months after the effective date of the final rule], and shall include at least 1 aviation maintenance technician with an aviation maintenance instructor rating or 1 aviation maintenance technician (transport) with an aviation maintenance instructor rating for each 25 students in each shop class. However, the applicant may provide specialized instructors who are not certificated aviation maintenance technicians or aviation maintenance technicians (transport) to teach mathematics, physics, basic electricity, basic hydraulics, drawing, or similar subjects. The applicant is required to maintain a list of the names and qualifications of specialized instructors and, upon request, provide a copy of the list to the FAA.

12. Section 147.36 is revised to read as follows:

§ 147.36 Maintenance instructor requirements.

Each certificated aviation maintenance technician school shall, after certification or addition of a rating, continue to provide the number of instructors that the Administrator deems sufficient to provide adequate instruction to the students and who hold appropriate aviation maintenance technician or aviation maintenance technician (transport) certificates with aviation maintenance instructor ratings, including after [date 12 months after the effective date of the final rule], at least 1 certificated aviation maintenance instructor for each 25 students in each shop class. The school may continue to provide specialized instructors who are not certificated aviation maintenance technicians or aviation maintenance technicians (transport) to teach mathematics, physics, basic electricity, basic hydraulics, drawing, or similar subjects.

Issued in Washington, DC, on June 26, 1998.

Ava L. Mims,

Acting Director, Flight Standards Service.

[FR Doc. 98–17589 Filed 7–8–98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 65 and 66

[Docket No. 27863; Notice No. 98–5]

RIN 2120–AF22

Revision of Certification Requirements: Mechanics and Repairmen

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM); withdrawal.

SUMMARY: This document withdraws a previously published NPRM (59 FR 42430, August 17, 1994) that proposed to amend the Federal Aviation Regulations that prescribe the certification requirements for mechanics and repairmen. That NPRM was the result of the completion of the phase I review of the certification requirements for mechanics and repairmen by the Aviation Rulemaking Advisory Committee (ARAC), Part 65 Working Group. Since the publication of that NPRM, the ARAC completed their phase II review of the certification requirements for mechanics and repairmen. Based on the phase II review, the Federal Aviation Administration (FAA) has developed a new proposal, published elsewhere in this separate part of the **Federal Register**, that includes many of the proposals set forth in the previously published notice and additional proposals resulting from the completion of phase II review. In an effort to avoid confusion in the aviation maintenance community, and to ensure that adequate notice and comment are provided, the FAA has determined that the two proposals should be reconciled and consolidated into a single NPRM containing both sets of proposals.

DATES: The proposed rule published at 59 FR 42430 is withdrawn July 9, 1998.

FOR FURTHER INFORMATION CONTACT: Leslie K. Vipond (AFS–350), Continuous Airworthiness Maintenance Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–3269.

SUPPLEMENTARY INFORMATION: On August 17, 1994, the FAA published Notice of Proposed Rulemaking No. 94–27 (59 FR 42430) to propose amendments to 14 CFR part 65 and create 14 CFR part 66. The FAA invited public comment to this proposal, and the comment period closed on October 17, 1994. The proposed rule would revise the certification requirements for mechanics and repairmen based on recommendations from the Aviation Rulemaking Advisory Committee (ARAC), Part 65 Working Group, made after completion of phase I of the FAA review of the certification requirements for these personnel.

Since the NPRM was issued, the ARAC has completed phase II of its regulatory review of these certification requirements. Implementation of the proposals made during phase II of the ARAC review would cause significant changes to the format and content of part 66, as proposed in the previously published NPRM. The new proposals would result in the creation of new subparts in proposed part 66 for the aviation maintenance technician (transport) certificate and inspection authorization, the addition of a separate rating for aviation maintenance instructors, and the creation of an additional aviation repair specialist certificate.

The creation of part 66, as set forth in the previously published NPRM, followed by a series of sweeping changes to implement the additional proposals made after the completion of phase II of the ARAC regulatory review, would cause unnecessary confusion in the aviation maintenance community and hinder the implementation of the changes. Such changes can be more easily reconciled before the publication of a final rule.

Therefore, in an effort to avoid confusion in the implementation of the final rule, the FAA has determined that the changes proposed in Notice No. 94–27 and the additional changes proposed as a result of recommendations made at the completion of phase II of the regulatory review should be reconciled and consolidated into a single NPRM containing both sets of proposals.

Accordingly Notice No. 94–27, published on August 17, 1994 (59 FR 42430), is withdrawn.

Issued in Washington, DC, on June 26, 1998.

Ava L. Mims,

Acting Director, Flight Standards Service.

[FR Doc. 98–17590 Filed 7–8–98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Advisory Circulars: 66–XX, Part 66—The New Certification Regulations for Aviation Maintenance Personnel; 66–XX, Recurrent Training for Aviation Maintenance Personnel, and 66–XX, Approval of Aviation Maintenance Technician (Transport) Training Program Providers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of proposed advisory circulars (ACs) and request for comments.

SUMMARY: This notice announces the availability of and requests comments on the following proposed ACs: 66–XX, Part 66—The New Certification Regulations for Aviation Maintenance Personnel; 66–XX, Recurrent Training for Aviation Maintenance Personnel, and 66–XX, Approval of Aviation Maintenance Technician (Transport) Training Program Providers. The FAA recently has issued a Notice of Proposed Rulemaking (NPRM) titled Revision of Certification Requirements: Mechanics and Repairmen, published elsewhere in this separate part of the **Federal Register**. That NPRM would propose the addition of part 66 of Title 14, Code of Federal Regulations (14 CFR) and make significant revisions to the certification and training requirements for aviation maintenance personnel. The proposed ACs would explain the changes proposed in the NPRM, provide guidance on complying with the recurrent training provisions of proposed part 66, and provide information to organizations seeking approval as aviation maintenance technician (transport) (AMT(T)) training providers.

DATES: Comments must be received on or before November 6, 1998.

ADDRESSES: Send all comments on the proposed ACs to: Federal Aviation Administration, Continuous Airworthiness Maintenance Division (AFS–300), Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591. Comments may be examined at the above address between 8:30 a.m. and 4:30 p.m. on weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Leslie K. Vipond, AFS–350, Continuous Airworthiness Maintenance Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267–3269.

SUPPLEMENTARY INFORMATION:

Comments Invited

A copy of each draft AC may be obtained by contracting the person named above under **FOR FURTHER INFORMATION CONTACT.** Interested persons are invited to comment on the proposed ACs by submitting such written data, views, or arguments as they may desire. Commenters should identify the AC to which comment is being made and submit comments in duplicate to the address specified above. By separate document published elsewhere in this separate part of the **Federal Register**, the FAA also is inviting interested persons to comment on the NPRM titled Revision of Certification Requirements: Mechanics and Repairmen. The FAA will consider comments on this notice and on the NPRM in deciding the final action of each. All communications received on or before the closing date for comments will be considered by the FAA before issuing the final ACs.

Discussion

Current regulations prescribing the certification and training requirements for aviation maintenance personnel do not reflect the significant technological advances that have occurred in the aviation industry, the extensive differences in maintenance skills required of currently certificated personnel, and recent enhancements in training and instructional methods. To ensure the regulations governing aviation maintenance personnel remain consistent with changes in the aviation environment, the FAA has conducted a multiphase review of the certification and training requirements that pertain to mechanics and repairmen. A complete regulatory review of the certification requirements for these airmen has not been accomplished since the recodification of the Civil Air Regulations into the Federal Aviation Regulations on August 10, 1962.

Elsewhere in this separate part of the **Federal Register**, the FAA has issued the NPRM titled Revision of Certification Requirements: Mechanics and Repairmen. The proposed rule would consolidate and clarify all certification, training, and experience requirements for aviation maintenance personnel in a newly established 14 CFR part 66. The proposed rule would create additional certificates and ratings and would modify the privileges and limitations of current certificates to respond more closely to the responsibilities of aviation maintenance personnel. In addition, the proposal would establish new training requirements that would enhance the technical capabilities of an increase the level of professionalism among aviation maintenance personnel. Further, the proposal would provide the FAA with essential demographic information that could be used to disseminate vital aviation safety and training information, thereby enhancing aviation safety. All of the proposals in the NPRM were extensively researched for the FAA by the Aviation Rulemaking Advisory Committee (ARAC) Part 65 Working Group and based on the ARCA's recommendations.

To provide the public with additional guidance on complying with the proposed requirements, the FAA has drafted three ACs. AC 66–XX, Part 66—The New Certification Regulations for Aviation Maintenance personnel, discusses the new certification and training requirements in a question-and-answer format. AC 66–XX, Recurrent Training for Aviation Maintenance Personnel, provides guidance to aviation maintenance personnel concerning the fulfillment of recurrent training requirements proposed for holders of aviation maintenance technician (AMT) and AMT(T) certificates who exercise the privileges of their certificates for compensation or hire and do not participate in maintenance and preventive maintenance training programs regulated by 14 CFR part 121, 135, or 145. AC 66–XX, Approval of Aviation Maintenance Technician (Transport) Training Program Providers, furnishes guidance to assist persons in obtaining FAA approval as AMT(T) training program providers.

The proposed ACs would become effective only after a final rule revising the certification requirements for mechanics and repairmen becomes effective.

Issued in Washington, DC, on June 26, 1998.

Ava L. Mims,

Acting Director, Flight Standards Service.

[FR Doc. 98–17591 Filed 7–8–98; 8:45 am]

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Part III

Department of Health and Human Services

Administration for Children and Families

Developmental Disabilities: Final Notice of Availability of Financial Assistance and Request for Applications to Support Demonstration Projects Under the Projects of National Significance Program; Notice

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. 93631–98–02]

Developmental Disabilities: Final Notice of Availability of Financial Assistance and Request for Applications to Support Demonstration Projects Under the Projects of National Significance Program

AGENCY: Administration on Developmental Disabilities (ADD), ACF, DHHS.

ACTION: Invitation to apply for financial assistance.

SUMMARY: The Administration on Developmental Disabilities, Administration for Children and Families, announces that applications are being accepted for funding of Fiscal Year 1998 Projects of National Significance.

This program announcement consists of five parts. Part I, the Introduction, discusses the goals and objectives of ACF and ADD. Part II provides the necessary background information on ADD for applicants. Part III describes the review process. Part IV describes the priority under which ADD requests applications for Fiscal Year 1998 funding of projects. Part V describes in detail how to prepare and submit an application.

Grants will be awarded under this program announcement subject to the availability of funds for support of these activities.

DATES: The closing date for submittal of applications under this announcement is August 10, 1998. Mailed or handcarried applications received after 4:30 p.m. on the closing date will be classified as late.

DEADLINE: Mailed applications shall be considered as meeting an announced deadline if they are received on or before the deadline time and date at the U.S. Department of Health and Human Services, ACF/Administration on Developmental Disabilities, 370 L'Enfant Promenade SW, Mail Stop 6C–462, Washington, DC 20447, Attention: Joan Rucker.

Applicants must ensure that a legibly dated U.S. Postal Service postmark or a legibly dated, machine produced postmark of a commercial mail service is affixed to the envelope/package containing the application(s). To be acceptable as proof of timely mailing, a postmark from a commercial mail service must include the logo/emblem of the commercial mail service company and must reflect the date the package was received by the commercial mail service company from the applicant. Private metered postmarks shall not be acceptable as proof of timely mailing.

Applications handcarried by applicants, applicant couriers, other representatives of the applicant, or by overnight/express mail couriers shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8:00 a.m. and 4:30 p.m., EST, at the U.S. Department of Health and Human Services, ACF/Administration on Developmental Disabilities, 370 L'Enfant Promenade SW, ACF Mail Center, 2nd Floor (near loading dock), Aerospace Center, 901 D Street, SW, Washington, DC 20024, between Monday and Friday (excluding Federal holidays). This address must appear on the envelope/package containing the application with the note "Attention: Joan Rucker". Applicants using express/overnight services should allow two working days prior to the deadline date for receipt of applications. (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.) Any applications received after 4:30 p.m. on the deadline date will not be considered for competition.

ADD cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ADD electronically will not be accepted regardless of date or time of submission and time of receipt.

LATE APPLICATIONS: Applications which do not meet the criteria above are considered late applications. ADD shall notify each late applicant that its application will not be considered in the current competition.

EXTENSION OF DEADLINES: ADD may extend the deadline for all applicants because of acts of God such as floods and hurricanes, or when there is widespread disruption of the mails. However, if ADD does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicants.

ADDRESSES: Application materials are available from Pat Laird, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, 202/690–7447; http://www.acf.dhhs.gov/programs/add; or add@acf.dhhs.gov.

FOR FURTHER INFORMATION CONTACT: Administration for Children and Families (ACF), Pat Laird, 370 L'Enfant Promenade, S.W., Washington, D.C., 20447, 202/690–7447; or add@acf.dhhs.gov.

NOTICE OF INTENT TO SUBMIT APPLICATION: If you intend to submit an application, please send a post card with the number and title of this announcement, your organization's name and address, and your contact person's name, phone and fax numbers, and e-mail address to: Administration on Developmental Disabilities, 370 L'Enfant Promenade SW., Washington, DC, 20447, Attn: Projects of National Significance.

This information will be used to determine the number of expert reviewers needed and to update the mailing list to whom program announcements are sent.

SUPPLEMENTARY INFORMATION:

Part I. General Information

A. Goals of the Administration on Developmental Disabilities

The Administration on Developmental Disabilities (ADD) is located within the Administration for Children and Families (ACF), Department of Health and Human Services (DHHS). Although different from the other ACF program administrations in the specific populations it serves, ADD shares a common set of goals that promote the economic and social well-being of families, children, individuals and communities. Through national leadership, ACF and ADD envision:

- Families and individuals empowered to increase their own economic independence and productivity;
- Strong, healthy, supportive communities having a positive impact on the quality of life and the development of children;
- Partnerships with individuals, front-line service providers, communities, States and Congress that enable solutions which transcend traditional agency boundaries;
- Services planned and integrated to improve client access;
- A strong commitment to working with Native Americans, persons with developmental disabilities, refugees and migrants to address their needs, strengths and abilities; and
- A community-based approach that recognizes and expands on the resources and benefits of diversity.

Emphasis on these goals and progress toward them will help more individuals, including people with developmental disabilities, to live productive and independent lives integrated into their communities. The Projects of National Significance Program is one means through which ADD promotes the achievement of these goals.

B. Purpose of the Administration on Developmental Disabilities

The Administration on Developmental Disabilities (ADD) is the lead agency within ACF and DHHS responsible for planning and administering programs which promote the self-sufficiency and protect the rights of persons with developmental disabilities.

The Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000, *et seq.*) (the Act) supports and provides assistance to States and public and private nonprofit agencies and organizations to assure that individuals with developmental disabilities and their families participate in the design of and have access to culturally competent services, supports, and other assistance and opportunities that promote independence, productivity, integration and inclusion into the community.

In the Act, Congress expressly found that:

- Disability is a natural part of the human experience that does not diminish the right of individuals with developmental disabilities to enjoy the opportunity for independence, productivity, integration and inclusion into the community;
- Individuals whose disabilities occur during their developmental period frequently have severe disabilities that are likely to continue indefinitely;
- Individuals with developmental disabilities often require lifelong specialized services and assistance, provided in a coordinated and culturally competent manner by many agencies, professionals, advocates, community representatives, and others to eliminate barriers and to meet the needs of such individuals and their families;

The Act further established as the policy of the United States:

- Individuals with developmental disabilities, including those with the most severe developmental disabilities, are capable of achieving independence, productivity, integration and inclusion into the community, and often require the provision of services, supports and other assistance to achieve such;
- Individuals with developmental disabilities have competencies, capabilities and personal goals that should be recognized, supported, and encouraged, and any assistance to such individuals should be provided in an individualized manner, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of the individual;
- Individuals with developmental disabilities and their families are the primary decision makers regarding the services and supports such individuals and their families receive; and play decision making roles in policies and programs that affect the lives of such individuals and their families; and
- It is in the nation's interest for people with developmental disabilities to be employed, and to live conventional and independent lives as a part of families and communities.

Toward these ends, ADD seeks: to enhance the capabilities of families in assisting people with developmental disabilities to achieve their maximum potential; to support the increasing ability of people with developmental disabilities to exercise greater choice and self-determination; to engage in leadership activities in their communities; as well as to ensure the protection of their legal and human rights.

The four programs funded under the Act are:

- Federal assistance to State developmental disabilities councils;
- State system for the protection and advocacy of individuals rights;
- Grants to University Affiliated Programs for interdisciplinary training, exemplary services, technical assistance, and information dissemination; and
- Grants for Projects of National Significance.

C. Statutory Authorities Covered Under This Announcement

The Developmental Disabilities Assistance and Bill of Rights Act of 1996, 42 U.S.C. 6000, *et. seq.* The Projects of National Significance is Part E of the Developmental Disabilities Assistance and Bill of Rights Act of 1996, 42 U.S.C. 6081, *et. seq.*

Part II. Background Information for Applicants

A. Description of Projects of National Significance

Under Part E of the Act, grants and contracts are awarded for projects of national significance that support the development of national and State policy to enhance the independence, productivity, and integration and inclusion of individuals with developmental disabilities through:

- Data collection and analysis;
- Technical assistance to enhance the quality of State developmental disabilities councils, protection and advocacy systems, and university affiliated programs; and
- Other projects of sufficient size and scope that hold promise to expand or improve opportunities for people with developmental disabilities, including:

—Technical assistance for the development of information and referral systems;
—Educating policy makers;
—Federal interagency initiatives;
—The enhancement of participation of minority and ethnic groups in public and private sector initiatives in developmental disabilities;
—Transition of youth with developmental disabilities from school to adult life; and
—Special pilots and evaluation studies to explore the expansion of programs under part B (State developmental disabilities councils) to individuals with severe disabilities other than developmental disabilities.

B. Comments on FY 1998 Proposed Priority Areas

ADD received 39 letters in response to the public comment notice. Commentary was from the following sources:

- Advocacy agencies, including national organizations and associations, national advocacy groups and State/local advocacy groups;
- Service organizations, including agencies that provide services for individuals with developmental disabilities as well as providing advocacy services on behalf of a particular disability, including developmental disabilities councils;
- Educational systems, including schools, colleges, and universities, programs located within a university setting and University Affiliated Programs;
- Private agencies, including national, State, and local nonprofit organizations;
- Government agencies, including Federal, State, county, and local government agencies; and
- Private individuals.

Comments ranged from requests for copies of the final application solicitation, to general support, to informative, clarifying responses for this year's proposed funding priorities and recommendations for other priority areas. The vast majority supported and expanded upon what we proposed in the announcement. Other comments relate specifically to the program goals and priorities of the particular agencies who responded to the announcement.

The comments helped highlight the concerns of the developmental disabilities field and have been used in refining the final priority areas.

Comment: 10 letters recommended additional or other funding priorities for FY 1998. Suggestions included projects addressing: health care issues; housing; personal assistance/respite services;

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employment; youth-related issues; waiting lists; adults living with aging parents; basic supports for jobs and other on-going supports; transportation; and research issues related to existing PNS projects. Six letters specifically expressed that the proposed areas were not critical areas in their states in the field of developmental disabilities, and did not relate to ADD's efforts in meeting the requirements of the Government Performance and Results Act (GPRA).

Response: ADD appreciates the comments it receives concerning other areas needing attention. Comments refine our understanding of the realities occurring with individuals with developmental disabilities and their families, and they are often a sobering reminder of the unfulfilled goals that require our collective attention as a society. The comment process expands our awareness level and provides the basis for new priority areas.

Some of the areas suggested as priorities have been funded previously or are currently funded projects. Employment and the basic supports necessary to perform a job were the objectives of our six natural support projects which ended last year; strategies for securing first jobs, especially by young people, are two projects that will end this year. ADD is also collaborating with the U.S. Department of Education on a major interagency employment initiative concerning the development of model systems change approaches. In June, ADD was a co-sponsor of the first national forum on careers in the arts and disability. Also, three of the proposed areas have implications for employment, that is, teenage pregnancy prevention, healthy lifestyles, and domestic violence.

In the area of health and related issues, ADD funded five personal assistance services projects; and is funding both a clearinghouse on managed care and a project on child abuse and neglect. Three of the proposed areas will have direct impact on the health care system: healthy lifestyles is concerned with maintaining health and preventing secondary disabilities and improving access to health care; teenage pregnancy prevention will require interventions involving health care personnel; and domestic violence prevention efforts must deal in part with the individual's psyche and self-esteem.

The majority of comments received were very supportive of the five proposed funding areas; many stated that the issues within these areas have tremendous impact on the self-determination and productivity of people with developmental disabilities and have received limited attention at state and national levels. The purpose of the Projects of National Significance program is not only to provide technical assistance to the developmental disabilities councils, the protection and advocacy systems, and the university affiliated programs, but to support projects "that hold promise to expand or improve opportunities for people with developmental disabilities." Representing only 4% of ADD's federal dollars, these PNS funds have initiated cutting edge projects, such as the "Home of Your Own" housing initiative, that are at the forefront of the developmental disabilities field challenging traditional thinking and practices. These priority areas directly relate to ADD's outcomes contained in its "Roadmap to the Future," our plan for implementing GPRA: (1) All are intended to increase community support and promote self-determination, (2) The priorities on healthy lifestyle, future partnerships by minority institutions and consumer organizations and teenage pregnancy prevention will increase employment opportunities and/or promote quality health care service delivery; and the priorities on future partnerships and teenage pregnancy prevention will help eliminate educational disparities.

Part III. The Review Process

A. Eligible Applicants

Before applications under this Announcement are reviewed, each will be screened to determine that the applicant is eligible for funding as specified under the selected priority area. Applications from organizations which do not meet the eligibility requirements for the priority area will not be considered or reviewed in the competition, and the applicant will be so informed.

Only public or non-profit private entities, not individuals, are eligible to apply under any of the priority areas. All applications developed jointly by more than one agency or organization must identify only one organization as the lead organization and official applicant. The other participating agencies and organizations can be included as co-participants, subgrantees or subcontractors.

Nonprofit organizations must submit proof of nonprofit status in their applications at the time of submission. One means of accomplishing this is by providing a copy of the applicant's listing in the Internal Revenue Service's most recent list of tax-exempt organizations described in section 501(c)(3) of the IRS code or by providing a copy of the currently valid IRS tax exemption certificate, or by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

ADD cannot fund a nonprofit applicant without acceptable proof of its nonprofit status.

B. Review Process and Funding Decisions

Timely applications under this Announcement from eligible applicants received by the deadline date will be reviewed and scored competitively. Experts in the field, generally persons from outside of the Federal government, will use the appropriate evaluation criteria listed later in this Part to review and score the applications. The results of this review are a primary factor in making funding decisions.

ADD reserves the option of discussing applications with, or referring them to, other Federal or non-Federal funding sources when this is determined to be in the best interest of the Federal government or the applicant. It may also solicit comments from ADD Regional Office staff, other Federal agencies, interested foundations, national organizations, specialists, experts, States and the general public. These comments, along with those of the expert reviewers, will be considered by ADD in making funding decisions.

In making decisions on awards, ADD will consider whether applications focus on or feature: services to culturally diverse or ethnic populations among others; a substantially innovative strategy with the potential to improve theory or practice in the field of human services; a model practice or set of procedures that holds the potential for replication by organizations administering or delivering of human services; substantial involvement of volunteers; substantial involvement (either financial or programmatic) of the private sector; a favorable balance between Federal and non-Federal funds available for the proposed project; the potential for high benefit for low Federal investment; a programmatic focus on those most in need; and/or substantial involvement in the proposed project by national or community foundations.

This year, 5 points will be awarded in scoring for any project that includes partnership and collaboration with the 112 Empowerment Zones/Enterprise Communities.

To the greatest extent possible, efforts will be made to ensure that funding decisions reflect an equitable distribution of assistance among the States and geographical regions of the country, rural and urban areas, and ethnic populations. In making these decisions, ADD may also take into account the need to avoid unnecessary duplication of effort.

C. Evaluation Process

Using the evaluation criteria below, a panel of at least three reviewers (primarily experts from outside the Federal government) will review the applications. To facilitate this review, applicants should ensure that they address each minimum requirement in the priority area description under the appropriate section of the Program Narrative Statement.

Reviewers will determine the strengths and weaknesses of each application in terms of the evaluation criteria listed below, provide comments, and assign numerical scores. The point value following each criterion heading indicates the maximum numerical weight that each section may be given in the review process.

D. Structure of Priority Area Descriptions

The priority area description is composed of the following sections:

- Eligible Applicants: This section specifies the type of organization which is eligible to apply under the particular priority area. Specific restrictions are also noted, where applicable.
- Purpose: This section presents the basic focus and/or broad goal(s) of the priority area.
- Background Information: This section briefly discusses the legislative background as well as the current state-of-the-art and/or current state-of-practice that supports the need for the particular priority area activity. Relevant information on projects previously funded by ACF and/or other State models are noted, where applicable.
- Evaluation Criteria: This section presents the basic set of issues that must be addressed in the application. Typically, they relate to need for assistance, results expected, project design, and organizational and staff capabilities. Inclusion and discussion of these items is important since the information provided will be used by the reviewers in evaluating the application against the evaluation criteria.
- Minimum Requirements for Project Design: This section presents the basic set of issues that must be addressed in the application. Typically, they relate to project design, evaluation, and community involvement. This section also asks for specific information on the proposed project. Inclusion and discussion of these items is important since they will be used by the reviewers to evaluate the applications against the evaluation criteria. Project products, continuation of the project after Federal support ceases, and dissemination/utilization activities, if appropriate, are also addressed.
- Project Duration: This section specifies the maximum allowable length of the project period; it refers to the amount of time for which Federal funding is available.
- Federal Share of Project Costs: This section specifies the maximum amount of Federal support for the project.
- Matching Requirement: This section specifies the minimum non-Federal contribution, either cash or in-kind match, required.
- Anticipated Number of Projects To Be Funded: This section specifies the number of projects ADD anticipates funding under the priority area.
- CFDA: This section identifies the Catalog of Federal Domestic Assistance (CFDA) number and title of the program under which applications in this priority area will be funded. This information is needed to complete item 10 on the SF 424.

Please note that applications under this Announcement that do not comply with the specific priority area requirements in the section on "Eligible Applicants" will not be reviewed.

Applicants under this Announcement must clearly identify the specific priority area under which they wish to have their applications considered, and tailor their applications accordingly. Experience has shown that an application which is broader and more general in concept than outlined in the priority area description is less likely to score as well as an application more clearly focused on, and directly responsive to, the concerns of that specific priority area.

E. Available Funds

ADD intends to award new grants resulting from this announcement during the fourth quarter of fiscal year 1998, subject to the availability of funding. The size of the awards will vary. Each priority area description includes information on the maximum Federal share of the project costs and the anticipated number of projects to be funded.

The term "budget period" refers to the interval of time (usually 12 months) into which a multi-year period of assistance (project period) is divided for budgetary and funding purposes. The term "project period" refers to the total time a project is approved for support, including any extensions.

Where appropriate, applicants may propose shorter project periods than the maximums specified in the various priority areas. Non-Federal share contributions may exceed the minimums specified in the various priority areas.

For multi-year projects, continued Federal funding beyond the first budget period, but within the approved project period, is subject to the availability of funds, satisfactory progress of the grantee and a determination that continued funding would be in the best interest of the Government.

F. Grantee Share of Project Costs

Grantees must match $1 for every $3 requested in Federal funding to reach 25% of the total approved cost of the project. The total approved cost of the project is the sum of the ACF share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a project requesting $100,000 in Federal funds (based on an award of $100,000 per budget period) must include a match of at least $33,333 (total project cost is $133,333, of which $33,333 is 25%).

An exception to the grantee cost-sharing requirement relates to applications originating from American Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands. Applications from these areas are covered under Section 501(d) of P. L. 95–134, which requires that the Department waive "any requirement for local matching funds for grants under $200,000."

The applicant contribution must generally be secured from non-Federal sources. Except as provided by Federal statute, a cost-sharing or matching requirement may not be met by costs borne by another Federal grant. However, funds from some Federal programs benefitting Tribes and Native American organizations have been used to provide valid sources of matching funds. If this is the case for a Tribe or Native American organization submitting an application to ADD, that organization should identify the programs which will be providing the funds for the match in its application. If the application successfully competes for PNS grant funds, ADD will determine whether there is statutory authority for this use of the funds. The Administration for Native Americans and the DHHS Office of General Counsel

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will assist ADD in making this determination.

G. General Instructions for the Uniform Project Description

The following ACF Uniform Project Description (UPD) has been approved under OMB Control Number 0970–0139.

1. Introduction: Applicants are required to submit a full project description and must prepare the project description statement in accordance with the following instructions.

2. Project summary/abstract: Provide a summary of the project description (a page or less) with reference to the funding request. Clearly mark this separate page with the applicant name as shown in item 5 of the SF 424, the priority area number as shown at the top of the SF 424, and the title of the project as shown in item 11 of the SF 424. The summary description should not exceed 300 words. These 300 words become part of the computer database on each project.

Care should be taken to produce a summary description which accurately and concisely reflects the proposal. It should describe the objectives of the project, the approaches to be used and the outcomes expected. The description should also include a list of major products that will result from the proposed project, such as software packages, materials, management procedures, data collection instruments, training packages, or videos (please note that audiovisuals should be closed captioned). The project summary description, together with the information on the SF 424, will constitute the project "abstract." It is the major source of information about the proposed project and is usually the first part of the application that the reviewers read in evaluating the application.

3. Objectives and Need for Assistance: Clearly identify the physical, economic, social, financial, institutional and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonies from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. The application must identify the precise location of the project and area to be served by the proposed project. Maps and other graphic aids should be attached.

4. Results or Benefits Expected: Identify the results and benefits to be derived; the extent to which they are consistent with the objectives of the application, and the extent to which the application indicates the anticipated contributions to policy, practice, theory and/or research. The extent to which the proposed project costs are reasonable in view of the expected results.

5. Approach: Outlines a plan of action which describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cites factors which might accelerate or decelerate the work, and state your reasons for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvements.

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates.

Identify the kinds of data to be collected, maintained, and/or disseminated. Note that clearance from the U.S. Office of Management and Budget might be needed prior to a "collection of information" that is "conducted or sponsored" by ACF. List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

Discuss the criteria to be used to evaluate the results, and explain the methodology that will be used to determine if the needs identified and discussed are being met and if the results and benefits identified are being achieved.

6. Organization Profile: Provide information on the applicant organization(s) and cooperating partners such as organizational charts, financial statements, audit reports or statements from CPAs/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information. Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission. The non-profit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in Section 501(c)(3) of the IRS code, or by providing a copy of the currently valid IRS tax exemption certificate, or by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled. The application identifies the background of the project director/principal investigator and key project staff (including name, address, training, educational background and other qualifying experience) and the experience of the organization to demonstrate the applicant's ability to effectively and efficiently administer this project. The application describes the relationship between this project and other work planned, anticipated or under way by the applicant which is being supported by Federal assistance. This section should consist of a brief (two to three pages) background description of how the applicant organization (or the unit within the organization that will have responsibility for the project) is organized, the types and quantity of services it provides, and/or the research and management capabilities it possesses. It may include descriptions of any current or previous relevant experience, or describe the competence of the project team and its demonstrated ability to produce a final product that is readily comprehensible and usable. An organization chart showing the relationship of the project to the current organization should be included.

G. Cooperation in Evaluation Efforts

Grantees funded by ADD may be requested to cooperate in evaluation efforts funded by ADD. The purpose of these evaluation activities is to learn from the combined experience of multiple projects funded under a particular priority area.

H. Closed Captioning for Audiovisual Efforts

Applicants are encouraged to include "closed captioning" in the development of any audiovisual products.

Part IV. Fiscal Year 1998 Priority Areas for Projects of National Significance—Description and Requirements

The following section presents the final priority areas for Fiscal Year 1998 Projects of National Significance (PNS) and solicits the appropriate applications.

Fiscal Year 1998 Priority Area 1: Unequal Protection Under the Law, Invisible Victims of Crime—Individuals With Developmental Disabilities

- Eligible Applicants: State agencies, public or private nonprofit organizations, institutions or agencies, including a consortia of some or all of the above.
- Purpose: ADD is interested in awarding grant funds that will facilitate the elimination of physical and attitudinal barriers experienced by individuals with developmental disabilities when they encounter the criminal justice system as victims of crime. These projects should provide direction and assistance to public and private entities serving victims of crime on their responsibilities under the Americans with Disabilities Act. Agencies involved with people with developmental disabilities have a major role to play in the prevention and detection of victimization, and criminal prosecution. This is crucial to ensuring citizens with developmental and other disabilities are treated equally under the criminal justice system.
- Background Information: Persons with developmental disabilities have a significantly higher risk of becoming crime victims than persons without disabilities. Differences in victimization rates are most pronounced for the crimes of sexual assault and robbery. There is also a high probability of repeat victimization, because over time those who victimize individuals with disabilities come to regard them as easy prey—where crimes can be committed against them with little chance of detection or punishment.

A recent analysis combining these victimization probabilities with data from the U.S. National Crime Victimization Survey estimates that roughly 5 million serious crimes are committed against persons with developmental disabilities in the U.S. each year.

Research shows that offenders seek victims with disabilities specifically because they are considered to be vulnerable and unable to seek help or report the crime. More than half of the crimes committed against victims with developmental disabilities are never reported to justice authorities, and when they are reported, they are often handled administratively rather than through criminal prosecution. Administrative actions such as licensing sanctions against a group home or the firing of the suspect are common. Such administrative sanctions represent a separate and unequal "justice" system.

When crimes are reported, there are lower rates of police follow-up, prosecution and convictions. When convictions occur, studies show that sentences for crimes committed against individuals with disabilities are lighter, particularly for sexual assault. Possible explanations offered for this are the difficulty of investigating these cases, lack of special police training, no provision of reasonable accommodations for victims, and the negative stereotype held by some toward people with developmental disabilities.

This is ADD's second initiative in the area of criminal justice which we began three years ago. The two funded projects are:

Austin Resource Center for Independent Living (Jeri Houchins, 512/255–1465)
Public Interest Law Center of Philadelphia (Barbara Ransom, 215/627–7100)

These successful projects have contributed to our knowledge base about the enormity of the problem, prompting our continued focus on additional aspects of the problem.

- Minimum Requirements for Project Design: To build on these and other efforts and to further foster the equal treatment of individuals with developmental disabilities as victims of crime ADD would support activities that include the following.
- Information and training of agents of the criminal justice system and health and human services providers including, law enforcement, community services, health, legal and others on appropriate responses, methods and strategies, and effective accommodations per ADA for people with developmental disabilities, especially cognitive and speech disabilities;
- Community public awareness and training about domestic violence, sexual assault, and other crimes committed against people who have developmental disabilities;
- Data collection of anecdotal information regarding the incidence of crimes, the types of crime, the perpetrators of crime, and the settings where crimes occur against people with developmental disabilities;
- Training of people with developmental disabilities about their legal rights, advocacy, and community resources;
- Developing appropriate training materials and curricula;
- Promoting understanding of victims' issues specific to people with developmental disabilities;
- Research on the nature and extent of crimes committed against this population, risk factors associated with these victims, how the justice system responds to these crimes, and other topics;
- Establishing collaborative partnerships and networks among communities and systems providers; and
- Describe measurable outcomes.

As a general guide, ADD will expect to fund only those proposals for projects that incorporate the following elements:

- Consumer/self-advocate orientation and participation.
- Key project personnel with direct life experience with living with a disability.
- Strong advisory components that consist of a majority of individuals with disabilities and a structure where individuals with disabilities make real decisions that determine the outcome of the grant.
- Research reflecting the principles of participatory action.
- Cultural competency.
- A description of how individuals with disabilities and their families will be involved in all aspects of the design, implementation, and evaluation of the project.
- Attention to unserved and inadequately served individuals, having a range of disabilities from mild to severe, from multicultural backgrounds, rural and inner-city areas, migrant, homeless, and refugee families, with severe disabilities.
- Compliance with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973 as amended by the Rehabilitation Act amendments of 1992 (P.L. 102–569).
- Collaboration through partnerships and coalitions.
- Development of the capacity to communicate and disseminate information and technical assistance through e-mail and other effective, affordable, and accessible forms of electronic communication.
- Evaluation Criteria: The four criteria that follow will be used to review and evaluate each application under this priority area. Each of these criterion should be addressed in the project description section of the application. The point values indicate the maximum numerical weight each criterion will be accorded in the review

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process. The specific information to be included under each of these headings is described in Section G of Part III, General Instructions for the Uniform Project Description.

Criterion 1: Objectives and Need for Assistance (20 points).

Criterion 2: Results or Benefits Expected (20 points).

Criterion 3: Approach (35 points).

Criterion 4: Organization Profile (25 points).

- Project Duration: This announcement is soliciting applications for project periods up to three years under this priority area. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for three years. Applications for continuation grants funded under this priority area beyond the one-year budget period, but within the three-year project period, will be entertained in subsequent years on a non-competitive basis, subject to the availability of funds, satisfactory progress of the grantee, and determination that continued funding would be in the best interest of the Government.
- Federal Share of Project Costs: The maximum Federal share is not to exceed $100,000 for the first 12-month budget period or a minimum of $300,000 for a three-year project period.
- Matching Requirement: Grantees must match $1 for every $3 requested in Federal funding to reach 25% of the total approved cost of the project. The total approved cost of the project is the sum of the ACF share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a project requesting $100,000 in Federal funds (based on an award of $100,000 per budget period) must include a match of at least $33,333 (the total project cost is $133,333, of which $33,333 is 25%).
- Anticipated Number of Projects to be Funded: It is anticipated that up to five (5) projects will be funded. Subject to availability of additional resources in FY 1999 and the number of acceptable applications received as a result of this program announcement, the ADD Commissioner may elect to select recipients for the FY 1999 cohort of programs out of the pool of applications submitted for FY 1998 funds.
- CFDA: ADD's CFDA (Code of Federal Domestic Assistance) number is 93.631—Developmental Disabilities—Projects of National Significance. This information is needed to complete item 10 on the SF 424.

Fiscal Year 1998 Priority Area 2: Domestic Violence and Women With Developmental Disabilities—The Hidden Violence

- Eligible Applicants: State agencies, public or private nonprofit organizations, institutions or agencies, including a consortia of some or all of the above.
- Purpose: Under this priority, ADD will fund model demonstration projects that address the needs of women with developmental disabilities, especially cognitive disabilities, who are or have experienced intimate/domestic violence. Any project should have as its goals not only the safety of these women, but their ability to be self-determining over their lives.
- Background Information: In a special report, "Violence Against Women: Estimates from the Redesigned Survey", which presented 1995 data from the National Crime Victimization Survey, it was reported that women were attacked about six times more often by offenders with whom they had an intimate relationship than were male violence victims during 1992 and 1993. During each year women were the victims of more than 4.5 million violent crimes, including approximately 500,000 rapes or other sexual assaults. Women from 19–29 years of age were more likely than women of other ages to be victimized by an intimate party. Women of all races were about equally vulnerable to attacks. However, women in families with incomes below $10,000 per year were more likely than other women to be violently attacked.

Persons with developmental disabilities have a 4 to 10 times higher risk of becoming crime victims than persons without disabilities. Differences in victimization rates are pronounced for the crime of sexual assault.

The rates of sexual assault on this population is very alarming. One study found that 83% of women and 32% of men with developmental disabilities in their sample had been sexually assaulted. Other studies have found from 86%–91% of women in their samples had been sexually assaulted. Another study found that of those who were sexually assaulted, 50% had been assaulted 10 or more times.

Although women with disabilities are at higher risk for all types of violence, there are no dedicated resources being devoted on a Federal level to decrease or eliminate the violence experienced by these women. The U.S. Department of Justice has just begun to consider people with disabilities in general as targets of violence in regard to hate crimes and victim's assistance.

- Minimum Requirements for Project Design: This issue will require collaborative partnership between the criminal justice system, domestic violence service entities, and disability/advocacy organizations to develop strategies, resources and awareness that will support the capabilities and community participation of women with developmental disabilities. It is ADD's expectation that these women will be actively involved in the design and implementation of activities of this effort. Any project should include the following components:
  - Development of a victim safety planning process that is tailored to respond to abuse that has occurred;
  - Training of adult protective and crisis services program staff on working with women having developmental disabilities (especially cognitive and speech disabilities), providing reasonable accommodations, developing backup personal assistant support, and methods to outreach;
  - Training of women with developmental disabilities, particularly young women and girls, about abusive behaviors and available services ;
  - Strategies that will inform and encourage the reporting of violence by not only the victim but by family members, caregivers, and others who provide services;
  - Training of criminal justice and health care professionals in appropriate protocols, techniques, methods which foster the legal and health needs of women with developmental disabilities;
  - Creation of manuals, curricula, best practices materials targeted at professionals in the various systems and a plan of dissemination;
  - Data collection on the types of violence committed, characteristics of the victim, the settings where crimes occur, the nature of the offender;
  - Approaches that encourage the identification and demonstration of strategies and policies that support the capacities of these women to express control and self-determination in their management of violence;
  - Community public awareness and training about domestic violence, sexual assault, and other abusive behaviors committed against women who have developmental disabilities;
  - Strategies for the deterrence and prevention of caregiver violence which includes family members, friends, paid providers; and
  - Describe measurable outcomes.

As a general guide, ADD will expect to fund only those proposals for projects that incorporate the following elements:

- Consumer/self-advocate orientation and participation.

- Key project personnel with direct life experience with living with a disability.
- Strong advisory components that consist of a majority of individuals with disabilities and a structure where individuals with disabilities make real decisions that determine the outcome of the grant.
- Research reflecting the principles of participatory action.
- Cultural competency.
- A description of how individuals with disabilities and their families will be involved in all aspects of the design, implementation, and evaluation of the project.
- Attention to unserved and inadequately served individuals, having a range of disabilities from mild to severe, from multicultural backgrounds, rural and inner-city areas, migrant, homeless, and refugee families, with severe disabilities.
- Compliance with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973 as amended by the Rehabilitation Act amendments of 1992 (P.L. 102–569).
- Collaboration through partnerships and coalitions.
- Development of the capacity to communicate and disseminate information and technical assistance through e-mail and other effective, affordable, and accessible forms of electronic communication.
- Evaluation Criteria: The four criteria that follow will be used to review and evaluate each application under this priority area. Each of these criterion should be addressed in the project description section of the application. The point values indicate the maximum numerical weight each criterion will be accorded in the review process. The specific information to be included under each of these headings is described in Section G of Part III, General Instructions for the Uniform Project Description.

Criterion 1: Objectives and Need for Assistance (20 points).

Criterion 2: Results or Benefits Expected (20 points)

Criterion 3: Approach (35 points).

Criterion 4: Organization Profile (25 points).

- Project Duration: This announcement is soliciting applications for project periods up to three years under this priority area. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for three years. Applications for continuation grants funded under this priority area beyond the one-year budget period, but within the three-year project period, will be entertained in subsequent years on a non-competitive basis, subject to the availability of funds, satisfactory progress of the grantee, and determination that continued funding would be in the best interest of the Government.
- Federal Share of Project Costs: The maximum Federal share is not to exceed $100,000 for the first 12-month budget period or a minimum of $300,000 for a three-year project period.
- Matching Requirement: Grantees must match $1 for every $3 requested in Federal funding to reach 25% of the total approved cost of the project. The total approved cost of the project is the sum of the ACF share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a project requesting $100,000 in Federal funds (based on an award of $100,000 per budget period) must include a match of at least $33,333 (the total project cost is $133,333, of which your $33,333 share is 25%).
- Anticipated Number of Projects to be Funded: It is anticipated that up to five (5) projects will be funded. Subject to availability of additional resources in FY 1999 and the number of acceptable applications received as a result of this program announcement, the ADD Commissioner may elect to select recipients for the FY 1999 cohort of programs out of the pool of applications submitted for FY 1998 funds.
- CFDA: ADD's CFDA (Code of Federal Domestic Assistance) number is 93.631—Developmental Disabilities—Projects of National Significance. This information is needed to complete item 10 on the SF 424.

Fiscal Year 1998 Priority Area 3: Healthy Lifestyles and Recreation—Factors Contributing Towards a Quality of Life for Persons With Developmental Disabilities

- Eligible Applicants: State agencies, public or private nonprofit organizations, institutions or agencies, including a consortia of some or all of the above.
- Purpose: The prevention or alleviation of regressive symptoms that prevent adults with developmental disabilities from functioning at their maximum level and the barriers that hinder their inclusion into their communities is the primary focus of projects that ADD would fund under this priority. Maintaining healthy lifestyles that reinforce independence and choice is an important theme that should be reflected in any project.
- Background Information: As more and more people with disabilities in general are having increased life spans due to advancements in medical technologies and innovative scientific research, attention must be given to healthy lifestyles and methods to reduce the effects of aging with a disability. Americans with disabilities strive for equal access to opportunities, programs and services that enable them to experience a quality lifestyle comparable to other Americans and to maintain their independence and function. As some individuals with certain disabilities have experienced physical weaknesses, loss of function, and pain, it has raised questions about what constitutes optimal levels of physical activity or exercise, dietary requirements, and therapies that are helpful in sustaining their standard of life.

A recent ADD report, "Aging and Cerebral Palsy: The Critical Needs", based on a roundtable meeting, articles, research papers, and other publications summarized the major issues of concern of people with cerebral palsy. Some of the issues expressed were related to (1) exercise—inability to determine what type of exercise(s) is best suited to maintain cardio-pulmonary conditioning, physical strength, bone density, coordination, joint mobility and weight control; (2) women's issues—inability to find accurate information and competent medical care (including counseling) when they were younger such as reproductive health care, and as they are aging on menopause; (3) quality of medical care—few medical professionals, especially dentists, are familiar with cerebral palsy, making it difficult to obtain treatment; (4) emotional and psychological issues—the aging process begins early as overstressed muscles and joints wear out relatively quickly, and people in their 30s and 40s are often ill-equipped to deal with problems that their peers will often not encounter for two more decades; and (5) managed care—these organizations have a mixed history of providing appropriate and timely services to individuals with disabilities, have many financial incentives that may not be congruent with the needs of individuals with disabilities or the philosophy of the disability rights movement, and long-term supports and services may be at particular risk in a managed care environment. Some of these issues are transferable to other types of disabilities. For instance, in one study on breast and cervical cancer screening it was reported that women with disabilities tend to be less likely

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than women without disabilities to receive pelvic exams on a regular basis, and women with more severe functional limitations are significantly less likely to do so. Women with physical disabilities are at a higher risk for delayed diagnosis of breast and cervical cancer, primarily for reasons of environmental, attitudinal, and informational barriers. There are few studies on women with mental retardation or other cognitive disabilities.

At this time there is little research that can provide answers to these questions. Yet the concerns cannot be ignored. There are an estimated 54 million people with a disability within the United States, almost half of whom are considered to have a severe disability. An estimated 4% age 5 and over need personal assistance with one or more activities; over 5.8 million people need assistance in "instrumental activities of daily living" (IADL), while 3.4 million need assistance in "activities of daily living" (ADL). As one ages, activity limitations increase along with the need for assistance. Reviewing this data from a purely economic standpoint it makes sense to dedicate some resources to the prevention or alleviation of regressive symptoms that prevent individuals with developmental and other disabilities from functioning at their maximum level.

- Minimum Requirements for Project Design: ADD is particularly interested in supporting projects which include the following:
- Partnerships between consumer/advocacy organizations, research foundations, physical education/recreation fields, sports/athletic associations, health care entities, and others such as aging to develop and test guidelines for exercise regimens, to examine alternative forms of medicine, foster training programs, coordinate and disseminate consumer education materials and other activities that lead to personal wellness;
- Self-help models that address those individuals with developmental disabilities living in rural areas;
- Research and dissemination on factors that contribute towards personal wellness as defined by individuals with developmental disabilities, particularly with cognitive disabilities;
- Innovative strategies for broader distribution and access to specialized equipment for use by people with developmental disabilities who are non-athletes as a means to exercise or for leisure, and the dissemination of this information to generic fitness centers;
- Promotion and technical assistance on compliance by fitness and recreational programs with the Americans with Disabilities Act; and
- Describe measurable outcomes.

As a general guide, ADD will expect to fund only those proposals for projects that incorporate the following elements:

- Consumer/self-advocate orientation and participation.
- Key project personnel with direct life experience with living with a disability.
- Strong advisory components that consist of a majority of individuals with disabilities and a structure where individuals with disabilities make real decisions that determine the outcome of the grant.
- Research reflecting the principles of participatory action.
- Cultural competency.
- A description of how individuals with disabilities and their families will be involved in all aspects of the design, implementation, and evaluation of the project.
- Attention to unserved and inadequately served individuals, having a range of disabilities from mild to severe, from multicultural backgrounds, rural and inner-city areas, migrant, homeless, and refugee families, with severe disabilities.
- Compliance with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973 as amended by the Rehabilitation Act amendments of 1992 (P.L. 102–569).
- Collaboration through partnerships and coalitions.
- Development of the capacity to communicate and disseminate information and technical assistance through e-mail and other effective, affordable, and accessible forms of electronic communication.
- Evaluation Criteria: The four criteria that follow will be used to review and evaluate each application under this priority area. Each of these criterion should be addressed in the project description section of the application. The point values indicate the maximum numerical weight each criterion will be accorded in the review process. The specific information to be included under each of these headings is described in Section G of Part III, General Instructions for the Uniform Project Description.

Criterion 1: Objectives and Need for Assistance (20 points).

Criterion 2: Results or Benefits Expected (20 points).

Criterion 3: Approach (35 points).

Criterion 4: Organization Profile (25 points).

- Project Duration: This announcement is soliciting applications for project periods up to three years under this priority area. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for three years. Applications for continuation grants funded under this priority area beyond the one-year budget period, but within the three-year project period, will be entertained in subsequent years on a non-competitive basis, subject to the availability of funds, satisfactory progress of the grantee, and determination that continued funding would be in the best interest of the Government.
- Federal Share of Project Costs: The maximum Federal share is not to exceed $100,000 for the first 12-month budget period or a minimum of $300,000 for a three-year project period.
- Matching Requirement: Grantees must match $1 for every $3 requested in Federal funding to reach 25% of the total approved cost of the project. The total approved cost of the project is the sum of the ACF share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a project requesting $100,000 in Federal funds (based on an award of $100,000 per budget period) must include a match of at least $33,333 (total project cost is $133,333, of which $33,333 is 25%).
- Anticipated Number of Projects to be Funded: It is anticipated that up to five (5) projects will be funded. Subject to availability of additional resources in FY 1999 and the number of acceptable applications received as a result of this program announcement, the ADD Commissioner may elect to select recipients for the FY 1999 cohort of programs out of the pool of applications submitted for FY 1998 funds.
- CFDA: ADD's CFDA (Code of Federal Domestic Assistance) number is 93.631—Developmental Disabilities—Projects of National Significance. This information is needed to complete item 10 on the SF 424.

Fiscal Year 1998 Priority Area 4: Promoting Future Partnerships by Minority Institutions and Consumer Organizations With ADD Through Participation in the Projects of National Significance Program

- Eligible Applicants: State agencies, public or private nonprofit organizations, institutions or agencies, including a consortia of some or all of the above.
- Purpose: ADD will award demonstration grants to build the capacity and skills of consumer/disability and minority organizations/

institutions to compete as equal participants for federal funding or other types funding. The creation or further development of organizations of people of color with developmental disabilities is an intention of this priority. The foundations for working partnerships between people of color with developmental disabilities and their families and minority organizations and disability service providers is a key element for any project. Armed with the knowledge of funding it will give these groups the ability to address issues critical to their communities.

- Background Information: In a 1993 report from the National Council on Disability (NCD), "Meeting the Unique Needs of Minorities with Disabilities", it stated that "Persons with disabilities who are also members of minorities face double discrimination and a double disadvantage in our society. They are more likely to be poor and undereducated and to have fewer opportunities than other members of the population."

The 1990 Census confirmed America's rapidly changing cultural ethnic profile. According to the census data there are 30 million African Americans (an increase of 13.2% since 1980); 22.4 million Hispanic Americans (an increase of 53%); 7.3 million Asian Americans (an increase of 107.8%); and 2.0 million Native Americans (an increase of 37.9%). In comparison, the European American population grew only 6.0% since 1980. By the year 2000, the nation will have 260 million people, one of every three of whom will be either African-American, Latino, or Asian-American.

As a result of factors such as poverty, unemployment, and poor health status, persons of minority backgrounds are at high risk of disability. Based largely on population projections and substantial anecdotal evidence, it is clear that the number of persons from these minority populations who have disabilities is increasing. Moreover, based on similar projections, the proportion of minority populations with disabling conditions will probably increase at even faster rates than that of the general population.

This priority represents ADD's continued effort to support our program components in serving and involving children and adults with developmental disabilities from culturally diverse backgrounds. The following are current and past projects funded under PNS:

- University of Nebraska, "Sharing the Vision: Establishing Statewide Coalitions for Promoting the Full Participation of Persons with Developmental Disabilities from Culturally Diverse Populations," (John McClain, 402/559/6357).
- Children's Hospital/University of Southern California, "California Consortium on Cultural Diversity and Developmental Disabilities," (Chana Hiranaka, 213/669–2300).
- University of Puerto Rico, "Self Advocacy and Empowerment of Individuals in Puerto Rico Culture," (Margarita Miranda, 809/758–2525).
- People First of Tennessee, Inc., "The Lift Every Voice Leadership Project," (Ruthie Beckwith, 615/256–8002).
- Minimum Requirements for Project Design: To be seriously considered for funding projects must demonstrate collaborative working relationships with people of color with developmental disabilities and minority organizations and disability service providers.

Activities applicants should consider are the following:

- Training and technical assistance on the grants development process, including developing the financial and managerial capacity to administer a grant;
- Develop training and resource materials;
- Utilize existing local and national foundations and/or corporations for their expertise on grant making;
- Utilize national and local organizations that have a strong track record working with cultural minority populations and persons with developmental disabilities;
- Facilitate a network of entities and individuals interested in empowering people of color with developmental disabilities, including for example ADD's program components and a Historically Black College/University;
- Develop a mini-grants program to fund pilot projects for smaller, grassroots organizations;
- Mentoring opportunities for individuals of color with developmental disabilities with experts in grant development that provide fellowships or stipends and other necessary supports for full participation; and
- Describe measurable outcomes.

As a general guide, ADD will expect to fund only those proposals for projects that incorporate the following elements:

- Consumer/self-advocate orientation and participation.
- Key project personnel with direct life experience with living with a disability.
- Strong advisory components that consist of a majority of individuals with disabilities and a structure where individuals with disabilities make real decisions that determine the outcome of the grant.
- Research reflecting the principles of participatory action.
- Cultural competency.
- A description of how individuals with disabilities and their families will be involved in all aspects of the design, implementation, and evaluation of the project.
- Attention to unserved and inadequately served individuals, having a range of disabilities from mild to severe, from multicultural backgrounds, rural and inner-city areas, migrant, homeless, and refugee families, with severe disabilities.
- Compliance with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973 as amended by the Rehabilitation Act amendments of 1992 (P.L. 102–569).
- Collaboration through partnerships and coalitions.
- Development of the capacity to communicate and disseminate information and technical assistance through e-mail and other effective, affordable, and accessible forms of electronic communication.
- Evaluation Criteria: The five criteria that follow will be used to review and evaluate each application under this priority area. Each of these criterion should be addressed in the project description section of the application. The point values indicate the maximum numerical weight each criterion will be accorded in the review process. The specific information to be included under each of these headings is described in Section G of Part III, General Instructions for the Uniform Project Description.

Criterion 1: Objectives and Need for Assistance (20 points).

Criterion 2: Results or Benefits Expected (20 points).

Criterion 3: Approach (35 points).

Criterion 4: Organization Profile (25 points).

- Project Duration: This announcement is soliciting applications for project periods up to three years under this priority area. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for three years. Applications for continuation grants funded under this priority area beyond the one-year budget period, but within the three-year project period, will be entertained in subsequent years on a non-competitive basis, subject to the availability of funds, satisfactory progress of the grantee, and determination that continued funding would be in the best interest of the Government.
- Federal Share of Project Costs: The maximum Federal share is not to exceed $100,000 for the first 12-month budget

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period or a minimum of $300,000 for a three-year project period.

- Matching Requirement: Grantees must match $1 for every $3 requested in Federal funding to reach 25% of the total approved cost of the project. The total approved cost of the project is the sum of the ACF share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a project requesting $100,000 in Federal funds (based on an award of $100,000 per budget period) must include a match of at least $33,333 (total project cost is $133,333, of which $33,333 is 25%).
- Anticipated Number of Projects to be Funded: It is anticipated that up to five (5) projects will be funded. Subject to availability of additional resources in FY 1999 and the number of acceptable applications received as a result of this program announcement, the ADD Commissioner may elect to select recipients for the FY 1999 cohort of programs out of the pool of applications submitted for FY 1998 funds.
- CFDA: ADD's CFDA (Code of Federal Domestic Assistance) number is 93.631—Developmental Disabilities—Projects of National Significance. This information is needed to complete item 10 on the SF 424.

Fiscal Year 1998 Priority Area 5: Girl Power! Moving From Despair to Empowerment of Girls With Developmental Disabilities

- Eligible Applicants: State agencies, public or private nonprofit organizations, institutions or agencies, including a consortia of some or all of the above.
- Purpose: ADD is interested in awarding model demonstration grants that address the multiplicity of issues involved with pregnancies among teenagers with developmental disabilities. These projects should be collaborative efforts by disability organizations, family planning agencies, and other public/private community entities that are addressing this issue.
- Background Information: Unplanned and unwanted pregnancies continue to be one of the most prevalent problems of our society, involving social, economic, health and education issues. Babies born to teenagers are often low weight, something which can increase the likelihood of disabilities. Teenage girls who become pregnant often do not have strong academic backgrounds, sophisticated coping skills or confidence to believe that they can influence their futures.

Teachers, parents, and community leaders are aware of the importance of a wide range of developmental experiences for young people. However, young women and young people with disabilities continue to experience isolation, fewer opportunities, and lower expectations from their families and communities. Young women with disabilities are especially likely to be denied, in sometimes subtle but significant ways, the experiences that provide them with the tools for self-determination. This very point is raised in the "Report from the National Longitudinal Transition Study of Special Education Students." It was found that female 12th-graders with disabilities were much less likely than males to have competitive employment as their postschool goal, a pattern that reflects in their postschool reality. Despite higher academic performance while in school, young women with disabilities were just as likely as young men to drop out of school, and almost 25% did so because of pregnancy or childrearing responsibilities. Within 3 to 5 years after high school, 30% of young women with disabilities were married and 41% were mothers, a rate that was significantly higher than the reported parenting rate for young men with disabilities (16%) or for young women of the same age in the general population (26%). This raises significant questions about the frequency with which these young women were mothers in their early years after leaving school and why other options such as further schooling or employment were not pursued. School programs chosen by or provided to many young women with disabilities support a postschool path involving home and child care more likely than postsecondary education or employment.

- Minimum requirements for Project Design: ADD is particularly interested in supporting projects which address issues contributing to unwanted pregnancies among teenagers with developmental disabilities and provide models that empower these girls. Listed below are appropriate activities for such projects:
  - Initiatives to identify girls with developmental disabilities in elementary and secondary school who are experiencing academic difficulties and providing them with remedial help in improving basic mathematics, reading, writing and other communication skills as well as computer and other technological skills;
  - Targeting pregnancy prevention activities toward teenage girls who have developmental disabilities, including those considered to have mild or moderate disabilities and not needing other specialized services;
  - Develop mentoring programs for teenage girls with developmental disabilities that utilize women with disabilities;
  - Develop job training programs, internship programs and other activities to provide positive work exposure and experiences to teenage girls with developmental disabilities who are at risk. These programs must be substantive and have the potential of leading to careers or assisting in the development of skills needed in the current job market;
  - Collaborate with community organizations to ensure that teenage girls with developmental disabilities are included in academic, social, job training, mentoring and other activities for teenagers at risk;
  - Conduct research focusing on the prevalence of unidentified disabilities among girls in elementary and secondary schools who are experiencing academic or other school-related difficulties, but who have not been identified as needing special education and the relationship to the prevalence of unwanted teenage pregnancy;
  - Describe measurable outcomes. As a general guide, ADD will expect to fund only those proposals for projects that incorporate the following elements:
  - Consumer/self-advocate orientation and participation.
  - Key project personnel with direct life experience with living with a disability.
  - Strong advisory components that consist of a majority of individuals with disabilities and a structure where individuals with disabilities make real decisions that determine the outcome of the grant.
  - Research reflecting the principles of participatory action.
  - Cultural competency.
  - A description of how individuals with disabilities and their families will be involved in all aspects of the design, implementation, and evaluation of the project.
  - Attention to unserved and inadequately served individuals, having a range of disabilities from mild to severe, from multicultural backgrounds, rural and inner-city areas, migrant, homeless, and refugee families, with severe disabilities.
  - Compliance with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973 as amended by the Rehabilitation Act amendments of 1992 (P.L. 102–569).
  - Collaboration through partnerships and coalitions.

- Development of the capacity to communicate and disseminate information and technical assistance through e-mail and other effective, affordable, and accessible forms of electronic communication.
- Evaluation Criteria: The four criteria that follow will be used to review and evaluate each application under this priority area. Each of these criterion should be addressed in the project description section of the application. The point values indicate the maximum numerical weight each criterion will be accorded in the review process. The specific information to be included under each of these headings is described in Section G of Part III, General Instructions for the Uniform Project Description.

Criterion 1: Objectives and Need for Assistance (20 points).

Criterion 2: Results or Benefits Expected (20 points).

Criterion 3: Approach (35 points).

Criterion 4: Organization Profile (25 points).

- Project Duration: This announcement is soliciting applications for project periods up to three years under this priority area. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for three years. Applications for continuation grants funded under this priority area beyond the one-year budget period, but within the three-year project period, will be entertained in subsequent years on a non-competitive basis, subject to the availability of funds, satisfactory progress of the grantee, and determination that continued funding would be in the best interest of the Government.
- Federal Share of Project Costs: The maximum Federal share is not to exceed $100,000 for the first 12-month budget period of a three-year project period or a maximum of $300,000 for a three-year project period.
- Matching Requirement: Grantees must match $1 for every $3 requested in Federal funding to reach 25% of the total approved cost of the project. The total approved cost of the project is the sum of the ACF share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a project requesting $100,000 in Federal funds (based on an award of $100,000 per budget period) must include a match of at least $33,333 (total project cost is $133,333, of which $33,333 is 25%).
- Anticipated Number of Projects to be Funded: It is anticipated that up to five (5) projects will be funded. Subject to availability of additional resources in FY 1999 and the number of acceptable applications received as a result of this program announcement, the ADD Commissioner may elect to select recipients for the FY 1999 cohort of programs out of the pool of applications submitted for FY 1998 funds.
- CFDA: ADD's CFDA (Code of Federal Domestic Assistance) number is 93.631—Developmental Disabilities—Projects of National Significance. This information is needed to complete item 10 on the SF 424.

Part V. Instructions for the Development and Submission of Applications

This Part contains information and instructions for submitting applications in response to this announcement. Application forms and package along with a checklist and other materials can be obtained by any of the following methods: Pat Laird, ADD, 370 L'Enfant Promenade SW, Washington, DC, 20447, 202/690–7447; http:// www. acf. dhhs. gov/programs/add; or add@acf.dhhs.gov. Please copy and use these forms in submitting an application.

Potential applicants should read this section carefully in conjunction with the information contained within the specific priority area under which the application is to be submitted. The priority area descriptions are in Part IV.

A. Required Notification of the State Single Point of Contact (SPOC)

All applications under the ADD priority areas are required to follow the Executive Order (E.O.) 12372 process, "Intergovernmental Review of Federal Programs," and 45 CFR Part 100, "Intergovernmental Review of Department of Health and Human Services Program and Activities." Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

Note: State/Territory Participation in the Intergovernmental Review Process Does Not Signify Applicant Eligibility for Financial Assistance Under a Program. A Potential Applicant Must Meet the Eligibility Requirements of the Program for Which it is Applying Prior to Submitting an Application to its SPOC, if Applicable, or to ACF.

As of September 22, 1997, all States and territories, except Alabama, Alaska, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington, American Samoa and Palau, have elected to participate in the Executive Order process and have established a State Single Point of Contact (SPOC). Applicants from these jurisdictions or for projects administered by Federally-recognized Indian Tribes need take no action regarding E.O. 12372. Otherwise, applicants should contact their SPOCs as soon as possible to alert them of the prospective applications and receive any necessary instructions.

Applicants must submit all required materials to the SPOC as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials and indicate the date of this submittal (or date SPOC was contacted, if no submittal is required) on the SF 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application due date to comment on proposed new or competing continuation awards. However, there is insufficient time to allow for a complete SPOC comment period. Therefore, we have reduced the comment period to 30 days from the closing date for applications. These comments are reviewed as part of the award process. Failure to notify the SPOC can result in delays in awarding grants.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the "accommodate or explain" rule.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants and Audit Resolution, 370 L'Enfant Promenade, SW, Mail Stop 6C–462, Washington, DC 20447, Attn: 93.631 ADD—Projects of National Significance.

Contact information for each State's SPOC is found in the application package.

B. Notification of State Developmental Disabilities Planning Councils

A copy of the application must also be submitted for review and comment to the State Developmental Disabilities Council in each State in which the applicant's project will be conducted. A list of the State Developmental Disabilities Councils is included in the application package.

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C. Deadline for Submittal of Applications

One signed original and two copies of the application must be submitted on or before August 10, 1998 to: U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Developmental Disabilities, 370 L'Enfant Promenade, SW, Mail Stop 6C–462, Washington, DC 20447, Attn: Joan Rucker.

Applications may be mailed or hand-delivered. Hand-delivered applications are accepted during the normal working hours of 8:00 a.m. to 4:30 p.m., Monday through Friday. Applications shall be considered as meeting an announced deadline if received by the deadline date at the ACF Grants Office (Close of Business: 4:30 p.m., local prevailing time).

Late applications: Applications which do not meet the criterion stated above are considered late applications. ACF/ADD shall notify each late applicant that its application will not be considered in the current competition.

Extension of deadlines: ACF may extend the deadline for all applicants due to acts of God, such as floods, hurricanes, or earthquakes; or when there is a widespread disruption of the mails. However, if the granting agency does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicants.

D. Instructions for Preparing the Application and Completing Application Forms

The SF 424, SF 424A, SF 424A-Page 2 and Certifications/Assurances are contained in the application package. Please prepare your application in accordance with the following instructions:

1. SF 424 Page 1, Application Cover Sheet

Please read the following instructions before completing the application cover sheet. An explanation of each item is included. Complete only the items specified.

Top of Page. Enter the single priority area number under which the application is being submitted. An application should be submitted under only one priority area.

Item 1. "Type of Submission"—Preprinted on the form.

Item 2. "Date Submitted" and "Applicant Identifier" —Date application is submitted to ACF and applicant's own internal control number, if applicable.

Item 3. "Date Received By State"—State use only (if applicable).

Item 4. "Date Received by Federal Agency"—Leave blank.

Item 5. "Applicant Information".

"Legal Name"—Enter the legal name of applicant organization. For applications developed jointly, enter the name of the lead organization only. There must be a single applicant for each application.

"Organizational Unit"—Enter the name of the primary unit within the applicant organization which will actually carry out the project activity. Do not use the name of an individual as the applicant. If this is the same as the applicant organization, leave the organizational unit blank.

"Address"—Enter the complete address that the organization actually uses to receive mail, since this is the address to which all correspondence will be sent. Do not include both street address and P.O. box number unless both must be used in mailing.

"Name and telephone number of the person to be contacted on matters involving this application (give area code)"—Enter the full name (including academic degree, if applicable) and telephone number of a person who can respond to questions about the application. This person should be accessible at the address given here and will receive all correspondence regarding the application.

Item 6. "Employer Identification Number (EIN)"—Enter the employer identification number of the applicant organization, as assigned by the Internal Revenue Service, including, if known, the Central Registry System suffix.

Item 7. "Type of Applicant"—Self-explanatory.

Item 8. "Type of Application"—Preprinted on the form.

Item 9. "Name of Federal Agency"—Preprinted on the form.

Item 10. "Catalog of Federal Domestic Assistance Number and Title"—Enter the Catalog of Federal Domestic Assistance (CFDA) number assigned to the program under which assistance is requested and its title. For all of ADD's priority areas, the following should be entered, "93.631—Developmental Disabilities: Projects of National Significance."

Item 11. "Descriptive Title of Applicant's Project"—Enter the project title. The title is generally short and is descriptive of the project, not the priority area title.

Item 12. "Areas Affected by Project"—Enter the governmental unit where significant and meaningful impact could be observed. List only the largest unit or units affected, such as State, county, or city. If an entire unit is affected, list it rather than subunits.

Item 13. "Proposed Project"—Enter the desired start date for the project and projected completion date.

Item 14. "Congressional District of Applicant/Project"—Enter the number of the Congressional district where the applicant's principal office is located and the number of the Congressional district(s) where the project will be located. If Statewide, a multi-State effort, or nationwide, enter "00."

Items 15. Estimated Funding Levels. In completing 15a through 15f, the dollar amounts entered should reflect, for a 17-month or less project period, the total amount requested. If the proposed project period exceeds 17 months, enter only those dollar amounts needed for the first 12 months of the proposed project.

Item 15a. Enter the amount of Federal funds requested in accordance with the preceding paragraph. This amount should be no greater than the maximum amount specified in the priority area description.

Items 15b–e. Enter the amount(s) of funds from non-Federal sources that will be contributed to the proposed project. Items b–e are considered cost-sharing or "matching funds." The value of third party in-kind contributions should be included on appropriate lines as applicable. For more information regarding funding as well as exceptions to these rules, see Part III, Sections E and F, and the specific priority area description.

Item 15f. Enter the estimated amount of program income, if any, expected to be generated from the proposed project. Do not add or subtract this amount from the total project amount entered under item 15g. Describe the nature, source and anticipated use of this program income in the Project Narrative Statement.

Item 15g. Enter the sum of items 15a–15e.

Item 16a. "Is Application Subject to Review By State Executive Order 12372 Process? Yes."—Enter the date the applicant contacted the SPOC regarding this application. Select the appropriate SPOC from the listing provided at the end of Part IV. The review of the application is at the discretion of the SPOC. The SPOC will verify the date noted on the application.

Item 16b. "Is Application Subject to Review By State Executive Order 12372 Process? No."—Check the appropriate box if the application is not covered by E.O. 12372 or if the program has not been selected by the State for review.

Item 17. "Is the Applicant Delinquent on any Federal Debt?"—Check the appropriate box. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include audit disallowances, loans and taxes.

Item 18. "To the best of my knowledge and belief, all data in this application/preapplication are true and correct. The document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded."—To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for signature of this application by this individual as the official representative must be on file in the applicant's office, and may be requested from the applicant.

Item 18a–c. "Typed Name of Authorized Representative, Title, Telephone Number"—Enter the name, title and telephone number of the authorized representative of the applicant organization.

Item 18d. "Signature of Authorized Representative"—Signature of the authorized representative named in Item 18a. At least one copy of the application must have an original signature. Use colored ink (not black) so that the original signature is easily identified.

Item 18e. "Date Signed"—Enter the date the application was signed by the authorized representative.

2. SF 424A—Budget Information—Non-Construction Programs

This is a form used by many Federal agencies. For this application, Sections A, B, C, E and F are to be completed. Section D does not need to be completed.

Sections A and B should include the Federal as well as the non-Federal funding for the proposed project covering (1) the total project period of 17 months or less or (2) the first year budget period, if the proposed project period exceeds 15 months.

Section A—Budget Summary. This section includes a summary of the budget. On line 5, enter total Federal costs in column (e) and total non-Federal costs, including third party in-kind contributions, but not program income, in column (f). Enter the total of (e) and (f) in column (g).

Section B—Budget Categories. This budget, which includes the Federal as well as non-Federal funding for the proposed project, covers (1) the total project period of 17 months or less or (2) the first-year budget period if the proposed project period exceeds 17 months. It should relate to item 15g, total funding, on the SF 424. Under column (5), enter the total requirements for funds (Federal and non-Federal) by object class category.

A separate budget justification should be included to explain fully and justify major items, as indicated below. The types of information to be included in the justification are indicated under each category. For multiple year projects, it is desirable to provide this information for each year of the project. The budget justification should immediately follow the second page of the SF 424A.

Personnel—Line 6a. Enter the total costs of salaries and wages of applicant/grantee staff. Do not include the costs of consultants, which should be included on line 6h, "Other."

Justification: Identify the principal investigator or project director, if known. Specify by title or name the percentage of time allocated to the project, the individual annual salaries, and the cost to the project (both Federal and non-Federal) of the organization's staff who will be working on the project.

Fringe Benefits—Line 6b. Enter the total costs of fringe benefits, unless treated as part of an approved indirect cost rate.

Justification: Provide a break-down of amounts and percentages that comprise fringe benefit costs, such as health insurance, FICA, retirement insurance, etc.

Travel—6c. Enter total costs of out-of-town travel (travel requiring per diem) for staff of the project. Do not enter costs for consultant's travel or local transportation, which should be included on Line 6h, "Other."

Justification: Include the name(s) of traveler(s), total number of trips, destinations, length of stay, transportation costs and subsistence allowances.

Equipment—Line 6d. Enter the total costs of all equipment to be acquired by the project. For State and local governments, including Federally recognized Indian Tribes, "equipment" is tangible, non-expendable personal property having a useful life of more than one year and acquisition cost of $5,000 or more per unit.

Justification: Equipment to be purchased with Federal funds must be justified. The equipment must be required to conduct the project, and the applicant organization or its subgrantees must not have the equipment or a reasonable facsimile available to the project. The justification also must contain plans for future use or disposal of the equipment after the project ends.

Supplies—Line 6e. Enter the total costs of all tangible expendable personal property (supplies) other than those included on Line 6d.

Justification: Specify general categories of supplies and their costs.

Contractual—Line 6f. Enter the total costs of all contracts, including (1) procurement contracts (except those which belong on other lines such as equipment, supplies, etc.) and (2) contracts with secondary recipient organizations, including delegate agencies. Also include any contracts with organizations for the provision of technical assistance. Do not include payments to individuals on this line. If the name of the contractor, scope of work, and estimated total costs are not available or have not been negotiated, include on Line 6h, "Other."

Justification: Attach a list of contractors, indicating the names of the organizations, the purposes of the contracts, and the estimated dollar amounts of the awards as part of the budget justification. Whenever the applicant/grantee intends to delegate part or all of the program to another agency, the applicant/grantee must complete this section (Section B, Budget Categories) for each delegate agency by agency title, along with the supporting information. The total cost of all such agencies will be part of the amount shown on Line 6f. Provide backup documentation identifying the name of contractor, purpose of contract, and major cost elements.

Construction—Line 6g. Not applicable. New construction is not allowable.

Other—Line 6h. Enter the total of all other costs. Where applicable, such costs may include, but are not limited to: insurance; medical and dental costs; noncontractual fees and travel paid directly to individual consultants; local transportation (all travel which does not require per diem is considered local travel); space and equipment rentals; printing and publication; computer use; training costs, including tuition and stipends; training service costs, including wage payments to individuals and supportive service payments; and staff development costs. Note that costs identified as "miscellaneous" and "honoraria" are not allowable.

Justification: Specify the costs included.

Total Direct Charges—Line 6i. Enter the total of Lines 6a through 6h.

Indirect Charges—6j. Enter the total amount of indirect charges (costs). If no indirect costs are requested, enter "none." Generally, this line should be used when the applicant (except local governments) has a current indirect cost rate agreement approved by the Department of Health and Human Services or another Federal agency.

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Local and State governments should enter the amount of indirect costs determined in accordance with HHS requirements. When an indirect cost rate is requested, these costs are included in the indirect cost pool and should not be charged again as direct costs to the grant.

In the case of training grants to other than State or local governments (as defined in title 45, Code of Federal Regulations, part 74), the Federal reimbursement of indirect costs will be limited to the lesser of the negotiated (or actual) indirect cost rate or 8 percent of the amount allowed for direct costs, exclusive of any equipment charges, rental of space, tuition and fees, post-doctoral training allowances, contractual items, and alterations and renovations.

For training grant applications, the entry under line 6j should be the total indirect costs being charged to the project. The Federal share of indirect costs is calculated as shown above. The applicant's share is calculated as follows:

(a) Calculate total project indirect costs (a*) by applying the applicant's approved indirect cost rate to the total project (Federal and non-Federal) direct costs.

(b) Calculate the Federal share of indirect costs (b*) at 8 percent of the amount allowed for total project (Federal and non-Federal) direct costs exclusive of any equipment charges, rental of space, tuition and fees, post-doctoral training allowances, contractual items, and alterations and renovations.

(c) Subtract (b*) from (a*). The remainder is what the applicant can claim as part of its matching cost contribution.

Justification: Enclose a copy of the indirect cost rate agreement. Applicants subject to the limitation on the Federal reimbursement of indirect costs for training grants should specify this.

Total—Line 6k. Enter the total amounts of lines 6i and 6j.

Program Income—Line 7. Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount.

Justification: Describe the nature, source, and anticipated use of program income in the Program Narrative Statement.

Section C—Non-Federal Resources. This section summarizes the amounts of non-Federal resources that will be applied to the grant. Enter this information on line 12 entitled "Totals." In-kind contributions are defined in title 45 of the Code of Federal Regulations, Parts 74.51 and 92.24, as "property or services which benefit a grant-supported project or program and which are contributed by non-Federal third parties without charge to the grantee, the subgrantee, or a cost-type contractor under the grant or subgrant."

Justification: Describe third party in-kind contributions, if included.

Section D—Forecasted Cash Needs. Not applicable.

Section E—Budget Estimate of Federal Funds Needed For Balance of the Project. This section should only be completed if the total project period exceeds 17 months.

Totals—Line 20. For projects that will have more than one budget period, enter the estimated required Federal funds for the second budget period (months 13 through 24) under column "(b) First." If a third budget period will be necessary, enter the Federal funds needed for months 25 through 36 under "(c) Second." Columns (d) and (e) are not applicable in most instances, since ACF funding is almost always limited to a three-year maximum project period. They should remain blank.

Section F—Other Budget Information.

Direct Charges—Line 21. Not applicable.

Indirect Charges—Line 22. Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Remarks—Line 23. If the total project period exceeds 17 months, you must enter your proposed non-Federal share of the project budget for each of the remaining years of the project.

3. Project Description

The Project Description is a very important part of an application. It should be clear, concise, and address the specific requirements mentioned under the priority area description in Part IV. The narrative should also provide information concerning how the application meets the evaluation criteria, using the following headings:

(a) Objectives and Need for Assistance;

(b) Results and Benefits Expected;

(c) Approach; and

(d) Organization Profile.

The specific information to be included under each of these headings is described in Section G of Part III, General Instructions for the Uniform Project Description.

The narrative should be typed double-spaced on a single-side of an 8½" x 11" plain white paper, with 1" margins on all sides, using black print no smaller than 12 pitch or 12 point size. All pages of the narrative (including charts, references/footnotes, tables, maps, exhibits, etc.) must be sequentially numbered, beginning with "Objectives and Need for Assistance" as page number one. Applicants should not submit reproductions of larger size paper, reduced to meet the size requirement.

The length of the application, including the application forms and all attachments, should not exceed 60 pages. This will be strictly enforced. A page is a single side of an 8½" x 11" sheet of paper. Applicants are requested not to send pamphlets, brochures or other printed material along with their application as these pose xeroxing difficulties. These materials, if submitted, will not be included in the review process if they exceed the 60-page limit. Each page of the application will be counted to determine the total length.

4. Part V—Assurances/Certifications

Applicants are required to file an SF 424B, Assurances—Non-Construction Programs and the Certification Regarding Lobbying. Both must be signed and returned with the application. Applicants must also provide certifications regarding: (1) Drug-Free Workplace Requirements; and (2) Debarment and Other Responsibilities. These two certifications are self-explanatory. Copies of these assurances/certifications are reprinted at the end of this announcement and should be reproduced, as necessary. A duly authorized representative of the applicant organization must certify that the applicant is in compliance with these assurances/certifications. A signature on the SF 424 indicates compliance with the Drug Free Workplace Requirements, and Debarment and Other Responsibilities certifications, and need not be mailed back with the application.

In addition, applicants are required under Section 162(c)(3) of the Act to provide assurances that the human rights of all individuals with developmental disabilities (especially those individuals without familial protection) who will receive services under projects assisted under Part E will be protected consistent with section 110 (relating to the rights of individuals with developmental disabilities). Each application must include a statement providing this assurance.

For research projects in which human subjects may be at risk, a Protection of Human Subjects Assurance may be required. If there is a question regarding the applicability of this assurance, contact the Office for Research Risks of the National Institutes of Health at (301) 496–7041.

E. Checklist for a Complete Application

The checklist below is for your use to ensure that your application package has been properly prepared.

______One original, signed and dated application, plus two copies. Applications for different priority areas are packaged separately;

______Application is from an organization which is eligible under the eligibility requirements defined in the priority area description (screening requirement);

______Application length does not exceed 60 pages, unless otherwise specified in the priority area description.

A complete application consists of the following items in this order:

______Application for Federal Assistance (SF 424, REV 4–88);

______A completed SPOC certification with the date of SPOC contact entered in line 16, page 1 of the SF 424 if applicable.

______Budget Information—Non-Construction Programs (SF 424A, REV 4–88);

______Budget justification for Section B—Budget Categories;

______Table of Contents;

______Letter from the Internal Revenue Service, etc. to prove non-profit status, if necessary;

______Copy of the applicant's approved indirect cost rate agreement, if appropriate;

______Project Description (See Part III, Section C);

______Any appendices/attachments;

______Assurances—Non-Construction Programs (Standard Form 424B, REV 4–88);

______Certification Regarding Lobbying; and

______Certification of Protection of Human Subjects, if necessary.

______Certification of the Pro-Children Act of 1994; signature on the application represents certification.

F. The Application Package

Each application package must include an original and two copies of the complete application. Each copy should be stapled securely (front and back if necessary) in the upper left-hand corner. All pages of the narrative (including charts, tables, maps, exhibits, etc.) must be sequentially numbered, beginning with page one. In order to facilitate handling, please do not use covers, binders or tabs. Do not include extraneous materials as attachments, such as agency promotion brochures, slides, tapes, film clips, minutes of meetings, survey instruments or articles of incorporation.

G. Paper Reduction Act of 1995 (Pub. L. 104–13)

The Uniform Project Description information collection within this announcement is approved under the Uniform Project Description (0970–0139), Expiration Date 10/31/2000.

Public reporting burden for this collection of information is estimated to average 10 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

(Federal Catalog of Domestic Assistance Number 93.631 Developmental Disabilities—Projects of National Significance)

Dated: June 30, 1998.

Sue Swenson,

Commissioner, Administration on Developmental Disabilities.

[FR Doc. 98–18154 Filed 7–8–98; 8:45 am]

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Part IV

Department of Education

Office of Special Education and Rehabilitative Services; Office of Special Education Programs: Applications Invitations for New Awards for Fiscal Year (FY) 1998; Notice

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DEPARTMENT OF EDUCATION

[CFDA No. 84.327E]

Office of Special Education and Rehabilitative Services; Office of Special Education Programs: Notice Inviting Applications for New Awards for Fiscal Year (FY) 1998.

AGENCY: Department of Education.

ACTION: Correction notice.

SUMMARY: On June 3, 1998, a notice inviting applications for new awards under the Technology and Media Services for Individuals with Disabilities program was published in the **Federal Register** (63 FR 30296). "For-profit organizations" was inadvertently omitted from the list of eligible applicants for the Closed Captioned Educational Programming and Accessible Formats for Educational Materials priorities.

NOTE TO APPLICANTS: The notice contained closing dates and other information regarding the transmittal of applications for FY 1998 competitions under the Technology and Media Services for Individuals with Disabilities program authorized by IDEA, as amended. This notice corrects the *Eligible Applicants* section under these two priorities by including "for-profit organizations" in the listing of eligible applicants. Potential applicants should consult the statement of the final priorities published on June 3, 1998 (63 FR 30296) to ascertain the substantive requirements for their applications.

FOR FURTHER INFORMATION CONTACT: For further information on these proposed priorities contact Debra Sturdivant, U.S. Department of Education, 600 Independence Avenue, SW, room 3317, Switzer Building, Washington, D.C. 20202–2641. FAX: (202) 205–8717 (FAX is the preferred method for requesting information). Telephone: (202) 205–8038. Internet: Debra__Sturdivant@ed.gov.

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8953.

Individuals with disabilities may obtain a copy of this notice in an alternate format (e.g. Braille, large print, audiotape, or computer diskette) by calling (202) 205–8113.

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Note: The official version of a document is the document published in the **Federal Register**.

Dated: July 6, 1998.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 98–18208 Filed 7–8–98; 8:45 am]

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federal register

Thursday
July 9, 1998

Part V

Federal Trade Commission

16 CFR Part 432

Trade Regulation Rule Relating to Power Output Claims for Amplifiers Utilized in Home Entertainment Products; Final Rule

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FEDERAL TRADE COMMISSION

16 CFR Part 432

Trade Regulation Rule Relating to Power Output Claims for Amplifiers Utilized in Home Entertainment Products

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission ("Commission" or "FTC"), has completed its regulatory review of the Rule relating to Power Output Claims for Amplifiers Utilized in Home Entertainment Products (the "Amplifier Rule" or the "Rule"). Pursuant to that review, the Commission concludes that the Amplifier Rule continues to be valuable both to consumers and firms and that certain substantive amendments to the Rule may be appropriate. The Commission publishes the results of the regulatory review and an Advance Notice of Proposed Rulemaking ("ANPR") in a separate document elsewhere in this **Federal Register**. The regulatory review record suggests that a non-substantive technical amendment be made to the Rule to clarify the Rule's applicability to self-powered loudspeakers for use in the home. This document sets forth that amendment.

DATES: The effective date of this amendment is July 9, 1998.

FOR FURTHER INFORMATION CONTACT: Dennis Murphy, Economist, Division of Consumer Protection, Bureau of Economics, (202) 326–3524 or Robert E. Easton, Esq., Special Assistant, Division of Enforcement, Bureau of Consumer Protection, (202) 326–3029, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: The Commission is publishing this document pursuant to Section 18 of the FTC Act, 15 U.S.C. 57a *et seq.*, the provisions of Part 1, Subpart B of the Commission's Rules of Practice, 16 CFR 1.7 *et seq.*, and 5 U.S.C. 551 *et seq.* This authority permits the Commission to make a non-substantive amendment to a rule by seeking comment and announcing the amendment in the **Federal Register**.

The Amplifier Rule was promulgated on May 3, 1974 (39 FR 15387), to assist consumers in purchasing "sound power amplification equipment manufactured or sold for home entertainment purposes" by standardizing the measurement and disclosure of various performance characteristics of the equipment.[1] As examples of covered equipment, the Rule lists radios, record and tape players, radio-phonograph and/or tape combinations, component audio amplifiers "and the like."[2]

On April 7, 1997, the Commission published a **Federal Register** Notice ("FRN") seeking comment on the Rule as part of a continuing review of its trade regulation rules to determine their current effectiveness and impact (62 FR 16500). This FRN sought comment on issues relating to the costs and benefits of the Rule, what changes in the Rule would increase its benefits to purchasers and how those changes would affect compliance costs, and whether technological or marketplace changes have affected the Rule. The FRN also sought comment on the Rule's coverage of self-powered speakers for home use. Specifically, the Commission announced its tentative conclusion that the Rule covers self-powered speakers for use with home computers, home sound systems, home multimedia systems and other sound power amplification equipment for home computers.[3] The FRN noted that, although there were few self-amplified home entertainment speakers when the Rule was promulgated in 1974, self-powered speakers fit within the Rule's definition of covered products and are very similar to the examples given in the Rule. The Commission also solicited comment on additional issues related to coverage of self-powered speakers under the Rule, including whether the standard test conditions set out in the Rule are appropriate for such equipment.[4]

The FRN elicited six written comments,[5] four of which addressed the issue of the rule's coverage of self-powered speakers. Two manufacturers of self-powered loudspeakers for use with home sound systems expressed unqualified support for including such equipment within the Rule's coverage. One of these commenters stated that there is a great deal of consumer confusion regarding amplifier performance in self-powered speakers and that manufacturers "are now engaging in the same type of misleading practices that led to the creation of the Amplifier Rule in 1974."[6] One additional commenter appeared to support including such equipment under the Rule, but expressed concern that the Rule's current testing format and disclosures are not compatible with combination speaker systems consisting of two or more amplifiers.[7] The principal trade association of the U.S. consumer electronics industry supported applying the Rule to self-powered speakers and including such products in the scope of the Rule.[8]

On the basis of the plain language and intent of the Rule, as supplemented by record comments, the Commission has concluded that self-powered speaker systems for use with home computers, home multimedia systems, and home sound systems are within the coverage of the Rule. Self-powered speakers are "sound power amplification equipment" which can be "manufacture or sold for home entertainment purposes." These speakers perform the same functions as the other amplification equipment listed in the examples cited in the Rule. Consequently, the Commission has determined to adopt a clarifying non-substantive amendment to the Rule that adds self-powered speakers for use in home computer and sound systems to the list of examples of covered sound power amplification equipment provided in § 432.1(a) of the Rule.

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[1] 16 CFR 432.1(a).

[2] *Id.*

[3] 62 FR 16500.

[4] The appropriateness of the standard test procedures for self-powered speakers is addressed as part of the ANPR appearing elsewhere in this **Federal Register**.

[5] The commenters were: Phillips Sound Labs [Phillips](1); Fultron Car Audio [Fultron](2); Klipsch Audio and Home Theater Products [Klipsch](3); Miller & Kreisel Sound Corporation [MK](4); Consumer Electronics Manufacturers Association [CEMA](5); and Labtec Multimedia Speakers [Labtec](6). The comments are cited as "[name of commenter], Comment (designated number), p. __." All Rule review comments are on the public record and are available for public inspection in the Public Reference Room, Room 130, Federal Trade Commission, 6th and Pennsylvania Ave., NW, Washington, DC, from 8:30 a.m. to 5:00 p.m., Monday through Friday, except federal holidays.

[6] *See* MK, (4), p. 1; Klipsch, (3), p. 1.

[7] Labtec, (6), p.4. The commenter proposed that the Commission amend the Rule to specify a separate testing protocol and disclosure format for three-piece multimedia speaker systems comprised of a subwoofer and two or more satellite speakers that are powered by separate amplifiers that share a common power supply. This issue is addressed in the ANPR appearing elsewhere in this **Federal Register**.

[8] CEMA, (5), pp. 2, 7. This comment also recommended that the Rule be amended at a future date to incorporate a standard for measuring the volume of sound that a powered speaker can deliver into the listening environment, rather than the power that the amplifier can deliver to the speaker. This commenter stated that a voluntary industry standard for measuring the loudness of powered speakers was currently under development and could be incorporated into the Rule.

The Commission has concluded that Rule coverage of such self-powered speaker equipment should not be delayed until an industry standard is developed for measuring and disclosing the sound output of such speaker systems. The Commission lacks a sufficient basis to conclude that the as-yet unspecified testing and disclosure format would provide more useful information to consumers than would the Rule's power rating protocol. In addition, even if the industry should develop a loudness standard, some manufacturers may continue to provide power output specifications that would be covered by the current Rule. The Commission believes that the Rule's continuous power output protocol and a future industry loudness protocol could coexist in a complementary fashion should such a standard be developed.

This non-substantive amendment to the Rule does not raise any issues under the Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.* The amendment does not change the requirements of the Rule in any manner. It simply clarifies the scope of the Rule by naming as examples certain products that already are covered. The Commission, therefore, certifies, pursuant to section 605 of the RFA, 5 U.S.C. 605, that the amendment will not have a significant impact on a substantial number of small entities. Similarly, the amendment does not raise any issues under the Paperwork Reduction Act ("PRA"), 44 U.S.C. 3501 *et seq.* The PRA requires government agencies, before promulgating rules or other regulations that require "collections of information" (i.e., record keeping, reporting, or third-party disclosure requirements), to obtain approval from the Office of Management and Budget ("OMB"), 44 U.S.C. 3502. Because the amendment does not impose any collection of information requirements, OMB approval is unnecessary.

List of Subjects in 16 CFR Part 432

Amplifiers, Electronic products, Home entertainment products, Trade practices.

For the reasons set forth in the preamble, 16 CFR Part 432 is amended as follows:

PART 432—POWER OUTPUT CLAIMS FOR AMPLIFIERS UTILIZED IN HOME ENTERTAINMENT PRODUCTS

1. The authority citation for part 432 continues to read as follows:

Authority: 38 Stat. 717, as amended; (15 U.S.C. 41–58).

2. Section 432.1(a) is revised to read as follows:

§ 432.1 Scope.

(a) Except as provided in paragraph (b) of this section, this part shall apply whenever any power output (in watts or otherwise), power band or power frequency response, or distortion capability or characteristic is represented, either expressly or by implication, in connection with the advertising, sale, or offering for sale, in commerce as "commerce" is defined in the Federal Trade Commission Act, of sound power amplification equipment manufactured or sold for home entertainment purposes, such as for example, radios, record and tape players, radio-phonograph and/or tape combinations, component audio amplifiers, self-powered speakers for computers, multimedia systems and sound systems, and the like.

* * * * *

Benjamin I. Berman,
Acting Secretary.

[FR Doc. 98–18203 Filed 7–8–98; 8:45 am]

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Part VI

Federal Trade Commission

16 CFR Part 432

Trade Regulation Rule Relating to Power Output Claims for Amplifiers Utilized in Home Entertainment Products; Proposed Rule

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FEDERAL TRADE COMMISSION

16 CFR Part 432

Trade Regulation Rule Relating to Power Output Claims for Amplifiers Utilized in Home Entertainment Products

AGENCY: Federal Trade Commission.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: The Federal Trade Commission ("Commission" or "FTC"), has completed its regulatory review of the Rule relating to Power Output Claims for Amplifiers Utilized in Home Entertainment Products (the "Amplifier Rule" or the "Rule"). Pursuant to that review, the Commission concludes that the Amplifier Rule continues to provide benefits to consumers and firms. The regulatory review record also suggests that certain substantive amendments to the Rule may be appropriate, and could reduce compliance obligations without lessening the protection provided by the Rule. Accordingly, the Commission seeks comment on whether it should initiate a rulemaking proceeding to amend the Rule to: reduce the preconditioning power output requirement from one-third of rated power to a lower figure, such as one-eighth of rated power; exempt sellers who make power output claims in media advertising from the requirement to disclose total rated harmonic distortion and the associated power bandwidth and impedance ratings; and clarify the manner in which the Rule's testing procedures apply to self-powered subwoofer-satellite combination speaker systems. The regulatory review record also suggests that a non-substantive technical amendment be made to the Rule to clarify the Rule's applicability to self-powered loudspeakers for use in the home. A Notice of Final Action announcing such amendment is published elsewhere in this **Federal Register**.

DATES: Written comments will be accepted until September 8, 1998.

ADDRESSES: Comments should be directed to: Secretary, Federal Trade Commission, Room H–159, Sixth and Pennsylvania Ave., NW., Washington, DC 20580. Comments about the Amplifier Rule should be identified "16 CFR Part 432—Comment."

FOR FURTHER INFORMATION CONTACT: Dennis Murphy, Economist, Division of Consumer Protection, Bureau of Economics, (202) 326–3524 or Robert E. Easton, Esq., Special Assistant, Division of Enforcement, Bureau of Consumer Protection, (202) 326–3029, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

Part A—General Background Information

The Commission is publishing this notice pursuant to Section 18 of the FTC Act, 15 U.S.C. 57a *et seq.*, the provisions of Part 1, Subpart B of the Commission's Rules of Practice, 16 CFR 1.7, and 5 U.S.C. 551 *et seq.* This authority permits the Commission to promulgate, modify, and repeal trade regulation rules that define with specificity acts or practices that are unfair or deceptive in or affecting commerce within the meaning of Section 5(a)(1) of the FTC Act, 15 U.S.C. 45(a)(1).

The Amplifier Rule was promulgated on May 3, 1974 (39 FR 15387), to assist consumers in purchasing power amplification equipment for home entertainment purposes by standardizing the measurement and disclosure of various performance characteristics of the equipment. On April 7, 1997, the Commission published a **Federal Register** Notice ("FRN") seeking comment on the Rule as part of an ongoing project to review all Commission rules and guides to determine their current effectiveness and impact (62 FR 16500). This FRN sought comment on the costs and benefits of the Rule, what changes in the Rule would increase its benefits to purchasers and how those changes would affect compliance costs, and whether technological or marketplace changes have affected the Rule. The FRN also sought comment on issues related to the Rule's product coverage, test procedures, and disclosure requirements.

The FRN elicited six written comments.[1] Two commenters expressed continuing support for the Rule because it has given consumers a standardized method of comparing the power output of audio amplifiers.[2] One commenter noted that industry use of this standardized testing method has created a level playing field among competitors.[3] Another commenter stated that the rule may initially have caused an increase in product prices, but ultimately manufacturers have responded by making better products at more affordable prices.[4] None of the four remaining commenters stated that the costs of the Rule exceeded its benefits, or that there were any other reasons why the Rule should be rescinded. On the basis of this review, the Commission has decided that the Rule provides benefits to consumers and industry and that there is a continuing need for the Rule.

The record also suggests that there have been technological and marketplace changes that may warrant modifications to the Rule. Accordingly, the Commission is publishing this ANPR seeking public comment on whether it should initiate a rulemaking by publishing a notice of proposed rulemaking ("NPR") under section 18 of the FTC Act, 15 U.S.C. 57a. The proceeding would address whether the Commission should (1) Amend certain required test procedures that may impose unnecessary costs on manufacturers; (2) eliminate certain disclosure requirements in media advertising; and (3) clarify testing procedures for self-powered speakers.

Part B—Objectives the Commission Seeks To Achieve and Possible Regulatory Alternatives

1. Modifications to the Amplifier Rule Preconditioning Requirements

a. Background

Section 432.3(c) of the Rule specifies that an amplifier must be preconditioned by simultaneously operating all channels at one-third of rated power output for one hour using a sinusoidal wave at a frequency of 1,000 Hz. The prior FRN questioned whether this preconditioning requirement should be modified. One comment stated that the Rule's preconditioning requirements do not reflect normal use conditions in the home and are leading some manufacturers to design amplifiers with excessively large and costly heat sinks, or to publish overly conservative power ratings.[5] Specifically, the commenter maintained that operating a typical amplifier at one-third of rated power for an hour represents a worst-case condition in terms of heat dissipation—one that exceeds the thermal stress that would be placed on the amplifier when operating at full rated power. The commenter states that § 432.3(c) is particularly burdensome for high power solid-state amplifiers during performance tests into 4 ohm loads. The commenter maintained that, as a result, many manufacturers must either refrain from publishing 4-ohm power specifications, publish 4-ohm power specifications that are lower than those the consumer could achieve in typical home use, or provide otherwise unnecessary heat sink capacity sufficient to protect the amplifier during preconditioning for ratings at higher and more realistic power output levels.[6] The commenter also noted that existing industry standard test methods, such as UL (Underwriters Laboratories) Standards 1492 and 6500, specify that amplifiers be preconditioned at one-eighth of rated power.[7]

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[1] The commenters were: Phillips Sound Labs [Phillips](1); Fultron Car Audio [Fultron](2); Klipsch Audio and Home Theater Products [Klipsch](3); Miller & Kreisel Sound Corporation [MK](4); Consumer Electronics Manufacturers Association [CEMA](5); and Labtec Multimedia Speakers [Labtec](6). The comments are cited as "[name of commenter], Comment (designated number), p. __." All Rule review comments are on the public record and are available for public inspection in the Public Reference Room, Room 130, Federal Trade Commission, 6th and Pennsylvania Ave., NW., Washington, DC, from 8:30 a.m. to 5:00 p.m., Monday through Friday, except federal holidays.

[2] CEMA, (5), p. 2; Fultron, (2), p. 1.

[3] CEMA, (5), p. 3.

[4] Fultron, (2), p. 1.

[5] CEMA, (5), p. 5.

b. Objectives and Regulatory Alternatives

The record suggests that § 432.3(c) should be amended to reflect more realistically the maximum thermal stress that amplifiers are likely to encounter during actual in-home use. Accordingly, the Commission seeks comment on whether the Commission should amend the rule to reduce the preconditioning power output requirement from one-third of rated power to a lower figure, such as one-eighth of rated power.

2. Amendment to Required Disclosures Section of the Amplifier Rule

a. Background

Section 432.2 of the Rule requires disclosure of maximum harmonic distortion, power bandwidth, and impedance whenever a power claim is made in any advertising, including advertising by retail stores, direct mail merchants, and manufacturers. In the FRN, the Commission solicited comment on whether there was a continuing need for the Rule to require disclosure of maximum harmonic distortion in media advertising, or whether such disclosure would be required only when maximum rated harmonic distortion exceeds a specified threshold level, such as one percent. In addition, the Commission solicited comment on whether certain types of advertising, such as that commonly used by retail stores to present basic price and feature information in a limited amount of space, should be exempted from some or all of the power bandwidth, distortion, and impedance disclosures.

The one comment that addressed this issue stated that total harmonic distortion below one percent has little meaning to consumers because it is inaudible, and it recommended that the Commission consider an exemption from disclosure of maximum rated harmonic distortion when rated distortion is at or below one percent.[8]

The Commission's own review of published specifications for currently marketed power amplification equipment for use in the home indicates that total harmonic distortion ratings in excess of one percent are very rare. The few exceptions are associated primarily with expensive vacuum tube power amplifiers occupying a highly specialized segment of the high fidelity market.[9]

b. Objectives and Regulatory Alternatives

It appears that improvements in amplifier technology since the Rule's promulgation in 1974 have reduced the benefits to consumers of disclosure in media advertising of total rated harmonic distortion. It also appears that an insufficient number of consumers would understand the meaning and significance of the remaining triggered disclosures concerning power bandwidth and impedance to justify their publication in media advertising. Accordingly, the Commission seeks comment on whether the Commission should initiate a rulemaking to amend the Rule to exempt media advertising, including advertising on the Internet, from disclosure of total rated harmonic distortion and the associated power bandwidth and impedance ratings when a power output claim is made.[10]

In order to ensure that consumers would not be misled by noncomparable power output claims that were based on differing impedance ratings, the exemption for media advertising would be conditioned on the requirement that the primary power output specification disclosed in any media advertising be the manufacturer's rated minimum sine wave continuous average power output, per channel (such as might be true for certain amplifiers used in self-powered speaker systems), at an impedance of 8 ohms, or, if the amplifier is not designed for an 8-ohm load impedance, at the impedance for which the amplifier is primarily designed.

All other power output claims currently subject to the Rule, however, including those appearing in manufacturer specification sheets that are either in print or reproduced on the Internet, would continue to trigger the requirement that the seller provide the full complement of disclosures concerning power bandwidth, maximum harmonic distortion, and impedance, so that interested consumers could obtain this information prior to purchase.

3. Rule Coverage of Self-Powered Loudspeakers for Use in the Home

a. Background

When the FRN was published, the Rule did not specifically mention self-powered speakers as an example of sound amplification equipment manufactured or sold for home entertainment purposes. In the FRN, the Commission solicited comment on its tentative conclusion that the Rule covers: (A) self-powered speakers for use with (i) home computers, (ii) home sound systems, (iii) home multimedia systems; and (B) other sound power amplification equipment for home computers. The Commission also solicited comment on additional issues related to coverage of self-powered speakers under the Rule, including whether the standard test conditions set out in the Rule are appropriate for such equipment.

In a Notice of Final Action published separately in this **Federal Register**, the Commission discusses the comments relating to the threshold question of Rule coverage of self-powered speakers, and issues a non-substantive amendment clarifying that the Rule applies to self-powered loudspeakers for use in the home.

The Commission received two comments that addressed the additional issue of whether or not the Rule's standard test conditions are appropriate for self-powered speakers. The principal trade association of the U.S. electronics industry (CEMA) supported applying the Rule to self-powered speakers. CEMA recommended, however, that the

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[6] *Id.* at 4–5.

[7] *Id.* at 4.

[8] *ID.* at 6.

[9] Commission staff consulted the October, 1997 issue of *Audio* magazine to obtain the manufacturer's rating of total harmonic distortion for all receivers and separate power amplifiers included in the magazine's annual equipment directory. The published ratings show no receivers with total harmonic distortion exceeding one percent. Among separate power amplifiers, 11 models from 5 manufacturers, out of approximately 1000 models from nearly 200 manufacturers, carry total harmonic distortion ratings exceeding one percent. These 11 models range in price from $550 to $12,345. The average price of the 11 models is about $3,700.

[10] The record indicates, however, that maximum harmonic distortion ratings in excess of one percent are not sufficiently prevalent that the use of this figure as a threshold to govern disclosure requirements in media advertising would be meaningful. Thus, the suggested amendment does not limit the exemption to a maximum harmonic distortion rating of one percent or less, as previously proposed.

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Rule be amended at a future date to incorporate a standard for measuring the volume of sound that a powered speaker can deliver into the listening environment, rather than the power that the amplifier can deliver to the speaker. This commenter stated that a voluntary industry standard for measuring the loudness of powered speakers was currently under development and could be incorporated into the Rule.[11]

The second commenter (Labtec) expressed concern that the Rule's current testing protocol is not compatible with combination speaker systems consisting of two or more amplifiers. For this reason, the commenter proposed that the Commission amend the Rule to specify a separate testing protocol and disclosure format for three-piece multimedia speaker systems comprised of a subwoofer and two or more satellite speakers that are powered by separate amplifiers that share a common power supply.[12]

According to this commenter, the subwoofer and satellite amplifiers in such combination systems are usually of different wattage per channel and are dedicated to different frequency bandwidths. The commenter stated further that if the Rule were interpreted to mean that power tests for these systems be conducted over the entire frequency bandwidth from 20Hz to 20kHz, with all channels of all amplifiers driven simultaneously, limitations in the common power supply would lower the maximum power output of the subwoofer and satellite amplifiers at test frequencies near the crossover frequency, where both sets of amplifiers would be operating near full capacity.[13]

The commenter also stated that the most conservative industry practice today is to measure the subwoofer and satellite amplifiers separately, and to disclose the maximum per-channel continuous power output of each amplifier over the bandwidth for which it was designed to operate. In this test protocol, the commenter stated, the two channels of the satellite amplifier are driven simultaneously, but without the subwoofer amplifier in operation. Similarly, the test for the subwoofer amplifier are conducted alone, with the satellite amplifier at idle. These ratings are then disclosed in a format such as: "20 watts RMS subwoofer, 10 watts RMS satellite (5w + 5w)." According to the commenter, such power ratings overstate somewhat the maximum per-channel power capability of each amplifier when all channels of both amplifiers are driven simultaneously at the crossover frequency.[14]

The commenter recommended that the Rule be amended to specify that power rating tests for combination subwoofer-satellite power speaker systems be conducted at the crossover frequency with all channels of all amplifiers operating simultaneously. The comment also suggested that manufacturers be allowed to publish the combined power output of the subwoofer and satellite amplifiers at this frequency, together with the individual per-channel output of each amplifier, *e.g.*, "25 watts total RMS power (17w+4w+4w) into 4 ohms @ 150 Hz with less than 1% THD."[15]

b. Objectives and Regulatory Alternatives

As discussed in the Notice of Final Action published separately in this **Federal Register**, the Commission has concluded that Rule coverage of self-powered speaker equipment for use in the home should not be delayed until an industry standard is developed for measuring and disclosing the volume of sound that such speaker systems can produce in the listening environment.

The Commission has also tentatively determined on the basis of the Rule review record that § 432.2(a)(2) of the Rule does not currently provide adequate guidance concerning the manner in which power ratings for combination subwoofer and satellite self-powered speaker systems should be conducted. Specifically, it may be insufficiently clear whether the Rule's stipulation that power measurements be made "with all associated channels fully driven to rated per channel power" requires manufacturers to conduct power ratings with all channels of both the subwoofer and satellite amplifiers driven simultaneously, or whether the Rule allows manufacturers of such equipment to test the subwoofer and satellite amplifiers separately.

The Commission is not prepared at this time to recommend that the Rule be amended to specify that per-channel power ratings for self-powered combination subwoofer and satellite speaker systems be conducted at the crossover frequency with all channels of all amplifiers operating simultaneously, as proposed by Labtec. The Commission does not have sufficient evidence to conclude that in-home use, under even strenuous conditions, typically would place maximum continuous power demands simultaneously on both the subwoofer and satellite amplifiers at the crossover frequency. Rather, such demands are more likely to occur in portions of the audio spectrum that would be assigned primarily either to the subwoofer amplifier or the satellite amplifier.

The Commission therefore believes that the most appropriate application of the Rule to self-powered subwoofer-satellite combinations would be to require simultaneous operation only of those channels dedicated to the same portion of the audio frequency spectrum. Accordingly, the Commission seeks comment on whether to initiate a rulemaking proceeding to clarify the Amplifier Rule by amending § 432.2 to include a note stating that, for self-powered combination speaker systems that employ two or more amplifiers dedicated to different portions of the audio frequency spectrum, only those channels dedicated to the same audio frequency spectrum need be fully driven to rated per channel power under paragraph 432.2(a)(2).

4. Rule Coverage of Automotive Sound Amplification Products

a. Background

The scope of the Amplifier Rule currently is limited to sound power amplification equipment intended for home entertainment purposes. The Rule does not apply to automotive sound amplification products. The Commission noted that promotional materials for these products appear to contain power output claims based on a variety of rating procedures. The Commission requested comment on the types of power rating and disclosure protocols currently used by manufacturers of automotive sound amplification products, and whether any of the sound power claims being made in connection with the sale and advertising of such equipment inhibit meaningful comparisons of performance attributes by consumers. The Commission also solicited examples of such claims and information establishing the scope and seriousness of the problem. Finally, the Commission asked for comment on what, if any, form of action was needed to increase the ability of consumers to make meaningful product comparisons in this industry.

The Commission received three comments on these issues. The commenters stated that power claims made for automotive sound amplification equipment frequently are higher than the corresponding RMS continuous power rating specified in the

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[11] CEMA, (5), p. 7.

[12] Labtec, (6), p. 4.

[13] *Id.*

[14] *Id.* at 3.

[15] *Id.* at 4.

Rule. The commenters recommended that the Rule be extended to cover automotive sound amplification equipment.[16] None of the commenters, however, provided any specific examples of claims that might mislead consumers and lead to poor purchase decisions. Nor was any information provided on the prevalence or technical basis for claims that differ from the corresponding continuous power output rating used in the Rule. Finally, no evidence was provided indicating that the various power ratings currently in use are inhibiting meaningful comparisons by consumers.

Commission staff, prior to the issuance of the FRN, conducted a brief examination of current power output claims for automotive stereo equipment.[17] This examination suggests that manufacturers of original equipment and aftermarket dashboard radio-cassette or radio-CD players generally employ a rating system that yields a "peak" power output specification approximately twice as high as the continuous rating. Staff found no evidence, however, that this rating system misrepresents the relative power output of competing amplifiers, or that any confusion resulting from the system has led to a breakdown in the correspondence between the prices charged for competing amplifiers and their power output capabilities. Staff's inquiry also indicates that the FTC continuous rating protocol is the most common method of measuring the power output of specialized and generally more expensive aftermarket automotive sound reproduction equipment, such as separate power amplifiers and powered subwoofers.

b. Objectives and Regulatory Alternatives

The Rule review record suggests that certain power output ratings for automotive sound amplification equipment may differ from the ratings that would be obtained using a continuous power testing procedure similar to that specified in the Rule. As indicated, the record contains no evidence regarding whether such power output claims could impede the ability of consumers to make meaningful comparisons, or that the various ratings systems currently in use have significantly reduced the correspondence between the prices charged for competing auto sound amplification equipment and the power output of this equipment. In addition, staff's inquiry did not indicate that consumers may currently pay more for amplification equipment that is actually less powerful, or no more powerful, than competing equipment advertised with power disclosures that are derived using more rigorous test procedures. Thus, the record and Commission staff's inquiry uncovered no basis for concluding that consumers currently are unable to make meaningful comparisons in the automotive sound reproduction market. The Commission has concluded, therefore, that the existence of dissimilar power output rating methods by itself does not provide a sufficient showing of probable consumer injury to justify again seeking comment on this issue in this APNR.

Part C—Request for Comments

Members of the public are invited to comment on any issues or concerns they believe are relevant or appropriate to the Commission's consideration of whether to publish an NPR initiating a rulemaking proceeding to consider the previously discussed proposed amendments to the Amplifier Rule. The Commission requests that factual data upon which the comments are based be submitted with the comments. In addition to the issues raised above, the Commission solicits public comment on the specific questions identified below. These questions are designed to assist the public and should not be construed as a limitation on the issues on which public comment may be submitted. After considering the responses to this ANPR, if the Commission decides to commence a rulemaking proceeding, it must, under the Regulatory Flexibility Act, 5 U.S.C. 601–12, determine whether the proposed amendments would have a significant impact on a substantial number of small businesses. The Commission includes in this ANPR questions that will assist it in making such analysis.

The written comments submitted will be available for public inspection in accordance with the Freedom of Information Act, 5 U.S.C. 552, and Commission regulations on normal business days from 8:30 a.m. to 5:00 p.m. at the Federal Trade Commission, 6th St. and Pennsylvania Ave., N.W., Room 130, Washington, D.C. 20580.

Questions

A. Section 432.3(c) Preconditioning Requirement

(1) Should the Commission amend the Rule to reduce the preconditioning power output requirement from one-third of rated power to a lower figure, such as one-eighth of rated power?

B. Exemption From Required Disclosures

(2) Have post-1974 improvements in amplifier design and consequent reductions in typical levels of total harmonic distortion reduced the benefit to consumers of disclosure of rated total harmonic distortion in media advertising that contains a power output claim?

(3) Should the Commission amend the Rule to exempt disclosure of total rated harmonic distortion and the associated power bandwidth and impedance ratings when a power output claim is made in media advertising?

(4) If the Commission amends the rule to allow the above exemption, should this exemption be conditioned on the requirement that the primary power output specification disclosed in any media advertising be the manufacturer's rated minimum sine wave continuous average power output, per channel, at an impedance of 8 ohms, or, if the amplifier is not designed primarily for an 8-ohm impedance, at the impedance for which the amplifier is primarily designed?

C. Rule Coverage of Self-Powered Loudspeakers for Use in the Home

(5) Should the Commission clarify the Rule to specify that, for self-powered combination speaker systems that employ two or more amplifiers dedicated to different portions of the audio frequency spectrum, only those channels dedicated to the same audio frequency spectrum need be fully driven to rated per channel power under § 432.2(a)(2)? If not, should the Commission amend the Rule to specify that per-channel power ratings for such combination speaker systems be conducted at the crossover frequency with all channels of all amplifiers operating simultaneously?

D. Economic Effect, If Any, of the Proposed Amendments

(6) What costs and benefits to consumers and businesses, including manufacturers, retailers, or other sellers, would accrue from each of the three proposed Rule amendments?

(7) Would any of the proposed Rule amendments have a significant

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[16] *See* Fulmer, (2), p. 1; Phillips, (1), p. 1; CEMA, (5), p. 9.

[17] Staff's inquiry included visits to several area auto stereo dealers, an inspection of retailer ads in the Washington Post, and an analysis of power output specifications published in recent catalogues for Crutchfield, a large mail-order retailer of auto stereo equipment.

economic impact on a substantial number of small businesses?

(8) Can that impact be quantified?

List of Subjects in 16 CFR Part 432

Amplifiers, Electronic products, Home entertainment products, Trade practices.

Authority: 15 U.S.C. 41–58.

Benjamin I. Berman,
Acting Secretary.

[FR Doc. 98–18204 Filed 7–8–98; 8:45 am]

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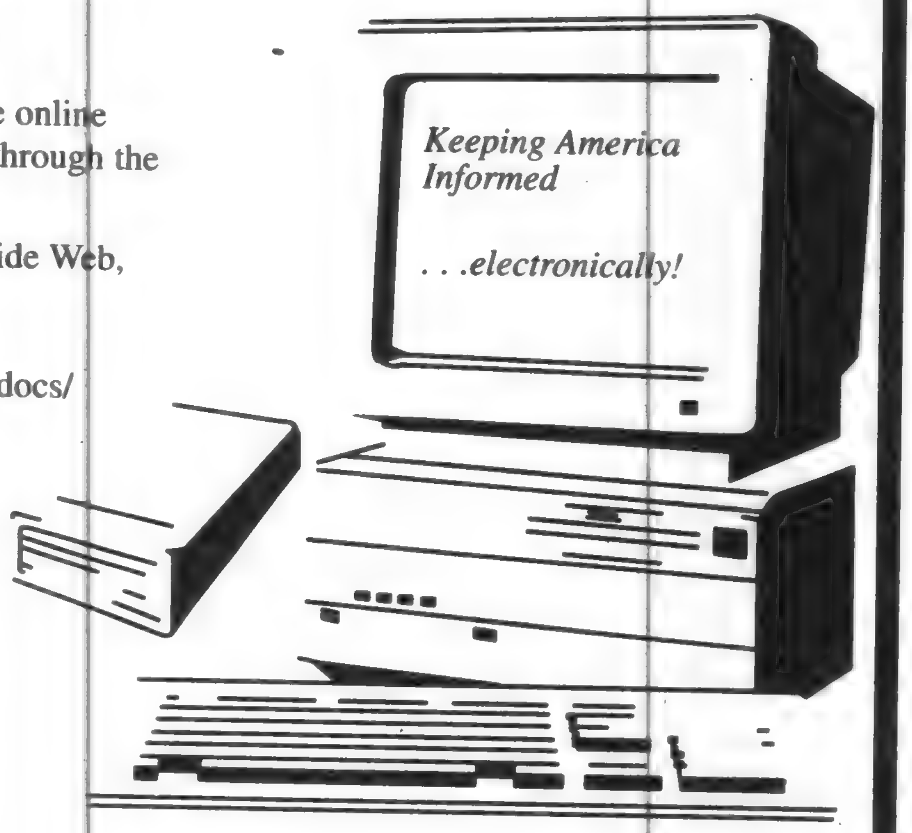

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WASHINGTON, DC

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WHERE: Office of the Federal Register
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800 North Capitol Street, NW.
Washington, DC
(3 blocks north of Union Station Metro)

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 98–036–2]

Brucellosis in Cattle; State and Area Classifications; Alabama

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the brucellosis regulations concerning the interstate movement of cattle by changing the classification of Alabama from Class A to Class Free. We have determined that Alabama meets the standards for Class Free status. The interim rule was necessary to relieve certain restrictions on the interstate movement of cattle from Alabama.

EFFECTIVE DATE: The interim rule was effective on April 14, 1998.

FOR FURTHER INFORMATION CONTACT: Dr. R.T. Rollo, Jr., Staff Veterinarian, National Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1231, (301) 734–7709; or e-mail: rrollo@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective April 14, 1998, and published in the **Federal Register** on April 17, 1998 (63 FR 19169–19170, Docket No. 98–036–1), we amended the brucellosis regulations in 9 CFR part 78 by removing Alabama from the list of Class A States in § 78.41(b) and adding it to the list of Class Free States in § 78.41(a).

Comments on the interim rule were required to be received on or before June 16, 1998. We did not receive any comments. The facts presented in the interim rule still provide a basis for the rule.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived the review process required by Executive Order 12866.

List of Subjects in 9 CFR Part 78

Animal diseases, Bison, Cattle, Hogs, Quarantine, Reporting and recordkeeping requirements, Transportation.

PART 78—BRUCELLOSIS

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR 78 and that was published at 63 FR 19169–19170 on April 17, 1998.

Authority: 21 U.S.C. 111–114a-1, 114g, 115, 117, 120, 121, 123–126, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.2(d).

Done in Washington, DC, this 2nd day of July 1998.

Charles P. Schwalbe,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–18435 Filed 7–9–98; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 29265; Amdt. No. 410]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: 0901 URC, August 13, 1998.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK. 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

The Rule

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days. The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are

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necessary to keep them operationally current.

It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 95

Airspace Navigation (air).

Issued in Washington, D.C. on July 2, 1998.

Tom E. Stuckey,

Acting Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC,

PART 95—[AMENDED]

1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44719, 44721.

2. Part 95 is amended to read as follows:

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES AND CHANGEOVER POINTS

[Amendment 410 effective date, August 13, 1998]

From	To	MEA
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Salisbury, MD VORTAC *1800–MOCA	Waterloo, DE VOR/DME	*5000
§ 95.6016 VOR Federal Airway 16 is Amended to Read in Part		
Tappa, VA FIX *1500–MOCA	Colin, VA FIX	*4000
§ 95.6020 VOR Federal Airway 20 is Amended to Read in Part		
Tappa, VA FIX *1500–MOCA	Colin, VA FIX	*4000
§ 95.6029 VOR Federal Airway 29 is Amended to Read in Part		
Salisbury, MD VORTAC *1800–MOCA	Laflin, DE FIX	*5000
Laflin, DE FIX	Smyrna, DE VORTAC	1800
§ 95.6044 VOR Federal Airway 44 is Amended to Read in Part		
Paleo, MD FIX *7000–MOCA	Donil, DE FIX	*13000
§ 95.6049 VOR Federal Airway 49 is Amended to Read in Part		
Elked, AL FIX *2800–MOCA	Nashville, TN VORTAC	*3500
§ 95.6155 VOR Federal Airway 155 is Amended to Read in Part		
Colliers, SC VORTAC *3000–MRA	*Wider, SC FIX	2500
§ 95.6157 VOR Federal Airway 157 is Amended to Read in Part		
Key West, FL VORTAC *5700–MRA **1300–MOCA	*Famin, FL FIX	**5000
Famin, FL FIX *1500–MOCA	Dolphin, FL VORTAC	*5000
Tappa, VA FIX *1500–MOCA	Colin, VA FIX	*4000
§ 95.6159 VOR Federal Airway 159 is Amended to Read in Part		
Vulcan, AL VORTAC *2200–MOCA	Hamilton, AL VORTAC	*2600
§ 95.6213 VOR Federal Airway 213 is Amended to Read in Part		
Tappa, VA FIX	Colin, VA FIX	*4000

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES AND CHANGEOVER POINTS—Continued

[Amendment 410 effective date, August 13, 1998]

From	To	MEA
*1500–MOCA		
§ 95.6218 VOR Federal Airway 218 Is Amended to Read in Part		
Waukon, IA VORTAC *4000–MRA **300–MOCA	*Baulk, WI FIX	**4000
§ 95.6267 VOR Federal Airway 267 Is Amended to Read in Part		
Pahokee, FL VORTAC *1400–MOCA	Diddy, FL FIX	*2000
Diddy, FL FIX	Orlando, FL VORTAC	2600
§ 95.6295 VOR Federal Airway 295 Is Amended to Read in Part		
Vero Beach, FL VORTAC	Orlando, FL VORTAC	2600
§ 95.6296 VOR Federal Airway 296 Is Amended to Read in Part		
Fayetteville, NC VOR/DME *3000–MRA	*Gands, NC FIX	2000
Gands, NC FIX, NC VOR/DME *3000–MRA	*Urrie, NC FIX	2000
§ 95.6310 VOR Federal Airway 310 Is Amended to Read in Part		
Burch, NC FIX	Greensboro, NC VORTAC	3500
§ 95.6345 VOR Federal Airway 345 Is Amended to Read in Part		
Dells, WI VORTAC *2800–MOCA	Milto, WI FIX	*3500
Falen, WI FIX	Eau Claire, WI VORTAC	3500
§ 95.6359 VOR Federal Airway 359 Is Amended to Read in Part		
U.S. Mexican Border *2500–MOCA	Laredo, TX VORTAC	*3000
§ 95.6441 VOR Federal Airway 441 Is Amended to Read in Part		
Melbourne, FL VOR/DME	Lakeland, FLVORTAC	2600
§ 95.6529 VOR Federal Airway 529 Is Amended to Read in Part		
*Famin, FL FIX 5700–MRA ** 1500–MOCA	Swags, FL FIX	*5700
§ 95.6531 VOR Federal Airway 531 Is Amended to Read in Part		
Bairn, FL FIX	Orlando, FL VORTAC	2600
§ 95.6605 VOR Federal Airway 605 Is Added to Read		
Spartanburg, SC VORTAC *4200–MOCA	Genod, NC FIX	*5000
Genod, NC FIX	Holston Mountain, TN VORTAC	6500
§ 95.6415 Hawaii VOR Federal Airway 15 Is Amended to Read in Part		
Paris, HI FIX *8000–MRA *3000–MOCA	*Arbor, HI FIX	**4000

From	To	MEA	MAA
§ 95.7118 Jet Route No. 118 Is Amended to Read in Part			
Memphis, TN VORTAC	Choo Choo, TN VORTAC	18000	45000

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[FR Doc. 98–17853 Filed 7–9–98; 8:45 am]
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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 622

[Docket No. 980513127–8127–01; I.D. 050598A]

RIN 0648–AL15

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery of the Gulf of Mexico; Data Collection; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Interim rule; correction.

SUMMARY: This document contains corrections to the interim rule (I.D. 050598A) that was published in the **Federal Register** on May 19, 1998. That interim rule requires vessels in the shrimp fishery of the Gulf of Mexico to maintain and submit fishing records, to carry a NMFS-approved observer, and/or to carry a vessel monitoring system unit, if selected by NMFS to do so. This document corrects information regarding estimated compliance costs associated with the interim rule and corrects the estimated reporting burden associated with the requirement to maintain and submit fishing records.

DATES: Effective July 10, 1998 through November 16, 1998.

FOR FURTHER INFORMATION CONTACT: Michael E. Justen, phone: 813–570–5305 or fax: 813–570–5583.

SUPPLEMENTARY INFORMATION: The interim rule that is the subject of this correction was published on May 19, 1998 (63 FR 27485). That interim rule requires vessels in the shrimp fishery of the Gulf of Mexico to maintain and submit fishing records, to carry a NMFS-approved observer, and/or to carry a vessel monitoring system unit (VMS unit), if selected by NMFS to do so. That rule also informed the public of the approval by the Office of Management and Budget (OMB) of the collection-of-information requirements contained in that rule and published the OMB control numbers for those collections.

Need for Correction

As published, the preamble to the interim rule contains an incorrect estimate of the cost that shrimpers, in aggregate, would incur to comply with the observer, logbook, and VMS unit requirements and associated vessel safety and sanitation requirements. The preamble, in one instance, also incorrectly attributed costs related to vessel safety and sanitation to U.S. Coast Guard regulations rather than a pending NMFS rule. Finally, the preamble to the interim rule contains an incorrect estimate of the reporting burden associated with the requirement for a vessel owner or operator, if selected by NMFS, to maintain and submit fishing records.

Correction of Publication

Accordingly, the publication on May 19, 1998, of the interim rule (I.D. 050598A), which was the subject of FR Doc. 98–13290, is corrected as follows:

1. On page 27487, in the second column, under the heading "Classification," paragraph 4:

a. In line 23, correct "$23,770" to read "$21,040".

b. In line 39, correct "to USCG regulations." to read "to the separate rule, amending regulations at 50 CFR 600.725 and 600.746, that NMFS intends to issue shortly."

2. On page 27487, in the third column, last paragraph, fifth line from the bottom of the paragraph, correct "10" to read "20".

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 2, 1998.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 98–18341 Filed 7–9–98; 8:45 am]
BILLING CODE 3510–22–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 175

[Docket No. 90F–0142]

Indirect Food Additives: Adhesives and Components of Coatings

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of polyurethane resins derived from the reaction of toluene diisocyanate or 4,4′ methylenebis(cyclohexylisocyanate) with fumaric acid-modified polypropylene glycol or fumaric acid-modified tripropylene glycol, triethylamine, and ethylenediamine as a component of adhesives for articles intended to contact food. This action responds to a petition filed by Olin Corp.

DATES: The regulation is effective July 10, 1998. Submit written objections and requests for a hearing by August 10, 1998.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Daniel N. Harrison, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3084.

SUPPLEMENTARY INFORMATION:

I. Background

In a notice published in the **Federal Register** of May 10, 1990 (55 FR 19667), FDA announced that a food additive petition (FAP 0B4201) had been filed by Olin Corp., 120 Long Ridge Rd., Stamford, CT 06904. The petition proposed to amend the food additive regulations in § 175.105 *Adhesives* (21 CFR 175.105) to provide for the safe use of polyurethane resins derived from the reactions of toluene diisocyanate or 4,4′ methylenebis(cyclohexylisocyanate) with carboxylic acid-modified polypropylene glycol and with triethylamine and ethylenediamine as a component of adhesives for articles intended to contact food. In a notice published in the **Federal Register** of September 5, 1997 (62 FR 46979), FDA amended the May 10, 1990, notice to state that upon further review of the petition, the petitioner specifically requested the approval of the use of polyurethane resins derived from the reaction of toluene diisocyanate or 4,4′ methylenebis(cyclohexylisocyanate) with fumaric acid-modified propylene glycol or fumaric acid-modified tripropylene glycol, triethylamine, and ethylenediamine.

In its evaluation of the safety of this additive, FDA has reviewed the safety of the additive itself and the chemical impurities that may be present in the additive resulting from its manufacturing process. Although the additive itself has not been shown to cause cancer, it may contain minute amounts of toluenediamine (TDA), which is a carcinogenic impurity resulting from the manufacture of the additive. Residual amounts of impurities are commonly found as constituents of chemical products, including food additives.

II. Determination of Safety

Under the so-called general safety clause of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348(c)(3)(A)), a food additive cannot be approved for a particular use unless a fair evaluation of the data available to FDA establishes that the additive is safe for that use. FDA's food additive regulations (21 CFR 170.3(i)) define safe as "a reasonable certainty in the minds of competent scientists that the substance is not harmful under the intended conditions of use."

The food additives anticancer, or Delaney, clause of the act (21 U.S.C. 348(c)(3)(A)) provides that no food additive shall be deemed safe if it is found to induce cancer when ingested by man or animal. Importantly, however, the Delaney clause applies to the additive itself and not to impurities in the additive. That is, where an additive itself has not been shown to cause cancer, but contains a carcinogenic impurity, the additive is properly evaluated under the general safety standard using risk assessment procedures to determine whether there is a reasonable certainty that no harm will result from the intended use of the additive (*Scott v. FDA*, 728 F.2d 322 (6th Cir. 1984)).

III. Safety of the Petitioned Use of the Additive

FDA estimates that the petitioned use of the additive, polyurethane resins derived from the reaction of toluene diisocyanate or 4,4′ methylenebis(cyclohexylisocyanate) with fumaric acid-modified polypropylene glycol or fumaric acid-modified tripropylene glycol, triethylamine, and ethylenediamine, will result in exposure to the additive that would be virtually nil (Ref. 1).

FDA does not ordinarily consider chronic toxicological studies to be necessary to determine the safety of an additive whose use will result in such low exposure levels (Ref. 2), and the agency has not required such testing here. However, the agency has reviewed the available toxicological data on the additive and concludes that the "virtually nil" dietary exposure resulting from the petitioned use of this additive is safe.

FDA has evaluated the safety of this additive under the general safety standard, considering all available data and using risk assessment procedures to estimate the upper-bound limit of lifetime human risk presented by TDA, the carcinogenic chemical that may be present as an impurity in the additive. The risk evaluation of TDA has two aspects: (1) Assessment of exposure to the impurity from the proposed use of the additive; and (2) extrapolation of the risk observed in the animal bioassay to the conditions of exposure to humans.

A. Toluenediamine

FDA has estimated the cumulative exposure to TDA from all currently regulated uses of the additives where TDA may be present as an impurity and from the petitioned use of the additive in polyurethane adhesive applications to be no more than 0.059 part per billion in the daily diet (3 kilograms) or 0.18 microgram (µg)/person/day (Ref. 3). The agency used data from long-term rodent bioassays on 2,4′ toluenediamine conducted by the National Cancer Institute (Ref. 4) to estimate the upper-bound limit of lifetime human risk from the cumulative exposure to this chemical resulting from the currently regulated food additive uses where TDA may be present as an impurity and the proposed use of the additive. The authors reported that the test material caused significant amounts of hepatocellular carcinomas in both male and female rats and carcinomas of the mammary gland in female rats. The test chemical was also carcinogenic for female mice, causing hepatocellular carcinomas.

Based on the agency's estimate that exposure to TDA will not exceed 0.18 µg/person/day, FDA estimates that the upper-bound limit of lifetime human risk from all regulated uses of the additives where TDA may be present as an impurity and from the proposed use of the subject additive is 6.1×10^{-7}, or 6 in 10 million (Ref. 5). Because of the numerous conservative assumptions used in calculating the exposure estimate, the actual lifetime-averaged individual exposure to TDA is likely to be substantially less than the estimated exposure, and therefore, the probable lifetime human risk would be less than the upper-bound limit of lifetime human risk. Thus, the agency concludes that there is reasonable certainty that no harm from exposure to TDA would result from the proposed use of the additive.

B. Need for Specifications

The agency has also considered whether specifications are necessary to control the amount of TDA as an impurity in the food additive. The agency finds that specifications are not necessary for the following reasons: (1) Because of the low levels at which TDA may be expected to remain as an impurity following production of the additive, the agency would not expect this impurity to become a component of food at other than extremely low levels; and (2) the upper-bound limit of lifetime human risk from exposure to TDA is very low (6 in 10 million).

IV. Conclusion

FDA has evaluated data in the petition and other relevant material. Based on this information, the agency concludes that the proposed use of the additive as a component of adhesives for articles intended to contact food is safe, and that the additive will achieve its intended technical effect. Therefore, the agency concludes that the regulations in § 175.105 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

V. Paperwork Reduction Act of 1995

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

VI. Environmental Impact

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. No comments were received during the 30-day comment period specified in the May 10, 1990, filing notice for comments on the environmental assessment submitted with the petition.

VII. Objections

Any person who will be adversely affected by this regulation may at any time on or before August 10, 1998, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

VIII. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Memorandum from the Food and Color Additives Review Section (HFF–415) to the Indirect Additives Branch (HFS–335) entitled "FAP 0B4201—Olin Corporation: Polyurethane resins from carboxyl-modified polyols as components of adhesives of coatings contacting foods: submission of 3–12–90," dated July 18, 1990.
2. Kokoski, C. J., "Regulatory Food Additive Toxicology" in *Chemical Safety Regulation and Compliance*, edited by F. Homburger, J. K. Marquis, and S. Karger, New York, NY, pp. 24–33, 1985.
3. Memorandum from the Chemistry Review Branch (HFS–247) to the Indirect Additives Branch (HFS–216) entitled "FAP 0B4201 MATS# 471): Newly Revised Exposure Estimate for Tolenediamine (TDA) from Polyurethane Adhesive Applications and Cumulative Exposure to TDA," dated March 2, 1993.
4. "Bioassay of 2,4-Diaminotoluene for Possible Carcinogenicity," National Cancer Institute. NCI-CG-TR-162, 1979.
5. Report of the Quantitative Risk Assessment Committee entitled "FAP 0B4201: Upper Bound Lifetime Carcinogenic Risk from Exposure to Toluenediamine (TDA) from Polyurethane Adhesive Applications and Cumulative Exposure to TDA," dated June 14, 1996.

List of Subjects in 21 CFR Part 175

Adhesives, Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, part 175 is amended as follows:

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVES AND COMPONENTS OF COATINGS

1. The authority citation for 21 CFR part 175 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 379e.

2. Section 175.105 is amended in the table in paragraph (c)(5) by revising the entry for "Polyurethane resins * * *" under the heading "Substances" to read as follows:

§ 175.105 Adhesives.

* * * * *

(c) * * *

(5) * * *

Substances	Limitations
* * *	* * * *
Polyurethane resins produced by: (1) reacting diisocyanates with one or more of the polyols or polyesters named in this paragraph, or (2) reacting the chloroformate derivatives of one or more of the polyols or polyesters named in this paragraph with one or more of the polyamines named in this paragraph, or (3) reacting toluene diisocyanate or 4,4′ methylenebis(cyclohexylisocyanate) (CAS Reg. No. 5124–30–1) with: (i) one or more of the polyols or polyesters named in this paragraph and with either *N*-methyldiethanolamine (CAS Reg. No. 105–59–9) and dimethyl sulfate (CAS Reg. No. 77–78–1) or dimethylolpropionic acid (CAS Reg. No. 4767–03–7) and triethylamine (CAS Reg. No. 121–44–8), or (ii) a fumaric acid-modified polypropylene glycol or fumaric acid-modified tripropylene glycol), triethylamine (CAS Reg. No. 107–15–3), and ethylenediamine (CAS Reg. No. 121–44–8), or (4) reacting *meta*-tetramethylxylene diisocyanate (CAS Reg. No. 2778–42–9) with one or more of the polyols and polyesters listed in this paragraph and with dimethylolpropionic acid (CAS Reg. No. 4767–03–7) and triethylamine (CAS Reg. No. 121–44–8), *N*-methyldiethanolamine (CAS Reg. No. 105–59–9), 2–dimethylaminoethanol (CAS Reg. No. 108–01–0), 2–dimethylamino–2–methyl–1–propanol (CAS Reg. No. 7005–47–2), and/or 2–amino–2–methyl–1–propanol (CAS Reg. No. 124–68–5).	
* * *	* * * *

Dated: June 30, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–18406 Filed 7–9–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD01–96–015]

RIN 2115–AE46

Special Local Regulation: Swim Buzzards Bay Day, New Bedford, MA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a permanent special local regulation for a swimming event known as Swim Buzzards Bay Day. The event is held annually on a day during the last weekend of July or first weekend in August. This swimming event takes place in Buzzards Bay, on the Acushnet River. The actual date time will be published in a **Federal Register** document. This regulation is needed to protect the participants from vessel traffic during the swimming event.

DATES: This section is effective on July 24, 1998.

FOR FURTHER INFORMATION CONTACT: Lieutenant Timothy J. Carton, Office of Search and Rescue, First Coast Guard District, (617) 223–8460.

SUPPLEMENTARY INFORMATION:

Regulatory History

A notice of proposed rulemaking (NPRM) was published on May 6, 1996 (61 FR 20196) proposing the establishment of a permanent special local regulation for the annual swimming competition, Swim Buzzards Bay Day, New Bedford, MA. The NPRM proposed to restrict vessels from approaching within 200 feet of any participating swimmer to ensure the safety of participants during the event. No comments were received and no hearing was requested.

Background and Purpose

The annual Swim Buzzards Bay Day is a local, traditional event that has been held for many years on the Acushnet River, New Bedford/Fairhaven, MA. In the past, the Coast Guard has promulgated individual regulations for the event. Given the recurring nature of the event, the Coast Guard is establishing a permanent regulation. This rule establishes a permanent regulation for an annual event to be held during the last week of July or first week in August on the Acushnet River. This rule restricts vessels from approaching within 200 feet of participating swimmers.

The event will consist of approximately 50 swimmers transversing the Acushnet River from Fort Phoenix Beach in Fairhaven, MA, to Billy Woods Wharf in New Bedford, MA. There will be one rowing skiff per participant, along with sponsor provided vessels on scene to augment a Coast Guard patrol to alert boating traffic of the presence of the swimmers. The time period for the event is dictated by tidal conditions. Subject to Coast Guard approval, the sponsor selects a day during the last weekend of July or the first weekend of August that most closely exhibits low tide at a daytime hour reasonable for holding the event. Spectator craft are authorized to watch the race from any area as long as they remain 200 feet away from any participating swimmer. In emergency situations, provisions may be made to establish safe escort by a Coast Guard or Coast Guard designated vessel for vessels requiring transit within 200 feet of participating swimmers.

Good cause exists for providing this rule to become effective in less than 30 days. This rule is being made effective less than 30 days after publication due to the need to publish a notice in the **Federal Register**, which will provide an exact date and time of the annual event. Any delay encountered in effecting this rule would be contrary to the public interest, as the rule is needed to ensure the safety of the boating pubic during this event.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has exempted it from review under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT, is unnecessary. This conclusion is based on the limited duration of the event, the extensive advisories that will be made to the affected maritime community and the minimal restrictions that the regulation places on vessel traffic.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this rule would have a significant economic impact on a substantial number of small entities. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

For the reasons discussed in the Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule under the principles and a criterion contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of this final rule and concluded that under Figure 2–1, paragraph 34(h), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Final Regulation

For the reasons set out in the preamble, the Coast Guard is amending 33 CFR Part 100 as follows:

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A new section, 100.116, is added to read as follows:

§ 100.116 Swim Buzzards Bay Day, New Bedford, MA.

(a) *Regulated Area.* All waters of the Acushnet River, within 200 feet of participating swimmers.

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(b) *Special Local Regulations.* (1) The Coast Guard patrol commander may delay, modify, or cancel the race as conditions or circumstances require.

(2) No person or vessel may enter, transit, or remain in the regulated area unless participating in the event or unless authorized by the Coast Guard patrol commander.

(3) Vessels encountering emergencies which require transit through the regulated area should contact the Coast Guard patrol commander on VHF Channel 16. In the event of an emergency, the Coast Guard patrol commander may authorize a vessel to transit through the regulated area with a Coast Guard designated escort.

(4) All persons and vessels shall comply with the instructions of the Coast Guard on-scene patrol commander. On-scene patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard. Upon hearing five or more short blasts from a U.S. Coast Guard vessel, the operator of a vessel shall proceed as directed. Members of the Coast Guard Auxiliary may also be present to inform vessel operators of this section and other applicable laws.

(c) *Effective period.* This section is in effect annually on one day during the last week of July or first week in August. Actual dates and time will be published in a **Federal Register** document.

Dated: June 24, 1998.

R.M. Larrabee,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 98–18392 Filed 7–9–98; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD05–97–080]

RIN 2115–AE47

Drawbridge Operation Regulations; Beaufort Channel, Beaufort, North Carolina

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the regulations that govern the operation of the Greydon Paul Drawbridge on US 70 across Beaufort Channel, (also known as Gallant's Channel) mile 0.1, located in Beaufort, North Carolina, at the request of the North Carolina Department of Transportation.

The final rule eliminates drawbridge openings at 7:40 a.m., 8:40 a.m., 4:40 p.m., and 5:40 p.m. on weekdays only. All other provisions of the existing regulations for this bridge remain the same. This final rule is intended to reduce motor vehicular delays and congestion related to commuter traffic going to and from work in the mornings and evenings, while still providing for the reasonable needs of navigation.

DATES: This final rule is effective on August 10, 1998.

ADDRESSES: Documents as indicated in this preamble are available for inspection for copying at the office of the Commander (Aowb), Fifth Coast Guard District, Federal Building, 4th Floor, 431 Crawford Street, Portsmouth, Virginia 23704–5004, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The telephone number is (757) 398–6222.

FOR FURTHER INFORMATION CONTACT: Ann Deaton, Bridge Administrator, Fifth Coast Guard District (757) 398–6222.

SUPPLEMENTARY INFORMATION:

Regulatory History

On December 17, 1997, the Coast Guard published a Notice of Proposed Rulemaking (NPRM) entitled "Drawbridge Operation Regulations; Beaufort Channel, Beaufort, North Carolina" in the **Federal Register** (62 FR 66039). The Coast Guard received 21 letters commenting on the proposed rulemaking. No public hearing was requested and none was held.

Background and Purpose

The Greydon Paul Drawbridge across Beaufort Channel, located in Beaufort, North Carolina, is owned and operated by the North Carolina Department of Transportation (NCDOT). The current regulations at 33 CFR 117.822 require the bridge to open on signal except that from 6 a.m. to 10 p.m., the draw opens on signal for all vessels waiting to pass every hour on the hour, twenty minutes past the hour and forty minutes past the hour.

NCDOT requested that openings of the Greydon Paul Drawbridge be further restricted during weekday morning and evening rush hours. This request to change the current regulation is based on heavy vehicular commuter traffic traveling to and from the town of Beaufort during peak rush hour periods. The Greydon Paul Drawbridge is located on US Highway 70, which is the only corridor entering and exiting the town of Beaufort from Morehead City, North Carolina. During rush hour periods, drawbridge openings create long traffic backups often extending for 6 to 7 miles. The heavy congestion often results in vehicular accidents. NCDOT contended that by eliminating one scheduled opening per hour during rush hours, vehicular traffic congestion on US Highway 70 will be reduced and highway safety will be increased without placing undue hardship on vessel traffic.

NCDOT provided the Coast Guard with statistical data which shows the total number of openings and of vessels passing through the Beaufort Bridge at the regularly scheduled 7:40 a.m., 8:40 a.m., 4:40 p.m., and 5:40 p.m. openings during August, 1997, which is one of the peak summer months for boating traffic in this area. The data revealed that only 42 out of a possible 120 drawbridge openings were required at these scheduled opening times, and a total of 65 vessels passed through the bridge. The Coast Guard has determined that since vessel traffic only needed 35% of these rush hour openings, and there was minimal vessel traffic at these times, a reduction in the number of openings will not substantially impact navigational traffic, but will provide a positive offsetting benefit to vehicular traffic.

Therefore, the Coast Guard is amending 117.822 by eliminating drawbridge openings at 7:40 a.m., 8:40 a.m., 4:40 p.m., and 5:40 p.m. on weekdays only, year round. All other provisions of the existing regulation will remain the same.

Discussion of Comments and Changes

The Coast Guard received 20 comments on the NPRM in support of permanently closing the bridge to all vessel traffic. These comments did not address the proposed change to the regulations. One comment was received requesting no additional restrictions or changes to the current regulations. Since all but one of the comments did not address the proposed change for which comments were being solicited, and the Coast Guard has determined permanently closing the bridge to all vessel traffic is unreasonable and unfair, the final rule is being implemented without change.

Regulatory Evaluation

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The Coast Guard reached this conclusion based on the fact that the final rule will not prevent mariners from transiting the bridge, but merely require them to plan their transits in accordance with the scheduled bridge openings.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard must consider whether this final rule will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Because it expects the impact of this final rule to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This final rule contains no collection of information requirement under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

The Coast Guard has analyzed this final rule under the principles and criteria contained in Executive Order 12612 and has determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this final rule and concluded that under figure 2–1, paragraph (32)(e) of COMDTINST M16475.1C, this final rule is categorically excluded from further environmental documentation based on the fact that it is a promulgation of the operating regulations for a drawbridge. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); Section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section 117.822 is revised to read as follows:

§ 117.822 Beaufort Channel, NC.

The draw of the US 70 bridge, mile 0.1., at Beaufort, shall open as follows:

(a) From 6 a.m. to 10 p.m., the draw need only open every hour on the hour, twenty minutes past the hour and forty minutes past the hour; except that on weekdays the bridge need not open at 7:40 a.m., 8:40 a.m., 4:40 p.m. and 5:40 p.m.

(b) From 10 p.m. to 6 a.m., the bridge shall open on signal.

Dated: June 23, 1998.

P.M. Stillman,

Captain, U.S. Coast Guard, Acting Commander, Fifth Coast Guard District.

[FR Doc. 98–18395 Filed 7–9–98; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD11–98–008]

Drawbridge Operation Regulations; Cerritos Channel, CA, Commodore Schuyler F. Heim Bridge

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: Notice is hereby given that the Coast Guard has issued a temporary deviation to the regulation governing the opening of the Commodore Schuyler F. Heim Bridge vertical lift bridge over the Cerritos Channel of Los Angeles/Long Beach Harbor. The deviation specifies that the bridge need not be opened for vessels during the hours of 8 p.m. to 5 a.m., seven days a week beginning August 10, 1998 through September 22, 1998, except federal holidays. The purpose of this deviation is to allow the California Department of Transportation and its contractors to inspect, clean, and reweld the tower bracing to increase resistance to seismic forces. During this work the bridge must be closed to both highway and vessel traffic.

DATES: The effective period of the deviation is August 10, 1998 through September 22, 1998.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Worden, Bridge Administrator, Eleventh Coast Guard District, Building 50–6 Coast Guard Island, Alameda, CA 94501–5100, telephone (510) 437–3461.

SUPPLEMENTARY INFORMATION: The Coast Guard anticipates that the economic consequences of this deviation will be minimal. The closure period is a time of reduced highway and vessel traffic. If mariners require an opening they have an alternate route available through the outer harbor, and they can avoid delays and detours by timing their transits during the hours of 5 a.m. to 8 p.m. daily.

This deviation from the normal operating regulations in 33 CFR 117.147(a) is authorized in accordance with the provisions of 33 CFR 117.35.

Dated: June 17, 1998.

J.C. Card,

Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

[FR Doc. 98–18393 Filed 7–9–98; 8:45 am]

BILLING CODE 4910–15–M

POSTAL SERVICE

39 CFR Part 20

Interim Rule for Global Package Link to Germany and France

AGENCY: Postal Service.

ACTION: Interim rule with request for comments.

SUMMARY: The Postal Service is amending the rule in the International Mail Manual on Global Package Link to Germany and France to add a merchandise return service for customers utilizing the GPL service to Germany and France.

DATES: The interim regulations take effect as of 12:01 a.m. on July 10, 1998. Comments must be received on or before August 10, 1998.

ADDRESSES: Written comments should be mailed or delivered to International Business Unit, U.S. Postal Service, 475 L'Enfant Plaza SW, room 370–IBU, Washington, DC 20260–6500. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, at the above address.

FOR FURTHER INFORMATION CONTACT: Bill Brandt (202) 314–7165.

SUPPLEMENTARY INFORMATION:

I. Introduction

There currently is no method for GPL customers to Germany and France to receive return packages beyond traditional means such as international mail. In response to requests from these mailers, a GPL return service is being established in Germany and France. These services will allow GPL customers to receive returns as well as advanced data on those returns providing them a means to more effectively service their customers.

II. GPL Return Services to Germany and France

A. Qualifying Criteria

Customers wishing to use the GPL Return Services for Germany and France must be a GPL customer to those countries. There may be some additional set up requirements as required by the foreign returns agent to provide the service. The Postal Service will discuss all set up requirements with the mailer prior to establishment of the return service.

B. Rates

The rates for return services are detailed in the Global Package Link rate charts in the Individual Country Listings.

III. Conclusion

Accordingly, the Postal Service hereby adopts the inclusion of these new services for GPL on an interim basis, at the rates set forth in the schedules below. Although 39 U.S.C. 407 does not require advance notice and opportunity for submission of comments, and the Postal Service is exempted by 39 U.S.C. 410(a) from the advance notice requirements of the Administrative Procedure Act regarding proposed rule making (5 U.S.C. 553), the Postal Service invites interested persons to submit written data, views, or arguments concerning this interim rule.

List of Subjects in 39 CFR Part 20

International postal service, Foreign relations.

The Postal Service adopts the following interim amendment to the International Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 20.1.

PART 20—[AMENDED]

1. The authority citation for 39 CFR part 20 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 401, 404, 407, 408.

2. Subchapter 620 of the International Mail Manual, Issue 20, is amended as follows:

6 Special Programs

* * * * *

620 Global Package Link

* * * * *

626 Services Available

* * * * *

626.2 Merchandise Return Service

* * * * *

626.24 Germany

A merchandise return service is available to Global Package Link mailers to Germany. The return service includes in-country shipping, processing, consolidation and international air shipment and delivery to the mailers' designated address in the United States. In addition, the returns agent will apply for a refund of duties and taxes from German Customs. The returns prices, per parcel, are detailed in the Global Package Link rate charts in the individual Country Listings.

626.25 France

A merchandise return service is available to Global Package Link mailers to France. The return service includes in-country shipping, processing, consolidation and international air shipment and delivery to the mailers' designated address in the United States. In addition, the returns agent will apply for a refund of duties and taxes from French Customs. The returns prices, per parcel, are detailed in the Global Package Link rate charts in the individual Country Listings.

GLOBAL PACKAGE LINK TO GERMANY RATE CHART

Weight not to exceed (pounds)	Rate all volumes	Returns	Weight not to exceed (pounds)	Rate all volumes	Returns
1	$10.74	$14.50	36	$67.16	$57.00
2	12.35	15.00	37	68.77	58.00
3	13.96	17.00	38	70.38	59.50
4	15.57	18.00	39	71.99	60.50
5	17.18	19.50	40	73.60	62.00
6	18.80	20.00	41	75.22	63.00
7	20.41	22.00	42	76.83	64.50
8	22.02	23.00	43	78.44	65.50
9	23.63	24.50	44	80.05	66.50
10	25.24	25.00	45	81.66	67.50
11	26.86	26.00	46	83.28	68.50
12	28.47	27.50	47	84.89	70.00
13	30.08	28.50	48	86.50	71.00
14	31.69	30.00	49	88.11	72.50
15	33.30	31.00	50	89.72	73.50
16	34.92	32.50	51	91.34	75.00
17	36.53	33.50	52	92.95	76.00
18	38.14	35.00	53	94.56	77.50
19	39.75	36.00	54	96.17	78.50
20	41.36	37.50	55	97.78	79.50
21	42.98	38.50	56	99.40	81.00
22	44.59	39.50	57	101.01	81.50
23	46.20	41.00	58	102.62	83.00
24	47.81	42.00	59	104.23	84.00
25	49.42	43.00	60	105.84	85.50
26	51.04	44.00	61	107.46	86.50
27	52.65	45.50	62	109.07	88.00
28	54.26	46.50	63	110.68	89.00
29	55.87	48.00	64	112.29	91.00

GLOBAL PACKAGE LINK TO GERMANY RATE CHART—Continued

Weight not to exceed (pounds)	Rate all volumes	Returns	Weight not to exceed (pounds)	Rate all volumes	Returns
30	57.48	49.00	65	113.90	92.00
31	59.10	50.50	66	115.52	93.00
32	60.71	51.50	67	117.13	94.00
33	62.32	52.50	68	118.74	95.00
34	63.93	54.00	69	120.35	96.50
35	65.54	55.00	70	121.96	97.00

GLOBAL PACKAGE LINK TO FRANCE RATE CHART

Weight not over (pounds)	Price per piece standard service		Returns
	<100,000 pieces	>100,000 pieces	
1	$6.75	$6.55	$8.00
2	8.75	8.49	10.00
3	10.75	10.43	12.50
4	12.75	12.37	14.50
5	14.75	14.31	16.00
6	16.75	16.25	17.00
7	18.75	18.19	19.50
8	20.75	20.13	21.00
9	22.75	22.07	22.50
10	24.75	24.01	23.50
11	26.75	25.95	25.00
12	28.75	27.89	28.00
13	30.75	29.83	29.50
14	32.75	31.77	30.50
15	34.75	33.71	31.50
16	36.75	35.65	35.00
17	38.75	37.59	36.50
18	40.75	39.53	37.50
19	42.75	41.47	38.50
20	44.75	43.41	40.00
21	46.75	45.35	41.00
22	48.75	47.29	42.00
23	50.75	49.23	43.00
24	52.75	51.17	44.00
25	54.75	53.11	45.00
26	56.75	55.05	46.50
27	58.75	56.99	47.50
28	60.75	58.93	48.50
29	62.75	60.87	49.50
30	64.75	62.81	51.00
31	66.75	64.75	52.00
32	68.75	66.69	53.00
33	70.75	68.63	54.00
34	72.75	70.57	55.00
35	74.75	72.51	56.50
36	76.75	74.45	57.50
37	78.75	76.39	58.50
38	80.75	78.33	59.50
39	82.75	80.27	60.50
40	84.75	82.21	62.00
41	86.75	84.15	63.00
42	88.75	86.09	64.00
43	90.75	88.03	65.00
44	92.75	89.97	66.00
45	94.75	91.91	67.00
46	96.75	93.85	68.50
47	98.75	95.79	69.50
48	100.75	97.73	70.50
49	102.75	99.67	71.50
50	104.75	101.61	73.00
51	106.75	103.55	74.00
52	108.75	105.49	75.00
53	110.75	107.43	76.00
54	112.75	109.37	77.00
55	114.75	111.31	78.00

Discounts: Postage is reduced by the following discounts once the applicable volume thresholds are reached during a 12-month period: over 100,000—Discount 3%.

* * * * *

Stanley F. Mires,
Chief Counsel, Legislative.
[FR Doc. 98–18433 Filed 7–7–98; 4:36 pm]
BILLING CODE 7710–12–P

POSTAL SERVICE

39 CFR Part 111

Elimination of Mixed BMC/ADC Pallets of Packages of Flats

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule revises Domestic Mail Manual (DMM) sections M020, M041, and M045 to eliminate the options for mailers to place packages and bundles of Periodicals Mail on mixed ADC pallets and to place packages and bundles of Standard Mail (A) and Standard Mail (B) on mixed BMC pallets. Mailers will continue to have the options to place sacks, trays, or parcels on mixed ADC or mixed BMC pallets, as appropriate for the class of mail.

EFFECTIVE DATE: September 8, 1998.

FOR FURTHER INFORMATION CONTACT: Cheryl Beller, (202) 268–5166.

SUPPLEMENTARY INFORMATION: On February 18, 1998, the Postal Service published in the **Federal Register** (63 FR 8154–8156) proposed revisions to the DMM to eliminate the options, available since the implementation of Classification Reform in July 1996, to place packages and bundles on mixed ADC pallets (Periodicals) and mixed BMC pallets (Standard Mail). Although these options offer some benefits in mailers' manufacturing and distribution handling processes by reducing sack usage, they have had a negative impact on service and mailpiece integrity.

The deadline for submitting comments on the proposed revisions was April 6, 1998. All comments received or mailed by that date have been considered.

Evaluation of Comments Received

There were only three written responses to the proposed revisions. One commenter noted that, as a printer, it prefers to place as much mail as possible on pallets because sacking is more labor intensive, but it also recognizes that mixed pallets may be more costly for the Postal Service to process. However, it was not in favor of implementation of the revisions at this time due to problems it has been experiencing in obtaining a sufficient supply of brown sacks for Periodicals. When the revised standards are implemented, the Periodicals that this company currently places on mixed ADC pallets will have to be placed in sacks. The mailer was concerned that the brown sack shortage would affect service.

The Postal Service has completed its largest purchase ever of brown sacks and is confident that a sufficient quantity will be available on a regular basis to handle the volume shifts. In addition, the Chicago Mail Transport Equipment Service Center (MTESC) has recently opened. This is the first of 22 MTESCs that will open during the next year to ensure the availability of sacks.

The second commenter is primarily concerned that the potential increase in sack usage will result in a slowdown and higher costs in its manufacturing process, which relies heavily on automation and robotics. These processes are not compatible with sacking. The commenter urged the Postal Service to continue to work with mailers on alternative preparation options that will help to eliminate sack usage. During the past several years, the Postal Service has been working with the mailing industry to understand how mailers sort mail to pallets and to identify opportunities for improvement. The joint industry/Postal Service Mailers Technical Advisory Committee (MTAC) Presort Optimization Work Group is currently discussing mail reallocation rules related to presort that would provide a means for mailers to optimize palletization. Although protecting the SCF pallet is the initial priority of the group, this effort could prevent some mail from falling to the mixed level. The Postal Service intends to publish draft rules this summer for mailer comment.

In addition to using presort optimization to enhance palletization, mailers who prepare palletized plant verified drop shipments (PVDS) may be able, under the provisions of DMM M041.5.3, to reduce the volume of mail that may have to be sacked as a result of these revisions. DMM M041.5.3 states that in a mailing or mailing job presented for acceptance at a single postal facility, one overflow pallet may be prepared containing less than 250 pounds or three tiers/layers of letter trays if the mail is for the service area of the entry facility and the pallet is properly labeled under M045, based on its contents. No special authorization is needed. For example, if a PVDS mailer is entering mail at the Springfield, MA, BMC and has prepared one or more Springfield, MA, destination BMC pallets, the mailer may currently be placing overflow of less than 250 pounds from these pallets on a mixed BMC pallet. However, the mailer does have the option to place this overflow mail on a Springfield, MA, pallet instead of sacking the mail or placing it on a mixed ADC/BMC pallet under current standards, provided the less-than-minimum-volume pallet is deposited at the Springfield BMC. This addresses some of the service and cost issues that the revised standards are intended to address while providing mailers with an alternative to sacking under the conditions noted.

The third commenter does not prepare many mixed pallets but is interested in any changes that could improve mail delivery times. Although not convinced that mixed pallets contribute to slower delivery, this mailer stated it would support the change, but suggested a longer implementation period than the 45 days suggested in the proposed rule. It needs additional lead time to implement the changes for mailings that are prepared on a 6-week select lead time. For over a year, the Postal Service has been communicating with the mailing industry on plans to eliminate the mixed pallet preparation option for packages and bundles as soon as a sufficient supply of sacks was available on a regular basis to handle the shift in volume. Now that this precondition is satisfied, the Postal Service believes it is reasonable to implement the changes as quickly as possible without causing a severe negative impact on our customers. Therefore, to address the concerns of this commenter and other mailers with similar production issues, the Postal Service has postponed the required implementation for 60 days.

The *Domestic Mail Manual* is revised as follows. These changes are incorporated by reference in the Code of Federal Regulations. See 39 CFR part 111.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552 (a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 5001.

2. Revise the following section of the *Domestic Mail Manual* as follows:

M Mail Preparation And Sortation

M000 General Preparation Standards

* * * * *

M020 Packages and Bundles

1.0 BASIC STANDARDS

* * * * *

1.4 Palletization

[Amend the third sentence in 1.4 by deleting the reference to mixed BMC pallets to read as follows:]

* * * Packages and bundles on BMC pallets must be shrinkwrapped and machinable on BMC parcel sorters; machinability is determined by the USPS.* * *

* * * * *

M040 Pallets

M041 General Standards

* * * * *

5.0 PREPARATION

5.1 Presort

[Amend 5.1 by revising the last sentence and adding new sentences to read as follows:]

* * * For sacks, trays, or machinable parcels on pallets, the mailer must prepare all required pallet levels before any mixed ADC or mixed BMC pallets are prepared for a mailing or job. Packages and bundles prepared under M045 must not be placed on mixed ADC or mixed BMC pallets. Packages and bundles that cannot be placed on pallets must be prepared in sacks under the standards for the rate claimed.

5.2 Required Preparation

[Amend 5.2 by deleting the second and third sentences and revising the fourth sentence to read as follows:]

* * * Mixed pallets of sacks, trays, or machinable parcels must be labeled to the BMC or ADC (as appropriate) serving the post office where mailings are entered into the mailstream. * * *

* * * * *

5.6 Sacked Mail

[Amend 5.6 by revising the first sentence to read as follows:]

Mail that is not palletized (e.g., the mailer chooses not to prepare BMC pallets, or the packages do not meet the machinability standards in M020) must be prepared under the standards for the rate claimed. * * *

* * * * *

M045 Palletized Mailings

* * * * *

[Revise the heading of 2.0 to read as follows:]

2.0 PACKAGES OF FLATS

2.1 Standards

[Amend 2.1 by revising the second sentence to read as follows:]

* * * The palletized portion of a mailing may not include packages sorted to mixed ADCs, mixed BMCs, or to foreign destinations.

* * * * *

2.4 Size—Standard Mail (B)

* * * * *

[Amend 2.4c by revising the second sentence to read as follows:]

* * * Packages at other rates must be sorted to 5-digit, 3-digit, optional SCF, and ADC destinations, as appropriate.

* * * * *

3.0 OPTIONAL BUNDLES—PERIODICALS AND STANDARD MAIL (A)

3.1 Standards

[Amend 3.1 by revising the second sentence to read as follows:]

* * * The palletized portion of a mailing may not include bundles sorted to mixed ADCs, mixed BMCs, or to foreign destinations.

* * * * *

4.0 PALLET PRESORT AND LABELING

[Amend the heading to read as follows:]

4.1 Packages, Bundles, and Sacks

* * * * *

e. As appropriate:

[Amend the beginning of (1) by adding "(sacks and trays only)" to read as follows:]

(1) Periodicals (sacks and trays only): mixed ADC: optional; * * *

[Amend the beginning of (2) by adding "(sacks and trays only)" to read as follows:]

(2) Standard Mail (sacks and trays only): mixed BMC: optional; * * *

* * * * *

5.0 PALLETS OF PACKAGES, BUNDLES, AND TRAYS OF LETTER-SIZE MAIL

* * * * *

[Amend 5.3 to eliminate references to mixed BMC pallets and to insert "(trays only)" to read as follows:]

5.3 BMC and Mixed BMC Pallets

Packages and bundles placed on BMC pallets must be machinable on BMC parcel sorting equipment. Line 2 on pallet labels must reflect the processing category of the pieces. A BMC or mixed BMC (trays only) pallet may include pieces that are eligible for the DBMC rate and others that are ineligible if the mailer provides documentation showing the pieces that qualify for the DBMC rate.

* * * * *

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 98–18434 Filed 7–9–98; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH 114–1a; FRL–6123–1]

Approval and Promulgation of Maintenance Plan Revisions; Ohio

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The United States Environmental Protection Agency (EPA) is approving through "direct final" procedure, a March 13, 1998, request from Ohio, for a State Implementation Plan (SIP) maintenance plan revision for the Columbus ozone maintenance area (Franklin, Delaware and Licking Counties). The maintenance plan revision establishes a new maintenance year of 2010 for the area and a new transportation conformity mobile source emissions budget for the year 2010. The 2010 emissions budget projections incorporate future emission reductions from area and point sources. The newly established 2010 emissions projections determine the area's safety margins for Oxides of Nitrogen (NO_X) and Volatile Organic Compounds (VOCs). Also being approved is the State's request that a portion of the safety margins be allocated to the area's 2010 mobile source emissions budget for transportation conformity purposes. The area's safety margin is defined as the difference between the attainment inventory level (the Columbus area's attainment inventory year is 1990) of the total emissions and the projected levels of the total emissions in the final year of the maintenance plan (as established for Columbus in this rule to be 2010).

DATES: This direct final rule is effective on September 8, 1998, unless EPA receives relevant adverse or critical written comments by August 10, 1998. If adverse comment is received, the EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is informed that

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this action will take effect on September 8, 1998.

ADDRESSES: Copies of the documents relevant to this action are available for inspection during normal business hours at the following location: Regulation Development Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

Please contact Scott Hamilton at (312) 353–4775 before visiting the Region 5 office.

Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

FOR FURTHER INFORMATION CONTACT: Scott Hamilton, Environmental Scientist, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–4775.

SUPPLEMENTARY INFORMATION:

I. Background

The Clean Air Act, in section 176(c), requires conformity of activities to an implementation plan's purpose of attaining and maintaining the National Ambient Air Quality Standards. On November 24, 1993, EPA promulgated a final rule establishing criteria and procedures for determining conformity of transportation plans, programs and projects funded or approved under Title 23 U.S.C. of the Federal Transit Act. The State of Ohio finalized and adopted State transportation conformity rules on August 1, 1995, the rules became effective August 21, 1995, and Ohio submitted the rules as a SIP revision request on August 17, 1995. The rules were approved by EPA on July 15, 1996 (61 FR 24702).

The transportation conformity rules require, among other things, a comparison to the mobile source emissions budget established by a control strategy SIP. A control strategy SIP is defined by the conformity rules to be a maintenance plan, an attainment demonstration, or a rate of progress plan. The Columbus area is an attainment area with an approved maintenance plan. The EPA approval of the maintenance plan established the mobile source emissions budget for transportation conformity purposes.

The emissions budget concept is explained in the preamble to the November 24, 1993, transportation conformity rule (58 FR 62188). The preamble also describes how to establish the mobile source emissions budget in the SIP and how to revise the emissions budget. The State transportation conformity rule at 3745–101–16 of the Ohio Administrative Code allows the mobile source emissions budget to be changed as long as the total level of emissions from all sources remain below the milestone level. In the case of a maintenance plan the milestone level is the attainment level established in the maintenance plan.

The maintenance plan is designed to provide for future growth while still maintaining the ozone air quality standard. Growth in industries, population and traffic is offset with reductions from cleaner cars and other emissions reduction programs. Through the maintenance plan the State and local agencies can manage and maintain air quality while providing for growth.

II. Evaluation of the State Submittal

On March 13, 1998, Ohio submitted to EPA a SIP revision request for the Columbus maintenance area. A public hearing on this proposal was held on April 15, 1998. Documentation on the public hearing was submitted on May 14, 1998 to complete the SIP revision request.

In the submittal Ohio requested to establish a new maintenance year of 2010, and new 2010 mobile source emissions budget for transportation conformity for the Columbus, Ohio maintenance area.

A. 2010 Budget Projections for Point and Area Sources

The 2010 emissions projections for point and area sources were developed by multiplying the individual 1990–2010 population growth factors for each county in the area by the individual county 1990 baseline inventory. The population growth factors used in the point and area source projections were derived from census population forecasts from Ohio's Data Users Center. The projected emissions for each county were then added together to arrive at the total projected emissions for the point and area source sectors for the year 2010.

B. NO_X Point and Area Source Emission Changes for the 2010 Budget

In developing the area's 2010 emissions projections for NO_X, the state took credit for reductions from the point and area source sectors. Projected NO_X reductions in point sources were obtained from the shutdown of the Columbus Trashburning Power Plant (3.04 tons/day NO_X) and the installation of a pure oxygen combustion system at Techniglass Inc. (1.43 tons/day NO_X). These point sources were included in Ohio's point source emissions inventory that was submitted to EPA. The point source NO_X emission reductions were subtracted from the total projected 2010 point source emission tonnage.

Projected reductions in area sources were obtained by considering the new federal "Emission Standards for Locomotives and Locomotive Engines; Final Rule" (63 FR 18977; April 16, 1998) for new and remanufactured diesel-powered locomotives. The federal locomotive standards are expected to achieve a 41% reduction in NO_X by the year 2010. To be on the conservative side, Ohio calculated its' projected NO_X reductions from locomotives assuming 20% NO_X reductions by 2010 instead of 41% for the 2010 budget (total reduction of 16.07 tons/day NO_X from area sources). The 16.07 tons/day NO_X reduction was subtracted from the total projected 2010 area source emission tonnage.

The 2010 emission projections reflect the point and area source reductions and are illustrated in Table 1.

TABLE 1.—NO_X AND VOC EMISSIONS BUDGET; AND SAFETY MARGIN DETERMINATIONS, COLUMBUS (TONS/DAY)

Source category	1990	1996	2005	2010
VOC Emissions				
Point	16.44	17.52	19.33	20.27
Mobile (on-road)	94.73	63.35	61.38	61.72
Area	101.18	107.47	117.30	123.94
Totals	212.35	188.35	198.01	205.93

TABLE 1.—NO_X AND VOC EMISSIONS BUDGET; AND SAFETY MARGIN DETERMINATIONS, COLUMBUS (TONS/DAY)—Continued

Source category	1990	1996	2005	2010
Safety Margin = 1990 total emissions—2010 total emissions = 6.42 tons/day VOC				
NO_X Emissions				
Point	13.79	14.35	15.27	12.17
Mobile (on-road)	78.65	68.85	61.24	61.08
Area	96.68	102.62	111.82	101.99
Totals	189.12	185.82	188.33	175.24
Safety Margin = 1990 total emissions −2010 total emissions = 13.88 tons/day NO_X				

C. Safety Margin Allocations and 2010 Mobile Source Emissions Budget

In the submittal Ohio requested to allocate to the mobile source emissions budget part of the area's safety margin. The Columbus area's safety margin is the difference between the 1990 attainment inventory year and the 2010 projected emissions inventory (6.42 tons/day VOC safety margin, and 13.88 tons/day NO_X safety margin) as shown in Table 1. The SIP revision requests the allocation of 6.27 tons/day VOC, and 9.91 tons/day NO_X, into the area's mobile source emissions budget from the safety margin. The 2010 mobile source emissions budget showing the safety margin allocations are outlined in Table 2. The mobile source emissions budget in Table 2 will be used for transportation conformity purposes.

TABLE 2.—ALLOCATION OF SAFETY MARGIN TO THE 2010 MOBILE SOURCE EMISSIONS BUDGET, COLUMBUS (TONS/DAY)

Source category	1990	1996	2005	2010
VOC Emissions				
Point	16.44	17.52	19.33	20.27
Mobile (on-road)	94.73	63.36	61.38	67.99
Area	101.18	107.47	117.30	123.94
Totals	212.35	188.35	198.01	212.20
Remaining Safety Margin = 1990 total emissions −2010 total emissions = 0.15 tons/day VOC				
NO_X Emissions				
Point	13.79	14.35	15.27	12.17
Mobile (on-road)	78.65	68.85	61.24	70.99
Area	96.68	102.62	111.82	101.99
Totals	189.12	185.82	188.33	185.15
Remaining Safety Margin = 1990 total emissions −2010 total emissions = 3.97 tons/day NO_X				

Table 2 illustrates that the requested portion of the safety margins can be allocated to the 2010 mobile source budget and still remain at or below the 1990 attainment level of total emissions for the Columbus maintenance area. This allocation is allowed by the conformity rule since the area would still be at or below the 1990 attainment level for the total emissions.

III. EPA Action

After review of the SIP revision request, EPA finds that the requested allocation of the safety margin for the Columbus area is approvable since the approval of the new mobile source emissions budgets for NO_X and VOCs illustrates that the total emissions for the area will be at or below the attainment year inventory level as required by the transportation conformity regulations. Therefore, EPA is approving the requested allocation of the safety margin to the mobile source budget for the Columbus area.

The EPA is publishing this action without prior proposal because EPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should specified written adverse or critical comments be filed. This action will become effective without further notice unless the Agency receives relevant adverse written comments within 30 days from the date of publication, as indicated above. Should the Agency receive such comments, it will publish a final rule informing the public that this action did not take effect. Any parties interested in commenting on this action should do so at this time.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

B. Executive Order 13045

The Final rule is not subject to Executive Order 13045, titled "Protection of Children from Environmental Health Risks and Safety Risks," because it is not an "economically significant" action under Executive Order 12866.

C. Future Requests

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental

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factors and in relation to relevant statutory and regulatory requirements.

D. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.*, v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

E. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must undertake various actions in association with any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. This Federal action approves pre-existing requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or the private sector, result from this action.

F. Audit Privilege and Immunity Law

Nothing in this action should be construed as making any determination or expressing any position regarding Ohio's audit privilege and immunity law (sections 3745.70—3745.73 of the Ohio Revised Code). EPA will be reviewing the effect of the Ohio audit privilege and immunity law on various Ohio environmental programs, including those under the Clean Air Act, and taking appropriate action(s), if any, after thorough analysis and opportunity for Ohio to state and explain its views and positions on the issues raised by the law. The action taken herein does not express or imply any viewpoint on the question of whether there are legal deficiencies in this or any Ohio Clean Air Act program resulting from the effect of the audit privilege and immunity law. As a consequence of the review process, the regulations subject to the action taken herein may be disapproved, federal approval for the Clean Air Act program under which they are implemented may be withdrawn, or other appropriate action may be taken, as necessary.

G. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 8, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

V. List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Nitrogen oxides, Transportation conformity.

Dated: July 1, 1998.

David A. Ullrich,

Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart KK—Ohio

2. Section 52.1885 is amended by adding paragraph (a)(9) to read as follows:

§ 52.1885 Control Strategy: Ozone

(a) * * *

(9) Approval—On March 13, 1998, Ohio submitted a revision to the maintenance plan for the Columbus area. The revision consists of establishing a new out year for the area's emissions budget. The new out year emissions projections include reductions from point and area sources; the revision also defines new safety margins according to the difference between the areas 1990 baseline inventory and the out year projection. Additionally, the revision consists of allocating a portion of the Columbus area's safety margins to the transportation conformity mobile source emissions budget. The mobile source budgets for transportation conformity purposes for the Columbus area are now: 67.99 tons per day of volatile organic compound emissions for the year 2010 and 70.99 tons per day of oxides of nitrogen emissions for the year 2010.

[FR Doc. 98–18420 Filed 7–9–98; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[CA-008-BU, FRL-6120-4]

Designation of Areas for Air Quality Planning Purposes; State of California; Redesignation of the San Francisco Bay Area to Nonattainment for Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to redesignate the San Francisco Bay Area (Bay Area) as a nonattainment area for the 1-hour ozone National Ambient Air Quality Standard (NAAQS). The Clean

Air Act (CAA or Act) provides that EPA may at any time revise the designation of an area on the basis of air quality, planning and control considerations, following notification to the Governor. On August 21, 1997, EPA notified the Governor of California that the Agency intended to propose to redesignate the Bay Area from attainment to nonattainment of the federal 1-hour ozone standard, based on a total of 43 exceedances and 17 violations of the standard since the June 1995 redesignation to attainment.

EFFECTIVE DATE: This action is effective on August 10, 1998.

ADDRESSES: A copy of this document and related information are available in the air programs section of EPA Region 9's website, http://www.epa.gov/region09/air. The docket for this rulemaking is available for inspection during normal business hours at EPA Region 9, Planning Office, Air Division, 17th Floor, 75 Hawthorne Street, San Francisco, California 94105. A reasonable fee may be charged for copying parts of the docket. Please call (415) 744–1249 or 744–1251 for assistance.

FOR FURTHER INFORMATION CONTACT: Regina Spindler (415) 744–1251 or Celia Bloomfield (415) 744–1249, Planning Office (AIR–2), Air Division, EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105.

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I. Executive Summary

On December 19, 1997 EPA published a Notice of Proposed Rulemaking to redesignate the Bay Area to nonattainment of the federal 1-hour ozone standard. During the 60-day public comment period that followed publication, EPA received comments both in support of and in opposition to our proposed action. All commenters, regardless of their views on the proposed redesignation or the proposed requirements associated with redesignation, expressed strong support for clean air progress in the Bay Area. EPA appreciates the thoughtful comments on the proposal and greatly values the commenters' commitment to improved air quality and public health protection in the Bay Area. EPA has made significant changes and clarifications in response to the comments and EPA believes the final action recognizes the innovation and collaborative efforts that can contribute to clean air in the Bay Area.

After carefully considering all of the comments received, EPA has decided to finalize the redesignation of the Bay Area to nonattainment of the 1-hour ozone standard while clarifying and streamlining the actions necessary to reach attainment. Although the Bay Area Air Quality Management District (BAAQMD), the California Air Resources Board (CARB), other regulatory agencies, businesses, and the community as a whole have made great strides in improving air quality in the Bay Area, there is still more work to be done. Redesignation is the most appropriate course of action to assure further air quality improvements and protection of public health and should place minimal burdens on the local economy, residents, industry and regulators.

When the federal ozone standard is exceeded, people, and in particular children, the elderly, and those with respiratory diseases, may experience ozone's ill effects, such as chest pain, cough, lung inflammation, respiratory infection, and chronic bronchitis. In light of these significant public health concerns, EPA believes that it is important to provide the public with accurate information and the correct message that ozone pollution is still a problem.

EPA is compelled to redesignate the Bay Area to nonattainment because of the numerous and widespread violations of the 1-hour ozone standard, a standard that was designed to protect public health. The Bay Area's air quality during 1996 ranked as the 6th worst in the nation and for the three-year period 1995–1997, it was the 8th smoggiest of the major metropolitan areas in the country. The absence of violations in 1997 is a positive sign but the Agency does not feel that the clean smog season last year proves that the serious ozone problem revealed in 1995 and 1996 has been solved. Compliance with the standard is measured over a three-year period so as to account for the effects of weather and other meteorological conditions that can work to either the advantage or disadvantage of air quality. This is particularly relevant to the Bay Area's case since the meteorological conditions prevailing on the West Coast during 1997 were unusually favorable to good air quality and, according to an October 1997 report by the BAAQMD, the ozone-conducive meteorology that occurred in 1995 and 1996 is likely to recur. The BAAQMD report also revealed that during the 1990s "progress appears to have lapsed; there appears to have been an increase in ozone potential, after accounting for meteorology."

The number of violations of this public health standard that occurred in the Bay Area during 1995 and 1996 is

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especially significant when compared to the air quality in other parts of the country and the nonattainment designation and requirements applicable to those areas. For example, EPA recently reclassified or "bumped-up" the Phoenix and Santa Barbara areas from "moderate" to "serious" nonattainment areas for failure to attain the ozone standard by 1996. This "bump-up" to the "serious" nonattainment classification means that these areas must comply with additional planning and control requirements (e.g. attainment demonstration, reasonable further progress demonstration, enhanced vehicle inspection and maintenance program, Photochemical Assessment Monitoring) and must attain the ozone standard by 1999 or face "bump-up" to the severe classification, which would impose still more requirements. Phoenix monitored 13 violations of the ozone standard, and Santa Barbara recorded 7 violations, during the three-year period 1994–1996. The Bay Area experienced 17 violations during that same three-year period. Such a comparison reinforces the appropriateness of a nonattainment designation for the Bay Area.

EPA concluded that a redesignation to nonattainment not only accurately describes air quality in the Bay Area, but also provides an opportunity for reevaluating the causes of the Bay Area's ozone violations, the quantity of emission reductions needed to attain the health-based standard, and the measures that will achieve those reductions quickly. Some believe that EPA should not proceed with redesignation under the 1-hour standard, and that the BAAQMD should instead focus all its energies on planning for the revised 8-hour ozone standard. EPA is convinced, however, that some near-term action is essential to protecting the health and welfare of the Bay Area residents. Emission reduction strategies will be evaluated and put in place much sooner through a redesignation under the 1-hour standard than under a plan to meet the revised 8-hour ozone standard. In addition, everything that the Bay Area does to meet the 1-hour standard will help in meeting the more protective 8-hour standard. The Bay Area won't have to complete its planning for the 8-hour standard until 2003 or comply with the new standard until 2005 at the earliest. That is five years during which Bay Area residents would be breathing dirtier air than they should be. It is the public's right, and EPA's obligation, to be assured that current health standards are met now.

EPA is redesignating the Bay Area to nonattainment without assigning it a specific classification. The classification system (marginal, moderate, serious, severe, or extreme) associated with other current ozone nonattainment areas was created as part of the 1990 Clean Air Act amendments to match a nonattainment area's planning and control requirements with the severity of the area's ozone problem. The Bay Area is in a unique position. It was designated nonattainment under the 1990 amendments, redesignated to attainment after implementing most of the moderate nonattainment area requirements, and is now being returned to nonattainment. The existing Clean Air Act classification system does not specifically apply to the Bay Area. In order to allow maximum flexibility and in keeping with the best legal reading of the Act, EPA is redesignating the Bay Area under the longstanding general nonattainment provisions of the Act, which have no associated classifications. During public comment, the flexibility allowed by this approach generated uncertainty as to the planning and control requirements for the Bay Area. In response to this concern, and to make sure the Air District's time and energy are spent on control measures, not unnecessary paperwork, EPA has been more specific in the final rulemaking notice describing what is required of the Bay Area.

Redesignation should not result in a burdensome and duplicative planning effort. EPA wants the District and its co-lead agencies to focus on emission reductions, not paperwork. EPA is asking for only three plan elements: the existing 1995 emissions inventory for Volatile Organic Compounds (VOC) and Nitrogen Oxides (NO_X); an assessment of emission reductions, using available data and technical analyses, needed to attain the federal standard; and control measures to achieve those reductions. EPA will accept, in addition to or in lieu of adopted regulations, control measures with enforceable commitments to adopt in regulatory form and implement by specified dates sufficient to attain the 1-hour ozone standard by the attainment date. It is an additional public safeguard to make the control measures in this plan federally enforceable elements of the State Implementation Plan (SIP), since only in this way can the EPA and the public ensure that the commitments in the plan are fully implemented and the plan's promised air quality benefits are realized.

In response to public comment, EPA has modified both the schedule and content for State submissions and the attainment date. First, EPA is requiring only one formal State Implementation Plan (SIP) submittal instead of two. The one formal SIP submittal will include the emissions inventory, attainment assessment, and control measures so that the District can avoid having to undergo two public hearing and adoption processes, one for the inventory and assessment and a second for the control measures. EPA is allowing the BAAQMD to make a single SIP submittal with the understanding, pursuant to a letter of commitment from the Air District and co-lead agencies dated June 23, 1998, that the emissions inventory and attainment assessment will be made available to the public and submitted informally to EPA within 5 months after signature of the final redesignation by the Regional Administrator. This early, informal submittal will allow EPA to review the draft inventory and assessment and work with the District to address any deficiencies.

Second, EPA has extended the deadlines for the formal SIP submittal from May 1998 for the emissions inventory and attainment assessment, and from September 1998 for the adopted control measures and/or enforceable commitments, to June 15, 1999 for both. This extension gives the BAAQMD and its co-lead agencies more time to address the substantive requirements of the redesignation and carry out their formal adoption and submittal processes.

Third, EPA has extended the attainment deadline from November 15, 1999 to November 15, 2000 in order to allow additional time for the emission reduction strategies to take effect on air quality in the Bay Area.

Fourth, both CARB and the BAAQMD submitted compelling arguments that a weekend emissions inventory was too difficult and resource intensive to complete at this time, and so EPA has streamlined the SIP requirements still further by eliminating that obligation.

Finally, in response to public comment, EPA has eliminated the requirement to submit an emissions inventory for carbon monoxide (CO).

The above changes from the proposed redesignation are summarized as follows:

Proposal—weekend emissions inventory and CO inventory required	Final—weekend emissions inventory and CO inventory not required
Emissions inventory and attainment assessment due 5/1/98	Final emissions inventory and attainment assessment due 6/15/99. (Commitment to make draft available to EPA and the public by 11/25/98.)
Adopted regulations and/or control measures with enforceable commitments due 9/1/98.	Adopted regulations and/or control measures with enforceable commitments and final emissions inventory and attainment assessment due 6/15/99.
Attainment date of 11/15/99	Attainment date of 11/15/2000.

EPA recognizes that innovative methods, including voluntary measures, have the potential to contribute in a cost-effective manner to emission reductions needed for progress toward attainment. To promote the creation and expansion of effective voluntary mobile source programs, the Agency has developed a new policy that allows SIP credit for such programs.[1] The Bay Area has already demonstrated leadership in crafting innovative approaches to air quality problems through the "Spare-the-Air" and Silicon Valley ECOPASS programs. EPA is eager to work with the local government agencies and members of the business and environmental communities, who are critical to building public support for voluntary programs, to explore opportunities for innovation and to ensure that the voluntary measures stand the test of public accountability.

II. Background

A. Original Nonattainment Designation and Redesignation to Attainment

For more detailed information on the Bay Area's original ozone nonattainment designation, classification under the 1990 Clean Air Act Amendments, and redesignation to attainment, the reader is directed to EPA's proposed redesignation, published on December 19, 1997 (62 FR 66578–66583).

The Bay Area was initially designated under section 107 of the 1977 CAA as nonattainment for ozone on March 3, 1978 (40 CFR part 81.305). The Bay Area consists of the following counties: Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano (part), and Sonoma (part).[2] Following the 1990 amendments to the Act, the area was classified by operation of law, under section 181(a), as a "moderate" ozone nonattainment area. (56 FR 56694, Nov. 6, 1991). On May 22, 1995 (60 FR 27028), EPA approved the maintenance plan adopted by BAAQMD, the Metropolitan Transportation Commission (MTC), and the Association of Bay Area Governments (ABAG) and submitted to EPA by CARB. In the same document, EPA redesignated the area to attainment for ozone, based on 3 violation-free years of data from the Bay Area's official monitoring network.

B. Subsequent Violations and Petitions to Redesignate the Bay Area to Nonattainment

Despite implementation of most of the measures in the Bay Area's maintenance plan, the monitoring network has recorded 43 exceedances and 17 violations of the federal 1-hour ozone standard over the years 1995–1996.[3]

EPA has received 2 petitions requesting that the Administrator redesignate the Bay Area to nonattainment with the federal 1-hour ozone standard. On March 31, 1997, the Sierra Club and Communities for a Better Environment (CBE) requested that EPA withdraw the 1995 redesignation action, or alternatively redesignate the area to nonattainment. The Sierra Club also requested that EPA issue a CAA section 110(k)(5) SIP call based on the inadequacy of the current SIP. On July 14, 1997, U.S. Congressman Gary Condit and a coalition of federal, state and local elected officials and public interest and industry groups from downwind areas (primarily the San Joaquin Valley) petitioned EPA to withdraw the 1995 redesignation to attainment, or alternatively redesignate the area to nonattainment, and issue a SIP call. Congressman Condit incorporated this petition in his public comment on the proposed action, and the petition is summarized in more detail in section III.C., Overview of Public Comments.

C. Applicable Statutory Provisions

Section 107(d)(3) of the Act gives the Administrator the authority to redesignate areas. Under this provision, the Administrator may "(O)n the basis of air quality data, planning and control considerations, or any other air quality-related considerations the Administrator deems appropriate, * * * at any time notify the Governor of any State that available information indicates that the designation of any area * * * should be revised." Section 107(d)(3)(A). The Governor then has 120 days to submit the redesignation, as the Governor considers appropriate. Section 107(d)(3)(B). The Administrator must promulgate the redesignation within 120 days of the Governor's response. The Administrator may make any modifications to the Governor's redesignation which she deems necessary, but must notify the Governor of such changes 60 days before promulgating a final redesignation. If the Governor does not submit the redesignation, the Administrator shall promulgate the redesignation which she deems appropriate. Section 107(d)(3)(C).

D. Notification to the Governor and the Governor's Response

EPA notified the Governor of California by letter dated August 21, 1997, that EPA believes that the Bay Area should be redesignated to nonattainment, based on repeated violations of the ozone NAAQS. In the letter to the Governor, EPA proposed that the Bay Area be classified as a "moderate" nonattainment area, and that the area be required to submit by March 1, 1998, an emissions inventory and an attainment assessment; submit by May 1, 1998, a schedule and plan for completing a field study and modeling; and submit by September 1, 1998, rules and/or control measures sufficient to attain the 1-hour ozone NAAQS by 1999.

The Governor responded to this letter on December 10, 1997. Noting that the Bay Area had recorded no exceedances of the 1-hour ozone NAAQS in 1997, the

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[1] Memorandum dated October 23, 1997 entitled, "Guidance on Incorporating Voluntary Mobile Sourve Emission Reduction Programs in State Implementation Plans (SIPs)."

[2] For a description of those portions of Solano and Sonoma County that are included in the Bay Area, the reader is directed to 40 CFR part 81.21.

[3] An exceedance of the 1-hour ozone standard occurs when the hourly average ozone concentration at a given monitoring site is greater than or equal to .125 parts per million (ppm). A violation of the standard occurs when the expected number of days per calendar year with maximum hourly average ozone concentrations at or above .125 ppm is greater than one. 40 CFR part 50.9. The average number of days is calculated for a 3-year period. 40 CFR part 50, Appendix H. This 3-year period was established to reduce the impact of yearly fluctuations in ozone levels. Table 1 in EPA's proposed redesignation (62 FR 66579) lists both the exceedances and the 3-year average number of days over the 1-hour ozone standard for the period 1994–1996 at Bay Area monitoring sites in the official State and Local Monitoring (SLAMS) network.

Governor opposed the redesignation, preferring that EPA allow the BAAQMD maintenance plan, subsequent BAAQMD measures, and CARB measures to ensure that the area would not violate the ozone NAAQS in the future. See sections III.B. and III.D. below for a more detailed summary of the Governor's comments and EPA's response.

E. Proposed Action

On December 11, 1997, EPA issued its proposal to redesignate the San Francisco Bay Area to nonattainment for the 1-hour ozone NAAQS because ozone levels have violated the federal standard 17 times over the 3-year period 1994–1996. The proposal was published on December 19, 1997, and invited public comment through February 17, 1998.

After summarizing applicable CAA provisions and the Bay Area's record of exceedances and violations, EPA proposed to require the BAAQMD and its co-lead agencies to develop and submit a SIP revision designed to provide for attainment of the 1-hour ozone NAAQS by 1999. EPA's proposal set forth the Agency's reasons for concluding that the Bay Area should not be classified under subpart 2 of the CAA, but should rather be subject to the basic SIP requirements of section 110 and the general nonattainment plan requirements of section 172 (62 FR 66580). Finally, EPA proposed that the State be required to submit SIP revisions on the schedule in the table reproduced below, labeled "Proposed Schedule of Submittal of Revisions to the State Implementation Plan for Ozone for the San Francisco Bay Area."

PROPOSED SCHEDULE OF SUBMITTAL OF REVISIONS TO THE STATE IMPLEMENTATION PLAN FOR OZONE FOR THE SAN FRANCISCO BAY AREA (62 FR 66578, December 19, 1997)

Action/SIP submittal	Date
Current and complete baseline annual average and summer weekday and weekend day emissions inventory for volatile organic compounds (VOC), nitrogen oxides (NO_X), and carbon monoxide.	5/1/98
Assessment, employing available modeling information, of the level of emission reductions needed to attain the current 1-hour ozone National Ambient Air Quality Standard (NAAQS). This assessment should take into account the meteorological conditions and ambient concentrations associated with the violations of the ozone NAAQS in the period 1995–6, and should be based on likely control measures for reducing VOC and NO_X emissions.	5/1/98
Adopted regulations and/or control measures, with enforceable commitments to adopt and implement the control measures in regulatory form by specified dates, sufficient to meet reasonable further progress and attain the 1-hour NAAQS expeditiously.	9/1/98

III. Summary of Public Comments and EPA Response

A. Introduction

EPA received 127 comments between EPA's notification to the Governor on August 21, 1997, and the close of the public comment period on February 17, 1998. The docket for this notice includes the public comments. Of the comments, 68 supported the redesignation and 59 opposed the redesignation. In section III.D. below, EPA summarizes and responds to each of the substantive comments.

B. Response of the State

On the day EPA issued its proposed redesignation, EPA received an extensive response from the Governor, dated December 10, 1997. This was supplemented by a letter dated February 17, 1998, from Peter M. Rooney, Secretary for Environmental Protection, California Environmental Protection Agency. The Governor's letter was timely, in that it was received 7 days before the expiration of the 120-day period for the Governor to respond to EPA's notification letter.

This section provides a general summary of the State's comments, expressed in the two letters. EPA's response to the State's comments appears in section III.D., which organizes by subject matter all of the public comments and EPA's responses.

The State opposed the redesignation as an inefficient use of resources, in view of the forthcoming planning responsibilities to address the new, more stringent 8-hour ozone NAAQS.[4] The State preferred that EPA allow the region to pursue additional emission reductions through the air quality maintenance process and through implementation of the Bay Area's 1997 Clean Air Plan, rather than force the Bay Area to divert resources to an unnecessary planning process triggered by redesignation.[5] The State noted that EPA had followed a similar, flexible approach by not redesignating other areas that have violated the ozone standard.

Both letters from the State attached two legal opinions (CARB memorandum dated December 8, 1997, from Kathleen Walsh to Michael P. Kenny; BAAQMD memorandum dated December 4, 1997, from Robert N. Kwong to Ellen Garvey). These legal analyses concluded that, while EPA has the authority to redesignate the Bay Area to nonattainment even if the Governor does not submit a redesignation request, the Act also gives EPA other preferable options. The BAAQMD memorandum discusses 3 options: federal maintenance plan, SIP call, and Clinton Administration's common sense plan. The CARB memorandum argues that EPA should issue a call for a revision to the Bay Area's maintenance plan under CAA section 110(k)(5) if the Administrator determines that a SIP revision is necessary to correct a violation, since this approach would allow a more targeted effort to correct the problem. The BAAQMD memorandum adds that a maintenance plan is the means Congress established for addressing exceedances following redesignation to attainment, and both memoranda conclude that the existing maintenance plan and the Bay Area's 1997 Clean Air Plan are already at work toward returning the District to attainment, as indicated by the absence of any exceedances of the 1-hour ozone NAAQS in the Bay Area during 1997.

The State argued that there is no technical basis for determining a specific emission reduction target by EPA's proposed deadline of May 1, 1998, and that a quasi-technical assessment would not be accepted by the public or the business community. The State contended that modeling information is outdated and inadequate for purposes of determining an emissions reduction target.

The State argued that redesignation would hurt attainment efforts in the Central Valley, since it would distract the Bay Area from achieving real emissions reductions.[6] The Governor stated that he has directed the Chairman of CARB to work with involved districts to ensure that the BAAQMD develops additional measures to address the needs of the Central Valley.

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[4] EPA promulgated a revised 8-hour ozone NAAQS on July 18, 1997 (62 FR 38856).

[5] This plan was adopted by the BAAQMD on December 17, 1997, to address requirements of the California Clean Air Act, including a triennial update to the area's comprehensive strategy for attaining the State's air quality standards. The plan was not adopted to address Federal CAA requirements and it has not been submitted to EPA as a SIP revision.

The State concluded that EPA's proposed schedule does not provide sufficient time for planning or attainment, and that accomplishment of the proposed SIP requirements would be too costly. The State noted that the BAAQMD had estimated that EPA's proposed planning process, although streamlined, would still cost in the range of one million dollars or more, and would require significant investments of staff time, advisory committee time, and governing board time for all 3 co-lead agencies. The State specifically argued against EPA's proposed requirements for a weekend emissions inventory, which would require several person-years of effort and associated costs in the range of a half-million dollars. As an additional financial burden, the State asserted that EPA's proposed redesignation of the Bay Area without a classification jeopardizes the region's Congestion Mitigation and Air Quality Improvement Program (CMAQ) funding.

Finally, the State cited the President's directive that accompanied the promulgation of the new federal standards for ozone and particulate matter.[7] The State encouraged EPA to comply with the spirit of the directive, which emphasizes that "implementation of the air quality standards is to be carried out to maximize common sense, flexibility, and cost effectiveness." The State concluded that EPA withdrawal of the redesignation proposal would be most consistent with this directive.

C. Overview of Public Comments

EPA's proposed redesignation elicited a very large number of comments, offering strong arguments either in support of, or in opposition to, redesignation. Many of the letters also provided helpful information regarding the impacts, beneficial or adverse, expected to result from redesignation. Regardless of whether or not the writer favored redesignation, every commenter strongly supported clean air progress in the Bay Area. It is notable, for example, that many commenters from the Bay Area business community wished to do their part to improve air quality and maintain a sound economy, based on their conviction that investments in air quality directly enhance the area's economic vitality and their employees' quality of life. EPA appreciates each comment and greatly values the commenters' commitment to improved air quality and public health protection.

As previously noted, well over 100 individuals or organizations submitted comments on the proposed redesignation.

Included among the comments were letters supporting redesignation from Congressman Gary Condit (Fresno) and from 6 Members of Congress from the Bay Area (Representatives George Miller, Lynn Woolsey, Nancy Pelosi, Pete Stark, Anna Eshoo, and Tom Lantos). Four Northern California Members of Congress (Representatives Ellen Tauscher, Tom Campbell, Frank Riggs, and Vic Fazio) signed a letter in opposition to the redesignation.

The Bay Area Members of Congress opposing the redesignation believed that such an action is neither consistent with the CAA nor in the spirit of the President's 1997 directive on implementing the ozone and particulate matter NAAQS. These Representatives noted that the CAA does not mandate redesignation but allows EPA to recognize the Bay Area's track record and overall quality of air. The Members felt that redesignation will trigger a costly, duplicative planning process that will detract from collaborative efforts to improve air quality and prepare for compliance with the 8-hour NAAQS. The Representatives indicated that sources informed them that EPA's proposed action would provide no new authority, funding and technology. The legislators felt that declining Bay Area emissions and the clean 1997 ozone season prove that a region can quickly return to attainment without the economic, political, and administrative complexities of redesignation. The Representatives indicated that they are not opposed to the new 8-hour ozone NAAQS but wish an efficient, common sense transition to achieve the NAAQS. Finally, if EPA redesignates the Bay Area, the legislators wanted assurance that the CMAQ funding for the Bay Area will not be jeopardized by EPA's action.

Congressman Condit fully supported the proposed redesignation and referenced scientific data relating to Bay Area's exceedances and to the impact of transported pollutants to downwind areas, such as the San Joaquin Valley. Congressman Condit asked that a July 14, 1997 petition to EPA be incorporated in his comment. This petition was signed by 4 Congressmen in addition to Congressman Condit (Representatives George Radanovich, Richard Pombo, John Doolittle, and Sam Farr), 4 state legislators, local elected officials, and officials representing farm and manufacturing organizations, environmental groups, and the San Joaquin Valley Unified Air Pollution Control District.

The petition summarizes the adverse impacts of elevated ozone levels on public health, health care costs, and crops. The petition also notes reasons why the years during the early 1990's when the Bay Area recorded no violations were exceptional: A severe drought limited biogenic emissions, summer peak temperatures were lower than normal, the area was experiencing an economic recession, and the 55 mph speed limit was in effect, reducing emissions of ozone precursors from cars and trucks.

The petition notes that no modeling supported the redesignation of the Bay Area to attainment, and that contingency measures in the maintenance plan yielded no additional air quality benefit, particularly in light of EPA's decision to waive certain NO_X control requirements. Thus, the maintenance plan failed to comply with the requirement in CAA section 175A(d) that the plan contain contingency measures sufficient to assure that the State will promptly correct any violation of the standard which occurs after the redesignation. The petition adds that it is now apparent that the maintenance plan failed to comply with the even more fundamental requirement of section 175(A)(a) that such plans contain additional measures, if any, as may be necessary to ensure maintenance of the NAAQS.

The petition recounts the Bay Area's ozone NAAQS violations immediately following redesignation, some lasting up to 7 hours on 11 different days, with the worst exceedance in excess of .150 ppm, and 13 exceedances at or above .140 ppm. The petition concludes that prompt action is necessary to achieve the overriding purpose of the Act, since the SIP controls have been shown to be insufficient for attainment or maintenance.

The petition asks EPA either to withdraw the redesignation or redesignate the Bay Area to nonattainment, and further asks EPA to find that the current Bay Area SIP is inadequate and require the State to

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[6] California's Central Valley comprises the Sacramento Valley to the northeast of the Bay Area and the San Joaquin Valley to the southeast. CARB has concluded that the Sacramento Valley, the San Joaquin Valley, and the North Central Coast (to the south of the Bay Area) are affected by transport of ozone and ozone precursors from the Bay Area.

[7] Memorandum from the President to the Administrator of the Environmental Protection Agency, dated July 16, 1997, entitled "Implementation of Revised Air Quality Standards for Ozone and Particulate Matter," and attaching "Implementation Plan for Revised Air Quality Standards." 62 FR 38421 (July 18, 1997).

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revise the SIP to attain the NAAQS expeditiously.

The petition states that there is no longer a defensible basis to believe that the Bay Area has attained or that the approved maintenance plan is still adequate. The petition continues: "The existing attainment designation sends a false signal to the public, the regulated community, local agencies and the District itself that ozone pollution is no longer a problem. The complacency created by that message will hinder rather than help solve the problem within the Bay Area and the San Joaquin Valley * * *."

The petitioners requested EPA to establish a SIP requirement that the State perform a comprehensive analysis of all factors affecting the ozone precursor "carrying capacity" for maintenance of the NAAQS in the Bay Area, and provide accurate estimates of emission reductions anticipated to be achieved from additional measures to be included in the plan, based upon an updated emissions inventory. While the nonattainment SIP is being prepared, a SIP call should allow the State 1 year to submit a maintenance revision that includes adopted additional measures to ensure the earliest practicable attainment and maintenance of the ozone NAAQS. The petitioners stated that, "Given history, the submittal should demonstrate the reliability and adequacy of those measures convincingly." The subsequent SIP offers an opportunity to fine tune the maintenance SIP revision and address any problems that may surface in implementation.

The 6 Bay Area Members of Congress supporting the redesignation stressed that protecting the health of their constituents is one of their highest responsibilities as lawmakers. After careful consideration, these Representatives concluded that the specific proposed redesignation presented by EPA is the best course of action to provide the greatest assurance of improving Bay Area air quality and protecting public health, while placing the fewest burdens on the local economy, residents, industry and regulators.

The legislators noted as significant a recent BAAQMD report showing a worsening trend in ozone pollution in the 1990s. While acknowledging the BAAQMD's new plan for future actions, the Members of Congress expressed concern that the plan, adopted to meet California Clean Air Act requirements, is inadequate since it contains only proposals, not binding commitments, and can be changed at any time. Since the plan is not enforceable by EPA or the public, the Representatives were unable to verify that the plan would achieve attainment or genuinely improve air quality.

The Representatives' letter went on to stress that there is no way to know whether Bay Area actions are sufficient for attainment until federal and local regulators have a common understanding of the extent of local air pollution problems. These Members of Congress considered that EPA's redesignation proposal allows the maximum flexibility to the BAAQMD to reach attainment by building on its existing plan and avoiding redundancy, specifically with respect to emissions inventory and modeling. The Members stated that it is incumbent upon the BAAQMD to work with EPA to find common ground on credible and binding actions and timetables.

While aware of arguments against redesignation based on EPA's recent adoption of a more stringent 8-hour ozone NAAQS, the Members of Congress still favored redesignation and action now to address the 1-hour standard, since 10 years may pass before the Bay Area must comply with the revised ozone standard, and any steps taken to comply with the current standard will only help, not hinder, the area's ability to meet the 8-hour standard when it is officially in place. In the meantime, Bay Area residents are likely to be exposed to harmful pollution levels if there is no action.

Finally, these 6 Representatives noted that the Department of Transportation has concluded that EPA's proposed redesignation would not jeopardize the Bay Area's eligibility for CMAQ funds under either the existing Intermodal Surface Transportation and Efficiency Act (ISTEA) or pending revisions to the Act.

EPA received numerous letters from State legislators, mayors, and boards of supervisors, in almost equal number supporting and opposing the redesignation. Fifteen city councils or county boards of supervisors in the San Joaquin Valley adopted resolutions supporting the redesignation and Federal actions to mandate additional controls in the Bay Area to reduce pollution levels exported into the Valley.

Five California air pollution control districts (Monterey, San Joaquin, Sacramento, Yolo-Solano, and Placer) wrote to support further emission reductions in the Bay Area, while the BAAQMD opposed the redesignation. EPA summarizes and responds to the BAAQMD's extensive comments in section III.D., below.

EPA received letters from over 20 Bay Area businesses and business organizations arguing against the proposed redesignation, as well as several letters from San Joaquin Valley businesses supporting the redesignation.

Letters supporting the redesignation and encouraging adoption of specific additional controls were sent by Northern California environmental groups. These commenters generally perceived a contrast between the major threat to public health reflected in the recent ozone violations and the lack of political will shown by State and Bay Area officials. The commenters supported a stringent timetable for SIP revisions and attainment, agreeing with EPA that the urgent priority is to actually adopt measures to ensure that the Bay Area ozone violations will not recur.

Nineteen public interest groups representing the Bay Area Environmental Justice Community signed a letter in support of the redesignation, emphasizing the need to stem job flight to the suburbs and to increase public transit within the Bay Area. The environmental justice groups noted that these changes would benefit poor people and communities of color both by improving their health and by increasing their access to jobs and essential services.

All letters from downwind areas (including, notably, the San Joaquin Valley) strongly urged EPA to finalize the redesignation, on the grounds that the Bay Area exports ozone or ozone precursors to their region, thus jeopardizing public health, prosperity, and scenic and resource values. These letters typically noted that the Bay Area, as an attainment area, does not confront Federal control responsibilities, and that this double standard unfairly penalizes downwind nonattainment areas, which face specific CAA mandates associated with their "serious" or "severe" ozone classifications.

Letters from Bay Area local officials and businesses generally pointed to unusual weather during 1995 and 1996 as the cause of the ozone exceedances; the Bay Area's continuing efforts to reduce emissions and the BAAQMD's projections that emission levels will decline significantly in future years; the fact that the Bay Area recorded no exceedances in 1997; and the importance of not diverting resources from implementation of existing measures and planning for the more protective 8-hour ozone NAAQS. The commenters frequently observed that EPA's proposed SIP timetable was too hasty to allow for good decision making.

D. Specific Comments and EPA Response

1. Comments Relating to the Basis of EPA's Proposal to Redesignate the Bay Area to Nonattainment

a. Air Quality and Emissions

Comment: The primary cause of the recent ozone exceedances is the very unusual weather patterns of 1995 and 1996. There were fewer exceedances of the 1-hour ozone NAAQS in 1996 and no exceedances in 1997. The Bay Area should therefore continue to be considered an attainment area.

Response: The Bay Area is not in compliance with the federal ozone standard, a standard that was designed to protect public health. The absence of violations in 1997 is a positive sign, but compliance with the federal ozone standard is measured over a 3-year period, not on an annual basis. The primary reason for the 3-year time frame is to account for the effects of weather and other meteorological conditions that can work to either the advantage or disadvantage of air quality. This is particularly relevant in the Bay Area's case, since the meteorological conditions prevailing on the West Coast during 1997 were unusually favorable to good air quality. Furthermore, according to a recent technical analysis by the BAAQMD, the ozone-conducive meteorology that occurred in 1995 and 1996 is likely to recur (BAAQMD *Evaluation of the 1995 and 1996 Ozone Seasons in the San Francisco Bay Area*, October 1997, attached to Governor Wilson's December 10, 1997 letter to EPA Administrator Browner). Bay Area residents must be assured of clean air under all weather conditions.

The Bay Area recorded 17 violations of the 1-hour standard over the 3-year period 1994–1996. During that period, exceedances of the ozone standard were measured at 15 official network monitoring locations throughout the Bay Area. Although air quality improved between 1995 and 1996, the Bay Area's ranking in 1996 was the 6th worst in the nation for number of days when ozone levels exceeded the federal standard. Over the period 1995–1997, the Bay Area recorded 15 violations and had significantly worse air quality than most other metropolitan areas designated as nonattainment for ozone (see response to the following comment). Many of these areas are classified as "serious" or higher under the Clean Air Act, and are subject to specific mandatory requirements which would not apply to the Bay Area in EPA's redesignation proposal.

These high ozone levels are harmful to public health in the Bay Area. Exposure to ambient ozone concentrations, even at relatively low levels and for brief periods of time, can cause respiratory symptoms such as a reduction in lung function, chest pain, and cough. Repeated exposure can make people more susceptible to respiratory infection and lung inflammation, and can aggravate preexisting respiratory diseases such as asthma. In consideration of these significant public health concerns associated with the Bay Area's elevated ozone levels, EPA continues to believe that redesignation to nonattainment is warranted.

Comment: The Bay Area has the cleanest air of any metropolitan region in the nation. Since 1990, the Bay Area has been in attainment 99.995% of the time.

Response: There is no question that air quality in the Bay Area has improved over the last 40 years. However, the Bay Area is not currently attaining the federal 1-hour ozone standard, a standard that was designed to protect public health and which has been made more protective by adoption of a new, 8-hour standard. The magnitude of the problem is significant as demonstrated by the number of violations (17 since redesignation to attainment in 1995) and the number of days when the standard was exceeded (19 days between 1995–1997). When comparing air quality in the Bay Area to other major metropolitan areas, there are a number of large metropolitan areas, such as Chicago and Detroit, with fewer violations and exceedance days than experienced in the Bay Area. Furthermore, the Bay Area ranks among the worst of the 243 Air Quality Control Regions in the country, based on data from the most recent 3-year period. Finally, in contrast to most areas of the Country, there is not a significant downward trend in the number of ozone exceedances in the Bay Area since 1989.

Comment: EPA's reliance on a statistic ranking the Bay Area the 6th worst in the nation in number of days over the ozone standard is misplaced. EPA's simplistic characterization of the number of exceedances fails to realistically depict the situation. A more realistic characterization is based on a review of the exceedances in terms of hours over the standard relative to hours in the ozone season for six or seven years. Following this approach, the number of hours over the standard is less than 2/100 of a percent for 1990–1996. This analysis properly focuses on long-term trends rather than short-term data.

Response: When EPA establishes an ambient air quality standard, it sets not only the level of the standard (in this case, .12 ppm) but also the averaging time of the standard (1-hour) and the form of the standard (how compliance is measured). Each of these components of the NAAQS is set based on EPA's review of the available health effects data. When EPA set the 1-hour ozone NAAQS, EPA specified that the form be based on the number of exceedance days per year averaged over 3 years. Therefore, EPA's characterization of the Bay Area air quality in terms of number of days over the standard is appropriate. The form of the standard is not based on the number of hours over the standard relative to hours in the ozone season for 6 or 7 years, so an examination of the Bay Area's air quality on this basis would not be appropriate.

Comment: Some commenters concluded that the absence of violations in 1997, in conjunction with predicted further declines in emissions, proves that the Bay Area's ozone problem has been solved. Other commenters noted that the West Coast's extraordinary meteorology in 1997 kept ozone concentrations unusually low, and that emissions in the Bay Area may in fact not be decreasing as much as predicted, given the strong economic growth in the area and other factors.

Response: The October 1997 BAAQMD report referenced above identifies a downtrend in ozone precursor emissions from 1979 through the early 1990s, but notes that during the 1990s "progress appears to have lapsed; there appears to have been an increase in ozone potential, after accounting for meteorology" (page v). The report further notes that the ozone violations in 1995 and 1996 cannot be attributed solely to unusual circumstances. It identifies possible explanations for increased emissions over this time period (e.g., increased speed limits, increased congestion levels, and increased employment levels in East Bay communities).

EPA believes that a redesignation to nonattainment not only accurately describes air quality in the Bay Area, but also provides an opportunity for reevaluating the causes of the Bay Area's ozone violations, the quantity of emission reductions needed to attain the health-based standard, and the measures that will achieve those reductions expeditiously. This may involve not only CARB and BAAQMD but also MTC and ABAG in cooperative efforts to reduce the motor vehicle contribution to the Bay Area's continuing smog problem.

Comment: EPA has not demonstrated that contingency measures in the Bay Area's maintenance plan in conjunction with other projected reductions will fail to bring the region back into attainment.

Response: EPA acknowledges that additional emission reductions are likely to be achieved from measures already in the SIP or submitted for SIP approval. No commenter, however, has provided any evidence that these reductions will be sufficient to avoid violations in the future. Indeed, many commenters, including the BAAQMD and the State, emphasized that recently adopted control measure commitments in the Bay Area's 1997 Clean Air Plan are important in order to ensure continued air quality progress.

The Clean Air Act places the burden on the State to demonstrate that its plan, at all times, provides for attainment and maintenance of the NAAQS, through federally enforceable emission reductions sufficient to avoid violations of the NAAQS. The Federal CAA also provides protections to the public in the event that State plans are not fully and successfully implemented to achieve the scheduled emission reductions and air quality improvements. These protections include federally imposed nonimplementation sanctions and opportunities for citizens to sue to compel implementation.

EPA believes, therefore, that redesignation and new SIP obligations for the Bay Area are consistent with the overall structure and intent of the CAA, and provide key public health benefits. The State and BAAQMD will assess, using available data and technical analyses, the amount of emission reductions needed to ensure that violations of the 1-hour ozone NAAQS do not recur. The State, BAAQMD, and other responsible local agencies must then identify control measures that will achieve these reductions. EPA expects that the agencies will analyze which control measures from the 1997 Clean Air Plan are needed to attain the standard and which measures beyond those contained in the plan are also needed. The State, BAAQMD, and other responsible agencies will be subject to a schedule for adopting and implementing the necessary controls. The public will have increased protections as a result of making control measures needed to attain the standard part of the SIP, thus providing insurance that the measures will be carried out, if necessary, through federal enforcement or citizen suit.

Comment: EPA received a number of comments related to the continued applicability of the 1-hour ozone NAAQS in light of the new 8-hour standard.

Response: EPA is responding to these comments at length below to further the public's understanding of this issue. However, EPA's decisions that (1) the 1-hour standard will remain in effect in an area until it is attained, and (2) that the standard continues to apply in the Bay Area because the area is not attaining the standard, are not at issue in this rulemaking action and are not appropriately challenged here. EPA's views regarding these issues are set forth in 63 FR 31013, June 5, 1998.

Comment: The Bay Area had attained the 1-hour ozone NAAQS and, therefore, rather than being redesignated to nonattainment, the area was entitled to revocation of the 1-hour NAAQS in conformance with the President's directive.

Response: The President's "Implementation Plan for Revised Air Quality Standards" ("Implementation Plan") (62 FR 38424) called for EPA to revoke the 1-hour ozone NAAQS in all areas that attain the standard. The President did not direct EPA to revoke the 1-hour ozone standard in all areas currently designated as maintenance or attainment areas. The President clearly intended that current air quality be the basis of EPA's determination of which areas attain. The Implementation Plan states that "[f]or areas *where the air quality does not currently attain* the 1-hour standard, the 1-hour standard will continue in effect" (emphasis added). Moreover, the controlling regulatory provision, 40 CFR section 50.9(b), specifies that an area must have air quality that meets the standard at the time of the decision. EPA's rulemaking action to determine that the 1-hour standard no longer applies in areas that are not currently violating the standard is therefore consistent with the Presidential memorandum. 63 FR 31013 (June 5, 1998). Because the Bay Area is currently violating the 1-hour ozone standard, the area is not currently eligible for this determination.

Comment: EPA has indicated that if the Agency's review of recent monitoring data finds that an attainment or maintenance area now violates the 1-hour standard, EPA will not redesignate these areas to nonattainment under the 1-hour standard.

Response: Both EPA's final regulation promulgating the new ozone regulation (62 FR 38873) and the Presidential memorandum regarding implementation of the standards (62 FR 38424) explain that in order to ensure a smooth transition to the implementation of the 8-hour ozone standard, the 1-hour standard will remain applicable to an area until it has attained the 1-hour standard. As long as the 1-hour standard remains in effect in an area, so does EPA's authority under CAA section 107(d)(3) to redesignate that area as a nonattainment area. EPA's "Guidance for Implementing the 1-Hour Ozone and Pre-Existing PM_{10} NAAQS" (December 29, 1997 Memorandum from Richard D. Wilson, to EPA Regional Administrators) clarifies that "in certain cases where air quality data through 1997 show nonattainment, EPA may be redesignating areas from attainment to nonattainment for the 1-hour standard."

Comment: EPA should treat the Bay Area like other maintenance areas in the Country, where the 1-hour NAAQS is not being revoked because the areas have had recent violations of the NAAQS. These areas are not being reclassified to nonattainment.

Response: The Bay Area's number of exceedances and violations and the Bay Area's peak concentrations (highest monitored value and design concentration) far exceed those in all other maintenance areas that have had exceedances since 1994. There are 5 other ozone maintenance areas in addition to the Bay Area that have experienced violations of the 1-hour ozone standard after redesignation: Kansas City, Detroit-Ann Arbor, Dayton-Springfield, Grand Rapids and Memphis. Three of these maintenance areas (Detroit-Ann Arbor, Grand Rapids, and Dayton-Springfield) already meet the test for attainment of the 1-hour ozone NAAQS based on 1995–1997 data and are therefore proposed for revocation of the 1-hour ozone standard (63 FR 27247, May 18, 1998). The remaining 2 areas, Kansas City and Memphis, could meet that test at the end of 1998, assuming that no more than 2 exceedances are recorded at the peak monitor during 1998. Because the peak monitor in the Bay Area recorded 8 exceedances in 1996, the Bay Area would still violate the 1-hour ozone NAAQS even if no exceedances occur in 1998, since the average number of exceedances for the 3-year period 1996–1998 would exceed 1 per year.

b. Legal Authority

(i) General Comments on Mandatory and Discretionary Authorities To Redesignate

Comment: A number of commenters felt that EPA should not redesignate the Bay Area to nonattainment because the Clean Air Act contains no mandatory duty to do so.

Response: EPA agrees that section 107(d)(3)(A) does not require EPA to redesignate the Bay Area. However, section 107(d)(3) of the Act grants the Administrator broad discretion to redesignate areas when she determines that it is appropriate. For the reasons discussed at length in the proposal and in today's final notice, the Administrator believes that it is necessary to redesignate the Bay Area.

(ii) Authority To Redesignate Without Classification

Comment: The BAAQMD commented that it disagrees with EPA's interpretation of section 181(b)(1) of the Act, and believes that the ambiguity contained in the language of this section argues in favor of a SIP call to strengthen the maintenance plan, rather than redesignation without classification.

Response: As EPA explained at length in its proposal, section 181(b)(1), which provides for new designations to nonattainment, does not on its face apply to the Bay Area. (Please refer to 62 FR 66580, December 19, 1997, for EPA's analysis of the applicability of section 181.) Section 181(b)(1) explicitly sets forth which areas it governs. Specifically, section 181(b)(1) covers only those areas that were originally designated attainment or unclassifiable pursuant to section 107(d)(4) of the 1990 amendments. This section is silent with regard to areas, like the Bay Area, that were designated nonattainment under the 1990 amendments, redesignated to attainment, and that subsequently returned to nonattainment.

In its comments on the proposal, the BAAQMD cautions EPA against inferring anything from Congress' silence with regard to areas like the Bay Area. However, because Congress *was* silent on this point, some inference must be made in order to decide how an area like the Bay Area is to be treated under the Act. The BAAQMD would like us to infer that we cannot redesignate an area back to nonattainment once it has attained the standard, but must instead issue a SIP call to address the inadequacies in the maintenance plan and contingency measures. While a SIP call is one possible option, it is clearly not the only option authorized by the Act. There is no ambiguity in the language of section 107(d)(3), which grants the Administrator the authority to redesignate an area "any time" she deems it is appropriate based on air quality data, planning and control considerations, or any other air quality-related considerations.[8] EPA continues to believe that redesignation, rather than a SIP call, is the appropriate action in this instance. Given the broad discretion granted the Administrator under section 107(d)(3), EPA is exercising that discretion today to redesignate the area to nonattainment. Moreover, we also continue to believe that the ambiguity contained in the language of section 181(b)(1) is best interpreted as placing the Bay Area under subpart 1 of the Act for the following reasons. The plain language of section 181(b)(1) applies only to areas designated attainment under section 107(d)(4) and excludes areas like the Bay Area. Second, as an area that was previously designated nonattainment, the Bay Area has already done much of the work required for a nonattainment area SIP and should not need the lengthy time period granted to new nonattainment areas to complete its planning process. The Bay Area has already implemented the section 181 requirements applicable to its previous moderate classification. Finally, sections 172(a)(1) and (2) contain express statements that they do not apply to nonattainment areas that are specifically covered by other provisions of Part D of the Act, thereby demonstrating that the Act contemplates that some areas will fall under subpart 1, rather than subpart 2.

c. Policy Issues

(i) Public Notification and Public Perception

Comment: Some commenters considered redesignation to be simply a labeling exercise that will have a negative impact on public support for existing air quality programs by emphasizing redundant and counterproductive procedural and paperwork tasks above real progress in emission reductions.

Other commenters noted that the redesignation debate in the Bay Area shows that labels are significant, and that "nonattainment" accurately conveys the message that making the Bay Area's air safe to breathe is a task still unfinished; there needs to be a clear and consistent signal to the affected sources and the public about why new measures are necessary. These commenters concluded that, to win approval of additional reductions in air pollution, the public needs to know the actual status of air quality in the Bay Area. The broader public will not support efforts to reduce pollution if air quality is deemed to be in attainment of health standards. If local regulators maintain that air quality is fine and if there is no public accountability through EPA oversight or the right of public interest groups to enforce attainment plans, the regulators will not take on the difficult task of requiring polluters to invest further in pollution prevention or control technology.

Response: The large number of Bay Area exceedances in 1995 and 1996 indicates that we do not have a convincing basis for predicting an end to ozone violations without further reductions. Designations of attainment are intended to apply to areas that have demonstrated clean air over a 3-year period.

Moreover, EPA does not believe that the Bay Area's current attainment designation is appropriate since it tells the affected public, the regulated community, local agencies, and the District that ozone pollution is no longer a problem. This inaccurate message tends to undercut collaborative and progressive actions in the near term, and contributes to confusion and dissension both within the Bay Area and in downwind populations.

EPA remains convinced that near-term action is needed to protect the health and welfare of the State's residents. Emission reduction strategies will be evaluated and put in place 4–5 years sooner through a redesignation under the 1-hour standard than is expected under a plan to meet the revised ozone standard (new plans are not expected to be due under the revised standard until 2003 and the attainment date for an area such as the Bay Area for the 8-hour standard is expected to be 2005 at the earliest). That is at least 4–5 years during which Californians would be breathing dirtier air than they should be.

Finally, EPA continues to believe that a redesignation to nonattainment not only accurately describes air quality in the Bay Area but also provides an opportunity for reevaluating the causes

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[8] The Bay Area recorded 43 exceedances of the ozone standard in the two-year period 1995–1996. The standard allows no more than three exceedances at any one monitor over three years. In addition, the area recorded violations at special purpose monitors (SPMs) from 1992–1993, prior to being redesignated to attainment. While these violations were not considered in EPA's original decision to redesignate the area to attainment because the monitors were not part of the official monitoring network, the Agency has since issued a policy that requires that any reliable monitoring data be relied upon in such decisions. (August 22, 1997 memorandum entitled, "Agency Policy on the Use of Special Purpose Monitoring Data," from John Seitz, Director of the Office of Air Quality Planning and Standards.) As we noted in the proposal (62 FR 66579, December 19, 1997), EPA has determined that the SPMs data should have been considered in the 1995 redesignation action. With the advantage of hindsight, these violations can be viewed as an indicator that the air quality problem in the Bay Area has not been solved at the time the area was redesignated, as was borne out by the high number of exceedances during 1995–1996. As we have discussed at length herein and in the notice of proposed rulemaking, the severity of the air quality problem makes redesignation the appropriate action in this case.

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of the Bay Area's ozone violations, the quantity of emission reductions needed to attain the health-based standard, and the measures that will achieve those reductions expeditiously.

(ii) Impact of Bay Area Emissions on Downwind Nonattainment Areas and Issues of Equity

Comment: Commenters from downwind areas and environmental groups referenced a CARB study indicating that pollution transported from the Bay Area produces up to 27% of the smog in the Central Valley. Monterey Bay Unified Air Pollution Control District noted that CARB has found that half of the exceedances of the State 1-hour ozone standard in the North Central Coast Air Basin result from overwhelming transport from the Bay Area (i.e., the exceedances would have occurred even in the absence of local emissions). Commenters expressed the belief that continued Bay Area progress toward meeting federal requirements is key to achieving air quality in these downwind areas, and that further NO_X reductions in the Bay Area are especially important. Commenters noted high pollution levels in areas downwind of the Bay Area, and argued that redesignation would help ensure that the Bay Area pays the price of controlling its pollution rather than passing it on in the form of health impacts and added regulatory requirements for downwind areas. Downwind areas stated that enhanced motor vehicle inspection and maintenance (or enhanced I/M, which is known in California as Smog Check 2) should be required in the Bay Area, just as it is in urbanized portions of the Central Valley.

The BAAQMD argued that redesignation without classification would not ensure implementation of Smog Check 2 in the Bay Area under existing State law. The State argued that redesignation would hurt attainment efforts in the Central Valley, since it would distract the Bay Area from achieving real emissions reductions. Bay Area industry commented that redesignation will not solve pollution transport issues in California and that any reliance on pollutant transport concerns to support redesignation is unfounded and legally impermissible.

Response: The basis for the nonattainment designation is the large number of recent violations of the 1-hour ozone NAAQS in the Bay Area, not any new evidence regarding the impact of Bay Area pollution on downwind areas within the State. EPA believes that primary responsibility for addressing transport to and from the Bay Area resides with the State.

With respect to the importance of Smog Check 2 in the Bay Area, EPA strongly endorses enhanced I/M as one of the most cost-effective measures that could be added to the Bay Area's existing controls, since the program has the potential to achieve substantial emissions reductions in the near term and to ensure that the benefits of California's stringent motor vehicle standards are not diminished because of poorly maintained vehicles.

(iii) Effect of Redesignation on Limited Air Pollution Control Resources

Comment: Redesignation will trigger an expensive, duplicative planning process that will detract from effective collaborative efforts to improve air quality. Redesignation provides no new funds, authority, or technology but simply imposes paperwork and process requirements.

Response: Redesignation should not result in a burdensome and duplicative planning effort. EPA wants the District and its co-lead agencies to focus on emission reductions, not paperwork.

EPA is asking, in fact, for only three plan elements: the existing 1995 emissions inventory for VOC and NO_X, an assessment of emissions reductions needed to attain the federal standard, and control measures to achieve those reductions. EPA is allowing the District to use available data and technical analyses to establish the emission reduction targets. Finally, EPA expects that most of the work to identify potential control measures has also been completed for the District's recently adopted 1997 Clean Air Plan. EPA expects that the District will analyze which control measures from this plan are needed to attain the standard and which measures beyond those contained in the plan are also needed. Making these control measures federally enforceable elements of the SIP provides an important public safeguard since only in this way can EPA and the public ensure that the commitments in the plan are fully implemented and the plan's promised air quality benefits are realized. This streamlined planning effort also provides an opportunity for the Bay Area to quickly determine whether additional reductions from transportation sources are appropriate, in the event that attainment requires more near-term reductions than the Clean Air Plan currently identifies.

While EPA concedes that redesignation may provide no new funds, authority, or technology, the Agency does not agree that the redesignation, as finalized in this action, simply imposes burdensome paperwork and process requirements on the Bay Area. EPA's proposed streamlined and flexible set of requirements contrasts with extensive and prescriptive planning and control requirements that apply to ozone nonattainment areas with 1999 attainment deadlines. Most of these areas, which were classified as "serious" under the Clean Air Act, have far fewer ozone exceedances and far fewer planning resources than does the Bay Area. The following are examples of "serious" ozone nonattainment area mandates, which EPA does *not* propose to require in the Bay Area: (1) A more stringent definition of major stationary source for purposes of Title V operating permit requirements; (2) more stringent applicability thresholds and offset ratios for purposes of permitting new and modified stationary sources; (3) a more stringent definition of major stationary source for purposes of applying reasonably available control technology requirements to existing stationary sources; (4) specific, detailed plan elements addressing rate-of-progress; (5) an enhanced vehicle inspection and maintenance program; and (6) specific, detailed provisions relating to transportation control.

Comment: Redesignation is inconsistent with the President's directive that the new federal air quality standards be implemented in a flexible, cost-effective and common-sense manner, that EPA respect agreements already made by States, communities, and businesses to clean up the air; and that EPA implement the standards with the minimum amount of paperwork necessary. Redesignation also fails to promote the ideals of the President's and Vice President's reinvention report which calls for the building of partnerships, the reduction of red tape, and the use of sound science to set priorities.

Response: A key component of the President's implementation plan for the new federal air quality standards is that continued progress toward meeting the 1-hour standard will ensure a smooth and effective transition to the 8-hour standard. EPA's action to redesignate the Bay Area as a nonattainment area for the 1-hour ozone standard and the simplified set of planning objectives that accompany this action are consistent with continuing progress towards meeting the 1-hour standard. They are also consistent with other elements of the implementation plan pertaining to respecting existing agreements, reducing paperwork, and maximizing common sense flexibility, and cost-effectiveness. As discussed above, EPA is asking for only 3 plan elements: the existing 1995 emissions inventory for VOC and NO_X, an assessment of emissions reductions needed to attain the federal standard, and control measures to achieve those reductions, without requiring expensive new modeling or unnecessary paperwork. The District has already identified additional control measures in its 1997 California Clean Air Act plan that could be used for a new federal plan. In addition, partnerships between the private sector, environmental groups, and regulators to promote innovative methods for addressing the air quality problem could be an important part of the Bay Area's response to the redesignation.

(iv) Alternatives to Redesignation

Comment: EPA should allow the Bay Area to implement and supplement, if necessary, the contingency measures in the Bay Area's Maintenance Plan, as the remedy to violations. The CAA recognizes that attainment areas will experience violations from time to time and that contingency provisions should be adequate to cure the problem. If EPA determines that the existing Bay Area Maintenance Plan is inadequate, the CAA provides a remedy: EPA may issue a SIP call under section 110(k)(5) to strengthen the maintenance plan.

Response: EPA hoped and expected that the Bay Area's maintenance plan would be the means to prevent future exceedances of the ozone standard. Unfortunately, almost all of the emission reductions from the Bay Area's maintenance and contingency measures were in effect at the time that the Bay Area experienced so many violations of the ozone standard in 1995 and 1996. After completing a stakeholder process over the past several years, EPA concluded that additional public health protections are needed beyond current Bay Area plans. EPA evaluated all of the options available under the Clean Air Act to address the public health problem and continues to believe that redesignation is the most direct and sensible outcome.

The proposal that EPA rely only on a "SIP Call" would apparently involve EPA using the authority of CAA section 110(k)(5) to mandate submission of a strengthened maintenance plan. For the reasons discussed above, EPA believes that redesignation to nonattainment is a more appropriate course under the framework of the Act. While EPA considered the "SIP Call" option, the Agency concluded that a federal nonattainment designation for the Bay Area was important to provide the public with accurate information and the correct message: Pollution levels must be reduced quickly in order to eliminate unhealthy air quality within the Bay Area. Since the amount of reductions necessary to attain the federal 1-hour ozone standard has not yet been established, EPA believes that the proper SIP remedy is twofold. First, the BAAQMD must submit its existing 1995 emissions inventory for VOC and NO_X and an assessment, using available data and technical analyses, of the emissions reductions needed to attain the standard. Second, the BAAQMD and its co-lead agencies must identify, adopt, and submit for incorporation in the SIP all of those control measures that are needed to meet the reduction target expeditiously. EPA proposed and is now finalizing this simplified SIP remedy, which does not substantively differ from the planning requirements that would need to be addressed by the State in revising the Bay Area's maintenance plan so that it provides for attainment.

Comment: The BAAQMD commented that if redesignation is finalized EPA should classify the Bay Area as a "marginal" ozone nonattainment area, subject to the requirements specifically delineated in CAA section 182(a). This certainty would provide a more specific and defensible foundation for the responsibilities of the co-lead agencies, CARB, and EPA. The BAAQMD expressed the belief that areas designated as "marginal" would have 3 years to develop a SIP submittal and 5 years to reach attainment. Other commenters recommended a "moderate" classification as more appropriate to the Bay Area's air quality.

Response: As discussed above and in the proposal, EPA concluded that subpart 2 of the Clean Air Act (which includes the ozone classifications and specific requirements for each classification) applies, on its face, only to: (1) Areas designated nonattainment under 107(d)(4) at the time the 1990 amendments were passed, and (2) areas designated nonattainment under 107(d)(3) for the first time after passage of the 1990 amendments. See CAA 181(b)(1). Thus, the subpart 2 provisions would not seem to apply to the Bay Area, which was initially nonattainment, redesignated to attainment, and then redesignated back to nonattainment.

In the proposed redesignation (62 FR 66580), EPA also presented two policy reasons for not classifying the Bay Area or requiring the District to meet all of the subpart 2 requirements for a "moderate" ozone nonattainment area:

(1) Many of the classification requirements served no purpose for the Bay Area, because the requirements had already been addressed previously when the area was nonattainment or because the requirements would contribute no specific emission reductions. For example, "moderate" area requirements include the gasoline vapor recovery program (which has been approved as part of the Bay Area SIP for many years) and the rate-of-progress plan (which would be superfluous given the compressed attainment schedule for the Bay Area). EPA's proposal stressed the Agency's determination to eliminate paperwork and focus the Bay Area's energies on achieving the emission reductions needed to attain the 1-hour NAAQS quickly.

(2) It did not seem appropriate to allow the Bay Area as much time as subpart 2 gives to newly designated and classified nonattainment areas. The CAA allows newly designated nonattainment areas the same amount of time to meet subpart 2 requirements as was given to areas initially nonattainment under the 1990 CAA amendments. This would mean that the Bay Area would have either 3 years or 4 years from the effective date of the final designation to make a "moderate" SIP submittal, depending upon whether sophisticated photochemical modeling was employed (approximately 6/2001 or 6/2002, instead of the 6/1999 date for SIP submittal set in this action). The Bay Area would also have 6 years to attain the 1-hour ozone NAAQS (2004, instead of the 2000 date in this action).

The same analysis applies to an even greater extent with respect to a "marginal" classification. The Bay Area has previously addressed the CAA "marginal" area requirements for corrections to RACT rules, NSR rules, basic I/M, and rules requiring sources to report on their emissions. If EPA were to classify the area as "marginal," in fact, the Bay Area would only need to submit a single new SIP element—an updated emissions inventory—which would not be due until 2 years from the effective date of the final designation (approximately 6/2000, instead of the 11/1998 informal submittal date agreed to by the BAAQMD, and the 6/1999 SIP deadline set in this action). The CAA does not require "marginal" areas to submit attainment assessments, but sets an attainment deadline 3 years after the effective date of the nonattainment designation (i.e., 2001).

EPA does not believe that either the "moderate" or "marginal" classification requirements and schedule represent an efficient, common-sense, or adequate response to the urgent public health concerns associated with the Bay Area's large number of recent ozone NAAQS

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violations. EPA continues to conclude that the proposed approach of redesignation without classification, setting near-term deadlines for SIP revision and attainment, is not only better supported by the terms of the CAA but also better fits the goals of this action: To provide the Act's clean air protections to Bay Area residents as quickly as possible, with minimal process and paper, and with the greatest flexibility afforded to the State and local agencies.

Comment: The BAAQMD proposed that, in lieu of redesignation, the BAAQMD, EPA, CARB, the Metropolitan Transportation Commission, the Association of Bay Area Governments, the San Joaquin Valley Unified Air Pollution Control District, CBE, Earth Justice, and the Sierra Club could enter into a binding memorandum of understanding or agreement that would result in additional stationary and mobile source control measures, with their concomitant emission reductions, being added to the BAAQMD's Maintenance Plan or SIP. The BAAQMD argued that this approach was supported by the President's emphasis on regulatory flexibility.

Response: EPA strongly supports collaborative efforts between all involved parties, and particularly encourages consultation with downwind air districts and environmental groups. EPA does not view broad cooperative efforts such as the BAAQMD proposes as incompatible with redesignation to nonattainment, and notes that half of the parties named by the BAAQMD support EPA's proposed redesignation action. EPA is unclear, however, regarding the scope of the BAAQMD's proposed binding MOU or MOA, whether all of the parties would have the authority to enter into a binding MOU or MOA, and whether all necessary parties would be bound. There are significant statutory constraints, for example, on EPA's authority to enter into binding agreements. Nevertheless, EPA would be pleased to participate in any process established by the BAAQMD.

Comment: EPA should follow the Clinton Administration's "Common Sense" option, and allow the Bay Area simply to focus on the 8-hour ozone standard on the schedule established for new ozone SIPs.

Response: This option apparently involves no near-term actions by State and local Bay Area agencies, since most substantive requirements and deadlines for SIPs addressing the 8-hour ozone NAAQS will not come due for approximately 5 years. The commenter appears to conclude that we should abandon efforts to reach a less stringent ozone standard on our way to achieving a more stringent ozone standard.

EPA's final promulgation of the revised 8-hour ozone NAAQS and final interim implementation policy, "Guidance for Implementing the 1-Hour Ozone and Pre-Existing PM10 NAAQS" (December 29, 1997), responded to commenters on the proposals, who argued that abandonment of SIP obligations to provide attainment plans for the 1-hour ozone NAAQS would be inconsistent with national public health goals, in view of the fact that new plans addressing the 8-hour ozone NAAQS will not be due until mid-2003. In order to ensure that momentum is maintained by state and local agencies, the final policy provides that the 1-hour standard and applicable Clean Air Act requirements will continue to apply to an area until EPA makes a determination that the area has met the 1-hour standard. As discussed elsewhere in response to comments, EPA believes that a compressed and streamlined planning process is necessary for the Bay Area to expedite efforts to protect public health. EPA agrees with commenters who concluded that this process will benefit rather than detract from eventual preparation of a SIP addressing the 8-hour ozone NAAQS.

2. Comments Relating to EPA's Proposed SIP Requirements

a. Emissions Inventory

Comment: While the BAAQMD has been maintaining and updating a weekday inventory for many decades, preparing a weekend day inventory, as EPA proposes to require, would demand extensive new data gathering and compilation, several person-years of effort, and one half-million dollars or more. Although assumptions could be made and best-judgment factors could be applied to weekday data to generate an estimate of weekend day data, the resulting uncertainties would hamper planning efforts based on their use. Such an extensive new requirement would be more appropriate for a SIP submittal focused on the new 8-hour NAAQS.

Response: Based on these comments from the State and the BAAQMD, EPA has decided to amend the proposed SIP submittal schedule to delete the weekend day emission inventory requirement. Nevertheless, EPA encourages BAAQMD and CARB to work together with State and regional planning and transportation agencies to assess weekend emissions and develop appropriate additional control measures as may be necessary and appropriate to ensure that weekend violations do not persist.

Comment: EPA proposed to require an updated carbon monoxide (CO) emissions inventory. A commenter noted that, although a CO inventory may help shed light on sources of ozone precursors, the CO inventory has no direct bearing on ozone attainment status and EPA should delete the requirement from the final redesignation.

Response: In order to minimize still further the scope of the Bay Area SIP obligation, EPA agrees to eliminate this requirement. Consequently, EPA finalizes in this action a SIP requirement for the existing 1995 inventory for VOC and NO_X emissions only.

b. Attainment Assessment

Comment: Bay Area industry, the State, and the BAAQMD argued that a credible attainment assessment, particularly one that takes into account the 1995–6 meteorological conditions and ambient concentrations, cannot be performed by May 1, 1998, due to data gaps and lack of modeling capability. If the BAAQMD should attempt an assessment, it would not be technically defensible and would not be accepted by the public or business community. Reliable modeling cannot be performed until the results of a new field study (conducted in 1999 or 2000) are available. Bay Area industry expressed concern that EPA's unrealistic schedule may lead the BAAQMD to prematurely "lock in" a control strategy that emphasizes counterproductive NO_X reductions.

On the other hand, environmental groups and other commenters felt that EPA's proposed schedule struck an appropriate balance between the competing concerns for acting quickly and acting knowledgeably. These commenters emphasized that the BAAQMD cannot assure compliance with the 1-hour NAAQS without first knowing what emissions are and what reductions are needed, and any extra time and effort spent to understand the problem now will pay double dividends in the future, in helping the regulatory agencies and affected industry comply with the Federal 8-hour NAAQS and the California 1-hour standard.

Response: EPA continues to believe that available data and technical analyses can be used to provide, within a very short period of time, a reasonable estimate of emission reductions needed to attain. The BAAQMD's October 1997 report, *Evaluation of the 1995 and 1996*

Ozone Seasons in the San Francisco Bay Area, recommended such an assessment. EPA remains willing to work with the BAAQMD to ensure that the exercise can be completed within the established time limits and resource constraints, and that the analysis will comply with applicable federal requirements. EPA notes that there is no CAA requirement that the Bay Area use Urban Airshed Modeling, and that other approaches may be appropriate to target the amount of emission reductions needed to attain the NAAQS expeditiously. The quality of technical data and analyses techniques will continually improve, but it does not make sense to wait for the "perfect" science to take action. Regulatory agencies need to use the best information available now to make reasonable decisions about how to protect public health. In order to allow more time to assess the reductions needed for attainment, EPA is extending the formal SIP submittal deadline for the attainment assessment from May 1, 1998 to June 15, 1999. The District has committed to submit a draft attainment assessment informally to EPA, and make it available to the public, by November 25, 1998. (Letter from BAAQMD, ABAG, and MTC dated June 23, 1998.) This early informal submittal will allow EPA to review the draft inventory and assessment and work with the District to address any deficiencies. Finally, with respect to industry's contention that EPA's schedule may lead the District to "lock in" allegedly counterproductive NO_X controls, EPA does intend to allow CARB and BAAQMD the flexibility to select the appropriate mix of ozone precursor controls to ensure attainment. This issue is also discussed below in the context of the NO_X waiver.

c. Control Measures

(i) Suggested Measures

Comment: Several of the commenters recommended particular control measures that could be adopted to speed Bay Area attainment. The most frequently mentioned new measure was the Smog Check 2 program. Sacramento Valley air pollution control districts and environmental groups also urged implementation of two additional reduction programs: (1) A heavy duty mobile source NO_X control strategy that includes incentives for early introduction of clean engine and fuel technologies; and (2) a requirement for permits and controls on smaller stationary sources, including natural gas fired boilers and internal combustion engines, and regulation of stationary diesel internal combustion engines, which are now exempt. The Sierra Club attached to their comment an extensive list of control measures for inclusion into the SIP, particularly suggestions for specific improvements to the Bay Area transportation control measures. CBE provided detailed recommendations for a variety of specific additional controls at Bay Area refineries and chemical plants. CBE also endorsed a public comment on the proposed redesignation from Chesapeake Environmental Group, Inc., advocating further reductions in VOC emissions from land fills by prohibitions on the use of petroleum-contaminated soil as a landfill cover. The Bay Area Environmental Justice Community recommended tough rules on oil refining and other polluting manufacturing processes, control on the movement of jobs to the outer suburbs, and commitments to redirect public funds to transit instead of highway building.

Response: EPA believes that the suggested control measures merit serious attention by the responsible agencies. EPA has forwarded the comments to CARB, BAAQMD, MTC and ABAG with encouragements to these agencies to consider the suggestions for incorporation into the SIP, as appropriate. In order to allow more time for evaluation of additional control measures, EPA is extending the SIP submittal deadline for adopted regulations or enforceable commitments to adopt regulations, from September 1, 1998, to June 15, 1999.

Comment: The Association of International Automobile Manufacturers, Inc., the New United Motor Manufacturing, Inc. (NUMMI), and Toyota Motor Manufacturing North America, Inc., commented that the adoption and implementation schedule of rules in the Bay Area's 1997 Clean Air Plan was coordinated with the implementation schedule of CAA section 183(e) rules for reducing VOC emissions and the Federal schedule for implementation of the maximum achievable control technology (MACT) standards for automobiles and light duty trucks. The commenters noted that the respective deadlines for these Federal rules are 2003 and 2000, respectively. The commenters emphasized that any acceleration of the BAAQMD's current schedule to meet EPA's proposed 1999 attainment deadline would likely result in duplicative efforts and inconsistent requirements, and thus increased costs to affected industry.

Response: EPA has asked the State to perform an assessment of reductions needed to attain the 1-hour ozone NAAQS expeditiously, in order to prevent recurrence of the violations experienced following the redesignation to attainment. EPA wishes the State to use its good judgment to determine which new controls should be adopted or expedited to meet attainment requirements, assuming that the attainment assessment identifies the need for more reductions to prevent exceedances by the attainment year 2000. EPA encourages the BAAQMD and other responsible agencies to select control approaches that maximize common sense and cost effectiveness.

Comment: Industry commenters questioned whether controls adopted to meet the 1-hour ozone NAAQS would necessarily be helpful in meeting the new 8-hour ozone NAAQS. Other commenters, however, noted that controls adopted to meet the Federal 1-hour ozone standard would contribute to eventual attainment of California's more stringent 1-hour ozone standard and could be generally presumed to benefit attainment of the new 8-hour ozone NAAQS.

Response: While EPA believes that the great majority of control possibilities for meeting the 1-hour ozone NAAQS will also advance attainment of the 8-hour ozone NAAQS in the Bay Area, EPA encourages CARB, BAAQMD, MTC, and ABAG to assess any new control measures that may be considered for expeditious attainment of the 1-hour ozone NAAQS, in order to ensure that the measures will also promote attainment of the 8-hour ozone NAAQS.

Comment: The BAAQMD proposed that new contingency measures be added to the SIP to augment the ones currently implemented. The BAAQMD stated that the process for identifying these measures "can occur quickly through consultation among EPA, CARB, and the co-lead agencies. Through this process, we can commit our energies and our limited resources to pursuing our real shared goal—clean air for all people all the time—through common sense, flexible, cost-effective, and coordinated actions."

In its comment letter, the BAAQMD identified the following options for supplementing the existing SIP controls:

(1) already adopted measures which have not been submitted into the SIP, such as controls on refinery fugitive emissions and pressure relief valves, NO_X Best Available Retrofit Control Technology (BARCT) controls on refineries and utilities, $1 increase in bridge tolls;

(2) measures that the BAAQMD will be pursuing in the near term, such as an aqueous solvents rule, new CMAQ-funded projects);

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(3) State measures, such as further improvements to the I/M program.

Response: EPA shares completely the BAAQMD's goal statement to provide "clean air for all people all the time—through common sense, flexible, cost effective, and coordinated actions." EPA also appreciates the BAAQMD's point that additional control measures can be identified quickly through consultation with EPA, CARB, and the co-lead agencies; and EPA would be happy to consult on appropriate measures.

In terms of supplementing the current SIP with additional control measures, EPA agrees the example measures are feasible. Depending on the outcome of the attainment assessment, however, additional controls may be needed. The Bay Area has already identified several feasible control measures in response to the State requirement for a 1997 Clean Air Plan. Upon review of the Bay Area's 1997 Clean Air Plan, CARB suggested a number of modifications to existing Bay Area regulations and transportation control measures that could result in additional emission reductions (See letter from Lynn Terry, Assistant Executive Officer, CARB to Ellen Garvey, Air Pollution Control Officer, BAAQMD, dated December 1, 1997.) In addition, EPA's Office of Air Quality Planning and Standards identified 42 cost effective control measures that may be appropriate for the Bay Area. (E.H. Pechan & Associates, Inc., "Control Measure Analysis of Ozone and PM Alternatives: Methodology and Results," prepared for Innovative Strategies and Economics Group, Office of Air Quality Planning and Standards, U.S. EPA, RTP, NC July 17, 1997.) Whatever additional SIP measures are pursued, they must provide sufficient emission reductions to ensure expeditious attainment of the 1-hour ozone NAAQS in the Bay Area.

(ii) NO_X Waiver and the Efficacy of NO_X Controls

Comment: Industry commenters stated that EPA provided no adequate notice of its retroactive revocation of the NO_X waiver and the waiver remains appropriate to avoid requirements for expensive and counterproductive NO_X controls, since modeling evidence shows that NO_X reductions may elevate ozone concentrations at locations within the Bay Area under certain meteorological conditions, and thus could detract from attaining the ozone NAAQS.

Earthjustice, on behalf of Sierra Club and CBE, agreed with EPA's position that no waiver of NO_X control requirements now applies, but contended that the waiver continued during the maintenance period. Earthjustice considered that the waiver expired by its own terms, however, because it was explicitly conditional, lasting only as long as the area's monitoring data continue to demonstrate attainment. Finally, Earthjustice concluded that the Bay Area is therefore now subject to CAA section 182 requirements for NO_X control.

Response: Section 182(f) of the Act extends the ozone nonattainment area VOC requirements of subpart 2 of the Act to emissions of NO_X. This section also provides that the Administrator may, either on her own or in response to a petition, waive these subpart 2 NO_X requirements if, for nonattainment areas outside an ozone transport region, either of 2 tests are met. The section 182(f) NO_X requirements would not apply if the Administrator determines that (1) for the sources concerned, net air quality benefits are greater in the absence of the NO_X reductions, or (2) additional NO_X reductions would not contribute to attainment of the ozone NAAQS. Additionally, the NO_X control requirements, under the same tests, could be relieved as to any portion of the controls that are shown to result in excess emissions reductions. On December 16, 1993, EPA issued guidance on obtaining NO_X waivers.[9] This guidance was subsequently revised on May 27, 1994.[10]

At the time the Bay Area submitted its redesignation request, EPA guidance governing redesignations required, pursuant to section 107 of the Act, that an area must meet all applicable requirements of section 110 and part D prior to redesignation. Thus, before EPA could redesignate the Bay Area to attainment, the Bay Area had to adopt all required NO_X RACT rules. However, based on air quality data from official SLAMS monitors, EPA determined that the Bay Area had attained the NAAQS without adopting all of these rules. Based on the determination that the area was attaining without benefit of additional NO_X reductions, it was apparent that such reductions would not contribute to attainment of the ozone NAAQS. Thus, the Bay Area qualified for a waiver under the test provided in subsection 182(f)(1)(A). Therefore, the Bay Area requested, and EPA approved, a NO_X waiver under that subsection. One commenter points out that the waiver was granted in the same notice as the redesignation to attainment, arguing that this fact supports the position that the waiver must remain in effect. However, the waiver was acted on in the same notice so that the area could be redesignated without first meeting any remaining part D NO_X requirements. Because the Agency was ready to act on both requests at the same time, it saw no reason to hold up the redesignation so that it could grant the NO_X waiver first.

The NO_X waiver acts only to relieve an ozone nonattainment area from subpart 2 nonattainment area NO_X requirements. Once an area is redesignated to attainment these requirements no longer apply and a NO_X waiver is irrelevant. Moreover, as the May 27, 1994 John Seitz guidance memo cited above points out, the NO_X exemption test set forth in section 182(f)(1)(A) asks only if additional reductions of NO_X would contribute to attainment of the ozone NAAQS, not whether they would contribute to maintenance of the standard once attainment is confirmed through redesignation to attainment. Recognition of this by both the BAAQMD and EPA is inherent in the fact that the Bay Area's maintenance plan contingency measures, approved as part of the redesignation to attainment, are nearly all NO_X measures.

The commenters cite language in the May 27, 1994, guidance to support their position that EPA must notify the state and provide notice in the **Federal Register** in order to revoke NO_X exemptions. However, this language deals with a situation where a nonattainment area is granted a NO_X waiver based upon clean air quality data, the area is not redesignated to attainment, and the area subsequently violates the ozone NAAQS. In this situation the exemption must be revoked because the area remains a nonattainment area and, unless revoked, the exemption would continue, inappropriately, to apply. Such is not the case with an area, such as the Bay Area, which is redesignated to attainment and thereby becomes a maintenance area. In such areas the exemption, which applies to nonattainment areas, by its terms no longer applies.[11]

The commenters argue that EPA should not take any action to revoke the NO_X exemption because it remains appropriate due to the commenters' position that the Bay Area is "hydrocarbon limited, and * * * NO_X reduction measures may elevate ozone concentrations * * *." Even assuming that this is true, there is no legal basis for retaining the NO_X exemption. The Bay Area's exemption was granted based on three years of clean air quality data. After 43 exceedances and 17 violations of the ozone NAAQS in two years, the basis for the exemption no longer exists.

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[9] "Guideline for Determining the Applicability of Nitrogen Oxide Requirements under Section 182(f)," John Seitz, Director, Office of Air Quality Planning and Standards.

[10] "Section 182(f) Nitrogen Oxides (No) Exemptions—Revised Process and Criteria," John Seitz, Director, Office of Air Quality Planning and Standards.

[11] Sections I.C. and II.A. of a later guidance document entitled "Conformity: General Preamble for Exemption from Nitrogen Oxides Provisions expands on this point." See 59 FR at 31239–40, including note 1 (June 17, 1994).

The commenters' concerns regarding the relationship between NO_X emissions and ozone formation in the Bay Area are appropriately addressed through the District's SIP revision process. Because the Bay Area is being redesignated under subpart 1 of the Act, there are no mandatory NO_X measures which must be adopted. On the other hand, the Bay Area may not eliminate from the SIP any existing NO_X controls without a demonstration that such revision would not interfere with progress, attainment, or other applicable requirements of the Act (CAA section 110(l)). In response to the redesignation, EPA expects CARB and BAAQMD to pursue whatever combination of VOC and NO_X reductions is most consistent both with expeditious attainment in the Bay Area and with the State's determination of appropriate and necessary emissions levels in the Bay Area consistent with the attainment and maintenance requirements of downwind areas. In view of the fact that nitrates appear to constitute more than one third of the Bay Area's fine particulate matter, EPA also recommends that the Bay Area take into account the role of NO_X emissions reductions in the control of fine particulates.

d. Attainment Deadline

Comment: The 1999 attainment deadline (assuming that attainment is to be based on 1997–99 air quality) is unrealistic, since most of the 1998 season will have passed before the control measure SIP submittal to EPA; consequently the plan will affect emissions only for 1999.

Response: The commenters appear to have misunderstood EPA's proposal. In accordance with the Agency's interpretation of the CAA requirement that plans "provide for attainment," under a 1999 attainment deadline, the State would need only show that its SIP includes sufficient emission reductions in effect by the start of the 1999 smog season to ensure that no more than one exceedance at any monitor will occur in 1999. Moreover, EPA's proposal noted that, under the terms of CAA section 172(a)(2)(C), the area may be eligible for up to 2 1-year extensions of the attainment deadline if no more than 1 exceedance occurred in the year preceding the extension and the SIP is fully implemented. Finally, EPA notes that the same commenters arguing against a 1999 attainment deadline also claim that there is already strong evidence that the Bay Area will not experience future violations, since no exceedances were recorded in 1997 and both CARB and BAAQMD project that the emissions inventory will continue to decline. EPA recognizes that the proposed 1999 deadline may be difficult to meet if the attainment assessment demonstrates that substantial additional control measures are needed. In an effort to balance the time constraints associated with SIP adoption and submittal with the goal of protecting public health as quickly as possible, EPA has decided to extend the attainment deadline by one year to November 15, 2000.

Comment: Redesignation of the Bay Area will have no effect on air quality within the time frame proposed by EPA. The time from the start of rule development to achievement of the reductions is generally well over 18 months. Consequently, implementation of control measures would not occur until after the end of the 1999 ozone season. If EPA is seeking only to add federal enforceability to existing state air quality control requirements, then redesignation is clearly nothing more than a paperwork exercise since those control requirements are already in place.

Response: As discussed earlier, EPA wants the District to focus on near-term emission reductions, not paperwork. Because the District has already identified additional control measures in its 1997 California Clean Air Act plan, these measures could be used for a new federal plan and implemented sooner than initially planned to achieve near term emission reductions. Otherwise, under the California Clean Air Act plan, the Bay Area would not implement these measures until 2000 or later. EPA also believes that it is important to make federally enforceable all of the control measures needed to bring the Bay Area into attainment. This provides further assurance to the public that the control measures will be implemented and the emission reductions needed to protect public health achieved.

e. Planning Schedule

Comment: EPA's SIP schedule provides insufficient time to complete planning processes, public involvement, and adoption, since the co-lead agency planning process normally requires 15 months, California Environmental Quality Act (CEQA) requirements for public review must be satisfied under State law, at least 2 months are required for CARB review prior to submittal, and the regulated community needs adequate lead time to change or install new controls. The BAAQMD also concluded that more time to prepare a plan for the 1-hour ozone NAAQS would not result in a better plan, better air quality, or better health. The prudent course, according to the BAAQMD, is to focus on the new 8-hour NAAQS.

Response: EPA acknowledges the time constraints associated with SIP development, adoption, and submittal. On the other hand, EPA does not expect that the agencies will launch a wholly new planning exercise but rather that they will continue the 1997 Clean Air Plan planning effort, adding only an attainment assessment using available data and technical analyses and adjustments to the control measures that may be necessary to ensure expeditious attainment. In an effort to be responsive to the District's scheduling concerns without sacrificing near term public health protections, EPA has agreed to allow the State to submit only one official SIP revision on June 15, 1999 based on the District's commitment to submit a draft of the emissions inventory and attainment assessment to EPA by November 25, 1998. In committing to submit a draft inventory and assessment within 5 months after signature of the final redesignation by the Regional Administrator, the District also agreed to hold an early public workshop on the inventory and assessment. (Letter from Ellen Garvey, BAAQMD; Eugene Leong, ABAG; and Lawrence Dahms, MTC to Felicia Marcus dated June 23, 1998.) These changes not only extend the time frames contained in the proposal but also enable the District to hold one public hearing for all three elements of the SIP revision.

3. Comments on Miscellaneous Issues

a. Conformity

Comment: Several commenters questioned the effect of Bay Area redesignation on transportation conformity. One commenter argued that it would be inconsistent with CAA section 176(c) if EPA were to determine that the emissions budget from a new Bay Area SIP submittal applied simultaneously with the emissions budget in the currently-approved Bay Area maintenance plan.

Response: Today's action does not have an immediate effect on transportation conformity in the Bay

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Area. The Bay Area currently has an approved ozone maintenance plan and the budgets in this plan continue to apply. Any EPA action with potential effects on transportation conformity will take place in the context of EPA's review of the Bay Area's June 15, 1999 SIP submittal.

The transportation conformity rule does not directly address a situation, like that in the Bay Area, where an approved maintenance plan proves to be inadequate and the area is redesignated and required to submit a new plan. However, EPA believes the correct interpretation of the conformity rule would require any new budgets contained in the June 15, 1999 submittal to become effective after a 45-day review period unless EPA finds them inadequate. EPA will continue to work with the US Department of Transportation (DOT) to resolve DOT's concerns regarding the interpretation of the rule and simultaneous applicability of budgets and will make a final policy decision in the future.

b. Congestion Mitigation and Air Quality (CMAQ) Funding

Comment: Redesignation of the Bay Area to nonattainment without a classification could jeopardize the Bay Area's continued eligibility for CMAQ funding pursuant to either current law or the pending bills for reauthorization of the Intermodal Surface Transportation Efficiency Act (ISTEA).

Response: Under the Transportation Equity Act for the 21st Century (TEA–21), the new transportation funding legislation, signed recently by the President, redesignation of the Bay Area to nonattainment for ozone will not affect CMAQ eligibility. In fact, the Bay Area will be eligible for more CMAQ funding than they were allocated under ISTEA, the previous transportation funding legislation.

c. Unfunded Mandates Reform Act (UMRA)

Comment: Some commenters asserted that EPA failed to comply with the Unfunded Mandates Reform Act (UMRA), and should have prepared a statement in accordance with section 202 of UMRA. In the proposal, EPA stated that the redesignation did not trigger section 202, as it did not contain any federal mandate because it did not impose any enforceable duties, and that even if it did contain a federal mandate, the resulting expenditures would not exceed $100 million in any one year. Commenters argued that the redesignation does impose an enforceable duty upon California and the BAAQMD, because failure to adopt a SIP would result in loss of highway funds and, in addition, result in more stringent emissions offset requirements for new and modified stationary sources, result in loss of grants, and trigger a duty for EPA to issue a federal implementation plan (FIP).

One commenter also argued that the redesignation constitutes a private sector mandate under UMRA, because it requires the District to submit regulations or enforceable commitments to adopt regulations imposing duties on emissions sources. However, the test for a private sector mandate under UMRA is whether it "would impose an enforceable duty upon the private sector." Clearly the redesignation has created no duty enforceable against any private party. The commenter also states that EPA is requiring that new source review permitting requirements, applicability thresholds and offset ratios be set "by analogy" at the levels otherwise applicable to moderate nonattainment areas. These are the levels currently in effect in the Bay Area as a result of the area's previous status as a moderate nonattainment area and therefore present no new burdens on private parties in any event.

Some commenters also asserted that the redesignation will impose costs in excess of $100 million. This estimate was based on projected costs of complying with the types of requirements the commenter believes would be imposed if the state were to adopt a SIP.

Response: EPA does not believe that it is necessary to resolve the issues of whether the redesignation constitutes a "federal mandate" or requires consideration of costs to private parties, as well as costs to the state, under UMRA.

EPA believes that even if it were construed as a federal mandate, with costs to private parties to be considered as well as costs to the state, those costs could not reasonably be expected to exceed $100 million in any one year. EPA has conducted an analysis of potential costs to private parties. In terms of the impact on the private sector, the BAAQMD has yet to determine the amount of needed reductions and the mix of VOC and NO_x measures to achieve the needed reductions. EPA used cost data developed for the July 1997 "Regulatory Impact Analyses for the Particulate Matter and Ozone National Ambient Air Quality Standards and Proposed Regional Haze Rule," as the basis of its analysis. This data shows that the national average cost for reasonably available VOC control measures is higher than the national average cost for reasonably available NO_x control measures ($2,652 per ton per year for VOC; $1,937 per ton per year for NO_x, expressed in 1990 dollars). EPA assumes that reductions of both VOC and NO_x will be necessary to bring the Bay Area back into attainment. However, for the purpose of this analysis EPA assumed that all the needed reductions would come from VOC measures because this approach would over-estimate the actual costs. In addition, EPA assumed that VOC emissions may need to be reduced by as much as 80 tons per day (approximately 28,800 tons per year) above and beyond measures currently underway at the State and local levels. This amount of reductions is significantly greater than that assumed to be needed by the various interested parties. During the extensive stakeholder process EPA has heard that anywhere from 0 to 50 tons per day in additional reductions will be necessary. Thus, by assuming 80 tons per day for the purposes of this analysis, EPA believes that it is significantly overestimating the costs. Even by employing cost numbers and tons to be reduced that are significantly higher than what EPA believes the actual results will be, the impacts would still be less than $100 million (i.e., $76,377,600).

As previously discussed in Section III.D.3.b. of this notice, one commenter indicated that the redesignation without classification under the Clean Air Act would result in loss of highway funds in excess of $100 million under ISTEA and that this should be viewed as the cost of the "mandate". The interplay of these two distinct statutes, were it to result in a significant decrease in highway funding to the Bay Area, would not be a mandate as it is defined in UMRA, as it would impose no enforceable duty on State, local or tribal governments. Moreover, as discussed above in section III.D.3.b., EPA, in consultation with the Department of Transportation, has determined that the redesignation will not result in any significant loss of highway funding to the Bay Area under the recently passed reauthorization of ISTEA.

d. Procedural Obligations Under CAA Section 107 and the Administrative Procedures Act (APA)

Comment: EPA has failed to follow the procedure set forth in section 107(d)(3) of the Act for redesignating areas, and consequently has failed to follow procedural requirements of the Administrative Procedure Act.

Response: The commenters misinterpret both the plain language of sections 107(d)(3) (A), (B) and (C), and the intent of these sections. As described more fully below, the exchange of correspondence between EPA and a State provided for by section 107(d)(3) is intended to address situations where there is agreement that a redesignation is necessary, but differing opinions concerning the boundaries of the area, or portion thereof, to be redesignated.

Section 107(d)(3) of the Act sets forth the procedure for redesignation of areas and provides that the Administrator may at any time notify the Governor of any state that available information indicates that the designation of any area should be revised. Section 107(d)(3)(B) provides that the Governor has 120 days from receipt of this letter to submit to the Administrator such redesignation, if any, of the appropriate area (or areas) or portion thereof as the Governor considers appropriate.

Section 107(d)(3)(C) contemplates four potential outcomes which flow from a Governor's response to notification from EPA that an area should be redesignated:

(1) The Governor concurs with EPA's notification and submits a redesignation of the same area, or portion thereof, that was proposed by EPA. In this event, section 107(d)(3)(C) provides that EPA must promulgate the redesignation no later than 120 days after receipt of the Governor's redesignation submittal. No further correspondence with the Governor is required.

(2) The Governor concurs with EPA's notification that a redesignation is necessary, but submits a redesignation of the area with different boundaries, or submits a redesignation of only a portion of the area that was proposed by EPA. If EPA agrees with the Governor's redesignation submittal, section 107(d)(3)(C) provides that EPA must promulgate the redesignation no later than 120 days after receipt of the Governor's redesignation submittal. No further correspondence with the Governor is required.

(3) The Governor concurs with EPA's notification that a redesignation is necessary, but submits a redesignation of the area with different boundaries, or submits a redesignation of only a portion of the area that was proposed by EPA. If EPA disagrees with the Governor's submittal, section 107(d)(3)(C) provides that EPA may make such modifications as it deems necessary, but must notify the State 60 days before promulgation of the redesignation in order to provide the State with an opportunity to demonstrate why any proposed modification is inappropriate.

(4) The Governor does not submit a redesignation for an area, or portion thereof. Section 107(d)(3)(C) provides that EPA "shall promulgate such redesignation, if any, that the Administrator deems appropriate." No further correspondence with the Governor is required.

In the instance at hand, EPA notified the Governor of California by letter dated August 21, 1997, that the Bay Area should be redesignated to nonattainment for ozone, based on available air quality data demonstrating 43 exceedances and 17 violations of the standard in the two-year period from 1995 through 1996. The Governor of California did not submit a redesignation of the Bay Area. Rather, the Governor responded, by letter dated December 10, 1997, that he does not believe any redesignation is appropriate. Thus, EPA's action is governed by the last sentence of section 107(d)(3)(C), which provides that EPA "shall promulgate such redesignation, if any, that the Administrator deems appropriate."

EPA has complied with the requirements of both the Clean Air Act and the Administrative Procedure Act in its action to redesignate the Bay Area. EPA has conducted notice and comment rulemaking, fully considering all comments received, including those provided by the Governor. Contrary to the assertions of the commenter, there is nothing in either statute which precludes EPA from proposing a redesignation at any time following notification of the Governor. EPA is free to solicit comment from the general public simultaneously with the Governor's notification, at any time during the 120 day period for the Governor's response, or at any time following the Governor's response, so long as EPA complies with the time periods set forth in section 107(d)(3), and its general duty to consider and respond to all comments.

While it is true that EPA made minor changes to the redesignation requirements set out in the Governor's notification when the Agency published its proposal, the State was in no way prejudiced by this fact. The changes did not relate to area boundaries, or portions thereof, and therefore did not invoke the notification procedures. EPA's proposed rulemaking provided a 60 day public comment period and the State was provided with a copy of the proposal on December 11, 1997, 8 days before it was published in the **Federal Register**. The State provided EPA with comments on its proposal on February 17, 1998. These comments, as well as the Governor's response letter, have been fully considered in EPA's decision to redesignate the Bay Area.

IV. Final Action

A. Overview

As discussed in the response to comments, EPA remains convinced that the Agency's appropriate action, in the face of numerous and widespread violations of the 1-hour ozone standard in the Bay Area, is to finalize the redesignation of the San Francisco Bay Area to nonattainment for the 1-hour ozone NAAQS. EPA takes this action under CAA section 107(d), based specifically on the Bay Area's 17 violations of the 1-hour ozone NAAQS over the 3-year period, 1994–1996.

EPA also finalizes the Agency's determination that the Bay Area should not be classified under subpart 2 of the CAA, but rather should be required to meet applicable requirements of CAA subpart 1.

B. SIP Requirements and Deadlines

In accordance with CAA sections 110 and 172, the State must submit by June 15, 1999 a SIP revision containing: (1) The existing 1995 emissions inventory for NO_X and VOC in the Bay Area; (2) an assessment, using available data and technical analyses, of the emission reductions needed to attain the federal 1-hour ozone standard; and (3) adopted regulations and/or control measures with enforceable commitments to adopt and implement the control measures in regulatory form by specified dates. The extension for the emissions inventory and attainment assessment submittal is being granted in response to a commitment made by the Air District (Letter from Ellen Garvey, BAAQMD et al. to Felicia Marcus, EPA Region IX, dated June 23, 1998) to provide the inventory and assessment to EPA in draft within 5 months of the final redesignation. This early, informal submittal will allow EPA to review the draft inventory and assessment and work with the District to address any deficiencies. The District also agreed to hold an early public workshop on the draft inventory and assessment. The adopted regulations and control measures, and the schedule for adoption and implementation of such measures, must be sufficient to meet reasonable further progress and attain the 1-hour NAAQS expeditiously but no later than November 15, 2000. EPA emphasizes that the submittal due on June 15, 1999 must include contingency measures that go into effect if the Bay Area does not attain the NAAQS by the prescribed deadline in order to address the specific requirement of CAA section 172(c)(9).

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For a more complete discussion of subpart 1 elements applicable to these SIP submittals, the reader is referred to the proposal (62 FR 66580–66581).

SCHEDULE OF SUBMITTALS STATE IMPLEMENTATION PLAN FOR OZONE FOR THE SAN FRANCISCO BAY AREA

Action/SIP submittal	Date
1995 emissions inventory for VOC and NO_X	Draft—11/25/98 Final—6/15/99
Assessment, employing available data and technical analyses, of the level of emission reductions needed to attain the current 1-hour ozone National Ambient Air Quality Standard (NAAQS). This assessment should take into account the meteorological conditions and ambient concentrations associated with the violations of the ozone NAAQS in the period 1995–6, and should be based on likely control measures for reducing VOC and NO_X emissions.	Draft—11/25/98 Final—6/15/99
Adopted regulations and/or control measures, with enforceable commitments to adopt and implement the control measures in regulatory form by specified dates, sufficient to meet reasonable further progress and attain the 1-hour NAAQS expeditiously but no later than November 15, 2000.	6/15/99

C. Changes from Proposal

In this final action, EPA has amended both the schedule and content of the proposed SIP requirements in response to public comments, as discussed above in section III.D.2. The changes are as follows:

Proposal—weekend emissions inventory and CO inventory required	Final—weekend emissions inventory and CO inventory not required.
Emissions inventory and attainment assessment due to EPA 5/1/98	Emissions inventory and attainment assessment due to EPA 6/15/99. (Commitment to submit draft by 11/25/98.)
Adopted regulations and/or control measures with enforceable commitments due 9/1/98.	Adopted regulations and/or control measures with enforceable commitments, and final emissions inventory and attainment assessment due 6/15/99.
Attainment date of 11/15/99	Attainment date of 11/15/2000.

V. Emission Reduction Opportunities

Under EPA's final redesignation, the Air District and its co-lead agencies are responsible for determining the appropriate mix of control measures that will most effectively bring the Bay Area into attainment with the 1-hour ozone standard. The Bay Area, like other major metropolitan areas, is experiencing rapid economic growth and an increasing population that may lead to emission increases from both the stationary and mobile source sectors. Given these circumstances, the Air District may wish to explore new and innovative approaches for achieving reductions from both source sectors. EPA believes that traditional control strategies aimed at reducing emissions from stationary sources are essential to any air pollution control program. At the same time, EPA supports efforts to develop alternative emission reduction methods. Mobile source emissions, for example, make up the majority of the ozone precursor inventory in many urban areas, including the Bay Area, but air pollution control agencies often have difficulty regulating these emissions. Mobile sources are therefore good candidates for non-traditional approaches. EPA encourages the BAAQMD and its co-lead agencies to identify opportunities for innovation, in addition to traditional control strategies, as they develop measures to bring the Bay Area into attainment of the ozone standard.

A. Stationary Sources

Stationary sources in the Bay Area emit approximately 152 tons of VOC and 157 tons of NO_X per day (Bay Area Clean Air Plan, Volume 1, p.21). This current level of emissions reflects tremendous progress in stationary source reductions over the past 20 years. Nonetheless, BAAQMD will need to assess whether additional stationary source measures are needed to help the Bay Area attain the federal 1-hour ozone standard. Recently, BAAQMD proposed in its 1997 Clean Air Plan several stationary source measures believed to be both feasible to implement and effective at reducing emissions. EPA expects that the District will analyze which control measures from this plan are needed to attain the standard and assess whether any measures beyond those contained in the plan are also needed. If additional measures are needed, the District may want to consider stationary source measures suggested by public commenters on the redesignation proposal such as improving tank and flare design, eliminating exemptions from certain District rules, and improving controls on energy sources (e.g., natural gas fired boilers and privately owned and operated power plants). However, EPA is not requiring adoption of these or any other specific controls; it is the BAAQMD's authority and responsibility to determine the appropriate mix of Bay Area measures.

B. Transportation Control Measures

Given that on-road motor vehicles emit 43% of the total VOC and 47% of the total NO_X emissions in the Bay Area (Bay Area 1997 Clean Air Plan, Volume 1, p.7), that vehicle travel has been steadily increasing, and that the Metropolitan Transportation Commission (MTC) directs the allocation of billions of dollars of transit funds, MTC plays an important role in the Bay Area's overall strategy to attain the 1-hour ozone standard. MTC is currently updating its 20-year plan and will continue to revise this plan every two years. MTC's planning process offers a good opportunity to incorporate air quality goals into both long term planning and short term projects. In addition, MTC is required to identify possible transportation control measures (TCMs) as part of the California Clean Air Plan (CAP). The Bay Area's 1997 CAP contained an estimated 7 tons per day (3 tpd VOC, 4 tpd NO_X) worth of potential reductions from TCMs for the year 2000 and even more for later years (Bay Area 1997 Clean Air Plan, Volume 1, p.49). If these measures were adopted and submitted for SIP approval, they could make a measurable contribution toward attainment of the 1-hour ozone standard. Finally, MTC may be able to help reduce emissions by reevaluating the way it distributes transportation funds, the way it finances transportation projects, its policies with respect to land use and transportation and giving priority to the most cost-effective (i.e., tons of emission reduction per dollar spent) investments.

C. Voluntary Measures

EPA encourages the State, District and co-lead agencies to explore innovative approaches to achieving their air quality goals. One possible area for innovation is the mobile source arena. Mobile sources emit 75% of the total NO_X emissions and 58% of the total VOC emissions in the Bay Area (Bay Area 1997 Clean Air Plan, Volume 1, p. 7). Though there have been great strides in reducing vehicle emission rates, transportation emissions continue to be a problem due to large increases in vehicle miles travelled (VMT). Regulatory agencies and others are therefore developing voluntary mobile source strategies that promote changes in local transportation sector activity levels and changes in in-use vehicle and engine fleet composition to complement regulatory programs.

Voluntary mobile source control measures have the potential to contribute to, in a cost-effective manner, emission reductions needed for attainment of the NAAQS. EPA believes, therefore, that SIP credit is appropriate for voluntary mobile source emission reduction programs (VMEPs) where we have confidence that the measures can achieve emission reductions. Consistent with that belief, EPA issued its October 23, 1997 "Guidance on Incorporating Voluntary Mobile Source Emission Reduction Programs in State Implementation Programs" (signed by Richard Wilson, Acting Assistant Administrator for Air and Radiation). The guidance lays out the terms and conditions for establishing and implementing VMEPs and the guidelines for SIP approval. In light of the innovative nature of voluntary measures and EPA's inexperience with quantifying their emission reductions, EPA's guidance limits the amount of emission reductions allowed for VMEPs in a SIP to 3% of the total projected future year emission reductions required to attain the appropriate NAAQS. In addition, the guidance requires that a state or local agency track on an annual basis the resulting emissions effect of the voluntary measure and also commit to remedy any shortfall if the VMEP does not achieve projected emission reductions.

The BAAQMD and co-lead agencies may wish to take advantage of the flexibility provided by EPA's voluntary mobile source measures policy as they develop their SIP control strategies in response to the redesignation. EPA encourages the three co-lead agencies to work with the business and environmental communities that may have an interest in developing or participating in such innovative strategies, as stakeholder involvement is a critical factor in building community acceptance and ultimate success. For example, the Silicon Valley Manufacturing Group has worked with businesses to develop the ECOPASS program; this is an employer-sponsored alternative commute program that is designed to get employees out of their cars and onto public transit. Another example is the BAAQMD's "Spare-the-Air" Program, a public education campaign that encourages citizens to refrain from or reduce activities that produce emissions of ozone precursors. The program currently enjoys the participation of 475 businesses and is continuing to grow with the help of the Bay Area business community. EPA applauds BAAQMD and the business community for successfully implementing these innovative and important programs. The BAAQMD has not yet submitted to EPA its plan for quantifying and tracking the impacts of these programs on an on-going basis, and therefore EPA has not yet evaluated how the District will ensure that the criteria presented in the VMEP guidance will be met. However, EPA is currently consulting with the BAAQMD regarding quantification and tracking of emissions associated with these programs and will continue to work with the District to clarify the VMEP policy. We encourage the District and its co-lead agencies to consider and pursue other innovative approaches as they evaluate measures needed to attain the ozone standard.

D. Enhanced Inspection and Maintenance

While the Bay Area has both the flexibility and the responsibility to determine the appropriate mix of control measures that are needed to attain the federal 1-hour ozone standard, EPA believes that emission reductions from implementation of an enhanced inspection and maintenance program would make a substantial contribution to attainment in the Bay Area. The California Bureau of Automotive Repair has indicated that implementation of the California Smog Check 2 program (California's enhanced I/M program) would result in an incremental benefit of 12 tons per day VOC and 14 tons per day NO_X. EPA is hopeful that Bay Area leaders will work together to pursue authorization and expeditious implementation of an enhanced I/M program. Furthermore, implementation of an enhanced I/M program in the Bay Area would address some of the equity concerns raised by Bay Area's downwind neighbors who are impacted by pollution from the Bay Area and are required under federal and State law to implement an enhanced I/M program. EPA does not believe, however, that enhanced I/M is the complete answer to Bay Area's ozone nonattainment problem. EPA believes that the BAAQMD should evaluate measures aimed at both the stationary and mobile source sectors that will work together to achieve healthy air in the Bay Area.

E. Mitigating Emissions Increases From Oakland Seaport and Airport Expansion Projects

The Port of Oakland is planning to expand its operations over the next several years. Dredging operations, which will provide larger vessels with access to the Port, will begin in February 2000. Emissions of CO and VOCs from dredging and related construction activities are not expected to be significant. Gas or diesel powered dredging equipment, however, emits significant quantities of NO_X; the draft EIS/EIR prepared by the U.S. Army Corps of Engineers (COE) for the port expansion estimates that total construction-related NO_X emissions, gas or diesel powered dredging equipment, would be in the range of 1500 to 1700 tons over the four-year period (2000–2004) during which dredging will occur. The COE, however, has subsequently indicated that it plans to use electric dredging equipment which would reduce the potential construction-related NO_X emissions to 330 tons over four years, or an average of 83.5 tons per year. The dredging and related construction activities performed by the COE are subject to the General Conformity regulations (40 CFR 93.150), which require federal agencies to demonstrate that emissions from federal projects conform to the approved State Implementation Plan if the emissions are above "de minimis" levels defined in 40 CFR 93.153. Because the Corps of Engineers will be employing electric dredging equipment in its construction activities, and limiting the number of disposal trips per year, the emissions will be below the 100 ton per year NO_X de minimis level established in the conformity regulations and a conformity determination is therefore not required. The Corps' plan to use electric dredging equipment will help to ensure cleaner air for the surrounding community and the Bay Area as a whole and contribute to efforts to achieve attainment with the ozone standard.

Once construction of the Port expansion project is complete, operational emissions increases are projected to be significant. Because the long-term emissions from new vessels, trucks, trains, terminal operations, and employee vehicles are considered to be indirect emissions that cannot be practicably controlled by and are not under a continuing program responsibility of the COE, these activities are exempt from the conformity requirements. EPA believes however, that mitigation of these long-term emissions may be an important part of the Bay Area's strategy for attaining and maintaining not only the 1-hour ozone NAAQS, but the revised 8-hour and PM2.5 NAAQS as well. For this reason, EPA encourages the Port to work with BAAQMD and MTC to identify opportunities to mitigate long-term emission increases from the project. EPA also welcomes opportunities to share information regarding mitigation techniques that have been identified during discussions with the South Coast AQMD on ports and airports.

Plans to expand the Oakland Airport are also underway and EPA believes that the project will be subject to the General Conformity requirements. EPA believes that there are opportunities to mitigate emissions increases associated with the expansion and again welcomes the opportunity to share information resulting from discussions with the South Coast regarding reducing airport emissions.

VI. Administrative Requirements

A. Executive Order (E.O.) 12866

Under E.O. 12866, (58 FR 51735, October 4, 1993), EPA is required to determine whether today's action is a "significant regulatory action" within the meaning of the E.O., and therefore should be subject to OMB review, economic analysis, and the requirements of the E.O. See E.O. 12866, sec. 6(a)(3). The E.O. defines, in sec. 3(f), a "significant regulatory action" as a regulatory action that is likely to result in a rule that may meet at least one of four criteria identified in section 3(f), including,

(1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

EPA has determined that the redesignation to nonattainment finalized today, as well as the establishment of SIP submittal schedules, would result in none of the effects identified in E.O. 12866 sec. 3(f). Under section 107(d)(3) of the Act, redesignations to nonattainment are based upon air quality considerations. The finding, based on air quality data, that the Bay Area is not attaining the ozone NAAQS and should be redesignated to nonattainment does not, in and of itself, impose any new requirements on any sectors of the economy. Similarly, the establishment of new SIP submittal schedules merely establishes the dates by which SIPs must be submitted, and does not adversely affect entities.

B. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. section 601 et. seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. sections 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

A redesignation to nonattainment under section 107(d)(3), and the establishment of a SIP submittal schedule for a reclassified area, do not, in and of themselves, directly impose any new requirements on small entities. See *Mid-Tex Electric Cooperative, Inc.* v. *FERC*, 773 F.2d 327 (D.C. Cir. 1985) (agency's certification need only consider the rule's impact on entities subject to the requirements of the rule). Instead, this rulemaking simply makes a factual determination and to establish a schedule to require the State to submit SIP revisions, and does not directly regulate any entities. Because EPA is applying the same permitting applicability thresholds and offset ratios applicable to moderate areas, no additional sources will be subject to these requirements as a result of EPA's action. Therefore, pursuant to 5 U.S.C. 605(b), EPA certifies that today's action does not have a significant impact on a substantial number of small entities within the meaning of those terms for RFA purposes.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, when EPA promulgates "any general notice of proposed rulemaking that is likely to result in promulgation of any rule that includes any Federal mandate that may result in the expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more" in any one year. A "Federal mandate" is defined, under section 101 of UMRA, as a provision that "would impose an enforceable duty" upon the private sector or State, local, or tribal governments," with certain exceptions not here relevant. Under section 203 of UMRA, EPA must develop a small government agency plan before EPA "establish[es] any regulatory requirements that might significantly or uniquely affect small governments." Under section 204 of UMRA, EPA is required to develop a process to facilitate input by elected officers of State, local, and tribal governments for EPA's "regulatory proposals" that contain significant Federal intergovernmental mandates. Under section 205 of UMRA, before EPA promulgates "any rule for which a written statement is required under [UMRA sec.] 202," EPA must identify and consider a reasonable number of regulatory alternatives and either adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule, or explain why a different alternative was selected.

EPA has concluded that this rule is not likely to result in the promulgation of any Federal mandate that may result in expenditures of $100 million or more for State, local or tribal governments in the aggregate, or for the private sector, in any one year. It is not necessary to resolve here whether a redesignation would constitute a federal mandate.

Even assuming that a redesignation were considered a Federal mandate, and it were appropriate to consider both private and public sector costs, the anticipated annual costs resulting from the mandate would not exceed $100 million to the private sector, State, local and tribal governments. In terms of the impact on the private sector, the BAAQMD has yet to determine the amount of needed reductions and the mix of VOC and NO_X measures to achieve the needed reductions. EPA used cost data developed for the July 1997 "Regulatory Impact Analyses for the Particulate Matter and Ozone National Ambient Air Quality Standards and Proposed Regional Haze Rule," as the basis of its analysis. This data shows that the national average cost for reasonably available VOC control measures is higher than the national average cost for reasonably available NO_X control measures ($2,652 per ton per year for VOC; $1,937 per ton per year for NO_X, expressed in 1990 dollars). EPA assumes that reductions of both VOC and NO_X will be necessary to bring the Bay Area back into attainment. However, for the purpose of this analysis EPA assumed that all the needed reductions would come from VOC measures because this approach would over-estimate the actual costs. In addition, EPA assumed that VOC emissions may need to be reduced by as much as 80 tons per day (approximately 28,800 tons per year) above and beyond measures currently underway at the State and local levels. This amount of reductions is significantly greater than that assumed to be needed by the various interested parties. During the extensive stakeholder process EPA has heard that anywhere from 0 to 50 tons per day in additional reductions will be necessary. Thus, by assuming 80 tons per day for the purposes of this analysis, EPA believes that it is significantly overestimating the costs. Even by employing cost numbers and tons to be reduced that are significantly higher than what EPA believes the actual results will be, the impacts would still be less than $100 million (i.e., $76,377,600).

The cost to the State of California is the cost of developing, adopting and submitting any necessary SIP revision. Because that cost, taken in combination with private sector costs, will not exceed $100 million, this action (even assuming it is a federal mandate) is not subject to the requirements of sections 202 and 205 of UMRA (2 U.S.C. 1532 and 1535). EPA has also determined that this action would not result in regulatory requirements that might significantly or uniquely affect small governments because only the State would take any action as result of today's rule, and thus the requirements of section 203 (2 U.S.C. 1533) do not apply.

D. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This final rule is not subject to E.O. 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) because this is not an economically significant regulatory action as defined by E.O. 12866, and because it does not involve decisions on environmental health risks or safety risks that may disproportionately affect children.

E. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks.

Dated: June 25, 1998.

Felicia Marcus,

Regional Administrator, Region IX.

Part 81, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

2. In § 81.305, the table for California—Ozone, is amended by revising the entry for the San Francisco Bay Area to read as follows:

§ 81.305 California.

* * * * *

CALIFORNIA-OZONE

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
San Francisco—Bay Area:				
Alameda County	August 10, 1998	Nonattainment.		
Contra Costa County	......do	......do		
Marin County	......do	......do		
Napa County	......do	......do		
San Francisco County	......do	......do		
Santa Clara County	......do	......do		
San Mateo County	......do	......do		
Solano County (part)	......do	......do		
Sonoma County (part)	......do			

[1] This date is November 15, 1990, unless otherwise noted.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300677; FRL–5797–7]

RIN 2070–AB78

Bifenthrin; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for residues of bifenthrin in or on raspberries. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on raspberries. This regulation establishes maximum permissible levels for residues of bifenthrin in this food commodity pursuant to section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. The tolerance will expire and is revoked on December 31, 1999.

DATES: This regulation is effective July 10, 1998. Objections and requests for hearings must be received by EPA on or before September 8, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300677], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300677], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP–300677]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Andrea Beard, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 308–9356, e-mail: beard.andrea@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA, on its own initiative, pursuant to section 408(e) and (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) and (l)(6), is establishing a tolerance for residues of the insecticide bifenthrin, in or on raspberries at 3.0 parts per million (ppm). This tolerance will expire and is revoked on December 31, 1999. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

I. Background and Statutory Authority

The Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170) was signed into law August 3, 1996. FQPA amends both the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 301 *et seq.*, and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.* The FQPA amendments went into effect immediately. Among other things, FQPA amends FFDCA to bring all EPA pesticide tolerance-setting activities under a new section 408 with a new safety standard and new procedures. These activities are described below and discussed in greater detail in the final rule establishing the time-limited tolerance associated with the emergency exemption for use of propiconazole on sorghum (61 FR 58135, November 13, 1996)(FRL–5572–9).

New section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . ."

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that "emergency conditions exist which require such exemption." This provision was not amended by FQPA. EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment.

Because decisions on section 18-related tolerances must proceed before EPA reaches closure on several policy issues relating to interpretation and implementation of the FQPA, EPA does not intend for its actions on such tolerance to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions.

II. Emergency Exemption for Bifenthrin on Raspberries and FFDCA Tolerances

The Applicants state that an emergency situation is present due to these pests developing resistance to available alternatives, and the low tolerance for weevil contamination in raspberries. Rejection by the processors of contaminated raspberries can lead to significant losses in revenue for the growers. EPA has authorized under FIFRA section 18 the use of bifenthrin on raspberries for control of weevils in Washington and Oregon. After having reviewed the submission, EPA concurs that emergency conditions exist for these states.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of bifenthrin in or on raspberries. In doing so, EPA considered the new safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the new safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment under section 408(e), as provided in section 408(l)(6). Although this tolerance will expire and is revoked on December 31, 1999, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on raspberries after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because this tolerance is being approved under emergency conditions EPA has not made any decisions about whether bifenthrin meets EPA's registration requirements for use on raspberries or whether a permanent tolerance for this use would be appropriate. Under these circumstances, EPA does not believe that this tolerance serves as a basis for registration of bifenthrin by a State for special local needs under FIFRA section 24(c). Nor does this tolerance serve as the basis for any State other than Washington and Oregon to use this pesticide on this crop under section 18 of FIFRA without following all provisions of section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for bifenthrin, contact the Agency's Registration Division at the address provided above.

III. Risk Assessment and Statutory Findings

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides based primarily on toxicological studies using laboratory animals. These studies address many adverse health effects, including (but not limited to) reproductive effects, developmental toxicity, toxicity to the nervous system, and carcinogenicity. Second, EPA examines exposure to the pesticide through the diet (e.g., food and drinking water) and through exposures that occur as a result of pesticide use inresidential settings.

A. Toxicity

1. *Threshold and non-threshold effects.* For many animal studies, a dose response relationship can be determined, which provides a dose that causes adverse effects (threshold effects) and doses causing no observed effects (the "no-observed effect level" or "NOEL").

Once a study has been evaluated and the observed effects have been determined to be threshold effects, EPA generally divides the NOEL from the study with the lowest NOEL by an uncertainty factor (usually 100 or more) to determine the Reference Dose (RfD). The RfD is a level at or below which daily aggregate exposure over a lifetime will not pose appreciable risks to human health. An uncertainty factor (sometimes called a "safety factor") of 100 is commonly used since it is assumed that people may be up to 10 times more sensitive to pesticides than the test animals, and that one person or subgroup of the population (such as infants and children) could be up to 10 times more sensitive to a pesticide than another. In addition, EPA assesses the potential risks to infants and children based on the weight of the evidence of the toxicology studies and determines whether an additional uncertainty factor is warranted. Thus, an aggregate daily exposure to a pesticide residue at or below the RfD (expressed as 100% or less of the RfD) is generally considered acceptable by EPA. EPA generally uses the RfD to evaluate the chronic risks posed by pesticide exposure. For shorter term risks, EPA calculates a margin of exposure (MOE) by dividing the estimated human exposure into the NOEL from the appropriate animal study. Commonly, EPA finds MOEs lower than 100 to be unacceptable. This 100-fold MOE is based on the same rationale as the 100-fold uncertainty factor.

Lifetime feeding studies in two species of laboratory animals are conducted to screen pesticides for cancer effects. When evidence of increased cancer is noted in these studies, the Agency conducts a weight of the evidence review of all relevant toxicological data including short-term and mutagenicity studies and structure activity relationship. Once a pesticide has been classified as a potential human carcinogen, different types of risk assessments (e.g., linear low dose extrapolations or MOE calculation based on the appropriate NOEL) will be carried out based on the nature of the carcinogenic response and the Agency's knowledge of its mode of action.

2. *Differences in toxic effect due to exposure duration.* The toxicological effects of a pesticide can vary with different exposure durations. EPA considers the entire toxicity data base, and based on the effects seen for different durations and routes of exposure, determines which risk assessments should be done to assure that the public is adequately protected from any pesticide exposure scenario. Both short and long durations of exposure are always considered. Typically, risk assessments include "acute," "short-term," "intermediate term," and "chronic" risks. These assessments are defined by the Agency as follows.

Acute risk, by the Agency's definition, results from 1-day consumption of food and water, and reflects toxicity which could be expressed following a single oral exposure to the pesticide residues. High end exposure to food and water residues are typically assumed.

Short-term risk results from exposure to the pesticide for a period of 1-7 days, and therefore overlaps with the acute risk assessment. Historically, this risk assessment was intended to address primarily dermal and inhalation exposure which could result, for example, from residential pesticide applications. However, since enaction of FQPA, this assessment has been expanded to include both dietary and non-dietary sources of exposure, and will typically consider exposure from food, water, and residential uses when reliable data are available. In this assessment, risks from average food and water exposure, and high-end residential exposure, are aggregated. High-end exposures from all three sources are not typically added because of the very low probability of this occurring in most cases, and because the other conservative assumptions built into the assessment assure adequate protection of public health. However, for cases in which high-end exposure can reasonably be expected from multiple sources (e.g. frequent and widespread homeowner use in a specific geographical area), multiple high-end risks will be aggregated and presented as part of the comprehensive risk assessment/characterization. Since the toxicological endpoint considered in this assessment reflects exposure over a period of at least 7 days, an additional degree of conservatism is built into the assessment; i.e., the risk assessment nominally covers 1-7 days exposure, and the toxicological endpoint/NOEL is selected to be adequate for at least 7 days of exposure. (Toxicity results at lower levels when the dosing duration is increased.)

Intermediate-term risk results from exposure for 7 days to several months. This assessment is handled in a manner similar to the short-term risk assessment.

Chronic risk assessment describes risk which could result from several months to a lifetime of exposure. For this assessment, risks are aggregated considering average exposure from all sources for representative population subgroups including infants and children.

B. Aggregate Exposure

In examining aggregate exposure, FFDCA section 408 requires that EPA take into account available and reliable information concerning exposure from the pesticide residue in the food in question, residues in other foods for which there are tolerances, residues in groundwater or surface water that is consumed as drinking water, and other non-occupational exposures through pesticide use in gardens, lawns, or buildings (residential and other indoor uses). Dietary exposure to residues of a pesticide in a food commodity are estimated by multiplying the average daily consumption of the food forms of that commodity by the tolerance level or the anticipated pesticide residue level. The Theoretical Maximum Residue Contribution (TMRC) is an estimate of the level of residues consumed daily if each food item contained pesticide residues equal to the tolerance. In evaluating food exposures, EPA takes into account varying consumption patterns of major identifiable subgroups of consumers, including infants and children. The TMRC is a "worst case" estimate since it is based on the assumptions that food contains pesticide residues at the tolerance level and that 100% of the crop is treated by pesticides that have established tolerances. If the TMRC exceeds the RfD or poses a lifetime cancer risk that is greater than approximately one in a million, EPA attempts to derive a more accurate exposure estimate for the pesticide by evaluating additional types of information (anticipated residue data and/or percent of crop treated data) which show, generally, that pesticide residues in most foods when they are eaten are well below established tolerances.

Percent of crop treated estimates are derived from federal and private market survey data. Typically, a range of estimates are supplied and the upper end of this range is assumed for the exposure assessment. By using this upper end estimate of percent of crop treated, the Agency is reasonably certain that exposure is not understated for any significant subpopulation group. Further, regional consumption information is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups, to pesticide residues. For this pesticide, the most highly exposed population subgroup (non-nursing infants, less than 1 year old) was not regionally based.

IV. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action, EPA has sufficient data to assess the hazards of bifenthrin and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a time-limited tolerance for residues of bifenthrin on raspberries at 3.0 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by bifenthrin are discussed below.

1. *Acute toxicity*. The maternal NOEL of 1 milligram/kilogram/day (mg/kg/day) from the oral developmental toxicity study in rats is used for acute dietary risk assessments. The maternal lowest observable effect level (LOEL) of this study of 2 mg/kg/day was based on tremors from day 7-17 of dosing. This acute dietary endpoint is used to estimate dietary risks to all population subgroups.

2. *Short - and intermediate - term toxicity*. The maternal NOEL of 1 mg/kg/day from the oral developmental toxicity study in rats is also used for short- and intermediate-term MOE calculations (as well as acute, discussed in (1) above).

3. *Chronic toxicity*. EPA has established the RfD for bifenthrin at 0.015 mg/kg/day. This RfD is based on a 1-year oral feeding study in dogs with a NOEL of 1.5 mg/kg/day, based on intermittent tremors at the LOEL of 3 mg/kg/day; an uncertainty factor of 100 is used.

4. *Carcinogenicity*. OPP has classified bifenthrin as a Group C chemical (possible human carcinogen) based upon urinary bladder tumors in mice, but did not recommend assignment of a Q^*.

B. Exposures and Risks

1. *From food and feed uses*. Tolerances have been established (40 CFR 180.442) for the residues of bifenthrin, in or on a variety of raw agricultural commodities. Tolerances, in support of registrations, currently exist for residues of bifenthrin on hops; strawberries; corn grain, forage, and fodder; cotton seed; and livestock commodities of cattle, goats, hogs, horses, sheep, and poultry. Additionally, time-limited tolerances associated with emergency exemptions have been established for broccoli, cauliflower, raspberries, cucurbits, and canola. Risk assessments were conducted by Novigen Sciences, Inc., and reviewed by EPA, to assess dietary exposures and risks from bifenthrin as follows:

i. *Acute exposure and risk*. Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1 day or single exposure. The acute risk assessment used Monte Carlo methodology. This methodology incorporates distributions of residues and refined percent of crop treated estimates, and thus results in highly refined risk estimates. For the most highly exposed population subgroup, children 1-6 years old, the resulting high-end exposure (at the 99.9th percentile) results in a dietary (food only) MOE of 193; at the 99th percentile the MOE is 1018. For non-nursing infants <1 Year Old, the high-end exposure (at the 99.9th percentile) MOE is 590; at the 99th percentile it is 880. For the Overall U.S. population, the high-end exposure (99.9th percentile) MOE is 466; at the 99th percentile it is 1768. The MOE estimates are all well within acceptable limits (>100) for all population subgroups.

ii. *Short- and intermediate-term risk*. The short- and intermediate-term risk assessment used maximum anticipated residue levels for cotton, extrapolated residue levels for meat/milk/poultry/eggs, and air monitoring data collected from 15 homes in four states. Based on this data, the MOEs for children are calculated to be 280 for the average consumer and 250 for the high-end consumer. The MOEs for adults are calculated to be 450 for the average consumer and 390 for the high-end consumer. EPA generally has no concern for MOEs greater than 100, and thus these do not exceed EPA's level of concern.

iii. *Chronic exposure and risk.* The chronic dietary (food only) risk assessment for bifenthrin was conducted using Monte Carlo methodology, and thus these risk estimates are highly refined. This risk assessment estimated that dietary exposure to bifenthrin will utilize 0.1% of the RfD for the overall U.S. population. The major identifiable subgroup with the highest exposure is non-nursing infants <1 year old, at 0.3% of the RfD. This is further discussed below in the section on infants and children. EPA generally has no concern for exposure below 100 percent of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health.

2. *From drinking water.* A Tier II drinking water assessment of bifenthrin was conducted, using computer models which simulate the fate in a surface water body. The estimated environmental concentrations (EECs) are generated for high exposure agricultural scenarios and represent one in ten years EECs in a stagnant pond with no outlet that receives pesticide loading from an adjacent 100% cropped, 100% treated field. As such, these computer generated EECs represent conservative screening levels for ponds and lakes and are used only for screening. The EECs for surface water ranged from a peak of 0.260 part per billion (ppb), to a 90-days average of 0.018 ppb. In conducting both the acute and chronic risk assessments, Monte Carlo methodology was again used, and thus these risk estimates are considered to be highly refined.

i. *Acute exposure and risk.* The MOEs for the acute risk estimate from drinking water for bifenthrin ranged from 29,035 for the most highly exposed population subgroup, non-nursing infants (<1 yr old), to 131,980 for the overall U.S. population. EPA generally has no concern for MOEs greater than 100, and thus these risk estimates are well within acceptable limits.

ii. *Chronic exposure and risk.* For the chronic risk estimates, the percentage of RfD utilized by contribution through drinking water was estimated to be well below 0.0% for all population subgroups.

3. *From non-dietary exposure.* Bifenthrin is currently only registered for residential non-food use as a termiticide. Based on information referred to above regarding short- and intermediate-term exposure, this use is not expected to result in risks that exceed levels of concern. Therefore, reasonable certainty of no harm is expected from exposure through non-dietary, non-occupational routes.

4. *Cumulative exposure to substances with common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity." The Agency believes that "available information" in this context might include not only toxicity, chemistry, and exposure data, but also scientific policies and methodologies for understanding common mechanisms of toxicity and conducting cumulative risk assessments. For most pesticides, although the Agency has some information in its files that may turn out to be helpful in eventually determining whether a pesticide shares a common mechanism of toxicity with any other substances, EPA does not at this time have the methodologies to resolve the complex scientific issues concerning common mechanism of toxicity in a meaningful way. EPA has begun a pilot process to study this issue further through the examination of particular classes of pesticides. The Agency hopes that the results of this pilot process will increase the Agency's scientific understanding of this question such that EPA will be able to develop and apply scientific principles for better determining which chemicals have a common mechanism of toxicity and evaluating the cumulative effects of such chemicals. The Agency anticipates, however, that even as its understanding of the science of common mechanisms increases, decisions on specific classes of chemicals will be heavily dependent on chemical specific data, much of which may not be presently available.

Although at present the Agency does not know how to apply the information in its files concerning common mechanism issues to most risk assessments, there are pesticides as to which the common mechanism issues can be resolved. These pesticides include pesticides that are toxicologically dissimilar to existing chemical substances (in which case the Agency can conclude that it is unlikely that a pesticide shares a common mechanism of activity with other substances) and pesticides that produce a common toxic metabolite (in which case common mechanism of activity will be assumed).

EPA does not have, at this time, available data to determine whether bifenthrin has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, bifenthrin does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that bifenthrin has a common mechanism of toxicity with other substances.

C. Aggregate Risks and Determination of Safety for U.S. Population

1. *Acute risk.* For the overall U.S. population, the calculated MOE value (for food only) is 466; for food plus drinking water, this estimate is 464. For the most highly exposed subgroup, children 1 - 6 years old, the MOE for food is 193; from food plus drinking water, this estimate is 192. As stated above, EPA generally has no concern for MOEs greater than 100, and thus these are within acceptable limits. Therefore, EPA concludes that there is reasonable certainty that no harm will result from acute exposure to bifenthrin.

2. *Chronic risk.* Using the Monte Carlo methodology described above, EPA has concluded that aggregate exposure to bifenthrin from food will utilize 0.1% of the RfD for the U.S. population. The major identifiable subgroup with the highest aggregate exposure is non-nursing infants <1 year old, with 0.3% of the RfD utilized, further discussed below. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. The risk estimates from drinking water exposure are calculated to be well below 0.0% of the RfD for all population subgroups, and thus do not add appreciably to the estimates for food alone. Therefore, EPA concludes that there is a reasonable certainty that no harm will result from chronic aggregate exposure to bifenthrin residues.

3. *Short- and intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure. Based on bifenthrin not being registered for indoor residential or pet uses, EPA concludes that the aggregate short- and intermediate-term risks do

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not exceed levels of concern, and that there is reasonable certainty that no harm will result.

D. Aggregate Risks and Determination of Safety for Infants and Children

1. *Safety factor for infants and children*— i. *In general*. In assessing the potential for additional sensitivity of infants and children to residues of bifenthrin, EPA considered data from developmental toxicity studies in the rat and rabbit and a 2-generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure during gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for pre-and post-natal toxicity and the completeness of the database unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using the standard 100-fold safety factor (usually 100 for combined inter-and intra-species variability)) and not the additional tenfold safety factor when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard MOE/safety factor.

ii. *Developmental toxicity studies*. In the rabbit developmental study, there were no developmental effects observed in the fetuses exposed to bifenthrin. The maternal NOEL was 2.67 mg/kg/day based on head and forelimb twitching at the LOEL of 4 mg/kg/day.

In the rat developmental study, the maternal NOEL was 1 mg/kg/day, based on tremors at the LOEL of 2 mg/kg/day. The developmental (pup) NOEL was also 1 mg/kg/day, based upon increased incidence of hydroureter at the LOEL of 2 mg/kg/day. There were 5/23 (22%) of the litters affected (5/141 fetuses since each litter only had one affected fetus) in the 2 mg/kg/day group, compared with zero in the control, 1, and 0.5 mg/kg/day groups. According to recent historical data (1992-1994) for this strain of rat, background incidence of distended ureter averaged 11% with a maximum incidence of 90%.

iii. *Reproductive toxicity study*. In the rat reproduction study, parental toxicity occurred as decreased body weight and tremors at 5.0 mg/kg/day with a NOEL of 3.0 mg/kg/day. There were no developmental (pup) or reproductive effects up to 5.0 mg/kg/day (highest dose tested).

iv. *Pre- and post-natal sensitivity*— a. *Pre-natal*. Since there was not a dose-related finding of hydroureter in the rat developmental study and in the presence of similar incidences in the recent historical control data, the marginal finding of hydroureter in rat fetuses at 2 mg/kg/day (in the presence of maternal toxicity) is not considered a significant developmental finding. Nor does it provide sufficient evidence of a special dietary risk (either acute or chronic) for infants and children which would require an additional safety factor.

b. *Post-natal*. Based on the absence of pup toxicity up to dose levels which produced toxicity in the parental animals, there is no evidence of special post-natal sensitivity to infants and children in the rat reproduction study.

v. *Conclusion*. Based on the above, EPA concludes that reliable data support use of the standard 100-fold uncertainty factor, and that an additional uncertainty factor is not needed to protect the safety of infants and children.

2. *Acute risk*. EPA believes that residential exposures are more appropriately included in the short-term exposure scenario, and thus estimates acute risk from dietary exposure only. EPA concluded that aggregate dietary acute risk (food plus water) would not exceed levels of concern. This is discussed in greater detail above.

3. *Chronic risk*. Using the Monte Carlo methodology described above, EPA has concluded that aggregate exposure estimates to bifenthrin from food will utilize from 0.1 to 0.3% of the RfD for infants and children. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to bifenthrin residues.

4. *Short- or intermediate-term risk*. The estimated short- and intermediate-term risks do not exceed EPA's levels of concern for children. MOEs for children are calculated to be 280 for the average consumer and 250 for the high-end consumer, discussed in greater detail above. There is generally no concern for MOEs which are greater than 100.

V. Other Considerations

A. Metabolism In Plants and Animals

The metabolism of bifenthrin in raspberries is adequately understood for the purposes of this tolerance. The residue of concern is the parent compound only.

B. Analytical Enforcement Methodology

There is a practical analytical method for detecting and measuring levels of bifenthrin in or on food with a limit of detection that allows monitoring of food with residues at or above the levels set in this tolerance document (Gas chromatography with Electron Capture Detection, analytical method P-2132M, PP# 0E3921; MRID#41658601). EPA has provided information on this method to FDA. The method is available to anyone who is interested from OPP's Health Effects Division (7509C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

C. Magnitude of Residues

Residues of bifenthrin are not likely to exceed 3.0 ppm in or on raspberries as a result of the proposed use. Secondary residues are not expected to occur in animal commodities.

D. International Residue Limits

There are no Codex, Canadian, or Mexican residue limits for residues of bifenthrin in or on raspberries.

E. Rotational Crop Restrictions

The confined rotational crop data requirements for bifenthrin have been satisfied. The following rotation instructions are required: (1) Leafy vegetables and root crops may be rotated 30 days following the final application of bifenthrin; (2) Crops for which bifenthrin tolerances exist may be rotated at any time; and (3) All other crops may be rotated seven months following the final application of bifenthrin. There are no rotational crop considerations associated with raspberries.

VI. Conclusion

Therefore, the tolerance is established for residues of bifenthrin in or on raspberries at 3.0 ppm.

VII. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to "object" to a tolerance regulation issued by EPA under new section 408(e) and (l)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by September 8, 1998, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as Confidential Business Information (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VIII. Public Record and Electronic Submissions

EPA has established a record for this rulemaking under docket control number [OPP–300677] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments may be sent directly to EPA at:

opp-docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the Virginia address in "ADDRESSES" at the beginning of this document.

IX. Regulatory Assessment Requirements

This final rule establishes a time-limited tolerance under FFDCA section 408(l)(6). The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

In addition, since these tolerances and exemptions that are established under FFDCA section 408 (l)(6), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

X. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 24, 1998.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR Chapter I is amended as follows:

PART 180–[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.442, by amending the table under paragraph (b) by revising the entry for "Raspberries" to read as follows:

§ 180.442 Bifenthrin; tolerances for residues.

* * * * *

(b) * * *

Commodity	Parts per million	Expiration/ Revocation Date
* * *	* *	* *
Raspberries	3.0	12/31/99
* * *	* *	* *

* * * * *

[FR Doc. 98–18279 Filed 7–9–98; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300665; FRL–5794–3]

RIN 2070–AB78

Gliocladium Catenulatum Strain J1446; Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement of a tolerance for residues of the biological pesticide *Gliocladium catenulatum* strain J1446 in or on all agricultural commodities. Kemira Agro Oy submitted a petition to EPA under the Federal Food, Drug and Cosmetic Act as amended by the Food Quality Protection Act of 1996 requesting the tolerance exemption. This regulation eliminates the need to establish a maximum permissible level for residues of *Gliocladium catenulatum* strain J1446.

DATES: This regulation is effective July 10, 1998. Objections and requests for hearings must be received by EPA on or before September 8, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number [OPP–300665], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP ("Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300665], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket number [OPP–300665]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Susanne Cerrelli, c/o Product Manager (PM) 90, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number, and e-mail address: CM #2 Rm. 902 W48, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 308–8077, e-mail address: cerrelli.susanne@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 25, 1997 (62 FR 34271)(FRL–5721–7), EPA issued a notice pursuant to section 408(d), of the Federal Food, Drug and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), announcing the filing of a pesticide tolerance petition by Kemira Agro Oy (PP 7F4137). The notice contained a summary of the petition prepared by the petitioner and this summary contained conclusions and arguments to support its conclusion that the petition complied with the Food Quality Protection Act (FQPA) of 1996. The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of the biological pest control agent *Gliocladium catenulatum* strain J1446. There were no comments received in response to the notice of filing.

The data submitted in the petition and other material have been evaluated. The toxicology data requirements in support of this exemption from the requirement of a tolerance were satisfied via submitted data.

I. Risk Assessment and Statutory Findings

New section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue..." Additionally, section 408(b)(2)(D)(v) requires that the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

II. Toxicological Profile

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

All available information indicates that *Gliocladium catenulatum* strain J1446 is of low toxicity. Acute oral toxicity/pathogenicity, dermal irritation and eye irritation were classified toxicity category IV. Acute oral toxicity/pathogenicity limit test and acute pulmonary toxicity/pathogenicity tests were classified category III. *Gliocladium catenulatum* strain J1446 did not survive, replicate, infect, or produce disease in test animals injected with a single high dose of this microbial agent. No mechanism of toxicity was identified for *Gliocladium catenulatum*, therefore a common mechanism of human toxicity with other agents is not indicated, so no cumulative effects are considered.

III. Aggregate Exposures

In examining aggregate exposure, FFDCA section 408 directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from groundwater or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

1. *Dietary exposure.* (a) *Food.* The use of *Gliocladium catenulatum* strain J1446 is not expected to result in any new dietary exposure to this organism. Fungi such as *Gliocladium catenulatum* strain J1446 are ubiquitous in the agricultural environment. It is anticipated that the concentrations of *Gliocladium catenulatum* on treated plants may be elevated immediately after application but will rapidly decline to environmental background levels. The risks anticipated for dietary exposure are considered minimal because no signs of toxicity were observed in the acute oral toxicity/pathogenicity studies (Toxicity Category IV).

(b) *Drinking water. Gliocladium catenulatum* strain J1446 is a naturally-occurring fungus and is widespread in the environment throughout the world. *Gliocladium catenulatum* is not known as an aquatic fungus, and therefore is not expected to proliferate in aquatic habitats. Moreover, *Gliocladium catenulatum* is not considered to be a risk to drinking water. Drinking water is accordingly not being screened for *Gliocladium catenulatum* as a potential indicator of microbial contamination or as a direct pathogenic contaminant. Both percolation through soil and municipal treatment of drinking water would reduce the possibility of exposure to *Gliocladium catenulatum* through drinking water. Therefore, the potential of significant transfer to drinking water is minimal to non-existent.

2. *Other non-occupational exposure.* Other non-occupational exposure of *Gliocladium catenulatum* strain J1446 via residential and indoor uses of it as a pesticide, e.g., uses around homes, parks, recreation areas, will be minimal to non-existent. The risk from non-occupational exposure is considered minimal as there is no evidence of adverse effects from oral, dermal or inhalation exposure to this microbial agent.

(a) *Dermal exposure.* The risks anticipated for this route of exposure are considered minimal because no signs of dermal toxicity or irritation were observed in the acute dermal toxicity and irritation studies (Toxicity Category IV).

(b) *Inhalation exposure.* The risks anticipated for this route of exposure are considered minimal because this microbial agent did not exhibit toxicity and pathogenicity in the acute pulmonary toxicity/pathogenicity studies. (Toxicity Category III) The anticipated risks from aggregate exposure via dermal and inhalation are a compilation of two low risk exposure scenarios and are considered negligible.

IV. Other Considerations

1. *Endocrine disrupters.* The Agency has no information to suggest that *Gliocladium catenulatum* has an effect on the immune and endocrine systems. No specific tests have been conducted with *Gliocladium catenulatum* strain J1446 to determine such effects. However, as is expected from a non-pathogenic microorganism, the submitted toxicity/pathogenicity studies in rodents indicated that following several routes of exposure, the immune system is still intact and able to process. and clear the active ingredient. There are no reports indicating that *Gliocladium catenulatum* strain J1446 produces any toxins or antibiotics. Therefore, it is unlikely that this organism would have estrogenic or endocrine effects because it has demonstrated low mammalian toxicity. The Agency is not requiring information on the endocrine effects of this biological pesticide at this time; Congress has allowed 3 years after August 3, 1996, for the Agency to implement a screening program with respect to endocrine effects.

2. *Analytical method.* The Agency proposes to establish an exemption from the requirement of a tolerance without any numerical limitation; therefore, the Agency has concluded that an analytical method is not required for enforcement purposes for *Gliocladium catenulatum.*

3. *Codex Maximum Residue Level.* There are no CODEX tolerances nor international tolerance exemptions established for *Gliocladium catenulatum* strain J1446 at this time.

V. Determination of Safety for U.S. Population, Infants and Children

Based on all available information, the Agency concludes that *Gliocladium catenulatum* strain J1446 has no significant toxicity. Further, there is no evidence which suggests that aggregate exposure of either adults or infants and children to *Gliocladium catenulatum* leads to any harm. Accordingly, EPA concludes that there is a reasonable certainty that no harm will result to the U.S. population or any significant subpopulation, including infants and children, from aggregate exposure under this exemption.

FFDCA section 408 provides that EPA shall apply an additional ten-fold margin of exposure (safety) for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the database, unless EPA determines that a different margin of exposure will be safe for infants and children. Margins of exposure are often referred to as uncertainty (safety) factors. In this instance, the Agency believes there is reliable data to support the conclusion that this microbial agent is practically non-toxic to mammals, including infants and children, and, thus, there are no threshold effects; therefore, EPA has not used a margin of exposure approach to assess the safety of *Gliocladium catenulatum* strain J1446. As a result, the provision requiring an additional margin of exposure does not apply.

VI. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These

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regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by September 8, 1998, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the hearing clerk, at the address given under the "ADDRESSES" section (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the hearing clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VII. Public Docket and Electronic Submissions

A record has been established for this rulemaking under docket control number [OPP–300665]. A public version of this record, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above, is kept in paper form. Accordingly, in the event there are objections and hearing request, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record. The official rulemaking record is the paper record maintained at the Virginia address in ADDRESSES at the beginning of this document.

VIII. Regulatory Assessment Requirements

This final rule establishes an exemption from the tolerance requirement under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the *Paperwork Reduction Act* (PRA), 44 U.S.C. 3501 et seq., or impose any enforceable duty or contain any unfunded mandate as described under Title II of the *Unfunded Mandates Reform Act of 1995* (UMRA) (Pub. L. 104–4). Nor does it require and prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

In additions, since tolerance exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.) do not apply. Nevertheless, the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business.

IX. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 24, 1998.

Stephen L. Johnson,

Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371

2. Section 180.1198 is added to read as follows:

§ 180.1198 Gliocladium catenulatum strain J1446; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for residues of the microbial pesticide, *Gliocladium* *catenulatum* strain J1446 when used in or on all food commodities.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300678; FRL–5798–6]

RIN 2070–AB78

Myclobutanil; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for combined residues of myclobutanil in or on caneberries, and in or on dried hop cones. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on caneberries in Oregon, and use of the pesticide on hops in Idaho, Oregon, and Washington. This regulation establishes a maximum permissible level for residues of myclobutanil in these food commodities pursuant to section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. The tolerances will expire and be revoked on December 31, 1999.

DATES: This regulation is effective July 10, 1998. Objections and requests for hearings must be received by EPA on or before September 8, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300678], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300678], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP–300678]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: David Deegan, Registration Division 7505C, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 308–9358, e-mail: deegan.dave@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA, on its own initiative, pursuant to section 408(e) and (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) and (l)(6), is establishing a tolerance for combined residues of the fungicide myclobutanil α-butyl-α-(4-chlorophenyl)-1*H*-1,2,4-triazole-1-propanenitrile plus its alcohol metabolite α-(3-hydroxybutyl)-α-(4-chlorophenyl)-1*H*-1,2,4-triazole-1-propanenitrile (free and bound), in or on caneberries at 1.0 part per million (ppm), and in or on dried hop cones at 5.0 ppm. These tolerances will expire and be revoked on December 31, 1999. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

I. Background and Statutory Authority

The Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170) was signed into law August 3, 1996. FQPA amends both the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 301 *et seq.*, and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.* The FQPA amendments went into effect immediately. Among other things, FQPA amends FFDCA to bring all EPA pesticide tolerance-setting activities under a new section 408 with a new safety standard and new procedures. These activities are described below and discussed in greater detail in the final rule establishing the time-limited tolerance associated with the emergency exemption for use of propiconazole on sorghum (61 FR 58135, November 13, 1996)(FRL–5572–9).

New section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . ."

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that "emergency conditions exist which require such exemption." This provision was not amended by FQPA. EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment.

Because decisions on section 18-related tolerances must proceed before EPA reaches closure on several policy issues relating to interpretation and implementation of the FQPA, EPA does not intend for its actions on such tolerances to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions.

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II. Emergency Exemptions for Myclobutanil on Caneberries and Hops and FFDCA Tolerances

On March 25, 1998, EPA received a request from the state of Oregon for an exemption, as allowed under provisions of FIFRA section 18, to authorize the use of the fungicide myclobutanil [Rally 40W Fungicide, manufactured by Rohm & Haas Company] to control orange rust on caneberries (blackberries, Boysenberries, and black raspberries). The basis of the claimed emergency situation is that orange rust is a new pest for growers of caneberries in the Willamette Valley of Oregon, and that without use of this chemical (in combination with other, non-chemical control measures) this disease would be likely to become widespread throughout the Willamette Valley and other agricultural areas of Oregon and potentially neighboring states. Under FIFRA section 18 provisions, on May 22, 1998 EPA authorized the use of myclobutanil on caneberries for control of orange rust in Oregon. EPA's authorization allows up to five ground applications of the product at a rate of 0.125 lbs. active ingredient (5 oz. product) on 730 acres. The exemption expires on November 1, 1998.

On January 9, 1998, EPA received a regional request from the states of Idaho, Oregon, and Washington for an exemption, as allowed under provisions of FIFRA section 18, to authorize the use of the fungicide myclobutanil [Rally 40WSP, Manufactured by Rohm & Haas Company] to control powdery mildew on hops. The emergency situation described was that powdery mildew is a new pest for hops in the applicant states, and the disease has very rapidly become established and has not been controlled adequately by non-chemical measures, and that there are no other products registered for use on hops to control powdery mildew. On May 5, 1998 EPA authorized the use of myclobutanil on hops for control of powdery mildew in Idaho, Oregon, and Washington. EPA's authorization allows up to eight ground or aerial applications of the product at a rate of 0.05 – 0.25 lbs. active ingredient (2 – 10 oz. product) on 44,730 acres within the three states. These exemptions expire on October 1, 1998.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of myclobutanil in or on caneberries and in or on hops. In doing so, EPA considered the new safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the new safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment under section 408(e), as provided in section 408(l)(6). Although these tolerances will expire and be revoked on December 31, 1999, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on caneberries or dried hop cones after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by this tolerance at the time of that application. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because this tolerance is being approved under emergency conditions EPA has not made any decisions about whether myclobutanil meets EPA's registration requirements for use on caneberries or hops, or whether permanent tolerances for these uses would be appropriate. Under these circumstances, EPA does not believe that this tolerance serves as a basis for registration of myclobutanil by a State for special local needs under FIFRA section 24(c). Nor does this tolerance serve as the basis for any State other than those listed above to use this pesticide on these crops under section 18 of FIFRA without following all provisions of section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for myclobutanil, contact the Agency's Registration Division at the address provided above.

III. Risk Assessment and Statutory Findings

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides based primarily on toxicological studies using laboratory animals. These studies address many adverse health effects, including (but not limited to) reproductive effects, developmental toxicity, toxicity to the nervous system, and carcinogenicity. Second, EPA examines exposure to the pesticide through the diet (e.g., food and drinking water) and through exposures that occur as a result of pesticide use in residential settings.

A. Toxicity

1. *Threshold and non-threshold effects.* For many animal studies, a dose response relationship can be determined, which provides a dose that causes adverse effects (threshold effects) and doses causing no observed effects (the "no-observed effect level" or "NOEL").

Once a study has been evaluated and the observed effects have been determined to be threshold effects, EPA generally divides the NOEL from the study with the lowest NOEL by an uncertainty factor (usually 100 or more) to determine the Reference Dose (RfD). The RfD is a level at or below which daily aggregate exposure over a lifetime will not pose appreciable risks to human health. An uncertainty factor (sometimes called a "safety factor") of 100 is commonly used since it is assumed that people may be up to 10 times more sensitive to pesticides than the test animals, and that one person or subgroup of the population (such as infants and children) could be up to 10 times more sensitive to a pesticide than another. In addition, EPA assesses the potential risks to infants and children based on the weight of the evidence of the toxicology studies and determines whether an additional uncertainty factor is warranted. Thus, an aggregate daily exposure to a pesticide residue at or below the RfD (expressed as 100 percent or less of the RfD) is generally considered acceptable by EPA. EPA generally uses the RfD to evaluate the chronic risks posed by pesticide exposure. For shorter term risks, EPA calculates a margin of exposure (MOE) by dividing the estimated human exposure into the NOEL from the appropriate animal study. Commonly, EPA finds MOEs lower than 100 to be unacceptable. This hundredfold MOE is based on the same rationale as the hundredfold uncertainty factor.

Lifetime feeding studies in two species of laboratory animals are conducted to screen pesticides for cancer effects. When evidence of increased cancer is noted in these studies, the Agency conducts a weight of the evidence review of all relevant toxicological data including short-term and mutagenicity studies and structure activity relationship. Once a pesticide has been classified as a potential human carcinogen, different types of risk assessments (e.g., linear low dose extrapolations or MOE calculation based on the appropriate NOEL) will be carried out based on the nature of the carcinogenic response and the Agency's knowledge of its mode of action.

2. *Differences in toxic effect due to exposure duration.* The toxicological effects of a pesticide can vary with different exposure durations. EPA considers the entire toxicity data base, and based on the effects seen for different durations and routes of exposure, determines which risk assessments should be done to assure that the public is adequately protected from any pesticide exposure scenario. Both short and long durations of exposure are always considered. Typically, risk assessments include "acute," "short-term," "intermediate term," and "chronic" risks. These assessments are defined by the Agency as follows.

Acute risk, by the Agency's definition, results from 1–day consumption of food and water, and reflects toxicity which could be expressed following a single oral exposure to the pesticide residues. High end exposure to food and water residues are typically assumed.

Short-term risk results from exposure to the pesticide for a period of 1–7 days, and therefore overlaps with the acute risk assessment. Historically, this risk assessment was intended to address primarily dermal and inhalation exposure which could result, for example, from residential pesticide applications. However, since enaction of FQPA, this assessment has been expanded to include both dietary and non-dietary sources of exposure, and will typically consider exposure from food, water, and residential uses when reliable data are available. In this assessment, risks from average food and water exposure, and high-end residential exposure, are aggregated. High-end exposures from all three sources are not typically added because of the very low probability of this occurring in most cases, and because the other conservative assumptions built into the assessment assure adequate protection of public health. However, for cases in which high-end exposure can reasonably be expected from multiple sources (e.g. frequent and widespread homeowner use in a specific geographical area), multiple high-end risks will be aggregated and presented as part of the comprehensive risk assessment/characterization. Since the toxicological endpoint considered in this assessment reflects exposure over a period of at least 7 days, an additional degree of conservatism is built into the assessment; i.e., the risk assessment nominally covers 1–7 days exposure, and the toxicological endpoint/NOEL is selected to be adequate for at least 7 days of exposure. (Toxicity results at lower levels when the dosing duration is increased.)

Intermediate-term risk results from exposure for 7 days to several months. This assessment is handled in a manner similar to the short-term risk assessment.

Chronic risk assessment describes risk which could result from several months to a lifetime of exposure. For this assessment, risks are aggregated considering average exposure from all sources for representative population subgroups including infants and children.

B. Aggregate Exposure

In examining aggregate exposure, FFDCA section 408 requires that EPA take into account available and reliable information concerning exposure from the pesticide residue in the food in question, residues in other foods for which there are tolerances, residues in groundwater or surface water that is consumed as drinking water, and other non-occupational exposures through pesticide use in gardens, lawns, or buildings (residential and other indoor uses). Dietary exposure to residues of a pesticide in a food commodity are estimated by multiplying the average daily consumption of the food forms of that commodity by the tolerance level or the anticipated pesticide residue level. The Theoretical Maximum Residue Contribution (TMRC) is an estimate of the level of residues consumed daily if each food item contained pesticide residues equal to the tolerance. In evaluating food exposures, EPA takes into account varying consumption patterns of major identifiable subgroups of consumers, including infants and children.The TMRC is a "worst case" estimate since it is based on the assumptions that food contains pesticide residues at the tolerance level and that 100% of the crop is treated by pesticides that have established tolerances. If the TMRC exceeds the RfD or poses a lifetime cancer risk that is greater than approximately one in a million, EPA attempts to derive a more accurate exposure estimate for the pesticide by evaluating additional types of information (anticipated residue data and/or percent of crop treated data) which show, generally, that pesticide residues in most foods when they are eaten are well below established tolerances.

Percent of crop treated estimates are derived from federal and private market survey data. Typically, a range of estimates are supplied and the upper end of this range is assumed for the exposure assessment. By using this upper end estimate of percent of crop treated, the Agency is reasonably certain that exposure is not understated for any significant subpopulation group. Further, regional consumption information is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups, to pesticide residues. For this pesticide, the most highly exposed population subgroup (non-nursing infants < 1 year old) was not regionally based.

IV. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action, EPA has sufficient data to assess the hazards of myclobutanil and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a time-limited tolerance for combined residues of myclobutanil on caneberries at 1.0 ppm and for combined residues of myclobutanil on dried hop cones at 5.0 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by myclobutanil are discussed below.

1. *Acute toxicity.* None. For acute dietary risk assessment, EPA has not recommended an acute dietary endpoint.

2. *Chronic toxicity.* EPA has established the RfD for myclobutanil at 0.025 milligrams/kilogram/day (mg/kg/day). This RfD is based on the NOEL from the chronic feeding study in the rat (2.49 mg/kg/day) and a safety factor of 100 (10 for intraspecies and 10 for interspecies). The LOEL for the chronic rat feeding study is 9.84 mg/kg/day based on decreased testicular weight and increased testicular atrophy. EPA's assessment notes that the dose of 2.49 mg/kg/day established in the above study is supported by the Parental Systemic Toxicity NOEL and LOEL established in the Two-Generation reproduction study in rats. In that study the NOEL was 2.5 mg/kg/day and the LOEL was 10 mg/kg/day. EPA has determined that the 10X factor to

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account for enhanced sensitivity of infants and children (as required by FQPA) should be removed. A safety factor of 100 is adequate because of the following:

i. Developmental toxicity studies showed no increased sensitivity in fetuses as compared to maternal animals following *in utero* exposures in rats and rabbits.

ii. A two generation reproduction toxicity study in rats showed no increased sensitivity in pups that were compared to adults.

iii. The toxicology data base is complete and there are no data gaps.

3. *Carcinogenicity.* Myclobutanil is classified as Category E: not carcinogenic in two acceptable animal studies. Q_1^* is not applicable.

B. Exposures and Risks

1. *From food and feed uses.* Tolerances have been established (40 CFR 180.443) for the combined residues of myclobutanil, in or on a variety of raw agricultural commodities. Tolerances have been established for the residues of myclobutanil α-butyl-α-(4-chlorophenyl)-1*H*-1,2,4-triazole-1-propanenitrile and its metabolite α-(3-hydroxybutyl)-α-(4-chlorophenyl)-1*H*-1,2,4-triazole-1-propanenitrile (free and bound), expressed as myclobutanil, in or on a variety of raw agricultural commodities and processed commodities at levels ranging from 0.02 ppm in cottonseed to 25.0 ppm in raisin waste. Meat, milk, poultry and egg tolerances have been established at levels ranging from 0.02 ppm to 1.0 ppm. Risk assessments were conducted by EPA to assess dietary exposures and risks from myclobutanil as follows:

i. *Acute exposure and risk.* If applicable. Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. In performing its assessment of the risks from residues of myclobutanil, EPA has not recommended an acute dietary toxicological endpoint, so an acute dietary risk assessment is not required.

ii. *Chronic exposure and risk.* In conducting this chronic dietary (food only) risk assessment, EPA has made somewhat conservative assumptions. This results in an overestimate of human dietary exposure. Percent crop-treated estimates were utilized for selected commodities included in the assessment. Thus, in making a safety determination for this tolerance, EPA is taking into account this partially refined exposure assessment.

The existing myclobutanil tolerances (published, pending, and including the necessary section 18 tolerances) result in an Anticipated Residue Contribution (ARC) that is equivalent to the following percentages of the RfD, ranging from 17% (U.S. population, 48 states) to 75% (non-nursing infants, < 1 year old).

2. *From drinking water—chronic exposure and risk.* Based on information available to EPA, myclobutanil is persistent and not considered mobile in soils with the exception of sandy soils. Data are not available for its metabolite alpha-(3-hydroxybutyl)-alpha-(4-chlorophenyl)-1*H*-1,2,4-triazole-1-propanenitrile. There is no established Maximum Contaminant Level for residues of myclobutanil in drinking water. No Health Advisory Levels for myclobutanil in drinking water have been established. The "Pesticides in Groundwater Database" (EPA 734-12-92-001, September 1992) has no information concerning myclobutanil.

EPA has estimated ground and surface water concentrations for myclobutanil based on the label rate of 0.65 lbs a.i./acre and assuming 15 applications per season. (These numbers were based on turf uses.)

Surface water EEC: Acute = 145.96 ppb (0.14596 ppm or milligrams/liter (mg/l))(maximum initial concentration)

Chronic = 118.6 ppb (0.1186 ppm or mg/l)(average 56–day concentration)

Ground water EEC: 3.6 ppb (0.0036 ppm or mg/l) (use for both acute and chronic)

EPA has calculated drinking water levels of concern (DWLOCs) for chronic (non-cancer) exposure to be 0.7 ppm for U.S. population, 0.6 ppm for Hispanics, and 0.06 ppm for non-nursing infants (< 1 year old).

The estimated average concentration of myclobutanil in surface water is 0.04 ppm. Chronic concentrations in ground water are not expected to be higher than the acute concentrations. The estimated average concentrations of myclobutanil in surface water are less than EPA's levels of concern for myclobutanil in drinking water as a contribution to chronic aggregate exposure. Therefore, taking into account the present uses and uses proposed in this action, EPA concludes with reasonable certainty that residues of myclobutanil in drinking water (when considered along with other sources of exposure for which EPA has reliable data) would not result in unacceptable levels of aggregate human health risk at this time.

EPA bases this determination on a comparison of estimated concentrations of myclobutanil in surface waters and ground waters to back-calculated "levels of concern" for myclobutanil in drinking water. These levels of concern in drinking water were determined after EPA has considered all other non-occupational human exposures for which it has reliable data, including all current uses, and uses considered in this action. The estimates of myclobutanil in surface waters are derived from water quality models that use conservative assumptions (health-protective) regarding the pesticide transport from the point of application to surface and ground water. Because EPA considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of concern in drinking water may vary as those uses change. If new uses are added in the future, EPA will reassess the potential impacts of myclobutanil on drinking water as a part of the aggregate risk assessment process.

3. *From non-dietary exposure.* Myclobutanil is currently registered for use on the following residential non-food sites: outdoor residential and greenhouse use on annuals, perennials, turf, shrubs, trees, and flowers.

Short- and intermediate-term exposure and risk. EPA has determined that these uses do not constitute a chronic exposure scenario, but may constitute a short- to intermediate-term exposure scenario. The intermediate-term potential exposure would come from Post-application (dermal for adult; and dermal + ingestion of soil only, due to the persistence of the pesticide in soil, for toddlers). Other intermediate-term exposure scenarios are unlikely as dissipation is strongly influenced by the growth of the grass which needs weekly mowing (more frequently in spring) and most dissipation studies on lawns show considerable tailing off of residues by day 3 or 4; thus, the expectation of significant residues is very unlikely.

4. *Cumulative exposure to substances with common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity." The Agency believes that "available information" in this context might include not only toxicity, chemistry, and exposure data, but also scientific policies and methodologies for understanding common mechanisms of toxicity and conducting cumulative risk assessments. For most pesticides, although the Agency has some information in its files that may turn out

to be helpful in eventually determining whether a pesticide shares a common mechanism of toxicity with any other substances, EPA does not at this time have the methodologies to resolve the complex scientific issues concerning common mechanism of toxicity in a meaningful way. EPA has begun a pilot process to study this issue further through the examination of particular classes of pesticides. The Agency hopes that the results of this pilot process will increase the Agency's scientific understanding of this question such that EPA will be able to develop and apply scientific principles for better determining which chemicals have a common mechanism of toxicity and evaluating the cumulative effects of such chemicals. The Agency anticipates, however, that even as its understanding of the science of common mechanisms increases, decisions on specific classes of chemicals will be heavily dependent on chemical specific data, much of which may not be presently available.

Although at present the Agency does not know how to apply the information in its files concerning common mechanism issues to most risk assessments, there are pesticides as to which the common mechanism issues can be resolved. These pesticides include pesticides that are toxicologically dissimilar to existing chemical substances (in which case the Agency can conclude that it is unlikely that a pesticide shares a common mechanism of activity with other substances) and pesticides that produce a common toxic metabolite (in which case common mechanism of activity will be assumed).

EPA does not have, at this time, available data to determine whether myclobutanil has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, myclobutanil does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that myclobutanil has a common mechanism of toxicity with other substances.

C. Aggregate Risks and Determination of Safety for U.S. Population

1. *Chronic risk.* Using the partially refined exposure assumptions described above, EPA has concluded that aggregate exposure (food, water, and residential) to myclobutanil will not exceed EPA's level of concern. For the U.S. population, 17% of the RfD is occupied by dietary (food) exposure. The estimated average concentrations of myclobutanil in surface and ground water are less than EPA's levels of concern for myclobutanil in drinking water as a contribution to chronic aggregate exposure. Therefore, EPA concludes with reasonable certainty that residues of myclobutanil in drinking water do not contribute significantly to the aggregate chronic human health risk at the present time considering the present uses and uses proposed in this action. EPA has determined that the outdoor registered uses of myclobutanil would not fall under a chronic exposure scenario. EPA concludes that there is a reasonable certainty that no harm will result from aggregate chronic exposure to myclobutanil residues.

2. *Short- and intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure. The short-term NOEL for dermal exposure is based on a dermal exposure toxicity study. Since the NOEL is based on a dermal study, oral exposures generally cannot be used directly to calculate a short-term aggregate exposure. However, as EPA determined that a dermal absorption factor of 100% should be used for risk assessment, oral exposures need not be multiplied by a modifying factor (converted to dermal equivalents) so that they can be compared to the dermal endpoint. Calculated MOEs were acceptable.

There is a potential for short-term exposure from drinking water. However, as estimated average concentrations of myclobutanil in surface and ground water are less than EPA's levels of concern for drinking water as a contribution to chronic aggregate and acute aggregate exposures, contribution to short-term exposure should not exceed EPA's levels of concern either.

EPA concludes that short-term aggregate MOEs for adults are acceptable considering the default assumptions used in the derivation of exposure estimates and the fact that a LOEL was not identified in the 28-day rat dermal toxicity study [the HDT was the NOEL in this study] used to determine the MOE. Chemical-specific dissipation data and residential use/usage information are required to further refine these post-application exposure estimates.

3. *Intermediate-term aggregate risk.* There is a potential for intermediate-term exposure from drinking water. However, as estimated average concentrations of myclobutanil in surface and ground water are less than EPA's levels of concern for drinking water as a contribution to chronic aggregate and acute aggregate exposures, contribution to intermediate-term exposure should not exceed EPA's levels of concern either.

D. Aggregate Risks and Determination of Safety for Infants and Children

1. *Safety factor for infants and children*— i. *In general.* In assessing the potential for additional sensitivity of infants and children to residues of myclobutanil, EPA considered data from developmental toxicity studies in the rat and rabbit and a two-generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure during gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for pre-and post-natal toxicity and the completeness of the database unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using the standard MOE and uncertainty factor (usually 100 for combined inter- and intra-species variability)) and not the additional tenfold MOE/uncertainty factor when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard MOE/safety factor.

ii. *Developmental toxicity studies*— a. *Rats.* In the developmental study in rats, the maternal (systemic) NOEL was 93.8 mg/kg/day, based on rough hair coat, and salivation at the LOEL of 312.6 mg/kg/day. The developmental (fetal) NOEL was 93.8 mg/kg/day based on incidences of 14th rudimentary and 7th cervical ribs at the LOEL of 312.6 mg/kg/day.

b. *Rabbits.* In the developmental toxicity study in rabbits, the maternal (systemic) NOEL was 60 mg/kg/day, based on reduced weight gain, clinical signs of toxicity and abortions at the

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LOEL of 200 mg/kg/day. The developmental (fetal) NOEL was 60 mg/kg/day, based on increases in number of resorptions, decreases in litter size, and a decrease in the viability index at the LOEL of 200 mg/kg/day.

iii. *Reproductive toxicity study—Rats.* In the 2-generation reproductive toxicity study in rats, the parental (systemic) NOEL was 2.5 mg/kg/day, based on increased liver weights and liver cell hypertrophy at the LOEL of 10 mg/kg/day. The developmental (pup) NOEL was 10 mg/kg/day, based on decreased pup body weight during lactation at the LOEL of 50 mg/kg/day. The reproductive (pup) NOEL was 10 mg/kg/day, based on the increased incidence of stillborns, and atrophy of the testes, epididymides, and prostate at the lowest effect level of 50 mg/kg/day.

iv. *Pre- and post-natal sensitivity.* The pre- and post-natal toxicology data base for myclobutanil is complete with respect to current toxicological data requirements. Based on the developmental and reproductive toxicity studies discussed above, for myclobutanil there does not appear to be an extra sensitivity for pre- or post-natal effects.

v. *Conclusion.* Based on the above, EPA concludes that reliable data support use of a hundredfold margin of exposure/uncertainty factor, rather than the standard thousandfold margin/factor, to protect infants and children.

2. *Chronic risk.* Using the partially refined exposure assumptions described above, EPA has concluded that the percent of the RfD that will be utilized by dietary (food only) exposure to residues of myclobutanil ranges from 25% for nursing infants (< 1 year old) up to 75% for non-nursing infants (< 1 year old). Despite the potential for exposure to myclobutanil in drinking water, HED does not expect the chronic aggregate exposure to exceed 100% of the RfD. EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to myclobutanil residues.

3. *Short-term aggregate risk.* The short-term NOEL for dermal exposure is based on a dermal exposure toxicity study. Since the NOEL is based on a dermal study, oral exposures generally cannot be used directly to calculate a short-term aggregate exposure. However, as EPA determined that a dermal absorption factor of 100% should be used for risk assessment, oral exposures need not be multiplied by a modifying factor (converted to dermal equivalents) so that they can be compared to the dermal endpoint.

The chronic dietary exposure and calculated dietary MOE for infants (non-nursing, < 1 year old) was acceptable. For the short-term aggregate risk of the most highly exposed subgroup (non-nursing infants (< 1 year old)), the calculated MOE is 120. There is a potential for short-term exposure from drinking water. However, as estimated average concentrations of myclobutanil in surface and ground water are less than EPA's levels of concern for drinking water as a contribution to chronic aggregate and acute aggregate exposures, contribution to short-term exposure should not exceed EPA's levels of concern either. EPA concludes that short-term aggregate MOEs for non-nursing infants (< 1 year old) are acceptable.

4. *Intermediate-term aggregate risk.* The intermediate-term NOEL for dermal exposure is based on an oral exposure toxicity study. EPA has determined that a dermal absorption factor of 100% should be used for this risk assessment. The chronic dietary exposure from myclobutanil is 0.018836 mg/kg/day. The calculated myclobutanil dietary MOE for non-nursing infants (< 1 year old) is 530, which is acceptable. There is a potential for intermediate-term exposure from drinking water. However, as estimated average concentrations of myclobutanil in surface and ground water are less than EPA's levels of concern for drinking water as a contribution to chronic aggregate and acute aggregate exposures, contribution to intermediate-term exposure should not exceed EPA's levels of concern either.

V. Other Considerations

A. Metabolism in Plants and Animals

The nature of the residue in plants is adequately understood. The residue of concern is myclobutanil plus its alcohol metabolite (free and bound), as specified in 40 CFR 180.443(a).

B. Analytical Enforcement Methodology

An adequate enforcement method is available to enforce the established tolerances. Quantitation is by GLC using an Nitrogen/Phosphorus detector for myclobutanil and an Electron Capture detector (Ni^{63}) for residues measured as the alcohol metabolite. A copy of this method is on file within EPA, using the identification code of PP 4E4302.

C. Magnitude of Residues

Six field trials were conducted between 1992 and 1994 in OH (2), WA (1), MS (1), NJ (1), and OR (1). In all but one trial, eight applications of rates ranging from 0.15–1.0 oz. ai/A were made. The one trial had only four applications. Blackberries and raspberries were harvested at 0, 3, and 7 PHI, except in one raspberry trial in which the PHIs were 0, 4, and 8 day. The results at 1X show a range of residues of 0.03–0.39 ppm for parent myclobutanil and < 0.02 for the alcohol metabolite. Residues of myclobutanil and its alcohol metabolite are not expected to exceed 1.0 ppm in/on caneberries as a result of this section 18 use. A time-limited tolerance for the combined residues of myclobutanil and its alcohol metabolite (free and bound) should be established at this level.

Secondary residues are not expected in animal commodities as no feedstuffs are associated with these section 18 uses. Meat/milk/poultry/egg tolerances have been established as a result of other myclobutanil uses.

D. International Residue Limits

There are no Codex, Canadian or Mexican residue limits established for myclobutanil and its metabolites on the commodities included in these section 18 requests. Thus, harmonization is not an issue for these section 18 actions.

E. Rotational Crop Restrictions

Information concerning the likelihood of residues in rotational crops is not available for myclobutanil. As caneberries and hopes are normally not rotated, issues pertaining to rotational crops are not applicable to this petition.

VI. Conclusion

Therefore, the tolerance is established for combined residues of myclobutanil in caneberries at 1.0 ppm; and for combined residues of myblobutanil in/on dried hop cones at 5.0 ppm.

VII. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to "object" to a tolerance regulation issued by EPA under new section 408(e) and (l)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by September 8, 1998, file written objections to any aspect of this regulation and may also request a hearing on those objections.

Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as Confidential Business Information (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VIII. Public Docket and Electronic Submissions

EPA has established a record for this rulemaking under docket control number [OPP-300678] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments may be sent directly to EPA at:

opp-docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the Virginia address in "ADDRESSES" at the beginning of this document.

IX. Regulatory Assessment Requirements

This action finalizes a tolerance under FFDCA section 408(e). The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). In addition, this final rule does not contain any information collections subject to OMB approval under the *Paperwork Reduction Act* (PRA), 44 U.S.C. 3501 et seq., or impose any enforceable duty or contain any unfunded mandate as described under Title II of the *Unfunded Mandates Reform Act of 1995* (UMRA) (Pub. L. 104–4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), or require special OMB review in accordance with Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

In addition, under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.), the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification-for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

X. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 25, 1998.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.443, by adding new entries for caneberries and hop cones, dried in alphabetical order to the table in paragraph (b), to read as follows:

§ 180.443 Myclobutanil; tolerances for residues.

* * * * *

(b) *Section 18 emergency exemptions.* * * *

Commodity	Parts per million	Expiration/ Revocation Date
Caneberries	1.0	12/31/99
*	*	*
Hop cones, dried	5.0	12/31/99
*	*	*

* * * * *

[FR Doc. 98–18278 Filed 7–9–98; 8:45 am]

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

[REG–104537–97]

RIN 1545–AV11

Guidance Under Subpart F Relating to Partnerships and Branches; Hearing Cancellation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Cancellation of notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations relating to the treatment under subpart F of certain branches of a controlled Foreign Corporation that are treated as separate entities for foreign tax purposes.

DATES: The public hearing originally scheduled for Wednesday, July 15, 1998, beginning at 10:00 a.m. is cancelled.

FOR FURTHER INFORMATION CONTACT: Mike Slaughter of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622–7190, (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under sections 702, 952, 954, 956, and 7701 of the Internal Revenue Code. A notice of proposed rulemaking and notice of public hearing appearing in the **Federal Register** on Thursday, March 26, 1998 (63 FR 14669), announced that the public hearing would be held on Wednesday, July 15, 1998, beginning at 10:00 a.m., in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW. Washington, D.C.

The public hearing scheduled for Wednesday, July 15, 1998, is cancelled.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 98–18432 Filed 7–9–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 655

Radiation Sources on Army Land

AGENCY: Office of the Director of Army Safety, Department of the Army, DoD.

ACTION: Proposed rule.

SUMMARY: This proposed revision of rules changes the approval authority for Army radiation permits from Commander, U.S. Army Materiel Command (formerly, the U.S. Army Materiel Development and Readiness Command) to local installation commanders. Delegating the approval authority to the local installation commanders will reduce delays in processing permits while enhancing personal safety of military personnel, civilian employees and the public. The proposed revision includes descriptions of ionizing radiation sources that require Army radiation permits and criteria for application approval. The proposed rule adds the requirement for an Army radiation permit whenever a non-Army agency wants to bring onto Army property a machine-produced ionizing radiation source capable of producing a high radiation area.

DATES: Comments must be received by September 8, 1998.

ADDRESSES: Headquarters, Department of the Army, Office of the Director of Army Safety, ATTN: DACS–SF, RM 3D253, Chief of Staff, 200 Army Pentagon, Washington, DC 20310–0200.

FOR FURTHER INFORMATION CONTACT: Colonel Robert Cherry, telephone: (703) 695–7291.

SUPPLEMENTARY INFORMATION:

Information Collection Requirements

This proposed rule contains collection of information requirements in 32 CFR 655.10. Information collection is required in support of issuing an Army Radiation Permit to Non-Army agencies. The permits are required for use, storage, or possession of radioactive material and other radiation on an Army installation. Failure to comply with the collection of information would result in installation commanders not having knowledge of the presence of radioactive materials or other radiation sources on their installations and not provide adequate controls to ensure the safety of the public, civilian employees and military personnel on the installations. The Paperwork Reduction Act of 1995, 44 U.S.C. 3507(d) and 5 CFR 1320.11 require Federal agencies to submit collections of information contained in proposed rules to the Office of Management and Budget (OMB) for review.

To request more details pertaining to the collection of information requirements or to obtain a copy of the proposal and associated collection instruments, please write to the above address or call Department of the Army Reports clearance officer at (703) 614–0454.

Title: Letter Permit for Non-Army Agency Radiation Sources on Army Land.

Needs and Uses: Non-Army agencies (including civilian contractors) are required to obtain Army radiation permits to use, store, or possess radiation sources on Army installation. This proposal changes the approval authority for the permits from Commander, U.S. Army Materiel Command (formerly, the U.S. Army Materiel Development and Readiness Command) to local installation commanders.

Affected Public: Business or other for profit; not-for-profit institutions; state, local or tribal government.

Annual Burden Hours: 470.

Number of Respondents: 235.

Responses Per Respondent: 1.

Average Burden Per Response: 2.

Frequency: On occasion.

The basic information on the use of radioactive sources on Army lands was previously published in the **Federal Register**, 45 FR 26958, dated April 22, 1980.

Executive Order 12866

This proposed rule is not a major rule as defined under Executive Order 12866. The proposed rule does not:

a. Have an annual effect to the economy of $100 million or more or adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities;

b. Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

c. Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

d. Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Regulatory Flexibility Act

This proposed rule was reviewed with regard to the requirements of the Regulatory Flexibility Act. The proposal does not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

Pursuant to the Paperwork Reduction Act of 1995, the reporting provisions of this proposed rule have been submitted to the Office of Management and Budget for review under Section 3507(d) of the Act.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act, the Office of the Director of Army Safety, DACS–SF, announces the proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (2) the accuracy of the agency's estimates of the burden of the proposed information collection; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and, (4) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs, OMB, 725 17th Street, N.W., Washington, DC 20503, marked "Attention Desk Officer for Department of Defense." Copies should be sent to the Office of the Director of Army Safety, ATTN: DACS–SF, RM 3D253, Chief of Staff, 200 Army Pentagon, Washington, DC 20310–0200. When the Department of the Army promulgates the Final Rule, the Department will respond to comments by OMB or the public regarding the information collection provision requirements of the rule.

List of Subjects in 32 CFR Part 655

Environmental protection, Radiation protection, Reporting and recordkeeping requirements.

Accordingly, 32 CFR part 655 is proposed to be revised to read as follows:

PART 655—RADIATION SOURCES ON ARMY LAND

Authority: 10 U.S.C. 3012.

§ 655.10 Use of radiation sources by non-Army entities on Army land (AR 385–11).

(a) Army radiation permits are required for use, storage, or possession of radiation sources by non-Army agencies (including civilian contractors) on an Army installation. Approval of the installation commander is required to obtain an Army radiation permit. For the purposes of this section, a radiation source is:

(1) Radioactive material used, stored, or possessed under the authority of a specific license issued by the Nuclear Regulatory Commission (NRC) or an Agreement State (10 CFR);

(2) More than 0.1 microcurie (uCi) [3.7 kilobecquerels] (kBq) of radium, except for electron tubes;

(3) More than 1 uCi (37 kBq) of any naturally occurring or accelerator produced radioactive material (NARM) other than radium, except for electron tubes;

(4) an electron tube containing more than 10 uCi (370 kBq) of any naturally occurring or accelerator produced NARM radioisotope; or

(5) A machine-produced ionizing-radiation source capable of producing an area, accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of 0.1 rem (1 mSv) in 1 hour at 30 centimeters from the radiation source or from any surface that the radiation penetrates.

(b) The non-Army applicant will apply by letter with supporting documentation (paragraph c of this section) through the appropriate tenant commander to the installation commander. Submit the letter so that the installation commander receives the application at least 30 calendar days before the requested start date of the permit.

(c) The Army radiation permit application will specify start and stop dates for the Army radiation permit and describe for what purposes the applicants needs the Army radiation permit. The installation commander will approve the application only if the applicant provides evidence to show that one of the following is true:

(1) The applicant possesses a valid NRC license or Department of Energy (DOE) radiological work permit that allows the applicant to use the source as specified in the Army radiation permit application;

(2) The applicant possesses a valid Agreement State license that allows the applicant to use radioactive material as specified in the Army radiation permit application, and the applicant has filed NRC Form–241, Report of Proposed Activities in Non-Agreement States, with the NRC in accordance with 10 CFR part 150, § 150.20 (an Army radiation permit issued under provisions of this section will be valid for no more than 180 days in any calendar year);

(3) For NARM and machine-produced ionizing radiation sources, the applicant has an appropriate State authorization that allows the applicant to use the source as specified in the Army radiation permit application or has in place a radiation safety program that complies with Army regulations; or

(4) For overseas installations, the applicant has an appropriate host-nation authorization as necessary that allows the applicant to use the source as specified in the Army radiation permit application and has in place a radiation safety program that complies with Army regulations. (Applicants will comply with applicable status-of-forces agreements (SOFAs) and other international agreements.)

(d) All Army radiation permits will require applicants to remove all permitted sources from Army property by the end of the permitted time.

(e) Disposal of radioactive material by non-Army agencies on Army property is prohibited. However, the installation commander may authorize radioactive releases to the atmosphere or to the sanitary sewerage system that are in compliance with all applicable Federal, DoD, and Army regulations. (The installation commander also will give appropriate consideration to State or local restrictions on such releases.)

Raymond J. Fatz,

Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health) OASA (I, L&E).

[FR Doc. 98–17952 Filed 7–9–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD 97–086]

RIN 2115–AA98

Anchorage Grounds; Hudson River, Hyde Park, NY

AGENCY: Coast Guard, DOT.

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ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish an anchorage ground in the Hudson River near Hyde Park, NY. This action is necessary to provide an anchorage ground on the Hudson River for vessels awaiting favorable tides and/or daylight for passage to facilities north of New York. This action is intended to increase safety for vessels transiting the Hudson River by providing an anchorage ground away from congested traffic lanes used in New York Harbor.

DATES: Comments must reach the Coast Guard on or before October 8, 1998.

ADDRESSES: You may mail comments to the Waterways Oversight Branch (CGD01–97–086), Coast Guard Activities New York, 212 Coast Guard Drive, Staten Island, New York 10305, or deliver them to room 205 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The Waterways Oversight Branch of Coast Guard Activities New York maintains the public docket for this rulemaking. Comments, and documents as indicated in this preamble, will become part of this docket and will be available for inspection or copying at room 205, Coast Guard Activities New York, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) Alma Kenneally, Waterways Oversight Branch, Coast Guard Activities New York (718) 354–4195.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD 01–97–086) and the specific section of this document to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this proposed rule in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Waterways Oversight Branch at the Address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Hudson River Pilots Association has requested that the Coast Guard establish a federal anchorage ground in the Hudson River near Hyde Park, New York. The closest anchorage to this area is down river to anchorage number 17, the northern boundary of which lies between the Yonkers municipal pier and the pilot station just to the north. The area that the Pilots Association has suggested for consideration is bound by the following coordinates:

NW corner	41° 48′ 35″ N	073° 57′ 00W″
NE corner	41° 48′ 35″ N	073° 56′ 44W″
SE corner	41° 47′ 32″ N	073° 56′ 50W″
SW corner	41° 47′ 32″ N	073° 57′ 10W″

Discussion of Proposed Rule

The proposed anchorage would be valuable to vessels awaiting favorable tides and/or daylight for passage to Albany and other upper river ports. Additionally, the new anchorage could relieve some of the overcrowding in the existing New York Harbor anchorages, thus increasing vessel safety. This new anchorage will only be authorized for use from March 1 through December 15 each year. This is due to ice conditions in the river. No vessel may anchor in Anchorage 19–A from December 16 to the last day of February without permission from the Captain of the Port New York.

Regulatory Evaluation

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. The effect of this regulation would not be significant for the following reasons: due to icing of the river in winter months, the anchorage would be seasonal in nature, recreational traffic could still traverse the anchorage when necessary, and the proposed anchorage would still permit unobstructed navigation of the Hudson in that area on the western side.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considers whether this proposed rule, if adopted, will have a significant economic impact on the substantial number of small entities. “Small entities” include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this proposed rule will have a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this proposed rule will economically affect it.

Collection of Information

This proposed rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this propose rule under the principles and criteria contained in Executive Order 12612 and has determined that this proposed rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposed rule and concluded that under Figure 2–1, paragraph 34(f), of Commandant Instruction M16475.1C, this proposed rule is categorically excluded form further environmental documentation. Figure 2–1, paragraph 34(f) only requires an environmental checklist and a “Categorical Exclusion Determination” for regulations establishing anchorage grounds. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

Proposed Regulations

For reasons set out in the preamble, the Coast Guard proposed to amend 33 CFR Part 110 as follows:

PART 110—[AMENDED]

1. The authority citation for Part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 1221 through 1236, 2030, 2035, 2071; 49 CFR 1.46 and 33 CFR 1.05–1(g).

2. In § 110.155, add paragraph (c)(6) to read as follows:

§ 110.155 Port of New York.

* * * * *

(c) * * *

(6) *Anchorage No. 19–A.* An area located west of Hyde Park enclosed by the coordinates staring at 41°48′35″ N, 073°57′00″ W; to 41°48′35″ N, 073°56′44″ W; to 41°47′32″ N, 073°56′50″ W; to 41°47′32″ N, 073°57′10″ W; thence back to 41°48′35″ N, 073°57′00″ W.

(i) No vessel may anchor in Anchorage 19–A from December 16 to the last day of February without permission from the Captain of the Port, New York

(ii) [Reserved]

* * * * *

Dated: June 3, 1998.

James D. Garrison,

Captain, U.S. Coast Guard, Acting Commander, First Coast Guard District.

[FR Doc. 98–18396 Filed 7–9–98; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AJ18

Enrollment—Provision of Hospital and Outpatient Care to Veterans

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend VA's medical regulations. The Veterans' Health Care Eligibility Reform Act of 1996 mandates that VA implement a national enrollment system to manage the delivery of healthcare services. Accordingly, the medical regulations are proposed to be amended to establish provisions consistent with this mandate. Starting October 1, 1998, most veterans must be enrolled in the VA healthcare system as a condition of receiving VA hospital and outpatient care. Veterans would be allowed to apply to be enrolled at any time. They would be eligible to be enrolled based on funding availability and their priority status. In accordance with statutory provisions, the proposed rule also states that some categories of veterans would be eligible for VA hospital and outpatient care even if not enrolled. This document further proposes to establish a "medical benefits package" setting forth, with certain exceptions, the hospital and outpatient care that would be provided to enrolled veterans and certain other veterans.

DATES: Comments must be received on or before September 8, 1998.

ADDRESSES: Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to "RIN: 2900–AJ18." All written comments received will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Roscoe Butler, Health Administration Service, (10C3), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8302. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: This document proposes to amend VA's medical regulations at 38 CFR part 17. Public Law 104–262, the Veterans' Health Care Eligibility Reform Act of 1996, mandated that VA implement a national enrollment system to manage the delivery of healthcare services. Accordingly, the medical regulations are proposed to be amended to establish provisions consistent with this mandate. Starting October 1, 1998, most veterans must be enrolled in the VA healthcare system as a condition for receiving VA hospital and outpatient care. They would be allowed to apply to be enrolled at any time. In accordance with statutory provisions, the proposal also states that some categories of veterans would be eligible for VA hospital and outpatient care even if not enrolled. This document further proposes to establish a "medical benefits package" setting forth, with certain exceptions, the hospital and outpatient care that would be provided to enrolled veterans and certain other veterans.

National Enrollment System (Proposed § 17.36)

The proposed rule restates statutory provisions by announcing that certain veterans must be enrolled in the VA healthcare system as a condition for receiving VA hospital and outpatient care. Also, consistent with the mandate of Public Law 104–262, the proposed rule contains a mechanism for determining which categories of veterans are eligible to be enrolled. Moreover, the proposed rule includes procedures for applying for enrollment, continuation of enrollment, and disenrollment; and provides for notification to veterans of determinations regarding their enrollment status.

The proposed rule also contains provisions for automatically enrolling veterans who were enrolled prior to October 1, 1998, in the VA healthcare system under the trial VA voluntary enrollment program that began on October 1, 1997, if they are in a funded priority category as explained below. This would help avoid duplicate decisionmaking and paperwork since the trial VA voluntary enrollment program used essentially the same procedures for enrollment as those set forth in the proposed rule.

Consistent with the statutory mandate, the proposed rule provides that the Secretary will determine which categories of veterans are eligible to be enrolled based on the following order of priority:

(1) Veterans with a singular or combined rating of 50 percent or greater based on one or more service-connected disabilities or unemployability.

(2) Veterans with a singular or combined rating of 30 percent or 40 percent based on one or more service-connected disabilities.

(3) Veterans who are former prisoners of war; veterans with a singular or combined rating of 10 percent or 20 percent based on one or more service-connected disabilities; veterans who were discharged or released from active military service for a disability incurred or aggravated in the line of duty; veterans who receive disability compensation under 38 U.S.C. 1151; veterans whose entitlement to disability compensation is suspended pursuant to 38 U.S.C. 1151, but only to the extent that such veterans' continuing eligibility for hospital and outpatient care is provided for in the judgment or settlement described in 38 U.S.C. 1151; veterans whose entitlement to disability compensation is suspended because of the receipt of military retired pay; and veterans receiving compensation at the

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10 percent rating level based on multiple noncompensable service-connected disabilities that clearly interfere with normal employability

(4) Veterans who receive increased pension based on their need for regular aid and attendance or by reason of being permanently housebound and other veterans who otherwise would be included in paragraphs (5) or (6) of this section but who are determined to be catastrophically disabled by the Chief of Staff (or equivalent clinical official) at the VA facility where they were examined.

(5) Veterans not covered by paragraphs (1) through (4) who are determined to be unable to defray the expenses of necessary care under 38 U.S.C. 1722(a).

(6) Veterans of the Mexican border period or of World War I; veterans solely seeking care for a disorder associated with exposure to a toxic substance or radiation or for a disorder associated with service in the Southwest Asia theater of operations during the Gulf War, as provided in 38 U.S.C. 1710(e); and veterans with 0 percent service-connected disabilities who are nevertheless compensated, including veterans receiving compensation for inactive tuberculosis.

(7) Veterans who agree to pay to the United States the applicable copayment determined under 38 U.S.C. 1710(f) and 1710(g).

We also propose to establish the following subcategories for priority category 7:

(i) Noncompensable zero percent service-connected veterans;

(ii) Catastrophically disabled veterans; and

(iii) All other priority category 7 veterans.

In our view, this would provide an equitable system for further prioritizing the enrollment of priority category 7 veterans if VA were able to provide care for only a portion of priority category 7 veterans.

Priority category 4 includes veterans who are "catastrophically disabled." We have included a detailed definition of this term in proposed § 17.36(e). We believe this is consistent with the Congressional intent.

In connection with the Secretary's determination regarding which categories of veterans would be eligible for hospital and outpatient care, the proposed rule states that the Secretary will publish in the notice section of the **Federal Register** on or before October 1, 1998, a document announcing which categories of veterans are eligible to be enrolled. The proposed rule also states that thereafter, it is anticipated that the Secretary would publish in the notice section of the **Federal Register** on or before August 1 of each year the determination of which categories of veterans are eligible to be enrolled. It is likely that the Secretary would have sufficient information by August 1 of each year to make an appropriate determination. However, because of the possibility that the initial determination may require modification, the proposed rule would allow the Secretary to revise the determination by publication in the notice section of the **Federal Register** as necessary at any time. The proposed rule also includes criteria for determining which priority categories will be eligible to be enrolled.

Veterans may appeal VA decisions regarding enrollment and disenrollment under the existing VA procedures, which include the right to appeal to the Board of Veterans' Appeals and the Court of Veterans Appeals.

Enrollment Not Required for Certain Categories of Veterans (Proposed § 17.37)

Consistent with the provisions of Public Law 104–262, the proposed rule states that certain categories of veterans, including veterans rated for service-connected disabilities at 50 percent or greater, are not required to be enrolled in the VA healthcare system as a condition for receiving VA care.

Under Public Law 104–262, the list of veterans not required to be enrolled includes veterans ineligible to be enrolled but who need care based on "compelling medical reasons." Based on our view of the statutory intent, the proposed rule indicates that this covers those cases when it is necessary to complete a course of treatment started when the veteran was enrolled in the VA healthcare system.

Further, we note that we do not believe that the authority for providing hospital and outpatient care for "compelling medical reasons" was intended to cover the provision of care as a humanitarian service in emergency cases. VA has separate and long-standing authority to provide care to individuals such as non-enrolled veterans in medical emergencies subject to charges set by VA.

Medical Benefits Package (Proposed § 17.38)

This document also proposes to set forth provisions explaining what care would and would not be provided to veterans enrolled in the VA healthcare system. The Secretary has authority to provide healthcare as determined to be medically needed. In our view, medically needed constitutes care that is determined by appropriate healthcare professionals to be needed to promote, preserve, or restore the health of the individual and to be in accord with generally accepted standards of medical practice. The care included in the proposed "medical benefits package" is intended to meet these criteria.

The proposed regulations also explain that a veteran may receive certain types of VA care not included in the "medical benefits package" if authorized by statute or other sections of 38 CFR (e.g., humanitarian emergency care for which the individual will be billed, compensation and pension examinations, dental care, domiciliary care, nursing home care, readjustment counseling, care as part of a VA-approved research project, seeing-eye or guide dogs, sexual trauma counseling and treatment, special registry examinations).

Technical Changes

The proposed rule also proposes to make a number of technical amendments to the medical regulations for purposes of consistency.

OMB

This document has been reviewed by the Office of Management and Budget OMB under Executive Order 12866.

Paperwork Reduction Act of 1995

OMB has determined that proposed 38 CFR 17.36 would contain collections of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). Accordingly, under section 3507(d) of the Act, VA has submitted a copy of this rulemaking action to OMB for its review of the collections of information.

OMB assigns a control number for each collection of information it approves. VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Comments on the proposed collections of information should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies mailed or hand-delivered to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to "RIN 2900–AJ18."

Title: Initial Application for Health Benefits.

Summary of collection of information: Under the provisions of proposed § 17.36(d)(1), a veteran who wishes to be enrolled must apply by submitting a VA Form 10–10EZ to a VA medical facility. Veterans applying based on inclusion in categories 1, 2, 3, 4, 6, and 7 do not need to complete section II, but must complete the rest of the form. Veterans applying based on inclusion in priority category 5 must complete the entire form. VA Form 10–10EZ is set forth in full at proposed § 17.36(f).

Description of the need for information and proposed use of information: This information would be needed to determine whether a veteran would be eligible to be enrolled in the VA healthcare system and, consequently, whether the veteran would be eligible for VA hospital and outpatient care.

Description of likely respondents: Veterans wishing to be enrolled in the VA healthcare system for the first time in order to receive VA hospital and outpatient care.

Estimated number of respondents: 1,000,000.

Estimated frequency of responses: 1.

Estimated total annual reporting and recordkeeping burden: 333,333 hours.

Estimated annual burden per collection: 20 minutes.

Title: Yearly Re-application for Health Benefits.

Summary of collection of information: Under the provisions of proposed § 17.36(d)(4)(iii), veterans enrolled based on inclusion in priority category 5 would be mailed a Form 10–10EZ on a yearly basis. They would be requested to complete the form and return the form to the address on the return envelope. VA Form 10–10EZ is set forth in full at proposed § 17.36(f).

Description of the need for information and proposed use of information: This information would be needed to determine whether a veteran would be eligible to continue to be enrolled in the VA healthcare system, and, consequently, whether the veteran would be eligible to continue to receive VA hospital and outpatient care.

Description of likely respondents: Veterans in priority category 5 wishing to continue to be enrolled in the VA healthcare system in order to receive VA hospital and outpatient care.

Estimated number of respondents: 1,372,766.

Estimated frequency of responses: 1.

Estimated total annual reporting and recordkeeping burden: 343,192 hours.

Estimated annual burden per collection: 15 minutes.

Title: Voluntary disenrollment.

Summary of collection of information: Under the provisions of proposed § 17.36(d)(4)(i), a veteran wishing to disenroll and forgo VA hospital and outpatient care would submit to a VA medical center a signed document stating that the veteran no longer wishes to be enrolled.

Description of the need for information and proposed use of information: This information is needed to determine the identity of those veterans wishing to disenroll and forgo VA hospital and outpatient care. This will help VA determine how to allocate available funding for hospital and outpatient care.

Description of likely respondents: Veterans no longer wishing to receive VA hospital and outpatient care.

Estimated number of respondents: 100.

Estimated frequency of responses: 1.

Estimated total annual reporting and recordkeeping burden: 8.3 hours.

Estimated annual burden per collection: 5 minutes.

The Department considers comments by the public on proposed collections of information in—

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;
- Evaluating the accuracy of the Department's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collections of information on those who are to respond, including responses through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

OMB is required to make a decision concerning the collections of information contained in this proposed rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the proposed rule.

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This proposed rule would affect only individuals. Accordingly, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analysis requirements of §§ 603 and 604.

The Catalog of Federal domestic assistance numbers for the programs affected by this rule are 64.005, 64.007, 64.008, 64,009, 64.010, 64.011, 64.012, 64.013, 64.014, 64.015, 64.016, 64.018, 64.019, 64.022, and 64.025.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and record-keeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Approved: May 12, 1998.

Togo D. West, Jr.,

Secretary.

For the reasons set out in the preamble, 38 CFR part 17 is proposed to be amended as set forth below:

PART 17—MEDICAL

1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, 1721 unless otherwise noted.

§ 17.34 [Amended]

12. The first sentence of § 17.34 is amended by removing "When an application" and adding, in its place, "Subject to the provisions of §§ 17.36 through 17.38, when an application".

2. An undesignated center heading and § 17.36 are added to read as follows:

Enrollment Provisions and Medical Benefits Package

§ 17.36 Enrollment—provision of hospital and outpatient care to veterans.

(a) *Enrollment requirement for veterans.* (1) Except as otherwise provided in § 17.37, a veteran must be enrolled in the VA healthcare system as a condition for receiving VA hospital and outpatient care.

Note to paragraph (a)(1): A veteran may apply to be enrolled at any time. (See § 17.36(d)(1).)

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(2) Except as provided in paragraph (a)(3) of this section, a veteran enrolled under this section is eligible for VA hospital and outpatient care as provided in the "medical benefits package" set forth in § 17.38.

(3) A veteran enrolled based on having a disorder associated with exposure to a toxic substance or radiation, or having a disorder associated with service in the Southwest Asia theater of operations during the Gulf War, as provided in 38 U.S.C. 1710(e), is eligible for VA hospital and outpatient care provided in the "medical benefits package" set forth in § 17.38 for the disorder.

(b) *Categories of veterans eligible to be enrolled.* The Secretary will determine which categories of veterans are eligible to be enrolled based on the following order of priority:

(1) Veterans with a singular or combined rating of 50 percent or greater based on one or more service-connected disabilities or unemployability.

(2) Veterans with a singular or combined rating of 30 percent or 40 percent based on one or more service-connected disabilities.

(3) Veterans who are former prisoners of war; veterans with a singular or combined rating of 10 percent or 20 percent based on one or more service-connected disabilities; veterans who were discharged or released from active military service for a disability incurred or aggravated in the line of duty; veterans who receive disability compensation under 38 U.S.C. 1151; veterans whose entitlement to disability compensation is suspended pursuant to 38 U.S.C. 1151, but only to the extent that such veterans' continuing eligibility for hospital and outpatient care is provided for in the judgment or settlement described in 38 U.S.C. 1151; veterans whose entitlement to disability compensation is suspended because of the receipt of military retired pay; and veterans receiving compensation at the 10 percent rating level based on multiple noncompensable service-connected disabilities that clearly interfere with normal employability.

(4) Veterans who receive increased pension based on their need for regular aid and attendance or by reason of being permanently housebound and other veterans who otherwise would be included in paragraphs (5) or (6) of this section but who are determined to be catastrophically disabled by the Chief of Staff (or equivalent clinical official) at the VA facility where they were examined.

(5) Veterans not covered by paragraphs (1) through (4) of this section who are determined to be unable to defray the expenses of necessary care under 38 U.S.C. 1722(a).

(6) Veterans of the Mexican border period or of World War I; veterans solely seeking care for a disorder associated with exposure to a toxic substance or radiation or for a disorder associated with service in the Southwest Asia theater of operations during the Gulf War, as provided in 38 U.S.C. 1710(e); and veterans with 0 percent service-connected disabilities who are nevertheless compensated, including veterans receiving compensation for inactive tuberculosis.

(7) Veterans who agree to pay to the United States the applicable copayment determined under 38 U.S.C. 1710(f) and 1710(g). This category is further prioritized into the following subcategories:

(i) Noncompensable zero percent service-connected veterans;

(ii) Catastrophically disabled veterans; and

(iii) All other priority category 7 veterans.

(c) **Federal Register** *notification of eligible enrollees.* The Secretary will publish in the notice section of the **Federal Register** on or before October 1, 1998, a document announcing which categories of veterans are eligible to be enrolled. Thereafter, it is anticipated that the Secretary will publish in the notice section of the **Federal Register** on or before August 1 of each year a document announcing which categories of veterans are eligible to be enrolled. As necessary, the Secretary at any time may revise the determination by publication in the notice section of the **Federal Register**. A **Federal Register** document published under this paragraph must specify the total amount of appropriated funds and other revenue projected to be available for VA hospital and outpatient care for veterans eligible to be enrolled, specify the average amount of cost projected for a veteran in each priority category, and specify the projected utilization of VA hospital and outpatient care by veterans eligible to be enrolled for each priority category (based on experience from past years). The determination should include consideration of relevant internal and external factors, *e.g.*, economic changes, changes in medical practices. Consistent with these criteria, the Secretary will determine which categories of veterans are eligible to be enrolled based on the order of priority specified in paragraph (b) of this section.

(d) *Enrollment and disenrollment process*—*(1) Application for enrollment.* A veteran may apply to be enrolled in the VA healthcare system at any time. A veteran who wishes to be enrolled must apply by submitting a VA Form 10–10EZ to a VA medical facility. Veterans applying based on inclusion in priority categories 1, 2, 3, 4, 6, and 7 do not need to complete section II, but must complete the rest of the form. Veterans applying based on inclusion in priority category 5 must complete the entire form. VA Form 10–10EZ is set forth in paragraph (f) of this section and is available from VA medical facilities.

Note to paragraph (d)(1): To remain enrolled based on inclusion in priority category 5, a veteran annually must return to VA information on a VA Form 10–10EZ as provided in paragraph (d)(4)(iii) of this section and otherwise meet the requirements for enrollment.

(2) *Action on application.* Upon receipt of a completed VA Form 10–10EZ, a VA network or facility director will accept a veteran as an enrollee upon determining that the veteran is in a priority category eligible to be enrolled as announced in the applicable **Federal Register** notice. Upon determining that a veteran is not in a priority category eligible to be enrolled, the VA network or facility director will inform the applicant that the applicant is ineligible to be enrolled.

(3) *Automatic enrollment.* Notwithstanding other provisions of this section, veterans who were notified by VA letter that they were enrolled in the VA healthcare system under the trial VA enrollment program prior to October 1, 1998, automatically will be enrolled in the VA healthcare system under this section if determined by a VA network or facility director that the veteran is in a priority category eligible to be enrolled as announced in the applicable **Federal Register** notice. Upon determining that a veteran is not in a priority category eligible to be enrolled, the VA network or facility director will inform the veteran that the veteran is ineligible to be enrolled.

(4) *Disenrollment.* A veteran enrolled under paragraph (d)(2) or (d)(3) of this section will be disenrolled only if:

(i) The veteran submits to a VA medical center a signed document stating that the veteran no longer wishes to be enrolled;

(ii) A VA network or facility director determines that the veteran is no longer in a priority category eligible to be enrolled, as announced in the applicable **Federal Register** notice; or

(iii) A VA network or facility director determines that the veteran has been enrolled based on inclusion in priority category 5; determines that the veteran was sent by mail a VA Form 10–10EZ; and determines that the veteran failed to return the completed form to the address on the return envelope within

60 days from receipt of the form. VA Form 10–10EZ is set forth in paragraph (f) of this section.

(5) *Notification of enrollment status.* Notice of a decision by a VA network or facility director regarding enrollment status will be provided to the affected veteran by letter and will contain the reasons for the decision. The decision will be based on all information available to the decisionmaker, including the information contained in VA Form 10–10EZ.

(e) *Catastrophically disabled.* For purposes of this section, catastrophically disabled means to have a permanent severely disabling injury, disorder, or disease that compromises the ability to carry out the activities of daily living to such a degree that the individual requires personal or mechanical assistance to leave home or bed or requires constant supervision to avoid physical harm to self or others. This definition is met if an individual has been found by the Chief of Staff (or equivalent clinical official) at the VA facility where the individual was examined to have a condition specified in paragraph (e)(1) of this section or to meet one of the conditions specified in paragraph (e)(2) of this section.

(1) Quadriplegia and quadriparesis (ICD–9 Code 344.0x), paraplegia (ICD–9 Code 344.1), blindness (ICD–9 Code 369.4), unspecified hemiplegia (ICD–9 Code 342.90), persistent vegetative state (ICD–9 Code 780.03), or a condition resulting from two of the following procedures (ICD–9 Code 84.x) provided the two procedures were not on the same limb:

(i) Amputation through hand (procedure code 84.03);

(ii) Disarticulation of wrist (procedure code 84.04);

(iii) Amputation through forearm (procedure code 84.05);

(iv) Disarticulation of elbow (procedure code 84.06);

(v) Amputation through humerus (procedure code 84.07);

(vi) Shoulder disarticulation (procedure code 84.08);

(vii) Forequarter amputation (procedure code 84.09);

(viii) Lower limb amputation not otherwise specified (procedure code 84.10);

(ix) Amputation of toe (only if accompanied by V49.71 code for amputated great toe) (procedure code 84.11);

(x) Amputation through foot (procedure code 84.12);

(xi) Disarticulation of ankle (procedure code 84.13);

(xii) Amputation through malleoli (procedure code 84.14);

(xiii) Other amputation below knee (procedure code 84.15);

(xiv) Disarticulation of knee (procedure code 84.16);

(xv) Above knee amputation (procedure code 84.17);

(xvi) Disarticulation of hip (procedure code 84.18); and

(xvii) Hindquarter amputation (procedure code 84.19).

(2)(i) Dependent in 4 or more Activities of Daily Living (eating, dressing, bathing, toileting, transferring, incontinence of bowel and/or bladder), with at least 4 of the dependencies being permanent, using the Katz scale.

(ii) A score of 10 or lower using the Folstein Mini-Mental State Examination.

(iii) A score of 14 or higher on the Activities of Daily Living Index using Resource Utilization Group III.

(iv) A score of 2 or lower on at least 4 of the 13 motor items using the Functional Independence Measure.

(v) A score of 30 or lower using the Global Assessment of Functioning.

(f) *VA Form 10–10EZ.* [insert actual photocopy of VA Form 10–10EZ]

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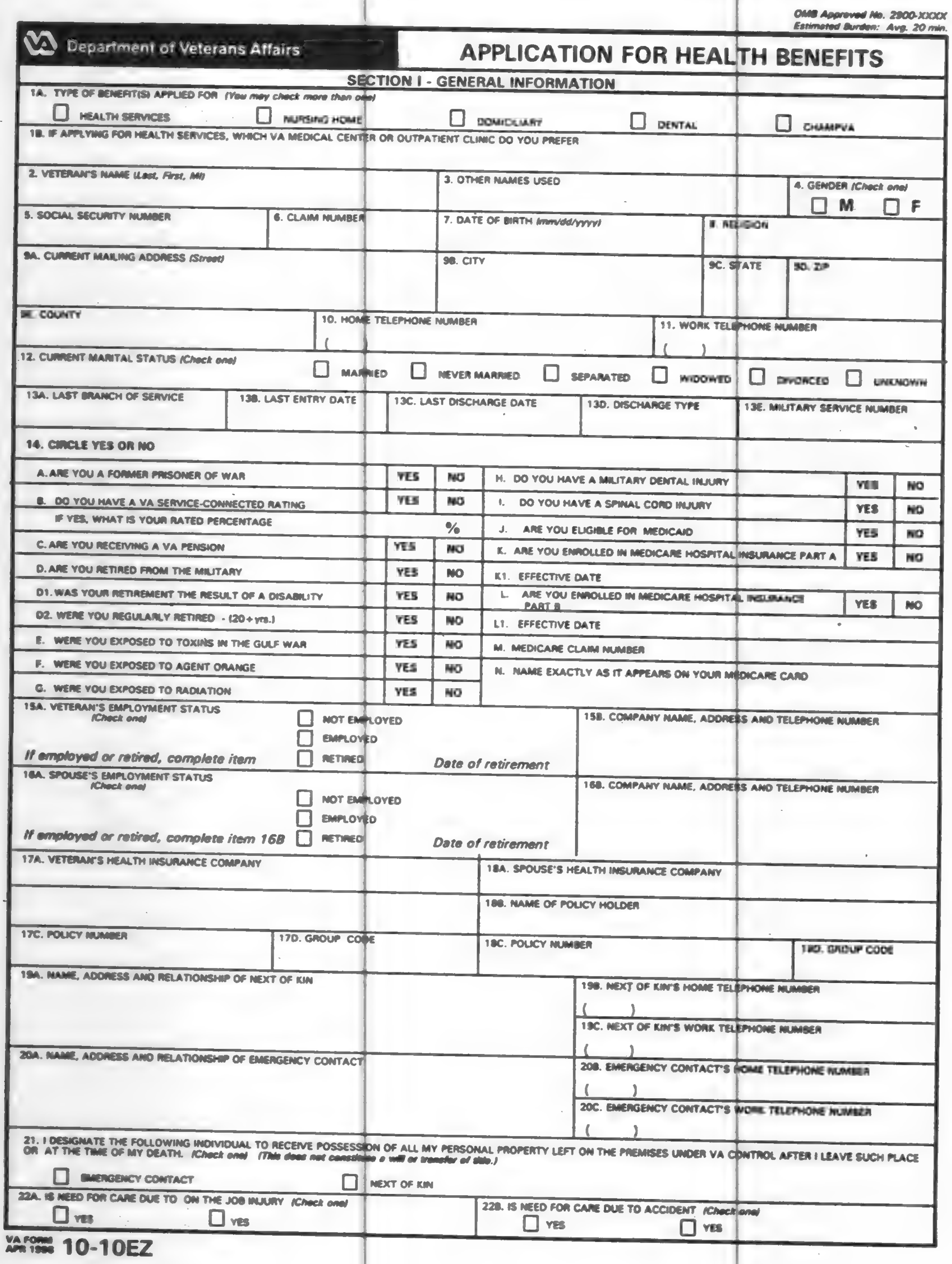

OMB Approved No. 2900-XXXX
Estimated Burden: Avg. 20 min.

Department of Veterans Affairs

APPLICATION FOR HEALTH BENEFITS

SECTION I - GENERAL INFORMATION

1A. TYPE OF BENEFIT(S) APPLIED FOR *(You may check more than one)*
☐ HEALTH SERVICES ☐ NURSING HOME ☐ DOMICILIARY ☐ DENTAL ☐ CHAMPVA

1B. IF APPLYING FOR HEALTH SERVICES, WHICH VA MEDICAL CENTER OR OUTPATIENT CLINIC DO YOU PREFER

2. VETERAN'S NAME *(Last, First, MI)*
3. OTHER NAMES USED
4. GENDER *(Check one)* ☐ M ☐ F
5. SOCIAL SECURITY NUMBER
6. CLAIM NUMBER
7. DATE OF BIRTH *(mm/dd/yyyy)*
8. RELIGION

9A. CURRENT MAILING ADDRESS *(Street)*
9B. CITY
9C. STATE
9D. ZIP
9E. COUNTY

10. HOME TELEPHONE NUMBER ( )
11. WORK TELEPHONE NUMBER ( )

12. CURRENT MARITAL STATUS *(Check one)* ☐ MARRIED ☐ NEVER MARRIED ☐ SEPARATED ☐ WIDOWED ☐ DIVORCED ☐ UNKNOWN

13A. LAST BRANCH OF SERVICE
13B. LAST ENTRY DATE
13C. LAST DISCHARGE DATE
13D. DISCHARGE TYPE
13E. MILITARY SERVICE NUMBER

14. CIRCLE YES OR NO

A. ARE YOU A FORMER PRISONER OF WAR	YES	NO	H. DO YOU HAVE A MILITARY DENTAL INJURY	YES	NO
B. DO YOU HAVE A VA SERVICE-CONNECTED RATING	YES	NO	I. DO YOU HAVE A SPINAL CORD INJURY	YES	NO
IF YES, WHAT IS YOUR RATED PERCENTAGE		%	J. ARE YOU ELIGIBLE FOR MEDICAID	YES	NO
C. ARE YOU RECEIVING A VA PENSION	YES	NO	K. ARE YOU ENROLLED IN MEDICARE HOSPITAL INSURANCE PART A	YES	NO
D. ARE YOU RETIRED FROM THE MILITARY	YES	NO	K1. EFFECTIVE DATE		
D1. WAS YOUR RETIREMENT THE RESULT OF A DISABILITY	YES	NO	L. ARE YOU ENROLLED IN MEDICARE HOSPITAL INSURANCE PART B	YES	NO
D2. WERE YOU REGULARLY RETIRED - (20+yrs.)	YES	NO	L1. EFFECTIVE DATE		
E. WERE YOU EXPOSED TO TOXINS IN THE GULF WAR	YES	NO	M. MEDICARE CLAIM NUMBER		
F. WERE YOU EXPOSED TO AGENT ORANGE	YES	NO	N. NAME EXACTLY AS IT APPEARS ON YOUR MEDICARE CARD		
G. WERE YOU EXPOSED TO RADIATION	YES	NO			

15A. VETERAN'S EMPLOYMENT STATUS *(Check one)*
☐ NOT EMPLOYED
☐ EMPLOYED
☐ RETIRED
If employed or retired, complete item
Date of retirement

15B. COMPANY NAME, ADDRESS AND TELEPHONE NUMBER

16A. SPOUSE'S EMPLOYMENT STATUS *(Check one)*
☐ NOT EMPLOYED
☐ EMPLOYED
☐ RETIRED
If employed or retired, complete item 16B
Date of retirement

16B. COMPANY NAME, ADDRESS AND TELEPHONE NUMBER

17A. VETERAN'S HEALTH INSURANCE COMPANY
17C. POLICY NUMBER
17D. GROUP CODE

18A. SPOUSE'S HEALTH INSURANCE COMPANY
18B. NAME OF POLICY HOLDER
18C. POLICY NUMBER
18D. GROUP CODE

19A. NAME, ADDRESS AND RELATIONSHIP OF NEXT OF KIN
19B. NEXT OF KIN'S HOME TELEPHONE NUMBER ( )
19C. NEXT OF KIN'S WORK TELEPHONE NUMBER ( )

20A. NAME, ADDRESS AND RELATIONSHIP OF EMERGENCY CONTACT
20B. EMERGENCY CONTACT'S HOME TELEPHONE NUMBER ( )
20C. EMERGENCY CONTACT'S WORK TELEPHONE NUMBER ( )

21. I DESIGNATE THE FOLLOWING INDIVIDUAL TO RECEIVE POSSESSION OF ALL MY PERSONAL PROPERTY LEFT ON THE PREMISES UNDER VA CONTROL AFTER I LEAVE SUCH PLACE OR AT THE TIME OF MY DEATH. *(Check one)* *(This does not constitute a will or transfer of title.)*
☐ EMERGENCY CONTACT ☐ NEXT OF KIN

22A. IS NEED FOR CARE DUE TO ON THE JOB INJURY *(Check one)*
☐ YES ☐ YES

22B. IS NEED FOR CARE DUE TO ACCIDENT *(Check one)*
☐ YES ☐ YES

VA FORM APR 1998 10-10EZ

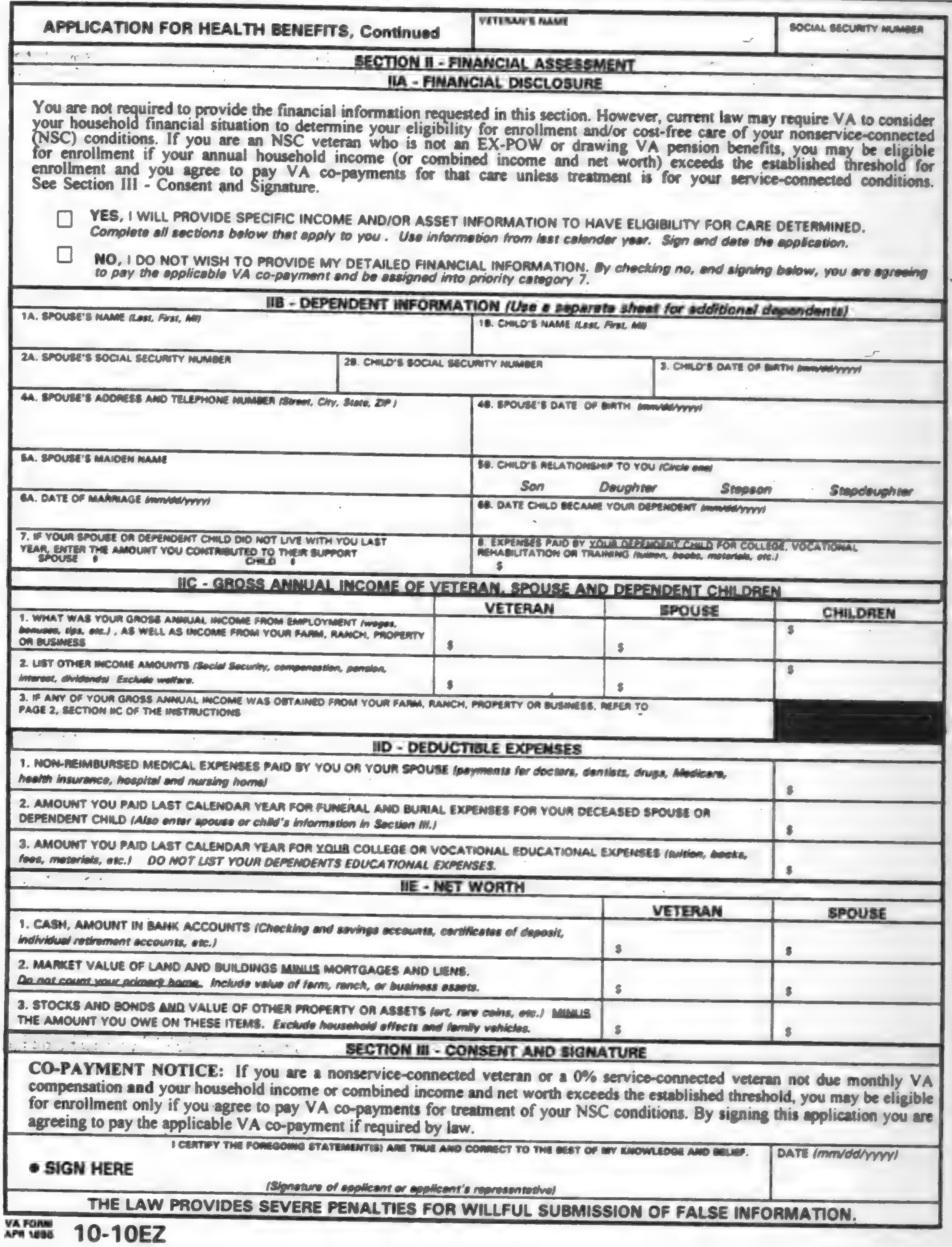

APPLICATION FOR HEALTH BENEFITS, Continued	VETERAN'S NAME	SOCIAL SECURITY NUMBER

SECTION II - FINANCIAL ASSESSMENT

IIA - FINANCIAL DISCLOSURE

You are not required to provide the financial information requested in this section. However, current law may require VA to consider your household financial situation to determine your eligibility for enrollment and/or cost-free care of your nonservice-connected (NSC) conditions. If you are an NSC veteran who is not an EX-POW or drawing VA pension benefits, you may be eligible for enrollment if your annual household income (or combined income and net worth) exceeds the established threshold for enrollment and you agree to pay VA co-payments for that care unless treatment is for your service-connected conditions. See Section III - Consent and Signature.

☐ **YES,** I WILL PROVIDE SPECIFIC INCOME AND/OR ASSET INFORMATION TO HAVE ELIGIBILITY FOR CARE DETERMINED. *Complete all sections below that apply to you . Use information from last calender year. Sign and date the application.*

☐ **NO,** I DO NOT WISH TO PROVIDE MY DETAILED FINANCIAL INFORMATION. *By checking no, and signing below, you are agreeing to pay the applicable VA co-payment and be assigned into priority category 7.*

IIB - DEPENDENT INFORMATION *(Use a separate sheet for additional dependents)*

1A. SPOUSE'S NAME *(Last, First, MI)*	1B. CHILD'S NAME *(Last, First, MI)*
2A. SPOUSE'S SOCIAL SECURITY NUMBER	2B. CHILD'S SOCIAL SECURITY NUMBER 3. CHILD'S DATE OF BIRTH *(mm/dd/yyyy)*
4A. SPOUSE'S ADDRESS AND TELEPHONE NUMBER *(Street, City, State, ZIP)*	4B. SPOUSE'S DATE OF BIRTH *(mm/dd/yyyy)*
5A. SPOUSE'S MAIDEN NAME	5B. CHILD'S RELATIONSHIP TO YOU *(Circle one)* *Son Daughter Stepson Stepdaughter*
6A. DATE OF MARRIAGE *(mm/dd/yyyy)*	6B. DATE CHILD BECAME YOUR DEPENDENT *(mm/dd/yyyy)*
7. IF YOUR SPOUSE OR DEPENDENT CHILD DID NOT LIVE WITH YOU LAST YEAR, ENTER THE AMOUNT YOU CONTRIBUTED TO THEIR SUPPORT SPOUSE $ CHILD $	8. EXPENSES PAID BY YOUR DEPENDENT CHILD FOR COLLEGE, VOCATIONAL REHABILITATION OR TRAINING *(tuition, books, materials, etc.)* $

IIC - GROSS ANNUAL INCOME OF VETERAN, SPOUSE AND DEPENDENT CHILDREN

	VETERAN	SPOUSE	CHILDREN
1. WHAT WAS YOUR GROSS ANNUAL INCOME FROM EMPLOYMENT *(wages, bonuses, tips, etc.)* , AS WELL AS INCOME FROM YOUR FARM, RANCH, PROPERTY OR BUSINESS	$	$	$
2. LIST OTHER INCOME AMOUNTS *(Social Security, compensation, pension, interest, dividends) Exclude welfare.*	$	$	$
3. IF ANY OF YOUR GROSS ANNUAL INCOME WAS OBTAINED FROM YOUR FARM, RANCH, PROPERTY OR BUSINESS, REFER TO PAGE 2, SECTION IIC OF THE INSTRUCTIONS			

IID - DEDUCTIBLE EXPENSES

1. NON-REIMBURSED MEDICAL EXPENSES PAID BY YOU OR YOUR SPOUSE *(payments for doctors, dentists, drugs, Medicare, health insurance, hospital and nursing home)*	$
2. AMOUNT YOU PAID LAST CALENDAR YEAR FOR FUNERAL AND BURIAL EXPENSES FOR YOUR DECEASED SPOUSE OR DEPENDENT CHILD *(Also enter spouse or child's information in Section III.)*	$
3. AMOUNT YOU PAID LAST CALENDAR YEAR FOR YOUR COLLEGE OR VOCATIONAL EDUCATIONAL EXPENSES *(tuition, books, fees, materials, etc.) DO NOT LIST YOUR DEPENDENTS EDUCATIONAL EXPENSES.*	$

IIE - NET WORTH

	VETERAN	SPOUSE
1. CASH, AMOUNT IN BANK ACCOUNTS *(Checking and savings accounts, certificates of deposit, individual retirement accounts, etc.)*	$	$
2. MARKET VALUE OF LAND AND BUILDINGS MINUS MORTGAGES AND LIENS. *Do not count your primary home. Include value of farm, ranch, or business assets.*	$	$
3. STOCKS AND BONDS AND VALUE OF OTHER PROPERTY OR ASSETS *(art, rare coins, etc.)* MINUS THE AMOUNT YOU OWE ON THESE ITEMS. *Exclude household effects and family vehicles.*	$	$

SECTION III - CONSENT AND SIGNATURE

CO-PAYMENT NOTICE: If you are a nonservice-connected veteran or a 0% service-connected veteran not due monthly VA compensation and your household income or combined income and net worth exceeds the established threshold, you may be eligible for enrollment only if you agree to pay VA co-payments for treatment of your NSC conditions. By signing this application you are agreeing to pay the applicable VA co-payment if required by law.

I CERTIFY THE FOREGOING STATEMENT(S) ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. ● SIGN HERE *(Signature of applicant or applicant's representative)*	DATE *(mm/dd/yyyy)*

THE LAW PROVIDES SEVERE PENALTIES FOR WILLFUL SUBMISSION OF FALSE INFORMATION.

VA FORM
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(Authority: 38 U.S.C. 101, 501, 1701, 1705, 1710, 1721, 1722)

3. A new § 17.37 is added to read as follows:

§ 17.37 Enrollment not required—provision of hospital and outpatient care to veterans.

Even if not enrolled in the VA healthcare system:

(a) A veteran rated for service-connected disabilities at 50 percent or greater will receive VA hospital and outpatient care provided for in the "medical benefits package" set forth in § 17.38.

(b) A veteran who has a service-connected disability will receive VA hospital and outpatient care provided for in the "medical benefits package" set forth in § 17.38 for that service-connected disability.

(c) A veteran who was discharged or released from active military service for a disability incurred or aggravated in the line of duty will receive VA hospital and outpatient care provided for in the "medical benefits package" set forth in § 17.38 for that disability for the 12-month period following discharge or release.

(d) When there is a compelling medical need to complete a course of VA treatment started when the veteran was enrolled in the VA healthcare system, a veteran will receive that treatment.

(e) Subject to the provisions of § 21.240, a veteran participating in VA's vocational rehabilitation program described in §§ 21.1 through 21.430 will receive VA hospital and outpatient care provided for in the "medical benefits package" set forth in § 17.38.

(f) A veteran may receive VA hospital and outpatient care based on factors other than veteran status (e.g., a veteran who is a private-hospital patient and is referred to VA for a diagnostic test by that hospital under a sharing contract; a veteran who is a VA employee and is examined to determine physical or mental fitness to perform official duties; a Department of Defense retiree under a sharing agreement).

(g) For care not provided within a State, a veteran may receive VA hospital and outpatient care provided for in the "medical benefits package" set forth in § 17.38 if authorized under the provisions of 38 U.S.C. 1724 and 38 CFR 17.35.

(h) Commonwealth Army veterans and new Philippine Scouts may receive hospital and outpatient care provided for in the "medical benefits package" set forth in § 17.38 if authorized under the provisions of 38 U.S.C. 1734 and 1735.

(i) A veteran may receive certain types of VA hospital and outpatient care not included in the "medical benefits package" set forth in § 17.38 if authorized by statute or other sections of 38 CFR (e.g., humanitarian emergency care for which the individual will be billed, compensation and pension examinations, dental care, domiciliary care, nursing home care, readjustment counseling, care as part of a VA-approved research project, seeing-eye or guide dogs, sexual trauma counseling and treatment, special registry examinations).

(Authority: 38 U.S.C. 101, 501, 1701, 1705, 1710, 1721, 1722)

4. A new § 17.38 is added to read as follows:

§ 17.38 Medical benefits package.

(a) Subject to paragraphs (b) and (c) of this section, the following hospital and outpatient care constitutes the "medical benefits package" (basic care and preventive care):

(1) Basic care.

(i) Outpatient medical, surgical, and mental healthcare, including care for substance abuse.

(ii) Inpatient hospital, medical, surgical, and mental healthcare, including care for substance abuse.

(iii) Prescription drugs, including over-the-counter drugs and medical and surgical supplies available under the VA national formulary system.

(iv) Emergency care in VA facilities; and emergency care in non-VA facilities in accordance with sharing contracts or if authorized by §§ 17.52(a)(3), 17.53, 17.54, 17.120–132.

(v) Bereavement counseling as authorized in § 17.98.

(vi) Comprehensive rehabilitative services other than vocational services provided under 38 U.S.C. chapter 31.

(vii) Consultation, professional counseling, training, and mental health services for the members of the immediate family or legal guardian of the veteran or the individual in whose household the veteran certifies an intention to live, if needed to treat:

(A) The service-connected disability of a veteran; or

(B) The nonservice-connected disability of a veteran where these services were first given during the veteran's hospitalization and continuing them is essential to permit the veteran's release from inpatient care.

(viii) Durable medical equipment and prosthetic and orthotic devices, including eyeglasses and hearing aids as authorized under § 17.149.

(ix) Home health services authorized under 38 U.S.C. 1717 and 1720C.

(x) Reconstructive (plastic) surgery required as a result of disease or trauma, but not including cosmetic surgery that is not medically necessary.

(xi) Respite, hospice, and palliative care.

(xii) Payment of travel and travel expenses for veterans eligible under § 17.143 if authorized by that section.

(2) Preventive care, as defined in 38 U.S.C. 1701(9), which includes:

(i) Periodic medical exams.

(ii) Health education, including nutrition education.

(iii) Maintenance of drug-use profiles, drug monitoring, and drug use education.

(iv) Mental health and substance abuse preventive services.

(v) Immunizations against infectious disease.

(vi) Prevention of musculoskeletal deformity or other gradually developing disabilities of a metabolic or degenerative nature.

(vii) Genetic counseling concerning inheritance of genetically determined diseases.

(viii) Routine vision testing and eye-care services.

(ix) Periodic reexamination of members of high-risk groups for selected diseases and for functional decline of sensory organs, and the services to treat these diseases and functional declines.

(b) *Provision of the "medical benefits package".* Care referred to in the "medical benefits package" will be provided to individuals only if it is determined by appropriate healthcare professionals that the care is needed to promote, preserve, or restore the health of the individual and is in accord with generally accepted standards of medical practice.

(1) *Promote health.* Care is deemed to promote health if the care will enhance the quality of life or daily functional level of the veteran, identify a predisposition for development of a condition or early onset of disease which can be partly or totally ameliorated by monitoring or early diagnosis and treatment, and prevent future disease.

(2) *Preserve health.* Care is deemed to preserve health if the care will maintain the current quality of life or daily functional level of the veteran, prevent the progression of disease, cure disease, or extend life span.

(3) *Restoring health.* Care is deemed to restore health if the care will restore the quality of life or daily functional level that has been lost due to illness or injury.

(c) In addition to the care specifically excluded from the "medical benefits package" under paragraphs (a) and (b) of this section, the "medical benefits package" does not include the following:

(1) Abortions and abortion counseling.

(2) Drugs, biologicals, and medical devices not approved by the Food and Drug Administration unless the treating medical facility is conducting formal clinical trials under an Investigational Device Exemption (IDE) or an Investigational New Drug (IND) application, or the drugs, biologicals, or medical devices are prescribed under a compassionate use exemption.

(3) Gender alterations.

(4) Hospital and outpatient care for a veteran who is either a patient or inmate in an institution of another government agency if that agency has a duty to give the care or services.

(5) Infertility services.

(6) Membership in spas and health clubs.

(7) Pregnancy and delivery.

(8) Reproductive sterilization, unless medically necessary.

(9) Surgery to reverse voluntary sterilization.

(10) Surgical implantation of penile prostheses.

(Authority: 38 U.S.C. 101, 501, 1701, 1705, 1710, 1721, 1722)

§ 17.43 [Amended]

5–6. In § 17.43, paragraph (a) is removed and paragraphs (b) through (e) are redesignated as paragraphs (a) through (d), respectively.

§ 17.47 [Amended]

7. In § 17.47, paragraph (h) is removed; paragraphs (i) through (l) are redesignated as paragraphs (h) through (k), respectively; and newly redesignated paragraph (h) is amended by removing "hospital or" and by removing "or hospital care in a Federal hospital under agreement,".

§ 17.93 [Amended]

8. In § 17.93, paragraph (a)(2) is amended by removing "Medical services" and adding, in its place, "Subject to the provisions of §§ 17.36 through 17.38, medical services".

§ 17.99 [Removed]

9. Section 17.99 is removed.

§ 17.100 [Amended]

10. In § 17.100, the third sentence is amended by removing "a new application is filed, and".

[FR Doc. 98–18302 Filed 7–9–98; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH 114–1b; FRL–6123–2]

Approval and Promulgation of Maintenance Plan Revision; Ohio

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (EPA) is proposing to approve a March 13, 1998, request from Ohio, for a State Implementation Plan maintenance plan revision for the Columbus ozone maintenance area. The maintenance plan revision establishes an out year of 2010 for the area's emissions budget. The maintenance plan revision also allocates to the 2010 mobile source emissions budget a portion of the area's safety margin. The 2010 mobile source emissions budget will be used for transportation conformity purposes. The safety margin is the difference between the attainment inventory level of the total emissions and the projected levels of the total emissions in the final year of the maintenance plan.

In the final rules section of this **Federal Register**, EPA is approving the State's requests as a direct final rule without prior proposal because EPA views this action as noncontroversial and anticipates no adverse comments. A detailed rationale for approving the State's request is set forth in the direct final rule. The direct final rule will become effective without further notice unless the Agency receives relevant adverse written comment on the rule. Should the Agency receive such comment, it will publish a notice informing the public that the direct final rule did not take effect and such public comment received will be addressed in a subsequent final rule based on this proposed rule. If no adverse written comments are received, the direct final rule will take effect on the date stated in that document and no further activity will be taken on this proposed rule. EPA does not plan to institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments on this proposed action must be received by August 10, 1998.

ADDRESSES: Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

FOR FURTHER INFORMATION CONTACT: Scott Hamilton, Environmental Scientist, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–4775.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final document which is located in the Rules section of this **Federal Register**. Copies of the requests are available for inspection at the following address: (Please contact Scott Hamilton at (312) 353–4775 before visiting the Region 5 office.) USEPA Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Nitrogen oxides, Transportation conformity.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: July 1, 1998.

David A. Ullrich,

Acting Regional Administrator.

[FR Doc. 98–18421 Filed 7–9–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–300680; FRL–6016–1]

40 CFR Part 180

RIN 2070–AB18

Food and Food By-Products Used as a Pesticide; Proposed Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to establish an exemption from the requirement of a tolerance for residues of any edible food commodity (except for peanuts, tree nuts, milk, soybean, eggs, fish, crustacea, and wheat) used as a pesticide, when applied in accordance with good agricultural practices, in or on all food commodities. Any edible food commodity used as a pesticide under this exemption must not be "adulterated food" as defined in FFDCA section 402. 21 U.S.C. 342. The exemption from the requirement of a tolerance is being proposed by the Agency on its own initiative, since the

Agency believes that the exemption for edible food commodities will be safe.

DATES: Comments, identified by the docket control number [OPP–300680], must be received on or before September 8, 1998.

ADDRESSES: By mail, submit written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 119, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202. Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. The public docket is available for public inspection in Rm. 119 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Comments and data may also be submitted electronically by following the instructions under Unit IV of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

FOR FURTHER INFORMATION CONTACT: By mail: Freshteh Toghrol, Biopesticides and Pollution Prevention Division (7511W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Station #1, 5th Floor, 2805 Crystal Drive, Arlington, VA 22202; (703) 308–7014; toghrol.freshteh@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Pursuant to section 408(e) of the Federal Food, Drug and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e), EPA proposes to amend 40 CFR part 180 by establishing an exemption from the requirement of a tolerance for residues of any edible food commodity (except for peanuts, tree nuts, milk, eggs, fish, crustacea, and wheat) used as a pesticide, when applied in accordance with good agricultural practices in or on all food commodities. By edible food commodity, EPA means foods that are widely consumed for their nutrient properties. This exemption would not apply to any "adulterated food" under FFDCA section 402.

I. Statutory Authority

New section 408(c)(2)(A)(i) allows EPA to establish an exemption from the requirement of a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption from tolerance is "safe." Section 408(c)(2)(A)(ii) defines "safe" to mean that" there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(c)(2)(B) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing an exemption and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue...." EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

II. Risk Assessment and Statutory Findings

Under the conditions of the proposed tolerance exemption for residues of any edible food commodity used as a pesticide (as defined above) in or on all food commodities, and in consideration of the conditions, criteria, and requirements set forth by FQPA, the Agency believes that this tolerance exemption will be safe for humans, including infants and children. This exemption only applies to those foods that have been widely consumed for their nutrient properties. Any safety concerns regarding exposure to residues of such edible food commodities have been addressed by the long history of safe use of these foods in commerce, as well as the adequate regulation of foods by the Food and Drug Administration. Additionally, any cumulative effects from aggregate exposure to residues of food commodities when used as pesticides in or on other food commodities would not likely impact those effects that may occur from much broader exposure via consumption of food in the diet.

Some edible foods produce an allergic reaction in certain individuals. Allergy to food proteins occurs in less than 1 to 2% of the population. The majority of individuals with documented immunologic reactions to foods exhibit immunoglobulin E (IgE)-mediated immediate hypersensitivity reactions that can be sudden and severe. Current scientific knowledge suggest that common food allergens are glycosylated proteins, which tends to be resistant to degradation by heat, acid, and proteases. Where food allergy is confirmed patients are usually allergic to only a few specific proteins within one or two specific foods. Eight food or food groups (peanut, soybean, tree nuts, milk, eggs, fish, crustacea, and wheat) account for the vast majority of documented food allergies worldwide (the Food and Agriculture Organization (FAO) of the United Nation: Report of the FAO Technical Consultation on Food Allergies, Rome, Italy, November 13-14, 1995). Even though, as explained below, there are unlikely to be significant residues from use of edible food as a pesticide, the Agency has decided not to include those known allergenic food commodities in this exemption.

The Agency believes that food commodities will be used as pesticides to control or mitigate pests or as plant growth regulators in only very limited cases. It is unlikely that an edible food commodity could be used to control a pest via a toxic mode of action. This assumption is supported by the Agency's experience to date where food commodities have been used to attract, repel or otherwise suppress pests. The purported mechanisms of action for food commodities involve feeding deterrence for herbivorous insects or mammals or an alteration in the microbial flora which suppresses the microbial pests. In the case of an altered microbial populations, it is necessary for the food commodity to be degraded or metabolized before the desired effect can occur.

The Agency also believes that residues from any edible food commodity, when used as a pesticide on another food commodity would be minimal to non-existent because of rapid degradation in the environment.

No tolerances or exemptions from requirements of tolerances have been issued in the United States or internationally for all food commodities as biochemical pesticides; however, some individual foods or food by-products have tolerance exemptions in the United States.

III. Safety Determination for U.S. Population and Infants and Children

The Agency believes that this tolerance exemption will be safe for humans, including infants and children.

Any safety concerns regarding exposure to residues of edible food commodities have been addressed by the long history of safe use of foods in commerce, as well as the adequate regulation of foods by the Food and Drug Administration. Additionally, any cumulative effects from aggregate exposure to residues of food commodities when used as pesticides in or on other food commodities would not likely impact those effects that may occur from much broader exposure via consumption of food in the diet. Since food commodities are non toxic to humans including infants and children, EPA has not assessed the risk from food commodities using a safety factor approach. Accordingly, application of an additional 10X safety factor analysis or quantitative risk assessment for the protection of infants and children is not necessary to protect the safety of infants and children.

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. Based on the information and data considered, the Agency has determined that, in amending 40 CFR 180.1164, as proposed, there is reasonable certainty that no harm to the general population, including infants and children will result from aggregate exposure to edible food commodities used as pesticides. An exemption from tolerance is appropriate for these pesticides because EPA believes they do not pose a dietary risk under reasonably forseeable circumstances. Accordingly, EPA proposes that the exemption from the requirement of a tolerance be established as set forth below.

IV. Public Docket and Electronic Submissions

The official record for this rule making, as well as the public version, has been established for this rule making under document control number [OPP–300680] (including comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m.,Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. 22202.

Electronic comments may be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rule making, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of comments received electronically into printed paper form as they are received and will place the paper copies in the official rule making record. The official rule making record is the paper record maintained at the Virginia address in "ADDRESSES" at the beginning of this document.

V. Regulatory Assessment Requirements

This rule proposes an exemption from the requirement of a tolerance under FFDCA section 408(d). The EPA is proposing this regulation on its own initiative. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This action does not contain any information collections subject to OMB approval under the *Paperwork Reduction Act* (PRA), 44 U.S.C. 3501 et seq., or impose any enforceable duty or contain any unfunded mandate as described under Title II of the *Unfunded Mandates Reform Act of 1995* (UMRA; Pub. L. 104–4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October, 1993), or special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629), February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 40 CFR Part 180

Environmental protection, Agricultural commodities, Food additives, Feed additives, Pesticides and pests, Reporting and record keeping requirements.

Dated: June 29, 1998.

Kathleen D. Knox,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I, part 180 is proposed to be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371

2. Section 180.1164 is amended by adding paragraph (d) to read as follows:

§ 180.1164 Food and food by-products; exemption from the requirement of a tolerance.

* * * * *

(d) Any edible food commodity (except for peanuts, tree nuts, milk, eggs, fish, crustacea, and wheat) used as a pesticide is exempted from the requirement of a tolerance when used in accordance with good agricultural practice in or on all food commodities. This exemption shall not apply to any edible food commodity that is adulterated under section 342 of Title 21 of the United States Code.

[FR Doc. 98–18280 Filed 7–9–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 264 and 265

[IL–64–2–5807; FRL–6122–8]

Project XL Site-specific Rulemaking for OSi Specialties, Inc., Sistersville, WV

AGENCY: Environmental Protection Agency (EPA).

ACTION: Supplemental proposal.

SUMMARY: This document proposes a narrow modification being considered by the EPA in implementing a project under the Project XL program for the OSi Specialties, Inc., plant, a wholly owned subsidiary of Witco Corporation, located near Sistersville, West Virginia ("the Sistersville Plant"). To implement this XL project, the EPA proposed on March 6, 1998, a site-specific regulatory deferral of certain air emission standards. That action has not yet been

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promulgated. Today's document addresses the narrow issue of a condition contained in that proposed site-specific deferral, which requires the Sistersville Plant to conduct an initial performance test within 60 days of initial start-up of a thermal oxidizer.

DATES: Comments on this document will be accepted through July 24, 1998.

ADDRESSES: Docket. Supporting information for today's supplemental proposal is available for public inspection and copying at the EPA's docket office located at Crystal Gateway, 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia. The public is encouraged to phone in advance to review docket materials. Appointments can be scheduled by phoning the Docket Office at (703) 603–9230. For information specific to today's supplemental proposal, refer to RCRA docket number F–98–MCCA–FFFFF. For information used in developing the XL project and the proposed rule, refer to RCRA docket number F–98–MCCP–FFFFF.

Hand delivery of items and review of docket materials are made at the Virginia address. To submit comments by mail, the mailing address for the RCRA docket office is RCRA Information Center (5305W), U. S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460.

A duplicate copy of the docket is available for inspection and copying at U.S. EPA, Region 3, 1650 Arch Street, Philadelphia, PA 19103–2029, during normal business hours. Persons wishing to view the duplicate docket at the Philadelphia location are encouraged to contact Mr. Tad Radzinski in advance, by telephoning (215) 814–2394. NOTE: comments will not be received at the Philadelphia location; All comments must be submitted to the RCRA Information Center (5305W), U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460.

Comments: Written comments regarding today's supplemental proposal may be mailed to the RCRA Information Center of the U.S. Environmental Protection Agency, at the above-mentioned Washington, D.C. mailing address. Please send an original and two copies of all comments, and refer to Docket Number F–98-MCCA-FFFFF.

The EPA will consider comments on this supplemental proposal that are received through July 24, 1998.

FOR FURTHER INFORMATION CONTACT: For information about this document, the proposed site-specific regulatory deferral, or the OSi XL project, please contact Mr. Tad Radzinski, U.S. Environmental Protection Agency, Region 3 (3WC11), Waste Chemical Management Division, 1650 Arch Street, Philadelphia, PA, 19103–2029, (215) 814–2394.

To be included on the OSi Specialties Project XL mailing list to receive information about future public meetings, XL progress reports and other mailings from OSi on the XL Project, contact: Okey Tucker, OSi Specialties, Inc., 3500 South State Rte. 2, Friendly, WV 26146. Mr. Tucker can also be reached by telephone at (304) 652-8131.

For information on all other aspects of the XL Program contact Christopher Knopes at the following address: Office of Reinvention, United States Environmental Protection Agency, Room 1029WT, 401 M Street, SW (1802), Washington, DC 20460. Additional information on Project XL, including documents referenced in this document, other EPA policy documents related to Project XL, regional XL contacts, application information, and descriptions of existing XL projects and proposals, is available via the Internet at "http://www.epa.gov/ProjectXL" and via an automated fax-on-demand menu at (202) 260–8590.

SUPPLEMENTARY INFORMATION: On March 6, 1998, the EPA proposed in the **Federal Register** (63 FR 11200) a conditional site-specific regulatory deferral to implement a project under the Project XL program. The XL project and the conditional site-specific deferral are applicable only to the Sistersville Plant. The proposed site-specific deferral would grant to the Sistersville Plant a conditional deferral from certain technical requirements applicable to two on-site hazardous waste surface impoundments. The standards proposed to be deferred are codified in 40 CFR parts 264 and 265 under subpart CC (referred to as the "subpart CC standards").

The proposed site-specific deferral includes specific technical and administrative requirements for the operation of a thermal oxidizer at the Sistersville Plant. As proposed, the site-specific deferral requires the Sistersville Plant to perform initial start-up of the thermal oxidizer no later than April 1, 1998. The proposed deferral also requires the Sistersville Plant to conduct an initial performance test of the thermal oxidizer within 60 days of the initial start-up. That requirement is found at paragraph (f)(2)(ii)(B) in §§ 264.1080 and 265.1080 of the proposed site-specific deferral. See 63 FR 11200, March 6, 1998. It is this initial performance test deadline that is the subject of today's supplemental proposal.

Following initial start-up of the thermal oxidizer on April 1, 1998, the Sistersville Plant encountered certain operational difficulties related to the new equipment. At that time, representatives from the Sistersville Plant notified EPA of those difficulties. On May 26, 1998, the Sistersville Plant notified EPA that it would not be able to meet the proposed requirement to conduct the initial performance test by May 31, 1998, which is the date 60 days after initial start-up of the on-site thermal oxidizer. Representatives from the Sistersville Plant conveyed that they expected to conduct the initial performance test by the end of June 1998; however, they requested the deadline be extended by an additional 60 days to allow for possible further delays due to additional unexpected events.

This missed deadline is a material failure by the Sistersville Plant to meet the provisions set forth in the Final Project Agreement ("FPA") for the XL project, as well as the proposed requirements of the site-specific deferral. It is the expectation of all the stakeholders that the Sistersville Plant will adhere to its commitments to achieving the environmental benefits of this XL project in exchange for the site-specific regulatory flexibility provided by EPA and WV OAQ. The XL project and the related requirements of the proposed site-specific deferral were developed by mutual agreement among EPA, the West Virginia Office of Air Quality ("WV OAQ"), and the Sistersville Plant. The FPA was made available for public review and comment on June 27, 1997. See 62 FR 34748. Though not in itself an enforceable document, the EPA and the other Project XL stakeholders consider the FPA to be a clear expression of the Sistersville Plant's agreement with EPA and WV OAQ to comply with the specified project requirements, particularly the requirements to be codified through the site-specific deferral.

Although the site-specific deferral is not yet promulgated, the provisions of that deferral, as proposed March 6, 1998, are currently applicable to, and enforceable against, the Sistersville Plant under a consent order issued by the WV OAQ. In discussions and correspondence with OSi, EPA has emphasized the importance of meeting deadlines contained in the FPA, and complying with the conditions contained in the proposed site-specific deferral. Upon promulgation, the site-specific deferral will become directly enforceable by EPA, WV OAQ and citizens.

The EPA and WV OAQ have reviewed documentation provided by the Sistersville Plant regarding their failure to conduct the initial performance test within 60 days of initial start-up, or May 31, 1998. It appears from that documentation that the Sistersville Plant made good faith efforts to comply with that requirement of the XL project, the proposed site-specific deferral, and the WV OAQ consent order. In recognition that the Sistersville Plant cannot possibly meet that passed deadline, and the site-specific deferral which proposed that requirement has not yet been promulgated, the EPA proposes to modify the site-specific deferral prior to its promulgation.

The modification would extend by 60 days, the initial performance test deadline that was contained in the proposed site-specific deferral. The EPA proposes an extension period of 60 days in response to the Sistersville Plant's representative's written statement that the test could be accomplished by the end of June, 1998, but that the recent history of operational difficulties at the Sistersville Plant indicates additional time may become necessary. A copy of that electronic mail note, dated May 26, 1998 from Mr. Tony Vandenberg to Ms. Beth Termini and Ms. Michele Aston, has been entered into the docket for this supplemental notice. A recent telephone meeting between EPA and the Sistersville Plant confirmed that further delays to the initial performance test schedule have occurred, due to continued operational problems with the thermal oxidizer and severe inclement weather in the Sistersville, West Virginia area, and that the initial performance test is scheduled for July 14 and 15, 1998.

The EPA proposes that extending the initial performance test deadline by 60 days will not result in significant, if any, decreases in the environmental benefits of this XL project. The Sistersville Plant has reported that the thermal oxidizer began operation on April 1, 1998, and following some initial technical difficulties, has been fully operational in accordance with the conditions of the proposed site-specific deferral, since April 13, 1998. The primary purpose of the initial performance test is to set a site-specific operating temperature that will indicate the thermal oxidizer is achieving the required 98 percent by weight reduction of the organics in the controlled vapor stream, as set forth in the proposed site-specific deferral. The FPA and the proposed site-specific deferral set a default operating temperature of 1600 degrees Fahrenheit for the period prior to conducting the initial performance test. This requirement is contained in the proposed site-specific deferral at §§ (f)(2)(ii)(A)(*1*)(*I*) of paragraphs 264.1080 and 265.1080, and is currently enforceable under the WV OAQ consent order. See 63 FR 11200, March 6, 1998. Because the Sistersville Plant has reportedly operated the thermal oxidizer at 1600 degrees Fahrenheit, EPA estimates that the Sistersville Plant has been achieving the majority, if not all, of the environmental benefits of the thermal oxidizer's operation since it first began its fully operational service on April 13, 1998.

In light of the apparent good faith effort by the Sistersville Plant to meet the May 31, 1998 deadline for the initial performance test, their timely notification to EPA of the missed deadline, and their compliance with the requirements otherwise applicable to the thermal oxidizer (e.g., continuously operating the unit at 1600 degrees Fahrenheit), the EPA proposes to extend the deadline for the initial performance test.

At the EPA's request, the Sistersville Plant has agreed to provide direct written notice of this issue to the XL project stakeholder group, and to notify this group that a **Federal Register** document will be published requesting public comment on this issue. The Sistersville Plant has also agreed that, upon publication of today's document in the **Federal Register**, it will promptly notify the stakeholder group, and publish a notification in the local Sistersville newspaper of the opportunity for public comment related to today's supplemental proposal.

The EPA considers a 14-day comment period to be adequate for this document, due to the very narrow scope of the issue, the narrow applicability of the site-specific deferral being considered, and the extensive notice to interested parties that the Sistersville Plant will provide prior to, and immediately following, publication of this supplemental proposal in the **Federal Register**.

List of Subjects 40 CFR Parts 264 and 265

Environmental protection, Air pollution control, Hazardous waste, Organics, Surface impoundment, Thermal oxidizer.

Dated: July 7, 1998.

J. Charles Fox,

Associate Administrator, Office of Reinvention.

[FR Doc. 98–18463 Filed 7–9–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 281

[FRL–6123–4]

Tennessee; Tentative Approval of State Underground Storage Tank Program

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; notice of tentative determination on application of State of Tennessee for final approval, public hearing and public comment period.

SUMMARY: The State of Tennessee has applied for approval of its underground storage tank program for petroleum substances under Subtitle I of the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed the Tennessee application and has made the tentative decision that Tennessee's underground storage tank program for petroleum substances satisfies all of the requirements necessary to qualify for approval. The Tennessee application for approval is available for public review and comment. A public hearing will be held to solicit comments on the application, unless insufficient public interest is expressed.

DATES: A public hearing is scheduled for September 3, 1998, unless insufficient public interest is expressed in holding a hearing. EPA reserves the right to cancel the public hearing if sufficient public interest is not communicated to EPA in writing by August 20, 1998. EPA will determine by August 27, 1998, whether there is significant interest to hold the public hearing. The State of Tennessee will participate in the public hearing held by EPA on this subject. Written comments on the Tennessee approval application, as well as requests to present oral testimony, must be received by the close of business on August 20, 1998.

ADDRESSES: Copies of the Tennessee approval application are available at the following addresses for inspection and copying:

Tennessee Department of Environment and Conservation, Division of Underground Storage Tanks, 401 Church Street 4th Floor, L&C Tower, Nashville, Tennessee 37243–1541, Phone: (615) 532–0945, 8:00 am through 4:30 pm, Central Daylight Savings Time

U.S. EPA Docket Clerk, Office of Underground Storage Tanks, c/o RCRA Information Center, 1235

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Jefferson Davis Highway, Arlington, Virginia 22202, Phone: (703) 603–9231, 9:00 am through 5:00 pm, Eastern Daylight Savings Time

and

U.S. EPA Region 4, Underground Storage Tank Section, Atlanta Federal Center, 15th Floor, 61 Forsyth Street, S.W., Atlanta, Georgia 30303, Phone: (404) 562–9277, 9:00 am through 5:00 pm, Eastern Daylight Savings Time.

Written comments should be sent to Mr. John K. Mason, Chief of Underground Storage Tank Section, U.S. EPA Region 4, 61 Forsyth Street S.W., Atlanta, Georgia 30303, telephone (404) 562–9277.

Unless insufficient public interest is expressed, EPA will hold a public hearing on the State of Tennessee's application for program approval on September 3, 1998, at 7:00 pm, Central Daylight Savings Time, at the Tennessee Department of Environment and Conservation, Conference Room B, 17th Floor, L&C Tower, 401 Church Street, Nashville, Tennessee 37243–1541. Anyone who wishes to learn whether or not the public hearing on the State's application has been cancelled should telephone the following contacts after August 27, 1998:

Mr. John K. Mason, Chief, Underground Storage Tank Section, U.S. EPA Region 4, 61 Forsyth Street, S.W., Atlanta, Georgia 30303, Phone: (404) 562–9277, or

Mr. Lamar Bradley, Acting Director, Division of Underground Storage Tanks, Tennessee Department of Environment and Conservation, 401 Church Street, 4th Floor, L&C Tower, Nashville, Tennessee 37243–1541, Phone: (615) 532–0945.

FOR FURTHER INFORMATION CONTACT: Mr. John K. Mason, Chief, Underground Storage Tank Section, U.S. EPA Region 4, Atlanta Federal Center, 61 Forsyth Street S.W., Atlanta, Georgia 30303, phone: (404) 562–9277.

SUPPLEMENTARY INFORMATION:

I. Background

Section 9004 of the Resource Conservation and Recovery Act (RCRA) authorizes EPA to approve State underground storage tank programs to operate in the State in lieu of the Federal underground storage tank (UST) program. Program approval may be granted by EPA pursuant to RCRA section 9004(b), if the Agency finds that the State program: is "no less stringent" than the Federal program for the seven elements set forth at RCRA section 9004(a)(1) through (7); includes the notification requirements of RCRA section 9004(a)(8); and provides for adequate enforcement of compliance with UST standards of RCRA section 9004(a).

II. Tennessee

The State of Tennessee submitted their draft state program approval application to EPA by letter dated December 9, 1993. After reviewing the package, EPA submitted comments to the state for review. Tennessee submitted their complete state program approval application for EPA's tentative approval on September 1, 1996.

On December 8, 1989, Tennessee adopted UST program regulations for petroleum underground storage tanks related to procedures for fees and notification. The remainder of Tennessee's UST program regulations for petroleum underground storage tanks became effective on April 15, 1990. Prior to the adoption of the regulations, Tennessee solicited public comment and held a public hearing on the draft UST program regulations. EPA has reviewed the Tennessee application, and has tentatively determined that the State's UST program for petroleum substances meets all of the requirements necessary to qualify for final approval.

EPA will hold a public hearing on its tentative decision on September 3, 1998, unless insufficient public interest is expressed. The public may also submit written comments on EPA's tentative determination until August 20, 1998. Copies of the Tennessee application are available for inspection and copying at the locations indicated in the **ADDRESSES** section of this document.

EPA will consider all public comments on its tentative determination received at the hearing, or received in writing during the public comment period. Issues raised by those comments may be the basis for a decision to deny final approval to Tennessee. EPA expects to make a final decision on whether or not to approve Tennessee's program within 60 days, and will give notice of it in the **Federal Register**. The document will include a summary of the reasons for the final determination and a response to all major comments.

III. Administrative Requirements

A. Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of section 6 of Executive Order 12866.

B. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments and the private sector. Under sections 202 and 205 of the UMRA, EPA generally must prepare a written statement of economic and regulatory alternatives analyses for proposed and final rules with Federal mandates, as defined by the UMRA, that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. The section 202 and 205 requirements do not apply to today's action because it is not a "Federal mandate" and because it does not impose annual costs of $100 million or more.

Today's rule contains no Federal mandates for State, local or tribal governments or the private sector for two reasons. First, today's action does not impose new or additional enforceable duties on any State, local or tribal governments or the private sector because the requirements of the Tennessee program are already imposed by the State and subject to State law. Second, the Act also generally excludes from the definition of a "Federal mandate" duties that arise from participation in a voluntary Federal program. Tennessee's participation in an approved UST program is voluntary.

Even if today's rule did contain a Federal mandate, this rule will not result in annual expenditures of $100 million or more for State, local, and/or tribal governments in the aggregate, or the private sector. Costs to State, local and/or tribal governments already exist under the Tennessee program, and today's action does not impose any additional obligations on regulated entities. In fact, EPA's approval of state programs generally may reduce, not increase, compliance costs for the private sector.

The requirements of section 203 of UMRA also do not apply to today's action. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, section 203 of the UMRA requires EPA to develop a small government agency plan. This rule contains no regulatory requirements that might significantly or uniquely affect small governments. The Agency recognizes that although small governments may own and/or operate USTs, they are already subject to the regulatory requirements under existing state law which are being approved by EPA, and, thus, are not subject to any additional significant or unique requirements by virtue of this program approval.

C. Certification Under the Regulatory Flexibility Act

EPA has determined that this approval will not have a significant economic impact on a substantial number of small entities. Such small entities which own and/or operate USTs are already subject to the regulatory requirements under existing State law which are being approved by EPA. EPA's approval does not impose any additional burdens on these small entities. This is because EPA's approval would simply result in an administrative change, rather than a change in the substantive requirements imposed on these small entities.

Therefore, EPA provides the following certification under the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act. Pursuant to the provision at 5 U.S.C. 605(b), I hereby certify that this approval will not have a significant economic impact on a substantial number of small entities. This rule approves regulatory requirements under existing State law to which small entities are already subject. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

D. Submission to Congress and The General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule, for purposes of 5 U.S.C. 804(3).

E. Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by an information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

List of Subjects in 40 CFR Part 281

Environmental protection, Administrative practice and procedure, Hazardous materials, State program approval, Underground storage tanks.

Authority: This notice is issued under the authority of Section 9004 of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: July 1, 1998.

Michael V. Peyton,

Acting Regional Administrator.

[FR Doc. 98–18422 Filed 7–9–98; 8:45 am]

BILLING CODE 6560–50–P

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Notices

Federal Register
Vol. 63, No. 132
Friday, July 10, 1998

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[TM-98-00-5]

Notice of Meeting of the National Organic Standards Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the Agricultural Marketing Service (AMS) announces a forthcoming meeting of the National Organic Standards Board (NOSB).

DATES: July 21, 1998, at 1:30 p.m. to 5:00 p.m.; July 22, 1998, from 8:00 a.m. to 5:00 p.m.; and July 23, 1998, from 8:00 a.m. to 5:00 p.m. for the NOSB.

PLACE: U.S. Department of Agriculture, 1400 Independence Avenue, S.W., Jefferson Auditorium (July 21, 1998) and Room 3501 South Building (July 22–23, 1998), Washington, D.C. 20250. Phone: (202) 690–3655.

FOR FURTHER INFORMATION CONTACT: Keith Jones, Program Manager, Room 2510 South Building, U.S. Department of Agriculture, AMS, Transportation and Marketing, National Organic Program Staff, P.O. Box 96456, Washington, D.C. 20090-6456. Phone (202) 720–3252.

SUPPLEMENTARY INFORMATION: Section 2119 (7 U.S.C. 6518) of the Organic Foods Production Act of 1990 (OFPA), as amended (7 U.S.C. Section 6501 *et seq.*) requires the establishment of NOSB. The purpose of NOSB is to assist in the development of standards for substances to be used in organic production and to advise the Secretary on any other aspects of the implementation of OFPA. NOSB met for the first time in Washington, D.C., in March 1992 and currently has six committees working on various aspects of the program. The committees are: Crops Standards; Processing, Labeling and Packaging; Livestock Standards; Accreditation; Materials; and International Issues. In August 1994, NOSB provided its initial recommendations for the National Organic Program (NOP) to the Secretary of Agriculture and since that time has submitted 30 addenda to the recommendations and reviewed more than 170 substances for inclusion on the National List of Allowed and Prohibited Substances. The last meeting of NOSB was held in March 1998, in Ontario, California. The Department of Agriculture (USDA) published its proposed rule for NOP in the **Federal Register** (62 FR 65849) on December 16, 1997. An extension of the comment period on the proposed rule was published in the **Federal Register** (63 FR 6498–6499) on February 9, 1998. The comment period was extended until April 30, 1998.

PURPOSE AND AGENDA: The main purposes of this meeting are to review committee reports; continue dialog on unresolved issues from the March 1998 meeting, including fees, peer review panels, treated seeds, and aquaculture; elect new officers; appoint committee chairpersons; and plan future activities of the Board.

A final agenda for this meeting will be available on July 7, 1998. Persons requesting copies of the final agenda should contact Karen Thomas at the above address or phone (202) 690–3655.

TYPE OF MEETING: All meetings will be open to the public. NOSB has scheduled time for public input on July 21, 1998, beginning at 1:30 p.m. and continuing until 5:00 p.m. Individuals and organizations wishing to make an oral presentation at the meeting on any organic issue should forward the request to Ms. Thomas at the above address or by FAX to (202) 205–7808 by July 15, 1998, in order to be scheduled. While persons wishing to make a presentation may sign up at the door, advance registration will ensure an opportunity to speak during the allotted time period and will help NOSB better manage the meeting and accomplish its agenda. Individuals or organizations will be given approximately 5 minutes to orally present their views. All persons making an oral presentation are requested also to provide their comments in writing, if possible. Written submissions may of course expand on or supplement the oral presentation with additional material. Attendees who do not wish to make an oral presentation are invited to submit written comments to NOSB at the meeting. All persons submitting written comments should provide 20 copies to NOSB.

Dated: July 7, 1998.

Eileen S. Stommes,

Deputy Administrator, Transportation and Marketing.

[FR Doc. 98–18540 Filed 7–8–98; 11:55 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

Sierra Nevada Conservation Planning for National Forests in California

AGENCY: Forest Service, USDA.

ACTION: Announcing the beginning of a planning process that will: (1) Examine existing management direction for the National Forests in the Sierra Nevada in light of new scientific information, and (2) develop new management direction where necessary, supported by an environmental impact statement to be completed by July 31, 1999. After an initial public involvement period, the Agency will amend this notice with a Notice of Intent that will more fully describe an Agency proposed action.

SUMMARY: The USDA, Forest Service, Pacific Southwest Region, is beginning a planning process to ensure that new scientific information is adequately considered in management direction contained in the Pacific Southwest Regional Guide and the ten Forest Plans for the National Forests in the Sierra Nevada. The Pacific Southwest Regional Forester, in consultation with the Director of the Pacific Southwest Research Station, anticipates (1) having a completed and peer reviewed report that synthesizes new scientific information of rangewide urgency to the National Forests in the Sierra Nevada by late-July, 1998; (2) having completed an examination of current management direction in light of the new scientific information and the identification of weaknesses in current management direction along with possible changes that could be made in management direction to rectify those weaknesses by the end of July, 1998; (3) providing a 60-

day opportunity for the public to comment on the new scientific information, the identified weaknesses in current management direction, and possible changes that could be made in management direction to rectify those weaknesses by mid-October, 1998; and (4) by October 31, 1998, issue a Notice of Intent, which will amend this Notice, to fully articulate the Agency's proposed action to change management direction in the Pacific Southwest Regional Guide and the Forest Plans for the ten National Forests in the Sierra Nevada. Publication of the Notice of Intent will initiate a 60-day public comment period wherein the public will be asked to provide any additional information they feel the Forest Service may still not have at that time, and to submit any issues regarding potential effects of the proposed action. More specific information regarding the proposal, decision-making process, and schedule for completion will be included in the Notice of Intent.

ADDRESS: Send written comments to Dick Andrews, Regional Environmental Coordinator, Ecosystem Planning, Room 859A, 630 Sansome Street, San Francisco, CA 94111.

FOR FURTHER INFORMATION CONTACT: Dick Andrews, Regional Environmental Coordinator, Ecosystem Planning, (415) 705–2557.

SUPPLEMENTARY INFORMATION: This announcement is being published by the Forest Service in an effort to ensure an open and inclusive public process is employed in gathering information that may be used to formulate a proposed action and articulate the purpose and need for amending the management direction specified in the Pacific Southwest Regional Guide and the Forest Plans for the Eldorado, Inyo, Lassen, Modoc, Plumas, Sequoia, Sierra, Stanislaus, and Tahoe National Forests and the Lake Tahoe Basin Management Unit.

In preparation for this planning process, the USDA Forest Service Pacific Southwest Research Station is reviewing recently developed scientific information relevant to the Sierra Nevada. A report summarizing this work is currently in draft and may be viewed at the Research Station's internet website, www.psw.fs.fed.us/sierra/. By mid-July additional information about the planning process and opportunities for public involvement will be available through the Pacific Southwest Region's internet website, www.r5.fs.fed.us/.

Date: July 6, 1998.

G. Lynn Sprague,

Regional Forester.

[FR Doc. 98–18387 Filed 7–9–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Southwest Washington Provincial Advisory Committee Meeting Notice

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Southwest Washington Provincial Advisory Committee will meet on Thursday, May 16, 1998, in Toppenish, Washington, at the Yakama Indian Nation Cultural Center (Highway 97 and Buster Road) in the 14 Tribes Room. The meeting will begin at 10 a.m. and continue until 5 p.m. The purpose of the meeting is to provide information on (1) Water Quality Issues, (2) Tribal Hunting and Wildlife Concerns, (3) Huckleberry and other Special Forest Product concerns, (4) Timber Management by the Yakama Nation during the listing of the Spotted Owl, and (5) Public Open Forum. All Southwest Washington Provincial Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend. The "open forum" provides opportunity for the public to bring issues, concerns, and discussion topics to the Advisory Committee. The "open forum" is scheduled as part of agenda item (5) for this meeting. Interested speakers will need to register prior to the open forum period. The committee welcomes the public's written comments on committee business at any time.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Linda Turner, Public Affairs Specialist, at (360) 891–5195, or write Forest Headquarters Office, Gifford Pinchot National Forest, 10600 NE. 51st Circle, Vancouver, WA 98682.

Dated: July 2, 1998.

Larry I. Seekins,

Deputy Forest Supervisor.

[FR Doc. 98–18311 Filed 7–9–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Extension of Currently Approved Information Collection for the Stewardship Incentive Program (SIP)

AGENCY: Forest Service, USDA.

ACTION: Notice of information collection; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service announces its intent to seek extension of the approval of an existing information collection authorized under Office of Management and Budget number 0596–0120. Several Forest Service information collection forms are approved under this authorization number: SIP 36, Assignment of Payment; SIP 211, Power of Attorney; SIP 211–1, Power of Attorney for Husband and Wife; and SIP 502, Payment Limitation Review. Non-industrial private forest owners complete these forms to participate in the Forest Service State and Private Forestry Stewardship Incentive Program.

DATES: Comments must be received in writing on or before September 8, 1998.

ADDRESSES: All comments should be addressed to: Stewardship Coordinator, Cooperative Forestry Staff, mail stop 1123, Forest Service, USDA, P.O. Box 96090, Washington, D.C. 20090–6090.

FOR FURTHER INFORMATION CONTACT: Susan Stein, Cooperative Forestry Staff, at (202) 205–0837.

SUPPLEMENTARY INFORMATION: The Forest Service is seeking extension of the approval of an existing information collection authorized under Office of Management and Budget number 0596–0120. Several Forest Service information collection forms are approved under this authorization number: SIP 36, Assignment of Payment; SIP 211, Power of Attorney; SIP 211–1, Power of Attorney for Husband and Wife; and SIP 502, Payment Limitation Review. An additional form, AD–245, SIP Request for Cost-Shares, formerly named SIP 245, SIP Request for Cost-Shares, also must be completed by non-industrial private forest owners. A separate request for extension of approval of form AD–245 is being processed by the Farm Service Agency departmental request for extensions of information collections authorized under Office of Management and Budget approval number 0560–0082. The Forest Service and the Farm Service Agency cooperatively administer the Forest Service State and Private Forestry Stewardship Incentive Program.

Non-industrial private forest owners complete these forms to participate in the Forest Service State and Private Forestry Stewardship Incentive Program. The collected information identifies 1) the Stewardship Incentive Program assignment of payment, 2) Internal Revenue Service income

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reporting requirements for participants; and 3) the participants' delegated Power of Attorney.

All collected information is used by the Forest Service and the Farm Service Agency to facilitate non-industrial private forest owner participation in the Forest Service State and Private Forestry Stewardship Incentive Program.

Data gathered in this information collection is not available from other sources.

Description of Information Collection

The following describes the information collection to be extended:

Title: SIP 36, Assignment of Payment.

OMB Number: 0596–0120.

Expiration Date of Approval: June 30, 1998.

Type of request: Extension of a previously approved information collection.

Abstract: Non-industrial private forest owners complete SIP 36, Assignment of Payment, when they want to assign a cost-share payment to a third party. The information requested includes the payment amount assigned and the names, addresses, and signatures of the assignor and the assignee.

Estimate of burden. 10 minutes.

Type of respondents: Non-industrial private forest owners.

Estimated number of respondents: 20,000.

Estimated number of responses per respondent: 1.

Estimated total annual burden on respondents: 3,333 hours.

Description of Information Collection

The following describes the information collection to be extended:

Title: SIP 211, Power of Attorney.

OMB Number: 0596–0120.

Expiration Date of Approval: June 30, 1998.

Type of request: Extension of a previously approved information collection.

Abstract: The non-industrial private forest landowner completes SIP 211, Power of Attorney, to grant a power of attorney. The landowner indicates on this form whether the Power of Attorney is being granted for (1) all actions, (2) the signing of an application, (3) the receiving of payments, (4) the pledge of agreements, (5) the making of reports, or (6) "other." It is signed by the landowner and witnesses.

Estimate of burden: 5 minutes.

Type of respondents: Non-industrial private forest owners.

Estimated number of respondents: 20,000.

Estimated number of responses per respondent: 1.

Estimated total annual burden on respondents: 1,667 hours.

Description of Information Collection

The following describes the information collection to be extended:

Title: SIP 211–1, Power of Attorney for Husband and Wife.

OMB Number: 0596–0120.

Expiration Date of Approval: June 30, 1998.

Type of request: Extension of a previously approved information collection.

Abstract: Participants, who are husband and wife and who wish to grant each other a Power of Attorney, must complete SIP 211–1, Power of Attorney for Husband and Wife. Both the husband and wife print and sign their names on the form.

Estimate of burden: 5 minutes.

Type of respondents: Non-industrial private forest owners.

Estimated number of respondents: 20,000.

Estimated number of responses per respondent: 1.

Estimated total annual burden on respondents: 1,667 hours.

Description of Information Collection

The following describes the information collection to be extended:

Title: SIP 502, Payment Limitation Review.

OMB Number: 0596–0120.

Expiration Date of Approval: June 30, 1998.

Type of request: Extension of a previously approved information collection.

Abstract: To ensure they have not exceeded the cost-share payment limit for a fiscal year, non-industrial private forest owners complete SIP 502, Payment Limitation Review. A landowner is not allowed to receive more than $10,000 in Stewardship Incentive Program cost-share payments in a single fiscal year. Program participants provide their name and address, entity identification number, and the date the entity was formed. They also indicate whether they are an individual, an irrevocable trust, a revocable trust, a corporation, a limited partnership, a general partnership, a joint venture, an estate, or "other." Participants also list all stockholders, members, heirs, or beneficiaries having an interest in the entity.

Estimate of burden: 25 minutes.

Type of respondents: Non-industrial private forest owners.

Estimated number of respondents: 20,000.

Estimated number of responses per respondent: 1 per form.

Estimated total annual burden on respondents: 8,333 hours.

Comment is Invited

The agency invites comments on the following: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Use of comments

All comments received in response to this notice, including name and address when provided, will become a matter of public record. Comments received in response to this notice will be summarized and included in the request for Office of Management and Budget approval.

Dated: July 1, 1998.

Robert Lewis, Jr.,

Acting Associate Chief.

[FR Doc. 98–18431 Filed 7–9–98; 8:45 am]

BILLING CODE 3410–11–P

ASSASSINATION RECORDS REVIEW BOARD

Sunshine Act Meeting

DATES: July 20–21, 1998.

PLACE: ARRB, 600 E Street, NW, Washington, DC.

STATUS: July 20: 9:00 a.m. Closed, July 21: 10:00 a.m. Open.

MATTERS TO BE CONSIDERED:

Closed Meeting:

1. Review and Accept Minutes of Closed Meeting
2. Review of Assassination Records
3. Other Business

Open Meeting:

1. Discussion of Final Report
2. Review and Accept Minutes of July 8, 1998 Open Meeting
3. Other Business

CONTACT PERSON FOR MORE INFORMATION: Eileen Sullivan, Press Officer, 600 E Street, NW, Second Floor, Washington, DC 20530. Telephone: (202) 724–0088; Fax: (202) 724–0457.

T. Jeremy Gunn,

General Counsel.

[FR Doc. 98–18606 Filed 7–8–98; 2:23 pm]

BILLING CODE 6116–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from Procurement List.

SUMMARY: The Committee has received proposal(s) to add to the Procurement List a commodity and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete commodities and services previously furnished by such agencies.

COMMENTS MUST BE RECEIVED ON OR BEFORE: August 10, 1998.

ADDRESS: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman, (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed addition, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodity and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity and services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodity and services.

3. The action will result in authorizing small entities to furnish the commodity and services to theGovernment.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity and services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodity and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodity

Cushion Assembly, Commander's Seat
2540–01–314–7834
NPA: Lions Services, Inc., Charlotte, North Carolina

Services

Administrative Services,
U.S. Department of Agriculture (USDA)
Economic Research Service (ERS)
1031 New York Avenue, N.W.
Washington, DC
NPA: Fairfax Opportunities Unlimited, Inc., Alexandria, Virginia
Janitorial/Custodial
Fort McHenry National Monument and Historic Shrine
Hampton National Historic Site
Baltimore, Maryland
NPA: Baltimore Association for Retarded Citizens, Inc., Baltimore, Maryland
Mailroom Operation & Administrative Support
Buildings 5250 & 5308
Redstone Arsenal, Alabama
NPA: Huntsville Rehabilitation Foundation, Huntsville, Alabama

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action does not appear to have a severe economic impact on future contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for deletion from the Procurement List.

The following commodities and services have been proposed for deletion from the Procurement List:

Commodities

Cover, Generator Set
6115–00–960–2703
6115–00–941–1655
Roll, Tools and Accessories
5140–00–106–5616
6630–01–NIB–0001

Services

Carpet Cleaning
Portland, Oregon, plus 10-mile radius
Carwash Service
Bureau of Land Management
Medford District Office
3040 Biddle Road
Medford, Oregon
Car Wash/Operation of Recycling Station
Olympic National Park
Port Angeles, Washington
Commissary Shelf Stocking
Naval Administrative Unit
Scotia, New York
Janitorial/Custodial
U.S. Army Corps of Engineers at the following Yakima, Washington locations:
Fort Lewis Resident Office, Project Office adjacent to Building 810, Yakima Firing Center
Pallet Repair
Naval Supply Center, Puget Sound, Bremerton, Washington.

G. John Heyer,

General Counsel.

[FR Doc. 98–18452 Filed 7–9–98; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Annual Survey of Government Employment

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on

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proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before September 8, 1998.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Alan Stevens, U.S. Bureau of the Census, Governments Division, Washington, DC 20233–6800, (301) 457–1550.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Annual Survey of Government Employment collects data on the employment, payrolls, and hours worked by part-time employees of state and local governments for one pay period in March. Data are collected from all agencies, departments, and institutions of the fifty state governments and from a sample of all local governments (counties, cities, townships, school districts, and special districts).

This is a mail canvass survey with an initial mailing and one follow-up mailing. Telephone follow-up is used to contact non-respondents and, as necessary, to correct apparent errors and incomplete responses. These forms and procedures are similar to those used in the previous annual survey conducted in March 1998.

Results from this survey are used directly in a variety of Federal programs: By the Bureau of Economic Analysis to develop the public sector components of the National Income and Product Accounts and to develop personal income statistics; by the Department of Housing and Urban Development for the allocation of operating subsidies to local housing authorities; and by the Bureau of Labor Statistics to bench mark the government component in their monthly employment and earnings statistics program. Other users include state and local government executives and legislators, policy makers, economists, researchers, and the general public.

II. Method of Collection

Data collection is primarily accomplished through the use of mail canvass questionnaires that are tailored to the type of government, agency or institution being surveyed. Mail canvass replies are screened for completeness, electronically recorded for processing, and electronically edited. Special data reporting arrangements exist with many state governments and some local governments to facilitate data reporting in ways that help minimize reporting burden (e.g. central reporting of data for all agencies and institutions of individual state governments, electronic reporting of data by some state and local governments, central reporting of school systems data by a number of state education agencies, etc.).

III. Data

OMB Number: 0607–0452.

Form Number: E–1, E–2, E–3, E–4, E–6, E–7, E–9.

Type of Review: Regular.

Affected Public: State, local or tribal government.

Estimated Number of Respondents: 20,244.

Estimated Time Per Response: 1.06.

Estimated Total Annual Burden Hours: 21,437.

Estimated Total Cost: The estimated cost to respondents for the employment survey is $326,277. The budgeted cost to the Federal government for all phases of this survey is $1.1 million.

Legal Authority: This survey is authorized by Title 13, United States Code, Section 161.

Respondents' Obligation: This is a voluntary survey.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: July 6, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–18335 Filed 7–9–98; 8:45 a.m.]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

Annual Survey of Foreign Direct Investment in the United States

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before September 8, 1998.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instruments and instructions should be directed to: R. David Belli, U.S. Department of Commerce, Bureau of Economic Analysis, BE–50(OC), Washington, D.C. 20230 (Telephone: 202–606–9800).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Annual Survey of Foreign Direct Investment in the United States (Form BE–15) is necessary to provide reliable, useful, and timely measures of foreign direct investment in the United States. The annual survey covers all affiliates above a size-exemption level and collects annual data on the financial structure and operations of nonbank U.S. affiliates of foreign companies needed to update similar data for the universe of U.S. affiliates collected once every 5 years in the BE–12 benchmark survey. The data are used to derive annual estimates of the operations of U.S. affiliates of foreign companies, including their balance sheets; income statements; property, plant, and equipment; external financing; employment and employee compensation; merchandise trade; sales of goods and services; taxes; and research and development (R&D) activity. The data will be used to measure the economic significance of foreign direct investment in the United States and to analyze its effect on the U.S. economy. They will also be used in formulating, and assessing the impact of, U.S. policy on foreign direct investment.

Several revisions to the survey are being proposed to bring it into conformity with the BE–12 Benchmark Survey of Foreign Direct Investment in the United States—1997. BEA proposes to raise the exemption level for the survey to $30 million on the BE–15(SF) short form, up from $10 million (measured by the company's total assets, sales, or net income or loss), thereby reducing respondent burden for small companies; on the survey's long form, the BE–15(LF), the exemption level will be raised to $100 million, up from $50 million. In addition, BEA proposes to base industry coding on the North American Industry Classification System (NAICS) in place of the U.S. Standard Industrial Classification system, and to modify the detail collected on the composition of external financing of the reporting enterprise, on research and development expenditures, and on the operations of foreign-owned businesses in individual States.

II. Method of Collection

The BE–15 annual survey will be sent to potential respondents at the end of March each year. A completed report covering a reporting company's fiscal year ending during the previous calendar year will be due to be filed by May 31, 60 days after mailing. Reports must be filed by every nonbank U.S. business enterprise that is owned 10 percent or more by a foreign investor and that has total assets, sales, or net income (or loss) of over $30 million. Potential respondents are those U.S. business enterprises that report in the 1997 benchmark survey of foreign direct investment in the United States, along with affiliates that subsequently enter the direct investment universe. The BE–15 is a cutoff-sample survey, as described; universe estimates are developed from the reported data.

III. Data

OMB Number: 0608–0034.

Form Number: BE–15.

Type of Review: Regular submission.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 4,975.

Estimated Time Per Response: 26 hours.

Estimated Total Annual Burden: 128,000 hours.

Estimated Total Annual Cost: $3,840,000 (based on an estimated reporting burden of 128,000 hours and an estimated hourly cost of $30).

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: July 6, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–18334 Filed 7–9–98; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Technical Advisory Committees; Notice of Recruitment of Private-Sector Members

SUMMARY: Technical Advisory Committees (TACs) advise the Department of Commerce on the technical parameters for export controls applicable to dual-use commodities and technology and on the administration of those controls. The TACs are composed of representatives from industry and Government representing diverse points of view on the concerns of the exporting community. Industry representatives are selected from firms producing a broad range of goods, technologies, and software presently controlled for national security, foreign policy, non-proliferation, and short supply reasons or that are proposed for such controls, balanced to the extent possible among large and small firms.

TAC members are appointed by the Secretary of Commerce and serve terms of not more than four consecutive years. The membership reflects the Department's commitment to attaining balance and diversity. TAC members must obtain secret-level clearances prior to appointment. These clearances are necessary so that members can be permitted access to relevant classified information needed in formulating recommendations to the Department of Commerce. Each TAC meets approximately 4 times per year. Members of the Subcommittee will not be compensated for their services.

Three TACs are currently seeking to fill membership vacancies. Those TACs and the areas in which they advise the Department of Commerce are the following: the Materials Processing Equipment TAC—Control List Category 2 (materials processing); the Regulations and Procedures TAC—the Export Administration Regulations (EAR) and procedures for implementing the EAR: and the Transportation and Related Equipment TAC—Control List Category), and Category 9 (propulsion systems, space vehicles, and related equipment).

To respond to this Notice of Recruitment, please send a fact sheet on your company as well as a resume/biography to the following address: Ms. Lee Ann Carpenter, OAS/EA/BXA MS: 3886C, U.S. Department of Commerce, 15th St. & Pennsylvania Ave., N.W., Washington, D.C. 20230.

Materials may also be faxed to Ms. Carpenter at (202) 501–8024.

DEADLINE: This Notice of Recruitment will be open for 20 days from date of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Ms. Lee Ann Carpenter on (202) 482–2583.

Dated July 6, 1998.

Iain S. Baird,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 98–18419 Filed 7–9–98; 8:45 am]

BILLING CODE 3510–33–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Materials Technical Advisory Committee; Notice of Open Meeting

A meeting of the Materials Technical Advisory Committee (MTAC) will be held July 23, 1998, 10:30 a.m., in the Herbert C. Hoover Building, Room 1617M(2), 14th Street between Constitution & Pennsylvania Avenues, N.W., Washington, D.C. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that

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affect the level of export controls applicable to advanced materials and related technology.

Agenda:

1. Opening remarks by the Chairman.
2. Explanation on purpose of electing Co-Chair.
3. Election of Co-Chair.
4. Presentation on status of Chemical Weapons Convention.
5. Presentation on status of Biological Weapons Convention implementation protocol.
6. Presentation on technical issues for chemical and equipment related to Australia Group list review.
7. Presentation on technical issues for biologicals and biological equipment related to Australia Group list review.
8. Presentation of papers or comments by the public.

The meeting will be open to the public and a limited number of seats will be available. To the extent that time permits, members of the public may present oral statements to the Committee.

Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials two weeks prior to the meeting to the following address: Ms. Lee Ann Carpenter, OAS/EA/BXA MS:3886C, 15th St. & Pennsylvania Ave., N.W., U.S. Department of Commerce, Washington, D.C. 20230.

For further information or copies of the minutes, contact Lee Ann Carpenter on (202) 482–2583.

Dated: July 2, 1998.

Lee Ann Carpenter,

Director, Technical Advisory Committee Unit.

[FR Doc. 98–18152 Filed 7–9–98; 8:45 am]

BILLING CODE 3510–33–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–822, A–122–823]

Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate From Canada: Preliminary Results of Antidumping Duty Administrative Reviews and Intent To Revoke in-Part

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of preliminary results of the antidumping duty administrative review of certain corrosion-resistant carbon steel flat products and certain cut-to-length carbon steel plate from Canada.

SUMMARY: In response to requests from interested parties, the Department of Commerce (the Department) is conducting administrative reviews of the antidumping duty orders on certain corrosion-resistant carbon steel flat products and certain cut-to-length carbon steel plate from Canada. These reviews cover six manufacturers/exporters of the subject merchandise to the United States (three manufacturers/exporters of corrosion resistant steel and four manufacturers/exporters of cut-to-length steel plate), and the period August 1, 1996 through July 31, 1997.

We have preliminarily determined that sales have been made below normal value ("NV") by various companies subject to these reviews. If these preliminary results are adopted in our final results of these administrative reviews, we will instruct the U.S. Customs Service to assess antidumping duties based on the difference between the export price ("EP") or constructed export price ("CEP") and the NV.

EFFECTIVE DATE: July 10, 1998.

FOR FURTHER INFORMATION CONTACT: Lyn Baranowski (Dofasco Inc. and Sorevco Inc. (collectively, "Dofasco")), Eric Scheier (Continuous Colour Coat ("CCC")), Lesley Stagliano (Algoma Steel, Inc. ("Algoma")), Gideon Katz (Gerdau MRM Steel ("MRM") and A.J. Forsyth and Co., Ltd. ("Forsyth")), N. Gerard Zapiain (Stelco, Inc. ("Stelco")), or Maureen Flannery, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 351 (62 FR 27379, May 19, 1997).

Background

On August 19, 1993, the Department published in the **Federal Register** (58 FR 44162) the antidumping duty orders on certain corrosion-resistant carbon steel flat products and certain cut-to-length carbon steel plate from Canada. On August 12, 1997, Forsyth requested a review of its exports of cut-to-length steel plate. On August 13, 1997, CCC requested a review of its exports of corrosion-resistant steel. On August 28, 1997, Algoma requested a review of its exports of cut-to-length steel plate and that the Department revoke the order on cut-to-length steel plate with regard to Algoma. On August 29, 1997, the following companies also requested reviews for their exports of corrosion-resistant carbon steel flat products: Dofasco (corrosion-resistant steel), Stelco (corrosion-resistant steel and cut-to-length steel plate), and MRM (cut-to-length steel plate). On August 29, 1997, Bethlehem Steel Corporation, U.S. Steel Group (a Unit of USX Corporation), Inland Steel Industries Inc., AK Steel Corporation, LTV Steel Co., Inc., and National Steel Corporation, petitioners, requested reviews of CCC, Dofasco, and Stelco on corrosion-resistant carbon steel flat products. On September 8, 1997, Stelco submitted an addendum to its August 29, 1997 submission, requesting that the Department revoke the orders on corrosion-resistant steel and carbon steel plate with regard to Stelco, pursuant to Section 351.222(b) of the Department's regulations. On September 25, 1997, in accordance with Section 751 of the Act, we published a notice of initiation of administrative reviews of these orders for the period August 1, 1996 through July 31, 1997 (62 FR 50292).

Under section 751(a)(3)(A) of the Act, the Department may extend the deadline for completion of an administrative review if it determines that it is not practicable to complete the review within the statutory time limit of 365 days. On March 19, 1998, the Department published a notice of extension of the time limit for the preliminary results in the review to July 3, 1998. *See Corrosion-Resistant Carbon Steel Flat Products and Cut-to-Length Carbon Steel Plate: Extension of Time Limits for Preliminary Results of Antidumping Administrative Review*, 63 FR 13990.

The Department is conducting these reviews in accordance with section 751(a) of the Act.

Scope of Reviews

The products covered by these administrative reviews constitute two separate "classes or kinds" of merchandise: (1) certain corrosion-resistant steel and (2) certain cut-to-length plate.

The first class or kind, certain corrosion-resistant steel, includes flat-rolled carbon steel products of rectangular shape, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel-or iron-based alloys, whether or not corrugated or painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedule (HTS) under item numbers 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0090, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.1000, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7212.60.0000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, and 7217.90.5090. Included are flat-rolled products of non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process (i.e., products which have been worked after rolling)—for example, products which have been beveled or rounded at the edges. Excluded are flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead ("terne plate"), or both chromium and chromium oxides ("tin-free steel"), whether or not painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating. Also excluded are clad products in straight lengths of 0.1875 inch or more in composite thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness. Also excluded are certain clad stainless flat-rolled products, which are three-layered corrosion-resistant carbon steel flat-rolled products less than 4.75 millimeters in composite thickness that consist of a carbon steel flat-rolled product clad on both sides with stainless steel in a 20%-60%-20% ratio. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive of the scope of this review.

The second class or kind, certain cut-to-length plate, includes hot-rolled carbon steel universal mill plates (i.e., flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 millimeters but not exceeding 1,250 millimeters and of a thickness of not less than 4 millimeters, not in coils and without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain hot-rolled carbon steel flat-rolled products in straight lengths, of rectangular shape, hot-rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 millimeters or more in thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the HTS under item numbers 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, and 7212.50.0000. Included are flat-rolled products of non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process (i.e., products which have been worked after rolling)—for example, products which have been beveled or rounded at the edges. Excluded is grade X–70 plate. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive of the scope of this review.

Verification

As provided in section 782(i) of the Act, we verified information provided by Algoma (cost and sales), Dofasco (sales), and Stelco (sales, cost and further manufacturing) using standard verification procedures, including on-site inspection of the manufacturer's facilities and the examination of relevant sales and financial records. Our verification results are outlined in the public versions of the verification reports.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by the respondent, covered by the description in the Scope of the Review section, above, and sold in the home market during the period of review (POR), to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the most similar foreign like product on the basis of the characteristics listed in Appendix V of the Department's September 19, 1997 antidumping questionnaire.

Fair Value Comparisons

To determine whether sales of subject merchandise to the United States were made at less than fair value, we compared the EP or CEP to the NV, as described in the "United States Price" and "Normal Value" sections of this notice. In accordance with section 777A(d)(2) of the Act, we calculated monthly weighted-average prices for NV and compared these to individual U.S. transaction prices.

Interested Party Comments

On June 22, 1998, the petitioner submitted comments regarding Stelco and CCC. On June 23, 1998, Forsyth submitted comments. Because of the lateness of these submissions, we are not able to consider them for these preliminary results, but will consider them for the final results.

Intent To Revoke

On August 28, 1997, Algoma submitted a request, in accordance with 19 CFR 351.222(b), that the Department revoke the order covering cut-to-length carbon steel plate from Canada with respect to its sales of this merchandise. On August 29, 1997, Stelco submitted a request that the Department revoke the orders covering cut-to-length carbon steel plate and corrosion-resistant steel from Canada with respect to its sales of this merchandise.

In accordance with 19 CFR 351.222(b)(2)(iii), these requests were accompanied by certifications from Algoma and Stelco that they had not sold the subject merchandise at less than NV for a three-year period, including this review period, and would not do so in the future. Algoma and Stelco also agreed to its immediate reinstatement in the relevant antidumping order, as long as any firm is subject to the order, if the Department concludes under 19 CFR 351.216 that, subsequent to revocation, it sold the subject merchandise at less than NV.

The Department conducted verifications of Algoma's and of Stelco's responses for this period of review. In the two prior reviews of this order, we determined that Algoma and Stelco sold cut-to-length carbon steel plate from Canada at not less than NV or at *de*

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minimis margins. We preliminarily determine that both Algoma and Stelco sold cut-to-length carbon steel plate at not less than NV during this review period. Based on Algoma's and on Stelco's three consecutive years of zero or *de minimis* margins and the absence of evidence to the contrary, we preliminarily determine that it is not likely that either Algoma or Stelco will in the future sell cut-to-length carbon steel plate at less than NV. Therefore, if these preliminary findings are affirmed in our final results, we intend to revoke the order on cut-to-length carbon steel plate from Canada with respect to Algoma and to Stelco.

In the last two administrative reviews, we determined that Stelco sold corrosion-resistant steel at less than fair value. *See Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate From Canada: Final Results of Antidumping Duty Administrative Reviews*, 62 FR 12725 (March 16, 1998) and *Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate From Canada: Final Results of Antidumping Duty Administrative Reviews*, 62 FR 18448 (April 15, 1997). Although the final results of the second and third reviews are subject to litigation, that litigation is not yet complete. Additionally, as discussed below, we have preliminarily determined that Stelco sold corrosion-resistant steel at less-than-fair-value (LTFV) during the period covered by this review. Consequently, we preliminarily determine that because Stelco does not have three consecutive years of zero or *de minimis* margins on corrosion-resistant steel, Stelco is not eligible for revocation of the order on corrosion-resistant steel under 19 CFR 351.222(b).

United States Price

For calculation of the price to the United States, we used EP when the subject merchandise was sold directly or indirectly to the first unaffiliated purchaser in the United States prior to importation and constructed export price (CEP) was not otherwise warranted, based on facts on the record. We used CEP for certain sales by Stelco. *See* the subsection of "United States Price" titled "Stelco."

Algoma

The Department calculated EP for Algoma based on packed, prepaid or delivered prices to customers in the United States. We made adjustments to the starting price, net of billing adjustments, for movement expenses (foreign and U.S. movement, brokerage and handling, and U.S. Customs duties), in accordance with section 772(c)(2) of the Act.

We used Algoma's date of invoice as the date of sale for both U.S. sales and home market sales, where applicable, in accordance with 19 CFR 351.401(i), and the Department's standard practice. See, e.g., *Porcelain-on-Steel Cookware from Mexico; Preliminary Results of Antidumping Duty Administrative Review*, 62 FR 4723, 4725 (January 31, 1997). For further discussion of this issue, *see Memorandum to the File: Analysis Memorandum for the Preliminary Results of Review for Algoma*, July 2, 1998.

CCC

The Department calculated EP for CCC based on packed, prepaid or delivered prices to customers in the United States.

We made deductions to the starting price, net of discounts and price adjustments, for movement expenses (foreign and U.S. movement, brokerage and handling, and U.S. Customs duties), in accordance with section 772(c)(2). Although the record does not contain pre-sale agreements for certain payments which CCC reported as "credit notes," based on CCC's information we have determined to treat these payments as price adjustments which should be excluded from the starting price. See *Memorandum to the File: Analysis Memorandum for the Preliminary Results of Review for CCC*, July 2, 1998.

Dofasco

For purposes of these reviews, we treated Dofasco, Inc. and Sorevco, Inc. as one respondent, as we have done in prior segments of the proceeding. See, *e.g., Certain Corrosion-Resistant Carbon Steel Flat Products from Canada: Final Determination of Sales at Less than Fair Value*, 58 FR 37099 (1993), and *Final Results of Antidumping Duty Administrative Review: Certain Corrosion-Resistant Carbon Steel Flat Products from Canada*, 63 FR 12725 (March 16, 1998). The Department calculated EP for Dofasco based on packed prices to customers in the United States.

We made deductions to the starting price, net of discounts and rebates, for movement expenses (foreign and U.S. movement, U.S. Customs duty and brokerage, and post-sale warehousing) in accordance with section 772(c)(2).

As discussed in prior reviews, certain Dofasco sales have undergone minor further processing in the United States as a condition of sale to the customer. *See Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate From Canada: Final Results of Antidumping Duty Administrative Reviews*, 62 FR 18461, (April 15, 1997). In order to determine the value of subject merchandise at the time of exportation of such merchandise to the United States, the Department has deducted the price charged to Dofasco for this minor further processing from gross unit price to determine U.S. price.

It is the Department's current practice normally to use the invoice date as the date of sale; we may, however, use a date other than the invoice date if we are satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale. See 19 CFR 351.401(i) (62 FR at 27411).

The questionnaire we sent to the respondents on September 19, 1998 instructed them to report the date of invoice as the date of sale; it also stated, however, for EP sales, that "(t)he date of sale cannot occur after the date of shipment." In this review, Dofasco's date of shipment in many instances preceded the date of invoice, and therefore we cannot use the date of invoice as the new regulations prescribe. Accordingly, as allowed by the exception set forth in section 351.401(i) of the regulations, we used the dates of sale described below. These sale dates reflect the dates on which the exporter or producer established the material terms of sale.

We used the date of order acknowledgment as date of sale, as reported by Dofasco, Inc., for all Dofasco, Inc. sales in both the U.S. market and the home market, except for sales made pursuant to long-term contracts. For Dofasco, Inc.'s sales made pursuant to long-term contracts, we used date of the contract as date of sale.

We used the date of order confirmation as the date of sale, as reported by Sorevco, Inc., for all Sorevco, Inc. sales in the U.S. and the home market, except that when Sorevco shipped more merchandise than the customer originally ordered, and such overages were in excess of accepted industry tolerances. Lacking any evidence of the precise date after the date of order confirmation on which the quantity was changed, we used date of shipment as date of sale for the excess merchandise.

MRM

The Department calculated EP for MRM based on packed, prepaid or delivered prices to customers in the United States. We made deductions to the starting price for movement expenses (foreign and U.S. movement, brokerage and handling, and U.S. Customs duties) pursuant to section 772(c)(2) of the Act.

We used MRM's date of invoice as the date of sale for its U.S. sales in accordance with the Department's standard practice.

Stelco

Corrosion-resistant steel: We calculated EP or CEP, as appropriate, based on the packed price to unaffiliated purchasers in, or for exportation to, the United States. We made deductions to the starting price for movement expenses, including foreign and U.S. freight, brokerage and handling, and U.S. Customs duties, in accordance with section 772(c)(2) of the Act. In accordance with sections 772(d)(1) and (2) of the Act, for CEP sales, we also deducted credit expenses, technical service expenses, indirect selling expenses, inventory carrying costs, U.S. inland freight incurred by Stelco USA ("SUSA"), and further manufacturing costs incurred by SUSA. Finally, we made an adjustment for an amount of profit allocated to these expenses, when incurred in connection with economic activity in the United States, in accordance with section 772(d)(3) of the Act.

We used Stelco's date of invoice as the date of sale for both EP and CEP corrosion-resistant sales in accordance with the Department's standard practice.

Plate: We calculated EP based on the packed price to unaffiliated purchasers in, or for exportation to, the United States. There were no CEP sales of plate. We made deductions for movement expenses, including foreign and U.S. movement, brokerage and handling, and U.S. Customs duty, in accordance with section 772(c)(2) of the Act. We used Stelco's date of invoice as the date of sale for EP plate sales in accordance with the Department's standard practice.

Normal Value

The Department determines the viability of the home market as the comparison market by comparing the aggregate quantity of home market and U.S. sales. We found that each company's quantity of sales in its home market exceeded five percent of its sales to the United States for the relevant class or kind of merchandise. Moreover, there is no evidence on the record supporting a particular market situation in the exporting country that would not permit a proper comparison of home market and U.S. prices. We, therefore, have determined that each company's home market sales are viable for purposes of comparison with sales of the subject merchandise to the United States, pursuant to section 773(a)(1)(C) of the Act. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based NV on the price at which the foreign like product was first sold for consumption in the home market, in the usual commercial quantities and in the ordinary course of trade, at the same level of trade as the EP sale.

In accordance with section 773(a)(4) of the Act, we used CV as the basis for NV when there were no above-cost contemporaneous sales of identical or similar merchandise in the comparison market. We calculated CV in accordance with section 773(e) of the Act. We included the cost of materials and fabrication, SG&A expenses, and profit. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country. For selling expenses, we used the weighted-average home market selling expenses.

We used sales to affiliated customers only where we determined such sales were made at arm's-length prices, i.e., at prices comparable to prices at which the firm sold identical merchandise to unaffiliated customers.

For both classes or kinds of merchandise under review and for all respondents with the exception of Forsyth, the Department disregarded sales below the cost of production ("COP") in the last completed review as of the date of the issuance of the antidumping questionnaire (*see Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate from Canada: Final Results of Antidumping Duty Administrative Reviews,* 62 FR 18448 (April 15, 1997)). We therefore had reasonable grounds to believe or suspect, pursuant to section 773(b)(2)(A)(ii) of the Act, that sales of the foreign like product under consideration for the determination of NV in this review may have been made at prices below the COP. Pursuant to section 773(b)(1) of the Act, we initiated COP investigations of sales by all respondents, except Forsyth, in the home market.

We compared sales of the foreign like product in the home market with the model-specific cost of production figure for the POR ("COP"). In accordance with section 773(b)(3) of the Act, we calculated the COP based on the sum of the costs of materials and fabrication employed in producing the foreign like product plus selling, general and administrative (SG&A) expenses and all costs and expenses incidental to placing the foreign like product in condition packed and ready for shipment. In our COP analysis, we used home market sales and COP information provided by each respondent in its questionnaire responses.

After calculating COP, we tested whether home market sales of subject merchandise were made at prices below COP and, if so, whether the below-cost sales were made within an extended period of time in substantial quantities and at prices that did not permit recovery of all costs within a reasonable period of time. Because each individual price was compared against the POR-long average COP, any sales that were below cost were also not at prices which permitted cost recovery within a reasonable period of time. We compared model-specific COPs to the reported home market prices less any applicable movement charges, discounts, and rebates.

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given model were at prices less than COP, we did not disregard any below-cost sales of that model because the below-cost sales were not made in substantial quantities within an extended period of time. Where 20 percent or more of a respondent's sales of a given model during the POR were at prices less than the weighted-average COPs for the POR, we disregarded the below-cost sales because they were made within an extended period of time in substantial quantities in accordance with sections 773(b)(2) (B) and (C) of the Act, and were at prices which would not permit recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act. Based on this test, we disregarded below-cost sales with respect to all companies and classes or kinds of merchandise.

In accordance with section 773(a)(1)(B)(i) of the Act, where possible, we based NV on sales at the same level of trade ("LOT") as the U.S. price. *See* the Level of Trade Section below.

The Department determined in the final results of the last administrative review (*Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate From Canada: Final Results of Antidumping Duty Administrative Reviews,* 62 FR 12725, March 9, 1998) that it would be inappropriate to resort directly to constructed value (CV), in lieu of foreign market sales, as the basis for NV if the Department finds foreign market

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sales of merchandise identical or most similar to that sold in the United States to be outside the "ordinary course of trade." Therefore, we will match a given U.S. sale to foreign market sales of the next most similar model when all sales of the most comparable model are below cost. The Department will use CV as the basis for NV only when there are no above-cost sales that are otherwise suitable for comparison. Therefore, in this proceeding, when making comparisons in accordance with section 771(16) of the Act, we considered all products sold in the home market as described in the "Scope of Review" section of this notice, above, that were in the ordinary course of trade for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade, based on the characteristics listed in Sections B and C of our antidumping questionnaire. This methodology is pursuant to the ruling of the Court of Appeals for the Federal Circuit in *CEMEX* v. *United States*, 1998 WL 3626 (Fed Cir. 1998), and has been implemented to the extent that the data on the record permitted.

Where appropriate, we made adjustments to NV for differences in circumstances of sale (COS), in accordance with section 773(a)(6) and (8) of the Act and 19 CFR 351.410. For comparisons to EP, we made COS adjustments by deducting home market direct selling expenses and adding U.S. direct selling expenses. We also made adjustments, where applicable for home market indirect selling expenses to offset U.S. commissions in EP pursuant to 19 CFR section 351.410(b). For comparisons to CEP, we made COS adjustments by deducting home market direct selling expenses pursuant to section 772(d) of the Act.

Algoma

For those models for which there was a sufficient quantity of sales at prices above COP, we based NV on home market prices to unaffiliated purchasers (Algoma made no home market sales to affiliated parties), in accordance with 19 CFR 351.403. Home market prices were based on the packed, ex-factory or delivered prices to unaffiliated purchasers in the home market.

We calculated the starting price net of discounts, rebates, and post-sale adjustments, where applicable. We made adjustments, where applicable, for packing and movement expenses in accordance with sections 773(a)(6) (A) and (B) of the Act. We also made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act and for differences in COS in accordance with 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. For comparison to EP, we made COS adjustments by deducting home market direct selling expenses (credit and warranty expenses) and adding U.S. direct selling expenses (credit and warranty expenses). When comparisons were made to EP sales on which commissions were paid, but no commissions were paid on the foreign market sales, we made adjustments for home market indirect selling expenses to offset these U.S. commissions pursuant to 19 CFR section 351.410(e).

MRM

For those models for which there was a sufficient quantity of sales at prices above COP, we based NV on home market prices to unaffiliated purchasers (MRM made no home market sales to affiliated parties), in accordance with 19 FR 351.403. Home market prices were based on the packed, ex-factory or delivered prices to unaffiliated purchasers in the home market.

We used a starting price net of rebates, where applicable. We made adjustments, where applicable, for movement expenses in accordance with sections 773(a)(6) (A) and (B) of the Act. For comparison to EP, we made COS adjustments by deducting home market direct selling expenses (credit expenses) and adding U.S. direct selling expenses (credit expense). When comparisons were made to EP sales on which commissions were paid, but no commissions were paid on the foreign market sales, we made adjustments for home market indirect selling expenses to offset these U.S. commissions pursuant to 19 CFR section 351.410(e).

CCC

For those models for which there was a sufficient quantity of sales at prices above COP, we based NV on home market prices to unaffiliated parties, in accordance with 19 CFR 351.403. Home market starting prices were based on the packed, ex-factory or delivered prices to unaffiliated purchasers in the home market, net of discounts and price adjustments, where applicable. Although the record does not contain pre-sale agreements for certain payments which CCC reported as "credit notes," based on CCC's information we have determined to treat these payments as price adjustments which should be excluded from the starting price. We made adjustments, where applicable, for packing and movement expenses in accordance with sections 773(a)(6) (A) and (B) of the Act. We also made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act and for COS differences in accordance with 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. For comparison to EP, we made COS adjustments by deducting home market direct selling expenses (credit) and adding U.S. direct selling expenses (credit). When comparisons were made where commissions were paid on EP sales, but no commissions were paid on the foreign market sales, we made adjustments for home market indirect selling expenses to offset U.S. commissions pursuant to 19 CFR section 351.410(e).

Dofasco

For those models for which there was a sufficient quantity of sales at prices above COP, we based NV on home market prices to affiliated parties (when made at prices determined to be arm's-length) or unaffiliated parties, in accordance with 19 CFR 351.403. Home market starting prices were based on the packed, ex-factory or delivered prices to affiliated or unaffiliated purchasers in the home market, net of discounts and rebates, where applicable. We made adjustments, where applicable, for packing and movement expenses in accordance with sections 773(a)(6) (A) and (B) of the Act. We also made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act and for COS differences in accordance with 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. For comparison to EP, we made COS adjustments by deducting home market direct selling expenses (credit, royalties and warranty expenses) and adding U.S. direct selling expenses (credit, royalties and warranty expenses). When comparisons were made where commissions were paid on EP sales, but no commissions were made on foreign market sales, we made adjustments for home market indirect selling expenses to offset U.S. commissions pursuant to 19 CFR 351.410(e).

We denied Dofasco's requested start-up adjustment to its costs, as we determined that Dofasco did not meet the statutory criteria for granting an adjustment. Under section 773(f)(1)(C)(ii) of the Act, Commerce may make an adjustment for start-up costs only if the following two conditions are satisfied: (1) A company is using new production facilities or producing a new product that requires substantial additional investment, and (2) production levels are limited by technical factors associated with the initial phase of commercial production. The Statement of Administrative Action ("SAA") to the URAA states that "any determination of the appropriate startup period involves a fact-intensive inquiry." This includes a consideration of "factors unrelated to startup operations that may have affected the volume of production processed, such as demand, seasonality, or business cycles." The SAA further states that the "start-up [period] will be considered to end at the time the level of commercial production characteristic of the merchandise, producer, or industry concerned is achieved. The attainment of peak production levels will not be the standard for identifying the end of the start-up period, because the start-up period may end well before a company achieves optimum capacity utilization." SAA at 836. Moreover, "[t]o determine when a company reaches commercial production levels, Commerce will consider first the actual production experience of the merchandise in question. Production levels will be based on units processed." SAA at 836 (166).

In the instant case, we agree with Dofasco that the construction of the new Electric Arc Furnace (EAF) facility constitutes a new production facility.

In order to determine the duration of the initial phase of commercial production, we examined Dofasco's reported production starts at the EAF. Our determination of an appropriate startup period was based, in large part, on a review of scrap starts at the new facility during the POR, which represents the best measure of the facility's ability to produce at commercial production levels. We concluded that the number of scrap starts during the first two months (September and October 1996) did not meet commercial production levels characteristic of the producer, but that commercial production levels were reached by November 1996.

However, we have determined that the reported technical factors which Dofasco claims limited production during this two-month period are insufficient to constitute what the Department believes to be technical factors. The kind of chronic production problems experienced by Dofasco do not constitute "technical factors" which are unique to a startup operation. As such, we have not granted Dofasco a startup adjustment for the POR. For further details, *see Memorandum to the File: Analysis Memorandum for the Preliminary Results of Review for Dofasco*, July 2, 1998.

Stelco

For those models for which there was a sufficient quantity of sales at prices above COP, we based NV on home market prices to affiliated (when made at prices determined to be arms-length) or unaffiliated parties, in accordance with 19 CFR 351.403. Home market starting prices were based on the packed, ex-factory or delivered prices to affiliated or unaffiliated purchasers in the home market net of discounts and rebates. We made adjustments, where applicable, for packing and movement expenses, in accordance with sections 773(a)(6) (A) and (B) of the Act. We also made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act and for COS differences in accordance with 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410.

Corrosion resistant steel: We adjusted home market prices for interest revenue on certain sales. For comparison to EP, we made COS adjustments by deducting home market direct selling expenses (credit, warranties, advertising and technical services) and adding U.S. direct selling expenses (credit, advertising, warranties and technical services). For comparison to CEP, we made COS adjustments by deducting home market direct selling expenses pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410.

Plate: For comparison to EP, we made COS adjustments by deducting home market direct selling expenses (credit, warranties, advertising, commissions, and technical services) and adding U.S. direct selling expenses (credit, warranties, advertising and technical services). We offset home market commissions by the amount of indirect selling expenses incurred on the U.S. sale, up to the amount of the home market commission.

Level of Trade ("LOT")

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade ("LOT") as the EP or CEP transaction. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on constructed value ("CV"), that of the sales from which we derive selling, general and administrative ("SG&A") expenses and profit. For EP, the U.S. LOT is also the level of the starting-price sale, which is usually from exporter to importer. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different LOT than EP or CEP, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

In the present review, only Dofasco, Forsyth, and CCC claimed that more than one LOT existed; none of the respondents requested a LOT adjustment. To evaluate LOTs, we examined information regarding the distribution systems in both the U.S. and Canadian markets, including the selling functions, classes of customer, and selling expenses for each respondent. Forsyth's claim of LOT differences is discussed below in the Facts Available section.

Algoma

In both the home market and the United States, Algoma reported one LOT and one distribution system with two classes of customers: end-users and steel service centers. We analyzed the selling functions and activities performed for both classes of customers in both markets. We preliminarily determine that Algoma's selling functions and activities are substantially similar for both classes of customers for sales of subject merchandise and, therefore, that there is one level of trade in both markets. For a further discussion of the Department's LOT analysis with respect to Algoma, *see Memorandum to the File: Analysis Memorandum for the Preliminary Results of Review for Algoma*, July 2, 1998.

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CCC

CCC reported three different LOTs in the home market based on class of customer: OEMs, steel service centers, and scrap merchants. However, we examined the reported selling functions and found that CCC provides the same selling functions to its home market customers regardless of channel of distribution. We preliminarily determine that the selling functions between the reported LOTs are sufficiently similar to consider them as one LOT in the comparison market.

CCC stated that it sells to two LOTs in the United States: OEMs and steel service centers. Again, we examined the selling functions at both claimed levels, and found they were the same. Therefore, we preliminarily determine that the selling functions between the reported LOTs are sufficiently similar to consider them as one LOT in the United States market. Finally, we compared the selling functions performed at the home market LOT and the LOT in the United States and found them substantially similar. For a further discussion of the Department's LOT analysis with respect to CCC, *see Memorandum to the File: Analysis Memorandum for the Preliminary Results of Review for CCC*, July 2, 1998.

Dofasco

Dofasco reported three LOTs in the home market. Dofasco defined its LOT categories by customer category: service center, automotive, and construction and converters/manufacturers ("construction"). We examined the selling functions performed at each claimed level and found that there was a significant difference in selling functions offered to these three categories. Of the seventeen reported selling functions, Dofasco performed only three of the same or similar selling functions at both the automotive and service center sales levels. Dofasco reported fourteen selling functions which were different between these two levels. Moreover, Dofasco has established a separate sales division for its automotive sales. Additionally, sales to automotive customers are sales to end users, while sales to service centers are sales to resellers. In sum, these sales were made at different stages of marketing. Therefore, we preliminarily conclude that the automotive and service center classes of customer constitute separate levels of trade.

Although both automotive and construction customers are OEMs, we note that both quantitatively and qualitatively, the selling functions offered to automotive customers involve significantly greater resources and thus represent a distinct stage of marketing. Specifically, of the seventeen reported selling functions, Dofasco performed only seven of the same or similar selling functions to both automotive and construction customers. Dofasco's functions for these two channels differed with respect to ten other activities. Therefore, given these differences, we preliminarily conclude that automotive and construction constitute separate levels of trade.

There were numerous differences in selling functions between construction and service center sales channels. Of the seventeen reported selling functions, Dofasco performed only eight of the same or similar selling functions at both levels. We found that these differences suggested distinct stages of marketing. Therefore, we preliminarily conclude that construction and service centers constitute different LOTs.

Overall, we determine that the selling functions for the automotive, service center, and construction customer categories are substantially dissimilar to one another and that these sales are made at different stages of marketing. Therefore, we preliminarily determine that the automotive, service center, and construction customer categories should be treated as three LOTs in the comparison market.

Respondents reported the same three LOTs in the U.S. market: automotive, service center, and construction. We preliminarily determine that the results of our analysis of U.S. LOTs are identical to those of the comparison market. In addition, there were only insignificant differences in selling functions at each LOT between the comparison market and the U.S. market. Therefore, we found that the three U.S. LOTs corresponded to the three comparison market LOTs.

The Department did not find that there existed a pattern of consistent price differences between the three levels of trade. Therefore, we did not make LOT adjustments when comparing sales at different LOTs. For a further discussion of the Department's LOT analysis with respect to Dofasco, *see Memorandum to the File: Analysis Memorandum for the Preliminary Results of Review for Dofasco*, July 2, 1998.

MRM

In both the home market and the United States, MRM reported one LOT and one distribution system with two classes of customers in the home market, distributors and OEMs, and one class of customer, OEMs, in the U.S. market. We analyzed the selling functions and activities performed for each class of customer in each market. We found that MRM's selling functions and activities were substantially similar for both classes of customers for sales of subject merchandise and, therefore, constitute one level of trade in the home market. Finally, we compared the selling functions performed at the home market LOT and the LOT in the United States and found them substantially similar. Thus, no adjustment was appropriate.

Stelco

Stelco identified one level of trade and two channels of distribution (to end-users or to resellers) in the home market for each class or kind of merchandise. We examined the selling functions performed in each channel and found that Stelco provided many of the same or similar selling functions in each, including inventory maintenance, after sales service, technical advice, and freight and delivery arrangements. We found few differences between selling functions for transactions made through the two channels of trade. Overall, we determine that the selling functions between the two sales channels are sufficiently similar to consider them one LOT in the home market for sales of both corrosion-resistant products and plate products.

In the United States, Stelco Inc. sold both products through the two channels of distribution listed above. For EP sales, we determine that the results of our analysis of the U.S. LOT is identical to that of the home market: the selling functions performed for sales to the United States are sufficiently similar to consider them one LOT for both corrosion-resistant products and plate products. Additionally, we consider this LOT to be the same as that identified in the home market. Therefore, no adjustment is appropriate.

For CEP sales of corrosion-resistant steel made by SUSA, we compared the selling activities associated with the sale to the affiliated reseller to those associated with the home market sales and found them to be dissimilar. For example, the level of trade of the CEP sales involved no after sales services, or technical advice. Therefore, we considered the home market sales to be at a different level of trade and at a more advanced stage of distribution than the CEP sales. Because the sole home market level of trade was different from the level of trade of the CEP, we could not match to sales at the same level of trade in the home market nor could we determine a level-of-trade adjustment based on Stelco's home market sales of merchandise under review.

Furthermore, we have no other information that provides an appropriate basis for determining a level-of-trade adjustment. Accordingly, for Stelco, we determined NV at the sole home market level of trade and made a CEP offset adjustment in accordance with section 773(a)(7)(B) of the Act. For a further discussion of the Department's LOT analysis with respect to Stelco, *see Memorandum to the File: Analysis Memorandum for the Preliminary Results of Review for Stelco,* July 2, 1998.

Facts Available

Forsyth has stated that it sells subject merchandise in the home market at three distinct LOTs and at only one LOT in the U.S. market. Forsyth did not report a significant portion of its home market sales because it claims that these home market sales are made at a different LOT than the U.S. sales made during the POR, that there are sufficient contemporaneous sales of identical merchandise at the same LOT, and that, therefore, the Department will not be using these sales in its calculation of NV. The Department, however, clearly warned Forsyth that if it did not report all of its home market sales made during the period of review, we may be required to base our findings on the facts available.

Forsyth has not provided adequate information to justify its LOT claim. More specifically, Forsyth has not shown there to be a significant difference in selling functions between its coil division, which sells in both the home market and in the U.S. market, and its distribution and distribution & processing divisions, which sell only in the home market. In fact, there was substantial overlap among the selling functions performed by these three divisions. Moreover, many of the alleged "selling functions" which Forsyth identified and claimed differed among the three divisions were not selling functions at all, but rather manufacturing processes. Section 773(a)(7)(A) clearly establishes that relevant differences between levels of trade must be supported by differences in *selling* functions. *See also*, SAA at 829–830 and 19 C.F.R. § 351.412. The statute accounts for other differences between sales through other adjustments; thus, for example, differing manufacturing processes may be accounted for under the adjustment for physical differences in the merchandise being compared under section 773(a)(6)(C)(ii). It would contravene the purposes inherent in the adjustment provisions of section 773 if the Department were to subsume the differences for which such specific adjustments are made within a broader definition of level of trade differences. Finally, the SAA specifically warns the Department against finding differences in the level of trade that are more appropriately attributable to differences in the nature of the products. SAA at 830.

Consequently, we conclude that, because the record does not reveal significant differences in the selling functions performed by Forsyth's three home market divisions, all of Forsyth's HM sales were made at a single level of trade. Therefore, we require detailed information on all of Forsyth's home market sales in order to accurately calculate NV. Since Forsyth did not report all of its home market sales made during the POR, we preliminarily determine that, in accordance with section 776(a) of the Act, the use of facts available is appropriate for Forsyth.

Where a respondent has failed to cooperate to the best of its ability, section 776(b) of the Act authorizes the Department to use facts available that are adverse to the interests of that respondent, which may include information derived from the petition, the final determination, a previous administrative review, or other information placed on the record. Forsyth did not respond to our repeated requests for information about all of its home market sales; rather it presented arguments as to why it should not have to provide that information. Therefore, we conclude that Forsyth has failed to cooperate to the best of its ability.

As adverse facts available, we are using the highest dumping margin calculated in any segment of this proceeding, 68.70 percent. This rate was calculated for Stelco, Inc. in the LTFV determination of certain cut-to-length carbon steel plate from Canada (58 FR 37121, July 9, 1993).

Preliminary Results of Reviews

As a result of our reviews, we preliminarily determine the weighted-average dumping margins for the period August 1, 1996 through July 31, 1997 to be as follows:

Manufacturer/Exporter	Time period	Margin (percent)
Algoma (plate)	08/01/96–07/31/97	[1] 0.28
Stelco (plate)	08/01/96–07/31/97	0.00
Stelco (corrosion-resistant)	08/01/96–07/31/97	2.69
MRM (plate)	08/01/96–07/31/97	0.00
CCC (corrosion-resistant)	08/01/96–07/31/97	2.06
Dofasco (corrosion-resistant)	08/01/96–07/31/97	0.54
Forsyth (plate)	08/01/96–07/31/97	68.70

[1] De minimis.

Parties to the proceeding may request disclosure within five days of the date of publication of this notice. Any interested party may request a hearing within 30 days of publication. Any hearing, if requested, will be held 37 days after the date of publication or the first business day thereafter. Case briefs from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs, limited to issues raised in those briefs, may be filed not later than 35 days after the date of publication of this notice. The Department will publish the final results of this administrative review, including its analysis of issues raised in the case and rebuttal briefs, not later than 120 days after the date of publication of this notice.

Upon issuance of the final results of review, the Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. Because the inability to link sales with specific entries prevents calculation of duties on an entry-by-entry basis, we will calculate an importer-specific ad valorem duty assessment rate for each class or kind of merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales made during the POR to the total customs value of the sales used to calculate those duties. This rate will be assessed uniformly on all entries of that particular importer for that class or

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kind of merchandise made during the POR.

If the revocation is made final for Algoma and Stelco, it will apply to all unliquidated entries of this merchandise produced by Algoma and Stelco, exported to the United States and entered, or withdrawn from warehouse, for consumption, on or after August 31, 1997, which is the effective date of the revocation from the order for Algoma and Stelco.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a) of the Act: (1) The cash deposit rate for each reviewed company will be that established in the final results of review (except that a deposit of zero will be required for firms with zero or de minimis margins, i.e., margins less than 0.5 percent); (2) for exporters not covered in this review, but covered in the LTFV investigation or previous review, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a previous review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) the cash deposit rate for all other manufacturers or exporters will continue to be the "all others" rates established in the LTFV investigations, which were 18.71 percent for corrosion-resistant steel products and 61.88 percent for plate (see Amended Final Determination, 60 FR 49582 (September 26, 1995)). These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative reviews.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These administrative reviews and notices are published in accordance with 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 351.213 and 19 CFR 351.221(b)(4).

Dated: July 2, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–18343 Filed 7–9–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–812]

Dynamic Random Access Memory Semiconductors of One Megabit or Above From the Republic of Korea: Postponement of Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Extension of time limit for final results of antidumping duty administrative review.

SUMMARY: The Department of Commerce (the Department) is extending the time limit of the final results of the antidumping duty administrative review of the antidumping order on dynamic random access memory semiconductors of one megabit or above from the Republic of Korea, covering the period May 1, 1996, through April 30, 1997, since it is not practicable to complete the review within the time limit mandated by section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act).

EFFECTIVE DATE: July 10, 1998.

FOR FURTHER INFORMATION CONTACT: Robert W. Blankenbaker or John Conniff, Antidumping Duty and Countervailing Duty Enforcement Office Four, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone (202) 482–0989 or 482–1009.

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Rounds Agreements Act.

Background

On June 19, 1997 (62 FR 33394), the Department initiated an administrative review of the antidumping duty order on dynamic random access memory semiconductors of one megabit or above from the Republic of Korea, covering the period May 1, 1996 through April 30, 1997. On March 9, 1998, the Department published the preliminary determination in this review.

Postponement of Final Results of Review

Section 751(a)(3)(A) of the Act requires the Department to make a final determination within 120 days after the date on which the preliminary determination is published. However, if it is not practicable to complete the review within the time period, section 751(a)(3)(A) allows the Department to extend this time period to 180 days after the date on which the preliminary determination is published.

Because of the complexity of the issues involved in this review, we determine that it is not practicable to complete this review within the original time frame.

Accordingly, the deadline for issuing the final results of this review will be no later than 180 days from the publication of the preliminary determination (September 8, 1998).

Dated: July 2, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–18291 Filed 7–9–98; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–822]

Certain Helical Spring Lock Washers from the People's Republic of China: Notice of Extension of Time Limit for Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit.

SUMMARY: The Department of Commerce is extending the time limit for the preliminary results of the fourth administrative review of the antidumping order on certain helical spring lock washers from the People's Republic of China. The period of review is October 1, 1996 to September 31, 1997. This extension is made pursuant to Section 751(a)(3)(A) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act.

EFFECTIVE DATE: July 10, 1998.

FOR FURTHER INFORMATION CONTACT: Sally Hastings or Todd Hansen, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington

D.C. 20230; telephone (202) 482–3464 or (202) 482–1276, respectively.

SUPPLEMENTARY INFORMATION: The Department of Commerce (Department) initiated this administrative review on November 26, 1997 (62 FR 63069). Because it is not practicable to complete this review within the original time limit set forth in section 751(a)(3)(A) of the Tariff Act of 1930, as amended (*i.e.*, July 3, 1998 (extended to July 6, 1998 because of Holiday)), pursuant to that same section, the Department is extending the time limit for completion of the preliminary results until October 31, 1998. *See* the July 6, 1998 Memorandum from Susan Kuhbach, Office Director, AD/CVD Enforcement to Richard W. Moreland, Acting Assistant Secretary for Import Administration, which is on file in the Central Records Unit, Room B–099 of the Department's headquarters.

Dated: July 6, 1998.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–18444 Filed 7–9–98; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–805]

Industrial Nitrocellulose From the Republic of Korea; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request by the respondent, Daesang Corporation (Daesang)[1] the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on industrial nitrocellulose from the Republic of Korea (Korea). The review covers one manufacturer/exporter of the subject merchandise to the United States during the period July 1, 1996 through June 30, 1997. The review indicates the existence of dumping margins during the review period.

We have preliminarily determined that sales have been made below normal value (NV). If these preliminary results are adopted in our final results of administrative review, we will instruct the U.S. Customs Service to assess antidumping duties based on the difference between United States price (U.S. price) and NV.

Interested parties are invited to comment on these preliminary results. Parties who submit argument are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: July 10, 1998.

FOR FURTHER INFORMATION CONTACT: Elfi Blum or Maureen Flannery, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–0197 or 482-3020, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR Part 351 (62FR 27296, May 19, 1997).

SUPPLEMENTARY INFORMATION:

Background

On July 10, 1990, the Department published in the **Federal Register** (55 FR 28267) the antidumping order on industrial nitrocellulose (INC) from Korea. On July 2, 1997, the Department published in the **Federal Register** (62 FR 38973) a notice of opportunity to request an administrative review of this antidumping duty order. On July 31, 1997, in accordance with 19 CFR 351.213, one exporter of the subject merchandise to the United States, Daesang, requested that the Department conduct an administrative review of its exports of subject merchandise to the United States. We published a notice of initiation of this administrative review on September 25, 1997 (62 FR 50292), covering the period July 1, 1996 through June 30, 1997.

Scope of Review

Imports covered by this review are shipments of INC from Korea. INC is a dry, white amorphous synthetic chemical with a nitrogen content between 10.8 and 12.2 percent, and is produced from the reaction of cellulose with nitric acid. INC is used as a film-former in coatings, lacquers, furniture finishes, and printing inks. The scope of this order does not include explosive grade nitrocellulose, which has a nitrogen content of greater than 12.2 percent.

INC is currently classified under Harmonized Tariff System (HTS) subheading 3912.20.00. While the HTS item number is provided for convenience and Customs purposes, the written description remains dispositive as to the scope of the product coverage. The review period is July 1, 1996 through June 30, 1997.

Verification

As provided in section 782(i) of the Act, we conducted a U.S. verification of the questionnaire responses submitted by Daesang Corporation, concerning its U.S. affiliate, Daesang America. We used standard verification procedures, including the examination of relevant accounting, sales, and other financial records, and the selection of original documentation containing relevant information. Our verification results are outlined in the public version of the verification report.

United States Price

In calculating the United States Price (USP), we used export price (EP), in accordance with section 772 (a) and (c) of the Act, because Daesang's sales to the first unaffiliated purchaser occurred before importation into the United States, and because constructed export price (CEP) methodology was not otherwise indicated. We based EP on the packed prices to the first unaffiliated purchaser in the United States. We made deductions from the starting price, where appropriate, for foreign inland freight, foreign brokerage and handling, ocean freight, marine insurance, U.S. customs brokerage and U.S. duties. We also added an amount for duty drawback. No other adjustments were claimed or allowed.

Normal Value

In calculating NV, we used home market prices to unaffiliated purchasers, as defined in section 773 of the Act. In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared Daesang's volume of home market sales of the subject merchandise to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Because Daesang's volume of home market sales of the subject merchandise was greater than five percent of its volume of U.S. sales of the subject merchandise, we determined that the home market provides a viable basis for calculating NV for Daesang.

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[1] In its questionnaire response dated October 31, 1997, Daesang was referred to as Miwon Co., Ltd. Daesang advised the Department by letter dated December 5, 1997 that its name had been changed.

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We based NV on the gross unit price, and made deductions, where appropriate, for inland freight from the plant to the warehouse, inland freight from the plant or warehouse to the customer, presale warehousing expenses, handling charges, and commissions. We made a circumstance-of-sale adjustment, where appropriate, by deducting home market direct selling expenses and adding U.S. direct selling expenses. We also made adjustments, where applicable, for U.S. indirect selling expenses to offset home market commissions.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the EP transaction. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on constructed value, that of the sales from which we derive selling, general and administrative expenses and profit. For EP, the U.S. LOT is also the level of the starting-price sale, which is usually from exporter to importer. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different LOT than EP or CEP, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa, 62 FR 61731, 61732 (November 19, 1997).

Daesang did not claim a LOT adjustment; however, we requested information concerning Daesang's distribution system, including classes of customers, selling functions, and selling expenses, to determine whether such an adjustment was necessary. Daesang reported that all sales to the United States during the Period of Review (POR) were to distributors, and sales in the comparison market, the home market in this case, were to end-users or distributors. Daesang claimed that there were no differences in selling functions or selling expenses between sales in the home market and sales in the United States, nor did we find any such difference. Therefore, we preliminarily determine that sales in the home market and sales in the United States are at the same LOT, and that no adjustment is warranted.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the following margin exists for the period July 1, 1996 through June 30, 1997:

Manufacturer/Exporter	Margin (percent)
Daesang Corporation	8.72

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice in accordance with 19 CFR 351.224. Any interested party may request a hearing within 30 days of publication in accordance with 19 CFR 351.310. Any hearing, if requested, will be held 44 days after the publication of this notice, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice in accordance with 19 CFR 351.309. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed within five days after the time limit for filing case briefs. *See* 19 CFR 351.309. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument. The Department will publish a notice of final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, not later than 120 days after the date of publication of this notice.

Upon issuance of the final results of review, the Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. We have calculated importer-specific ad valorem duty assessment rates based on the ratio of the total amount of dumping margins calculated for the examined sales made during the POR to the total customs value of the sales used to calculate those duties. These rates will be assessed uniformly on all entries of each particular importer made during the POR. (This is equivalent to dividing the total amount of antidumping duties, which are calculated by taking the difference between statutory NV and statutory EP, by the total statutory EP value of the sales compared, and adjusting the result by the average difference between EP and customs value for all merchandise during the POR.)

The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the determination and for future deposits of estimated duties. Upon completion of this review, the Department will issue appraisement instructions directly to the U.S. Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of INC from Korea entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Daesang will be the rate established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) for all other producers and/or exporters of this merchandise, the cash deposit rate shall be the rate established in the investigation of sales at less than fair value, which is 66.3 percent. See 55 FR 28267 (May 22, 1990).

These deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification of Interested Parties

This notice serves as a preliminary reminder to importers of their responsibility under section 19 CFR 351.402(f) of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 351.213, 351.221.

Dated: June 30, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–18443 Filed 7–9–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–810]

Mechanical Transfer Presses From Japan; Final Results of Antidumping Duty Administrative Review and Revocation of Antidumping Duty Administrative Order in Part

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review and revocation of antidumping duty administrative order in part.

SUMMARY: On March 6, 1998, the Department of Commerce (the Department) published in the **Federal Register** the preliminary results of its antidumping duty administrative review of the antidumping duty order on mechanical transfer presses (MTPs) from Japan and intent to revoke in part with respect to respondent Aida Engineering, Ltd. (Aida) (63 FR 11211). This review covers two manufacturers/exporters of the subject merchandise to the United States and the period of February 1, 1996 through January 31, 1997. We gave interested parties an opportunity to comment on the preliminary results of review. We received comments from Aida. We received rebuttal comments from Verson Division of Allied Products Corp., the United Autoworkers of America, and the United Steelworkers of America (AFL–CIO/CLC) (petitioners). We have not changed the results from those presented in the preliminary results of review. We have also determined to revoke the order in part, with respect to Aida.

EFFECTIVE DATE: July 10, 1998.

FOR FURTHER INFORMATION CONTACT: Lesley Stagliano or Maureen Flannery, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–3782, (202) 482–3020.

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provision effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the provisions codified at 19 CFR part 353 (1997).

Background

On March 6, 1998, the Department of Commerce (the Department) published in the **Federal Register** the preliminary results of the review of the antidumping duty order and intent to revoke order in part on MTPs from Japan (63 FR 11211). The Department has now completed this antidumping duty administrative review in accordance with section 751(b) of the Tariff Act of 1930, as amended (the Act).

Scope of Review

Imports covered by this review include MTPs currently classifiable under Harmonized Tariff Schedule (HTS) item numbers 8462.99.0035 and 8466.94.5040. The HTS numbers are provided for convenience and for U.S. Customs purposes. The written description remains dispositive of the scope of the order.

The term mechanical transfer presses refers to automatic metal-forming machine tools with multiple die stations in which the work piece is moved from station to station by a transfer mechanism designed as an integral part of the press and synchronized with the press action, whether imported as machines or parts suitable for use solely or principally with these machines. These presses may be imported assembled or unassembled. This review does not cover certain parts and accessories, which were determined to be outside the scope of the order (See "Final Scope Ruling on Spare and Replacement Parts," U.S. Department of Commerce, March 20, 1992; and "Final Scope Ruling on the Antidumping Duty Order on Mechanical Transfer Presses (MTPs) from Japan: Request by Komatsu, Ltd.," U.S. Department of Commerce, October 1, 1996).

This review covers two manufacturers of MTPs, and the period February 1, 1996 through January 31, 1997.

Analysis of the Comments Received

We gave interested parties an opportunity to comment on the preliminary results of review. We received comments from Aida and rebuttal comments from petitioners.

Comment 1: Aida contends that the Department erred in excluding below-cost sales in calculating the profit rate for constructed value. Aida states that its below-cost sales were not outside the ordinary course of trade according to the general definition of "ordinary course of trade" as it is defined in Section 771(15) of the Act; therefore, they should not have been excluded by the Department in its calculation of constructed value. Section 771(15) states:

> The term "ordinary course of trade" means the conditions and practices which, for a reasonable time prior to the exportation of the merchandise which is the subject of the investigation, have been normal in the trade under consideration with respect to merchandise of the same class or kind. The administering authority shall consider the following sales and transactions, among others, to be outside the ordinary course of trade:
>
> (A) Sales disregarded under section 773(b)(1)
>
> (B) Transactions disregarded under section 773(f)(2)

Aida states that the Department and the courts have consistently held that below-cost sales are not *per se* outside the "ordinary course of trade." *See, e.g., Federal-Mogul Corp.* v. *United States,* 918 F. Supp. 386, 402–403 (Ct. Int'l Trade, 1996); *Timken Co.* v. *United States,* 930 F. Supp. 621, 624–625 (Ct. Int'l Trade, 1996); and *Torrington Co.* v. *United States,* 984 F. Supp. 67, 75 (Ct. Int'l Trade, 1996). Although these cases were decided under the definition of "ordinary course of trade" as it existed prior to the Uruguay Round Agreements Act (URAA), Aida maintains that these cases continue to be valid because this definition was carried forward with URAA law. Aida asserts that the second sentence of section 771(15) only applies to below-cost sales that have been disregarded for purposes of normal value comparisons under section 773(b) of the Act.

Aida argues that there were no home market sales "under consideration for the determination of normal value," and no sales were disregarded under section 773(b)(1). Aida contends that the Department based its decision to use constructed value on section 773(a)(1)(C) when it stated that "the particular market situation in this case, which requires that the subject merchandise be built to each customer's specifications, does not permit proper price-to-price comparisons in either the home market or third countries." 63 FR 11213. Aida concludes that, since no home market sales were considered or disregarded for price comparison under section 773(b)(1), the second sentence of section 771(15) was inapplicable, and that Aida's below-cost sales were not outside the ordinary course of trade.

Aida argues that the Department's discussion of the below-cost sales issue is based on an incorrect interpretation of

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section 773(b)(1) in that the Department equated calculation of constructed value profit with "determination of normal value." Aida states that, prior to the URAA amendments, the Department consistently took the position that section 773(b)(1) did not apply to the calculation of constructed value. *See Antifriction Bearings . . . and Parts Thereof From France, et al.*, 57 FR 28360, June 24, 1992. Aida asserts that the Department's position was upheld by the Court of Appeals for the Federal Circuit in *Torrington Co.* v. *United States*, 127 F.3d 1077, 1977, in which the Court stated:

> The requirement in 19 U.S.C. 1677b(b) [Section 773(b) of the Act] that Commerce "shall" disregard below-cost sales when calculating FMV based on actual sales figures does not apply when Commerce calculates FMV based on constructed value.

Aida asserts that, although the URAA revised section 773(b)(1), it did not change the basic structure of the provision, namely that disregarding sales "in the determination of normal value" means that the sales will not be used to determine price-based normal value, not that they will not be used to determine the profit rate for constructed value. *See* SAA at 163, House Rept. 103–316 at 833. Aida states that Congress amended the statute to provide for exclusion of certain below-cost sales from the constructed value profit calculation by adding the second sentence to the definition of "ordinary course of trade" in section 771(15). Aida asserts that in conjunction with the definitions of constructed value profit in section 773(e), the amendment determines when below-cost sales may be excluded from constructed value profit. *See* 62 FR 27359, *supra. See* also *Final Results of Antidumping Duty Review: Color Picture Tubes from Japan*, 62 FR 34201, 34209, June 25, 1997. Aida contends that if sales could be disregarded under section 773(b)(1) for constructed value purposes there would be no reason for the addition of clause (A) to section 771(15), and below-cost sales would be excluded without regard to the method of profit calculation. Aida argues that sales were not considered for price comparisons under section 773(a) and were not disregarded for such purposes pursuant to section 773(b)(1); thus, they are not outside the ordinary course of trade, and, therefore, do not meet the conditions for exclusion from the constructed value profit calculation under section 773(e)(2)(A).

In addition, Aida states that nothing on the record suggests that Aida's below-cost sales fell into any of the "ordinary course of trade" definitions mentioned in the Statement of Administrative Action (SAA), which accompanied the URAA amendments.

Petitioners contend that, in the 1995–1996 administrative review of this order, the Department rejected this same argument stating:

> We conclude, therefore, that in this review it is appropriate to exclude these sales from the profit calculation as outside the ordinary course of trade, pursuant to Section 771(15) of the Act. The fact that we did not "disregard" such sales in a price based determination of NV as provided in Section 771(15) of the Act does not prevent the Department from finding these sales outside the ordinary course of trade when we have, in effect, conducted a cost test on the sales and found that they have failed. We would have disregarded these sales, pursuant to Section 773(b)(1) of the Act if we were using price-to-price comparisons, and, as a result, we believe that it is appropriate to do so here. *Mechanical Transfer Presses from Japan: Final Results of Antidumping Duty Administrative Review*, 62 FR 11850–22, March 17, 1997.

Petitioners assert that the Department maintained that it was appropriate to exclude below-cost sales from CV profit, as sales made outside the ordinary course of trade in *Large Newspaper Printing Presses from Japan; Final Determination of Sales at less Than Fair Value*, 61 FR 38139–45, July 23, 1996; and *Certain Welded Carbon Steel Pipes from Thailand; Final Results of Antidumping Duty Administrative Review*, 61 FR 56515–18, November 1, 1996. Petitioners argue that although the Department does not treat below-cost sales as *per se* outside the ordinary course of trade in price-to-price cases, the Department has a *per se* rule with respect to below-cost sales made in a case where normal value is based on CV from the outset due to the unique nature of the product involved. Petitioners state that, in such situations, the Department performs a cost test on a sale-by-sale basis "because each MTP is custom-built, differs significantly in specifications, and is essentially a discrete model." *Preliminary Results* at 11213.

Petitioners state that in the only "new" law case cited by Aida, the Department did not disregard below-cost sales because the Department based normal value on price-to-price comparisons, and the specific models found to be below-cost did not exceed the Department's "20 percent" test. *See Final Results of Antidumping Duty Review: Color Picture Tubes from Japan*, 62 FR 34209. Petitioners point out that Aida states in its case brief that the Department referenced *Mechanical Transfer Presses from Japan* in *Color Picture Tubes from Japan*, and indicates that, while a *per se* rule may not attain in price-to-price cases, below-cost sales are properly excluded from CV profit when normal value is based on CV. Accordingly, petitioners argue that the Department should continue to disregard below-cost sales in its CV profit calculation for the final results, consistent with its determination in the preliminary results and the other cited cases.

Department's Position: Aida's argument that no sales were disregarded under section 773(b)(1), and therefore none can be considered outside the ordinary course of trade reflects an overly-restrictive interpretation of the Act, and raises form over substance. Because the Department found below-cost sales in the previous review, the Department had "reasonable grounds to believe or suspect" that home market sales were made at prices which were below the cost of production under section 773(b)(2)(A)(ii), and therefore was required to initiate a cost investigation under section 773(b)(1). Moreover, as the Department explained in the prior review, there are reasonable grounds to believe that below-cost sales were made where actual costs demonstrate as much, as they do in the present case. *MTPs from Japan*, 62 FR at 11822.

Furthermore, the facts of this case closely resemble those of *LNPPs*, in which the Department explained, "the unique cost reporting aspects of this case were such that, in effect, [we] conducted a cost investigation. . ." 61 FR at 38145.

The Department also explained in *LNPPs* that, the Department has sufficient flexibility under section 771(15) to conclude, in the present circumstances, that sales below the cost of production should be disregarded as outside the ordinary course of trade. *Id.* This position has been upheld by the CIT in *Mitsubishi Heavy Industries* v. *U.S.*, Slip Op. 98–82. at 41–42 (CIT June 23, 1998). Section 771(15) makes clear on its face that the circumstances listed are only two "among others" in which sales should be considered to have been made outside the ordinary course of trade. See also URAA Statement of Administrative Action (SAA), H.R. Doc. 103–316, 103d Cong., 2d Sess, Vol. 1 at 834. Thus, even taking AIDA's view that the Department is not acting under section 773(b), the Department has the authority to find, in the present circumstances, that sales which it finds to be below cost, and which it would disregard under section 773(b), are outside the ordinary course of trade.

Finally, Aida's overly-rigid reading of the statute must be rejected because it would mean that in cases such as the present one and *LNPPs*, where the complexity of the product makes resort to CV almost inevitable, the Department would be unreasonably precluded from computing actual profit under section 773(e)(2)(A), the preferred method of determining CV profit, since sales outside the ordinary course of trade may not be used in the calculation of profit under that method. Moreover, the SAA, at 840, indicates that under this provision "in most cases Commerce would use profitable sales as the basis for calculating profit." Thus, Aida's interpretation of the statute undermines Congress' preference for the calculation of actual profit for purposes of CV.

Comment 2: Aida contends that the Department should use the Japanese short-term interest rate to calculate credit expenses for Aida's U.S. sales #1–4 which were made in yen. Aida originally reported the credit expenses for U.S. sales #1–4 based on the Japanese yen short-term prime interest rate, but later revised their calculations in accordance with the Department's supplemental questionnaire. Aida cites both *Sodium Azide from Japan*, 61 FR 42585, 42588, August 16, 1996, and *Engineered Process Gas Turbo-Compressor Systems * * * from Japan*, 62 FR 24394, 24408, May 5, 1997, which state:

> [W]hen sales are made in, and future payments are expected in a given currency, the measure of the company's extension of credit should be based on an interest rate tied to the currency in which its receivables are denominated.

Thus, Aida argues that since U.S. sales #1–4 were made in yen and payment was received in yen, the yen short-term interest rate should be used to calculate credit expense for these sales.

Department's Position: The Department agrees with respondents, in that, credit for U.S. sales # 1–4 should be denominated in Japanese yen. The Department has used a short-term interest rate tied to the currency in which the sales are denominated. We based this interest rate on the respondent's weighted-average short-term borrowing experience in the currency of the transaction. Thus, we have calculated credit for U.S. sales #1–4 based on Japanese yen since these sales were denominated in yen.

Comment 3: Aida argues that the Department should reduce expenses in U.S. sale #2 on a *pro-rata* basis to adjust for the removal of the destack feeder from the sales price. In its preliminary determination, the Department removed the destack feeder from sale #2 by subtracting from the reported gross unit price the line item price set forth for the destack feeder in a price quotation that had preceded the contract. Aida argues that having done so, the Department should have subtracted the amount of expense attributable to the destack feeder from the movement expenses, warranty expense, credit expense, and service fee to reflect the removal of the destack feeder from the sale.

Department's Position: The Department agrees with Aida in that expenses in U.S. sale #2 should be reduced on a *pro rata* basis corresponding to the subtraction of the destack feeder from the sales price. The Department has revised the U.S. sales summary to reflect these changes.

Comment 4: Aida asserts that the Department should deduct transportation expense from the sales price in calculating profit on home market sales. Aida states that its cost accounting includes transportation cost in its manufacturing cost. Aida Section D Response, pp. D–34, D–35. Since the Department treats transportation cost as a movement expense, Aida deducted transportation cost from manufacturing cost in calculating cost of manufacture cost (MANCOST), and it subtracted transportation cost as a separate line item in calculating the home market profit rate. Aida Supplemental Response Exhibit S–10. Since it is a cost incurred by Aida on the sales, Aida maintains that transportation cost must be subtracted from revenue in calculating profit. Aida contends that when the Department recalculated Aida's home market profit rate, it failed to deduct transportation expense, thus, overstating home market profit.

Department's Position: The Department agrees with Aida. Transportation expense should be deducted from the sales price when calculating the home market profit rate. To ensure that home market profit is calculated correctly it is necessary to deduct the transportation expense from both the sales price and the COM.

Final Results of the Review

We determine that the following dumping margins exist:

Manufacturer/exporter	Time Period	Margin (percent)
Aida Engineering, Ltd	2/1/96–1/31/97	0.00
Hitachi-Zosen	2/1/96–1/31/97	0.00

We further determine that Aida sold MTPs at not less than NV for three consecutive review periods, including this review period, and it is not likely that Aida will in the future sell subject merchandise at less than NV. Additionally, Aida has submitted the required certifications, and has agreed to its immediate reinstatement in the antidumping duty order, as long as any firm is subject to the order, if the Department concludes under 19 CFR 353.22(f) that, subsequent to revocation, it sold the subject merchandise at less than NV. Furthermore, we received no comments from any interested party contesting the revocation. For these reasons we are revoking the order on MTPs from Japan with respect to Aida in accordance with section 751(d) of the Act and 19 CFR 353.25(a)(2). In accordance with the regulations, the Department will take seriously any credible evidence that, subsequent to the revocation, Aida sold the merchandise at less than NV.

This revocation applies to all entries of the subject merchandise from Aida entered, or withdrawn from warehouse, for consumption on or after February 1, 1997. The Department will order suspension of liquidation ended for all such entries and will instruct the Customs Service to release any cash deposits or bonds. The Department will further instruct the Customs Service to refund with interest any cash deposits on entries made on or after February 1, 1997.

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date as provided by section 751(a)(2)(c) of the Act: (1) The cash deposit rate for Hitachi Zosen will be the rate stated above; (2) if the exporter is not a firm covered in this review, a prior review, or the original less than fair value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of

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the merchandise; and (3) the cash deposit rate for all other manufacturers or exporters will be the rate established in the investigation of sales at less than fair value, which is 14.51 percent. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and subsequent assessment of double antidumping duties.

Notification to Interested Parties

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 353.22(f).

Dated: July 2, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–18307 Filed 7–9–98; 8:45 am]

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DEPARTMENT OF COMMERCE

[A–580–807]

Polyethylene Terephthalate Film, Sheet, and Strip From the Republic of Korea; Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Antidumping Duty Administrative Review.

SUMMARY: On March 6, 1998, the Department of Commerce (the Department) published the preliminary results of administrative review of the antidumping duty order on polyethylene terephthalate film sheet, and strip (PET film) from the Republic of Korea. The review covers one manufacturer/exporter of the subject merchandise to the United States and the period June 1, 1996 through May 31, 1997.

As a result of comments we received, the dumping margin has changed from that presented in our preliminary results.

EFFECTIVE DATE: July 10, 1998.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney, or Linda Ludwig, AD/CVD Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482–4475, or 3833, respectively.

SUPPLEMENTAL INFORMATION:

Background

On March 6, 1998, (63 FR 11214), the Department published the preliminary results of administrative review and recission in part of the antidumping duty order on PET film from the Republic of Korea, 56 FR 25669, (June 5, 1991).

This review covers one manufacturers/exporter of the subject merchandise to the United States: SKC Co., Ltd, (SKC), and the period June 1, 1996 through May 31, 1997.

The Department has concluded this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of the Review

Imports covered by this review are shipments of all gauges of raw, pretreated, or primed polyethylene terephthalate film, sheet, and strip, whether extruded or coextruded. The films excluded from this review are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches (0.254 micrometers) thick. Roller transport cleaning film which has at least one of its surfaces modified by the application of 0.5 micrometers of SBR latex has also been ruled as not within the scope of the order.

PET film is currently classifiable under Harmonized Tariff Schedule (HTS) subheading 3920.62.00.00. The HTS subheading is provided for convenience and for U.S. Customs purposes. The written description remains dispositive as to the scope of the product coverage.

The review covers the period June 1, 1996 through May 31, 1997.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all references to the Department's regulations are to 19 CFR part 353 (1997).

Analysis of Comments Received

We invited interested parties to comment on the preliminary results of this administrative review. On April 6, 1998, we received timely comments from the respondent, SKC and the petitioners (E.I. DuPont de Nemours & Company, Hoechst Celanese Corporation, and ICI America's Inc.) (Petitioners). SKC and the Petitioners submitted their reply briefs on April 13, 1998 and April 14, 1998 respectively.

Comment 1: SKC contends that the payment dates for some of the U.S. sales reported in its December 8, 1997 letter were incorrectly transcribed, thereby overstating its U.S. credit expense. SKC contends that the Department should accept the corrected payment dates set forth in its March 16, 1998 letter. SKC further contends that the correct payment dates are discernible from the record, and that the error in question is clearly clerical in nature.

SKC argues that the Department's established practice is to accept corrections following the preliminary results when (1) the error in question is demonstrated to be a clerical error; (2) the corrective documentation provided in support of the clerical error allegation is reliable; (3) the respondent availed itself of the earliest reasonable opportunity to correct the error; (4) the clerical error allegation, and any corrective documention, is submitted to the Department no later than the due date for the respondent's administrative case brief; (5) the clerical error does not entail a substantial revision of the response; and (6) the respondent's corrective documentation does not contradict information previously determined to be accurate at verification. (*See e.g., Certain Fresh Cut Flowers from Colombia, Final Results of Antidumping Duty Administrative Reviews, (Colombian Flowers)* 61 FR 42833, 42834 (August 19, 1996).)

SKC asserts that the corrected information meets the criteria outlined in *Colombian Flowers* because the error contained in its December 8, 1997 response is demonstrably clerical, can reliably be discerned from the data on record, and was brought immediately to the Department's attention upon receipt by SKC of its disclosure materials. Moreover, SKC argues that correction of this error would not entail a substantial revision of its response. Finally, SKC notes that the data provided in its March 16, 1998 submission does not contradict any previously verified information.

Department's Position: We agree with SKC. The Department will accept a respondent's clerical corrections so long as it fulfills the criteria first articulated in Colombian Flowers. (*See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Outside Diameter, and Components Thereof, From Japan, Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 20585, 20610 (April 27, 1998) (citing *NTN Bearing Corp.* v. *United States*, 74 F.3d 1204 (Fed. Cir. 1995) and *Colombian Flowers*).) The formatting error resulted in the uniform transcription of "9" as "0" for certain U.S. sales. For example, payments made on March 5, 1997 were incorrectly read as "070305" rather than "970305". This error is clearly clerical in nature. Further, SKC provided reliable documentation supporting its correction of that clerical error. SKC corrected the clerical error five days after receipt of its disclosure materials, and provided the corrective documentation prior to submission of its case brief. Finally, correction of this clerical error does not constitute a substantial revision of SKC's response, and does not contradict previously verified information. Thus, consistent with the position established in *Colombian Flowers*, we have used SKC's corrected payment dates in these final results.

Comment 2: Consistent with previous administrative reviews of this case, SKC objects to the Department's equal allocation of scrap costs to A-grade and B-grade film. SKC contends that its allocation methodology is reasonable and consistent with widely accepted accounting concepts. In support of its argument, SKC cites to the March 5, 1996 case brief filed in the second and third administrative reviews of this case. (*See* Attachment 1 of SKC's April 6, 1998 case brief.)

SKC states that allocating the cost of scrap film equally to A-grade and B-grade films improperly overstates the cost of B-grade films while understating the cost of A-grade films. SKC contends that its methodology of initially allocating costs equally among A-grade film, B-grade film, and scrap, and then reallocating the cost of scrap to the cost of A-grade film is consistent with accepted cost accounting methodologies.

SKC also asserts that its methodology is consistent with the Department's treatment of jointly produced products in numerous other antidumping proceedings, wherein the Department recognized that a pure quantitative, or physical measures approach to cost allocation is unreasonable where there is a significant difference in the value of the jointly produced products.

SKC cites *Elemental Sulphur from Canada*, 61 FR 8239, 8241–8243 (March 4, 1996) (*Sulphur from Canada); Oil Country Tubular Goods from Argentina*, 60 FR 33539, 33547 (June 28, 1995) *(OCTG from Argentina); Canned Pineapple Fruit from Thailand*, 60 FR 29553, 29560 (June 5, 1995) *(Pineapple from Thailand)* in support of its position.

SKC maintains that it is the Department's well-established practice to calculate costs in accordance with a respondent's normal cost accounting system unless the system results in an unreasonable allocation of costs, and cites *Pineapple from Thailand* as support for this assertion. SKC states that its reported cost of manufacturing (COM) data were calculated in accordance with its normal and long-established management cost accounting system. SKC notes that in the first review of this case (covering the period November 30, 1990 through May 31, 1992), the Department allocated all of the costs associated with the production of scrap film to A-grade film. SKC contends that this methodology was recently upheld by the Court of International Trade (CIT). (*See E.I. Dupont de Nemours & Co., et al.* v. *United States*, No. 98–35, Slip. Op. at 12–14 (CIT March 26, 1998 (*DuPont*).) Based upon the foregoing, SKC concludes that the Department should allocate all scrap costs to A-grade film.

Petitioners argue that SKC has not provided justification for the Department deviating from its current practice which is to allocate costs equally between prime- and off-grade merchandise. Petitioners note that the allocation of scrap film has been a contentious issue from the LTFV investation of this case. Petitioners further note that the Department's method of allocating yield losses equally between A-grade and B-grade film is consistent with the ruling of the U.S. Court of Appeal for the Federal Circuit in *IPSCO* v. *United States*, 965 2d. 1056 (Fed Cir., 1992) (*IPSCO*). Petitioners contend that the methodology employed by the Department in this review is consistent with that employed in the second (June 1, 1992 through May 31, 1993) and third (June 1, 1993 through May 31, 1994) reviews of this case. Additionally, Petitioners assert that the decision by the CIT in *DuPont* does not require the Department to employ the allocation methodology used in the first review of this case. Petitioners contend that in accepting SKC's reported costs for the first review, the Department predicated its acceptance of SKC's allocation methodology on the understanding that SKC had applied "a cost methodology that assigns equal costs to the prime and off-grade PET film in accordance with the *Ipsco Appeal.*" (original emphasis). (*See Polyethylene Terephthalate Film, Sheet and Strip From the Republic of Korea; Final Results of Antidumping Duty Administrative Review*, 60 FR 42835, 42839 (August 17, 1995).) Petitioners assert that this indicates that the Department believed that "SKC's reported cost allocation system was based on allocating equal costs" to A-grade and B-grade film. Petitioners contend that the allocation methodology set forth by SKC does not allocate scrap costs equally to A-grade and B-grade film, and thus should be rejected by the Department.

Additionally, Petitioners challenge SKC's characterization of its proposed allocation methodology as "normal and long-established." Petitioners cite to their April 14, 1997 reply brief filed in the fifth administrative review (June 1, 1995 through May 31, 1996) of this case in which Petitioners contend that SKC had historically assigned equal costs to all PET film and devised its current cost system only after the initiation of this dumping case.

Department's Position: We agree with Petitioners and disagree with SKC. As we explained in the final results of previous reviews of this order, we have determined that A-grade and B-grade PET film have identical production costs. Accordingly, we continue to rely on an equal cost methodology for both grades of PET film in these final results (*See* Polyethylene Terephthalate Film, Sheet, and Strip from the Republic of Korea: Final Results of Review and Notice of Revocation in Part 61 FR 35177, 33182–83 (July 5, 1996) (Second and Third Reviews); Polyethylene Terephthalate Film, Sheet, and Strip from the Republic of Korea; Final results of Review and Notice of Revocation in Part 61 FR 58374, 58375–76, (November 14, 1996) (Fourth Review); and Polyethylene Terephthalate Film, Sheet, and Strip from the Republic of Korea; Final Results of Review, 62 FR 38064, 38065–66, (July 16, 1997) (Fifth Review).)

Moreover, as noted in the final results of the second through the fifth reviews, the CIT has also ruled that our allocation of SKC's production costs between A-grade and B-grade film is reasonable (*see* E.I. DuPont de Nemours & Co., Inc. et al. v. United States, 932 F. Supp. 296 (CIT 1996)).

As Petitioners have indicated, our acceptance of SKC's allocation of scrap costs in the first review of this case was based upon our understanding that SKC had properly allocated the costs of A-grade and B-grade film. In that review, we did not verify SKC's costs data. We determined that no verification of SKC was necessary because SKC was verified in the original investigation. Second and Third Reviews, 60 FR at 42839. Based upon the evidence existing in the record during that proceeding, we accepted SKC's computations because we were satisfied that it had calculated actual costs consistent with the IPSCO decision.

During the second and third administrative reviews, however, we carefully examined SKC's allocation methodology and conducted a thorough verification of SKC's accounting records. We determined that the allocation methodology employed by SKC fails to capture the actual production costs of A-grade and B-grade film. Based upon this determination, we have consistently required SKC to allocate yield losses equally between A-grade and B-grade film since the second review of this case. Further, we have determined that A-grade and B-grade film undergo an identical production process that involves an equal amount of material and fabrication expenses. The only difference in the resulting A- and B-grade film is that at the end of the manufacturing process a quality inspection is performed during which some of the film is classified as high quality A-grade product while other film is classified as lower quality B-grade film (*see* Fourth Review (covering the period June 1, 1994 through May 31, 1995), 61 FR at 58375).

Finally, SKC's argument that DuPont affirmed SKC's allocation methodology is without merit. DuPont does not require the Department to accept an allocation methodology that does not accurately capture the actual cost of A-grad and B-grade film. In DuPont, the CIT concluded that the Department's acceptance of SKC's calculations was supported by substantial evidence. The Court further concluded that the calculations properly reflected SKC's actual costs of production. The CIT, however, did not affirm SKC's allocation methodology. It merely accepted the allocations resulting from the methodology because those allocations (based upon record evidence) reflected actual production costs as required by IPSCO.

In the four previous reviews of this case, the Department has determined that SKC's allocation methodology fails to capture the actual cost of A-grade and B-grade film. We continue to maintain that SKC's reliance on Sulphur from Canada, Pineapple from Thailand, and OCTG from Argentina is misplaced. Those cases concerned the appropriate cost methodology for products manufactured from a joint production process. SKC has mischaracterized the continuous production process of PET film as a joint production process. A joint production process occurs when "two or more products result simultaneously from the use of one raw material as production takes place." (*See*, Management Accountants Handbook, Keeler, et al., Fourth Edition at 11:1.) A joint production process produces two distinct products and the essential point of a joint production process is that "the raw material, labor, and overhead costs prior to the initial split-off can be allocated to the final product only in some arbitrary, although necessary, manner." Id. The identification of different grades of merchandise does not transform the manufacturing process into a joint production process which would require the allocation of costs. In this case, since production records clearly identify the amount of yield losses for each specific type of PET film, our allocation of yield losses to the films bearing those losses is reasonable, not arbitrary (Fourth Review, 61 FR at 58575–76).

It is the Department's practice to calculate costs in accordance with a respondent's management accounting system. Where that system reconciles to the respondent's normal financial and cost accounting records and results in a reasonable allocation of costs. Management accounting deals with providing information that managers inside an organization will use. Managerial accounting reports typically provide more detailed information about product costs, revenue and profits. They are used to identify problems, objectives or goals, and possible alternatives. In order to respond to the Department's questionnaires, SKC officials devised a management accounting methodology for allocating costs incurred in the film and chip production cost centers to individual products produced during the period of investigation. SKC adopted this cost accounting system to reflect a management goal (i.e., to respond to the Department). Under this system, SKC assigns the yield loss from the production of A- and B-grade films exclusively to the A-grade films. This methodology helps management to focus on the film types with low yields. However, notwithstanding SKC management's concern that it accurately portray the cost of their A-grade products, this managerial accounting methodology is not appropriate for reporting the actual costs of A- and B-grade products. As previously noted, A-grade and B-grade films undergo an identical production process. B-grade film is made using the same materials, on the same equipment, at the same time as the A-grade film. As such, scrap costs must be allocated equally to A- and B-grade films. It is within the Department's mandate to accept or reject the allocation methodologies devised by respondents. In this instance, we have continued to rely on an equal cost allocation methodology which reflects the actual costs incurred for both A-grade and B-grade film.

Comment 3: SKC asserts that the Department double counted inventory carrying costs in its calculation of COP and CV. SKC contends that all COP interest expenses were included in the variable RCOP, and that all CV interest expenses were included in the variable INTEXCV.

Department's Position: We agree with SKC. In these final results, we have revised the computer program to eliminate the double-counting of inventory carrying costs in our calculation of COP and CV.

Comment 4: SKC asserts that the Department failed to include U.S. indirect selling expenses incurred in the home market for purposes of calculating CEP profit. SKC contends that the Department should adjust its calculation of CEP profit to account for all U.S. selling expenses. regardless of where they were incurred.

Department's Position: We agree with SKC. Consistent with our established practice, we have not distinguished "activities in the United States from other selling expenses" in our calculation of CEP profit. (*See Import Administration Policy Bulletin No. 97/1. Calculation of Profit for Constructed Export Price Transactions* (September 4, 1997).)

Comment 5: SKC contends that the Department should offset interest revenue against imputed credit in building up the pool of U.S. selling expenses used to allocate profit to CEP sales. SKC notes that the Department made this offset in the final results of the fifth review. (*See Final Analysis*

Memorandum for SKC from Analyst to the file, June 30, 1997.)

Department's Position: We agree with SKC. In these final results, we have offset SKC's interest expense with the interest revenue realized by SKC.

Comment 6: Petitioners contend that the Department should revise SKC's imputed credit expenses on sales to Anacomp. Petitioners assert that SKC's calculation of credit expense is inconsistent with the ruling of the Federal Circuit in *LMI-LaMetalli Industriale, S.p.A.* v. *United States. (LMI)* 912 F.2d 455 (Fed. Cir. 1990) because SKC has not based its calculation of U.S. credit expense upon "usual and reasonable commercial behavior." (*LMI* at 461.)

Petitioners contend that the Department's calculation of SKC's U.S. imputed credit expense should consider Anacomp's "poor financial condition and the unusual trade credit term that SKC provided to Anacomp." Petitioners note that Anacomp declared bankruptcy just prior to the period of review, and emerged from bankruptcy in June 1996. Petitioners point to Anacomp's debt-to-equity ratio as another indication of the company's poor financial condition. Petitioners also note that the interest rate incurred by SKC on borrowings in the U.S. is below the U.S. prime rate. Petitioners assert that Anacomp's financial condition "is shaky at best," and that credit expenses on sales to Anacomp should reflect Anacomp's poor financial condition. Petitioners further contend that the Department should use a rate higher than the rate used to calculate SKC's interest revenue on sales to Anacomp. Petitioners note that in *DuPont,* the CIT granted the Department's request for a remand to consider Anacomp's financial condition in determining the short-term interest rate to be utilized on SKC's U.S. sales. *DuPont* at 24.

SKC contends that the purpose of making an adjustment for U.S. credit expenses is to account for the opportunity cost that the seller incurs in waiting for payment from the buyer. SKC argues that the Department requested a remand in *DuPont* only because the issue had not been addressed on the record of that review. SKC further contends that the cost of extending credit can only be measured by the cost that the seller incurs in borrowing funds. SKC argues that bad debt expense (and not credit) represents the costs associated with not receiving payment. SKC further argues that Departmental practice is to base bad debt expense upon the actual expenses realized by the company. SKC notes that is has included its actual U.S. bad debt expenses in its calculation of U.S. indirect selling expenses. Finally, SKC contends that Petitioners' reliance on *LMI* is misplaced. SKC notes that in *LMI,* the Court instructed the Department to base U.S. interest expense upon the costs associated with borrowing funds in the United States. SKC notes that is based its calculation of U.S. credit expense upon the costs that it incurred in borrowing funds in the United States.

Department's Position: We agree with SKC and disagree with Petitioners. The Department has adopted a policy of using a short-term interest rate tied to the currency in which the sales are denominated. (*See Import Administration Policy Bulletin No. 98.2, Imputed Credit Expenses and Interest Rates* (February 23, 1998).) Subsequent to the *LMI* decision we established a practice of matching the short-term interest rate to the currency because we view this measure as accurately reflecting the cost of providing credit to the customer. (*See, e.g.; AIMCOR* v. *United States,* Nos. 96–1502, 97–1009, 1998 U.S. App. Lexis 7077, at * 40 (Fed. Cir. April 9, 1998) (*AIMCOR*); *Final Determination of Sales at Less Than Fair Value: Oil Country Tubular Goods From Austria,* 60 FR 33551, 33555 (June 28, 1995); *Certain Cut-to-Length Carbon Steel Plate From Sweden; Final Results of Antidumping Administrative Review,* 61 FR 15772, 15780 (April 9, 1996).) Moreover, in the second and third administrative reviews where the respondent had borrowings in the same currency as the transaction we used the weighted-average borrowing rates realized in that particular currency. (*See Second and Third Reviews* at 35184.) In these final results we have continued to base our calculations of SKC's credit expense upon the interest rate incurred on SKC's borrowings in the United States. This approach is consistent with the Court of Appeals' decision in *LMI.* In that case the Federal Circuit reversed the Department's calculation of U.S. imputed credit expenses which used home market borrowing rates because the respondent had actual U.S. loans at a much lower rate. (*LMI* at 460–61.) Inasmuch as the respondent's actual borrowing experience demonstrated its ability to secure financing in the United States at a lower rate, the Federal Circuit reasoned that use of the higher interest rates did not reflect the commercial reality of the respondent's borrowing experience in the United States.

Petitioner' arguments make clear that they have confused credit and bad-debt expenses. Bad debt represents the risk that the seller incurs of not receiving payment, and was separately reported by SKC in its calculation of indirect selling expenses. In contrast, credit expenses represents the opportunity cost incurred by the seller in awaiting payment. The extension of credit constitutes an expense to the firm, because it obligates funds which would otherwise be available for other business activities. Anacomp's financial status and condition has no bearing on SKC's imputed credit expenses computations because imputed credit expense reflects the opportunity cost experienced by the seller (*See AIMCOR,* at *7–8). Anacomp's poor financial condition is irrelevant in this instance because it has no bearing upon the opportunity costs incurred by SKC due to delayed payment. Similarly, neither Anacomp's declared bankruptcy nor it's interest rate in the commercial market place are reflective of the opportunity costs incurred by SKC in extending credit. Finally, we note that if we were to adopt the approach advanced by Petitioners, the distinction between credit expenses and bad debt would cease to exist.

SKC misapprehends the *LMI* decision. In *LMI,* the Federal Circuit reversed the Department for basing U.S. imputed credit costs upon the cost of borrowing funds in the home market, as opposed to the market in which the sales where made. SKC's calculation of U.S. credit, however, is based upon borrowings undertaken by SKC in the United States. SKC's calculation is therefore consistent with *LMI* and the Department's established practice.

Final Results of Review

As a result of our review, we determine that a weighted-average margin of 0.36 percent exists for SKC.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between export price and normal value may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of this notice of final results for all shipments of PET film from the Republic of Korea within the scope of the order entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Tariff Act: (1) no cash deposit shall be required for SKC because the weighted average margin is less than 0.5 percent and therefore *de minimis*; (2) for previously reviewed or investigated companies not listed above, the rate will continue to be the company-specific rate published for the

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most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) for all other producers and/or exporters of this merchandise, the cash deposit rate will be 21.50 percent, the "all others" rate established in the remand redetermination of the LTFV investigation, as explained below. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and subsequent assessment of double antidumping duties.

Notification of Interested Parties

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: July 2, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–18446 Filed 7–9–98; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–826]

Small Diameter Circular Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe From Brazil; Final Results of Changed Circumstances Antidumping Duty Administrative Review, and Revocation in Part of Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of changed circumstances antidumping duty administrative review, and revocation in part of antidumping duty order.

EFFECTIVE DATE: July 10, 1998.

FOR FURTHER INFORMATION CONTACT: Helen M. Kramer or Linda Ludwig, AD/CVD Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–0405 or (202) 482–3833, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 27, 1998, the Gulf States Tube Division of Vision Metals ("Gulf States")[1], a petitioner in this case, requested that the Department of Commerce (the Department) conduct a changed circumstances antidumping duty administrative review to determine whether to revoke in part the antidumping duty order on small diameter circular seamless carbon and alloy steel standard, line and pressure pipe from Brazil with respect to certain glass-lined seamless pressure pipe. Gulf States and Koppel Steel Corporation, the petitioners in this case, expressed no further interest in the relief provided by the antidumping duty order with respect to certain glass-lined seamless pressure pipe imported from Brazil. Accordingly, on May 22, 1998, the Department published a notice of initiation and preliminary results of changed circumstances antidumping duty administrative review and intent to revoke this order in part (63 FR 28357). We gave interested parties an opportunity to comment on the preliminary results of this changed circumstances review. No comments were received.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, found in 62 FR 27296 (May 19, 1997).

Scope of the Review

Imports covered by this review and partial revocation are shipments of seamless carbon and alloy (other than stainless) steel pipes, of circular cross-section, not more than 114.3 mm (4.5 inches) in outside diameter, regardless of wall thickness or manufacturing process (hot-finished or cold-drawn) that (1) has been cut into lengths of six to 120 inches, (2) has had the inside bore ground to a smooth surface, (3) has had multiple layers of specially formulated corrosion resistant glass permanently baked on at temperatures of 1,440 to 1,700 degrees Fahrenheit in thicknesses from 0.032 to 0.085 inch (40 to 80 mils), and (4) has flanges or other forged stub ends welded on both ends of the pipe. The special corrosion resistant glass referred to in this definition may be glass containing by weight (1) 70 to 80 percent of an oxide of silicone, zirconium, titanium or cerium (Oxide Group RO_2), (2) 10 to 15 percent of an oxide of sodium, potassium, or lithium (Oxide Group RO), (3) from a trace amount to 5 percent of an oxide of either aluminum, cobalt, iron, vanadium, or boron (Oxide Group R_2O_3, or (4) from a trace amount to 5 percent of a fluorine compound in which fluorine replaces the oxygen in any one of the previously listed oxide groups. These glass-lined pressure pipes are commonly manufactured for use in glass-lined equipment systems for processing corrosive or reactive chemicals, including acrylates, alkanolamines, herbicides, pesticides, pharmaceuticals and solvents.

The glass-lined pressure pipes subject to this review are currently classifiable under subheadings 7304.39.0020, 7304.39.0024 and 7304.39.0028 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheadings are provided for convenience and U.S. Customs' purposes only. The written description of the scope of this review remains dispositive.

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[1] Gulf States was previously a division of Quanex Corporation.

Final Results of Review; Partial Revocation of Antidumping Duty Order

The affirmative statement of no interest by petitioners in glass-lined seamless pressure pipe from Brazil constitutes changed circumstances sufficient to warrant partial revocation of this order. Therefore, the Department is partially revoking the order on small diameter circular seamless carbon and alloy steel standard, line and pressure pipe from Brazil with respect to certain glass-lined seamless pressure pipe as described above, in accordance with sections 751(b) and 782(h) of the Act and 19 CFR 351.216(d)(1). This partial revocation applies to all unliquidated entries of the subject glass-lined seamless pressure pipe not covered by the final result of an administrative review.

The Department will instruct the U.S. Customs Service to proceed with liquidation, without regard to antidumping duties, of all unliquidated entries of certain glass-lined seamless pressure pipe as described above, in accordance with section 778 of the Act.

This changed circumstances administrative review, partial revocation of the antidumping duty order and notice are in accordance with sections 751 (b) and 782(h) of the Act and sections 351.216, 351.221(c)(3) and 351.222(g)(1)(i) of the Department's regulations.

Dated: July 2, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–18339 Filed 7–9–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–601]

Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Preliminary Results of 1996–1997 Antidumping Duty Administrative Review and New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of 1996–1997 antidumping duty administrative review and new shipper review of tapered roller bearings and parts thereof, finished and unfinished, from the People's Republic of China.

SUMMARY: In an administrative review, we preliminarily determine that sales of tapered roller bearings and parts thereof, finished and unfinished, from the People's Republic of China, were made below normal value during the period June 1, 1996, through May 30, 1997. In a new shipper review, we preliminarily determine that sales of tapered roller bearings and parts thereof, finished and unfinished, from the People's Republic of China, were not made below normal value during the period June 1, 1996, through May 30, 1997. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: July 10, 1998.

FOR FURTHER INFORMATION CONTACT: Zak Smith or Cynthia Thirumalai, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone (202) 482–1279 and (202) 482–4087, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, all references to the Department's regulations are to 19 CFR 353 (April 1997).

Background

On May 27, 1987, the Department of Commerce ("the Department") published in the **Federal Register** (52 FR 19748) the antidumping duty order on tapered roller bearings and parts thereof, finished and unfinished ("TRBs"), from the People's Republic of China ("PRC"). The Department notified interested parties of the opportunity to request an administrative review of this order on June 11, 1997 (62 FR 31786). The petitioner, The Timken Company, and one of the respondents, Luoyang Bearing Factory ("Luoyang"), requested that the Department conduct an administrative review. These requests were received on June 30, 1997. Thus, in accordance with 19 CFR 353.22(c), we published a notice of initiation of this antidumping duty administrative review on August 1, 1997 (62 FR 41339).

In addition to the administrative review, on May 30, 1997, Zhejiang Changshan Bearing (Group) Co., Ltd. ("ZX") requested that we conduct a new shipper review. We published a notice of initiation of this new shipper administrative review on August 14, 1997 (62 FR 43514). This new shipper review covers the same period as the normal administrative review: June 1, 1996, through May 30, 1997.

On September 23, 1997, we sent a questionnaire to the Secretary General of the Basic Machinery Division of the Chamber of Commerce for Import & Export of Machinery and Electronics Products and requested that the questionnaire be forwarded to all PRC companies identified in our initiation notice and to any subsidiary companies of the named companies that produce and/or export the subject merchandise. In this letter we also requested information relevant to the issue of whether the companies named in the initiation request are independent from government control. See the *Separate Rates* section, below. Courtesy copies of the questionnaire were also sent to companies with legal representation and to companies listed in the initiation notice for which we were able to obtain addresses.

We received responses to the questionnaire from the following ten companies: Peer Bearing Company/Chin Jun Industrial, Ltd. ("Chin Jun"), Wafangdian Bearing Factory ("Wafangdian"), China National Machinery Import & Export Corporation ("CMC"), Liaoning MEC Group Company ("Liaoning"), Luoyang, Zhejiang Machinery Import & Export Corporation ("Zhejiang"), Wanxiang Group Corporation ("Wanxiang"), Premier Bearing & Equipment ("Premier"), and Xiangfan Machinery Foreign Trade Corporation ("Xiangfan"), as respondents in the administrative review, and ZX, as the respondent in the new shipper review.

The Department is conducting this administrative review and new shipper review in accordance with section 751 of the Act.

Scope of Review

Merchandise covered by this review includes TRBs and parts thereof, finished and unfinished, from the PRC; flange, take up cartridge, and hanger units incorporating tapered roller bearings; and tapered roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles, whether or not for automotive use. This merchandise is classifiable under the Harmonized Tariff Schedule of the United States ("HTSUS") item numbers 8482.20.00, 8482.91.00.50, 8482.99.30, 8483.20.40, 8483.20.80, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.80, 8708.99.80.15, and 8708.99.80.80. Although the HTSUS item numbers are provided for convenience and customs purposes, the written description of the scope of the order and this review is dispositive.

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Verification

As provided in section 782(i) of the Act, we verified information provided by Wafangdian, CMC, Xiangfan, ZX and Luoyang as well as certain subcontractors, using standard verification procedures, including on-site inspection of manufacturers' facilities, the examination of relevant cost data and financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the public and business proprietary versions of the verification reports.

Separate Rates Determination

To establish whether a company operating in a state-controlled economy is sufficiently independent to be entitled to a separate rate, the Department analyzes each exporting entity under the test established in the Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China, 56 FR 20588 (May 6, 1991) ("Sparklers"), as amplified by the Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China, 59 FR 22585 (May 2, 1994) ("Silicon Carbide"). Under this policy, exporters in non market economies ("NMEs") are entitled to separate, company-specific margins when they can demonstrate an absence of government control, both in law and in fact, with respect to export activities. Evidence supporting, though not requiring, a finding of de jure absence of government control over export activities includes: (1) an absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and, (3) any other formal measures by the government decentralizing control of companies. De facto absence of government control over exports is based on four factors: (1) whether each exporter sets its own export prices independently of the government and without the approval of a government authority; (2) whether each exporter retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) hether each exporter has the authority to negotiate and sign contracts and other agreements; and, (4) whether each exporter has autonomy from the government regarding the selection of management (see, Silicon Carbide, 59 FR at 22587 and Sparklers, 56 FR at 20589).

In previous administrative reviews of the antidumping duty order on TRBs from the PRC we determined that Wafangdian, CMC, Liaoning, Luoyang, Zhejiang, Wanxiang, and Xiangfan merited separate rates (see, e.g., Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Final Results of Antidumping Administrative Review, 62 FR 61276 (November 17, 1997) ("TRBs 95–96 Review")). We preliminarily determine that the evidence on the record of this review also demonstrates an absence of government control, both in law and in fact, with respect to these companies' exports according to the criteria identified in Sparklers and Silicon Carbide. Therefore, we have continued to assign each of these companies a separate rate.

Premier and Chin Jun are privately owned Hong Kong trading companies. Because we have determined that these firms, rather than their PRC-based suppliers, are the proper respondents with respect to their sales of TRBs to the United States, no separate-rates analyses of Premier's and Chin Jun's suppliers are necessary. See the *United States Sales* section, below.

Finally, as discussed below, the new shipper, ZX, also meets both the de jure and de facto criteria. Accordingly, we preliminarily determine to apply a separate rate to ZX.

ZX: De Jure Analysis

Information submitted during this review indicates that ZX is owned "by all the people of the People's Republic of China." In Silicon Carbide (59 FR at 22586), we found that the PRC government had devolved control of state-owned enterprises, i.e., enterprises owned "by all of the people." As a result, we determined that companies owned "by all of the people" were eligible for individual rates if they met the criteria developed in Sparklers and Silicon Carbide.

The following laws, which have been placed on the record in this case, indicate a lack of de jure government control over these companies, and establish that the responsibility for managing companies owned by "all of the people" has been transferred from the government to the enterprises themselves. These laws include: "Law of the PRC on Industrial Enterprises Owned by the Whole People," adopted on April 13, 1988 ("1988 Law"); "Regulations for Transformation of Operational Mechanism of State-Owned Industrial Enterprises," approved on August 23, 1992 ("1992 Regulations"); and the "Temporary Provisions for Administration of Export Commodities," approved on December 21, 1992 ("Export Provisions"). The 1988 Law states that enterprises have the right to set their own prices (*see* Article 26). This principle was restated in the 1992 Regulations (*see* Article IX). Finally, the 1992 "Temporary Provisions for Administration of Export Commodities" lists those products subject to direct government control. TRBs do not appear on this list and therefore are not subject to the constraints of these provisions.

Consistent with Silicon Carbide, we preliminarily determine that the existence of these laws demonstrates that ZX, a company owned by "all of the people," is not subject to de jure government control with respect to export activities. In light of reports indicating that laws shifting control from the government to the enterprises themselves have not been implemented uniformly [1], an analysis of de facto control is critical in determining whether respondents are, in fact, subject to government control with respect to export activities.

ZX: De Facto Analysis

According to information provided by ZX, the company's pricing and export strategy decisions with respect to the subject merchandise are not subject to any entity's review or approval and there are no government policy directives that affect these decisions. ZX further claims that there are no restrictions on the use of its revenues or profits, including export earnings.

ZX further states that its general manager is selected by the company's board of directors. While the results of ZX's management selections are recorded with the Foreign Trade and Economic Cooperation Commission, there is no evidence that this commission controls the selection process or that it has rejected a general manager selected through the election process. ZX's general manager has the right to contractually bind the company in making sales of TRBs.

ZX also states that its sources of funds are its own revenues or bank loans. It has sole control over, and access to, its bank accounts, which are held in ZX's own name.

Based on our analysis of the foregoing evidence on the record, we find neither de jure nor de facto government control over the export activities of ZX. Accordingly, we preliminarily determine that ZX is not part of the "PRC enterprise" under review and is entitled to a separate rate.

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[1] "PRC Government Findings on Enterprise Autonomy," in Foreign Broadcast Information Service—China—93–133 (July 14, 1993), and 1992 Central Intelligence Agency Report to the Joint Economic Committee, Hearings on Global Economic and Technological Change: Former Soviet Union and Eastern Europe and China, Pt. 2 (102 Cong., 2d Sess.).

Separate-Rate Determinations for Non-Responsive Companies

We have determined that those companies for which we initiated a review and which did not respond to the questionnaire do not merit separate rates. See the *Use of Facts Otherwise Available* section, below.

Use of Facts Otherwise Available

We preliminarily determine that, in accordance with sections 776(a) and (b) of the Act, the use of adverse facts available is appropriate for all companies which did not respond to our requests for information. Furthermore, we preliminarily determine that Premier did not demonstrate that it cooperated to the best of its ability in providing certain information, and we have applied adverse facts available to calculate a portion of Premier's margin. Finally, we preliminarily determine that Chin Jun, CMC and Xiangfan cooperated to the best of their ability in providing information. Thus, for these companies, although we are using facts available, we have not relied on adverse information to calculate antidumping margins (for a complete discussion of the company specific facts available decisions see the Memorandum to Susan Kuhbach: "Facts Available," dated June 30, 1998).

1. Companies that did not respond to the questionnaire: Where the Department must base its determination on facts available because a respondent failed to cooperate by not acting to the best of its ability to comply with a request for information, section 776(b) of the Act authorizes the Department to use inferences adverse to the interests of that respondent in choosing facts available. Section 776(b) of the Act also authorizes the Department to use as adverse facts available information derived from the petition, the final determination, a previous administrative review, or other information placed on the record. Information from prior segments of the proceeding constitutes secondary information and section 776(c) of the Act provides that the Department shall, to the extent practicable, corroborate that secondary information from independent sources reasonably at its disposal. The Statement of Administrative Action ("SAA") provides that "corroborate" means simply that the Department will satisfy itself that the secondary information to be used has probative value (*see*, H.R. Doc. 316, Vol. 1, 103d Cong., 2d Sess. 870 (1994)).

To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. However, unlike other types of information, such as input costs or selling expenses, there are no independent sources for calculated dumping margins. Thus, in an administrative review, if the Department chooses as total adverse facts available a calculated dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of the margin for that time period. With respect to the relevance aspect of corroboration, however, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin inappropriate. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin (*see, e.g., Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812, 6814 (Feb. 22, 1996) (where the Department disregarded the highest margin as adverse facts available because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin)).

We have preliminarily assigned a margin of 29.40 percent to those companies for which we initiated a review and which did not respond to the questionnaire. This margin, calculated for sales by Wafangdian Bearing Factory during the 1994–95 review, represents the highest overall margin calculated for any firm during any segment of this proceeding. As discussed above, it is not necessary to question the reliability of a calculated margin from a prior segment of the proceeding. Further, there are no circumstances indicating that this margin is inappropriate as adverse facts available. Therefore, we preliminarily find that the 29.40 percent rate is corroborated. As noted in the *Separate Rates Determination* section above, we have also preliminarily determined that the non-responsive companies do not merit separate rates. Therefore, the facts available for these companies forms the basis for the PRC rate, which is 29.40 percent for this review.

2. Premier: Premier, a Hong Kong-based reseller of TRBs, claims that it attempted to get factors of production data from its suppliers. One supplier provided data, but the overwhelming majority did not. A second PRC bearing manufacturer, that was not a supplier of Premier, but produced certain models sold by Premier, agreed that Premier could submit its factors of production data. For the remaining models sold in the United States by Premier, no factors data was reported.

We have preliminarily determined that Premier has not demonstrated that it cooperated to the best of its ability to respond to our antidumping duty questionnaire. This preliminary finding is based on the fact that, while Premier has stated that it attempted to obtain factors data from its PRC-based suppliers, it has not provided evidence of these attempts or corresponding documentation of its suppliers' refusal to provide the requested information. Prior to the final results of review, we intend to seek documentation of Premier's claim that it attempted to solicit from all of its PRC-based suppliers the information requested in the questionnaire and to make a judgement as to whether Premier has acted to the best of its ability.

As in prior reviews, we have also preliminarily determined that there is little variation in factor utilization rates among the TRB producers from which we have received factors of production data (*see, e.g., TRBs 95–96 Review*). Therefore, as facts available, we have used the factors data provided by Premier, including information from manufacturers which did not supply Premier during the POR, when calculating normal value for those sales without supplier specific factors data. With respect to Premier's U.S. sales for which no factors data were reported, we are applying, as adverse facts available, a margin of 25.56 percent, the highest overall margin ever applicable to Premier. This approach is consistent with our final results in the prior review (*see, TRBs 95–96 Review*). As discussed above, it is not necessary to question the reliability of a calculated margin from a prior segment of the proceeding. Further, there are no circumstances indicating that this margin is inappropriate as adverse facts available. Therefore, we preliminarily find that the 25.56 percent rate is corroborated.

3. Chin Jun: Chin Jun, another Hong Kong-based reseller of TRBs, provided factors data from three of its PRC-based suppliers covering a substantial majority of its U.S. sales during the POR. For certain other models it sold to the United States, Chin Jun provided factors data from other PRC suppliers that did not supply Chin Jun during the POR. For the remainder of the models it sold

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in the United States Chin Jun reported no factors data.

We preliminarily determine that Chin Jun has demonstrated that it cooperated to the best of its ability to respond to our antidumping duty questionnaire. This preliminary finding is based on the fact that Chin Jun has stated that it attempted to obtain from its PRC-based suppliers factors data for the remaining U.S. sales and has provided documentary evidence of such attempts. However, we intend to seek further clarification from Chin Jun about its actions to obtain factors data and to make a judgement as to whether its efforts were to the best of its ability.

As in prior reviews, we have also preliminarily determined that there is little variation in factor utilization rates among the TRB producers from which we have received factors of production data (*see, e.g., TRBs 95–96 Review*). Therefore, as facts available, we have used the factors data provided by the companies that supplied Chin Jun during the POR to Chin Jun's sales of models for which no supplier and model match was available. With respect to Chin Jun's U.S. sales for which no factors data were reported, because we have preliminarily determined that Chin Jun has cooperated to the best of its ability, we are applying, as facts available, the weighted-average margin calculated for those U.S. sales for which acceptable data were reported.

4. CMC: CMC did not report packing factors for bearings supplied by one of its suppliers. For these sales, we are applying, as facts available, the packing factors used for other CMC sales.

5. Xiangfan: At verification, we learned that Xiangfan had calculated its labor input using standard process time rather than the actual hours of employee time, and that this resulted in substantial under reporting of the labor factor. In addition, Xiangfan failed to report electricity consumed at one stage of the manufacturing process. As facts available, we used information collected at verification to recalculate the labor input and to increase the amount of electricity factor.

United States Sales

Both Chin Jun and Premier reported that they maintain inventories of TRBs in Hong Kong and sell TRBs worldwide. Therefore, their PRC-based suppliers have no knowledge when they sell to these firms that the shipments are destined for the United States. Accordingly, Chin Jun and Premier are the first parties to sell the merchandise to the United States and we have calculated United States price based on their sales.

For sales made by Chin Jun, we based the U.S. sales on CEP in accordance with section 772(b) of the Act because the first sale to an unaffiliated purchaser occurred after importation of the merchandise into the United States. For sales made by Wafangdian, Liaoning, Luoyang, Zhejiang, Wanxiang, Premier, Xiangfan, and ZX (the new shipper), we based the U.S. sales on EP, in accordance with section 772(a) of the Act, because the subject merchandise was sold to unaffiliated purchasers in the United States prior to importation into the United States and because the CEP methodology was not indicated by other circumstances. CMC made both EP and CEP sales.

We calculated EP based on the FOB, CIF, or C&F port price to unaffiliated purchasers. From these prices we deducted amounts, where appropriate, for brokerage and handling, foreign inland freight, ocean freight, and marine insurance. We valued the deduction for foreign inland freight using surrogate data based on Indian freight costs. (We selected India as the surrogate country for the reasons explained in the *Normal Value* section of this notice.) When marine insurance and ocean freight were provided by PRC-owned companies, we valued the deductions using the surrogate data of international providers. When marine insurance and ocean freight were provided by market economy companies, we deducted the actual expense values reported by the respondents for these services.

We calculated CEP based on the packed, ex-warehouse price from the U.S. subsidiary to unaffiliated customers. We made deductions, where appropriate, from the starting price for CEP for international freight, foreign brokerage and handling, foreign inland freight, marine insurance, customs duties, U.S. brokerage, U.S. inland freight insurance and U.S. inland freight. In accordance with section 772(d)(1) of the Act, we made further deductions from the starting price for CEP for the following selling expenses that related to economic activity in the United States: commissions to unaffiliated resellers; credit expenses; indirect selling expenses, including inventory carrying costs; and repacking in the United States. In accordance with section 772(d)(3) of the Act, we have deducted from the starting price an amount for profit.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine normal value ("NV") using a factors-of-production methodology if: (1) the merchandise is exported from an NME, and (2) the information does not permit the calculation of NV under section 773(a) of the Act. The Department has treated the PRC as an NME in all previous antidumping cases. In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME shall remain in effect until revoked by the administering authority. None of the parties to this proceeding has contested such treatment in this review. Moreover, parties to this proceeding have not argued that the PRC tapered roller bearing industry is a market-oriented industry. Consequently, we have no basis to determine that the information would permit the calculation of NV using PRC prices or costs. Therefore, except as noted below, we calculated NV based on factors of production in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c).

Although Premier and Chin Jun are Hong Kong companies, we also calculated NV for them based on factors-of-production data. We did not use these respondents' third-country sales in calculating NV because their PRC-based suppliers knew at the time of sale that the subject merchandise was destined for exportation. Section 773(a)(3)(A) of the Act provides that under such conditions NV may be determined in the country of origin of the subject merchandise.

Accordingly, we calculated NV for Premier and Chin Jun on the basis of PRC production inputs and surrogate country factor prices.

Under the factors of production methodology, we are required to value the NME producer's inputs in a comparable market economy country that is a significant producer of comparable merchandise. We chose India as the most comparable surrogate on the basis of the criteria set out in 19 CFR 353.52(b). See the Memorandum to Susan Kuhbach from Jeff May: "Tapered Roller Bearings ("TRBs") from the PRC: Non Market Economy Status and Surrogate Country Selection," dated December 5, 1997, for a further discussion of our surrogate selection. We chose Indonesia as a second-choice surrogate based on the same criteria. Also, information on the record indicates that both India and Indonesia are significant producers of TRBs.

We used publicly available information from India to value the various factors of production with the exception of the following: hot-rolled alloy steel bars for the production of cups and cones, and steel scrap from the production of cups and cones. For these values we used publicly available information from Indonesia because we found the Indian data for those inputs unreliable (*see*, Memorandum to Susan Kuhbach: "Selection of a Surrogate Country and Steel Value Sources," dated June 30, 1998).

We valued the factors of production as follows (for a complete description of the factor values used, see the Memorandum to Susan Kuhbach: "Factors of Production Values Used for the Preliminary Results," dated June 30, 1998):

1. Steel Inputs. For hot-rolled alloy steel bars used in the production of cups and cones, we used import prices from the Harmonized Tariff Schedule ("HTS") category 7228.3000 obtained from the *Foreign Trade Statistical Bulletin* (January–October 1997), Imports, Jakarta, Indonesia. For cold-rolled steel rods used in the production of rollers and cold-rolled steel sheet for the production of cages, we used Indian import data under Indian tariff subheading 7228.50 and 7209.42 respectively. This data was obtained from the *Monthly Statistics of the Foreign Trade of India, Vol. II—Imports* (April 1995–March 1997). As in previous administrative reviews, we eliminated from our calculation steel imports from NME countries and imports from market economy countries that were made in small quantities. For steel used in the production of cups, cones, and rollers, we also excluded imports from countries that do not produce bearing quality steel (*see*, e.g., TRBs 95–96 Review). We made adjustments to include freight costs incurred using the shorter of the reported distances from either the closest PRC port to the TRBs factory, or from the domestic supplier to the TRBs factory (*see*, Notice of Final Determination of Sales at Less Than Fair Value: Collated Roofing Nails From the People's Republic of China, 62 FR 51410 (October 1, 1997) and Sigma Corporation v. United States, 117 F. 3d 1401 (Fed. Cir. 1997)).

With the exception of data for steel used in the production of cages, the data obtained for steel inputs was from a period contemporaneous with the POR, thus no further adjustments were necessary. For the steel data used in the production of cages we inflated the weighted average per kilogram value by the Indian wholesale price index ("WPI") as published by the International Monetary Fund ("IMF").

Several companies in this review purchased steel from market economy suppliers and paid for the steel with market economy currencies. In these instances we valued the steel input using the actual prices reported for imported inputs from a market economy (*see*, Memorandum to Richard Moreland: "Market Economy Inputs," dated June 30, 1998). Where the TRB producer purchased the steel from a PRC trading company and paid for the steel in Renminbi, we did not use the market economy price to the trading company and instead used surrogate data. This is consistent with Department policy. We note, however, that this policy has been challenged in the CIT and the Department is currently addressing it on remand (*see*, *Olympia Industrial, Inc.* v. *United States*, Slip-Op. 98–49 (CIT 1998)). In light of this, we will reexamine this issue prior to the final results of this review. We invite interested parties to comment.

We valued scrap recovered from the production of cups and cones using Indonesian import statistics from HTS category 7204.2900. Scrap recovered from the production of rollers and cages was valued using import data from the Indian tariff subheading 7204.29 and 7204.4100 respectively.

2. Labor. We calculated the labor input using wage information from the United Nations' *1996 Yearbook of Labour Statistics* ("*YLS*"). We adjusted these wages to reflect inflation through the POR using an Indian consumer price index ("CPI") published by the IMF. We used the CPI, rather than the WPI, for calculating the inflation adjustment to labor because the Department views the CPI as more representative of changes in wage rates, while the WPI is more representative of prices for material goods (*see*, e.g., Heavy Forged Hand Tools From the People's Republic of China; Final Results of Antidumping Duty Administrative Reviews, 62 FR 11813, 11816 (March 13, 1997) and Manganese Metal from the People's Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Review, 63 FR 12440, 12446 (March 13, 1998); *see* also, Memorandum to Susan Kuhbach: "Selection of surrogate labor wage rates for preliminary results of review," dated June 30, 1998).

3. Overhead, SG&A Expenses, and Profit. For factory overhead, we used information obtained from the fiscal year 1996–97 annual reports of eight Indian bearing producers. We calculated factory overhead and SG&A expenses (exclusive of labor and electricity) as percentages of direct inputs (also exclusive of labor) and applied it to each producer's direct input costs. For profit, we totaled the reported profit before taxes for the eight Indian bearing producers and divided it by the total calculated cost of production ("COP") of goods sold. This percentage was applied to each respondent's total COP to derive a company-specific profit value (*see*, Memorandum to Susan Kuhbach: "Selection of overhead, SG&A and profit surrogate values for preliminary results of review," dated June 30, 1998).

4. Packing. For export packing, we used surrogate values for each packing material using values obtained from the *Monthly Statistics of the Foreign Trade of India, Vol. II—Imports by Commodity* (April 1996 through May 1997).

5. Electricity. For electricity costs, we used a simple average of 1995 regional electricity prices in India for large industries as reported in *India's Energy Sector*, September, 1996, published by the Centre for Monitoring Indian Economy Pvt. Ltd. We adjusted the value to reflect inflation through the POR using the WPI (*see*, also the Overhead, SG&A Expenses, and Profit section, above).

6. Inland Freight. We valued truck freight using a rate derived from the April 20, 1994 issue of *The Times of India*. We adjusted the rate to reflect inflation through the POR using the WPI. We valued rail freight using rates published by the Indian Railway Conference Association in 1995. We calculated an average rate per kilometer and adjusted the rate to reflect inflation through the POR using the WPI.

7. Ocean Freight. We calculated a value for ocean freight based on 1996 rate quotes from Maersk Inc. Because the information obtained was from a period contemporaneous with the POR, no further adjustments were necessary.

8. Marine Insurance. We calculated a value for marine insurance based on the CIF value of the TRBs shipped. We obtained the rate used through queries made directly to an international marine insurance provider.

Partial Termination of Review

The petitioner requested reviews for Far East Enterprising Company, Scanwell Consolidators, Ltd., Triumph Express Service Int'l Limited, Zhong Shan Transportation Co., Ltd., China Travel Service Limited, and Kenwa Shipping Co., Ltd. On October 6, 7, 17, 23, 30, and November 11, 1997, respectively, they reported no shipments of subject merchandise to the United States during the POR. We independently confirmed with U.S. Customs that there were no shipments from these companies. Therefore, we have terminated the review with respect to these companies (*see*, Calcium Hypochlorite From Japan: Termination of Antidumping Duty Administrative Review, 62 FR 18086 (April 14, 1997)).

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Preliminary Results of the Review

We preliminarily determine that the following dumping margins exist for the period June 1, 1996, through May 30, 1997:

Manufacturer/exporter	Margin (percent)
Wafangdian	0.00
Luoyang	1.82
CMC	0.02
Xiangtan	14.93
Zhejiang	2.27
Wanxiang	0.00
Liaoning	0.68
Premier	3.99
Chin Jun	0.21
ZX (the new shipper)	0.00
PRC Rate	29.40

Parties to the proceeding may request disclosure within five days of the date of publication of this notice. Interested parties may also request a hearing within thirty days of publication. If requested, a hearing will be held 37 days after publication. Interested parties may submit case briefs within thirty days of publication. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than five days after the case briefs. The Department will issue a notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any such briefs, within 120 days from the publication of these preliminary results.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. With respect to EP sales for these preliminary results, we divided the total dumping margins (calculated as the difference between NV and EP) for each importer/customer by the total number of units sold to that importer/customer. If these preliminary results are adopted in our final results of administrative and new shipper review, we will direct Customs to assess the resulting per-unit dollar amount against each unit of merchandise in each of that importer's/customer's entries under the order during the review period. Although this will result in assessing different percentage margins for individual entries, the total antidumping duties collected for each importer/customer under the order for the review period will be almost exactly equal to the total dumping margins.

For CEP sales, we divided the total dumping margins for the reviewed sales by the total entered value of those reviewed sales for each importer/customer. If these preliminary results are adopted in our final results of administrative review, we will direct Customs to assess the resulting percentage margin against the entered Customs values for the subject merchandise on each of that importer's/customer's entries during the review period. While the Department is aware that the entered value of sales during the POR is not necessarily equal to the entered value of entries during the POR, use of entered value of sales as the basis of the assessment rate permits the Department to collect a reasonable approximation of the antidumping duties which would have been determined if the Department had review those sales of merchandise actually entered during the POR.

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) for the PRC companies named above the cash deposit rates will be the rates for these firms established in the final results of this review, except that for exporters with de minimis rates, i.e., less than 0.50 percent, no deposit will be required; (2) for all remaining PRC exporters, all of which were found not to be entitled to separate rates, the cash deposit will be 29.40 percent; and (3) for non-PRC exporters Premier and Chin Jun the cash deposit rates will be the rates established in the final results of this review; (4) for non-PRC exporters of subject merchandise from the PRC, other than Premier and Chin Jun, the cash deposit rate will be the rate applicable to the PRC supplier of that exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with thisrequirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with sections 751(a)(1) and 771(i)(1) of the Act.

Dated: June 30, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–18301 Filed 7–9–98; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–054, A–588–604]

Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Reviews and Recission in Part.

SUMMARY: In response to requests from respondents, the Department of Commerce (the Department) is conducting administrative reviews of the antidumping duty order on tapered roller bearings (TRBs) and parts thereof, finished and unfinished, from Japan (A–588–604), and of the antidumping finding on TRBs, four inches or less in outside diameter, and components thereof, from Japan (A–588–054). The review of the A–588–054 finding covers two manufacturers/exporters and one reseller/exporter of subject merchandise to the United States during the period October 1, 1996 through September 30, 1997. The review of the A–588–604 order covers two manufacturers/exporters and one reseller/exporter, and the period October 1, 1996 through September 30, 1997.

We preliminarily determine that sales of TRBs have been made below the normal value (NV). If these preliminary results are adopted in our final results of administrative reviews, we will instruct the U.S. Customs Service to assess antidumping duties based on the difference between United States price (USP) and the normal value. Interested parties are invited to comment on these preliminary results. Parties which submit argument in these proceedings are requested to submit with the argument (1) a statement of the issues and (2) a brief summary of the argument.

EFFECTIVE DATE: July 10, 1998.

FOR FURTHER INFORMATION CONTACT: Charles Ranado or Stephanie Arthur, AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–3518 or, 482–6312, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations are to the Department's regulations, 19 CFR part 351 (62 FR 27296 (May 19, 1997)).

Background

On August 18, 1976, the Treasury Department published in the **Federal Register** (41 FR 34974) the antidumping finding on TRBs from Japan, and on October 6, 1987, the Department published the antidumping duty order on TRBs from Japan (52 FR 37352). On October 2, 1997, the Department published the notice of "Opportunity to Request Administrative Review" for both TRBs cases covering the period October 1, 1996 through September 30, 1997 (62 FR 51628).

In accordance with 19 CFR 351.213(b), on October 28, 1997, NTN Corporation (NTN) requested that we conduct a review of its sales in the A–588–604 case. In addition, on October 31, 1997, Koyo Seiko Co., Ltd. (Koyo) requested that we conduct a review of its sales in the A–588–054 case, and Fuji Heavy Industries, Ltd. (Fuji) and NSK Ltd. (NSK) requested that we conduct a review of their sales in both the A–588–054 and A–588–604 TRB cases. On November 15, 1997, we published in the **Federal Register** a notice of initiation of these antidumping duty administrative reviews covering the period October 1, 1996 through September 30, 1997 (62 FR 58513).

Scope of the Reviews

Imports covered by the A–588–054 finding are sales or entries of TRBs, four inches or less in outside diameter when assembled, including inner race or cone assemblies and outer races or cups, sold either as a unit or separately. This merchandise is classified under Harmonized Tariff Schedule (HTS) item numbers 8482.20.00 and 8482.99.30.

Imports covered by the A–588–604 order include TRBs and parts thereof, finished and unfinished, which are flange, take-up cartridge, and hanger units incorporating TRBs, and roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles, whether or not for automotive use. Products subject to the A–588–054 finding are not included within the scope of the A–588–604 order, except those manufactured by NTN. This merchandise is currently classifiable under HTS item numbers 8482.99.30, 8483.20.40, 8482.20.20, 8483.20.80, 8482.91.00, 8483.30.80, 8483.90.20, 8483.90.30, and 8483.90.60. The HTS item numbers listed above for both the A–588–054 finding and the A–588–604 order are provided for convenience and Customs purposes. The written descriptions remain dispositive.

The period for each review is October 1, 1996 through September 30, 1997. The review of the A–588–054 finding covers TRB sales by two manufacturers/exporters (Koyo and NSK) and one reseller/exporter (Fuji). The review of the A–588–604 order covers TRB sales by two manufacturers/exporters (NTN and NSK) and one reseller/exporter (Fuji). As explained in the "Recission in Part" section of this notice, we are terminating our reviews in both the A–588–054 and A–588–604 cases for two of the four firms.

Recission in Part

In accordance with section 351.213(d)(1) of the Department's regulations, on January 9, 1998, NSK withdrew its request for review in both the A–588–054 and A–588–604 cases. In addition, on January 23, 1998, Fuji withdrew its request for review in both the A–588–054 and A–588–604 cases. Because we received timely requests for the withdrawal of review from both NSK and Fuji, and because no other party to the proceedings requested a review for NSK and Fuji in either the A–588–054 or A–588–604 cases, in accordance with 19 CFR 351.213(d)(1), we are rescinding both the A–588–054 and A–588–604 reviews for NSK and Fuji.

Use of Facts Available

We preliminary determine, in accordance with section 776(a) of the Act, that the use of facts available is appropriate in one type of situation. We used partial facts available in instances where we were unable to use some portion of a response in calculating the dumping margin. For partial facts available, we extrapolated information from the company's response and used that information in our calculations. Koyo's response indicates that for certain sales to original equipment manufacturers (OEM sales) there were no pre-sale freight expenses. However, from the information reported, we were unable to identify those OEM sales for which Koyo incurred no pre-sale freight expenses; therefore, we have applied non-adverse facts available and recalculated the expense adjustment. For further information, please see the preliminary analysis memorandum on file for Koyo.

Export Price and Constructed Export Price

Because all of Koyo's sales and certain of NTN's sales of subject merchandise were first sold to unaffiliated purchasers after importation into the United States, in calculating U.S. price we used constructed export price (CEP) as defined in section 772(b) of the Act, for all of Koyo's sales and certain of NTN's sales. We based CEP on the packed, delivered price to unaffiliated purchasers in the United States. We made deductions, where appropriate, for discounts, billing adjustments, freight allowances, and rebates. Pursuant to section 772(c)(2)(A) of the Act, we reduced this price for movement expenses (Japanese pre-sale inland freight, Japanese post-sale inland freight, international air and/or ocean freight, marine insurance, Japanese brokerage and handling, U.S. inland freight from the port to the warehouse, U.S. inland freight from the warehouse to the customer, U.S. duty, and U.S. brokerage and handling). We also reduced the price, where applicable, by an amount for the following expenses incurred in the selling of the merchandise in the United States pursuant to section 772(d)(1) of the Act: commissions to unaffiliated parties, U.S. credit, payments to third parties, U.S. repacking expenses, and indirect selling expenses (which included, where applicable, inventory carrying costs, indirect advertising expenses, and indirect technical services expenses). Finally, pursuant to section 772(d)(3) of the Act, we further reduced U.S. price by an amount for profit to arrive at CEP.

NTN claimed an offsetting adjustment to U.S. indirect selling expenses to account for the cost of financing cash deposits during the POR. In past reviews we have accepted such an adjustment, mainly to account for the opportunity cost associated with making cash deposits (*i.e.*, the cost of having money unavailable for a period of time). However, we have changed our practice of accepting such an adjustment. See *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et. al.; Final Results of Antidumping Administrative Review*, 63 FR 33347 (June 18, 1998).

Because certain of NTN's sales of subject merchandise were made to unaffiliated purchasers in the United States prior to importation into the United States and the CEP methodology was not indicated by the facts of record, in accordance with section 772(a) of the Act we used export price (EP) for these sales. We calculated EP as the packed, delivered price to unaffiliated purchasers in the United States. In accordance with section 772(c)(2)(A) of the Act, we reduced this price, where applicable, by Japanese pre-sale inland freight, Japanese post-sale inland freight, international air and/or ocean freight, marine insurance, Japanese brokerage and handling, U.S. brokerage and handling, U.S. duty, and U.S. inland freight.

Where appropriate, in accordance with section 772(d)(2) of the Act, the Department also deducts from CEP the cost of any further manufacture or assembly in the United States, except where the special rule provided in section 772(e) of the Act is applicable. Section 772(e) of the Act provides that, where the subject merchandise is imported by an affiliated person and the value added in the United States by the affiliated person is likely to exceed substantially the value of the subject merchandise, we shall determine the CEP for such merchandise using the price of identical or other subject merchandise if there is a sufficient quantity of sales to provide a reasonable basis for comparison and we determine that the use of such sales is appropriate. If there is not a sufficient quantity of such sales or if we determine that using the price of identical or other subject merchandise is not appropriate, we may use any other reasonable basis to determine CEP. *See* Sections 772(e)(1) and (2) of the Act.

In judging whether the use of identical or other subject merchandise is appropriate, the Department must consider several factors, including whether it is more appropriate to use another "reasonable basis." Under some circumstances, we may use the standard methodology as a reasonable alternative to the methods described in paragraphs 772(e)(1) and (2) of the Act. In deciding whether it is more appropriate to use the standard methodology, we have considered and weighed the burden on the Department in applying the standard methodology as a reasonable alternative and the extent to which application of the standard methodology will lead to more accurate results. The burden of using the standard methodology may vary from case to case depending on factors such as the nature of the further-manufacturing process and the finished products. The increased accuracy gained by applying the standard methodology will vary significantly from case to case, depending upon such factors as the amount of value added in the United States and the proportion of total U.S. sales that involve further manufacturing. In cases where the burden is high, it is more likely that the Department will determine that potential gains in accuracy do not outweigh the burden of applying the standard methodology. Thus, the Department will likely determine that application of the standard methodology is not more appropriate than application of the methods described in paragraphs 772(e)(1) and (2), or some other reasonable alternative methodology. By contrast, if the burden is relatively low and there is reason to believe the standard methodology is likely to be more accurate, the Department is more likely to determine that it is not appropriate to apply the methods described in paragraphs 772(e)(1) or (2) of the Act in lieu of the standard methodology. *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews*, 62 FR 47452 at 47455 (September 9, 1997).

NTN imported subject merchandise (TRBs parts) which was further processed in the United States. NTN further manufactured the imported scope merchandise into merchandise of the same class or kind as merchandise within the scope of the A–588–604 order. Based on information provided by NTN, we first determined whether the value added in the United States was likely to exceed substantially the value of the subject merchandise. We estimated the value added based on the differences between the averages of the prices charged to the first unaffiliated U.S. customer for the final merchandise sold (finished TRBs) and the averages of the prices paid for the subject merchandise (imported TRBs parts) by the affiliated party, and determined that the value added was likely to exceed substantially the value of the imported TRB parts.

We then examined whether it would be appropriate to use sales of non-further-manufactured merchandise as a basis for comparison, as stated under paragraphs 772(e)(1) and (2) of the Act. Based on the information provided by NTN, we determined that the proportion of its further-manufactured merchandise to its total imports of subject merchandise was relatively low. In NTN's case, any potential gains in accuracy gained from examining NTN's further-manufactured sales are outweighed by the burden of the applying the standard methodology and that it would be appropriate to apply one of the methodologies specified in the statute with respect to NTN's imported TRB parts. Furthermore, other sales are in sufficient quantity for the purpose of determining dumping margins for NTN's imported TRBs which were further manufactured in the United States prior to resale. Therefore, we have used the weighted-average dumping margins we calculated on NTN's sales of non-further-manufactured TRBs.

No other adjustments were claimed or allowed.

Normal Value

A. Viability

Based on 1) the fact that each company's quantity of sales in the home market was greater than five percent of its sales to the U.S. market and 2) the absence of any information that a particular market situation in the exporting country does not permit a proper comparison, we determined that the quantity of the foreign like product for all respondents sold in the exporting country was sufficient to permit a proper comparison with the sales of subject merchandise to the United States, pursuant to section 773(a) of the Act. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based NV on the prices at which the foreign like products were first sold for consumption in the exporting country.

B. Arm's-Length Sales

For NTN and Koyo we have excluded from our analysis those sales made to affiliated customers in the home market which were not at arm's length. *See* Section 773(a)(1)(B) of the Act. We determined the arm's-length nature of home market sales to affiliated parties by means of our 99.5 percent arm's-length test in which we calculated, for each model, the percentage difference between the weighted-average prices to the affiliated customer and to all unaffiliated customers and then calculated, for each affiliated customer, the overall weighted-average percentage difference in prices for all models purchased by the customer. If the overall weighted-average price ratio for the affiliated customer was equal to or greater than 99.5 percent, we determined that all sales to this affiliated customer were at arm's length. Conversely, if the ratio for a customer was less than 99.5 percent, we determined that all sales to the affiliated customer were not at arm's length because, on average, the affiliated customer paid less than unaffiliated customers for the same merchandise, and therefore we excluded all sales to the affiliated customer from our analysis. Where we were unable to calculate an affiliated-customer ratio because identical merchandise was not sold to both affiliated and unaffiliated customers, we were unable to determine if these sales were at arm's length, and, therefore, we excluded them from our analysis (*see, e.g., Certain Stainless Steel Wire Rod from France: Preliminary Results of Antidumping Duty Administrative Review,* 61 FR 8915 (March 6, 1996); *Certain Stainless Steel Wire Rods from France: Final Results of Antidumping Duty Administrative Review,* 63 FR 30185 (June 3, 1998)).

C. Cost-of-Production Analysis

Because we disregarded sales below the cost of production (COP) in our last completed A–588–054 review for Koyo, and in our last completed A–588–604 review for NTN, we have reasonable grounds to believe or suspect that sales of the foreign like product under consideration for the determination of NV in these reviews may have been made at prices below the COP, as provided by section 773(b)(2)(A)(ii) of the Act (*see Final Results of Antidumping Duty Administrative Reviews; Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan,* 63 FR 2558 (January 15, 1998)). Therefore, pursuant to section 773(b)(1) of the Act, we initiated a COP investigation of sales by Koyo in the A–588–054 case and NTN in the A–588–604 case.

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the costs of materials and fabrication employed in producing the foreign like product, plus selling, general, and administrative expenses (SG&A) and the cost of all expenses incidental to placing the foreign like product in condition packed ready for shipment. We relied on the home market sales and COP information provided by Koyo and NTN except in those instances where the data were not appropriately quantified or valued (*see* the company-specific COP/CV preliminary results memoranda, on file in Import Administration's Central Records Unit, Room B–099 of the main Commerce building).

After calculating COP, we tested whether home market sales of TRBs were made at prices below COP within an extended period of time in substantial quantities and whether such prices permitted the recovery of all costs within a reasonable period of time. We compared model-specific COPs to the reported home market prices less any applicable movement charges, discounts, and rebates.

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's home market sales for a model are at prices less than the COP, we do not disregard any below-cost sales of that model because we determine that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's home market sales of a given model are at prices less than COP, we disregard the below-cost sales because 1) they are made within an extended period of time in substantial quantities, in accordance with sections 773(b)(2)(B) and (C) of the Act, and 2) based on comparisons of prices to weighted-average COPs for the POR, they were at prices which would not permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

The results of our cost tests for Koyo and NTN indicated that for certain home market models, less than 20 percent of the sales of the model were at prices below COP. We therefore retained all sales of the model in our analysis and used them as the basis for determining NV. Our cost test for these respondents also indicated that, within an extended period of time (normally one year, in accordance with section 773(b)(2)(B) of the Act), for certain home market models more than 20 percent of the home market sales were sold at prices below COP and were not sold at prices which would permit recovery of all costs within a reasonable period of time. In accordance with section 773(b)(1) of the Act, we therefore excluded these below-cost sales from our analysis and used the remaining above-cost sales as the basis for determining NV.

D. Product Comparisons

We compared U.S. sales with contemporaneous sales of the foreign like product in the home market. We considered bearings identical on the basis of nomenclature and determined most similar TRBs using our sum-of-the-deviations model-match methodology which compares TRBs according to the following five physical criteria: inside diameter, outside diameter, width, load rating, and Y2 factor. We used a 20 percent difference-in-merchandise (difmer) cost deviation cap as the maximum difference in cost allowable for similar merchandise, which we calculated as the absolute value of the difference between the U.S. and home market variable costs of manufacturing divided by the U.S. total cost of manufacturing.

E. Level of Trade (LOT)

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same LOT as the EP or CEP transaction. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on constructed value (CV), that of the sales from which we derive selling, SG&A expenses and profit. For EP, the U.S. LOT is also the level of the starting-price sale, which is usually from exporter to importer. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different LOT than EP or CEP, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and unaffiliated customer. If the comparison-market sales are at at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make an LOT adjustment under 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the act (the CEP offset provision). See *Notice of Final Determination of Sales at Less than Fair Value; Certain Cut-to-Length Carbon Steel Plate from South Africa,* 62 FR 61731 (November 19, 1997).

We determined that for Koyo there were two home market LOTs and one U.S. LOT (*i.e.,* the CEP LOT). Because there was no home market LOT equivalent to the U.S. LOT, and because NV for Koyo was more remote from the factory than the CEP, we made a CEP offset adjustment to NV.

For NTN we found that there were three home market LOTs and two (EP and CEP) LOTs in the United States. Because there were no home market LOTs equivalent to NTN's CEP LOT, and because NV for NTN was more remote from the factory than the CEP, we made a CEP offset adjustment to NV. We also determined that NTN's EP LOT was equivalent to one of its LOTs in the

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home market. Because we determined that there was a pattern of consistent price differences, we made a LOT adjustment to NV for NTN when we compared sales at different LOTs. For a company-specific description of our LOT analysis, see the preliminary analysis memoranda.

F. Home Market Price

We based home market prices on the packed, ex-factory or delivered prices to affiliated purchasers (where an arm's-length relationship was demonstrated) and unaffiliated purchasers in the home market. We made adjustments for differences in packing and for movement expenses in accordance with sections 773(a)(6)(A) and (B) of the Act. In addition, we made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act, and for differences in circumstances of sale (COS) in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. For comparison to EP we made COS adjustments by deducting home market direct selling expenses and adding U.S. direct selling expenses. For comparisons to CEP, we made COS adjustments to NV by deducting home market direct selling expenses. We also made adjustments, where applicable, for home market indirect selling expenses to offset U.S. commissions in EP and CEP calculations. No other adjustments were claimed or allowed.

On January 8, 1998, the Court of Appeals for the Federal Circuit (the Court) issued a decision in *Cemex* v. *United States*, 133 F.3d 897 (Fed. Cir. 1998). In that case, based on the pre-URAA version of the Act, the Court discussed the appropriateness of using CV as the basis for foreign market value when the Department finds home market sales to be outside the ordinary course of trade. This issue was not raised by any party in these 1996–97 reviews. However, the URAA amended the definition of sales outside the "ordinary course of trade" to include sales below cost. See section 771(15) of the Act. Consequently, the Department has reconsidered its practice in accordance with this court decision and has determined that it would be inappropriate to resort directly to CV, in lieu of foreign market sales, as the basis for NV if the Department finds foreign market sales of merchandise identical or most similar to that sold in the United States to be outside the ordinary course of trade. Instead, the Department will use sales of similar merchandise, if such sales exist. The Department will use CV as the basis for NV only when there are no above-cost sales that are otherwise suitable for comparison. Therefore, in this proceeding, when making comparisons in accordance with section 771(16) of the Act, we considered all products sold in the home market as described in the Scope of the Investigation section of this notice, above, that were in the ordinary course of trade for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade, based on the characteristics listed in Sections B and C to our antidumping questionnaire. We have implemented the Court's decision in this case, to the extent that the data on the record permitted. *See, e.g., Brass Sheet and Strip from Canada: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not to Revoke Order in Part*, 63 FR 33037, 33038 (June 17, 1998).

We calculated CV based on the cost of materials and fabrication employed in producing the subject merchandise, SG&A, and profit. In accordance with 772(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country. For selling expenses, we used the weighted-average home market selling expenses. To the extent possible, we calculated CV by LOT, using the selling expenses and profit determined for each LOT in the comparison market. Where appropriate, we made adjustments to CV in accordance with section 773(a)(8) of the Act and 19 CFR 351.410 for COS adjustments and LOT differences. For comparisons to EP, we made COS adjustments by deducting home market direct selling expenses and adding U.S. direct selling expenses. For comparisons to CEP, we made COS adjustments by deducting home market direct selling expenses. We also made adjustments, where applicable, for home market indirect selling expenses to offset commissions in EP and CEP comparisons.

Preliminary Results of Review

As a result of our reviews, we preliminarily determine the following weighted-average dumping margins exist for the period October 1, 1996 through September 30, 1997:

Manufacturer/Exporter	Margin (percent)
For the A–588–054 Case:	
Koyo Seiko	7.62
For the A–588–604 Case:	
NTN	18.83

Parties to these proceedings may request disclosure within five days of the date of publication of this notice and may request a hearing within thirty days of publication. Any hearing, if requested, will be held 37 days after the date of publication, or the first business day thereafter. Case briefs and/or written comments from interested parties may be submitted no later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed no later than 35 days after the date of publication of this notice. Parties who submit argument in these proceedings are requested to submit with the argument (1) a statement of the issues and (2) a brief summary of the argument. The Department will issue final results of these administrative reviews, including the results of our analysis of the issues in any such written comments or at a hearing, within 120 days of issuance of these preliminary results.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we will calculate importer-specific *ad valorem* assessment rates for the merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales made during the POR to the total customs value of the sales used to calculate those duties. This rate will be assessed uniformly on all entries of that particular importer made during the POR. The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of the review.

Furthermore, the following deposit requirements will be effective upon completion of the final results of these administrative reviews for all shipments of TRBs from Japan entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of these administrative reviews, as provided by section 751(a)(1) of the Act:

(1) The cash deposit rates for the reviewed companies will be those rates established in the final results of these reviews;

(2) For previously reviewed or investigated companies not listed above,

the cash deposit rate will continue to be the company-specific rate published for the most recent period;

(3) If the exporter is not a firm covered in these reviews, a prior review, or the less-than-fair-value investigations, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and

(4) If neither the exporter nor the manufacturer is a firm covered in these or any previous reviews conducted by the Department, the cash deposit rate for the A–588–054 case will be 18.07 percent, and 36.52 percent for the A–588–604 case (*see Final Results of Antidumping Duty Administrative Reviews; Tapered Roller Bearings, Finished and Unfinished, and Parts Thereof, from Japan and Tapered Roller Bearings, Four Inches or less in Outside Diameter, and Components Thereof, From Japan*, 58 FR 64720 (December 9, 1993)).

This notice serves as a preliminary reminder to importers of their responsibility to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213.

Dated: July 2, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–18309 Filed 7–9–98; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

Montana State University-Bozeman; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 98–010. Applicant: Montana State University-Bozeman, Bozeman, MT 59717. Instrument: Optical Helium Cryostat. Manufacturer: Institute of Physics, National Academy of Sciences of Ukraine, C.I.S. Intended Use: See notice at 63 FR 12451, March 13, 1998.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. Reasons: The foreign instrument provides: (1) Rapid cool-down (30–60 min.), (2) minimal initial vacuum (10^{-3} Torr), (3) portable operation and (4) low evaporation (2–3 liters per cooling cycle). The National Institute of Standards and Technology advised June 25, 1998 that (1) These capabilities are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 98–18306 Filed 7–9–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Stanford University; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 97–095R. Applicant: Stanford University, Palo Alto, CA 94304. Instrument: Ultrasound Bone Densitometer. Manufacturer: McCue Plc, United Kingdom. Intended Use: See notice at 62 FR 65679, December 15, 1997.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. Reasons: The foreign instrument provides: (1) Reduced transducer size (½ inch) appropriate for use with children's feet, (2) external calipers for precise placement of the transducers and (3) available normative standards from studies indicating a precision of 3–5% for repeated measurements. These capabilities are pertinent to the applicant's intended purposes and we know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 98–18305 Filed 7–9–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

University of Texas at Austin, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 97–086R. Applicant: University of Texas at Austin, 78712. Instrument: 3–D Motion Analysis System, Model Vicon 140. Manufacturer: Oxford Metrics, Ltd., United Kingdom. Intended Use: See notice at 62 FR 53594, October 15, 1997. Reasons: The foreign instrument provides precise time-matched data collection for analog samples and video motion data by using a single clock and phase-locking analog signals with the motion data. Advice received from: National Institutes of Health, June 8, 1998.

Docket Number: 98–016. Applicant: University of Wisconsin-Madison, Madison, WI 53706–1490. Instrument: High Speed Length Controller, Model 308B. Manufacturer: Crystallox, Ltd., United Kingdom. Intended Use: See notice at 63 FR 15831, April 1, 1998. Reasons: The foreign instrument provides measurement of the contractile force of muscle cells by mechanically deforming the length of the muscle fiber. Advice received from: National Institutes of Health, June 8, 1998.

Docket Number: 98–017. Applicant: University of Colorado Health Sciences Center, Denver, CO 80262. Instrument: High Intensity Xenon Flashlamp System, Model MJL–C1. Manufacturer: Hi-Tech Scientific, Germany. Intended Use: See notice at 63 FR 15831, April 1, 1998. Reasons: The foreign instrument provides: (1) A three-lens quartz condenser, (2) a flash repetition rate of 0.05–10 Hz and (3) pulse length from 400–1500 ns. Advice received from: National Institutes of Health, June 8, 1998.

The National Institutes of Health advises in its memoranda that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 98–18304 Filed 7–9–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 070298G]

Gulf of Mexico Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene public meetings.

DATES: The meetings will be held on July 20–24, 1998.

ADDRESSES: These meetings will be held at the Lafayette Hilton and Towers, 1521 West Pinhook Road, Lafayette, LA; telephone: 318–235–6111.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council; telephone: (813) 228–2815.

SUPPLEMENTARY INFORMATION:

Council

July 22

8:30 a.m.—Convene.

8:45 a.m. - 9:30 a.m.—Receive presentation on Fisheries Issues of Mutual Interest to Mexico and U.S.A.

9:30 a.m. - 12:00 noon—Receive public testimony on: (1) Total Allowable Catch (TAC) (2) Draft Mackerel Amendment 9; and, (3) Draft Essential Fish Habitat (EFH) Amendment.

Draft Mackerel Amendment 9 contains the following alternatives: (1) Possible changes to the fishing year for Gulf group king mackerel; (2) Possible prohibitions of sale of Gulf mackerel caught under the recreational allocation; (3) Possible reallocations of TAC for the commercial fishery for Gulf group king mackerel in the Eastern Zone; (4) Possible reallocations of TAC for Gulf group king mackerel between the recreational and commercial sectors to 70 percent recreational and 30 percent commercial; (5) Possible establishment of two (2) subdivisions of TAC for the commercial, hook-and-line allocation of Gulf group king mackerel by area for the Florida west coast; (6) Possible subdivisions of TAC for commercial Gulf group king mackerel in the Western Zone (Alabama through Texas) by area, season, or a combination of area and season; (7) Possible trip limits for vessels fishing for Gulf group king mackerel in the Western Zone; (8) Possible additional restrictions on the use of net gear to harvest Gulf group king mackerel off the Florida west coast; including a phase-out, a moratorium on additional net endorsements with requirements for continuing existing net endorsements, restrictions on the transferability of net endorsements, and restriction of the use of nets to primarily the waters off Monroe and Collier Counties; (9) Possible increase in the minimum size limit for Gulf group king mackerel to 24 or 26 inches fork length; (10) Possible re-establishment of an annual allocation or a TAC percentage of Gulf group Spanish mackerel for the purse seine fishery with consideration of trip limits and area restrictions; (11) Possible retention and sale of cut-off (damaged) legal-sized king and Spanish mackerel within established trip limits.

Following is a summary of the Draft EFH Amendment: (1) EFH is identified and described based on areas where various life stages of 21 selected managed species and the coral complex commonly occur. The selected species are shrimp; red drum; reef fish; coastal migratory pelagic species; stone crab; spiny lobster; and the coral complex; (2) The selected species represent about a third of the species under management by the Council. Collectively, these species commonly occur throughout all of the marine and estuarine waters of the Gulf of Mexico. Consequently, EFH for the remaining managed species would be included with that of the species discussed. EFH for the remaining managed species will be further addressed in future Fishery Management Plan (FMP) amendments, as appropriate; (3) EFH is defined as everywhere that the above managed species commonly occur. Because these species collectively occur in all estuarine and marine habitats of the Gulf of Mexico, EFH is separated into estuarine and marine components. For the estuarine component, EFH includes all estuarine waters and substrates (mud, sand, shell, rock, and associated biological communities), including the sub-tidal vegetation (seagrasses and algae) and adjacent inter-tidal vegetation (marshes and mangroves). In the marine waters of the Gulf of Mexico, EFH includes virtually all marine waters and substrates (mud, sand, shell, rock, and associated biological communities) from the shoreline to the seaward limit of the Exclusive Economic Zone (EEZ); (4) Threats to EFH from fishing and nonfishing activities are identified; (5) Options to conserve and enhance EFH are provided and research needs are identified; (6) No management measures and, therefore, no regulations are proposed at this time. Fishing-related management measures to minimize any identified impacts are deferred to future amendments when the Council has the information necessary to decide if the measures are practicable.

1:30 p.m. - 4:00 p.m.—Take final action on the EFH Amendment.

4:00 p.m. - 5:30 p.m.—Take final action on Mackerel Amendment 9.

July 23

8:15 a.m. - 8:30 a.m.—(Closed Session) Appointment of Reef Fish Stock Assessment Panel Member.

8:30 a.m. - 9:30 a.m.—Receive an update on Bycatch Reduction Device (BRD) evaluations.

9:30 a.m. - 9:45 a.m.—Consider an amendment to the Statement of Organizational Practices and Procedures (SOPPs) to revise or temporarily suspend Section VI, term of office for chairs.

9:45 a.m. - 5:00 p.m.—Receive a presentation on the Options Paper for the Generic Sustainable Fisheries Act (SFA) Amendment.

July 24

8:30 a.m. - 8:45 a.m.—Receive a report of the Shrimp Management Committee.

8:45 a.m. - 9:00 a.m.—Receive a report of the Budget Committee.

9:00 a.m. - 9:15 a.m.—Receive a report of the Ad Hoc Vessel Monitoring Committee.

9:15 a.m. - 9:30 a.m.—Receive a report of the Ad Hoc Sustainable Fisheries Committee and Law Enforcement Committee.

9:30 a.m. - 10:00 a.m.—Receive a report on the Council Chairman's Meeting.

10:00 a.m. - 10:15 a.m.—Receive a report on the NMFS Billfish/Highly Migratory Species Advisory Panels meetings.

10:15 a.m. - 10:30 a.m.—Receive a report on the U.S. Coast Guard Enforcement Workshop.

10:30 a.m. - 10:45 a.m.—Receive a report on the Gulf and South Atlantic Fisheries Development Foundation (G&SAFDF) Shrimp Effort Meeting.

10:45 a.m. - 11:00 a.m.—Receive a report on the G&SAFDF Red Snapper Meeting.

11:00 a.m. - 11:15 a.m.—Receive the South Atlantic Fishery Management Council (SAFMC) Marine Reserve Workshop Report.

11:15 a.m. - 11:30 a.m.—Receive the SAFMC Liaison Report.

11:30 a.m. - 11:45 a.m.—Receive Enforcement Reports.

11:45 a.m. - 12:00 noon—Receive Directors' Reports.

12:00 noon - 12:15 p.m.—Other business to be discussed.

July 20

8:00 a.m. - 12:00 noon—Convene a joint meeting of the Shrimp, Stone Crab, and Spiny Lobster Management Committees to consider the Options Paper on the Sustainable Fisheries Act Amendment.

1:00 p.m. - 2:00 p.m.—Convene the Shrimp Management Committee to consider reports on overfishing of shrimp stocks, the Tortugas shrimp fishery, and fishing violations in the Tortugas Shrimp Sanctuary.

2:00 p.m. - 3:00 p.m.—Convene the Mackerel Management Committee to consider actions of the SAFMC on Amendment 9 and take final action. Also to consider further regulatory action in setting TAC.

3:00 p.m. - 4:00 p.m.—Convene the Ad Hoc Vessel Monitoring Committee to receive an update on Vessel Monitoring System Trials.

4:00 p.m. - 5:00 p.m.—Convene the Budget Committee to receive a status report on the CY 1998 Budget and to consider cost saving policies.

5:00 p.m. - 5:45 p.m.—Convene a joint meeting of the Ad Hoc Sustainable Fisheries Committee and the Law Enforcement Committee to consider allowable gear regulations.

July 21

8:00 a.m. - 12:00 noon—Convene a joint meeting of the Mackerel, Reef Fish, and Red Drum Management Committees to review the Options Paper on the SFA Amendment.

1:30 p.m. - 4:30 p.m.—Convene the Habitat Protection Committee to consider recommendations for final action on the Draft EFH Generic Amendment.

Although other issues not contained in this agenda may come before the Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation Act, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in the agenda listed in this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by July 13, 1998.

Dated: July 6, 1998.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–18308 Filed 7–9–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Associated Forms, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS), Appendix F, Material Inspection and Receiving Report; DD Forms 250, 250C, 250–1; OMB Number 0704–0248.

Type of Request: Extension.

Number of Respondents: 34,180.

Responses Per Respondent: 228.

Annual Responses: 7,800,000.

Average Burden Per Response: 8 minutes (average).

Annual Burden Hours: 988,000.

Needs and Uses: The collection of this information is necessary to process inspection and receipt of materials and payments to contractors under Government contracts. The information collection includes the requirements of DFARS Appendix F, Material Inspection and Receiving Report; the related clause at DFARS 252.246–7000; and the DD Form 250; DD Form 250C; and, DD Form 250–1. The clause at DFARS 252.246–7000 is used in contracts that require separate and distinct deliverables. The clause requires the contractor to prepare and furnish to the Government a material inspection and receiving report (DD Form 250) in a manner and to the extent required by DFARS Appendix F. The report is required for material inspection and acceptance, shipping, and payment.

Affected Public: Business or Other For-Profit; Not-For-Profit Institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Peter N. Weiss.

Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, CA 22202–4302.

Dated: July 6, 1998.

Paticia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–18313 Filed 7–9–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 98–40]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Assistance Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the

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requirements of section 155 of P.L. 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSAA/COMPT/RM, (703) 604–6575

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 98–49, with attached transmittal, policy justification and sensitivity of technology.

Dated: July 6, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5000–04–M

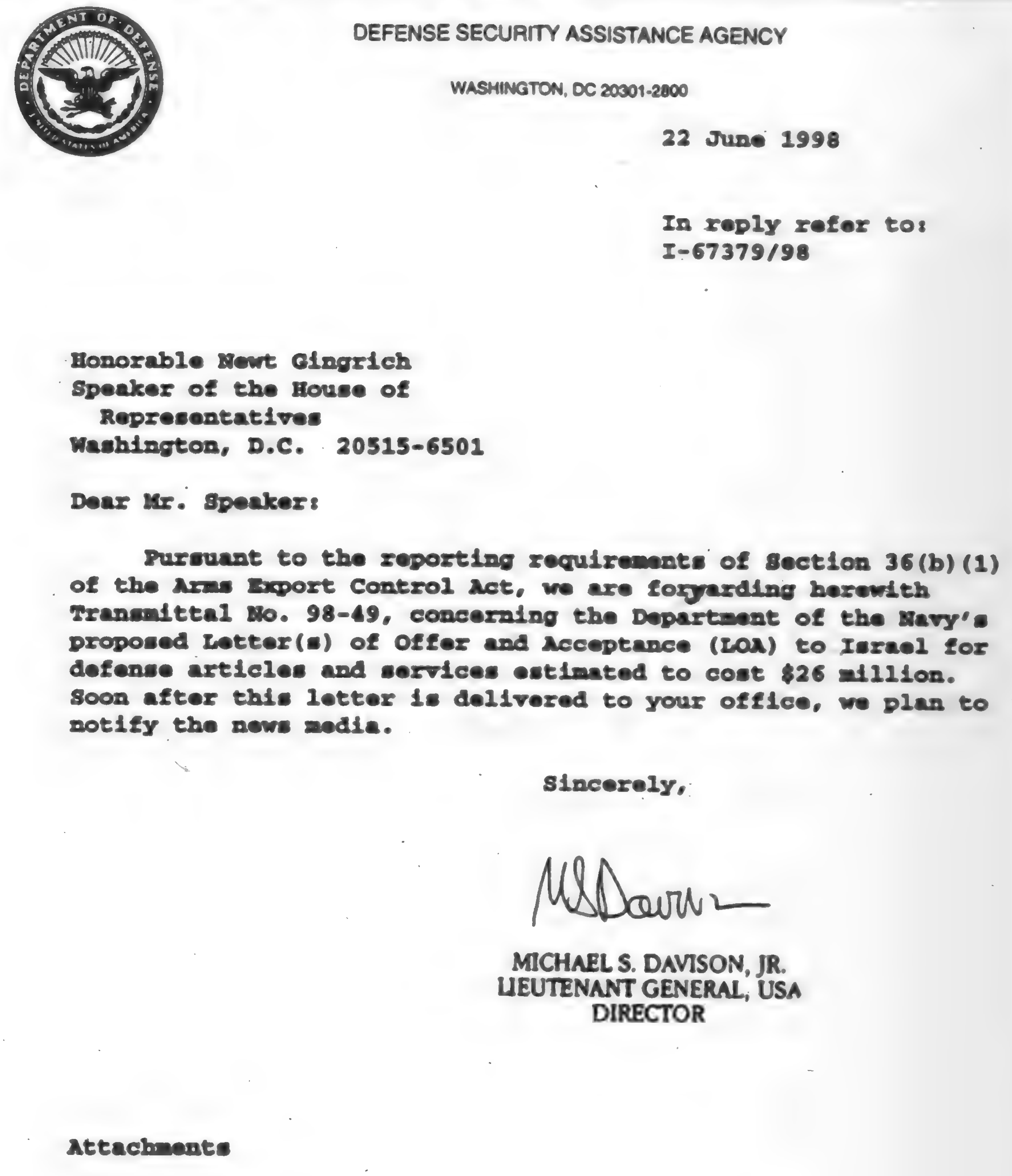

DEPARTMENT OF DEFENSE
UNITED STATES OF AMERICA

DEFENSE SECURITY ASSISTANCE AGENCY

WASHINGTON, DC 20301-2800

22 June 1998

In reply refer to:
I-67379/98

Honorable Newt Gingrich
Speaker of the House of
  Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 98-49, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance (LOA) to Israel for defense articles and services estimated to cost $26 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

MICHAEL S. DAVISON, JR.
LIEUTENANT GENERAL, USA
DIRECTOR

Attachments

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Transmittal No. 98-49

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

(i) Prospective Purchaser: Israel

(ii) Total Estimated Value:

Major Defense Equipment*	$ 25 million
Other	$ 1 million
TOTAL	$ 26 million

(iii) Description of Articles or Services Offered: Sixteen HARPOON missiles, containers, spare and repair parts, support and test equipment, supply support, publications, training, contractor technical assistance and other related elements of logistics support.

(iv) Military Department: Navy (AQY)

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: none

(vi) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Annex attached.

(vii) Date Report Delivered to Congress: 22 June 1998

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Israel - HARPOON Missiles

The Government of Israel has requested a possible sale of 16 HARPOON missiles, containers, spare and repair parts, support and test equipment, supply support, publications, training, contractor technical assistance and other related elements of logistics support. The estimated cost is $26 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in the Middle East.

Israel will use these HARPOON missiles to augment their current HARPOON missile inventory as well as use them with their SAAR 4 and five patrol boats. Israel, which already has HARPOON missiles in its inventory, will have no difficulty absorbing these additional missiles.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be Boeing Company, St. Louis, Missouri. Under this sale, the contractor will incur offset obligations under an existing industrial cooperation agreement.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government personnel to Israel. However, it is estimated one or two contractor representatives will be required for up to two years on an interim basis.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 98-49

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex
Item No. vi

(vi) Sensitivity of Technology:

1. The HARPOON missile contains sensitive technology and has the following classified components, including applicable technical and equipment documentation and manuals:

a. Guidance Section Components
b. Missile Characteristics and Performance Data

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures or equivalent systems which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

3. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification. Moreover, the benefits to be derived from this sale, as outlined in the Policy Justification, outweigh the potential damage that could result if the sensitive technology were revealed to unauthorized persons.

[FR Doc. 98–18315 Filed 7–9–98; 8:45 am]

BILLING CODE 5000-04-C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 98–44]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Assistance Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of P.L. 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSAA/COMPT/RM, (703) 604–6575

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 98–44, with attached transmittal, policy justification and sensitivity of technology.

Dated: July 6, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5000-04-M

DEPARTMENT OF DEFENSE
UNITED STATES OF AMERICA

DEFENSE SECURITY ASSISTANCE AGENCY

WASHINGTON, DC 20301-2800

22 June 1998

In reply refer to:
I-68290/98

Honorable Newt Gingrich
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 98-44, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to Singapore for defense articles and services estimated to cost $620 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

MS Davison

MICHAEL S. DAVISON, JR.
LIEUTENANT GENERAL, USA
DIRECTOR

Attachments

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Transmittal No. 98-44

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

(i) **Prospective Purchaser**: Singapore

(ii) **Total Estimated Value**:

Major Defense Equipment*	$220 million
Other	$400 million
TOTAL	$620 million

(iii) **Description of Articles or Services Offered**: Eight AH-64D APACHE attack helicopters (excluding AH-64D Longbow Fire Control Radar), 216 HELLFIRE II laser guided missiles (including 16 training and eight dummy missiles), four spare HELLFIRE launchers, two spare T-700-GE-701C engines, two spare Target Acquisition Designation Sight Systems, 9,120 Hydra-70 rockets, spare and repair parts, communications equipment, support equipment, tools and test sets, chaff dispensers, Integrated Helmet and Display Sight System, 30mm cartridges, electronic equipment test facility spares, publications, personnel training and training equipment, U.S. Government and contractor technical support and other related elements of logistics support.

(iv) **Military Department**: Army (VAQ, VAS, BDB, and PEK)

(v) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid**: none

(vi) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold**: See Annex attached.

(vii) **Date Report Delivered to Congress**: 22 June 1998

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* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Singapore - AH-64D APACHE Attack Helicopters

The Government of Singapore has requested the purchase of eight AH-64D APACHE attack helicopters(excluding AH-64D Longbow Fire Control Radar), 216 HELLFIRE II laser guided missiles (including 16 training and eight dummy missiles), four spare HELLFIRE launchers, two spare T-700-GE-701C engines, two spare Target Acquisition Designation Sight Systems, 9,120 Hydra-70 rockets, spare and repair parts, communications equipment, support equipment, tools and test sets, chaff dispensers, Integrated Helmet and Display Sight System, 30mm cartridges, electronic equipment test facility spares, publications, personnel training and training equipment, U.S. Government and contractor technical support and other related elements of logistics support. The estimated cost is $620 million.

This notification does not contain the AH-64D Longbow Fire Control Radar. Any future sale of the Longbow Fire Control Radar to Singapore will be notified via 36(b)5 notification.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for stability and economic progress in Southeast Asia.

Singapore desires these articles to fulfill their commitments to self-defense and self-reliance. The sale will contribute to our foreign policy and security objectives by providing a credible defensive capability to a key regional friend. Singapore will have no difficulty absorbing these helicopters into its armed forces.

The principal contractors are: Boeing-Mesa, Mesa, Arizona; Lockheed Martin Electronics and Missiles, Orlando, Florida; Lockheed Martin Federal Systems, Incorporated, Owego, New York; and General Electric, Lynn, Massachusetts. There are no proposed offset agreements related to this proposed sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government personnel or contractor representatives to Singapore.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

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Transmittal No. 98-44

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex
Item No. vi

(vi) Sensitivity of Technology:

1. The AH-64D APACHE Attack Helicopter includes the following classified or sensitive components:

a. M130 Chaff-flare Dispenser - a multi-purpose system which dispenses decoys to confuse threat radar and missile IR seekers. Radar cross section and frequency coverage are sensitive elements. Hardware is Unclassified. Technical publications for authorized maintenance levels are Unclassified. Aircraft optimization is the critical element; reverse engineering is not a major concern.

b. AN/ALQ-144A(V)3 Infrared Countermeasure Set - an active, continuous operating, omni-directional, electrically fired infrared jammer system designed to confuse or decoy threat IR missile systems, in conjunction with low reflective paint and engine suppressors. Hardware is classified Confidential. Technical manuals for authorized maintenance levels are classified Secret. Reverse engineering and development of counter-countermeasures are concerns if the hardware and releasable technical data were compromised.

c. AN/APR-39A(V)1 Radar Warning Receiver - provides warning of a radar directed air defense threat to permit appropriate countermeasures. It is programmed with appropriate threat data. Hardware is classified Confidential. Technical manuals for the maintenance levels are classified Confidential. Technical performance data is classified Secret. Aircraft optimization is the critical element. Reverse engineering is not a major concern.

d. AN/ALQ-136(V)5 Radar Jammer Countermeasure Sets - an omni-directional radar jammer which provides protection against threat radar detecting devices. Equipment is programmed with appropriate threat data provided by purchasing country. Hardware is classified Confidential. Releasable technical manuals for the maintenance are classified Secret; releasable technical performance data is classified Secret. Technology involved in design, manufacturing and testing of the jammer is sensitive. Reverse engineering is a primary concern.

e. The Target Acquisition and Designation Sight/Pilot Night Vision Sensor (TADS/PNVS) with Optical Improvements (OIP) system provides day, night, limited adverse weather target information, as well as night navigation capabilities. The PNVS provides thermal imaging that permits nap-of-the-earth flight to, from, and within the battle area, while TADS provides the co-pilot gunner with search, detection, recognition, and designation by means of Direct View Optics (DVO), television, and Forward Looking Infrared (FLIR) sighting systems that may be used singularly or in combinations. Hardware is Unclassified. Technical manuals for authorized maintenance levels are Unclassified. Reverse engineering is not a major concern.

f. The AGM-114 (K-3) HELLFIRE air-to-surface laser missile hardware and documentation are unclassified. Missile performance parameters and characteristics, including susceptibility to countermeasures, are classified up to Secret and considered very sensitive. Missile hardware is considered sensitive and knowledge of the warhead timing mechanism would be useful in development of countermeasures. Technology contained within the missile is sensitive and Unclassified. The sensitivity of the system is primarily in the software programs which enable the missile to operate in a countermeasures environment. Training, maintenance, operations and related documentation are unclassified and not considered sensitive.

2. This sale is consistent with the U.S. foreign policy and national security objectives outlined in the Policy Justification. Moreover, the benefits to be derived from this sale, as outlined in the Policy Justification, outweigh the potential damage that could result if the sensitive technology were revealed to unauthorized persons.

3. If a technologically advanced adversary were to obtain knowledge of the specific hardware in this sale, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

[FR Doc. 98–18316 Filed 7–9–98; 8:45 am]

BILLING CODE 5000–04–C

DEPARTMENT OF DEFENSE

Office of the Secretary; Membership of the Office of the Secretary of Defense Performance Review Board

AGENCY: Department of Defense.

ACTION: Notice.

This notice announces the appointment of the members of the Performance Review Board (PRB) of the Office of the Secretary of Defense, the Joint staff, the U.S. Mission to the North Atlantic Treaty Organization, the Defense Advance Research Projects Agency, the Defense Commissary Agency, the Defense Security Service, the Defense Security Assistance Agency, the Ballistic Missile Defense Organization, the Defense Field Activities and the U.S. Court of Appeals of the Armed Forces. The publication of PRB membership is required by 5 U.S.C. 4314(c)(4).

The PRB provides fair and impartial review of Senior Executive Service performance appraisals and makes recommendations regarding performance ratings and performance awards to the Secretary of Defense.

EFFECTIVE DATE: July 1, 1998.

FOR FURTHER INFORMATION CONTACT: Christopher Koehle, Assistant Director for Staffing, Classification and Executive Resources, Directorate for Personnel and Security, Washington Headquarters Services, Office of the Secretary of Defense, Department of Defense, The Pentagon, (703) 588–0414.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4), the following executives are appointed to the Office of the Secretary of Defense PRB: specific PRB panel assignments will be made from this group. Executives listed will serve a one-year renewable term, effective July 1, 1998.

Office of the Secretary of Defense

Chairman

Robert R. Soule

Members

Julie Aviles
Cindy Bogner
James F. O'Bryon
Frederic Celec
Donald Dix
Jim Dominy
Robert Drake
Michele Flourney
Joseph Friedl

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John Gehrig
Stanley Gontarek
Doug Hansen
Charles Infosino
James L. Johnson
Jeanne Karstens
Thomas L. Link
Dr. John F. Mazzuchi
Gail H. McGinn
Michael A. Parmentier
Vincent P. Roske
John Roth
Caral Spangler
Norma St. Claire
Robert Taylor
Michael Thibault
Mary Tompkey
John T. Tyler
Austin Yamada

Dated: July 6, 1998.

L.M. Bynum,
Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–18314 Filed 7–9–98; 8:45 am]

BILLING CODE 5000-04-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Proposal To Issue and Modify Nationwide Permits; Public Hearing

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of public hearing

SUMMARY: On July 1, 1998, the Corps of Engineers published a Notice document containing its proposal to issue 6 nationwide permits (NWPs), modify 6 existing NWPs, add one new NWP condition, and modify 6 existing NWP conditions. The Corps also suspended the use of NWP 29 to authorize single family housing causing the loss of greater than ¼ acre of waters of the United States and proposed to permanently modify NWP 29 to lower the acreage limit to ¼ acre. The Corps will hold a public hearing on the NWPs contained in that proposal. In addition, at least one public hearing will be held in each Corps Division, the primary focus of which is to solicit comments on regional issues relating to the proposed new and modified NWPs, especially regional conditioning. The hearing is open to the public. Comments may be submitted in person at the hearing or in writing at the Chief of Engineers at the address given below. Filing of a written statement would be helpful and facilitate the job of the court reporter. The hearing will be transcribed. Persons wishing to testify are requested to limit their statements to 10 minutes. The hearing will be held in accordance with the Corps public hearing regulations in 33 CFR Part 327. The legal authority for this hearing is Section 404 of the Clean Water Act (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Act (33 U.S.C. 403). The hearing record will remain open until August 31, 1998.

DATES: The hearing will commence at 10:00 AM on August 19, 1998, and end at 4:00 PM or before, if all speakers present have had an opportunity to speak. Written comments to supplement the hearing record may be submitted until August 31, 1998.

ADDRESSES: The hearing will be held at the National Guard Association Building, One Massachusetts Avenue, NW, Washington, D. C. Written comments may be submitted to HQUSACE, CECW-OR, Washington, D. C. 20314–1000.

FOR FURTHER INFORMATION CONTACT: Mr. David Olson or Mr. Sam Collinson, CECW–OR, at (202) 761–0199.

In addition, Division Engineers will be holding regional public hearings to receive comments on regional issues relating to the new and modified NWPs, especially regional conditioning. Regional public hearings will be held in the following cities:

- Albany, New York.
- Cincinnati, Ohio.
- Galveston, Texas.
- Honolulu, Hawaii.
- Jacksonville, Florida.
- New York, New York.
- Omaha, Nebraska.
- Raleigh, North Carolina.
- Sacramento, California.
- Seattle, Washington.
- St. Louis, Missouri.

The dates and times for the regional public hearings will be announced by Corps districts in their public notices.

Dated: July 1, 1998.

Approved:

Charles M. Hess
Chief, Operations, Construction, and Readiness Division, Directorate of Civil Works.

[FR Doc. 98–18386 Filed 7–9–98; 8:45 am]

BILLING CODE 3710-92-P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Pantex Plant, Amarillo, Texas

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Pantex Plant, Amarillo, Texas.

DATE AND TIME: Tuesday, July 28, 1998: 8:30 a.m.–12:30 p.m.

ADDRESSES: Pantex Plant, Building 16–12, Amarillo, Texas.

FOR FURTHER INFORMATION CONTACT: Jerry S. Johnson, Assistant Area Manager, Department of Energy, Amarillo Area Office, P.O. Box 30030, Amarillo, TX 79120 (806) 477–3121.

SUPPLEMENTARY INFORMATION: *Purpose of the Committee:* The Board provides input to the Department of Energy on Environmental Management strategic decisions that impact future use, risk management, economic development, and budget prioritization activities.

Tentative Agenda

8:30 a.m.
Welcome—Agenda Review—Approval of Minutes
8:45 a.m.
Co-Chair Comments
9:00 a.m.
Security System Upgrade Presentation
10:00 a.m.
Updates—Occurrence Reports—DOE
10:30 a.m.
National Pollutant Discharge Elimination System Compliance Presentation
11:30 a.m.
Ex-Officio Reports
12:00 p.m.
Task Force/Subcommittee Minutes
12:30 p.m.
Closing Remarks/Adjourn

PUBLIC PARTICIPATION: The meeting is open to the public, and public comment will be invited throughout the meeting. Written statements may be filed with the Committee either before or after the meeting. Written comments will be accepted at the address above for 15 days after the date of the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Jerry Johnson's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments at any time throughout the meeting.

MINUTES: The minutes of this meeting will be available for public review and copying at the Pantex Public Reading Rooms located at the Amarillo College Lynn Library and Learning Center, 2201 South Washington, Amarillo, TX phone (806) 371–5400. Hours of operation are from 7:45 am to 10:00 pm, Monday through Thursday; 7:45 am to 5:00 pm on Friday; 8:30 am to 12:00 noon on Saturday; and 2:00 pm to 6:00 pm on Sunday, except for Federal holidays. Additionally, there is a Public Reading Room located at the Carson County Public Library, 401 Main Street, Panhandle, TX phone (806) 537–3742. Hours of operation are from 9:00 am to 7:00 pm on Monday; 9:00 am to 5:00 pm, Tuesday through Friday; and closed Saturday and Sunday as well as Federal Holidays. Minutes will also be available by writing or calling Jerry S. Johnson at the address or telephone number listed above.

Issued at Washington, DC, on July 6, 1998.

Althea T. Vanzego,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 98–18405 Filed 7–9–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–309–000]

Algonquin Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

July 6, 1998.

Take notice that on July 1, 1998, Algonquin Gas Transmission Company (Algonquin) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following tariff sheet, to become effective August 1, 1998:

Fourth Revised Sheet No. 714
First Revised Sheet No. 715

Algonquin asserts that the purpose of this filing is to comply with the Commission's Order No. 587–G, Standards for Business Practices of Interstate Natural Gas Pipelines issued on April 16, 1998 in Docket No. RM96–1–007, 83 FERC ¶61,029 (1998). Algonquin asserts that the revised tariff sheet included herewith reflects Version 1.2 standards promulgated by the Gas Industry Standards Board which were adopted by the Commission and incorporated by reference in the Commission's Regulations.

Algonquin states that copies of the filing were served on all affected customers, interested state commissions and all parties to the proceeding.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18359 Filed 7–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–308–000]

Algonquin LNG, Inc.; Notice of Proposed Changes in FERC Gas Tariff

July 6, 1998.

Take notice that on July 1, 1998, Algonquin LNG, Inc. (ALNG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet, to become effective August 1, 1998:

Third Revised Sheet No. 83.

ALNG asserts that the purpose of this filing is to comply with the Commission's Order No. 587–G, Standards for Business Practices of Interstate Natural Gas Pipelines issued on April 16, 1998 in Docket No. RM96–1–007, 83 FERC ¶ 61,029 (1998). ALNG asserts that the revised tariff sheet included herewith reflects Version 1.2 standards promulgated by the Gas Industry Standards Board which were adopted by the Commission and incorporated by reference in the Commission's Regulations.

ALNG states that copies of the filing were served on all affected customers, interested state commissions and all parties to the proceeding.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18358 Filed 7–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–285–000]

ANR Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

July 6, 1998.

Take notice that, on June 30, 1998, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheet, to be effective August 1, 1998:

Third Revised Sheet No. 149A

ANR states that the purpose of this filing is to comply with Order No. 587–G. That order required that the compliance filing be made at least 30 days prior to August 1, 1998 to update to Version 1.2 any tariff references to prior versions of the Gas Industry Standard Board's standards.

ANR states that copies of the filing have been mailed to all affected customers and state regulatory commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

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Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18374 Filed 7–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–298–000]

Black Marlin Pipeline Company; Notice of Filing of Tariff Sheets

July 6, 1998.

Take notice that on July 1, 1998, Black Marlin Pipeline Company (Black Marlin) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, with an effective date of August 1, 1998.

Third Revised Sheet No. 201A
First Revised Sheet No. 209A

Black Marlin states that the instant filing is in compliance with the Commission's Order No. 587–G issued April 16, 1998 in Docket No. RM96–1–007 (Order No. 587–G).

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18348 Filed 7–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–305–000]

Canyon Creek Compression Company; Notice of Proposed Changes in FERC Gas Tariff

July 6, 1998.

Take notice that on July 1, 1998, Canyon Creek Compression Company (Canyon) tendered for filing to be a part of its FERC Gas Tariff, Third Revised Volume No. 1, Third Revised Sheet No. 193, to be effective August 1, 1998.

Canyon states that the purpose of the filing is to comply with the Commission's Order No. 587–G issued April 16, 1998 in Docket No. RM96–1–007.

Canyon states that copies of the filing are being mailed to its customers and interested state regulatory agencies.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18355 Filed 7–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–303–000]

Caprock Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

July 6, 1998.

Take notice that on July 1, 1998, Caprock Pipeline Company (Caprock) tendered for filing to be a part of its FERC Gas Tariff, First Revised Volume No. 1, Fourth Revised Sheet No. 29A, to be effective August 1, 1998.

Caprock states that the purpose of the filing is to comply with the Commissioner's Order issued on April 16, 1998, in Docket No. RM96–1–007.

Caprock states that copies of the filing are being mailed to its customers and interested state regulatory agencies.

Any person desiring to be heard or to protest the filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18353 Filed 7–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–52–006]

Columbia Gulf Transmission Company; Notice of Refund Report

July 6, 1998.

Take notice that on July 30, 1998, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing its refund report in Docket No. RP97–52, *et al.*, pursuant to Section 154.501(e) of the Commission's regulations.

Columbia Gulf states that on June 5, 1998, Columbia Gulf made refunds pursuant to its General NGA Section 4 Rate Case Stipulation and Agreement in the referenced docket, which was approved by the Commission on April 29, 1998. *See* 83 FERC ¶ 61,094 (1998). The settlement was effective June 1, 1998. Pursuant to Section 154.501 of the Commission's regulations, the refunds include applicable interest through June 4, 1998. Parties who received refunds also received a schedule of the computation of the principal and interest amounts.

Columbia Gulf states that copies of its filing have been mailed to affected customers and state commissions.

Any person desiring to protest the filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before July 13, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18368 Filed 6–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–295–000]

Florida Gas Transmission Company; Notice of Filing of Tariff Sheets

July 6, 1998.

Take notice that on July 1, 1998, Florida Gas Transmission Company (FGT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets:

Sixth Revised Sheet No. 102B
Fourth Revised Sheet No. 135

FGT Asserts that the instant filing is in compliance with the Commission's Order No. 587–G issued April 16, 1998, in Docket No. RM96–1–007 (Order No. 587–G). FGT also states that it is filing the tariff sheets to become effective on August 1, 1998.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18345 Filed 7–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–282–000]

Garden Banks Gas Pipeline, LLC; Notice of Proposed Changes in FERC Gas Tariff

July 6, 1998.

Take notice that on June 30, 1998, Garden Banks Gas Pipeline, LLC (GBGP) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Fourth Revised Sheet No. 136, with an effective date of August 1, 1998.

GBGP states that the filing is being made in compliance with Order No. 587–G issued by the Commission on April 16, 1998, in Docket No. RM96–1–007. GBGP states the purpose of the filing is to incorporate Version 1.2 of the GISB standards into its tariff.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18371 Filed 6–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–286–000]

Granite State Gas Transmission, Inc.; Notice of Tariff Filing

July 6, 1998.

Take notice that on June 30, 1998 Granite State Gas Transmission, Inc. (Granite State) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Seventh Revised Sheet No. 289, to be effective on August 1, 1998.

Granite State asserts that its tariff filing is submitted in comply with Order No. 587–G, issued April 16, 1998 (Docket No. RM96–1–007) which directed interstate pipelines to adopt Gas Industries Standards Board Version 1.2 in their tariffs prior to August 1, 1998.

Granite State asserts that copies of its filing have been served on its firm and interruptible transportation customers and on the regulatory agencies of the states of Maine, Massachusetts and New Hampshire.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18375 Filed 7–9–98; 8:45 am]

BILLING CODE 6717–01–M

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–642–000]

Great Lakes Gas Transmission Limited Partnership; Notice of Application

July 6, 1998.

Take notice that on June 30, 1998, Great Lakes Gas Transmission Limited Partnership (Great Lakes), One Woodward Avenue, Suite 1600, Detroit, Michigan 48226, filed an application pursuant to Section 7(b) of the Natural Gas Act and the Commission's Regulations thereunder, for permission and approval to abandon a natural gas exchange service available for use by Michigan Consolidated Gas Company (MichCon) and Panhandle Eastern Pipe Line Company (Panhandle), all as more fully set forth in the application on file with the Commission and open to public inspection.

Great Lakes states that this service authorized in Docket No. CP76–69,[1] which is currently available to MichCon and Panhandle under Rate Schedule X–5 of Great Lakes' FERC Gas Tariff, Original Volume No. 2, will be abandoned as of March 1, 1999, subject to the Commission's approval. No abandonment of facilities is requested.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 27, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure provided for, unless otherwise advised, it will be unnecessary for Great Lakes to appear or be represented at the hearing.

David P. Boergers,
Acting Secretary.

[FR Doc. 98–18365 Filed 7–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP96–152–011]

Kansas Pipeline Company; Notice of Compliance Filing

July 6, 1998.

Take notice that on June 29, 1998, Kansas Pipeline Company (KPC), tendered for filing as part of its FERC Gas Tariff, Volume No. 1, the following tariff sheets to become effective May 11, 1998:

Original Volume No. 1

Original Sheet No. 2
Original Sheet No. 538
Original Sheet No. 600

KPC states that the tarriff sheets reflect compliance with the Commission's April 30, 1998 Order on Rehearing, which directed KPC to sign new service agreements with its customers. The Order further directed KPC to file contracts only in circumstances where the contracts are materially different from the Company's tariff.

KPC states that the tariff sheets reflect the Commission's Regulations which state that any service contract that deviates in any material respect from the form of service agreement in the pipeline's tariff must be filed with the Commission and such non-conforming service agreement must be referenced in the pipeline's tariff. This filing references the non-conforming service agreement with Missouri Gas Energy, a division of Southern Union Company.

Any person desiring to be heard or to make any protest with reference to said filing should on or before July 16, 1998, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (19 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 7 and 15 of the Natural Gas Act and Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the authorization requested is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for KPC to appear or be represented at the hearing.

David P. Boergers,
Acting Secretary.

[FR Doc. 98–18362 Filed 7–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–300–000]

KN Interstate Pipeline Company; Notice of Filing Tariff Sheets

July 6, 1998.

Take notice that on July 1, 1998, KN Interstate Pipeline Company (KNI) tendered for filing to be part of its FERC Gas Tariff, Third Revised Volume No. 1–B, Third Revised Sheet No. 89A, and First Revised Volume No. 1–D, Third Revised Sheet No. 71A, to be effective August 1, 1998.

KNI states that the purpose of the filing is to comply with the Commission's Order No. 587–G issued on April 16, 1998 in Docket No. RM96–1–007.

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[1] *See*, 54 FPC 1969 (1975).

KNI states that copies of the filing are being mailed to its transportation customers and interested state regulatory agencies.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18350 Filed 7–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–302–000]

KN Wattenberg Limited Liability Company; Notice of Proposed Changes in FERC Gas Tariff

July 6, 1998.

Take notice that on July 1, 1998, KN Wattenberg Limited Liability Company (KN Wattenberg) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, First Revised Sheet No. 67, to be effective August 1, 1998.

KN Wattenberg states that the purpose of the filing is to comply with the Commission's Order issued on April 16, 1998 in Docket No. RM96–1–007.

KN Wattenberg states that copies of the filing are being mailed to its transportation customers and interested state regulatory agencies.

Any person desiring to be heard to or protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18352 Filed 7–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–288–000]

Michigan Gas Storage Company; Notice of Proposed Changes in FERC Gas Tariff

July 6, 1998.

Take notice that on July 1, 1998, Michigan Gas Storage Company (MGSCo) tendered for filing as part of its FERC Gas Tariff, (First Revised Volume No. 1, Fourth Revised Sheet No. 1, Second Revised Sheet No. 54A and Original Sheet No. 72) with an effective date of August 1, 1998.

MGSCo states that the proposed sheets are being filed pursuant to Order No. 587–G, regarding GISB standards.

MGSCo states that copies of this filing are being served on all customers and applicable state regulatory agencies and on all those on the official service list in Docket No. RP97–152–000.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18377 Filed 7–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–10–16–000]

National Fuel Gas Supply Corporation; Notice of Tariff Filing

July 6, 1998.

Take notice that on June 30, 1998, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following tariff sheet to become, effective July 1, 1998:

Eleventh Revised Sheet No. 9

National asserts that the purpose of this filing is to comply with the Commission's order issued February 16, 1996, in Docket Nos. RP94–367–000, *et. al.* Under Article I, Section 4, of the settlement approved in that order, National must redetermine quarterly the Amortization Surcharge to reflect revisions in the Plant to be Amortized, interest and associated taxes, and a change in the determinants. The recalculation produced an Amortization Surcharge of 11.29 cents per dth.

Further, National states that under Article II, Section 2, of the settlement, it is required to recalculate the maximum Interruptible Gathering (IG) rate monthly and to charge that rate on the first day of the following month if the result is an IG rate more than 2 cents above or below the IG rate as calculated under Section 1 of Article II. The recalculation produced an IG Rate of 11 cents per dth.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18361 Filed 7–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–304–000]

Natural Gas Pipeline Company of America; Notice of Proposed Changes in FERC Gas Tariff

July 6, 1998.

Take notice that on July 1, 1998, Natural Gas Pipeline Company of America (Natural) tendered for filing to be a part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Fourth Revised Sheet No. 409, to be effective August 1, 1998.

Natural states that the purpose of the filing is to comply with the Commission's Order No. 587–G issued April 16, 1998 in Docket No. RM96–1–007.

Natural states that copies of the filing are being mailed to its customers and interested state regulatory agencies.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18354 Filed 7–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–310–000]

Natural Gas Pipeline Company of America; Notice of Changes in FERC Gas Tariff

July 6, 1998.

Take notice that on July 1, 1998, Natural Gas Pipeline Company of America (natural) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, certain tariff sheets to be effective August 1, 1998.

Natural states that the purpose of this filing is to modify Natural's pro forma service Agreement and related tariff provisions governing discounting of rates to provide for certain types of volume-related discounts. These revisions would be applicable to all of Natural's jurisdictional services. Natural is also proposing a tariff change to provide for greater flexibility in negotiating the allocation of revenues received from the replacement shipper when the original shipper releases capacity. These changes were made in response to and in conformity with certain determinations regarding contracting practices made by the Federal Energy Regulatory Commission in Docket No. RP96–184.

Natural states that copies of the filing have been mailed to Natural's customers, interested state regulatory agencies and all parties set out on the official service list in Docket No. RP96–184.

Any person desiring to be heard or to protest the filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18360 Filed 7–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–635–000]

Natural Gas Pipeline Company of America; Notice of Request Under Blanket Authorization

July 6, 1998.

Take notice that on June 25, 1998, Natural Gas Pipeline Company of America (Applicant), 747 East 22nd Street, Lombard, Illinois, 60148, filed in Docket No. CP98–635–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for approval to construct and operate new facilities in Cape Girardeau County, Missouri, as a new delivery point to deliver firm transportation quantities of natural gas for service to Proctor and Gamble Paper Products Company, under Applicant's blanket certificate issued in Docket No. CP82–402–000, pursuant to Section 7(c) of the Natural Gas Act (NGA), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate a dual six-inch side tap on Applicant's thirty and thirty-six-inch Gulf Coast lines, approximately eleven miles of six-inch diameter pipeline, and a six-inch meter and appurtenant facilities for an interconnection with Proctor and Gamble. Applicant states that these facilities will be constructed to deliver up to 25,000 MMBtu per Day of natural gas, pursuant to Part 284, Subpart G firm transportation to Proctor and Gamble at its existing Cape Girardeau Plant. Applicant further states that the estimated cost of the proposed facilities is $4.41 million, of which $3.73 million will be reimbursed by Proctor and Gamble as a contribution-in-aid. Applicant asserts that it has sufficient capacity to provide service at the proposed delivery point without detriment or disadvantage to Applicant's other customers.

Any person or Commission staff may, within 45 days of the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), a motion to intervene and pursuant to Section 157.205 of the regulations under the Natural Gas Act (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefor, the proposed activities shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18363 Filed 7–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–1247–019]

NorAm Energy Services, Inc.; Notice of Filing

July 6, 1998.

Take notice that on June 4, 1998, NorAm Energy Services, Inc. (NES), filed a Notice of Change in Status regarding the acquisition by certain affiliates of generation. NES states in the Notice that this change in status should not affect NES' authority to make sales at market-based rates pursuant to its Rate Schedule FERC No. 1, as revised. NES also requests that it be permitted to report future changes in status to the Commission in an updated market analysis that NES will file with the Commission every three years.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before July 13, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18366 Filed 7–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–294–000]

Northern Border Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

July 6, 1998.

Take notice that on July 1, 1998, Northern Border Pipeline Company (Northern Border) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to be effective August 1, 1998.

First Revised Sheet Number 236A
Second Revised Sheet Number 274
Third Revised Sheet Number 304F

Northern Border states that this filing is made in compliance with Order No. 587–G, issued in Docket No. RM96–1–007 on April 16, 1998. These tariff sheets reflect the GISB standards adopted in Order No. 587–G as well as Commission mandated standards governing the provision of information on Northern Border's web site.

Northern Border states that copies of this filing are being served on all affected customers.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18344 Filed 7–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–292–000]

Northern Natural Gas Company; Notice of Proposed Changes to FERC Gas Tariff

July 6, 1998.

Take notice that on July 1, 1998, Northern Natural Gas Company (Northern), tendered for filing to become part of Northern's FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheet to be effective August 1, 1998.

First Revised Third Revised Sheet No. 204

Northern states that the above-listed tariff sheet is filed in compliance with Order No. 587–G issued April 16, 1998 in Docket No. RM96–1–007 (Order No. 587–G).

Northern states that copies of the filing were served upon Northern's customers and interested State Commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Davie P. Boergers,

Acting Secretary.

[FR Doc. 98–18381 Filed 7–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–283–000]

Ozark Gas Transmission System; Notice of Tariff Filing

July 6, 1998.

Take notice that on June 30, 1998, Ozark Gas Transmission System (Ozark), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, with an effective date of August 1, 1998:

First Revised Sheet No. 13B
Third Revised Sheet No. 43
Second Revised Sheet No. 43A
Third Revised Sheet No. 43B
Second Revised Sheet No. 45

Ozark states that it is submitting these revised tariff sheets to incorporate the Gas Industry Standards Board (GISB) Version 1.2 Standards adopted by Order No. 587–G. Ozark proposes an August 1, 1998 effective date for these sheets.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18372 Filed 7–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–299–000]

Panhandle Eastern Pipe Line Company; Notice of Proposed Changes in FERC Gas Tariff

July 6, 1998.

Take notice that on July 1, 1998, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, to become effective August 1, 1998.

Panhandle states that it is proposing to suspend the $0.01 per Dt. Stranded Transportation Cost Reservation Surcharge applicable to Rate Schedules FT, EFT and LFT and the 0.06¢ per Dt. Stranded Transportation Cost Volumetric Surcharge applicable to Rate Schedule SCT. Panhandle will file a reconciliation report as soon as practicable and provide invoice credits, with carrying charges, to applicable shippers for any excess collections through July 31, 1998.

Panhandle states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18349 Filed 7–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–640–000]

Point Arguello Natural Gas Line Company; Notice of Application

July 6, 1998.

Take notice that on June 29, 1998, Point Arguello Natural Gas Line Company (Point Arguello), 4000 Executive Parkway, San Ramon, California 94583, filed in Docket No. CP98–640–000 an application pursuant to Section 7(c) of the Natural Gas Act to permit Point Arguello to transport natural gas over its existing facilities from near the Gaviota Gas Processing Plan, Gaviota, California to Platform Hermosa, in the Point Arguello Field on the Outer Continental Shelf, offshore Santa Barbara, California, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Point Arguello states that its pipeline was built to transport natural gas associated with the crude oil production from the Point Arguello Field onshore to the Gaviota Gas Processing Plant. It is stated that without the pipeline natural gas not used in the offshore platform operations would have been flared or reinjected into the producing reservoirs. Point Arguello indicates that changes are occurring in the management of the oil production of the Point Arguello Field. It is stated that, in order to extend the economic life of the field, the oil producers are proposing to reconfigure their operations to reduce costs and streamline operations by moving the oil stabilization operations from onshore to the offshore oil platforms and to inject all surplus gas produced from the field into the reservoir. It is also stated that no further gas processing will be required at the Gaviota plant.

It is indicated that the producers plan to reinject the surplus gas because gas production rates continue to decline and, as a result, levels of hydrogen sulfide are increasing, precluding the gas from being transported to shore. It is also expected that, in the near future, gas production rates will not be sufficient to support the offshore platform operations. As a result, Point Arguello proposes to transport gas from onshore to offshore.

To implement this reversal of flow, Point Arguello proposes to reactivate an existing 100 yards of pipe near the gas processing plant and to install a valve in order to provide a direct connection with Southern California Gas Company. No other facility changes are involved. No changes to Point Arguello's cost of service tariff is proposed.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 27, 1998, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission for abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Point Arguello to appear or be represented at the hearing.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18364 Filed 7–9–98; 8:45 am]

BILLING CODE 6717–01–M

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98-287-000]

Shell Gas Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

July 6, 1998.

Take notice that on June 30, 1998, Shell Gas Pipeline Company (SGPC) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Fourth Revised Sheet No. 137, with an effective date of August 1998.

SGPC states that the filing is being made in compliance with Order No. 587–G issued April 16, 1998, in Docket No. RM96–1–007. SGPC states the purpose of the filing is to incorporate Version 1.2 of the GISB standards into its tariff.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,
Acting Secretary.

[FR Doc. 98–18376 Filed 7–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–307–000]

Stingray Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

July 6, 1998.

Take notice that on July 1, 1998, Stingray Pipeline Company (Stingray) tendered for filing to be part of its FERC Gas Tariff, Third Revised Volume No. 1, Third Revised Sheet No. 199, to be effective August 1, 1998.

Stingray states that the purpose of the filing is to comply with the Commission's Order No. 587–G issued April 16, 1998 in Docket No. RM96–1–007.

Stingray states that copies of the filing are being mailed to its customers and interested state regulatory agencies.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,
Acting Secretary.

[FR Doc. 98–18357 Filed 7–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–306–000]

TCP Gathering Company; Notice of Proposed Changes in FERC Gas Tariff

July 6, 1998.

Take notice that on July 1, 1998, TCP Gathering Company (TCP) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, First Revised Sheet No. 103A, a tariff sheet to be effective August 1, 1998.

TCP states that the purpose of the filing is to comply with the Commission's Order issued on April 16, 1998 in Docket No. RM96–1–007.

TCP states that copies of the filing are being mailed to its customers and interested state regulatory agencies.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,
Acting Secretary.

[FR Doc. 98–18356 Filed 7–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–289–000]

Texas Gas Transmission Corporation; Notice of Filing of Tariff Sheets

July 6, 1998.

Take notice that on June 30, 1998, Texas Gas Transmission Corporation (Texas Gas) tendered for filing, as part of its FERC Gas Tariff, First Revised Volume No. 1, to be effective August 1, 1998:

Eighth Revised Sheet No. 207
Second Revised Sheet No. 207A

Texas Gas states that the instant filing is being made to comply with the Commission's Order No. 587–G dated April 16, 1998 by incorporating by reference the Gas Industry Standards Board's most recent version standards (Version 1.2).

Texas Gas states that copies of this filing are being served upon Texas Gas' jurisdictional customers and interested state commissions and upon all parties on the official service list in Docket No. RP97–183.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public

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inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18378 Filed 7–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–301–000]

Trailblazer Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

July 6, 1998.

Take notice that on July 1, 1998, Trailblazer Pipeline Company (Trailblazer) tendered for filing to be a part of its FERC Gas Tariff, Third Revised Volume No. 1, Fourth Revised Sheet No. 203, to be effective August 1, 1998.

Trailblazer states that the purpose of the filing is to comply with the Commission's Order No. 587–G issued April 16, 1998 in Docket No. RM96–1–007.

Trailblazer states that copies of the filing are being mailed to its customers and interested state regulatory agencies.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18351 Filed 7–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–284–000]

Transcontinental Gas Pipe Line Corporation; Notice of Tariff Filing

July 6, 1998.

Take notice that on June 6, 1998, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing certain revised tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1. The proposed effective date of such tariff sheets is August 1, 1998.

Transco states that the instant filing is submitted pursuant to Section 39 of the General Terms and Conditions of Transco's FERC Gas Tariff which provides that Transco will file to adjust its Great Plains Volumetric Surcharge (GPS) 30 days prior to each GPS Annual Period beginning August 1. The GPS Surcharge is designed to recover: (i) the cost of gas purchased from Great Plains Gasification Associates (or its successor) which exceeds the Spot Index (as defined in Section 39 of the General Terms) and (ii) the related cost of transporting such gas.

The revised GPS Surcharge included therein consists of two components—the Current GPS Surcharge calculated for the period August 1, 1998 through July 31, 1999, plus the Great Plains Deferred Account Surcharge (Deferred Surcharge). The determination of the Deferred Surcharge is based on the balance in the current GPS subaccount plus interest accumulated by April 30, 1998. Appendix B to the filing includes workpapers supporting the calculation of the revised GPS Surcharge of $0.0179 per dt reflected on the tendered tariff sheets.

Transco states that copies of the instant filing are being mailed to customers, State Commissions and other interested parties.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18373 Filed 7–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–291–000]

Transwestern Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

July 6, 1998.

Take notice that on July 1, 1998, Transwestern Pipeline Company (Transwestern) tendered for filing to become part of Transwestern's FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to be effective August 1, 1998.

Sixth Revised Sheet No. 49
Third Revised Sheet No. 63A

Transwestern states that the above-listed tariff sheets are filed in compliance with Order No. 587–G issued April 16, 1998 in Docket No. RM96–1–007 (Order No. 587–G).

Transwestern states that copies of the filing were served upon Transwestern's customers and interested State Commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18380 Filed 7–9–98; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–296–000]

Trunkline LNG Company; Notice of Proposed Changes in FERC Gas Tariff

July 6, 1998.

Take notice that on July 1, 1998, Trunkline LNG Company (TLNG) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1–A, the following tariff sheet to be effective August 1, 1998.

First Revised Sheet No. 115

TLNG states that the purpose of this filing is to comply with the Commission's Order No. 587–G, Standards for Business Practices of Interstate Natural Gas Pipelines issued on April 16, 1998 in Docket No. RM96–1–007, 83 FERC ¶ 61,029 (1998). The revised tariff sheet included herewith reflects Version 1.2 standards promulgated by the Gas Industry Standards Board which were adopted by the Commission and incorporated by reference in the Commission's Regulations. Specifically, in addition to upgrading the version of previously adopted standards, newly adopted Standards 1.4.6, 2.4.6, 4.3.5, 4.3.16 and 5.3.30 are incorporated by reference and Standard 4.3.4 has been deleted.

TLNG states that copies of the filing are being served on all affected customers, applicable state regulatory agencies and all parties to this proceeding.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18346 Filed 7–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–297–000]

Tuscarora Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

July 6, 1998.

Take notice that on July 1, 1998, Tuscarora Gas Transmission Company (Tuscarora) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following revised tariff sheet, effective August 1, 1998.

Second Revised Sheet No. 37A

Tuscarora states that the purpose of this filing is to comply with Order No. 587–G issued April 16, 1998, in Docket No. RM96–1–007. In Order No. 587–G the Commission required pipelines (i) to adopt the most recent version of the GISB standards by changing all references in their tariffs to Version 1.2 and (ii) to comply with the electronic communication requirements in new Section 284.10(c)(3)(ii)–(v).

Tuscarora states that copies of its filing were mailed to all affected customers and the state commissions of Nevada, Oregon and California.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18347 Filed 7–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG98–13–000]

Tuscarora Gas Transmission Company; Notice of Filing

July 6, 1998.

Take notice that on June 26, 1998, Tuscarora Gas Transmission Company (Tuscarora) filed standards of conduct under Order Nos. 497 *et seq.*[1] and Order Nos. 566, *et seq.*[2] Tuscarora states that several of its affiliates are engaged in marketing activities and that it "currently does not provide transportation service to any of these affiliated entities" but that its proposed standards of conduct would govern any future transactions between Tuscarora and its affiliates "that trigger the marketing affiliate rules."

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before July 21, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to

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[1] Order No. 497, 53 FR 22139 (June 14, 1988), FERC Stats. & Regs. 1986–1990 ¶ 30,820 (1988); Order No. 497–A, *order on rehearing,* 54 FR 52781 (December 22, 1989), FERC Stats. & Regs. 1986–1990 ¶ 30,868 (1989); Order No. 497–B, *order extending sunset date,* 55 FR 53291 (December 28, 1990), FERC Stats. & Regs. 1986–1990 ¶ 30,908 (1990); Order No. 497–C, *order extending sunset date,* 57 FR 9 (January 2, 1992), FERC Stats. & Regs. 1991–1996 ¶ 30,934 (1991), rehearing denied, 57 FR 5815 (February 18, 1992), 58 FERC ¶ 61,139 (1992); Tenneco Gas v. FERC (affirmed in part and remanded in part), 969 F. 2d 1187 (D.C. Cir. 1992), Order No. 497–D, *order on remand and extending sunset date,* 57 FR 58978 (December 14, 1992), FERC Stats. & Regs. 1991–1996 ¶ 30,958 (December 4, 1992); Order No. 497–E, *order on rehearing and extending sunset date,* 59 FR 243 (January 4, 1994), FERC Stats. & Regs. 1991–1996 ¶ 30,987 (December 23, 1993); Order No. 497–F, *order denying rehearing and granting clarification,* 59 FR 15336 (April 1, 1994), 66 FERC ¶ 61,347 (March 24, 1994); and Order No. 497–G, *order extending sunset date,* 59 FR 3284 (June 28, 1994), FERC Stats. & Regs. 1991–1996 ¶ 30,996 (June 17, 1994).

[2] Standards of Conduct and Reporting Requirements for Transportation and Affiliate Transactions, Order No. 566, 59 FR 32885 (June 27, 1994), FERC Stats. & Regs. 1991–1996 ¶ 30,997 (June 17, 1994); Order No. 566–A, *order on rehearing,* 59 FR 52896 (October 20, 1994), 69 FERC ¶ 61,044 (October 14, 1994); Order No. 566–B, *order on rehearing,* 59 FR 65707 (December 21, 1994), 69 FERC ¶ 61,334 (December 14, 1994).

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intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18367 Filed 7–9–98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–281–000]

Venice Gathering System, L.L.C.; Notice of Tariff Filing

July 6, 1998.

Take notice that on June 30, 1998, Venice Gathering System, L.L.C. (VGS), through its operator Dynegy Midstream Services, Limited Partnership, tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, with an effective date of August 1, 1998:

First Revised Sheet No. 111
First Revised Sheet No. 179
First Revised Sheet No. 185
First Revised Sheet No. 186
First Revised Sheet No. 196

VGS states that it is submitting these revised tariff sheets to incorporate the Gas Industry Standards Board (GISB) Version 1.2 Standards adopted by Order No. 587–G. VGS proposes an August 1, 1998 effective date for these sheets.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18370 Filed 7–10–98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–290–000]

Viking Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

July 6, 1998.

Take notice that on June 30, 1998, Viking Gas Transmission Company (Viking) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1 the tariff sheets listed on Attachment A (Primary Case) to the filing and Attachment B (Pro Forma Case) to the filing.

Viking requests an effective date of August 1, 1998 for the tariff sheets listed on Attachment A and, accordingly, requests that the Commission suspend this filing for the minimal statutory period to allow the tariff sheets listed on Attachment A to go into effect on August 1, 1998.

Viking respectfully requests that the Commission allow Viking's Pro Forma Case to become effective only after a final Commission order on this proceeding. Should the Commission accept Viking's Pro Forma Case, Viking will submit actual tariff sheets in place of the Pro Forma tariff sheets to be effective on a prospective basis.

Viking states that the purpose of this filing is to revise Viking's rates for jurisdictional services to reflect current and projected costs and changes in demand on Viking's system. Viking is also filing to remove crediting of penalty and IT revenues and to implement a tracker to recover load management costs.

In its Pro Forma Case, Viking is proposing to roll-in the facilities installed during the 1996 and 1997 expansion projects approved by the Commission in Docket Nos. CP96–32–000 and CP97–93–000, respectively. Both projects are appropriate for rolled-in rate treatment due to the significant reliability and operational benefits they provide to pre-expansion customers, and in light of the minimal rate impacts they produce in real terms.

Viking states that copies of the filing have been mailed to all of its jurisdictional customers and to affected state regulatory commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18379 Filed 7–9–98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–280–000]

Warren Transportation, Inc.; Notice of Tariff Filing

July 6, 1998.

Take notice that on June 30, 1998, Warren Transportation, Inc. (WTI), tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets with an effective date of August 1, 1998:

First Revised Sheet No. 95
First Revised Sheet No. 148
First Revised Sheet No. 155
First Revised Sheet No. 156
First Revised Sheet No. 166

WTI states that it is submitting these revised tariff sheets to incorporate the Gas Industry Standards Board (GISB) Version 1.2 Standards adopted by Order No. 587–G. WTI proposes on August 1, 1998 effective date for these sheets.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18369 Filed 7–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–293–000]

Williams Gas Pipelines Central, Inc.; Notice of Proposed Changes in FERC Gas Tariff

July 6, 1998.

Take notice that on July 1, 1998, Williams Gas Pipelines Central, Inc. (Williams), tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, with the proposed effective date of August 1, 1998:

Second Revised Sheet No. 6
Third Revised Sheet No. 6A

Williams states that this filing is being made pursuant to Article 14 of the General Terms and Conditions of its FERC Gas Tariff, Original Volume No. 1. Williams hereby submits its third quarter, 1998, report of GSR costs.

Williams states that a copy of its filing was served on all of Williams' jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18382 Filed 7–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–2590–000, et al.]

MAD River Power Authority, et al.; Electric Rate and Corporate Regulation Filings

July 2, 1998.

Take notice that the following filings have been made with the Commission:

1. MAD River Power Authority

[Docket No. ER98–2590–000]

Take notice that on June 5, 1998, MAD River Power Authority tendered for filing a Notice of Withdrawal in the above-referenced docket.

Comment Date: July 14, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Otter Lane Hydro, LLC

[Docket No. ER98–2619–000]

Take notice that on June 18, 1998, Otter Lane Hydro, LLC tendered for filing a Notice of Withdrawal in the above-referenced docket.

Comment date: July 13, 1998, in accordance with Standard-Paragraph E at the end of this notice.

3. Freshwater Hydro, Inc.

[Docket No. ER98–2631–000]

Take notice that on June 9, 1998, Freshwater Hydro Power Associates tendered for filing a Notice of Withdrawal in the above-referenced docket.

Comment date: July 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. Sempra Energy Trading Corp.

[Docket No. ER98–3513–000]

Take notice that on June 26, 1998, Sempra Energy Trading Corp., tendered for filing a revised code of conduct. The revised code would supplement Sempra Energy Trading Corp.'s market-based rate schedule.

Comment date: July 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Indianapolis Power & Light Company

[Docket No. ER98–3514–000]

Take notice that on June 26, 1998, Indianapolis Power & Light Company (IPL), tendered for filing a letter agreement extending by one year to August 31, 1999, the service IPL currently provides to PSI Energy, a public utility subsidiary of Cinergy, under an existing interconnection agreement.

Copies of this filing were sent to the Indiana Utility Regulatory Commission and Cinergy.

Comment date: July 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Enova Energy, Inc.

[Docket No. ER98–3515–000]

Take notice that on June 26, 1998, Enova Energy, Inc. (Enova Energy), tendered for filing its compliance filing in the above-referenced docket a revised code of conduct. The revised code would supplement Enova Energy's market-based rate schedule.

Comment date: July 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Boston Edison Company

[Docket No. ER98–3516–000]

Take notice that on June 29, 1998, Boston Edison Company (Boston Edison), tendered for filing (a) an unexecuted network integration transmission service agreement between Boston Edison and various affiliates of Sithe Energies, Inc., (collectively known as Sithe New England) and (b) an unexecuted network operating agreement between Boston Edison and Sithe New England. Both agreements provide for service pursuant to Boston Edison's open access transmission tariff.

Boston Edison requests that the agreements become effective September 1, 1998.

Comment date: July 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. The Detroit Edison Company

[Docket No. ER98–3517–000]

Take notice that on June 29, 1998, the Detroit Edison Company (Detroit Edison), tendered for filing Service Agreements (the Service Agreement) for Firm and Non-Firm Point-to-Point Transmission Service under the Joint Open Access Transmission Tariff of Consumers Energy Company and Detroit Edison, FERC Electric Tariff No. 1, between Detroit Edison and Tenaska Power Services dated as of June 10, 1998. The parties have not engaged in any transactions under the Service Agreements prior to thirty days to this filing.

Detroit Edison requests that the Service Agreements be made effective as rate schedules as of June 10, 1998.

Comment date: July 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

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9. Duquesne Light Company

[Docket No. ER98–3518–000]

Take notice that on June 18, 1998, Duquesne Light Company (DLC), filed a Service Agreement dated June 18, 1998 with First Energy Trading & Power Marketing, Inc., under DLC's FERC Coordination Sales Tariff (Tariff). The Service Agreement adds First Energy Trading & Power Marketing, Inc., as a customer under the Tariff.

DLC requests an effective date of June 18, 1998, for the Service Agreement.

Comment date: July 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Arizona Public Service Company

[Docket No. ER98–3519–000]

That notice that on June 29, 1998, Arizona Public Service Company (APS), tendered for filing a revised Exhibit I to APS–FERC Rate Schedule No. 192, between APS and the City of Williams (Williams), for the Operating Years 1997 and 1998.

Current rate levels are unaffected, revenue levels are unchanged from those currently on file with the Commission, and no other significant change in service to these or any other customer results from the revisions proposed herein. No new or modifications to existing facilities are required as a result of these revisions.

Copies of this filing have been served on the City of Williams and the Arizona Corporation Commission.

Comment date: July 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Consumers Energy Company

[Docket No. ER98–3520–000]

Take notice that on June 29, 1998, Consumers Energy Company (CECo), tendered for filing Amendment No. 1, to its Service Agreement for Network Integration Transmission Service with the City of Eaton Rapids (Eaton Rapids). CECo also tenders for filing the Agreement in executed form to be substituted for original unexecuted agreement.

Copies of the filing were served upon the Michigan Public Service Commission and Eaton Rapids.

Comment date: July 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Niagara Mohawk Power Corporation

[Docket No. ER98–3521–000]

Take notice that on June 29, 1998, Niagara Mohawk Power Corporation (NMPC), tendered for filing with the Federal Energy Regulatory Commission an executed, amended Open Access Transmission Service Agreement between NMPC and the Power Authority of the State of New York (NYPA), to permit NYPA to deliver power and energy from NYPA's FitzPatrick Plant, Bid Process Suppliers and Substitute Suppliers to the points where NMPC's transmission system connects to its retail distribution system west of NMPC's constrained Central-East Interface. This Transmission Service Agreement specifies that NYPA has signed on to and has agreed to the terms and conditions of NMPC's Open Access Transmission Tariff as filed in Docket No. OA96–194–000.

NMPC requests an effective date of June 1, 1998. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC has served copies of the filing upon New York Public Service Commission and NYPA.

Comment date: July 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. Niagara Mohawk Power Corporation

[Docket No. ER98–3522–000]

Take notice that on June 29, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing with the Federal Energy Regulatory Commission an executed Transmission Service Agreement between NMPC and Engage Energy US, L.P. This Transmission Service Agreement specifies that Engage Energy US, L.P., has signed on to and has agreed to the terms and conditions of NMPC's Open Access Transmission Tariff as filed in Docket No. OA96–194–000. This Tariff, filed with FERC on July 9, 1996, will allow NMPC and Engage Energy US, L.P., to enter into separately scheduled transactions under which NMPC will provide firm transmission service for Engage Energy US, L.P., as the parties may mutually agree.

NMPC requests an effective date of June 18, 1998. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC has served copies of the filing upon the New York State Public Service Commission and Engage Energy, US, L.P.

Comment date: July 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Wisconsin Electric Power Company

[Docket No. ER98–3523–000]

Take notice that on June 29, 1998, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing a Non-Firm Transmission Service Agreement and a Short-Term Firm Transmission Service Agreement between itself and Northern/AES Energy, L.L.C., (Northern/AES Energy). The Transmission Service Agreements allow Northern/AES to receive transmission services under Wisconsin Electric's FERC Electric Tariff, Volume No. 7, which is pending Commission consideration in Docket No. OA97–578.

Wisconsin Electric requests the effective date coincident with its filing and waiver of the Commission's notice requirements in order to allow for economic transactions as they appear.

Copies of the filing have been served on Northern/AES, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment date: July 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. Cinergy Services, Inc.

[Docket No. ER98–3524–000]

Take notice that on June 29, 1998, Cinergy Services, Inc. (Cinergy), tendered for filing a Firm Point-To-Point Transmission Service Agreement under Cinergy's Open Access Transmission Service Tariff (the Tariff), entered into between Cinergy and Constellation Power Source (Constellation).

Cinergy and Constellation are requesting an effective date of June 17, 1998.

Copies of this filing have been served upon Constellation Power Source, the Public Service Commission of Maryland, the Public Utilities Commission of Ohio, the Kentucky Public Service Commission, and the Indiana Utility Regulatory Commission.

Comment date: July 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. PECO Energy Company

[Docket No. ER98–3525–000]

Take notice that on June 29, 1998, PECO Energy Company (PECO), filed an executed Transmission Agency Agreement between PECO and Columbia Energy Power Marketing Corporation (hereinafter Supplier). The terms and conditions contained within this Agreement are identical to the terms and conditions contained with the Form of Transmission Agency Agreement submitted to the Commission on October 3, 1997, as part of the joint filing by the Pennsylvania Public Utility Commission and the Pennsylvania PJM Utilities at Docket No. ER98–64–000. This filing merely submits an individual executed copy of the Transmission Agency Agreement between PECO and an alternative supplier participating in PECO's Retail Access Pilot Program.

Copies of the filing were served on the Supplier and the Pennsylvania Public Utility Commission.

Comment date: July 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. Shamrock Trading, LLC

[Docket No. ER98–3526–000]

Take notice that on June 17, 1998, Shamrock Trading, LLC (Shamrock), petitioned the Commission for acceptance of Shamrock Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission Regulations.

Shamrock intends to engage in wholesale electric power and energy purchases and sales as a marketer. Shamrock is not in the business of generating or transmitting electric power. Shamrock is wholly owned by Michael P. FitzPatrick. Shamrock is not affiliated with any other company.

Comment date: July 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. PJM Interconnection, L.L.C.

[Docket No. ER98–3527–000]

Take notice that, on June 29, 1998, PJM Interconnection, L.L.C. (PJM), pursuant to Section 205 of the Federal Power Act and ordering paragraph (V), of the Commission's order in Pennsylvania-New Jersey-Maryland Interconnection, 81 FERC ¶ 61,257 (1997), tendered for filing a market monitoring plan.

PJM states that it served a copy of its filing on all PJM members, all parties in Docket No. ER97–3189–000, and each of the state utility commissions in the PJM region.

PJM requests an effective date for the market monitoring plan of September 1, 1998.

Comment date: July 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. Jersey Central Power & Light Company, Metropolitan Edison Company, and Pennsylvania Electric Company

[Docket No. ER98–3528–000]

Take notice that on June 29, 1998, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (d/b/a GPU Energy), filed an executed Service Agreement between GPU Energy and Constellation Power Source (CON), dated June 26, 1998. This Service Agreement specifies that CON has agreed to the rates, terms and conditions of GPU Energy's Capacity, Energy and Capacity Credit Sales Tariff (Sales Tariff) designated as FERC Electric Tariff, Second Revised Volume No. 1. The Sales Tariff allows GPU Energy and CON to enter into separately scheduled transactions under which GPU Energy will make available for sale, capacity, energy and capacity credits.

GPU Energy requests a waiver of the Commission's notice requirements for good cause shown and an effective date of June 26, 1998, for the Service Agreement.

GPU Energy has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: July 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

20. PECO Energy Company

[Docket No. ER98–3529–000]

Take notice that on June 29, 1998, PECO Energy Company (PECO), filed an executed Installed Capacity Obligation Allocation Agreement between PECO and Columbia Energy Power Marketing Corporation, (Supplier). The terms and conditions contained within this Agreement are identical to the terms and conditions contained with the Form of Installed Capacity Allocation Agreement filed by PECO with the Commission on October 3, 1997 at Docket No. ER98–28–000. This filing merely submits an individual executed copy of the Installed Capacity Obligation Allocation Agreement between PECO and an alternate suppliers participating in PECO's Pilot.

Copies of the filing were served on the Supplier and the Pennsylvania Public Utility Commission.

Comment date: July 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

21 Duquesne Light Company

[Docket No. ER98–3530–000]

Take notice that on June 29, 1998, Duquesne Light Company (DLC), filed a Service Agreement dated June 18, 1998 with Merchant Energy Group of the Americas, Inc., under DLC's FERC Coordination Sales Tariff (Tariff). The Service Agreement adds Merchant Energy Group of the Americas, Inc., as a customer under the Tariff.

DLC requests an effective date of June 18, 1998, for the Service Agreement.

Comment date: July 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

22. Niagara Mohawk Power Corporation

[Docket No. ER98–3532–000]

Take notice that on June 29, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an executed Non-Firm Point-To-Point Transmission Service Agreement between Niagara Mohawk and Engage Energy US, L.P. This Transmission Service Agreement specifies that Engage Energy US, L.P. has signed on to and has agreed to the terms and conditions of Niagara Mohawk's Open Access Transmission Tariff as filed in Docket No. OA96–194–000. This Tariff, filed with FERC on July 9, 1996, will allow Niagara Mohawk and Engage Energy US, L.P., to enter into separately scheduled transactions under which Niagara Mohawk will provide non-firm transmission service for Engage Energy US, L.P. as the parties may mutually agree.

Niagara Mohawk requests an effective date of June 18, 1998. Niagara Mohawk has requested waiver of the notice requirements for good cause shown.

Niagara Mohawk has served copies of the filing upon the New York State Public Service Commission and Engage Energy US, L.P.

Comment date: July 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

23. Western Resources, Inc.

[Docket No. ER98–3533–000]

Take notice that on June 29, 1998, Western Resources, Inc. tendered for filing an agreement between Western Resources and Oklahoma Gas & Electric Company. Western Resources states that the purpose of the agreement is to permit the customer to take service under Western Resources' market-based power sales tariff on file with the Commission.

Western Resources requests that the service agreement become effective June 26, 1998.

Copies of the filing were served upon Oklahoma Gas & Electric Company and the Kansas Corporation Commission.

Comment date: July 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

24. CNG Energy Services Corporation

[Docket No. ER98–3534–000]

Take notice that on June 29, 1998, CNG Energy Services Corporation (CNGES), filed a Notice of Cancellation of its Rate Schedule FERC No. 1. CNGES requests that the Commission act in an expedited manner and accept the notice of cancellation by no later than July 20, 1998.

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Comment date: July 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

25. Southern Company Services, Inc.

[Docket No. ER98–3535–000]

Take notice that on June 29, 1998, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company (MPCO), and Savannah Electric and Power Company (collectively referred to as Southern Company), filed a service agreement for network integration transmission service between SCS, as agent for Southern Company, and Southern Wholesale Energy, a Department of SCS, as agent for MPCO; five (5) non-umbrella service agreements for firm point-to-point transmission service between SCS, as agent for Southern Company, and Sonat Power and Marketing L.P. (two such agreements) and Oglethorpe Power Corporation (three such agreements); ten (10) umbrella service agreements for short-term firm point-to-point transmission service between SCS, as agent for Southern Company, and (i) Duke/Louis Dreyfus, L.L.C., (ii) Florida Power and Light Company, (iii) Vitol Gas & Electric LLC (Vitol), (iv) PECO Energy Company Power Team (PECO), (v) Virginia Electric and Power Company (VEPCO), (vi) Entergy Power Marketing Corp. (EPMC), (vii) Municipal Electric Authority of Georgia, (viii) Oglethorpe Power Corporation, (ix) Tennessee Valley Authority, and (x) Carolina Power & Light; three (3) non-firm point-to-point transmission service agreements with (i) the City of Gainesville, Florida, (ii) Municipal Electric Authority of Georgia, and (iii) Public Service Electric and Gas Company; and a Notice of Cancellation of service agreements under the Open Access Transmission Tariff of Southern Company.

Comment date: July 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

26. Niagara Mohawk Power Corporation

[Docket No. ER98–3536–000]

Take notice that on June 29, 1998, Niagara Mohawk Power Corporation (NMPC), tendered for filing with the Federal Energy Regulatory Commission an executed, amended Transmission Service Agreement between NMPC and the Power Authority of the State of New York (NYPA), to permit NYPA to deliver power and energy from NYPA's FitzPatrick Plant, Bid Process Suppliers and Substitute Suppliers to the points where NMPC's transmission system connects to its retail distribution system East of NMPC's constrained Central-East Interface. This Transmission Service Agreement specifies that NYPA has signed on to and has agreed to the terms and conditions of NMPC's Open Access Transmission Tariff as filed in Docket No. OA96–194–000.

NMPC requests an effective date of June 1, 1998. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC has served copies of the filing upon New York Public Service Commission and NYPA.

Comment date: July 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

27. Illinois Power Company

[Docket No. ER98–3543–000]

Take notice that on June 29, 1998, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing Firm and Non-Firm Transmission Service Agreements under which American Steel Foundries Division of Amsted Industries, Inc., will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of June 1, 1998.

Comment date: July 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

28. UtiliCorp United Inc.

[Docket No. ES98–36–000]

Take notice that on June 17, 1998, UtiliCorp United Inc. (UtiliCorp), filed an application seeking an order under Section 204(a) of the Federal Power Act authorizing UtiliCorp to issue corporate guaranties in support of Debt Securities in an amount of up to and including $175,000,000 (Cdn) to be issued in one or more series by West Kootenay Power, Ltd. (WPK) or a direct or indirect subsidiary of WKP, at some time(s) before June 30, 1999, and for exemption from competitive bidding and negotiated placement requirements. WKP is a wholly-owned subsidiary of UtiliCorp British Columbia Ltd., which in turn is a wholly-owned subsidiary of UtiliCorp.

Comment date: July 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

29. Cleco Corporation

[Docket No. ES98–37–000]

Take notice that on June 24, 1998, Cleco Corporation submitted an application under Section 204 of the Federal Power Act for authorization to issue short-term debt, outstanding at any one time, in an aggregate principal amount of not more than $250 million, starting with the date of the letter order.

Comment date: July 29, 1998, in accordance with Standard Paragraph E at the end of this notice.

30. United States Department of Energy Southwestern Power Administration

[Docket No. NJ98–2–001]

Take notice that on June 23, 1998, United States Department of Energy Southwestern Power Administration (Southwestern), filed a Petition for Declaratory Order Regarding Standards of Conduct Filing With a Partial Waiver and an Exemption In Lieu of Filing Fee (Petition). In the Petition, Southwestern submits standards of conduct under Order Nos. 889 *et seq.*[1] and requests a waiver of the separation of functions requirement of the standards of conduct.

Comment date: July 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18342 Filed 7–9–98; 8:45 am]

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[1] Open Access Same-Time Information System (Formerly Real-Time Information Network) and Standards of Conduct, 61 FR 21737 (May 10, 1996), FERC Stats. & Regs., Regulations Preambles January 1991–1996 ¶ 31,035 (April 24, 1996); Order No. 889–A, *order on reh'g* 62 FR 12484 (March 14, 1997), III FERC Stats. & Regs. ¶ 31,049 (March 4, 1997); Order No. 889–B *reh'g denied,* 62 FR 64715 (December 9, 1997), III FERC Stats. & Regs. ¶ 31,253 (November 25, 1997).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–1569–002, et al.]

PP&L, Inc., et al.; Electric Rate and Corporate Regulation Filings

July 1, 1998.

Take notice that the following filings have been made with the Commission:

1. PP&L, Inc.

[Docket No. ER98–1569–002]

Take notice that on June 15, 1998, PP&L tendered for filing its compliance filing in the above-referenced docket.

Comment date: July 14, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Eric C. Woychik, The Utility Reform Network, Utility Consumers Action Network, and Consumers Union v. California Independent System Operator and California Electricity Oversight Board

[Docket No. EL98–51–000]

Take notice that on June 3, 1998, Eric C. Woychik, The Utility Reform Network, Utility Consumers Action Network, and Consumers Union tendered for filing a complaint against the California Independent System Operator and California Electricity Oversight Board for failure to comply with the Commission's past decisions and orders with respect to the governance structure of Cal ISO.

Comment date: July 31, 1998, in accordance with Standard Paragraph E at the end of this notice. Answers to the Complaint shall be due on or before July 31, 1998.

3. Entergy Services, Inc.

[Docket No. ER98–3489–000]

Take notice that on June 26, 1998, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy Operating Companies), tendered for filing a Non-Firm Point-To-Point Transmission Service Agreement and a Short-Term Firm Transportation Agreement both between Entergy Services, Inc., as agent for the Entergy Operating Companies, and Northern States Power Company.

Entergy Services requests that the agreement be made no later than June 30, 1998.

Comment date: July 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. Entergy Services, Inc.

[Docket No. ER98–3490–000]

Take notice that on June 26, 1998, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy Operating Companies), tendered for filing a Short-Term Firm Point-to-Point Transportation Agreement between Entergy Services, Inc., as agent for the Entergy Operating Companies, and Virginia Electric & Power Company.

Entergy Services requests that the agreement be made effective no later than June 15, 1998.

Comment date: July 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Entergy Services, Inc.

[Docket No. ER98–3491–000]

Take notice that on June 26, 1998, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy Operating Companies), tendered for filing a Non-Firm Point-To-Point Transmission Service Agreement and a Short-Term Firm Transportation Agreement both between Entergy Services, Inc., as agent for the Entergy Operating Companies, and Tennessee Valley Authority.

Comment date: July 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Public Service Electric and Gas Company

[Docket No. ER98–3492–000]

Take notice that on June 26, 1998, Public Service Electric and Gas Company (PSE&G), of Newark, New Jersey tendered for filing an agreement for the sale of capacity and energy to Consolidated Edison Company of New York, Inc. (ConEd), pursuant to the PSE&G Market Based Power Sales Tariff, Original Volume No. 6, presently on file with the Commission.

PSE&G further requests waiver of the Commission's Regulations such that the agreement can be made effective as of May 26, 1998.

Copies of the filing have been served upon ConEd and the New Jersey Board of Public Utilities.

Comment date: July 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Public Service Electric and Gas Company

[Docket No. ER98–3493–000]

Take notice that on June 26, 1998, Public Service Electric and Gas Company (PSE&G), of Newark, New Jersey tendered for filing an Wholesale Power Service Agreement for the sale of capacity and energy to Northern/AES Energy, LLC (Northern/AES), pursuant to the PSE&G Market Based Power Sales Tariff, Original Volume No. 6., presently on file with the Commission.

PSE&G requests waiver of the Commission's notice requirements such that the agreement can be made effective as of May 26, 1998.

Copies of the filing have been served upon Northern/AES and the New Jersey Board of Public Utilities.

Comment date: July 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Public Service Electric and Gas Company

[Docket No. ER98–3494–000]

Take notice that on June 26, 1998, Public Service Electric and Gas Company (PSE&G), of Newark, New Jersey tendered for filing an Wholesale Power Service agreement for the sale of capacity and energy to Phibro, Inc. (Phibro), pursuant to the PSE&G Wholesale Power-Market Based Sales Tariff, presently on file with the Commission.

PSE&G requests waiver of the Commission's notice requirements, and request that the agreement to become effective on May 26, 1998.

Copies of the filing have been served upon Phibro and the New Jersey Board of Public Utilities.

Comment date: July 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. Southern Indiana Gas and Electric Company

[Docket No. ER98–3495–000]

Take notice that on June 26, 1998, Southern Indiana Gas and Electric Company (SIGECO), tendered for filing a service agreement for Market-Based Rate Power Sales under its Market Based Rate Tariff with Columbia Energy Power Marketing Corporation.

SIGECO requests waive of the Commission's notice requirements to allow the service agreement to become effective June 5, 1998.

Copies of the filing were served upon each of the parties to the service agreement.

Comment date: July 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Central Maine Power Company

[Docket No. ER98–3496–000]

Take notice that on June 26, 1998, Central Maine Power Company (CMP), tendered for filing an executed service agreement for sale of capacity and/or energy entered into with NP Energy, Inc.

CMP requests waiver of the Commission's notice requirements to allow the service agreement to become effective as of June 26, 1998.

Copies of this filing have been served upon the Maine Public Utilities Commission and the persons identified on the service list.

Comment date: July 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Oklahoma Gas and Electric Company

[Docket No. ER98–3497–000]

Take notice that on June 26, 1998, Oklahoma Gas and Electric Company (OG&E), tendered for filing service agreements for Short-Term Power Sales under OG&E's power sales tariff.

Copies of this filing have been served upon the affected parties, the Oklahoma Corporation Commission, and the Arkansas Public Service Commission.

Comment date: July 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Cinergy Services, Inc.

[Docket No. ER98–3498–000]

Take notice that on June 26, 1998, Cinergy Services, Inc. (Cinergy), tendered for filing a Non-Firm Point-To-Point Service Agreement under Cinergy's Open Access Transmission Service Tariff (the Tariff), entered into between Cinergy and Tractebel Energy Marketing, Inc. (TEM).

Cinergy and TEM are requesting an effective date of May 31, 1998.

Comment date: July 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. San Diego Gas & Electric Company

[Docket No. ER98–3499–000]

Take notice that on June 26, 1998, San Diego Gas & Electric Company (SDG&E), tendered for filing in the above-referenced docket a revised code of conduct. The revised code would amend SDG&E's market-based power sales tariff.

Comment date: July 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Cinergy Services, Inc.

[Docket No. ER98–3500–000]

Take notice that on June 26, 1998, Cinergy Services, Inc. (Cinergy), tendered for filing a Non-Firm Point-To-Point Transmission Service Agreement under Cinergy's Open Access Transmission Service Tariff (the Tariff) entered into between Cinergy and Statoil Energy Trading, Inc. (SET).

Cinergy and SET are requesting an effective date of June 1, 1998.

Copies of this filing have been served upon Statoil Energy Trading, Inc., the Virginia State Corporation Commission, the Public Utilities Commission of Ohio, the Kentucky Public Service Commission, and the Indiana Utility Regulatory Commission.

Comment date: July 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. Cinergy Services, Inc.

[Docket No. ER98–3501–000]

Take notice that on June 26, 1998, Cinergy Services, Inc. (Cinergy), tendered for filing a Firm Point-To-Point Service Agreement under Cinergy's Open Access Transmission Service Tariff (the Tariff), entered into between Cinergy and Statoil Energy Trading, Inc. (SET).

Cinergy and SET are requesting an effective date of June 1, 1998.

Copies of this filing have been served upon Statoil Energy Trading, Inc., the Virginia State Corporation Commission, the Public Utilities Commission of Ohio, the Kentucky Public Service Commission, and the Indiana Utility Regulatory Commission.

Comment date: July 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. Medical Area Total Energy Plant, Inc.

[Docket No. ER98–3502–000]

Take notice that on June 26, 1998, Medical Area Total Energy Plant, Inc. (MATEP), tendered for filing a Wholesale Power Service Agreement between MATEP and MATEP LLC, for service under MATEP's Rate Schedule FERC No. 1, its Market-Based Power Sales Tariff. This Tariff was accepted for filing by the Commission on April 20, 1998, in Docket No. ER98–1992–000.

MATEP requests an effective date of June 1, 1998, for the service agreement.

Comment date: July 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. Cinergy Services, Inc.

[Docket No. ER98–3503–000]

Take notice that on June 26, 1998, Cinergy Services, Inc. (Cinergy), tendered for filing a Firm Point-To-Point Transmission Service Agreement under Cinergy's Open Access Transmission Service Tariff (the Tariff), entered into between Cinergy and Tractebel Energy Marketing, Inc., (TEM).

Cinergy and TEM are requesting an effective date of May 31, 1998.

Copies of this filing have been served upon Tractebel Energy Marketing, Inc., the Texas Public Utility Commission, the Public Utilities Commission of Ohio, the Kentucky Public Service Commission and the Indiana Utility Regulatory Commission.

Comment date: July 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. Carolina Power & Light Company

[Docket No. ER98–3504–000]

Take notice that on June 26, 1998, Carolina Power & Light Company (CP&L), tendered for filing Service Agreements for Non-Firm Point-to-Point Transmission Service executed between CP&L and e' prime and Tractebel Energy Marketing, Inc.; and Service Agreements for Short-Term Firm Point-to-Point Transmission Service with e' prime and Tractebel Energy Marketing, Inc. Service to each Eligible Customer will be in accordance with the terms and conditions of Carolina Power & Light Company's Open Access Transmission Tariff.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: July 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. Montana-Dakota Utilities Co., a division of MDU Resources Group, Inc.

[Docket No. ER98–3505–000]

Take notice that on June 26, 1998, Montana-Dakota Utilities Co., a division of MDU Resources Group, Inc. (Montana Dakota), tendered for filing an Agreement Covering Operation and Maintenance with Moreau-Grand Electric Cooperative, Inc., Mor-Gran-Sou Electric Cooperative, Inc., and Rushmore Electric Power Cooperative, Inc.

Copies of the filing were served on the cooperatives and on the interested state utility regulatory agencies.

Comment date: July 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

20. PJM Interconnection, L.L.C.

[Docket No. ER98–3506–000]

Take notice that on June 26, 1998, PJM Interconnection, L.L.C. (PJM), tendered for filing amendments to the Operating Agreement of the PJM Interconnection, L.L.C., and the PJM Open Access Transmission Tariff.

The amendments provide for greater access to, and a reallocation of costs with respect to, the operation of the PJM Interchange Energy Market, also known as the PJM Spot Market or PJM Power Exchange.

PJM requests an effective date of August 26, 1998, for the amendments to the Operating Agreement and PJM Tariff.

Comment date: July 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

21. Southern California Edison Company

[Docket No. ER98–3508–000]

Take notice that on June 26, 1998, Southern California Edison Company (Edison), tendered for filing Notice of Cancellation of FERC Rate Schedule Nos. 207.6, 207.6.1, 207.16, 207.16.1, 207.24, 207.25, 272.11, and 272.12, effective April 1, 1998.

Notice of the proposed cancellation has been served upon the City of Vernon, California, and the Public Utilities Commission of the State of California.

Comment date: July 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

22. Southern California Edison Company

[Docket No. ER98–3509–000]

Take notice that on June 26, 1998, Southern California Edison Company (Edison), tendered for filing Notice of Cancellation of FERC Rate Schedule No. 33.31 and all supplements thereto.

Edison requests waiver of prior notice requirements and requests that the notice of cancellation become effective May 5, 1998.

Copies of the proposed cancellation have been served upon Southern California Water Company and the Public Utilities Commission of the State of California.

Comment date: July 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

23. Central Hudson Gas & Electric Corporation

[Docket No. ER98–3510–000]

Take notice that on June 26, 1998, Central Hudson Gas & Electric Corporation (CHG&E), tendered for filing pursuant to Section 35.12 of the Federal Energy Regulatory Commission's (Commission), Regulations in 18 CFR a Service Agreement between CHG&E and Vitol Gas & Electric LLC. The terms and conditions of service under this Agreement are made pursuant to CHG&E's FERC Open Access Schedule, Original Volume No. 1 (Transmission Tariff), filed in compliance with the Commission's Order No. 888 in Docket No. RM95–8–000 and RM94–7–001 and amended in compliance with Commission Order dated May 28, 1997. CHG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR Section 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: July 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

24. FPL Energy Maine Hydro LLC, FPL Energy Mason LLC, FPL Energy Wyman LLC, FPL Energy Wyman IV LLC, FPL Energy AVEC LLC, and FPL Energy Power Marketing, Inc.

[Docket Nos. ER98–3511–000, ER98–3562–000, ER98–3563–000, ER98–3564–000, ER98–3565–000, and ER98–3566–000]

Take notice that on June 26, 1998, FPL Energy Maine Hydro LLC, FPL Energy Mason LLC, FPL Energy Wyman LLC, FPL Energy Wyman IV LLC, FPL Energy AVEC LLC, and FPL Energy Power Marketing, Inc. (Applicants), tendered for filing proposed rate schedules that would permit them to make sales of energy, capacity, and ancillary services at market-based rates. The Applicants seek such authority in connection with the purchase of certain generating assets from Central Maine Power Company.

Comment date: July 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

25. Southern California Edison

[Docket No. ER98–3512–000]

Take notice that on June 26, 1998, Southern California Edison Company (Edison), tendered for filing amendments to the existing Firm Transmission Service Agreements (Amendments) between Edison and the City of Azuza (Azuza), California to convert existing transmission loss provisions to the California Independent System Operator (ISO) Tariff loss provisions.

The Amendments convert transmission loss provisions in the existing agreements to the California Independent System Operator's (ISO), Tariff loss provisions, pursuant to Section 6.2.1.5 of the Edison-Azuza 1997 Restructuring Agreement (Restructuring Agreement).

Edison is requesting that the Amendments become effective on April 1, 1998, the date the ISO assumed operational control of Edison's transmission facilities, which is concurrent with the effective date of the Restructuring Agreement.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: July 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

26. New York Power Authority

[Docket No. NJ97–4–002]

Take notice that New York Power Authority on March 2, 1998, tendered for filing its compliance filing in the above-referenced docket.

Comment date: July 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

27. Colorado Springs Utilities

[Docket No. NJ97–9–003]

Take notice that on June 24, 1998, Colorado Springs Utilities (Colorado Springs), tendered for filing revised standards of conduct in response to the Commission's March 26, 1998, Order (82 FERC ¶ 61,297 (1998)).[1]

Comment date: July 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

28. Long Sault, Inc.

[Docket No. OA96–11–002]

Take notice that on June 17, 1998, Long Sault, Inc. tendered for filing a refund report in the above-referenced docket.

Comment date: July 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make

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[1] On April 28, 1998, the Commission granted Colorado Springs an extension, until June 24, 1998, to make its revised filing.

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protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18300 Filed 7–9–98; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5493–5]

Environmental Impact Statements; Notice of Availability

RESPONSIBLE AGENCY: Office of Federal Activities, General Information (202) 564–7167 OR (202) 564–7153.

Weekly receipt of Environmental Impact Statements Filed June 29, 1998 Through July 2, 1998 Pursuant to 40 CFR 1506.9.

EIS No. 980256, FINAL EIS, AFS, WY, CO, Tie Camp Timber Sale, Harvesting Timber and Road Construction, Medicine Bow-Routt National Forest, Brush Creek/Hayden Ranger District, Carbon County, WY and Jackson County, CO, Due: August 10, 1998, Contact: Kathy Rodriguez (302) 325–5258.

EIS No. 980257, FINAL EIS, BLM, OR, Northeast Oregon Assembled Land Exchange Resource Management Plan (RMP), Implementation, Site Specific, John Day, Umatilla, Granda Ronde, Power River Basins, Grant, Umatilla, Morrow, Wheeler, Baker, Wallowa and Union, OR, Due: August 10, 1998, Contact: Dick Cosgriffe (541) 416–6731.

EIS No. 980258, FINAL EIS, TVA, MS, Red Hills Power Project, Proposal to Purchase 440 megawatts (MW) of Electrical Energy, COE Section 404 Permit, Town of Ackerman, Choctaw County, MS , Due: August 10, 1998, Contact: Charles P. Nicholson (423) 632–3582.

Amended Notices

EIS No. 980255, FINAL EIS, EPA, AL, Sand Mountain Region On-Site Sewage Pollution, Wastewater Disposal Site, Dekalb, Etowah, Marshall and Jackson Counties, AL, Due: August 3, 1998, Contact: Heinz J. Mueller (404) 562–9617. This EIS was inadvertently omitted from the 07–02–98 **Federal Register**. The official 30 days NEPA review period is calculated from 07–02–98.

Dated: July 7, 1998.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 98–18439 Filed 7–9–98; 8:45 am]

BILLING CODE 6550–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5493–6]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared June 22, 1998 Through June 26, 1998 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the OFFICE OF FEDERAL ACTIVITIES AT (202) 564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 10, 1998 (63 FR 17856).

Draft EISs

ERP No. D–DOA–F39034–00 Rating EC2, Lincoln-Pipestone Rural Water (LPRW), Development and Expansion of Existing System North/Lyon County Phase and Northeast Phase Expansion Project, Yellow Medicine, Lincoln and Lyon Counties, MN and Deuel County, SD.

Summary: EPA expressed environmental concerns regarding the lack of full disclosure of reasonable foreseeable development and cumulative impacts. EPA expressed support for the preferred alternative and mitigation measures which must be implemented.

ERP No. DA–JUS–A82111–00 Rating LO, Cannabis Eradication in the Contiguous United States and Hawaii, Updated Information on Herbicidal Eradication New Scientific Data.

Summary: EPA had no objections to the preferred alternative which allows for use of the full range of eradication methods based on site-specific condition.

ERP No. RD–NOA–B91024–ME Rating EC2, American Lobster Fishery Management Plan, Implementation, To Prevent Overfishing of American Lobster, Exclusive Economic Zone (EEZ) off the New England and Mid-Atlantic, ME.

Summary: EPA had environmental concerns with the proposed action. EPA's concerns were based on the need to lengthen the planning duration to 10 years; additional information requested in which agencies would be responsible for enforcing proposed reduced fishing times; and the role played by point and non-point pollution in the decline of the lobster fishery.

Final EISs

ERP No. F–FHW–E40330–TN, I–40 Reconstruction, I–40/I–240 Directional (Midtown) Interchange to TN–300 Interchange, Funding and Possible COE 404 Permit, Shelby County, TN.

Summary: EPA continues to express concern regarding noise impacts.

ERP No. F–NOA–E39041–SC, Marine Environmental Health Research Laboratory (MEHRL), Construction and Operation of Premiere, High Technology and Marine Research Center, Approval of Permits, Charleston County, SC.

Summary: EPA had environmental concerns regarding the proposed action. These concerns were based on the ventilation system having visual, noise, and chemical fumes impacts.

ERP No. F–NSF–A81164–00, Amundsen-Scott South Pole Station, Proposal to Modernize through Reconstruction and Replacement of Key Facilities, Antarctica.

Summary: EPA had no environmental objections to the proposed project.

ERP No. F–UAF–G11033–NM, Holloman Air Force Base, Proposed Expansion of German Air Force Operations, for the Beddown of 30 Aircrafts and Construction of Facilities for 640 Personnel, NM.

Summary: EPA continues to express environmental concerns for the Air Force proposed action and requested that mitigation measures as described in the FEIS to minimize impacts be implemented and made part of the Record of Decision and incorporated into that document to become binding stipulations to the proposed action.

ERP No. FA–FHW–E40108–NC, Smith Creek Parkway, Updated and Supplemental Information, Construction from Third Street to Kornegay Avenue, U.S. Coast Guard Permit, COE Section 10 and 404 Permits, Wilmington, Hanover County, NC.

S*Summary:* EPA continues to express concern because of the two crossing of Smith Creek that would contribute additional pollutant loading to an already stressed system.

ERP No. FS–AFS–J65211–CO, Illinois Creek Timber Sale, Timber Harvesting, Implementation, Amended Land and Resource Management Plan, Grand Mesa, Uncompahgre and Gunnison National Forests, Taylor River/Cebolla Ranger District, Gunnison County, CO.

Summary: EPA had no comment on this supplement to the final EIS. No formal comment letter was sent to the preparing agency.

Dated: July 7, 1998.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 98–18440 Filed 7–9–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:02 a.m. on Tuesday, July 7, 1998, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's supervisory activities.

In calling the meeting, the Board determined, on motion of Vice Chairman Andrew C. Hove, Jr., seconded by Director Ellen S. Seidman (Director, Office of Thrift Supervision), concurred in by Director Julie L. Williams (Acting Comptroller of the Currency), Director Joseph H. Neely (Appointive), and Chairman Donna Tanoue, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Dated: July 7, 1998.

Federal Deposit Insurance Corporation.

James D. LaPierre,

Deputy Executive Secretary.

[FR Doc. 98–18520 Filed 7–7–98; 5:02 pm]

BILLING CODE 6714–01–M

FEDERAL HOUSING FINANCE BOARD

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 63 FR 36691, July 7, 1998.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 A.M., Wednesday, July 8, 1998.

CANCELLATION OF THE MEETING: Notice is hereby given of the cancellation of the Board of Directors meeting scheduled for July 8, 1998.

CONTACT PERSON FOR MORE INFORMATION: Elaine L. Baker, Secretary to the Board, (202) 408–2837.

William W. Ginsberg,

Managing Director.

[FR Doc. 98–18472 Filed 7–7–98; 4:50 pm]

BILLING CODE 6725–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

SUMMARY

Background. Notice is hereby given of the final approval of a proposed information collection by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the OMB 83-Is and supporting statements and approved collection of information instrument are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT:

Chief, Financial Reports Section—Mary M. McLaughlin—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3829)

OMB Desk Officer—Alexander T. Hunt—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503 (202-395-7860)

Final approval under OMB delegated authority of the extension for three years, without revision, of the following report:

1. Report title: Ongoing Intermittent Survey of Households

Agency form number: FR 3016

OMB Control number: 7100-0150

Effective Date: August 10, 1998.

Frequency: on occasion

Reporters: households and individuals

Annual reporting hours: 130 burden hours

Estimated average hours per response: 3.12 minutes

Number of respondents: 500

Small businesses are not affected.

General description of report: This information collection is voluntary (12 U.S.C. 225a, 263, and 15 U.S.C. 1691b) and is given confidential treatment (5 U.S.C. 552(b)(6)).

Abstract: The Federal Reserve uses this voluntary survey to obtain household-based information specifically tailored to the Federal Reserve's policy, regulatory, and operational responsibilities, and the survey is necessary to provide information on developing events in the financial markets. Intermittently, on request, the University of Michigan's Survey Research Center includes survey questions on behalf of the Federal Reserve in an addendum to their regular monthly Survey of Consumer Attitudes and Expectations. The frequency and content of the questions depends on changing economic and legal developments.

Board of Governors of the Federal Reserve System, July 6, 1998

Jennifer J. Johnson

Secretary of the Board.

[FR Doc. 98–18409 Filed 7–9–98; 8:45AM]

Billing Code 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Announcement 98098]

Technology Translation and Transfer of Effective HIV Prevention Interventions; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1998 funds for a cooperative agreement program for the technology translation and transfer of effective HIV prevention interventions. This program addresses the "Healthy People 2000" priority area of Human Immunodeficiency Virus (HIV) Infection.

In order to slow the spread of HIV/AIDS, researchers have developed and tested prevention interventions that aim to reduce sex-related and drug-related

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risk behaviors. As a result of these studies, a number of interventions with credible evidence of effectiveness have been identified. This project will be a case study of the translation and transfer of an effective intervention in a non-research setting.

The purpose of this project is to enhance access to and use of effective interventions by service providers nationwide. Recipients will develop prevention packages that are readily useable by service providers. Recipients will develop prevention packages and refine them as they are piloted in the field setting. This will serve as a case study of the technology transfer process.

The specific purposes of this program are to: (1) Translate an individual or small group HIV prevention intervention (especially those targeted to persons at increased risk of HIV infection) with credible evidence of effectiveness, i.e., an effective intervention. This first activity is to be done in collaboration with health departments, community-based organizations, or other service delivery providers who can provide feedback and advice; (2) Develop a prevention package that includes training materials and technical assistance protocols as well as the intervention itself; and (3) Study the process of technology transfer, using the prevention package in a field setting.

B. Eligible Applicants

Applications may be submitted by public and private nonprofit and for-profit organizations and governments and their agencies. Thus, universities, colleges, research institutions, hospitals, other public and private organizations, State and local health departments or their bona fide agents, federally recognized Indian tribal governments, Indian tribes or Indian tribal organizations.

However, since the purpose of this technology translation and transfer project is to build on **successful** research projects, applicants must clearly demonstrate that their intervention has been tested under rigorous study design criteria (including the use of a control or comparison group) and found to be effective with significant positive results for changing HIV risk behavior. The applicant must have evidence that a report on this effective intervention has been submitted for publication or has been published in a peer-reviewed journal.

Note: Public Law 104–65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $400,000 is available in FY 1998 to fund approximately 2 awards. It is expected that the average award will be $190,000, ranging from $180,000 to $200,000. It is expected that the awards will begin on or about September 30, 1998, and will be made for a 12-month budget period within a project period of 2 years. Funding estimates may vary and are subject to change based on availability of funds. An application requesting greater than $200,000 will not be considered for review and will be returned to the applicant.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds. Continued funding for year 2 will be dependent on the completion of required activities for year 1. Applicants should anticipate that a portion of year 2 funding may be used in the field setting (approximately $20,000) as needed to implement the program.

Use of Funds

Collection of new or supplemental intervention research data, data entry and analysis, purchase of furniture or computers, and rental of facilities will not be funded under this program.

D. Program Requirements

In conducting activities to achieve the purpose of this announcement, the recipient will be responsible for the activities under 1, Recipient Activities, and CDC will be responsible for the activities listed under 2, CDC Activities.

1. Recipient Activities

a. Develop the intervention portion of the prevention package.

(1) The recipient will develop the package in collaboration with representatives of HIV prevention service delivery programs, e.g., health departments, community-based organizations (CBOs).

(2) Prevention packages should include:

(a) Language and format that are understandable and attractive to service providers who are nonresearchers.

(b) A full description of the intervention, including the background and the target population.

(c) A list and description of the core elements for the pre-implementation, implementation, and maintenance phases.

(d) Protocols for implementing the intervention and ensuring its quality and consistency.

(e) Specific guidelines for overcoming barriers to implementation.

(f) A list of all staff, facility, and material resources needed to conduct the intervention, including level of staff skill and time commitment, and cost breakdowns.

(g) A time line of specific steps for setting up the intervention.

(h) A bibliography of publications based on the intervention.

b. Develop the training and technical assistance portion of the prevention package.

(1) The recipient should develop training materials that can be used in preparing providers to use the prevention package. These materials will assist the user with pre-implementation and implementation tasks necessary to undertake the intervention during year 2. The materials should emphasize experiential learning and other active methods associated with skill building.

(2) The recipient should develop an outline for providing technical assistance which identifies the likely technical assistance requests that users may make and an appropriate response for each request.

c. Produce a limited number of draft prevention packages.

The recipient will produce draft packages using less costly materials than those to be used in the final product, but without changing the overall effect, e.g., less heavy stock paper for binding covers but with same logo or design, notebook rather than bound.

d. Identify an organization or field setting for case study.

(1) Compile a list of HIV prevention service agencies in the recipient's state or within close proximity to the recipient's city which target populations for whom the intervention is appropriate (for this announcement, such agencies will be referred to as potential users);

(2) Create approaches to establish linkages with the potential users and strategies to market the prevention package to them.

(3) Select ways to inform potential users who express interest about the availability of a case study experience.

(4) Develop a written agreement with the organization selected for the case study (for this announcement, such organization will be referred to as the user).

e. Develop the evaluation plan.

(1) Data should be both quantitative and qualitative and should include

observations and reports that permit assessment of the fit between the:

(a) core elements specified in the prevention package and the content of the implementation.

(b) methods specified in the prevention package and the delivery of the intervention, but no behavioral or health outcomes data should be collected.

(2) Process data should include observations and reports of:

(a) barriers to implementation and how they impacted the case study

(b) solutions to barriers

(c) cost containment strategies.

During the second year, the recipient will complete the development of training materials, technical assistance outlines, and process evaluation protocols necessary to initiate the case study. Data collection will take place throughout the case study or for approximately 6 months (based on an estimated delivery of one program per week). The final three months of the project will be used to analyze the process data and refine the prevention package.

2. CDC Activities.

a. Host a meeting with the successful applicants within 60 days of the notice of grant award to discuss implementation of the project.

b. Provide technical assistance in the general operation of this HIV prevention project.

c. Consult on the choice of user for a case study with the prevention package.

d. Monitor and evaluate scientific and operational accomplishments of this project through frequent telephone contact and review of technical reports and interim data analyses.

e. Conduct site visits to assess program progress and mutually solve problems, as needed.

f. At the end of the two year project, CDC, in addition to the authors, may distribute the package.

E. Application Content

Develop applications in accordance with PHS Form 5161–1 (OMB Number 0937–0189) and the instructions and format provided below.

Submit the original and two copies of PHS Form 5161–1 (OMB Number 0937–0189) and the original and two copies of the application. The application may not exceed 20 double-spaced pages, excluding abstract, index, and appendices. Submit the original and each copy of the application UNSTAPLED and UNBOUND. Print all material double-spaced, in a 12-point or larger font size on 8½" by 11" paper, with at least 1" margins, and printed on one side only. Provide a one-page abstract of the proposal and a complete index to the application and its appendices. Beginning with the first page of text, number all pages clearly and sequentially. Number each page of the appendices also, e.g., for Appendix #1, the pages should be numbered: A1–1, A1–2, A1–3. Replace double-sided article reprints with a one-sided copy.

Include a general introduction, followed by one narrative subsection for each of the numbered content elements per application, in the order in which the elements appear below. Label each narrative subsection with the element title and include all the information needed to evaluate that element of the application (except for curriculum vitae, references, and letters of support, which are appropriate for the appendices). The application content elements are:

1. Effective intervention

a. Identify the principal investigator(s) and name and location of the agency(ies) that originally developed, conducted, and evaluated the small group or individual level intervention research.

b. Provide written permission from the original developers of the intervention to develop and market materials that may be original or derived for the prevention package.

c. Describe the study's positive results on behavioral or health outcomes, including how these results are both statistically and practically significant.

d. Include in the appendix, a copy of any reports that describe the study design and the positive behavioral or health outcomes of a small group or individual level intervention that have been submitted for publication or published in peer reviewed journals. This portion of the appendix should be labeled as "Intervention Study Design and Results."

e. Substantiate the need for a prevention package in terms of risk of target population and potential for generalizability to other target groups.

f. Describe the feasibility of implementation by other organizations, particularly those with limited resources.

2. Prevention package

a. Describe the prevention package. Include descriptions of:

(1) Target populations for whom the intervention would be appropriate;

(2) Pre-implementation phase, including specific steps for setting up the intervention, necessary collaborators, necessary materials, other resources, staff commitment (numbers and time) and skills for conducting the intervention, and training materials;

(3) Implementation phase, including protocols for implementing the intervention and ensuring quality and consistency and providing technical assistance, identification of barriers to implementation and how they may be overcome, and process evaluation methods; and

(4) Maintenance phase, including how to deal with issues of staff turnover and retraining.

b. Explain how staff from HIV prevention programs (e.g., health departments and CBOs) within the applicant's state or within close proximity to the applicant's home city will be involved in the development of the package. Describe the planned procedures for how these collaborators will be identified.

c. Present a time line for developing the prevention package.

3. Field site for implementation of the package in year two (2)

a. Discuss a plan to identify and recruit potential users within your state or within close proximity to your home city and indicate any which already have shown interest in or may be interested in implementing this intervention.

b. Elaborate on the criteria and mechanism for selecting the user(s) who will implement the package.

Note: The agency that originally conducted the intervention is excluded from consideration as a potential user, as is any agency that currently or previously implemented the intervention.

4. Strategy to assist implementation

a. Describe the strategy to facilitate implementation of the package, including provision of training and direct technical assistance from the recipient to the selected user(s).

b. Discuss procedures to involve user(s) in implementing the package, including use of user's existing staff and resources, and to identify barriers to implementation and how to overcome them. Feasibility and sustainability of the intervention with existing resources are important for the successful adoption and maintenance of the package.

5. Plan to evaluate the implementation process

Describe the plan for evaluating the process of implementing the prevention package. The plan should address (unless not applicable): (1) methods, (2) quality assurance monitoring of intervention delivery including documentation of intervention episodes, (3) employee recruitment and retention, (4) participant recruitment, (5) accuracy

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and completeness of record keeping, and (6) costs of intervention delivery.

6. Capacity

a. Demonstrate capacity to conduct the proposed activities including the process evaluation.

b. Describe the proposed staffing, show percentages of each staff member's commitment to this and other projects, and division of duties and responsibilities for this project; include brief position descriptions for existing and proposed personnel.

c. Demonstrate that the staff have the expertise to complete this project, including ability to produce the intervention product(s). Demonstration of this capability would include examples of previously developed fact sheets, web sites, or samples from other intervention packages.

d. Name the staff members who are key to the completion of the project. Provide a brief description of the strengths each brings to this project. Include their curriculum vitae in the appendix.

e. Describe access to graphics expertise for production and editing of the intervention package.

f. Describe equipment and facilities to be used for the proposed activities.

7. Budget

Provide a detailed, line-item budget for the project; justify each line-item, including the need for any proposed consultants and contractors. Plan for at least two trips to Atlanta to meet with CDC representatives.

F. Submission and Deadline

Submit the original and two copies of PHS 5161–1 (OMB Number 0937–0189). Forms are in the application kit. On or before August 17, 1998, submit the application to: Maggie Slay Warren, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 98098, Centers for Disease Control and Prevention (CDC), Room 300, 255 East Paces Ferry Road, NE., M/S E–15, Atlanta, Georgia 30305–2209.

If your application does not arrive in time for submission to the independent review group, it will not be considered in the current competition unless you can provide proof that you mailed it on or before the deadline (i.e., receipt from U.S. Postal Service or a commercial carrier; private metered postmarks are not acceptable).

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Behavioral Intervention (20 percent)

The applicant must clearly demonstrate the effectiveness of the proposed small-group or individual-level intervention in a report that has been submitted for publication or has been published in a peer-reviewed journal. This is an absolute criterion. If this evidence is not present, score as zero.

a. The intervention is directed to small groups or individuals, especially persons at increased risk of infection.

b. The applicant provides justification if proposing to conduct the intervention with any groups other than the initial target population.

c. The applicant addresses the feasibility of implementing the prevention package by organizations with limited resources.

2. Prevention Package (15 percent)

Level of detail in the description or outline of the proposed package, including materials, protocols, and guidelines. Clarity of described format and concepts; intended audiences; and objectives. Justification of the appropriateness of the package's objectives, format, and concepts to the intended users' needs and capabilities. Adequacy of input from HIV prevention programs into the development of the package. Adequacy of planned materials' review, pretesting, and revision of materials as needed. Adequacy of time scheduled for completing the proposed steps of the package's development.

3. Plan to Identify Field Site(s) to Implement the Package (10 percent)

Quality of plan to identify appropriate and eligible intended users and interest them in adopting the package during year 2 of the project. Selection of proactive methods to identify and solicit intended users. Adequacy of criteria and mechanism for selecting the users for implementing the package in year 2, including match of the intervention's target population with the user's community planning priorities. Recognition that the agency that originally conducted the intervention is excluded from implementing the package.

4. Strategy to Assist Implementation (15 percent)

Clarity of the strategy to assist selected users in adopting and implementing the behavioral intervention. Understanding of barriers to implementation and how to overcome them. Plan to assist selected users in implementing the intervention by using their existing resources and staff, including provision of on-call technical assistance. Plan to help selected users find additional funds for implementing the package, if relevant.

5. Plan to Evaluate Implementation Process (15 percent)

Feasibility and appropriateness of the applicant's plan to evaluate the selected user's implementation of the intervention as specified in the replication package. Thorough and realistic selection of process measures to evaluate.

6. Demonstrated Capacity (15 percent)

Overall ability of the applicant to perform the proposed activities as reflected in their staff's and consultants' qualifications and availability. The extent to which the applicant's demonstrates that proposed staff have experience with material development and dissemination and demonstrated familiarity with HIV behavioral interventions, in general, and the intervention to be publicized, in particular. The nature and extent of any partnership between researchers and HIV prevention programs. Adequacy of existing support staff, equipment, and facilities.

7. The degree to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research (10 percent)

This includes:

a. The proposed plan for the inclusion of both women and racial and ethnic minority populations for appropriate representation.

b. The proposed justification when representation is limited or absent.

c. A statement as to whether the design of the study is adequate to measure differences when warranted.

d. A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with communities and recognition of mutual benefits.

8. Does the application adequately address the requirements of Title 45 CFR Part 46 for the protection of human subjects?

_____YES

_____No

Comments: ____________________

9. Budget (not scored)

Extent to which the budget is reasonable, itemized, clearly justified, and consistent with the intended use of the funds. Extent to which the budget includes itemizations, justifications, scope, and deliverables for consultants or contractors.

H. Other Requirements

Technical Reporting Requirements

An original and two copies of semi-annual progress reports are required. Timelines for the semi-annual reports will be established at the time of award. Final financial status and performance reports are required no later than 90 days after the end of the project period. All reports are submitted to the Grants Management Branch, CDC.

At the completion of 2 years of funding, recipients will be expected to share prevention packages with representatives of the original agencies that conducted the interventions on which the products are based, if different from those of the recipient.

The following additional requirements are applicable to this program. For a complete description of each, see Attachments.

AR98–1 Human Subjects Requirements
AR98–2 Requirements for Inclusion of Women, Racial and Ethnic Minorities in Research
AR98–4 HIV/AIDS Confidentiality Provisions
AR98–5 HIV Program Review Panel Requirements
AR98–7 Executive Order 12373 Review
AR98–8 Public Health System Reporting Requirements
AR98–9 Paperwork Reduction Act Requirements
AR98–10 Smoke-Free Workplace Requirements
AR98–11 Healthy People 2000
AR98–12 Lobbying Restrictions

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 301 and 317(k), of the Public Health Service Act [42 U.S.C. 241 and 247b], as amended. The Catalog of Federal Domestic Assistance number is 93.941.

J. Where to Obtain Additional Information

To receive additional written information, call (888) 472-6874. You will be asked to leave your name, address, and telephone number. Please refer to Program Announcement 98098 when you request information. For a complete program description, information on application procedures, an application package, and business management technical assistance, contact: Maggie Slay Warren, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office Announcement 98098, Centers for Disease Control and Prevention (CDC), Room 300, 255 East Paces Ferry Road, NE., M/S E–15, Atlanta, GA 30305–2209 telephone (404) 842–6797. Email address http://www.MCS9@CDC.gov

See also the CDC home page on the Internet: *http://www.cdc.gov*

For program technical assistance, contact: Robert Kohmescher, Division of HIV/AIDS Prevention, National Center for HIV/STD/TB Prevention, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., Mailstop E–44, Atlanta, GA 30333 telephone (404) 639–8302 email: www.rnk1@cdc.gov

Please refer to Announcement number 98098 when requesting information and submitting an application.

Dated: July 6, 1998.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–18389 Filed 7–9–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Notice of Program Announcement No. ACF/ACY/CB–98–05]

New Child Welfare Demonstration Project Proposals Submitted by States for Waivers Pursuant to Section 1130 of the Social Security Act (the Act); Titles IV–E and IV–B of the Act; Public Law 103–432

AGENCY: Administration for Children and Families, HHS.

ACTION: Notice.

SUMMARY: This notice lists new proposals for child welfare waiver demonstration projects submitted to the Department of Health and Human Services pursuant to the guidance contained in Information Memorandum ACYF–CB–IM–98–01 dated February 13, 1998, public notice of which was given in the **Federal Register** of March 4, 1998, Vol. 63, No. 42, page 10637.

COMMENTS: We will accept written comments on these proposals, but will not provide written responses to comments. We will neither approve nor disapprove any new proposal for at least 30 days after the date of this notice to allow time to receive and consider comments. Direct comments as indicated below.

ADDRESSES: For specific information or questions on the content of a project or requests for copies of a proposal, contact the State contact person listed for that project.

Comments on a proposal should be addressed to: Michael W. Ambrose, Administration on Children, Youth and Families, Children's Bureau, 330 C Street, SW, Mary E. Switzer Building, Room 2058, Washington, D.C., 20201. FAX: (202) 260–9345.

SUPPLEMENTARY INFORMATION:

I. Background

Under Section 1130 of the Social Security Act (the Act), the Secretary of Health and Human Services (HHS) may approve child welfare waiver demonstration project proposals with a broad range of policy objectives.

In exercising her discretionary authority, the Secretary has developed a number of policies and procedures for reviewing proposals. The most recent expression of these policies and procedures may be found in the February 13, 1998 Information Memorandum cited above, a copy of which may be found at the ACF website at http://www.acf.dhhs.gov/program/cb/demonstrations or may be obtained from the National Clearinghouse on Child Abuse and Neglect Information, (800) 394–3366, internet address <nccanch@calib.com>. We are committed to a thorough and expeditious review of state proposals to conduct child welfare demonstrations.

II. Listing of New Proposals

As part of our procedures, we are publishing a notice in the **Federal Register** of all new proposals. This notice contains summaries of 17 proposals received by April 30, 1998. Each of the proposals contains an assurance that the proposed demonstration effort will be cost neutral to the federal government over the life of the proposed effort; and each proposal contains an evaluation component designed to assess the effectiveness of the project.

State: Arkansas

Description: The State of Arkansas proposes to use title IV–E funds to enhance mental health services available for children in foster care and children at risk of being placed in foster care, and thereby reduce barriers to permanency for those children. The State intends, in October, 1998, to implement a system for mental health managed care for all title XIX eligible children, and all children in DCFS foster care. Under this demonstration, the State would use title IV–E funds to

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provide supplemental payment to the managed care capitated rate to (1) allow for previously unallowable services to title IV–E eligible children (Managed Care component); (2) provide specialized, collaborative case management services to a group of randomly selected foster children (some of whom may not be IV–E eligible) and children who are at risk for being placed in foster care because of their service needs, to identify and address barriers to permanency (FOCUS component); and (3) provide training to child welfare staff as well as others in the community to enhance participation in the project from agencies and persons outside DCFS.

Arkansas proposes to conduct a process evaluation as well as an evaluation to produce outcome data, and a cost/benefit analysis. The evaluation design for the collaborative case management services portion of the project is proposed as a design based on random assignment of children or families to treatment or control conditions.

The State requests waivers of title IV–E to allow the State to conduct a portion of the Demonstration on less than a Statewide basis, to allow the State to expend title IV–E funds for children and families who are not normally eligible, to allow the State to make payments for services that are not normally covered under Part E of title IV of the Act, and to allow the State to expend title IV–E funds for training of persons who are not normally eligible. The State also has requested a title XIX waiver under the authority of section 1915(b) of the Social Security Act to establish a mental health managed care system to reduce costs, prevent unnecessary and inappropriate utilization, and ensure access to quality mental health care for Medicaid recipients.

Contact Person: Lee Frazier, Director, Arkansas Department of Human Services, 329 Donaghey Plaza South, P.O. Box 1437, Little Rock, Arkansas 72203–1437, Phone: (501) 682–8650, Fax: (501) 682–6836.

State: Connecticut

Description: Connecticut's proposal has two distinct program components. The first proposes to use title IV–E funds to implement a subsidized guardianship program and to change case work practice to provide increased emphasis and support for guardianship as a viable permanency option for cases where reunification or adoption of children living with relative care givers is neither appropriate nor feasible. The second component proposes to conduct pilot demonstrations of a service delivery model in which a single lead agency would organize, manage and provide an array of services to address the specific needs of children who require placement in residential or group homes.

The goal of the proposed guardianship program is to provide another means of attaining permanency for children who would otherwise remain in foster care. The program would be implemented state-wide and would focus on children residing with relative caregivers. It would provide: (1) A monthly subsidy on behalf of the child payable to the guardian equal to the prevailing appropriate foster care rate; (2) a medical subsidy comparable to the medical subsidy for subsidized adoption (if the child has no private health insurance); and (3) a lump sum payment for one-time expenses resulting from the assumption of care for the child (when other resources are unavailable). Waivers would be required to allow for Federal IV–E reimbursement for payments to relative caregivers when a child leaves legal custody of the State agency, and for program administration and services that are not currently allowable under IV–E.

The proposed “single contact/continuum of care” program's goal is to test the effectiveness of the service delivery model in which the State's Child and Family agency (DCF) would contract with a single Lead Service Agency that would manage subcontracts and create an expanded network of regular and specialized services for children and youth with behavioral problems who are referred to residential or group homes.

The State hypothesizes that this demonstration project would decrease the length of stay in restrictive settings; increase treatment options for children and families; improve permanency outcomes for children and provide long-term stability in the community; and establish a more flexible, incentive-oriented fiscal environment for service providers. One or two pilot programs would be established to serve 30 children per pilot over a five year project period. The program would be targeted to DCF children aged 7 to 15. A 15 month service period, which includes a minimum of 3 months of aftercare, is projected for each child. Waivers are requested to allow the administrative and services costs to be IV–E reimbursable.

Contact Person: Robert Dakers, Department of Children and Families, 505 Hudson Street, Hartford, CT 06106–7107, Phone: (860) 550–6542, Fax: (860) 566–7947.

State: District of Columbia

Description: The District of Columbia proposes to test the ability of a partnership between the Child and Family Services Agency (CFSA) and neighborhood-based community collaboratives to improve service delivery for children in kinship placements. Teams of CFSA social workers matched with trained collaborative community workers would provide family preservation services to the kinship triad: the kinship caregiver, the parent and the child. CFSA hypothesizes that this public-private partnership would increase the number of children who achieve permanency, speed the permanency process, increase stability in kinship care families, increase outreach and education that promotes child safety and reduce the incidence of further abuse or neglect for children and families receiving these services, and reduce time in out-of-home placements and the number of new foster care placements.

To test its hypotheses, CFSA has requested waivers to permit title VI–E funds to be expended for services and individuals that are not eligible under existing law. The requested waiver would allow the District to be reimbursed for foster care services provided to children who are not IV–E eligible, including those who are living with kinship caregivers, and to allow adoption subsidy payments for children who are not IV–E eligible.

The District's proposed evaluation design would randomly assign eligible kinship triads to experimental and control groups. The experimental group would receive the team approach and the control group would receive traditional services from a social worker. The evaluation would measure: Changes in Child Safety through the number of new allegations, allegations after a case is closed, disruptions in placement, entries or re-entries into non-kinship foster care; Child Well-Being through the Child and Adolescent Functional Assessment Scale; and Child Permanency as indicated by adoption, legal custody or re-unification.

Contact Person: Ernestine Jones, General Receiver, Office of the General Receiver, Child and Family Services Agency, 900 Second Street, N.E., Suite 221, Washington, DC 20002, Phone: (202) 842–0888, Fax: (202) 842–2335.

State: Florida

Description: Florida proposes to demonstrate whether children and families can achieve better outcomes through: privatization, managed care, and Medicaid therapeutic service integration. In response to a 1996 legislative mandate to private child welfare services, the Florida Department of Children and Families allowed community-based providers to operate five pilot projects. Waivers under a demonstration project would enable these providers to use State funds and federal title IV–E funds to purchase therapeutic services for children who do not meet Medicaid "medical necessity" restrictions for therapeutic services. In addition, at least one demonstration site would receive a capitation payment linked to the number of children living in poverty. Each site would then utilize this funding flexibility to reconfigure services. The state hypothesizes that this would expedite all aspects of permanency, improve family capacity to care for children, increase family involvement and the range of supports available to families, and increase youths' preparation for independence.

Florida proposes to compare the performance of selected comparison counties to the performance of the demonstration counties. The State's evaluation design would include outcome evaluation, process evaluation, cost analysis and cost benefit analysis. Outcome measures include safety and protection, permanency goals, stability and functioning and customer satisfaction. Process measures would examine policies, procedures, client flow, staffing expertise and levels, service types, duration, mix, timing and accessibility, assessment processes, and court, community and media relationships. A cost analysis would study all costs associated with the project and comparison counties. The cost-benefit analysis merges cost data with outcome data to determine the overall value of the outcomes.

Contact Person: Margaret Taylor, Florida Department of Children and Families, 1317 Winewood Boulevard, Tallahassee, Florida 32399–0700, Phone: (850) 922–0149, Email: Taylor_Margaret@dcf.state.fl.us.

State: Iowa

Description: Iowa proposes to fund community-based services to improve outcomes for children and families in the child welfare system using title IV-E funds. The State plans to build on the existing Decategorization Project areas and Innovation Zones to increase the capacity of local organizations to care for children and families and build service strategies for children and families in the child welfare system. The State believes this demonstration would efficiently reduce the amount of time children spend in out-of-home care and move children into permanent placements more quickly.

The State proposes to implement this demonstration in several counties or clusters and use a comparison group of counties to evaluate both the impact and the cost of using title IV-E funds flexibly. Under the State's plan, counties would present proposals for participating in the IV-E demonstration that focus on: (1) Diverting children from out-of-home care, including foster care, group care, residential care, and mental health or juvenile justice institutions; (2) providing for permanency for children quickly and effectively; and/or (3) reducing re-entry into out-of-home care. For each county's or cluster's proposal, the State is proposing that the eligibility determination for title IV-E be eliminated under the demonstration. To assess the demonstration project, the State proposes to compare demonstration counties or clusters to children in comparison counties or clusters. The evaluation would produce process, outcome, and cost/benefit information.

The State is requesting waivers of certain provisions of title IV-E which would allow Iowa to: (1) Use title IV-E funds to pay for additional services for children and families; and (2) spend title IV-E funds on children and families who would not normally be eligible for title IV-E.

Contact Person: Mary Nelson, Division Administrator for Adult, Children and Family Services, Iowa Department of Human Services, Hoover State Office Building, Des Moines, IA 50319–0114, Phone: (515) 281–5521, Fax: (515) 281–4597.

State: Kansas

Description: Kansas proposes to fund a demonstration project intended to "support and enhance" the new performance-based administration of the Kansas Child Welfare System. The Kansas Department of Social and Rehabilitation Services (SRS) intends to conduct a multi-faceted project consisting of a subsidized guardianship program, integrated child welfare training, enhanced drug/alcohol services, and subsidized family reintegration upon return home (aftercare). In addition, the initiative would compare the new case rate, performance-based payment system (already in place statewide) with the traditional fee-for-service payment system in order to determine which payment method produces better outcomes.

The State hypothesizes that: (1) The subsidized guardianship project would facilitate the permanency of children when adoption and reunification with their family is not feasible; (2) an integrated child welfare training project for private and public social service professionals aimed at supporting an integrated social service model with a "single worker per family" concept would provide social service staff with the tools needed to meet the needs of families, including preventing out-of-home placement; (3) a strengthened approach to drug and alcohol dependency assessment and treatment planning directed to IV-E eligible children and families would decrease the number of disruptions to placement and decrease the length of stay in out-of-home placement; and (4) a project making resources and services such as respite care, family support services, parenting education, family, individual, and group therapy, available to families upon reintegration of a child would prevent further disruption.

The proposed evaluation design would compare the fee-for-service delivery system to the case rate performance based delivery system. Since the SRS has already shifted all of the adoption and foster care delivery systems into the latter, it would be necessary to randomly select children to be placed "outside the case rate." The random selection process would be applied to selected area offices which collectively represent 40% of the children served, and three of the five foster care regions. The State would measure outcomes such as amount of time for children to be placed with adoptive families, percentage of finalized adoptions within 12 months, disrupted placements, number of siblings placed together, number of placement changes, new substantiated claims of abuse or neglect, percentage of children placed within Regional boundaries, percentage of children returned to family or achieving permanence, re-entry into foster care, percentage of children achieving permanency and family satisfaction with services.

The proposed project would be cost neutral and would run for five years.

Contact Person: Teresa Markowitz, Commissioner, Kansas Department of Social and Rehabilitation Services, 915 SW Harrison Street, Topeka, Kansas 66612, Phone: (785) 368–6448, Fax: (785) 368–8159, Email: tamasrcfs.wpo.state.ks.us.

State: Maine

Description: Maine proposes a two-phase demonstration project. The first phase would involve the design and implementation of an adoption training

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curriculum for mental health professionals and other service providers who would become expert in working with families in need of post-adoption services. The second aspect of the demonstration would phase in the purchase and delivery of post-adoption support services for families who adopt special needs children. The overall goals of the project are to increase the number of special needs children who are adopted and to decrease the number of disrupted adoptions. It is the State's hypothesis that increasing the array of supportive services available to families who elect adoption would promote family stability and reduce disruptions, as well as encourage other community members to consider adopting children with special needs. The State has proposed a five-year demonstration period.

The demonstration would be conducted in four test sites, two urban and two rural, from among the Department of Human Services district offices. At present, Maine has about 535 IV–E eligible children free for adoption.

The evaluation design calls for establishing a control and experimental group in each pair of selected sites, i.e., one urban control, one urban experimental, one rural control and one rural experimental. The State expects that a total of 200 children and families (100 control and 100 experimental) would participate in the study over the life of the demonstration. The experimental group would receive the expanded post-adoption services, while the control group would receive the current service mix.

Outcome measures would include the number of special needs adoptions, the incidence of disrupted adoptions, the average length of stay in foster care and the stability of the adoptive families.

Waivers are requested to enable the State to use title IV–E funds to provide services which are not normally allowed under title IV–E Adoption Assistance or title IV–E Foster Care.

Contact Person: Dawn Stiles, Department of Human Services, State House Station #11, Augusta, Maine 04333, Phone: (207) 287–5060, Fax: (207) 287–5282, TDD: (207) 287–4479.

State: Mississippi

Description: Mississippi proposes to expand the use of title IV–E funds to non-IV–E eligible children and families and to use title IV–E funds for any items or activities that would eliminate or reduce harm to children and families. The demonstration proposes to implement a Child-Focused Family Centered Practice Methodology, which emphasizes the safety and best interests of children through the elimination of harm-causing factors. The proposed project involves using title IV–E funds to provide services for children and families whether children are in State custody or not, including children in residential care. This project would involve the identification of services, the development of a service delivery system, the development of a business plan, the building of multi-disciplinary case management teams, and ongoing evaluation and program modification. It is the State's hypothesis for the demonstration that the expenditure of funds to benefit any child, regardless of IV–E eligibility, to reduce or eliminate factors that cause harm to that child, would demonstrate a reduction in harm to children. The demonstration would result in safer children due to the reduction of harm to children who are a part of the demonstration. The State has proposed a five year demonstration period. The demonstration would be conducted in eight selected counties, which are located in two Division of Family and Children's Services' (DFCS) regions.

The State proposes an evaluation design in which eligible children and families would be randomly assigned to experimental and control groups. The experimental group would receive a combination of existing or modified services along with newly created services. The control group would be served by the existing services only. The evaluation would compare results from the experimental group and control group. Outcome measures include: decrease in the proportion of children who experience subsequent abuse or neglect; increase in the proportion of children who remain permanently with their parental family; among those children placed outside of their parental home, increase in the proportion who are in placements in the community of their parental family and who are placed with relatives; decrease in the proportion of children placed in foster care; decrease in the average number of placements for children in foster care; decrease in the amount of time spent in foster care; an increase among children awaiting adoption in the proportion of children adopted and the speed of the process; where two or more siblings are placed outside of their parental home, increase in the proportion of sibling groups where siblings are placed in the same setting; and increase in the well-being of children.

Waivers are requested to allow the State to use title IV–E funds for children and families who are not normally eligible under title IV–E and to use title IV–E funds, including funds which would be reimbursed as costs of administration, for the provision of services.

Contact Person: Henry Goodman, Department of Human Services, 750 North State Street, Jackson, Mississippi 39202, Phone: (601) 873–6144, Fax: (601) 359–4477.

State: Montana

Description: Montana's Department of Public Health and Human Services (DPHHS) is requesting approval of a Child Welfare Demonstration Project, which would allow title IV–E funds to be used for a subsidized guardianship program. The demonstration would authorize a subsidized guardianship program for eligible children; provide a monthly guardianship subsidy, Medicaid and non-recurring costs associated with establishing legal guardianship, and provide federal financial participation in the costs of administration and training associated with the guardianship program.

Montana postulates that guardianship provides the child and family a legally recognized relationship, increases the sense of family by granting the caretakers in the family the right and responsibility to make important decisions regarding a child in their home, provides a more stable placement than does long term foster care and is less costly, due in part to a reduction in the administrative costs associated with foster care. The demonstration project would be statewide, for five years, and would include children on the state's seven reservations. The project would serve children 12 years old or older and would mirror the adoption assistance program as much as possible. The project is expected to be cost neutral. Comparison of the costs associated with the demonstration group and the control group will be used to determine the fiscal effect of the demonstration.

The Montana DPHHS is also considering joining a consortium of states in Region VIII, which would seek to demonstrate the impact of allowing IV–E funds to be provided as a direct pass through of federal funds to one or more tribes in Montana and in each of the other consortium States.

The State requests waivers to allow title IV–E funds to be used for children who are not IV–E eligible and for services which are not ordinarily reimbursable under title IV–E. The DPHHS intends to use random assignment of children to either a service or a control group, and will use an independent contractor to conduct the required evaluation.

Contact Person: Hank Hudson, Administrator, Child and Family

Services Division, Department of Public Health and Human Services, State of Montana, P.O. Box 8005, Helena, Montana 59604–8005, Phone: (406) 444–5900, Fax: (406) 444–2547.

State: Nebraska

Description: The Nebraska Health and Human Services System proposes to test local approaches to child welfare system change through a demonstration project. It is the State's hypothesis that the combination of flexible use of title IV–E funds and local integrated networks would: (1) Promote positive social and health outcomes and prevent negative outcomes for children and families; (2) improve the well-being of children who are at risk of, or actually require out-of-home placement; and (3) improve the family functioning and participation of child welfare involved families. The project would involve entities across the State, including three which have existing relationships with the State system, by forming local integrated networks to facilitate a better use of resources. The State would provide technical assistance, support and expectations for systems management. The effort is part of an ongoing Network Development Strategy that is being implemented Statewide.

The state estimates that a total of 3,240 children would be served through the demonstration project. Each site would utilize the flexible funds differently, so the outcome measures for each would be different. Sites are expected to use the waiver authority for purposes which include: promoting the wraparound process for each child and adolescent at high risk of out-of-home placement; focusing on community-based prevention, intensive community-based services, community re-integration of out-of-area high-needs children, and child and community safety and community ownership by developing a Managed Care Child Welfare system in the third year of the project; sustaining and enhancing the local service network, increasing parental, family and civic involvement, co-locating staff and integrated services, expanding choice and opportunities, and increasing communication and networking.

Nebraska is requesting waivers of title IV–E to permit reimbursement for expenditures made on behalf of children who are not IV–E eligible, and for purposes that do not ordinarily qualify for reimbursement under IV–E.

The State proposes to compare the demonstration sites with geographical areas that do not have flexible use of funds. The State would examine child safety, permanence, child and family well-being and community safety and responsibility outcomes.

Contact Person: John Mader, Program Specialist, Protection and Safety Division, Nebraska Health and Human Services System, 2345 North 60th Street, Lincoln, NE 68507, Phone: (402) 471–9364, Fax: (402) 471–9034, Email:john.mader@hhss.state.ne.us.

State: New Hampshire

Description: New Hampshire proposes to use title IV–E funds to hire a substance abuse specialist with expertise regarding child protective services who would conduct substance abuse assessments of parents where alcohol or other drug abuse is believed to be a factor contributing to the child's abuse or neglect. For those families in need of ongoing services, this staff person would also assist them in accessing intensive, community based substance abuse treatment services. It is the State's hypothesis that the provision of these immediate, targeted and intensive services would enable families better to provide a safe, nurturing environment for their children, resulting in the prevention of placement or a reduction in the length of time children remain in out-of-home care. The State has proposed a five year demonstration period.

The demonstration would be conducted in two District Offices of the State's child welfare agency: those located in Manchester and Nashua. December 1997 statistics showed 245 children in foster care in these districts who were IV–E eligible. Of these, 56% had caretakers in which substance abuse was a factor in their maltreatment.

The State proposes an evaluation design in which eligible families would be randomly assigned to experimental and control groups. The experimental group would receive the services of the substance abuse specialist while the control group would receive the current services mix. Outcomes for each group would be tracked. The State would examine outcomes including placement prevention, more timely reunification, more timely alternate permanency planning for children unable to return home, and cost savings as a result of improved permanency planning. The State expects approximately 120 children in the experimental condition and 120 in the control condition.

Waivers are requested in order to (a) serve children not otherwise eligible for IV–E (children at risk of but not in foster care); and (b) provide services not normally covered by IV–E (substance abuse assessment, referral and case management services).

Contact Person: Nancy Rollins, Division for Children, Youth and Families, New Hampshire Department of Health and Human Services, 6 Hazen Drive, Concord, NH 03301–6522, Phone: (603) 271–4451, Fax: (603) 271–4729, Email: nrollins@dhhs.state.us.

State: New Jersey

Description: New Jersey seeks to implement concurrent permanency planning and the use of the fost-adopt model of foster care. In New Jersey, the average length of stay for children who are six years old or less with a goal of adoption is 25 months in their current placement. The State proposes to use title IV–E funding for services and activities designed to reduce to 15 months, the time in foster care preceding the initiation of termination of parental rights/initiation of permanency, for children whose permanency goal is adoption as envisioned by the Adoption and Safe Families Act. The state would hire case managers specifically dedicated to the project to apply the permanency reform/fost-adopt model for both title IV–E eligible and non-eligible children. Funds would also be used for enhanced legal services and substance abuse services.

The proposed demonstration builds upon and further elaborates the permanency reform project underway in Union, Middlesex and Essex counties funded by the Children's Bureau under the Adoption Opportunities program. Now completing its second year of a planned three years of operation, this program utilizes a variety of methods including concurrent permanency planning by child protection and adoption staff, mediation services, recruitment and training of special fost-adopt homes, and use of post-adoption counseling therapists to address the issues of the birth and fost-adopt families. By building on the curriculum development, cross training, outreach to the legal community, and recruitment and support of fost-adopt homes already underway, the demonstration project would facilitate acceleration of the project schedule to Essex county, which contributes the largest number of children to the State's foster care caseload.

New Jersey hypothesizes that allocating case management staff and other resources to the dedicated units would reduce foster care costs and lengths of stay and lead to more adoptive placements and/or more stable relative placements than would occur in the comparison groups over the five years of the project. Assignment to comparison groups will be randomized,

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and the evaluation would produce process and outcome data, as well as cost/benefit information.

The State requests waivers to permit the use of title IV–E funds for purposes not ordinarily eligible for federal funding, and for children or families who are not IV–E eligible.

Counties not involved in the project would serve as the control group, and after the first year the project would be extended to other randomly selected counties.

Contact Person: Michele K. Guhl, Deputy Commissioner, Division of Youth and Family Services, P.O. Box 717, Trenton, New Jersey 08625–0717, Phone: (609) 292–6920, Fax: (609) 984–0507.

State: New Mexico

Description: The New Mexico project would provide title IV–E funding as a direct pass through of federal funds to identified Tribes, simulating direct federal funding of Tribes under title IV–E in order to test this concept. In addition, the State is proposing the establishment of a subsidized guardianship program for Tribal children, which the State says would allow permanency while respecting Tribal customs. The demonstration project would test both simulated direct funding and flexible use by Tribes of IV–E funds.

Currently, title IV–E funding is extended by the State to five Indian Tribes through a Joint Powers Agreement (JPA). The JPA spells out procedures to be followed in cases of child abuse and neglect, including how investigations are to be conducted, how and when jurisdiction is to be transferred, and how and when parties are to be notified. It also provides that the State would pay Tribes to cover the foster care maintenance and adoption assistance for IV–E eligible children in Tribal custody.

The State proposes a comparison design for the evaluation. The five Tribes currently operating under JPA's would serve as the comparison sites. Five additional Tribes would be selected as the pilot sites. The selection of the pilot sites would be purposive, based on the Tribes' willingness to participate and their capacity in terms of the human and material resources and infrastructure currently in place to manage the IV–E Program. A five year project is proposed.

Title IV–E waivers are requested to allow for the provision of non-recurring expenses and ongoing assistance payments for guardians assuming responsibility in those instances where Tribal Courts are reluctant to terminate parental rights, to provide Federal Financial Participation for individuals and purposes that are not IV–E eligible.

Contact Person: Maryellen Strawniak, Acting Director, Protective Services Division, PO Drawer 5160, Santa Fe, New Mexico 87502, Phone: (505) 827–8400, Fax: (505) 827–8480.

State: Oklahoma

Description: Oklahoma proposes a project to provide assisted guardianship to the permanency continuum for long-term foster care children for whom adoption or reunification is not an option. The goal of the project is twofold: to determine if quality, permanency outcomes can be achieved for these children; and to assess the impact of providing services, e.g., post-placement services, on achieving these outcomes.

The State anticipates that assisted guardianships would provide a permanency plan option for children in long-term foster care; alleviate the financial barriers for persons who desire to obtain guardianship, thereby enhancing the prospects of permanency for these children; and provide stability for children. In addition, the demonstration would provide an opportunity to test the impact of different levels of services and supports to children and families served by the project in achieving quality permanency outcomes for children. The State also anticipates that the project would reduce the workload for child welfare staff, allowing them time to do expedited permanency planning for the remaining children.

The State currently has approximately 1,100 children statewide in long-term foster care; 15 percent of these children are Native American. Some of the Native American children are in the legal custody of the Department while others are in tribal custody. The State estimates that 550 of these children would be potentially eligible for this project, with approximately 200 children and families actually served under the project. The State proposes three different levels or categories of services and supports to children and families who participate in the demonstration, with each category having 50–100 children and families assigned to it. The State would test the permanency outcomes for children in relation to the level or category of services provided to each family. The State proposes a statewide, five-year demonstration project.

Oklahoma proposes to randomly assign children to one of the following: a control group, which would receive the current service mix; Target Group I, which would receive all identified waiver services and a full range of on-going post placement services; or Target Group II which would receive all initial services included in the waiver, but limited on-going post placement services. To assess the project, Oklahoma proposes to measure outcomes, processes and cost-benefits.

The State requests waivers of title IV–E provisions regarding use of title IV–E funds to pay: a monthly subsidy for children in guardianship arrangements; the cost of legal fees required to obtain guardianship; and the costs of providing a range of services and supports to families and children in guardianship situations (similar to the services received by adoptive families and children).

Contact Person: Mike Moore, Division of Children and Family Services, P.O. Box 25352, Oklahoma City, OK 73125, Phone: (405) 522–4487, Fax: (405) 521–4373.

State: Texas

Description: Texas proposes a Child Welfare Demonstration project with three components over five years. The components affect kinship care, adoption and Texas' Permanency Achieved through Coordinated Efforts (PACE) project.

First, Texas proposes to implement a kinship care program as part of Protective and Regulatory Services (PRS) and requests a waiver of title IV–E to utilize otherwise restricted funds for foster care assistance, in conjunction with title IV–B funds, to provide upfront financial assistance and services for kinship care placements. The state hypothesizes that if families are provided financial assistance for the costs of integrating the child into the home during the first year of care and then supplementing caretaker expenses thereafter to support the child's care, are trained, and take part in support groups, more placements would be made and would succeed, to the benefit of the families and children served by PRS. The length of time in foster care would decline, freeing up funds devoted both to staff and foster care maintenance.

Texas proposes to implement the kinship initiative in El Paso and in Corpus Christi, Laredo and the Lower Rio Grande Valley. To evaluate this component, the State would implement a matched-group comparison of three groups: (1) Those that received the Integration Package, which would consist of startup money, and the Training and Services Package; (2) those that received only the Training and Services Package; and (3) those that receive neither package. The state would measure: implementation through qualitative means; process outcomes through the provision and use of incentives, provision and use of services and parenting skills and knowledge; and outcome through case flow, duration of time in care, patterns of disruption and rate of dissolution and/or re-entry. A cost-benefit analysis would asses whether the costs of the demonstration project are justified by the benefit produced.

The second proposed component of Texas' demonstration project is to use title IV–E funds for the assessment of prospective adoptive children and families and to allow for joint training with Child Placing Agencies (CPA) of CPA professionals providing adoption and permanency services. The state's hypotheses are that a more comprehensive assessment would reduce the disruption and dissolution rate of PRS adoptions, decrease the average length of time that children spend in foster care prior to adoptive placement, increase satisfaction among children and families, decrease the number of placements before placement in an adoptive home, and increase the number of children leaving foster care for placements with adoptive families. These improvements would speed permanency and reduce expenditure of IV–E funds.

Texas proposes to implement this demonstration project in Harris County, Houston and the counties surrounding Houston. To evaluate this project, the state proposes to compare one region which would receive an Enhanced Training condition and an Enhanced Assessment condition, to other regions and to statewide historical data. The evaluation would include implementation measures of a qualitative nature; process measures including pool of potential families, assessment, quality of placements and extension of training; and outcome measures such as case flow, duration of time in care, patterns of disruption and rate of dissolution and/or reentry into the Child Protective Services System. A cost benefit analysis would assess whether the costs of the project are justified by the benefits produced.

The third component of the proposal is to utilize title IV–E funds flexibly as part of Phase II of the State's PACE project. The state-funded Phase I of PACE is designed to contract for a network of private providers to provide a continuum of services designed to improve substitute care service and enhance PRC permanence initiatives. The State requests a waiver of title IV–E for Phase II of PACE, to pay for foster care services and child and family services on a per-child case rate or capitated rate, to the network of providers established in Phase I. PRS would test the impact of the case rate on an expansion of service delivery model that is developed in Phase I.

The state hypothesizes that the new service delivery system would result in improved child functioning, increased stability of placements, shortened duration of care, reduced rate of return to foster care, and maintenance of least restrictive placements. The state hypothesizes that for Phase II, capitated rates would result in: cost neutrality, the ability to provide a case rate for daily care and supervision reimbursement, increased incentives for providers to provide treatment and services to improve children's level of care (LOC), increased ability to provide wraparound services for children for quicker movement to permanency or for placement in the least restrictive environment and increased incentive to provide preventive services to lessen the need for high cost treatment/residential services. Children would be placed by random assignment into an equal number of PRS and Primary Contractor foster homes.

The state evaluation proposal would compare the outcomes of four subgroups of LOC children in PACE Phase II, to three types of comparison groups: randomly assigned control groups, statistically matched cross-sectional comparison groups, and historical comparison-sectional comparison. The state would measure: implementation through qualitative means; process through continuity of care, expanded services and satisfaction with services; and outcome through change in LOC, change in level of care domains, change in rated individual goals, duration of time, patterns of disruption, rate of reentry and rate of maltreatment recurrence. A cost-benefit analysis would assess whether the costs of the demonstration project are justified by the benefits produced.

Contact Persons: Texas Department of Protective and Regulatory Services, 701 W. 51st Street, P.O. Box 149030, Austin, TX 78714–9030, Karen Eells (Kinship Care & Adoption), Judy Rouse (PACE), Phone: (512) 438–5712, Fax: (512) 438–3394.

State: Washington

Description: Washington State proposes to adopt a managed care approach for services such as mental health and family preservation to children who are IV–E eligible and children who are not. Under the demonstration project, the State would make monthly payments for the care of children with complex needs who have been screened into the project. These funds would be pooled with other resources to contract with local service providers for oversight of treatment plan development, implementation, screening and training. The State postulates that such coordination between the State and various local service providers might result in a better use of resources, while also providing individualized and comprehensive wraparound services. The State hopes that such an approach would enable it to tailor services to meet the real needs of families and children particularly those children with special needs and problems.

Washington State would begin the project in Spokane county and phase in other counties until a maximum of ten counties were included in the demonstration project. The State would randomly assign children to either the control or demonstration. The State proposes to evaluate the project through random assignment comparison, pre/post comparison and a cost-benefit analysis.

The State requests waivers of certain sections of title IV–E and related regulations to allow expenditures on behalf of children and families not normally eligible under title IV–E, and to allow expenditures for services not normally permitted under title IV–E. The State is also considering the possibility that it might request a waiver of title XIX pertaining to Behavioral Rehabilitation Services.

Contact Person: Tammi Erickson, Office Chief, Office of Federal Funding and Victims' Assistance, State of Washington Department of Social and Health Services, P.O. Box 45710, Olympia, WA 98504–5710, Phone: (360) 902–7936, Fax (360) 902–7903.

State: West Virginia

Description: West Virginia proposes a school based services project, the Cabell County Adopt-A-Middle-School project. The project would provide a variety of services for children in middle schools (grades 6, 7, and 8) and their families, whether or not they would otherwise qualify for the title IV–E. The purpose of the service provision is to create a seamless social support system that strengthens the ability of children and families to handle stress affecting their lives by: facilitating school-based support for child victims of abuse and neglect who can be kept in the home and community; providing early identification of youth with delinquent tendencies in order to link the child and family with services prior to the initiation of court action; utilizing home

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and community-based services whenever possible; ensuring EPSDT screening and appropriate treatment for children in foster care; and assisting the Department in maintaining linkages with schools for out-of-home placement, facilitate return to school for the child and family, and assist students who are new to the school district due to foster or adoptive placements.

To accomplish these services, WV proposes a two-phase demonstration. Phase one would pair community social services agencies with middle schools in Cabell County as resources for information, assessments, and referrals. Phase two proposes the hiring of full-time prevention coordinators for each school, beginning with two schools and phasing in additional schools as resources permit. Coordinators would be school-based during the school year, would serve as initial case managers and advocates for the child/family, provide direct services, and provide follow-up with families over the summer months.

The State's hypothesis is that middle school-based prevention and early intervention programs would result in a reduction of the number of children in foster care, the average expense and intensity of foster care, and the average number of days children are in foster care. This project would be limited to Cabell County, in southwestern WV, which includes six middle schools. The project is proposed to begin in September 1998 and would run through August 2003.

The State requests waivers of title IV–E to permit reimbursement for amounts expended for children and families and for purposes that are not normally eligible under IV–E.

For evaluation purposes, the state proposes to identify a control-group county. Outcome measures would include the number of children entering foster care, the number of placements in community-based or family settings, and the number of days the children are in foster care. Process evaluation components include frequency and types of intervention activities. An outside evaluator would conduct the evaluation.

Contact Person: Joan E. Ohl, Secretary, Department of Health and Human Resources, Bureau of Children & Families/Office of Social Services, Charleston, West Virginia 25305, Phone: (304) 558–0684, Fax: (304) 558–1130.

Dated: June 25, 1998.

James A. Harrell,

Deputy Commissioner, Administration on Children, Youth and Families.

[FR Doc. 98–18437 Filed 7–9–98; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0482]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection provisions relating to the regulation of FDA's adverse experience reporting (AER) for licensed biological products and general records.

DATES: Submit written comments on the collections of information by September 8, 1998.

ADDRESSES: Submit written comments on the collections of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Jonnalynn P. Capezzuto, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collections of information listed below.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Adverse Experience Reporting for Licensed Biological Products—21 CFR 600.80, 600.81, and 600.90; and General Records—21 CFR 600.12 (OMB Control Number 0910–0308)—Extension

Under the Public Health Service Act (42 U.S.C. 262), FDA is required to ensure the marketing of only those biological products that are safe and effective. FDA must therefore be informed of all adverse experiences occasioned by the use of licensed biological products. FDA issued the adverse experience reporting requirements to enable FDA to take actions necessary for the protection of the public health in response to reports of adverse experiences related to licensed biological products. The primary purpose of FDA's adverse experience reporting system is to flag potentially serious safety problems with licensed biological products, focusing especially on newly licensed products. Although premarket testing discloses a general safety profile of a new drug's comparatively common adverse effects, the larger and more diverse patient populations exposed to the licensed biological product provides the opportunity to collect information on rare, latent, and long-term effects. Reports are obtained from a variety of sources, including patients, physicians, foreign regulatory agencies, and clinical investigators. Information derived from the adverse experience reporting system contributes directly to increased public health protection because such information enables FDA to recommend important changes to the product's labeling (such as adding a new warning), to initiate removal of a biological product from the market when necessary, and to assure the manufacturer has taken adequate corrective action if necessary.

Manufacturers of biological products for human use must also keep records of each step in the manufacture and distribution of products including any recalls of the product. The recordkeeping requirements serve preventative and remedial purposes. These requirements establish accountability and traceability in the manufacture and distribution of products, and enable FDA to perform meaningful inspections.

Section 600.12 (21 CFR 600.12) requires that all records of each step in the manufacture and distribution of a product be made and retained for no less than 5 years after the records of manufacture have been completed or 6 months after the latest expiration date for the individual product, whichever represents a later date. In addition, records of sterilization of equipment and supplies, animal necropsy records, and records in cases of divided manufacturing of a product are required to be maintained. Section 600.12(b)(2) requires complete records to be maintained pertaining to the recall from distribution of any product.

Section 600.80(c)(1) (21 CFR 600.80(c)(1)) requires the licensed manufacturer to report each adverse experience that is both serious and unexpected, regardless of source, as soon as possible but in any case within 15 working days of initial receipt of the information. Section 600.80(e) requires licensed manufacturers to submit a 15-day alert report obtained from a postmarketing clinical study only if there is a reasonable possibility that the product caused the adverse experience. Section 600.80(c)(2) requires the licensed manufacturer to report each adverse experience not reported under paragraph (c)(1) at quarterly intervals, for 3 years from the date of issuance of the product license, and then at annual intervals. The majority of the periodic reports will be submitted annually since a large percentage of the current licensed biological products have been licensed longer than 3 years. Section 600.80(i) requires the licensed manufacturers to maintain for a period of 10 years records of all adverse experiences known to the licensed manufacturer, including raw data and any correspondence relating to the adverse experiences. Section 600.81 (21 CFR 600.81) requires the licensed manufacturer to submit information about the quantity of the product distributed under the product license, including the quantity distributed to distributors at an interval of every 6 months. The semiannual distribution report informs FDA of the quantity, the lot number, and the dosage of different products. Section 600.90 (21 CFR 600.90) requires a licensed manufacturer to submit a waiver request with supporting documentation when asking for waiving the requirement that applies to them under §§ 600.80 and 600.81.

Respondents to this collection of information are manufacturers of biological products. In fiscal year (FY) 1996, there were approximately 72 licensed manufacturers, 3 of which submitted waiver requests under § 600.90 and were exempt from these AER requirements. This number excludes those manufacturers who produce blood and blood components and in vitro diagnostic licensed products because they are specifically exempt from the regulations. In FY 1996, there were 1,616 15-day alert reports, 5,903 periodic reports and 464 distribution reports submitted to FDA. The number of 15-day alert report for postmarketing studies as stated in § 600.80(e) was minimal and is included in the total number of 15-day alert reports. The burden hours required to complete the MedWatch Form for § 600.80(c)(1), (e), and (f) are reported under OMB Control No. 0910–0291. FDA estimates the burden of this collection of information as follows:

TABLE 1.—Estimated Annual Reporting Burden[1]

21 CFR Section	No. of Respondents	Number of Responses per Respondent	Total Annual Responses	Hours per Response	Total Hours
600.80(c)(1) and 600.80(e)	69	23.4	1,616	1	1,616
600.80(c)(2)	69	85.6	5,903	1	5,903
600.81	69	6.7	464	1	464
600.90	3	1	3	1	3

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

There are approximately 391 licensed manufacturers of biological products. However, the number of recordkeepers listed for § 600.12(a) through (e) excluding (b)(2) is estimated to be 102. This number excludes manufacturers of blood and blood components because their burden hours for recordkeeping have been reported under 21 CFR 606.160 in OMB Control No. 0910–0116. The recordkeeping burden is based on the number of lots released (9,027), the number of recalls made (710) and the total number of AER reports received (7,519) for FY 1996. FDA estimates that the average time associated with recordkeeping per lot is 32 hours, for recalls is 24 hours, and for adverse experience reports is 1 hour. FDA estimates the burden of this recordkeeping as follows:

TABLE 2.—Estimated Annual Recordkeeping Burden[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
600.12	102	88.5	9,027	2,832	288,864
600.12(b)(2)	391	1.8	710	43	16,813
600.80(i)	69	109	7,519	109	7,519

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: June 29, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–18402 Filed 7–9–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0510]

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

DATES: Submit written comments on the collection of information by August 10, 1998.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attention: Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Denver Presley, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1472.

SUPPLEMENTARY INFORMATION: In compliance with section 3507 of the PRA (44 U.S.C. 3507), FDA has submitted the following proposed collection of information to OMB for review and clearance.

Current Good Manufacturing Practice Regulations for Medicated Feeds (21 CFR Part 225) (OMB Control Number 0910–0152—Reinstatement)

Under section 501 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 351), FDA has the statutory authority to issue current good manufacturing practice (cGMP) regulations for drugs, including medicated feeds. Medicated feeds are administered to animals for the prevention, cure, mitigation or treatment of disease, or growth promotion and feed efficiency. Statutory requirements for cGMP's have been codified under part 225 (21 CFR part 225). Medicated feeds that are not manufactured in accordance with these regulations are considered adulterated under section 501(a)(2)(B) of the act. Under part 225, a manufacturer is required to establish, maintain, and retain records for a medicated feed, including records to document procedures required during the manufacturing process to ensure proper quality control is maintained. Such records would, for example, contain information concerning receipt and inventory of drug components, batch production, laboratory assay results (i.e., batch and stability testing), labels, and product distribution.

This information is needed so that FDA can monitor drug usage and possible misformulation of medicated feeds, to investigate violative drug residues in products from treated animals and to investigate product defects when a drug is recalled. In addition, FDA will use the cGMP criteria in part 225 to determine whether or not the systems and procedures used by manufacturers of medicated feeds are adequate to ensure that their feeds meet the requirements of the act as to safety and also meet their claimed identity, strength, quality, and purity, as required by section 501(a)(2)(B) of the act. A license is required when the manufacturer of a medicated feed involves the use of a drug or drugs which FDA has determined requires more control because of the need for a withdrawal period before slaughter or carcinogenic concerns. Conversely, for those medicated feeds for which FDA has determined that the drugs used in their manufacture need less control, a license is not required and the recordkeeping requirements are less demanding. The respondents to this collection of information are commercial feed mills and mixer-feeders.

TABLE 1.—ESTIMATED ANNUAL RECORDKEEPING BURDEN (REGISTERED LICENSE HOLDERS)[1] [2]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
225.42(b)(5) through (b)(8)	1,600	24	38,400	0.41	16,000
225.58(c) and (d)	1,600	24	38,400	0.25	9,600
225.80(b)(2)	1,600	24	38,400	0.16	6,400
225.102(b)(1) through (b)(5)	1,600	24	38,400	1.0	38,400
225.110(b)(1) and (b)(2)	1,600	24	38,400	0.25	9,600
225.115(b)(1) and (b)(2)	1,600	24	38,400	0.25	9,600
Total burden hours					89,600

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

[2] Commercial feed mills.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN (REGISTERED LICENSE HOLDERS)[1] [2]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
225.42(b)(5) through (b)(8)	200	3	600	0.16	100
225.58(c) and (d)	200	3	600	0.16	100
225.80(b)(2)	200	3	600	0.083	50
225.102(b)(1) through (b)(5)	200	3	600	0.5	300
225.110(b)(1) and (b)(2)	200			[3]	
225.115(b)(1) and (b)(2)	200			[3]	

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN (REGISTERED LICENSE HOLDERS)[1] [2]—Continued

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
Total burden hours					550

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Mixer-feeders.
[3] There is no burden because medicated feeds are consumed on site (§ 225.110 *Distribution records*; § 225.115 *Complaint files*).

TABLE 3.—ESTIMATED ANNUAL RECORDKEEPING BURDEN (NONREGISTERED)[1] [2]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
225.142	13,000	24	316,800	0.41	132,000
225.158	13,000	24	316,800	0.25	79,200
225.180	13,000	24	316,800	0.16	52,800
225.202	13,000	24	316,800	1.5	475,200
Total burden hours					739,200

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Commercial feed mills.

TABLE 4.—ESTIMATED ANNUAL RECORDKEEPING BURDEN (NONREGISTERED)[1] [2]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
225.142	45,000	3	135,000	0.16	22,500
225.158	45,000	3	135,500	0.16	22,500
225.180	45,000	3	135,500	0.083	11,250
225.202	45,000	3	135,500	0.5	67,500
Total burden hours					123,750

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Mixer-feeders.

The estimate of the times required for record preparation and maintenance is based on agency communications with industry. Other information needed to calculate the total burden hours (i.e., number of recordkeepers, number of medicated feeds being manufactured, etc.) is derived from agency records and experience.

Dated: June 30, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–18398 Filed 7–9–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 96E–0452]

Determination of Regulatory Review Period for Purposes of Patent Extension; VERLUMA™

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for VERLUMA™ and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human biological product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6620.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human biological products, the testing phase begins when the exemption to permit the clinical investigations of the biological becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human biological product and continues until FDA grants permission to market the biological product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the

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length of a regulatory review period for a human biological product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human biological product VERLUMA™ (nofetumomab). VERLUMA™ is indicated for the detection of extensive stage disease in patients with biopsy confirmed, previously untreated small cell lung cancer. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for VERLUMA™ (U.S. Patent No. 4,897,255) from NeoRx Corp., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated July 9, 1997, FDA advised the Patent and Trademark Office that this human biological product had undergone a regulatory review period and that the approval of VERLUMA™ represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that the FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for VERLUMA™ is 3,360 days. Of this time, 925 days occurred during the testing phase of the regulatory review period, 2,435 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 351 of the Public Health Service Act became effective:* June 11, 1987. The applicant claims September 4, 1987, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was June 11, 1987, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human biological product under section 351 of the Public Health Service Act:* December 21, 1989. FDA has verified the applicant's claim that the Product License Application (PLA) for VERLUMA™ (PLA 90–0150) was initially submitted on December 21, 1989.

3. *The date the application was approved:* August 20, 1996. FDA has verified the applicant's claim that PLA 90–0150 was approved on August 20, 1996.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,298 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before September 8, 1998, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before January 6, 1999, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 29, 1998.

Thomas J. McGinnis,

Deputy Associate Commissioner for Health Affairs.

[FR Doc. 98–18408 Filed 7–9–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97E–0061]

Determination of Regulatory Review Period for Purposes of Patent Extension; STROMECTOL®

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for STROMECTOL® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6620.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product STROMECTOL® (ivermectin). STROMECTOL® is indicated for treatment of strongyloidiasis and onchocerciasis. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for STROMECTOL® (U.S. Patent No. 4,199,569) from Merck & Co., Inc., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated March 7, 1997, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of STROMECTOL® represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for STROMECTOL® is 2,291 days. Of this time, 2,055 days occurred during the testing phase of the regulatory review period, while 236 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355) became effective*: August 17, 1990. The applicant claims July 17, 1990, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was August 17, 1990, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the act*: April 1, 1996. The applicant claims March 29, 1996, as the date the new drug application (NDA) for STROMECTOL® (NDA 50–742) was initially submitted. However, FDA records indicate that NDA 50–742 was submitted on April 1, 1996.

3. *The date the application was approved*: November 22, 1996. FDA has verified the applicant's claim that NDA 50–742 was approved on November 22, 1996.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,026 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before September 8, 1998, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before January 6, 1999, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 23, 1998.

Thomas J. McGinnis,

Deputy Associate Commissioner for Health Affairs.

[FR Doc. 98–18400 Filed 7–9–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97E–0359]

Determination of Regulatory Review Period for Purposes of Patent Extension; Flowmax™

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Flowmax™ and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6620.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Flowmax™ (tamsulosin hydrochloride). Flowmax™ is indicated for the treatment of the signs and symptoms of benign prostatic hyperplasia (BPH). Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Flowmax™ (U.S. Patent No. 4,868,216) from Yamanouchi Pharmaceutical, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated November 7, 1997, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Flowmax™ represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that the FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Flowmax™ is 3,529 days. Of this time, 3,163 days occurred during the testing phase of the regulatory review period, 366 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355) became effective*: August 19, 1987. FDA has verified the applicant's claim that the date the investigational new

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drug application became effective was on August 19, 1987.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the act*: April 15, 1996. FDA has verified the applicant's claim that the new drug application (NDA) for Flowmax™ (NDA 20–579) was initially submitted on April 15, 1996.

3. *The date the application was approved:* April 15, 1997. FDA has verified the applicant's claim that NDA 20–579 was approved on April 15, 1997.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,669 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before September 8, 1998, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before January 6, 1999, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 23, 1998.

Thomas J. McGinnis,

Deputy Associate Commissioner for Health Affairs.

[FR Doc. 98–18407 Filed 7–9–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Antimicrobial Drugs and Resistance; Notice of Public Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a public meeting to discuss the development of drug products for the treatment of resistant bacteria, including selective spectrum agents. The purpose of the meeting is to provide information on the agency's plans for future public scientific discussions of issues unique to the development of these drug products and to invite members of the public to provide comments on the agency's plans.

DATES: The public meeting will be held on Tuesday, July 28, 1998, from 2 p.m. to 6 p.m.

ADDRESSES: The public meeting will be held in conference rooms G and H, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Thomas H. Hassall, Center for Drug Evaluation and Research (HFD–104), Food and Drug Administration, 9201 Corporate Blvd., Rockville, MD 20850, 301–827–2489.

SUPPLEMENTARY INFORMATION: FDA will hold a public meeting on July 28, 1998, to discuss its plans for a presentation at a fall 1998 advisory committee meeting and possible future meetings on the development of drug products to treat resistant bacteria, including selective spectrum agents. At the fall 1998 advisory committee meeting, FDA plans to discuss issues unique to the development of such products, including clinical trial design and labeling issues. At the meeting, FDA will present its thoughts on the issues that should be presented to the advisory committee and will solicit public input on the structure of the discussion and additional issues that should be presented.

There is no registration for this meeting, however, space is limited. Persons interested in attending the meeting should contact the person listed above.

An agenda for the public meeting will be available 2 weeks before the meeting, via the Internet using the World Wide Web (WWW). To connect to the CDER home page, type "http://www.fda.gov/cder" and go to the "What's Happening" section.

Dated: July 3, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–18397 Filed 7–9–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

1998 FDA Science Forum—Biotechnology: Advances, Applications, and Regulatory Challenges

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of meeting.

The Food and Drug Administration's (FDA's) Office of Science is announcing the following meeting: "1998 FDA Science Forum—Biotechnology: Advances, Applications, and Regulatory Challenges." The Forum will bring FDA research and review scientists together with representatives of industry, academia, Government agencies, consumer groups, and the public to discuss the impact of the enormous advances in biotechnology on product development and regulation.

Date and Time: The meeting will be held on Tuesday and Wednesday, December 8 and 9, 1998; registration from 7:00 a.m. to 8:30 a.m.; meeting from 8:30 a.m. to 6:00 p.m. on December 8, and 8:30 a.m. to 5:00 p.m. on December 9.

Location: The meeting will be held at the Washington Convention Center, rms. 29–32 (lower level) and Hall C (upper level) 900 Ninth Street, NW., Washington, DC 20001.

Contact: American Association of Pharmaceutical Scientists at <meetings@aaps.org>, 703–518–8429, or Susan A. Homire, Food and Drug Administration, Office of Science (HF–32), 5600 Fishers Lane, Rockville, MD, 20857, 301–827–3366, e-mail <shomire@bangate.fda.gov>.

Registration: Registration information will be available in mid-July. Attendance will be limited; therefore, interested parties are encouraged to register early.

If you need special accommodations due to a disability, please contact the American Association of Pharmaceutical Scientists at least 3 weeks in advance.

Agenda: The program will encompass bioengineered products, novel therapeutic and preventive approaches, diagnostics and detection methodologies, and safety and efficacy assessment. Regulatory issues related to standards and product quality and the impact of the Food and Drug Administration Modernization Act (FDAMA) will also be addressed. The Forum will feature plenary lectures and focused discussion groups that include FDA, industry, and university leaders in the field, on the following topics: (1) "Biofarming and biopharming" (bioengineered plants and animals as sources of foods and drugs); (2) diagnostics and detection methods; (3) microbial pathogens, antibiotics, and resistance; (4) therapeutic and preventive agents: Novel therapies, gene therapy, cell and tissue engineering, and vaccines; (5) new models/methods for safety and efficacy assessment; and (6) regulatory challenges: Standards, product quality, FDAMA and impact on biotechnology regulation, and public acceptance of novel products.

The meeting is co-sponsored by FDA, the American Association of Pharmaceutical Scientists, and the FDA Chapter of Sigma Xi, the Scientific Research Society.

Dated: June 30, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–18399 Filed 7–9–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0495]

Prescription Drug User Fee Act, "PDUFA II Five-Year Plan;" Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of an internal planning document entitled "PDUFA II Five-Year Plan." This plan is intended to show FDA's anticipated prescription drug user fee revenues and planned expenditures of the fee revenues over the 5-year period from 1998 through 2002. The plan is designed to assist in achieving the new goals for the drug review process under the Prescription Drug User Fee Act of 1992 (PDUFA), which was amended and extended through the year 2002 by the Food and Drug Administration Modernization Act of 1997 (FDAMA). The amended and extended PDUFA is referred to as PDUFA II.

DATES: Written comments my be provided at any time and will be considered as the agency makes annual adjustments to the plan in the second quarter of each fiscal year.

ADDRESSES: Copies of this document are available on the Internet at "www.fda.gov/oc/pdufa2/5yrplan.html". For those without Internet access, single copies of this plan may be obtained from the Division of Management Systems and Policy (HFA–300), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Please send a self-addressed adhesive label to assist that office in processing your request. Submit written comments on the plan to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Frank P. Claunts, Division of Management Systems and Policy (HFA–300), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–5501.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of an internal planning document entitled "PDUFA II Five-Year Plan." PDUFA was amended and extended through the year 2002 by FDAMA. The amended and extended PDUFA is referred to as PDUFA II. PDUFA II authorizes appropriations and fees that will provide FDA with resources to sustain the drug review staff developed in the last 5 years and to achieve the even more stringent new goals.

The plan begins with a statement of purpose, provides background information on PDUFA and a summary of the new goals, and discusses the 10 major assumptions on which the plan is based. Included is the assumption that this plan is dynamic and will be reassessed each fiscal year through 2002. The individual plans of agency components with major PDUFA responsibilities are summarized, followed by a summary of associated expenditures and an agency summary.

In our continuing efforts to maximize the availability and clarity of information about our review processes and plans, we are sharing this plan with all who have an interest and making it available on the Internet. We welcome comments and will consider them in the future as annual adjustments are made to the plan.

Interested persons, may at any time, submit written comments to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance document and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 3, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–18401 Filed 7–9–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0512]

Draft "Guidance for Industry: For the Submission of Chemistry, Manufacturing and Controls and Establishment Description Information for Human Blood and Blood Components Intended for Transfusion or for Further Manufacture and For the Completion of the FDA Form 356h, Application to Market a New Drug, Biologic or an Antibiotic Drug for Human Use;" Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance document entitled "Guidance for Industry: For the Submission of Chemistry, Manufacturing and Controls and Establishment Description Information for Human Blood and Blood Components Intended for Transfusion or for Further Manufacture and For the Completion of the FDA Form 356h, Application to Market a New Drug, Biologic or an Antibiotic Drug for Human Use." The draft guidance document is intended to assist applicants in the preparation of the content and format of the chemistry, manufacturing, and controls (CMC) section and the establishment description section of a biologics license application (BLA), revised Form FDA 356h, for human blood and blood components intended for transfusion or for further manufacture. In addition, the draft guidance document provides assistance for the completion of the BLA. This action is part of FDA's continuing effort to achieve the objectives of the President's "Reinventing Government" initiatives and the Food and Drug Administration

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Modernization Act of 1997 (Modernization Act), to reduce unnecessary burdens for industry without diminishing public health protection.

DATES: Written comments may be submitted at any time, however, comments should be submitted by September 8, 1998, to ensure their adequate consideration in preparation of the final document.

ADDRESSES: Submit written requests for single copies of "Guidance for Industry: For the Submission of Chemistry, Manufacturing and Controls and Establishment Description Information for Human Blood and Blood Components Intended for Transfusion or for Further Manufacture and For the Completion of the FDA Form 356h, Application to Market a New Drug, Biologic or an Antibiotic Drug for Human Use" to the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist that office in processing your requests. The draft guidance document may also be obtained by mail by calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800, or by fax by calling the FAX Information System at 1–888–CBER–FAX or 301–827–3844. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance.

Submit written comments on the draft guidance document to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Valerie A. Butler, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance document entitled "Guidance for Industry: For the Submission of Chemistry, Manufacturing and Controls and Establishment Description Information for Human Blood and Blood Components Intended for Transfusion or for Further Manufacture and For the Completion of the FDA Form 356h, Application to Market a New Drug, Biologic or an Antibiotic Drug for Human Use." The draft document, when finalized, is intended to provide instructions on the completion of the revised Form FDA 356h, including CMC and establishment description sections for human blood and blood components intended for transfusion or for further manufacture. In the **Federal Register** of July 8, 1997 (62 FR 36558), FDA announced the availability of a new harmonized Form FDA 356h entitled "Application to Market a New Drug, Biologic, or an Antibiotic for Human Use." The new harmonized form is intended to be used by applicants for all drug and biological products, to include blood and blood components. The new harmonized form when fully implemented will allow biological product manufacturers to submit a single application, the BLA, instead of two separate license application submissions, a product license application (PLA) and an establishment license application (ELA).

The draft guidance document represents the agency's current thinking on content and format of the CMC and establishment description information sections of a license application for human blood and blood components intended for transfusion or for further manufacture. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both. As with other guidance documents, FDA does not intend this document to be all inclusive and cautions that not all information may be applicable to all situations. The document is intended to provide information and does not set forth requirements.

II. Requests for Comments

The draft guidance document is being distributed for comment purposes only and is not intended for implementation at this time. Interested persons may submit to the Dockets Management Branch (address above) written comments regarding the draft guidance document. Written comments may be submitted at any time, however, comments should be submitted by September 8, 1998, to ensure adequate consideration in preparation of the final document. Two copies of any comments are to be submitted, except individuals may submit one copy. Comments and requests should be identified with the docket number found in the brackets in the heading of this document. A copy of the draft guidance document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the draft guidance document using the World Wide Web (WWW). For WWW access, connect to CBER at "http://www.fda.gov/cber/guidelines.htm".

Dated: June 30, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–18404 Filed 7–9–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0483]

Draft "Guidance for Industry: In the Manufacture and Clinical Evaluation of In Vitro Tests to Detect Nucleic Acid Sequences of Human Immunodeficiency Virus Type 1;" Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance document entitled "Guidance for Industry: In the Manufacture and Clinical Evaluation of *In Vitro* Tests to Detect Nucleic Acid Sequences of Human Immunodeficiency Virus Type 1." The draft guidance document addresses general and specific concerns for gene based detection techniques, and it is intended to provide guidance on manufacturing and clinical trial design issues pertaining to the validation of tests based on nucleic acid detection either in the presence or absence of an amplification step.

DATES: Written comments may be submitted at any time, however, comments should be submitted by October 8, 1998, to ensure their adequate consideration in preparation of the final document.

ADDRESSES: Submit written requests for single copies of "Guidance for Industry: In the Manufacture and Clinical Evaluation of *In Vitro* Tests to Detect Nucleic Acid Sequences of Human Immunodeficiency Virus Type 1" to the Office of Communication, Training and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist that office in processing your requests. The draft guidance document may also be obtained by mail by calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800, or by fax by calling the FAX Information System at 1–888–CBER–FAX or 301–827–3844. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit written comments on the draft guidance document to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Valerie A. Butler, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance document entitled "Guidance for Industry: In the Manufacture and Clinical Evaluation of *In Vitro* Tests to Detect Nucleic Acid Sequences of Human Immunodeficiency Virus Type 1." The draft guidance document outlines some of the major regulatory and scientific issues concerning gene based tests for Human Immunodeficiency Virus (HIV), these criteria also apply to tests for other transfusion transmitted viruses including Human Immunodeficiency Virus Type 2, Hepatitis C Virus, Hepatitis B Virus, Human T–cell Lymphotropic Virus Types I and II.

This draft guidance document represents the agency's current thinking with regard to the manufacture and clinical evaluation of in vitro testing to detect specific nucleic acid sequences of HIV type 1. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both. As with other guidance documents, FDA does not intend this draft guidance document to be all-inclusive and cautions that not all information may be applicable to all situations. The draft guidance document is intended to provide information and does not set forth requirements.

II. Comments

This draft guidance document is being distributed for comment purposes only and is not intended for implementation at this time. Interested persons may submit to the Dockets Management Branch (address above) written comments regarding the draft guidance document. Written comments may be submitted at any time; however, comments should be submitted by October 8, 1998, to ensure adequate consideration in preparation of the final guidance document. Two copies of any comments are to be submitted, except individuals may submit one copy. Comments should be identified with the docket number found in brackets in the heading of this document. A copy of the draft guidance document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the draft guidance document using the World Wide Web (WWW). For WWW access, connect to CBER at "http://www.fda.gov/cber/guidelines.htm".

Dated: June 30, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–18403 Filed 7–9–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review Collection; Comment Request; Individual National Research Service Award Application and Related Forms

Summary

Under the provisions of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of Extramural Research, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection was previously published in the **Federal Register** on April 2, 1998, pages 16268–16269 and allowed 60-days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection

Title: Individual National Research Service Award Application and Related Forms. *Type of Information Collection Request:* Revision, OMB 0925–0002, Expiration Date 9/30/98. *Form Numbers: PHS 416–1, 416–9, 416–5, 416–7, 6031, 6031–1. Need and Use of Information Collection:* The PHS 416–1 and PHS 416–9 are used by individuals to apply for direct research training support. Awards are made to individual applicants for specified training proposals in biomedical and behavioral research, selected as a result of a national competition. The other related forms (PHS 416–5, 416–7, 6031 and 6031–1) are used by these individuals to activate, terminate, and provide for payback of a National Research Service Award. *Frequency of Response:* Applicants may submit applications for published receipt dates. If awarded, annual progress is reported. Related forms are used at activation, termination, and to provide for payback of a National Research Service Award. *Affected Public:* Individuals or Households: Business or other for-profit; Not-for-profit institutions; Federal Government; and State, Local or tribal Government. *Type of Respondents:* Adult scientific trainees and professionals. The annual reporting burden is as follows: *Estimated Number of Respondents:* 29, 748; *Estimated Number of Responses per Respondent:* 1.0834; *Average Burden Hours Per Responses:* 2.658 hours; and *Estimated Total Annual Burden Hours Requested:* 85,679. The estimated annualized cost to respondents is $1,985,472 (Using a $35 physician/professor average hourly wage rate, and a $12 trainee average hourly wage rate.) There are no Capital Costs to report. There are no Operating or Maintenance costs to report.

Request for Comments

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated,

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electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, D.C. 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Charles MacKay, Ph.D., NIH Project Clearance Officer, Division of Grants Policy, Office of Policy for Extramural Research Administration, OER, NIH, Rockledge II, Rm. 2196, 6701 Rockledge Dr., Bethesda, MD 20892–7730, or call non-toll free at (301) 435–0978 or E-mail your request, including your address to: *mackayc@odrockm1.od.nih.gov*.

Comments Due Date

Comments regarding this information collection are best assured of having their full effect if received on or before August 10, 1998.

Dated: June 30, 1998.

Diana Jaeger,

Director, Division of Grants Policy, Office of Policy for Extramural Research Administration, OER, NIH.

[FR Doc. 98–18321 Filed 7–9–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel, Clinical Trials Musculoskeletal.

Date: August 3, 1998.

Time: 10:00 a.m. to 1:00 p.m.

Place: To review and evaluate grant applications.

Place: Natcher Bldg., 45 Center Drive, Room 5AS25N, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: John R. Lymangrover, Scientific Review Administrator, NIAMS, 45 Center Drive, Room 5AS 25, Bethesda, MD 20892–6500, (301) 594–4952.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel, Osteoporosis Center.

Date: August 10, 1998.

Time: 10 a.m. to 11:00 a.m.

Agenda: To review and evaluate grant applications.

Place: Natcher Bldg., 45 Center Drive, Room 5AS25N, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: John R. Lymangrover, Scientific Review Administrator, NIAMS, 45 Center Drive, Room 5AS 25, Bethesda, MD 20892–6500, (301) 594–4952.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: July 2, 1998.

LaVeen Ponds,

Acting Committee Management Officer, NIH.

[FR Doc. 98–18317 Filed 7–9–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel National Research Service Award.

Date: July 17, 1998.

Time: 9:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Bruce K. Wetzel, Scientific Review Administrator, Office of Scientific Review, NIGMS, Natcher Building, Room 1AS–19, Bethesda, MD 20892, (301) 594–3907.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Phamacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: July 2, 1998.

LaVeen Ponds,

Acting Committee Management Officer, NIH.

[FR Doc. 98–18318 Filed 7–9–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Toxicology Program; Notice of International Workshop to "Evaluate Research Needs on the Use and Safety of Medicinal Herbs"

The Workshop will be held at the National Institute of Environmental Health Sciences, Conference Facility in Research Triangle Park, North Carolina September 23 and 24 1998 from 8:30 to 5:00 each day.

Background

Herbal medicines and dietary supplements account for one of the fastest growing markets in U.S. pharmacies and constitute a multi-billion dollar industry. It is estimated that as many as 1,500 botanicals are sold in the U.S. as dietary supplements or ethnic traditional medicines. It is further estimated that greater than 50% of the U.S. population uses one or more dietary supplements including medicinal herbs. Medicinal herbs are not, however, subject to the same testing for efficacy or safety mandated for prescription or over-the-counter drugs. Given the increasing use of some medicinal herbs and the paucity of toxicological data, this workshop will bring together a panel of national and international experts to discuss the use of the medicinal herbs and dietary supplements and to establish research needs that address public health concerns. The tentative program follows:

Wednesday, September 23, 1998

Opening Comments

The NIEHS—Dr. Carl Barrett, National Institute of Environmental Health Sciences

The National Toxicology Program—Dr. George Lucier, National Institute of Environmental Health Sciences

Comments from NIH Office of Dietary Supplements—Dr. Bernadette Marriott, National Institutes of Health

DHHS Office of Disease Prevention and Health Promotion—Dr. Kenneth D. Fisher, Dept. of Health & Human Services

Society for the Advancement of Women's Health Research—Ms. Phyllis Greenberger, Society for the Advancement of Women's Health Research

Keynote Speaker: "Science, Politics, Public Opinion and Herbal Dietary Supplements"—Dr. Norman B. Farnsworth, University of Illinois, Chicago

Session I: Benefits and Risks Associated with the Use of Medicinal Herbs—Dr. H.B. Matthews, (Session Moderator)

Commonly Used Medicinal Herbs in the United States—Mr. Mark Blumenthal, American Botanical Council

Ranking Possible Toxic and Carcinogenic Hazards of Natural and Synthetic Chemicals—Dr. Lois Gold, Lawrence Berkeley National Laboratory

USP Panel on the Identification and Standardization of Natural Products—Dr. V. Srini Srinivasan, U.S. Pharmacopoeia

Session II: International Research on the Efficacy and Safety of Dietary Supplements and Medicinal Herbs Worldwide—Dr. Bernadette Marriott (Session Moderator)

Research of Medicinal Herbs in Germany—Dr. Prof. Hildebert Wagner, Institute for Pharmaceutical Biologie

Ancient-Modern Concordance in Ayurvedic Medicinal Plants—Dr. Sukh Dev, New Friends Colony, India

Medicinal Herbs in Japan—Prof. Yutaka Sashida, Tokyo Pharmaceutical University

Open Discussion & Public Comment

Thursday, September 24, 1998

Session III: Research on Medicinal Herbs and Dietary Supplements in the U.S.—Dr. Norman Farnsworth (Session Moderator)

Methodology and Testing to Insure Product Content and Quality—Dr. Joe Betz & Dr. William Obermeyer, Food & Drug Administration

Research on Dietary Supplements: An Industry Perspective—Loren D. Israelsen, Utah Natural Products Alliance

Current Research Programs of the U.S. Dietary Supplement Industry—Dr. Jill Ellis, National Nutritional Foods Association

Session IV: Panel Discussion on Research Needs to Assure Safety of Medicinal Herbs and Dietary Supplements in the U.S.—Dr. Kenneth D. Fisher (Session Moderator)

Dr. Bernadette Marriott, Director, NIH Office of Dietary Supplements

Dr. Wayne B. Jonas, Director, NIH Office of Alternative Medicine

Dr. Linda D. Meyers, Deputy Director for Science and Nutrition DHHS, Office of Disease Prevention and Nutrition

Dr. Elizabeth A. Yetley, Director, Office of Special Nutrition, US FDA

Mr. Loren Israelsen, Executive Director, Utah Natural Products Alliance

Dr. Jill Ellis, Scientific Director, NNFA

Dr. Rossanne M. Philen, Chief Environmental Hazards Epidemiology Section, NCEH

Mr. David Schardt, Associate Nutritionist, Center for Science in the Public Interest

Session V: Open Discussion on Research Needs to Assure Safety of Medicinal Herbs and Dietary Supplements in the U.S.—Dr. H.B. Matthews (Session Moderator)

Workshop Adjourns

Co-sponsors for the workshop include National Institutes of Health's Office of Dietary Supplements and National Institute of Environmental Health Sciences; the Department of Health and Human Services National Toxicology Program and Office of Disease Prevention and Health Promotion; the Food and Drug Administration's Office of Special Nutrition and the Society for the Advancement of Women's Health Research.

The meeting is open to the public, limited only by space available. The program includes time for open discussion. In addition time will be allotted to persons wishing to make oral comments. Those wishing to speak are encouraged to pre-register. The time allotted for each presenter will be dependent on the number of speakers.

To register, please submit the following: name, address, institutional affiliation, department, address, city, state, phone, fax and email address to Jaime Edge, NIEHS, P.O. Box 12233, Research Triangle Park, NC 27709 (fax: 919–541–0295 or email to edge@niehs.nih.gov.

For further information on the meeting plans contact Dr. Matthews at (919) 541–3252; for any other information on the workshop contact Alma Britton (919) 541–0530; Fax (919)–541–0295 or email: britton@niehs.nih.gov.

Dated: June 30, 1998.

Kenneth Olden,

Director, National Institute of Environmental Health Sciences.

[FR Doc. 98–18319 Filed 7–9–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Institute of Environmental Health Sciences (NIEHS); Notice of Meeting to Review the Murine Local Lymph Node Assay (LLNA) as an Alternative Test Method for Contact Hypersensitivity; Request for Comments

SUMMARY: Pursuant to Public Law 103–43, notice is hereby given of a public meeting sponsored by the NIEHS and the National Toxicology Program (NTP), and coordinated by the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM) and the NTP Interagency Center for the Evaluation of Alternative Toxicological Methods (NTP Center). The agenda topic is the scientific peer review of the murine local lymph node assay (LLNA), which is proposed as an alternative toxicological test method for assessing contact hypersensitivity (allergic contact dermatitis) potential of chemicals and products. The meeting will be held on September 17, 1998, at the Gaithersburg Hilton, 620 Perry Parkway, Gaithersburg, Maryland. The meeting will take place from 8:30 a.m. to 4:30 p.m. and is open to the public.

Background

Public Law 103–43 directed the NIEHS to develop and validate alternative methods that can reduce or eliminate the use of animals in acute or chronic toxicity testing, establish criteria for the validation and regulatory acceptance of alternative testing methods, and recommend a process through which scientifically validated alternative methods can be accepted for regulatory use. Criteria and processes for validation and regulatory acceptance were developed in conjunction with 13 other Federal agencies and programs

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with broad input from the public. These are described in the document "Validation and Regulatory Acceptance of Toxicological Test Methods: A Report of the Ad Hoc Interagency Coordinating Committee on the Validation of Alternative Methods" NIH publication 97–3981, March 1997, which is available on the internet at http://ntp-server.niehs.nih.gov/htdocs/ICCVAM/ICCVAM htm. An Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM) was subsequently established in a collaborative effort by NIEHS and 13 other Federal regulatory and research agencies and programs. The Committee's functions include the coordination of interagency reviews of toxicological test methods and communication with stakeholders throughout the process of test method development and validation. The following Federal regulatory and research agencies and organizations are participating in this effort:

Consumer Product Safety Commission
Department of Defense
Department of Energy
Department of Health and Human Services
  Agency for Toxic Substances and Disease Registry
  Food and Drug Administration
  National Institute for Occupational Safety and Health/CDC
  National Institutes of Health
  National Cancer Institute
  National Institute of Environmental Health Sciences
  National Library of Medicine
Department of the Interior
Department of Labor
  Occupational Safety and Health Administration
Department of Transportation
  Research and Special Programs Administration
Environmental Protection Agency

The LLNA was proposed to the ICCVAM for consideration as a stand-alone test to identify chemicals that have a potential to cause contact hypersensitivity (allergic contact dermatitis). An ICCVAM Immunotoxicity Working Group composed of Federal employees determined that there was sufficient information available to merit an independent scientific peer review of the LLNA test method. Peer review has been determined to be an essential prerequisite for consideration of a method for regulatory acceptance. The peer review panel will be charged with developing a scientific consensus on the usefulness of the test method to generate information for various human health risk assessment purposes. Following evaluation at this peer review meeting, the proposed test method and results of the peer review will be forwarded by ICCVAM to Federal agencies for consideration. Federal agencies will determine the regulatory acceptability of a method according to their mandates.

Agenda

There will be a brief orientation on the ICCVAM and the ICCVAM review process, followed by peer review of the proposed LLNA test method and supporting information. The peer review panel will discuss the usefulness of the LLNA as an alternative to test methods currently accepted by government regulatory authorities for the assessment of the contact hypersensitivity potential of chemicals and products. Copies of the proposed LLNA Test Method Protocol and supporting documentation may be obtained from the NTP Center for the Evaluation of Alternative Toxicological Methods, MD EC–17, P.O. Box 12233, Research Triangle Park, NC, 27709 (919–541–3398), FAX (919–541–0947), e-mail: *ICCVAM@niehs.nih.gov*. The LLNA test method documents and copies of written public comments can also be viewed at the Documents Management Branch, Food and Drug Administration, 5630 Fishers Lane, Room 1061, Rockville, MD, 20852 on Monday through Friday from 9:00 a.m. to 4:00 p.m.

Public Comment

The NTP Center invites the submission of written comments on the proposed LLNA test method, and other available information regarding the usefulness of the LLNA, including information about completed, ongoing, or planned studies. Written comments and additional information should be sent by mail, fax, or e-mail to the NTP Center at the address listed above by August 14th. Written comments will be made available to the peer review panel members, ICCVAM agency representatives and experts, and will be made available for attendees at the meeting. Members of the public who wish to present oral statements at the meeting should also contact the NTP Center as soon as possible, but not later than September 11, 1998. Speakers will be assigned on a first-come, first-serve basis and will be limited to a maximum of five minutes in presentation length. Written comments accompanying the oral statement should be submitted in advance so that copies can be made and distributed to the peer panel members.

The NTP Center will furnish an agenda and a roster of peer review panel members just prior to the meeting. Summary minutes and a final report of the LLNA peer review meeting will be available subsequent to the meeting upon request to the Center. Persons needing special assistance, such as sign language interpretation or other special accommodations should contact the NTP Center as described above.

Dated: June 30, 1998.

Kenneth Olden,

Director, National Toxicology Program.

[FR Doc. 98–18320 Filed 7–9–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4341–N–18]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: July 10, 1998.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, Department of Housing and Urban Development, Room 7256, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1226; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1998 court order in *National Coalition for the Homeless v. Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: July 2, 1998.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 98–18049 Filed 7–9–98; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT-050-1020-01; UTU-76188]

Proposed Classification Decision, State Indemnity Selection

The Utah State School and Institutional Trust Lands Administration has filed a petition for classification and application to acquire the public lands, including the mineral estate, described below, under the provisions of Act of Congress of August 17, 1958 (72 Stat. 928) as amended, and the acts supplementary and amendatory thereto. This application has been assigned Serial Number UTU-76188.

The Bureau of Land Management will examine these lands for evidence of prior valid existing rights or other statutory constraints that would bar transfer. This proposed classification is pursuant to Title 43, CFR 2400; and Section 7 of the Act of June 28, 1934.

Information concerning these lands and the proposed transfer to the State of Utah may be obtained from the Bureau of Land Management, Richfield District Office, 150 East 900 North, Richfield, Utah 84701.

For a period of 60 days from the date of publication of this notice in the **Federal Register**, all persons who wish to submit comments, suggestions, or objections in connection with the proposed classification may present their views in writing to the State Director, Bureau of Land Management, 324 South State Street, P.O. Box 45155, Salt Lake City, Utah 84145-0155.

Any adverse comments will be evaluated by the State Director who will issue a notice of determination to proceed with, modify, or cancel the action. In the absence of any action by the State Director, this classification action will become the final determination of the Department of the Interior.

As provided by Title 43 CFR 2450.4(c), public hearing may be scheduled by the State Director if he determines that sufficient public interest exists to warrant the time and expense of a hearing.

The lands included in the proposed classification are located within Garfield County, Utah, and are described as follows:

Salt Lake Meridian, Utah

T. 36 S., R. 11 E.,
Section 15: All
Section 29: W½SW¼, SE¼SW¼, W½SE¼
T. 37 S., R. 11 E.,
Section 5: All.

Containing 1480 acres.

Individuals and corporations holding valid leases, permits, and/or rights-of-way on the public lands described above have been or will be notified of the proposed classification. Rights-of-way granted by the Bureau of Land Management on the above lands will transfer with the land, the transfer document will be subject to the rights-of-way, or the rights-of-way may be reserved to the United States (see Section 508 of FLPMA). Oil and gas leases (geothermal, other leasing act minerals) will remain in effect under the terms and conditions of the lease. (Upon expiration or termination of the leases, or any authorized extensions thereof, such rights shall automatically vest in the State.)

State law and School and Institutional Trust Lands Administration procedures provide for the offering to holders of Bureau of Land Management grazing permits, licenses, or leases the first right to lease lands that are transferred to the State. This Classification notice constitutes official notice to holders of grazing use authorizations from the Bureau of Land Management that such authorizations will be terminated in part upon transfer of the land described above to the State of Utah.

For a period of 45 days from the date of first publication indicated below, persons asserting a claim to or interest in the described lands, other than holders of leases, permits, or rights-of-way may file such claim with the State Director, Bureau of Land Management, 324 South State Street, P.O. Box 45155, Salt Lake City, Utah 84145-0155, with evidence that a copy thereof has been served on the State of Utah, School and Institutional Trust Lands Administration.

Dated: July 2, 1998.

G. William Lamb,
State Director.

[FR Doc. 98-18388 Filed 7-9-98 8:45 am]

BILLING CODE 4310-DQ-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY-040-06-1610-00]

Notice of Availability

AGENCY: Bureau of Land Management, Interior.

ACTION: The Bureau of Land Management (BLM), Green River Resource Area, Rock Springs District, Wyoming, announces: (1) the availability of the Record of Decision (ROD) for the Environmental Impact Statement (EIS) for the Green River Resource Management Plan (RMP), (2) the approved Green River RMP, and (3) notice of off-road vehicle designations for the Green River Resource Area.

SUMMARY: The ROD identifies the selection and approval of the Green River RMP. The Green River RMP presents multiple use management prescriptions for about 3.6 million acres of public land surface and 3.7 million acres of Federal mineral estate, administered by the BLM, in portions of Sweetwater, Fremont, Lincoln, Uinta, and Sublette counties in southwest Wyoming.

The draft EIS for the Green River RMP was made available for public review and comment in November of 1992. Comments received on the draft EIS were considered in preparing the proposed Green River RMP and final EIS which was made available for public review and protest in May of 1996.

Management prescriptions are presented in the Green River RMP for all BLM-administered public land and resource uses and values found within the planning area, including the following: air quality, cultural resources, fire management, forests and woodlands, hazardous materials, lands and realty management, livestock grazing, minerals, off-road vehicles, outdoor recreation, special status species, vegetation, visual resources, watershed, wild horses, wildlife, and special management areas. Since wilderness values are addressed in other documents, the Green River RMP does not address them.

The Green River RMP is a comprehensive multiple-use land use plan. It is a refinement of the preferred alternative presented in the draft EIS and the proposed RMP presented in the final EIS. While the intent and content of the Green River RMP are not different from the proposed RMP, comments from the public, review by BLM staff, and new information obtained since the distribution of the final EIS have prompted some wording clarifications in the RMP.

This **Federal Register** Notice serves as the notice for the off-road vehicle (ORV) designations for the Green River Resource Area as identified in the Green River RMP. The ORV designations are described under **SUPPLEMENTARY INFORMATION** in this notice.

This notice also serves to meet the criteria for public notification of linear or site rights-of-way within floodplains as required by BLM Manual 7221 except for those associated with perennial streams. The BLM will solicit public comment on site facilities or major linear rights-of-way along perennial streams unless another agency (Federal, State, or local) already has solicited such comments.

ADDRESSES: Information on the Green River RMP may be obtained from the Green River Resource Area Office, 280 Highway 191 North, Rock Springs, Wyoming 82901, (307) 352–0256.

FOR FURTHER INFORMATION CONTACT: Stan McKee, Green River Resource Area Manager, or Renée Dana, Green River RMP Team Leader, at the Rock Springs BLM District Office, 280 Highway 191 North, Rock Springs, Wyoming 82901, (307) 352–0256. Copies of the ROD and Green River RMP are available from the Green River Resource Area Office.

SUPPLEMENTARY INFORMATION: Eight protests were submitted during the 30-day protest period for the proposed Green River RMP. All of the protests were responded to and resolved by the Director of the Bureau of Land Management (BLM). Resolution of the protests required some minor corrections and wording clarification but did not result in changing any of the proposed Green River RMP decisions.

The Green River RMP provides the interim management direction for those BLM-administered public lands along waterways that were determined to meet the suitability factors for further consideration for inclusion in the Wild and Scenic Rivers System (WSRS). Seven parcels of BLM-administered lands, along a total of about 9.7 miles of the Sweetwater River, have been found to meet the suitability factors to be given further consideration for inclusion in the WSRS. Tentative classifications of the various parcels include wild (about 5.8 miles), scenic (about 0.5 miles), and recreational (about 3.4 miles). The interim management of these parcels will continue until Congress decides to consider them further for possible inclusion in the WSRS.

The Green River RMP includes identification of the Federal coal lands in the Green River Resource Area that are acceptable for further leasing consideration.

The Green River RMP includes designations of Areas of Critical Environmental Concern (ACEC). Seven prior ACEC designations are retained (or modified):

—Cedar Canyon ACEC (approximately 2,550 acres) with management priority and emphasis given to maintaining or enhancing important cultural, scenic, and wildlife habitat values.

—Greater Red Creek ACEC (approximately 131,890 acres—the original Red Creek ACEC of 55,880 acres was expanded to include the Currant Creek and Sage Creek drainages) with management priority and emphasis given to maintaining or enhancing fragile soils, Colorado River cutthroat trout, and water quality values.

—Greater Sand Dunes ACEC (approximately 38,650 acres) with management priority and emphasis given to maintaining or enhancing unique and unusual geological features associated with the sand dunes and Boars Tusk, and the diverse biological interrelationships supported by the sand dunes, especially the dependent plants and animals.

—Natural Corrals ACEC (approximately 1,276 acres) with management priority and emphasis given to maintaining or enhancing the unique and important cultural, historical, recreational, and geological values.

—Oregon Buttes ACEC (approximately 3,450 acres) with management priority and emphasis given to maintaining or enhancing the historic landmark, significant wildlife values, and the scenic integrity.

—Pine Springs ACEC (expanded from 90 acres to approximately 6,030 acres to include adjacent relevant and important values) with management priority and emphasis given to maintaining or enhancing the important cultural, historic, and prehistoric resource values.

—White Mountain Petroglyphs ACEC (approximately 20 acres) with management priority and emphasis given to maintaining or enhancing the educational opportunities and important cultural, wildlife, scenic, and Native American values.

Three new areas are designated ACECs:

—South Pass Historic Landscape ACEC (approximately 53,780 acres) with management priority and emphasis given to maintaining or enhancing the visual and historical integrity of historic trails and their surrounding viewscape.

—Special Status (Candidate) Plants ACEC (four separate locations totalling approximately 900 acres) with management priority and emphasis given to maintaining or enhancing these species and their habitats.

—Steamboat Mountain ACEC (approximately 43,270 acres) with management priority and emphasis given to maintaining or enhancing the wildlife habitats and vegetation communities.

The management actions for each ACEC include conditional requirements for surface disturbing activities and other land uses such as limitations on oil and gas and coal exploration and development activities, geophysical exploration, right-of-way construction, and vehicular travel. Portions of the ACECs may be closed to future locatable mineral exploration and development subject to valid existing rights. The level of these vary in each ACEC.

Six areas are designated Special Recreation Management Areas (SRMAs):

—The Greater Sand Dunes (about 38,650 acres).

—The Oregon, Mormon Pioneer, California, and Pony Express National Historic Trails (about 125 miles).

—The Continental Divide National Scenic Trail and the Continental Divide Snowmobile Trail (about 24 miles).

—The Green River (about 4,048 acres).

—The Wind River Front (about 261,080 acres).

The remainder of the BLM-administered public lands in the Green River Resource Area are designated an Extensive Recreation Management Area (ERMA).

Five backcountry byways are also designated: the Tri-Territory Loop, the Lander Road, Red Desert, Fort LaClede Loop, and the Firehole-Little Mountain Loop.

Management of wilderness values is not addressed in the Green River RMP. The twelve wilderness study areas (WSAs) within the Green River Resource Area are addressed in the "Rock Springs District Wilderness Final EIS," September 1990, and the "Adobe Town-Ferris Mountains Wilderness Final EIS," December 1987.

The Green River RMP includes the following Off-Road Vehicle (ORV) designations: areas open to off-road vehicular use, areas with use limitations (i.e., limited to seasonal use, limited to existing roads and trails, and limited to designated roads and trails), and areas closed to vehicular use. (Note: The areas designated as limited seasonally and limited to designated roads and trails, overlap one another as do the areas designated as limited seasonally and limited to existing roads and trails.) Maps of the ORV designations are on file in the Green River Resource Area Office.

Specific designations are as follows:

A. Open Designation (approximately 10,500 acres). Vehicle travel is permitted both on and off roads in the eastern portion of the Greater Sand Dunes Area of Critical Environmental Concern (ACEC) (about 10,500 acres).

Vehicle use is confined to the active sand dunes within the 10,500 acres.

B. Limited Designations:

1. Motorized vehicle travel is limited to existing roads and trails except during certain periods of the year when areas may be closed to all vehicles (approximately 1,627,955 acres). Acres may not total because of overlap.

a. Big game crucial winter ranges (about 1,500,000 acres) are limited through seasonal closures (November 15–April 30 as needed) to reduce stress on wintering animals. Closure to over-the-snow vehicles will be evaluated on a case-by-case basis in conjunction with the Wyoming Game and Fish Department.

b. Deer parturition areas (about 40,880 acres) are limited through seasonal closures (May 1 to June 30 as needed) to reduce stress on deer.

c. Elk calving areas (about 85,830 acres) are limited through seasonal closures (to be decided by biologist—May 1 to June 30 as needed) to reduce stress on elk.

d. Moose calving areas (about 410 acres) are limited through seasonal closures (to be decided by biologist—May 1 to June 30 as needed) to reduce stress on moose.

e. Raptor nesting areas (about 835 acres) are limited through seasonal closures (February 1 through July 31 as needed) to protect nesting raptors.

f. Steamboat Mountain (about 15,981 acres) is limited through seasonal closures (to be determined, but usually between May 1 and June 30) to protect wildlife values (big game birthing areas are of particular concern).

2. Motorized vehicle travel is limited to designated roads and trails only on approximately 1,006,336 acres. Vehicle use in these areas will be managed the same as under the existing roads and trails designation until the designation is implemented on the ground (i.e., until the designated roads are identified and signs or notices are put in place). Acres may not total because of overlap.

a. Adobe Town-Haystacks (about 54,000 acres) to protect fragile and highly erodible soils.

b. Cedar Canyon ACEC (about 2,550 acres) to protect wildlife and cultural values (includes over-the-snow vehicles).

c. Dug Springs Stage Station (about 10 acres) to protect historic values.

d. Greater Red Creek ACEC (about 123,870 acres) (includes the Currant Creek and Sage Creek watersheds, and remainder of Red Creek watershed) to protect watershed values.

e. An area adjacent to the Green River city limits (about 4,500 acres within a 2-mile radius around the city limits) to reduce impacts from ORV freeplay.

f. LaBarge Bluff Petroglyphs (about 100 acres within ½ mile surrounding the petroglyphs) to protect cultural values.

g. LaClede Stage Station (about 10 acres) to protect historic values.

h. Monument Valley (about 69,940 acres) to protect paleontological resource values and watershed values.

i. Natural Corrals ACEC (about 1,300 acres) to protect cultural, historic, and geologic resource values.

j. North and South Table Mountains (about 1,280 acres) to protect cultural and wildlife values.

k. Parting of the Ways (about 40 acres) to protect historical values.

l. Pine Mountain (about 64,200 acres) to protect watershed values.

m. Red Desert (about 245,480 acres) to protect scenic resource values.

n. South Pass (about 33,700 acres) to protect cultural values.

o. Steamboat Mountain ACEC (about 43,270 acres) to protect wildlife values.

p. Steep slopes of White Mountain (about 68,640 acres) to protect watershed and visual values.

q. Sugarloaf Basin (about 85,880 acres) to protect watershed values.

r. Sugarloaf Petroglyphs (about 350 acres within ½ mile radius) to protect cultural values.

s. Tolar Petroglyphs (about 310 acres within ½ mile radius) to protect cultural values.

t. White Mountain Petroglyphs ACEC (about 480 acres within ½ mile surrounding the petroglyphs) to protect cultural values.

u. Wind River Front Special Recreation Management area (about 260,580 acres) to protect the nearby Class I airshed, scenic, watershed, and wildlife values; recreation use; and riparian and vegetation resources.

3. Motorized vehicle travel is limited to existing roads and trails on approximately 2,436,595 acres. Acres may not total because of overlap.

a. General Green River Resource Area (about 2,436,595 acres) to reduce resource damage.

b. Greater Sand Dunes ACEC (Eastern Portion) (about 5,810 acres of stabilized dunes) to protect resource values.

c. Pine Springs ACEC (about 730 acres outside the WSA and original 90-acre site) to protect resource values.

d. Riparian areas (about 8,730 acres) to protect riparian and watershed values. During muddy conditions, vehicle travel may be limited to protect soil and watershed values.

C. Closed Designations (approximately 181,570 acres). Acres may not total because of overlap.

1. The following areas are closed to vehicle use.

a. Crookston Ranch (about 40 acres) in the Greater Sand Dunes ACEC to protect cultural and historic site.

b. Dry Sandy Swales (about 20 acres) to protect integrity of setting and soils.

c. Road around Boars Tusk and the Boars Tusk (about 90 acres) to preserve its value as a geologic feature.

d. LaBarge Bluffs Petroglyphs (about 20 acres) to protect cultural values.

e. Natural Corrals National Register of Historic Places site (about 20 acres and the trail [about ½ mile] to the spring) to protect wildlife and cultural values.

f. Oregon Buttes (about 3,450 acres) to protect historic, wildlife, and scenic resource values, and adjacent WSA values.

g. Pine Springs (about 5,390 acres within the Pine Springs ACEC) to protect cultural, historic, and prehistoric resource values.

h. Prehistoric Quarry site (about 160 acres) to protect cultural values.

i. Special Status Plant Species (about 3,610 acres) to protect plant populations.

j. Sugarloaf Petroglyph site (about 20 acres) to protect cultural values.

k. Tolar Petroglyph site (about 20 acres) to protect cultural values.

l. Wilderness Study Areas (to protect naturalness, solitude, and opportunities for unconfined recreation):

Buffalo Hump: 10,300 acres
South Pinnacles: 10,800 acres
Sand Dunes: 27,109 acres
Alkali Basin-East Sand Dunes: 12,800 acres
Alkali Draw: 16,990 acres
Red Lake: 9,515 acres
Honeycomb Buttes: 41,188 acres
Oregon Buttes: 5,700 acres
Whitehorse Creek: 4,002 acres
Devils Playground-Twin Buttes: 23,841 acres
Red Creek Badlands: 8,020 acres

Parties who are interested in and who wish to be involved in future activity planning and implementation of management actions that may involve or affect the resource values addressed in the Green River RMP are requested to identify themselves. Please contact the Green River Resource Area Office at the above address and request to be placed on a future contact list for activity planning and implementation activities concerning the Green River RMP.

Dated: July 2, 1998.

Alan R. Pierson,

State Director.

[FR Doc. 98–18336 Filed 7–9–98; 8:45 am]

BILLING CODE 4310–22–P

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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–912–08–0777–52]

Notice of Utah Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Utah Resource Advisory Council Meeting.

Utah's Resource Advisory Council (RAC) will meet August 17–18, 1998. The RAC will be touring the Fivemile Pass Area looking at the various recreation impacts and opportunities (i.e. housing development, rifle range proposal, tailings, active mining, OHV play areas, private land, grazing, and standards and guides for rangeland health).

A public comment period has been scheduled from 4:30–5:00 p.m. in the conference room of the Comfort Inn, 491 South Main Street, Tooele, Utah. Anyone interested in addressing the Council and/or attending the meeting should contact Sherry Foot, Special Programs Coordinator, Bureau of Land Management, 324 South State Street, Salt Lake City, Utah, 84111; telephone (801) 539–4195.

On August 18, the Council will travel to the Knolls Recreation Area where they will be looking at a different type of site in terms of vegetation and soils. The RAC will then tour the Salt Flats looking at the first year of the salt lay-down project and discussing filming use in the area.

Resource Advisory Council meetings are open to the public; however, transportation, meals, and overnight accommodations are the responsibility of the participating public.

Dated: July 1, 1998.

Linda S. Colville,

Associate State Director.

[FR Doc. 98–18312 Filed 7–9–98; 8:45 am]

BILLING CODE 4310–DQ–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–01; N–61416]

Notice of Realty Action: Modified-Competitive Sale of Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Modified-Competitive Sale of Public Lands in Lincoln County, Nevada.

SUMMARY: The below listed public land in Patterson Wash, Lincoln County, Nevada has been examined and found suitable for sale utilizing modified-competitive procedures, at not less than the fair market value. In accordance with Section 7 of the Act of June 28, 1934, as amended, 43 U.S.C. 315f and EO 6910, the described lands are hereby classified as suitable for disposal under the authority of Section 203 of the Act of October 21, 1976; 43 U.S.C. 1761.

DATES: On or before August 24, 1998, interested parties may submit comments to the Assistant District Manager, Nonrenewable Resources.

ADDRESSES: Written comments should be addressed to: Bureau of Land Management, Gene L. Drais, Assistant District Manager, Nonrenewable Resources, HC 33, Box 33500, Ely, NV 89301–9408.

FOR FURTHER INFORMATION CONTACT: Michael McGinty, Realty Specialist, at the above address or telephone (702) 289–1882.

SUPPLEMENTARY INFORMATION: The following described parcel of land, situated in Lincoln County is being offered as a modified-competitive sale of public lands located;

Mount Diablo Meridian, Nevada

T. 2 N., R. 67 E.,
Section 22, NW¼NW¼.
Containing 40.00 acres more or less.

This land is not required for any federal purposes. The sale is consistent with current Bureau planning for this area and would be in the public interest.

The mineral estate of the above described lands are currently in non-federal ownership and will remain so.

The land will be offered for sale by sealed bid to be submitted at the BLM Ely Field Office at 702 North Industrial Way, Ely Nevada, 89301, during standard working hours starting at 7:30 am PDST on September 15, 1998 and ending 4:00 pm PDST on September 18, 1998. The sealed bids will be opened at 8:00 am PDST on September 21, 1998. This sale will be by modified-competitive procedures. Mr. Bevan Lister (designated bidder) will be given the opportunity meet the highest bid received by sealed bid. Bid envelopes must be marked on the left front corner with serial number N–61416 and sale date. Bid must not be less than the appraised fair market value as specified in this notice. The Fair Market Value as determined by appraisal is $6,000.00. Each sealed bid shall be accompanied by a certified check, postal money order, or cashier's check made payable to the *Department of Interior : BLM,* for not less than 10 percent of the amount bid.

The terms and conditions applicable to this sale are:

The patent, when issued, will contain the following reservation to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

The patent will be subject to the following:

1. Those rights for an existing Lincoln County road right-of-way for a gravel road, constructed under the provisions of R.S. 2477. The right-of-way width is 60 feet. The right-of-way is in effect in perpetuity.

Federal law requires all bidders must be U.S. citizens 18 years old or older, or in the case of corporations, be subject to the laws of any State of the United States.

Under modified-competitive sale procedures, an apparent high bidder will be declared after the sealed bids are open. The apparent high bidder and the designated bidder (Mr. Bevan Lister) will be notified. The designated bidder will have 30 days from the date of the sale to exercise the preference consideration given to meet the high bid.

Should the designated bidder fail to submit a bid that matches the apparent high bid within specified time period, the apparent high bidder shall be declared high bidder.

The total purchase price of the the land shall be paid within 180 days of the date of the sale. The purchase price does not include the costs for publishing in the **Federal Register**. The purchaser will be required to reimburse the BLM for publishing cost, when remitting final payment for parcel.

Upon publication of this notice in the **Federal Register**, the above described land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, and leasing under the mineral leasing laws.

This segregation will terminate upon issuance of a patent or 270 days from the date of this publication, whichever occurs first.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments regarding this action to the Assistant District Manager, Nonrenewable Resources at the address listed above. Any adverse comments will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In absence of any adverse comments, this realty action will become the final determination of the Department of the Interior. The Bureau of Land Management may accept or reject any or all offers, or withdraw any land or interest in the land from sale, if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with FLPMA, or other applicable laws. The lands will not be offered for sale until at least 60 days after the date of publication of this notice in the **Federal Register**.

Dated: June 25, 1998.

Gene A. Kolkman,

District Manager.

[FR Doc. 98–18337 Filed 7–9–98; 8:45 am]

BILLING CODE 4310–HC–P

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Overseas Private Investment Corporation

Privacy Act of 1974; System of Records Comment Request

AGENCY: Overseas Private Investment Corporation, IDCA.

ACTION: Establishment of a new system of records.

SUMMARY: The Overseas Private Investment Corporation is establishing a new system of records to include in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: The proposed actions will be effective without further notice on August 6, 1998 unless comments are received which result in a contrary determination.

FOR FURTHER INFORMATION CONTACT: Privacy Act Officer/HRM, Overseas Private Investment Corporation, 1100 New York Avenue, NW., Washington, DC 20527; 202/336–8531.

SUPPLEMENTARY INFORMATION: The Overseas Private Investment Corporation's systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

System Name: Employee Biography, Skills and Interest Inventory (OPIC–24).

Security Classification: None.

System Location: Overseas Private Investment Corporation, 1100 New York Avenue, NW., Washington, DC 20527.

Categories of Individuals Covered by the System: Current OPIC employees.

Categories of Records in the System: These records may contain information about the individual's name, current position, primary duties, previous positions, post-secondary education, professional certification, specialized training, country and regional knowledge, industry knowledge, computer skills, special skills (e.g., CPR, financial modeling), interest in other departments, job functional interests, foreign language proficiency, and other similar information.

Authority for Maintenance of the System: 5 U.S.C. 301.

Routine Uses of Records Maintained in the System, Including Categories of Users and Purposes of Such Uses: The information is used to provide background information about OPIC staff to other OPIC staff members. Records may also be used to identify staff members with desired skills or expertise (e.g., language proficiency). Records may also be used to determine individual staff member's interest in the programs and activities of other OPIC departments and to determine the feasibility of special temporary assignments.

Policies and Practices for Storing, Retrieving, Accessing, Retaining, and Disposing of Records in the System: Information is input electronically by each OPIC staff member onto an electronic form. Information is stored in an electronic database and biographies and skill set information can be accessed by OPIC staff members by searching available form fields (e.g., name, industry knowledge, computer skills) through OPIC's Intranet. Staff interest information and individual profiles are accessed by Human Resources Management staff who may, in turn, share this information with OPIC managers for work-related needs. Information is retained on-line throughout a staff member's tenure at OPIC. Information will be deleted from the OPIC network when a staff member departs the Corporation.

Storage: Records are stored on OPIC's network in a database. Data forms from which the data is collected are maintained by OPIC's IRM department. No hard copies of completed forms will be maintained except by individual OPIC staff, at each staff member's discretion.

Retrievability: Access to records stored in the database is limited to current OPIC staff as described above.

Safeguards: Access to record files is limited as described above. Access is further limited by OPIC's network security precautions, e.g., log-on passwords. The information submitted is volunteered with the understanding that it will be potentially accessible by all OPIC staff.

Retention and Disposal: When an individual leaves OPIC employment, his or her record will be deleted from the OPIC network.

System Manager(s) and Address: Managing Director for Administration, Overseas Private Investment Corporation, 1100 New York Avenue, NW., Washington, DC 20527.

Notification Procedure: Requests to be notified whether or not the system contains a record pertaining to an individual should be addressed to the system manager, as above.

Record Access Procedures: Same as above.

Contesting Record Procedures: Same as above.

Record Source Categories: Information is volunteered by staff on a form entitled, "Employee Biography, Skills and Interest Profile."

Systems Exempted From Certain Provisions of the Act: None

Dated: July 2, 1998.

James R. Offutt,

Assistant General Counsel,

Department of Legal Affairs.

[FR Doc. 98–18153 Filed 7–9–98; 8:45 am]

BILLING CODE 3210–01–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collections; Comment Request

ACTION: Notice of Information Collection Under Review; Request for Cancellation of Public Charge Bond.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" until September 8, 1998.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Request for Cancellation of Public Charge Bond.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–356. Inspections Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The form is used by the Immigration and Naturalization Service to determine if the bond posted on behalf of an alien in the United States should be cancelled.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 2,000 responses at 15 Minutes (.25) per response.

(6) *An estimate of the total public burden (in hours associated with the collection:* 500 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530

Dated: July 6, 1998.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 98–18384 Filed 7–9–98; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Bureau of Justice Statistics; Agency Information Collection Activities: Proposed Collection: Comment Request

ACTION: Notice of Information Collection Under Review; Reinstatement, with change, of a previously approved collection for which approval has expired: National Crime Victimization Survey, School Crime Supplement.

The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until September 8, 1998. Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's/component's estimate of the burden of the collection of information including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Michael Rand, 202–616–3494, Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice, 810 7th Street, NW, Washington, D.C. 20531.

Overview of This Information

(1) *Type of information collection:* Reinstatement, with change, of a previously approved collection for which approval has expired.

(2) *The title of the form/collection:* National Crime Victimization Survey, School Crime Supplement.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* SCS–1 Office of Justice Programs, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Eligible respondents to the survey have to be between the ages of 12 and 19 and have to have attended school at some point during the six months preceding the interview. The School Crime Supplement collects information related to students' violent and property crime victimization at school, including their perceptions of the presence of guns, street gangs, and illegal drugs at their schools.

Other: None.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* 14,000 respondents at an average of .167 hours (10 minutes each).

(6) *An estimate of the total public burden (in hours) associated with the collection:* 2,338 total hours.

If additional information is required, contact: Mr. Robert B. Briggs, Clearance Officer, United States Bureau of Justice Statistics, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: July 6, 1998.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 98–18383 Filed 7–9–98; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

July 7, 1998.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Todd R. Owen ((202) 219–5096 ext. 143) or by E-Mail to Owen-Todd@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employment Standards Administration.

Title: 29 CFR Part 575—Waiver of Child Labor Provisions for Agricultural Employment of 10 and 11 Year Old Minors in Hand Harvesting of Short Season Crops.

OMB Number: 1215–0120 (Extension).

Frequency: On occasion.

Affected Public: Farms; Individuals or households.

Number of Respondents: 1.

Total Responses: 1.

Estimated Time per Respondent: 4 hours.

Total Burden Hours: 4 hours.

Total annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: Agricultural employers must supply certain information to the Department of Labor when applying for a waiver of the child labor provisions to employ 10 and 11 year old minors in hand harvesting of short season crops. Employers granted waivers are required to maintain certain records.

Agency: Employment Standards Administration.

Title: Application for Federal Certification of Age.

OMB Number: 1215–0083 (Extension).

Agency Number: WH–14.

Frequency: On occasion.

Affected Public: Businesses or other for-profit; State, Local, or Tribal Government; individuals or households; not-for-profit institution; Farms.

Number of Respondents: 50.

Total Responses: 50.

Estimated Time per Respondent: 10 minutes.

Total Burden Hours: 9 hours.

Total annualized capital/startup costs: 0.

Totla annual costs (operating/maintaining systems or purchasing services): $17.50.

Description: The Fair Labor Standards Act provides, in part, that an employer may protect against unwitting employment of "oppressive child labor" by having on file a certificate issued pursuant to Department of Labor regulations certifying that the named person meets the FLSA minimum age requirements for employment. The Application for Federal Certificate of Age (WH–14) is the form used by the employer to obtain the certificate.

Agency: Employment Standards Administration.

Title: Operator Controversion (CM–970), Operator Response (CM–970a).

OMB Number: 1215–0058 (Extension).

Frequency: On occasion.

Affected Public: Business or other for-profit; State, Local, or Tribal Government.

Number of Respondents: 4,000.

Total Responses: 8,000.

Estimated Time per Respondent: 15 minutes.

Total Burden Hours: 2,000.

Total annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): $2,800.

Description: The Office of Workers' Compensation Programs administers the Black Lung Benefits Act. Under 30 U.S.C. 901 et. seq., 20 CFR 725.412, and 20 CFR 725.413, a coal mine operator who has been identified as potentially liable for payment of black lung benefits must be notified of this initial finding. The CM–970, Operator Controversion, gives the operator the opportunity to controvert the liability, the applicant's eligibility, and other issues. The regulations require the coal mine operator to be identified and notified of potential liability as early in the adjudication process as possible. The CM–970a gives the coal mine operator the opportunity to agree or disagree with the identification.

Agency: Employment and Training Administration.

Title: Forms for Agricultural Recruitment System of Services to Migratory Workers and their Employers Application for Alien Employment Certification.

OMB Number: 1205–0134 (Extension).

Frequency: On occasion.

Affected Public: State, Local or Tribal Government.

Number of Respondents: 52.

Total Responses: 11,000.

Estimated Time per Respondent: 1 hour for ETA Form 790; 30 minutes for ETA Forms 795, 785, and 785A.

Total Burden Hours: 6,500.

Total annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: State Employment Security Agencies use forms in servicing agricultural employers to insure their labor needs for domestic migratory agricultural workers are met; in servicing domestic agricultural workers to assist them in locating jobs expeditiously and orderly; and to insure exposure of employment opportunities to domestic agricultural workers before certification for employment of foreign workers.

Agency: Employment and Training Administration.

Title: Disaster Unemployment Assistance (DUA) Handbook Program Operating Forms.

OMB Number: 1205–0051 (Reinstatement with change)

Affected Public: Individuals or Households.

Form No.	Respondents	Frequency	Average time per response (minutes)
ETA 90–2	50	6 reports	15
Initial Application	11,000	Once	20

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Form No.	Respondents	Frequency	Average time per response (minutes)
Supplemental Form	3,800	Once	15
Weekly Form	11,000	5 times	50
Notice of Overpayment	235	Once	30

Total Burden Hours: 10,308 hours.

Total annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: Unemployment compensation claims, financial management and data on disaster unemployment assistance (DUA) activity are needed for timely program evaluation necessary for competent administration of Section 410 and 423 of the Act.

Workload items are also used with fiscal reports to estimate the cost of administering the Act.

Todd R. Owen,

Departmental Clearance Officer.

[FR Doc. 98–18429 Filed 7–9–98; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

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  NY980013 (Feb. 13, 1998)

Volume II

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  PA980007 (Feb. 13, 1998)
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  CA980039 (Feb. 13, 1998)
  CA980040 (Feb. 13, 1998)
  CA980041 (Feb. 13, 1998)

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon and Related Acts." This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at (703) 487–4630.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, D.C. this 2nd Day of July 1998.

Margaret J. Washington,

Acting Chief, Branch of Construction Wage Determinations.

[FR Doc. 98–18013 Filed 7–9–98; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–98–17]

Design of Cave-in Protection Systems; Information Collection Requirements

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Notice; opportunity for public comment.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and information collection burdens, is conducting a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on both current and proposed collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that reporting burden (time and financial resources) is minimized, collection materials are clearly understood, impact of collection requirements on respondents can be accurately assessed, and requested data can be provided in the desired format. Currently, the Occupational Safety and Health Administration is soliciting comments concerning the collection of information requirements contained in 29 CFR 1926.652 (b) and (c), Design of Cave-in Protective systems.

The Agency is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of OSHA's responsibilities, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (for example, permitting electronic submissions of responses).

DATES: Written comments must be submitted on or before September 8, 1998.

ADDRESSES: Comments are to be submitted to the Docket Office, Docket ICR–98–17, U.S. Department of Labor,

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Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 219–7894. Written comments limited to 10 pages or less may be transmitted by facsimile to (202) 219–5046.

FOR FURTHER INFORMATION CONTACT: Mr. Laurence Davey, Directorate of Construction, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3621, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 219–7207. Copies of the information collection requests are available for inspection and copying in the Docket Office and will be mailed to persons who request copies by telephoning Mr. Davey at (202) 219–7207 or Barbara Bielaski at (202) 219–8076. For electronic copies of the information collection request, contact OSHA's Web Page on the Internet at http://www.osha-slc.gov (click on *Information Collection Requests*).

SUPPLEMENTARY INFORMATION:

Background

In OSHA's construction standard for excavations, employers are required to protect employees from cave-in hazards by using one of several protective systems. The information required to be collected by this standard is used by employers or engineers to design proper cave-in systems that will support the walls of the excavation or trench.

The employer may choose to slope the sides of the trench or bench (step) the soil back. They could also choose to use a support system or shield, such as a trench box. The standard provides allowable configurations and slopes, and provides appendixes to assist the employer with designing either the sloping/benching systems or the support/shield systems. If an employer elects to use a protective system designed by a registered professional engineer, or bases his/her system on tabulated data provided by sources other than the appendix, the employer must obtain certain information and keep it at the job site for review at the time of an inspection. The information obtained by the employer will contain the identity of the registered professional engineer who approved the design, will normally specify why a particular system was chosen, list the limits of the system chosen, and any explanatory information to aid the user of the data in the appropriate selection. The documentation provides both the employer and the compliance officer with the information necessary to determine if the appropriate system has been selected and designed properly.

Without the information collection requirements which are contained in § 1926.652(b)—Design of Sloping and Benching Systems, and § 1926.652(c)—Design of Support Systems, Shield Systems, and other Protective Systems, employees would be at greater risk from cave-in hazards.

Current Action

This notice requests public comment on OSHA's burden hour estimates prior to OSHA seeking Office of Management and Budget (OMB) approval of the information collection requirements contained in 29 CFR 1926.652 (b) and (c), Design of Cave-in Protective Systems.

Type of Review: Extension of existing approval.

Agency: Occupational Safety and Health Administration, U.S. Department of Labor.

Title: Design of Cave-in Protective systems (29 CFR 1926.652 (b) and (c)).

OMB Number: 1218–0137.

Agency Number: Docket No. ICR–98–17.

Frequency: On Occasion.

Affected Public: Business or other for-profit.

Number of Respondents: 10,000.

Estimated time Per Respondent: Ranges from –0– to 2 hours.

Total Burden Hours: 20,080 hours.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Signed at Washington, DC, this 2nd day of July 1998.

Charles N. Jeffress,

Assistant Secretary of Labor.

[FR Doc. 98–18428 Filed 7–9–98; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. NRTL–2–93]

Entela, Inc., Expansion of Recognition

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Notice of expansion of recognition as a Nationally Recognized Testing Laboratory (NRTL).

SUMMARY: This notice announces the Agency's final decision on the application of Entela, Inc., for expansion of its recognition as an NRTL under 29 CFR 1910.7.

EFFECTIVE DATE: This recognition will become effective on July 10, 1998 and will be valid until July 10, 2003, unless terminated or modified prior to that date, in accordance with 29 CFR 1910.7.

FOR FURTHER INFORMATION CONTACT: Bernard Pasquet, NRTL Program, Office of Technical Programs and Coordination Activities, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N3653, Washington, D.C. 20210, or phone (202) 219–7056.

SUPPLEMENTARY INFORMATION:

Notice of Final Decision

Notice is hereby given that the Occupational Safety and Health Administration (OSHA) has expanded the recognition of Entela, Inc. (ENT) as a Nationally Recognized Testing Laboratory (NRTL) to include the 11 test standards (equipment and materials) listed below, with the limitations noted. ENT applied for expansion of its current recognition as an NRTL, pursuant to 29 CFR 1910.7, for the additional test standards. A notice announcing the application was published in the **Federal Register** on April 17, 1998 (63 FR 19275). The notice included a preliminary finding that ENT could meet the requirements for expansion of its recognition detailed in 29 CFR 1910.7, and invited public comment on the application by June 16, 1998. No comments were received concerning the request for expansion. ENT's previous application pursuant to 29 CFR 1910.7 was for an expansion of its recognition (62 FR 8041, 2/21/97), which OSHA granted on May 22, 1997 (62 FR 28066).

Copies of all documents (Docket No. NRTL–2–93) are available for inspection and duplication at the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N2634, Washington, D.C. 20210.

The address of the ENT laboratories covered by this recognition are:

Entela, Inc., 3033 Madison, S.E., Grand Rapids, Michigan 49548

Entela Taiwan Laboratories, 3F No. 260 262 Wen, Lin North Road, Pei Tou, Taipei, Taiwan.

Background

ENT submitted a request, dated September 29, 1997 (see Exhibit 11), to expand its recognition as a Nationally Recognized Testing Laboratory for additional test standards. In a recommendation dated February 17, 1998 (see Exhibit 12), staff for the NRTL Program recommended that ENT's recognition be expanded to include the additional test standards. The recommendation also incorporated the limitations on the recognition of the

Taipei, Taiwan facilities and personnel, when applicable to the testing and evaluation of products under the test standards listed below. These limitations are repeated herein.

In its request for expansion, ENT included a specific reference to an International Electrotechnical Commission (IEC) standard for many of the test standards listed below. Each specific reference is apparently intended to show the IEC standard equivalent to the U.S. national test standard requested. While there may be some equivalence, this expansion of recognition does not apply to or cover any of the IEC standards referenced in ENT's current request for expansion. This clarification is provided since it may not be readily apparent to some reviewers of the public record concerning this notice.

Final Decision and Order

Based upon a preponderance of the evidence resulting from an examination of the request for expansion, the supporting documentation, and the NRTL Program staff recommendation, dated February 17, 1998, OSHA finds that ENT has met the requirements of 29 CFR 1910.7 for expansion of its present recognition to test and certify certain additional equipment or materials. Pursuant to the authority in 29 CFR 1910.7, ENT's recognition is hereby expanded to include the 11 test standards listed below, subject to the limitations and condition. This recognition is limited to equipment or materials that, under 29 CFR Part 1910, require testing, listing, labeling, approval, acceptance, or certification, by a Nationally Recognized Testing Laboratory. This recognition is further limited to the use of the following test standards for the testing and certification of equipment or materials included within the scope of these standards.

ENT asserts by its application that the following standards pertain to equipment or materials that will be used in environments under OSHA's jurisdiction, and OSHA has determined the standards are appropriate within the meaning of 29 CFR 1910.7(c):

ANSI/UL 130 Electric Heating Pads
ANSI/UL 858 Household Electric Ranges
ANSI/UL 969 Marking and Labeling Systems
ANSI/UL 1431 Personal Hygiene and Health Care Appliances
ANSI/UL 2157 Electric Clothes Washing Machines and Extractors
UL 2601-1 Medical Electrical Equipment, Part 1: General Requirements for Safety
UL 6500 Audio/Video and Musical Instrument Apparatus for Household, Commercial, and Similar General Use
UL 8730-1 Electrical Controls for Household and Similar Use; Part 1: General Requirements
UL 8730-2-3 Automatic Electrical Controls for Household and Similar Use; Part 2: Particular Requirements for Thermal Motor Protectors for Ballasts for Tubular Fluorescent Lamps
UL 8730-2-4 Automatic Electrical Controls for Household and Similar Use; Part 2: Particular Requirements for Thermal Motor Protectors for Motor Compressors or Hermetic and Semi-Hermetic Type
UL 8730-2-8 Automatic Electrical Controls for Household and Similar Use; Part 2: Particular Requirements for Electrically Operated Water Valves

Limitations

Taiwan Facility

The following limitations apply to the recognition of the Taiwan facility:

a. The Taiwan facility shall be limited to carrying out minor mechanical and electrical testing of instruments and small appliances.

b. Performance of inspections shall be limited to Entela personnel.

Conditions

Entela, Inc. must also abide by the following conditions of the recognition, in addition to those already required by 29 CFR 1910.7:

OSHA shall be allowed access to ENT's facility and records for purposes of ascertaining continuing compliance with the terms of its recognition and to investigate as OSHA deems necessary;

If ENT has reason to doubt the efficacy of any test standard it is using under this program, it shall promptly inform the test standard developing organization of this fact and provide that organization with appropriate relevant information upon which its concerns are based;

ENT shall not engage in or permit others to engage in any misrepresentation of the scope or conditions of its recognition. As part of this condition, ENT agrees that it will allow no representation that it is either a recognized or an accredited Nationally Recognized Testing Laboratory (NRTL) without clearly indicating the specific equipment or material to which this recognition is tied, or that its recognition is limited to certain products;

ENT shall inform OSHA as soon as possible, in writing, of any change of ownership or key personnel, including details;

ENT will continue to meet the requirements for recognition in all areas where it has been recognized; and

ENT will always cooperate with OSHA to assure compliance with the spirit as well as the letter of its recognition and 29 CFR 1910.7.

Signed at Washington, D.C. this 1st day of July 1998.

Charles N. Jeffress,

Assistant Secretary.

[FR Doc. 98-18426 Filed 7-9-98; 8:45 am]

BILLING CODE 4510-26-P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Agency Information Collection Activities; Announcement of OMB Approval

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is announcing that a collection of information has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. This document announces the OMB approval number and expiration date.

FOR FURTHER INFORMATION CONTACT: Robert O'Brien, Division of Administration and Training Information, Office of Training and Education, Occupational Safety and Health Administration, U.S. Department of Labor, 1555 Times Drive, Des Plaines, IL 60018, telephone (847) 297-4810.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 21, 1998, (63 FR 3155-3156), the Agency announced its intent to request reinstatement of its OMB approval for the Student Data Form. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520), OMB has reinstated its approval for this information collection and assigned OMB control number 1218-0172 to the Student Data Form. The approval expires 5/31/2001. Under 5 CFR 1320.5(b), an Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Dated: July 2, 1998.

Charles N. Jeffress,

Assistant Secretary.

[FR Doc. 98-18427 Filed 7-9-98; 8:45 am]

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DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Proposed Extension of Information Collection Request Submitted for Public Comment and Recommendations; Delinquent Filer Voluntary Compliance Program

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (Pub. L. 104–13, 44 U.S.C. Chapter 35). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Pension and Welfare Benefits Administration is soliciting comments concerning the proposed extension of a currently approved collection of information, the Delinquent Filer Voluntary Compliance Program. A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the addresses section of the notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before September 8, 1998. The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Gerald B. Lindrew, Office of Policy and Research, U.S. Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, Room N–5647, Washington, DC 20210. Telephone: 202–219–4782 (this is not a toll-free number). Fax: 202–219–4745.

SUPPLEMENTARY INFORMATION:

I. Background

The Secretary of Labor has the authority, under section 502(c)(2) of the Employee Retirement Income Security Act of 1974 (ERISA), to assess civil penalties of up to $1,000 a day against plan administrators who fail or refuse to file complete and timely annual reports (Form 5500 Series Annual Return/Reports) as required under section 101(b)(4) of ERISA and the Secretary's regulations codified in 29 CFR part 2520. Pursuant to 29 CFR 2560.502c–2 and 2570.60 *et seq.*, PWBA has maintained a program for the assessment of civil penalties for noncompliance with the annual reporting requirements. Under this program, plan administrators filing annual reports after the date on which the report was required to be filed may be assessed $50 per day for each day an annual report is filed after the date on which the report(s) was required to be filed, without regard to any extensions for filing. Plan administrators who fail to file an annual report may be assessed a penalty of $300 per day, up to $30,000 per year, until a complete annual report is filed. Penalties are applicable to each annual report required to be filed under Title I of ERISA. The Department may, in its discretion, waive all or part of a civil penalty assessed under section 502(c)(2) upon a showing by the administrator that there was reasonable cause for the failure to file a complete and timely annual report.

The Department has determined that the possible assessment of the above described civil penalties may deter certain delinquent filers from voluntarily complying with the annual reporting requirements under Title I of ERISA. In an effort to encourage annual reporting compliance, therefore, the Department implemented the Delinquent Filer Voluntary Compliance (DFVC) Program (the Program) on April 27, 1995 (60 FR 20873). Under the Program, administrators otherwise subject to the assessment of higher civil penalties are permitted to pay reduced civil penalties for voluntarily complying with the annual reporting requirements under Title I of ERISA.

This ICR covers the requirement of providing data necessary to identify the plan along with the penalty payment. This data is the only means by which each penalty payment is associated with the relevant plan. With respect to most pension plans and welfare plans, the requirement is satisfied by sending, along with the penalty payment, a copy of the first page of the delinquent annual report, which under current procedures is sent to the IRS.

Under current procedures, certain pension plans for highly compensated employees, commonly called "top hat" plans, and apprenticeship plans may file a one-time statement in lieu of annual reports. With respect to such plans for information collection requirements of the Program are satisfied by sending a completed first page of an annual report form along with the penalty payment. The one-time statements are required to be sent to a different address within the Department. The Program is designed to allow the processing of all penalty payments at a single location within the Department.

II. Current Actions

The Pension and Welfare Benefits Administration proposes to extend the currently approved ICR included in the Delinquent Filer Voluntary Compliance Program. This Program is intended to encourage, through the use of reduced civil penalties, delinquent plan administrators to comply with their annual reporting obligations under Title I of the ERISA. The only ICR included in the Program is the requirement of providing data necessary to identify the plan along with the penalty payment. The identifying data allows the penalty to be associated with the relevant plan. Participation of the Program has ranged from approximately 3,400 to 3,000 plans in each year since the Program was implemented.

Type of Review: Extension of a currently approved collection.

Agency: U.S. Department of labor, Pension and Welfare Benefits Administration.

Title: Delinquent Filer Voluntary Compliance Program.

OMB Number: 1210–0089.

Affected Public: Business or other for-profit; Not-for-profit institutions.

Frequency: On occasion.

Average Burden Hours/Minutes Per Response: 21 minutes.

Number of Respondents: 3,100.

Total Annual Responses: 3,100.

Total Annual Burden Hours: 1,085.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the information collection request; they will also become a matter of public record.

Dated: July 7, 1998.

Gerald B. Lindrew,

Deputy Director, Pension and Welfare Benefits Administration, Office of Policy and Research.

[FR Doc. 98–18430 Filed 7–9–98; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL FOUNDATION FOR THE ARTS AND HUMANITIES

Proposed Collection, Comment Request

AGENCY: Institute of Museum and Library Services.

ACTION: Notice.

SUMMARY: The Institute of Museum and Library Services as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1994 (PRA95) [44 U.S.C. 3508©(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently the Institute of Museum and Library Services is soliciting comments concerning the proposed annual report for Library Services and Technology Act Grants to States.

A copy of the proposed information collection request can be obtained by contacting the individual listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before September 8, 1998.

IMLS is particularly interested in comments which help the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submissions of responses.

ADDRESSES: Send comments to: Jane Heiser, Director of State Programs, Institute of Museum and Library Services, 1100 Pennsylvania Ave., NW, Room 802, Washington, D.C. 20506. Ms. Heiser can be reached on (202) 606–5395 or at jheiser@imls.fed.us

SUPPLEMENTARY INFORMATION:

I. Background

Public Law 104–208 enacted on September 30, 1996 contains the Library Services and Technology Act, a reauthorization and refocusing of federal library programs. This legislation retains the state-based approach to library programs and sharpens the focus to two key priorities: information access through technology and information empowerment through special services.

Public Law 104–208 authorizes the Director of the Institute of Museum and Library Services to make grants to States to assist them to—

(1) Consolidate Federal library service programs;

(2) Stimulate excellence and promote access to learning and information resources in all types of libraries for individuals of all ages;

(3) Promote library services that provide all users access to information through State, regional, national and international electronic networks;

(4) Provide linkages among and between libraries;

(5) Promote targeted library services to people of diverse geographic, cultural, and socioeconomic backgrounds, to individuals with disabilities, and to people with limited functional literary or information skills.

II. Current Actions

This is a new information collection. The annual report is needed to assess outcome of awards as needed for compliance with the Government Performance and Results Act. The report will also facilitate information sharing and identify promising practices among the states to help them implement their state plans.

Agency: Institute of Museum and Library Services.

Title: Library Services and Technology Act State Grants Annual Reports.

OMB Number:

Agency Number: 3137.

Frequency: Once/year.

Affected Public: State Library Administrative Agencies.

Number of Respondents: 56.

Estimated Time Per Respondent: 20 hours.

Total Burden Hours: 1,120.

Total Annualized capital/startup costs: 0.

Total Annual Costs: 0.

FOR FURTHER INFORMATION CONTACT: Mamie Bittner, Director Public and Legislative Affairs, Institute of Museum and Library Services, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, telephone (202) 606–4646.

Mamie Bittner,

Director, Public and Legislative Affairs.

[FR Doc. 98–18333 Filed 7–9–98; 8:45 am]

BILLING CODE 7036–01–M

NATIONAL SCIENCE FOUNDATION

Submission for OMB Review; Comment Request; Title of Collection: EHR Impact Database

AGENCY: National Science Foundation.

ACTION: Notice.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request renewal of this collection, OMB control number 3145–0136, the EHR (Directorate for Education and Human Resources) Database. In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have provided an opportunity for public comment on this action. Such a notice was published **Federal Register** 23810, dated April 30, 1998. No comments were received.

The materials are now being sent to OMB for review. Send any written comments to Desk Officer, OMB, 3145–0136, OIRA, OMB, Washington, D.C. 20503. Comments should be received by July 31, 1998.

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology.

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Proposed Renewal Project

The EHR Impact Database was established in 1995 to integrate all available information pertaining to the NSF's Education and Training portfolio. Under a generic survey clearance (OMB 3145–0136) data from the NSF administrative database are incorporated and additional information is obtained through initiative-, divisional-, and program-specific data collections.

Use of the Information

This information is required for effective adminsitrative, program monitoring and evaluation, and for measuring attainment of NSF's program goals, as required by the Government Performance and Results Act (GPRA).

Burden on the Public

The total estimate for this collection is 50,000 annual burden hours. This figure is based on the previous 3 years of collecting information under this clearance. The average annual reporting burden is between 2 and 50 hours per 'respondent' who may be an individual or a project site representing groups.

Dated: July 1, 1998.

Mary Lou Higgs,

Acting NSF Reports Clearance Officer.

[FR Doc. 98–18385 Filed 7–9–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Human Resource Development; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name and Committee Code: Special Emphasis Panel in Human Resource Development.

Date and Time: July 20–21, 1998, 8:00 a.m. to 5:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 880, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Jesse Lewis, Program Director, Human Resource Development Division, Room 815, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1633.

Purpose of Meeting: To provide advice and recommendations concerning requests submitted to NSF for financial support.

Agenda: Review of the Historically Black Colleges & Universities Supplemental Requests.

Reasonf or Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Reason for Late Notice: Need for the panel not determined until this week.

Dated: July 6, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–18438 Filed 7–9–98; 8:45]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of the information collection:* 10 CFR Part 34—Licenses for Radiography and Radiation Safety Requirements for Radiographic Operations.

3. *How often the collection is required:* Applications for new licenses and amendments may be submitted at any time. Applications for renewal are submitted every 10 years. Reports are submitted as events occur.

4. *Who will be required or asked to report:* Applicants for and holders of specific licenses authorizing the use of licensed radioactive material for radiography.

5. *The number of annual responses:* 73 from NRC licensees and 146 from Agreement State licensees.

6. *The number of annual respondents:* 158 from NRC licensees and 30 from Agreement States.

7. *The number of hours needed annually to complete the requirement or request:* 106.5 hours for reporting (approximately 1.5 hours per response), plus 60,178.8 hours for recordkeeping (approximately 380 hours per licensee). The industry total burden is 60,285.3 hours annually for NRC licensees and 120,570.6 hours annually for Agreement State licensees.

8. *An indication of whether Section 3507(d), Pub. L. 104–13 applies:* Not applicable.

9. *Abstract:* NRC regulations in 10 CFR Part 34 establish radiation safety requirements for the use of radioactive material in industrial radiography. The information in the applications, reports and records is used by the NRC staff to ensure that the health and safety of the public is protected and that licensee possession and use of source and byproduct material is in compliance with license and regulatory requirements.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (http://www.nrc.gov) under the FedWorld collection link on the home page tool bar. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer by August 10, 1998: Erik Godwin, Office of Information and Regulatory Affairs (3150– 0007), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 6th day of July 1998.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–18415 Filed 7–9–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee Meeting on Reliability and Probabilistic Risk Assessment; Postponed

A meeting of the ACRS Subcommittee on Reliability and Probabilistic Risk Assessment scheduled to be held on July 17, 1998, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland has been postponed due to the unavailability of key personnel. Notice of this meeting was published in the

Federal Register on Monday, June 29, 1998 (63 FR 35297). Rescheduling of this meeting will be announced in a future **Federal Register** Notice.

For further information contact: Mr. Michael T. Markley, cognizant ACRS staff engineer, (telephone 301/415–6885) between 7:30 a.m. and 4:15 p.m. (EDT).

Date: July 6, 1998.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 98–18416 Filed 7–9–98; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

1998 List of Designated Federal Entities and Federal Entities

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Notice.

SUMMARY: This notice provides a list of Designated Federal Entities and Federal Entities, as required by the Inspector General Act of 1978 (IG Act), as subsequently amended.

FOR FURTHER INFORMATION CONTACT: Suzanne Murrin at 202–395–1040 or Jennifer Kim at 202–395–5835, Office of Federal Financial Management, Office of Management and Budget.

SUPPLEMENTARY INFORMATION: This notice provides a copy of the 1998 List of Designated Federal Entities and Federal Entities, which the Office of Management and Budget (OMB) is required to publish annually under the IG Act.

The List is divided into two groups: Designated Federal Entities and Federal Entities. The Designated Federal Entities are required to establish and maintain Offices of Inspector General. The 29 Designated Federal Entities are as listed in the IG Act, except that those agencies which have ceased to exist have been deleted from the list.

Federal Entities are required to annually report to each House of the Congress and the OMB on audit and investigative activities in their organizations. Federal Entities are defined as "any Government corporation (within the meaning of section 103(1) of title 5, United States Code), any Government controlled corporation (within the meaning of section 103(2) of such title), or any other entity in the Executive Branch of the government, or any independent regulatory agency" other than the Executive Office of the President and agencies with statutory Inspectors General. There are 3 deletions and 1 addition in the 1998 Federal Entities list from the 1997 list published in the April 30, 1997, **Federal Register**.

The 1998 Designated Federal Entities and Federal Entities List was prepared in consultation with the U.S. General Accounting Office.

G. Edward DeSeve,

Acting Deputy Director for Management.

Herein follows the text of the 1998 List of Designated Federal Entities and Federal Entities:

1998 List of Designated Federal Entities and Federal Entities

The IG Act, as subsequently amended, requires OMB to publish a list of "Designated Federal Entities" and "Federal Entities" and the heads of such entities. Designated Federal Entities were required to establish Offices of Inspector General before April 17, 1989. Federal Entities are required to report annually to each House of the Congress and the Office of Management and Budget on audit and investigative activities in their organizations.

Designated Federal Entities and Entity Heads

1. Amtrak—Chairperson
2. Appalachian Regional Commission—Federal Co-Chairperson
3. The Board of Governors, Federal Reserve System—Chairperson
4. Commodity Futures Trading Commission—Chairperson
5. Consumer Product Safety Commission—Chairperson
6. Corporation for Public Broadcasting—Board of Directors
7. Equal Employment Opportunity Commission—Chairperson
8. Farm Credit Administration—Chairperson
9. Federal Communications Commission—Chairperson
10. Federal Election Commission—Chairperson
11. Federal Housing Finance Board—Chairperson
12. Federal Labor Relations Authority—Chairperson
13. Federal Maritime Commission—Chairperson
14. Federal Trade Commission—Chairperson
15. Legal Services Corporation—Board of Directors
16. National Archives and Records Administration—Archivist of the United States
17. National Credit Union Administration—Board of Directors
18. National Endowment for the Arts—Chairperson
19. National Endowment for the Humanities—Chairperson
20. National Labor Relations Board—Chairperson
21. National Science Foundation—National Science Board
22. Panama Canal Commission—Chairperson
23. Peace Corps—Director
24. Pension Benefit Guaranty Corporation—Chairperson
25. Securities and Exchange Commission—Chairperson
26. Smithsonian Institution—Secretary
27. Tennessee Valley Authority—Board of Directors
28. United States International Trade Commission—Chairperson
29. United States Postal Service—Board of Governors

Federal Entities and entity heads

1. Advisory Council on Historic Preservation—Chairperson
2. African Development Foundation—Chairperson
3. American Battle Monuments Commission—Chairperson
4. Architectural and Transportation Barriers Compliance Board—Chairperson
5. Armed Forces Retirement Home—Board of Directors
6. Barry Goldwater Scholarship and Excellence in Education Foundation—Chairperson
7. Chemical Safety and Hazard Investigation Board—Chairperson
8. Christopher Columbus Fellowship Foundation—Chairperson
9. Commission for the Preservation of America's Heritage Abroad—Chairperson
10. Commission of Fine Arts—Chairperson
11. Commission on Civil Rights—Chairperson
12. Committee for Purchase from People Who Are Blind or Severely Disabled—Chairperson
13. Court of Veterans Appeals—Chief Judge
14. Defense Nuclear Facilities Safety Board—Chairperson
15. Export-Import Bank—President and Chairperson
16. Farm Credit System Financial Assistance Corporation—Chairperson
17. Farm Credit System Insurance Corporation—Board of Directors
18. Federal Financial Institutions Examination Council Appraisal Subcommittee—Chairperson
19. Federal Mediation and Conciliation Service—Director
20. Federal Mine Safety and Health Review Commission—Chairperson
21. Federal Retirement Thrift Investment Board—Chairperson
22. Harry S. Truman Scholarship Foundation—Chairperson

23. Institute of American Indian and Alaska Native Culture and Arts Development—Chairperson
24. Institute for Museum and Library Services—Board of Directors
25. Inter-American Foundation—Chairperson
26. James Madison Memorial Fellowship Foundation—Chairperson
27. Japan-U.S. Friendship Commission—Chairperson
28. Marine Mammal Commission—Chairperson
29. Merit Systems Protection Board—Chairperson
30. Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation—Chairperson
31. National Capital Planning Commission—Chairperson
32. National Commission on Libraries and Information Science—Chairperson
33. National Council on Disability—Chairperson
34. National Education Goals Panel—Chairperson
35. National Endowment for Democracy—Chairperson
36. National Mediation Board—Chairperson
37. National Science Foundation/Arctic Research Commission—Chairperson
38. National Transportation Safety Board—Chairperson
39. Neighborhood Reinvestment Corporation—Chairperson
40. Nuclear Waste Technical Review Board—Chairperson
41. Occupational Safety and Health Review Commission—Chairperson
42. Office of Government Ethics—Director
43. Office of Navajo and Hopi Indian Relocation—Chairperson
44. Office of Special Counsel—Special Counsel
45. Office of the Nuclear Waste Negotiator—Negotiator
46. Offices of Independent Counsel—Independent Counsels
47. Overseas Private Investment Corporation—Board of Directors
48. Postal Rate Commission—Chairperson
49. Selective Service System—Director
50. Smithsonian Institution/John F. Kennedy Center for the Performing Arts—Chairperson
51. Smithsonian Institution/National Gallery of Art—Board of Trustees
52. Smithsonian Institution/Woodrow Wilson International Center for Scholars—Board of Trustees
53. State Justice Institute—Director
54. Trade and Development Agency—Director
55. U.S. Enrichment Corporation—Chairperson
56. U.S. Holocaust Memorial Council—Chairperson
57. U.S. Institute of Peace—Chairperson

[FR Doc. 98–18445 Filed 7–9–98; 8:45 am]

BILLING CODE 3110–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–26892]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

July 2, 1998.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by July 28, 1998, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of fact or law that are disputed. A person who so requests will be notified on any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After July 28, 1998, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Appalachian Power Company (70–5503)

Appalachian Power Company ("Appalachian"), 40 Franklin Road, S.W., Roanoke, Virginia 24011, an electric utility subsidiary of American Electric Power Company, Inc., a registered holding company, has filed a post-effective amendment to its application-declaration under sections 9(a), 10 and 12(d) of the Act and rules 44 and 54 under the Act.

By order dated December 10, 1974 (HCAR No. 18703), the Commission authorized Appalachian, among other things, to enter into an agreement of sale ("Agreement") with the Industrial Development Authority of Russell County, Virginia ("Authority"), concerning the financing of pollution control facilities ("Facilities") at Appalachian's Glen Lyn and Clinch River plants. Under the Agreement, the Authority may issue and sell its pollution control revenue bonds ("Revenue Bonds") or pollution control refunding bonds ("Refunding Bonds" and, together with Revenue Bonds, "Bonds"), in one or more series, and deposit the proceeds with the trustee ("Trustee") under an indenture ("Indenture") entered into between the Authority and the Trustee. The Trustee applies the proceeds to the payment of the costs of construction of the Facilities or, in the case of proceeds from the sale of Refunding Bonds, to the payment of principal, premium (if any) and/or interest on Bonds to be refunded.

The same order also authorized Appalachian to convey an undivided interest in a portion of the Facilities to the Authority, and to reacquire that interest under an installment sales arrangement ("Sales Agreement") requiring Appalachian to pay as the purchase price semi-annual installments in an amount that, together with other funds held by the Trustee under the Indenture for that purpose, will enable the Authority to pay, when due, the interest and principal on the Bonds. To date, the Authority has issued and sold seven series of Bonds in an aggregate principal amount of $101.74 million of which $37.0 million presently are outstanding.

The Authority now intends to issue and sell its Series H Refunding Bonds in the aggregate principal amount of $19.5 million, the proceeds of which will be used to provide for the principal and interest payments required for the refunding, at their stated maturity on November 1, 1998, of the Authority's 7¼% Series F Refunding Bonds. Appalachian expects that the Series H Refunding Bonds will be issued under and secured by the Indenture and a seventh supplemental indenture, will bear interest semi-annually at a rate of interest not exceeding 8% per year and will mature at a date not more than thirty years from the date of issuance. Appalachian proposes to enter into an amended Sales Agreement in connection with the Series H Refunding Bonds under essentially the same terms and conditions of the original Sales Agreement. Appalachian may provide some form of credit enhancement in connection with the issuance and sale of the Series H Refunding Bonds and pay a related fee.

Eastern Enterprises (70–9195)

Eastern Enterprises ("Eastern"), 9 Riverside Road, Weston, Massachusetts 02139, a public utility holding company exempt by order under section 3(a)(1) of the Act has filed an application under sections 3(a)(1), 9(a)(2) and 10 of the Act.

Eastern proposes to acquire all of the issued and outstanding voting securities of Essex County Gas Company ("Essex"), a gas public utility company. To accomplish the acquisition, Eastern and Essex have entered into an Agreement and Plan of Merger, dated as of December 19, 1997 ("Agreement"). The Agreement provides, among other things, that a special purpose subsidiary of Eastern ("NEWCO") will merge with and into Essex. Shares of NEWCO will be converted into shares of new common stock of Essex, which will become a wholly owned subsidiary of Eastern. Each outstanding share of Essex will be converted into 1.183985 shares of Eastern common stock, subject to adjustment under certain circumstances based on the average market price for a specified period prior to closing. The stockholders of Essex will become stockholders of Eastern. Outstanding debt securities of Essex will not be affected and will remain outstanding on the same terms and conditions.

The trustees of Eastern approved the merger at a meeting held on December 12, 1997. No approval of Eastern's shareholders is required. The board of directors of Essex approved the merger at a meeting held on December 19, 1997. The shareholders of Essex voted to approve the Merger at a meeting held on June 24, 1998.

Eastern's sole utility subsidiary, Boston Gas Company ("Boston Gas"), serves approximately 530,000 gas retail customers, all in Massachusetts.[1] Essex serves approximately 42,000 gas retail customers entirely in eastern Massachusetts. The service territories of Eastern and Essex are contiguous. Eastern's net earnings for the twelve months ended December 31, 1997 were $51,950,000 on revenues of $970,204,000. Eastern's nonutility subsidiaries contributed $269,259,000, approximately 27.8% of total revenues during this period. Essex's net earnings for the twelve months ended August 31, 1997, were $3,966,519 on revenues of $53,534,734, substantially all of which were provided by its utility operations. Both Eastern and Essex are subject to the retail ratemaking jurisdiction of the Massachusetts Department of Telecommunications and Energy.

Eastern has several direct nonutility subsidiaries. These include: Midland Enterprises Inc. ("Midland"), AllEnergy Marketing Company, Inc., AMR Data Corporation, Boston Gas Services, Inc., Eastern Associated Capital Corp., Eastern Associated Securities Corp., Eastern Energy Systems Corp., Eastern Enterprises Foundation, Eastern Rivermoor Company, Inc., Eastern Urban Services, Inc., Mystic Steamship Corporation, PCC Land Company, Inc., Philadelphia Coke Co., Inc., ServiceEdge Partners, Inc., Water Products Group Incorporated, and Western Associated Energy Corp.[2] Midland and its subsidiaries[3] are engaged in river barge transportation services and related support activities. The other nonutility subsidiaries are engaged in investment activities, real estate activities, installing and servicing HVAC equipment, automated meter reading services, and ownership of liquid natural gas storage facilities.

Essex has two nonutility subsidiaries, LNG Storage, Inc. ("LNG") and Northern Energy Company, Inc. ("Northern"). LNG owns a liquid natural gas storage facility. Northern is inactive.

In addition, Eastern requests an order granting it an exemption under section 3(a)(1) of the Act following the Merger. Eastern asserts that upon consummation of Merger, Eastern will continue to satisfy the requirements for an exemption under section 3(a)(1). Eastern states that it and its public utility subsidiaries, currently are, and will continue to be, predominately intrastate in character and will continue to carry on their businesses substantially in Massachusetts.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18293 Filed 7–9–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. PA–25; File No. S7–21–98]

Privacy Act of 1974: Establishment of Three New Systems of Records: Ridesharing System (SEC–44); Public Transportation Subsidy Program (SEC–45); and Identification Cards, Press Passes, and Proximity Access Control Cards (SEC–46)

AGENCY: Securities and Exchange Commission.

ACTION: Notice of the establishment of three new systems of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Securities and Exchange Commission (SEC) gives notice of the establishment of three new Privacy Act systems of records: Ridesharing System (SEC–44); Public Transportation Subsidy Program (SEC–45); and Identification Cards, Press Passes, and Proximity Access Control Cards (SEC–46).

DATES: The proposed change will become effective August 19, 1998, unless further notice is given. The Commission will publish a new notice if the effective date is delayed to review comments, or if changes are made based on comments received. To be assured of consideration, comments must be received by the contact person below on or before August 10, 1998.

ADDRESSES: Persons wishing to submit comments should file three (3) copies thereof with Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Reference should be made to File No. [S7–21–98]. Copies of the comments will be available for public inspection and copying at the SEC's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: Hannah R. Hall, Privacy Act Officer (202) 942–4320, Office of Filings and Information Services, Freedom of Information Act and Privacy Act Operations, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

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[1] Boston Gas has an active wholly owned nonutility subsidiary, Massachusetts LNG Incorporated, which holds title to a liquid natural gas storage facility.

[2] AllEnergy Marketing Company, Inc., Boston Gas Services, Inc., Eastern Energy Systems Corp., Eastern Urban Services, Inc., Mystic Steamship Corporation, Philadelphia Coke Co., Inc., Water Products Group Incorporated, and Western Associated Energy Corp. are inactive.

[3] Midland's subsidiaries include: Capital Marine Supply, Inc., Chotin Transportation, Inc., Eastern Associated Terminals Company, Federal Barge Lines, Inc., Hartley Marine Corp., Minnesota Harbor Service, Inc., The Ohio River Company, The Ohio River Company Traffic Division, Inc., The Ohio River Terminals Company, Orgulf Transport Co., Orsouth Transport Co., Port Allen Marine Service, Inc., Red Circle Transport Co., River Fleets, Inc., and West Virginia Terminals, Inc. Federal Barge Lines, Inc. is inactive. Midland and its active subsidiaries are engaged in river barge transportation services and related support activities.

Midlands also has an inactive nonutility subsidiary, Federal Barge Lines, Inc.

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SUPPLEMENTARY INFORMATION: The SEC gives notice of the establishment of three new systems of records entitled the Ridesharing System (SEC–44); Public Transportation Subsidy Program (SEC–45); and Identification Cards, Press Passes, and Proximity Access Control Cards (SEC–46).

The SEC is establishing SEC–44 to administer its ridesharing program for those SEC employees who participate in a vanpool or carpool. The ridesharing system allows SEC employees who participate in a vanpool or carpool for equitable parking based on established criteria.

The SEC is establishing SEC–45 to administer its subsidy program for those SEC employees who use public transportation. The SEC's public transportation subsidy program was designed to reduce transportation to work by private conveyance and to increase the use of public transportation—thus reducing traffic congestion, energy consumption, and vehicular pollution. Generally, the subsidy is issued in a manner that is not readily transferable into cash. At the SEC Headquarters, the subsidy is distributed on a bimonthly basis whereas in the field offices, the method or period for distributing the subsidy is left to the discretion of each Regional Director and District Administrator.

The SEC is establishing SEC–46 to administer its Identification Cards, Press Passes, and Proximity Access Control Cards program for those SEC employees, members of the press, contractors, and consultants, who require access to SEC facilities. The SEC's identification card program was designed to facilitate access to SEC facilities and to exit the same.

The new systems of records reports, as required by 5 U.S.C. 552a(r) of the Privacy Act, have been submitted to the Committee on Government Operations of the House of Representatives, the Committee on Government Affairs of the Senate, and the Office of Management and Budget, pursuant to Appendix I to OMB Circular A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," as amended on February 20, 1996 (61 FR 6428, 6435).

Accordingly, the SEC proposes to establish the following systems of records.

SEC–44

SYSTEM NAME:

Ridesharing System.

SYSTEM LOCATION:

Securities and Exchange Commission, Operations Center, Office of Administrative and Personnel Management, 6432 General Green Way, Mail Stop O–1, Alexandria, VA 22312–2413.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SEC employees who participate in a vanpool or carpool and apply for parking permits.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include SEC Form 2421 (Official Parking Application). Records contain the employee's name, home address, SEC telephone number, and vehicle make, model, year, tag number, and state.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Exec. Order 12191; 41 CFR 101–6.3; 41 CFR 101–20.104; and 41 CFR 101–20.104–1 through 4, and 42 U.S.C. 13201.

PURPOSE:

The system is primarily designed to encourage the formulation of carpools or vanpools, as a means to conserve petroleum, reduce congestion, and improve air quality; and to provide equitable parking based upon established criteria.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

No routine use disclosures have been established for these records. The records and information contained in these records will not be disclosed outside the SEC, unless mandated by law. *See* Conditions of Disclosure to Third Parties, 5 U.S.C. 552a(b).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

RETRIEVABILITY:

Electronic records may be searched and retrieved by the employee's name or parking permit number. Paper records are retrieved by the parking permit number only.

SAFEGUARDS:

Paper records are placed in a locked file cabinet, and the data which is extracted from these paper records is keyed into a computer database, safeguarded by restricted passwords.

RETENTION AND DISPOSAL:

Records are maintained on one form and in a computer database. Documentation (paper and electronic records) is kept for two years then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Administrative and Personnel Management, Operations Center, Securities and Exchange Commission, 6432 General Green Way, Mail Stop O–1, Alexandria, VA 22312–2413.

NOTIFICATION PROCEDURE:

All requests to determine whether this system of records contains a record pertaining to the requesting individual may be directed to the Privacy Act Officer, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

RECORD ACCESS PROCEDURES:

Persons wishing to obtain information on the procedures for gaining access to or contesting the contents of this record may contact the Privacy Act Officer, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

CONTESTING RECORDS PROCEDURES:

See record access procedures above.

RECORD SOURCE CATEGORIES:

Information is provided by SEC employees, who have applied for parking, and by the issuing official.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

SEC–45

SYSTEM NAME:

Public Transportation Subsidy Program.

SYSTEM LOCATION:

Securities and Exchange Commission, Operations Center, Office of Administrative and Personnel Management, 6432 General Green Way, Mail Stop O–1, Alexandria, VA 22312–2413. SEC Regional and District Offices are as follows: Central Regional Office, 1801 California Street, Suite 4800, Denver, CO 80202–2648; Midwest Regional Office, 500 West Madison Street, Suite 1400, Chicago, IL 60661–2511; Northeast Regional Office, 7 World Trade Center, Suite 1300, New York, NY 10048; Southeast Regional Office, 1401 Brickell Avenue, Suite 200, Miami, FL 33131; Atlanta District Office, 3475 Lenox Road, N.E., Suite 1000, Atlanta, GA 30326–1232; Boston District Office, 73 Tremont Street, Suite 600, Boston, MA 02108–3812; Fort Worth District Office, 801 Cherry Street, 19th Floor, Fort Worth, TX 76102; Philadelphia District Office, The Curtis Center, Suite 1005 East, 601 Walnut Street, Philadelphia, PA 19106–3322; San Francisco District Office, 44 Montgomery Street, Suite 1100, San

Francisco, CA 94104; and Salt Lake District Office, 50 South Main Street, Suite 500, Salt Lake City, UT 84144–0402.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SEC employees who use public transportation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include the employee's name, date of hire, social security number, organization, grade, and date of annual certification.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Exec. Order 12191; Pub. L. 101–509, Section 629; Pub. L. 103–172; 26 CFR 1.132–6; and 42 U.S.C. 13201.

PURPOSE:

The system is primarily designed to encourage employees to use public transportation as a means to conserve petroleum, reduce congestion, and improve air quality.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES.

The information contained in these records are used as follows:

1. To the appropriate personnel for periodic review of revalidation for subsidy;
2. To the Office of Inspector General for investigating allegations of abuse, should they occur;
3. To the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order where the SEC becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; and
4. To another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

RETRIEVABILITY:

Records are maintained alphabetically and retrieved by the employee's name.

SAFEGUARDS:

Computerized records are safeguarded by restricted passwords and the paper records are locked in file cabinets.

RETENTION AND DISPOSAL:

Records in either paper or electronic form may include applications, certification logs, vouchers, and spreadsheets, used to document the disbursement of transportation subsidies. These records are destroyed after three years under the National Archives and Records Administration's *General Records Schedule* No. 9, Item 7.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Administrative and Personnel Management, Operations Center, Securities and Exchange Commission, 6432 General Green Way, Mail Stop O–1, Alexandria, VA 22312–2413. SEC Regional and District Offices are as follows: Central Regional Office, 1801 California Street, Suite 4800, Denver, CO 80202–2648; Midwest Regional Office, 500 West Madison Street, Suite 1400, Chicago, IL 60661–2511; Northeast Regional Office, 7 World Trade Center, Suite 1300, New York, NY 10048; Southeast Regional Office, 1401 Brickell Avenue, Suite 200, Miami, FL 33131; Atlanta District Office, 3475 Lenox Road, N.E., Suite 1000, Atlanta, GA 30326–1232; Boston District Office, 73 Tremont Street, Suite 600, Boston, MA 02108–3812; Fort Worth District Office, 801 Cherry Street, 19th Floor, Fort Worth, TX 76102; Philadelphia District Office, The Curtis Center, Suite 1005 East, 601 Walnut Street, Philadelphia, PA 19106–3322; San Francisco District Office, 44 Montgomery Street, Suite 1100, San Francisco, CA 94104; and Salt Lake District Office, 50 South Main Street, Suite 500, Salt Lake City, UT 84144–0402.

NOTIFICATION PROCEDURE:

All requests to determine whether this system of records contains a record pertaining to the requesting individual may be directed to the Privacy Act Officer, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

RECORD ACCESS PROCEDURES:

Persons wishing to obtain information on the procedures for gaining access to or contesting the contents of this record may contact the Privacy Act Officer, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

CONTESTING RECORDS PROCEDURES:

See record access procedures above.

RECORD SOURCE CATEGORIES:

Records include SEC Form 2344, Return/Termination of Public Transportation Subsidy; SEC Form 2316, Employee Certification for Public Transportation Subsidy; SEC Form 2317, Receipt for Public Transportation Subsidy; SEC Form 2318, Disbursing Agents, Voucher; and SEC Form 2407, Authorization for Third-Party Receipt of Public Transportation Subsidy.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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SYSTEM NAME:

Identification Cards, Press Passes, and Proximity Access Control Cards.

SYSTEM LOCATION:

Securities and Exchange Commission, Operations Center, Office of Administrative and Personnel Management, 6432 General Green Way, Mail Stop O–1, Alexandria, VA 22312–2413.

CATEGORIES AND INDIVIDUALS COVERED BY THE SYSTEM:

SEC employees, members of the press, contractors, and consultants who require access to SEC facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include SEC Form 980, Regular Identification Card (name, date of birth, weight, height, color of hair and eyes, employee identification number, and date of expiration); SEC Form 980A, Day Pass (date, name, organization, and authorized by); SEC Form 990, Special Credential (signature of employee and card number); SEC Form 2354, Temporary Pass (date of expiration and control number); SEC Form 2355, Contractor and Consultant Pass (name, issuing officer, control number, identification number, date of issue, expiration date, date of birth, color of hair and eyes, height, weight, and assignment); SEC Form 2264, Permanent (Resident) Press Pass (name, organization, control number, and date of expiration); SEC Form 2265 Temporary (Non-Resident) Press Pass (name, organization, control number, and date of expiration); SEC Form 725, Identification/Access Control Card Worksheet (various personal characteristics); and Proximity Access Control Card (name, clearance(s), company and division).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended.

PURPOSE:

This system was primarily designed to permit access to SEC facilities by SEC employees, members of the press, contractors and consultants.

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES.

These records and information contained in these records are used as follows:

1. To the appropriate Federal, State or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the SEC becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation;

2. To another Federal agency or to a court when the Government is party to a judicial proceeding before the court;

3. To a Federal, State, or local agency, in response to its requests, in connection with the hiring or retention of an employee; the issuance of a security clearance, or the conducting of a security or background investigation of an individual, to the extent that the information is relevant and necessary to the requesting agency; and

4. To the Office of Inspector General for investigating allegations of abuse, should they occur.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Retrievability:

By use of a database, records may be retrieved by the employee's name and identification number.

Safeguards:

Records are safeguarded by restricted computer passwords, locked file cabinets, and safes.

Retention and disposal:

Records are maintained in a computerized database and paper. Electronic records, identification cards, and passes are destroyed three months after expiration, revocation, or return to issuing office, as provided in the National Archives and Records Administration's *General Records Schedule* No. 11, Item 4.

System manger(s) and address:

Office of Administrative and Personnel Management, Operations Center, Securities and Exchange Commission, 6432 General Green Way, Mail Stop O–1, Alexandria, VA 22312–2413.

Notification procedure:

All requests to determine whether this system of records contains a record pertaining to the requesting individual may be directed to the Privacy Act Officer, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

Records access procedures:

persons wishing to obtain information on the procedures for gaining access to or contesting the contents of this record may contact the Privacy Act Officer, Securities and Exchange Commission, Operations Center, 6412 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

Contesting records procedures:

See record access procedures above.

Record source categories:

Inforamtion is provided by the SEC employee, contractor, consultant, or press member being issued the identification card and by the issuing official.

Exemptions claimed for the system:

None.

Dated: July 2, 1998.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18298 Filed 7–9–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40157; File No. SR–Amex–96–44]

Self-Regulatory Organizations; Order Granting Approval of a Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 3, 4, 5 and 6 to the Proposed Rule Change by the American Stock Exchange, Inc. Relating to the Listing and Trading of Options on Exchange-Traded Fund Shares

July 1, 1998.

I. Introduction

On November 21, 1996, the American Stock Exchange, Inc. ("Amex" or "Exchange"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change to list and trade options on securities representing interests in open-end, exchange-listed investment companies that hold securities constituting or based on an index or portfolio of securities ("Exchange-Traded Fund Shares" or "Fund Shares"). The Exchange filed Amendment Nos. 1 and 2 to the proposal on January 16, 1997, and February 19, 1997, respectively.[3] Notice of the proposal, and Amendment Nos. 1 and 2 appeared in the **Federal Register** on February 25, 1997.[4] No comment letters were received on the proposed rule change. On January 7, 1998, the Amex filed Amendment No. 3 to the proposed rule change.[5]

Among other things, Amendment No. 3 revises the proposal to permit the Amex to trade FLEX Equity options on Fund Shares. On March 12, 1998, the Amex filed Amendment No. 4 to the proposal[6] and on April 28, 1998, the Exchange filed Amendment No. 5.[7] Finally, on June 19, 1998, the Exchange filed Amendment No. 6 to the proposed rule change.[8] This order approves the

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment Nos. 1 and 2 have been replaced and superseded by Amendment No. 5.

[4] *See* Securities Exchange Act Release No. 38308 (February 19, 1997), 62 FR 8467.

[5] *See* Letter from Claire P. McGrath, Vice President & Senior Counsel, Amex, to Sharon Lawson, Senior Special Counsel, Office of Market Supervision ("OMS"), Division of Market Regulation ("Division"), dated January 6, 1998 ("Amendment No. 3"). Amendment No. 3 makes a number of changes to the proposal which are discussed herein.

[6] *See* Letter from Claire P. McGrath, Vice President and Special Counsel, Amex, to Sharon Lawson, Senior Special Counsel, OMS, Division, Commission, dated March 11, 1998 ("Amendment No. 4"). Amendment No. 4 provides that options on Fund Shares can either meet the uniform options listing standards set forth in Rule 915 and commentary .01 thereunder or meet the criteria set forth in proposed commentary .06 to Rule 915. The portion of Amendment No. 4 that addresses comprehensive surveillance sharing agreements with regard to non-U.S. stocks in the index or portfolio on which the fund shares are based has been replaced and superseded by Amendment No. 5.

[7] *See* Letter from Claire P. McGrath, Vice President and Special Counsel, Amex, to Sharon Lawson, Senior Special Counsel, OMS, Division, Commission, dated April 27, 1998 ("Amendment No. 5"). In Amendment No. 5 the Amex proposes the following surveillance sharing standard: (1) that any Fund Share with non-U.S. stocks in the underlying index or portfolio that are not subject to comprehensive surveillance sharing agreements do not in the aggregate represent more than 50% of the weight of the index or portfolio; (2) stocks for which the primary market is in anyone country that is not subject to a comprehensive surveillance agreement do not represent 20% or more of the weight of the index; and (3) stocks for which the primary market is in any two countries that are not subject to comprehensive agreements do not represent 33% or more of the weight of the index. Amendment No. 5 supersedes and replaces Amendment Nos. 1 & 2, and the portion of Amendment No. 4 that addresses surveillance sharing.

[8] *See* Letter from Claire P. McGrath, Vice President and Special Counsel, Amex, to Sharon Lawson, Senior Special Counsel, OMS, Division, Commission, dated June 19, 1998 ("Amendment No. 6"). In Amendment No. 6 the Exchange clarifies that Fund Shares that hold securities based upon a narrow-based index or portfolio must have options margin that equals at least 100% of the current market value of the contracts plus 20% of the

Exchange's proposal, and Amendment Nos. 3, 4, 5, and 6 on an accelerated basis.

II. Description of the Proposal

The purpose of the proposed rule change is to provide for the trading of options and FLEX Equity options[9] on Fund Shares. As noted above, Fund Shares are exchange-listed securities representing interests in open-end unit investment trusts or open-end management investment companies ("Funds") that hold securities based on an index or a portfolio of securities.[10] Fund Shares are issued in exchange for an "in kind" deposit of a specified portfolio of securities, together with a cash payment, in minimum size aggregations or multiples thereof ("Creation Units"). The size of the applicable Creation Unit size aggregation is set forth in the Fund's prospectus, and varies from one series of Fund Shares to another, but generally is of substantial size (*e.g.*, value in excess of $450,000 per creation unit). A Fund, generally, will issue and sell Fund Shares in Creation Unit size through a principal underwriter on a continuous basis at the net asset value per share next determined after an order to purchase Fund Shares and the appropriate securities are received. Following issuance, Fund Shares are traded on an exchange like other equity securities, and equity trading rules apply. Likewise, redemption of Fund Shares is made in Creation Unit size and "in kind," with a portfolio of securities and cash exchanged for the Fund Shares that have been tendered for redemption.

Generally, options on Exchange-Traded Fund Shares are proposed to be traded on the Exchange pursuant to the same rules and procedures that apply to trading in options on equity securities. However, the Exchange is also proposing to list FLEX Equity options on Fund Shares and some options will have a unit of trading of 1000 Exchange-Traded Fund Shares. The Exchange will list option contracts covering either 100 or 1000 Fund Shares, or both, depending on the price and volatility of the underlying Fund Shares and the popularity of the options.[11] Strike prices for both the 100 and 1000 share contracts will be set to bracket the Fund Shares at one point intervals up to a share price of $200.[12] The proposed position and exercise limits for options on Fund Shares would be the same as those established for stock options as set forth in Amex Rules 904 and 905. The Amex anticipates that most options on Fund Shares initially will qualify for only the lowest position limit. As with standardized equity options, the position limits will be increased for options if the volume of trading in the Fund Shares increases to meet the requirements of a higher limit.[13] As is currently the case for all FLEX Equity options, no position and exercise limits will be applicable to FLEX Equity options overlying Fund Shares until, at least, September 9, 1999.[14]

The listing and maintenance standards proposed for options on Exchange-Traded Fund Shares are set forth in proposed Commentary .06 under Exchange Rule 915 and in proposed Commentary .08 under Exchange Rule 916, respectively. Pursuant to the proposed initial listing standards, Amex only will list Fund Shares that are principally traded on a national securities exchange or through the facilities of a national securities association and reported as national market securities. In addition, the initial listing standards require that either: (1) the Fund Shares meet the uniform options listing standards in Commentary .01 to Rule 915, which include minimum public float, trading volume, and share price of the underlying security in order to list the option;[15] or (2) the Exchange-Traded Fund Shares must be available for creation or redemption each business day in cash or in kind from the Fund at a price related to the net asset value, and the Exchange will require that the underlying Fund Shares may be created even though some or all of the securities needed to be deposited have not been received by the Fund.[16]

In addition, the initial listing standards require that: (1) any Fund Share with non-U.S. stocks in the underlying index or portfolio that are not subject to comprehensive surveillance agreements do not in the aggregate represent more than 50% of the weight of the index or portfolio; (2) stocks for which the primary market is in any one country that is not subject to a comprehensive surveillance agreement do not represent 20% or more of the weight of the index or portfolio; and (3) stocks for which the primary market is in any two countries that are not subject to comprehensive surveillance agreements do not represent 33% or more of the weight of the index or portfolio.[17]

The Exchange's proposed maintenance standards provide that if a particular series of Exchange-Traded Fund Shares should cease to trade on an exchange or as national market securities in the over-the-counter market, there will be no opening transactions in the options on the Fund Shares, and all such options will trade on a liquidation-only basis. In addition, the Amex will consider the suspension of opening transactions in any series of options of the class covering Fund Shares if: (1) the options fail to meet the uniform equity option maintenance standards Commentary .01 to Rule 916,[18] when the options were listed pursuant to the equity option listing

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market value of equivalent units of the underlying security value.

[9] In general, FLEX Equity options provide investors with the ability to customize basic option features including size, expiration date, exercise style, and certain exercise prices.

[10] Currently, the Exchange trades unit investment trust securities known as Portfolio Depository ReceiptsSM ("PDRs") based on the Standard & Poor's 500® Composite Stock Price Index, the Standard & Poor's MidCap 400 Index, and the Dow Jones Industrial Average. In addition, the Exchange trades Index Fund Shares which are issued by an open-end management investment company consisting of seventeen separate series known as World Equity Benchmark SharesSM ("WEBS") based on seventeen foreign equity market indexes. PDRs and WEBS are listed on the Amex pursuant to Rule 1000, et seq. and Rule 1000A et seq., respectively, and trade like shares of common stock. The Commission notes that not all PDRs or WEBS currently trading on the Amex may meet the standards for options trading approved by this order.

[11] *See* Amendment No. 3, *supra* note 5. In the event the Exchange lists options covering both 100 and 1000 of the same underlying Fund Shares, the Exchange will assign separate trading symbols to the options and will issue an Information Circular to all its members advising of the trading symbols. Telephone conversation between Claire P. McGrath, Vice President & Senior Counsel, Amex, and James T. McHale, Special Counsel, OMS, Division, Commission, on June 17, 1998.

[12] *See* Amendment No. 3, *supra* note 5.

[13] *Id.*

[14] *See* Securities Exchange Act Release No. 39032 (September 9, 1997) (Order eliminating position and exercise limits for FLEX Equity options on a two year pilot basis) ("FLEX Equity Position Limit Pilot").

[15] Specifically, Commentary .01 to Rule 915 requires the underlying security to have a public float of 7,000,000 shares, 2000 holders, trading volume of 2,400,000 shares in the preceding 12 months, a share price of $7.50 for the majority of the business days during the three calendar months preceding the date of the selection, and that the issuer of the underlying security is in compliance with the Act.

[16] Provided the authorized creation participant has undertaken to deliver the shares as soon as possible and such undertaking has been secured by the delivery and maintenance of collateral consisting of cash or cash equivalents satisfactory to the Fund which underlies the option, as described in the Fund prospectus. *See* Amendment No. 3, *supra* note 5.

[17] *See* Amendment No. 5, *supra* note 7.

[18] Specifically, Commentary .01 to Rule 916 provides that an underlying security will not meet the Exchange's requirements for continued listing when, among other things; (1) there are fewer than 6 300,000 publicly-held shares; (2) there are fewer than 1600 holders; (3) trading volume was less than 1,800,000 shares in the preceding twelve months; and (4) the share price of the underlying security closed below $5 on a majority of the business days during the preceding 6 months.

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standards of Commentary .01 to Rule 915;[19] (2) following the initial twelve-month period beginning upon the commencement of trading of the Fund Shares on a national securities exchange or as national market securities through the facilities of a national securities association there are fewer than 50 record and/or beneficial holders of Fund Shares for 30 or more consecutive trading days; (3) the value of the index or portfolio of securities on which the Fund Shares are based is no longer calculated or available; or (4) such other event shall occur or condition exist that in the opinion of the Exchange makes further dealing in such options on the Exchange inadvisable.

Options on Fund Shares will be physically-settled and will have the American-style exercise feature used on all standardized equity options, and not the European-style feature originally proposed.[20] The Exchange, however, also proposes to trade FLEX Equity options which will be available with both the American-style and European-style exercise feature, as well as other FLEX Equity features.[21]

The proposed margin requirements for options on Exchange-Traded Fund Shares are at the same levels that apply to options generally under Exchange Rule 462, except, with respect to Fund Shares based on a broad-based index or portfolio, and those Fund Shares approved by the Commission to date, minimum margin must be deposited and maintained equal to 100% of the current market value of the option plus 15% of the market value of equivalent units of the underlying security value. Fund Shares that hold securities based upon a narrow-based index or portfolio must have options margin that equals at least 100% of the current market value of the contract plus 20% of the market value of equivalent units of the underlying security value.[22] In this respect, the margin requirements proposed for options on Exchange-Traded Fund Shares are comparable to margin requirements that currently apply to broad-based and narrow-based index options.

The Exchange believes it has the necessary systems capacity to support the additional series of options that would result from the introduction of options on Fund Shares, and it has been advised that the Options Price Reporting Authority ("OPRA") also will have the capacity to support these additional series now that it has implemented an additional outgoing high speed line from the OPRA processor.[23]

III. Commission Findings and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5).[24] Specifically, the Commission believes that providing for the listing and trading of options and FLEX Equity options[25] on Exchange-Traded Fund Shares should give investors a better means to hedge their positions in the underlying Fund Shares. Further, the Commission believes that pricing of the underlying Fund Shares may become more efficient and market makers in these shares, by virtue of enhanced hedging opportunities, may be able to provide deeper and more liquid markets. In sum, the Commission believes that options on Fund Shares likely will engender the same benefits to investors and the market place that exist with respect to options on common stock,[26] thereby serving to promote the public interest, remove impediments to a free and open securities market, and promote efficiency, competition, and capital formation.[27]

As a general matter, the Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as options on Fund Shares, can commence trading on a national securities exchange. The Commission notes that the trading of standardized exchange-traded options occurs in an environment that is designed to ensure, among other things, that: (1) The special risks of options are disclosed to public customers; (2) only investors capable of evaluating and bearing the risks of options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. With regard to position and exercise limits, the Commission finds that it is appropriate to adopt the tiered approach used in setting position and exercise limits for standardized stock options. This approach should serve to minimize potential manipulation and market impact concerns. In addition, the Commission believes that the rationale for allowing FLEX Equity options generally to trade without position and exercise limits until September 9, 1999, is equally applicable in the context of FLEX Equity options on Fund Shares.[28] Accordingly, because options and FLEX Equity options on Fund Shares will be subject to the same regulatory regime as the other options and FLEX Equity options currently traded on the Amex, the Commission believes that adequate safeguards are in place to ensure the protection of investors in options and FLEX Equity options on Fund Shares.

The Commission also believes that it is appropriate to permit the Amex to list and trade options, including FLEX Equity options, on Exchange-Traded Fund Shares given that these options must meet specific requirements related to the protection of investors.[29] First, the Exchange's listing and delisting criteria for options on Fund Shares are adequate. With regard to initial listing, the proposal requires that either: (1) the underlying Fund Shares meet the Amex's uniform options listing standards; or (2) the Exchange-Traded Fund Shares must be available for creation or redemption each business day in cash or in kind from the Fund at a price related to the net asset value, and the Exchange will require that the underlying Fund Shares may be created even though some or all of the securities needed to be deposited have not been received by the Fund.[30] This listing requirement should ensure that there exists sufficient supply of the underlying Fund Shares so that a short call writer, for example, will have the ability to secure delivery of the Fund Shares upon exercise of the option.

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[19] *See* Amendment No. 4, *supra* note 6. The Commission notes that even if options on Fund Shares were not listed under the uniform equity option listing standards, Amex Rules 1002 and 1002A require a minimum number of Fund Shares to be outstanding before trading in a series of Fund Shares may commence. In addition, the Amex has represented that although there is no comparable public float maintenance standard for the underlying Fund Shares, as a practical matter there can never be trading in a series of Fund Shares in which there is less than one Creation Unit outstanding, since Fund Shares only may be created and redeemed in Creation Unit size, and if the last outstanding Creation Unit should ever be redeemed, the series (and the options on that series) will cease to trade.

[20] *See* Amendment No. 3, *supra* note 5. An American-style option may be exercised at any time prior to its expiration. A European-style option, however, may be exercised only on its expiration date.

[21] *Id.*

[22] *See* Amendment No. 6, *supra* note 8.

[23] *See* letter from Joseph P. Corrigan, Executive Director, OPRA, to Ivette Lopez, Assistant Director, OMS, Division, Commission, dated November 8, 1996.

[24] 15 U.S.C. 78f(b)(5).

[25] The Commission hereby incorporates by reference its findings and conclusions with respect to the appropriateness of FLEX Equity options generally. *See* Securities Exchange Act Release No. 37336 (June 19, 1996), 61 FR 33558 (June 27, 1996).

[26] Pursuant to Section 6(b)(5) of the Act, the Commission must predicate approval of any new securities product upon a finding that the introduction of such new product is in the public interest. Such a finding would be difficult for a derivative instrument that served no hedging or economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns.

[27] 15 U.S.C. 78c(f).

[28] *See* FLEX Equity Position Limit Order, *supra* note 14. Pursuant to the FLEX Equity Position Limit Pilot, the Commission expects the Amex to include its experience with FLEX Equity options on Fund Shares in its report to the Commission.

[29] The Commission notes, and Amex has verified, that holders of options on Fund Shares who exercise and receive the underlying Fund Shares must receive, like any purchaser of Fund Shares, a product description or prospectus, as appropriate. Telephone Conversation between Claire P. McGrath, Vice President and Senior Counsel, Amex, Sharon Lawson, Senior Special Counsel, OMS, Division, Commission, and James McHale, Special Counsel, OMS, Division, Commission, on June 25, 1998.

In reviewing the Amex's proposal, as originally submitted, the Commission had been concerned with the ability to produce Fund Shares upon exercise of the option. The Commission believes the Amex has adequately addressed these concerns through the adoption of the listing standards set forth above. In particular, options listed pursuant to the uniform options listing standards will have to meet the options maintenance listing standards which require, among other things, that a minimum number of Fund Shares be outstanding to continue trading the options.[31] The alternative listing criteria, noted above, should also help to ensure that the underlying Fund Shares will be available upon exercise by requiring the Fund to allow market participants to create Fund Shares even though some or all of the necessary securities needed to be deposited are not available.[32] Although there is no absolute assurance that market participants will go ahead and create Fund Shares in the event a short call writer needs to purchase Fund Shares to meet an exercise notice, it is likely that arbitrage opportunities will create an incentive to do so. Further, in the event there are not enough Fund Shares to meet exercise requirements, as with other physically-settled equity options, the Options Clearing Corporation ("OCC") has rules that would apply to such situations.

Second, the Commission believes that the surveillance standard developed by the Amex for options on Fund Shares is adequate to address the concerns associated with the listing and trading of such securities. Specifically, the Amex has proposed that: (1) any Fund Share with non-US stocks in the underlying index or portfolio that are not subject to comprehensive surveillance agreements do not in the aggregate represent more than 50% of the weight of the index or portfolio; (2) stocks for which the primary market is in any one country that is not subject to a comprehensive surveillance agreement do not represent 20% or more of the weight of the index or portfolio; and (3) stocks for which the primary market is in any two countries that are not subject to comprehensive surveillance agreements do not represent 33% or more of the weight of the index or portfolio.[33]

As a general matter, the Commission believes that comprehensive surveillance agreements provide an important deterrent to manipulation because they facilitate the availability of information needed to fully investigate a potential manipulation if it were to occur. These agreements are especially important in the content of derivative products based on foreign securities because they facilitate the collection of necessary regulatory, surveillance and other information from foreign jurisdictions. In evaluating the current proposal, the Commission believes that requiring comprehensive surveillance agreements to be in place between the Amex and the primary markets for foreign securities that comprise 50% or more of the weight of the underlying index or portfolio upon which Fund Shares are based, as well as the other conditions discussed above, provides an adequate mechanism for the exchange of surveillance sharing information necessary to detect and deter possible market manipulations. Although the Commission recognizes that up to 50% of the Portfolio's value may not be covered by comprehensive surveillance agreements, the other requirements will ensure that a significant percentage of the portfolio is not made up of securities from uncovered countries. Further, as to the domestically-traded Fund Shares themselves and the domestic stocks in the underlying index or portfolio upon which Fund Shares are based, the Intermarket Surveillance Group ("ISG")[34] Agreement will be applicable to the trading of options on Fund Shares.[35]

Finally, the Commission believes that it is appropriate to require minimum margin of 100% of the current market value of the option plus 15% of the market value of the underlying security value ("broad-based margin") for options on Fund Shares based on a broad-based index or portfolio and for options on Fund Shares which have been approved to date.[36] Moreover, the Commission believes that requiring minimum margin of 100% of the current market value of the option plus 20% of the market value of the underlying security value ("narrow-based margin") for options on Fund Shares based on a narrow-based index or portfolio is appropriate.[37] The Commission notes that these margin requirements for options on Exchange-Traded Fund Shares are comparable to margin requirements that currently apply to broad-based and narrow-based index options.

The Commission finds good cause for approving Amendment Nos. 3, 4, 5, and 6 to the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. Amendment No. 3, strengthens the proposal by: (1) providing that the Exchange will not list options on Fund Shares unless the Fund has agreed to issue Fund Shares even though some or all of the securities needed to be deposited have not been received, thus ensuring a minimum level of liquidity; and (2) adopting standardized options position and exercise limits. Amendment No. 3 also: (1) provides the options on Fund Shares shall have the American-style exercise feature; (2) allows for the trading of FLEX Equity options on Fund Shares; (3) permits the Exchange to list options on Funds Shares covering 100 or 1000 Fund Shares or both; (4) sets strike prices for both 100 and 1000 share contracts to bracket the Fund Shares price at one point intervals up to a share price of $200; and (5) makes various non-substantive references to "Exchange-Traded Fund Shares" throughout Amex's Rules, where appropriate. The Commission finds that these changes are not controversial because they do not alter the fundamental nature of the proposal.

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[30] Provided the authorized creation participant has undertaken to deliver the shares as soon as possible and such undertaking has been secured by the delivery and maintenance of collateral consisting of cash or cash equivalents satisfactory to the Fund which underlies the option, as described in the Fund prospectus.

[31] *See supra* note 18.

[32] *See supra* note 30.

[33] The Exchange uses the term "comprehensive surveillance agreement" to mean an agreement which requires that the parties provide each other, upon request, information about market trading, clearing activity under the identity of the ultimate purchasers and sellers of securities. Telephone conversation between Claire P. McGrath, Vice President and Senior Counsel, Amex, and James T. McHale, Special Counsel, OMS, Division, Commission, on June 17, 1998.

[34] ISG was formed on July 14, 1983, to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. *See* Intermarket Surveillance Group Agreement, July 14, 1983. The members of ISG include all of the registered National Securities Exchanges and the National Association of Securities Dealers, Inc. ("NASD"). In addition, the major stock index futures exchanges (*e.g.*, the Chicago Mercantile Exchange and the Chicago Board of Trade) are affiliate members of ISG.

[35] For example, the ISG Agreement would allow for the exchange of surveillance and investigative information between the Amex, trading PDRs on the S&P 500 index, and the markets trading the 500 stocks represented in the S&P 500 index. In addition, should other markets begin trading Fund Shares in the future, trading information with regard to the Fund Shares themselves would be readily available to the Amex pursuant to the ISG and the Amex could list options on those Fund Shares, assuming the options met all of the listing standards and requirements discussed herein.

[36] The Commission notes that the portfolios or indexes comprising WEBS have not been designated as broad-based by the Commission. In this order, the Commission is only determining that broad-based margin treatment for the WEBS is appropriate, without addressing the issue of whether such WEBS are broad-based.

[37] *See* Amendment No. 6, *supra* note 8.

Amendment No. 4 provides the Exchange with the flexibility to list Fund Shares pursuant to the uniform option listing standards in Rule 915 and Commentary .01, in lieu of obtaining a commitment from the unit investment trust or management investment company to issue Fund Shares even though some or all of the securities needed to be deposited have not been received. The Commission believes that this strengthens the proposal because the uniform option listing standards help to ensure that the Fund Shares underlying the options are actively traded, with substantial public float and number of holders. That portion of Amendment No. 4 that addresses comprehensive surveillance sharing agreements has been replaced and superseded by Amendment No. 5.

The Commission also believes that Amendment No. 5, concerning surveillance requirements, strengthens the Amex's proposal. Amendment No. 5, provides a clear, objective standard for determining the comprehensive surveillance requirements for trading options on Fund Shares where the underlying index or portfolio contains non-U.S. stocks.

The Commission finds that Amendment No. 6 also strengthens the Amex's proposal. Amendment No. 6 provides that the Amex will apply narrow-based margin to options on Fund Shares which are based on a narrow-based index or portfolio of securities. This requirement should ensure that purchasers of options on Fund Shares based on a narrow-based index or portfolio post sufficient margin to address any concerns associated with the potentially increased volatility inherent in a narrow-based index.

Finally, the Commission notes that no comments were received on the original Amex proposal, which was subject to full 21-day comment period. Accordingly, the Commission believes that there is good cause, consistent with Section 6(b)(5) of the Act, to approve Amendment Nos. 3, 4, 5, and 6 to the proposed rule change on an accelerated basis.

Interested persons are invited to submit written data, views and arguments concerning Amendment Nos. 3, 4, 5 and 6 to the proposed rule change, including whether the Amendments are consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR-Amex–96–44 and should be submitted by July 31, 1998.

For the foregoing reasons, the Commission finds that the Amex's proposal to list and trade options and FLEX Equity Options on Fund Shares is consistent with the requirements of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[38] that the proposed rule change (File No. SR-Amex–96–44), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[39]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18414 Filed 7–9–98; 8:45 am]

BILLING CODE 8010–01–M

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[38] 15 U.S.C. 78s(b)(2).

[39] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40166; File No. SR–CBOE–97–03]

Self-Regulatory Organizations; Order Granting Approval of a Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 2 and 3 to the Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Options on Interests in Listed, Open-End, Indexed Investment Companies

July 2, 1998.

I. Introduction

On January 22, 1997, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change to adopt rules to permit the trading of options on securities representing interest in open-end, exchange-listed investment companies that hold a portfolio of securities comprising or based on a broad-based stock index ("Exchange-Traded Fund Shares" or "Fund Shares"). Notice of the proposal appeared in the **Federal Register** on March 5, 1997.[3] No comment letters were received on the proposed rule change.[4] On January 12, 1998, the Exchange filed Amendment No. 2 to the proposal.[5] On May 18, 1998, the CBOE filed Amendment No. 3 to the proposed rule change.[6] Finally, on June 24, 1998, the Exchange filed a technical amendment to the filing.[7] This order approves the Exchange's proposal, and Amendment Nos. 2 and 3 on an accelerated basis.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 38342 (February 26, 1997), 62 FR 10098.

[4] On May 2, 1997, the CBOE filed an amendment to the proposed rule change. *See* Letter from Michael L. Meyer, Esq., Schiff Hardin & Waite, to Howard L. Kramer, Senior Associate Director, Office of Market Supervision ("OMS"), Division of Market Regulation ("Division"), Commission, dated May 2, 1997 ("Amendment No. 1"). Amendment No. 1 made no changes to the proposal, but merely clarified the Exchange's original filing. Amendment No. 1 is no longer relevant, and has been replaced and superseded by Amendment Nos. 2 and 3.

[5] *See* Letter from Michael L. Meyer, Esq., Schiff Hardin & Waite to Howard L. Kramer, Senior Associate Director, OMS, Division, Commission, dated January 9, 1998 ("Amendment No. 2"). In Amendment No. 2 the Exchange proposes to revise the listing standards for Fund Shares set forth in Interpretation and Policy .06 under Rule 5.3 to require, in addition to other criteria, either: (1) that the underlying Fund Shares or units must satisfy the same criteria and guidelines under CBOE rules that apply to determine the eligibility for listing options on underlying equity securities; or (2) that the issuer is obligated to issue Fund Shares in a specified aggregate number in return for a cash deposit in an amount equal to the value of the securities that comprise the index or portfolio represented by the Fund Shares. In addition, Amendment No. 2 provides that the same tiered

II. Description of the Proposal

The purpose of the proposed rule change is to provide for the trading of options on Fund Shares. As noted above, Fund Shares are exchange-listed securities representing interests in open-end unit investment trusts or open-end management investment companies ("Funds") that hold securities based on an index or a portfolio of securities. Fund Shares are issued in exchange for an "in kind" deposit of a specified portfolio of securities, together with a cash payment, in minimum size aggregations or multiples thereof ("Creation Units"). The size of the applicable Creation Unit size aggregation is set forth in the Fund's prospectus, and varies from one series of Fund Shares to another, but generally is of a substantial size (*e.g.*, value in excess of $450,000 per creation unit). A fund, generally, will issue and sell Fund Shares in Creation Unit size through a principal underwriter on a continuous basis at the net asset value per share next determined after an order to purchase Fund Shares and the appropriate securities are received. Following issuance, Fund Shares are traded on an exchange like other equity securities, and equity trading rules apply. Likewise, redemption of Fund Shares is made in Creation Unit size and "in kind," with a portfolio of securities and cash exchanged for Fund Shares that have been tendered for redemption.

The CBOE proposes to trade options on Fund Shares pursuant to the same rules and procedures that apply generally to trading in options on equity securities, except that some special listing criteria are proposed to apply to this category of options. Options on Fund Shares will be physically-settled and will have either the European-style or American-style exercise feature, as specified.[8]

The listing and maintenance standards proposed for options on Fund Shares are set forth in proposed Interpretation and Policy .06 under CBOE Rule 5.3 and in Interpretation .10 under CBOE Rule 5.4, respectively. Pursuant to the proposed initial listing standards, CBOE only will list options on Fund Shares that are principally traded on a national securities exchange or through the facilities of a national securities association and reported as national market securities. In addition, the initial listing standards require that either: (1) the Fund Shares meet the uniform options listing standards in CBOE Rule 5.3 and Interpretation and Policy .01 thereunder, which include minimum public float, trading volume, and share price of the underlying security in order to list the option;[9] or (2) the Exchange-Traded Fund Shares must be available for creation or redemption each business day in cash or in kind from the Fund at a price related to the net asset value, and the Exchange will require that the Fund is obligated to issue Fund Shares in a specified aggregate number even though some or all of the securities needed to be deposited have not been received by the Fund.[10]

In addition, the initial listing standards require that: (1) any Fund Share with non-US stocks in the underlying index or portfolio that are not subject to comprehensive surveillance agreements do not in the aggregate represent more than 50% of the weight of the index or portfolio; (2) stocks for which the primary market is in any one country that is not subject to a comprehensive surveillance agreement do not represent 20% of more of the weight of the index; and (3) stocks for which the primary market is in any two countries that are not subject to comprehensive surveillance agreements do not represent 33% of more of the weight of the index.[11]

The Exchange's proposed maintenance standards provide that if a particular series of Exchange-Traded Fund Shares should cease to trade on an exchange or as national market securities in the over-the-counter market, there will be no opening transactions in the options on the Fund Shares, and all such options will trade on a liquidation-only basis. In addition, the CBOE will consider the suspension of opening transactions in any series of options of the class covering Fund Shares if: (1) the options fail to meet the uniform equity option maintenance standards in paragraphs (a), (b), (c), and (d) of Interpretation and Policy .01 to Rule 5.4,[12] when the options were listed pursuant to the equity option listing standards of Rule 5.3 and Interpretation and Policy .01 thereunder;[13] (2) following the initial twelve-month period beginning upon the commencement of trading of the Fund Shares on a national securities exchange or as national market securities through the facilities of a national securities association there are fewer than 50 record and/or beneficial holders of Fund Shares for 30 or more consecutive trading days, when options on Fund Shares were listed pursuant to clause (D)(y) under Interpretation and Policy .06 of Rule 5.3;[14] or (3) the value of the index or portfolio of securities on which the Fund Shares are based is no longer calculated or available.

Reflecting the indexed nature of the underlying portfolios of the Fund

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position and exercise limits that apply to options on individual equity securities will apply to options on Fund Shares. Finally, Amendment No. 2 removed certain continued listing standards that were in the original filing.

[6] *See* Letter form Joseph Levin, Vice President, Research, CBOE, to Howard L. Kramer, Senior Associate Director, OMS, Division, Commission, dated May 14, 1998 ("Amendment No. 3"). In Amendment No. 3 the Exchange proposes a new surveillance sharing standard for options on Fund Shares that include non-U.S. stocks in the index or portfolio upon which Fund Shares are based. In addition, Amendment No. 3 includes continued listing standards for options on Fund Shares, which are discussed herein.

[7] *See* Letter from Michael L. Meyer, Esq., Schiff Hardin & Waite, to James T. McHale, Special Counsel, OMS, Division, Commission, dated June 23, 1998 ("Amendment No. 4"). Amendment No. 4 merely corrects an erroneous cross-reference in Interpretation and Policy .06 to Rule 5.4.

[8] Telephone conversation between Michael L. Meyer, Esq., Schiff Hardin & Waite, and James T. McHale, Special Counsel, OMS, Division, Commission, on June 30, 1998.

[9] Specifically, Interpretation and Policy .01 to Rule 5.3 requires the underlying security to have a public float of 7,000,000 shares, 2000 holders, trading volume of 2,400,000 shares in the preceding 12 months, a share price of $7.50 for the majority of the business days during the three calendar months preceding the date of the selection, and that the issuer of the underlying security is in compliance with the Act.

[10] Provided the person obligated to deposit the securities has undertaken to deliver the securities as soon as possible and such undertaking has been secured by the delivery and maintenance of collateral consisting of cash or cash equivalents satisfactory to the Fund which underlies the option, as described in the Fund prospectus. *See* Amendment No. 3, *supra* note 6.

[11] *See* Amendment No. 3, *supra* note 6.

[12] Specifically, paragraphs (a), (b), (c) and (d) of Interpretation and Policy .01 to Rule 5.4 provide that an underlying security will not meet the Exchange's requirements for continued listing when, among other things: (1) there are fewer than 6,300,000 publicly-held shares; (2) there are fewer than 1600 holders; (3) trading volume was less than 1,800,000 shares in the preceding twelve months; and (4) the share price of the underlying security closed below $5 on a majority of the business days during the preceding 6 months.

[13] *See* Amendment No. 2, *supra* note 5. The Commission notes that even if options on Fund Shares were not listed under the uniform equity option listing standards, initial listing standards for the underlying Fund Shares typically require a minimum number of Fund Shares to be outstanding before trading in a series of Fund Shares may commence. In addition, the CBOE has represented that although there is no comparable public float maintenance standard for the underlying Fund Shares, as a practical matter there can never be trading in a series of Fund Shares in which there is less than one Creation Unit outstanding, since Fund Shares only may be created and redeemed in Creation Unit size, and if the last outstanding Creation Unit should ever be redeemed, the series (and the options on that series) will cease to trade.

[14] *See* Amendment No. 4, *supra* note 7.

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Shares on which options are proposed to be traded, the Exchange proposes to amend Interpretation and Policy .01 under Exchange Rule 5.5 to provide that the minimum strike price intervals for these options will be $2.50 where the strike price is $200 or less, and $5.00 where the strike price is over $200. These are comparable to the strike price intervals provided in Interpretation and Policy .01 under Exchange Rule 24.9, as applicable to broad-based index options having strike prices at about the level expected for options on Fund Shares.

Margin requirements are proposed for options on Fund Shares at the same levels that apply to options generally under Exchange Rule 12.3, except that, reflecting the broad-based nature of the index or portfolio underlying Fund Shares, minimum margin must be deposited and maintained equal to 100% of the current market value of the option plus 15% (instead of 20%) of the market value of equivalent units of the underlying security value. In this respect, the margin requirements proposed for options on Fund Shares are comparable to margin requirements that currently apply to broad-based index options under Exchange Rule 24.11(b)(i).[15]

CBOE believes it has the necessary systems capacity to support the additional series of options that would result from the introduction of options on Fund Shares, and it has been advised that the Option Price Reporting Authority ("OPRA") also has the capacity to support these additional series.[16]

III. Commission Findings and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(15).[17] Specifically, the Commission believes that providing for the listing and trading of standardized options on Exchange-Traded Fund Shares should give investors a better means to hedge their positions in the underlying Fund Shares. Further, the Commission believes that pricing of the underlying Fund Shares may become more efficient and market makers in these shares, by virtue of enhanced hedging opportunities, may be able to provide deeper and more liquid markets. In sum, the Commission believes that options on Fund Shares likely will engender the same benefits to investors and the market place that exist with respect to options on common stock,[18] thereby serving to promote the public interest, remove impediments to a free and open securities market, and promote efficiency, competition, and capital formation.[19]

As a general matter, the Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as options on Fund Shares, can commence trading on a national securities exchange. The Commission notes that the trading of standardized exchange-traded options occurs in an environment that is designed to ensure, among other things, that: (1) the special risks of options are disclosed to public costumers; (2) only investors capable of evaluating and bearing the risks of options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. With regard to position and exercise limits, the Commission finds that it is appropriate to adopt the tiered approach used in setting position and exercise limits for standardized stock options. This approach should serve to minimize potential manipulation and market impact concerns. Accordingly, because options on Fund Shares will be subject to the same regulatory regime as the other standardized options currently traded on the CBOE, the Commission believes that adequate safeguards are in place to ensure the protection of investors in options on Fund Shares.

The Commission also believes that it is appropriate to permit the CBOE to list and trade options on Exchange-Traded Fund Shares given that these options must meet specific requirements related to the protection of investors.[20] First, the Exchange's listing and delisting criteria for options on Fund Shares are adequate. With regard to initial listing, the proposal requires that either: (1) The underlying Fund Shares meet the CBOE's uniform options listing standards; or (2) the Exchange-Traded Fund Shares must be available for creation or redemption each business day in cash or in kind from the Fund at a price related to the net asset value, and the Exchange will require that the Fund is obligated to issue Fund Shares in a specified aggregate number even though some or all of the securities needed to be deposited have not been received by the Fund.[21] This listing requirement should ensure that there exists sufficient supply of the underlying Fund Shares so that a short call writer, for example, will have the ability to secure delivery of the Fund Shares upon exercise of the option.

In reviewing the CBOE's proposal, as originally submitted, the Commission had been concerned with the ability to produce Fund Shares upon exercise of the option. The Commission believes the CBOE has adequately addressed these concerns through the adoption of the listing standards set forth above. In particular, options listed pursuant to the uniform options listing standards will have to meet the options maintenance listing standards which require, among other things, that a minimum number of Fund Shares be outstanding to continue trading the options.[22] The alternative listing criteria, noted above, should also help to ensure that the underlying Fund Shares will be available upon exercise by requiring the Fund to allow market participants to create Fund Shares even though some or all of the necessary securities needed to be deposited are not available.[23] Although there is no absolute assurance that market participants will go ahead and create Fund Shares in the event a short call writer needs to purchase Fund Shares to meet an exercise notice, it is likely that arbitrage opportunities will create an incentive to do so. Further, in the event there are not enough Fund Shares to meet exercise requirements, as with other physically-settled equity options, the Options Clearing Corporation

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[15] The Commission notes that the CBOE's proposal is limited to trading options on Fund Shares comprising or based on a broad-based index or portfolio.

[16] *See* memorandum from Joseph Corrigan, Executive Director, OPRA, to Eileen Smith, CBOE, dated January 21, 1997.

[17] 15 U.S.C. 78f(b)(5).

[18] Pursuant to Section 6(b)(5) of the Act, the Commission must predicate approval of any new securities product upon a finding that the introduction of such new product is in the public interest. Such a finding would be difficult for a derivative instrument that served no hedging or economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns.

[19] 15 U.S.C. 78c(f).

[20] The Commission notes, and CBOE has verified, that holders of options on Fund Shares who exercise and receive the underlying Fund Shares must receive, like any purchaser of Fund Shares, a product description or prospectus, as appropriate. Telephone Conservation between Michael L. Meyer, Esq., Schiff Hardin & Waite, and James T. McHale, Special Counsel, OMS, Division, Commission, on June 30, 1998.

[21] Provided the person obligated to deposit the securities has undertaken to deliver the securities as soon as possible and such undertaking has been secured by the delivery and maintenance of collateral consisting of cash or cash equivalents satisfactory to the Fund which underlies the option, as described in the Fund prospectus.

[22] *See supra* note 12.

[23] *See supra* note 21.

("OCC") has rules that would apply to such situations.

Second, the Commission believes that the surveillance standard developed by the CBOE for options on Fund Shares is adequate to address the concerns associated with the listing and trading of such securities. Specifically, the CBOE has proposed that: (1) Any Fund Share with non-US stocks in the underlying index or portfolio that are not subject to comprehensive surveillance agreements do not in the aggregate represent more than 50% of the weight of the index or portfolio; (2) stocks for which the primary market is in any one country that is not subject to a comprehensive surveillance agreement do not represent 20% or more of the weight of the index; and (3) stocks for which the primary market is in any two countries that are not subject to comprehensive surveillance agreements do not represent 33% or more of the weight of the index.[24]

As a general matter, the Commission believes that comprehensive surveillance agreements provide an important deterrent to manipulation because they facilitate the availability of information needed to fully investigate a potential manipulation if it were to occur. These agreements are especially important in the context of derivative products based on foreign securities because they facilitate the collection of necessary regulatory, surveillance and other information from foreign jurisdictions. In evaluating the current proposal, the Commission believes that requiring comprehensive surveillance agreements to be in place between the CBOE and the primary markets for foreign securities that represent 50% or more of the weight of the underlying index or portfolio upon which Fund Shares are based, as well as the other conditions discussed above, provides an adequate mechanism for the exchange of surveillance sharing information necessary to detect and deter possible market manipulations. Although the Commission recognizes that up to 50% of the portfolio's value may not be covered by comprehensive surveillance agreements, the other requirement will ensure that a significant percentage of the portfolio is not made up of securities from uncovered countries.

Further, as to the domestically-traded Fund Shares themselves and the domestic stocks in an underlying index or portfolio upon which Fund Shares are based, the Intermarket Surveillance Group ("ISG")[25] Agreement will be applicable to the trading of options on Fund Shares.

Finally, the Commission believes that requiring minimum margin of 100% of the current market value of the option plus 15% of the market value of the underlying security value ("broad-based margin") for options on Fund Shares is appropriate. The Commission notes that this margin requirement is comparable to margin requirements that currently apply to broad-based index options, and that the CBOE's proposal is limited to trading options on Fund Shares comprising or based on a broad-based index or portfolio. Accordingly, the Commission believes that broad-based margin is appropriate for options on Fund Shares.

The Commission finds good cause for approving Amendment Nos. 2, and 3 to the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. Amendment No. 2 strengthens the proposal by: (1) providing that either the Fund Shares underlying the options satisfy the listing standards for options on underlying equity securities or the Fund has agreed to issue Fund Shares even though some or all of the securities needed to be deposited have not been received, thus ensuring a minimum level of liquidity; and (2) adopting standardized equity option position and exercise limits. Amendment No. 2 also removed certain continued maintenance standards, but these requirements were added back to CBOE's rules with Amendment No. 3.

The Commission also believes that Amendment No. 3, concerning surveillance requirements, strengthens the CBOE's proposal. Amendment No. 3 provides a clear, objective standard for determining the comprehensive surveillance requirements for trading options on Fund Shares where the underlying index or portfolio contains non-U.S. stocks. In addition, Amendment No. 3 strengthens the Exchange's proposal by including contained listing standards for options on Fund Shares.

Finally, the Commission notes that no comments were received on the original CBOE proposal, which was subject to the full 21-day comment period. Accordingly, the Commission believes that there is good cause, consistent with Section 6(b)(5) of the Act, to approve Amendment Nos. 2 and 3 to the proposed rule change on an accelerated basis.

Amendment No. 4 merely corrects an erroneous cross-reference in Interpretation and Policy .08 to Rule 5.4.[26]

Interested persons are invited to submit written data, views and arguments concerning Amendment Nos. 2 and 3 to the proposed rule change, including whether such Amendments are consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NE., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–97–03 and should be submitted by July 31, 1998.

For the foregoing reasons, the Commission finds that the CBOE's proposal to list and trade options on Fund Shares is consistent with the requirements of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[27] that the proposed rule change (File No. SR–CBOE–97–03), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[28]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18413 Filed 7–9–98; 8:45 am]

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[24] The Exchange uses the term "comprehensive surveillance agreement" to mean an agreement which requires that the parties provide each other, upon request, information about market trading, clearing activity and the identity of the ultimate purchasers and sellers of securities. Telephone conversation between Michael L. Meyer, Esq., Schiff Hardin & Waite, and James T. McHale, Special Counsel, OMS, Division, Commission, on June 30, 1998.

[25] ISG was formed on July 14, 1983 to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. *See* Intermarket Surveillance Group Agreement, July 14, 1983. The members of ISG include all of the registered National Securities Exchanges and the National Association of Securities Dealers, Inc. ("NASD"). In addition, the major stock index futures exchanges (*e.g.*, the Chicago Mercantile Exchange and the Chicago Board of Trade) are affiliate members of ISG.

[26] Because Amendment No. 4 is technical in nature, it is not subject to a notice and comment requirement.

[27] 15 U.S.C. 78s(b)(2).

[28] 17 CFR 200.30–3(a)(12).

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40167; File No. SR-MSRB-98-10]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Interpretation of Rule G-37 on Political Contributions and Prohibitions on Municipal Securities Business

July 2, 1998.

On June 30, 1998, the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change (File No. SR-MSRB-98-10) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder.[2] The proposed rule change is described in Items, I, II, and III below, which Items have been prepared by the Board. The Board has designated this proposed rule change as constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the Board under Section 19(b)(3)(A)[3] of the Act, which renders the proposed rule change effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Board is filing herewith a proposed rule change consisting of a notice of interpretation, in question-and-answer format, concerning Rule G-37, on political contributions and prohibitions on municipal securities business. The proposed rule change is as follows:

Rule G-37, on Political Contributions and Prohibitions on Municipal Securities Business

Since May 1994, the Board has provided interpretive guidance on Rule G-37 through the publication of eight Question & Answer ("Q&A") notices.[4] The Board recently has received a number of questions concerning mergers in the municipal securities industry and the operation of the exemptive provision set forth in section (i) of the rule from market participants and the agencies charged with enforcing the rule. As a result, the Board has determined that it is necessary to provide further guidance to the industry and the applicable enforcement agencies by confirming and elaborating upon guidance provided in prior Q&A notices and in prior communications with the applicable enforcement agencies. Accordingly, the Board is publishing this ninth set of questions and answers.

Questions and Answers Regarding Rule G-37(i)

1. Q: A person is associated with a dealer in a non-municipal finance professional capacity and makes a political contribution to an official of an issuer for whom such person is not entitled to vote. Less than two years after such person made the contribution, the dealer merges with another dealer and, solely as a result of the merger, that person becomes a municipal finance professional of the surviving dealer. Would the surviving dealer be prohibited from engaging in municipal securities business with that issuer?

A: Yes. Rule G-37 would prohibit the surviving dealer from engaging in municipal securities business with the issuer for two years from the date the contribution was made. Of course, the surviving dealer's prohibition on business would only begin when the person who made the contribution becomes a municipal finance professional of the surviving dealer.

The Board notes, however, that Rule G-37 was not intended to prevent mergers in the municipal securities industry or, once a merger is consummated, to seriously hinder the surviving dealer's municipal securities business if the merger was not an attempt to circumvent the letter or spirit of Rule G-37. Thus, the Board believes that it would be appropriate for the NASD or the appropriate regulatory agency (*i.e.*, federal bank regulatory authorities) to grant conditional or unconditional exemptions from bans on municipal securities business arising from such mergers if the NASD or the appropriate regulatory agency determines that, pursuant to Rule G-37(i), the exemption is consistent with the public interest, the protection of investors and the purposes of the rule, as well as any other factors set forth in the rule or any other factors deemed relevant by the NASD or the appropriate regulatory agency.

2. Q: The Board has previously provided two examples in which exemptions from a ban on municipal securities business may be appropriate under Rule G-37(i). Are these the only situations in which the NASD or the appropriate regulatory agency may provide an exemption under Rule G-37(i)?

A: No. The two examples noted in Q&A number 4 (June 15, 1995), MSRB Reports, Vol. 15, No. 2 (July 1995) at 3-4, MSRB Manual (CCH) ¶ 3681, were not meant to be the only instances in which exemptions might appropriately be given. Because of the varying factual situations that arise with each exemptive request, the Board believes that the NASD and the appropriate regulatory agencies should review such other factual situations presented by dealers in exemptive requests pursuant to the requirements in Rule G-37(i) and, based on the facts, either approve or reject the request. Rule G-37(i) allows the NASD and the appropriate regulatory agencies to grant exemptions from the ban on business "conditionally or unconditionally" and, if the NASD or the appropriate regulatory agency believes it would be appropriate to shorten the ban on business or limit its scope, it is authorized to do so as long as the requirements of Rule G-37(i) are met.

3. Q: The Board has previously described three situations which it believes are not sufficient to justify the granting of an exemption from a ban on municipal securities business under Rule G-37(i). Does this mean that the NASD or the appropriate regulatory agency may never provide an exemption under Rule G-37(i) if any of these situations exist?

A: No. The Board's intent in describing these three scenarios in Q&A number 4 (June 15, 1995), MSRB Reports, Vol. 15, No. 2 (July 1995) at 3-4, MSRB Manual (CCH) ¶ 3681, was to note that none of these situations was sufficient, in and of itself, to justify the granting of an exemption from a ban on municipal securities business. However, any such scenario in combination with other facts and circumstances deemed relevant by the NASD or the appropriate regulatory agency (including, but not limited to, the factors set forth in Rule G–37(i)) could, in the judgment of the NASD or the appropriate regulatory agency, be sufficient to justify a conditional or unconditional exemption from the ban.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] *See* Securities Exchange Act Rel. No. 34161 (June 6, 1994), 59 FR 30379 (June 14, 1994); Securities Exchange Act Rel. No. 34603 (Aug. 25, 1994), 59 FR 45049 (Aug. 31, 1994); Securities Exchange Act Rel. No. 35128 (Dec. 20, 1994), 59 FR 66989 (Dec. 28, 1994); Securities Exchange Act Rel. No. 35544 (March 28, 1995), 60 FR 16896 (April 3, 1995); Securities Exchange Act Rel. No. 35879 (June 21, 1995), 60 FR 33447 (June 28, 1995); Securities Exchange Act Rel. No. 36857 (Feb. 16, 1996), 61 FR 7034 (Feb. 23, 1996); Securities Exchange Act Rel. No. 37679 (Sept. 12, 1996), 61 FR 49368 (Sept. 19, 1996); Securities Exchange Act Rel. No. 39084 (Sept. 16, 1997), 62 FR 49717 (Sept. 23, 1997).

See MSRB Reports, Vol. 14, No. 3 (June 1994) at 11-16; Vol. 14, No. 4 (Aug. 1994) at 27-31; Vol. 14, No. 5 (Dec. 1994) at 8; Vol. 15, No. 1 (April 1995) at 21; Vol. 15, No. 2 (July 1995) at 3-4; Vol. 16, No. 1 (Jan. 1996) at 31; Vol. 16, No. 3 (Sept. 1996) at 35-36; and Vol. 17, No. 3 (Oct. 1997) at 11-12. *See also* CCH Manual ¶ 3681.

The Board also notes that none of the three situations previously cited as insufficient to justify an exemption involved a contribution made prior to an individual becoming a municipal finance professional. Thus, for example, where a non-*de minimis* contribution was made by a person who later becomes a municipal finance professional (whether by reason of a merger, as a newly hired associated person, as an existing associated person becoming involved in municipal securities activities, or otherwise), neither the NASD nor any appropriate regulatory agency is constrained from granting a conditional or unconditional exemption if, in its judgment, such exemption is consistent with Rule G–37(i).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Board included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The texts of these statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On April 7, 1994, the Commission approved Board Rule G–37, on political contributions and prohibitions on municipal securities business.[5] Since that time, the Board has received numerous inquiries concerning the application of the rule. In order to assist the municipal securities industry and, in particular, brokers, dealers and municipal securities dealers in understanding and complying with the provisions of the rule, the Board published eight prior notices of interpretation which set forth, in Q&A format, general guidance on Rule G–37.[6] In prior filings with the Commission, the Board stated that it will continue to monitor the application of Rule G–37 and, from to time, will publish additional notices of interpretations, as necessary.[7] The Board recently has received a number of questions concerning mergers in the municipal securities industry and the operation of the exemption provision set forth in section (i) of the rule from market participants and the agencies charged with enforcing the rule. As a result, the Board has determined that it is necessary to provide further guidance to the industry and the applicable enforcement agencies by confirming and elaborating upon guidance provided in prior Q&A notices and in prior communications with the applicable enforcement agencies. Accordingly, the Board is publishing this ninth set of Q&As.

The Board believes the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act.[8]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, because it would apply equally to all brokers, dealers and municipal securities dealers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Board has designated this proposed rule change as constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing Board rule under Section 19(b)(3)(A) of the Act and Rule 19b–4(1) thereunder,[9] which renders the proposed rule change effective upon receipt of this filing by the Commission

At any time within sixty days of the filling of this proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the Board's principal offices. All submissions should refer to File No. SR–MSRB–98–10 and should be submitted by July 31, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18297 Filed 7–9–98; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3094]

State of Massachusetts

As a result of the President's major disaster declaration on June 23, 1998, I find that Bristol, Essex, Middlesex, Norfolk, and Suffolk Counties in the State of Massachusetts constitute a disaster area due to damages caused by heavy rains and flooding beginning on June 13, 1998, and continuing. Applications for loans for physical damages as a result of this disaster may be filed until the close of business on August 22, 1998, and for loans for economic injury until the close of business on March 23, 1999 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South, 3rd Floor, Niagara Falls, NY 14303.

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[5] Securities Exchange Act Release No. 33868 (April 7, 1994), 59 FR 17621 (April 13, 1994). The rule applies to contributions made on and after April 25, 1994.

[6] *See supra* note 3.

[7] *See* Securities and Exchange Act Release No. 34161 (June 6, 1994), 59 FR 30379 (June 13, 1994) (SR–MSRB–94–06) and Securities and Exchange Act Release No. 34603 (August 25, 1994), 59 FR 45049 (August 31, 1994) (SR–MSRB–94–15).

[8] Section 15(b)(2)(C) states in pertinent part that the rules of the Board "shall be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest."

[9] 17 CFR 240.19b–4(e)(1).

[10] 17 CFR 200.30–3(a)(12).

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Plymouth and Worcester Counties in Massachusetts; Bristol, Newport, and Providence Counties in Rhode Island; and Hillsborough and Rockingham Counties in New Hampshire.

The interest rates are:

	Percent
Physical Damage:	
Homeowners with credit available elsewhere	7.000
Homeowners without credit available elsewhere	3.500
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere.	4.000
Others (including non-profit organizations) with credit available elsewhere	7.125
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 309406. For economic injury the numbers are 990300 for Massachusetts, 990400 for Rhode Island, and 990500 for New Hampshire.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 30, 1998.

James E. Rivera,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 98–18410 Filed 7–9–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3099]

State of Michigan

Ottawa and Montcalm Counties and the contiguous counties of Allegan, Clinton, Gratiot, Ionia, Isabella, Kent, Mecosta, Muskegon, and Newaygo in the State of Michigan constitute a disaster area as a result of damages caused by severe storms and high winds that occurred on May 31, 1998. Applications for loans for physical damage from this disaster may be filed until the close of business on August 27, 1998 and for economic injury until the close of business on March 26, 1999 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

The interest rates are:

	Percent
For physical damage:	
Homeowners with credit available elsewhere	7.000
Homeowners without credit available elsewhere	3.500
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.125
For Economic Injury	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The numbers assigned to this disaster are 309911 for physical damage and 991400 for economic injury.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 6, 1998.

Aida Alvarez,

Administrator.

[FR Doc. 98–18412 Filed 7–9–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3097]

State of Minnesota; and a Contiguous County in Wisconsin

Dakota and Ramsey Counties and the contiguous counties of Anoka, Goodhue, Hennepin, Rice, Scott, and Washington in Minnesota, and Pierce County, Wisconsin constitute a disaster area as a result of damages caused by severe storms, high winds, and tornadoes that occurred May 15 through May 30, 1998. Applications for loans for physical damage as a direct result of this disaster may be filed until the close of business on August 24, 1998 and for economic injury until the close of business on March 25, 1999 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	7.000
Homeowners without credit available elsewhere	3.500
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.125
For economic injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The numbers assigned to this disaster for physical damages are 309712 for Minnesota and 309812 for Wisconsin. For economic injury the numbers are 991200 for Minnesota and 991300 for Wisconsin.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 25, 1998.

Aida Alvarez,

Administrator.

[FR Doc. 98–18411 Filed 7–9–98; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 2859]

The Bureau of Political-Military Affairs, Office of Defense Trade Controls; 30-Day Notice of Information Collection; DSP–61, Application/License for Temporary Import of Unclassified Defense Articles

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Reinstatement, without change, of a previously approved collection for which approval has expired.

Originating Office: The Bureau of Political-Military Affairs, Office of Defense Trade Controls.

Title of Information Collection: Application/License for Temporary Import of Unclassified Defense Articles.

Frequency: Triennially.

Form Number: DSP–61.

Respondents: Applicants for Import Licenses of Defense Articles.

Estimated Number of Respondents: 4,500.

Average Hours Per Response: 30 minutes.

Total Estimated Burden: 4,500 hours.

Public comments are being solicited to permit the agency to—

- Evaluate whether the proposed information collection is necessary for the proper performance of the agency functions.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER ADDITIONAL INFORMATION: Copies of the proposed information collection and supporting documents may be obtained from Charles S. Cunningham, Directives Management Branch, Department of State, Washington, DC 20520, (202) 647–0596. Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposed survey by name and/or OMB Control Number and should be sent to: OMB, Ms. Victoria Wassmer, (202) 395–5871.

Dated: April 30, 1998.

Andrew J. Winton,

Deputy Chief Information Officer.

[FR Doc. 98–18323 Filed 7–9–98; 8:45 am]

BILLING CODE 4710–25–M

DEPARTMENT OF STATE

[Public Notice 2858]

The Bureau of Political-Military Affairs, Office of Defense Trade Controls; Notice of Information Collection

AGENCY: Department of State.

ACTION: 30-Day Notice of Information Collection; DSP–5, Application/Licenses for Permanent Export of Unclassified Defense Articles and Related Unclassified Technical Data.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarized the information collection proposal submitted to OMB:

Type of Request: Reinstatement, without change, of a previously approved collection for which approval has expired.

Originating Office: The Bureau of Political-Military Affairs, Office of Defense Trade Controls.

Title of Information Collection: Application/Licenses for Permanent Export of Unclassified Defense Articles and Related Unclassified Technical Data.

Frequency: Annually.

Form Number: DSP–5.

Respondents: Applicants for Export Licenses of Defense Articles and Related Technical Data.

Estimaed Number of Respondents: 4,500.

Average Hours Per Response: 30 minutes.

Total Estimated Burden: 10,000 hours.

Public comments are being solicited to permit the agency to—

- Evaluate whether the proposed information collection is necessary for the proper performance of the agency functions.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER ADDITIONAL INFORMATION: Copies of the proposed information collection and supporting documents may be obtained for Charles S. Cunningham, Directives Management Branch, Department of State, Washington, DC 20520, (202) 647–0596. Interested persons are invited to submit comment s regarding this proposal. Comments should refer to the proposed survey by name and/or OMB Control Number and should be sent to: OMB, Ms. Victoria Wassmer, (202) 395–5871.

Dated: April 30, 1998.

Andrew J. Winter,

Deputy Chief Information Officer.

[FR Doc. 98–18324 Filed 7–9–98; 8:45 am]

BILLING CODE 4710–25–M

DEPARTMENT OF STATE

[Public Notice No. 2857]

The Bureau of Political-Military Affairs, Office of Defense Trade Controls; Notice of Information Collection

AGENCY: Department of State.

ACTION: 30-Day Notice of Information Collection; DSP–94, Authority to Export Defense Articles and Defense Services sold under the Foreign Military Sales Program.

SUMMARY: The Department of State has sesubmitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Reinstatement, without change, of a previously approved collection for which approval has expired.

Originating Office: The Bureau of Political-Military Affairs, Office of Defense Trade Controls.

Title of Information Collection: Authority to Export Defense Articles and Defense Services sold under the Foreign Military Sales Program.

Frequency: Annually.

Form Number: DSP–94.

Respondents: Exporters of U.S. Munitions List items covered under the Foreign Military Sales Program.

Estimated Number of Respondents: 250.

Average Hours Per Response: 30 minutes.

Total Estimated Burden: 2,500 hours.

Public comments are being solicited to permit the agency to—

- Evaluate whether the proposed information collection is necessary for the proper performance of the agency functions.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER ADDITIONAL INFORMATION CONTACT:

Copies of the proposed information collection and supporting documents may be obtained from Charles S.

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Cunningham, Directives Management Branch, Department of State, Washington, DC 20520, (202) 647–0596. Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposed survey by name and/or OMB Control Number and should be sent to: OMB, Ms. Victoria Wassmer, (202) 395–5871.

Dated: April 30, 1998.

Andrew J. Winter,

Deputy Chief Information Officer.

[FR Doc. 98–18325 Filed 7–9–98; 8:45 am]

BILLING CODE 4710–25–M

DEPARTMENT OF STATE

[Public Notice 2856]

The Bureau of Political-Military Affairs, Office of Defense Trade Controls; Notice of Information Collection

AGENCY: Department of State.

ACTION: 30-Day Notice of Information Collection; OMB #1405–0093, Request for Approval of Manufacturing License Agreements, Technical Assistance Agreements and other Agreements.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Reinstatement, without change, of a previously approved collection for which approval has expired.

Originating Office: The Bureau of Political-Military Affairs, Office of Defense Trade Controls.

Title of Information Collection: Request for Approval of Manufacturing License Agreements, Technical Assistance Agreements and other Agreements.

Frequency: Annually.

Form Number: OMB #1405–0093.

Respondents: Exporters of U.S. Technology.

Estimated Number of Respondents: 4,500.

Average Hours Per Response: 6 hours.

Total Estimated Burden: 6,000 hours.

Public comments are being solicited to permit the agency to—

- Evaluate whether the proposed information collection is necessary for the proper performance of the agency functions.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER ADDITIONAL INFORMATION: Copies of the proposed information collection and supporting documents may be obtained from Charles S. Cunningham, Directives Management Branch, Department of State, Washington, DC 20520, (202) 647–0596. Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposed survey by name and/or OMB Control Number and should be sent to: OMB, Ms. Victoria Wassmer, (202) 395–5871.

Dated: April 30, 1998.

Andrew J. Winter,

Deputy Chief Information Officer.

[FR Doc. 98–18326 Filed 7–9–98; 8:45 am]

BILLING CODE 4710–25–M

DEPARTMENT OF STATE

[Public Notice 2855]

The Bureau of Political-Military Affairs, Office of Defense Trade Controls; Notice of Information Collection

AGENCY: Department of State.

ACTION: 30-Day Notice of Information Collection; DSP–9, Statement of Registration.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Reinstatement, without change, of a previously approved collection for which approval has expired.

Originating Office: The Bureau of Political-Military Affairs, Office of Defense Trade Controls.

Title of Information Collection: Statement of Registration.

Frequency: One, two, or five years.

Form Number: DSP–9.

Respondents: Exporters of U.S. Military List items covered under the Foreign Military Sales Program.

Estimated Number of Respondents: 4,500.

Average Hours Per Response: 30 minutes.

Total Estimated Burden: 2,250 hours.

Public comments are being solicited to permit the agency to—

- Evaluate whether the proposed information collection is necessary for the proper performance of the agency functions.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER ADDITIONAL INFORMATION: Copies of the proposed information collection and supporting documents may be obtained from Charles S. Cunningham, Directives Management Branch, Department of State, Washington, DC 20520, (202) 647–0596. Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposed survey by name and/or OMB Control Number and should be sent to: OMB, Ms. Victoria Wassmer, (202) 395–5871.

Dated: April 30, 1998.

Andrew J. Winter,

Deputy Chief Information Officer.

[FR Doc. 98–18327 Filed 7–9–98; 8:45 am]

BILLING CODE 4710–25–M

DEPARTMENT OF STATE

[Public Notice 2854]

The Bureau of Political-Military Affairs, Office of Defense

AGENCY: Department of State.

ACTION: 30-Day Notice of Information Collection; DSP–83, Non-transfer and Use Certificate.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Reinstatement, without change, of a previously approved collection for which approval has expired.

Originating Office: The Bureau of Political-Military Affairs, Office of Defense Trade Controls.

Title of Information Collection: Non-Transfer and Use Certificate.

Frequency: Annually.

Form Number: DSP–83.

Respondents: Exporters of significant military equipment and foreign end-users.

Estimated Number of Respondents: 4,500.

Average Hours Per Response: 30 minutes.

Total Estimated Burden: 2,250 hours.

Public comments are being solicited to permit the agency to—

- Evaluate whether the proposed information collection is necessary for the proper performance of the agency functions.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER ADDITIONAL INFORMATION: Copies of the proposed information collection and supporting documents may be obtained from Charles S. Cunningham, Directives Management Branch, Department of State, Washington, DC 20520, (202) 647–0596. Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposed survey by name and/or OMB Control Number and should be sent to: OMB, Ms. Victoria Wassmer, (202) 395–5871.

Dated: April 30, 1998.

Andrew J. Winter,

Deputy Chief Information Officer.

[FR Doc. 98–18328 Filed 7–9–98; 8:45 am]

BILLING CODE 4710–25–M

DEPARTMENT OF STATE

[Public Notice 2850]

The Bureau of Political-Military Affairs, Office of Defense Trade Controls; Notice of Information Collection

AGENCY: Department of State.

ACTION: 30-Day Notice of Information Collection; DSP–73, Application/License for Temporary Export of Unclassified Defense Articles.

SUMMARY: the Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Reinstatement, without change, of a previously approved collection for which approval has expired.

Originating Office: The Bureau of Political-Military Affairs, Office of Defense Trade Controls.

Title of Information Collection: Application/License for Temporary Export of Unclassified Defense Articles.

Frequency: Annual.

Form Number: DSP–73.

Respondents: Applicants for Export Licenses of Defense Articles.

Estimated Number of Respondents: 4,500.

Average Hours Per Response: 30 minutes.

Total Estimated Burden: 2,250 hours.

Public comments are being solicited to permit the agency to—

- Evaluate whether the proposed information collection is necessary for the proper performance of the agency functions.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER ADDITIONAL INFORMATION: Copies of the proposed information collection and supporting documents may be obtained from Charles S. Cunningham, Directives Management Branch, Department of State, Washington, DC 20520, (202) 647–0596. Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposed survey by name and/or OMB Control Number and should be sent to: OMB, Ms. Victoria Wassmer, (202) 395–5871.

Dated: April 30, 1998.

Andrew J. Winter,

Deputy Chief Information Officer.

[FR Doc. 98–18329 Filed 7–9–98; 8:45 am]

BILLING CODE 4710–25–M

DEPARTMENT OF STATE

[Public Notice 2851]

The Bureau of Political-Military Affairs, Office of Defense Trade Controls; Notice of Information Collection

AGENCY: Department of State.

ACTION: 30-Day Notice of Information Collection; OMB #1405–0025, Statement of Political Contributions, Fees, or Commissions in Connection with the sale of Defense Articles or Services.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Reinstatement, without change, of a previously approved collection for which approval has expired.

Originating Office: The Bureau of Political-Military Affairs, Office of Defense Trade Controls Title of Information Collection: Statement of Political Contributions, Fees, or Commissions in Connection with the sale of Defense Articles or Services.

Frequency: Annually.

Form Number: OMB #1405–0025.

Respondents: Exporters of Defense Articles or Services.

Estimated Number of Respondents: 4,500.

Average Hours Per Response: 8 hours.

Total Estimated Burden: 96,000 hours.

Public comments are being solicited to permit the agency to—

- Evaluate whether the proposed information collection is necessary for the proper performance of the agency functions.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER ADDITIONAL INFORMATION: Copies of the proposed information collection and supporting documents may be obtained from Charles S. Cunningham, Directives Management Branch, Department of State, Washington, DC 20520, (202) 647–0596. Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposed survey by name and/or OMB Control Number and should be sent to: OMB, Ms. Victoria Wassmer, (202) 395–5871.

Dated: April 30, 1998.

Andrew J. Winter,

Deputy Chief Information Officer.

[FR Doc. 98–18330 Filed 7–9–98; 8:45 am]

BILLING CODE 4710–25–M

DEPARTMENT OF STATE

[Public Notice 2852]

The Bureau of Political-Military Affairs, Office of Defense Trade Controls; Notice of Information Collection

AGENCY: Department of State.

ACTION: 30-Day Notice of Information Collection; DSP–85, Application/License for Permanent/Temporary Export or Temporary Import of Classified Defense Articles and Classified Technical Data.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Reinstatement, without change, of a previously approved collection for which approval has expired.

Originating Office: The Bureau of Political-Military Affairs, Office of Defense Trade Controls.

Title of Information Collection: Application/License for Permanent/Temporary Export or Temporary Import of Classified Defense Articles and Classified Technical Data.

Frequency: Annually.

Form Number: DSP–85.

Respondents: Application for Export/Import Licenses of Classified Defense Articles.

Estimated Number of Respondents: 4,500.

Average Hours Per Response: 30 minutes.

Total Estimated Burden: 2,250 hours.

Public comments are being solicited to permit the agency to—

- Evaluate whether the proposed information collection is necessary for the proper performance of the agency functions.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER ADDITIONAL INFORMATION: Copies of the proposed information collection and supporting documents may be obtained from Charles S. Cunningham, Directives Management Branch, Department of State, Washington, DC 20520, (202) 647–0596. Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposed survey by name and/or OMB Control Number and should be sent to: OMB, Ms. Victoria Wassmer, (202) 395–5871.

Dated: April 30, 1998.

Andrew J. Winter,

Deputy Chief Information Officer.

[FR Doc. 98–18331 Filed 7–9–98; 8:45 am]

BILLING CODE 4710–25–M

DEPARTMENT OF STATE

[Public Notice 2853]

The Bureau of Political-Military Affairs, Office of Defense Trade Controls; Notice of Information Collection

AGENCY: Department of State.

ACTION: 30-Day Notice of Information Collection; DSP–119, Application for Amendment to License for Export or Import of Classified or Unclassified Defense Articles and Related Technical Data.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Reinstatement, without change, of a previously approved collection for which approval has expired.

Originating Office: The Bureau of Political-Military Affairs, Office of Defense Trade Controls.

Title of Information Collection: Application for Amendment to License for Export or Import of Classified or Unclassified Defense Articles and Related Technical Data.

Frequency: Annually.

Form Number: DSP–119.

Respondents: Applicants for Export/Import Licenses for Classified and Unclassified Defense Articles.

Estimated Number of Respondents: 4,500.

Average Hours Per Response: 15 minutes.

Total Estimated Burden: 1,125 hours.

Public comments are being solicited to permit the agency to—

- Evaluate whether the proposed information collection is necessary for the proper performance of the agency functions.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER INFORMATION CONTACT: Copies of the proposed information collection and supporting documents may be obtained from Charles S. Cunningham, Directives Management Branch, Department of State, Washington, DC 20520, (202) 647–0596. Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposed survey by name and/or OMB Control Number and should be sent to: OMB, Ms. Victoria Wassmer, (202) 395–5871.

Dated: April 30, 1998.

Andrew J. Winter,

Deputy Chief Information Officer.

[FR Doc. 98–18332 Filed 7–9–98; 8:45 am]

BILLING CODE 4710–25–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 172; Future Air-Ground Communications in the VHF Aeronautical Data Band (118–137 MHz)

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for Special Committee 172 meeting to be held July 28–31, 1998, starting at 9:00 a.m. The meeting will be held at RTCA, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036.

The agenda will be as follows: Tuesday, July 28: (1) Plenary Convenes at 9:00 a.m. for 30 minutes: (2) Introductory Remarks; (3) Review and

Approval of the Agenda; (4) Introduction of NEXCOM Requirements Document by the FAA; (5) Working Group (WG)–2, VHF Data Radio Signal-in-Space MASPS, Continue Work on VDL Mode 3. Wednesday, July 29: (a.m.) (6) WG–2 Continues; (p.m.) (7) WG–3, Review of Activities in VHF Digital Radio MOPS Document Progress and Furtherance of Work. Thursday, July 30: (a.m.) (8) Plenary Reconvenes at 9:00 a.m.; (9) Review Summary Minutes of Previous Plenary of SC–172; (10) Reports from WG's 2 & 3 Activities; (11) Report on AMCP 5 and VDL Activities; (12) EUROCAE WG–47 Report and Discussion of Schedule for Further Joint Meetings with WG–3; (13) Review Issues List and Address Future Work; (14) Other Business; (15) Dates and Places of Next Meetings; (16) WG's Continue as Necessary. Friday, July 31: (17) WG's Continue as Necessary.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036; (202) 833–9339 (phone); (202) 833–9434 (fax); or http://www.rtca.org (web site). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on July 6, 1998.

Janice L. Peters,

Desiganted Official.

[FR Doc. 98–18391 Filed 7–10–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33620]

State of Oklahoma by and Through the Oklahoma Department of Transportation—Acquisition Exemption—The Burlington Northern and Santa Fe Railway Company

The State of Oklahoma, a noncarrier, by and through the Oklahoma Department of Transportation (ODOT), has filed a verified notice of exemption under 49 CFR 1150.31 to acquire approximately 124.78 miles of rail line from The Burlington Northern and Santa Fe Railway Company. ODOT will acquire the lines between: (1) between Oklahoma City, OK (milepost 536.4) and Sapulpa, OK (milepost 438.9), (2) between Pawnee Junction, OK (milepost 8.46) and Stillwater, OK (milepost 30.74), and (3) between Midwest City, OK (milepost 2.9) (EPS 15944+14) and the end of track (milepost 7.9) (EPS 16204+29).

The transaction was scheduled to be consummated on or shortly after June 19, 1998.

Stillwater Central Railroad, Inc. (SCRR), a noncarrier, has filed a notice of exemption under 49 CFR 1150.31 in STB Finance Docket No. 33621, *Stillwater Central Railroad, Inc.—Lease and Operation Exemption—Oklahoma Department of Transportation*, wherein SCRR seeks to lease and operate the lines being acquired by ODOT.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke does not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33620, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Eric M. Hocky, Esq., Gollatz, Griffin, & Ewing, P.C., 213 W. Miner Street, P.O. Box 796, West Chester, PA 19381–0796.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: July 1, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–18453 Filed 7–9–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33621]

Stillwater Central Railroad, Inc.—Lease and Operation Exemption—the State of Oklahoma by and Through the Oklahoma Department of Transportation

Stillwater Central Railroad, Inc. (SCRR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to lease from the State of Oklahoma by and through the Oklahoma Department of Transportation (ODOT) and to operate approximately 124.78 miles of rail line. The rail line is located in Oklahoma (1) between Oklahoma City (milepost 536.4) and Sapulpa (milepost 438.9), (2) between Pawnee Junction (milepost 8.46) and Stillwater (milepost 30.74), and (3) between Midwest City (milepost 2.9) (EPS 15944+14) and the end of the track (milepost 7.9) (EPS 16204+29). The Burlington Northern and Santa Fe Railway Company (BNSF) currently operates the line under retained unconditional freight service easements.[1] Following the acquisition by ODOT and the lease and operation transaction by SCRR will become a Class III rail carrier and BNSF's easements and common carrier authority will terminate.[2]

The transaction was scheduled to be consummated on or shortly after June 19, 1998.

This transaction is related to two simultaneously filed notice of exemptions: (1) STB Finance Docket No. 33619, *Richard B. Webb and Susan K. Lundy—Continuance in Control Exemption—Stillwater Central Railroad, Inc.*, wherein Richard B. Webb and Susan K. Lundy will continue in control of SCRR, upon its becoming a Class III rail carrier, and (2) STB Finance Docket No. 33620, *State of Oklahoma by and through the Oklahoma Department of Transportation—Acquisition Exemption—The Burlington Northern and Santa Fe Railway Company*, wherein ODOT seeks to acquire the rail lines owned by BNSF and lease the rail lines to SCRR to operate.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33621, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Karl Morell, Esq., BALL JANIK, LLP, 1455 F Street, N.W., Suite 225, Washington, DC 20005.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: July 1, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–18457 Filed 7–9–98; 8:45 am]

BILLING CODE 4915–00–P

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[1] ODOT has acquired the assets subject to these easements.

[2] SCRR states its projected revenues as a result of this transaction will not result in its becoming a Class II or Class I rail carrier.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Finance Docket No. 30186 (Sub-No. 3)]

Tongue River Railroad Company, Construction and Operation of the Western Alignment in Rosebud and Big Horn Counties, Montana

AGENCY: Surface Transportation Board.

ACTION: Notice of Intent to Prepare a Supplement to the Final Environmental Impact Statement and Request for Comments.

SUMMARY: On April 27, 1998, the Tongue River Railroad Company (TRRC) filed an application with the Surface Transportation Board (Board) under 49 U.S.C. 10901 and 49 CFR 1150.1–10 seeking authority to construct and operate a 17.3-mile line of railroad in Rosebud and Big Horn Counties, Montana, known as the "Western Alignment." The line that is the subject of this application is an alternative routing for the portion of the 41-mile Ashland to Decker, Montana rail line that was approved by the Board on November 8, 1996 in Finance Docket No. 30186 (Sub-No. 2), referred to as the "Four Mile Creek Alternative."[1]

To evaluate and consider the potential environmental impacts that might result from the construction and operation of this new alignment, the Board's Section of Environmental Analysis (SEA) will prepare a Supplement to the Final Environmental Impact Statement in Finance Docket No. 30186 (Sub-No. 2) (Supplement). Comments are requested from interested parties regarding the scope of the environmental issues associated with the proposed construction and operation of the Western Alignment that should be addressed in the Supplement.

DATES: Written comments on the scope of potential environmental issues are due August 24, 1998 (45 days). TRRC may reply within 15 days thereafter.

ADDRESSES: Send an original and 10 copies of comments referring to STB Finance Docket No. 30186(Sub-No. 3) to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001, Attention: Dana G. White, Section of Environmental Analysis.

FOR FURTHER INFORMATION CONTACT: Dana White, (202) 565–1552 (TDD for the hearing impaired: (202) 565–1695).

SUPPLEMENTARY INFORMATION:

Background

In its original application filed on June 2, 1983 in Finance Docket No. 30186 and Finance Docket No. 30186 (Sub-No. 1), TRRC sought approval from the Interstate Commerce Commission (ICC, now the Surface Transportation Board or Board) for the construction and operation of 89 miles of railroad between Miles City, MT and two termini located near Ashland, MT (*Tongue River I*). TRRC explained that the proposed rail line would serve future coal mines in the Ashland area, and connect with what is now the Burlington Northern and Santa Fe Railroad Company's main line at Miles City for shipment of the coal to eastern and western destinations. In a decision served May 9, 1986, the ICC approved the application subject to several conditions, including environmental mitigation conditions that were recommended in the environmental impact statement (EIS) prepared by the ICC's environmental staff, now the Section of Environmental Analysis (SEA).

On June 28, 1991, TRRC filed an application in Finance Docket No. 30186 (Sub-No. 2), seeking approval to construct and operate 41 miles of railroad running south from the approved Miles City to Ashland rail line to connect with existing rail lines serving the Decker, MT coal mines (*Tongue River II*). SEA also prepared an EIS for this proceeding and considered the potential environmental impacts associated with (1) TRRC's preferred route,[2] (2) the Four Mile Creek Alternative,[3] and (3) the no-build alternative. SEA's Draft EIS (DEIS) was served on July 17, 1992, and comments were requested. The DEIS preliminarily recommended the Four Mile Creek Alternative because it would avoid the environmentally sensitive Tongue River Canyon. Because of concerns raised during the commenting process, SEA issued a Supplement to the DEIS (SDEIS) on March 17, 1994. In the SDEIS, SEA preliminarily concluded that the Four Mile Creek Alternative would have more adverse environmental consequences than TRRC's preferred route, because it would involve more land disturbance from cut and fill, erosion, deforestation, loss of habitat, and require more fuel consumption and cause more air pollution during operations. After the commenting process for the SDEIS, and further analysis and evaluation, SEA issued a Final EIS (FEIS), on April 11, 1996. In it, SEA explained that it had concluded that the Four Mile Creek Alternative would be the environmentally preferable construction option. SEA developed appropriate mitigation conditions to address potential environmental impacts if either of the two construction alternatives were approved.

In its decision served November 8, 1996, the Board approved the construction and operation of the Four Mile Creek Alternative, and imposed the mitigation measures recommended in the FEIS for that route. Additionally, the Board reopened *Tongue River* I for the limited purpose of requiring TRRC to complete construction of the entire line between Miles City and Decker within 3 years.

By petition filed July 15, 1997, TRRC sought to reopen the Board's November 1996 decision approving the construction and operation of the Four Mile Creek Alternative and proposed that the Board consider a new route, the Western Alignment, for a 17-mile portion of the approved line instead of the Four Mile Creek Alternative. The Western Alignment would roughly parallel TRRC's preferred route, but would lie slightly to the west of that route and the Tongue River.[4] TRRC asserted that the Western Alignment, while still avoiding the environmentally sensitive Tongue River Canyon, would also eliminate the potential economic and operational problems TRRC claimed would make the approved Four Mile Creek Alternative economically infeasible. Further, TRRC stated that, compared to the Four Mile Creek Alternative, the Western Alignment would involve less land acquisition, affect fewer land owners, and, because of the more even grade, require less fuel consumption. However, based on additional information later filed by TRRC (see the discussion of TRRC's Environmental Report below), it appears that the Western Alignment could involve more earth-moving because of the rugged terrain, could cross more streams, could need more water during construction, and could potentially adversely affect big game movement, particularly pronghorn movement, during operations. In a decision served December 1, 1997, the Board denied TRRC's petition to reopen *Tongue River II* but stated that TRRC could file a new application for the Western Alignment.

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[1] Petitions for review of the November 8, 1996 decision were filed in the Ninth Circuit in *Northern Plains Resource Council, Inc. Et. Al.* v. *STB*, No. 97–70037 (filed Jan. 7, 1997) (NPRC). The court proceedings are being held in abeyance pending the conclusion of this proceeding.

[2] TRRC's preferred route would have extended south from Ashland generally paralleling the Tongue River and passed just to the west of the Tongue River Reservoir before connecting with a line owned by the Spring Creek Coal Company, which provides access to the Burlington Northern and Santa Fe Railway Company rail lines. TRRC's preferred route would have included 5 bridges and a tunnel in the approximately 6-mile section of the Tongue River Canyon located between the Tongue River Dam and the confluence of Four Mile Creek and the Tongue River.

[3] The Four Mile Creek Alternative departs from TRRC's preferred route at the confluence of the Four Mile Creek and the Tongue River and heads in a westerly direction, climbing at a 2.31 percent grade away from the Tongue River valley floor. The route winds south connecting with the Spring Creek spur at the same point as TRRC's preferred route. The Four Mile Creek Alternative thus avoids the Tongue River Canyon and Reservoir.

[4] The Western Alignment would generally follow a route between TRRC's preferred alignment and the Four Mile Creek Alternative and would be located on uplands out of the Tongue River Canyon. Moving south along the approved route from Ashland, the Western Alignment would begin at a point approximately 9 miles downstream from the confluence of the Four Mile Creek and the Tongue River. It would then cross the Tongue River approximately 3,000 feet downstream of the existing county road river crossing. After crossing the river, the Western Alignment would parallel the existing Tongue River Road for 4 miles, then separate from the county road and climb away from the valley floor. At Four Mile Creek, the Western Alignment would cross the county road with a fifty-foot long bridge, and run approximately 0.07 miles west of the Hosford residence and ranch headquarters. From Four Mile Creek, the Western Alignment would continue to climb away from the Tongue River Valley, then proceed to connect with the existing Spring Creek rail spur. The Western Alignment would avoid the environmentally sensitive Tongue River Canyon and would

Current Application

TRRC has now filed an application in Finance Docket 30186 (Sub-No. 3) that requests authority under 49 U.S.C. 10901 to construct and operate the Western Alignment as the final 17 miles of the Ashland to Decker line (in lieu of the Four Mile Creek Alternative), to connect with existing rail lines serving the Decker area coal mines (*Tongue River III*). The remainder of the approved line from Ashland to Decker would remain unchanged. In its Environmental Report that TRRC submitted with its new application, TRRC focused on the immediate vicinity of the Western Alignment and that alignment's two construction alternatives, the Four Mile Creek Alternative and TRRC's preferred route.[5] In the Environmental Report, TRRC compares what it believes to be the environmental impacts and costs of constructing and operating the Western Alignment with the impacts and costs associated with the relevant portions of the Four Mile Creek Alternative and TRRC's preferred route. TRRC did not readdress the entire corridor between Miles City and Decker because that corridor has already received extensive environmental review in the environmental impact statements prepared in *Tongue River I* and *Tongue River II*, both for the Miles City to Ashland portion and the Ashland to Decker portion of this corridor.

In preparing its Environmental Report, TRRC sought comments from a number of Federal and state agencies and included their responses in the report. Briefly, the U.S. Army Corps of Engineers (Corps) states that, since all Corps' permits have expired, it will be reviewing TRRC's proposal in its entirety. The Corps indicates that it believes that the project, though analyzed in segments over a number of years, is one continuous alignment. The Corps also suggests that environmental conditions along the 130-mile rail route may have changed since the earlier analyses were performed.

The Montana Department of Natural Resources and Conservation expresses concern about the direction and flow of possible flood waters and floodplain obstruction, water rights for dust control, blasting in the vicinity of the Tongue River Dam, encroachments on county roads, interference with dam rehabilitation, protection of historic resources, and disturbance of survey monuments. The Montana Department of Fish, Wildlife & Parks (MT FWP) acknowledges that the Western Alignment would avoid operating costs and operational concerns associated with the Four Mile Creek Alternative, but expresses concerns about the possible impacts from the cut and fill requirements associated with the construction of the Western Alignment and impacts to the nearby Tongue River Reservoir state park. MT FWP also describes two issues that it believes are unresolved from SEA's earlier environmental analysis: (1) the preservation of the integrity of the fish hatchery at Miles City; and (2) the status of the Multi-agency/Railroad Task Force set up in *Tongue River II*. The Montana Department of Transportation (MT DOT), in addition to expressing concerns about highway safety, requests re-negotiation of a Memorandum of Understanding designed to protect state highways. MT DOT also requests additional information about design plans for the I–94 grade crossing at Miles City. The Montana Natural Heritage Program has provided information about 5 species of concern that may be present in the Western Alignment area.

No responses were included in TRRC's Environmental Report from other agencies that TRRC contacted, including the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service, the National Geodetic Survey, the National Park Service, the Montana Department of Environmental Quality, and the Montana Department of Commerce.

The Northern Plains Resource Council (NPRC), in a separate filing before the Board,[6] has suggested that the Board should now require another environmental analysis of the entire Miles City to Decker corridor. NPRC disagrees with TRRC's view that the Board should rely on its previous environmental analysis and focus its environmental review on only the Western Alignment. Instead, NPRC suggests that there are significant new changed environmental circumstances along the entire route. For example, it points to the invalidation of the Montco mine permit and the designation of the Tongue River as an impaired waterbody under the Clean Water Act. In addition, NPRC alleges that TRRC has significantly altered the alignments that were analyzed in *Tongue River I* and *Tongue River II* as it begins to exercise the authority previously granted in those proceedings.[7] If that were shown to be the case, it could be that the environmental analysis of some of the previously approved line would no longer be adequate.

Also, in separate filings,[8] Great Northern Properties Limited Partnership suggests that the increased coal traffic projected for the Western Alignment could affect the entire 130-mile route.

Environmental Review Process

The Council on Environmental Quality's (CEQ) rules implementing the National Environmental Policy Act (NEPA) advise Federal agencies to prepare supplements to an EIS where, as here, new information that is relevant to environmental concerns is presented after a Final EIS has been prepared.[9]

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incorporate at its steepest a grade of 0.93 percent for a length of 2.4 miles.

[5] We note that TRRC's preferred route is not really a construction alternative at this point, since the Board approved the Four Mile Creek Alternative, and not TRRC's preferred route, in its November 1996 decision in *Tongue River II*.

[6] *See* Northern Plains Resource Council, Inc.'s Reply in Opposition to Petition to Establish Procedural Schedule, filed March 23, 1998.

[7] This point also has been brought to SEA's attention informally by various Montana state agencies.

[8] *See* Great Northern Properties Limited Partnership's Replies filed February 17, 1998, and May 20, 1998, and Motion to Compel filed April 6, 1998.

[9] The CEQ regulations at 40 CFR 1502.9(c) state that Agencies:

(1) Shall prepare supplements to either draft or final environmental impact statements if:

(i) The agency makes substantial changes in the proposed action that are relevant to environmental concerns; or

(ii) There are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.

(2) May also prepare supplements when the agency determines that the purposes of the Act will be furthered by doing so.

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See Marsh v. *Oregon Natural Resources Council*, 490 U.S. 360 (1989)(*Marsh*). Therefore, based on the CEQ rules, the Board's environmental regulations at 49 CFR 1105.10(a)(5), and SEA's analysis of all the information on the Western Alignment SEA has received to date, SEA has determined that a Supplement to the EIS in Finance Docket 30186 (Sub-No. 2) (Supplement) is the appropriate means of reviewing TRRC's application for the Western Alignment in *Tongue River III*. Specifically, SEA will prepare a draft Supplement including preliminary mitigation recommendations that will be available for a 45-day comment period. Based on comments to the draft Supplement, and any further analysis, SEA will prepare a final Supplement, which will include appropriate environmental mitigation recommendations. The Board will consider the draft and final Supplements, any comments, and other available environmental information in rendering its decision on whether to grant TRRC's new application. In its decision, the Board will consider both economic and competitive transportation issues and will impose any environmental conditions it deems appropriate.

Request for Comments About the Scope of the Supplement

Although CEQ's rules implementing NEPA do not require public scoping for the preparation of Supplements, SEA believes that it is appropriate in this case to request comments regarding the environmental scope of, and potential environmental concerns and issues to be addressed in, the Supplement.[10] Typically, SEA's environmental analysis includes potential impacts to safety, land use, water quality, endangered species, wildlife habitat, cultural resources, air, and noise that would result from the proposed transaction. *See* 49 CFR 1105(7)(e). At a minimum, SEA intends in its Supplement to analyze these potential environmental impacts associated with the construction and operation of the Western Alignment and to recommend appropriate mitigation to reduce or eliminate potentially adverse impacts in these areas. We invite interested parties to address any other potential impacts or areas of concern that are directly related to the proposed construction and operation in *Tongue River III*, and, therefore, should also be considered in the Supplement.

In addition, we invite comments about TRRC's suggestion that SEA's environmental analysis should be limited to the Western Alignment, TRRC's proposed construction alternatives for the Western Alignment, and the no-build alternative, and that there is no reason to revisit any of the earlier environmental analysis in *Tongue River I* and *Tongue River II*. As discussed earlier, some agencies and other interested parties have suggested that our approach should be broader. Moreover, the question of when circumstances have changed so much as to make some or all of a prior analysis stale is a difficult one. Therefore, we request comments on whether the Supplement should focus only on the environmental impacts associated with the Western Alignment and its alternatives, or whether the Supplement should encompass environmental concerns beyond the immediate geographic area of the Western Alignment (*i.e*, take at least a limited look at the rest of the line recently approved in *Tongue River II*, or perhaps even revise or update the environmental analysis in *Tongue River I* if we are shown that the environmental analysis has become outdated and is no longer adequate).[11]

The CEQ rules direct agencies to consider in any Supplement "significant new circumstances or information relevant to environmental concerns and bearing on the action or its impacts." 40 CFR 1502.9(c). At the same time, it is well settled that an agency need not supplement an environmental impact statement every time new information comes to light after the environmental impact statement is finalized. *Marsh*, 490 U.S. at 373. Thus, the passage of time, in and of itself, is not necessarily a reason to repeat or redo environmental analysis. *Id.* Moreover, the environmental analysis in *Tongue River I* and *Tongue River II* was thorough and comprehensive. Therefore, we intend to use and rely on the data and analysis contained in our previous environmental documents for the Miles City to Ashland line and the Ashland to Decker line unless it is shown that, as a result of significant new circumstances, what was done before is no longer adequate. For example, it may be that certain portions, if not all, of the previous environmental documentation should be updated or revised to reflect significant new information (*i.e*, substantial alignment changes) that has made our former analysis incomplete, out-of-date or inapplicable.

Therefore, SEA has decided to seek comments on whether, to what extent, and in what environmental areas, our prior environmental documents may have become out-of-date. Specifically, we invite all interested parties to provide us with information, including specific examples, on whether any environmental conditions have changed substantially since we completed our environmental analysis in *Tongue River I* and *Tongue River II*. For example, have any substantial changes occurred in land use, topography, wetlands or water resources, endangered species, or cultural resources? If significant changes have occurred that could affect the adequacy of the conclusions in our previous environmental documents, such as NPRC's claim that TRRC may now have altered significantly the proposed alignment from what was analyzed in the prior environmental impact statements, we should be informed of these changes now so that we can consider such evidence in determining what the scope of the Supplement should be.

All comments should provide specific evidence to support the claims that are made. We want to know with specificity why commenters believe that environmental circumstances have changed significantly, possibly affecting our previous analysis and conclusions and, therefore, warranting further review in the Supplement.

SEA will also consult with affected Federal, state and local agencies regarding the appropriate scope of the Supplement. Based on its consideration of any comments to this Notice, and its evaluation and review of all available information, SEA will then announce what the scope of the Supplement will be.

As directed above, please submit comments by August 24, 1998 (45 days). TRRC may reply within 15 days thereafter.

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(3) Shall adopt procedures for introducing a supplement into its formal administrative record, if such a record exists.

(4) Shall prepare, circulate, and file a supplement to a statement in the same fashion (exclusive of scoping) as a draft and final statement unless alternative procedures are approved by the Council.

[10] As noted, this Notice provides a 45-day comment period. TRRC may reply within 15 days thereafter.

[11] The Western Alignment plainly is directly related to *Tongue River II* because it is an alternative route for a part of that line. In addition, while no stay of *Tongue River II* was sought from the Board or in any court, petitions for judicial review are pending in the Ninth Circuit in *NPRC*. It is more difficult to justify revisiting *Tongue River I*, which has long been administratively final and is not pending judicial review in any court. On the other hand, as some agencies have contended, it can be argued that *Tongue River I, II* and *III* cannot be considered separately and are all part of the same line.

By the Board, Elaine K. Kaiser, Chief, Section of Environmental Analysis.

Vernon A. Williams,

Secretary.

[FR Doc. 98–18455 Filed 7–9–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33619]

Richard B. Webb and Susan K. Lundy—Continuance in Control Exemption—Stillwater Central Railroad, Inc.

Richard B. Webb and Susan K. Lundy (Applicants), have filed a verified notice of exemption to continue in control of Stillwater Central Railroad, Inc. (SCRR), upon SCRR becoming a Class III railroad.

The transaction was scheduled to be consummated on or shortly after June 19, 1998.

This transaction is related to two simultaneously filed verified notices of exemption: (1) STB Finance Docket No. 33620, *State of Oklahoma by and through the Oklahoma Department of Transportation—Acquisition Exemption—The Burlington Northern and Santa Fe Railway Company,* wherein the State of Oklahoma by and through the Oklahoma Department of Transportation (ODOT) seeks to acquire rail lines from The Burlington Northern and Santa Fe Railway Company (BNSF), and (2) STB Finance Docket No. 33621, *Stillwater Central Railroad, Inc.—Lease and Operation Exemption—Oklahoma Department of Transportation,* wherein SCRR seeks to lease and operate the lines being acquired by ODOT.

In addition to SCRR,[1] Applicants control two Class III rail carriers.: These carriers are South Kansas and Oklahoma Railroad Company, operating in the States of Kansas and Oklahoma, and the Palouse River & Coulee City Railroad, Inc., operating in the States of Washington and Idaho.[2]

Applicants state that: (i) the rail lines operated by SCRR do not connect with any railroad in the corporate family; (ii) the transaction is not part of a series of anticipated transactions that would connect SCRR's lines with any railroad in the corporate family; and (iii) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33619, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Karl Morell, Esq., BALL JANIK, LLP, 1455 F Street, N.W., Suite 225, Washington, DC 20005.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: July 1, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–18454 Filed 7–9–98; 8:45 am]

BILLING CODE 4915–00–P

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[1] SCRR is a noncarrier corporation formed for the purpose of leasing the rail lines acquired by ODOT from BNSF and operating the 124.76 miles of rail line.

[2] On May 15, 1998, Applicants filed a petition for exemption seeking Board approval to indirectly control the Blue Mountain Railroad, Inc., and the Southeast Kansas Railroad Company in STB Finance Docket No. 33603, *Richard B. Webb and Susan K. Lundy—Control Exemption—Blue Mountain Railroad, Inc. and Southeast Kansas Railroad Company.* This proceeding is currently pending.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–31 (Sub–No. 35X)]

Grand Trunk Western Railroad Incorporated—Abandonment Exemption—in Macomb County, MI

Grand Trunk Western Railroad Incorporated (GTW) has filed a notice of exemption under 49 CFR, Part 1152 Subpart F—*Exempt Abandonments* to abandon a 19.08-mile line of its railroad on the Romeo Subdivision between Richmond and Washington from milepost 0.42 to milepost 19.50 in Macomb County, MI. The line traverses United States Postal Service Zip Codes 48062, 48005, 48065, 48094 and 48095.

GTW has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) any overhead traffic that previously moved over the line can be rerouted over other GTW lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment— Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on August 9, 1998, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by July 20, 1998. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by July 30, 1998, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Robert P. vom Eigen,

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[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

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Esq., Hopkins & Sutter, 888 Sixteenth Street, N.W., Washington, DC 20006.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

GTW has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by July 15, 1998. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), GTW shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by GTW's filing of a notice of consummation by July 10, 1999, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: July 2, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–18456 Filed 7–9–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Departmental Offices, Debt Management Advisory Committee; Meeting

Notice is hereby given, pursuant to 5 U.S.C. App. 10(a)(2), that a meeting will be held at the U.S. Treasury Department, 15th and Pennsylvania Avenue, N.W., Washington, D.C., on August 4, 1998, of the following debt management advisory committee: The Bond Market Association, Treasury Borrowing Advisory Committee.

The agenda for the meeting provides for a technical background briefing by Treasury staff, followed by a charge by the Secretary of the Treasury or his designate that the committee discuss particular issues, and a working session. Following the working session, the committee will present a written report of its recommendations.

The background briefing by Treasury staff will be held at 9:30 a.m. Eastern time and will be open to the public. The remaining sessions and the committee's reporting session will be closed to the public, pursuant to 5 U.S.C. App. 10(d).

This notice shall constitute my determination, pursuant to the authority placed in heads of departments by 5 U.S.C. App. 10(d) and vested in me by Treasury Department Order No. 101–05, that the closed portions of the meeting are concerned with information that is exempt from disclosure under 5 U.S.C. 552b(c)(9)(A). The public interest requires that such meetings be closed to the public because the Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community. When so utilized, such a committee is recognized to be an advisory committee under 5 U.S.C. App. 3.

Although the Treasury's final announcement of financing plans may not reflect the recommendations provided in reports of the advisory committee, premature disclosure of the committee's deliberations and reports would be likely to lead to significant financial speculation in the securities market. Thus, these meetings fall within the exemption covered by 5 U.S.C. 552b(c)(9)(A).

The Office of the Assistant Secretary for Financial Markets is responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth a summary of committee activities and such other matters as may be informative to the public consistent with the policy of 5 U.S.C. 552b.

Dated: July 6, 1998.

Gary Gensler,

Assistant Secretary (Financial Markets).

[FR Doc. 98–18390 Filed 7–9–98; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8862

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8862, Information To Claim Earned Income Credit After Disallowance.

DATES: Written comments should be received on or before September 8, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Information To Claim Earned Income Credit After Disallowance.

OMB Number: To be assigned later.

Form Number: 8862.

Abstract: Section 32 of the Internal Revenue Code allows taxpayers to claim an earned income credit (EIC) for each of their qualifying children. Code section 32(k), as enacted by section 1085(a)(1) of the Taxpayer Relief Act of 1997, disallows the EIC for a statutory period if the taxpayer improperly claimed it in a prior year. Form 8862 is used by taxpayers to reestablish their eligibility to claim the EIC.

Current Actions: This is a new collection of information.

Type of Review: New OMB approval.

Affected Public: Individuals or households.

Estimated Number of Respondents: 1,000,000

Estimated Time Per Respondent: 2 hr., 26 min.

Estimated Total Annual Burden Hours: 2,430,000

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be 3 retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 2, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–18441 Filed 7–9–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Advisory Group to the Commissioner of Internal Revenue

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Announce new official title for one of IRS, Federal advisory committees.

SUMMARY: The official title for the Advisory Group to the Commissioner of Internal Revenue has been changed to Internal Revenue Service Advisory Council.

FOR FURTHER INFORMATION CONTACT: Merci del Toro, Office of Public Liaison and Small Business Affairs, CL:PL Room 7559 IR,1111 Constitution Avenue, NW., Washington, DC 20224, Telephone: 202–622–5081 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The charter for the Advisory Group to the Commissioner of Internal Revenue was revised on May 13, 1998, in accordance with the provisions of the Federal Advisory Committee Act, Public Law 92–463, enacted October 6, 1972, to officially change the title of the Advisory Group to the Commissioner of Internal Revenue to Internal Revenue Service Advisory Council.

Dated: July 2, 1998.

Susanne M. Sottile,

Director, Office of Public Liaison and Small Business Affairs/Designated Federal Official for the IRS Advisory Council.

[FR Doc. 98–18442 Filed 7–9–98; 8:45 am]

BILLING CODE 4830–01–P

UNITED STATES INSTITUTE OF PEACE

Announcement of Senior Fellowship Competition

AGENCY: United States institute of Peace.

ACTION: Notice.

SUMMARY: The agency is soliciting applications for Senior Fellowships from scholars or practitioners who conduct research related to the peaceful resolution of international conflict. Fellowship entails residence at agency in Washington, DC, for up to one year beginning September 1, 1999.

DATES: Application Material Available Upon Request Receipt Date for Return of Applications: October 1, 1998 Notification of Awards: April, 1999.

ADDRESSES: For application materials, visit the Institute's website at www.usip.org, or contact: United States institute of Peace, Jennings Randolph Program, 1550 M Street, NW, Suite 700, Washington, DC 20005–1708, (202) 429–6063 (fax), (202) 457–1719 (TTY), jrprogram@usip.org (email).

FOR FURTHER INFORMATION CONTACT: Jennings Randolph Program, Phone (202)–429–3886.

Dated: July 7, 1998.

Bernice J. Carney,

Director, Office of Administration.

[FR Doc. 98–18424 Filed 7–9–98; 8:45 am]

BILLING CODE 6820–AR–M

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on the Readjustment of Veterans, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 that a meeting of the Advisory Committee on the Readjustment of Veterans will be held July 23 through 25, 1998. This meeting will be a field meeting conducted primarily at VA facilities in Spokane, Washington, and Missoula and Fort Harrison, Montana. The Committee will also visit with Native American veterans on the Blackfeet and Flathead reservations in Montana to review the availability of services for rural and minority veterans. The purpose of the meeting is to provide the Committee a first-hand opportunity to review the provision and coordination of VA services for war related post-traumatic stress disorders (PTSD) and other readjustment difficulties specific to war veterans. For this purpose, the Committee will tour facilities, and engage in discussions with VA service providers and veteran consumers.

The meeting on July 23 will begin at 8 a.m. and conclude at 5 p.m. The day's agenda will be conducted concurrently at three different locations. Specifically, one Committee subgroup will visit the Fort Harrison VA Medical & Regional Office Center (VAM&ROC), Williams Street/Highway 19, Fort Harrison, Montana 59636, and one Committee subgroup will visit the VA Medical Center (VAMC), North 4815 Assembly, Spokane, Washington 99205. The day's agenda will consist of direct observations of VA mental health services with particular attention to PTSD programs, and a review of the PTSD claims process at the Fort Harrison VAM&ROC. An additional focus for the meeting is continuity of care and clinical follow-up between area VA medical facilities and Vet Centers. A third Committee subgroup will visit with Native American veterans on the Blackfeet reservation in Browning, Montana. The day's agenda will consist of assessing veterans needs and services provided by VA.

The meeting on July 24 will also begin at 8 a.m. and conclude at 5 p.m. The second day's agenda will also be conducted concurrently at three different locations. The day's agenda will consist of a continuation of direct observations of VA programs and facilities at the Vet Center, 500 N. Higgins Avenue, Missoula, Montana 59802, and Vet Center, West 1708 Mission Street, Spokane, Washington 99201. Concurrently, the third Committee subgroup will be visiting with Native American veterans on the Flathead reservation in Polson, Montana. The day's agenda will consist of assessing veterans needs and services provided by VA.

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The meeting on July 25 will begin at 8:00 a.m. and conclude at 1:00 p.m. The third day's agenda will consist of a full Committee executive meeting to review findings and conclusions, and formulate recommendations. The meeting will be conducted at the Edgewater Double Tree Hotel, 100 Madison Street, Missoula, Montana. Their phone number is (406) 728–3100.

The meeting will be closed from 8 a.m. to 5 p.m. on Thursday, July 23, and from 8 a.m. to 5 p.m. on Friday, July 24, in accordance with the provisions cited in 5 U.S.C. 552b(c)(6) pursuant to subsection 10(d) of the Federal Advisory Committee Act. During this portion of the meeting, the Committee will be engaging in discussions with clinical service providers and veterans consumers. The discussions will disclose information of a personal nature for veteran patients, which would constitute a clearly unwarranted invasion of personal privacy. The meeting on Saturday, July 25, from 8 a.m. to 1 p.m., will be open to the public.

Anyone having questions concerning the meeting may contact Alfonso R. Batres, Ph.D., M.S.S.W., Chief, Readjustment Counseling Officer, Department of Veterans Affairs Headquarters Office at (202) 273–8967.

Dated: July 2, 1998.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 98–18322 Filed 7–9–98; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; Report of Amended Matching Program

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

Notice is hereby given that the Department of Veterans Affairs (VA) intends to conduct a recurring computer matching program matching Office of Personnel Management (OPM) records with VA pension and parents' dependency and indemnity compensation (DIC) records.

The goal of this match is to compare income status as reported to VA with records maintained by OPM.

The Department of Veterans Affairs plans to match records of veterans and surviving spouses and children who receive pension, and parents who receive DIC from VA from Office of Personnel Management benefit records maintained by OPM. The match with OPM will provide VA with data from OPM civil service benefit records.

VA will use this information to update the master records of VA beneficiaries receiving income dependent benefits and to adjust VA benefit payments as prescribed by law. Otherwise, information about a VA beneficiary's receipt of OPM benefits is obtained from reporting by the beneficiary. The proposed matching program will enable VA to ensure accurate reporting of income.

Records to Be Matched

The VA records involved in the match are the VA system of records, Compensation, Pension, Education and Rehabilitation Records—VA (58 VA 21/22) first published at 41 FR 9294, March 3, 1976 and last amended at 63 FR 7196, February 12, 1998. The OPM records involved in the match are from the OPM Civil Service Retirement Pay File identified as OPM Central–1, Civil Service Retirement and Insurance records, published at 58 FR 19153 (April 12, 1993) and amended at 60 FR 63081–63083, (December 8, 1995). In accordance with Title 5 U.S.. subsection 552a(o)(2) and (r), copies of the agreement are being sent to both Houses of Congress and to the Office of Management and Budget.

This notice is provided in accordance with the provisions of the Privacy Act of 1974 as amended by Public Law 100–503.

The match will start no sooner than 30 days after publication of this Notice in the **Federal Register**, or 40 days after copies of this Notice and the agreement of the parties are submitted to Congress and the Office of Management and Budget, whichever is later, and end not more than 18 months after the agreement is properly implemented by the parties. The involved agencies' Data Integrity Boards (DIBs) may extend this match for 12 months provided the agencies certify to the DIBs, within three months of the ending date of the original match, that the matching program will be conducted without change and that the matching program has been conducted in compliance with the original matching program.

ADDRESSES: Interested individuals may submit written comments to the Director, Office of Regulations Management (O2D), Department of Veterans Affairs, 810 Vermont Avenue, NW, Room 1154, Washington, DC 20420. Comments will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between 8:00 a.m. and 4:30 p.m., Mondays through Fridays, except holidays.

FOR FURTHER INFORMATION CONTACT: Paul Trowbridge (213B), (202) 273–7218.

SUPPLEMENTARY INFORMATION: This information is required by Title 5 U.S.C. subsection 552a(e)(12), the Privacy Act of 1974. A copy of this notice has been provided to both Houses of Congress and the Office of Management and Budget.

Approved: June 30, 1998.

Togo D. West, Jr.,

Secretary of Veterans Affairs.

[FR Doc. 98–18310 Filed 7–9–98; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register
Vol. 63, No. 132
Friday, July 10, 1998

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Forest Service

Moira Environmental Impact Statement

Correction

In notice document 98–16222 beginning on page 33317, in the issue of Thursday, June 18, 1998, in the second column, in the ninth line from the bottom, "435" should read "45".

BILLING CODE 1505-01-D

FEDERAL MARITIME COMMISSION

[Docket No. 98–08]

Kin Bridge Express Inc. and Kin Bridge Express (U.S.A) Inc.–Possible Violations of Sections 8, 10(a)(1), 10(b)(1) and 23 of the Shipping Act of 1984; Order of Investigation and Hearing

Correction

In notice document 98–17141, beginning on page 35228, in the issue of Monday, June 29, 1998, the docket number should appear as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF EDUCATION

[CFDA Nos.: 84.133F, 84.133G, and 84.133P]

Office of Special Education and Rehabilitative Services; National Institute on Disability and Rehabilitation Research; Notice Inviting Applications for New Awards Under Certain Programs for Fiscal Year 1999

Correction

In notice document 98–16180, beginning on page 33500, in the issue of Thursday, June 18, 1998, the instructions for SF 424 that appear on page 33507 are republished and the application form SF 424 should be added after page 33506 to read as follows:

BILLING CODE 1505-01-D

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APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED

Application Identifier

1. TYPE OF SUBMISSION
☐ Construction
☐ Non-Construction

Preapplication:
☐ Construction
☐ Nonconstruction

3. DATE RECEIVED BY STATE

State Application Identifier

4. DATE RECEIVED BY FEDERAL AGENCY

Federal Identifier

5. APPLICANT INFORMATION

Legal Name:

Organizational Unit:

Address (Give city, county, state, and zip code):

Name and telephone number of the person to be contacted on matters involving this application (give area code)

6. Employer Identification Number: ___ - __________

7. TYPE OF APPLICATION:
(enter appropriate letter here) ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate

F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Cont. I of HL
J. Private University

K. Indian tribe
L. Individual
M. Profit Org.
N. Other (Specify) __________

8. TYPE OF APPLICATION
☐ New ☐ Continuation ☐ Revision
If Revision, enter appropriate letter(s) here: ☐ ☐
A. Increase Award
B. Decrease Award
C. Increase Duration
D. Decrease Duration
Other (specify)

9. NAME OF FEDERAL AGENCY

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 84.
Title:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.):

13. PROPOSED PROJECT:
Start Date:
Ending Date:

14. CONGRESSIONAL DISTRICTS OF:
a. Applicant:
b. Project:

15. ESTIMATED FUNDING

a.	Federal	$	.00
b.	Applicant	$	.00
c.	State	$	.00
d.	Local	$	.00
e.	Other	$	.00
f.	Program Income	$	.00
g.	TOTAL	$	.00

16. IS APPLICANT SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES ☐ THIS PREAPPLICATION /APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE ______

b. NO ☐ PROGRAM IS NOT COVERED BY E.O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?
☐ Yes If "Yes" attach an explanation
☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Typed Name of Authorized Representative
b. Title:
c. Telephone Number:
d. Signature of Authorized Representative
e. Date Signed

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Standard Form 424 REV 4-88)
Prescribed by OMB Circular A-102

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item:	Entry:
1.	Self-explanatory.
2.	Date application submitted to Federal agency (or State if applicable) & applicants control number (if applicable).
3.	State use only (if applicable).
4.	If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5.	Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matter related to this application.
6.	Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7.	Enter the appropriate letter in the space provided.
8.	Check appropriate box and enter appropriate letter(s) in the space(s) provided: - "New" means a new assistance award. - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date. - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9.	Name of Federal agency from which assistance is being requested with this application.
10.	Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11.	Enter a brief descriptive title of the project, if more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications use a separate sheet to provide a summary description of this project.
12.	List the State and area (county, city, etc.) the applicant is applying to serve with this application.
13.	Self-explanatory.
14.	List the applicant's Congressional District and any District(s) affected by the program or project.
15.	Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16.	Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17.	This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18.	To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application).

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Part II

Department of Transportation

Research and Special Programs Administration

49 CFR Part 171, et al.

Transportation of Hazardous Materials; Miscellaneous Amendments; Final Rule

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 172, 173, 175, 177, 178 and 180

[Docket No. RSPA–97–2905 (HM–166Y)]

RIN 2137–AC41

Transportation of Hazardous Materials; Miscellaneous Amendments

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: This final rule amends the Hazardous Materials Regulations (HMR) by incorporating miscellaneous changes based on petitions for rulemaking and RSPA initiative. This action is necessary to improve safety and to respond to petitions for rulemaking. The intended effect of these regulatory changes is to update, clarify or provide relief from certain regulatory requirements.

DATES: Effective: The effective date of these amendments is October 1, 1998.

Compliance: Compliance with the regulations, as amended herein, is authorized after August 24, 1998.

Incorporation by reference: The incorporation by reference of a publication listed in this final rule is approved by the Director of the Federal Register as of October 1, 1998.

FOR FURTHER INFORMATION CONTACT: Joan McIntyre, Office of Hazardous Materials Standards, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001, telephone (202) 366–8553.

SUPPLEMENTARY INFORMATION:

I. Background

On March 4, 1995, the President directed Federal agencies to perform an extensive review of all agency regulations and eliminate or revise those requirements that are outdated or in need of reform. This final rule is consistent with the goals of the President's Regulatory Reinvention Initiative. In a continuing effort to review the HMR for necessary revisions, RSPA is eliminating, revising, clarifying and relaxing certain regulatory requirements in this final rule. On September 24, 1997, RSPA issued a notice of proposed rulemaking (NPRM) under Docket RSPA–97–2905 (HM–166Y) (62 FR 50222). The NPRM proposed a number of miscellaneous changes to the HMR, designed primarily to reduce regulatory burdens on industry by incorporating changes into the HMR based on RSPA's own initiative and petitions for rulemaking, submitted in accordance with 49 CFR 106.31. The NPRM contained information concerning each proposal and invited public comment. Readers should refer to the NPRM for additional background discussion.

RSPA received about 20 comments in response to the NPRM. These comments were submitted by representatives of trade associations, hazardous materials consulting firms, chemical manufacturers, a testing and manufacturing laboratory and an air carrier. The commenters expressed support for various proposals, but several raised concerns about certain provisions in the proposals that are discussed below. One commenter requested amendments to the HMR other than those proposed as part of this initiative; the commenter's letter was accepted as a petition for rulemaking under 49 CFR 106.31.

II. Summary of Regulatory Changes by Section

The following is a section-by-section summary of changes and, where applicable, a discussion of comments received.

Part 171

Section 171.7

Based on a petition for rulemaking from the Association of American Railroads (AAR) (P–1315), RSPA proposed to update the incorporation by reference of the AAR manual, "AAR Manual of Standards and Recommended Practices, Section C-Part III, Specifications for Tank Cars, Specification M–1002," from the 1992 edition to the 1996 edition. RSPA and the Federal Railroad Administration (FRA) reviewed the referenced requirements in the 1996 manual and agree that the changes will enhance public safety. Therefore, RSPA is incorporating the 1996 edition by reference.

However, § 173.31(b)(5) provides for tank cars modified with bottom discontinuity protection before July 1, 1996, to conform to the requirements of Appendix Y of the 1992 edition of the AAR manual. Appendix Y of the 1996 edition of the AAR manual is under review by an industry task group, of which FRA is a member, and will be revised when the group's task is complete. Until completion of that review, RSPA also is retaining its incorporation by reference of the 1992 edition with a corresponding reference to § 173.31.

Section 171.8

In the NPRM, RSPA proposed to add a definition for "self-defense spray" to correspond with the proposed new entry, "Self-defense sprays, non-pressurized, *containing not more than 2 percent tear gas substances,*" Class 9, that would be added in the § 172.101 Hazardous Materials Table (HMT). Two commenters suggested that RSPA add descriptive information in the definition. The Air Line Pilots Association (ALPA) suggested adding, as an example, the commonly used term, "pepper spray," as part of the definition. The other commenter, the Association of Defense Spray Manufacturers (ADSM) suggested that RSPA either add the words "containing not more than two percent tear gas or ten percent oleoresin capsicum" in the proposed definition or consider capsaicin (the primary capsaicinoid present in oleoresin capsicum) to be a tear gas substance and disregard the percentage of oleoresin capsicum. ADSM stated that not all pepper sprays list the capsicum content on the label and some sprays are labeled as a higher percentage active ingredient. Although oleoresin capsicum is the active ingredient in pepper sprays, RSPA is concerned that limiting the definition or shipping description to oleoresin capsicum would exclude other active ingredients that may be under development for use in self-defense sprays in the future. Therefore, RSPA is revising the definition to state that for self-defense sprays the two percent by mass limitation applies only to tear gas substances (such as chloroacetephenone), but not to other sprays such as (pepper sprays).

The definition of "Marine pollutant" is revised by adding a reference to § 171.4, which contains certain exceptions for marine pollutants. Adding the reference responds to a petitioner (P–1256) who stated that these exceptions are often overlooked.

Section 171.18

Section 171.18 is amended to remove an obsolete section concerning registrations filed with the Bureau of Explosives (BOE).

Section 171.19

RSPA is revising § 171.19 by terminating all remaining BOE approvals, other than those made under approval provisions in Part 179. The majority of BOE approvals have been converted to approvals issued by the Associate Administrator for Hazardous Materials Safety (AAHMS). RSPA believes that any remaining BOE approvals, other than those applying to Part 179 requirements, are obsolete. Any person holding a BOE approval who is affected by this termination may apply for a new approval by the AAHMS.

Part 172

Section 172.101

RSPA is adding three new entries and revising eight existing entries to the HMT.

The three new entries are "*Pepper spray, see* Aerosols, etc. or Self-defense spray, non-pressurized," "*Self-defense spray, see* Aerosols,etc." and "Self-defense spray, non-pressurized." Because "not more than two percent by mass of a tear gas substance" is specified in the definition of "self-defense spray," the phrase is not needed as part of the proper shipping names and RSPA is removing it from the proper shipping names in this final rule. These entries clarify that both the aerosol and non-aerosol self-defense sprays are subject to the regulations. Related changes are made to § 171.8 by adding a definition of "self-defense spray," to § 172.102 by adding a new special provision A37 for the entry, "Self-defense spray, non-pressurized," and to § 175.10.

The entries, "Corrosive solids, water-reactive, n.o.s." (UN3096) and "Water-reactive solid, corrosive, n.o.s." (UN3131) are corrected by removing Special Provision 128 for Packing Groups II and III. For the entry, "Aluminum smelting by-products or Aluminum remelting by-products" (UN3170), Special Provision 128, containing a hazard communication requirement, is added for Packing Groups II and III.

The entry, "Detonators, non-electric *for blasting,*" UN0455 in Column (8A), is corrected by removing the erroneous reference "none" in the packaging exceptions column to read "63(f), 63(g)."

RSPA proposed to amend the entry "Trifluoroacetyl chloride" by adding Special Provision "B7" to Column (7), in response to a petition for rulemaking (P–1254). Special Provision B7 states that safety relief devices are not authorized on multi-unit tank car tanks. The openings for the safety relief devices must be plugged or blank flanged. After publication of the NPRM, another petitioner (P–1329) requested that RSPA add Special Provision B7 for the entries, "Dimethylhydrazine, unsymmetrical," "Hydrazine, anhydrous or Hydrazine aqueous solutions *with more than 64 percent hydrazine, by mass.*" and "Methylhydrazine." The petitioner stated that it is the sole producer of these materials and pointed out that safe shipping experience has been established through DOT exemptions, DOT-E 11200 and DOT-E 11490, which authorize the shipment of hydrazine materials in multi-unit tank car tanks without relief devices. The petitioner also sponsored a risk analysis that focused on the transportation of propellants that are toxic and the risks associated with those materials when transported in multi-unit tank car tanks equipped with or without safety relief devices. The results of the analysis determined that there is an increased likelihood of the release of toxic materials when a relief device is present. The petitioner submitted similar comments in response to the NPRM. RSPA has studied the risk analysis prepared by the University of Central Florida and finds it to be credible. RSPA also has determined that the three additional materials described on the petition are similar in nature to "Trifluoroacetyl chloride." Because of the safe shipping history of the hydrazine products in multi-unit tank car tanks without relief devices under the exemptions, their similarity to "Trifluoroacetyl chloride," and the analysis's conclusions that these materials can be safely shipped in multi-unit tank car tanks without relief devices, RSPA agrees with the petitioner that these materials warrant the same provision as for "Trifluoroacetyl chloride." Therefore, the four entries, "Trifluoroacetyl chloride," "Dimethylhydrazine, unsymmetrical," "Hydrazine, anhydrous " and "Methylhydrazine" are amended by adding Special Provision "B7."

Section 172.102

Special Provision 128 is corrected to provide that aluminum smelting by-products and aluminum remelting by-products meeting the definition of Class 8, Packing Groups II and III may also be classified in Division 4.3 and transported under "Aluminum smelting by-products *or* Aluminum remelting by-products." An editorial revision is also made to the special provision to clarify that, when classified as Division 4.3, the Class 8 must be communicated as a subsidiary risk hazard.

Section 173.32c

RSPA is revising paragraph (j) to allow monolithic (non-flowable) solid materials to be loaded into IM portable tanks to a filling density of less than 80 percent by volume. Paragraph (j) currently specifies that an IM portable tank, or compartment thereof, having a volume greater than 7,500 liters may not be loaded to a filling density less than 80 percent by volume. The former requirement was intended to cover liquid and flowable solid hazardous materials in order to minimize the risk of accidents resulting from the sloshing and shifting of the center of gravity. A monolithic solid material which conforms to the tank geometry, such that the shifting of the center of gravity is not possible, can be safely transported in an IM portable tank at a filling density of less than 80 percent by volume.

In addition, a new sentence is added to paragraph (m) which contains the reference to § 177.834(h) for unloading of an IM portable tank.

Section 173.40

Paragraph (d)(1) is revised to clarify that a strong outside box, used to provide protection for a thin-walled cylinder or a cylinder equipped with a valve, does not need to be made to a specific UN standard. This change is consistent with similar provisions in § 173.301(g)(2) and (k) that permit a non-specification box to be used for protection of the cylinder or valve.

Section 173.56

In the NPRM, RSPA proposed to broaden the provisions in § 173.56(b)(1) for persons who receive approval to examine and assign recommended shipping names, divisions and compatibility groups for new explosives. The proposal stated that the person applying for the approval must meet the following criteria: (1) Is not be controlled by, or financially dependent upon, any entity that manufactures or markets explosives; (2) Does not perform any type of work in the explosives industry other than testing for determination of hazard class or performance; (3) Either has, or employs a person who has, at least ten years' experience in the examination, testing and evaluation of explosives; and (4) Is a resident of the United States.

One commenter contended that the proposed criterion to exclude explosives manufacturers was overly restrictive and stated that provisions should be similar to those in § 173.56(j), which allows manufacturers of Class 1.4 fireworks to classify their own items. However, another commenter stated that the proposed criterion should be more restrictive, stating that the criterion would permit the approval of too many persons and, thereby, render the activity economically infeasible.

RSPA disagrees with both commenters. First, under § 173.56(j), fireworks manufacturers are permitted to classify their own items provided the

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items' chemical compositions conform to the parameters prescribed in the American Pyrotechnics Association's (APA) Standard for Construction of Fireworks. These chemical compositions identified in the APA standard have been used for over 50 years and their safety and stability are well known. They also have a proven transportation safety record. A similar situation does not apply to other types of explosives. Second, the proposed criterion provides for the approval of persons who have the prescribed experience in the examination, testing and evaluation of explosives. RSPA does not believe a limitation on the number of qualified persons who are approved to perform this function should be imposed by RSPA. Therefore, RSPA is adopting the provisions as proposed.

Also, as proposed in the NPRM, RSPA is revising paragraph (i) to provide for RSPA to classify a material or device without a prior examination when adequate data is available.

Section 173.156

RSPA is revising paragraph (b)(1) to clarify that the package markings specified in subpart D of part 172 do not apply to cages, carts, boxes or similar overpacks containing ORM–D materials that are offered for transportation or transported according to § 173.156(b)(1).

Section 173.308.

RSPA is revising paragraph (b) to clarify that when transporting up to 1,500 cigarette lighters on one motor vehicle by highway, the only part 172 provisions that do not apply are the hazard communication requirements in subparts C through G (i.e., shipping papers, marking, labeling, placarding, emergency response information) and the training requirements in subpart H. Special Provision N10 applies. RSPA also is revising paragraph (b) to require that the outer packaging be marked to identify the total number of devices contained in the package.

Section 173.469

In paragraph (a)(4)(i), the value of 1.3×10^{-24} is amended to read 1.3×10^{-4} in order to correct a printing error.

Part 175

Section 175.10

RSPA proposed to permit one self-defense device, not exceeding 118 ml (4 fluid ounces), per passenger, in checked baggage, provided the device incorporates a positive means to prevent accidental discharge. The Air Line Pilots Association (ALPA) supported the proposal to regulate self-defense spray devices but stated: "We also re-affirm our opposition to hazardous material items that are considered weapons of self-defense to be carried by passengers on their person, placed in carry-on baggage, or placed in checked baggage. We maintain this position, in part, because these items could potentially be used in a threatening manner and subsequent release that would be debilitating to the passengers and crew. Additionally, our concern includes that there is no way to inspect or determine, prior to a release or incident, if the positive means (safety device) referenced in new [proposed] paragraph § 175.10(a)(4)(ii) is operable and in place to prevent accidental discharge and release of the contents, specifically with reference to the aerosols."

In a few cases, self-defense sprays have been discovered in passengers' carry-on luggage after the devices were accidentally initiated. These situations were effectively mitigated by flight crews and investigated by Federal Aviation Administration (FAA) personnel. FAA is unaware of any reported cases of self-defense sprays, packed in checked baggage, initiating in flight and causing discomfort to passengers or crew. Therefore, RSPA is revising paragraph (a)(4) to clarify that all types of self-defense sprays are prohibited from being transported by air in a passenger compartment, either on one's person or in carry-on baggage. However, RSPA is permitting one self-defense device to be carried in checked baggage.

An air carrier expressed its support for the proposal but stated that it had a general concern that RSPA's statement in the preamble discussion to the § 172.101 HMT in the NPRM, characterizing mace and pepper sprays as a "deadly or dangerous weapon," could be misconstrued. The air carrier requested that RSPA clarify that the responsibility of the air carrier is to post warning signs, such as required by proposed § 175.25, or otherwise notify the passenger of the regulations, and not to conduct questioning of passengers or searching of baggage for these items. RSPA did not intend in the preamble of the NPRM to imply that air carriers or airport personnel would be required to implement additional controls to screen each passenger or each passenger's baggage.

In addition, this section is revised to clarify that the quantity limits in paragraphs (a)(4)(i) and (a)(4)(ii) apply to both medicinal and toilet articles and to Division 2.2 aerosols for sporting or home use. This section also is editorially revised to make it easier to read and use.

Section 175.25

Paragraph (a) requires that aircraft operators display notices warning passengers against carrying undeclared hazardous materials aboard aircraft, in either their luggage or on their persons. As proposed in the NPRM, RSPA is revising the language used in the notice to reflect changes in the statutory citation and penalties. A new paragraph (a) is added to allow aircraft operators to display existing notices containing the obsolete language until January 1, 2002.

In addition, based on RSPA and FAA initiative, RSPA is making four other non-substantive changes that provide greater carrier flexibility. First, the introductory language to paragraph (a)(1) is revised to read: "At a minimum, each notice must communicate the following information:". Second, the wording in current paragraph (a)(3) is revised to permit additional information, examples, or illustration, if not inconsistent with the required wording. These changes are consistent with the introductory language in § 175.26(a) and permit the specified information to be conveyed to the public while leaving the format for presenting the information, such as the use of graphics, to air carriers' discretion. Third, paragraph (a)(2)(i) is revised to permit posters displayed by U.S. air carriers to have information printed in other languages, in addition to the required English. This wording facilitates communication of the required information to non-English speaking passengers and is consistent with § 175.26(b)(1). Fourth, paragraph (a)(2)(ii) is revised to require that the lettering for only the first paragraph of the notice be at least 0.4 inch in height and the lettering for all other paragraphs be at least 0.2 inch in height. The reduction of the lettering size will allow more space for other information, such as graphics.

Finally, as proposed, the quantity limit reference also is corrected for medicinal and toilet articles carried in a passenger's luggage to read 70 ounces for consistency with the exception provided in § 175.10(a)(4)(i).

Section 175.26

This section requires each person who engages in the acceptance or transport of cargo for transportation by aircraft to display a notice, to persons offering such cargo, of the applicable requirements for hazardous materials aboard aircraft. RSPA is amending the wording required in the notice to state that a violation can result in five years' imprisonment and penalties of $250,000 or more (49 U.S.C. 5124). In addition, a new paragraph (a)(4) is added to allow each person who accepts or transports cargo for transportation by aircraft to display existing notices containing the obsolete language until January 1, 2002.

Part 177

Section 177.834

RSPA proposed to relax a provision in paragraph (h) to permit an IM portable tank to be unloaded while remaining on a transport vehicle with the power unit attached, provided the tank meets the outlet requirements in § 178.345–11 and is attended during the unloading, as currently required for cargo tank motor vehicles under § 177.834(i). Section 178.345–11(b)(1)(iii) provides that the remote means of closure for the stop valve on a cargo tank must be capable of thermal activation when required by Part 173 for materials which are flammable, pyrophoric, oxidizing, or poisonous liquids. Three commenters stated that many IM portable tanks are not fitted with outlet valves meeting this requirement. They stated that RSPA should allow sufficient time for valve manufacturers to develop a valve system that works with a fusible link for installation on new IM portable tanks and that all existing IM portable tanks should be excepted from the valve requirement. One of the commenters, the Chemical Manufacturers Association, stated that the redesign of a proven cargo handling system and the retrofit of existing portable tanks to provide for thermal activation capability would be both expensive and disruptive of commerce because tanks would have to be removed from service.

RSPA disagrees with the commenters. The tank outlets are required to be equipped with this feature to ensure that the valve closes in a fire situation. Cargo tanks have been required to have this feature for many years. RSPA believes that when an IM portable tank is used in the same manner as a cargo tank it should have the same level of safety in the event the operator cannot manually operate the closure. RSPA received no comments on the proposal from valve manufacturers.

A fourth commenter, the National Tank Truck Carriers, Inc. (NTTC), stated that the proposed amendment will increase the use of IM portable tanks for transporting hazardous materials, nationwide. Therefore, IM portable tanks, when operating as cargo tanks, should be subject to all safety requirements paralleling those of traditional cargo tank motor vehicles, including emergency shut-down equipment, fusible and/or frangible device, etc., and, in addition, the requalification requirements contained in Part 180.

NTTC also stated that RSPA should specify the types of motor vehicle chassis, or securement devices, to use for IM portable tanks. NTTC stated that, with the types of trailers ranging from special "container only" chassis to equipment, such as, so-called "gooseneck" trailers, drop frame trailers and the conventional "flat bed" units, container securement is not adequately addressed in the Federal Motor Carrier Safety Regulations (49 CFR 393.100 *et. seq.*).

RSPA disagrees with NTTC that these IM portable tanks should meet the cargo tank requalification requirements in subpart E of Part 180 and that additional securements should apply to them. RSPA received no specific data indicating that the current requirements are inadequate. RSPA will continue to monitor the transportation experience of these tanks to determine if there may be a need to revise the securement requirements in a future rulemaking action.

Several commenters stated that the proposal to permit on-vehicle unloading of IM portable tanks should also apply to loading and pointed out RSPA's comment in the preamble that "portable tanks are not intended to be filled or emptied while attached to a transport vehicle or a ship during transportation." The statement in the NPRM was in error. RSPA intended to say that portable tanks may not be emptied while remaining on a transport vehicle with the motive power attached during transportation. The restriction contained in the next-to-last sentence of current paragraph (h) does not apply to loading. Therefore, the comments are beyond the scope of this rulemaking.

Another commenter stated that the cargo tank attendance rule in paragraph (i)(3) is "onerous and perhaps outmoded" and should be revised to provide exceptions for cargo tanks loaded or unloaded inside plant facilities without public access. The need, if any, for changes to attendance requirements are beyond the scope of this rulemaking.

Finally, a commenter requested that the proposal be broadened to include all bulk packagings and that the definition of a cargo tank, in § 171.8, be amended to include an intermediate bulk container (IBC). RSPA may address other bulk packagings in a future rulemaking action. A proposal to amend the definition of a cargo tank is being considered under Docket HM–213.

In conclusion, as proposed in the NPRM, RSPA is permitting IM portable tanks to be unloaded without being removed from the motor vehicle if the outlet requirements in § 178.345–11 and the § 178.337–11 and attendance requirements are met.

Section 177.848

In paragraph (f), the Compatibility Table for Class 1 (Explosive) Materials is revised to clarify that Groups B and D are not compatible. However, a domestic exception (4) is allowed for Detonators when they are transported in accordance with the restrictions in § 177.835(g). To avoid the possibility of incompatible explosives being transported together, RSPA is clarifying the restriction by replacing the entry "4" with the entry "$X_{(4)}$".

Part 178

Section 178.65

Paragraph (i)(2)(viii)(A) is revised to update the citation "49 U.S.C. 1809" to read "49 U.S.C. 5124."

Sections 178.352 through 178.364

Several specification packaging requirements for radioactive materials contain obsolete section references. RSPA is updating these section references in this final rule.

Part 180

Section 180.405

RSPA is revising paragraph (c)(1) to recognize that the date marked on certain older cargo tanks was the date initial construction began rather than the date construction was completed. This action more precisely grandfathers cargo tanks in a manner consistent with former § 173.33(b)(1) (in effect prior to December 31, 1990), which read: "A cargo tank of the specification listed in Column 1 may be used when authorized in this part, provided the tank construction began before the date in Column 2." This provision applied to MC 300, 301, 302, 303, 304, 305, 310, 311 and 330 cargo tank motor vehicles.

Finally, paragraph (f) is revised to allow the continued use of a cargo tank equipped with a self-closing system before September 1, 1993, but remarked and certified after that date.

Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This proposed rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not reviewed by the Office of Management and Budget. This rule is not significant under the Regulatory Policies and Procedures of

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the Department of Transportation (44 FR 11034).

The costs and benefits associated with this final rule are considered to be so minimal as to not warrant preparation of a regulatory impact analysis or regulatory evaluation.

B. Executive Order 12612

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 ("Federalism"). Federal law expressly preempts State, local, and Indian tribe requirements applicable to the transportation of hazardous material that cover certain subjects and are not substantively the same as the Federal requirements. 49 U.S.C. 5125(b)(1). These subjects are:

(i) The designation, description, and classification of hazardous material;

(ii) The packing, repacking, handling, labeling, marking, and placarding of hazardous material;

(iii) The preparation, execution, and use of shipping documents pertaining to hazardous material and requirements respecting the number, content, and placement of those documents;

(iv) The written notification, recording, and reporting of the unintentional release in transportation of hazardous material; or

(v) The design, manufacturing, fabrication, marking, maintenance, reconditioning, repairing, or testing of a package or container which is represented, marked, certified, or sold as qualified for use in the transportation of hazardous material.

This final rule concerns the classification, packaging, marking, labeling, and handling of hazardous material, among other covered subjects.

This final rule would preempt any State, local, or Indian tribe requirements concerning these subjects unless the non-Federal requirements are "substantively the same" (see 49 CFR 107.202(d)) as the Federal requirements.

Federal law (49 U.S.C. 5125(b)(2)) provides that if DOT issues a regulation concerning any of the covered subjects after November 16, 1990, DOT must determine and publish in the **Federal Register** the effective date of Federal preemption. That effective date may not be earlier than the 90th day following the date of issuance of the final rule and not later than two years after the date of issuance.

C. Regulatory Flexibility Act

This final rule would amend miscellaneous provisions in the HMR, generally to clarify those provisions and to relax requirements that are overly burdensome. The proposed changes in this rule are generally intended to provide relief to shippers, carriers, and packaging manufacturers, some of whom are small entities (for example, small businesses, governmental jurisdictions and not-for-profit organizations). The costs and benefits associated with this proposed rule are considered to be so minimal as to not warrant preparation of a regulatory impact analysis or regulatory evaluation. Small incremental cost increases are associated with updating the hazardous materials information shown on airport signs in §§ 175.25 and 175.26. A delayed compliance date of January 1, 2002, is provided for displaying the notices to allow for a sufficient transition period. Therefore, I certify that this proposal will not, if promulgated, have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, no person is required to respond to a collection of information unless it displays a valid OMB control number. This final rule does not propose any new information collection burdens. Information collection requirements addressing the approval of explosives in § 173.56 are currently approved under OMB approval number 2137–0557. This approval expires July 31, 1999.

E. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

F. Unfunded Mandates Reform Act

This final rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the rule.

List of Subjects

49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Incorporation by reference, Reporting and recordkeeping requirements.

49 CFR Part 172

Hazardous materials transportation, Hazardous waste, Labels, Markings, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

49 CFR Part 175

Air carriers, Hazardous materials transportation, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 177

Hazardous materials transportation, Motor carriers, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 178

Hazardous materials transportation, Motor vehicle safety, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 180

Hazardous materials transportation, Motor carriers, Motor vehicle safety, Packaging and containers, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR chapter I is amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS AND DEFINITIONS

1. The authority citation for part 171 continues to read as follows:

Authority: 49 U.S.C. 5101–5127, 49 CFR 1.53.

2. In the § 171.7(a)(3) Table, under the entry "Association of American Railroads", a new entry is added in appropriate alphabetical order to read as follows:

§ 171.7 Reference material.

(a) *Matter incorporated by reference.*

* * *

(3) *Table of material incorporated by reference.* * * *

Source and name of material	49 CFR reference
* * * *	* * *
Association of American Railroads,	
* * * *	* * *
AAR Manual of Standards and Recommended Practices, Section C—Part III, Specifications for Tank Cars, Specification M–1002, September 1996.	174.63; 179.6; 179.7; 179.12; 179.15; 179.16; 179.20; 179.22; 179.100; 179.101; 179.102; 179.103; 179.200; 179.201; 179.220; 179.300; 179.400; 180.509; 180.513; 180.515; 180.517.
* * * *	* * *

* * * * *

§ 171.7 [Amended]

3. In addition, in the § 171.7(a)(3) Table, under the entry "Association of American Railroads", for the entry "AAR Manual of Standards and Recommended Practices, Section C—Part III, Specifications for Tank Cars, Specification M–1002, September 1992", in the second column, the existing section references are removed and a new reference "173.31" is added in their place.

4. In § 171.8, the following definition is added in the appropriate alphabetical order to read as follows:

§ 171.8 Definitions and abbreviations.

* * * * *

Self-defense spray means an aerosol or non-pressurized device that:

(1) Is intended to have an irritating or incapacitating effect on a person or animal; and

(2) Meets no hazard criteria other than for Class 9 (for example, a pepper spray; see § 173.140(a) of this subchapter) and, for an aerosol, Division 2.1 or 2.2 (see § 173.115 of this subchapter), except that it may contain not more than two percent by mass of a tear gas substance (e.g., chloroacetophenone (CN) or 0-chlorobenzylmalonitrile (CS); see § 173.132(a)(2) of this subchapter.)

* * * * *

§ 171.8 [Amended]

5. In addition, in § 171.8, for the definition "Marine pollutant", in the first sentence, the wording "this subchapter and," is removed and "this subchapter (also see § 171.4) and," is added in its place.

§ 171.18 [Removed and Reserved]

6. Section 171.18 is removed and reserved.

7. Section 171.19 is revised to read as follows:

§ 171.19 Approvals or authorizations issued by the Bureau of Explosives.

Effective December 31, 1998, approvals or authorizations issued by the Bureau of Explosives (BOE), other than those issued under part 179 of this subchapter, are no longer valid.

PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, AND TRAINING REQUIREMENTS

8. The authority citation for part 172 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

9. In § 172.101, the Hazardous Materials Table is amended by adding the following entries, in appropriate alphabetical order, to read as follows:

§ 172.101 Purpose and use of hazardous materials table.

* * * * *

§ 172.101 HAZARDOUS MATERIALS TABLE

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification numbers	PG	Label codes	Special provisions	(8) Packaging (§ 173.* * *)			(9) Quantity limitations		(10) Vessel stowage	
							Exceptions	Non-bulk	Bulk	Passenger aircraft/rail	Cargo aircraft only	Location	Other
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
	*	*	*	*	*	*	*	*					
	[ADD:] *Pepper spray, see* Aerosols, etc. *or* Self-defense spray, non-pressurized.												
	*	*	*	*	*	*	*	*					
	Self-defense spray, aerosol, see Aerosols, etc												
+AD	Self-defense spray, non-pressurized	9	NA3334	III	9	A37	155	203	None	No limit	No limit	A	
	*	*	*	*	*	*	*	*					

§ 172.101 [Amended]

10. In addition, in § 172.101, in the Hazardous Materials Table, the following changes are made:

a. For the entry, "Aluminum smelting by-products *or* Aluminum remelting by-products" (UN3170), for Packing Groups II and III, in Column (7), the special provision "128," is added immediately before "B106", each place it appears.

b. For the entry, "Corrosive solids, water-reactive, n.o.s." (UN3096), for Packing Group II, in Column (7), the special provision "128," is removed.

c. For the entry, "Detonators, non-electric *for blasting.*", UN0455, in Column (8A), the reference "None" is revised to read "63(f), 63(g)".

d. For the entry, "Dimethylhydrazine, unsymmetrical", in Column (7), the special provision "B7," is added immediately following "2,".

e. For the entry, "Hydrazine, anhydrous *or* Hydrazine aqueous solutions *with more than 64 percent hydrazine, by mass.*", in Column (7), the special provision "B7," is added immediately following "A10,".

f. For the entry, "Methylhydrazine", in Column (7), the special provision "B7," is added immediately following "1,".

g. For the entry, "Trifluoroacetyl chloride", in Column (7), the special provision "B7," is added immediately following "2,".

h. For the entry, "Water-reactive solid, corrosive, n.o.s." (UN3131), for Packing Groups II and III, in Column (7), the special provision "128," is removed each place it appears.

10a. In § 172.102, paragraph (c)(1) is amended by revising Special Provision 128 and paragraph (c)(2) is amended by adding Special Provision A37 to read as follows:

§ 172.102 Special provisions.

* * * * *

(c) * * *

(1) * * *

Code/Special Provisions

* * * * *

128. Regardless of the provisions of § 172.101(c)(12), aluminum smelting by-products and aluminum remelting by-products described under this entry, meeting the definition of Class 8, Packing Group II and III may be classed as a Division 4.3 material and transported under this entry. The presence of a Class 8 hazard must be communicated as required by this Part for subsidiary hazards.

(2) * * *

Code/Special Provisions

* * * * *

A37. This entry applies only to a material meeting the definition in § 171.8 of this subchapter for self-defense spray.

* * * * *

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

11. The authority citation for part 173 continues to read as follows:

Authority: 49 U.S.C. 5101–5127, 44701; 49 CFR 1.45, 1.53.

12. § 173.32c, in paragraph (m), a second sentence is added to read as follows:

§ 173.32c Use of Specification IM portable tanks.

* * * * *

(m) * * * In addition, for unloading an IM portable tank, see § 177.834(h) of this subchapter.

* * * * *

§ 173.32c [Amended]

13. In addition, § 173.32c, in paragraph (j), the first word "An" is removed and "Except for a non-flowable solid, an" is added in its place.

§ 173.40 [Amended]

14. In § 173.40, in paragraph (d)(1), in the first sentence, the wording "4C1, 4D, 4F, 4G, 4H1 or 4H2" is removed.

15. In § 173.56, paragraph (b)(1) is revised to read as follows:

§ 173.56 New explosives—definition and procedures for classification and approval.

* * * * *

(b) * * *

(1) Except for an explosive made by or under the direction or supervision of the Department of Defense (DOD) or the Department of Energy (DOE), a new explosive must be examined and assigned a recommended shipping description, division and compatibility group, based on the tests and criteria prescribed in §§ 173.52, 173.57 and 173.58. The person requesting approval of the new explosive must submit to the Associate Administrator for Hazardous Materials Safety a report of the examination and assignment of a recommended shipping description, division, and compatibility group. If the Associate Administrator finds the approval request meets the regulatory criteria, the new explosive will be approved in writing and assigned an EX number. The examination must be performed by a person who is approved by the Associate Administrator under the provisions of subpart H of part 107 of this chapter and who—

(i) Has (directly, or through an employee involved in the examination) at least ten years of experience in the examination, testing and evaluation of explosives;

(ii) Does not manufacture or market explosives, and is not controlled by or financially dependent on any entity that manufactures or markets explosives, and whose work with respect to explosives is limited to examination, testing and evaluation; and

(iii) Is a resident of the United States.

* * * * *

§ 173.56 [Amended]

16. In addition, in § 173.56, in paragraph (i), the wording ", following examination in accordance with paragraph (b) of this section, revise its" is removed and the wording "specify a" is added in its place.

17. In § 173.156, paragraph (b)(1) introductory text is revised to read as follows:

§ 173.156 Exceptions for ORM materials.

* * * * *

(b) * * *

(1) Strong outer packagings as specified in this part, marking requirements specified in subpart D of part 172 of this subchapter, and the 30 kg (66 pounds) gross weight limitation are not required for materials classed as ORM–D when—

* * * * *

18. In § 173.308, paragraph (b) is revised to read as follows:

§ 173.308 Cigarette lighter or other similar device charged with fuel.

* * * * *

(b) When no more than 1,500 devices covered by this section are transported in one motor vehicle by highway, the requirements of subparts C through H of part 172 of this subchapter, and part 177 of this subchapter do not apply. However, no person may offer for transportation or transport the devices or prepare the devices for shipment unless that person has been specifically informed of the requirements of this section. The outer packaging, as specified in Special Provision N10 of § 172.102(c)(5) of this subchapter, must be plainly and durably marked with the required proper shipping name specified in § 172.101 of this subchapter, or the words "CIGARETTE LIGHTERS" and the number of devices contained in the package.

* * * * *

§ 173.469 [Amended]

19. In § 173.469(a)(4)(i), in the second sentence, the mathematical expression "$(1.3 \times 10^{-24}$" is removed and "$(1.3 \pm 10^{-4}$" is added in its place.

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PART 175—CARRIAGE BY AIRCRAFT

20. The authority citation for part 175 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

21. In § 175.10, paragraph (a)(4) is revised to read as follows:

§ 175.10 Exceptions.

(a) * * *

(4) The following hazardous materials when carried by a passenger or crew member for personal use in conformance with the following conditions:

(i) Non-radioactive medicinal and toilet articles (including aerosols) may be carried in checked or carry-on baggage;

(ii) One self-defense spray (see § 171.8 of this subchapter), not exceeding 118 ml (4 fluid ounces) by volume, that incorporates a positive means to prevent accidental discharge may be carried in checked baggage only;

(iii) Other aerosols in Division 2.2 with no subsidiary risk may be carried in checked baggage only; and

(iv) The aggregate quantity of hazardous materials carried by the person may not exceed 2 kg (70 ounces) by mass or 2 liters (68 fluid ounces) by volume and the capacity of each container may not exceed 0.5 kg (18 ounces) by mass or 470 ml (16 fluid ounces) by volume.

* * * * *

22. In § 175.25, the introductory text to paragraph (a)(1), the second and fifth full paragraphs of the notice in paragraph (a)(1), and paragraphs (a)(2)(i), (a)(2)(ii) and (a)(3) are revised; and a new paragraph (a)(4) is added, to read as follows:

§ 175.25 Notification at air passenger facilities of hazardous materials restrictions.

(a) * * *

(1) At a minimum, each notice must communicate the following information:

* * * * *

A violation can result in five years' imprisonment and penalties of $250,000 or more (49 U.S.C. 5124).

* * * * *

There are special exceptions for small quantities (up to 70 ounces total) of medicinal and toilet articles carried in your luggage and certain smoking materials carried on your person.

* * * * *

(2) * * *

(i) In legible English and may, in addition to English, be displayed in other languages; and

(ii) In lettering of at least 1 cm (0.4 inch) in height for the first paragraph and 6.0 mm (0.2 inch) in height for the other paragraphs; and

* * * * *

(3) Size and color of the notice are optional. Additional information, examples, or illustrations, if not inconsistent with the required information, may be included.

(4) Notwithstanding the requirements of paragraph (a)(1) of this section, a notice with the wording "A violation can result in penalties of up to $25,000 and five years' imprisonment. (49 U.S.C. 1809)" may be used through December 31, 2001.

* * * * *

23. In § 175.26, paragraph (a)(2) is revised and a new paragraph (a)(4) is added to read as follows:

§ 175.26 Notification at cargo facilities of hazardous materials requirements.

(a) * * *

(2) A violation can result in five years' imprisonment and penalties of $250,000 or more (49 U.S.C. 5124).

* * * * *

(4) Notwithstanding the requirements of paragraph (a)(2) of this section, a notice with the wording "A violation can result in penalties of up to $25,000 and five years' imprisonment (49 U.S.C. 1809)" may be used through December 31, 2001.

* * * * *

PART 177—CARRIAGE BY PUBLIC HIGHWAY

24. The authority citation for part 177 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

§ 177.834 [Amended]

25. In § 177.834, in paragraph (h), in the next to the last sentence, the wording "cargo tank" is removed and the wording "cargo tank or IM portable tank" is added in its place, and a new paragraph (o) is added to read as follows:

§ 177.834 General requirements.

* * * * *

(o) *Unloading of IM portable tanks.* An IM portable tank may be unloaded while remaining on a transport vehicle with the power unit attached if the tank meets the outlet requirements in § 178.345–11 of this subchapter and the tank is attended by a qualified person during the unloading in accordance with the requirements in paragraph (i) of this section.

§ 177.848 [Amended]

26. In § 177.848, in (f), in the Compatibility Table for Class 1 (Explosive) Materials, for compatibility group B, under the column headed "D" and for compatibility group D, under the column headed "B", the entry "4" is removed and "$X_{(4)}$" is added in both places.

PART 178—SPECIFICATIONS FOR PACKAGINGS

27. The authority citation for part 178 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

§ 178.352–4 [Amended]

28. In § 178.352–4, at the end of the section, the section reference "§ 178.103(3)(c)(1)" is revised to read "§ 178.352–3(c)(1)".

§ 178.354–2 [Amended]

29. In § 178.354–2, in the first sentence of paragraph (a), the section reference "§ 178.104–5" is revised to read "§ 178.354–5".

§ 178.354–3 [Amended]

30. In § 178.354–3, in paragraph (c) introductory text, the section reference "§ 178.104–3(a)(1)" is revised to read "paragraph (a)(1) of this section".

§ 178.354–5 [Amended]

31. In § 178.354–5, in paragraph (a), the wording "§ 173.24 of this chapter" is revised to read "§ 178.3".

§ 178.356–4 [Amended]

32. In § 178.356–4, in paragraph (a), the wording "§ 173.24 of this subchapter" is revised to read "§ 178.3".

§ 178.358–3 [Amended]

33. In § 178.358–3, the following changes are made:

a. In paragraph (b)(6), the section reference "§ 178.121–5(c)" is revised to read "§ 178.358–5(c)".

b. In paragraph (c), the section reference "§ 178.121–5(b)" is revised to read "§ 178.358–5".

§ 178.358–5 [Amended]

34. In § 178.358–5, in paragraph (a), the wording "§ 173.24 of this subchapter" is revised to read "§ 178.3".

§ 178.360–2 [Amended]

35. In § 178.360–2, the section reference "§ 178.34–4" is revised to read "§ 178.360–4".

§ 178.362–3 [Amended]

36. In § 178.362–3, in paragraph (b), the section reference "§ 178.104–4" is revised to read "§ 178.354–4".

§ 178.364–5 [Amended]

37. In § 178.364–5, in paragraph (a), the wording "§ 173.24 of this subchapter" is revised to read "§ 178.3".

PART 180—CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGINGS

38. The authority citation for part 180 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

39. In § 180.405, paragraph (c)(1) is revised, paragraph (f)(7) is redesignated as paragraph (f)(8) and new paragraph (f)(7) is added to read as follows:

§ 180.405 Qualification of cargo tanks.

* * * * *

(c) * * * (1) A cargo tank made to a specification listed in Column 1 of Table 1 or Table 2 of this paragraph (c)(1) may be used when authorized in this part, provided—

(i) The cargo tank initial construction began on or before the date listed in Table 1, Column 2, as follows:

TABLE 1

Column 1	Column 2
MC 300	Sept. 2, 1967.
MC 301	June 12, 1961.
MC 302, MC 303, MC 304, MC 305, MC 310, MC 311.	Sept. 2, 1967.
MC 330	May 15, 1967.

(ii) The cargo tank was marked or certified before the date listed in Table 2, Column 2, as follows:

TABLE 2

Column 1	Column 2
MC 306, MC 307, MC 312	Sept. 1, 1995.

* * * * *

(f) * * *

(7) A cargo tank remarked and certified in conformance with this paragraph (f) is excepted from the provisions of § 180.405(c).

* * * * *

Issued in Washington, DC, on July 2, 1998, under authority delegated in 49 CFR part 106.

Kelley S. Coyner,

Deputy Administrator, Research and Special Programs Administration.

[FR Doc. 98–18060 Filed 7–9–98; 8:45 am]

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Part III

Department of Education

34 CFR Part 304

Special Education; Personnel Preparation to Improve Services and Results for Children With Disabilities; Proposed Rule

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DEPARTMENT OF EDUCATION

34 CFR Part 304

RIN 1820–AB46

Special Education—Personnel Preparation To Improve Services and Results for Children with Disabilities

AGENCY: Office of Special Education and Rehabilitative Services of Special Education Services, Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to establish regulations governing specific provisions of the Personnel Preparation Program to Improve Services and Results for Children with Disabilities. The regulations are needed to implement recently enacted changes to the Individuals with Disabilities Education Act (IDEA or the Act) that were adopted as part of the IDEA Amendments of 1997. Specifically, the regulations would establish procedures to implement section 673(h) of IDEA which requires that individuals who receive a scholarship through personnel preparation projects funded under the Act must subsequently provide special education and related services to children with disabilities (or, for leadership personnel, work in areas related to their preparation) for a period of two years for every year for which assistance was received. Scholarship recipients who do not satisfy their service obligation must repay all or part of the cost of their assistance in accordance with regulations issued by the Secretary. These proposed regulations would implement requirements governing, among other things, the service obligation for scholars, oversight by grantees, repayment (or "payback") of scholarship, and procedures for obtaining deferrals or exemptions from service or repayment obligations.

DATES: Comments must be received by the Department on or before September 8, 1998.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Sherron Dunmore, U.S. Department of Education, 600 Independence Avenue, SW., Room 4628, Switzer Building, Washington, DC 20202–2641. Comments may also be sent through the Internet: comments@ed.gov

You must include the term "payback" in the subject line of your electronic message.

Comments that concern information collection requirements must be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble. A copy of those comments may also be sent to the Department representative named in this section.

FOR FURTHER INFORMATION CONTACT: Renee Bradley, U.S. Department of Education, 600 Independence Avenue, Washington, DC 20202–2641. Telephone: (202) 358–2849. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–9374 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations. All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 3070, Mary E. Switzer Building, 330 C Street SW, Washington DC, between the hours of 8:30 a.m. and 4:00 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

On request the Department supplies an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking docket for these proposed regulations. An individual with a disability who wants to schedule an appointment for this type of aid may call (202) 205–8113 or (202) 260–9895. An individual who uses a TDD may call the Federal Information Relay Service at 1–800–877–8339, between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

To assist the Department in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden, the Secretary invites comments on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

SUPPLEMENTARY INFORMATION: IDEA personnel training grants are intended to increase the number and quality of personnel available to provide special education and related services to children with disabilities, to provide early intervention services to infants and toddlers with disabilities, and their families, and to serve in leadership positions in special education, related, or early intervention services. Shortages in school districts across the country of qualified personnel who can address the educational needs of children with disabilities are well documented. In the past, however, some individuals who received financial support through IDEA in order to obtain degrees or other types of certification subsequently entered careers in which they did not focus on serving children with disabilities under IDEA.

Section 673(h) of the Act was adopted as part of the IDEA Amendments of 1997 as a means of ensuring that individuals who receive scholarships under IDEA-supported personnel training projects provide special education or related services to children with disabilities under Part B of the Act or early intervention services to infants and toddlers with disabilities, and their families, under Part C of the Act. Similarly, individuals who receive scholarships under IDEA training projects for leadership personnel must work in an area related to their preparation. Scholarship recipients who choose not to enter the special education, related service, or early intervention field are obligated to pay back their scholarship so that IDEA personnel training monies may be preserved for purposes of increasing the availability of individuals qualified to provide services under IDEA.

Subpart A—General

As stated in proposed § 304.1, individuals who receive scholarship assistance from projects funded under the Personnel Preparation to Improve Services and Results for Children with Disabilities Program (program) are required to complete a service obligation, or repay all or part of the costs of such assistance. The service requirement included in the proposed regulations would apply to individuals who receive scholarship assistance from a funded project. Under the proposed regulations, scholarships could be awarded only to individuals pursuing degrees, licenses, certifications, or endorsements related to special education, related services, or early intervention services. An individual who receives training under an IDEA-funded personnel preparation project, but does not receive a scholarship from that project, would not be subject to the service obligation or payback requirements in the proposed regulations.

Proposed § 304.2, which restates section 673(a) of the Act, identifies the program and the purposes for which the program provides financial assistance.

Proposed § 304.3 would define key terms used in this part of the regulations.

The definitions of the terms "related services" and "special education" would be the same as those used in Part B of the Act, while the proposed definition of "early intervention services" would be the same as that used in Part C of the Act.

The proposed definition of "academic year"—a full-time course of study taken for a period totaling at least nine months or for the equivalent of at least two semesters, two trimesters, or three quarters—is based on the standard term typically used in university settings.

The proposed regulations would require scholars to work full-time in a special education, related service, or early intervention position following their training in order to ensure that scholarship recipients focus on providing services to children with disabilities during the period in which they are fulfilling their service obligation. The term "full-time" would mean a full-time equivalent position as defined by the individual's employer or by the agencies served by the individual. The definition is intended to recognize the wide variety of special education, related service, or early intervention settings in which scholars might work subsequent to their training. In some instances, it should be straightforward to determine whether an individual works for one employer (e.g., a school or school district) in a full-time equivalent position or works part-time for multiple employers and the proportion to a full-time equivalent for each position add up to one full time-equivalent job. In other instances, particularly when a self-employed individual provides related services to children with disabilities under Part B, it may be more difficult to determine whether the individual works on a full-time basis. In that case, full-time equivalency would be determined by the school district or agency with which the individual is associated to provide Part B or Part C services. Questions as to whether an individual's job or jobs meets the full-time equivalent requirement shall be determined by the grantee institution from which the individual received his or her scholarship. Nonetheless, the Secretary is particularly interested in public comment on the requirement that IDEA scholars provide special education, related services, or early intervention services on a full-time basis and seeks suggestions as to how full-time equivalency should be measured.

The proposed definition of "scholarship" is based on the definition of that term used in other Department of Education programs, and would include all disbursements or credits for tuition, fees, student stipends, and books, and for travel in conjunction with training assignments.

It should be noted that the term "scholarship" does not include funding to support assistantships for graduate students at institutions of higher education (IHE). Because funding for graduate assistants is conditioned on the individual performing work for the IHE, the service obligation in the proposed regulations does not apply to that type of financial support. Otherwise, the graduate assistants would be required to perform dual service obligations: work for the IHE during training and work in the special education field after training. The Secretary believes that financial support to students enrolled in IDEA personnel training projects must be used primarily for scholarship recipients who will be subject to the service obligation under the Act. Thus, in order to maximize funds available for scholars who must work in the special education, related service, or early intervention field, funding for graduate assistants is not considered "scholarship" assistance. IHE grantees that choose to use IDEA funds to pay graduate assistants to assist in facilitating or administering projects must classify those funds as personnel costs in their grant applications rather than as "scholarship" or "student support."

Subpart B—What Conditions Must Be Met by the Grantee?

Section 304.20 reflects the Secretary's intention to announce for each personnel training grant competition a specific percentage, up to 75 percent, of a grantee's total award that must be used to support scholarships. In interpreting the IDEA Amendments of 1997, the Secretary believes that Congress intended that a large portion of IDEA personnel training funds be used to support scholarships in order to ensure that a greater number of qualified individuals will serve children with disabilities under Parts B and C of the Act. The Secretary shall determine the appropriate percentage of grant funds that must be set-aside for scholarships based on the type of projects that will be funded under a given grant competition and on the Secretary's interest in maximizing the number of scholars who will subsequently work in special education, related service, or early intervention jobs. The proposed provision would allow the Secretary to award grants that use less than the published percentage to pay for scholarships in light of the unique nature of a particular project. For example, a project in which IDEA funds support only university training expenses, while an additional funding source finances student stipends, may be exempted from the published percentage. The Secretary notes, however, that because financial support for graduate assistants is not considered scholarship assistance (see previous discussion), such costs may not be paid from the minimum percentage of grant funds that must be used to support scholarships.

Proposed § 304.21 stipulates the types of costs that would be allowable under program grants. In short, project funds may be used to support costs that are allowable under 34 CFR 75.530 through 75.562 of the Education Department General Administrative Regulations (EDGAR) and to support scholarships (i.e., tuition, fees, student stipends, and books, and travel in conjunction with training assignments).

Proposed § 304.22 identifies requirements that grantees must meet in disbursing scholarships. Proposed paragraph (a) would require grantees to ensure that scholarship recipients satisfy certain citizenship or residency requirements. Proposed paragraph (b) would require grantees to limit the individual's scholarship assistance to the amount by which the cost of attendance at the institution exceeds the amount of any grant assistance the individual receives under Title IV of the Higher Education Act. Proposed paragraph (c) would limit scholarship assistance to an individual's cost of attendance for no more than four academic years total, with exceptions for extensions that are consistent with accommodations provided by the grantee under the Americans with Disabilities Act or Section 504 of the Rehabilitation Act of 1973.

Proposed § 304.23 lists the assurances that must be provided by a grantee intending to provide scholarships. Under proposed paragraph (a), grantees would be required to enter into a written agreement with each scholar who receives a scholarship through an IDEA-supported personnel training project. That agreement would specify the terms and conditions applicable to the scholarship, including the individual's service obligation and responsibility to pay back the scholarship if the individual fails to satisfy that obligation.

Proposed paragraph (b) would identify the service obligation requirements as they apply to

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scholarship recipients under IDEA personnel training grants. Specifically, the proposed provision, which is based on the service obligation requirements stated in section 673(h) of the Act, would require that any individual who receives a scholarship from a training project that prepares personnel to serve children with low- or high-incidence disabilities (section 673(b) and (e) of the Act) or, in appropriate instances as determined by the Secretary, from a training project of national significance (section 673(d) of the Act) shall subsequently maintain employment: (1) By providing special education and related services to children with disabilities or early intervention services to infants and toddlers, and their families; (2) on a full-time basis; and (3) for a period of at least two years for every year for which assistance was received. The service obligation would apply beginning after the recipient completes his or her training and would need to be completed within the number of years of required service (2 years per year of assistance) plus an additional three years. For example, a scholar who received two academic years of scholarship support would have to perform four years of service within seven years from the time the scholar's training ended.

The Secretary has clarified in the proposed regulations that scholars may fulfill their service obligation by providing early intervention services under Part C of the Act. Although section 673(h) of the Act states that individuals must "provide special education and related services to children with disabilities", IDEA clearly authorizes personnel training projects to prepare personnel to provide early intervention services to infants and toddlers with disabilities, and their families. The Secretary believes Congress intended to apply the service obligation and payback requirements to those who receive scholarships from early intervention personnel training projects and that early intervention scholars must be permitted to fulfill their service obligation by working in the field in which they have been trained.

The requirements in proposed paragraph (b)(2) are particularly important to determining whether a former scholar's job would satisfy the service obligation requirements in the proposed regulations. That provision would require scholars to fulfill their service obligation by working in a position or positions "in which a majority of the persons to whom the individual provides services are receiving from the individual special education and related services as defined in Part B of the Act or early intervention as defined in Part C of the Act." In other words, a majority of a teacher's students, or a majority of a service provider's caseload, must be children or infants and toddlers with disabilities. Moreover, the former scholar must actually be providing special education, related services, or early intervention services to those individuals. The Secretary considers this requirement essential in order to ensure that IDEA scholarship monies are used to alleviate shortages of qualified special education, related service, or early intervention personnel. The Secretary is concerned that without this requirement scholars could potentially meet the service obligation without addressing the needs of children with disabilities in any measurable way. For example, serving as a regular education teacher in a class with a sole disabled student, the Secretary believes, is not the type of placement envisioned under section 673(h) of the statute. An IDEA-supported scholar is free to choose such a profession, but would be required to pay back to the Department the amount of scholarship assistance received. On the other hand, an individual who teaches regular and special education classes, and a majority of the teacher's students are receiving special education services from the teacher, would satisfy the proposed service obligation requirement. Similarly, a speech-language pathologist who serves both children and adults with disabilities would satisfy the service obligation provided a majority of the provider's caseload are special education students under Part B or infants and toddlers with disabilities under Part C.

Because scholars who enter leadership positions in special education do not typically serve a classroom or caseload of students, proposed paragraph (b)(3) would apply a somewhat different standard to the service obligation for those who receive scholarships from leadership training projects (section 673(c) of the Act). Such scholars would be required to work full-time, for a period of at least two years for each year of assistance, in a position (or positions) in which a majority of the scholar's time is expended on work related to his or her training (i.e., special education, related service, or early intervention leadership). Determinations as to whether a former scholar in a leadership position meets this time requirement, or whether any scholar meets applicable service requirements, would be made by the grantee institution.

Proposed § 304.23(b)(4) would clarify that the service obligation requirements as applied to part-time scholars will be based on the accumulated academic years of training for which the scholarship is received. As an example, the service obligation for a scholarship recipient enrolled half-time in a training project over four years would be based on two full academic years of training, meaning that the individual must work four years (two years of service per year of assistance) in the special education, related service, or early intervention field, or pay back the scholarship.

Proposed section § 304.23(c) through (f) would respectively identify grantee assurances related to: scholarship repayment, the grantee's standards for measuring a scholar's academic progress, the grantee's system for tracking compliance with the service obligation requirements, and the grantee's procedures for notifying scholars in writing of their service obligation upon their exit from the training project. A grantee would provide assurances to the Secretary that it has established policies or procedures to address each of these requirements, and the remaining requirements in § 304.23, prior to receiving a training grant under IDEA.

Proposed § 304.23(g) and (h) would identify the requirements governing maintenance and submission of information related to each scholarship recipient. Examples include letter form, grantee-developed forms, electronic communications, and other appropriate forms that enable grantees to monitor compliance of scholars with the proposed regulations.

Proposed § 304.23(i) would require grantees to notify the Secretary at the time an individual has failed to fulfill or has chosen not to fulfill the applicable service obligation within the time period specified under paragraph (b)(1)(iii) or (b)(3)(iii) so that the Secretary may initiate repayment procedures.

The Secretary emphasizes that both the Act and the proposed regulations hold grantee institutions responsible for ensuring that scholarship recipients satisfy their service requirements. Accordingly, the requirements of § 304.23 are those that the Secretary considers necessary for grantees to monitor the compliance of individual scholars with their statutory and regulatory obligations.

Subpart C—What Conditions Must Be Met by the Scholar?

Proposed § 304.30 would specify the requirements that a scholar must meet in order to receive a scholarship under the program. Specifically, scholars must: be enrolled in a course of study leading to a degree, certificate, endorsement, or license related to special education, related services, or early intervention services (§ 304.30(a)); enter into with the grantee a written agreement setting forth the service obligation requirements (§ 304.30(b)); receive the applicable training at the educational institution or agency designated in the scholarship (§ 304.30(c)); not accept educational allowances from any other entity if that allowance conflicts with the individual's obligations under the program (§ 304.30(d)); maintain satisfactory progress toward the relevant degree, certificate, endorsement, or license (§ 304.30(e)); and provide any information that the grantee needs in order to track the scholar's progress in meeting the service obligation (§ 304.30(f)).

Proposed § 304.31 would identify the circumstances under which a scholar, who has yet to complete the service obligation, may receive a deferral or exemption to the repayment requirement.

If a former scholar fails to satisfy the applicable service obligation, or fails to obtain an authorized deferral or exception, the scholar must repay the scholarship to the Secretary in accordance with requirements in proposed § 304.32. Proposed paragraph (a) of this section would require that the repayment amount be proportional to the service obligation that the scholar has failed to complete. For example, if a scholar receives two academic years of scholarship assistance, teaches special education for two years (rather than the requisite four), then stops working or changes careers (in a field unrelated to special education, related service, or early intervention), the individual would be required to pay back one-half of the scholarship assistance received.

Proposed § 304.32(b) through (d) would specify the requirements governing the accrual of interest and assessment of costs that would be included as part of the individual's payback obligation. Proposed § 304.32(e) would list the various points at which a scholar enters repayment status.

Finally, proposed § 304.32(f) would authorize the Secretary to establish a repayment schedule that a scholar in repayment status must follow.

Executive Order 12866

1. Potential Costs and Benefits

These proposed regulations have been reviewed in accordance with Executive Order 12866. Under the terms of the order the Secretary has assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the proposed regulations are those resulting from statutory requirements and those determined by the Secretary as necessary for administering this program effectively and efficiently. Burdens specifically associated with information collection requirements are identified and explained elsewhere in this preamble under the heading Paperwork Reduction Act of 1995.

In assessing the potential costs and benefits—both quantitative and qualitative—of these proposed regulations, the Secretary has determined that the benefits of the proposed regulations justify the costs.

To assist the Department in complying with the specific requirements of Executive Order 12866, the Secretary invites comment on whether there may be further opportunities to reduce any potential costs or increase potential benefits resulting from these proposed regulations without impeding the effective and efficient administration of the program.

Summary of Potential Costs and Benefits

The following is an analysis of the costs and benefits of the proposed regulations that are intended to implement the statutory changes made by the IDEA Amendments of 1997. Based on this analysis, the Secretary has concluded that the proposed regulations do not impose significant costs to grantees under this program. An analysis of the specific provisions follows:

Proposed § 304.1 describes the purposes of the regulations. The regulations reflect the essential purpose of the statute, which is to ensure that individuals who receive scholarship assistance from projects funded under the Personnel Preparation to Improve Services and Results for Children with Disabilities Program complete a service obligation, or repay all or part of the costs of such assistance. Any and all benefits and costs associated with this statutory requirement or the proposed regulations flow from this basic requirement. The primary beneficiaries of this requirement would be children with disabilities and their families. In order for the Federal government to justify the expenditure of public funds under this program, certain procedures and documentation are necessary to ensure that goals of the program are achieved. Since the primary goal of this program is to train personnel to provide special education, early intervention, and related services to children with disabilities, Congress has determined that individuals who benefit from financial assistance under this program should return the benefits of that assistance in their field of training. The primary benefit of these regulations is to establish a process to implement this requirement.

The cost of this requirement will be borne by the Federal government, by grantees who administer scholarship programs, and by individuals who receive scholarships from those grantees.

The costs to grantees will be in establishing written agreements with scholars before awarding scholarships, establishing and maintaining information systems for tracking the academic progress of scholars during training and tracking the progress of scholars in meeting their service obligations following training, and in reporting to the Secretary when a scholar fails to fulfill the service obligation.

The costs to individual scholarship recipients will be in satisfying the service obligation following training, providing information to the grantee until completion of the service obligation, and in repaying scholarship assistance if the scholar fails to fulfill the service obligation.

Specific estimates of the costs associated with the regulations affecting each of these parties is provided below. One person hour is assumed to cost $15.00 on average.

Proposed § 304.2 identifies the program and the purposes for which the program provides financial assistance and has no costs associated with it.

Proposed § 304.3 provides definitions of key terms and has no costs associated with it.

Proposed § 304.20 provides information about how the Secretary will set parameters on the proportion of grant funds that must be used for scholarship assistance. Proposed § 304.21 identifies allowable costs under grants. No particular benefits or costs are associated with these provisions.

Proposed § 304.22 includes requirements that grantees must meet in disbursing scholarships, including determining the status of citizenship and eligibility of a scholar for Federal assistance. The regulations would specify citizenship or resident criteria

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for receiving scholarship assistance. An estimated 1,000 person-hours per year would be required, at an estimated cost of $15,000 per year for all grantees.

Proposed § 304.23 includes assurances that must be provided by a grantee that intends to provide scholarships. The scholar and the grantee benefit from this provision which ensures that each has a clear understanding of each party's responsibilities prior to the awarding of a scholarship. An estimated 7,500 person-hours per year would be required, at an estimated cost of $112,500 per year for all grantees.

Proposed § 304.23(b)(3) includes requirements for fulfilling the service obligation as it relates to individuals trained under section 673(c) of the Act, leadership training. No additional costs are associated with this provision.

Proposed § 304.23(b)(4) clarifies that the service obligation requirement as applied to a part-time scholar will be based on the accumulated academic years of training for which the scholarship is received. This provision does not impose costs on grantees or scholars.

Proposed § 304.23(c) through (f) include provisions relating to repayment of all or part of any scholarship received in the event that the service obligation is not fulfilled. The Federal agency must collect repayment of scholarship funds from a scholar who fails to meet the service obligation. Grantees must establish policies and procedures, including a tracking system, to determine the compliance of scholars with the terms of the agreement the scholars entered with the grantee. This one-time cost will vary considerably depending on existing data systems at grantee institutions. An estimated 12,500 person-hours per year would be required, at an estimated cost of $187,500 per year for all grantees. Grantees must establish policies and procedures for receiving written exit certification from scholars that identifies, among other things, the number of years the scholar needs to work to fulfill the service obligation. An estimated 10,000 person-hours per year would be required, at an estimated cost of $150,000 per year for all grantees.

Proposed § 304.23(g) and (h) require the grantee to provide necessary information on a scholar, upon request of the Secretary, and to maintain such information for a period of time equal to the time required to fulfill the service obligation. An estimated 100,000 person-hours per year would be required, at an estimated cost of $1,500,000 per year for all grantees.

Under § 304.23(i), the grantee must inform the Secretary if a scholar fails to fulfill the service obligation. Starting in the fourth or fifth year of the program, an estimated 1,500 person-hours per year would be required for an approximation of 75 cases per year, at an estimated cost of $22,500 in staff time and correspondence for all grantees.

Proposed § 304.30(a) through (f) require that a scholar: be enrolled in a course of study leading to a degree, certificate, endorsement, or license related to special education, related services, or early intervention services; enter into a written agreement with the grantee before starting training; and be trained at the educational institution or agency designated in the scholarship. These decisions are made by scholars in advance of accepting scholarship assistance and are conditions for receiving such assistance. Therefore no costs are associated with the requirements under this provision.

Proposed § 304.31 would provide procedures whereby a scholar could request a deferral or exception to performance of the service obligation or repayment. The costs associated with this requirement would be negligible.

Proposed § 304.32(a) through (d) delineate the monetary payback provisions that would apply if a scholar failed to meet the terms and conditions of a scholarship agreement or to obtain a deferral or an exception to performance or repayment. There are no additional costs associated with these provisions.

Proposed § 304.32(e) specifies when a scholar enters repayment status. Proposed § 304.32(f) requires the scholar to make payments to the Secretary that cover principal, interest, and collection costs according to a schedule established by the Secretary. There are no additional costs associated with these provisions.

2. Clarity of the Regulations

Executive Order 12866 requires each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make these proposed regulations easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed regulations clearly stated? (2) Do the proposed regulations contain technical terms or other wording that interferes with their clarity? (3) Does the format of the proposed regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity? Would the proposed regulations be easier to understand if they were divided into more (but shorter) sections? (A "section" is preceded by the symbol "§" and a numbered heading; for example, § 304.23 *What assurances must be provided by a grantee that intends to provide scholarships?* (4) Is the description of the proposed regulations in the SUPPLEMENTARY INFORMATION section of this preamble helpful in understanding the proposed regulations? How could this description be more helpful in making the proposed regulations easier to understand? (5) What else could the Department do to make the proposed regulations easier to understand?

A copy of any comments that concern how the Department could make these proposed regulations easier to understand should be sent to Stanley M. Cohen, Regulations Quality Officer, U.S. Department of Education, 600 Independence Avenue, SW. (room 5121, FB–10B), Washington, DC 20202–2241.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations would not have a significant economic impact on a substantial number of small entities. The entities that would be affected by these proposed regulations are institutions of higher education that participate in programs under Part D of IDEA. These institutions are defined as "small entities," according to the U.S. Small Business Administration Size Standards, if they are for-profit or nonprofit institutions with total annual revenue below $5,000,000 or if they are institutions controlled by governmental entities with populations below 50,000. These proposed regulations impose minimal requirements to implement the statutory provisions and would not have a significant economic impact on the small entities affected.

Paperwork Reduction Act of 1995

Sections 304.22, 304.23, 304.30, 304.31, and 304.32 contain information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department of Education has submitted a copy of these sections to the Office of Management and Budget (OMB) for its review. The Secretary notes that each grantee has the discretion to determine the method(s) by which it will collect and maintain information.

Collection of Information: Special Education—Personnel Preparation To Improve Services and Results for Children With Disabilities

Annual reporting and record keeping burden for this collection of information is estimated to average 285 hours per year per grantee, or 142,500 hours for 500 grantees. The burden for scholars is approximately 1.3 hours per year for each scholar, or a total of 10,000 hours for a projected 7,500 scholars per year. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the various collections of information. Thus, the total annual reporting and record keeping burden for this collection at the full operation of the program is estimated to be 157,500 hours.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, room 10235, New Executive Office Building, Washington, DC 20503; Attention: Desk Officer for U.S. Department of Education.

The Department considers comments by the public on this proposed collection of information in—

- Evaluating whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical use;
- Evaluating the accuracy of the Department's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

OMB is required to make a decision concerning the collections of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Department on the proposed regulations.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
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Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of this document is the document published in the **Federal Register**.

List of Subjects in 34 CFR Part 304

Grant programs—children with disabilities, special education, Personnel preparation, Reporting and record keeping requirements.

Dated: June 24, 1998.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

(Catalog of Federal Domestic Assistance Number 84.325, Special Education—Personnel Preparation to Improve Services and Results for Children with Disabilities)

The Secretary proposes to amend title 34 of the Code of Federal Regulations by revising Part 304 to read as follows:

PART 304—SPECIAL EDUCATION—PERSONNEL PREPARATION TO IMPROVE SERVICES AND RESULTS FOR CHILDREN WITH DISABILITIES

Subpart A—General

Sec.
304.1 Purpose.
304.2 What is the Special Education—Personnel Preparation to Improve Services and Results for Children with Disabilities Program?
304.3 What regulations apply to this part?
304.4 What definitions apply?

Subpart B—What Conditions Must Be Met by the Grantee?

304.20 What are the requirements for directing grant funds?
304.21 What are allowable costs?
304.22 What are the requirements for grantees in disbursing scholarships?
304.23 What assurances must be provided by a grantee that intends to provide scholarships?

Subpart C—What Conditions Must Be Met by the Scholar?

304.30 What are the requirements for scholars?
304.31 What are the requirements for obtaining a deferral or exception to performance or repayment under an agreement?
304.32 What are the consequences of a scholar's failure to meet the terms and conditions of a scholarship agreement?

Authority: (20 U.S.C. 1473).

Subpart A—General

§ 304.1 Purpose.

Individuals who receive scholarship assistance from projects funded under the Special Education—Personnel Preparation to Improve Services and Results for Children with Disabilities Program are required to complete a service obligation, or repay all or part of the costs of such assistance, in accordance with section 673(h) of the Individuals with Disabilities Education Act and the regulations of this part.

(Authority: 20 U.S.C. 1473(h))

§ 304.2 What is the Special Education—Personnel Preparation to Improve Services and Results for Children With Disabilities Program?

The Special Education—Personnel Preparation to Improve Services and Results for Children with Disabilities Program (program) provides financial assistance under section 673 of the Act to—

(a) Help address State-identified needs for qualified personnel in special education, related services, early intervention, and regular education, to work with children with disabilities; and

(b) Ensure that those personnel have the skills and knowledge, derived from

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practices that have been determined, through research and experience, to be successful, that are needed to serve those children.

(Authority: 20 U.S.C. 1473(a))

§ 304.3 What definitions apply to this program?

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1:

Applicant
Award
Department
EDGAR
Grantee
Project
Recipient
Secretary

(b) The following definitions apply to this program: *Academic year* means a full-time course of study—

(1) Taken for a period totaling at least nine months; or

(2) Taken for the equivalent of at least two semesters, two trimesters, or three quarters.

Act means the Individuals with Disabilities Education Act, 20 U.S.C. 1400 *et seq.*

Early intervention services means early intervention services as defined in section 632(4) of the Act.

Full-time, for purposes of determining whether an individual is employed full-time in accordance with § 304.23, means a full-time equivalent position as defined by the individual's employer or by the agencies served by the individual.

Payback means monetary repayment of scholarship assistance in lieu of completion of a service obligation.

Related services means related services as defined in section 602(22) of the Act.

Scholar means an individual who is pursuing a degree, license, endorsement, or certification related to special education, related services, or early intervention services and who receives scholarship assistance under this part.

Scholarship means financial assistance to a scholar for training under the program and includes all disbursements or credits for tuition, fees, student stipends, and books, and travel in conjunction with training assignments.

Service obligation means a scholar's employment obligation, as described in section 673(h) of the Act and § 304.23(b) of this part.

Special education means special education as defined in section 602(25) of the Act.

(Authority: 20 U.S.C. 1473(h))

§ 304.4 What regulations apply to this program?

The following regulations apply to this program:

(a) The Education Department General Administrative Regulations (EDGAR) in the following part of title 34 of the Code of Federal Regulations:

(1) Part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations).

(2) Part 75 (Direct Grant Programs).

(3) Part 77 (Definitions That Apply to Department Regulations).

(4) Part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(5) Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(6) Part 81 (General Education Provisions Act—Enforcement).

(7) Part 82 (New Restrictions on Lobbying).

(8) Part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(9) Part 86 (Drug-Free Schools and Campuses).

(b) The regulations in this part 304.

(Authority: 20 U.S.C. 1473; 20 U.S.C. 3474(a)

Subpart B—What Conditions Must Be Met by the Grantee?

§ 304.20 What are the requirements for directing grant funds?

(a) The Secretary shall, as appropriate, identify in a notice published in the **Federal Register**, the percentage (up to 75 percent) of a total award under the program that must be used to support scholarships as defined in § 304.3.

(b) The Secretary may award grants that use less than the percentage published under paragraph (a) of this section for scholarships based upon the unique nature of a project.

(Authority: 20 U.S.C. 1473(h))

§ 304.21 What are allowable costs?

In addition to the allowable costs established in the Education Department General Administrative Regulations in 34 CFR 75.530 through 75.562, the following items are allowable expenditures by projects funded under the program:

(a) Tuition and fees.

(b) Student stipends and books.

(c) Travel in conjunction with training assignments.

(Authority: 20 U.S.C. 1473(h))

§ 304.22 What are the requirements for grantees in disbursing scholarships?

Before disbursement of scholarship assistance to an individual, a grantee shall—

(a) Ensure that the scholar—

(1) Is a citizen or national of the United States;

(2) Provides evidence from the U.S. Immigration and Naturalization Service that he or she—

(i) Is a permanent resident of the United States; or

(ii) Is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident; or

(3) Has a permanent or lasting—as distinguished from temporary—principal, actual dwelling place in fact, without regard to intent, in the Republic of the Marshall Islands, the Federated States of Micronesia, or Palau (during the period in which those entities are eligible to receive an award under the program) or the Commonwealth of the Northern Mariana Islands.

(b) Limit scholarship assistance to the amount by which the individual's cost of attendance at the institution exceeds the amount of grant assistance the scholar is to receive for the same academic year under Title IV of the Higher Education Act;

(c) Limit scholarship assistance to the individual's cost of attendance at the institution, consistent with paragraph (b), for no more than a total of four academic years, except that the grantee may provide an extension consistent with the institution's accommodations under the Americans with Disabilities Act or Section 504 of the Rehabilitation Act of 1973, if the grantee determines that an individual has a disability that seriously affects the completion of the course of study;

(d) Obtain a Certification of Eligibility for Federal Assistance from each scholar, as prescribed in 34 CFR 75.60, 75.61, and 75.62.

(Authority: 20 U.S.C. 1473)

§ 304.23 What assurances must be provided by a grantee that intends to provide scholarships?

A grantee that intends to grant scholarships under the program shall provide the following assurances before receiving an award:

(a) *Requirement for agreement.* Each scholar who will receive a scholarship will first enter into a written agreement with the grantee that contains the terms and conditions required by this section.

(b) *Terms of the agreement.* Each agreement under paragraph (a) of this section shall contain, at a minimum, the following provisions:

(1) Individuals who receive scholarship assistance from projects funded under section 673(b) and (e), and to the extent determined appropriate by the Secretary, section 673(d), of the Act will subsequently maintain employment—

(i) In which the individual provides special education and related services to children with disabilities or early intervention services to infants and toddlers, and their families;

(ii) On a full-time basis; and

(iii) For a period of at least two years for every year for which assistance was received, within a period, beginning after the recipient completes the training for which the scholarship assistance was provided, of not more than the sum of the number of years required in this paragraph and three additional years.

(2) In order to meet the requirements of paragraph (b)(1) of this section, an individual must be employed in a position in which a majority of the persons to whom the individual provides services are receiving from the individual special education and related services as defined in Part B of the Act or early intervention services as defined in Part C of the Act.

(3) Individuals who receive scholarship assistance from a leadership preparation project funded under section 673(c) of the Act will subsequently maintain employment—

(i) In which the individual expends a majority of his or her time performing work related to the individual's preparation;

(ii) On a full-time basis; and

(iii) For a period of at least two years for every year for which assistance was received, within a period, beginning after the recipient completes the training for which the scholarship assistance was awarded, of not more than the sum of the number of years required in this paragraph and three additional years.

(4) The service obligation in this subsection as applied to a part-time scholar will be based on the accumulated academic years of training for which the scholarship is received.

(c) *Repayment.* (1) Subject to the provisions in § 304.31 regarding a deferral or exception, a scholar who does not fulfill the requirements in paragraph (b)(1) or (b)(3) of this section, as appropriate, shall repay all or part of any scholarship received, plus interest.

(2) The amount of the scholarship that has not been retired through eligible service will constitute a debt owed to the United States that—

(i) Will be repaid by the scholar in accordance with § 304.32; and

(ii) May be collected by the Secretary in accordance with 34 CFR part 30, in the case of the scholar's failure to meet the obligation of § 304.32.

(d) *Standards for satisfactory progress.* The grantee shall establish, notify students of, and apply reasonable standards for measuring whether a scholar is maintaining satisfactory progress in the scholar's course of study;

(e) *Tracking system.* The grantee has established policies and procedures, including a tracking system, to determine compliance of scholars with the terms of the written agreement developed under this section;

(f) *Exit certification.* The grantee has established policies and procedures for receiving written certification from scholars at the time of exit from the program that identifies—

(1) The number of years the scholar needs to work to satisfy the work requirements in paragraph (b) of this section.

(2) The total amount of scholarship assistance received subject to the work-or-repay provision in paragraph (b) of this section.

(3) The time period, consistent with paragraphs (b)(1)(iii) or (b)(3)(iii) of this section, during which the scholar must satisfy the work requirements in paragraph (b) of this section.

(4) All other obligations of the scholar under this section.

(g) *Information.* The grantee shall provide, upon request of the Secretary, information, including records maintained under paragraphs (e) and (f) of this section, that is necessary to carry out the Secretary's functions under this part.

(h) *Records.* The grantee shall maintain the information under this section related to a scholar for a period of time equal to the time required to fulfill the obligation under paragraph (b) of this section.

(i) *Notification.* The grantee shall inform the Secretary if a scholar fails to fulfill or chooses not to fulfill the obligation under paragraph (b)(1) or (b)(3) of this section.

(Authority: 20 U.S.C. 1473(h))

Subpart C—What Conditions Must be met by the Scholar?

§ 304.30 What are the requirements for scholars?

A scholar shall—

(a) Be enrolled in a course of study leading to a degree, certificate, endorsement, or license related to special education, related services, or early intervention services in order to be eligible to receive a scholarship under the program;

(b) Enter into a written agreement with the grantee that meets the terms and conditions of § 304.23 of this part before starting training;

(c) Receive the training at the educational institution or agency designated in the scholarship;

(d) Not accept payment of educational allowances from any other entity if that allowance conflicts with the scholar's obligation under this part; and

(e) Maintain satisfactory progress toward the degree, certificate, endorsement, or license as determined by the grantee.

(f) Provide information necessary for the grantee to track the scholar's progress in meeting the service obligation under § 304.23(b).

(Authority: 20 U.S.C. 1473(h))

§ 304.31 What are the requirements for obtaining a deferral or exception to performance or repayment under an agreement?

(a) An exception to the repayment requirement in § 304.23(c) may be granted, in whole or part, if the scholar—

(1) Is unable to continue the course of study or perform the service obligation because of a disability that is expected to continue indefinitely; or

(2) Has died.

(b) Deferral of the repayment requirement in § 304.23(c) may be granted during the time the scholar—

(1) Is engaging in a full-time course of study at an institution of higher education;

(2) Is serving, not in excess of three years, on active duty as a member of the armed services of the United States;

(3) Is serving as a volunteer under the Peace Corps Act;

(4) Is serving as a full-time volunteer under Title I of the Domestic Volunteer Service Act of 1973;

(5) Has a disability which prevents the individual from working, for a period not to exceed three years; or

(6) Is unable to secure employment as required by the agreement by reason of the care provided to a disabled family member for a period not to exceed 12 months.

(c) Deferrals or exceptions to performance or repayment may be provided by grantees based upon sufficient evidence to substantiate the grounds for an exception under paragraph (a) of this section or a deferral under paragraph (b) of this section.

(Authority: 20 U.S.C. 1473(h))

§ 304.32 What are the consequences of a scholar's failure to meet the terms and conditions of a scholarship agreement?

If a scholar fails to meet the terms and conditions of a scholarship agreement under § 304.23(b) or to obtain a deferral or an exception as provided in § 304.31, the scholar shall repay all or part of the scholarship assistance to the Secretary as follows:

(a) *Amount.* The amount of the scholarship to be repaid is proportional to the service obligation not completed.

(b) *Interest Rate.* The Secretary charges the scholar interest on the unpaid balance owed in accordance with 31 U.S.C. 3717.

(c) *Interest accrual.* (1) Interest on the unpaid balance accrues from the date the scholar is determined to have entered repayment status under paragraph (e) of this section.

(2) Any accrued interest is capitalized at the time the scholar's repayment schedule is established.

(3) No interest is charged for the period of time during which repayment has been deferred under § 304.31.

(d) *Collection costs.* Under the authority of 31 U.S.C. 3717, the Secretary may impose reasonable collection costs.

(e) *Repayment status.* A scholar enters repayment status on the first day of the first calendar month after the earliest of the following dates, as applicable:

(1) The date the scholar informs the grantee that he or she does not plan to fulfill the service obligation under the agreement.

(2) Any date when the scholar's failure to begin or maintain employment makes it impossible for that individual to complete the service obligation within the number of years required in § 304.23(b).

(3) Any date on which the scholar discontinues enrollment in the course of study under § 304.30(a).

(f) *Amounts and frequency of payment.* The scholar shall make payments to the Secretary that cover principal, interest, and collection costs according to a schedule established by the Secretary.

(Authority: 20 U.S.C. 1473(h))

[FR Doc. 98–18303 Filed 7–9–98; 8:45 am]

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S. 2069/P.L. 105–188

To permit the mineral leasing of Indian land located within the Fort Berthold Indian Reservation in any case in which there is consent from a majority interest in the parcel of land under consideration for lease. (July 7, 1998; 112 Stat. 620)

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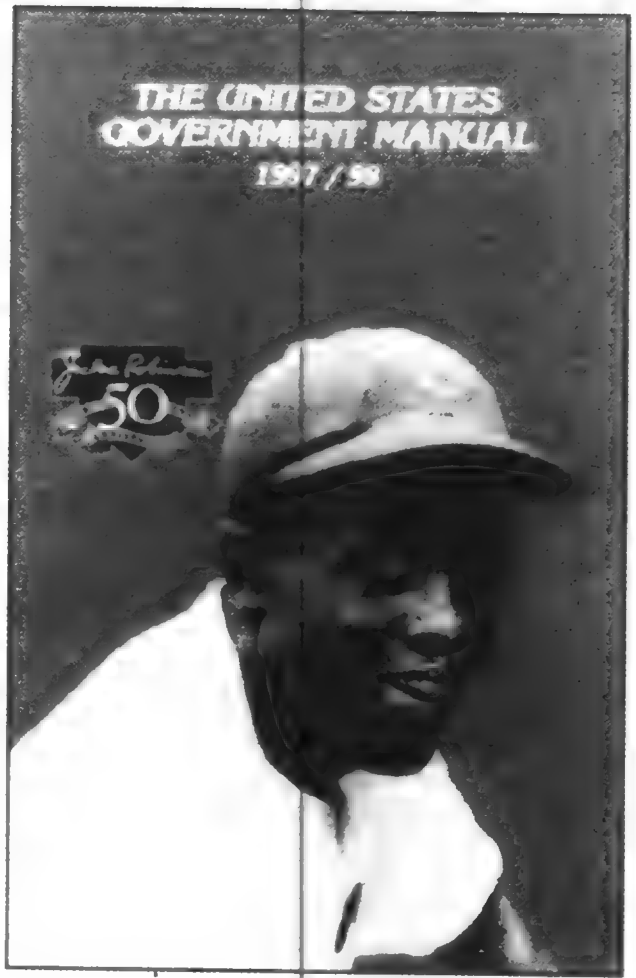

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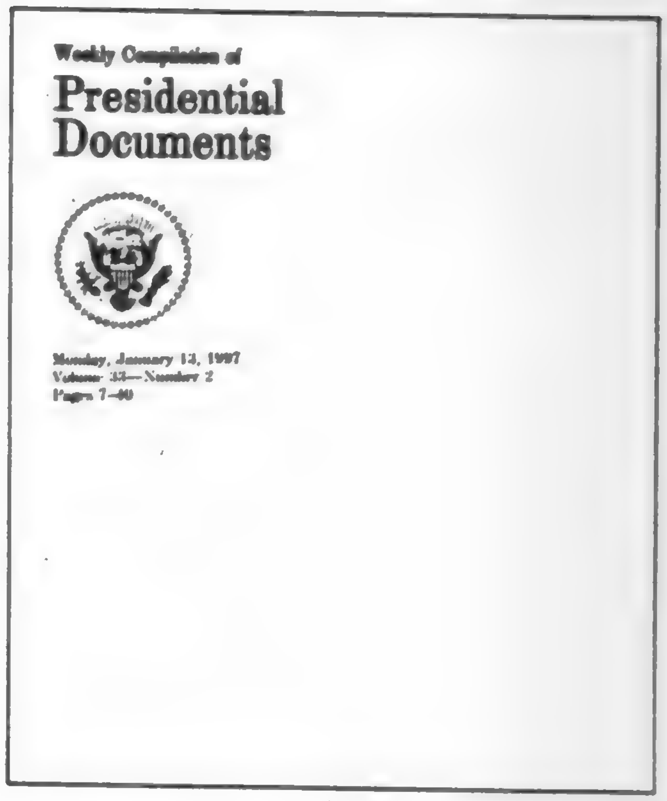

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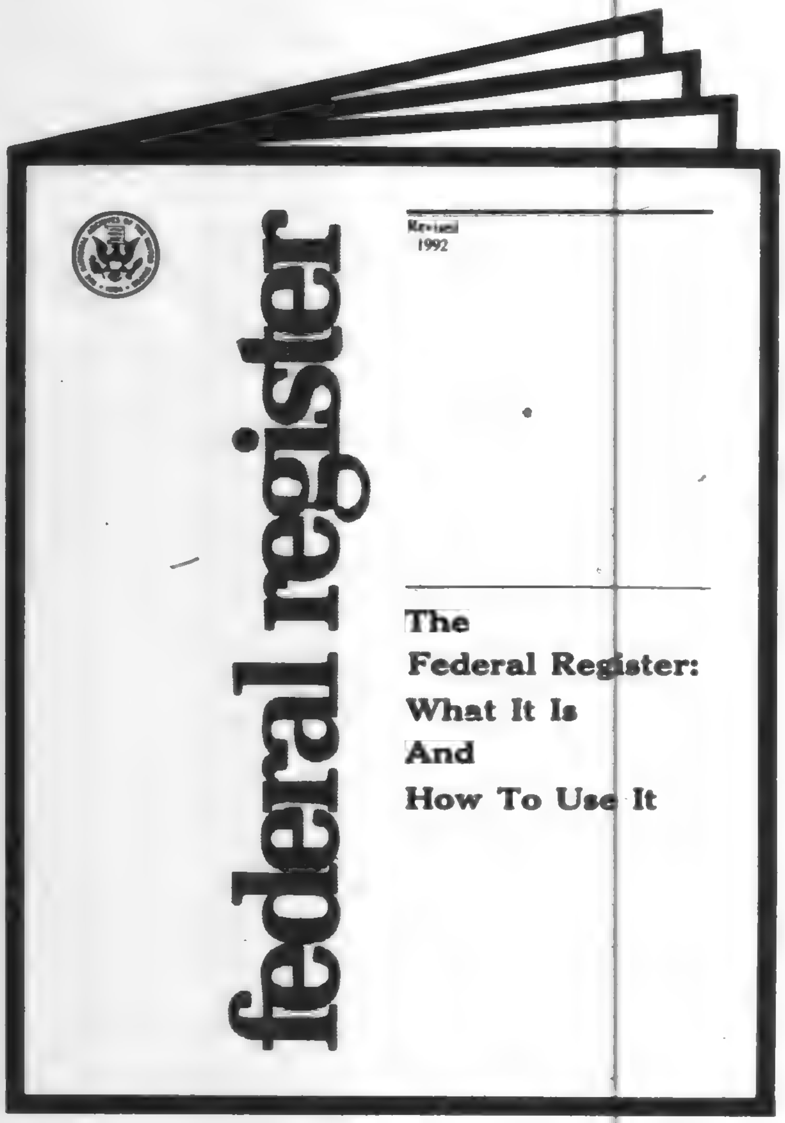

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 911 and 915

[Docket No. FV98-911-2 IFR]

Limes and Avocados Grown in Florida; Relaxation of Container Dimension, Weight, and Marking Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule changes the container requirements prescribed under the Florida lime and avocado Federal marketing orders. The marketing orders are administered locally by the Florida Lime Administrative Committee and the Avocado Administrative Committee (committees). This rule simplifies container marking requirements for both limes and avocados by reducing the number of times the size for limes and the grade for avocados need to appear on a container. This rule also removes weight limits on lime and avocado containers packed within a master container, and relaxes certain minimum weight requirements on containers of avocados. In addition, this rule eliminates specific container dimension requirements for both limes and avocados, but maintains net weight requirements. These changes will reduce handling costs and provide greater flexibility in lime and avocado packing operations.

DATES: Effective July 14, 1998; comments received by September 11, 1998 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456, Fax: (202) 205–6632. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: William G. Pimental, Marketing Specialist, Southeast Marketing Field Office, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883; telephone: (941) 299–4770, Fax: (941) 299–5169; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, F&V, AMS, USDA, room 2522–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 126 and Marketing Order No. 911, both as amended (7 CFR part 911), regulating the handling of limes grown in Florida, and Marketing Agreement No. 121 and Marketing Order No. 915, both as amended (7 CFR part 915), regulating the handling of avocados grown in Florida, hereinafter referred to as the "orders." The marketing agreements and orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

Under the terms of the marketing orders, fresh market shipments of Florida limes and avocados are required to be inspected and are subject to grade, size, maturity, and pack and container requirements. Current pack and container requirements outline the types of information and the number of times this information needs to appear on a container. The requirements also list the specific dimensions of the containers in which the fruit can be packed and the weight restrictions the packed containers must meet.

This rule makes several changes to the orders' pack and container rules and regulations. This rule simplifies container marking requirements for both limes and avocados by reducing the number of times the size for limes and the grade for avocados need to appear on a container. In addition, this rule removes net weight limits on lime and avocado containers packed within a master container, and relaxes certain minimum net weight requirements on containers of avocados. This rule also eliminates specific container dimension requirements for both limes and avocados. These changes will reduce handling costs and provide greater flexibility in lime and avocado packing operations. The committees met several times to discuss and recommend changes needed in the container regulations. The committees met and unanimously recommended these changes on July 9, 1997, August 13, 1997, and February 11, 1998.

Section 911.48 and 915.51 of the orders provide the authority to issue regulations establishing specific pack

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and container requirements for limes and avocados, respectively. These requirements are specified under sections 911.311, 911.329 and 911.344 for limes, and under sections 915.305 and 915.306 for avocados. These sections specify, in part, container size, weight, and marking requirements.

This rule makes several changes to the pack and container provisions under the orders. The first change reduces the number of times the size for limes and the grade for avocados need to appear on a container. Sections 911.311(5)(d) and 915.306(a)(6) of the rules and regulations outline the container marking requirements for limes for size and avocados for grade, respectively. Current requirements specify that the size for limes be marked in letters at least one inch in height on two sides of the container. For avocados, the grade must be stamped in letters at least one inch in height on the top and two sides of the lid. This rule relaxes these requirements by establishing that containers be stamped only once, anywhere except the bottom of the container.

The size and grade information on a container is usually applied automatically by machine, or stamped individually by hand. Each time a container is stamped, there is an associated cost. The committees recommended reducing the number of times a container must be stamped, as well as expanding the possible stamp location, to provide handlers additional flexibility, and to reduce costs.

The committees believe this change will benefit both large and small packing operations. Larger operations use automated stamping. Current stamping requirements mean that each packing line needs to have at least two in-line stamp rollers or ink jet printers. In cases where the line has only one stamping device, the containers must be reversed and run through the line a second time for limes, and three times for avocados. This can take a considerable amount of time. This change will allow containers to move more rapidly through the packing line, reduce the number of stamping machines required, and decrease the costs associated with these activities.

Most smaller operations stamp the containers by hand. To meet the current requirements, each box must be rotated and stamped in more than one location. This increases the time and effort needed to pack each box. Reducing the number of times a container must be stamped will decrease the amount of labor needed and the associated stamping costs required to meet these requirements.

The requirement that containers be stamped more than once with size or grade information originated from the way limes and avocados were marketed by retailers in the past. Limes and avocados were, at one time, marketed and sold out of the containers in which the fruit was originally packed. Having the information on the container appear in several locations was done so that the customer could read it. However, the way limes and avocados are marketed has changed. Rather than being presented in the shipping container, retailers move the fruit to display bins.

The stamping of containers with required information benefits the retailer and helps the committees' check that the lots (shipments) meet order requirements. Retailers tend to buy in large lots, purchasing a specified size and grade. The number of times an individual box needs to be stamped is less important. The committees anticipate that this change will reduce costs and give handlers additional flexibility under the rules and regulations. Therefore, the committees recommended relaxing the stamping requirements for both limes and avocados.

The next change this rule makes is to the weight limits on individual containers that are packed inside larger master containers. Sections 911.329(a)(3) and 915.305(b) specify that individual packages of limes or avocados contained within master containers are not to exceed four pounds in weight. This rule relaxes this weight limit, allowing packaged limes or avocados contained within master containers to exceed four pounds in weight.

The committees are always looking for ways to strengthen and expand the market for limes and avocados. One way they do this is through the approval of experimental containers not currently included under the regulations. This is done for market research purposes. The committees use such research to determine the benefits and acceptance of different containers in the marketplace.

The use of master containers packed with limes and avocados in packages in excess of 4 pounds has been approved on an experimental basis. The approvals were made to allow handlers to meet specific requests from their customers. Consequently, these larger sized packages within a master container have been shown to have a market potential.

The committees both discussed the merits of eliminating the four pound limit on packages within a master container. The committees believe this change will provide handlers with additional marketing flexibility, increased sales potential, and with more opportunities to satisfy customers with special needs. Based on the information collected from the use of the trial containers, the committees recommended that the four pound limit on packages within a master container be removed.

This rule also lowers certain minimum net weight requirements for containers of avocados. Section 915.305 specifies minimum weight requirements for avocados packed under the marketing order for avocados grown in Florida. The current regulations specify that avocados be packed in containers of 8.5, 12½, 25, 32, or 34 pounds designated net weights. This rule reduces the net weight requirements of 12½, 25, 32, and 34 pounds to 12, 24, 31, and 33 pounds, as recommended by the Avocado Administrative Committee (AAC). AAC members agreed that the problems prompting this change were more prevalent in the containers associated with the last four weights. Therefore, no change was recommended for the 8.5 pound designated net weight.

Handlers use containers that are associated by size with the minimum weights listed under the rules and regulations. These weight requirements closely match the capacity of the containers. These containers are inspected by the Federal-State Inspection Service (FSIS). One of the things FSIS checks is whether the packed containers meet the established minimum weight requirements.

An allowable tolerance for variation from the requirements is specified under the rules and regulations. With respect to each lot of containers of minimum weights 12½ and 25 pounds, only 5 percent or less, by count, of the individual containers in the lot may fail to meet the applicable specified weight. The tolerance is 10 percent for minimum weights of 32 and 34 pounds. If the allowable tolerances are exceeded, the lot fails inspection and would need to be reworked and repacked before it could meet inspection.

Failing inspection and having to rework a lot after it has been packed results in a considerable loss of time and money for the individual handler. One AAC member used the example of a 12½ pound net weight container packed with 16 ounce avocados in a single layer with 12 avocados per layer to illustrate the problem. He said that when FSIS found the minimum weight to be 8 ounces short in enough boxes to exceed the tolerance, they would fail the lot, requiring it to be redone. Handlers then are forced to make a choice between adding an additional avocado to each container, or risk the possibility of failing the minimum net weight requirement. AAC members concurred with the problem presented by this particular situation. Several handlers stated that rather than risk being underweight, they would force an additional avocado into the container. The handlers agreed that in many cases, this meant that they were literally giving one avocado per pack away.

In addition, members stated that this practice of over packing the containers was having a negative effect on the avocados during shipment. The AAC discussed that some shipments were being received out of the production area in poor condition due to the over filling of containers to ensure compliance with the minimum net weight requirements. The containers were so tightly packed that the avocados were bruised or damaged in transit.

The AAC understands the benefits of a uniform pack. However, in this case, the requirements were having a negative effect on the condition of the avocados. Changing container sizes to better accommodate the required weights would be difficult and costly. Handlers have containers in inventory, and have their equipment adjusted to those containers. By lowering the minimum net weights, handlers will be able to use the boxes they have. This change will also reduce the need to add additional avocados to meet net weight requirements. In addition, it will help reduce the possibility of containers failing the minimum weight requirement, and save handlers the expense of reworking failed lots of avocados. This change also will benefit growers by providing greater packouts and additional grower revenue. Therefore, the AAC recommended lowering the minimum net weights of 12½, 25, 32, and 34 pounds to 12, 24, 31, and 33 pounds designated net weights. However, this action does not change the established tolerances or the requirement for a fairly tight pack.

The final change made by this rule is the elimination of specific container dimension requirements from both orders' rules and regulations. Current requirements include dimensions for all authorized containers of limes and avocados, specifying specific measurements for height, width, and depth. This rule eliminates the specific dimension constraints, but maintains the container net weight requirements.

Sections 911.329 and 915.305 of the rules and regulations outline container dimension requirements for limes and avocados, respectively. These sections establish specific interior dimensions in inches for containers approved for use under the orders. The dimensions vary from a small 5.5 pound container with measurements of 7½ × 11⅞ × 4¼ inches to a large 42 pound container with measurements of 12¾ × 15¼ × 10¾ inches for limes. Avocados also have similar specific interior dimensions, from a small 8.5 pound container with dimensions of 16½ × 13½ × 3¼ inches to a large 34 pound container with dimensions of 11 × 16¼ × 10¾ inches.

A recent review of the containers in use throughout the industry revealed that interior dimensions varied from handler to handler, and in many cases, were different than those specified in the rules and regulations. Some of the differences occurred in the box manufacturing process, where tolerances were granted to allow for equipment adjustments.

While the dimensions of containers has varied throughout the industry, the adherence to the net weight requirements has not. Under current inspection procedures, the containers are being weighed and checked for compliance with net weight requirements. This means that even though container dimensions may vary somewhat among individual handlers, the essential volume among like containers is the same. Therefore, rather than revising the rules and regulations to incorporate numerous additional containers with specific dimensions, the committees voted to eliminate the references to set measurements while maintaining the container net weight requirements.

The committees concluded that requiring handlers to use containers with specific dimensions is not necessary as long as the containers used contain a net weight specified in the requirements. The committees believe that even with this change, the rules and regulations continue to promote the shipment of a uniform product. The committees also anticipate that this change will reduce costs by allowing handlers to use boxes in inventory, rather than ordering new containers and making adjustments to equipment. They thought that removing specific container dimension requirements provided handlers with additional packing flexibility under the rules and regulations. They also agreed this change made more sense than trying to add the dimensions of all the containers currently in use to the requirements. Therefore, the committees recommended removing the regulations requiring specific interior dimensions for containers. However, all containers must continue to meet the specific net weight requirements as they appear in the rules and regulations.

Section 8e of the Act provides that when certain domestically produced commodities, including limes and avocados, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, and maturity requirements. This rule changes the container marking and minimum net weight requirements currently issued under these orders. Therefore, no change is necessary in the lime or avocado import regulations.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), AMS has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 111 lime producers and 141 avocado producers in the production area and approximately 33 lime handlers and 49 avocado handlers subject to regulation under the marketing orders. Small agricultural producers have been defined by the Small Business Administration (SBA) as those having annual receipts less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000 (13 CFR 121.601).

Based on the Florida Agricultural Statistical Service and committee information, the average on-tree price for fresh limes during the 1996–97 season was $7.10 per 88 pound box equivalent and shipments totaled 398,279 bushels (55 pound bushel). Approximately 20 percent of all handlers handled 86 percent of Florida lime shipments.

The average price for fresh avocados during the 1997–98 season was $14.60 per 55 pound bushel box equivalent for all domestic shipments and the total shipments were 937,568 bushels. Approximately 10 percent of all handlers handled 90 percent of Florida avocado shipments. Many lime and avocado handlers ship other tropical fruit and vegetable products which are not included in the committees' data but

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would contribute further to handler receipts.

Using these prices, about 90 percent of lime and avocado handlers could be considered small businesses under the SBA definition and about 10 percent of the handlers could be considered large businesses. The majority of Florida lime and avocado producers and handlers may be classified as small entities.

Under § 911.48 and § 915.51 of the marketing orders for limes and avocados grown in Florida, the committees have the authority to establish and modify pack and container requirements for limes and avocados handled under the order. Current pack and container requirements outline the types of information and the number of times this information needs to appear on a container. The requirements also list the specific requirements as to container size and weight restrictions the packed container must meet.

This rule makes several changes to §§ 911.311 and 911.329, and §§ 915.305 and 915.306 of the rules and regulations concerning the pack and container requirements for limes and avocados, respectively. This rule simplifies container marking requirements for both limes and avocados by reducing the number of times the size for limes and the grade for avocados need to appear on a container. This rule also removes net weight limits on lime and avocado containers packed within a master container, and relaxes certain minimum net weight requirements on packed avocados. In addition, this rule eliminates specific container dimension requirements for both limes and avocados. These changes will reduce handling costs and provide greater flexibility in lime and avocado packing operations.

This rule will have a positive impact on affected entities. The changes were recommended to reduce costs and provide additional flexibility in packing limes and avocados. None of the changes are expected to increase costs associated with the pack and container requirements.

The change in the stamping requirement will allow containers to move more rapidly through the packing line, reduce the number of stamping machines and labor needed, and decrease costs associated with complying with the marking requirements.

The committees believe this change will benefit both large and small packing operations. Larger operations use automated stamping. Current stamping requirements mean that each packing line needs to have at least two in-line stamp rollers or ink jet printers. In cases where the line has only one stamping device, the containers must be reversed and run through the line a second time for limes, and three times for avocados. This can take a considerable amount of time. This change will allow containers to move more rapidly through the packing line, reduce the number of stamping machines required, and decrease the costs associated with these activities.

Most smaller operations stamp the containers by hand. To meet the current requirements, each box must be rotated and stamped in more than one location. This increases the time and effort needed to pack each box. Reducing the number of times a container must be stamped will decrease the amount of labor needed and the associated stamping costs required to meet these requirements.

The change in net weight of a container packed within a master container will provide handlers with more options in how they use a master container, and provide handlers greater flexibility in addressing the needs of customers.

Lowering certain minimum net weight requirements for avocados will reduce the practice of over filling containers to ensure compliance with the minimum net weight requirements. Some handlers have been packing the containers so tightly that the avocados were bruised or damaged in transit. This change will reduce the need to add additional avocados to meet net weight requirements, thus, saving on costs from adding additional fruit to the containers and damaged fruit. This change also will help reduce the possibility that containers will fail the minimum weight requirement, saving the handler the expense of reworking failed lots of avocados. Growers also might benefit from this change. If less fruit damage results in increased customer satisfaction and higher f.o.b. prices, some additional revenue might be passed on to the growers.

A recent review of the containers in use throughout the industry revealed that the interior dimensions varied with each packer, and in many cases, were different than those specified in the rules and regulations. Absent this change eliminating specific container dimensions, some handlers would need to bear the expense of ordering new boxes, and take a loss on the boxes they have in inventory, or petition the committees to expand the list of approved container dimensions. The elimination of specific container dimension requirements from both orders' rules and regulations will reduce costs to handlers by allowing handlers to use boxes in inventory, rather than having to order new containers.

As long as the containers contain enough limes or avocados to meet net weight requirements, the committees believe that different container dimensions are not necessary. The committees believe that even with this change, the rules and regulations will continue to promote the shipment of uniform product, while providing handlers additional latitude in their choice of containers.

These changes are intended to reduce costs and provide additional flexibility for all those covered under the orders. The opportunities and benefits of this rule are expected to be equally available to all lime and avocado handlers and growers regardless of their size of operation.

Other alternatives to the actions approved were considered by the committees prior to making the recommendations. One alternative discussed by the committees regarding the stamping question was to require containers to continue to be stamped on two sides for limes, and on the top and two sides of the lid for avocados. The committees believed that this is a duplicate effort that provides little benefit and increases associated packing costs. They rejected this alternative.

The committees also considered an alternative to the change recommended regarding the weight of containers packed within a master container. The committees discussed establishing another net weight limitation above the current four pound restriction. However, the committees believed that just increasing the weight limit would still limit flexibility and rejected that option.

The AAC considered several alternatives to relaxing specific minimum net weight requirements. One alternative discussed was increasing the percentage tolerance in terms of the number of containers that could fail to meet the weight requirements before the entire lot would fail. Members were concerned that raising the allowable tolerance would have a negative impact on the uniformity of the pack, allowing for too much variance from the standard. There was also concern that this may not fully address the problem. Even with the increased tolerance, to avoid reaching the limit, there would still be cause to over pack containers. Another alternative considered was to change the way the tolerance was measured, changing from containers per lot to an average of containers packed on a given day. Under this alternative, a handler would not know if they had exceeded the allowable tolerance until the end of the packing day. This would mean that if a handler was found to be out of compliance, they would be out of compliance for the whole day, requiring a rework of all the fruit packed that day rather than only the lots that failed. The committees also considered changing the container requirements to specify containers that were wider and longer than present containers. Discussion concluded that there were already numerous containers and that adding or changing several containers to cover all the weights, sizes, and varieties would make things more complicated. It would also increase the financial burden by requiring the purchase of new boxes, and the modifying of equipment and pallets to accommodate the change. Therefore, the committees dismissed these alternatives.

Two alternatives to eliminating specific container dimension requirements were presented for discussion. One alternative was to leave all lime and avocado containers as they are now. A review of the containers in use throughout the industry revealed that interior dimensions varied from handler to handler and in many cases, were different than those specified in the rules and regulations. However, not making this change could result in additional costs for handlers. The second alternative centered on adjusting the regulations to accommodate all the containers currently in use. The committees rejected the idea of adding more containers to the regulations as making things overly complicated with little discernable benefit. The committees believed that the recommended change will continue to promote the shipment of uniform product, require no additional cost, and allow handlers additional flexibility in choice of containers. Based on this discussion, this alternative was rejected.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large lime or avocado handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sectors. In addition, the Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

Further, the committees' meetings were publicized throughout the lime and avocado industries and all interested persons were invited to attend the meetings and participate in the committees' deliberations. Like all the committees' meetings, the July 9, 1997, August 13, 1997, and February 11, 1998, meetings were public meetings and all entities, both large and small, were able to express their views on these issues. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

After consideration of all relevant material presented, including the committees' recommendations, and other information, it is found that this interim final rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

This rule invites comments on changes to the pack and container requirements currently prescribed under the Florida lime and avocado marketing orders. Any comments received will be considered prior to finalization of this rule.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) Handlers are currently shipping limes and will begin to ship avocados shortly; (2) the committees unanimously recommended these changes at public meetings and interested persons had an opportunity to provide input; (3) this rule relaxes container size, weight, and marking requirements; (4) Florida lime and avocado handlers are aware of this rule and need no additional time to comply with the relaxed requirements; and (5) this rule provides a 60-day comment period and any comments received will be considered prior to finalization of this rule.

List of Subjects

7 CFR Part 911

Limes, Marketing agreements, Reporting and recordkeeping requirements.

7 CFR Part 915

Avocados, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR parts 911 and 915 are amended as follows:

1. The authority citation for both 7 CFR parts 911 and 915 continues to read as follows:

Authority: 7 U.S.C. 601–674.

PART 911—LIMES GROWN IN FLORIDA

2. In § 911.311, the introductory text of paragraph (d) is revised to read as follows:

§ 911.311 Florida lime pack and container marking regulation.

* * * * *

(d) No handler shall handle any container of seedless limes, grown in the production area, unless such container is marked once on the top or on any one side of the container, not to include the bottom, with letters at least one inch in height with one of the size designations shown in column 1 of the following table: *Provided,* That the number of seedless limes in a ten pound sample of a particular size designation, representative of the limes in the container, corresponds to the permissible size range in column 2 of such table for such size designation: *Provided further,* That not more than 10 percent of the containers in any lot may fail to meet these requirements.

* * * * *

3. In § 911.329, paragraphs (a)(2)(iv) through (a)(2)(xi) are removed, and paragraphs (a)(2)(i) through (a)(2)(iii) and paragraph (a)(3) are revised to read as follows:

§ 911.329 Florida lime container regulation.

(a)(1) * * *

(2) * * *

(i) All limes shall be packed in containers of 5.5, 8, 10, 20, and 38 pounds designated net weights. The net weight of the contents shall not be less than the designated net weight. The net weight of limes shall not exceed the designated net weight by more than two pounds for 10 and 20 pound containers, and shall not exceed the designated net weight by more than four pounds for 38 pound containers. Further, the net weight shall not exceed the designated net weight by more than one pound for 8 pound containers, and this container shall be for export shipments only.

(ii) When a container of 38 pounds designated net weight is used as a master container for bagged limes, the minimum net weight of limes shall be 35 pounds, provided the container is marked "Master Container."

(iii) Such other types and sizes of containers as may be approved by the Florida Lime Administrative Committee, with the approval of the Secretary, for testing in connection with a research project conducted by or in cooperation with said committee: *Provided,* That the handling of each lot of limes in such test containers shall be

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subject to the prior approval, and under the supervision of, the Florida Lime Administrative Committee.

(3) The limitations set forth in paragraph (a)(2) of this section shall not apply to master containers of individual packages, including individual bags of limes: Provided, That the markings or labels, if any, on such packages do not conflict with the markings or labels on the master container.

* * * * *

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

4. Section 915.305, is revised to read as follows:

§ 915.305 Florida Avocado Container Regulation 5.

(a) No handler shall handle any avocados for the fresh market from the production area to any point outside thereof in containers having a capacity of more than 4 pounds of avocados unless the containers meet the requirements specified in this section: *Provided*, That the containers authorized in this section shall not be used for handling avocados for commercial processing into products pursuant to § 915.55(c). All avocados shall be packed in containers of 33, 31, 24, 12, and 8.5 pounds designated net weights and shall conform to all other applicable requirements of this section:

(1) Containers shall not contain less than 33 pounds net weight of avocados, except that for avocados of unnamed varieties, which are avocados that have not been given varietal names, and for Booth 1, Fuchs, Trapp varieties, such weight shall be not less than 31 pounds with respect to each lot of such containers, not to exceed 10 percent, by count, of the individual containers in the lot may fail to meet the applicable specified weight but no container in such lot may contain a net weight of avocados exceeding 2 pounds less than the specified net weight, and each avocado in such container in a lot shall weigh at least 16 ounces, except that not to exceed 10 percent, by count, of the fruit in the lot may fail to meet such weight requirement but not more than double such tolerance shall be permitted for an individual container in the lot; or

(2) Containers shall not contain less than 24 pounds net weight of avocados: *Provided*, That not to exceed 5 percent, by count, of such containers in any lot may fail to meet such weight requirement. All avocados packed at this designated net weight shall be placed in two layers and the net weight of all avocados in any such container shall not be less than 24 pounds: *Provided*, That the requirement as to placing avocados in two layers only shall not apply to such container if each of the avocados therein weighs 14 ounces or less; or

(3) Containers shall not contain less than 12 pounds net weight of avocados: *Provided*, That not to exceed 5 percent, by count, of such containers in any lot may fail to meet such weight requirement. All avocados packed at this designated net weight shall be placed in one layer only and the net weight of all avocados in any such container shall not be less than 12 pounds; or

(4) Containers shall not contain less than 8.5 pounds net weight of avocados: *Provided*, That not to exceed 5 percent, by count, of such containers in any lot may fail to meet such weight requirement. All avocados packed at this designated net weight shall be placed in one layer only and the net weight of all avocados in any such container shall not be less than 8.5 pounds. Such containers shall be for export shipments only.

(5) Such other types and sizes of containers as may be approved by the Avocado Administrative Committee, with the approval of the Secretary, for testing in connection with a research project conducted by or in cooperation with said committee: *Provided*, That the handling of each lot of avocados in such test containers shall be subject to prior approval, and under the supervision of, the Avocado Administrative Committee.

(b) The limitations set forth in paragraph (a) of this section shall not apply to master containers for individual packages of avocados: *Provided*, That the markings or labels, if any, on the individual packages within such master containers do not conflict with the markings or labels on the master container.

5. In § 915.306, paragraph (a)(6) is revised to read as follows:

§ 915.306 Florida avocado grade, pack, and container marking regulation.

(a)* * *

(6) Such avocados when handled in containers authorized under § 915.305, except for those to export destinations, are marked once with the grade of fruit in letters and numbers at least one inch in height on the top or one side of the container, not to include the bottom, effective each fiscal year from the first Monday after July 15 until the first Monday after January 1.

* * * * *

Dated: July 7, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–18459 Filed 7–10–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 3

[Docket No. 98–044–1]

Animal Welfare; Primary Enclosures for Dogs and Cats

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the regulations under the Animal Welfare Act pertaining to primary enclosures for dogs and cats by removing the requirement that primary enclosures with flooring made of mesh or slatted construction include a solid resting surface. This requirement was erroneously added in a recent final rule that amended the requirements for primary enclosures for dogs and cats to prohibit bare wire flooring in such enclosures. However, we do not believe that it is necessary for primary enclosures with acceptable flooring of mesh or slatted construction to include a solid resting surface. Therefore, this action relieves an unnecessary and unintended requirement.

DATES: Interim rule effective July 14, 1998. Consideration will be given only to comments received on or before September 11, 1998.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 98–044–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 98–044–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Smith, Staff Animal Health Technician, Animal Care, AC, APHIS, 4700 River Road Unit 84, Riverdale, MD 20737–1234, (301) 734–4972.

SUPPLEMENTARY INFORMATION:

Background

Under the Animal Welfare Act (AWA) (7 U.S.C. 2131 *et seq.*), the Secretary of Agriculture is authorized to promulgate standards and other requirements governing the humane handling, housing, care, treatment, and transportation of certain animals by dealers, research facilities, exhibitors, and carriers and intermediate handlers. The Secretary of Agriculture has delegated the responsibility for enforcing the AWA to the Animal and Plant Health Inspection Service. Regulations established under the AWA are contained in 9 CFR parts 1, 2, and 3. Subpart A of 9 CFR part 3 (referred to below as the regulations) contains specific standards for the humane handling, care, treatment, and transportation of dogs and cats.

On January 21, 1998, we published in the **Federal Register** a final rule (63 FR 3017–3023, Docket No. 95–100–2, effective February 20, 1998) that amended the regulations pertaining to primary enclosures for dogs and cats. The final rule added two new requirements: (1) If a primary enclosure has a suspended floor made of metal strands, the strands must be greater than ⅛ of an inch in diameter or coated with a material such as plastic or fiberglass, and (2) any kind of suspended floor in a primary enclosure must be strong enough so that the floor does not bend or sag between the structural supports. In essence, the final rule prohibited the use of bare wire (meaning uncoated metal strands having a diameter of ⅛ of an inch or less) in suspended flooring of primary enclosures for dogs and cats. We made these changes because we determined that bare wire flooring is uncomfortable for the feet of dogs and cats and contributes to foot injuries and that suspended flooring made of coated wire or of metal strands larger in diameter than wire causes fewer such problems. We have also found that many dogs acquire foot lesions and suffer psychological trauma from trying to balance on suspended floors that sag and bend. The rule was effective February 20, 1998, but had two compliance dates: For primary enclosures constructed on or after February 20, 1998, and for floors installed or replaced on or after that date, the compliance date was February 20, 1998; for all other primary enclosures, the compliance date is January 21, 2000.

In the final rule, we removed the word "wire" in reference to flooring material in dog and cat primary enclosures from every section in the regulations where the word appeared. We made these changes because, as stated previously in this document and in the preamble to the final rule, we consider wire to be metal strands ⅛ of inch or less in diameter, and the final rule effectively prohibited the use of wire in flooring of primary enclosures for dogs and cats, unless the wire is coated with a material such as plastic or fiberglass.

One section of the regulations where the word "wire" appeared is § 3.6(a)(2), which specifies requirements for the construction and maintenance of primary enclosures for dogs and cats. Prior to publication of the final rule, § 3.6(a)(2)(x) provided, among other things: "If the floor of the primary enclosure is constructed of wire, a solid resting surface or surfaces that, in the aggregate, are large enough to hold all the occupants of the primary enclosure at the same time comfortably must be provided." The solid resting surface was necessary to provide relief to animals housed in primary enclosures with bare wire flooring.

The final rule removed the words "constructed of wire" from this sentence and replaced them with the words "of mesh or slatted construction." We made this change in error. By changing the words "constructed of wire" in § 3.6(a)(2)(x) to "of mesh or slatted construction," we unintentionally promulgated a new requirement.

Dog and cat primary enclosures with suspended floors of mesh or slatted construction (other than those constructed of bare wire) were not previously required to include a solid resting surface. As a result of the change to § 3.6(a)(2)(x) in our final rule, all primary enclosures with suspended flooring of mesh or slatted construction are required to include a solid resting surface. We do not believe that this requirement is necessary. Because suspended floors of mesh or slatted construction, except for those made of bare wire, are relatively safe and comfortable for dogs and cats, we do not believe that a separate solid resting surface in primary enclosures with suspended flooring of acceptable materials is necessary to ensure the animals' comfort and safety. Moreover, we have found that some regulated parties find it difficult to keep solid resting surfaces in primary enclosures for dogs and cats clean and sanitary because of problems associated with the animals' waste.

Because bare wire floors are now prohibited in primary enclosures, and because we believe that other types of mesh or slatted floors are safe and comfortable for dogs and cats, we are amending § 3.6(a)(2)(x) to remove the requirement that a solid resting surface or surfaces must be provided in primary enclosures with floors of mesh or slatted construction. As a result, solid resting surfaces are not required in primary enclosures with any kind of suspended flooring. However, this interim rule does not prohibit the inclusion of solid resting surfaces in dog and cat primary enclosures with suspended flooring. Regulated parties who can maintain solid resting surfaces in dog and cat primary enclosures and wish to provide such surfaces for their animals may do so.

Immediate Action

The Administrator of the Animal and Plant Health Inspection Service has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. Immediate action is warranted to relieve unnecessary restrictions on regulated parties. Prior to publication of a final rule in the January 21, 1998, **Federal Register** (63 FR 3017–3023, Docket No. 95–100–2), primary enclosures with suspended floors of mesh or slatted construction (other than those made of bare wire) were not required to include solid resting surfaces for the enclosed dogs or cats. In that final rule, we unintentionally added a requirement that dog and cat primary enclosures with such flooring include a solid resting surface. We do not believe that this requirement is necessary to ensure the safety and well-being of dogs and cats covered by the Animal Welfare Act. Therefore, we are publishing this action, which relieves an unnecessary requirement that was promulgated in error, as an interim rule.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make this action effective one day after publication in the **Federal Register**. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

This rule removes a requirement under the Animal Welfare Act (AWA) regulations that primary enclosures used for dogs and cats and having suspended flooring of mesh or slatted construction include solid resting surfaces. Promulgated in error, this requirement has placed an unnecessary and unintentional burden on regulated entities. As explained below, this rule will benefit entities who house dogs and cats in primary enclosures that have suspended flooring of mesh or slatted construction. These regulated entities will avoid the cost of purchasing the resting surfaces, as well as the cost of cleaning those surfaces following installation. However, the rule does not preclude regulated entities who wish to provide such surfaces for their animals from doing so.

The Regulatory Flexibility Act requires that agencies consider the economic impact of rules on small entities. This rule will primarily affect animal dealers and research facilities licensed or registered under the AWA. The exact number of entities affected by the rule is unknown because the number of AWA licensees and registrants who house dogs and cats in primary enclosures that have suspended floors of mesh or slatted construction is unknown. However, it is estimated that roughly half of the 4,265 licensed dealers and many of the 2,506 registered research facilities will be affected.[1] The rule's impact on regulated exhibitors is insignificant because most do not exhibit dogs and cats. Registered carriers and intermediate handlers are also largely unaffected because they only transport animals so they do not maintain "primary" enclosures for regulated animals.

The number of dealers and research facilities that are considered small entities under U.S. Small Business Administration (SBA) standards is unknown because information as to their size (in terms of gross receipts or number of employees) is not available. However, it is reasonable to assume that most are small in size, based on composite data for providers of the same and similar services in the United States. In 1992, the per-firm average gross receipts for all 6,804 firms in SIC (Standard Industrial Classification) 0752, which includes dog and cat breeders, was $115,290, well below the SBA's small entity threshold of $5 million. Similarly, the 1992 per-establishment average employment for all 3,826 U.S. establishments in SIC 8731, which includes research facilities, was 29, well below the SBA's small entity threshold of 500 employees. It is very likely, therefore, that small entities will be the principal beneficiaries of the rule.

Solid resting surfaces used in dog and cat primary enclosures are made of a variety of materials, including fiberglass, galvanized metal, or wood, but the most common material used is rubber matting. The average cost of such surfaces is minimal—about $5 per enclosure. The resting surfaces are usually not affixed to the enclosures; they are simply placed on top of the suspended flooring, so as to allow for easy removal and cleaning. For that reason, there is virtually no labor cost associated with the installation of such surfaces. Thus, if a breeder had to install resting surfaces in 120 enclosures, the total cost would be about $600. However, solid resting surfaces have to be replaced over time. The replacement rate is unknown and depends on the type of material used. Those resting surfaces made of fiberglass or galvanized metal, for example, have to be replaced less frequently than those made of wood. As a result of the rule, affected entities will avoid this ongoing replacement cost.

Resting surfaces are usually cleaned by hosing them down. They are cleaned outside the enclosures, to prevent the animals from getting wet. Cleaning resting surfaces can be a costly undertaking, largely because it is labor intensive. For a dog breeder with 120 enclosures, for example, the annual cost is conservatively estimated at $21,900 per year. This estimate assumes that: (1) Each resting surface is cleaned once each day; (2) it takes 5 minutes to clean each resting surface; and (3) labor is paid at a rate of $6 per hour.

The impact of the rule on individual entities will vary, depending on the number of enclosures maintained. However, the impact of the rule on all regulated entities will be beneficial.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. The Act does not provide administrative procedures which must be exhausted prior to a judicial challenge to the provisions of this rule.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 3

Animal welfare, Marine mammals, Pets, Reporting and recordkeeping requirements, Research, Transportation.

Accordingly, 9 CFR part 3 is amended as follows:

PART 3—STANDARDS

1. The authority citation for part 3 continues to read as follows:

Authority: 7 U.S.C. 2131–2159; 7 CFR 2.22, 2.80, and 371.2(d).

2. Section 3.6(a)(2)(x) is revised to read as follows:

§ 3.6 Primary enclosures.

* * * * *

(a) * * *

(2) * * *

(x) Have floors that are constructed in a manner that protects the dogs' and cats' feet and legs from injury, and that, if of mesh or slatted construction, do not allow the dogs' and cats' feet to pass through any openings in the floor; and

* * * * *

Done in Washington, DC, this 8th day of July 1998.

Charles P. Schwalbe,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–18594 Filed 7–10–98; 8:45 am]

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[1] In FY96, 10,366 facilities were licensed or registered under the AWA. Of those facilities, 4,265 were licensed dealers, 2,422 were licensed exhibitors, and 3,679 were registrants. The dealers are subdivided into two classes. Class A dealers (3,043) breed animals, and Class B dealers (1,222) serve as animal brokers. The registrants comprise research facilities (2,506), carriers and intermediate handlers (1,142), and exhibitors (31). As used here, the term *facilities* represents sites, the physical location where animals are housed. Some licensees and registrants have more than one site.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 93

[Docket No. 98-070-1]

Harry S Truman Animal Import Center

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Cancellation of lottery for HSTAIC.

SUMMARY: In anticipation that the Harry S Truman Animal Import Center (HSTAIC) in Fleming Key, FL, may be closed, we are giving notice that we do not plan to hold a lottery in December 1998 for exclusive use of HSTAIC in calendar year 1999. In addition, we do not intend to enter into any more cooperative-service agreements with prospective importers for exclusive use of the facility unless it is certain the animals can enter HSTAIC on or before December 31, 1998. Ensuring that no animals enter HSTAIC after this date would allow us to close HSTAIC before the end of fiscal year 1999 if a decision is made to close the facility.

EFFECTIVE DATE: July 13, 1998.

FOR FURTHER INFORMATION CONTACT: Dr. Gary Colgrove, Chief Staff Veterinarian, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737-1231; (301) 734-3276; or e-mail gcolgrove@aphis.usda.gov.

SUPPLEMENTARY INFORMATION: The regulations in 9 CFR part 93 (referred to below as the regulations) govern the importation of animals into the United States to prevent the introduction of serious communicable diseases of livestock and poultry. Under the regulations, certain animals may only be imported into the United States if, among other things, they are quarantined upon arrival at the Harry S Truman Animal Import Center (HSTAIC), a Federal facility in Fleming Key, FL, that provides maximum biosecurity.

Importers pay the costs of using HSTAIC while their animals are in the facility. However, the Animal and Plant Health Inspection Service (APHIS) must pay for staff, electricity, telephone, and other overhead costs when the facility is not occupied, as well as for general maintenance and repairs. HSTAIC has been consistently underutilized since it opened in 1979, and demand for use of the facility has been falling. Consequently, APHIS is losing an average of $220,000 annually keeping HSTAIC available to importers. In addition, HSTAIC urgently needs approximately $4.5 million worth of repairs and upgrades for which APHIS does not have an appropriation. This would significantly increase the already substantial fees for use of HSTAIC if the cost of the repairs and upgrades were to be recovered from users. In addition, the purpose for a facility such as HSTAIC, to import new bloodlines from countries with exotic diseases such as foot-and-mouth disease and rinderpest, can now be accomplished more cheaply and more easily by importing germplasm, such as semen and embryos.

Under these circumstances, we are considering closing HSTAIC and plan to publish a proposed rule in the **Federal Register** for public comment on this issue in the near future. If we decide to close the facility following this rulemaking, we would like to do so before the end of fiscal year 1999 to minimize expenses we are incurring to keep the facility operating. To close by then, all animals would have to be out of the facility by about April of 1999. Even if a decision is made to try to keep HSTAIC open for use, and funding can be obtained for the needed repairs and upgrades, it will take many months to complete the needed repairs and upgrades. To allow for these possible actions, we are announcing that we do not plan to hold a lottery in December 1998 for exclusive use of HSTAIC in calendar year 1999. (Under § 93.430 of the regulations, APHIS enters into a cooperative agreement with only one importer at a time for use of HSTAIC. We refer to this arrangement as "exclusive use.") This notice also announces our intention not to enter into any more cooperative agreements with prospective importers for exclusive use of the facility unless it is certain the animals can enter HSTAIC on or before December 31, 1998.

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102-105, 111, 114a, 134a, 134b, 134c, 134d, 134f, 135, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.2(d).

Done in Washington, DC, this 6th day of July 1998.

Charles P. Schwalbe,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98-18436 Filed 7-10-98; 8:45 am]

BILLING CODE 3410-34-P

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 904

[No. 98-26]

RIN 3069-AA71

Revisions to the Freedom of Information Act Regulation

AGENCY: Federal Housing Finance Board.

ACTION: Interim final rule with request for comments.

SUMMARY: The Federal Housing Finance Board (Finance Board) is revising its Freedom of Information Act (FOIA) regulation to comply with new statutory requirements. The Finance Board is also reorganizing and streamlining the FOIA regulation to clarify the Finance Board's practices and procedures in responding to requests for information.

DATES: The interim final rule will become effective on July 13, 1998. The Finance Board will accept comments on the interim final rule in writing on or before September 11, 1998.

ADDRESSES: Mail comments to Elaine L. Baker, Secretary to the Board, Federal Housing Finance Board, 1777 F Street, NW, Washington, DC 20006. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Elaine L. Baker, Secretary to the Board and Associate Director, Executive Secretariat, Office of the Managing Director, 202/408-2837, or Janice A. Kaye, Attorney-Advisor, Office of General Counsel, 202/408-2505, Federal Housing Finance Board, 1777 F Street, NW, Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

Congress amended FOIA by enacting the Electronic Freedom of Information Act Amendments of 1996 (EFOIA). *See* 5 U.S.C. 552, *as amended by* Pub. L. 104-231, 110 Stat. 3048 (Oct. 2, 1996). Among other procedural changes, EFOIA increases the time for responding to a FOIA request from 10 to 20 days, specifically applies FOIA disclosure requirements to electronic records, and adds frequently requested records as a category of reading room records. EFOIA also requires an agency to promulgate regulations that provide for the expedited processing of FOIA requests.

In addition to amending its FOIA regulation, codified at 12 CFR part 904, to comply with these statutory changes, the Finance Board is reorganizing and streamlining the regulation to clarify its practices and procedures in responding to requests for information. The reorganization is technical and procedural in nature and will have no substantive effect on the operation of the Finance Board's FOIA process.

II. Analysis of the Interim Final Rule

A. Elimination of Obsolete Provisions

In order to streamline the FOIA regulation, the Finance Board is removing two provisions that restate statutory requirements, § 904.1, purpose and scope, and § 904.3(a), published information. *See* 12 CFR 904.1, 904.3(a); 5 U.S.C. 552(a). The Finance Board is also eliminating § 904.10 in its entirety. 12 CFR 904.10. Section 904.10(a), which concerns service of process under FOIA, is unnecessary because service of process under FOIA is governed by the Federal Rules of Civil Procedure. *Id.* § 904.10(a); Fed. R. Civ. P. 4(i). Section 904.10 (b) and (c), which concerns disclosure of Finance Board records by persons other than Finance Board employees, is being deleted because the Finance Board does not have the authority to enforce the stated restrictions. 12 CFR 904.10(b)–(c).

B. Implementation of New Statutory Requirements and Clarification of the Current Regulation

1. Definitions

The interim final rule restates the definitions of the terms "Finance Board," "FOIA," "requester," and "search" without substantive change. To reflect an internal agency reorganization, the term "Secretary to the Board" replaces the term "Executive Secretary." The address for the Secretary to the Board is now included in the definition of that term. The definitions of the terms that relate to the assessment and collection of FOIA fees, *i.e.*, "commercial use request," "direct costs," "educational institution," and "representative of the news media," are relocated without substantive change to § 904.8, the fees section of the interim final rule.

To include changes made by EFOIA, the Finance Board has amended the definition of the term "unusual circumstances" and added specific references to records maintained in an electronic format in the definitions of the terms "duplication" and "record." *See* 5 U.S.C. 552(a)(3)(B)–(C), (6)(B)(iii), (f)(2). To ensure consistency with FOIA, the interim final rule includes a definition of the term "agency" with the same meaning as under FOIA. *Id.* 552(f)(1).

To broaden the coverage of the regulatory provisions concerning financial regulatory agency records, the definition of the term "financial regulatory agency" now includes the Farm Credit Administration and any state officer, agency, supervisor, or other entity that has regulatory authority over, or is empowered to institute enforcement action against, a financial institution, including an insurance company. To avoid repetition within the FOIA regulation, the term "working day" is defined to exclude Saturdays, Sundays, and legal public holidays.

2. Records Available to the Public

Section 904.2 of the interim final rule restates § 904.3(b)–(d), § 904.4, and § 904.7(c)(1) of the current rule with minor changes required by EFOIA. *See* 12 CFR 904.3(b)–(d); 904.4; 904.7(c)(1). The EFOIA changes include a separate paragraph, designated as § 904.2(b), which clarifies the types of records that are available for public inspection in the Finance Board's reading room. In addition to the records listed in § 904.4(b) of the current rule, the Finance Board considers the following records to be reading room records: (1) records previously disclosed to any requester pursuant to FOIA which, because of the nature of their subject matter, the Finance Board has determined will likely be the subject of subsequent requests for substantially the same records, and a general index thereof; (2) current indices that provide identifying information about all matters issued, adopted, or promulgated by the Finance Board; and (3) the FOIA report the Finance Board submits to the Attorney General pursuant to 5 U.S.C. 552(e). *See* 5 U.S.C. 552(a)(2). As required by EFOIA, the Finance Board is making each reading room record created on or after November 1, 1996 available by computer telecommunications or other electronic means, such as on computer diskettes or on the Finance Board's Internet Web site, found at http://www.fhfb.gov. *Id.* To maximize the availability of records to the public, the Finance Board will provide copies of reading room records in response to a FOIA request in accordance with the procedures and fee schedule in its FOIA regulation.

3. Requests For Records

Section 904.3 of the interim final rule is a restatement of § 904.5(a) and (b)(1) and (2) of the current rule. *See* 12 CFR 904.5(a), (b)(1)–(2). Like the current rule, the interim final rule describes the information a requester must provide in order for the Finance Board to process a FOIA request and requires a requester to submit the request in writing to the Secretary to the Board. *Id.* § 904.5(a), (b)(1). A new provision in the interim final rule provides that if a request is incomplete, the Secretary to the Board may advise the requester that additional information is needed. If the requester submits a corrected request, the Finance Board will treat the corrected request as a new request. *Id.* § 904.5(b)(2). This provision will allow the Secretary to the Board to close out its FOIA files. If the Secretary to the Board notifies a requester that the request is incomplete, the requester is free to initiate a new request that includes the necessary information.

4. Responses to Requests for Records

Section 904.4 of the interim final rule, which concerns the Finance Board's initial response to a FOIA request, restates § 904.5(b)(4)–(5) and (f) and § 904.6(d), (k), and (m) of the current rule and adds a new provision concerning expedited processing. *See id.* § 904.5(b)(4)–(5), (f); 904.6(d), (k), (m). EFOIA increases the time limit for initial FOIA responses from 10 to 20 days. *See* 5 U.S.C. 552(a)(6)(A)(i). Accordingly, § 904.4(a) of the interim final rule requires the Secretary to the Board to grant or deny each complete request within 20 working days of receipt.

Section 904.4(c), which concerns extensions of this 20-day time limit, includes a revision required by EFOIA allowing a requester to narrow a request so that it may be processed within the 20-day time limit or arrange an alternative time frame for processing the request. *Id.* 552(a)(6)(B)(i)–(ii).

EFOIA also requires an agency to promulgate regulations providing for expedited processing of FOIA requests. *Id.* 552(a)(6)(E). The Finance Board has included an expedited processing provision that conforms to the statutory requirements in § 904.4(d) of the interim final rule.

Section 904.4(e) of the interim final rule combines provisions appearing in § 904.6(d), (k), and (m) of the current rule. *See* 12 CFR 904.6(d), (k), (m). It provides that the Finance Board will furnish one copy of a record to a requester in any form or format requested if the record is readily reproducible by the Finance Board in that form or format. The record will be provided by regular U.S. mail to the address indicated in the request unless other arrangements are made, such as taking delivery at the Finance Board or an agreement by the requester to pay additional fees for transmission by facsimile or other express delivery methods.

If the Finance Board denies a request in whole or in part, the requester may appeal under § 904.8 of the interim final rule. As under § 904.5(c), (e), and (f) of the current rule, § 904.8(a) permits a requester to file an appeal within 30 days of the initial determination and requires a response from the Finance Board within 20 working days, or in unusual circumstances, within 30 working days, of receipt of an application for appeal. *Id.* § 904.5(c), (e), (f). Section 904.8(b), which concerns administrative appeals during judicial review, is a restatement of § 904.5(d) of the current rule. *Id.* § 904.5(d).

5. FOIA Exemptions

Section 904.5(a) of the interim final rule incorporates all of the disclosure exemptions provided by FOIA. *See* 5 U.S.C. 552(b); 12 CFR 904.7(a). Consistent with § 904.7(b) of the current rule, under § 904.5(b) of the interim final rule the Finance Board will provide a requester with any reasonably segregable portion of a record after redacting the portion that is exempt from disclosure. *See* 5 U.S.C. 552(b); 12 CFR 904.7(b). As required by EFOIA, the Finance Board will make a reasonable effort to estimate the volume of redacted information and provide that information to the requester unless providing the estimate would harm an interest protected by the exemption under which the redaction is made. *See* 5 U.S.C. 552(a)(6)(F). The Finance Board also will indicate the estimated volume of redacted information on the released portion of the record, and, if technically feasible, will make the indication at the place in the record where the redaction is made unless the indication would harm an interest protected by the exemption under which the redaction is made. *Id.* 552(b).

Like § 904.4(a) of the current rule, § 904.5(c) permits the Finance Board to disclose otherwise exempt records if disclosure is in the public interest. *See* 12 CFR 904.4(a).

6. Disclosure of Examination Reports and Other Records of Financial Regulatory Agencies

Section 904.6 of the interim final rule, which concerns disclosure of Federal Home Loan Bank examination reports to financial regulatory agencies, is a restatement of § 904.8 of the current rule. *Id.* § 904.8. The only change other than reorganizing the provision, is replacement of a reference to the Finance Board's former District Banks Directorate with a reference to the Finance Board.

Section 904.7 of the interim final rule, which prohibits the Finance Board from disclosing records of other financial regulatory agencies, is a restatement of § 904.9 of the current rule without substantive change. *Id.* § 904.9.

7. Fees

Section 904.9 of the interim final rule concerns the assessment and collection of fees for providing FOIA services. Other than modestly increasing the amount of the charges the Finance Board will assess for certain services, this provision is not substantively different than the current FOIA fee provision. *Id.* § 904.6.

III. Notice and Public Participation

The Finance Board is promulgating these technical, procedural changes as an interim final rule in order to conform its FOIA regulation to the EFOIA amendments that have already taken effect. However, because FOIA requires notice and receipt of public comment, the Finance Board will accept written comments on the interim final rule on or before September 11, 1998.

IV. Effective Date

For the reasons stated in part III above, the Finance Board for good cause finds that the interim final rule should become effective on July 13, 1998. *See* 5 U.S.C. 553(d)(3).

V. Regulatory Flexibility Act

The Finance Board is adopting the amendments to part 904 in the form of an interim final rule and not as a proposed rule. Therefore, the provisions of the Regulatory Flexibility Act do not apply. *See* 5 U.S.C. 601(2), 603(a).

VI. Paperwork Reduction Act

The interim final rule does not contain any collections of information pursuant to the Paperwork Reduction Act of 1995. *See* 44 U.S.C. 3501 *et seq.* Consequently, the Finance Board has not submitted any information to the Office of Management and Budget for review.

List of Subjects in Part 904

Confidential business information, Federal home loan banks, Freedom of information. For the reasons stated in the preamble, the Finance Board hereby revises 12 CFR part 904 to read as follows:

PART 904—FREEDOM OF INFORMATION ACT REGULATION

Sec.
904.1 Definitions.
904.2 Records available to the public.
904.3 Requests for records.
904.4 Finance Board response to requests for records.
904.5 Records not disclosed.
904.6 Disclosure of Federal Home Loan Bank examination reports.
904.7 Records of financial regulatory agencies held by the Finance Board.
904.8 Appeals.
904.9 Fees.

Authority: 5 U.S.C. 552; 52 FR 10012 (Mar. 27, 1987).

§ 904.1 Definitions.

For purposes of this part:

(a) *Agency* has the same meaning as in 5 U.S.C. 552(f)(1).

(b) *Duplication* means the process of making a copy of a record in order to respond to a FOIA request, including paper copies, microfilm, audio-video materials, and computer diskettes or other electronic copies.

(c) *Finance Board* means the agency established as the Federal Housing Finance Board.

(d) *Financial regulatory agency* means the Board of Governors of the Federal Reserve System, Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, Office of Thrift Supervision, National Credit Union Administration, Farm Credit Administration, or a state officer, agency, supervisor, or other entity that has regulatory authority over, or is empowered to institute enforcement action against, a financial institution, including an insurance company.

(e) *FOIA* means the Freedom of Information Act, as amended (5 U.S.C. 552).

(f) *Record* means information or documentary material the Finance Board maintains in any form or format, including an electronic form or format, which the Finance Board:

(1) Made or received under federal law or in connection with the transaction of public business;

(2) Preserved or determined is appropriate for preservation as evidence of Finance Board operations or activities or because of the value the information it contains; and

(3) Controls at the time it receives a request.

(g) *Requester* means any person, including an individual, corporation, firm, organization, or other entity, who makes a request to the Finance Board under FOIA for records.

(h) *Review* means the process of examining a record to determine whether all or part of the record may be withheld, and includes redacting or otherwise processing the record for disclosure to a requester. It does not include time spent:

(1) Resolving legal or policy issues regarding the application of exemptions to a record; or

(2) At the administrative appeal level, unless the Finance Board determines that the exemption under which it

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withheld records does not apply and the records are reviewed again to determine whether a different exemption may apply.

(i) *Search* means the time spent locating records responsive to a request, manually or by electronic means, including page-by-page or line-by-line identification of responsive material within a record.

(j) *Secretary to the Board* means the Secretary to the Board of Directors of the Finance Board. The address for the Secretary to the Board is Executive Secretariat, Office of the Managing Director, Federal Housing Finance Board, 1777 F Street NW, Washington, DC 20006.

(k) *Unusual circumstances* means the need to:

(1) Search for and collect records from establishments that are separate from the office processing the request;

(2) Search, review, and duplicate a voluminous amount of separate and distinct records in order to process a single request; or

(3) Consult with another agency or among two or more components of the Finance Board that have a substantial interest in the determination of a request.

(l) *Working days* do not include Saturdays, Sundays, and legal public holidays.

§ 904.2 Records available to the public.

(a) *General.* (1) It is the policy of the Finance Board to respond promptly to all FOIA requests.

(2) The Finance Board may disclose records that were previously published or disclosed or are customarily furnished to the public in the course of the performance of official duties without complying with this part. These records include, but are not limited to, the annual report the Finance Board submits to Congress pursuant to section 2B(d) of the Federal Home Loan Bank Act (12 U.S.C. 1422b(d)), press releases, Finance Board forms, and materials published in the **Federal Register**.

(3) Except as provided in the Privacy Act (5 U.S.C. 552a), the Finance Board's Privacy Act regulation (12 CFR part 909), or paragraph (a)(2) of this section, the Finance Board shall not disclose records except in accordance with the requirements of this part.

(b) *Reading room.* (1) Subject to §§ 904.5 through 904.7, the following records shall be available for public inspection and copying in the Finance Board reading room from 9:00 a.m. to 4:00 p.m. each working day:

(i) Final opinions or orders of the Finance Board in the adjudication of cases.

(ii) A record of the final votes of each member of the Board of Directors in every Finance Board proceeding.

(iii) Statements of policy and interpretations adopted by the Finance Board that are not published in the **Federal Register**.

(iv) Administrative staff manuals and instructions to staff that affect a member of the public.

(v) Records previously disclosed to any requester pursuant to this part which, because of the nature of their subject matter, the Finance Board has determined will likely be the subject of subsequent requests for substantially the same records, and a general index thereof.

(vi) Current indices that provide identifying information about all matters issued, adopted, or promulgated by the Finance Board.

(vii) The report the Finance Board submits to the Attorney General pursuant to 5 U.S.C. 552(e).

(2) The Finance Board shall make each reading room record created on or after November 1, 1996 available by computer telecommunications or other electronic means, such as on computer diskettes or on the Finance Board's Internet Web site, found at http://www.fhfb.gov.

(3) The Finance Board shall assess fees for searching, reviewing, or duplicating reading room records in accordance with § 904.9.

§ 904.3 Requests for records.

(a) *Request requirements.* Requests for access to, or copies of, Finance Board records shall be in writing and addressed to the Secretary to the Board. Each request shall include the following:

(1) A description of the requested record that provides sufficient detail to enable the Finance Board to locate the record with a reasonable amount of effort;

(2) The requester's full name, mailing address, and a telephone number where the requester can be reached during normal business hours;

(3) A statement that the request is made pursuant to FOIA; and

(4) At the discretion of the requester, a dollar limit on the fees the Finance Board may incur to respond to the request for records. The Finance Board shall not exceed such limit.

(b) *Incomplete requests.* If a request does not meet all of the requirements of paragraph (a) of this section, the Secretary to the Board may advise the requester that additional information is needed. If the requester submits a corrected request, the Finance Board shall treat the corrected request as a new request.

§ 904.4 Finance Board response to requests for records.

(a) *Response deadline.* Subject to § 904.9(f), within 20 working days of receipt of a request meeting the requirements of § 904.3(a) and any extensions of time under paragraph (c) of this section, the Secretary to the Board shall:

(1) Determine whether to grant or deny the request in whole or in part;

(2) Notify the requester in writing of the determination and the reasons therefor; and

(3) Make the records, if any, available to the requester.

(b) *Denials.* If the Secretary to the Board denies the request in whole or in part, the notice required under paragraph (a)(2) of this section shall state that the Secretary to the Board is the person responsible for the denial, the denial is not a final agency action, and the requester may appeal the denial under § 904.8.

(c) *Extensions of time.* In unusual circumstances, the Secretary to the Board may extend the time limit in paragraph (a) of this section for a period not to exceed 10 working days by notifying the requester in writing of:

(1) The reasons for the extension;

(2) The date on which a determination is expected; and

(3) The opportunity for the requester to either limit the scope of the request so that the Finance Board may process it in accordance with paragraph (a) of this section, or arrange an alternative time frame for processing the request or a modified request.

(d) *Expedited processing.* (1) The Finance Board shall process a request for records as soon as practicable if it determines that expedited processing is appropriate or the requester demonstrates a compelling need. To demonstrate a compelling need, a requester shall submit a written application certified to be true and correct to the best of the requester's knowledge and belief to the Secretary to the Board. The application shall state that:

(i) The failure to obtain the records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(ii) With respect to a requester who is primarily engaged in disseminating information, such as a representative of the news media as defined in § 904.9(a)(4)(iv), there is urgency to inform the public concerning actual or alleged Finance Board activity.

(2) Within 10 working days of receipt of an application for expedited processing that meets the requirements

of paragraph (c)(1) of this section, the Secretary to the Board shall determine whether to grant or deny the application and notify the requester in writing of the determination.

(3) A requester may appeal the denial of an application for expedited processing by submitting a written application stating the grounds for the appeal to the Secretary to the Board. The Finance Board shall expeditiously determine whether to grant or deny the appeal and shall notify the requester in writing of the determination, the name and title or position of the person responsible for the determination, and of the provisions for judicial review of this final action under 5 U.S.C. 552(a)(4) and (6).

(e) *Providing responsive records.* The Finance Board shall provide one copy of a record to a requester in any form or format requested if the record is readily reproducible by the Finance Board in that form or format by regular U.S. mail to the address indicated in the request unless other arrangements are made, such as taking delivery of the document at the Finance Board. At the option of the requester and upon the requester's agreement to pay fees in accordance with § 904.9, the Finance Board shall provide copies by facsimile transmission or other express delivery methods.

§ 904.5 Records not disclosed.

(a) *Records exempt from disclosure.* Except as otherwise provided in this part, the Finance Board shall not disclose records that are:

(1) Specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order.

(2) Related solely to the Finance Board's internal personnel rules and practices.

(3) Specifically exempted from disclosure by a statute other than FOIA if such statute requires the record to be withheld from the public in such a manner as to leave no discretion on the issue, establishes particular criteria for withholding, or refers to particular types of records to be withheld.

(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential.

(5) Inter- or intra-agency memorandums or letters that would not be available by law to a party other than an agency in litigation with the Finance Board.

(6) Personnel, medical, or similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(7) Compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:

(i) Could reasonably be expected to interfere with enforcement proceedings;

(ii) Would deprive a person of a right to a fair trial or an impartial adjudication;

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority, any private institution, or a Federal Home Loan Bank, which furnished information on a confidential basis, and, in the case of a record compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security investigation, information furnished by a confidential source;

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual.

(8) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of the Finance Board, a Federal Home Loan Bank, or a financial regulatory agency.

(9) Geological and geophysical information and data, including maps, concerning wells.

(b) *Reasonably segregable portions.* (1) The Finance Board shall provide a requester with any reasonably segregable portion of a record after redacting the portion that is exempt from disclosure under paragraph (a) of this section.

(2) The Finance Board shall make a reasonable effort to estimate the volume of redacted information and provide that information to the requester unless providing the estimate would harm an interest protected by the exemption under which the redaction is made.

(3) The Finance Board shall indicate the estimated volume of redacted information on the released portion of the record unless providing the estimate would harm an interest protected by the exemption under which the redaction is made. If technically feasible, the Finance Board shall make the indication at the place in the record where the redaction is made.

(c) *Public interest.* The Finance Board may disclose records it has authority to withhold under paragraph (a) of this section upon a determination that disclosure would be in the public interest.

§ 904.6 Disclosure of Federal Home Loan Bank examination reports.

The Finance Board may disclose an examination, operating, or condition report of a Federal Home Loan Bank or a related record to a financial regulatory agency upon a determination that:

(a) The person requesting the record on behalf of the financial regulatory agency has the authority to make such request;

(b) The financial regulatory agency is requesting the record for a legitimate regulatory purpose; and

(c) The financial regulatory agency making the request agrees that it shall not disclose the record pursuant to FOIA, the agency's regulations, or any other authority.

§ 904.7 Records of financial regulatory agencies held by the Finance Board.

The Finance Board shall not disclose an examination, operating, or condition report, or other record prepared by, on behalf of, or for the use of a financial regulatory agency. Upon a receipt of a request for such records, the Finance Board shall promptly refer the request to the appropriate agency and notify the requester of the referral.

§ 904.8 Appeals.

(a) *Procedure.* (1) If the Secretary to the Board has denied a request in whole or in part, the requester may appeal the denial by submitting a written application to the Secretary to the Board stating the grounds for the appeal within 30 working days of the date of the Finance Board's determination under § 904.4.

(2) Subject to § 904.9(f), within 20 working days of receipt of an application for appeal meeting the requirements of paragraph (a)(1) of this section and any extensions of time under paragraph (a)(3) of this section, the Finance Board shall determine whether to grant or deny the appeal and notify the requester in writing of the determination, the name and title or position of the person responsible for the determination, and the provisions for judicial review of this final action under 5 U.S.C. 552(a)(4).

(3) In unusual circumstances, the Secretary to the Board may extend the time limit in paragraph (a)(2) of this section for a period not to exceed 10

working days by notifying the requester in writing of the reasons for the extension and the date on which a determination is expected.

(b) *Appeal during pendency of judicial review.* If a requester files an action in a United States district court under 5 U.S.C. 552(a)(4) concerning a request for Finance Board records before exhausting the administrative appeals process for that request under paragraph (a) of this section, the Finance Board may:

(1) Initiate and process an administrative appeal; or

(2) Continue to process an administrative appeal previously filed under paragraph (a) of this section.

§ 904.9 Fees.

(a) *Fees.* Except as otherwise provided in a statute specifically providing for setting fees for particular types of records or in this section, the Finance Board shall assess against each requester the direct costs of responding to a request for records.

(1) If the records are requested for a commercial use, the direct costs are limited to the reasonable operating costs the Finance Board incurs to search, review, and duplicate records.

(2) If the records are not requested for a commercial use and the requester is an educational institution, non-commercial scientific institution, or representative of the news media, the direct costs are limited to the reasonable operating costs the Finance Board incurs to duplicate records in excess of 100 pages.

(3) If neither the request nor the requester is described in paragraphs (a) (1) or (2) of this section, the direct costs are limited to the reasonable operating costs the Finance Board incurs to search in excess of two hours and duplicate records in excess of 100 pages.

(4) For purposes of this section, the term:

(i) *Commercial use request* means a request from, or on behalf of, a person who seeks records for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made.

(ii) *Educational institution* means a preschool, public or private elementary or secondary school, or institution of undergraduate, graduate, professional, or vocational higher education that operates a program of scholarly research.

(iii) *Non-commercial scientific institution* means a nonprofit institution operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

(iv) *Representative of the news media* means a requester who is actively gathering information that is about current events or would be of current interest to the public for an entity that is organized and operated to publish or broadcast news to the public.

(b) *Fees when no records are provided.* The Finance Board may assess a fee for the direct costs of searching for a requested record the Finance Board cannot locate or if located, determines to be exempt from disclosure under § 904.5.

(c) *Interest.* The Finance Board may assess interest at the rate prescribed in 31 U.S.C. 3717 on any unpaid fees beginning 31 days after the earlier of the date of the Finance Board's determination under § 904.4 or the date a fee statement is mailed to a requester. Interest shall accrue from such date.

(d) *Exceptions.* Notwithstanding paragraphs (a) or (b) of this section, the Finance Board may determine not to assess a fee or to reduce a fee if:

(1) The routine cost of collecting and processing the fee is likely to equal or exceed the amount of the fee.

(2) The fee is equal to or less than 10 dollars.

(3) Disclosure of the record is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

(i) A requester may apply in writing to the Secretary to the Board for a waiver of fees under this paragraph (b)(3). A fee waiver request shall include the following:

(A) The requester's interest in and proposed use of the record;

(B) Whether the requester will derive income or other benefit from the record;

(C) An explanation of how the public will benefit from disclosure, including the requester's ability and intention to disseminate the information to the public; and

(D) The requester's expertise in the subject area of the record.

(ii) In determining whether disclosure of a record is in the public interest, the Finance Board shall consider whether the record:

(A) Concerns identifiable operations or activities of the Finance Board;

(B) Is meaningfully informative in relation to the subject matter of the request;

(C) Contributes to an understanding of the subject matter by the public at large, and the significance of that contribution; and

(D) Furthers, or is primarily in, the requester's commercial interest.

(e) *Aggregating requests.* If the Finance Board reasonably believes that a requester or a group of requesters acting in concert is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, it may aggregate such requests and assess fees in accordance with this section.

(f) *Collecting fees.* (1) The Finance Board shall deem any request for Finance Board records as an agreement by the requester to pay fees and interest assessed in accordance with this section.

(2) To pay fees and interest assessed under this section, a requester shall deliver to the Secretary to the Board a check or money order made payable to the "Federal Housing Finance Board."

(3) Prior to disclosing any record, the Finance Board may require a requester to agree in writing to pay actual fees and interest incurred in accordance with this section if the estimated fee will likely exceed $25 but not $250.

(4) The Finance Board may require a requester to pay an estimated fee in advance if:

(i) The Secretary to the Board determines that the fee will likely exceed $250; or

(ii) The requester has previously failed to pay a fee assessed under this section within 30 days of the earlier of the date of the Finance Board's determination under § 904.4 or the date a fee statement was mailed to a requester.

(5) The Finance Board shall promptly refund to a requester any estimated advance fee paid under paragraph (f)(4) of this section that exceeds the actual fee. The Finance Board shall assess the requester for the amount by which the actual fee exceeds the estimated advance fee payment.

(g) *Fee schedule.* The Finance Board shall assess fees in accordance with the following schedule:

Search:	
Manual: Supervisory/Professional Staff	$34.00 per hour.
Manual: Clerical Staff	$17.00 per hour.
Computer: Operator	$34.00 per hour.
Computer output (PC)	actual cost.

Diskettes (3½ × 5¼)	$5.00 per diskette.
Review	$34.00 per hour.
Duplication:	
Photocopy	$.10 per page.
Computer generated	$.76 per 1000 lines.
Copy of microfiche	$.30 per page.
Transcription of audio tape	$4.50 per page.
Certification, seal and attestation by the Secretary to the Board	$5.00 per document.
Delivery:	
Facsimile transmission (long distance)	Long distance charges plus $.25 per page.
Facsimile transmission (local)	$.25 per call plus $.25 per page.
Express delivery service	Actual cost.

Dated: May 29, 1998.

By the Board of Directors of the Federal Housing Finance Board.

Bruce A. Morrison,

Chairperson.

[FR Doc. 98–18468 Filed 7–10–98; 8:45 am]

BILLING CODE 6725–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AWP–11]

Modification of Class E Airspace; Ukiah, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the Class E airspace area at Ukiah, CA, by lowering a portion of the base of controlled airspace from 9,500 feet mean sea level, (MSL) to 1,200 feet above ground level (AGL). This action is due to the establishment of a new federal airway (V–607) between Mendocino and Arcata, CA. The airway will have a minimum enroute altitude of 9,000 feet MSL. The intended effect of this action is to provide adequate controlled airspace extending upward from 1200 feet or more above the surface of the earth to contain aircraft flying V–607 between Mendocino and Arcata, CA.

EFFECTIVE DATE: 0901 UTC October 8, 1998.

FOR FURTHER INFORMATION CONTACT: Larry Tonish, Airspace Specialist, Airspace Branch, AWP–520, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6539.

SUPPLEMENTARY INFORMATION:

History

On May 1, 1998, the FAA proposed to amend 14 CFR part 71 by modifying the Class E airspace area at Ukiah, Ca (63 FR 24140). Additional controlled airspace extending upward from 1200 feet above the surface is needed to contain IFR aircraft flying V–607 between Mendocino and Arcata, CA.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. Class E airspace designations for airspace extending from 1200 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies the Class E airspace area at Ukiah, CA. The establishment of federal airway V–607 has made this action necessary. The effect of this action will provide adequate airspace needed to contain IFR aircraft flying V–607 between Mendocino and Arcata, CA.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 1200 feet or more above the surface of the earth.

* * * * *

AWP CA E5 UKIAH, CA [Revised]

Ukiah Municipal Airport, CA
(lat. 39°07′34″ N, long. 123°12′03″ W)
Fortuna VORTAC (lat. 40°40′17″ N, long. 124°14′04″ W)
Mendocino VORTAC (lat. 39°03′12″ N, long. 123°16′27″ W)
Red Bluff VORTAC (lat. 40°05′56″ N, long. 122°14′11″ W)

That airspace extending upward from 1,200 feet above the surface within a 17.4 mile radius of the Mendocino VORTAC, excluding that airspace east of the western edge of V25 and that airspace bounded by a line from lat. 39°32′00″ N, long 123°33′14″ W; to lat. 39°32′00″ N, long 123°11′34″ W; to lat. 39°21′37″ N, long. 123°04′54″ W; to lat. 39°19′07″ N, long. 123°07′22″ W, thence counterclockwise via the 17.4 mile radius of the Mendocino VORTAC to lat. 39°19′04″ N, long. 123°25′40″ W; to lat. 39°32′00″ N, long. 123°33′14″ W. That airspace extending upward from 7,500 feet MSL south of the Red Bluff VORTAC between the 20.9- and 39.9-mile arcs of the Red Bluff VORTAC bounded on the northwest by the

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northwest edge of V–199 and on the southeast by the southeast edge of V–25. That airspace extending upward from 8,500 feet MSL south of the Red Bluff VORTAC bounded on the northeast by a 39.1-mile arc of the Red Bluff VORTAC, on the southeast by the southeast edge of V–25, on the south and southwest by the north edge of V–200 and a 17.4-mile arc of the Mendocino VORTAC, and on the northwest by the northwest edge of V–199. That airspace extending upward from 9,500 feet MSL bounded on the southeast by the northwest edge of V–199 to lat. 39°21′37″ N, long. 123°04′54″ W; to lat. 39°32′00″ N, long. 123°11′34″ W; to lat. 39°32′00″ N, long. 123°20′33″ W, and on the west by the east edge of V–607, and on the north by a line 7.8 miles south of a parallel to the Red Bluff VORTAC 291° and Fortune VORTAC 110° radii to the 17.4-mile arc of the Red Bluff VORTAC, thence counterclockwise to the northwest edge of V–199, and that airspace bounded on the east by the western edge of V607 to lat. 39°46′40″ N, long. 123°35′50″ W, and on the west by the east edge of V–27 to the 24-mile radius of the Fortuna VORTAC, thence counterclockwise to the west edge of V–607. That airspace extending upward from 5,300 feet MSL bounded on the east by the southwest edge of V–27 and on the west by the west/southwest edge of V–494.

* * * * *

Issued in Los Angeles, California, on June 29, 1998.

Alton D. Scott,

Acting Manager, Air Traffic Division Western-Pacific Region.

[FR Doc. 98–18553 Filed 7–10–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD11–98–001]

Special Local Regulations; Parker International Waterski Marathon

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: The Coast Guard is amending the table of events in 33 CFR 100.1102 by adding an entry for the Parker International Waterski Marathon. The Parker International Waterski Marathon is conducted on the navigable waters of the Colorado River, beginning at Bluewater Marina in Parker, AZ, and extending approximately 10 miles south to La Paz County Park. It occurs annually on the second full weekend of March every year, and lasts a total of 2 days. The special local regulations applicable to this event are necessary to provide for the safety of life, property, and navigation on the navigable waters of the United States during scheduled events.

EFFECTIVE DATE: August 12, 1998.

FOR FURTHER INFORMATION CONTACT: Petty Officer Greg Nelson, U.S. Coast Guard Marine Safety Office, 2716 North Harbor Drive, San Diego, California; telephone number (619) 683–6492.

SUPPLEMENTARY INFORMATION:

Regulatory History

On April 2, 1998, the Coast Guard published a notice of proposed rulemaking (NPRM) for this regulation in the **Federal Register** (63 FR 16179–16180). The comment period ended 18 May 98. The Coast Guard received no comments on the proposal. A public hearing was not requested and no hearing was held.

Background and Purpose

The Parker International Waterski Marathon consist of various waterski activities. The event takes place, annually, over a two day period commencing on the second full weekend of March. The special local regulations applicable to this event are necessary to provide for the safety of life, property, and navigation on the navigable waters of the United States during scheduled events.

Discussion of Rule

The course of the event is approximately 10 miles long and encompasses the entire water area of the Colorado River from Bluewater Marina in Parker, AZ, south to La Paz County Park. The course will be marked by buoys and sponsor vessels to alert non-participants. On the following days and times, the race zone will be in use by vessels competing in the event: annually, commencing on the second full weekend of March every year, and lasting a total of 2 days, from 8 a.m. until 5 p.m. (PST) each day. During these times the Colorado River from Bluewater Marina in Parker, AZ, south to La Paz County Park will be closed to all traffic with the exception of emergency vessels. No vessels other than participants, official patrol vessels, or emergency vessels will be allowed to enter into, transit through, or anchor within this zone unless specifically cleared by or through an official patrol vessel.

Pursuant to 33 CFR 100.1101(b)(3), Commander, Coast Guard Activities San Diego, is designated Patrol Commander for this event; he or she has the authority to delegate this responsibility to any commissioned, warrant, or petty officer of the Coast Guard. Once the zone is established, authorization to remain within the zone is subject to termination by Patrol Commander at any time. The Patrol Commander may impose other restrictions within the zone if circumstances dictate. Restrictions will be tailored to impose the least impact on maritime interests yet provide the level of security deemed necessary to safely conduct the event.

Discussion of Comments

No comments were received.

Regulatory Evaluation

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require assessment of potential cost and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this regulation to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of the Department of Transportation is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq*), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. *Small entities* may include small businesses and not-for-profit organizations that are not dominant in their fields and (2) governmental jurisdictions with populations less than 50,000.

Because it expects the impact of this regulation to be so minimal, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq*) that this rule will not have a substantial impact on a significant number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq*).

Federalism

The Coast Guard has analyzed this regulation under the principles and criteria in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that under Commandant Instruction M16475.1C, Figure 2-1, paragraph (34)(h), it will have no significant environmental impact and it is categorically excluded from further environmental documentation.

A Categorical Exclusion Determination and Environmental Analysis Checklist are included in the docket maintained at the address listed in **ADDRESSES.**

Unfunded Mandates

Under the Unfunded Mandates Reform Act of 1995 (Pub L. 104-4), the Coast Guard must consider whether this rule will result in an annual expenditure by state, local, and tribal governments, in the aggregate of $100 million (adjusted annually for inflation). If so, the Act requires that a reasonable number of regulatory alternatives be considered, and that from those alternatives, the least costly, most cost-effective, or least burdensome alternative that achieves the objective of the rule be selected.

No state, local or tribal government entities will be effected by this rule, so this rule will not result in annual or aggregate costs of $100 million or more. Therefore, the Coast Guard is exempt from any further regulatory requirements under the Unfunded Mandates Act.

List of Subjects in 33 CFR Part 100

Regattas, Marine parades.

Regulation

For the reasons set out in the preamble, the Coast Guard amends 33 CFR Part 100, section 100.1102, as follows:

PART 100—MARINE EVENTS

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233 through 1236; 49 CFR 1.36; 33 CFR 100.35.

2. Section 100.1102, Table 1, is amended by adding an entry for the Parker International Waterski Marathon immediately following the last entry, to read as follows:

§ 100.1102 Marine Events on the Colorado River, between Davis Dam (Bullhead City, Arizona) and Headgate Dam (Parker Arizona).

* * * * *

TABLE 1

* * * * *

Parker International Waterski Marathon

Sponsor: Parker International Waterski Association.

Dates: Annually, commencing on the second full weekend of March every year, and lasting a total of 2 days, from 8 a.m. (PST) until 5 p.m. (PST) each day.

Location: The entire water area of the Colorado River beginning at Bluewater Marina in Parker, AZ, and extending approximately 10 miles to La Paz County Park.

Dated: June 25, 1998.

R.D. Sirois,

Acting Captain, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

[FR Doc. 98-18558 Filed 7-10-98; 8:45 am]

BILLING CODE 4910-15-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD01-96-008]

RIN 2115-AE46

Special Local Regulation; Winter Harbor Lobster Boat Race, Winter Harbor, ME

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a permanent special local regulation for a boat race known as the Winter Harbor Lobster Boat Race. The event is held annually on the second Saturday in August between the hours of 8 a.m. and 2 p.m. This boat race takes place in the waters of Winter Harbor, Winter Harbor, ME. The actual date and time will be published in a Coast Guard Notice to Mariners. This regulation is needed to protect the boating public from the hazards associated with high-speed powerboat racing in confined waters.

EFFECTIVE DATE: This rule is effective on August 12, 1998.

FOR FURTHER INFORMATION CONTACT: Lieutenant Timothy J. Carton, Office of Search and Rescue, First Coast Guard District, (617) 223-8460.

SUPPLEMENTARY INFORMATION:

Regulatory History

A notice of proposed rulemaking (NPRM) was published on February 26, 1996, (61 FR 7089) proposing the establishment of a permanent special local regulation for the Winter Harbor Lobster Boat Race. The proposed rulemaking was published citing an incorrect section number § 100.114, which is already in use. This final rule will correct the section number.

The NPRM restricted vessels from transiting a specified regulated area to ensure the safety of life and property in the immediate vicinity of the event. No comments were received and no hearing was requested.

Background and Purpose

The Winter Harbor Lobster Boat Race is a local, traditional event that has been held for more than thirty years in Winter Harbor, ME. In the past, the Coast Guard has promulgated individual regulations for each year's race. Given the recurring nature of the event, the Coast Guard desires to establish a permanent regulation for this event. This rule establishes a regulated area on Winter Harbor and provides specific guidance to control vessel movement during the race.

This event includes up to 50 power-driven lobster boats and draggers competing in heats on a marked course at speeds approaching 25 m.p.h. The event typically attracts approximately 75 spectator craft. The Coast Guard will assign a patrol craft to the event, and the racecourse will be marked. Due to the speed, large wakes, and proximity of the participating vessels, it is necessary to establish a special local regulation to control spectator and commercial vessel movement within this confined area. Spectator craft are authorized to watch the race from any area as long as they remain outside the designated regulated area.

In emergency situations, provisions may be made to establish safe escort by a Coast Guard or designated Coast Guard vessel for vessels requiring transit through the regulated area.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has exempted it from review under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 25, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT, is unnecessary. This conclusion is based on the limited duration of the event, the extensive advisories that will be made to the affected maritime community and the minimal restrictions

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that the regulation places on vessel traffic.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this rule would have a significant economic impact on a substantial number of small entities. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

For the reasons discussed in the Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612, and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of this final rule and concluded that under Figure 2–1, paragraph 34(h), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Final Regulation

For the reasons set out in the preamble, the Coast Guard is amending 33 CFR Part 100 as follows:

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A new section, 100.109, is added to read as follows:

§ 100.109 Winter Harbor Lobster Boat Race, Winter Harbor, ME.

(a) *Regulated area.* The regulated area includes all waters of Winter Harbor, ME, within the following points (NAD 83):

Latitude	*Longtitude*
44 23′07″ N	068 04′52″ W
44 22′12″ N	068 04′52″ W
44 22′12″ N	068 05′08″ W
44 23′07″ N	068 05′08″ W

(b) *Special local regulations.* (1) The Coast Guard patrol commander may delay, modify, or cancel the race as conditions or circumstances require.

(2) No person or vessel may enter, transit, or remain in the regulated area unless participating in the event or unless authorized by the Coast Guard patrol commander.

(3) Vessels encountering emergencies which require transit through the regulated area should contact the Coast Guard patrol commander on VHF Channel 16. In the event of an emergency, the Coast Guard patrol commander may authorize a vessel to transit through the regulated area with a Coast Guard designated escort.

(4) All persons and vessels shall comply with the instructions of the Coast Guard on-scene patrol commander. On-scene patrol personnel may include commissioned, warrant, and petty officers of the Coast Guard. Upon hearing five or more short blasts from a Coast Guard vessel, the operator of a vessel shall proceed as directed. Members of the Coast Guard Auxiliary may also be present to inform vessel operators of this regulation and other applicable laws.

(c) *Effective Period.* This section is effective from 8 a.m. to 2 p.m., annually on the second Saturday in August, unless specified in a Coast Guard Notice to Mariners. In case of inclement weather, this section will be in effect the second Sunday in August at the same time, unless otherwise specified in a Coast Guard Notice to Mariners.

Dated: June 29, 1998.

R.M. Larrabee,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 98–18556 Filed 7–10–98; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD08–98–038]

RIN 2115–AE84

Regulated Navigation Area; Ohio River, Mile 461.0–462.0, Cincinnati, OH

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a regulated navigation area on the Ohio River from mile 461.0 to mile 462.0. These regulations are needed to protect and control recreation and commercial vessel traffic during two concerts by musician Jimmy Buffet at the Riverbend Music Center, Cincinnati, Ohio. These regulations will restrict general navigation in the regulated area for the safety of recreational and commercial vessels.

DATES: These regulations are effective from 8 p.m. until 11:30 p.m. on July 24 and 25, 1998.

ADDRESSES: Unless otherwise indicated, all documents referred to in these regulations are available for review at Marine Safety Office, Louisville, 600 Martin Luther King Jr. Place, Rm 360, Louisville, KY 40202–2230.

FOR FURTHER INFORMATION CONTACT: Lieutenant Jeff Johnson, Chief, Port Management Department, USCG Marine Safety Office, Louisville, Kentucky at (502) 582–5194, ext. 39.

SUPPLEMENTARY INFORMATION:

Drafting Information: The drafters of this regulation are Lieutenant Jeff Johnson, Port Management Officer for the Captain of the Port of Louisville, Kentucky, and Lieutenant Junior Grade Michael A. Woodruff, Project Attorney, Eighth Coast Guard District, New Orleans, LA.

Regulatory History

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking for these regulations has not been published, and good cause exists for making them effective in less than 30 days from the date of publication. Following normal rule making procedures would be impracticable. The details of the event were not finalized in sufficient time to publish proposed rules in advance of the event or to provide for a delayed effective date.

Background and Purpose

For the past few years performance artist Jimmy Buffet has performed annual concerts at the Riverbend Music Center and over that period of time the concerts have increased in popularity. In the last few years, this particular concert series has attracted an increasingly large number of spectator craft, posing a significant hazard to navigation. This increased number of vessels has contributed to an unusually high number of close calls between spectator craft and commercial traffic. The purpose of this regulation is to establish navigation and operating restrictions which will serve to separate recreational vessels from commercial vessel traffic, and if needed, to escort commercial traffic through the regulated navigation zone.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under sections 6(a)(3) of that order. Its has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 CFR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary because of the event's short duration.

To avoid any unnecessary adverse economic impact on businesses which use the river for commercial purposes, Captain of the Port, Louisville, Kentucky will monitor river conditions and will ease restrictions in the regulated area as conditions permit. Change will be announced by Marine Safety Information Radio Broadcast (Broadcast Notice to Mariners) on VHF marine band radio, channel 22 (157.1 MHZ). Mariners may also call the Port Management Officer, Captain of the Port, Louisville, Kentucky at (502) 582–5194 for current information.

Small Entities

The Coast Guard finds that the impact on small entities, if any, is not substantial. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this temporary rule will not have a significant economic impact on a substantial number of small entities because of the event's short duration.

Collection of Information

This rule contains no information collection requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism Assessment

The Coast Guard has analyzed this action in accordance with the principles and criteria of Executive Order 12612 and has determined that this rule does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard considered the environmental impact of this rule and concluded that under section 2–1, paragraph (34)(g) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation as an action required to protect public safety.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Vessels, Waterways.

Temporary Regulations

In consideration of the foregoing, Subpart F of Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C.191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A temporary § 165–T08–038 is added to read as follows:

§ 100–T08–038 Regulated navigation area: Ohio River.

(a) *Location.* The Ohio River between mile 461.0 and 462.0 is established as a regulated navigation area.

(b) *Regulations.* (1) Commercial vessels transiting the regulated navigation area shall proceed at minimum steerage and at the direction of the Coast Guard officers or petty officers who will be patrolling the regulated area on board Coast Guard vessels.

(2) Recreational vessels within the area shall not anchor or moor in the navigable channel.

(3) Depending on on-scene conditions, the Captain of the Port, Louisville, Kentucky, upon request, or for good cause, may authorize deviation from this section if the Captain of the Port, Louisville, Kentucky, finds that the proposed or needed operations can be performed safely.

(4) The Captain of the Port, Louisville, Kentucky will notify the maritime community of river conditions affecting the area covered by this regulated navigation area by Marine Safety Information Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHZ).

(c) *Effective date:* This section will be effective from 8 p.m. to 11:30 p.m. on July 24 and 25, 1998.

Dated: June 25, 1998.

Paul J. Fluta,

Rear Admiral, U.S. Coast Guard Commander, Eighth Coast Guard District.

[FR Doc. 98–18557 Filed 7–10–98; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NM35–1–7366; FRL–6118–4]

Approval and Promulgation of Air Quality Implementation Plans; Revised Format for Materials Being Incorporated by Reference for New Mexico and Albuquerque

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; notice of administrative change.

SUMMARY: The EPA is revising the format of 40 CFR part 52, subpart GG for materials submitted by New Mexico and Albuquerque that are incorporated by reference (IBR) into the State Implementation Plans (SIPs). The regulations affected by this format change have all been previously submitted by the respective State agency and approved by EPA. This format revision will primarily affect the "Identification of plan" sections of CFR 52.1620, as well as the format of the SIP materials that will be available for public inspection at the EPA Region 6 office, the Air and Radiation Docket and Information Center located in Waterside Mall, Washington, DC., and the Office of the Federal Register. The sections of 40 CFR 52.1620 pertaining to provisions promulgated by EPA or State-submitted materials not subject to IBR review and 40 CFR 52.1621 through 52.1639 remain unchanged.

EFFECTIVE DATE: This action is effective July 13, 1998.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations:

Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733;

Office of Air and Radiation, Docket and Information Center (Air Docket), EPA, 401 M Street, SW, Room M1500, Washington, DC 20460; and

Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Scoggins, Air Planning Section (6PD–L) at the above Region 6 address or at (214) 665–7354.

SUPPLEMENTARY INFORMATION:

Background

Each State is required by section 110(a)(1) of the Act, to have a SIP that contains the control measures and strategies which will be used to attain

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and maintain the national ambient air quality standards. The SIP is extensive, containing such elements as emission inventories, monitoring network, attainment demonstrations, and enforcement mechanisms. The control measures and strategies must be formally adopted by each State after the public has had an opportunity to comment on them. They are then submitted to EPA as SIP revisions on which EPA must formally act.

Once these control measures are approved by EPA pursuant to 110(k) of the Act, after notice and comment, they are incorporated into the SIP and are identified in part 52 (Approval and Promulgation of Implementation Plans), Title 40 of the Code of Federal Regulations (40 CFR part 52). The actual State regulations which are approved by EPA are not reproduced in their entirety in 40 CFR part 52, but are "incorporated by reference," which means that the citation of a given State regulation with a specific effective date has been approved by EPA. This format allows both EPA and the public to know which measures are contained in a given SIP and ensures that the State is enforcing the regulations. It also allows EPA and the public to take enforcement action, should a State not enforce its SIP-approved regulations.

The SIP is an active or changing document which can be revised by the State as necessary to address the unique air pollution problems in the State as long as changes are not contrary to federal law. Therefore, EPA, from time to time, must take action to incorporate into the SIP, revisions of the state program which may contain new and/or revised regulations. Regulations approved into the SIP are then incorporated by reference into part 52. As a result of consultations between EPA and the Office of Federal Register, EPA revised the procedures on May 22, 1997 (62 FR 27968), for incorporating by reference federally-approved SIPs and began the process of developing pursuant to 110(h)(1) of the Act: (1) A revised SIP document for each State that would be incorporated by reference under the provisions of 1 CFR part 51; (2) a revised mechanism for announcing EPA approval of revisions to an applicable SIP and updating both the IBR document and the CFR; and (3) a revised format of the "Identification of plan" sections for each applicable subpart to reflect these revised IBR procedures. The description of the revised SIP document, IBR procedures and "Identification of plan" format are discussed in further detail in the May 22, 1997, **Federal Register** document.

Content of Revised IBR Document

The new SIP compilations contain the federally-approved portion of state regulations and source specific permits submitted by each State agency. These regulations and source-specific permits have all been approved by EPA through previous rulemaking actions in the **Federal Register**. The SIP compilations are stored in 3-ring binders and will be updated primarily on an annual basis. If no significant changes are made for any state to the SIP during the year, an update will not be made during that year. If significant changes occur during the year, an update could be done on a more frequent basis, as applicable. Typically, only the revised section of the compilation will be updated. Complete resubmittals of a state SIP compilation will be done on an as-needed basis.

Each compilation contains two parts. Part 1 contains the regulations and Part 2 contains the source-specific permits that have been approved as part of the SIP. Each part has a table of contents identifying each regulation or each source specific permit. The table of contents in the compilation corresponds to the table of contents published in 40 CFR part 52 for these states. The regional EPA offices have the primary responsibility for ensuring accuracy and updating the compilations. The Region 6 EPA Office developed and will maintain the compilations for New Mexico and for Albuquerque. A copy of the full text of the State's current compilation will also be maintained at the Office of Federal Register and EPA's Air Docket and Information Center. The EPA is beginning the phasing in of SIP compilations for individual states, and expects to complete the conversion of the revised "Identification of plan" format and IBR documentation for all states by May 1999. This revised format is consistent with the SIP compilation requirements of section 110(h)(1) of the Act.

Revised Format of the "Identification of Plan" Sections in Each Subpart

In order to better serve the public, EPA is revising the organization of the "Identification of plan" section of 40 CFR section 52.1620. The EPA is including additional information which will more clearly identify what provisions constitute the enforceable elements of the SIP.

The revised "Identification of plan" section will contain five subsections: (a) Purpose and scope, (b) Incorporation by reference, (c) EPA approved regulations, (d) EPA approved source-specific permits, and (e) EPA approved nonregulatory provisions, such as transportation control measures, statutory provisions, control strategies, monitoring networks, etc.

Enforceability and Legal Effect

This change to the procedures for incorporation by reference announced today will not alter in any way the enforceability or legal effect of approved SIP materials, including both those approved in the past or to be approved in the future. As of the effective date of the final rule approving a SIP revision, all provisions identified in the **Federal Register** document announcing the SIP approval will be federally enforceable, both by EPA under section 113 of the Act and by citizens under section 304 of the Act, where applicable. All revisions to the applicable SIP are federally enforceable as of the effective date of EPA approval even if they have not yet been incorporated by reference. To facilitate enforcement of previously approved SIP provisions and provide a smooth transition to the new SIP processing system, EPA is retaining the original "Identification of Plan" section, previously appearing in the CFR as the first or second section of part 52 for each State subpart.

Notice of Administrative Change

Today's action constitutes a "housekeeping" exercise to ensure that federally approved state plans are accurately reflected in 40 CFR part 52. State SIP revisions are controlled by EPA Regulations at 40 CFR part 51. When EPA receives a formal SIP revision request, the Agency must publish the proposed revision in the **Federal Register** and provide for public comment before approval.

The EPA has determined that today's rule falls under the "Good Cause" exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding "good cause," authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's rule simply codifies provisions which are already in effect as a matter of law in Federal and approved State programs.

Under section 553 of the APA, an agency may find good cause where procedures are "impractical, unnecessary, or contrary to the public interest." Public comment is "unnecessary" since the codification only reflects existing law. Immediate revision to the CFR benefits the public by removing outdated citations.

Administrative Requirements

A. Executive Order (E.O.) 12866 and 13045

The Office of Management and Budget has exempted this regulatory action from E.O. 12866 review. In addition, this regulatory action is not subject to E.O. 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks," because it is not an "economically significant" action under E.O. 12866.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities, 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

The regulations affected by this format change to 40 CFR part 52 have all been previously submitted by the respective State agency and approved by EPA. Therefore, the Regional Administrator certifies that there is no significant impact on any small entities affected.

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves preexisting requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

E. Judicial Review

The EPA has determined that the provisions of section 307(b)(1) of the Clean Air Act pertaining to petitions for judicial review are not applicable to this action. Prior EPA rulemaking actions approving each individual component of New Mexico and Albuquerque SIP compilations had previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, EPA sees no need in this action to provide an additional opportunity for judicial review.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: June 9, 1998.

Jerry Clifford,

Deputy Regional Administrator, Region 6.

Part 52 of chapter I, title 40, *Code of Federal Regulations*, is amended as follows:

PART 52—[AMENDED]

1. The authority for citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart GG—New Mexico

§ 52.1620 [Redesignated as § 52.1640]

2. Section 52.1620 is redesignated as § 52.1640 and the section heading and paragraph (a) are revised to read as follows:

§ 52.1640 Original identification of plan section.

(a) This section identifies the original "State of New Mexico Implementation Plan" and all revisions submitted by New Mexico that were federally approved prior to January 1, 1998.

* * * * *

3. A new § 52.1620 is added to read as follows:

§ 52.1620 Identification of plan.

(a) *Purpose and scope.* This section sets forth the applicable State Implementation Plan (SIP) for New Mexico under section 110 of the Clean Air Act, 42 U.S.C. 7401, and 40 CFR part 51 to meet national ambient air quality standards.

(b) *Incorporation by reference.* (1) Material listed in paragraphs (c) and (e) of this section with an EPA approval date prior to January 1 1998, was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c) and (e) of this section with EPA approval dates after January 1, 1998, will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region 6 certifies that the rules/regulations provided by EPA in the SIP compilation at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules/regulations which have been approved as part of the State Implementation Plan as of January 1, 1998.

(3) Copies of the materials incorporated by reference may be inspected at the Region 6 EPA Office at 1445 Ross Avenue, Suite 700, Dallas, Texas, 75202–2733; the EPA, Air and Radiation Docket and Information Center, Air Docket (6102), 401 M Street, SW, Washington, DC 20460; or at the Office of Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC.

(c) EPA approved regulations.

EPA APPROVED NEW MEXICO REGULATIONS

State citation	Title/subject	State approval/effective date	EPA approval date	Comments
New Mexico Administrative Code (NMAC) Title 20—Environment Protection Chapter 2—Air Quality				
Part 1	General Provisions	10/27/95	11/25/97, 62 FR 50514	This date reflects a recodification, not EPA approval of underlying requirement.
Part 2	Definitions	11/30/95	11/25/97, 62 FR 50514	
Part 3	Ambient Air Quality Standards	11/30/95	11/25/97, 62 FR 50514	
Part 5	Source Surveillance	11/30/95	11/25/97, 62 FR 50514	
Part 7	Excess emissions during Malfunction, Startup, Shutdown, or Scheduled Maintenance.	11/30/95	11/25/97, 62 FR 50514	
Part 8	Emissions Leaving New Mexico	11/30/95	11/25/97, 62 FR 50514	
Part 10	Woodwaste Burners	11/30/95	11/25/97, 62 FR 50514	
Part 11	Asphalt Process Equipment	11/30/95	11/25/97, 62 FR 50514	
Part 12	Cement Kilns	11/30/95	11/25/97, 62 FR 50514	
Part 13	Gypsum Processing Plants	11/30/95	11/25/97, 62 FR 50514	
Part 14	Particulate Emissions From Coal Burning Equipment.	11/30/95	11/25/97, 62 FR 50514	
Part 15	Pumice, Mica and Perlite Process Equipment.	11/30/95	11/25/97, 62 FR 50514	
Part 16	Nonferrous Smelters (New and Existing)-Particulate Matter.	11/30/95	11/25/97, 62 FR 50514	
Part 17	Nonferrous Smelters (Existing)-Particulate Matter.	11/30/95	11/25/97, 62 FR 50514	
Part 18	Oil Burning Equipment-Particulate Matter.	11/30/95	11/25/97, 62 FR 50514	
Part 19	Potash, Salt or Sodium Sulfate Processing Equipment-Particulate Matter.	11/30/95	11/25/97, 62 FR 50514	
Part 20	Lime Manufacturing Plants-Particulate Matter.	11/30/95	11/25/97, 62 FR 50514	
Part 21	Fugitive Particulate Matter Emissions from Nonferrous Smelters.	11/30/95	11/25/97, 62 FR 50514	
Part 22	Fugitive Particulate Matter Emissions from Roads within the Town of Hurley.	11/30/95	11/25/97, 62 FR 50514	
Part 30	Kraft Mills	11/30/95	11/25/97, 62 FR 50514	
Part 31	Coal Burning Equipment-Sulfur Dioxide.	11/30/95	11/25/97, 62 FR 50514	
Part 32	Coal Burning Equipment-Nitrogen Dioxide.	11/30/95	11/25/97, 62 FR 50514	
Part 33	Gas Burning Equipment-Nitrogen Dioxide.	11/30/95	11/25/97, 62 FR 50514	
Part 34	Oil Burning Equipment-Nitrogen Dioxide.	11/30/95	11/25/97, 62 FR 50514	
Part 40	Sulfuric Acid Production Units-Sulfur Dioxide, Acid Mist and Visible Emissions.	11/30/95	11/25/97, 62 FR 50514	
Part 41	Nonferrous Smelters-Sulfur	11/30/95	11/25/97, 62 FR 50514	
Part 60	Open Burning	11/30/95	11/25/97, 62 FR 50514	
Part 61	Smoke and Visible Emissions	11/30/95	11/25/97, 62 FR 50514	
Part 70	Operating Permits	11/30/95	11/25/97, 62 FR 50514	
Part 71	Operating Permit Emission Fees	11/30/95	11/25/97, 62 FR 50514	
Part 72	Construction Permits	11/30/95	11/25/97, 62 FR 50514	Subparts I, II, III, and V in SIP.
Part 73	Notice of Intent and Emissions Inventory Requirements.	11/30/95	11/25/97, 62 FR 50514	
Part 74	Prevention of Significant Deterioration	7/20/95	10/15/96, 61 FR 53639	
Part 75	Construction Permit Fees	11/30/95	11/25/97, 62 FR 50514	
Part 79	Permits-Nonattainment Areas	11/30/95	11/25/97, 62 FR 50514	
Part 80	Stack Heights	11/30/95	11/25/97, 62 FR 50514	

EPA APPROVED ALBUQUERQUE/BERNALILLO COUNTY, NM REGULATIONS

State citation	Title/subject	State approval/effective date	EPA approval date	Comments
Regulation No.	Albuquerque/Bernalillo County, Air Quality Control Regulations			
1	Resolutions	01/12/79	04/10/80, 45 FR 24468	

EPA APPROVED ALBUQUERQUE/BERNALILLO COUNTY, NM REGULATIONS—Continued

State citation	Title/subject	State approval/effective date	EPA approval date	Comments
2	Definitions	03/16/89	12/21/93, 58 FR 67333	
3	Open Burning	01/12/79	04/10/80, 45 FR 24468	
4	Incinerators	01/12/79	04/10/80, 45 FR 24468	
5	Visible Air Contaminants	01/12/79	04/10/80, 45 FR 24468	
6	Orchard Heaters	01/12/79	04/10/80, 45 FR 24468	
7	Motor Vehicle Air Pollution Control Devices.	01/12/79	04/10/80, 45 FR 24468	
8	Airborne Particulate Matter	03/17/83	02/23/93, 58 FR 10972	
9	Process Equipment	01/12/79	04/10/80, 45 FR 24468	
10	Kraft Mills	01/12/79	04/10/80, 45 FR 24468	
11	Organic Fluids	01/12/79	04/10/80, 45 FR 24468	
12	Coal Burning Equipment—Nitrogen Dioxide Emission Limits.	01/12/79	04/10/80, 45 FR 24468	
13	Coal Burning Equipment—Sulfur Dioxide Emission Limits.	01/12/79	04/10/80, 45 FR 24468	
14	Coal Burning Equipment—Particulate Emission Limits.	01/12/79	04/10/80, 45 FR 24468	
15	Oil Burning Equipment—Nitrogen Dioxide Emission Limits.	01/12/79	04/10/80, 45 FR 24468	
16	Oil Burning Equipment—Particulate Emission Limits.	01/12/79	04/10/80, 45 FR 24468	
17	Oil Burning Equipment—Sulfur Dioxide Emission Limits.	01/12/79	04/10/80 45 FR 24468	
18	Gas Burning Equipment—Nitrogen Dioxide Emission Limits.	01/12/79	04/10/80, 45 FR 24468	
19	Breakdown, Abnormal Operating Conditions, or Scheduled Maintenance.	01/12/79	04/10/80, 45 FR 24468	
20	Permits	02/26/93	03/16/94, 59 FR 12172	
21	Permit Fees	01/12/79	04/10/80, 45 FR 24468	
22	Registration of Air Contaminant Sources.	01/12/79	04/10/80, 45 FR 24468	
23	Source Surveillance	01/12/79	04/10/80, 45 FR 24468.	
24	Variance Procedure	01/12/79	04/10/80, 45 FR 24468	
25	Administration and Enforcement	01/12/79	04/10/80, 45 FR 24468	
26	Interpretation	01/12/79	04/10/80, 45 FR 24468	
27	Emergency Action Plan	01/12/79	04/10/80, 45 FR 24468	
28	Motor Vehicle Inspection	07/01/95	06/13/96, 61 FR 29970	
29	Prevention Of Significant Deterioration.	03/26/93	12/21/93, 58 FR 67333	
30—31	NSPS/NESHAPS			REGS NOT IN SIP. See Notice of Delegation published 10/06/95, 60 FR 52329.
32	Construction Permits—Nonattainment Areas.	02/26/93	12/21/93, 58 FR 67329	
33	Stack Height Requirements	03/16/89	03/05/91, 56 FR 09175	
34	Woodburning	11/27/91	11/23/93, 58 FR 62539	
35	Alternative Fuels	11/10/93	05/05/94, 59 FR 23168	
42	Transportation Conformity	11/09/94	11/08/95, 60 FR 56244	42.11 not approved by EPA.
43	General Conformity	11/09/94	09/13/96, 61 FR 48407	

(d) [Reserved]

(e) EPA approved nonregulatory provisions.

EPA APPROVED NEW MEXICO STATUTES IN THE CURRENT NEW MEXICO SIP

State citation	Title/subject	State Approval/effective date	EPA approval date	Comments
NMSA 1978—New Mexico Statutes in the Current New Mexico SIP				
74–2–1	Short Title	08/11/83	11/02/84, 49 FR 44101	
74–2–2	Definitions	08/11/83	11/02/84, 49 FR 44101	
74–2–3	State Air Pollution Control Agency	08/11/83	11/02/84, 49 FR 44101	
74–2–4	Municipal or County Air Quality Control Board.	08/11/83	11/02/84, 49 FR 44101	
74–2–5	Duties and Powers of Board	08/11/83	11/02/84, 49 FR 44101	

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EPA APPROVED NEW MEXICO STATUTES IN THE CURRENT NEW MEXICO SIP—Continued

State citation	Title/subject	State Approval/ effective date	EPA approval date	Comments
74–2–6	Adoption of Regulations Notice and Hearings.	08/11/83	11/02/84, 49 FR 44101	
74–2–7	Permits	08/11/83	11/02/84, 49 FR 44101	
74–2–8	Variances	08/11/83	11/02/84, 49 FR 44101	
74–2–9	Variances—Judicial Review	08/11/83	11/02/84, 49 FR 44101	
74–2–10	Emergency Procedure	08/11/83	11/02/84, 49 FR 44101	
74–2–11	Confidential Information	08/11/83	11/02/84, 49 FR 44101	
74–2–11.1	Limitations on Regulations	08/11/83	11/02/84, 49 FR 44101	
74–2–12	Enforcement	08/11/83	11/02/84, 49 FR 44101	
74–2–13	Inspection	08/11/83	11/02/84, 49 FR 44101	
74–2–14	Penalties	08/11/83	11/02/84, 49 FR 44101	
74–2–15	Additional Means of Enforcement	08/11/83	11/02/84, 49 FR 44101	
74–2–15.1	Primary Nonferrous Smelter Orders	08/11/83	11/02/84, 49 FR 44101	
74–2–16	Declaratory Judgement of Regulation	08/11/83	11/02/84, 49 FR 44101	
74–2–17	Continuing Effect of Present Laws, Rules, and Regulations.	08/11/83	11/02/84, 49 FR 44101	

[FR Doc. 98–17975 Filed 7–10–98; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 409, 410, 411, 413, 424, 483, and 489

[HCFA–1913–N]

RIN 0938–AI47

Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities; Extension of Comment Period

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of extension of comment period for interim final rule.

SUMMARY: This document extends the comment period for an interim final rule with comment period that was published in the **Federal Register** on May 12, 1998 (63 FR 26252). That interim final rule implements provisions in section 4432 of the Balanced Budget Act of 1997 related to Medicare payment for skilled nursing facility services. Those include the implementation of a Medicare prospective payment system for skilled nursing facilities, consolidated billing, and a number of related changes. The comment period is extended for 60 days.

DATES: The comment period is extended to 5 p.m. on September 11, 1998.

ADDRESSES: Mail written comments (one original and three copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA–1913–IFC, P.O. Box 26688, Baltimore, MD 21207–0488.

If you prefer, you may deliver your written comments (one original and three copies) to one of the following addresses: Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW, ashington, DC 20201, or Room C5–09–26, Central Building, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA–1913–IFC. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 309–G of the Department's offices at 200 Independence Avenue, SW, Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690–7890).

For comments that relate to information collection requirements, mail a copy of comments to: Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attn: Allison Herron Eydt, HCFA Desk Officer.

FOR FURTHER INFORMATION CONTACT: Laurence Wilson, (410) 786–4603 (for general information). John Davis, (410) 786–0008 (for information related to the Federal rates). Dana Burley, (410) 786–4547 (for information related to the case-mix classification methodology). Steve Raitzyk, (410) 786–4599 (for information related to the facility-specific transition payment rates). Bill Ullman, (410) 786–5667 (for information related to consolidated billing and related provisions).

SUPPLEMENTARY INFORMATION: On May 12, 1998, we issued an interim final rule with comment period in the **Federal Register** (63 FR 26252) that implements provisions in section 4432 of the Balanced Budget Act of 1997 related to Medicare payment for skilled nursing facility services. Those include the implementation of a Medicare prospective payment system for skilled nursing facilities, consolidated billing, and a number of related changes. We indicated that comments would be considered if we received them by July 13, 1998.

Because of the complexity and scope of the interim final rule and because numerous members of the industry and professional associations have requested more time to analyze the potential consequences of the rule, we have decided to extend the comment period for an additional 60 days. This document announces the extension of the public comment period to September 11, 1998.

Authority: Secs. 1102 and 1871 of the Social Security Act.

(42 U.S.C. 1302 and 1395hh).

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: June 30, 1998.

Nancy-Ann Min DeParle,
Administrator, Health Care Financing Administration.

Dated: July 9, 1998.

Donna E. Shalala,
Secretary.

[FR Doc. 98–18746 Filed 7–10–98; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0 and 63

[FCC 98–127]

Notification of Common Carriers of Service Disruptions

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This *Order* amends the Commission's rules that require carriers to send final reports of certain telephone network service outages to the Chief of the Common Carrier Bureau. This order amends the rules so that carriers required to provide the Commission with final reports of those outages will be directed to send them to the Chief of the Office of Engineering and Technology instead of the Chief of the Common Carrier Bureau.

EFFECTIVE DATE: July 13, 1998.

FOR FURTHER INFORMATION CONTACT: Robert Kimball, Office of Engineering and Technology, (202) 418–2339.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order, FCC 98–127, adopted June 19, 1998, and released June 25, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's duplication contractor, International Transcription Service, (202) 857–3800, 1231 20th Street, N.W. Washington, D.C. 20036.

Summary of Order

The Commission's rules require wireline common carriers to send final reports of certain telephone network service outages to the Chief of the Common Carrier Bureau. The Order summarized here amends the rule so that carriers required to provide the Commission with final reports of those outages will be directed to send them to the Chief of the Office of Engineering and Technology instead.

Since February 18, 1998, the Office of Engineering and Technology has coordinated the meetings and other activities of the Network Reliability Council, now called the Network Reliability and Interoperability Council. Previously this coordinating function was carried out by the Common Carrier Bureau. The receipt and tabulation of outage reports, however, continues to be carried out by the staff of the Common Carrier Bureau. Since these outage reports are relied upon by the Council in the conduct of its research and since tabulation and any analysis that may be required is best conducted by those most familiar with the best practice recommendations of the Council, the Council coordination function and the receipt and tabulation function should be consolidated in the same office.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, does not apply to this proceeding because the Commission is adopting this rule without notice and comment. See 5 U.S.C. 603(a) and 604(a). Notice and comment are not required because the Commission is modifying a "rule of agency organization, procedure, or practice." See 5 U.S.C. 553(b)(A). Moreover, the Commission has found that notice and comment are unnecessary here. See 5 U.S.C. 553(b)(B).

List of Subjects

47 CFR Part 0

Organization and functions (government agencies).

47 CFR Part 63

Communications common carriers, Reporting and recordkeeping requirements.

Federal Communications Commission.

Magalie Roman Salas,
Secretary.

Rule Changes

For the reasons discussed in the preamble, Parts 0 and 63 of Title 47 of the Code of Federal Regulations are amended as follows:

PART 0—COMMISSION ORGANIZATION

1. The authority citation for part 0 continues to read as follows:

Authority: Secs. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155.

2. Section 0.31 is amended by revising paragraph (j) to read as follows:

§ 0.31 Functions of the Office.

* * * * *

(j) To perform all engineering and management functions of the Commission with respect to formulating rules and regulations, technical standards, and general policies for parts 15, 18 and section 63.100 of this chapter, and for type approval and acceptance, and certification of radio equipment for compliance with the Rules.

* * * * *

PART 63—EXTENSION OF LINES AND DISCONTINUANCE, REDUCTION, OUTAGE AND IMPAIRMENT OF SERVICE BY COMMON CARRIERS; AND GRANTS OF RECOGNIZED PRIVATE OPERATING AGENCY STATUS

3. The authority citation for part 63 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 154(j), 201–205, 218, 403 and 533, unless otherwise noted.

4. Section 63.100, paragraphs (b), (c), (d), and (h) are amended by revising the last sentence of each paragraph and paragraph (e) introductory text, is amended by revising the ninth sentence to read as follows:

§ 63.100 Notification of service outage.

* * * * *

(b) * * * Not later than thirty days after the outage, the carrier shall file with the Chief, Office of Engineering and Technology, a Final Service Disruption Report providing all available information on the service outage, including any information not contained in its Initial Service Disruption Report and detailing specifically the root cause of the outage and listing and evaluating the effectiveness and application in the immediate case of any best practices or industry standards identified by the Network Reliability Council to eliminate or ameliorate outages of the reported type.

(c) * * * Not later than thirty days after the outage, the carrier shall file with the Chief, Office of Engineering and Technology, a Final Service Disruption Report providing all available information on the service outage, including any information not contained in its Initial Service Disruption Report and detailing specifically the root cause of the outage and listing and evaluating the effectiveness and application in the immediate case of any best practices or industry standards identified by the Network Reliability Council to eliminate

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or ameliorate outages of the reported type.

(d) * * * Not later than thirty days after the outage, the carrier shall file with the Chief, Office of Engineering and Technology, a Final Service Disruption Report providing all available information on the service outage, including any information not contained in its Initial Service Disruption Report and detailing specifically the root cause of the outage and listing and evaluating the effectiveness and application in the immediate case of any best practices or industry standards identified by the Network Reliability Council to eliminate or ameliorate outages of the reported type.

(e) * * * Not later than thirty days after the outage, the carrier shall file with the Chief, Office of Engineering and Technology, a Final Service Disruption Report providing all available information on the service outage, including any information not contained in its Initial Service Disruption Report and detailing specifically the root cause of the outage and listing and evaluating the effectiveness and application in the immediate case of any best practices or industry standards identified by the Network Reliability Council to eliminate or ameliorate outages of the reported type.

* * * * *

(h) * * * Not later than thirty days after the outage, the carrier shall file with the Chief, Office of Engineering and Technology, a Final Service Disruption Report providing all available information on the service outage, including any information not contained in its Initial Service Disruption Report and detailing specifically the root cause of the outage and listing and evaluating the effectiveness and application in the immediate case of any best practices or industry standards identified by the Network Reliability Council to eliminate or ameliorate outages of the reported type.

* * * * *

[FR Doc. 98–18562 Filed 7–10–98; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR PARTS 191, 192, 193, 194, 195

[Docket PS–153; Amdt. 191–14; 192–85; 193–15; 194–3; 195–63.]

RIN 2137–AC98

Metric Equivalents

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: This final rule amends the pipeline safety regulations to provide metric equivalents. The metric equivalents are being provided for informational purposes only. Operators would continue to use the English measures for purposes of compliance and enforcement. No changeover to the metric system of measurement is being contemplated at this time. This may be reconsidered in the future.

DATES: Effective July 13, 1998.

FOR FURTHER INFORMATION CONTACT: Marvin Fell, (202) 366–6205, or by e-mail at marvin.fell@rspa.dot.gov regarding the subject matter of this final rule or regarding copies of this final rule and other material in the docket.

SUPPLEMENTARY INFORMATION:

I. Background

Executive Order 12770, titled "Metric Usage in the Federal Government" (July 25, 1991), requires Federal agencies to use metric measures in their business-related activities as a means to implement the metric system of measures as the preferred system of weights and measures for the United States.[1] In order to explore its responsibilities under this Executive Order, RSPA published an Advance Notice of Proposed Rulemaking (ANPRM) on October 23, 1996 (61 FR 55069). RSPA also held a public meeting on January 10, 1997 in Dallas, Texas. On March 11, 1997, RSPA published an additional notice seeking further comment on the metrication issue, particularly on the publication of metric equivalents for all numerical measures in the pipeline safety regulations. After considering the public comments to the notice and the opinions expressed at the public meeting, RSPA published a Notice of Proposed Rulemaking (NPRM) on December 29, 1997 (62 FR 67602–67607).

In its October 23, 1996, Notice of Public Meeting, RSPA requested comments on seven questions. These questions concerned the best method for providing metric conversion and the cost impact of conversion on the pipeline industry, including the impact on small entities. The majority of respondents were pipeline operators who opposed metric-only regulations. As an alternative, they favored providing metric equivalents. They cited the increased costs that could result from metric conversion with no increase in safety. Some operators contended that metric-only regulations might adversely impact small entities by imposing training and administrative costs that would not contribute to pipeline safety. A few commenters were in favor of metric only regulations.

RSPA received 13 comments to its NPRM, including two from individuals involved in metrication issues, three trade associations representing propane transporters and natural gas distribution and transmission operators, and eight hazardous liquid and gas pipeline operators. There was near unanimous agreement with RSPA's proposal to provide metric equivalents while maintaining English as the measure to be used for compliance. Several operators stated that requiring a metric only rulemaking would significantly add to compliance costs without adding any safety benefits. However, two commenters suggested that operators be able to choose whether to comply with metric or English measures. RSPA believes that these two commenters have a good point. RSPA would like to hear from any operator who would like to comply in metric rather than English. RSPA believes that this should add little to the government compliance costs.

The NPRM proposed displaying the metric measurement first, followed by the English equivalent in parenthesis.

The comment cited most frequently by commenters is that since English will remain the measure for compliance purposes it would be appropriate to present the English measure first with the metric in parentheses. RSPA concurs with this comment. Therefore, RSPA will present all English measures with metric measures following in parentheses.

Several commenters noted that RSPA in its NPRM was not consistent in its use of significant figures and that RSPA use the American Society for Testing and Material (ASTM) Standard for

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[1] Section 2(a) of Executive Order 12770 states that "[t]he head of each executive department and agency shall use * * * the metric system of measurement in Federal Government procurements, grants and other business-related activities. Other business-related activities include all use of measurement units in agency programs and functions related to trade, industry, and commerce."

Metric Practice. RSPA concurs with this suggestion in its final rule. A few commenters noted where RSPA had either overlooked a conversion or made errors in the conversion. RSPA has made the appropriate corrections. Two comments were received that a conversion was made on regulations that have expired. RSPA will remove these regulations next time it updates its regulations.

By providing English measures and metric equivalents in its pipeline safety regulations, RSPA provides the benefit of increasing public understanding of the metric system, the goal of Executive Order 12770. Providing metric equivalents also meets the requirement that "metric usage shall not be required to the extent that such use is impractical or cause significant inefficiencies or loss of markets to United States firms." (Executive Order 12770 of July 25, 1991).

A complete conversion to the metric system would prove extremely costly to pipeline operators because most pipelines were designed using English measures. Converting these pipelines to metric-only measures would be a very time-consuming process involving considerable expenditure, including educating pipeline employees in use of the metric system.

One pipeline operator noted in its comments that the metrication process in pipeline safety dates to 1978 when sections 192.121 and 192.123 were amended to include both English and metric measures. No changeover to the metric system of measurement is being contemplated at this time. This may be reconsidered in the future.

On May 4, 1998 at its joint meeting of the Technical Pipeline Safety Standards Committee (TPSSC) and the Technical Hazardous Liquid Pipeline Safety Standards Committee (THLPSSC), the two Congressionally mandated advisory committees, OPS presented details concerning its metric equivalents NPRM and the summary of the comments received. These two committees voted overwhelming approval for OPS's metric equivalency proposal with one recommended change. This was that the metric equivalent be placed in parentheses after the English measure. There was one dissenting vote. The dissenter wanting the English measure in parentheses.

II. Regulatory Analyses and Notices

A. The Department of Transportation (DOT) does not consider this action to be a significant regulatory action under section 3(f)of Executive Order 12866 (58 FR 51735; October 4, 1994) and does not consider this action significant under DOT's regulatory policies and procedures (44 FR 1103; February 26, 1979). Therefore, this rulemaking was not reviewed by the Office of Management and Budget.

Because this proposed change to the regulations providing metric equivalents for all English measures is for informational and educational purposes only, and imposes no new requirements on pipeline operators, it will have no economic impact. Therefore, no regulatory evaluation is necessary.

B. Regulatory Flexibility Act

As discussed above this rule has no economic impact. Therefore, I certify pursuant to Section 605 of the Regulatory Flexibility Act (5 U.S.C. 605) that this rulemaking action will not have a significant economic impact on a substantial number of small entities.

C. Executive Order 12612

RSPA has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 (52 FR 41685). RSPA has determined that the action does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

D. Paperwork Reduction Act

This rule change has no impact on the amount of paperwork required by these regulations.

E. Unfunded Mandates Reform Act of 1995

This rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $100 million or more to either State or local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the rule.

List of Subjects

49 CFR Part 191

Natural gas, Pipeline safety, Reporting and recordkeeping requirements.

49 CFR Part 192

Natural gas, Pipeline safety.

49 CFR Part 193

Liquefied natural gas (LNG), Pipeline safety.

49 CFR Part 194

Oil pollution, Reporting and recordkeeping requirements.

49 CFR Part 195

Anhydrous ammonia, Carbon dioxide, Petroleum, Pipeline safety.

In consideration of the foregoing, RSPA proposes to amend 49 CFR parts 191–195 as follows:

PART 191—[AMENDED]

1. The authority citation for part 191 continues to read as follows:

Authority: 49 U.S.C. 5121, 60102, 60103, 60104, 60108, 60117, 60118, 60124, and 49 CFR 1.53.

2. In part 191, in the following section remove the numbers or words in the middle column and add the numbers or words in the third column in their place as follows:

Section No.	Remove	Add
191.23(b)(3)	220 yards	220 yards (200 meters)

3. Amend section 191.27 by revising paragraph (a)(4) to read as follows:

§ 191.27 Filing offshore pipeline condition reports.

(a) * * *

(4) Total length of pipeline inspected.

* * * * *

PART 192—[AMENDED]

1. The authority citation for part 192 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60110, 60113, and 60118, and 49 CFR 1.53.

2. In part 192, for the following sections, remove the numbers or words in the middle column and add the numbers or words in the third column in their place as follows:

Section	Remove	Add
192.3 Definitions:		
Exposed pipeline	15 feet	15 feet (4.6 meters).
Gulf of Mexico and its inlets ...	15 feet	15 feet (4.6 meters).
Hazard to navigation	12 inches	12 inches (305 millimeters).
	15 feet	15 feet (4.6 meters).

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Section	Remove	Add
Petroleum gas	1434 kPa (208 psig) at 38° C (100° F).	208 psi (1434 kPa) gage at 100° F (38° C).
192.5(a)(1)	220 yards	220 yards (200 meters).
	1-mile	1-mile (1.6 kilometers).
192.5(b)(3)(ii)	100 yards	100 yards (91 meters).
192.5(c)(1)	220 yards	220 yards (200 meters).
192.5(c)(2)	220 yards	220 yards (200 meters).
192.55(c)	6,000 p.s.i	6,000 p.s.i. (41 MPa).
192.105(a)	Pounds per square inch gauge	Pounds per square inch (kPa) gage.
	Pounds per square inch	Pounds per square inch (kPa).
	Inches	Inches (millimeters).
192.107(b)(2)	24,000 p.s.i	24,000 p.s.i.(165 MPa).
192.109(b)	20 inches (twice)	20 inches (508 millimeters).
192.113	4 inches (twice)	4 inches (102 millimeters).
192.115 table	Fahrenheit	Fahrenheit (Celsius).
	250	250 °F (121 °C).
	300	300 °F (149 °C).
	350	350 °F (177 °C).
	400	400 °F (204 °C).
	450	450 °F (232 °C).
192.121	23 °C (73 °F)	73 °F (23 °C).
	38 °C (100 °F)	100 °F (38 °C).
	49 °C (120 °F)	120 °F (49 °C).
	60 °C (140 °F)	140 °F (60 °C).
	75,842 kPa (11,000 psi)	11,000 psi (75,842 kPa).
192.123(b)(1)	−29 °C (−20 °F) twice	−20 °F (−20 °C).
	−40 °C (−40 °F)	−40 °F (−40 °C).
192.123(b)(2)(i)	23 °C (73 °F)	73 °F (23 °C).
	38 °C (100 °F)	100 °F (38 °C).
192.123(b)(2)(ii)	66 °C (150 °F)	150 °F (66 °C).
192.123(c)	1.57 millimeters (0.062 in)	0.062 inches (1.57 millimeters).
192.123(d) table	Inches	Inches (millimeters).
	Millimeters (inches)	Inches (millimeters).
	2	2 (51).
	1.52(0.060) twice	0.060 (1.52).
	3	3 (76).
	4	4 (102).
	1.78 (0.070)	0.070 (1.78).
	6	6 (152).
	2.54 (0.100)	0.100 (2.54).
192.125(a)	0.065 inches	0.065 inches (1.65 millimeters).
192.125(b)	inch (3 times)	Inch (millimeter).
	½	½ (13).
	⅝	⅝ (16).
	¾	¾ (19).
	1	1 (25).
	1¼	1¼ (32).
	1½	1½ (38).
	.625	.625 (16).
	.750	.750 (19).
	.875	.875 (22).
	1.125	1.125 (29).
	1.375	1.375 (35).
	1.625	1.625 (41).
	.040	.040 (1.06).
	.042	.042 (1.07).
	.045	.045 (1.14).
	.050	.050 (1.27).
	.055	.055 (1.40).
	.060	.060 (1.52).
	.0035 (twice)	.0035 (.0889).
	.004 (twice)	.004 (.102).
	.0045 (twice)	.0045 (.1143).
192.125(c)	100 p.s.i.g	100 p.s.i (689 kPa) gage.
192.125(d)	0.3 grains per 100 standard cubic feet.	0.3 grains/100 ft^3 (6.9/m^3) under standard conditions. Standard conditions refers to 60 °F and 14.7 psia (15.6° C and one atmosphere).
192.145(d)(1)	1,000 p.s.i.g	1,000 p.s.i. (7 MPa) gage.
192.150(b)(7)	10 inches	10 inches (254 millimeters).
192.151(c)(2)	1¼ inch	1¼ inch (32 millimeters).
	4-inch	4-inch (102 millimeters).
	6-inch	6-inch (152 millimeters).
192.153(d)	100 p.s.i.g	100 p.s.i. (689 kPa) gage.
	3 inches	3 inches (76 millimeters).
192.163(b)(1)	2 inches	2 inches (51 millimeters).

Section	Remove	Add
192.163(d)	200 feet	200 feet (61 meters).
192.167(a) introductory text	1,000 horsepower	1,000 horsepower (746 kilowatts).
192.167(a)(4)(iii)	500 feet	500 feet (153 meters).
192.175(b)	C=(3DxPxF/1,000)	C=(DxPxF/48.33) (C=(3DxPxF/1,000)).
	Inches (twice)	Inches (millimeters).
	p.s.i.g	p.s.i. (kPa) gage.
192.177(a)(1)	1,000 p.s.i.g. (twice)	1,000 p.s.i. (7 MPa) gage.
	(feet)	feet (meters).
	25	25 (7.6).
	100	100 (31).
192.179(a)(1)	2½ miles	2½ miles (4 kilometers).
192.179(a)(2)	4 miles	4 miles (6.4 kilometers).
192.179(a)(3)	7½ miles	7½ miles (12 kilometers).
192.179(a)(4)	10 miles	10 miles (16 kilometers).
192.183(c)	10 inch	10 inch (254 millimeters).
192.187(a) introductory text	200 cubic feet	200 cubic feet (5.7 cubic meters).
192.187(a)(1)	4 inches	4 inches (102 millimeters).
192.187(b) introductory text	75 cubic feet	75 cubic feet (2.1 cubic meters).
	200 cubic feet	200 cubic feet (5.7 cubic meters).
192.197(a) introductory text	60 p.s.i.g	60 p.s.i. (414 kPa) gage.
192.197 (a)(4)	2 inches	2 inches (51 millimeters).
192.197(b)	60 p.s.i.g	60 p.s.i. (414 kPa) gage.
192.197(c) introductory text	60 p.s.i.g	60 p.s.i. (414 kPa) gage.
192.197(c)(1)	60 p.s.i.g. (3 times)	60 p.s.i. (414 kPa) gage.
192.197(c)(3)	125 p.s.i.g	125 p.s.i. (862 kPa) gage.
192.201(a)(2)(i)	60 p.s.i.g	60 p.s.i. (414 kPa) gage.
192.201(a)(2)(ii)	12 p.s.i.g	12 p.s.i. (83 kPa) gage.
	60 p.s.i.g	60 p.s.i. (414 kPa) gage.
	6 p.s.i.g	6 p.s.i. (41 kPa) gage.
192.201(a)(2)(iii)	12 p.s.i.g	12 p.s.i. (83 kPa) gage.
192.203(b)(3)	400° F	400° F (204° C).
192.229(d)(2)(ii)	2 inches	2 inches (51 millimeters).
192.241(b)(1)	6 inches	6 inches (152 millimeters).
192.283(b)(3)	5.0 mm (0.20 in)	0.20 in (5.0 mm).
192.283(b)(4)	102 mm (4 in)	4 inches (102 mm).
192.283(b)(5)	102 mm (4 in)	4 inches (102 mm).
	38° C (100° F)	100° F (38° C).
192.309(b)(3)(i)	one-quarter inch	¼ inch (6.4 millimeters).
	12¾ inches	12¾ inches (324 millimeters).
192.309(b)(3)(ii)	12¾ inches	12¾ inches (324 millimeters).
192.313(a)(3)(ii)	12 inches	12 inches (305 millimeters).
192.313(c)	2 inches	2 inches (51 millimeters).
	1 inch	1 inch (25 millimeters).
192.315(b)(3)	16 inches	16 inches (406 millimeters).
192.319(c)	12 feet	12 feet (3.7 meters).
	200 feet	200 feet (61 meters).
	15 feet (twice)	15 feet (4.6 meters).
	36 inches	36 inches (914 millimeters).
	18 inches	18 inches (457 millimeters).
192.321(d)	0.090 inch	0.090 inch (2.29 millimeters).
	0.875 inch	0.875 inch (22.3 millimeters).
	0.062 inch	0.062 inch (1.58 millimeters).
192.325(a)	12 inches	12 inches (305 millimeters).
192.327(a) table	Inches	Inches (Millimeters).
	30	30 (762).
	18	18 (457).
	36 (twice)	36 (914).
	24 (twice)	24 (610).
192.327(b)	24 inches	24 inches (610 millimeters).
192.327(d) introductory text	24 inches	24 inches (610 millimeters).
192.327(d)(1)	24 inches	24 inches (610 millimeters).
192.327(e)	48 inches	48 inches (1219 millimeters).
	24 inches	24 inches (610 millimeters).
192.327(f) introductory text	200 feet	200 feet (60 meters).
192.327(f)(1)	12 feet	12 feet (3.66 meters).
	36 inches	36 inches (914 millimeters).
	18 inches	18 inches (457 millimeters).
192.327(f)(2)	12 feet	12 feet (3.66 meters).
192.353 (c)	3 feet	3 feet (914 millimeters).
192.359(b)	10 p.s.i.g	10 p.s.i. (69 kPa) gage.
192.361 (a)	12 inches	12 inches (305 millimeters).
	18 inches	18 inches (457 millimeters).
192.371	100 p.s.i.g. (twice)	100 p.s.i. (689 kPa) gage.
192.373(a)	6 inches	6 inches (152 millimeters).

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Section	Remove	Add
192.381(a) introductory text	10 psig	10 p.s.i. (69 kPa) gage.
192.381(a)(3) introductory text	10 psig	10 p.s.i. (69 kPa) gage.
192.381(a)(3)(ii)(A)	20 cubic feet per hour	20 cubic feet per hour (0.57 cubic meters per hour).
192.381(a)(3)(ii)(B)	0.4 cubic feet per hour	0.4 cubic feet per hour (.01 cubic meters per hour).
192.455(b)	20 feet	20 feet (6 meters).
192.465(a)	100 feet	100 feet (30 meters).
192.475(c)	0.25 grain of hydrogen sulfide per 100 standard cubic feet.	0.25 grain of hydrogen sulfide per 100 cubic feet (5.8 milligrams/m³) at standard conditions.
192.505(a)	300 feet (twice)	300 feet (91 meters).
	600 feet (twice)	600 feet (183 meters).
192.507 (heading)	100 p.s.i.g	100 p.s.i. (689 kPa) gage.
192.507 introductory text	100 p.s.i.g	100 p.s.i. (689 kPa) gage.
192.507(b)(1)	100 p.s.i.g	100 p.s.i. (689 kPa) gage.
192.509 heading and introductory text.	100 p.s.i.g. (twice)	100 p.s.i. (689 kPa) gage.
192.509(b)	1 p.s.i.g (twice)	1 p.s.i. (6.9 kPa) gage.
	10 p.s.i.g.	10 p.s.i. (69 kPa) gage.
	90 p.s.i.g.	90 p.s.i. (621 kPa) gage.
192.511(b)	1 p.s.i.g.	1 p.s.i. (6.9 kPa) gage.
	40 p.s.i.g.	40 p.s.i. (276 kPa) gage.
	50 p.s.i.g.	50 p.s.i. (345 kPa) gage.
192.511(c)	40 p.s.i.g.	40 p.s.i. (276 kPa) gage.
	90 p.s.i.g.	90 p.s.i. (621 kPa) gage.
192.513(c)	50 psig	50 p.s.i. (345 kPa) gage.
192.513(d)	38 °C (100 °F)	100 °F (38 °C).
192.557(c)	10 p.s.i.g.	10 p.s.i. (69 kPa) gage.
192.557(d)(3)	(inches) (twice)	inches (millimeters).
	3 to 8	3 to 8 (76 to 203).
	10 to 12	10 to 12 (254 to 305).
	14 to 24	14 to 24 (356 to 610).
	30 to 42	30 to 42 (762 to 1067).
	48	48 (1219).
	54 to 60	54 to 60 (1372 to 1524).
	0.075 (3 times)	0.075 (1.91).
	0.08 (4 times)	0.08 (2.03).
	0.09 (5 times)	0.09 (2.29).
	0.065 (twice)	0.065 (1.65).
	0.07 (twice)	0.07 (1.78).
192.557(d)(4)	11,000 p.s.i.	11,000 p.s.i. (76 MPa) gage.
	31,000 p.s.i.	31,000 p.s.i. (214 MPa) gage.
192.612(b)(2)	500 yards	500 yards (457 meters).
	200 yards	200 yards (183 meters).
192.612(b)(3)	36 inches	36 inches (914 millimeters).
	18 inches	18 inches (457 millimeters).
192.619(a)(1)(ii)	324 mm (12¾ inches)	12¾ inches (324 mm).
	1379 kPa (200 psig)	200 p.s.i. (1379 kPa).
192.619(a)(2)(ii)	100 p.s.i.g	100 p.s.i. (689 kPa) gage.
192.621(a)(2)	60 p.s.i.g (twice)	60 p.s.i. (414 kPa) gage.
192.621(a)(3)	25 p.s.i.g	25 p.s.i. (172 kPa) gage.
192.707(d)(1)	one inch	1 inch (25 millimeters).
	one-quarter inch	¼ inch (6.4 millimeters).
192.715(b)(3)	⅛-inch	⅛ inch (3.2 millimeters).
192.717(a)(3)	40,000 psi	40,000 p.s.i. (276 MPa) gage.
192.736(a)(2)	1,000 horsepower	1,000 horsepower (746 kW).
192.749(a)	200 cubic feet	200 cubic feet (5.66 cubic meters).
192.753(a) introductory text	25 p.s.i.g	25 p.s.i. (172 kPa) gage.
192.753(b)	25 p.s.i.g	25 p.s.i. (172 kPa) gage.
Appendix B (II)(A)	2 inches (twice)	2 inches (51 millimeters).
Appendix B (II)(B)	4 inches (twice)	4 inches (102 millimeters).
Appendix B (II)(D)	24,000 p.s.i	24,000 p.s.i. (165 MPa).
Appendix C (I)	12 inches	12 inches (305 millimeters).
	⅛-inch	⅛-inch (3.2 millimeters).
Appendix C (III)	8 inches	8 inches (203 millimeters).
Appendix C (III)(1)	2 inches	2 inches (51 millimeters).

PART 193—[AMENDED]

1. The authority citation for part 193 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60103, 60104, 60108, 60109, 60110, 60113, 60118; and 49 CFR 1.53.

2. In part 193 for the following sections remove the numbers and words in the middle column and add the numbers and words in the third column in their place as follows:

Section	Remove	Add
193.2057 (d)	Btu/ft.^{2} hour	Btu/ft^2 hour (watts/m^2).
	1,600	1,600 (5047).
	4,000 (twice)	4,000 (12600).
	6,700 (twice)	6,700 (21100).
	10,000	10,000 (31500).
193.2059(c)(2)	4.5 miles per hour	4.5 miles/hour (7.2 km/hour).
193.2061(a)	70,000 gallons	70,000 gallons (265,000 liters).
193.2061(b)(1)	70,000 gallons	70,000 gallons (265,000 liters).
	2 feet	2 feet (610 millimeters).
193.2061 (e)(1)	100 miles	100 miles (161 kilometers).
193.2061 (e)(3)	10 miles	10 miles (16 kilometers).
193.2061(f)(2)	30 inches	30 inches (762 millimeters).
193.2061 (f)(3)	one mile	1 mile (1.6 kilometers).
	60 inches	60 inches (1.5 meters).
193.2067 (b)(1)	70,000 gallons	70,000 gallons (265,000 liters).
193.2067 (b)(2)(i)	200 miles	200 miles (322 kilometers).
193.2133(b)	1 cubic foot	1 cubic foot (.035 cubic meters).
	Per square foot	Per square foot (per square meter).
193.2153(a)	24 inches	24 inches (610 millimeters).
193.2191	5,000 barrels	5,000 barrels (795 cubic meters).
193.2195(d)	70,000 gallons	70,000 gallons (265,000 liters).
193.2209(a)	70,000 gallons	70,000 gallons (265,000 liters).
193.2209(b)	70,000 gallons	70,000 gallons (265,000 liters).
193.2211(a)	15 psig	15 psi (103 kPa) gage.
193.2211(b)	15 psig	15 psi(103 kPa) gage.
193.2233(b)	50 feet	50 feet (15 meters).
193.2321(a)	2 inches (twice)	2 inches (51 millimeters).
193.2321(d)	15 psig	15 psi (103 kPa) gage.
193.2321(e)	15 psig	15 psi (103 kPa) gage.
193.2327(a)	15 psig	15 psi (103 kPa) gage.
193.2327(b)	15 psig	15 psi (103 kPa) gage.
193.2519(b)	70,000 gallons	70,000 gallons (265,000 liters).

PART 194—[AMENDED]

1. The authority citation for part 194 continues to read as follows:

Authority: 33 U.S.C. 1231, 1321 (j)(1)(C), (j)(5) and (j)(6); sec. 2, E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.53.

2. In part 194, for the following sections remove the numbers or words in the middle column and add the numbers or words in the third column in their place as follows:

Section	Remove	Add
194.5 Definitions, Barrel	42 United States gallons	42 United States gallons (159 liters).
	60 degrees Fahrenheit	60 °Fahrenheit (15.6 °Celsius).
High volume area	20 inches	20 inches (508 millimeters).
194.101 (b)(1)	6⅝ inches	6⅝ inches (168 millimeters).
	10 miles	10 miles (16 kilometers).
194.101(b)(1)(i)	1,000 barrels	1,000 barrels (159 cubic meters).
194.101(b)(2)(ii)	6⅝ inches	6⅝ inches (168 millimeters).
	10 miles	10 miles (16 kilometers).
194.103(c) introductory text	6⅝ inches	6⅝ inches (168 millimeters).
	10 miles	10 miles (16 kilometers).
194.103(c)(1)	1,000 barrels	1,000 barrels (159 cubic meters).
194.103(c)(4)	five-mile	5 mile (8 kilometer).
194.103(c)(5)	one-mile	1 mile (1.6 kilometer).
194.105(b) introductory text	barrels	barrels (cubic meters).
194.105(b)(1)	barrels	barrels (cubic meters)
194.105(b)(2)	barrels	barrels (cubic meters).
194.105(b)(3)	barrels	barrels (cubic meters).
Appendix A, Section 9 (h)(2)(i)	five miles	5 miles (8 kilometers)
Appendix A, Section 9 (h)(2)(ii)	one mile	1 mile (1.6 kilometer).

PART 195—[AMENDED]

1. The authority citation for part 195 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60118; and 49 CFR 1.53.

2. In part 195, for the following sections, remove the numbers or words in the middle column and add the numbers or words in the third column in their place as follows:

Section	Remove	Add
195.2 Definitions:		
Exposed pipeline	15 feet	15 feet (4.6 meters).
Gulf of Mexico and its inlets	15 feet	15 feet (4.6 meters).
Hazard to navigation	12 inches	12 inches (305 millimeters).
	15 feet	15 feet (4.6 meters).
Specified minimum yield strength.	Pounds per square inch	p.s.i. (kPa) gage.
195.50(b)	50 or more barrels	50 or more barrels (8 or more cubic meters).
195.50(c)	Five barrels	5 barrels (0.8 cubic meters).
195.55(b)(1)	220 yards	220 yards (200 meters).
195.57(a)(4)	Miles	miles (kilometers).
195.106(a)	Pounds per square inch gage	p.s.i. (kPa) gage.
	Pounds per square inch	pounds per square inch (kPa).
	Inches (twice)	inches (millimeters).
195.106(b)(1)(i)	168.3 mm (6⅝ in)	6⅝ in (168 mm).
	168.3 mm through 323.8 mm (6⅝ through 12¾ in).	6⅝ in through 12¾ in (168 mm through 324 mm).
	323.8 mm (12¾ in)	12¾ in (324 mm).
195.106(b)(1)(ii)	165,474 kPa (24.000 psi)	24,000 p.s.i. (165,474 kPa).
195.106 (b)(1)(ii)(B)(2)	165,474 kPa (24,000 psi)	24,000 p.s.i. (165,474 kPa).
195.106(c)	508 mm (20 in) twice	20 inches (508 mm).
195.112(c)	114.3 mm (4½ in)	4½ in (114.3 mm).
195.120(b)(6)	10 inches	10 inches (254 millimeters).
195.208	100 p.s.i.g.	100 p.s.i. (689 kPa) gage.
195.210(b)	50 feet	50 feet (15 meters).
	12 inches	12 inches (305 millimeters).
195.212(b)(3)(ii)	323.8 mm (12¾ in)	12¾ in (324 mm).
195.248(a)	(inches)	inches (millimeters).
	36 (4 times)	36 (914)
	30 (twice)	30 (762)
	48 (twice)	48 (1219)
	18 (3 times)	18 (457)
	24	24 (610)
	100 ft	100 ft (30 mm).
	3.7 m (12 ft)	12 ft (3.7 m)
195.250	12 inches (3 times)	12 inches (305 millimeters).
	2 inches	2 inches (51 millimeters).
195.260(e)	100 feet	100 feet (30 meters).
195.302 (c)(2)(i)(A)	Mileage	Mileage (length).
195.302 (c)(2)(i)(B)	Mileage	Mileage (length)
195.302(c)(2)(ii)	Mileage	Mileage (length)
195.306(b)(2)	300 feet	300 feet (91 meters).
195.306(c)(2)	300 feet	300 feet (91 meters).
195.310(b)(9)	100 feet	100 feet (30 meters).
195.406(a)(1)(ii)	323.8 mm (12¾ in)	12 ¾ inch (324 mm).
	1379 kPa (200 psig)	200 p.s.i. (1379 kPa) gage.
195.410(a)(2)(i)	One inch	1 inch (25 millimeters).
	One-quarter inch	¼-inch (6.4 millimeters).
195.413(a)	114.3 mm (4½ in)	4½ inches (114 mm).
195.413(b)(2)	500 yards	500 yards (457 meters).
	200 yards	200 yards (183 meters).
195.413(b)(3)	36 inches	36 inches (914 millimeters).
	18 inches	18 inches (457 millimeters).
195.424(b)(3)(ii)	50 p.s.i.g	50 p.s.i. (345 kPa) gage.

Issued in Washington, D.C. on July 7, 1998.

Kelley S. Coyner,

Deputy Administrator, Research and Special Programs Administration.

[FR Doc. 98–18425 Filed 7–10–98; 8:45 am]

BILLING CODE 4910-60-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[I.D. 070698D]

Atlantic Tuna Fisheries; Atlantic Bluefin Tuna

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Harpoon category closure.

SUMMARY: NMFS has determined that the Atlantic bluefin tuna (BFT) Harpoon category annual quota for 1998 will be attained by July 7, 1998. Therefore, the 1998 Harpoon category fishery will be closed effective at 11:30 p.m. on July 7, 1998. This action is being taken to prevent overharvest of the Harpoon category quota.

DATES: Effective 11:30 p.m. local time on July 7, 1998, through December 31, 1998.

FOR FURTHER INFORMATION CONTACT: Pat Scida, 978–281–9260, or Sarah McLaughlin, 301–713–2347.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 285. Section 285.22 subdivides the U.S. quota recommended by the International Commission for the Conservation of Atlantic Tunas among the various domestic fishing categories.

Harpoon Category Closure

NMFS is required, under § 285.20(b)(1), to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the catch of BFT will equal the quota and publish a **Federal Register** announcement to close the applicable fishery.

Implementing regulations for the Atlantic tuna fisheries at § 285.22 provide for a quota of 53 mt of large medium and giant BFT to be harvested from the regulatory area by vessels permitted in the Harpoon category. Based on reported landings and effort, NMFS projects that this quota will be reached by July 7, 1998. Therefore, fishing for, retaining, possessing, or landing large medium or giant BFT by vessels in the Harpoon category must cease at 11:30 p.m. local time July 7, 1998.

The intent of this closure is to prevent overharvest of the quota established for the Harpoon category.

Classification

This action is taken under §§ 285.20(b) and 285.22 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 971 *et seq.*

Dated: July 7, 1998.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–18461 Filed 7–7–98; 4:25 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 971208298–8055–02; I.D. 070798E]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Eastern Aleutian District of the Bering Sea and Aleutian Islands

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch in the Eastern Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 1998 total allowable catch (TAC) of Pacific ocean perch in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 7, 1998, until 2400 hrs, A.l.t., December 31, 1998.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR part 600 and CFR part 679.

The 1998 TAC of Pacific ocean perch for the Eastern Aleutian District was established by Final 1998 Harvest Specifications of Groundfish for the BSAI (63 FR 12689, March 16, 1998) as 2,840 metric tons (mt). See § 679.20(c)(3)(iii).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 1998 TAC for Pacific ocean perch in the Eastern Aleutian District will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 2,540 mt, and is setting aside the remaining 300 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the Eastern Aleutian District.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent overharvesting the 1998 TAC of Pacific ocean perch for the Eastern Aleutian District of the BSAI. A delay in the effective date is impracticable and contrary to the public interest. Further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action should not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 7, 1998.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–18462 Filed 7–7–98; 4:18 pm]

BILLING CODE 3510–22–F

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Proposed Rules

Federal Register
Vol. 63, No. 133
Monday, July 13, 1998

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–147–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9, DC–9–80, and C–9 (Military) Series Airplanes; Model MD–88 Airplanes; and Model MD–90 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9, DC–9–80, and C–9 (military) series airplanes; Model MD–88 airplanes; and Model MD–90 airplanes. This proposal would require a one-time inspection of the forward attach pins of the outboard flight spoiler actuators to determine whether the pins are of correct length, and follow-on corrective actions. This proposal is prompted by a report that forward attach pins of incorrect length were found to be installed in the flight spoiler actuators on several in-service and in-production airplanes. The actions specified by the proposed AD are intended to prevent failure of the piston of the flight spoiler actuator and consequent puncturing of the aft spar web, which could result in fuel leakage and reduced structural integrity of the wings.

DATES: Comments must be received by August 27, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–147–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from The Boeing Company, Douglas Products Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Brent Bandley, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5220; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–NM–147–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–147–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received a report indicating that forward attach pins of incorrect length (too short) were found to be installed in the pistons of the outboard flight spoiler actuators on certain McDonnell Douglas Model DC–9–80 series airplanes and Model MD–90 airplanes. These pins were manufactured incorrectly by one vendor, and the flight spoiler actuators that incorporate the incorrect pins have been installed on a number of airplanes. If a forward attach pin is too short, the pin and nut could come into contact with the piston lugs, which could cause sustained stresses and consequent stress corrosion. This condition, if not corrected, could result in failure of the piston of the flight spoiler actuator and consequent puncturing of the aft spar web, which could result in fuel leakage and reduced structural integrity of the wings.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Service Bulletins DC9–27–355 and MD90–27–024, both dated February 24, 1998. These service bulletins describe procedures for a one-time visual inspection of the forward attach pin of the outboard flight spoiler actuator on the left and right sides of the airplane to determine whether the forward attach pin is of correct length, and follow-on corrective actions, which include the following:

—Condition 1. For airplanes on which the length of the pins is correct, the service bulletins describe procedures for modifying the pin by etching a new part number on it and reinstalling it into the flight spoiler actuator.

—Condition 2. For airplanes on which the length of the pins is incorrect, the service bulletins describe procedures for a follow-on visual inspection to detect corrosion of the outer transition radii of the piston lugs of the flight spoiler actuator, or discrepancies of the cadmium plating on the lugs. If no corrosion or discrepancy is found, follow-on actions include installing a new, improved pin, and a new washer and nut. If any corrosion or discrepancy is found, corrective actions include removing the actuator and attaching parts, performing a high frequency eddy current (HFEC) inspection for cracking of the lugs of the actuator, replacing any cracked piston assembly of the actuator with a new part, reinstalling the actuator and attaching parts, and installing a new, improved pin, and a new washer and nut.

Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletins described previously. The proposed AD also would require that operators report results of inspection findings to the FAA.

Cost Impact

There are approximately 1,700 airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,134 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 5 work hours per airplane (including removal and reinstallation of the forward attach pin) to accomplish the proposed one-time visual inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this inspection proposed by this AD on U.S. operators is estimated to be $340,200, or $300 per airplane.

If the forward attach pin is determined to be of correct length, it would take approximately 1 work hour per airplane to accomplish the necessary modification, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this modification proposed by this AD on U.S. operators is estimated to be $60 per airplane.

If the forward attach pin is determined to be of incorrect length, it would take approximately 1 work hour per airplane to accomplish the follow-on visual inspection and replacement of the pin, at an average labor rate of $60 per work hour. New pins would be provided by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the follow-on visual inspection and replacement is estimated to be $60 per airplane.

Should an operator be required to accomplish the HFEC inspection, it would take approximately 11 work hours per airplane to accomplish (including removal and reinstallation of the flight spoiler actuator), at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the HFEC inspection is estimated to be $660 per airplane.

Should an operator be required to accomplish the replacement of the piston assembly of the flight spoiler actuator, it would take approximately 5 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would cost approximately $2,590 per airplane. Based on these figures, the cost impact of the replacement on U.S. operators is estimated to be $2,890 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Docket 98-NM-147-AD.

Applicability: Model DC–9–10, -20, -30, -40, and -50 series airplanes, Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), and DC–9–87 (MD–87) series airplanes, Model MD–88 airplanes, and C–9 (military) series airplanes, as listed in McDonnell Douglas Service Bulletin DC9–27–355, dated February 24, 1998; and Model MD–90 airplanes, as listed in McDonnell Douglas Service Bulletin MD90–27–024, dated February 24, 1998; on which a piston assembly of the flight spoiler actuator having part number (P/N) 4913415–505 or 4913415–507 is installed; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the piston of the flight spoiler actuator and consequent puncturing of the aft spar web, which could result in fuel leakage and reduced structural integrity of the wings, accomplish the following:

(a) Within 18 months after the effective date of this AD, remove the forward attach pin of the outboard flight spoiler actuator of the left and right wings of the airplane, and perform a one-time visual inspection of the pin to determine whether it is of correct length, in accordance with the Accomplishment Instructions of McDonnell Douglas Service Bulletin DC9–27–355 [for Model DC–9–10, -20, -30, -40, -50 series airplanes; Model C–9 (military) series airplanes; Model DC–9–81 (MD–81), -82 (MD–82), -83 (MD–83), and -87 (MD–87) series airplanes; and Model MD–88 airplanes], or MD90–27–024 (for Model MD–90 airplanes), both dated February 24, 1998, as applicable.

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(1) Condition 1 (Correct Length). If the forward attach pin is of correct length, prior to further flight, modify the pin by reidentifying it with P/N 4935329–503, in accordance with the applicable service bulletin.

(2) Condition 2 (Incorrect Length). If the forward attach pin is of incorrect length, prior to further flight, perform a follow-on visual inspection of the piston lugs of the flight spoiler actuator for corrosion at the outer transition radii, or discrepancies of the cadmium plating of the lugs, in accordance with the applicable service bulletin.

(i) If no corrosion or discrepancy of the cadmium plating of the lugs is detected, prior to further flight, install a new, improved forward attach pin, P/N 4935329–503, and a new washer and nut, in accordance with the applicable service bulletin.

(ii) If any corrosion or discrepancy of the cadmium plating of the lugs is detected, prior to further flight, remove the actuator and attaching parts, and perform a high frequency eddy current inspection for cracking of the lugs of the actuator, in accordance with the applicable service bulletin.

(A) If no cracking of the lugs is detected, prior to further flight, reinstall the flight spoiler actuator and attaching parts, and install a new, improved forward attach pin, P/N 4935329–503, and a new washer and nut, in accordance with the applicable service bulletin.

(B) If any cracking of the lugs is detected, prior to further flight, replace the existing piston assembly of the flight spoiler actuator with a new piston assembly having the same P/N; reinstall the flight spoiler actuator and attaching parts; and install a new, improved forward attach pin, P/N 4935329–503, and a new washer and nut; in accordance with the applicable service bulletin.

(b) Within 10 days after accomplishing the inspection required by paragraph (a) of this AD, submit a report of the inspection results (both positive and negative findings) to the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California 90712–4137; fax (562) 627–5210. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(c) As of the effective date of this AD, no person shall install a forward attach pin of the flight spoiler actuator, P/N 4935329–1 or 4935329–501, on any airplane.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on July 6, 1998.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–18471 Filed 7–10–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AWP–3]

Proposed Modification of Class E Airspace; Fortuna, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify the Class E airspace area at Fortuna, CA. The establishment of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 29 at Rohnerville Airport has made this proposal necessary. Additional controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing the GPS RWY 29 SIAP to Rohnerville Airport. The intended effect of this proposal is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Rohnerville Airport, Fortuna, CA.

DATES: Comments must be received on or before July 30, 1998.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace Branch, AWP–520, Docket No. 98–AWP–3, Air Traffic Division, 15000 Aviation Boulevard, Lawndale, California, 90261.

The official docket may be examined in the Office of the Regional Counsel, Western Pacific Region, Federal Aviation Administration, Room 6007, 15000 Aviation Boulevard, Lawndale, California, 90261.

An informal docket may also be examined during normal business hours at the Office of the manager, Airspace Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: Larry Tonish, Airspace Specialist, Airspace Branch, AWP–520, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California, 90261, telephone (310) 725–6539.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with the comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 98–AWP–3," The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Airspace Branch, Air Traffic Division, 15000 Aviation Boulevard, Lawndale, California 90261, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace Branch, 15000 Aviation Boulevard, Lawndale, California 92061. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedures.

The Proposal

The FAA is consisting an amendment to 14 CFR part 71 by modifying the Class E airspace area at Fortuna, CA. The establishment of a GPS RWY 29 SIAP at Rohnerville Airport has made this proposal necessary. Additional controlled airspace extending upward from 700 feet above the surface is needed to contain aircraft executing the approach and departure procedures at Rohnerville Airport. The intended effect of this proposal is to provide adequate controlled airspace for aircraft executing the GPS RWY 29 SIAP at Rohnerville Airport, Fortuna, CA. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in this Order.

This FAA has determined that this proposed regulation only involves an established body by technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposed to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designation and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AWP CA E5 Fortuna, CA [Revised]

Fortuna VORTAC
(Lat. 40°40′17″N, long. 124°14′04″W)
Rohnerville Airport, CA
(Lat. 40°33′14″N, long. 124°07′57″W)

That airspace extending upward from 700 feet above the surface and within a 6.5-mile radius of the Rohnerville Airport and within 1.8 miles each side of the Fortuna VORTAC 326° radial, extending from the VORTAC to 2 miles northwest of the VORTAC and within 1.8 miles northeast and 3.9 miles southwest of the Fortuna VORTAC 147° radial, extending from the Fortuna VORTAC to 3 miles southeast of the Fortuna VORTAC and within 2.2 miles southwest and 3 miles northeast of the 129° and 309° bearings from the Rohnerville Airport, extending from 6.5 miles northwest to 2.6 miles southeast of the Airport and within 1.8 miles each side of the Fortuna VORTAC 034° radial, extending from VORTAC to 9.6 miles northeast of the Fortuna VORTAC. That airspace extending upward from 1200 feet above the surface within 3.9 miles southeast and 8.7 miles northwest of the Fortuna VORTAC 229° radial, extending from the Fortuna VORTAC to 16.1 miles southwest of the Fortuna VORTAC and that airspace bounded by a line beginning at lat. 40°44′00″N, long. 124°33′00″W; at lat. 40°49′00″N, long. 124°30′00″W; to lat. 40°44′00″N, long. 124°30′00″W, thence to the point of beginning.

* * * * *

Issued in Los Angeles, California, on June 29, 1998.

Alton D. Scott,

Acting Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 98–18554 Filed 7–10–98; 8:45 am]

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Notices

Federal Register
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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Federal Invention Available for Licensing and Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of availability and intent.

SUMMARY: Notice is hereby given that a Federally owned invention U.S. Serial No. 09/053,261–601 filed March 6, 1998, entitled "Modified Live Edwardsiella ictaluri Against Enteric Septicemia in Channel Catfish" is available for licensing and the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Intervet, Inc., of Millsboro, Delaware, an exclusive license to Serial No. 09/053,261–601.

DATES: Comments must be received on or before October 13, 1998.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, Room 415, Building 005, BARC-West, Beltsville, Maryland 20705–2350.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights to this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as Intervet, Inc., has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within ninety (90) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Richard M. Parry, Jr.,
Assistant Administrator.

[FR Doc. 98–18592 Filed 7–10–98; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Satake USA Inc., of Modesto, California, an exclusive license to S.N. 07/550,310–601, "Machine Vision Apparatus and Method for Sorting Objects" filed October 30, 1995, Patent No. 5,703,784 issued on December 30, 1997. Notice of Availability was published in the **Federal Register** on July 18, 1996.

DATES: Comments must be received on or before September 11, 1998.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, Room 415, Building 005, BARC-West, Beltsville, Maryland 20705–2350.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights to this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as Satake USA Inc., submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty (60) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Richard M. Parry, Jr.,
Assistant Administrator.

[FR Doc. 98–18593 Filed 7–10–98; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 98–035N]

Salmonella Enteritidis Risk Assessment: Shell Eggs and Egg Products; Availability of Document

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: In December 1996, the Food Safety and Inspection Service (FSIS) began a comprehensive risk assessment of *Salmonella enterica* serotype Enteritidis (*Salmonella* Enteritidis (SE)) in response to an increasing number of human illnesses associated with the consumption of shell eggs and egg products. The final report on risk assessment is now available on the FSIS website and in the FSIS Docket Room. This document summarizes the risk assessment process from the development of a conceptual framework through the incorporation of available data into a comprehensive quantitative model, which characterizes the public health effects associated with the consumption of SE-infected shell eggs and egg products.

ADDRESSES: The document is available electronically on the FSIS website at http://www.fsis.usda.gov/ophs/risk/index.htm. Hard copies of the executive summary are available in the FSIS Docket Room, Room 102, Cotton Annex Building, 300 12th Street, SW, Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: Dr. Ruth A. Etzel, Director, Epidemiology and Risk Assessment Division, Office of Public Health and Science, by telephone at (202) 501–7472 or by FAX at (202) 501–6982.

SUPPLEMENTARY INFORMATION: The risk assessment model consists of five modules. The Egg Production Module estimates the number of eggs produced that are infected (or internally contaminated) with SE. The Shell Module, the Egg Products Module, and the Preparation and Consumption Module estimate the increase or decrease in the numbers of SE organisms in eggs or egg products during storage, transportation, processing, and preparation. The Public Health Module then calculates the incidences of illness and four clinical outcomes (recovery without treatment, recovery after treatment by a physician, hospitalization, and mortality) and cases of reactive arthritis associated with consuming SE positive eggs.

The baseline model for shell eggs presented in the executive summary simulates an average production of 46.8 billion shell eggs per year, 2.3 million of them contaminated with SE. The model predicts that consumption of these eggs would result in a mean of 661,633 cases of human illnesses per year within a range of 126,374 to 1.7 million cases annually. It is estimated that about 94 percent of these cases recover without medical care, 5 percent consult a physician, 0.5 percent are hospitalized, and 0.05 percent of the cases result in death.

The risk assessment model can be continually refined and updated for use in future risk assessments for shell eggs and egg products. FSIS plans to use the risk assessment data to conduct cost-effectiveness studies and cost-benefit analyses.

Done, at Washington, DC, on July 5, 1998.

Thomas J. Billy,

Administrator.

[FR Doc. 98–18466 Filed 7–10–98; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 98–036N]

National Advisory Committee on Meat and Poultry Inspection; Public Meeting

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing that the National Advisory Committee on Meat and Poultry Inspection will conduct a public meeting by audio teleconference to consider a proposed public notice on the Agency's protocol for experimentation with the point and frequency of inspection verification of the zero tolerance standard in Hazard Analysis and Critical Control Point (HACCP) establishments that slaughter livestock. FSIS is seeking advice and comment from the Committee.

DATES: The audio teleconference will be held on July 29, 1998, from 1:00 to 3:00 p.m.

ADDRESSES: Members of the public may attend the teleconference in Room 0745 in the South Agriculture Building, 1400 Independence Avenue, SW, Washington DC. People should enter the building at Wing 4 on Independence Avenue. Seating in Room 0745 South is limited, and seating will be available on a first-come, first-served basis beginning at 12:30 p.m. Please send written comments on the discussion topic to the FSIS Docket Clerk, Docket No. 98–036N, Room 102, Cotton Annex Building, 300 12th Street, SW, Washington, DC 20250–3700. The comments and official transcript of the teleconference will be kept in the Docket Clerk's office.

TELEPHONE LINES: Teleconference lines are limited. Please call Mr. Michael Micchelli at (202) 720–6269 if you are interested in participating in the call to obtain the dial-in number.

FOR FURTHER INFORMATION CONTACT: Persons planning to attend the teleconference in person will be required to register at the meeting. No pre-registration is required. For further information, contact Mr. Micchelli at the number above, by FAX at (202) 690–1030 or E-mail to Michael.Micchelli@usda.gov. Copies of the draft proposed notice under discussion are available on the FSIS Homepage at http://www.usda.gov/agency/fsis/homepage.htm. The draft proposed notice is also available by FAST FAX, FSIS' automated FAX retrieval system, at 1–800–238–8281 or (202) 690–3754 (the reference number for the FAST FAX system is 4000) or from the FSIS Docket Clerk, Room 102, Cotton Annex Building, 300 12th Street, SW., Washington, DC 20250–3700, between 8:30 a.m. and 4:30 p.m., Monday through Friday, telephone (202) 720–3813.

SUPPLEMENTARY INFORMATION:

On February 12, 1997, the Secretary of Agriculture renewed the charter for the Advisory Committee on Meat and Poultry Inspection. The Committee provides advice and recommendation to the Secretary on Federal and State meat and poultry programs pursuant to sections 7(c), 24, 205, 301(c) of the Federal Meat Inspection Act and sections 5(a)(3), 5(c), 8(b), and 11(e) of the Poultry Products Inspection Act. The FSIS Administrator is the Committee Chair. Committee membership is drawn from representatives of consumer groups, producers, processors, and marketers from the meat and poultry industry and State government officials.

The current members of the Committee are:

Dr. Deloran M. Allen, Excel Corporation
Dr. William L. Brown, ABC Research Corporation
Terry Burkhardt, Wisconsin Bureau of Meat Safety and Inspection
Caroline Smith-DeWaal, Center for Science in the Public Interest
Nancy Donley, Safe Tables Our Priority
Michael J. Gregory, Tyson's Foods Inc.
Dr. Cheryl Hall, Zacky Farms, Inc.
Dr. Margaret Hardin, National Pork Producers
Alan Janzen, Circle Five Feedyards, Inc.
Dr. Daniel E. LaFontaine, South Carolina Meat-Poultry Inspection Department
Dr. Dale Morse, New York Office of Public Health
Rosemary Mucklow, National Meat Association
William Rosser, Texas Department of Public Health
J. Myron Stolzfus, Stolzfus Meats
Dr. David M. Theno, Jr., Foodmaker Inc.

The Committee deliberates on specific issues and makes recommendations to the whole Committee and the Secretary of Agriculture. The principal topic that the Committee will consider at the meeting is the point and frequency of inspection verification for the zero tolerance standard in HACCP establishments that slaughter livestock. FSIS plans to publish a notice announcing experimentation that may lead to new procedures for FSIS verification of the zero tolerance standard for visible fecal matter and ingesta on livestock carcasses. Interested persons will have an opportunity to discuss issues relating to the activities of the committee and may file comments as discussed above in **ADDRESSES.**

Done in Washington, DC, on: July 5, 1998.

Thomas J. Billy,

Administrator.

[FR Doc. 98–18464 Filed 7–10–98; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

RIN 0551–AA26

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this

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notice announces the Foreign Agricultural Service's (FAS) intention to request an extension for and revision to a currently approved information collection in support of the FAS/Cooperator Market Development Program based on re-estimates.

DATES: Comments on this notice must be received by September 11, 1998 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Kent D. Sisson, Director, Marketing Operations Staff, Foreign Agricultural Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, DC 20250–1042, (202) 720–4327.

SUPPLEMENTARY INFORMATION:

Title: FAS/Cooperator Market Development Program.

OMB Number: 0551–0026.

Expiration Date of Approval: December 31, 1998.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: The primary objective of the Foreign Market Development Program is to develop, maintain and expand long-term export markets for U.S. agricultural products. Created over 40 years ago, the program is a cooperative effort between FAS and non-profit agricultural trade organizations (called "Cooperators"). The FAS currently provides cost share assistance for market development to approximately 30 Cooperators working in more than 100 countries.

Prior to initiating program activities, each Cooperator must submit a detailed application to FAS which includes an assessment of overseas market potential; marketing strategy, goals and market development activities; estimated budgets; and performance measurements. Prior years' plans often dictate the content of current year plans because many activities are continuations of previous activities. Each Cooperator is also responsible for submitting: (1) reimbursement claims for eligible costs incurred, (2) an end-of-year contribution report, (3) travel reports, and (4) progress reports/evaluation studies. Cooperators must maintain records on all information submitted to FAS. The information collection is used by FAS to manage, plan, evaluate and account for Government resources. The reports and records are required to ensure the proper and judicious use of public funds.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 20 hours per response.

Respondents: Non-profit trade organizations.

Estimated Number of Respondents: 30.

Estimated Number of Responses per Respondent: 73.

Estimated Total Annual Burden on Respondents: 43,800 hours.

Copies of this information collection can be obtained from Valerie Countiss, the Agency Information Collection Coordinator, at (202) 720–6713.

Requests for Comments: Send comments regarding the accuracy of the burden estimate, ways to minimize the burden, including through the use of automated collection techniques or other forms of information technology, or any other aspect of this collection of information, to: Kent D. Sisson, Director, Marketing Operations Staff, U.S. Department of Agriculture, 1400 Independence Ave., SW., STOP 1042, Washington, DC 20250–1042. Facsimile submissions may be sent to 202–720–9361 and electronic mail submissions should be addressed to mosadmin@fas.usda.gov.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Signed at Washington, D.C. June 29, 1998.

Timothy J. Galvin,

Acting Administrator, Foreign Agricultural Service and Vice President, Commodity Credit Corporation.

[FR Doc. 98–18460 Filed 7–10–98; 8:45 am]

BILLING CODE 3410–10–M

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Pacific Tuna Fisheries.

Agency Form Number: None.

OMB Approval Number: 0648–0148.

Type of Request: Extension of a currently approved collection.

Burden: 138 hours.

Number of Respondents: 12 with multiple responses.

Avg. Hours Per Response: .1 hours.

Needs and Uses: The U.S. participation in the Inter-American Tropic Tunas Commission (IATTC) results in certain recordkeeping requirements for U.S. fishermen who fish in the Commission's area of management responsibility. The data are used in research and stock assessments necessary to minimize the risk of overfishing. All U.S. fishers use the logbook form provided by the Inter-American Tropic Commission, although the Federal regulations do not require the specific use of the form.

Affected Public: Businesses or other for-profit organizations.

Frequency: Recordkeeping.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: July 6, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–18450 Filed 7–10–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 36–98]

Foreign-Trade Zone 153-San Diego, California; Application For Foreign-Trade Subzone Status; Hewlett-Packard Company Computer and Related Electronic Products

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of San Diego, California, grantee of FTZ 153, requesting special-purpose subzone status for the manufacturing and distribution facilities (computers, printers, measurement devices, medical products and related products) of the Hewlett-Packard Company (Hewlett-Packard), located in San Diego, California. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on July 1, 1998.

The Hewlett-Packard facilities are located at five sites (15 bldgs/1,051,560 square feet/96.15 acres in San Diego (San Diego County), California: *Site 1* (9 bldgs/ 499,757 sq. ft./3.32 acres)—production and warehousing facility located at 16399 W. Bernardo Drive; *Site 2* (1 bldg./52,413 sq. ft./3.32 acres)—administrative facility located at 16262 W. Bernardo Drive; *Site 3* (1 bldg./ 202,408 sq. ft./5.65 acres)—production and warehousing facility located at 16550 W. Bernardo Drive; *Site 4* (2 bldgs/44,982 sq. ft./2.11 acres)—production and warehousing facility located at 15890–15910 Bernardo Center Drive; and *Site 5* (2 bldgs/252,000 sq. ft./17.84 acres)—production and warehousing facility located at 12270 World Trade Drive.

The facilities (2,050 employees) are used for storage, manufacture, and distribution for import and export of computers and related devices, printers, electronic test and measurement devices, electronic medical products, and related electronic products and components. A number of components are purchased from abroad (an estimated 40% of value of manufactured products), including printed circuit boards, silicon wafers, rectifiers, integrated circuits, memory modules, CD–ROM drives, disk drives, scanners, hard drives, keyboards, monitors/ displays (CRT and LCD type), LEDs, speakers, microphones, belts, valves, bearings, plastic materials, industrial chemicals, sensors, filters, resistors, transducers, fuses, plugs, relays, ink cartridges, toner cartridges, switches, fasteners, cards, transformers, DC/ electric motors, magnets, modems, batteries, cabinets, power supplies, cables, copper wire, power cords, optical fiber, casters, cases, labels, and packaging materials (1997 duty range: free-14.2%). (Full zone procedures are not being sought for certain linear motion bearings, display tubes and parts, optical fiber and related parts.)

Zone procedures would exempt Hewlett-Packard from Customs duty payments on foreign components used in export production. On its domestic sales, Hewlett-Packard would be able to choose the lower duty rate that applies to the finished products (free-13.2%, mostly duty-free) for the foreign components noted above. The application indicates that the savings from zone procedures would help improve the plant's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is September 11, 1998. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to September 28, 1998.

A copy of the application and the accompanying exhibits will be available for public inspection at each of the following locations:

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th and Pennsylvania Avenue, NW, Washington, DC 20230.

U.S. Department of Commerce, Export Assistance Center, 363 Greenwich Drive, Suite 230, San Diego, California 92122.

Dated: July 2, 1998.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–18601 Filed 7–10–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 35–98]

Foreign-Trade Zone 122—Corpus Christi, Texas; Application for Foreign-Trade Subzone Status; Ultramar Diamond Shamrock Corporation; Oil Refinery

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Port of Corpus Christi Authority, grantee of FTZ 122, requesting special-purpose subzone status for the oil refinery and petrochemical complex of Diamond Shamrock Refining Company L.P. (an affiliate of Ultramar Diamond Shamrock Corporation), located in Three Rivers, Texas. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on June 30, 1998.

The refinery and petrochemical complex (463 acres, 300 employees) is located at 301 Leroy Street on the Frio River, Three Rivers (Live Oak County), Texas, some 75 miles northwest of Corpus Christi. The refinery (90,000 BPD) is used to produce fuels and petrochemical feedstocks. Fuel products include gasoline, jet fuel, distillates, residual fuels, naphthas and motor fuel blendstocks. Petrochemical feedstocks and refinery by-products include methane, ethane, propane, liquid natural gas, propylene, ethylene, butylene, butane, butadiene, cumene, benzene, toluene, xylene, petroleum coke, asphalt and sulfur. Some 90–95 percent of the crude oil (99 percent of inputs), and some motor fuel blendstocks are sourced abroad.

Zone procedures would exempt the refinery from Customs duty payments on the foreign products used in its exports. On domestic sales, the company would be able to choose the Customs duty rates that apply to certain petrochemical feedstocks and refinery by-products (duty-free) by admitting incoming foreign crude oil and natural gas condensate in non-privileged foreign status. The duty rates on inputs range from 5.25¢/barrel to 10.5¢/barrel. Under the FTZ Act, certain merchandise in FTZ status is exempt from ad valorem inventory-type taxes. The application indicates that the savings from zone procedures would help improve the refinery's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is September 11, 1998. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to September 28, 1998.)

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, export Assistance Center, 222 N. Main, Suite 450, San Antonio, Texas 78212

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW, Washington, DC 20230

Dated: July 2, 1998.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–18600 Filed 7–10–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–421–805]

Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide From the Netherlands; Final Results of Antidumping Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of the Antidumping Duty Administrative Review; Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide from the Netherlands.

SUMMARY: On March 9, 1998, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on aramid fiber formed of poly para-phenylene terephthalamide (PPD-T aramid) from the Netherlands. The review covers one manufacturer/exporter and the period June 1, 1996 through May 31, 1997.

We gave interested parties an opportunity to comment on our preliminary results. Based on our analysis of the comments received, we have revised the results from those presented in the preliminary results of review.

EFFECTIVE DATE: July 13, 1998.

FOR FURTHER INFORMATION CONTACT: Nithya Nagarajan at (202) 482–1324 or Eugenia Chu at (202) 482–3964, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all references to the Department's regulations are to 19 CFR Part 353 (1997).

SUPPLEMENTARY INFORMATION:

Background

The Department published in the **Federal Register** the antidumping duty order on PPD–T aramid from the Netherlands on June 24, 1994 (59 FR 32678). On June 11, 1997, we published in the **Federal Register** (62 FR 31786) a notice of opportunity to request an administrative review of the order covering the period June 1, 1996, through May 31, 1997.

In accordance with 19 CFR 353.22(a)(1), Aramid Products V.o.F. and Akzo Nobel Aramid Products, Inc. (collectively "Akzo" or respondent), and petitioner, E.I. DuPont de Nemours and Company (petitioner), requested that we conduct an administrative review for the aforementioned period of review (POR). We published a notice of initiation of this antidumping duty administrative review on August 1, 1997 (62 FR 41339). The Department is conducting this administrative review in accordance with section 751 of the Act.

On March 9, 1998, the Department published the preliminary results of the review. (*See* 63 FR 11408). The Department has now completed the review in accordance with section 751 of the Act.

Scope of the Review

The products covered by this review are all forms of PPD-T aramid from the Netherlands. These consist of PPD-T aramid in the form of filament yarn (including single and corded), staple fiber, pulp (wet or dry), spun-laced and spun-bonded nonwovens, chopped fiber and floc. Tire cord is excluded from the class or kind of merchandise under review. This merchandise is currently classifiable under the Harmonized Tariff Schedule (HTS) item numbers 5402.10.3020, 5402.10.3040, 5402.10.6000, 5503.10.1000, 5503.10.9000, 5601.30.0000, and 5603.00.9000. The HTS item numbers are provided for convenience and Customs purposes. The Department's written description of the scope remains dispositive.

Analysis of the Comments Received

We gave interested parties an opportunity to comment on the preliminary results of review. We received comments from respondent and petitioner.

Comment 1: Petitioner contends that the Department should revise Akzo's reported U.S. indirect selling expenses (ISE), arguing that the calculation was improperly based on the consolidated financial statements of Akzo Nobel Inc., and should have instead been based upon the financial statements of Akzo Nobel Aramid Product Inc.'s (ANAPI—the exclusive sales agent of Aramid Products V.o.F. in the United States (Aramid)). Petitioner also asserts that the Department should reject Akzo's use of consolidated financial data in calculating the net interest expenses included in Aramid's cost of production so as to reflect Aramid's actual financing expenses. Petitioner acknowledges that the Department generally uses consolidated financial expense data to calculate financing expenses. However, petitioner asserts that this is not an automatic requirement. Further, petitioner contends that the Department must not use consolidated data where using the consolidated data would distort actual financing expenses. Petitioner asserts that such would be the case in the instant circumstance because Akzo's reported financial interest expense factor is unrelated to the financing requirements of Akzo's PPD-T aramid fiber business in the United States. Moreover, petitioner argues that Akzo justifies its use of consolidated figures on the grounds that the U.S. parent borrows on behalf of its related companies, and then charges the units a share of this cost, without explaining how it allocates the financing expenses. Petitioner argues that Akzo calculated the reported financing expenses based on outstanding loans between the U.S. parent and ANAPI and speculates as to the reasons why ANAPI borrowed money from its parent company to finance its U.S. operations.

Petitioner further argues that the Department and the Court of International Trade (CIT) misapplied binding precedent when affirming the Department's use of Akzo's consolidated data in *E.I. DuPont de Nemours & Co. v. United States*, No. 96–11–02509, Slip Op. 98–7, 1998 WL 42598 (CIT Jan. 29, 1998) (*E.I. DuPont*). Moreover, petitioner contends that the Department and the CIT failed to follow the express mandate of the 1994 amendments to the antidumping statute, which directs the Department to capture all actual costs incurred in producing the subject merchandise and to ensure that reported costs constitute a representative measure of the respondent's true costs. Petitioner argues that the CIT incorrectly interpreted the Statement of Administrative Action (SAA), accompanying H.R. 5110, 103rd Cong., at 834–835 (1994), which according to petitioner, requires a change in the Department's practice with respect to the calculation of financing costs.

Akzo argues that the CIT decision in *E.I. DuPont* properly affirmed the Department's use of Akzo's consolidated financial expense in the first administrative review. Akzo urges the Department to follow the same methodology in the final results of the third administrative review. Further, Akzo emphasizes that petitioner did not point to any evidence justifying a deviation from the Department's standard practice of using the parent's consolidated interest expense in cases where the parent's majority ownership is prima facie evidence of corporate control.

Additionally, Akzo argues that petitioner's claims that the amendments to the antidumping statute set a new standard for calculating interest expense is in error. Contrary to petitioner's argument, Akzo contends that neither the SAA nor the amended section 773(f) of the antidumping statute directs the Department to change its existing practice. Akzo further contends that the cited portion of the SAA suggests only two distinct changes in the law that do not affect Commerce's past practice at issue here, as the CIT explained in *E.I. DuPont* at 7–9.

Akzo further buttresses its argument by pointing to evidence in the administrative record demonstrating that the interest expense of the consolidated company reflects the actual interest expense incurred. Akzo claims that the only loans and corresponding interest expense on the books of ANAPI and Aramid are intercompany loans from the parent companies, Akzo Nobel Inc. and Akzo Nobel N.V. In addition, Akzo argues that the Department verified that the financial statements of the subsidiary companies are consolidated with those of the parent companies. Akzo explains that the only actual interest expense is recorded on the books of the parent companies because it is only these entities that actually borrow money and incur the related interest expense. Akzo asserts that it is only the parent that determines the sources of money, borrows the money, and incurs the actual interest expense and that therefore, petitioner's speculations on how and why companies borrow money and how a parent determines the amount of loans and interest are irrelevant because these are internal decisions that take into account a variety of factors.

Department's Position: We agree with Akzo. In the prior first and second administrative reviews, petitioner similarly urged the Department to rely on Aramid's own financial records to determine its net interest expense, instead of following the Department's normal practice of using the parent company's financing expenses incurred on behalf of the consolidated group of companies. The Department disagreed with petitioner's position, explaining in detail that any departure from the Department's normal practice in this case was not warranted in light of Akzo Nobel N.V.'s majority ownership interest in Aramid, which constituted prima facie evidence of the parent's corporate control. For a detailed explanation of this issue, see *Aramid Fiber Formed of Poly-Phenylene Terephthalamide from the Netherlands: Final Results of Antidumping Administrative Review*, 61 FR 51406 (1996); *Aramid Fiber Formed of Poly-Phenylene Terephthalamide from the Netherlands: Final Results of Antidumping Administrative Review*, 62 FR 38058 (1997).

On January 29, 1998, the CIT affirmed the Department's determination, ruling that neither the SAA nor the amended statute mandate a change of practice with respect to using a parent company's consolidated statements when calculating the respondent's interest expense ratio, and that this practice is consistent with the principle of allocating costs in a manner that *reasonably reflects the actual costs. E.I. DuPont* at 8–9. (Emphasis added.) Citing *Gulf States Tube Div. of Quanex Corp. v. United States*, Slip Op. 97–124, Consol. Court No. 95–09–01125, at 38–39 (CIT Aug. 29, 1997), the Court noted that the focus of the analysis is on whether the consolidated group's controlling entity has the power to determine the capital structure of each member of the group. The Court concluded that the administrative record in this case supported the Department's finding that Akzo Nobel N.V. was a controlling entity, and that DuPont did not cite evidence which would overcome the presumption of corporate control.

In the instant administrative review, petitioner merely reiterates its position argued in the previous two reviews and does not point to any new evidence in the administrative record, which would demonstrate that the parent, Akzo Nobel N.V., does not exercise corporate control over the respondent company. Thus, consistent with the Department's prior determinations and the CIT's decision in *E.I. DuPont*, we will continue using Akzo Nobel N.V.'s consolidated financial interest expense in computing the respondent's net interest ratio.

Similarly, petitioner's contention that we should revise Akzo's reported U.S. indirect selling expense (ISE) lacks merit. As the Department stated in the prior administrative reviews, the Department bases its calculations on the consolidated financial statements of the parent, not the subsidiary. This method is grounded in a well-established practice. *See Aramid Fiber Formed of Poly-Phenylene Terephthalamide from the Netherlands: Final Results of Antidumping Administrative Review*, 61 FR at 51407; *Aramid Fiber Formed of Poly-Phenylene Terephthalamide from the Netherlands: Final Results of Antidumping Administrative Review*, 62 FR at 38060. As stated above, the focal point of the analysis is upon the parent company's control over the subsidiary. The record contains sufficient evidence of Akzo Nobel Inc.'s corporate control over ANAPI. More importantly, the petitioner has failed to produce any evidence to rebut the prima facie evidence of Akzo's control over ANAPI. For the reasons stated above, we will continue to adhere to the Department's current practice in this final determination.

Comment 2: Petitioner alleges that ANAPI is being reimbursed for antidumping duty deposits by one of its parent companies and argues that the Department should deduct the deposits from Akzo's U.S. price, or at least include the associated imputed financing expenses in Akzo's U.S. ISE. Petitioner claims that although there are no reimbursement agreements, the summary trial balances of ANAPI and the Annual Reports of Akzo Nobel Inc. support this allegation. Moreover, petitioner cites *Hoogovens Staal BV v. AK Steel Corp.*, 1998 WL 118090 (CIT March 13, 1998) (*Hoogovens*), as a case affirming the Department's authority to subtract reimbursed antidumping duty deposits, reasoning that the antidumping duties were intended to cause importers to raise prices to take into account such duties. Petitioner argues that the fact that Akzo has not raised its prices by anywhere close to 66 percent since the antidumping duty order was published further supports its claim that ANAPI is relieved of the responsibility for the antidumping duties and speculates that certain amounts may be reimbursed by either Akzo Nobel Inc. or Akzo Nobel N.V.

Akzo contends that ANAPI is not being reimbursed for antidumping duties and the petitioner's speculation to the contrary should be disregarded. Akzo cites the Department's regulations, 19 CFR 353.26(a), requiring the Department to deduct from U.S. price the amount of any antidumping duty which the producer or reseller paid directly on behalf of the importer or reimbursed to the importer. Akzo notes that this regulation also requires the importer to file a certificate, prior to liquidation, with the U.S. Customs Service, attesting to the absence of any agreement for the payment or reimbursement of any part of the antidumping duties by the manufacturer, producer, seller or exporter. The regulation provides that the Department may presume from an importer's failure to file this certificate that the producer or reseller paid or reimbursed the antidumping duties. Akzo argues that it is in full compliance with the Department's regulations. It

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states ANAPI has filed, prior to liquidation, certifications with Customs attesting to the absence of any agreement with the manufacturer, producer, seller or exporter for the payment or reimbursement of antidumping duties that, as required by section 353.26(c). Further, the respondent claims that ANAPI has not entered into such an agreement with Akzo Nobel Inc. or Akzo Nobel N.V. In support of its arguments, Akzo cites the CIT ruling in *The Torrington Corp.* v. *United States,* 881 F. Supp. 622, 632 (1995) (*Torrington*) that "once an importer * * * has indicated on this certificate that it has not been reimbursed for antidumping duties, it is unnecessary for the Department to conduct an additional inquiry absent a sufficient allegation of customs fraud." Akzo claims that, because it has filed the requisite certification, and because petitioner has failed to show any customs fraud, the record establishes that neither Akzo Nobel Inc. nor Akzo Nobel N.V. has reimbursed ANAPI for antidumping duty payments.

Akzo further contends that the CIT has affirmed the Department's longstanding precedent that, absent evidence of reimbursement, the Department has no authority to make the adjustment to U.S. price requested by the petitioner. See Torrington at 632. Akzo states that, according to the CIT, in Torrington, the party who requests the reimbursement investigation must produce some link between the transfer of funds and reimbursement of antidumping duties. Akzo argues that the petitioner has failed to meet this burden by failing to establish any agreement for reimbursement of antidumping duties between either Akzo Nobel Inc. or Akzo Nobel N.V. and ANAPI.

Furthermore, Akzo argues that petitioner's reliance on Hoogovens is misplaced. Akzo states that the Court remanded this decision to the Department to provide a clearer basis for its determination that reimbursement occurred. However, Akzo argues, even if the CIT ultimately agrees that Hoogovens reimbursed its importer of record, the facts of that case are distinguishable from the facts in Akzo's case. In Hoogovens, the Department found that the importer and exporter had entered into a written agreement to reimburse antidumping duties, which triggered the application of section 353.26 of the Department's regulations. *See Certain Cold-Rolled Carbon Steel Plat Products from the Netherlands,* 61 FR 48465 (1996) (*First Cold-Rolled Review*) (the review that led to the Hoogovens' CIT appeal). Akzo insists that there is no such agreement between Akzo Nobel N.V. and its U.S. subsidiaries, or between Aramid and ANAPI and, therefore, the decision in *First Cold-Rolled Review* has no bearing on this case. Thus, the requirements of section 353.26(a) do not apply and the Department should deny the requested adjustment to Akzo's U.S. price.

Akzo further argues that no adjustments to the reported U.S. ISE is warranted as there were no improper exclusions. Akzo claims that petitioner argues without any citations that the Department should artificially inflate Akzo's U.S. ISE to account for the financing expenses incurred in connection with the antidumping duty deposits it has made. Akzo argues that the Department's practice and precedent actually support a downward adjustment of ISE to account for these expenses. *See Antifriction Bearings and Parts Thereof from France* (*AFBs III*), 58 FR 39729 (1993) *opinion after remand, Federal-Mogul Corp.* v. *United States,* Slip Op. 96–193 at 2, 8 (CIT Dec. 12, 1996) (Federal Mogul II). Akzo states that the Department has justified the adjustment as analogous to the payment of legal fees in antidumping proceedings, which are incurred solely because of the antidumping duty order and thus are not selling expenses. Akzo further argues that, in *Tapered Roller Bearings from Japan,* 62 FR 11825, 11829 (1997), the Department cautioned that failure to allow a downward adjustment would risk calculating overstated margins due to failure to take into account the fact that no such expense would have been incurred absent the order. Therefore, Akzo argues that the Department should not make an upward adjustment to Akzo's U.S. ISE because it is not an expense incurred in selling the subject merchandise.

Department's Position: We agree with Akzo. The Department's regulations require the Department to deduct from U.S. price the amount of any antidumping duty which the producer or reseller (i) paid directly on behalf of the importer or (ii) reimbursed to the importer. *See* 19 CFR 353.26 (a)(1996). Absent evidence of reimbursement, the Department has no authority to make the adjustment to U.S. price. *Torrington* at 632, citing *Brass Sheet and Strip From Sweden,* 57 FR 2706, 2708 (1992) and *Brass Sheet and Strip From the Republic of Korea,* 54 FR 33257, 33258 (1989). *See also, Color Television Receivers from the Republic of Korea; Final Results of Antidumping Duty Administrative Reviews,* 61 FR 4408, 4411 (1996). In the absence of actual reimbursement payments, the Department requires evidence of a concrete link between the financial transaction and the antidumping duty before it may find reimbursement and impose additional duties. *Torrington* at 632, *aff'd* 127 F.3d 1077, 1080–81 (Fed. Cir. 1997) (further, the Court of Appeals for the Federal Circuit upheld the Department's interpretation and application of section 353.26. *Id.*) Finally, section 353.26 (b) of the Department's regulations also requires that the importer file a certificate with the U.S. Customs Service, attesting to the absence of any "agreement or understanding for the payment or for the refunding" of the antidumping duties. *See* 19 CFR 353.26(b).

In the previous second administrative review, the Department concluded that there was no evidence of reimbursement of ANAPI by Akzo for antidumping duties and, therefore, there was no justification for adjusting U.S. ISE for the potentially reimbursed antidumping duty deposits. *See Final Results of Antidumping Duty Administrative Review: Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide From the Netherlands,* 62 FR at 38061. During the course of conducting the instant review, the Department provided petitioner with the opportunity to comment upon all the information and data presented by the respondent. However, petitioner did not allege any specific instance or evidence of reimbursement of antidumping duties in either its October 17, 1997, or December 12, 1997, comments. Petitioner's first allegation of reimbursement was presented in its administrative case brief, dated April 8, 1998, after the Department completed verification and issued its preliminary results of the administrative review. In its case brief, the petitioner failed to provide any new, specific evidence supporting its reimbursement allegations. Petitioner's comments on this issue are speculative and do not point to concrete evidence of reimbursement. Mere allegations of reimbursement are insufficient to warrant further action by the Department. Neither section 353.26 nor past precedent provide authority for the Department to undertake further action or make additional adjustments based upon petitioner's thinly supported assertions of reimbursement. Moreover, we carefully reviewed the record and found no evidence on the record suggesting reimbursement of antidumping duties, nor did we find specific evidence of inappropriate financial intermingling between ANAPI and Akzo Nobel Inc. or Akzo Nobel N.V. In reviewing the financial statements and payment records of the U.S.

subsidiary, we verified that ANAPI is responsible for all cash deposits and duties assessed. *See* Verification Report, dated February 24, 1998.

Further, petitioner's reliance on *Hoogovens* is inapposite. In that case, the CIT held that, although the record evidence in *Hoogovens* "suggested" reimbursement of antidumping duties, the Department did not identify which evidence supported its findings of reimbursement. Thus, the CIT remanded this case to the Department for a reasoned articulation of its decision. In the present case, however, we lack any evidence of reimbursement.

Finally, there is evidence on the record that ANAPI filed the required certifications with U.S. Customs Service attesting to the absence of any agreement with the manufacturer, producer, seller, or exporter for the payment or reimbursement of antidumping duties. Based on these facts, the Department presumes the continued existence of the circumstances that gave rise to our findings in the second administrative review and that 19 CFR 353.26 is inapplicable in this case. Therefore, consistent with our findings in the second administrative review, we have not deducted any amount for reimbursed duties from Akzo's U.S. price or included them in Akzo's U.S. ISE.

Comment 3: Petitioner argues that the Department inconsistently filled in missing values for imputed credit expense for home market and U.S. sales. Specifically, for home market sales, the Department filled in the missing payment dates with the date of the preliminary determination, March 2, 1998, and then calculated the missing credit expense value, while for the U.S. sales, the Department calculated the average credit expense for U.S. sales and then applied that average expense to missing credit values. Petitioner claims that this inconsistent application maximized the credit expense deduction for home market sales, thereby reducing normal value, and artificially reduced the credit expense deduction for U.S. sales, thereby increasing the U.S. price. Because Akzo failed to submit a complete questionnaire response, petitioner further argues that the Department should apply adverse inferences and fill in the missing data with the largest value on the record for the U.S. price deduction and with zero for the corresponding home market price deduction, or at least fill in the missing data with values that do not allow Akzo to benefit from its omissions.

Akzo argues that the Department should reject petitioner's request as contrary to current Department practice, which is to use the last day of verification as the payment date for unpaid sales (February 2, 1998). Respondent cites *Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8928 (1998), as precedent.

Department's Position: In accordance with the Department's current practice, the last day of verification will be used as the date of payment for unpaid sales. *See Extruded Rubber Thread From Malaysia; Final Results of Antidumping Duty Administrative Review*, 63 FR 12752, 12757 (1998) (citing *Static Random Access Memory Semiconductors from Taiwan; Final Results of Less than Fair Value Investigation*, 63 FR 8909, 8928 (1998) and *Brass Sheet and Strip from Sweden; Final Results of Antidumping Administrative Review*, 60 FR 3617, 3621 (1995)). We disagree with petitioner's assertion that the Department should use an adverse inference in calculating the imputed credit expense. In the instant review, respondent has not impeded the review by providing inaccurate or unverifiable data, instead it has provided data which was successfully verified. Therefore, we have used the last day of verification, February 2, 1998, as the date of payment for the transactions in question.

The Department agrees with petitioner that we inconsistently calculated missing credit expenses in the home sales market and U.S. market during the preliminary determination. In the final results of the review, the Department has substituted the missing payment dates with the last day of verification and calculated the missing credit expense value for both home market sales and U.S. sales. *See* Calculation Memorandum, dated July 7, 1998, for a complete discussion of the mathematical calculation.

Comment 4: Petitioner contends that the Department's treatment of Akzo's goodwill expenses in the first and second administrative reviews is not supported by substantial evidence on the record and is contrary to law. Petitioner argues that the Department should amortize these costs over a period that covers the POR to avoid improperly understating the actual cost of producing PPD–T aramid fiber during the POR.

Akzo argues that petitioner's position is unsubstantiated and contrary to law. Akzo notes that the proper treatment of the goodwill was the focus of the first administrative review, and of the recently issued CIT decision. Respondent further notes that the Department spent a significant amount of time gathering and analyzing all aspects of the purchase. *See Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide from the Netherlands*, 61 FR 51406. Akso cites the CIT's ruling to affirm the Department's treatment of goodwill as further support for its contentions. Respondent cites specifically to the CIT's approval of the Department's analysis, affirming that it was more appropriate to isolate those components of goodwill that pertained to assets used in the production of subject merchandise. Akzo states that in preparing the questionnaire response for this review, it complied with the Department's determination in the first two administrative reviews. Finally, Respondent contends that no circumstances exist warranting any deviation from the Department's prior approach, as affirmed by the CIT.

Department's Position: The Department agrees with Akzo. As explained at length in the final results of the first and second administrative reviews, and affirmed by the CIT in *E.I. DuPont*, the Department determined to accept Akzo's accounting method for the amortization of goodwill expense as reasonable. *See Aramid Fiber Formed of Poly-Phenylene Terephthalamide from the Netherlands: Final Results of Antidumping Administrative Review*, 61 FR at 51406; *Aramid Fiber Formed of Poly-Phenylene Terephthalamide from the Netherlands: Final Results of Antidumping Administrative Review*, 62 FR at 38063.

The Department spent a significant amount of time gathering and analyzing all aspects of the facts surrounding the goodwill issue during the first administrative review. Upon completion of its analysis, the Department determined that, for cost calculation purposes, it was appropriate to isolate those components of goodwill that pertained to assets used in the production of subject merchandise. *See Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide from the Netherlands*, 61 FR at 51406. The Department verified that Akzo complied with the Department's decision in the first administrative review, and calculated the reported depreciation expenses exclusive of goodwill expenses in preparing its response for the instant review. The methodology used in the instant case is consistent with the final results of the first and second administrative reviews.

Moreover, in *E.I. DuPont*, the CIT rejected petitioner's arguments with respect to goodwill, affirming the Department's treatment of inventory write-downs and residual goodwill expenses. *See E.I. DuPont* at 15–24. Therefore, for purposes of the instant review, the Department will continue to use Akzo's reported cost of production and constructed value data in calculating the antidumping duty margin.

Comment 5: Akzo claims that the computer program used in calculating the preliminary results contained three errors that must be corrected. First, Akzo argues that the difference in merchandise (DIFMER) adjustment was miscalculated by failing to convert the submitted variable cost of manufacturing of the U.S. product (VCOMU) from kilograms to pounds. Akzo explains that because the U.S. sales are reported on a per pound basis and the analysis is conducted on the same basis, it is necessary to convert the DIFMER adjustment to a per pound amount. Second, Akzo claims that in calculating the net constructed export price (CEP), the Department correctly added U.S. packing costs to normal value but incorrectly included U.S. packing costs as an adjustment to the gross price, thereby understating the net CEP and overstating the margin. Third, Akzo argues that the Department incorrectly deducted the ISE incurred in the home market on U.S. sales from CEP after correctly determining in the preliminary results and LOT analysis memo that these expenses were not related to the economic activity in the U.S. Akzo provided suggested changes to correct the alleged errors.

Petitioner did not rebut any of Akzo's aforementioned suggested corrections.

Department's Position: The Department agrees with Akzo and has revised the final margin program to reflect these changes. First, the Department has converted VCOMU from kilograms to pounds to ensure that the final margin analysis is performed on a comparable basis. Second, the Department has corrected the margin program to ensure that both the CEP and NV are calculated inclusive of packing costs. Finally, the Department's preliminary margin calculation program inadvertently included ISE that were not incurred in connection with economic activity as deductions to the U.S. selling price. The Department's analysis in the Level of Trade Memo, dated March 2, 1998, is correct in stating that only those expenses incurred connection with economic activity in the U.S. will be deducted from CEP in conducting the margin analysis. For purposes of these final results of review, the Department has revised the margin calculation to reflect the conclusion of the Level of Trade Analysis memo. For further explanation, *see* Calculation Memorandum, dated July 7, 1998.

Final Results of Review

As a result of our review, we determine that the following weighted-average margin exists:

Manufacturer/exporter	Period of review	Margin (percent)
Akzo	6/1/96–5/31/97	6.31
All Other ..	6/1/96–5/31/97	66.92

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions on each exporter directly to the Customs Service. For assessment purposes, we have calculated importer specific duty assessment rates for the merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales during the POR to the total entered value of sales examined during the POR.

Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of review for all shipments of PPD–T aramid fiber from the Netherlands entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be the rate listed above; (2) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (3) for all other producers and/or exporters of this merchandise, the cash deposit rate shall be 66.92 percent, the "all others" rate established in the LTFV investigation (59 FR 32678, June 24, 1994). These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and subsequent assessment of double antidumping duties.

Notification to Interested Parties

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.305 and 19 CFR 353.306. Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 351.221.

Dated: July 7, 1998.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–18596 Filed 7–10–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–831]

Fresh Garlic from the People's Republic of China; Notice of Recission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Recission of Antidumping Duty Administrative Review.

SUMMARY: On December 23, 1997, the Department of Commerce published in the **Federal Register** (62 FR 67044) a notice announcing the initiation of an administrative review of the antidumping duty order on fresh garlic from the People's Republic of China. This review covered the period from November 1, 1996 through October 31, 1997. The Department of Commerce has now rescinded this review as a result of the absence of reviewable entries and sales into the United States of subject merchandise during the period of review.

EFFECTIVE DATE: July 13, 1998.

FOR FURTHER INFORMATION CONTACT: Diane Krawczun or Thomas Schauer, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce (the Department) published in the **Federal Register** on November 7, 1997 (62 FR 60219) a "Notice of Opportunity to Request Administrative Review" of the antidumping duty order on fresh garlic from the People's Republic of China (59 FR 59209, November 16, 1994). On November 18, 1997, Fook Huat Tong Kee Pte. Ltd. (FHTK), the respondent, requested an administrative review of imports of its merchandise into the United States. The Department initiated the review on December 23, 1997 (62 FR 67044).

Documentation we received from the Customs Service subsequent to the initiation of the review demonstrated that, although Customs received importation documentation for the shipment of the subject merchandise, this shipment did not result in a reviewable entry or sale within the period of review. Therefore, we are rescinding the initiation of this review in accordance with 19 CFR 351.213(d)(3). For further information regarding this recission, *see* the decision memorandum entitled "Whether to Rescind the 96/97 Administrative Review of the Antidumping Duty Order on Fresh Garlic from the People's Republic of China," from Laurie Parkhill to Richard W. Moreland dated July 6, 1998.

The cash-deposit rate for FHTK will remain at 376.67 percent, the rate established in the most recently completed segment of this proceeding (59 FR 59029, November 16,1994). This notice is in accordance with section 777(i) of the Tariff Act of 1930, as amended.

Dated: July 6, 1998.

Richard W. Moreland,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 98–18595 Filed 7–10–98; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–814, A–428–825, A–475–824, A–588–845, A–201–822, A–580–834, A–583–831, A–412–818]

Initiation of Antidumping Duty Investigations: Stainless Steel Sheet and Strip in Coils From France, Germany, Italy, Japan, Mexico, South Korea, Taiwan, and the United Kingdom

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: July 13, 1998.

FOR FURTHER INFORMATION CONTACT: Abdelali Elouaradia (France), at (202) 482–2243; Robert James (Germany), at (202) 482–5222; Rick Johnson (Italy, Republic of Korea, and Taiwan) at (202) 482–3818; Dorothy Woster (Japan), at (202) 482–3362; Tom Killiam (Mexico), at (202) 482–2704; Nancy Decker (United Kingdom), at (202) 482–0196, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

Initiation of Investigations

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are references to the provisions codified at 19 CFR Part 351 (62 FR 27296, May 19, 1997).

The Petition

On June 10, 1998, the Department of Commerce ("the Department") received petitions filed in proper form by Allegheny Ludlum Corporation, Armco, Inc.,[1] J&L Specialty Steel, Inc.,[2] Washington Steel Division of Bethlehem Steel Corporation (formerly Lukens, Inc.), the United Steelworkers of America, AFL-CIO/CLC, the Butler Armco Independent Union[3] and the Zanesville Armco Independent Organization, Inc.[4] (petitioners). The Department received supplemental information to the petitions on June 15, 16, 17, 19 and 24, 1998.

In accordance with section 732(b) of the Act, petitioners allege that imports of stainless steel sheet and strip in coils (SSSS) from France, Germany, Italy, Japan, Mexico, the Republic of Korea, Taiwan, and the United Kingdom are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring an industry in the United States.

The Department finds that petitioners filed these petitions on behalf of the domestic industry because they are interested parties as defined in section 771(9) (C) and (D) of the Act and they have demonstrated sufficient industry support with respect to each of the antidumping investigations they are requesting the Department to initiate (*see Discussion* below).

Scope of Investigations

For purposes of these investigations, the products covered are certain stainless steel sheet and strip in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat-rolled product in coils that is greater than 9.5 mm in width and less than 4.75 mm in thickness, and that is annealed or otherwise heat treated and pickled or otherwise descaled. The subject sheet and strip may also be further processed (*e.g.*, cold-rolled, polished, aluminized, coated, *etc.*) provided that it maintains the specific dimensions of sheet and strip following such processing.

The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States ("HTSUS") at subheadings: 7219.13.00.30, 7219.13.00.50, 7219.13.00.70, 7219.13.00.80, 7219.14.00.30, 7219.14.00.65, 7219.14.00.90, 7219.32.00.05, 7219.32.00.20, 7219.32.00.25, 7219.32.00.35, 7219.32.00.36, 7219.32.00.38, 7219.32.00.42, 7219.32.00.44, 7219.33.00.05, 7219.33.00.20, 7219.33.00.25, 7219.33.00.35, 7219.33.00.36, 7219.33.00.38, 7219.33.00.42, 7219.33.00.44, 7219.34.00.05, 7219.34.00.20, 7219.34.00.25, 7219.34.00.30, 7219.34.00.35, 7219.35.00.05, 7219.35.00.15, 7219.35.00.30, 7219.35.00.35, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.12.10.00, 7220.12.50.00,

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[1] Armco, Inc. is not a petitioner in the Mexico case.

[2] J& L Specialty Steel, Inc. is not a petitioner in the France case.

[3] Butler Armco Independent Union is not a petitioner in the Mexico case.

[4] Zanesville Armco Independent Organization, Inc. is not a petitioner in the Mexico case.

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7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.20.70.05, 7220.20.70.10, 7220.20.70.15, 7220.20.70.60, 7220.20.70.80, 7220.20.80.00, 7220.20.90.30, 7220.20.90.60, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Excluded from the scope of this petition are the following: (1) sheet and strip that is not annealed or otherwise heat treated and pickled or otherwise descaled, (2) sheet and strip that is cut to length, (3) plate (*i.e.*, flat-rolled stainless steel products of a thickness of 4.75 mm or more), (4) flat wire, and (5) razor blade steel. Razor blade steel is a flat-rolled product of stainless steel, not further worked than cold-rolled (cold-reduced), in coils, of a width of 9.5 to 23 mm and a thickness of 0.266 mm or less, containing by weight 12.5 to 14.5 percent chromium, and certified at the time of entry to be used in the manufacture of razor blades. *See* Chapter 72 of the HTSUS, "Additional U.S. and Note" 1(d).

During our review of the petitions, we discussed scope with petitioners to insure that the scope in the petitions accurately reflect the product for which they are seeking relief. Moreover, as discussed in the preamble to the new regulations (62 FR 27323), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments by July 20, 1998. Comments should be addressed to Import Administration's Central Records Unit at Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of our preliminary determinations.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (1) At least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition.

Section 771(4)(A) of the Act defines the "industry" as the producers of a domestic like product. Thus, to determine whether the petition has the requisite industry support, the statute directs the Department to look to producers and workers who account for production of the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to the law.[5]

Section 771(10) of the Act defines the domestic like product as "a product that is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation," *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

The domestic like product referred to in the petitions is the single domestic like product defined in the "Scope of Investigation" section, above. The Department has no basis on the record to find petitioners' definition of the domestic like product to be inaccurate. The Department, therefore, has adopted the domestic like product definition set forth in the petitions. In this case the Department has determined that the petitions and supplemental information contained adequate evidence of sufficient industry support, and, therefore, polling is unnecessary (*See Attachment to the Initiation Checklist, Re: Industry Support*, June 30, 1998). For France, Germany, Italy, Japan, Mexico, South Korea, Taiwan, and the United Kingdom, petitioners established industry support representing over 50 percent of total production of the domestic like product.

Additionally, no member of the domestic industry pursuant to section 771(9)(C) (D) or (E) has expressed opposition on the record to the petition. Therefore, to the best of the Department's knowledge, the producers who support the petitions account for 100 percent of the production of the domestic like product produced by the portion of the industry expressing an opinion regarding the petitions. Accordingly, the Department determines that these petitions are filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

Nippon Steel Corp. Japan (NSC) submitted a letter claiming that petitioners do not manufacture suspension foil, and thus, do not have standing to file an antidumping petition against such product. However, there is no requirement that petitioners manufacture all merchandise within the like product designation, only that they are producers of the like product. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina*, 58 FR 37062 (1993). Because petitioners produce the domestic like product they are interested parties within the meaning of sections 771(9)(C) (D) and (E). Therefore, in accordance with section 732(b)(1), they have standing to file the petition. Based on the foregoing, the Department determines that these petitions are filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

Export Price and Normal Value

The following are descriptions of the allegations of sales at less than fair value upon which our decisions to initiate these investigations are based. Should the need arise to use any of this information in our preliminary or final determinations for purposes of facts available under section 776 of the Act, we may re-examine the information and revise the margin calculations, if appropriate.

France

Petitioners identified Ugine, a division of Usinor, S.A. (Usinor), and Imphy, S.A. as possible exporters of SSSS from France. Petitioners further stated that Usinor accounts for nearly all of the production in France. Petitioners based export price (EP) for Usinor on prices at which the merchandise was first sold to unaffiliated purchasers in the United States in December 1997. *See* petitioners' affidavit at Exhibit 6. Because the terms of Usinor's U.S. sales were delivered to the U.S. customer, petitioners calculated a net U.S. price by subtracting estimated costs for shipment from Usinor's factory in France to the port of export. *See* Declaration of (Foreign Market Researcher) Regarding Sales and Production Cost in France of Stainless Steel Sheet and Strip in Coils, Exhibit 1 of petitioners' June 15, 1998 submission. In addition, petitioners subtracted ocean freight and insurance based on official U.S. import statistics, and estimated costs for U.S. import duties and fees based on the 1997 HTSUS schedule. Petitioners also subtracted amounts for U.S. merchandise processing fees and U.S. harbor maintenance fees (19 CFR 24.23 and 24.24, respectively). Finally, petitioners obtained net U.S. prices by subtracting U.S. inland freight costs (for a discussion of the freight cost estimate, *see* petitioners' affidavit at Exhibit 23), and credit expenses.

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[5] *See Algoma Steel Corp. Ltd., v. United States*, 688 F. Supp. 639, 642–44 (CIT 1988); *High Information Content Flat Panel Displays and Display Glass Therefore from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition*, 56 FR 32376, 32380–81 (July 16, 1991).

With respect to normal value (NV), based on foreign market research, petitioners determined that the volume of French home market sales was sufficient to form a basis for NV, pursuant to section 773(a)(1)(B)(i) of the Act. Petitioners obtained from foreign market research gross unit prices for products offered for sale during the second and third quarter of 1997 and first quarter of 1998, to customers in France which are either identical or similar to those sold to the United States. Petitioners adjusted these prices by subtracting estimated average delivery costs and credit expenses, and by adding an amount for alloy surcharge. *See Declaration of (Foreign Market Researcher) Regarding Sales and Production Cost in France of Stainless Steel Sheet and Strip in Coils,* Exhibit 1 of petitioners' June 15, 1998 submission. These net home market prices were then converted to U.S. dollar prices using the official exchange rate in effect for the month of the comparison U.S. sale.

Petitioners provided information demonstrating reasonable grounds to believe or suspect that certain of the home market sales of SSSS provided in the petition were made at prices below the cost of production (COP), within the meaning of section 773(b) of the Act, and requested that the Department conduct a country-wide sales below cost investigation. Pursuant to section 773(b)(3) of the Act, COP consists of the cost of manufacturing ("COM"), selling, general, and administrative expenses ("SG&A"), and packing costs. To calculate COP, petitioners relied on foreign market research and their own production experience, adjusted for known differences between costs incurred to produce SSSS in the United States and in the foreign market. We relied on the cost data contained in the petition except in the following instances: (1) rather than rely on the foreign market research for raw material consumption rates, we recalculated raw material costs using the submitted average domestic industry material costs in the petition adjusted for known differences in raw material input prices between the U.S. and France based on market research (in this regard, we consider it more appropriate to rely on actual raw material usage rates from a producer of the merchandise rather than hypothetical rates derived from foreign market research); (2) we recalculated fixed overhead using Usinor's 1996 audited financial statements; and (3) we recalculated SG&A and financial expenses using Usinor's 1997 consolidated financial statements.

Based on our analysis, certain of the home market sales reported in the petition were shown to be made at prices below the cost of production (*see Initiation of Cost Investigations*). For these sales, petitioners based NV on the constructed value ("CV") of the merchandise, pursuant to sections 773(a)(4) and 773(e) of the Act. Pursuant to section 773(e) of the Act, CV consists of the COM, SG&A expenses, packing costs and profit of the merchandise. To calculate the COM, SG&A expenses, and packing costs for CV, petitioners followed the same methodology used to determine COP. Accordingly, we relied on this methodology after adjusting certain cost elements as noted above. Petitioners derived profit for CV based on amounts reported in Usinor's 1997 financial statements.

The estimated dumping margins, based on a comparison between Usinor's U.S. prices and adjusted CV, range from 23.74 to 24.76 percent. Based on a comparison of EP to home market prices, petitioners calculated dumping margins range from 10.02 to 39.20 percent.

Germany

Petitioners identified Krupp Thyssen Nirosta GmbH (Krupp) as a possible exporter of SSSS from Germany. Petitioners further identified Krupp as the only substantial producer of subject merchandise in Germany. Petitioners based EP for Krupp on prices at which the merchandise was first sold to unaffiliated purchasers in the United States (sales were made in the second and third quarters of 1997, and the second quarter of 1998). *See* petitioners' affidavit, submitted as petition Exhibit 21. The terms of Krupp's sales were either delivered or FOB duty-paid U.S. port. Therefore, petitioners calculated FOB prices for these U.S. sales by subtracting amounts for U.S. inland freight, international freight and marine insurance based on official U.S. import statistics, U.S. import duties based on the 1997 HTSUS schedule, and foreign inland freight estimated based on foreign market research (*see Declaration of (Foreign Market Researcher) Regarding Sales and Production Cost in Germany of Stainless Steel Sheet and Strip in Coils,* Exhibit 2 of petitioners' June 15, 1998 submission). Petitioners also subtracted amounts for U.S. merchandise processing fees and U.S. harbor maintenance fees (19 CFR, sections 24.23 and 24.24, respectively). Finally, petitioners obtained net U.S. prices by subtracting credit expenses and adding alloy surcharges to applicable sales from petitioners' affidavit (*see* petition at Exhibit 21, and submission dated June 17, 1998, Exhibit E).

With respect to NV, based on foreign market research, petitioners determined that the volume of German home market sales was sufficient to form a basis for NV, pursuant to section 773(a)(1)(B)(i) of the Act. Petitioners obtained from foreign market research gross unit prices for products offered for sale (sales were made in the second and third quarters of 1997) to customers in Germany which are either identical or similar to those sold to the United States. Petitioners adjusted these prices by subtracting amounts for foreign inland freight (*see Declaration of* (Foreign Market Researcher) *Regarding Sales and Production Cost in Germany of Stainless Steel Sheet and Strip in Coils,* Exhibit 2 of petitioners' June 15, 1998 submission) and imputed credit expenses (based on "International Financial Statistics" of the International Monetary Fund, April 1998) and added an alloy surcharge (*See* petitioners' affidavit, submitted as petition Exhibit 21) for applicable sales. These net home market prices were then converted to U.S. dollar prices using the official exchange rate in effect for the month of the comparison U.S. sale.

Petitioners provided information demonstrating reasonable grounds to believe or suspect that the certain of the home market sales of SSSS provided in the petition were made at prices below the COP, within the meaning of section 773(b) of the Act, and requested that the Department conduct a country-wide sales-below-cost investigation. Pursuant to section 773(b)(3) of the Act, COP consists of the COM, SG&A, and

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packing costs. To calculate COP, petitioners relied on foreign market research and their own production experience, adjusted for known differences between costs incurred to produce SSSS in the United States and in the foreign market. We relied on the cost data contained in the petition except in the following instances: (1) rather than rely on the foreign market research for raw material consumption rates, we recalculated raw materials costs using the submitted average domestic industry material costs in the petition adjusted for known differences in raw material input prices between the U.S. and Germany based on market research (in this regard, we consider it more appropriate to rely on actual raw material usage rates from a producer of the merchandise rather than hypothetical rates derived from foreign market research); and (2) we recalculated fixed overhead using Krupp's 1997 audited financial statements.

Based on our analysis, certain of the home market sales reported in the petition were shown to be made at prices below the cost of production (*see Initiation of Cost Investigations*). For these sales, petitioners based NV on the CV of the merchandise, pursuant to sections 773(a)(4) and 773(e) of the Act. Pursuant to section 773(e) of the Act, CV consists of the COM, SG&A expenses, packing costs and profit of the merchandise. To calculate the COM, SG&A, and packing costs for CV, petitioners followed the same methodology used to determine COP. Accordingly, we relied on this methodology after adjusting certain cost elements as noted above. Petitioners derived profit for Krupp based on amounts reported in Krupp's 1997 financial statements.

The estimated dumping margins, based on a comparison between Krupp's U.S. price and the adjusted CV, range from 32.67 to 41.98 percent. Based on a comparison of EP to home market price, petitioners calculated dumping margins ranging from 11.81 to 17.46 percent.

Italy

Petitioners identified Arinox Srl (Arinox) and Acciai Speciali Terni SpA (AST) as possible exporters and producers of SSSS from Italy. Petitioners relied on price information for AST, which, according to petitioners, accounts for 99 percent of exports of SSSS exported to the United States from Italy. Petitioners based EP on U.S. sales prices obtained by petitioners for sales to an unaffiliated purchaser from June through October 1997. *See* petitioners' affidavit, submitted as petition Exhibit 20. Petitioners calculated a net U.S. price by subtracting amounts for foreign inland freight (*see Declaration of {Foreign Market Researcher} Regarding Sales and Production Cost in Italy of Stainless Steel Sheet and Strip in Coils,* Exhibit 3 of petitioners' June 15, 1998 submission), U.S. inland freight (*see* petitioners' affidavit, submitted as petition Exhibit 20), international freight and insurance based on average import charges reported in the official U.S. import statistics for 1997 for HTSUS categories 7219 and 7220, U.S. merchandise processing fees and U.S. harbor maintenance fees (19 CFR 24.23 and 24.24, respectively), and estimated costs for U.S. import duties based on 1997 and 1998 HTSUS schedules. Imputed credit was also deducted from export price for the price-to-price comparison, using the lending rate as published in "International Financial Statistics" of the International Monetary Fund, April 1998. Petitioners added an alloy surcharge for certain U.S. sales (*see* petitioners' affidavit submitted as Attachment 1 of *Stainless Steel Sheet and Strip in Coils from Italy,* June 19, 1998).

With respect to NV, based on foreign market research, petitioners determined that the volume of Italian home market sales was sufficient to form a basis for NV, pursuant to section 773(a)(1)(B)(i) of the Act. Petitioners obtained from foreign market research gross unit prices for products offered for sale in the second, third and fourth quarters of 1997 to customers in Italy which are either identical or similar to those sold to the United States. Petitioners adjusted these prices by subtracting inland freight (*see Declaration of {Foreign Market Researcher} Regarding Sales and Production Cost in Italy of Stainless Steel Sheet and Strip in Coils,* Exhibit 1 of petitioners' June 15, 1998 submission), and imputed credit expenses based on "International Financial Statistics" of the International Monetary Fund, April 1998. Petitioners added an alloy surcharge for certain home market sales (*see* petitioners' affidavit submitted as Attachment 1 of *Stainless Steel Sheet and Strip in Coils from Italy*, June 19, 1998). Petitioners did not adjust for packing costs because petitioners claim that data for packing for U.S. sales is not available. These net home market prices were then converted to U.S. dollar prices using the official exchange rate in effect for the month of the comparison U.S. sale.

Petitioners provided information demonstrating reasonable grounds to believe or suspect that certain of the home market sales of SSSS provided in the petition were made at prices below COP, within the meaning of section 773(b) of the Act, and requested that the Department conduct a country-wide sales-below-cost investigation. Pursuant to section 773(b)(3) of the Act, COP consists of the COM, SG&A expenses, and packing costs. To calculate COP, petitioners relied on foreign market research and their own production experience, adjusted for known differences between costs incurred to produce SSSS in the United States and in the foreign market. We relied on the cost data contained in the petition except in the following instance. We did not rely on the foreign market research for raw material consumption rates. Instead, we recalculated raw materials costs in the petition using the submitted average domestic industry material costs adjusted for known differences in raw material input prices between the U.S. and Italy based on market research (in this regard, we consider it more appropriate to rely on actual raw material usage rates from a producer of the merchandise rather than hypothetical rates derived from foreign market research).

Based on our analysis, certain of the home market sales reported in the petition were shown to be made at prices below the cost of production (*see Initiation of Cost Investigations*). For these sales, petitioners based NV on the CV of the merchandise, pursuant to sections 773(a)(4) and 773(b) of the Act. Pursuant to section 773(e) of the Act, CV consists of the COM, SG&A expenses, packing costs and profit for the merchandise. To calculate the COM, SG&A expenses, and packing costs for CV, petitioners followed the same methodology used to determine COP. Accordingly, we relied on this methodology after adjusting certain cost elements as noted above. Petitioners derived profit AST based on amounts reported in AST's financial statements.

The estimated dumping margins, based on a comparison between AST's U.S. price and the adjusted CV, range from 0.15 to 35.54 percent. Based on a comparison of EP to home market price, petitioners calculate dumping margins ranging from 6.02 to 18.77 percent.

Japan

Petitioners identified Kawasaki Steel Corp., Nippon Steel Corporation, Nisshin Steel Co. Ltd., Nippon Yakin Kogyo, Nippon Metal Industries, and Sumitomo Metal Industries as possible exporters of SSSS from Japan. Petitioners further identified Nisshin, Kawasaki, and Nippon Steel as the three largest producers of subject merchandise in Japan. Petitioners based

EP on U.S. sales prices from Sumitomo Metal Industries and Marubeni of America, a Japanese trading company that sells on behalf of Japanese producers in the United States, to unaffiliated trading companies in the United States in the fourth quarter of 1997 and the first quarter of 1998. *See* petitioners' affidavit, submitted as Exhibit 3 of *Stainless Steel Sheet and Strip in Coils from France and Japan*, June 9, 1998. Because the terms of the U.S. sales were delivered to the U.S. customer, petitioners calculated a net U.S. price by subtracting estimated costs for shipment from the Japanese factory to the port of export based on foreign market research. *See Declaration of {Foreign Market Researcher} Regarding Sales in Japan of Stainless Steel Sheet and Strip in Coils*, Exhibit 4 of petitioners' June 15, 1998 submission. In addition, petitioners subtracted ocean freight and insurance based on official U.S. import statistics, and estimated costs for U.S. import duties and fees based on the 1997 and 1998 HTSUS schedules. Petitioners also subtracted amounts for the U.S. merchandise processing fees and U.S. harbor maintenance fees (19 CFR 24.23 and 24.24, respectively). Finally, petitioners obtained net U.S. prices by subtracting costs incurred to transport the merchandise from the U.S. port to the customer's location in the United States (*see* petitioners' affidavit submitted as petition Exhibit 11), and credit expenses.

With respect to NV, based on foreign market research, petitioners determined that volume of Japan home market sales from Kawasaki Steel Corp., Nippon Steel Corporation, and Nisshin Steel Co. Ltd. was sufficient to form a basis for NV, pursuant to section 773(a)(1)(B)(i) of the Act. *See Declaration of {Foreign Market Researcher} Regarding Sales in Japan of Stainless Steel Sheet and Strip in Coils*, Exhibit 4 of petitioners' June 15, 1998 submission. Petitioners obtained gross unit prices from foreign market research for the products offered for sale in the fourth quarter of 1997 and the first quarter of 1998 to customers in Japan which are identical to those sold to the United States. Petitioners adjusted these prices by subtracting estimated average delivery costs and credit expenses based on foreign market research. *See Declaration of {Foreign Market Researcher} Regarding Sales in Japan of Stainless Steel Sheet and Strip in Coils*, Exhibit 4 of petitioners' June 15, 1998 submission. These net home market prices were then converted to U.S. dollar prices using the official exchange rate in effect for the month of the comparison U.S. sale.

The estimated dumping margins in the petition, based on a comparison of EP to home market prices, range from 19.9 to 57.87 percent.

Mexico

Petitioners identified Mexinox, S.A. de C.V. (Mexinox) as the exporter of subject merchandise from Mexico. Petitioners further identified Mexinox as the sole producer of subject merchandise in Mexico.

Petitioners based EP on prices obtained from foreign market researchers for sales by Mexinox of grades 304 and 430 stainless steel in coils to the United States between the third quarter of 1997 and the first quarter of 1998. *See* petitioners' affidavit, submitted as petition Exhibit 13. One sale had an alloy surcharge.

For the delivered sales, petitioners subtracted estimated U.S. inland freight charges, based on the experience of one petitioner. For all the U.S. sales, petitioners subtracted amounts for international freight and insurance, based on "import charges" in IM146 import statistics. Petitioners subtracted amounts for U.S. import duties based on the 1997 import duty rate of 6 percent of dutiable value, or the 1998 rate of 5 percent, as appropriate. Petitioners also subtracted amounts for U.S. merchandise processing fees of 0.19 percent of dutiable value (19 CFR section 24.23). Petitioners did not adjust for the U.S. harbor maintenance fee on the assumption that the exported product would have been shipped overland. Petitioners did not adjust for U.S. handling or packing costs, though these charges were included in the quoted U.S. prices, and did not adjust for imputed credit expenses.

With regard to NV, based on foreign market research, petitioners determined that the volume of Mexican home market sales was sufficient to form a basis for NV, pursuant to section 773(a)(1)(B)(i) of the Act. *See Declaration of {Foreign Market Researcher}*, Exhibit 5 of petitioners' June 15, 1998 submission. Petitioners obtained from foreign market research gross unit prices for products offered for sale in the first quarter of 1998 to customers in Mexico which are either identical or similar to those sold in the United States. Petitioners did not subtract credit expenses or make any adjustments to price, other than converting the unit of measure from metric tons to pounds. These net home market prices were then converted to U.S. dollar prices using the official exchange rate in effect for the month of the comparison U.S. sale.

Petitioners provided information demonstrating reasonable grounds to believe or suspect that certain of the home market sales of SSSS provided in the petition were made at prices below COP, within the meaning of section 773(b) of the Act, and requested that the Department conduct a country-wide sales-below-cost investigation. Pursuant to section 773(b)(3) of the Act, COP consists of the COM, SG&A, and packing costs. To calculate COP, petitioners relied on their own production experience, adjusted for known differences between costs incurred to produce SSSS in the United States and the foreign market. For certain costs, petitioners used the financial statement information from Hylsamex, a Mexican steel producer, because they were unable to obtain Mexinox's financial statements. For raw material costs, petitioners used their own operating experience as the only information reasonably available. Petitioner's calculated SG&A, and financial expenses from Hylsamex's 1997 consolidated financial statements.

Based on our analysis, certain of the home market sales reported in the petition were shown to be made at prices below the cost of production (*see Initiation of Cost Investigations*). For these sales, petitioners based NV on the CV of the merchandise, pursuant to sections 773(a)(4) and 773(e) of the Act. Pursuant to section 773(e) of the Act, CV consists of the COM, SG&A expenses, packing costs and profit of the merchandise. To calculate the COM, SG&A expenses, and packing costs for CV, petitioners followed the same methodology used to determine COP. Accordingly, we relied on the methodology presented in the June 24, 1998 submission. Petitioners derived profit based on amounts reported in Hylsamex's 1997 consolidated financial statements.

The estimated dumping margins in the petition (as amended), based on a comparison between Mexinox's U.S. prices and CV, range from 30.09 to 41.17 percent. Based on a comparison of EP to home market prices, petitioners' calculated dumping margins range from 37.58 to 51.95 percent.

Republic of Korea

Petitioners identified Pohang Iron and Steel Company (POSCO), Sammi Steel Company (Sammi), and Inchon Iron and Steel Company (Inchon) as producers and possible exporters of SSSS from the Republic of Korea. Petitioners based EP on price quotations obtained by petitioning companies for sales to

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unaffiliated U.S. purchasers of SSSS manufactured by POSCO. *See* petitioners' affidavit, submitted as petition Exhibit 24. The quoted prices were for delivered, duty paid SSSS sold during the third quarter of 1997. Petitioners calculated a net U.S. price by subtracting from the reported U.S. price shipment costs from POSCO's factory in Korea to the port of export estimated from foreign market research (*see Declaration of* {Foreign Market Researcher} Regarding Sales in Korea of Stainless Steel Sheet and Strip in Coils, Exhibit 6 of petitioners' June 15, 1998 submission), costs for ocean freight and insurance based on the average import charges reported in official U.S. import statistics for Korea, import duties based on the 1997 HTSUS schedule, merchandise processing and harbor maintenance fees (19 CFR 24.23 and 24.24, respectively) and domestic inland freight (*see* petitioners' affidavit, submitted as petition Exhibit 27).

With regard to NV, based on foreign market research, petitioners determined that the volume of South Korean home market sales in 1997 was sufficient to form a basis for NV, pursuant to section 773(a)(1)(B) (ii)(II) of the Act. *See Declaration of* {Foreign Market Researcher} Regarding Sales in Korea of Stainless Steel Sheet and Strip in Coils, Exhibit 6 of petitioners' June 15, 1998 submission. Petitioners obtained from foreign market research gross unit prices for SSSS manufactured by POSCO and offered for sale to customers in the Republic of Korea which are either identical or similar to those sold to the United States. Petitioners adjusted these prices by subtracting estimated average delivery costs based on foreign market research. *See Declaration of* {Foreign Market Researcher} Regarding Sales in Korea of Stainless Steel Sheet and Strip in Coils, Exhibit 6 of petitioners' June 15, 1998 submission. These net home market prices were then converted to U.S. dollar prices using the official exchange rate in effect for the month of the comparison U.S. sale.

Petitioners provided information demonstrating reasonable grounds to believe or suspect that certain of the home market sales of SSSS provided in the petition were made at prices below COP, within the meaning of section 773(b) of the Act, and requested that the Department conduct a country-wide sales-below-cost investigation. Pursuant to section 773(b)(3) of the Act, COP consists of the COM, SG&A expenses, and packing costs. To calculate COP, petitioners relied on foreign market research and their own production experience, adjusted for known differences between costs incurred to produce SSSS in the United States and in the foreign market. We relied on the cost data contained in the petition except in the following instances: (1) rather than rely on the foreign market research for raw material consumption rates, we recalculated raw materials costs in the petition using the submitted average domestic industry material costs adjusted for known differences in raw material input prices between the U.S. and Korea based on market research (in this regard, we consider it more appropriate to rely on actual raw material usage rates from a producer of the merchandise rather than hypothetical rates derived from foreign market research); and (2) we revised the SG&A and net financing expenses based on POSCO's 1997 audited financial statements.

Based on our analysis, certain of the home market sales reported in the petition were shown to be made at prices below the cost of production (*see Initiation of Cost Investigations*). For these sales, petitioners based NV on the CV of the merchandise, pursuant to sections 773(a)(4) and 773. (e) of the Act. Pursuant to section 773(e) of the Act, CV consists of the COM, SG&A expenses, packing costs and profit of the merchandise. To calculate the COM, SG&A expenses, and packing costs for CV, petitioners followed the same methodology to determine COP. Accordingly, we relied on this methodology after adjusting certain cost elements as noted above. Petitioners derived profit for POSCO based on amounts reported in POSCO's 1997 financial statements.

Based on comparisons of EP to adjusted CV, estimated margins range from 18.40 to 58.79 percent. Based on a comparison of EP to home market price, estimated dumping margins range from 5.58 to 13.05 percent.

Taiwan

Petitioners identified Tang Eng Iron Works, Co., Ltd. (Tang Eng), Tung Mung Development Co. Ltd. (Tung Mung), and Yieh United Steel Corp. (Yieh United) as exporters and producers of SSSS from Taiwan. Petitioners based EP on price quotations made to unaffiliated U.S. purchasers prior to the date of importation. *See* petitioners' affidavit, submitted as petition Exhibit 22. The quoted prices were for delivered and duty paid SSSS produced by Tung Mung, Yieh United and Tang Eng during the third and fourth quarter of 1997 and the first quarter of 1998. Petitioners calculated net U.S. price by subtracting amounts for U.S. inland freight (*see* petitioners' affidavit, submitted as petition Exhibit 22), international freight and marine insurance based on the average import charges reported in the official U.S. import statistics for stainless steel products under the 1997 HTSUS categories 7219 and 7220, U.S. import duties based on the 1997 HTSUS schedule, and foreign inland freight (*see Declaration of* {Foreign Market Researcher} Regarding Sales in Taiwan of Stainless Steel Sheet and Strip in Coils, Exhibit 7 of petitioners' June 15, 1998 submission). Petitioners also subtracted amounts for U.S. merchandise processing fees and U.S. harbor maintenance fees (19 CFR 24.23 and 24.24, respectively). Petitioners calculated imputed credit expenses for these U.S. sales by using 30 days as the term of payment (*see* petitioners' affidavit, submitted as petition Exhibit 22) and the average lending rate of 8.25 percent for the period April 1997 through March 1998, as published in "International Financial Statistics" of the International Monetary Fund, April 1998. Finally, petitioners did not adjust for differences in U.S. and home market packing expenses because those data were not available for U.S. sales.

With respect to NV, based on foreign market research, petitioners determined that the volume of Taiwanese home market sales was sufficient to form a basis for NV, pursuant to section 773(a)(1)(B)(i) of the Act. *See Declaration of* {Foreign Market Researcher} Regarding Sales in Taiwan of Stainless Steel Sheet and Strip in Coils, Exhibit 7 of petitioners' June 15, 1998 submission. Petitioners obtained from foreign market research gross unit prices for sales of SSSS by Tung Mung, Yieh United, and Tang Eng which are either identical or similar to those sold to the United States. To arrive at each net home market price for price-to-price comparison purposes, petitioners adjusted the gross prices by subtracting amounts for foreign inland freight (*see Declaration of* {Foreign Market Researcher} Regarding Sales in Taiwan of Stainless Steel Sheet and Strip in Coils, Exhibit 7 of petitioners' June 15, 1998 submission) and imputed credit expenses. Finally, petitioners converted the home market prices from New Taiwan dollars to U.S. dollars based on the exchange rate published by the Federal Reserve Bank of New York for the month in which each sale took place.

Petitioners provided information demonstrating reasonable grounds to believe or suspect that certain of the home market sales of SSSS provided in the petition were made at prices below COP, within the meaning of section 773(b) of the Act, and requested that the

Department conduct a country-wide sales-below-cost investigation. Pursuant to section 773(b)(3) of the Act, COP consists of COM, SG&A, and packing costs. To calculate COP, petitioners relied on foreign market research and their own production experience, adjusted for known differences between costs incurred to produce SSSS in the United States and in the foreign market. We relied on the cost data contained in the petition except in the following instances: (1) rather than rely on the foreign market research for raw material consumption rates for Tang Eng and Yieh United, we recalculated raw materials costs in the petition using the submitted average domestic industry material costs adjusted for known differences in raw material input prices between the U.S. and Taiwan based on market research for Tang Eng and Yieh United (in this regard, we consider it more appropriate to rely on actual raw material usage rates from a producer of the merchandise rather than hypothetical usage rates derived from foreign market research); and (2) we have not relied on the costs for Tang Mung because petitioners failed to address market price differences between the U.S. and Taiwan for the type of raw material used by Tang Mung. For amounts where there was no company specific information we used the average of the amounts for companies where there was information available.

Based on our analysis, certain of the home market sales reported in the petition were shown to be made at prices below the cost of production (see *Initiation of Cost Investigations*). For these sales, petitioners based NV on the CV of the merchandise, pursuant to sections 773(a)(4) and 773(e) of the Act. Pursuant to section 773(e) of the Act, CV consists of the COM, SG&A expenses, packing costs and profit. To calculate the COM, SG&A expenses, and packing costs for CV, petitioners followed the same methodology used to determine COP. Accordingly, we relied on this methodology after adjusting certain cost elements as noted above. We derived profit for Tang Eng and Yieh United using the company-specific financial statements where the financial statements showed a profit, otherwise we used the average profit from the other companies showing a profit on their financial statements.

Based on comparisons of EP to adjusted CV, estimated margins range from 12.74 to 55.01 percent. The estimated dumping margins in the petition, based on a comparison between U.S. prices and home market price, range from 8.23 to 77.08 percent.

United Kingdom

Petitioners identified two United Kingdom producers and exporters of SSSS: Avesta Sheffield Ltd. (AS) and Lee Steel Strip Ltd. (Lee). Petitioners noted that, to the best of their knowledge, AS accounted for 90 percent of the exports of subject merchandise from the United Kingdom. Petitioners based EP for AS on U.S. sales to unaffiliated U.S. purchasers in the third and fourth quarter of 1997. *See* petitioners' affidavit, submitted as petition Exhibit 15. Because the terms of AS's U.S. sales were delivered to the U.S. customer, petitioners calculated the net U.S. price by adding alloy surcharges (see petitioners' affidavit, submitted as petition Exhibit 15) and subtracting estimated costs of shipment from AS's factory in the United Kingdom to the port of export (*see Declaration of Foreign Market Researcher Regarding Sales in the United Kingdom of Stainless Steel Sheet and Strip in Coils*, Exhibit 8 of petitioners' June 15, 1998 submission). Petitioners also subtracted ocean freight and insurance based on official U.S. import statistics, U.S. import duties based on the 1997 HTSUS schedule, and U.S. merchandise processing fees and U.S. harbor maintenance fees (19 CFR, sections 24.23 and 24.24, respectively). Finally, petitioners calculated net U.S. price for AS by subtracting costs incurred to transport the stainless steel sheet and strip from the U.S. port to the customer's location in the United States (*see* petitioners' affidavit, submitted as petition Exhibit 18).

With respect to NV, based on information available to them, petitioners determined that volume in the United Kingdom in 1997 is sufficient to form a basis for normal value, pursuant to Section 773(a)(1) of the Act. Petitioners obtained from foreign market research gross unit prices for AS for representative grades, thicknesses, finishes, and widths of subject merchandise. Petitioners adjusted these prices by adding an amount for alloy surcharge and subtracting amounts for foreign inland freight and imputed home market credit expenses. *See Declaration of Foreign Market Researcher Regarding Sales in the United Kingdom of Stainless Steel Sheet and Strip in Coils*, Exhibit 8 of petitioners' June 15, 1998 submission. Imputed U.S. credit was added to the net home market price for the price-to-price comparisons. These net home market prices were then converted to U.S. dollar prices using the official exchange rate in effect for the month of the comparison U.S. sale.

Petitioners provided information demonstrating reasonable grounds to believe or suspect that certain of the home market sales of SSSS provided in the petition were made at prices below COP, within the meaning of section 773(b) of the Act, and requested that the Department conduct a country-wide sales-below-cost investigation. Pursuant to section 773(b)(3) of the Act, COP consists of the COM, SG&A expenses, and packing costs. To calculate COP, petitioners relied on foreign market research and their own production experience, adjusted for known differences between costs incurred to produce SSSS in the United States and in the foreign market. We relied on the cost data contained in the petition except in the following instances: (1) we did not rely on the foreign market research for raw material consumption rates. Instead, we recalculated raw materials costs in the petition using the submitted average domestic industry material costs adjusted for known differences in raw material input prices between the U.S. and the United Kingdom based on market research. In this regard, we consider it more appropriate to rely on actual raw material usage rates from a producer of the merchandise rather than hypothetical rates derived from foreign market research; (2) we revised the SG&A expense using British Steel's 1997 audited financial statements; (3) we revised net financing expenses to include an offset for short term interest income.

Based on an analysis, certain of the home market sales reflected in the petition were shown to be made at prices below the cost of production (*see Initiation of Cost Investigations*). For these sales, petitioners based NV on the CV of the merchandise, pursuant to sections 773(a)(4) and 773(e) of the Act. Pursuant to section 773(e) of the Act, CV consists of the COM, SG&A, packing costs, and profit of the merchandise. To calculate COM, SG&A, and packing costs for CV, petitioners followed the same methodology used to determine COP. Accordingly, we relied on this methodology after adjusting certain cost elements as noted above. Petitioners derived profit based on amounts reported in British Steel's 1997 financial statements.

Based on comparisons of EP to adjusted CV, estimated margins range from 5.42 to 14.76 percent. Based on a comparison of EP to home market prices, estimated dumping margins range from 9.99 to 29.37 percent.

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Initiation of Cost Investigations

Pursuant to section 773(b) of the Act, petitioners provided information demonstrating reasonable grounds to believe or suspect that sales in the home markets of France, Germany, Italy, Mexico, South Korea, Taiwan, and the United Kingdom were made at prices below the fully allocated COP and, accordingly, requested that the Department conduct a country-wide sales-below-COP investigation in connection with the requested antidumping investigations in each of these countries. The Statement of Administrative Action (SAA), submitted to the Congress in connection with the interpretation and application of the Uruguay Round Agreements, states that an allegation of sales below COP need not be specific to individual exporters or producers. SAA, H.R. Doc. No. 316, 103d Cong., 2d Sess., at 833 (1994). The SAA, at 833, states that "Commerce will consider allegations of below-cost sales in the aggregate for a foreign country, just as Commerce currently considers allegations of sales at less than fair value on a country-wide basis for purposes of initiating an antidumping investigation."

Further, the SAA provides that "new section 773(b)(2)(A) retains the current requirement that Commerce have 'reasonable grounds to believe or suspect' that below cost sales have occurred before initiating such an investigation. 'Reasonable grounds' * * * exist when an interested party provides specific factual information on costs and prices, observed or constructed, indicating that sales in the foreign market in question are at below-cost prices." *Id.* Based upon the comparison of the adjusted prices from the petition of the representative foreign like products in their respective home markets to their costs of production, we find the existence of "reasonable grounds to believe or suspect" that sales of these foreign like products in each of the listed countries were made below their respective COPs within the meaning of section 773(b)(2)(A)(i) of the Act. Accordingly, the Department is initiating the requested country-wide cost investigations (*see* country-specific sections above).

Fair Value Comparisons

Based on the data provided by petitioners, there is reason to believe that imports of SSSS from France, Germany, Italy, Japan, Mexico, the Republic of Korea, Taiwan, and the United Kingdom are being, or are likely to be, sold at less than fair value.

Allegations and Evidence of Material Injury and Causation

The petitions allege that the U.S. industry producing the domestic like product is being materially injured, and is threatened with material injury, by reason of the individual and cumulated imports of the subject merchandise sold at less than NV. Petitioners explained that the industry's injured condition is evident in the declining trends in net operating profits, net sales volumes, profit to sales ratios, and capacity utilization. The allegations of injury and causation are supported by relevant evidence including U.S. Customs import data, lost sales, and pricing information. The Department assessed the allegations and supporting evidence regarding material injury and causation and determined that these allegations are supported by accurate and adequate evidence and meet the statutory requirements for initiation (see Attachments to Initiation Checklist, Re: Material Injury, June 30, 1998).

Initiation of Antidumping Investigations

Based upon our examination of the petitions on SSSS, as well as our discussion with the authors of the foreign market research reports (See, memoranda to the file, dated June 30, 1998), we have found that the petitions meet the requirements of section 732 of the Act. Therefore, we are initiating antidumping duty investigations to determine whether imports of SSSS from France, Germany, Italy, Japan, Mexico, the Republic of Korea, Taiwan, and the United Kingdom are being, or are likely to be, sold in the United States at less than fair value. Unless this deadline is extended, we will make our preliminary determinations by November 17, 1998.

Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of each petition has been provided to the representatives of France, Germany, Italy, Japan, Mexico, the Republic of Korea, Taiwan, and the United Kingdom. We will attempt to provide a copy of the public version of each petition to each exporter named in the petition (as appropriate).

International Trade Commission Notification

We have notified the ITC of our initiations, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will determine by July 27, 1998, whether there is a reasonable indication that imports of SSSS from France, Germany, Italy, Japan, Mexico, the Republic of Korea, Taiwan, and the United Kingdom are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination for any country will result in the investigations being terminated with respect to that country; otherwise, these investigations will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 777 (i) of the Act.

Dated: June 30, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–18602 Filed 7–10–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

[A–570–815]

Sulfanilic Acid From the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on sulfanilic acid from the People's Republic of China. The review covers exports of this merchandise to the United States for the period August 1, 1996 through July 31, 1997, and thirteen firms: China National Chemical Import and Export Corporation, Hebei Branch (Sinochem Hebei); China National Chemical Construction Corporation, Beijing Branch; China National Chemical Construction Corporation, Qingdao Branch; Sinochem Qingdao; Sinochem Shandong; Baoding No. 3 Chemical Factory; Jinxing Chemical Factory; Zhenxing Chemical Factory; Mancheng Xinyu Chemical Factory, Shijiazhuang; Mancheng Zinyu Chemical Factory, Bejing; Hainan Garden Trading Company; Yude Chemical Company and Shunping Lile. The preliminary results of this review indicate that there were dumping margins for the two responding parties: Yude Chemical Company (Yude) and Zhenxing Chemical Factory (Zhenxing), and for the "PRC enterprise."

We invite interested parties to comment on these preliminary results.

Parties who submit arguments in this proceeding are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: July 13, 1998.

FOR FURTHER INFORMATION CONTACT: Kristen Stevens, Nithya Nagarajan, or Doug Campau Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue N.W., Washington, DC 20230; telephone: (202) 482–3793.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all ctitations to the Department's regulations are to the current regulations, published in the **Federal Register** on May 19, 1997 (62 FR 27296).

Background

On August 4, 1997, the Department of Commerce (the Department) published in the **Federal Register** (62 FR 41925) a notice of "Opportunity to Request Administrative Review" for the August 1, 1996 through July 31, 1997, period of review (POR) of the antidumping duty order on Sulfanilic Acid from the People's Republic of China, 57 FR 37524 (1992). In accordance with 19 CFR 351.213, Zhenxing Chemical Industry Co. (Zhenxing), PHT International and the petitioners, Nation Ford Chemical Company, requested a review for the aforementioned period. On September 25, 1997, the Department published a notice of "Initiation of Antidumping Review." 62 FR 50292. The Department is now conducting a review pursuant to section 751(a) of the Act. On October 14, 1997; Yude Chemical Industry Company (Yude) reported that it had made no sales of subject merchandise to the United States during the POR.

Scope of Review

Imports covered by this review are all grades of sulfanilic acid, which include technical (or crude) sulfanilic acid, refined (or purified) sulfanilic acid and sodium salt of sulfanilic acid.

Sulfanilic acid is a synthetic organic chemical produced from the direct sulfonation of aniline with sulfuric acid. Sulfanilic acid is used as a raw material in the production of optical brighteners, food colors, specialty dyes, and concrete additives. The principal differences between the grades are the undesirable quantities of residual aniline and alkali insoluble materials present in the sulfanilic acid. All grades are available as dry, free flowing powders.

Technical sulfanilic acid, classifiable under the subheading 2921.42.24 of the Hamonized Tariff Schedule (HTS), contains 96 percent minimum sulfanilic acid, 1.0 percent maximum aniline, and 1.0 percent maximum alkali insoluble materials. Refined sulfanilic acid, also classifiable under the subheading 2921.42.24 of the HTS, contains 98 percent minimum sulfanilic acid, 0.5 percent maximum aniline and 0.25 percent maximum alkali insoluble materials.

Sodium salt (sodium sulfanilate), classifiable under the HTS subheading 2921.42.79, is a powder, granular or crystalline material which contains 75 percent minimum equivalent sulfanilic acid, 0.5 percent maximum aniline based on the equivalent sulfanilic acid content, and 0.25 percent maximum alkali insoluble materials based on the equivalent sulfanilic acid content.

Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

This review covers thirteen producers-exporters of Chinese sulfanilic acid. The review period is August 1, 1996 through July 31, 1997.

Verification

As provided in section 782(i) of the Act, we verified information provided by the Respondent using standard verification procedures, including on-site inspection of the manufacturer's facilities and the examination of relevant sales and financial records. Our verification results are outlined in verification reports in the official file for this case (public versions of these reports are on file in room B–099 of the Department's main building).

Separate Rates

To establish whether a company is sufficiently independent to be entitled to a separate rate, the Department analyzes each exporting entity in a nonmarket economy (NME) country under the test established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (*Sparklers*), as amplified by the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (*Silicon Carbide*). Under this policy, exporters in NME countries are entitled to separate, company-specific margins when they can demonstrate an absence of government control, both in the law (*de jure*) and in fact (*de facto*), with respect to exports of the subject merchandise. Evidence supporting, though not requiring, a finding of *de jure* absence of government control includes: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. *De facto* absence of government control with respect to exports is based on four criteria: (1) Whether the export prices are set by or subject to the approval of a government authority; (2) whether each exporter retains the proceeds from its sales and makes independent decisions regarding the disposition of profits and financing of losses; (3) whether each exporter has autonomy in making decisions regarding the selection of management; and (4) whether each exporter has the authority to sign contracts and other agreements.

Yude and Zhenxing were the only companies to respond to the Department's request for information. We have found that the evidence on the record demonstrates an absence of government control, both in law and in fact, with respect to their exports according to the criteria identified in *Sparklers* and *Silicon Carbide* for this period of review, and have assigned to these companies a single separate rate. (*See* "Collapsing" section, below). For further discussion of the Department's preliminary determination that these two companies are entitled to a separate rate, see Decision Memorandum to Joe Spetrini, Assistant Deputy Secretary, DAS III, dated July 6, 1998, and titled "Separate rates in the 1996/1997 administrative review of sulfanilic acid from the People's Republic of China." This memorandum is on file in the Central Record Unit (room B–099 of the Main Commerce Building).

Collapsing

We have determined, after examining the relevant criteria, that Yude and Zhenxing, are affiliated parties within the meaning of section 771(33)(F) of the Act. We have further determined that these affiliated producers should be treated as a single entity (*i.e.*, "collapsed") for purposes of assigning an antidumping margin in this review. Section 351.401(f) of the Department's antidumping regulations provides that the Department "will treat two or more affiliated producers as a single entity where those producers have production

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facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities and the Secretary concludes that there is a significant potential for the manipulation of price or production." 62 FR at 27410. In identifying the potential for manipulation of price or production, section 351.401(f)(2) provides that the Department may consider the following factors: level of common ownership; whether managerial employees or board members of one of the affiliated producers sit on the board of directors of the other affiliated person; and whether operations are intertwined, such as through the sharing of facilities or employees, or significant transactions between the affiliated parties. A full discussion of our conclusions, requiring reference to proprietary information, is contained in a Department memorandum in the official file for this case (a public version of this memorandum is on file in room B–099 of the Department's main building). Generally, however, we have found that: Yude and Zhenxing are "affiliated" parties, substantial retooling would not be necessary to restructure manufacturing priorities and there is potential for manipulating price and production between the two producers. As a result we are collapsing Yude and Zhenxing for purposes of conducting the 1996/1997 administrative review.

Use of Facts Otherwise Available

All firms that have not demonstrated that they qualify for a separate rate are deemed to be part of a single enterprise under the common control of the government (the "PRC enterprise"). Therefore, all such entities receive a single margin, the "PRC rate." We preliminarily determine, in accordance with section 776(a) of the Act that resort to the facts otherwise available is appropriate in arriving at the PRC rate because companies deemed to be part of the PRC enterprise for which a review was requested have not responded to the Department's antidumping questionnaire.

Where the Department must resort to the facts otherwise available because a respondent fails to cooperate by not acting to the best of its ability to comply with a request for information, section 776(b) of the Act authorizes the Department to use an inference adverse to the interests of that respondent in choosing from the facts available. Section 776(b) also authorizes the Department to use, as adverse facts available, information derived from the petition, the final determination, a previous administrative review, or other information placed on the record. The Statement of Administrative Action (SAA) accompanying the URAA clarifies that information from the petition and prior segments of the proceeding is "secondary information." *See* H.Doc. 3216, 103rd Cong. 2d Sess. 870 (1996). If the Department relies on secondary information as facts available, section 776(c) provides that the Department shall, to the extent practicable, corroborate such information using independent sources reasonably at its disposal. The SAA further provides that "corroborate" means simply that the Department will satisfy itself that the secondary information to be used has probative value. However, where corroboration is not practicable, the Department may use uncorroborated information.

In the present case the Department has based the margin on information in the petition. *See Notice of Final Determination of Sales at Less Than Fair Value: Circular Welded Non-Alloy Steel Pipe from South Africa,* 61 FR 24272 (May 14, 1996). In accordance with section 776(c) of the Act, we corroborated the data contained in the petition, as adjusted for initiation purposes, to the extent possible. The petition data on major material inputs are consistent with Indian import statistics, and also with price quotations obtained by the U.S. Embassies in Pakistan and India. Both of these corroborating sources were placed on the record during the investigation and have been added to the record of this review. In addition, we note that the petition used World Bank wage rates which we have repeatedly found to be a probative source of data. Based on our ability to corroborate other elements of the petition calculation, we preliminarily find that the information contained in the petition has probative value. However, we will continue to evaluate this information on the basis of more current data.

Accordingly, we have relied upon the information contained in the petition. We have assigned to all exporters other than Yude and Zhenxing a margin of 85.20 percent, the margin in the petition, as adjusted by the Department for initiation purposes.

As a result of the home market verification of Zhenxing, we have relied on facts available in determining the quantities of the factor inputs for coal, electricity, and labor. The number of kilowatt hours of electricity recorded in company records did not reconcile to the actual factory electric bills. Therefore, as facts available, we have used the kilowatt hours reported on the actual electric bills. Because the bill for August 1996 was missing, as facts available we have substituted the highest monthly amount recorded on the available electric bills. Because we were unable to reconcile the coal factor value to company usage and inventory records, as facts available, we have calculated the coal usage factor using the coal amounts in the raw materials usage ledger increased by the amount of purchased coal which could not be reconciled to the raw materials usage ledger or inventory records. Finally, the reported labor hours did not reconcile to the daily factory attendance sheets. Therefore, as facts available, we have used the number of labor hours reported on the daily attendance sheets.

At the U.S. sales verification, we found that two sales of Zhenxing's sodium sulfanilate, which falls within the scope of subject merchandise, were sold through a trading company. On May 1, 1998, the Department issued a supplemental questionnaire to the trading company involved and to P.H.T. and Zhenxing. The Department received a response from P.H.T. and Zhenxing on May 14, 1998. In this response, P.H.T. and Zhenxing stated that the subject merchandise was never sold to the trading company, and that the trading company acted only as a facilitator for the export of the goods. In addition, as a part of this response, P.H.T. and Zhenxing stated that they are not affiliated with this trading company. As a part of the May 14, 1998 submission, the trading company provided a letter describing the services performed by the trading company, on behalf of Zhenxing. In order to account for costs Zhenxing incurred in connection with these sales, we have deducted from Zhenxing's U.S. price, as facts available, an additional expense for brokerage and handling.

United States Price

For sales made by P.H.T. for Zhenxing, we calculated constructed export price based on FOB prices to unrelated purchasers in the United States. We made deductions for foreign inland freight, foreign brokerage and handling, ocean freight, marine insurance, U.S. customs duties, U.S. transportation, credit, warehousing, repacking in the United States, indirect selling expenses and constructed export price profit, as appropriate, in accordance with section 772(d)(3) of the Act.

Normal Value

For companies located in NME countries, section 773(c)(1) of the Act provides that the Department shall determine NV using a factors of production methodology if (1) the merchandise is exported from an NME country, and (2) the available information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act.

In every case conducted by the Department involving the PRC, the PRC has been treated as an NME country. Pursuant to section 771(18)(C)(i), and determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. None of the parties to the proceeding. has contested such treatment in this review. Accordingly, we treated the PRC as an NME country for purposes of this review and calculated NV by valuing the factors of production as set forth in section 773(c)(3) of the Act in a comparable market economy country which is a significant producer of comparable merchandise. Pursuant to section 773(c)(4) of the Act, we determine that India is comparable to the PRC in terms of per capita gross national product (GNP), the growth rate in per capita GNP, and the national distribution of labor, and that India is a significant producer of comparable merchandise. For further discussion of the Department's selection of India as the primary surrogate country, see Memorandum from Jeff May, Director, Office of Policy, to Steve Presing, dated April 22, 1998, "Sulfanilic Acid from the PRC: Nonmarket Economy Status and Surrogate Country Selection," and File Memorandum, dated May 8, 1998, "India as a significant producer of comparable merchandise in the 1996/1997 administrative review of sulfanilic acid from the People's Republic of China," which are on file in the Central Records Unit (room B–099 of the Main Commerce Building).

For purposes of calculating NV, we valued PRC factors of production as follows, in accordance with section 773(c)(1) of the Act:

To value aniline used in the production of sulfanilic acid, we used the rupee per kilogram value of imports into India during April 1996–December 1996, obtained from the December 1996, *Monthly Statistics of the Foreign Trade of India*, Volume II-Imports (*Indian Import Statistics*.) Using the Indian rupee wholesale price indices (WPI) obtained from the International Financial Statistics, published by the International Monetary Fund (IMF), we adjusted this value to reflect inflation in India through the period of review. We made adjustments to include costs incurred for freight between the Chinese aniline suppliers and Zhenxing's factory using the minimum of (1) the distance from the factory to the supplier or (2) the distance from the factory to the port. The surrogate freight rates were based on truck freight rates from *The Times of India* April 20, 1994, and rail freight rates from the December 22, 1989 embassy cable for the *Final Results of Antidumping Duty Administrative Review: Shop Towels of Cotton from the People's Republic of China* (56 FR 4040, February 1, 1991) and used in *Lock Washers*. These rates were inflated to be concurrent with the period of review and have been placed on the record of this review.

To value sulfuric acid used in the production of sulfanilic acid, we used the rupee per kilogram value for sales in India during the period of review as reported in *Chemical Weekly*. We have adjusted this value to exclude the Central Excise Tariff of India and the Bombay Sales Tax. We made additional adjustments to include costs incurred for freight between the Chinese sulfuric acid supplier and Zhenxing's factory in the PRC.

Consistent with our final determination in the 1995/96 administrative review, we have used the public price quotes, in this case those submitted by Zhenxing on December 17, 1997, which are specific to the type and grade of activated carbon reported in the Chinese sulfanilic acid producer's factors of production. We made adjustments to include cost incurred for inland freight between the Chinese activated carbon supplier and Zhenxing's factory in the PRC.

The Department's regulations (19 CFR 351.408(c)(3)) state that "[f]or labor, the Secretary will use regression-based wage rates reflective of the observed relationship between wages and national income in market economy countries. The Secretary will calculate the wage rate to be applied in nonmarket economy proceedings each year. The calculation will be based on current data, and will be made available to the public." To value the factor inputs for labor, we used the wage rates calculated for the PRC in the Department's "Expected Wages of Selected NME Countries" as revised on June 2, 1997.

For factory overhead, we used information reported in the April 1995 *Reserve Bank of India Bulletin*. From this information, we were able to determine factory overhead as a percentage of total cost of manufacture.

For selling, general and administrative (SG&A) expenses, we used information obtained from the April 1995 Reserve Bank of India Bulletin. We calculated an SG&A rate by dividing SG&A expenses by the cost of manufacture.

To calculate a profit rate, we used information obtained from the April 1995 *Reserve Bank of India Bulletin*. We calculated a profit rate by dividing the before-tax profit by the sum of those components pertaining to the cost of manufacturing plus SG&A.

To value the inner and outer bags used as packing materials, we used import statistics for India obtained from *Indian Import Statistics*. Using the Indian rupee WPI data obtained from *International Financial Statistics*, we adjusted these values to reflect inflation through the period of review. We adjusted these values to include freight costs incurred between the Chinese plastic bag suppliers and Zhenxing's factory in the PRC.

To value coal, we used the price of steam coal of industry reported in *Energy, Prices, and Taxes, Second Quarter 1997* published by the International Energy Agency.

To value electricity, we used the price of electricity reported in *Energy, Prices, and Taxes, Second Quarter 1997* published by the International Energy Agency.

To value truck freight, we used the rate reported in *The Times of India*, April 20, 1994. We adjusted the truck freight rates to reflect inflation through the period of review using WPI data published by the IMF.

To value rail freight, we used the price reported in a December 1989 cable from the U.S. Embassy in India submitted for the *Final Results of Antidumping Duty Administrative Review: Shop Towels of Cotton from the People's Republic of China* (56 FR 4040, February 1, 1991) and added to the record of this review. We adjusted the rail freight rates to reflect inflation through the period of review using WPI data published by the IMF.

To value brokerage and handling, we used the brokerage and handling rate used in the *Determination of Sales at Less Than Fair Value: Stainless Steel Bar from India*, 59 FR 66915 (1994). See April 1997 Memorandum to All Reviewers from Richard W. Moreland, Acting Deputy Assistant Secretary "Index of Factor Values for Use in Antidumping Duty Investigations Involving Products from the People's Republic of China." We adjusted the value for brokerage and handling to reflect inflation through the POR using WPI data published by the IMF.

To value marine insurance, we used information from a publicly summarized version of a questionnaire response in *Investigation of Sales at Less than Fair Value: Sulphur Vat Dyes from India* (62 FR 42758). See April 1997 Memorandum to All Reviewers from Richard W. Moreland, Acting Deputy Assistant Secretary "Index of Factor Values for Use in Antidumping Duty Investigations Involving Products from the People's Republic of China." We adjusted the value for marine insurance to reflect inflation through the POR using the Indian rupee WPI data published by the IMF.

To value ocean freight, we used a value for ocean freight provided by the Federal Maritime Commission used in the *Final Determination of the Antidumping Administrative Review of Sebacic Acid from the PRC*, 62 FR 65674 (1974). We adjusted the value for ocean freight to reflect inflation through the POR using WPI data published by the IMF.

Preliminary Results of the Review

We preliminarily determine the dumping margin for Yude and Zhenxing for the period August 1, 1996–July 31, 1997 to be 0.89 percent. The rate for all other firms which have not demonstrated that they are entitled to a separate rate is 85.20 percent. This rate will be applied to all firms other than Yude and Zhenxing, including all firms which did not respond to our questionnaire requests: China National Chemical Import and Export Corporation, Hebei Branch (Sinochem Hebei); China National Chemical Construction Corporation, Beijing Branch; China National Chemical Construction Corporation, Qingdao Branch; Sinchem Qingdao; Sinochem Shandong; Baoding No. 3 Chemical Factory; Jinxing Chemical Factory; Mancheng Zinyu Chemical Factory, Shijiazhuang; Mancheng Xinyu Chemical Factory, Bejing; Hainan Garden Trading Company; and Shunping Lile.

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the publication of this notice, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. Parties who submit argument are requested to submit with the argument (1) a statement of the issues and (2) a brief summary of the arguments. The Department will publish a notice of final results of this administrative review, including its analysis of issues raised in any written comments or at a hearing, not later than 120 days after the date of publication of this notice.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between the United States prices and NV may vary from the percentage stated above. Upon completion of this review, the Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit rates will be effective with respect to all shipments of sulfanilic acid from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(c) of the Act: (1) The cash deposit rate for reviewed companies listed below will be the rates for those firms established in the final results of this review; (2) for companies previously found to be entitled to a separate rate and for which no review was requested, the cash deposit rate will be the rate established in the most recent review of that company; (3) for all other PRC exporters of subject merchandise, the cash deposit rate will be the China-wide rate of 85.20 percent; and (4) the cash deposit rate for non-PRC exporters of subject merchandise from the PRC will be the rate applicable to the PRC supplier of that exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Manufacturer/producer/exporter	Margin percentage
Yude Chemical Industry, Co./Zhenxing Chemical Industry, Co.	0.89
PRC Rate	85.20

Notification of Interested Parties

This notice serves as a preliminary reminder to importers of their responsibility under section 351.402 of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1674(a)(1)) and section 351.213 of the Department's regulations.

Dated: July 6, 1998.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–18597 Filed 7–10–98; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[C–351–406]

Certain Agricultural Tillage Tools From Brazil; Preliminary Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of Countervailing Duty administrative review.

SUMMARY: The Department of Commerce ("the Department") is conducting an administrative review of the countervailing duty order on certain agricultural tillage tools from Brazil for the period January 1, 1996 through December 31, 1996. For information on the net subsidy for Marchesan Implementos Agricolas, S.A. ("Marchesan"), the reviewed company, as well as for all non-reviewed companies, please see the *Preliminary Results of Review* section of this notice. If the final results remain the same as these preliminary results of administrative review, we will instruct the U.S. Customs Service ("Customs") to liquidate, without regard to countervailing duties, all shipments of the subject merchandise from

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Marchesan, as detailed in the *Preliminary Results of Review* section of this notice. Interested parties are invited to comment on these preliminary results. (*See Public Comment* section of this notice.)

EFFECTIVE DATE: July 13, 1998.

FOR FURTHER INFORMATION CONTACT: Gayle Longest or Lorenza Olivas, Office of CVD/AD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On October 22, 1985, the Department published in the **Federal Register** (50 FR 42743) the countervailing duty order on certain agricultural tillage tools from Brazil. On October 2, 1997 the Department published a notice of "Opportunity to Request Administrative Review" (62 FR 51628) of this countervailing duty order. On October 31, 1997, Marchesan requested an administrative review and partial revocation of the countervailing duty order pursuant to 19 CFR 351.222. We initiated the review, covering the period January 1, 1996 through December 31, 1996, on November 26, 1997 (62 FR 63069). In accordance with 19 CFR 351.213(b), this review covers Marchesan, the only producer/exporter of the subject merchandise for which a review was requested. This review also covers five programs.

The Department considered Marchesan's revocation request and determined that the company did not meet the requirements to be considered for revocation from the countervailing duty order. (*See* Letter to Marchesan from Barbara E. Tillman dated June 11, 1998, a public document on file in the Central Records Unit, Room B–099 of the Main Commerce Building). Accordingly, pursuant to 19 CFR 351.222(f)(2)(iii), we conclude that there is no reasonable basis to believe the requirements for revocation are met.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act ("URAA") effective January 1, 1995 ("the Act"). The Department is conducting this administrative review in accordance with section 751(a) of the Act. All citations to the Department's regulations reference 19 CFR Part 351, et al. *Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296; May 19, 1997, unless otherwise indicated.

Scope of the Review

Imports covered by this review are shipments of certain round shaped agricultural tillage tools (discs) with plain or notched edge, such as colters and furrow-opener blades. During the review period, such merchandise was classifiable under item numbers 8432.21.00, 8432.29.00 8432.80.00 and 8432.90.00 of the *Harmonized Tariff Schedule* ("HTS"). The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Analysis of Programs

I. Programs Preliminarily Determined To Be Not Used

We examined the following programs and preliminarily determine that the producers and/or exporters of the subject merchandise did not apply for or receive benefits under these programs during the period of review:

A. Accelerated Depreciation for Brazilian-Made Capital Goods;

B. Preferential Financing for Industrial Enterprises by Banco do Brasil (FST and EGF loans);

C. SUDENE Corporate Income Tax Reduction for Companies Located in the Northeast of Brasil;

D. Preferential Financing under PROEX (formerly under Resolution 68 and 509 through FINEX);

E. Preferential Financing under FINEP.

Preliminary Results of Review

For the period January 1, 1996 through December 31, 1996, we preliminarily determine the net subsidy for Marchesan to be zero percent *ad valorem.* If the final results of this review remain the same as these preliminary results, the Department intends to instruct Customs to liquidate, without regard to countervailing duties, shipments of the subject merchandise from Marchesan exported on or after January 1, 1996, and on or before December 31, 1996.

The Department also intends to instruct Customs to collect cash deposits of estimated countervailing duties of zero percent *ad valorem,* as provided for by section 751(a)(1) of the Act, on all shipments of this merchandise from Marchesan, entered or withdrawn from warehouse, for consumption, on or after the date of publication of the final results of this administrative review.

Because the URAA replaced the general rule in favor of a country-wide rate with a general rule in favor of individual rates for investigated and reviewed companies, the procedures for establishing countervailing duty rates, including those for non-reviewed companies, are now essentially the same as those in antidumping cases, except as provided for in section 777A(e)(2)(B) of the Act. The requested review will normally cover only those companies specifically named. *See* 19 CFR 351.213(b). Pursuant to 19 CFR 351.212(c), for all companies for which a review was not requested, duties must be assessed at the cash deposit rate, and cash deposits must continue to be collected, at the rate previously ordered. As such, the countervailing duty cash deposit rate applicable to a company can no longer change, except pursuant to a request for a review of that company. *See Federal-Mogul Corporation and The Torrington Company* v. *United States,* 822 F.Supp. 782 (CIT 1993) and *Floral Trade Council* v. *United States,* 822 F.Supp. 766 (CIT 1993). Therefore, the cash deposit rates for all companies except those covered by this review will be unchanged by the results of this review.

We will instruct Customs to continue to collect cash deposits for non-reviewed companies at the most recent company-specific or country-wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to non-reviewed companies covered by this order will be the rate for that company established in the most recently completed administrative proceeding conducted under the URAA. If such a review has not been conducted, the rate established in the most recently completed administrative proceeding pursuant to the statutory provisions that were in effect prior to the URAA amendments is applicable. *See Certain Agricultural Tillage Tools from Brazil: Final Results of Countervailing Duty Administrative Review,* 60 FR 48692 (September 20, 1995). These rates shall apply until a review of companies assigned these rates is requested. In addition, for the period January 1, 1996 through December 31, 1996, the assessment rates applicable to all non-reviewed companies covered by this order are the cash deposit rates in effect at the time of entry.

Public Comment

Pursuant to 19 CFR 351.224(b), the Department will disclose to parties to the proceeding any calculations performed in connection with these preliminary results within five days after the date of publication of this notice. Pursuant to 19 CFR 351.309,

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interested parties may submit written comments in response to these preliminary results. Case briefs must be submitted within 30 days after the date of publication of this notice, and rebuttal briefs, limited to arguments raised in case briefs, must be submitted no later than five days after the time limit for filing case briefs. Parties who submit argument in this proceeding are requested to submit with the argument: (1) A statement of the issue, and (2) a brief summary of the argument. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f). Also, pursuant to 19 CFR 351.310, within 30 days of the date of publication of this notice, interested parties may request a public hearing on arguments to be raised in the case and rebuttal briefs. Unless the Secretary specifies otherwise, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs, that is, thirty-seven days after the date of publication of these preliminary results.

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date case briefs, under 19 CFR 351.309(c)(ii), are due. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

This administrative review is issued and published in accordance with section 751(a)(1) and 777(i)(1) of the Act (19 U.S.C. 1675(a)(1) and 19 U.S.C. 1677f(i)(1)).

Dated: July 6, 1998.

Richard W. Moreland,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 98–18599 Filed 7–10–98; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–063]

Certain Iron-Metal Castings from India: Preliminary Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Countervailing Duty Administrative Review.

SUMMARY: The Department of Commerce is conducting an administrative review of the countervailing duty order on certain iron-metal castings from India. The period covered by this administrative review is January 1, 1996 through December 31, 1996. For information on the net subsidy for each reviewed company, as well as for all non-reviewed companies, please see the *Preliminary Results of Review* section of this notice. If the final results remain the same as these preliminary results of administrative review, we will instruct the U.S. Customs Service to assess countervailing duties as detailed in the *Preliminary Results of Review* section of this notice. Interested parties are invited to comment on these preliminary results. (*See Public Comment* section of this notice.)

EFFECTIVE DATE: July 13, 1998.

FOR FURTHER INFORMATION CONTACT: Kristen Johnson or Christopher Cassel, Office of CVD/AD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On October 16, 1980, the Department of Commerce ("the Department") published in the **Federal Register** (45 FR 50739) the countervailing duty order on certain iron-metal castings from India. On October 2, 1997, the Department published a notice of "Opportunity to Request Administrative Review" (62 FR 51628) of this countervailing duty order. We received timely requests for review, and we initiated a review covering the period January 1, 1996 through December 31, 1996, on November 26, 1997 (62 FR 63069).

In accordance with 19 C.F.R. 351.213(b), this review covers only those producers or exporters of the subject merchandise for which a review was specifically requested. The producers/exporters of the subject merchandise for which the review was requested are:

Calcutta Ferrous Ltd.,
Carnation Industries Ltd.,
Commex Corporation,
Crescent Foundry Co. Pvt. Ltd.,
Delta Enterprises,
Dinesh Brothers (P) Ltd.,
Kajaria Iron Castings Pvt. Ltd.,
Kejriwal Iron & Steel Works Pvt. Ltd.,
Metflow Corporation,
Nandikeshwari Iron Foundry Pvt. Ltd.,
Orissa Metal Industries,
Overseas Iron Foundry,
R.B. Agarwalla & Company,
R.B. Agarwalla & Co. Pvt. Ltd.,
RSI Limited,
Seramapore Industries Pvt. Ltd.,
Shree Rama Enterprise,
Shree Uma Foundries,
Siko Exports,
SSL Exports,
Super Iron Foundry,
Uma Iron & Steel, and
Victory Castings Ltd.

Delta Enterprises, Metflow Corporation, Orissa Metal Industries, R.B. Agarwalla & Co. Pvt. Ltd., Shree Uma Foundries, Siko Exports, and SSL Exports did not export the subject merchandise to the United States during the period of review ("POR"). Therefore, these companies have not been assigned an individual company rate for this administrative review. This review covers 19 programs.

On November 14, 1997, the Department issued a questionnaire to the Government of India ("GOI") and producers/exporters of the subject merchandise. The Department received questionnaire responses from the GOI and the producers/exporters of the subject merchandise on January 13, 1998. The Department issued supplemental questionnaires to the GOI and certain producers/exporters of the subject merchandise on March 16 and 25, 1998, April 30, 1998, and May 14, 1998. The supplemental questionnaire responses were received on April 9, 1998, and May 11, 15, and 21, 1998.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act ("URAA") effective January 1, 1995 ("the Act"). The Department is conducting this administrative review in accordance with section 751(a) of the Act. All citations to the Department's regulations reference 19 C.F.R. Part 351, 62 FR 27296 (May 19, 1997), unless otherwise indicated.

Scope of the Review

Imports covered by this administrative review are shipments of Indian manhole covers and frames, clean-out covers and frames, and catch basin grates and frames. These articles are commonly called municipal or public works castings and are used for access or drainage for public utility, water, and sanitary systems. During the review period, such merchandise was classifiable under the *Harmonized Tariff Schedule* ("HTS") item numbers 7325.10.0010 and 7325.10.0050. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Verification

As provided in section 782(i) of the Act, we verified information submitted by the Government of India and certain producers/exporters of the subject merchandise. We followed standard verification procedures, including meeting with government and company officials and conducting an examination of all relevant accounting and financial records and other original source documents. Our verification results are outlined in the public versions of the verification reports, which are on file in the Central Records Unit (Room B–099 of the Main Commerce Building).

Analysis of Programs

I. Programs Conferring Subsidies

A. Pre-Shipment Export Financing

The Reserve Bank of India ("RBI"), through commercial banks, provides short-term pre-shipment financing, or "packing credits," to exporters. Upon presentation of a confirmed export order or letter of credit, companies may receive pre-shipment loans for working capital purposes, *i.e.*, for the purchase of raw materials and for packing, warehousing, and transporting of export merchandise. Exporters may also establish pre-shipment credit lines upon which they may draw as needed. Credit line limits are established by commercial banks, based upon a company's creditworthiness and past export performance. Companies that have pre-shipment credit lines typically pay interest on a quarterly basis on the outstanding balance of the account at the end of each period. In general, packing credits are granted for a period of up to 180 days.

Commercial banks extending export credit to Indian companies must, by law, charge interest on this credit at rates determined by the RBI. During the POR, the rate of interest charged on pre-shipment export loans was 13.0 percent. For packing credits not repaid within 180 days, banks charged interest at 15.0 percent for the number of days the loan was overdue. Exporters would lose the concessional interest rate if the loan was not repaid within 270 days. If that occurred, banks were able to charge a non-concessional interest rate above 15.0 percent. If the pre-shipment loan was outstanding beyond 360 days, banks then charged the cash credit rate from the first day of advance of the loan until the exports were realized.

Interest charged under this program must be liquidated with export proceeds. If the interest is paid with sources other than foreign currency export proceeds, the interest element of the loan is not treated as export credit, and is charged at rates applicable to domestic credit. During the POR, if a company's exports did not materialize, banks charged the cash credit rate plus a penal interest rate of two (2.0) percent from the first day of advance of the loan.

The Department found this program to be an export subsidy, and thus countervailable, in prior administrative reviews of this order, because receipt of pre-shipment export financing was contingent upon export performance, and the interest rates were preferential. *See, e.g., Final Results of Countervailing Duty Administrative Review: Certain Iron-Metal Castings From India*, 56 FR 41658 (August 22, 1991); *Final Results of Countervailing Duty Administrative Review: Certain Iron-Metal Castings From India*, 56 FR 52515 (October 21, 1991); and *Final Results of Countervailing Duty Administrative Review: Certain Iron-Metal Castings From India*, 61 FR 64676 (December 6, 1996) ("*1987, 1988, and 1993 Indian Castings Final Results*"). No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this finding. Therefore, in accordance with § 771(5A)(B) of the Act, we continue to find that this program constitutes an export subsidy.

To determine the benefit conferred under this program, we compared the interest rate charged under the pre-shipment financing program to a benchmark interest rate. In conducting this administrative review, we learned that of the twelve respondents that received pre-shipment financing on which interest was paid during the POR, four had received, and paid interest on, commercial short-term working capital loans, which were not provided under a GOI program. These companies are: Calcutta Ferrous Ltd. ("Calcutta Ferrous"), Crescent Foundry Co. Pvt. Ltd. ("Crescent Foundry"), Dinesh Brothers (P) Ltd. ("Dinesh"), and Nandikeshwari Iron Foundry Pvt. Ltd. ("Nandikeshwari"). For these companies, we used a company-specific benchmark interest rate to measure the benefit each company received under the pre-shipment export financing scheme.

For all other respondents, we used as our benchmark the cash credit rate. In the 1994 administrative review of this order, the Department determined that, in the absence of a company-specific benchmark, the most "comparable" short-term benchmark to measure the benefit under the pre-shipment export financing scheme is the cash credit interest rate. *See, Final Results of Countervailing Duty Administrative Review: Certain Iron-Metal Castings From India*, 62 FR 32297 (June 13, 1997) ("*1994 Indian Castings Final Results*"). The cash credit interest rate is for domestic working capital finance, and thus comparable to pre-and post-shipment export working capital finance. During the POR, this rate was 18.44 percent, as reported by the GOI in its April 9, 1998 questionnaire response.

We compared either the company-specific benchmark rates or the cash credit benchmark rate, as appropriate, to the interest rates charged on pre-shipment rupee loans and found that for loans granted under this program, the interest rates charged were lower than the benchmark rates. Therefore, in accordance with section 771(5)(E)(ii) of the Act, this program conferred countervailable benefits during the POR because the interest rates charged on these loans were less than what a company otherwise would have had to pay on a comparable short-term commercial loan.

To calculate the benefit from the pre-shipment loans, we compared the actual interest paid on the loans with the amount of interest that would have been paid at the applicable benchmark interest rate. Where the benchmark rates exceeded the program rates; the difference between those amounts is the benefit.

If the pre-shipment financing loans were provided solely to finance exports of subject merchandise to the United States, we divided the benefit derived from those loans by exports of subject merchandise to the United States. For all other pre-shipment financing loans, we divided the benefit by total exports to all destinations. On this basis, we preliminarily determine the net subsidy from this program for the producers/exporters of the subject merchandise to be as follows:

Net subsidies—producer/exporter	Net subsidy rate—percent
Calcutta Ferrous Ltd	0.20
Commex Corporation	0.13
Crescent Foundry Co. Pvt. Ltd	0.06
Dinesh Brothers Pvt. Ltd	3.05
Kajaria Iron Castings Pvt. Ltd	0.33
Nandikeshwari Iron Foundry Pvt. Ltd	0.22
R.B. Agarwalla & Company	0.34
RSI Limited	0.37
Seramapore Industries Pvt. Ltd	0.53
Super Iron Foundry	1.11
Uma Iron & Steel	0.34

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Net subsidies—producer/exporter	Net subsidy rate—percent
Victory Castings Ltd	0.30

B. Post-Shipment Export Financing

Post-shipment export financing consists of loans in the form of trade bill discounting or advances by commercial banks. The credit covers the period from the date of shipment of the goods, to the date of realization of export proceeds from the overseas customer. Post-shipment finance, therefore, is a working capital finance or sales finance against receivables. The interest amount owed is deducted from the total amount of the bill at the time of discounting by the bank. The exporter's account is then credited for the rupee equivalent of the net amount.

In general, post-shipment loans are granted for a period of up to 90 days. The interest rate charged on these loans was 13.0 percent during the POR. For loans not repaid within the negotiated number of days (90 days maximum), banks assessed interest at 15.0 percent for the number of days the loan was overdue, up to six months from the date of shipment. Between February 8, 1996 and October 20, 1996, the RBI "freed" the interest rate charged on loans not repaid within 90 days, and allowed banks to charge commercial interest rates on such credit. On October 21, 1996, the RBI restored the 15.0 percent interest rate for loans due beyond 90 days. For loans not repaid within 180 days, exporters would lose the concessional interest rate on this financing, and interest would be charged at a commercial rate determined by the banks.

In prior administrative reviews, the Department found this program to be an export subsidy because receipt of the post-shipment financing was contingent upon export performance, and the interest rates were preferential. *See, e.g., 1987, 1988, and 1993 Indian Castings Final Results.* No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this finding. Therefore, in accordance with section 771(5A)(B) of the Act, we continue to find that this program constitutes an export subsidy. During the POR, thirteen of the sixteen respondent companies made payments on post-shipment loans for exports of subject castings to the United States.

To determine the benefit conferred under this program, we compared the interest rate charged under the post-shipment financing program to a benchmark interest rate. For Calcutta Ferrous, Crescent Foundry, Dinesh, and Nandikeshwari, we used as our benchmark, the company-specific interest rates, discussed above, to measure the benefit each company received under the post-shipment export financing scheme. Because the loans under this program are discounted, and the effective rate paid by the exporters on these post-shipment loans is a discounted rate, we derived discounted benchmark rates from each company's respective benchmark interest rate.

In regard to those respondents for which we did not have a company-specific benchmark rate, we used as our benchmark, the cash credit rate discussed above in the pre-shipment financing section. From the cash credit benchmark, we derived a discounted rate of 15.57 percent for measuring the benefits conferred by this program.

We compared either the discounted company-specific benchmark rates or the discounted cash credit benchmark rate to the interest rates charged on post-shipment loans and found that for loans granted under this program, the interest rates charged were lower than the benchmarks. Therefore, in accordance with section 771(5)(E)(ii) of the Act, this program conferred countervailable benefits during the POR where the interest rates charged on the loans were less than what a company otherwise would have had to pay on a comparable short-term commercial loan.

To calculate the benefit from these loans, we followed the same short-term loan methodology discussed above for pre-shipment financing. We divided the benefit by either total exports or exports of the subject merchandise to the United States, depending on whether the company was able to segregate its post-shipment financing by merchandise and destination. For RSI Limited, however, we used as our denominator, total exports of subject castings and non-subject castings to the United States. On this basis, we preliminarily determine the net subsidy from this program for the producers/exporters of the subject merchandise to be as follows:

Net subsidies—producer/exporter	Net subsidy rate—percent
Calcutta Ferrous Ltd	0.78
Carnation Industries Ltd	0.03
Commex Corporation	0.35
Crescent Foundry Co. Pvt. Ltd	0.31
Dinesh Brothers Pvt. Ltd	0.67
Kajaria Iron Castings Pvt. Ltd	0.42
Nandikeshwari Iron Foundry Pvt. Ltd	0.27
R.B. Agarwalla & Company	0.35
RSI Limited	0.20
Seramapore Industries Pvt. Ltd	0.05
Super Iron Foundry	0.12
Uma Iron & Steel	0.53
Victory Castings Ltd	0.40

C. Post-Shipment Export Credit in Foreign Currency ("PSCFC")

On January 1, 1992, the GOI introduced a modified post-shipment financing scheme, *i.e.*, Post-Shipment Export Credit in Foreign Currency. (The GOI terminated the PSCFC scheme effective February 8, 1996.) This modified scheme enabled exporters to discount foreign currency export bills at foreign currency interest rates linked to the London Interbank Offering Interest Rate ("LIBOR"). Loans under this financing scheme were not provided to the exporter in the foreign currency, but the post-shipment credit liability of the exporter was denominated in the foreign currency, which was then liquidated with export proceeds in foreign currency. During the POR, PSCFC loans were granted for a period of up to 90 days with an interest rate fixed by the RBI. The interest amount, calculated at the applicable foreign currency interest rate, was deducted from the total amount of the bill at the time of discounting by the bank. The exporter's account was then credited for the rupee equivalent of the net foreign currency amount. During the POR, the interest rate charged on PSCFC loans ranged from 7.5 percent to 9.5 percent for the negotiated term of the loan (90 days maximum). Interest on overdue loans was charged at 9.5 percent until January 15, 1996. Thereafter, banks were free to charge commercial interest rates on PSCFC loans not repaid within 90 days.

If the overseas customer defaulted and the export bill could not be liquidated with export proceeds, the PSCFC loan was converted into rupee credit at the selling foreign exchange rate prevailing on the day of liquidation. The exporter was responsible for paying the rupee equivalent of the bill at the exchange rate prevailing on the day of liquidation by the bank. The interest recovered on the liquidated loan was charged at a commercial rate determined by the bank.

Under the PSCFC program, companies had the option of converting their export bills into rupees using either the spot rate of exchange or the forward rate of exchange. During the POR, all respondent companies, which used the PSCFC program, elected to convert their export bills into rupees at the spot rate of exchange. If the bank holding the export bill, converted at the spot rate, realized an exchange rate gain due to exchange rate movements up to the date the bill came due, the bank was required, by law, to transfer the gain to the exporter. However, if the bank suffered an exchange rate loss, the exporter, by law, was obligated to cover that loss. Thus, the bank, in effect, faced an exchange rate that was fixed over the "life of the bill." Under such circumstances, where the rupee value of the bill—from the bank's standpoint—is, in fact, fixed at the time of discount, the rate of discount measured in either dollars or rupees is the same. Therefore, the PSCFC discount rate can be viewed equivalently as either a dollar-denominated rate or a rupee-denominated rate. If viewed as a dollar-denominated rate, no exchange rate adjustment to the rupee-denominated benchmark is warranted, because the banks face no exchange rate risk in holding the bills. Thus, no matter how the PSCFC discount rate is viewed, a rupee-benchmark is appropriate for benefit calculation purposes where the exporter opts to convert the exports bills using the spot rate of exchange.

In the *1993 Indian Castings Final Results*, the Department found this program to be an export subsidy, and thus countervailable, because receipt of PSCFC loans was contingent upon export performance, and the interest rates were preferential. No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this finding. Therefore, in accordance with § 771(5A)(B) of the Act, we continue to find that this program constitutes an export subsidy. During the POR, five of the sixteen respondent companies made payments on PSCFC loans for shipments of subject castings to the United States.

To determine the benefit conferred under this program, we compared the interest rate charged under the PSCFC to a benchmark interest rate. For Calcutta Ferrous, Dinesh, and Nandikeshwari, we used as our benchmark, the company-specific interest rates, discussed above, to measure the benefit each company received under the PSCFC. Because the loans under this program are discounted, and the effective rate paid by the exporters on the PSCFC loans is a discounted rate, we derived discounted benchmark rates from each company's respective company-specific benchmark interest rate.

In regard to those respondents for which we did not have a company-specific benchmark rate, we used as our benchmark, the cash credit rate discussed above in the pre-shipment financing section. From the cash credit benchmark, we derived a discounted rate of 15.57 percent for measuring the benefits conferred by this program.

We compared either the company-specific benchmark discounted rates or the discounted cash credit benchmark rate to the interest rates charged on the PSCFC loans and found that the interest rates charged were lower than the benchmarks. Therefore, in accordance with section 771(5)(E)(ii) of the Act, this program conferred countervailable benefits during the POR because the interest rates charged on these loans were less than what a company otherwise would have had to pay on a comparable short-term commercial loan.

To calculate the benefit from these loans, we followed the same short-term loan methodology discussed above for pre-shipment financing. We divided the benefit by either total exports or exports of the subject merchandise to the United States, depending on whether the company was able to segregate its PSCFC financing by merchandise and destination. For RSI Limited, however, we used as our denominator, total exports of subject castings and non-subject castings to the United States. On this basis, we preliminarily determine the net subsidy from this program to be as follows:

Net subsidies—producer/exporter	Net subsidy rate—percent
Calcutta Ferrous Ltd	0.05
Dinesh Brothers Pvt. Ltd	0.15
Nandikeshwari Iron Foundry Pvt. Ltd	0.08
R.B. Agarwalla & Company	0.11
RSI Limited	0.08

As noted above, the GOI terminated the PSCFC scheme effective February 8, 1996. All PSCFC loans received by the five above listed companies were repaid in their entirety (principal and interest) during the POR. We verified that no residual benefits have been provided or received, and there is no evidence that a substitute program has been established. Therefore, in determining the cash deposit rates for these five castings producers/exporters, we will not include the subsidy conferred by this program during the POR.

D. Income Tax Deductions Under Section 80HHC

Under section 80HHC of the Income Tax Act, the GOI allows exporters to deduct profits derived from the export of merchandise from taxable income. In prior administrative reviews of this order, the Department found this program to be an export subsidy, and thus countervailable, because receipt of benefits was contingent upon export performance. *See, e.g., 1993 Indian Castings Final Results.* No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this finding. Therefore, in accordance with section771(5A)(B) of the Act, we continue to find that this program constitutes an export subsidy, and that the financial contribution in the form of tax revenue not collected, constitutes the benefit.

To calculate the benefit to each company, we subtracted the total amount of income tax the company actually paid during the review period from the amount of tax the company otherwise would have paid during the review period had it not claimed any deductions under section 80HHC. We then divided this difference by the value of the company's total exports. On this basis, we preliminarily determine the net subsidy from this program to be as follows:

Net subsidies—producer/exporter	Net subsidy rate—percent
Calcutta Ferrous Ltd.	2.91
Carnation Industries Ltd.	2.92
Commex Corporation	4.79
Crescent Foundry Co. Pvt. Ltd.	4.53
Dinesh Brothers Pvt. Ltd.	5.31
Kajaria Iron Castings Pvt. Ltd.	0.00
Kejriwal Iron & Steel Works Pvt. Ltd.	11.76
Nandikeshwari Iron Foundry Pvt. Ltd.	3.71
Overseas Iron Foundry	3.74
R.B. Agarwalla & Company	2.73
RSI Limited	2.73
Seramapore Industries Pvt. Ltd.	4.16
Shree Rama Enterprise	10.65
Super Iron Foundry	1.93
Uma Iron & Steel	0.40
Victory Castings Ltd. 2.91	2.17

E. Import Mechanisms (Sale of Licenses)

The GOI allows companies to transfer certain types of import licenses to other companies in India. In prior administrative reviews of this order, the Department found the sale of these licenses to be an export subsidy, and thus countervailable, because companies received these licenses based on their status as exporters. *See, e.g., 1993 Indian Castings Final Results.* No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this finding. Therefore, in accordance with section 771(5A)(B) of the Act, we continue to

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find that this program constitutes an export subsidy, and the financial contribution in the form of the revenue received on the sale of licenses, constitutes the benefit.

During the POR, five of the sixteen respondent companies sold Special Import Licenses. Because the sale of the Special Import Licenses were not tied to specific shipments, we calculated the subsidies by dividing the total amount of proceeds a company received from the sale of these licenses by the total value of its exports of all products to all markets. We preliminarily determine the net subsidy from the sale of the Special Import Licenses for these five companies to be as follows:

Net subsidies—producer/exporter	Net subsidy rate—percent
Carnation Industries Ltd.	0.24
Kajaria Iron Castings Pvt. Ltd.	0.65
Kejriwal Iron & Steel Works	1.00
RSI Limited	0.03
Seramapore Industries Pvt. Ltd.	0.73

F. Exemption of Export Credit from Interest Taxes

Indian commercial banks are required to pay a tax on all interest accrued from borrowers. The banks pass along this tax to borrowers in its entirety. As of April 1, 1993, the GOI exempted from the interest tax all interest accruing to a commercial bank on export-related loans. In the 1993 administrative review, we determined that this tax exemption is an export subsidy and thus countervailable, because only interest accruing on loans and advances made to exporters in the form of export credit is exempt from the interest tax. *See, 1993 Indian Castings Final Results.* No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this finding. Therefore, in accordance with § 771(5A)(B) of the Act, we continue to find that this program constitutes an export subsidy, and that the financial contribution in the form of tax revenue not collected, constitutes the benefit.

During the POR, thirteen of the sixteen respondent companies made interest payments on export-related loans, through the pre- and post-shipment financing schemes, and thus, were exempt from the interest tax under this program. To calculate the benefit to each company, we first determined the total amount of interest paid by each producer/exporter of subject castings during the POR by adding the interest payments made on all pre- and post-shipment export loans. Next, we multiplied this amount by three (3.0) percent, the tax rate that the interest would have been subject to without the exemption during the POR. We then divided the benefit by the value of the company's total exports or exports of subject merchandise to the United States, depending on whether the export financing was tied to total exports or only exports of subject castings to the United States. For RSI Limited, however, to determine the benefit conferred from the exemption of interest on the company's post-shipment financing, we used as our denominator, total exports of subject castings and non-subject castings to the United States. On this basis, we preliminarily determine the net subsidy from this program to be as follows:

Net subsidies—producer/exporter	Net subsidy rate—percent
Calcutta Ferrous Ltd.	0.14
Carnation Industries Ltd.	0.13
Commex Corporation	0.06
Crescent Foundry Co. Pvt. Ltd.	0.06
Dinesh Brothers Pvt. Ltd.	0.39
Kajaria Iron Castings Pvt. Ltd.	0.26
Nandikeshwari Iron Foundry Pvt. Ltd.	0.13
R.B. Agarwalla & Company	0.11
RSI Limited	0.22
Seramapore Industries Pvt. Ltd.	0.07
Super Iron Foundry	0.16
Uma Iron & Steel	0.11
Victory Castings Ltd.0.14	0.15

II. Programs Preliminarily Found To Be Not Used

We examined the following programs and preliminarily find that the producers/exporters of the subject merchandise did not apply for or receive benefits under these programs during the POR:

1. Market Development Assistance (MDA)
2. Rediscounting of Export Bills Abroad (EBR)
3. International Price Reimbursement Scheme (IPRS)
4. Cash Compensatory Support Program (CCS)
5. Programs Operated by the Small Industries Development Bank of India (SIDBI)
6. Export Promotion Replenishment Scheme (EPRS) (IPRS Replacement)
7. Export Promotion Capital Goods Scheme
8. Benefits for Export Oriented Units and Export Processing Zones
9. Special Imprest Licenses
10. Special Benefits
11. Duty Drawback on Excise Taxes
12. Payment of Premium Against Advance Licenses
13. Pre-Shipment Export Financing in Foreign Currency (PCFC).

Preliminary Results of Review

In accordance with 19 C.F.R. § 351.221(b)(4)(i), we calculated an individual subsidy rate for each producer/exporter subject to this administrative review. For the period January 1, 1996 through December 31, 1996, we preliminarily determine the net subsidy for the reviewed companies to be as follows:

Net subsidies—producer/exporter	Net subsidy rate—percent
Calcutta Ferrous Ltd	4.09
Carnation Industries Ltd	3.32
Commex Corporation	5.33
Crescent Foundry Co. Pvt. Ltd	4.98
Dinesh Brothers Pvt. Ltd	9.57
Kajaria Iron Castings Pvt. Ltd	1.69
Kejriwal Iron & Steel Works Pvt. Ltd	12.76
Nandikeshwari Iron Foundry Pvt. Ltd	4.41
Overseas Iron Foundry	3.74
R.B. Agarwalla & Company Pvt. Ltd	3.64
RSI Limited	3.63
Seramapore Industries Pvt. Ltd	5.54
Shree Rama Enterprise	10.85
Super Iron Foundry	3.32
Uma Iron & Steel	1.38
Victory Castings Ltd	3.05

If the final results of this review remain the same as these preliminary results, the Department intends to instruct the U.S. Customs Service ("Customs") to assess countervailing duties as indicated above.

The Department also intends to instruct Customs to collect cash deposits of estimated countervailing duties as indicated below, of the f.o.b. invoice price on all shipments of the subject merchandise from reviewed companies, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. Because the Post-Shipment Export Credit in Foreign Currency program was terminated effective February 8, 1996, we are not including the subsidy conferred by this program during the review period, in determining the cash deposits to be collected by Customs. We preliminarily determine the cash deposit rates for the reviewed companies to be as follows:

Net Subsidies—Producer/Exporter	Net subsidy rate—percent
Calcutta Ferrous Ltd	4.03

Net Subsidies—Producer/Exporter	Net subsidy rate—percent
Carnation Industries Ltd	3.32
Commex Corporation	5.33
Crescent Foundry Co. Pvt. Ltd	4.98
Dinesh Brothers Pvt. Ltd	9.42
Kajaria Iron Castings Pvt. Ltd	1.69
Kejriwal Iron & Steel Works Pvt. Ltd	12.76
Nandikeshwari Iron Foundry Pvt. Ltd	4.33
Overseas Iron Foundry	3.74
R.B. Agarwalla & Company Pvt. Ltd	3.53
RSI Limited	3.55
Serampore Industries Pvt. Ltd	5.54
Shree Rama Enterprise	10.65
Super Iron Foundry	3.32
Uma Iron & Steel	1.38
Victory Castings Ltd	3.05

Because the URAA replaced the general rule in favor of a country-wide rate with a general rule in favor of individual rates for investigated and reviewed companies, the procedures for establishing countervailing duty rates, including those for non-reviewed companies, are now essentially the same as those in antidumping cases, except as provided for in section 777A(e)(2)(B) of the Act. The requested review will normally cover only those companies specifically named. *See* 19 C.F.R. 351.213(b). Pursuant to 19 C.F.R. 351.212(c), for all companies for which a review was not requested, duties must be assessed at the cash deposit rate, and cash deposits must continue to be collected, at the rate previously ordered. As such, the countervailing duty cash deposit rate applicable to a company can no longer change, except pursuant to a request for a review of that company. *See, Federal-Mogul Corporation and the Torrington Company* v. *United States, 822 F.Supp. 782 (CIT 1993) and Floral Trade Council* v. *United States*, 822 F.Supp. 766 (CIT 1993) (interpreting 19 C.F.R. 353.22(e) (now 19 C.F.R. 351.212(c)), the antidumping regulation on automatic assessment, which is identical to 19 C.F.R. 355.22(g)). Therefore, the cash deposit rates for all companies except those covered by this review will be unchanged by the results of this review.

We will instruct Customs to continue to collect cash deposits for non-reviewed companies at the most recent company-specific or country-wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to non-reviewed companies covered by this order will be the rate for that company established in the most recently completed administrative proceeding conducted under the URAA. *See, 1994 Indian Castings Final Results.* If such a review has not been conducted, the rate established in the most recently completed administrative proceeding pursuant to the statutory provisions that were in effect prior to the URAA amendments is applicable. *See, 1993 Indian Castings Final Results.* These rates shall apply to all non-reviewed companies until a review of a company assigned these rates is requested. In addition, for the period January 1, 1996 through December 31, 1996, the assessment rates applicable to all non-reviewed companies covered by this order are the cash deposit rates in effect at the time of entry.

Public Comment

Pursuant to 19 C.F.R. 351.224(b), the Department will disclose to the parties of this proceeding within five days after the date of publication of this notice, the calculations performed in this review. Interested parties may request a hearing not later than 30 days after the date of publication of this notice. Interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted five days after the time limit for filing the case brief. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument. Any hearing, if requested, will be held two days after the scheduled date for submission of rebuttal briefs. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 C.F.R. 351.303(f).

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under 19 C.F.R. 351.309(c)(ii), are due. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

This administrative review and notice are issued and published in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)), 19 C.F.R. 351.213.

Dated: July 6, 1998.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–18598 Filed 7–10–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–427–815, C–475–825, and C–580–835]

Notice of Initiation of Countervailing Duty Investigations: Stainless Steel Sheet and Strip in Coils From France, Italy, and the Republic of Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce

EFFECTIVE DATE: July 13, 1998.

FOR FURTHER INFORMATION CONTACT: Marian Wells (France), at (202) 482–6309; Vince Kane (Italy), at (202) 482–2815; and Robert Copyak (Korea), at (202) 482–2209, Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

Initiation of Investigations

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are references to the provisions codified at 19 CFR Part 351, 62 FR 27296, May 19, 1997.

The Petition

On June 10, 1998, the Department of Commerce (the Department) received petitions filed in proper form by or on behalf of Allegheny Ludlum Corporation, Armco Inc., J&L Specialty Steel, Inc., Washington Steel Division of Bethlehem Steel Corporation, United Steel Workers of America, AFL-CIO/CLC, Butler Armco Independent Union, and Zanesville Armco Independent Organization, Inc. (the petitioners). J&L Specialty Steel, Inc. is not a petitioner for the countervailing duty investigation involving France. Supplements to the petitions were filed on June 19, 22, 24, and 26, 1998.

In accordance with section 702(b)(1) of the Act, petitioners allege that manufacturers, producers, or exporters of the subject merchandise in France, Italy, and Korea receive countervailable subsidies within the meaning of section 701 of the Act.

The petitioners state that they have standing to file the petition because they are interested parties, as defined under sections 771(9)(c) and (d) of the Act.

Scope of the Investigations

For purposes of these investigations, the products covered are certain

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stainless steel sheet and strip in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat-rolled product in coils that is greater than 9.5 mm in width and less than 4.75 mm in thickness, and that is annealed or otherwise heat treated and pickled or otherwise descaled. The subject sheet and strip may also be further processed (*e.g.*, cold-rolled, polished, aluminized, coated, etc.) provided that it maintains the specific dimensions of sheet and strip following such processing.

The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States ("HTSUS") at subheadings: 7219.13.00.30, 7219.13.00.50, 7219.13.00.70, 7219.13.00.80, 7219.14.00.30, 7219.14.00.65, 7219.14.00.90, 7219.32.00.05, 7219.32.00.20, 7219.32.00.25, 7219.32.00.35, 7219.32.00.36, 7219.32.00.38, 7219.32.00.42, 7219.32.00.44, 7219.33.00.05, 7219.33.00.20, 7219.33.00.25, 7219.33.00.35, 7219.33.00.36, 7219.33.00.38, 7219.33.00.42, 7219.33.00.44, 7219.34.00.05, 7219.34.00.20, 7219.34.00.25, 7219.34.00.30, 7219.34.00.35, 7219.35.00.05, 7219.35.00.15, 7219.35.00.30, 7219.35.00.35, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.12.10.00, 7220.12.50.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.20.70.05, 7220.20.70.10, 7220.20.70.15, 7220.20.70.60, 7220.20.70.80, 7220.20.80.00, 7220.20.90.30, 7220.20.90.60, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Excluded from the scope of this petition are the following: (1) Sheet and strip that is not annealed or otherwise heat treated and pickled or otherwise descaled, (2) sheet and strip that is cut to length, (3) plate (*i.e.*, flat-rolled stainless steel products of a thickness of 4.75 mm or more), (4) flat wire, and (5) razor blade steel. Razor blade steel is a flat-rolled product of stainless steel, not further worked than cold-rolled (cold-reduced), in coils, of a width of 9.5 to 23 mm and a thickness of 0.266 mm or less, containing by weight 12.5 to 14.5 percent chromium, and certified at the time of entry to be used in the manufacture of razor blades. *See* Chapter 72 of the HTSUS, "Additional U.S. and Note" 1(d).

During our review of the petitions, we discussed scope with the petitioners to insure that the scope in the petitions accurately reflect the product for which they are seeking relief. Moreover, as discussed in the preamble to the new regulations (62 FR 27323), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments by July 20, 1998. Comments should be addressed to Import Administration's Central Records Unit at Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of our preliminary determinations.

Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, the Department invited representatives of the relevant foreign governments for consultations with respect to the petitions filed. On June 23, 1998, the Department held consultations with representatives of the Government of France (GOF). On June 26, 1998, consultations were held with representatives of the Government of Italy (GOI) and the European Commission (EC). On June 25, 1998, the GOF, and on June 29, 1998, the GOI and the EC filed submissions regarding the issues raised during the consultations. *See* the June 23, 1998 and June 30, 1998, memoranda to the file regarding the consultations with the GOF and the GOI, respectively (public documents on file in the Central Records Unit of the Department of Commerce, Room B–099).

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (1) At least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition.

Section 771(4)(A) of the Act defines the "industry" as the producers of a domestic like product. Thus, to determine whether the petition has the requisite industry support, the statute directs the Department to look to producers and workers who account for production of the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition of domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to the law.[1]

Section 771(10) of the Act defines domestic like product as "a product that is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation," *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

The domestic like product referred to in the petitions is the single domestic like product defined in the "Scope of Investigation" section, above. The Department has no basis on the record to find the petitions' definition of the domestic like product to be inaccurate. The Department therefore, has adopted the domestic like product definition set forth in the petitions. In this case the Department has determined that the petitions and supplemental information contained adequate evidence of sufficient industry support, and, therefore, polling is unnecessary (*see* Memorandum to the File, regarding Industry Support, dated June 30, 1998). For France, Italy, and Korea, petitioners established industry support representing over 50 percent of total production of the domestic like product.

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[1] *See Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 642–44 (CIT 1988); *High Information Content Flat Panel Displays and Display Glass Therefor from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition*, 56 FR 32376, 32380–81 (July 16, 1991).

Additionally, no person who would qualify as an interested party pursuant to section 771(A)(C)(D)(E) or (F) has expressed opposition on the record to the petition. Therefore, to the best of the Department's knowledge, the producers who support this petition account for 100 percent of the production of the domestic like product produced by the portion of the industry expressing an opinion regarding the petitions. Accordingly, the Department determines that these petitions are filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.

Injury Test

Because France, Italy, and Korea are "Subsidies Agreement Countries" within the meaning of section 701(b) of the Act, section 701(a)(2) applies to these investigations. Accordingly, the U.S. International Trade Commission (ITC) must determine whether imports of the subject merchandise from these countries materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petitions allege that the U.S. industry producing the domestic like product is being materially injured, and is threatened with material injury, by reason of the subsidized individual and cumulated imports of the subject merchandise from France, Italy, and Korea. Petitioners explained that the industry's injured condition is evident in the declining trends in net operating profits, net sales volumes, profit to sales ratios, and capacity utilization. The allegations of injury and causation are supported by relevant evidence including U.S. Customs import data, lost sales, and pricing information. The Department assessed the allegations and supporting evidence regarding material injury and causation, and determined that these allegations are sufficiently supported by accurate and adequate evidence and meet the statutory requirements for initiation (*see* Attachment 1 to Initiation Checklists dated June 30, 1998, entitled Analysis of Allegations and Evidence of Material Injury and Causation).

Allegations of Subsidies

Section 702(b) of the Act requires the Department to initiate a countervailing duty proceeding whenever an interested party files a petition, on behalf of an industry, that (1) alleges the elements necessary for an imposition of a duty under section 701(a), and (2) is accompanied by information reasonably available to petitioners supporting the allegations.

Initiation of Countervailing Duty Investigations

The Department has examined the petitions on stainless steel sheet and strip in coils (sheet and strip) from France, Italy, and Korea and found that they comply with the requirements of section 702(b) of the Act. Therefore, in accordance with section 702(b) of the Act, we are initiating countervailing duty investigations to determine whether manufacturers, producers, or exporters of sheet and strip from these countries receive subsidies. *See* the June 30, 1998, memoranda to the file regarding the initiation of these investigations (public documents on file in the Central Records Unit of the Department of Commerce, Room B–099).

A. France

We are including in our investigation the following programs alleged in the petition to have provided subsidies to producers and exporters of the subject merchandise in France:

Government of France Programs

1. *Purchase of Power Plant*
2. *Forgiveness of Shareholders' Loans in 1994 and 1995*
3. *Provision of Export Financing Under Natexis Banque Programs*
4. *Related Party Grants Received from 1992–95*
5. *Related Party Loans*
6. *DATAR Programs*
    - a. *Regional Development Grants (PATs)*
    - b. *Work/Training Contracts and Internships*
    - c. *DATAR 50 Percent Taxing Scheme*
    - d. *Tax Exemption for Industrial Expansion*
    - e. *Tax Credit for Companies Located in Special Investment Zone*
    - f. *Tax Credits for Research*
7. *GOF Guarantees*
8. *Long-Term Loans from CFDI*
9. *Steel Intervention Fund (FIS)*
10. *Loans with Special Characteristics (PACS): Equity Infusion*
11. *Shareholders' Advances*
12. *Investment/Operating Subsidies*
13. *Ugine 1991 Grant*

European Commission Programs

1. *Myosotis*
2. *Electric Arc Furnaces*
3. *Resider II Program*
4. *Youthstart*
5. *ECSC Article 54 Loans*
6. *ECSC Article 56(2)(b) Redeployment Aid*
7. *European Social Fund Grants (ESF)*
8. European Regional Development Fund Grants (ERDF)

We are not including in our investigation the following programs alleged to be benefitting producers and exporters of the subject merchandise in France:

1. Upstream Subsidies From Sollac

Petitioners allege that the production of stainless steel sheet and strip in coils received upstream subsidies within the meaning of section 771A of the Act through the provision of subsidies to a related company, Sollac, which supplied hot-rolling services for Ugine during the period 1983–1997. Sollac is 95 percent owned by Usinor. Referring to section 355.45 of the *Countervailing Duties; Notice of Proposed Rulemaking*, 54 FR 23368 (May 31, 1989) *("1989 Proposed Regulations")*, petitioners state that an investigation of an upstream subsidy allegation is warranted because there is a reasonable basis to believe or suspect that: (1) Domestic subsidies have been provided with respect to the input product; (2) a competitive benefit has been bestowed; and (3) the subsidies have a significant effect on the cost of producing the subject merchandise. In particular, in support of its allegation that domestic subsidies have been provided with respect to the input product, petitioners assert that all untied, countervailable subsidies bestowed on Usinor in 1983 or later that were found countervailable in *Final Affirmative Countervailing Duty Determinations: Certain Steel Products from France*, 58 FR 37304 ((July 9, 1993)) *(Certain Steel from France (1993))*, along with the additional untied post-1991 subsidies alleged in this case, continue to benefit Sollac during the POI.

The Department's methodology with respect to calculating the subsidy rate for untied, domestic subsidies is to divide the total amount of the benefit by the total sales of the recipient company (*i.e.*, Usinor). Therefore, the resulting rate captures the full level of subsidization on the subject merchandise, including any countervailable subsidies bestowed upon any inputs or processes supplied by Usinor companies to the production of the subject merchandise. To consider the same benefit as both an upstream subsidy and as a subsidy to the manufacturer of the finished product would result in double-counting the benefit. On this basis, we find that the initiation of an upstream subsidy investigation is not warranted in this case.

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2. Long-Term Loans From FDES

The Law of July 13, 1978 created participative loans that were issued by Fonds de Developpement Economique et Social (FDES). In 1990, FDES loans obtained by Usinor and Sacilor were consolidated into multiple long-term loans which the Department treated as new loans in *Certain Steel from France (1993)* and *Final Affirmative Countervailing Duty Determination: Certain Hot Rolled Lead and Bismuth Carbon Steel Products from France*, 58 FR 6221 (January 27, 1993) (*(Lead and Bismuth)*). Using the private bond interest rate reported in the OECD Financial Statistics as the benchmark in *Lead and Bismuth*, the Department found these loans to be countervailable to the extent that the interest rates were more favorable than the benchmark. In *Certain Steel from France (1993)*, however, a different benchmark was used, and the same loans were found not countervailable because there was no benefit. Despite the determination of *Certain Steel from France (1993)*, petitioners allege that the contradictory stance taken by the Department in *Lead and Bismuth* gives reason to investigate the loans to determine the extent to which these loans continued to bestow countervailable benefits on the production of the subject merchandise during the POI of this case.

Given that *Certain Steel from France (1993)* is the Department's most recent determination with respect to the long-term loans provided by the FDES, we find that there is no reason to revisit our decision that the FDES loans are not countervailable. Petitioners have provided no new evidence to indicate that Usinor has obtained any new loans or to prompt a reexamination of the loans and the benchmark used in our previous investigation. Accordingly, we are not including this program in our investigation.

3. Placement of Usinor Shares With "Stable Shareholders"

As part of its privatization plan in 1995, the GOF placed 14.79 percent of Usinor's capital with "Stable Shareholders." The "Stable Shareholders," who consisted of both government-owned entities and private companies, purchased their shares at a premium and were required to adhere to the Protocole. The Protocole imposed restrictions on the resale of shares held by the "Stable Shareholders" thereby preventing a takeover of the privatized company. Petitioners allege that by placing these illiquid shares with the "Stable Shareholders" the GOF created a built-in defense against takeovers and other instability, thereby providing a secure investment environment for private investors purchasing the remaining shares. Petitioners assert that without the implicit guarantee represented by these "Stable Shareholders," no private investment would have taken place. Therefore, petitioners allege that the GOF's placement of shares with "Stable Shareholders" provided a benefit in the form of a "potential direct transfer of funds" to Usinor which should be measured by the total amount of the private investment.

We are not including this alleged subsidy in our investigation because we do not accept petitioners' argument that the placement of Usinor's shares with "Stable Shareholders" amounts to an implicit guarantee. Instead, the placement of the shares was simply part of the GOF's privatization plan for Usinor. As petitioners point out, the placement of shares with "Stable Shareholders" was designed to prevent a takeover of the company. Thus, the GOF was seeking to prevent certain purchases of Usinor's shares, not to ensure the sale of those shares.

4. Credit Lyonnais 1991 Investment

In 1991, Credit Lyonnais purchased a 20 percent share of Usinor Sacilor. In *Certain Steel from France (1993)* and *Lead and Bismuth from France*, the Department determined that Usinor Sacilor was equityworthy in 1991 and found the investment not countervailable. Petitioners allege that they have uncovered new evidence which establishes that the GOF's equity investment bestowed a countervailable benefit and constitutes additional factual evidence sufficient to prompt a reexamination of the investment.

Petitioners assert that the new evidence, presented in the 1995 French Audit Office Report ("Audit Report"), indicates that the shares purchased by the bank were immobile and non-remunerative. As such, petitioners allege that the Credit Lyonnais investment lacked the defining characteristics of an equity investment (*i.e.*, a claim on the company's earnings and based on an expectation of a reasonable return) and, thus, constituted a grant rather than equity. *See General Issues Appendix*, appended to *Final Affirmative Countervailing Duty Determination; Certain Steel Products from Austria*, 58 FR 37217, 37239 (July 9, 1993). Other evidence that petitioners present include the 1994 French Parliamentary investigation and report ("French Parliamentary Report") which state that Credit Lyonnais "took the place of the government" to recapitalize and support Usinor. The Audit Report also criticizes the investment as inappropriate and ultimately very costly to Credit Lyonnais.

A close examination of the Audit Report reveals otherwise. First, we find that the Audit Report's conclusion that the investment in companies such as Usinor were not "mobilizable" was drawn from the policy implications, rather than actual restrictions on the shares themselves. The Audit Report states: "Securities of national enterprises were involved. To sell them * * * would have led to denationalization." In other words, Credit Lyonnais could not sell the shares without the GOF's explicit policy decision to privatize the company. The mere existence of a government policy to retain the control of a state-owned company, however, does not transform the investment into a grant.

With respect to the alleged "unremunerative" nature of the shares, we note that the Audit Report merely states that the stocks did not "*quickly* produce any dividend." (Emphasis supplied). There is no indication that there were actual restrictions on the shares or that there were no returns on the investment.

Finally, given that both the Audit Report and the French Parliamentary Report were issued ex post facto, we do not consider the statements regarding the ultimate cost of the investment to be relevant. As we stated in the *General Issues Appendix*, "neither the benefit nor the equityworthiness determination should be reexamined post hoc since such information could not have been known to the investor at the time of the investment." 58 FR at 37239.

Accordingly, we find that the evidence presented by petitioners is not sufficient for us to reinvestigate the 1991 investment by Credit Lyonnais. On this basis, we are not including this program in our investigation.

B. Italy

In the course of preparing its CVD questionnaire response in the concurrent investigation of *Stainless Steel Plate in Coils from Italy*, the GOI has ascertained that AST has not applied for or received assistance under the following programs: Law 706/85 Grants for Capacity Reduction, Law 46/82 Assistance for Capacity Reduction, Law 193/84 Early Retirement Assistance and Interest Grants, Law 394/81 Export Marketing Grants and Loans, Law 341/95 and Circolare 50175/95, European Regional Development Fund, Resider II Program (and Successor Programs), and Law 181 Worker Adjustment/Redevelopment Assistance. We are including these programs in this investigation pending verification of the GOI's claim of non-use.

We are including in our investigation the following programs alleged in the petition to have provided subsidies to producers and exporters of the subject merchandise in Italy:

Government of Italy Programs

1. *Law 796/76: Exchange Rate Guarantee Program*
1. *Benefits Associated with the 1988–1990 Restructuring*
2. *Pre-Privatization Employment Benefits*
3. *Law 120/89 Recovery Plan for the Steel Industry*
4. *Law 181/89 Worker Adjustment/Redevelopment Assistance*
5. *Law 706/85 Grants for Capacity Reduction*
6. *Law 488/92 Aid to Depressed Areas*
7. *Law 46/82 Assistance for Capacity Reduction*
8. *Working Capital Grants to ILVA, S.p.A. (ILVA)*
9. *ILVA Restructuring and Liquidation Grant*
10. *1994 Debt Payment Assistance by the Instituto per la Riscostruzione Industriale (IRI)*
11. *Loan to KAI for purchase of Acciai Speciali Terni S.p.A. (AST)*
12. *Debt Forgiveness: 1981 Restructuring Plan*
13. *Debt Forgiveness: Finsider-to-ILVA Restructuring*
14. *Debt Forgiveness: ILVA-to-AST Restructuring*
15. *Law 675/77*
    a. Mortgage Loans
    b. Interest Contributions on IRI Loans
    c. Personnel Retraining Aid
    d. VAT Reductions
    e. Grants to Pay Interest on Bank Loans
17. Law 193/84
    a. Interest Payments
    b. Closure Assistance
    c. Early Retirement Benefits
18. *Law 394/81 Export Marketing Grants and Loans*
19. *Equity Infusions from 1983 through 1992*
20. *Uncreditworthiness for 1983 through 1997*

Petitioners have additionally alleged that AST was uncreditworthy in the years when it allegedly received non-recurring subsidies. This allegation was supported by financial ratios for AST and its predecessor companies. Thus, for those years we will investigate the creditworthiness of AST and its predecessor companies.

21. *Law 341/95 and Circolare 50175/95*
22. *Export Financing Under Law 227/77 and Remission of Taxes*

European Commission Programs

1. *EU Subsidy to AST to Construct a Mill*
2. *ECSC Article 54 Loans & Interest Rebates*
3. *ECSC Article 56 Conversion Loans, Interest Rebates & Redeployment Aid*
4. *European Social Fund*
5. *European Regional Development Fund*
6. *Resider II Program (and successor programs)*
7. *1993 EU Funds*

C. Korea

We are including in our investigation the following programs alleged in the petition to have provided subsidies to producers and exporters of the subject merchandise in Korea:

Government of Korea Programs

1. *Pre-1992 Government of Korea Direction of Credit*
2. *Post-1991 Government of Korea Direction of Credit*
3. *1992 "Emergency Loans" to Sammi Steel Company*
4. *Financial Assistance in Conjunction with the 1997 Sammi Steel Company Bankruptcy*
5. *Tax Incentives for Highly-Advanced Technology Businesses*
6. *"National Subsidy" to Inchon*
7. *POSCO Purchase of Sammi Specialty Steel Division for More Than Adequate Remuneration*
8. *Provision of Electricity for Less Than Adequate Remuneration*
9. *Reserve for Investment*
10. *Kwangyang Bay Project*
11. *Export Facility Loans*
12. *Reserve for Export Loss Under the Tax Exemption and Reduction Control Act (TERCL)*
13. *Reserve for Overseas Market Development Under the Tax Exemption and Reduction Control Act (TERCL)*
14. *Unlimited Deduction of Overseas Entertainment Expenses*
15. *Short-Term Export Financing*
16. *Korean Export-Import Bank (EXIMBANK) Loans*
17. *Special Depreciation of Assets on Foreign Exchange Earnings*
18. *Export Insurance Rates Provided by the Korean Export Insurance Corporation*
19. *Excessive Duty Drawback*
20. *Uncreditworthiness for 1990 through 1997*

Petitioners have alleged that two Korean producers of the subject merchandise, Sammi Steel Company (Sammi) and Inchon Iron & Steel Company (Inchon), were uncreditworthy during the period 1990 through 1997 and 1991 through 1997, respectively. For those respective years, petitioners have provided financial ratios for the two companies which indicate that the companies may be uncreditworthy for those respective periods. Thus, for those respective years, we will investigate whether the companies were uncreditworthy during the years in which petitioners have alleged non-recurring countervailable subsidies.

Petitioners have also alleged that Sammi and Inchon were uncreditworthy from 1983 through 1997. We are not investigating creditworthiness in the years 1983 through 1989 for Sammi and for the years 1983 through 1990 for Inchon. Petitioners did not provide any information to indicate that the companies were uncreditworthy for those respective years.

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act, copies of the public version of the petition have been provided to the representatives of France, Italy, and Korea. We will attempt to provide copies of the public version of the petition to all the exporters named in the petition, as provided for under section 351.203(c)(2) of the Department's regulations.

ITC Notification

Pursuant to section 702(d) of the Act, we have notified the ITC of these initiations.

Preliminary Determination by the ITC

The ITC will determine by July 27, 1998, whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports of stainless steel sheet and strip from France, Italy, and Korea. A negative ITC determination will, for any country, result in the investigation being terminated with respect to that country; otherwise, the investigations will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 777(i) of the Act.

Dated June 30, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–18603 Filed 7–10–98; 8:45 am]

BILLING CODE 3510–DS–P

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 070698B]

Mid-Atlantic Fishery Management Council; Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's (Council) Summer Flounder, Scup, Black Sea Bass, and Bluefish Monitoring Committees will hold a public meeting.

DATES: The meeting will be held on Tuesday, July 28, 1998, the Black Sea Bass Monitoring Committee will meet from 10:00 a.m. until 1:00 p.m. and the Scup Monitoring Committee will meet from 2:00–4:00 p.m. On Wednesday, July 29, 1998, the Summer Flounder Monitoring Committee will meet from 8:00 a.m. until noon, and the Bluefish Monitoring Committee will meet from 1:00–3:00 p.m.

ADDRESSES: These meetings will be held at the Westin Suites, 4101 Island Avenue, Philadelphia, PA; telephone: 215–365–6600.

Council address: Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19904, telephone: 302–674–2331.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Acting Executive Director, Mid-Atlantic Fishery Management Council, telephone: 302–674–2331, ext. 16.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to recommend the 1999 commercial management measures, commercial quotas, and recreational harvest limits for summer flounder, scup, and black sea bass. The Bluefish Monitoring Committee will meet to recommend commercial management measures, recreational management measures, and a commercial quota for bluefish for 1999.

Although other issues not contained in this agenda may come before this Committee for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be of formal action during this meeting. Action will be restricted to those issues specifically identified in the agenda listed in this notice.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at the Council (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: July 7, 1998.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–18613 Filed 7–10–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 070298I]

North Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of committee meeting.

SUMMARY: A joint committee of members of the North Pacific Fishery Management Council (Council) and Alaska Board of Fisheries (Board) will meet in Anchorage, AK.

DATES: The meetings will be held on Wednesday and Thursday, July 29–30, 1998 beginning at 9:00 a.m. on Wednesday, July 29.

ADDRESSES: The meetings will be held at the Clarion Suites Hotel, 325 West 8th Avenue, Anchorage, AK.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Council staff, telephone: 907–271–2809.

SUPPLEMENTARY INFORMATION: The committee will receive reports and discuss the following issues:

1. Halibut: Local area management plans for halibut; proposed moratorium on entry into the halibut charterboat fishery, and the charterboat logbook program.
2. Groundfish: Status report on State fisheries and recent Council and Board action with regard to salmon bycatch in groundfish fisheries, improved utilization and retention, fisheries closures, and proposals received for changes in regulations.
3. Habitat: Recent essential fish habitat amendments and regulatory actions taken.
4. Scallops: A change in the overfishing definition and a report on the proposed limited entry program.
5. Crab: A change in definitions of maximum sustainable yield, optimum yield, and overfishing, and a progress report on a vessel buyback program.

Although other issues not contained in this agenda may come before the Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be of formal action during this meeting. Action will be restricted to those issues specifically identified in the agenda listed in this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Helen Allen, 907–271–2809, at least 5 working days prior to the meeting date.

Dated: July 7, 1998.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–18614 Filed 7–10–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 070298H]

South Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold joint meetings of its Shrimp Committee and Rock Shrimp Advisory Panel and its Calico Scallop Committee and Advisory Panel.

DATES: The meetings will be held from July 28-30, 1998. See **SUPPLEMENTARY INFORMATION.** The meeting will be held at the Town & Country Inn, 2008 Savannah Highway, Charleston, SC; telephone: (843) 571-1000.

Council address: South Atlantic Fishery Management Council, One Southpark Circle, Suite 306; Charleston, SC 29407–4699.

FOR FURTHER INFORMATION CONTACT: Susan Buchanan, Public Information Officer; telephone: (843) 571-4366; fax:

(843) 769-4520; email: susan.buchanan@noaa.gov

SUPPLEMENTARY INFORMATION:

Meeting Dates

July 28, 1998, 1:00 p.m. to 5:00 p.m. & July 29, 1998, 8:30 a.m. to 12:00 noon

The Shrimp Committee and Rock Shrimp Advisory Panel will review and provide comments on the Comprehensive Habitat Amendment and the Sustainable Fisheries Act Amendment, provide detailed input on rock shrimp catch by area for use in determining impacts, and hear a presentation on vessel monitoring systems before discussing any other business.

July 29, 1998, 1:00 p.m. to 5:00 p.m. & July 30, 1998, 8:30 a.m. to 12:00 noon

The Calico Scallop Committee and Calico Scallop Advisory Panel will hear a presentation on vessel monitoring systems, review and provide comments on the Comprehensive Habitat Amendment and the Sustainable Fisheries Act Amendment and on the Calico Scallop Fishery Management Plan, and provide detailed input on calico scallop catch by area for use in determining impacts before discussing any other business.

Although other issues not contained in this agenda may come before the Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be of formal action during this meeting. Action will be restricted to those issues specifically identified in the agenda listed in this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) by July 20, 1998.

Dated: July 8, 1998.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–18611 Filed 7–10–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 070198C]

Marine Mammals; File No. P79H

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permit amendment.

SUMMARY: Notice is hereby given that Permit No. 887, issued to Institute of Marine Sciences, LML, University of California, Santa Cruz, CA 95060 (Principal Investigator: Ronald J. Schusterman, Ph.D.), was amended to extend the expiration date to December 31, 1998.

ADDRESSES: The amendment and related documents are available for review upon written request or by appointment in the following offices:

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130 Silver Spring, MD 20910 (301/713–2289); and

Southwest Region, NMFS, 501 West Ocean Blvd., Long Beach, CA 90802–4213 (310/980–4001).

FOR FURTHER INFORMATION CONTACT: Ruth Johnson or Sara Shapiro, 301/713–2289.

SUPPLEMENTARY INFORMATION: The subject amendment has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the provisions of § 216.39 of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Dated: July 7, 1998.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–18610 Filed 7–10–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 062998B]

Marine Mammals; File No. 782–1455

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Douglas P. DeMaster, Ph.D., Director, National Marine Mammal Laboratory, National Marine Fisheries Service, NOAA, 7600 Sand Point Way, NE, BIN C15700, Bldg. 1, Seattle, WA 98115–0070, has been issued a permit to take northern fur seals (*Callorhinus ursinus*), Steller sea lions (*Eumetopias jubatus*), and California sea lions (*Zalophus californianus*) for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand Point Way, NE, BIN C15700, Bldg. 1, Seattle, WA 98115–0070 (206/526–6150);

Regional Administrator, Southwest Region, National Marine Fisheries Service, NOAA, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213 (562/980–4001); and

Regional Administrator, Alaska Region, National Marine Fisheries Service, NOAA, P.O. Box 21668, Juneau, AK 99802–1668 (907/586–7221).

FOR FURTHER INFORMATION CONTACT: Sara Shapiro or Ruth Johnson, 301/713–2289.

SUPPLEMENTARY INFORMATION: On May 13, 1998, notice was published in the **Federal Register** (63 FR 26574) that a request for a scientific research permit to take northern fur seals, Steller sea lions, and California sea lions, had been submitted by the above-named individual. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR parts 217–227), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: July 6, 1998.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–18612 Filed 7–10–98; 8:45 am]

BILLING CODE 3510–22–F

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DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Associated Form, and OMB Number: NROTC Applicant Questionnaire; NAVCRUIT Form 1131/6; OMB Number 0703–0028.

Type of Request: Extension.

Number of Respondents: 40,000.

Responses Per Respondent: 1.

Annual Responses: 40,000.

Average Burden Per Response: 15 minutes.

Annual Burden Hours: 10,000.

Needs and Uses: The information collection is used by the Navy Recruiting Command to determine basic eligibility for the Four-Year NROTC Scholarship Program, and is necessary for the initial screening of prospective applicants. Use of this questionnaire is the only accurate and specific method to determine scholarship awards. Each individual who wishes to apply for the scholarship program completes and returns the questionnaire.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Edward C. Springer. Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing. Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: July 7, 1998.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–18541 Filed 7–10–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Army

Final Environmental Assessment and Finding of No Significant Impact for the Fielding of the "Generator, Mechanical Smoke: For Dual Purpose Unit, M56" and the "Generator Smoke Mechanical: Mechanized Smoke Obscurant System M58"

AGENCY: Department of the Army, DoD.

ACTION: Notice of Availability.

SUMMARY: The Department of the Army announces the availability of the final Programmatic Environmental Assessment (PEA) and Finding of No Significant Impact (FNSI) for the Fielding of the "Generator, Mechanical Smoke: For Dual Purpose Unit, M56" and the "Generator Smoke Mechanical: Mechanized Smoke Obscurant System M58." The Army published a notice of availability in the **Federal Register** of the drafts for both the PEA and FNSI on April 27, 1998 (63 FR 20615), which initiated a 30-day period for public review and comment. The public review and comment period ended on May 27, 1998.

The Army's proposed action is to field the M56 and M58 to Army installations across the Nation for use in visual and infrared training. The PEA discloses the general types of impacts and effects on all relevant aspects of the human environment (e.g., flora, fauna, air, soil, water and human health) that will likely result from use of the graphite module in training. See PEA, pages 55–65. Receiving installations will be required to prepare site-specific analyses in which they consider the intensity of impacts associated with the emission of graphite particles into the local environment, and, if appropriate, develop mitigation measures.

ADDRESSES: A copy of the final PEA and FNSI may be obtained by writing to Commander, U.S. Army Environmental Center, ATTN:SFIM–AEC–(Mr. Hankus), Aberdeen Proving Ground, Maryland 21010–5401 or by calling (410) 671–2556.

SUPPLEMENTARY INFORMATION: No public comments were received following the 30-day comment period on the draft PEA and finding. As a result, the Army has finalized the FNSI and will proceed with implementation of the proposed action without further review and comment. Preparation of an Environmental Impact Statement will not be required.

Dated: July 2, 1998.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health) (OASA (I, L&E)).

[FR Doc. 98–18449 Filed 7–10–98; 8:45 am]

BILLING CODE 3710–01–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Chief Financial and Chief Information Officer, Office of the Chief Financial and Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before September 11, 1998.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Chief Financial and Chief Information Officer, Office of the Chief Financial and Chief Information Officer, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: July 8, 1998.

Donald Rappaport,

Chief Financial and Chief Information Officer, Office of the Chief Financial and Chief Information Officer.

Office of the Under Secretary

Type of Review: Reinstatement.

Title: Safe and Drug-Free Schools and Communities Act: Request for Clearance of the State Education Agency and Governor's Reporting Forms.

Frequency: Annually.

Affected Public: State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 109.
Burden Hours: 4,360.

Abstract: Section 4117 of the Safe and Drug-Free Schools and Communities Act (SDFSCA) requires state chief executive officers, and state educational agencies (SEAs) to submit to the Secretary on a triennial basis a report on the implementation and outcomes of state, local and Governor's SDFSCA programs. ED must report to the President and Congress on a biennial basis regarding the national impact of SDFSCA programs. The two instruments, one for SEAs and one for Governor's programs, included with this Paperwork Reduction Act submission will be used by states to submit the required data to ED.

Office of Educational Research and Improvement

Type of Review: New.

Title: Early Childhood Longitudinal Study (ECLS) First Grade Fall 1998 Pilot Study, Fall 1999 and Spring 2000 Full Scale.

Frequency: Fall 1998, Fall 1999, and Spring 2000.

Affected Public: Individuals or households; Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 600.
Burden Hours: 313.

Abstract: The ECLS begins in Fall 1998–1999 with a kindergarten cohort. This clearance is for follow up activities with this cohort of students one year later, when they are typically in first grade. There will be a pilot of the first grade fall survey in Fall 1998, and the full scale surveys will take place in Fall of 1999 and Spring of 2000. The ECLS looks at the crucial first years of school from the perspective of the students, teachers, parents, and school administrators. There are assessments of the students. The survey is intended to provide information about early childhood preschool learning experiences, from birth to age 8, preparation for formal schools, first school experiences, and progress made over the first years of school.

Office of Postsecondary Education

Type of Review: Revision.

Title: William D. Ford Federal Direct Loan Program Electronic Debit Account Brochure and Authorization Form.

Frequency: On occasion.

Affected Public: Individuals or households.

Reporting and Recordkeeping Hour Burden:

Responses: 102,000.
Burden Hours: 3,400.

Abstract: This form will be the means by which a Direct Loan borrower authorizes establishment of an Electronic Debit Account.

Office of the Under Secretary

Type of Review: New.

Title: National Longitudinal Survey of Schools (NLSS).

Frequency: Annually.

Affected Public: State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 18,800.
Burden Hours: 10,760.

Abstract: This study is being conducted to support the legislative requirement in P.L. 103–382, Section 1501 to assess the implementation of Title I and education reform. It will examine principals' and teachers' understanding and implementation of standards-based reform and the new provisions of Title I. Information on schools serving significant proportions of migrant, limited-English proficient (LEP), or Native American students, and schools that have been identified as in need of improvement will also be gathered.

Office of Postsecondary Education

Type of Review: Extension.

Title: Guaranty Agency Quarterly/Annual Report.

Frequency: Annually.

Affected Public: Businesses or other for-profits, State, local or Tribal Gov't, SEAs or LEAs. Reporting and Recordkeeping Hour Burden:

Responses: 37.
Burden Hours: 9,250.

Abstract: The Guaranty Agency Quarterly/Annual Report is submitted by 37 agencies operating a study loan insurance program under agreement with the Department of Education. These reports are used to evaluate agency operations, make payments to agencies as authorized by law, and to make reports to Congress.

Office of Educational Research and Improvement

Type of Review: Extension.

Title: Standards for the Conduct and Evaluation of Activities Carried Out by the Office of Educational Research and Improvement (OERI)—Phase 1.

Frequency: Annually.

Affected Public: Individuals or households; Businesses or other for-profits; Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 1.
Burden Hours: 1.

Abstract: OERI was required by its authorizing statute to establish standards for the processes it uses to evaluate applications for grants and cooperative agreements and proposals for contracts. These established standards (34 CFR 700) allow OERI to tailor selection criteria to individual programs by selecting from the menu of selection criteria contained in this regulation. This regulation has also eliminated the need for separate programs within OERI to establish individual program regulations to create evaluation criteria.

[FR Doc. 98–18565 Filed 7–10–98; 8:45 am]
BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

ACTION: Submission for OMB review; comment request.

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SUMMARY: The Chief Financial and Chief Information Officer, Office of the Chief Financial and Chief Information Officer, invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before August 12, 1998.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Chief Financial and Chief Information Officer, Office of the Chief Financial and Chief Information Officer, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: July 8, 1998.

Donald Rappaport,

Chief Financial and Chief Information Officer, Office of the Chief Financial and Chief Information Officer.

Office of Educational Research and Improvement

Type of Review: Revision.

Title: 1998–1999 Field Test for Schools and Staffing Survey (SASS): Local Educational Agency (LEA), Administrator, School, Teacher and Library/Media Center, 1999–2000 Teacher Listing Form, 1999–2000 Full Scale SASS: LEA, Administrator, School, Teacher and Library/Media Center.

Frequency: One time.

Affected Public: Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 104,341.
Burden Hours: 107,802.

Abstract: The National Center for Education Statistics (NCES) will use the field test to assess data collection procedures and survey instruments that are planned for the full scale SASS in 1999–2000. Policy makers, researchers and practitioners at the national, state and local events use SASS data. Respondents include public and private school principals, teachers, and school, LEA and library/media center staff persons.

[FR Doc. 98–18566 Filed 7–10–98; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[IC98–566–001 FERC–566]

Information Collection Submitted for Review and Request for Comments

July 7, 1998.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of submission for review by the Office of Management and Budget (OMB) and request for comments.

SUMMARY: The Federal Energy Regulatory Commission (Commission) has submitted the energy information collection listed in this notice to the Office of Management and Budget (OMB) for review under provisions of Section 3507 of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13). Any interested person may file comments on the collection of information directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission received comments from electric utilities and electric trade associations in response to an earlier **Federal Register** notice of February 5, 1998 (63 FR 5933). The Commission has addressed these comments in its submission to OMB.

DATES: Comments regarding this collection of information are best assured of having their full effect if received on or before August 12, 1998.

ADDRESSES: Address comments to Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Federal Energy Regulatory Commission, Desk Officer, 725 17th Street, N.W., Washington, D.C. 20503. A copy of the comments should also be sent to Federal Energy Regulatory Commission, Office of the Chief Information Officer, Attention: Mr. Michael Miller, 888 First Street N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 208–1415, by fax at (202) 273–0873, and by e-mail at michael.miller@ferc. fed.us.

SUPPLEMENTARY INFORMATION:

Description

The energy information collection submitted to OMB for review contains:

1. *Collection of Information:* FERC–566 "Annual Report of a Utility's Twenty Largest Purchasers"
2. *Sponsor:* Federal Energy Regulatory Commission
3. *Control No.:* OMB No. 1902–0114. The Commission is now requesting that OMB approve a three-year extension of the current expiration date, with no changes to the existing collection. This is a mandatory information collection requirement.
4. *Necessity of Collection of Information:* Submission of the information is necessary to fulfill the requirements of Section 211-Interlocking Directorates, which defines monitoring and regulatory operations concerning interlocking directorate positions held by utility personnel and possible conflicts of interest. The information submitted enables the Commission to carry out its responsibilities in implementing the statutory provisions of the Title II, Section 211 of the Public Utility Regulatory Policies Act of 1978.
5. *Respondent Description:* The respondent universe currently comprises on average, 175 companies

subject to the Commission's jurisdiction.

6. *Estiamted Burden:* 1,050 total burden hours, 175 respondents, 1 response annually, 6 hours per response (average).

7. *Estimated Cost Burden to Respondents:* 1,050 hours ÷ 2,088 hours per year × $109,889 per year = $55,260, average cost per respondent = $315.

Statutory Authority: Section 211 of the public Utility Regulatory Policies Act of 1978 (PURPA), 16 U.S.C. 825d.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18495 Filed 7–10–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–318–000]

ANR Storage Company; Notice of Proposed Changes in FERC Gas Tariff

July 7, 1998.

Take notice that on July 1, 1998, ANR Storage Company (ANRS) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Fourth Revised Sheet No. 153, to be effective August 1, 1998.

ANRS states that the purpose of the filing is to incorporate Version 1.2 of the GISB standards adopted by the Gas Industry Standards Board and incorporated into the Commission's Regulations by Order No. 587–G, issued April 16, 1998, at Docket No. RM96–1–007.

ANRS states that copies of the filing were served upon the company's jurisdictional customers.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18507 Filed 7–10–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–324–000]

Blue Lake Gas Storage Company; Notice of Proposed Changes in FERC Gas Tariff

July 7, 1998.

Take notice that on July 1, 1998, Blue Lake Gas Storage Company (Blue Lake) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Fourth Revised Sheet No. 153, to be effective August 1, 1998.

Blue Lake states that the purpose of the filing is to incorporate Version 1.2 of the GISB standards adopted by the Gas Industry Standards Board and incorporated into the Commission's Regulations by Order No. 587–G, issued April 16, 1998, at Docket No. RM96–1–007.

Blue Lake states that copies of the filing were served upon the company's jurisdictional customer.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18483 Filed 7–10–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–338–000]

Cove Point LNG Limited Partnership; Notice of Proposed Changes in FERC Gas Tariff

July 7, 1998.

Take notice that on July 2, 1998, Cove Point LNG Limited Partnership, (Cove Point) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Fourth Revised Sheet No. 136, with an effective date of August 1, 1998.

Cove Point states that the tariff sheet is being filed to adopt the business practice and electronic communications standards promulgated by the Gas Industry Standards Board and adopted by the Commission in Order No. 587–G.

Cove Point states that copies of the filing were served upon Cove Point's customers and interested state regulatory commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18493 Filed 7–10–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

East Tennessee Natural Gas Company; Notice of Tariff Filing

[Docket No. RP98–328–000]

Take notice that on July 1, 1998, East Tennessee Natural Gas Company (East

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Tennessee), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, with an effective date of August 1, 1998:

Third Revised Sheet No. 155
Second Revised Sheet No. 156
First Revised Sheet No. 230
First Revised Sheet No. 231
Second Revised Sheet No. 232
First Revised Sheet No. 235
Second Revised Sheet No. 236
First Revised Sheet No. 237
Original Sheet No. 305
Original Sheet No. 306

East Tennessee states that it is submitting these revised tariff sheets in order to provide additional flexibility to its customers by allowing agency agreements under each of its rate schedules and allowing for an additional agency agreement for Electronic Data Interchange. East Tennessee also proposes to revise the tariff sheets to correct certain minor misstatements and to update its agency tariff provisions. East Tennessee requests an effective date of August 1, 1998.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,
Acting Secretary.

[FR Doc. 98–18486 Filed 7–10–98; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–636–000]

East Tennessee Natural Gas Company; Notice of Request Under Blanket Authorization

July 7, 1998.

Take notice that on June 26, 1998, East Tennessee Natural Gas Company (East Tennessee), P.O. Box 2511, Houston, Texas 77252–2511, filed in Docket No. CP98–636–000 a request pursuant to Sections 157.205 and 157.212 of Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to operate as jurisdictional an existing delivery point facility that was constructed under Section 311(a) of the Natural Gas Policy Act of 1978 (NGPA), under the East Tennessee's blanket certificate issued in Docket No. CP82–412–000 pursuant to Section 7 of Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

East Tennessee states that it has recently constructed a delivery point (Rockwood Meter Station) under Section 311(a) of the NGPA for use in the transportation of natural gas under Subpart B of Part 284 of the Commission's regulations. Granting the requested authorization will enable East Tennessee to fully utilize this facility for all transportation services, pursuant to Section 311 of the NGPA and Section 7 of the NGA and will increased the transportation options of customers on East Tennessee's system.

East Tennessee states that delivery volumes through the existing delivery point would not impact its peak day and annual deliveries; that the proposed activity is not prohibited by its existing tariff; and that it has sufficient capacity to accommodate the proposed changes without detriment or disadvantage to its other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,
Acting Secretary.

[FR Doc. 98–18496 Filed 7–10–98; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–333–000]

East Tennessee Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

July 7, 1998.

Take notice that on July 1, 1998, East Tennessee Natural Gas Company (East Tennessee), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, with an effective date of August 1, 1998:

Second Revised Sheet No. 9
First Revised Sheet No. 41
First Revised Sheet No. 181
First Revised Sheet No. 199

East Tennessee states that the purpose of the filing is to provide more detail and specificity in East Tennessee's tariff and East Tennessee's pro forma service agreements regarding the types of discounts that may be granted by East Tennessee. East Tennessee states that by including this information in its tariff, East Tennessee hopes to reduce any need for filing individual discount agreements as "material deviations."

East Tennessee proposes to revise two of its rate schedules and the related pro forma service agreements, so as to more clearly reflect the types of discounts that may be given by East Tennessee. First, East Tennessee proposes to revise Section 4.1 of Rate Schedule FT–A and Section 6.1 of the *pro forma* transportation agreement to reflect all of the following types of discounts for FT–A service: (a) point-specific; (b) volume-specific; (c) discounts based on a variable reservation/commodity charge allocation; and (d) authorized overrun.

In addition, to address the release of discounted volumes, East Tennessee proposes to add the following sentence to Section 4.1 and Section 6.1: "In the event Shipper releases capacity at a rate which is higher than Shipper's discounted rate, such difference may be shared in the manner agreed to by Transporter and Shipper." Second, East Tennessee proposes to revise Sections 4.1 of Rate Schedule IT and Section 6.1 of the IT pro forma transportation agreement to provide for point-specific and volume-specific discounts.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the

Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18513 Filed 7–10–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–311–000]

El Paso Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

July 7, 1998.

Take notice that on July 1, 1998, El Paso Natural Gas Company (El Paso) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1–A, the following tariff sheets, with an effective date of August 1, 1998:

Third Revised Sheet No. 202A
Fourth Revised Sheet No. 202B
Second Revised Sheet No. 206

El Paso states that the filing is being made in compliance with Order No. 587–G issued April 16, 1998 at Docket No. RM96–1–007.

El Paso states that the tariff sheets are being filed to implement Version 1.2 of the Gas Industry Standards Board (GISB) Standards accepted by the Commission in Order No. 587–G.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18500 Filed 7–10–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT98–78–000]

Gulf States Transmission Corporation; Notice of Filing

July 7, 1998.

Take notice that on July 1, 1998, Gulf States Transmission Corporation (Gulf States), tendered for filing the revised tariff sheets listed in Appendix A to the filing. Gulf States proposes that the foregoing tariff sheets be made effective on August 1, 1998.

Gulf States states this filing is made to reflect ministerial tariff changes resulting from the recent acquisition of Gulf States by El Paso Energy Corporation. Gulf States further states that the instant filing specifically modifies the company's address, telephone numbers and personnel titles and designations from its currently effective tariff to conform with the changes due to the purchase by El Paso Energy. Gulf States further states that the changes effected by this filing are purely ministerial and have no substantive effect on Gulf States' tariff.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18498 Filed 7–10–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–330–000]

Koch Gateway Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

July 7, 1998.

Take notice that on July 1, 1998, Koch Gateway Pipeline Company (Koch) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, to become effective August 1, 1998:

Third Revised Sheet No. 2400
Third Revised Sheet No. 2401
Third Revised Sheet No. 2402
Fourth Revised Sheet No. 2403
Third Revised Sheet No. 2404
Third Revised Sheet No. 2405
Second Revised Sheet No. 2406
First Revised Sheet No. 4756

Koch states that this filing is in compliance with the Commission's Order No. 587–G, issued April 16, 1998, at Docket No. RM96–1–007. The revised tariff sheets contain modifications reflecting Koch's compliance with the standards promulgated by the Gas Industry Standards Board (GISB), to become effective as of August 1, 1998.

Koch states that copies of the filing have been served upon each person designated on the official service list.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18488 Filed 7–10–98; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP-98-336-000]

Koch Gateway Pipeline Company; Notice of Waiver

July 7, 1998.

Take notice that on July 1, 1998, Koch Gateway Pipeline Company (Koch) filed a request for a waiver from the Commission's requirement to comply with 18 CFR 284.10(c)(3)(iii) regarding an electronic cross-reference table.

Koch states that copies of the filing have been served upon each party designated on the official service list.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18492 Filed 7–10–98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98-327-000]

Midwestern Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

July 7, 1998.

Take notice that on July 1, 1998, Midwestern Gas Transmission Company (Midwestern), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, with an effective date of August 1, 1998:

First Revised Sheet No. 12
Second Revised Sheet No. 25
First Revised Sheet No. 122
First Revised Sheet No. 131

Midwestern states that the purpose of the filing is to provide more detail and specificity in Midwestern's tariff and Midwestern's pro forma service agreements regarding the types of discounts that may be granted by Midwestern. Midwestern states that by including this information in Midwestern's tariff, Midwestern hopes to greatly reduce any need for filing individual discount agreements as "material deviations."

Midwestern proposes to revise two of its rate schedules and the related pro forma service agreements, rather than make material deviation filings, so as to more clearly reflect the types of discounts that may be given by Midwestern. First, Midwestern proposes to revise Section 4.1 of Rate Schedule FT–A and Section 6.1 of the pro forma transportation agreement to reflect all of the following types of discounts for FT–A service: (a) point-specific; (b) volume-specific; (c) discounts based on a variable reservation/commodity charge allocation; and (d) authorized overrun.

In addition, to address the release of discounted volumes, Midwestern proposes to add the following sentence to Section 4.1 and Section 6.1: "In the event Shipper releases capacity at a rate which is higher than Shipper's discounted rate, such difference may be shared in the manner agreed to by Transporter and Shipper." Second, Midwestern proposes to revise Sections 4.1 of Rate Schedule IT and Section 6.1 of the IT pro forma transportation agreement to provide for point-specific and volume-specific discounts.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18485 Filed 7–10–98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98-331-000]

Midwestern Gas Transmission; Notice of Tariff Filing

July 7, 1998.

Take notice that on July 1, 1998, Midwestern Gas Transmission Company (Midwestern), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, with an effective date August 1, 1998:

Second Revised Sheet No. 104
Third Revised Sheet No. 105
First Revised Sheet No. 173
First Revised Sheet No. 174
First Revised Sheet No. 178
Second Revised Sheet No. 179
First Revised Sheet No. 180
Original Sheet No. 204
Original Sheet No. 205

Midwestern is submitting these revised tariff sheets in order to provide additional flexibility to its customers by allowing agency agreements under each of its rate schedules and allowing for an additional agency agreement for Electronic Data Interchange. Midwestern also proposes to revise the tariff sheets to correct certain minor misstatements and to update its agency tariff provisions. Midwestern requests an effective date of August 1, 1998.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Sheet, N.W., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18489 Filed 7–10–98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–337–000]

MIGC, Inc. Notice of Proposed Changes in FERC Gas Tariff

July 7, 1998

Take notice that on July 1, 1998 MIGC, Inc. (MIGC), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Second Revised Sheet No. 6 with a proposed effective date of August 1, 1998.

MIGC states that the purpose of the filing is to revise and update the fuel retention and loss percentage factors (FL&U factors) set forth in its FERC Gas Tariff, First Revised Volume No. 1 in accordance with the requirement of Section 25 of said tariff.

MIGC states that copies of its filing are being mailed to its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18512 Filed 7–10–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–329–000]

Mobile Bay Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

July 7, 1998.

Take notice that on July 1, 1998, Mobile Bay Company (Mobile Bay) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, to become effective August 1, 1998:

Third Revised Sheet No. 184
Third Revised Sheet No. 185
Fourth Revised Sheet No. 186
Second Revised Sheet No. 186A
Second Revised Sheet No. 187
Second Revised Sheet No. 188
First Revised Sheet No. 189
First Revised Sheet No. 366

Mobile Bay states this filing is in compliance with the Commission's Order No. 587–G, issued April 16, 1998, at Docket No. RM96–1–007. The revised tariff sheets contain modifications reflecting Mobile Bay's compliance with the standards promulgated by the Gas Industry Standards Board, to become effective as of August 1, 1998.

Mobile Bay states that copies of the filing have been served upon each person designated on the official service list.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18487 Filed 7–10–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–335–000]

Mobile Bay Pipeline Company; Notice of Waiver

July 7, 1998.

Take notice that on July 1, 1998, Mobile Bay Pipeline Company (Mobile Bay) filed a request for a waiver from the Commission's requirement to comply with 18 CFR 284.10(c)(3)(iii) regarding an electronic cross-reference table.

Mobile Bay states that copies of this filing have been served upon each party designated on the official service list.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18511 Filed 7–10–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–313–000]

Mojave Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

July 7, 1998.

Take notice that on July 1, 1998, Mojave Pipeline Company (Mojave) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, with an effective date of August 1, 1998:

First Revised Sheet No. 202
First Revised Sheet No. 203
First Revised Sheet No. 211

Mojave states that the filing is being made in compliance with Order No. 587–G issued April 16, 1998 at Docket No. RM96–1–007.

Mojave states that the tariff sheets are being filed to implement Version 1.2 of the Gas Industry Standards Board (GISB) Standards accepted by the Commission in Order No. 587–G.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests

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will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,
Acting Secretary.

[FR Doc. 98–18502 Filed 7–10–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–2597–000]

Nashua Hydro Associates; Notice of Filing

July 2, 1998.

Take notice that on June 5, 1998, Nashua Hydro Associates tendered for filing a Notice of Withdrawal in the above-referenced docket.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before July 13, 1998. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,
Acting Secretary.

[FR Doc. 98–18550 Filed 7–10–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–321–000]

Paiute Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

July 7, 1998.

Take notice that on July 1, 1998, Paiute Pipeline Company (Paiute) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1–A, the following tariff sheets, to become effective August 1, 1998:

First Revised Sheet No. 56C
Third Revised Sheet No. 58B
Third Revised Sheet No. 63C
Second Revised Sheet No. 98A
Third Revised Sheet No. 114

Paiute indicates that the purpose of the instant filing is (1) to comply with the directives or Order No. 587–G, issued by the Commission on April 16, 1998 in Docket No. RM96–1–007; and (2) to effectuate changes to the General Terms and Conditions of Paiute's tariff which are necessary to implement the Gas Industry Standards Board standards which were adopted by the Commission in Order No. 587–G.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,
Acting Secretary.

[FR Doc. 98–18510 Filed 7–10–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–315–000]

Panhandle Eastern Pipe Line Company; Notice of Proposed Changes in FERC Gas Tariff

July 7, 1998.

Take notice that on July 1, 1998, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet to be effective August 1, 1998:

Fourth Revised Sheet No. 339

Panhandle states that the purpose of this filing is to comply with the Commission's Order No. 587–G, issued April 16, 1998, at Docket No. RM96–1–007. The revised tariff sheet included herewith reflects Version 1.2 standards promulgated by the Gas Industry Standards Board which were adopted by the Commission and incorporated by reference in the Commission's Regulations. Specifically, in addition to upgrading the version of previously adopted standards, newly adopted Standards 1.4.6, 2.4.6, 4.3.5, 4.3.16 and 5.3.30 are incorporated by reference and Standard 4.3.4 has been deleted.

Panhandle states that copies of this filing are being served on all affected customers, applicable state regulatory agencies and all parties to this proceeding.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,
Acting Secretary.

[FR Doc. 98–18505 Filed 7–10–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–323–000]

Petal Gas Storage Company; Notice of Proposed Changes in FERC Gas Tariff

July 7, 1998

Take notice that on July 1, Petal Gas Storage Company (Petal) tendered for filing, as part of its FERC Gas Tariff, First Revised Volume No. 1, Second Revised Sheet Nos. 100 and 129, and Original Sheet No. 130, with a proposed effective date of August 1, 1998.

Petal states that the filing is made in compliance with the Commission's Order No. 587–G, issued on April 16, 1998, in Docket No. RM96–1–007, requiring interstate pipelines to update to the most recent version (Version 1.2) of the standards promulgated by the Gas Industry Standards Board (GISB), and also to comply with the non-GISB standards in Order No. 587–G pertaining to pipeline communication protocols, 18 CFR 284.10(c)(ii)–(v).

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18482 Filed 7–10–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–319–000]

PG&E Gas Transmission, Northwest Corporation; Notice of Proposed Changes in FERC Gas Tariff

July 7, 1998.

Take notice that on July 1, 1998, PG&E Gas Transmission, Northwest Corporation (PG&E GT–NW) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1–A, the following tariff sheets, with an effective August 1, 1998:

Seventh Revised Sheet No. 52
Fourth Revised Sheet No. 61
Second Revised Sheet No. 61A
Sixth Revised Sheet No. 62
Fourth Revised Sheet No. 81A
Second Revised Sheet No. 81A.01
Second Revised Sheet No. 81A.02
Third Revised Sheet No. 81A.03
Second Revised Sheet No. 81A.04
Second Revised Sheet No. 81A.05
Third Revised Sheet No. 81A.06
Fifth Revised Sheet No. 91
Fourth Revised Sheet No. 92
Third Revised Sheet No. 95
Third Revised Sheet No. 100
Fourth Revised Sheet No. 105
Fourth Revised Sheet No. 107
Third Revised Sheet No. 110
Fourth Revised Sheet No. 144

PG&E GT–NW asserts the purpose of this filing is to comply with Order No. 587–G, issued April 16, 1998 in Docket RM96–1–007, requiring pipelines to incorporate Version 1.2 of the Gas Industry Standards Board's Business Practice Standards within their tariffs. PG&E GT–NW states the filing conforms its FERC Gas Tariff, First Revised Volume No. 1–A to the requirements of Order No. 587–G.

PG&E GT–NW further states a copy of this filing has been served upon its jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18508 Filed 7–10–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–326–000]

Steuben Gas Storage Company; Notice of Proposed Changes in FERC Gas Tariff

July 7, 1998.

Take notice that on July 1, 1998, Steuben Gas Storage Company (Steuben) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Fourth Revised Sheet No. 154, to be effective August 1, 1998.

Steuben states that the purpose of the filing is to incorporate Version 1.2 of the GISB standards adopted by the Gas Industry Standards Board and incorporated into the Commission's Regulations by Order No. 587–G, issued April 16, 1998, at Docket No. RM96–1–007.

Steuben states that copies of the filing were served upon the company's jurisdictional customers.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18484 Filed 7–10–98; 8:45]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–332–000]

Tennessee Gas Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

July 7, 1998.

Take notice that on July 1, 1998, Tennessee Gas Pipeline Company (Tennessee), tendered for filing, FERC Gas Tariff, Fifth Revised Volume No. 1, the following revised tariff sheets, with an effective date of August 1, 1998:

Fourth Revised Sheet No. 98
First Revised Sheet No. 108A
Third Revised Sheet No. 153
First Revised Sheet No. 159A
Third Revised Sheet No. 526
First Revised Sheet No. 532
First Revised Sheet No. 555
First Revised Sheet No. 580

Tennessee states that the purpose of the filing is to provide more detail and specificity in Tennessee's tariff and Tennessee's pro forma service agreements regarding the types of discounts that may be granted by Tennessee. Tennessee states that by including this information in Tennessee's tariff, Tennessee hopes to reduce any need for filing individual discount agreements as material deviations.

Tennessee proposes to revise four of its rate schedules, FT–A, IT, IS and FS. Tennessee proposes to revise Section 5.1 of Rate Schedule FT–A, which currently reflects only point-specific discounts, and Section 6.1 of the pro forma FT–A transportation agreement to reflect all of the following types of

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discounts: (a) point-specific; (b) volume-specific; (c) discounts based on a variable reservation/commodity charge allocation; (d) authorized overrun; and (e) Extended Deliveries Service. In addition, to address the release of discounted volumes, Tennessee proposes to add the following sentence to Section 5.1 and Section 6.1: "In the event Shipper releases capacity at a rate which is higher than Shipper's discounted rate, such difference may be shared in the manner agreed to by Transporter and Shipper." Tennessee also proposes to revise Section 5.1 of Rate Schedule IT to more specifically state the point-specific and volume-specific discounts already reflected in currently effective Section 5.1 of Rate Schedule IT. Tennessee proposes to revise Section 8.2 of Rate Schedule IS and Section 3.1 of the IS pro forma agreement to reflect volume-specific and storage field-specific discounts. Lastly, Tennessee proposes to revise Section 5.2 of Rate Schedule FT and Section 3.1 of the FS pro forma storage agreement to reflect: (a) volume-specific; (b) storage field-specific and (c) authorized overrun discounts. Tennessee requests an effective date of August 1, 1998.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18490 Filed 7–10–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–334–000]

Tennessee Gas Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

July 7, 1998.

Take notice that on July 1, 1998, Tennessee Gas Pipeline Company (Tennessee), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, Second Revised Sheet No. 304A with an effective date of August 1, 1998.

Tennessee states that the purpose of the filing is to correct an inadvertent error in the description of Tennessee's Market Area Pooling Areas in Tennessee's Tariff. Specifically, Tennessee states that the current description unintentionally omits a description of the Market Area Pooling Area located on Tennessee's 300 Leg, Zone 4.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18491 Filed 7–10–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–314–000]

Texas Eastern Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

July 7, 1998.

Take notice that on July 1, 1998, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheet, to become effective August 1, 1998:

Fourth Revised Sheet No. 681

Texas Eastern asserts that the purpose of this filing is to comply with the Federal Energy Regulatory Commission's Order No. 587–G, Standards for Business Practices of Interstate Natural Gas Pipelines issued on April 16, 1998 in Docket No. RM96–1–007, 83 FERC ¶ 61,029 (1998). Texas Eastern states that the revised tariff sheet included herewith reflects Version 1.2 standards promulgated by the Gas Industry Standards Board which were adopted by the Commission and incorporated by reference in the Commission's Regulations.

Texas Eastern states that copies of the filing were served on all affected customers, interested state commissions and all parties to the proceeding.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Section 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18503 Filed 7–10–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–320–000]

TransColorado Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

July 7, 1998.

Take notice that on July 1, 1998, TransColorado Gas Transmission Company (TransColorado) tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, with an effective date of August 1, 1998:

Fourth Revised Sheet No. 203
First Revised Sheet No. 203.01
Second Revised Sheet No. 240

TransColorado states that the filing is being made in compliance with Order No. 587–G issued April 16, 1998 at Docket No. RM96–1–007.

TransColorado states that the tariff sheets are being filed to implement Version 1.2 of the Gas Industry Standards Board (GISB) Standards accepted by the Commission in Order No. 587–G.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,
Acting Secretary.

[FR Doc. 98–18509 Filed 7–10–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–317–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

July 7, 1998.

Take notice that on July 1, 1998 Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing certain revised tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2, which tariff sheets are included in Appendix A attached to the filing. The proposed effective date of such tariff sheets is November 1, 1998.

Transco states that the purpose of the instant filing is to terminate Section 7(c) firm transportation service under Rate Schedules X–289 and X–302 and to convert such services to service provided under Rate Schedule FT effective November 1, 1998. Upon conversion of SEP service under Rate Schedules X–289 and X–302, all SEP services will have been converted from Section 7(c) service to Part 284 Service.

The charges applicable to SEP firm transportation service which has been converted from individually certificated Section 7(c) firm transportation service to annual firm transportation service under Transco's blanket certificate and Part 284 of the Commission's regulations are set forth on Sheet No. 40F of Transco's Volume No. 1 Tariff.

Transco states that copies of the filing are being mailed to the converting SEP shippers and interested State Commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,
Acting Secretary.

[FR Doc. 98–18506 Filed 7–10–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–322–000]

Trunkline Gas Company; Notice of Proposed Changes in FERC Gas Tariff

July 7, 1998.

Take notice that on July 1, 1998, Trunkline Gas Company (Trunkline) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet to be effective August 1, 1998:

Third Revised Sheet No. 242A

Trunkline states that the purpose of this filing is to comply with the Commission's Order No. 587–G, issued April 16, 1998, at Docket No. RM96–1–007. The revised tariff sheet included herewith reflects Version 1.2 standards promulgated by the Gas Industry standards Board which were adopted by the Commission and incorporated by reference in the Commission's Regulations. Specifically, in addition to upgrading the version of previously adopted standards 1.4.6, 2.4.6, 4.3.5, 4.3.16 and 5.3.30 are incorporated by reference and Standard 4.3.4 has been deleted.

Trunkline states that copies of this filing are being served on all affected customers, applicable state regulatory agencies and all parties to this proceeding.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,
Acting Secretary.

[FR Doc. 98–18481 Filed 7–10–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–646–000]

Williams Gas Pipelines Central, Inc.; Notice of Request under Blanket Authorization

July 7, 1998.

Take notice that on June 30, 1998, Williams Gas Pipelines Central, Inc. (Williams Gas), Post Office Box 3288, Tulsa, Oklahoma 74101, filed a request with the Commission in Docket No. CP98–646–000, pursuant to Sections 157.205, 157.212 and 157.216(b) of the Commission's Regulations under the Natural Gas (NGA) for authorization to replace the City of Iola, Kansas power plant meter settings and appurtenant facilities with multiple-run meter settings, in the same location, in Allen County, Kansas authorized in blanket certificate issued in Docket No. CP82–

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479–000, all as more fully set forth in the request on file with the Commission and open to public inspection.

Williams Gas proposes to abandon by reclaim a positive meter setting (used for peaking) and an orifice meter setting and appurtenant facilities serving the Iola power plant and replace them with a multiple run meter settings and appurtenant facilities at the same location in Section 27, Township 24 South, Range 18 East, Allen County, Kansas. The power plant has installed new power generation equipment which requires that Williams replace the existing meters with meters capable of handling the increased volume.

Williams states that the cost to replace the two settings is estimated to be approximately $152,455 and the cost to reclaim the old facilities would be approximately $1,500. Williams further states that the peak day volume is not expected to increase; however, the non-coincidental peak day volume could increase to 5,100 Dth/day due to the installation of new power generation equipment.

Williams reports that the exchange is not prohibited by an existing tariff and that it has sufficient capacity to accomplish the deliveries specified without detriment or disadvantage to its other customers.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18497 Filed 7–10–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–316–000]

Williams Gas Pipelines Central, Inc.; Notice of Proposed Changes in FERC Gas Tariff

July 7, 1998.

Take notice that on July 1, 1998, Williams Gas Pipelines Central, Inc. (Williams), tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheet, with the proposed effective date of August 1, 1998:

First Revised Sheet No. 297

Williams states that on April 16, 1998, the Commission issued Order No. 587–G (Order). The Order incorporated by reference, in Section 284.10(b), the most recent version (Version 1.2) of standards promulgated by the Gas Industry Standards Board (GISB). These business practices standards supplement standards adopted by the Commission in Order Nos. 587, 587–B, and 587–C. Pipelines were required to comply with regulations by August 1, 1998. Williams states that the purpose of this filing is to revise the tariff in compliance with the Order.

Williams states that a copy of its filing was served on all of Williams' jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18504 Filed 7–10–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–3–49–000]

Williston Basin Interstate Pipeline Company; Notice of Fuel Reimbursement Charge Filing

July 7, 1998.

Take notice that on July 1, 1998, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, the following revised tariff sheets, with an effective date of August 1, 1998:

Second Revised Volume No. 1,
Thirtieth Revised Sheet No. 15
Twelfth Revised Sheet No. 15A
Thirty-third Revised Sheet No. 16
Twelfth Revised Sheet No. 16A
Twenty-ninth Revised Sheet No. 18
Twelfth Revised Sheet No. 18A
Twelfth Revised Sheet No. 19
Twelfth Revised Sheet No. 20
Twenty-sixth Revised Sheet No. 21
Original Volume No. 2
Seventy-fourth Revised Sheet No. 11B

Williston Basin states that the revised tariff sheets reflect revisions to the fuel reimbursement charge and percentage components of the Company's relevant gathering, transportation and storage rates, pursuant to Williston Basin's Fuel Reimbursement Adjustment Provision, contained in Section 38 of the General Terms and Conditions of Williston Basin's FERC Gas Tariff, Second Revised Volume No. 1.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rule and Regulations. All such motions or protests must be filed on or before July 14, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18494 Filed 7–10–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–312–000]

Williston Basin Interstate Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

July 7, 1998.

Take notice that on July 1, 1998, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets to become effective August 1, 1998:

Second Revised Volume No. 1
Fourth Revised Sheet No. 371
Second Revised Sheet No. 372

Williston Basin states that the tariff sheets reflect modifications to Williston Basin's FERC Gas Tariff in compliance with the Commission's Order No. 587–G issued April 16, 1998, in Docket No. RM96–1–007. The tariff sheets reflect the Gas Industry Standards Board (GISB) Version 1.2 standards adopted by the Commission in such Order.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Rules and Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18501 Filed 7–10–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2170–008]

Chugach Electric Association, Inc.; Notice of Availability of Draft Environmental Assessment

July 7, 1998.

An environmental assessment (EA) is available for public review. The EA is for an application to amend the license for the Cooper lake Hydroelectric Project. The application is to increase the spillway capacity to allow passage of the Probable Maximum Flood by lowering the spillway crest to 1,206 feet mean sea level and installing 4.5-foot-high steel sheet parapet wall along the crest of the dam. The EA finds that approval of the amendment would not constitute a major federal action significantly affecting the quality of the human environment. The project is located on Cooper Lake, Cooper Creek and Kenai Lake in the municipality of Anchorage, Alaska.

Copies of the EA are available for review in the Public Reference Branch of the Commission's offices at 888 First Street, NE., Washington, DC 20426.

Comments should be filed within 30 days from the date of this notice and should be addressed to David P. Boergers, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please affix Project No. 2170–008 to all comments. For further information, please contact John K. Novak, Environmental Assessment Coordinator, at (202) 219–2828.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18499 Filed 1–10–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting

July 8, 1998.

The following notice of meeting is published pursuant to section 3(A) of the government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552B:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: July 15, 1998, 10:00 a.m.

PLACE: Room 2C, 888 First Street, N.E., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda. *Note—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: David P. Boergers, Acting Secretary, Telephone (202) 208–0400, for a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the reference and information center.

Consent Agenda—Hydro; 702nd Meeting—July 15, 1998; Regular Meeting (10:00 a.m.)

CAH–1.
  OMITTED
CAH–2.
  OMITTED
CAH–3.
  OMITTED
CAH–4.
  DOCKET# P–2555, 006, KENNEBEC WATER DISTRICT
  OTHER#S P–2556, 011, CENTRAL MAINE POWER COMPANY
  P–2557, 008, CENTRAL MAINE POWER COMPANY
  P–2559, 009, CENTRAL MAINE POWER COMPANY
  UL96–7, 003, KENNEBEC WATER DISTRICT
  UL96–8, 003, CENTRAL MAINE POWER COMPANY
  UL96–9, 003, CENTRAL MAINE POWER COMPANY
  UL96–10, 003, CENTRAL MAINE POWER COMPANY
CAH–5.
  DOCKET# P–2640, 016, FRASER PAPER, INC.
  OTHER#S P–2390, 021, NORTHERN STATES POWER COMPANY (WISCONSIN)
  P–2395, 009, FRASER PAPER, INC.
  P–2421, 009, FRASER PAPER, INC.
  P–2473, 008, FRASER PAPER, INC.
  P–2475, 025, NORTHERN STATES POWER COMPANY (WISCONSIN)
CAH–6 .
  DOCKET# P–2016, 022, CITY OF TACOMA, WASHINGTON
CAH–7.
  DOCKET# P–7463, 000, GENTRY RESOURCES CORPORATION
  OTHER#S P–7824, 000, GENTRY RESOURCES CORPORATION
  P–7825, 000, GENTRY RESOURCES CORPORATION
  P–7826, 000, GENTRY RESOURCES CORPORATION

Consent Agenda—Electric

CAE–1.
  DOCKET# ER98–3026, 000 DTE EDISON AMERICA, INC.
CAE–2.
  DOCKET# EC96–19, 026, CALIFORNIA POWER EXCHANGE CORPORATION

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- OTHER #S ER96–1663, 027, CALIFORNIA POWER EXCHANGE CORPORATION
- CAE–3.
  - DOCKET# ER98–3061, 000, AMEREN SERVICES COMPANY
- CAE–4.
  - DOCKET# ER98–3051, 000, COMMONWEALTH EDISON COMPANY
- CAE–5.
  - DOCKET# ER98–3096, 000, PEPCO SERVICES, INC.
- CAE–6.
  - DOCKET# EF98–5181, 000, UNITED STATES DEPARTMENT OF ENERGY—WESTERN AREA POWER ADMINISTRATION (LOVELAND AREA PROJECT)
- CAE–7.
  - DOCKET# EF98–5171, 000, UNITED STATES DEPARTMENT OF ENERGY—WESTERN AREA POWER ADMINISTRATION (SALT LAKE CITY AREA INTEGRATED PROJECTS)
- CAE–8.
  - DOCKET# ER97–3189, 011, ATLANTIC CITY ELECTRIC COMPANY, BALTIMORE GAS AND ELECTRIC COMPANY AND DELMARVA POWER & LIGHT COMPANY, ET AL.
  - OTHER#S ER97–3189, 012, ATLANTIC CITY ELECTRIC COMPANY, BALTIMORE GAS AND ELECTRIC COMPANY AND DELMARVA POWER & LIGHT COMPANY, ET AL.
- CAE–9.
  - DOCKET# NJ97–3, 002, UNITED STATES DEPARTMENT OF ENERGY—BONNEVILLE POWER ADMINISTRATION
- CAE–10.
  - DOCKET#ER94–1409, 000, CAMBRIDGE ELECTRIC LIGHT COMPANY
  - OTHER#S EL94–88, 000, CAMBRIDGE ELECTRIC LIGHT COMPANY
- CAE–11.
  - DOCKET# EC98–36, 000, CENTRAL MAINE POWER COMPANY
- CAE–12.
  - DOCKET# ER97–1386, 000, CONSUMERS ENERGY COMPANY
- CAE–13.
  - OMITTED
- CAE–14.
  - DOCKET# NJ97–13, 001, ORLANDO UTILITIES COMMISSION
- CAE–15.
  - OMITTED
- CAE–16.
  - DOCKET# EL97–58, 001, COALITION AGAINST PRIVATE TARIFFS
  - OTHER#S ER98–900, 001, WESTERN RESOURCES, INC.
- CAE–17.
  - DOCKET# ER95–1141, 002, CENTRAL POWER AND LIGHT COMPANY
- CAE–18.
  - DOCKET# EL95–46, 001, LAIDLAW GAS RECOVERY SYSTEMS, INC.
  - OTHER#S QF88–389, 002, COYOTE CANYON LANDFILL GAS POWER PLANT
- CAE–19.
  - DOCKET# EL97–19, 001, VILLAGE OF BALMONT, CITY OF JUNEAU, CITY OF PLYMOUTH AND CITY OF REEDSBURG, ET AL. V. WISCONSIN POWER & LIGHT COMPANY
  - OTHER#S SC97–3, 001, VILLAGE OF BALMONT, CITY OF JUNEAU, CITY OF PLYMOUTH AND CITY OF REEDSBURG, ET AL. V. WISCONSIN POWER & LIGHT COMPANY
- CAE–20.
  - DOCKET# OA96–13, 001, PECO ENERGY COMPANY
- CAE–21.
  - DOCKET# TX96–7, 001, CITY OF PALM SPRINGS, CALIFORNIA
- CAG–22.
  - DOCKET# ER98–1033, 001, AUTOMATED POWER EXCHANGE, INC.
  - OTHER#Σ ER98–210, 005, AUTOMATED POWER EXCHANGE, INC.
  - ER98–211, 003, AUTOMATED POWER EXCHANGE, INC.
  - ER98–1033, 002, AUTOMATED POWER EXCHANGE, INC.
  - ER98–1729, 004, AUTOMATED POWER EXCHANGE, INC.
- CAE–23.
  - OMITTED
- CAE–24.
  - DOCKET# ER98–1163, 002, SOUTHWEST POWER POOL, INC.

Consent Agenda—Gas and Oil

- CAG–1.
  - DOCKET# PR98–8, 000, ARKANSAS WESTERN GAS COMPANY
- CAG–2.
  - DOCKET# PR98–7, 000, CRANBERRY PIPELINE CORPORATION
- CAG–3.
  - DOCKET# RP98–175, 002, ANR PIPELINE COMPANY
- CAG–4.
  - DOCKET# RP97–344, 008, TEXAS GAS TRANSMISSION CORPORATION
- CAG–5.
  - DOCKET# MT98–9, 000, NATURAL GAS PIPELINE COMPANY OF AMERICA
  - OTHER#S MT98–9, 001, NATURAL GAS PIPELINE COMPANY OF AMERICA
- CAG–6.
  - DOCKET# RP97–20, 015, EL PASO NATURAL GAS COMPANY
- CAG–7.
  - DOCKET# RP98–189, 000, UTILICORP UNITED INC.
- CAG–8.
  - DOCKET# RP98–202, 000, NATURAL GAS PIPELINE COMPANY OF AMERICA
- CAG–9.
  - DOCKET# RP98–164, 003, WYOMING INTERSTATE COMPANY, LTD.
- CAG–10.
  - DOCKET# PR94–3, 012, KANSOK PARTNERSHIP
  - OTHER#S PR94–3, 009, KANSOK PARTNERSHIP
- CAG–11.
  - DOCKET# RP98–85, 002, NORAM GAS TRANSMISSION COMPANY
- CAG–12.
  - DOCKET# GP97–7, 001, PLAINS PETROLEUM COMPANY AND PLAINS PETROLEUM OPERATION COMPANY
- CAG–13.
  - DOCKET# RP98–166, 000, KANSAS MUNICIPAL GAS AGENCY V. WILLIAMS GAS PIPELINES CENTRAL, INC. (FORMERLY WILLIAMS NATURAL GAS COMPANY)
- CAG–14.
  - DOCKET# RM96–1, 008, STANDARDS FOR BUSINESS PRACTICES OF INTERSTATE NATURAL GAS PIPELINES
- CAG–15.
  - DOCKET# RP98–40, 003, PANHANDLE EASTERN PIPE LINE COMPANY
  - OTHER#S GP98–6, 0O, ANADARKO PETROLEUM CORPORATION
  - GP98–7, 000, OXY USA, INC.
  - GP98–9, 000, AMOCO PRODUCTION COMPANY
- CAG–16.
  - DOCKET# RP98–54, 003, COLORADO INTERSTATE GAS COMPANY
  - OTHER#S GP98–1, 000, UNION PACIFIC RESOURCES CORPORATION
  - GP98–10, 000, AMOCO PRODUCTION COMPANY
  - GP98–11, 000, OXY USA, INC.
  - GP98–17, 000, ANADARKO PETROLEUM CORPORATION
  - RP98–54, 004, COLORADO INTERSTATE GAS COMPANY
- CAG–17.
  - DOCKET# IS98–216, 000, DIXIE PIPELINE COMPANY
- CAG–18.
  - DOCKET# MG98–6, 001, NATURAL GAS PIPELINE COMPANY OF AMERICA
- CAG–19.
  - DOCKET# MG98–8, 000, TUSCARORA GAS TRANSMISSION COMPANY
- CAG–20.
  - DOCKET# CP94–29, 003, PAIUTE PIPELINE COMPANY
- CAG–21.
  - DOCKET# CP94–183, 006, EL PASO NATURAL GAS COMPANY
- CAG–22.
  - DOCKET# CP98–214, 000, EASTERN SHORE NATURAL GAS COMPANY
- CAG–23.
  - DOCKET# CP98–327, 000, WYOMING INTERSTATE COMPANY, LTD. AND COLORADO INTERSTATE GAS COMPANY
- CAG–24.

DOCKET# CP98–357, 000, EL PASO NATURAL GAS COMPANY

CAG–25.

DOCKET# CP98–13, 000, TRANSWESTERN PIPELINE COMPANY

OTHER#S CP98–14, 000, NORTHERN NATURAL GAS COMPANY

CP98–43, 000, PG&E-TEX, L.P.

CAG–26.

DOCKET# CP98–125, 000, MIGC, INC.

OTHER#S CP98–125, 001, MIGC, INC.

CAG–27.

DOCKET# CP27–330, 000, QUESTAR PIPELINE COMPANY

CAG–28.

DOCKET# CP97–678, 000, WILLIAMS GAS PIPELINES CENTRAL, INC.

OTHER#S CP98–168, 000, WILLIAMS GAS PIPELINES CENTRAL, INC.

CAG–29.

DOCKET# CP98–49, 000, K N WATTENBERG TRANSMISSION LIMITED LIABILITY COMPANY

OTHER#S CP98–49, 001, K N WATTENBERG TRANSMISSION LIMITED LIABILITY COMPANY

CAG–30.

OMITTED

CAG–31.

DOCKET# CP98–97, 000, GREAT LAKES GAS TRANSMISSION LIMITED PARTNERSHIP

CAG–32.

DOCKET# CP98–336, 000, TEXAS EASTERN TRANSMISSION CORPORATION

CAG–33.

DOCKET# CP98–159, 000, PHELPS DODGE CORPORATION V. EL PASO NATURAL GAS COMPANY

CAG–34.

DOCKET# CP98–545, 000, COLORADO ENGINEERING EXPERIMENT STATION, INC.

CAG–35.

DOCKET# CP98–128, 000, WYOMING INTERSTATE COMPANY, LTD. AND COLORADO INTERSTATE GAS COMPANY

Hydro Agenda

H–1.

RESERVED

Electric Agenda

E–1.

RESERVED

Oil and Gas Agenda

I.

PIPELINE RATE MATTERS

PR–1A.

OMITTED

PR–1B.

OMITTED

PR–2A.

OMITTED

PR–2B.

OMITTED

PR–3A.

DOCKET# IS90–21 ET AL., 000, WILLIAMS PIPE LINE COMPANY

OTHER#S IS90–39 ET AL., 000, ENRON LIQUIDS PIPELINE COMPANY

ORDER ON INITIAL DECISION

PR–3B.

DOCKET# IS91–34, 000, WILLIAMS PIPE LINE COMPANY

OTHER#S IS92–23, 000, WILLIAMS PIPE LINE COMPANY

IS92–26, 000, WILLIAMS PIPE LINE COMPANY

IS92–37, 000, WILLIAMS PIPE LINE COMPANY

IS93–1, 000, AMOCO PIPELINE COMPANY

IS93–2, 000, WILLIAMS PIPE LINE COMPANY

IS93–5, 000, WILLIAMS PIPE LINE COMPANY

IS93–23, 000, WILLIAMS PIPE LINE COMPANY

IS93–25, 000, WILLIAMS PIPE LINE COMPANY

IS93–26, 000, WILLIAMS PIPE LINE COMPANY

IS93–30, 000, WILLIAMS PIPE LINE COMPANY

IS94–5, 000, WILLIAMS PIPE LINE COMPANY

IS94–6, 000, WILLIAMS PIPE LINE COMPANY

IS94–7, 000, WILLIAMS PIPE LINE COMPANY

IS94–8, 000, WILLIAMS PIPE LINE COMPANY

IS94–19, 000, WILLIAMS PIPE LINE COMPANY

IS94–28, 000, WILLIAMS PIPE LINE COMPANY

IS94–40, 000, WILLIAMS PIPE LINE COMPANY

IS95–2, 000, WILLIAMS PIPE LINE COMPANY

IS95–7, 000, WILLIAMS PIPE LINE COMPANY

IS95–10, 000, WILLIAMS PIPE LINE COMPANY

IS95–20, 000, WILLIAMS PIPE LINE COMPANY

IS95–23, 000, WILLIAMS PIPE LINE COMPANY

IS95–28, 000, WILLIAMS PIPE LINE COMPANY

IS95–30, 000, WILLIAMS PIPE LINE COMPANY

ORDER CONSOLIDATING PROCEEDINGS AND DIRECTING FURTHER PROCEEDINGS

II.

PIPELINE CERTIFICATE MATTERS

PC–1.

RESERVED

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18678 Filed 7–9–98; 10:58 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Notice of Cases Filed During the Week of May 11 Through May 15, 1998

During the Week of May 11 through May 15, 1998, the appeals, applications, petitions or other requests listed in this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who will be aggrieved by the DOE action sought in any of these cases may file written comments on the application within ten days of publication of this Notice or the date of receipt of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585–0107.

Dated: July 6, 1998.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of May 11 Through May 15, 1998]

Date	Name and Location of Applicant	Case No.	Type of Submission
5/12/98	Personnel Security Hearing	VSO–0206	Request for Hearing under 10 CFR Part 710. If granted: An individual employed by a contractor of the Department of Energy would receive a hearing under 10 CFR Part 710.
5/13/98	Personnel Security Hearing	VSO–0207	Request for Hearing under 10 CFR Part 710. If granted: An individual employed by a contractor of the Department of Energy would receive a hearing under 10 CFR Part 710.
5/14/98	Personnel Security Hearing	VSO–0208	Request for Hearing under 10 C.F.R. Part 710. If granted: An individual employed by a contractor of the Department of Energy would receive a hearing under 10 C.F.R. Part 710.

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[FR Doc. 98–18573 Filed 7–10–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Notice of Issuance of Decisions and Orders During the Week of May 11 Through May 15, 1998

During the week of May 11 through May 15, 1998, the decisions and orders summarized below were issued with respect to appeals, applications, petitions, or other requests filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, 950 L'Enfant Plaza, SW, Washington, DC, Monday through Friday, except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system. Some decisions and orders are available on the Office of Hearings and Appeals World Wide Web site at http://www.oha.doe.gov.

Dated: July 6, 1998.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision List No. 85; Week of May 11 Through May 15, 1998

Appeal

Cincinnati Gas & Electric Co., 5/11/98, VEA–0008

The Office of Hearings and Appeals considered an Appeal filed by Cincinnati Gas & Electric Company (CG&E) from a determination issued on December 8, 1997, by the Office of Energy Efficiency and Renewable Energy (EE) of the Department of Energy (DOE), under provisions of 10 CFR Part 490 (Alternative Fuel Transportation Program). In its determination, EE partially granted a request by CG&E to receive credits under the Part 490 program for certain 1997 Model Year vehicles which the firm converted to alternative fuel vehicles (AFVs), but not within four months after acquisition as required under 10 CFR 490.305(c). EE granted relief for such vehicles converted by CG&E on or before August 31, 1997. However, in its Appeal, CG&E sought additional credits for such vehicles (30) converted by the firm during the period September through December 1997. After considering evidence presented by CG&E concerning delays encountered by the firm in acquiring AFV conversion equipment, the DOE determined that CG&E's Appeal should be granted in part. Accordingly, the DOE granted CG&E credits under the Part 490 program for 17 of the 30 converted AFVs subject to its Appeal.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Atlantic Richfield Co./Arlington Oil Co. et al	RF304–4889	5/11/98
Arlington Oil Co	RF304–4872	
Enron Corporation/Chemplex Co	RF340–182	5/13/98
Enron Corp./Heritage Propane	RR340–00005	5/12/98
Midwest Haulers, Inc et al	RK272–02843	5/12/98
Schlumberger Technology Corp	RC272–00390	5/12/98

Dismissals

The following submissions were dismissed.

Name	Case No.
Personnel Security Hearing	VSO–0191
Personnel Security Hearing	VSO–0195
Toombs County Commissioners	RF272–98961

[FR Doc. 98–18570 Filed 7–10–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Notice of Issuance of Decisions and Orders During the Week of May 18 Through May 22, 1998

During the week of May 18 through May 22, 1998, the decisions and orders summarized below were issued with respect to appeals, applications, petitions, or other requests filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, 950 L'Enfant Plaza, SW, Washington, DC, Monday through Friday, except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system. Some decisions and orders are available on the Office of Hearings and Appeals World Wide Web site at http://www.oha.doe.gov.

Dated: July 6, 1998.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision List No. 86; Week of May 18 Through May 22, 1998

Appeals

James E. Minter, 5/18/98, VFA–0406

James E. Minter filed an Appeal from a determination issued to him by the Albuquerque Operations of the Department of Energy (DOE) in response to a Request for Information submitted under the Freedom of Information Act (FOIA). Mr. Minter's request sought records of overtime payments to a DOE employee who, as allegedly part of his job requirements, may have engaged in physical fitness training while on official travel. The Albuquerque Operations Office identified a trip report and a time-card as responsive to the request, but withheld the information on personal grounds under FOIA Exemption 6. In considering the Appeal, the DOE determined that absent special circumstances or information that reveals something personal or private about the individual, Federal Government employees generally have no privacy interest either in their official work performed as a government employee either at or away from their usual duty stations or in their aggregate amount of hours spent working for the government even if this includes overtime. Accordingly, the Appeal was denied in part, granted in part, and remanded to the Albuquerque Operations Office to either release the withheld information or to issue a new determination offering another justification for withholding the information.

Kramer, Rayson, Leake, Rodgers & Morgan, 5/18/98, VFA–0402

The DOE's Office of Hearings and Appeals (OHA) issued a decision denying a Freedom of Information Act (FOIA) Appeal filed by Kramer, Rayson, Leake, Rodgers & Morgan (Kramer). In response to Kramer's FOIA request for information about a third party, the DOE Office of Inspector General (OIG) stated that it could neither confirm nor deny the existence of responsive material (a Glomar response). In its decision, OHA found that OIG properly used Exception 7(C) and the Glomar response to protect the identified privacy rights of the individual, which were found to outweigh any public interest in the information. Accordingly, the Appeal was denied.

Whistleblower Hearing

Thomas T. Tiller, 5/21/98, VWA–0018

A Hearing Officer issued an Initial Agency Decision concerning a whistleblower complaint. The Hearing Officer determined that Thomas T. Tiller (Tiller) made one protected disclosure and proved by a preponderance of the evidence that the protected disclosure was a contributing factor to his demotion and reassignment. The Hearing Officer determined, however, that Wackenhut Services, Incorporated (Wackenhut), a DOE contractor, provided clear and convincing evidence to demonstrate that it would have demoted and reassigned Tiller even if he had not made his protected disclosure. The Hearing Officer also determined that Tiller participated in a protected activity when he filed his Part 708 Complaint in August 1994. She further determined that Tiller's 1994 complaint filing contributed to the pattern of alleged discriminatory acts set forth in his 1996 Whistleblower Complaint. The Hearing Officer determined, however, that Wackenhut proved by clear and convincing evidence that it would have taken the actions enumerated in Tiller's 1996 Whistleblower Complaint even if Tiller had not filed his 1994 Whistleblower Complaint. Therefore, the Hearing Officer found that Tiller failed to establish the existence of any violations of the DOE's Contractor Employee Protection Program for which relief is warranted under 10 CFR § 708.10.

Refund Applications

Better Materials Inc., 5/21/98, RF272–94734

The DOE denied an Application for Refund filed in the Subpart V Crude Oil proceeding because the applicant's wholly owned subsidiary had received a refund from the Surface Transporters Escrow.

Gulf Oil Corp./U.S. Reduction, 5/18/98, RR300–00293

The DOE granted a motion for reconsideration filed by in connection with *Gulf Oil Corp./U.S. Reduction*, Case No. RF300–20907 (June 6, 1994). The DOE determined that the applicant, The Travelers Group, Inc., was entitled to an additional refund of $1,796.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Annco Partnership et al	RK272–01898	5/21/98
Betz Laboratories, Inc	RF272–98945	5/21/98
Leatham Brothers, Inc. et al	RF272–95231	5/19/98
Masterson Company, Inc. et al	RF272–94589	5/19/98
S.A.D. #22 et al	RF272–95369	5/21/98

Dismissals

The following submissions were dismissed.

Name	Case No.
Burlin McKinney	VFA–0418
Liberty Cash Grocers, Inc.	RK272–04779

[FR Doc. 98–18571 Filed 7–10–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Notice of Issuance of Decisions and Orders During the Week of May 25 Through May 29, 1998

During the week of May 25 through May 29, 1998, the decisions and orders summarized below were issued with respect to appeals, applications, petitions, or other requests filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, 950 L'Enfant Plaza, SW, Washington, DC 20585–0107, Monday through Friday, except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system. Some decisions and orders are available on the Office of Hearings and Appeals World Wide Web site at http://www.oha.doe.gov.

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Dated: July 6, 1998.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision List No. 87; Week of May 25 Through May 29, 1998

Appeal

Andrew Lee Fuller, 5/26/98, VFA-0412

Andrew Lee Fuller filed an Appeal from a March 24, 1998 determination of the Privacy Act Officer of the Office of Public Affairs of the Department of Energy's (DOE) Albuquerque Operations Office requesting copies of his complete personnel security file. He also requested all "background investigation documents," and all correspondence between DOE headquarters or DOE Albuquerque offices and the DOE Personnel Security Division. In considering the Appeal, the DOE determined that the individual's personnel security file is a system of records pursuant to the Privacy Act. Furthermore, since Mr. Fuller failed to respond to a DOE request, pursuant to the DOE regulations, the DOE had sufficient grounds to deny Mr. Fuller's request for a part of his personnel security file. Accordingly, the DOE denied Mr. Fuller's appeal.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Byman Equipment Inc	RK272-04780	5/27/98
Gulf Oil Corporation/Interstate Gulf	RR300-00294	5/29/98
Prairie Sand & Gravel, Inc	RK272-4814	5/29/98
Yellow Cab Co. Inc. et al	RK272-02335	5/29/98

Dismissals

The following submissions were dismissed.

Name	Case No.
Delaware State Police	RF272-98910
Enron Corp	RF300-10856
Personnel Security Hearing	VSO-0202
SS Grayson Cooperative, Inc	RF272-95720
Tropigas International	RF300-18788

[FR Doc. 98-18572 Filed 7-10-98; 8:45 am]

BILLING CODE 6450-01-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6123-7]

Subcontractor Access to Confidential Business Information Under the Clean Air Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA has authorized the following contractors and subcontractors for access to information that has been, or will be, submitted to EPA under sections 109-112, 114, 129 and 183 of the Clean Air Act (CAA) as amended. (1) Abt Associates, Inc., 4800 Montgomery Lane, Suite 500, Hampden Square, Bethesda, Maryland 20814; ICF, Inc., 9300 Lee Highway, Fairfax, Virginia 22031; EC/R, Inc., 1129 Weaver Dairy Road, Chapel Hill, North Carolina 27514; Eastern Research Group, 900 Perimeter Park, P.O. Box 2010, Morrisville, North Carolina 27560; Alpha-Gamma Technologies, Inc., Suite 350, 900 Ridgefield Drive, Raleigh, North Carolina 27609; Douglas Rae, 36 Gage Street, Needham, Massachusetts 02192; Jonathan Rubin, Department of Economics, University of Tennessee, 519 Stokely Management Center, Knoxville, Tennessee 37996; Robert Taylor, Department of Agricultural Economics and Rural Sociology, Auburn University, Auburn, Alabama 36849; Scott Atkinson, Department of Economics, University of Georgia, Athens, Georgia 30602; under Abt's contract number 68-D-98-001. (2) EC/R, Inc., 1129 Weaver Dairy Road, Chapel Hill, North Carolina 27514, contract number 68-D-98-026. (3) E.H. Pechan and Associates, Inc., 5537-C Hampstead Way, Springfield, Virginia 22151; Pacific Environmental Services, Inc., P.O. Box 12077, Research Triangle Park, North Carolina 27709, under contract number 68-D-98-052. (4) EC/R, Inc., 1129 Weaver Dairy Road, Chapel Hill, North Carolina 27514; The Cadmus Group Incorporated, 135 Beaver Street, Waltham, Massachusetts 02154; INDUS Corporation, 1953 Gallows Road, Suite 300, Vienna, Virginia 22182; Dr. David Burmaster, Alceon Corporation, P.O. Box 382669, Harvard Square Station, Cambridge, Massachusetts 02238, under contract number 68-D6-0065. (5) ICF, Inc., 9300 Lee Highway, Fairfax, Virginia 22031, under contract number 68-D6-0064. (6) Science Applications International Corporation, 1710 Goodridge Drive, McLean, Virginia 22101, under contract number 68-D-98-113.

Some of the information may be claimed to be confidential business information (CBI) by the submitter.

DATES: Access to confidential data submitted to EPA will occur no sooner than 10 days after issuance of this notice.

FOR FURTHER INFORMATION CONTACT: Melva Toomer, Document Control Officer, Office of Air Quality Planning and Standards (MD-11), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, (919) 541-0880.

SUPPLEMENTARY INFORMATION: The EPA is issuing this notice to inform all submitters of information under sections 109-112, 114, 129 and 183 of the CAA that EPA may provide the above mentioned contractors and subcontractors access to these materials on a need-to-know basis. These contractors and subcontractors will provide technical support to the Office of Air Quality Planning and Standards (OAQPS) in health and risk assessment, implementation and strategies development, program review and tracking, standards review and development, and economic impact assessments for Federal air pollution control regulations and development of innovative regulatory strategies.

In accordance with 40 CFR 2.301(h), EPA has determined that each subcontractor requires access to CBI, submitted to EPA under sections 109–112, 114, 129 and 183 of the CAA, in order to perform work satisfactorily under the above noted contracts. The contractors' and subcontractors' personnel will be given access to information submitted under the above mentioned sections of the CAA. Some of the information may be claimed or determined to be CBI. The contractors' and subcontractors' personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to CBI. All subcontractor access to CAA CBI will take place at the prime contractors' facility. Each subcontractor will have appropriate procedures and facilities in place to safeguard the CAA CBI to which the subcontractor has access.

Clearance for access to CAA CBI is scheduled to expire on September 30, 2000 under contracts 68–D–98–026 and 68–D–98–052; on September 30, 2001 under contracts 68–D6–0064 and 68–D6–0065; on September 30, 2002 under contract 68–D–98–001; and on May 1, 2003 under contract 68–D–98–113.

Dated: July 7, 1998.

Richard D. Wilson,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 98–18587 Filed 7–10–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6123–8]

Proposed CERCLA Prospective Purchaser Agreement for the Uniroyal Hill Street Site

AGENCY: Environmental Protection Agency ("USEPA").

ACTION: Proposal of CERCLA Prospective Purchaser Agreement for the Uniroyal Plastics Hill Street Site.

SUMMARY: In accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), 42 U.S.C. 9601 *et seq.*, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA"), Pub. L. 99–499, notice is hereby given that a proposed prospective purchaser agreement ("PPA") for the Uniroyal Plastics Hill Street Removal Action Site ("the Site") located in Mishawaka, Indiana, has been executed by the City of Mishawaka, Indiana. The proposed PPA has been approved by the Attorney General. The proposed PPA would resolve certain potential claims of the United States under Sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607, and claims by the State of Indiana under Indiana Code Sections 13–25–4–1—13–25–4–27 against the City of Mishawaka, Indiana. The PPA is structured in phases, with the City of Mishawaka providing certain immediate consideration and environmental benefits under a lease arrangement, while it further evaluates its option to purchase the property within a defined timeframe. Should the City exercise its option, the City must provide further consideration and substantial additional environmental benefits. The proposed PPA would require the City of Mishawaka to pay the United States $2,500 within sixty (60) days of the effective date of the PPA and $2,500 if the City exercises its option to purchase the Property. These payments will be applied toward outstanding response costs incurred by the United States in conducting federally funded removal activities at the Site. The PPA would also require the City of Mishawaka, Indiana to perform certain work, such as an asbestos inventory report, asbestos removal, and site security, as described in the PPA. The Site is not on the NPL, and no further response activities at the Site are anticipated, once the ongoing USEPA removal activities are completed.

DATES: Comments on the proposed PPA must be received by on or before August 12, 1998.

ADDRESSES: A copy of the proposed PPA is available for review at USEPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Please contact Hedi Bogda-Cleveland at (312) 886–5825, prior to visiting the Region 5 office.

Comments on the proposed PPA should be addressed to Hedi Bogda-Cleveland, Office of Regional Counsel, USEPA, Region 5, 77 West Jackson Boulevard (Mail Code C–14J), Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Hedi Bogda-Cleveland at (312) 886–5825, of the USEPA Region 5 Office of Regional Counsel.

A 30-day period, commencing on the date of publication of this notice, is open for comments on the proposed PPA. Comments should be sent to the addressee identified in this notice.

William E. Muno,

Director, Superfund Division, U.S. Environmental Protection Agency, Region 5.

[FR Doc. 98–18589 Filed 7–10–98; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

Sunshine Act Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the special meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The special meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on July 14, from 9:00 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Floyd Fithian, Secretary to the Farm Credit Administration Board, (703) 883–4025, TDD (703) 883–4444.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts will be closed to the public. In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

Open Session

A. *Approval of Minutes*
B. *New Business*
  —*Regulation*
  —Capital (Phase III) [12 CFR Part 615] (Final)

*Closed Session**

C. *Report*
  1. OSMO Report
  2. OGC Litigation Update

Dated: July 8, 1998.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 98–18739 Filed 7–9–98; 3:14 pm]

BILLING CODE 6705–01–M

FARM CREDIT ADMINISTRATION

Sunshine Act Meeting; Farm Credit Administration Board; Regular Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), that the August 13, 1998 regular meeting of the Farm Credit Administration Board (Board) will not be held. The Board will hold a special meeting at 9:00 a.m. on Tuesday, August 11, 1998. An agenda for that meeting will be forthcoming.

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*Session closed-exempt pursuant to 5 U.S.C. 552b(c) (8), (9), and (10).

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FOR FURTHER INFORMATION CONTACT: Floyd Fithian, Secretary to the Farm Credit Administration Board, (703) 883–4025, TTD (703) 884–4444.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive McLean, Virginia 22102–5090.

Dated: July 8, 1998.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 98–18740 Filed 7–9–98; 3:20 pm]

BILLING CODE 6705–01–M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 90–571; DA 98–1239]

Telecommunications Relay Services (TRS) Certification

July 7, 1998.

Notice is hereby given that the application for certification of the state Telecommunication Relay Services (TRS) program of the state listed below has been granted, subject to the condition described below, pursuant to Title IV of the Americans with Disabilities Act of 1990, 47 USC 225(f)(2), and section 64.605(b) of the Commission's rules, 47 CFR 64.605(b). On the basis of the state application, the Commission has determined that:

(1) The TRS program of the listed state meets or exceeds all operational, technical, and functional minimum standards contained in section 64.604 of the Commission's rules, 47 CFR 64.604;

(2) The TRS program of the listed state makes available adequate procedures and remedies for enforcing the requirements of the state program; and,

(3) The TRS program of the listed state in no way conflicts with federal law.

The Commission also has determined that, where applicable, the intrastate funding mechanisms of the listed state are labeled in a manner that promotes national understanding of TRS and does not offend the public, consistent with section 64.605(d) of the Commission's rules, 47 CFR 64.605(d).

On May 14, 1998, the Commission adopted a Notice of Proposed Rulemaking that proposes ways to enhance the quality of existing telecommunications relay services (TRS) and expand those services for better use by individuals with speech disabilities. See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 98–67, FCC 98–90 (rel. May 20, 1998). Because the Commission may adopt changes to the rules governing relay programs, including state relay programs, the certification granted herein is conditioned on a demonstration of compliance with any new rules ultimately adopted by the Commission. The Commission will provide guidance to the states on demonstrating compliance with such rule changes.

This certification, as conditioned herein, shall remain in effect for a five year period, beginning July 26, 1998, and ending July 25, 2003, pursuant to 47 CFR 64.605(c). One year prior to the expiration of this certification, July 25, 2002, the state may apply for renewal of its TRS program certification by filing documentation in accordance with the Commission's rules, pursuant to 47 CFR 64.605(a) and (b).

Copies of certification letters are available for public inspection at the Commission's Common Carrier Bureau, Network Services Division, Room 235, 2000 M Street, N.W., Washington, D.C., Monday through Thursday, 8:30 AM to 3:00 PM (closed 12:30 to 1:30 PM) and the FCC Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C., daily, from 9:00 AM to 4:30 PM.

Sixth and Final Notice of States Approved For Certification

File No. TRS–97–10.

Applicant: Nevada Department of Employment, Training, and Rehabilitation State of: Nevada.

For further information, contact Al McCloud, (202) 418–2499, amccloud@fcc.gov: Helene Nankin, (202) 418–1466, hnankin@fcc.gov; or Kris Monteith, (202) 418–1098, kmonteit@fcc.gov, (TTY, 202–418–0484), at the Network Services Division, Common Carrier Bureau, Federal Communications Commission.

Federal Communications Commission.

Geraldine A. Matise,

Chief, Network Services Division, Common Carrier Bureau.

[FR Doc. 98–18563 Filed 7–10–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Fourth Meeting of the Advisory Committee for the 2000 World Radiocommunication Conference (WRC–2000 Advisory Committee)

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice advises interested persons that the next meeting of the WRC–2000 Advisory Committee will be held on Thursday, July 30, 1998, at the Federal Communications Commission. The purpose of the meeting is to continue preparations for the 2000 World Radiocommunication Conference. The Advisory Committee will consider any consensus views or proposals introduced by the Advisory Committee's Informal Working Groups.

DATES: July 30, 1998; 10:00 am–12:00 noon.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW, Room 856, Washington DC 20554.

FOR FURTHER INFORMATION CONTACT: Damon C. Ladson, FCC International Bureau, Planning and Negotiations Division, at (202) 418–0420.

SUPPLEMENTARY INFORMATION: The Federal Communications Commission (FCC) established the WRC–2000 Advisory Committee to provide advice, technical support and recommendations relating to the preparation of United States proposals and positions for the 2000 World Radiocommunication Conference (WRC–2000). In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, this notice advises interested persons of the fourth meeting of the WRC–2000 Advisory Committee.

The WRC–2000 Advisory Committee has an open membership. All interested parties are invited to participate in the Advisory Committee and to attend its meetings. The proposed agenda for the fourth meeting is as follows:

AGENDA

Fourth Meeting of the WRC–2000 Advisory Committee, Federal Communications Commission, 1919 M Street, NW, Room 856, Washington, D.C. 20554

July 30, 1998; 10:00 am–12:00 noon

1. Opening Remarks
2. Approval of Agenda
3. Approval of the Minutes of the Second Meeting
4. IWG Reports
5. Consideration of Consensus Views and Issue Papers
6. Development of Draft Proposals
7. Future Meetings
8. Other Business

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–18561 Filed 7–10–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Draft 1998–2003 Strategic Plan

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Request for comment.

BACKGROUND: In accordance with the Government Performance and Results Act of 1993, the FDIC is soliciting for consideration the views and suggestions of stakeholders potentially affected by or interested in the FDIC's strategic plan.

The draft strategic plan covers the six-year period 1998 through 2003 and provides a framework for implementing the agency's mission of contributing to stability and public confidence in the nation's financial system. This is accomplished through the FDIC's three major program areas—Insurance, Supervision, and Receivership Management—that work to achieve the following results:

- Protection of insured depositors from loss, without recourse to taxpayer funding,
- Safety and soundness of insured depository institutions,
- Protection of consumers' rights and the investment by FDIC-supervised institutions in their communities, and
- Recovery to creditors of receiverships.

The plan can be reviewed on the FDIC's website, http://www.fdic.gov, in the "About FDIC" section.

Printed copies may be obtained from the FDIC Public Information Center by calling 1–800–276–6003 (202–416–6940 within the Washington metropolitan area) or sending electronic mail to PublicInfo@FDIC.gov.

DATES: The comment period closes August 10, 1998.

ADDRESSES: Interested parties are invited to submit their written comments to: FDIC—Division of Finance, Business Planning Section, Room 536, 801 17th Street, NW, Washington, DC 20434 or Internet E-mail: StrategicPlan@FDIC.gov

FOR FURTHER INFORMATION CONTACT: Gordon A. Goeke at the addresses identified above.

Dated at Washington, DC, this 8th day of July, 1998.

Federal Deposit Insurance Corporation.

James LaPierre,

Deputy Executive Secretary.

[FR Doc. 98–18542 Filed 7–10–98; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1223–DR]

Florida; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Florida, (FEMA–1223–DR), dated June 18, 1998, and related determinations.

EFFECTIVE DATE: June 23, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Florida, is hereby amended to include reimbursement for the eligible costs associated with the pre-staging of Emergency Management Assistance Compact fire suppression assets in the State of Florida.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–18585 Filed 7–10–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1223–DR]

Florida; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Florida (FEMA–1223–DR), dated June 18, 1998, and related determinations.

EFFECTIVE DATE: June 18, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated June 18, 1998, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

> I have determined that the damage in certain areas of the State of Florida, resulting from extreme fire hazards beginning on May 25, 1998, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under Title IV, Section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93–288, as amended ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Florida.
>
> You are hereby authorized to coordinate with other Federal agencies to provide any form of direct Federal assistance which you deem appropriate for required emergency measures, authorized under the Stafford Act, to save lives, protect property and public health and safety, and lessen or avert the threat of a catastrophe in the designated areas. In addition, you are authorized to provide such other forms of assistance under the Stafford Act as you may deem appropriate.
>
> In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Paul W. Fay of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Florida to have been affected adversely by this declared major disaster:

> FEMA has been authorized to coordinate with other Federal agencies to provide any form of direct Federal assistance appropriate for required emergency measures, authorized under the Stafford Act, to save lives, protect property and public health and safety, and lessen or avert the threat of a catastrophe in the counties of Brevard, Columbia, Duval, Flagler, Putnam, Seminole, St. Johns and Wakulla.

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(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Dated: June 22, 1998.

James L. Witt,

Director.

[FR Doc. 98–18586 Filed 7–10–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1222–DR]

New York; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of New York (FEMA–1222–DR), dated June 16, 1998, and related determinations.

EFFECTIVE DATE: June 16, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated June 16, 1998, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

> I have determined that the damage in certain areas of the State of New York, resulting from severe thunderstorms and tornadoes on May 31, 1998, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93–288, as amended ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of New York.
>
> In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts, as you find necessary for Federal disaster assistance and administrative expenses.
>
> You are authorized to provide reimbursement for debris removal and emergency protective measures (Categories A and B) under the Public Assistance program, and Hazard Mitigation in the designated areas, and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Marianne Jackson of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of New York to have been affected adversely by this declared major disaster:

> Reimbursement for debris removal and emergency protective measures (Categories A and B) for Chenango, Otsego, Rensselaer, and Saratoga Counties.

All counties within the State of New York are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Dated: June 22, 1998.

James L. Witt,

Director.

[FR Doc. 98–18584 Filed 7–10–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Technical Mapping Advisory Council Open Meeting

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of teleconference meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 1, the Federal Emergency Management Agency gives notice that the following teleconference meeting will be held:

NAME: Technical Mapping Advisory Council.

DATE OF MEETING: July 16, 1998.

PLACE: The FEMA Conference Operator in Washington, DC will arrange the teleconference. Individuals interested in participating should fax a request including their telephone numbers to (202) 646–4596 no later than July 13, 1998.

TIME: 11:00 a.m. to 1:00 p.m.

PROPOSED AGENDA:

1. Call to order.
2. Announcements.
3. Action on minutes of previous meeting.
4. Develop format for the Council's 1998 annual report.
5. Develop agenda and make assignments for August meeting.
6. Discuss recommendations for use of future conditions hydrology.
7. Report on elevation certificate.
8. Adjournment.

STATUS: This meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Federal Emergency Management Agency, 500 C Street SW., room 421, Washington, DC 20472, telephone (202) 646–2756 or by facsimile at (202) 646–4596.

SUPPLEMENTARY INFORMATION: Minutes of the meeting will be prepared and will be available upon request after they have been approved by the next Technical Mapping Advisory Council meeting on August 17 and 18, 1998.

Dated: June 29, 1998.

Craig S. Wingo,

Deputy Associate Director for Mitigation.

[FR Doc. 98–18583 Filed 7–10–98; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL HOUSING FINANCE BOARD

[No. 98–N–5]

Federal Home Loan Bank Members Selected for Community Support Review

AGENCY: Federal Housing Finance Board.

ACTION: Notice.

SUMMARY: The Federal Housing Finance Board (Finance Board) is announcing the Federal Home Loan Bank (FHLBank) members it has selected for the 1998–99 second quarter review cycle under the Finance Board's community support requirement regulation. This notice also prescribes the deadline by which

FHLBank members selected for review must submit Community Support Statements to the Finance Board.

DATES: FHLBank members selected for the 1998–99 second quarter review cycle must submit completed Community Support Statements to the Finance Board on or before August 27, 1998.

ADDRESSES: FHLBank members selected for the 1998–99 second quarter review cycle must submit completed Community Support Statements to the Finance Board either by regular mail: Office of Policy, Compliance Assistance Division, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006; or by electronic mail: BATESP@FHFB.GOV.

FOR FURTHER INFORMATION CONTACT: Penny S. Bates, Program Analyst, Office of Policy, Compliance Assistance Division, by telephone at 202/408–2574, by electronic mail at BATESP@FHFB.GOV, or by regular mail at the Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006. A telecommunications device for deaf persons (TDD) is available at 202/408–2579.

SUPPLEMENTARY INFORMATION:

I. Selection for Community Support Review

Section 10(g)(1) of the Federal Home Loan Bank Act (Bank Act) requires the Finance Board to promulgate regulations establishing standards of community investment or service that FHLBank members must meet in order to maintain access to long-term advances. *See* 12 U.S.C. 1430(g)(1). The regulations promulgated by the Finance Board must take into account factors such as the FHLBank member's performance under the Community Reinvestment Act of 1977 (CRA), *id.* 2901 *et seq.*, and record of lending to first-time homebuyers. *Id.* 1430(g)(2).

Pursuant to the requirements of section 10(g) of the Bank Act, the Finance Board has promulgated a community support requirement regulation that establishes standards a FHLBank member must meet in order to maintain access to long-term advances and review criteria the Finance Board must apply in evaluating a member's community support performance. *See* 12 CFR part 936. The regulation includes standards and criteria for the two statutory factors—CRA performance and record of lending to first-time homebuyers. *Id.* § 936.3. Only members subject to the CRA must meet the CRA standard. *Id.* § 936.3(b). All members, including those not subject to CRA, must meet the first-time homebuyer standard. *Id.* § 936.3(c).

Under the rule, the Finance Board selects approximately one-eighth of the members in each FHLBank district for community support review each calendar quarter. *Id.* § 936.2(a). The Finance Board will not review an institution's community support performance until it has been a FHLBank member for at least one year. Selection for review is not, nor should it be construed as, any indication of either the financial condition or the community support performance of the member.

Each FHLBank member selected for review must complete a Community Support Statement and submit it to the Finance Board by the August 27, 1998 deadline prescribed in this notice. *Id.* § 936.2(b)(1)(ii) and (c). On or before July 28, 1998, each FHLBank will notify the members in its district that have been selected for the 1998–99 second quarter community support review cycle that they must complete and submit to the Finance Board by the deadline a Community Support Statement. *Id.* § 936.2(b)(2)(i). The member's FHLBank will provide a blank Community Support Statement Form, which also is available on the Finance Board's web site at WWW.FHFB.GOV. Upon request, the member's FHLBank also will provide assistance in completing the Community Support Statement.

The Finance Board has selected the following members for the 1998–99 second quarter community support review cycle:

Federal Home Loan Bank of Boston—District 1

Branford Savings Bank	Branford	CT
First FS&LA of East Hartford	East Hartford	CT
Enfield Federal Savings and Loan Association	Enfield	CT
Essex Savings Bank	Essex	CT
First National Bank of New England	Hartford	CT
Citizens Bank of Connecticut	Middletown	CT
First City Bank	New Britain	CT
Cargill Bank	Putnam	CT
North Middlesex Savings Bank	Ayer	MA
Boston Private Bank & Trust Company	Boston	MA
First Federal Savings Bank of Boston	Boston	MA
First Trade Union Bank	Boston	MA
Haymarket Co-operative Bank	Boston	MA
Hyde Park Savings Bank	Boston	MA
Investors Bank and Trust Company	Boston	MA
Peoples Federal Savings Bank	Brighton	MA
Cambridge Savings Bank	Cambridge	MA
East Cambridge Savings Bank	Cambridge	MA
Dedham Institution for Savings	Dedham	MA
Bank of Easthampton	Easthampton	MA
Eagle Bank	Everett	MA
Citizens-Union Savings Bank	Fall River	MA
Foxboro Federal Savings and Loan Association	Foxboro	MA
Georgetown Savings Bank	Georgetown	MA
First Essex Bank, FSB	Lawrence	MA
Marblehead Savings Bank	Marblehead	MA
Medford Co-operative Bank	Medford	MA
Plymouth Savings Bank	Middleboro	MA
Millbury Savings Bank	Millbury	MA
Monson Savings Bank	Monson	MA
Lawrence Savings Bank	North Andover	MA
Warren Five Cents Savings Bank	Peabody	MA

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Saugus Co-operative Bank	Saugus	MA
Scituate Federal Savings Bank	Scituate	MA
Spencer Savings Bank	Spencer	MA
Hampden Savings Bank	Springfield	MA
Bristol County Bank	Taunton	MA
Federal Savings Bank	Waltham	MA
Middlesex Federal Savings	West Somerville	MA
Auburn Savings & Loan Association	Auburn	ME
Augusta Federal Savings Bank	Augusta	ME
First National Bank of Bar Harbor	Bar Harbor	ME
First FS&LA of Bath	Bath	ME
Aroostook County FS&LA	Caribou	ME
Kennebunk Savings Bank	Kennebunk	ME
Skowhegan Savings Bank	Skowhegan	ME
Kennebec Federal Savings & Loan Association	Waterville	ME
Federal Savings Bank of Dover	Dover	NH
Farmington National Bank	Farmington	NH
Franklin Savings Bank	Franklin	NH
Meredith Village Savings Bank	Meredith	NH
Salem Co-operative Bank	Salem	NH
First Brandon National Bank	Brandon	VT
Vermont National Bank	Brattleboro	VT
Howard Bank, N.A	Burlington	VT
Woodstock National Bank	Woodstock	VT

Federal Home Loan Bank of New York—District 2

Axia Federal Savings Bank	Avenel	NJ
Pamrapo Savings Bank, S.L.A	Bayonne	NJ
National Bank of Sussex County	Branchville	NJ
Ocean Federal Savings Bank	Brick	NJ
Farmers & Mechanics Bank	Burlington	NJ
Inter-Boro Savings and Loan Association	Cherry Hill	NJ
Freehold Savings and Loan Association	Freehold	NJ
GSL Savings Bank	Guttenberg	NJ
Oritani Savings Bank, SLA	Hackensack	NJ
Investors Savings Bank	Millburn	NJ
Millington Savings Bank	Millington	NJ
Dollar Savings Bank, SLA	Newark	NJ
Ocean City Home Savings and Loan Association	Ocean City	NJ
Amboy National Bank	Old Bridge	NJ
First Savings Bank, SLA	Perth Amboy	NJ
Ridgewood Savings Bank of New Jersey	Ridgewood	NJ
Lakeview Savings Bank	West Paterson	NJ
South Bergen Savings Bank	Wood Ridge	NJ
ALBANK, FSB	Albany	NY
Amsterdam Federal Savings & Loan Association	Amsterdam	NY
Brooklyn Federal Savings Bank	Brooklyn	NY
Canisteo Savings and Loan Association	Canisteo	NY
Canton Federal Savings and Loan Association	Canton	NY
Home Federal Savings Bank	Douglaston	NY
Elmira Savings and Loan, F.A	Elmira	NY
National Bank of Geneva	Geneva	NY
Glens Falls National Bank and Trust Company	Glens Falls	NY
Gloversville Federal Savings	Gloversville	NY
Maple City Savings and Loan Association	Hornell	NY
Sunnyside FS&LA of Irvington	Irvington	NY
First National Bank of Lisbon	Lisbon	NY
Lyons National Bank	Lyons	NY
Maspeth Federal Savings & Loan Association	Maspeth	NY
Massena Savings and Loan Association	Massena	NY
Medina Savings and Loan	Medina	NY
Long Island Savings Bank, FSB	Melville	NY
Cross County Federal Savings Bank	Middle Village	NY
Provident Savings Bank, F.A	Montebello	NY
Carver Federal Savings Bank	New York	NY
Dime Savings Bank of New York	New York	NY
The Berkshire Bank	New York	NY
Ogdensburg Federal Savings & Loan Association	Ogdensburg	NY
Wilber National Bank	Oneonta	NY
Union State Bank	Orangeburg	NY
First Federal Savings Bank	Peekskill	NY
First Tier Bank and Trust	Salamanca	NY
Saratoga National Bank and Trust	Saratoga Springs	NY
Schenectady Federal Savings Bank	Schenectady	NY
Yonkers Savings and Loan Association, FA	Yonkers	NY

Federal Home Loan Bank of Pittsburgh—District 3

Delaware National Bank	Georgetown	DE
The Travelers Bank	Newark	DE
Artisans' Savings Bank	Wilmington	DE
Laurel Savings Bank	Allison Park	PA
Investment Savings Bank	Altoona	PA
Reliance Savings Bank	Altoona	PA
Peoples Home Savings Bank	Beaver Falls	PA
Pennwood Savings Bank	Bellevue	PA
Columbia County Farmers National Bank	Bloomsburg	PA
Bryn Mawr Trust Company	Bryn Mawr	PA
Community Bank, N.A	Carmichaels	PA
Charleroi Federal Savings Bank	Charleroi	PA
Citizens National Bank of Evans City	Evans City	PA
Armstrong County Building & Loan Association	Ford City	PA
Greenville Savings Bank	Greenville	PA
Westmoreland FS&LA of Latrobe	Latrobe	PA
First National Bank of Leesport	Leesport	PA
Keystone Savings Bank	Lehigh Valley	PA
Mifflin County Savings Bank	Lewistown	PA
First Citizens National Bank	Mansfield	PA
First National Bank of Mifflintown	Mifflintown	PA
First Federal Savings Bank	Monessen	PA
Parkvale Savings Bank	Monroeville	PA
Community State Bank of Orbisonia	Orbisonia	PA
Beneficial Mutual Savings Bank	Philadelphia	PA
Firstrust Bank	Philadelphia	PA
Prudential Savings Bank	Philadelphia	PA
NorthSide Bank	Pittsburgh	PA
Troy Hill Federal Savings & Loan Association	Pittsburgh	PA
West View Savings Bank	Pittsburgh	PA
Workingmens Savings Bank, FSB	Pittsburgh	PA
Liberty Savings Bank, F.S.B	Pottsville	PA
Elk County Savings & Loan Association	Ridgway	PA
Sewickley Savings Bank	Sewickley	PA
Keystone State Savings Bank	Sharpsburg	PA
First National Bank of Slippery Rock	Slippery Rock	PA
Union National Bank	Souderton	PA
First National Bank of Spring Mills	Spring Mills	PA
East Stroudsburg Savings Association	Stroudsburg	PA
Grange National Bank of Wyoming County	Tunkhannock	PA
Washington Federal Savings Bank	Washington	PA
First FS&LA of Greene County	Waynesburg	PA
Citizens & Northern Bank	Wellsboro	PA
First Century Bank, N.A	Bluefield	WV
Huntington FS&LA	Huntington	WV
First National Bank of Keystone	Keystone	WV
Doolin Security Savings Bank FSB	New Martinsville	WV
One Valley Bank of Oak Hill, Inc	Oak Hill	WV
United National Bank	Parkersburg	WV
One Valley Bank of Mercer County, Inc	Princeton	WV
First FS&LA of Ravenswood	Ravenswood	WV
First Federal Savings and Loan Association	Sistersville	WV

Federal Home Loan Bank of Atlanta—District 4

Brantley Bank and Trust Company	Brantley	AL
Bank of Carbon Hill	Carbon Hill	AL
Heritage Bank	Decatur	AL
Robertson Banking Company	Demopolis	AL
The Citizens Bank	Greensboro	AL
City Bank of Hartford	Hartford	AL
Security Federal Savings Bank	Jasper	AL
First Citizens Bank of Monroeville	Monroeville	AL
The Citizens Bank	Moulton	AL
Phenix-Girard Bank	Phenix City	AL
Bank of Vernon	Vernon	AL
Bank of Wedowee	Wedowee	AL
Bank of Belle Glade	Belle Glade	FL
Community Bank of Manatee	Bradenton	FL
Sun Bank and Trust Company	Brooksville	FL
Citizens Bank of Clearwater	Clearwater	FL
Commercebank, N.A	Coral Gables	FL
Peoples State Bank of Groveland	Groveland	FL
First State Bank of the Florida Keys	Key West	FL

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International Finance Bank	Miami	FL
Charlotte State Bank	Port Charlotte	FL
First American Bank of Walton County	Santa Rosa Beach	FL
Central Bank of Tampa	Tampa	FL
First National Bank of Tampa	Tampa	FL
Wauchula State Bank	Wauchula	FL
Alma Exchange Bank and Trust	Alma	GA
Bank of Early	Blakely	GA
Colonial Bank Southeast	Broxton	GA
Planters and Citizens Bank	Camilla	GA
Claxton Bank	Claxton	GA
First Clayton Bank and Trust Company	Clayton	GA
Central Bank and Trust	Cordele	GA
First Community Bank of Dawsonville	Dawsonville	GA
Bank Atlanta	Decatur	GA
Bank of Eastman	Eastman	GA
Gilmer County Bank	Ellijay	GA
Fairburn Banking Company	Fairburn	GA
Capital Bank	Fort Oglethorpe	GA
Bank of Hiawassee	Hiawassee	GA
Empire Banking Company	Homerville	GA
Farmers State Bank	Lincolnton	GA
Peoples Bank	Lyons	GA
Mount Vernon Bank	Mt. Vernon	GA
The Citizens Bank	Nashville	GA
Bank of Newnan	Newnan	GA
Community Bank of Wilcox	Pitts	GA
The Tattnall Bank	Reidsville	GA
Greater Rome Bank	Rome	GA
Citizens Security Bank	Tifton	GA
Bank of Georgia	Watkinsville	GA
Mercantile Safe Deposit and Trust Company	Baltimore	MD
Community Bank of Bowie	Bowie	MD
Easton Bank and Trust Company	Easton	MD
Maryland Bank and Trust Company	Lexington Park	MD
First National Bank of North East	North East	MD
The East Carolina Bank	Engelhard	NC
Catawba Valley Bank	Hickory	NC
First Bank	Troy	NC
Sandhills Bank	Bethune	SC
The Peoples Bank of Iva	Iva	SC
The Palmetto Bank	Laurens	SC
The Citizens Bank	Olanta	SC
First State Bank	Danville	VA

Federal Home Loan Bank of Cincinnati—District 5

First Federal Bank for Savings	Ashland	KY
Bank of Edmonson County	Brownsville	KY
United Citizens Bank and Trust, Inc	Campbellsburg	KY
Citizens Bank & Trust Company	Campbellsville	KY
Farmers & Traders Bank	Campton	KY
Carrollton FS&LA, Inc	Carrollton	KY
First National Bank of Central City	Central City	KY
Peoples Bank of Northern Kentucky, Inc	Crestview Hills	KY
Farmers National Bank	Cynthiana	KY
Central Kentucky Federal Savings Bank	Danville	KY
United Kentucky Bank	Falmouth	KY
Columbia Federal Savings Bank	Ft. Mitchell	KY
Bank of Germantown	Germantown	KY
HNB Bank, N.A	Harlan	KY
First Federal Savings Bank of Harrodsburg	Harrodsburg	KY
State Bank and Trust Company	Harrodsburg	KY
First Federal Savings and Loan Association	Hazard	KY
Bank of Magnolia	Hodgenville	KY
MidAmerica Bank, FSB	LaGrange	KY
First Lancaster Federal Savings Bank	Lancaster	KY
Citizens National Bank	Lebanon	KY
First Federal Savings Bank	Leitchfield	KY
Farmers Deposit Bank of Middleburg	Middleburg	KY
First State Bank of Pineville	Middlesboro	KY
Home Federal Bank	Middlesboro	KY
Middlesboro Federal Bank, F.S.B	Middlesboro	KY
Bank of Mt. Vernon	Mt. Vernon	KY
Peoples Bank Mt. Washington	Mt. Washington	KY
Banterra Bank, N.A	Paducah	KY

Family Bank, FSB	Paintsville	KY
Central Bank of North Pleasureville	Pleasureville	KY
First Bank and Trust Company	Princeton	KY
Bullitt County Bank	Shepardsville	KY
Liberty National Bank	Ada	OH
The Bartlett Farmers Bank	Bartlett	OH
Industrial Savings and Loan Association	Bellevue	OH
Bridgeport Savings and Loan Association	Bridgeport	OH
Peoples Savings and Loan Company	Bucyrus	OH
First National Bank of Southeastern Ohio	Caldwell	OH
Clifton Heights Loan and Building Company	Cincinnati	OH
The Savings Bank	Circleville	OH
The Peoples Bank Company	Coldwater	OH
First City Bank	Columbus	OH
Valley Savings Bank	Cuyahoga Falls	OH
First Federal Savings and Loan	Defiance	OH
Fidelity FS&LA of Delaware	Delaware	OH
The Peoples Banking Company	Findlay	OH
First FS&LA of Galion	Galion	OH
Peoples Bank of Gambier	Gambier	OH
Home Building and Loan Company	Greenfield	OH
Greenville Federal Savings & Loan Association	Greenville	OH
Home Federal Bank, a FSB	Hamilton	OH
First Federal Savings Bank of Ironton	Ironton	OH
Lawrence Federal Savings Bank	Ironton	OH
Liberty Federal Savings and Loan Association	Ironton	OH
Ohio River Bank	Ironton	OH
Kingston National Bank	Kingston	OH
Citizens Bank of Logan	Logan	OH
Mechanics Savings Bank	Mansfield	OH
Peoples FS&LA of Massillon	Massillon	OH
Metropolitan Savings Bank of Cleveland	Mayfield Heights	OH
Miami Savings and Loan Company	Miamitown	OH
The Middlefield Banking Company	Middlefield	OH
Security Savings Association	Milford	OH
Nelsonville Home and Savings Association	Nelsonville	OH
First FS&LA of Newark	Newark	OH
Geauga Savings Bank	Newbury	OH
Security Dollar Bank	Niles	OH
National Bank of Oak Harbor	Oak Harbor	OH
Valley Central Savings Bank	Reading	OH
Citizens Banking Company	Sandusky	OH
Peoples Federal Savings & Loan Association	Sidney	OH
Commodore Bank	Somerset	OH
First Safety Bank	St. Bernard	OH
Monroe Federal Savings and Loan Association	Tipp City	OH
Van Wert Federal Savings Bank	Van Wert	OH
Home Savings and Loan Association	Wapakoneta	OH
The Waterford Commercial & Savings	Waterford	OH
Adams County Building and Loan Company	West Union	OH
Commerce National Bank	Worthington	OH
First Federal Savings Bank of Youngstown	Youngstown	OH
Dollar Bank, FSB	Pittsburgh	PA
Bank of Bartlett	Bartlett	TN
Bank of Bolivar	Bolivar	TN
Farmers and Merchants Bank	Clarksville	TN
Farmers and Merchants Bank	Dyer	TN
First Citizens National Bank	Dyersburg	TN
Elizabethton Federal Savings Bank	Elizabethton	TN
Progressive Savings Bank, FSB	Jamestown	TN
Marion Trust & Banking Company	Jasper	TN
Home Federal Bank of Tennessee	Knoxville	TN
First Central Bank	Lenoir City	TN
American Savings Bank	Livingston	TN
Volunteer FS&LA of Madisonville	Madisonville	TN
First National Bank	McMinnville	TN
Jefferson Federal Savings & Loan Association	Morristown	TN
TNBank	Oak Ridge	TN
Union Planters Bank of N.W. Tennessee, FSB	Paris	TN
Citizens State Bank	Parsons	TN
Citizens Community Bank	Winchester	TN
Federal Home Loan Bank of Indianapolis—District 6		
First Federal Savings Bank of Angola	Angola	IN
Peoples Federal Savings Bank of Dekalb County	Auburn	IN

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Peoples Federal Savings Bank	Aurora	IN
Farmers and Mechanics FS&LA	Bloomfield	IN
First State Bank	Bourbon	IN
Columbus Bank and Trust Company	Columbus	IN
Peoples Trust Bank	Corydon	IN
English State Bank	English	IN
Home Loan Bank, FSB	Fort Wayne	IN
Farmers Bank, Frankfort	Frankfort	IN
Newton County Loan & Savings Association	Goodland	IN
First Federal Savings & Loan	Greensburg	IN
Lake FS&LA of Hammond	Hammond	IN
HFS Bank, F.S.B	Hobart	IN
Security Federal Savings Bank	Logansport	IN
First Federal Savings Bank of Marion	Marion	IN
Michigan City Savings & Loan	Michigan City	IN
First Merchants Bank, N.A.	Muncie	IN
Mutual Federal Savings Bank	Muncie	IN
American Savings, FSB	Munster	IN
Community Bank	Noblesville	IN
First National Bank of Odon	Odon	IN
Pendleton Banking Company	Pendleton	IN
Lincoln Federal Savings Bank	Plainfield	IN
Harrington Bank, FSB	Richmond	IN
First Parke State Bank	Rockville	IN
Scottsburg Building & Loan	Scottsburg	IN
Home Federal Savings Bank	Seymour	IN
Owen Community Bank, SB	Spencer	IN
First Farmers State Bank	Sullivan	IN
Peoples Building and Loan Association	Tell City	IN
Terre Haute First National Bank	Terre Haute	IN
Union Trust Bank	Union City	IN
First Federal Bank, a FSB	Vincennes	IN
First Federal Savings Bank of Wabash	Wabash	IN
First FS&LA of Washington	Washington	IN
Home Building Savings Bank, FSB	Washington	IN
Peoples National Bank & Trust	Washington	IN
Peoples Loan and Trust Bank	Winchester	IN
Bank of Wolcott	Wolcott	IN
First Federal S&LA of Alpena	Alpena	MI
Bank of Ann Arbor	Ann Arbor	MI
Bay Port State Bank	Bay Port	MI
Fidelity Bank	Birmingham	MI
Eaton Federal Savings Bank	Charlotte	MI
Hastings City Bank	Hastings	MI
Kalamazoo County State Bank	Schoolcraft	MI
Franklin Bank, N.A.	Southfield	MI
First National Bank of St. Ignace	St. Ignace	MI
Northwestern Savings Bank and Trust	Traverse City	MI

Federal Home Loan Bank of Chicago—District 7

State Bank of Auburn	Auburn	IL
West Pointe Bank and Trust Company	Belleville	IL
Belvidere National Bank and Trust Company	Belvidere	IL
First Federal Savings Bank of Belvidere	Belvidere	IL
American Enterprise Bank	Buffalo Grove	IL
Farmers State Bank of Camp Point	Camp Point	IL
Greene County National Bank in Carrollton	Carrollton	IL
First Federal Savings Bank—Champaign-Urbana	Champaign	IL
Charleston Federal Savings & Loan Association	Charleston	IL
Broadway Bank	Chicago	IL
Central FS&LA of Chicago	Chicago	IL
Columbus Savings Bank	Chicago	IL
Fidelity Federal Savings Bank	Chicago	IL
First Security Federal Savings Bank	Chicago	IL
Liberty Bank for Savings	Chicago	IL
Lincoln Park Savings Bank	Chicago	IL
Mutual FS&LA of Chicago	Chicago	IL
Universal Federal Savings Bank	Chicago	IL
Collinsville Building and Loan Association	Collinsville	IL
Home FS&LA of Collinsville	Collinsville	IL
Covest Banc, NA	Des Plaines	IL
Calumet Federal S&LA of Chicago	Dolton	IL
First Federal Savings and Loan Association	Edwardsville	IL
Forreston State Bank	Forreston	IL

Mercantile Bank of Northern Illinois	Freeport	IL
Fulton State Bank	Fulton	IL
Glenview State Bank	Glenview	IL
Guardian Savings Bank FSB	Granite City	IL
Herrin Security Bank	Herrin	IL
South End Savings, s.b.	Homewood	IL
First National Bank of Jonesboro	Jonesboro	IL
Eureka Savings Bank	La Salle	IL
First State Bank of Western Illinois	LaHarpe	IL
First National Bank of Illinois	Lansing	IL
Lisle Savings and Loan Association	Lisle	IL
West Suburban Bank	Lombard	IL
First Security Bank	Macknaw	IL
Milford Building and Loan Association	Milford	IL
Southeast National Bank of Moline	Moline	IL
Nashville Savings Bank	Nashville	IL
Central Illinois Bank McLean County	Normal	IL
Citizens Savings Bank, F.S.B	Normal	IL
Northview Bank and Trust	Northfield	IL
Illini State Bank	Oglesby	IL
Peoples Bank and Trust of Pana	Pana	IL
Home Guaranty Bank	Piper City	IL
Poplar Grove State Bank	Poplar Grove	IL
First Robinson Savings & Loan, F.A	Robinson	IL
Rock Island Bank	Rock Island	IL
Alpine Bank of Illinois	Rockford	IL
Damen Federal Bank for Savings	Schaumburg	IL
First FS&LA of Shelbyville	Shelbyville	IL
The Bank of Yorkville	Yorkville	IL
The International Bank of Amherst	Amherst	WI
First National Bank of Bangor	Bangor	WI
Bank of Deerfield	Deerfield	WI
Bank of Edgar	Edgar	WI
Fox Valley Savings and Loan Association	Fond du Lac	WI
National Exchange Bank and Trust	Fond du Lac	WI
First Northern Savings Bank, S.A	Green Bay	WI
Park Bank	Holmen	WI
Ixonia State Bank	Ixonia	WI
M&I Bank FSB	Kenosha	WI
First Federal Savings Bank La Crosse-Madison	La Crosse	WI
Ladysmith Federal Savings & Loan Association	Ladysmith	WI
Markesan Bank	Markesan	WI
Fidelity National Bank	Medford	WI
Merrill Federal Savings and Loan Association	Merrill	WI
Continental Savings Bank, S.A	Milwaukee	WI
Guaranty Bank, S.S.B	Milwaukee	WI
Lincoln Community Bank	Milwaukee	WI
M&I Bank SSB	Sheboygan	WI
Spencer State Bank	Spencer	WI
First Bank of Tomah	Tomah	WI
Farmers State Bank	Waupaca	WI
Paper City Savings Association	Wisconsin Rapids	WI

Federal Home Loan Bank of Des Moines—District 8

Brenton Savings Bank, FSB	Ames	IA
First American Bank	Ames	IA
Citizens Savings Bank	Anamosa	IA
Community State Bank	Ankeny	IA
Ashton State Bank	Ashton	IA
Atkins Savings Bank and Trust	Atkins	IA
Midwest FS&LA of Eastern Iowa	Burlington	IA
Iowa Trust and Savings Bank	Centerville	IA
First Security Bank and Trust Company	Charles City	IA
Page County Federal Savings Association	Clarinda	IA
First Federal Savings Bank of Creston, F.S.B	Creston	IA
State FS&LA of Des Moines	Des Moines	IA
Fidelity Bank and Trust	Dyersville	IA
Community Savings Bank	Edgewood	IA
First American Bank	Fort Dodge	IA
Security Bank Jasper-Poweshiek	Grinnell	IA
Hampton State Bank	Hampton	IA
Independence Federal Bank for Savings	Independence	IA
Hawkeye State Bank	Iowa City	IA
First Community Bank, a FSB	Keokuk	IA
Keokuk Savings Bank and Trust Company	Keokuk	IA

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Iowa State Savings Bank	Knoxville	IA
Cedar Valley Bank & Trust	LaPorte City	IA
Farmers and Merchants Savings Bank	Lone Tree	IA
Keystone Savings Bank	Marengo	IA
Interstate S&LA of McGregor	McGregor	IA
United Community Bank	Milford	IA
New Albin Savings Bank	New Albin	IA
Mid-Iowa Savings Bank, F.S.B	Newton	IA
Norwalk-Cumming State Bank	Norwalk	IA
Northwestern State Bank of Orange City	Orange City	IA
Clarke County State Bank	Osceola	IA
First Trust and Savings Bank	Oxford	IA
Citizens State Bank	Pocahontas	IA
Great River Bank and Trust	Princeton	IA
Citizens Bank	Sac City	IA
American State Bank	Sioux Center	IA
Solon State Bank	Solon	IA
Northwest Federal Savings Bank	Spencer	IA
First Federal Savings Bank of the Midwest	Storm Lake	IA
Randall-Story State Bank	Story City	IA
Story County Bank & Trust	Story City	IA
Waukee State Bank	Waukee	IA
West Liberty State Bank	West Liberty	IA
The First National Bank of Aitkin	Aitkin	MN
Viking Savings Association, F.A	Alexandria	MN
21st Century Bank	Balaton	MN
First State Bank of Bigfork	Bigfork	MN
Brainerd Savings and Loan Association, a FSB	Brainerd	MN
The Oakley National Bank of Buffalo	Buffalo	MN
State Bank in Eden Valley	Eden Valley	MN
The State Bank of Faribault	Faribault	MN
State Bank of Kimball	Kimball	MN
TCF National Bank Minnesota	Minneapolis	MN
Merchants State Bank of North Branch	North Branch	MN
The First National Bank of Osakis	Osakis	MN
Valley State Bank of Oslo	Oslo	MN
First National Bank	Plainview	MN
Princeton Bank	Princeton	MN
The Goodhue County National Bank	Red Wing	MN
Norwest Bank Minnesota South, N.A	Rochester	MN
Minnwest Bank South	Slayton	MN
Citizens Independent Bank	St. Louis Park	MN
The First National Bank of St. Peter	St. Peter	MN
Tracy State Bank	Tracy	MN
Queen City Federal Savings Bank	Virginia	MN
Security State Bank of Wykoff	Wykoff	MN
Missouri Federal Savings Bank	Cameron	MO
Southwest Missouri Bank	Carthage	MO
First Bank	Creve Couer	MO
North American Savings Bank, FSB	Grandview	MO
MCM Savings Bank, FSB	Hannibal	MO
Citizens Bank of Missouri	Harrisonville	MO
First Federal Bank, F.S.B	Kansas City	MO
Laclede County Bank	Lebanon	MO
Clay County Savings and Loan Association	Liberty	MO
Liberty Savings Bank, F.S.B	Liberty	MO
Marceline Home Savings & Loan Association	Marceline	MO
First Home Savings Bank	Mountain Grove	MO
Home S&LA of Norborne, F.A	Norborne	MO
Southern Missouri Bank & Trust Company	Poplar Bluff	MO
Central Federal Savings & Loan Association	Rolla	MO
The First National Bank of the Mid-South	Sikeston	MO
Guaranty Federal Savings Bank	Springfield	MO
Midwest FS&LA of St. Joseph	St. Joseph	MO
Provident Bank, f.s.b	St. Joseph	MO
Bremen Bank and Trust Company	St. Louis	MO
BNC National Bank	Bismarck	ND
First Southwest Bank	Bismarck	ND
Ramsey National Bank & Trust Company	Devils Lake	ND
American State Bank and Trust of Dickinson	Dickinson	ND
Security State Bank	Dunseith	ND
First National Bank North Dakota	Grand Forks	ND
The National Bank of Harvey	Harvey	ND
Walhalla State Bank	Walhalla	ND
First Federal Bank, a FSB	Beresford	SD
First Savings Bank	Beresford	SD

Bryant State Bank	Bryant	SD
First Western Federal Savings Bank	Rapid City	SD

Federal Home Loan Bank of Dallas—District 9

Horizon Bank	Arkadelphia	AR
First National Bank of Sharp County	Ash Flat	AR
Arkansas National Bank	Bentonville	AR
Heartland Community Bank	Camden	AR
American State Bank	Charleston	AR
First National Bank of Conway	Conway	AR
Corning Savings and Loan Association	Corning	AR
Bank of Glenwood	Glenwood	AR
First State Bank of Gurdon	Gurdon	AR
First Jacksonville Bank and Trust	Jacksonville	AR
The Arkansas Bank	Jonesboro	AR
Arkansas Bankers' Bank	Little Rock	AR
Bank of Lincoln	Little Rock	AR
Diamond State Bank	Murfreesboro	AR
First National Bank	Paragould	AR
Peoples Bank of Paragould	Paragould	AR
Pocahontas Federal Savings & Loan Association	Pocahontas	AR
Bank of Star City	Star City	AR
Bank of Waldron	Waldron	AR
First National Bank of St. Charles Parish	Boutte	LA
Citizens Progressive Bank	Columbia	LA
Beauregard Federal Savings Bank	DeRidder	LA
Home Savings Bank, FSB	Lafayette	LA
First Federal Savings and Loan Association	Lake Charles	LA
Greater New Orleans Homestead, FSB	Metairie	LA
Minden Building and Loan Association	Minden	LA
Algiers Homestead Association	New Orleans	LA
Dryades Savings Bank, FSB	New Orleans	LA
Fifth District Savings & Loan Association	New Orleans	LA
Union Savings and Loan Association	New Orleans	LA
Plaquemine Bank and Trust Company	Plaquemine	LA
Rayne Building and Loan Association	Rayne	LA
Citizens Bank and Trust Company	Springhill	LA
Meritrust Federal Savings Bank	Thibodaux	LA
Deposit Guaranty National Bank	Jackson	MS
Inter-City Federal Bank for Savings	Louisville	MS
First National Bank of Lucedale	Lucedale	MS
First National Bank of Pontoc	Pontotoc	MS
Lamar Bank	Purvis	MS
North Central Bank For Savings	Winona	MS
Alamogordo Federal Savings & Loan Association	Alamogordo	NM
First National Bank of Artesia	Artesia	NM
First National Bank in Clayton	Clayton	NM
Matrix Capital Bank	Las Cruces	NM
First Federal Savings Bank of New Mexico	Roswell	NM
Charter Bank For Savings, FSB	Santa Fe	NM
Tucumcari Federal Savings & Loan Association	Tucumcari	NM
First Savings Bank, FSB	Arlington	TX
Franklin Federal Bancorp, a FSB	Austin	TX
Hartland Bank, N.A	Austin	TX
Hill Country Bank	Austin	TX
Citizens National Bank	BenBrook	TX
Mercantile Bank, N.A	Brownsville	TX
Homestead Bank, SSB	College Station	TX
First State Bank	Columbus	TX
First Bank of Conroe, N.A	Conroe	TX
First Commerce Bank	Corpus Christi	TX
Cuero Federal Savings and Loan Association	Cuero	TX
Dalhart Federal Savings and Loan Association	Dalhart	TX
Mercantile Bank & Trust, FSB	Dallas	TX
Texas Bank and Trust, N.A	Dallas	TX
Texas Central Bank, N.A	Dallas	TX
Union State Bank	Floresville	TX
Colonial Savings, F.A.	Fort Worth	TX
Guaranty National Bank	Gainesville	TX
National Bank	Gatesville	TX
Gilmer Savings Bank FSB	Gilmer	TX
Gladewater National Bank	Gladewater	TX
Houston Community Bank, N.A	Houston	TX
Langham Creek National Bank	Houston	TX
Justin State Bank	Justin	TX

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Farmers and Merchants State Bank	Krum	TX
Fayette Savings Association	La Grange	TX
Falcon National Bank	Laredo	TX
Lubbock National Bank	Lubbock	TX
First National Bank of Mount Vernon	Mount Vernon	TX
First National Bank in Munday	Munday	TX
Morris County National Bank of Naples	Naples	TX
First FS&LA of Paris	Paris	TX
Peoples National Bank	Paris	TX
Firstbank Southwest NA	Perryton	TX
PointBank, N.A	Pilot Point	TX
Citizens First Bank	Rusk	TX
Intercontinental National Bank	San Antonio	TX
First National Bank of San Augustine	San Augustine	TX
Balcones Bank, SSB	San Marcos	TX
Citizens State Bank	Sealy	TX
Southern National Bank of Texas	Sugarland	TX
American National Bank of Texas	Terrell	TX
Terrell Federal Savings and Loan	Terrell	TX
Texarkana National Bank	Texarkana	TX
TexStar National Bank	Universal City	TX
First Bank and Trust Company	White Deer	TX
American National Bank	Wichita Falls	TX

Federal Home Loan Bank of Topeka—District 10

San Luis Valley FS&LA of Alamosa	Alamosa	CO
Vectra Bank Colorado, N.A	Alamosa	CO
Collegiate Peaks Bank	Buena Vista	CO
Pikes Peak National Bank	Colorado Springs	CO
Community Banks of Colorado	Cripple Creek	CO
Rocky Mountain Bank and Trust	Florence	CO
First National Bank	Fort Collins	CO
Gunnison Savings & Loan Association	Gunnison	CO
First Federal Bank of Colorado	Lakewood	CO
American Bank	Loveland	CO
Rio Grande Savings & Loan Association	Monte Vista	CO
Firstate Bank of Colorado	Northglenn	CO
First National Bank of Ordway	Ordway	CO
Paonia State Bank	Paonia	CO
Minnequa Bank of Pueblo	Pueblo	CO
Rocky Ford FS&LA of Colorado	Rocky Ford	CO
Century Savings and Loan Association	Trinidad	CO
Park State Bank	Woodland Park	CO
Prairie State Bank	Augusta	KS
First National Bank in Cimarron	Cimarron	KS
Golden Belt Bank, FSA	Ellis	KS
Farmers Bank and Trust, N.A	Great Bend	KS
Citizens National Bank	Independence	KS
Central National Bank	Junction City	KS
Argentine Federal Savings & Loan Association	Kansas City	KS
Citizens Bank of Kansas, N.A	Kingman	KS
University National Bank of Lawrence	Lawrence	KS
Mutual Savings Association, F.S.A.	Leavenworth	KS
The Citizens State Bank	Liberal	KS
The Citizens State Bank	Moundridge	KS
Midland National Bank	Newton	KS
Bank of Blue Valley	Overland Park	KS
Johnson County Bank	Overland Park	KS
Mercantile Bank	Overland Park	KS
Peabody State Bank	Peabody	KS
The Bank of Perry	Perry	KS
The Plains State Bank	Plains	KS
Peoples Bank	Pratt	KS
First Bank Kansas	Salina	KS
Security Savings Bank, F.S.B	Salina	KS
Stockton National Bank	Stockton	KS
First National Bank	Syracuse	KS
The Bank of Tescott	Tescott	KS
Capitol Federal Savings and Loan Association	Topeka	KS
Silver Lake Bank	Topeka	KS
Kendall State Bank	Valley Falls	KS
Bank of Commerce and Trust	Wellington	KS
Garden Plain State Bank	Wichita	KS
Community First National Bank	Alliance	NE
Western Heritage Credit Union	Alliance	NE

Farmers and Merchants National Bank	Ashland	NE
Beatrice National Bank and Trust Company	Beatrice	NE
Bank of Bellevue	Bellevue	NE
Clarkson Bank	Clarkson	NE
Nebraska Energy Federal Credit Union	Columbus	NE
American Interstate Bank	Elkhorn	NE
Overland National Bank	Grand Island	NE
United Nebraska Bank	Grand Island	NE
First Federal Lincoln Bank	Lincoln	NE
National Bank of Commerce Trust and S.A	Lincoln	NE
First National Bank of McCook	McCook	NE
Platte Valley National Bank	Morrill	NE
American National Bank	Nebraska City	NE
Otoe County Bank and Trust Company	Nebraska City	NE
Nehawka Bank	Nehawka	NE
First National Bank in Ogallala	Ogallala	NE
First National Bank	Osceola	NE
Platte Valley National Bank	Scottsbluff	NE
First National Bank	Sidney	NE
Wymore State Bank	Wymore	NE
Legacy Bank ACB	Binger	OK
Community Bank	Bristow	OK
Oklahoma Bank and Trust Company	Clinton	OK
United Bank	Del City	OK
Amquest Bank, NA	Duncan	OK
Citizens Bank of Edmond	Edmond	OK
First National Bank and Trust	Elk City	OK
Guthrie Federal Savings Bank	Guthrie	OK
Bank of the Panhandle	Guymon	OK
Legacy Bank	Hinton	OK
First State Bank	Hobart	OK
First State Bank	Keyes	OK
City National Bank & Trust Company	Lawton	OK
First National Bank	Marlow	OK
Community Bank	Okarche	OK
First National Bank in Okeene	Okeene	OK
BancFirst	Oklahoma City	OK
Bankers Bank	Oklahoma City	OK
Local Federal Bank, F.S.B	Oklahoma City	OK
National Bank of Commerce	Oklahoma City	OK
Bank of the Lakes, N.A	Owasso	OK
First State Bank of Porter	Porter	OK
Farmers State Bank	Quinton	OK
First National Bank and Trust	Shawnee	OK
Local America Bank of Tulsa, FSB	Tulsa	OK
Triad Bank, N.A	Tulsa	OK
Valley National Bank	Tulsa	OK
First American Bank, N.A	Woodward	OK

Federal Home Loan Bank of San Francisco—District 11

First Arizona Savings FSB	Scottsdale	AZ
Founders Bank of Arizona	Scottsdale	AZ
Trust Bank, F.S.B	Arcadia	CA
Borrego Springs Bank	Borrego Springs	CA
Fullerton Community Bank	Fullerton	CA
Hemet Federal Savings & Loan Association	Hemet	CA
First Fidelity Thrift and Loan	Irvine	CA
Washington Mutual	Irvine	CA
Western Financial Bank, F.S.B	Irvine	CA
Home Savings of America, FSB	Irwindale	CA
Scripps Bank	La Jolla	CA
Silvergate Thrift and Loan Company	La Mesa	CA
Broadway FS&LA of Los Angeles	Los Angeles	CA
California Federal Bank	Los Angeles	CA
Family Savings Bank	Los Angeles	CA
Monterey County Bank	Monterey	CA
Standard Savings Bank, FSB	Monterey Park	CA
Capitol Thrift and Loan Association	Napa	CA
Cerritos Valley Bank	Norwalk	CA
Metropolitan Bank	Oakland	CA
Community Bank	Pasadena	CA
Bank of Petaluma	Petaluma	CA
El Dorado Savings Bank	Placerville	CA
Mid Valley Bank	Red Bluff	CA
Kings River State Bank	Reedley	CA

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Life Bank	San Bernardino	CA
First Nationwide Bank (merged)	San Francisco	CA
Sincere Federal Savings Bank	San Francisco	CA
East-West Bank, F.S.B	San Marino	CA
Bay View Bank, a FSB	San Mateo	CA
First FS&LA of San Rafael	San Rafael	CA
First State Bank of Southern California	Santa Fe Springs	CA
First Federal Bank of California	Santa Monica	CA
Sunwest Bank	Tustin	CA
Desert Community Bank	Victorville	CA
First FS & Loan of San Gabriel Valley	West Covina	CA
Bank of Yorba Linda	Yorba Linda	CA
InterWest Bank	Fallon	NV
Citibank, FSB	New York	NY
Federal Home Loan Bank of Seattle—District 12		
Mt. McKinley Mutual Savings	Fairbanks	AK
Bank of Guam	Agana	GU
American Savings Bank, F.S.B	Honolulu	HI
First FS&LA of America	Honolulu	HI
Mountain West Savings Bank, FSB	Coeur D'Alene	ID
Big Sky Western Bank	Big Sky	MT
First Security Bank of Bozeman	Bozeman	MT
Glacier Bank of Eureka	Eureka	MT
Heritage Bank, a F.S.B	Great Falls	MT
American Federal Savings Bank	Helena	MT
Glacier Bank	Kalispell	MT
Manhattan State Bank	Manhattan	MT
Stockman Bank of Montana	Miles City	MT
Western Security Bank	Missoula	MT
Bank of Astoria	Astoria	OR
Security Bank	Coos Bay	OR
Bank of Salem	Salem	OR
Columbia River Banking Company	The Dalles	OR
First Security Bank, N.A	Salt Lake City	UT
Cascade Bank	Everett	WA
InterWest Bank	Oak Harbor	WA
Centennial Bank	Olympia	WA
North Sound Bank	Poulsbo	WA
Raymond Federal Savings Bank	Raymond	WA
EvergreenBank	Seattle	WA
Washington Federal Savings	Seattle	WA
Sterling Savings Association	Spokane	WA
Buffalo Federal Savings Bank	Buffalo	WY
Hilltop National Bank	Casper	WY
Big Horn Federal Savings Bank	Greybull	WY

II. Public Comments

To encourage the submission of public comments on the community support performance of FHLBank members, on or before July 28, 1998, each FHLBank will notify its Advisory Council and nonprofit housing developers, community groups, and other interested parties in its district of the members selected for community support review in the 1998–99 second quarter review cycle. 12 CFR 936.2(b)(2)(ii). In reviewing a member for community support compliance, the Finance Board will consider any public comments it has received concerning the member. *Id.* § 936.2(d). To ensure consideration by the Finance Board, comments concerning the community support performance of members selected for the 1998–99 second quarter review cycle must be delivered to the Finance Board on or before the August 27, 1998 deadline for submission of Community Support Statements.

By the Federal Housing Finance Board.

Dated: July 6, 1998.

William W. Ginsberg,

Managing Director

[FR Doc. 98–18299 Filed 7–10–98; 8:45 am]

BILLING CODE 6725–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 27, 1998.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Gene C., Charlotte, Gene S., Charles, and Greg Lange, all of Alexandria, Virginia; to acquire additional voting shares of Madison Holding Company, Winterset, Iowa, and thereby indirectly acquire additional voting shares of Union State Bank, Winterset, Iowa.

2. *John F., Judy, Scott and Brett Lange* all of Linn Creek, Missouri, and Thomas J., Carol, Jennifer, Brittany and Tyler Lange, all of Sac City, Iowa; to acquire additional voting shares of Citizens Holding Company, Sac City, Iowa, and thereby indirectly acquire additional voting shares of Citizens Bank, Sac City, Iowa.

Board of Governors of the Federal Reserve System, July 7, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–18447 Filed 7–10–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 7, 1998.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. *Androscoggin Bancorp, MHC, and Androscoggin Bancorp, Inc., both of Lewiston, Maine*; to become bank holding companies by acquiring 100 percent of the voting shares of Androscoggin Savings Bank, Lewiston, Maine.

Board of Governors of the Federal Reserve System, July 8, 1998.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 98–18604 Filed 7–10–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 98-17945) published on page 36692 of the issue for Tuesday, July 7, 1998.

Under the Federal Reserve Bank of Kansas City heading, the entry for Marfa Bancshares, Inc., Marfa, Texas, and Marfa Delaware Bancshares, Inc., Wilmington, Delaware is revised to read as follows:

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. *Marfa Bancshares, Inc.*, Marfa, Texas, and Marfa Delaware Bancshares, Inc., Wilmington, Delaware; to become bank holding companies by acquiring 100 percent of the voting shares of The Marfa National Bank, Marfa, Texas.

Comments on this application must be received by July 31, 1998.

Board of Governors of the Federal Reserve System, July 8, 1998.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 98–18605 Filed 7–10–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10:00 a.m., Friday, July 17, 1998.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any matters carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.bog.frb.fed.us for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: July 9, 1998.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 98–18750 Filed 7–9–98; 3:12 pm]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

[File No. 972-3255]

TrendMark Inc., et al.; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before September 11, 1998.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Michael Bloom or Ronald Waldman, New York Regional Office, Federal Trade Commission, 150 William Street, 13th Floor, New York, N.Y. 10038–2603. (212) 264–1242.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period

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of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for June 25, 1998), on the World Wide Web, at "http://www.ftc.gov/os/actions97.htm." A paper copy can be obtained from the FTC Public Reference Room, Room H–130, Sixth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580, either in person or by calling (202) 326–3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to fine approval, an agreement to a proposed consent order ("proposed order") from TrendMark Inc., also doing business as TrendMark International ("TrendMark"), and its principals, William McCormack and E. Robert Gates.

The proposed order has been placed on the public record for sixty (60) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter concerns weight loss products which were marketed by the proposed respondents via unsolicited commercial e-mail sent to users of America Online. The e-mail directed recipients to click on a hyperlink that would then take them to TrendMark's website on the Internet. Both the e-mail and Internet website made various weight loss and health-related claims about respondents' Thin-Thin Diet™ which consisted of two products—Neuro-Thin™ and Lipo-Thin™.

The Commission's complaint alleges that proposed respondents engaged in deceptive advertising in violation of Sections 5 and 12 of the FTC Act by making unsubstantiated claims that: (1) Neuro-Thin™ controls appetite; (2) taking Neuro-Thin™ and Lipo-Thin™ in combination causes significant weight loss without a change in diet; (3) taking Neuro-Thin™ and Lipo-Thin™ in combination causes long-term or permanent weight loss; (4) Lipo-Thin™ helps prevent the absorption of ingested fat; (5) Lipo-Thin™ lowers LDL cholesterol and boosts HDL cholesterol; (6) Lipo-Thin™ promotes healing of ulcers and lesions; (7) Lipo-Thin™ helps prevent irritable bowel syndrome; (8) Lipo-Thin™ reduces levels of uric acid in the blood; (9) Lipo-Thin™ helps improve cardiovascular health; and (10) testimonials from consumers appearing in advertisements for the Thin-Thin Diet™ reflect the typical or ordinary experience of members of the public who use Neuro-Thin™ and Lipo-Thin™. The complaint alleges that the proposed respondents did not have a reasonable basis for these weight loss and health-related claims. In addition, the complaint alleges that testimonials given by individuals on respondents' website failed to disclose adequately that these individuals had material connections with individuals marketing and profiting from the sales off Neuro-Thin™ and Lipo-Thin™.

The proposed respondents indicated that they neither possessed nor were aware of any studies relating specifically to the Neuro-Thin™ or Lipo-Thin™ products. Moreover, the purported support which proposed respondents did rely upon for the above claims—studies on individual components of Neuro-Thin™ or Lipo-Thin™—did not relate adequately to their advertising claims. For example, most of the studies that were submitted by the proposed respondents as support were test tube studies and studies of rats. These studies cannot be used as adequate support for the therapeutic effects of Neuro-Thin™ and Lipo-Thin™ in human beings.

The complaint further alleges that proposed respondents made a false claim that clinical evidence proves that Neuro-Thin™ and Lipo-Thin™ cause users to lose significant weight.

The proposed order contains provisions designed to remedy the violations charged and to prevent proposed respondents from engaging in similar acts in the future.

Paragraph I of the proposed order prohibits proposed respondents from claiming that Neuro-Thin™ and Lipo-Thin™ or any other product or program: (1) controls appetite; (2) causes significant weight loss without a change in diet; (3) causes long-term or permanent weight loss; (4) prevents or helps prevent the absorption of ingested fat; (5) lowers LDL cholesterol or boosts HDL cholesterol; (6) promotes healing of ulcers or lesions; (7) helps prevent irritable bowel syndrome; (8) reduces levels of uric acid in the blood; and (9) helps improve cardiovascular health, unless, at the time the representation is made, proposed respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

Paragraph II of the proposed order states that the proposed respondents shall not represent, in any manner, expressly or by implication, that the experience represented by any user who gives a testimonial or endorsement of the product represents the typical or ordinary experience of members of the public who use the product, unless: (a) at the time it is made, the proposed respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation; or (b) the proposed respondents disclose, clearly and prominently, and in close proximity to the testimonial or endorsement, either: (1) what the generally expected results would be for users of the product, or (2) the limited applicability of the endorser's experience to what consumers may generally expect to achieve, that is, that consumers should not expect to experience similar results.

Paragraph III of the proposed order prohibits proposed respondents from making any representation for Neuro-Thin™ and Lipo-Thin™ or any other food, drug, dietary supplement, drug, or device, about the health benefits, performance, or efficacy of such product unless, at the time the representation is made, proposed respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

Paragraph IV of the proposed order prohibits proposed respondents from misrepresenting the existence, contents, validity, results, conclusions, or interpretations of any test, study, or study.

Paragraph V of the proposed order requires the proposed respondents to disclose, clearly and prominently, a material connection, when one exists, between a person providing an endorsement for any product or program and any respondent, or any individual or entity labeling, advertising, promoting, offering for sale, selling, or distributing such product or program.

Paragraph VI of the proposed order provides that nothing in this order shall prohibit proposed respondents from making any representation about any drug permitted by the Food and Drug Administration.

Paragraph VII of the proposed order provides that nothing in this order shall prohibit proposed respondents from making any representation for any product that is specifically permitted in labeling for such product by regulations promulgated by the Food and Drug

Administration pursuant to the Nutrition Labeling and Education Act of 1990.

Paragraph VIII of the proposed order contains record keeping requirements for materials that substantiate, qualify, or contradict covered claims and requires the proposed respondents to keep and maintain all advertisements and promotional materials containing any representation covered by the proposed order. In addition, paragraph IX requires distribution of a copy of the consent order to current and future officers and agents having responsibility with respect to the subject matter of the order. Further, Paragraph X provides for Commission notification upon a change in the corporate respondent. Paragraph XI requires proposed respondents William McCormack and E. Robert Gates to notify the Commission when either of them discontinues his current business or employment and of an affiliation by either of them with any new businesses or employment. Paragraph XII of the proposed order requires the proposed respondents to file a compliance report. Finally, paragraph XIII of the proposed order provides for the termination of the order after twenty years under specified conditions.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 98–18616 Filed 7–10–98; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meetings

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS). Subcommittee on Standards and Security.

Times and Dates: 10:00 a.m.–6:00 p.m., July 20, 1998; 9:00 a.m.–6:00 p.m., July 21, 1998.

Place: James R. Thompson Center, Room 9–040, 100 West Randolph Street, Chicago, Illinois.

Status: Open.

Purpose: Under the Administrative Simplification provisions of P.L. 104–191, the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the Secretary of Health and Human Services is required to adopt standards for specified transactions to enable health information to be exchanged electronically. The law requires that, within 24 months of adoption, all health plans, health care clearinghouses, and health care providers who choose to conduct these transactions electronically must comply with these standards. The law also requires the Secretary to adopt a number of supporting standards including standards for unique health identifiers for providers, plans, employers and individuals. The Secretary is required to consult with the National Committee on Vital and Health Statistics (NCVHS) in complying with these provisions. The NCVHS is the Department's federal advisory committee on health data, privacy and health information policy.

The NCVHS already has provided recommendations and advice to HHS relating to most of the transaction and supporting standards, and HHS is in the process of publishing several Notices of Proposed Rulemaking that describe the proposed standards for public review and comment in the Federal Register. HIPAA also requires the Secretary to adopt a standard for unique identifier for individuals for use in the health care system. Because of privacy concerns and because no consensus exists in the industry concerning the standard for a unique health identifier, HHS is planning to issue, later this summer, a Notice of Intent, i.e., a request for information on various alternatives and issues at this stage rather than proposing a standard.

To assist in developing the NCVHS recommendations to HHS relating to the standard for unique health identifier, the NCVHS Subcommittee on Standards and Security has scheduled a public meeting on July 20–21, 1998 in Chicago, Illinois. For the meeting, the Subcommittee is inviting specific, interested and affected organizations and individuals to provide their views, perspectives and concerns, to address specific questions relating to the unique health identifier, and to answer further questions from the Subcommittee. Other individuals and organizations that would also like to submit written or oral statements to the Subcommittee on these issues are invited to do so at the meeting. Speakers will be asked to address a series of questions relating to the unique health identifier. The tentative agenda for the meeting, as well as a description of the panels of speakers and the list of questions are posted on the NCVHS website: http://aspe.os.dhhs.gov/ncvhs. To further assist speaker, a white paper that outlines the various potential alternatives for the standard for the unique health identifier as well as issues relating to privacy, implementation and other considerations has been posted on the HHS administrative simplification website: http://aspe.os.dhhs.gov.admnsimp.

The NCVHS plans to hold additional public hearings on the unique health identifier and related issues, including a planned hearing in Washington, DC in September. The dates of subsequent meetings will be announced as they are selected.

Contact Person for More Information: Substantive program information as well as summaries of the meeting and a roster of subcommittee members may be obtained from Bill Braithwaite, lead Subcommittee staff, Office of the Assistant Secretary for Planning and Evaluation, DHHS, Room 440–D, Humphrey Building, 200 Independence Avenue S.W., Washington, D.C. 20201, telephone (202) 260–0546, or Marjorie S. Greenberg, Executive Secretary, NCVHS, NCHS, CDC, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone (301) 436–7050. Information also is available on the NCVHS home page of the HHS website: http://aspe.os.dhhs.gov/ncvhs.

Dated July 6, 1998.

James Scanlon,

Director, Division of Data Policy, Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 98–18448 Filed 7–10–98; 8:45 am]

BILLING CODE 4151-04-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Phase II SBIR Contract—"Researcher's Handbook for Conducting Drug Abuse Research With Hispanic Populations."

Date: July 9, 1998.

Time: 11:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–49, Rockville, MD 20857 (Telephone Conference Call).

Contact Person: Eric Zatman, Contract Review Specialist, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 5600 Fishers Lane, 10–42, Rockville, MD 20857, (301) 443–1644.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist

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Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: July 7, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–18625 Filed 7–9–98; 9:23 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, Who Application Review.

Date: July 9, 1998.

Time: 1:00 pm to 4:00 pm.

Agenda: to review and evaluate grant applications.

Place: 6100 Executive Blvd., Room 5E01, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Gopal M. Bhatnagar, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, National Institutes of Health, PHS, DHHS, 9000 Rockville Pike, 6100 Bldg., Room 5E01, Bethesda, MD 20892, (301) 496–1485.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: July 7, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–18626 Filed 7–9–98; 9:23 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4377–FA–01]

Housing Counseling Program Announcement of Funding Award—FY 1998

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Announcement of funding award.

SUMMARY: In accordance with section 102 (a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of a funding decision made by the Department of Housing and Urban Development. Noncompetitive funding was provided under the Housing Counseling Program initiatives, for homebuyer education and counseling, targeted to potential first-time homebuyers. This announcement contains the name and address of the award winner and the amount of the award.

FOR FURTHER INFORMATION CONTACT: Kitty Woodley, Director of Marketing and Outreach, Office of Single Family Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, Telephone (202) 708–0614, ext. 2307. Hearing- or speech-impaired individuals may access this number by calling the Federal Information Relay Service TTY at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Housing Counseling Program is authorized by section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x).

The objective of this grant is to promote first-time homeownership through homebuyer education and counseling to potential first-time homebuyers. The Congress of National Black Churches, Inc. (CNBC) is a coalition of eight major historically black denominations. Together, these denominations represent 65,000 churches and a membership of more than 19 million people. CNBC will facilitate delivery of homebuyer education and counseling through affiliate organizations in major cities throughout the country. Since 1996, HUD has been working in partnership with CNBC through the HOME-NOW program to address the lack of homeownership opportunities for families in underserved communities.

The Catalog of Federal Domestic Assistance number for the Housing Counseling Program is 14.169.

In accordance with section 102 (a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the name, address, and amount of the award as follows:

Congress of National Black Churches, Inc., 1225 Eye Street, NW, Suite 750, Washington, DC 20005.
Amount: $348,900.

Dated: July 1, 1998.

Ira G. Peppercorn,

General Deputy Assistant Secretary for Housing, Deputy Federal Housing Commissioner.

[FR Doc. 98–18469 Filed 7–10–98; 8:45 am]

BILLING CODE 4310–27–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of a Technical/Agency Draft Multi-Species Recovery Plan for the Threatened and Endangered Species of South Florida

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability and public comment period.

SUMMARY: The Fish and Wildlife Service (Service) announces the availability for public review of Volume II of a two-volume draft multi-species recovery plan for the threatened and endangered species of South Florida and the ecosystems upon which they depend. Volume II provides an ecosystem approach toward restoration of the South Florida Ecosystem, and discusses the biological composition, status, trends, management, and restoration needs of 23 major ecological communities in this region. This volume integrates the needs for species of concern in addition to the federally listed species discussed in Volume I. A notice announcing the availability of Volume I was published in the **Federal Register** on March 6, 1998 (63 FR 11304). The Service solicits review and comments from the public on Volume II of the draft recovery plan.

DATES: Comments on the draft recovery plan must be received on or before September 30, 1998, to ensure consideration by the Service.

ADDRESSES: Copies of the draft recovery plan can be obtained by contacting the U.S. Fish and Wildlife Service Publications Unit, National Conservation Training Center, c/o Aramark, Rt. 1 Box 166, Shepherd Grade Rd., Shepherdstown, West Virginia 25443. The Service is encouraging that requests for copies be for the CD–ROM version as the hard copy encompasses approximately 850 pages. Additionally, this document may be viewed or downloaded from the Service's South Florida Ecological Service's Field Office website at: http://www.fws.gov/r4eso/esvb.htm.

Written comments and materials regarding the plan should be addressed to Dawn Jennings, South Florida Field Office, 1360 U.S. Highway 1, Suite 5, Vero Beach, Florida 32960. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the South Florida Field Office.

FOR FURTHER INFORMATION CONTACT: Dawn Jennings at the South Florida Field Office (561) 562–3909 for information on the recovery plan; the U.S. Fish and Wildlife Service Publications Unit (304) 876–7203 for additional copies of the draft recovery plan.

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of the Fish and Wildlife Service's threatened and endangered species program. To help guide the recovery effort, the Service prepares recovery plans for most of the listed species native to the United States. Recovery plans describe actions that may be necessary for conservation of these species, establish criteria for the recovery levels for reclassification from endangered to threatened status or removal from the list, and estimate the time and cost for implementing the needed recovery measures.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. *et seq.*) requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act requires that public notice and an opportunity for public review and comment be provided during the recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will take these comments into account in the course of implementing approved recovery plans.

The Multi-Species Recovery Plan identifies the recovery and restoration needs of 68 threatened and endangered species and their habitats in the South Florida Ecosystem—an area encompassing 67,346 square kilometers covering the 19 southernmost counties in Florida, using an ecosystem-wide approach. The species addressed in this plan are found throughout South Florida. Some are endemic to this area, others range outside of South Florida, and some of the species included in this plan migrate through or winter in South Florida. These species use every vegetative, terrestrial, and aquatic community present in South Florida. The status of these species varies, although very few show an increasing trend. These species include:

Status	Species	Scientific name
	Mammals	
E	Florida panther	*Puma (=Felis) concolor coryi.*
E	Key deer	*Odocoileus virginianus clavium.*
E	Key Largo cotton mouse	*Peromyscus gossypinus allapaticola.*
E	Key Largo woodrat	*Neotoma floridana smalli.*
E	Silver rice rat	*Oryzomys palustris natator (=O. argentatus).*
E	Lower Keys marsh rabbit	*Sylvilagus palustris hefneri.*
T	Southeastern beach mouse	*Peromyscus polionotus niveiventris.*
E	West Indian manatee	*Trichechus manatus.*
	Birds	
T	Audubon's crested caracara	*Polyborus plancus audubonii.*
E	Bachman's warbler	*Vermivora bachmanii.*
T	Bald eagle	*Haliaeetus leucocephalus.*
E	Cape Sable seaside sparrow	*Ammodramus (=Ammospiza) maritimus mirabilis.*
E	Snail kite	*Rostrhamus sociabilis plumbeus.*
E	Florida grasshopper sparrow	*Ammodramus savannarum floridanus.*
T	Florida scrub-jay	*Aphelocoma coerulescens.*
E	Ivory-billed woodpecker	*Campephilus principalis.*
E	Kirtland's warbler	*Dendroica kirtlandii.*
T	Piping plover	*Charadrius melodus.*
E	Red-cockaded woodpecker	*Picoides (=Drendrocopos) borealis.*
T	Roseate tern	*Sterna dougallii dougallii.*
E	Wood stork	*Mycteria americana.*
	Reptiles	
E	American crocodile	*Crocodylus acutus.*
T	Atlantic salt marsh snake	*Nerodia clarkii (=fasciata) taeniata.*
T	Bluetail (blue-tailed) mole skink	*Eumeces egregius lividus.*
T	Eastern indigo snake	*Drymarchon corais couperi.*
E	Green sea turtle	*Chelonia mydas.*
E	Hawksbill sea turtle	*Eretmochelys imbricata.*
E	Kemp's (Atlantic) ridley sea turtle	*Lepidochelys kempii.*
E	Leatherback sea turtle	*Dermochelys coriacea.*
T	Loggerhead sea turtle	*Caretta caretta.*

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Status	Species	Scientific name
T	Sand skink	*Neoseps reynoldsi.*
	Invertebrates	
E	Schaus swallowtail butterfly	*Heraclides (=Papilio) aristodemus ponceanus.*
T	Stock Island tree snail	*Orthalicus reses.*
	Plants	
E	Avon Park harebells	*Crotalaria avonensis.*
E	Beach jacquemontia	*Jacquemontia reclinata.*
E	Beautiful pawpaw	*Deeringothamnus pulchellus.*
E	Britton's beargrass	*Nolina brittoniana.*
E	Carter's mustard	*Warea carteri.*
E	Crenulate lead-plant	*Amorpha crenulata.*
E	Deltoid spurge	*Chamaesyce (=Euphorbia) deltoidea.*
T	Florida bonamia	*Bonamia grandiflora.*
E	Florida golden aster	*Chrysopsis (=Heterotheca) floridana.*
E	Florida perforate cladonia	*Cladonia perforata.*
E	Florida ziziphus	*Ziziphus celata.*
E	Four-petal pawpaw	*Asimina tetramera.*
E	Fragrant prickly-apple	*Cereus eriophorus var. fragrans.*
T	Garber's spurge	*Chamaesyce (=Euphorbia) garberi.*
E	Garrett's mint	*Dicerandra christmanii.*
E	Highlands scrub hypericum	*Hypericum cumulicola.*
E	Key tree-cactus	*Pilosocereus (=Cereus) robinii.*
E	Lakela's mint	*Dicerandra immaculata.*
E	Lewton's polygala	*Polygala lewtonii.*
E	Okeechobee gourd	*Cucurbita okeechobeensis ssp. okeechobeensis.*
T	Papery whitlow-wort	*Paronychia chartacea (=Nyachia pulvinata).*
T	Pigeon wing	*Clitoria fragrans.*
E	Pygmy fringe-tree	*Chionanthus pygmaeus.*
E	Sandlace	*Polygonella myriophylla.*
E	Scrub blazing star	*Liatris ohlingerae.*
T	Scrub buckwheat	*Eriogonum longifolium var. gnaphalifolium.*
E	Scrub lupine	*Lupinus aridorum.*
E	Scrub mint	*Dicerandra frutescens.*
E	Scrub plum	*Prunus geniculata.*
E	Short-leaved rosemary	*Conradina brevifolia.*
E	Small's milkpea	*Galactia smallii.*
E	Snakeroot	*Eryngium cuneifolium.*
E	Tiny polygala	*Polygala smallii.*
E	Wide-leaf warea	*Warea amplexifolia.*
E	Wireweed	*Polygonella basiramia (=ciliata var. b.).*

The Service has completed recovery plans for many of these species at various times between 1980 and 1996 to identify actions necessary to effect recovery. The ivory-billed woodpecker, Bachman's warbler, silver rice rat, Key Largo woodrat, Key Largo cotton mouse, and Okeechobee gourd do not have approved recovery plans. Since the approval of many of the recovery plans for South Florida species, identified tasks have been completed, and new information has become available on the biology, distribution, life history, and needs of these species. In addition, some species with a South Florida population had no tasks identified for recovery in this area. This plan updates some existing recovery plans, serves as the recovery plan for other species, or identifies South Florida's contribution to recovery. The plan also addresses new threats and needs for all the species identified within it. This plan is a two-volume effort to identify recovery needs of the species of South Florida and the ecosystems upon which they depend. The focus of Volume I is the individual species, while Volume II integrates the species needs with those of the ecological communities in which they reside.

Paper copies of both volumes of the draft recovery plan are available for public inspection at the following locations:

U.S. Fish and Wildlife Service, South Florida Field Office, U.S. Highway 1, Suite 5, Vero Beach, Florida 32960. 561–562–3909

U.S. Fish and Wildlife Service, Merritt Island National Wildlife Refuge, 4 miles east of Titusville, State Road 402, Titusville, Florida 32782. 407–861–0667

U.S. Fish and Wildlife Service, J.N. "Ding" Darling National Wildlife Refuge, 1 Wildlife Drive, Sanibel, Florida 33957. 813–472–1100

U.S. Fish and Wildlife Service, Florida Panther National Wildlife Refuge, 3860 Tollgate Boulevard, Suite 300, Naples, Florida 34114. 941–353–8442

U. S. Fish and Wildlife Service, National Key Deer Refuge, Winn Dixie Shopping Plaza, Big Pine Key, Florida 33043–1510. 305–872–2239

U.S. Fish and Wildlife Service, Loxahatchee National Wildlife Refuge, 10216 Lee Road, Boynton Beach, Florida 33437–4796. 561–732–3684

University of Florida, Smathers Library West, Gainesville, Florida 32611

University of Miami Library, 4600 Rickenbacker Causeway, Miami, Florida 33149

University of Central Florida Library, 4000 Central Florida Blvd., Orlando, Florida 32816

Florida Atlantic University Library, 777 Glades Rd, Boca Raton, Florida 33431

Florida International University Library, FIU University Park, 11200 SW A St., Miami, Florida 33199
University of South Florida Library, 4202 E. Fowler Ave., Tampa, Florida 33620
Florida Gulf Coast University Library, 19501 Ben Hill Griffin Parkway, Ft. Myers, Florida 33965–6565
Archbold Biological Station Library, P.O. Box 2057, Old State Road 8, Lake Placid, Florida 33852
Fairchild Tropical Garden Library, 11935 Old Cutler Road, Miami, Florida 33156
Big Pine Key Branch Library, 213 Key Deer Boulevard, Big Pine Key, Florida 33043

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date identified above will be considered prior to approval of the plan.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: June 24, 1998.

James J. Slack,

Project Leader.

[FR Doc. 98–17671 Filed 7–10–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–930–08–1210–00]

Notice of Closure of Public Lands; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of a temporary closure to off highway vehicle use for portions of the Moquith Mountain Wilderness Study Area including the Coral Pink Sand Dunes.

SUMMARY: This notice closes to off highway vehicle (OHV) use approximately 14,140 acres of the Moquith Mountain Wilderness Study Area (WSA) including some 800 acres within the Coral Pink Sand Dunes. Areas within the WSA that will remain open to vehicle use include designated routes within closed areas and approximately 700 acres within the Coral Pink Sand Dunes. OHV access to the open portion of the dunes will be provided by three designated access routes. Five designated routes within the non sand dune portion of the WAS on Moquith Mountain will also remain open. Temporary fencing and signing will be used as necessary to facilitate this action. The authority for this action is 43 CFR 8341.2.

DATES: This closure will begin immediately and remain in effect pending amendment of the Vermilion Land Use Plan, which is expected to be completed by the end of April 1999.

ADDRESSES: Copies of maps are available at the Bureau of Land Management (BLM), Kanab Area Field Office, 318 North First East, Kanab, Utah 84741 and BLM Utah State Office, 324 South State Street, P.O. Box 45155, Salt Lake City, Utah 84145–0155.

FOR FURTHER INFORMATION CONTACT: Verlin Smith, Kanab Area Field Office, at (435) 644–2672, ext. 2646 or Ronald Bolander, BLM, Utah State Office, at (801) 539–4065.

SUPPLEMENTARY INFORMATION: The 14,830-acre Moquith Mountain WSA was established in 1980 and includes the northern segment of the Coral Pink Sand Dunes (about 1,500 acres). The remaining 2,000 acres of the dunes are part of the Coral Pink Sand Dunes State Park which was established in 1963. The sand dunes are a historic and popular OHV and other recreational use area. Most of the WSA is currently designated as open to OHV use as documented in the Vermilion Management Framework Plan, completed in 1981.

In 1994, BLM implemented management actions through the Moquith Mountain WSA Management Guidance and Schedule (Guidance) to protect wilderness resource values. In 1998, an interdisciplinary team was established to review the effectiveness of the Guidance and determine if impairment of wilderness values was occurring. BLM policy allows for an open OHV category in sand dune areas as long as impairment of wilderness suitability does not occur.

The team determined that no impairment of wilderness values is occurring on the majority of the dunes. However, impairment is occurring in peripheral areas of the northern portion of the dunes where vegetation is more prevalent. Therefore, BLM is temporarily closing to OHV use the sand dunes north and west of an existing allotment fence with the exception of a portion of a dry lake bed and designated OHV access routes which will remain open. The three designated OHV access routes are located as follows: (1) Sand Spring; (2) the dry lake bed east of the Yellowjacket Road and, (3) the Hancock Road near the Ponderosa Grove Campground.

BLM is also concerned that vehicle routes may be forming in other portions of the WSA. Therefore, the non sand dune portion of the WSA will also be temporarily closed with the exception of the following designated routes that will remain open: the Sand Spring Road, South Fork Indian Canyon Petroglyph Road, the Moquith Mountain Loop, Hell Drive and Lamb's Point routes.

Dated: July 7, 1998.

Linda S. Colville,

Acting State Director.

[FR Doc. 98–18536 Filed 7–10–98; 8:45 am]

BILLING CODE 4310–DQ–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–910–0777–51]

Notice of Iditarod Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Iditarod Advisory Council Meeting.

SUMMARY: The Iditarod Advisory Council will conduct an open meeting Tuesday, August 4, 1998, and Wednesday, August 5, 1998, from 9 a.m. until 4 p.m. each day. The purpose of the meeting is to discuss the formation of a non-profit organization to assist in the management of the Iditarod National Historic Trail. The meeting will be held at the BLM Anchorage Field Office, 6881 Abbott Loop Road, Anchorage, AK.

Public comments pertaining to management of the Iditarod National Historic Trail will be taken from 1–2 p.m. Tuesday, August 4. Written comments may be submitted at the meeting or mailed to the address below prior to the meeting.

ADDRESSES: Inquiries about the meeting should be sent to External Affairs, Bureau of Land Management, 222 W. 7th Avenue, #13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION CONTACT: Teresa McPherson, (907) 271–5555.

Dated: July 1, 1998.

Nick Douglas,

Field Manager.

[FR Doc. 98–18607 Filed 7–10–98; 8:45 am]

BILLING CODE 4310–JA–P

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DEPARTMENT OF THE INTERIOR

National Park Service

Gettysburg National Military Park Advisory Commission

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the twenty-sixth meeting of the Gettysburg National Military Park Advisory Commission.

Date: The Public meeting will be held on July 16, 1998, from 7:00 p.m.—9:00 p.m.

Location: The meeting will be held at Cyclorama Auditorium, 125 Taneytown Road, Gettysburg, Pennsylvania 17325.

Agenda: Sub-Committee Reports, Update on General Management Plan, Federal Consistency Projects Within the Gettysburg Battlefield Historic District, Operational Update on Park Activities, and Citizens Open Forum.

FOR FURTHER INFORMATION CONTACT: John A. Latschar, Superintendent Gettysburg National Military Park, 97 Taneytown Road, Gettysburg, Pennsylvania 17325.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public. Any member of the public may file with the Commission a written statement concerning agenda items. The statement should be addressed to the Advisory Commission, Gettysburg National Military Park, 97 Taneytown Road, Gettysburg, Pennsylvania 17325. Minutes of the meeting will be available for inspection four weeks after the meeting at the permanent headquarters of the Gettysburg National Military Park located at 97 Taneytown Road, Gettysburg, Pennsylvania 17325.

Dated: July 1, 1998.

John A. Latschar,

Superintendent, Gettysburg NMP/Eisenhower NHS.

[FR Doc. 98–18551 Filed 7–10–98; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as Amended

Consistent with Departmental policy, 28 CFR 50.7, 38 FR 19029, and 42 U.S.C. 9622(d), notice is hereby given that on June 25, 1998, a proposed consent decree in *United States* v. *Cornell-Dubilier Electronics, Inc. et al.*, Civil Action No. 92–11865–REK, was lodged with the United States District Court for the District of Massachusetts. The proposed Consent Decree will resolve the United States' claims under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9601 *et seq.*, on behalf of the U.S. Environmental Protection Agency ("EPA") against defendants Cornell-Dubilier Electronics, Inc. ("CDE") and Federal Pacific Electric Company ("FPE") relating to the Sullivan's Ledge Superfund Site ("Site") in New Bedford, Massachusetts. The Complaint alleges that CDE and FPE are liable to the United States pursuant to Section 107(a)(3) of CERCLA.

Pursuant to the Consent Decree, CDE and FPE shall pay $1.581 million to the United States in satisfaction of their alleged liability for past and future response costs pursuant to Section 107 of CERCLA. Pursuant to separate agreements, CDE and FPE will also pay approximately $4 million to certain prior settling parties who are currently performing the remediation at the Site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Any comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Cornell-Dubilier Electronics, Inc. et al.*, Civil Action No. 92–11865–REK, D.J. Ref. 90–11–2–388A.

The proposed consent decree may be examined at the Office of the United States Attorney, District of Massachusetts, J. W. McCormack Post Office and Courthouse, Boston, Massachusetts, 02109, and at Region I, Office of the Environmental Protection Agency, One Congress Street, Boston, Massachusetts, 02203 and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check (there is a 25 cent per page reproduction cost) in the amount of $11.00 payable to the Consent Decree Library.

Bruce S. Gelber,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–18477 Filed 7–10–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as Amended

Consistent with Departmental policy, 28 CFR 50.7, and 42 U.S.C. 9622(d), notice is hereby given that on June 12, 1998, a proposed consent decree in *United States* v. *Kauffman & Minteer, et al.*, Civil Action No. 94–5225 (GEB), was lodged with the United States District Court for the District of New Jersey. This proposed consent decree resolves the United States' claims under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9601 *et seq.*, on behalf of the U.S. Environmental Protection Agency ("EPA") against Paul C. Kauffman relating to response costs that have been or will be incurred at or from a Site known as the Kauffman & Minteer Superfund Site ("Site") located in Jobstown, Springfield Township, New Jersey. The consent decree requires Mr. Kauffman to pay the United States $25,000 in three installments.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Any comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Kauffman & Minteer et al.*, D.J. Ref. 90–11–2–1067.

The proposed consent decree may be examined at the office of the United States Attorney, 402 East State Street, Room 502, Trenton, New Jersey 08608, and at the Region II office of the Environmental Protection Agency, 290 Broadway, New York, New York 10007. The proposed consent decree may also be examined at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005 (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check (there is a 25 cent per page reproduction cost) in the amount of $6.75 payable to the Consent Decree Library.

Bruce S. Gelber,

Deputy Chief, Environment Enforcement Section, Environmental and Natural Resources Division.

[FR Doc. 98–18476 Filed 7–10–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Water Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *City of Weirton, et al.*, C.A. No. 5:96–CV–21, was lodged on June 26, 1998, with the United States District Court for the Northern District of West Virginia. The consent decree resolves the United States' claims for civil penalties and injunctive relief, pursuant to the Clean Water Act, 33 U.S.C. §§ 1251 *et seq.* Under the consent decree, the City of Weirton will construct and operate a wastewater treatment facility to come into compliance with the Clean Water Act and its National Pollutant Discharge Elimination System Permit. The City of Weirton will also pay a civil penalty of $150,000 to the United States and the State of West Virginia.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *City of Weirton, et al.*, DOJ Reference No. 90–5–1–1–4265.

The proposed consent decree may be examined at the office of the United States Attorney, 1100 Main Street, Suite 200, Wheeling, West Virginia 26003; the Region III Office of the Environmental Protection Agency, 840 Chestnut Building, Philadelphia, Pennsylvania 19107; and the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $7.25 (.25 cents per page production costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–18475 Filed 7–10–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Agreement To Establish a Common Computer Tape Storage Specification

Notice is hereby given that, on January 23, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Agreement to establish a common computer tape storage specification has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are Hewlett-Packard Company ("HP"), Palo Alto, CA; International Business Machines Corporation ("IBM"), Armonk, NY; Seagate Technology, Inc. ("SEAGATE"), Scotts Valley, CA. The nature and objectives of the venture are to develop, produce and establish a common computer tape storage specification; to combine and integrate into this specification complementary intellectual property of each of the parties; to develop an appropriate third-party mechanism for licensing such intellectual property as part of a license to use the specification to all interested parties under terms and conditions conducive to establishing an open, widely followed industry specification; to promote the development, production and sale of next-generation computer tape storage products compatible with this specification, thereby providing enhanced functionality afforded through the use of licensed intellectual property; and, through all of the foregoing, to enhance demand for next-generation computer tape storage products as alternatives to competing storage technologies.

The parties will file additional written notifications disclosing all changes in membership.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 98–18473 Filed 7–10–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Petrotechnical Open Software Corporation

Notice is hereby given that, on March 2, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Petrotechnical Open Software Corporation ("POSC") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the following additional parties have become new non-voting members of POSC: GlavNIVC (Ministry of Natural Resources of the Russian Federation), Moscow, RUSSIA; Seismic Micro-Technology Inc., Houston, TX; INTesa, Caracas, VENEZUELA; Hitec ASA, Stavanger, NORWAY; China National Petroleum Corporation, Beijing, CHINA; Intelligent Computer Solutions, London, UNITED KINGDOM; and Iona Technologies Ltd., Cambridge, MA.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Petrotechnical Open Software Corporation ("POSC") intends to file additional written notification disclosing all changes in membership.

On January 14, 1991, petrotechnical Open Software Corporation ("POSC") filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 7, 1991 (56 FR 5021).

The last notification was filed with the Department on October 16, 1997. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on November 28, 1997 (62 FR 63389).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 98–18474 Filed 7–10–98; 8:45 am]

BILLING CODE 4410–11–M

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DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of June, 1998.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That Increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that Increased imports did not contribute importantly to worker separations at the firm.

TA–W–34,472; Magnetek, Inc., Prairie Grove, AR
TA–W–34,456; Weyerhaeuser Co., Alameda, CA
TA–W–34,570; Buena Vista Manufacturing Co., Buena Vista, VA
TA–W–34,342; Alps Electric (USA), Inc., Huntington Beach, CA
TA–W–34,340; Weyerhaeuser Co., Composite Products Div., Springfield, OR
TA–W–34,407; General Die Cast, Oak Park, MI
TA–W–34,541; Toroplast Manufacturing Co, McAllen, TX

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA–W–34,606; Mid-Atlantic Regional Joint Board, U.N.I.T.E, Bristol, VA
TA–W–34,486; Fruit of the Loom, Inc., Contract Business Dept., Bowling Green, KY
TA–W–34,576; OPS, Inc., Great Bend, KS
TA–W–34,591; Americold Logisitics, Nampla, ID
TA–W–34,631; Donnkenny Apparel, Inc., Mickey & Co., Rural Retreat Distribution, Rural Retreat, VA

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–34,609; Allied Signal, Inc., Columbia, SC
TA–W–34,242; Tennessee Woolen Mills, Inc., Lebanon, TN
TA–W–34,463; Northrop Grumman, Fleetville, PA
TA–W–34,440; Taylor Lumber & Treating, Inc., Sheridan, OR
TA–W–34,504; Sharp Microelectronics Technology, Inc., Flat Panel Display Manufacturing Div., Camas, WA
TA–W–34,498; Kunkle Foundry Co., Inc., Andrews, IN
TA–W–34,543; Asko, Inc., American Shear Knife Div., West Homestead, PA
TA–W–34,350; General Electric Environmental Service, Inc., Lebanon, PA
TA–W–34,554; Ann Travis, Inc., New York, NY
TA–W–34,354; Tescom Corp., Elk River, MN
TA–W–34,427; Sterling Commerce, Commerce Internet Div., Wayne, PA
TA–W–34,441; TRW Steering Wheel Systems, Yaphank, NY Including the Following Leased Workers of Manpower, Hauppage, NY and Interpool, Hicksville, NY Employed at TRW Steering Wheel Systems, Yakphank, NY
TA–W–34,372; CCL Container Corp., CCL Industries, Chester, PA
TA–W–34,618; Philips Components, Saugerties, NY

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–34,536; Gerber Baby Foods, Asheville, NC

Company made a business decision to consolidate its' domestic manufacturing in Arkansas and Michigan and close its' Asheville, NC plant.

TA–W–34,326; Rubbermaid Courtland, Inc., Courtland, NY

A Corporate decision was made to transfer production of injection molded plastic products from Courtland, NY to other existing domestic manufacturing facilities.

TA–W–34,509; Constar Plastic, City of Industry, CA

Aggregate imports of plastic bottles are negligible during the relevant period.

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–34,310; Molycorp, Inc., Mountain Pass, CA: February 2, 1997.
TA–W–34,506; Lyon Fashion, Inc., McAlisterville, PA: April 14, 1997.
TA–W–34,468; T.L. Edwards, Inc., Statesville, NC: April 6, 1997.
TA–W–34,512; Easton Corp., Commercial Controls Div., Salisbury, MD: April 17, 1997.
TA–W–34,454; Vogue Originals, Miami, FL: April 1, 1997.
TA–W–34,526; The Amory Garment Co., Amory, MS: April 28, 1997.
TA–W–34,428; Denise Lingerie, Div. of Hose of Ronnie, Inc., Johnson City, TN: March 23, 1997.
TA–W–34,547; VF Knitwear, Inc., Kingston, NC: May 1, 1997.
TA–W–34,546; VF Knitwear, Inc., Bakersville, NC: May 1, 1997.
TA–W–34,588; Tri-Clover, Inc., Fittings Factory, Kenosha, WI: May 14, 1997.
TA–W–34,511; Rayovac Corp., Madison, WI: April 22, 1997.
TA–W–34,451; Richfield Apparel, Richfield, PA: March 30, 1997.
TA–W–34,343; The Torrington Co., Calhoun, GA: March 5, 1997.
TA–W–34,345; Little Sister, Inc., Windsor, PA: March 8, 1997.
TA–W–34,497; Imperial Home, Decor Group, Ashaway, RI: April 21, 1997.
TA–W–34,567; VF Knitwear, Inc., Hillsville, VA: May 11, 1997.
TA–W–34,545; Fun-Tees, Inc., Andrews, SC: May 4, 1997.
TA–W–34,455; Emerson Boot, Cuba, MO: March 30, 1997.
TA–W–34,641; J & J Lingerie, Glen Falls, NY: May 22, 1997.
TA–W–34,464; Walls Industries, Inc., Hamilton, TX: March 23, 1997.
TA–W–34,613; Hovland Mfg. Co., Inc., Cody, WY: May 18, 1997.
TA–W–34,501; U.S. Repeating Arms Co., Inc., North Terminal Div., Hingham, MA: April 23, 1997.
TA–W–34,478; Premier Autoglass Corp., Lancaster, OH: April 17, 1997.
TA–W–34,594; The Goodyear Tire and Rubber Co., Tire Cord Div., Cartersville, GA: March 31, 1997.
TA–W–34,320; Montgomery Kone Machining Center, Moline, IL: March 3, 1998.
TA–W–34,358 A&B; Pioneer Natural Resources USA, Inc.,

Headquartered in Midland, TX, and Operating Throughout the State of Texas and Operating Throughout the State of Oklahoma: February 8, 1997.

TA–W–34,532; Breed Technologies, Inc., Air Bag & Seat Belt Div. Formerly Known as Allied Signal Safety Restraint Systems, El Paso, TX: May 1, 1997.

TA–W–34,533; Breed Technologies, Inc., Air Bag & Seat Belt Div., Formerly Known as Allied Signal Safety Restraint Systems, Brownsville, TX: July 19, 1998.

TA–W–34,534; Breed Technologies, Inc., Air Bag & Seat Belt Div., Formerly Known as Allied Signal Safety Restraint Systems, Douglas, AZ: April 27, 1997.

TA–W–34,639; Breed Technologies, Inc., Air Bag & Seat Belt Div., Formerly Known as Allied Signal Safety Restraint Systems, Greenville, AL: May 23, 1998.

TA–W–34,520; LaValle Mills Underwear Co., Inc. Long Island City, NY: April 16, 1997.

TA–W–34,598; J. Fashion International, Jessup, PA: May 18, 1997.

TA–W–34,616; Springfield Manufacturing, Springfield, GA: January 30, 1997.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a) Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of June, 1998.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–02391; Buena Vista Manufacturing Co., Buena Vista, VA

NAFTA–TAA–02353, & A; Justin Boot Co., Carthage, MO and Sarcoxie, MO

NAFTA–TAA–02341 & A, B; DRS Ahead Technology, Inc., Dassel, MN and St. Croix Falls, WI and Plymouth, MN

NAFTA–TAA–02415 and A; Halmode Apparel, Inc., New Castle, VA and Turner & Minter, Inc., Eagle Rock, VA

NAFTA–TAA–02425; Philips Components, Saugerties, NY

NAFTA–TAA–02347; Kunkle Foundry Co., Inc., Andrews, IN

NAFTA–TAA–02289; Weyerhaeuser Co., Alameda, CA

NAFTA–TAA–02235; Weyerhaeuser Co., Composite Products Div., Springfield, OR

NAFTA–TAA–02164; Tennessee Woolen Mills, Lebanon, TN

NAFTA–TAA–02255; General Electric Environmental Services, Inc., Lebanon, PA

NAFTA–TAA–02434; Magnetek, Inc., Prairie Grove, AR

NAFTA–TAA–02371; Toroplast Manufacturing Co., McAllen, TX

NAFTA–TAA–02402; Kleinert's Inc. of Florida, Largo, FL

NAFTA–TAA–02332; Northrop Grumman, Fleetville, PA

NAFTA–TAA–02392; Wausau-Mosinee Paper Corporation, Rhinelander Mill, Rhinelander, WI

NAFTA–TAA–02316; Taylor Lumber & Treating, Inc., Sheridan, OR

The investigation revealed that the criteria for eligibility have not been met for the reasons specified.

NAFTA–TAA–02398; Americold Logistics, Nampa, ID

NAFTA–TAA–02223; Thomson Consumer Electronics, El Paso, TX and DSI Staff Connxions SW, Inc., El Paso, TX

The investigation revealed that the workers of the subject firm did not produce an article within the meaning of Section 250(a) of the Trade Act, as amended.

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–02274; CCL Container Corp., CCL Industries, Chester, PA: March 19, 1997.

NAFTA–TAA–02311; B.W. Manufacturing Corp., Indiana, PA: March 30, 1997.

NAFTA–TAA–02403; Eastman Kodak Co., BIS Focus Finishing Factory Advanced Imaging Materials Manufacturing, Rochester, NY: May 15, 1997.

NAFTA–TAA–02383; Tops Malibu, Eugene, OR: April 8, 1997.

NAFTA–TAA–02346; Kirby Mfg. Co/AAA Enterprises Plus, McClure, PA: April 17, 1997.

NAFTA–TAA–02365; Breed Technologies, Inc., Air Bag and Seat Belt Div. Formerly Known as Allied Signal Safety Restraint Systems, Brownsville, TX: March 17, 1998.

NAFTA–TAA–02365 A and NAFTA–TAA–02366; Breed Technologies, Inc., Air Bag and Seat Belt Div. Formerly Known as Allied Signal Safety Restraint Systems, El Paso, TX and Douglas, AR: April 27, 1997.

NAFTA–TAA–02299; Richfield Apparel Co., Inc., Richfield, PA: March 30, 1997.

NAFTA–TAA–02342; Rayovac Corp., Madison, WI: April 22, 1997.

NAFTA–TAA–02410; Taylor Precision Products, Fletcher, NC: May 20, 1997.

NAFTA–TAA–02388; Paul-Son Gaming Supplies, Inc., Las Vegas, NV: April 20, 1997.

NAFTA–TAA–02381; Hasbro Manufacturing Services, El Paso, TX: April 18, 1998.

NAFTA–TAA–02390; Tri-Clover, Inc., Fittings Factory, Kenosha, WI: May 14, 1997.

NAFTA–TAA–02262 & A, B; Pioneer Natural Resources USA, Inc., Headquartered in Midland, TX and Operating Throughout the State of Texas & Throughout the State of Oklahoma: March 10, 1997.

NAFTA–TAA–02323; Walls Industries, Inc., Hamilton, TX: March 23, 1997.

NAFTA–TAA–02356; Escalator Handrail USA, Orchard Park, NY: April 21, 1997.

NAFTA–TAA–2369 & A; VF Knitwear, Inc., Bakersville, NC and Kinston, NC: May 1, 1997.

NAFTA–TAA–2360; VF Knitwear, Inc., Hillsville, VA: May 1, 1997.

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NAFTA–TAA–02328; Larcan–TTC, Inc., Louisville, CO: April 8, 1997.

NAFTA–TAA–02393; Alps Electric (USA), Inc., Huntington Beach, CA: March 12, 1997.

NAFTA–TAA–02417; Idea Courier, Div. Of IDE Corp., Phoenix, AR: May 29, 1997.

NAFTA–TAA–02345; Hamrick's, Roebuck, SC: April 20, 1997.

NAFTA–TAA–02312; TRW Steering Wheel Systems, Yaphank, NY, Including the Leased Workers of Manpower, Hauppauge, NY and Interpool, Hicksville, NY Employed at TRW Steering Wheels System, Yaphank, NY: April 13, 1997.

NAFTA–TAA–02281; Collins Products LLC, A Div. Of Collins Pine Co., Klamath Falls, OR: March 24, 1997.

NAFTA–TAA–02344; Polaroid Corp., Waltham, MA: April 16, 1997.

NAFTA–TAA–02295; Alcoa Fujikura LTD, Automotive Div., Del Rio, TX: March 27, 1997.

I hereby certify that the aforementioned determinations were issued during the month of June 1998. Copies of these determinations are available for inspection in Room C–4318, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: July 1, 1998.

Linda G. Poole,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 98–18574 Filed 7–10–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,691]

Amity Dyeing & Finishing, Augusta, Georgia; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 22, 1998, in response to a petition filed on behalf of workers at Amity Dyeing & Finishing, Augusta, Georgia.

The subject plant closed in August of 1997 and has not reopened since that time. Workers at the plant were denied eligibility to apply for Trade Adjustment Assistance in a determination issued on November 24, 1997 (TA–W–33,815). No new evidence has been brought forward to indicate that conditions have changed. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 23rd day of June, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–18579 Filed 7–10–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Acting Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 23, 1998.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 23, 1998.

The petitions filed in this case are available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 22nd day of June, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted on 06/22/98]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
34,663	Crown Pacific (IAMAW)	Sandpoint, ID	06/04/98	Lumber.
34,664	Rod Ric Drilling Corp (Wkrs)	Midland, TX	06/08/98	Crude Oil.
34,665	Alcoa Fujikura, Ltd (Co.)	El Paso, TX	05/19/98	Automotive Wire Harnesses.
34,666	New Creations (UNITE)	Farmingdale, NY	06/03/98	Ladies' Bathing Suits.
34,667	Brunswick Bicycles (Co.)	Effingham, IL	06/09/98	Bicycles.
34,668	Keystone Weaving Mills (Wkrs)	Lebanon, PA	05/27/98	Fabrics—Home.
34,669	MKE Quantum Components (Co.)	Shrewsbury, MA	05/28/98	Wafer—MR Heads.
34,670	Rexworks, Inc (USWA) (Co.)	Milwaukee, WI	06/02/98	Cement Mixers, Landfill Compaction.
34,671	BASF Corp (Wkrs)	Santa Ana, CA	06/05/98	Polystryrene Pellets.
34,672	Henderson Sewing Machine (Co.)	Andalusia, AL	05/26/98	Distribute Industrial Sewing Machines.
34,673	Newell Co (Wkrs)	Statesville, NC	06/01/98	Picture Frames.
34,674	Donnkenny Apparel (Wkrs)	Dryden, VA	06/09/98	Ladies' Apparel.
34,675	J.E. Morgan Knitting Mill (Wkrs)	Gilbertsville, PA	06/11/98	Thermal Underwear.
34,676	United Container Mach. (Co.)	Glen Arm, MD	05/12/98	Capital Equipment Machinery.
34,677	Trico Products (Co.)	Buffalo, NY	06/11/98	Windshield Wiper Systems.
34,678	Mitsubishi Semiconductor (Co.)	Durham, NC	06/09/98	DRAM Semiconductors.

APPENDIX—Continued

[Petitions instituted on 06/22/98]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
34,679	L–K Wireline, Inc (Wkrs)	Hays, KS	06/07/98	Oilfield Services.
34,680	Duro Test Lighting (Co.)	Clifton, NJ	05/26/98	Light Bulbs.
34,681	Raytheon Systems (UPIU)	Fort Wayne, IN	06/12/98	Military Communications.
34,682	Glencraft Lingerie (Wkrs)	New York, NY	05/05/98	Sleepwear and Robes.
34,683	Topps Safety Apparel (Wkrs)	Greensburg, KY	06/12/98	Uniforms.
34,684	Shin Etsu Polymer America (Co.)	Union City, CA	06/12/98	Silicone Ruber Molded Assembly Products.
34,685	Siebe Automotive North (Co.)	Knoxville, TN	06/12/98	Automobile EGR Valves.
34,686	Rocco Shady Brook Farms (Wkrs)	St. Pauls, NC	06/15/98	Process Turkeys.
34,687	Huffy Bicycle (Co.)	Celina, OH	06/11/98	Bicycles.
34,688	Breuil Automation, Inc (Wkrs)	Gainesville, GA	06/12/98	Poultry Equipment.
34,689	Sanda Hosiery Mills (Co.)	Cleveland, TN	05/26/98	Infant's and Toddler's Socks.
34,690	Imation Corp. (Wkrs)	Wahpeton, ND	06/01/98	Computer Diskettes & Cartridges.
34,691	Amity Dyeing & Finishing (Wkrs)	Augusta, GA	06/08/98	Dyed Cotton Fabric.

[FR Doc. 98–18578 Filed 7–10–98; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,506]

Dade Behring Inc., Miami, Florida; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on May 4, 1998, in response to a worker petition which was filed by the company on behalf of its workers at Dade Behring Inc., Miami, Florida.

The petitioner has requested that the petition be withdrawn. Consequently further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 25th day of June, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–18582 Filed 7–10–98; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,572]

Joe Sharp Manufacturing Company, Inc. Rancho Cucamunga, California; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on May 26, 1998, in response to a worker petition which was filed on behalf of workers at Joe Sharp Manufacturing Company, Inc., Rancho Cucamunga, California.

An active certification covering the petitioning group of workers at the subject firm remains in effect under the name Sharp Manufacturing Company (TA–W–34, 302). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 23rd day of June, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–18580 Filed 7–10–98; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,416]

Lynley Designs, Jefferson, Louisiana; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on April 6, 1998 in response to a petition which was filed on March 25, 1998 on behalf of workers at Lynley Designs, located in Jefferson, Louisiana.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 24th day of June 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–18581 Filed 7–10–98; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–02346]

Freeport Sulphur Co., and Leased Workers of Pecos Valley Field Services, Inc., Freeport McMoRan Sulphur, Inc., Pecos, TX; Amended Certification Regarding Eligibility To Apply for NAFTA-Transitional Adjustment Assistance

In accordance with Section 250(A), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974 (19 USC 2273), the Department of Labor issued a Certification for NAFTA Transitional Adjustment Assistance on February 17, 1998, applicable to all workers of Freeport Sulphur Company, including leased workers of Pecos Valley Field Services, Incorporated, Pecos, Texas. The notice was published in the Federal Register on March 16, 1998 (63 FR 12836).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information provided by the State shows that some workers separated from employment at Freeport Sulphur Company had their wages reported under a separate unemployment insurance (UI) tax account at Freeport McMoRan Sulphur, Incorporated. Workers from Freeport McMoRan Sulphur, Incorporated produced molten elemental sulphur at the Pecos, Texas location of Freeport Sulphur Company.

Based on these findings, the Department is amending the certification to include workers from Freeport McMoRan Sulphur, Incorporated, Pecos, Texas who were engaged in the production of molten elemental sulphur at Freeport Sulphur Company, Pecos, Texas.

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The intent of the Department's certification is to include all workers of Freeport Sulphur Company adversely affected by the shift of production to Mexico.

The amended notice applicable to NAFTA—02046 is hereby issued as follows:

All workers of Freeport Sulphur Company, Pecos, Texas (NAFTA—02046), including leased workers of Pecos Valley Field Services, Incorporated and Freeport McMoRan Sulphur, Incorporated, Pecos, Texas, engaged in employment related to the production of molten elemental sulphur for Freeport Sulphur Company, Pecos, Texas who became totally or partially seperated from employment on or after October 24, 1996 through February 17, 2000 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, D.C. this 1st day of July, 1998.

Linda G. Poole,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 98–18575 Filed 7–10–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–02185]

Gambro Healthcare, Inc.. Deland, FL., and Leased Workers of TTC Illinois, Inc. Boca Raton, FL.; Amended Certification Regarding Eligibility to Apply for NAFTA-Transitional Adjustment Assistance

In accordance with Section 250(A), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974 (19 USC 2273), the Department of Labor issued a Certification for NAFTA Transitional Adjustment Assistance on February 19, 1998, applicable to all workers of Gambro Healthcare, Incorporated, located in Deland, Florida. The notice was published in the **Federal Register** on March 16, 1998 (63 FR 12838).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers produce on-off dialysis kits. New information provided by the company shows that some workers separated from employment at Gambro Healthcare, Incorporated, Deland, Florida has their wages reported under a separate unemployment insurance (UI) tax account, at TTC Illinois, Incorporated, Boca Raton, Florida. Workers from TTC Illinois provided payroll function services to the Deland, Florida facility of Gambro Healthcare, Incorporated. Worker separations occurred at TTC Illinois, Incorporated as a result of worker separations at Gambro Healthcare, Incorporated.

Accordingly, the Department is amending the certification to reflect this matter.

The intent of the Department's certification is to include all workers of Gambro Healthcare, Incorporated adversely affected by imports from Mexico.

The amended notice applicable to NAFTA—02185 is hereby issued as follows:

All workers of the Gambro Healthcare, Incorporated, Deland, Florida (NAFTA—02185), and leased workers of TTC Illinois, Incorporated, Boca Raton, Florida that provided payroll function services for Gambro Healthcare, Incorporated, Deland, Florida who became totally or partially separated from employment on or after January 29, 1997 through February 19, 2000 are eligible to apply for the NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, D.C. this 1st day of July, 1998.

Linda G. Poole,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 98–18576 Filed 7–10–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–02210; NAFTA–02210A]

TRICO Products Corporation, Vanceboro, North Carolina; and TRICO Products Division Headquarters Buffalo, New York; Amended Certification Regarding Eligibility To Apply for NAFTA-Transitional Adjustment Assistance

In accordance with Section 250(a), Subchapter D, Chapter 2, Tital II, of the Trade Act of 1974 as amended (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on April 13, 1998, applicable to all workers at TRICO Products Corporation, located in Vanceboro, North Carolina. The notice was published in the **Federal Register** on May 6, 1998 (63 FR 25083).

At the request of the company, the Department reviewed the certification for workers of the subject firm. New information received by the company shows that worker separations occurred at TRICO Products Division Headquarters, located in Buffalo, New York. The Buffalo, New York location is the corporate headquarters and administrative offices for the North American production facilities of TRICO Products Corporation, including Vanceboro, North Carolina where workers produce windshield wipers, including blades, refills and parts.

The intend of the Department's certification is to include all workers of TRICO Products Corporation who were adversely affected by increased imports from Mexico. Accordingly, the Department is amending the certification to cover the workers of TRICO Products Corporation, TRICO Products Division Headquarters, Buffalo, New York.

The amended notice applicable for NAFTA—02210 is hereby issued as follows:

"All workers of TRICO Products Corporation, Vanceboro, North Carolina (NAFTA—02210), and TRICO Products Division Headquarters, Buffalo, New York (NAFTA—02210A) who became totally or partially separated from employment on or after February 11, 1997 through April 13, 2000 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974."

Signed at Washington, D.C. this 1st day of July, 1998.

Linda G. Poole,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 98–18577 Filed 7–10–98; 8:45 am]

BILLING CODE 4510–30–M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Notice of Availability

AGENCY: Office of Management and Budget, Office of Federal Procurement Policy (OFPP).

ACTION: Notice of Availability of Draft Performance-Based Service Contracting (PBSC) Documents on Selected Professional and Technical Services.

SUMMARY: OFPP initiated an interagency project to develop generic guidance materials to assist agencies in converting selected professional and technical services to PBSC methods. Working groups, consisting of agency technical and procurement personnel, are developing generic PBSC documents that include: performance requirements, performance standards, quality assurance techniques, positive and negative incentives, and evaluation criteria for selected services. Draft documents have been prepared for software maintenance, studies and reports, aircraft maintenance, test range support, and surveys. After the

documents have been finalized, they will be published as a reference source for agency voluntary use. We feel that public review and comment on the draft documents would provide us with valuable feedback and insight.

ADDRESSES: Those persons interested in obtaining a copy and reviewing the draft documents should contact Ms. Margaret B. Christian, OFPP, New Executive Office Building, Room 9001, 725 17th Street, NW, Washington, DC 20503, (202–395–6803).

Allan Brown,

Acting Administrator.

[FR Doc. 98–18564 Filed 7–10–98; 8:45 am]

BILLING CODE 3110–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (98–093)]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Prospective Patent License.

SUMMARY: NASA hereby gives notice that Envirotest Systems Corporation, of Sunnyvale, CA 94086, has applied for an exclusive license within the field of use defined as "motor vehicle exhaust emission monitoring" to practice the inventions disclosed in U.S. Patent No. 5,128,797 entitled, "NON-MECHANICAL OPTICAL PATH SWITCHING AND ITS APPLICATION TO DUAL BEAM SPECTROSCOPY INCLUDING GAS FILTER CORRELATION RADIOMETER" and NASA Case No. LAR–15361–1–CU entitled, "SIMULTANEOUS MEASUREMENT OF TWO OR MORE GASES USING OPTICAL PATH SWITCHING" for which a U.S. Patent Application was filed, and both the U.S. Patent and U.S. Patent Application are assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Langley Research Center.

DATES: Responses to this notice must be received by September 11, 1998.

FOR FURTHER INFORMATION CONTACT: Robin W. Edwards, Patent Attorney, Langley Research Center, Mail Stop 212, Hampton, VA 23681–0001, telephone (757) 864–3230; fax (757) 864–9190.

Dated: July 6, 1998.

Edward A. Frankle,

General Counsel.

[FR Doc. 98–18608 Filed 7–10–98; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (98–094)]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Prospective Patent License.

SUMMARY: NASA hereby gives notice that Weider Nutrition International of Salt Lake City, Utah 84104–4726, has applied for an exclusive license to practice the invention described and claimed in U.S. Patent No. 5,447,730, entitled "Rehydration Beverage," which is assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to NASA Ames Research Center.

DATE: Responses to this notice must be received by September 11, 1998.

FOR FURTHER INFORMATION CONTACT: Kathleen Dal Bon, Patent Counsel, NASA Ames Research Center, Mail Stop 202A–3, Moffett Field, CA 94035–1000, telephone (650) 604–5104.

Dated: July 6, 1998.

Edward A. Frankle,

General Counsel.

[FR Doc. 98–18609 Filed 7–10–98; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Services—Washington, DC.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before August 27, 1998. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: To request a copy of any records schedule identified in this notice, write to the Life Cycle Management Division (NWML), National Archives and Records Administration (NARA), 8601 Adelphi Road, College Park, MD 20740–6001. Requests also may be transmitted by FAX to 301–713–6852 or by e-mail to records.mgt@arch2.nara.gov.

Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Michael L. Miller, Director, Modern Records Programs (NWM), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: (301) 713–7110. E-mail:records.mgt@arch2.nara.gov.

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs

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the records to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, Agency-wide (N1–463–98–2, 2 items, 2 temporary items). Reduction in retention periods of license issuance records and investigation files, which were previously approved for disposal, to meet requirements of the U.S. Grain Standards Act.

2. Department of Agriculture, Animal and Plant Health Inspection Service, Agency-wide (N1–463–98–1, 2 items, 2 temporary items). Credit card account set-up files and program holder files documenting the issuance and use of government employee credit cards for agency purchases.

3. Department of the Army, Army-wide (N1–AU–97–10, 6 items, 6 temporary items). Records relating to logistics and materiel issues, including readiness of aircraft, missiles and ground equipment and the capability of the logistics system to sustain deployed forces in simulated combat.

4. Department of the Army, Army-wide (N1–AU–97–25, 4 items, 4 temporary items). Reduction in the retention period of special review board records previously approved for disposal. Files relate to suitability evaluation boards, academic evaluation report appeals, officer evaluation report appeals and enlisted evaluation report appeals.

5. Department of Commerce, National Oceanic and Atmospheric Administration, Agency-wide (N1–370–97–3, 1 item, 1 temporary item). Fishery Management Regulations Guidance Files maintained at NOAA headquarters and regional offices which consist of guidance on the preparation and publication of regulations in the **Federal Register**, regulatory training materials pertaining to fishery regulations development and regulations pertaining to Fishery Management Plans.

6. Department of Energy, Alaska Power Administration, Agency-wide (N1–447–97–1, 5 items, 1 temporary item). The single temporary item in this schedule permits the Alaska Power Administration (which will cease operation in 1998) to apply to its records disposal authorities contained in 10 separate schedules approved for analogous records of the Bonneville Power Administration. Records proposed for disposal document payroll, budget, work requests, quality control, line inspections and other day-to-day operations.

7. Department of Health and Human Services, Health Care Financing Administration (N1–440–98–1, 1 item, 1 temporary item). Demonstration records created by the Office of Financial Management to support the management and payment for research projects conducted by HCFA to test the feasibility of covering currently noncovered services or activities and/or to test alternate reimbursement methodologies. The files include cost reports, financial statements, award/initiation letters, correspondence, progress reports, corrective actions, site visit reports, interim and final reports, desk review programs, notices of program reimbursement, adjustment reports, appeals information (e.g., position papers), payment information, enrollee data and monthly and history edits.

8. Department of Health and Human Services, Health Care Financing Administration (N1–440–98–2, 1 item, 1 temporary item). Adjusted Community Rate (ACR) Proposals created by individual HMO's consisting of documentation supporting the proposed monthly premium charge to enrolled Medicare beneficiaries.

9. Department of Health and Human Services, National Institute for Occupational Safety and Health (N1–442–98–1, 4 items, 4 temporary items). Epidemiological Study Records and Employee Exposure and Medical Records. Epidemiological Study Records include medical records and consent forms, questionnaires, notification letters, study protocols, draft reports and peer review correspondence (the final study report is not authorized for destruction). Employee Exposure and Medical Records will be retained for 40 years in accordance with requirements specified in 29 CFR 1910.

10. Department of Justice, Agency-wide (N1–60–98–3, 1 item, 1 temporary item). Removal of Records Request and Nondisclosure Agreements. Executed printed forms required of all departing employees certifying that documentary materials removed are non-record copies and contain no sensitive information.

11. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information System Division (N1–65–98–1, 1 item, 1 temporary item). A reduction in the retention period for single fingerprint cards for individuals born prior to 1/1/29, previously approved for disposal.

12. Department of Justice, Immigration and Naturalization Service (N1–85–98–1, 2 items, 2 temporary items). Firearms Operating Module, an automated system tracking issuance of firearms to INS enforcement personnel.

13. Department of Justice, United States Parole Commission (N1–438–98–1, 1 item, 1 temporary item). Parole cases transferred from the custody of the District of Columbia Parole Board to the Commission pursuant to the requirements of P.L. 1005–33.

14. Department of Treasury, Internal Revenue Service, Assistant Commissioner (International) (N1–058–98–8, 10 items, 10 temporary items). The records consist of Exemption from Withholding on Compensation for Independent Personal Services of a Non-Resident Alien (Form 8233) and two administrative systems: the Territory Post Model System which prioritizes potential international posts-of-duty, and the Centralized International Case Management System, which tracks information pertaining to international examinations.

15. Department of Treasury, Internal Revenue Service, Service Centers (N1–058–98–12, 20 items, 20 temporary items). The records consist of forms and

accounting records created and maintained in the Centers pertaining to revenue collection and accounting; processing, analysis, and disposition of tax returns, tax information and related records; mailing of tax forms, transcription of statistical information and preparation of reports.

16. Department of Treasury, Internal Revenue Service, Office of the Chief, Management and Administration; Assistant Commissioner, Support Services; Office of the Chief, Headquarters Operations; Office of the Director, Support Services; Regional Commissioners (N1–058–97–9, 42 items, 36 temporary items). The records proposed for disposal consist largely of administrative records pertaining to such matters as air quality management, building renovation projects, management improvement studies, operating plans, space planning, parking programs, work information tracking, and membership in professional organizations.

17. Department of Treasury, Internal Revenue Service, Service Centers (N1–058–98–11, 1 item, 1 temporary item). A reduction in the retention period for Posting, Payment, and Adjustment Documents, which were previously approved for disposal.

18. Department of Treasury, Under Secretary, Domestic Finance, Office of Federal Financing Bank (N1–056–98–1, 4 items, 2 temporary items). A reduction in the retention period for Federal Financing Note and Obligation Files and Transaction Files, which were previously approved for disposal.

19. African Development Foundation, Office of Programs and Field Operations (N1–487–98–1, 4 items, 4 temporary items). Master Grant Documentation Files, including electronic versions of records created by electronic mail and word processing applications.

20. Environmental Protection Agency, Laboratory Records (N1–412–97–5, 1 item, 1 temporary item). Employee Occupational Exposure to Ionizing Radiation records consisting of quarterly employee exposure reports, lists of approved radioactive isotope users, Nuclear Regulatory Commission (NRC) correspondence, policies regarding handling of radiation, questionnaires and requisitions for and inventories of radioactive materials. These files will be maintained for 75 years after the termination of the NRC license.

21. Federal Emergency Management Agency (FEMA), Agency-wide (N1–311–97–2, 4 items, 2 temporary items). Records of external committees and conferences sponsored by other agencies.

22. National Archives and Records Administration (N1–GRS–98–1, 2 items, 2 temporary items). An addition to General Records Schedule 1, applicable to all Federal agencies, providing disposition authority for records documenting positive drug test results for Federal employees and job applicants.

23. Central Intelligence Agency, Agency-wide (N1–263–98–1, 3 items, 2 temporary items). The temporary records include agency posters produced in support of routine events and subjects and pre-production materials. Mission related posters are proposed for permanent retention.

24. Tennessee Valley Authority, Chief Engineer (N1–142–98–14, 2 items, 1 temporary item). Temporary files of the Chief Engineer consisting of field engineering log books, concreting operations records, progress reports, blasting records and administrative records. Project files relating to water control and related photographs, fatalities at TVA facilities, and Townlift correspondence are proposed for permanent retention.

Dated: July 2, 1998.

Geraldine N. Phillips,

Acting Assistant Archivist for Record Services—Washington, DC.

[FR Doc. 98–18456 Filed 7–10–98; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–348 and 50–364]

Southern Nuclear Operating Company, Inc., et al. (Joseph M. Farley Nuclear Plant, Units 1 and 2); exemption

I

Southern Nuclear Operating Company, Inc., et al. (the licensee) is the holder of Facility Operating License Nos. NPF–2 and NPF–8, for the Joseph M. Farley Nuclear Plant (FNP), Units 1 and 2, respectively. The licenses provide, among other things, that the licensee is subject to all rules, regulations, and orders of the Commission now or hereafter in effect.

The FNP facility consists of two pressurized-water reactors located at the licensee's site in Houston County, Alabama.

II

Title 10 of the *Code of Federal Regulations* (10 CFR), Section 50.71, "Maintenance of records, making of reports," paragraph (e)(4) states, in part, that "Subsequent revisions [to the Updated Final Safety Analysis Report (UFSAR)] must be filed annually or 6 months after each refueling outage provided that the interval between successive updates [to the UFSAR] does not exceed 24 months." The FNP, Units 1 and 2, share a common UFSAR; therefore, this rule requires the licensee to update the same document within 6 months after a refueling outage for either unit. By letter dated January 19, 1998, the licensee requested an exemption from the requirements of 10 CFR 50.71(e)(4).

III

Section 50.12(a) of 10 CFR, "Specific exemptions," states that:

> The Commission may, upon application by any interested person, or upon its own initiative, grant exemptions from the requirements of the regulations of this part, which are (1) Authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security. (2) The Commission will not consider granting an exemption unless special circumstances are present.

Section 50.12(a)(2)(ii) of 10 CFR states that special circumstances are present when "Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule * * *." As noted in the staff's supporting Safety Evaluation, the licensee's proposed schedule for UFSAR updates will ensure that the FNP UFSAR will be maintained current within 24 months of the last revision and the interval for submission of the 10 CFR 50.59 design change report will not exceed 24 months. The proposed schedule fits within the 24-month duration specified by 10 CFR 50.71(e)(4). Literal application of 10 CFR 50.71(e)(4) would require the licensee to update the same document within 6 months after a refueling outage for either unit; a more burdensome requirement than intended. Accordingly, the Commission has determined that special circumstances are present as defined in 10 CFR 50.12(a)(2)(ii). The Commission has further determined that, pursuant to 10 CFR 50.12, the exemption is authorized by law, will not present an undue risk to public health and safety, and is consistent with the common defense and security. The Commission hereby grants the licensee an exemption from the requirements of 10 CFR 50.71(e)(4). The licensee will be required to submit updates to the FNP UFSAR within 6 months after the Unit 1 refueling outage. With the current length of fuel cycles, UFSAR updates would be submitted

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every 18 months, but not to exceed 24 months from the last submittal.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant effect on the quality of the human environment (63 FR 35985 dated July 1, 1998).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 7th day of July 1998.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 98–18548 Filed 7–10–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–483]

Union Electric Company Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–30 issued to Union Electric Company (the licensee) for operation of the Callaway Plant, Unit 1 located in Callaway County, Missouri.

The proposed amendment would support a modification to the plant to increase the storage capacity of the spent fuel pool.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

In the analysis of the safety issues concerning the expanded pool storage capacity, the following previously postulated accident scenarios have been considered:

a. A spent fuel assembly drop in the Spent fuel pool
b. Loss of Spent fuel pool cooling flow
c. A seismic event
d. Misloaded fuel assembly

The probability that any of the accidents in the above list can occur is not significantly increased by the modification itself. The probabilities of a seismic event or loss of spent fuel pool cooling flow are not influenced by the proposed changes. The probabilities of accidental fuel assembly drops or misloadings are primarily influenced by the methods used to lift and move these loads. The method of handling loads during normal plant operations is not significantly changed, since the same equipment (i.e., Spent Fuel Handling Machine) and procedures will be used. A new offset handling tool will be required to assess some storage rack cells located adjacent to the pool walls. The grapple mechanism, procedures, and fuel manipulation methods will be very similar to those used by the standard fuel handling tool. Therefore, this tool does not represent a significant change in the methods used to lift or move fuel. Since the methods used to move loads during normal operations remain nearly the same as those used previously, there is no significant increase in the probability of an accident.

During rack removal and installation, all work in the pool area will be controlled and performed in strict accordance with specific written procedures. Any movement of fuel assemblies required to be performed to support the modification (e.g., removal and installation of racks) will be performed in the same manner as during normal refueling operations. Shipping cask movements will not be performed during the modification period.

Accordingly, the proposed modification does not involve a significant increase in the probability of an accident previously evaluated.

The consequences of the previously postulated scenarios for an accidental drop of a fuel assembly in the spent fuel pool have been re-evaluated for the proposed change. The results show that the postulated accident of a fuel assembly striking the top of the storage racks will not distort the racks sufficiently to impair their functionality. The minimum subcriticality margin, K_{eff} less than or equal to 0.95, will be maintained. The structural damage to the Fuel Building, pool liner, and fuel assembly resulting from a fuel assembly drop striking the pool floor or another assembly located within the racks is primarily dependent on the mass of the falling object and the drop height. Since these two parameters are not changed by the proposed modification, the structural damage to these items remains unchanged. Cycle specific calculations, using core specific parameters continue to ensure that the radiological dose at the exclusion area boundary remain within the limits documented in the Callaway FSAR [Final Safety Analysis Report]. Dose levels will remain "well within" the levels required by 10 CFR 100, paragraph 11, as defined in Section 15.7.4.II.1 of the Standard Review Plan. Thus, the results of the postulated fuel drop accidents remain acceptable and do not represent a significant increase in consequences from any of the previously evaluated accidents that have been reviewed and found acceptable by the NRC.

The consequences of a loss of spent fuel pool cooling have been evaluated and found to have no increase. The concern with this accident is a reduction of spent fuel pool water inventory from bulk pool boiling resulting in uncovering fuel assemblies. This situation would lead to fuel failure and subsequent significant increase in offsite dose. Loss of spent fuel pool cooling at Callaway is mitigated by ensuring that a sufficient time lapse exists between the loss of forced cooling and uncovering fuel. This period of time is compared against a reasonable period to re-establish cooling or supply an alternative water source. Evaluation of this accident usually includes determination of the time to boil. The time allowed for operator actions is much less than the onset of any significant increase in offsite dose, since once boiling begins it would have to continue unchecked until the pool surface was lowered to the point of exposing active fuel. The time to boil represents the onset of loss of pool water inventory and is commonly used as a gage for establishing the comparison of consequences before and after a reracking project. The heat up rate in the Spent fuel pool is a nearly linear function of the fuel decay heat load. The fuel decay heat load will increase subsequent to the proposed changes because of the increase in the number of assemblies. The methodology used in the thermal-hydraulic analysis determined the maximum fuel decay heat loads which are allowed by maintaining the current time allowed for operator actions (i.e., more than two hours to boil during complete loss of forced cooling). In the unlikely event that all pool cooling is lost, sufficient time will still be available subsequent to the proposed changes for the operators to provide alternate means of cooling before the onset of pool boiling. Therefore, the proposed change represents no increase in the consequences of loss of pool cooling.

The consequences of a design basis seismic event are not increased. The consequences of this accident are evaluated on the basis of subsequent fuel damage or compromise of the fuel storage or building configurations leading to radiological or criticality concerns. The new racks have been analyzed in their new configuration and found safe during seismic motion. Fuel has been determined to remain intact and the storage racks maintain the fuel and fixed poison configurations subsequent to a seismic event. The structural capability of the pool and liner will not be exceeded under the appropriate combinations of dead weight, thermal, and seismic loads. The Fuel Building structure will remain intact during a seismic event and will continue to adequately support and protect the fuel racks, storage array, and pool moderator/coolant. Thus, the consequences of a seismic event are not increased.

This rerack amendment does not involve an increase in fuel enrichment or burnup levels and does not alter the source term.

Fuel misloading accidents were previously postulated occurrences. The consequence of this type of accident has been analyzed for the worst possible storage configuration subsequent to the proposed modification and the consequences were found to be acceptable because the reactivity in the spent fuel pool remained below 0.95. After the proposed modification, the worst case postulated accident condition, for the MZTR configuration, occurs when a fresh fuel assembly of the highest possible enrichment in inadvertently loaded into a Region 2 storage cell. Further, after the proposed modification, the worst case postulated accident condition, for the checkerboard configuration, occurs when a fresh fuel assembly of the highest possible enrichment is inadvertently loaded into an empty storage cell. In both postulated accident scenarios, credit is allowed for soluble boron in the water, and the spent fuel pool reactivity is maintained below 0.95. Therefore, there is no increase in consequences due to the modification.

Therefore, it is concluded that the proposed changes do not significantly increase the probability or consequences of any accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

To assess the possibility of new or different kind of accidents, a list of the important parameters required to ensure safe fuel storage was established. Safe fuel storage is defined here as providing an environment which would not present any significant threats to workers or the general public. In other words, meeting the requirements of 10 CFR 100 and 10 CFR 20. Any new events which would modify these parameters sufficiently to place them outside of the boundaries analyzed for normal conditions and/or outside of the boundaries previously considered for accidents would be considered a new or different accident. The criticality and radiological safety evaluations were reviewed to establish the list of important parameters. The fuel configuration and the existence of the moderator/coolant were identified as the only two parameters which were important to safe fuel storage. Significant modification of these two parameters represents the only possibility of an unsafe storage condition. Once the two important parameters were established, an additional step was taken to determine what events (which were not previously considered) could result in changes to the storage configuration or moderator/coolant presence during or subsequent to the proposed changes. This process was adopted to ensure that the possibility of any new or different accident scenario or event would be identified.

Due to the proposed changes, an accidental drop of a rack module during construction activity in the pool was considered as the only event which might represent a new or different kind of accident.

A construction accident resulting in a rack drop is an unlikely event. A new temporary hoist and rack lifting rig will be introduced to lift and suspend the racks from the bridge of the Cask Handling Crane. These items have been designed in accordance with the requirements of NUREG–0612 and ANSI N14.6. The postulated rack drop event is commonly referred to as a "heavy load drop" over the pools. Heavy loads will not be allowed to travel over any racks containing fuel assemblies. The danger represented by this event is that the racks will drop to the pool floor and the pool structure will be compromised leading to loss of moderator/coolant, which is one of the two important parameters identified above. However, although the analysis of this event has been performed and shown to be acceptable, the question of a new or different type of event is answered by determining whether heavy load drops over the pool have been considered previously. The postulated drop of a pool gate was previously evaluated and represents a similar heavy load drop consideration. All movements of heavy loads over the pool will be in accordance with the objectives of the Union Electric Company, NRC approved submittals in response to NUREG–0612. Therefore, the rack drop does not represent a new or different kind of accident.

The proposed change does not alter the operating requirements of the plant or of the equipment credited in the mitigation of the design basis accidents. The proposed change does not affect any of the important parameters required to ensure safe fuel storage. Therefore, the potential for a new or previously unanalyzed accident is not created.

3. The proposed change does not involve a significant reduction in a margin of safety.

The function of the spent fuel pool is to store the fuel assemblies in a subcritical and coolable configuration through all environmental and abnormal loadings, such as an earthquake or fuel assembly drop. The new rack design must meet all applicable requirements for safe storage and be functionally compatible with the spent fuel pool.

UE has addressed the safety issues related to the expanded pool storage capacity in the following areas:

1. Material, mechanical and structural considerations
2. Nuclear criticality
3. Thermal-hydraulic and pool cooling

The mechanical, material, and structural designs of the new racks have been reviewed in accordance with the applicable provisions of the NRC Guidance entitled, "Review and Acceptance of Spent Fuel Storage and Handling Applications". The rack materials used are compatible with the spent fuel assemblies and the spent fuel pool environment. The design of the new racks preserves the proper margin of safety during abnormal loads such as a dropped assembly and tensile loads from a stuck assembly. It has been shown that such loads will not invalidate the mechanical design and

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material selection to safely store fuel in a coolable and subcritical configuration.

The methodology used in the criticality analysis of the expanded Spent fuel pool meets the appropriate NRC guidelines and the ANSI standards (GDC 62, NUREG 0800, Section 9.1.2, the OT Position for Review and Acceptance of Spent Fuel Storage and Handling Applications, Reg. Guide 1.13, and ANSI ANS 8.17). The margin of safety for subcriticality is maintained by having the neutron multiplication factor equal to, or less than 0.95 under all accident conditions, including uncertainties. This criterion is the same as that used previously to establish criticality safety evaluation acceptance and remains satisfied for all analyzed accidents. Therefore, the accepted margin of safety remains the same.

The thermal-hydraulic and cooling evaluation of the pool demonstrated that the pool can be maintained below the specified thermal limits under the conditions of the maximum heat load and during all credible accident sequences and seismic events. The bulk pool temperature will not exceed 207 °F during an assumed loss of all cooling for up to two hours. Bulk pool boiling will not occur, nor will fuel cladding experience DNB [departure from nucleate boiling] or excessive thermal stresses. The fuel will not undergo any significant heat up after an accidental drop of fuel assembly on top of the rack blocking the flow path. A loss of cooling to the pool will allow sufficient time (2 hours) for the operators to intervene and line up alternate cooling paths and the means of inventory make-up before the onset of pool boiling. Therefore the allowed operator response time remains unchanged from the previous design basis. In the unlikely event that all pool cooling is lost coincident with the completion of a full core discharge, sufficient time will still be available, subsequent to the proposed changes, for the operators to provide alternate means of cooling before the onset of bulk pool boiling. Therefore, the accepted margin of safety remains the same.

Thus, it is concluded that the changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By August 12, 1998, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to John O'Neill, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, N.W., Washington, D.C. 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

The Commission hereby provides notice that this is a proceeding on an application for a license amendment falling within the scope of Section 134 of the Nuclear Waste Policy Act of 1982 (NWPA), 42 U.S.C. 10154. Under Section 134 of the NWPA, the Commission, at the request of any party to the proceeding, must use hybrid hearing procedures with respect to "any matter which the Commission determines to be in conroversy among the parties." The hybrid procedures in Section 134 provide for oral argument on matters in controversy, preceded by discovery under the Commission's rules, and the designation, following argument, of only those factual issues that involve a genuine and substantial dispute, together with any remaining questions of law, to be resolved in an adjudicatory hearing. Actual adjudicatory hearings are to be held on only those issues found to meet the criteria of Section 134 and set for hearing after oral argument.

The Commission's rules implementing Section 134 of the NWPA are found in 10 CFR Part 2, Subpart K, "Hybrid Hearing Procedures for Expansion of Spent Nuclear Fuel Storage Capacity at Civilian Nuclear Power Reactors" (published at 50 FR 41670, October 15, 1985) to 10 CFR 2.1101 *et seq.* Under those rules, any party to the proceeding may invoke the hybrid hearing procedures by filing with the presiding officer a written request for oral argument under 10 CFR 2.1109. To be timely, the request must be filed within 10 days of an order granting a request for hearing or petition to intervene. (As outlined above, the Commission's rules in 10 CFR Part 2, Subpart G, and 2.714 in particular, continue to govern the filing of requests for a hearing or petitions to intervene, as well as the admission of contentions.) The presiding officer shall grant a timely request for oral argument. The presiding officer may grant an untimely request for oral argument only upon showing of good cause by the requesting party for the failure to file on time and after providing the other parties an opportunity to respond to the untimely request. If the presiding officer grants a request for oral argument, any hearing held on the application shall be conducted in accordance with the hybrid hearing procedures. In essence, those procedures limit the time available for discovery and require that an oral argument be held to determine whether any contentions must be resolved in adjudicatory hearing. If no party to the proceedings requests oral argument, or if all untimely requests for oral argument are denied, then the usual procedures in 10 CFR Part 2, Subpart G, apply.

For further details with respect to this action, see the application for amendment dated March 20, 1998, as supplemented by letter dated May 28, 1998, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251.

Dated at Rockville, Maryland, this 7th day of July 1998.

For the Nuclear Regulatory Commission.

Kristine M. Thomas,

Project Manager, Project Directorate IV–2, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–18545 Filed 7–10–98; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[Docket No. 50–482]

Wolf Creek Nuclear Operating Corporation; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–42 issued to Wolf Creek Nuclear Operating Corporation (the licensee) for operation of the Wolf Creek Nuclear Generating Station, Unit No. 1 located in Coffey County, Kansas.

The proposed amendment would support a modification to the plant to increase the storage capacity of the spent fuel pool and increase the maximum nominal fuel enrichment to 5.0 nominal weight percent U–235.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant

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hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

In the analysis of the safety issues concerning the expanded Spent Fuel Pool storage capacity, the following previously postulated accident scenarios have been considered:

a. A spent fuel assembly drop in the Spent Fuel Pool
b. Loss of Spent Fuel Pool cooling flow
c. A seismic event
d. Misloaded fuel assembly

The probability that any of the accidents in the above list can occur is not significantly increased by the modification itself. The probabilities of a seismic event or loss of Spent Fuel Pool cooling flow are not influenced by the proposed changes. The probabilities of accidental fuel assembly drops or misloadings are primarily influenced by the methods used to lift and move these loads. The method of handling loads during normal plant operations is not significantly changed, since the same equipment (i.e., Spent Fuel Pool Bridge Crane) and procedures will be used. A new offset handling tool will be required to assess some storage rack cells located adjacent to the pool walls. The grapple mechanism, procedures, and fuel manipulation methods will be very similar to those used by the spent fuel handling tool. Therefore, this tool does not represent a significant change in the methods used to lift or move fuel. Since the methods used to move loads during normal operations remain nearly the same as those used previously, there is no significant increase in the probability of an accident.

During rack removal and installation, all work in the pool area will be controlled and performed in strict accordance with specific written procedures. Any movement of fuel assemblies required to be performed to support the modification (e.g., removal and installation of racks) will be performed in the same manner as during normal refueling operations. Shipping cask movements will not be performed during the modification period.

Accordingly, the proposed modification does not involve a significant increase in the probability of an accident previously evaluated.

The consequences of the previously postulated scenarios for an accidental drop of a fuel assembly in the Spent Fuel Pool have been re-evaluated for the proposed change. The results show that the postulated accident of a fuel assembly striking the top of the storage racks will not distort the racks sufficiently to impair their functionality. The minimum subcriticality margin, K_{eff} less than or equal to 0.95, will be maintained. The structural damage to the Fuel Building, pool liner, and fuel assembly resulting from a fuel assembly drop striking the pool floor or another assembly located within the racks is primarily dependent on the mass of the falling object and the drop height. Since these two parameters are not changed by the proposed modification, the structural damage to these items remains unchanged. Cycle specific calculations, using core specific parameters continue to ensure that the radiological dose at the exclusion area boundary remain within the limits documented in the WCGS [Wolf Creek Generating Station] Updated Safety Analysis Report. Dose levels remain well within the levels required by 10 CFR 100, paragraph 11, as defined in Section 15.7.4.II.1 of the Standard Review Plan. Thus, the results of the postulated fuel drop accidents remain acceptable and do not represent a significant increase in consequences from any of the same previously evaluated accidents that have been reviewed and found acceptable by the NRC.

The consequences of a loss of Spent Fuel Pool cooling have been evaluated and found to have no increase. The concern with this accident is a reduction of Spent Fuel Pool water inventory from bulk pool boiling resulting in uncovering fuel assemblies. This situation would lead to fuel failure and subsequent significant increase in offsite dose. Loss of Spent Fuel Pool cooling at WCGS is mitigated in the usual manner by ensuring that a sufficient time lapse exists between the loss of forced cooling and uncovering fuel. This period of time is compared against a reasonable period to re-establish cooling or supply an alternative water source. Evaluation of this accident usually includes determination of the time to boil. The time allowed for operator action is much less than the onset of any significant increase in offsite dose, since once boiling begins it would have to continue unchecked until the Spent Fuel Pool surface was lowered to the point of exposing active fuel. The time to boil represents the onset of loss of Spent Fuel Pool water inventory and is commonly used as a gage for establishing the comparison of consequences before and after a refueling project. The heat up rate in the Spent Fuel Pool is a nearly linear function of the fuel decay heat load. The fuel decay heat load will increase subsequent to the proposed changes because of the increase in the number [of] assemblies and higher fuel burnups. The methodology used in the thermal-hydraulic analysis determined the maximum fuel decay heat loads which are allowed by maintaining the current time allowed for operator action (i.e., more than two hours to boil during complete loss of forced cooling). Therefore, the allowed operator action time remains unchanged from the previous design basis. In the unlikely event that all Spent Fuel Pool cooling is lost, sufficient time will still be available subsequent to the proposed changes for the operators to provide alternate means of cooling before the onset of pool boiling. Therefore, the proposed change represents no increase in the consequences of loss of Spent Fuel Pool cooling.

The consequences of a design basis seismic event are not increased. The consequences of this accident are evaluated on the basis of subsequent fuel damage or compromise of the fuel storage or building configurations leading to radiological or criticality concerns. The new racks have been analyzed in their new configuration and found safe during seismic motion. Fuel has been determined to remain intact and the storage racks maintain the fuel and fixed poison configurations subsequent to a seismic event. The structural capability of the pool and liner will not be exceeded under the appropriate combinations of dead weight, thermal, and seismic loads. The Fuel Building structure will remain intact during a seismic event and will continue to adequately support and protect the fuel racks, storage array, and pool moderator/coolant. Thus, the consequences of a seismic event are not increased.

Fuel misloading accidents were previously postulated occurrences. The consequence of this type of accident has been analyzed for the worst possible storage configuration subsequent to the proposed modification and the consequences were found to be acceptable because the reactivity in the Spent Fuel Pool remained below 0.95. After the proposed modification, the worst case postulated accident condition, for the Mixed Zone Three Region configuration, occurs when a fresh fuel assembly of the highest possible enrichment is inadvertently loaded into a Region 2 storage cell. Further, after the proposed modification, the worst case postulated accident condition, for the checkerboard configuration, occurs when a fresh fuel assembly of the highest possible enrichment is inadvertently loaded into an empty storage cell. In both postulated accident scenarios, credit is allowed for soluble boron in the water, and the Spent Fuel Pool reactivity is maintained below 0.95. Therefore, there is no increase in consequences due to the modification.

Therefore, it is concluded that the proposed changes do not significantly increase the probability or consequences of any accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

To assess the possibility of new or different kind of accidents, a list of the important parameters required to ensure safe fuel storage was established. Safe fuel storage is defined here as providing an environment which would not present any significant threats to workers or the general public. In other words, meeting the requirements of 10 CFR 100 and 10 CFR 20. Any new events which would modify these parameters sufficiently to place them outside of the boundaries analyzed for normal conditions and/or outside of the boundaries previously considered for accidents would be considered a new or different accident. The criticality and radiological safety evaluations were reviewed to establish the list of important parameters. The fuel configuration and the existence of the moderator/coolant were identified as the only two parameters which were important to safe fuel storage. Significant modification of these two parameters represents the only possibility of an unsafe storage condition. Once the two important parameters were established, an additional step was taken to determine what events (which were not previously considered) could result in changes to the storage configuration or moderator/coolant presence during or subsequent to the proposed changes. This process was adepted to ensure that the possibility of any new or different accident scenario or event would be identified.

Due to the proposed changes, an accidental drop of a rack module during construction activity in the pool was considered as the only event which might represent a new or different kind of accident.

An installation accident of a rack dropping onto stored spent fuel or the pool floor liner is not a postulated event due to the defense-in-depth approach to be taken, as discussed in detail within Section 3.5 of the Licensing Report [Enclosure I to the March 20, 1998 letter]. This approach is similar to that taken previously for lifting a pool gate with the Spent Fuel Pool Bridge Crane. A new temporary hoist and rack lifting rig will be introduced to lift and suspend the racks from the bridge of the Cask Handling Crane. These temporary lift items have been designed in accordance with the requirements of NUREG–0612 and ANSI N14.6 with respect to redundancy in load path or safety margin. The postulated rack drop event is commonly referred to as a "heavy load drop" over the pools. Heavy loads will not be allowed to travel over any racks containing fuel assemblies, thus a rack drop onto fuel is precluded. A rack drop to the pool liner is not a postulated event, since all of the lifting components (except for the Cask Handling Crane) either provide redundancy in load path or are designed with safety margins greater than a factor of ten. Nevertheless, the analysis of a rack dropping to the liner has been performed and shown to be acceptable. However, the question of a new or different type of event is answered by determining whether similar heavy loads have been carried over the pool. As stated above, pool gates have been previously lifted within the Spent Fuel Pool. The pool gate and the storage racks are both designated as "heavy loads" and the safeguards taken to preclude these accidents are similar. All movements of heavy loads over the pool will comply with the applicable administrative controls and guidelines (i.e., plant procedures, NUREG–0612, etc.) Therefore, the rack drop does not represent a new or different kind of accident.

The proposed change does not alter the operating requirements of the plant or of the equipment credited in the mitigation of the design basis accidents. The proposed change does not affect any of the important parameters required to ensure safe fuel storage. Therefore, the potential for a new or previously unanalyzed accident is not created.

3. The proposed change does not involve a significant reduction in a margin of safety.

The function of the Spent Fuel Pool is to store the fuel assemblies in a subcritical and coolable configuration through all environmental and abnormal loadings, such as an earthquake or fuel assembly drop. The new rack design must meet all applicable requirements for safe storage and be functionally compatible with the Spent Fuel Pool.

WCNOC has addressed the safety issues related to the expanded pool storage capacity in the following areas:

1. Material, mechanical and structural considerations
2. Nuclear criticality
3. Thermal-hydraulic and pool cooling

The mechanical, material, and structural designs of the new racks have been reviewed in accordance with the applicable provisions of the NRC Guidance entitled, "Review and Acceptance of Spent Fuel Storage and Handling Applications". The rack materials used are compatible with the spent fuel assemblies and the Spent Fuel Pool environment. The design of the new racks preserves the proper margin of safety during abnormal loads such as a dropped assembly and tensile loads from a stuck assembly. It has been shown that such loads will not invalidate the mechanical design and material selection to safely store fuel in a coolable and subcritical configuration.

The methodology used in the criticality analysis of the expanded Spent Fuel Pool meets the appropriate NRC guidelines and the ANSI standards (GDC 62, NUREG–0800, Section 9.1.2, the "OT Position for Review and Acceptance of Spent Fuel Storage and Handling Applications," Regulatory Guide 1.13, and ANSI ANS 8.17). The criticality analysis for the Mixed Zone Three Region and/or checkerboard configuration confirms that the K_{eff} is maintained less than 0.95 without credit for the soluble boron in the Spent Fuel Pool. Calculations show that for the most severe accident condition, a soluble boron concentration of 500 ppm boron, in addition to the Boral contained in the racks, would be adequate to maintain the K_{eff} less than 0.95. In accordance with NRC guidelines, the soluble boron in the Spent Fuel Pool may be credited in accident conditions. A minimum boron concentration of 2000 parts-per-million (ppm) is maintained in the Spent Fuel Pool. The soluble boron in the Spent Fuel Pool will ensure that K_{eff} is maintained substantially less than the design limitations under all conditions. The margin of safety for subcriticality is maintained by having the neutron multiplication factor equal to, or less than, 0.95 under all accident conditions, including uncertainties. This criterion is the same as that used previously to establish criticality safety evaluation acceptance and remains satisfied for all analyzed accidents.

The thermal-hydraulic and cooling evaluation of the pool demonstrated that the pool can be maintained below the specified thermal limits under the conditions of the maximum heat load and during all credible accident sequences and seismic events. The bulk pool temperature will not exceed 207°F during the worst single failure of a

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cooling pump. Localized pool boiling is predicted to occur in the worst single failure of a cooling pump in the hypothetical worst case storage cell, immediately following the completion of a full-core discharge. This cell is very conservatively modeled to contain the hottest spent fuel assembly, with maximum flow resistance including 50% blockage of both the inlet and outlet flow areas. However, bulk pool boiling will not occur, nor will fuel cladding experience DNB [departure from nucleate boiling] or excessive thermal stresses. The fuel will not undergo any significant heat up after an accidental drop of a fuel assembly on top of the rack blocking the flow path. A loss of cooling to the pool will allow sufficient time (2 hours) for the operators to intervene and line up alternate cooling paths and the means of inventory make-up before the onset of pool boiling. Therefore the allowed operator action time remains unchanged from the previous design bases. In the unlikely event that all pool cooling is lost coincident with the completion of a full-core discharge, sufficient time will still be available subsequent to the proposed changes for the operators to provide an alternate means of cooling before the onset of bulk pool boiling. Therefore, the accepted margin of safety remains the same.

Thus, it is concluded that the changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

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Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

The Commission hereby provides notice that this is a proceeding on an application for a license amendment falling within the scope of Section 134 of the Nuclear Waste Policy Act of 1982 (NWPA), 42 U.S.C. 10154. Under Section 134 of the NWPA, the Commission, at the request of any party to the proceeding, must use hybrid hearing procedures with respect to "any matter which the Commission determines to be in controversy among the parties." The hybrid procedures in Section 134 provide for oral argument on matters in controversy, preceded by discovery under the Commission's rules, and the designation, following argument, of only those factual issues that involve a genuine and substantial dispute, together with any remaining questions of law, to be resolved in an adjudicatory hearing. Actual adjudicatory hearings are to be held on only those issues found to meet the criteria of Section 134 and set for hearing after oral argument.

The Commission's rules implementing Section 134 of the NWPA are found in 10 CFR Part 2, Subpart K, "Hybrid Hearing Procedures for Expansion of Spent Nuclear Fuel Storage Capacity at Civilian Nuclear Power Reactors" (published at 50 FR 41670, October 15, 1985) to 10 CFR 2.1101 *et seq.* Under those rules, any party to the proceeding may invoke the hybrid hearing procedures by filing with the presiding officer a written request for oral argument under 10 CFR 2.1109. To be timely, the request must be filed within 10 days of an order granting a request for hearing or petition to intervene. (As outlined above, the Commission's rules in 10 CFR Part 2, Subpart G, and 2.714 in particular, continue to govern the filing of requests for a hearing or petitions to intervene, as well as the admission of contentions.) The presiding officer shall grant a timely request for oral argument. The presiding officer may grant an untimely request for oral argument only upon showing of good cause by the requesting party for the failure to file on time and after providing the other parties an opportunity to respond to the untimely request. If the presiding officer grants a request for oral argument, any hearing held on the application shall be conducted in accordance with the hybrid hearing procedures. In essence, those procedures limit the time available for discovery and require that an oral argument be held to determine whether any contentions must be resolved in adjudicatory hearing. If no party to the proceedings requests oral argument, or if all untimely requests for oral argument are denied, then the usual procedures in 10 CFR Part 2, Subpart G, apply.

For further details with respect to this action, see the application for amendment dated March 20, 1998, as supplemented by letter dated May 28, 1998, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621.

Dated at Rockville, Maryland, this 7th day of July 1998.

For the Nuclear Regulatory Commission.

Kristine M. Thomas,

Project Manager, Project Directorate IV–2, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–18544 Filed 7–10–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–271]

Vermont Yankee Nuclear Power Corporation, Vermont Yankee Nuclear Power Station; Receipt of Petition for Director's Decision Under 10 CFR 2.206

Notice is hereby given that by Petition dated May 27, 1998, Mr. Jonathan M. Block, on behalf of the Citizens Awareness Network, Inc. (CAN or Petitioner), requested that the U.S. Nuclear Regulatory Commission (NRC) take immediate action with regard to the Vermont Yankee Nuclear Power Station. The Petitioner requested that the NRC take immediate enforcement action by suspending the operating license for Vermont Yankee until the entire facility has been subjected to an independent safety analysis review similar to the one conducted at the Maine Yankee Atomic Power Station. As an alternative, the Petitioner requested that the NRC immediately act to modify the operating license for the facility by requiring that, before restart (1) Vermont Yankee management certify under oath that all backup safety systems and all security systems are fully operable, and that all safety systems and security systems meet and comply with NRC requirements; (2) Vermont Yankee be held to compliance with all of the restart criteria and protocols in the NRC Inspection Manual; (3) Vermont Yankee only be allowed to resume operations after the NRC has conducted a "vertical slice" examination of the degree to which the new design-basis documents (DBDs) and FSAR accurately describe at least two of the primary safety systems for the Vermont Yankee reactor; (4) once operation resumes, Vermont Yankee only be allowed to continue operation for as long as it adheres to its schedule for coming into compliance and completing the DBD and FSAR project; and (5) the NRC holds a public hearing before restart to discuss the changes to the torus, Vermont Yankee DBD and FSAR projects, and Vermont Yankee's scheduled completion of these projects in relation to operational safety.

As the basis for this request, the Petitioner raised concerns about the operation of the Vermont Yankee

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facility, including challenges to the single-failure criterion, inadequate safety evaluations, potential overreliance on Yankee Atomic Electric Company analyses, an inadequate operational experience review program, high potential for other serious safety problems, and lack of adequate perimeter security. The Petitioner also attached four documents prepared by the Union of Concerned Scientists (UCS). One UCS document, dated May 14, 1998, provided a review of Vermont Yankee Daily Event Reports (DERs) made over the previous year as requested by CAN. DERs are verbal reports made by licensees under 10 CFR 50.72 to the NRC and put in written form by the NRC. Another UCS document, dated January 29, 1998, was addressed to the NRC Region I Senior Allegation Coordinator; it discussed a specific concern with NRC Daily Event Report 33545 of January 15, 1998, associated with Vermont Yankee water hammer on certain systems. The third document, a UCS letter dated May 5, 1997, to the NRC Chairman and Commissioners, discussed mislocated fuel bundle loading errors. The final UCS document attached was titled "Potential Nuclear Safety Hazard Reactor Operation with Failed Fuel Cladding," dated April 2, 1998. By letter dated June 9, 1998, Petitioner renewed the request for relief based on the events occurring on June 9, 1998, at Vermont Yankee and reported by the licensee in DER 34366. This event involved the automatic shutdown of the reactor due to problems in the feedwater system. The Petitioner states that this event indicates a lack of reasonable assurance that safety-related systems at Vermont Yankee will perform adequately.

The request is being treated pursuant to 10 CFR 2.206 of the Commission's regulations. The request has been referred to the Director of the Office of Nuclear Reactor Regulation. As provided by Section 2.206, appropriate action will be taken on this petition within a reasonable time.

By letter dated July 6, 1998, the Director denied Petitioner's request for immediate action at Vermont Yankee Nuclear Power Station.

A copy of the petition is available for inspection at the Commission's Public Document Room at 2120 L Street, N.W., Washington, D.C. 20555–0001 and at the local public document room located at Brooks Memorial Library, 224 Main Street, Brattleboro, VT 05301.

Dated at Rockville, Maryland, this 6th day of July, 1998.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 98–18547 Filed 7–10–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Fire Barrier Penetration Seals in Nuclear Power Plants; Availability of Draft NUREG–1552, Supp. 1

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

SUMMARY: The Nuclear Regulatory Commission is announcing the availability of Draft NUREG–1552, Supplement 1, "Fire Barrier Penetration Seals in Nuclear Power Plants," dated June 1998, for public comment. Comments on the previously published NUREG–1552, "Fire Barrier Penetration Seals in Nuclear Power Plants," July 1996, are also being accepted.

DATES: Submit comments by September 11, 1998. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: NUREG–1552 and Draft NUREG–1552, Supplement 1 are available for inspection and copying for a fee at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC 20038. A free single copy of Draft NUREG–1552, Supplement 1, to the extent of supply, may be requested by writing to U.S. Nuclear Regulatory Commission, Printing and Graphics Branch, Washington, DC 20555–0001.

FOR FURTHER INFORMATION CONTACT: Chris Bajwa, Plant Systems Branch, Division of Systems Safety and Analysis, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone: 301–415–1237

Electronic Access

Draft NUREG–1552, Supplement 1, is also available electronically by visiting NRC's Home Page (http://www.nrc.gov).

Dated at Rockville, Maryland, this 6th day of July, 1998.

For the Nuclear Regulatory Commission.

Gary Holahan,

Director, Division of Systems Safety and Analysis, Office of Nuclear Reactor Regulation.

[FR Doc. 98–18549 Filed 7–10–98; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Existing Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, 450 5th Street, N.W., Washington, D.C. 20549

Extension:

Rule 17j–1 [17 CFR 270.17j–1], SEC File No. 270–239, OMB Control No. 3235–0224

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the "Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget ("OMB") for extension and approval.

Rule 17j–1 under the Investment Company Act of 1940 (15 U.S.C. 80a) (the "Investment Company Act") addresses conflicts of interest between registered investment company ("fund") personnel and their funds that may arise when fund personnel buy or sell securities for their personal accounts ("personal investment activities"). Rule 17j–1, which the Commission adopted in 1980,[1] generally prohibits fund personnel from engaging in fraud in connection with personal transactions in securities held or to be acquired by the fund. In order to prevent fraud, the rule currently: (i) Requires a fund and each investment adviser and principal underwriter to the fund (collectively, "rule 17j–1 organizations") to adopt a code of ethics ("code") designed to prevent "access persons"[2] from engaging in fraudulent securities activities, (ii) requires an access person to report personal securities transactions to his or her rule 17j–1 organization at least quarterly, and (iii) requires a rule 17j–1 organization to maintain certain records.

In 1995, the Commission issued a release proposing amendments to rule 17j–1 ("Proposing Release").[3] The proposed amendments would require, among other things, that a majority of a fund's board, including a majority of independent directors, approve the fund's code, and review the codes of any investment adviser or principal underwriter to the fund. The proposed amendments also would require that the management of a rule 17j–1 organization, at least once a year, provide the fund's board with an issues and certification report: (i) Describing issues that arose during the previous year under the codes of ethics applicable to the rule 17j–1 organization, and (ii) certifying to the fund's board that the rule 17j–1 organization has adopted procedures that are reasonably necessary to prevent its access persons from violating its code of ethics.

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[1] Prevention of Certain Unlawful Activities With Respect To Registered Investment Companies, Investment Company Act Release No. 11421 (Oct. 31, 1980) [45 FR 73915 (Nov. 7, 1980)].

[2] Rule 17j–1 defines "access person" to include directors, officers, general partners, and any employee who, in connection with his or her regular functions or duties, participates in the selection of a fund's portfolio securities or who has access to information regarding a fund's upcoming purchases or sales of portfolio securities.

[3] Personal Investment Activities of Investment Company Personnel and Codes of Ethics of Investment Companies and their Investment

In order to facilitate the identification of all securities held by access persons, the proposed amendments would require that every access person provide an initial holdings report to his or her rule 17j–1 organization listing all securities beneficially owned by the access person at the time that he or she becomes an access person. The proposed amendments also would expand the types of securities excepted from the requirements of the rule, thereby increasing the number of rule 17j–1 organizations and access persons excluded from the rule's requirements concerning codes of ethics, quarterly transaction reports, and initial holdings reports.

Funds also currently are not required to disclose to the public any information about their codes of ethics. In order to provide more information to the public about a fund's policies concerning personal investment activities, the proposed amendments to rule 17j–1 would require a fund to disclose in its registration statement: (i) That the fund and its investment adviser and principal underwriter have adopted codes of ethics, (ii) whether these codes permit personnel subject to the codes to invest in securities for their own accounts, and (iii) that the codes are on public file with, and are available from, the Commission.[4] The proposed conforming amendments to rule 204–2 under the Investment Advisers Act of 1940 (15 U.S.C. 80b) (the "Advisers Act")[5] would reduce the burden on registered investment advisers by expanding the types of transactions in securities excepted from the rule's recordkeeping requirement.

The requirement that the management of a 17j–1 organization provide the fund's board with an annual issues and certification report is intended to enhance board oversight of personal investment policies applicable to the fund and the personal investment activities of access persons. The requirement that every access person provide an initial holdings report is intended to help fund compliance personnel and the Commission's examinations staff monitor potential conflicts of interest and detect potentially abusive activities. The requirement that each rule 17j–1 organization maintain certain records is intended to assist rule 17j–1 organizations and the Commission's examinations staff in determining whether there have been violations of rule 17j–1.

The requirement that a fund make available in its registration statement information on the fund's policies concerning personal investment activities is intended to promote the integrity of the fund industry and provide investors with information they may want when making investment decisions. Disclosure also may encourage fund boards to give closer consideration when approving and reviewing the contents of codes of ethics applicable to their funds.

The conforming amendments to rule 204–2 are intended to reduce the reporting and recordkeeping burden on advisers and to modify rule 204–2(a) to except from the recordkeeping requirement transactions in securities that are excepted from the definition of "security" in rule 17j–1.

The Commission's staff estimates that there are approximately 3,800 registered investment companies that would be required to comply with the requirements of rule 17j–1. Investment advisers and principal underwriters of registered investment companies also are required to comply with certain requirements of rule 17j–1. The staff estimates that there are approximately 7,500 investment advisers registered with the Commission, of which the staff estimates 820 are investment advisers to registered investment companies. The staff also estimates that there are approximately 425 principal underwriters of registered investment companies.[6]

The staff estimates that each year 275 new rule 17j–1 organizations each will expend 8 burden hours to formulate and provide codes of ethics for a total of 2,200 burden hours. The staff estimates that the managerment of 5,045 rule 17j–1 organizations[7] each will annually expend 3 burden hours to provide the fund board with an annual issues and certification report for a total of 15,135 burden hours. The staff estimates that access persons[8] each will expend .5 burden hours for the filing of each quarterly transaction report[9] for a total

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Advisers and Principal Underwriters, Investment Company Act Release No. 21341 (Sept. 8, 1995) [60 FR 47844 (Sept. 14, 1995)]. The Commission's proposal was based on reports prepared by the Commission's Division of Investment Management and the Investment Company Institute ("ICI") Advisory Group on Personal Investing, which studied the practices and standards governing personal investment activities of fund personnel. Division of Investment Management, Personal Investment Activities of Investment Company Personnel (1994); ICI, Report of the Advisory Group on Personal Investing (1994). These studies followed press reports and Congressional inquiries in the early 1990s regarding the personal investment activities of fund personnel.

[4] The registration forms the Commission is proposing to amend are: Form N–1A (open-end funds); Form N–2 (closed-end funds); Form N–3 (separate accounts that offer variable annuity contracts that are registered under the Investment Company Act); Form N–5 (small business funds); and Form N–8B–2 (unit investment trusts). Although the Commission has not proposed amending Form S–6 (unit investment trusts), the proposed amendments to Form N–8B–2 would affect the burden of complying with Form S–6 because Form S–6 requires a unit investment trust to provide information required by Form N–8B–2.

[5] Rule 204–2(a)(12), (13) [17 CFR 275.204–2(a)(12), (13)].

[6] Funds that are money market funds or that invest only in securities excluded from the definition of "security" in rule 17j–1, and any investment advisers, principal undewriters, and access persons to these funds, do not have to comply with the rule's requirements concerning codes of ethics, quarterly transaction reports, and initial holdings reports. The estimated number of respondents reported in this section may therefore overstate the number of entities actually required to comply with the rule's requirements.

[7] Comprised of an estimated 3,800 registered companies, 820 investment advisers to registered investment companies, and 425 principal underwriters to registered investment companies.

[8] The Commission estimates that, on average, a rule 17j–1 organization will have 20 access persons. This number may vary considerably depending on the size of the rule 17j–1 organization. Under rule 17j–1, access persons of investment advisers to funds are exempt from filing quarterly transaction reports if the reports would duplicate information provided under rule 204–2 of the Advisers Act. Thus, the Commission staff estimates that the number of access persons filing quarterly transaction reports is equal to the average number of access persons for each 17j–1 organization multiplied by the total number of funds and principal underwriters of funds (20 x (3800 + 425) = 84,500)).

[9] The number of access persons who are required to file quarterly transaction reports will vary depending on the personal investment activities of each access person. In addition, proposed rule 17j–1 contains several exceptions to filing quarterly transaction reports, including an exception if the report would duplicate information contained in broker trade confirmations or account statements received by the rule 17j–1 organization. Although a number of access persons may, on average, have transactions to report during more than one quarter each year, many access persons also may not have to provide a quarterly transaction report because their 17j–1 organizations have received the information in a broker trade confirmation or account statement. Accordingly, the Commission staff has estimated that each access person, on

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of 42,250 burden hours. The staff estimates that each year new access persons each will expend 1 burden hour for the filing of an initial holdings report to be provided by persons who become access persons[10] for a total of 4,895 burden hours. Finally, the staff estimates that 5,045 rule 17j–1 organizations each will expend 2 burden hours to maintain records of codes of ethics, records of violations of codes of ethics, reports by access persons, and issues and certification reports for a total of 10,090 burden hours.

The total annual burden of the rule's paperwork requirements therefore is estimated to be 74,570 hours. This estimate represents an increase of 25,470 hours from the prior estimate of 49,100 hours. The increase in burden hours is attributable to updated information about the number of affected portfolios and other entities, and to a more accurate calculation of the component parts of some information burdens.

These burden hour estimates are based upon the Commission staff's experience and discussions with the fund industry. The estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act. These estimates are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules.

Written comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burdens of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burdens of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, Mail Stop 0–4, 450 5th Street, N.W., Washington, DC 20549.

Dated: July 6, 1998.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18591 Filed 7–10–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of July 13, 1998.

A closed meeting will be held on Thursday, July 16, 1998, at 11:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Hunt, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The closed meeting scheduled for Thursday, July 16, 1998, at 11:00 a.m., will be:

Institution and settlement of injunctive actions.

Institution and settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: July 9, 1998.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–18677 Filed 7–9–98; 10:57 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40176; File No. SR–MSRB–98–9]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Reports of Sales and Purchases, Pursuant to Rule G–14

July 7, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 17, 1998, the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Board. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Board is filing a proposed rule change to institute a service ("the Service") to provide daily reports from the Board's Transaction Reporting Program ("the Program") that will summarize information about customer and inter-dealer transactions in municipal securities reported to the Board under rule G–14. The Board is establishing a fee for an annual subscription to the Service of $15,000. The proposed fee is structured to defray the Board's cost of disseminating the transaction data and to defray, in part, the cost of collecting and compiling transaction data that will be used in the Program. The Board does not expect or intend to make a profit from the Service.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Board included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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average, would file one quarterly transaction report each year.

[10] Based on conversations with the industry, the Commission estimates that, on average, rule 17j–1 organizations will have two new access persons each year. However, proposed rule 17j–1 would not require an access person to submit an initial holdings report if the access person has previously provided information equivalent to that which is required in the initial holdings report. Proposed rule 17j–1 also contains several other exceptions to filing initial holdings reports. The Commission therefore estimates after taking into consideration the number of respondents excluded from this requirement of the rule, that, on average, there will be 4,895 annual responses to this requirement.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the Service is to increase transparency in the municipal securities market by adding information about transactions between dealers and customers ("customer transactions") to the information currently disseminated by the Program. Under the proposed rule change, aggregate data about market activity, and certain volume and price information about transactions in frequently traded securities, would be disseminated to promote investor confidence in the market and its pricing mechanism. The information provided by the Service would be a daily public report summarizing prices and volumes of trading in the municipal securities market during the previous day (the "Combined Daily Report"). The Combined Daily Report's format is a revision of the Board's currently produced Inter-Dealer Daily Report. Like the Inter-Dealer Daily Report, the Combined Daily Report will be made available by approximately 6:00 a.m. each business day, reporting on the previous day's market. Subscribers would transfer the report, in electronic form, from the Board's system to their own computer systems. A printed copy of the report would be available for examination, free of charge, in the Board's Public Access Facility in Alexandria, Virginia. These dissemination methods are the same as for the current Inter-Dealer Daily Report.

Previous Filings Regarding the Program. As discussed below, the Board has been operating a program for inter-dealer transaction reporting since 1995. Dealers are required to report their inter-dealer transactions to the Board under rule G–14. In 1996, the Board filed with the Commission an amendment to rule G–14 to require dealers to report their customer transactions in municipal securities to the Board in certain prescribed formats and a description of the changes to the inter-dealer transaction reporting program necessary to add customer transaction information.[3] The 1996 filing provided for a period from July 1, 1997, to December 31, 1997, during which dealers would test their customer transaction reporting capabilities with the Board. The Commission approved this amendment and plan, with the amendments to rule G–14 ultimately becoming effective March 1, 1998.[4] In March 1998, the Board filed with the Commission its intention to release samples of the Combined Daily Report for public comment and to make the Report available on an operational basis in the third quarter of 1998.[5]

Background and Description of the Program. Since 1995, rule G–14 has required brokers, dealers and municipal securities dealers ("dealers") to report to the board their inter-dealer transactions in municipal securities via the automated comparison system for municipal securities operated by National Securities Clearing Corporation ("NSCC"). The Board has used this information to create a database of transaction information that can be used for market surveillance purposes and for inspection and enforcement by agencies and organizations charged with enforcement of Board rules. The Board also uses the reported transaction information to create the Inter-Dealer Daily Report, which is used by market participants to help gauge the value of municipal securities. The Board currently has eight subscribers to the Inter-Dealer Daily Report. Most of these are information vendors that redistribute the information to their own subscribers and/or use the information in various securities valuation products that they market.[6]

Customer trades have been reported by dealers to the Board under rule G–14 since March 1, 1998. Both customer and inter-dealer transactions must be reported by midnight of trade date. Although different mechanisms are used for reporting the two types of trades, the Board's computerized Transaction Processing System ("TRS") will merge the reported trade data to produce the Combined Daily Report and the surveillance database.

The criteria for including municipal securities information on the proposed Combined Daily Report will be the same as that described in the Board's March 1998 filing to produce sample daily reports. These are essentially the same as the criteria for the current Inter-Dealer Daily Report. If a municipal security (identified by its CUSIP number) is reported, in compliance with rule G–14, as having been traded four or more times on a given day, then the high, low, and average price and total par value of all the reported trades in that security will be on the Daily Report the next morning. The average price will be calculated as the arithmetic mean of reported transaction prices of those trades between $100,000 and $1,000,000 in par value. This reporting band is meant to exclude odd lots and very large trades from the average price. In applying these criteria, inter-dealer and customer transactions will be considered together. This means that any combination of inter-dealer and customer transactions totaling four or more in one CUSIP will trigger the inclusion of price information in the Combined Daily Report.

The Board expects to make the Combined Daily Report Service available during the third quarter of 1998, and will file with the Commission, in advance, an exact date for beginning operation. In addition to the Combined Daily Report Service, the Board also will use the data reported by dealers under rule G–14 to create a surveillance database available to regulatory agencies and organizations responsible for enforcement of Board rules. The surveillance database will not be available to regulators until early 1999.

Methods for Reporting Transaction Reporting Data. Since 1995, inter-dealer transactions have been reported to the Board by dealers each night through the NSCC automated comparison system. This reporting mechanism is convenient for dealers, since most of the trade data that must be reported to the Board has to be reported to NSCC in any event, for clearance and settlement purposes. The automated comparison system processes the transaction data to determine, among other things, whether both parties to each trade have agreed to certain details (*e.g.*, CUSIP number, par amount, final monies required for settlement).[7] Each night, the automated comparison system provides electronic files to the TRS that include trade information reported by dealers, plus an indication for each trade whether it was successfully "compared" as to its reported details.

Customer transactions have been reported to the Board each night by dealers since March 1, 1998 in accordance with the rule G–14 amendment that became effective on that date, requiring dealers to generate

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[3] Exchange Act Release No. 37859 (Oct. 23, 1996), 61 FR 56072 (Oct. 30, 1996).

[4] Exchange Act Release No. 37998 (Nov. 29, 1996), 61 FR 64782 (Dec. 6, 1996) (approved of amendment to rule G–14); Exchange Act Release No. 39495 (Dec. 29, 1997), 63 FR 585 (Jan. 6, 1998) (delay of effectiveness to March 1, 1998).

[5] Exchange Act Release No. 39835 (Apr. 7, 1998), 63 FR 18242 (Apr. 14, 1998).

[6] The current subscribers are Bloomberg Financial Markets, Chapdelaine & Company, Dow Jones Telerate, Interactive Data Corp., J. J. Kenny Co., Inc., Muller Data Corp., Smith Barney, Inc., and TradeHistory, LLC.

[7] NSCC procedures provide an exception for transactions involving the distribution of new issue securities from a syndicate manager to syndicate members, wherein only the syndicate manager submits information to the automated comparison system.

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a file of required information, in a format specified by the Board, and transmit the file electronically to the TRS. For most high-volume dealers, the first step in file transmission is to send the trade file over existing "computer-to-computer" connections between their computer systems and the NSCC. In the second step, NSCC forwards these files to the Board without any processing of the trade data. Some dealers, especially those with low volumes of customer trades who do not have electronic connections to NSCC, submit customer transaction files directly to the Board by means of personal computer software provided free by the Board.

Correction of Data Submitted by Dealers. Corrections to inter-dealer trade information are made by dealers according to NSCC procedures, and, after processing, corrected data is provided by the comparison system to the TRS. Regarding customer trade data, the TRS sends messages to dealers, electronically or by facsimile, acknowledging receipt of a day's file and identifying records that appear to be in error. Dealers submit corrections using a methods similar to that for repairing trades. A dealer may also "cancel" a trade record if this is necessary to reflect cancellation of the trade by the parties or to remove erroneous information submitted to the system.

Description of the Combined Daily Report. Once all transaction information for a business day has been received; the TRS generates the Combined Daily Report. As noted, both inter-dealer and customer trades are counted to determine whether an issue (CUSIP number) was traded four or more times. Based upon transaction data reported to the Board in March, April and May 1998, it appears that approximately one thousand issues will be traded four or more times on a typical day.

The Combined Daily Report includes summary information describing the day's market in municipal securities. The summary covers all municipal securities trades, regardless of frequency of trading. The average daily market statistics during the week of March 30, 1998 were:

Total par amount traded: $8.6 billion
Total number of trades reported: 22,199
Total number of issues traded: 11,499
Number of issues traded four or more times: 1,025

The following data elements of each issue would be published in the Combined Daily Report.

CUSIP number: The CUSIP number that identifies the issue.

Security description: A short description of the issue that was traded.

Number of trades: The total number of trades in the issue (both inter-dealer and customer) that were reported to the MSRB.

Volume traded: The total dollar value of all trades in the issue on the trade date.

High price: The highest price of all trades in the issue.

Low price: The lowest price of all trades in the issue.

Average price: The arithmetic mean of all trades whose par values were between $100,000 and $1,000,000.

Trades in average: The number of trades whose par values were between $100,000 and $1,000,000.

When issued: If "yes," indicates that the issue was traded while in "when, as, and if issued" status.

Assumed settlement date: In some cases, it is necessary to assume a settlement date to calculate price from yield for inclusion of the price in the Daily Report. The assumed settlement date for both inter-dealer and customer trades will be 15 business days after the trade date (T+15). When it has been necessary to assume a settlement date, this date will be shown on the Daily Report.

Review Process for Customer Transaction Data Used in Combined Daily Report. Customer transaction records submitted by dealers are reviewed automatically as part of data processing within the Transaction Reporting System. Trade records are excluded from eligibility for the Combined Daily Report if: (i) the trade date reported in the record is for a day other than the day being reported in the Daily Report; (ii) the trade record or the file containing the trade record is not in the required format or otherwise violates stated system input requirements;[8] (iii) the submitter of the file has not filed with the Board the required information to identify itself; (iv) the trade record contains a dealer identifier that is unknown to the Board;[9] (v) the information contained in the trade record is so substantially outside expected parameters that an input error is suspected; (vi) the CUSIP number submitted is not known to be a valid CUSIP number for a municipal securities issue;[10] or (vii) the trade record contains no dollar price and a dollar price cannot be calculated from the reported yield on the transaction using the Board's available data about the security and standard yield-to-price calculation techniques for securities with periodic interest payments and with more than six months to redemption, contained in Board rule G–33(b)(i)(B)(2).[11]

2. Basis

The Board believes the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act,[12] which requires, in pertinent part, that the Board's rules "be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating . . . transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest."

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board does not believe that the proposed rule change will impose any burden on competition in that it applies equally to all dealers in municipal securities.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The 1995 and 1996 Requests for Comments

The Board published a notice in February 1995,[13] requesting comment on a plan to collect and report information about transactions between dealers and institutional customers, and in January 1996 published a revised plan[14] to collect information about all customer transactions. The Board received a number of comments in response. The comments were provided to the Commission and addressed by the Board in an August 1996 filing.[15] Some commentators suggested reporting individual transactions,[16] while others suggested combining data from all trades falling within a given par value range.[17] One commentator suggested combining prices and volumes for inter-dealer and customer trades for public reporting,[18] and another suggested identifying retail prices as such.[19] It was also suggested that trades be summarized by par value in four categories ($5,000 to $45,000, $50,000 to $95,000, $100,000 to $1,000,000, and over $1,000,000).[20] In considering various possible formats for the report, the Board decided that it would serve the purpose of simplicity, and aid users in comparing the new and old reports, to make the Combined Report's format the same as that of the Inter-Dealer Report, which has been in use for over three years. If experience with the Combined Daily Report indicates revisions are needed, the Board will revise the format to ensure that the Program will continue to provide market transparency to market participants.

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[8] Format requirements and input procedures are described in "Board to Proceed with Customer Transaction Reporting Program: Rule G–14" (MSRB Reports, Vol. 16, No. 3 (September 1996) at 3–16). This document, along with explanatory questions and answers and the latest information on the Program, can be found on the Board's World Wide Web site (www.msrb.org).

[9] To identify dealers, the Board uses symbols assigned to dealers by the NASD. Dealers are required to obtain a valid symbol under rule G–14(b)(iii). The transaction reporting procedures contained within rule G–14 also require that each dealer effecting customer transactions provide the Board with certain contact information and testing-related information.

[10] The Board currently receives updated information on municipal securities CUSIP numbers each day from the CUSIP Service Bureau and J.J. Kenny Co., Inc.

[11] The current software used for calculation is provided by TIPs, Inc. The securities information used to calculate price from yield currently is provided by J.J. Kenny Co., Inc.

[12] 15 U.S.C. 78o–4(b)(2)(C).

[13] "Transaction Reporting Program for Municipal Securities: Phase II," MSRB Reports, Vol. 15, No. 1 (April 1995) at 11–15.

[14] "Reporting Customer Transactions in Municipal Securities: Rule G–14," MSRB Reports, Vol. 16, No. 1 (January 1996) at 15–18, and "Customer Transaction Reporting: Proposed Technical Specifications and Request for Comment," ibid. at 19–22.

The 1998 Request for Comments

In April 1998, the Board released samples of the Combined Daily Report for comment.[21] In response, comments were received from Bloomberg L.P.[22] and TradeHistory, LLC.[23] One commentator[24] requested that the Board continue to publish the Inter-Dealer Daily Report after commencing publication of the Combined Daily Report. The proposed Service would make no change to the publication of the Inter-Dealer Daily Report.[25] The other commentator[26] requested that the Board add "filler" (blank) fields in the new format to make the format of the electronic Combined Daily Report compatible with its programs that process the electronic Inter-Dealer Daily Report. This change has been made and would be part of the proposed Service.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the MSRB consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street N.W., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the MSRB. All submissions should refer to File No. SR–MSRB–98–9 and should be submitted by August 3, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[27]

Margaret H. McFarland,
Deputy Secretary.
[FR Doc. 98–18590 Filed 7–10–98; 8:45 am]
BILLING CODE 8010–01–M

TENNESSEE VALLEY AUTHORITY

Sunshine Act Meeting

TIME AND DATE: 9 a.m. (EDT), July 15, 1998.

PLACE: East Tennessee State University, D.P. Culp University Center Ballroom Left, Southwest Boundary Road, Johnson City, Tennessee.

STATUS: Open.

Agenda

Approval of minutes of meeting held on June 18, 1998.

New Business

B—Purchase Award

B1. Contract with CEC Alsthom to design, manufacture, and install high-pressure turbine capacity upgrades for Bull Run, Paradise, and Widows Creek Fossil Plants.

B2. Contract with ABB Power Generation to design, manufacture, and install high-pressure turbine capacity upgrades for Cumberland Fossil Plant.

E—Real Property Transactions

E1. Nineteen-year commercial recreation lease of the May Springs Recreation Area to Claudia Ann Holbrook, d/b/a as Greenlee Campground, R.V. & Marine, affecting approximately 104 acres of lands on Cherokee Lake in Grainger County, Tennessee (Tract No. XCK–580L).

E2. Nineteen-year commercial recreation lease to John Cooper and Greg Yarbrough affecting 10.78 acres of land on Guntersville Lake, Jackson County, Alabama (Tract No. XGR–748L), for development of Wood Yard Marina and amendment of the Guntersville Reservoir Land Management Plan (Tract No. XGR–105PT) to change the allocated use from barge terminal to commercial recreation.

E3. Sale of a permanent easement to D.L. Hutson for a road, affecting 0.5 acre of land on Norris Lake in Campbell County, Tennessee (Tract No. XNR–904H).

F—Unclassified

F1. Contract with Zurich—American Insurance Group for Workers' Compensation employer's liability, and general liability insurance for the owner-controlled insurance program.

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[15] Exchange Act Release No. 37859 (Oct. 23, 1996), 61 FR 56072 (Oct. 30, 1996).

[16] Letter from Ron Moore, Applied Financial Management, Inc., to Larry M. Lawrence, MSRB, May 22, 1995, and letter from Glenn Burnett, Zia Corporation, to Larry M. Lawrence, July 2, 1996.

[17] Letter from George Brakatselos, Public Securities Association (PSA), to Larry M. Lawrence, MSRB, May 2, 1996.

[18] PSA.

[19] Zia.

[20] PSA.

[21] Exchange Act Release No. 39835 (Apr. 7, 1998), 63 FR 18242 (Apr. 14, 1998). The Board also made the sample reports available via the Internet at its Web site (www.msrb.org).

[22] Letter from John Loza, Bloomberg L.P. , to Harold L. Johnson, MSRB (April 20, 1998).

[23] Electronic mail from Bruce Hechler, TradeHistory, LLC, to Thomas A. Hutton, (May 4, 1998).

[24] TradeHistory.

[25] The Board will continue to provide, as it has since January 1995, daily reports of inter-dealer transactions in municipal securities in a service whose annual fee will remain unchanged at $15,000. The Board has chosen to make the price of the proposed Service the same as the price of the existing Inter-Dealer Service.

[26] Bloomberg.

[27] 17 CFR 200.30–3(a)(12).

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Information Items

1. Amendments to make certain changes to resolutions on March 2, 1998, relating to the sale of the Tennessee Valley Authority Power Bonds.

2. Delegation of authority to the Vice President, Fuel Supply and Engineering, or a designated representative, to modify three coal contracts (Sextet Mining Company, Warrier Coal Corporation, and Peabody COALSALES Company) resulting from renegotiation under each contract's reopener provision.

3. Grant of permanent easements to the City of Chattanooga, Tennessee, for the expansion of the Chattanooga/Hamilton County Convention and Trade Center and a proposed conferencing center (Tract No. XCOFC–3E) (approximately 1.58 acres) and Tract No. XTCOFC–8E (approximately 0.76 acre).

4. TVA Contribution to the TVA Retirement System for Fiscal Year 1999.

5. TVA retiree medical contributions for persons covered by the Civil Service Retirement System and the Federal Employees Retirement System.

6. Amendments to the Rules and Regulations of the TVA Retirement System and the provision of the TVA Savings and Deferral Retirement Plan (401(k) Plan).

7. Grant of a permanent easement to Rhea County Economic and Tourism Council, Inc, for the construction, operation, and maintenance of a building, affecting approximately 1.90 acres of land on Chickamauga Lake in Rhea County, Tennessee (Tract No. XTCR–194B).

8. Contract with Mee Industries Incorporated to design, furnish, and install fogging evaporative inlet cooling systems for the entire fleet of 48 combustion turbines.

For more information: Please call TVA Public Relations at (423) 632–6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 898–2999.

Dated: July 8, 1998.

Edward S. Christenbury,

General Counsel and Secretary.

[FR Doc. 98–18673 Filed 7–9–98; 8:48 am]

BILLING CODE 8120–08–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Federal Aviation Administration

[Docket No. OST 98–4025]

Request for Public Comment on Competitive Issues Affecting the Domestic Airline Industry

AGENCY: Office of the Secretary, Federal Aviation Administration, United States Department of Transportation.

ACTION: Request for public comment.

SUMMARY: The Department of Transportation is gathering information on airport practices and whether they may affect competition among air carriers. We intend to meet with airport and airline professional associations and other interested participants, review data and information provided by industry organizations, review of comments filed in this docket, and use other means as appropriate. Specifically, we seek to determine: (1) Whether airports have used Passenger Facility Charges in ways that have enhanced competition; (2) whether the types of issues raised in complaints to the Department regarding airport practices have prevented competition among air carriers; (3) whether leasing agreements and financing arrangements at airports limit access and thus competition; and (4) whether airport planning, development, and commercial practices limit access.

DATES: Comments should be received by September 1, 1998. Comments that are received after that date will be considered to the extent possible.

ADDRESSES: Comments should be sent to: Docket Clerk, Docket No. OST–98–4025, Room PL–401, United States Department of Transportation, 400 7th Street, SW, Washington DC, 20590.

FOR FURTHER INFORMATION CONTACT: Please contact James New (202–366–4868) or Larry Phillips (202–366–4382) for additional information on the scope of the Department's study or the name of the individual in DOT who is in the best position to answer your questions. A copy of this Notice can be obtained via the World Wide Web at: http://www.dot.gov/ost/aviation/. Comments placed in the docket will be available for viewing on the Internet.

SUPPLEMENTARY INFORMATION: Deregulation of the domestic airline industry has resulted in enormous benefits for the traveling public. Average air fares (adjusted for inflation) have declined approximately one-third since 1978, and airline service has improved in the vast majority of markets. Despite the overall success of deregulation, however, questions remain as to whether certain conditions and institutional arrangements are preventing the industry from being as competitive as it could be. For example, several studies, including those performed by DOT staff, have found fare premiums at certain airports where market concentration is high and where new entrant air carriers have either not attempted or have been largely unsuccessful in establishing a significant market presence. In other instances, new entrant air carriers have encountered problems in gaining access to the range of airport facilities that would allow them to challenge incumbent air carriers.

Competition is a dynamic process, especially in the airline industry. Competition works best, however, when carriers are able to enter and exit markets in response to changing market conditions. Air carriers are only able to raise fares above competitive levels when competitors are unable to enter a market or to expand service. We recognize that the ability of an air carrier to provide new service at an airport depends on numerous factors, including the expected growth in passenger demand, the ability to gain access to gates and other critical facilities, the cost and marketing advantages incumbent air carriers enjoy, and the size of the irreversible ("sunk") investment an entrant would incur if it were forced to withdraw from the market.

Our objective is to gather information and data about current market conditions at airports. We are not investigating compliance or judging business practices. We welcome comments from all interested parties, including state and local officials, airport operators, air carriers, academics, financial experts, and the traveling public. Our goal is to have a final report completed by February 1999.

We are interested in obtaining information that would help us answer the following questions: (1) What is the exact nature of the airport (landside) constraints air carriers have encountered when attempting to enter a market or expand service? (2) Have these constraints been so significant as to preclude entry at certain airports? (3) What is the exact nature and competitive significance of the complaints that have been raised against current airport practices? (4) Do leasing practices and financing agreements at airports limit access and discourage entry? (5) Are airport financing practices changing in ways that will allow airports to have greater control over how they allocate gates? (6) Have airport projects funded through Passenger Facility Charges been successful in promoting competition? Why or why not? (7) What actions have airports taken to promote entry? (8) How do Majority-in-Interest Agreements affect the competitive environment at airports? (9) Is there a trend away from long-term, exclusive-use gate leases? (10) Have airports reallocated gates away from incumbent carriers ("recapture" provisions) in ways that promote entry? (11) Do airports involve themselves in monitoring subleasing/use agreements among air carriers? (12) Do airports attempt to ensure that prices charged for subleased facilities or ancillary services are reasonable? (13) Is there any evidence that established air carriers are transferring access to airport facilities among themselves in ways that affect competition? (14) Are there reasons to retain current airport practices even if they adversely affect competition?

Issued in Washington, D.C., July 8, 1998.

Rosalind A Knapp,

Deputy General Counsel, Department of Transportation.

Susan L. Kurland,

Assistant Administrator for Airports, Federal Aviation Administration.

[FR Doc. 98–18615 Filed 7–10–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–1998–4022]

In the Matter of Union Pacific (Formerly Known as Southern Pacific Transportation Company)

AGENCY: United States Coast Guard, DOT.

ACTION: Notice of proposed penalty; opportunity to comment.

SUMMARY: The United States Coast Guard gives notice of and provides an opportunity to comment on the proposed assessment of a Class II administrative penalty to Union Pacific, formerly known as Southern Pacific Transportation Company, for violations of the Federal Water Pollution Control Act (FWPCA). The alleged violations involved the discharge of approximately 1012 barrels of oil into the waters of Buffalo Bayou, Houston, Texas and adjoining shorelines from September 25, 1995 to September 29, 1996. Interested persons may participate or file comments in this proceeding.

DATES: Filings in this matter must be received not later than August 12, 1998.

ADDRESSES: Interested persons must submit all filings in this matter to the Hearing Docket Clerk. Filings should reference ALG Docket number 98–0001–CIV.

If you file by mail, the address is Hearing Docket Clerk, Administrative Law Judge Docketing Center, United States Coast Guard, 40 South Gay Street, Room 412, Baltimore, Maryland 21202–4022.

If you file by fax, then send to (410) 962–1762.

If you file in person, then deliver the filings to the same address at room 412 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The public may inspect the administrative record for this Class II civil penalty proceeding at the same address and times.

FOR FURTHER INFORMATION CONTACT: Mr. George J. Jordan, Director of Judicial Administration, Office of the Chief Administrative Law Judge, Commandant (G–CJ), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001, Telephone (202) 267–2940.

SUPPLEMENTARY INFORMATION: This proceeding is a Class II civil penalty proceeding brought under section 311(b) of the Federal Water Pollution Control Act (33 U.S.C. 1251 *et seq.*), as amended by the Oil Pollution Act of 1990 (33 U.S.C. 1321(b)). The FWPCA requires that the Coast Guard publish notice of the proposed issuance of an order assessing a Class II civil penalty in the **Federal Register**.

If you wish to be an interested person, you must file written comments on the proceeding or written notice of intent to present evidence at any hearing held in this Class II civil penalty proceeding with the Hearing Docket Clerk. You must file not later than August 12, 1998.

The following table explains how interested persons may participate in a Class II civil penalty proceeding.

If	Then
A hearing is scheduled.	You will be given • Notice of any hearing. • A reasonable opportunity to be heard and to present evidence during any hearing. • Notice and a copy of the decision. 33 CFR 20.404.
The proceeding is concluded without a hearing.	You may petition the Commandant of the Coast Guard to set aside the order and to provide a hearing. You must file the petition within 30 days after issuance of the administrative law judge's order. 33 CFR 20.1102.

You can find the regulations concerning Class II civil penalty proceedings in 33 CFR Part 20.

This proceeding (ALJ Docket Number: 98–0001–CIV) results from an alleged discharge of approximately 1012 barrels of oil into Buffalo Bayou, Houston, Texas and adjoining shorelines beginning on or about September 25, 1995, and continuing through and including September 29, 1995. The Coast Guard filed the Complaint on June 1, 1998, at New Orleans, LA.

The Respondent is Union Pacific (formerly known as Southern Pacific Transportation Company), 808 Travis, Suite 620, Houston, Texas 77001.

The Coast Guard seeks a civil penalty of $50,000.

Dated: July 7, 1998.

George J. Jordan,

Director of Judicial Administration, Office of the Chief Administrative Law Judge, United States Coast Guard.

[FR Doc. 98–18555 Filed 7–10–98; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–97–2287; MC–96–40]

Motor Carrier Regulatory Relief and Safety Demonstration Project; Modifications

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice; request for comments.

SUMMARY: The FHWA is extending the application period for the Motor Carrier Regulatory Relief and Safety Demonstration Project (Project), published in the **Federal Register** on June 10, 1997. The agency is also seeking public comment upon proposed modifications to the entry criteria and reporting requirements of the Project. In the June 1997 notice, the FHWA indicated that it would later publish additional information clarifying the eligibility criteria and application process. This notice is that clarifying document and proposes to provide additional incentives to participating

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motor carriers without adversely impacting highway safety. Motor carriers operating commercial motor vehicles (CMVs) with a gross vehicle weight rating (GVWR) between 10,001 and 26,000 pounds, in interstate commerce, may qualify for exemptions from certain portions of the Federal Motor Carrier Safety Regulations (FMCSRs) if they exhibit exemplary safety records. Motor carriers participating in this Project would have the opportunity to demonstrate they can maintain or improve their safety records when they are given greater latitude to select the means by which their safety performance is attained. The FHWA seeks the comments of all interested parties regarding these Project modifications, especially comments aimed at aiding the FHWA in providing substantive industry incentives while maintaining the highest degree of safety. Upon review of public comment, the FHWA intends to modify the project, authorize qualified motor carrier participation, and publish a supplemental notice of final determination.

DATES: Comments must be received no later than August 12, 1998. Written comments addressing the information collection requirements of this Project must be received on or before September 11, 1998. Applications for participation in the Project must be submitted no later January 30, 1999.

ADDRESSES: Signed, written comments must refer to the docket number appearing at the top of this document and must be submitted to the Docket Clerk, Docket No. FHWA–97–2287; MC–96–40, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, D.C. 20590–0001. All comments received will be available for examination at the above address from 10 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed stamped envelope or postcard.

For Internet users, all comments received will be available for examination at the universal resource locator—*http://dms.dot.gov*—24 hours each day, 365 days each year. Please follow the instructions on-line for more information and help.

FOR FURTHER INFORMATION CONTACT: Mr. Robert W. Miller, Office of Motor Carriers, (202) 523–0178, or Mr. Charles Medalen, Office of the Chief Counsel, (202) 366–1354, Federal Highway Administration, DOT, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Availability

An electronic copy of this document may be downloaded using a computer, modem, and suitable communications software from the Government Printing Office (GPO) electronic bulletin board service (telephone: 202–512–1661). Internet users may reach the GPO's web page at: http://www.access.gpo.gov/su__docs/aces/aaces002.html.

Background

On November 28, 1995, the President signed the National Highway System Designation Act of 1995 (NHS Act) (Pub. L. 104–59, 109 Stat. 568 (1995)). Section 344 of the NHS Act requires the FHWA to implement a pilot program under which motor carriers operating CMVs with a GVWR between 10,001 and 26,000 pounds, in interstate commerce, could qualify for exemptions from the FMCSRs (49 CFR Part 325 *et seq.*). In accordance with the NHS Act, the FHWA developed the Project and published a detailed description of the Project in the **Federal Register** on June 10, 1997. There has been limited industry interest to participate in the Project since the publication date.

Through a series of outreach sessions, the FHWA discovered the absence of extensive industry interest is due, in part, to a lack of understanding of how the Project would work and questions about potential incentives for program participation. The purpose of this notice is to provide the public with an opportunity to assist the FHWA in determining whether clear and sufficient incentives have been included, while maintaining the highest degree of safety. Modifications have been made to the current details of the Project and additional exemptions are proposed. The FHWA is seeking all points of view before implementing these newly proposed parameters as part of the Project. The FHWA will peruse all suggestions and weigh carefully the facts upon which they are based.

The FHWA proposes that in order to participate in the Project, a motor carrier would have to meet the criteria for admission developed by the Secretary and outlined later in this notice. The criteria for admission has been modified regarding the definition of "accident" and the Project entry accident rate threshold. Motor carriers seeking to participate are still required to develop a written Safety Control Plan for the Project. This plan should outline the measures which the motor carrier would undertake to ensure its current level of safety is not compromised while operating under the proposed exemptions. The motor carrier would also enter into a written agreement of participation with the FHWA in which it would agree to abide by its Safety Control Plan and to work with the FHWA in generating and monitoring certain Project data. The FHWA would grant, for the term of the Project only, an exemption to participating motor carriers from certain current requirements of the FMCSRs, but such exemption would apply only to the eligible CMVs and drivers designated by the motor carrier in its application. The FHWA will evaluate the Project data throughout the Project, with particular focus upon the significance of the data with regard to FHWA's regulatory reinvention and zero-base initiatives. The FHWA would, in accordance with the NHS Act, use this data to conduct a zero-base review of the need for, and the costs and benefits of, all the FMCSRs.

The requirements for participation in the Project include several information collection requirements which must be approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520). On November 6, 1997, the OMB reinstated the authorization for the FHWA's submission of these information collection requirements as provided under OMB No. 2125–0575, with an expiration date of November 30, 2000.

Analysis of Project data will occur throughout the Project, and only at such time as that analysis is complete will the FHWA be in a position to consider other performance-based initiatives. Given the Project parameters, the FHWA believes that three years of continuous and sustained motor carrier operations is the minimum amount of time necessary to draw conclusions about operational safety. In view of the customary level of activity for a motor carrier, the FHWA, after three years, should be able to assert, with reasonable certainty, that the data accumulated with respect to the activity of the class of motor carriers in this Project is representative of future behavior.

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I. Introduction

Many commenters to the original June 10, 1997 proposal contended the design of the Project would discourage motor carrier participation. The explanation most frequently offered for this belief was that the paperwork requirements of the Project, both at the time of application and during the Project, were too burdensome and outweighed the regulatory relief participating motor carriers would receive. The commenters strenuously objected to the proposed paperwork requirements, while noting that substantive exemptions weren't offered. For instance, it was suggested that most motor carriers would continue to require a pre-employment road test for new hires even if they were exempt from that requirement. For these reasons and given the current level of industry interest, clarifying and amending the Project requirements, as well as providing additional incentives, seem to be in order. We believe these modifications will reduce participants' burden and improve industry interest.

II. Current Project Exemptions

In accordance with the NHS Act, qualified interstate motor carriers would be exempt from certain regulatory requirements while participating in the Project. In the June 10, 1997 **Federal Register** notice, the regulations described below were those from which participating motor carriers would be exempt. Those Project exemptions would continue to be offered. No current exemptions would be removed. Clarifications and modifications of these exemptions are explained in this section. Motor carriers participating in the Project are only exempt from the regulations specified in the Project. A participating motor carrier may elect to voluntarily comply with any of the requirements described below as part of its normal business practices. For the purposes of the Project, however, the motor carriers would be exempt from those requirements. Project motor carriers, and their eligible drivers, would, with regard to the interstate operation of CMVs with a GVWR between 10,001 and 26,000 pounds, be exempt from the following requirements of the FMCSRs:

Driver Qualifications

Drivers would not be required to prepare, or furnish to the employing motor carrier, an annual list of violations of motor vehicle laws, or a certificate in lieu thereof, in accordance with 49 CFR 391.11(b)(8) and 391.27. Motor carriers, however, would be required to obtain a State driving record as required by 49 CFR 391.23. Further, drivers would not be required to successfully complete a Driver's Road Test, or furnish an employing motor carrier an Application For Employment, in accordance with 49 CFR 391.11(b)(10) and 391.31 and 49 CFR 391.11(b)(11) and 391.21. In addition, motor carriers would not have to maintain "complete" Driver Qualification Files on each driver in accordance with 49 CFR 391.51. The documents identified above would not be required to be in the qualification file. Only those documents from which participating motor carriers are not exempt would be required to be in the driver qualification file.

Driver Hours-of-Service

Project drivers would not be required to comply with record of duty status regulations, whether this entails maintenance of a record of duty status (logbook) in accordance with 49 CFR 395.8, use of a time card in accordance with 49 CFR 395.1(e), or the use of an interactive automatic on-board recording device in accordance with 49 CFR 395.15. Project motor carriers and drivers, however, must observe the provisions governing maximum driving time, and the use of ill or fatigued operators in accordance with 49 CFR 395.3 and 392.3. Additionally, Project motor carriers and their drivers would not forfeit any other exemptions available under the FMCSRs.

CMV Inspections

While participating in the Project, motor carriers would be exempt from those requirements pertaining to CMV inspection records and their retention, in accordance with 49 CFR 396.3 (b) and (c). Exemption would also be granted from the regulations pertaining to the preparation of driver vehicle inspection reports and the driver vehicle inspection requirements (49 CFR 396.11 and 396.13 (b) and (c)). In addition, driveaway-towaway inspections would not be required of Project motor carriers or their drivers (49 CFR 396.15). Periodic inspections and the preparation of periodic inspection reports (49 CFR 396.17 and 396.21) would also fall under the exemption. However, motor carriers would not be relieved of their responsibility to inspect, repair and maintain their motor vehicles in accordance with 49 CFR 396.3(a). Furthermore, Project drivers and CMVs would be subject to roadside safety inspections.

Accident Information

Project motor carriers would be exempt from the requirement that they maintain an accident register in accordance with 49 CFR 390.15 (b)(1) and (2).

III. Proposed Additional Project Exemptions

The FHWA has received recommendations for additional incentives to be included in the Project to increase industry interest. The FHWA has analyzed those recommendations and has determined that the following additional incentives should be offered:

Driver Qualifications

Drivers would not be required to read or speak the English language in accordance with 49 CFR 391.11(b)(2), provided they can effectively communicate with enforcement officials. Motor carriers would not be required to document investigations of drivers' employment history in accordance with 49 CFR 391.23(c). Motor carriers would also be relieved from documenting the annual review of drivers' records in accordance with 49 CFR 391.25. In addition, relief would be provided regarding medical examinations and certifications. The current requirement for drivers to be medically re-examined and certified each 24 months in accordance with 49 CFR 391.45(b)(1) would be removed for the duration of the Project, provided participating drivers have a current medical examination certification prior to entry into the Project. Newly hired drivers would be required to be medically examined once, prior to entry into the Project, in accordance with 49 CFR 391.45(a). We believe participating motor carriers will ensure drivers are physically fit for duty as part of their normal business practices.

In addition to driver qualification exemptions, motor carriers would be relieved from the unauthorized passenger transportation prohibition of 49 CFR 392.60.

Driver Hours-of-Service

The industry has asked the FHWA to reconsider providing relief from the underlying hours-of-service (HOS) regulations, not just recordkeeping. The FHWA has evaluated this request and has determined that some relief might be provided without reducing highway safety. Most trucks in this weight range are used in local transportation operations. Drivers return to the home terminal at the end of each work shift and do not spend overnight periods on the road. If overnight stays are needed, drivers generally sleep in motels

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because these CMVs are usually not equipped with sleeper berths. These are optimal conditions for obtaining restorative sleep. The vast majority of drivers operating this class of CMV are local drivers operating between 6 a.m. and 9 p.m. Their on-duty hours are usually regular in nature. They are usually afforded ample time to obtain sufficient recuperative sleep (9–12 hours off-duty in every 24) during the optimal time for sleep (midnight to 6 a.m.). Due to the nature of their operations, they are the least affected by regulatory restrictions. Additionally, the largest fraction of *non-local* use is by private motor carriers of freight, primarily driver-operators in service industries. The nature of their work is such that they generally set their own schedules and are not influenced by third-party customers to the degree a for-hire motor carrier is affected.

The FHWA is, therefore, proposing to allow participating drivers to be on duty for 12 consecutive hours with no mileage limit and no constraints on their activities. The premise being that such drivers perform other functions in addition to driving and will not exceed the current 10-hour driving limitation. This action would parallel the exemption allowed by 49 CFR 395.1 (e). As stated previously, drivers will be required to comply with the driving-time provisions of 49 CFR 395.3(a) and (b).

CMV Inspections

In the June 10, 1997 **Federal Register** notice, the FHWA relieved participating motor carriers from performing annual vehicle inspections in accordance with 49 CFR 391.17. Since we are proposing to exempt participating motor carriers from the annual inspection, the participating motor carriers would be exempt from the annual inspector qualification requirements set forth in 49 CFR 396.19 while participating in the Project and inspecting program CMVs. Participating motor carriers would also be relieved of the requirements for brake inspector qualifications and recordkeeping in accordance with 49 CFR 396.25, except for inspectors working on air brake systems. The rationale for this is that most of these vehicles are equipped with hydraulic brakes.

The FHWA seeks public comment on whether these additional exemptions are appropriate and whether these additional incentives will increase the industry's interest in participating. The NHS Act requires the FHWA to ensure the Project is designed to achieve a level of operational safety "equal to or greater than" that under the current requirements of the FMCSRs. In considering additional exemptions under this Project, the FHWA carefully weighed whether adequate safety measures exist to ensure the exemptions do not adversely affect highway safety.

IV. Criteria for Admission to the Project

The FHWA believes participation in this Project should be limited to those motor carriers that have exemplary safety records. The agency further believes that the best measure of an exemplary record would be an accident rate equal to, or better than, that of the top 25 percent of motor carriers. The FHWA estimates this accident rate to be 0.5, or fewer, accidents per one million vehicle miles of travel. Accidents are those incidents resulting in (1) a fatality, (2) bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident, or (3) one or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

This rate is derived from an analysis of Compliance Review (CR) data, collected for the years 1993 through 1997. The decision to base this rate on accidents was made after discussions with representatives from the motor carrier industry. This approach is consistent with the FHWA's definition of the term "accident" as it appears in 49 CFR 390.5.

Note that the FHWA does not maintain any CR or other accident data specific to motor carriers operating CMVs within the 10,000 pound to 26,000 pound range. Thus, the agency's analysis of the CR data could not be limited precisely to the population targeted for this Project. The analysis was, however, limited to only those motor carriers operating at least one straight truck. The FHWA estimates that between 50 and 75 percent of all straight trucks are within the 10,000 pound to 26,000 pound range. Further, only those motor carriers, in the CR data base, having three or more years of accident data were considered. The analysis was further limited to those carriers averaging at least one million vehicle miles traveled (VMT) over a three year period. This was done to (1) be consistent with the carrier eligibility requirements established for this Project, and (2) guard against any bias resulting from including carriers having an insufficient number of VMT to determine an accident rate accurately.

For the 271 motor carriers meeting these conditions in the analysis file, 25 percent had an accident rate of 0.5 or fewer accidents per one million VMT, based on three or more years of data. Hence, the cut-off for identifying the top 25 percent of carriers based on this analysis is 0.5.

Using CR data allows us to analyze accident data at the carrier level. No other data base available to the agency allows for such an analysis. Although it may be argued that by using such data, the agency is basing its accident rate cut-off point on a group of motor carriers already identified as substandard, only 36 out of 223, or 16 percent of these carriers had a SafeStat crash safety evaluation area (SEA) score greater than 75, thereby indicating a potentially high accident rate (for 48 of the carriers, the SEA score could not be obtained or inferred).

Furthermore, overall accident statistics produced from this file are not dramatically different from accident statistics generated from other data sources. For example, the average accident rate across all carriers based on this analysis file (composed of carriers with straight trucks, having at least three CRs between 1993 and 1997, and an average three year VMT of one million or higher) is 0.75 accidents per million VMT. If all motor carriers having had three or more CRs between 1993 and 1997 are considered, with no constraints on power unit composition or VMT, the accident rate drops slightly to 0.72. Using the General Estimates System (GES) data base for purposes of comparison, the overall accident rate between 1993 and 1996 for straight and combinations trucks is 0.6 accidents per one million VMT.

The FHWA, therefore, proposes to modify the Project participation requirement regarding accident rates by eliminating the "police-reportable" accident definition and using the definition of an "accident" in 49 CFR 390.5. Furthermore, the FHWA proposes an accident rate, for entry into and exit from the Project, of no more than 0.5 accidents per million VMT, averaged over the most recent 36 months. Motor carriers with less than one million VMT in the most recent 36 months would be eligible for the Project if they have no more than one accident during that period of time. Two or more accidents would result in a motor carrier being declared ineligible for this Project. It is important to note that the accidents and mileage used in calculating this accident rate only include vehicles eligible for the Project and no others.

The FHWA seeks public comment on these proposed criteria. Is an accident rate of no more than 0.5 accidents per 1,000,000 VMT a prudent requirement in view of the need to limit participation to those carriers with exemplary safety records? Are there other tenable approaches? If yes, what data or rationale support them?

The criteria for admission to the Project has otherwise remained the same as published in the June 10, 1997 **Federal Register**, except for the change regarding the definition of an accident and the accident rate for Project eligibility described above. No other criteria modifications are being proposed for admission to the Project. Each motor carrier applying for admission to the Project must satisfy the following 7 prerequisites:

1. The motor carrier operates in interstate commerce.

2. The motor carrier operates CMVs having a GVWR between 10,001 and 26,000 pounds.

Note: CMVs designed to transport more than 15 passengers (including the driver), or used to transport hazardous materials in placardable quantities, as defined in regulations issued by the Secretary of Transportation under the Hazardous Materials Transportation Act (49 U.S.C. 5101 *et seq.*), are not eligible to participate in this Project.

3. The motor carrier does not currently have a Safety Fitness Rating of "Unsatisfactory" issued by the FHWA. Motor carriers that have not received a safety rating issued by the FHWA are eligible for this Project.

4. For CMVs eligible for this Project, the motor carrier has an accident rate equal to or less than 0.5 accidents per million VMT, averaged over the most recent 36 months. The term "accident" is defined in 49 CFR 390.5. For example, a motor carrier which has had 2 accidents and has 5 million VMT by eligible CMVs over the most recent 36 months would be eligible for the Project based upon the following calculation: 2 divided by 5 equals 0.4, which is less than 0.5. This calculation is to be based solely upon the accidents and mileage of those CMVs which have a GVWR between 10,001 pounds and 26,000 pounds.

Motor carriers with less than one million VMT in the most recent 36 months are eligible for the Project if they have not had more than 1 accident during that period of time. Two or more accidents would result in ineligibility for this Project.

5. The motor carrier is active on a year-round basis. "Seasonal" motor carriers are not eligible for the Project.

6. The drivers assigned by the motor carrier for participation in the Project have not been convicted, in the past three years, of:

(a) An offense that directly arose out of a fatal traffic accident;

(b) Driving a CMV while under the influence of alcohol, including;

(i) Driving a CMV while the person's alcohol concentration is 0.04 percent or more;

(ii) Driving under the influence of alcohol, as prescribed by State law; and

(iii) Refusal to undergo testing for alcohol or controlled substances as required by any State or jurisdiction;

(c) Driving a CMV while under the influence of a controlled substance;

(d) Leaving the scene of an accident involving a CMV; or

(e) A felony involving the use of a CMV, including the use of a CMV in the commission of a felony involving manufacturing, distributing, or dispensing a controlled substance.

7. The motor carrier has a written Safety Control Plan for this Project. This plan must, in some form, clearly detail the measures which the motor carrier will undertake to ensure the current level of safety is not compromised by the operation of the Project exemptions. This document may entail no more than submitting pertinent portions of a company's current Operating Plan or similar document. An outline for the creation of this document is also available, upon request, from the FHWA. In its application, the motor carrier would agree to abide by its Safety Control Plan. More detailed information regarding the Safety Control Plan is provided later in this document.

V. Applying for the Project

In the Notice of Final Determination published in the **Federal Register** on June 10, 1997, motor carriers were required to submit, in writing, their requests for admission to the Project within 180 days of the publication of the notice. The application deadline was extended to June 30, 1998 (See the December 16, 1997 issue of the **Federal Register**). The FHWA also made known that additional information clarifying the eligibility criteria and application process would be published at a later date. This notice is that clarifying document. To ensure a continuous opportunity for interested motor carriers to apply for the Project under the new criteria, the FHWA is further extending the application deadline until January 30, 1999.

There will be no change in the application process during this notice and comment period. Interested motor carriers should submit, in writing, to the FHWA, the following:

(1) A completed Motor Carrier Identification Report (Form MCS–150), which would provide updated information about the overall operation of the motor carrier;

(2) The following certification, duly executed by the Chief Operating Officer of the motor carrier:

I certify that (Name of motor carrier) operates CMVs having a GVWR between 10,001 pounds and 26,000 pounds in interstate commerce, on a year-round basis, and is not rated "Unsatisfactory" by the FHWA. I certify the company has approved the attached Safety Control Plan and will employ these controls throughout the Project. I certify that the motor carrier EITHER: (1) has an accident rate equal to or less than 0.5 accidents per million vehicle miles traveled (VMT), averaged over the most recent 36 months, based upon _______ accidents and _______ VMT, by CMVs having a GVWR between 10,001 pounds and 26,000 pounds, OR (2) has _______ actual VMT (less than one million) over the most recent 36 months and has experienced _______ (less than 2) accidents involving the subject vehicles over that period of time.

I hereby submit a roster of _____ company drivers for participation in the Project. The roster includes driver names, license numbers, State of licensure, and dates of employment. I certify that (1) each driver is eligible to participate in the Project, (2) each operates CMVs having a GVWR between 10,001 pounds and 26,000 pounds, and (3) I have independently verified that the driving record of each does not include any convictions within the past 3 years of any of the disqualifying offenses enumerated in the Project criteria. I have read and agree to be bound by the requirements for notification and submission of information to the FHWA outlined in the section entitled "The Agreement" in the Notice of Final Determination of this Project.

Signature: ______________________
Name: ______________________
Title: ______________________
Name of Motor Carrier: ______________________

(3) A Safety Control Plan;

(4) A driver roster containing drivers' names, driver license numbers, State of licensure, and dates of employment. This would enable the FHWA to advise enforcement officers of the identity of Project drivers and to monitor their driving performance.

Note: The motor carrier applicant would be required to submit the names of ALL drivers eligible for participation in the Project.

The FHWA is aware that some motor carriers with large operations may wish to volunteer a particular terminal, geographic region, or State operation for this Project. The FHWA anticipates no difficulty in affording motor carriers flexibility with this form of selection.

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The FHWA would carefully scrutinize any suggested "subunits" to be certain they advance the congressional mandate, particularly the requirement that this Project examine a broad cross-section of the motor carrier industry. All of the above items should be assembled and submitted to: United States Department of Transportation, Federal Highway Administration, 10–26 Safety Demonstration Project, HMT–1, 400 Seventh Street, SW., Washington, D.C. 20590–0001.

VI. Safety Control Plans

Motor carriers interested in applying for the Project must submit a Safety Control Plan (SCP). Through outreach sessions with the industry, the FHWA has discovered there is some confusion regarding the content of such a plan. For the purposes of this Project, the SCP should provide the answers to the following:

During the Project, how will the motor carrier applicant ensure:

(1) Project drivers are qualified to operate commercial motor vehicles,

(2) Project vehicles are in safe operating condition,

(3) Project drivers are complying with the maximum hours-of-service requirements, and

(4) It will receive a timely warning if Project drivers are violating the FMCSRs or the Agreement of Participation.

The FHWA believes the preparation of the SCP should be straightforward for most motor carriers which have the exemplary safety record required to qualify for the Project. Experience has shown that the vast majority of motor carriers who have exemplary safety records also have a well-defined set of safety controls. For this Project, the FHWA proposes that an existing set of company operating instructions, whether currently included in a manual or are a set of policy documents, could be used to satisfy the SCP requirement, if the motor carrier applicant directed the FHWA to the sections which satisfy the SCP requirements.

Where an initial SCP must be created, the FHWA believes that an explanation of the day-to-day safety practices and controls which the motor carrier employs, or will employ, should suffice. Upon review of the motor carrier's SCP, the FHWA must be able to identify what safety controls are in place, and be able to evaluate them in terms of the level of safety they could be expected to produce. A model outline of an SCP is available from the FHWA upon request.

VII. Eligible Drivers

Drivers operating CMVs with a GVWR between 10,001 pounds and 26,000 pounds are eligible for the Project. The FHWA will, however, permit a Project motor carrier to direct Project drivers to operate vehicles outside of the Project weight class if: (1) the driver operates Project vehicles at least 25 percent of the time, and (2) the motor carrier can provide the FHWA with a reasonable calculation of the total number of VMT accrued outside the Project, and the total number of VMT accrued within the Project, for each such driver. The FHWA can take such information into account when conducting its evaluation of the Project, and thus preserve the integrity of that evaluation. Motor carriers and their drivers are advised to be alert to the fact that when activity is conducted outside the Project, that activity is subject to all provisions of the FMCSRs. For instance, a driver who operates a CMV with a GVWR in excess of 26,000 pounds must, in accordance with 49 CFR 395.8, account for his or her hours-of-service for the previous 8 consecutive days even though the driver, during the earlier period, was exempt from the requirements of 395.8 by virtue of being engaged in Project activity.

VIII. The Agreement of Participation

If the FHWA finds that a motor carrier applicant is qualified for admission to the Project, it will, by letter, admit the motor carrier to the Project. Participation in the Project may commence immediately upon receipt of the admission letter. A copy of this letter should be made available to each Project driver to serve as the credential authorizing his/her participation in the Project.

By agreement, Project motor carriers promise to report certain information to the FHWA. The reporting requirements have remained relatively the same as in the June 10, 1997 notice. The changes in the reporting criteria primarily relate to accident reporting and notification of changes to the Safety Control Plan. To assist motor carriers in better understanding these reporting criteria, the following additional guidance is being provided:

(1) Within 10 business days following the occurrence of a fatal accident, and within 30 business days following the occurrence of a non-fatal accident, involving a Project driver, the motor carrier would be required to submit details of that accident to the FHWA. The information would have to be sufficient enough to enable the FHWA to locate the corresponding police accident report. The actual police accident report will not be required to be submitted. Normally, it would be sufficient to provide the date and physical location of the accident, the vehicle number, and the driver's name and license number. If the FHWA needs nonconfidential insurance-related information, it would so advise the motor carrier.

Note: This information would have to be accompanied by a revised calculation of accidents per million VMT, indicating the figures used to make the calculation.

The motor carrier would be subject to removal from the Project (see below) should this accident rate exceed 0.5 accidents per million VMT for the most recent 36 month period. Project motor carriers with less than one million VMT in the most recent 36 months and having two or more accidents occur during the most recent 36 months would also be subject to removal.

(2) Immediately following the addition of a new driver eligible for the Project, the motor carrier would be required to submit an update to the roster of Project drivers, including the name, driver's license number, and date of employment of each driver added. A new and complete driver roster would not be required each time the motor carrier intends to use a new driver in the Project. This could be accomplished via facsimile (FAX), the U.S. Mail, or E-Mail and will be explained in detail in the agreement letter. Without a complete and accurate roster of the drivers participating in the Project, the FHWA would be unable to offer real-time assistance to enforcement personnel at roadside inspection locations.

(3) Removal of Project drivers would call for a procedure similar to that described in (2) above.

(4) Within 10 business days, the motor carrier would be required to notify the FHWA when the motor carrier is sold, goes out of business, changes its name, ceases to operate, ceases to operate in interstate commerce, ceases to operate CMVs with GVWRs between 10,001 pounds and 26,000 pounds, or ceases to conduct operations on a year-round basis.

(5) Within 30 business days, the motor carrier would be required to notify the FHWA when the motor carrier chooses to amend its Safety Control Plan, or is unable, for any reason, to carry out the terms of the Safety Control Plan which it developed for this Project. A resubmission of the entire Safety Control Plan would not be necessary. Participating motor carriers would submit, in writing, an addendum to the plan which describes the changes made.

(6) Semi-annually, Project motor carriers would be required to provide the FHWA with a current calculation of

accidents per million VMT for the preceding 36 months and indicate the figures used to arrive at the calculation. The first calculation would be submitted upon the sixth-month anniversary of the date of admission to the Project. Subsequent calculations would be due every six months thereafter.

IX. Removal From the Project

The FHWA does not anticipate that any motor carrier which has satisfied the stringent admission criteria of this Project will experience any deterioration of its safety record. However, should this occur, the FHWA would, consistent with its duty under the NHS Act, take all steps necessary to protect the public interest, as well as the integrity of the Project. Participation in this Project is voluntary, and the FHWA would retain the right to revoke a motor carrier's privilege to participate in the Project if its safety performance poses a threat to highway safety. Participating motor carriers would not be exempt from roadside inspections, compliance reviews or enforcement actions pertaining to the remaining regulations from which they are not exempt, or on those portions of their operations which would not be a part of the Project. Also, Project drivers who pose a threat to highway safety would, at a minimum, be subject to immediate revocation of their privilege to participate in the Project.

Should the FHWA find the highway operations of a Project motor carrier have placed the safety of the public in jeopardy, the agency would remove the motor carrier from the Project. Should the three-year accident rate of a Project motor carrier exceed 0.5 per million VMT for the most recent 36 month period, the motor carrier would be subject to disqualification. Additionally, Project motor carriers that incur two or more accidents while accruing less than one million VMT in the most recent 36 months would also be subject to disqualification.

The FHWA would also immediately remove any Project driver convicted of any of the offenses enumerated under item 6 of the Criteria for Admission to the Project. Such driver convictions would not necessarily result in the Project motor carrier's removal. It could, however, result in more intensive scrutiny of the Project motor carrier's operation.

X. The Final Evaluation

At the conclusion of the Project, the FHWA would conduct an evaluation of the Project. The principal objective of the evaluation would be to provide input to the FHWA's ongoing zero-base regulatory review. Simply put, we would determine whether a group of exemplary motor carriers can operate a specific class of CMVs as safely without a lot of regulation as it could when subject to the entire body of the FMCSRs.

The evaluation will focus upon operational safety by comparing the collective experience of Project motor carriers and drivers during the Project with that prior to the Project. The evaluation will also compare the collective experience of Project motor carriers with the experience of motor carriers not participating in the Project. These comparisons will be accomplished through the use of motor carrier performance data obtained from Federal and State information systems, as well as Project data reported to the FHWA by the participating motor carriers.

The FHWA is cognizant of the economic realities which underlie the suggestion that it should assure motor carriers that the exemptions that would be allowed during this Project would continue beyond the three-year life of this pilot. It is possible that the exemptions would continue in some form. The case for permanent regulatory change, however, must be made by using valid supporting data. The agency recognizes that strong participation in this Project could generate data which may support meaningful, performance-based improvements of the current regulatory scheme. The FHWA cannot predict what the Project data will show, or what regulatory changes, if any, would be supported. After the first two years of the Project, the FHWA would analyze the Project data. Depending upon the data and its analyses, indications of possible regulatory changes could result.

XI. Preemption

In response to docket comments expressing concern about the possible enforcement of intrastate regulations that would not be compatible with the requirements of this Project, a supplemental notice was published on October 29, 1996 (61 FR 55835) seeking comment on the appropriate use of Federal preemption in this Project. Eight comments to the supplemental notice were received. Five were from trade groups, one from a motor carrier, one from a union, and one from a safety advocacy group. Four were in favor of the exercise of Federal preemption, two were opposed to it, and two offered no opinion. No comments were received from the States.

The FHWA will not pursue preemption with regard to this Project. For some time, however, through various Federal initiatives, foremost of which is the program of grants to States known as the Motor Carrier Safety Assistance Program (MCSAP), the States and the Federal government have been working together to achieve a high degree of uniformity between State and Federal motor carrier regulation and their enforcement. At the same time, the Federal-State partnership has resulted in a better understanding of regulatory and enforcement problems. Thus, a new Federal program, though it may necessitate corresponding changes in State enforcement activity, is more readily understood by State officials. The FHWA believes that the Federal-State partnership is capable of absorbing the changes which this Project requires.

Currently, 26 States and Territories automatically adopt revisions to the FMCSRs. It is reasonable to believe those States and Territories would accept the pilot Project and its attendant exemptions while permitting examination of the effect of performance-based standards on highway safety. The FHWA will renew it's dialogue with the various States to reaffirm their understanding of the Project and ensure proper coordination and communication is accomplished.

XII. Paperwork Reduction Act of 1995

The FHWA is aware that this Project would impose special recordkeeping and reporting requirements upon participating motor carriers. The FHWA believes the paperwork requirements proposed in this document are absolutely necessary to conduct this Project and to ensure the safety of the public on the highways. For instance, in the absence of a roster of drivers participating in the Project, the FHWA would be unable to assist roadside enforcement officials in the conduct of their duties. The FHWA also believes that most of the remaining records which would be required by this Project are routinely maintained by most motor carriers in the course of their day-to-day operations.

The voluntary participants in this program would be required to comply with information collection requirements which are subject to review by the OMB under the PRA. Persons are not required to respond to a collection of information unless it displays a valid OMB control number. The information collection requirements related to this Project have been approved by the OMB until November 30, 2000, and assigned OMB Control No. 2125–0575.

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Generally, **Federal Register** concerning each collection of information. Comments on the information collections proposed in this notice will be considered by the FHWA in its request for long-term approval. With respect to the collections of information described below, the FHWA invites comments on: (1) Whether the proposed information collections are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the FHWA's estimate of the burden of the proposed information collections, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; (4) ways to minimize the burden of these information collections upon those who are to respond, including the use of automated collection techniques, and other forms of information collections technology.

The title used to identify the information collections proposed in this notice and submitted for OMB's approval is "Motor Carrier Regulatory Relief and Safety Demonstration Project."

This **Federal Register** notice proposes a voluntary pilot Project. In return for receiving exemptions from certain requirements of the FMCSRs, each Project motor carrier would be required to develop and/or furnish certain information about its operations. It is anticipated that the initial application will require about one-half hour to complete. This document is necessary to identify those motor carriers that believe they are eligible to participate in the Project, and to indicate their desire to participate in the Project. The Safety Control Plan, outlining the safety management measures the motor carrier would have in place to ensure that it would achieve the appropriate level of operational safety during the Project, would require approximately one and one-half hours to prepare. This document would be subject to examination by the FHWA, and would be used to assist the FHWA in ensuring that Project participants did not neglect those aspects of motor carrier safety which are normally addressed by the regulations from which they are temporarily exempt. The Safety Control Plan would require approximately one and one-half hours to prepare. Further, participating motor carriers would be required to submit to the FHWA the name, driver's license number, and date of employment of each participating driver. The motor carrier would also be required to advise the FHWA immediately of any changes in this information. These collections and submissions of information are necessary in order to effectively grant Project exemption to identifiable operators of CMVs and to permit the performance of each to be monitored and evaluated. It is estimated that the reporting and recordkeeping burden for these items would be one hour.

It is also proposed that each accident involving Project drivers and/or Project vehicles would be reported to the FHWA as it occurs (within 10 or 30 business days, depending upon severity). Each Project motor carrier would also calculate and submit its accident rate per million VMT on a semi-annual basis, and advise the FHWA if that rate exceeds 0.5. This information is necessary in order to identify those motor carriers whose safety performance is declining during the Project and would also be used to assist in comparing the performance of the exempt motor carriers with the performance of those which remain subject to the FMCSRs. The annual reporting and recordkeeping burden for this information collection is estimated to be one-half hour.

The most likely respondents to this information collection will be motor carriers operating CMVs with a GVWR between 10,001 pounds and 26,000 pounds, operated in interstate commerce, have a satisfactory safety rating or is not rated, and have an accident rate less than 0.5 per million VMT. The approximate number of motor carriers currently eligible to participate in the Project is 33,000. Therefore, it is estimated that the total annual reporting and recordkeeping burden will be 275 hours.

XIII. Conclusion

The FHWA welcomes comment on any and all aspects of these proposed changes to the Project from all interested parties. Upon review of public comment, the FHWA intends to modify the project, authorize qualified motor carrier participation, and publish a supplemental notice of final determination.

(49 U.S.C. 31136 and 31141; 49 CFR 1.48)

Issued on: July 7, 1998.

Kenneth R. Wykle,

Federal Highway Administrator.

[FR Doc. 98–18539 Filed 7–10–98; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–98–3983]

Mercedes-Benz of North America, Inc., Receipt of Application for Decision of Inconsequential Noncompliance

Mercedes-Benz of North America, Inc. (Mercedes-Benz) of Montvale, New Jersey has determined that some 1998 Mercedes-Benz M-class vehicles fail to comply with 49 CFR 571.120, Federal Motor Vehicle Safety Standard (FMVSS) No. 120, "Tire selection and rims for vehicles other than passenger cars," and has filed an appropriate report pursuant to 49 CFR Part 573, "Defect and noncompliance reports." Mercedes-Benz has also applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301—"Motor Vehicle Safety" on the basis that the noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of an application is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the application.

The purpose of FMVSS No. 120 is to provide safe operation of vehicles by ensuring that those vehicles are equipped with tires of appropriate size and load rating; and rims of appropriate size and type designation. Paragraph S5.3, Label information, of FMVSS No. 120 states that each vehicle shall show the appropriate tire information (such as: recommended cold inflation pressure) and rim information (such as: size and type designations) in the English language. This information must appear either on the certification label or a tire information label, lettered in block capitals and numerals not less than 2.4 millimeters high, and in the prescribed format. In addition, FMVSS No.120 requires that the label be affixed to the hinge pillar, the door-latch post, the door edge that meets the latch post, or next to the driver's seating position. If these locations are impractical, the label shall be affixed to the inward-facing surface of the door next to the driver's seating position. However, if all of the preceding locations are not practical, the manufacturer can notified, in writing, NHTSA and request approval for an alternate location in the same general location.

Mercedes-Benz states that 35,357 vehicles were produced from the beginning of production in January 1997 through April 13, 1998 that do not meet the labeling requirements stated in the

FMVSS No. 120. Mercedes-Benz equipped the vehicles with tire information labels that specify the tire size, rim size, and cold inflation pressure on the fuel filler door. The information is formatted differently than as required by the FMVSS No. 120. The size of the letters and numerals are less than the required minimum of 2.4 millimeters.

Mercedes-Benz supports its application for inconsequential noncompliance with the following statements:

1. With regards to the content of the label, all the information required by the FMVSS No. 120 is contained in the label including, recommended tires size, rim size, and cold inflation pressure.

2. Although the height of the labeling is less than the required minimum of 2.4 mm, the letters in the labels are of sufficient size and color to be easily read.

3. With regards to the labeling format, Mercedes-Benz believes that placing the English units before the metric units is not a noncompliance that affects vehicle safety, because consumers in the U.S. are generally more familiar with English units of measurement than metric units.

4. Regarding the location of the tire information label, Mercedes-Benz believes that consumers interested in checking their tire pressure labels would likely perform this check at gas stations, convenience stores, or auto repair facilities. In some cases, this label's location serves as a reminder to check the tire pressure.

5. Based on the convenient location of the tire information label, the reference information in the owner's manual, and the maximum inflation pressure marked on the tire, Mercedes-Benz believes that the tire information label on the fuel filler door is an inconsequential noncompliance.

Interested persons are invited to submit written data, views, and arguments on the application of Mercedes-Benz described above. Comments should refer to the docket number and be submitted to: U.S. Department of Transportation, Docket Management, Room PL–401, 400 Seventh Street, SW, Washington, DC, 20590. It is requested that two copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible. When the application is granted or denied, the notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: August 12, 1998.

(49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: July 7, 1998.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 98–18537 Filed 7–10–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–548]

Tacoma Eastern Railway Company—Adverse Discontinuance of Operations Application—A Line of City of Tacoma, in Pierce, Thurston and Lewis Counties, WA

On June 23, 1998, the City of Tacoma, WA (City) filed an application under 49 U.S.C. 10903 requesting that the Surface Transportation Board (Board) find that the public convenience and necessity require and permit the discontinuance of the operations by Tacoma Eastern Railway Company (TE)[1] on 131.5 miles of City rail line in Pierce, Thurston, and Lewis Counties, WA: (1) between milepost 2192.0, at Tacoma, and milepost 17.7, at Chehalis; and (2) between milepost 2192.0, at Tacoma, and milepost 64.2, at Morton.[2] The line traverses United States Postal Service ZIP Codes 98235, 98304, 98328, 98330, 98338, 98344, 98355, 98356, 98371, 98373–98375, 98387, 98401–98405, 98408, 98421, 98424, 98443–98446, 98501, 98531, 98532 and 98576.

City states that it has terminated the contract pursuant to which TE has been operating on the line because TE has not satisfactorily performed its obligations under the contract.[3]

The line does not contain federally granted rights-of-way. Any documentation in City's possession will be made available promptly to those requesting it. City's entire case for discontinuance of service was filed with the application.

In addition, City has petitioned the Board to waive certain provisions of 49 CFR 1152.22 on the grounds that the information required by these provisions is not relevant to the merits of the application or is not available to the City because of the circumstances of the application. Requests for waivers are typically filed before the application drawn in reliance on those waivers is filed. By filing its application contemporaneously with the waivers, City has run the risk that the waivers will be denied in whole or part and City will have wasted time and effort in filing an application based on them. But, as City is no doubt aware, grants of waiver petitions in applications filed by third parties are customary. The waiver request as to information to be contained in the application will be granted in a separate decision to be served concurrently with this notice.

In an application by a third party for a determination that the public convenience and necessity permits a line to be discontinued or abandoned, the issue before the Board is whether the public interest requires that the line in question be retained as part of the national rail system. By granting a third party application, the Board withdraws its primary jurisdiction over the line. Questions of the disposition of the line, including the adjudication of various claims of ownership or other rights and obligations, are then left to state or local authorities; *Kansas City Pub. Ser. Frgt. Operation-Exempt.—Aban.*, 7 I.C.C.2d 216 (1990).

The interest of railroad employees will be protected by the conditions in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

Any interested person may file with the Board written comments concerning the proposed adverse discontinuance or protests (including the protestant's entire opposition case), by August 7, 1998. Because this discontinuance of service is the functional equivalent of a discontinuance of trackage rights rather than an abandonment, trail use/rail banking and public use requests are not appropriate. Likewise, no environmental or historical documents are required here under 49 CFR 1105.6(c)(6) and 1105.8(b)(3).

Persons opposing the proposed adverse discontinuance who wish to participate actively and fully in the process should file a protest by August 7, 1998. Persons who may oppose the discontinuance but who do not wish to participate fully in the process by submitting verified statements of

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[1] TE was authorized to operate the line by lease in *Tacoma Eastern Railway Co.— Lease and Operation Exemption—City of Tacoma, Washington*, Finance Docket No. 32591 (ICC served Nov. 3, 1994).

[2] A discontinuance of a railroad's service sought by a party other than the railroad is called an "adverse" discontinuance.

[3] Once City receives Board approval, it intends to replace TE with the Belt Line Division of the City of Tacoma Department of Public Utilities (Belt Line). Beltline will file a notice of exemption pursuant to 49 CFR 1150.31 to enable it to commence operations without any interruption in service to shippers on the line.

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witnesses containing detailed evidence should file comments by August 7, 1998. Parties seeking information concerning the filing of protests should refer to section 1152.25. The due date for City's reply is August 24, 1998.

Written comments and protests must indicate the proceeding designation STB Docket No. AB–548 and must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001. A copy of each written comment or protest must be served upon the City's representative Peter A. Greene, Esq., Thompson Hine & Flory LLP, 1920 N Street, NW, Suite 800, Washington, DC 20036 [Telephone (202) 331–8800]. The original and 10 copies of all comments or protests shall be filed with the Board with a certificate of service. Except as otherwise set forth in part 1152, every document filed with the Board must be served on all parties to the adverse discontinuance proceeding. 49 CFR 1104.12(a).

Persons seeking further information concerning the abandonment/discontinuance procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: July 7, 1998.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–18567 Filed 7–10–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Departmental Offices; Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY:

DATES: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Office of International Financial Analysis within the Department of the Treasury is soliciting comments concerning Revisions to Foreign Currency Forms FC–1 (OMB No. 1505–0012) Weekly Consolidated Foreign Currency Report of Major Market Participants, FC–2 (OMB No. 1505–0010) Monthly Consolidated Foreign Currency Report of Major Market Participants, and FC–3 (OMB No. 1505–0014) Quarterly Consolidated Foreign Currency Report. The reports are mandatory.

DATES: Written comments should be received on or before September 11, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to T. Ashby McCown, Director, Office of International Financial Analysis, Department of the Treasury 1500 Pennsylvania Avenue, N.W., Room 5453, Washington, D.C. 20220, Telephone (202) 622–2250.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the forms and instructions should be directed to T. Ashby McCown, director, Office of International Financial Analysis, Department of the Treasury, Washington, D.C. 20220. Telephone (202) 622–2250, FAX (202) 622–0607.

SUPPLEMENTARY INFORMATION:

Title: Weekly Consolidated Foreign Currency Report of major market Participants, Foreign Currency Form FC–1.

OMB Number: 1505–0012.

Title: Monthly Consolidated Foreign Currency Report of Major Market Participants, Foreign Currency Form FC–2.

OMB Number: 1505–0010.

Title: Quarterly Consolidated Foreign Currency Report, Foreign Currency Form FC–3.

OMB Number: 1505–0014.

Abstract: Foreign Currency Forms FC–1, FC–2, and FC–3 are required by Public Law 93–110 (31 U.S.C. 5313 and 5321 (a)(3)), which directs the Secretary of the Treasury to prescribe regulations reports on foreign currency transactions conducted by a United States person or foreign person controlled by a United States person. The regulations governing forms FC–1, FC–2, and FC–3 are contained in Title 31 part 128 of the Code of Federal Regulations (31 CFR 128) which were published in the **Federal Register** on November 2, 1993 (58 FR 58494–58497).

Current Actions: The proposed revisions in the forms and instructions are prompted by the introduction of the new European currency, the Euro, on January 1, 1999, and by the anticipated discontinuation of the Federal Financial Institutions Examination Council (FFIEC) report 035, "Monthly Consolidated Foreign Currency Report of Banks in the United States," currently filed by banks and banking institutions in lieu of forms FC–2 and FC–3. Several modest changes and clarifications in the forms and instructions for reports FC–1, FC–2, and FC–3 are proposed as part of these revision requests.

1. An increase in the exemption level of the FC–3, from $1 billion to $5 billion equivalent in foreign exchange contracts on the last business day of any quarter of the previous year, is being proposed. It is estimated that the overall number of respondents filing FC–2, FC–3 or FFIEC 035 reports will decline by over 40%.

2. Columns for the U.S. dollar and Euro currencies have been added to the face of each form FC–1, FC–2, and FC–3; and to the Options Addenda on forms FC–2 and FC–3. Special instructions for reporting the Euro currency have been included in Section E. Definitions, *Specified Currencies* of FC–1, FC–2, and FC–3. We anticipate that the current high level of German mark contracts reported will be replaced by reported Euro contracts. The proposal to maintain a column on the forms for mark contracts gives respondents the option to report such contracts either as German marks or as Euros.

3. Columns for "All Other combined [currencies] (excludes US$ and currencies in columns 1–5) in US$ equivalent' have been removed from forms FC–2 and FC–3 and their Options Addenda.

4. The requirement to report the "Memorandum-Cross Currency Interest Rate Swaps" has been removed from forms FC–2 and FC–3.

5. The exemption level for reporting on the Options Addendum has been raised from $100 million to $500 million on forms FC–2 and FC–3. In addition, the exemption level for reporting "Net Options Position, Delta Equivalent Value Long or (Short)" has been raised from $100 million to $500 million on form FC–1.

6. The requirement to report the "Currency Code" and "Net Delta Equivalent Value" of the two largest currencies on the form FC–2 Options Addendum has been removed.

7. A requirement to report all foreign currency denominated assets and all foreign currency denominated liabilities has been added to forms FC–2 and FC–3. This replaces a requirement to report foreign currency denominated non-capital assets and non-capital liabilities on forms FC–2 and FC–3; and a requirement to report the foreign currency denominated "Net Capital Asset (Liability) Position" on form FC–2.

Type of Review: Revision.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents:

Foreign Currency Form FC–1: 35 respondents
Foreign Currency Form FC–2: 35 respondents
Foreign Currency Form FC–3: 66 respondents

Estimated Time Per Respondent:

Foreign Currency Form FC–1: One (1) hour per respondent per response
Foreign Currency Form FC–2: Four (4) hours per respondent per response
Foreign Currency Form FC–3: Eight (8) hours per respondent per response

Estimated Total Annual Burden Hours:

Foreign Currency Form FC–1: 1,820 hours, based on 52 reporting periods per year.
Foreign Currency Form FC–2: 1,680 hours, based on 12 reporting periods per year.
Foreign Currency Form FC–3: 2,112 hours, based on 4 reporting periods per year.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (1) Whether Foreign Currency Forms FC–1, FC–2, FC–3 are necessary for the proper performance of the functions of the Department of the Treasury, including whether the information has practical uses; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

T. Ashby McCown,

Director, Office of International Financial Anaysis.

[FR Doc. 98–18480 Filed 7–10–98; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

June 30, 1998.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of thé Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before August 12, 1998 to be assured of consideration.

Bureau of the Public Debt (PD)

OMB Number: 1535–0069.

Form Number: PD Fs 5178, 5179, 5179–1, 5180, 5181, 5182, 5188, 5189, 5191, 5201, 5235, 5236, 5261, 5365, and 5381.

Type of Review: Extension.

Title: Treasury Direct Forms.

Description: These forms are used to purchase and maintain Treasury Bills, Notes, and Bonds.

Respondents: Individuals or households.

Estimated Number of Respondents: 431,632.

Estimated Burden Hours Per Respondent:

Form	Response time (minutes)
PD F 5178	10
PD F 5179	10
PD F 5179–1	10
PD F 5180	10
PD F 5181	15
PD F 5182	10
PD F 5188	10
PD F 5189	10 to 30
PD F 5191	10 to 30
PD F 5201	10
PD F 5235	10
PD F 5236	30
PD F 5261	15
PD F 5365	10
PD F 5381	10

Frequency of Response: On occasion.

Estimated Total Reporting Burden Hours: 58,628 hours.

Clearance Officer: Vicki S. Thorpe, (304) 480–6553, Bureau of the Public Debt, 200 Third Street, Parkersburg, West VA 26106–1328.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–18478 Filed 7–10–98; 8:45 am]

BILLING CODE 4810–40–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

July 1, 1998.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before August 12, 1998 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0301.

Form Number: IRS Letter 1117(c).

Type of Review: Extension.

Title: Confirmation Letter.

Description: It is necessary to directly communicate with taxpayers and/or other knowledgeable parties to obtain verification of information such as the correct amount of tax due, returns filed, etc. Response information is used to determine the accuracy of tax and ledger accounts, etc.

Respondents: Individuals or households, Business or other for-profit, Not-for-profit institutions, Farms, Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents: 4,200.

Estimated Burden Hours Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 1,050 hours.

OMB Number: 1545–0597.

Form Number: IRS Form 4598.

Type of Review: Extension.

Title: Form W–2, or 1099 Not Received or Incorrect.

Description: Employers and/or payers are required to furnish Forms W–2 or 1099 to employees and other payees. This three-part form is necessary for the resolution of taxpayer complaints concerning the non-receipt of or incorrect Forms W–2 or 1099.

Respondents: Individuals or households, Business or other for-profit, Farms, Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents: 850,000.

Estimated Burden Hours Per Respondent: 15 minutes.

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Frequency of Response: On occasion.

Estimated Total Reporting Burden: 212,500 hours.

OMB Number: 1545–00806.

Regulation Project Number: EE–12–78 Final.

Type of Review: Extension.

Title: Nonbank Trustees.

Description: Internal Revenue Code (IRC) section 408(a)(2) permits an institution other than a bank to be the trustee of an Individual Retirement Account (IRA). To do so, an application needs to be filed and various qualifications need to be met. IRS uses the information to determine whether an institution qualifies to be a non-bank trustee.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 23.

Estimated Burden Hours Per Respondent/Recordkeeper: 34 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 13 hours.

OMB Number: 1545–0.

Regulation Project Number: LR 2013 (TD 7533) Final and EE–155–78 (TD 7896) Final.

Type of Review: Extension.

Title: DISC Rules on Procedure and Administration; Rules on Export Trade Corporations; and Income From Trade Shows (EE–155–78).

Description: Section 1.6071–1(b) requires that when a taxpayer files a late return for a short period, proof of unusual circumstances for late filing must be given to the District Director. Sections 1.6072(b), (c), (d), and (e) of the Internal Revenue Code (IRC) deals with the filing dates of certain corporate returns. Regulation section 1.6072–2 provides additional information concerning these filing dates. The information is used to insure timely filing of corporate income tax returns.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions, Farms, State, Local or Tribal Government.

Estimated Number of Respondents: 12,417.

Estimated Burden Hours Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 3,104 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–18479 Filed 7–10–98; 8:45 am]

BILLING CODE 4810–40–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

July 6, 1998.

The Office of Thrift Supervision (OTS) has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the OTS Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the OTS Clearance Officer, Office of Thrift Supervision, 1700 G Street, N. W., Washington, D.C. 20552.

DATES: Written comments should be received on or before August 12, 1998 to be assured of consideration.

OMB Number: 1550–0094.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Title: Financial Management Policies.

Description: This information collection requires institutions establish policies and procedures for managing interest rate risk. Institutions need to establish risk limits to determine the appropriate level of interest rate risk for that institution.

Respondents: Savings and Loan Associations and Savings Banks.

Estimated Number of Record keepers: 1,215.

Estimated Burden Hours Per Record keeper: 60.5 average hours.

Estimated Total Record keeping Burden: 73,540 hours.

Clearance Officer: Colleen M. Devine, (202) 906–6025, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, D.C. 20503.

Catherine C. M. Teti,

Director, Records Management and Information Policy.

[FR Doc. 98–18467 Filed 7–10–98; 8:45 am]

BILLING CODE 6720–01–P

UNITED STATES INFORMATION AGENCY

Art Objects; Importation for Exhibition: Ancient West Mexico: Art and Archaeology of the Unknown Past

AGENCY: United States Information Agency.

SUBJECT: Culturally Significant Objects Imported for Exhibition Determinations.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 133359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985).

ACTION: I hereby determine that the objects to be included in the exhibit, "Ancient West Mexico: Art and Archaeology of the Unknown Past" imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the exhibition or display of the listed exhibit objects at The Art Institute of Chicago, Chicago, IL, from on or about September 5, 1998 through November 22, 1998, and Los Angeles County Museum of Art, Los Angeles, CA, from on or about December 20, 1998 to March 29, 1999 is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Neila Sheahan, Assistant General Counsel, Office of the General Counsel, 202/619–5030, and the address is Room 700, U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547–0001.

Dated: July 7, 1998.

Les Jin,

General Counsel.

[FR Doc. 98–18560 Filed 7–10–98; 8:45 am]

BILLING CODE 8230–01–M

UNITED STATES INFORMATION AGENCY

Art Objects; Importation for Exhibition; Jade in Ancient Costa Rica

AGENCY: United States Information Agency.

SUBJECT: Culturally Significant Objects Imported for Exhibition Determinations.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of

October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1975).

ACTION: I hereby determine that the objects on the list specified below, to be included in the exhibit, "Jade in Ancient Costa Rica," imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the exhibition or display of the listed exhibit objects at the Metropolitan Museum of Art, in New York, New York, from on or about September 15, 1998, to on or about February 28, 1999, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Jacqueline Caldwell, Assistant General Counsel, Office of the General Counsel, 202/619–6982, and the address is Room 700, U.S. Information Agency, 301 4th Street, SW, Washington, DC 20547–0001.

Dated: July 8, 1998.

Les Jin,

General Counsel.

[FR Doc. 98–18559 Filed 7–10–98; 8:45 am]

BILLING CODE 8230-01-M

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0060]

Proposed Information Collection Activity: Proposed Collection; Comment Request; Extension

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to process beneficiaries claim for payment of insurance proceeds.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before September 11, 1998.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to "OMB Control No. 2900–0060" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5038.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title and Form Numbers

a. Claim for Life Insurance Proceeds (NSLI & USGLI), VA Form 29–4125.
b. Claim for Monthly Installments (NSLI), VA Form 29–4125a.
c. Claim for One Sum Payment (NSLI & USGLI),VA Form 29–4125b.
d. Claim for Monthly Installments (USGLI), VA Form 29–4125k.
e. Invitation and Claim for One Sum Payment (NSLI & USGLI), VA Form Letter 29–764.

OMB Control Number: 2900–0060.

Type of Review: Extension of a currently approved collection.

Abstract: The forms and form letter are used by beneficiaries applying for proceeds of Government Insurance policies. The information is used by VA to process the beneficiaries claim for payment of the insurance proceeds.

Affected Public: Individuals or households.

Estimated Annual Burden: 8,938 hours.

a. VA Form 29–4125—8,200 hours.
b. VA Form 29–4125a—463 hours.
c. VA Form 29–4125b—50 hours.
d. VA Form 4125k—125 hours.
e. FL 29–764—100 hours.

Total Estimated Average Burden Per Respondent: 6 minutes.

a. VA Form 29–4125—6 minutes.
b. VA Form 29–4125a—15 minutes.
c. VA Form 29–4125b—6 minutes.
d. VA Form 4125k—15 minutes.
e. FL 29–764—6 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 85,850.

a. VA Form 29–4125—82,000.
b. VA Form 29–4125a—1,850.
c. VA Form 29–4125b—500.
d. VA Form 4125k—500.
e. FL 29–764—1,000.

Dated: May 1, 1998.

By direction of the Secretary.

Sandra S. McIntyre,

Management Analyst, Information Management Service.

[FR Doc. 98–18515 Filed 7–10–98; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0078]

Proposed Information Collection Activity: Proposed Collection; Comment Request; Extension

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to determine an applicant's credit worthiness and ability to repay a loan.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before September 11, 1998.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of

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Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to "OMB Control No. 2900–0076" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5038.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title and Form Number: Request to Creditor Regarding Applicant's Indebtedness, VA Form Letter 26–250.

OMB Control Number: 2900–0076.

Type of Review: Extension of a currently approved collection.

Abstract: The form letter is used to obtain credit information from landlords and creditors of veterans-applicants for guaranteed loans, prospective purchasers of VA-acquired properties and potential assumers of guaranteed loans in release of liability and substitution of entitlement cases.

Affected Public: Individuals or households.

Estimated Annual Burden: 7,500 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 45,000.

Dated: May 1, 1998.

By direction of the Secretary.

Sandra S. McIntyre,

Management Analyst, Information Management Service.

[FR Doc. 98–18516 Filed 7–10–98; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0130]

Proposed Information Collection Activity: Proposed Collection; Comment Request; Reinstatement

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement, without change, of a previously approved collection for which approval has expired, and allow 60 days for public comment in response to the notice. This notice solicits comments on requirements relating to securing information from holders of VA-guaranteed loans regarding a loan to be foreclosed.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before September 11, 1998.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to "OMB Control No. 2900–0130" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5038.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title and Form Number: Status of Loan Account—Foreclosure or Other Liquidation, Form Letter 26–567.

OMB Control Number: 2900–0130.

Type of Review: Extension of a currently approved collection.

Abstract: The form letter is used to obtain information from holders of VA-guaranteed loans regarding a loan to be foreclosed. The information is used to specify the amount, if any, to be bid at the foreclosure sale.

Affected Public: Business or other for-profit-Individuals or households.

Estimated Annual Burden: 20,000 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 40,000.

Dated: May 1, 1998.

By direction of the Secretary.

Sandra S, McIntyre,

Management Analyst, Information Management Service.

[FR Doc. 98–18517 Filed 7–10–98; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0138]

Proposed Information Collection Activity: Proposed Collection; Comment Request; Extension

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to determine the amounts of any deductible expenses paid by the claimant and/or commercial

life insurance received to calculate the appropriate rate of pension benefits.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before September 11, 1998.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to "OMB Control No. 2900–0138" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5038.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Request for Details of Expenses, VA Form 21–8049.

OMB Control Number: 2900–0138.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21–8049 is used to determine the amounts of any deductible expenses paid by the claimant and/or commercial life insurance received to adjust the annual income, which determines the payable rate of pension. The information is needed for VA to administer the program.

Affected Public: Individuals or households.

Estimated Annual Burden: 5,700 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 22,800.

Dated: May 1, 1998.

By direction of the Secretary.

Sandra S. McIntyre,

Management Analyst, Information Management Service.

[FR Doc. 98–18518 Filed 7–10–98; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0162]

Proposed Information Collection Activity: Proposed Collection; Comment Request; Revision

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to ensure that the amount of benefits payable to a student who is pursuing flight training is correct.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before September 11, 1998.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to "OMB Control No. 2900–0162" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5146.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title and Form Number: Monthly Certification of Flight Training, VA Form 22–6553c.

OMB Control Number: 2900–0162.

Type of Review: Revision of a currently approved collection.

Abstract: VA Form 22–6553c is used by veterans and individuals on active duty training under 38 U.S.C. chapters 30 and 32 (including section 903 of Public Law 96–342), and reservists training under 10 U.S.C., chapter 1606, may receive benefits for enrolling in or pursuing approved vocational flight training. Benefits are not payable if the veterans and individuals on active duty or reservists terminates the training.

Affected Public: Individuals or households, Business or other for-profit, Not-for-profit institutions.

Estimated Annual Burden: 6,600 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 2,200.

Dated: May 1, 1998.

By direction of the Secretary.

Sandra S. McIntyre,

Management Analyst, Information Management Service.

[FR Doc. 98–18519 Filed 7–10–98; 8:45 am]

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Corrections

Federal Register
Vol. 63, No. 133
Monday, July 13, 1998

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Child and Adult Care Food Program: National Average Payment Rates, Day Care Home Food Service Payment Rates, and Administrative Reimbursement Rates for Sponsors of Day Care Homes for the Period July 1, 1998 - June 30, 1999

Correction

In notice document 98–17674 beginning on page 36205 in the issue of Thursday, July 2, 1998, make the following corrections:

1. On page 36206, in the first column, the table "All States Except Alaska And Hawaii" should read as set forth below:

ALL STATES EXCEPT ALASKA AND HAWAII

Meals Served in Centers—Per Meal Rates in Dollars or Fractions thereof:	
Breakfasts:	
Paid	$0.20
Free	1.0725
Reduced	0.7725
Lunches and Suppers:[1]	
Paid	$0.18
Free	1.9425
Reduced	1.5425
Supplements:	
Paid	$0.04
Free	0.5325
Reduced	0.2675

[1] These rates do not include the value of commodities (or cash-in-lieu of commodities) which institutions receive as additional assistance for each lunch or supper served to participants under the program. A notice announcing the value of commodities and cash-in-lieu of commodities is published separately in the FEDERAL REGISTER.

	Tier I	Tier II
Meals Served in Day Care Homes—Per Meal Rates in Dollars or Fractions thereof:		
Breakfasts	$0.90	$0.34
Lunches and Suppers	1.65	1.00
Supplements	0.49	0.13

Administrative Reimbursement Rates for Sponsoring Organizations of Day Care Homes-Per Home/Per Month Rates in Dollars:

Initial 50 day care homes	$76
Next 150 day care homes	58
Next 800 day care homes	45
Additional day care homes	40

2. On the same page, in the first and second columns, the table for "Alaska" should read as set forth below:

ALASKA

Meals Served in Centers—Per Meals Rates in Dollars or Fractions thereof:	
Breakfasts:	
Paid	$0.29
Free	1.70
Reduced	1.40
Lunches and Suppers:[1]	
Paid	$0.30
Free	3.1450
Reduced	2.7450
Supplements:	
Paid	$0.07
Free	0.8625
Reduced	0.4325

[1] These rates do not include the value of commodities (or cash-in-lieu of commodities) which institutions receive as additional assistance for each lunch or supper served to participants under the program. A notice announcing the value of commodities and cash-in-lieu of commodities is published separately in the FEDERAL REGISTER.

	Tier I	Tier II
Meals Served in Day Care Homes—Per Meal Rates in Dollars or Fractions thereof:		
Breakfasts	$1.42	$0.52
Lunches and Suppers	2.68	1.62
Supplements	0.80	0.22

Administrative Reimbursement Rates for Sponsoring Organizations of Day Care Homes—Per Home/Per Month Rates in Dollars:

Initial 50 day care homes.	$123
Next 150 day care homes	94
Next 800 day care homes	73
Additional day care homes	65

3. On the same page, in the second and third columns, the table for "Hawaii" should read as set forth below:

HAWAII

Meals Served in Centers—Per Meal Rates in Dollars or Fractions thereof:	
Breakfasts:	
Paid	$0.23
Free	1.2450
Reduced	0.9450
Lunches and Suppers:[1]	
Paid	$0.21
Free	2.27
Reduced	1.87
Supplements:	
Paid	$0.05
Free	0.6225
Reduced	0.3125

[1] These rates do not include the value of commodities (or cash-in-lieu of commodities) which institutions receive as additional assistance for each lunch or supper served to participants under the program. A notice announcing the value of commodities and cash-in-lieu of commodities is published separately in the FEDERAL REGISTER.

	Tier I	Tier II
Meals Served in Day Care Homes—Per Meal Rates in Dollars or Fractions thereof:		
Breakfasts	$1.04	$0.39
Lunches and Suppers	1.93	1.17
Supplements	0.57	0.16

Administrative Reimbursement Rates for Sponsoring Organizations of Day Care Homes—Per Home/Per Month Rates in Dollars:

Initial 50 day care homes	$89
Next 150 day care homes	68
Next 800 day care homes	53
Additional day care homes	47

BILLING CODE 1505-01-D

federal register

Monday
July 13, 1998

Part II

Federal Reserve System

12 CFR Part 208, et al.

Membership of State Banking Institutions in the Federal Reserve System; Miscellaneous Interpretations; Issue and Cancellation of Federal Reserve Bank Capital Stock; Security Procedures; Final Rules

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FEDERAL RESERVE SYSTEM

12 CFR Parts 208 and 250

[Regulation H; Docket No. R-0964]

Membership of State Banking Institutions in the Federal Reserve System; Miscellaneous Interpretations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System is amending Subpart A of Regulation H, regarding the general provisions for membership in the Federal Reserve System, and Subpart E of Regulation H, regarding Interpretations, in order to reduce regulatory burden, simplify and update requirements, and eliminate several obsolete interpretations. As part of the final rule the Board is reissuing prior Subparts B and C. Prior Subparts B and C have not been significantly amended but have been relettered (as Subparts D and E, respectively) to reflect the fact that prior Subpart A was broken into four new Subparts (Subparts A, B, C and F). Prior Subpart D, regarding safety and soundness standards, has been incorporated into new Subpart A. The final rule does not amend in any way Appendices A through E to Part 208. This final rule to modernize Subpart A of Regulation H is in accordance with the Board's policy of reviewing its regulations as well as the Board's review of regulations under section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994.

EFFECTIVE DATE: October 1, 1998.

FOR FURTHER INFORMATION CONTACT: Rick Heyke, Staff Attorney, Legal Division (202/452-3688), or Jean Anderson, Staff Attorney, Legal Division (202/452-3707). For the hearing impaired only, Telecommunications Device for the Deaf (TDD), Diane Jenkins (202/452-3544).

SUPPLEMENTARY INFORMATION:

Background

The Board is adopting amendments to its Regulation H (12 CFR part 208), regarding the general provisions for state bank membership in the Federal Reserve System, as part of its policy of reviewing its regulations, and consistent with section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 (Riegle Act), Pub. L. 103-328. Section 303 of the Riegle Act requires each Federal banking agency to review and streamline its regulations and written policies to improve efficiency, reduce unnecessary costs, and remove inconsistencies and outmoded and duplicative requirements. The amendments are designed to reduce regulatory burden and simplify and update the regulation.

The principal amendments are described below. In general, the amendments serve to reorganize, clarify, and reduce the burden of compliance with Subpart A of Regulation H. The amendments modify the procedures for membership and branch applications, incorporate a new section designed to provide guidance to banks regarding permissible investments in securities, expand the circumstances under which the Board will consider waivers of conditions of membership, eliminate existing requirements regarding disclosure of financial condition, eliminate the requirement that banks obtain deposit insurance in order to become State member banks, and generally provide a definition of branch that is consistent with OCC regulations and decisions. The amendments also serve to eliminate a number of interpretations elsewhere; specifically, interpretations: 12 CFR 250.120, 250.121, 250.122, 250.123, 250.140, 250.161, 250.162, 250.300, 250.301 and 250.302. The amended Regulation H replaces the existing Regulation H in its entirety, except for the Appendices to Regulation H, which remain unchanged.

A red-lined version of the amendments to the regulation and commentary is available from the Board's Freedom of Information Office or by calling 202-452-3684.

The Board published Regulation H for comment in the **Federal Register** on March 31, 1997 (62 FR 15272). The Board received 14 comments to the proposed amendments from the following types of institutions:

Banks/thrifts—1

Community groups—1

Trade associations—4

Federal Reserve Banks—7

Clearinghouses—1

Twelve of the 14 comments generally supported the proposed amendments as serving to reduce regulatory burden on banks and as clarifying membership requirements. In addition, the comments addressed specific issues raised by the proposed amendments. These comments and issues are discussed below in the section-by-section analysis. Any sections of the regulation which are not discussed in the section-by-section analysis were adopted as originally proposed by the Board.

Section-by-Section Analysis

Subpart A—General Membership and Branching Requirements

Section 208.2 Definitions

Definition of Branch. The Board proposed to define a branch as any branch bank, branch office, branch agency, additional office, or any branch place of business that receives deposits, pays checks, or lends money. The proposed rule also stated that a branch may include a temporary, seasonal, or mobile facility. In addition to defining what constitutes a branch, the proposed rule specified certain arrangements that do not constitute a branch. The Board proposed that a branch not include a loan origination facility where the proceeds of loans are not disbursed, automated teller machines, remote service units, offices of an affiliated depository institution that provide services to customers of a State member bank on behalf of the State member bank, or a facility that would otherwise qualify as a branch because it engages in one or more branching functions (receipt of deposits, payment of withdrawals, or making loans) but which prohibits access to members of the public for purposes of conducting one or more branching functions.

In this regard the proposed rule requested comment on whether a branch should include offices of an *unaffiliated* depository institution that provide services to customers of a State member bank on behalf of the State member bank. Six commenters, the Federal Reserve Banks of Minneapolis, Atlanta, Philadelphia and San Francisco, the America's Community Bankers, and the American Bankers Association, supported excluding unaffiliated depository institutions that provide services to a State member bank from the definition of a branch. In light of these comments, and in light of current case law and consistent with Office of the Comptroller of the Currency (OCC) decisions,[1] the Board is excluding from the definition of branch arrangements where either affiliated or unaffiliated institutions provide services to customers of a State member bank. The final rule provides that a branch does not include an office of an affiliated or unaffiliated institution that provides services to customers of the member bank on behalf of the member bank so long as the bank does not "establish or operate" the office providing the services. For example, a bank could contract with an unaffiliated or affiliated institution to receive deposits, cash and issue checks, drafts, and money orders, change money and receive payments of existing indebtedness without becoming a branch of that bank so long as that bank: (a) has no ownership or leasehold interest in the institution's offices; (b) has no employees who work for the institution; and (c) exercises no authority or control over the institution's employees or methods of operation.[2]

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[1] *See Cades* versus *H & R Block, Inc.*, 43 F.3d 869, 874 (4th Cir. 1994) and OCC letter of October 5, 1993 from William P. Bowden, Jr., Chief Counsel at page 4, which state that institutions that are not affiliated with a bank, but provide services to customers of the bank, do not constitute branches so long as the bank does not "establish or operate" the institution providing the services.

With respect to the statement in the proposed rule that a branch does not include a "remote service unit," one commenter requested that the Board define the term "remote service unit." The Board is adopting the term "remote service unit" as proposed and without further definition. The Board believes that "remote service units" may take a variety of forms, and that defining the term at this time would be premature. The Board notes that the OCC has determined that a "remote service unit" includes an automated loan machine and believes that "remote service units" may include automated loan machines as well as other arrangements.

Definition of Capital Stock and Surplus. The Board proposed to define *capital stock and surplus* in Regulation H to mean Tier 1 and Tier 2 capital, as calculated under the risk-based capital guidelines, plus any allowance for loan and lease losses not already included in Tier 2 capital. The Board proposed applying this definition to all references to capital stock and surplus in the Federal Reserve Act and Regulation H, unless otherwise noted. The Board received one comment that Regulation H should incorporate the term "capital" rather than *capital stock and surplus* because it would help to reduce the historical reference to the more narrow meaning of *capital stock and surplus,* which related only to part of shareholders' equity accounts. Use of the term *capital stock and surplus* is appropriate and consistent with the terms of the Federal Reserve Act. Use of the term *capital stock and surplus* should make it easier for banks to comply with the Board's regulations since the term *capital stock and surplus,* as defined in the proposal, has been adopted for purposes of section 23A of the Federal Reserve Act (12 U.S.C. 371c) which governs transactions between insured depository institutions) and Regulation O (12 CFR 215) (which governs insider lending). All other commenters supported the proposed definition of *capital stock and surplus,* as well as the use of the term itself, and the Board is adopting the definition and term as proposed.

Definition of Eligible Bank. The Board proposed a new definition, *eligible bank,* to serve as the qualification for expedited treatment of membership and branch applications. The Board proposed that eligible bank be defined as a bank that: (a) is well capitalized; (b) has a Uniform Financial Institutions Rating System (CAMELS) rating of 1 or 2 (copies are available at the address specified in § 216.6 of this chapter); (c) has a Community Reinvestment Act (CRA) rating of "Outstanding" or "Satisfactory;" (d) has a compliance rating of 1 or 2; and (e) has no major unresolved supervisory issues outstanding as determined by the Board or the appropriate Federal Reserve Bank.

The Board received one comment that the definition should require a CRA rating of "Outstanding" rather than a rating of "Outstanding" or "Satisfactory." The commenter opposed allowing banks with "Satisfactory" ratings to receive eligible bank status because the commenter stated most banks receive "Satisfactory" ratings and because CRA ratings are not a reliable indicator of the bank's CRA performance. The remainder of the commenters supported the definition of *eligible bank* with one commenter requesting clarification as to whether the Board intended to preclude banks with a compliance rating of three from qualifying as an eligible bank.

The Board is adopting the definition of *eligible bank* as proposed. Allowing membership or branch applications from banks with "Satisfactory" CRA ratings to qualify for expedited treatment continues prior Board policies and provides for consistency with the OCC's standards for determining whether membership or branch applications should receive expedited treatment. The Board has modified its previous standard for receiving expedited treatment by requiring a compliance rating of 1 or 2 rather than 1, 2, or 3. This change provides consistency with the OCC's definition of eligible bank and is being adopted as proposed.

If a bank has not yet received compliance or CRA ratings from a bank regulatory authority, which would be necessary for determining whether it is an eligible bank, the Board will look to the bank's holding company for purposes of determining whether the bank's application should receive expedited processing. If the bank's holding company meets the criteria for expedited processing under § 225.14(c) of Regulation Y (12 CFR 225.14(c)), the bank's membership or branch application will be eligible for expedited processing.

Banks that have not yet received compliance or CRA ratings and that either are not owned by a bank holding company or are owned by a bank holding company that does not meet the criteria for expedited processing under § 225.14(c) of Regulation Y, are not eligible for expedited treatment.

Definition of Mutual Savings Bank. The Board proposed deleting the definition of mutual savings bank as unnecessary. One commenter opposed deletion of the definition on the basis that deletion "indirectly suggest[s] that companies should abandon the traditional mutual charter." The Board does not believe that removal of the definition carries this implication and is adopting the proposal. The status of mutual savings banks continues to be addressed in § 208.3(a) of Regulation H, concerning applications for membership and stock, as well as in the Board's Regulation I (12 CFR 209), published elsewhere in today's **Federal Register**, for purposes of determining the amount of Reserve Bank stock mutual savings banks are required to purchase (or in certain special cases the amount of money they must deposit with a Reserve Bank). *See* 12 CFR 209.4(c).

Section 208.3 Application and Conditions for Membership

Publication of Membership Applications. The proposal stated that public comment on membership applications (including conversions) is not expressly required by statute but that publication might allow the Board to obtain additional information or views relevant to a membership application. The Board requested comment as to whether it should require publication for membership applications.

The Board received comments both supporting and opposing eliminating the publication requirement for membership applications. The majority of commenters favored eliminating the requirement. These commenters stated that no significant information is gained through publication that would

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[2] *See, e.g., Cades,* 43 F.3d at 874. Although the bank would be permitted, in contracting with the institution, to control the terms of the services provided by the institution. For example, the bank's contractual relationship with the institution could include such issues as which institution would bear the risk of loss for items in transit or when accounts would be credited with deposits or charged with withdrawals.

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outweigh the burden it places on banks. Those opposing eliminating the requirement stated that comments may provide useful information in the context of *de novo* membership applications or that the burden it places on banks is minimal in light of the fact that many banks seek FDIC insurance, which requires a public comment period. The Board is eliminating the requirement that banks seeking to become members of the Federal Reserve System publish notice of membership applications.

Because membership applications no longer confer deposit insurance, the requirement currently contained in the Board's Rules of Procedure (12 CFR 262.3), which states that banks must publish notice of their membership applications, no longer applies. The Board's Rules of Procedure (12 CFR 262.3) will be amended in the future to reflect the fact that membership no longer automatically confers deposit insurance and to reflect the change that banks no longer need to publish notice of membership applications.

Processing Time Frames for Expedited Membership Applications. The proposed rule provided that if public comment on membership applications were eliminated, expedited membership applications would be acted on 30 days after receipt of the application. One commenter requested that the Board act on expedited membership applications within 15 days because, under existing guidelines, non-expedited membership applications are acted on within 30 days and expedited membership applications should be acted on sooner than non-expedited membership applications. The Board is adopting a rule under which expedited membership applications will be acted on within 15 days of receipt of the application. Non-expedited membership applications will be acted on promptly, however, in limited situations processing times may be longer if the application involves unusual facts or raises novel policy issues.

Membership Exams. The proposed rule did not include information concerning the time frame or conditions under which the Federal Reserve will examine banks seeking membership in the Federal Reserve System. One commenter requested that guidance be provided in Regulation H regarding the time frames for, and necessity of, pre-membership examinations of banks. Another commenter requested that the exam guidelines in SR 95–30 be updated. The Board has decided not to incorporate pre-membership examination guidelines into Regulation H because the necessity for, and duration of, examinations depends on the individual circumstances of each bank.

Conditions of Membership. The proposed rule incorporated a new § 208.3(d) which combined and condensed former §§ 208.6 and 208.7 concerning the general conditions and requirements of membership. The former requirement that the capital and surplus of a State member bank be adequate in relation to its existing and prospective deposit liabilities was modified and placed in proposed § 208.4. Proposed § 208.3(d) also incorporated the provisions of existing Subpart D, "Standards for Safety and Soundness."

In addition, the Board proposed to eliminate existing § 208.6(a), which points out that State member banks retain all charter and statutory rights under state law not preempted by Federal law, and § 208.6(b), which states that State member banks are entitled to all the privileges of membership afforded them under the Federal Reserve Act and other acts of Congress, and must observe all requirements of Federal law. One commenter stated that eliminating existing § 208.6(a) and (b) would create confusion because the sections state important concepts. The Board continues to believe, however, that these propositions are self-evident and do not need to be explicitly stated. Therefore, existing § 208.6(a) and (b) are not included in the final Regulation H.

Another commenter requested that the term "general character of a bank's business" (§ 208.3(d)(2)) be defined. The Board believes that providing a definition of the term could result in an unduly restrictive or inflexible definition and, therefore, has not incorporated such a definition in Regulation H.

Section 208.5 Dividends and Other Distributions

Proposed § 208.5 revised the existing provisions concerning payment of dividends and withdrawal of capital, previously located at § 208.19. Proposed § 208.5 also incorporated interpretations previously located at § 208.125 through § 208.127. The final rule retains § 208.5 as proposed, however, in the case of dividends in excess of net income for the year, the final rule clarifies that banks generally are not required to carry forward negative amounts resulting from such excess.[3] The final rule also contains a cross reference to § 208.45 of Subpart D for purposes of determining restrictions on the payment of capital distributions.

Section 208.6 Establishment and Maintenance of Branches

Duration of Comment Period. The Board's proposal requested comment on whether it should shorten the public comment period applicable to branch applications from the 30 days that is currently required to 15 days. Those commenters favoring shortening the comment period stated that comments on branch applications rarely raise substantive issues and that shortening the period would serve to reduce regulatory burden on banks. Commenters opposing shortening the comment period stated that shortening the comment period to 15 days would make it difficult for commenters to provide substantive comments to the Board on branch applications. The Board is reducing the public comment period on branch applications from 30 to 15 days but will allow, in its discretion, an extension of the comment period for an additional 15 days.[4] Sections 208.6(a)(3) and (a)(4) describe the new procedural rules for public comment on branch applications, including the new 15 day comment period and the potential 15 day extension. The Board's Rules of Procedure (12 CFR 262.3) will continue to describe the form and location for public notices and will be amended in the future to reflect the 15 day comment period applicable to branch applications.

Processing Time Frames for Expedited Branch Applications. The proposed rule provided procedures for processing expedited branch applications that were modified slightly from the Board's existing procedures, located in Administrative Letter 92–82 (November 5, 1992). The proposed rule provided that a branch application by an eligible bank would be deemed approved by the Board or the appropriate Reserve Bank five business days after the close of the public comment period, unless the Board or the appropriate Reserve Bank notifies the bank that the application is approved prior to that date or that the bank is not eligible for expedited processing because: (a) it is not an eligible bank; (b) the application contains a material error or is otherwise deficient; or (c) the application or notice required under the Board's Rules of Procedure (12 CFR 262.3), raises significant supervisory, Community Reinvestment Act, compliance, policy or legal issues that have not been resolved, or a timely substantive adverse comment is submitted. In addition, the preamble to the proposed rule stated that in no case would an expedited branch application be approved prior to the third day after the close of the public comment period.

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[3] This clarification addresses only earnings deficits that result from dividends declared in excess of net income for the year and does not apply to other types of current earnings deficits. It is consistent with the OCC's letter dated December 22, 1997, and published as Interpretive Letter #816.

[4] The OCC, in revising its branch application procedures, retained a 30 day comment period for all branch applications other than those involving "short-distance" relocations (which relocations, if within the same neighborhood, would not require a branch application under the Board's final rule).

In the final rule, the Board is including in the text of the regulation an express statement that expedited branch applications will not be approved prior to the third day after the close of the public comment period. Waiting until the third day enables the Board, or appropriate Reserve Bank, to determine whether it has received any public comments on the application. In all other respects the processing time frames for expedited branch applications remain the same as proposed. The Board will be amending its Rules of Procedure to incorporate the changes adopted in the final rule.

Non-expedited branch applications will be processed in accordance with the Board's *Applications Procedures Manual*.

Processing Procedures. The proposed rule required branch applications to be filed in accordance with the Board's Rules of Procedure (12 CFR 262.3). One commenter raised a question as to whether eligible banks must file a "full" branch application. Both eligible and non-eligible banks must comply with the Board's Rules of Procedure. More in-depth review is expected in non-eligible bank branch applications. Accordingly, the Board may require more extensive information regarding non-eligible bank branch applications than eligible bank branch applications. In particular, the Board pays close attention to areas that have caused the bank to become non-eligible.

Notification of Branch Opening. Section 208.6(d) of the proposed rule explicitly authorized a single consolidated application for branches that a State member bank plans to establish in a one-year period, provided the bank meets the existing requirement that it notify the appropriate Reserve Bank one week prior to opening any branch covered by the approval. One commenter raised a question as to whether it was necessary for banks to provide prior notification of opening a branch. The Board has reviewed this policy further and concurs with the commenter that prior approval is unnecessary, therefore, § 208.6(d) of the final rule provides for a more flexible time for notification, merely requiring notice within 30 days after opening the branch.

Branch Closings. The proposed rule established a new § 208.6(e) regarding branch closings, which requires branch closings to comply with section 42 of the FDI Act (12 U.S.C. 1831r–1). Section 42(e) requires notice to both customers and, in the case of insured State member banks, the Board, of proposed branch closings. The proposed rule also clarified that a branch relocation is not a closing for purposes of section 42(e) of the FDI Act. Under section 42(e) of the FDI Act, a branch relocation is a movement that occurs within the immediate neighborhood and that does not substantially affect the nature of the business or customers served.

One commenter requested that § 208.6(e) refer to the Interagency Policy Statement on Branch Closings. The Board believes that referring to the policy statement in § 208.6(e) would reduce the flexibility inherent in policy statements and, therefore, is not referring to it in Regulation H.

Section 208.7 Prohibition Against Use of Interstate Branches Primarily for Deposit Production

The final rule includes the text of existing § 208.28, as issued in final by the Board on September 10, 1997 (62 FR 47727) with an effective date of October 10, 1997. Existing § 208.28 remains unchanged except that it is being renumbered from § 208.28 to § 208.7.

Subpart B—Investments and Loans

Section 208.21 Investments in Premises and Securities

Investments in Premises. Section 208.21(a) of the proposed rule provided new investment limitations on banks' investments in premises. These new limitations were incorporated into Regulation H as a result of amendments to section 24A of the Federal Reserve Act made by the Economic Growth and Regulatory Paperwork Reduction Act of 1996, Pub. L. 104–208, 110 Stat. 3009, (Economic Growth Act). The Economic Growth Act provides that banks may make investments in bank premises if they either: (a) obtain prior approval from the Board; (b) invest less than or equal to the bank's capital stock; or (c) invest less than or equal to 150 percent of the bank's capital and surplus so long as the bank is well-rated and well capitalized and provides the Board with notice no later than 30 days after making the investment. The Economic Growth Act creates investment in premises limits based on banks' "capital stock" or "capital and surplus." The proposed rule based the investment limits on the basis of banks' *capital stock and surplus*, as defined by § 208.2(d) of Regulation H. One commenter stated that limitations on investments in premises for non-well rated and non-well capitalized banks should be based on banks' "capital stock" rather than the banks' *capital stock and surplus* as defined by Regulation H. The commenter stated that liberalizing the investment limit for non-well rated and non-well capitalized banks could result in supervisory concerns, particularly with respect to problem banks.

The Board believes that basing investment in premises limits on *capital stock and surplus* could present supervisory problems, therefore, the Board is basing the investment in premises limits on a bank's perpetual preferred stock and related surplus plus common stock plus surplus, as those terms are defined in the FFIEC Consolidated Reports of Condition and Income. If a well rated and well capitalized bank chooses to invest an amount above 150% of its perpetual preferred stock and related surplus plus common stock plus surplus (or, for a non-well-rated and well-capitalized bank, 100% of its perpetual preferred stock and related surplus plus common stock plus surplus) the bank may do so as long as it provides the appropriate Reserve Bank at least 15 days notice prior to making such investments and has not received notice that the investment is subject to further review by the end of the fifteen day notice period.

Another commenter raised a question as to whether it was necessary for the Board to receive after-the-fact notice of investments in premises that are less than or equal to 150% of banks' perpetual preferred stock and related surplus plus common stock plus surplus as required by § 208.21(a)(3)(ii)(C). The commenter questioned the usefulness of after-the-fact notice of such investments. The Board has concluded that such after-the-fact notice is unnecessary. The Economic Growth Act provides that banks with a CAMELS rating of 1 or 2, as of the most recent examination of the bank, and that are, and continue to be, well capitalized, may make investments in bank premises of less than or equal to 150 percent of the bank's capital and surplus so long as they provide the Board with after-the-fact notice of such investments. Under section 24A the Board also has the authority to grant banks prior approval to make investments in premises. Pursuant to this authority the Board is granting prior approval for state member banks with a CAMELS rating of 1 or 2, as of the most

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recent examination of the bank, and that are, and continue to be, well capitalized, to make investments in bank premises of less than or equal to 150 percent of the bank's perpetual preferred stock and related surplus plus common stock plus surplus without providing the Board with after-the-fact notice of such investments.

Investments in Securities. The proposal incorporated a new § 208.21(b) which provided guidance to banks regarding permissible investments in securities. For the reasons outlined below under the discussion of the Board's interpretation on Investments in Shares of an Investment Company, the Board is amending § 208.21(b) to clarify generally that, with respect to certain investment company shares and investment securities, a State member bank may look to the OCC's Part 1 rules and interpretations to determine whether a security qualifies as an investment security for the purpose of section 24, paragraph 7th, and for the calculations of the limitations applicable to such investments. Section 208.21(b) is also being amended to clarify that a State member bank should consult the Board for determinations with respect to issues concerning investment securities that have not been addressed by the OCC rules and interpretations.

Voting Stock in a Fiduciary Capacity. The proposed rule contained a footnote, footnote four, which several commenters stated would prevent banks from voting shares of stock in a fiduciary capacity. Footnote four was derived from, and was intended to update, a Board interpretation located at 12 CFR 250.220, which was to be removed. The Board is not including footnote four in the final rule and is retaining the Board interpretation found at 12 CFR 250.220 which states that banks may vote shares of stock if they are acting in a fiduciary capacity.

Subpart C—Bank Securities and Securities-Related Activities

Section 208.34 Recordkeeping and Confirmation of Certain Securities Transactions

Effected by State Member Banks. The final rule includes the text of existing § 208.24, as issued in final by the Board on March 5, 1997 (62 FR 9909), with an effective date of April 1, 1997. Existing § 208.24 remains unchanged except that it is being renumbered from § 208.24 to § 208.34.

Section 208.35 Qualification Requirements for the Recommendation or Sale of Certain Securities

The final rule includes a place holder for proposed new § 208.35. The Board is seeking public comment on proposed § 208.35 separately.

Section 208.37 Government Securities Sales Practices

The final rule includes the text of existing § 208.25, as issued in final by the Board on March 19, 1997 (62 FR 13275) with an effective date of July 1, 1997. Existing § 208.25 remains unchanged except that it is being renumbered from § 208.25 to § 208.37.

Subpart D—Prompt Corrective Action

The proposed rule did not significantly amend the terms of prior Subpart B other than to redesignate it as Subpart D and to amend § 208.41 to provide the Federal Reserve with the option of using period-end total assets rather than average total assets for purposes of defining *total assets.* The Board received two comments regarding Subpart D. The first commenter inquired as to whether other governmental agencies allow the option of using period-end total assets rather than average total assets for purposes of defining *total assets.* In this regard the Board notes that the OCC's definition of total assets, for purposes of its prompt corrective action rule, is the same as the Board's.[5]

The second commenter stated that § 208.43(c)(2) should be updated to reflect all applicable CAMELS components. The Board has added "sensitivity to market risk" as the final CAMELS component.

Subpart F—Miscellaneous Requirements

Section 208.61 Bank Security Procedures

Regulation P (12 CFR part 216), as amended by the Board on May 1, 1991, is being incorporated into Regulation H at § 208.61. A final rule removing 12 CFR part 216 is found elsewhere in today's **Federal Register**.

Section 208.64 Frequency of Examination

The final rule includes the text of existing § 208.26, as issued in final by the Board on April 2, 1998 (63 FR 16378), also effective on April 2, 1998). Existing § 208.26 remains unchanged except that it is being renumbered from § 208.26 to § 208.64.

Subpart G—Interpretations

Proposed § 208.101 Investments in Federal Agricultural Mortgage Corporation (Farmer Mac) Stock

This proposed interpretation restated an existing staff opinion[6] regarding the permissibility of banks investing in the stock of the Federal Agricultural Mortgage Corporation (Farmer Mac), which is a government agency. One commenter stated that the Board should either provide a complete list of permissible investments in stocks of governmental agencies or provide no list.

In general, banks are prohibited from owning stock pursuant to paragraph seventh of section 5136 of the Revised Statutes (12 U.S.C. 24 ¶ 7th), which was made applicable to State member banks under paragraph 20 of § 9 of the Federal Reserve Act (12 U.S.C. 335). Although State member banks are generally prohibited from owning stock, the Board has, in the past, allowed banks to own the stock of certain governmental agencies where Congress has evidenced a clear intention that banks be allowed to hold such stock in order to achieve a legislative purpose. Since decisions regarding permissible stock investments in governmental agencies must be made on a case-by-case basis, the Board has decided not to include proposed § 208.101 in the final rule. However, the Board will retain the existing staff opinion regarding investments in Farmer Mac stock in the Federal Reserve Regulatory Service.

Proposed Section 208.102 Investments in Shares of an Investment Company

The Board proposed to retain its existing interpretation, entitled "Purchase of investment company stock by a State member bank," and rename it "Investments in Shares of an Investment Company," and renumber it from § 208.124 to § 208.102. In addition, the Board requested comment as to whether the existing interpretation should be amended to provide an alternative limit for certain diversified investment companies. Under the alternative limit, a bank could elect not to combine its pro rata interest in a particular security held by an investment company with the bank's direct holdings of the security where: (a) the investment company's holdings of the securities of any one issuer do not exceed 5 percent of its total portfolio; and (b) the bank's total holdings of the investment company's shares do not exceed the most stringent limit applicable to any of the securities in the company's portfolio if those securities were purchased directly by the bank. This alternative limit is currently available to national banks under OCC rules.

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[5] 12 CFR 6.2(j).

[6] F.R.R.S. 3–447.13 (July 26, 1988).

Several commenters pointed to conflicts between the Board's interpretation and the provisions of the OCC's Part 1 concerning investment company shares and recommended that the Board withdraw its interpretation in order to avoid a conflict with the OCC rules. Alternatively, these commenters supported efforts to conform the Board's interpretation to the OCC's current provisions concerning investment companies, including adoption of the alternative limit and other conforming amendments.

In addition to differences concerning calculation of limits, the commenters pointed out that the Board's interpretation generally permits investment only in investment companies that are registered with the Securities and Exchange Commission under the Investment Company Act of 1940 and the Securities Act of 1933, while the OCC rule provides for case-by-case consideration of investment companies that are exempt from registration where the portfolio of the investment companies consist entirely of assets that a national bank may purchase and sell for its own account. Commenters also pointed out that the OCC's rule requires only that the portfolio of the investment company consist exclusively of assets that a national bank could purchase directly. The Board's interpretation, on the other hand, requires that limits on the investment company's authority be included in the investment company's prospectus, which one commenter argued prevented State member banks from being able to "seed" start-up investment companies where funds were initially invested only in bank eligible securities. The Board's interpretation also differs from the OCC rule in other technical respects and includes requirements that relate to safety and soundness, rather than investment authority.

The Board believes that State member banks should be permitted to use the alternative method of calculating investment limits available under the OCC's rules for diversified investment companies. Additionally, although the circumstances under which a State member bank may provide funds to "seed" an investment company are limited, the Board believes that State member banks should be permitted to do so where the activity is consistent with the Glass-Steagall Act. The Board also notes that its interpretation was not intended to preclude the consideration on a case-by-case basis of investments not covered by its interpretation, including unregistered investment companies.

With respect to the provisions of the interpretation concerning internal procedures for approval and management of investments in investment companies, guidance issued by Board staff concerning risk management practices related to investment and end-user activities provides more thorough guidance concerning appropriate risk management practices than was available at the time the interpretation was adopted.[7] Further, internal procedures and practices discussed in current guidance cover the bank's investment activities generally and are not limited to a particular area. The Board therefore believes that the specific internal procedures required under the Board's interpretation are no longer necessary.

Based on the above considerations, the Board has concluded that its existing interpretation, § 208.124 (proposed § 208.102), no longer serves a useful purpose and is rescinding it. The Board is adding language to the § 208.21(b) on investments in securities to clarify generally that, with respect to certain investment company shares and investment securities, a State member bank may look to the OCC's Part 1 rules and interpretations to determine whether a security qualifies as an investment security for the purpose of section 24, paragraph 7th, and for the calculations of the limitations applicable to such investments. Regulation H also is being amended to clarify that a State member bank should consult the Board for determinations with respect to issues concerning investment securities that have not been addressed by the OCC rules and interpretations.

Section 208.101 Obligations Concerning Institutional Customers

The final rule includes the text of existing § 208.129, as issued in final by the Board on March 19, 1997 (62 FR 13275). Existing § 208.129 remains unchanged except that it is being renumbered from § 208.129 to § 208.101.

Investments in operating subsidiaries. Several commenters recommended that the Board rescind its 1968 interpretation concerning "operations subsidiaries," published at 12 CFR 250.141, noting that this interpretation was obsolete. The interpretation states that a State member bank may invest in the shares of a wholly owned "operations subsidiary" without violating the provisions of the Glass-Steagall Act concerning the purchase of stock by member banks. At the present time the Board is retaining the existing interpretation regarding "operations subsidiaries."

Miscellaneous. Financial Condition. The Board proposed eliminating existing § 208.17, entitled Disclosure of Financial Information by State member banks, from the proposed Regulation H on the basis that call report information for banks is now available through the internet. In response to this proposal the Board received three comments from Federal Reserve Banks which stated that it was premature to eliminate § 208.17 because a large segment of the public does not have access to the internet. The Board has decided to rescind § 208.17 despite these objections. The Board believes that § 208.17 places a burden on banks by requiring them to make available a potentially unlimited number of copies of statements regarding their financial condition to the public. This burden has been justified in the past because it was the only effective means for the public to obtain information concerning a bank's financial condition. However, now that many private institutions, as well as many public institutions, such as public libraries, offer access to the internet, where such financial information concerning banks can be obtained, the Board does not believe the burden on banks of providing such information continues to be justified, and therefore, is removing existing § 208.17 from the final rule.

Final Regulatory Flexibility Analysis

Two of the three requirements of a final regulatory flexibility analysis (5 U.S.C. 604), (1) a succinct statement of the need for and the objectives of the rule and (2) a summary of the issues raised by the public comments, the agency's assessment of the issues, and a statement of the changes made in the final rule in response to the comments, are discussed above. The third requirement of a final regulatory flexibility analysis is a description of significant alternatives to the rule that would minimize the rule's economic impact on small entities and reasons why the alternatives were rejected.

The final amendments will apply to all State member banks, which numbered approximately 997 as of February 1998, regardless of size, and represent changes to the existing rules that should reduce burden for those institutions by reducing regulatory filings, reducing the paperwork burden

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[7] *See* SR 95–17 (SUP), March 28, 1995.

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and processing time associated with regulatory filings, reducing the costs associated with complying with regulation, and improving the ability of banks to conduct business on a more cost-efficient basis. For example, the rule is generally designed to reduce burden by removing out-dated material and by re-organizing the remaining material so it is easier to locate and to read.

The rule also seeks to reduce burden by incorporating expedited procedures for membership and branch applications for certain banks and by reducing the processing period for expedited applications from 5 to 3 days after the close of the public comment period. In addition, the rule expands the circumstances under which the Board will consider waivers of conditions of membership, eliminates existing requirements regarding disclosure of financial condition, and eliminates the requirement that banks obtain deposit insurance in order to become State member banks. The rule also provides for an alternate definition of total assets for institutions with rapidly declining asset bases.

The amendments should not have a negative economic effect on small institutions, and, therefore, there were no significant alternatives that would have minimized the economic impact on those institutions.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR Part 1320 Appendix A.1), the Board reviewed the final rule under the authority delegated to the Board by the Office of Management and Budget. The Federal Reserve may not conduct or sponsor, and an organization is not required to respond to, these information collections unless they display a currently valid OMB control number. The OMB control numbers for the affected information collections are 7100–0097, 7100–0278, 7100–0046, and 7100–0139.

The sections of the regulation pertaining to the revised information collections are found in 12 CFR 208.2, 208.3, 208.6, 208.21, and 208.22. This information is needed in order for the Federal Reserve System to conduct its supervisory responsibility for state member banks. The respondents and recordkeepers are state member banks. Individual respondent data generally are not regarded as confidential.

No comments specifically addressing the burden estimate were received. Four existing information collections covered by Regulation H are affected by the changes to the regulation. Fewer Domestic Branch Notifications (FR 4001; OMB No. 7100–0097), which are mandatory, will be submitted resulting from the elimination of the notification requirement for ATMs and certain other offices and from the broadening of the interpretation of "location." The proposed rule also had provided that depository institutions be permitted to file a single notification for prior approval of multiple branches to be established within a year following the notification. The requirement for prior approval was eliminated in the final rule, which only requires notification within thirty days after each branch is opened. Further study, based on an analysis of the types of notifications received in the past, has led the Federal Reserve to increase its initial estimate of the effect of these changes on the annual burden from a decrease of 20 percent to more than 50 percent, from 415 to 201 hours.

The revisions to Regulation H are expected to affect the relative distribution of two of the types of Reports Related to Public Welfare Investments of State Member Banks (OMB No. 7100–0278) that are submitted to the Federal Reserve. The Board is eliminating the requirement that, to avoid applying for Board approval, the investment must be smaller than 2 percent of capital and surplus. This should result in fewer applications and more notices of investments not requiring Board approval. A requirement has been added to the applications for Board approval: if the bank is not permitted to make the investment without Board approval, the institution must explain the reason or reasons why the investment is ineligible. This is expected to increase the burden per response from two and one-half hours to two and three-quarters hours. The estimated burden per response for a notice of investment not requiring Board approval is two hours. There were twenty notices and fourteen applications received during 1997. It is estimated that following the revision there will be twenty-seven notices and seven applications submitted annually. There is estimated to be no effect on the divestiture notice requirements, one of which is expected to be submitted annually. The burden per response for the divestiture notice is estimated to be five hours. Altogether the total amount of annual burden is estimated to be reduced 3 percent from eighty hours to seventy-eight. There is estimated to be no annual cost burden over the annual hour burden and no capital or start-up costs associated with the changes.

The burden for the Membership Application (FR 2083; OMB No. 7100–0046) will experience a minimal reduction in the current annual burden of 3,450 hours, resulting from the elimination of the publication requirement, the broadened authority of the Board to waive the application, and the reduction in the processing time for expedited applications from thirty to fifteen days.

The final rule contains changes that affect another existing information collection. The proposed rule provided that the Investment in Bank Premises Notification (FR 4014; OMB No. 7100–0139) must be filed by a state member bank whenever it proposes to make an investment in bank premises that results in its total bank premises investment exceeding its capital stock and surplus, or if the bank is well capitalized and in good condition, exceeding 150 percent of its capital stock and surplus. In the final rule, the Board decided to base its analysis on the bank's perpetual preferred stock and related surplus plus common stock plus surplus, which is a more conservative measure than the capital stock and surplus proposed initially. In addition, after-the-fact notification is no longer required from banks for investments within the limits. The net effect of these changes is expected to have a minimal effect on the annual respondent burden for this information collection of eight hours.

The Federal Reserve has a continuing interest in the public's opinions of our collections of information. At any time, comments regarding the burden estimate, or any other aspect of these collections of information, including suggestions for reducing the burden, may be sent to: Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, DC 20551; and to the Office of Management and Budget, Paperwork Reduction Project (7100–0097, 7100–0278, 7100–0046, or 7100–0139), Washington, DC 20503.

Derivation Table

This table directs readers to the provision(s) of existing Regulation H, if any, upon which the proposed provision is based.

Revised provision	Original provision
208.1	None
208.2	208.1
208.3(a)	208.2
208.3(b)	208.4, 208.5
208.3(c)	208.5
208.3(d)	added
208.3(e)	208.7
208.3(f)	208.10
208.3(g)	208.11
208.4	208.13
208.5	208.19

Revised provision	Original provision
208.6(a)	208.9
208.6(b)	None
208.6(c)	None
208.6(d)	None
208.6(e)	208.9(b)(7)
208.6(f)	None
208.7	208.28
208.20	None
208.21	None
208.22	208.21
208.23	208.15
208.24	208.8(d)
208.25	208.23
208.30	None
208.31	208.8(f)
208.32	208.8(h), 208.8(i)
208.33	208.8(g)
208.34	208.24
208.35	None
208.36	208.16
208.37	208.25
208.40	208.30
208.41	208.31
208.42	208.32
208.43	208.33
208.44	208.34
208.45	208.35
208.50	208.51
208.51	208.52
208.60	None
208.61	None
208.62	208.20
208.63	208.14
208.64	208.26
208.100	208.116
208.101	208.129

List of Subjects

12 CFR Part 208

Accounting, Agriculture, Banks, Banking, Confidential business information, Crime, Currency, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements, Securities.

12 CFR Part 250

Federal Reserve System.

For the reasons set forth in the preamble, the Board is amending chapter II of title 12 of the Code of Federal Regulations as follows:

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (REGULATION H)

1. The authority citation for part 208 is revised to read as follows:

Authority: 12 U.S.C. 24, 36, 92a, 93a, 248(a), 248(c), 321–338a, 371d, 461, 481–486, 601, 611, 1814, 1816, 1818, 1823(j), 1828(o), 1831o, 1831p–1, 1831r–1, 1835a, 1882, 2901–2907, 3105, 3310, 3331–3351, and 3906–3909; 15 U.S.C. 78b, 78l(b), 78l(g), 78l(i), 78o–4(c)(5), 78q, 78q–1, and 78w; 31 U.S.C. 5318; 42 U.S.C. 4012a, 4104a, 4104b, 4106 and 4128.

2. The table of contents to part 208 is revised to read as follows:

Subpart A—General Membership and Branching Requirements

Sec.
208.1 Authority, purpose, and scope.
208.2 Definitions.
208.3 Application and conditions for membership in the Federal Reserve System.
208.4 Capital adequacy.
208.5 Dividends and other distributions.
208.6 Establishment and maintenance of branches.
208.7 Prohibition against use of interstate branches primarily for deposit production.

Subpart B—Investments and Loans

208.20 Authority, purpose, and scope.
208.21 Investments in premises and securities.
208.22 Community development and public welfare investments.
208.23 Agricultural loan loss amortization.
208.24 Letters of credit and acceptances.
208.25 Loans in areas having special flood hazards.

Subpart C—Bank Securities and Securities-Related Activities

208.30 Authority, purpose, and scope.
208.31 State member banks as transfer agents.
208.32 Notice of disciplinary sanctions imposed by registered clearing agency.
208.33 Application for stay or review of disciplinary sanctions imposed by registered clearing agency.
208.34 Recordkeeping and confirmation of certain securities transactions effected by State member banks.
208.35 Qualification requirements for transactions in certain securities. [Reserved]
208.36 Reporting requirements for State member banks subject to the Securities Exchange Act of 1934.
208.37 Government securities sales practices.

Subpart D—Prompt Corrective Action

208.40 Authority, purpose, scope, other supervisory authority, and disclosure of capital categories.
208.41 Definitions for purposes of this subpart.
208.42 Notice of capital category.
208.43 Capital measures and capital category definitions.
208.44 Capital restoration plans.
208.45 Mandatory and discretionary supervisory actions under section 38.

Subpart E—Real Estate Lending and Appraisal Standards

208.50 Authority, purpose, and scope.
208.51 Real estate lending standards.

Subpart F—Miscellaneous Requirements

208.60 Authority, purpose, and scope.
208.61 Bank security procedures.
208.62 Suspicious activity reports.
208.63 Procedures for monitoring Bank Secrecy Act compliance.
208.64 Frequency of examination.

Subpart G—Interpretations

208.100 Sale of bank's money orders off premises as establishment of branch office.
208.101 Obligations concerning institutional customers.

Appendix A to Part 208—Capital Adequacy Guidelines for State Member Banks: Risk-Based Measure

Appendix B to Part 208—Capital Adequacy Guidelines for State Member Banks: Tier 1 Leverage Measure

Appendix C to Part 208—Interagency Guidelines for Real Estate Lending Policies

Appendix D to Part 208—Interagency Guidelines Establishing Standards for Safety and Soundness

Appendix E to Part 208—Capital Adequacy Guidelines for State Member Banks: Market Risk Measure

3. Subparts A through E are revised and Subparts F and G are added to read as follows:

Subpart A—General Membership and Branching Requirements

§ 208.1 Authority, purpose, and scope.

(a) *Authority.* Subpart A of Regulation H (12 CFR part 208, Subpart A) is issued by the Board of Governors of the Federal Reserve System (Board) under 12 U.S.C. 24, 36; sections 9, 11, 21, 25 and 25A of the Federal Reserve Act (12 U.S.C. 321–338a, 248(a), 248(c), 481–486, 601 and 611); sections 1814, 1816, 1818, 1831o, 1831p–1, 1831r–1 and 1835a of the Federal Deposit Insurance Act (FDI Act) (12 U.S.C. 1814, 1816, 1818, 1831o, 1831p–1, 1831r–1, and 1835); and 12 U.S.C. 3906–3909.

(b) *Purpose and scope of Part 208.* The requirements of this part 208 govern State member banks and state banks applying for admission to membership in the Federal Reserve System (System) under section 9 of the Federal Reserve Act (Act), except for § 208.7, which also applies to certain foreign banks licensed by a State. This part 208 does not govern banks eligible for membership under section 2 or 19 of the Act.[1] Any bank desiring to be admitted to the System under the provisions of section 2 or 19 should communicate with the Federal Reserve

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[1] Under section 2 of the Federal Reserve Act, every national bank in any state shall, upon commencing business, or within 90 days after admission into the Union of the State in which it is located, become a member of the System. Under section 19 of the Federal Reserve Act, national banks and banks organized under local laws, located in a dependency or insular possession or any part of the United States outside of the States of the United States and the District of Columbia, are not required to become members of the System but may, with the consent of the board, become members of the System.

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Bank with which it would like to become a member.

(c) *Purpose and scope of Subpart A.* This Subpart A describes the eligibility requirements for membership of state-chartered banking institutions in the System, the general conditions imposed upon members, including capital and dividend requirements, as well as the requirements for establishing and maintaining branches.

§ 208.2 Definitions.

For the purposes of this part:

(a) *Board of Directors* means the governing board of any institution performing the usual functions of a board of directors.

(b) *Board* means the Board of Governors of the Federal Reserve System.

(c) *Branch.* (1) Branch means any branch bank, branch office, branch agency, additional office, or any branch place of business that receives deposits, pays checks, or lends money. A branch may include a temporary, seasonal, or mobile facility that meets these criteria.

(2) *Branch* does not include:

(i) A loan origination facility where the proceeds of loans are not disbursed;

(ii) An office of an affiliated or unaffiliated institution that provides services to customers of the member bank on behalf of the member bank so long as the institution is not established or operated by the bank;

(iii) An automated teller machine;

(iv) A remote service unit;

(v) A facility to which the bank does not permit members of the public to have physical access for purposes of making deposits, paying checks, or borrowing money (such as an office established by the bank that receives deposits only through the mail); or

(vi) A facility that is located at the site of, or is an extension of, an approved main office or branch. The Board determines whether a facility is an extension of an existing main or branch office on a case-by-case basis.

(d) *Capital stock and surplus* means, unless otherwise provided in this part, or by statute, Tier 1 and Tier 2 capital included in a member bank's risk-based capital (under the guidelines in appendix A of this part) and the balance of a member bank's allowance for loan and lease losses not included in its Tier 2 capital for calculation of risk-based capital, based on the bank's most recent consolidated Report of Condition and Income filed under 12 U.S.C. 324.

(e) *Eligible bank* means a member bank that:

(1) Is well capitalized as defined in subpart D of this part;

(2) Has a composite Uniform Financial Institutions Rating System (CAMELS) rating of 1 or 2;

(3) Has a Community Reinvestment Act (CRA) (12 U.S.C. 2906) rating of "Outstanding" or "Satisfactory;"

(4) Has a compliance rating of 1 or 2; and

(5) Has no major unresolved supervisory issues outstanding (as determined by the Board or appropriate Federal Reserve Bank in its discretion).

(f) *State bank* means any bank incorporated by special law of any State, or organized under the general laws of any State, or of the United States, including a Morris Plan bank, or other incorporated banking institution engaged in a similar business.

(g) *State member bank or member bank* means a state bank that is a member of the Federal Reserve System.

§ 208.3 Application and conditions for membership in the Federal Reserve System.

(a) *Applications for membership and stock.* (1) State banks applying for membership in the Federal Reserve System shall file with the appropriate Federal Reserve Bank an application for membership in the Federal Reserve System and for stock in the Reserve Bank,[2] in accordance with this part and § 262.3 of the Rules of Procedure, located at 12 CFR 262.3.

(2) *Board approval.* If an applying bank conforms to all the requirements of the Federal Reserve Act and this section, and is otherwise qualified for membership, the Board may approve its application subject to such conditions as the Board may prescribe.

(3) *Effective date of membership.* A State bank becomes a member of the Federal Reserve System on the date its Federal Reserve Bank stock is credited to its account (or its deposit is accepted, if it is a mutual savings bank not authorized to purchase Reserve Bank stock) in accordance with the Board's Regulation I (12 CFR part 209).

(b) *Factors considered in approving applications for membership.* Factors given special consideration by the Board in passing upon an application are:

(1) *Financial condition and management.* The financial history and condition of the applying bank and the general character of its management.

(2) *Capital.* The adequacy of the bank's capital in accordance with § 208.4, and its future earnings prospects.

(3) *Convenience and needs.* The convenience and needs of the community.

(4) *Corporate powers.* Whether the bank's corporate powers are consistent with the purposes of the Federal Reserve Act.

(c) *Expedited approval for eligible banks and bank holding companies.* (1) *Availability of expedited treatment.* The expedited membership procedures described in paragraph (c)(2) of this section are available to:

(i) An eligible bank; and

(ii) A bank that cannot be determined to be an eligible bank because it has not received compliance or CRA ratings from a bank regulatory authority, if it is controlled by a bank holding company that meets the criteria for expedited processing under § 225.14(c) of Regulation Y (12 CFR 225.14(c)).

(2) *Expedited procedures.* A completed membership application filed with the appropriate Reserve Bank will be deemed approved on the fifteenth day after receipt of the complete application by the Board or appropriate Reserve Bank, unless the Board or the appropriate Reserve Bank notifies the bank that the application is approved prior to that date or the Board or the appropriate Federal Reserve Bank notifies the bank that the application is not eligible for expedited review for any reason, including, without limitation, that:

(i) The bank will offer banking services that are materially different from those currently offered by the bank, or by the affiliates of the proposed bank;

(ii) The bank or bank holding company does not meet the criteria under § 208.3(c)(1);

(iii) The application contains a material error or is otherwise deficient; or

(iv) The application raises significant supervisory, compliance, policy or legal issues that have not been resolved, or a timely substantive adverse comment is submitted. A comment will be considered substantive unless it involves individual complaints, or raises frivolous, previously considered, or wholly unsubstantiated claims or irrelevant issues.

(d) *Conditions of membership.* (1) *Safety and soundness.* Each member bank shall at all times conduct its business and exercise its powers with due regard to safety and soundness. (The Interagency Guidelines Establishing Standards for Safety and Soundness prescribed pursuant to section 39 of the FDI Act (12 U.S.C.

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[2] A mutual savings bank not authorized to purchase Federal Reserve Bank stock may apply for membership evidenced initially by a deposit, but if the laws under which the bank is organized are not amended at the first session of the legislature after its admission to authorize the purchase, or if the bank fails to purchase the stock within six months of the amendment, its membership shall be terminated.

1831p–1), as set forth as appendix D to this part apply to all member banks.)

(2) *General character of bank's business.* A member bank may not, without the permission of the Board, cause or permit any change in the general character of its business or in the scope of the corporate powers it exercises at the time of admission to membership.

(3) *Compliance with conditions of membership.* Each member bank shall comply at all times with this Regulation H (12 CFR part 208) and any other conditions of membership prescribed by the Board.

(e) *Waivers.* (1) *Conditions of membership.* A member bank may petition the Board to waive a condition of membership. The Board may grant a waiver of a condition of membership upon a showing of good cause and, in its discretion, may limit, among other items, the scope, duration, and timing of the waiver.

(2) *Reports of affiliates.* Pursuant to section 21 of the Federal Reserve Act (12 U.S.C. 486), the Board waives the requirement for the submission of reports of affiliates of member banks, unless such reports are specifically requested by the Board.

(f) *Voluntary withdrawal from membership.* Voluntary withdrawal from membership becomes effective upon cancellation of the Federal Reserve Bank stock held by the member bank, and after the bank has made due provision to pay any indebtedness due or to become due to the Federal Reserve Bank in accordance with the Board's Regulation I (12 CFR part 209).

§ 208.4 Capital adequacy.

(a) *Adequacy.* A member bank's capital, as defined in appendix A to this part, shall be at all times adequate in relation to the character and condition of its assets and to its existing and prospective liabilities and other corporate responsibilities. If at any time, in light of all the circumstances, the bank's capital appears inadequate in relation to its assets, liabilities, and responsibilities, the bank shall increase the amount of its capital, within such period as the Board deems reasonable, to an amount which, in the judgment of the Board, shall be adequate.

(b) *Standards for evaluating capital adequacy.* Standards and guidelines by which the Board evaluates the capital adequacy of member banks include those in appendices A and E to this part for risk-based capital purposes and appendix B to this part for leverage measurement purposes.

§ 208.5 Dividends and other distributions.

(a) *Definitions.* For the purposes of this section:

(1) *Capital surplus* means the total of surplus as reportable in the bank's Reports of Condition and Income and surplus on perpetual preferred stock.

(2) *Permanent capital* means the total of the bank's perpetual preferred stock and related surplus, common stock and surplus, and minority interest in consolidated subsidiaries, as reportable in the Reports of Condition and Income.

(b) *Limitations.* The limitations in this section on the payment of dividends and withdrawal of capital apply to all cash and property dividends or distributions on common or preferred stock. The limitations do not apply to dividends paid in the form of common stock.

(c) *Earnings limitations on payment of dividends.* (1) A member bank may not declare or pay a dividend if the total of all dividends declared during the calendar year, including the proposed dividend, exceeds the sum of the bank's net income (as reportable in its Reports of Condition and Income) during the current calendar year and the retained net income of the prior two calendar years, unless the dividend has been approved by the Board.

(2) "Retained net income" in a calendar year is equal to the bank's net income (as reported in its Report of Condition and Income for such year), less any dividends declared during such year.[3] The bank's net income during the current year and its retained net income from the prior two calendar years is reduced by any net losses incurred in the current or prior two years and any required transfers to surplus or to a fund for the retirement of preferred stock.[4]

(d) *Limitation on withdrawal of capital by dividend or otherwise.* (1) A member bank may not declare or pay a dividend if the dividend would exceed the bank's undivided profits as reportable on its Reports of Condition and Income, unless the bank has received the prior approval of the Board and of at least two-thirds of the shareholders of each class of stock outstanding.

(2) A member bank may not permit any portion of its permanent capital to be withdrawn unless the withdrawal has been approved by the Board and by at least two-thirds of the shareholders of each class of stock outstanding.

(3) If a member bank has capital surplus in excess of that required by law, the excess amount may be transferred to the bank's undivided profits account and be available for the payment of dividends if:

(i) The amount transferred came from the earnings of prior periods, excluding earnings transferred as a result of stock dividends;

(ii) The bank's board of directors approves the transfer of funds; and

(iii) The transfer has been approved by the Board.

(e) *Payment of capital distributions.* All member banks also are subject to the restrictions on payment of capital distributions contained in § 208.45 of subpart D of this part implementing section 38 of the FDI Act (12 U.S.C. 1831o).

(f) *Compliance.* A member bank shall use the date a dividend is declared to determine compliance with this section.

§ 208.6 Establishment and maintenance of branches.

(a) *Branching.* (1) To the extent authorized by state law, a member bank may establish and maintain branches (including interstate branches) subject to the same limitations and restrictions that apply to the establishment and maintenance of national bank branches (12 U.S.C. 36 and 1831u), except that approval of such branches shall be obtained from the Board rather than from the Comptroller of the Currency.

(2) *Branch applications.* A State member bank wishing to establish a branch in the United States or its territories must file an application in accordance with the Board's Rules of Procedure, located at 12 CFR 262.3, and must comply with the public notice and comment rules contained in paragraphs (a)(3) and (a)(4) of this section. Branches of member banks located in foreign nations, in the overseas territories, dependencies, and insular possessions of those nations and of the United States, and in the Commonwealth of

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[3] In the case of dividends in excess of net income for the year, a bank generally is not required to carry forward negative amounts resulting from such excess. Instead, the bank may attribute the excess to the prior two years, attributing the excess first to the earlier year and then to the immediately preceding year. If the excess is greater than the bank's previously undistributed net income for the preceding two years, prior Board approval of the dividend is required and a negative amount would be carried forward in future dividend calculations. However, in determining any such request for approval, the Board could consider any request for different treatment of such negative amount, including advance waivers for future periods. This applies only to earnings deficits that result from dividends declared in excess of net income for the year and does not apply to other types of current earnings deficits.

[4] State member banks are required to comply with state law provisions concerning the maintenance of surplus funds in addition to common capital. Where the surplus of a State member bank is less than what applicable state law requires the bank to maintain relative to its capital stock account, the bank may be required to transfer amounts from its undivided profits account to surplus.

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Puerto Rico, are subject to the Board's Regulation K (12 CFR part 211).

(3) *Public notice of branch applications.* (i) *Location of publication.* A State member bank wishing to establish a branch in the United States or its territories must publish notice in a newspaper of general circulation in the form and at the locations specified in § 262.3 of the Rules of Procedure (12 CFR 262.3).

(ii) *Contents of notice.* The newspaper notice referred to in paragraph (a)(3) of this section shall provide an opportunity for interested persons to comment on the application for a period of at least 15 days.

(iii) *Timing of publication.* Each newspaper notice shall be published no more than 7 calendar days before and no later than the calendar day on which an application is filed with the appropriate Reserve Bank.

(4) *Public comment.* (i) *Timely comments.* Interested persons may submit information and comments regarding a branch application under § 208.6. A comment shall be considered timely for purposes of this subpart if the comment, together with all supplemental information, is submitted in writing in accordance with the Board's Rules of Procedure (12 CFR 262.3) and received by the Board or the appropriate Reserve Bank prior to the expiration of the public comment period provided in paragraph (a)(3)(ii) of this section.

(ii) *Extension of comment period.* The Board may, in its discretion, extend the public comment period regarding any application under § 208.6. In the event that an interested person requests a copy of an application submitted under § 208.6, the Board may, in its discretion and based on the facts and circumstances, grant such person an extension of the comment period for up to 15 calendar days.

(b) *Factors considered in approving domestic branch applications.* Factors given special consideration by the Board in passing upon a branch application are:

(1) *Financial condition and management.* The financial history and condition of the applying bank and the general character of its management;

(2) *Capital.* The adequacy of the bank's capital in accordance with § 208.4, and its future earnings prospects;

(3) *Convenience and needs.* The convenience and needs of the community to be served by the branch;

(4) *CRA performance.* In the case of branches with deposit-taking capability, the bank's performance under the Community Reinvestment Act (12 U.S.C. 2901 *et seq.*) and Regulation BB (12 CFR part 228); and

(5) *Investment in bank premises.* Whether the bank's investment in bank premises in establishing the branch is consistent with § 208.21.

(c) *Expedited approval for eligible banks and bank holding companies.* (1) *Availability of expedited treatment.* The expedited branch application procedures described in paragraph (c)(2) of this section are available to:

(i) An eligible bank; and

(ii) A bank that cannot be determined to be an eligible bank because it has not received compliance or CRA ratings from a bank regulatory authority, if it is controlled by a bank holding company that meets the criteria for expedited processing under § 225.14(c) of Regulation Y (12 CFR 225.14(c)).

(2) *Expedited procedures.* A completed domestic branch application filed with the appropriate Reserve Bank will be deemed approved on the fifth day after the close of the comment period, unless the Board or the appropriate Reserve Bank notifies the bank that the application is approved prior to that date (but in no case will an application be approved before the third day after the close of the public comment period) or the Board or the appropriate Federal Reserve Bank notifies the bank that the application is not eligible for expedited review for any reason, including, without limitation, that:

(i) The bank or bank holding company does not meet the criteria under § 208.6(c)(1);

(ii) The application contains a material error or is otherwise deficient; or

(iii) The application or the notice required under paragraph (a)(3) of this section, raises significant supervisory, Community Reinvestment Act, compliance, policy or legal issues that have not been resolved, or a timely substantive adverse comment is submitted. A comment will be considered substantive unless it involves individual complaints, or raises frivolous, previously considered, or wholly unsubstantiated claims or irrelevant issues.

(d) *Consolidated Applications.* (1) *Proposed branches; notice of branch opening.* A member bank may seek approval in a single application or notice for any branches that it proposes to establish within one year after the approval date. The bank shall, unless notification is waived, notify the appropriate Reserve Bank not later than 30 days after opening any branch approved under a consolidated application. A bank is not required to open a branch approved under either a consolidated or single branch application.

(2) *Duration of branch approval.* Branch approvals remain valid for one year unless the Board or the appropriate Reserve Bank notifies the bank that in its judgment, based on reports of condition, examinations, or other information, there has been a change in the bank's condition, financial or otherwise, that warrants reconsideration of the approval.

(e) *Branch closings.* A member bank shall comply with section 42 of the FDI Act (FDI Act), 12 U.S.C. 1831r–1, with regard to branch closings.

(f) *Branch relocations.* A relocation of an existing branch does not require filing a branch application. A relocation of an existing branch, for purposes of determining whether to file a branch application, is a movement that does not substantially affect the nature of the branch's business or customers served.

§ 208.7 Prohibition against use of interstate branches primarily for deposit production.

(a) *Purpose and scope*—(1) *Purpose.* The purpose of this section is to implement section 109 (12 U.S.C. 1835a) of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (Interstate Act).

(2) *Scope.* (i) This section applies to any State member bank that has operated a covered interstate branch for a period of at least one year, and any foreign bank that has operated a covered interstate branch licensed by a State for a period of at least one year.

(ii) This section describes the requirements imposed under 12 U.S.C. 1835a, which requires the appropriate Federal banking agencies (the Board, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation) to prescribe uniform rules that prohibit a bank from using any authority to engage in interstate branching pursuant to the Interstate Act, or any amendment made by the Interstate Act to any other provision of law, primarily for the purpose of deposit production.

(b) *Definitions.* For purposes of this section, the following definitions apply:

(1) *Bank* means, unless the context indicates otherwise:

(i) A State member bank as that term is defined in 12 U.S.C. 1813(d)(2); and

(ii) A foreign bank as that term is defined in 12 U.S.C. 3101(7) and 12 CFR 211.21.

(2) *Covered interstate branch* means any branch of a State member bank, and any uninsured branch of a foreign bank licensed by a State, that:

(i) Is established or acquired outside the bank's home state pursuant to the interstate branching authority granted by the Interstate Act or by any amendment made by the Interstate Act to any other provision of law; or

(ii) Could not have been established or acquired outside of the bank's home state but for the establishment or acquisition of a branch described in paragraph (b)(2)(i) of this section.

(3) *Home state* means:

(i) With respect to a state bank, the state that chartered the bank;

(ii) With respect to a national bank, the state in which the main office of the bank is located; and

(iii) With respect to a foreign bank, the home state of the foreign bank as determined in accordance with 12 U.S.C. 3103(c) and 12 CFR 211.22.

(4) *Host state* means a state in which a bank establishes or acquires a covered interstate branch.

(5) *Host state loan-to-deposit ratio* generally means, with respect to a particular host state, the ratio of total loans in the host state relative to total deposits from the host state for all banks (including institutions covered under the definition of "bank" in 12 U.S.C. 1813(a)(1)) that have that state as their home state, as determined and updated periodically by the appropriate Federal banking agencies and made available to the public.

(6) *State* means state as that term is defined in 12 U.S.C. 1813(a)(3).

(7) *Statewide loan-to-deposit ratio* means, with respect to a bank, the ratio of the bank's loans to its deposits in a state in which the bank has one or more covered interstate branches, as determined by the Board.

(c) *Loan-to-deposit ratio screen*—(1) *Application of screen.* Beginning no earlier than one year after a bank establishes or acquires a covered interstate branch, the Board will consider whether the bank's statewide loan-to-deposit ratio is less than 50 percent of the relevant host state loan-to-deposit ratio.

(2) *Results of screen.* (i) If the Board determines that the bank's statewide loan-to-deposit ratio is 50 percent or more of the host state loan-to-deposit ratio, no further consideration under this section is required.

(ii) If the Board determines that the bank's statewide loan-to-deposit ratio is less than 50 percent of the host state loan-to-deposit ratio, or if reasonably available data are insufficient to calculate the bank's statewide loan-to-deposit ratio, the Board will make a credit needs determination for the bank as provided in paragraph (d) of this section.

(d) *Credit needs determination*—(1) *In general.* The Board will review the loan portfolio of the bank and determine whether the bank is reasonably helping to meet the credit needs of the communities in the host state that are served by the bank.

(2) *Guidelines.* The Board will use the following considerations as guidelines when making the determination pursuant to paragraph (d)(1) of this section:

(i) Whether covered interstate branches were formerly part of a failed or failing depository institution;

(ii) Whether covered interstate branches were acquired under circumstances where there was a low loan-to-deposit ratio because of the nature of the acquired institution's business or loan portfolio;

(iii) Whether covered interstate branches have a high concentration of commercial or credit card lending, trust services, or other specialized activities, including the extent to which the covered interstate branches accept deposits in the host state;

(iv) The Community Reinvestment Act ratings received by the bank, if any, under 12 U.S.C. 2901 *et seq.*;

(v) Economic conditions, including the level of loan demand, within the communities served by the covered interstate branches;

(vi) The safe and sound operation and condition of the bank; and

(vii) The Board's Regulation BB—Community Reinvestment (12 CFR part 228) and interpretations of that regulation.

(e) *Sanctions*—(1) *In general.* If the Board determines that a bank is not reasonably helping to meet the credit needs of the communities served by the bank in the host state, and that the bank's statewide loan-to-deposit ratio is less than 50 percent of the host state loan-to-deposit ratio, the Board:

(i) May order that a bank's covered interstate branch or branches be closed unless the bank provides reasonable assurances to the satisfaction of the Board, after an opportunity for public comment, that the bank has an acceptable plan under which the bank will reasonably help to meet the credit needs of the communities served by the bank in the host state; and

(ii) Will not permit the bank to open a new branch in the host state that would be considered to be a covered interstate branch unless the bank provides reasonable assurances to the satisfaction of the Board, after an opportunity for public comment, that the bank will reasonably help to meet the credit needs of the community that the new branch will serve.

(2) *Notice prior to closure of a covered interstate branch.* Before exercising the Board's authority to order the bank to close a covered interstate branch, the Board will issue to the bank a notice of the Board's intent to order the closure and will schedule a hearing within 60 days of issuing the notice.

(3) *Hearing.* The Board will conduct a hearing scheduled under paragraph (e)(2) of this section in accordance with the provisions of 12 U.S.C. 1818(h) and 12 CFR part 263.

Subpart B—Investments and Loans

§ 208.20 Authority, purpose, and scope.

(a) *Authority.* Subpart B of Regulation H (12 CFR part 208, subpart B) is issued by the Board of Governors of the Federal Reserve System under 12 U.S.C. 24; sections 9, 11 and 21 of the Federal Reserve Act (12 U.S.C. 321–338a, 248(a), 248(c), and 481–486); sections 1814, 1816, 1818, 1823(j), 1831o, 1831p–1 and 1831r–1 of the FDI Act (12 U.S.C. 1814, 1816, 1818, 1823(j), 1831o, 1831p–1 and 1831r–1); and the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001–4129).

(b) *Purpose and scope.* This subpart B describes certain investment limitations on member banks, statutory requirements for amortizing losses on agricultural loans and extending credit in areas having special flood hazards, as well as the requirements for issuing letters of credit and acceptances.

§ 208.21 Investments in premises and securities.

(a) *Investment in bank premises.* No state member bank shall invest in bank premises, or in the stock, bonds, debentures, or other such obligations of any corporation holding the premises of such bank, or make loans to or upon the security of any such corporation unless:

(1) The bank notifies the appropriate Reserve Bank at least fifteen days prior to such investment and has not received notice that the investment is subject to further review by the end of the fifteen day notice period;

(2) The aggregate of all such investments and loans, together with the amount of any indebtedness incurred by any such corporation that is an affiliate of the bank (as defined in section 2 of the Banking Act of 1933, as amended, 12 U.S.C. 221a), is less than or equal to the bank's perpetual preferred stock and related surplus plus common stock plus surplus, as those terms are defined in the FFIEC Consolidated Reports of Condition and Income; or

(3)(i) The aggregate of all such investments and loans, together with the

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amount of any indebtedness incurred by any such corporation that is an affiliate of the bank, is less than or equal to 150 percent of the bank's perpetual preferred stock and related surplus plus common stock plus surplus, as those terms are defined in the FFIEC Consolidated Reports of Condition and Income; and

(ii) The bank:

(A) Has a CAMELS composite rating of 1 or 2 under the Uniform Interagency Bank Rating System[5] (or an equivalent rating under a comparable rating system) as of the most recent examination of the bank; and

(B) Is well capitalized and will continue to be well capitalized, in accordance with subpart D of this part, after the investment or loan.

(b) *Investments in securities.* Member banks are subject to the same limitations and conditions with respect to purchasing, selling, underwriting, and holding investment securities and stocks as are national banks under 12 U.S.C. 24, ¶ 7th. To determine whether an obligation qualifies as an investment security for the purposes of 12 U.S.C. 24, ¶ 7th, and to calculate the limits with respect to the purchase of such obligations, a state member bank may look to part 1 of the rules of the Comptroller of the Currency (12 CFR part 1) and interpretations thereunder. A state member bank may consult the Board for a determination with respect to the application of 12 U.S.C. 24, ¶ 7th, with respect to issues not addressed in 12 CFR part 1. The provisions of 12 CFR part 1 do not provide authority for a state member bank to purchase securities of a type or amount that the bank is not authorized to purchase under applicable state law.

§ 208.22 Community development and public welfare investments.

(a) *Definitions.* For purposes of this section:

(1) *Low- or moderate-income area* means:

(i) One or more census tracts in a Metropolitan Statistical Area where the median family income adjusted for family size in each census tract is less than 80 percent of the median family income adjusted for family size of the Metropolitan Statistical Area; or

(ii) If not in a Metropolitan Statistical Area, one or more census tracts or block-numbered areas where the median family income adjusted for family size in each census tract or block-numbered area is less than 80 percent of the median family income adjusted for family size of the State.

(2) *Low- and moderate-income persons* has the same meaning as low- and moderate-income persons as defined in 42 U.S.C. 5302(a)(20)(A).

(3) *Small business* means a business that meets the size-eligibility standards of 13 CFR 121.802(a)(2).

(b) *Investments not requiring prior Board approval.* Notwithstanding the provisions of section 5136 of the Revised Statutes (12 U.S.C. 24, ¶ 7th) made applicable to member banks by paragraph 20 of section 9 of the Federal Reserve Act (12 U.S.C. 335), a member bank may make an investment, without prior Board approval, if the following conditions are met:

(1) The investment is in a corporation, limited partnership, or other entity, and:

(i) The Board has determined that an investment in that entity or class of entities is a public welfare investment under paragraph 23 of section 9 of the Federal Reserve Act (12 U.S.C. 338a), or a community development investment under Regulation Y (12 CFR 225.25(b)(6)); or

(ii) The Comptroller of the Currency has determined, by order or regulation, that an investment in that entity by a national bank is a public welfare investment under section 5136 of the Revised Statutes (12 U.S.C. 24 (Eleventh)); or

(iii) The entity is a community development financial institution as defined in section 103(5) of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4702(5)); or

(iv) The entity, directly or indirectly, engages solely in or makes loans solely for the purposes of one or more of the following community development activities:

(A) Investing in, developing, rehabilitating, managing, selling, or renting residential property if a majority of the units will be occupied by low- and moderate-income persons, or if the property is a "qualified low-income building" as defined in section 42(c)(2) of the Internal Revenue Code (26 U.S.C. 42(c)(2));

(B) Investing in, developing, rehabilitating, managing, selling, or renting nonresidential real property or other assets located in a low- or moderate-income area and targeted towards low- and moderate-income persons;

(C) Investing in one or more small businesses located in a low- or moderate-income area to stimulate economic development;

(D) Investing in, developing, or otherwise assisting job training or placement facilities or programs that will be targeted towards low- and moderate-income persons;

(E) Investing in an entity located in a low- or moderate-income area if the entity creates long-term employment opportunities, a majority of which (based on full-time equivalent positions) will be held by low- and moderate-income persons; and

(F) Providing technical assistance, credit counseling, research, and program development assistance to low- and moderate-income persons, small businesses, or nonprofit corporations to help achieve community development;

(2) The investment is permitted by state law;

(3) The investment will not expose the member bank to liability beyond the amount of the investment;

(4) The aggregate of all such investments of the member bank does not exceed the sum of five percent of its capital stock and surplus;

(5) The member bank is well capitalized or adequately capitalized under §§ 208.43(b) (1) and (2);

(6) The member bank received a composite CAMELS rating of "1" or "2" under the Uniform Financial Institutions Rating System as of its most recent examination and an overall rating of "1" or "2" as of its most recent consumer compliance examination; and

(7) The member bank is not subject to any written agreement, cease-and-desist order, capital directive, prompt-corrective-action directive, or memorandum of understanding issued by the Board or a Federal Reserve Bank.

(c) *Notice to Federal Reserve Bank.* Not more than 30 days after making an investment under paragraph (b) of this section, the member bank shall advise its Federal Reserve Bank of the investment, including the amount of the investment and the identity of the entity in which the investment is made.

(d) *Investments requiring Board approval.* (1) With prior Board approval, a member bank may make public welfare investments under paragraph 23 of section 9 of the Federal Reserve Act (12 U.S.C. 338a), other than those specified in paragraph (b) of this section.

(2) Requests for Board approval under this paragraph (d) shall include, at a minimum:

(i) The amount of the proposed investment;

(ii) A description of the entity in which the investment is to be made;

(iii) An explanation of why the investment is a public welfare investment under paragraph 23 of section 9 of the Federal Reserve Act (12 U.S.C. 338a);

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[5] *See* FRRS 3–1575 for an explanation of the Uniform Interagency Bank Rating System. (For availability, see 12 CFR 261.10(f).)

(iv) A description of the member bank's potential liability under the proposed investment;

(v) The amount of the member bank's aggregate outstanding public welfare investments under paragraph 23 of section 9 of the Federal Reserve Act;

(vi) The amount of the member bank's capital stock and surplus; and

(vii) If the bank investment is not eligible under paragraph (b) of this section, explain the reason or reasons why it is ineligible.

(3) The Board shall act on a request under this paragraph (d) within 60 calendar days of receipt of a request that meets the requirements of paragraph (d)(2) of this section, unless the Board notifies the requesting member bank that a longer time period will be required.

(e) *Divestiture of investments.* A member bank shall divest itself of an investment made under paragraph (b) or (d) of this section to the extent that the investment exceeds the scope of, or ceases to meet, the requirements of paragraphs (b)(1) through (b)(4) or paragraph (d) of this section. The divestiture shall be made in the manner specified in 12 CFR 225.140, Regulation Y, for interests acquired by a lending subsidiary of a bank holding company or the bank holding company itself in satisfaction of a debt previously contracted.

§ 208.23 Agricultural loan loss amortization.

(a) *Definitions.* For purposes of this section:

(1) *Accepting official* means:

(i) The Reserve Bank in whose district the bank is located; or

(ii) The Director of the Division of Banking Supervision and Regulation in cases in which the Reserve Bank cannot determine that the bank qualifies.

(2) *Agriculturally related other property* means any property, real or personal, that the bank owned on January 1, 1983, and any additional property that it acquired prior to January 1, 1992, in connection with a qualified agricultural loan. For the purposes of paragraph (d) of this section, the value of such property shall include the amount previously charged off as a loss.

(3) *Participating bank* means an agricultural bank (as defined in 12 U.S.C. 1823(j)(4)(A)) that, as of January 1, 1992, had a proposal for a capital restoration plan accepted by an accepting official and received permission from the accepting official, subject to paragraphs (d) and (e) of this section, to amortize losses in accordance with paragraphs (b) and (c) of this section.

(4) *Qualified agricultural loan* means:

(i) Loans that finance agricultural production or are secured by farm land for purposes of Schedule RC–C of the FFIEC Consolidated Report of Condition or such other comparable schedule;

(ii) Loans secured by farm machinery;

(iii) Other loans that a bank proves to be sufficiently related to agriculture for classification as an agricultural loan by the Board; and

(iv) The remaining unpaid balance of any loans described in paragraphs (a)(4)(i), (ii) and (iii) of this section that have been charged off since January 1, 1984, and that qualify for deferral under this section.

(b)(1) Provided there is no evidence that the loss resulted from fraud or criminal abuse on the part of the bank, the officers, directors, or principal shareholders, a participating bank may amortize in its Reports of Condition and Income:

(i) Any loss on a qualified agricultural loan that the bank would be required to reflect in its financial statements for any period between and including 1984 and 1991; or

(ii) Any loss that the bank would be required to reflect in its financial statements for any period between and including 1983 and 1991 resulting from a reappraisal or sale of agriculturally-related other property.

(2) Amortization under this section shall be computed over a period not to exceed seven years on a quarterly straight-line basis commencing in the first quarter after the loan was or is charged off so as to be fully amortized not later than December 31, 1998.

(c) *Accounting for amortization.* Any bank that is permitted to amortize losses in accordance with paragraph (b) of this section may restate its capital and other relevant accounts and account for future authorized deferrals and authorizations in accordance with the instructions to the FFIEC Consolidated Reports of Condition and Income. Any resulting increase in the capital account shall be included in qualifying capital pursuant to appendix A of this part.

(d) *Conditions of participation.* In order for a bank to maintain its status as a participating bank, it shall:

(1) Adhere to the approved capital plan and obtain the prior approval of the accepting official before making any modifications to the plan;

(2) Maintain accounting records for each asset subject to loss deferral under the program that document the amount and timing of the deferrals, repayments, and authorizations;

(3) Maintain the financial condition of the bank so that it does not deteriorate to the point where it is no longer a viable, fundamentally sound institution;

(4) Make a reasonable effort, consistent with safe and sound banking practices, to maintain in its loan portfolio a percentage of agricultural loans, including agriculturally-related other property, not less than the percentage of such loans in its loan portfolio on January 1, 1986; and

(5) Provide the accepting official, upon request, with any information the accepting official deems necessary to monitor the bank's amortization, its compliance with the conditions of participation, and its continued eligibility.

(e) *Revocation of eligibility for loss amortization.* The failure to comply with any condition in an acceptance, with the capital restoration plan, or with the conditions stated in paragraph (d) of this section, is grounds for revocation of acceptance for loss amortization and for an administrative action against the bank under 12 U.S.C. 1818(b). In addition, acceptance of a bank for loss amortization shall not foreclose any administrative action against the bank that the Board may deem appropriate.

(f) *Expiration date.* The terms of this section will no longer be in effect as of January 1, 1999.

§ 208.24 Letters of credit and acceptances.

(a) *Standby letters of credit.* For the purpose of this section, standby letters of credit include every letter of credit (or similar arrangement however named or designated) that represents an obligation to the beneficiary on the part of the issuer:

(1) To repay money borrowed by or advanced to or for the account of the account party; or

(2) To make payment on account of any evidence of indebtedness undertaken by the account party; or

(3) To make payment on account of any default by the party procuring the issuance of the letter of credit in the performance of an obligation.[6]

(b) *Ineligible acceptance.* An ineligible acceptance is a time draft accepted by a bank, which does not meet the requirements for discount with a Federal Reserve Bank.

(c) *Bank's lending limits.* Standby letters of credit and ineligible acceptances count toward member banks' lending limits imposed by state law.

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[6] A standby letter of credit does not include: (1) Commercial letters of credit and similar instruments, where the issuing bank expects the beneficiary to draw upon the issuer, and which do not guaranty payment of a money obligation; or (2) a guaranty or similar obligation issued by a foreign branch in accordance with and subject to the limitations of 12 CFR part 211 (Regulation K).

(d) *Exceptions.* A standby letter of credit or ineligible acceptance is not subject to the restrictions set forth in paragraph (c) of this section if prior to or at the time of issuance of the credit:

(1) The issuing bank is paid an amount equal to the bank's maximum liability under the standby letter of credit; or

(2) The party procuring the issuance of a letter of credit or ineligible acceptance has set aside sufficient funds in a segregated, clearly earmarked deposit account to cover the bank's maximum liability under the standby letter of credit or ineligible acceptance.

§ 208.25 Loans in areas having special flood hazards.

(a) *Purpose and scope.* (1) *Purpose.* The purpose of this section is to implement the requirements of the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001–4129).

(2) *Scope.* This section, except for paragraphs (f) and (h) of this section, applies to loans secured by buildings or mobile homes located or to be located in areas determined by the Director of the Federal Emergency Management Agency to have special flood hazards. Paragraphs (f) and (h) of this section apply to loans secured by buildings or mobile homes, regardless of location.

(b) *Definitions.* For purposes of this section:

(1) *Act* means the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4001–4129).

(2) *Building* means a walled and roofed structure, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, and a walled and roofed structure while in the course of construction, alteration, or repair.

(3) *Community* means a State or a political subdivision of a State that has zoning and building code jurisdiction over a particular area having special flood hazards.

(4) *Designated loan* means a loan secured by a building or mobile home that is located or to be located in a special flood hazard area in which flood insurance is available under the Act.

(5) *Director of FEMA* means the Director of the Federal Emergency Management Agency.

(6) *Mobile home* means a structure, transportable in one or more sections, that is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term *mobile home* does not include a recreational vehicle. For purposes of this section, the term *mobile home* means a mobile home on a permanent foundation. The term *mobile home* includes a manufactured home as that term is used in the National Flood Insurance Program.

(7) *NFIP* means the National Flood Insurance Program authorized under the Act.

(8) *Residential improved real estate* means real estate upon which a home or other residential building is located or to be located.

(9) *Servicer* means the person responsible for:

(i) Receiving any scheduled, periodic payments from a borrower under the terms of a loan, including amounts for taxes, insurance premiums, and other charges with respect to the property securing the loan; and

(ii) Making payments of principal and interest and any other payments from the amounts received from the borrower as may be required under the terms of the loan.

(10) *Special flood hazard area* means the land in the flood plain within a community having at least a one percent chance of flooding in any given year, as designated by the Director of FEMA.

(11) *Table funding* means a settlement at which a loan is funded by a contemporaneous advance of loan funds and an assignment of the loan to the person advancing the funds.

(c) *Requirement to purchase flood insurance where available.* (1) *In general.* A member bank shall not make, increase, extend, or renew any designated loan unless the building or mobile home and any personal property securing the loan is covered by flood insurance for the term of the loan. The amount of insurance must be at least equal to the lesser of the outstanding principal balance of the designated loan or the maximum limit of coverage available for the particular type of property under the Act. Flood insurance coverage under the Act is limited to the overall value of the property securing the designated loan minus the value of the land on which the property is located.

(2) *Table funded loans.* A member bank that acquires a loan from a mortgage broker or other entity through table funding shall be considered to be making a loan for the purposes of this section.

(d) *Exemptions.* The flood insurance requirement prescribed by paragraph (c) of this section does not apply with respect to:

(1) Any State-owned property covered under a policy of self-insurance satisfactory to the Director of FEMA, who publishes and periodically revises the list of States falling within this exemption; or

(2) Property securing any loan with an original principal balance of $5,000 or less and a repayment term of one year or less.

(e) *Escrow requirement.* If a member bank requires the escrow of taxes, insurance premiums, fees, or any other charges for a loan secured by *residential improved real estate* or a mobile home that is made, increased, extended, or renewed after October 1, 1996, the member bank shall also require the escrow of all premiums and fees for any flood insurance required under paragraph (c) of this section. The member bank, or a servicer acting on its behalf, shall deposit the flood insurance premiums on behalf of the borrower in an escrow account. This escrow account will be subject to escrow requirements adopted pursuant to section 10 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2609) (RESPA), which generally limits the amount that may be maintained in escrow accounts for certain types of loans and requires escrow account statements for those accounts, only if the loan is otherwise subject to RESPA. Following receipt of a notice from the Director of FEMA or other provider of flood insurance that premiums are due, the member bank, or a servicer acting on its behalf, shall pay the amount owed to the insurance provider from the escrow account by the date when such premiums are due.

(f) *Required use of standard flood hazard determination form.* (1) *Use of form.* A member bank shall use the standard flood hazard determination form developed by the Director of FEMA (as set forth in appendix A of 44 CFR part 65) when determining whether the building or mobile home offered as collateral security for a loan is or will be located in a special flood hazard area in which flood insurance is available under the Act. The standard flood hazard determination form may be used in a printed, computerized, or electronic manner.

(2) *Retention of form.* A member bank shall retain a copy of the completed standard flood hazard determination form, in either hard copy or electronic form, for the period of time the bank owns the loan.

(g) *Forced placement of flood insurance.* If a member bank, or a servicer acting on behalf of the bank, determines at any time during the term of a designated loan that the building or mobile home and any personal property securing the designated loan is not covered by flood insurance or is covered by flood insurance in an amount less than the amount required under paragraph (c) of this section, then the bank or its servicer shall notify the borrower that the borrower should obtain flood insurance, at the borrower's expense, in an amount at least equal to the amount required under paragraph (c) of this section, for the remaining term of the loan. If the borrower fails to obtain flood insurance within 45 days after notification, then the member bank or its servicer shall purchase insurance on the borrower's behalf. The member bank or its servicer may charge the borrower for the cost of premiums and fees incurred in purchasing the insurance.

(h) *Determination fees.* (1) *General.* Notwithstanding any Federal or State law other than the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001–4129), any member bank, or a servicer acting on behalf of the bank, may charge a reasonable fee for determining whether the building or mobile home securing the loan is located or will be located in a special flood hazard area. A determination fee may also include, but is not limited to, a fee for life-of-loan monitoring.

(2) *Borrower fee.* The determination fee authorized by paragraph (h)(1) of this section may be charged to the borrower if the determination:

(i) Is made in connection with a making, increasing, extending, or renewing of the loan that is initiated by the borrower;

(ii) Reflects the Director of FEMA's revision or updating of flood plain areas or flood-risk zones;

(iii) Reflects the Director of FEMA's publication of a notice or compendium that:

(A) Affects the area in which the building or mobile home securing the loan is located; or

(B) By determination of the Director of FEMA, may reasonably require a determination whether the building or mobile home securing the loan is located in a special flood hazard area;

(iv) Results in the purchase of flood insurance coverage by the lender or its servicer on behalf of the borrower under paragraph (g) of this section.

(3) *Purchaser or transferee fee.* The determination fee authorized by paragraph (h)(1) of this section may be charged to the purchaser or transferee of a loan in the case of the sale or transfer of the loan.

(i) *Notice of special flood hazards and availability of Federal disaster relief assistance.* When a member bank makes, increases, extends, or renews a loan secured by a building or a mobile home located or to be located in a special flood hazard area, the bank shall mail or deliver a written notice to the borrower and to the servicer in all cases whether or not flood insurance is available under the Act for the collateral securing the loan.

(1) *Contents of notice.* The written notice must include the following information:

(i) A warning, in a form approved by the Director of FEMA, that the building or the mobile home is or will be located in a special flood hazard area;

(ii) A description of the flood insurance purchase requirements set forth in section 102(b) of the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4012a(b));

(iii) A statement, where applicable, that flood insurance coverage is available under the NFIP and may also be available from private insurers; and

(iv) A statement whether Federal disaster relief assistance may be available in the event of damage to the building or mobile home caused by flooding in a Federally declared disaster.

(2) *Timing of notice.* The member bank shall provide the notice required by paragraph (i)(1) of this section to the borrower within a reasonable time before the completion of the transaction, and to the servicer as promptly as practicable after the bank provides notice to the borrower and in any event no later than the time the bank provides other similar notices to the servicer concerning hazard insurance and taxes. Notice to the servicer may be made electronically or may take the form of a copy of the notice to the borrower.

(3) *Record of receipt.* The member bank shall retain a record of the receipt of the notices by the borrower and the servicer for the period of time the bank owns the loan.

(4) *Alternate method of notice.* Instead of providing the notice to the borrower required by paragraph (i)(1) of this section, a member bank may obtain satisfactory written assurance from a seller or lessor that, within a reasonable time before the completion of the sale or lease transaction, the seller or lessor has provided such notice to the purchaser or lessee. The member bank shall retain a record of the written assurance from the seller or lessor for the period of time the bank owns the loan.

(5) *Use of prescribed form of notice.* A member bank will be considered to be in compliance with the requirement for notice to the borrower of this paragraph (i) by providing written notice to the borrower containing the language presented in appendix A of this section within a reasonable time before the completion of the transaction. The notice presented in appendix A of this section satisfies the borrower notice requirements of the Act.

(j) *Notice of servicer's identity.* (1) *Notice requirement.* When a member bank makes, increases, extends, renews, sells, or transfers a loan secured by a building or mobile home located or to be located in a special flood hazard area, the bank shall notify the Director of FEMA (or the Director's designee) in writing of the identity of the servicer of the loan. The Director of FEMA has designated the insurance provider to receive the member bank's notice of the servicer's identity. This notice may be provided electronically if electronic transmission is satisfactory to the Director of FEMA's designee.

(2) *Transfer of servicing rights.* The member bank shall notify the Director of FEMA (or the Director's designee) of any change in the servicer of a loan described in paragraph (j)(1) of this section within 60 days after the effective date of the change. This notice may be provided electronically if electronic transmission is satisfactory to the Director of FEMA's designee. Upon any change in the servicing of a loan described in paragraph (j)(1) of this section, the duty to provide notice under this paragraph (j)(2) shall transfer to the transferee servicer.

Appendix A to § 208.25 Sample Form of Notice

Notice of Special Flood Hazards and Availability of Federal Disaster Relief Assistance

We are giving you this notice to inform you that:

The building or mobile home securing the loan for which you have applied is or will be located in an area with special flood hazards.

The area has been identified by the Director of the Federal Emergency Management Agency (FEMA) as a special flood hazard area using FEMA's *Flood Insurance Rate Map* or the *Flood Hazard Boundary Map* for the following community: ____________________. This area has a one percent (1%) chance of a flood equal to or exceeding the base flood elevation (a 100-year flood) in any given year. During the life of a 30-year mortgage loan, the risk of a 100-year flood in a special flood hazard area is 26 percent (26%).

Federal law allows a lender and borrower jointly to request the Director of FEMA to review the determination of whether the property securing the loan is located in a special flood hazard area. If you would like to make such a request, please contact us for further information.

______ The community in which the property securing the loan is located participates in the National Flood Insurance Program (NFIP). Federal law will not allow us to make you the loan that you have applied for if you do not purchase flood

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insurance. The flood insurance must be maintained for the life of the loan. If you fail to purchase or renew flood insurance on the property, Federal law authorizes and requires us to purchase the flood insurance for you at your expense.

- Flood insurance coverage under the NFIP may be purchased through an insurance agent who will obtain the policy either directly through the NFIP or through an insurance company that participates in the NFIP. Flood insurance also may be available from private insurers that do not participate in the NFIP.
- At a minimum, flood insurance purchased must cover *the lesser of*:

(1) the outstanding principal balance of the loan; *or*

(2) the maximum amount of coverage allowed for the type of property under the NFIP.

Flood insurance coverage under the NFIP is limited to the overall value of the property securing the loan minus the value of the land on which the property is located.

- Federal disaster relief assistance (usually in the form of a low-interest loan) may be available for damages incurred in excess of your flood insurance if your community's participation in the NFIP is in accordance with NFIP requirements.

_____Flood insurance coverage under the NFIP is not available for the property securing the loan because the community in which the property is located does not participate in the NFIP. In addition, if the non-participating community has been identified for at least one year as containing a special flood hazard area, properties located in the community will not be eligible for Federal disaster relief assistance in the event of a Federally declared flood disaster.

Subpart C—Bank Securities and Securities-Related Activities

§ 208.30 Authority, purpose, and scope.

(a) *Authority*. Subpart C of Regulation H (12 CFR part 208, subpart C) is issued by the Board of Governors of the Federal Reserve System under 12 U.S.C. 24, 92a, 93a; sections 1818 and 1831p–1(a)(2) of the FDI Act (12 U.S.C. 1818, 1831p–1(a)(2)); and sections 78b, 78l(b), 78l(g), 78l(i), 78o–4(c)(5), 78o–5, 78q, 78q–1, and 78w of the Securities Exchange Act of 1934 (15 U.S.C. 78b, 78l(b), 78l(g), 78l(i), 78o–4(c)(5), 78o–5, 78q, 78q–1, 78w).

(b) *Purpose and scope*. This subpart C describes the requirements imposed upon member banks acting as transfer agents, registered clearing agencies, or sellers of securities under the Securities Exchange Act of 1934. This subpart C also describes the reporting requirements imposed on member banks whose securities are subject to registration under the Securities Exchange Act of 1934.

§ 208.31 State member banks as transfer agents.

(a) The rules adopted by the Securities and Exchange Commission (SEC) pursuant to section 17A of the Securities Exchange Act of 1934 (15 U.S.C. 78q–l) prescribing procedures for registration of transfer agents for which the SEC is the appropriate regulatory agency (17 CFR 240.17Ac2–1) apply to member bank transfer agents. References to the "Commission" are deemed to refer to the Board.

(b) The rules adopted by the SEC pursuant to section 17A prescribing operational and reporting requirements for transfer agents (17 CFR 240.17Ac2–2 and 240.17Ad–1 through 240.17Ad–16) apply to member bank transfer agents.

§ 208.32 Notice of disciplinary sanctions imposed by registered clearing agency.

(a) *Notice requirement*. Any member bank or any of its subsidiaries that is a registered clearing agency pursuant to section 17A(b) of the Securities Exchange Act of 1934 (the Act), and that:

(1) Imposes any final disciplinary sanction on any participant therein;

(2) Denies participation to any applicant; or

(3) Prohibits or limits any person in respect to access to services offered by the clearing agency, shall file with the Board (and the appropriate regulatory agency, if other than the Board, for a participant or applicant) notice thereof in the manner prescribed in this section.

(b) *Notice of final disciplinary actions*. (1) Any registered clearing agency for which the Board is the appropriate regulatory agency that takes any final disciplinary action with respect to any participant shall promptly file a notice thereof with the Board in accordance with paragraph (c) of this section. For the purposes of this paragraph (b), *final disciplinary action* means the imposition of any disciplinary sanction pursuant to section 17A(b)(3)(G) of the Act, or other action of a registered clearing agency which, after notice and opportunity for hearing, results in final disposition of charges of:

(i) One or more violations of the rules of the registered clearing agency; or

(ii) Acts or practices constituting a statutory disqualification of a type defined in paragraph (iv) or (v) (except prior convictions) of section 3(a)(39) of the Act.

(2) However, if a registered clearing agency fee schedule specifies certain charges for errors made by its participants in giving instructions to the registered clearing agency which are *de minimis* on a per error basis, and whose purpose is, in part, to provide revenues to the clearing agency to compensate it for effort expended in beginning to process an erroneous instruction, such error charges shall not be considered a final disciplinary action for purposes of this paragraph (b).

(c) *Contents of final disciplinary action notice.* Any notice filed pursuant to paragraph (b) of this section shall consist of the following, as appropriate:

(1) The name of the respondent and the respondent's last known address, as reflected on the records of the clearing agency, and the name of the person, committee, or other organizational unit. that brought the charges. However, identifying information as to any respondent found not to have violated a provision covered by a charge may be deleted insofar as the notice reports the disposition of that charge and, prior to the filing of the notice, the respondent does not request that identifying information be included in the notice;

(2) A statement describing the investigative or other origin of the action;

(3) As charged in the proceeding, the specific provision or provisions of the rules of the clearing agency violated by the respondent, or the statutory disqualification referred to in paragraph (b)(2) of this section, and a statement describing the answer of the respondent to the charges;

(4) A statement setting forth findings of fact with respect to any act or practice in which the respondent was charged with having engaged in or omitted; the conclusion of the clearing agency as to whether the respondent violated any rule or was subject to a statutory disqualification as charged; and a statement of the clearing agency in support of its resolution of the principal issues raised in the proceedings;

(5) A statement describing any sanction imposed, the reasons therefor, and the date upon which the sanction became or will become effective; and

(6) Such other matters as the clearing agency may deem relevant.

(d) *Notice of final denial, prohibition, termination or limitation based on qualification or administrative rules.* (1) Any registered clearing agency, for which the Board is the appropriate regulatory agency, that takes any final action that denies or conditions the participation of any person, or prohibits or limits access, to services offered by the clearing agency, shall promptly file notice thereof with the Board (and the appropriate regulatory agency, if other than the Board, for the affected person) in accordance with paragraph (e) of this section; but such action shall not be considered a final disciplinary action for purposes of paragraph (b) of this section where the action is based on an alleged failure of such person to:

(i) Comply with the qualification standards prescribed by the rules of the registered clearing agency pursuant to section 17A(b)(4)(B) of the Act; or

(ii) Comply with any administrative requirements of the registered clearing agency (including failure to pay entry or other dues or fees, or to file prescribed forms or reports) not involving charges of violations that may lead to a disciplinary sanction.

(2) However, no such action shall be considered final pursuant to this paragraph (d) that results merely from a notice of such failure to comply to the person affected, if such person has not sought an adjudication of the matter, including a hearing, or otherwise exhausted the administrative remedies within the registered clearing agency with respect to such a matter.

(e) *Contents of notice required by paragraph (d) of this section.* Any notice filed pursuant to paragraph (d) of this section shall consist of the following, as appropriate:

(1) The name of each person concerned and each person's last known address, as reflected in the records of the clearing agency;

(2) The specific grounds upon which the action of the clearing agency was based, and a statement describing the answer of the person concerned;

(3) A statement setting forth findings of fact and conclusions as to each alleged failure of the person to comply with qualification standards or administrative obligations, and a statement of the clearing agency in support of its resolution of the principal issues raised in the proceeding;

(4) The date upon which such action became or will become effective; and

(5) Such other matters as the clearing agency deems relevant.

(f) *Notice of final action based on prior adjudicated statutory disqualifications.* Any registered clearing agency for which the Board is the appropriate regulatory agency that takes any final action shall promptly file notice thereof with the Board (and the appropriate regulatory agency, if other than the Board, for the affected person) in accordance with paragraph (g) of this section, where the final action:

(1) Denies or conditions participation to any person, or prohibits or limits access to services offered by the clearing agency; and

(2) Is based upon a statutory disqualification of a type defined in paragraph (A), (B) or (C) of section 3(a)(39) of the Act, consisting of a prior conviction, as described in subparagraph (E) of section 3(a)(39) of the Act. However, no such action shall be considered final pursuant to this paragraph (f) that results merely from a notice of such disqualification to the person affected, if such person has not sought an adjudication of the matter, including a hearing, or otherwise exhausted the administrative remedies within the clearing agency with respect to such a matter.

(g) *Contents of notice required by paragraph (f) of this section.* Any notice filed pursuant to paragraph (f) of this section shall consist of the following, as appropriate:

(1) The name of each person concerned and each person's last known address, as reflected in the records of the clearing agency;

(2) A statement setting forth the principal issues raised, the answer of any person concerned, and a statement of the clearing agency in support of its resolution of the principal issues raised in the proceeding;

(3) Any description furnished by or on behalf of the person concerned of the activities engaged in by the person since the adjudication upon which the disqualification is based;

(4) A copy of the order or decision of the court, appropriate regulatory agency, or self-regulatory organization that adjudicated the matter giving rise to the statutory disqualification;

(5) The nature of the action taken and the date upon which such action is to be made effective; and

(6) Such other matters as the clearing agency deems relevant.

(h) *Notice of summary suspension of participation.* Any registered clearing agency for which the Board is the appropriate regulatory agency that summarily suspends or closes the accounts of a participant pursuant to the provisions of section 17A(b)(5)(C) of the Act shall, within one business day after such action becomes effective, file notice thereof with the Board and the appropriate regulatory agency for the participant, if other than the Board, of such action in accordance with paragraph (i) of this section.

(i) *Contents of notice of summary suspension.* Any notice pursuant to paragraph (h) of this section shall contain at least the following information, as appropriate:

(1) The name of the participant concerned and the participant's last known address, as reflected in the records of the clearing agency;

(2) The date upon which the summary action became or will become effective;

(3) If the summary action is based upon the provisions of section 17A(b)(5)(C)(i) of the Act, a copy of the relevant order or decision of the self-regulatory organization, if available to the clearing agency;

(4) If the summary action is based upon the provisions of section 17A(b)(5)(C)(ii) of the Act, a statement describing the default of any delivery of funds or securities to the clearing agency;

(5) If the summary action is based upon the provisions of section 17A(b)(5)(C)(iii) of the Act, a statement describing the financial or operating difficulty of the participant based upon which the clearing agency determined that the suspension and closing of accounts was necessary for the protection of the clearing agency, its participants, creditors, or investors;

(6) The nature and effective date of the suspension; and

(7) Such other matters as the clearing agency deems relevant.

§ 208.33 Application for stay or review of disciplinary sanctions imposed by registered clearing agency.

(a) *Stays.* The rules adopted by the Securities and Exchange Commission (SEC) pursuant to section 19 of the Securities Exchange Act of 1934 (15 U.S.C. 78s) regarding applications by persons for whom the SEC is the appropriate regulatory agency for stays of disciplinary sanctions or summary suspensions imposed by registered clearing agencies (17 CFR 240.19d–2) apply to applications by member banks. References to the "Commission" are deemed to refer to the Board.

(b) *Reviews.* The regulations adopted by the Securities and Exchange Commission pursuant to section 19 of the Securities and Exchange Act of 1934 (15 U.S.C. 78s) regarding applications by persons for whom the SEC is the appropriate regulatory agency for reviews of final disciplinary sanctions, denials of participation, or prohibitions or limitations of access to services imposed by registered clearing agencies (17 CFR 240.19d–3(a)–(f)) apply to applications by member banks. References to the "Commission" are deemed to refer to the Board. The Board's Uniform Rules of Practice and Procedure (12 CFR part 263) apply to review proceedings under this § 208.33 to the extent not inconsistent with this § 208.33.

§ 208.34 Recordkeeping and confirmation of certain securities transactions effected by State member banks.

(a) *Exceptions and safe and sound operations.* (1) A State member bank may be excepted from one or more of the requirements of this section if it

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meets one of the following conditions of paragraphs (a)(1)(i) through (a)(1)(iv) of this section:

(i) *De minimis transactions.* The requirements of paragraphs (c)(2) through (c)(4) and paragraphs (e)(1) through (e)(3) of this section shall not apply to banks having an average of less than 200 securities transactions per year for customers over the prior three calendar year period, exclusive of transactions in government securities;

(ii) *Government securities.* The recordkeeping requirements of paragraph (c) of this section shall not apply to banks effecting fewer than 500 government securities brokerage transactions per year; provided that this exception shall not apply to government securities transactions by a State member bank that has filed a written notice, or is required to file notice, with the Federal Reserve Board that it acts as a government securities broker or a government securities dealer;

(iii) *Municipal securities.* The municipal securities activities of a State member bank that are subject to regulations promulgated by the Municipal Securities Rulemaking Board shall not be subject to the requirements of this section; and

(iv) *Foreign branches.* The requirements of this section shall not apply to the activities of foreign branches of a State member bank.

(2) Every State member bank qualifying for an exemption under paragraph (a)(1) of this section that conducts securities transactions for customers shall, to ensure safe and sound operations, maintain effective systems of records and controls regarding its customer securities transactions that clearly and accurately reflect appropriate information and provide an adequate basis for an audit of the information.

(b) *Definitions.* For purposes of this section:

(1) *Asset-backed security* shall mean a security that is serviced primarily by the cash flows of a discrete pool of receivables or other financial assets, either fixed or revolving, that by their terms convert into cash within a finite time period plus any rights or other assets designed to assure the servicing or timely distribution of proceeds to the security holders.

(2) *Collective investment fund* shall mean funds held by a State member bank as fiduciary and, consistent with local law, invested collectively as follows:

(i) In a common trust fund maintained by such bank exclusively for the collective investment and reinvestment of monies contributed thereto by the bank in its capacity as trustee, executor, administrator, guardian, or custodian under the Uniform Gifts to Minors Act; or

(ii) In a fund consisting solely of assets of retirement, pension, profit sharing, stock bonus or similar trusts which are exempt from Federal income taxation under the Internal Revenue Code (26 U.S.C.).

(3) *Completion of the transaction* effected by or through a state member bank shall mean:

(i) For purchase transactions, the time when the customer pays the bank any part of the purchase price (or the time when the bank makes the book-entry for any part of the purchase price if applicable); however, if the customer pays for the security prior to the time payment is requested or becomes due, then the transaction shall be completed when the bank transfers the security into the account of the customer; and

(ii) For sale transactions, the time when the bank transfers the security out of the account of the customer or, if the security is not in the bank's custody, then the time when the security is delivered to the bank; however, if the customer delivers the security to the bank prior to the time delivery is requested or becomes due then the transaction shall be completed when the banks makes payment into the account of the customer.

(4) *Crossing of buy and sell orders* shall mean a security transaction in which the same bank acts as agent for both the buyer and the seller.

(5) *Customer* shall mean any person or account, including any agency, trust, estate, guardianship, or other fiduciary account, for which a State member bank effects or participates in effecting the purchase or sale of securities, but shall not include a broker, dealer, bank acting as a broker or dealer, municipal securities broker or dealer, or issuer of the securities which are the subject of the transactions.

(6) *Debt security* as used in paragraph (c) of this section shall mean any security, such as a bond, debenture, note or any other similar instrument which evidences a liability of the issuer (including any security of this type that is convertible into stock or similar security) and fractional or participation interests in one or more of any of the foregoing; provided, however, that securities issued by an investment company registered under the Investment Company Act of 1940, 15 U.S.C. 80a–1 *et seq.*, shall not be included in this definition.

(7) *Government security* shall mean:

(i) A security that is a direct obligation of, or obligation guaranteed as to principal and interest by, the United States;

(ii) A security that is issued or guaranteed by a corporation in which the United States has a direct or indirect interest and which is designated by the Secretary of the Treasury for exemption as necessary or appropriate in the public interest or for the protection of investors;

(iii) A security issued or guaranteed as to principal and interest by any corporation whose securities are designated, by statute specifically naming the corporation, to constitute exempt securities within the meaning of the laws administered by the Securities and Exchange Commission; or

(iv) Any put, call, straddle, option, or privilege on a security as described in paragraphs (b)(7) (i), (ii), or (iii) of this section other than a put, call, straddle, option, or privilege that is traded on one or more national securities exchanges, or for which quotations are disseminated though an automated quotation system operated by a registered securities association.

(8) *Investment discretion* with respect to an account shall mean if the State member bank, directly or indirectly, is authorized to determine what securities or other property shall be purchased or sold by or for the account, or makes decisions as to what securities or other property shall be purchased or sold by or for the account even though some other person may have responsibility for such investment decisions.

(9) *Municipal security* shall mean a security which is a direct obligation of, or obligation guaranteed as to principal or interest by, a State or any political subdivision thereof, or any agency or instrumentality of a State or any political subdivision thereof, or any municipal corporate instrumentality of one or more States, or any security which is an industrial development bond (as defined in 26 U.S.C. 103(c)(2) the interest on which is excludable from gross income under 26 U.S.C. 103(a)(1), by reason of the application of paragraph (4) or (6) of 26 U.S.C. 103(c) (determined as if paragraphs (4)(A), (5) and (7) were not included in 26 U.S.C. 103(c)), paragraph (1) of 26 U.S.C. 103(c) does not apply to such security.

(10) *Periodic plan* shall mean:

(i) A written authorization for a State member bank to act as agent to purchase or sell for a customer a specific security or securities, in a specific amount (calculated in security units or dollars) or to the extent of dividends and funds available, at specific time intervals, and setting forth the commission or charges to be paid by the customer or the manner of calculating them (including dividend reinvestment plans, automatic investment plans, and employee stock purchase plans); or

(ii) Any prearranged, automatic transfer or sweep of funds from a deposit account to purchase a security, or any prearranged, automatic redemption or sale of a security with the funds being transferred into a deposit account (including cash management sweep services).

(11) *Security* shall mean:

(i) Any note, stock, treasury stock, bond, debenture, certificate of interest or participation in any profit-sharing agreement or in any oil, gas, or other mineral royalty or lease, any collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, for a security, any put, call, straddle, option, or privilege on any security, or group or index of securities (including any interest therein or based on the value thereof), any instrument commonly known as a "security"; or any certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase, any of the foregoing.

(ii) But does not include a deposit or share account in a federally or state insured depository institution, a loan participation, a letter of credit or other form of bank indebtedness incurred in the ordinary course of business, currency, any note, draft, bill of exchange, or bankers acceptance which has a maturity at the time of issuance of not exceeding nine months, exclusive of days of grace, or any renewal thereof the maturity of which is likewise limited, units of a collective investment fund, interests in a variable amount (master) note of a borrower of prime credit, or U.S. Savings Bonds.

(c) *Recordkeeping.* Except as provided in paragraph (a) of this section, every State member bank effecting securities transactions for customers, including transactions in government securities, and municipal securities transactions by banks not subject to registration as municipal securities dealers, shall maintain the following records with respect to such transactions for at least three years. Nothing contained in this section shall require a bank to maintain the records required by this paragraph in any given manner, provided that the information required to be shown is clearly and accurately reflected and provides an adequate basis for the audit of such information. Records may be maintained in hard copy, automated, or electronic form provided the records are easily retrievable, readily available for inspection, and capable of being reproduced in a hard copy. A bank may contract with third party service providers, including broker/dealers, to maintain records required under this part.

(1) Chronological records of original entry containing an itemized daily record of all purchases and sales of securities. The records of original entry shall show the account or customer for which each such transaction was effected, the description of the securities, the unit and aggregate purchase or sale price (if any), the trade date and the name or other designation of the broker/dealer or other person from whom purchased or to whom sold;

(2) Account records for each customer which shall reflect all purchases and sales of securities, all receipts and deliveries of securities, and all receipts and disbursements of cash with respect to transactions in securities for such account and all other debits and credits pertaining to transactions in securities;

(3) A separate memorandum (order ticket) of each order to purchase or sell securities (whether executed or canceled), which shall include:

(i) The account(s) for which the transaction was effected;

(ii) Whether the transaction was a market order, limit order, or subject to special instructions;

(iii) The time the order was received by the trader or other bank employee responsible for effecting the transaction;

(iv) The time the order was placed with the broker/dealer, or if there was no broker/dealer, the time the order was executed or canceled;

(v) The price at which the order was executed; and

(vi) The broker/dealer utilized;

(4) A record of all broker/dealers selected by the bank to effect securities transactions and the amount of commissions paid or allocated to each such broker during the calendar year; and

(5) A copy of the written notification required by paragraphs (d) and (e) of this section.

(d) *Content and time of notification.* Every State member bank effecting a securities transaction for a customer shall give or send to such customer either of the following types of notifications at or before completion of the transaction or; if the bank uses a broker/dealer's confirmation, within one business day from the bank's receipt of the broker/dealer's confirmation:

(1) A copy of the confirmation of a broker/dealer relating to the securities transaction; and if the bank is to receive remuneration from the customer or any other source in connection with the transaction, and the remuneration is not determined pursuant to a prior written agreement between the bank and the customer, a statement of the source and the amount of any remuneration to be received; or

(2) A written notification disclosing:

(i) The name of the bank;

(ii) The name of the customer;

(iii) Whether the bank is acting as agent for such customer, as agent for both such customer and some other person, as principal for its own account, or in any other capacity;

(iv) The date of execution and a statement that the time of execution will be furnished within a reasonable time upon written request of such customer specifying the identity, price and number of shares or units (or principal amount in the case of debt securities) of such security purchased or sold by such customer;

(v) The amount of any remuneration received or to be received, directly or indirectly, by any broker/dealer from such customer in connection with the transaction;

(vi) The amount of any remuneration received or to be received by the bank from the customer and the source and amount of any other remuneration to be received by the bank in connection with the transaction, unless remuneration is determined pursuant to a written agreement between the bank and the customer, provided, however, in the case of Government securities and municipal securities, this paragraph (d)(2)(vi) shall apply only with respect to remuneration received by the bank in an agency transaction. If the bank elects not to disclose the source and amount of remuneration it has or will receive from a party other than the customer pursuant to this paragraph (d)(2)(vi), the written notification must disclose whether the bank has received or will receive remuneration from a party other than the customer, and that the bank will furnish within a reasonable time the source and amount of this remuneration upon written request of the customer. This election is not available, however, if, with respect to a purchase, the bank was participating in a distribution of that security; or with respect to a sale, the bank was participating in a tender offer for that security;

(vii) The name of the broker/dealer utilized; or, where there is no broker/dealer, the name of the person from whom the security was purchased or to whom it was sold, or the fact that such information will be furnished within a reasonable time upon written request;

(viii) In the case of a transaction in a debt security subject to redemption before maturity, a statement to the effect

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that the debt security may be redeemed in whole or in part before maturity, that the redemption could affect the yield represented and that additional information is available on request;

(ix) In the case of a transaction in a debt security effected exclusively on the basis of a dollar price:

(A) The dollar price at which the transaction was effected;

(B) The yield to maturity calculated from the dollar price; provided, however, that this paragraph (c)(2)(ix)(B) shall not apply to a transaction in a debt security that either has a maturity date that may be extended by the issuer with a variable interest payable thereon, or is an asset-backed security that represents an interest in or is secured by a pool of receivables or other financial assets that are subject to continuous prepayment;

(x) In the case of a transaction in a debt security effected on the basis of yield:

(A) The yield at which the transaction was effected, including the percentage amount and its characterization (e.g., current yield, yield to maturity, or yield to call) and if effected at yield to call, the type of call, the call date, and the call price; and

(B) The dollar price calculated from the yield at which the transaction was effected; and

(C) If effected on a basis other than yield to maturity and the yield to maturity is lower than the represented yield, the yield to maturity as well as the represented yield; provided, however, that this paragraph (c)(2)(x)(C) shall not apply to a transaction in a debt security that either has a maturity date that may be extended by the issuer with a variable interest rate payable thereon, or is an asset-backed security that represents an interest in or is secured by a pool of receivables or other financial assets that are subject to continuous prepayment;

(xi) In the case of a transaction in a debt security that is an asset-backed security which represents an interest in or is secured by a pool of receivables or other financial assets that are subject continuously to prepayment, a statement indicating that the actual yield of such asset-backed security may vary according to the rate at which the underlying receivables or other financial assets are prepaid and a statement of the fact that information concerning the factors that affect yield (including at a minimum, the estimated yield, weighted average life, and the prepayment assumptions underlying yield) will be furnished upon written request of such customer; and

(xii) In the case of a transaction in a debt security, other than a government security, that the security is unrated by a nationally recognized statistical rating organization, if that is the case.

(e) *Notification by agreement; alternative forms and times of notification.* A State member bank may elect to use the following alternative procedures if a transaction is effected for:

(1) Accounts (except periodic plans) where the bank does not exercise investment discretion and the bank and the customer agree in writing to a different arrangement as to the time and content of the notification; provided, however, that such agreement makes clear the customer's right to receive the written notification pursuant to paragraph (c) of this section at no additional cost to the customer;

(2) Accounts (except collective investment funds) where the bank exercises investment discretion in other than an agency capacity, in which instance the bank shall, upon request of the person having the power to terminate the account or, if there is no such person, upon the request of any person holding a vested beneficial interest in such account, give or send to such person the written notification within a reasonable time. The bank may charge such person a reasonable fee for providing this information;

(3) Accounts, where the bank exercises investment discretion in an agency capacity, in which instance:

(i) The bank shall give or send to each customer not less frequently than once every three months an itemized statement which shall specify the funds and securities in the custody or possession of the bank at the end of such period and all debits, credits and transactions in the customer's accounts during such period; and

(ii) If requested by the customer, the bank shall give or send to each customer within a reasonable time the written notification described in paragraph (c) of this section. The bank may charge a reasonable fee for providing the information described in paragraph (c) of this section;

(4) A collective investment fund, in which instance the bank shall at least annually furnish a copy of a financial report of the fund, or provide notice that a copy of such report is available and will be furnished upon request, to each person to whom a regular periodic accounting would ordinarily be rendered with respect to each participating account. This report shall be based upon an audit made by independent public accountants or internal auditors responsible only to the board of directors of the bank;

(5) A periodic plan, in which instance the bank:

(i) Shall (except for a cash management sweep service) give or send to the customer a written statement not less than every three months if there are no securities transactions in the account, showing the customer's funds and securities in the custody or possession of the bank; all service charges and commissions paid by the customer in connection with the transaction; and all other debits and credits of the customer's account involved in the transaction; or

(ii) Shall for a cash management sweep service or similar periodic plan as defined in § 208.34(b)(10)(ii) give or send its customer a written statement in the same form as prescribed in paragraph (e)(3) above for each month in which a purchase or sale of a security takes place in a deposit account and not less than once every three months if there are no securities transactions in the account subject to any other applicable laws or regulations;

(6) Upon the written request of the customer the bank shall furnish the information described in paragraph (d) of this section, except that any such information relating to remuneration paid in connection with the transaction need not be provided to the customer when paid by a source other than the customer. The bank may charge a reasonable fee for providing the information described in paragraph (d) of this section.

(f) *Settlement of securities transactions.* All contracts for the purchase or sale of a security shall provide for completion of the transaction within the number of business days in the standard settlement cycle for the security followed by registered broker dealers in the United States unless otherwise agreed to by the parties at the time of the transaction.

(g) *Securities trading policies and procedures.* Every State member bank effecting securities transactions for customers shall establish written policies and procedures providing:

(1) Assignment of responsibility for supervision of all officers or employees who:

(i) Transmit orders to or place orders with broker/dealers;

(ii) Execute transactions in securities for customers; or

(iii) Process orders for notification and/or settlement purposes, or perform other back office functions with respect to securities transactions effected for customers; provided that procedures established under this paragraph (g)(1)(iii) should provide for supervision and reporting lines that are separate from supervision of personnel under paragraphs (g)(1)(i) and (g)(1)(ii) of this section;

(2) For the fair and equitable allocation of securities and prices to accounts when orders for the same security are received at approximately the same time and are placed for execution either individually or in combination;

(3) Where applicable and where permissible under local law, for the crossing of buy and sell orders on a fair and equitable basis to the parties to the transaction; and

(4) That bank officers and employees who make investment recommendations or decisions for the accounts of customers, who participate in the determination of such recommendations or decisions, or who, in connection with their duties, obtain information concerning which securities are being purchased or sold or recommended for such action, must report to the bank, within ten days after the end of the calendar quarter, all transactions in securities made by them or on their behalf, either at the bank or elsewhere in which they have a beneficial interest. The report shall identify the securities purchased or sold and indicate the dates of the transactions and whether the transactions were purchases or sales. Excluded from this requirement are transactions for the benefit of the officer or employee over which the officer or employee has no direct or indirect influence or control, transactions in mutual fund shares, and all transactions involving in the aggregate $10,000 or less during the calendar quarter. For purposes of this paragraph (g)(4), the term securities does not include government securities.

§ 208.35 Qualification requirements for transactions in certain securities. [Reserved]

§ 208.36 Reporting requirements for State member banks subject to the Securities Exchange Act of 1934.

(a) *Filing requirements.* Except as otherwise provided in this section, a member bank whose securities are subject to registration pursuant to section 12(b) or section 12(g) of the Securities Exchange Act of 1934 (the 1934 Act) (15 U.S.C. 78l (b) and (g)) shall comply with the rules, regulations, and forms adopted by the Securities and Exchange Commission (Commission) pursuant to sections 12, 13, 14(a), 14(c), 14(d), 14(f) and 16 of the 1934 Act (15 U.S.C. 78l, 78m, 78n(a), (c), (d), (f) and 78p). The term "Commission" as used in those rules and regulations shall with respect to securities issued by member banks be deemed to refer to the Board unless the context otherwise requires.

(b) *Elections permitted for member banks with total assets of $150 million or less.* (1) Notwithstanding paragraph (a) of this section or the rules and regulations promulgated by the Commission pursuant to the 1934 Act a member bank that has total assets of $150 million or less as of the end of its most recent fiscal year, and no foreign offices, may elect to substitute for the financial statements required by the Commission's Form 10–Q, the balance sheet and income statement from the quarterly report of condition required to be filed by the bank with the Board under section 9 of the Federal Reserve Act (12 U.S.C. 324) (Federal Financial Institutions Examination Council Form 033 or 034).

(2) A member bank qualifying for and electing to file financial statements from its quarterly report of condition pursuant to paragraph (b)(1) of this section in its form 10–Q shall include earnings per share or net loss per share data prepared in accordance with GAAP and disclose any material contingencies, as required by Article 10 of the Commission's Regulation S–X (17 CFR 210.10–01), in the Management's Discussion and Analysis of Financial Condition and Results of Operations section of Form 10–Q.

(c) *Required filings.* (1) *Place and timing of filing.* All papers required to be filed with the Board, pursuant to the 1934 Act or regulations thereunder, shall be submitted to the Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551. Material may be filed by delivery to the Board, through the mails, or otherwise. The date on which papers are actually received by the Board shall be the date of filing thereof if all of the requirements with respect to the filing have been complied with.

(2) *Filing fees.* No filing fees specified by the Commission's rules shall be paid to the Board.

(3) *Public inspection.* Copies of the registration statement, definitive proxy solicitation materials, reports, and annual reports to shareholders required by this section (exclusive of exhibits) shall be available for public inspection at the Board's offices in Washington, DC, as well as at the Federal Reserve Banks of New York, Chicago, and San Francisco and at the Reserve Bank in the district in which the reporting bank is located.

(d) *Confidentiality of filing.* Any person filing any statement, report, or document under the 1934 Act may make written objection to the public disclosure of any information contained therein in accordance with the following procedure:

(1) The person shall omit from the statement, report, or document, when it is filed, the portion thereof that the person desires to keep undisclosed (hereinafter called the confidential portion). The person shall indicate at the appropriate place in the statement, report, or document that the confidential portion has been omitted and filed separately with the Board.

(2) The person shall file the following with the copies of the statement, report, or document filed with the Board:

(i) As many copies of the confidential portion, each clearly marked "CONFIDENTIAL TREATMENT," as there are copies of the statement, report, or document filed with the Board. Each copy of the confidential portion shall contain the complete text of the item and, notwithstanding that the confidential portion does not constitute the whole of the answer, the entire answer thereto; except that in case the confidential portion is part of a financial statement or schedule, only the particular financial statement or schedule need be included. All copies of the confidential portion shall be in the same form as the remainder of the statement, report, or document; and

(ii) An application making objection to the disclosure of the confidential portion. The application shall be on a sheet or sheets separate from the confidential portion, and shall:

(A) Identify the portion of the statement, report, or document that has been omitted;

(B) Include a statement of the grounds of objection; and

(C) Include the name of each exchange, if any, with which the statement, report, or document is filed.

(3) The copies of the confidential portion and the application filed in accordance with this paragraph shall be enclosed in a separate envelope marked "CONFIDENTIAL TREATMENT," and addressed to Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551.

(4) Pending determination by the Board on the objection filed in accordance with this paragraph, the confidential portion shall not be disclosed by the Board.

(5) If the Board determines to sustain the objection, a notation to that effect shall be made at the appropriate place in the statement, report, or document.

(6) If the Board determines not to sustain the objection because disclosure of the confidential portion is in the

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public interest, a finding and determination to that effect shall be entered and notice of the finding and determination sent by registered or certified mail to the person.

(7) If the Board determines not to sustain the objection, pursuant to paragraph (d)(6) of this section, the confidential portion shall be made available to the public:

(i) 15 days after notice of the Board's determination not to sustain the objection has been given, as required by paragraph (d)(6) of this section, provided that the person filing the objection has not previously filed with the Board a written statement that he intends, in good faith, to seek judicial review of the finding and determination; or

(ii) 60 days after notice of the Board's determination not to sustain the objection has been given as required by paragraph (d)(6) of this section and the person filing the objection has filed with the Board a written statement of intent to seek judicial review of the finding and determination, but has failed to file a petition for judicial review of the Board's determination; or

(iii) Upon final judicial determination, if adverse to the party filing the objection.

(8) If the confidential portion is made available to the public, a copy thereof shall be attached to each copy of the statement, report, or document filed with the Board.

§ 208.37 Government securities sales practices.

(a) *Scope.* This subpart is applicable to state member banks that have filed notice as, or are required to file notice as, government securities brokers or dealers pursuant to section 15C of the Securities Exchange Act (15 U.S.C. 78o-5) and Department of the Treasury rules under section 15C (17 CFR 400.1(d) and part 401).

(b) *Definitions.* For purposes of this section:

(1) *Bank that is a government securities broker or dealer* means a state member bank that has filed notice, or is required to file notice, as a government securities broker or dealer pursuant to section 15C of the Securities Exchange Act (15 U.S.C. 78o-5) and Department of the Treasury rules under section 15C (17 CFR 400.1(d) and Part 401).

(2) *Customer* does not include a broker or dealer or a government securities broker or dealer.

(3) *Government security* has the same meaning as this term has in section 3(a)(42) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(42)).

(4) *Non-institutional customer* means any customer other than:

(i) A bank, savings association, insurance company, or registered investment company;

(ii) An investment adviser registered under section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3); or

(iii) Any entity (whether a natural person, corporation, partnership, trust, or otherwise) with total assets of at least $50 million.

(c) *Business conduct.* A bank that is a government securities broker or dealer shall observe high standards of commercial honor and just and equitable principles of trade in the conduct of its business as a government securities broker or dealer.

(d) *Recommendations to customers.* In recommending to a customer the purchase, sale or exchange of a government security, a bank that is a government securities broker or dealer shall have reasonable grounds for believing that the recommendation is suitable for the customer upon the basis of the facts, if any, disclosed by the customer as to the customer's other security holdings and as to the customer's financial situation and needs.

(e) *Customer information.* Prior to the execution of a transaction recommended to a non-institutional customer, a bank that is a government securities broker or dealer shall make reasonable efforts to obtain information concerning:

(1) The customer's financial status;

(2) The customer's tax status;

(3) The customer's investment objectives; and

(4) Such other information used or considered to be reasonable by the bank in making recommendations to the customer.

Subpart D—Prompt Corrective Action

§ 208.40 Authority, purpose, scope, other supervisory authority, and disclosure of capital categories.

(a) *Authority.* Subpart D of Regulation H (12 CFR part 208, Subpart D) is issued by the Board of Governors of the Federal Reserve System (Board) under section 38 (section 38) of the FDI Act as added by section 131 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Pub. L. 102–242, 105 Stat. 2236 (1991)) (12 U.S.C. 1831o).

(b) *Purpose and scope.* This subpart D defines the capital measures and capital levels that are used for determining the supervisory actions authorized under section 38 of the FDI Act. (Section 38 of the FDI Act establishes a framework of supervisory actions for insured depository institutions that are not adequately capitalized.) This subpart also establishes procedures for submission and review of capital restoration plans and for issuance and review of directives and orders pursuant to section 38. Certain of the provisions of this subpart apply to officers, directors, and employees of state member banks. Other provisions apply to any company that controls a member bank and to the affiliates of the member bank.

(c) *Other supervisory authority.* Neither section 38 nor this subpart in any way limits the authority of the Board under any other provision of law to take supervisory actions to address unsafe or unsound practices or conditions, deficient capital levels, violations of law, or other practices. Action under section 38 of the FDI Act and this subpart may be taken independently of, in conjunction with, or in addition to any other enforcement action available to the Board, including issuance of cease and desist orders, capital directives, approval or denial of applications or notices, assessment of civil money penalties, or any other actions authorized by law.

(d) *Disclosure of capital categories.* The assignment of a bank under this subpart within a particular capital category is for purposes of implementing and applying the provisions of section 38. Unless permitted by the Board or otherwise required by law, no bank may state in any advertisement or promotional material its capital category under this subpart or that the Board or any other Federal banking agency has assigned the bank to a particular capital category.

§ 208.41 Definitions for purposes of this subpart.

For purposes of this subpart, except as modified in this section or unless the context otherwise requires, the terms used have the same meanings as set forth in section 38 and section 3 of the FDI Act.

(a) *Control*—(1) *Control* has the same meaning assigned to it in section 2 of the Bank Holding Company Act (12 U.S.C. 1841), and the term *controlled* shall be construed consistently with the term *control.*

(2) *Exclusion for fiduciary ownership.* No insured depository institution or company controls another insured depository institution or company by virtue of its ownership or control of shares in a fiduciary capacity. Shares shall not be deemed to have been acquired in a fiduciary capacity if the acquiring insured depository institution or company has sole discretionary

authority to exercise voting rights with respect to the shares.

(3) *Exclusion for debts previously contracted.* No insured depository institution or company controls another insured depository institution or company by virtue of its ownership or control of shares acquired in securing or collecting a debt previously contracted in good faith, until two years after the date of acquisition. The two-year period may be extended at the discretion of the appropriate Federal banking agency for up to three one-year periods.

(b) *Controlling person* means any person having control of an insured depository institution and any company controlled by that person.

(c) *Leverage ratio* means the ratio of Tier 1 capital to average total consolidated assets, as calculated in accordance with the Board's Capital Adequacy Guidelines for State Member Banks: Tier 1 Leverage Measure (Appendix B to this part).

(d) *Management fee* means any payment of money or provision of any other thing of value to a company or individual for the provision of management services or advice to the bank, or related overhead expenses, including payments related to supervisory, executive, managerial, or policy making functions, other than compensation to an individual in the individual's capacity as an officer or employee of the bank.

(e) *Risk-weighted assets* means total weighted risk assets, as calculated in accordance with the Board's Capital Adequacy Guidelines for State Member Banks: Risk-Based Measure (Appendix A to this part).

(f) *Tangible equity* means the amount of core capital elements in the Board's Capital Adequacy Guidelines for State Member Banks: Risk-Based Measure (Appendix A to this part), plus the amount of outstanding cumulative perpetual preferred stock (including related surplus), minus all intangible assets except mortgage servicing rights to the extent that the Board determines that mortgage servicing rights may be included in calculating the bank's Tier 1 capital.

(g) *Tier 1 capital* means the amount of Tier 1 capital as defined in the Board's Capital Adequacy Guidelines for State Member Banks: Risk-Based Measure (Appendix A to this part).

(h) *Tier 1 risk-based capital ratio* means the ratio of Tier 1 capital to weighted risk assets, as calculated in accordance with the Board's Capital Adequacy Guidelines for State Member Banks: Risk-Based Measure (Appendix A to this part).

(i) *Total assets* means quarterly average total assets as reported in a bank's Report of Condition and Income (Call Report), minus intangible assets as provided in the definition of tangible equity. At its discretion the Federal Reserve may calculate total assets using a bank's period-end assets rather than quarterly average assets.

(j) *Total risk-based capital ratio* means the ratio of qualifying total capital to weighted risk assets, as calculated in accordance with the Board's Capital Adequacy Guidelines for State Member Banks: Risk-Based Measure (Appendix A to this part).

§ 208.42 Notice of capital category.

(a) *Effective date of determination of capital category.* A member bank shall be deemed to be within a given capital category for purposes of section 38 of the FDI Act and this subpart as of the date the bank is notified of, or is deemed to have notice of, its capital category, pursuant to paragraph (b) of this section.

(b) *Notice of capital category.* A member bank shall be deemed to have been notified of its capital levels and its capital category as of the most recent date:

(1) A Report of Condition and Income (Call Report) is required to be filed with the Board;

(2) A final report of examination is delivered to the bank; or

(3) Written notice is provided by the Board to the bank of its capital category for purposes of section 38 of the FDI Act and this subpart or that the bank's capital category has changed as provided in paragraph (c) of this section or § 208.43(c).

(c) *Adjustments to reported capital levels and capital category*—(1) *Notice of adjustment by bank.* A member bank shall provide the Board with written notice that an adjustment to the bank's capital category may have occurred no later than 15 calendar days following the date that any material event occurred that would cause the bank to be placed in a lower capital category from the category assigned to the bank for purposes of section 38 and this subpart on the basis of the bank's most recent Call Report or report of examination.

(2) *Determination by Board to change capital category.* After receiving notice pursuant to paragraph (c)(1) of this section, the Board shall determine whether to change the capital category of the bank and shall notify the bank of the Board's determination.

§ 208.43 Capital measures and capital category definitions.

(a) Capital measures. For purposes of section 38 and this subpart, the relevant capital measures are:

(1) The total risk-based capital ratio;

(2) The Tier 1 risk-based capital ratio; and

(3) The leverage ratio.

(b) *Capital categories.* For purposes of section 38 and this subpart, a member bank is deemed to be:

(1) "Well capitalized" if the bank:

(i) Has a total risk-based capital ratio of 10.0 percent or greater; and

(ii) Has a Tier 1 risk-based capital ratio of 6.0 percent or greater; and

(iii) Has a leverage ratio of 5.0 percent or greater; and

(iv) Is not subject to any written agreement, order, capital directive, or prompt corrective action directive issued by the Board pursuant to section 8 of the FDI Act, the International Lending Supervision Act of 1983 (12 U.S.C. 3907), or section 38 of the FDI Act, or any regulation thereunder, to meet and maintain a specific capital level for any capital measure.

(2) "Adequately capitalized" if the bank:

(i) Has a total risk-based capital ratio of 8.0 percent or greater; and

(ii) Has a Tier 1 risk-based capital ratio of 4.0 percent or greater; and

(iii) Has:

(A) A leverage ratio of 4.0 percent or greater; or

(B) A leverage ratio of 3.0 percent or greater if the bank is rated composite 1 under the CAMELS rating system in the most recent examination of the bank and is not experiencing or anticipating significant growth; and

(iv) Does not meet the definition of a "well capitalized" bank.

(3) "Undercapitalized" if the bank has:

(i) A total risk-based capital ratio that is less than 8.0 percent; or

(ii) A Tier 1 risk-based capital ratio that is less than 4.0 percent; or

(iii) Except as provided in paragraph (b)(2)(iii)(B) of this section, has a leverage ratio that is less than 4.0 percent; or

(iv) A leverage ratio that is less than 3.0 percent, if the bank is rated composite 1 under the CAMELS rating system in the most recent examination of the bank and is not experiencing or anticipating significant growth.

(4) "Significantly undercapitalized" if the bank has:

(i) A total risk-based capital ratio that is less than 6.0 percent; or

(ii) A Tier 1 risk-based capital ratio that is less than 3.0 percent; or

(iii) A leverage ratio that is less than 3.0 percent.

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(5) "Critically undercapitalized" if the bank has a ratio of tangible equity to total assets that is equal to or less than 2.0 percent.

(c) *Reclassification based on supervisory criteria other than capital.* The Board may reclassify a well capitalized member bank as adequately capitalized and may require an adequately-capitalized or an undercapitalized member bank to comply with certain mandatory or discretionary supervisory actions as if the bank were in the next lower capital category (except that the Board may not reclassify a significantly undercapitalized bank as critically undercapitalized) (each of these actions are hereinafter referred to generally as "reclassifications") in the following circumstances:

(1) *Unsafe or unsound condition.* The Board has determined, after notice and opportunity for hearing pursuant to 12 CFR 263.203, that the bank is in unsafe or unsound condition; or

(2) *Unsafe or unsound practice.* The Board has determined, after notice and opportunity for hearing pursuant to 12 CFR 263.203, that, in the most recent examination of the bank, the bank received and has not corrected, a less-than-satisfactory rating for any of the categories of asset quality, management, earnings, liquidity, or sensitivity to market risk.

§ 208.44 Capital restoration plans.

(a) *Schedule for filing plan.* (1) *In general.* A member bank shall file a written capital restoration plan with the appropriate Reserve Bank within 45 days of the date that the bank receives notice or is deemed to have notice that the bank is undercapitalized, significantly undercapitalized, or critically undercapitalized, unless the Board notifies the bank in writing that the plan is to be filed within a different period. An adequately capitalized bank that has been required, pursuant to § 208.43(c), to comply with supervisory actions as if the bank were undercapitalized is not required to submit a capital restoration plan solely by virtue of the reclassification.

(2) *Additional capital restoration plans.* Notwithstanding paragraph (a)(1) of this section, a bank that has already submitted and is operating under a capital restoration plan approved under section 38 and this subpart is not required to submit an additional capital restoration plan based on a revised calculation of its capital measures or a reclassification of the institution under § 208.43(c), unless the Board notifies the bank that it must submit a new or revised capital plan. A bank that is notified that it must submit a new or revised capital restoration plan shall file the plan in writing with the appropriate Reserve Bank within 45 days of receiving such notice, unless the Board notifies the bank in writing that the plan is to be filed within a different period.

(b) *Contents of plan.* All financial data submitted in connection with a capital restoration plan shall be prepared in accordance with the instructions provided on the Call Report, unless the Board instructs otherwise. The capital restoration plan shall include all of the information required to be filed under section 38(e)(2) of the FDI Act. A bank that is required to submit a capital restoration plan as the result of a reclassification of the bank pursuant to § 208.43(c) shall include a description of the steps the bank will take to correct the unsafe or unsound condition or practice. No plan shall be accepted unless it includes any performance guarantee described in section 38(e)(2)(C) of that Act by each company that controls the bank.

(c) *Review of capital restoration plans.* Within 60 days after receiving a capital restoration plan under this subpart, the Board shall provide written notice to the bank of whether the plan has been approved. The Board may extend the time within which notice regarding approval of a plan shall be provided.

(d) *Disapproval of capital plan.* If the Board does not approve a capital restoration plan, the bank shall submit a revised capital restoration plan within the time specified by the Board. Upon receiving notice that its capital restoration plan has not been approved, any undercapitalized member bank (as defined in § 208.43(b)(3)) shall be subject to all of the provisions of section 38 and this subpart applicable to significantly undercapitalized institutions. These provisions shall be applicable until such time as the Board approves a new or revised capital restoration plan submitted by the bank.

(e) *Failure to submit capital restoration plan.* A member bank that is undercapitalized (as defined in § 208.43(b)(3)) and that fails to submit a written capital restoration plan within the period provided in this section shall, upon the expiration of that period, be subject to all of the provisions of section 38 and this subpart applicable to significantly undercapitalized institutions.

(f) *Failure to implement capital restoration plan.* Any undercapitalized member bank that fails in any material respect to implement a capital restoration plan shall be subject to all of the provisions of section 38 and this subpart applicable to significantly undercapitalized institutions.

(g) *Amendment of capital plan.* A bank that has filed an approved capital restoration plan may, after prior written notice to and approval by the Board, amend the plan to reflect a change in circumstance. Until such time as a proposed amendment has been approved, the bank shall implement the capital restoration plan as approved prior to the proposed amendment.

(h) *Notice to FDIC.* Within 45 days of the effective date of Board approval of a capital restoration plan, or any amendment to a capital restoration plan, the Board shall provide a copy of the plan or amendment to the Federal Deposit Insurance Corporation.

(i) *Performance guarantee by companies that control a bank.* (1) *Limitation on Liability.* (i) *Amount limitation.* The aggregate liability under the guarantee provided under section 38 and this subpart for all companies that control a specific member bank that is required to submit a capital restoration plan under this subpart shall be limited to the lesser of:

(A) An amount equal to 5.0 percent of the bank's total assets at the time the bank was notified or deemed to have notice that the bank was undercapitalized; or

(B) The amount necessary to restore the relevant capital measures of the bank to the levels required for the bank to be classified as adequately capitalized, as those capital measures and levels are defined at the time that the bank initially fails to comply with a capital restoration plan under this subpart.

(ii) *Limit on duration.* The guarantee and limit of liability under section 38 and this subpart shall expire after the Board notifies the bank that it has remained adequately capitalized for each of four consecutive calendar quarters. The expiration or fulfillment by a company of a guarantee of a capital restoration plan shall not limit the liability of the company under any guarantee required or provided in connection with any capital restoration plan filed by the same bank after expiration of the first guarantee.

(iii) *Collection on guarantee.* Each company that controls a bank shall be jointly and severally liable for the guarantee for such bank as required under section 38 and this subpart, and the Board may require and collect payment of the full amount of that guarantee from any or all of the companies issuing the guarantee.

(2) *Failure to provide guarantee.* In the event that a bank that is controlled by a company submits a capital

restoration plan that does not contain the guarantee required under section 38(e)(2) of the FDI Act, the bank shall, upon submission of the plan, be subject to the provisions of section 38 and this subpart that are applicable to banks that have not submitted an acceptable capital restoration plan.

(3) *Failure to perform guarantee.* Failure by any company that controls a bank to perform fully its guarantee of any capital plan shall constitute a material failure to implement the plan for purposes of section 38(f) of the FDI Act. Upon such failure, the bank shall be subject to the provisions of section 38 and this subpart that are applicable to banks that have failed in a material respect to implement a capital restoration plan.

§ 208.45 Mandatory and discretionary supervisory actions under section 38.

(a) *Mandatory supervisory actions.* (1) *Provisions applicable to all banks.* All member banks are subject to the restrictions contained in section 38(d) of the FDI Act on payment of capital distributions and management fees.

(2) *Provisions applicable to undercapitalized, significantly undercapitalized, and critically undercapitalized banks.* Immediately upon receiving notice or being deemed to have notice, as provided in § 208.42 or § 208.44, that the bank is undercapitalized, significantly undercapitalized, or critically undercapitalized, the bank shall become subject to the provisions of section 38 of the FDI Act:

(i) Restricting payment of capital distributions and management fees (section 38(d));

(ii) Requiring that the Board monitor the condition of the bank (section 38(e)(1));

(iii) Requiring submission of a capital restoration plan within the schedule established in this subpart (section 38(e)(2));

(iv) Restricting the growth of the bank's assets (section 38(e)(3)); and

(v) Requiring prior approval of certain expansion proposals (section 3(e)(4)).

(3) *Additional provisions applicable to significantly undercapitalized, and critically undercapitalized banks.* In addition to the provisions of section 38 of the FDI Act described in paragraph (a)(2) of this section, immediately upon receiving notice or being deemed to have notice, as provided in § 208.42 or § 208.44, that the bank is significantly undercapitalized, or critically undercapitalized, or that the bank is subject to the provisions applicable to institutions that are significantly undercapitalized because the bank failed to submit or implement in any material respect an acceptable capital restoration plan, the bank shall become subject to the provisions of section 38 of the FDI Act that restrict compensation paid to senior executive officers of the institution (section 38(f)(4)).

(4) *Additional provisions applicable to critically undercapitalized banks.* In addition to the provisions of section 38 of the FDI Act described in paragraphs (a)(2) and (a)(3) of this section, immediately upon receiving notice or being deemed to have notice, as provided in § 208.32, that the bank is critically undercapitalized, the bank shall become subject to the provisions of section 38 of the FDI Act:

(i) Restricting the activities of the bank (section 38(h)(1)); and

(ii) Restricting payments on subordinated debt of the bank (section 38(h)(2)).

(b) *Discretionary supervisory actions.* In taking any action under section 38 that is within the Board's discretion to take in connection with: A member bank that is deemed to be undercapitalized, significantly undercapitalized, or critically undercapitalized, or has been reclassified as undercapitalized, or significantly undercapitalized; an officer or director of such bank; or a company that controls such bank, the Board shall follow the procedures for issuing directives under 12 CFR 263.202 and 263.204, unless otherwise provided in section 38 or this subpart.

Subpart E—Real Estate Lending and Appraisal Standards

§ 208.50 Authority, purpose, and scope.

(a) *Authority.* Subpart E of Regulation H (12 CFR part 208, subpart E) is issued by the Board of Governors of the Federal Reserve System under section 304 of the Federal Deposit Insurance Corporation Improvement Act of 1991, 12 U.S.C. 1828(o) and Title 11 of the Financial Institutions Reform, Recovery, and Enforcement Act (12 U.S.C. 3331–3351).

(b) *Purpose and scope.* This subpart E prescribes standards for real estate lending to be used by member banks in adopting internal real estate lending policies. The standards applicable to appraisals rendered in connection with federally related transactions entered into by member banks are set forth in 12 CFR part 225, subpart G (Regulation Y).

§ 208.51 Real estate lending standards.

(a) *Adoption of written policies.* Each state bank that is a member of the Federal Reserve System shall adopt and maintain written policies that establish appropriate limits and standards for extensions of credit that are secured by liens on or interests in real estate, or that are made for the purpose of financing permanent improvements to real estate.

(b) *Requirements of lending policies.* (1) Real estate lending policies adopted pursuant to this section shall be:

(i) Consistent with safe and sound banking practices;

(ii) Appropriate to the size of the institution and the nature and scope of its operations; and

(iii) Reviewed and approved by the bank's board of directors at least annually.

(2) The lending policies shall establish:

(i) Loan portfolio diversification standards;

(ii) Prudent underwriting standards, including loan-to-value limits, that are clear and measurable;

(iii) Loan administration procedures for the bank's real estate portfolio; and

(iv) Documentation, approval, and reporting requirements to monitor compliance with the bank's real estate lending policies.

(c) *Monitoring conditions.* Each member bank shall monitor conditions in the real estate market in its lending area to ensure that its real estate lending policies continue to be appropriate for current market conditions.

(d) *Interagency guidelines.* The real estate lending policies adopted pursuant to this section should reflect consideration of the Interagency Guidelines for Real Estate Lending Policies (contained in appendix C of this part) established by the Federal bank and thrift supervisory agencies.

Subpart F—Miscellaneous Requirements

§ 208.60 Authority, purpose, and scope.

(a) *Authority.* Subpart F of Regulation H (12 CFR part 208, subpart F) is issued by the Board of Governors of the Federal Reserve System under sections 9, 11, 21, 25 and 25A of the Federal Reserve Act (12 U.S.C. 321–338a, 248(a), 248(c), 481–486, 601 and 611), section 7 of the International Banking Act (12 U.S.C. 3105), section 3 of the Bank Protection Act of 1968 (12 U.S.C. 1882), sections 1814, 1816, 1818, 1831o, 1831p–1 and 1831r–1 of the FDI Act (12 U.S.C. 1814, 1816, 1818, 1831o, 1831p–1 and 1831r–1), and the Bank Secrecy Act (31 U.S.C. 5318).

(b) *Purpose and scope.* This subpart F describes a member bank's obligation to implement security procedures to discourage certain crimes, to file suspicious activity reports, and to comply with the Bank Secrecy Act's

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requirements for reporting and recordkeeping of currency and foreign transactions. It also describes the examination schedule for certain small insured member banks.

§ 208.61 Bank security procedures.

(a) *Authority, purpose, and scope.* Pursuant to section 3 of the Bank Protection Act of 1968 (12 U.S.C. 1882), member banks are required to adopt appropriate security procedures to discourage robberies, burglaries, and larcenies, and to assist in the identification and prosecution of persons who commit such acts. It is the responsibility of the member bank's board of directors to comply with the provisions of this section and ensure that a written security program for the bank's main office and branches is developed and implemented.

(b) *Designation of security officer.* Upon becoming a member of the Federal Reserve System, a member bank's board of directors shall designate a security officer who shall have the authority, subject to the approval of the board of directors, to develop, within a reasonable time, but no later than 180 days, and to administer a written security program for each banking office.

(c) *Security program.* (1) The security program shall:

(i) Establish procedures for opening and closing for business and for the safekeeping of all currency, negotiable securities, and similar valuables at all times;

(ii) Establish procedures that will assist in identifying persons committing crimes against the institution and that will preserve evidence that may aid in their identification and prosecution. Such procedures may include, but are not limited to: maintaining a camera that records activity in the banking office; using identification devices, such as prerecorded serial-numbered bills, or chemical and electronic devices; and retaining a record of any robbery, burglary, or larceny committed against the bank;

(iii) Provide for initial and periodic training of officers and employees in their responsibilities under the security program and in proper employee conduct during and after a burglary, robbery, or larceny; and

(iv) Provide for selecting, testing, operating, and maintaining appropriate security devices, as specified in paragraph (c)(2) of this section.

(2) *Security devices.* Each member bank shall have, at a minimum, the following security devices:

(i) A means of protecting cash and other liquid assets, such as a vault, safe, or other secure space;

(ii) A lighting system for illuminating, during the hours of darkness, the area around the vault, if the vault is visible from outside the banking office;

(iii) Tamper-resistant locks on exterior doors and exterior windows that may be opened;

(iv) An alarm system or other appropriate device for promptly notifying the nearest responsible law enforcement officers of an attempted or perpetrated robbery or burglary; and

(v) Such other devices as the security officer determines to be appropriate, taking into consideration: the incidence of crimes against financial institutions in the area; the amount of currency and other valuables exposed to robbery, burglary, or larceny; the distance of the banking office from the nearest responsible law enforcement officers; the cost of the security devices; other security measures in effect at the banking office; and the physical characteristics of the structure of the banking office and its surroundings.

(d) *Annual reports.* The security officer for each member bank shall report at least annually to the bank's board of directors on the implementation, administration, and effectiveness of the security program.

(e) *Reserve Banks.* Each Reserve Bank shall develop and maintain a written security program for its main office and branches subject to review and approval of the Board.

§ 208.62 Suspicious activity reports.

(a) *Purpose.* This section ensures that a member bank files a Suspicious Activity Report when it detects a known or suspected violation of Federal law, or a suspicious transaction related to a money laundering activity or a violation of the Bank Secrecy Act. This section applies to all member banks.

(b) *Definitions.* For the purposes of this section:

(1) *FinCEN* means the Financial Crimes Enforcement Network of the Department of the Treasury.

(2) *Institution-affiliated* party means any institution-affiliated party as that term is defined in 12 U.S.C. 1786(r), or 1813(u) and 1818(b) (3), (4) or (5).

(3) *SAR* means a Suspicious Activity Report on the form prescribed by the Board.

(c) *SARs required.* A member bank shall file a SAR with the appropriate Federal law enforcement agencies and the Department of the Treasury in accordance with the form's instructions by sending a completed SAR to FinCEN in the following circumstances:

(1) *Insider abuse involving any amount.* Whenever the member bank detects any known or suspected Federal criminal violation, or pattern of criminal violations, committed or attempted against the bank or involving a transaction or transactions conducted through the bank, where the bank believes that it was either an actual or potential victim of a criminal violation, or series of criminal violations, or that the bank was used to facilitate a criminal transaction, and the bank has a substantial basis for identifying one of its directors, officers, employees, agents or other institution-affiliated parties as having committed or aided in the commission of a criminal act regardless of the amount involved in the violation.

(2) *Violations aggregating $5,000 or more where a suspect can be identified.* Whenever the member bank detects any known or suspected Federal criminal violation, or pattern of criminal violations, committed or attempted against the bank or involving a transaction or transactions conducted through the bank and involving or aggregating $5,000 or more in funds or other assets, where the bank believes that it was either an actual or potential victim of a criminal violation, or series of criminal violations, or that the bank was used to facilitate a criminal transaction, and the bank has a substantial basis for identifying a possible suspect or group of suspects. If it is determined prior to filing this report that the identified suspect or group of suspects has used an "alias," then information regarding the true identity of the suspect or group of suspects, as well as alias identifiers, such as drivers' licenses or social security numbers, addresses and telephone numbers, must be reported.

(3) *Violations aggregating $25,000 or more regardless of a potential suspect.* Whenever the member bank detects any known or suspected Federal criminal violation, or pattern of criminal violations, committed or attempted against the bank or involving a transaction or transactions conducted through the bank and involving or aggregating $25,000 or more in funds or other assets, where the bank believes that it was either an actual or potential victim of a criminal violation, or series of criminal violations, or that the bank was used to facilitate a criminal transaction, even though there is no substantial basis for identifying a possible suspect or group of suspects.

(4) *Transactions aggregating $5,000 or more that involve potential money laundering or violations of the Bank Secrecy Act.* Any transaction (which for purposes of this paragraph (c)(4) means

a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument or investment security, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected) conducted or attempted by, at or through the member bank and involving or aggregating $5,000 or more in funds or other assets, if the bank knows, suspects, or has reason to suspect that:

(i) The transaction involves funds derived from illegal activities or is intended or conducted in order to hide or disguise funds or assets derived from illegal activities (including, without limitation, the ownership, nature, source, location, or control of such funds or assets) as part of a plan to violate or evade any law or regulation or to avoid any transaction reporting requirement under federal law;

(ii) The transaction is designed to evade any regulations promulgated under the Bank Secrecy Act; or

(iii) The transaction has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the bank knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction.

(d) *Time for reporting.* A member bank is required to file a SAR no later than 30 calendar days after the date of initial detection of facts that may constitute a basis for filing a SAR. If no suspect was identified on the date of detection of the incident requiring the filing, a member bank may delay filing a SAR for an additional 30 calendar days to identify a suspect. In no case shall reporting be delayed more than 60 calendar days after the date of initial detection of a reportable transaction. In situations involving violations requiring immediate attention, such as when a reportable violation is on-going, the financial institution shall immediately notify, by telephone, an appropriate law enforcement authority and the Board in addition to filing a timely SAR.

(e) *Reports to state and local authorities.* Member banks are encouraged to file a copy of the SAR with state and local law enforcement agencies where appropriate.

(f) *Exceptions.* (1) A member bank need not file a SAR for a robbery or burglary committed or attempted that is reported to appropriate law enforcement authorities.

(2) A member bank need not file a SAR for lost, missing, counterfeit, or stolen securities if it files a report pursuant to the reporting requirements of 17 CFR 240.17f–1.

(g) *Retention of records.* A member bank shall maintain a copy of any SAR filed and the original or business record equivalent of any supporting documentation for a period of five years from the date of the filing of the SAR. Supporting documentation shall be identified and maintained by the bank as such, and shall be deemed to have been filed with the SAR. A member bank must make all supporting documentation available to appropriate law enforcement agencies upon request.

(h) *Notification to board of directors.* The management of a member bank shall promptly notify its board of directors, or a committee thereof, of any report filed pursuant to this section.

(i) *Compliance.* Failure to file a SAR in accordance with this section and the instructions may subject the member bank, its directors, officers, employees, agents, or other institution affiliated parties to supervisory action.

(j) *Confidentiality of SARs.* SARs are confidential. Any member bank subpoenaed or otherwise requested to disclose a SAR or the information contained in a SAR shall decline to produce the SAR or to provide any information that would disclose that a SAR has been prepared or filed citing this section, applicable law (e.g., 31 U.S.C. 5318(g)), or both, and notify the Board.

(k) *Safe harbor.* The safe harbor provisions of 31 U.S.C. 5318(g), which exempts any member bank that makes a disclosure of any possible violation of law or regulation from liability under any law or regulation of the United States, or any constitution, law or regulation of any state or political subdivision, covers all reports of suspected or known criminal violations and suspicious activities to law enforcement and financial institution supervisory authorities, including supporting documentation, regardless of whether such reports are filed pursuant to this section or are filed on a voluntary basis.

§ 208.63 Procedures for monitoring Bank Secrecy Act compliance.

(a) *Purpose.* This section is issued to assure that all state member banks establish and maintain procedures reasonably designed to assure and monitor their compliance with the provisions of the Bank Secrecy Act (31 U.S.C. 5311, *et seq.*) and the implementing regulations promulgated thereunder by the Department of Treasury at 31 CFR part 103, requiring recordkeeping and reporting of currency transactions.

(b) *Establishment of compliance program.* On or before April 27, 1987, each bank shall develop and provide for the continued administration of a program reasonably designed to assure and monitor compliance with the recordkeeping and reporting requirements set forth in the Bank Secrecy Act (31 U.S.C. 5311, *et seq.*) and the implementing regulations promulgated thereunder by the Department of Treasury at 31 CFR part 103. The compliance program shall be reduced to writing, approved by the board of directors, and noted in the minutes.

(c) *Contents of compliance program.* The compliance program shall, at a minimum:

(1) Provide for a system of internal controls to assure ongoing compliance;

(2) Provide for independent testing for compliance to be conducted by bank personnel or by an outside party;

(3) Designate an individual or individuals responsible for coordinating and monitoring day-to-day compliance; and

(4) Provide training for appropriate personnel.

§ 208.64 Frequency of examination.

(a) *General.* The Federal Reserve examines insured member banks pursuant to authority conferred by 12 U.S.C. 325 and the requirements of 12 U.S.C. 1820(d). The Federal Reserve is required to conduct a full-scope, on-site examination of every insured member bank at least once during each 12-month period.

(b) *18-month rule for certain small institutions.* The Federal Reserve may conduct a full-scope, on-site examination of an insured member bank at least once during each 18-month period, rather than each 12-month period as provided in paragraph (a) of this section, if the following conditions are satisfied:

(1) The bank has total assets of $250 million or less;

(2) The bank is well capitalized as defined in subpart D of this part (§ 208.43);

(3) At the most recent examination conducted by either the Federal Reserve or applicable State banking agency, the Federal Reserve found the bank to be well managed;

(4) At the most recent examination conducted by either the Federal Reserve or applicable State banking agency, the Federal Reserve assigned the bank a CAMELS rating of 1 or 2;

(5) The bank currently is not subject to a formal enforcement proceeding or

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order by the FDIC, OCC, or Federal Reserve System; and

(6) No person acquired control of the bank during the preceding 12-month period in which a full-scope, on-site examination would have been required but for this section.

(c) *Authority to conduct more frequent examinations.* This section does not limit the authority of the Federal Reserve to examine any member bank as frequently as the agency deems necessary.

Subpart G—Interpretations

§ 208.100 Sale of bank's money orders off premises as establishment of branch office.

(a) The Board of Governors has been asked to consider whether the appointment by a member bank of an agent to sell the bank's money orders, at a location other than the premises of the bank, constitutes the establishment of a branch office.

(b) Section 5155 of the Revised Statutes (12 U.S.C. 36), which is also applicable to member banks, defines the term branch as including "any branch bank, branch office, branch agency, additional office, or any branch place of business * * * at which deposits are received, or checks paid, or money lent." The basic question is whether the sale of a bank's money orders by an agent amounts to the receipt of deposits at a branch place of business within the meaning of this statute.

(c) Money orders are classified as deposits for certain purposes. However, they bear a strong resemblance to traveler's checks that are issued by banks and sold off premises. In both cases, the purchaser does not intend to establish a deposit account in the bank, although a liability on the bank's part is created. Even though they result in a deposit liability, the Board is of the opinion that the issuance of a bank's money orders by an authorized agent does not involve the receipt of deposits at a "branch place of business" and accordingly does not require the Board's permission to establish a branch.

§ 208.101 Obligations concerning institutional customers.

(a) As a result of broadened authority provided by the Government Securities Act Amendments of 1993 (15 U.S.C. 78o–3 and 78o–5), the Board is adopting sales practice rules for the government securities market, a market with a particularly broad institutional component. Accordingly, the Board believes it is appropriate to provide further guidance to banks on their suitability obligations when making recommendations to institutional customers.

(b) The Board's Suitability Rule, § 208.37(d), is fundamental to fair dealing and is intended to promote ethical sales practices and high standards of professional conduct. Banks' responsibilities include having a reasonable basis for recommending a particular security or strategy, as well as having reasonable grounds for believing the recommendation is suitable for the customer to whom it is made. Banks are expected to meet the same high standards of competence, professionalism, and good faith regardless of the financial circumstances of the customer.

(c) In recommending to a customer the purchase, sale, or exchange of any government security, the bank shall have reasonable grounds for believing that the recommendation is suitable for the customer upon the basis of the facts, if any, disclosed by the customer as to the customer's other security holdings and financial situation and needs.

(d) The interpretation in this section concerns only the manner in which a bank determines that a recommendation is suitable for a particular institutional customer. The manner in which a bank fulfills this suitability obligation will vary, depending on the nature of the customer and the specific transaction. Accordingly, the interpretation in this section deals only with guidance regarding how a bank may fulfill customer-specific suitability obligations under § 208.37(d).[7]

(e) While it is difficult to define in advance the scope of a bank's suitability obligation with respect to a specific institutional customer transaction recommended by a bank, the Board has identified certain factors that may be relevant when considering compliance with § 208.37(d). These factors are not intended to be requirements or the only factors to be considered but are offered merely as guidance in determining the scope of a bank's suitability obligations.

(f) The two most important considerations in determining the scope of a bank's suitability obligations in making recommendations to an institutional customer are the customer's capability to evaluate investment risk independently and the extent to which the customer is exercising independent judgement in evaluating a bank's recommendation. A bank must determine, based on the information available to it, the customer's capability to evaluate investment risk. In some cases, the bank may conclude that the customer is not capable of making independent investment decisions in general. In other cases, the institutional customer may have general capability, but may not be able to understand a particular type of instrument or its risk. This is more likely to arise with relatively new types of instruments, or those with significantly different risk or volatility characteristics than other investments generally made by the institution. If a customer is either generally not capable of evaluating investment risk or lacks sufficient capability to evaluate the particular product, the scope of a bank's customer-specific obligations under § 208.37(d) would not be diminished by the fact that the bank was dealing with an institutional customer. On the other hand, the fact that a customer initially needed help understanding a potential investment need not necessarily imply that the customer did not ultimately develop an understanding and make an independent investment decision.

(g) A bank may conclude that a customer is exercising independent judgement if the customer's investment decision will be based on its own independent assessment of the opportunities and risks presented by a potential investment, market factors and other investment considerations. Where the bank has reasonable grounds for concluding that the institutional customer is making independent investment decisions and is capable of independently evaluating investment risk, then a bank's obligations under § 208.25(d) for a particular customer are fulfilled.[8] Where a customer has delegated decision-making authority to an agent, such as an investment advisor or a bank trust department, the interpretation in this section shall be applied to the agent.

(h) A determination of capability to evaluate investment risk independently will depend on an examination of the customer's capability to make its own investment decisions, including the resources available to the customer to make informed decisions. Relevant considerations could include:

(1) The use of one or more consultants, investment advisers, or bank trust departments;

(2) The general level of experience of the institutional customer in financial markets and specific experience with the type of instruments under consideration;

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[7] The interpretation in this section does not address the obligation related to suitability that requires that a bank have"* * * a 'reasonable basis' to believe that the recommendation could be suitable for at least some customers." In the Matter of the Application of F.J. Kaufman and Company of Virginia and Frederick J. Kaufman, Jr., 50 SEC 164 (1989).

[8] *See* footnote 7 in paragraph (d) of this section.

(3) The customer's ability to understand the economic features of the security involved;

(4) The customer's ability to independently evaluate how market developments would affect the security; and

(5) The complexity of the security or securities involved.

(i) A determination that a customer is making independent investment decisions will depend on the nature of the relationship that exists between the bank and the customer. Relevant considerations could include:

(1) Any written or oral understanding that exists between the bank and the customer regarding the nature of the relationship between the bank and the customer and the services to be rendered by the bank;

(2) The presence or absence of a pattern of acceptance of the bank's recommendations;

(3) The use by the customer of ideas, suggestions, market views and information obtained from other government securities brokers or dealers or market professionals, particularly those relating to the same type of securities; and

(4) The extent to which the bank has received from the customer current comprehensive portfolio information in connection with discussing recommended transactions or has not been provided important information regarding its portfolio or investment objectives.

(j) Banks are reminded that these factors are merely guidelines that will be utilized to determine whether a bank has fulfilled its suitability obligation with respect to a specific institutional customer transaction and that the inclusion or absence of any of these factors is not dispositive of the determination of suitability. Such a determination can only be made on a case-by-case basis taking into consideration all the facts and circumstances of a particular bank/customer relationship, assessed in the context of a particular transaction.

(k) For purposes of the interpretation in this section, an institutional customer shall be any entity other than a natural person. In determining the applicability of the interpretation in this section to an institutional customer, the Board will consider the dollar value of the securities that the institutional customer has in its portfolio and/or under management. While the interpretation in this section is potentially applicable to any institutional customer, the guidance contained in this section is more appropriately applied to an institutional customer with at least $10 million invested in securities in the aggregate in its portfolio and/or under management.

PART 250—MISCELLANEOUS INTERPRETATIONS

1. The authority citation for part 250 continues to read as follows:

Authority: 12 U.S.C. 78, 248(i) and 371c(e).

§§ 250.120 through 250.123, 250.140, 250.161, 250.162 [Removed]

2. Sections 250.120, 250.121, 250.122, 250.123, 250.140, 250.161, 250.162 are removed.

§§ 250.300 through 250.302 [Removed]

3. The undesignated center heading preceding § 250.300 and §§ 250.300 through 250.302 are removed.

By order of the Board of Governors of the Federal Reserve System, July 6, 1998

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 98–18274 Filed 7–10–98; 8:45 am]

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FEDERAL RESERVE SYSTEM

12 CFR Part 209

[Regulation I; Docket No. R–0966]

Issue and Cancellation of Federal Reserve Bank Capital Stock

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System is amending its Regulation I regarding the issue and cancellation of Federal Reserve Bank Capital Stock in order to reduce regulatory burden and simplify and update requirements. The amendments modernize Regulation I in accordance with the Board's policy of regular review of its regulations and the Board's review of its regulations pursuant to section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994.

EFFECTIVE DATE: October 1, 1998.

FOR FURTHER INFORMATION CONTACT: Rick Heyke, Staff Attorney (202/452–3688), Legal Division, Board of Governors; Bill Pullen, Accountant (202/736–1947, Division of Reserve Bank Operations and Payment Systems, Board of Governors; or Anthony Scafide, Manager (215/574–6546), Wholesale Payments Division, Federal Reserve Bank of Philadelphia. For the hearing impaired only, Telecommunications Device for the Deaf (TDD), Diane Jenkins Thompson (202/452–3544).

SUPPLEMENTARY INFORMATION:

Background

As part of its policy of regular review of its regulations, and consistent with section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 (Riegle Act), the Board of Governors of the Federal Reserve System (Board) is amending its Regulation I regarding issue and cancellation of Federal Reserve Bank capital stock (12 CFR part 209). Section 303 of the Riegle Act requires each federal banking agency to review and streamline its regulations and written policies to improve efficiency, reduce unnecessary costs, and remove inconsistencies and outmoded and duplicative requirements. The amendments are designed to reduce regulatory burden and simplify and update the Regulation.

The Board published a notice of proposed rulemaking in the **Federal Register** on March 31, 1997 (62 FR 15297) that solicited comments on the proposed amendments described below. In general, the amendments simplified, modernized, and condensed the Regulation, and reflected the replacement of share certificates by a book-entry system. The amendments also codified Board and staff interpretations. In addition, the amendments deleted the many references to specific forms. Many of these references are incorrect because the forms no longer exist or no longer have the same identification numbers. Finally, the proposal sought comment on the method of computing accrued dividends on Reserve Bank capital stock and on deferring changes in Reserve Bank capital stock positions to reflect small changes in member bank capital stock and surplus.

The Board received nine comments on its proposal, five from Federal Reserve Banks, three from banking organizations, and one from a trade association. The comments were generally supportive of the proposal overall, and especially of the shift to book entry electronic recordkeeping.

Final Rule

The Board is adopting the revised Regulation I substantially as proposed. In addition, in response to comments, the final Regulation makes clear that Reserve Bank stock is issued to member banks in organization as of their opening for business and not before, incorporates the Board's final rule on relocation of member banks and makes appropriate adjustments to the section on Cancellation of Reserve Bank Stock, carries over adjustments in Reserve

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Bank stock positions that do not exceed the lesser of 15 percent or 100 shares until the year-end report of condition, clarifies the treatment of gains or losses on securities available for sale and foreign exchange translation adjustments, and adopts a 360-day year of 30-day months for dividend accruals.

An section-by-section discussion follows.

Banks Desiring to Become Member Banks

Proposed § 209.2 combined and condensed existing §§ 209.1 and 209.2 regarding national and state bank applications. Existing § 209.1 also specified the amount of Reserve Bank stock for which national banks should apply, but the proposal combined all references to amount in proposed § 209.4 and deleted repetitive explanations. The Board received no specific comments on subsection (a) as proposed and the final rule adopts the subsection as proposed.

Subsection (b) specified procedures for issuance of Reserve Bank stock. The proposal provided for issuance of such stock when all applicable requirements had been complied with in the case of a state bank approved for membership. One commenter suggested that the Regulation clarify that the issuance of the stock to a state member bank may not precede its opening for business. National banks in organization are issued stock in their Reserve Banks as of the date upon which they open for business. The Board is modifying § 209.2(b) in the final rule to require that in the case of a state member bank in organization, assuming all applicable requirements have been complied with, its Reserve Bank shares shall likewise be issued as of the date it opens for business.

Proposed § 209.2 also included a subsection (c) that would specify the Reserve Bank of which a bank may become a member and that was the subject of a separate request for comment. *See* 62 FR 11117 (March 11, 1997). That rule was separately approved by the Board and is incorporated herein. See 62 FR 34613 (June 27, 1997).

Cessation of Membership

Proposed § 209.3 combined and simplified existing §§ 209.5(b) (merger of a member bank into a state nonmember bank), 209.6 (conversion of a national bank into a state nonmember bank), 209.7 (insolvency), 209.8 (voluntary liquidation), 209.9(b) (national bank in the hands of a conservator to be liquidated), 209.10 (closed state member banks not in liquidation), 209.11 (voluntary withdrawal from membership by state bank), and 209.12 (involuntary termination of state bank membership).

The existing Regulation distinguishes between insolvency and voluntary liquidation (where the bank or receiver was required to file for cancellation of Reserve Bank stock within three months), other cessation of business by state member banks (where failure by the bank to file for cancellation within 60 days commenced a process whereby the Board might order termination of membership), and other cases such as voluntary withdrawal, merger into a nonmember bank, or conversion of a national bank into a nonmember state bank (where the regulation imposed no specific timing requirement for filing an application for cancellation of Reserve Bank stock). Proposed 209.3(a) provided instead that all such banks (or receivers) shall file promptly for cancellation of Reserve Bank stock, failing which the Board may order the membership of the bank terminated under 209.3(b).

The Federal Reserve Act (the Act) provides in section 6(2) (12 U.S.C. 288) that the Comptroller of the Currency may appoint a receiver for a national bank that has discontinued banking operations for 60 days but has not gone into liquidation, if the Comptroller deems it advisable. The existing regulation includes in § 209.9(a) a provision for the appropriate Reserve Bank to notify the Office of the Comptroller of the Currency in the event a national bank has ceased business for 60 days but has not gone into liquidation, together with a statement of reasons why a receiver should be appointed. The proposal omitted this provision. The appropriate procedures for communication among the Board, the Reserve Bank, and the Comptroller's office in such a case would depend on the facts and circumstances of the particular case.

Subsection (c) of the proposal sets forth the effective date of cancellation in whole of Reserve Bank stock held by member banks. One commenter inquired about dividend accruals between the effective date of cancellation and the date of actual cancellation. While this question does not arise in the case of a member bank all of whose Reserve Bank shares are maintained in an electronic register at the Reserve Bank, it could arise in the case of a member bank holding certificates. In that case, dividends cease to accrue on the effective date of cancellation.[1]

Subsection (d) of the proposal condensed and simplified the existing procedures for dealing with mergers of member banks. In light of the adoption of the change in location provisions discussed above and included in this final rule at § 209.2(c), and because changes in location and mergers of member banks located in different Federal Reserve Districts involve similar procedures, the final rule modifies the proposal to distinguish between mergers of member banks in the same District, discussed in paragraph (d)(1), and changes in location and mergers of member banks located in different districts, discussed in paragraph (d)(2). In the former case, the Reserve Bank cancels the shares of the nonsurviving bank and credits the appropriate number of shares to the surviving bank. In the latter case, the Reserve Bank where the nonsurviving bank is located (or from whose District the member bank's location is being changed) cancels the shares of the nonsurviving (or relocating) bank and transfers the amount paid in for those shares to the Reserve Bank where the surviving bank is located (or to whose District the member bank's location is being changed), which credits the appropriate number of shares to the surviving (or relocated) bank.

Subsection (e) of the proposal required six months notice of voluntary withdrawal unless waived by the Board. A Reserve Bank suggested the period should be shortened to three months. The Act permits withdrawal by state member banks upon six months written notice but authorizes the Board to waive both the notice requirement and a related requirement that no Reserve Bank cancel more than 25 percent of its stock in a calendar year. The Regulation tracks the statutory language and the Board believes that the waiver mechanism should continue to prevent any hardship for withdrawing banks without creating the possibility of instability in Reserve Bank capital stock.

The Board received no other specific comments on § 209.3. Other than the procedural changes to reflect inter-District mergers and relocations and conforming changes for intra-District mergers, the final rule adopts proposed § 209.3 as proposed.

Amounts and Payments; Frequency of Adjustment

Proposed § 209.4(a) combined in one section the requirement for amount of total subscription for Reserve Bank stock (other than for a mutual savings bank) on becoming a member or on a change in capital stock and surplus. The Act requires member banks (other than mutual savings banks) to subscribe for Reserve Bank capital stock in an amount equal to 6 percent of their capital stock and surplus. Member banks are required to pay in half this amount and half is subject to call by the Reserve Bank.

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[1] The Reserve Bank will pay for the stock on the effective date unless the former member bank has not made timely application as required under subsection (a).

Section 5 of the Act provides that Federal Reserve Bank stock shall be adjusted from time to time as member banks increase or decrease capital stock and surplus. The Act does not specify whether this adjustment must be done immediately or can be done periodically after a number of changes in a member bank's capital stock and surplus have occurred or when such changes become in the aggregate significant. There is a burden associated with adjusting banks' Reserve Stock positions to reflect small changes in the banks' capital accounts. The Board sought comment on how frequently, or after how much cumulative dollar or percentage change, member banks should be required to adjust their Reserve Bank capital stock holdings.

The Board received comments on this issue from five Reserve Banks, three banking organizations, and a trade association. All commenters suggested some form of carryover. Recommendations ranged from carrying over changes of less than 100 shares ($5,000 of investment in Reserve Bank stock or $166,600 of change in member bank capital stock and surplus) to carrying over changes of less than 25%. One Reserve Bank suggested that the Board carry over changes that do not exceed either a specified dollar amount or a percentage, on the grounds that smaller community banks' ownership of Reserve Bank stock need not be changed unless the change would amount to, say, 15 percent but larger banks would need to change their Reserve Bank stock positions to reflect significant dollar amounts even though these amounts would represent smaller percentage changes. Several commenters suggested a quarterly, semi-annual, or annual adjustment either in lieu of or in addition to adjustments occasioned by changes in excess of the permitted carryover. In addition, a number of commenters suggested that member banks be given from 30 days to six months to make any required adjustments. The comments also made clear a lack of consistency in this matter among Reserve Banks, and one commenter urged adoption of a consistent policy across the System.

In light of the comments and the System's experience, the Board has decided in the final rule to carry over changes within a calendar year until the cumulative change exceeds the lesser of 15 percent or 100 shares of Reserve Bank capital stock. Required changes must be made promptly after filing the call report which reflects a change in capital stock and paid-in surplus in excess of the amount permitted to be deferred. In addition, every member bank shall file to eliminate any carryover promptly after its report of condition as of December 31 of each year.

The Board received no other comments on § 209.4(a), and the final rule otherwise adopts proposed § 209.4(a) as proposed. One commenter suggested that an item be added to the call report form showing the difference between the amount of Reserve Bank stock a member bank holds and three percent of the member bank's capital and surplus. Since the call report form already requires sufficient information for the calculation, the Board is not adopting this suggestion.

Preferred Stock, Retained Earnings, Securities Available for Sale, and Translation Gains and Losses

Proposed § 209.4(b) defined member bank capital stock and surplus as capital stock and paid-in surplus. One commenter asked if capital stock includes preferred stock; the Board believes that both common stock and preferred stock are included in the term capital stock. A Reserve Bank suggested utilizing "permanent capital," defined to include minority interests and perpetual preferred stocks, but exclude sinking fund preferred stocks, with a view to making the definition more consistent with definitions used elsewhere in the Board's Regulations. Three commenters strongly supported continuing to omit retained earnings from the capital base for purposes of Reserve Bank stock ownership requirements, and no commenter opposed the proposal in this regard.

The definition of capital stock and surplus in Regulation I has always excluded retained earnings or undivided profits. This exclusion does not conform to definitions used elsewhere in the Board's regulations. The exclusion of retained earnings from the definition of capital stock and surplus minimizes member banks' adjustments in their Reserve Bank stock holdings. The Federal Reserve System experienced approximately 1500 adjustments in Reserve Bank capital stock as a result of changes in member bank capital stock and surplus in 1992. The Board estimates that this number would increase substantially if it were necessary to adjust for changes in retained earnings of member banks.

Although retained earnings were generally excluded from the definition, the proposal incorporated previous guidance requiring a deficit in retained earnings to be subtracted from capital stock and surplus. The proposal also continued an exception for cases where the deficit was relatively small and the appropriate Reserve Bank was satisfied that the deficit would be extinguished by accumulation of earnings or formal reduction of surplus, in which case the adjustment of Reserve Bank stock might be deferred until the end of the quarter in which the deficit arose.

Because the final rule only requires adjustment of member bank Reserve Bank stock positions to reflect changes in member bank capital as shown on the bank's call report as of the end of the quarter, the provision in the proposal to defer a deficit until the end of the quarter in which it arose is no longer necessary and has been deleted from the final rule.

Two commenters raised the issue of gains and losses on securities available for sale, and one of them also raised the issue of unrealized foreign exchange losses. The Board believes that these should be treated in the same manner as retained earnings. Thus, in the event that the aggregate, as shown on a member bank's call report as of the end of the quarter, of its retained earnings, gains (losses) on securities available for sale, and foreign currency translation gains or losses is a deficit, the deficit should be subtracted from capital and surplus. The amendments therefore modify the proposal to treat this aggregate in the same manner as the proposal treated retained earnings.

The Board received no other specific comments on § 209.4(b). Other than deleting the deferral of deficits to the end of the quarter and clarifying the status of gains (losses) on securities available for sale and translation adjustments, the final rule adopts proposed § 209.4(b) as proposed.

Savings Banks

Proposed § 209.4(c) was a condensed version of existing § 209.4 specifying that mutual savings banks are required to subscribe for Reserve Bank stock in an amount equal to 0.6 percent of total deposits rather than 6 percent of capital and surplus. Mutual savings banks not permitted to hold Reserve Bank stock are required to maintain a deposit at the Reserve Bank in the same amount pending a change in state law to permit purchase of the stock. The Board received no specific comments on this section and, other than the carryover of

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adjustments not exceeding 15 percent or 100 shares discussed above, the final rule adopts proposed § 209.4(c) as proposed.

Accrued Dividends

Proposed §§ 209.4(d) and (e)(1) specified that transactions in Reserve Bank capital stock between member banks and the Reserve Bank take place at the subscription price plus accrued dividends at the rate of one-half of one percent per month (provided that the total price paid on redemption of Reserve Bank stock does not exceed the book value of such stock). Under section 5 of the Act (12 U.S.C. 287), banks applying for Reserve Bank capital stock are required to pay the subscription price plus accrued dividends for such stock. Under sections 5, 6, and 9(10) of the Act (12 U.S.C. 287, 288 and 328), Reserve Banks redeeming their capital stock from member banks that are in voluntary liquidation, or which have been declared insolvent and for which a receiver has been appointed, or from state member banks on voluntary withdrawal from or involuntary termination of membership, are required to pay a price equal to the cash subscription price originally paid plus accrued dividends, but may not pay a price exceeding the book value of the Reserve Bank stock. The Act is silent on whether accrued dividends are payable by Reserve Banks in other cases such as merger into nonmember banks. In practice, Reserve Banks have included accrued dividends in both purchases and redemptions, including intra-month accrued dividends, and the amendments applied the concept of accrued dividends to all transactions in Reserve Bank capital stock.[2] In cases where the Act requires accrued dividends, it specifies that they shall accrue at the rate of one-half percent per month.

The Board sought comment on the appropriate method of computing accrued dividends. Generally the Reserve Banks have accrued intra-month dividends on the basis of the actual number of days elapsed within a month divided by the number of actual days in the month. This method results in different daily accruals depending on the number of days in the month for which intra-month accrued dividends are calculated. The Board requested comment on whether adopting another method, such as use of a standard 30-day month, would simplify the computation.

The Board received nine comments on this issue. Three of the Reserve Banks and all three banking organizations that commented favored adopting a 360 day year of twelve 30-day months, generally citing simplicity, general industry practice, and consequent lack of confusion. One Reserve Bank reported that member banks are frequently calling for an explanation of the method currently used, and another pointed out that the use of a standard 30-day month would avoid the need to override automated systems. Two Reserve Banks and one trade association supported the existing practice. The Board has adopted a 360-day year of twelve 30-day months for purposes of calculating accruals on Reserve Bank stock in the final rule and has otherwise adopted proposed §§ 209.4(d) and (e)(1) as proposed.

Cancellation Payments

Proposed § 209.4(e)(2) specified that in the case of any cancellation of Reserve Bank stock under Regulation I, the Reserve Bank may first apply the proceeds to any liability of the member bank to the Reserve Bank, and pay over the remainder to the bank or receiver as appropriate. This replaced a similar requirement in existing § 209.5(b), and clarified that the principle may apply to partial as well as total cancellations. The Board received no specific comments on this issue and the final rule adopts proposed § 209.4 (e)(2) as proposed.

The Share Register

Proposed § 209.5 revised the share register provision of the Regulation to reflect the modern book-entry and electronic records systems the Reserve Banks have implemented. This change permits eliminating the numerous provisions of the existing Regulation that deal with the circumstances under which share certificates may be retained or must be submitted for reissue. For example, existing § 209.13(a) requires a member bank to surrender its certificate in the event of a change in name and for the Reserve Bank to issue a new certificate in the new name. Existing § 209.5(a) includes a lengthy footnote explaining the difference between transfer of Reserve Bank stock certificates by purchase and by operation of law, because a new certificate is not required in the case of transfer by operation of law. Under the proposal, the Reserve Bank in each case need merely change the name of the stockholder in its records.

Several of the comments that generally supported the proposed changes made specific favorable reference to the change to an electronic book-entry recordkeeping system, and the Board received no adverse comments on this section. The final rule adopts proposed § 209.5 as proposed.

Final Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires an agency to publish a final regulatory flexibility analysis with any notice of a final rule. One of the requirements of a final regulatory flexibility analysis (5 U.S.C. 604(a))—a statement of the need for, and the objectives of, the rule—is set forth above. The amendments require no additional reporting or recordkeeping requirements and do not overlap with other federal rules.

A second requirement for the final regulatory flexibility analysis is a summary of the issues raised by the public comments in response to the initial regulatory flexibility analysis included in the notice of proposed rulemaking. The Board received no comments specifically related to the initial regulatory flexibility analysis.

The third requirement for the final regulatory flexibility analysis is a description of any significant alternatives to the rule consistent with the stated objectives of the applicable statutes and designed to minimize any significant impact of the rule on small entities. The rule will apply to all member banks regardless of size.

The amendments are burden-reducing. Therefore, the Board believes that the amendments will not have a significant adverse economic impact on a substantial number of small entities.

Paperwork Reduction Act

The rule contains no collections of information pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. Ch. 3506; 5 CFR Part 1320, Appendix A.1).

List of Subjects in 12 CFR Part 209

Banks and banking, Federal Reserve System, Reporting and recordkeeping requirements, Securities.

Authority and Issuance

For the reasons set forth in the preamble, the Board revises part 209 of chapter II of title 12 to read as follows:

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[2] Under sections 6 and 9(10) of the Act, a Reserve Bank is under no obligation to pay unearned accrued dividends on redemption of its capital stock from an insolvent member bank for which a receiver has been appointed or from state member banks on voluntary withdrawal from or involuntary termination of membership. *See, e.g.*, former Board Interpretation of April 17, 1925, X–4322, and related note, formerly published in the Federal Reserve Regulatory Service at 3–500.

PART 209—ISSUE AND CANCELLATION OF FEDERAL RESERVE BANK CAPITAL STOCK (REGULATION I)

Sec.
209.1 Authority, purpose, and scope.
209.2 Banks desiring to become member banks.
209.3 Cancellation of Reserve Bank stock.
209.4 Amounts and payments.
209.5 The share register.

Authority: 12 U.S.C. 222, 248, 282, 286–288, 321, 323, 327–328, 333, 466.

§ 209.1 Authority, purpose, and scope.

(a) *Authority.* This part is issued pursuant to 12 U.S.C. 222, 248, 282, 286–288, 321, 323, 327–328, and 466.

(b) *Purpose.* The purpose of this part is to implement the provisions of the Federal Reserve Act relating to the issuance and cancellation of Federal Reserve Bank stock upon becoming or ceasing to be a member bank, or upon changes in the capital and surplus of a member bank, of the Federal Reserve System.

(c) *Scope.* This part applies to member banks of the Federal Reserve System, to national banks in process of organization, and to state banks applying for membership. National banks and locally-incorporated banks located in United States dependencies and possessions are eligible (with the consent of the Board) but not required to apply for membership under section 19(h) of the Federal Reserve Act, 12 U.S.C. 466.[1]

§ 209.2 Banks desiring to become member banks.

(a) *Application for stock or deposit.* Each national bank in process of organization,[2] each nonmember state bank converting into a national bank, and each nonmember state bank applying for membership in the Federal Reserve System under Regulation H, 12 CFR part 208, shall file with the Federal Reserve Bank (Reserve Bank) in whose district it is located an application for stock (or deposit in the case of mutual savings banks not authorized to purchase Reserve Bank stock[3]) in the Reserve Bank. The bank shall pay for the stock (or deposit) in accordance with § 209.4 of this regulation.

(b) *Issuance of stock; acceptance of deposit.* Upon authorization to commence business by the Comptroller of the Currency in the case of a national bank in organization or upon approval of conversion by the Comptroller of the Currency in the case of a state nonmember bank converting to a national bank, or when all applicable requirements have been complied with in the case of a state bank approved for membership, the Reserve Bank shall issue the appropriate number of shares by crediting the bank with the appropriate number of shares on its books. In the case of a national or state member bank in organization, such issuance shall be as of the date the bank opens for business. In the case of a mutual savings bank not authorized to purchase Reserve Bank shares, the Reserve Bank shall accept the deposit in place of issuing shares. The bank's membership shall become effective on the date of such issuance or acceptance.

(c) *Location of bank.* (1) *General rule.* For purposes of this part, a national bank or a state bank is located in the Federal Reserve District that contains the location specified in the bank's charter or organizing certificate, or, if no such location is specified, the location of its head office, unless otherwise determined by the Board under paragraph (c)(2) of this section.

(2) *Board determination.* If the location of a bank as specified in paragraph (c)(1) of this section, in the judgment of the Board of Governors of the Federal Reserve System (Board), is ambiguous, would impede the ability of the Board or the Reserve Banks to perform their functions under the Federal Reserve Act, or would impede the ability of the bank to operate efficiently, the Board will determine the Federal Reserve District in which the bank is located, after consultation with the bank and the relevant Reserve Banks. The relevant Reserve Banks are the Reserve Bank whose District contains the location specified in paragraph (c)(1) of this section and the Reserve Bank in whose District the bank is proposed to be located. In making this determination, the Board will consider any applicable laws, the business needs of the bank, the location of the bank's head office, the locations where the bank performs its business, and the locations that would allow the bank, the Board, and the Reserve Banks to perform their functions efficiently and effectively.

§ 209.3 Cancellation of Reserve Bank stock.

(a) *Application for cancellation.* Any bank that desires to withdraw from membership in the Federal Reserve System, voluntarily liquidates or ceases business, is merged or consolidated into a nonmember bank, or is involuntarily liquidated by a receiver or conservator or otherwise, shall promptly file with its Reserve Bank an application for cancellation of all its Reserve Bank stock (or withdrawal of its deposit, as the case may be) and payment therefor in accordance with § 209.4.

(b) *Involuntary termination of membership.* If an application is not filed promptly after a cessation of business by a state member bank, a vote to place a member bank in voluntary liquidation, or the appointment of a receiver for (or a determination to liquidate the bank by a conservator of) a member bank, the Board may, after notice and an opportunity for hearing where required under Section 9(9) of the Federal Reserve Act (12 U.S.C. 327), order the membership of the bank terminated and all of its Reserve Bank stock canceled.

(c) *Effective date of cancellation.* Cancellation in whole of a bank's Reserve Bank capital stock shall be effective, in the case of:

(1) Voluntary withdrawal from membership by a state bank, as of the date of such withdrawal;

(2) Merger into, consolidation with, or (for a national bank) conversion into, a State nonmember bank, as of the effective date of the merger, consolidation, or conversion; and

(3) Involuntary termination of membership, as of the date the Board issues the order of termination.

(d) *Exchange of stock on merger or change in location.* (1) *Merger of member banks in the same Federal Reserve District.* Upon a merger or consolidation of member banks located in the same Federal Reserve District, the Reserve Bank shall cancel the shares of the nonsurviving bank (or in the case of a mutual savings bank not authorized to purchase Reserve Bank stock, shall credit the deposit to the account of the surviving bank) and shall credit the appropriate number of shares on its books to (or in the case of a mutual savings bank not authorized to purchase Reserve Bank stock, shall accept an appropriate increase in the deposit of)

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[1] If such a bank desires to become a member bank under the provisions of § 19(h) of the Federal Reserve Act, it should communicate with the Federal Reserve Bank with which it desires to do business.

[2] A new national bank organized by the Federal Deposit Insurance Corporation under § 11(n) of the Federal Deposit Insurance Act (12 U.S.C. 1821(n)) should not apply until in the process of issuing stock pursuant to § 11(n)(15) of that act. Reserve Bank approval of such an application shall not be effective until the issuance of a certificate by the Comptroller of the Currency pursuant to § 11(n)(16) of that act.

[3] A mutual savings bank not authorized to purchase Federal Reserve Bank stock may apply for membership evidenced initially by a deposit. (*See* § 208.3(a) of Regulation H, 12 CFR part 208.) The membership of the savings bank shall be terminated if the laws under which it is organized are not amended to authorize such purchase at the first session of the legislature after its admission, or if it fails to purchase such stock within six months after such an amendment.

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the surviving bank, subject to paragraph (e)(2) of § 209.4.

(2) *Change of location or merger of member banks in different Federal Reserve Districts.* Upon a determination under paragraph (c)(2) of § 209.2 that a member bank is located in a Federal Reserve District other than the District of the Reserve Bank of which it is a member, or upon a merger or consolidation of member banks located in different Federal Reserve Districts,—

(i) The Reserve Bank of the member bank's former District, or of the nonsurviving member bank, shall cancel the bank's shares and transfer the amount paid in for those shares, plus accrued dividends (at the rate specified in paragraph (d) of § 209.4) and subject to paragraph (e)(2) of § 209.4 (or, in the case of a mutual savings bank member not authorized to purchase Federal Reserve Bank stock, the amount of its deposit, adjusted in a like manner), to the Reserve Bank of the bank's new District or of the surviving bank; and (ii) The Reserve Bank of the member bank's new District or of the surviving bank shall issue the appropriate number of shares by crediting the bank with the appropriate number of shares on its books (or, in the case of a mutual savings bank, by accepting the deposit or an appropriate increase in the deposit).

(e) *Voluntary withdrawal.* Any bank withdrawing voluntarily from membership shall give 6 months written notice, and shall not cause the withdrawal of more than 25 percent of any Reserve Bank's capital stock in any calendar year, unless the Board waives these requirements.

§ 209.4 Amounts and payments.

(a) *Amount of subscription.* The total subscription of a member bank (other than a mutual savings bank) shall equal six percent of its capital and surplus. Whenever any member bank (other than a mutual savings bank) experiences a cumulative increase or decrease in capital and surplus requiring a change in excess of the lesser of 15 percent or 100 shares of its Reserve Bank capital stock, it shall file with the appropriate Reserve Bank an application for issue or cancellation of Reserve Bank capital stock in order to adjust its Reserve Bank capital stock subscription to equal six percent of the member bank's capital and surplus. Such application shall be filed promptly after the first report of condition that reflects the increase or decrease occasioning the adjustment. In addition, every member bank shall file an application for issue or cancellation of Reserve Bank capital stock if needed in order to adjust its Reserve Bank capital stock subscription to equal six percent of the member bank's capital and surplus as shown on its report of condition as of December 31 of each year promptly after filing such report.

(b) *Capital Stock and Surplus defined.* Capital stock and surplus of a member bank means the paid-in capital stock[4] and paid-in surplus of the bank, less any deficit in the aggregate of its retained earnings, gains (losses) on available for sale securities, and foreign currency translation accounts, all as shown on the bank's most recent report of condition. Paid-in capital stock and paid-in surplus of a bank in organization means the amount which is to be paid in at the time the bank commences business.

(c) *Mutual savings banks.* The total subscription of a member bank that is a mutual savings bank shall equal six-tenths of 1 percent of its total deposit liabilities as shown on its most recent report of condition. Whenever any member bank that is a mutual savings bank experiences a cumulative increase or decrease in total deposit liabilities as shown on its most recent report of condition requiring a change in its holding of Reserve Bank stock in excess of the lesser of 15 percent or 100 shares, it shall file with the appropriate Reserve Bank an application for issue or cancellation of Reserve Bank capital stock in order to adjust its Reserve Bank capital stock subscription to equal six-tenths of 1 percent of the member bank's total deposit liabilities. Such application shall be filed promptly after the first report of condition that reflects the increase or decrease occasioning the adjustment. In addition, every member bank that is a mutual savings bank shall file an application for issue or cancellation of Reserve Bank capital stock if needed in order to adjust its Reserve Bank capital stock subscription to equal six-tenths of 1 percent of its total deposit liabilities as shown on its report of condition as of December 31 of each year promptly after filing such report. A mutual savings bank that is applying for or has a deposit with the appropriate Reserve Bank in lieu of Reserve Bank capital stock shall file for acceptance or adjustment of its deposit in a like manner.

(d) *Payment for subscriptions.* Upon approval by the Reserve Bank of an application for capital stock (or for a deposit in lieu thereof), the applying bank shall pay the Reserve Bank one-half of the subscription amount plus accrued dividends. For purposes of this part, dividends shall accrue at the rate of one half of one percent per month calculated on the basis of a 360-day year of twelve 30-day months. Upon payment (and in the case of a national banks in organization or state nonmember bank converting into a national bank, upon authorization or approval by the Comptroller of the Currency), the Reserve Bank shall issue the appropriate number of shares by crediting the bank with the appropriate number of shares on its books. In the case of a mutual savings bank not authorized to purchase Reserve Bank stock, the Reserve Bank will accept the deposit or addition to the deposit in place of issuing shares. The remaining half of the subscription or additional subscription (including subscriptions for deposits or additions to deposits) shall be subject to call by the Board.

(e) *Payment for cancellations.* (1) Upon approval of an application for cancellation of Reserve Bank capital stock, or (in the case of involuntary termination of membership) upon the effective date of cancellation specified in § 209.3(c)(3), the Reserve Bank shall reduce the bank's shareholding on the Reserve Bank's books by the number of shares required to be canceled and shall pay therefor a sum equal to the cash subscription paid on the canceled stock plus accrued dividends (at the rate specified in paragraph (d) of this section), such sum not to exceed the book value of the stock.[5]

(2) In the case of any cancellation of Reserve Bank stock under this Part, the Reserve Bank may first apply such sum to any liability of the bank to the Reserve Bank and pay over the remainder to the bank (or receiver or conservator, as appropriate).

§ 209.5 The share register.

(a) *Electronic or written record.* A member bank's holding of Reserve Bank capital stock shall be represented by one (or at the option of the Reserve Bank, more than one) notation on the Reserve Bank's books. Such books may be electronic or in writing. Upon any issue or cancellation of Reserve Bank capital stock, the Reserve Bank shall record the member bank's new share position in its books (or eliminate the bank's share position from its books, as the case may be).

(b) *Certification.* A Reserve Bank may certify on request as to the number of shares held by a member bank and purchased before March 28, 1942, or as to the purchase and cancellation dates and prices of shares cancelled, as the case may be.

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[4] Capital stock includes common stock and preferred stock (including sinking fund preferred stock).

[5] Under sections 6 and 9(10) of the Act, a Reserve Bank is under no obligation to pay unearned accrued dividends on redemption of its capital stock from an insolvent member bank for which a receiver has been appointed or from state member banks on voluntary withdrawal from or involuntary termination of membership.

By order of the Board of Governors of the Federal Reserve System, July 6, 1998.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 98–18275 Filed 7–10–98; 8:45 am]

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FEDERAL RESERVE SYSTEM

12 CFR Part 216

[Regulation P; Docket No. R–0965]

Security Procedures

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is rescinding Regulation P, which is no longer necessary since its provisions have been incorporated into Regulation H (Membership of State Banking Institutions in the Federal Reserve System), as issued by the Board elsewhere in today's **Federal Register**. Regulation P requires each bank to adopt appropriate security procedures.

EFFECTIVE DATE: October 1, 1998.

FOR FURTHER INFORMATION CONTACT: Jean Anderson, Staff Attorney, Legal Division (202/452–3707). For the hearing impaired *only*, Telecommunications Device for the Deaf (TDD), Diane Jenkins (202/452–3544).

SUPPLEMENTARY INFORMATION: Section 303(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4803(a)) requires the Board, as well as the other federal banking agencies, to review its regulations and written policies in order to streamline and modify these regulations and policies to improve efficiency, reduce unnecessary costs, and eliminate unwarranted constraints on credit availability. The Board reviewed its Regulation P with this purpose in mind and has adopted its proposal to rescind Regulation P in order to meet the goals of section 303(a).

Regulation P implements the requirements of the Bank Protection Act of 1968 (BPA). The BPA requires the federal financial institution supervisory agencies to establish minimum standards for bank security devices and procedures to discourage bank crime and to assist in the identification of persons who commit such crimes. 12 U.S.C. 1882. To implement this statute a uniform regulation (Regulation P) was adopted in 1969 by each of the supervisory agencies—Comptroller of the Currency, Federal Deposit Insurance Corporation, Federal Home Loan Bank Board (now known as the Office of Thrift Supervision), and the Board. As originally proposed, Regulation P included a list of security devices that banks were required to adopt. On March 1, 1991, (55 FR 13069) (1991 Amendments), the supervisory agencies amended their rules to incorporate amendments made to the BPA by the Financial Institutions Reform Recovery and Enforcement Act of 1989 (FIRREA) and to address the fact that many of the required security devices had been rendered obsolete by virtue of technological advances.

Discussion

The Board's action to rescind Regulation P and incorporate its provisions into Regulation H (12 CFR part 208—Membership of State Banking Institutions in the Federal Reserve System) as published elsewhere in today's **Federal Register**, would not substantively change the requirements of Regulation P. The Board's action to incorporate Regulation P into Regulation H is designed to simplify compliance for State member banks by consolidating regulatory requirements applying to State member banks into one regulation.

The Board published its proposal to rescind Regulation P for comment in the **Federal Register** on March 31, 1997 (61 FR 15299). The Board received 4 comments on the proposal from the following types of institutions:

Trade associations—2
Federal Reserve Banks—2

Three of the 4 comments received generally supported, or did not object to, rescinding Regulation P. However, one commenter opposed incorporating Regulation P into Regulation H on the basis that Regulation H relates solely to state member banks and Regulation P addresses security procedures for both state member banks and Federal Reserve Banks. Despite this concern the Board is rescinding Regulation P and incorporating it into Regulation H as proposed because it believes that the Federal Reserve Banks are well aware of the requirements of Regulation P.

Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 95–354, 5 U.S.C. 601 *et seq.*), the Board of Governors of the Federal Reserve System certifies that adoption of this proposal will not have a significant economic impact on a substantial number of small entities that would be subject to the regulation.

This amendment will remove a regulation and an interpretation that the Board believes are no longer necessary. The amendment does not impose more burdensome requirements on bank holding companies than are currently applicable.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR 1320 Appendix A.1), the Board reviewed the rule under the authority delegated to the Board by the Office of Management and Budget. No collections of information pursuant to the Paperwork Reduction Act are contained in the final rule.

List of Subjects in 12 CFR Part 216

Federal Reserve System, Reporting and recordkeeping requirements, Security measures.

For the reasons set forth in the preamble and under the authority of 12 U.S.C. 1882, the Board is amending 12 CFR chapter II, as set forth below:

PART 216—[REMOVED]

1. Part 216 is removed.

By order of the Board of Governors of the Federal Reserve System, July 6, 1998.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 98–18276 Filed 7–10–98; 8:45 am]

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Part III

Securities and Exchange Commission

17 CFR Part 240

Reports to be Made by Certain Brokers and Dealers and Year 2000 Readiness Reports to be Made by Certain Transfer Agents; Final and Proposed Rules

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–40162; File No. S7–7–98]

RIN 3235–AH36

Reports to be Made by Certain Brokers and Dealers

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission ("Commission") is amending Rule 17a–5 under the Securities Exchange Act of 1934 ("Exchange Act") to require broker-dealers to file with the Commission and their designated examining authority ("DEA") at designated times two separate reports regarding their Year 2000 compliance. The reports will increase broker-dealer awareness that they should be taking specific steps now to prepare for the Year 2000; facilitate coordination with self regulatory organizations of industry-wide testing, implementation, and contingency planning; supplement the Commission's examination module for Year 2000 issues and identify potential Year 2000 problems; and provide information regarding the securities industry's preparedness for the Year 2000. The reports are designed to be available to the public which will enable broker-dealer counterparties and others to assess the risks of doing business with a broker-dealer that may not be Year 2000 compliant.

EFFECTIVE DATE: August 12, 1998.

FOR FURTHER INFORMATION CONTACT: Michael A. Macchiaroli, Associate Director, 202/942–0131; Thomas K. McGowan, Assistant Director, 202/942–4886; Lester Shapiro, Senior Accountant, 202/942–0757; or Christopher M. Salter, Staff Attorney, 202/942–0148, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW, Mail Stop 10–1, Washington, DC 20549.

SUPPLEMENTARY INFORMATION:

I. Introduction

At midnight on December 31, 1999, unless the proper modifications have been made, the program logic in many of the world's computer systems will start to produce erroneous results because, among other things, the systems will incorrectly read the date "01/01/00" as being the year 1900 or another incorrect date. In addition, systems may fail to detect that the Year 2000 is a leap year. Problems can also arise earlier than January 1, 2000, as dates in the next millennium are entered into non-Year 2000 compliant programs.

The Commission views the Year 2000 problem as an extremely serious issue. A failure to assess properly the extent of the problem, remediate systems that are not Year 2000 compliant, and then test those systems could endanger the nation's capital markets and place at risk the assets of millions of investors. In light of this, both the broker-dealer industry and the Commission are working hard to address the industry's Year 2000 problems.

As part of its ongoing efforts relating to the Year 2000, on March 5, 1998, the Commission requested comment on proposed amendments to Rule 17a–5 [1] that would require certain broker-dealers to file reports with the Commission and their DEA regarding Year 2000 compliance.[2] In particular, the Commission sought comment on: (i) the definition of the term "Year 2000 Problem;" [3] (ii) the minimum net capital reporting threshold; (iii) the proposed reporting content; (iv) the requirement that portions of the report be attested to by independent public accountants; and (v) the public availability of the information to be reported.

The Commission received 35 comment letters in response to the Proposing Release.[4] The majority of the commenters generally supported the Commission's proposals and made suggestions for improving one or more aspects of the proposed amendments.[5] However, the majority of the commenters objected to the attestation requirement and the $100,000 minimum net capital threshold for determining which broker-dealers would be required to file Year 2000 reports under the proposed amendments. The majority of the commenters that addressed the issue of whether the information reported should be publicly available, objected to the Year 2000 reports and related accountant's attestation report being made public. Based on the comments received, the Commission is adopting the proposed amendments with the changes discussed below.

II. Description of the Proposed Rule Amendments

Under the proposed amendments, a broker-dealer that is required to maintain minimum net capital of $100,000 or greater as of either December 31, 1997, or December 31, 1998, would have been required to file two reports at specified times with the Commission and its DEA regarding its efforts to address Year 2000 Problems. The first of these reports would have evaluated the efforts of the broker-dealer as of December 31, 1997, and would have been required to be filed no later than 45 days after the Commission adopted the proposed rule amendments. The second report would have evaluated the broker-dealer's efforts as of the date of its financial statements for fiscal year-end 1998. This report would have been required to be filed within 90 days after the date of its fiscal year-end financial statements.

As part of the second report, each reporting broker-dealer would have been required to make assertions about its efforts to prepare for the Year 2000. For example, a broker-dealer would have been required to assert whether or not it has a plan to address Year 2000 Problems. In addition to making the assertions, each reporting broker-dealer would have been required to engage an independent public accountant to attest to whether there was a reasonable basis for the broker-dealer's assertions.[6]

As noted in the Proposing Release, the Commission has advised broker-dealers that if a broker-dealer's computer systems have Year 2000 Problems, the broker-dealer may be deemed not to have accurate and current records and be in violation of Rule 17a–3 under the Exchange Act.[7] The Commission also reminded broker-dealers that Rule 17a–11 under the Exchange Act requires every broker-dealer to promptly notify the Commission of its failure to make and keep current books and records.[8]

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[1] 17 CFR 240.17a–5. Rule 17a–5 was adopted by the Commission pursuant to authority under Section 17 of the Exchange Act [15 U.S.C. 78q], and particularly Section 17(e) [15 U.S.C. 78q(e)], which requires every broker- dealer to file annually with the Commission a certified balance sheet and income statement, and such officer information concerning its financial condition as the Commission may prescribe.

[2] Release Nos. 34–39724; IC–23059; IA–1704, (March 5, 1998), 63 FR 12056 (March 12, 1998) ("Proposing Release").

[3] The Proposing Release defined the term "Year 2000 Problem" to include any erroneous result caused by any computer software (i) incorrectly reading the date "01/01/00" or any year thereafter; (ii) incorrectly identifying a date in the year 1999 or any year thereafter; (iii) failing to detect that the Year 2000 is a leap year, and (iv) any other computer error that is directly or indirectly related to (i), (ii), or (iii) above.

[4] All comment letters are available in File No. S7–7–98 at the Commission's Public Reference Room, 450 Fifth Street, NW, Washington, DC 20549. The comment period closed on April 27, 1998. *See also* Release Nos. 34-39858; IC–23112; IA–1716 (extending the comment period from April 13, 1998 to April 27, 1998).

[5] Of the 35 comment letters received, five were opposed to any additional regulatory requirements.

[6] The broker-dealer's assertions and the related accountant's attestation report would have been required to be filed only with the second report.

[7] 17 CFR 240.17a–3.

III. Discussion of Final Rule Amendments

A. Reporting Threshold

In the Proposing Release, the Commission proposed the $100,000 minimum net capital reporting threshold because broker-dealers subject to this minimum net capital level are likely to have substantial financial exposure to the market and to customers. This threshold would have required all dealers, market makers, and clearing firms to file the Year 2000 reports.

Several commenters, including the National Association of Securities Dealers ("NASD"), expressed concern about the proposed net capital threshold because that threshold excludes nearly 72% of all registered broker-dealers from reporting on their efforts to address Year 2000 Problems.[9] These commenters stated that the Commission's proposal does not gather adequate information regarding the risks posed by the Year 2000 because the proposed threshold would exclude many firms that execute thousands of transactions each trading day effecting thousands of customers, market makers, and dealers. These commenters argued that the failure on the part of a large number of excluded broker-dealers to adequately prepare for the Year 2000 could have negative systemic effects on the world's financial markets.

While mindful of the burden on small broker-dealers, the Commission is addressing this comment by requiring each broker-dealer with a minimum net capital requirement of $5,000 or greater to file reports with the Commission and with its DEA that discuss its efforts to address Year 2000 Problems. Broker-dealers that have a minimum net capital requirement of less than $100,000 will only be required to file a less burdensome check-the-box style Year 2000 report. Broker-dealers that meet a $100,000 minimum net capital reporting threshold will be required to file, in addition to the check-the-box report, a more detailed narrative discussion of their Year 2000 efforts. The format for broker-dealers to report on their efforts to address Year 2000 Problems is discussed in more detail in paragraph III.F. below.

B. Attestation Requirement

The Proposing Release would have required each broker-dealer to have an independent public accountant attest to several specific assertions included in the second Year 2000 report. The Commission believed it was important to have an independent third party affirm that there was a reasonable basis supporting the broker-dealer's assertions.

As proposed, each broker-dealer would have been required to assert:

(1) whether it has developed written plans for preparing and testing its computer systems for potential Year 2000 Problems;

(2) whether the board of directors, or similar body, has approved these plans, and whether a member of the broker-dealer's board of directors, or similar body, is responsible for executing the plans;

(3) whether its Year 2000 remediation plans address all domestic and international operations, including the activities of its subsidiaries, affiliates, and divisions;

(4) whether it has assigned existing employees, hired new employees, or engaged third parties to execute its Year 2000 remediation plans; and

(5) whether it has conducted internal and external testing of its Year 2000 solutions and whether the results of those tests indicate that the broker-dealer has modified its software to correct Year 2000 problems.

The American Institute of Certified Public Accountants ("AICPA") commented that the required attestation report would be difficult for independent public accountants to provide. The AICPA said that some of the required broker-dealer assertions are not appropriate for accountant attestation because the assertions are not capable of reasonably consistent measurement against reasonable criteria. Currently, there are no established criteria related to Year 2000 remediation efforts. The lack of established criteria would likely result in significant variation in the examination procedures performed by independent public accountants and thus reduce the usefulness of the attestation reports. In addition, the AICPA expressed concern that the purpose and conclusions of the attestation report could be misunderstood. The AICPA was primarily concerned that uninformed users of the attestation reports would place undue reliance on them.

The AICPA suggested that an "agreed-upon procedures" engagement, instead of an attestation engagement, would more effectively meet the Commission's goals. Pursuant to such an engagement, a broker-dealer would engage an independent public accountant to perform and report on specific procedures designed to meet the Commission's objectives. This would eliminate the variability of examination procedures performed by independent public accountants and thus increase the consistency of the reports received by the Commission. The AICPA's letter outlined elements of an agreed-upon procedures report and offered to follow-up with the Commission staff regarding the development of specific procedures for a Year 2000 engagement.

The Commission is deferring consideration of whether to adopt a requirement that the second report be evaluated by an independent public accountant. The Commission, however, will consider such a requirement if the accounting industry recommends a standard which can be used by public accountants in connection with the second report.[10]

C. Public Availability

The proposed rules would have made a broker-dealer's Year 2000 reports, including the attestation by the independent public accountant, available to the public. The Commission recognizes commenters' concerns that some users of these reports could place undue reliance on the reports, the technical nature of the reports could confuse investors, detailed testing reports could be misleading and unnecessarily alarming, and the reports could contain confidential proprietary information.

However, the Commission believes that the public's interest is best served by requiring full and open disclosure. Allowing the public, particularly other broker-dealers and counterparties, to have access to the information reported by broker-dealers will enable interested persons to assess the Year 2000 readiness of a broker-dealer with which they are doing business. For example, after receiving a counterparty's report, another broker-dealer might request additional information or assurances if the counterparty does not appear to be taking the steps necessary to be Year 2000 compliant. In the absence of such assurances, the other broker-dealer could determine whether it wishes to

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[8] 17 CFR 240.17a–11(d).

[9] As explained in the Proposing Release, under the proposed $100,000 net capital threshold, approximately 5,600 out of 7,800 registered broker-dealers would be exempt from the Year 2000 reporting requirements.

[10] In light of the AICPA's comment letter and ongoing efforts, in a companion release also issued today the Commission is re-opening the comment period with respect to the proposal to have an independent public accountant review a broker-dealer's second Year 2000 report. The public file (No. S7–7–98) will include both the AICPA's original comment letter and any follow-up letter submitted by the AICPA for the Commission's consideration.

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continue its dealings with that broker-dealer.

Accordingly, the final rule provides that these reports will be available to the public.

D. Timing

The Proposing Release established as-of dates and due dates for the reports broker-dealers were required to file.[11] Some commenters explained that, in the absence of an existing requirement to make and retain records detailing Year 2000 remediation efforts as of December 31, 1997, the information to prepare the reports may not be available. In addition, several commenters stated that reporting Year 2000 status as of December 31, 1997 would provide data that is outdated and misleading. Finally, some broker-dealers commented that they have fiscal years that end in mid to late 1998, and that the proposed due dates and as-of-dates for the first and second reports would have required some broker-dealers to file their reports virtually back-to-back.

The rule adopted by the Commission today requires a broker-dealer to file its first report with the Commission and its DEA by August 31, 1998. This report should reflect the status of the broker-dealer's Year 2000 efforts as of July 15, 1998. The second report must be filed with the Commission and the broker-dealer's DEA by April 30, 1999, and should reflect the status of the broker-dealer's Year 2000 efforts as of March 15, 1999.

The rule adopted today also requires new broker-dealers who register as a broker-dealer between July 16, 1998 and December 31, 1998, to file with the Commission and its DEA no later than 30 days after its registration becomes effective the first report on its Year 2000 compliance as of the date of its registration. In addition, the rule also requires new broker-dealers who register as a broker-dealer between March 16, 1999 and October 1, 1999, to file with the Commission and its DEA no later than 30 days after its registration becomes effective a report on its Year 2000 compliance as of the date of its registration.[12]

E. Reporting Requirements

As previously discussed, the Proposing Release would have required each reporting broker-dealer to discuss the steps it has taken to address Year 2000 Problems. More specifically, each broker-dealer would have been required to (i) indicate whether its board of directors, or similar body, has approved and funded written Year 2000 remediation plans that address all major computer systems; (ii) describe its Year 2000 staffing efforts, and the work performed by Year 2000 dedicated staff;[13] (iii) discuss its progress on each stage of preparation for the Year 2000;[14] (iv) indicate if it has written contingency plans to deal with Year 2000 problems that may occur;[15] and (v) identify what levels of management are responsible for Year 2000 remediation efforts.

The Securities Industry Association ("SIA") suggested some changes to the specific reporting requirements to better clarify the information sought by the Commission. For example, the Proposing Release would have required broker-dealers to discuss the work performed by Year 2000 dedicated staff on an individual basis. In addition, broker-dealers would have been required to identify the levels of management involved in the Year 2000 efforts, discuss the specific responsibilities of these managers, and provide an estimate of the time they have spent on Year 2000 efforts. The SIA explained that these proposed requirements may be very burdensome. Fixing Year 2000 problems may require the dedicated efforts of a significant number of employees and consultants. In addition, the tasks and responsibilities involved may be detailed, extensive, and constantly changing.

The proposed rule also would have required broker-dealers to report the number and nature of the exceptions resulting from both internal and integrated testing of software designed to avoid Year 2000 Problems. The SIA commented that this requirement would likely provide meaningless information. The SIA explained that testing software is a dynamic process that in many instances requires exceptions to be identified hourly, daily, and weekly. In addition, identified exceptions may be immediately addressed, causing new exceptions to emerge. This process may repeat itself many times before testing is finished. Consequently, by the time the Commission received the Year 2000 reports, the exceptions discussed in them may have been addressed and new exceptions identified.

The Commission agrees that some modification of the reporting requirements is warranted. The rule adopted today requires each broker-dealer completing the narrative portion of Form BD–Y2K to provide a summary of the efforts of Year 2000 dedicated individuals or groups of individuals. The broker-dealer will not have to provide an estimate of the time that its management has spent on Year 2000 efforts. Finally, the broker-dealer must report the number and description of material exceptions identified during the internal and external testing of its software that are unresolved as of the report date. The Commission is leaving the determination of what constitutes a material exception to the broker-dealer's judgment.

F. Report Format

The Proposing Release would have required each broker-dealer meeting the $100,000 minimum net capital threshold to discuss, in narrative format, its efforts to address Year 2000 Problems. The National Association of Securities Dealers Regulation, Inc. ("NASDR") commented that the Commission should prescribe a format for a broker-dealer to use when reporting on its Year 2000 efforts. More specifically, the NASDR suggested that the Commission prescribe an objective reporting format, such as a check-the-box questionnaire. The NASDR explained that an open narrative format may lead to great disparity in the nature and detail of the reports that broker-dealers would submit. Providing a reporting format would produce consistent results, improve the accuracy and comparability of reports received, and reduce the time required to summarize, track, analyze, and report the information received.

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[11] The first of these reports would have evaluated the efforts of broker-dealers as of December 31, 1997, and would have been required to be filed no later than 45 days after the Commission adopted the proposed rule amendments. The second report would have evaluated broker-dealer efforts as of the date of their financial statements for fiscal year-end 1998. This report would have been required to be filed within 90 days after the date of their financial statements.

[12] New broker-dealers who register between January 1, 1999 and March 15, 1999, are required to file a report on their Year 2000 efforts no later than April 30, 1999. This report should reflect their Year 2000 efforts as of March 15, 1999.

[13] This includes whether the broker-dealer has assigned existing employees, hired new employees, or engaged third parties to provide assistance in avoiding Year 2000 Problems.

[14] These stages are: (i) awareness of potential Year 2000 Problems; (ii) assessment of what steps must be taken to avoid Year 2000 Problems; (iii) implementation of the steps needed to avoid Year 2000 Problems; (iv) internal testing of software designed to avoid Year 2000 Problems; (v) integrated or industry-wide testing of software designed to avoid Year 2000 Problems (including testing with other broker-dealers, other financial institutions, customers, and vendors); and (vi) implementation of tested software that will avoid Year 2000 Problems.

[15] Contingency planning should provide for adequate protections to ensure the success of critical systems if interfaces fail or unexpected problems are experienced with operating systems and infrastructure software. In addition, contingency plans should provide for the failure of external systems that interact with the broker-dealer's computer system. For example, contingency plans should anticipate the failure of a vendor that services mission critical applications and should provide for the potential that a significant customer experiences difficulty due to Year 2000 problems.

The Commission recognizes the value of receiving the requested information in an objective format and that prescribing such a format would decrease the burden that the Year 2000 reporting requirements impose on broker-dealers. However, the Commission also is concerned that limiting the reporting requirements to a check-the-box format for broker-dealers that pose the greatest risk to customers and the market will not provide the Commission or the DEAs sufficient information to effectively review for Year 2000 compliance.

The rule the Commission adopts today requires each broker-dealer with a minimum net capital requirement of $5,000 or greater to file with the Commission and its DEA Part I of a new Form BD–Y2K.[16] Part I of Form BD–Y2K is a check-the-box Year 2000 report that generally addresses the same issues the proposed narrative discussion addresses. Each broker-dealer that is required to maintain net capital of $100,000 or greater will be required to file Part II of Form BD–Y2K, which requires a narrative discussion of its efforts to address Year 2000 Problems. The narrative discussion is designed to provide the Commission and the DEA's with additional information on the Year 2000 efforts of those broker-dealers who pose the greatest risk to customers and the market if they are not Year 2000 compliant.

Copies of Form BD–Y2K are available in Commission's Public Reference Room located at 450 Fifth Street, NW, Washington, DC 20549 or copies can be obtained from the Commission's internet web site at the following address: www.sec.gov.

IV. Costs and Benefits of the Rules and Their Effects on Competition, Efficiency, and Capital Formation

Section 23(a) of the Exchange Act[17] requires the Commission, in adopting rules under the Exchange Act, to consider the competitive effects of such rules and to not adopt a rule that would impose a burden on competition not necessary or appropriate in furthering the purposes of the Exchange Act. Furthermore, Section 3(f) of the Exchange Act[18] provides that whenever the Commission is engaged in rulemaking and is required to consider or determine whether an action is necessary or appropriate in the public interest, the Commission also shall consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation.

The Commission has considered the amendments to Rule 17a–5 in light of the standards cited in Sections 3 and 23 (a)(2) of the Exchange Act. In the Proposing Release, the Commission requested that commenters provide analysis and data supporting the costs and benefits of the proposed amendments. In addition, the Commission sought comments on the proposed amendments' effect on competition, efficiency, and capital formation.

Several commenters indicated that the Commission's cost estimates were too low. However, no commenters provided detailed information or data as to the costs of the proposed amendments. One commenter addressed the issue of whether the proposed amendments would affect competition. Finally, no comments were received regarding the proposed amendments effect on efficiency and capital formation.

A. Cost Benefit Analysis

Based on comments received, the Commission has revised the proposed amendments the result of which is to lower the aggregate cost of compliance with the rule. As discussed above, the Commission is adopting new Form BD–Y2K and is expanding the requirement that a broker-dealer report on its Year 2000 efforts to each broker-dealer with a minimum net capital requirement of $5,000 or greater. Each of these broker-dealers is required to file Part I of Form BD–Y2K, a check-the-box Year 2000 report. Each broker-dealer that meets the $100,000 minimum net capital reporting threshold is required to also complete Part II of Form BD–Y2K.

The Commission is also deferring consideration of whether to require broker-dealers to engage independent public accountants to examine their efforts to address Year 2000 Problems. The Commission is allowing broker-dealers to summarize by group the efforts of Year 2000 dedicated individuals as opposed to requiring individual descriptions of these people's efforts. Broker-dealers will not have to provide an estimate of the time management has spent on Year 2000 efforts. Finally, broker-dealers are only required to report the number and description of unresolved material exceptions identified during the internal and external testing of their software.

Based on field testing of Part I of Form BD–Y2K conducted by the Office of Compliance Inspections and Examinations, the Commission estimates that on average a broker-dealer will spend approximately two hours completing Part I of Form BD–Y2K resulting in a total cost to the industry of $2,400,000.[19] This is based on 6,000 respondents spending four hours at $100 per hour preparing two reports consisting of Part I of Form BD–Y2K. The Commission estimates that on average a broker-dealer will spend 35 hours completing Part II of Form BD–Y2K resulting in a total cost to the industry of $15,400,000. This is based on 2,200 broker-dealers spending 70 hours at $100 per hour preparing two reports consisting of Part II of Form BD–Y2K. Therefore, based upon the adjustments to the proposed rule, the Commission has revised its cost to the industry to a total of $17,800,000 ($2,400,000 + $15,400,000). It is important to note that this is a total cost estimate and not an annual cost. Broker-dealers will only be required to prepare and file two Form BD–Y2Ks.

No commenters addressed the potential benefits of the amendments, and the Commission has not been able to quantify those benefits. However, the Commission believes that the benefits will outweigh the costs. The Commission is aware of the significant effort the securities industry has put forth and the progress it has made but believes that significant progress still needs to be made by the securities industry to be ready for the Year 2000.

The Commission does not yet have comprehensive information regarding the readiness of the broker-dealer industry for the Year 2000. Although the NASD and the NYSE have conducted surveys of their members, not all members responded to the survey and some of those who did submitted incomplete responses. It is important for the Commission to obtain complete information from individual broker-dealers to permit the Commission and Self Regulatory Organizations ("SROs") to assess the risks associated with firms that fail to show adequate Year 2000 progress. Moreover, the Commission believes that a regulatory requirement to file Year 2000 reports should encourage broker-dealers to proceed expeditiously with their efforts to prepare for the Year 2000. The Commission will use the reported information to obtain a more complete understanding of the industry's overall Year 2000 preparations and to identify firm-specific and industry-wide problems. Information in the reports will help the

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[16] For a copy of Form BD–Y2K see Attachment A.

[17] 15 U.S.C. 78w (a)(2).

[18] 15 U.S.C. 78c.

[19] Field tests of Part I of Form BD–Y2K indicated that it could be completed in as little as 30 minutes. However, the Commission believes that it may take longer for some broker-dealers to complete Part I of Form BD–Y2K.

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Commission focus its Year 2000-related efforts for the rest of 1998 and 1999 on particular industry segments or firms that appear to pose the greatest risk of non-compliance.

In sum, the rule amendments will enable the Commission to take a more active role in reducing the Year 2000 risk to the securities industry. The reports broker-dealers will be required to file will enable the Commission and the SROs to (i) better monitor the industry's Year 2000 readiness; (ii) increase broker-dealer awareness that they should be aggressively preparing for the Year 2000; (iii) coordinate industry-wide testing, implementation, and contingency planning; and (iv) enable the Commission to identify potential compliance problems.

B. Efficiency, Competition, and Capital Formation

In the Proposing Release, the Commission stated that the proposed amendments should not unduly burden competition. One commenter addressed the proposed amendment's effect on competition. This commenter stated that the proposed amendments could have an anticompetitive effect because the amendments exclude nearly 72% of registered broker-dealers from having to report on their efforts to address Year 2000 Problems.

The Commission has drafted the rule amendments so as to minimize their impact on competition. As discussed above, the Commission adjusted the proposed amendments to require each broker-dealer with a minimum net capital requirement of $5,000 or greater to report on its Year 2000 efforts in order to gather adequate information regarding the industry-wide risks posed by the Year 2000 Problem. However, the Commission has structured the form of the report to differentiate between broker-dealers based upon their size, type of business, and relative risk they pose to customers and the market if they are not Year 2000 compliant. Broker-dealers that do not meet the $100,000 minimum net capital reporting threshold are only required to file the Year 2000 report. Broker-dealers that meet the $100,000 minimum net capital reporting threshold are required to provide additional information. The Commission believes that the proposed amendments do not impose any burden on competition not necessary or appropriate in furtherance of the Exchange Act.

The Commission believes that the amendments should increase the efficiency and effectiveness of the industry's efforts to prepare for the Year 2000 by increasing awareness, focusing industry efforts, and providing critical information for identifying and remedying problems. In addition, the Commission believes that the amendments do not adversely affect capital formation. However, failure on the part of the securities industry to adequately prepare for the Year 2000 could adversely affect capital formation at the beginning of the next millennium.

V. Summary of Final Regulatory Flexibility Analysis

A final Regulatory Flexibility Analysis ("FRFA") concerning the amendments to Rule 17a–5 has been prepared in accordance with the provisions of the Regulatory Flexibility Act ("RFA"), as amended by Pub. L. 104–121, 110 Stat. 847, 864 (1996), 5 U.S.C. 604. The FRFA notes that the amendments to Rule 17a–5 will enable the Commission to (i) monitor the steps broker-dealers are taking to address Year 2000 Problems; (ii) increase broker-dealer awareness that they should be taking specific steps now to prepare for the Year 2000; (iii) facilitate coordination with SROs on industry-wide testing, implementation, and contingency planning; and (iv) supplement the Commission's examination module for Year 2000 issues.

The Commission received no comments on the Initial Regulatory Flexibility Analysis ("IRFA") prepared in connection with the proposing release, and no comment letters specifically addressed the IRFA. However, as discussed in paragraphs III.A and IV.A above, certain commenters expressed concern about the threshold for determining which broker-dealers are required to report on their efforts to prepare for the Year 2000, and the estimated costs associated with obtaining the independent public accountant's attestation.

As discussed more fully in the FRFA, the rule will affect small entities. When used with reference to a broker or dealer, the Commission has defined the term "small entity" to mean a broker or dealer ("small broker-dealer") that: (1) had total capital (net worth plus subordinated liabilities) of less than $500,000 on the date in the prior fiscal year as of which its audited financial statements were prepared pursuant to section 240.17a–5(d) or, if not required to file such statements, a broker or dealer that had total capital (net worth plus subordinated liabilities) of less than $500,000 on the last business day of the preceding fiscal year (or in the time that it has been in business, if shorter); and (2) is not affiliated with any person (other than a natural person) that is not a small business or small organization as defined in this release.[20]

Based on FOCUS data for the fourth quarter of 1996, the latest information available, the Commission estimates that there are approximately 5,300 small broker-dealers. Of these 5,300 small broker-dealers, approximately 3,800 are affected by the amendments to Rule 17a–5.[21]

The Commission has drafted the rule amendments so as to minimize their impact on small broker-dealers while enhancing investor protection and minimizing any impact on competition, in part, by adopting different reporting requirements to take into account the resources available to small broker-dealers. The rule amendments require broker-dealers with a minimum net capital requirement of $5,000 or greater to report on their efforts to address Year 2000 problems. However, approximately 1,500 small broker-dealers who do not have a minimum net capital requirement are exempt from reporting on their Year 2000 efforts. In addition, the Commission has adopted two reporting formats for broker-dealers to use when reporting on their efforts to prepare for the Year 2000.

Of the 3,800 small broker-dealers required to report on their Year 2000 efforts, approximately 3,200 (84%) are only required to file a check-the-box style Year 2000 report. As noted in the cost-benefit section above, the Commission estimates that it would take each of these broker-dealers approximately 2 hours to complete the check-the-box Year 2000 report. The remaining 600 (16%) small broker-dealers are required to provide, in addition to the check-the-box style report, a more extensive narrative discussion of their Year 2000 efforts because the type of business that these broker-dealers conduct poses a greater risk to customers and the market if they are not Year 2000 compliant. Thus, by adopting different reporting requirements and by exempting those broker-dealers who do not have a minimum net capital requirement, the Commission has imposed no burden, or only a very limited burden, on approximately 4,700 (89%) small broker-dealers.

The FRFA notes that it would be difficult to further simplify, consolidate, or adjust compliance standards for small broker-dealers and be able to effectively monitor the securities industry's efforts to prepare for the Year 2000. The Commission believes that the alternative reporting requirement adopted for small broker-dealers strikes the appropriate balance between the need to protect investors and the need to minimize the impact on small broker-dealers. The Commission also considered the use of performance rather than design standards. However, the Commission concluded that it would be inconsistent with the purpose of the rule to use performance standards to specify different requirements for small entities.

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[20] 17 CFR 240.0–10(c).

[21] The proposed rule amendments would have affected approximately 600 small broker-dealers. The reasons for expanding the Year 2000 reporting requirements are discussed in paragraph III.A. above.

A copy of the FRFA may be obtained by contacting Christopher M. Salter, Staff Attorney, U.S. Securities and Exchange Commission, Mail stop 10–1, 450 Fifth Street, NW., Washington, DC 20549.

VI. Paperwork Reduction Act

As set forth in the Proposing Release, the amendments to Rule 17a–5 contain collections of information within the meaning of the Paperwork Reduction Act of 1995 ("PRA").[22] Accordingly, the collection of information requirements were submitted to the Office of Management and Budget ("OMB") for review and were approved by OMB which assigned the following control number 3235–0511.

The Proposing Release solicited comments on the proposed collections of information. No comments were received that specifically addressed the PRA submission. However, as discussed in sections III. and IV. above, the Commission received suggestions that would improve the collections of information. Based upon these suggestions, the collections of information have been adjusted as described in sections III. above and are in accordance with Section 3507 of the PRA.[23] These adjustments include the adopting of two reporting formats to increase the consistency, accuracy and comparability of the information collected. In addition, the adjustments will reduce the time required to summarize, track, analyze, and report the information received.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the agency displays a valid OMB control number. Broker-dealers are required to comply with the collection of information pursuant to the amendments to Rule 17a–5 and the information is necessary to provide the Commission with a better understanding of the security industry's readiness for the Year 2000. The information collected pursuant to the amendments to Rule 17a–5 will be public.

Based upon the adjustments to the amendments, the Commission is adjusting its burden estimate. The Commission estimated in the Proposing Release that, on average, a broker-dealer would spend 70 hours preparing the Year 2000 report and obtaining the independent public accountant's Attestation. The Commission estimates that under the final amendments, a broker-dealer will, on average, spend two hours preparing Part I of Form BD–Y2K and 35 hours preparing Part II of Form BD–Y2K. The total annualized burden to the securities industry is estimated to be 89,000 hours. This is based on 6,000 respondents spending two hours preparing Part I and 2,200 respondents spending 35 hours preparing Part II of Form BD–Y2K.

VII. Statutory Analysis

Pursuant to the Securities Exchange Act of 1934 and particularly Sections 17(a) and 23(a) thereof, 15 U.S.C. 78o(c)(3) and 78w, the Commission is adopting amendments to § 240.17a–5 of Title 17 of the Code of Federal Regulations in the manner set forth below.

List of Subjects in 17 CFR Parts 240 and 249

Broker-dealers, Reporting and recordkeeping requirements, Securities.

Text of Final Rule

In accordance with the foregoing, Title 17, chapter II, part 240 of the Code of Federal Regulations is amended as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934.

1. The authority citation for part 240 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z-2, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78f, 78i, 78j, 78j-1, 78k, 78k-1, 78*l*, 78m, 78n, 78o, 78p, 78q, 78s, 78u-5, 78w, 78x, 78*ll*(d), 78mm, 79q, 79t, 80a-20, 80a-23, 80a-29, 80a-37, 80b-3, 80b-4 and 80b-11, unless otherwise noted.

* * * * *

2. By amending § 240.17a-5 by adding paragraph (e)(5) to read as follows:

§ 240.17a-5 Reports to be made by certain brokers and dealers.

* * * * *

(e) *Nature and form of reports.* * * *

(5)(i) For purposes of this section, the term *Year 2000 Problem* shall include problems arising from:

(A) Computer software incorrectly reading the date "01/01/00" as being the year 1900 or another incorrect year;

(B) Computer software incorrectly identifying a date in the Year 1999 or any year thereafter;

(C) Computer software failing to detect that the Year 2000 is a leap year; or

(D) Any other computer software error that is directly or indirectly caused by the problems set forth in paragraph (e)(5)(i)(A), (B), or (C) of this section.

(ii) (A) No later than August 31, 1998, every broker or dealer required to maintain minimum net capital pursuant to § 240.15c3–1(a)(2) of $5,000 or greater as of July 15, 1998, shall file Part I of Form BD–Y2K (§ 249.618 of this chapter) prepared as of July 15, 1998, and no later than April 30, 1999, every broker or dealer required to maintain minimum net capital pursuant to § 240.15c3–1(a)(2) of $5,000 or greater as of March 15, 1999, shall file Part I of Form BD–Y2K prepared as of March 15, 1999.

(B) Every broker or dealer that registers pursuant to section 15 of the Act between July 16, 1998 and December 31, 1998 or between March 16, 1999 and October 1, 1999, and that is required to maintain net capital pursuant to § 240.15c3–1(a)(2) of $5,000 or greater, shall file Part I of Form BD–Y2K (§ 249.18 of this chapter) no later than 30 days after its registration becomes effective. Part I of Form BD–Y2K shall be prepared as of the date its registration became effective.

(iii)(A) No later than August 31, 1998, every broker or dealer with a minimum net capital requirement pursuant to § 240.15c3–1(a)(2) of $100,000 or greater as of July 15, 1998 shall file Part II of Form BD–Y2K (§ 249.618 of this chapter). Part II of Form BD–Y2K shall address each topic in paragraph (e)(5)(iv) of this section as of July 15, 1998.

(B) No later than April 30, 1999, every broker or dealer with a minimum net capital requirement pursuant to § 240.15c3–1(a)(2) of $100,000 or greater as of March 15, 1999 shall file Part II of Form BD–Y2K (§ 249.618 of this chapter). In addition, each broker or dealer subject to paragraph (e)(5)(iii)(A) of this section shall file Part II of Form BD–Y2K pursuant to this paragraph (e)(5)(iii)(B) regardless of its minimum net capital requirement. Part II of Form BD–Y2K shall address each topic in paragraph (e)(5)(iv) of this section as of March 15, 1999.

(C) Every broker or dealer that registers pursuant to section 15 of the Act between July 15, 1998 and December 31, 1998 or between March

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[22] 44 U.S.C. 3501 *et seq.*

[23] 44 U.S.C. 3507.

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16, 1999 and October 1, 1999, and that is required to maintain net capital pursuant to § 240.15c3–1(a)(2) of $100,000 or greater, shall file Part II of Form BD–Y2K (§ 249.18 of this chapter) no later than 30 days after registration becomes effective. Part II of Form BD–Y2K shall address each topic in paragraph (e)(5)(iv) of this section as of the effective date of its registration.

(iv) Part II of Form BD–Y2K (§ 249.618 of this chapter) prepared pursuant to paragraph (e)(5)(iii) of this section shall identify a specific person or persons that are available to discuss the contents of the report and shall include a discussion of the following:

(A) Whether the board of directors (or similar body) of the broker or dealer has approved and funded plans for preparing and testing its computer systems for Year 2000 Problems;

(B) Whether the plans of the broker or dealer exist in writing and address all mission critical computer systems of the broker or dealer wherever located throughout the world;

(C) Whether the broker or dealer has assigned existing employees, hired new employees, or engaged third parties to provide assistance in addressing Year 2000 Problems, and if so, a description of the work that these groups of individuals have performed as of the date of each report;

(D) The current progress of the broker or dealer on each stage of preparation for potential problems caused by Year 2000 Problems. These stages are:

(1) Awareness of potential Year 2000 Problems;

(2) Assessment of what steps the broker or dealer must take to address Year 2000 Problems;

(3) Implementation of the steps needed to address Year 2000 Problems;

(4) Internal testing of software designed to address Year 2000 Problems, including the number and a description of the material exceptions resulting from such testing that are unresolved as of the reporting date;

(5) Point-to-point or industry-wide testing of software designed to address Year 2000 Problems (including testing with other brokers or dealers, other financial institutions, and customers), including the number and a description of the material exceptions resulting from such testing that are unresolved as of the reporting date; and

(6) Implementation of tested software that will address Year 2000 Problems;

(E) Whether the broker or dealer has written contingency plans in the event, that after December 31, 1999, it has problems caused by Year 2000 Problems;

(F) What levels of management of the broker or dealer are responsible for addressing potential problems caused by Year 2000 Problems, including a description of the responsibilities for each level of management regarding the Year 2000 Problems;

(G) Any additional material information concerning its management of Year 2000 Problems that will help the Commission and the designated examining authorities assess the readiness of the broker or dealer for the Year 2000.

(v) The broker or dealer shall file an original and two copies of Form BD–Y2K (§ 249.618 of this chapter) prepared pursuant to paragraph (e)(5) of this section with the Commission's principal office in Washington, D.C. and one copy of Form BD–Y2K with the designated examining authority of the broker or dealer. The reports required by paragraph (e)(5) of this section shall be public.

* * * * *

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

3. The authority citation for part 249 continues to read in part as follows:

Authority: 15 U.S.C. 78a, *et seq.*, unless otherwise noted;

* * * * *

4. By adding § 249.618 and Form BD–Y2K to read as follows.

§ 249.618 Form BD–Y2K, information required of broker-dealers pursuant to section 17 of the Securities Exchange Act of 1934 and § 240.17a–5 of this chapter.

This form shall be used by every broker-dealer required to file reports under § 240.17a–5(e) of this chapter.

Note: Form BD–Y2K does not appear in the *Code of Federal Regulations.* Form BD–Y2K is attached as Appendix A to this document.

By the Commission.

Dated: July 2, 1998.

Margaret H. McFarland,

Deputy Secretary.

BILLING CODE 8010-01-P

Appendix A

OMB Number:	3235-0511
Expires	12/31/1999
Estimated Average Burden Hours per response	2

FORM BD-Y2K

Cover Page
United States
Securities and Exchange Commission
Mail Stop A-2
450 5th Steet, N.W.
Washington, DC 20549

Name of Broker-Dealer: ________________________
SEC File No: _______________
CRD File No: _______________

Address of Principal Place of Business (Do Not Use P.O. Box No.):

____

____

____

Contact Person Responsible for Filling Out This Form (Please provide your business address and phone number):

Name: __________________

Title: __________________

Phone: __________________

Address: __________________

____

____
Signature

____
Title

Attention: Intentional misstatements or omissions of fact constitutes Federal Criminal Violations (See 18 U.S.C. 1001 and 15 U.S.C. 78ff(a))

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GENERAL INSTRUCTIONS

These instructions are considered an integral part of Form BD-Y2K.

Form BD-Y2K is divided into two parts. As discussed below, Part I applies to each broker or dealer with a minimum net capital requirement of $5,000 or greater. Part II applies to only those brokers or dealers with a minimum net capital requirement of $100,000 or greater.

An original and two copies of each Form BD-Y2K must be filed with the Commission's principal office at mail stop A-2, 450 5th Street, N.W., Washington, D.C. 20549, and one copy of each Form BD-Y2K must be filed with the designated examining authority of the broker or dealer.

The original Form BD-Y2K that is required to be filed with the Securities and Exchange Commission ("Commission") must be manually signed. If the broker or dealer is a sole proprietorship, the signature shall be made by the proprietor; if a partnership, by a general partner; or if a corporation, by the Chief Executive Officer, or if not available, by any person authorized to act on behalf of the broker or dealer.

For the purposes of this Form BD-Y2K, the term "Year 2000 Problem" includes any erroneous result caused by computer software (i) incorrectly reading the date "01/01/00" or any year thereafter; (ii) incorrectly identifying a date in the year 1999 or any year thereafter; (iii) failing to detect that the Year 2000 is a leap year; and (iv) any other computer error that is directly or indirectly related to the problems set forth in (i), (ii), or (iii) above.

PART I

Pursuant to section 240.17a-5(e)(5)(ii)(A), no later than August 31, 1998, every broker or dealer required to maintain minimum net capital of $5,000 or greater as of July 15, 1998, pursuant to section 240.15c3-1(a)(2) shall file Part I of Form BD-Y2K prepared as of July 15, 1998, and no later than April 30, 1999, every broker or dealer required to maintain minimum net capital of $5,000 or greater as of March 15, 1999, pursuant to section 240.15c3-1(a)(2) shall file Part I of Form BD-Y2K prepared as of March 15, 1999.

Pursuant to section 240.17a-5(e)(5)(ii)(B), every broker or dealer that registers pursuant to section 15 of the Act between July 16, 1998 and December 31, 1998 or between March 16, 1999 and October 1, 1999, and that is required to maintain net capital pursuant to § 240.15c3-1(a)(2) of $5,000 or greater, shall file Part I of Form BD-Y2K no later than 30 days after its registration becomes effective. Part I of Form BD-Y2K shall be prepared as of the date its registration became effective.

Please do not write explanatory notes next to the questions on the form.

PART II

Pursuant to section 240.17a-5(e)(5)(iii), no later than August 31, 1998, every broker or dealer with a minimum net capital requirement pursuant to section 240.15c3-1(a)(2) of $100,000 or greater as of July 15, 1998, shall file Part II of Form BD-Y2K prepared as of July 15, 1998.

Pursuant to section 240.17a-5(e)(5)(iii), no later than April 30, 1999, every broker or dealer with a minimum net capital requirement pursuant to section 240.15c3-1(a)(2) of $100,000 or greater as of March 15, 1999, and every broker or dealer required to file Part II of Form BD-Y2K as of July 15, 1998 shall file Part II of Form BD-Y2K prepared as of March 15, 1999.

Pursuant to section 240.17a-5(e)(5)(iii), every broker or dealer that registers pursuant to section 15 of the Act between July 15, 1998 and December 31, 1998 or between March 16, 1999 and October 1, 1999, and that is required to maintain net capital pursuant to § 240.15c3-1(a)(2) of $100,000 or greater, shall file Part II of Form BD-Y2K no later than 30 days after registration becomes effective. Part II of Form BD-Y2K shall address each topic in paragraphs (e)(5)(iv) of this section as of the effective date of its registration.

A broker or dealer required to complete Part II of the Form must also complete Part I. Each question should be answered in narrative form, even if your answer covers the same topics included in Part I of this Form.

PAPERWORK REDUCTION ACT DISCLOSURE

Form BD-Y2K requires a broker or dealer to file with the Commission and with its designated examining authority information concerning the broker's or dealer's efforts to address Year 2000 Problems. The form is designed to (i) increase broker-dealer awareness that they should be taking specific steps now to prepare for the Year 2000; (ii) facilitate coordination with self regulatory organizations on industry wide testing, implementation, and contingency planning; (iii) supplement the Commission's examination module for Year 2000 issues; and (iv) provide information regarding the securities industry's preparedness for the Year 2000.

It is estimated that a broker or dealer will spend approximately 2 hours completing Part I of Form BD-Y2K and will spend approximately 35 hours completing Part II of Form BD-Y2K. Any member of the public may direct to the Commission any comments concerning the accuracy of this burden estimate and any suggestions for reducing this burden.

No assurance of confidentiality is given by the Commission with respect to the responses made in the Form BD-Y2K. This filing will be available to the public.

This collection of information has been reviewed by the Office of Management and Budget (OMB) in accordance with the clearance requirements of 44 U.S.C. § 3507. This collection of information has been assigned Control Number 3235-0511 by OMB.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid number. Section 17(a) of the Securities Exchange Act of 1934 authorizes the Commission to collect the information on this Form from registrants. See 15 U.S.C. § 78q.

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PART I

Firm Name ____________________
Firm Address ____________________
SEC File No. ____________________
CRD No. ____________________

1. Year 2000 compliance plan

(a) Do you have a plan for Year 2000 compliance to address whether your computer systems will operate correctly after December 31, 1999?
☐ Yes ☐ No

(b) If not, are you:
☐ Developing a written plan? It is expected to be completed by: MM/DD/YYYY
☐ Not developing a written plan because you do not plan to be conducting business after January 1, 2000? Plan to be out of business by: MM/DD/YYYY
☐ Other (Please specify) ____________________

If you do not have a plan, go to question 2.

(c) Does the plan address external interfaces with third party computer systems that communicate with your systems?
☐ Yes ☐ No

(d) Is your Year 2000 compliance plan in writing?
☐ Yes ☐ No

(e) Who has approved the plan? (Check all that apply)
☐ No approval ☐ Board of Directors ☐ Corporate officers ☐ Executive management ☐ Head of Information Technology ☐ Employees

(f) Has the plan been discussed with your outside auditors?
☐ Yes ☐ No

(g) What is the scope of coverage of the plan? (Check all that apply)
☐ All systems ☐ Mission critical systems ☐ Physical facilities ☐ Communications systems

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(h) Which of your facilities does the plan cover? (Check all that apply)
☐ Our primary facility ☐ Certain U.S. facilities ☐ All U.S. facilities
☐ Certain facilities worldwide ☐ All facilities worldwide
☐ We have no international facilities

(i) Are your activities for non-US clients covered by the plan?
☐ Yes ☐ No ☐ Not Applicable

2. Funding for Year 2000 compliance

(a) Please indicate the month your fiscal year begins. ________________

(b) Has specific funding been allocated for fiscal year 1998, fiscal year 1999, or fiscal year 2000 for your Year 2000 compliance plan?

(i) 1998	☐	Yes	☐	No
(ii) 1999	☐	Yes	☐	No
(iii) 2000	☐	Yes	☐	No

If funding has not been allocated for fiscal year 1999 or fiscal year 2000, mark "no." If you marked "no" for 1998, 1999, and 2000 go to question 3.

(c) What is your specific 1998 fiscal year budget allocation for Year 2000 compliance (including operating and capital expenditures)?
☐ Less than $1,000 ☐ $1,001 - $10,000 ☐ $10,001 - $50,000
☐ $50,001 - $100,000 ☐ $100,001 - $500,000
☐ $500,001 - $1 million ☐ $1-2 million ☐ $2-5 million ☐ $5-10 million
☐ $10-20 million ☐ $20-50 million ☐ $50-100 million ☐ over $100 million

(d) What items are contained in your 1998 budget for Year 2000 compliance? (Check all that apply)
☐ Assessment of the problem ☐ Correction of systems ☐ Replacement of systems
☐ Internal testing ☐ Point-to-point testing (including testing with broker-dealers, custodians, transfer agents, clearing agencies, other service providers, etc.)
☐ Training ☐ SIA industry wide testing ☐ Implementation of contingency plans

If you marked "no" for fiscal year 1999 and fiscal year 2000 in question 2(b), go to question 3.

(e) What is your specific 1999 fiscal year budget allocation for Year 2000 compliance (including operating and capital expenditures)?

☐ Less than $1,000 ☐ $1,001 - $10,000 ☐ $10,001 - $50,000
☐ $50,001 - $100,000 ☐ $100,001 - $500,000
☐ $500,001 - $1 million ☐ $1-2 million ☐ $2-5 million ☐ $5-10 million
☐ $10-20 million ☐ $20-50 million ☐ $50-100 million ☐ over $100 million

(f) What items are contained in your 1999 budget for Year 2000 compliance? (Check all that apply)

☐ Assessment of the problem ☐ Correction of systems ☐ Replacement of systems
☐ Internal testing ☐ Point-to-point testing (including testing with broker-dealers, custodians, transfer agents, clearing agencies, other service providers, etc.)
☐ Training ☐ SIA industry wide testing ☐ Implementation of contingency plans

If you marked "no" for fiscal year 2000 in question 2(b), go to question 3.

(g) What is your specific 2000 fiscal year budget allocation for Year 2000 compliance (including operating and capital expenditures)?

☐ Less than $1,000 ☐ $1,001 - $10,000 ☐ $10,001 - $50,000
☐ $50,001 - $100,000 ☐ $100,001 - $500,000
☐ $500,001 - $1 million ☐ $1-2 million ☐ $2-5 million ☐ $5-10 million
☐ $10-20 million ☐ $20-50 million ☐ $50-100 million ☐ over $100 million

(h) What items are contained in your 2000 budget for Year 2000 compliance? (Check all that apply)

☐ Assessment of the problem ☐ Correction of systems ☐ Replacement of systems
☐ Internal testing ☐ Point-to-point testing (including testing with broker-dealers, custodians, transfer agents, clearing agencies, other service providers, etc.)
☐ Training ☐ SIA industry wide testing ☐ Implementation of contingency plans

3. Persons responsible for Year 2000

(a) Has one or more individuals been designated as responsible for your Year 2000 compliance?

☐ Yes ☐ No

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(b) If yes, please provide the following information on the person primarily responsible:

Name: ____________________
Title: ____________________
Business address: ____________________

4. Staffing for Year 2000

(a) Is this a full-time project for at least one individual (including both employees and consultants)?
☐ Yes ☐ No

(b) If yes, how many individuals are working full time on Year 2000 compliance?
☐ 1 ☐ 2-5 ☐ 6-10 ☐ 11-20 ☐ 21-50 ☐ 51-100 ☐ 101-200 ☐ over 200

(c) Have you hired third parties to assist you on Year 2000 issues?
☐ Yes ☐ No

(d) If yes, what function(s) are the third parties performing? (Check all that apply)
☐ Assessment of the problem ☐ Correction of systems ☐ Replacement of systems
☐ Internal testing ☐ Training ☐ Vendor assessment
☐ Point-to-point testing (including testing with broker-dealers, custodians, transfer agents, clearing agencies, other service providers, etc.)
☐ SIA industry wide testing
☐ Other (Please specify): ____________________

(e) If you have not completed staffing your Year 2000 project, are you?
☐ Defining resources. This will be completed by: MM/DD/YYYY
☐ Unable to find sufficient staffing resources.
☐ Handling the staffing as part of your ongoing business operations.

5. Inventory of systems

(a) Have you inventoried all systems?
☐ Yes ☐ No

(b) What is the nature of the computer systems you utilize? (Check all that apply)
☐ Off the shelf ☐ Vendor provided
☐ In house developed (custom made)
☐ Other (Please specify): ____________________

(c) Have you identified your mission critical systems?
☐ Yes ☐ No

(d) If no, this will be completed by: MM/DD/YYYY

(e) Have you determined which of your mission critical systems are not currently Year 2000 compliant?
☐ Yes ☐ No

6. Awareness of the problem

What steps have you taken to enhance awareness of potential Year 2000 Problems? (Check all that apply)
☐ None to date ☐ Designated individuals for Year 2000 compliance
☐ Presentations to the Board ☐ Presentations to management
☐ Presentations to employees ☐ Contacted third parties
☐ Other (Please specify) ____________________________

7. Progress on preparing mission critical systems for the Year 2000

What is your progress on the following stages of preparation for the Year 2000?

(a) **Assessment** of steps you will take to address Year 2000 Problems with your mission critical systems (including preparing an inventory of computer systems affected by the Year 2000):
☐ 0% complete ☐ 1%-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete
If not completed, assessment expected to be completed by: MM/DD/YYYY

(b) **Implementation** of steps you will take to address Year 2000 Problems with your mission critical systems:
☐ 0% complete ☐ 1%-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete
If not completed, implementation expected to be completed by: MM/DD/YYYY

(c) **Testing of your mission critical internal systems:**
☐ 0% complete ☐ 1%-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete
If not completed, testing expected to be completed by: MM/DD/YYYY

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(d) Did your testing of internal systems result in material exceptions that remain unresolved as of this filing?
☐ Yes ☐ No

(e) Point-to-point testing of your mission critical systems (including testing with other broker-dealers, other financial institutions, customers, and vendors):
☐ 0% complete ☐ 1%-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete
If not completed, testing expected to be completed by: MM/DD/YYYY

(f) Did your point-to-point testing result in material exceptions that remain unresolved as of this filing?
☐ Yes ☐ No

(g) **Implementation** of tested software that addresses Year 2000 Problems with your mission critical systems:
☐ 0% ☐ 1-25% complete ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete
If not completed, implementation expected to be completed by: MM/DD/YYYY

8. Progress on preparing all other systems for the Year 2000

What is your progress on the following stages of preparation for the Year 2000?

(a) **Assessment** of steps you will take to address Year 2000 Problems with your non-critical systems (including preparing an inventory of computer systems affected by the Year 2000):
☐ 0% complete ☐ 1%-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete
If not completed, assessment expected to be completed by: MM/DD/YYYY

(b) **Implementation** of steps you will take to address Year 2000 Problems with your non-critical systems:
☐ 0% complete ☐ 1%-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete
If not completed, implementation expected to be completed by: MM/DD/YYYY

(c) **Testing of your non-critical internal systems:**
☐ 0% complete ☐ 1%-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete
If not completed, testing expected to be completed by: MM/DD/YYYY

(d) Did your testing of internal systems result in material exceptions that remain unresolved as of this filing?
☐ Yes ☐ No

(e) **Point-to-point testing of your non-critical systems (including testing with other broker-dealers, other financial institutions, customers, and vendors):**
☐ 0% complete ☐ 1%-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete
If not completed, testing expected to be completed by: MM/DD/YYYY

(f) Did your point-to-point testing result in material exceptions that remain unresolved as of this filing?
☐ Yes ☐ No

(g) **Implementation** of tested software that address Year 2000 Problems with your non-critical systems:
☐ 0% ☐ 1-25% complete ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete
If not completed, implementation expected to be completed by: MM/DD/YYYY

9. Contingency plans

(a) Do you have a contingency plan for your systems if, after December 31, 1999, you have problems caused by Year 2000 Problems?
☐ Yes ☐ No

(b) If yes, is the contingency plan in writing?
☐ Yes ☐ No ☐ Not Applicable

(c) If not, what is your progress in preparing a contingency plan?
☐ 0% complete ☐ 1-25% ☐ 26-50% ☐ 51-75% ☐ 76-100%

(d) What is the scope of coverage of the contingency plan? (Check all that apply)
☐ No systems ☐ Mission critical systems ☐ Physical facilities
☐ Communications systems ☐ All systems

(e) Who has approved the contingency plan?
(Check all that apply)
☐ No approval ☐ Board of Directors ☐ Corporate officers ☐ Executive management
☐ Head of Information Technology ☐ Employees

10. Third parties (including clearing firms, vendors, service providers, counterparties, etc.) who provide mission critical systems

(a) Have you identified all third parties upon whom you rely for your mission critical systems?
☐ Yes ☐ No

(b) If yes, how many third parties do you rely upon for your mission critical systems?
☐ ___________

(c) What percentage of third parties upon whom you rely for mission critical systems have you contacted regarding their readiness for the Year 2000?
☐ 0% ☐ 1-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ all
If not all, contact expected to be completed by: MM/DD/YYYY

(d) Has any third party upon whom you rely for mission critical systems declined or failed to provide you with assurances that it is taking the necessary steps to prepare for the Year 2000?
☐ Yes ☐ No ☐ Not Applicable

(e) If yes, how many third parties providing mission critical systems have not provided such assurances?
☐ _________

(f) Does your contingency plan account for third parties whose systems may fail after December 31, 1999?
☐ Yes ☐ No ☐ We have no contingency plan

PART II

Firm Name ____________________
Firm Address ____________________
SEC File No. ____________________
CRD No. ____________________

Pursuant to section 240.17a-5(e)(5)(iv), identify a specific person or persons that are available to discuss the contents of this report and please respond to each of the following questions in narrative form. Each question must be answered, even if your answer covers the same topics included in Part I of this Form

(A) Has the broker's or dealer's board of directors (or similar body) approved and funded plans for preparing and testing its computer systems for Year 2000 Problems?

(B) Do the broker's or dealer's plans for preparing and testing its computer systems for Year 2000 Problems exist in writing and do the plans address all mission critical computer systems of the broker or dealer wherever located throughout the world?

(C) Has the broker or dealer assigned existing employees, hired new employees, or engaged third parties to provide assistance in addressing Year 2000 Problems? If so, provide a description of the work that these groups of individuals have performed as of the date of each report.

(D) What is the broker's or dealer's current progress on each stage of preparation for potential problems caused by Year 2000 Problems? These stages are:

(1) Awareness of potential Year 2000 Problems;

(2) Assessment of what steps the broker or dealer must take to address Year 2000 Problems;

(3) Implementation of the steps needed to address Year 2000 Problems;

(4) Internal testing of software designed to address Year 2000 Problems, including the number and a description of the material exceptions resulting from such testing that are unresolved as of the reporting date;

(5) Point-to-point or industry wide testing of software designed to address Year 2000 Problems (including testing with other brokers or dealers, other financial institutions, and customers), including the number and a description of the

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material exceptions resulting from such testing that are unresolved as of the reporting date; and

(6) Implementation of tested software that will address Year 2000 Problems.

(E) Does the broker or dealer have written contingency plans in the event, that after December 31, 1999, it has problems caused by Year 2000 Problems?

(F) What levels of management of the broker or dealer are responsible for addressing potential problems caused by Year 2000 Problems? Provide a description of the responsibilities for each level of management regarding the Year 2000 Problems.

(G) Provide any additional material information concerning the broker's or dealer's management of Year 2000 Problems that will help the Commission and the designated examining authorities assess the readiness of the broker or dealer for the Year 2000.

[FR Doc. 98–18292 Filed 7–10–98; 8:45 am]

BILLING CODE 8010–01–E

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–40163; File No. S7–8–98]

RIN 3235–AH42

Year 2000 Readiness Reports To Be Made by Certain Transfer Agents

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission ("Commission") is adopting Rule 17Ad–18 under the Securities Exchange Act of 1934 ("Exchange Act") to require certain transfer agents to file with the Commission two reports regarding their Year 2000 compliance. The reports will increase transfer agent awareness of the specific steps they should be taking to prepare for the Year 2000; help coordinate industry testing and contingency planning; supplement the Commission's examination module for Year 2000 issues and identify potential Year 2000 compliance problems; and provide information regarding the securities industry's preparedness for the Year 2000. The reports are designed to be available to the public, which will enable issuers and other parties to assess the risks of doing business with a transfer agent that may not be Year 2000 compliant.

EFFECTIVE DATE: August 12, 1998.

FOR FURTHER INFORMATION CONTACT: Jerry W. Carpenter, Assistant Director, 202/942–4187; Thomas C. Etter, Jr., Special Counsel, 202/942–0178; or Jeffrey Mooney, Special Counsel, 202/942–4174, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Mail Stop 10–1, Washington, DC 20549.

SUPPLEMENTARY INFORMATION:

I. Introduction

At midnight on December 31, 1999, unless the proper modifications have been made, the program logic in many of the vast majority of the world's computer systems will start to produce erroneous results because, among other things, the systems will incorrectly read the date "01/01/00" as being January 1 of the year 1900 or another incorrect date. In addition, systems may fail to detect that the Year 2000 is a leap year. Problems also can arise earlier than January 1, 2000, as dates in the next millennium are entered into non-Year 2000 compliant programs. Year 2000 Problems could have negative repercussions throughout the world's financial systems because of the extensive interrelationship and information sharing between U.S. and foreign financial firms and markets.[1]

The Commission views the Year 2000 problem as an extremely serious issue. A failure to assess properly the extent of the problem, remediate systems that are not Year 2000 compliant, and then test those systems could endanger the nation's capital markets and place at risk the assets of millions of investors. In light of this, both transfer agents and the Commission are working hard to address the industry's Year 2000 Problems.

As part of its ongoing efforts relating to the Year 2000 on March 5, 1998, the Commission requested comment on proposed Rule 17Ad–18 that would require transfer agents to file at least one report with the Commission regarding its Year 2000 compliance.[2] The proposed rule noted that transfer agents present special considerations for the Commission because unlike other entities regulated under the Exchange Act transfer agents have no self-regulatory organization ("SRO") to assist them and the Commission in addressing Year 2000 issues.[3] Therefore, the Commission's only information from non-bank transfer agents is directly from the transfer agent themselves.

The Commission received 26 comment letters in response to the proposed rule.[4] The majority of the commenters generally supported the spirit of the Commission's proposed rule with some commenters making suggestions on how they believed one or more aspects of the proposed rule could be improved. However, the majority of commenters objected to the requirement for an independent accountant's report and objected to the Year 2000 reports submitted by the transfer agents and related accountant's report being made available to the public. Based on the comments received, the Commission is adopting the proposed rule with changes discussed below.

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[1] International Organization of Securities Commissions, *Statement of the IOSCO Technical Committee on Year 2000* (1997), available at http://www.iosco.org.

[2] Release No. 34–39726, (March 5, 1998), 63 FR 12062 (March 12, 1998).

[3] SRO is defined in Section 3(a)(26) of the Exchange Act, 15 U.S.C. 78c(a)(26).

[4] All comment letters and a summary of the comments are available in File No. S7–8–98 at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. The comment period closed on April 27, 1998. *See also* Release

II. Description of the Proposed Rule

The Commission proposed Rule 17Ad–18 to require non-bank transfer agents to file at least one report with the Commission regarding their Year 2000 compliance. Under the proposed rule, a non-bank transfer agent was a transfer agent whose appropriate regulatory agency ("ARA") was the Commission.[5] Transfer agents that were also banks and whose ARA was one of the federal banking agencies would have been exempt from the proposed rule. The initial report would have been due no later than 45 days after the Commission adopted the rule. Non-bank transfer agents that did not qualify for an exemption under existing Rule 17Ad–13(d) would have been required to submit follow-up reports to the Commission on August 31, 1998, and August 31, 1999.[6] The follow-up reports also would have included an attestation by an independent public accountant as to whether there was a reasonable basis for the non-bank transfer agent's assertions in the reports.

As noted in the proposed rule, the Commission has advised all transfer agents that if a transfer agent's computer systems have Year 2000 Problems, the transfer agent's record may be inaccurate or not current and therefore be in violation of Rules 17Ad–6 and 17Ad–7 under the Exchange Act.[7]

III. Discussion of Significant Issues

A. Reporting Threshold

The Office of Thrift Supervision ("OTS") requested that the Commission extend the exemption in the proposed rule for bank transfer agents to include savings associations regulated by the OTS. The OTS stated that savings associations, unlike other non-bank transfer agents, are subject to comprehensive examinations by a Federal banking agency, using the same uniform examination standards developed under the oversight of the Federal Financial Institutions Examination Council. The OTS also noted that it is subject to similar Congressional oversight on Year 2000 issues as the Commission and the other Federal bank regulatory agencies. The OTS believes that it would be duplicative and inconsistent to require savings associations to file the reports with the Commission exempting banks from the requirement.

The Commission agrees with the OTS. Accordingly, the rule as adopted excludes from its reporting requirements transfer agents that are savings associations regulated by the OTS. Therefore the term "non-bank transfer agent" used in the rule and in the remainder of this release means a transfer agent whose: (i) Appropriate regulatory agency, as that term is defined by 15 U.S.C. 78(c)(34)(B), is the Commission; but (ii) is not a savings association, as defined in Section 3 of the Federal Deposit Insurance Act, 12 U.S.C. 1813, which is regulated by the OTS. Because the Commission will continue to be the ARA for these non-bank transfer agents, the Commission will continue to consult with the OTS about the results of their examinations.

B. Attestation Requirement

The proposed rule would have required transfer agents that did not qualify for an exemption under existing Rule 17Ad–13(d) to make assertions about their efforts to address Year 2000 problems and to engage an independent public accountant to attest to their assertions.[8] As proposed, each non-bank transfer agent would have been required to assert:

(1) Whether it has developed written plans for preparing and testing its computer systems for potential Year 2000 Problems;

(2) Whether the board of directors, or similar body, has approved these plans, and whether a member of the non-bank transfer agent's board of directors, or similar body, is responsible for executing the plans;

(3) Whether its Year 2000 remediation plans address all domestic and international operations, including the activities of its subsidiaries, affiliates, and divisions;

(4) Whether it has assigned existing employees, hired new employees, or engaged third parties to execute its Year 2000 remediation plans; and

(5) Whether it has conducted internal and external testing of its Year 2000 solutions and whether the results of those tests indicate that the non-bank transfer agent has modified its software to correct Year 2000 problems.

The American Institute of Certified Public Accountants ("AICPA") commented that the required attestation report would be difficult for independent public accountants to provide.[9] The AICPA explained that some of the required assertions are not appropriate for accountant attestation because the assertions are not capable of reasonably consistent measurement against established criteria. Currently, there are no established criteria related to Year 2000 remediation efforts. The lack of established criteria would likely result in significant variation in the examination procedures performed by independent public accountants and thus reduce the usefulness of the attestation reports. In addition, the AICPA expressed concern that the purpose and conclusions of the attestation report could be misunderstood. The AICPA was primarily concerned that uninformed users of the attestation reports would place undue reliance on them.

The AICPA suggested that an "agreed-upon procedures" engagement, instead of an attestation engagement, would more effectively meet the Commission's goals. Pursuant to such an engagement, non-bank transfer agents would engage independent public accountants to perform and to report on specific procedures designed to meet the Commissions objectives. This would eliminate the variability of examination procedures performed by independent public accountants and thus increase the consistency of the reports the Commission would receive. The AICPA's letter outlined elements of an agreed upon procedures report and offered to follow-up with the Commission staff regarding the development of specific procedures for a Year 2000 engagement.

No. 34–39859; (April 14, 1998), 63 FR 19430 (extending the comment period from April 13, 1998, to April 27, 1998).

[5] ARA is defined in Section 3(a)(34)(B) of the Exchange Act, 15 U.S.C. 78c(a)(34)(B). Transfer agents that are also banks have either the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, or the Federal Deposit Insurance Corporation as their ARA. Approximately 1,360 transfer agents are registered with the Commission, and the Commission is the ARA for approximately 740 of them.

[6] 17 CFR 240.17Ad–13(d). Generally, the Rule 17Ad–13(d) exemption applies to issuer transfer agents, small transfer agents exempt under Rule 17Ad–4(b), and bank transfer agents.

[7] 17 CFR 240.17Ad–6 and 17Ad.7.

[8] The attestation report would have only been required to be filed with the follow-up reports.

[9] Letter from Alan W. Anderson, Senior Vice-President, Technical Services and Deborah D. Lambert, Chair, Auditing Standards Board, AICPA (April 13, 1998).

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The Commission is deferring consideration of whether to adopt a requirement that the second report be evaluated by an independent public accountant. The Commission, however, will consider such a requirement if the accounting industry recommends a standard which can be used by public accountants in connection with the second report.[10]

C. Public Availability

In the proposed rule, the Commission expressed its preliminary view that it should make publicly available non-bank transfer agent reports regarding their Year 2000 remediation efforts. Certain commenters expressed the following concerns: (i) Members of the public could place undue reliance on the reports, (ii) the technical nature of the reports may confuse investors, (iii) detailed testing reports could be misleading and unnecessarily alarming, and (iv) the reports could contain confidential proprietary information.

However, the Commission believes that the public's interest is best served by requiring full and open disclosure. Allowing the public, particularly other non-bank transfer agents and counterparties, to have access to the information reported by non-bank transfer agents will enable interested persons to assess the Year 2000 readiness of a non-bank transfer agent with which they are doing business. For example, after receiving a non-bank transfer agent's report, an issuer might request additional information or assurances if the non-bank transfer agent does not appear to be taking the steps necessary to be Year 2000 compliant. In the absence of such assurances, the issuer could determine whether it wishes to continue its dealings with that non-bank transfer agent. Accordingly, the final rule provides that these reports will be available to the public.

D. Timing

Under the proposed rule, the initial report would have evaluated the efforts of non-bank transfer agents as of December 31, 1997, and would have been required to be filed no later than 45 days after the Commission adopted the proposed rule. The follow-up reports would have evaluated non-bank transfer agent efforts as of June 30, 1998 and June 30, 1999, and would have been due August 31, 1998, and August 31, 1999, respectively.

Some commenters expressed concerns about making reports based on old data. These commenters explained that non-bank transfer agents might not have retained the information needed to prepare the reports and would require non-bank transfer agents to provide data that was outdated and misleading.

In light of these concerns, the rule adopted today by the Commission requires non-bank transfer agents to file the initial report with the Commission by August 31, 1998. This report should reflect the status of the non-bank transfer agent's Year 2000 efforts as of July 15, 1998. The rule requires transfer agents to submit only one follow-up report, which must be filed with the Commission by April 30, 1999, and should reflect the status of the transfer agent's Year 2000 efforts as of March 15, 1999.

The rule adopted today also requires a non-bank transfer agent whose registration with the Commission becomes effective between the adoption of this rule and December 31, 1999, to file Part I of Form TA–Y2K with the Commission no later than 30 days after their registration becomes effective describing their Year 2000 compliance as of the date of their registration. New transfer agents whose registration with the Commission becomes effective between January 1, 1999, and April 30, 1999, would be required to file the second report due on April 30, 1999.

E. Reporting Requirements

As previously discussed, the proposed rule would have required certain non-bank transfer agents to discuss the steps they have taken to address Year 2000 Problems. More specifically, non-bank transfer agents would have been required to (i) indicate whether their board of directors or similar body has approved and funded written Year 2000 remediation plans that address all major computer systems; (ii) describe their Year 2000 staffing efforts and the work performed by Year 2000 dedicated staff;[11] (iii) discuss their progress on each stage of preparation for the Year 2000;[12] (iv) indicate if they have written contingency plans to deal with Year 2000 problems that may occur;[13] and (v) identify what levels of management are responsible for Year 2000 remediation efforts.

One commenter suggested certain changes to the specific reporting requirements to better clarify the information sought by the Commission. For example, the proposed rule would have required non-bank transfer agents to discuss the extent to which it has assigned existing employees, or engaged third parties in the Year 2000 effort. In addition, non-bank transfer agents would have been required to identify the levels of management involved in the Year 2000 efforts, discuss the specific responsibilities of these managers, and provide an estimate of the time they have spent on Year 2000 efforts. The commenter explained that these proposed requirements may be very burdensome, particularly for those firms that have comprehensive, complex-wide Year 2000 plans. Fixing Year 2000 problems may require the dedicated efforts of a significant number of employees and consultants. In addition, the tasks and responsibilities involved are detailed, extensive, and constantly changing.

The Commission agrees that some modification and clarification of the reporting requirements is warranted. The rule adopted today requires non-bank transfer agents to provide a summary of the efforts of individuals or groups of individuals assigned to work on the Year 2000 Problem. The non-bank transfer agent will not have to provide an estimate of the time that its management has spent on Year 2000 efforts. Finally, the non-bank transfer agent must report the number and description of material exceptions identified during the internal and external testing of its software that are unresolved as of the report date. The Commission is leaving the determination of what constitutes a material exception to the non-bank transfer agent's judgment.

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[10] In light of the AICPA's comment letter and ongoing efforts, in a companion release also issued today the Commission is re-opening the comment period with respect to the proposal to have an independent public accountant review a non-bank transfer agent's second Year 2000 report. The public file (No. S7–8–98) will include both the AICPA's original comment letter and any follow-up letter submitted by the AICPA for the Commission's consideration.

[11] This includes whether the transfer agent has assigned existing employees, has hired new employees, or has engaged third parties to provide assistance in avoiding Year 2000 Problems.

[12] These stages are: (i) awareness of potential Year 200 Problems; (ii) assessment of what steps must be taken to avoid Year 2000 Problems; (iii) implementation of the steps needed to avoid Year 2000 Problems; (iv) internal testing of software designed to avoid Year 2000 Problems; (v) integrated or industry-wide testing of software designed to avoid Year 200 Problems (including testing with other transfer agents, other financial institutions, customers, and vendors); and (vi) implementation of tested software that will avoid Year 2000 Problems.

[13] Contingency planning should provide for adequate protections to ensure the success of critical systems is interfaces fail or unexpected problems are experienced with operating systems and infrastructure software. In addition, contingency plans should provide for the failure of external systems that interact with the transfer agents' computer systems. For example, contingency plans should anticipate the failure of a vendor that services mission critical applications and should provide for the potential that a significant customer experiences difficulty due to Year 2000 problems.

F. Report Format

The proposed rule would have required certain non-bank transfer agents to discuss, in narrative format, their efforts to address Year 2000 Problems. The National Association of Securities Dealers Regulation ("NASDR") commented that the Commission should prescribe an objective format, such as a check-the-box questionnaire, for non-bank transfer agents to use when reporting on their Year 2000 efforts. The NASDR explained that an open narrative format might lead to great disparity in the nature and detail of the reports the non-bank transfer agents would submit. Providing an objective reporting format would produce consistent results, improve the accuracy and comparability of reports received, and reduce the time required to summarize, track, analyze, and report the information received.

The Commission agrees that the checklist format suggested by the NASDR may be a more efficient way of collecting certain information and believes that prescribing such a format would decrease the burden the Year 2000 reporting requirements impose on non-bank transfer agents. However, the Commission is concerned that by limiting the reporting requirements to a check-the-box format, the largest, most significant non-bank transfer agents would not provide the Commission with sufficient information to effectively assess Year 2000 problems. Therefore, the rule as adopted requires all non-bank transfer agents to file with the Commission Part I of Form TA–Y2K, a check-the-box style report.[14] Part I of Form TA–Y2K requires non-bank transfer agents to provide generally the same information as the proposed rule would have required to be submitted in narrative form. However, non-bank transfer agents that do not qualify for an exemption under Rule 17Ad–13(d) will be required to supplement Part I by completing Part II of Form TA–Y2K, which requires a narrative discussion of their efforts to address Year 2000 Problems. Because Rule 17Ad–13(d) generally exempts small transfer agents or issuer transfer agents that typically handle few issues, the potential that these transfer agents could disrupt the clearance and settlement process is not as likely as larger transfer agents that process more issues for more issuers.

Copies of Form TA–Y2K are available in the Commission Public Reference Room located at 450 Fifth Street, NW, Washington DC 20549 or copies can be obtained from the Commission's internet web site at the following address: www.sec.gov.

IV. Costs and Benefits of the Rules and Their Effects on Competition, Efficiency, and Capital Formation

Section 23(a) of the Exchange Act[15] requires the Commission, in adopting rules under the Exchange Act, to consider the competitive effects of such rules and to not adopt a rule that would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. Furthermore, Section 3(f) of the Exchange Act[16] provides that whenever the Commission is engaged in rulemaking and is required to consider or determine whether an action is necessary or appropriate in the public interest, the Commission also shall consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation.

The Commission has considered the amendments to Rule 17Ad–18 in light of the standards cited in Sections 3 and 23 (a)(2) of the Exchange Act. In the proposed rule, the Commission requested that commenters provide analysis and data supporting the costs and benefits of the proposed rule. In addition, the Commission sought comments on the proposed rule's effect on competition, efficiency, and capital formation.

Several commenters indicated that the Commission's cost estimates were too low. However, no commenters provided detailed information or data as to the costs of the proposed rule. One commenter questioned whether the additional regulations and their expense will generate greater preparedness and compliance or whether they would be a greater distraction and misdirect the focus from Year 2000 preparations. Another commenter noted that the Division of Market Regulation has already requested information from each transfer agent regarding its Year 2000 preparations. Therefore, the commenter believed that the proposed rule was duplicative. Another commenter suggested that instead of the proposed rule the Commission should issue an interpretive release under Rule 17Ad–13 that provided standards for transfer agent Year 2000 programs.

Two commenters believed that preparation of the reports required by the proposed rule was not costly or difficult. One of these commenters suggested that all transfer agents, regardless of size or being regulated by other authorities, should provide the reports required by the proposed rule. Three commenters suggested that the Commission also should require transfer agents to obtain certifications from their vendors. No commenter addressed the issue of whether the proposed rule would affect competition or regarding the proposed rule's affect on efficiency and capital formation.

A. Cost Benefit Analysis

Based on comments received, the Commission has revised the proposed rule to lower the aggregate cost of compliance with the rule. As discussed above, the Commission is adopting new Form TA–Y2K, eliminating one of the reporting dates, and expanding the reporting requirement for certain non-bank transfer agents. Under the final rule, all non-bank transfer agents are required to file Part I of Form TA–Y2K, a less burdensome check-the-box report, twice. The proposed rule required an initial report from all non-bank transfer agents and two follow-up reports from those non-bank transfer agents that did not qualify for an exemption under Rule 17Ad–13(d). Under the final rule, each non-bank transfer agent that does not qualify for an exemption under Rule 17Ad–13(d) is also required to complete Part II of Form TA–Y2K.

The Commission is also deferring consideration of whether to require non-bank transfer agents to engage accountants to examine their efforts to address Year 2000 Problems. The Commission is allowing non-bank transfer agents to summarize by group the efforts of Year 2000 dedicated individuals as opposed to requiring individual descriptions of their efforts. Non-bank transfer agents will not have to provide an estimate of the time management has spent on Year 2000 efforts. Finally, non-bank transfer agents are only required to report the number and description of unresolved material exceptions identified during the internal and external testing of their software.

Based on field testing of a virtually identical form, Form BD–Y2K, conducted by the Office of Compliance Inspections and Examinations, the Commission estimates that on average a non-bank transfer agent will spend approximately two hours completing Part I of Form TA–Y2K resulting in a total cost to the industry of $296,000.[17] This is based on 740 respondents

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[14] For a copy of Form TA–Y2K see Appendix A.

[15] 15 U.S.C. 78W (A)(2).

[16] U.S.C. 78c.

[17] Field tests of Part I of Form BD–Y2K indicated that it could be completed in as little as 30 minutes. However, the Commission believes that it may take longer for some broker-dealers to complete Part I of Form BD–Y2K.

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spending four hours at $100 per hour preparing two Part Is of Form TA–Y2K. The Commission estimates that on average a non-bank transfer agent will spend 35 hours completing Part II of Form TA–Y2K resulting in a total cost to the industry of $1,400,000. This is based upon 200 non-bank transfer agents spending 70 hours at $100 per hour preparing two Part IIs of Form TA–Y2K. Therefore, based upon the adjustments to the proposed rule, the Commission has revised its cost to the industry to a total of $1,696,000 ($296,000 + $1,400,000). It is important to note that the total cost estimate is not an annual cost. Non-bank transfer agents will only be required to prepare and file two Form TA–Y2Ks.

No commenters addressed the potential benefits of the rule and the Commission has not been able to quantify those benefits. However, the Commission believes that the benefits will outweigh the costs. The Commission is aware of the significant effort the securities industry has put forth and the progress its has made, but believes that significant progress still needs to be made by the securities industry to be ready for the Year 2000. As noted above, because transfer agents do not have an SRO, the only available information is from the transfer agents themselves.

The Commission does not yet have comprehensive information regarding the readiness of the transfer agent industry for the Year 2000. While the federal banking agencies are examining bank transfer agents, it is important for the Commission to obtain complete information from non-bank transfer agents to permit the Commission to assess the risks associated with non-bank transfer agents that fail to show adequate Year 2000 progress. Moreover, the Commission believes that a requirement to file Year 2000 reports should encourage non-bank transfer agents to proceed expeditiously with their efforts to prepare for the Year 2000. The Commission will use the reported information to obtain a more complete picture of the industry's overall Year 2000 preparations and to identify transfer agent-specific and industry-wide problems. Information in the reports will help the Commission focus its Year 2000-related efforts for the rest of 1998 and 1999 on particular industry segments or non-bank transfer agents that appear to pose the greatest risk of non-compliance.

In sum, the rule will enable the Commission to take a more active role in assessing the Year 2000 risk to the securities industry. The reports non-bank transfer agents will be required to file will increase transfer agent awareness that they should be taking specific steps now to prepare for the Year 2000; help coordinate industry testing and contingency planning; supplement the Commission's examination module for Year 2000 issues; provide information regarding the securities industry's preparedness for the Year 2000; and (iv) enable the Commission to identify particular compliance problems.

B. Efficiency, Competition, and Capital Formation

In the proposing release, the Commission stated that the proposed rule should not unduly burden competition. No commenter addressed the proposed rule's effect on competition.

The Commission believes that it has drafted Rule 17Ad–18 so as to minimize their impact on competition. As discussed above, the Commission has structured the form of the report to differentiate between non-bank transfer agents based upon the threat they would pose to customers and the market if they are not Year 2000 compliant. As discussed above, non-bank transfer agents that qualify for an exemption under Rule 17Ad–13(d) (*i.e.*, small transfer agents and issuer transfer agents) are only required to file the less burdensome Year 2000 report. Larger non-bank transfer agents that provide services for multiple issuers do not qualify for an exemption and are required to provide additional information. The Commission believes that Rule 17Ad–18 does not impose any burden on competition not necessary or appropriate in furtherance of the Exchange Act.

The Commission believes that the rule should increase the efficiency and effectiveness of the industry's efforts to prepare for the Year 2000 by increasing awareness, focusing industry efforts, and providing critical information for identifying and remedying problems. In addition, the Commission believes that the rule does not adversely affect capital formation. However, failure on the part of the securities industry to adequately prepare for the Year 2000 could adversely affect capital formation at the beginning of the next millennium.

V. Final Regulatory Flexibility Analysis

A final Regulatory Flexibility Analysis ("FRFA") concerning Rule 17Ad–18 has been prepared in accordance with the provisions of the Regulatory Flexibility Act ("RFA"), as amended by Pub. L. 104–121, 110 Stat. 847, 864 (1996), 5 U.S.C. 604. The FRFA notes that Rule 17Ad–18 will increase transfer agent awareness of the specific steps they should be taking to prepare for the Year 2000; help coordinate industry testing and contingency planning; supplement the Commission's examination module for Year 2000 issues and identify potential Year 2000 compliance problems; and provide information regarding the securities industry's preparedness for the Year 2000.

The Commission received no comments on the Initial Regulatory Flexibility Analysis ("IRFA") prepared in connection with the proposed rule, and no comment letters specifically addressed the IRFA. However, as discussed in paragraph III.A above, certain commenters expressed concern about the threshold for determining which non-bank transfer agents are required to report on their efforts to prepare for the Year 2000, and estimated costs associated with obtaining the independent public accountant's attestation.

As discussed more fully in the FRFA, the rule will affect transfer agents that are small entities pursuant to Rule 0–10 under the Exchange Act.[18] When used with reference to a transfer agent, the Commission has defined the term "small entity" to mean a transfer agent that: (1) received less than 500 items for transfer and less than 500 items for processing during the preceding six months (or in the time that it has been in business, if shorter); (2) maintained master shareholder files that in the aggregate contained less than 1,000 shareholder accounts or was the named transfer agent for less than 1,000 shareholder accounts at all times during the preceding fiscal year (or in the time that it has been in business, if shorter); and (3) is not affiliated with any person (other than a natural person) that is not a small business or small organization under Rule 0–10. Approximately 413 registered transfer agents qualify as "small entities" for purposes of the RFA.

The Commission has drafted Rule 17Ad–18 to minimize its impact on small transfer agents while enhancing investor protection and minimizing any impact on competition, in part, by adopting different reporting requirements to take into account the resources available to small non-bank transfer agents. First, small bank transfer agents are not required to submit any reports. Second, while the rule requires all non-bank transfer agents to report on their efforts to address Year 2000 problems, the Commission has adopted two reporting formats. Small non-bank transfer agents are only required to file a less burdensome check-the-box style Year 2000 report. As noted in section IV.A above, the Commission estimates that it would take each non-bank transfer agent approximately four hours to complete Part I of Form TA–Y2K. The remaining non-bank transfer agents are required to provide, in addition to the check-the-box style report, a more extensive narrative discussion of their Year 2000 efforts. These non-bank transfer agents are typically larger transfer agents that process multiple issues and could potentially have a greater impact on the clearance and settlement system. Thus, by adopting different reporting requirements and by exempting small bank transfer agents, the Commission has imposed no burden, or only a very limited burden, on small transfer agents.

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[18] 17 CFR 240.0–10.

The FRFA notes that it would be difficult to further simplify, consolidate, or adjust compliance standards for small non-bank transfer agents and be able to effectively monitor the securities industry's efforts to prepare for the Year 2000. The Commission believes that the alternate reporting requirement adopted today for small non-bank transfer agents strikes the appropriate balance between the need to protect investors and to minimize any impact on small non-bank transfer agents. The Commission also considered the use of performance rather than design standards. However, the Commission concluded that it would be inconsistent with the purpose of the rule to use performance standards to specify different requirements for small entities.

A copy of the FRFA may be obtained by contacting Jeffrey Mooney, Special Counsel, U.S. Securities and Exchange Commission, Mail stop 10–1, 450 Fifth Street, NW., Washington, DC 20549.

VI. Paperwork Reduction Act

As set forth in the proposed rule, Rule 17Ad–18 contains collections of information within the meaning of the Paperwork Reduction Act of 1995 ("PRA").[19] Accordingly, the collection of information requirements were submitted to the Office of Management and Budget ("OMB") for review and were approved by OMB which assigned the following control number 3235–0512.

The proposed rule solicited comments on the proposed collections of information. No comments were received that specifically addressed the PRA submission. However, as discussed above, the Commission received suggestions that would improve the collections of information. Based upon these suggestions, the collections of information have been adjusted as described in section III. above. For example, the rule adopted today requires non-bank transfer agents to provide a summary of the efforts of individuals or groups of individuals assigned to work on the Year 2000 Problem, and the reports will not have to provide an estimate of the time management has spent on Year 2000 efforts, nor the number and nature of material exceptions identified during the internal and external testing of its software.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the agency displays a valid OMB control number. The collection of information under Rule 17Ad–18 is necessary for non-bank transfer agents to comply with certain requirements and is necessary to provide the Commission with information on the security industry's readiness for the Year 2000. The information collected pursuant to Rule 17Ad–18 will be made public.

Based upon the adjustments to the amendments, the Commission is adjusting its burden estimate. The Commission estimated in the proposed rule that, on average, a non-bank transfer agent would spend 50 hours preparing each of the three Year 2000 reports and obtaining the two independent public accountant's Attestations. The Commission estimates that under the final amendments, a non-bank transfer agent will, on average, spend two hours preparing Part I of Form TA–Y2K and 35 hours preparing Part II of Form TA–Y2K. The total annualized burden to the securities industry is estimated at 8,480 hours. This is based on 740 respondents spending two hours preparing Part I and 200 respondents preparing Part II of Form TA–Y2K.

VII. Statutory Analysis

Pursuant to the Securities Exchange Act of 1934 and particularly Sections 17(a) and 23(a) thereof, 15 U.S.C. 78o(c)(3) and 78w, the Commission is adopting amendments to § 240.17Ad–18 of Title 17 of the Code of Federal Regulations in the manner set forth below.

List of Subjects in 17 CFR Parts 240 and 249

Broker-dealers, Reporting and recordkeeping requirements, Securities.

Text of Final Rule

In accordance with the foregoing, Title 17, chapter II, part 240 of the Code of Federal Regulations is amended as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for part 240 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78f, 78i, 78j, 78j–1, 78k, 78k–1, 78*l*, 78m, 78n, 78o, 78p, 78q, 78s, 78u–5, 78w, 78x, 78*ll*(d), 78mm, 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

2. By adding § 240.17Ad–18 to read as follows:

§ 240.17Ad–18 Year 2000 Reports to be made by certain transfer agents.

(a) Each registered non-bank transfer agent must file Part I of Form TA–Y2K (§ 249.619 of this chapter) with the Commission describing the transfer agent's preparation for Year 2000 Problems. Part I of Form TA–Y2K shall be filed no later than August 31, 1998, and April 30, 1999. Part I of Form TA–Y2K shall reflect the transfer agent's preparation for the Year 2000 as of July 15, 1998, and March 15, 1999, respectively.

(b) Each registered non-bank transfer agent, except for those transfer agents that qualify for the exemption in paragraph (d) of § 240.17Ad–13, must file with the Commission Part II of Form TA–Y2K (§ 249.619 of this chapter) in addition to Part I of Form TA–Y2K. Part II of Form TA–Y2K report shall address the following topics:

(1) Whether the board of directors (or similar body) of the transfer agent has approved and funded plans for preparing and testing its computer systems for Year 2000 Problems;

(2) Whether the plans of the transfer agent exist in writing and address all mission critical computer systems of the transfer agent wherever located throughout the world;

(3) Whether the transfer agent has assigned existing employees, has hired new employees, or has engaged third parties to provide assistance in addressing Year 2000 Problems; and if so, a description of the work that these groups of individuals have performed as of the date of each report;

(4) The current progress on each stage of preparation for potential problems caused by Year 2000 Problems. These stages are:

(i) Awareness of potential Year 2000 Problems;

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[19] 44 U.S.C. 3501 *et seq.*

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(ii) Assessment of what steps the transfer agent must take to address Year 2000 Problems;

(iii) Implementation of the steps needed to address Year 2000 Problems;

(iv) Internal testing of software designed to address Year 2000 Problems, including the number and description of the material exceptions resulting from such testing that are unresolved as of the reporting date;

(v) Point-to point or industry-wide testing of software designed to address Year 2000 Problems (including testing with other transfer agents, other financial institutions, and customers), including the number and description of the material exceptions resulting from such testing that are unresolved as of the reporting date; and

(vi) Implementation of tested software that will address Year 2000 Problems;

(5) Whether the transfer agent has written contingency plans in the event that, after December 31, 1999, it has computer problems caused by Year 2000 Problems; and

(6) What levels of the transfer agent's management are responsible for addressing potential problems caused by Year 2000 Problems, including a description of the responsibilities for each level of management regarding the Year 2000 Problems;

(7) Any additional material information in both reports concerning its management of Year 2000 Problems that could help the Commission assess the transfer agent's readiness for the Year 2000.

(8) Part II of Form TA–Y2K (§ 249.619 of this chapter) shall be filed no later than August 31, 1998, and April 30,999. Part II of Form TA–Y2K shall reflect the transfer agent's preparation for the Year 2000 as of July 15, 1998, and March 15, 1999, respectively.

(c) Any non-bank transfer agent that registers between the adoption of the final rule and December 31, 1999, must file with the Commission Part I of Form TA–Y2K (§ 249.619 of this chapter) no later than 30 days after their registration becomes effective. New transfer agents whose registration with the Commission becomes effective between January 1, 1999, and April 30, 1999, would be required to file the second report due on April 30, 1999.

(d) For purposes of this section, the term Year 2000 Problem shall include problems arising from:

(1) Computer software incorrectly reading the date "01/01/00" as being the year 1900 or another incorrect year;

(2) Computer software incorrectly identifying a date in the Year 1999 or any year thereafter;

(3) Computer software failing to detect that the Year 2000 is a leap year; or

(4) Any other computer software error that is directly or indirectly caused by paragraph (d)(1), (2), or (3) of this section.

(e) For purposes of this section, the term non-bank transfer agent means a transfer agent whose:

(1) Appropriate regulatory agency, as that term is defined by 15 U.S.C. 78(c)(34)(B), is the Securities and Exchange Commission; and

(2) Is not a savings association, as defined by Section 3 of the Federal Deposit Insurance Act, 12 U.S.C. 1813, which is regulated by the Office of Thrift Supervision.

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

3. The authority citation for part 249 continues to read in part as follows:

Authority: 15 U.S.C. 78a, *et seq.*, unless otherwise noted;

* * * * *

4. By adding § 249.619 and Form TA–Y2K to read as follows.

§ 249.619 Form TA–Y2K, information required of transfer agents pursuant to section 17 of the Securities Exchange Act of 1934 and § 240.17Ad–18 of this chapter.

This form shall be used by every registered transfer agent required to file reports under § 240.17Ad–18 of this chapter.

Note: Form TA–Y2K does not appear in the *Code of Federal Regulations.* Form TA–Y2K is attached as Appendix A to this document.

By the Commission.

Dated: July 2, 1998.

Margaret H. McFarland,

Deputy Secretary.

BILLING CODE 8010-01-P

OMB Number:	3235-0512
Expires	12/31/1999
Estimated Average Burden Hours per response	2

APPENDIX A

FORM TA-Y2K
Cover Page
United States
Securities Exchange Commission
Mail Stop A-2
450 5th Street, N.W.
Washington, D.C. 20549

Name of Transfer agent: ____________________

File No.: ____________________

Address of Principal Place of Business (Do Not Use P.O. Box No.):

____

____

____

Contact Person Responsible for Filling Out This Form (Please provide your business address and phone number):

Name: ____________________

Title: ____________________

Phone: ____________________

Address: ____________________

____

____
Signature

____
Title

Attention: Intentional misstatements or omissions of fact constitutes Federal Criminal Violations (See 18 U.S.C. 1001 and 15 U.S.C. 78:ff(a))
SEC 2437 (6/98)

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GENERAL INSTRUCTIONS

These instructions are considered an integral part of Form TA-Y2K.

TYPE all responses to this Form. Once submitted, Form TA-Y2K may not be amended.

Form TA-Y2K is divided into two parts. As discussed below, each non bank transfer agent must complete Part I. A Non-bank transfer agent must complete Part II if it does not qualify for one of the exemptions contained in Rule 17Ad-13(d) (17 CFR 240.17Ad-13(d)).

An original and two copies of each Form TA-Y2K must be filed with the Commission's principal office at mail stop A-2, 450 5th Street, N.W., Washington, D.C. 20549. The original Form TA-Y2K that is required to be filed with the Securities and Exchange Commission must be manually signed.

For purposes of this form, a transfer agent is a non-bank transfer agent if: (i) its appropriate regulatory agency, as that term is defined by 15 U.S.C. 78(c)(34)(B), is the Securities and Exchange Commission ("Commission"); and (ii) it is not a savings association, as defined by 12 U.S.C. 1813, regulated by the Office of Thrift Supervision.

For the purposes of this Form TA-Y2K, the term "Year 2000 Problem" includes any erroneous result caused by computer software (i) incorrectly reading the date "01/01/00" or any year thereafter; (ii) incorrectly identifying a date in the year 1999 or any year thereafter; and (iii) failing to detect that the Year 2000 is a leap year; and (iv) any other computer error that is directly or indirectly related to the problems set forth in (i), (ii), or (iii) above.

PART I

Pursuant to section 240.17Ad-18(a) each non-bank transfer agent must file Part I of Form TA-Y2K with the Commission no later than August 31, 1998, and no later than April 30, 1999. Part I of Form TA-Y2K shall reflect the non-bank transfer agent's preparation for the Year 2000 as of July 15, 1998, and March 15, 1999, respectively.

Any non-bank transfer agent whose registration becomes effective between the adoption of the final rule and December 31, 1999, must file with the Commission Part I of Form TA-Y2K no later than 30 days after their registration becomes effective. New transfer agents whose registration with the Commission becomes effective between January 1, 1999, and April 30, 1999, would be required to file the second report due on April 30, 1999.

Please do not write explanatory notes next to the questions on the form.

PART II

Pursuant to section 240.17Ad-18(b), all non-bank transfer agents that are eligible for an exemption under section 240.17Ad-13(d) must file Part II of Form TA-Y2K with the Commission no later than August 31, 1998, and April 30, 1999. Part II of Form TA-Y2K shall reflect the non-bank transfer agent's preparation for the Year 2000 as of July 15, 1998, and March 15, 1999, respectively.

A non-bank transfer agent required to complete Part II of the form must also complete Part I. Each question should be answered in narrative form, even if your answer covers the same topics included in Part I of this Form.

PAPERWORK REDUCTION ACT DISCLOSURE

Form TA-Y2K requires a non-bank transfer agent to provide to the Commission information concerning its efforts to address Year 2000 Problems. The form is designed to enable the Commission to increase transfer agent awareness that they should be taking specific steps now to prepare for the Year 2000, help coordinate industry testing, and help identify potential compliance problems.

It is estimated that a transfer agent will spend approximately 2 hours completing Part I of each Form TA-Y2K and 35 hours completing Part II of Form TA-Y2K. Any member of the public may direct to the Commission any comments concerning the accuracy of this burden estimate and any suggestions for reducing this burden. This filing will be available to the public.

No assurance of confidentiality is given by the Commission with respect to the responses made in the Form TA-Y2K. The public has access to the information contained in the form.

This collection of information has been reviewed by the Office of Management and Budget (OMB) in accordance with the clearance requirements of 44 U.S.C. §3507. This collection of information has been assigned Control Number 3235-XXXX by OMB.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid number. Section 17(a) of the Securities Exchange Act of 1934 authorizes the Commission to collect the information on this Form from transfer agents. See 15 U.S.C. §78q.

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PART I

Transfer Agent Name ______________________

Address ______________________

____

File No. ______________________

☐ **Check box if you are also completing Part II of Form TA-Y2K**

1. Year 2000 compliance plan

(a) Do you have a plan for Year 2000 compliance to address whether your computer systems will operate correctly after December 31, 1999?

☐ Yes ☐ No

(b) If not, are you?

☐ Developing a written plan. It is expected to be completed by: MM/DD/YYYY

☐ Not developing a written plan because you do not plan to be conducting business after January 1, 2000. Plan to be out of business by: MM/DD/YYYY

☐ Other (Please specify) ______________

If you do not have a plan, go to question 2.

(c) Does the plan address external interfaces with third party computer systems that communicate with your systems?

☐ Yes ☐ No

(d) Is your Year 2000 compliance plan in writing?

☐ Yes ☐ No

(e) Who has approved the plan? (Check all that apply)

☐ No approval ☐ Board of Directors ☐ Corporate officers ☐ Executive management ☐ Head of Information Technology ☐ Employees

(f) Has the plan been discussed with your outside auditors?
☐ Yes ☐ No

(g) What is the scope of coverage of the plan? (Check all that apply)
☐ All systems ☐ Mission critical systems ☐ Physical facilities ☐ Communications systems

(h) Which of your facilities does the plan cover? (Check all that apply)
☐ Our primary facility ☐ Certain U.S. facilities ☐ All U.S. facilities
☐ Certain facilities worldwide ☐ All facilities worldwide
☐ We have no international facilities

(i) Are your activities for non-US clients covered by the plan?
☐ Yes ☐ No ☐ Not Applicable

2. Funding for Year 2000 compliance

(a) Please indicate the month your fiscal year begins. ________________

(b) Has specific funding been allocated for fiscal year 1998, fiscal year 1999, or fiscal year 2000 for your Year 2000 compliance plan?
(i)1998 ☐ Yes ☐ No
(ii)1999 ☐ Yes ☐ No
(ii)2000 ☐ Yes ☐ No

If funding has not been allocated for fiscal year 1999, mark "no."
If you marked "no" for 1998 and 1999, go to question 3.

(c) What is your specific 1998 fiscal year budget allocation for Year 2000 compliance (including operating and capital expenditures)?
☐ Less than $1,000 ☐ $1,001 - $10,000 ☐ $10,001 - $50,000
☐ $50,001 - $100,000 ☐ $100,001 - $500,000
☐ $500,001 - $1 million ☐ $1-2 million ☐ $2-5 million ☐ $5-10 million
☐ $10-20 million ☐ $20-50 million ☐ $50-100 million ☐ over $100 million

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(d) What items are contained in your 1998 budget for Year 2000 compliance? (Check all that apply)
☐ Assessment of the problem ☐ Correction of systems ☐ Replacement of systems ☐ Internal testing ☐ Point-to-point testing (including testing with broker-dealers, custodians, transfer agents, clearing agencies, other service providers, and etc.) ☐ Training ☐ SIA industry wide testing ☐ Implementation of contingency plans

If you marked "no" for fiscal year 1999 in question 2(b), go to question 3.

(e) What is your specific 1999 fiscal year budget allocation for Year 2000 compliance (including operating and capital expenditures)?
☐ Less than $1,000 ☐ $1,001 - $10,000 ☐ $10,001 - $50,000
☐ $50,001 - $100,000 ☐ $100,001 - $500,000
☐ $500,001 - $1 million ☐ $1-2 million ☐ $2-5 million ☐ $5-10 million
☐ $10-20 million ☐ $20-50 million ☐ $50-100 million ☐ over $100 million

(f) What items are contained in your 1999 budget for Year 2000 compliance? (Check all that apply)
☐ Assessment of the problem ☐ Correction of systems ☐ Replacement of systems ☐ Internal testing ☐ Point-to-point testing (including testing with issuers, broker-dealers, custodians, clearing agencies, other service providers, and etc.) ☐ Training ☐ SIA industry wide testing ☐ Implementation of contingency plans.

If you marked "no" for fiscal year 2000 in question 2(b), go to question 3.

(g) What is your specific 2000 fiscal year budget allocation for Year 2000 compliance (including operating and capital expenditures)?
☐ Less than $1,000 ☐ $1,001 - $10,000 ☐ $10,001 - $50,000
☐ $50,001 - $100,000 ☐ $100,001 - $500,000
☐ $500,001 - $1 million ☐ $1-2 million ☐ $2-5 million ☐ $5-10 million
☐ $10-20 million ☐ $20-50 million ☐ $50-100 million ☐ over $100 million

(h) What items are contained in your 2000 budget for Year 2000 compliance? (Check all that apply)
☐ Assessment of the problem ☐ Correction of systems ☐ Replacement of systems
☐ Internal testing ☐ Point-to-point testing (including testing with broker-dealers, custodians, transfer agents, clearing agencies, other service providers, etc.)
☐ Training ☐ SIA industry wide testing ☐ Implementation of contingency plans

3. Persons responsible for Year 2000

(a) Has one or more individuals been designated as responsible for your Year 2000 compliance?
☐ Yes ☐ No

(b) If yes, please provide the following information on the person primarily responsible:

Name: ____________________
Title: ____________________
Business address: ____________________

4. Staffing for Year 2000

(a) Is this a full-time project for at least one individual (including both employees and consultants)?
☐ Yes ☐ No

(b) If yes, how many individuals are working full time on Year 2000 compliance?
☐ 1 ☐ 2-5 ☐ 6-10 ☐ 11-20 ☐ 21-50 ☐ 51-100 ☐ 101-200 ☐ over 200

(c) Have you hired third parties to assist you on Year 2000 issues?
☐ Yes ☐ No

(d) If yes, what function(s) are the third parties performing? (Check all that apply)
☐ Assessment of the problem ☐ Correction of systems ☐ Replacement of systems
☐ Internal testing ☐ Training ☐ Vendor assessment
☐ Point-to-point testing (including testing with issuers, broker-dealers, custodians, clearing agencies, other service providers, and etc.)
☐ SIA industry wide testing
☐ Other (Please specify): ____________________

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(e) If you have not completed staffing your Year 2000 project, are you?
☐ Defining resources. This will be completed by: MM/DD/YYYY
☐ Unable to find sufficient staffing resources.
☐ Handling the staffing as part of your ongoing business operations.

5. Inventory of systems

(a) Have you inventoried all systems?
☐ Yes ☐ No

(b) What is the nature of the computer systems you utilize? (Check all that apply)
☐ Off the shelf ☐ Vendor provided
☐ In house developed (custom made)
☐ Other (Please specify): ______________________

(c) Have you identified your mission critical systems?
☐ Yes ☐ No

(d) If no, this will be completed by: MM/DD/YYYY

(e) Have you determined which of your critical systems are not currently Year 2000 compliant?
☐ Yes ☐ No

6. Awareness of the problem

What steps have you taken to enhance awareness of potential Year 2000 Problems?
(Check all that apply)
☐ None to date ☐ Designated individuals for Year 2000 compliance
☐ Presentations to the Board ☐ Presentations to management
☐ Presentations to employees ☐ Contacted third parties
☐ Other (Please specify) ______________________

7. Progress on preparing critical systems for the Year 2000

What is your progress on the following stages of preparation for the Year 2000?

(a) **Assessment** of steps you will take to address Year 2000 Problems with your mission critical systems (including preparing an inventory of computer systems affected by the Year 2000):
☐ 0% complete ☐ 1%-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete
If not completed, assessment expected to be completed by: (MM/DD/YYYY)

(b) **Implementation** of steps you will take to address Year 2000 Problems with your mission critical systems:
☐ 0% complete ☐ 1%-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete
If not completed, implementation expected to be completed by: (MM/DD/YYYY)

(c) **Testing of your mission critical internal systems**:
☐ 0% complete ☐ 1%-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete
If not completed, testing expected to be completed by: (MM/DD/YYYY)

(d) Did your testing of internal systems result in material exceptions that remain unresolved as of this filing?
☐ Yes ☐ No

(e) **Point-to-point testing of your critical systems (including testing with issuers, broker-dealers, other financial institutions, customers, and vendors):**
☐ 0% complete ☐ 1%-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete
If not completed, testing expected to be completed by: (MM/DD/YYYY)

(f) Did your point-to-point testing result in material exceptions that remain unresolved as of this filing?
☐ Yes ☐ No

(g) **Implementation** of tested software that addresses Year 2000 Problems with your mission critical systems:
☐ 0% ☐ 1-25% complete ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete
If not completed, implementation expected to be completed by: (MM/DD/YYYY)

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8. Progress on preparing all other systems for the Year 2000.

What is your progress on the following stages of preparation for the Year 2000?

(a) **Assessment** of steps you will take to address Year 2000 Problems with your non-critical systems (including preparing an inventory of computer systems affected by the Year 2000):
☐ 0% complete ☐ 1%-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete
If not completed, assessment expected to be completed by: (MM/DD/YYYY)

(b) **Implementation** of steps you will take to address Year 2000 Problems with you non-critical systems:
☐ 0% complete ☐ 1%-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete
If not completed, implementation expected to be completed by: (MM/DD/YYYY)

(c) **Testing of your non-critical internal systems**:
☐ 0% complete ☐ 1%-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete
If not completed, testing expected to be completed by: (MM/DD/YYYY)

(d) **Did your testing of internal systems result in material exceptions that remain unresolved as of this filing?**
☐ Yes ☐ No

(e) **Point-to-point testing of your non-critical systems (including testing with other broker-dealers, other financial institutions, customers, and vendors):**
☐ 0% complete ☐ 1%-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete
If not completed, testing expected to be completed by: (MM/DD/YYYY)

(f) **Did your point-to-point testing result in material exceptions that remain unresolved as of this filing?**
☐ Yes ☐ No

(g) **Implementation** of tested software that addresses Year 2000 Problems with your non-critical systems:
☐ 0% ☐ 1-25% complete ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete
If not completed, implementation expected to be completed by: (MM/DD/YYYY)

9. Contingency plans

(a) Do you have a contingency plan for your systems if, after December 31, 1999, you have problems caused by Year 2000 Problems?
☐ Yes ☐ No

(b) If yes, is the contingency plan in writing?
☐ Yes ☐ No ☐ Not Applicable

(c) If not, what is your progress in preparing a contingency plan?
☐ 0% complete ☐ 1-25% ☐ 26-50% ☐ 51-75% ☐ 76-100%

(d) What is the scope of the contingency plan? (Check all that apply)
☐ No systems ☐ Critical systems ☐ Physical facilities
☐ Communications systems ☐ All systems

(e) Who has approved the contingency plan?
(Check all that apply)
☐ No approval ☐ Board of Directors ☐ Corporate officers ☐ Executive management ☐ Head of Information Technology ☐ Employees

10. Third parties who provide mission critical systems

(a) Have you identified all third parties upon whom you rely for your critical systems?
☐ Yes ☐ No

(b) If yes, how many third parties do you rely upon for your mission critical systems?
☐ ____________

(c) What percentage of third parties upon whom you rely for mission critical systems have you contacted regarding their readiness for the Year 2000?
☐ 0% ☐ 1-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ all
If not all, contact expected to be completed by: (MM/DD/YYYY)

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(d) Has any third party upon whom you rely for mission critical systems declined or failed to provide you with assurances that it is taking the necessary steps to prepare for the Year 2000?

☐ Yes ☐ No ☐ Not Applicable

(e) If yes, how many third parties providing critical systems have not provided such assurances?

☐ ________

(f) Does your contingency plan account for third parties whose systems may fail after December 31, 1999?

☐ Yes ☐ No ☐ We have no contingency plan

PART II

Transfer Agent Name ____________________

Address ____________________

____

File No. ____________________

Pursuant to section 240.17Ad-17(b), identify a specific person or persons that are available to discuss the contents of this report and please respond to each of the following questions in narrative form. Each question must be answered, even if your answer covers the same topics included in Part I of this Form

(A) Has the transfer agent's board of directors (or similar body) approved and funded plans for preparing and testing its computer systems for Year 2000 Problems?

(B) Do the transfer agent's plans for preparing and testing its computer systems for Year 2000 Problems exist in writing and do the plans address all mission critical computer systems of the transfer agent wherever located throughout the world?

(C) Has the transfer agent assigned existing employees, hired new employees, or engaged third parties to provide assistance in addressing Year 2000 Problems? If so, provide a description of the work that these groups of individuals have performed as of the date of each report.

(D) What is the transfer agent's current progress on each stage of preparation for potential problems caused by Year 2000 Problems? These stages are:

(1) Awareness of potential Year 2000 Problems;

(2) Assessment of what steps the transfer agent must take to address Year 2000 Problems;

(3) Implementation of the steps needed to address Year 2000 Problems;

(4) Internal testing of software designed to address Year 2000 Problems, including the number and a description of the material exceptions resulting from such testing that are unresolved as of the reporting date;

(5) Point-to-point or industry-wide testing of software designed to address Year 2000 Problems (including testing with issuers, brokers, The Depository Trust Company, other financial institutions, and customers), including the number and

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a description of the material exceptions resulting from such testing that are unresolved as of the reporting date; and

(6) Implementation of tested software that will address Year 2000 Problems.

(E) Does the transfer agent have written contingency plans in the event, that after December 31, 1999, it has problems caused by Year 2000 Problems?

(F) What levels of management of the transfer agent are responsible for addressing potential problems caused by Year 2000 Problems? Provide a description of the responsibilities for each level of management regarding the Year 2000 Problems.

(G) Provide any additional material information concerning the transfer agent's management of Year 2000 Problems that will help the Commission assess the transfer agent's readiness for the Year 2000.

[FR Doc. 98–18296 Filed 7–10–98; 8:45 am]

BILLING CODE 8010–01–C

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–40164; File No. S7–7–98]

RIN 3235–AH36

Reports To Be Made by Certain Brokers and Dealers

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule; request for additional comments.

SUMMARY: The Securities and Exchange Commission ("Commission") is reopening the comment period with respect to its proposal that would have required broker-dealers to engage an independent public accountant to attest to specific assertions included in the broker-dealer's report on Year 2000 compliance. The attestation by independent public accountants was one amendment to Rule 17a–5 under the Securities Exchange Act of 1934 proposed by the Commission in Release No. 34–39724 which was published in the **Federal Register** on March 12, 1998 (63 FR 12056).

DATES: Comments should be received on or before August 12, 1998.

ADDRESSES: Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission ("Commission"), 450 Fifth Street, NW, Washington, DC 20549. Comments also may be submitted electronically at the following E-mail address: rule-comments@sec.gov. Comment letters should refer to File No. S7–7–98; this file number should be included on the subject line if E-mail is used. All comments received will be available for public inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW, Washington, DC 20549. Electronically submitted comment letters will be posted on the Commission's Internet web site (http://www.sec.gov).

FOR FURTHER INFORMATION CONTACT: Michael A. Macchiaroli, Associate Director, 202/942–0131; Thomas K. McGowan, Assistant Director, 202/942–4886; Lester Shapiro, Senior Accountant, 202/942–0757; or Christopher M. Salter, Staff Attorney, 202/942–0148, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW, Mail Stop 10–1, Washington, DC 20549.

SUPPLEMENTARY INFORMATION:

I. Introduction

At midnight on December 31, 1999, unless the proper modifications have been made, the program logic in many of the world's computer systems will start to produce erroneous results because, among other things, the systems will incorrectly read the date "01/01/00" as being the year 1900 or another incorrect date. In addition, systems may fail to detect that the Year 2000 is a leap year. Problems can also arise earlier than January 1, 2000, as dates in the next millennium are entered into non-Year 2000 compliant programs.

The Commission views the Year 2000 problem as an extremely serious issue. A failure to assess properly the extent of the problem, remediate systems that are not Year 2000 compliant, and then test those systems could endanger the nation's capital markets and place at risk the assets of millions of investors. In light of this, both the broker-dealer industry and the Commission are working hard to address the industry's Year 2000 Problems.[1]

In a companion release also issued today, the Commission is adopting amendments to Rule 17a–5[2] under the Securities Exchange Act[3] that require certain broker-dealers to file reports with the Commission and their Designated Examining Authority ("DEA") regarding Year 2000 compliance.[4]

II. Year 2000 Reporting Requirements

The amendments to Rule 17a–5 included in the Adopting Release require broker-dealers with a minimum net capital requirement of $5,000 or greater to file the new Form BD–Y2K. Part I of Form BD–Y2K is a check-the-box Year 2000 questionnaire. Each broker-dealer that is required to maintain net capital of $100,000 or greater will also be required to file Part II of Form BD–Y2K, which requires a narrative discussion of its efforts to address Year 2000 Problems.

Generally, Form BD–Y2K requires each broker-dealer to discuss the steps it has taken to address Year 2000 Problems. Each broker-dealer, among other things, is required to (i) indicate whether its board of directors, or similar body, has approved and funded written Year 2000 remediation plans that address all mission critical computer systems; (ii) describe its Year 2000 staffing efforts; (iii) discuss its progress on each stage of preparation for the Year 2000;[5] (iv) indicate if it has written contingency plans to deal with Year 2000 problems that may occur; and (v) identify what levels of management are responsible for Year 2000 remediation efforts.[6]

III. Independent Public Accountant Review

The Commission originally proposed amendments to Rule 17a–5[7] that would have required each broker-dealer to have an independent public accountant attest to several specific assertions included in its second Year 2000 report, now Part II of Form BD–Y2K.[8] In response to the Proposing Release, the American Institute of Certified Public Accountants ("AICPA") commented that the required attestation report would be difficult for independent public accountants to provide.[9] The AICPA said that some of the required broker-dealer assertions are not appropriate for accountant attestation because the assertions are not capable of reasonably consistent measurement against reasonable criteria. The AICPA stated that currently, there are no established criteria related to Year 2000 remediation efforts, and that the lack of

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[1] The Proposing Release defined the term "Year 2000 Problem" to include any erroneous result caused by any computer software (i) incorrectly reading the date "01/01/00" or any year thereafter; (ii) incorrectly identifying a date in the year 1999 or any year thereafter; (iii) failing to detect that the Year 2000 is a leap year, and (iv) any other computer error that is directly or indirectly related to (i), (ii), or (iii) above.

[2] 17 CFR 240.17a–5.

[3] 15 U.S.C 78a *et seq.*

[4] Release No. 34–40162, (July 2, 1998) ("Adopting Release").

[5] These stages are: (i) Awareness of potential Year 2000 Problems; (ii) assessment of what steps must be taken to avoid Year 2000 Problems; (iii) implementation of the steps needed to avoid Year 2000 Problems; (iv) internal testing of software designed to avoid Year 2000 Problems; (v) integrated or industry-wide testing of software designed to avoid Year 2000 Problems (including testing with other broker-dealers, other financial institutions, customers, and vendors); and (vi) implementation of tested software that will avoid Year 2000 Problems.

[6] The Commission refers members of the public to the Adopting Release for more detailed information about the reporting requirements and Form BD–Y2K.

[7] Release Nos. 34–39724; IC–23059; IA–1704, (March 5, 1998), 63 FR 12056 (March 12, 1998) ("Proposing Release").

[8] As proposed, each broker-dealer would have been required to assert (i) whether it has developed written plans for preparing and testing its computer systems for potential Year 2000 Problems; (ii) whether the board of directors, or similar body, has approved these plans, and whether a member of the broker-dealer's board of directors, or similar body, is responsible for executing the plans; (iii) whether its Year 2000 remediation plans address all domestic and international operations, including the activities of its subsidiaries, affiliates, and divisions; (iv) whether it has assigned existing employees, hired new employees, or engaged third parties to execute its Year 2000 remediation plans; and (v) whether it has conducted internal and external testing of its Year 2000 solutions and whether the results of those tests indicate that the broker-dealer has modified its software to correct Year 2000 Problems.

[9] This point was echoed by a number of other comment letters.

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established criteria would likely result in significant variation in the examination procedures performed by independent public accountants and thus reduce the usefulness of the attestation reports. In addition, the AICPA expressed concern that the purpose and conclusions of the attestation report could be easily misunderstood. The AICPA was primarily concerned that uninformed users of the attestation reports would place undue reliance on them.

The AICPA suggested that an "agreed-upon procedures" engagement, instead of an attestation engagement, would more effectively meet the Commission's goals. Pursuant to such an engagement, a broker-dealer would engage an independent public accountant to perform and report on specific procedures designed to meet the Commission's objectives. This would eliminate the variability of examination procedures performed by independent public accountants and thus increase the consistency of the reports received by the Commission. The AICPA's letter outlined elements of an agreed-upon procedures report and offered to follow-up with the Commission staff regarding the development of specific procedures for a Year 2000 engagement.

In light of the above, the Commission has deferred consideration of the appropriate accountant's review of Part II of the second Form BD–Y2K that broker-dealers with a minimum net capital requirement of $100,000 or greater will be required to file by April 30, 1999, reflecting the status of the broker-dealer's Year 2000 efforts as of March 15, 999. Accordingly, the Commission is reopening the comment period to obtain additional views, including commentary on the feasibility and desirability of an agreed-upon procedures engagement. The public file (No. S7–7–98) contains the AICPA's comment letter received in the original comment period, the Commission's Initial Regulatory Flexibility Analysis, and will contain any subsequent letters submitted for the Commission's consideration.

Dated: July 2, 1998.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18294 Filed 7–10–98; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–40165; File No. S7–8–98]

RIN 3235–AH42

Year 2000 Readiness Reports To Be Made by Certain Transfer Agents

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule; request for additional comments.

SUMMARY: The Securities and Exchange Commission ("Commission") is re-opening the comment period with respect to its proposal that would have required transfer agents to engage an independent public accountant to attest to specific assertions included in the transfer agent's report on Year 2000 compliance. The attestation by independent public accountants was one component of Rule 17Ad–18 under the Securities Exchange Act of 1934 proposed by the Commission in Release No. 34–39726, which was published in the **Federal Register** on March 12, 1998 (63 FR 12062).

DATES: Comments should be received on or before August 12, 1998.

ADDRESSES: Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission ("Commission"), 450 Fifth Street, NW, Washington, DC 20549. Comments also may be submitted electronically at the following E-mail address: rule-comments@sec.gov. Comment letters should refer to File No. S7–8–98; this file number should be included on the subject line if E-mail is used. All comments received will be available for public inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW, Washington, DC 20549. Electronically submitted comment letters will be posted on the Commission's Internet web site (http://www.sec.gov).

FOR FURTHER INFORMATION CONTACT: Jerry W. Carpenter, Assistant Director, 202/942–4187; Thomas C. Etter, Jr., Special Counsel, 202/942–0178; or Jeffrey Mooney, Special Counsel, 202/942–4174, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW, Mail Stop 10–1, Washington, DC 20549.

SUPPLEMENTARY INFORMATION:

I. Introduction

At midnight on December 31, 1999, unless the proper modifications have been made, the program logic in many of the world's computer systems will start to produce erroneous results because, among other things, the systems will incorrectly read the date "01/01/00" as being the year 1900 or another incorrect date. In addition, systems may fail to detect that the Year 2000 is a leap year. Problems can also arise earlier than January 1, 2000, as dates in the next millennium are entered into non-Year 2000 compliant programs.

The Commission views the Year 2000 problem as an extremely serious issue. A failure to assess properly the extent of the problem, remediate systems that are not Year 2000 compliant, and then test those systems could endanger the nation's capital markets and place at risk the assets of millions of investors. In light of this, both the transfer agent industry and the Commission are working hard to address the industry's Year 2000 problems.

In a companion release also issued today, the Commission is adopting Rule 17Ad–18[1] under the Securities Exchange Act[2] to require certain transfer agents to file reports with the Commission regarding Year 2000 compliance.[3]

II. Year 2000 Reporting Requirements

Rule 17Ad–18 requires new Form TA–Y2K to be filed by each transfer agents whose: (i) Appropriate regulatory agency, as that term is defined by 15 U.S.C. 78(c)(34)(B), is the Commission; but (ii) is not a savings association, as defined in Section 3 of the Federal Deposit Insurance Act, 12 U.S.C. 1813, which is regulated by the Office of Thrift Supervision. Part I of Form TA–Y2K is a check-the-box Year 2000 questionnaire. Each transfer agent that does not qualify for an exemption under Rule 17Ad–13(d)[4] will also be required to file Part II of Form TA–Y2K, which requires a narrative discussion of its efforts to address Year 2000 Problems.

Generally, Form TA–Y2K requires each transfer agent to discuss the steps it has taken to address Year 2000 Problems. Each transfer agent is required, among other things, to (i) indicate whether its board of directors, or similar body, has approved and funded written Year 2000 remediation plans that address all mission critical computer systems; (ii) describe its Year 2000 staffing efforts; (iii) discuss its progress on each stage of preparation for the Year 2000;[5] (iv) indicate if it has written contingency plans to deal with Year 2000 problems that may occur; and (v) identify what levels of management are responsible for Year 2000 remediation efforts.[6]

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[1] 17 CFR 240.17Ad–18.

[2] U.S.C 78a *et seq.*

[3] Release No. 34–XXXXX, (XXXX X, 1998), ("Adopting Release").

[4] 17 CFR 240.17Ad–13(d). Generally, Rule 17Ad–13(d) exempts the following transfer agents from the rule's annual reporting requirements: issuer transfer agents, small transfer agents exempt under Rule 17Ad–4(b), and bank transfer agents.

III. Independent Public Accountant Review

When the Commission originally proposed Rule 17Ad–18,[7] the rule would have required each transfer agent to have an independent public accountant attest to several specific assertions included in its follow-up reports, now Part II of Form TA–Y2K.[8]

In reposnse to the proposing release, the American Institute of Certified Public Accountants ("AICPA") commented that the required attestation report would be difficult for independent public accountants to provide.[9] The AICPA said that some of the required assertions are not appropriate for accountant attestation because the assertions are not capable of reasonably consistent measurement against reasonable criteria. Currently, there are no established criteria related to Year 2000 remediation efforts. The lack of established criteria would likely result in significant variation in the examination procedures performed by independent public accountants and thus reduce the usefulness of the attestation reports. In addition, the AICPA expressed concern that the purpose and conclusions of the attestation report could be easily misunderstood. The AICPA was primarily concerned that uninformed users of the attestation reports would place undue reliance on them.

The AICPA suggested that an "agreed-upon procedures" engagement, instead of an attestation engagement, would more effectively meet the Commission's goals. Pursuant to such an engagement, a transfer agent would engage an independent public accountant to perform and report on specific procedures designed to meet the Commission's objectives. This would eliminate the variability of examination procedures performed by independent public accountants and thus increase the consistency of the reports received by the Commission. The AICPA's letter outlined elements of an agreed-upon procedures report and offered to follow-up with the Commission staff regarding the development of specific procedures for a Year 2000 engagement.

In light of the above, the Commission has deferred consideration of the appropriate accountant's review of Part II of Form TA–Y2K that transfer agents that do not qualify for an exemption under existing Rule 17Ad–13(d) will be required to file by April 30, 1999, reflecting the status of the transfer agent's Year 2000 efforts as of March 15, 1999. Accordingly, the Commission is reopening the comment period to obtain additional views, including comments on the feasibility and desirability of an agreed–upon procedures engagement. The public file (No. S7–8–98) contains the AICPA's original comment letter, received in the original comment period, the Commission's Initial Regulatory Flexibility Analysis, and will contain any subsequent letters submitted for the Commission's consideration.

Dated: July 2, 1998.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18295 Filed 7–10–98; 8:45 am]

BILLING CODE 8010–01–P

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[5] These stages are: (i) awareness of potential Year 2000 Problems; (ii) assessment of what steps must be taken to avoid Year 2000 Problems; (iii) implementation of the steps needed to avoid Year 2000 Problems; (iv) internal testing of software designed to avoid Year 2000 Problems; (v) integrated or industry-wide testing of software designed to avoid Year 2000 Problems (including testing with other transfer agents, other financial institutions, customers, and vendors); and (vi) implementation of tested software that will avoid Year 2000 Problems.

[6] The Commission refers members of the public to the Adopting Release for more detailed information about the reporting requirements and Form.

[7] Securities Exchange Act Release No. 39726 (March 5, 1998), 63 FR 12062 (March 12, 1998).

[8] As proposed, each transfer agent would have been required to assert (i) whether it has developed written plans for preparing and testing its computer systems for potential Year 2000 Problems; (ii) whether the board of directors, or similar body, has approved these plans, and whether a member of the transfer agent's board of directors, or similar body, is responsible for executing the plans; (iii) whether its Year 2000 remediation plans address all domestic and international operations, including the activities of its subsidiaries, affiliates, and divisions; (iv) whether it has assigned existing employees, hired new employees, or engaged third parties to execute its Year 2000 remediation plans; and (v) whether it has conducted internal and external testing of its Year 2000 solutions and whether the results of those tests indicate that the transfer agent has modified its software to correct Year 2000 problems.

[9] This point was echoed by a number of other comment letters.

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Department of Education

34 CFR Part 668

Student Assistance General Provisions; Proposed Rule

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DEPARTMENT OF EDUCATION

34 CFR Part 668

RIN 1040–AC52

Student Assistance General Provisions

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the Student Assistance General Provisions regulations, 34 CFR part 668, to permit a school to appeal its Direct Loan Program cohort rate or weighted average cohort rate on the basis of improper servicing or collection of the Direct Loans included in that rate. The Secretary also proposes to clarify when a school's rate is considered final.

DATES: Comments must be received by the Department on or before September 11, 1998.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Kenneth Smith, U.S. Department of Education, P.O. Box 23272, Washington, DC 20026–3272. Comments may also be sent through the Internet to: cohort__rates@ed.gov.

Comments that concern information collection requirements must be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble. A copy of those comments may also be sent to the Department representative named in this section.

FOR FURTHER INFORMATION CONTACT: Kenneth Smith, U.S. Department of Education, 600 Independence Avenue, SW., ROB–3, Room 3045, Washington, DC 20202. Telephone: (202) 708–8242. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION:

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

To ensure that public comments have maximum effect in developing the final regulations, the Department urges commenters to identify clearly the specific section or sections of the proposed regulations that each comment addresses and to arrange comments in the same order as the proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 3045, Regional Office Building 3, 7th and D Streets, SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

On request the Department supplies an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking docket for these proposed regulations. An individual with a disability who wants to schedule an appointment for this type of aid may call (202) 205–8113 or (202) 260–9895. An individual who uses a TDD may call the Federal Information Relay Service at 1–800–877–8339, between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

To assist the Department in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden, the Secretary invites comments on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

General

On December 1, 1995, the Secretary published final regulations (60 FR 61760) that modified the regulations relating to the default reduction initiative in the Federal Family Education Loan (FFEL) Program and implemented default reduction measures in the William D. Ford Federal Direct Loan (Direct Loan) Program. Those regulations established the formula for the calculation of rates for schools that participate in the Direct Loan Program and revised the appeal procedures and criteria for schools that were subject to a loss of eligibility to participate in the FFEL Program or the Direct Loan Program due to high FFEL Program cohort default rates, Direct Loan Program cohort rates, or weighted average cohort rates.

The Secretary is proposing to amend the appeal procedures and criteria in these regulations. A discussion of each proposed change is provided below.

Section 668.17(h) Loan Servicing Appeals

Under the Department's regulations, a school may challenge its FFEL Program cohort default rate or weighted average cohort rate on the basis of the improper servicing or collection of the FFEL loans included in the calculation of that rate. However, a school may not challenge a Direct Loan Program cohort rate or a weighted average cohort rate on the basis of the improper servicing or collection of the Direct Loans included in the calculation of the rate. The procedures and criteria for loan servicing appeals were made different for the two programs because the historical and structural problems of the FFEL Program did not exist in the new Direct Loan Program.

As discussed in the preamble to the final regulations published on December 1, 1995, Congress' decision to provide schools with an FFEL Program loan servicing appeal was based, in large measure, on a number of incidents in which large FFEL Program lenders had failed to comply with the Department's loan servicing requirements. The lenders' failure to satisfy FFEL Program loan servicing requirements had a demonstrable effect on cohort default rates (see 60 FR 61769). However, the detailed loan servicing regulations in the FFEL Program do not exist in the Direct Loan Program. Instead, loan servicing in the Direct Loan Program is controlled by contracts between the Department and its Direct Loan Servicers.

Nevertheless, to promote parity between the FFEL Program and the Direct Loan Program, the Secretary is proposing to permit a school to appeal its Direct Loan Program cohort rate or weighted average cohort rate on the basis of the improper servicing or collection of defaulted Direct Loans included in that rate. Just as for an FFEL Program loan servicing appeal, this type of appeal would only be available to a school—

- With a Direct Loan Program cohort rate or weighted average cohort rate that equals or exceeds 20 percent for the most recent year in which data are available; or
- That becomes subject to a loss of eligibility due to rates that equal or exceed 25 percent for 3 consecutive years.

While the Secretary continues to believe that the structure and controls inherent in the Direct Loan Program should ensure that Direct Loans are properly serviced and collected, establishing appeal provisions for the Direct Loan Program that are similar to those available in the FFEL Program will address concerns that some schools have raised about this difference between the two programs.

The procedures for a school's loan servicing challenge in the Direct Loan

Program would correspond to those for a school challenging its FFEL Program cohort default rate on a similar basis. A summary of the proposed appeals process follows:

- Within 10 working days of receiving notification from the Secretary that its Direct Loan Program cohort rate or weighted average cohort rate equals or exceeds 20 percent for the most recent year or that it is subject to loss of participation in the loan programs based on its rate, the school notifies the Secretary, in writing, that it is appealing the calculation of its rate based on allegations of improper loan servicing or collection.
- Within 15 working days of receiving the school's notice, the Secretary determines the size of the representative sample of loan servicing and collection records to be reviewed and notifies the school of the amount of the fee that it must pay to the Secretary for copying and providing the documents. Under the proposed regulations, the Secretary may charge a fee of up to $10 per borrower file in the sample. The Secretary intends to charge a fee of $10 per borrower file.
- Within 15 working days of receiving the notice of the fee, the school must pay the fee to the Secretary. If payment is not received from the school within the required timeframe, the records will not be provided and the school will have waived its right to challenge the rate.
- Upon timely receipt of the fee, and within the timelines provided in the proposed regulations, the Secretary provides the school with a representative sample of the loan servicing and collection records relating to borrowers whose Direct Loans were included in the school's rate.
- After receiving the relevant loan servicing and collection records from the Secretary (for Direct Loan Program loans included in a rate) and from the appropriate guaranty agency (for FFEL Program loans included in a rate), the school has 30 calendar days to file its appeal with the Secretary.
- If the school is also filing an appeal based upon allegations that inaccurate data were used to calculate the rate, under § 668.17(c)(1)(i)(A), the school may delay submitting its loan servicing appeal until the appeal under § 668.17(c)(1)(i)(A) is submitted to the Secretary.

Due to fundamental differences between the FFEL and Direct Loan programs, the proposed regulations for appeals based on loan servicing and collection in the Direct Loan Program are not exactly the same as the FFEL Program regulations. One of the most significant differences is in the scope of an appeal. For both FFEL and Direct Loans, under § 668.17(h)(3)(v)(B), if the Secretary finds that evidence presented by the school shows that some loans included in the sample reviewed by the school should be excluded from the calculation of the rate, the Secretary reduces the rate to reflect the percentage of defaulted loans in the sample that should be excluded.

In the FFEL Program, the proportional reduction applies to all of the FFEL loans included in the school's rate, because an FFEL Program cohort default rate is a percentage rate of the students whose loans are in default. However, for some schools, the Direct Loan Program cohort rate is not limited to the percentage rate of students whose loans are in default. For proprietary non-degree-granting institutions, it may also include the percentage rate of borrowers repaying Direct Loans under the income-contingent repayment (ICR) plan who have scheduled payments of less than $15 per month, when those amounts result in negative amortization for a period of 270 days or more (see §§ 668.17(e)(1)(ii) and 668.17(f)(1)(ii)).

If borrowers are included in a school's Direct Loan Program cohort rate because they are repaying under the ICR plan, rather than because their loans are in default, the improper loan servicing and collection criteria do not apply. For example, the Direct Loan Servicer would not mail a final demand letter to a borrower who is making payments under the ICR plan and is not in default. Therefore, as reflected in the proposed § 668.17(h)(2)(iii), the proportional reduction of the rate would apply only to borrowers with defaulted loans who were included in a school's rate, not to any borrowers who have been included because they made certain payments under the ICR plan.

The most significant remaining differences between the requirements for a loan servicing appeal in the FFEL Program and those proposed for the Direct Loan Program are the following:

- For FFEL, the regulations in § 668.17(h)(3)(ii) require a school to include in its notice of appeal to the guaranty agency a list of the students included in its rate. No similar requirement is provided for Direct Loans because the Department already has that information.
- When sending the school a list of the loans and a description of how the sample of loans was chosen, a guaranty agency is required, in § 668.17(h)(3)(ii)(B)(*5*), to send a copy of the list to the Secretary. No corresponding action is provided for the Direct Loan Program because it would be redundant.
- In § 668.17(h)(3)(ii)(B)(*6*), a guaranty agency is required to notify a school that has failed to pay a fee that the school has apparently waived its right to challenge the calculation of its rate with regard to the loans guaranteed by that agency. The guaranty agency also notifies the Secretary. The Secretary then determines whether the guaranty agency's conclusion was correct. No similar provision is needed for Direct Loans because the Secretary issues the original notification of the waiver determination.
- For FFEL, a school is required in § 668.17(h)(3)(iv)(C) to send the Secretary a copy of the lists provided to it by the guaranty agencies when it is filing an appeal. No similar list is required for Direct Loans because the Department will have the information that it provided to the institution.
- Section § 668.17(h)(3)(viii)(C) provides that a lender's failure to submit a request for preclaims assistance to the guaranty agency, if required, is a factor in determining whether a default on an FFEL Program loan may be considered to have been due to improper servicing or collection. No similar factor is included for Direct Loans because no similar process exists for the Direct Loan Servicer. The Direct Loan Servicer services the loan until its transfer to the Department's Debt Collection Service at 271 days of delinquency, the date on which the loan is considered, under § 668.17(e)(3), to be in default for rate calculations purposes.

The revisions in this NPRM would provide the regulatory changes needed to properly reflect the proposed changes to the appeal process for Direct Loans. The proposed regulations would not revise the current regulations for an FFEL Program appeal on the basis of improper servicing or collection.

Official rates for fiscal year (FY) 1996 are scheduled to be issued later this year. The Secretary intends to allow a school to appeal its official Direct Loan Program cohort rate or weighted average cohort rate for FY 1996 on the basis of the improper servicing or collection of the Direct Loans included in the rate as defaulted loans. This type of appeal would be available only to schools with rates of 20 percent or greater and to schools that are subject to loss of participation in the loan programs based on their rates.

Section 668.17(i) Finality of a School's Rate

Under § 668.17(a)(2), a school with an FFEL Program cohort default rate, Direct Loan Program cohort rate, or a weighted

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average cohort rate that is over 40 percent for the most recent fiscal year for which rates have been calculated may be subject to an action to limit, suspend, or terminate its participation in all of the Federal student financial aid programs authorized by Title IV of the Higher Education Act of 1965, as amended (HEA). If the Secretary initiates such an action, the school may appeal under 34 CFR part 668, Subpart G.

The Secretary has found, however, that some schools with a rate over 40 percent do not challenge the rate when they are notified. Rather, these schools wait to challenge the calculation of that rate until they have 3 consecutive years of rates over 25 percent. As a result, the administrative review process provided under Subpart G is delayed while the school's new appeal is evaluated. The Secretary believes that some schools wait to appeal in these circumstances solely to delay a final determination of the limitation, suspension, or termination action. Because a school may continue to make loans while the appeal process is pending, any unnecessary delay increases the likelihood of program abuse.

It was not the intent of the Secretary to permit this type of delay—which may last a year or more—between the date a school is notified of its rate and the resolution of the school's appeal of a sanction resulting from the rate. The Secretary proposes to address the problem of unnecessary delays in Subpart G proceedings by providing that once the Secretary initiates a proposed limitation, suspension, or termination action under § 668.17(a)(2), based on the school's rate, the school may not challenge that rate.

A school that initiates an appeal of a rate over 40 percent in a timely manner, within 10 working days of the date that the school is notified of the rate, would not be affected by this revision. The Secretary does not initiate an action under § 668.17(a)(2) during the period in which a school may file a timely appeal of its rate. Also, if a school does file a timely appeal, the Secretary does not initiate an action under § 668.17(a)(2) until a determination has been made on the appeal. Note that current provisions in § 668.17(i) are not changed other than to number paragraphs and to update references to types of rates; the only substantive change to the current § 668.17(i) is in the proposed § 668.17(i)(3).

The proposed revision would help the Department, guaranty agencies, and institutions to research appeals more efficiently and to resolve appeals and limitation, suspension, and termination actions promptly. Ensuring timely appeals and resolutions is particularly important because schools remain eligible to participate in the FFEL and Direct Loan programs until the appeal process is complete.

Executive Order 12866

Clarity of the Regulations

Executive Order 12866 requires each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make these proposed regulations easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed regulations clearly stated? (2) Do the proposed regulations contain technical terms or other wording that interferes with their clarity? (3) Does the format of the proposed regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity? Would the proposed regulations be easier to understand if they were divided into more (but shorter) sections? (A "section" is preceded by the symbol "§" and a numbered heading; for example, § 668.17 *Default reduction and prevention measures.*) (4) Is the description of the proposed regulations in the "Supplementary Information" section of this preamble helpful in understanding the proposed regulations? How could this description be more helpful in making the proposed regulations easier to understand? (5) What else could the Department do to make the proposed regulations easier to understand?

A copy of any comments that concern how the Department could make these proposed regulations easier to understand should be sent to Stanley M. Cohen, Regulations Quality Officer, U.S. Department of Education, 600 Independence Avenue, SW. (room 5121, FB–10), Washington, DC 20202–2241.

Regulatory Flexibility Act Certification

The Secretary has determined that these proposed regulations would not have a significant adverse economic impact on a substantial number of small entities. A Preliminary Regulatory Flexibility Analysis (PRFA) was performed. The provision that extends the appeals of improper loan servicing to Direct Loans will provide a positive benefit to schools. The provision on the finality of appeals was analyzed in more detail. The PRFA determined that the number of small and large entities experiencing adverse economic impacts from the appeal finality provisions is expected to be between one and eight per year, which is not a substantial number.

Estimate of the Number of Entities Experiencing Adverse Economic Impacts From Finality of Appeal Provision

Although no school has successfully used the delaying tactic these regulations would prohibit, 2 schools could have used this tactic for fiscal year 1994 rates, and it is possible that up to 16 schools could use this tactic for fiscal year 1995 rates. There is no reason to believe that this will apply to more schools in the future. Thus, the estimate of the number of small and large entities to which these regulations would apply is between 2 and 16 each year. In the year when two schools could have used this delaying tactic, one school unsuccessfully attempted to employ it or half of the eligible schools. The PRFA estimates that about half of the schools to which these regulations would apply will attempt to employ this delaying tactic, or between one and eight per year. Thus, the number of small and large entities to which these regulations would impose adverse economic impacts is small and not considered a substantial number.

Estimate of the Adverse Economic Impacts of Finality of Appeal Provision

One school attempted to use this delaying tactic, but that appeal was denied on technical grounds. Had that school been successful, the economic impact would have been to delay the school's removal from the Title IV programs for an estimated six months. During those six months, the school was estimated to have potentially earned an additional $135,000 in Title IV revenue. Using a 5 percent profit rate, which is typical for proprietary schools participating in Title IV programs, the adverse economic impact on this school would have been to lose about $6,750 in profit. The PRFA did not address whether this was a significant economic impact, since it was previously determined that a full Regulatory Flexibility analysis was not required because of the small number of entities to which these regulations would apply.

The Secretary particularly invites comments on the impact of these proposed regulations on small entities.

Paperwork Reduction Act of 1995

Section 668.17 contains information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department of Education has submitted a copy of this section to the Office of Management and Budget (OMB) for its review.

Collection of Information: Student Assistance General Provisions—668.17—Default reduction and prevention measures.

The Secretary proposes to provide schools the opportunity to challenge Direct Loan Program cohort rates or weighted average cohort rates on the basis of allegations of improper loan servicing or collection of the Direct Loans included in that rate as defaulted loans. Annual public reporting burden for the portion of this collection of information that is attributable to § 668.17(h) remains unchanged and is estimated to average 128 hours per response for 160 non-degree-granting school respondents, 96 hours per response for 20 degree-granting school respondents, and 16 hours per response for 20 low borrower school respondents, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The collection's total estimated annual recordkeeping and reporting burden hours for this section equals 22,720 hours.

There is no change to the current burden for this collection because neither the estimated number of respondents nor the amount of time needed to respond is expected to change. At the time that previous regulations were published, no rates had been issued that included Direct Loans; all schools received rates that included only FFEL loans. A school appealing its rate due to improper loan servicing or collection, under these proposed regulations, would have been subject to the same requirements for the appeal of its FFEL Program cohort default rate.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 10235, New Executive Office Building, Washington, DC 20503; Attention: Desk Officer for U.S. Department of Education.

The Department considers comments by the public on this proposed collection of information in—

- Evaluating whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical use;
- Evaluating the accuracy of the Department's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques of other forms of information technology; e.g., permitting electronic submission of responses.

OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Department on the proposed regulations.

Intergovernmental Review

The Federal Supplemental Educational Opportunity Grant Program and the State Student Incentive Grant Program are subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with this order, this document is intended to provide early notification of the Department's specific plans and actions for these programs.

The Federal Family Education Loan, Federal Supplemental Loans for Students, Federal Work-Study, Federal Perkins Loan, Federal Pell Grant, Income Contingent Loan, and William D. Ford Federal Direct Loan programs are not subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Electronic Access to This Document

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Note: The official version of this document is the document published in the **Federal Register**.

List of Subjects in 34 CFR Part 668

Administrative practice and procedure, Colleges and universities, Consumer protection, Education, Grant programs-education, Loan programs-education, Reporting and recordkeeping requirements, Student aid, Vocational education.

Dated: July 7, 1998.

Richard W. Riley,

Secretary of Education.

(Catalog of Federal Domestic Assistance Numbers: 84.007: Federal Supplemental Educational Opportunity Grant Program; 84.032: Federal Family Education Loan Program; 84.032: Federal PLUS Program; 84.032: Federal Supplemental Loans for Students Program; 84.033: Federal Work-Study Program; 84.038: Federal Perkins Loan Program; 84.063: Federal Pell Grant Program; 84.069: State Student Incentive Grant Program; 84.226: Income Contingent Loan Program; and 84.268: William D. Ford Federal Direct Loan Program)

The Secretary proposes to amend Part 668 of Title 34 of the Code of Federal Regulations as follows:

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

1. The authority citation for part 668 continues to read as follows:

Authority: 20 U.S.C. 1085, 1088, 1091, 1092, 1094, 1099c, and 1141, unless otherwise noted.

2. Section 668.17 is amended by revising the heading, and paragraphs (h) and (i) to read as follows:

§ 668.17 Default reduction and prevention measures.

* * * * *

(h) *Appeal based on allegations of improper loan servicing or collection—*

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(1) *General.* An institution that is subject to loss of participation in the FFEL Program or the Direct Loan Program under paragraph (a)(3), (b)(1), or (b)(2) of this section or that has been notified by the Secretary that its FFEL Program cohort default rate, Direct Loan Program cohort rate, or weighted average cohort rate equals or exceeds 20 percent for the most recent year for which data are available may include in its appeal of that loss or rate a challenge based on allegations of improper loan servicing or collection. This challenge may be raised in addition to other challenges permitted under this section.

(2) *Standard of review.* (i) An appeal based on allegations of improper loan servicing or collection must be submitted to the Secretary in accordance with the requirements of this paragraph.

(ii) The Secretary excludes any loans from the FFEL Program cohort default rate, Direct Loan Program cohort rate, or weighted average cohort rate calculation that, due to improper servicing or collection, would, as demonstrated by the evidence submitted in support of the institution's timely appeal to the Secretary, result in an inaccurate or incomplete calculation of that rate.

(iii) For the purposes of this paragraph, a Direct Loan that has been included in a Direct Loan Program cohort rate, under paragraph (e)(1)(ii) of this section, or a weighted average cohort rate, under paragraph (f)(1)(ii) of this section, because it has been in repayment under the income-contingent repayment plan for 270 days, with scheduled payments that are less than $15 per month and with those payments resulting in negative amortization, is not considered to have been included in that rate as a defaulted loan. An institution's appeal under this paragraph does not affect the inclusion of these loans in an institution's rate.

(3) *Procedures.* The following procedures apply to appeals from FFEL Program cohort default rates, Direct Loan Program cohort rates, and weighted average cohort rates issued by the Secretary:

(i) *Notice of rate.* Upon receiving notice from the Secretary that the institution's FFEL Program cohort default rate, Direct Loan Program cohort rate, or weighted average cohort rate exceeds the thresholds specified in paragraph (a)(3), (b)(1), or (b)(2) of this section or that its most recent rate equals or exceeds 20 percent, the institution may appeal the calculation of that rate based on allegations of improper loan servicing or collection. The Secretary's notice includes a list of all borrowers included in the calculation of the institution's rate.

(ii) *Appeals for FFEL Program loans.* (A) To initiate an appeal under this paragraph for FFEL Program loans included in the institution's rate, the institution must notify, in writing, the Secretary and each guaranty agency that guaranteed loans included in the institution's FFEL Program cohort default rate or weighted average cohort rate that it is appealing the calculation of that rate. The notification must be received by the guaranty agency and the Secretary within 10 working days of the date the institution received the Secretary's notification. The institution's notification to the guaranty agency must include a copy of the list of students provided by the Secretary to the institution.

(B) Within 15 working days of receiving the notification from an institution subject to loss of participation in the FFEL or Direct Loan programs under paragraph (a)(3), (b)(1), or (b)(2) of this section, or within 30 calendar days of receiving that notification from any other institution that may file a challenge to its FFEL Program cohort default rate or weighted average cohort rate under this paragraph, the guaranty agency shall provide the institution with a representative sample of the loan servicing and collection records relating to borrowers whose loans were guaranteed by the guaranty agency and that were included as defaulted loans in the calculation of the institution's rate. For purposes of this section, the term *loan servicing and collection records* refers only to the records submitted by the lender to the guaranty agency to support the lender's submission of a default claim and included in the claim file. In selecting the representative sample of records, the guaranty agency shall use the following procedures:

(*1*) The guaranty agency shall list in social security number order all loans made to borrowers for attendance at the institution and guaranteed by the guaranty agency and included as defaulted loans in the calculation of the FFEL Program cohort default rate or weighted average cohort rate that is being challenged by the institution.

(*2*) From the population of loans identified by the guaranty agency, the guaranty agency shall identify a sample of the loans. The sample must be of a size such that the universe estimate derived from the sample is acceptable at a 95 percent confidence level with a plus or minus 5 percent confidence interval. The sampling procedure must result in a determination of the number of FFEL Program loans that should be excluded from the calculation of the FFEL Program cohort default rate or weighted average cohort rate under this paragraph.

(*3*) The guaranty agency shall provide a copy of all servicing and collection records relating to each loan in the sample to the institution in hard copy format unless the guaranty agency and institution agree that all or some of the records may be provided in another format.

(*4*) The guaranty agency may charge the institution a reasonable fee for copying and providing the documents, not to exceed $10 per borrower file.

(*5*) After compiling the servicing and collection records for the loans in the sample, the guaranty agency shall send the records, a list of the loans included in the sample, and a description of how the sample was chosen to the institution. The guaranty agency shall also send a copy of the list of the loans included in the sample, listed in order by social security number, and the description of how the sample was chosen to the Secretary at the same time the material is sent to the institution.

(*6*) If the guaranty agency charges the institution a fee for copying and providing the documents under paragraph (h)(3)(ii)(B)(*4*) of this section, the guaranty agency is not required to provide the documents to the institution until payment is received by the agency. If payment of a fee is required, the guaranty agency shall notify the institution, in writing, within 15 working days of receipt of the institution's request, of the amount of the fee. If the guaranty agency does not receive payment of the fee from the institution within 15 working days of the date the institution receives notice of the fee, the institution shall be considered to have waived its right to challenge the calculation of its FFEL Program cohort default rate or weighted average cohort rate based on allegations of improper loan servicing or collection in regard to the loans guaranteed by that guaranty agency. The guaranty agency shall notify the institution and the Secretary, in writing, that the institution has failed to pay the fee and has apparently waived its right to challenge the calculation of its rate for this purpose. The Secretary determines that an institution that does not pay the required fee to the guaranty agency has not met its burden of proof in regard to the loans insured by that guaranty agency unless the institution proves that the agency's conclusion that the institution waived its appeal is incorrect.

(iii) *Appeals for Direct Loan Program loans.* (A) To initiate an appeal under this paragraph for Direct Loans included in the institution's rate, the institution must notify the Secretary, in writing, that it is appealing the calculation of its Direct Loan Program cohort rate or weighted average cohort rate. The notification must be received by the Secretary within 10 working days of the date the institution received the Secretary's notification.

(B) Within 15 working days of receiving the notification from an institution subject to loss of participation in the FFEL or Direct Loan Program under paragraph (a)(3), (b)(1), or (b)(2) of this section, or within 30 calendar days of receiving that notification from any other institution that may file a challenge to its Direct Loan Program cohort rate or weighted average cohort rate under this paragraph, the Secretary provides the institution with a representative sample of the loan servicing and collection records relating to borrowers whose Direct Loans were included as defaulted loans in the calculation of the institution's rate. For purposes of this section, the term "loan servicing and collection records" refers only to the records maintained by the Department's Direct Loan Servicer with respect to the servicing and collecting of delinquent loans prior to the default. In selecting the representative sample of records, the Secretary uses the following procedures:

(*1*) The Secretary lists in social security number order all Direct Loans made to borrowers for attendance at the institution and included as defaulted loans in the calculation of the Direct Loan Program cohort rate or weighted average cohort rate that is being challenged by the institution.

(*2*) From the population of loans identified by the Secretary, the Secretary identifies a sample of the loans. The sample is of a size such that the universe estimate derived from the sample is acceptable at a 95 percent confidence level with a plus or minus 5 percent confidence interval. The sampling procedure must result in a determination of the number of Direct Loans included in the rate as defaulted loans that should be excluded from the calculation of the Direct Loan Program cohort rate or weighted average cohort rate under this paragraph.

(*3*) The Secretary provides a copy of all servicing and collection records relating to each loan in the sample to the institution in hard copy format unless the Secretary and institution agree that all or some of the records may be provided in another format.

(*4*) The Secretary may charge the institution a reasonable fee for copying and providing the documents, not to exceed $10 per borrower file.

(*5*) After compiling the servicing and collection records for the loans in the sample, the Secretary sends the records, a list of the loans included in the sample, and a description of how the sample was chosen to the institution.

(*6*) If the Secretary charges the institution a fee for copying and providing the documents under paragraph (h)(3)(iii)(B)(*4*) of this section, the Secretary does not provide the documents to the institution until payment is received by the Secretary. If payment of a fee is required, the Secretary notifies the institution, in writing, within 15 working days of receipt of the institution's request, of the amount of the fee. If the Secretary does not receive payment of the fee from the institution within 15 working days of the date the institution receives notice of the fee, the institution shall be considered to have waived its right to challenge the calculation of its Direct Loan Program cohort rate or weighted average cohort rate based on allegations of improper loan servicing or collection in regard to the Direct Loans included in that rate. The Secretary shall notify the institution, in writing, that the institution has failed to pay the fee and has waived its right to challenge the calculation of its rate on the basis of those allegations.

(iv) *Procedures for filing an appeal.* After receiving the relevant loan servicing and collection records from the Secretary (for defaulted Direct Loan Program loans included in a Direct Loan Program cohort rate or weighted average cohort rate) and from all of the guaranty agencies that insured loans included in the institution's FFEL Program cohort default rate or weighted average cohort rate calculation (for defaulted FFEL Program loans included in a rate), the institution has 30 calendar days to file its appeal with the Secretary. An appeal is considered filed when it is received by the Secretary. If the institution is also filing an appeal under paragraph (c)(1)(i) of this section, the institution may delay submitting its appeal under this paragraph until the appeal under paragraph (c)(1)(i) of this section is submitted to the Secretary. As part of the appeal, the institution shall submit the following information to the Secretary:

(A) A list of the loans that the institution alleges would, due to improper loan servicing or collection, result in an inaccurate or incomplete calculation of the rate.

(B) Copies of all of the loan servicing or collection records and any other evidence relating to a loan that the institution believes has been subject to improper servicing or collection. The records must be in hard copy or microfiche format.

(C) For FFEL Program loans, a copy of the lists provided by the guaranty agencies under paragraph (h)(3)(ii)(B) of this section.

(D) An explanation of how the alleged improper servicing or collection resulted in an inaccurate or incomplete calculation of the institution's rate.

(E) A summary of the institution's appeal listing the following:

(*1*) For FFEL Program cohort default rates, the number of loans insured by each guaranty agency that were included as defaulted loans in the calculation of the institution's rate and the number of loans that would be excluded from the calculation of that rate by application of the results of the review of the sample of loans provided to the institution to the population of loans for each guaranty agency.

(*2*) For Direct Loan Program cohort rates, the number of Direct Loans that were included as defaulted loans in the calculation of the institution's rate and the number of loans that would be excluded from the calculation of that rate by application of the results of the review of the sample of loans provided to the institution to the population of loans serviced by the Secretary.

(*3*) For weighted average cohort rates—

(*i*) The number of FFEL Program loans insured by each guaranty agency that were included as defaulted loans in the calculation of the institution's rate and the number of loans that would be excluded from the calculation of that rate by application of the results of the review of the sample of loans provided to the institution to the population of loans for each guaranty agency; and

(*ii*) The number of Direct Loans that were included as defaulted loans in the calculation of the institution's rate and the number of loans that would be excluded from the calculation of that rate by application of the results of the review of the sample of loans provided to the institution to the population of loans serviced by the Secretary.

(F) A certification by an authorized official of the institution that all information provided by the institution in the appeal is true and correct.

(v) *Decision.* The Secretary or the Secretary's designee reviews the information submitted by the institution and issues a decision.

(A) In making a decision under this paragraph, the Secretary presumes that the information provided to the institution by the guaranty agency or Secretary under paragraphs (h)(3)(ii)(B)

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and (iii)(B) of this section is correct unless the institution provides substantial evidence showing that the information is not correct.

(B) If the Secretary finds that the evidence presented by the institution shows that some of the loans included in the sample of loan records reviewed by the institution should be excluded from calculation of the FFEL Program cohort default rate, Direct Loan Program cohort rate, or weighted average cohort rate under paragraph (h)(2) of this section, the Secretary reduces the institution's rate, in accordance with a statistically valid methodology, to reflect the percentage of defaulted loans in the sample that should be excluded.

(vi) *Notification.* The Secretary notifies the institution, in writing, of the decision.

(vii) *Seeking judicial review.* An institution may not seek judicial review of the Secretary's determination of the institution's FFEL Program cohort default rate, Direct Loan Program cohort rate, or weighted average cohort rate until the Secretary or the Secretary's designee issues the decision under paragraph (h)(3)(v) of this section.

(viii) *Improper loan servicing or collection criteria.* For purposes of this paragraph, a default is considered to have been due to improper servicing or collection only if the borrower did not make a payment on the loan and the institution proves that the lender (for an FFEL Program loan) or the Direct Loan Servicer (for a Direct Loan Program loan) failed to perform one or more of the following activities, if that activity was required:

(A) Send at least one letter (other than the final demand letter) urging the borrower or endorser to make payments on the loan.

(B) Attempt at least one phone call to the borrower or endorser.

(C) For an FFEL Program loan, submit a request for preclaims assistance to the guaranty agency.

(D) Send a final demand letter to the borrower.

(E)(*1*) For an FFEL Program loan, submit a certification (or other evidence) that skip tracing was performed; or

(*2*) For a Direct Loan Program loan, document that skip tracing was performed.

(i) *Effect of decision.* (1) An institution may challenge the calculation of an FFEL Program cohort default rate, Direct Loan Program cohort rate, or weighted average cohort rate under this section no more than once. The Secretary's determination of an institution's appeal of the calculation of such a rate is binding on any future appeal by the institution.

(2) An institution that fails to challenge the calculation of an FFEL Program cohort default rate, Direct Loan Program cohort rate, or weighted average cohort rate under this section within 10 working days of receiving notice of the determination of that rate is prohibited from challenging that rate in any other proceeding before the Department.

(3) If the Secretary has initiated an action under paragraph (a)(2) of this section, the institution may not challenge the calculation of the FFEL Program cohort default rate, Direct Loan Program cohort rate, or weighted average cohort rate on which the action is based.

* * * * *

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Monday
July 13, 1998

Part V

Federal Election Commission

11 CFR Parts 102, 103, and 106

Prohibited and Excessive Contributions; "Soft Money"; Proposed Rule

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FEDERAL ELECTION COMMISSION

[Notice 1998–12]

11 CFR Parts 102, 103, and 106

Prohibited and Excessive Contributions; "Soft Money"

AGENCY: Federal Election Commission.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: The Federal Election Commission today seeks comments on proposed rules relating to funds received by party committees outside the prohibitions and limitations of the Federal Election Campaign Act, also known as "soft money." This NPRM addresses issues raised in two petitions for rulemaking, one submitted by President William J. Clinton and the other submitted by five Members of the United States House of Representatives. The two petitions seek limits on the use of soft money for activities that have an impact on federal elections. The draft rules which follow do not represent a final decision by the Commission regarding the changes sought in the petitions. Further information is provided in the supplementary information that follows.

DATES: Statements in support of or in opposition to the proposed rules must be filed on or before September 11, 1998. The Commission will hold a public hearing at 10:00 a.m. on September 23, 1998. Persons wishing to testify must so indicate in their written comments.

ADDRESSES: All comments should be addressed to Susan E. Propper, Assistant General Counsel, and must be submitted in either written or electronic form. Written comments should be sent to the Federal Election Commission, 999 E Street, N.W., Washington, DC 20463. Faxed comments should be sent to (202) 219–3923, with printed copy follow up. Electronic mail comments should be sent to softmoneynpr@fec.gov. Commenters sending comments by electronic mail should include their full name and postal service address within the text of their comments. Electronic mail comments that do not contain the full name, electronic mail address and postal service address of the commenter will not be considered. The public hearing will be held in the Commission's public hearing room, 999 E Street, N.W., 9th Floor.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, or Paul Sanford, Staff Attorney, 999 E Street, N.W., Washington, D.C. 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: With this NPRM, the Commission is publishing and seeking comments on proposed rules relating to the receipt and use of prohibited and excessive contributions, also known as "soft money," by national, state and local party committees. The Commission is publishing these rules in response to two petitions for rulemaking that seek limits on the use of soft money in activities that may influence federal elections.

For reasons that will be explained further below, the Commission has decided that the issues raised in the petitions warrant further consideration. The Commission believes that changes in the regulations relating to soft money may be necessary to give full force and effect to the prohibitions and limitations in the Federal Election Campaign Act, 2 U.S.C. 431 *et seq.* ["FECA" or "the Act"], and ensure that impermissible funds are not used to influence federal elections. Therefore, the Commission is seeking comments on proposed rules that would limit the use of soft money by party committees. The proposed rules are described in detail below.

However, the Commission would like to emphasize that no final decision has been made on whether or not to promulgate new rules in this area. At this point, the Commission is merely seeking comments on possible approaches for limiting the impact of soft money on federal elections. No final decision will be made until after the comment period has concluded and a public hearing has been held.

Prior History

The Act limits the amount that individuals can give to candidates, political committees and political parties for use in federal elections. 2 U.S.C. 441a. The Act also prohibits corporations and labor organizations from contributing their general treasury funds for these purposes. 2 U.S.C. 441b. Federal contractors are also prohibited from making these contributions. 2 U.S.C. 441c, 11 CFR 115.2(a). Note that, under 2 U.S.C. 441b and 441e, national banks, Congressionally-chartered corporations, and foreign nationals are prohibited from making contributions in connection with any election to any political office.

In contrast, some state campaign finance statutes allow corporations and labor organizations to make contributions to state and local candidates, and also allow individuals to make contributions to state and local candidates in amounts that would exceed the dollar limits in 2 U.S.C. 441a. In addition, the Act's prohibition on contributions by federal contractors does not apply to contributions made in connection with state or local elections. 11 CFR 115.2(a).

Today, most party committees receive some contributions that are permissible under the FECA and also receive other contributions that are not permissible under the Act if they are to be used in connection with federal elections. Contributions that are permissible under the FECA are often referred to as "hard money" contributions. Contributions that are not permissible, i.e., individual contributions in excess of the section 441a dollar limits, all corporate and labor organization general treasury contributions, and contributions from federal contractors, are often referred to as "soft money," and are to be used exclusively for state and local campaign activity or other party committee activities that do not influence federal elections.

Typically, party committees set up separate bank accounts into which they deposit the hard and soft money contributions they receive. Hard money contributions are to be deposited into a federal account, and soft money contributions are to be deposited into a non-federal account. Some party committees have a federal account and multiple non-federal accounts. However, since 2 U.S.C. 441b and 441e prohibit national banks, Congressionally-chartered corporations, and foreign nationals from making contributions in connection with any election to any political office, contributions from these entities to a party committee's non-federal accounts are also prohibited.

It is usually a relatively simple matter for the party committee to distinguish between hard and soft money contributions and segregate them in separate bank accounts. However, it can be more difficult to distinguish between a party committee's federal and non-federal expenses, because many party committee activities benefit both federal and non-federal candidates. For example, when a party committee conducts a get-out-the-vote drive urging people to support the party's candidates, it presumably increases the turnout of voters who favor that party's candidates. If there are both federal and non-federal candidates on the ballot, the drive benefits both the federal and the non-federal candidates. Consequently, if the party committee pays the costs of such a drive entirely with soft dollars, the committee is using prohibited contributions to benefit federal candidates. This would violate the contribution prohibitions and limitations in the FECA.

Since early in its history, the Commission has struggled with the fact that many party functions have an impact on both federal and non-federal elections, and has sought to give force and effect to the FECA's prohibitions and limitations by requiring party committees to pay at least a portion of the cost of these "mixed" activities with hard dollars. For example, in Advisory Opinion 1975–21, the Commission required a local party committee to use hard dollars to pay for a portion of its administrative expenses and voter registration costs. The Commission said that even though some party functions do not relate to any particular candidate or election, "these functions have an indirect effect on particular elections, and since monies contributed to fulfill these functions free other money to be used for contributions and expenditures in connection with Federal elections, it is appropriate to ascribe a certain portion of the administrative functions of a party organization to Federal elections during time periods in which Federal elections are held." *Id.*

The Commission incorporated part of Advisory Opinion 1975–21 into regulations promulgated in 1977. The regulations required political committees active in both federal and non-federal elections to allocate their administrative expenses between separate federal and non-federal accounts "in proportion to the amount of funds expended on federal and non-federal elections, or on another reasonable basis." 11 CFR 106.1(e) (1978). Sections 106.1 and 106.5 of the current rules contain updated versions of these regulations.

In two opinions issued after AO 1975–21, the Commission took an even more restrictive view of the use of soft money for registration and get-out-the-vote drive activity. In its response to Advisory Opinion Request 1976–72, the Commission said that "even though the Illinois law apparently permits corporate contributions for State elections, corporate/union treasury funds may not be used to defray any portion of a registration or get-out-the-vote drive conducted by a political party." Thus, the Commission concluded that this type of activity would have to be paid for with hard dollars. In its response to Advisory Opinion Request 1976–83, the Commission reached a similar conclusion.

However, in Advisory Opinion 1978–10, the Commission modified its position. In that opinion, the Commission concluded that the costs of voter registration and GOTV drives should be allocated in the same manner as party administrative expenditures. In reaching this conclusion, the Commission superseded Re: AOR 1976–72 and 1976–83 and said that corporate and union treasury funds could be used for the portion of the costs allocated to the party committee's non-federal account.

In Advisory Opinion 1979–17, the Commission recognized the ability of a national party committee to establish a separate account to be used "for the deposit and disbursement of funds designated specifically and exclusively to finance national party activity limited to influencing the nomination or election of candidates for public office other than elective 'federal office.'" Thus, the Commission concluded that a national party committee could accept corporate contributions "for the exclusive and limited purpose of influencing the nomination or election of candidates for nonfederal office."

The 1979 amendments to the Federal Election Campaign Act sought to encourage the participation of state and local party committees in federal elections by carving out exceptions to the definitions of contribution and expenditure for certain volunteer, voter registration and get-out-the-vote activity conducted by these committees. Under sections 431(8)(B)(x) and 431(9)(B)(viii), payments for the costs of campaign materials used in connection with volunteer activities on behalf of the party's nominee are not contributions or expenditures so long as the payments do not finance any general public political advertising, and are made from contributions that are permissible under the Act but were not designated for a particular candidate. Sections 431(8)(B)(xii) and 431(9)(B)(ix) contain the same rule for voter registration and get-out-the-vote drive costs conducted by the committee on behalf of its presidential and vice-presidential nominees. These provisions supplement a similar provision for slate cards and sample ballots that existed in the Act prior to the 1979 amendments. 2 U.S.C. 431(8)(B)(v) and 431(9)(B)(iv). Since then, these activities have collectively been referred to as "exempt activities." The House Report accompanying the 1979 amendments recognizes the ability of state and local party committees to allocate the costs of slate card and volunteer activities in certain circumstances. H.R. Rep. No. 96–422 at 8, 9 (1979).

In 1984, the Commission received a petition for rulemaking from Common Cause seeking new rules relating to the use of soft money. The petition requested that the Commission take action to address what the petitioner alleged was the use of soft money by national party committees to influence federal elections. The Commission published a Notice of Availability on January 4, 1985, and subsequently published a Notice of Inquiry on December 18, 1985. *See* 50 FR 477 (Jan. 4, 1985), 50 FR 51535 (Dec. 18, 1985). These two notices sought comments from the public on the issues raised in the petition. The Commission also held a public hearing on January 29, 1986, at which several witnesses testified.

After reviewing the petition, the comments and the witness' testimony, the Commission denied the Common Cause petition, concluding that neither the petition nor the comments "constitute concrete evidence demonstrating that the Commission's regulations have been abused so that funds purportedly raised for use in nonfederal elections have in fact been transferred to the state and local level with the intent that they be used to influence federal elections." Notice of Disposition, 51 FR 15915 (Apr. 29, 1986).

Common Cause challenged the Commission's denial of the petition in U.S. District Court. In court, Common Cause asserted that no allocation method is permissible under the FECA. Consequently, Common Cause argued, the Commission's denial of the petition was arbitrary and capricious under the Administrative Procedure Act, 5 U.S.C. § 706. Common Cause also argued that allowing committees to allocate on a reasonable basis was contrary to law because it failed to ensure proper allocation between federal and non-federal accounts.

The court rejected Common Cause's first argument, saying that the Act cannot be read to prohibit allocation. *Common Cause* v. *FEC,* 692 F. Supp. 1391, 1395 (D.D.C. 1987). However, the court then agreed that the Commission's policy of allowing state party committees to allocate slate card expenses on any reasonable basis was contrary to law, "since Congress stated clearly in the FECA that all monies spent by state committees on these activities vis-à-vis federal elections must be paid for 'from contributions subject to the limitations and prohibitions of this Act.'" *Id.* (*quoting* 2 U.S.C. 431(8)(B)(x)(2) and (xii)(2), 431(9)(B)(viii)(2) and (ix)(2)). The court said that

> [t]he plain meaning of the FECA is that any improper allocation of nonfederal funds by a state committee would be a violation of the FECA. Yet, the Commission provides no guidance whatsoever on what allocation methods a state or local committee may use; . . . Thus, a revision of the Commission's

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regulations to ensure that any method of allocation used by state or local party committees is in compliance with the FECA is warranted. *Id.* at 1396.

The court directed the Commission to replace the "any reasonable basis" allocation method with more specific allocation formulas that would ensure that only contributions subject to the limitations and prohibitions of the Act are used to influence federal elections. However, the court also acknowledged that the Commission could "conclude that *no* method of allocation will effectuate the Congressional goal that *all* moneys spent by state political committees on those activities permitted in the 1979 amendments be 'hard money' under the FECA. That is an issue for the Commission to resolve on remand." *Id.* (emphasis in original).

In a subsequent order, the same court stated that "'[s]oft money' denotes contributions to federally regulated campaign committees in excess of the aggregate amounts permitted for federal elections by the FECA; these contributions, even if directed to national campaign entities, are permissible if the money is not to be used in connection with federal elections." *Common Cause* v. *FEC,* 692 F.Supp. 1397, 1398 (D.D.C. 1988).

The Commission initiated a rulemaking in response to the court's decision in which it made several efforts to obtain input from the regulated community. In addition to the two comment periods and public hearing held before the court's decision, the Commission sought comments on proposed rules through a new Notice of Proposed Rulemaking published on September 29, 1988. 53 FR 38012. The Commission also held another public hearing on the proposed rules on December 15, 1988, at which a cross section of the regulated community had an opportunity to testify. The Commission took the additional step of sending questionnaires to the chairs of all the Democratic and Republican state party committees, and also sought input from the chief fundraisers for each of the major political parties during the 1988 election year.

The Commission issued final rules in 1990 and put them into effect on January 1, 1991. *Methods of Allocation Between Federal and Non-Federal Accounts; Payments; Reporting,* 55 FR 26058 (June 26, 1990). These rules currently govern the allocation of expenses between federal and non-federal accounts. They seek to address the issue of soft money in two ways.

First, the current rules replace the "any reasonable basis" allocation method with specific allocation methods to be used to pay the costs of activities that impact both federal and nonfederal elections. The method to be used depends on the type of committee incurring the expense and the type of activity for which expenses are to be allocated.

National party committees, other than the Senate and House campaign committees, are required to allocate a minimum of 60% of their administrative expenses and costs of generic voter drives to their federal accounts each year (65% in presidential election years). 11 CFR 106.5(b). In addition, national party committees must allocate the costs of each combined federal and non-federal fundraising program or event using the funds received method described in 11 CFR 106.5(f).

Senate and House campaign committees are required to allocate their administrative and generic voter drive expenses using a funds expended formula, subject to a 65% minimum federal percentage, 11 CFR 106.5(c), and, like the national party committees, they must allocate the costs of each combined federal and non-federal fundraising program or event using the funds received method described in 11 CFR 106.5(f), with no minimum federal percentage required.

State and local party committees must allocate (1) their administrative expenses and generic voter drive costs using the ballot composition method, described in 11 CFR 106.5(d); (2) the costs of communications exempt from the contribution and expenditure definitions under 11 CFR 100.7(b) (9), (15) or (17), and 100.8(b) (10), (16) or (18), according to the proportion of time or space devoted to federal and nonfederal candidates in the communication, 11 CFR 106.5(e); (3) expenses incurred in joint fundraising activities using the funds received method, 11 CFR 106.5(f); and (4) direct candidate support activity according to the time or space devoted to each candidate in the communication. 11 CFR 106.1. The new rules also set up procedures to be used by all three types of committees to pay for their mixed activities.

Second, the rules impose additional reporting requirements in order to enhance the Commission's ability to monitor the allocation process. All three types of party committees are required to report their allocations of administrative expenses, voter drive costs, fundraising costs and costs of exempt activities, and also to itemize any transfer of funds from their non-federal to their federal or allocation accounts. In addition, all six national party committees are now required to disclose the financial activities of their nonfederal accounts. Specifically, the committees are required to report all nonfederal receipts and disbursements. The Commission believed this additional reporting would help to ensure that impermissible funds were not used for federal election activities.

On May 20, 1997, the Commission received a petition for rulemaking from five Members of the United States House of Representatives urging the Commission "to modify its rules to help end or at least significantly lessen the influence of soft money." On June 5, 1997, the Commission received a second petition for rulemaking relating to soft money, this one submitted by President Clinton. President Clinton's petition asks the Commission to "ban soft money" and "adopt new rules requiring that candidates for federal office and national parties be permitted to raise and spend only 'hard dollars.'"

In accordance with its usual procedures, the Commission published a Notice of Availability in the June 18, 1997 edition of the **Federal Register** announcing that it had received the petitions and inviting the public to submit comments on them. 62 FR 33040 (June 18, 1997). The comment period closed on July 18, 1997. The Commission received 188 comments in response to the Notice of Availability.

Summary of Comments on the Petitions for Rulemaking

Most of the comments on the Notice of Availability were directed at the question of whether the Commission should promulgate new rules on soft money, and if so, what those rules should be. However, a few commenters raised threshold issues regarding the petitions that should be addressed before examining the substantive issues raised. These threshold issues will be discussed in subsection 1, below. The remaining comments will be summarized in subsection 2.

1. Comments Raising Threshold Issues Regarding the Petitions

a. Sufficiency of the Petitions

One comment raised a threshold question about the sufficiency of the petitions. This comment asserted that the petitions should be denied because they do not set forth the factual and legal grounds supporting the proposed change in the rules. *See* 11 CFR 200.2(b)(4). The comment said that the Commission should require petitioners to put on record "specific, detailed and credible instances of abuse that in terms of seriousness and scope will justify" the rules sought in the petition, and should hold certain petitioners to a higher standard of evidence.

This comment misconstrues the purpose of the petition for rulemaking procedures. These procedures provide the public with guidance on how to seek changes in the Commission's rules, and should be read in light of the Commission's long-standing practice of making its policymaking processes as open and accessible as possible. The rules do not place a heavy evidentiary burden on a petitioner to prove, on the face of a petition, that policy changes are necessary. Petitioners need only raise policy issues that are within the Commission's jurisdiction, and request that the Commission consider whether policy changes are warranted. If a petitioner does so, the Commission will publish a Notice of Availability and begin its consideration process. The Commission will use the comments received on the petition and its own experience in interpreting and enforcing the Act to determine whether to proceed with a rulemaking.

Furthermore, implicit in the Commission's commitment to making its rulemaking process easily accessible to the public is a commitment to making that process available to all members of the public on an equal basis. Consequently, the Commission does not believe it would be appropriate to hold certain petitioners to higher evidentiary standards.

The Commission concludes that the letters submitted by President Clinton and the five Members of Congress adequately explain the factual and legal grounds upon which they rely, and demonstrate that there are issues related to the use of soft money that are worthy of Commission consideration. Therefore, they qualify as petitions under 11 CFR 200.2(b). The Commission also notes that even if it were to conclude that the letters do not qualify as petitions, it has the discretionary authority to treat them as the basis for a sua sponte rulemaking. 11 CFR 200.2(d).

b. Statutory Authority

Another threshold issue raised by the comments is whether the Commission has the authority to regulate soft money. Several of the comments that opposed the petitions take the position that soft money is outside the Commission's jurisdiction, and that imposing limits on soft money would exceed the Commission's statutory authority. They assert that, since the Act does not restrict the use of non-federal funds by the national party committees unless those funds are used for federal election activity, the Commission cannot impose restrictions on its own.

In contrast, several of the comments that support the petitions argued that the Commission has the power to ban the use of soft money by party committees to the extent necessary to avoid having soft money influence federal elections. Another comment argued that, in the *Common Cause* case, discussed above, the court said that when the Commission fails to issue regulations, and the policy resulting from that failure flatly contradicts Congress's purpose, the Commission can be held to have acted contrary to law. Since the Act prohibits the use of soft money in federal elections, this comment asserts that a Commission-imposed limitation serving the same purpose would be upheld.

The Commission has reviewed this threshold question and reached the preliminary conclusion that it has the authority to issue new rules relating to soft money, at least insofar as it is used in connection with Federal elections. The FECA limits the amounts that individuals and political committees can contribute for the purpose of influencing federal elections, and also prohibits corporations, labor organizations and federal contractors from using their general treasury funds to make contributions in connection with federal elections. 2 U.S.C. 441a, 441b, 441c. Section 438(a)(8) of the Act authorizes the Commission to "prescribe rules, regulations and forms to carry out the provisions of this Act. * * *" The Commission believes this broad grant of rulemaking authority includes the authority to promulgate rules to limit the use of soft money in connection with federal elections.

There is ample judicial authority supporting this conclusion. As the United States Court of Appeals for the District of Columbia Circuit has recognized, courts have shown a "lack of hesitation in construing broad grants of rule-making power to permit promulgation of rules with the force of law as a means of agency regulation of otherwise private conduct." *National Petroleum Refiners Association* v. *Federal Trade Commission*, 482 F.2d 672, 680 (D.C. Cir. 1973) ("*NPRA*"). "An agency with a general grant of rulemaking authority has jurisdiction to promulgate regulations reasonably related to the purposes of its enabling legislation." *Pinney* v. *National Transportation Safety Board*, 993 F.2d 201, 202 (10th Cir. 1993). The Supreme Court has said that "[w]here the empowering provision of a statute states simply that the agency may 'make * * * such rules and regulations as may be necessary to carry out the provisions of this Act,' we have held that the validity of a regulation promulgated thereunder will be sustained so long as it is 'reasonably related to the purposes of the enabling legislation.'" *Mourning* v. *Family Publications Service, Inc.*, 411 U.S. 356, 369 (1973) (quoting *Thorpe* v. *Housing Authority of City of Durham*, 393 U.S. 268, 280–81 (1969). The "authority of the [Federal Power Commission] need not be found in explicit language. [A general rulemaking provision] demonstrates a realization by Congress that the Commission would be confronted with unforeseen problems of administration in regulating this huge industry and should have a basis for coping with such confrontation. While the action of the Commission must conform with the terms, policies and purposes of the Act, it may use means which are not in all respects spelled out in detail." *Public Service Comm'n of State of New York* v. *Federal Power Commission*, 327 F.2d 893, 897 (D.C. Cir. 1964). Thus, the Commission believes that it has the authority to promulgate rules to ensure that contributions that would violate sections 441a, 441b or 441c are not used to influence federal elections.

The Commission also believes that, given the complexity of the issues raised, this is an area in which providing additional guidance to the regulated community is particularly important. "More than merely expediting the agency's job, use of substantive rule-making is increasingly felt to yield significant benefits to those the agency regulates. Increasingly, courts are recognizing that use of rule-making to make innovations in agency policy may actually be fairer to regulated parties than total reliance on case-by-case adjudication." *NPRA*, 482 F.2d at 682.

However, the Commission does not regard this as a closed issue. Therefore, as part of its effort to explore the question of whether new rules are needed, commenters are invited to further address the issue of whether the Commission has the authority to promulgate rules in this area. Commenters are also encouraged to express their views on whether the proposed rules set out in this notice are within the scope of that authority.

2. General Comments on the Petitions for Rulemaking

a. Comments Supporting the Petitions

Approximately ¾ of the 188 comments received in response to the Notice of Availability expressed support for the petitions for rulemaking. Among those supporting the petition were twelve United States Senators, three United States Congressmen, the Secretaries of State of five states, and eleven state Attorneys General.

These supporting comments suggested a number of different strategies for addressing the issues raised in the petition. For example, more than a hundred comments urged the Commission to ban soft money completely, while other comments urged the Commission to limit certain uses of soft money. A dozen comments urged the Commission to ban soft money contributions to the national party committees, or to prohibit the party committees from receiving soft money contributions. Three other commenters urged the Commission to prohibit the solicitation of soft money contributions by national party committees, federal officeholders, and federal candidates. Another comment suggested that the Commission prohibit the party committees from spending soft money or transferring it to other committees. Other comments were directed at the use of soft money by state and local party committees. These comments suggested that the Commission prohibit state and local party committees from spending soft money on any activity or event that might influence a federal election, and limit their use of soft money to general overhead expenses.

Several comments suggested that the Commission impose partial limits on soft money. One comment suggested that the use of soft money be reduced or limited so that the amount will not influence a party or candidate. Two comments suggested that specific dollar limits be imposed, one on the amount that a party committee could receive, and the other on the amount that a contributor could give.

The comments contained a number of arguments as to why additional limits on the use of soft money are needed. Four comments asserted that soft money destroys the integrity of the political process, and said that a ban on soft money would help to restore public confidence in the integrity of the process. Eight comments said that the widespread use of soft money alienates voters, and creates the perception of impropriety, thereby discouraging involvement in the process. Five commenters argued that soft money increases the demand for campaign contributions, and distracts government officials from the responsibilities of governance.

Many of the comments also argued that soft money is a loophole being used to circumvent the prohibitions and limitations of the Act. One comment asserted that the current system essentially allows money laundering to occur by allowing impermissible soft dollars to be exchanged for hard dollars that can be used without limitation. Other comments said that soft money results in actual *quid pro quo* corruption, thereby frustrating the purposes of 2 U.S.C. 441a and 441b. Another comment expressed concern that soft money is having a negative impact on the public financing system for presidential campaigns.

Several comments were directed at the system of allocating federal and non-federal expenses, as set out in the current rules. Most of these comments urged the Commission to abandon the system and prohibit any combined use of federal and nonfederal funds. Several comments asserted that the soft money problem has grown significantly worse since the rules were promulgated, indicating that the rules have failed to ensure that only hard dollars are used to influence federal elections. One of these comments said that reporting under the allocation rules is inadequate, and that the Commission does not have the resources necessary to enforce the rules.

b. Comments Opposing the Petitions

As indicated above, about one quarter of the comments spoke out against limits on soft money, for a variety of reasons. Several comments argued that the proposals set out in the petitions would violate the First Amendment. Others expressed concern that the proposals would effectively federalize all national party activities, and could weaken parties, which play an important role in our political system. Two other comments urged the Commission to take action on soft money only when it has addressed the issue of compulsory union dues. Three comments urged the Commission to reject the petitions and devote its resources to enforcing existing laws.

Analysis

Prior to 1991, it was difficult to determine how much soft money the party committees were raising and spending, because there was no systematic disclosure of soft money activity, and no uniform guideline for allocating expenses. Although some states required party committees to disclose their non-federal account activity, others did not, and even in those states where disclosure was required, not all activity appeared on the public record. Consequently, most of the available information was anecdotal.

The Commission is generally reluctant to make significant changes in existing policy in the absence of clear evidence that such changes are needed to effectuate the Act's mandate. Consequently, the Commission concluded that it would be inappropriate to impose the significant restraints on the use of soft money sought in the 1984 petition for rulemaking. Instead, the Commission established specific allocation methods and required additional disclosure by the party committees. Based upon the information available at the time, the Commission believed this approach struck the appropriate balance between the need to effectuate the prohibitions and limitations of the Act, and also recognize the interests of the states in regulating non-federal activity.

However, recent developments—brought to light in many instances because of the additional disclosure requirements imposed in 1991—have reopened the question of whether allowing party committees to pay a portion of their mixed activities costs with soft dollars is consistent with the mandate of the FECA. Concerns have been raised that the allocation rules have allowed party committees to use large contributions from prohibited sources and in excess of the hard dollar limits in ways that, in fact, influence federal elections, even though they are ostensibly being used for nonfederal election activity.

One such development is the dramatic increase in the amount of soft money raised and spent by the national party committees since promulgation of the allocation rules. According to summaries of the reports filed with the Commission, which do not include transfers among the national party committees, the national committees raised $262.1 million during the 1995–96 election cycle, or an average of approximately $131.05 million per year, up from $86 million in the 1992 election cycle or an average of $43 million per year. Similarly, soft money disbursements by the committees totaled $271.5 million in the 1996 election cycle, a significant increase from the $79.1 million spent in the 1992 election cycle. The reports also show that soft money receipts by the national party committees continued to increase in 1997. Soft money fundraising by the Democratic committees increased 25% during the first six months of the year, when compared to the same period during the previous election cycle. Soft money fundraising by the Republican national party committees increased 17% during this period.

In addition to the increase in the total dollar amount of soft money contributions, there has also been an increase in the number of contributions made to the party committees' nonfederal accounts that would have been prohibited under FECA if they had been made to a federal account. As explained above, the Act limits individual contributions to the national party committees' federal accounts to $20,000 per calendar year, and also limits total contributions by an individual to $25,000 per year. 2 U.S.C. 441a(a)(1)(B) and 441a(a)(3). In addition, the Act prohibits contributions by corporations, labor organizations and federal contractors. 2 U.S.C. 441b, 441c. Entities that are prohibited from making contributions to a federal account and individuals wishing to make contributions in excess of the dollar limits have generally been permitted to direct those contributions to a nonfederal account, even though contributions to nonfederal accounts are often used for activities that have an impact on federal elections.

The reports indicate that contributors are doing so with increasing frequency. The national party committees' nonfederal accounts received at least 381 individual contributions of more than $20,000 during the 1992 presidential election cycle, and also received about 11,000 contributions from sources that are prohibited from contributing to federal accounts. In the 1996 election cycle, both numbers more than doubled. The committees' nonfederal accounts received nearly 1000 individual contributions in excess of $20,000, and also received approximately 27,000 contributions from FECA-prohibited sources. Thus, it appears that an increasing number of contributors see the party committees' nonfederal accounts as an avenue through which they can make contributions that would be prohibited under sections 441b or 441c or would exceed the $20,000 individual contribution limit. Some individual contributors may also be using these accounts to make contributions that would otherwise exceed their $25,000 overall limit.

Ironically, there are also indications that the allocation rules themselves may have increased the amount of soft money raised by the national party committees, although it may not be possible to establish cause and effect. Although the national party committees were not required to report soft money receipts in 1984, one national party committee official submitted testimony stating that his party raised $3.7 million in soft money during the 1984 Presidential election year. *Federal Election Commission Hearing on the Use of Undisclosed Funds or "Soft Money" to Influence Federal Elections,* January 29, 1986 (written testimony of Frank J. Fahrenkopf, Chairman, Republican National Committee, at 4). That same party committee raised $23.5 million in 1992, the first Presidential election year in which the allocation rules applied. This party committee subsequently raised $66.2 million in the 1996 Presidential election year, approximately 18 times the amount reportedly raised in 1984. In addition, two national party committees that did not have a non-federal money account before promulgation of the allocation rules established such an account and began raising soft money after the rules went into effect.

In some situations, the national party committees have interpreted the allocation rules to allow transfers of funds to state and local party committees in order to take advantage of more favorable allocation ratios. Although the allocation rules prohibit state party committees from using transferred funds for certain volunteer and GOTV activities, *see* 11 CFR 100.7(b)(15)(vii), and (b)(17)(vii), 100.8(b)(16)(vii) and (b)(18)(vii), they do not prohibit the use of transferred funds for voter drive or other activities, nor do they explicitly require state parties to apply the national party committee's allocation ratio when they use transferred funds for those purposes.

Generally speaking, it is easier to raise soft money than hard money. As a result, the national party committees look for ways to make their hard dollars go farther. Transferring funds helps them achieve this goal in a number of ways. For example, a national party may try to stretch its hard dollars by transferring them to a state or local party committee and instructing the committee to use the funds for a particular mixed activity. Generally, the rules permit a state or local party committee to pay a higher percentage of its mixed activity costs with soft dollars than a national party is able to when conducting the same activity. In many cases, the difference is significant. To illustrate, a national party committee conducting a $100,000 voter drive under the current rules would be required to pay for the drive with at least $60,000 in hard money. In contrast, a state party committee conducting the same drive might only be required to use $35,000 in hard money, and could pay the remaining costs with soft money. This creates an incentive for the national committee to transfer hard dollars to the state committee and have the recipient committee conduct the activity.

There have also been allegations that both national and state party committees have transferred soft dollars to nonprofit organizations for them to use in conducting activities that influence federal elections, such as voter registration drives or get-out-the-vote campaigns. Ordinarily, a party committee would be required to allocate the costs of such an activity, i.e., pay part of the cost of the activity with hard dollars. However, many nonprofit organizations are not political committees under the FECA, and thus are generally not subject to the allocation rules. Currently, in many situations, nonprofit organizations that are not political committees under the FECA can pay the costs of voter registration or get-out-the-vote activities entirely with soft dollars. Thus, as with the hard dollar transfers described above, the party committees may believe that transferring soft money to these types of nonprofit organizations will enable them to conserve hard dollars. However, in applying the allocation rules, one court has said that when an organization conducts an allocable activity with funds received from a party committee, the recipient organization can be required to use the allocation rules applicable to the party committee from which the funds were obtained. *FEC* v. *California Democratic Party,* No. S–97–891, (E.D.Cal. Jun. 11, 1998).

The disclosure reports show that, in election years, the national party committees transfer more soft money to state and local party committees in states that appear to have closely contested races for federal office. For example, reports indicate that the national party committees transferred a combined $14.3 million in soft money to state and local party committees in California during the 1995–96 election cycle. California was an important battleground state in the Presidential election. Polls indicated that both major party candidates had a chance to win the state's 54 electoral votes.

In contrast, polls indicated that President Clinton had a substantial lead in New York State. One national party committee did not transfer any soft money to state and local party committees in New York during the 1995–96 election cycle, and the other national party committee transferred only $325,332, even though New York represents 33 electoral votes. While this is only one example and there are other possible explanations for this disparity, one likely explanation for it is that the national party committees were

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directing their soft money to those states in which it would have the most impact on federal elections.

In addition, there have been allegations in the press and other fora that suggest that federal candidates and officeholders may be more involved in the process of raising soft money for the parties than they have been in the past. Federal officeholders, in particular, appear to be directly involved in soliciting contributions for the party committees' soft money accounts. In 1990, the Commission recognized that some solicitations for soft money contributions may lead contributors to believe that funds contributed will be used to benefit federal candidates, when, in fact, soft money can only be used for non-federal election activity. In order to address this concern, the Commission created a presumption that party committee solicitations that refer to a federal candidate or election are for the purpose of influencing a federal election, and thus any contributions received in response to those solicitations are subject to the prohibitions and limitations of the Act. 11 CFR 102.5(a)(3). 55 FR at 26059 (June 26, 1990). The Commission now believes it may be appropriate to seek comments as to whether solicitations by a federal candidate or federal officeholder should be covered by § 102.5(a)(3), and thus whether the resulting contributions should be subject to the Act's prohibitions and limitations.

Of course, the discussion of the above allegations should not be read as a determination by the Commission that these allegations involve violations of the FECA. Determinations by the Commission of violations of FECA by specific persons in specific factual contexts can only be made in an enforcement proceeding.

However, the record described above suggests that the use of soft money has expanded far beyond what the Commission anticipated when it promulgated the allocation rules. This appears to be particularly true for the national party committees. They are directly tied to federal officeholders in Congress and the White House. They also play a major role in raising funds to elect candidates for federal office, and in directing those funds to states in which key elections are being held. Thus, it is reasonable to conclude that at least one dominant focus of the national party committees is in electing federal candidates. This is in contrast to state and local party committees, who focus more of their activities on raising funds for and assisting in the election of state and local candidates.

On the other hand, the Commission is also aware that only a small percentage of the 500,000 elected positions in this country are federal, and that national party committees may have an interest in the outcome of both federal and nonfederal elections. In some cases, the national party committees promote ideas, issues and agendas of importance to their respective parties, activities which, they assert, do not fall within the FECA. Thus, it is reasonable to conclude that another dominant focus of the national party committees is advocating issues and electing state and local candidates, although the level of direct involvement in non-federal elections varies among the national party committees. In recognition of this interest, national party committees have, to date, been permitted to set up separate nonfederal accounts to raise and spend money as allowed under applicable state and local law.

Putting aside the question of how much national party committee activity is not federal-election related, it appears that by allowing national party committees to pay a portion of their mixed activities costs with soft dollars, the allocation rules appear to be allowing the national party committees to use large soft money contributions in ways that unavoidably influence federal elections, even though they are ostensibly raised for nonfederal election activity. This is inconsistent with the policy goals of the FECA, which seeks to limit corruption and the appearance of corruption that is created when large individual contributions and corporate, labor organization and federal contractor funds are used to influence federal elections. The number and percentage of comments expressing the view that soft money has a corrupting influence on the federal election process is a strong indication that soft money is "eroding * * * public confidence in the electoral process through the appearance of corruption." *FEC* v. *National Right to Work Committee*, 459 U.S. 197, 209 (1982) (citing *Buckley* v. *Valeo*, 424 U.S. 1, 26–27 (1976)).

Consequently, the Commission believes that it may be necessary to promulgate new rules to ensure that soft money is not used to influence federal elections, and give full force and effect to the prohibitions and limitations of the Act. The Commission has drafted proposed rules that seek to achieve this goal. These rules are set out below, along with several alternative proposals.

The Commission is also interested in receiving comments on any other issues relating to soft money. In particular, as discussed above, comments are invited on the scope of the Commission's authority to promulgate rules in this area. Comments are also invited on whether the allegations discussed above are accurate, relevant to this inquiry, and adequate to justify changes in Commission policy.

The Commission would like to re-emphasize that the rules and alternatives set out below are preliminary proposals only. They do not represent a final decision, and may be modified by the Commission or rejected and not adopted at all. Also note that these proposals focus on soft money activity conducted by party committees, and would not directly impact issue advocacy conducted by other entities, which, unless it expressly advocates the election or defeat of a clearly identified candidate, or in certain cases is coordinated with a candidate or party, is outside the Commission's jurisdiction. Coordination is currently being addressed in another rulemaking. *See* 62 FR 24367 (May 5, 1997).

Rulemaking Proposals

In an effort to generate a full range of views, the Commission is seeking comment on two options for addressing the issues raised above, and is also seeking comment on three variations on the second of these two options.

The first option would be to make no changes to the current rules. Under the first option, the national parties would continue to be prohibited from receiving and using soft money in connection with federal elections. Soft money raised for non-federal election related purposes would be permitted. Non-federal accounts would be permitted for these non-federal election purposes along with the building fund accounts specifically authorized by the FECA.

The second option would be to make revisions to the current rules. The Commission has drafted proposed revisions to the current rules that would address these issues. The proposed revisions are described in detail in the next two sections. Draft rules implementing these proposals are set out in the proposed rule section of this notice.

The proposed revisions consist of a core proposal, and three variations on the core proposal. The core proposal would prohibit the receipt and use of soft money by the national party committees, and would eliminate all national party committee nonfederal accounts other than the building fund accounts specifically authorized by the FECA. This proposal also clarifies portions of section 102.5 relating to solicitations by federal candidates and officeholders. However, the core proposal would not change the allocation rules for state and local party committees.

The first variation to the core proposal would modify it to make a narrow exception to the prohibition on the receipt of soft money by national party committees. This exception would allow national party committees to raise soft money for the limited purpose of making direct or earmarked contributions to state and local candidates. The section of the proposed rules titled "variation one" sets out those rule provisions that would be different from the core proposal if this variation were adopted. All the other provisions of the core proposal would remain the same.

The second variation on the core proposal would modify the core proposal to ensure that hard money transferred from a national to a state or local party committee is spent using the rules applicable to the national party committees, rather than the state or local party committee's more favorable allocation ratios. Variation two would require the national party committee to earmark transfers of funds for use in a particular activity, and would require the state or local party committee to finance the identified activity entirely with hard dollars. Variation two could be implemented if either one of the two options were adopted as is, or if the core proposal of the second option were adopted with variation one. As with variation one, variation two of the proposed rules sets out those rule provisions that would be different from the core proposal if variation two were adopted.

Finally, the third variation on the second option's core proposal would extend portions of the core proposal's treatment of national party committees to state and local party committees. Under variation three, state and local party committees would be required to finance their mixed activities entirely with hard dollars. Like variation two, variation three could be implemented in conjunction with the core proposal, or in conjunction with both the core proposal and variation one. Those provisions that would differ from the core proposal of the second option are set out in variation three of the proposed rules, below.

The Commission invites commenters to submit their views on the first and second options, including the core proposal and all three variations of the second option.

1. National Party Committees, Including the Senate and House Campaign Committees of the National Parties

The objective of the proposed rules is to ensure that soft money is not used to influence federal elections. In order to achieve this result, the core proposal virtually eliminates the soft money available to the national party committees to subsidize activities that influence federal elections.

Both the first and second options recognize the limited scope of the FECA, and acknowledge that national party committees have other purposes besides the election of federal candidates. The major difference between the two options is whether most national party committees' federal and nonfederal activities are inextricably intertwined, or, as the current rules suggest, can be separated in a way that will ensure that soft money is not used to influence federal elections.

One way to attempt to reduce the amount of soft money used to influence federal elections would be to adjust the allocation ratios so that national party committees are required to use a larger percentage of hard dollars to pay the costs of their mixed activities. However, adjusting the allocation ratios would have limited impact for several reasons.

First, unless the ratios were increased to 100%, the national party committees could continue to pay for a portion of their mixed activities with soft dollars. Thus, increasing the ratios would merely reduce, rather than eliminate, the amount of soft money spent by the national party committees on mixed activities that influence federal elections.

In addition, this approach would have no impact on soft money spent by the national party committees that is not spent directly on mixed activities. Of the $271.5 million in soft money disbursed by the national party committees during the 1996 election cycle, only $90.5 million, or one third, was spent directly on mixed activities that were subject to the allocation ratios. An even greater amount, $114.8 million, or 42% of the total spent during the cycle, was transferred to state and local party committees. An additional amount, which cannot be as readily determined from the committees' reports, was transferred to outside groups that are not subject to the allocation rules. Adjusting the allocation ratios would only affect those amounts spent on mixed activities. Amounts transferred between party committees would be unaffected.

The preliminary evidence described above indicates that soft money transferred by the national party committees, except for money not used in connection with federal elections, is having a significant impact on federal elections. If the proposed rules do not take these transfers into account, they will not adequately effectuate the Congressional intent that only hard money be used to influence the outcome of federal elections. *See Common Cause v. FEC,* 692 F. Supp. 1391 (D.D.C. 1987), *enforced,* 692 F. Supp. 1397 (D.D.C. 1987).

The first option, described in the introduction above, assumes that money raised by national party committees to elect candidates to state and local offices and to promote party positions on issues of local, regional, and national importance can be spent in a way that will not influence federal elections, and thus is beyond the Commission's jurisdiction. The Commission invites comments on this option. In particular, the Commission encourages commenters to help clarify the various purposes of national party committees by discussing those national party committee activities that promote party positions, agendas and ideas on issues of local, regional, and national importance.

In addition to seeking comments on this approach, the Commission is also seeking comments on whether Schedule I should be revised so that transfers between party committees can be more accurately tracked as well as money used to elect candidates to state and local offices and to promote party positions on issues of local, regional, and national importance. This information would greatly enhance the available information on how soft money is spent by national party committees.

The second option is based on the conclusion that the only way to limit the amount of soft money spent by the party committees to influence federal elections would be to reduce the amount of soft money raised by the party committees, and in particular, by the national party committees. This option concludes that the dominant focus of the national party committees is on electing federal candidates, and virtually all national party committee activities influence federal elections. Thus, it would be more consistent with the purposes of the FECA and the statute's jurisdictional reach to require national party committees to finance their mixed activities entirely with hard dollars. The most effective way of carrying out the Act's requirements is to prohibit the national party committees

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from raising soft money for most purposes.

The core proposal of the second option would achieve this goal by revising the allocation rules for national party committees. Specifically, the core proposal would revise section 102.5 to prohibit all three types of national party committees from operating non-federal accounts and accepting soft money. The only exception would be that committees could continue to operate the building fund accounts, since these accounts are specifically permitted by the FECA. *See* 2 U.S.C. 431(8)(B)(viii), 11 CFR 100.7(b)(12) and 11 CFR 100.8(b)(13).

The core proposal of the second option would also make related changes to Part 106. Proposed sections 106.1(a) and 106.5(b) would require the national party committees to defray expenses, other than building fund expenses, entirely with hard dollars. This would include the costs of expenditures that are on behalf of both federal and nonfederal candidates, section 106.1(a), and the costs of combined federal and non-federal fundraising programs currently allocated using the funds received method in section 106.5(f). It would also include costs incurred in fundraising for the committees' building funds, in order to ensure that fundraising for building funds does not become an avenue for spending soft money to influence federal elections, such as by soliciting building fund contributions with communications that expressly advocate the election or defeat of federal candidates.

Sections 106.1(a) and 106.5(b) of the core proposal would apply to all of the national party committees, including the Senate and House campaign committees. The core proposal would also make minor structural modifications to section 106.1. Paragraph (a) would be broken into two parts, and several reporting requirements in separate paragraphs of the current rule would be relocated to paragraph (b). In addition, current section 106.5(c), would be removed and replaced with an entirely new provision, to be discussed below. The Commission invites comments on these proposals.

Variation one on the second option's core proposal is largely the same as the core proposal. However, variation one would create a narrow exception to the prohibition on the receipt of soft money by national party committees. Under section 102.5(c) of variation one, national party committees other than the Senate and House campaign committees would be allowed to maintain a second non-federal account for the limited purpose of receiving donations that are either earmarked for and subsequently donated to clearly identified non-federal candidates or are raised and spent solely in the form of donations to non-federal candidates, either directly or through an earmarked transfer to a state or local party committee. This would allow national party committees to continue raising soft dollars for the very limited purpose of making or passing on contributions directly to nonfederal candidates. However, the national party committees would still be required to finance their mixed activities entirely with hard dollars. Comments are invited on this proposal.

If the second option were to be adopted, either with or without variation one of the core proposal, a modest reorganization of section 106.5 of the regulations would be necessary. This reorganization is shown in the core proposal section of the proposed rules. First, the section heading would be revised to reflect the substantive changes in the section. Second, since the national party committees would no longer be allocating expenses, the list of costs to be allocated in current section 106.5(a)(2) would be relocated to section 106.5(c)(2). Revised section 106.5(b) would apply to all national party committees, including the Senate and House campaign committees, and new section 106.5(c) would state the general rule that state and local party committees are required to allocate the expenses in paragraph (c)(2) in accordance with paragraphs (d) through (f). Comments are invited on the reorganization of section 106.5.

The version of section 106.5 in variation three of the second option also reflects this reorganization, although variation three would also make other changes to section 106.5 that will be discussed further below.

2. State and Local Party Committees

The Commission is seeking comment on whether the rules governing state and local party committees should be changed to address some of the issues raised above.

As with the national party committees, the current allocation rules appear to be allowing state and local party committees to use soft money to subsidize activities that, at least in part, influence federal elections. In addition, as discussed above, the differences between the allocation methods applicable to national party committees and those applicable to state and local party committees create an incentive for a national party committee that wants to engage in a mixed activity to transfer hard dollars to a state or local party committee and have the recipient committee conduct the activity using its more favorable allocation ratios. This problem exists under the current rules. However, it would be made more acute if the second option were adopted, because the core proposal for national party committees would eliminate the national party committees' non-federal accounts and require national party committees to use 100% hard money for all activities.

Implementing the core proposal of the second option could also encourage soft money donors to redirect their contributions to the state and local party committees, which would then use the funds for mixed activities that influence federal elections. The national party committees might assist their state and local affiliates by employing a type of directed donor strategy, in which the national committee solicits soft money contributions and instructs contributors to send their contributions directly to the state or local committee. Thus, instead of reducing the amount of soft money activity, the core proposal for national party committees may merely redirect that activity to the state and local level, where reporting may be less complete than at the federal level.

Variations two and three on the core proposal would address these issues. If the core proposal of the second option were implemented with variation two, the rules would eliminate the national party committees' nonfederal accounts and would also seek to limit the incentive for national party committees to transfer funds to state and local party committees in order to take advantage of the recipient committee's more favorable allocation ratios. Specifically, variation two would require a national party committee that transfers hard dollars to a state or local party committee to include a written communication identifying the state or local party committee activity for which the transferred funds are to be used. The national party committee would also be required to include a copy of the written communication in its next regularly scheduled disclosure report to the Commission. *See* section 106.5(b) of variation two.

The recipient state or local party committee would then be required to use the transferred funds for the identified activity, and pay any additional costs incurred in the identified activity entirely with hard dollars. This would ensure that funds that originate with a national party committee are used in accordance with the rules that apply to national party committees. Finally, like the national party committee, the state or local party committee would be required to submit a copy of the written communication with its next regularly scheduled disclosure report. Section 106.5(c)(1)(ii)(A) of variation two. Comments are encouraged on these proposals.

Paragraph (c)(1)(ii)(B) of variation two contains an exception for transfers to state and local party committees in states that hold federal and non-federal elections in different years. The transfer requirements described above would not apply to transfers made to these entities if the funds transferred were used exclusively for generic voter drive activity conducted in a calendar year in which no candidates for federal office appear on any primary, general, or special election ballot.

Variation two also contains a conforming amendment to section 106.1. Revised section 106.1(a)(1) would require state and local committees to follow the transfer rules in section 106.5 if they use transferred funds to pay for expenditures on behalf of both federal and nonfederal candidates. The Commission also notes that it may be necessary to make other conforming amendments to the reporting requirements in Part 104 of the regulations, should variation two be implemented.

Variation three of the core proposal would extend portions of the core proposal's treatment of national party committees to state and local party committees in order to ensure that state and local committees do not use soft money donations to influence federal elections. The core proposal would require national party committees to pay their expenses entirely with hard dollars. Similarly, variation three would require state and local party committees to pay the costs of their mixed activities entirely with hard dollars, regardless of whether the funds used were transferred from a national party committee. Under this approach, state and local party committees would be required to pay all of the costs they incur in the activities described in current section 106.5(a)(2) with funds that are permissible under the FECA. This is in contrast to the current rules, under which they allocate the costs of all of these activities, and is also in contrast to variation two, under which they would allocate the costs of any mixed activities not partially financed with funds transferred from a national party committee. Variation three would also amend section 106.1 to require state and local committees to use hard dollars for expenditures made on behalf of both federal and nonfederal candidates.

Variation three would contain two exceptions to the general requirement that state and local party committees pay the costs of their mixed activities entirely with hard dollars. First, national and state party committees could continue to defray their building fund expenses with funds in a building fund account established in accordance with section 102.5(c)(2). In addition, state and local party committees in states that do not hold federal and non-federal elections in the same year could continue to use funds that are not subject to the prohibitions and limitations of the Act to defray the costs of generic voter drive activity conducted in a calendar year in which no candidates for federal office appear on any primary, general, or special election ballot.

Comments are invited on variation three of the core proposal. The Commission recognizes that this would be a significant change for committees that operate on the state and local level, and would raise issues regarding the scope of the FECA. The concept underlying this approach is that all mixed activity, by its very nature, affects federal elections, and must be paid for with hard dollars. Commenters are encouraged to address the question of whether the Commission has the statutory authority to implement such a rule.

The Commission would like to emphasize that, under variations two and three, state and local party committees would be able to continue raising soft money to pay for activities that exclusively influence nonfederal elections.

Finally, the core proposal and all three variations of the core proposal would amend current section 106.5(a)(2)(iv) to address the allegation that party committees have transferred funds to nonprofit organizations in order to avoid the allocation requirements. The revised provisions are set out in section 106.5(c)(2)(iv) of the core proposal, variation one and variation two, and in section 106.5(b) of variation three. Section 106.5(c)(2)(iv) would indicate that the costs of generic voter drives must be allocated if the drive is conducted directly by a state or local party committee or is financed by the party committee and conducted by another entity. Section 106.5(b) of variation three would indicate that the costs of generic voter drives must be defrayed entirely with hard dollars, whether the drive is conducted directly by a state or local party committee or is financed by the party committee and conducted by another entity. The Commission invites comments on these proposals.

3. Other Proposed Rules

a. Party committee solicitations by federal candidates and officeholders

The Commission is considering changes to section 102.5(a)(3) to make it clear that contributions solicited by a federal candidate or officeholder are subject to the prohibitions and limitations of the Act. As discussed above, when a federal candidate or officeholder solicits a contribution, the contributor is likely to assume that his or her contribution will be used to benefit a federal candidate. Proposed revisions to section 102.5(a)(3) set out in the core proposal would make it clear that contributions resulting from a solicitation made by a federal candidate or officeholder are subject to the prohibitions and limitations of the Act. However, in the case of a solicitation for a national party committee, this presumption could be rebutted if the donor, in writing, expressly designates the contribution for the committee's building fund account, as described in section 102.5(c)(2). In the case of a solicitation for a state party committee, this presumption could be rebutted if the donor, in writing, expressly designates the contribution for the committee's building fund account, or for its non-federal account, as described in section 102.5(a)(1)(i). Donors to a local party committee could also designate their contributions for a nonfederal account. The core proposal also contains a conforming amendment to current section 102.5(a)(2), which would add to the list of contributions that may be deposited in a federal account those contributions that, due to the operation of proposed paragraph (a)(3), would be presumed to be for the purpose of influencing an election. The Commission invites comments on these proposals.

b. Allocating Joint Fundraising Expenses

Section 102.17 sets out rules for committees, other than separate segregated funds, that engage in joint fundraising. Generally, this provision only applies to joint fundraising activities conducted on behalf of more than one federal candidate or on behalf of multiple non-connected committees. Fundraising activities conducted by party committees for both their federal and nonfederal accounts are currently governed by 11 CFR 106.5(f), although under the core proposal of the second option, national party committee

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fundraising would be governed by paragraph (b).

The core proposal of the second option would insert a cross reference into section 102.17(c)(7) directing party committees that collect both federal and nonfederal funds through a joint fundraiser to allocate their expenses for the fundraiser in accordance with section 106.5. Even though no comparable language appears in the current rule, this new language would merely make explicit the Commission's long-standing interpretation of these two provisions. Thus, this proposal would not be a change in Commission policy. Comments are invited on this proposed revision.

c. Curing prohibited and excessive contributions

Under section 103.3(b) of the Commission's rules, committee treasurers are responsible for examining all contributions received to ensure that they do not violate the prohibitions or limitations of the Act. Contributions that present genuine questions as to whether they are from a prohibited source may be deposited in the committee's account or returned to the contributor within ten days of receipt. However, if such a contribution is deposited, the treasurer has thirty days to determine the legality of the contribution. If unable to confirm that the contribution is legal, the treasurer must refund the contribution. 11 CFR 103.3(b)(1).

Similarly, if a treasurer receives a contribution that does not initially appear to be from a prohibited source, and subsequently determines that the contribution is from a prohibited source, the treasurer is required to refund the contribution within 30 days. 11 CFR 103.3(b)(2).

Paragraph (b)(3) contains similar rules for contributions that exceed the limitations in 2 U.S.C. § 441a, either on their face or when aggregated with other contributions from the same contributor. *See also* 11 CFR 110.1 or 110.2. The treasurer has the option of depositing the excessive contribution or returning it to the contributor. However, if the contribution is deposited, the treasurer has sixty days to seek redesignation of the contribution to another election, or reattribution to another contributor. If unable to obtain redesignation or reattribution, the treasurer is required to refund the contribution. 11 CFR 103.3(b)(3).

The Commission is considering the situation where a committee has received an excessive or prohibited contribution and wants to cure this problem by transferring the contribution to a nonfederal account. Proposed revisions to sections 103.3(b)(1), (2) and (3), as shown in the core proposal of the second option, would allow a treasurer to make such a transfer to a non-federal account established in accordance with 11 CFR 102.5(a)(1)(i) or 102.5(c), but only after obtaining an express written redesignation of the contribution to the non-federal account. If a written redesignation cannot be obtained within thirty days of receiving the contribution, the treasurer would be required to return the contribution to the contributor. The Commission invites comments on these proposals.

The treasurer's ability to transfer the prohibited or excessive contribution would also be subject to other applicable federal laws. For example, if a treasurer receives a contribution from a foreign national, he or she would not be able to cure the illegality of that contribution by transferring it to a non-federal account, because foreign nationals are prohibited from making contributions in connection with any election to any political office. Similarly, the transfer would be subject to applicable state laws. The proposed rule would not preempt, under 2 U.S.C. 453, any state-imposed contribution prohibitions or limitations. Comments on these limitations are welcome.

Conclusion

The Commission welcomes comments on the issues raised by the proposed rules, and on the general question of whether changes to the regulations relating to soft money are warranted at this time. As mentioned above, the Commission is also interested in comments on the issue of whether it has the authority to promulgate rules in this area. Those interested are also welcome to raise other issues that should be addressed if the Commission decides to issue final rules.

Certification of No Effect Pursuant to 5 U.S.C. 605(b) (Regulatory Flexibility Act)

I certify that the attached proposed rules, if promulgated, would not have a significant economic impact on a substantial number of small entities. The basis of this certification is that the national, state and local party committees of the two major political parties are not small entities under 5 U.S.C. § 601, and the number of other party committees to which the rule would apply is not substantial.

List of Subjects

11 CFR Part 102

Political committees and parties.

11 CFR Part 103

Campaign funds, Political committees and parties.

11 CFR Part 106

Campaign funds, Political committees and parties.

First Option

The Commission would make no changes to the existing regulations.

Second Option

The Commission is proposing to make the following changes to the regulations:

For the reasons set out in the preamble, it is proposed to amend subchapter A, chapter I of title 11 of the Code of Federal Regulations as follows:

Core Proposal

PART 102—REGISTRATION, ORGANIZATION, AND RECORDKEEPING BY POLITICAL COMMITTEES (2 U.S.C. 433)

1. The authority citation for part 102 would continue to read as follows:

Authority: 2 U.S.C. 432, 433, 438(a)(8), 441d.

2. Section 102.5 would be amended by revising paragraph (a) and adding paragraph (c), to read as follows:

§ 102.5 Organizations financing political activity in connection with Federal and non-Federal elections, other than through transfers and joint fundraisers.

(a) *Organizations, other than national party committees, that are political committees under the Act.* (1) Except as provided in paragraph (c) of this section, any organization that finances political activity in connection with both federal and non-federal elections and that qualifies as a political committee under 11 CFR 100.5 shall either:

(i) Establish a separate federal account in a depository in accordance with 11 CFR part 103. Such account shall be treated as a separate federal political committee which shall comply with the requirements of the Act including the registration and reporting requirements of this part and 11 CFR part 104. Only funds subject to the prohibitions and limitations of the Act shall be deposited in such separate federal account. All disbursements, contributions, expenditures and transfers by the committee in connection with any federal election shall be made from its federal account. No transfers may be made to such federal account from any other account(s) maintained by such organization for the purpose of financing activity in connection with non-federal elections, except as provided in 11 CFR 106.5(g) and 106.6(e). Administrative expenses shall be allocated pursuant to 11 CFR part 106 between such federal account and any other account maintained by such committee for the purpose of financing activity in connection with non-federal elections; or

(ii) Establish one account, which shall receive only contributions subject to the prohibitions and limitations of the Act, regardless of whether such contributions are for use in connection with federal or non-federal elections. Such organization shall register as a political committee and comply with the requirements of the Act.

(2) Only contributions described in paragraphs (a)(2)(i), (ii), (iii) or (iv) of this section may be deposited in a federal account established under paragraph (a)(1)(i) of this section or may be received by a political committee established under paragraph (a)(1)(ii) of this section:

(i) Contributions designated for the federal account;

(ii) Contributions that result from a solicitation which expressly states that the contribution will be used in connection with a federal election;

(iii) Contributions from contributors who are informed that all contributions are subject to the prohibitions and limitations of the Act; or

(iv) Contributions that, due to the operation of paragraph (a)(3) of this section, are presumed to be for the purpose of influencing an election.

(3) Any party committee solicitation that is made by a federal candidate or federal officeholder or that makes reference to a federal candidate or a federal election shall be presumed to be for the purpose of influencing a federal election. The full amount of any funds received as a result of that solicitation shall be presumed to be a contribution under 11 CFR 100.7(a) that is subject to the prohibitions and limitations in 11 CFR parts 110 and 114. However, this paragraph does not apply to a donation that is made payable to or is accompanied by a writing, signed by the donor, which clearly indicates that the donation is for a non-federal account or building fund account described in paragraphs (a)(1)(i) or (c) of this section.

* * * * *

(c) *National party committees.* (1) National party committees, including the Senate and House campaign committees of a national party, shall establish one or more federal account(s) in accordance with 11 CFR part 103. The federal account(s) shall receive only contributions subject to the prohibitions and limitations of the Act. Except as provided in paragraph (c)(2) of this section, national party committees shall not establish any nonfederal account or receive any contribution or donation of anything of value that is not subject to the prohibitions and limitations of the Act.

(2) National party committees, including the Senate and House campaign committees of a national party, may establish a building fund account to be used solely for the purpose of receiving gifts, subscriptions, loans, advances or deposits of money or anything of value described in 11 CFR 100.7(b)(12) or 11 CFR 100.8(b)(13).

3. Section 102.17 would be amended by revising paragraph (c)(7)(ii), redesignating current paragraph (c)(7)(iii) as paragraph (c)(7)(iv), and adding new paragraph (c)(7)(iii), to read as follows:

§ 102.17 Joint fundraising by committees other than separate segregated funds.

* * * * *

(c) * * *

(7) * * *

(ii) If participating committees are affiliated as defined in 11 CFR 110.3 prior to the joint fundraising activity, expenses need not be allocated among those participants. Payment of such expenses by an unregistered committee or organization on behalf of an affiliated political committee may cause the unregistered organization to become a political committee.

(iii) If the participants are party committees of the same political party, expenses need not be allocated among those participants, unless the committees collect both federal and non-federal funds, in which case, expenses must be allocated in accordance with 11 CFR 106.5. Payment of such expenses by an unregistered committee or organization on behalf of an affiliated political committee may cause the unregistered organization to become a political committee.

* * * * *

PART 103—CAMPAIGN DEPOSITORIES (2 U.S.C. 432(h))

4. The authority citation for part 103 would continue to read as follows:

Authority: 2 U.S.C. 432(h), 438(a)(8)

5. Section 103.3 would be amended by adding a new sentence at the end of paragraphs (b)(1), (b)(2) and (b)(3), to read as follows:

§ 103.3 Deposit of receipts and disbursements (2 U.S.C. 432(h)(1)).

* * * * *

(b) * * *

(1) * * * Treasurers of committees that are not authorized by any candidate may also transfer the contribution to a non-federal account established in accordance with 11 CFR 102.5(a)(1) (i) or (c) and treat the funds as a contribution to the non-federal account, so long as the donor provides an express written redesignation of the contribution to the non-federal account within thirty days of the treasurer's receipt of the contribution.

(2) * * * Treasurers of committees that are not authorized by any candidate may also transfer the contribution to a non-federal account established in accordance with 11 CFR 102.5(a)(1) (i) or (c) and treat the funds as a contribution to the non-federal account, so long as the donor provides an express written redesignation of the contribution to the non-federal account within thirty days of the treasurer's receipt of the contribution.

(3) * * * Treasurers of committees that are not authorized by any candidate may also transfer the contribution to a non-federal account established in accordance with 11 CFR 102.5(a)(1)(i) or (c) and treat the funds as a contribution to the non-federal account, so long as the donor provides an express written redesignation of the contribution to the non-federal account within thirty days of the treasurer's receipt of the contribution.

* * * * *

PART 106—ALLOCATIONS OF CANDIDATE AND COMMITTEE ACTIVITIES

6. The authority citation for part 106 would continue to read as follows:

Authority: 2 U.S.C. 438(a)(8), 441a(b), 441a(g)

7. Section 106.1 would be amended by revising paragraphs (a) and (b) to read as follows:

§ 106.1 Allocation of expenses between candidates.

(a) *General rule.* (1) Expenditures, including in-kind contributions, independent expenditures, and coordinated expenditures made on behalf of more than one clearly identified federal candidate shall be attributed to each such candidate according to the benefit reasonably expected to be derived. For example, in the case of a publication or broadcast communication, the attribution shall be determined by the proportion of space or time devoted to each candidate as compared to the total space or time devoted to all candidates. In the case of a fundraising program or event where funds are collected by one committee

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for more than one clearly identified candidate, the attribution shall be determined by the proportion of funds received by each candidate as compared to the total receipts by all candidates.

(2) (i) Except as provided in paragraph (a)(2)(ii) of this section, the methods described in paragraph (a)(1) of this section shall also be used to allocate payments involving both expenditures on behalf of one or more clearly identified federal candidates and disbursements on behalf of one or more clearly identified non-federal candidates. When such a payment is made by a political committee with separate federal and non-federal accounts, the payment shall be made according to the procedures set forth in 11 CFR 106.5(g) or 106.6(e), as appropriate.

(ii) When a national party committee, including a Senate or House campaign committee of a national party, makes a payment involving both expenditures on behalf of one or more clearly identified federal candidates and disbursements on behalf of one or more clearly identified non-federal candidates, the payment shall be made entirely from the committee's federal account(s), i.e., with funds subject to the prohibitions and limitations of the Act.

(b) *Reporting.* An expenditure made on behalf of more than one clearly identified federal candidate shall be reported pursuant to 11 CFR 104.10(a). A payment that includes amounts attributable to one or more non-federal candidates, and that is made by a political committee with separate federal and non-federal accounts, shall also be reported pursuant to 11 CFR 104.10(a). An authorized expenditure made by a candidate or political committee on behalf of another candidate shall be reported as a contribution in-kind to the candidate on whose behalf the expenditure was made, except that expenditures made by party committees pursuant to 11 CFR 110.7 need only be reported as an expenditure.

* * * * *

8. In § 106.5, the section heading and paragraphs (a), (b), (c), (d)(1) introductory text, (d)(2) heading, the first sentence of paragraph (e), and paragraph (f) heading, would be revised to read as follows:

§ 106.5 Party committee federal and non-federal activities; payments by national party committees; allocation by state and local party committees.

(a) *Scope and general rule.* This section covers payment of expenses by national party committees, general rules regarding federal and non-federal expenses incurred by state and local party committees, methods for allocation of administrative expenses, costs of generic voter drives, exempt activities, and fundraising costs by state and local party committees, and procedures for payment of allocable expenses. Requirements for reporting of allocated disbursements are set forth in 11 CFR 104.10. Party committees that make disbursements in connection with federal and non-federal elections shall make those disbursements entirely from funds subject to the prohibitions and limitations of the Act, or from accounts established pursuant to 11 CFR 102.5. Political committees that have established separate federal and non-federal accounts under 11 CFR 102.5(a)(1)(i) shall allocate expenses between those accounts according to this section. Organizations that are not political committees but have established separate federal and non-federal accounts under 11 CFR 102.5(b)(1)(i), or that make federal and non-federal disbursements from a single account under 11 CFR 102.5(b)(1)(ii) shall also allocate their federal and non-federal expenses according to this section.

(b) *National party committees.* (1) Except as provided in paragraph (b)(2) of this section, national party committees, including the Senate and House campaign committees of a national party, shall defray their expenses entirely from funds subject to the prohibitions and limitations of the Act.

(2) National party committees may defray the expenses described in 11 CFR 100.7(b)(12) and 11 CFR 100.8(b)(13) with funds from an account established in accordance with 11 CFR 102.5(c)(2).

(c) *State and local party committees.* (1) *General rule.* State and local party committees shall allocate the costs described in paragraph (c)(2) of this section in accordance with paragraphs (d) through (f) of this section.

(2) *Costs to be allocated.* Committees that make disbursements in connection with federal and non-federal elections shall allocate expenses according to this section for the following categories of activity:

(i) Administrative expenses including rent, utilities, office supplies, and salaries, except for such expenses directly attributable to a clearly identified candidate;

(ii) The direct costs of a fundraising program or event, including disbursements for solicitation of funds and for planning and administration of actual fundraising events, through which a committee collects both federal and non-federal funds, whether the committee conducts the program or event individually or in conjunction with another committee;

(iii) State and local party activities exempt from the definitions of contribution and expenditure under 11 CFR 100.7(b) (9), (15) or (17), and 100.8(b) (10), (16) or (18) (exempt activities) including the production and distribution of slate cards and sample ballots, campaign materials distributed by volunteers, and voter registration and get-out-the-vote drives on behalf of the party's presidential and vice-presidential nominees, where such activities are conducted in conjunction with non-federal election activities; and

(iv) Generic voter drives either conducted by the committee itself or paid for by the committee and conducted by another entity, including voter identification, voter registration, and get-out-the-vote drives, or any other activities that urge the general public to register, vote or support candidates of a particular party or associated with a particular issue, without mentioning a specific candidate.

(d) *State and local party committees; method for allocating administrative expenses and costs of generic voter drives*—(1) *General rule.* Except as provided in paragraph (d)(2) of this section, all state and local party committees shall allocate their administrative expenses and costs of generic voter drives, as described in paragraph (c)(2) of this section, according to the ballot composition method, described in paragraphs (d)(1)(i) and (ii) of this section as follows:

* * * * *

(2) *State and local party committees in states that do not hold federal and non-federal elections in the same year.* * * *

(e) *State and local party committees; method for allocating costs of exempt activities.* Each state or local party committee shall allocate its expenses for activities exempt from the definitions of *contribution* and *expenditure* under 11 CFR 100.7(b) (9), (15) or (17), and 100.8(b) (10), (16) or (18), when conducted in conjunction with non-federal election activities, as described in paragraph (c)(2) of this section, according to the proportion of time or space devoted in a communication. * * *

(f) *State and local party committees; method for allocating direct costs of fundraising.* * * *

* * * * *

Variation One

PART 102—REGISTRATION, ORGANIZATION AND RECORDKEEPING BY POLITICAL COMMITTEES (2 U.S.C. 433)

1. The authority citation for part 102 would continue to read as follows:

Authority: 2 U.S.C. 432, 433, 438(a)(8), 441d.

2. Section 102.5 would be amended by revising paragraph (a) and adding paragraph (c), to read as follows:

§ 102.5 Organizations financing political activity in connection with Federal and non-Federal elections, other than through transfers and joint fundraisers.

(a) [Same as core proposal of second option.]

* * * * *

(c) *National party committees.* (1) National party committees, including the Senate and House campaign committees of a national party, shall establish one or more federal account(s) in accordance with 11 CFR part 103. The federal account(s) shall receive only contributions subject to the prohibitions and limitations of the Act. Except as provided in paragraphs (c)(2) and (3) of this section, national party committees shall not establish any nonfederal account or receive any contribution or donation of anything of value that is not subject to the prohibitions and limitations of the Act.

(2) National party committees, including the Senate and House campaign committees of a national party, may establish a building fund account to be used solely for the purpose of receiving gifts, subscriptions, loans, advances or deposits of money or anything of value described in 11 CFR 100.7(b)(12) or 11 CFR 100.8(b)(13).

(3) National party committees, other than the Senate and House campaign committees of a national party, may establish one or more accounts for receiving donations that are:

(i) Earmarked for and subsequently donated to a clearly identified non-federal candidate; or

(ii) Raised and spent solely in the form of donations to non-federal candidates, either directly or through an earmarked transfer to a state or local party committee.

3. Proposed § 102.17 would be the same as the core proposal of the second option.

PART 103—[AMENDED]

4. Proposed § 103.3 would be the same as the core proposal of the second option.

PART 106—[AMENDED]

5. Proposed §§ 106.1 and 106.5 would be the same as the core proposal of the second option.

Variation Two

PART 102—[AMENDED]

1. Proposed §§ 102.5 and 102.17 would be the same as the core proposal of the second option.

PART 103—[AMENDED]

2. Proposed § 103.3 would be the same as the core proposal of the second option.

PART 106—ALLOCATIONS OF CANDIDATE AND COMMITTEE ACTIVITIES

3. The authority citation for part 106 would continue to read as follows:

Authority: 2 U.S.C. 438(a)(8), 441a(b), 441a(g).

4. Section 106.1 would be amended by revising paragraphs (a) and (b) to read as follows:

§ 106.1 Allocation of expenses between candidates.

(a) *General rule.* (1) [same as core proposal of second option.]

(2) (i) Except as provided in paragraph (a)(2)(ii) of this section and in 11 CFR 106.5(c)(1)(ii)(A), the methods described in paragraph (a)(1) of this section shall also be used to allocate payments involving both expenditures on behalf of one or more clearly identified federal candidates and disbursements on behalf of one or more clearly identified non-federal candidates. When such a payment is made by a political committee with separate federal and non-federal accounts, the payment shall be made according to the procedures set forth in 11 CFR 106.5(g) or 106.6(e), as appropriate.

(ii) [Same as core proposal of second option.]

(b) [Same as core proposal of second option.]

* * * * *

5. In § 106.5, the section heading and paragraphs (a), (b), (c), (d)(1) introductory text, (d)(2) heading, the first sentence of paragraph (e), and paragraph (f) heading, would be revised to read as follows:

§ 106.5 Party committee federal and non-federal activities; payments and transfers by national party committees; allocation by state and local party committees.

(a) *Scope and general rule.* This section covers general rules regarding federal and non-federal expenses incurred by party committees, payment of expenses by national party committees and transfers of funds from national party committees to state and local party committees, methods for allocation of administrative expenses, costs of generic voter drives, exempt activities, and fundraising costs by state and local party committees, and procedures for payment of allocable expenses. Requirements for reporting of allocated disbursements are set forth in 11 CFR 104.10. Party committees that make disbursements in connection with federal and non-federal elections shall make those disbursements entirely from funds subject to the prohibitions and limitations of the Act, or from accounts established pursuant to 11 CFR 102.5. Political committees that have established separate federal and non-federal accounts under 11 CFR 102.5(a)(1)(i) shall allocate expenses between those accounts according to this section. Organizations that are not political committees but have established separate federal and non-federal accounts under 11 CFR 102.5(b)(1)(i), or that make federal and non-federal disbursements from a single account under 11 CFR 102.5(b)(1)(ii) shall also allocate their federal and non-federal expenses according to this section.

(b) *National party committees*—(1) *Disbursements for mixed activities.* (i) Except as provided in paragraph (b)(1)(ii) of this section, national party committees, including the Senate and House campaign committees of a national party, shall defray their expenses entirely from funds subject to the prohibitions and limitations of the Act.

(ii) National party committees may defray the expenses described in 11 CFR 100.7(b)(12) and 11 CFR 100.8(b)(13) with funds from an account established in accordance with 11 CFR 102.5(c)(2).

(2) *Transfers to state or local party committees.* Whenever a national party committee, including the Senate and House campaign committees of a national party, transfers funds from any account of the national party committee to any account of a state or local party committee, the transfer shall be accompanied by a written communication specifically identifying the state or local party committee activity or expense for which the transferred funds are to be used. The national party committee shall attach a copy of the written communication to the schedule of itemized disbursements submitted with its next regularly scheduled report.

(c) *State and local party committees.* (1)(i) *General rule.* Except as provided

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in paragraph (c)(1)(ii) of this section, state and local party committees shall allocate the costs described in paragraph (c)(2) of this section in accordance with paragraphs (d) through (f) of this section.

(ii) *State and local party committees defraying expenses with funds transferred from a national party committee*—(A) *General rule.* A state or local party committee that receives a transfer from a national party committee shall:

(*1*) Use the funds transferred exclusively for the activity specifically identified by the national party committee in the written communication accompanying the transfer, except that no funds transferred from a non-federal account shall be used for any portion of the costs of any activity described in paragraph (c)(2) of this section;

(*2*) Defray 100% of the remaining costs of the specifically identified activity with funds drawn from the state or local party committee's federal account, i.e., with funds that are subject to the prohibitions and limitations of the Act; and

(*3*) Attach a copy of the written communication to the schedule of itemized receipts submitted with its next regularly scheduled report.

(B) *Exception for transfers to state and local party committees in states that do not hold federal and non-federal elections in the same year.* The requirements of paragraph (c)(1)(ii)(A) of this section shall apply to transfers made to state and local party committees in states that do not hold federal and non-federal elections in the same year, unless the funds transferred are used exclusively for generic voter drive activity conducted in a calendar year in which no candidates for federal office appear on any primary, general, or special election ballot.

(2) [Same as core proposal of second option.]

(d) [Same as core proposal of second option.]

(e) [Same as core proposal of second option.]

(f) [Same as core proposal of second option.]

* * * * *

Variation Three

PART 102—[AMENDED]

1. Proposed §§ 102.5 and 102.17 would be the same as the core proposal of the second option.

PART 103—[AMENDED]

2. Proposed § 103.3 would be the same as the core proposal of the second option.

PART 106—ALLOCATIONS OF CANDIDATE AND COMMITTEE ACTIVITIES

3. The authority citation for part 106 would continue to read as follows:

Authority: 2 U.S.C. 438(a)(8), 441a(b), 441a(g)

4. Section 106.1 would be amended by revising paragraphs (a) and (b) to read as follows:

§ 106.1 Allocation of expenses between candidates.

(a) *General rule.* (1) [same as core proposal of second option.]

(2) Payments that involve both expenditures, in-kind contributions, independent expenditures, or coordinated expenditures on behalf of one or more clearly identified federal candidates and disbursements on behalf of one or more clearly identified non-federal candidates shall be made entirely from the committee's federal account(s), i.e., with funds subject to the prohibitions and limitations of the Act.

(b) [Same as core proposal of second option.]

* * * * *

5. Section 106.5 would be revised to read as follows:

§ 106.5 Federal and non-federal activities by party committees and use of party committee funds by other organizations.

(a) *National party committees.* (1) Except as provided in paragraph (a)(2) of this section, national party committees, including the Senate and House campaign committees of a national party, shall defray their expenses entirely from funds subject to the prohibitions and limitations of the Act.

(2) National party committees may defray the expenses described in 11 CFR 100.7(b)(12) and 11 CFR 100.8(b)(13) with funds from an account established in accordance with 11 CFR 102.5(c)(2).

(b) *State and local party committees*—(1) *General rule.* Except as provided in paragraph (b)(3) of this section, state and local party committees, and other party committees that are not national party committees but that have established separate federal and non-federal accounts under 11 CFR 102.5(a)(1)(i), shall defray the following expenses entirely from funds subject to the prohibitions and limitations of the Act:

(i) Administrative expenses including rent, utilities, office supplies, and salaries, except for such expenses directly attributable to a clearly identified candidate;

(ii) The direct costs of a fundraising program or event, including disbursements for solicitation of funds and for planning and administration of actual fundraising events, through which a committee collects federal funds or a combination of federal and non-federal funds, whether the committee conducts the program or event individually or in conjunction with another committee;

(iii) State and local party activities exempt from the definitions of contribution and expenditure under 11 CFR 100.7(b) (9), (15) or (17), and 100.8(b) (10), (16) or (18) (exempt activities) including the production and distribution of slate cards and sample ballots, campaign materials distributed by volunteers, and voter registration and get-out-the-vote drives on behalf of the party's presidential and vice-presidential nominees, whether or not such activities are conducted in conjunction with non-federal election activities; and

(iv) Generic voter drives either conducted by the committee itself or paid for by the committee and conducted by another entity, including voter identification, voter registration, and get-out-the-vote drives, or any other activities that urge the general public to register, vote or support candidates of a particular party or associated with a particular issue, without mentioning a specific candidate.

(2) *Use of party committee funds by other organizations.* When a state or local party committee pays for a generic voter drive conducted by another entity, such as a voter identification, voter registration, get-out-the-vote drive, or any other activity that urges the general public to register, vote or support candidates of a particular party or associated with a particular issue without mentioning a specific candidate, the costs of the voter drive shall be defrayed entirely from funds subject to the prohibitions and limitations of the Act.

(3) *Generic voter drives in exclusively non-federal elections.* State and local party committees in states that do not hold federal and non-federal elections in the same year may use funds that are not subject to the prohibitions and limitations of the Act to defray the costs of generic voter drive activity conducted in a calendar year in which no candidates for federal office appear on any primary, general, or special election ballot.

Dated: July 8, 1998.

Lee Ann Elliott,

Commissioner, Federal Election Commission.

[FR Doc. 98–18543 Filed 7–10–98; 8:45 am]

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Part VI

Department of the Treasury

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 178

Posting of Signs and Written Notification to Purchasers of Handguns; Final Rule

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DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 178

[T.D. ATF–402; Ref: Notice No. 855]

RIN 1512–AB68

Posting of Signs and Written Notification to Purchasers of Handguns

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is amending the firearms regulations to require that signs be posted on the premises of Federal firearms licensees and that written notification be issued with each handgun sold advising of the provisions of the Youth Handgun Safety Act.

EFFECTIVE DATE: September 11, 1998.

FOR FURTHER INFORMATION CONTACT: Marsha D. Baker, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226 (202–927–8210).

SUPPLEMENTARY INFORMATION:

Background

The Youth Handgun Safety Act (YHSA), 18 U.S.C. 922(x), generally makes it unlawful for a person to transfer a handgun to anyone under 18 years of age or for anyone under 18 years of age to knowingly possess a handgun. Certain exceptions are set forth in the statute.

In enacting the YHSA in 1994, Congress found that criminal misuse of firearms often starts with the easy availability of guns to juvenile gang members. In addition, Congress found that individual States and localities may find it difficult to control this problem by themselves. Therefore, Congress found it necessary and appropriate to assist the States in controlling violent crime by stopping the commerce in handguns with juveniles nationwide and allowing the possession of handguns by juveniles only when handguns are possessed and used under certain limited circumstances.

In a memorandum to the Secretary of the Treasury dated June 11, 1997, the President stated that a major problem in our nation is the ease with which young people gain illegal access to guns. The President observed that firearms are now responsible for 12 percent of fatalities among American children and teenagers.

The President's memorandum directed the Secretary of the Treasury to propose regulations that would require the posting of signs and issuance of written notices warning handgun purchasers of the provisions of the YHSA.

Notice of Proposed Rulemaking

In response to the concerns raised by the President's memorandum, ATF published Notice No. 855 in the **Federal Register** (62 FR 45364) on August 27, 1997. To enforce the provisions of the YHSA and to ensure that handgun purchasers are familiar with its provisions, the Notice of Proposed Rulemaking (NPRM) proposed regulations requiring that signs be posted on the premises of Federal firearms licensees and that written notification be issued by licensees to nonlicensed handgun purchasers warning as follows:

> (1) Federal law prohibits, except in certain limited circumstances, anyone under 18 years of age from knowingly possessing a handgun, or any person from transferring a handgun to a person under 18;
>
> (2) A violation of the prohibition against transferring a handgun to a person under the age of 18 is, under certain circumstances, punishable by up to 10 years in prison;
>
> (3) Handguns are a leading contributor to juvenile violence and fatalities; and
>
> (4) Safely storing and locking handguns away from children can help ensure compliance with Federal law.

The proposed rule stipulated that signs provided by ATF must be posted by licensed importers, manufacturers and dealers on their licensed premises where prospective handgun purchasers can readily see them. In addition, the written notification to be issued to each handgun purchaser must be made available either by providing the purchaser with an ATF Publication or some other type of written notification that contains the same language, e.g., a manufacturer's or importer's instruction manual or brochure provided to the handgun purchaser.

Analysis of Comments

ATF received sixty-two (62) comments during the comment period in response to Notice No. 855. These comments were received from fifty-three (53) members of the public, one (1) Member of Congress, four (4) Federal firearms licensees (FFLs), and four (4) firearms industry organizations. Five (5) of the respondents were in agreement with the proposed regulations. Fifty-seven (57) respondents opposed certain provisions of the proposed regulations.

Comments in Support of the Proposed Rule

The American Academy of Pediatrics (AAP) commented in favor of the proposed regulations. The AAP stated that "Firearms play a major role in childhood morbidity and mortality in the United States." They went on to comment that "the surest way to reduce the effects of firearm-trauma on children is to remove handguns from the environments in which children live and play." The Academy also supported the inclusion of curios and relics in the proposed rule as well as the notification at the time that weapons are returned to their owners by an FFL (for example, when a firearm is redeemed from pawn).

Handgun Control Inc. (HCI) also commented in support of the proposed regulations. They agreed that ATF had the authority to issue regulations necessary to implement the Gun Control Act (GCA). They stated that "notification to handgun buyers at the point of purchase of the need to safely secure handguns away from children is certainly necessary to implement the provisions of the statute."

HCI suggested that the written notice provided to the purchasers of handguns not be included as part of a larger Federal form, but should instead be separately contained in one publication. In response to this comment, it should be noted that the NPRM did not specify the publication number of the proposed required written notice since one had not yet been assigned. However, the final rule clarifies that the written notice will appear on an ATF publication (ATF I 5300.2) that is separate from any existing ATF form.

Seven (7) additional respondents agreed with the general purpose of the proposed regulations; to reduce the ease with which juveniles have access to handguns which are then used to commit crimes or which result in youth fatalities. However, they were opposed to the wording of the provisions outlined in the proposed rule. Rephrasing of the provisional language and certain deletions were suggested.

For example, Sturm, Ruger & Company, Inc., a manufacturer of firearms, commented that "while we have no objection to reminding dealers of their serious responsibilities regarding sales of firearms to unauthorized persons, the proposed language goes far beyond that." Accordingly, they suggested several revisions of the proposed regulations. The suggested revisions to the language of the notice and sign will be discussed in detail below.

Comments in Opposition to the Proposed Rule

Several commenters challenged ATF's authority under the GCA to require any sort of warning or notification to purchasers of handguns regarding the requirements of the YHSA. A comment from Rep. John Dingell urged ATF to withdraw the proposed rule for several reasons, including his view that the statutory basis for ATF's action is "uncertain." He noted that ATF has not required notices or signs to warn purchasers about other GCA provisions and the statutory prohibitions on the possession of firearms by certain categories of people, including felons.

ATF does not agree that requiring licensees to inform prospective handgun purchasers about the requirements of the law goes beyond its authority to enforce the GCA. Furthermore, this type of requirement is not unprecedented. While ATF has not required licensees to post signs or hand out notices regarding other GCA provisions, many of these provisions are made known to purchasers through other means. For example, licensees are required to have unlicensed purchasers complete an ATF Form 4473, Firearms Transaction Record. On this form, purchasers certify that they do not fall within one of the categories of persons prohibited from purchasing a firearm. The Form 4473 contains a detailed explanation of various GCA provisions.

ATF believes that it is important to advise handgun purchasers of the still relatively new requirements of the YHSA to ensure that adult purchasers who are purchasing a handgun from a licensee are made aware that it is unlawful to transfer handguns to juveniles. This statutory provision is not addressed on the Form 4473. ATF believes that the final rule will accomplish the goal of preventing inadvertent violations of the law without unduly burdening licensees or handgun purchasers. Furthermore, ATF's statutory authority to issue regulations to implement the GCA is clear. *See* 18 U.S.C. 926(a).

Revisions Made in Response to Comments

After carefully considering the comments received following the publication of the NPRM, ATF has decided that certain revisions should be made to the written notification and sign required by the regulations. These modifications are discussed in more detail below.

In reference to the first paragraph of the proposed notice and sign, forty-seven (47) commenters suggested that the language was vague and that the sign Federal firearms licensees would be required to post, as well as the written notification, should accurately explain the exceptions included in the YHSA that would allow the lawful transfer to, or possession by, an individual under the age of 18 years. For example, the Sporting Arms and Ammunition Manufacturers' Institute (SAAMI) suggested that this item should "include a thorough, accurate and objective explanation of these circumstances and/or include the language of the statute itself." The National Rifle Association (NRA) commented that "[a]t the very least, the entire text of the law should be given, especially outlining the full text of these exceptions * * *"

ATF recognizes that there are exceptions listed in the YHSA that allow persons under 18 years of age to receive and possess a handgun, and the proposed language referred to these limited circumstances. However, ATF believes that a detailed discussion of the exceptions would have been too long to include in the notice and sign. Nonetheless, ATF agrees with the respondents who suggested that the proposed language of the notice and sign might raise questions in the minds of purchasers as to when it was lawful for a juvenile to possess a handgun.

Accordingly, ATF is adopting the suggestion of those commenters who advocated that the written notification set forth the entire language of the statute. The final rule provides that the required written notification (ATF I 5300.2) will include the complete language of the statutory provision appearing at 18 U.S.C. section 922(x), including the exceptions. Owing to the length of this statutory language, the sign will merely refer the purchaser to the ATF I 5300.2 for the complete provisions of the law. The sign will also advise the public that a copy of this publication may be obtained from the licensee posting the sign or from the ATF Distribution Center.

In reference to the second provision of the notice and sign, forty-three (43) of the respondents again stated that the language was vague and that the sign and written notification should more specifically set forth the exceptions included in the YHSA that would allow the lawful possession of a handgun by a juvenile in certain limited circumstances. In addition, four (4) respondents stated that the reference to the maximum penalty provided by law for a violation of section 922(x) was misleading, since the maximum penalty only applied in limited circumstances.

As previously noted, the final rule provides that the written notification will contain the entire language of section 922(x), so that interested handgun purchasers may read for themselves the exceptions outlined in the statute. ATF has also included in the written notification the full text of the penalty provision set forth in 18 U.S.C. 924(a)(6) for violations of section 922(x). Again, the sign will refer the purchaser to the complete language of the law as outlined in the written notification. We believe that this will ensure that purchasers of handguns receive complete and accurate information as to the statutory penalties imposed on violations of section 922(x).

The NRA noted that the proposed regulations do not mention the statutory restrictions on the transfer to juveniles and use by juveniles of ammunition that is suitable only in a handgun. As noted previously, the entire provisions of the law will be set forth in the written notification. This includes the statutory provisions regarding handgun ammunition.

In reference to the third provision of the proposed regulations, seventeen (17) respondents opposed the inclusion of the language that "handguns are a leading contributor to juvenile violence and fatalities." Another fifteen (15) stated that this provision should be deleted entirely. Many commenters suggested that the entire statement offered value judgments, and argued that it was the perpetrators of the shooting, not the handguns used in the shooting, that contributed to juvenile violence and fatalities.

The proposed language was not intended to convey the message that handguns alone are responsible for juvenile violence. In fact the language noted that handguns were a "contributor" to juvenile violence. However, ATF agrees with the commenters who suggested that this provision could be clarified. For example, Sturm, Ruger & Company suggested that the language be modified to refer to the misuse of illegally possessed firearms. ATF has partially adopted this comment. As set forth in the final rule, this provision now states that "The *misuse* of handguns is a leading contributor to juvenile violence and fatalities."

In reference to the fourth and final provision of the proposed statement, fifteen (15) of the respondents believed that it was unnecessary to have safety warning notices for firearms. Another twelve (12) stated that this provision should be deleted entirely.

Many of the commenters noted that there is no Federal law mandating a specific type of storage or locking requirement for handguns. For example, the NRA commented that "the proposed warning concerning the safe storage and locking of handguns is not only superfluous, but also implies that there is a Federal law requiring these safety measures."

However, some comments supported the inclusion of a generic statement encouraging the safe storing and securing of firearms in order to prevent accidents. For example, SAAMI stated that they would support the "[i]nclusion of a statement that safely storing and securing firearms can prevent accidents." On the other hand, HCI suggested that the notice be revised to more explicitly state what is meant by "safely storing and locking handguns away from children."

ATF does not agree that the original proposed language implied that there was a Federal law requiring that handguns be stored or locked in a particular fashion. However, in response to the comments received on this issue, the final rule modifies the language of this provision to state that "Safely storing and securing firearms away from children will help prevent the unlawful possession of handguns by juveniles, stop accidents, and save lives." This statement encourages handgun owners to ensure compliance with the law as well as to promote general gun safety.

Finally, the order of the four provisions has been rearranged for purposes of clarity. The revised language of the sign and notice is reflected in the regulations portion of this Treasury Decision.

Regulatory Flexibility Act

It is hereby certified under the provisions of Section 3 of the Regulatory Flexibility Act, 5 U.S.C. 605(b), that this final rule will not have a significant economic impact on a substantial number of small entities. The notices and signs that are required in this document will be provided free of charge by the Federal Government to Federal firearms licensees. Licensees may choose to provide the required written notice in another format; however, they always have the option of using the notices provided by ATF. Moreover, the new requirements relating to the posting of signs and the distribution of notices will place only a minimal burden on firearms licensees. Accordingly, a regulatory flexibility analysis is not required.

Executive Order 12866

It has been determined that this regulation is not a significant regulatory action as defined by Executive Order 12866. Accordingly, this regulation is not subject to the analysis required by this Executive Order.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule because no new reporting or recordkeeping requirements are imposed.

List of Subjects in 27 CFR Part 178

Administrative practice and procedure, Arms and ammunition, Authority delegations, Customs duties and inspections, Exports, Imports, Military personnel, Penalties, Reporting requirements, Research, Seizures and forfeitures, and Transportation.

Authority and Issuance

PART 178—[AMENDED]

Part 178—Commerce in Firearms and Ammunition is amended as follows:

Paragraph 1. The authority citation for 27 CFR Part 178 continues to read as follows:

Authority: 5 U.S.C. 552(a); 18 U.S.C. 847, 921–930; 44 U.S.C. 3504(h).

Par. 2. Section 178.103 is added to Subpart F to read as follows:

§ 178.103 Posting of signs and written notification to purchasers of handguns.

(a) Each licensed importer, manufacturer, dealer, or collector who delivers a handgun to a nonlicensee shall provide such nonlicensee with written notification as described in paragraph (b) of this section.

(b) The written notification (ATF I 5300.2) required by paragraph (a) of this section shall state as follows:

(1) The misuse of handguns is a leading contributor to juvenile violence and fatalities.

(2) Safely storing and securing firearms away from children will help prevent the unlawful possession of handguns by juveniles, stop accidents, and save lives.

(3) Federal law prohibits, except in certain limited circumstances, anyone under 18 years of age from knowingly possessing a handgun, or any person from transferring a handgun to a person under 18.

(4) A knowing violation of the prohibition against selling, delivering, or otherwise transferring a handgun to a person under the age of 18 is, under certain circumstances, punishable by up to 10 years in prison.

FEDERAL LAW

The Gun Control Act of 1968, 18 U.S.C. Chapter 44, provides in pertinent part as follows:

18 U.S.C. 922(x)

(x)(1) It shall be unlawful for a person to sell, deliver, or otherwise transfer to a person who the transferor knows or has reasonable cause to believe is a juvenile—

(A) a handgun; or

(B) ammunition that is suitable for use only in a handgun.

(2) It shall be unlawful for any person who is a juvenile to knowingly possess—

(A) a handgun; or

(B) ammunition that is suitable for use only in a handgun.

(3) This subsection does not apply to—

(A) a temporary transfer of a handgun or ammunition to a juvenile or to the possession or use of a handgun or ammunition by a juvenile if the handgun and ammunition are possessed and used by the juvenile—

(i) in the course of employment, in the course of ranching or farming related to activities at the residence of the juvenile (or on property used for ranching or farming at which the juvenile, with the permission of the property owner or lessee, is performing activities related to the operation of the farm or ranch), target practice, hunting, or a course of instruction in the safe and lawful use of a handgun;

(ii) with the prior written consent of the juvenile's parent or guardian who is not prohibited by Federal, State, or local law from possessing a firearm, except—

(I) during transportation by the juvenile of an unloaded handgun in a locked container directly from the place of transfer to a place at which an activity described in clause (i) is to take place and transportation by the juvenile of that handgun, unloaded and in a locked container, directly from the place at which such an activity took place to the transferor; or

(II) with respect to ranching or farming activities as described in clause (i) a juvenile may possess and use a handgun or ammunition with the prior written approval of the juvenile's parent or legal guardian and at the direction of an adult who is not prohibited by Federal, State, or local law from possessing a firearm;

(iii) the juvenile has the prior written consent in the juvenile's possession at all times when a handgun is in the possession of the juvenile; and

(iv) in accordance with State and local law;

(B) a juvenile who is a member of the Armed Forces of the United States or the National Guard who possesses or is armed with a handgun in the line of duty;

(C) a transfer by inheritance of title (but not possession) of a handgun or ammunition to a juvenile; or

(D) the possession of a handgun or ammunition by a juvenile taken in defense of the juvenile or other persons against an intruder into the residence of the juvenile or a residence in which the juvenile is an invited guest.

(4) A handgun or ammunition, the possession of which is transferred to a juvenile in circumstances in which the transferor is not in violation of this subsection shall not be subject to permanent confiscation by the Government if its possession by the juvenile subsequently becomes unlawful because of the conduct of the juvenile, but shall be returned to the lawful owner when such handgun or ammunition is no longer required by the

Government for the purposes of investigation or prosecution.

(5) For purposes of this subsection, the term "juvenile" means a person who is less than 18 years of age.

(6)(A) In a prosecution of a violation of this subsection, the court shall require the presence of a juvenile defendant's parent or legal guardian at all proceedings.

(B) The court may use the contempt power to enforce subparagraph (A).

(C) The court may excuse attendance of a parent or legal guardian of a juvenile defendant at a proceeding in a prosecution of a violation of this subsection for good cause shown.

18 U.S.C. 924(a)(6)

(6)(A)(i) A juvenile who violates section 922(x) shall be fined under this title, imprisoned not more than 1 year, or both, except that a juvenile described in clause (ii) shall be sentenced to probation on appropriate conditions and shall not be incarcerated unless the juvenile fails to comply with a condition of probation.

(ii) A juvenile is described in this clause if—

(I) the offense of which the juvenile is charged is possession of a handgun or ammunition in violation of section 922(x)(2); and

(II) the juvenile has not been convicted in any court of an offense (including an offense under section 922(x) or a similar State law, but not including any other offense consisting of conduct that if engaged in by an adult would not constitute an offense) or adjudicated as a juvenile delinquent for conduct that if engaged in by an adult would constitute an offense.

(B) A person other than a juvenile who knowingly violates section 922(x)—

(i) shall be fined under this title, imprisoned not more than 1 year, or both; and

(ii) if the person sold, delivered, or otherwise transferred a handgun or ammunition to a juvenile knowing or having reasonable cause to know that the juvenile intended to carry or otherwise possess or discharge or otherwise use the handgun or ammunition in the commission of a crime of violence, shall be fined under this title, imprisoned not more than 10 years, or both.

(c) This written notification shall be delivered to the nonlicensee on ATF I 5300.2, or in the alternative, the same written notification may be delivered to the nonlicensee on another type of written notification, such as a manufacturer's or importer's brochure accompanying the handgun; a manufacturer's or importer's operational manual accompanying the handgun; or a sales receipt or invoice applied to the handgun package or container delivered to a nonlicensee. Any written notification delivered to a nonlicensee other than on ATF I 5300.2 shall include the language set forth in paragraph (b) of this section in its entirety. Any written notification other than ATF I 5300.2 shall be legible, clear, and conspicuous, and the required language shall appear in type size no smaller than 10-point type.

(d) Except as provided in paragraph (f) of this section, each licensed importer, manufacturer, or dealer who delivers a handgun to a nonlicensee shall display at its licensed premises (including temporary business locations at gun shows) a sign as described in paragraph (e) of this section. The sign shall be displayed where customers can readily see it. Licensed importers, manufacturers, and dealers will be provided with such signs by ATF. Replacement signs may be requested from the ATF Distribution Center.

(e) The sign (ATF I 5300.1) required by paragraph (d) of this section shall state as follows:

(1) The misuse of handguns is a leading contributor to juvenile violence and fatalities.

(2) Safely storing and securing firearms away from children will help prevent the unlawful possession of handguns by juveniles, stop accidents, and save lives.

(3) Federal law prohibits, except in certain limited circumstances, anyone under 18 years of age from knowingly possessing a handgun, or any person from transferring a handgun to a person under 18.

(4) A knowing violation of the prohibition against selling, delivering, or otherwise transferring a handgun to a person under the age of 18 is, under certain circumstances, punishable by up to 10 years in prison.

Note: ATF I 5300.2 provides the complete language of the statutory prohibitions and exceptions provided in 18 U.S.C. 922(x) and the penalty provisions of 18 U.S.C. 924(a)(6). The Federal firearms licensee posting this sign will provide you with a copy of this publication upon request. Requests for additional copies of ATF I 5300.2 should be mailed to the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22150–5950.

(f) The sign required by paragraph (d) of this section need not be posted on the premises of any licensed importer, manufacturer, or dealer whose only dispositions of handguns to nonlicensees are to nonlicensees who do not appear at the licensed premises and the dispositions otherwise comply with the provisions of this part.

Signed: May 28, 1998.

John W. Magaw,

Director.

Approved: June 6, 1998.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

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Part VII

Department of Transportation

Federal Aviation Administration

14 CFR Parts 27 and 29
Rotorcraft Load Combination Safety Requirements; Proposed Rule

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 27 and 29

[Docket No. 29277; Notice No. 98–6]

RIN 2120–AG59

Rotorcraft Load Combination Safety Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes the amendment of the airworthiness standards for rotorcraft load combination (RLC) certification. This proposal would revise the safety requirements for RLC's to address advances in technology and to provide an increased level of safety in the carriage of humans. These proposed amendments would provide an improvement in the safety standards for RLC certification and lead to a harmonized international standard.

DATES: Comments must be submitted on or before October 13, 1998.

ADDRESSES: Comments on this proposed rule may be delivered or mailed in triplicate to: Federal Aviation Administration (FAA), Office of the Chief Counsel, Attn: Rules Docket (AGC–200), Docket No. 29277, Room 915G, 800 Independence Avenue, SW., Washington, DC 20591. Comments delivered must be marked Docket No. 29277. Comments may also be sent electronically to the following internet address: 9-nprm-cmts@faa.dot.gov. Comments may be examined in Room 915G on weekdays between 8:30 a.m. and 5:00 p.m., except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Mathias, Rotorcraft Directorate, Aircraft Certification Service, Regulations Group, FAA, Fort Worth, Texas 76193–0111, telephone (817) 222–5123.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to submit written data, views, or arguments on this proposed rule. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the proposals in this notice are also invited. Substantive comments should be accompanied by cost estimates. Comments should identify the regulatory docket number and should be submitted in triplicate to the Rules Docket address specified above.

All comments received on or before the closing date for comments specified will be considered by the Administrator before taking action on this proposed rulemaking. Late-filed comments will be considered to the extent practicable. The proposals contained in this notice may be changed in light of the comments received.

All comments received, as well as a report summarizing each substantive public contact with FAA personnel on this rulemaking, will be filed in the docket. The docket is available for public inspection before and after the comment closing date.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a preaddressed, stamped postcard on which the following statement is made: "Comments to Docket No. 29277." The postcard will be date stamped and returned to the commenter.

Availability of NPRM's

An electronic copy of this document may be downloaded using a modem and suitable communications software from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703–321–3339), the Federal Register's electronic bulletin board service (telephone: 202–512–1661), or the FAA's Aviation Rulemaking Advisory Committee Bulletin Board service (telephone: 800–322–2722 or (202) 267–5948).

Internet users may reach the FAA's web page at http://www.faa.gov/avr/arm/nprm/nprm.htm or the Federal Register's web page at http://www.access.gpo.gov/su—docs/aces/aces140.html for access to recently published rulemaking documents.

Any person may obtain a copy of this NFRM by submitting a request to the FAA, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington DC 20591, or by calling (202) 267–9680. Communications must identify the notice number of this NPRM.

Persons interested in being placed on a mailing list for future NPRM's should request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedures.

History

For many years the design standards for external load attaching means for normal and transport category rotorcraft were contained in Subpart D, Airworthiness Requirements of 14 CFR part 133 (part 133), Rotorcraft External Load Operations. However, these design standards more appropriately belonged under parts 27 and 29. Amendments 27–11 (41 FR 55469, December 20, 1976) and 29–12 (41 FR 55454, December 20, 1976) added new §§ 27.865 and 29.865 and moved some of these design standards from the operational rules of part 133 to the certification rules of parts 27 and 29.

Rotorcraft-load combination classes (RLC) are defined in 14 CFR 1.1. Part 133 prohibits the carrying of humans, except for crewmembers, external to the aircraft under all existing RLC's (A, B, or C). However, on April 5, 1978, Exemption No. 2534 was granted to permit carrying harbor pilots external to the rotorcraft using a hoist and sling.

Because of the proven public utility of the operations conducted with Exemption No. 2534, in January 1987, after notice and a public meeting, Amendment 133–9 (51 FR 40707, November 7, 1986) was adopted. Amendment 133–9 established provisions for a new Class D RLC for transporting external loads other than Classes A, B, or C. Class D may apply to either human or nonhuman external cargo operations; however, under Amendment 133–9, § 133.45(e) specifies that only certain Transport Category A rotorcraft can be used for RLC Class D external load operations. Also, Amendment 133–9 added § 133.35 to establish specific limitations and the necessary safety requirements for routine external load transportation under Class D.

Aviation Rulemaking Advisory Committee (ARAC) involvement

In 1991 the FAA requested that ARAC study the need to revise the regulations on RLC in light of advancements in technology and operational procedures and to develop regulatory recommendations. The ARAC was established on February 5, 1991 (56 FR 2190, January 22, 1991), to assist the FAA in the rulemaking process by providing advice from the private sector on major regulatory issues affecting aviation safety. The ARAC includes representatives of manufacturers, air carriers, general aviation, industry associations, labor groups, universities, and the general public. The ARAC's formation has given the FAA additional opportunities to solicit information directly from significantly affected parties who meet and exchange ideas about proposed and existing rules that should be either created, revised, or eliminated.

On November 27, 1992, following an announcement in the **Federal Register** (56 FR 63546, December 4, 1991), the ARAC charged The External Load

Working Group with making a recommendation to the ARAC concerning whether new or revised airworthiness standards are appropriate for Class D rotorcraft external loads, as follows: "Should parts 27 or 29 be amended to incorporate Class D external load attaching means, to complement Amendment 133–9, which authorizes the transport of passengers external to the rotorcraft, with certain conditions and limitations?"

The working group, chaired by a representative from McDonnell Douglas Helicopter Systems, included technical specialists knowledgeable in both military and civil external load operations, in external load and emergency rescue equipment design and manufacturing, and in both FAA and industry external load design and operational requirements. This broad participation is consistent with FAA policy to have all known interested parties involved as early as practicable in the rulemaking process.

The working group reviewed unpublished data regarding external loads safety issues developed by the FAA as the starting point for their discussions. After reviewing the unpublished data, the working group determined that it was necessary to do further research and to include consideration of more diverse design configurations and operating procedures.

The working group reviewed current methods that the military and other nations' airworthiness authorities use to certificate aircraft conducting external load operations. The group also evaluated current operational practices with aircraft certificated in all categories and public aircraft operations involving human and nonhuman external loads. The working group researched available military and domestic safety standards and guidance, the accident and incident history of external load operations conducted under current certification standards, and the specific safety requirements necessary for human and nonhuman external load operations in each RLC class.

Technical Research

The following material was researched by the ARAC working group and contributed significantly to formulating these proposals. Copies may be found in Rules Docket No. 29277.

1. United States Army Material Command (USA, AMC) Pamphlet No. 706–203, "Engineering Design Handbook Helicopter Engineering, Part Three, Qualification Assurance," Headquarters United States Army Material Command, Washington, D.C. 20315.

2. USAAVSCOM TR 89–D–22A, "Aircraft Crash Survival Design Guide; Volume IV—Aircraft Seats, Restraints, Litters, and Cockpit/Cabin Delethalization."

3. MIL–STD–882B, "Military Standard-System Safety Program Requirements," March 30, 1984.

4. MIL–STD–1472D, "Military Standard-Human Engineering Design Criteria for Military Systems, Equipment, and Facilities," March 14, 1989.

5. British Civil Airworthiness Requirements 29, Issue 1, December 17, 1986.

6. Advisory Circular 133–1A, "Rotorcraft External-Load Operations in Accordance with part 133," October 16, 1979.

7. "Rotorcraft Use in Disaster Relief and Mass Casualty Incidents-Case Studies," DOT/FAA/RD–90/10, June 1990.

8. "Guidelines for Integrating Helicopter Assets into Emergency Planning," DOT/FAA/RD–90/11, July 1991.

9. FAA Order 8700.1, "General Aviation Operations Inspector's Handbook" Chapter 96, Change 8, March 1, 1992.

The research centered on the following:

(1) Current methods used by the military to qualify external loads;

(2) Current methods used by the world's airworthiness authorities for certification of external loads;

(3) Current practice in restricted category and public use operations regarding human and nonhuman external load operations;

(4) Load retention and release devices that exist and are certifiable;

(5) Current military and domestic safety standards and guidance;

(6) Accident and incident history of external load operations that relate to the current certification standards; and

(7) Specific certification safety requirements that are necessary for human versus nonhuman external load operations.

Statement of the Issues

Although rotorcraft external load operations are routinely conducted in a safe manner under the existing safety standards, several preventable accidents and incidents have occurred during the preceding decade. For example, several preventable inadvertent releases of humans being carried external to the rotorcraft have occurred due to the lack of specific safety standards for quick-release systems (QRS). Additionally, the equipment employed in external load operations has changed significantly since the existing safety standards were promulgated. Examples of these equipment changes are more diverse, maneuverable, and powerful rotorcraft designs, new QRS designs, new personnel carrying device systems (PCDS) designs, and new methods of rigging external loads to the rotorcraft.

Because of the need for both modernization and a higher level of safety, this proposal would address safety requirements for human external cargo (HEC) and nonhuman external cargo (NHEC); update load-to-vertical-angle certification requirements; add reliability and durability requirements for external load retention and release systems and devices; and add electromagnetic interference and lightning protection requirements because these items are not specifically addressed in the existing regulations.

In addition, this proposal would amend part 29 by adding new certification requirements that are compatible with the operating requirements of current part 133 for RLC Class D external loads. This proposal would provide a clearly specified certification safety standard for RLC Class D external loads in part 29. The change to part 29 would respond to increasing public demand for specific RLC Class D provisions that meet operational needs through standardized certification criteria.

Studies and analyses of service difficulty reports and the introduction of modern external load equipment and operational practices have shown a need for updating the regulations to (1) significantly decrease the potential for future accidents and incidents; (2) ensure that external cargo load carrying devices, their release mechanisms, their load carrying systems, and their flight performance, reflect modern operational needs; and (3) provide updated standards that can be harmonized with the Joint Airworthiness Regulations (JAR).

Current Requirements

Currently, §§ 27.865 and 29.865 contain identical provisions and apply only to RLC Class A, B, and C loads at the gross weights and associated load factors common for relatively heavy NHEC loads. Primary and secondary quick-release devices are required; however, specific safety features and test and reliability requirements for the entire QRS are not specified. In-flight handling qualities and release (i.e., jettisonability) characteristics of NHEC and HEC are not currently addressed.

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Part 29 Transport Category A rotorcraft are eligible under part 133 for Class D RLC operations. However, part 29 design standards do not exist for certification of Class D RLC's.

FAA Evaluation of ARAC Recommendation

After reviewing the External Load Working Group's work product and the ARAC recommendations, the FAA has determined that parts 27 and 29 should be revised to establish an increased margin of safety in rotorcraft external load operations. These revisions are necessary to implement modern safety standards that accommodate current and anticipated operational RLC applications and procedures and provide separate levels of safety for NHEC and HEC RLC's. These new safety standards are more fully described in the General Discussion of Proposals section. These changes to parts 27 and 29 include the addition of: (1) increased load factors for HEC; (2) increased QRS safety standards for both NHEC and HEC; (3) new PCDS standards for HEC; (4) new flight-handling characteristic standards for both NHEC and HEC; (5) increased fatigue substantiation standards for both NHEC and HEC; and (6) to part 29 only, the RLC Class D standard. These improvements to the safety standards should prevent many accidents and incidents. The proposal would provide identical, improved external load standards for rotorcraft certificated under parts 27 and 29 and would provide RLC Class D certification standards under part 29.

General Discussion of Proposals

These proposals would provide essentially identical external load standards in parts 27 and 29. In addition, both the part 27 and 29 proposals would provide certification standards for all RLC's that are compatible with the operational requirements in part 133.

Proposed Amendments to §§ 27.25(c) and 29.25(c)

The proposed amendments to §§ 27.25 and 29.25 would limit the availability of increased gross weights to those RLC's that involve the carriage of nonhuman loads. For applications for certification with human loads, the applicant would be limited by subparagraph (c)(1) to the maximum weight established in § 27.25(a). The changes would be a new limitation to reflect the distinction being made between those operations involving the carrying of humans externally for which a higher level of safety is needed.

Proposed Amendments to §§ 27.865 and 29.865

Because the proposed amendments would address more than just the attachment means for external loads, the undesignated center headings and the section titles of proposed §§ 27.865 and 29.865 would be changed from "External Load Attaching Means" to "External Loads."

Proposed Amendments to §§ 27.865(a) and 29.865(a)

The addition of new human external cargo certification requirements (HEC) and additional requirements for nonhuman external cargo (NHEC) certification results in modification of §§ 27.865(a) and 29.865(a). The most significant modification is a change in the current load factor specification to distinguish between and provide the required additional level of safety for HEC.

Current §§ 27.865(a) and 29.865(a) require the use of a 2.5g vertical limit load factor or a lesser value (derived from current §§ 27.337 through 27.341 or 29.337 through 29.341) at the maximum external load value for which certification is requested. This 2.5g limit load factor would be retained for NHEC applications in the proposals.

However, for HEC applications that are typically lower gross weight configurations, proposed §§ 27.865(a) and 29.865(a) contain a higher vertical limit load factor to be applied to the external load attachment and the entire attached PCDS. The higher vertical limit load factor is specified by these proposals as either the analytically derived maximum vertical limit load factor for the proposed operating envelope or a vertical limit load factor of 3.5 (derived from §§ 27.337 and 29.337). However, in no case would these proposals allow the maximum vertical limit load factor for HEC to be less than 2.5. Linear interpolation between minimum and maximum vertical design load factors and standard operating gross weight is one simple, acceptable means to determine design limit load factors.

Proposed §§ 27.865(a) and 29.865(a) would also require the limit static load for any RLC, either HEC or NHEC, to be determined and applied in both the vertical direction, and for jettisonable external loads in any direction, making the maximum angle that can be achieved in service (but not less than 30°) with the vertical axis of the rotorcraft. The term "maximum angle that can be achieved in service" means the largest angle expected to occur during normal operation. This term is added to the vertical angle requirement to ensure that sidepull (or other) configurations used for jettisonable RLC applications, such as wire stringing, that typically involve angles greater than the current 30°, would be addressed at the time of certification. The current 30° angle requirement was established based on the rule-of-thumb design limit for winch or hoist applications typical when the rule was promulgated and applications using larger angles were unforeseen. The proposed rule would not change the 30° angle limitation for winch or hoist applications. The existing rule does not specifically address RLC applications such as sidepull configurations. These proposed section changes would more closely match the needed safety standards to the type of RLC operations in the industry.

Proposed Amendments to §§ 27.865(b) and 29.865(b)

The terms "quick-release system," "primary quick release subsystem," and "backup quick release subsystem" are substituted throughout proposed §§ 27.865(b) and 29.865(b) for the current terminology of quick-release device, primary quick-release device, and mechanical backup quick-release device to require certification of the entire QRS, not just the quick-release devices. The proposals would also require that the primary and backup QRS be isolated from one another to ensure fail safety.

Also to facilitate harmonization with the Joint Aviation Authorities (JAA), the FAA proposes to delete the current references to RLC Classes B and C from §§ 27.865(b) and 29.865(b). These references are not necessary to the proposed new §§ 27.865(b) and 29.865(b) because the design distinctions necessary to provide the required level of safety would be made during certification without a need to refer to the operations based RLC classes. These distinctions are made by specifying whether or not an external load is jettisonable or non-jettisonable and whether or not an external load is human or non-human.

Proposed Amendments to §§ 27.865(b)(1) and 29.865(b)(1)

Proposed §§ 27.865(b)(1) and 29.865(b)(1) would allow the primary quick release control to be mounted either on a primary control or in any equivalently accessible location. This proposed change is intended to liberalize design options and allow a more realistic workload distribution among larger dedicated crews while maintaining the same level-of-safety.

The proposals would allow the control to be operated by a crewmember without necessarily being reachable by the pilot. The rotorcraft's approved operating procedures must address the responsibilities and procedures for the control of the QRS.

Proposed Amendments to §§ 27.865(b)(2) and 29.865(b)(2)

Proposed §§ 27.865(b)(2) and 29.865(b)(2) would change the current requirement that the backup control for the quick-release device be only a manual mechanical control. These proposals would require that a backup quick release subsystem of an approved design be readily available to the pilot or other crewmember.

Proposed Amendments to §§ 27.865(b)(3)(i) and 29.865(b)(3)(i)

Because of adverse service history and the need to specifically distinguish the levels of safety for HEC and NHEC, proposed §§ 27.865(b)(3)(i) and 29.865(b)(3)(i) would require that both the primary and backup quick release subsystems be reliable, durable, and functional. Reliability would be demonstrated by use of design features and by use of failure modes and effects analysis. Both reliability and durability would be demonstrated by use of repetitive functional tests. These proposed reliability and durability criteria would apply only to newly modified or type certificated helicopters equipped with external load attachment provisions or devices or both.

Proposed Amendments to §§ 27.865(b)(3)(ii) and 29.865(b)(3)(ii)

Proposed §§ 27.865(b)(3)(ii) and 29.865(b)(3)(ii) would require protection of the quick-release subsystems against potential internal and external sources of electromagnetic interference (EMI) and lightning. The new requirements are necessary to prevent inadvertent jettison of NHEC and HEC from sources such as stray electromagnetic signals, static electricity, and lightning strikes. Proposed field intensity levels are 200 volts per meter for applicable portions of QRS used for HEC and 20 volts per meter for applicable portions of QRS used for NHEC. The purpose of the requirements is for those applicable portions of the QRS to withstand these field intensity levels without inadvertent load release.

Proposed Amendments to §§ 27.865(b)(3)(iii) and 29.865(b)(3)(iii)

Proposed §§ 27.865(b)(3)(iii) and 29.865(b)(3)(iii) would require that the quick-release subsystems be protected against failures that could occur as a result of an electrical or mechanical malfunction of other rotorcraft components.

Proposed Amendments to §§ 27.865(c) and 29.865(c).

This proposal would redesignate existing §§ 27.865(c) and 29.865(c) as §§ 27.865(e) and 29.865(e), respectively. New §§ 27.865(c) and 29.865(c) are proposed to separately address the safety requirements for HEC carriage. The new requirements would ensure that the HEC certification requirements are clearly and properly identified.

Proposed Amendments §§ 27.865(c)(1) and 29.865(c)(1)

Proposed §§ 27.865(c)(1) and 29.865(c)(1) would require that the HEC load release primary and backup controls meet the requirements of §§ 27.865(b) and 29.865(b), respectively, and that both controls be designed to require dual actuation (i.e., require two distinct actions) for load release. This is necessary to mitigate inadvertent HEC release.

Proposed Amendments to §§ 27.865(c)(2) and 29.865(c)(2)

Proposed §§ 27.865(c)(2) and 29.865(c)(2) would require that the applicant demonstrate that the PCDS is reliable in accordance with the HEC provisions of §§ 27.865(b)(3)(i) and 29.865(b)(3)(i), respectively; has the structural capability required under §§ 27.865(a) and 29.865(a), respectively; and has the essential personnel safety provisions (based on the design configuration of the PCDS) to minimize hazards to occupants carried external to the rotorcraft.

Proposed Amendments to §§ 27.865(c)(3) and 29.865(c)(3)

Proposed §§ 27.865(c)(3) and 29.865(c)(3) would require that all necessary placards and markings be provided and be properly located to facilitate their proper use and, for the PCDS, to clearly specify the ingress and egress instructions.

Proposed Amendments to §§ 27.865(c)(4) and 29.865(c)(4)

Proposed §§ 27.865(c)(4) and 29.865(c)(4) would require that an intercom system or other approved equipment be installed to ensure proper communication among crewmembers and occupants during an emergency. For simple rescue systems that do not have intercom systems mandated by operating regulations, voice signals or hand signals to PCDS occupants may be acceptable. In more complex systems, it is intended that more sophisticated communication systems, such as intercoms, be provided.

Proposed Amendments to §§ 27.865(c)(5) and 29.865(c)(5)

Proposed §§ 27.865(c)(5) and 29.865(c)(5) would require that all flight limitations and procedures for HEC operations be identified and incorporated in the flight manual.

Proposed Amendment to § 29.865(c)(6)

To be compatible with part 133.45(e), proposed § 29.865(c)(6) would require, for HEC operations that require the use of Category A rotorcraft only (Class D RLC), that one-engine-inoperative hover performance capability information based on a dynamic engine failure (simulated engine failure in an actual test rotorcraft) be provided in the flight manual for the operating weights, altitudes, and temperatures for which external load approval is requested.

Proposed Amendments §§ 27.865(d) and 29.865(d).

Proposed new §§ 27.865(d) and 29.865(d) would require that critically configured jettisonable external loads (class and type) must be shown to be both transportable and releasable without hazard to the rotorcraft during normal flight conditions. In addition, these external loads must be shown to be releasable without hazard to the rotorcraft during emergency flight conditions. Compliance with the proposed requirements can be accomplished by using a combination of analysis, ground tests, and flight tests. This is necessary to ensure that the extremities of the operating range are thoroughly explored without unnecessary risk and cost. The new provisions would mitigate HEC transport problems such as entanglements with the rotorcraft in flight and will provide a mandatory flight test validation of the QRS. Current §§ 27.865(d) and 29.865(d) would be revised and redesignated as §§ 27.865(f) and 29.865(f), respectively.

Proposed Amendments to §§ 27.865(e) and 29.865(e)

Current §§ 27.865(c) and 29.865(c) would be revised and redesignated as §§ 27.865(e) and 29.865(e), respectively. The proposals would amend these sections by adding a requirement to install a placard next to the external load attaching means that specifies any operational limitations in addition to the maximum authorized external load weight that can be attached.

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Proposed Amendments to §§ 27.865(f) and 29.865(f)

Sections 27.865(d) and 29.865(d) would be revised and redesignated as §§ 27.865(f) and 29.865(f), respectively. These paragraphs would require that for NHEC, all critical structural elements such as those in the external load attachment and carrying system whose failure would result in a hazard to the rotorcraft (not just the cargo hook) have a fatigue analysis in accordance with §§ 27.571 and 29.571, as applicable. The proposals would also require that for HEC, the entire QRS and PCDS and their attachments to the rotorcraft have a fatigue analysis in accordance with §§ 27.571 or 29.571, as applicable.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. § 3507(d)), there are no requirements for information collection associated with this final rule.

International Compatibility

The FAA has reviewed corresponding International Civil Aviation Organization international standards and recommended practices and Joint Aviation Authorities regulations, where they exist, and has identified no differences in these proposed amendments and the foreign regulations.

Regulatory Evaluation Summary

Changes to federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effects of regulatory changes on international trade. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation). In conducting these analyses, which are summarized as follows (and available in the docket), the FAA has determined that this NPRM is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and therefore was not reviewed by the Office of Management and Budget. This NPRM is not considered significant under Department of Transportation's Policies and Procedures (44 FR 11034, February 26, 1979). In addition, for the reasons stated under the "Trade Impact Statement" and the "Regulatory Flexibility Determination," the FAA certifies that this NPRM will not have a significant economic impact on a substantial number of small entities and would not result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually.

The FAA invites the public to provide comments (and related data) on the assumptions made in this evaluation. All comments received will be considered in the final regulatory evaluation.

Costs and Benefits

Costs

The costs of the proposed rule, which would be borne by manufacturers and operators, are evaluated for the time period extending from its implementation date through the operating lives of 75 rotorcraft assumed to be produced under four new type certificates (involving 15-year production runs of 5 rotorcraft per year total under all four new type certificates) and placed into part 133 service. Over the course of this evaluation period, incremental costs would total approximately $388,500 (1996 dollars), or $203,000 discounted to present value (using an interest rate of seven percent and letting "present" be the date of initial type certification application). Of the $388,500 total cost, $156,000 is attributable to incremental design, analysis, test, and other certification costs, $30,000 to incremental production costs (75 rotorcraft at $400 each), and $202,500 to incremental weight penalty fuel costs ($180 per year per rotorcraft over 15-year operating lives of 75 rotorcraft). On a per-rotorcraft basis, costs would average approximately $5,200, or $2,700 discounted. These incremental costs would be offset to some extent by potential cost savings associated with the harmonization of these proposals with the JAA and eventual creation of identical JAA airworthiness standards, streamlining of certification approvals for part 133 operators, and some relaxed requirements for parts 27 and 29 manufacturers (see Benefits section, below).

Benefits

To estimate the safety benefits of the proposed rule, the FAA reviewed records of accidents involving part 133 operators that occurred between mid-1983 and mid-1994 that could have been prevented or the losses reduced if the proposed changes were in effect. During the 11-year period, there were 17 such accidents involving fatal and/or non-fatal injuries, or damage to equipment, or both. Eight of the accidents resulted in harm to persons (either inside or outside of the rotorcraft), totaling eight fatalities and two serious injuries. Fifteen of the 17 accidents involved either substantial damage (seven) or destruction of the rotorcraft (eight).

To provide a basis for comparing the safety benefits and costs of rulemaking actions, the FAA currently uses a minimum statistical value of $2.7 million for a fatality avoided and $518,000 for a serious injury avoided. Applying these standards to the casualty losses summarized above and making allowances for the costs of rotorcraft damage, the total cost of the 17 accidents was approximately $27.2 million.

The FAA estimates that the proposed rule could prevent at least 50 percent of the type of accidents summarized above. Applying it retrospectively would yield dollar benefits of approximately $13.6 million (one-half of $27.2 million). Over the 11-year accident evaluation period, the part 133 fleet averaged approximately 300 active rotorcraft. Therefore, the benefits would average approximately $4,100 per year per rotorcraft ($13.6 million/11 years/300 operating part 133 rotorcraft per year). Applying this per-rotorcraft safety benefit to the cumulative number of complying rotorcraft results in total safety benefits of $4.6 million (or $1.3 million discounted to present value). On a per-rotorcraft basis, these benefits would average approximately $61,500, or $17,300 discounted.

In addition to improving safety, the proposed rule would provide some cost-relief in certain respects. New production rotorcraft would be delivered with standardized procedures for external load operations, and could result in a small savings to part 133 operators. Further, changes to current regulations that relate to the primary and backup quick-release devices would reduce production costs for parts 27 and 29 rotorcraft manufacturers. The changes would also increase harmonization and commonality between U.S. and European airworthiness standards. Harmonization would eliminate unnecessary differences in airworthiness requirements, thus reducing manufacturers' certification costs.

Comparison of Costs and Benefits

The proposed rule would generate benefits in the form of increased safety and cost relief (see preceding paragraph—the potential cost relief has not been included in the cost/benefit calculation). On a per-rotorcraft basis, the life-cycle safety benefits would average approximately $17,300 (discounted) and the costs would average approximately $2,700 (discounted), yielding a benefit-to-cost ratio of 6.4 to 1. On this basis alone, the proposed rule is cost-beneficial; additional quantified efficiency and harmonization benefits would increase this ratio.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation." To achieve that principle, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis as described in the Act.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 act provides that the head of the agency may so certify and an RFA is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The entities that would be affected by the proposed rule consist of rotorcraft manufacturers (included in Standard Industrial Classification (SIC 3721, Aircraft and Aircraft Parts Manufacturers) and external load operators (SIC 4512, 4513, 4522). Manufacturers would incur additional development, certification, and production costs. In addition to indirectly incurring all or part of these costs in the form of higher rotorcraft acquisition costs, operators would incur increased fuel costs resulting from weight penalties. Although the certification costs (non-recurring) would be either fully absorbed by the manufacturer(s), passed on in-total to operator(s) (purchasers), or more likely, absorbed in some proportion by both, the FAA in this analysis adopts a conservative approach and allocates total certification costs to each category in assessing significant economic impact. Incremental per-unit production costs, however, are assumed to be fully passed on to purchasers (operators).

For manufacturers, a small entity is one with 1,500 or fewer employees. Only five rotorcraft manufacturers have 1,500 or fewer employees and therefore qualify as small entities. However, three of these are not currently producing new type-certificated rotorcraft, and a fourth does not produce rotorcraft used for external loads. The fifth small manufacturer produces specialized smaller rotorcraft, a minority of which are configured for external load operations; this producer does not compete with the larger manufacturers. Annualized certification costs imposed by the proposed rule are estimated to be $3,800 per manufacturer for each certification and is not considered significant within the meaning of the RFA.

There are numerous external load operators. The FAA has not determined how many of these are small operators and if a substantial number would potentially be impacted by the proposal. However, most external load operations involve specialized activities such as logging, offshore oil drilling, or emergency rescue operations, the demand for which is highly price-inelastic; the operators can readily pass on the incremental costs to their customers. Notwithstanding, the maximum annualized cost per rotorcraft would most likely not be greater than $314 (includes manufacturers' certification and production costs passed on to the purchaser and increased fuel costs, but excludes potential offsetting cost-savings). This amount probably equates to less than the cost of two hours' operating time (representing a de minimus portion of annual revenues) and is not considered significant within the meaning of the RFA. In addition, no small manufacturer or small operator would bear a disproportionate cost burden nor have a greater likelihood of failing in business compared to larger entities.

Based on the findings delineated above and consistent with the objectives and requirements of the RFA as amended, the FAA certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities. The FAA invites comments on this finding (and the underlying assumptions) during the public comment period following publication of the subject NPRM.

International Trade Impact Assessment

Consistent with the Administration's belief in the general superiority, desirability, and efficacy of free trade, it is the policy of the Administrator to remove or diminish, to the extent feasible, barriers to international trade, including both barriers affecting the export of American goods and services to foreign countries and those affecting the import of foreign goods and services into the United States.

In accordance with that policy, the FAA is committed to develop as much as possible its aviation standards and practices in harmony with its trading partners. Significant cost savings can result from this, both to United States' companies doing business in foreign markets, and foreign companies doing business in the United States.

This proposed rule is a direct action to respond to this policy by increasing the harmonization of the U.S. Federal Aviation Regulations with the European Joint Aviation Requirements. The result would be a positive step toward removing impediments to international trade.

Federalism Implications

The regulations proposed herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Pub. L. 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected

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officers (or their designees) of State, local, and tribal governments on a proposed "significant intergovernmental mandate." A "significant intergovernmental mandate" under the Act is any provision in a Federal agency regulation that will impose an enforceable duty upon State, local, and tribal governments, in the aggregate, of $100 million (adjusted annually for inflation) in any one year. Section 203 of the Act, 2 U.S.C. 1533, which supplements section 204(a), provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that, among other things, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals.

The FAA determines that this proposed rule does not contain a significant intergovernmental or private sector mandate as defined by the Act.

List of Subjects

14 CFR Part 27

Air transportation, Aircraft, Aviation safety, Rotorcraft, Safety.

14 CFR Part 29

Air transportation, Aircraft, Aviation safety, Rotorcraft, Safety.

The Proposed Amendments

In consideration of the foregoing, the Federal Aviation Administration proposes to amend parts 27 and 29 of Title 14, Code of Federal Regulations (14 CFR parts 27 and 29) as follows:

PART 27—AIRWORTHINESS STANDARDS: NORMAL CATEGORY ROTORCRAFT

1. The authority citation for part 27 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44704.

2. Section 27.25 is amended by revising paragraph (c) to read as follows:

§ 27.25 Weight limits

* * * * *

(c) *Total weight with jettisonable external load.* A total weight for the rotorcraft with a jettisonable external load attached that is greater than the maximum weight established under paragraph (a) of this section may be established for any rotorcraft-load combination if—

(1) The rotorcraft-load combination does not include human external cargo,

(2) Structural component approval for external load operations under either § 27.865, or under equivalent operational standards is obtained,

(3) The portion of the total weight that is greater than the maximum weight established under paragraph (a) of this section is made up only of the weight of all or part of the jettisonable external load,

(4) Structural components of the rotorcraft are shown to comply with the applicable structural requirements of this part under the increased loads and stresses caused by the weight increase over that established under paragraph (a) of this section, and

(5) Operation of the rotorcraft at a total weight greater than the maximum certificated weight established under paragraph (a) of this section is limited by appropriate operating limitations under § 27.865 (a) and (d) of this part.

3. The undesignated center heading preceding § 27.865 is revised as set forth below, and in § 27.865 the section heading, paragraph (a) introductory text and paragraph (b) are revised; paragraphs (c) and (d) are redesignated as paragraphs (e) and (f) and revised; and new paragraphs (c) and (d) are added to read as follows:

External Loads

§ 27.865 External loads.

(a) It must be shown by analysis, test, or both, that the rotorcraft external load attaching means for rotorcraft-load combinations to be used for nonhuman external cargo applications can withstand a limit static load equal to 2.5, or some lower load factor approved under §§ 27.337 through 27.341, multiplied by the maximum external load for which authorization is requested. It must be shown by analysis, test, or both that the rotorcraft external load attaching means and corresponding personnel carrying device system for rotorcraft-load combinations to be used for human external cargo applications can withstand a limit static load equal to 3.5 or some lower load factor, not less than 2.5, approved under §§ 27.337 through 27.341, multiplied by the maximum external load for which authorization is requested. The load for any rotorcraft-load combination class, for any external cargo type, must be applied in the vertical direction. For jettisonable external loads of any applicable external cargo type, the load must also be applied in any direction making the maximum angle with the vertical that can be achieved in service but not less than 30°. However, the 30° angle may be reduced to a lesser angle if—

* * * * *

(b) The external load attaching means, for jettisonable rotorcraft-load combinations, must include a quick-release system to enable the pilot to release the external load quickly during flight. The quick-release system must consist of a primary quick release subsystem and a backup quick release subsystem that are isolated from one another. The quick-release system, and the means by which it is controlled, must comply with the following:

(1) A control for the primary quick release subsystem must be installed either on one of the pilot's primary controls or in an equivalently accessible location and must be designed and located so that it may be operated by either the pilot or a crewmember without hazardously limiting the ability to control the rotorcraft during an emergency situation.

(2) A control for the backup quick release subsystem, readily accessible to either the pilot or another crewmember, must be provided.

(3) Both the primary and backup quick release subsystems must—

(i) Be reliable, durable, and function properly with all external loads up to and including the maximum external load for which authorization is requested.

(ii) Be protected against electromagnetic interference (EMI) from external and internal sources and against lightning to prevent inadvertent load release.

(A) The minimum level of protection required for jettisonable rotorcraft-load combinations used for nonhuman external cargo is a radio frequency field strength of 20 volts per meter.

(B) The minimum level of protection required for jettisonable rotorcraft-load combinations used for human external cargo is a radio frequency field strength of 200 volts per meter.

(iii) Be protected against any failure that could be induced by a failure mode of any other electrical or mechanical rotorcraft system.

(c) For rotorcraft-load combinations to be used for human external cargo applications, the rotorcraft must—

(1) For jettisonable external loads, have a quick-release system that meets the requirements of paragraph (b) of this section and that—

(i) Provides a dual actuation device for the primary quick release subsystem, and

(ii) Provides a separate dual actuation device for the backup quick release subsystem.

(2) Have a reliable, approved personnel carrying device system that has the structural capability and

personnel safety features essential for external occupant safety,

(3) Have placards and markings at all appropriate locations that clearly state the essential system operating instructions and, for the personnel carrying device system, the ingress and egress instructions.

(4) Have equipment to allow direct intercommunication among required crewmembers and external occupants, and

(5) Have the appropriate limitations and procedures incorporated in the flight manual for conducting human external cargo operations.

(d) The critically configured jettisonable external loads must be shown by a combination of analysis, ground tests, and flight tests to be both transportable and releasable throughout the approved operational envelope without hazard to the rotorcraft during normal flight conditions. In addition, these external loads must be shown to be releasable without hazard to the rotorcraft during emergency flight conditions.

(e) A placard or marking must be installed next to the external-load attaching means clearly stating any operational limitations and the maximum authorized external load as demonstrated under § 27.25 and this section.

(f) The fatigue evaluation of § 27.571 of this part does not apply to rotorcraft-load combinations to be used for nonhuman external cargo except for the failure of critical structural elements that would result in a hazard to the rotorcraft. For rotorcraft-load combinations to be used for human external cargo, the fatigue evaluation of § 27.571 of this part applies to the entire quick release and personnel carrying device structural systems and their attachments.

PART 29—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY ROTORCRAFT

4. The authority citation for part 29 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44704.

§ 29.25 [Amended]

5. Section 29.25 is amended by revising paragraph (c) to read as follows:

* * * * *

(c) *Total weight with jettisonable external load.* A total weight for the rotorcraft with a jettisonable external load attached that is greater than the maximum weight established under paragraph (a) of this section may be established for any rotorcraft-load combination if—

(1) The rotorcraft-load combination does not include human external cargo,

(2) Structural component approval for external load operations under either § 29.865 or under equivalent operational standards is obtained,

(3) The portion of the total weight that is greater than the maximum weight established under paragraph (a) of this section is made up only of the weight of all or part of the jettisonable external load,

(4) Structural components of the rotorcraft are shown to comply with the applicable structural requirements of this part under the increased loads and stresses caused by the weight increase over that established under paragraph (a) of this section, and

(5) Operation of the rotorcraft at a total weight greater than the maximum certificated weight established under paragraph (a) of this section is limited by appropriate operating limitations under § 29.865 (a) and (d) of this part.

6. The undesignated center heading preceding § 29.865 is revised as set forth below, and in § 29.865 the section heading, paragraph (a) introductory text and paragraph (b) are revised; paragraphs (c) and (d) are redesignated as paragraphs (e) and (f) and revised; and new paragraphs (c) and (d) are added to read as follows:

External Loads

§ 29.865 External loads.

(a) It must be shown by analysis, test, or both, that the rotorcraft external load attaching means for rotorcraft-load combinations to be used for nonhuman external cargo applications can withstand a limit static load equal to 2.5, or some lower load factor approved under §§ 29.337 through 29.341, multiplied by the maximum external load for which authorization is requested. It must be shown by analysis, test, or both that the rotorcraft external load attaching means and corresponding personnel carrying device system for rotorcraft-load combinations to be used for human external cargo applications can withstand a limit static load equal to 3.5 or some lower load factor, not less than 2.5, approved under §§ 29.337 through 29.341, multiplied by the maximum external load for which authorization is requested. The load for any rotorcraft-load combination class, for any external cargo type, must be applied in the vertical direction. For jettisonable external loads of any applicable external cargo type, the load must also be applied in any direction making the maximum angle with the vertical that can be achieved in service but not less than 30°. However, the 30° angle may be reduced to a lesser angle if—

* * * * *

(b) The external load attaching means, for jettisonable rotorcraft-load combinations, must include a quick-release system to enable the pilot to release the external load quickly during flight. The quick-release system must consist of a primary quick release subsystem and a backup quick release subsystem that are isolated from one another. The quick release system, and the means by which it is controlled, must comply with the following:

(1) A control for the primary quick release subsystem must be installed either on one of the pilot's primary controls or in an equivalently accessible location and must be designed and located so that it may be operated by either the pilot or a crewmember without hazardously limiting the ability to control the rotorcraft during an emergency situation.

(2) A control for the backup quick release subsystem, readily accessible to either the pilot or another crewmember, must be provided.

(3) Both the primary and backup quick release subsystems must—

(i) Be reliable, durable, and function properly with all external loads up to and including the maximum external load for which authorization is requested.

(ii) Be protected against electromagnetic interference (EMI) from external and internal sources and against lightning to prevent inadvertent load release.

(A) The minimum level of protection required for jettisonable rotorcraft-load combinations used for nonhuman external cargo is a radio frequency field strength of 20 volts per meter.

(B) The minimum level of protection required for jettisonable rotorcraft-load combinations used for human external cargo is a radio frequency field strength of 200 volts per meter.

(iii) Be protected against any failure that could be induced by a failure mode of any other electrical or mechanical rotorcraft system.

(c) For rotorcraft-load combinations to be used for human external cargo applications, the rotorcraft must—

(1) For jettisonable external loads, have a quick-release system that meets the requirements of paragraph (b) of this section and that—

(i) Provides a dual actuation device for the primary quick release subsystem, and

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(ii) Provides a separate dual actuation device for the backup quick release subsystem.

(2) Have a reliable, approved personnel carrying device system that has the structural capability and personnel safety features essential for external occupant safety.

(3) Have placards and markings at all appropriate locations that clearly state the essential system operating instructions and, for the personnel carrying device system, ingress and egress instructions,

(4) Have equipment to allow direct intercommunication among required crewmembers and external occupants,

(5) Have the appropriate limitations and procedures incorporated in the flight manual for conducting human external cargo operations, and

(6) For human external cargo applications requiring use of Category A rotorcraft, have one-engine-inoperative hover performance data and procedures in the flight manual for the weights, altitudes, and temperatures for which external load approval is requested.

(d) The critically configured jettisonable external loads must be shown by a combination of analysis, ground tests, and flight tests to be both transportable and releasable throughout the approved operational envelope without hazard to the rotorcraft during normal flight conditions. In addition, these external loads must be shown to be releasable without hazard to the rotorcraft during emergency flight conditions.

(e) A placard or marking must be installed next to the external-load attaching means clearly stating any operational limitations and the maximum authorized external load as demonstrated under § 29.25 and this section.

(f) The fatigue evaluation of § 29.571 of this part does not apply to rotorcraft-load combinations to be used for nonhuman external cargo except for the failure of critical structural elements that would result in a hazard to the rotorcraft. For rotorcraft-load combinations to be used for human external cargo, the fatigue evaluation of § 29.571 of this part applies to the entire quick release and personnel carrying device structural systems and their attachments.

Issued in Washington, DC, on July 6, 1998.

Thomas E. McSweeney,

Director, Aircraft Certification Service.

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[2] The July 1, 1985 edition of 32 CFR Parts 1-189 contains a note only for Parts 1-39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1-39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1-100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period July 1, 1996 to June 30, 1997. The volume issued July 1, 1996, should be retained.

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 272 and 275

Food Stamp Program: Quality Control Provisions of the Mickey Leland Childhood Hunger Relief Act

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule; announcement of effective and implementation dates.

SUMMARY: This action announces the effective and implementation dates for certain provisions in final regulations published June 2, 1997, Food Stamp Program: Quality Control Provisions of the Mickey Leland Childhood Hunger Relief Act. The affected provisions contain information collections relating to Quality Control system arbitration and good cause processes. These information collections needed Office of Management and Budget (OMB) approval, in accordance with the Paperwork Reduction Act of 1995, prior to their implementation. A notice published in the **Federal Register** on December 19, 1997, solicited comment on the proposed information collections. OMB approved the information collections through June 30, 2001.

DATES: The information collections at 7 CFR 275.3(c)(4) are effective August 13, 1998 and will be implemented October 1, 1998, for the fiscal year 1999 Quality Control reporting period. Information collections at 7 CFR 275.23(e)(5) and at 7 CFR 275.23(e)(7) will be implemented August 13, 1998. Information collections at 7 CFR 275.23(e)(9) will be implemented October 1, 1998, for the fiscal year 1999 Quality Control reporting period.

FOR FURTHER INFORMATION CONTACT: Retha Oliver, (703) 305–2474.

SUPPLEMENTARY INFORMATION: The final rule, Food Stamp Program: Quality Control Provisions of the Mickey Leland Childhood Hunger Relief Act ("Leland Rule") published June 2, 1997 (62 FR 29652), contains information collections that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44.U.S.C. 3507). These information collections pertain to the Quality Control (QC) burden for the arbitration and good cause processes. The implementation dates in this notice affect the following provisions in the Leland Rule: 7 CFR 275.3(c)(4) [Arbitration]; 7 CFR 275.23(e)(5) [State agencies' liabilities for payment error—Fiscal Year 1992 and beyond]; 7 CFR 275.23(e)(7) [Good Cause]; and 7 CFR 275.23(e)(9) [Timeframes for announcing State agency error rates, for notifying States of their error rates and liabilities, and for completing all cases].

During final clearance of the Leland Rule, OMB determined that the reporting and recordkeeping burdens associated with the arbitration and good cause processes needed to be submitted for OMB approval through an approval process specifically designed for paperwork burdens. In accordance with the Paperwork Reduction Act of 1995, a December 19, 1997, notice (62 FR 66593) solicited public comment on the reporting and recordkeeping burden for the QC sampling plan, arbitration and good cause. There was one comment on the notice. This comment disagreed with the estimated burdens for the sampling plan and the arbitration process, stating that the State it represented spent more time than allotted in the notice for these two activities. The Department did not revise these estimates. These estimates are averages for States and the Department believes the estimates in the notice more accurately reflect the amount of time that States, *on average*, expend on these activities. The reporting and recordkeeping burden associated with the Food Stamp Program QC System sampling plan, arbitration and good cause is approved through June 30, 2001 under OMB No. 0584–0303. This action establishes effective and implementation dates for the specified provisions in the Leland rule.

Dated: July 6, 1998.

George A. Braley,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 98–18680 Filed 7–13–98; 8:45 am]

BILLING CODE 3410–30–U

NORTHEAST DAIRY COMPACT COMMISSION

7 CFR Parts 1361 and 1371

Rulemaking Procedures; Producer Referendum

AGENCY: Northeast Dairy Compact Commission.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule establishes and implements regulations governing administrative procedures for the Northeast Dairy Compact Commission. This rule provides the procedures for rulemaking, including processes for public notice, comment and hearing, and procedures for conducting a producer referendum, as part of the rulemaking process, including procedures for block voting by qualified cooperative associations of milk producers, as required by the Northeast Interstate Dairy Compact ("Compact").

DATES: Interim rule effective July 14, 1998; Comments must be received on or before September 14, 1998.

ADDRESSES: Comments may be mailed to, or delivered to, Northeast Dairy Compact Commission, 43 State Street, P.O. Box 1058, Montpelier, Vermont 05601–1058 between the hours of 8:30 a.m.–5:00 p.m. Comments received may also be inspected at 43 State Street between 8:30 a.m.–5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Becker, Executive Director, Northeast Dairy Compact Commission at the above address or by telephone at (802) 229–1941, or by facsimile at (802) 229–2028.

SUPPLEMENTARY INFORMATION:

Background

The Northeast Dairy Compact Commission (the "Commission") was established under authority of the Northeast Interstate Dairy Compact ("Compact"). The Compact was enacted into law by each of the six participating New England states as follows: Connecticut-Pub. L. 93–320; Maine-Pub.

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L. 89–437, as amended, Pub. L. 93–274; Massachusetts-Pub. L. 93–370; New Hampshire-Pub. L. 93–336; Rhode Island-Pub. L. 93–106; Vermont-Pub. L. 89–95, as amended, 93–57. In accordance with Article I, Section 10 of the United States Constitution, Congress consented to the Compact in Pub. L. 104–127 (FAIR ACT), Section 147, codified at 7 U.S.C. 7256. Subsequently, the United States Secretary of Agriculture, pursuant to 7 U.S.C. 7256(1), authorized implementation of the Compact.

This interim rule establishes the Compact Commission's regulations for the conduct of rulemaking proceedings, including the producer referendum balloting, as authorized under sections 11, 12, and 13 of the Compact. These rulemaking procedures apply only to the issuance, or amendment, of a compact over-order price regulation, or a commission marketing order, including any provision with respect to milk supply, and any process initiated by the Compact Commission in which the subjects and issues involved relate to such price regulation, commission marketing order, or provision with respect to milk supply or, proposed amendment thereto. The producer referendum is conducted in order to ascertain whether milk producers approve the issuance or amendment of such regulations or marketing order, as required by section 13 of the Compact.

List of Subjects in 7 CFR Parts 1361 and 1371

Administrative Practice and Procedure, Rulemaking, Milk.

Codification in Code of Federal Regulations

For reasons set forth in the preamble, the Compact Commission adds new parts 1361 and 1371 to 7 CFR chapter XIII as follows:

PART 1361—RULEMAKING PROCEDURES

Sec.
1361.1 Applicability.
1361.2 Commencement of proceedings.
1361.3 Notice.
1361.4 Submission of written comment and exhibits independent of the hearing.
1361.5 Conduct of the hearing.
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1361.7 Additional comment and proposed findings by interested persons.
1361.8 Commission deliberation and decision; proposed regulation; proposed findings.
1361.9 Effective date of regulation.
1361.10 Handler's right to petition for administrative review; Judicial review.
1361.11 Ex Parte Communications.

Authority: 7 U.S.C. 7256.

§ 1361.1 Applicability.

This section applies to:

(a) The establishment of a compact over-order price regulation, as defined in subsection 2(8) of the Compact, including any provision with respect to milk supply under subsection 9(f) of the Compact;

(b) Any amendment of such over-order price regulation or provision with respect to milk supply; and

(c) Any process initiated by the Compact Commission in which the subjects and issues involved relate to such price regulation or provision with respect to milk supply or, proposed amendment thereto.

§ 1361.2 Commencement of proceedings.

(a) Upon the Commission's initiative—The Compact Commission may commence a rulemaking proceeding on its own initiative, including upon the recommendation of the Committee on Regulations and Rulemaking.

(b) Upon the request of a state delegation—A state delegation may request the initiation of a rulemaking proceeding by presenting its request to the Committee on Regulations and Rulemaking. The Committee on Regulations and Rulemaking shall make a recommendation to the Compact Commission, through the Chair, as to whether the state delegation's request should be pursued; provided that the state delegation may in any event place its request before the Compact Commission for its consideration.

(c) Upon petition of any person or organization—In its sole discretion, the Compact Commission may commence a rulemaking proceeding upon petition of any person. Such persons or organizations may include individual milk producers or handlers, any organization of milk producers or handlers, general farm organizations, consumer or public interest groups, and local, state or federal officials.

(1) A person or organization petitioning for commencement of a rulemaking proceeding shall submit to the Compact Commission a statement in support of the petition. This statement shall include a brief written explanation of how the proposal will promote the purposes of the Compact.

(2) Petitions submitted under this paragraph shall be forwarded to the Committee on Regulations and Rulemaking for review. If that Committee determines the proposal will tend to promote the purposes of the Compact, the Committee shall notify the Chair of its determination. The Chair shall then convene the Compact Commission to determine whether the Commission desires to initiate a rulemaking proceeding based upon the petition.

(3) If the Committee on Regulations and Rulemaking determines the proposal will not tend to promote the purposes of the Compact, the Committee, through the Chair, shall promptly notify the petitioner of its decision. Notice of denial shall include a brief statement of the grounds for the denial. Upon the request of the petitioner, and in the discretion of the Chair, the Commission may review the denial of a petition by the Committee on Regulations and Rulemaking.

(d) Commencement of proceedings — At the discretion of the Compact Commission, the Chair shall commence any rulemaking proceeding. The Chair shall commence the proceeding by serving notice in accordance with § 1361.3.

§ 1361.3 Notice.

(a) Contents of the notice — subject matter—Notice filed by the Chair of the Commission shall include a concise summary of the proposed price regulation and provision with respect to milk supply, or proposed amendment, or a concise statement that such regulation or amendment is the subject and issue involved. If for specific, proposed regulation or amendment, the notice shall identify the geographic area and persons to be covered, and a proposed effective date. The notice shall also identify the Compact as the legal authority under which the price regulation is proposed.

(b) Contents of the notice — date, time and place of hearing — Notice shall be given of the date, time and place of the hearing to be held by the Compact Commission in accordance with section 11 of the Compact. The date of the hearing shall be at least 15 days after the publication of notice as provided in paragraph (d) of this section.

(c) Right to provide comment — The notice shall identify the right of any person to participate in the rulemaking proceeding by the submission of written comment, either as part of, or independent of, the hearing.

(d) Publication of notice and supplemental publicity — The Chair shall give notice under this section as follows:

(1) By publication in the **Federal Register**;

(2) By publication in the official register of each participating state and as otherwise required by the laws of the states. If the laws of a particular state do not require publication of notice in a newspaper of general circulation within

that state, the Compact Commission shall provide for such publication; and

(3) By correspondence to interested persons in accordance with a list of such persons compiled by the Compact Commission. Any interested person may have his or her name added to the list by making a written request to the Compact Commission.

(e) Notice may also be provided by:

(1) Forwarding copies of the notice to the governors of such other states as the Chair determines should be notified; or

(2) At the discretion of the Compact Commission, by issuance of a press release containing the contents of the notice or a summary of the contents of the notice to those newspapers in the area proposed to be subjected to regulation as will reasonably tend to bring the notice to the attention of interested persons; or

(3) Such other notice as directed by the Compact Commission.

§ 1361.4 Submission of written comment and exhibits independent of the hearing.

Any person may submit to the Compact Commission written comment and exhibits independent of the hearing. Comment and exhibits may be submitted at any time until the closing date of the post-hearing comment period established under § 1361.7. The comment and exhibits shall be made part of the record of the rulemaking proceeding if they identify the author's name, address and occupation and if they include a sworn, notarized statement indicating that the comment is presented based upon the author's personal knowledge or belief.

§ 1361.5 Conduct of the hearing.

(a) Presiding Officer—The Chair of the Commission shall be the presiding officer, or in his or her absence, the Vice-Chair. In the absence of either officer, the Compact Commission shall elect a presiding officer from those members present at the hearing or retain a qualified member of the public to serve as presiding officer.

(b) Authority of the Presiding Officer—The presiding officer shall have the authority to:

(1) Regulate the course of the hearing;

(2) Administer oaths and affirmations;

(3) Rule upon issues of evidence and procedure and receive affidavits; and

(4) Present questions to the Compact Commission for its determination.

(c) Recording of Notice—At the opening of the hearing, the presiding officer shall certify for the record the provision of notice under § 1361.3.

(d) Transcript—The Secretary of the Compact Commission shall cause a complete transcript to be kept of the hearing proceeding. The Secretary shall certify a true copy of the record of all testimony and exhibits entered into evidence.

(e) Appearance; Right to Appear—Any person shall be given an opportunity to appear, either in person or through a representative, subject to reasonable procedures (*e.g.*, regarding time allowed for testimony) established by the presiding officer. Witnesses shall provide their names, addresses and occupations for the record before proceeding to testify. A person acting as representative on behalf of another shall so identify himself or herself, provide his or her name, address and occupation for the record, and shall provide any other information as required by the presiding officer.

(f) Testimony—Persons shall be sworn or make affirmation before testifying. Any member of the Compact Commission or designated staff may ask questions of a person giving testimony.

(g) Evidence—To the degree possible, evidence shall be presented in a form consistent with the provisions of section 9(e) of the Compact. Evidence which is relevant and material to the subject matter of the hearing and is of a type commonly relied upon by reasonably prudent persons shall be admissible. Evidence that is irrelevant, immaterial or unduly repetitious shall be excluded. As possible, the relevancy of evidence shall be determined by reference to the provisions of section 9(e) of the Compact.

(1) Exclusion of evidence; objections and offers of proof—The presiding officer may act to exclude evidence on his or her own or upon a request by any Compact Commission member. The person testifying may object to a ruling to exclude evidence. The person shall state the reasons for the objection, and provide an offer of proof, consisting of a statement of the substance of the testimony or that which is expected to be shown by the answer; provided that the presiding officer may limit the length of time allowed for the offer of proof. The record shall reflect the objection, the stated basis for the objection and the offer of proof. The presiding officer shall either overrule the objection, and exclude the evidence from the record, or stay a ruling on the objection to permit action by the Compact Commission at a future time. If the Compact Commission, upon consideration of the objection and offer of proof, permits the evidence, it shall reopen the record and allow the testimony to be entered. Only evidence so received by proper objection and offer of proof may be the subject of future consideration. The person testifying shall be notified within three days of the Compact Commission's ruling on the objection.

(2) Exhibits, Documentary and Real Evidence—All written statements, charts, tabulations or similar data offered in evidence at the hearing shall be made part of the record upon identification by the witness and upon satisfactory showing of its authenticity, relevance and materiality. At the discretion of the presiding officer, any part of an exhibit that is irrelevant or immaterial may be excluded and the remainder admitted.

(3) Cost Conclusions—conclusory statements regarding costs shall be admissible only if supported by actual cost data based on actual operations of producers, handlers or retailers, as appropriate. Projections or estimates of costs shall be considered only where the actual costs or other data upon which such projections or estimates are provided as part of the analysis.

(4) Commission Evidence—The Compact Commission may introduce the results and data of any inquiry or investigation conducted by the Commission, or any other evidence it deems appropriate. The Commission may also designate as evidence all or part of the record of prior hearings before the Commission.

(5) Official notice—The Compact Commission may take official notice of such matters as are judicially noticed by the courts of the United States and any other matter of technical, scientific or commercial fact of established character. Matters taken by official notice shall be so designated in the record. Interested persons shall be given adequate notice of this action, at the hearing or afterward, and opportunity to demonstrate that the facts are inaccurate or were erroneously noticed.

§ 1361.6 Availability of the transcript.

(a) Availability—A copy of the hearing transcript shall be available for review at the Compact Commission place of business during its official business hours, within 48 hours of the completion of the hearing, unless otherwise specified by the presiding officer at the close of the hearing.

(b) Copies—A copy of the transcript may be obtained upon written request and payment of reasonable cost per page.

§ 1361.7 Additional comment and proposed findings by interested persons.

At the conclusion of the hearing, the presiding officer shall announce that persons who have participated in the hearing may submit comment and proposed findings of fact. The comment

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or findings, or both, shall be received within fourteen calendar days of the conclusion of the hearing, unless otherwise specified in the published notice of proposed rulemaking. Any proposed findings shall be presented in a form consistent with the finding requirements of § 1361.8, and shall be based solely on evidence included in the record. Page numbers of the transcript, where supporting evidence appears, shall be cited whenever possible.

§ 1361.8 Commission deliberation and decision; proposed regulation; proposed findings.

(a) Commission deliberation and decision—The Compact Commission shall convene as a whole as soon as is practicable after the close of the post-hearing comment period. In accordance with the requirements of section 4 of the Compact, the Commission shall vote to decide whether to propose for referendum a Compact over-order price regulation and provision with regard to milk supply, or amendment thereof. A majority of the individual Commission members, with at least one member from each delegation, shall constitute a quorum for this deliberative meeting of the Compact Commission.

(b) Proposed regulation—If approved, the Compact Commission shall devise the proposed price regulation, and provision with respect to milk supply, or an amendment, by incorporating those provisions of sections 9 and 10 of the Compact as are necessary and appropriate. The regulation shall be set forth in sufficient detail so as to provide sufficient notice of its requirements to those subject to the regulation.

(c) Proposed findings—If a proposed regulation or amendment is approved, the Compact Commission shall prepare proposed findings of fact, in a form consistent with the requirements of section 12 of the Compact, with respect to:

(1) Whether the public interest will be served by the establishment of minimum milk prices to dairy farmers;

(2) What level of prices will assure that producers receive a price sufficient to cover their costs of production and will elicit an adequate supply of milk for the inhabitants of the regulated area and for manufacturing purposes;

(3) Whether the major provisions of the regulation or amendment, other than those establishing the Compact over-order price, are in the public interest and are reasonably designed to achieve the purposes of the regulation or amendment; and

(4) The need for a producer referendum in accordance with part 1371.

§ 1361.9 Effective date of regulation.

A Compact over-order price or amendment approved by referendum under part 1371 shall become effective in accordance with a schedule for administration established between the Compact Commission and the applicable Federal Market Order Administrator. Notice of the substance of the approved regulation or amendment, including the effective date, shall be given in accordance with § 1361.3. In addition, the Compact Commission shall ensure actual notice by certified mail, return receipt requested, to all milk processors who will be subject to the terms of the regulation on the effective date. The Compact Commission may provide notice to any other interested persons.

§ 1361.10 Handler's right to petition for administrative review; Judicial review.

(a) Petition—In accordance with section 16(b) of the Compact, and pursuant to the provisions of part 1381, any handler subject to an order of the Compact Commission establishing a Compact over-order price regulation may petition the Commission for hearing and review.

(b) Judicial Review—In accordance with the provisions of section 16(c) of the Compact, such handler shall have a right to judicial review of the Compact Commission's ruling with respect to the handler's petition for review.

§ 1361.11 Ex Parte Communications.

(a) Following notice of a hearing, pursuant to § 1361.3, and prior to the conclusion of a producer referendum, or the final decision of the Commission, whichever is later, no Compact Commission member or Commission staff person shall discuss ex parte the merits of the rulemaking proceeding with any person having an interest in the proceeding or with any representative of such person.

(b) Following notice of a hearing, pursuant to § 1361.3, and prior to the conclusion of a producer referendum, or the final decision of the Commission, whichever is later, Compact Commission members shall not discuss among themselves the merits of the rulemaking proceeding except as part of the formal meeting of the Commission convened for this purpose under § 1361.8.

(c) A Compact Commission member or Commission staff person who receives a written or oral communication prohibited by this section shall disclose the substance of such communication on the record. As necessary and appropriate, the Commission may act accordingly to nullify the effect of the prohibited communication.

(d) This section shall not be construed to apply to requests for status reports or requests on other procedural matters.

PART 1371—PRODUCER REFERENDUM

Sec.

1371.1	Definitions.
1371.2	Purpose.
1371.3	Referendum procedure.
1371.4	Referendum agent.
1371.5	Confidentiality of ballots.
1371.6	Publication of referendum results.
1371.7	Ballots.
1371.8	Qualified cooperative block vote.

Authority: 7 U.S.C. 7256.

§ 1371.1 Definitions.

As used in this part, and in addition to the terms defined herein, the terms defined in Article II, section 2 of the Compact and in 7 CFR part 1301 shall apply with equal force and effect.

Approved by producers means that at least two-thirds of the eligible producers who cast a vote approve the proposed order or amendment.

Cooperative block vote means a vote of approval or disapproval of a proposed order or amendment, cast in a producer referendum, by a qualified cooperative on behalf of its members or stockholders who are eligible producers.

Eligible producer means a producer who, during the representative period determined by the Commission, has been engaged in the production of milk, the price of which would be regulated under the proposed order or amendment.

Producer referendum means the balloting process by which the Commission determines whether a proposed order or amendment is approved by eligible producers.

Qualified cooperative means a cooperative association of producers, qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the Capper-Volstead Act, bona fide engaged in marketing milk, or in rendering services for or advancing the interests of producers of milk, but shall not include any cooperative which has been formed to act as a common marketing agency for both cooperatives and individual producers.

Representative period means that period of time designated by the Commission for the purpose of determining who is a producer eligible to participate in a producer referendum.

§ 1371.2 Purpose.

Prior to issuing, or amending, any regulation establishing a Compact over-order price regulation, including any provision with respect to milk supply, the Compact Commission shall conduct a producer referendum for the purpose of ascertaining whether the issuance or amendment of such regulation is approved by producers.

§ 1371.3 Referendum procedure.

The Commission shall certify the referendum procedure at the time it approves a final regulation. The referendum procedure shall include:

(a) A designated representative period for determining eligible producers;

(b) The date by which the ballots will be distributed to eligible producers and qualified cooperatives;

(c) The date by which all qualified cooperatives must mail notices to eligible producer members as required by § 1371.9(b) and (c);

(d) The date by which all ballots must be received at the Commission office;

(e) A designated referendum agent; and

(f) Any other procedures necessary for the conduct of the particular producer referendum.

§ 1371.4 Referendum agent.

The designated referendum agent shall:

(a) Verify all ballots, cast individually or by block vote, with respect to timeliness, producer eligibility, cooperative identification, authenticity and other steps taken to avoid duplication of ballots.

(b) Mark ballots determined to be invalid "disqualified" with a notation of the reason for disqualification. Disqualified ballots shall not be considered in determining approval or disapproval of the regulation.

(c) Compute and certify the following:

(1) The total number of ballots cast;

(2) The total number of ballots disqualified;

(3) The total number of verified ballots cast in favor of the regulation or amendment;

(4) The total number of verified ballots cast in opposition to the regulation or amendment;

(5) Whether two-thirds of all verified ballots were cast in the affirmative.

(d) Report to the Executive Director of the Compact Commission the certified computations and results of the referendum under section (c); and

(e) At the completion of his or her work, seal all ballots, including the disqualified ballots, and submit a final report to the Executive Director stating all actions taken in connection with the referendum. The final report shall include all ballots cast and all other information furnished to or compiled by the Referendum Agent.

§ 1371.5 Confidentiality of ballots.

The ballots cast, the identity of any person or cooperative, or the manner in which any person or cooperative voted, and all information furnished to or compiled by the Referendum Agent shall be regarded as confidential.

§ 1371.6 Publication of referendum results.

The Executive Director shall publish the certified results of the referendum in the **Federal Register**.

§ 1371.7 Ballots.

(a) The Compact Commission shall prepare and ensure the prompt distribution of a ballot to all eligible producers consistent with the dates prescribed in the referendum procedure under § 1361.3.

(b) The ballot shall describe the terms and conditions of the referendum and be accompanied by an official copy of the proposed regulation or amendment. The ballot shall provide notice that a producer may register his or her approval or disapproval with the Compact Commission either directly or through his or her cooperative. The ballot shall indicate that any qualified cooperative eligible to block vote must provide written notice to each eligible producer as to whether and how it intends to cast its vote. The notice shall also identify the final due date for the Commission's receipt of the completed ballot.

§ 1371.8 Qualified cooperative block vote.

(a) Qualified cooperatives may block vote on behalf of their eligible producer members in accordance with section 13(c) of the Compact. The Compact Commission shall ensure that each qualified cooperative is notified of its right to cast a block vote on behalf of eligible members in each producer referendum by the date prescribed pursuant to § 1371.3(b).

(b) A qualified cooperative shall, before casting its ballot in any referendum, give prior written notice to each of its eligible producers of how it intends to cast its vote. The notice and ballot shall be on the form provided by the Commission and shall be mailed by the cooperative to eligible producer members as prescribed in the producer referendum procedure pursuant to § 1371.3. The notice shall make express reference to the ballot documentation provided by the Compact Commission, and may include a copy of such documentation.

(c) Any qualified cooperative that does not intend to block vote shall give written notice to each of its members on a form approved by the Compact Commission. The notice shall be mailed by the cooperative to eligible producer members as prescribed in the producer referendum procedure pursuant to § 1371.3. The notice shall make express reference to the ballot documentation provided by the Compact Commission, and may include a copy of such documentation.

(d) Each qualified cooperative shall certify to the Compact Commission, on the form provided by the Commission, that it is qualified to block vote and that it has provided proper and timely notice of either the ballot cast or of the decision that the cooperative is not casting a block vote. The cooperative shall mail a copy of the notice to the Commission no later than two days after mailing of notice to members. Cooperatives that are voting shall also submit the original executed ballot in a separate envelope marked "Referendum Ballot," or as otherwise provided in the referendum procedure pursuant to § 1371.3.

(e) If the ballot submitted to the Commission by a qualified cooperative differs in any significant way from the notice of its ballot sent to member producers, then the Commission may take appropriate remedial action.

(f) A producer who is a member of a cooperative that has provided notice of its intent to cast a block vote to approve or not to approve a proposed order or not to cast a block vote and who by ballot expresses his approval or disapproval of the proposed order, shall notify the Compact Commission as to the name of the cooperative of which he or she is a member, and the Commission shall remove such producer's name from the list certified by such cooperative with its corporate vote. If the producer lists the name of a cooperative that is different from the cooperative identified by the ballot number, as determined by the representative period for the referendum, the latter will control.

Dated: July 8, 1998.

Kenneth M. Becker,

Executive Director.

[FR Doc. 98–18672 Filed 7–13–98; 8:45 am]

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FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 360

RIN 3064–AB92

Resolution and Receivership Rules

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: As part of the FDIC's systematic review of its regulations and written policies under section 303(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRIA) the FDIC is making technical amendments to its receivership regulations. The amendments address least-cost resolutions and the security interests of Federal Home Loan Banks in FDIC-administered receiverships.

EFFECTIVE DATE: August 13, 1998.

FOR FURTHER INFORMATION CONTACT: Mitchell Glassman, Deputy Director, Division of Resolutions and Receiverships, (202) 898–6525; Rodney D. Ray, Counsel, Legal Division, (202) 898–3556; Catherine A. Ribnick, Counsel, Legal Division, (202) 736–0117, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION:

I. Sections 360.1 and 360.2

Section 13(c)(4)(E)(i) of the Federal Deposit Insurance Act (FDI Act) (12 U.S.C. 1823(c)(4)(E)(i)) generally prohibits the FDIC from taking any action after August 31, 1994 with respect to a depository institution which would, directly or indirectly, have the effect of increasing losses to any deposit insurance fund by protecting the institution's uninsured depositors or other creditors. Section 360.1 was promulgated in compliance with a statutory mandate, contained in section 13(c)(4)(E)(ii) of the FDI Act (12 U.S.C. 1823(c)(4)(E)(ii)), that the FDIC issue regulations implementing clause (i) not later than January 1, 1994.

Section 360.2 was originally promulgated by the Federal Home Loan Bank Board (FHLBB) to, among other reasons, set forth expressly the rights of Federal Home Loan Banks (Bank or Banks) regarding collateral securing Bank advances in liquidating receivership estates. The regulation was subsequently transferred to the FDIC, pursuant to section 402(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) Pub. L. 101–73, 103 Stat. 183, 357–58 (1989), when the FHLBB and FSLIC were abolished and has remained substantively unchanged since its transfer to the FDIC.

II. The Proposed Rule

As part of the FDIC's review of its regulations pursuant to section 303(a) of CDRIA, the FDIC previously issued a notice of proposed rulemaking regarding §§ 360.1 and 360.2, 62 FR 7725 (February 20, 1997). The proposal consisted of two parts. The first part proposed a revision to § 360.1, a rule promulgated pursuant to a statutory directive regarding least-cost resolutions. The second part proposed removing § 360.2, addressing secured claims of Banks in FDIC-administered receiverships. The proposed action regarding § 360.2 was premised upon the limited applicability of the regulation to the security interests of a discrete class of creditors, *i.e.*, the Banks, in liquidating receivership estates; the statutory protections enjoyed by the Banks under section 306(d) of the Competitive Equality Banking Act of 1987 (CEBA), Pub. L. 100–86, 101 Stat. 552, 601–02 (12 U.S.C. 1430(e), footnote 1) and other subsequently enacted federal statutes; the significant decline in the number of institutions being placed in liquidating receiverships in recent years; and the FDIC's belief that matters addressed therein could be addressed, in the future, on a case by case basis. The FDIC provided a comment period of 60 days from publication of the notice of proposed rulemaking in the **Federal Register**.

Twelve comments were received within the comment period, all of which addressed the proposed removal of § 360.2. After the receipt of the comments, additional information was requested and received by the FDIC from the commenters.

III. Comments on the Proposed Rule

The FDIC received no comments on the proposed amendment to § 360.1, but all of the commenters favored retention of § 360.2. Although the commenters' reasons for retaining the regulation varied, they expressed support for the clarity and certainty the regulation provides in addressing the security interests of Banks when an insured depository institution fails and is placed in receivership. They also expressed concerns that additional measures that the Banks may take to protect their security interests against the risk of a borrower being placed in receivership, absent the regulation, may affect the cost or availability of certain types of credit to borrowers from the Banks.

IV. Retention of § 360.2 and Amendments to §§ 360.1 and 360.2

Based upon a review of the comments received, the Board of Directors has decided to retain § 360.2. This decision is based upon: (1) The concerns over removal of the regulation that have been expressed by the commenters; (2) the fact that the FDIC has, in the past, normally satisfied obligations owed to the Banks shortly after the failure of an institution to obtain a release of the failed institution's collateral; (3) the regulation is currently in place, therefore, retaining it maintains the existing status quo; and (4) there may be operational benefits to retaining the regulation.

As indicated in the FDIC's notice of proposed rulemaking, § 360.1 is being amended to correct an erroneous statutory reference in paragraph (b) from "12 U.S.C. 13(c)(4)(A)" to "12 U.S.C. 1823(c)(4)(A)". In addition, § 360.2 is being amended to add "the claim is" to paragraph (e)(1) to achieve parallel construction with paragraph (e)(2). Paragraph (e)(2) also is being amended to correct a typographical error by replacing the word "by" with the word "but", as well as to revise the reference to section 306(d) of CEBA to replace the Public Laws reference with the appropriate United States Code citation for the paragraph.

Paperwork Reduction Act

No collections of information pursuant to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) are required by this notice. Consequently, no information has been submitted to the Office of Management and Budget for review.

Small Business Regulatory Enforcement Fairness Act

The Office of Management and Budget has determined that the final rule is not a "major rule", as defined in the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) (5 U.S.C. 801 et seq.). SBREFA generally requires an agency to report rules to Congress and the Comptroller General for review. The reporting requirement is imposed when the agency issues a final rule. Accordingly, the FDIC will file the appropriate reports.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605) the Board of Directors certifies that this rule will not have a significant economic impact on a substantial number of small entities. Although the final action differs from the initial proposal, which was previously certified by the Board of Directors, because the FDIC is retaining a regulation which it had proposed to remove, the final action merely maintains the existing status quo and makes only non-substantive technical revisions to the existing sections.

List of Subjects in 12 CFR Part 360

Savings associations.

For the reasons set out in the preamble, part 360 of chapter III of title 12 of the Code of Federal Regulations is amended as follows:

PART 360—RESOLUTION AND RECEIVERSHIP RULES

1. The authority citation for part 360 continues to read as follows:

Authority: 12 U.S.C. 1821(d)(11), 1821 (e)(8)(D)(i), 1823(c)(4); Sec. 401(h), Pub. L. 101–73, 103 Stat. 357.

2 Paragraph (b) of § 360.1 is revised to read as follows:

§ 360.1 Least-cost resolution.

* * * * *

(b) Purchase and assumption transactions. Subject to the requirement of section 13(c)(4)(A) of the FDI Act (12 U.S.C. 1823(c)(4)(A)), paragraph (a) of this section shall not be construed as prohibiting the FDIC from allowing any person who acquires any assets or assumes any liabilities of any insured depository institution, for which the FDIC has been appointed conservator or receiver, to acquire uninsured deposit liabilities of such institution as long as the applicable insurance fund does not incur any loss with respect to such uninsured deposit liabilities in an amount greater than the loss which would have been incurred with respect to such liabilities if the institution had been liquidated.

3. Paragraph (e) of § 360.2 is revised to read as follows:

§ 360.2 Federal Home Loan banks as secured creditors.

* * * * *

(e) The receiver for a borrower from a Federal Home Loan Bank shall allow a claim for a prepayment fee by the Bank if, and only if:

(1) The claim is made pursuant to a written contract that provides for a prepayment fee, provided, however, that such prepayment fee allowed by the receiver shall not exceed the present value of the loss attributable to the difference between the contract rate of the secured borrowing and the reinvestment rate then available to the Bank; and

(2) The indebtedness owed to the Bank by such borrower is secured by sufficient collateral in which a perfected security interest in favor of the Bank exists or as to which the Bank's security interest is entitled to priority under section 306(d) of the Competitive Equality Banking Act of 1987 (CEBA) (12 U.S.C. 1430(e), footnote (1), or otherwise so that the aggregate of the outstanding principal on the advances secured by such collateral, the accrued but unpaid interest thereon and the prepayment fee applicable to such advances can be paid in full from the amounts realized from such collateral. For purposes of this paragraph (e)(2), the adequacy of such collateral shall be determined as of the date such prepayment fees shall be due and payable under the terms of the written contract providing therefor.

By order of the Board of Directors.

Dated at Washington, DC, this 7th day of July 1998.

Federal Deposit Insurance Corporation.

James LaPierre,

Deputy Executive Secretary.

[FR Doc. 98–18620 Filed 7–13–98; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–ANE–17–AD; Amendment 39–10654; AD 98–15–03]

RIN 2120–AA64

Airworthiness Directives; General Electric Company GE90 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to General Electric Company (GE) GE90 series turbofan engines. This action requires initial and repetitive eddy current inspections (ECI) for cracks in the high pressure compressor (HPC) stage 2–6 spool, and, if necessary, replacement with serviceable parts. This amendment is prompted by reports of cracks in the stage 3–4 and stage 4–5 interstage seal teeth and spacer arms. The actions specified in this AD are intended to identify cracks in the HPC stage 2–6 spool, which could result in an uncontained engine failure and damage to the aircraft.

DATES: Effective July 29, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of July 29, 1998.

Comments for inclusion in the Rules Docket must be received on or before September 14, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–ANE–17–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: "9-ad-engineprop@faa.dot.gov". Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from General Electric Technical Services, Attention: Leader for distribution/ microfilm, 10525 Chester Road, Cincinnati, OH 45215; telephone (513) 672–8400 Ext. 130, fax (513) 672–8422. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the **Federal Register**, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ian Dargin, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7178, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration (FAA) has received reports of cracked high pressure compressor (HPC) stage 2–6 spools installed on General Electric Company (GE) GE90–76B/ –77B/ –85B/ –90B/ –92B series turbofan engines. There have been 10 HPC spools found with cracks. The investigation into the cause of the cracking is ongoing; however, the FAA has determined that the HPC stage 2–6 spool may develop cracks in the stage 3–4 and stage 4–5 interstage seal teeth that could propagate into the stage 3–4 and stage 4–5 spacer arms, aft of the seal teeth. This AD requires inspection of the spacer arm aft of the seal teeth and also includes an inspection requirement for the spacer arm forward of the seal teeth that provides additional data to support the investigation and mitigates the risk of an HPC stage 2–6 spool failure from a crack propagating into the spacer arm forward of the seal teeth. The FAA has determined the most likely cause of crack initiation is due to areas of heat affected zone in the seal teeth that is the result of excessive heat generated when

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the rotating seal teeth rub into the static honeycomb material. This condition, if not corrected, could result in HPC stage 2–6 spool cracking, which could result in an uncontained engine failure and damage to the aircraft.

The FAA has reviewed and approved the technical contents of GE Alert Service Bulletin (ASB) No. 72–A357, Revision 2, dated April 21, 1998, that describes procedures for on-wing eddy current inspection (ECI) for cracks in the HPC stage 2–6 spool spacer arm forward and aft of the stage 3–4 and stage 4–5 interstage seal teeth, and GE Service Bulletin (SB) No. 72–352, Revision 2, dated March 31, 1998, that describes procedures for ECI of stage 3–4 and stage 4–5 interstage seal teeth.

Since an unsafe condition has been identified that is likely to exist or develop on other engines of the same type design, this AD is being issued to identify cracks in the HPC stage 2–6 spool, which could result in an uncontained engine failure and damage to the aircraft. This AD requires:

(1) Initial and repetitive on-wing ECI for cracks in the HPC stage 2–6 spool spacer arms forward and aft of the stage 3–4 and stage 4–5 interstage seal teeth, and, if necessary, replacement with a serviceable engine.

(2) A shop level ECI for cracks in the HPC stage 2–6 spool stage 3–4 and stage 4–5 interstage seal teeth, and, if necessary, replacement with serviceable parts.

Since this investigation is ongoing, further rulemaking may be necessary. The actions are required to be accomplished in accordance with the service documents described previously.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption ADDRESSES. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–ANE–17–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

98–15–03 General Electric Company: Amendment 39–10654. Docket 98-ANE–17–AD.

Applicability: General Electric Company (GE) GE90–76B/ –77B/ –85B/ –90B/ –92B series turbofan engines, with high pressure compressor (HPC) stage 2–6 spools, Part Numbers 350–005–761–0, 350–005–765–0, 350–005–769–0, 350–005–770–0, or 350–005–771–0, installed. These engines are installed on but not limited to Boeing 777 aircraft.

Note 1: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To identify cracks in the high pressure compressor (HPC) stage 2–6 spool, which could result in an uncontained engine failure and damage to the aircraft, accomplish the following:

(a) Perform initial and repetitive on-wing eddy current inspections (ECI) for cracks in HPC stage 2–6 spool spacer arms in accordance with GE Alert Service Bulletin (ASB) No. 72–A357, Revision 2, dated April 21, 1998.

(1) Perform inspections of the spacer arm forward and aft of the stage 3–4 and 4–5 seal teeth as follows:

(i) Perform the initial inspection prior to exceeding 500 cycles since new (CSN).

(ii) Thereafter, inspect at intervals not to exceed 250 cycles in service (CIS) since last inspection.

(2) Remove the engine from service if the ECI reveals a spool with a crack indication and replace with a serviceable engine prior to further flight.

(b) Perform initial and repetitive ECI for cracks in the HPC 2–6 spool stage 3–4 and stage 4–5 interstage seal teeth during each shop visit as defined in paragraph (c) of this AD, and if necessary, replace with serviceable parts prior to returning the engine to revenue service, in accordance with GE Service Bulletin (SB) No. 72–352, Revision 2, dated March 31, 1998.

(c) For the purpose of this AD, an engine shop visit is defined as any time an engine has maintenance performed that involves separation of a major engine flange (such as removal of an LPT module or HPC "top case").

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the inspection requirements of this AD can be accomplished.

(f) The actions required by this AD shall be done in accordance with the following GE service documents:

Document Number	Pages	Revision	Date
SB No. 72–352	1–32	2	March 31, 1998.
Total pages: 32			
ASB No. 72–A357	1–30	2	April 21, 1998.
Total pages: 30			

This incorporation by reference was approved by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from General Electric Technical Services, Attention: Leader for distribution/microfilm, 10525 Chester Road, Cincinnati, OH 45215; telephone (513) 672–8400 Ext. 130, fax (513) 672-8422. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on July 29, 1998.

Issued in Burlington, Massachusetts, on July 6, 1998.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 98–18647 Filed 7–10–98; 9:29 a.m.]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–ANE–13–AD; Amendment 39–10653; AD 98–15–02]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Limited, Aero Division-Bristol, S.N.E.C.M.A, Olympus 593 Series Turbojet Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Rolls-Royce Limited, Aero Division-Bristol, S.N.E.C.M.A. Olympus 593 series turbojet engines. This action requires identifying reduced post-rebroaching cyclic life limits for certain rebroached stage 6 high pressure compressor (HPC) disks, inspecting the rebroached disks for cracks, and, if necessary, removing from service cracked disks. This amendment is prompted by reports of the low cyclic lives at which some rebroached stage 6 HPC disks have been found cracked. The actions specified in this AD are intended to prevent rebroached stage 6 HPC disk failure, which could result in an uncontained engine failure and damage to the aircraft.

DATES: Effective July 29, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 29, 1998.

Comments for inclusion in the Rules Docket must be received on or before September 14, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–ANE–13–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: "9-ad-engineprop@faa.dot.gov". Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from Rolls-Royce, PO Box 3, Filton, Bristol BS12 7QE, England; telephone 01–17–979–1234, fax 01–17–979–7575. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jason Yang, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7747, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom (UK), recently notified the Federal Aviation Administration (FAA) that an unsafe condition may exist on Rolls-Royce Limited (R–R), Aero Division-Bristol, S.N.E.C.M.A Olympus 593 Mk. 610–14–28 turbojet engines. The CAA advises that they have received reports of cracked, rebroached stage 6 high pressure compressor (HPC) disks. There are currently no affected engines operated on aircraft of U.S. registry. This AD, then, is necessary to require accomplishment of the required actions for engines installed on aircraft currently of foreign registry that may someday be imported into the U.S. or for engines installed on aircraft which currently operate in U.S. airspace. Accordingly, the FAA has determined that notice and prior opportunity for comment are unnecessary and good cause exists for making this amendment effective in less than 30 days. This condition, if not corrected, could result in rebroached stage 6 HPC disk failure, which could result in an uncontained engine failure and damage to the aircraft.

R–R has issued Service Bulletin (SB) No. OL.593–72–9016–416, Revision 1, dated December 5, 1997, that specifies procedures for identifying the new, reduced, cyclic life limits for individual stage 6 HPC disks, and SB No. OL.593–72–8951–364, Revision 5, dated August 31, 1995, that specifies procedures for inspection of rebroached stage 6 HPC disks for cracks. The CAA classified

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these SBs as mandatory and issued AD 007–06–96 in order to assure the airworthiness of these engines in the UK.

This engine model is manufactured in the UK and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other engines of the same type design registered in the United States, this AD requires identifying reduced post-rebroaching cyclic life limits for rebroached stage 6 high pressure compressor (HPC) disks (B509174 to B509181), inspecting the rebroached disks for cracks, and if necessary, removing from service cracked disks. The actions would be required to be accomplished in accordance with the SBs described previously.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption ADDRESSES. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–ANE–13–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

98–15–02 Rolls-Royce Limited, Aero Division-Bristol, S.N.E.C.M.A.: Amendment 39–10653. Docket 98–ANE–13–AD.

Applicability: Rolls-Royce Limited (R-R), Aero Division-Bristol, S.N.E.C.M.A. Olympus 593 Mk. 610–14–28 turbojet engines, installed on but not limited to British Aerospace/Aerospatiale Concorde series aircraft.

Note 1: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent rebroached stage 6 high pressure compressor (HPC) disk failure, which could result in an uncontained engine failure and damage to the aircraft, accomplish the following:

(a) Accomplish the following in accordance with R–R Service Bulletin (SB) No. OL.593–72–9016–416, Revision 1, dated December 5, 1997:

(1) Remove from service rebroached HPC stage 6 disks (B509174 to B509181) listed in Table 1 and 5 of the SB prior to exceeding the earliest of the following:

(i) 1,100 cycles in service (CIS) since rebroaching, or

(ii) 2,700 cycles since new (CSN) prior to January 1, 2000, or

(iii) 2,500 CSN after December 31, 1999.

(2) Inspect the HPC stage 6 disks listed in Table 2 and 6 of the SB within the CIS intervals since rebroach as defined in these Tables. Disks with cracks in any blade root slot must be removed from service. Perform the inspection in accordance with R-R SB No. OL.593–72–8951–364, Revision 5, dated August 31, 1995.

(3) Remove from service HPC stage 6 disks listed in Table 2 and 6 of the SB prior to exceeding the maximum post-rebroach cyclic life limits as defined in these Tables, or 2,500 CSN after December 31, 1999, whichever occurs first.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

(d) The actions required by this AD shall be performed in accordance with the following R-R SB:

Document Number	Pages	Revision	Date
OL.593-72-9016-416 Total pages: 8	1-8	1	December 5, 1997.
OL.593-72-8951-364 Total pages: 9	1-9	5	August 31, 1995.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Rolls-Royce, PO Box 3, Filton, Bristol BS12 7QE, England; telephone 01-17-979-1234, fax 01-17-979-7575. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on July 29, 1998.

Issued in Burlington, Massachusetts, on July 6, 1998.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 98-18648 Filed 7-10-98; 9:32 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97-ANE-04; Amendment 39-10652; AD 97-25-10 R1]

RIN 2120-AA64

Airworthiness Directives; Pratt & Whitney JT9D Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment revises an existing airworthiness directive (AD), applicable to certain Pratt & Whitney (PW) JT9D series turbofan engines, that currently requires initial and repetitive fluorescent penetrant inspections (FPI) for cracks in cooling air holes of first stage high pressure turbine (HPT) disks, and replacement of cracked disks with serviceable parts. In addition, the current AD requires initial and repetitive FPI for cracks in tie bolt holes of certain other affected second stage HPT disks installed in PW JT9D series turbofan engines. This amendment calls out the second stage HPT hub assembly by part number (P/N) in addition to the hub P/N for clarification of affected parts, and references a service bulletin that does not change any of the requirements in the AD, but better explains the inspection procedures that are referenced in the current AD. This amendment also increases the repetitive inspection interval of first stage HPT disks. This amendment is prompted by the need to clarify the inspection procedures and the parts affected by this AD and by a re-evaluation of the risk analysis, based on new data from service, to establish a new repetitive inspection interval for the first stage HPT disk. The actions specified by this AD are intended to prevent turbine disk failure due to cooling air hole or tie bolt hole cracking, which could result in an uncontained engine failure and damage to the aircraft.

DATES: Effective July 29, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 29, 1998.

Comments for inclusion in the Rules Docket must be received on or before September 14, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 97-ANE-04, 12 New England Executive Park, Burlington, MA 01803-5299. Comments may also be sent via the Internet using the following address: "9-ad-engineprop@faa.dot.gov". Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565-6600, fax (860) 565-4503. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tara Goodman, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803-5299; telephone (781) 238-7130, fax (781) 238-7199.

SUPPLEMENTARY INFORMATION: On November 28, 1997, the Federal Aviation Administration (FAA) issued AD 97-25-10, Amendment 39-10234 (62 FR 64514, December 8, 1997), applicable to certain Pratt & Whitney (PW) JT9D series turbofan engines, to require initial and repetitive fluorescent penetrant inspections (FPI) for cracks in cooling air holes of affected first stage high pressure turbine (HPT) disks, and, if necessary, replacement with serviceable parts. In addition, that airworthiness directive (AD) requires initial and repetitive FPI for cracks in tie bolt holes of all affected second stage HPT disks. Finally, that action requires reporting findings of cracked turbine disks. That action was prompted by reports of a cracked cooling air hole on one first stage HPT disk, and a cracked tie bolt hole on one second stage HPT disk. That condition, if not corrected, could result in turbine disk failure due to cooling air hole or tie bolt hole cracking, which could result in an uncontained engine failure and damage to the aircraft.

Since the issuance of that AD, the FAA received questions regarding clarifying the inspection procedures for second stage HPT disk tie bolt holes. In addition, one commenter requested that the 48 hour time requirement to notify the FAA that a cracked disk is found be changed to 10 working days. The commenter explained that 48 hours is not practical if a cracked disk is found over a holiday weekend. The FAA concurs, and has changed this revision to the final rule AD to include a 10 working day reporting requirement.

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Also, based on new data and subsequent re-evaluation of the risk analysis since publication of the existing AD, the FAA has determined that the repetitive inspection interval for first stage HPT disks may be extended. This revision to the final rule AD includes the extended inspection interval.

The FAA has reviewed and approved the technical contents of PW Service Bulletin (SB) No. JT9D–7R4–72–536, Revision 2, dated April 30, 1998, that describes procedures for FPI for cracks in tie bolt holes of all affected second stage HPT disks.

Since an unsafe condition has been identified that is likely to exist or develop on other engines of this same type design, this AD revises AD 97–25–10 to call out the second stage HPT hub assembly by part number (P/N) in addition to the hub P/N for clarification of affected parts, and reference a SB that does not change any of the requirements in the AD, but better explains the inspection procedures that are referenced in the current AD. The actions are required to be accomplished in accordance with PW SB No. JT9D–7R4–72–536, Revision 2, dated April 30, 1998.

Since the issuance of that AD, the FAA received a request to increase the inspection interval for first stage HPT disks. The FAA has determined, by review of risk analysis, that extending the inspection interval provides an adequate margin of safety.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption ADDRESSES. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 97–NE–04." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–10234 (62 FR 64514, December 8, 1997) and by adding a new airworthiness directive, Amendment 39–10652, to read as follows:

97–25–10 R1 Pratt & Whitney: Amendment 39–10652. Docket 97–ANE–04. Revises AD 97–25–10, Amendment 39–10234.

Applicability: Pratt & Whitney (PW) JT9D–59A, –70A, –7Q, –7Q3, –7R4D, –7R4D1, –7R4E, and –7R4E1 (AI–500) series turbofan engines, installed on but not limited to Airbus Industrie A300 and A310, Boeing 747 and 767, and McDonnell Douglas DC–10 series aircraft.

Note 1: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent turbine disk failure due to cooling hole or tie bolt hole cracking, which could result in an uncontained engine failure and damage to the aircraft, accomplish the following:

(a) For first stage high pressure turbine (HPT) disks, part numbers (P/Ns) 768001, 792701, 812901, 819801, 840501, 840401, 840701, 840601, and 840301, installed in PW JT9D–59A, –70A, –7Q, and –7Q3 engines, accomplish the following:

(1) Disks that have not been fluorescent penetrant inspected or eddy current inspected since introduction into service, perform an initial fluorescent penetrant inspection (FPI) for cracks in all 40 cooling air holes in accordance with PW Turbojet Engine Standard Practices Manual, P/N 585005, Chapter/Section 70–33, Special Process Operation Procedure (SPOP) 84, as follows:

(i) Disks with 3,500 cycles since new (CSN) or more on the effective date of this AD, inspect prior to accumulating 5,000 CSN, or within 1,500 cycles in service (CIS) after the effective date of this AD, whichever occurs later.

(ii) Disks with less than 3,500 CSN on the effective date of this AD, inspect prior to accumulating 5,000 CSN.

(2) Disks that have been reoperated in accordance with PW Service Bulletin (SB) No. 5815, Revision 2, dated July 31, 1992, or prior revisions, that have not been fluorescent penetrant inspected or eddy current inspected since reoperation, perform an initial FPI for cracks in all 40 cooling air holes in Chapter/Section 70–33, SPOP 84, as follows:

(i) Disks with 3,500 CIS or more since reoperation on the effective date of this AD, inspect prior to accumulating 5,000 CIS since reoperation, or within 1,500 CIS after the effective date of this AD, whichever occurs later.

(ii) Disks with less than 3,500 CIS since reoperation on the effective date of this AD, inspect prior to accumulating 5,000 CIS since reoperation.

(3) Disks that have been fluorescent penetrant inspected, or eddy current inspected, since introduction into service or since reoperation, in accordance with PW SB No. 5744, Revision 3, dated March 31, 1993, or prior revisions, or PW JT9D–7Q, –7Q3 Engine Manual, P/N 777210, 72–51–00, Inspection –03, or PW JT9D–59A, –70A Engine Manual, P/N 754459, 72–51–00, Heavy Maintenance Check –03, perform an FPI for cracks in all 40 cooling air holes, prior to accumulating 5,000 CIS since last FPI or ECI, or within 250 CIS after the effective date of this AD, whichever occurs later, in accordance with PW Turbojet Engine Standard Practices Manual, P/N 585005, Chapter/Section 70–33, SPOP 84.

(4) Thereafter, perform FPI for cracks in all 40 cooling air holes at intervals not to exceed 5,000 CIS since last FPI, in accordance with PW Turbojet Engine Standard Practices Manual, P/N 585005, Chapter/Section 70–33, SPOP 84.

(5) Prior to further flight, remove from service cracked disks, and replace with serviceable parts.

(b) For second stage HPT disks, P/N 5001802–01, or hub assembly, P/N 808242, installed in PW JT9D–7R4D, –7R4D1, –7R4E, and –7R4E1 (AI–500) engines, accomplish the following:

(1) Disks that have not been fluorescent penetrant inspected since introduction into service, perform an initial FPI for cracks in all 30 tie bolt holes in accordance with PW SB No. JT9D–7R4–72–536, Revision 2, dated April 30, 1998, as follows:

(i) Disks with 6,000 CSN or more on the effective date of this AD, inspect within 2,000 CIS after the effective date of this AD.

(ii) Disks with less than 6,000 CSN on the effective date of this AD, inspect prior to accumulating 8,000 CSN.

(2) Disks that have been fluorescent penetrant inspected since introduction into service, perform an FPI for cracks in all 30 tie bolt holes, prior to accumulating 8,000 CIS since last FPI, or within 250 CIS after the effective date of this AD, whichever occurs later, in accordance with PW SB No. JT9D–7R4–72–536, Revision 2, dated April 30, 1998.

(3) Thereafter, perform FPI for cracks in all 30 tie bolt holes at intervals not to exceed 8,000 CIS since last FPI, in accordance with PW SB No. JT9D–7R4–72–536, Revision 2, dated April 30, 1998.

(4) Prior to further flight, remove from service cracked disks, and replace with serviceable parts.

(c) Report findings of cracked turbine disks within 10 working days after inspection to Tara Goodman, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7130, fax (781) 238–7199, Internet: "Tara.Goodman@faa.dot.gov". Reporting requirements have been approved by the Office of Management and Budget and assigned OMB control number 2120–0056.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note 2: Information concerning the existence of approved alternative method of compliance with this AD, if any, may be obtained from the Engine Certification Office.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

(f) The inspections shall be done in accordance with the following PW SB:

Document Number	Pages	Revision	Date
JT9D–7R4–72–536	1	2	April 30, 1998.
	2	Original	February 28, 1997.
	3, 4	2	April 30, 1998.
	5, 6	Original	February 28, 1997.
	7	2	April 30, 1998.
Total pages: 10.	8–10	1	October 13, 1997.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565–6600, fax (860) 565–4503. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on July 29, 1998.

Issued in Burlington, Massachusetts, on July 6, 1998.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 98–18649 Filed 7–10–98; 9:33 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 740, 746, and 774

[Docket No. 980522136–8136–01]

RIN 0694–AB69

Exports to the Federal Republic of Yugoslavia (Serbia and Montenegro); Imposition of Foreign Policy Controls

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: Reacting to the use of excessive force by Serbian police forces against civilians in Kosovo, as well as acts of violence by the Kosovar Albanian extremists and fulfilling United States obligations to implement an international arms embargo mandated by the United Nations Security Council, the United States has banned the sale and supply of arms and related matériel of all types to the Federal Republic of Yugoslavia (Serbia and Montenegro). To supplement the State Department controls on items on the U.S. Munitions List, the Bureau of Export Administration (BXA) is designating certain items on the Commerce Control List (CCL) that are subject to the arms embargo and establishing a policy of denial to the Federal Republic of Yugoslavia (Serbia and Montenegro) on such items. No embargoed items may be exported to the Federal Republic of Yugoslavia (Serbia and Montenegro) under any License Exception, including shipments of limited value (LVS).

In addition, this rule makes certain editorial revisions to the Export

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Administration Regulations relating to embargoes and other special controls.

EFFECTIVE DATE: This rule is effective July 14, 1998.

FOR FURTHER INFORMATION CONTACT: Patricia Muldonian, Regulatory Policy Division, Bureau of Export Administration, Telephone: (202) 482–2440.

SUPPLEMENTARY INFORMATION:

Background

In Resolution 1160 of March 31, 1998, the United Nations Security Council (UNSC) directs all member states to prohibit the sale or supply to the Federal Republic of Yugoslavia, including Kosovo, by their nationals or from their territories or using their flag vessels and aircraft, of arms and related matériel of all types, such as weapons and ammunition, military vehicles and equipment, and spare parts for the aforementioned and to prevent arming and training for terrorist activities there. Therefore, consistent with the UNSC Resolution 1160, the Bureau of Export Administration is imposing new license requirements and a policy of denial on arms-related items and certain other items on the Commerce Control List that could be used for terrorist activities or to repress the civilian population. These items include shotguns, ammunition, military vehicles, equipment for production of military explosives, bulletproof vests, night vision equipment, crime and crowd control equipment, and items that may be used to arm and train individuals for terrorist activities. Many of these items are already subject to license application requirements under the Export Administration Regulations for export to the Federal Republic of Yugoslavia (Serbia and Montenegro). However, this action imposes export license requirements on additional items, such as water cannons.

Executive Order 12918 of May 26, 1994 delegates authority, *inter alia*, under section 5 of the United Nations Participation Act, 22 U.S.C. 287c, to take such actions as may be necessary to carry out this arms embargo against the Federal Republic of Yugoslavia (Serbia and Montenegro) to the Secretary of Commerce and the Secretary of State, for the types of arms and related matériel that come under their respective jurisdictions. To carry out this delegation to the Secretary of Commerce, the Bureau of Export Administration (BXA) sets forth the policies in § 746.9 of the EAR and designates certain items on the Commerce Control List (CCL) that are subject to the arms embargo and a policy of denial to the Federal Republic of Yugoslavia (Serbia and Montenegro), effective July 14, 1998. The Department of State has maintained a denial policy against issuing licenses or other authorizations for defense articles and services to the Federal Republic of Yugoslavia (Serbia and Montenegro) since 1991. This action is taken consistent with the provisions of the EAA and after consultation with the Secretary of State. BXA submitted a foreign policy report to the Congress indicating the imposition of new foreign policy controls on June 30, 1998.

Although the Export Administration Act (EAA) expired on August 20, 1994, the President invoked the International Emergency Economic Powers Act and continued in effect the EAR, and to the extent permitted by law, the provisions of the EAA in Executive Order 12924 of August 19, 1994, as extended by the President's notices of August 15, 1995 (60 FR 42767), August 14, 1996 (61 FR 42527) and August 13, 1997 (62 FR 43629).

Rulemaking Requirements

1. This final rule has been determined to be significant for purposes of E.O. 12866.

2. This rule involves a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control number 0694–0088. Notwithstanding any other provision of law, no person is required to respond nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (Sec. 5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 5 U.S.C. 553 or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Patricia Muldonian, Regulatory Policy Division, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects

15 CFR Part 740

Administrative practice and procedure, Exports, Foreign trade, Reporting and recordkeeping requirements.

15 CFR Part 746

Embargoes, Exports, Foreign trade, Reporting and recordkeeping requirements.

15 CFR Part 774

Exports, Foreign trade, Reporting and recordkeeping requirements.

Accordingly, parts 740, 746, and 774 of the Export Administration Regulations (15 CFR parts 730–799) are amended as follows:

1. The authority citation for part 740 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 3 CFR, 1994 Comp., p. 917; E.O. 13020, 3 CFR, 1996 Comp. p. 219; E.O. 13026, 3 CFR, 1996 Comp., p. 228; Notice of August 13, 1997 (62 FR 43629, August 15, 1997).

2. The authority citation for part 746 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 287c, 6004; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; E.O. 12924, 3 CFR, 1994 Comp., p. 917; Notice of August 13, 1997 (62 FR 43629, August 15, 1997).

3. The authority citation for part 774 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420, 7430(e); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287c, 3201 *et seq.*, 6004; 30 U.S.C. 185(u); 42 U.S.C. 2139a, 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; Sec. 201, Pub. L. 104–58, 109 Stat. 557 (30 U.S.C. 185(s)); E.O. 12924, 3 CFR, 1994 Comp., p. 917; E.O. 13020, 3 CFR, 1996 Comp. p. 219; E.O. 13026, 3 CFR, 1996 Comp., p. 228; Notice of August 13, 1997 (62 FR 43629, August 15, 1997).

PART 740—[AMENDED]

4. Supplement No. 1 to part 740 is amended by revising Country Group E, to read as follows:

Supplement No. 1 to Part 740

* * * * *

Country Group E

Country	[E:1] UN embargo	[E–2] unilateral embargo
Angola	X	
Cuba		X
Iraq	X	
Korea, North		X
Libya	X	X
Rwanda	X	
Serbia & Montenegro	X	

PART 746—[AMENDED]

5. Section 746.8 is amended by revising paragraph (b)(1)(ii) to read as follows:

§ 746.8 Rwanda.

* * * * *

(b) * * * (1) * * *

(ii) Items described by ECCNs ending in "018"; and 0A982, 0A984, 0A985, 0A986, 0A988, 0B986, 0E984, 1A005, 5A980, 6A002.a.1, a.2, a.3 and c, 6A003.b.3 and b.4, 6E001, 6E002, and 9A991.a.

* * * * *

6. A new section 746.9 is added to read as follows:

§ 746.9 The Federal Republic of Yugoslavia (Serbia and Montenegro).

Under Resolution 1160 of March 31, 1998, the United Nations Security Council (UNSC) directs all member states to prevent the sale or supply to the Federal Republic of Yugoslavia, including Kosovo, by their nationals or from their territories or using their flag vessels and aircraft, of arms and related matériel of all types, such as weapons and ammunition, military vehicles and equipment and spare parts for the aforementioned, and to prevent the arming and training for terrorist activities there. Executive Order 12918 of May 26, 1994 (3 CFR, 1994 Comp., p. 899) authorizes the Secretary of State and the Secretary of Commerce, under section 5 of the United Nations Participation Act and other authorities available to the respective Secretaries, to take all actions necessary to implement any arms embargo mandated by resolution of the United Nations Security Council.

(a) *License requirements.* Under Executive Order 12918 of May 26, 1994, and in conformity with United Nations Security Council (UNSC) Resolution 1160 of March 31, 1998, an embargo applies to the sale or supply to the Federal Republic of Yugoslavia, including Kosovo, of arms and related matériel of all types and regardless of origin, such as weapons and ammunition, military vehicles and equipment, and spare parts for such items. You will therefore need a license for the sale, supply or export to the Federal Republic of Yugoslavia (Serbia and Montenegro) from the United States of embargoed items, as listed in paragraphs (a)(1) (i) and (ii) of this section. You will also need a license for the sale, supply, export or reexport to the Federal Republic of Yugoslavia (Serbia and Montenegro) of such items by any United States person in any foreign country or other location. (Reexport controls imposed by this embargo apply only to reexports by U.S. persons. Reexport controls on U.S.-origin items to the Federal Republic of Yugoslavia (Serbia and Montenegro) set forth in other parts of the EAR remain in effect.) You will also need a license for the use of any U.S.-registered aircraft or vessel to supply or transport to the Federal Republic of Yugoslavia (Serbia and Montenegro) any such items. These requirements apply to embargoed items, regardless of origin.

(i) Crime Control and Detection Equipment as identified on the CCL under CC Columns No. 1, 2 or 3 in the Country Chart column of the "License Requirements" section of the applicable ECCN.

(ii) Items described by ECCNs ending in "018"; and 0A982, 0A984, 0A985, 0A986, 0A988, 0A989, 0B986, 0E984, 1A005, 1C998, 2A993, 6A002.a.1, a.2, a.3, b and c, 6A003.b.3 and b.4, 6E001, 6E002, and 9A991.a.

(2) *Date of embargo.* The licensing requirements in this section are effective on July 14, 1998.

(b) *Licensing policy.* Applications for export or reexport of all items listed in paragraphs (a)(1)(i) and (ii) of this section are subject to a general policy of denial. Consistent with United Nations Security Council Resolution 1160, this embargo is effective notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or any contract entered into or any license or permit granted prior to July 14, 1998, except to the extent provided in regulations, orders, directives or licenses that may be issued in the future under Executive Order 12918 or under the EAR.

(c) *Related controls.* The Department of State, Office of Defense Trade Controls, maintains related controls on arms and military equipment under the International Traffic in Arms Regulations (22 CFR parts 120–130). You should also contact the Department of the Treasury's Office of Foreign Assets Control concerning any restrictions which might apply to U.S. persons involving financial transactions with the Federal Republic of Yugoslavia (Serbia and Montenegro).

Supplement No. 3 to Part 746 [Removed and Reserved]

7. Supplement No. 3 to part 746 is removed and reserved.

PART 774—[AMENDED]

Supplement No. 1 to Part 774—[Amended]

8. In Category 0—Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items], the following Export Control Classification Numbers (ECCNs) are amended:

a. By revising the "License Requirements" section and the "License Exceptions" section for ECCN 0A018;

b. By revising the entry heading and the "License Requirements" section for ECCN 0A982;

c. By revising the "License Requirements" section for ECCNs 0A984, 0A985, 0A986, 0A988, 0B986 and 0E984;

d. By adding a new entry for 0A989; and

e. By revising the "License Requirements" section and the "License Exceptions" section for ECCN 0E108, to read as follows:

0A018 Items on the International Munitions List.

License Requirements

Reason for Control: NS, AT, UN

Control(s)	Country chart
NS applies to entire entry.	NS Column 1.
AT applies to entire entry.	AT Column 1.
UN applies to entire entry.	Rwanda; Federal Republic of Yugoslavia (Serbia and Montenegro).

License Exceptions

LVS: $1,500, except $0 for Rwanda and the Federal Republic of Yugoslavia (Serbia and Montenegro)

GBS: N/A

CIV: N/A

* * * * *

0A982 Saps; thumbcuffs, leg irons, shackles, and handcuffs; straight jackets, plastic handcuffs, conventional steel military helmets, police helmets and shields; and parts and accessories, n.e.s.

License Requirements

Reason for Control: CC, UN

Control(s)	Country chart
CC applies to entire entry.	CC Column 1.
UN applies to entire entry.	Rwanda; Federal Republic of Yugoslavia (Serbia and Montenegro).

* * * * *

0A984 Shotguns, barrel length 18 inches (45.72 cm) inches or over; buckshot shotgun shells; except equipment used exclusively to treat or tranquilize animals, and except arms designed solely for signal, flare, or saluting use; and parts, n.e.s.

License Requirements

Reason for Control: CC, UN

Control(s)	Country chart
CC applies to shotguns with a barrel length over 18 in. (45.72 cm) but less than 24 in. (60.96 cm) or buckshot shotgun shells controlled by this entry, regardless of end-user.	CC Column 1.
CC applies to shotguns with a barrel length greater than or equal to 24 in. (60.96 cm), regardless of end-user.	CC Column 2.
CC applies to shotguns with a barrel length greater than or equal to 24 in. (60.96 cm) if for sale or resale to police or law enforcement.	CC Column 3.
UN applies to entire entry.	Rwanda; Federal Republic of Yugoslavia (Serbia and Montenegro).

* * * * *

0A985 Optical sighting devices for firearms (including shotguns controlled by 0A984); discharge type arms (for example, stun guns, shock batons, electric cattle prods, immobilization guns and projectiles, etc.) except equipment used exclusively to treat or tranquilize animals, and except arms designed solely for signal, flare, or saluting use; and parts, n.e.s.

License Requirements

Reason for Control: CC, UN

Control(s)	Country chart
CC applies to entire entry.	CC Column 1.
UN applies to entire entry.	Rwanda; Federal Republic of Yugoslavia (Serbia and Montenegro).

* * * * *

0A986 Shotgun shells, except buckshot shotgun shells, and parts.

License Requirements

Reason for Control: UN

UN applies to entire entry. A license is required for items controlled by this entry to Rwanda and the Federal Republic of Yugoslavia (Serbia and Montenegro). The Commerce Country Chart is not designed to determine licensing requirements for this entry. See part 746 of the EAR for additional information.

* * * * *

0A988 Conventional military steel helmets as described by 0A018.f.1; and machetes.

License Requirements

Reason for Control: UN

Controls(s)

UN applies to entire entry. A license is required for conventional military steel helmets as described by 0A018.f.1 to Rwanda and the Federal Republic of Yugoslavia (Serbia and Montenegro). A license is required for machetes to Rwanda. The Commerce Country Chart is not designed to determine licensing requirements for this entry. See part 746 of the EAR for additional information.

* * * * *

0A989 Water cannon and specially designed components for water cannon.

License Requirements

Reason for Control: UN

Control(s)

UN applies to entire entry. A license is required for items controlled by this entry to the Federal Republic of Yugoslavia (Serbia and Montenegro). The Commerce Country Chart is not designed to determine licensing requirements for this entry. See § 746.9 of the EAR for additional information.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

0B986 Equipment specially designed for manufacturing shotgun shells; and ammunition hand-loading equipment for both cartridges and shotgun shells.

License Requirements

Reason for Control: UN

Control(s)

UN applies to entire entry. A license is required for items controlled by this entry to Rwanda and the Federal Republic of Yugoslavia (Serbia and Montenegro). The Commerce Country Chart is not designed to determine licensing requirements for this entry. See part 746 of the EAR for additional information.

* * * * *

0E018 "Technology" for the "development", "production", or "use" of items controlled by 0A018.b through 0A018.e.

License Requirements

Reason for Control: NS, UN, AT

Control(s)	Country chart
NS applies to entire entry.	NS Column 1.
UN applies to entire entry.	Rwanda; Federal Republic of Yugoslavia (Serbia and Montenegro).
AT applies to entire entry.	AT Column 1.

License Exceptions

CIV: N/A

TSR: Yes, except N/A for Rwanda and the Federal Republic of Yugoslavia (Serbia and Montenegro)

* * * * *

0E984 "Technology" for the "development" or "production" of shotguns controlled by 0A984 and buckshot shotgun shells.

License Requirements

Reason for Control: CC, UN

Control(s)	Country chart
CC applies to "technology" for shotguns with a barrel length over 18 in. (45.72 cm) but less than 24 in. (60.96 cm) and shotgun shells, regardless of end-user.	CC Column 1.

Control(s)	Country chart
CC applies to "technology" for shotguns with a barrel length greater than or equal to 24 in. (60.96 cm), regardless of end-user.	CC Column 2.
CC applies to "technology" for shotguns with a barrel length greater than or equal to 24 in. (60.96 cm) if for sale or resale to police or law enforcement.	CC Column 3.
UN applies to entire entry.	Rwanda; Federal Republic of Yugoslavia (Serbia and Montenegro).

* * * * *

9. In Category 1—Materials, Chemicals, "Microorganisms" & "Toxins", the following Export Control Classification Numbers (ECCNs) are amended:

a. By revising the "License Requirements" section for ECCNs 1A005 and 1D018;

b. By adding a new entry for 1C998; and

c. By revising the "License Requirements" section and the "License Exceptions" section for ECCNs 1B018 and 1C018, to read as follows:

1A005 Body armor, and specially designed components therefor, not manufactured to military standards or specifications, nor to their equivalents in performance.

License Requirements

Reason for Control: NS, AT, UN

Control(s)	Country chart
NS applies to entire entry.	NS Column 2.
AT applies to entire entry.	AT Column 1.
UN applies to entire entry.	Rwanda; Federal Republic of Yugoslavia (Serbia and Montenegro).

* * * * *

1B018 Equipment on the International Munitions List.

License Requirements

Reason for Control: NS, MT, RS, AT, UN

Control(s)	Country chart
NS applies to entire entry.	NS Column 1.
MT applies to equipment for the "production" of rocket propellants.	MT Column 1.
RS applies to 1B018.a.	RS Column 2.
AT applies to entire entry.	AT Column 1.
UN applies to entire entry.	Rwanda; Federal Republic of Yugoslavia (Serbia and Montenegro).

License Exceptions

LVS: $3000 for 1B018.a for countries WITHOUT an "X" in RS Column 2 on the Country Chart contained in Supplement No. 1 to part 738 of the EAR $5000 for 1B018.b N/A for Rwanda and the Federal Republic of Yugoslavia (Serbia and Montenegro)

GBS: N/A

CIV: N/A

* * * * *

1C018 Materials on the International Munitions List.

License Requirements

Reason for Control: NS, AT, UN

Control(s)	Country chart
NS applies to entire entry.	NS Column 1.
AT applies to entire entry.	AT Column 1.
UN applies to entire entry.	Rwanda; Federal Republic of Yugoslavia (Serbia and Montenegro).

License Exceptions

LVS: $3000, except N/A for Rwanda and the Federal Republic of Yugoslavia (Serbia and Montenegro)

GBS: Yes for items listed in Advisory Note to 1C018, except N/A for Rwanda and the Federal Republic of Yugoslavia (Serbia and Montenegro)

CIV: N/A

* * * * *

1C998 Detonation cords and equipment and explosive material (n.e.s).

License Requirements

Reason for Control: UN

Control(s)	Country chart
UN applies to entire entry.	Federal Republic of Yugoslavia (Serbia and Montenegro).

License Exceptions

LVS: N/A

GBS: N/A

CIV: N/A

List of Items Controlled

Unit: $ value

Related Controls: N/A

Related Definitions: Items contained in this entry are those materials other than materials subject to the licensing authority of the U.S. Department of State, Office of Defense Trade Controls (see 22 CFR part 121) and ECCN 1C018.

Items: The list of items controlled is contained in the ECCN heading.

1D018 "Software" specially designed or modified for the "development", "production", or "use" of items controlled by 1B018.

License Requirements

Reason for Control: NS, MT, AT, UN

Control(s)	Country chart
NS applies to entire entry.	NS Column 1.
MT applies to "software" for the "development", "production", or "use" of items controlled by 1B018 for MT reasons.	MT Column 1.
AT applies to entire entry.	AT Column 1.
UN applies to entire entry.	Rwanda; Federal Republic of Yugoslavia (Serbia and Montenegro).

* * * * *

10. In Category 2—Materials Processing, Export Control Classification Numbers (ECCNs) are amended:

a. By revising the "License Requirements" section for ECCN 2A993; and

b. By revising the "License Requirements" section and the "License Exceptions" sections for ECCNs 2B018, 2D018, and 2E018, to read as follows:

2A993 Explosive detection systems, consisting of an automated device, or combination of devices, with the ability to detect the presence of different types of explosives, in passenger checked baggage, without need for human skill, vigilance, or judgment.

License Requirements

Reason for Control: AT, UN

Control(s)	Country chart
AT applies to entire entry.	AT Column 1.
UN applies to entire entry.	Federal Republic of Yugoslavia (Serbia and Montenegro).

* * * * *

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2B018 Equipment on the International Munitions List.

License Requirements

Reason for Control: NS, MT, RS, AT, UN.

Control(s)	Country chart
NS applies to entire entry.	NS Column 1.
MT applies to specialized machinery, equipment, and gear for producing rocket systems (including ballistic missile systems, space launch vehicles, and sounding rockets) and unmanned air vehicle systems (including cruise missile systems, target drones, and reconnaissance drones) usable in systems that are controlled for MT reasons including their propulsion systems and components, and pyrolytic deposition and densification equipment.	MT Column 1.
RS applies to entire entry.	RS Column 2.
AT applies to entire entry.	AT Column 1.
UN applies to entire entry.	Rwanda; Federal Republic of Yugoslavia (Serbia and Montenegro).

License Exceptions

LVS: $3000, except N/A for Rwanda and the Federal Republic of Yugoslavia (Serbia and Montenegro).

GBS: Yes for Advisory Note in this entry to 2B018, except N/A for Rwanda and the Federal Republic of Yugoslavia (Serbia and Montenegro).

CIV: N/A

* * * * *

2D018 "Software" for the "development", "production" or "use" of equipment controlled by 2B018.

License Requirements

Reason for Control: NS, MT, AT, UN.

Control(s)	Country chart
NS applies to entire entry.	NS Column 1.
MT applies to "software" for equipment controlled by 2B018 for MT reasons.	MT Column 1.
AT applies to entire entry.	AT Column 1.
UN applies to entire entry.	Rwanda; Federal Republic of Yugoslavia (Serbia and Montenegro).

License Exceptions

CIV: N/A

TSR: Yes, except N/A for Rwanda and the Federal Republic of Yugoslavia (Serbia and Montenegro)

* * * * *

2E018 "Technology" for the "use" of equipment controlled by 2B018.

License Requirements

Reason for Control: NS, MT, AT, UN

Control(s)	Country chart
NS applies to entire entry.	NS Column 1.
MT applies to "technology" for equipment controlled by 2B018 for MT reasons.	MT Column 1.
AT applies to entire entry.	AT Column 1.
UN applies to entire entry.	Rwanda; Federal Republic of Yugoslavia (Serbia and Montenegro).

License Exceptions

CIV: N/A

TSR: Yes, except N/A for Rwanda and the Federal Republic of Yugoslavia (Serbia and Montenegro)

* * * * *

11. In Category 6—Sensors and Lasers, the following Export Control Classification Numbers (ECCNs) are amended:

a. By revising the "License Requirements" section for ECCNs 6A002, and 6A003;

b. By revising the entry heading and the "License Requirements" section for ECCNs 6E001 and 6E002; and

c. By revising the "License Requirement" section and the "License Exceptions" section for ECCN 6A018, to read as follows:

6A002 Optical sensors.

License Requirements

Reason for Control: NS, MT, CC, RS, AT, UN

Control(s)	Country chart
NS applies to entire entry.	NS Column 2.
MT applies to optical detectors in 6A002.a.1, a.3, and .e that are specially designed or rated as electromagnetic (including "lasers") and ionized particle radiation resistant.	MT Column 1.
RS applies to 6A002.a.1, a.2, a.3 and .c.	RS Column 1.
CC applies to police-model infrared viewers in 6A002.c.	CC Column 1,
AT applies to entire entry.	AT Column 1.
UN applies to 6A002.a.1, a.2 a.3, and c.	Rwanda; Federal Republic of Yugoslavia (Serbia and Montenegro).
UN applies to 6A002.b.	Federal Republic of Yugoslavia (Serbia and Montenegro).

LICENSE REQUIREMENT NOTES: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

* * * * *

6A003 Cameras.

License Requirements

Reason for Control: NS, NP, RS, AT, UN

Control(s)	Country chart
NS applies to entire entry.	NS Column 2.
NP applies to items controlled in paragraphs 6A003.a.2, a.3 and a.4.	NP Column 1.
RS applies to items controlled in 6A003.b.3 and b.4.	RS Column 1.
AT applies to entire entry.	AT Column 1.
UN applies to items controlled in 6A003.b.3 and b.4.	Rwanda; Federal Republic of Yugoslavia (Serbia and Montenegro).

* * * * *

6A018 Magnetic, pressure, and acoustic underwater detection devices specially designed for military purposes and controls and components therefor.

License Requirements

Reason for Control: NS, AT, UN

Control(s)	Country chart
NS applies to entire entry.	NS Column 1.
AT applies to entire entry.	AT Column 1.

Control(s)	Country chart
UN applies to entire entry.	Rwanda; Federal Republic of Yugoslavia (Serbia and Montenegro).

License Exceptions

LVS: $5000, except N/A for Rwanda and the Federal Republic of Yugoslavia (Serbia and Montenegro)
GBS: N/A
CIV: N/A

* * * * *

6E001 "Technology" according to the General Technology Note for the "development" of equipment, materials or "software" controlled by 6A (except 6A991, 6A992, 6A994, 6A995, 6A996, 6A997 or 6A998), 6B (except 6B995), 6C (except 6C992 or 6C994) or 6D (except 6D991, 6D992, or 6D993).

License Requirements

Reason for Control: NS, MT, NP, RS, CC, AT, UN

Control(s)	Country chart
NS applies to "technology" for items controlled by 6A001 to 6A008, 6B004 to 6B008, 6C002 to 6C005, or 6D001 to 6D003.	NS Column 1.
MT applies to "technology" for items controlled by 6A002, 6A007, 6A008, 6A102, 6A107, 6A108, 6B008, 6B108, 6D001, 6D002, 6D102 or 6D103 for MT reasons.	MT Column 1.
NP applies to "technology" for equipment controlled by 6A003, 6A005, 6A202, 6A203, 6A205, 6A225 or 6A226 for NP reasons.	NP Column 2.
RS applies to "technology" for equipment controlled by 6A002 or 6A003 for RS reasons.	RS Column 1.
CC applies to "technology" for equipment controlled by 6A002 for CC reasons.	CC Column 1.
AT applies to entire entry.	AT Column 1.
UN applies to "technology" for equipment controlled by 6A002 or 6A003 for UN reasons..	Rwanda; Federal Republic of Yugoslavia reasons (Serbia and Montenegro).

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

* * * * *

6E002 "Technology" according to the General Technology Note for the "production" of equipment or materials controlled by 6A (except 6A991, 6A992, 6A994, 6A995, 6A996, 6A997 or 6A998), 6B (except 6B995), or 6C (except 6C992 or 6C994).

License Requirements

Reason for Control: NS, MT, NP, RS, AT, CC, UN

Control(s)	Country chart
NS applies to "technology" for equipment controlled by 6A001 to 6A008, 6B004 to 6B008, or 6C002 to 6C005.	NS Column 1.
MT applies to "technology" for equipment controlled by 6A002, 6A007, 6A008, 6A102, 6A107, 6A108, 6B008, or 6B108 for MT reasons.	MT Column 1.
NP applies to "technology" for equipment controlled by 6A003, 6A005, 6A202, 6A203, 6A205, 6A225 or 6A226 for NP reasons.	NP Column 1.
RS applies to "technology" for equipment controlled by 6A002 or 6A003 for RS reasons.	RS Column 1.
CC applies to "technology" for equipment controlled by 6A002 for CC reasons.	CC Column 1.
AT applies to entire entry.	AT Column 1.
UN applies to "technology" for equipment controlled by 6A002 or 6A003 for UN reasons.	Rwanda; Federal Republic of Yugoslavia (Serbia and Montenegro).

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

* * * * *

12. In Category 8—Marine, Export Control Classification Number (ECCN) 8A018 is amended by revising the "License Requirements" section and the "License Exceptions" section to read as follows:

8A018 Items on the International Munitions List.

License Requirements

Reason for Control: NS, AT, UN

Control(s)	Country chart
NS applies to entire entry.	NS Column 1.
AT applies to entire entry.	AT Column 1.
UN applies to entire entry.	Rwanda; Federal Republic of Yugoslavia (Serbia and Montenegro).

License Exceptions

LVS: $5000, except N/A for Rwanda and the Federal Republic of Yugoslavia (Serbia and Montenegro)
GBS: N/A
CIV: N/A

* * * * *

13. In Category 9—Propulsion Systems, Space Vehicles and Related Equipment, the following Export Control Classification Number (ECCNs) are amended:

a. By revising the "License Requirements" section and "License Exceptions" section for ECCN 9A018; and

b. By revising the "License Requirements" section for ECCN 9A991, 9D018 and 9E018, to read as follows:

9A018 Equipment on the International Munitions List.

License Requirements

Reason for Control: NS, RS, AT, UN

Control(s)	Country chart
NS applies to entire entry.	NS Column 1.
RS applies to 9A018.a and b.	RS Column 2.
AT applies to entire entry.	AT Column 1.
UN applies to entire entry	Rwanda; Federal Republic of Yugoslavia (Serbia and Montenegro).

License Exceptions

LVS: $1500, except N/A for Rwanda and for the Federal Republic of Yugoslavia (Serbia and Montenegro)
GBS: N/A
CIV: N/A

* * * * *

9A991 "Aircraft", n.e.s., and gas turbine engines not controlled by 9A001 or 9A101 and parts and components, n.e.s.

License Requirements

Reason for Control: AT, UN

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Control(s)	Country chart
AT applies to entire entry.	AT Column 1.
UN applies to 9A991.a.	Rwanda; Federal Republic of Yugoslavia (Serbia and Montenegro).

* * * * *

9D018 "Software" for the "use" of equipment controlled by 9A018.

License Requirements

Reason for Control: NS, RS, AT, UN

Control(s)	Country chart
NS applies to entire entry.	NS Column 1.
RS applies to 9A018.a and .b.	RS Column 2.
AT applies to entire entry.	AT Column 1.
UN applies to entire entry.	Rwanda; Federal Republic of Yugoslavia (Serbia and Montenegro).

* * * * *

9E018 "Technology" for the "development", "production", or "use" of equipment controlled by 9A018.

License Requirements

Reason for Control: NS, RS, AT, UN

Control(s)	Country chart
NS applies to entire entry.	NS Column 1.
RS applies to 9A018.a and .b.	RS Column 2.
AT applies to entire entry.	AT Column 1.
UN applies to entire entry	Rwanda; Federal Republic of Yugoslavia (Serbia and Montenegro).

* * * * *

Dated: July 2, 1998.

Iain S. Baird,

Acting Assistant Secretary for Export Administration.

[FR Doc. 98–18417 Filed 7–13–98; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

[WV–078–FOR]

West Virginia Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: OSM is approving the clarification of three final rule decisions, the removal of a required amendment, and the vacating of its retroactive approval of amendments to the West Virginia permanent regulatory program (hereinafter referred to as the West Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The clarifications concern West Virginia statutes pertaining to administrative appeals and the State Environmental Quality Board, and the required amendment pertains to termination of jurisdiction. These actions are intended to comply with a settlement agreement reached in *West Virginia Mining and Reclamation Association (WVMRA)* v. *Babbitt,* No. 2: 96–0371 (S.D. W.Va.).

EFFECTIVE DATE: July 14, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Roger W. Calhoun, Director, Charleston Field Office, Telephone: (304) 347–7158.

SUPPLEMENTARY INFORMATION:

I. Background on the Virginia Program
II. Submission of the Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

I. Background on the West Virginia Program

On January 21, 1981, the Secretary of the Interior conditionally approved the West Virginia program. Background information on the West Virginia program, including the Secretary's findings, the disposition of comments, and the conditions of the approval can be found in the January 21, 1981, **Federal Register** (46 FR 5915–5956). Subsequent actions concerning the West Virginia program and previous amendments are codified at 30 CFR 948.10, 948.12, 948.13, 948.15, and 948.16.

II. Submission of the Amendment

In a series of three letters dated June 28, 1993, and July 30, 1993 (Administrative Record Nos. WV–888, WV–889 and WV–893), the West Virginia Division of Environmental Protection (WVDEP) submitted an amendment to its approved permanent regulatory program that included numerous revisions to the West Virginia Surface Coal Mining and Reclamation Act (referred to herein as "the Act", WVSCMRA § 22A–3–1 *et seq.*) and the West Virginia Surface Mining Reclamation Regulations (CSR § 38–2–1 *et seq.*). OSM approved the proposed revisions on durable rock fills on August 16, 1995, (60 FR 42437–42443) and approved, with exceptions, the proposed revisions on bonding on October 4, 1995, (60 FR 51900–51918). OSM approved, with exceptions, the remaining amendments on February 21, 1996, (61 FR 6511–6537). See 30 CFR 948.15 for the provisions that were partially approved by OSM. See 30 CFR 948.16 for required amendments.

On April 18, 1996, the WVMRA, the West Virginia Coal Association, and the Tri-State Coal Operators Association, Inc. filed an appeal, pursuant to section 526(a)(1) of SMCRA, 30 U.S.C. 1276(a)(1), challenging certain OSM decisions contained in the February 21, 1996, Federal Register Notice, including the decision to make approval of the amendment retroactive. (Administrative Record Number WV–1027). On October 29, 1997, the parties reached a settlement agreement with respect to six of the seven counts contained in the above referenced case. (Administrative Record Number WV–1077). The other count, pertaining to the use of passive treatment systems after final bond release, was decided by the United States District Court for the Southern District of West Virginia in OSM's favor. *See WVMRA* v. *Babbitt,* No. 2: 96–0371 (S.D. W.Va. July 11, 1997) (Administrative Record Number WV–1072). OSM proposed this rulemaking in order that it may fulfill its obligations with respect to five of the six counts of the appeal which are addressed by settlement agreement. The remaining count addressed in the settlement agreement, pertaining to the windrowing of materials on the downslope in steep slope areas, is the subject of another proposed rulemaking, announced in the June 10, 1997, **Federal Register**. See 62 FR 31543, 31545.

The proposed rulemaking was published in the February 23, 1998, **Federal Register** (63 FR 8891). No one requested an opportunity to speak at a public hearing, so none was held.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the clarification of three final rule decisions, the removal of a required amendment, and the vacating of its retroactive approval of amendments to the West Virginia permanent regulatory program.

1. The Clarifications

§ 22B–1–7(d) Administrative Appeals

As announced in the **Federal Register** on February 21, 1996 (61 FR at 6516, 6536), OSM did not approve a language at § 22B–1–7(d) concerning allowing temporary relief where the appellant demonstrates that the executed decision appealed from will result in the appellant suffering an "unjust hardship." OSM stated that the provision was disapproved because the exception is inconsistent with SMCRA section 514(d) and 525(c). Further, OSM required, at 30 CFR 948.16(nnn), that § 22B–1–7(d) be amended to be consistent with SMCRA sections 514(d) and 525(c). In accordance with the settlement agreement in *WVMRA* v. *Babbitt, supra,* OSM proposed to clarify its February 21, 1996, decision by stating that § 22B–1–7(d) is not approved only to the extent that it includes unjust hardship as a criterion to support the granting of temporary relief from an order or other decision issued under Chapter 22, Article 3 of the West Virginia Code, which is the West Virginia counterpart to SMCRA. OSM also proposed to revise the required amendment at 30 CFR 948.16(nnn) to require West Virginia to amend its program to remove unjust hardship as a criterion to support the granting of temporary relief from an order or other decision issued under Chapter 22, Article 3 of the West Virginia Code. The Director now adopts this proposal, and is, therefore, not approving § 22B–1–7(d) only to the extent that it includes unjust hardship as a criterion to support the granting of temporary relief from an order or other decision issued under Chapter 22, Article 3 of the West Virginia Code, which is the West Virginia counterpart to SMCRA. The Director is also revising the required amendment at 30 CFR 948.16(nnn) to require West Virginia to amend its program to remove unjust hardship as a criterion to support the granting of temporary relief from an order or other decision issued under Chapter 22, Article 3 of the West Virginia Code.

§ 22B–1–7(h) Administrative Appeals

As announced in the **Federal Register** on February 21, 1996 (61 FR at 6516, 6536), OSM did not approve language at § 22B–1–7(h) to the extent that the provisions would allow the West Virginia Surface Mining Board to decline to order an operator to treat or control discharges due to economic considerations. In addition, OSM required, at 30 CFR 948.16(ooo), that the State further amend § 22B–1–7(h) to be no less stringent than SMCRA section 515(b)(10) and no less effective than the Federal regulations at 30 CFR 816.42 by requiring that discharges be controlled or treated without regard to economic feasibility. In accordance with the settlement agreement in *WVMR* v. *Babbitt, supra.* OSM proposed to clarify that § 22B–1–7(h) is not approved only to the extent that it references Article 3, Chapter 22 of the West Virginia Code. OSM also proposed to revise the required amendment at 30 CFR 948.16(ooo) to require West Virginia to mend its program by removing the reference, in § 22B–1–7(h), to Article 3, Chapter 22. The Director is now adopting this proposal and is, therefore, not approving § 22B–1–7(h) only to the extent that it references Article 3, Chapter 22 of the West Virginia Code. The Director is also revising the required amendment at 30 CFR 948.16(ooo)—to require West Virginia to amend its program by removing the reference, in § 22B–1–7(h), to Article 3, Chapter 22.

§ 22B–3–4 Environmental Quality Board

As announced in the **Federal Register** on February 21, 1996 (61 FR at 6517), OSM approved the provisions at § 22B–3–4 concerning the Environmental Quality Board's rulemaking authority. Under the State's S.B. 287, the Board is authorized, with certain restrictions, to promulgate procedural rules granting site-specific variances for water quality standards for coal remining operations. In approving the provision, OSM also stated that any such procedural rules that grant variances must be submitted to OMS for approval prior to their implementation.

In accordance with the settlement agreement in *WVMRA* v. *Babbitt, supra,* OSM proposed to clarify that it does not have approval authority over rules developed by the Environmental Quality Board under the authority of the Clean Water Act. The Director is now adopting this proposal and finds, therefore, that the Environmental Quality Board is not required to submit to OSM for approval procedural rules for the implementation of site specific variances for water quality standards for remining operations.

2. Amendment Findings Revisions

CSR 38–2–1.2(c)(1) Termination of Jurisdiction

As announced in the **Federal Register** on February 21, 1996 (61 FR at 6517, 6536), OSM found § 38–2–1.2(c)(1) to be less effective than the Federal regulations at 30 CFR 700.11(d)(1)(i) to the extent that subsection (c)(1) does not require compliance with the Federal initial program regulations at Subchapter B or the West Virginia permanent regulatory program as a prerequisite to the termination of jurisdiction over an initial program site. In addition, OSM required, at 30 CFR 948.16(ppp), that the State further amend subsection (c)(1) to require compliance with the Federal initial program regulations at Subchapter B or the West Virginia permanent regulatory program regulations as a prerequisite to the termination of jurisdiction over an initial program site.

By letter dated December 12, 1996 (Administrative Record Number WV–1052), the West Virginia Division of Environmental Protection (WVDEP) stated its commitment to require that initial program sites in West Virginia meet the West Virginia program's permanent program requirements as a precondition of the termination of regulatory jurisdiction over such sites.

In recognition of the acknowledgment contained in the December 12, 1996, WVDEP letter, and in accordance with the settlement agreement in *WVMRA* v. *Babbitt, supra,* OSM proposed to accept the WVDEP's December 12, 1996 letter as satisfying the requirements of 30 CFR 700.11(d)(1)(i), and proposed to delete the required amendment codified at 30 CFR 948.16(ppp). The Director is now adopting this proposal and, therefore, is accepting the WVDEP's December 12, 1996 letter as satisfying the requirements of 30 CFR 700.11(d)(1)(i). The Director is also removing the required amendment at 30 CFR 948.16(ppp).

3. Vacating Retroactive Approval of Amendments

In the February 21, 1996, **Federal Register** (61 FR 6533), OSM stated that with respect to laws and regulations being approved in the notice, the OSM was making the effective date of the approval retroactive to the date upon which each provision took effect in West Virginia for purposes of State law. However, as stated in the settlement agreement in *WVMRA* v. *Babbitt, supra,* OSM has agreed to vacate the retroactive effect of its approval of the program amendment which was the subject of the February 21, 1996, **Federal Register**

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notice. Therefore, OSM announced its intention to vacate the retroactive approval of the amendments discussed and approved in the February 21, 1996, **Federal Register** notice, 61 FR 6511, 6535. In addition, OSM proposed to change the effective dates of all the amendments approved in the February 21, 1996 notice to February 21, 1996.

Accordingly, the Director is hereby vacating the retroactive approval of the amendments discussed and approved in the February 21, 1996, **Federal Register** notice 61 FR 6511, 6535. Furthermore, the Director is changing the effective dates of all the amendments approved in the February 21, 1996 notice to February 21, 1996.

The Director finds that the clarifications, amendment findings revisions, and vacation of the retroactive approval of the previously approved amendments do not render the West Virginia program less effective, and are hereby approved.

IV. Summary and Disposition of Comments

Federal Agency Comments

Pursuant to section 503(b) of SMCRA and 30 CFR 732.17(h)(11)(i), comments were solicited from various interested Federal agencies. The Department of the Army, U.S. Army Corps of Engineers responded and stated that the proposed dispositions are satisfactory to the agency. The U.S. Department of Labor, Mine Safety and Health Administration (MSHA) responded and stated that the agency did not find any statements that would conflict with MSHA's regulations or policies.

Public Comments

The following comments were received in response to the request for public comments. The West Virginia Coal Association (WVCA) stated that events have occurred since OSM's approval of the West Virginia Code at § 22–3–8(6)(B) concerning compliance with the State's workers' compensation provisions at § 23–2–5. § 22–3–8(6)(B) states that "[i]t is a requirement of this article [article 3, chapter 22, which is the West Virginia counterpart to SMCRA] that each operator maintain continued compliance with the provisions of section five, article two, chapter twenty-three of this code [the requirement to pay workers' compensation premiums] and provide proof of compliance to the director on an annual basis." Specifically, the commenter stated that interpretations of § 22–3–8(6)(B) may improperly (1) create bond forfeitures that cannot be reclaimed by the State's special reclamation fund; (2) allow reclamation bonds to be used for purposes other than reclamation of mining sites; and (3) allows citizens' suits that would affect limits imposed under the State's workers' compensation laws. Accordingly, the WVCA demanded that OSM either disapprove § 22–3–8(6)(B) or approve it expressly subject to the interpretation given to the provision by the WVDEP. That interpretation is discussed below.

The WVDEP stated that its primary concern is that implementation of § 22–3–8(6)(B) not put any additional pressure on the bonding funds available to WVDEP for completing reclamation. WVDEP stated that, while it is more than willing to screen applicants for compliance with the workers' compensation laws and thereafter take reasonable action to ensure that they subsequently maintain compliance, the WVDEP cannot in doing so jeopardize its primary purposes to ensure that the environment is protected and reclamation is accomplished.

The WVDEP further stated that to ensure that § 22–3–8(6)(B) is not interpreted or applied in such a fashion as to jeopardize environmental protection and the reclamation bonding program, WVDEP issued a policy on June 7, 1995, concerning enforcement procedures for companies in default with workers' compensation. By that policy, WVDEP interprets § 22–3–8(6)(B) to allow permittees to abate violations issued for the workers' compensation defaults of their contractors either by demonstrating that the contractor has returned to good standing or by taking action to terminate the operator approval. WVDEP stated that it recognizes that any interpretations of § 22–3–8(6)(B) which would impose obligations on permittees or operators for workers' compensation obligations incurred prior to the effective date of the statute could compromise the Special Reclamation Fund, which is used to reclaim minesites for which the proceeds for forfeited performance bonds are inadequate to achieve full reclamation.

To ensure an appropriate application of § 22–3–8(6)(B) while maintaining the consistency of the State surface mining program with SMCRA, and in accordance with its June 7, 1995, policy, the WVDEP interprets § 22–3–8(6)(B) as:

(1) Prohibiting the issuance of both new permits and operator approvals (known as operator reassignments in West Virginia) to those applicants for which the Workers' Compensation Division advises have not complied with § 23–2–5;

(2) In cases involving permittees that utilize contractors, enabling DEP to issue a notice of violation to a permittee for its contractors' failure to comply with the workers' compensation provisions of W. Va. Code § 23–2–5, and allowing the permittee to abate the violation *either* by demonstrating that the contractor has returned a status of good standing with the Workers' Compensation Division *or* by submitting the paperwork necessary to allow DEP to rescind or terminate the operator approval (operator reassignment); and

(3) To the extent it imposes obligations on permittees and operators to maintain compliance with W. Va. Code § 23–2–5, it does so only to the extent that the obligation to pay premiums, submit reports, etc. first arose after the effective date of W. Va. Code § 22–3–8(6)(B).

The Director does not believe that the WVCA's comments are germane to this rulemaking, since approval of § 22–3–8(6)(A) and (B) was previously announced in the February 21, 1996, **Federal Register**. 61 FR 6511. In his approval, the Director noted that "as provided in paragraph (h) [§ 22–3–8(6)], the State proposes to make compliance with the Workers' Compensation Program a requirement of permit approval." 61 FR at 6514. The basis for the Director's approval is not changed in this rulemaking, since the substance of § 22–3–8(6) is not at issue here. The Director notes, however, that the effective date of his approval of § 22–3–8(6) is now changed to February 21, 1996.

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). OSM has determined that the proposed provision does not pertain to air and water quality standards. Therefore, EPA concurrence is not required.

Pursuant to 30 CFR 732.17(h)(11)(i), OSM solicited comments from the EPA on the proposed amendment. EPA did not provide any comments in response to the request.

V. Director's Decision

Based on the findings above the Director is approving the clarification of the three final rule decisions, the removal of the required amendment, and the vacating of its February 21, 1996, retroactive approval of amendments to the West Virginia program.

The Federal regulations at 30 CFR 948 codifying decisions concerning the West Virginia program are being amended to implement this decision.

VI. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data for assumptions for the corresponding Federal regulations.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year or any governmental entity or the private sector.

List of Subjects in 30 CFR Part 948

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 26, 1998.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 948—WEST VIRGINIA

1. The authority citation for part 948 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 948.15 is amended in the table by adding a new entry in chronological order by "Date of Final Publication" to read as follows:

§ 948.15 Approval of West Virginia regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
* *	*	* *
February 23, 1998.	July 14, 1998	WV Code Sections 22B–1–7(d), 7(h); 22B–3–4. WV Regulations CSR 38–2–1.2(c)(1). Vacating of retroactive approval published on February 21, 1996.

3. Section 948.16 is amended by removing and reserving paragraph (ppp), and by revising paragraphs (nnn) and (ooo) to read as follows:

§ 948.16 Required regulatory program amendments.

* * * * *

(nnn) By September 14, 1998, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise Section 22B–1–7(d) to remove unjust hardship as a criterion to support the granting of temporary relief from an order or other decision issued under Chapter 22, Article 3 of the West Virginia Code.

(ooo) By September 14, 1998, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise Section 22B–1–7(h) by removing reference to Article 3, Chapter 22.

* * * * *

[FR Doc. 98–18738 Filed 7–13–98; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

31 CFR Part 103

RIN 1506–AA18

Amendments to the Bank Secrecy Act Regulations Regarding Reporting and Recordkeeping by Card Clubs; Correction

AGENCY: Financial Crimes Enforcement Network, Treasury.

ACTION: Final rule; correction.

SUMMARY: The Financial Crimes Enforcement Network ("FinCEN") published in the **Federal Register** of January 13, 1998, a final rule amending the regulations implementing the statute generally referred to as the Bank Secrecy Act, to include certain gaming establishments, commonly called "card clubs," "card rooms," "gaming clubs," or "gaming rooms" within the definition of financial institution subject to the Bank Secrecy Act. This document contains a correction to the preamble to the final rule.

DATES: Effective on August 1, 1998.

FOR FURTHER INFORMATION CONTACT: Leonard C. Senia, Senior Financial Enforcement Officer, Office of Program Development, Financial Crimes Enforcement Network, (703) 905–3931, or Cynthia L. Clark, Deputy Chief Counsel, Financial Crimes Enforcement Network, (703) 905–3758.

SUPPLEMENTARY INFORMATION: In FR Doc. 98–743, published in the Federal

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Register of January 13, 1998, (63 FR 1919), the Office of Management and Budget ("OMB") control number is incorrect. This correction replaces the incorrect OMB control number.

In rule FR Doc. 98–743, published on January 13, 1998, (63 FR 1919) make the following correction. On page 1923, in the first column, lines 2 and 3, remove the words "control number 1506–0063" and add the words "control number 1505–0063 (redesignated by the Office of Management and Budget as 1506–0009)."

Dated: July 8, 1998.

Peter Djinis,
Acting Director,
Financial Crimes Enforcement Network.

[FR Doc. 98–18659 Filed 7–13–98; 8:45 am]

BILLING CODE 4820-03-P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 4

RIN 2900–AI46

Schedule for Rating Disabilities: Cold Injuries

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) Schedule for Rating Disabilities by revising the provisions governing evaluations for cold injury residuals. The intended effect of this amendment is to provide evaluation criteria based on current medical knowledge about the long-term effects of cold injury that can be applied to any part of the body affected by cold injury.

DATES: *Effective Date:* This amendment is effective August 13, 1998.

FOR FURTHER INFORMATION CONTACT: Caroll McBrine, M.D., Consultant, Regulations Staff (211B), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 273–7230.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 28, 1997 (62 FR 14832), we published a proposal to revise the provisions of VA's rating schedule (38 CFR part 4) governing evaluations for frozen feet (38 CFR 4.104, diagnostic code 7122). The purpose of the proposal was to update the evaluation criteria so that they would be consistent with current medical knowledge and encompass the broad range of residuals now known to result from cold injuries. We proposed to retitle the diagnostic code from residuals of frozen feet to residuals of cold injury, to indicate that body parts other than the feet could be included. We invited interested persons to submit written comments on the proposal.

As part of a final rule published in the **Federal Register** of December 11, 1997 (62 FR 65207), which revised the cardiovascular portion of the rating schedule (38 CFR 4.104), we adopted the revision proposed on March 28, 1997, with only minor changes. However, we had received comments from the Disabled American Veterans and two interested individuals in response to the March 28, 1997, notice of proposed rulemaking. This document responds to those comments and further revises the rating schedule provisions governing evaluations for cold injury residuals.

One commenter suggested that in rating decisions we change our method of "coding" disabilities associated with cold injury in order to identify the body system or specific body part affected, whether the affected body part is on the left or right side, and the percentage evaluation for each affected body part.

While the information the commenter asks us to include is part of the written rating decision, that information is not, nor does it need to be, reflected by the diagnostic code. The purpose of diagnostic codes is merely to identify disabilities for statistical purposes. Diagnostic codes are numbers assigned to each condition listed in the Schedule for Rating Disabilities. Citation to a diagnostic code in a rating decision identifies the rating criteria used to determine the evaluation assigned to a particular disability and facilitates VA statistical analysis. See 38 CFR 4.27. Adopting the commenter's suggestion would have no substantive effect on veterans' disability ratings. We therefore make no change in response to this comment.

Another commenter submitted a copy of a 1951 article entitled *Cold Injuries in Korea During Winter of 1950–51* by Lt. Col. K. D. Orr, M.C., and Capt. D. C. Fainer, M.C. The commenter maintains that the study reflected in the article, although flawed, is the basis of most thinking regarding cold injuries and has been used to miseducate doctors. The commenter suggested that, rather than focusing on "frostbite," we take into account the impact of extreme cold on internal organs and define cold injury to include a broad range of conditions, including cardiovascular and respiratory conditions, which he contends are the long-term residuals of hypothermia.

There has been considerable research on cold injuries since 1951, when the article to which the commenter refers was published. Medical information reviewed in developing the Veterans Health Administration Information Letter (IL 10–96–030, December 31, 1996) concerning the care and examination of veterans with late effects of cold injuries was the medical basis for our revision of the evaluation criteria for frostbite. The 1951 Orr-Fainer article was not among the authorities cited in the information letter.

Another commenter stated that VA's Adjudication Procedures Manual, M21–1, Part VI, para. 11.20, mentions other signs and symptoms, such as joint pain and stiffness, weakness of hands or feet, Raynaud's phenomenon, and vascular insufficiency, that may represent chronic effects of cold injury. He recommended that we include all of these conditions in the evaluation criteria for cold injury (diagnostic code 7122) so that the criteria are as comprehensive as possible and do not omit any symptoms that could be attributed to cold injuries.

Simply because a condition *could* be the result of cold injury does not mean that it *is* the result of cold injury in a given claim. All of the conditions mentioned have other possible etiologies, and it will require a medical determination in each case to establish whether a condition claimed as a residual of a cold injury is the residual of a cold injury. Furthermore, there are so many conditions which could be residuals of cold injury, that should we attempt to provide a comprehensive list, we might inadvertently omit conditions that individual veterans might suffer as a result of cold injury. Some of the conditions mentioned by the commenter, e.g., Raynaud's phenomenon, might well warrant higher evaluations in their own right than the maximum evaluation of 30 percent allowed under diagnostic code 7122. Therefore, rather than including those conditions in the evaluation criteria for cold injuries, we have revised note (1) to indicate that such conditions may be evaluated separately unless they are used to support an evaluation under diagnostic code 7122.

The same commenter suggested that, since pain is one of the evaluation criteria for cold injury residuals, including arthralgia (joint pain) as well is redundant.

Since the medical concept that arthralgia may result from cold injury is relatively new, we believe it is important to specify that symptom in the evaluation criteria along with the less specific symptom of pain.

Nevertheless, we have revised that portion of the criteria to clarify that arthralgia is but one type of pain that will satisfy that evaluation criterion.

We have made several nonsubstantive technical corrections.

VA appreciates the comments submitted in response to the proposed rule. Based on the rationales presented in the March 28, 1997, notice of proposed rulemaking and the December 11, 1997, final rule that effected the proposed revision, we affirm the revision adopted in that final rule, except for the changes made in this final rule for the reasons explained above.

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The reason for this certification is that this final rule will not directly affect any small entities. Only VA beneficiaries will be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

This final rule has been reviewed by the Office of Management and Budget under the provisions of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993.

The Catalog of Federal Domestic Assistance program numbers are 64.104 and 64.109.

List of Subjects in 38 CFR Part 4

Disability benefits, Individuals with disabilities, Pensions, Veterans.

Approved: June 30, 1998.

Togo D. West, Jr.,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 4 is amended as set forth below:

PART 4—SCHEDULE FOR RATING DISABILITIES

1. The authority citation for part 4 continues to read as follows:

Authority: 38 U.S.C. 1155, unless otherwise noted.

Subpart B—Disability Ratings

2. Section 4.104 is amended by revising diagnostic code 7122 to read as follows:

§ 4.104 Schedule of ratings—cardiovascular system.

* * * * *

DISEASES OF THE ARTERIES AND VEINS

	Rating
* * * * *	
7122 Cold injury residuals:	
With the following in affected parts:	
Arthralgia or other pain, numbness, or cold sensitivity plus two or more of the following: tissue loss, nail abnormalities, color changes, locally impaired sensation, hyperhidrosis, X-ray abnormalities (osteoporosis, subarticular punched out lesions, or osteoarthritis)	30
Arthralgia or other pain, numbness, or cold sensitivity plus tissue loss, nail abnormalities, color changes, locally impaired sensation, hyperhidrosis, or X-ray abnormalities (osteoporosis, subarticular punched out lesions, or osteoarthritis)	20
Arthralgia or other pain, numbness, or cold sensitivity	10

Note (1): Separately evaluate amputations of fingers or toes, and complications such as squamous cell carcinoma at the site of a cold injury scar or peripheral neuropathy, under other diagnostic codes. Separately evaluate other disabilities that have been diagnosed as the residual effects of cold injury, such as Raynaud's phenomenon, muscle atrophy, etc., unless they are used to support an evaluation under diagnostic code 7122.

Note (2): Evaluate each affected part (e.g., hand, foot, ear, nose) separately and combine the ratings in accordance with §§ 4.25 and 4.26.

* * * * *

(Authority: 38 U.S.C. 1155)

[FR Doc. 98–18642 Filed 7–13–98; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AJ34

Provision of Drugs and Medicines to Certain Veterans in State Homes

AGENCY: Department of Veterans Affairs.

ACTION: Interim final rule with request for comments.

SUMMARY: This document amends the "Medical" regulations concerning the provision of drugs and medicines prescribed by non-VA physicians for certain veterans who are permanently housebound or in need of regular aid and attendance. The regulations are amended to allow prescriptions to be filled by non-VA pharmacies in state homes under contract with VA for filling prescriptions for patients in state homes. This is consistent with VA's special relationship with state homes. It will eliminate duplication of services and will help improve timeliness for filling prescriptions in state homes.

DATES: Effective Date: July 14, 1998.

Comment Date: Comments must be received on or before September 14, 1998.

ADDRESSES: Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to "RIN: 2900–AJ34." All written comments received will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Jeff Ramirez, Pharmacy Service (119), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 273–8428. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: This document amends the "Medical" regulations set forth at 38 CFR Part 17. More specifically, it amends the provisions of § 17.96 which concern the criteria for providing drugs and medicines prescribed by non-VA physicians for certain veterans who are permanently housebound or in need of regular aid and attendance.

Prior to the effective date of this document § 17.96 stated:

> Any prescription, which is not part of authorized Department of Veterans Affairs hospital or outpatient care, for drugs and medicines ordered by a private or non-Department of Veterans Affairs doctor of medicine or doctor of osteopathy duly licensed to practice in the jurisdiction where the prescription is written, shall be filled by a Department of Veterans Affairs pharmacy, provided:
>
> (a) The prescription is for:
>
> (1) A veteran who by reason of being permanently housebound or in need of regular aid and attendance is in receipt of increased compensation under 38 U.S.C. chapter 11, or increased pension under § 3.1(u) (Section 306 Pension) or § 3.1(w) (Improved Pension), of this title, as a veteran of the Mexican Border Period, World War I, World War II, the Korean Conflict, or the Vietnam Era (or, although eligible for such pension, is in receipt of compensation as the greater benefit), or

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(2) A veteran in need of regular aid and attendance who was formerly in receipt of increased pension as described in paragraph (a)(1) of this section whose pension has been discontinued solely by reason of excess income, but only so long as such veteran's annual income does not exceed the maximum annual income limitation by more than $1,000, and

(b) The drugs and medicines are prescribed as specific therapy in the treatment of any of the veteran's illnesses or injuries.

This document amends § 17.96 to allow prescriptions to be filled by non-VA pharmacies in state homes under contract with VA for filling prescriptions for patients in state homes. State home pharmacies are fully operational facilities that in many cases can efficiently meet the needs of veterans in the state homes. This action is consistent with VA's special relationship with state homes. It will eliminate duplication of services and will help improve timeliness for filling prescriptions in state homes.

Administrative Procedure Act

This document is published without regard to the notice and comment and effective date provisions of 5 U.S.C. 553 since it pertains to agency management.

Regulatory Flexibility Act

The Secretary hereby certifies that the adoption of this interim final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612.

The rule at the most will have only a minuscule economic effect on any small entity. Therefore, pursuant to 5 U.S.C. 605(b), this interim final rule is exempt from the initial and final regulatory flexibility analyses requirements of §§ 603 and 604.

Catalog of Federal Domestic Assistance Program Number

The Catalog of Federal Domestic Assistance program number for this document is 64.012.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Approved: June 30, 1998.

Togo D. West, Jr.,

Secretary of Veterans Affairs.

For the reasons set forth above, 38 CFR part 17 is amended as set forth below:

PART 17—MEDICAL

1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, 1721, unless otherwise noted.

2. In § 17.96, the introductory text is amended by removing "pharmacy" and adding, in its place, "pharmacy or a non-VA pharmacy in a state home under contract with VA for filling prescriptions for patients in state homes"; the authority citation at the end of paragraph (a) is removed; and an authority citation is added at the end of the section to read as follows:

§ 17.96 Prescriptions filled.

* * * * *

(Authority: 38 U.S.C. 1712 (d))

[FR Doc. 98–18644 Filed 7–13–98; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 261 and 279

[FRL–6123–3]

RIN 2050–AE47

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Recycled Used Oil Management Standards

AGENCY: Environmental Protection Agency.

ACTION: Removal of direct final rule amendments.

SUMMARY: Today's rule removes three amendments to the used oil management standards originally included in the direct final rule of May 6, 1998 and restores the regulatory text that existed prior to the direct final rule. The Agency received relevant adverse comment on three provisions of this rule which deal with mixtures of conditionally exempt small quantity generator waste and used oil, the applicability of the used oil management standards to used oil contaminated with polychlorinated biphenyls (PCBs), and record keeping requirements for marketers of used oil meeting the used oil fuel specification. EPA will consider the comments received as it finalizes the remaining amendments in the near future.

EFFECTIVE DATE: July 14, 1998.

ADDRESSES: Public comments and supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The Docket Identification Number is F–98-CUOP-FFFFF. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling (703) 603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page. The index and some supporting materials are available electronically. See the **SUPPLEMENTARY INFORMATION** section for information on accessing them.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline. For general information, contact the RCRA Hotline at (800) 424–9346 or TDD (800) 553–7672 (hearing impaired). In the Washington, DC metropolitan area, call (703) 412–9810 or TDD (703) 412–3323.

Rulemaking Details. For more detailed information on specific aspects of this rulemaking, contact Tom Rinehart by mail at Office of Solid Waste (5304W), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, by phone at (703) 308–4309, or by Internet e-mail at rinehart.tom@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Withdrawal of Amendments that Received Relevant Adverse Comment

On May 6, 1998, EPA issued a direct final rule (63 FR 24963) which included eight amendments clarifying various parts of the used oil management standards and provisions of the hazardous waste regulations concerning used oil. EPA also issued a notice of proposed rulemaking on May 6, 1998 (63 FR 25006), in which the Agency proposed and solicited public comment on the same eight amendments. EPA received relevant adverse comments on three of the amendments in this rulemaking: the amendments to 40 CFR 261.5(j) (mixtures of conditionally exempt small quantity generator waste and used oil), 40 CFR 279.10(i) (applicability of the used oil management standards to used oil contaminated with polychlorinated biphenyls (PCBs)), and 40 CFR 279.74(b) (recordkeeping requirements for marketers of used oil that meets the used oil fuel specification). Accordingly, today's document removes these three amendments and reinstates the regulatory text that existed prior to the May 6, 1998 direct final rule. EPA finds that good cause exists under 5 U.S.C. 553(b) to promulgate today's rule in final form, because this rule reinstates regulatory requirements currently in effect. EPA will promulgate a final rule in the near future finalizing the three amendments, as appropriate, and addressing the comments received. The five amendments that did not receive relevant adverse comment became effective on July 6, 1998 as provided in the May 6, 1998 direct final rule.

EPA also received supportive comments on the three amendments being removed as well as the other amendments issued in the May 6, 1998 direct final rule. All of the comments received on the May 6, 1998 direct final rule are available on the Internet as described below and at the RCRA Information Center identified in the **ADDRESSES** section above.

Internet Availability

Today's rule, the comments received on the May 6, 1998 direct final rule and proposal (63 FR 24963 and 25006), and the following supporting materials are available on the Internet:

Docket Item: Petition for Review.
From: Edison Electric Institute, et al.
To: U.S. Court of Appeals for the District of Columbia Circuit.

Docket Item: Petitioners' Preliminary and Non-binding Statement of Issues to be Raised on Appeal.
From: Edison Electric Institute, et al.
To: U.S. Court of Appeals for the District of Columbia Circuit.

Docket Item: Letter describing Edison Electric Institute's outstanding issues and proposals for resolving these issues.
From: Edison Electric Institute, et al.
To: U.S. Environmental Protection Agency.

Docket Item: Letter describing Edison Electric Institute's issues including a request that EPA issue a technical correction to 40 CFR 279.10(i).
From: Edison Electric Institute, et al.
To: U.S. Environmental Protection Agency.

Docket Item: Letter requesting that EPA resolve outstanding issues.
From: Edison Electric Institute, et al.
To: U.S. Environmental Protection Agency.

Docket Item: Settlement Agreement.
From: Edison Electric Institute, et al, U.S. Environmental Protection Agency, and U.S. Department of Justice.
To: U.S. Court of Appeals for the District of Columbia Circuit.

Docket Item: Memorandum that describes an abbreviated state authorization revision application procedure for state rule changes in response to minor federal rule changes or corrections.
From: Michael Shapiro, Director, Office of Solid Waste, EPA.
To: EPA Regional Waste Management Division Directors.

Follow these instructions to access this information electronically: WWW URL: http://www.epa.gov/epaoswer/hazwaste/usedoil/index.htm.

FTP: ftp.epa.gov.
Login: anonymous.
Password: your Internet e-mail address.
Path: /pub/epaoswer.

Note: The official record for this action will be kept in paper form and maintained at the address in the **ADDRESSES** section above.

I. Regulatory Requirements

A. Analysis Under Executive Order 12866, Executive Order 12875, the Paperwork Reduction Act, National Technology Transfer and Advancement Act of 1995, and Executive Order 13045

Today's rule removes three amendments issued as part of the May 6, 1998 direct final rule and reinstates the regulatory text that existed prior to the May 6, 1998 direct final rule and that was in effect until July 6, 1998. Today's action is not a "significant regulatory action" for the purposes of Executive Order 12866, and is therefore not subject to review by the Office of Management and Budget. Today's rule also does not impose obligations on State, local or tribal governments for the purposes of Executive Order 12875.

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub L. No. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. Neither this action nor the direct final rule involve technical standards. Therefore, EPA did not consider the use of any voluntary standards in this rulemaking. Today's rule is not subject to E.O. 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because this action is not an economically significant rule, and it does not involve decisions on environmental health risks or safety risks that may disproportionately affect children. Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, EPA must consider the paperwork burden imposed by any information collection request in a proposed or final rule. This rule will not impose any new information collection requirements.

B. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

II. Immediate Effective Date

Because the regulated community does not need 6 months to come into compliance with this rule, EPA finds, pursuant to RCRA section 3010(b)(1), that this rule can be made effective in less than six months. Also, EPA finds that good cause exists under 5 U.S.C. 553(d)(3) to waive the requirement that regulations be published at least 30 days before they become effective, because this rule reinstates regulatory requirements.

List of Subjects

40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

40 CFR Part 279

Conditionally exempt small quantity generator (CESQG), Environmental protection, Hazardous waste, Polychlorinated biphenyls (PCBs), Solid waste, Recycling, Response to releases, Used oil, Used oil specification.

Dated: July 6, 1998.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, chapter I of title 40 of the Code of Federal Regulations is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

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Authority: 42 U.S.C. 6905, 6912(a), 6921–6927, 6930, 6934, 6935, 6937, 6938, 6939, and 6974.

2. Section 261.5 is amended by revising paragraph (j) to read as follows:

§ 261.5 Special requirements for hazardous waste generated by conditionally exempt small quantity generators.

* * * * *

(j) If a conditionally exempt small quantity generator's wastes are mixed with used oil, the mixture is subject to part 279 of this chapter if it is destined to be burned for energy recovery. Any material produced from such a mixture by processing, blending, or other treatment is also so regulated if it is destined to be burned for energy recovery.

PART 279—STANDARDS FOR THE MANAGEMENT OF USED OIL

3. The authority citation for part 279 continues to read as follows:

Authority: Sections 1006, 2002(a), 3001 through 3007, 3010, 3014, and 7004 of the Solid Waste Disposal Act, as amended (42 U.S.C. 6905, 6912(a), 6921 through 6927, 6930, 6934, and 6974); and sections 101(37) and 114(c) of CERCLA (42 U.S.C. 9601(37) and 9614(c)).

4. Section 279.10 is amended by revising paragraph (i) to read as follows:

§ 279.10 Applicability.

* * * * *

(i) *Used oil containing PCBs.* In addition to the requirements of this part, marketers and burners of used oil who market used oil containing any quantifiable level of PCBs are subject to the requirements found at 40 CFR 761.20(e).

5. Section 279.74 is amended by revising paragraph (b) to read as follows:

§ 279.74 Tracking.

* * * * *

(b) *On-specification used oil delivery.* A generator, transporter, processor/re-refiner, or burner who first claims that used oil that is to be burned for energy recovery meets the fuel specifications under § 279.11 must keep a record of each shipment of used oil to an on-specification used oil burner. Records for each shipment must include the following information:

(1) The name and address of the facility receiving the shipment;

(2) The quantity of used oil fuel delivered;

(3) The date of shipment or delivery; and

(4) A cross-reference to the record of used oil analysis or other information used to make the determination that the oil meets the specification as required under § 279.72(a).

* * * * *

[FR Doc. 98–18423 Filed 7–13–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6123–6]

National Oil and Hazardous Substances Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of deletion of the Novaco Industries Superfund site from the National Priorities List (NPL).

SUMMARY: The Environmental Protection Agency (EPA) announces the deletion of the Novaco Industries Site in Michigan from the National Priorities List (NPL). The NPL is Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. This action is being taken by EPA and the State of Michigan, because it has been determined that Responsible Parties have implemented all appropriate response actions required. Moreover, EPA and the State of Michigan have determined that remedial actions conducted at the site to date remain protective of public health, welfare, and the environment.

EFFECTIVE DATE: July 14, 1998.

FOR FURTHER INFORMATION CONTACT: Russell Hart at (312) 886–4844 (SR–6J), Remedial Project Manager or Gladys Beard at (312) 886–7253, Associate Remedial Project Manager, Superfund Division, U.S. EPA—Region V, 77 West Jackson Blvd., Chicago, IL 60604. Information on the site is available at the local information repository located at: The Bedford Township Hall and Monroe County Library-Bedford, Bedford, Michigan. Requests for comprehensive copies of documents should be directed formally to the Regional Docket Office. The contact for the Regional Docket Office is Jan Pfundheller (H–7J), U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 353–5821.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is: Novaco Industries Site located in Temperance, Michigan. A Notice of Intent to Delete for this site was published May 27, 1998 (63 FR 28961). The closing date for comments on the Notice of Intent to Delete was June 26, 1998. EPA received no comments and therefore no Responsiveness Summary was prepared.

The EPA identifies sites which appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Sites on the NPL may be the subject of Hazardous Substance Response Trust Fund (Fund-) financed remedial actions. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.425(e)(3) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL in the unlikely event that conditions at the site warrant such action. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: July 1, 1998.

David Ullrich,

Acting Regional Administrator, Region V.

40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p.351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Appendix B [Amended]

2. Table 1 of Appendix B to part 300 is amended by removing the Site "Novaco Industries, Temperance, Michigan."

[FR Doc. 98–18588 Filed 7–13–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA-7691]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule identifies communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The dates listed in the third column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the NFIP at: Post Office Box 6464, Rockville, MD 20849, (800) 638-6620.

FOR FURTHER INFORMATION CONTACT: Robert F. Shea, Jr., Division Director, Program Implementation Division, Mitigation Directorate, 500 C Street SW., room 417, Washington, DC 20472, (202) 646-3619.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Associate Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM). The date of the flood map, if one has been published, is indicated in the fourth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012(a), requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard areas shown on the map.

The Associate Director finds that the delayed effective dates would be contrary to the public interest. The Associate Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director certifies that this rule will not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because the rule creates no additional burden, but lists those communities eligible for the sale of flood insurance.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State/location	Community No.	Effective date of eligibility	Current effective map date
New Eligibles—Emergency Program			
Michigan:			
Marlette, township of, Sanilac County	261022	May 6, 1998.	
South Branch, township of, Crawford County	261021	......do.	
Washington: Quileute Indian Tribe, Clallam County	530335	May 8, 1998.	
Georgia: McDuffie County, unincorporated areas	130357	May 26, 1998	March 26, 1976.
Iowa: Eagle Grove, city of, Wright County	190928	......do.	
Kentucky: Walton, city of, Boone County	210379	May 28, 1998.	
Montana: Dawson County, unincorporated areas	300140	......do.	
New Eligibles—Regular Program			
Texas: [1] Bulverde North, city of, Comal County	481683	May 12, 1998	July 17, 1995.
Georgia: Abbeville, city of, Wilcox County	130195	May 26, 1998	September 20, 1995.
Iowa: Spring Hill, city of, Warren County	190949	......do	NSFHA.
Missouri: Westwood, village of, St. Louis County	290396	......do	August 2, 1995.
Reinstatements			
Connecticut: Canterbury, town of, Windham County	090183	August 5, 1976, Emerg: October 16, 1984, Reg: October 16, 1984, Susp: May 5, 1998, Rein:.	October 16, 1984.

State/location	Community No.	Effective date of eligibility	Current effective map date
Michigan: Chesaning, village of, Saginaw County	260591	September 20, 1982, Reg: October 16, 1997, Susp: May 11, 1998, Rein:.	October 16, 1997.
Regular Program Conversions			
Region III			
Pennsylvania: Kennett Square, borough of, Chester County.	420280	May 4, 1998, Suspension Withdrawn	May 4, 1998.
Region I			
Connecticut: New Britain, city of, Hartford County	090032	May 18, 1998, Supension Withdrawn	May 18, 1998.
Maine: Alfred, town of, York County	230191	......do	Do.
New Hampshire: Bristol, town of, Grafton County	330047	......do	Do.
Region II			
New York: South Bristol, town of, Ontario County	360606	......do	Do.
Region IV			
Mississippi: Laurel, city of, Jones County	280092	......do	Do.
North Carolina: High Point, city of, Davidson, Guilford, Randolph Counties.	370113	......do	Do.
Tennessee:			
Eagleville, city of, Rutherford County	470166	......do	Do.
La Vergne, city of, Rutherford County	470167	......do	Do.
Rutherford County, unincorporated areas	470165	......do	Do.
Region V			
Michigan: Grosse Point, city of, Wayne County	260230	......do	Do.

[1] The City of Bulverde North has adopted the Comal County (CID) #485463) Flood Insurance Rate Map dated July 17, 1995.

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Rein.—Reinstatement; Susp.—Suspension; With.—Withdrawn; NSFHA—Non Special Flood Hazard Area.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Issued: July 2, 1998.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 98–18721 Filed 7–13–98; 8:45 am]

BILLING CODE 6718-05-P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Modified base (1% annual chance) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified base flood elevations are indicated on the following table and revise the Flood Insurance Rate Map(s) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–3461.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below of the final determinations of modified base flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Associate Director has resolved any appeals resulting from this notification.

The modified base flood elevations are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

These modified elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No

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environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director for Mitigation certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Arkansas: Washington (FEMA Docket No. 7240).	City of Springdale	January 9, 1998, January 16, 1998, *The Morning News*.	The Honorable Charles McKinney, Mayor, City of Springdale, Administration Building, 201 Spring Street, Springdale, Arkansas 72764.	December 11, 1997.	050219
California: Contra Costa (FEMA Docket No. 7240).	City of Antioch	January 21, 1998, January 28, 1998, *Antioch Ledger Dispatch*.	The Honorable Mary Rocha, Mayor, City of Antioch, P.O. Box 5007, Antioch, California 94531–5007.	December 17, 1997.	060026
California: San Bernardino (FEMA Docket No. 7240).	City of Ontario	January 14, 1998, January 21, 1998, *Inland Valley Daily Bulletin*.	The Honorable James Fatland, Mayor, City of Ontario, 303 East B Street, Ontario, California 91764.	November 20, 1997.	060278
California: Los Angeles (FEMA Docket No. 7240).	City of Redondo Beach.	January 15, 1998, January 22, 1998, *Redondo Reflex/South Bay Extra*.	The Honorable Gregory C. Hill, Mayor, City of Redondo Beach, 415 Diamond Street, Redondo Beach, California 90277.	December 15, 1997.	060150
California: Shasta (FEMA Docket No. 7240).	City of Redding ...	January 15, 1998, January 22, 1998, *Record Searchlight*.	The Honorable Patricia Anderson, Mayor, City of Redding, 760 Parkview Avenue, Redding, California 96001.	April 22, 1998	060360
California: Santa Clara (FEMA Docket No. 7240).	City of San Jose ..	January 16, 1998, January 23, 1998, *San Jose Mercury News*.	The Honorable Susan Hammer, Mayor, City of San Jose, 801 North First Street, Room 600, San Jose, California 95110.	December 4, 1997	060349
California: Santa Barbara (FEMA Docket No. 7240).	Unincorporated Areas.	January 23, 1998, January 30, 1998, *Santa Barbara News-Press*.	The Honorable Naomi Schwartz, Chairperson, Santa Barbara County Board of Supervisors, 105 West Anapamu Street, Santa Barbara, California 93101.	January 7, 1998 ..	060331
California: Santa Clara (FEMA Docket No. 7240).	Unincorporated Areas.	January 16, 1998, January 23, 1998, *San Jose Mercury News*.	The Honorable James T. Beall, Jr., Chairman, Santa Clara County, Board of Supervisors, 70 West Hedding Street, East Wing, Tenth Floor, San Jose, California 95110.	December 4, 1997	060337
California: Los Angeles (FEMA Docket No. 7240).	City of Torrance ..	January 15, 1998, January 22, 1998, *Daily Breeze*.	The Honorable Dee Hardison, Mayor, City of Torrance, 3031 Torrance Boulevard, Torrance, California 90503.	December 15, 1997.	060165
Nevada: Clark (FEMA Docket No. 7240).	City of North Las Vegas.	January 8, 1998, January 15, 1998, *Las Vegas Review Journal*.	The Honorable Michael Montandon, Mayor, City of North Las Vegas, P.O. Box 4086, North Las Vegas, Nevada 89036.	November 20, 1997.	320007
New Mexico: Bernalillo (FEMA Docket No. 7240).	City of Albuquerque.	January 13, 1998, January 20, 1998, *Albuquerque Journal*.	The Honorable Jim Baca, Mayor, City of Albuquerque, P.O. Box 1293, Albuquerque, New Mexico 87103–1293.	November 24, 1997.	350002

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State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
New Mexico: Bernalillo (FEMA Docket No. 7240).	Unincorporated Areas.	January 23, 1998, January 30, 1998, *Albuquerque Journal*.	The Honorable Tom Rutherford, Chairman, Bernalillo County Board of Commissioners, 2400 Broadway Southeast, Albuquerque, New Mexico 87102.	December 22, 1997.	350001
Oklahoma: Oklahoma (FEMA Docket No. 7240).	City of Edmond ...	January 15, 1998, January 22, 1998, *The Edmond Evening Sun*.	The Honorable Bob Rudkin, Mayor, City of Edmond, P.O. Box 202, Edmond, Oklahoma 73083.	December 2, 1997	400252
Oregon: Lincoln (FEMA Docket No. 7240).	Unincorporated Areas.	January 7, 1998, January 14, 1998, *News Guard*.	The Honorable Don Lindly, Chairman, Lincoln County Board of Commissioners, 225 West Olive, Room 110, Newport, Oregon 97365.	December 10, 1997.	410129
Texas: Johnson (FEMA Docket No. 7240).	City of Burleson ...	January 14, 1998, January 21, 1998, *Burleson Star*.	The Honorable Rick Roper, Mayor, City of Burleson, City Hall, 141 West Renfro, Burleson, Texas 76028.	December 8, 1997	485459
Texas: Bexar (FEMA Docket No. 7240).	City of Castle Hills	January 8, 1998, January 15, 1998, *San Antonio Express News*.	The Honorable Marty Rubin, Mayor, City of Castle Hills, 6915 West Avenue, San Antonio, Texas 78213.	December 2, 1997	480037
Texas: Montgomery (FEMA Docket No. 7240).	City of Conroe	January 23, 1998, January 30, 1998, *Conroe Courier*.	The Honorable Carter Moore, Mayor, City of Conroe, P.O. Box 3066, Conroe, Texas 77305.	January 8, 1998 ..	480484
Texas: Tarrant, Dallas, and Ellis (FEMA Docket No. 7240).	City of Grand Prairie.	January 15, 1998, January 22, 1998, *Grand Prairie News*.	The Honorable Charles England, Mayor, City of Grand Prairie, P.O. Box 534045, Grand Prairie, Texas 75053–4045.	December 12, 1997.	485472
Texas: Tarrant (FEMA Docket No. 7240).	City of Grand Prairie.	January 22, 1998, January 29, 1998, *Grand Prairie News*.	The Honorable Charles England, Mayor, City of Grand Prairie, P.O. Box 534045, Grand Prairie, Texas 75053–4045.	December 30, 1997.	485472
Texas: Harris (FEMA Docket No. 7240).	Unincorporated Areas.	January 22, 1998, January 29, 1998, *Houston Chronicle*.	The Honorable Robert Eckels, Harris County Judge, 1001 Preston Street, Suite 911, Houston, Texas 77002.	January 9, 1998 ..	480287
Texas: Dallas (FEMA Docket No. 7240).	City of Irving	January 22, 1998, January 29, 1998, *Irving News*.	The Honorable Morris H. Parrish, Mayor, City of Irving, P.O. Box 152288, Irving, Texas 75015–2288.	January 9, 1998 ..	480180
Texas: Johnson (FEMA Docket No. 7240).	Unincorporated Areas.	January 14, 1998, January 21, 1998, *Burleson Star*.	The Honorable Roger Harmon, Johnson County Judge, Johnson County Courthouse, #2 Main Street, Cleburne, Texas 76031.	December 8, 1997	480879
Texas: Bexar (FEMA Docket No. 7240).	City of San Antonio.	January 13, 1998, January 20, 1998, *San Antonio Express-News*.	The Honorable Howard W. Peak, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, Texas 78283–3966.	April 20, 1998	480045
Texas: Bexar (FEMA Docket No. 7240).	City of San Antonio.	January 8, 1998, January 15, 1998, *San Antonio Express-News*.	The Honorable Howard W. Peak, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, Texas 78283–3966.	December 2, 1997	480045
Texas: Tarrant (FEMA Docket No. 7240).	City of Watauga ..	January 13, 1998, January 20, 1998, *Fort Worth Star-Telegram*.	The Honorable Hector Garcia, Mayor, City of Watauga, 7101 Whitley Road, Watauga, Texas 76148.	December 5, 1997	480613
Utah: Salt Lake (FEMA Docket No. 7240).	Unincorporated Areas.	January 14, 1998, January 21, 1998, *The Salt Lake Tribune*.	The Honorable Randy Horiuchi, Salt Lake County Commissioner, Salt Lake County, 2001 South State Street, Suite N2100, Salt Lake City, Utah 84190–1000.	December 17, 1997.	490102

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Dated: July 7, 1998.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 98–18722 Filed 7–13–98; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Base (1% annual chance) flood elevations and modified base flood elevations are made final for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that

each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each community. This date may be obtained by contacting the office where the FIRM is available for inspection as indicated in the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–3461.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes final determinations listed below of base flood elevations and modified base flood elevations for each community listed. The proposed base flood elevations and proposed modified base flood elevations were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed base flood elevations and proposed modified base flood elevations were also published in the **Federal Register**.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67.

FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR Part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community.

The base flood elevations and modified base flood elevations are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director for Mitigation certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is amended to read as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD).
ARKANSAS	
West Memphis (City), Crittenden County (FEMA Docket No. 7242)	
Fifteen Mile Bayou:	
Approximately 1.6 miles downstream of U.S. Highways 70 and 79	*209
At confluence with Ten Mile Bayou Diversion Ditch	*211
At Missouri Pacific Railroad	*212
Ten Mile Bayou Diversion Ditch:	
At confluence with Fifteen Mile Bayou	*211
Approximately 850 feet downstream of North Frontage Road	*214
At confluence with Ten Mile Bayou	*215
Ten Mile Bayou:	
At confluence with Ten Mile Bayou Diversion Ditch	*215
At Missouri Pacific Railroad	*215
Approximately 1 mile upstream of Missouri Pacific Railroad	*215
Maps are available for inspection at 205 South Redding, West Memphis, Arkansas.	
CALIFORNIA	
Firebaugh (City), Fresno and Madera Counties (FEMA Docket No. 7242)	
San Joaquin River:	
Approximately 2.1 miles downstream of 7 1/2 Avenue	*141
Approximately 1.9 miles upstream of 7 1/2 Avenue	*146
Maps are available for inspection at the City of Firebaugh City Hall, 1575 11th Street, Firebaugh, California.	
Fresno County (Unincorporated Areas) (FEMA Docket No. 7242)	
San Joaquin River:	
Approximately 5.6 miles downstream of confluence of Firebaugh Wasteway	*138
0.2 mile upstream of confluence of Firebaugh Wasteway with San Joaquin River	*147
Maps are available for inspection at the Fresno County Office, 2220 Tulare Street, Fresno, California.	
Madera County (Unincorporated Areas) (FEMA Docket No. 7242)	
San Joaquin River:	
Approximately 5.6 miles downstream of confluence of Firebaugh Wasteway	*138
Approximately 0.2 mile upstream of confluence of Firebaugh Wasteway with San Joaquin River	*147
Maps are available for inspection at the Madera County Engineering Department, 135 West Yosemite Avenue, Madera, California.	
Winters (City), Yolo County (FEMA Docket No. 7242)	
Dry Creek:	
Approximately 1,900 feet downstream of private road (wooden bridge)	*121

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Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD).
Approximately 450 feet downstream of private road (wooden bridge)	*121
Approximately 5,010 feet (0.95 mile) upstream of State Highway 128	*150
Maps are available for inspection at the City of Winters Department of Public Works, 318 First Street, Winters, California.	
IOWA	
Warren County (and Incorporated Areas) (FEMA Docket No. 7242)	
North River:	
Approximately 1,000 feet downstream of Chicago, Rock Island and Pacific Railroad	+780
Approximately 1,400 feet upstream of 33rd Avenue	+832
Plug Run:	
Approximately 500 feet downstream of Summerset Road	+796
Approximately 3,700 feet upstream of Chicago, Rock Island and Pacific Railroad	+845
Unnamed Tributary No. 1:	
Approximately 160 feet downstream of 165th Place	+782
Approximately 400 feet downstream of South Fifth Street	+802
Unnamed Tributary No. 2:	
Approximately 800 feet downstream of Chicago, Rock Island and Pacific Railroad	+780
Approximately 1,300 feet upstream of South Fifth Street	+800
Middle Creek:	
Approximately 1,900 feet downstream of 50th Avenue	+859
Just upstream of 20th Avenue	+948
Cavitt Creek:	
Approximately 1,200 feet downstream of Grimes Street	+802
Just upstream of West Iowa Avenue	+868
Maps are available for inspection at the Warren County Courthouse Annex, 217 West Salem, Indianola, Iowa.	
Maps are available for inspection at the City of Carlisle City Hall, 195 North First Street, Carlisle, Iowa.	
Maps are available for inspection at the City of Norwalk City Hall, 705 North Avenue, Norwalk, Iowa.	
Maps are available for inspection at the City of Indianola City Hall, 110 North First Street, Indianola, Iowa.	
Maps are available for inspection at the City of Ackworth City Hall, 104 Main Street, Ackworth, Iowa.	
Maps are available for inspection at the City of Cumming City Hall, 607 Station Street, Cumming, Iowa.	
LOUISIANA	
Acadia Parish (Unincorporated Areas) (FEMA Docket No. 7242)	
Bayou Queue de Tortue:	
Approximately 2,400 feet downstream of State Route 719	*27
Approximately 50 feet downstream of State Route 719	*28
Maps are available for inspection at 568 Court Circle, Crowley, Louisiana.	
Ville Platte (Town), Evangeline Parish (FEMA Docket No. 7238)	
Tributary No. 1:	
Approximately 5,000 feet above confluence with Bayou Joe Marcel (at the downstream corporate limit)	*65
Approximately 7,000 feet above confluence with Bayou Joe Marcel	*67
Tributary No. 2:	
Approximately 900 feet above confluence with Bayou Joe Marcel	*64
Approximately 400 feet upstream of Reed Street	*73
Tributary No. 3:	
Approximately 500 feet above confluence with Bayou Joe Marcel	*65
Approximately 100 feet downstream of Northeast Avenue	*74
Coulee de Manuel:	
Approximately 70 feet downstream of the Louisiana Highway 10 bridge	*66
Approximately 170 feet upstream of the Louisiana Highway 10 bridge	*68
Maps are available for inspection at 342 West Main Street, Ville Platte, Louisiana.	
NEVADA	
Lyon County (Unincorporated Areas) (FEMA Docket No. 7242)	
Overflow Area North of Truckee Canal:	
Approximately 100 feet downstream of Southern Pacific Railroad	*4,133
Approximately 6,350 feet upstream of Main Street	*4,193
Overflow Area North of Truckee Canal (Unnamed Ditch):	
At confluence with Overflow Area North of Truckee Canal	*4,158
Approximately 5,020 feet upstream of confluence with Overflow Area North of Truckee Canal	*4,193
Maps are available for inspection at Lyon County Community Development, 16 South Center Street, Yerington, Nevada.	
TEXAS	
Ector County (and Incorporated Areas) (FEMA Docket No. 7242)	
Monahans Draw:	
Approximately 6,200 feet downstream of Grandview Road	*2,834
Approximately 100 feet downstream of Crane Avenue	*2,876
At intersection of Tripp Avenue and 23rd Street	*2,940
Approximately 50 feet upstream of State Route 866	*3,042
Monahans Draw Tributary 1:	
At confluence with Monahans Draw	*2,930
Just downstream of Cypress Road	*2,963
Monahans Draw Tributary 2:	
At confluence with Monahans Draw Tributary 2	*2,977
Approximately 350 feet upstream of Damascus Drive	*2,985
Approximately 300 feet upstream of Westcliff Drive	*3,000
Approximately 3,500 feet upstream of Westcliff Drive, just downstream of an unnamed road	*3,015
Muskingum Draw:	
At confluence with Monahans Draw	*2,868
At 57th Street	*2,942
Just upstream of Loop 338, located just upstream of Sprague Avenue	*2,967
Muskingum Draw-South Tributary:	
At confluence with Muskingum Draw	*2,955
At divergence from Muskingum Draw at Sprague Avenue	*2,963
Muskingum Draw-South Overflow Channel:	
At Stoner Road	*2,960
West Side Drainage Channel:	
At confluence with Monahans Draw	*2,896
Just upstream of Park Boulevard	*2,905
Approximately 200 feet upstream of Santa Monica Drive	*2,914
Stream WSDC–D:	
At intersection of Third and Edison Streets	*2,896
At Harless Avenue near the intersection of West 13th Street	*2,906
Stream WSDC–DD:	
At intersection of Third Street and Kelly Avenue	*2,895
Just east of West County Road near its intersection with Park Boulevard	*2,901
East Side Channel:	
At confluence with Far East Channel	*2,855
Approximately 500 feet upstream of U.S. 80 Frontage Road	*2,888

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD).
Just downstream of Custer Avenue	2,910
East Side Channel Split Flow:	
Approximately 800 feet upstream of confluence with East Side Channel	*2,888
Approximately 600 feet upstream of Pueblo Avenue	*2,905
Stream ESC–1:	
At confluence with East Side Channel	*2,888
Approximately 780 feet upstream of Pagewood Avenue	*2,895
Far East Channel:	
Approximately 670 feet upstream of confluence of East Side Channel	*2,856
Approximately 1,000 feet upstream of U.S. 80 Frontage Road	*2,878
Approximately 150 feet upstream of Maple Avenue	*2,906
Stream FEC–1:	
At confluence with Far East Channel	*2,887
Approximately 300 feet downstream of 42nd Street (or 2,800 feet upstream of confluence with Far East Channel)	*2,899
Stream FEC–1A:	
At confluence with Stream FEC–1	*2,892
At divergence from Far East Channel	*2,905
Stream FEC–S:	
At confluence with Far East Channel	*2,900
At divergence from Stream FEC–1A	*2,903
Maps are available for inspection at the Public Works Department, County Annex Building, 1010 East Eighth Street, Odessa, Texas.	
Maps are available for inspection at the City of Odessa City Hall, 411 West Eighth, Odessa, Texas.	
Gonzales County (Unincorporated Areas) (FEMA Docket No. 7242)	
San Marcos River:	
Approximately 1,600 feet downstream of the confluence of Plum Creek at the County boundary	*340
Approximately 200 feet upstream of U.S. Highway 10 at the County boundary	*356
Maps are available for inspection at the Gonzales County Courthouse, 1709 Sarah DeWitt Drive, Gonzales, Texas.	
Guadalupe County (Unincorporated Areas) (FEMA Docket No. 7242)	
San Marcos River:	
Approximately 175 feet upstream of U.S. Highway 10 at the easternmost County boundary	*355
Just upstream of U.S. Highway 90	*379
Just upstream of State Highway 671	*409
Just upstream of State Highway 20	*442
At Farm Market Road 1977	*485
Approximately 1.9 miles upstream of Access Road at the northernmost County boundary	*551
Maps are available for inspection at 415 East Donegan, Seguin, Texas.	
Henderson County (and Incorporated Areas) (FEMA Docket No. 7242)	
Cedar Creek Lake:	
Along shoreline of Cedar Creek Lake	*323
Maps are available for inspection at the City of Payne Springs Community Center, Highway 198, Payne Springs, Texas.	
Maps are available for inspection at the City of Tool City Hall, Highway 274, Tool, Texas.	
Maps are available for inspection at the City of Log Cabin City Hall, 14387 Alamo Road, Log Cabin, Texas.	
Maps are available for inspection at the City of Caney City City Hall, 15241 Barron Road, Caney City, Texas.	
Maps are available for inspection at the City of Seven Points City Hall, Highway 85, Seven Points, Texas.	
Maps are available for inspection at the City of Star Harbor City Hall, 99 Sunset Street, Malakoff, Texas.	
Maps are available for inspection at the Town of Enchanted Oaks Town Hall, 111 Deerwood, Mabank, Texas.	
Maps are available for inspection at the City of Gun Barrel City City Hall, 1810 West Main, Gun Barrel City, Texas.	
Maps are available for inspection at 102 East Tyler Avenue, Athens, Texas.	
Hunt County (and Incorporated Areas) (FEMA Docket No. 7218)	
Farber Creek:	
Just downstream of FM 1903	*488
Just upstream of southwestbound Interstate Highway 30	*513
Approximately 200 feet upstream of Shelby Avenue	*549
Approximately 2,750 feet upstream of Shelby Avenue	*560
Long Branch Creek:	
Approximately 3,550 feet above mouth	*498
Approximately 6,200 feet above mouth	*504
Approximately 100 feet upstream of Stonewall Street	*523
Just upstream of State Highways 66 and 315 and U.S. Highway 69	*560
Mullaney Creek:	
Approximately 1,600 feet above mouth	*498
At City of Greenville corporate limits	*507
Just upstream of Tracy Street	*546
Mustang Branch:	
Approximately 1,300 feet downstream of FM 1570	*505
Approximately 6,750 feet upstream of County Road 2126	*533
Turtle Creek:	
At confluence with Long Branch Creek	*508
Approximately 400 feet upstream of Moulton Street	*518
Approximately 150 feet downstream of Dent Road	*529
Maps are available for inspection at the Hunt County Courthouse, 2500 Lee Street, Greenville, Texas.	
Maps are available for inspection at the City of Greenville Public Works Department, 2315 Johnson Street, Greenville, Texas.	
Victoria County (Unincorporated Areas) (FEMA Docket No. 7242)	
Coleto Creek:	
Just upstream of FM 466	*66
Approximately 1.1 miles upstream of Southern Pacific Railroad	*66
Whispering Creek:	
Approximately 830 feet upstream of John Stockbauer Drive	*111
Approximately 3,600 feet upstream of Loop 463	*118
Maps are available for inspection at the Victoria County Floodplain Administration, 2805A North Navarro, Victoria, Texas.	

(Catalog of Federal Domestic Assistance No. 83.100, Flood Insurance)

Dated: July 7, 1998.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 98–18723 Filed 7–13–98; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MM Docket No. 92–264; FCC 98–138]

Horizontal Ownership Limits

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In the *Second Memorandum Opinion and Order on Reconsideration* (*Second Order on Reconsideration*), the Commission maintains the current 30% cable television horizontal ownership limit and generally denies the motion to lift the voluntary stay on enforcement of that limit. However, the Commission lifts the stay and announces the effective date for information reporting requirements. A companion *Further Notice of Proposed Rulemaking* seeks comment on possible revisions of the horizontal ownership rules and the method by which horizontal ownership is calculated.

DATES: Section 76.503(c) published at 58 FR 60141 (November 15, 1993) is effective August 13, 1998.

FOR FURTHER INFORMATION CONTACT: John Norton, Cable Services Bureau, (202) 418–7200.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Second Order on Reconsideration*, MM Docket No. 98–138, adopted June 23, 1998, and released June 26, 1998. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. 20554, and may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 1231 20th Street, NW, Washington, D.C. 20036.

Synopsis of the Second Order on Reconsideration

1. This *Second Order on Reconsideration* addresses petitions for reconsideration of the Second Report and Order in MM Docket No. 92–264, 58 FR 60135, November 15, 1993 ("*Second Report and Order*"). Among other things, the *Second Report and Order* promulgated rules pursuant to section 613 of the Communications Act (47 U.S.C. § 533(f)(1)(A)), which requires the Commission to "prescribe rules and regulations establishing reasonable limits on the number of cable subscribers a person is authorized to reach through cable systems owned by such a person, or in which such a person has an attributable interest" ("horizontal ownership rules"). Section 613(f)(2) directs that, in addition to other public interest concerns, the Commission must consider and balance seven particular public interest objectives in establishing the horizontal ownership rules: (1) To ensure that no cable operator or group of cable operators can unfairly impede the flow of video programming from the programmer to the consumer; (2) to ensure that cable operators do not favor affiliated video programmers in determining carriage and do not unreasonably restrict the flow of video programming of affiliated video programmers to other video distributors; (3) to take account of the market structure, ownership patterns, and other relationships of the cable industry, including the market power of the local franchise, joint ownership of cable systems and video programmers, and the various types of non-equity controlling interests; (4) to take into account any efficiencies and other benefits that might be gained through increased ownership or control; (5) to make rules and regulations that reflect the dynamic nature of the communications marketplace; (6) to impose no limitations that prevent cable operators from serving previously unserved rural areas; and (7) to impose no limitations that will impair the development of diverse and high quality programming. The Commission's horizontal ownership rules established in the *Second Report and Order* provide that "no person or entity shall be permitted to reach more than 30% of all homes passed nationwide through cable systems owned by such person or entity or in which such person or entity holds an attributable interest."

2. In the *Second Report and Order*, the Commission voluntarily stayed the effective date of the horizontal ownership rules pending final judicial resolution of the District Court decision in *Daniels Cablevision, Inc.* v. *United States* (835 F. Supp. 1, 10 (D.D.C. 1993), aff'd in part, rev'd in part, *Time Warner Entertainment Co., L.P.* v. *FCC*, 93 F.3d 957 (D.C. Cir. 1996)) which held that the underlying statute violates the First Amendment. The *Daniels* court stayed further court proceedings, including determination and imposition of relief for the plaintiffs, pending appeal. On December 15, 1993, petitions for reconsideration of the stayed rules and a motion to lift the administrative stay were filed with the Commission. The following month, the stayed rules were challenged in *Time arner Entertainment Co., L.P.* v. *FCC* (No. 94–1035 (D.C. Cir. 1994)). In August 1996, the D.C. Circuit Court consolidated the *Daniels* appeal regarding the facial validity of the statute and the *Time Warner* challenge to the Commission's rules, and determined to hold court proceedings in abeyance while the Commission reconsidered the horizontal ownership rules (*Time Warner Entertainment Co., L.P.* v. *FCC*, 93 F.3d 957, 979–80 (D.C. Cir. 1996)).

3. The *Second Order on Reconsideration* disposes of both the reconsideration petitions, which seek to lower the 30% horizontal ownership limit and revise the calculation factors, and the motion to lift the voluntary stay on enforcement of the horizontal ownership rules. In the *Second Order on Reconsideration*, the Commission maintains the current 30% horizontal ownership limit and denied the motion to lift the voluntary stay on enforcement of that limit. We note that, while the most established programmers can obtain favorable terms from even large cable multiple system operators ("MSOs"), the cable horizontal ownership rules remain necessary to prevent MSOs from exercising market power against new, independent, and less prominent programmers. In order to facilitate monitoring of cable ownership interests, the Commission lifts the voluntary stay insofar as it applies to the information reporting requirements of 47 CFR 76.503(c). Prior to acquiring attributable interests in any additional cable systems, a person holding an attributable interest in cable systems reaching 20% or more of homes passed nationwide by cable will be required to notify the Commission of the incremental change the acquisition makes in terms of the 30% of homes passed standard, i.e. specifying the ownership in terms of homes passed before and after the acquisition is complete.

4. The arguments raised against the Commission's 30% limit fall into five broad categories—consideration of diversity issues; alteration of the status quo; divestiture by Tele-Communications, Inc. ("TCI"); current levels of horizontal concentration; and impact of other statutes and rules.

5. With respect to diversity of ownership, the *Second Report and Order* finds that the 30% horizontal ownership limit provides considerable protection for diversity concerns. As required by section 613, the Commission balances those diversity concerns with many other public interest factors, some of which support the growth of cable MSOs. In the *Second Order on Reconsideration*, the Commission finds that it properly

concluded that a 30% limit is generally appropriate to prevent the largest MSOs from gaining excessive leverage, and also ensures that the majority of MSOs continue to expand and obtain the economies of scale necessary to encourage investment in new video programming services and the deployment of advanced cable technologies.

6. In addition, petitioners contended that Congress sought to change the status quo in the 1992 Cable Act because existing levels of horizontal concentration were too high, and that the 30% horizontal ownership limit is too high because it does not alter the status quo. In the *Second Order on Reconsideration,* the Commission finds that the statute does not direct the Commission to alter the status quo by ordering divestiture by any cable MSO. Instead, Congress required that the Commission set "reasonable limits" and left the parameters of what "reasonable limits" would be to Commission discretion. The statute and the legislative history make clear that the Commission was not required to alter current industry structure, but to consider the potential public interest concerns associated with the industry structure. In the *Second Order on Reconsideration,* the Commission finds that it fully considered such interests.

7. Petitioners also asserted that the *Second Report and Order* was too concerned about avoiding divestiture by TCI and was not focused on consumer welfare. In the *Second Order on Reconsideration,* the Commission finds that inquiry into the impact divestiture would have upon subscribers, programmers and industry investment are legitimate public interest objectives that the Commission is entitled to consider. We also noted that, in both *First Report and Further Notice* and the *Second Report and Order,* the Commission considered arguments for low limits that would require divestiture. The Commission expressly confronted the divestiture issue and determined that, in the absence of definitive evidence that existing levels of ownership are sufficient to impede the entry of new video programmers or have an adverse effect on diversity, existing arrangements should not be disrupted. In the *Second Order on Reconsideration,* we find that the Commission properly considered whether the substantial structural change that divestiture would entail was warranted. The Commission based its final decision in the *Second Report and Order* not solely on a determination to avoid divestiture, as petitioners suggested, but, more importantly, upon the public interest requirements of section 613.

8. With respect to current levels of horizontal concentration, petitioners asserted that the *Second Report and Order* did not sufficiently address the evidence that existing levels of horizontal concentration are too high and that TCI, the largest MSO, already uses its market power to disadvantage competing program services. All other cable operators filing comments strenuously opposed the argument that current levels of horizontal concentration are "too high" and cited the benefits of horizontal concentration, including MSOs' ability to achieve economies of scale in research and development of transmission and distribution technology, savings in administrative costs such as billing operations, advertising, marketing, and management, and reduction in the costs of negotiating with programmers.

9. The Commission found in the *Second Report and Order* that 30% was an appropriate horizontal ownership limit "in the absence of definitive evidence that existing levels of ownership are sufficient to impede the entry of new video programmers or have an adverse affect on diversity . . ." The *Second Report and Order* concluded that a 30% limit was "appropriate to prevent the nation's largest MSOs from gaining enhanced leverage from increased horizontal concentration," and is "reasonable to prevent the types of anti-competitive conduct which concerned Congress, particularly when coupled with the behavioral restrictions contained in [the program access and program carriage provisions] * * *." In the *Second Order on Reconsideration,* the Commission finds that no one has proffered any new evidence that requires the Commission to alter this finding, and that the 30% limit complies with the intent of Congress and satisfies the criteria specified in section 613.

10. In the *Second Order on Reconsideration,* the Commission finds that the 30% limit adequately constrains the extent to which either a large cable MSO acting unilaterally or a group of cable MSOs acting in concert could exercise market power in the purchase of programming to reduce the diversity of programming or to coerce nonaffiliated programmers into denying programming to alternative MVPDs. In addition, the 30% ceiling limits the extent to which large cable MSOs can merge and result in one or two MSOs controlling local cable markets nationwide, thereby helping to preserve opportunities for entry by overbuilders or other MVPDs and reduce the likelihood that large MSOs can coordinate their behavior by mutually forbearing from overbuilding each other's service territories. The Commission found that the 30% limit also reduces the likelihood of coordinated activity between large cable MSOs in areas such as program purchasing and equipment purchasing. Accordingly, in the *Second Order on Reconsideration,* the Commission finds that the 30% limit simultaneously guards against the potential anticompetitive effects of horizontal concentration and allows cable MSOs to realize the benefits of clustering in order to gain efficiencies related to economies of scale and scope in administration, deployment of new technologies and services, extension into previously unserved territories, etc.

11. In the *Second Order on Reconsideration,* the Commission also concludes that the gradual but continuous growth and expansion in both cable-affiliated and independent programming sources and programming networks over the past several years tends to suggest that current levels of horizontal concentration have not significantly hampered new video programmers' entry, and that the Commission's 30% limit properly struck a reasonable balance between concentration and diversity concerns.

12. With respect to the impact of other statutory provisions and rules, one petitioner argued that the Commission's reliance in the *Second Report and Order* upon existing statutes and regulations to support the 30% ownership limit was improper. In the *Second Order on Reconsideration,* the Commission finds that the *Second Report and Order* properly considered the impact of other statutes and regulations, given the requirements of Section 613 that the Commission examine the marketplace as it currently operates. The Commission finds that statutes and rules such as the program access, program carriage, channel occupancy limits, and must-carry requirements all affect the way the cable television industry currently operates and have a profound effect on current industry structure and performance. In the *Second Order on Reconsideration,* the Commission finds that, because these provisions have real and substantive impact upon the market, the Commission properly considered the impact of these provisions in alleviating some of the public interest and anticompetitive concerns about horizontal concentration.

13. In addition to requesting the lowering of the 30% ownership limit, petitioners proposed that the

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Commission revise the calculation factors. One petitioner argued that the 30% limit should include households served by a telephone company that is affiliated with an MSO. In the *Second Order on Reconsideration*, the Commission finds that, where the use of a telephone company's lines is limited to the provision of local exchange services, the telephone company does not operate as a "cable system" and its telephone subscribers should not be counted toward the number of subscribers served by an MSO affiliated with the telephone company. Likewise, the Commission states that the cable horizontal ownership limit does not apply to subscribers of a telephone company that offers multichannel video programming distribution service solely through means other than a "cable system." However, the *Second Order on Reconsideration* emphasizes that telephone companies offering MVPD service through cable systems are subject to the cable horizontal ownership limits.

14. One petitioner argued that homes in franchise areas facing "effective competition" should not be included in calculating the 30% limit because horizontal ownership limits are only required to combat the local monopoly and "gatekeeper" power of cable systems, so that the justification for these limits disappear where local distribution markets are competitive. Rejecting this argument in the *Second Order on Reconsideration*, the Commission finds that, had Congress intended to eliminate all cable regulations where the "effective competition" standard applicable to rate deregulation is satisfied, the "effective competition" exemption would have been drawn much more broadly. The Commission observes that the "effective competition" standard determines when there is sufficient local competition to prevent an incumbent cable operator from exercising market power in setting local rates for cable services sold to local subscribers. In contrast, the horizontal ownership limit was designed to ensure that no cable MSO acquires a sufficiently large share of subscribers nationwide to exercise undue market power at the national level in its purchase of programming from networks, which generally sell their programming nationwide. The *Second Order on Reconsideration* concludes that the "effective competition" exemption is expressly limited to cable rate regulation and is not sufficient to address all the concerns expressed by Congress in enacting Section 613.

15. In the *Second Order on Reconsideration*, a petitioner also requested that the Commission tighten its attribution rules by eliminating the single majority shareholder exception, which provides that minority interests will not be attributed where a single shareholder owns more than 50% of the outstanding voting stock. The petitioner argued that this exception to the attribution rules is "unduly mechanistic" and ignores the minority shareholder's "ability to influence the actual operation of the property" even when a majority shareholder is present.

16. In the *Second Order on Reconsideration*, the Commission finds that there was not enough evidence in this docket to justify eliminating the single majority shareholder exception. The single majority shareholder provision of the rules is currently under review in the broadcast context in MM Docket Nos. 94–150, 92–51 and 87–154. In that proceeding, the Commission sought comment on the nature of "influence" and "control" and the connection between equity ownership and such influence and control. The Commission is also issuing a *Notice of Proposed Rulemaking* seeking comment on whether and how the cable attribution rules, including the single majority shareholder exception, should be revised. In the *Second Order on Reconsideration*, the Commission notes that its determination regarding the cable attribution rules applies to both the horizontal ownership rules and channel occupancy limits.

17. A motion also was filed with the Commission to lift the Commission's voluntary stay on enforcement of the cable horizontal ownership rules. In the *Second Report and Order*, the Commission had voluntarily stayed the effective date of these rules pending final judicial resolution of the District Court decision in *Daniels* that the underlying statute violates the First Amendment. While the *Daniels* Court had stayed further District Court proceedings pending interlocutory appeal of its judgment, it had not enjoined the Commission from adopting and enforcing horizontal ownership rules under the statute. In August 1996, the D.C. Circuit Court consolidated the *Daniels* appeal regarding the facial validity of the statute and the *Time Warner* challenge to the Commission's rules, and determined to hold court proceedings in abeyance while the Commission reconsidered the horizontal rules.

18. In the *Second Order on Reconsideration*, the Commission retains the voluntary stay of the 30% horizontal ownership limit at this time, in light of the continuing pendency of the judicial proceedings relating to the underlying provision. In order to facilitate monitoring of MSOs' ownership interests, the Commission lifts the stay insofar as it applies to the information submission provisions of 47 CFR 76.503(c) that are applicable when any person or entity holding an attributable interest in cable systems reaching 20% or more of homes passed nationwide acquires additional cable systems. The existing rules require a certification that no violation of the 30% limit will occur as a result of such acquisition. In the *Second Order on Reconsideration*, the Commission finds that, in light of the continuation of the stay, the certification should only specify the incremental change the acquisition makes in terms of the 30% of household passed standard, i.e. specifying the ownership in terms of homes passed before and after the acquisition is complete. The *Second Order on Reconsideration* also states that affected parties will be required to come into compliance with the horizontal ownership rules within 60 days of the appellate court's issue of a mandate upholding section 613(f)(1)(a) and the rules, unless the Commission determines as part of this ongoing proceeding to lift the stay at an earlier date. Interested parties, including in particular parties that are now entering into business arrangements that would violate the rules but for the existence of the stay, should be well aware of the existence of the rules and thus have a full opportunity to be prepared to comply with them.

Ordering Clauses

19. Accordingly, it is ordered that the petitions for reconsideration filed in this proceeding are denied.

20. It is further ordered that the Motion to Lift Stay filed December 15, 1993 by the Center for Media Education and Consumer Federation of America is granted as to the Commission's voluntary stay on enforcement of 47 CFR 76.503(c), and is denied as to the Commission's voluntary stay on enforcement of 47 CFR 76.503(a), (b), (d), (e) and (f).

List of Subjects in 47 CFR Part 76

Cable television.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–18037 Filed 7–13–98; 8:45 am]

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Proposed Rules

Federal Register

Vol. 63, No. 134

Tuesday, July 14, 1998

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–152–AD]

RIN 2120–AA64

Airworthiness Directives; British Aerospace (Jetstream) Model 4101 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain British Aerospace (Jetstream) Model 4101 airplanes, that currently requires an inspection to determine the data on the label of certain hose assemblies, and replacement of all hose assemblies from any discrepant batch with certain new hose assemblies. That AD was prompted by a report of the failure of a hose assembly in the fire extinguisher system of the engine nacelle due to cracks, caused during manufacture of the hose assemblies, in the swaged ferrule that attaches the hose to the end fitting. The actions specified by that AD are intended to ensure that such discrepant hose assemblies are replaced. Discrepant hose assemblies could fail and consequently prevent the proper distribution of fire extinguishing agent within the engine nacelle in the event of a fire. This action would require a one-time inspection for different data on the label of certain hose assemblies, and replacement of all hose assemblies from any discrepant batch with certain new hose assemblies. This action also would add airplanes to the applicability of the existing AD.

DATES: Comments must be received by August 13, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–152–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from AI(R) American Support , Inc., 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule.

The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–NM–152–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–152–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On July 9, 1997, the FAA issued AD 97–15–05, amendment 39–10078 (62 FR 38015, July 16, 1997), applicable to certain British Aerospace (Jetstream) Model 4101 airplanes, to require an inspection to determine the data on the label of certain hose assemblies, and replacement of all hose assemblies from any discrepant batch with certain new hose assemblies. That action was prompted by a report of the failure of a hose assembly in the fire extinguisher system of the engine nacelle on several in-service airplanes. Investigation revealed that the cause of such a failure was attributed to cracks in the swaged ferrule that attaches the hose to the end fitting. These cracks were apparently caused during the manufacture of two batches of hose assemblies. The labels of the failed hoses specified the following information: British Aerospace Regional Aircraft (BARA) part number 14191001–56 Issue F, the hose manufacturer (ICORE) part number YA006769 Issue 2, and batch number 9308–W038912 or batch number 9311–W040935. The requirements of that AD are intended to ensure that all hoses from the two discrepant batches are replaced. Discrepant hose assemblies could fail and consequently prevent the proper distribution of fire extinguishing agent within the engine nacelle in the event of a fire.

Actions Since Issuance of Previous Rule

Since issuance of that AD, the FAA has received another report of failure of a hose assembly in the fire extinguisher system of the engine nacelle on an in-service airplane. Although the label of that discrepant hose specified an ICORE part number and batch number identical to those of the previously described discrepant hoses, the BARA part number was specified as 14191001–56 Issue 3. Further investigation has revealed that BARA part number 14191001–56 may have any alpha or numeric issue identifier.

Therefore, the inspection required by AD 97–15–05 may have failed to

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identify all hose assemblies manufactured in the discrepant batches. In light of this, the FAA has determined that it is necessary to repeat the inspection required by AD 97–15–05 and look for different data on the labels of the hose assemblies.

Explanation of Relevant Service Information

The manufacturer has issued Jetstream Alert Service Bulletin J41–A26–007, Revision 1, dated May 21, 1997. The inspection and replacement procedures described in this alert service bulletin are essentially identical to those described in the original issue of the alert service bulletin, dated December 13, 1996 (which was referenced in AD 97–15–05 as the appropriate source of service information). However, Revision 1 of the alert service bulletin clarifies the data on the label of the discrepant batches of hose assemblies to enable operators to correctly identify the discrepant parts. In addition, this revision to the alert service bulletin adds four airplanes that also are subject to the addressed unsafe condition. Accomplishment of the actions specified in the alert service bulletin is intended to adequately address the identified unsafe condition. The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, classified this alert service bulletin as mandatory in order to assure the continued airworthiness of these airplanes in the United Kingdom.

FAA's Conclusions

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 97–15–05 to require a one-time inspection to determine the data on the label of certain hose assemblies, and replacement of all hose assemblies from any discrepant batch with certain new hose assemblies. The proposed AD also would add airplanes to the applicability of the existing AD. The actions would be required to be accomplished in accordance with the alert service bulletin described previously.

Cost Impact

There are approximately 57 airplanes of U.S. registry that would be affected by this proposed AD.

The new inspection that is proposed in this AD would take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators is estimated to be $3,420, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the current or proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–10078 (62 FR 38015, July 16, 1997), and by adding a new airworthiness directive (AD), to read as follows:

British Aerospace Regional Aircraft [Formerly Jetstream Aircraft Limited; British Aerospace (Commercial Aircraft) Limited]: Docket 98–NM–152–AD. Supersedes AD 97–15–05, Amendment 39–10078.

Applicability: Model Jetstream 4101 airplanes, constructors numbers 41004 through 41100 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of hose assemblies, which could prevent the proper distribution of fire extinguishing agent within the engine nacelle in the event of a fire, accomplish the following:

(a) Within 30 days after the effective date of this AD, perform a one-time detailed visual inspection to determine the data on the label of the two hose assemblies having part number 14191001–56, in accordance with Jetstream Alert Service Bulletin J41–A26–007, Revision 1, dated May 21, 1997.

(1) If the data on any hose assembly are not identical to the data shown on either Label 1 or Label 2 of Figure 2 of the Accomplishment Instructions of the alert service bulletin, no further action is required by this AD.

(2) If the data on any hose assembly are identical to the data shown on either Label 1 or Label 2 of Figure 2 of the Accomplishment Instructions of the alert service bulletin, prior to the accumulation of

60 flight hours following accomplishment of the inspection required by paragraph (a) of this AD, replace the hose assembly with a new hose assembly that has different data on the identification label, in accordance with the alert service bulletin.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM-116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM-116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM-116.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on July 7, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98-18646 Filed 7-13-98; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97-NM-144-AD]

RIN 2120-AA64

Airworthiness Directives; Saab Model SAAB 2000 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Saab Model SAAB 2000 series airplanes. This proposal would require replacing the radio tuning units (RTU's) and associated components with new, improved parts. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent NAV/COM radios from simultaneously changing tuned frequencies and transponder codes due to a black screen failure or "blanking" of an RTU, which could result in loss of communications capability and air traffic control data.

DATES: Comments must be received by August 13, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 97-NM-144-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Saab Aircraft AB, SAAB Aircraft Product Support, S-581.88, Linkping, Sweden. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2110; fax (425) 227-1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 97-NM-144-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 97-NM-144-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

The Luftfartsverket (LFV), which is the airworthiness authority for Sweden, notified the FAA that an unsafe condition may exist on certain Saab Model SAAB 2000 series airplanes. The LFV advises that, in the event of a "blanking" (black screen) failure of a single radio tuning unit (RTU), the NAV/COM radios may change tuned radio frequencies and transponder codes. Such frequency and transponder code changes may occur on both left and right NAV/COM radios simultaneously. This condition, if not corrected, could result in loss of communications capability and air traffic control data.

The manufacturer of the RTU's reported that this "blanking" failure of an RTU is a design problem that was discovered during an investigation of a service difficulty on another airplane model. The RTU's installed on certain Saab Model SAAB 2000 series airplanes are the same type as those on the other airplane model. Therefore, Saab Model SAAB 2000 series airplanes may be subject to the same unsafe condition.

Explanation of Relevant Service Information

The manufacturer has issued Saab Service Bulletin 2000-23-017, dated March 10, 1997, which describes procedures for replacing existing RTU's and associated components with new, improved parts. The improved RTU's are not susceptible to frequency or transponder code changes due to a "blanking" failure. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The LFV classified this service bulletin as mandatory and issued Swedish airworthiness directive SAD 1-109, dated March 12, 1997, in order to assure the continued airworthiness of these airplanes in Sweden.

FAA's Conclusions

This airplane model is manufactured in Sweden and is type certificated for operation in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LFV has kept the FAA informed of

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the situation described above. The FAA has examined the findings of the LFV, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 3 airplanes of U.S. registry would be affected by this proposed AD, and that it would take approximately 2 work hours per airplane to accomplish the proposed replacement, at an average labor rate of $60 per work hour. Required parts would be provided by the manufacturer of the RTU at no cost to operators. Based on these figures, the cost impact of the replacement proposed by this AD on U.S. operators is estimated to be $360, or $120 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a 'significant regulatory action' under Executive Order 12866; (2) is not a 'significant rule' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Saab Aircraft AB: Docket 97–NM–144–AD.

Applicability: Model SAAB 2000 series airplanes, as listed in Saab Service Bulletin 2000–23–017, dated March 10, 1997; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent NAV/COM radios from simultaneously changing tuned frequencies and transponder codes due to a black screen failure or "blanking" of a radio tuning unit (RTU), which could result in loss of communications capability and air traffic control data, accomplish the following:

(a) Within 1 year after the effective date of this AD, replace the existing RTU's and associated components with new, improved parts, in accordance with Saab Service Bulletin 2000–23–017, dated March 10, 1997.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in Swedish airworthiness directive SAD 1–109, dated March 12, 1997.

Issued in Renton, Washington, on July 7, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–18645 Filed 7–13–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 72 and 75

Diesel Particulate Matter Exposure of Underground Coal Miners

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Proposed rule; Notice of preliminary determination of no significant environmental impact; request for comments.

SUMMARY: This document announces the preliminary determination by the Mine Safety and Health Administration (MSHA) that the proposed rule establishing new health standards for underground coal mines that use diesel powered engines will have no significant environmental impact. MSHA is soliciting comments on its preliminary determination.

DATES: Submit written comments on or before August 10, 1998.

ADDRESSES: Comments may be transmitted by electronic mail, fax or mail. Comments by electronic mail must be clearly identified as such and sent to this e-mail address: comments@msha.gov. Comments by fax must be clearly identified as such and sent to: Mine Safety and Health Administration, Office of Standards, Regulations and Variances, 703–235–5551. Send mail comments to: Mine Safety and Health Administration, Office of Standards, Regulations and Variances, Room 631, 4015 Wilson Boulevard, Arlington, Virginia 22203–1984. Interested persons are encouraged to supplement written comments with computer files or disks; please contact the Agency with any questions about format.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, 703–235–1910.

SUPPLEMENTARY INFORMATION: On April 9, 1998, MSHA published a proposed rule in the Federal Register (63 FR 17492) establishing health standards for underground coal mines that use equipment powered by diesel engines. The proposal is designed to reduce serious health hazards that are associated with exposure to high concentrations of diesel particulate matter (dpm). Dpm is a very small particle in diesel exhaust. Underground miners are exposed to far higher concentrations of this fine particulate than any other group of workers. The best available evidence indicates that exposure to diesel particulate matter puts miners at excess risk of a variety of adverse health effects, including lung cancer.

The National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 et. seq.), requires each Federal agency to consider the environmental effects of proposed actions and to prepare an Environmental Impact Statement on major actions significantly affecting the quality of the human environment. MSHA has reviewed the proposed standard in accordance with the requirements of the NEPA, the regulation of the Council on Environmental Quality (40 CFR Part 1500), and the Department of Labor's NEPA procedures (29 CFR Part 11). As a result of this review, MSHA has preliminarily determined that this proposed standard will have no significant environmental impact.

Commenters are encouraged to submit their comments on this determination on or before August 10, 1998.

Dated: July 8, 1998.

J. Davitt McAteer,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 98–18688 Filed 7–13–98; 8:45 am]

BILLING CODE 4510–43–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 141 and 142

[FRL–6121–2]

National Primary Drinking Water Regulations: Long Term 1 Enhanced Surface Water Treatment Rule and Filter Backwash Recycling Rule Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; change in location of previous meeting announcement.

SUMMARY: EPA announces a change in location for the meetings on the Long Term 1 Enhanced Surface Water Treatment Rule (LT1ESWTR) and the Filter Backwash Recycling Rule (FBRR), which were announced in the June 23, 1998 Federal Register (63 FR 34142).

DATES: The LT1ESWTR public meeting will be held on July 22, 1998. The FBRR public meeting will be held on July 23, 1998. Both public meetings will begin at 8:30 am local time and will conclude at apprximately 4:30 pm local time.

ADDRESSES: The LT1ESWTR and FBRR meetings will be held at the Holiday Inn, 7390 West Hampden Avenue, Lakewood, Colorado.

FOR FURTHER INFORMATION CONTACT: For general information on the LT1ESWTR public meeting, please contact Steve Potts at (202) 260–5015. For the FBRR public meeting, please contact Bill Hamele at (202) 260–2584.

Dated: July 8, 1998

Cynthia C. Dougherty,

Director, Office of Ground Water and Drinking Water, Office of Water.

[FR Doc. 98–18730 Filed 7–13–98; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW–FRL–6124–3]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Proposed Exclusion

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and request for comment.

SUMMARY: The EPA is proposing to grant a petition submitted by McDonnell Douglas Corporation (McDonnell Douglas), a wholly owned subsidiary of The Boeing Corporation, to exclude (or delist) certain solid wastes generated by its U.S. Air Force Plant Number 3 (Air Force Plant No. 3) Tulsa, Oklahoma, facility from the lists of hazardous wastes contained in 40 CFR 261.24 and 261.31 (hereinafter all sectional references are to 40 CFR unless otherwise indicated). This petition was submitted under § 260.20(a), which allows any person to petition the Administrator to modify or revoke any provision of parts 260 through 266, 268 and 273, and under § 260.22(a), which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator specific" basis from the hazardous waste lists. This proposed decision is based on an evaluation of waste-specific information provided by the petitioner. If this proposed decision is finalized, the petitioned waste will be excluded from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA).

DATES: The EPA is requesting public comments on this proposed decision. Comments will be accepted until August 28, 1998. Comments postmarked after the close of the comment period will be stamped "late," and will not be considered in formulating a final decision.

Any person may request a hearing on this proposed decision by filing a request with Acting Director, Robert Hannesschlager, Multimedia Planning and Permitting Division, whose address appears below, by July 29, 1998. The request must contain the information prescribed in § 260.20(d).

ADDRESSES: Send three copies of your comments. Two copies should be sent to the William Gallagher, Delisting Section, Multimedia Planning and Permitting Division (6PD–O), Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202. A third copy should be sent to the Oklahoma Department of Environmental Quality, 707 North Robinson Street, Oklahoma City, Oklahoma 73102. Identify your comments at the top with this regulatory docket number: "F–98–OKDEL–AIRFORCEPLANT3."

Requests for a hearing should be addressed to the Acting Director, Robert Hannesschlager, Multimedia Planning and Permitting Division (6PD), Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202.

The RCRA regulatory docket for this proposed rule is located at the Environmental Protection Agency Region 6, 1445 Ross Avenue, Dallas, Texas 75202 and is available for viewing

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in the Freedom of Information Act Reviewing Room on the 7th Floor from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. Call (214) 665–6444 for appointments. The public may copy material from any regulatory docket at no cost for the first 100 pages, and at fifteen cents per page for additional copies.

FOR FURTHER INFORMATION CONTACT: For technical information concerning this notice, contact David Vogler, Multimedia Planning and Permitting Division, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, TX 75202, (214)665–7428.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authority

On January 16, 1981, as part of its final and interim final regulations implementing section 3001 of RCRA, EPA published an amended list of hazardous wastes from non-specific and specific sources. This list has been amended several times, and is published in §§ 261.31 and 261.32. These wastes are listed as hazardous because they typically and frequently exhibit one or more of the characteristics of hazardous wastes identified in subpart C of part 261 (i.e., ignitability, corrosivity, reactivity, and toxicity) or meet the criteria for listing contained in § 261.11(a)(2) or (a)(3).

Individual waste streams may vary however, depending on raw materials, industrial processes, and other factors. Thus, while a waste that is described in these regulations generally is hazardous, a specific waste from an individual facility meeting the listing description may not be. For this reason, §§ 260.20 and 260.22 provide an exclusion procedure, allowing persons to demonstrate that a specific waste from a particular generating facility should not be regulated as a hazardous waste.

To have their wastes excluded, petitioners must show that wastes generated at their facilities do not meet any of the criteria for which the wastes were listed. See § 260.22(a) and the background documents for the listed wastes. In addition, the Hazardous and Solid Waste Amendments (HSWA) of 1984 require the EPA to consider any factors (including additional constituents) other than those for which the waste was listed, if there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. Accordingly, a petitioner also must demonstrate that the waste does not exhibit any of the hazardous waste characteristics (i.e., ignitability, reactivity, corrosivity, and toxicity), and must present sufficient information for the EPA to determine whether the waste contains any other toxicants at hazardous levels. See § 260.22(a), 42 U.S.C. 6921(f), and the background documents for the listed wastes. Although wastes which are "delisted" (i.e., excluded) have been evaluated to determine whether or not they exhibit any of the characteristics of hazardous waste, generators remain obligated under RCRA to determine whether or not their waste remains nonhazardous based on the hazardous waste characteristics.

In addition, mixtures containing listed hazardous wastes are also considered hazardous wastes as are wastes derived from the treatment, storage, or disposal of listed hazardous waste. See § 261.3(a)(2)(iv) and (c)(2)(i), referred to as the "mixture" and "derived-from" rules, respectively. Such wastes are also eligible for exclusion and remain hazardous wastes until excluded. On December 6, 1991, the U.S. Court of Appeals for the District of Columbia vacated the "mixture/derived from" rules and remanded them to the EPA on procedural grounds. *See Shell Oil Co.* v. *EPA*, 950 F.2d 741 (D.C. Cir. 1991). On March 3, 1992, EPA reinstated the mixture and derived-from rules, and solicited comments on other ways to regulate waste mixtures and residues (57 FR 7628). These rules became final on October 30, 1992 (57 FR 49278). These references should be consulted for more information regarding mixtures and derived from wastes.

B. Approach Used to Evaluate This Petition

McDonnell Douglas' Air Force Plant No. 3 petition requests a one-time delisting for listed hazardous wastes. In making the initial delisting determination, the EPA evaluated the petitioned wastes against the listing criteria and factors cited in §§ 261.11(a)(1), 261.11(a)(2) and (a)(3). Based on this review, the EPA agreed with the petitioner that the waste is nonhazardous with respect to the original listing criteria. (If the EPA had found, based on this review, that the wastes remained hazardous based on the factors for which the wastes were originally listed, EPA would have proposed to deny the petition.) The EPA then evaluated the wastes with respect to other factors or criteria to assess whether there is a reasonable basis to believe that such additional factors could cause the wastes to be hazardous. The EPA considered whether the wastes are acutely toxic, the toxicity of the constituents, the concentration of the constituents in the wastes, their tendency to migrate and to bioaccumulate, their persistence in the environment once released from the wastes, plausible and specific types of management of the petitioned wastes, the quantities of wastes generated, and waste variability.

For this delisting determination, the EPA used such information gathered to identify plausible exposure routes (i.e., ground water, surface water and air) for hazardous constituents present in the petitioned wastes. The EPA determined that disposal in a Subtitle D (solid, nonhazardous waste) landfill is the most reasonable, worst-case disposal scenario for McDonnell Douglas' petitioned wastes, and that the major exposure route of concern would be ingestion of contaminated ground water. Therefore, the EPA used a particular fate and transport model, the EPA Composite Model for Landfills (EPACML), to predict the maximum allowable concentrations of hazardous constituents that may be released from the petitioned wastes after disposal and to determine the potential impact of the disposal of McDonnell Douglas' petitioned wastes on human health and the environment. Specifically, the EPA used the maximum estimated waste volumes and the maximum reported extract concentrations as inputs to estimate the constituent concentrations in the ground water at a hypothetical receptor well downgradient from the disposal site. The calculated receptor well concentrations (referred to as compliance-point concentrations) were then compared directly to the current Maximum Contaminant Levels (MCLs) promulgated under the Safe Drinking Water Act (SWDA) or health-based levels derived from verified Reference Doses (RfDs). The values used for lead and copper are action levels for treatment of a water supply in lieu of an MCL (40 CFR 141.80).

The EPA believes that this fate and transport model represents a reasonable worst-case scenario for disposal of the petitioned wastes in a landfill, and that a reasonable worst-case scenario is appropriate when evaluating whether a waste should be relieved of the protective management constraints of RCRA Subtitle C. The use of a reasonable worst-case scenario results in conservative values for the compliance-point concentrations and gives a high degree of confidence that the waste, once removed from hazardous waste regulation, will not pose a threat to human health or the environment. In most cases, because a delisted waste is no longer subject to hazardous waste control (unless conditionally delisted), the EPA is generally unable to predict, and does not presently control, how a waste will be managed after delisting. Therefore, EPA normally believes that it is inappropriate to consider extensive site-specific factors when applying the fate and transport model. If however, conditions contained in a delisting indicate that it is necessary to consider site specific factors or otherwise indicate that the model is inappropriate, EPA may consider these factors in applying the model. For modeling purposes it is assumed that a Subtitle D landfill will be unlined.

The EPA also considers the applicability of ground water monitoring data during the evaluation of delisting petitions. In this case, the EPA determined that it would be appropriate to review ground water monitoring data since the petitioned wastes generated at McDonnell Douglas' facility were disposed of as part of an onsite surface impoundment which was partitioned by dikes into three lagoons which were closed as a single RCRA landfill. The analytical results from a combination of up to eighteen monitoring wells dating from 1981 until 1997 was reviewed. The data indicated that there has been no significant impact to the ground water from the closed landfill. The evaluation of this information is another indication that the waste has been stabilized and does not leach hazardous constituents in concentrations that are significant to human health and the environment.

From the evaluation of McDonnell Douglas' delisting petition, a list of constituents was developed for the verification testing conditions. Proposed maximum allowable leachable concentrations for these constituents were derived by back-calculating from the delisting health-based levels through the proposed fate and transport model for a landfill management scenario. These concentrations (i.e., delisting levels) are part of the proposed verification testing conditions of the exclusion.

McDonnell Douglas' exclusion (if granted) would be contingent upon the facility conducting stabilization activities on approximately 5,000 cubic yards of the 85,000 cubic yards of petitioned waste present in the three lagoons jointly closed as a RCRA landfill. Subsequent verification testing of representative samples of the newly stabilized waste would also be required. Analytical data from cores taken from the landfill indicate that about 5,000 cubic yards of waste was not stabilized during the closure process and will need to be stabilized before being transported offsite for disposal in a Subtitle D landfill. These wastes are presently located in the bottom one to three feet of lower portion of the northwest lagoon which is a portion of the surface impoundments closed as a landfill at the Tulsa Air Force Plant No. 3 Facility. The unstabilized wastes are easily identified by color, texture, and general physical appearance. This testing would be necessary to verify that the stabilization system is operating as demonstrated in the petition submitted on November 7, 1997. Specifically, the verification testing requirements of the conditional exclusion (if granted), would be implemented to demonstrate that the stabilization process will generate nonhazardous wastes (i.e., wastes that meet the EPA's verification testing conditions).

Analytical data submitted from cores of the petitioned wastes located in the upper portion of the northwest lagoon, the northeast lagoon, and the south lagoon of the landfill indicated that the waste in those areas was previously stabilized and therefore would not require additional verification testing. The EPA's proposed decision to delist wastes from the Air Force Plant No. 3 facility is based on the information submitted in support of today's rule, i.e., description of the historical wastewater treatment system and analytical data from the Tulsa facility's closed landfill.

Finally, the HSWA specifically require the EPA to provide notice and an opportunity for comment before granting or denying a final exclusion. Thus, a final decision will not be made until all timely public comments (including those at public hearings, if any) on today's proposal are addressed.

II. Disposition of Delisting Petition

Air Force Plant No. 3, McDonnell Douglas Corporation, a wholly owned subsidiary of The Boeing Corporation, Tulsa, Oklahoma 74115

A. Petition for Exclusion

McDonnell Douglas petitioned the EPA for a one-time exclusion for 85,000 cubic yards of stabilized and solidified waste located in three surface impoundments that were closed as a single RCRA landfill unit in 1989 at the U. S. Air Force Plant No. 3, located in Tulsa, Oklahoma. Approximately 5,000 cubic yards of the 85,000 cubic yards of petitioned wastes were not previously stabilized and would be required to undergo stabilization and verification testing. The petitioned wastes were generated as a part of the facility's wastewater treatment process which operated from 1953 to 1989. The resulting wastes are presently listed as EPA Hazardous Waste No. F019. The petitioned wastes are believed to also have very small amounts of wastes presently classified as F002, F003, and F005. The listed constituents of concern for these waste codes are listed in Table 1.

TABLE 1.—HAZARDOUS WASTE CODES ASSOCIATED WITH WASTEWATER STREAMS

Waste code	Basis for characteristics/listing
F019	Hexavalent Chromium. Cyanide (complexed).
F002	Tetrachloroethylene, trichloroethylene, methylene chloride, 1,1,1-trichloroethane, 1,1,2-trichloroethane, chlorobenzene, 1,1,2-trichloro-1,2,2-trifluoroethane, ortho-dichlorobenzene, trichlorofluoromethane.
F003	Xylene, acetone, ethyl acetate, ethyl benzene, ethyl ether, methyl isobutyl ketone, n-butyl alcohol, cyclohexanone, methanol.
F005	Toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, benzene, 2-ethoxyethanol, 2-nitropropane.

McDonnell Douglas (Air Force Plant No. 3) petitioned the EPA to exclude the stabilized treatment wastes because it does not believe that the petitioned wastes meet the criteria for which they were listed. McDonnell Douglas further believes that the wastes are not hazardous for any other reason (i.e., there are no additional constituents or factors that could cause the wastes to be hazardous). Review of this petition included consideration of the original listing criteria, as well as the additional factors required by the HSWA. *See* section 222 of HSWA, 42 U.S.C. 6921(f), and 40 CFR 260.22(d)(2)–(4). Today's proposal to grant this petition for delisting is the result of the EPA's evaluation of Air Force Plant No.3's petition as submitted by McDonnell Douglas Corporation.

B. Background

On November 7, 1997, McDonnell Douglas petitioned the EPA to grant a one-time exclusion from the lists of hazardous waste contained in §§ 261.31

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and 261.32, a one-time volume of stabilized and solidified wastewater treatment plant sludges which were disposed of in the facility's wastewater surface impoundments which have since been jointly closed as a RCRA landfill unit in accordance with a closure and post-closure plan approved by the Oklahoma Department of Environmental Quality (ODEQ). The wastewater treatment sludges were stabilized with fly ash and then capped with a RCRA cap. Specifically, in its petition, McDonnell Douglas requested that the EPA grant an exclusion for 85,000 cubic yards of stabilized wastewater treatment sludge. The facility characterized the petitioned waste as stabilized with the exception of about 5,000 cubic yards which will require stabilization and verification testing.

In support of its petition, McDonnell Douglas submitted: (1) Descriptions of its wastewater treatment processes and the activities associated with petitioned wastes; (2) results of the total constituent list for 40 CFR part 264, Appendix IX volatiles, semivolatiles, metals, pesticides, herbicides, polychlorinated biphenyls (PCBs), furans, and dioxins; (3) results of the constituent list for Appendix IX on Toxicity Characteristic Leaching Procedure (TCLP) extract for identified constituents; (4) results for total sulfide; (5) results for total cyanide; (6) results for pH; (7) results of the Multiple Extraction Procedure (MEP) for acidic, neutral, and basic extractions; (8) results of ground water monitoring; and (9) results of surface impoundment waste analysis for constituents of concern.

Air Force Plant No. 3 is an inactive plant that was used for maintenance operations on military and commercial aircraft, as well as for manufacturing aerospace and aircraft products. The bulk of the petitioned waste was generated by treatment of wastewater generated by electroplating and metal finishing operations. Analysis indicates that the plant may have treated minor amounts of fuels. Wastes were collected in two separate sewer systems: acid-chrome and alkali-chrome. Wastes were then directed to the onsite industrial wastewater treatment plant. Cyanide was oxidized using chlorine. The chromic wastewater was treated by reduction with sulfur dioxide. The pH was controlled using caustic soda, sulfuric acid, and carbon dioxide. Ferrous sulfate was fed into the clarifier to flocculate solids. The resulting wastewater treatment sludges accumulated in sludge sumps and then were pumped through a pipeline into the system of surface impoundments. In 1989, most of the sludges in the impoundments were stabilized and solidified using fly ash and some clay. Later borings indicated that some of the waste in the lower portion in the northwest section of the impoundments was not completely stabilized. McDonnell Douglas wants to similarly stabilize this waste and delist all waste in all of the impoundments closed as a single RCRA landfill. The waste will then be transported offsite and disposed of in a Subtitle D landfill. It is planned to clean close the Air Force Plant No. 3 landfill under ODEQ authority.

McDonnell Douglas developed a list of constituents of concern from comparing a list of all raw materials used in the plant that could potentially appear in the petitioned waste with those found in 40 CFR part 264. McDonnell Douglas analyzed two composite samples for the total concentrations (i.e., mass of a particular constituent per mass of waste) of the volatiles and semivolatiles, metals, herbicides, pesticides, PCBs, and furans from Appendix IX. These two samples (NW–37 and SE–37) were analyzed for the comprehensive list in order to confirm that there were no other constituents of concern in the surface impoundments.

Twenty-one (21) composite samples were taken from the closed landfill unit. Five of these samples were from the northwest lagoon of the unit where the sludges that are not completely stabilized are located. All samples were analyzed for constituents of concern and were also analyzed to determine whether the waste exhibited ignitable, corrosive, or reactive properties as defined under 40 CFR 261.21, 261.22, and 261.23, including analysis for total constituent concentrations of cyanide and sulfide. These samples were also analyzed for TCLP concentrations (i.e., mass of a particular constituent per unit volume of extract) of all the volatiles, semivolatiles, and metals identified as constituents of concern. The MEP was performed on four samples to test the ability to stabilize eighteen (18) different metals at three different pH's. The procedure was run at three different pH values (2.88, 7, and 13 Standard Units) to determine if a change in pH might significantly alter the leachate concentrations. Historical analytical results from ground water monitoring wells was also submitted for review.

C. EPA Analysis

McDonnell Douglas used SW–846 Methods 8260, 8270, 6010, 7196A, 7471, to quantify the total constituent concentrations of volatiles and semivolatiles (excluding PCBs, pesticides, herbicides) metals, and dioxins/furans. McDonnell Douglas used SW–846 Methods 9045, 9030A, 9012 to quantify pH, total sulfide, and total cyanide. McDonnell Douglas used SW–846 Methods 8260, 8270, 6010, 7196A, 7470 to quantify the constituents from the TCLP extract. The petitioned waste does not meet the definitions for reactivity and corrosivity as defined by §§ 261.22 and 261.23. Tables 2A and 2B present the maximum total constituent and leachate concentrations for the stabilized waste. Tables 3A and 3B present the maximum total constituent and leachate concentrations for the unstabilized sludge waste samples from the bottom of the northwest lagoon of the unit.

McDonnell Douglas calculated, based on a one-time removal and addition of stabilization agents, the maximum petitioned waste to be excluded will be 85,000 cubic yards of stabilized waste.

The EPA reviews a petitioner's estimates and, on occasion, has requested a petitioner to reevaluate the estimated waste volume. The EPA accepted McDonnell Douglas' certified estimates. The EPA does not generally verify submitted test data before proposing delisting decisions. The sworn affidavit submitted with this petition binds the petitioner to present truthful and accurate results. The EPA, however, has maintained a spot-check sampling and analysis program to verify the representative nature of the data for some percentage of the submitted petitions. A spot-check visit to a selected facility may be initiated before finalizing a delisting petition or after granting an exclusion.

TABLE 2A.—MAXIMUM ORGANIC TOTAL CONSTITUENT AND LEACHATE CONCENTRATIONS [1]

[Stabilized Wastewater Treatment Sludge]

Constituents	Total constituent analyses (mg/kg)	Leachate analyses (mg/l)
Acetone	0.53	NA
Benzene	0.003	<0.1
Ethylbenzene	0.004	NA
Toluene	0.035	NA
Xylenes	0.019	NA
Phenol	0.39	NA

< Denotes that the constituent was not detected at the detection limit specified in the table.

[1] These levels represent the highest concentration of each constituent found in any one sample. These levels do not necessarily represent the specific levels found in one sample.

NA Denotes that the constituent was not analyzed.

TABLE 2B.—MAXIMUM INORGANIC TOTAL CONSTITUENT AND LEACHATE CONCENTRATIONS[1]

[Stabilized Wastewater Treatment Sludge]

Constituents	Total constituent analyses (mg/kg)	Leachate analyses (mg/l)
Antimony	0.42	0.0145
Arsenic	31.7	0.057
Barium	2860	3.4
Beryllium	2.4	0.0195
Cadmium	39.8	0.323
Chromium (Total)	9710	9.79
Chromium (Hexavalent)	0.42	0.06
Cobalt	16.1	0.0673
Copper	163	0.301
Lead	89	0.0422
Mercury	0.09	0.00025
Nickel	64.4	0.28
Selenium	11.3	0.0691
Silver	0.4	0.03
Thallium	0.47	0.005
Tin	35.9	<0.014
Vanadium	228	0.141
Zinc	229	0.519
Sulfide (Total)	<50	NA
Cyanide (Total)	7	NA
pH (Standard Units)	5.19	—

<Denotes that the constituent was not detected at the detection limit specified in the table.

[1] These levels represent the highest concentration of each constituent found in any one sample. These levels do not necessarily represent the specific levels found in one sample.

NA Denotes that the constituent was not analyzed.

TABLE 3A.—MAXIMUM ORGANIC TOTAL CONSTITUENT AND LEACHATE CONCENTRATIONS[1] UNSTABILIZED WASTEWATER TREATMENT SLUDGE

Constituents	Total Constituent Analyses (mg/kg)	Leachate Analyses (mg/l)
Acetone	0.15	NA
Benzene	0.185	<0.1
Ethylbenzene	158	NA
Toluene	3000	NA
Xylenes	792	NA
trans-1,2-Dichloroethene	0.212	NA
Tetrachloroethene	0.64	<0.1
Trichloroethylene	1090	17.3
m-Cresol	<0.38	0.09
p-Cresol	<0.38	0.09

<Denotes that the constituent was not detected at the detection limit specified in the table.

[1] These levels represent the highest concentration of each constituent found in any one sample. These levels do not necessarily represent the specific levels found in one sample.

NA Denotes that the constituent was not analyzed.

D. EPA Evaluation

The EPA considered the appropriateness of alternative waste management scenarios for McDonnell Douglas' stabilized wastewater treatment waste from the closed impoundments. The EPA decided, based on the information provided in the petition, that disposal of the petitioned waste in a municipal or industrial solid waste landfill is the most reasonable, worst-case scenario.

TABLE 3B.—MAXIMUM INORGANIC TOTAL CONSTITUENT AND LEACHATE CONCENTRATIONS[1] Unstabilized Wastewater Treatment Sludge

Constituents	Total Constituent Analyses (mg/kg)	Leachate Analyses (mg/l)
Antimony	5.4	0.0952
Arsenic	43	0.0873
Barium	3060	3.58
Beryllium	2.3	0.0093
Cadmium	52.2	0.411
Chromium (Total)	3820	1.36
Chromium (Hexavalent)	<0.25	<0.05
Cobalt	19.4	0.0478
Copper	157	0.2
Lead	220	0.0737
Mercury	0.25	0.00015
Nickel	40.7	0.21
Selenium	5.8	0.028
Silver	1.2	<0.001
Thallium	0.3	<0.005
Tin	8.4	<0.014
Vanadium	138	0.111
Zinc	535	1.25

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TABLE 3B.—MAXIMUM INORGANIC TOTAL CONSTITUENT AND LEACHATE CONCENTRATIONS [1] Unstabilized Wastewater Treatment Sludge—Continued

Constituents	Total Constituent Analyses (mg/kg)	Leachate Analyses (mg/l)
Sulfide (Total)	<50	NA
Cyanide (Total)	4	NA
pH (Standard Units)	06.89–9.43 range	

<Denotes that the constituent was not detected at the detection limit specified in the table.

[1] These levels represent the highest concentration of each constituent found in any one sample. These levels do not necessarily represent the specific levels found in one sample.

NA Denotes that the constituent was not analyzed.

Under a landfill disposal scenario, the major exposure route of concern for any hazardous constituents would be ingestion of contaminated ground water. The EPA, therefore, evaluated the petitioned wastes using the modified EPACML which predicts the potential for ground water contamination from wastes that are landfilled. *See* 56 FR 32993 (July 18, 1991), 56 FR 67197 (December 30, 1991) and the RCRA public docket for these notices for a detailed description of the EPACML model, the disposal assumptions, and the modifications made for delisting. This model, which includes both unsaturated and saturated zone transport modules, was used to predict reasonable worst-case contaminant levels in ground water at a compliance point (i.e., a receptor well serving as a drinking-water supply). Specifically, the model estimated the dilution/attenuation factor (DAF) resulting from subsurface processes such as three-dimensional dispersion and dilution from ground water recharge for a specific volume of waste.

For the evaluation of McDonnell Douglas' petitioned wastes, the EPA used the EPACML to evaluate the mobility of the hazardous constituents detected in the extract of samples of McDonnell Douglas' Stabilized Wastewater Treatment Sludge. Typically, the EPA uses the maximum annual waste volume to derive a petition-specific DAF. The DAFs are currently calculated assuming an ongoing process generates wastes for 20 years. Since the petitioned waste would be a one-time disposal, the waste volume is divided by twenty to correctly determine a DAF. Therefore, the DAF for the waste volume of 85,000 cubic yards is 56.

The EPA's evaluation of the stabilized wastewater treatment sludges using a DAF of 56, a maximum one-time disposal waste volume estimate of 85,000 cubic yards, and the maximum reported TCLP concentrations (see Tables 2A and 2B), yielded compliance point concentrations (see Tables 4A and 4B) that are below the current health-based levels except for the constituent cadmium which is discussed below.

TABLE 4A.—EPACML: CALCULATED COMPLIANCE-POINT ORGANIC CONCENTRATIONS STABILIZED WASTE

Organic Constituents	Compliance Point Concentrations [1] (mg/l)	Levels of Concern [2] (mg/l)
Acetone	0.00946	4.0
Benzene	0.0000536	0.005
Ethyl Benzene	0.0000714	0.7
Toluene	0.000625	1.0
Xylenes	0.000339	10
Phenols	0.00696	20
Cyanide	0.125	0.2

< Denotes that the constituent was not detected at the detection limit specified in the table.

[1] Using the maximum TCLP leachate level from Table 2A and based on a DAF of 56 calculated using the EPACML for a one-time volume of 85,000 cu. yards. Waste concentrations in the northwest lagoon were not included as the bottom waste must be stabilized to be excluded.

[2] See Docket Report on Health-Based Levels and Solubilities Used in the Evaluation of Delisting Petitions, December 1994 located in the RCRA public docket for today's notice.

In Table 4A, the maximum reported leachate concentrations of the organic constituents detected in the stabilized waste are compared with the levels of concern. For this comparison, EPA conservatively used available total values and assumed the total concentration would leach. The maximum reported leachate concentrations of acetone, benzene, ethylbenzene, toluene, and xylene yielded compliance point concentrations below the health-based levels used in delisting decision-making. The EPA did not evaluate the mobility of the remaining organic constituents (e.g., trans-1,2-dichloroethene, tetrachloroethylene, trichloroethylene, vinyl chloride, m-cresol, and p-cresol) from McDonnell Douglas' stabilized waste because they were not detected in the leachate or total chemical analysis using the appropriate analytical test methods. The EPA believes that it is inappropriate to evaluate nondetectable concentrations of a constituent of concern in its delisting modeling efforts if the nondetectable value was obtained using the appropriate analytical method. If a constituent cannot be detected (when using the appropriate analytical method with an adequate detection limit), the EPA, for delisting purposes, assumes that the constituent is not present and therefore does not present a threat to human health or the environment. In the delisting program EPA believes it is inappropriate to evaluate constituents undetected in the waste samples. This procedure is consistent with other programs.

In Table 4B, the maximum reported or calculated leachate concentrations of the inorganic constituents detected in the stabilized waste are compared with the levels of regulatory concern. The maximum reported or calculated leachate concentrations of antimony, barium, beryllium, total chromium, hexavalent chromium, cobalt, copper, lead, mercury, nickel, selenium, silver, thallium, vanadium, and zinc yielded compliance point concentrations below the health-based levels used in the delisting decision-making. The EPA did not evaluate the mobility of the inorganic constituent tin from McDonnell Douglas' stabilized waste because it was not detected in the leachate using the appropriate analytical test methods (see Table 2B). The maximum reported leachate concentration for a single sample of cadmium yielded a calculated compliance point concentration (0.00577 mg/l) slightly above the health-based level (0.005 mg/l) used in the delisting decision-making process.

The cadmium value (0.00577 mg/l) represents the calculated leachate concentrations of cadmium at a theoretical downgradient ground water monitoring well using the EPACML model and a concentration value of 0.323 mg/l TCLP from one stabilized waste sample. This value was the highest concentration identified for the sixteen (16) TCLP analyses or the eighty-one (81) MEP analyses completed for cadmium. The 0.323 mg/l value was the first extraction for an acidic extraction. The second extract from the same sample yielded a value of 0.213 mg/l which would in turn produce a calculated compliance point concentration of 0.0038 mg/l which is below the level of regulatory concern.

TABLE 4B.—EPACML: CALCULATED INORGANIC COMPLIANCE-POINT CONCENTRATIONS STABILIZED WASTE

Inorganic Constituents	Compliance Point Concentrations[1] (mg/l)	Levels of Concern[2] (mg/l)
Antimony	0.000259	0.006
Arsenic	0.001	0.05
Barium	0.0507	2.0
Beryllium	0.000348	0.004
Cadmium	0.00577	0.005
Chromium (total)	0.175	37
Chromium, hexavalent	0.00107	0.1
Cobalt	0.0012	2.1
Copper	0.0054	1.3
Lead	0.00075	0.015
Mercury	0.00000446	0.002
Nickel	0.005	0.1
Selenium	0.00123	0.05
Silver	0.000536	0.2
Thallium	0.0000893	0.002
Vanadium	0.00252	0.2
Zinc	0.00927	10.0

[1] Using the maximum TCLP leachate level from Table 2B and based on a DAF of 56 calculated using the EPACML for an one-time volume of 85,000 cu. yards. Waste concentrations in the northwest lagoon were not included as the bottom waste must be stabilized to be excluded.

[2] See *Docket Report on Health-Based Levels and Solubilities Used in the Evaluation of Delisting Petitions*, December 1994 located in the RCRA public docket for today's notice.

The concentration values for this sample continued a steady decline to 0.0022 mg/l for the ninth extraction in the MEP. The steady decline in concentration is an indication that the waste will not leach more hazardous constituents over time and therefore is stabilized. The next highest cadmium TCLP or MEP value for another sample of stabilized waste is a concentration of 0.14 mg/l which would yield a compliance point concentration of 0.0025 mg/l compared to the level of regulatory concern value of 0.005 mg/l. This sample and all other stabilized samples (14 samples, 86 analyses) of stabilized waste exhibit lower cadmium values. The concentration value for the 95 per cent upper confidence level of the mean is calculated at a concentration of 0.0236 mg/l which yielded a calculated compliance point concentration of 0.00042 mg/l which is well below the health-based level of 0.005 mg/l for cadmium used in the delisting decision-making. Ground water monitoring data submitted by the facility also indicated that the waste was not leaching as constituents of concern have not been detected by the monitoring program in concentrations of regulatory concern. Therefore, after further detailed evaluation, EPA does not consider the cadmium concentrations to be above health-based levels for purposes of delisting.

The EPA concluded, after reviewing McDonnell Douglas' processes that no other hazardous constituents of concern, other than those for which tested, are likely to be present or formed as reaction products or by-products in McDonnell Douglas' wastes. In addition, on the basis of explanations and analytical data provided by McDonnell Douglas, pursuant to § 260.22, the EPA concludes that the stabilized petitioned wastes do not exhibit any of the characteristics of ignitability, corrosivity, or reactivity. *See* §§ 261.21, 261.22, and 261.23, respectively.

During the evaluation of McDonnell Douglas' petition, the EPA also considered the potential impact of the petitioned wastes via non-ground water routes (i.e., air emission and surface runoff). With regard to airborne dispersion in particular, the EPA believes that exposure to airborne contaminants from the petitioned wastes is unlikely; no appreciable air releases are likely from the petitioned wastes under any likely disposal conditions. The EPA evaluated, however, the potential hazards resulting from the unlikely scenario of airborne exposure to hazardous constituents released from the petitioned wastes in an open landfill. The results of this worst case analysis indicated that there is no substantial present or potential hazard to human health from airborne exposure to constituents from the stabilized wastes. A description of the EPA's assessment of the potential impact of McDonnell Douglas' wastes, regarding airborne dispersion of waste contaminants, is presented in the RCRA public docket for today's proposed rule.

The EPA also considered the potential impact of the petitioned wastes via a

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surface water route. The EPA believes that containment structures at municipal solid waste landfills can effectively control surface water runoff, as the Subtitle D regulations (*See* 56 FR 50978, October 9, 1991) prohibit pollutant discharges into surface waters. Furthermore, the concentrations of any hazardous constituents dissolved in the run-off will tend to be lower than the levels in the TCLP leachate analyses reported in today's notice due to the aggressive acidic medium used for extraction in the TCLP. The EPA believes that, in general, leachate derived from the wastes is unlikely to directly enter a surface water body without first traveling through the saturated subsurface where dilution and attenuation of hazardous constituents will also occur. Leachable concentrations provide a direct measure of solubility of a toxic constituent in water and are indicative of the fraction of the constituent that may be mobilized in surface water as well as ground water.

Based on the reasons discussed above, EPA believes that the contamination of surface water through runoff from the waste disposal area is very unlikely. Nevertheless, the EPA evaluated the potential impacts on surface water if McDonnell Douglas' waste were released from a municipal solid waste landfill through runoff and erosion. See the RCRA public docket for today's proposed rule. The estimated levels of the hazardous constituents of concern in surface water would be well below health-based levels for human health, as well as below the EPA Chronic Water Quality Criteria for aquatic organisms (USEPA, OWRS, 1987). The EPA, therefore, concluded that McDonnell Douglas' stabilized waste is not a substantial present or potential hazard to human health and the environment via the surface water exposure pathway.

E. Conclusion

The EPA believes that the descriptions of the McDonnell Douglas' chemical hazardous waste process and analytical characterization, in conjunction with the proposed verification testing requirements (as discussed later in this notice), provide a reasonable basis to grant McDonnell Douglas' petition for a standard one-time exclusion of the stabilized waste and a conditional one-time exclusion for the unstabilized wastes in the bottom of the northwest lagoon of the landfill unit. The EPA believes the data submitted in support of the petition show McDonnell Douglas' process can render the wastes in the northwest quadrant of the surface impoundment which was closed as a landfill non-hazardous. The EPA has reviewed the sampling procedures used by McDonnell Douglas and has determined they satisfy EPA criteria for collecting representative samples of the variations in constituent concentrations in the petitioned waste. The data submitted in support of the petition show that constituents in McDonnell Douglas' stabilized waste are presently below health-based levels used in the delisting decision-making. The EPA believes that McDonnell Douglas has successfully shown that the stabilized waste is non-hazardous. The EPA, therefore, proposes to grant a standard one-time exclusion to the McDonnell Douglas Corporation, located in Tulsa, Oklahoma, for the stabilized waste in the landfill and a conditional one-time exclusion for the unstabilized waste in the bottom of the northwest lagoon of the unit as described in its petition. The EPA's decision to exclude this waste is based on descriptions the historical wastewater treatment activities associated with the petitioned waste and characterization of the stabilized and unstabilized waste. If the proposed rule is finalized, the petitioned wastes will no longer be subject to regulation under parts 262 through 268 and the permitting standards of part 270.

F. Verification Testing Conditions

(1) *Delisting Levels:* All leachable concentrations for the following constituents in the approximately 5,000 cubic yards of unstabilized waste in the bottom portion of the northwest lagoon of the surface impoundments closed as a landfill must not exceed the following levels (ppm) after the stabilization process is completed as according to Condition (3). Constituents must be measured in the waste leachate by the method specified in 40 CFR 261.24. Cyanide extractions must be conducted using distilled water in the place of the leaching media per 40 CFR 261.24.

(A) Inorganic Constituents

Antimony-0.336; Cadmium-0.280; Hexavalent Chromium-5.0; Lead-0.84; Cyanide-11.2;

(B) Organic Constituents

Benzene-0.28; Ethylbenzene-39.2; Toluene-56.; Xylenes-560.; trans-1,2-Dichloroethene-5.6; Tetrachloroethylene-0.280; Trichloroethylene-0.280

The approximately 80,000 cubic yards of previously stabilized waste in the upper northwest lagoon, entire northeast lagoon, and entire south lagoon of the surface impoundments which were closed as a landfill requires no verification testing.

This paragraph provides the levels of constituents for which McDonnell Douglas must test the leachate from the wastes in the bottom of the northwest lagoon after completion of a stabilization process similar to that was used in other portions of the surface impoundments which were closed as a single landfill. These are the levels below which this waste would be considered non-hazardous and for which the Agency is proposing to grant a one time conditional exclusion. The EPA selected the set of inorganic and organic constituents specified after reviewing information about the composition of the waste, descriptions of McDonnell Douglas' historical wastewater treatment process, previous test data provided for the waste, and the respective health-based levels (HBL) used in delisting decision-making. The EPA established the proposed delisting levels for this paragraph by back-calculating the Maximum Allowable Leachate (MALs) concentrations from the health-based levels for the constituents of concern using the EPACML chemical-specific DAF of 56 (See, previous discussions in Section D—*Agency Evaluation*) i.e., MAL = HBL x DAF). These delisting levels correspond to the allowable levels measured in the TCLP extract of the waste. The TCLP for the cyanide constituent would be modified to test the waste by substitution of deionized water for the extraction fluid. The hexavalent chromium concentration was set a value not to exceed 5.0 mg/l TCLP concentration in order not to exceed regulatory levels found in 40 CFR 261.24. The modeled value would be at a concentration of 5.6 mg/l TCLP concentration. The stabilized wastes in the landfill have been demonstrated as meeting the delisting levels and therefore will require no further verification testing. A standard one-time exclusion for those wastes is proposed.

(2) *Waste Holding and Handling*: McDonnell Douglas must store as hazardous all stabilized waste from the bottom portion of the northwest lagoon area of the closed landfill as generated until verification testing as specified in Condition (3), is completed and valid analyses demonstrate that condition (1) is satisfied. If the levels of constituents measured in the samples of the stabilized waste do not exceed the levels set forth in Condition (1), then the waste is nonhazardous and may be managed and disposed of in a Subtitle D landfill in accordance with all applicable solid waste regulations. If constituent levels in a sample exceed any of the delisting levels set in Condition (1), the waste generated during the time period corresponding to this sample must be restabilized until delisting levels are met or managed and disposed of in accordance with Subtitle C of RCRA.

The purpose of this paragraph is to ensure that any unstabilized waste located in the bottom of the northwest lagoon area of the closed surface impoundments which might contain hazardous levels of inorganic and organic constituents are managed and disposed of in accordance with Subtitle C of RCRA. Holding the unstabilized waste from the northwest area until characterization is complete will protect against improper handling of hazardous material. If the EPA determines that the data collected under this condition do not support the data provided for the petition or McDonnell Douglas is not meeting the terms of its exclusion, the exclusion will not cover the petitioned wastes.

(3) *Verification Testing Requirements*: Sample collection and analyses, including quality control procedures, must be performed according to SW–846 methodologies. McDonnell Douglas must stabilize the previously unstabilized waste from the bottom portion of the northwest lagoon of the surface impoundment (which was closed as a landfill) using fly ash, kiln dust or similar accepted materials in batches of 500 cubic yards or less. McDonnell Douglas must analyze one composite sample from each batch of 500 cubic yards or less. A minimum of four grab samples must be taken from each waste pile (or other designated holding area) of stabilized waste generated from each batch run. Each composited batch sample must be analyzed, prior to disposal of the waste in the batch represented by that sample, for constituents listed in Condition (1). There are no verification testing requirements for the stabilized wastes in the upper portions of the northwest lagoon, the entire northeast lagoon, and the entire south lagoon of the surface impoundments which were closed as a landfill.

(4) *Changes in Operating Conditions*: If McDonnell Douglas significantly changes the stabilization process established under Condition (3) (*e.g.*, use of new stabilization agents), McDonnell Douglas must notify the Agency in writing. After written approval by EPA, McDonnell Douglas may handle the wastes generated as non-hazardous, if the wastes meet the delisting levels set in Condition (1).

(5) *Data Submittals*: Records of operating conditions and analytical data from Condition (3) must be compiled, summarized, and maintained on site for a minimum of five years. These records and data must be furnished upon request by EPA, or the State of Oklahoma, or both, and be made available for inspection. Failure to submit the required data within the specified time period or maintain the required records on site for the specified time will be considered by EPA, at its discretion, sufficient basis to revoke the exclusion to the extent directed by EPA. All data must be accompanied by a signed copy of the following certification statement to attest to the truth and accuracy of the data submitted:

Under civil and criminal penalty of law for the making or submission of false or fraudulent statements or representations (pursuant to the applicable provisions of the Federal Code, which include, but may not be limited to, 18 USC § 1001 and 42 USC § 6928), I certify that the information contained in or accompanying this document is true, accurate and complete.

As to the (those) identified section(s) of this document for which I cannot personally verify its (their) truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate and complete.

In the event that any of this information is determined by EPA in its sole discretion to be false, inaccurate or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by EPA and that the company will be liable for any actions taken in contravention of the company's RCRA and CERCLA obligations premised upon the company's reliance on the void exclusion.

To provide appropriate documentation that McDonnell Douglas' facility is properly stabilizing the waste, all analytical data obtained through Condition (3), including quality control information, must be compiled, summarized, and maintained on site for a minimum of five years. Condition (5) requires that these data be furnished upon request and made available for inspection by any employee or representative of EPA or the State of Oklahoma.

If made final, the proposed exclusion will apply to 85,000 cubic yards of petitioned waste. The facility would be required to submit a new petition if the stabilization process specified for the northwest lagoon area of the closed landfill is significantly altered.

Although management of the wastes covered by this petition would not be subject to Subtitle C jurisdiction upon final promulgation of an exclusion, McDonnell Douglas must ensure that the waste is delivered to an off-site storage, treatment, or disposal facility, either of which is permitted, licensed, or registered by a State to manage municipal or industrial solid waste.

(6) *Reopener*

(a) If McDonnell Douglas discovers that a condition at the facility or an assumption related to the disposal of the excluded waste that was modeled or predicted in the petition does not occur as modeled or predicted, then McDonnell Douglas must report any information relevant to that condition, in writing, to the Regional Administrator or his delegate within 10 days of discovering that condition.

(b) Upon receiving any information including that described in paragraph (a) regardless of its source, the Regional Administrator or his delegate will determine whether the reported condition requires further action. Further action may include revoking the exclusion, modifying the exclusion, or other appropriate response necessary to protect human health and the environment.

The purpose of paragraph (6) is to require McDonnell Douglas to disclose new or different information related to a condition at the facility or disposal of the waste if it had or has bearing on the delisting. This paragraph will allow EPA to reevaluate the exclusion if new or additional information is provided to the Agency from any source which indicates that information which EPA's decision was based was incorrect or circumstances have changed such that information is no longer correct or would cause EPA to deny the petition if then presented. Further, although this provision expressly requires McDonnell Douglas to report differing site conditions or assumptions used in the petition within 10 days of discovery, if EPA discovers such information itself or from a third party, it can act on it as appropriate. The language being proposed is similar to these provisions found in RCRA regulations governing no-migration petitions located at § 268.6.

The EPA believes that it has the authority under RCRA and the Administrative Procedures Act, 5 U.S.C. 551 (1978), *et seq.*, to reopen a delisting decision if new information is received that calls into question the assumptions underlying the delisting and believes that a clear statement of its authority in the context of delistings is merited in light of Agency experience. (See, e.g., Reynolds Metals Company at 62 FR 37694 and 62 FR 63458 where the delisted waste did not leach in the actual disposal site as it had been modeled thus leading the Agency to repeal the delisting.) In the meantime, in the event that an immediate threat to human health and the environment presents itself, EPA will continue to address such situations on a case-by-case basis and where necessary, will make a good cause finding to justify emergency rulemaking. *See* APA § 553(b).

(7) *Notification Requirements*: McDonnell Douglas must provide a one-time written notification to any State Regulatory Agency to which or through which the delisted waste described above will be transported for disposal at least 60 days prior to the commencement of such activity. The one-time written notification must be updated if the delisted waste is shipped to a different disposal facility. Failure to provide such a notification will result in a violation of the delisting petition and a possible revocation of the decision.

III. Effective Date

The EPA intends that this rule should become effective immediately upon final publication. The Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow

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rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here, because this rule, if finalized, would reduce the existing requirements for persons generating hazardous wastes. In light of the unnecessary hardship and expense that would be imposed on this petitioner by an effective date six months after publication and the fact that a six-month deadline is not necessary to achieve the purpose of section 3010, EPA believes that this exclusion should be effective immediately upon final publication. These reasons also provide a basis for making this rule effective immediately, upon final publication, under the Administrative Procedure Act, 5 USC § 553(d).

IV. Regulatory Impact

Under Executive Order 12866, EPA must conduct an "assessment" of the potential costs and benefits for all "significant" regulatory actions. The proposal to grant an exclusion is not significant, since its effect, if promulgated, would be to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction would be achieved by excluding waste generated at a specific facility from EPA's lists of hazardous wastes, thereby enabling this facility to manage its waste as nonhazardous. There is no additional impact therefore, due to today's proposed rule. Therefore, this proposal would not be a significant regulation and no cost/benefit assessment is required. The Office of Management and Budget (OMB) has also exempted this rule from the requirement for OMB review under Section (6) of Executive Order 12866.

V. Children's Health Protection

Under EO 13045, for all "significant" regulatory actions as defined by EO 12866, EPA must provide an evaluation of the environmental health or safety effect of a proposed rule on children and an explanation of why the proposed rule is preferable to other potentially effective and reasonably feasible alternatives considered by EPA. This proposal is not a significant regulatory action and is exempt from EO 13045.

VI. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the impact of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required, however, if the Administrator or delegated representative certifies that the rule will not have any impact on any small entities.

This rule, if promulgated, will not have any adverse economic impact on any small entities since its effect would be to reduce the overall costs of EPA's hazardous waste regulations and would be limited to one facility. Accordingly, I hereby certify that this proposed regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

VII. Paperwork Reduction Act

Information collection and recordkeeping requirements associated with this proposed rule have been approved by the OMB under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511, 44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2050–0053.

VIII. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, which was signed into law on March 22, 1995, EPA generally must prepare a written statement for rules with Federal mandates that may result in estimated costs to State, local, and tribal governments in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is required for EPA rules, under section 205 of the UMRA, EPA must identify and consider alternatives, including the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The EPA must select that alternative, unless the Administrator explains in the final rule why it was not selected or it is inconsistent with law. Before EPA establishes regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must develop under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements. The UMRA generally defines a Federal mandate for regulatory purposes as one that imposes an enforceable duty upon state, local or tribal governments or the private sector. The EPA finds that today's proposed delisting decision is deregulatory in nature and does not impose any enforceable duty upon state, local or tribal governments or the private sector. In addition, the proposed delisting does not establish any regulatory requirements for small governments and so does not require a small government agency plan under UMRA section 203.

IX. Intergovernmental Partnership

Under EO 12875, EPA may not promulgate any regulation which creates an unfunded mandate upon State, local or tribal governments. The EPA finds that today's proposed delisting decision is deregulatory in nature and does not impose any enforceable duty upon state, local or tribal governments (*See*, Section IX. (UMRA) above) and accordingly, this action is exempt from the requirements of EO 12875.

List of Subjects in 40 CFR Part 261

Environmental protection, Hazardous Waste, Recycling, Reporting and recordkeeping requirements.

Dated: June 18, 1998.

William N. Rhea,

Acting Division Director of Multimedia Planning and Permitting.

For the reasons set out in the preamble, 40 CFR part 261 is proposed to be amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

2. In Tables 1, 2, and 3 of Appendix IX of part 261 it is proposed to add the following waste stream in alphabetical order by facility to read as follows:

Appendix IX to Part 261—Wastes Excluded Under Parts 260.20 and 260.22

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
• •	•	• • • •
McDonnell Douglas Corporation	Tulsa, Oklahoma	Stabilized wastewater treatment sludges from surface impoundments previously closed as a landfill (at a maximum generation of 85,000 cubic yards on a one-time basis). (EPA Hazardous Waste No. F019, F002, F003, and F005) generated at U.S. Air Force Plant No. 3, Tulsa, Oklahoma and is disposed of in Subtitle D landfills after [insert publication date of final rule]. McDonnell Douglas must implement a testing program that meets the following conditions for the exclusion to be valid: (1) *Delisting Levels:* All leachable concentrations for the following constituents in the approximately 5,000 cubic yards of unstabilized waste in the bottom portion of the northwest lagoon of the surface impoundments which are closed as a landfill must not exceed the following levels (ppm) after the stabilization process is completed in accordance with Condition (3). Constituents must be measured in the waste leachate by the method specified in 40 CFR 261.24. Cyanide extractions must be conducted using distilled water in the place of the leaching media per 40 CFR 261.24. (A) Inorganic Constituents Antimony-0.336; Cadmium-0.280; Hexavalent Chromium-5.0; Lead-0.84; Cyanide-11.2; (B) Organic Constituents Benzene-0.28; Ethylbenzene-39.2; Toluene-56.; Xylenes-560.; trans-1,2-Dichloroethene-5.6; Tetrachloroethylene-0.280; Trichloroethylene-0.280 The approximately 80,000 cubic yards of previously stabilized waste in the upper northwest lagoon, entire northeast lagoon, and entire south lagoon of the surface impoundments which were closed as a landfill requires no verification testing. (2) *Waste Holding and Handling:* McDonnell Douglas must store as hazardous all stabilized waste from the bottom portion of the northwest lagoon area of the closed landfill as generated until verification testing as specified in Condition (3), is completed and valid analyses demonstrate that condition (1) is satisfied. If the levels of constituents measured in the samples of the stabilized waste do not exceed the levels set forth in Condition (1), then the waste is nonhazardous and may be managed and disposed of in a Subtitle D landfill in accordance with all applicable solid waste regulations. If constituent levels in a sample exceed any of the delisting levels set in Condition (1), the waste generated during the time period corresponding to this sample must be restabilized until delisting levels are met or managed and disposed of in accordance with Subtitle C of RCRA. (3) *Verification Testing Requirements:* Sample collection and analyses, including quality control procedures, must be performed according to SW-846 methodologies. McDonnell Douglas must stabilize the previously unstabilized waste from the bottom portion of the northwest lagoon of the surface impoundment (which was closed as a landfill) using fly ash, kiln dust or similar accepted materials in batches of 500 cubic yards or less. McDonnell Douglas must analyze one composite sample from each batch of 500 cubic yards or less. A minimum of four grab samples must be taken from each waste pile (or other designated holding area) of stabilized waste generated from each batch run. Each composited batch sample must be analyzed, prior to disposal of the waste in the batch represented by that sample, for constituents listed in Condition (1). There are no verification testing requirements for the stabilized wastes in the upper portions of the northwest lagoon, the entire northeast lagoon, and the entire south lagoon of the surface impoundments which were closed as a landfill. (4) *Changes in Operating Conditions:* If McDonnell Douglas significantly changes the stabilization process established under Condition (3) (e.g., use of new stabilization agents), McDonnell Douglas must notify the Agency in writing. After written approval by EPA, McDonnell Douglas may handle the wastes generated as non-hazardous, if the wastes meet the delisting levels set in Condition (1). (5) *Data Submittals:* Records of operating conditions and analytical data from Condition (3) must be compiled, summarized, and maintained on site for a minimum of five years. These records and data must be furnished upon request by EPA, or the State of Oklahoma, or both, and made available for inspection. Failure to submit the required data within the specified time period or maintain the required records on site for the specified time will be considered by EPA, at its discretion, sufficient basis to revoke the exclusion to the extent directed by EPA. All data must be accompanied by a signed copy of the following certification statement to attest to the truth and accuracy of the data submitted:

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TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility	Address	Waste description
		Under civil and criminal penalty of law for the making or submission of false or fraudulent statements or representations (pursuant to the applicable provisions of the Federal Code, which include, but may not be limited to, 18 USC § 1001 and 42 USC § 6928), I certify that the information contained in or accompanying this document is true, accurate and complete. As to the (those) identified section(s) of this document for which I cannot personally verify its (their) truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate and complete. In the event that any of this information is determined by EPA in its sole discretion to be false, inaccurate or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by EPA and that the company will be liable for any actions taken in contravention of the company's RCRA and CERCLA obligations premised upon the company's reliance on the void exclusion. (6) *Reopener Language* (a) If McDonnell Douglas discovers that a condition at the facility or an assumption related to the disposal of the excluded waste that was modeled or predicted in the petition does not occur as modeled or predicted, then McDonnell Douglas must report any information relevant to that condition, in writing, to the Regional Administrator or his delegate within 10 days of discovering that condition. (b) Upon receiving information described in paragraph (a) from any source, the Regional Administrator or his delegate will determine whether the reported condition requires further action. Further action may include revoking the exclusion, modifying the exclusion, or other appropriate response necessary to protect human health and the environment. (7) *Notification Requirements:* McDonnell Douglas must provide a one-time written notification to any State Regulatory Agency to which or through which the delisted waste described above will be transported for disposal at least 60 days prior to the commencement of such activity. The one-time written notification must be updated if the delisted waste is shipped to a different disposal facility. Failure to provide such a notification will result in a violation of the delisting petition and a possible revocation of the decision.
* *	*	* * * *

[FR Doc. 98–18732 Filed 7–13–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–7250]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–3461.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act

This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director for Mitigation certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This proposed rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [AMENDED]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	# Depth in feet above ground. * Elevation in feet. (NGVD)	
				Existing	Modified
Alaska	Homer (City) Kenai Peninsula Borough.	Kachemak Bay	At the northern end of Kachemak Bay Drive.	None	*14
			Near Coal Point	None	*22
			Near the intersection of Lake Street and Ocean Drive.	None	*28
Maps are available for inspection at the City of Homer City Hall, Homer, Alaska. Send comments to The Honorable Jack Cushing, Mayor, City of Homer, 491 East Pioneer Avenue, Homer, Alaska 99603. To convert from NGVD to Mean Lower Low Water (MLLW), subtract 9.7 feet.					
Colorado	Loveland (City) Larimer County.	Big Thompson River	Approximately 3,800 feet downstream of U.S. Highway 287.	None	*4,922
			Approximately 550 feet downstream of U.S. Highway 287.	None	*4,926
Maps are available for inspection at Building and Development Services, 500 East Third Street, Loveland, Colorado. Send comments to The Honorable Treva Edwards, Mayor, City of Loveland, 500 East Third Street, Loveland, Colorado 80537.					
Kansas	Perry (City) Jefferson County.	Kansas River	Approximately 1 mile southeast of Cedar Street at the southeasternmost corporate limit.	*844	+845
			Approximately 200 feet south of Bridge Street.	*850	+850
		Delaware River	At Union Pacific Railroad crossing over the Delaware River.	*850	+850
Maps are available for inspection at the City of Perry City Hall, 119 Elm Street, Perry, Kansas. Send comments to The Honorable Matt Willkomm, Mayor, City of Perry, P.O. Box 724, Perry, Kansas 66073. Please note that to convert to NAVD, add 0.26 foot to NGVD elevations.					
Louisiana	Delhi (Town) Richland Parish.	Bayou Macon	Approximately 1 mile downstream of U.S. 80.	None	*77
			Approximately 0.5 mile upstream of U.S. 80.	None	*77
Maps are available for inspection at 202 Broadway, Delhi, Louisiana. Send comments to The Honorable James A. Hopson, Mayor, Town of Delhi, 209 Broadway, Delhi, Louisiana 71232.					
Texas	Cameron County (Unincorporated Areas).	Gulf of Mexico	Approximately 850 feet south of Old Queen Isabella Causeway.	*11	*12
			Approximately 600 feet northeast of the northern corporate limits.	*13	*16
		Laguna Madre	Approximately 4,000 feet south of Old Queen Isabella Causeway.	*10	*8
			Approximately 2,000 feet west of Padre Boulevard.	*6	*8

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State	City/town/county	Source of flooding	Location	# Depth in feet above ground. * Elevation in feet. (NGVD) Existing	Modified
Maps are available for inspection at the Cameron County Engineering Office, 805 West Price Road, Brownsville, Texas. Send comments to The Honorable Gilbert Hinojosa, Cameron County Judge, 964 East Harrison, Brownsville, Texas 78520.					
Texas	Mount Pleasant (City) Titus County.	Hart Creek Tributary	Approximately 1,300 feet downstream of Alexander Road.	None	*322
			Approximately 130 feet upstream of State Highway 49.	*359	*359
			Approximately 290 feet downstream of West Sixth Street.	None	*407
		Tributary 1	At confluence with Hart Creek Tributary	None	*330
			Approximately 1,300 feet upstream of confluence with Hart Creek Tributary.	None	*344
		Tributary 2	At confluence with Hart Creek Tributary	None	*358
			Approximately 1,900 feet upstream of Stark Street.	None	*370
		Tributary 3	At confluence with Hart Creek Tributary	None	*377
			Approximately 1,620 feet upstream of West First Street.	None	*384
Maps are available for inspection at the City of Mount Pleasant Public Works Facility, 1412 North Washington, Mount Pleasant, Texas. Send comments to The Honorable Jerry Boatner, Mayor, City of Mount Pleasant, 501 North Madison, Mount Pleasant, Texas 75455–3650.					
	Muenster (City) Cooke County.	Brushy Elm Creek	Approximately 400 feet downstream of Eddy Road.	None	*957
			Approximately 150 feet downstream of U.S. Highway 82.	None	*963
			Approximately 200 feet downstream of Ash Street.	None	*967
		Tributary 1	Approximately 150 feet downstream of U.S. Highway 82.	None	*975
			Approximately 270 feet upstream of Fifth Street.	None	*997
			Approximately 2,150 feet upstream of Seventh Street.	None	*1,020
		Tributary 2	Approximately 150 feet downstream of Ash Street.	None	*971
			Approximately 1,100 feet upstream of Ash Street.	None	*995
		Tributary 3 Emergency Spillway.	At confluence with Tributary 3	None	*965
			Approximately 900 feet downstream of Sixth Street.	None	*1,000
		Tributary 3	At confluence with Tributary 3 Emergency Spillway.	None	*965
			At Sixth Street	None	*1,000
			Approximately 1,200 feet upstream of confluence with Tributary 4.	None	*1,018
		Tributary 4	At confluence with Tributary 3	None	*1,007
			Approximately 180 feet upstream of confluence with Tributary 3.	None	*1,008
Maps are available for inspection at the City of Muenster City Hall, 400 North Main, Muenster, Texas. Send comments to The Honorable Henry Weinzepfel, Mayor, City of Muenster, P.O. Box 208, Muenster, Texas 78252.					
	South Padre Island (Town) Cameron County.	Gulf of Mexico	Approximately 150 feet northeast of intersection of Gulf Street and Gulf Boulevard.	*8	*12
			Approximately 500 feet northeast of intersection of Gulf Street and Gulf Boulevard.	*13	*16
		Laguna Madre	At intersection of Palm Street at Laguna Boulevard.	*5	*8
Maps are available for inspection at the Town of South Padre Island Building Department, 4405 Padre Boulevard, South Padre Island, Texas. Send comments to The Honorable Edmund Cyganiewicz, Mayor, Town of South Padre Island, 4501 Padre Boulevard, South Padre Island, Texas 78597.					
	Travis County and Incorporated Areas.	Barton Creek	Approximately 4,000 feet downstream of Fitzhugh Road.	*940	*930

State	City/town/county	Source of flooding	Location	# Depth in feet above ground. * Elevation in feet. (NGVD)	
				Existing	Modified
			Approximately 740 feet upstream of Fitzhugh Road.	*951	*943
		Bear Creek	At confluence with Onion Creek	*618	*617
			Approximately 4.4 miles upstream of Rock Dam (Approximately 240 feet upstream of County boundary).	None	*805
		Bear Creek Tributary	At confluence with Bear Creek	*655	*656
			Approximately 9 feet upstream of FM 1626.	*655	*656
			Approximately 20 feet upstream of FM 1626.	*656	*656
		Boggy Creek South	At confluence with Onion Creek	*560	*558
			Approximately 300 feet upstream of Bluff Springs Road.	*560	*559
			Approximately 375 feet upstream of Bluff Springs Road.	*560	*560
		Cottonmouth Creek	At confluence with Onion Creek	*479	*477
			Approximately 5,150 feet (0.98 mile) upstream of confluence with Onion Creek.	*481	*480
			Approximately 5,350 feet (1.01 miles) upstream of confluence with Onion Creek.	*481	*481
		Little Bear Creek	At confluence with Bear Creek	*636	*634
			Approximately 1.8 miles upstream of confluence with Bear Creek (at County boundary).	*675	*672
		Long Branch	Approximately 1,090 feet downstream of dam.	*1,015	*1,013
			Approximately 1,835 feet upstream of dam (at County boundary).	*1,036	*1,035
		Marble Creek	At confluence with Onion Creek	*538	*540
			Approximately 1,650 feet upstream of William Cannon Drive.	*543	*544
			Approximately 1,700 feet upstream of William Cannon Drive.	*544	*544
		Onion Creek	At confluence with the Colorado River	*414	*414
			Approximately 2,060 feet upstream of confluence with the Colorado River.	*416	*417
			Approximately 1.4 miles upstream of confluence of Garlic Creek (approximately 150 feet upstream of County boundary).	None	*845
		Rinard Creek	At confluence with Onion Creek	*578	*576
			Approximately 1,370 feet upstream of Bradshaw Road.	*578	*577
			Approximately 1,405 feet upstream of Bradshaw Road.	*578	*578
		Slaughter Creek	At confluence with Onion Creek	*572	*571
			Approximately 3,850 feet upstream of confluence with Onion Creek.	*573	*572
			Approximately 4,100 feet upstream of confluence with Onion Creek.	*573	*573
		Williamson Creek	At confluence with Onion Creek	*524	*526
			Approximately 2,940 feet upstream of Jimmy Cliff Drive.	*528	*529
			Approximately 3,030 feet upstream of Jimmy Cliff Drive.	*529	*529
		Williamson Creek Tributary 1.	At confluence with Williamson Creek	*524	*526
			Approximately 2,480 feet upstream of confluence with Williamson Creek.	*525	*526
			Approximately 2,520 feet upstream of confluence with Williamson Creek.	*526	*526
		Williamson Creek Tributary 2.	At confluence with Williamson Creek	*524	*526
			Approximately 2,410 feet upstream of confluence with Williamson Creek.	*526	*526

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<table>
<tr><th rowspan="2">State</th><th rowspan="2">City/town/county</th><th rowspan="2">Source of flooding</th><th rowspan="2">Location</th><th colspan="2"># Depth in feet above ground.
* Elevation in feet. (NGVD)</th></tr>
<tr><th>Existing</th><th>Modified</th></tr>
<tr><td colspan="6">Maps are available for inspection at the Travis County Transportation and Natural Resources Department, Executive Office Building, 411 West 13th Street, Austin, Texas.
Send comments to The Honorable Bill Aleshire, Travis County Judge, P.O. Box 1748, Austin, Texas 78767.
Maps are available for inspection at the City of Austin Watershed Engineering Division, 206 East Ninth Street, Suite No. 17102, Austin, Texas.
Send comments to The Honorable Kirk Watson, Mayor, City of Austin, P.O. Box 1088, Austin, Texas 78767.</td></tr>
<tr><td>Washington ....</td><td>Clark County (Unincorporated Areas).</td><td>East Fork Lewis River ......</td><td>Approximately 17,000 feet downstream of Daybreak Road.</td><td>*31</td><td>*32</td></tr>
<tr><td></td><td></td><td>..</td><td>Approximately 400 feet downstream of Daybreak Road.</td><td>*76</td><td>*75</td></tr>
<tr><td colspan="6">Maps are available for inspection at the Clark County Department of Community Development, Development Services Division, Office of Engineering Review, 1408 Franklin Street, Vancouver, Washington.
Send comments to The Honorable Betty Sue Morris, Chairperson, Clark County Board of Commissioners, P.O. Box 5000, Vancouver, Washington 98666–5000.</td></tr>
</table>

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Dated: July 7, 1998.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 98–18724 Filed 7–13–98; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MM Docket No. 92–264; FCC 98–138]

Horizontal Ownership Limits

AGENCY: Federal Communications Commission

ACTION: Proposed rule.

SUMMARY: In the *Further Notice of Proposed Rulemaking* ("*Further Notice*"), the Commission seeks comment on possible revisions of the cable television horizontal ownership rules and the method by which horizontal ownership is calculated. The Commission seeks comment on whether, in light of evolving market conditions, the horizontal ownership limit should remain at 30% of homes passed nationwide by cable, and also seeks comment on the 35% minority-control allowance. The *Further Notice* also seeks comment on whether the Commission should revise the rules to consider the presence in the market of all multichannel video programming providers ("MVPDs") rather than cable operators alone, and whether to base the limit on actual subscribers rather than on homes passed. The *Further Notice* is part of a companion *Memorandum Opinion and Order on Reconsideration* which is summarized elsewhere in this issue of the **Federal Register**.

DATES: Comments are due on or before August 14, 1998, and reply comments are due on or before September 3, 1998.

FOR FURTHER INFORMATION CONTACT: John Norton, Cable Services Bureau, (202) 418–7200.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Further Notice of Proposed Rulemaking*, MM Docket No. 92–264, FCC 98–138 adopted June 23, 1998, and released June 26, 1998. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. 20554, and may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 1231 20th Street, NW, Washington, D.C. 20036.

Synopsis of the Notice of Proposed Rulemaking

1. In the Second Report and Order in MM Docket No. 92–264, 58 FR 60135, November 15, 1993 ("*Second Report and Order*"), the Commission adopted the horizontal ownership rules, which provide that no person may hold attributable interests in cable systems reaching more than 30% of all homes passed nationwide by cable. In the *Second Report and Order*, the Commission stated that it planned to review subscriber limits every five years to determine whether such limits are reasonable under the prevailing market conditions and whether such limits continue to serve the objectives for which they were adopted. The rules in question were adopted in 1993, and the Commission believes that it is appropriate to review these rules to address intervening changes in the communications marketplace.

2. In the *Further Notice*, the Commission seeks comment on whether 30% remains the appropriate horizontal ownership limit in light of evolving market conditions. The current rules further allow ownership of additional cable systems reaching up to 35% of cable homes passed, provided such additional cable systems are minority-controlled. The purpose of the 35% minority-control allowance was to encourage diversity of viewpoints by fostering increased minority participation and ownership in the cable industry, through increased multiple systems operator ("MSO") investment in minority-owned cable systems. The Commission seeks comment on the constitutionality of the minority-control allowance in light of the Supreme Court's decision in *Adarand Constructors, Inc.* v. *Pena*, 515 U.S. 200 (1995). Recognizing that the minority-control allowance has never been utilized by any MSO, the Commission also seeks comment on the effectiveness of this rule and on the development of alternative rules to promote minority participation consistent with the standards set forth in *Adarand*.

3. The Commission also seeks comment on two specific issues concerning the method of ownership calculation: (1) whether the rules should consider the presence in the market of all MVPDs rather than cable operators alone, and (2) whether the rules should be based on actual subscriber numbers rather than on homes passed. The rules proposed in the *Further Notice* would

provide that, in calculating a cable MSO's market share, the numerator would consist of the MSO's cable subscribers plus its non-cable MVPD subscribers, and the denominator would consist of the total number of cable subscribers plus non-cable MVPD subscribers nationwide. In addition to these proposed rule changes, the Commission seeks comment as to whether the method of ownership calculation should be modified in some way to support cable overbuild competition.

4. In the *Further Notice,* the Commission recognizes that the MVPD market has continued to evolve since our adoption of the horizontal ownership rules. The Commission seeks comment on a proposal to revise the rules to include alternative MVPDs in the measure of horizontal concentration in order to reflect the emergence of competitors to cable in the video marketplace, as well as potential MSO increases in market power through acquisition of interests in other MVPDs. The *Further Notice* seeks comment on whether such a rule revision—recognizing the impact of all purchasers of video programming, not just cable operators—would provide a more accurate measure of MSOs' market power.

5. The Commission also seeks comment on whether the proposed revision of the horizontal ownership rules is consistent with the Commission's authority under Section 613 of the Communications Act to "prescribe rules and regulations establishing reasonable limits on the number of cable subscribers a person is authorized to reach through cable systems * * *." The proposal would result in a sliding or adjustable cable horizontal ownership limit, under which the number of subscribers a cable operator is authorized to reach through cable systems would decrease in proportion with any increase in the number of subscribers that entity reaches through other MVPD systems. Conversely, the cable horizontal ownership limit would rise for a cable operator that reaches fewer subscribers through other MVPD systems. The proposed rules would impose no limit on the number of subscribers a cable operator may reach through alternative MVPD systems. These rules also would not apply to persons who have no attributable ownership interests in cable systems. The Commission seeks comment on this proposal and on whether it is consistent with the terms of the underlying statute, given Section 613's focus on the cable industry and the establishment of a cable subscribership limit rather than an MVPD subscribership limit.

6. In the *Further Notice,* the Commission also seeks comment on the possibility of changing the method of calculating the basis of the horizontal ownership limits from potential reach, i.e., number of homes passed, to actual reach, i.e., number of MVPD subscribers served, in order to reflect an MVPD's actual purchasing power. In revisiting the horizontal ownership rules, the Commission seeks comment on whether the homes passed standard continues to be an accurate measure of horizontal concentration and market power in today's marketplace, and whether the easier to measure subscriber standard can be adapted for use in a fashion that will not require an abrupt halt to the addition of new subscribers to established cable systems. The Commission asks for comment on the best method for counting subscribers, including those residing in multi-dwelling units and commercial subscribers such as hotels, bars, etc.

7. The Commission seeks comment on whether the greater accuracy provided by a subscriber based standard outweighs the greater stability provided by a homes passed standard. With regard to the argument that a subscriber based standard may have the effect of discouraging subscriber growth, the Commission seeks comment on whether system operators would have a sufficient opportunity to anticipate the approaching limit and to dispose of systems sufficient to stay under the limit rather than to simply cease the addition of new subscribers.

8. The Commission asks commenters to address whether the proposed revisions are consistent with the public interest objectives and the Commission's legal authority under section 613 and 47 U.S.C. §§ 151, 154, and 303. The Commission seeks comment on whether the proposed horizontal ownership rules would provide a more accurate measure of horizontal concentration and market power than the current rules. The Commission also seeks comment on the practical impact of the proposed rule changes on MSO ownership and operation. In particular, the Commission asks that commenters address whether the proposed changes would place any cable MSO in violation of the 30% horizontal ownership limit and to provide specific factual information in support of any such conclusions. The Commission seeks comment on whether it should develop special rules to address situations where a cable MSO may exceed the 30% limit as a result of subscriber growth within an existing area of homes passed. The Commission further invites comment on any other matters relevant to its proposals and tentative conclusions.

Initial Regulatory Flexibility Analysis for the Further Notice of Proposed Rulemaking

9. As required by Section 603 of the Regulatory Flexibility Act, 5 U.S.C. § 603 ("RFA"), the Commission is incorporating an Initial Regulatory Flexibility Analysis ("IRFA") of the expected impact on small entities of any policies or proposals contained in this *Further Notice.* Written public comments concerning the effect of the proposals in the *Further Notice,* including the IRFA, on small businesses are requested. Comments must be identified as responses to the IRFA and must be filed by the deadlines for the submission of comments in this proceeding. The Commission shall send a copy of this *Further Notice,* including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act.

10. *Need for, and Objectives of, the Proposed Rules.* The 1992 Cable Act and subsequent actions to implement it, and Section 11(c) of the 1992 Cable Act in particular, are intended to encourage competition in the cable industry and prevent the exercise of undue market power by large cable multiple systems owners. The Commission issues the *Further Notice* to obtain comment on whether certain aspects of the Commission's horizontal ownership rules should be revised to make them more effective in serving the public interest objectives Congress charged the Commission with protecting in Section 11(c).

11. *Legal Basis.* Authority for the actions proposed in this *Further Notice* may be found in Sections 1, 4, 303, and 613 of the Communications Act of 1934, *as amended,* 47 U.S.C. §§ 151, 154, 303, 533.

12. *Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply.* The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction" and "the same meaning as the term 'small business concern' under the Small Business Act unless the Commission has developed one or more definitions that are appropriate for its activities. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any

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additional criteria established by the Small Business Administration ("SBA"). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies "unless an agency after consultation with the Office of Advocacy of the SBA and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**."

13. The SBA has developed a definition of small entities for cable and other pay television services under Standard Industrial Classification 4841 (SIC 4841), which covers subscription television services, which includes all such companies with annual gross revenues of $11 million or less. This definition includes cable systems operators, closed circuit television services, direct broadcast satellite services, multipoint distribution systems, satellite master antenna systems and subscription television services. According to the Census Bureau, there were 1,323 such cable and other pay television services generating less than $11 million in revenue that were in operation for at least one year at the end of 1992.

14. The Commission has developed its own definition of a "small cable company" and "small system" for the purposes of rate regulation. Under the Commission's rules, a "small cable company," is one serving fewer than 400,000 subscribers nationwide. Based on our most recent information, the Commission estimates that there were 1,439 cable companies that qualified as small cable companies at the end of 1995. Since then, some of those companies may have grown to serve over 400,000 subscribers, and others may have been involved in transactions that caused them to be combined with other cable companies. Consequently, the Commission estimates that there are fewer than 1,439 small entity cable companies that may be affected by the proposal adopted in the *Notice*. The Commission's rules also define a "small system," for the purposes of cable rate regulation, as a cable system with 15,000 or fewer subscribers. The Commission does not request nor does it collect information concerning cable systems serving 15,000 or fewer subscribers and thus the Commission is unable to estimate at this time the number of small cable systems nationwide.

15. The Communications Act also contains a definition of a "small cable operator," which is "a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000." The Commission has determined that there are 61,700,000 subscribers in the United States. Therefore, the Commission found that an operator serving fewer than 617,000 subscribers is deemed a small operator, if its annual revenues, when combined with the total annual revenues of all of its affiliates, do not exceed $250 million in the aggregate. Based on available data, the Commission finds that the number of cable operators serving 617,000 subscribers or less totals 1,450. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250,000,000, the Commission is unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act. The Commission is likewise unable to estimate the number of these small cable operators that serve 50,000 or fewer subscribers in a franchise area.

16. *Description of Projected Recording, Record keeping, and Other Compliance Requirements.* If the horizontal ownership rules are changed, the Commission may have to change certain cable reporting requirements. Cable entities also may have to adjust the organization of their business interests in order to comply with any new rules that the Commission may adopt.

17. *Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered.* The actions proposed in the *Further Notice* are intended to ensure that the Commission's horizontal ownership rules are effective in preventing the exercise of undue market power by large cable multiple systems owners and promote a competitive, diverse and fair marketplace. Accordingly, as discussed in the above descriptions of the proposed rule changes, the approaches proposed in this *Further Notice* should promote fairness and diversity for all cable systems, including the small entities listed above. The Commission invites comments on these approaches, including comment on whether alternative approaches will mitigate any unwarranted expenses incurred by smaller entities by virtue of their size alone.

18. *Federal Rules that Overlap, Duplicate or Conflict with the Proposed Rules.* None.

Paperwork Reduction Act

19. The proposals contained herein in the *Further Notice* have been analyzed with respect to the Paperwork Reduction Act of 1995 (the "1995 Act") and found to impose modified information collection requirements. Implementation of any new or modified requirements will be subject to approval by the Office of Management and Budget ("OMB"). The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to take this opportunity to comment on the information collection requirements contained in this *Further Notice*, as required by the 1995 Act. Comments should address: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (2) the accuracy of the Commission's burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

20. Written comments by the public on the modified information collection requirements are due August 14, 1998. OMB comments are due August 31, 1998. Comments on the information collection requirements contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to jboley@fcc.gov and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725—17th Street, N.W., Washington, DC 20503 or via the Internet to fain_t@al.eop.gov. For additional information on the information collection requirements, contact Judy Boley at 202–418–0214 or via the Internet at the above address.

Procedural Provisions

21. *Ex parte Rules—"Permit-but-Disclose" Proceeding.* This proceeding will be treated as a "permit-but-disclose" proceeding subject to the "permit-but-disclose" requirements under § 1.1206(b) of the rules. Ex parte presentations are permissible if disclosed in accordance with Commission rules, except during the Sunshine Agenda period when presentations, ex parte or otherwise, are generally prohibited. Persons making oral ex parte presentations are reminded

that a memorandum summarizing a presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. Additional rules pertaining to oral and written presentations are set forth in Section 1.1206(b).

22. *Filing of Comments and Reply Comments.* Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, comments are due August 14, 1998, and reply comments are due September 3, 1998. To file formally in this proceeding, you must file an original plus four copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments and reply comments, you must file an original plus nine copies. You should send comments and reply comments to Office of the Secretary, Federal Communications Commission, 1919 M Street, NW, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, Room 239, Federal Communications Commission, 1919 M Street NW, Washington DC 20554.

Ordering Clauses

23. Accordingly, it is ordered that, pursuant to sections 1, 4, 303 and 613 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 303 and 533, notice is hereby given of proposed amendments to the Commission's rules, in accordance with the proposals, discussions and statements of issues in the *Further Notice* and comment is sought regarding such proposals, discussions and statements of issues.

24. It is further ordered that the Office of Public Affairs Reference Operation Division shall send a copy of this *Further Notice,* including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subject in 47 CFR Part 76

Cable television.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–18036 Filed 7–13–98; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[CS Docket No. 98–82; FCC 98–112]

Cable Television Ownership Attribution Rules

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In the *Notice of Proposed Rulemaking* ("*NPRM*"), the Commission initiates a review of its cable attribution rules. The attribution rules seek to identify those corporate, financial, partnership, ownership and other business relationships that confer on their holders a degree of ownership or other economic interest, *or* influence or control over an entity engaged in the provision of communications services such that the holders should be subject to the Commission's regulation. The Commission is initiating this rulemaking in light of recent developments in the cable industry.

DATES: Comments are due on or before August 14, 1998, and reply comments are due on or before September 3, 1998.

FOR FURTHER INFORMATION CONTACT: John Norton, Cable Services Bureau, (202) 418–7200.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rulemaking* ("*NPRM*") CS Docket No. 98–82, FCC 98–112 adopted June 4, 1998, and released June 26, 1998. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. 20554, and may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 1231 20th Street, NW, Washington, D.C. 20036.

Synopsis of the Notice of Proposed Rulemaking

1. The *NPRM* initiates a review of the Commission's cable television ownership attribution rules, which seek to identify those corporate, financial, partnership, ownership and other business relationships that confer on their holders a degree of ownership or other economic interest, *or* influence or control over an entity engaged in the provision of communications services such that the holders should be subject to the Commission's regulation. The cable attribution rules are particularly significant in the context of a number of statutory provisions enacted as part of the Cable Television Consumer Protection and Competition Act of 1992 (the "1992 Cable Act"), including: (1) former section 613(a)(1), which prohibited the common ownership of local television stations and cable systems that serve the same area (the "cable/broadcast station cross-ownership restriction"); (2) section 613(f)(1)(A), which requires the Commission to establish reasonable limits on the number of cable subscribers a person is authorized to reach through cable systems owned by such person, or in which such person has an attributable interest ("horizontal cable ownership limits"); (3) section 613(f)(1)(B), which requires the Commission to establish reasonable limits on the number of channels on a cable system that can be occupied by a video programmer in which a cable operator has an attributable interest ("vertical occupancy limits"); (4) section 613(a)(2), which prohibits a cable operator from holding a license to provide multichannel multipoint distribution service ("MMDS"), or from offering satellite master antennae television ("SMATV") service separate and apart from any franchised cable service, in any portion of the franchise area served by the cable operator's cable system (the "cable/MMDS" and "cable/SMATV" cross-ownership restrictions); (5) section 628, which, among other things, requires the Commission to establish safeguards to prevent a cable operator with an attributable interest in a programming vendor from engaging in unfair or deceptive acts involving the distribution of programming to an unaffiliated multichannel video programming distributor ("program access" rules); and (6) section 616, which, among other things, restricts the activities of cable operators and other multichannel programming distributors when dealing with programming vendors, including prohibiting discrimination in the selection, terms, or conditions of carriage, on the basis of a vendor's affiliation or non-affiliation ("program carriage" rules).

2. For broad structural rules such as the horizontal cable ownership limits and vertical channel occupancy limits, that are designed to ensure competition and diversity in the video marketplace, the Commission adopted attribution rules from the broadcast context where the goal is the same. The broadcast attribution standard generally provides that partnership interests, direct ownership interests, and voting stock interests of 5% or more are attributable. For passive investors, the voting stock benchmark is 10%. Non-voting stock

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interests (including most "preferred" stock classes) are not attributable. There are several exceptions to the voting stock threshold, including a "single majority shareholder" exception, which provides that minority interests will not be attributed where a single shareholder owns more than 50% of the outstanding voting stock. In addition, the interests of "insulated" limited partners are not attributed.

3. The Commission adopted a more restrictive attribution standard for those rules, such as the program access and program carriage rules and the cable/MMDS and cable/SMATV cross-ownership restrictions, that are designed not only to promote competition and diversity, but also to deter specific discriminatory or improper conduct by cable operators or programmers. In contrast to the broadcast attribution standard, this more restrictive standard (1) considers a cable operator to have an attributable interest if it holds 5% or more of an entity's stock, whether voting or non-voting, (2) does not apply the single majority shareholder rule, and (3) attributes limited partnership interests of 5% or more, regardless of insulation.

4. In addition, the Commission relied upon the attribution rules in defining when an entity is considered an "affiliate" for certain purposes under Title VI. The Commission applied the more restrictive attribution standard to the ratemaking context, for purposes of analyzing asset transfers and the provision of services between a cable operator and its affiliate, and for purposes of limiting the amount of pass-throughs permitted for programming services affiliated with cable operators. The Commission also applied the more restrictive attribution standard to the leased access provisions and the open video system provisions.

5. In the Cable Act Reform proceeding, the Commission is reviewing appropriate definitions of "affiliate" under other provisions of the 1996 Act, including the small operator provisions, the new prong of the "effective competition" test, and the cable-telco buy-out provisions. Pending the adoption of final rules, the Commission requested comments on the appropriate definition of "affiliate" for the cable-telco buyout provisions and established interim rules for the small operator and "effective competition" provisions. For the small operator provisions, the interim rule adopted the definition of "affiliate" used for purposes of the Commission's small system cost-of-service rules. Thus, an entity is deemed affiliated with a small cable operator if that entity has a 20% or greater equity interest in the operator (active or passive) or holds de jure or de facto control over the operator. By contrast, in the "effective competition" context, the interim rule provided that an "affiliate" is an entity that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person, where the term "own" means to have an equity interest (or the equivalent thereof) of more than 10%.

6. The Commission has initiated a review of the broadcast attribution standard under the *Notice of Proposed Rule Making, Review of the Commission's Regulations Governing the Attribution of Mass Media Interests,* 60 FR 06483, MM Docket Nos. 94–150, 92–51 and 87–154, FCC 94–324, 10 FCC Rcd 3606 (1995) ("*Broadcast Attribution Notice*") and the *Further Notice of Proposed Rule Making, Regulations Governing Attribution of Broadcast and Cable/MDS Interests, Regulation and Policies Affecting Investment in the Broadcast Industry and Reexamination of the Commission's Cross-Interest Policy,* 61 FR 67275, MM Docket Nos. 94–150, 92–51 and 87–154, FCC 96–436, 11 FCC Rcd 19895 (1996) ("*Broadcast Attribution Further Notice*").

7. Among the issues on which the Commission solicited comment in the *Broadcast Attribution Notice* were: (1) whether to increase the voting stock ownership benchmark from 5 percent to 10 percent; (2) whether to increase the passive investor stock ownership benchmark from 10 percent to 20 percent; (3) whether to restrict or eliminate our single majority shareholder exemption and whether to attribute nonvoting shares in certain circumstances, such as where the minority or nonvoting shareholder has contributed a significant portion of the equity or debt financing; (4) whether to revise our insulation criteria for limited partnership interests, and whether to adopt an equity benchmark for noninsulated limited partners; (5) whether to treat interests in limited liability companies ("LLCs") and similar new business forms, such as registered limited liability partnerships ("RLLPs"), as we now treat limited partnerships; (6) whether to eliminate the remaining aspects of our cross-interest policy that prevent individuals from having "meaningful" interests—including key employee relationships, joint ventures, and nonattributable equity interests—in two broadcast stations, or a daily newspaper and a broadcast station, or a television station and a cable system, when both outlets serve "substantially the same area;" and (7) how to treat non-equity financial relationships and multiple business relationships that, although not individually attributable, could combine to create sufficient influence to warrant attribution.

8. In addition to the issues raised in the *Broadcast Attribution Notice,* the *Broadcast Attribution Further Notice* explored additional proposals to increase the precision of the attribution rules. In the *Broadcast Attribution Further Notice,* the Commission invited comment on whether it should add a new "equity or debt plus" ("EDP") attribution rule. Under such a rule, where an interest holder is a program supplier or same-market media entity, the Commission will attribute its otherwise non-attributable equity and/or debt interests in a licensee or other media entity subject to the cross-ownership rules if those aggregated interests exceed a specified benchmark, proposed to be set at 33 percent. Second, the Commission tentatively concluded that it should treat television time brokerage agreements or local marketing agreements ("LMAs") the same as radio LMAs, and also count radio and television LMAs toward all applicable ownership limits. Third, the Commission invited comment as to whether it should attribute joint sales agreements ("JSAs") in certain circumstances. Fourth, the Commission invited comments on its staff study of attributable ownership interests in broadcast television stations, appended to the *Broadcast Attribution Further Notice,* and on the implications of this study regarding the impact of the proposed attribution rule changes, particularly as to the voting stock benchmarks. Fifth, the Commission sought comments on whether a transition period or grandfathering of existing interests is appropriate. The Commission tentatively concluded that any grandfathering should apply only to the current interest holder and that interests acquired on or after December 15, 1994, the date of adoption of the *Broadcast Attribution Notice,* should be subject to any final rules adopted. The Commission invited comments as to whether it should apply broadcast attribution criteria and add a new EDP attribution rule for purposes of the cable/Multipoint Distribution Service ("MDS") cross-ownership restrictions.

9. This *NPRM* initiates a similar review of the attribution issues as they specifically relate to the Commission's cable rules. The *NPRM* seeks comment on the same issues raised in the broadcast attribution proceedings as they pertain to the cable industry, and on whether and how these issues should factor into the review of the

Commission's cable attribution rules. In particular, the Commission asks commenters to focus on: (1) the proposed "equity or debt plus" addition to the current attribution rules, and specifically those relationships in the cable context that may provide sufficient incentive and ability for an otherwise nonattributable interest holder to exert an attributable influence or control; (2) the attribution of certain contractual or other business relationships in the cable context (including affiliations that allow different cable entities to purchase programming, technology or equipment on common terms, analogous to JSAs and LMAs in the broadcast context) that may implicate diversity and competition concerns, irrespective of debt or equity; (3) the impact of raising the stock ownership benchmark for active and passive investors in the cable context, particularly seeking empirical data and analysis similar to the Commission staff study on the same subject in the broadcasting context; (4) whether to retain, modify, or eliminate the single majority shareholder exemption; and (5) whether a transition period or grandfathering of existing interests is appropriate if we decide to adopt more restrictive attribution rules. Because the *Broadcast Attribution Notice* and the *Broadcast Attribution Further Notice* already address application of the attribution rules to the cable/MMDS and the cable/broadcast cross-ownership restrictions, the Commission will not revisit and therefore does not seek comment on those issues in the *NPRM*.

10. The *NPRM* seeks comment on whether the assumptions underlying the cable attribution rules are still valid. In particular, comment is sought on whether any relevant differences exist between the cable and broadcasting industries that would support a distinct cable attribution standard even for those cable rules designed, like the broadcasting ownership rules, to ensure competition and diversity. In the *NPRM*, the Commission notes that the broadcast attribution rules focus primarily on those relationships which confer on their holders influence or control over a broadcaster's key business decisions in the areas of budget, personnel and programming. Comment is sought on whether, in the cable context, these are the appropriate key business areas and whether the underlying areas of concern should include cable entities' technology decisions and practices. The *NPRM* seeks comment on whether there are differences in ownership, financing or management structures, industry health, typical stockholdings, informal business arrangements, or outside financial claims that render one of the industries more or less subject to the types of influence or control that the attribution rules seek to identify. Also, because the current cable attribution rules do not distinguish between types of cable operators, comment is sought on whether any relevant differences exist among cable operators that would warrant different attribution rules.

11. In the *NPRM*, the Commission also solicits comment on whether and how we should re-evaluate the more restrictive attribution standard applicable to certain of the rules described above, such as the program access and program carriage rules and the cable/MMDS and cable/SMATV cross-ownership restrictions. In particular, the Commission seeks comment on: (1) whether the more restrictive standard serves the purposes for which it was intended; (2) whether the more restrictive standard is over- or under-inclusive; (3) whether the more restrictive attribution standard should be revised in relation to the broadcast attribution standard; (4) whether these two attribution standards should be treated as completely separate and independent formulations; and (5) whether, in view of the purposes it serves, we should require a more compelling showing before modifying the more restrictive standard.

12. In the *NPRM*, comment is sought on whether and how any changes in our cable attribution rules should affect the Commission's various definitions of "affiliate." In particular, the Commission seeks comment on whether and how those affiliation rules that are expressly based on the cable attribution rules should change if the underlying attribution rules are changed.

13. In the *NPRM*, the Commission seeks comment as to the business arrangements involved in recent cable system partnerships, joint ventures, swaps, transfers, mergers and acquisitions, particularly those transactions announced or consummated in 1997 or thereafter, including those discussed in the Commission's 1997 annual report on the status of competition in the delivery of video programming. Commenters should identify the entities involved in each transaction, the projected date of consummation, details of the new structure including: the percentage and nature (e.g., voting or non-voting, limited or general partnership, insulated or non-insulated, rights of conversion) of each entity's ownership interests, the number of officers, directors, and other key personnel appointed by each entity to a management committee, board or other governing body, the portion of the equity or debt financing contributed by each entity, and any authority or power held by each entity to review, veto or otherwise influence the management or operation of the cable systems, as well as the ability to purchase programming, technology, or equipment under common contract terms. The Commission seeks information, in particular, as to any business arrangements undertaken to insulate one or more parties to these transactions from control or influence over key business aspects of the cable systems at issue. Comment is also sought as to the development of the Commission's cable attribution rules to avoid inconsistency with any other statutes or regulations (e.g., those of the Internal Revenue Service or the Financial Accounting Standards Board) that may influence the structuring of the business arrangements at issue.

14. With respect to each ownership or relational interest discussed herein, the Commission seeks comment on whether the specified level or degree of ownership interest in, or relationship to, an entity would be likely to impart the ability to influence or control the operations of that entity, including core areas such as budget, personnel, programming, technology, or competitive practices, such that the ownership rules should be implicated. Consistent with the purpose of section 257 of the 1996 Act to reduce market entry barriers for small businesses, comment is also sought on the impact that any changes to the Commission's cable ownership attribution or affiliation standards will have on market entry barriers for small businesses. In the *NPRM*, the Commission asks interested parties to support their comments with empirical data and economic analyses regarding levels of influence in business organizations and current market conditions.

Initial Regulatory Flexibility Analysis

15. As required by section 603 of the Regulatory Flexibility Act, 5 U.S.C. § 603 ("RFA"), the Commission is incorporating an Initial Regulatory Flexibility Analysis ("IRFA") of the expected impact on small entities of any policies or proposals contained in this *NPRM*. Written public comments concerning the effect of the proposals in the *NPRM*, including the IRFA, on small businesses are requested. Comments must be identified as responses to the IRFA and must be filed by the deadlines for the submission of comments in this proceeding. The Commission shall send a copy of the *NPRM*, including the

IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act.

16. *Need for, and Objectives of, the Proposed Rules.* This proceeding is being initiated to obtain comment on whether the Commission's cable attribution and affiliation rules continue to serve their intended goals, and whether certain aspects of those rules should be revised to make them more effective. The actions proposed in the *NPRM* are intended to ensure that the Commission effectively implements the various cable rules that include an attribution or affiliation standard by identifying those interests that may result in undue market power by large entities, such as large cable multiple systems owners, and undermine a competitive, diverse and fair marketplace.

Legal Basis

17. Authority for the actions proposed in the *NPRM* is contained in sections 4, 303, 612, 613, 616, 623, 628, 652 and 653 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154, 303, 532, 533, 536, 543, 548, 572 & 573.

18. *Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply.* The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction" and "the same meaning as the term 'small business concern' under the Small Business Act unless the Commission has developed one or more definitions that are appropriate for its activities. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration ("SBA"). The Small Business Enforcement Fairness Act of 1996 (SBREFA) provision of the RFA also applies to nonprofit organizations and to governmental organizations such as governments of cities, counties, towns, townships, villages, school districts, or special districts with populations of less than 50,000. Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies "unless an agency after consultation with the Office of Advocacy of the SBA and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**."

19. *Local Franchising Authorities.* There are 85,006 governmental entities in the United States. This number includes such entities as states, counties, cities, utility districts and school districts. Any official actions with respect to cable systems will typically be undertaken by local franchising authorities ("LFAs"), which primarily consist of counties, cities and towns. Of the 85,006 governmental entities, 38,978 are counties, cities and towns. The remainder are primarily utility districts, school districts, and states, which typically are not LFAs. Of the 38,978 counties, cities and towns, 37,566 or 96%, have populations of fewer than 50,000. Thus, approximately 37,500 "small governmental jurisdictions" may be affected by the rules proposed in the *NPRM*.

20. *Cable Services or Systems.* SBA has developed a definition of small entities for cable and other pay television services under Standard Industrial Classification 4841 (SIC 4841), which covers subscription television services, which includes all such companies with annual gross revenues of $11 million or less. This definition includes cable systems operators, closed circuit television services, direct broadcast satellite services, multipoint distribution systems, satellite master antenna systems and subscription television services. According to the Census Bureau, there were 1,323 such cable and other pay television services generating less than $11 million in revenue that were in operation for at least one year at the end of 1992.

21. The Commission has developed its own definition of a "small cable company" and "small system" for the purposes of rate regulation. Under the Commission's rules, a "small cable company," is one serving fewer than 400,000 subscribers nationwide. Based on our most recent information, the Commission estimates that there were 1,439 cable companies that qualified as small cable companies at the end of 1995. Since then, some of those companies may have grown to serve over 400,000 subscribers, and others may have been involved in transactions that caused them to be combined with other cable companies. Consequently, the Commission estimates that there are fewer than 1,439 small entity cable companies that may be affected by the proposal adopted in the *NPRM*. The Commission's rules also define a "small system," for the purposes of cable rate regulation, as a cable system with 15,000 or fewer subscribers. The Commission does not request nor does it collect information concerning cable systems serving 15,000 or fewer subscribers and thus is unable to estimate at this time the number of small cable systems nationwide.

22. The Communications Act also contains a definition of a "small cable operator," which is "a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000." The Commission has determined that there are 61,700,000 subscribers in the United States. Therefore, the Commission found that an operator serving fewer than 617,000 subscribers is deemed a small operator, if its annual revenues, when combined with the total annual revenues of all of its affiliates, do not exceed $250 million in the aggregate. Based on available data, the Commission finds that the number of cable operators serving 617,000 subscribers or less totals 1,450. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250,000,000, the Commission is unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act. The Commission is likewise unable to estimate the number of these small cable operators that serve 50,000 or fewer subscribers in a franchise area.

23. *Satellite Master Antennae Television ("SMATV") Operators.* Industry sources estimate that approximately 5200 SMATV operators were providing service as of December 1995. Other estimates indicate that SMATV operators serve approximately 1.05 million residential subscribers as of September 1996. The ten largest SMATV operators together pass 815,740 units. If it is assumed that these SMATV operators serve 50% of the units passed, the ten largest SMATV operators serve approximately 40% of the total number of SMATV subscribers. Because these operators are not rate regulated, they are not required to file financial data with the Commission. Furthermore, the Commission is not aware of any privately published financial information regarding these operators. Based on the estimated number of operators and the estimated number of units served by the largest ten SMATVs, the Commission believes that a substantial number of SMATV operators qualify as small entities.

24. *Local Exchange Carriers ("LECs").* Neither the Commission nor the SBA

has developed a definition for small LECs. The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of LECs nationwide is the data that the Commission collects annually in connection with the TRS Worksheet. According to the Commission's most recent data, 1,347 companies reported that they were engaged in the provision of local exchange services. The Commission does not have information on the number of carriers that are not independently owned and operated, nor what carriers have more than 1,500 employees, and thus the Commission is unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under SBA's definition. Consequently, the Commission estimates that there are fewer than 1,347 small incumbent LECs.

25. *Cable Programmers.* The Commission has not developed a definition of small entities applicable to producers or distributors of cable television programs. Therefore, the Commission will utilize the SBA classifications of Motion Picture and Video Tape Production (SIC 7812), and Theatrical Producers (Except Motion Pictures) and Miscellaneous Theatrical Services (SIC 7922). These SBA definitions provide that a small entity in the cable television programming industry is an entity with $21.5 million or less in annual receipts for SIC 7812, and $5 million or less in annual receipts for SIC 7922. Census Bureau data indicate the following: (a) there were 7,265 firms in the United States classified as Motion Picture and Video Production (SIC 7812), and that 6,987 of these firms had $16.999 million or less in annual receipts and 7,002 of these firms had $24.999 million or less in annual receipts; and (b) there were 5,671 firms in the United States classified as Theatrical Producers and Services (SIC 7922), and that 5627 of these firms had $4.999 million or less in annual receipts.

26. *Description of Projected Recording, Record keeping, and Other Compliance Requirements.* If the Commission's cable ownership attribution or affiliation standards are changed, the Commission may have to change certain cable reporting requirements and cable entities may be required to observe new recording, record keeping or other compliance requirements that would be necessary to ensure compliance with the new attribution or affiliation standards. Cable entities also may have to adjust the organization of their business interests in order to comply with any new attribution or affiliation standards that the Commission may adopt.

27. *Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered.* The actions proposed in the NPRM are intended to ensure that the Commission effectively implements the various cable rules that include an attribution or affiliation standard by identifying more accurately those interests that may result in undue market power by large entities, such as large cable multiple systems owners, and undermine a competitive, diverse and fair marketplace. Accordingly, as discussed in the above descriptions of the proposed rule changes, and in the Broadcast Attribution Notice and Broadcast Attribution Further Notice, the approaches proposed in this NPRM should promote fairness and diversity for all cable systems and other small entities listed above. The Commission invites comments on these approaches, including comment on whether alternative approaches will mitigate any unwarranted expenses incurred by smaller entities by virtue of their size alone.

28. *Federal Rules that Overlap, Duplicate or Conflict with the Proposed Rules.* None.

Paperwork Reduction Act Analysis

29. The proposals contained herein have been analyzed with respect to the Paperwork Reduction Act of 1995 (the "1995 Act"). The Commission has determined that, if we change our cable ownership attribution or affiliation standards, the Commission may have to require cable entities to comply with new or modified information collection requirements that would be necessary to ensure compliance with the new attribution or affiliation standards. If the Commission, in a subsequent rulemaking in this proceeding, implements new or modified information collection requirements, those requirements will first be subject to approval by the Office of Management and Budget as prescribed by the Act.

Procedural Provisions

30. This proceeding will be treated as a "permit-but-disclose" proceeding subject to the "permit-but-disclose" requirements under Section 1.1206(b) of the rules. 47 CFR 1.1206(b), as revised. Ex parte presentations are permissible if disclosed in accordance with Commission rules, except during the Sunshine Agenda period when presentations, ex parte or otherwise, are generally prohibited. Persons making oral ex parte presentations are reminded that a memorandum summarizing a presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. *See* 47 CFR 1.1206(b)(2), as revised. Additional rules pertaining to oral and written presentations are set forth in § 1.1206(b).

31. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR. 1.415 and 1.419, comments are due August 14, 1998, and reply comments are due September 3, 1998. To file formally in this proceeding, you must file an original plus four copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments and reply comments, you must file an original plus nine copies. You should send comments and reply comments to Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W. Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, Room 239, Federal Communications Commission, 1919 M Street N.W., Washington D.C. 20554.

Ordering Clauses

32. Accordingly, it is hereby ordered that pursuant to the authority in sections 4, 303, 612, 613, 616, 623, 628, and 653 of the Communications Act of 1934, as amended, 47 U.S.C. 154, 303, 532, 533, 536, 543, 548, 572 and 573, notice is hereby given of proposed amendments to part 76, in accordance with the proposals, discussions, and statement of issues in this *Notice of Proposed Rulemaking,* and that comment is sought regarding such proposals, discussion, and statement of issues.

33. It is further ordered that the Office of Public Affairs Reference Operation Division shall send a copy of this *Notice of Proposed Rulemaking,* including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act, Public Law 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981).

List of Subjects in 47 CFR Part 76

Cable television.

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Federal Communications Commission.
Magalie Roman Salas,
Secretary.
[FR Doc. 98–18036 Filed 7–13–98; 8:45 am]
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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–98–4028; Notice 4]

RIN 2127–AC85

Federal Motor Vehicle Safety Standards; Glazing Materials

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This notice withdraws a proposal in which the agency considered amending Federal Motor Vehicle Safety Standard No. 205, *Glazing materials,* to revise its light transmittance requirements. The amendments would have specified a new procedure for testing the light transmittance of glazing samples. Instead of specifying that they be tested at the currently specified 90 degree angle, the standard would have specified that they be tested at the acute angle at which the glazing would be installed in the vehicle (the rake angle). The amendments also would have added light transmittance requirements for light trucks, vans, sport utility vehicles, and buses of less than 10,000 pounds gross vehicle weight rating (GVWR), and specified different transmissibility requirements for the various windows.

After reviewing the available information, NHTSA has decided to withdraw this proposal. The reasons for taking this action include the following: the cost impacts of testing at the installed angle pursuant to the proposed new procedure would not be adequately offset by the potential safety benefits of increased visibility if glazing continues to be installed at current rake angles; the practical limits imposed by concerns about visual distortion will prevent rake angles from increasing; the agency does not want to prohibit the use of the best present solar windshield glazing in order to achieve slight differences in effective light transmittance at current rake angles; the agency wishes to better define the relationship between light transmittance and highway safety before it establishes transmittance levels for various vehicle windows; and without controlling for the installed angle of the glazing, setting specific transmittance levels would not consistently and predictably result in improved light transmittance. Another reason for withdrawing this proposal to establish light transmittance levels for additional classes of motor vehicles concerned the fact that the proposed transmittance levels were premised upon adopting the proposed new test method. Since the agency is not adopting the new method, it can not adopt transmittance levels selected on the basis of that method.

FOR FURTHER INFORMATION CONTACT: *For technical issues:* Richard Van Iderstine, Office of Crash Avoidance Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C., 20590. Telephone: (202) 366–5280.

For legal issues: Paul Atelsek, NCC–20, Rulemaking Division, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202) 366–2992.

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I. Background

A. The Current Standard

Federal Motor Vehicle Safety Standard No. 205, *Glazing Materials* (49 CFR 571.205), specifies performance requirements and permissible locations for the types of glazing that may be installed in motor vehicles. The standard incorporates by reference American National Standards Institute (ANSI) Standard Z26.1, "Safety Code for Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways," as amended through 1980 (Z26). The requirements in Z26 are specified in terms of performance tests that the various types, or "items," of glazing must pass.

One of the tests is for luminous, or light, transmittance. This test measures the regular (parallel) transmittance of a sample of the glazing, in terms of the percentage of incident light that passes through the glazing. During the test, light strikes the glazing at a 90 degree angle. To pass the test, the glazing must allow 70 percent of the incident light to pass through.

The amount of light transmitted through vehicle glazing affects the ability of the driver to see objects on the road. Low light transmittance can make it difficult to detect low contrast objects, such as pedestrians, whose luminance and coloring causes them to blend with the background of the roadside environment. The effect of low light transmittance levels on the driver's vision is most pronounced at dusk and night when the ambient light level is low. This is because the "contrast sensitivity" of the eye diminishes as the overall brightness of the scene decreases. This lower contrast sensitivity makes it especially difficult to discern low contrast objects. This problem is most acute for older drivers who have poorer contrast sensitivity. Contrast sensitivity declines by a factor of two about every 20 years after age 30. Thus, older drivers have poorer dusk and night vision.

The light transmittance requirements must be met by all glazing installed in windows that are "requisite for driving visibility" (see Z26, table 1). In a longstanding interpretation of this term, NHTSA has determined that all windows in a passenger car, with limited exceptions not relevant here, are considered requisite for driving visibility.

For buses, trucks, and multipurpose passenger vehicles (MPV's), glazing that meets the 70 percent light transmittance requirements is required in the windshield, the windows to the immediate left and right of the driver, and any rear or rear side windows that are requisite for driving visibility. The agency has not issued an interpretation specifying which rear or rear side windows are requisite for driving visibility. In rear windows in buses, trucks, and MPV's that are not requisite for driving visibility, items of glazing that are not subject to the 70 percent light transmittance requirements may be installed.

As mentioned above, light transmittance of glazing is measured in a laboratory test with the glazing perpendicular to the measuring device, instead of at the angle at which it is mounted in the vehicle (called the "rake" angle). Glazing transmits the maximum amount of light when it is mounted perpendicular to the line of sight (i.e., at an angle of 90 degrees), as in the current Standard No. 205 test. As the mounting angle decreases, the amount of light transmitted by the windshield also decreases. For example, windshield glazing with a light transmittance of 73 percent when tested perpendicular to the measured light beam, would have a light transmittance of about 65 percent when tested at a typical windshield rake angle of 60 degrees. (A rake angle of 60 degrees from the vertical axis places the sample at a 30 degree angle with respect to the horizontal light beam representing the line of sight.)

B. Previous Events Related to This Rulemaking

1. Request for Comments

NHTSA received four petitions for rulemaking to amend Standard No. 205 "to permit 35 percent minimum luminous transmittance plastic film on glazing in the side and rear locations of passenger cars." If that film were placed on glazing with 70 percent light transmittance, the combined effect would be to allow an overall transmittance of 24.5 percent.

NHTSA granted the petitions and issued a Request for Comments on July 20, 1989 (54 FR 30427). NHTSA received over 100 comments from a variety of groups in response to the Request for Comments. The comments are available for public review in Docket 89–15, Notice 1.

NHTSA received many comments from police departments and other safety groups opposing darker tinting. These commenters were concerned about the ability of the police to see occupants and objects in vehicles with darker tinting and about traffic safety risks. Some commenters opposed any reduction in the required level of window light transmittance under Standard No. 205 because they believed the current level of light transmittance was necessary, particularly for older drivers and for night driving. Domestic automobile manufacturers advocated more research to define driving visibility needs and opposed allowing additional tinting unless research shows that driver and police safety would be maintained. They further indicated that they were pursuing technological advances to reduce solar loads without reducing safety.

Some commenters were supportive of the petitions. Three German automobile manufacturers and a European research institute working on visibility issues supported allowing darker tinting for rear and rear side windows, but opposed it for front side windows. The petitioners and other commenters stated that darker tinting reduces solar heat transmittance and would increase the comfort of vehicle occupants and reduce chlorofluorocarbon (CFC) emissions, thus providing an environmental benefit.

2. Report to Congress

The House Appropriations Committee requested NHTSA to report to the House and Senate Committees on Appropriations on the adequacy of current regulations governing window tinting. In March of 1991, NHTSA issued a Report to Congress which concluded:

- The light transmittance of windows on new passenger cars complying with Standard No. 205 does not present an unreasonable risk of crash occurrence. While it is not possible to quantify the safety effects of lowering the light transmittance through window tinting, data indicate that extensive tinting can reduce the ability of drivers to detect objects, which could lead to an increase in crashes.
- A change in the way light transmittance is measured in Standard No. 205 may be appropriate. Performing the test at the angle the glass is installed on the vehicle, along the driver's line of sight, is more representative of the real world. Light transmittance requirements could be based on the light transmitting performance of production cars since, as noted above, windows in these vehicles provide light transmittance which does not present an unreasonable risk of crash occurrence.
- Because light trucks, including pick-ups, vans and sport utility vehicles, and buses with a GVWR of less than 10,000 pounds (collectively referred to in this document as light trucks) are now used more as personal transportation vehicles, it may be appropriate to harmonize light transmittance of these vehicles with the requirements of passenger cars.
- The benefits of tinting do not appear great enough to justify any loss in safety that may be associated with allowing excessive tinting of windows. Further, technology already being applied in production car windows can reduce the heat build up in the occupant compartment while preserving the driver's visibility. A greater reduction in the ability of drivers to see through the windshield, rear window or front side windows would be expected to decrease highway safety.

3. Court Case Against Tint Film Installers

NHTSA initiated an enforcement case against aftermarket tint film installers who were installing tint film which results in less than 70 percent light transmittance, thereby making safety features installed pursuant to the requirements of Standard No. 205 inoperative. The U.S. District Court of the Middle District of Florida ruled against the agency, holding that Standard No. 205 was not enforceable against window tinting businesses because the agency did not issue a "new and revised" Federal Motor Vehicle Safety Standard pursuant to the second sentence of Section 103(h) of the National Traffic and Motor Vehicle Safety Act (Safety Act, since codified at 49 USC Chapter 301). *United States* v. *Blue Skies Projects, Inc.*, 785 F.Supp 957, (M.D. Fla., 1991).

II. Notice of Proposed Rulemaking (NPRM)

NHTSA published an NPRM on January 22, 1992 (57 FR 2496). In the NPRM, the agency first analyzed the issues presented by the petition, the Report to Congress, and public comments submitted in response to the Request for Comments. Then the agency proposed a number of substantive changes in the light transmittance requirements.

A. Summary of Issues Analyzed

The agency examined the suggested benefits of tinting. These included reduction in heat and energy transmittance, reduction in excessive amounts of visible light, reduction in glare, reduction in lacerations and ejections, and increased privacy and aesthetic concerns. NHTSA tentatively concluded that all of these benefits were minimal, could be better achieved through other means such as sunglasses, or could be achieved equally well using untinted film.

NHTSA also examined the potential effect on highway safety of various levels of light transmission. NHTSA generally concluded in its report to Congress that excessive window tinting reduced the ability of drivers to perceive the driving environment, particularly for older drivers and drivers with spectacles. The reduction was most pronounced when viewing low contrast objects, especially at dusk or at night.

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NHTSA also examined the necessity for good visibility through particular windows. Front side windows are necessary for viewing intersections, making lane changes with peripheral vision, viewing the side mirrors, and for making eye contact with other drivers and pedestrians who wish to cross the driver's path. Rear side windows are necessary for viewing intersections with acute angles, and for merging onto limited access highways. Rear windows are necessary for merging, backing, and allowing other drivers to see the center high mounted stop lamps.

In addition, the agency examined research studies on the issue of tinting safety. Based on three research studies on the relationship between tinting and object detection, NHTSA concluded that the ability to detect objects decreases as the tint level increases. Although NHTSA concluded that low levels of light transmittance are a safety problem, it was unable to define the magnitude of that problem in terms of a numerical relationship between vehicle collisions and tinting levels. The agency also noted studies showing that 35 percent light transmittance tinting would make it difficult for police officers to detect objects, including a drawn weapon, inside a vehicle during traffic stops.

B. The Proposed Rule

After considering these issues, the agency proposed to amend Standard No. 205 in two major ways. First, to account for the effect of rake angle on light transmittance, NHTSA proposed to change the test procedure so that the glazing sample's luminous transmittance would be viewed and measured at the maximum installation angle (i.e., the maximum nominal rake angle at which glazing could be installed in a motor vehicle). Second, the agency proposed to specify different light transmittance levels for the various windows in vehicles.

1. Test Procedure

The proposed test procedure was based on the Society of Automotive Engineer's (SAE) Recommended Practice J1203, Light Transmittance of Automotive Windshield Safety Glazing Materials and the current Test No. 2 in ANSI Z26. However, the agency simplified the test by eliminating the need to consider the seating reference point when determining the maximum rake angle.

2. Light Transmittance Levels

Since the proposed new test procedure had the effect of making the existing transmittance requirements more stringent, NHTSA proposed to reduce the required light transmittance levels of the windshield to 60 percent. This level is close to the current level of line-of-sight transmittance for most vehicle windshields as measured by the proposed procedure (i.e., on average, the transmittance levels would not have changed from the status quo). Therefore, the proposed reduction in light transmittance presented no additional safety concern. All but two currently produced vehicles would have passed the proposed test. NHTSA requested comment on whether it should specify a line-of-sight transmittance level higher than 60 percent because a research study indicated that permitting transmittance as low as 60 percent might present difficulties for spectacle-wearing drivers and because the European Economic Community was considering proposing a 65 percent level.

NHTSA proposed to require front side windows to have a line-of-sight light transmittance of not less than 60 percent. All current vehicle models would have complied with the proposed requirement. NHTSA chose this level because the agency believes that the light transmittance level for side vision should be the same as for front vision. Because front side windows are not raked as much as windshields, front side windows could have become slightly darker under the proposed amendment.

NHTSA proposed to require 50 percent minimum line-of-sight light transmittance for rear windows. NHTSA did not propose the 60 percent line-of-sight transmittance because (1) the 50 percent level is adequate for high contrast objects, and low contrast objects are less important in rear vision than in frontal vision, (2) 50 percent transmittance would be adequate to preserve the benefits of center high mounted stop lamps, and (3) 60 percent transmittance would disallow a number of current vehicle designs, for which no safety problem has been identified. However, the "privacy windows" offered as optional equipment on some MPV's would not be permitted under the proposed amendment since they have a line-of-sight light transmittance of 20 percent or less.

NHTSA proposed to require 30 percent minimum line-of-sight light transmittance for the rear side windows. It chose this level because (1) all new passenger cars and MVS (except MPVs with optional 'privacy windows') currently meet these requirements, and (2) rear side windows are less important for driving visibility than other vehicle windows, so darker tinting on them might not result in measurable adverse safety consequences.

NHTSA noted that requiring improved reflectance of interior and side rear view mirrors in Standard No 111, *Rearview mirrors*, could compensate for any potential darkening of the side and rear windows. The agency requested comment on whether those requirements would be desirable.

3. Vehicles Covered

NHTSA proposed to apply the requirements consistently to all passenger cars, light trucks, MPVs, and buses with a GVWR 10,000 pounds or less. This would have represented an extension of light transmittance requirements to certain unspecified rear and rear side windows in light trucks that NHTSA has said in interpretations are not requisite for driving visibility. NHTSA observed that some of these passenger vehicles were being sold with glass having very low light transmittance.

4. Compliance by Multi-stage Manufacturers

Some light trucks are manufactured in more than one stage or altered after they have been completed and certified by the original manufacturer. Under 49 CFR Part 567, a final-stage manufacturer must certify that the completed vehicle complies with all applicable safety standards and an alterer must certify that the altered vehicle continues to comply with all applicable safety standards, (Throughout the rest of this document, the term "final-stage manufacturer" is used to refer to both final-stage manufacturers and alterers.) A practical impact of extending light transmittance requirements to certain rear and rear side windows in light trucks would have been to require final-stage manufacturers to certify compliance with light transmittance requirements for rear and rear side windows, if such windows are present in a vehicle, as they now do for front windshields and front side windows.

NHTSA believed that final-stage manufacturers would generally be able to certify compliance with the expanded light truck requirements in Standard No. 205 without conducting compliance testing, because they could continue to rely on the certification of the prime glazing manufacturer. The prime glazing manufacturer would certify that its glazing material would comply with the light transmittance requirements of the standard if installed in a vehicle at up to a certain rake angle. A final-stage manufacturer would be able to rely on the certification so long as it installed the glazing at an angle not less than the specified angle.

5. Amendments to the language of FMVSS No. 205

To effectuate these changes, NHTSA proposed adding sections to the standard describing the test procedure and the transmittance requirements for the various windows. The NPRM also proposed numerous changes to the sections specifying where the various items of glazing described in Z26 can be installed in vehicles. Basically, the changes would have taken those items of glazing that could be installed in areas requisite for driving visibility and tested under the current test procedure of Z26, and restricted them to use in trucks, buses, and MPVs with greater than 10,000 pounds GVWR. At the same time, the NPRM proposed to create corresponding new items of glazing (item 2A instead of item 2, for example) that would have been tested according to the proposed test procedure and permitted to be installed in passenger cars and light trucks. NHTSA also proposed to designate a new kind of bullet-resisting glazing that would have 85 percent of the transmittance of the permanent vehicle glazing.

III. Comments on the NPRM

The nearly 1,000 comments on the NPRM were predominantly negative. Over 90 percent of the comments came from automobile window tint film installers, distributors, and manufacturers, and from consumers, although most of these were form letters. There were also comments from law enforcement personnel and organizations, legislators, physicians, highway safety groups, automobile manufacturers, and members of the glazing industry. The comments are summarized below, grouped according to the constituency that they represent.

A. Tint Film Industry

The tint film industry (tinters) of 5,000 businesses employing 20,000 people and represented by the International Window Film Association (IWFA), opposed the proposal and urged NHTSA to amend the standard along the lines of their original petition. IWFA's extensive comment was consistent with, and included nearly every argument made by, the other members of the industry. It stated that there was no justification for NHTSA to propose higher levels of light transmittance than the levels for which they had petitioned. It insisted that the total transmittance be lowered to 24.5 percent. It also disputed NHTSA's jurisdiction over their industry, citing the *Blue Skies* case.

IWFA commented that there was no safety problem with tint film. It stated that one eighth of all cars have tint film, and many MPV's have privacy glass, yet these vehicles have demonstrated no safety problem. It further stated that no data had been submitted to the docket proving a safety problem, that no tinter was aware of any lawsuits or customer complaints alleging that tint film was a safety problem, and that virtually all consumers commented that there was a safety benefit to the film. In addition, it asserted that most police commenters support the state tint laws, most of which allow more tinting (usually 35 percent total) than Standard No. 205.

In support of its position, IWFA submitted research studies that it had commissioned. Its studies concluded that 35 percent tint film does not affect: (1) The ability of police to see into vehicles at night or at dusk; (2) driver detection of low contrast targets at night or at dusk; or (3) older driver performance.

IWFA also criticized the conclusions that the agency drew from the research cited in the NPRM. It stated that two of the studies were unrealistic, poor quality, or carelessly designed and conducted. In IWFA's view, the third study actually supported the use of dark tint films behind the driver.

IWFA asserted that the regulatory flexibility analysis in the NPRM grossly undervalues the benefits of tinting because it did not consider the aggregate benefits of tinting. It especially noted the medical benefits of protection against harmful radiation, and the reduction of solar load with consequent reduction in fuel consumption and CFC emissions.

IWFA also stated that NHTSA underestimates the economic impact of the rule on the tinting industry. According to an IWFA survey, 77 percent of all tinters, which are predominantly small businesses, stated that they would be put out of business by NHTSA's proposed rule.

IWFA stated that NHTSA, in performing its cost-benefit analysis, should consider that different areas of the country (e.g., the Sunbelt versus the Northeast) derive different levels of benefit from tinting. It stated that, for this reason, a uniform national standard for window tint is inappropriate and that regulation should be left to vary among the States.

B. Medical Commenters

The medical commenters were divided on the issue of tinting. Two optometrists wrote in support of the NPRM. One Arizona doctor supported the NPRM and does not believe that ultraviolet (UV) radiation is a significant issue. However, two other doctors commented that they prescribe tint film for protection from UV radiation. A medical researcher offered an extensive comment on the need for tint film, warned of skin conditions and drug sensitivities to even visible light, and concluded that a thriving tint film industry was necessary for patients.

C. Safety Groups

Advocates for Highway and Auto Safety (Advocates) opposed the NPRM because that group believed it would unnecessarily lower windshield and front side window performance. It also stated that it believed that the benefits of international harmonization are diluted by unacceptable light transmittance of the rear and rear side windows. Advocates did not express a strong opinion on the change in the test procedure to measure transmittance at the installed angle.

The Insurance Institute for Highway Safety (IIHS) supported the proposed transmittance requirements for the windshield and front side windows, and generally supported the proposed transmittance measurement procedure. However, it opposed the lower transmittance requirements for the rear and rear side windows. In support of its position, IIHS cited research that it sponsored on the results of reduced transmittance on rearward visibility. The study concluded that older drivers would fail to see low contrast pedestrians up to 83 percent of the time through glazing tinted to 22 percent transmittance. It concluded that transmittance levels below 53 percent (measured perpendicular to the glass) would dangerously reduce nighttime visibility.

D. Law Enforcement Community

The law enforcement community was divided over the issue of tinting, but was generally opposed to the 30 percent transmittance requirements for the rear side windows due to security concerns. Fourteen individual officers wrote to say that they support and use tint film. Another 232 officers opposed the NPRM because of concerns about visibility through the darker rear side windows.

Forty-four police departments and State motor vehicle administrations commented on the proposal. Five supported the NPRM. Thirty-three opposed the NPRM because of the darker rear side windows. Six opposed it because it does not allow tinting as dark as that permitted by the state. Fifteen were opposed because they did not like the new measurement procedure. Thirteen favored consistent rules for cars and vans. Some of the State agencies believe that the current rule allows States to set transmittance levels, and that the NPRM would preempt State laws for the first time.

Police in some States ran tests of visibility of the interior of the vehicle to a person standing outside the vehicle and looking in through glazing with different levels of transmittance. Virginia and Maine found 28 percent transmittance to provide unsatisfactory visibility. New York found 39.5 percent unsatisfactory. Maine and New York found 40 percent and 58 percent levels of transmittance, respectively, to be satisfactory.

E. Manufacturers of Motor Vehicles

Most of the manufacturer commenters urged that the current standard be maintained until further research indicates a safety need for a change. Ford, GM, Chrysler, Toyota, and the Motor Vehicle Manufacturers Association (now known as the American Automobile Manufacturers Association (AAMA)) all asserted that NHTSA had demonstrated no safety need for the proposal. They cited NHTSA's own conclusion in its Report to Congress that the current light transmittance requirements do not pose an unreasonable risk of crash occurrence. They urged NHTSA to conduct research to quantitatively relate driver visibility needs to crash occurrence before regulating in this area. GM stated that NHTSA should not single out lighting in its analysis from other interdependent factors, such as glare and driver fatigue, relating to crash avoidance.

The foreign vehicle manufacturers generally supported the proposed measurement procedure. Mercedes Benz gave unqualified support to the measurement procedure. Toyota and Suzuki both agreed in principle with the line-of-sight measurement method. However, Suzuki opposed the variability that the new procedure would introduce and instead recommended retaining the existing test and adding a mathematical formula to adjust the results to take the rake angle into account. Volkswagen stated that the procedure was incomplete because the optical systems, procedures, and definitions for certain terms were inadequately specified. Volkswagen and Fiat both recommended the adoption of the European test procedure.

The domestic manufacturers all opposed the new measurement procedure. Chrysler stated that NHTSA's method of defining the installation angle was not objective because sometimes the test installation angle might be higher than the actual angle. Ford and the AAMA asserted that simply changing window trim components on a single vehicle model could alter the test installation angle, and therefore the measured transmittance, even though these changes would not affect the real world installation angle and line-of-sight transmittance. Some of these commenters stated that NHTSA was wrong to base the procedure partly on SAE Recommended Practice J1203, because the development of reflective coated glazing materials had caused the industry to reassess that practice's adequacy and, after the NPRM was published, to take steps to withdraw it.

Ford, GM, and Chrysler also claimed that NHTSA had underestimated the costs of complying with the new test procedure. Ford reported a round-robin test among the manufacturers to support its claim that accurate transmittance measurements could not be made through glazing at windshield rake angles, and concluded that compliance costs would be higher, if indeed the test procedure were repeatable enough to allow certification at all.

Some commenters stated that the procedure was impracticable because the instrumentation necessary to implement it does not exist. Chrysler stated that there are no instruments designed to measure transmittance repeatable with the test specimen at an angle, that it is impractical to try to eliminate all extraneous light, and that existing test equipment would be prone to variability. Hitachi Instruments also commented that there is no commercially available equipment, but said that NHTSA's procedure could be implemented using spectrophotometers, if certain changes were made as Hitachi recommended.

The foreign automobile manufacturers had mixed reactions to the various proposed transmittance levels. Mercedes Benz gave unqualified support to all the proposed transmittance levels. Volkswagen agreed with all the proposed levels except for the 50 percent for the rear window, which it urged be lowered to 40 percent. Toyota opposed all the proposed levels except the 30 percent for the rear side window, stating that NHTSA's report shows that 50 vehicle models, and many of Toyota's current models, would not be in compliance due to their rake angle or the fact that they employ solar energy reflecting glass. Suzuki and Fiat supported the 60 percent level but opposed any higher level.

The domestic vehicle manufacturers all opposed the light transmittance requirements on safety grounds primarily for the reason given above, i.e., that NHTSA had no research proving that there was a safety problem or that it had chosen the correct transmittance levels in the various windows. Ford stated that visibility decreases at a constant rate as light transmittance decreases—therefore, without a break in the curves that could be used as a critical value, the specification of any particular value was arbitrary.

Ford criticized the research studies that the agency relied on to select the proposed transmittance levels. It stated that the NHTSA research was unrealistic because it used passenger cars in a laboratory environment rather than vehicles typically equipped with privacy glass. Ford cited a GM study indicating that drivers of vehicles equipped with privacy glass would likely compensate for decreased visibility, as a result of the higher seating positions and belt lines, by using the vehicle's larger side view mirrors. Ford also submitted an analysis of National Automotive Sampling System (NASS) data that it claimed showed that privacy glass equipped vans have a better safety record than station wagons.

The commenters also cited the loss of benefits of preventing excessive amounts of glare, visible light, and dangerous UV radiation. GM suggested that the loss of daytime safety that would result from disallowing darker tinting might more than offset any increase in nighttime safety.

GM, Ford, and Chrysler all asserted that the proposed transmittance requirements would also increase costs. They all commented that less-tinted glazing would increase the solar load and necessitate a redesign of the air conditioning systems to achieve higher capacity, possibly resulting in a loss of fuel economy. Ford even suggested that body redesign might be necessary to provide for larger grills. GM stated that the additional radiation and heat reaching the inside of the vehicle would cause more rapid degradation of the instrument panel, seats, and other interior materials. GM submitted computer modeling studies of interior vehicle temperatures with different glazing materials. GM concluded that it would have to find or develop new, probably more expensive materials and possibly even redesign instrument panels. Also, it asserted that recently introduced heat absorbing and reflective coated windshields would not be able to be used with installation angles greater than 60 degrees.

Nearly all vehicle manufacturers were opposed to the elimination of privacy glass on the rear and rear side windows of light trucks. They also pointed out that there had been no customer complaints about these products, despite heavy market penetration (50–80 percent) on vehicles where it was offered as an option. GM stated that, given the safety-consciousness of its consumers, the absence of complaints was, in itself, an indication that privacy glass presented no safety problem. Toyota suggested that elimination of privacy glass would result in more vehicle theft, as the cargo became more visible from the outside. In addition, several commenters asserted that there are no available alternative glazing materials that can match current privacy glass in solar rejection and appearance, and that development of these glazing materials would take at least five years.

Some commenters stated that NHTSA should clarify what is meant by the term "requisite for driving visibility." Stating that the proposal would divorce the new transmittance requirements from the portion of Z26 that refers to the term, Mercedes Benz suggested that NHTSA add a definition for "shade bands" and declare them not requisite for driving visibility. Suzuki requested that a definition of the phrase be included in the standard.

F. Glazing Manufacturers

PPG Industries (PPG) and Libby Owens Ford (LOF) both emphasized the significant research and investments they had made in developing solar and heat reduction glazing. PPG and LOF believe that the proposed transmittance requirements in the standard would eliminate both the new glazing and the use of standard products by the industry. LOF opposed all aspects of the rulemaking, but recommended various lower transmittance values that would allow the continued use of existing glass products, in the event that NHTSA planned to implement the proposal.

PPG also stated that the lead time required to produce new products that meet the proposed requirements would necessitate the temporary use of less effective materials. LOF estimated that compliant solar control glazing would take five years to develop and test.

PPG stated that heat resistant glazing is more effective than NHTSA assumed in the NPRM, because the heat transfer rate from the glass to the outside air is higher than the heat transfer rate from the glass to the vehicle interior. PPG and LOF also asserted, without providing data, that fuel economy would be reduced by up to 10 percent, or 1.0–1.5 mpg without solar control glass. These and other commenters stated that steeply raked windshields have the greatest need for solar rejection glazing, yet are also the most likely to be restricted in its use by the proposed transmittance requirements.

The glazing manufacturers asserted that NHTSA overestimated the relative impact of light transmission on visual acuity. PPG conducted vision studies at Rensselaer Polytechnic Institute that it said indicate that other factors, such as age, road condition, and glare affect visual acuity more than windshield light transmission reduction (down to 50 percent). At night, with lights shining in the driver's eyes, the reduced windshield transmittance reduced driver visibility by less than one percent. LOF submitted a study conducted in cooperation with GM and Cornell University that suggested that night driving was actually improved when tinted glass was substituted for clear glass. Regarding the safety of police, LOF suggested that NHTSA consider the effect of external reflectivity of the outside surface of the glazing and include in the standard a maximum exterior reflectance of 25 percent.

Glazing manufacturers also commented that the proposed test procedure is impractical and unnecessary, and would increase costs. PPG stated that the test is complex, requires very sophisticated and expensive instrumentation and computer software, including an optical alignment system and a double beam ratio recording spectrophotometer. LOF estimated that this equipment would cost $500,000. In addition, LOF estimated that its certification costs for the 175 types of its glazing would rise from $230,000 to $730,000 annually because it would have to assign different model numbers to the same glass specifying its use in front side windows, rear side windows, and rear windows.

LOF commented that glazing parts that are manufactured close to the lower limit of transmission may fail the standard at the assembly site (presumably because they are installed at a greater rake angle than anticipated), rather than at the glass manufacturing plant where remedial actions are possible. LOF suggested that the standard should permit calculating the angled transmittance values from the normal transmittance values using a series of curves.

Finally, the agency received a September 1995 report from DRI/McGraw-Hill, and a similar docket comment from LOF, indicating that rake angles have reached a practical maximum. The study of glazing design trends was conducted for Monsanto, a supplier of automobile glass, and was based on reviews of the technical literature, secure interviews with industry, OEM, and government sources, and statistics run on market profile data. The report concluded that further increases in rake angles would be limited both by laminate-caused distortion and by viewing glare design considerations to a range of 63 to 66 degrees of rake. NHTSA believes the actual maximum is slightly higher, because it knows of one production vehicle with a 68 degree rake angle. If these conclusions are correct, the recent trend toward increasing rake angles will abate.

IV. Analysis of Issues

The commenters have suggested a variety of arguments for why NHTSA should not go forward with its proposal. NHTSA is relying on some of those arguments in its decision to withdraw the proposal, but not on others. This section identifies some of those arguments that NHTSA finds compelling, and some that it does not find compelling. The following section, Section V, summarizes the main reasons for the agency's decision.

A. Line-of-Sight Measurement of Glazing Transmittance

NHTSA continues to believe that a line-of-sight measurement technique would have many advantages. The technique measures the effective transmittance of the glazing as it is used in the real world. It would also allow the nearly vertical rear windows in trucks and some passenger cars to be more heavily tinted than the more slanted glazing in most car windows without a relative loss of visibility. The current test procedure, although easy to perform, has the disadvantage of allowing vehicles with the same glazing to have radically different effective transmittance values, depending on the rake angle of their windows.

However, the commenters have raised significant questions about the practicability of the proposed procedure. NHTSA agrees that the procedure is more complex. New, expensive equipment would have to be purchased and, perhaps even in some cases, developed in order to test the transmittance of glazing at its installed angle. NHTSA believes that the certification costs would also increase, although probably not so much as LOF suggests. The transmittance for a particular type of glazing that is installed at a variety of angles in different vehicles would, as a practical

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matter, only have to be tested at the maximum angle at which it is installed. Only in the unlikely event that a vehicle manufacturer always installed glazing that is tinted to the maximum extent allowed, given its installation angle, would it become necessary to make glazing in a large number of shades to match installation angles.

NHTSA does not agree, however, that it is impossible to measure transmittance at the installation angle. U.S. manufacturers claimed that, for coated glass, accurate measurements and calculations are impossible. Regarding Ford's round-robin tests to demonstrate that measurements could not be made at windshield rake angles, NHTSA disagrees with Ford's conclusion. The problem in Ford's testing was that one company was unable to make accurate measurements, apparently because the required sample size did not fit that company's test apparatus. The measurement scatter for the other companies (about 2 percent) was no greater for the solar reflective glazing than for clear laminated glass. There is some instrumental variation inherent in any measurement.

NHTSA believes that the approach of measuring the transmittance normal to the glazing and then using a formula to calculate the theoretical transmittance at the installed angle would be practical. This is the approach recommended by LOF and the Japanese automobile manufacturers. The Japanese manufacturers suggested a computational method that necessitates only laboratory work to convert normal transmittance measurements at the manufacturing plant to transmittance values at angles. Adoption of this approach would solve any problems associated with measuring coated glass at angles.

There would still be increased costs associated with determining transmittance by calculation. To the extent that manufacturers want to install the darkest possible glass, there would still be a multiplication of the different shades of glazing corresponding to the various installation angles. If this occurred, it would result in increased inventory costs from having to produce and maintain a supply of a greater variety of tinted glazing.

B. Proposed Transmittance Values

NHTSA is also withdrawing the portion of the proposal that specified different light transmittance levels for the various vehicle windows. There are several reasons for taking this action.

First, the agency wants to obtain more data defining the relationship between transmittance and safety before setting different light transmittance levels, especially in light of the absence of support for the proposed values. Ideally, the additional data would include statistics concerning the involvement of vehicles with tinted windows in crashes, but this is problematic, given the existing data collection mechanisms. The presence or absence of tint film is not recorded on State crash report forms. In addition, many crashes that involve backing vehicles go unrecorded because they occur in parking lots and driveways, areas that the agency's databases do not cover. NHTSA will consider how to capture these data in the future.

Second, if the manufacturers are not required to account for the effect of the installed angle of the glass when measuring light transmittance, promulgating a larger set of specific transmittance values for glazing would not necessarily result in the desired levels of line-of-sight transmittance, because of the wide variety of window rake angles. For example, two vehicle models using the same 50 percent transmittance glass (measured perpendicular to the window) in the rear window would have very different actual transmittances if the windows on one model were significantly more raked than on the other. Setting 60, 50, and 30 percent transmittance values for various windows would give a false impression of regulatory precision because the variability in rake angles would generate a much wider range of in-use transmittance values.

Third, given the decision to withdraw the proposal to specify testing glazing at its installed angle, there would have been a scope of notice problem if the agency had adopted the proposed light transmittance levels. The proposal had two interdependent parts: (1) The proposed light transmittance levels; and (2) the proposed new test method. The adoption of the transmittance levels was premised upon changing the test method from the current procedure of testing at a right angle to the glazing to a new procedure of testing the glazing at the same angle at which an occupant would look through the glazing as it is installed in a vehicle. For any given piece of glazing, testing it at a right angle yields higher transmittance values than testing it at an acute angle, i.e., the installed angle. Since the agency is not adopting the new test method, it can not adopt transmittance levels premised on adopting that method. Even if the agency had concluded, based on the comments and other available information, that it were nevertheless desirable to go ahead and adopt new light transmittance levels, the proposed levels would have had to be adjusted upward to offset the effects of retaining the current test method. However, adjusting the levels upward, and then adopting them, would have been beyond scope of notice.

Although the agency is withdrawing this proposal, NHTSA wants to emphasize that it does not accept the proposition advanced by some commenters that the agency cannot regulate in this area without numerically linking crash data to specific light transmittance values. Isolating the contribution of light transmittance from the contributions of the other interrelated driver, vehicle, highway, and environmental factors that cause crashes is extremely difficult. Predicting the effectiveness of countermeasures such as uniform line-of-sight light transmittance at certain values is even more difficult. Although NHTSA attempts, within its capabilities, to quantify the benefits of its actions, it still has a duty to regulate when such regulations would meet the need for motor vehicle safety, even in areas with inherent uncertainty. Therefore, especially for the crash avoidance standards, decisionmaking necessarily rests in part on policy judgment.

The agency is not basing its decision to withdraw the proposal on the research data submitted by IWFA regarding the effect of different levels of light transmittance on object detection. The researchers employed by IWFA used a simulator-type experiment in an attempt to demonstrate that glazing with transmittance as low as 17 percent did not interfere with object detection during left turns, backing, or lane changing. The value of the simulation is questionable, since the actions were sequential, and therefore less challenging than an actual driving experience in which a driver must operate the vehicle controls at the same time he or she is attempting to look through the glazing and detect objects outside the vehicle in the driving environment. Further, the method of characterizing the average contrast of the targets may be misleading because the targets were not homogeneous in color or reflectivity (*e.g.*, it is easier to see someone in a dark suit if he or she is wearing a white hat). NHTSA also does not regard a 22 percent target detection failure rate as good performance.

In fact, most research indicates that light transmittance and safety are related. In 10 of the 15 investigations of target detection with varying light transmittance, there were reductions in the subjects' abilities to identify and detect targets corresponding with reductions in transmittance. The agency believes that the few investigations in which there was not any significant relationship used inappropriate experimental performance criteria, target contrast, illumination, and task difficulty. Some did not even use glazing with transmittances of less than 70 percent. NHTSA concludes that the most credible studies confirm the common-sense relationship between light transmittance and target identification.

In response to those commenters that believed the NPRM would for the first time preempt States from setting their own transmittance requirements, NHTSA notes this would not be the case. Federal law already preempts States from setting any different level of transmittance for regulated windows on new vehicles at the time of sale. Federal law also preempts States from allowing businesses to make inoperative the transmittance levels on regulated windows of used vehicles. However, States are free to set and enforce lower minimum transmittance levels on regulated windows for vehicles to be licensed in or used in the State.

Similarly, States are free to set and enforce transmittance levels for windows not regulated under the Federal standard (*e.g.*, the rear and rear side windows of light trucks). The States are free to prohibit dark windows in these vehicles if they believe it is necessary for the safety of police officers.

V. Agency Decision

After reviewing the available information, NHTSA has decided to withdraw the proposal regarding the light transmittance requirements of Standard No. 205, for the following reasons:

(1) While the proposal to measure light transmittance at the installed angle has theoretical merit, the proposed requirements would add costs for manufacturers, in the form of increased testing, certification, and inventory costs, which would be passed on to consumers without, as noted below, providing any assurance of commensurate additional benefits.

(2) There is limited prospect of commensurate increases in visibility and safety. The agency believes that, barring unforeseen advances in glass properties, windshield rake angles have now reached a practical limit of about 66 to 68 degrees due to the need to avoid visual distortion. If this is true, the recent trend toward greater rake angles will not continue. Thus, one of the agency's concerns when issuing the NPRM is now moot. At windshield rake angles of 66 to 68 degrees, there would be little practical improvement in windshield visibility between the proposed regulation and the current regulation to offset the increased costs.

(3) The proposed amendment would have had the practical effect of limiting solar reflective windshields to a rake angle of about 63 degrees. The difference in transmittance between the same windshield at rake angles of 63 degrees and 66 degrees is slight and not commensurate to the cost of limiting vehicle design or the changes that might be forced on glass technology.

The agency intends to monitor developments in this area. Should the factors limiting rake angle be overcome in the future and more extreme rake angles become a reality, the agency may revisit the issue.

(4) NHTSA finds persuasive the industry comments that the proposal would make solar control glazing less feasible and more costly for windshields. The windshield is the principal point of entry of solar heat into the interior of most vehicles. Increased rake angles exacerbate solar heating by presenting a more favorable angle for solar radiation and a greater uninsulated surface area. A type of windshield glazing which reflects infrared solar radiation, while retaining the 70 percent perpendicular visible light transmittance required by the present regulation, has been developed for vehicles with high rake angles. Since the proposal would have only affected vehicles with the highest rake angles (over 63 degrees), a possible unintended consequence would have been to bar the use of the most effective solar control windshield glazing on the vehicles with the greatest need of it. Since the agency no longer foresees a continuing trend toward greater windshield rake angles, it is not inclined to prohibit the use of the best currently available solar control windshield glazing for the sake of effective light transmittance differences that are very small at the rake angles that are possible, given the limits on rake angles imposed by visual distortion.

(5) NHTSA wishes to better define the relationship between light transmittance and highway safety before requiring differing transmittance values for different vehicle windows.

(6) Without line-of-sight measurements, setting specific transmittance values would not result in consistent actual light transmittance. The wide range of window rake angles would result in different line-of-sight transmittance values, even when the drivers of vehicles with different rake angles are looking through identical glazing. Therefore, promulgating graduated transmittance values would give a false sense of precision.

(7) The decision to withdraw the proposal to establish light transmittance levels for additional classes of motor vehicles was also based on the fact that the proposed transmittance levels were premised upon adopting the proposed new test method. Since the agency is not adopting the new method, it can not adopt transmittance levels selected on the basis of that method.

VI. "Reissuance" of Standard No. 205

The light transmittance requirements for Standard No. 205 were originally adopted pursuant to the first sentence of former section 103(h) of the National Traffic and Motor Vehicle Safety Act (Safety Act), 15 U.S.C. § 1392(h), as the "initial" standard based on an "existing" standard (*i.e.*, ANSI Z26). The second sentence of that section provided that "new and revised standards" should be issued "on or before January 31, 1968."

Section 103(h) was repealed in conjunction with the 1994 codification of the Safety Act into 49 U.S.C. Chapter 301. The House Judiciary Committee Report accompanying that codification states that the section was repealed because it had already been "executed." This supports the agency's view that section 103(h) did not impose a continuing duty upon the agency to reissue each of the initial standards that had been based on safety standards that existed prior to enactment of the Safety Act. Nevertheless, to the extent that former section 103(h) could have been construed as requiring a reexamination and reissuance of such standards, the present rulemaking proceeding constitutes such a reexamination and reissuance of the current standard.

This reissuance does not affect the requirements of the standard, but simply reaffirms and republishes the requirements as they presently exist in 49 CFR part 571.205. For this reason, no regulatory analyses have been conducted.

Issued: July 8, 1998.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 98–18704 Filed 7–13–98; 8:45 am]

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Notices

Federal Register
Vol. 63, No. 134
Tuesday, July 14, 1998

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Research, Education, and Economics

Notice of Strategic Planning Task Force Meeting

AGENCY: Research, Education, and Economics, USDA.

ACTION: Notice of Meeting.

SUMMARY: The United States Department of Agriculture announces a meeting of the Strategic Planning Task Force on Research Facilities.

SUPPLEMENTARY INFORMATION: The Strategic Planning Task Force on Research Facilities, currently consisting of 14 members, is scheduled to meet for the FIFTH of eight planned meetings. The meeting is scheduled to be held at the St. Louis Airport Hilton. St. Louis, Missouri, beginning at 1:00 p.m. on August 25 and concluding at noon on August 28. The meeting will be devoted to a review of the Task Force progress in data collection and the afternoon of Thursday, August 27, 1998, to a discussion of private sector agriculture research.

TIMES AND DATES: August 25, 1998, 1:00 p.m.–5pm; August 26, 1998, 8:00 a.m.–5:00 p.m.; August 27, 1998, 8:00 a.m.–5:00 p.m.; and August 28, 1998, 8:00 a.m.–noon.

PLACE: St. Louis Airport Hilton, St. Louis, Missouri.

TYPE OF MEETING: Open to the public.

COMMENTS: The public may file written comments before or after the meeting with the contact person listed below.

FOR FURTHER INFORMATION CONTACT: Mitch Geasler, Project Director, Strategic Planing Task force on Research Facilities, Room 344–A Jamie L. Whitten Building, USDA, 1400 Independence Avenue SW., Washington, D.C. 20250–0113. Telephone 202–720–3803.

Done at Washington, D.C., on this 6th Day of July 1998.

I. Miley Gonzalez,

Under Secretary, Research, Education, and Economics.

[FR Doc. 98–18451 Filed 7–13–98; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Commodity Credit Corporation's (CCC) intention to request an extension for and revision to an information collection currently approved in support of the Sugar Loan Program regulations for sugar beets and sugarcane. New legislation resulted in a decrease in burden hours.

DATES: Comments on this notice must be received on or before September 14, 1998 to be assured consideration.

FOR FURTHER INFORMATION CONTACT: Merle Strawderman, Agricultural Program Specialist, Price Support Division, Farm Service Agency, USDA, STOP 0512, 1400 Independence Avenue, SW, Washington, D.C. 20013–0512; telephone (202) 720–9889; e-mail Merle__Strawderman@wdc.fsa.usda.gov.; or facsimile (202) 690–3307.

SUPPLEMENTARY INFORMATION:

Title: Sugar Program, 7 CFR part 1435.

OMB Control Number: 0560–0093.

Expiration Date: July 31, 1998.

Type of Request: Extension and Revision of a Currently Approved Information Collection.

Abstract: The information collected under Office of Management and Budget (OMB) Control Number 0560–0093, as identified above, is needed to enable FSA to effectively administer the regulations at 7 CFR part 1435 relating to loans for sugar beets and sugarcane. Changes in the sugar program authority contained in the Federal Agriculture Improvement and Reform Act of 1996 modified sugar processors' requirements for participating in the sugar loan program. As a result, the collection of information on CCC Forms SU–3, Request for Benefit payment, SU–4, Surety Bond for Sugar Loan Program, SU–5, Claims Waiver, and SU–6, Agreement to Provide Adequate Financial Assurance is no longer necessary. Accordingly, CCC is eliminating these forms and decreasing the burden hours associated with participation in the sugar loan program.

Estimate of Burden: Public reporting burden for this information collection is estimated to average 16 minutes per response.

Respondents: Sugar processors and producers.

Estimated Number of Respondents: 30.

Estimated Number of Responses per Respondent: 120.

Estimated Total Annual Burden on Respondents: 65 hours.

Topics for comment include but are not limited to the following: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; or (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 and to Merle Strawderman, Program Specialist, Price Support Division, Farm Service Agency, USDA, STOP 0512, 1400 Independence Avenue, SW, Washington, D.C. 20013–0512; telephone (202) 720–9889. Copies of the information collection may be obtained from Merle Strawderman at the above address.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Signed at Washington, DC, on July 6, 1998.

Richard O. Newman,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 98–18663 Filed 7–13–98; 8:45 am]

BILLING CODE 3410-05-P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Crop Revenue Coverage

ACTION: Notice of availability.

SUMMARY: In accordance with section 508(h) of the Federal Crop Insurance Act (Act), the Federal Crop Insurance Corporation (FCIC) Board of Directors (Board) approves for reinsurance and subsidy the insurance of wheat in select states and counties under the Crop Revenue Coverage (CRC) plan of insurance for the 1999 crop year. This notice is intended to inform eligible producers and the private insurance industry of the CRC coverage changes for wheat and provide its terms and conditions.

FOR FURTHER INFORMATION CONTACT: Tim Hoffmann, Director, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, Missouri, 64131, telephone (816) 926-7387.

SUPPLEMENTARY INFORMATION: Section 508(h) of the Act allows for the submission of a policy to FCIC's Board and authorizes the Board to review and, if the Board finds that the interests of producers are adequately protected and that any premiums charged to the producers are actuarially appropriate, approve the policy for reinsurance and subsidy in accordance with section 508(e) of the Act.

In accordance with the Act, the Board approved a program of insurance known as CRC, originally submitted by American Agrisurance, a managing general agency for Redland Insurance Company.

The CRC program has been approved for reinsurance and premium subsidy, including subsidy for administrative and operating expenses. CRC is designed to protect producers against both price and yield losses. CRC provides a harvest revenue guarantee that pays losses from the established yield coverage at a higher price if the harvest time price is higher than the spring price.

In the 1996 crop year, the CRC program was available for corn and soybeans in all counties in Iowa and Nebraska. In the 1997 crop year, the CRC program was expanded for corn into Colorado, Illinois, Indiana, Kansas, Michigan, Minnesota, Missouri, Ohio, Oklahoma, South Dakota, and Texas, and soybeans into Illinois, Indiana, Kansas, Michigan, Minnesota, Missouri, Ohio, Oklahoma, South Dakota, and Texas. New CRC programs were also made available for grain sorghum in Colorado, Nebraska, Oklahoma, and crop reporting districts 20, 30, 50, and 70 in Kansas, 40 in Missouri, 50 and 80 in South Dakota, and 40, 51, 52, 81, 82, 90, 96, and 97 in Texas; for cotton in Arizona, Georgia, Oklahoma, and crop reporting districts 11, 12, 21, and 22 in Texas; and for wheat into Kansas, Michigan, Minnesota, Nebraska, South Dakota, Texas, Washington, and twenty-three counties each in Montana and North Dakota.

In the 1998 crop year, the CRC program was expanded for corn into Alabama, Arizona, Arkansas, California, Georgia, Idaho, Kentucky, Louisiana, Mississippi, Montana, New Mexico, North Carolina, North Dakota, Oregon, South Carolina, Tennessee, Utah, Virginia, Washington, Wisconsin, and Wyoming; for soybeans into Alabama, Arkansas, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, North Dakota, South Carolina, Tennessee, Virginia, and Wisconsin; for grain sorghum into Alabama, Arkansas, California, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, New Mexico, North Carolina, North Dakota, Ohio, South Carolina, Tennessee, Virginia, Wisconsin, and the remaining counties in Kansas, Missouri, South Dakota, and Texas; for cotton into Alabama, Arkansas, California, Kansas, Louisiana, Mississippi, Missouri, New Mexico, North Carolina, South Carolina, Tennessee, Virginia, and the remaining counties in Texas; and for wheat into Alabama, Arizona, Arkansas, California, Colorado, Georgia, Idaho, Illinois, Indiana, Iowa, Kentucky, Louisiana, Mississippi, Missouri, New Mexico, North Carolina, Ohio, Oklahoma, Oregon, South Carolina, Tennessee, Utah, Virginia, Wisconsin, Wyoming, and remaining counties in Montana and North Dakota.

Prior to the 1998 crop year, the CRC policy only provided coverage for basic and optional units, as selected by the insured. The expected market price was also based on 95 percent of the average daily settlement price prior to the 1998 spring crops. Beginning with the 1998 crop year, insureds could select basic, optional or enterprise units for corn and soybeans and 95 or 100 percent of the average daily settlement price for corn, grain sorghum, soybeans and cotton. The CRC program was also changed to provide insurance for any producer that had been identified on the nonstandard underwriting classification system (NCS).

Beginning with the 1999 crop year for CRC wheat, producers may select basic, optional or enterprise units, 95 or 100 percent of the average daily settlement price, coverage for all acreage classified as high risk, and a separate price for durum wheat. A methodology has also been developed for determining the spring wheat Base Price in counties that have both fall and spring wheat programs, but only a fall cancellation date.

FCIC herewith gives notice of the above stated changes for the 1999 crop year for CRC wheat for use by private insurance companies.

The CRC underwriting rules, rate factors and forms for wheat will be released electronically to all reinsured companies through FCIC's Reporting Organization Server. FCIC will also make available the terms and conditions of the CRC reinsurance agreement. Requests for this information should be sent to Heyward Baker, Director, Reinsurance Services Division, Federal Crop Insurance Corporation, 1400 Independence Avenue, S.W., Stop 0804, Room 6727-S, Washington, D.C., 20250–0804.

Following is a complete list of insurable CRC crops by state for the 1999 crop year:

Alabama—Corn, Cotton, Grain Sorghum, Soybeans, Wheat
Arizona—Corn, Cotton, Wheat
Arkansas—Corn, Cotton, Grain Sorghum, Soybeans, Wheat
California—Corn, Cotton, Grain Sorghum, Wheat
Colorado—Corn, Grain Sorghum, Wheat
Georgia—Corn, Cotton, Grain Sorghum, Soybeans, Wheat
Idaho—Corn, Wheat
Illinois—Corn, Grain Sorghum, Soybeans, Wheat
Indiana—Corn, Grain Sorghum, Soybeans, Wheat
Iowa—Corn, Grain Sorghum, Soybeans, Wheat
Kansas—Corn, Cotton, Grain Sorghum, Soybeans, Wheat
Kentucky—Corn, Grain Sorghum, Soybeans, Wheat
Louisiana—Corn, Cotton, Grain Sorghum, Soybeans, Wheat
Michigan—Corn, Grain Sorghum, Soybeans, Wheat
Minnesota—Corn, Grain Sorghum, Soybeans, Wheat
Mississippi—Corn, Cotton, Grain Sorghum, Soybeans, Wheat
Missouri—Corn, Cotton, Grain Sorghum, Soybeans, Wheat

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Montana—Corn, Wheat
Nebraska—Corn, Grain Sorghum, Soybeans, Wheat
New Mexico—Corn, Cotton, Grain Sorghum, Wheat
North Carolina—Corn, Cotton, Grain Sorghum, Soybeans, Wheat
North Dakota—Corn, Grain Sorghum, Soybeans, Wheat
Ohio—Corn, Grain Sorghum, Soybeans, Wheat
Oklahoma—Corn, Cotton, Grain Sorghum, Soybeans, Wheat
Oregon—Corn, Wheat
South Carolina—Corn, Cotton, Grain Sorghum, Soybeans, Wheat
South Dakota—Corn, Grain Sorghum, Soybeans, Wheat
Tennessee—Corn, Cotton, Grain Sorghum, Soybeans, Wheat
Texas—Corn, Cotton, Grain Sorghum, Soybeans, Wheat
Utah—Corn, Wheat
Virginia—Corn, Cotton, Grain Sorghum, Soybeans, Wheat
Washington—Corn, Wheat
Wisconsin—Corn, Grain Sorghum, Soybeans, Wheat
Wyoming—Corn, Wheat

Notice: The Basic Provisions, Crop Provisions, Winter Wheat Coverage Endorsement, and Commodity Exchange Endorsement for the 1999 CRC winter wheat program of insurance are as follows.

Crop Revenue Coverage Insurance Policy

(This is a continuous policy. Refer to section 3.)

This policy is reinsured by the Federal Crop Insurance Corporation (FCIC) under the authority of section 508(h) of the Federal Crop Insurance Act, as amended (7 U.S.C. 1508(h)). The provisions of the policy may not be waived or varied in any way by the crop insurance agent or any other agent or employee of the company. In the event the company cannot pay a loss, the claim will be settled in accordance with the provisions of the policy and paid by FCIC. No state guarantee fund will be liable to pay the loss. Throughout the policy, "you" and "your" refer to the named insured shown on the accepted application and "we," "us," and "our" refer to the company. Unless the context indicates otherwise, use of the plural form of a word includes the singular and use of the singular form of the word includes the plural.

Agreement to Insure: In return for the payment of the premium, and subject to all of the provisions of this policy, the company agrees with the insured to provide the insurance as stated in the policy. If a conflict exists among the policy provisions, the order of priority is as follows: (1) the Special Provisions; (2) the Commodity Exchange Endorsement; (3) the Crop Provisions; and (4) these Basic Provisions, with (1) controlling (2), etc.

Basic Provisions

Terms and Conditions

1. Definitions

Abandon. Failure to continue to care for the crop, providing care so insignificant as to provide no benefit to the crop, or failure to harvest in a timely manner, unless an insured cause of loss prevents you from properly caring for or harvesting the crop or causes damage to it to the extent that most producers of the crop on acreage with similar characteristics in the area would not normally further care for or harvest it.

Acreage report. A report required by section 7 of these Basic Provisions that contains, in addition to other required information, your report of your share of all acreage of an insured crop in the county, whether insurable or not insurable.

Acreage reporting date. The date contained in the Special Provisions or as provided in section 7 by which you are required to submit your acreage report.

Act. The Federal Crop Insurance Act, (7 U.S.C. 1501 *et seq.*).

Actuarial documents. The material for the crop year which is available for public inspection in your agent's office, and which show the revenue guarantees, coverage levels, premium rates, practices, insurable acreage, and other related information regarding crop insurance in the county.

Agricultural commodity. All insurable crops and other fruit, vegetable or nut crops produced for human or animal consumption.

Another use, notice of. The written notice required when you wish to put acreage to another use (see section 15).

Application. The form required to be completed by you and accepted by us before insurance coverage will commence. This form must be completed and filed in your agent's office not later than the sales closing date of the initial insurance year for each crop for which insurance coverage is requested. If cancellation or termination of insurance coverage occurs for any reason, including but not limited to indebtedness, suspension, debarment, disqualification, cancellation by you or us, or violation of the controlled substance provisions of the Food Security Act of 1985, a new application must be filed for the crop. Insurance coverage will not be provided if you are ineligible under the contract or under any Federal statute or regulation.

Approved yield. The yield determined in accordance with 7 CFR part 400, subpart (G). This yield is established for basic or optional units. The Approved Yield for each basic unit comprising an enterprise unit is retained for premium and final guarantee purposes under an enterprise unit.

Assignment of indemnity. A transfer of policy rights, made on our form, and effective when approved by us. It is the arrangement whereby you assign your right to an indemnity payment to any party of your choice for the crop year.

Base Price. The initial price determined in accordance with the Commodity Exchange Endorsement and used to calculate your premium and Minimum Guarantee.

CRC low price factor. A premium factor, as set forth in the actuarial documents, used to calculate the risk associated with a decrease in the Harvest Price relative to the Base Price.

CRC high price factor. A premium factor, as set forth in the actuarial documents, used to calculate the risk associated with an increase in the Harvest Price relative to the Base Price.

CRC rate. A premium rate, as set forth in the actuarial documents, used to calculate the risk associated with producing a level of production.

Cancellation date. The calendar date specified in the Crop Provisions on which coverage for the crop will automatically renew unless canceled in writing by either you or us, or terminated in accordance with the policy terms.

Claim for indemnity. A claim made on our form by you for damage or loss to an insured crop and submitted to us not later than 60 days after the end of the insurance period (see section 15.)

Consent. Approval in writing by us allowing you to take a specific action.

Contract. (see "policy".)

Contract change date. The calendar date by which we make any policy changes available for inspection in the agent's office (see section 5.)

County. Any county, parish, or other political subdivision of a state shown on your accepted application, including acreage in a field that extends into an adjoining county if the county boundary is not readily discernible.

Coverage. The insurance provided by this policy, against insured loss of revenue by unit as shown on your summary of coverage.

Coverage begins, date. The calendar date insurance begins on the insured crop, as contained in the Crop Provisions, or the date planting begins on the unit (see section 12 of these Basic Provisions for specific provisions relating to prevented planting.)

Crop Provisions. The part of the policy that contains the specific provisions of insurance for each insured crop.

Crop year. The period within which the insured crop is normally grown and designated by the calendar year in which the insured crop is normally harvested.

Damage. Injury, deterioration, or loss of revenue of the insured crop due to insured or uninsured causes.

Damage, notice of. A written notice required to be filed in your agent's office whenever you initially discover the insured crop has been damaged to the extent that a loss is probable (see section 15.)

Days. Calendar days.

Deductible. The amount determined by subtracting the coverage level percentage you choose from 100 percent. For example, if you elected a 65 percent coverage level, your deductible would be 35 percent (100%—65% = 35%).

Delinquent account. Any account you have with us in which premiums, and interest on those premiums is not paid by the termination date specified in the Crop Provisions, or any other amounts due us, such as indemnities found not to have been earned, which are not paid within 30 days of our mailing or other delivery of notification to you of the amount due.

Earliest planting date. The earliest date established for planting the insured crop (see Special Provisions and section 14.)

End of insurance period, date of. The date upon which your crop insurance coverage ceases for the crop year (see Crop Provisions and section 12.)

FCIC. The Federal Crop Insurance Corporation, a wholly owned government corporation within USDA.

Field. All acreage of tillable land within a natural or artificial boundary (*e.g.,* roads, waterways, fences, etc.)

Final Guarantee. The number of dollars guaranteed per acre determined to be the higher of the Minimum Guarantee or the Harvest Guarantee, where:

(1) Minimum Guarantee—The Approved Yield per acre multiplied by the Base Price multiplied by the coverage level percentage you elect.

(2) Harvest Guarantee—The Approved Yield per acre multiplied by the Harvest Price, multiplied by the coverage level percentage you elect.

If you elect enterprise unit coverage, the Basic Units comprising the enterprise unit will retain separate Final Guarantees.

Final planting date. The date contained in the Special Provisions for the insured crop by which the crop must initially be planted in order to be insured for the full Final Guarantee.

FSA. The Farm Service Agency, an agency of the USDA, or a successor agency.

FSA farm serial number. The number assigned to the farm by the local FSA office.

Good farming practices. The cultural practices generally in use in the county for the crop to make normal progress toward maturity and produce at least the yield used to determine the Final Guarantee and are those recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the county.

Harvest Price. The final price determined in accordance with the Commodity Exchange Endorsement and used to calculate your Calculated Revenue (as defined in the Crop Provisions) and the Harvest Guarantee.

Insured. The named person shown on the application accepted by us. This term does not extend to any other person having a share or interest in the crop (for example, a partnership, landlord, or any other person) unless specifically indicated on the accepted application.

Insured crop. The crop for which coverage is available under these Basic Provisions and the applicable Crop Provisions as shown on the application accepted by us.

Interplanted. Acreage on which two or more crops are planted in a manner that does not permit separate agronomic maintenance or harvest of the insured crop.

Irrigated practice. A method of producing a crop by which water is artificially applied during the growing season by appropriate systems and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the Final Guarantee on the irrigated acreage planted to the insured crop.

Late planted. Acreage initially planted to the insured crop after the final planting date.

Late planting period. The period that begins the day after the final planting date for the insured crop and ends 25 days after the final planting date, unless otherwise specified in the Crop Provisions or Special Provisions.

Loss, notice of. The notice required to be given by you not later than 72 hours after certain occurrences or 15 days after the end of the insurance period, whichever is earlier (see section 15.)

MPCI. Multiple peril crop insurance program, a program of insurance offered under the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*) (Act) and implemented in 7 CFR chapter IV.

Negligence. The failure to use such care as a reasonably prudent and careful person would use under similar circumstances.

Non-contiguous. Any two or more tracts of land whose boundaries do not touch at any point, except that land separated only by a public or private right-of-way, waterway, or an irrigation canal will be considered as contiguous.

Palmer Drought Severity Index. A meteorological index calculated by the National Weather Service to indicate prolonged and abnormal moisture deficiency or excess.

Person. An individual, partnership, association, corporation, estate, trust, or other legal entity, and wherever applicable, a State or a political subdivision or agency of a State. "Person" does not include the United States Government or any agency thereof.

Planted acreage. Land in which seed, plants, or trees have been placed appropriate for the insured crop and planting method, at the correct depth, into a seedbed that has been properly prepared for the planting method and production practice.

Policy. The agreement between you and us consisting of the accepted application, these Basic Provisions, the Crop Provisions, the Special Provisions, other applicable endorsements or options, the actuarial documents for the insured crop, and the applicable regulations published in 7 CFR chapter IV.

Practical to replant. Our determination, after loss or damage to the insured crop, based on all factors, including, but not limited to moisture availability, marketing window, condition of the field, and time to crop maturity, that replanting the insured crop will allow the crop to attain maturity prior to the calendar date for the end of the insurance period. It will not be considered practical to replant after the end of the late planting period, or the final planting date if no late planting period is applicable, unless replanting is generally occurring in the area. Unavailability of seed or plants will not be considered a valid reason for failure to replant.

Premium billing date. The earliest date upon which you will be billed for insurance coverage based on your acreage report. The premium billing

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date is contained in the Special Provisions.

Prevented planting. Failure to plant the insured crop with proper equipment by the final planting date designated in the Special Provisions for the insured crop in the county or by the end of the late planting period. You must have been prevented from planting the insured crop due to an insured cause of loss that also prevented most producers from planting on acreage with similar characteristics in the surrounding area.

Production report. A written record showing your annual production and used by us to determine your yield for insurance purposes (see section 4). The report contains yield information for previous years, including planted acreage and harvested production. This report must be supported by written verifiable records from a warehouseman or buyer of the insured crop, by measurement of farm-stored production, or by other records of production approved by us on an individual case basis.

Replanting. Performing the cultural practices necessary to prepare the land to replace the seed or plants of the damaged or destroyed insured crop and then replacing the seed or plants of the same crop in the insured acreage with the expectation of producing at least the yield used to determine the Final Guarantee.

Representative sample. Portions of the insured crop that must remain in the field for examination and review by our loss adjuster when making a crop appraisal, as specified in the Crop Provisions. In certain instances we may allow you to harvest the crop and require only that samples of the crop residue be left in the field.

Sales closing date. A date contained in the Special Provisions by which an application must be filed. The last date by which you may change your crop insurance coverage for a crop year.

Section (for the purposes of unit structure). A unit of measure under a rectangular survey system describing a tract of land usually one mile square and usually containing approximately 640 acres.

Share. Your percentage of interest in the insured crop as an owner, operator, or tenant at the time insurance attaches. However, only for the purpose of determining the amount of indemnity, your share will not exceed your share at the earlier of the time of loss, or the beginning of harvest.

Special Provisions. The part of the policy that contains specific provisions of insurance for each insured crop that may vary by geographic area.

State. The state shown on your accepted application.

Substantial benefit interest. An interest held by any person of at least 10 percent in the applicant or insured.

Summary of coverage. Our statement to you, based upon your acreage report, specifying the insured crop and the Revenue Guarantee provided by unit.

Tenant. A person who rents land from another person for a share of the crop or a share of the proceeds of the crop (see the definition of "share" above.)

Termination date. The calendar date contained in the Crop Provisions upon which your insurance ceases to be in effect because of nonpayment of any amount due us under the policy, including premium.

Timely planted. Planted on or before the final planting date designated in the Special Provisions for the insured crop in the county.

Unit.

(a) Basic unit—A unit established in accordance with section 2(a).

(b) Optional unit—A unit established from basic units in accordance with section 2(b).

(c) Enterprise unit—A unit established from basic units or optional units in accordance with section 2(c).

USDA. United States Department of Agriculture.

Void. When the policy is considered not to have existed for a crop year as a result of concealment, fraud, or misrepresentation (see section 27).

2. Unit Structure

(a) Basic unit—All insurable acreage of the insured crop in the county on the date coverage begins for the crop year:

(1) In which you have 100 percent crop share; or

(2) Which is owned by one person and operated by another person on a share basis. (Example: If, in addition to the land you own, you rent land from five landlords, three on a crop share basis and two on a cash basis, you would be entitled to four units; one for each crop share lease and one that combines the two cash leases and the land you own.) Land rented for cash, a fixed commodity payment, or a consideration other than a share in the insured crop, or proceeds from the sale of the insured crop, on such land will be considered as owned by the lessee (see definition of "share" above).

(b) Optional unit—Unless limited by the Crop Provisions or Special Provisions, a basic unit as defined in section 2(a) may be divided into optional units if, for each optional unit:

(1) You meet the following:

(A) You have records, that are acceptable to us, of planted acreage and the production from each optional unit for at least the last crop year used to determine your Final Guarantee;

(B) You must plant the crop in a manner that results in a clear and discernable break in the planting pattern at the boundaries of each optional unit;

(C) All optional units you select for the crop year are identified on the acreage report for that crop year (Units will be determined when the acreage is reported but may be adjusted or combined to reflect the actual unit structure when adjusting a loss. No further unit division may be made after the acreage reporting date for any reason); and

(D) You have records of marketed or stored production from each optional unit maintained in such a manner that permits us to verify the production from each optional unit, or the production from each optional unit is kept separate until loss adjustment is completed by us.

(2) Each optional unit must meet one or more of the following, unless otherwise specified in the Crop Provisions:

(A) Optional units may be established if each optional unit is located in a separate section. In the absence of sections, we may consider parcels of land legally identified by other methods of measure such as Spanish grants, as the equivalents of sections for unit purposes. In areas which have not been surveyed using sections, section equivalents or in areas where boundaries are not readily discernible, each optional unit must be located in a separate FSA farm serial number; and

(B) In addition to, or instead of, establishing optional units by section, section equivalent or FSA farm serial number, optional units may be based on irrigated and non-irrigated acreage. To qualify as separate irrigated and non-irrigated optional units, the non-irrigated acreage may not continue into the irrigated acreage in the same rows or planting pattern. The irrigated acreage may not extend beyond the point at which the irrigation system can deliver the quantity of water needed to produce the yield on which the Final Guarantee is based, except the corners of a field in which a center-pivot irrigation system is used may be considered as irrigated acreage if the corners of a field in which a center-pivot irrigation system is used do not qualify as a separate non-irrigated optional unit. In this case, production from both practices will be used to determine your approved yield.

(3) If you do not comply fully with the provisions in this section, we will combine all optional units that are not in compliance with these provisions

into the basic unit from which they were formed. We will combine the optional units at any time we discover that you have failed to comply with these provisions. If failure to comply with these provisions is determined by us to be inadvertent, and the optional units are combined into a basic unit, that portion of the additional premium paid for the optional units that have been combined will be refunded to you for the units combined.

(c) Enterprise unit—A unit that consists of all insurable acreage of the insured crop in the county in which you have a share on the date coverage begins for the crop year. The following requirements must be met to qualify for an enterprise unit:

(1) The enterprise unit must contain 50 or more acres;

(2) The acreage that comprises the enterprise unit must also qualify:

(i) For two or more basic units of the same insured crop as defined in section 2.(a) that are located in two or more separate sections, section equivalents or FSA farm serial numbers; or

(ii) For two or more optional units of the same insured crop established by separate sections, section equivalents, or FSA farm serial numbers as defined in section 2.(b)(2)(A).

(3) The qualifying basic units or optional units that comprise the enterprise unit must each have insurable acreage of the same crop in the crop year insured;

(4) You must comply with all reporting requirements and regulations for the qualifying basic units or optional units comprising the enterprise unit;

(5) The qualifying basic units or optional units may not be combined into an enterprise unit on any basis other than as described under this section; and

(6) If you do not comply fully with these provisions, and if at any time we discover that you have failed to comply with these provisions, we will assign you the basic unit structure and adjust the premium accordingly.

If you select and qualify for an enterprise unit, you will qualify for a premium discount based on the insured crop and number of acres in the enterprise unit.

(d) Selection of unit structure—Basic, optional, or enterprise units will be determined when the acreage is reported but may be adjusted, combined, or separated to reflect the actual unit structure when adjusting a loss. If you select an enterprise unit structure, you must elect that option in writing by the sales closing date. If you do not qualify for an enterprise unit when the acreage is reported, you will be assigned a basic unit structure.

All applicable unit structures must be stated on the acreage report for each crop year.

3. Life of Policy, Cancellation, and Termination

(a) This is a continuous policy and will remain in effect for each crop year following the acceptance of the original application until canceled by you in accordance with the terms of the policy or terminated by operation of the terms of the policy, or by us.

(b) Your application for insurance must contain all the information required by us to insure the crop. Applications that do not contain all social security numbers and employer identification numbers, as applicable, (except as stated herein) coverage level, price percentage, crop, type, variety, or class, plan of insurance, and any other material information required to insure the crop, are not acceptable. If a person with a substantial beneficial interest in the insured crop refuses to provide a social security number or employer identification number and that person is:

(1) Not on the non-standard classification system list, the amount of coverage available under the policy will be reduced proportionately by that person's share of the crop; or

(2) On the non-standard classification system list, the insurance will not be available to that person and any entity in which the person has a substantial beneficial interest.

(c) After acceptance of the application, you may not cancel this policy for the initial crop year. Thereafter, the policy will continue in force for each succeeding crop year unless canceled or terminated as provided below.

(d) Either you or we may cancel this policy after the initial crop year by providing written notice to the other on or before the cancellation date shown in the Crop Provisions.

(e) If any amount due, including premium, is not paid on or before the termination date for the crop on which an amount is due:

(1) For a policy with the unpaid premium, the policy will terminate effective on the termination date immediately subsequent to the billing date for the crop year;

(2) For a policy with other amounts due, the policy will terminate effective on the termination date immediately after the account becomes delinquent;

(3) Ineligibility will be effective as of the date that the policy was terminated for the crop for which you failed to pay an amount owed and for all other insured crops with coincidental termination dates;

(4) All other policies that are issued by us under the authority of the Act will also terminate as of the next termination date contained in the applicable policy;

(5) If you are ineligible, you may not obtain any crop insurance under the Act until payment is made, you execute an agreement to repay the debt and make the payments in accordance with the agreement, or you file a petition to have your debts discharged in bankruptcy;

(6) If you execute an agreement to repay the debt and fail to timely make any scheduled payment, you will be ineligible for crop insurance effective on the date the payment was due until the debt is paid in full or you file a petition to discharge the debt in bankruptcy and subsequently obtain discharge of the amounts due. Dismissal of the bankruptcy petition before discharge will void all policies in effect retroactive to the date you were originally determined ineligible to participate;

(7) Once the policy is terminated, the policy cannot be reinstated for the current crop year unless the termination was in error;

(8) After you again become eligible for crop insurance, if you want to obtain coverage for your crops, you must reapply on or before the sales closing date for the crop (Since applications for crop insurance cannot be accepted after the sales closing date, if you make any payment after the sales closing date, you cannot apply for insurance until the next crop year); and

(9) If we deduct the amount due us from an indemnity, the date of payment for the purpose of this section will be the date you sign the properly executed claim for indemnity.

(10) For example, if crop A, with a termination date of October 31, 1997, and crop B, with a termination date of March 15, 1998, are insured and you do not pay the premium for crop A by the termination date, you are ineligible for crop insurance as of October 31, 1997, and crop A's policy is terminated on that date. Crop B's policy is terminated as of March 15, 1998. If you enter an agreement to repay the debt on April 25, 1998, you can apply for insurance for crop A by the October 31, 1998, sales closing date and crop B by the March 15, 1999, sales closing date. If you fail to make a scheduled payment on November 1, 1998, you will be ineligible for crop insurance effective on November 1, 1998, and you will not be eligible unless the debt is paid in full or you file a petition to have the debt discharged in bankruptcy and subsequently receive discharge.

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(f) If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the policy will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after coverage begins for any crop year, the policy will continue in force through the crop year and terminate at the end of the insurance period and any indemnity will be paid to the person or persons determined to be beneficially entitled to the indemnity. The premium will be deducted from the indemnity or collected from the estate. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

(g) We may terminate your policy if no premium is earned for 3 consecutive years.

(h) The cancellation and termination dates are contained in the Crop Provisions.

(i) You are not eligible to participate in the Crop Revenue Coverage program if you have elected the MPCI Catastrophic Risk Protection Endorsement except that if you execute a High Risk Land Exclusion Option for a Crop Revenue Coverage Policy, you may elect to insure the "high risk land" under an MPCI Catastrophic Risk Protection Endorsement. If both policies are in force, the acreage of the crop covered under the Crop Revenue Coverage policy and the acreage covered under an MPCI Catastrophic Risk Protection Endorsement will be considered as separate crops for insurance purposes, including the payment of administrative fees.

4. Coverage Level, Price Percentage, and Approved Yield For Determining Final Guarantee and Indemnity

(a) For each crop year, the Final Guarantee, coverage level, and price percentage at which an indemnity will be determined for each unit will be those used to calculate your summary of coverage. The information necessary to determine those factors will be contained in the Special Provisions or in the actuarial documents.

(b) You may select only one coverage level from among those offered by us for each insured crop. By written notice to us, you may change the coverage level for the following crop year not later than the sales closing date for the affected insured crop. If you do not change the coverage level for the succeeding crop year you will be assigned the same coverage level that was in effect the previous crop year.

(c) You may select only one price percentage for each insured crop. You may change the price percentage for the following crop year by giving written notice to us not later than the sales closing date for the insured crop. The price percentage you select applies to both the Base Price and Harvest Price. Since the average daily settlement price may change each year, if you do not select a new price percentage on or before the sales closing date, we will assign a price percentage which bears the same relationship to the price percentage schedule that was in effect for the preceding year. (For example: If you selected a price percentage of 100 for the previous crop year, and you do not select a new price percentage for the current crop year, we will assign a price percentage of 100 for the current crop year.)

(d) This policy is an alternative to the Multiple Peril Crop Insurance program and satisfies the requirements of section 508(b)(7) of the Act.

(e) You must report production to us for the previous crop year by the earlier of the acreage reporting date or 45 days after the cancellation date unless otherwise stated in the Special Provisions.

(1) If you do not provide the required production report, we will assign a yield for the previous crop year. The yield assigned by us will not be more than 75 percent of the yield used by us to determine your coverage for the previous crop year. The production report or assigned yield will be used to compute your Approved Yield for the purpose of determining your Final Guarantee for the current crop year.

(2) If you have filed a claim for any crop year, the documents signed by you which state the amount of production used to complete the claim for indemnity will be the production report for that year unless otherwise specified by FCIC.

(3) Production and acreage for the prior crop year must be reported for each proposed optional unit by the production reporting date. If you do not provide the information stated above, the optional units will be combined into the basic unit.

(f) We may revise your Final Guarantee for any unit, and revise any indemnity paid based on that Final Guarantee, if we find that your production report under paragraph (e) of this section:

(1) Is not supported by written verifiable records in accordance with the definition of production report; or

(2) Fails to accurately report actual production, acreage, or other material information.

5. Contract Changes

(a) We may change the terms of your coverage under this policy from year to year.

(b) Any changes in policy provisions, premium rates, and program dates will be provided by us to your crop insurance agent not later than the contract change date contained in the Crop Provisions. You may view the documents or request copies from your crop insurance agent.

(c) You will be notified, in writing, of changes to the Basic Provisions, Crop Provisions, and Special Provisions not later than 30 days prior to the cancellation date for the insured crop. Acceptance of changes will be conclusively presumed in the absence of notice from you to change or cancel your insurance coverage.

6. Liberalization

If we adopt any revisions that broadens the coverage under this policy subsequent to the contract change date without additional premium, the broadened coverage will apply.

7. Report of Acreage

(a) An annual acreage report must be submitted to us on our form for each insured crop in the county on or before the acreage reporting date contained in the Special Provisions, except as follows:

(1) If you insure multiple crops that have final planting dates on or after August 15 but before December 31, you must submit an acreage report for all such crops on or before the latest applicable acreage reporting date for such crops; and

(2) If you insure multiple crops that have final planting dates on or after December 31 but before August 15, you must submit an acreage report for all such crops on or before the latest applicable acreage reporting date for such crops.

(3) Notwithstanding the provisions in sections 7(a)(1) and (2):

(i) If the Special Provisions designate separate planting periods for a crop, you must submit an acreage report for each planting period on or before the acreage reporting date contained in the Special Provisions for the planting period; and

(ii) If planting of the insured crop continues after the final planting date or you are prevented from planting during the late planting period, the acreage reporting date will be the later of:

(A) The acreage reporting date contained in the Special Provisions;

(B) The date determined in accordance with sections 7(a)(1) or (2); or

(C) Five (5) days after the end of the late planting period for the insured crop, if applicable.

(b) If you do not have a share in an insured crop in the county for the crop year, you must submit an acreage report on or before the acreage reporting date, so indicating.

(c) Your acreage report must include the following information, if applicable:

(1) All acreage of the crop in the county (insurable and not insurable) in which you have a share;

(2) Your share at the time coverage begins;

(3) The practice;

(4) The type; and

(5) The date the insured crop was planted.

(d) Because incorrect reporting on the acreage report may have the effect of changing your premium and any indemnity that may be due, you may not revise this report after the acreage reporting date without our consent.

(e) We may elect to determine all premiums and indemnities based on the information you submit on the acreage report or upon the factual circumstances we determine to have existed.

(f) If you do not submit an acreage report by the acreage reporting date, or if you fail to report all units, we may elect to determine by unit the insurable crop acreage, share, type and practice, or to deny liability on such units. If we deny liability for the unreported units, your share of any production from the unreported units will be allocated, for loss purposes only, as production to count to the reported units in proportion to the liability on each reported unit.

(g) If the information reported by you on the acreage report for share, acreage, practice, type or other material information is inconsistent with the information that is determined to actually exist for a unit and results in:

(1) A lower liability than the actual liability determined, the Final Guarantee on the unit will be reduced to an amount that is consistent with the reported information. In the event that insurable acreage is under-reported for any unit, all production or value from insurable acreage in that unit will be considered production or value to count in determining the indemnity; and

(2) A higher liability than the actual liability determined, the information contained in the acreage report will be revised to be consistent with the correct information. If we discover that you have incorrectly reported any information on the acreage report for any crop year, you may be required to provide documentation in subsequent crop years that substantiates your report of acreage for those crop years, including, but not limited to, an acreage measurement service at your own expense.

(h) Errors in reporting units may be corrected by us at the time of adjusting a loss to reduce our liability and to conform to applicable unit division guidelines.

8. Annual Premium

(a) The annual premium is earned and payable at the time coverage begins. You will be billed for premium due not earlier than the premium billing date specified in the Special Provisions. The premium due, plus any accrued interest, will be considered delinquent if it is not paid on or before the termination date specified in the Crop Provisions.

(b) Any amount you owe us related to any crop insured with us under the authority of the Act will be deducted from any prevented planting payment or indemnity due you for any crop insured with us under the authority of the Act.

(c) The annual premium amount is determined by:

(1) Multiplying the Approved Yield times the coverage level, times the MPCI Base Rate specified in the applicable MPCI actuarial documents, and times the Base Price, as defined in the Commodity Exchange Endorsement.

(2) Multiplying the Approved Yield times the coverage level, times the CRC Rate specified in the actuarial documents, and times the Low Price Factor specified in the actuarial documents;

(3) Multiplying the Approved Yield times the coverage level, times the MPCI Base Rate specified in the applicable MPCI actuarial documents, and times the High Price Factor specified in the actuarial documents;

(4) Adding sections 8(c) (1), (2), and (3);

(5) Multiplying the result of section 8(c)(4) times the acres insured, times your share at the time coverage begins, and as applicable, times any Rate Map Area Adjustment Factor; Rate Class Option Factor; Option Factor; and Catastrophic Yield Adjustment Surcharge specified in the actuarial documents;

(6) Multiplying the Approved Yield times the coverage level, times the MPCI Base Rate specified in the applicable actuarial documents, times the MPCI Market Price Election, times the acres insured, times your share at the time coverage begins, and as applicable, times any Rate Map Area Adjustment Factor; Rate Class Option Factor; Option Factor; and Catastrophic Yield Adjustment Surcharge specified in the actuarial documents, and times the applicable producer subsidy percentage to calculate the appropriate amount of subsidy. The producer subsidy percentage is based upon the coverage level and is contained in the actuarial documents; and

(7) Subtracting section 8(c)(6) from section 8(c)(5) to determine the annual producer paid premium.

(d) The annual premium amount for any applicable High Risk Classification is determined by:

(1) Multiplying the Approved Yield (with yield adjustments specified in the actuarial documents) times the coverage level, times the High Risk Classification Rate specified in the actuarial documents, times the Rate Differential specified in the actuarial documents, and times the Base Price as defined in the Commodity Exchange Endorsement;

(2) Multiplying the result of section 8(d)(1) times the acres insured, times your share at the time coverage begins, times any applicable Rate Class Option Factor; and Option Factor specified in the actuarial documents, and times the High Risk Classification Premium Factor calculated using the High Risk Classification Premium Formula specified in the actuarial documents;

(3) Multiplying the Approved Yield (with yield adjustments specified in the actuarial documents) times the coverage level, times the High Risk Classification Rate specified in the actuarial documents, times the Rate Differential specified in the actuarial documents, times the MPCI Market Price Election, times the acres insured, times your share at the time coverage begins, and as applicable, times any Rate Class Option Factor; and Option Factor specified in the actuarial documents, and times the applicable producer subsidy percentage to calculate the appropriate amount of subsidy. The producer subsidy percentage is based upon the coverage level and is contained in the actuarial documents; and

(4) Subtracting section 8(d)(3) from section 8(d)(2) to determine the annual producer paid premium.

9. Insured Crop

(a) The insured crop will be that shown on your accepted application and as specified in the Crop Provisions or Special Provisions and must be grown on insurable acreage.

(b) A crop which will NOT be insured will include, but will not be limited to, any crop:

(1) If the farming practices carried out are not in accordance with the farming practices for which the premium rates

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or Final Guarantee have been established;

(2) Of a type, class or variety established as not adapted to the area or excluded by the policy provisions;

(3) That is a volunteer crop;

(4) That is a second crop following the same crop (insured or not insured) harvested in the same crop year unless specifically permitted by the Crop Provisions or the Special Provisions;

(5) That is planted for the development or production of hybrid seed or for experimental purposes, unless permitted by the Crop Provisions or unless we agree, in writing, to insure such crop; or

(6) That is used solely for wildlife protection or management. If the lease states that specific acreage must remain unharvested, only that acreage is uninsurable. If the lease specifies that a percentage of the crop must be left unharvested, your share will be reduced by such percentage.

10. Insurable Acreage

(a) Acreage planted to the insured crop in which you have a share is insurable except acreage:

(1) That has not been planted and harvested within one of the 3 previous crop years, unless:

(i) Such acreage was not planted:

(A) To comply with any other USDA program;

(B) Because of crop rotation, (*e.g.*, corn, soybean, alfalfa; and the alfalfa remained for 4 years before the acreage was planted to corn again);

(C) Due to an insurable cause of loss that prevented planting; or

(D) Because a perennial crop was grown on the acreage.

(ii) Such acreage was planted but was not harvested due to an insurable cause of loss; or

(iii) The Crop Provisions specifically allow insurance for such acreage.

(2) That has been strip-mined, unless an agricultural commodity other than a cover, hay, or forage crop (except corn silage), has been harvested from the acreage for at least five crop years after the strip-mined land was reclaimed;

(3) On which the insured crop is damaged and it is practical to replant the insured crop, but the insured crop is not replanted;

(4) That is interplanted, unless allowed by the Crop Provisions;

(5) That is otherwise restricted by the Crop Provisions or Special Provisions; or

(6) That is planted in any manner other than as specified in the policy provisions for the crop.

(b) If insurance is provided for an irrigated practice, you must report as irrigated only that acreage for which you have adequate facilities and adequate water, or the reasonable expectation of receiving adequate water at the time coverage begins, to carry out a good irrigation practice. If you knew or had reason to know that your water may be reduced before coverage begins, no reasonable expectation exists.

(c) Notwithstanding the provisions in section 9(b)(1), if acreage is irrigated and we do not provide a premium rate for an irrigated practice, you may either report and insure the irrigated acreage as "non-irrigated," or report the irrigated acreage as not insured.

(d) We may restrict the amount of acreage that we will insure to the amount allowed under any acreage limitation program established by the United States Department of Agriculture if we notify you of that restriction prior to the sales closing date.

11. Share Insured

(a) Insurance will attach only to the share of the person completing the application and will not extend to any other person having a share in the crop unless the application clearly states that:

(1) The insurance is requested for an entity such as a partnership or a joint venture; or

(2) You as landlord will insure your tenant's share, or you as tenant will insure your landlord's share. In this event, you must provide evidence of the other party's approval (lease, power of attorney, etc.). Such evidence will be retained by us. You also must clearly set forth the percentage shares of each person on the acreage report.

(b) We may consider any acreage or interest reported by or for your spouse, child or any member of your household to be included in your share.

(c) Acreage rented for a percentage of the crop, or a lease containing provisions for Both a minimum payment (such as a specified amount of cash, bushels, pounds, etc.,) And a crop share will be considered a crop share lease.

(d) Acreage rented for cash, or a lease containing provisions for Either a minimum payment Or a crop share (such as a 50/50 share or $100.00 per acre, whichever is greater) will be considered a cash lease.

12. Insurance Period

(a) Except for prevented planting coverage (see section 18), coverage begins on each unit or part of a unit at the later of:

(1) The date we accept your application (For the purposes of this paragraph, the date of acceptance is the date that you submit a properly executed application in accordance with section 3);

(2) The date the insured crop is planted; or

(3) The calendar date contained in the Crop Provisions for the beginning of the insurance period.

(b) Coverage ends at the earliest of:

(1) Total destruction of the insured crop on the unit;

(2) Harvest of the unit;

(3) Final adjustment of a loss on a unit;

(4) The calendar date contained in the Crop Provisions for the end of the insurance period;

(5) Abandonment of the crop on the unit; or

(6) As otherwise specified in the Crop Provisions.

13. Causes of Loss

The insurance provided is against only unavoidable loss of revenue directly caused by specific causes of loss contained in the Crop Provisions. All other causes of loss, including but not limited to the following, are Not covered:

(a) Negligence, mismanagement, or wrongdoing by you, any member of your family or household, your tenants, or employees;

(b) Failure to follow recognized good farming practices for the insured crop;

(c) Water contained by any governmental, public, or private dam or reservoir project;

(d) Failure or breakdown of irrigation equipment or facilities; or

(e) Failure to carry out a good irrigation practice for the insured crop, if applicable.

14. Replanting Payment

(a) If allowed by the Crop Provisions, a replanting payment may be made on an insured crop replanted after we have given consent and the acreage replanted is at least the lesser of 20 acres or 20 percent of the insured planted acreage for the unit (as determined on the final planting date or within the late planting period if a late planting period is applicable.)

(b) No replanting payment will be made on acreage:

(1) On which our appraisal establishes that production will exceed the level set by the Crop Provisions;

(2) Initially planted prior to the earliest planting date established by the Special Provisions; or

(3) On which one replanting payment has already been allowed for the crop year.

(c) The replanting payment per acre will be your actual cost for replanting, but will not exceed the amount determined in accordance with the Crop Provisions.

(d) No replanting payment will be paid if we determine it is not practical to replant.

15. Duties in the Event of Damage or Loss.

Your Duties—

(a) In case of damage to any insured crop you must:

(1) Protect the crop from further damage by providing sufficient care;

(2) Give us notice within 72 hours of your initial discovery of damage (but not later than 15 days after the end of the insurance period), by unit, for each insured crop (we may accept a notice of loss provided later than 72 hours after your initial discovery if we still have the ability to accurately adjust the loss);

(3) Leave representative samples intact for each field of the damaged unit as may be required by the Crop Provisions; and

(4) Cooperate with us in the investigation or settlement of the claim, and, as often as we reasonably require:

(i) Show us the damaged crop;

(ii) Allow us to remove samples of the insured crop; and

(iii) Provide us with records and documents we request and permit us to make copies.

(b) You must obtain consent from us before, and notify us after you:

(1) Destroy any of the insured crop that is not harvested;

(2) Put the insured crop to an alternative use;

(3) Put the acreage to another use; or

(4) Abandon any portion of the insured crop. We will not give consent for any of the actions in sections 15(b)(1) through (4) if it is practical to replant the crop or until we have made an appraisal of the potential production of the crop.

(c) In addition to complying with all other notice requirements, you must submit a claim for indemnity declaring the amount of your loss not later than 60 days after the end of the insurance period. This claim must include all the information we require to settle the claim.

(d) Upon our request, you must:

(1) Provide a complete harvesting and marketing record of each insured crop by unit including separate records showing the same information for production from any acreage not insured; and

(2) Submit to examination under oath.

(e) You must establish the total production or value received for the insured crop on the unit, that any loss of production or value occurred during the insurance period, and that the loss of production or value was directly caused by one or more of the insured causes specified in the Crop Provisions.

(f) All notices required in this section that must be received by us within 72 hours may be made by telephone or in person to your crop insurance agent but must be confirmed in writing within 15 days.

Our Duties—

(a) If you have complied with all the policy provisions, we will pay your loss within 30 days after:

(1) We reach agreement with you;

(2) Completion of arbitration or appeal proceedings; or

(3) The entry of a final judgment by a court of competent jurisdiction.

(b) In the event we are unable to pay your loss within 30 days, we will give you notice of our intentions within the 30-day period.

(c) We may defer the adjustment of a loss until the amount of loss can be accurately determined. We will not pay for additional damage resulting from your failure to provide sufficient care for the crop during the deferral period.

(d) We recognize and apply the loss adjustment procedures established or approved by FCIC.

16. Production Included in Determining Indemnities

(a) The total production to be counted for a unit will include all production determined in accordance with the policy.

(b) The amount of production of any unharvested insured crop may be determined on the basis of our field appraisals conducted after the end of the insurance period.

17. Late Planting

Unless limited by the Crop Provisions, insurance will be provided for acreage planted to the insured crop after the final planting date in accordance with the following:

(a) The Final Guarantee for each acre planted to the insured crop during the late planting period will be reduced by 1 percent per day for each day planted after the final planting date.

(b) Acreage planted after the late planting period (or after the final planting date for crops that do not have a late planting period) may be insured as follows:

(1) The Final Guarantee for each acre planted as specified in this subsection will be determined by multiplying the Final Guarantee that is provided for acreage of the insured crop that is timely planted by the prevented planting coverage level percentage you elected, or that is contained in the Crop Provisions if you did not elect a prevented planting coverage level percentage;

(2) Planting on such acreage must have been prevented by the final planting date (or during the late planting period, if applicable) by an insurable cause occurring within the insurance period for prevented planting coverage;

(3) The Final Guarantee for any acreage on which an insured cause of loss prevents completion of planting, as specified in the definition of "planted acreage" (e.g., seed is broadcast on the soil surface but cannot be incorporated), will be determined as indicated in this section; and

(4) All production from acreage as specified in this section will be included as production to count for the unit.

(c) The premium amount for insurable acreage specified in section 17(a) or (b) will be the same as that for timely planted acreage. If the amount of premium you are required to pay (gross premium less our subsidy) for such acreage exceeds the liability, coverage for those acres will not be provided (no premium will be due and no indemnity will be paid).

18. Prevented Planting

(a) Unless limited by the policy provisions, a prevented planting payment may be made to you for eligible acreage if:

(1) You were prevented from planting the insured crop by an insured cause that occurs:

(i) On or after the sales closing date contained in the Special Provisions for the insured crop in the county for the crop year the application for insurance is accepted; or

(ii) For any subsequent crop year, on or after the sales closing date for the previous crop year for the insured crop in the county, provided insurance has been in force continuously since that date. Cancellation for the purpose of transferring the policy to a different insurance provider for the subsequent crop year will not be considered a break in continuity for the purpose of the preceding sentence; and

(2) You include any acreage of the insured crop that was prevented from being planted on your acreage report.

(b) The actuarial documents may contain additional levels of prevented planting coverage that you may purchase for the insured crop:

(1) Such purchase must be made on or before the sales closing date.

(2) If you do not purchase one of those additional levels by the sales closing date, you will receive the prevented

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planting coverage specified in the Crop Provisions.

(3) If you have an MPCI Catastrophic Risk Protection Endorsement for any acreage of "high risk land," the additional levels of prevented planting coverage will not be available for that acreage; and

(4) You may not increase your elected or assigned preventing planting coverage level for any crop year if a cause of loss that will or could prevent planting is evident prior to the time you wish to change your prevented planting coverage level.

(c) The premium amount for acreage that is prevented from being planted will be the same as that for timely planted acreage. If the amount of premium you are required to pay (gross premium less our subsidy) for acreage that is prevented from being planted exceeds the liability on such acreage, coverage for those acres will not be provided (no premium will be due and no indemnity will be paid for such acreage).

(d) Drought or failure of the irrigation water supply will not be considered to be an insurable cause of loss for the purposes of prevented planting unless, on the final planting date:

(1) For non-irrigated acreage, the area that is prevented from being planted is classified by the Palmer Drought Severity Index as being in a severe or extreme drought; or

(2) For irrigated acreage, there is not a reasonable probability of having adequate water to carry out an irrigated practice.

(e) The maximum number of acres that may be eligible for a prevented planting payment for any crop will be determined as follows:

(1) The total number of acres eligible for prevented planting coverage for all crops cannot exceed the number of acres of cropland in your farming operation for the crop year, unless you are eligible for prevented planting coverage on double cropped acreage in accordance with section 18(f)(4) or (5). The eligible acres for each insured crop will be determined in accordance with the following table.

Type of crop	Eligible acres if, in any of the 4 most recent crop years, you have produced any crop for which insurance was available	Eligible acres if, in any of the 4 most recent crop years, you have not produced any crop for which insurance was available
(i) The crop is not required to be contracted with a processor to be insured.	(A) The maximum number of acres certified for APH purposes or reported for insurance for the crop in any one of the 4 most recent crop years (not including reported prevented planting acreage that was planted to a substitute crop other than an approved cover crop). The number of acres determined above for a crop may be increased by multiplying it by the ratio of the total cropland acres that you are farming this year (if greater) to the total cropland acres that you farmed in the previous year, provided that you submit proof to us that for the current crop year you have purchased or leased additional land or that acreage will be released from any USDA program which prohibits harvest of a crop. Such acreage must have been purchased, leased, or released from the USDA program, in time to plant it for the current crop year using good farming practices. No cause of loss that will or could prevent planting may be evident at the time the acreage is purchased, leased, or released from the USDA program.	(B) The number of acres specified on your intended acreage report which is submitted to us by the sales closing date for all crops you insure for the crop year and that is accepted by us. The total number of acres listed may not exceed the number of acres of cropland in your farming operation at the time you submit the intended acreage report. The number of acres determined above for a crop may only be increased by multiplying it by the ratio of the total cropland acres that you are farming this year (if greater) to the number of acres listed on your intended acreage report, if you meet the conditions stated in section 18(e)(1)(i)(A).
(ii) The crop must be contracted with a processor to be insured.	(A) The number of acres of the crop specified in the processor contract, if the contract specifies a number of acres contracted for the crop year; or the result of dividing the quantity of production stated in the processor contract by your approved yield, if the processor contract specifies a quantity of production that will be accepted. (For the purposes of establishing the number of prevented planting acres, any reductions applied to the transitional yield for failure to certify acreage and production for four prior years will not be used.).	(B) The number of acres of the crop as determined in section 18(e)(1)(ii)(A).

(2) Any eligible acreage determined in accordance with the table contained in section 18(e)(1) will be reduced by subtracting the number of acres of the crop (insured and uninsured) that are timely and late planted, including acreage specified in section 17(b).

(f) Regardless of the number of eligible acres determined in section 18(e), prevented planting coverage will not be provided for any acreage:

(1) If at least one contiguous block of prevented planting acreage does not constitute at least 20 acres or 20 percent of the insurable crop acreage in the unit, whichever is less. We will assume that any prevented planting acreage within a field that contains planted acreage would have been planted to the same crop that is planted in the field, unless the prevented planting acreage constitutes at least 20 acres or 20 percent of the insurable acreage in the field and you can prove that you have previously produced both crops in the same field in the same crop year;

(2) Used for conservation purposes or intended to be left unplanted under any program administered by the USDA;

(3) For which the actuarial documents do not designate a premium rate;

(4) On which the insured crop is prevented from being planted, if you or any other person receives a prevented planting payment for any crop for the same acreage in the same crop year (excluding share arrangements), unless you have coverage greater than the Catastrophic Risk Protection Plan of Insurance and have records of acreage

and production that are used to determine your approved yield that show the acreage was double-cropped in each of the last 4 years in which the insured crop was grown on the acreage;

(5) On which the insured crop is prevented from being planted, if any crop from which any benefit is derived under any program administered by the USDA is planted and fails, or if any crop is harvested, hayed or grazed on the same acreage in the same crop year (other than a cover crop which may be hayed or grazed after the final planting date for the insured crop), unless you have coverage greater than that applicable to the Catastrophic Risk Protection Plan of Insurance and have records of acreage and production that are used to determine your approved yield that show the acreage was double-cropped in each of the last 4 years in which the insured crop was grown on the acreage;

(6) Of a crop that is prevented from being planted if a cash lease payment is also received for use of the same acreage in the same crop year (not applicable if acreage is leased for haying or grazing only). If you state that you will not be cash renting the acreage and claim a prevented planting payment on the acreage, you could be subject to civil and criminal sanctions if you cash rent the acreage and do not return the prevented planting payment for it;

(7) For which planting history or conservation plans indicate that the acreage would have remained fallow for crop rotation purposes;

(8) That exceeds the number of acres eligible for a prevented planting payment;

(9) That exceeds the number of eligible acres physically available for planting;

(10) For which you cannot provide proof that you had the inputs available to plant and produce a crop with the expectation of at least producing the yield used to determine the Final Guarantee (Evidence that you have previously planted the crop on the unit will be considered adequate proof unless your planting practices or rotational requirements show that the acreage would have remained fallow or been planted to another crop);

(11) Based on an irrigated practice Final Guarantee unless adequate irrigation facilities were in place to carry out an irrigated practice on the acreage prior to the insured cause of loss that prevented you from planting; or

(12) Of a crop type that you did not plant in at least one of the four most recent years. Types for which separate Final Guarantees are available must be included in your APH database in at least one of the most recent four years, or crops that do not require yield certification (crops for which the insurance guarantee is not based on APH) must be reported on your acreage report in at least one of the four most recent crop years except as allowed in section 18(e)(1)(i)(B).

(g) The prevented planting payment for any eligible acreage within a basic or optional unit will be determined by:

(1) Multiplying the Final Guarantee for timely planted acreage of the insured crop by the prevented planting coverage level percentage you elected, or that is contained in the Crop Provisions if you did not elect a prevented planting coverage level percentage;

(2) Multiplying the result of section 18(g)(1) by the number of eligible prevented planting acres in the unit; and

(3) Multiplying the result of section 18(g)(2) by your share.

(h) The prevented planting payment for any eligible acreage within an enterprise unit will be determined by:

(1) Multiplying the Final Guarantee for each basic unit or optional unit within the enterprise unit, for timely planted acreage of the insured crop by the prevented planting coverage level percentage you elected, or that is contained in the Crop Provisions if you did not elect a prevented planting coverage level percentage;

(2) Multiplying the result for each basic or optional unit in section 18(h)(1) by the number of eligible prevented planting acres in each basic unit or optional unit within the enterprise unit;

(3) Multiplying the result of section 18(h)(2) for each basic or optional unit by your share; and

(4) Total the results from section 18(h)(3).

19. Crops As Payment

You must not abandon any crop to us. We will not accept any crop as compensation for payments due us.

20. Arbitration

(a) If you and we fail to agree on any factual determination, the disagreement will be resolved in accordance with the rules of the American Arbitration Association. Failure to agree with any factual determination made by FCIC must be resolved through the FCIC appeal provisions published at 7 CFR part 11.

(b) No award determined by arbitration or appeal can exceed the amount of liability established or which should have been established under the policy.

21. Access to Insured Crop and Records, and Record Retention

(a) We reserve the right to examine the insured crop as often as we reasonably require.

(b) For three years after the end of the crop year, you must retain, and provide upon our request, complete records of the harvesting, storage, shipment, sale, or other disposition of all the insured crop produced on each unit. This requirement also applies to the records used to establish the basis for the production report for each unit. You must also provide upon our request, separate records showing the same information for production from any acreage not insured. We may extend the record retention period beyond three years by notifying you of such extension in writing. Your failure to keep and maintain such records will, at our option, result in:

(1) Cancellation of the policy;

(2) Assignment of production to the units by us;

(3) Combination of the optional units; or

(4) A determination that no indemnity is due.

(c) Any person designated by us will, at any time during the record retention period, have access:

(1) To any records relating to this insurance at any location where such records may be found or maintained; and

(2) To the farm.

(d) By applying for insurance under the authority of the Act or by continuing insurance for which you previously applied, you authorize us, or any person acting for us, to obtain records relating to the insured crop from any person who may have custody of those records including, but not limited to, FSA offices, banks, warehouses, gins, cooperatives, marketing associations, and accountants. You must assist us in obtaining all records which we request from third parties.

22. Other Insurance

(a) Other Like Insurance—You must not obtain any other crop insurance issued under the authority of the Act on your share of the insured crop. If we determine that more than one policy on your share is intentional, you may be subject to the sanctions authorized under this policy, the Act, or any other applicable statute. If we determine that the violation was not intentional, the policy with the earliest date of application will be in force and all other policies will be void. Nothing in this paragraph prevents you from obtaining other insurance not issued under the Act.

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(b) Other Insurance Against Fire—If you have other insurance, whether valid or not, against damage to the insured crop by fire during the insurance period, we will be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this policy without regard to such other insurance; or

(2) The amount by which the loss from fire is determined to exceed the indemnity paid or payable under such other insurance.

(c) For the purpose of subsection (b) of this section, the amount of loss from fire will be the reduction in revenue of the insured crop on the unit involved determined pursuant to this policy.

23. Conformity to Food Security Act

Although your violation of a number of federal statutes, including the Act, may cause cancellation, termination, or voidance of your insurance contract, you should be specifically aware that your policy will be canceled if you are determined to be ineligible to receive benefits under the Act due to violation of the controlled substance provision (title XVII) of the Food Security Act of 1985 (Pub. L. 99–198) and the regulations promulgated under the Act by USDA. Your insurance policy will be canceled if you are determined, by the appropriate Agency, to be in violation of these provisions. We will recover any and all monies paid to you or received by you during your period of ineligibility, and your premium will be refunded, less a reasonable amount for expenses and handling not to exceed 20 percent of the premium paid or to be paid by you.

24. Amounts Due Us

(a) Interest will accrue at the rate of 1.25 percent simple interest per calendar month, or any portion thereof, on any unpaid amount due us. For the purpose of premium amounts due us, the interest will start to accrue on the first day of the month following the premium billing date specified in the Special Provisions.

(b) For the purpose of any other amounts due us, such as repayment of indemnities found not to have been earned, interest will start to accrue on the date that notice is issued to you for the collection of the unearned amount. Amounts found due under this paragraph will not be charged interest if payment is made within 30 days of issuance of the notice by us. The amount will be considered delinquent if not paid within 30 days of the date the notice is issued by us.

(c) All amounts paid will be applied first to expenses of collection (see subsection (d) of this section) if any, second to the reduction of accrued interest, and then to the reduction of the principal balance.

(d) If we determine that it is necessary to contract with a collection agency or to employ an attorney to assist in collection, you agree to pay all of the expenses of collection.

25. Legal Action Against Us

(a) You may not bring legal action against us unless you have complied with all of the policy provisions.

(b) If you do take legal action against us, you must do so within 12 months of the date of denial of the claim. Suit must be brought in accordance with the provisions of 7 U.S.C. 1508(j).

(c) Your right to recover damages (compensatory, punitive, or other), attorney's fees, or other charges is limited or excluded by this contract or by Federal Regulations.

26. Payment and Interest Limitations

(a) Under no circumstances will we be liable for the payment of damages (compensatory, punitive, or other), attorney's fees, or other charges in connection with any claim for indemnity, whether we approve or disapprove such claim.

(b) We will pay simple interest computed on the net indemnity ultimately found to be due by us or by a final judgment of a court of competent jurisdiction, from and including the 61st day after the date you sign, date, and submit to us the properly completed claim on our form. Interest will be paid only if the reason for our failure to timely pay is NOT due to your failure to provide information or other material necessary for the computation or payment of the indemnity. The interest rate will be that established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) and published in the **Federal Register** semiannually on or about January 1 and July 1 of each year, and may vary with each publication.

27. Concealment, Misrepresentation or Fraud

(a) If you have falsely or fraudulently concealed the fact that you are ineligible to receive benefits under the Act or if you or anyone assisting you has intentionally concealed or misrepresented any material fact relating to this policy:

(1) This policy will be voided; and

(2) You may be subject to remedial sanctions in accordance with 7 CFR part 400, subpart R.

(b) Even though the policy is void, you may still be required to pay 20 percent of the premium due under the policy to offset costs incurred by us in the service of this policy. If previously paid, the balance of the premium will be returned.

(c) Voidance of this policy will result in you having to reimburse all indemnities paid for the crop year in which the voidance was effective.

(d) Voidance will be effective on the first day of the insurance period for the crop year in which the act occurred and will not affect the policy for subsequent crop years unless a violation of this section also occurred in such crop years.

28. Transfer of Coverage and Right to Indemnity

If you transfer any part of your share during the crop year, you may transfer your coverage rights, if the transferee is eligible for crop insurance. We will not be liable for any more than the liability determined in accordance with your policy that existed before the transfer occurred. The transfer of coverage rights must be on our form and will not be effective until approved by us in writing. Both you and the transferee are jointly and severally liable for the payment of the premium. The transferee has all rights and responsibilities under this policy consistent with the transferee's interest.

29. Assignment of Indemnity

You may assign to another party your right to an indemnity for the crop year. The assignment must be on our form and will not be effective until approved in writing by us. The assignee will have the right to submit all loss notices and forms as required by the policy. If you have suffered a loss from an insurable cause and fail to file a claim for indemnity within 60 days after the end of the insurance period, the assignee may submit the claim for indemnity not later than 15 days after the 60-day period has expired. We will honor the terms of the assignment only if we can accurately determine the amount of the claim. However, no action will lie against us for failure to do so.

30. Subrogation (Recovery of Loss From a Third Party)

Since you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve this right. If we pay you for your loss, your right to recovery will, at our option, belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

1. Descriptive Headings

The descriptive headings of the various policy provisions are formulated for convenience only and are not intended to affect the construction or meaning of any of the policy provisions.

32. Notices

(a) All notices required to be given by you must be in writing and received by your crop insurance agent within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice. If the date by which you are required to submit a report or notice falls on Saturday, Sunday, or a Federal holiday, or, if your agent's office is, for any reason, not open for business on the date you are required to submit such notice or report, such notice or report must be submitted on the next business day.

(b) All notices and communications required to be sent by us to you will be mailed to the address contained in your records located with your crop insurance agent. Notice sent to such address will be conclusively presumed to have been received by you. You should advise us immediately of any change of address.

Crop Revenue Coverage

Wheat Crop Provisions

This is a risk management program. This risk management tool will be reinsured under the authority provided by section 508(h) of the Federal Crop Insurance Act. If a conflict exists among the policy provisions, the order of priority is as follows: (1) the Special Provisions; (2) the Commodity Exchange Endorsement; (3) these Crop Provisions; and (4) the Basic Provisions with (1) controlling (2), etc.

1. Definitions

Adequate Stand. A population of live plants per unit of acreage which will produce at least the yield used to establish your Final Guarantee.

Average Daily Settlement Price. Refer to the definition contained in the Commodity Exchange Endorsement—Wheat.

Calculated Revenue. The production to count multiplied by the Harvest Price.

Harvest. Combining or threshing the insured crop for grain or cutting for hay or silage on any acreage. A crop which is swathed prior to combining is not considered harvested.

Initially planted. The first occurrence of planting the insured crop on insurable acreage for the crop year.

Latest final planting date.

(a) The final planting date for spring-planted acreage in all counties for which the Special Provisions designate a final planting date for spring-planted acreage only;

(b) The final planting date for fall-planted acreage in all counties for which the Special Provisions designate a final planting date for fall-planted acreage only; or

(c) The final planting date for spring-planted acreage in all counties for which the Special Provisions designate final planting dates for both spring-planted and fall-planted acreage.

Local market price. The cash grain price per bushel for the U.S. No. 2 grade of the insured crop offered by buyers in the area in which you normally market the insured crop. The local market price will reflect the maximum limits of quality deficiencies allowable for the U.S. No. 2 grade of the insured crop. Factors not associated with grading under the Official United States Standards for Grain, including but not limited to protein, oil or moisture content, or milling quality will not be considered.

Nurse crop (companion crop). A crop planted into the same acreage as another crop, that is intended to be harvested separately, and which is planted to improve growing conditions for the crop with which it is grown.

Planted acreage. In addition to the definition contained in the Basic Provisions, land on which seed is initially spread onto the soil surface by any method and subsequently is mechanically incorporated into the soil in a timely manner and at the proper depth, will be considered planted.

Prevented planting. In lieu of the definition contained in the Basic Provisions, failure to plant the insured crop with proper equipment by the latest final planting date designated in the Special Provisions for the insured crop in the county or by the end of the late planting period. You must have been prevented from planting the insured crop due to an insured cause of loss that also prevented most producers from planting on acreage with similar characteristics in the surrounding area.

Prevented planting guarantee. The Prevented Planting Guarantee for such acreage will be that percentage of the Final Guarantee for timely planted acres as set forth in section 13(b).

Sales closing date. In lieu of the definitions contained in the Basic Provisions, a date contained in the Special Provisions by which an application must be filed and by which you may change your crop insurance coverage for a crop year. If the Special Provisions provide a sales closing date for both winter and spring types of the insured crop and you plant any insurable acreage of the winter type, you may not change your crop insurance coverage after the sales closing date for the winter type.

Swathed. Severance of the stem and grain head from the ground without removal of the seed from the head and placing into a windrow.

Wheat. Wheat for grain only.

2. Unit Structure

In addition to the requirements of section 2(b) of the Basic Provisions, for wheat only, in addition to, or instead of, establishing optional units by section, section equivalent or FSA farm serial number and by irrigated and non-irrigated practices, optional units may be established if each optional unit contains only initially planted winter wheat or only initially planted spring wheat. Optional units may be established in this manner only in counties having both winter and spring type final planting dates as designated in the Special Provisions.

3. Coverage Level and Price Percentage

In addition to the requirements of section 4 of the Basic Provisions all the insurable acreage of each crop in the county insured as grain under this policy will have the same coverage level and price percentage elections.

4. Contract Changes

In accordance with section 5 in the Basic Provisions, the contract change date is December 31 preceding the cancellation date for counties with a March 15 cancellation date and June 30 preceding the cancellation date for all other counties.

5. Cancellation and Termination Dates

The cancellation and termination dates are:

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State and county	Cancellation date	Termination date
All Colorado counties except Alamosa, Archuleta, Conejos, Costilla, Custer, Delta, Dolores, Eagle, Garfield, Grand, La Plata, Mesa, Moffat, Montezuma, Montrose, Ouray, Pitkin, Rio Blanco, Rio Grande, Routt, Saguache, and San Miguel Counties; all Iowa Counties except Plymouth, Cherokee, Buena Vista, Pocahontas, Humbolt, Wright, Franklin, Butler, Black Hawk, Buchanan, Delaware, and Dubuque Counties and all Iowa counties north thereof; all Wisconsin Counties except Trempealeau, Jackson, Wood, Portage, Waupaca, Outagamie, Brown, and Kewaunee Counties and all Wisconsin counties north and west thereof; and all other states except Alaska, Arizona, California, Connecticut, Idaho, Maine, Massachusetts, Minnesota, Montana, Nevada, New Hampshire, New York, North Dakota, Oregon, Rhode Island, South Dakota, Utah, Vermont, Washington, and Wyoming.	September 30	September 30.
Archuleta, Custer, Delta, Dolores, Eagle, Garfield, Grand, La Plata, Mesa, Moffat, Montezuma, Montrose, Ouray, Pitkin, Rio Blanco, Routt, and San Miguel Counties, Colorado; Connecticut; Idaho; Plymouth, Cherokee, Buena Vista, Pocahontas, Humboldt, Wright, Franklin, Butler, Black Hawk, Buchanan, Delaware, and Dubuque Counties, Iowa, and all Iowa counties north thereof; Massachusetts; all Montana counties except Daniels, Roosevelt, Sheridan, and Valley Counties; New York; Oregon; Rhode Island; all South Dakota counties except Harding, Perkins, Corson, Walworth, Edmonds, Faulk, Spink, Beadle, Jerauld, Aurora, Douglas, and Bon Homme Counties and all South Dakota counties north and east thereof; Washington; and all Wyoming counties except Big Horn, Fremont, Hot Springs, Park, and Washakie Counties.	September 30	November 30.
Matanuska-Susitna County, Alaska; Arizona; California; Nevada; and Utah	October 31	November 30.
All Alaska Counties except Matanuska-Susitna County; Alamosa, Conejos, Costilla, Rio Grande, and Saguache Counties, Colorado; Maine; Minnesota; Daniels, Roosevelt, Sheridan, and Valley Counties, Montana; New Hampshire; North Dakota; Harding, Perkins, Corson, Walworth, Edmunds, Faulk, Spink, Beadle, Jerauld, Aurora, Douglas, and Bon Homme Counties, South Dakota, and all South Dakota counties north and east thereof; Vermont; Trempealeau, Jackson, Wood, Portage, Waupaca, Outagamie, Brown, and Kewaunee Counties, Wisconsin, and all Wisconsin counties north and west thereof; Big Horn, Fremont, Hot Springs, Park, and Washakie Counties, Wyoming.	March 15	March 15.

6. Insured Crop

(a) In accordance with section 9 of the Basic Provisions, the crop insured will be wheat you elect to insure, that is grown in the county on insurable acreage, and for which premium rates are provided by the actuarial documents:

(1) In which you have a share;

(2) That is planted for harvest as grain;

(3) That is not:

(i) Interplanted with another crop;

(ii) Planted into an established grass or legume; or

(iii) Planted as a nurse crop, unless planted as a nurse crop for new forage seeding, but only if seeded at a normal rate and intended for harvest as grain.

(b) If you anticipate destroying any acreage prior to harvest you:

(1) May report all planted acreage when you report your acreage for the crop year and specify any acreage to be destroyed as uninsurable acreage. (By doing so, no coverage will be considered to have attached on the specified acreage and no premium will be due for such acreage. If you do not destroy such acreage, you will be subject to the under-reporting provisions contained in section 7 of the Basic Provisions); or

(2) If the actuarial documents provide a reduced premium rate for acreage destroyed by a date designated in the Special Provisions, you may report all planted acreage as insurable when you report your acreage for the crop year. Premium will be due on all the acreage. Your premium amount will be reduced by the amount shown on the actuarial documents for any acreage you destroy prior to a date designated in the Special Provisions if you do not claim an indemnity on such acreage. In accordance with section 15(b) of the Basic Provisions, you must obtain our consent before and give us notice after you destroy any of the insured crop so your acreage report can be revised to make you eligible for this reduction in premium.

(c) In counties for which the Wheat Special Provisions designate both fall and spring final planting dates, you may elect a winter wheat coverage endorsement. This endorsement provides two options for alternative coverage for wheat that is damaged between the fall final planting date and the spring final planting date. Coverage under the endorsement will be effective only if you designate the coverage option you elect by executing the endorsement by the sales closing date for winter wheat in the county.

7. Insurance Period

In lieu of the requirements under section 12 of the Basic Provisions, and subject to any provisions provided by the Winter Wheat Coverage Endorsement if you have elected such endorsement, the insurance period is as follows:

(a) Insurance attaches on each unit or part thereof on the later of the date we accept your application or the date the insured crop is planted subject to the following limitations:

(1) The acreage must be planted on or before the final planting date designated in the Special Provisions for the type (winter or spring) except as allowed in section 12 of these Crop Provisions and section 17 of the Basic Provisions.

(2) Whenever the Special Provisions designate only a fall final planting date, any acreage of winter wheat damaged before such final planting date, to the extent that producers in the area would normally not further care for the crop, must be replanted to a winter type of the insured crop unless we agree that replanting is not practical.

(3) Whenever the Special Provisions designate both fall and spring final planting dates, winter wheat planted on or before the fall final planting date which is damaged:

(i) Before the fall planting final planting date, to the extent that producers in the area would normally not further care for the crop, must be replanted to a winter type of the insured crop unless we agree that replanting is not practical.

(ii) On or after the fall final planting date, but before the spring final planting date, to the extent that producers in the area would normally not further care for the crop, must be replanted to an appropriate variety of the insured crop unless we agree that replanting is not practical.

If you have elected coverage under one of the available Winter Wheat Coverage Endorsement Options available in the county, the insurance period for wheat will be in accordance with the selected option.

(4) Whenever the Special Provisions designate only a spring final planting date:

(i) Any acreage of spring wheat damaged before such final planting date, to the extent that producers in the area would normally not further care for the crop, must be replanted to a spring type of the insured crop unless we agree that replanting is not practical; and

(ii) Whenever the Special Provisions designate only a spring final planting date, any acreage of fall planted wheat is not insured unless you request such coverage and we agree in writing that the acreage has an adequate stand in the spring to produce the yield used to determine your Final Guarantee. Insurance will then attach to acreage having an adequate stand on the earlier of the spring final planting date or the date we agree to accept the acreage for insurance. If such fall planted acreage is not to be insured it must be recorded on the acreage report as an uninsured fall planted crop.

(b) Insurance ends on each unit at the earliest of:

(1) Total destruction of the insured crop on the unit;

(2) Harvest of the unit;

(3) Final adjustment of a loss on the unit;

(4) September 25 following planting in Alaska, or October 31 of the calendar year in which the crop is normally harvested in all other states; or

(5) Abandonment of the crop on the unit.

8. Causes of Loss

In addition to the provisions under section 13 of the Basic Provisions, any loss covered by this policy must occur within the insurance period. The specific causes of loss for wheat are:

(a) Adverse weather conditions;

(b) Fire;

(c) Insects, but not damage allowed because of insufficient or improper application of pest control measures;

(d) Plant disease, but not damage allowed because of insufficient or improper application of disease control measures;

(e) Wildlife;

(f) Earthquake;

(g) Volcanic eruption;

(h) Failure of the irrigation water supply; or

(i) A Harvest Price that is less than the Base Price.

9. Replanting Payments

(a) A replant payment for wheat only is allowed as follows;

(1) You comply with all requirements regarding replanting payments contained under section 14 of the Basic Provisions and in any winter wheat coverage endorsement for which you are eligible and which you have elected;

(2) The wheat must be damaged by an insurable cause of loss to the extent that the remaining stand will not produce at least 90 percent of the Minimum Guarantee for the acreage;

(3) The acreage must have been initially planted to spring wheat in those counties with only a spring final planting date;

(4) The damage must occur after the fall final planting date in those counties where both a fall and spring final planting date are designated;

(5) Replanting must take place not later than 25 days after the spring final planting date; and

(6) The replanted wheat must be seeded at a rate that is normal for initially planted wheat (if new seed is planted at a reduced seeding rate into a partially damaged stand of wheat, the acreage will not be eligible for a replanting payment.)

(b) No replanting payment will be made for acreage initially planted to winter wheat in any county for which the Special Provisions contain only a fall final planting date.

(c) In accordance with section 14(c) of the Basic Provisions, the maximum amount of the replanting payment per acre will be the lesser of 20 percent of the Minimum Guarantee or 3 bushels, times the Base Price times your share.

(d) When wheat is replanted using a practice that is uninsurable for an original planting, the liability for the unit will be reduced by the amount of the replanting payment. The premium amount will not be reduced.

10. Duties In The Event of Damage or Loss

In addition to your duties under section 15 of the Basic Provisions, if you initially discover damage to any insured crop within 15 days of, or during harvest, you must leave representative samples of the unharvested crop for our inspection. The samples must be at least 10 feet wide and the entire length of each field in the unit, and must not be harvested or destroyed until the earlier of our inspection or 15 days after harvest of the balance of the unit is completed.

11. Settlement of Claim

(a) We will determine your loss on a unit basis. In the event you are unable to provide separate acceptable production records:

(1) For any optional unit, we will combine all optional units for which acceptable records of production were not provided; or

(2) For any basic unit, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for each unit.

(b) In the event of loss or damage covered by this policy, we will settle your claim on any insured basic or optional unit of wheat by:

(1) Multiplying the insured acreage of the crop by the Final Guarantee;

(2) Subtracting the Calculated Revenue from the result of section 11(b)(1); and

(3) Multiplying the result of 11(b)(2) by your share.

If the result of section 11(b)(3) is greater than zero, an indemnity will be paid. If the result of section 11(b)(3) is less than zero, no indemnity will be due.

(c) In the event of loss or damage covered by this policy, we will settle your claim on any insured enterprise unit by:

(1) Multiplying the insured acreage of the crop by the Final Guarantee for each basic unit or optional unit within the enterprise unit;

(2) For each basic unit or optional unit in 11(c)(1), compute the Calculated Revenue;

(3) Subtract each result in section 11(c)(2) from the respective result of section 11(c)(1);

(4) Multiplying each result of section 11(c)(3) by your share; and

(5) Total the results of section 11(c)(4).

If the result of section 11(c)(5) is greater than zero, an indemnity will be paid. If the result of section 11(c)(5) is less than zero, no indemnity will be due.

(d) The total production (bushels) to count from all insurable acreage on the unit will include:

(1) All appraised production as follows:

(i) Not less than that amount of production that when multiplied by the Harvest Price equals the Final Guarantee for acreage:

(A) Which is abandoned;

(B) Put to another use without our consent;

(C) Damaged solely by uninsured causes; or

(D) For which you fail to provide records of production that are acceptable to us;

(ii) Production lost due to uninsured causes;

(iii) Unharvested production (mature unharvested production may be adjusted for quality deficiencies and excess moisture in accordance with section 11(d));

(iv) Potential production on insured acreage you intend to put to another use

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or abandon and no longer care for, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end when you put the acreage to another use or abandon the crop. If:

(A) Agreement on the appraised amount of production is not reached, you may elect to continue to care for the crop, or we will give you consent to put the acreage to another use if you agree to leave intact, and provide sufficient care for, representative samples of the crop in locations acceptable to us. The amount of production to count for such acreage will be based on the harvested production or appraisals from the samples at the time harvest should have occurred. If you do not leave the required samples intact, or you fail to provide sufficient care for the samples, our appraisal made prior to giving you consent to put the acreage to another use will be used to determine the amount of production to count.

(B) You elect to continue to care for the crop, we will determine the amount of production to count for the acreage using the harvested production, or our reappraisal if additional damage occurs and the crop is not harvested.

(2) All harvested production from the insurable acreage.

(e) Mature wheat production may be adjusted for excess moisture and quality deficiencies.

(1) Production will be reduced by .12 percent for each .1 percentage point of moisture in excess of 13.5 percent for wheat. We may obtain samples of the production to determine the moisture content.

(2) Production will be eligible for quality adjustment if:

(i) Deficiencies in quality, in accordance with the Official United States Standards for Grain, result in wheat not meeting the grade requirements for U.S. No. 4 (grades U.S. No. 5 or worse) because of test weight, total damaged kernels (excluding heat damage), shrunken or broken kernels, or defects (excluding foreign material and heat damage), or grading garlicky, light smutty, smutty or ergoty;

(ii) Substances or conditions are present, including mycotoxins, that are identified by the Food and Drug Administration or other public health organizations of the United States as being injurious to human or animal health.

(3) Quality will be a factor in determining your loss only if:

(i) The deficiencies, substances, or conditions resulted from a cause of loss against which insurance is specified in section 8;

(ii) All determinations of these deficiencies, substances, or conditions are made using samples of the production obtained by us or by a disinterested third party approved by us; and

(iii) The samples are analyzed by a grain grader licensed under the authority of the United States Grain Standards Act or the United States Warehouse Act with regard to deficiencies in quality, or by a laboratory approved by us with regard to substances or conditions injurious to human or animal health. Test weight for quality adjustment purposes may be determined by our loss adjuster.

(4) Production of wheat that is eligible for quality adjustment, as specified in sections 11(d)(2) and 11(d)(3), will be reduced by the quality adjustment factor contained in the Special Provisions.

(f) Any production harvested from plants growing in the insured crop may be counted as production of the insured crop on a weight basis.

12. Late Planting

A late planting period is not applicable to fall-planted wheat. Any winter wheat that is planted after the fall final planting date in counties for which the Special Provisions also contain a final planting date for spring wheat will not be insured. Any winter wheat that is planted after the fall final planting date in counties for which the Special Provisions contain only a fall final planting date will not be insured unless you were prevented from planting the winter wheat by the fall final planting date. Such acreage will be insurable, and the Final Guarantee and premium for the acreage will be determined in accordance with sections 17(b) and (c) of the Basic Provisions.

13. Prevented Planting

(a) In addition to the provisions contained in section 18 of the Basic Provisions, in counties for which the Special Provisions designate a spring final planting date, your prevented planting Final Guarantee will be based on your approved yield for spring-planted acreage of the insured crop.

(b) Your prevented planting coverage will be 60 percent of your Final Guarantee for timely planted acreage. You may increase your preventing planting coverage to a level specified in the actuarial documents by paying an additional premium.

Crop Revenue Coverage

Winter Wheat Coverage Endorsement

Crop Revenue Coverage

Optional Endorsement

Winter Wheat Coverage Endorsement

(This is a Continuous Endorsement)

Insured's Name and Address

____

____

____

Town State Zip Code

Agency Name and Address

____

____

____

Town State Zip Code

Policy No: ________________

Crop Year Effective: ________________

OPTION SELECTED (Check One and sign below) A____B____

(a) In return for payment of the additional premium designated in the County Actuarial Table, this endorsement is attached to and made a part of your Crop Revenue Coverage policy provisions subject to the terms and conditions described herein.

(b) This endorsement is available only in counties for which the Special Provisions designate both a fall final planting date and a spring final planting date.

(c) This endorsement modifies the provisions of sections 7 and 11 of the Crop Revenue Coverage Wheat Crop Provisions (Wheat Crop Provisions).

(1) You must have a Crop Revenue Coverage policy in force and elect to insure wheat under that policy.

(2) You may select either Option A or Option B. Failure to select either Option A or Option B means that you have rejected both Options and this endorsement would be void.

(3) Insurance Period. Coverage under this endorsement begins on the later of the date we accept your application for coverage or on the fall final planting date designated in the Special Provisions. Coverage ends on the spring final planting date designated in the Special Provisions.

(4) The provisions under section 14 of the Crop Revenue Coverage Basic Provisions (Basic Provisions) are amended to require that all notices of damage must be provided to us by the spring final planting date designated in the Special Provisions.

Option A

(30 Percent Coverage and Acreage Release)

Whenever any winter wheat is damaged during the insurance period (see section (c)(3) above), and at least 20 acres or 20 percent of the acreage in the unit, whichever is less, does not have an adequate stand to produce at least 90 percent of the Minimum Guarantee for the acreage (to calculate the actual percentage, multiply the appraised production determined in accordance with section 11(c)(1) of the applicable Wheat Crop Provisions times the Base Price and then divide that quantity by the Minimum Guarantee), you may, at your option, take one of the following actions:

(a) Destroy the remaining crop on such acreage. By doing so, you agree to accept an amount of Calculated Revenue to count against the unit Final Guarantee equal to 70 percent of the Final Guarantee for the damaged acreage, or an appraisal determined in accordance with section 11(c)(1) of the applicable Wheat Crop Provisions if such an appraisal results in a greater amount of Calculated Revenue. This amount will be considered Calculated Revenue in determining any final indemnity on the unit and will be used to settle your claim as described in the provisions under section 11 (Settlement of Claim) of the applicable Wheat Crop Provisions. You may use such acreage for any purpose, including planting and separately insuring any other crop. If you elect to utilize such acreage for the production of spring wheat, you must:

(1) Plant the spring wheat in a manner which results in a clear and discernible break in the planting pattern at the boundary between it and any remaining winter wheat; and

(2) Store or market the production from such acreage in such a manner which permits us to verify the amount of spring wheat production separately from any winter wheat production. In the event you are unable to provide records of production that are acceptable to us, the spring wheat acreage will be considered to be a part of the original winter wheat unit. If you elected to insure the spring wheat acreage as a separate optional unit, any premium amount for such acreage will be considered earned and payable to us.

(b) Continue to care for the damaged crop. By doing so, coverage will continue under the terms of the Basic Provisions, applicable Wheat Crop Provisions, and this Option.

(c) Replant the acreage to an appropriate variety of wheat, it if is practical, and receive a replanting payment in accordance with the terms of section 9 (Replanting Payments) of the applicable Wheat Crop Provisions. By doing so, coverage will continue under the terms of the Basic Provisions, the applicable Wheat Crop Provisions, and this Option, and the Final Guarantee for winter wheat will remain in effect.

Agent's Signature Date

Option B

(With Full Winter Damage Coverage)

Whenever any winter wheat is damaged during the insurance period (see section (c)(3) above), and at least 20 acres or 20 percent of the acreage in the unit, whichever is less does not have an adequate stand to produce at least 90 percent of the Minimum Guarantee for the acreage (to calculate the actual percentage, multiply the appraised production determined in accordance with section 11(c)(1) of the applicable Wheat Crop Provisions times the Base Price and then divide that quantity by the Minimum Guarantee), you may, at your option, take one of the following actions:

(a) Continue to care for the damaged crop. By doing so, coverage will continue under the terms of the Basic Provisions, the applicable Wheat Crop Provisions, and this Option.

(b) Replant the acreage to an appropriate variety of wheat, if it is practical, and receive a replanting payment in accordance with the terms of section 9 (Replanting Payments) of the applicable Wheat Crop Provisions. By doing so, coverage will continue under the terms of the Basic Provisions, the applicable Wheat Crop Provisions, and this Option, and the Final Guarantee for winter wheat will remain in effect.

(c) Accept our appraisal of the crop on the damaged acreage as Calculated Revenue to count against the Final Guarantee for the damaged acreage, destroy the remaining crop on such acreage, and be eligible for any indemnity due under the terms of the Basic Provisions and the applicable Wheat Crop Provisions. The appraisal will be considered Calculated Revenue in determining any final indemnity on the unit and will be used to settle your claim as described in the provisions of section 11 (Settlement of Claim) of the applicable Wheat Crop Provisions. You may use such acreage for any purpose, including planting and separately insuring any other crop. If you elect to utilize such acreage for the production of spring wheat, you must:

(1) Plant the spring wheat in a manner which results in a clear and discernible break in the planting pattern at the boundary between it and any remaining winter wheat; and

(2) Store or market the production from such acreage in a manner which permits us to verify the amount of spring wheat production separately from any winter wheat production.

In the event you are unable to provide records of production that are acceptable to us, the spring wheat acreage will be considered to be a part of the original winter wheat unit. If you elected to insure the spring wheat acreage as a separate optional unit, any premium amount for such acreage will be considered earned and payable to us.

Agent's Signature Date

Crop Revenue Coverage
Commodity Exchange Endorsement

Crop Revenue Coverage

Mandatory Actuarial Document Endorsement

Commodity Exchange Endorsement—Wheat

(This is a Continuous Endorsement)

If a conflict exists among the policy provisions, the order of priority is as follows: (1) the Special Provisions; (2) this Commodity Exchange Endorsement; (3) the Crop Provisions; and (4) the Basic Provisions, with (1) controlling (2), etc.

How this endorsement affects your coverage:

(I) This endorsement is attached to and made a part of your Crop Revenue Coverage (CRC) Wheat crop policy provisions and actuarial documents, subject to the terms and conditions described herein.

(II) This endorsement specifies how, where, and when commodity prices for your CRC Wheat policy are determined.

(III) This endorsement defines the Average Daily Settlement Price, as used in the Base Price and Harvest Price, as—The average calculated by summing all the daily settlement prices for the contract specified in the applicable Base Price and/or Harvest Price definition (established on full active trading days), during the month specified in the applicable Base Price and/or Harvest Price definition, and dividing that sum by the total number of days included in the sum. The average must include at least fifteen (15) days and each day included in the average must be a full active trading day for the contract specified in the applicable Base Price and/or Harvest Price definition. A full active trading day is any day on which there are fifty (50) or more open interest contracts of the contract specified in the Base Price and/or Harvest Price definition. If there are less than fifteen (15) full active trading days for the contract specified in the applicable Base Price and/or Harvest Price definition, during the month specified in the applicable Base Price and/or Harvest

Price definition, then additional daily settlement prices, established on full active trading days, for the contract immediately prior to the contract specified in the applicable Base Price and/or Harvest Price definition, during the month specified in the applicable Base Price and/or Harvest Price definition, will be used until there are fifteen (15) prices from fifteen (15) full active trading days included in the average.

(IV) This endorsement defines the Base Price and Harvest Price as shown in Section 1 of the Crop Revenue Coverage Basic Provisions by wheat type and state as follows:

Winter Wheat—(Insured as Winter Wheat), Chicago Board of Trade (CBOT)

Illinois, Indiana, Michigan, Ohio, and Wisconsin

Base Price (CBOT)—The August 15 to September 14 pre-harvest year's average daily settlement price for the harvest year's CBOT July soft red winter wheat futures contract (rounded to the nearest whole cent) multiplied times the selected Price Percentage and rounded to the nearest whole cent. The available Price Percentages and subsequent Base Price will be released as an Actuarial Document Addendum (Special Provisions) by September 20 of the pre-harvest year.

Harvest Price (CBOT)—The July 15 to August 14 harvest year's average daily settlement price for the harvest year's CBOT September soft red winter wheat futures contract (rounded to the nearest whole cent) multiplied times the selected Price Percentage and rounded to the nearest whole cent. The Harvest Price cannot be less than the Base Price minus two dollars ($2.00), or greater than the Base Price plus two dollars ($2.00). The Price Percentage used to calculate the Harvest Price is equal to the selected Price Percentage used to calculate the Base Price. The Harvest Price will be released as an Actuarial Document Addendum (Special Provisions) by August 20 of the harvest year.

Winter Wheat—(Insured as Winter Wheat), (CBOT)

Alabama, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia

Base Price (CBOT)—The August 15 to September 14 pre-harvest year's average daily settlement price for the harvest year's CBOT July soft red winter wheat futures contract (rounded to the nearest whole cent) multiplied times the selected Price Percentage and rounded to the nearest whole cent. The available Price Percentages and subsequent Base Price will be released as an Actuarial Document Addendum (Special Provisions) by September 20 of the pre-harvest year.

Harvest Price (CBOT)—The June harvest year's average daily settlement price for the harvest year's CBOT July soft red winter wheat futures contract (rounded to the nearest whole cent) multiplied times the selected Price Percentage and rounded to the nearest whole cent. The Harvest Price cannot be less than the Base Price minus two dollars ($2.00), or greater than the Base Price plus two dollars ($2.00). The Price Percentage used to calculate the Harvest Price is equal to the selected Price Percentage used to calculate the Base Price. The Harvest Price will be released as an Actuarial Document Addendum (Special Provisions) by July 10 of the harvest year.

Winter Wheat—(Insured as Winter Wheat), Kansas City Board of Trade (KCBOT)

Iowa, Montana, Nebraska, South Dakota, and Wyoming

Base Price (KCBOT)—The August 15 to September 14 pre-harvest year's average daily settlement price for the harvest year's KCBOT July hard red winter wheat futures contract (rounded to the nearest whole cent) multiplied times the selected Price Percentage and rounded to the nearest whole cent. The available Price Percentages and subsequent Base Price will be released as an Actuarial Document Addendum (Special Provisions) by September 20 of the pre-harvest year.

Harvest Price (KCBOT)—The July 15 to August 14 harvest year's average daily settlement price for the harvest year's KCBOT September hard red winter wheat futures contract (rounded to the nearest whole cent) multiplied times the selected Price Percentage and rounded to the nearest whole cent. The Harvest Price cannot be less than the Base Price minus two dollars ($2.00), or greater than the Base Price plus two dollars ($2.00). The Price Percentage used to calculate the Harvest Price is equal to the selected Price Percentage used to calculate the Base Price. The Harvest Price will be released as an Actuarial Document Addendum (Special Provisions) by August 20 of the harvest year.

Winter Wheat—(Insured as Winter Wheat), (KCBOT)

Arizona, Arkansas, Colorado, Kansas, Missouri, New Mexico, Oklahoma, and Texas

Base Price (KCBOT)—The August 15 to September 14 pre-harvest year's average daily settlement price for the harvest year's KCBOT July hard red winter wheat futures contract (rounded to the nearest whole cent) multiplied times the selected Price Percentage and rounded to the nearest whole cent. The available Price Percentages and subsequent Base Price will be released as an Actuarial Document Addendum (Special Provisions) by September 20 of the pre-harvest year.

Harvest Price (KCBOT)—The June harvest year's average daily settlement price for the harvest year's KCBOT July hard red winter wheat futures contract (rounded to the nearest whole cent) multiplied times the selected Price Percentage and rounded to the nearest whole cent. The Harvest Price cannot be less than the Base Price minus two dollars ($2.00), or greater than the Base Price plus two dollars ($2.00). The Price Percentage used to calculate the Harvest Price is equal to the selected Price Percentage used to calculate the Base Price. The Harvest Price will be released as an Actuarial Document Addendum (Special Provisions) by July 10 of the harvest year.

Spring Wheat—(Insured as Spring Wheat in Counties With a 3/15 Cancellation Date), Minneapolis Grain Exchange (MGE)

Colorado, Iowa, Minnesota, Montana, North Dakota, South Dakota, Wisconsin, and Wyoming

Base Price (MGE)—The February harvest year's average daily settlement price for the harvest year's MGE September hard red spring wheat futures contract (rounded to the nearest whole cent) multiplied times the selected Price Percentage and rounded to the nearest whole cent. The available Price Percentages and subsequent Base Price will be released as an Actuarial Document Addendum (Special Provisions) by March 10 of the harvest year.

Harvest Price (MGE)—The August harvest year's average daily settlement price for the harvest year's MGE September hard red spring wheat futures contract (rounded to the nearest whole cent) multiplied times the selected Price Percentage and rounded to the nearest whole cent. The Harvest Price cannot be less than the Base Price minus two dollars ($2.00), or greater than the Base Price plus two dollars ($2.00). The Price Percentage used to calculate the Harvest Price is equal to the selected Price Percentage used to calculate the Base Price. The Harvest Price will be released as an Actuarial Document Addendum (Special Provisions) by September 10 of the harvest year.

Spring Wheat—(Insured as Spring Wheat in Counties With a 9/30 Cancellation Date), (MGE)

Colorado, Iowa, Montana, South Dakota and Wyoming

Base Price (KCBOT)—The August 15 to September 14 pre-harvest year's average daily settlement price for the harvest year's KCBOT July hard red winter wheat futures contract (rounded to the nearest whole cent) multiplied times the selected Price Percentage and rounded to the nearest whole cent. The available Price Percentages and subsequent Base Price will be released as an Actuarial Document Addendum (Special Provisions) by September 20 of the pre-harvest year.

Harvest Price (MGE)—The August harvest year's average daily settlement price for the harvest year's MGE September hard red spring wheat futures contract (rounded to the nearest whole cent) multiplied times the selected Price Percentage and rounded to the nearest whole cent. The Harvest Price cannot be less than the Base Price minus two dollars ($2.00), or greater than the Base Price plus two dollars ($2.00). The Price Percentage used to calculate the Harvest Price is equal to the selected Price Percentage used to calculate the Base Price. The Harvest Price will be released as an Actuarial Document Addendum (Special Provisions) by September 10 of the harvest year.

Wheat—Portland Grain Exchange, (PGE)

California, Idaho, Oregon, Utah, and Washington

Base Price (PGE)—The Portland Price multiplied times the selected Price Percentage and rounded to the nearest whole cent. The Portland Price equals the August 15 to September 14 pre-harvest year's average daily settlement price for the harvest year's CBOT September soft red winter wheat futures contract (rounded to the nearest whole cent) plus an adjustment equal to the current five-year average difference between the August average daily settlement price for the nearby CBOT September soft red winter wheat futures contract (rounded to the nearest whole cent) and the August average daily settlement price for the PGE soft white wheat contract (rounded to the nearest whole cent). The available Price Percentages and subsequent Base Price will be released as an Actuarial Document Addendum (Special Provisions) by September 20 of the pre-harvest year.

Harvest Price (PGE)—The August harvest year's average daily settlement price for the PGE soft white wheat contract (rounded to the nearest whole cent) multiplied times the selected Price Percentage and rounded to the nearest whole cent. The Harvest Price cannot be less than the Base Price minus two dollars ($2.00), or greater than the Base Price plus two dollars ($2.00). The Price Percentage used to calculate the Harvest Price is equal to the selected Price Percentage used to calculate the Base Price. The Harvest Price will be released as an Actuarial Document Addendum (Special Provisions) by September 10 of the harvest year.

Durum Wheat—(Insured as Durum Wheat in Counties With a $^{3}/_{15}$ Cancellation Date), (MGE)

North Dakota and Montana

Base Price (MGE)—The Northern Durum Price multiplied times the selected Price Percentage and rounded to the nearest whole cent. The Northern Durum Price equals the February harvest year's average daily settlement price for the harvest year's MGE September hard red spring wheat futures contract (rounded to the nearest whole cent) plus an adjustment equal to the current five-year average difference between the August average daily settlement price for top milling durum wheat, as reported by the MGE (rounded to the nearest whole cent) and the August average daily settlement price for the nearby MGE September hard red spring wheat futures contract (rounded to the nearest whole cent). The available Price Percentages and subsequent Base Price will be released as an Actuarial Document Addendum (Special Provisions) by March 10 of the harvest year.

Harvest Price (MGE)—The August harvest year's average daily settlement price for top milling durum wheat as reported by the MGE (rounded to the nearest whole cent) multiplied times the selected Price Percentage and rounded to the nearest whole cent. The Harvest Price cannot be less than the Base Price minus two dollars ($2.00), or greater than the Base Price plus two dollars ($2.00). The Price Percentage used to calculate the Harvest Price is equal to the selected Price Percentage used to calculate the Base Price. The Harvest Price will be released as an Actuarial Document Addendum (Special Provisions) by September 10 of the harvest year.

Durum Wheat—(Insured as Durum Wheat in Counties With a $^{10}/_{31}$ Cancellation Date), (MGE)

Arizona and California

Base Price (MGE)—The Southern Durum Price multiplied times the selected Price Percentage and rounded to the nearest whole cent. The Southern Durum Price equals the September 15 to October 14 pre-harvest year's average daily settlement price for the harvest year's CBOT September soft red winter wheat futures contract (rounded to the nearest whole cent) plus an adjustment equal to the current five-year average difference between the August average daily settlement price for top milling durum wheat as reported by the MGE (rounded to the nearest whole cent) and the August average daily settlement price for the nearby CBOT September soft red winter wheat futures contract (rounded to the nearest whole cent). The available Price Percentages and subsequent Base Price will be released as an Actuarial Document Addendum (Special Provisions) by October 20 of the pre-harvest year.

Harvest Price (MGE)—The August harvest year's average daily settlement price for top milling durum wheat as reported by the MGE (rounded to the nearest whole cent) multiplied times the selected Price Percentage and rounded to the nearest whole cent. The Harvest Price cannot be less than the Base Price minus two dollars ($2.00), or greater than the Base Price plus two dollars ($2.00). The Price Percentage used to calculate the Harvest Price is equal to the selected Price Percentage used to calculate the Base Price. The Harvest Price will be released as an Actuarial Document Addendum (Special Provisions) by September 10 of the harvest year.

All other terms and conditions of the Policy remain unchanged.

Signed in Washington, D.C., on July 8, 1998.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 98–18727 Filed 7–13–98; 8:45 am]

BILLING CODE 3410–08–P

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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request Form FNS–227 and FNS–227A, WIC Program Annual Closeout Report With Addendum

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Food and Nutrition Service's (FNS) intention to request an extension for a currently approved information collection, the WIC Program Annual Closeout Report with Addendum.

DATES: Comments on this notice must be received by September 14, 1998.

ADDRESSES: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) The accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) Ways to enhance the quality, utility and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Ronald J. Vogel, Acting Director, Supplemental Food Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302.

All responses to this notice will be summarized and included in the request for OMB approval, and will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection form and instructions should be directed to: Ronald J. Vogel, (703) 305–2749.

SUPPLEMENTARY INFORMATION:

Title: WIC Program Annual Closeout Report with Addendum.

OMB Number: 0584–0427.

Expiration Date: 10–31–98.

Type of Request: Extension of a Currently Approved Collection Form.

Abstract: Nonentitlement programs such as the WIC Program require an annual closeout and reconciliation of grants. Departmental regulations at 7 CFR 3016.23(b) require that "a grantee must liquidate all obligations incurred under the award not later than 90 days after the end of the funding period (or as specified in a program regulation) to coincide with the submission of the annual Financial Status Report (SF–269)." WIC Program regulations at 7 CFR 246.17(b)(2) instruct WIC State agencies to "submit to FCS, within 150 days after the end of the fiscal year, final fiscal year closeout reports." The WIC Program Annual Closeout Report (FNS–227) with addendum (FNS–227A) is substituted for the SF–269, because a closeout form which maintains the integrity of WIC's two grant components (food and nutrition services and administration) and captures State agencies' decisions to shift WIC grant funds between Federal fiscal years is needed.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 5.7 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: Directors or Administrators of WIC State agencies.

Estimated Number of Respondents: 88 respondents.

Estimated Number of Responses per Respondent: One.

Estimated Total Annual Burden on Respondents: 501.6 hours.

Dated: July 1, 1998.

George A. Braley,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 98–18661 Filed 7–13–98; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request Form FNS–648, WIC Local Agency Directory Report

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Food and Nutrition Service's (FNS) intention to request an extension for a currently approved information collection, the WIC Local Agency Directory Report.

DATES: Comments on this notice must be received by September 14, 1998.

ADDRESSES: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Ronald J. Vogel, Acting Director, Supplemental Food Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302.

All responses to this notice will be summarized and included in the request for OMB approval, and will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection form and instructions should be directed to: Ronald J. Vogel, (703) 305–2749.

SUPPLEMENTARY INFORMATION:

Title: WIC Local Agency Directory Report.

OMB Number: 0584–0431.

Expiration Date: 10–31–98.

Type of Request: Extension of a Currently Approved Collection Form.

Abstract: FNS administers the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) by awarding cash grants to State agencies (generally State health departments). The State agencies award subgrants to local agencies (generally local health departments and nonprofit organizations) to deliver program benefits and services to eligible participants. FNS maintains a WIC Local Agency Directory which lists the names and addresses of all WIC local agencies. WIC State and local agencies and FNS use the directory to refer individuals to the nearest source of WIC Program services and to maintain continuity of program services to migrant and other transient participants. It is also used as a mailing list to provide local agencies with technical assistance manuals and other information. State agencies complete the WIC Local Agency Directory Form to inform FNS when a local agency is newly established, closed or changes its address. This data is needed to keep the directory current.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.17 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: Directors or Administrators of WIC State agencies.

Estimated Number of Respondents: 88 respondents.

Estimated Number of Responses per Respondent: One.

Estimated Total Annual Burden on Respondents: 14.96 hours.

Dated: July 1, 1998.

George A. Braley,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 98–18662 Filed 7–13–98; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Intergovernmental Advisory Committee Subcommittee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Intergovernmental Advisory Committee will meet in closed session for one day on July 16, 1998, at the Bonneville Dam, Oregon. The purpose of the meeting is to continue discussions on the implementation of the Northwest Forest Plan. The meeting will begin at 9:00 a.m. and continue until 3:00 p.m. Agenda items to be discussed in this one day retreat include, but are not limited to: review ongoing and potential topics for the coming year. The August 6 IAC meeting will be again open to the public, location and time will be announced in the FEDERAL REGISTER.

FOR FURTHER INFORMATION CONTACT: Questions regarding this meeting may be directed to Don Knowles, Executive Director, Regional Ecosystem Office, 333 SW 1st Avenue, P.O. Box 3623, Portland, OR 97208 (Phone: 503–808–2180).

Dated: July 7, 1998.

Donald R. Knowles,

Designated Federal Official.

[FR Doc. 98–18666 Filed 7–13–98; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the District of Columbia Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the District of Columbia Advisory Committee to the Commission will convene at 9:30 a.m. and adjourn at 12:45 p.m. on August 6, 1998, at the U.S. Commission on Civil Rights, 5th Floor Conference Room, 624 9th Street NW, Washington, DC 20425. The Committee will formally release its report, Residential Mortgage Lending Disparities in Washington, D.C. The Committee will also conduct a half-day briefing immediately following the event. Invited panelists will update the Committee on recent legal developments in mortgage lending discrimination, provide current statistical analyses of mortgage lending trends in the District, and discuss new developments in fair lending enforcement and industry efforts to assist minority homebuyers in the District of Columbia.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Steven Sims, 202–862–4815, or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, July 7, 1998.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 98–18703 Filed 7–13–98; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Submission For OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: School Enrollment Report.

Form Number(s): P–4.

Agency Approval Number: 0607–0459.

Type of Request: Extension of a currently approved collection.

Burden: 20 hours.

Number of Respondents: 40.

Avg Hours Per Response: 30 minutes.

Needs and Uses: The Census Bureau sends the School Enrollment Report annually to the 40 state departments of education that do not publish enrollment data early enough in the year for the Bureau to use their published reports. Information requested includes fall public and nonpublic enrollment by grade for the state and counties. In six states, we collect year-end enrollment. The Census Bureau uses school enrollment data in preparing estimates of state population. State population estimates are used by dozens of Federal agencies for allocating Federal program funds, as bases for rates of occurrences, and as input for Federal surveys. State and local governments, businesses, and the general public use state population estimates for planning and other informational uses.

Affected Public: State, Local, or Tribal Government.

Frequency: Annually.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, USC, Sections 181 and 182.

OMB Desk Officer: Nancy Kirkendall, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Nancy Kirkendall, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: July 8, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–18710 Filed 7–13–98; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-806]

Silicon Metal from the People's Republic of China; Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review; silicon metal from the People's Republic of China.

SUMMARY: On March 10, 1998, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on silicon metal from the People's Republic of China (PRC). The review covers the period June 1, 1996 through May 31, 1997.

We gave interested parties an opportunity to comment on our preliminary results. We received no comments and have not changed the results from those presented in the preliminary results of review.

EFFECTIVE DATE: July 14, 1998.

FOR FURTHER INFORMATION CONTACT: Gideon Katz or Maureen Flannery, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-4733.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations as codified at 19 CFR part 353 (April 1, 1996).

SUPPLEMENTAL INFORMATION:

Background

On March 10, 1998, the Department published in the **Federal Register** (63 FR 11654) the preliminary results of its administrative review of the antidumping duty order on silicon metal from the People's Republic of China. We did not receive any comments from interested parties. The Department has now completed the review in accordance with section 751 of the Act.

Scope of the Review

Imports covered by this review are shipments of silicon metal containing at least 96.00 but less than 99.99 percent of silicon by weight. Also covered by this review is silicon metal from the PRC containing between 89.00 and 96.00 percent silicon by weight but which contains a higher aluminum content than the silicon metal containing at least 96.00 percent but less than 99.99 percent silicon by weight. Silicon metal is currently provided for under subheadings 2804.69.10 and 2804.69.50 of the Harmonized Tariff Schedule (HTS) as a chemical product, but is commonly referred to as a metal. Semiconductor-grade silicon (silicon metal containing by weight not less than 99.99 percent of silicon and provided for in subheading 2804.61.00 of the HTS) is not subject to this review. Although the HTS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

This review covers the period June 1, 1996 through May 31, 1997.

Final Results of the Review

For the reasons set out in the preliminary determination, we determine that the following dumping margin exists:

Manufacturer/exporter	Time Period	Margin (percent)
PRC rate	6/1/96–5/31/97	139.49

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service. Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of review for all shipments of silicon metal from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act: for all PRC exporters, the cash deposit rate will be the PRC-wide rate established in these final results of administrative review; and (2) the cash deposit rates for non-PRC exporters of subject merchandise from the PRC will be the rates applicable to the PRC supplier of that exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Interested Parties

This notice serves as a reminder to importers of their responsibility under section 353.26 of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and section 353.22 of the Department's regulations.

Dated: June 27, 1998.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–18736 Filed 7–13–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

In Situ Burning of Oil Spills Workshop

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of open meeting.

SUMMARY: The National Institute of Standards and Technology (NIST) is conducting the workshop on behalf of the Minerals Management Service (MMS), Department of the Interior. The goal of the workshop is to present the current state of knowledge for the *in situ* burning of spilled oil to decision makers from local, state and federal agencies, responders, environmentalists, academia, and the user community. Participants will prioritize research and information needs necessary to support decisions on the use of *in situ* burning as a response tool. Specific emphasis will be given to burning operations and environmental and human health concerns. Preprints of the technical papers will be available to attendees to facilitate their participation in panel discussions. After the workshop a proceedings will be published containing the technical papers and the research and information needs identified by the attendees.

DATES: The workshop will take place on Monday, November 2, 1998, through Wednesday, November 4, 1998 from 8:30 AM to 5 PM.

PLACE: The meeting will take place at the Double Tree Hotel, 300 Canal Street, New Orleans, LA 70130.

ADDRESSES: To register for the workshop, contact Ms. Lori Phillips, National Institute of Standards and technology, Building 101, Room B116, Gaithersburg, MD 20899, telephone: (301) 975–4513; Fax: (301) 948–2067.

FOR FURTHER INFORMATION CONTACT: For technical questions, contact Ms. Nora H. Jason, telephone: (301) 975–6862; Fax: (301) 975–4052; e-mail: nora.jason@nist.gov.

SUPPLEMENTARY INFORMATION: A registration fee will be charged for attending the workshop. Participants are expected to make their own travel arrangements and accommodations.

Dated: July 8, 1998.

Robert E. Hebner,

Acting Deputy Director.

[FR Doc. 98–18699 Filed 7–13–98; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 070798D]

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of Scientific Research Permit 1144.

SUMMARY: Notice is hereby given that on June 23, 1998, NMFS issued Scientific Research Permit 1144 to Bruce D. Peery, Michael J. Bresette, and Jonathan C. Gorham, to take listed sea turtles for the purpose of scientific research subject to certain conditions set forth therein.

ADDRESSES: The application, permit, and related documents are available for review by appointment in the following offices:

Office of Protected Resources, F/PR3, NMFS, 1315 East-West Hwy., Room 13307, Silver Spring, MD 20910–3226 (301–713–1401); and Director, Southeast Region, NMFS, NOAA, 9721 Executive Center Drive, St. Petersburg, FL 33702–2432 (813–893–3141).

SUPPLEMENTARY INFORMATION: Notice was published on April 27, 1998 (63 FR 20638) that an application had been filed by Bruce D. Peery, Michael J. Bresette, and Jonathan C. Gorham (1144), to take listed sea turtles as authorized by the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 217–222).

The applicants requested a one-year scientific research permit to take listed sea turtles. Up to 75 green (*Chelonia mydas*) and 25 loggerhead (*Caretta caretta*) turtles will be taken in large mesh tangle nets for the purposes of stock assessment to characterize the sea turtles that utilize the southern Indian River Lagoon System, Florida. Captured turtles will be weighed, photographed, measured, tagged, and released. NMFS issued permit 1144 on June 23, 1998.

Issuance of this permit, as required by the ESA, was based on a finding that such permit: (1) Was applied for in good faith, (2) will not operate to the disadvantage of the listed species that are the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: July 8, 1998.

Patricia A. Montanio,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–18733 Filed 7–13–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 070798C]

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of applications for scientific research permits (1138, 1139, 1161, 1162, 1166, 1167) and for a modification to a scientific research/enhancement permit (1010).

SUMMARY: Notice is hereby given of the following actions regarding permits for takes of endangered and threatened species for the purposes of scientific research and/or enhancement: NMFS has received permit applications from: Dr. Jennifer L. Nielsen of the Hopkins Marine Station, Stanford University in Pacific Grove, CA (1138), Wetlands Research Associates Inc. (WRAI) in San Rafael, CA (1139), the State Water Resources Control Board (SWRCB) in Sacramento, CA (1161), Salmon Protection and Watershed Network (SPAWN) in Forest Knolls, CA (1162), Dr. Alice A. Rich of A.A. Rich and Associates (AARA) in San Anselmo, CA (1166), and Dr. Peter B. Moyle of the Department of Wildlife, Fish and Conservation Biology University of California, in Davis, CA (1167); and NMFS has received an application for a modification to an existing scientific research/enhancement permit from: Idaho Department of Fish and Game at Boise, ID (IDFG) (1010).

DATES: Written comments or requests for a public hearing on any of the applications must be received on or before August 13, 1998.

ADDRESSES: The applications and related documents are available for review in the following offices, by appointment:

For permit 1010: Protected Resources Division (PRD), F/NWO3, 525 NE Oregon Street, Suite 500, Portland, OR 97232–4169 (503–230–5400).

For permits 1138, 1139, 1161, 1162, 1166, and 1167: Protected Species Division, NMFS, 777 Sonoma Avenue, Room 325, Santa Rosa, CA 95404–6528 (707–575–6066).

All documents may also be reviewed by appointment in the Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401).

FOR FURTHER INFORMATION CONTACT: For permit 1010: Robert Koch, Portland, OR (503–230–5424).

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For permits 1138, 1139, 1161, 1162, 1166, and 1167: Thomas Hablett, Protected Resources Division, (707–575–6066).

SUPPLEMENTARY INFORMATION: Authority

Permits are requested under the authority of section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and the NMFS regulations governing ESA-listed fish and wildlife permits (50 CFR parts 217–227).

Those individuals requesting a hearing on these requests for permits should set out the specific reasons why a hearing would be appropriate (see **ADDRESSES**). The holding of such a hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the below application summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Species Covered in this Notice

The following species are covered in this notice: Chinook salmon (Oncorhynchus tshawytscha), Coho salmon (Oncorhynchus kisutch), and Steelhead trout (Oncorhynchus mykiss).

New Applications Received

Jennifer Nielsen (1138) requests a five-year permit to receive, possess, and analyze, genetic tissue samples taken from adult and juvenile salmonids, for all species currently listed in California. Tissue samples taken from live, non-invasively sampled fish, will consist only of fin clips and scales. These and/or skin tissue will be taken from carcasses. The samples will be collected in the field by participating investigators who have been authorized by NMFS to take and transfer tissue samples for genetic study purposes. The requested authorizations for California include samples from: threatened coho salmon in the southern Oregon/northern California coast (SONCC) and central California coast (CCC) Evolutionarily Significant Units (ESUs); endangered steelhead in the southern California coast (SoCC) ESU; threatened steelhead in the CCC, south-central Califonia coast (SCCC), and central valley (CV) ESUs; and endangered Sacramento River, winter-run chinook salmon; associated with ongoing genetic population inventories throughout California.

WRAI (1139) requests a two-year permit for takes of juvenile, threatened, CCC coho salmon, and juvenile, threatened CCC steelhead associated with fish population and habitat studies in the Petaluma River within the ESUs. The studies consist of four assessment tasks for which ESA-listed fish are proposed to be taken: 1) Presence/absence; 2) population estimates; 3) out-migrational surveys; and 4) habitat quality evaluation. ESA-listed fish will be observed or captured, anesthetized, handled, allowed to recover from the anesthetic, and released. Indirect mortalities are also requested.

SWRCB (1161) requests a five-year permit for takes of juvenile, threatened, CCC coho salmon associated with fish population and habitat studies in the Noyo River within the ESU. The studies consist of four assessment tasks for which ESA-listed fish are proposed to be taken: 1) Presence/absence; 2) population estimates; 3) life history patterns; and 4) habitat quality evaluation. ESA-listed fish will be observed or captured, anesthetized, handled, allowed to recover from the anesthetic, and released. Indirect mortalities are also requested.

SPAWN (1162) requests a five-year permit for takes of juvenile, threatened, CCC coho salmon, and juvenile, threatened CCC steelhead (O. mykiss) associated with fish population and habitat studies in the San Geronimo Creek within the ESUs. The studies consist of two assessment tasks for which ESA-listed fish are proposed to be taken: 1) Presence/absence; and 2) habitat quality evaluation. In addition, authorization is requested to move stranded fish from isolated pools into the mainstem of the watershed. ESA-listed fish will be observed or captured, anesthetized, handled, allowed to recover from the anesthetic, and released. Indirect mortalities are also requested.

AARA (1166) requests a five-year permit for takes of: adult and juvenile, threatened, SONCC and CCC coho salmon; adult and juvenile, endangered, SoCC steelhead; and adult and juvenile, threatened, SCCC and CCC steelhead associated with fish population and habitat studies in coastal drainages throughout California. The studies consist of salmonid habitat and biological inventories, and project monitoring and evaluation studies for which ESA-listed fish are proposed to be taken. ESA-listed fish will be captured, anesthetized, handled (identified and measured), allowed to recover from the anesthetic, and released. ESA-listed salmon indirect mortalities associated with the research are also requested.

Peter Moyle (1167)requests a three-year permit for takes of juvenile, threatened, CCC coho salmon associated with fish population and habitat studies in the Navarro River and Indian Creek watersheds within the ESU. The studies involve surveying macroinvertebrate and fish communities in selected stream reaches, and consist of three assessment tasks for which ESA-listed fish are proposed to be taken: 1) Presence/absence; 2) population estimates; and 3) habitat quality evaluation. ESA-listed fish will be observed during snorkeling surveys.

Modification Request Received

IDFG requests a modification to permit 1010, which authorizes annual direct takes of adult and juvenile, threatened, Snake River spring/summer chinook salmon associated with a captive rearing program for the upper Salmon River tributaries of West Fork Yankee Fork, upper East Fork, and Lemhi River in ID. The captive rearing program was initiated in 1995 when NMFS allowed the collection of ESA-listed, naturally produced, juvenile fish for the program under permit 972. For modification 2, IDFG proposes to release ESA-listed, captively-reared, mature fish from the program into their respective streams of origin for natural spawning. The ESA-listed adult fish to be released are proposed to be tagged with radiotransmitters so that IDFG may monitor fish movement and spawning-related behavior. Subsequent to spawning, carcasses of the ESA-listed fish are proposed to be inspected and sampled for tissues. Also for modification 2, IDFG proposes to retain ESA-listed adult fish in the hatcheries to initiate a captive spawning program. ESA-listed fish eggs produced from the captive spawning program are proposed to be distributed in their respective streams of origin. Also for modification 2, IDFG requests incidental takes of ESA-listed anadromous fish species that would result from fish releases from the captive rearing program. Modification 2 is requested to be valid for the duration of the permit. Permit 1010 expires on December 31, 2000.

Dated: July 8, 1998.

Patricia A. Montanio,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–18734 Filed 7–13–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 070298F]

Marine Mammals; File No. 786–1463

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of application.

SUMMARY: Notice is hereby given that Dr. Daniel Costa, Department of Biology and Institute of marine Sciences, University of California, Santa Cruz, CA 95064, has applied in due form for a permit to take northern elephant seals (*Mirounga angustirostris*) and import samples from northern and southern elephant seals (*Mirounga leonina*) for purposes of scientific research.

DATES: Written or telefaxed comments must be received on or before August 13, 1998.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289); and

Regional Administrator, Southwest Region, National Marine Fisheries Service, NOAA, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213 (562/980–4001).

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits and Documentation Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301) 713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or by other electronic media.

FOR FURTHER INFORMATION CONTACT: Sara Shapiro or Ruth Johnson, 301/713–2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

The applicant seeks authorization to continue a long-term study on a broad suite of behavioral, physiological, and life history characteristics of northern elephant seals (*Mirounga angustirostris*). The ultimate goal of the proposed research is to understand the animal in its natural habitat, how it makes a living, and how it reproduces optimally.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: July 7, 1998.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–18735 Filed 7–13–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

Technology Administration

[Docket No. 980317064–8064–01]

RIN 0692–ZA01

Announcement of Availability of Funding for Competitions—Experimental Program To Stimulate Competitive Technology (EPSCoT)

AGENCY: Office of Technology Policy, Technology Administration, Commerce.

ACTION: Notice.

SUMMARY: The Technology Administration's Office of Technology Policy (OTP) announces the availability of funding for the following competition to be held in fiscal year 1998 under the Experimental Program to Stimulate Competitive Technology (EPSCoT). The EPSCoT will support technology-based economic growth in eligible jurisdictions by promoting partnerships between state and local governments, universities, community colleges, non-profit organizations and the private sector. This notice provides general information for the competition planned for fiscal year 1998.

DATES: Complete applications for the Fiscal Year 1998 EPSCoT grant program must be mailed or hand-carried to the address indicated below and received by the Technology Administration no later than 9:00 P.M. EST, August 25, 1998. Postmark date is not sufficient. Applications which have been provided to a delivery service will be accepted for review *if the applicant can document that the application was provided to the delivery service by August 24, 1998 with delivery to the address listed below guaranteed prior to the closing date and time.* Applications will not be accepted via facsimile machine transmission or electronic mail.

ADDRESSES: US Dept. of Commerce, Technology Administration, attn: EPSCoT Director, Anita Balachandra, 1401 Constitution Avenue NW, HCHB Room 4418, Washington, DC 20230.

Note: Due to Departmental security policies, hand carried packages must be delivered to Rm. 1874.

FOR FURTHER INFORMATION CONTACT: Anita Balachandra, Director of the Experimental Program to Stimulate Competitive Technology, Telephone: (202) 482–1320, Fax: (202) 219–8667, Email: *epscot@ta.doc.gov*

Information on the EPSCoT is also available at: *http://www.ta.doc.gov/epscot*

For fax and email inquiries, please include a name, mailing address, and phone number.

SUPPLEMENTARY INFORMATION:

Authority

The statutory authority for the EPSCoT is the Federal Technology Transfer Act (15 U.S.C. 3704(c)(11), (12) and § 3706)

Program Description

The Experimental Program to Stimulate Competitive Technology (EPSCoT) will support technology-based economic growth in eligible jurisdictions by promoting partnerships between state and local governments, universities, community colleges, non-profit organizations and the private sector.[1] Through these partnerships, EPSCoT seeks to support local efforts to:

- Build state-wide institutional capacity to support technology commercialization
- Create the business climate that is conducive to technology development, deployment and diffusion
- Compete in Federal R&D programs

The EPSCoT parallels the National Science Foundation's Experimental Program to Stimulate Competitive Research (EPSCoR). While EPSCoR's primary emphasis is improving the competitive performance of major research universities of these jurisdictions, EPSCoT seeks to support state efforts to improve the commercial environment for R&D.

Funding Availability

In fiscal year 1998,

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[1] Eligible jurisdictions are those that are eligible to participate in the National Science Foundation's Experimental Program to Stimulate Competitive Research (EPSCoR): Alabama, Arkansas, Idaho, Kansas, Kentucky, Louisiana, Maine, Mississippi, Montana, Nebraska, Nevada, North Dakota, Oklahoma, South Carolina, South Dakota, Vermont, West Virginia, Wyoming and the Commonwealth of Puerto Rico.

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- Approximately $1.6 million is available
- It is anticipated that between four and six grants will be awarded
- Funding for multiple year awards will be contingent on the *achievement of annual milestones.*

Matching Funds Requirements

The Technology Administration seeks to develop a partnership with each EPSCoT jurisdiction. To achieve the objectives of the EPSCoT, both parties must contribute to EPSCoT initiatives.

- Grant recipients under this program are required to provide matching funds toward the total project cost
- For single-jurisdiction proposals TA will provide up to 50% of the total project cost
- For multi-jurisdictional proposals TA will provide up to 75% of the total project cost
- Applicants must document the capacity to supply matching funds
- Matching funds may be in the form of cash
- In-kind match is permissible only when the in-kind contribution is significantly changing the activities that would otherwise be performed by the "match"
- In-kind match may not exceed 25% of the total project cost
- If an applicant incurs any project costs prior to the start date negotiated at the time the award is made, it does so solely at its own risk of not being reimbursed by the government and will not be allowable as "match."
- Federal funds (such as grants) generally may not be used as matching funds, except as provided by federal statute. For information about whether particular federal funds may be used as matching funds, the applicant should contact the federal agency that administers the funds in question.

Type of Funding Instrument

- The funding instrument for awards under this program shall be a grant.

Eligible Organizations

Eligible organizations shall be headquartered in jurisdictions that are eligible to participate in the National Science Foundation's Experimental Program to Stimulate Competitive Research (EPSCoR): Alabama, Arkansas, Idaho, Kansas, Kentucky, Louisiana, Maine, Mississippi, Montana, Nebraska, Nevada, North Dakota, Oklahoma, South Carolina, South Dakota, Vermont, West Virginia, Wyoming and the Commonwealth of Puerto Rico.

Within these jurisdictions, state, local, or Indian tribal governments, community colleges, universities, non-profit organizations, private (for-profit) organizations, technology business centers, business incubators, industry councils *or any combination of these entities* may submit proposals.

- TA shall not award more than one EPSCoT grant per grant round within a single jurisdiction[2].
- Multi-jurisdictional proposals do not count as projects submitted by an organization from a single jurisdiction.
- Entities that are not headquartered in one of the eligible jurisdictions, such as national or regional organizations or federal laboratories, may participate as partners, but may not serve as lead organizations.
- The lead organization is the organization to which funds will be disbursed—this is the organization that is listed in Box 5 of Standard Form 424.

Award Period

- Awards will be made for between 12 and 36 months.
- Multiple year awards will be contingent on the *achievement of annual milestones.*

Proposal Format

Application forms

A complete proposal will include the following:

- Standard Form 424, Application for Federal Assistance.
- Executive Summary.
- Project Narrative.
  - Optional: Appendices, Timelines, Letters of support.
- Standard Form 424A.
  - Budget Narrative.
  - Statement of Matching Funds.
- Standard Form 424B; Assurances.
- Standard Form CD–511; Certifications.
- Standard Form LLL; Disclosure of Lobbying Activities (if applicable).

Pagination

The pages of an EPSCoT application should be numbered consecutively, starting with the first page of the Project Narrative. Please number the Budget Narrative and the Statement of Matching Funds as 424A–1, 424A–2, etc. Applicants may insert a Table of Contents after the Standard Form 424 and before the Project Narrative to assist reviewers in locating information.

Page Formats

The proposal should be typed, single-spaced, on 8½″ x 11″ paper. All text should be prepared using a font of no less than 12 points with margins of no less than one inch (1″).

Total Number of Copies

TA requests that each applicant submit one (1) original signed proposal and two (2) copies. The copy with original signatures should clearly be marked "Original." Each duplicate should be clearly marked "Copy." The copy marked "Original" must be clipped with a binder clip. The two copies must each be stapled.

Signatures

Signatures are required in the following places in the application

- Bottom (box 18d) of Standard Form 424, Application for Federal Assistance
- Back page of Standard Form 424B, Assurances
- Bottom of back page of Standard Form CD–511, Certifications
- Bottom of Standard Form LLL, Disclosure of Lobbying Activities (if applicable)

Standard Forms 424, 424B, CD–511 and LLL should be signed by someone who is authorized to commit the applicant organization(s), such as the Chief Executive Officer, Chief Financial Officer, President, or Executive Director. Original signatures should be in blue ink so that the original proposal can be easily distinguished from the duplicate copies.

Page Limit

The total proposal must not exceed 50 pages, including eight pages for the Project Narrative and a 125 word Executive Summary. The 50-page limit includes all text, tables, illustrations, maps, letters, references, resumes and supporting documents, excluding the Standard Forms and all budget information. Quality, not quantity, is what counts!

Contact Information

Applicants must provide the following contact information on Standard Form 424:

- Legal name (of the organization)
- Complete mailing address
- Telephone number
- Name of a contact individual
- Electronic mail address, if any

If any of this contact information changes after the application is submitted, the applicant must immediately notify EPSCoT in writing.

Narrative Elements

Each proposal must address the following. It is recommended that the project narrative be organized in these five sections.

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[2] The Technology Administration reserves the right to make an exception in the event that an organization submits a single jurisdiction proposal and that jurisdiction is implicated in a multi-jurisdictional proposal and both are final candidates for awards.

(1) Scope of Proposed Project

- Describe how the proposed activity was identified
- Describe how the proposed activity will improve the jurisdiction's capacity to support technology-based economic development
- Explain why the proposed activity is a good investment of Federal funds

(2) Project Management

- Describe the qualifications of personnel
- Describe how the project will be managed
- Describe how decisions will be made between and among partners

(3) Coordination within and/or among Jurisdictions

- Describe how the proposed activity relates to, or builds upon, the strategic plans developed for economic development, science & technology and NSF EPSCoR
- Describe how collaborators were identified
- Describe how participating organizations will benefit from the proposed activity

(4) Financial Plan

- Describe how funds will be allocated, given the project timeline and milestones
- Demonstrate your ability to procure matching funds
- Describe the quality of match: while in-kind contributions are allowable, preference will be given to those that are able to procure a cash match

(5) Evaluation

- Describe the appropriate outcome-measures for the proposed activity
- Detail the timeline for the proposed activity (include specific milestones)

Freedom of Information Act

Because of the high level of public interest in projects supported by the EPSCoT, the program anticipates receiving requests for copies of successful applications. Applicants are hereby notified that the applications they submit are subject to the Freedom of Information Act (FOIA). Applicants may identify sensitive information and label it "confidential" to assist TA in making disclosure determinations.

Funding Priorities

EPSCoT's funding priorities are the effective use of partnerships and outreach to underserved areas. EPSCoT funds are not intended for the construction of facilities. Given the central role that technology plays in economic growth, all jurisdictions—federal, state and local—are concerned with creating and maintaining the conditions that are conducive to the development of new technologies, and the adoption and diffusion of existing ones.

EPSCoT is meant to assist jurisdictions in their attempts to promote technology-based economic growth by *improving the commercial environment for R&D.* A strategy for doing so should build on the resources of the state government, research universities, community colleges, vocational schools, business community, finance community and any Federal resources the jurisdiction may have, such as national labs, manufacturing extension centers, or technology transfer centers. To this end, applicants must demonstrate that they are developing robust teaming arrangements between and among participating organizations.

EPSCoT awards will be competitively selected and cost-shared. They will be of a finite duration, ranging from 12 to 36 months. EPSCoT grants must create activities that will become self-sufficient OR create change within the grant life. This way the EPSCoT can support the most innovative projects with the expectation that projects will create new knowledge, develop successful institutional relationships, demonstrate new concepts that can be replicated, or develop concepts that can be sustained by other organizations at the end of the grant life. These grants should either obtain the desired outcome within the life of the grant or should serve as "seed" capital to initiatives that will be self-sustaining after the grant. It is intended that EPSCoT projects will serve as models for other jurisdictions.

Multi-jurisdictional Proposals

Recognizing that a regional economy may not always fit within the boundaries of one jurisdiction, the Technology Administration will consider proposals for multi-jurisdiction projects. The requirement of matching funds is reduced for multi-jurisdiction proposals. Applicants will be expected to demonstrate the proposed activity's importance to the stated economic development priorities of the participating jurisdictions. Multi-jurisdiction proposals will not be considered against each jurisdiction's total.

Jurisdictional Coordination

Coordination within jurisdictions is a principal priority of the EPSCoT. Multiple proposals from the same jurisdiction will be scrutinized carefully, not only for redundancy, but also to determine whether the proposed activities will be carried out in isolation. Single proposals representing collaboration between stakeholders in a particular jurisdiction will be reviewed more favorably.

Applicants are required to demonstrate familiarity with the strategic plans developed by the jurisdiction's EPSCoR Committee, economic development agency and/or science & technology council. The proposed activity should clearly build on the stated priorities of these plans.

Examples of Eligible Project Ideas

The EPSCoT aims to foster innovative, collaborative approaches to improve competitiveness; examples of eligible project ideas include, *but are not limited to,* the following:

Technology Access Database

In order to assist small firms in accessing the technological resources of local universities, a jurisdiction could establish a comprehensive database of research areas and contact information. Such an effort would involve significant research to identify and categorize research areas, construct a database that is easily searchable, and then make the database widely available.

Technology Access Workshops

In order to assist small firms in accessing the technological resources of local universities, a jurisdiction could conduct outreach workshops. Such an effort would involve a cluster analysis of the small business community, an inventory of the technological resources available in the local universities, and then a series of workshops.

Increasing Participation in Federal R&D Programs

A jurisdiction could develop mechanisms to increase its participation in Federal R&D programs such as the Small Business Innovation Research Program (SBIR) or the Advanced Technology Program (ATP). Such an effort might involve assistance programs that conduct outreach workshops to small businesses, as well as other service providers, to provide information about these programs and/or commercialization assistance for firms after participation in the program.

Technology Transfer

Several jurisdictions have investigated and identified barriers to university-industry collaboration. Eliminating these barriers can facilitate technology transfer. Such an effort might begin with altering the risk-reward structure to create a climate, or

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“market,” for technology transfer within universities, and go on to include harmonizing technology transfer mechanisms across universities.

Business Incubators

A jurisdiction could establish a virtual business incubator to foster the growth of small technology-intensive businesses in underserved areas. Such an effort might involve a variety of partnerships; for example, between faculty and students from a university's business administration and engineering programs, between existing business incubators and universities, or between universities, community colleges and economic development agencies. Among other things, a virtual incubator could provide online entrepreneurship training, including assistance with business planning and market development.

Co-op Opportunities

A jurisdiction could develop co-op opportunities between universities and businesses to increase interactions between students and private-sector companies. Such an effort might involve cross-placement of engineering and business students.

Strategic Planning

A jurisdiction could apply for a planning grant. A planning effort involving the research community, economic development agencies, private sector, science & technology councils, community colleges, and/or vocational schools, would ideally build on previous plans and integrate the complementary but distinct missions of the participating organizations toward common goals.

Consortia

Having conducted a comprehensive cluster analysis, a jurisdiction may conclude that seemingly disparate nascent clusters in fact have common interests and needs. When no single industry cluster is large enough to sustain an exclusive effort, companies, university researchers and public agencies might form a consortium to address issues of common interest.

Reaping the Investment in Human Capital

A jurisdiction might seek to retain a greater share of its skilled labor. This might involve developing a manufacturing strategy that ties together the jurisdiction's industrial base and the jurisdiction's universities and community colleges so that there are more local employment opportunities for graduates in science and technology fields.

Industry Councils

Having undertaken an analysis to identify industry clusters and key industries, a jurisdiction could work with resident companies to set up industry councils bringing together producers, suppliers, and university researchers. With a minimum of overhead, such councils could serve as fora for identifying and addressing issues of common interest, host networking events, and, as appropriate, conduct outreach activities or implement apprenticeship programs.

Regional Cooperative Efforts

Any of the projects described above could be launched on a regional scale. A group of jurisdictions could work together to identify industry clusters and develop strategies to support those clusters. For example, such an initiative could improve technology access for microenterprises by harmonizing the technology licensing practices among the universities in participating jurisdictions. A group of jurisdictions could also cooperate to link and leverage their efforts in a specific area, such as support for SBIR applicants, in order to provide a more seamless regional infrastructure.

Other Requirements

Each successful applicant will be required to travel to Washington and participate in a 2-day networking meeting. The purpose of this meeting is to brief the Technology Administration on the progress of the funded projects and to provide awardees with an opportunity to compare notes with one another.

In addition, awardees will be required to provide the Technology Administration with quarterly progress reports, consisting of a 1–2 page activity summary and a 1 page budget summary. At the end of the grant period, a final project report is required before the final disbursement of funds. This report must explain the contribution of the funded activity to the jurisdiction's competitiveness and measures of its success.

Selection Process

Each eligible application will first be reviewed by outside reviewers. Each reviewer will evaluate applications according to the *evaluation criteria* below.

Evaluation Criteria

Proposals will be evaluated according to selection criteria that match the required format. These criteria will be weighted equally.

(1) Scope of Proposed Project

Proposals will be evaluated on the clarity with which they:

- Identify/define a specific problem or issue that the proposed activity is to address:
- Identify stakeholders and partners.
- Propose a solution—and specify the process for identifying this particular solution.
- Explain why the proposed activity is a good investment of public funds.
- Demonstrate that the proposed activity does in fact increase a jurisdiction or region's capacity to support technology-based economic development.
- Address the needs of underserved areas.
- Identify specific, quantifiable measurable outcomes of the proposed activity. *Outcomes should reflect benefits that are measurable on an annual basis.*

(2) Project Management

- Proposals will be evaluated for the:
- Adequacy of the personnel—their expertise and ability to carry out the proposed activity.
- Capabilities of the applicant (lead) organization.
- Clarity of the management plan, including the identification of partners.
- Likelihood that the proposed activity will be completed within the grant life, or become self-sustaining afterward.

(3) Coordination within and/or among Jurisdictions

Proposals will be evaluated for the:

- Emphasis on robust teaming arrangements between disparate organizations.
- Degree to which the proposed activity builds upon the complementary missions of the participating organizations.
- Strength and diversity of support for the project within the jurisdiction.
- Partnerships involved—they must be clearly defined, mutually beneficial, and the commitments well documented.
- Demonstrated understanding of the strategic plans developed by the jurisdiction's EPSCoR committee, economic development agency and/or science and technology council. The proposed activity should reflect or build upon the stated priorities of these plans.

(4) Financial Plan

Proposed will be evaluated for the:

- Budget plan—it should be sufficiently detailed so that the relationship between budget items and milestones in the project narrative is clear. Also, the budget should allow sufficient funds for evaluation, dissemination of results and participation in one networking meeting in Washington, DC.

- Reasonableness of costs.
- Demonstrated ability to provide or procure matching funds.
- Quality of match: while in-kind contributions are allowable, preference will be given to those that are able to (deliver) a cash match.

(5) Evaluation

Each proposal must include a plan for evaluating the project and a plan for disseminating knowledge gained from the project. The evaluation plan should include both quantitative and qualitative indicators and must identify specific evaluation methods. The evaluation plan should also capture the lessons learned during the project that will serve as pragmatic tips for others interested in replicating or adapting the project in other regions. Applications must include the qualifications of any proposed evaluators and sufficient funds in the budget to perform a thorough and useful evaluation of the project.

Finally, applicants must demonstrate a willingness to share information about their projects with interested parties, to host site visits, and to participate in demonstrations.

Each reviewer will make non-building recommendations to a committee of Federal officials, chaired by the EPSCoT Director. This committee will prepare and present a set of recommended grant awards to the Selecting Official, the Under Secretary for Technology. The Committee's recommendations and the Under Secretary's review and approval will take into account the following:

- The evaluations of the outside reviewers.
- The degree to which the slate of applications, taken as a whole, satisfies the program's stated purposes.
- The variety of the proposed activities.
- The availability of funds.
- The geographic distribution of the proposed grant awards.
- Avoidance of redundancy and conflicts with the initiatives of other federal agencies.

Additional Requirements

Primary Application Certifications

All primary applicant institutions must submit a completed form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying," and the following explanations must be provided:

(1) *Non-procurement Debarment and Suspension.* Prospective participants (as defined at 15 CFR Part 26, Section 105) are subject to 15 CFR Part 26, "Non-procurement Debarment and Suspension" and the related section of the certification form prescribed above applies;

(2) *Drug-Free Workplace.* Grantees (as defined at 15 CFR Part 26, Section 605) are subject to 15 CFR Part 26, Subpart F, "Government-wide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies;

(3) *Anti-Lobbying.* Persons (as defined at 15 CFR Part 28, Section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater.

(4) *Anti-Lobbying Disclosure.* Any applicant institution that has paid or will pay for lobbying using any funds must submit an SF–LLL, "Disclosure of Lobbying Activities," as required under 15 CFR Part 28, Appendix B.

(5) *Lower-Tier Certifications.* Recipients shall require applicant/bidder institutions for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions and Lobbying" and disclosure form, SF–LLL, "Disclosure of Lobbying Activities." Form CD–512 is intended for the use of recipients and should not be transmitted to TA. SF–LLL submitted by any tier recipient or subrecipient should be submitted to TA in accordance with the instructions contained in the award document.

Name Check Reviews

All for-profit and non-profit applicants will be subject to a name check review process. Name checks are intended to reveal if any individuals associated with the applicant have been convicted of or are presently facing, criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management honesty or financial integrity.

Preaward Activities

Applicants (or their institutions) who incur any costs prior to an award being made do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that may have been provided, there is no obligation on the part of TA to cover pre-award costs.

No Obligation for Future Funding

If an application is accepted for funding, TA has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of TA.

Past Performance

Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

False Statements

A false statement on an application is grounds for denial or termination of funds, and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Waiver Authority

It is the general intent of TA not to waive any of the provisions set forth in this Notice. However, under extraordinary circumstances and when it is in the best interests of the federal government, TA, upon its own initiative or when requested, may waive the provisions in this Notice. Waivers may only be granted for requirements that are discretionary and not mandated by statute. Any request for a waiver must set forth the extraordinary circumstances for the request and be included in the application or sent to the address provided in the "Addresses" section above. The final determination will be made by the Selecting Official, the Under Secretary for Technology. TA will not consider a request to waive the application deadline for an application until the application has been received.

Delinquent Federal Debts

No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

(1) The delinquent account is paid in full,

(2) A negotiated repayment schedule is established and at least one payment is received, or

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(3) Other arrangements satisfactory to DoC are made.

Indirect Costs

No Federal funds will be authorized for Indirect Costs (IDC); however, an applicant may provide for IDC under their portion of Cost Sharing.

The total dollar amount of the indirect costs proposed in an application under this program must not exceed the indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award or 100 percent of the total proposed direct costs dollar amount in the application, whichever is less.

Purchase of American-Made Equipment and Products

Applicants are hereby notified that they are encouraged, to the greatest practicable extent, to purchase American-made equipment and products with funding provided under this program.

Paperwork Reduction Act

This notice involves collections of information subject to the Paperwork Reduction Act (PRA), which have been approved by the Office of Management and Budget (OMB) under OMB Control Numbers 0348–0043, 0348–0044, 0348–0040 and 0348–0046. Notwithstanding any other provision of law no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA unless that collection displays a current valid OMB control number.

Federal Policies and Procedures

Recipients and subrecipients under the Experimental Program to Stimulate Competitive Technology (EPSoT) shall be subject to all Federal laws and Federal and Departmental regulations, policies, and procedures applicable to financial assistance awards.

Intergovernmenal Review

Applicants are reminded of the applicability of Executive Order 12372, "Intergovernmental Review of Federal Programs."

Executive Order Statement

This funding notice was determined to be "significant" for purposes of Executive Order 12866.

Gary R. Bachula,

Acting Under Secretary for Technology.

[FR Doc. 98–18660 Filed 7–13–98; 8:45 am]

BILLING CODE 3510–18–M

DEPARTMENT OF DEFENSE

Department of the Army

Proposed Finding of No Significant Impact (FONSI) for the M1 Abrams Main Battle Tank Heavy Armor System

AGENCY: U.S. Army Program Executive Office, Ground Combat & Support Systems, Warren, MI.

ACTION: Notice.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA) of 1969 and Army Regulation (AR) 200–2, the proposed FONSI for the M1 Abrams Main Battle Tank Heavy Armor System is being published for comment.

The U.S. Army Program Executive Office, Ground Combat & Support Systems (PEO–GCSS) has prepared a draft Environmental Assessment for the M1 Abrams Main Battle Tank (MBT) Heavy Armor System. The current use of the depleted uranium (DU) armor package on the Abrams MBT has been re-evaluated to determine whether the environmental impacts of its continued use remain insignificant, taking into consideration the current use of the tank and the Nuclear Regulatory Commission's (NRC's) reduction in allowable radiation exposure from 500 mrem/year to 100 mrem/year for tank and maintenance crews (individual members of the public).

As in already-fielded weapon system, M1 MBTs have been in production and in the field since the early 1980s. During that time, many technical, environmental and health assessments have been completed. These documents have addressed and minimized environmental impacts. As part of the continuing analysis effort, this EA focuses specifically on the assembly, use, repair and disposal of the heavy armor package.

DATES: Comments must be received not later than August 28, 1998.

FOR FURTHER INFORMATION CONTACT: Questions concerning this proposed action should be submitted within 45 days of the date of this publication and directed to Mr. Dennis Sweers, Abrams Program Management Office, Program Executive Office, Ground Combat and Support Systems, ATTN: SFAE–GCSS–W–AB–SM, Warren, MI 48397–5000. Telephone number: (810) 574–7895, E-mail address: sweersd@cc.tacom.army.mil

SUPPLEMENTARY INFORMATION:

1. Purpose and Need for Proposed Action

The Abrams Tank System Program (Abrams), administered by the Project Manager, Abrams Tank System (PM Abrams) with support from the U.S. Army Tank-automotive and Armaments Command (TACOM), has been using Depleted Uranium (DU) armor on the Abrams Tank since 1988. In 1996, a design change to the armor package was made by the Army and cut-in to production by General Dynamics Land Systems (GDLS) via Change Request XMPP–2083 in Oct 96 and effective with Job #1 M1A2 Phase II AUT. The purpose of this revision to the Environmental Assessment (EA) is to assess the environmental impact of the change from the original DU armor design to this modified design. Additionally, although unrelated to this armor design change, since the last EA, the NRC's maximum radiation dose limits for individual members of the public has been change from 500 mrem per year to 100 mrem per year. This revision assesses the new design against these new dose limits.

B. The findings of the draft EA of the M1 Abrams MBT Heavy Army System support this FONSI. The assessment was conducted in keeping with the Army's environmental stewardship policy, to ensure that any potential environmental impacts are fully mitigated. The EA supports all related M1 Abrams MBT programs reviewed by the Defense Acquisition Board.

2. General Description of Action

A. Under the proposed action, the use of the current depleted uranium (DU) armor package on the Abrams tank would be evaluated to determine whether the environmental impacts of its continued use remain insignificant, taking into consideration the current use of the tank, the armor package design change instituted in 1996 and changes in the NRC's radiation dose limits for individual members of the public. If it is determined that the environmental impacts of use of the DU armor package remain insignificant, PM Abrams will continue to produce the armor package through 2005.

B. The draft Heavy Armor System EA evaluates the following: tank assembly activities at Lima Army Tank Plant (LATP); field operations including crew maintenance, field support maintenance and depot maintenance; and demilitarization. All DU issues which are not the direct responsibility of PM Abrams are not covered in the EA, but have been covered in previous assessments.

C. In summary, the DU is fabricated into armor packages by a contractor to the Department of Energy. The contractor ships the assembled armor packages to LATP for installation in the tanks. At LATP, the armor packages remain in the transportation containers until they are ready to be inserted into the tank. Following installation of the armor package and other tank components, the completed tanks are transported to military units as required for field use. Field use consists primarily of training exercises and varying levels of maintenance performed either by the tank operating crew or a field maintenance crew. Some maintenance, including major repairs, is conducted at maintenance depots by dedicated crews. At some point in the future, the tanks will be removed from service, demilitarized, and dispositioned.

D. The impacts of the use of DU armor are central to the question of whether the impacts of continued use of the M1 Abrams MBT remains insignificant. The sue of DU armor is the primary feature that distinguishes the Abrams tank from numerous other commonly accepted equipment employed by the military and industry. Conventionally-armored military vehicles and heavy equipment, similar to tanks, are commonly operated by the Army and industry in a manner that is considered by the public to be acceptable and with insignificant impact on the human environment. Consequently, in conformance with the procedural requirements of the National Environmental Policy Act (NEPA) this Environmental Assessment (EA) has focused strictly on the use of DU armor.

3. Anticipated Environmental Effects

A. The MI Abrams MBT Heavy Armor System will be assembled, transported, maintained, and disposed of in accordance with applicable environmental protection regulations. The PM Abrams has performed an in-depth study of exposure scenarios for affected personnel and has found that, in all instances, the maximum potential exposure to radiation from the Heavy Armor System will fall well under the 100 mrem/year NRC limit.

B. The PM Abrams has determined that the potential for adverse environmental impacts of the use and disposal of the Heavy Armor package occur only if the outer armor integrity has been compromised or if a large number of rounds are fired into the tank. In this instance, however, decontamination measures can be limited to a 78-meter area downwind of the impact site (for a worst-case scenario). The concentration of the aerosol in the passing cloud does not exceed the guidelines for the general population as set forth in 10 CFR Part 20.

C. The PM Abrams will continue to assess alternative procedures and materials for opportunities to replace the DU used for the Heavy Armor System and to proactively implement environmental improvements to the program in other areas.

4. Facts and Conclusions

A. Operations at LATP are conducted in accordance with their Radiation Protection Plan and personnel exposures are controlled within the regulatory limits. Potential hazards have been identified and evaluated and appropriate preventive measures have been taken. Efforts have been made to reduce radiation exposures below the limits and to minimize the number of personnel subjected to radiation exposure.

B. Transportation of completed tanks from LATP to field organizations for use is conducted in compliance with Department of Transportation requirements for the transportation of articles containing depleted uranium. Compliance with Department of Transportation requirements assures appropriate protection of the involved personnel and members of the general public from the potential radiation and other hazards associated with transportation.

C. Storage and Parking of tanks at field installations has been evaluated and it has been determined that there is no reasonable potential for exposure of personnel or the general public to radiation exposures exceeding the limits allowed for members of the general public.

D. Fields use of the Abrams Tank with Heavy Armor has been evaluated and it has been determined that appropriate controls exist in the form of vehicle design, vehicle use, and vehicle maintenance to assure that radiation exposure to involved personnel and the general public is maintained within the required regulatory limits and that efforts have been made to reduce radiation exposures below the limits.

E. The environmental effects of accidents involving the release of DU have been evaluated and appropriate actions have been identified to assure mitigation and minimize the potential for environmental damage.

F. Means have been identified and agreements have been made that assure that the DU is properly managed and controlled during and following demilitarization.

G. Means have been identified and agreements have been made that assure that all DU wastes generated by the Abrams Heavy Armor System are properly managed and disposed.

5. Determination

Based on the analyses of the draft EA, the use of DU armor from its receipt by the Abrams program through disposition of the material following future demilitarization of the Abrams tanks, including reasonably foreseeable accidents, do not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the NEPA. Therefore, an Environmental Impact Statement for the proposed action is not required.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 98–18674 Filed 7–13–98; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency, Science and Technology Advisory Board Closed Panel Meeting

AGENCY: Department of Defense, Defense Intelligence Agency.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of Subsection (d) of Section 10 of Pub. L. 92–463, as amended by Section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of the DIA Science and Technology Advisory Board has been scheduled as follows:

DATES: 24 July 1998 (800am to 1600pm).

ADDRESSES: The Defense Intelligence Agency, Bolling AFB, Washington, DC 20340–5100.

FOR FURTHER INFORMATION CONTACT: Maj Michael W. Lamb, USAF, Executive Secretary, DIA Science and Technology Advisory Board, Washington, DC 20340–1328 (202) 231–4930.

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in Section 552b(c)(I), Title 5 of the U.S. Code and therefore will be closed to the public. The Board will receive briefings on and discuss several current critical intelligence issues and advised the Director, DIA, on related scientific and technical matters.

Dated: July 8, 1998.

L.M. Bynum,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 98–18618 Filed 7–13–98; 8:45 am]

BILLING CODE 5000-04-M

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DEPARTMENT OF DEFENSE

Defense Logistics Agency

Privacy Act of 1974; System of Records

AGENCY: Defense Logistics Agency, DoD.

ACTION: Altering a system of records.

SUMMARY: The Defense Logistics Agency proposes to alter a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The alterations consists of adding a category of records to the system of records.

DATES: The alteration will be effective without further notice on August 10, 1998, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Privacy Act Officer, Defense Logistics Agency, DLA-CAAV, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Salus at (703) 767–6183.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the Federal Register and are available from the address above.

An altered system report, as required by 5 U.S.C. 552a(r) of the Privacy Act was submitted on June 30, 1998, to the House Committee on Government Reform and Oversight, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996, (February 20, 1996, 61 FR 6427). The specific changes to the record system are set forth below followed by the system notice, as altered, in its entirety.

Dated: July 8, 1998.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S322.10 DMDC

SYSTEM NAME:

Defense Manpower Data Center Data Base *(October 27, 1997, 62 FR 55609).*

CHANGES:

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Add to the entry 'Military drug test records containing the Social Security Number, date of specimen collection, date test results reported, reason for test, test results, base/area code, unit, service, status (active/reserve), and location code of testing laboratory.'

* * * * *

PURPOSE(S):

Add to the entry 'Military drug test records will be maintained and used to conduct longitudinal, statistical, and analytical studies and computing demographic reports on military personnel. No personal identifiers will be included in the demographic data reports. All requests for Service-specific drug testing demographic data will be approved by the Service designated drug testing program office. All requests for DoD-wide drug testing demographic data will be approved by the DoD Coordinator for Drug Enforcement Policy and Support, 1510 Defense Pentagon, Washington, DC 20301-1510.'

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Add a new paragraph '**Note:** Military drug test information involving individuals participating in a drug abuse rehabilitation program shall be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 42 U.S.C. 290dd–2. This statute takes precedence over the Privacy Act of 1974, in regard to accessibility of such records except to the individual to whom the record pertains. The Army's 'Blanket Routine Uses' *do not* apply to these types records.'

* * * * *

S322.10 DMDC

SYSTEM NAME:

Defense Manpower Data Center Data Base.

SYSTEM LOCATION:

Primary location - W.R. Church Computer Center, Naval Postgraduate School, Monterey, CA 93943–5000.

Back-up files maintained in a bank vault in Hermann Hall, Naval Postgraduate School, Monterey, CA 93943–5000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All uniformed services officers and enlisted personnel who served on active duty from July 1, 1968, and after or who have been a member of a reserve component since July 1975; retired military personnel; participants in Project 100,000 and Project Transition, and the evaluation control groups for these programs. All individuals examined to determine eligibility for military service at an Armed Forces Entrance and Examining Station from July 1, 1970, and later.

DoD civilian employees since January 1, 1972.

All veterans who have used the GI Bill education and training employment services office since January 1, 1971. All veterans who have used GI Bill education and training entitlements, who visited a state employment service office since January 1, 1971, or who participated in a Department of Labor special program since July 1, 1971. All individuals who ever participated in an educational program sponsored by the U.S. Armed Forces Institute and all individuals who ever participated in the Armed Forces Vocational Aptitude Testing Programs at the high school level since September 1969.

Individuals who responded to various paid advertising campaigns seeking enlistment information since July 1, 1973; participants in the Department of Health and Human Services National Longitudinal Survey.

Individuals responding to recruiting advertisements since January 1987; survivors of retired military personnel who are eligible for or currently receiving disability payments or disability income compensation from the Department of Veteran Affairs; surviving spouses of active or retired deceased military personnel; 100% disabled veterans and their survivors.

Individuals receiving disability compensation from the Department of Veteran Affairs or who are covered by a Department of Veteran Affairs' insurance or benefit program; dependents of active duty military retirees, selective service registrants.

Individuals receiving a security background investigation as identified in the Defense Central Index of Investigation. Former military and civilian personnel who are employed by DoD contractors and are subject to the provisions of 10 U.S.C. 2397.

All Federal Civil Service employees.

All non-appropriated funded individuals who are employed by the Department of Defense.

Individuals who were or may have been the subject of tests involving chemical or biological human-subject testing; and individuals who have inquired or provided information to the Department of Defense concerning such testing.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computerized personnel/employment/pay records consisting of name, Service Number, Selective Service Number, Social Security

Number, compensation data, demographic information such as home town, age, sex, race, and educational level; civilian occupational information; civilian and military acquisition work force warrant location, training and job specialty information; military personnel information such as rank, length of service, military occupation, aptitude scores, post-service education, training, and employment information for veterans; participation in various inservice education and training programs; military hospitalization and medical treatment, immunization, and pharmaceutical dosage records; home and work addresses; and identities of individuals involved in incidents of child and spouse abuse, and information about the nature of the abuse and services provided.

CHAMPUS claim records containing enrollee, patient and health care facility, provided data such as cause of treatment, amount of payment, name and Social Security or tax identification number of providers or potential providers of care.

Selective Service System registration data.

Department of Veteran Affairs disability payment records.

Credit or financial data as required for security background investigations.

Criminal history information on individuals who subsequently enter the military.

Office of Personnel Management (OPM) Central Personnel Data File (CPDF), an extract from OPM/GOVT–1, General Personnel Records, containing employment/personnel data on all Federal employees consisting of name, Social Security Number, date of birth, sex, work schedule (full-time, part-time, intermittent), annual salary rate (but not actual earnings), occupational series, position occupied, agency identifier, geographic location of duty station, metropolitan statistical area, and personnel office identifier. Extract from OPM/CENTRAL–1, Civil Service Retirement and Insurance Records, containing Civil Service Claim number, date of birth, name, provision of law retired under, gross annuity, length of service, annuity commencing date, former employing agency and home address. These records provided by OPM for approved computer matching.

Non-appropriated fund employment/personnel records consist of Social Security Number, name, and work address.

Military drug test records containing the Social Security Number, date of specimen collection, date test results reported, reason for test, test results, base/area code, unit, service, status (active/reserve), and location code of testing laboratory.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 5 U.S.C. App. 3 (Pub.L. 95–452, as amended (Inspector General Act of 1978)); 10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; 10 U.S.C. 2358, Research and Development Projects; and E.O. 9397 (SSN).

PURPOSE(S):

The purpose of the system of records is to provide a single central facility within the Department of Defense to assess manpower trends, support personnel and readiness functions, to perform longitudinal statistical analyses, identify current and former DoD civilian and military personnel for purposes of detecting fraud and abuse of pay and benefit programs, to register current and former DoD civilian and military personnel and their authorized dependents for purposes of obtaining medical examination, treatment or other benefits to which they are qualified, and to collect debts owed to the United States Government and state and local governments.

Information will be used by agency officials and employees, or authorized contractors, and other DoD Components in the preparation of the histories of human chemical or biological testing or exposure; to conduct scientific studies or medical follow-up programs; to respond to Congressional and Executive branch inquiries; and to provide data or documentation relevant to the testing or exposure of individuals

All records in this record system are subject to use in authorized computer matching programs within the Department of Defense and with other Federal agencies or non-Federal agencies as regulated by the Privacy Act of 1974, as amended, (5 U.S.C. 552a).

Military drug test records will be maintained and used to conduct longitudinal, statistical, and analytical studies and computing demographic reports on military personnel. No personal identifiers will be included in the demographic data reports. All requests for Service-specific drug testing demographic data will be approved by the Service designated drug testing program office. All requests for DoD-wide drug testing demographic data will be approved by the DoD Coordinator for Drug Enforcement Policy and Support, 1510 Defense Pentagon, Washington, DC 20301–1510.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

1. To the Department of Veteran Affairs (DVA):

a. To provide military personnel and pay data for present and former military personnel for the purpose of evaluating use of veterans benefits, validating benefit eligibility and maintaining the health and well being of veterans.

b. To provide identifying military personnel data to the DVA and its insurance program contractor for the purpose of notifying separating eligible Reservists of their right to apply for Veteran's Group Life Insurance coverage under the Veterans Benefits Improvement Act of 1996 (38 U.S.C. 1968).

c. To register eligible veterans and their dependents for DVA programs.

d. To conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purpose of:

(1) Providing full identification of active duty military personnel, including full-time National Guard/Reserve support personnel, for use in the administration of DVA's Compensation and Pension benefit program. The information is used to determine continued eligibility for DVA disability compensation to recipients who have returned to active duty so that benefits can be adjusted or terminated as required and steps taken by DVA to collect any resulting over payment (38 U.S.C. 5304(c)).

(2) Providing military personnel and financial data to the Veterans Benefits Administration, DVA for the purpose of determining initial eligibility and any changes in eligibility status to insure proper payment of benefits for GI Bill education and training benefits by the DVA under the Montgomery GI Bill (Title 10 U.S.C., Chapter 1606 – Selected Reserve and Title 38 U.S.C., Chapter 30 – Active Duty). The administrative responsibilities designated to both agencies by the law require that data be exchanged in administering the programs.

(3) Providing identification of reserve duty, including full-time support National Guard/Reserve military personnel, to the DVA, for the purpose of deducting reserve time served from any DVA disability compensation paid or waiver of VA benefit. The law (10

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U.S.C. 12316) prohibits receipt of reserve pay and DVA compensation for the same time period, however, it does permit waiver of DVA compensation to draw reserve pay.

(4) Providing identification of former active duty military personnel who received separation payments to the DVA for the purpose of deducting such repayment from any DVA disability compensation paid. The law requires recoupment of severance payments before DVA disability compensation can be paid (10 U.S.C. 1174).

(5) Providing identification of former military personnel and survivor's financial benefit data to DVA for the purpose of identifying military retired pay and survivor benefit payments for use in the administration of the DVA's Compensation and Pension program (38 U.S.C. 5106). The information is to be used to process all DVA award actions more efficiently, reduce subsequent overpayment collection actions, and minimize erroneous payments.

2. To the Office of Personnel Management (OPM):

a. Consisting of personnel/employment/financial data for the purpose of carrying out OPM's management functions. Records disclosed concern pay, benefits, retirement deductions and any other information necessary for those management functions required by law (Pub.L. 83–598, 84–356, 86–724, 94–455 and 5 U.S.C. 1302, 2951, 3301, 3372, 4118, 8347).

b. To conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a) for the purpose of:

(1) Exchanging personnel and financial information on certain military retirees, who are also civilian employees of the Federal government, for the purpose of identifying those individuals subject to a limitation on the amount of military retired pay they can receive under the Dual Compensation Act (5 U.S.C. 5532), and to permit adjustments of military retired pay by the Defense Finance and Accounting Service and to take steps to recoup excess of that permitted under the dual compensation and pay cap restrictions.

(2) Exchanging personnel and financial data on civil service annuitants (including disability annuitants under age 60) who are reemployed by DoD to insure that annuities of DoD reemployed annuitants are terminated where applicable, and salaries are correctly offset where applicable as required by law (5 U.S.C. 8331, 8344, 8401 and 8468).

(3) Exchanging personnel and financial data to identify individuals who are improperly receiving military retired pay and credit for military service in their civil service annuities, or annuities based on the 'guaranteed minimum' disability formula. The match will identify and/or prevent erroneous payments under the Civil Service Retirement Act (CSRA) 5 U.S.C. 8331 and the Federal Employees' Retirement System Act (FERSA) 5 U.S.C. 8411. DoD's legal authority for monitoring retired pay is 10 U.S.C. 1401.

(4) Exchanging civil service and Reserve military personnel data to identify those individuals of the Reserve forces who are employed by the Federal government in a civilian position. The purpose of the match is to identify those particular individuals occupying critical positions as civilians and cannot be released for extended active duty in the event of mobilization. Employing Federal agencies are informed of the reserve status of those affected personnel so that a choice of terminating the position or the reserve assignment can be made by the individual concerned. The authority for conducting the computer match is contained in E.O. 11190, Providing for the Screening of the Ready Reserve of the Armed Services.

3. To the Internal Revenue Service (IRS) for the purpose of obtaining home addresses to contact Reserve component members for mobilization purposes and for tax administration. For the purpose of conducting aggregate statistical analyses on the impact of DoD personnel of actual changes in the tax laws and to conduct aggregate statistical analyses to lifestream earnings of current and former military personnel to be used in studying the comparability of civilian and military pay benefits. To aid in administration of Federal Income Tax laws and regulations, to identify non-compliance and delinquent filers.

4. To the Department of Health and Human Services (DHHS):

a. To the Office of the Inspector General, DHHS, for the purpose of identification and investigation of DoD employees and military members who may be improperly receiving funds under the Aid to Families of Dependent Children Program.

b. To the Office of Child Support Enforcement, Federal Parent Locator Service, DHHS, pursuant to 42 U.S.C. 653 and 653a; to assist in locating individuals for the purpose of establishing parentage; establishing, setting the amount of, modifying, or enforcing child support obligations; or enforcing child custody or visitation orders; and for conducting computer matching as authorized by E.O. 12953 to facilitate the enforcement of child support owed by delinquent obligors within the entire civilian Federal government and the Uniformed Services work force (active and retired). Identifying delinquent obligors will allow State Child Support Enforcement agencies to commence wage withholding or other enforcement actions against the obligors.

Note 1: Information requested by DHHS is not disclosed when it would contravene U.S. national policy or security interests (42 U.S.C. 653(e)).

Note 2: Quarterly wage information is not disclosed for those individuals performing intelligence or counter-intelligence functions and a determination is made that disclosure could endanger the safety of the individual or compromise an ongoing investigation or intelligence mission (42 U.S.C. 653(n)).

c. To the Health Care Financing Administration (HCFA), DHHS for the purpose of monitoring HCFA reimbursement to civilian hospitals for Medicare patient treatment. The data will ensure no Department of Defense physicians, interns or residents are counted for HCFA reimbursement to hospitals.

d. To the Center for Disease Control and the National Institutes of Mental Health, DHHS, for the purpose of conducting studies concerned with the health and well being of the active duty and veteran population.

5. To the Social Security Administration (SSA):

a. To the Office of Research and Statistics for the purpose of conducting statistical analyses of impact of military service and use of GI Bill benefits on long term earnings.

b. To the Bureau of Supplemental Security Income to conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purpose of verifying information provided to the SSA by applicants and recipients who are retired military members or their survivors for Supplemental Security Income (SSI) benefits. By law (42 U.S.C. 1383) the SSA is required to verify eligibility factors and other relevant information provided by the SSI applicant from independent or collateral sources and obtain additional information as necessary before making SSI determinations of eligibility, payment amounts or adjustments thereto.

6. To the Selective Service System (SSS) for the purpose of facilitating compliance of members and former members of the Armed Forces, both active and reserve, with the provisions

of the Selective Service registration regulations (50 U.S.C. App. 451 and E.O. 11623).

7. To DoD Civilian Contractors and grantees for the purpose of performing research on manpower problems for statistical analyses.

8. To the Department of Labor (DOL) to reconcile the accuracy of unemployment compensation payments made to former DoD civilian employees and military members by the states. To the Department of Labor to survey military separations to determine the effectiveness of programs assisting veterans to obtain employment.

9. To the U.S. Coast Guard (USCG) of the Department of Transportation (DOT) to conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purpose of exchanging personnel and financial information on certain retired USCG military members, who are also civilian employees of the Federal government, for the purpose of identifying those individuals subject to a limitation on the amount of military pay they can receive under the Dual Compensation Act (5 U.S.C. 5532), and to permit adjustments of military retired pay by the U.S. Coast Guard and to take steps to recoup excess of that permitted under the dual compensation and pay cap restrictions.

10. To the Department of Housing and Urban Development (HUD) to provide data contained in this record system that includes the name, Social Security Number, salary and retirement pay for the purpose of verifying continuing eligibility in HUD's assisted housing programs maintained by the Public Housing Authorities (PHAs) and subsidized multi-family project owners or management agents. Data furnished will be reviewed by HUD or the PHAs with the technical assistance from the HUD Office of the Inspector General (OIG) to determine whether the income reported by tenants to the PHA or subsidized multi-family project owner or management agent is correct and complies with HUD and PHA requirements.

11. To Federal and Quasi-Federal agencies, territorial, state, and local governments to support personnel functions requiring data on prior military service credit for their employees or for job applications. To determine continued eligibility and help eliminate fraud and abuse in benefit programs and to collect debts and over payments owed to these programs. To assist in the return of unclaimed property or assets escheated to states of civilian employees and military member and to provide members and former members with information and assistance regarding various benefit entitlements, such as state bonuses for veterans, etc. Information released includes name, Social Security Number, and military or civilian address of individuals. To detect fraud, waste and abuse pursuant to the authority contained in the Inspector General Act of 1978, as amended (Pub.L. 95–452) for the purpose of determining eligibility for, and/or continued compliance with, any Federal benefit program requirements.

12. To private consumer reporting agencies to comply with the requirements to update security clearance investigations of DoD personnel.

13. To consumer reporting agencies to obtain current addresses of separated military personnel to notify them of potential benefits eligibility.

14. To Defense contractors to monitor the employment of former DoD employees and members subject to the provisions of 41 U.S.C. 423.

15. To financial depository institutions to assist in locating individuals with dormant accounts in danger of reverting to state ownership by escheatment for accounts of DoD civilian employees and military members.

16. To any Federal, state or local agency to conduct authorized computer matching programs regulated by the Privacy Act of 1974, as amended, (5 U.S.C. 552a) for the purposes of identifying and locating delinquent debtors for collection of a claim owed the Department of Defense or the Unites States Government under the Debt Collection Act of 1982 (Pub.L. 97–365) and the Debt Collection Improvement Act of 1996 (Pub.L. 104–134).

17. To state and local law enforcement investigative agencies to obtain criminal history information for the purpose of evaluating military service performance and security clearance procedures (10 U.S.C. 2358).

18. To the United States Postal Service to conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purposes of:

a. Exchanging civil service and Reserve military personnel data to identify those individuals of the Reserve forces who are employed by the Federal government in a civilian position. The purpose of the match is to identify those particular individuals occupying critical positions as civilians and who cannot be released for extended active duty in the event of mobilization. The Postal Service is informed of the reserve status of those affected personnel so that a choice of terminating the position on the reserve assignment can be made by the individual concerned. The authority for conducting the computer match is contained in E.O. 11190, Providing for the Screening of the Ready Reserve of the Armed Forces.

b. Exchanging personnel and financial information on certain military retirees who are also civilian employees of the Federal government, for the purpose of identifying those individuals subject to a limitation on the amount of retired military pay they can receive under the Dual Compensation Act (5 U.S.C. 5532), and permit adjustments to military retired pay to be made by the Defense Finance and Accounting Service and to take steps to recoup excess of that permitted under the dual compensation and pay cap restrictions.

19. To the Armed Forces Retirement Home (AFRH), which includes the United States Soldier's and Airmen's Home (USSAH) and the United States Naval Home (USNH) for the purpose of verifying Federal payment information (military retired or retainer pay, civil service annuity, and compensation from the Department of Veterans Affairs) currently provided by the residents for computation of their monthly fee and to identify any unreported benefit payments as required by the Armed Forces Retirement Home Act of 1991, Pub.L. 101-510 (24 U.S.C. 414).

20. To Federal and Quasi-Federal agencies, territorial, state and local governments, and contractors and grantees for the purpose of supporting research studies concerned with the health and well being of the active duty and veteran population. DMDC will disclose information from this system of records for research purposes when DMDC:

a. has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained;

b. has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring;

c. has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate

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justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (A) in emergency circumstances affecting the health or safety of any individual, (B) for use in another research project, under these same conditions, and with written authorization of the Department, (C) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (D) when required by law;

d. has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

21. To the Educational Testing Service, American College Testing, and like organizations for purposes of obtaining testing, academic, socioeconomic, and related demographic data so that analytical personnel studies of the Department of Defense civilian and military workforce can be conducted.

Note 3: Data obtained from such organizations and used by DoD does not contain any information which identifies the individual about whom the data pertains.

The 'Blanket Routine Uses' set forth at the beginning of the DLA compilation of record system notices apply to this record system.

Note 4: Military drug test information involving individuals participating in a drug abuse rehabilitation program shall be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 42 U.S.C. 290dd–2. This statute takes precedence over the Privacy Act of 1974, in regard to accessibility of such records except to the individual to whom the record pertains. The DLA's 'Blanket Routine Uses' *do not* apply to these types records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media.

RETRIEVABILITY:

Retrieved by name, Social Security Number, occupation, or any other data element contained in system.

SAFEGUARDS:

W.R. Church Computer Center - Tapes are stored in a locked cage in a controlled access area; tapes can be physically accessed only by computer center personnel and can be mounted for processing only if the appropriate security code is provided.

Back-up location - Tapes are stored in a bank-type vault; buildings are locked after hours and only properly cleared and authorized personnel have access.

RETENTION AND DISPOSAL:

Disposition pending.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955–6771.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

Written requests should contain the full name, Social Security Number, date of birth, and current address and telephone number of the individual.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address inquiries to the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

Written requests should contain the full name, Social Security Number, date of birth, and current address and telephone number of the individual.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records, for contesting contents and appealing initial agency determinations are contained in DLA Regulation 5400.21, 32 CFR part 323, or may be obtained from the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

RECORD SOURCE CATEGORIES:

The military services, the Department of Veteran Affairs, the Department of Education, Department of Health and Human Services, from individuals via survey questionnaires, the Department of Labor, the Office of Personnel Management, Federal and Quasi-Federal agencies, and the Selective Service System.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 98–18619 Filed 7–13–98; 8:45 am]

BILLING CODE 5000–04–F

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Review of Draft Scoping Document, Devils Lake, North Dakota, Emergency Outlet

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of availability.

SUMMARY: A Notice of Intent to prepare an Environmental impact Statement for an outlet from Devils Lake to the Sheyenne River in North Dakota was published in the **Federal Register** on 21 October 1997.

As part of the National Environmental Policy Act process, the Corps of Engineers has conducted agency and public meetings on the project. Based on the results of those meetings and comments received in response to the meetings, the Corps of Engineers has prepared a draft Scoping Document for the project. The Scoping Document identifies the concerns and alternatives that will be addressed in the Environmental impact Statement and defines the geographic scope of the study.

The draft Scoping Document is being distributed for public and agency review, after which a final Scoping Document will be prepared. The comment period and the address for submitting comments will be identified in the document. We anticipate the comment period will end about 28 August 1998.

FOR FURTHER INFORMATION CONTACT: Questions concerning the Scoping Document can be directed to: Lieutenant Colonel William J. Breyfogle, District Engineer, St. Paul District, Corps of Engineers, ATTN: Mr. Robert Whiting, 190 Fifth Street East, St. Paul, Minnesota 55101–1638.

SUPPLEMENTARY INFORMATION: We anticipate that the Draft Environmental Impact Statement will be available to the public in the fall of 1999. The Environmental Impact Statement would be supplemented as appropriate.

Dated: June 26, 1998.

William J. Breyfogle,

Lieutenant Colonel, Corps of Engineers, District Engineer.

[FR Doc. 98–18675 Filed 7–13–98; 8:45 am]

BILLING CODE 3710–CY–M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Availability of the Joint Draft Environmental Impact Statement/Environmental Impact Report (DEIS/EIR) for the Santa Fe and Whittier Narrows Dams Water Conservation and Supply Study, Los Angeles County, California

AGENCY: U.S. Army Corps of Engineers (Corps), Los Angeles District, DOD.

ACTION: Notice of availability.

SUMMARY: The U.S. Army Corps of Engineers has prepared a joint DEIS/EIR and Feasibility Report with the Los Angeles County Department of Public Works (LACDPW) for the Santa Fe and Whittier Narrows Dams Water Conservation and Supply Study, in Los Angeles County, California. Santa Fe and Whittier Narrows Dams are two of the five Federal flood control dams in the Los Angeles County Drainage Area. Santa Fe Dam is located in the northeastern San Gabriel Valley on the San Gabriel River about four miles below the mouth of San Gabriel Canyon. Bordering communities include Irwindale, Baldwin Park, Duarte, and Azusa. Whittier Narrows Dam is located approximately seven miles downstream of Santa Fe Dam and spans both the San Gabriel River and the Rio Hondo. Flood control is the primary purpose for both dams. A water conservation pool has been authorized at Whittier Narrows Dam at elevation 201.6 feet. No water conservation pool currently exists at Santa Fe Dam. Both dams also include extensive recreational facilities and wildlife management or nature study areas. The proposed action considered in this DEIS/EIR involves the temporary storage of water in the reservoirs at Santa Fe and Whittier Narrows Dams after the main flood season has passed during the flood season when flood forecasting predicts that there would be no reasonable expectation of additional rainfall at the end of a storm. The stored water would be released at a slower rate to recharge for spreading basins associated with each dam. The proposed water conservation project would not reduce the effectiveness of either dam to provide flood protection.

The preferred alternative at Santa Fe Dam would establish a buffer pool and seasonal pool at elevation 463.0 feet. Historic records indicate that inundation to elevation 463.0 feet is frequent enough to provide substantial water yields for cost-effective downstream ground water discharge. An interior levee would be constructed to protect recreation and Wildlife Management areas from inundation. The bottom of the levee would be at elevation 446.8 feet nearest the toe of the dam, and the top of the levee would be at elevation 466.0 feet. The top of the levee would be armored to eliminate the need for overtopping protection. The average annual water yield increase for this alternative is estimated at 2,400 acre feet (AF).

The preferred alternative at Whittier Narrows Dam would use the existing 201.6-foot elevation water conservation pool for water conservation whenever significant amounts of water are available and not precluded by other constraints. In addition, a buffer pool and seasonal pool would be established at elevation 209 feet. Protective measures for motors at the water reclamation plant and mitigation for 18 oil wells would be included. Approximately 951 feet (331 Meters) of Durfee Road would need to be raised to elevation 212 feet, which includes three feet for overtopping protection, to maintain traffic flow when water is stored at the maximum seasonal or buffer pool elevation. The average annual water yield increase for this alternative is estimated at 3,500 AF.

Anticipated significant environmental impacts include loss of alluvial scrub habitat at Santa Fe Dam and increased sedimentation at Whittier Narrows Dam. These impacts would be mitigated. No significant environmental health effects are expected to occur.

FOR FURTHER INFORMATION CONTACT: For further information on the Draft Feasibility Report, please contact Ms. Deborah Lamb, U.S. Army Corps of Engineers, Los Angeles District, Attn: CESPL–PD–WA, P.O. Box 532711, Los Angeles, California, 90053–2325, telephone (213) 452–3798. For further information on the Draft EIS/EIR, please contact Ms. Lois Goodman, U.S. Army Corps of Engineers, CESPL–PD–RL, P.O. Box 532711, Los Angeles, California, 90053–2325, telephone (213) 452–3869.

SUPPLEMENTARY INFORMATION: The Army Corps of Engineers has prepared a Draft EIS/EIR to assess the environmental effects associated with the proposed water conservation and supply at Santa Fe and Whittier Narrows Dams. The public will have the opportunity to comment on this Draft EIS/EIR before any action is taken to implement the proposed plan.

The Army Corps of Engineers conducted a scoping meeting prior to preparing the in the city of El Monte Draft EIS/EIR to aid in determining the significant environmental issues associated with the proposed action. The meeting was held in the city of El Monte, California, on March 23, 1995.

The Army Corps of Engineers will conduct a public hearing to receive comments on the Draft EIS/EIR in conjunction with the public meeting to present the Feasibility Report. The public hearing and meeting will take place at the El Monte Community Center, 3130 Tyler Avenue, El Monte, California, on August 12, 1998 from 7:00 PM to 9:00 PM. The location, date, and time of the public hearing and meeting will also be announced in the local media, and separate notice will be sent to all parties on the project mailing list.

Individuals and agencies may present oral or written comments relevant to the Draft EIS/EIR by attending the public hearing or by mailing comments to the Corps prior to August 28, 1998. Comments, suggestions, and requests to be placed on the mailing list for announcements should be sent to Ms. Lois Goodman, U.S. Army Corps of Engineers, CESPL–PD–RL, P.O. Box 532711, Los Angeles, CA 90053–2325.

Availability of the Draft EIS/EIR: Copies of the Draft EIS/EIR are availability for review at the following locations:

Baldwin Park Community Library, 4181 Baldwin Park Blvd., Baldwin Park, California
Pico Rivera Community Library, 9001 Mines Avenue, Pico Rivera, California
El Monte Community Library, 3224 Tyler Avenue, El Monte, California
Norwood Public Library, 4550 N Peck Road, EL Monte, California
South El Monte Community Library, 1430 N. Central Avenue, South El Monte, California
Duarte Community Library, 1301 Buena Vista Street, Duarte, California
South Whittier Community Library, 14433 Leffingwell Road, Whittier, California
Azusa City Library, 729 N. Dalton Avenue, Azusa, California
Irwindale Public Library, 5050 North Irwindale Avenue, Irwindale, California
West Covina Public Library, 1601 West Covina Parkway, West Covina, California
Los Angeles Public Library, Central Library, 630 W 5th Street, Los Angeles, California
U.S. Army Corps of Engineers, Los Angeles District, Environmental Resources Branch, 911 Wilshire Boulevard, 14th Floor, Los Angeles, California
Los Angeles County Department of Public Works, Planning Division, 900 South Fremont Avenue, 11th Floor, Alhambra, California

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To obtain a copy of the Draft EIS/EIR, please contact Ms. Deborah Lamb, U.S. Army Corps of Engineers, Los Angeles District, Attn: CESPL–PD–WA, P.O. Box 532711, Los Angeles, California, 90053–2325, telephone (213) 452–3798. Please address written comments on the Draft EIS/EIR, to Ms. Lois Goodman, U.S. Army Corps of Engineers, Los Angeles District, Attn: CESPL–PD–RL, P.O. Box 532711, Los Angeles, California, 90053–2325, Fax number (213) 452–4204.

Dated: July 7, 1998.

Robert L. Davis,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 98–18676 Filed 7–13–98; 8:45 am]

BILLING CODE 3710–KF–M

DEPARTMENT OF DEFENSE

Department of the Navy

Record of Decision for the Disposal and Reuse of the Department of Defense Housing Facility Novato, California

SUMMARY: The Department of the Navy (Navy), pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. § 4332(2)(C), and the regulations of the Council on Environmental Quality that implement NEPA procedures, 40 CFR Parts 1500–1508, hereby announces its decision to dispose of the Department of Defense Housing Facility (DoDHF) at Novato, California.

Navy intends to dispose of the property in a manner that is consistent with the Hamilton Army Airfield Reuse Plan dated October 1995, as revised in November 1996 (Revised Reuse Plan). These plans address reuse of both DoDHF and the Department of the Army's adjacent Hamilton Army Airfield (HAA). The Hamilton Reuse Planning Authority (HRPA), the Local Redevelopment Authority (LRA) for the DoDHF property, prepared both the October 1995 Reuse Plan and the November 1996 Revised Reuse Plan. The City of Novato approved the Revised Reuse Plan in February 1996 and published it in November 1996.

The Revised Reuse Plan Alternative, identified in the Final Environmental Impact Statement (FEIS) as the Preferred Alternative, would implement the Revised Reuse Plan. The Preferred Alternative proposes an adaptive reuse of certain DoDHF buildings and the retention of existing land uses, *i.e.*, residential areas, community facilities, commercial activities, parkland, and open space.

In deciding to dispose of DoDHF Novato in a manner consistent with the Preferred Alternative, navy has determined that a mixed land use will meet the local economic redevelopment goals of providing housing and recreational resources while also limiting adverse environmental impacts and ensuring land uses that are compatible with adjacent property. This Record Of Decision does not mandate a specific mix of land uses. Rather, it leaves selection of the particular means to achieve the proposed redevelopment to the acquiring entity and the local zoning authority.

Background

The Department of Defense Housing Facility at Novato is located in the southeastern part of the City of Novato in Marin County, California, about 20 miles north of the City of San Francisco. The property covers an area of about 411 acres on two sites that are separated by United States Highway 101.

The 304-acre Main Site is located on the east side of U.S. Highway 101 and contains military family housing, a Commissary, a Navy Exchange, an Officers Club, community service areas, a bowling alley, and recreational fields. The 107-acre Rafael Village military family housing site is located on the west side of U.S. Highway 101, about one mile northwest of the Main Site. The 142-acre Spanish Housing area lies adjacent to the Main Site and was formerly part of the Main Site. Navy will transfer this property to the United States Coast Guard (Coast Guard).

The Hamilton Reuse Planning Authority developed a reuse plan for DoDHF Novato in October 1995. This plan, designated the Hamilton Army Airfield Reuse Plan, addressed reuse of both DoDHF and the adjacent Army Airfield. The Hamilton Army Airfield Reuse Plan proposed adaptive reuse of most of the existing housing and other buildings and retention of the existing land uses.

The Reuse Planning Authority revised the original HAA Reuse Plan to take account of changes in the Coast Guard's request for an interagency transfer of base closure property at DoDHF. The Revised Reuse Plan developed by HRPA incorporated the Coast Guard's revised request. It was approved by the City of Novato in February 1996 and published in November 1996. The Revised Reuse Plan, described in the FEIS as the Revised Reuse Plan Alternative, is the Preferred Alternative. The Department of the Army issued the Record Of Decision for the disposal and reuse of Hamilton Army Airfield on February 24, 1997.

Under the authority of the Defense Base Closure and Realignment Act of 1990, Public Law 101–510, 10 U.S.C. 2687 note, the 1993 Defense Base Closure and Realignment Commission recommended disestablishment of the Navy Public Works Center, San Francisco Bay, which included DoDHF Novato. The recommendation was approved by President Clinton and accepted by the One Hundred Third Congress in 1993. Navy closed the housing facilities at Novato on September 30, 1996.

During the Federal screening process for the Novato housing facilities, two Federal agencies, the Department of Veterans Affairs and the United States Coast Guard, expressed interest in property at DoDHF. The Department of Veterans Affairs initially requested an interagency transfer of 54 housing units at the Main Site but later withdrew its request. The Coast Guard, in its revised request, sought 282 housing units at the Spanish Housing area of the Main Site, and Navy will transfer the 142-acre property that contains these units to the Coast Guard. The remaining property is surplus to the needs of the Federal Government.

Navy published a Notice Of Intent in the **Federal Register** on October 31, 1995, announcing that Navy would prepare an Environmental Impact Statement (EIS) to analyze the impacts of disposal and reuse of the land, buildings, and infrastructure at DoDHF Novato. A public scoping meeting was held at San Marin High School in Novato on November 16, 1995, and the scoping process ended on December 1, 1995.

On January 31, 1997, Navy distributed a Draft Environmental Impact Statement (DEIS) to Federal, State, and local agencies, interested parties, and the general public. Navy held a public hearing concerning the DEIS on February 27, 1997, at San Marin High School. During the forty-five day review period after publication of the DEIS, Federal, State, and local agencies, community groups and associations, and the general public submitted oral and written comments concerning the DEIS. These comments and Navy's responses were incorporated in the Final Environmental Impact Statement and was distributed to the public on November 21, 1997, for a thirty-day review period that concluded on December 22, 1997. navy received five letters concerning the FEIS.

Alternatives

NEPA requires Navy to evaluate a reasonable range of alternatives for the disposal and reuse of this Federal property. In the NEPA process, Navy analyzed the environmental impacts of two "action" alternatives that could result from disposal of the DoDHF Novato property. Navy also evaluated a "No action" alternative that would leave the property in a caretaker status with navy maintaining the physical condition of the property, providing a security force, and making repairs essential to safety. For its analysis, Navy relied upon the Revised Reuse Plan developed by HRPA and approved by the City of Novato.

In March 1994, the City of Novato and the County of Marin entered into the Hamilton Reuse Planning Agreement to establish the HRPA and procedures for ensuring public participation in the reuse planning process. The HRPA is composed of representatives from the City of Novato, the County of Marin, and several advisory groups. The HRPA prepared the Reuse Plan after extensive public involvement and comment.

This process also resulted in the establishment of the Hamilton Advisory Commission (HAC), a citizens committee composed of 25 representatives from various stakeholder groups; the Technical Advisory Committee, a technical guidance committee composed of 33 members from local service districts (*i.e.*, water districts and fire districts) and Federal and state agencies; and the Multi-Agency Board (MAB), composed of two members from the Novato City Council, one member selected by the City Council, two members from the County Board of Supervisors, and one member selected by the Board. The MAB reviewed HAC's recommendations and made recommendations to the Novato City Council regarding adoption of the reuse plan. The goal of this planning process was to develop a reuse plan for HAA, DoDHF and the adjacent private lands and reflected a consensus gained through public participation by the community.

After the City adopted the Reuse Plan, the Department of Veterans Affairs withdrew its request for property at DoDHF and the Coast Guard revised its request for DoDHF property. As a result, the HRPA changed the Reuse Plan. The City of Novato approved the Revised Reuse Plan in February 1996 and published it as the Hamilton Army Airfield Reuse Plan, "Revised November 1996".

The Revised Reuse Plan Alternative, designated in the FEIS as the Preferred Alternative, would implement the Revised Reuse Plan. It proposed a mix of residential, open space, parkland, community, and commercial uses.

The Revised Reuse Plan identifies 10 planning areas and a runway area. Planning Area 1 is the Rafael Village site, a 107-acre suburban residential development located on the west side of U.S. Highway 101. Under the Revised Reuse Plan, the 503 existing Rafael Village structures would be demolished and 500 dwelling units would be built on 86 of the 107 acres. The remaining property would be used for parkland (seven acres), open space (seven acres), and roadway (seven acres). The other planning areas are located at the Main Site, on the east side of U.S. Highway 101 and southeast of Rafael Village.

Planning Area 2 is located in the southwest section of the Main Site. Known as Capehart Housing, it is a 216-acre suburban residential development. Under the Revised Reuse Plan, the existing 100 acres of housing, nine acres of parkland, and 107 acres of open space would be used for the same purposes as their current uses.

Planning Area 3, the Spanish Housing area, is located east of the Capehart Housing and will be transferred to the Coast Guard. It is not available for reuse by the community.

Planning Area 4, the Commissary Triangle, is a 13-acre site located at the northwest corner of the Main Site. Under the Revised Reuse Plan, this property would be used for community and civic purposes and would provide an 80-bed shelter for the homeless.

Planning Area 5, the Navy Exchange Triangle, is located on the west side of the Main Site and covers 28 acres. About 26 acres would be dedicated to community and civic uses, *i.e.*, a public transit center consisting of a park and ride lot and bus stop, a library, a charter school, a homeless shelter, a child care facility, and senior housing. The remaining two acres would be used for private commercial activities that would serve the local residents.

Planning Area 6, the Town Center, is located at the northeast corner of the Main Site and covers eight acres. The Revised Reuse Plan proposes to use four of these acres as a neighborhood commercial area that could accommodate a theater, offices, cafes, specialty shops, personal service shops, and artists workplaces. Two acres would be used for community facilities, *e.g.*, the former chapel, and two acres would serve as a central plaza.

Planning Area 7, known as Hospital Hill, is located southeast of the Town Center area and is part of the Hamilton Army Airfield property. Navy is not responsible for this Army property and did not consider alternative reuses for it.

Planning Area 8, known as the Bowling Alley, is located on the east side of the Main Site and covers 3 acres. The Preferred Alternative would use the existing bowling alley an gymnasium for recreational purposes.

Planning Area 9, the Officers Club, is located on a five-acre landscaped hill south of the Bowling Alley and contains two buildings. The Revised Reuse Plan would use three acres for community and civic purposes with a cultural center, community center and library. Two acres would be used commercially to provide lodging for visitors.

Planning Area 10, the Ballfields, is situated in the southeast corner of the Main Site and covers 31 acres. It contains open space, baseball fields, a swimming pool and poolhouse, and parking lots. The Preferred Alternative would use this entire area as a park and retain the swimming pool complex for recreational activity.

The runway area east of the Main Site is part of the Hamilton Army Airfield property. Navy is not responsible for this Army property and did not consider alternative reuses for it.

In the NEPA process, Navy considered a second "action" alternative, described in the FEIS as the Open Space Alternative. This alternative also proposed a mix of residential, open space, parkland, community and commercial facilities.

Under the Open Space Alternative, all 503 existing structures at Rafael Village would be demolished. This property would then be used for open space and parkland, and no new houses would be built on the site. Reuse of the Main Site would be similar to the Preferred Alternative but would also allow the development of certain facilities that were designated in the Open Space Alternative as corporation yards. These corporation yards would provide areas for the maintenance and storage of up to 50 buses and 40 pieces of heavy equipment. The yards would also contain warehouses, office space and parking lots.

The Capehart Housing area at the Main Site would be used in the Open Space Alternative to provide housing, open space, and parkland. The Commissary Triangle area would provide community and civic facilities. The Navy Exchange Triangle area would be used for community and civic purposes as well as neighborhood commercial activities and would also provide a homeless shelter. A corporation yard would be located in either the Commissary or Exchange Triangles. The Town Center area would be used for community activities. The Bowling Alley area would be used for recreational activities. The Officers Club would be used for commercial and community activities. The Ballfields

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area would be used for parkland and open space.

Environmental Impacts

Navy analyzed the potential impacts of the Preferred Alternative, the Open Space Alternative, and the "No action" Alternative for each alternative's effects on land use, aesthetics and scenic resources, socioeconomics (including employment, income, population, housing, schools, recreation, and environmental justice), public services, utilities, cultural resources, biological resources, geology and soils, water resources, traffic and circulation, air quality, noise, and hazardous materials and waste. This Record of Decision focuses on the impacts that would likely result from implementing the Preferred Alternative.

The Preferred Alternative would not cause any significant impacts on land use, because the proposed uses of each planning area are similar or identical to Navy's historical uses. Although demolition of existing structures and construction of new facilities would cause short term disruption, these temporary activities would not have a significant impact on land use.

The Preferred Alternative would not have significant impacts on aesthetic and scenic resources. The visual impacts arising out of demolition and construction would be minimal and insignificant as a result of their short duration.

The Preferred Alternative would not result in any significant adverse socioeconomic impacts. Indeed, it would enhance affordable housing opportunities, generate additional jobs, and provide more recreational facilities for the City.

The Preferred Alternative would result in a 2.9 percent increase in enrollment in the Novato Unified School District compared with 1995 levels. However, since most schools in this District are operating below their enrollment capacities, implementation of the Preferred Alternative would not exceed school capacity.

The Preferred Alternative would not result in significant impacts on police and fire protection or on emergency medical services in the Novato area. However, the number of requests for these public services will likely increase as the population increases.

The Preferred Alternative would not result in significant impacts on utility systems, *i.e.*, electricity, natural gas, telephone, water supply, storm drainage and sanitary sewer systems. The acquiring entity will upgrade the existing utility systems to meet current utility standards.

While demolition of the Rafael Village houses would not significantly affect the County's landfill capacity, the additional demolition waste would contribute to Marin County's solid waste stream. Thus, a significant impact could result if demolition of the Rafael Village structures prevented Marin County from meeting the State's requirement, set forth in Cal. Pub. Res. Code, § 41780, *et seq.*, to reduce solid waste by 50 percent by the year 2000.

The Preferred Alternative would not have a significant impact on cultural resources. There are four historic properties within an area designated as the Hamilton Army Airfield Discontiguous Historic District. These are the War Department Theater (Building 507) and the Amphitheater in the Town Center planning area; the Bachelor Officers Quarters in the Officers Club planning area (Building 201); and the Swimming Pool (Building 205) in the Ballfields planning area. The Preferred Alternative would use these buildings and structures for purposes similar to Navy's uses.

Navy may convey the War Department Theater and the Bachelor Officers Quarters to the City of Novato through the National Park Service's Historic Monuments Program. 40 U.S.C. § 484(k)(3). Navy may convey the Amphitheater and Swimming Pool to the City of Novato through the National Park Service's Surplus Federal Lands to Public Parks Program. 40 U.S.C. § 484(k)(2). The National Park Service would review and approve plans for the adaptive reuse of these four properties to ensure their preservation after disposal by the Federal Government.

Navy has completed consultation pursuant to Section 106 of the National Historic Preservation Act, 16 U.S.C. § 470 (f), and its implementing regulations, Protection of Historic Properties, 36 CFR Part 800, with the California State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP). The SHPO and the ACHP concurred on October 16, 1997 and October 30, 1997, respectively, with Navy's conclusion that there would be no adverse effect on these four properties or on the HAA Discontiguous Historic District if they were conveyed to the City under the National Park Service programs.

Although Navy did not discover any surface archeological resources at DoDHF Novato, archeological resources could be present in undisturbed areas under the surface. If there are any such discoveries, work will cease in the vicinity of the discovery until professional archeologists have had an opportunity to evaluate the discovery and implement an appropriate treatment plan in accordance with the Novato General Plan and Cal. Pub. Res. Code § 5097, *et seq.*

Increased erosion resulting from demolition and new construction could have a significant impact on biological resources such as sensitive wetland and riparian habitats and on the species that inhabit these areas. The acquiring entity will reduce these impacts to an insignificant level by introducing standard erosion control measures such as silt fences, sedimentation basins, and other structural methods that minimize sedimentation runoff into creeks and wetlands during new construction. Additionally, in accordance with Executive Order 11990, Protection of Wetlands, dated May 24, 1977, Navy will place a Notice in the conveyance document that describes those uses that are restricted under Federal, State, and local wetland regulations.

Navy has completed consultation with the National Marine Fisheries Service and the United States Fish And Wildlife Service pursuant to Section 7 of the Federal Endangered Species Act, 16, U.S.C. § 1531, *et seq.* The National Marine Fisheries Service and the U.S. Fish And Wildlife Service concurred on March 24, 1997 and March 27, 1997, respectively, with Navy's conclusion that disposal and reuse of the DoDHF Novato property is not likely to adversely affect any species on the Federal list of endangered or threatened species.

The Preferred Alternative would allow redevelopment in areas at DoDHF Novato that contain potential geologic hazards. Thus, potentially significant impacts could result from demolition and construction in the Rafael Village area if these actions undermine or weaken unstable slopes. The City of Novato's General Plan requires developers to conduct geotechnical investigations in areas that have landslide potential. The acquiring entity will reduce the potential for landslides to an insignificant level by implementing protective measures during construction.

Parts of the Main Site were built on fill over the San Francisco Basin's Bay Mud formation and are particularly susceptible to damage during earthquakes. The acquiring entity can reduce this potential for earthquake damage to existing structures and new construction to an insignificant level by upgrading the existing structures to comply with current seismic safety standards and by designing new structures that meet current building codes governing seismic safety.

The Preferred Alternative could degrade surface water quality, because the demolition and construction of buildings may disturb the soil and increase erosion and sedimentation into San Jose Creek at the Rafael Village site and Pacheco Creek at the Main Site. The acquiring entity will reduce this impact on surface water quality to an insignificant level by implementing storm water pollution prevention plans and standard erosion control measures before clearing and grading particular sites.

Parts of the property at DoDHF Novato could be subject to flooding. Certain parts of the Rafael Village, Capehart Housing, Commissary Triangle, Navy Exchange Triangle, Town Center, Bowling Alley, and Ballfields areas are located in the 100-year floodplain. In accordance with Executive Order 11988, Floodplain Management, dated May 24, 1977, Navy will place a Notice in the conveyance document that describes those uses that are restricted under Federal, State, and local floodplain regulations.

Navy's evaluation of the impacts on traffic and circulation considered freeway operations, local roadway and intersection operations, public transit facilities and service, and pedestrian and bicycle circulation. The Preferred Alternative would not have significant impacts on freeway and intersection operations. It would generate about 12,095 average daily trips, slightly more than the 11,340 average daily trips that were associated with Navy's use of the DoDHF Novato property, and it would result in a significant increase in the demand for public transit services. There would not be any significant impacts on pedestrian and bicycle traffic.

The Preferred Alternative would have a significant but mitigable impact on air quality. Local dust would be generated during building demolition, renovation, and new construction activities. The acquiring entity will reduce these potential impacts to an insignificant level by implementing standard dust control measures during demolition, renovation and construction.

Section 176 of the Clean Air Act, 42 U.S.C. § 7506, as amended, requires Federal agencies to review their activities to ensure that they do not hamper local efforts to control air pollution. This statute prevents Federal agencies from conducting activities that do not conform to an approved implementation plan but recognizes certain categorically exempt activities. The conveyance of real property, regardless of the method, is a categorically exempt activity. Accordingly, disposal of the DoDHF Novato property does not require Navy to conduct a conformity analysis.

The Preferred Alternative would have significant but mitigable temporary noise impacts on adjacent land arising out of demolition, renovation, and construction activities at the Rafael Village, Navy Exchange Triangle and Commissary Triangle areas. The acquiring entity will reduce these potential noise impacts to an insignificant level by limiting demolition and construction activities to normal daytime hours.

The Preferred Alternative would have a significant noise impact on some residents of the Rafael Village and Capehart Housing areas arising out of the high noise levels generated by existing traffic adjacent to these areas on U.S. Highway 101 and Ignacio Boulevard. Under the Preferred Alternative, residents of these areas would be exposed to 24-hour average noise levels that would exceed the 60 decibel average for residential areas prescribed in the Novato General Plan as the upper limit of acceptability. This is a significant impact that cannot be mitigated to an insignificant level.

Although DoDHF Novato generated a small amount of hazardous waste, Navy's survey identified several areas of contamination. In response, Navy's remediation actions include removal and remediation of underground storage tank areas; abatement of damaged, friable and accessible asbestos; and inspection for and notification of lead-based paint (LBP) for housing units in accordance with the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. 4822.

Residential surveys for LBP showed that LBP is present in the Rafael Village and Capehart Housing units. Since all of the Rafael Village structures will be demolished, no LBP abatement will be performed there. The Capehart Housing units were completed after 1960 and are therefore subject only to the inspection and disclosure requirements of the Residential Lead-Based Paint Hazard Reduction Act.

No significant adverse impacts would be caused by the hazardous materials and hazardous waste that may be used and generated by the Preferred Alternative. The quantity of hazardous materials used, stored, and disposed of, and the quantity of hazardous waste generated on the property would decrease under the Preferred Alternative. Additionally, hazardous materials used and hazardous waste generated under the Preferred Alternative would be controlled by existing regulations under the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901, *et seq.*, codified at 40 CFR parts 260–266.

Navy also analyzed the impacts on low-income and minority populations pursuant to Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, reprinted in 42 U.S.C. § 4321 note. There would be no disproportionately high and adverse human health or environmental effects on minority and low-income populations. Indeed, the Preferred Alternative would increase the amount of housing in the City and County and provide emergency shelter and transitional housing that would benefit the homeless and low-income residents in the area.

Mitigation

Implementation of the decision to dispose of DoDHF Novato does not require Navy to perform any mitigation measures. However, the National Park Service must review and approve all plans for adaptive reuse of the four historic properties if they are conveyed under the Historic Monuments and Surplus Federal Lands to Public Parks programs. As required by Executive Order 11990, Protection of Wetlands, and Executive Order 11988, Floodplain Management, Navy will incorporate Notices in the conveyance document describing wetland and floodplain uses that are restricted under Federal, State, and local regulations.

Navy's FEIS identified and discussed those actions that would be necessary to mitigate the impacts associated with the disposal and reuse of DoDHF Novato. The acquiring entity, under the direction of Federal, State, and local agencies with regulatory authority over protected resources, will be responsible for implementing all necessary mitigation measures.

Comments Received on the FEIS

Navy received comments on the FEIS from the United States Environmental Protection Agency (EPA), the Golden Gate Bridge, Highway, and Transportation District, the Novato Fire Protection District, the Lanham Village Homeowners' Association, Inc., and Marvelous Marin, Inc.

The EPA commented that navy should compare the projected environmental impacts of the two "action" alternatives against two standards: historical environmental conditions (the standard that Navy applied) and those conditions that would exist under the "No action" alternative, *i.e.*, with the facility in a

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caretaker status. Navy believes that its use of historical or previously established environmental conditions is appropriate, because it evaluates the impacts of the proposed reuse in light of the conditions that existed when the facility was open and actively operating.

The Golden Gate Bride, Highway, and Transportation District asked Navy to include additional information in the FEIS concerning existing public transit routes, park and ride lots, bus stops, previous land acquisition by the Transportation District, projected hourly transit trips, and the mission of the Transportation District. The District did not provide comments during the public scoping period or during the DEIS public review period.

As discussed in the FEIS, the anticipated increase in the demand for public transit services under the Preferred Alternative can be reduced to an insignificant level by providing internal collector roadways within the project area that would accommodate public transit vehicles and by providing shuttle services to existing public transit routes. The inclusion of the additional information requested by the Transportation District would not change the results of Navy's environmental analysis in the FEIS.

The Novato Fire Protection District (NFPD) commented that ti is currently providing emergency services to DoDHF Novato through a contract with Navy and the DoDHF Novato is presently located outside the boundaries of the NFPD. The NFPD stated that it would not be able to provide emergency services to the DoDHF site if Navy terminated the contract before other arrangements were made with the NFPD or unless the DoDHF property was annexed into the district.

The Coast Guard challenged NFPD's claim that it requires a contract to provide emergency services to DoDHF Novato. On January 7, 1998, the United States District Court for the Northern District of California decided that NFPD's exclusion of Federal property from the fire district was invalid. This decision has the effect of including DoDHF Novato in the fire district. *Novato Fire Protection District* v. *United States*, No. C 96–3893 FMS (N.D. Cal., Jan. 7, 1998), *reh. den.* (N.D. Cal., Jan. 27, 1998).

Navy also received comments from the Lanham Village Homeowners' Association, Inc. (LVHA) that reflect the views of a neighborhood adjacent to the Main Site on the DoDHF Novato property. The Homeowners' Association requested additional analysis of the Preferred Alternative with respect to the Novato Unified School District's (NUSD) request for a public benefit conveyance of the former Navy Vehicle Maintenance Building. The School District proposes to use the building as a vehicle repair training facility.

The Association also requested additional analysis of a corporation yard that was proposed under the Open Space Alternative. The Association disagrees with Navy's conclusions regarding the environmental impacts of these components of the Preferred Alternative and the Open Space Alternative.

Navy analyzed the proposed reuse of the former Navy Vehicle Maintenance Building under the Preferred Alternative and concluded that it was similar to Navy's historical use of this facility. The proposed NUSD vehicle repair training facility would be required to meet all health and safety regulations concerning noise and air emissions, and reuse of the Vehicle Maintenance Facility would not have significant impacts on land use, noise, and air quality. Navy considers this analysis adequate. Additionally, the land use policies in the Revised Reuse Plan require the acquiring entity to establish landscaping and buffer zones and to consider the compatibility of new uses with existing residential uses such as Lanham Village before approving new uses.

The LVHA commented that the proposed NUSD facility could eventually become a regional bus repair facility. However, the School District is not proposing such an action in its public benefit conveyance request, and HRPA did not propose such a facility in the Revised Reuse Plan.

In response to LVHA's comments on the DEIS concerning the Open Space Alternative, Navy considered the possible uses of the corporation yard in the FEIS. Navy concluded that the establishment of a corporation yard under the Open Space Alternative would not have significant impacts on land use and noise. Additionally, the Preferred Alternative, *i.e.*, the Revised Reuse Plan, does not propose to establish an corporation yards.

The LVHA also stated that the siting of the bus repair training facility or the corporation yard may raise environmental justice concerns. As stated in the FEIS, however, there are no significant and adverse environmental impacts that would disproportionately affect minority and low-income populations.

Marvelous Marin, Inc. did not comment directly on the FEIS, but provided copies of correspondence to the Secretary of the Navy dated November 20, 1997. Marvelous Marin also filed suit in the United States District Court for the Northern District of California on September 30, 1997, alleging that private entities and/or Marin County may have reversionary rights to DoDHF Novato property. *Marvelous Marin, Inc.* v. *United States*, No. C 97–3584 CW (N.D. Cal., filed Sept. 30, 1997). Navy considered these claims and concluded that no such reversionary rights exist. On May 6, 1998, the District Court dismissed the lawsuit with prejudice on the merits. *Marvelous Marin, Inc.* v. *United States*, *id.* (Order and Judgment filed May 6, 1998).

In any entity were to establish reversionary property rights in the future, the City of Novato's zoning and other ordinances would still govern redevelopment of this property. Thus, the FEIS adequately addressed the potential environmental impacts of disposal and reuse of this property under the Preferred Alternative.

Regulations Governing the Disposal Decision

Since the proposed action contemplates disposal under the Defense Base Closure and Realignment Act of 1990 (DBCRA), Public Law 101–510, 10 U.S.C. § 2687 note, Navy's decision was based upon the environmental analysis in the FEIS and application of the standards set forth in DBCRA, the Federal Property Management Regulations (FPMR), 41 CFR Part 101–47, and the Department of Defense Rule on Revitalizing Base Closure Communities and Community Assistance (DoD Rule), 32 CFR Parts 174 and 175.

Section 101–47.303–1 of the FPMR requires that the disposal of Federal property benefit the Federal government and constitute the "highest and best use" of the property. Section 101–47.4909 of the FPMR defines the "highest and best use" as that use to which a property can be put that produces the highest monetary return from the property, promotes its maximum value, or serves a public or institutional purpose. The "highest and best use" determination must be based upon the property's economic potential, qualitative values inherent in the property, and utilization factors affecting land use such as zoning, physical characteristics, other private and public uses in the vicinity, neighboring improvements, utility services, access, roads, location, and environmental and historical considerations.

After Federal property has been conveyed to non-Federal entities, the property is subject to local land use regulations, including zoning and subdivision regulations, and building codes.

Unless expressly authorized by statute, the disposing Federal agency cannot restrict the future use of surplus Government property. As a result, the local community exercises substantial control over future use of the property. For this reason, local land use plans and zoning affect determination of the highest and best use of surplus Government property.

The DBCRA directed the Administrator of the General Services Administration (GSA) to delegate to the Secretary of Defense authority to transfer and dispose of base closure property. Section 2905(b) of DBCRA directs the Secretary of Defense to exercise this authority in accordance with GSA's property disposal regulations, set forth at Sections 101–47.1 through 101–47.8 of the FPMR. By letter dated December 20, 1991, the Secretary of Defense delegated the authority to transfer and dispose of base closure property closed under DBCRA to the Secretaries of the Military Departments. Under this delegation of authority, the Secretary of the Navy must follow FPMR procedures for screening and disposing of real property when implementing base closures. Only where Congress has expressly provided additional authority for disposing of base closure property, *e.g.*, the economic development conveyance authority established in 1993 by Section 2905(b)(4) of DBCRA, may Navy apply disposal procedures other than the FPMR's prescriptions.

In Section 2901 of the National Defense Authorization Act for Fiscal Year 1994, Public Law 103–160, Congress recognized the economic hardship occasioned by base closures, the Federal interest in facilitating economic recovery of base closure communities, and the need to identify and implement reuse and redevelopment of property at closing installations. In Section 2903(c) of Public Law 103–160, Congress directed the Military Departments to consider each base closure community's economic needs and priorities in the property disposal process. Under Section 2905(b)(2)(E) of DBCRA, Navy must consult with local communities before it disposes of base closure property and must consider local plans developed for reuse and redevelopment of the surplus Federal property.

The Department of Defense's goal, as set forth in Section 174.4 of the DoD Rule, is to help base closure communities achieve rapid economic recovery through expeditious reuse and redevelopment of the assets at closing bases, taking into consideration local market conditions and locally developed reuse plans. Thus, the Department has adopted a consultative approach with each community to ensure that property disposal decisions consider the Local Redevelopment Authority's reuse plan and encourage job creation. As a part of this cooperative approach, the base closure community's interests, *e.g.*, reflected in its zoning for the area, play a significant role in determining the range of alternatives considered in the environmental analysis for property disposal. Furthermore, Section 175.7(d)(3) of the DoD Rule provides that the Local Redevelopment Authority's plan generally will be used as the basis for the proposed disposal action.

The Federal Property and Administrative Services Act of 1949, 40 U.S.C. § 484, as implemented by the FPMR, identifies several mechanisms for disposing of surplus base closure property: by public benefit conveyance (FPMR Sec. 101–47.303–2); by negotiated sale (FPMR Sec. 101–47.304–9); and by competitive sale (FPMR 101–47.304–7). Additionally, in Section 2905(b)(4), the DBCRA established economic development conveyances as a means of disposing of surplus base closure property.

The selection of any particular method of conveyance merely implements the Federal agency's decision to dispose of the property. Decisions concerning whether to undertake a public benefit conveyance or an economic development conveyance, or to sell property by negotiation or by competitive bid are committed by law to agency discretion. Selecting a method of disposal implicates a broad range of factors and rests solely within the Secretary of the Navy's discretion.

Conclusion

The HRPA's proposed reuse of the DoDHF Novato property, reflected in the 1996 Hamilton Army Airfield Reuse Plan and embodied in the Preferred Alternative, is consistent with the prescriptions of the FPMR and Section 174.4 of the DoD Rule. The LRA has determined in its Revised Reuse Plan that the property should be used for several purposes including residential, community, civic, commercial, parkland and open space. The property's location, physical characteristics and existing infrastructure as well as the current uses of adjacent property make it appropriate for the proposed uses.

The Revised Reuse Plan responds to local economic conditions, promotes rapid economic recovery from the impact of the facility's closure, and is consistent with President Clinton's Five-Part Plan for Revitalizing Base Closure Communities, which emphasizes local economic redevelopment of the closing military facility and creation of new jobs as the means to revitalize these communities. 32 CFR Parts 174 and 175, 59 Fed. Reg. 16123 (1994). The acquiring entity, under the direction of Federal, State, and local agencies with regulatory authority over protected resources, will be responsible for adopting practicable means to avoid or minimize environmental harm that may result from implementation of the reuse plan.

Although the "No action" Alternative has less potential for causing adverse environmental impacts, this alternative would not take advantage of the property's location, physical characteristics and infrastructure or the current uses of adjacent property. Additionally, it would not foster local economic redevelopment of the DoDHF NOvato property.

Accordingly, Navy will dispose of the Department of Defense Housing Facility at Novato in a manner that is consistent with the Hamilton Reuse Planning Authority's Revised Reuse Plan for the property.

Dated: July 1, 1998.

William J. Cassidy, Jr.,

Deputy Assistant Secretary of the Navy (Conversion And Redevelopment).

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BILLING CODE 3810-FF-M

DEPARTMENT OF DEFENSE

Department of the Navy

Availability of Government-Owned Inventions for Licensing

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The inventions listed below are assigned to the United States Government as represented by the Secretary of the Navy and are made available for licensing by the Department of the Navy.

Copies of patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $3.00 each. Requests for copies of patents must include the patent number.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $6.95 each ($10.95 outside North American Continent). Requests for copies of patent applications must include the patent application serial number. Claims are deleted from the copies of patent applications sold to avoid premature disclosure.

The following patents and patent applications are available for licensing: Patent 5,060,734: SEAWATER HYDRAULIC ROCK DRILL; filed 11 September 1989; patented 29 October 1991.//Patent 5,612,901: APPARATUS AND METHOD FOR CLOUD MASKING; filed 17 May 1994; patented 18 March 1997.//Patent 5,644,665: MULTI-OCTAVE, HIGH DYNAMIC RANGE OPERATION OF LOW-BIASED MODULATORS BY BALANCED DETECTION; filed 27 July 1995; patented 1 July 1997.//Patent 5,656,815: THERMOLUMINESCENCE RADIATION DOSIMETRY USING TRANSPARENT GLASS CONTAINING NANOCRYSTALLINE PHOSPHOR; filed 8 February 1996; patented 12 August 1997.//Patent 5,656,933: SOLDER PASTE AND RESIDUE MEASUREMENT SYSTEM; filed 24 February 1995; patented 12 August 1997.//Patent 5,660,920: INTER-LEVEL DIELECTRICS WITH LOW DIELECTRIC CONSTANTS; filed 14 July 1995; patented 26 August 1997.//Patent 5,661,062: ULTRA HIGH DENSITY, NON-VOLATILE FERROMAGNETIC RANDOM ACCESS MEMORY; filed 27 April 1995; patented 26 August 1997.//Patent 5,661,699: ACOUSTIC COMMUNICATION SYSTEM; filed 13 February 1996; patented 26 August 1997.//Patent 5,663,387: LIPOSOMES CONTAINING POLYMERIZED LIPIDS FOR NON-COVALENT IMMOBILIZATION OF PROTEINS AND ENZYMES; filed 8 August 1995; patented 2 September 1997.//Patent 5,665,430: CHEMICAL VAPOR DEPOSITION METHOD FOR DEPOSITING DIAMOND USING A HIGH TEMPERATURE VACUUM SUBSTRATE MOUNT; filed 30 September 1992; patented 9 September 1997.//

Patent 5,665,559: PRODUCTION OF MONOCLONAL ANTIBODIES TO BACTEROIDES GINGIVALIS BY HYBRIDOMA BGIL VF9/2D; filed 18 May 1989; patented 9 September 1997.//Patent 5,665,618: METHOD OF FORMING AN INTERBAND LATERAL RESONANT TUNNELING TRANSISTOR WITH SINGLE NARROW GATE ELECTRODE; filed 27 January 1995; patented 9 September 1997.//Patent 5,668,777: TORPEDO SIGNAL PROCESSOR; filed 8 July 1996; patented 16 September 1997.//Patent 5,668,779: HYDROPHONE GROUP DESIGN FOR SHALLOW TOWED APPLICATIONS; filed 29 March 1996; patented 16 September 1997.//Patent 5,671,734: AUTOMATIC MEDICAL SIGN MONITOR; filed 3 November 1995; patented 30 September 1997.//Patent 5,673,055: ROSETTE-SHAPED MONOPOLE ANTENNA TOP-LOAD FOR INCREASED ANTENNA VOLTAGE AND POWER CAPABILITY; filed 21 April 1994; patented 30 September 1997.//Patent 5,673,235: SOCK SHAPED INTERNAL STRENGTH MEMBER FOR TOWED ARRAYS; filed 30 July 1987; patented 30 September 1997.//Patent 5,673,644: TRI-JOINT COUPLING; filed 22 August 1996; patented 7 October 1997.//Patent 5,673,645: AGILE WATER VEHICLE; filed 1 April 1996; patented 7 October 1997.//Patent 5,674,752: CONDUCTIVE POLYMER COATED FABRICS FOR CHEMICAL SENSING; filed 16 October 1995; patented 7 October 1997.//Patent 5,675,116: UNMANNED UNDERSEA VEHICLE INCLUDING KEEL-MOUNTED PAYLOAD DEPLOYMENT ARRANGEMENT WITH PAYLOAD COMPARTMENT FLOODING ARRANGEMENT TO MAINTAIN AXI-SYMMETRICAL MASS DISTRIBUTION; filed 11 October 1995; patented 7 October 1997.//Patent 5,675,117: UNMANNED UNDERSEA WEAPON DEPLOYMENT STRUCTURE WITH CYLINDRICAL PAYLOAD CONFIGURATION; filed 11 October 1995; patented 7 October 1997.//Patent 5,675,553: METHOD FOR DATA GAP COMPENSATION; filed 28 June 1996; patented 7 October 1997.//Patent 5,675,680: FIBER-OPTIC CONNECTOR; filed 25 November 1994; patented 7 October 1997.//Patent 5,676,576: SUBMARINE DEPLOYED SEA-STATE SENSOR; filed 22 August 1996; patented 14 October 1997.//Patent 5,677,506: SUBMARINE EXTENDIBLE TURRET SYSTEM; filed 30 December 1996; patented 14 October 1997.//Patent 5,678,504: NEGATIVE LIFT DEVICE FOR TWO CABLE FAIRING; filed 3 June 1996; patented 21 October 1997.//Patent 5,679,818: INORGANIC ARYLACETYLENIC MONOMERS; filed 26 July 1996; patented 21 October 1997.//Patent 5,679,917: BREECH PLUG SUPPORT MECHANISM; filed 5 September 1996; patented 21 October 1997.//Patent 5,679,921: INFRA-RED TRACKING FLARE; filed 27 August 1958; patented 21 October 1997.//Patent 5,680,489: OPTICAL SENSOR SYSTEM UTILIZING BRAGG GRATING SENSORS; filed 28 June 1996; patented 21 October 1997.//Patent 5,681,870: HIGH TEMPERATURE THERMOSETS/CERAMICS FROM NOVEL HYBRID COPOLYMER CONTAINING RANDOM DISTRIBUTION OF BORANYL, SILYL, OR SILOXYL, AND ACETYLENIC UNITS; filed 26 July 1996; patented 28 October 1997.//Patent 5,682,238: MULTIPLE, PARALLEL, SPATIAL MEASUREMENT OF ELECTRICAL PHASE; filed 12 June 1995; patented 28 October 1997.//Patent 5,682,397: ER:YALO UPCONVERSION LASER; filed 30 November 1995; patented 28 October 1997.//Patent 5,684,493: SUPPORT BASE FOR SUBMARINE ANTENNA MAST; filed 29 May 1996; patented 4 November 1997.//Patent 5,685,252: DEVICE FOR REDUCING FLOW OF FLUID FROM A RUPTURED VESSEL; filed 27 March 1995; patented 11 November 1997.//Patent 5,685,966: BUBBLE CAPTURE ELECTRODE CONFIGURATION; filed 20 October 1995; patented 11 November 1997.//Patent 5,686,152: METAL INITIATED NUCLEATION OF DIAMOND; filed 3 August 1995; patented 11 November 1997.//Patent 5,686,667: METHOD FOR DETERMINING THE APPROXIMATE RESONANCE FREQUENCY OF A STRUCTURE SURROUNDED BY A COMPRESSIBLE FLUID; filed 15 April 1996; patented 11 November 1997.//Patent 5,686,692: SINGLE FUSE FOLLOW-THROUGH GRENADE; filed 30 September 1996; patented 1 November 1997.//Patent 5,686,694: UNMANNED UNDERSEA VEHICLE WITH ERECTABLE SENSOR MAST FOR OBTAINING POSITION AND ENVIRONMENTAL VEHICLE STATUS; filed 11 October 1995; patented 11 November 1997.//Patent 5,687,263: OPTICAL RF BANDPASS FILTER AND METHOD FOR MANUFACTURING SAME; filed 2 October 1995; patented 11 November 1997.//Patent 5,687,501: SEALING APPARATUS FOR EXCLUSION OF WATER FROM UNDERWATER GUN BARRELS; filed 6 March 1996; patented 18 November 1997.//Patent 5,687,667: TOWED ARRAY ACOUSTIC PROJECTOR SHADING DEVICE; filed 17 June 1996; patented 18 November 1997.//Patent 5,687,670: CIRCUMFERENTIAL CIRCULATION CONTROL SYSTEM; filed 7 February 1996; patented 18 November 1997.//Patent 5,687,671: UNDERWATER PROPULSION DEVICE; filed 17 April 1996; patented 18 November 1997.//Patent 5,687,769: CONFIGURABLE PORT ASSEMBLY; filed 16 January 1996; patented 18 November 1997.//Patent 5,688,405: METHOD AND APPARATUS FOR SEPARATING PARTICULATE MATTER FROM A FLUID; filed 28 February 1996; patented 18 November 1997.//Patent 5,688,406: METHOD AND APPARATUS FOR SEPARATING PARTICULATE FROM A FLOWING FLUID; filed 28

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filed 31 May 1995; patented 25 November 1997.//Patent 5,690,963: FREEZE DRIED RED BLOOD CELLS; filed 30 June 1995; patented 25 November 1997.//Patent 5,691,482: ADHESIVE SHEAR STRENGTH TEST APPARATUS; filed 11 July 1996; patented 25 November 1997.//Patent 5,691,903: INTEGRATED CABLE NAVIGATION AND CONTROL SYSTEM; filed 8 September 1995; patented 25 November 1997.//Patent 5,692,521: SLEEP APNEA RESOLUTION APPLIANCE; filed 9 February 1996; patented 2 December 1997.//Patent 5,693,794: CAGED POLYNITRAMINE COMPOUND; filed 30 September 1988; patented 2 December 1997.//Patent 5,693,889: METHOD FOR MONITORING SURFACE STRESS; filed 27 August 1996; patented 2 December 1997.//Patent 5,694,375: ULTRA-BROADBAND HYDROPHONE; filed 22 March 1996; patented 2 December 1997.//Patent 5,694,497: INTRINSICALLY SELF DEFORMING FIBER OPTIC MICROBEND PRESSURE AND STRAIN SENSOR; filed 19 June 1995; patented 2 December 1997.//Patent 5,694,977: HIGH PRESSURE ENABLED, LOW PRESSURE ACTIVATED AUTOMATIC FLUID CONTROL VALVE; filed 5 September 1995; patented 9 December 1997.//Patent 5,696,700: SYSTEM AND COMPUTER-IMPLEMENTED METHOD FOR FRACTAL-DIMENSION MEASUREMENT FOR TARGET-MOTION ANALYSIS NOISE DISCRIMINATION; filed 26 June 1995; patented 9 December 1997.//Patent 5,696,738: UNDERWATER SENSING DEVICE FOR OCEAN FLOOR CONTACT; filed 10 May 1996; patented 9 December 1997.//Patent 5,698,817: UNMANNED UNDERSEA WEAPON DEPLOYMENT STRUCTURE WITH CYLINDRICAL PAYLOAD DEPLOYMENT SYSTEM; filed 11 October 1995; patented 16 December 1997.//Patent 5,699,068: DOPPLER VIDEO SIGNAL CONDITIONING CIRCUIT; filed 28 May 1996; patented 16 December 1997.//Patent 5,701,101: CHARGE AMPLIFIER FOR BLAST GAUGES; filed 20 March 1995; patented 23 December 1997.//Patent 5,701,839: PRESSURE MINESWEEPING VEHICLE; filed 21 February 1967; patented 30 December 1997.//Patent 5,702,273: MARINE PROPULSION SYSTEM FOR UNDERWATER VEHICLES; filed 19 May 1996; patented 30 December 1997.//Patent 5,702,586: POLISHING DIAMOND SURFACE; filed 28 June 1994; patented 30 December 1997.//Patent 5,703,314: INFRARED PROJECTOR COUNTERMEASURE SYSTEM; filed 20 November 1996; patented 30 December 1997.//Patent 5,703,373: ALIGNMENT FIDUCIAL FOR IMPROVING PATTERNING PLACEMENT ACCURACY IN E-BEAM MASKS FOR X-RAY LITHOGRAPHY; filed 3 November 1995; patented 30 December 1997.//Patent 5,703,906: SYSTEM FOR ASSESSING STOCHASTIC PROPERTIES OF SIGNALS REPRESENTING THREE ITEMS OF MUTUALLY ORTHOGONAL MEASUREMENT INFORMATION; filed 17 January 1996; patented 30 December 1998.//Patent 5,704,057: REAL-TIME DATA SORTER; filed 1 October 1992; patented 30 December 1997.//Patent 5,708,116: LOW DIELECTRIC CONSTANT ALLYLICS; filed 31 May 1995; patented 13 January 1998.//Patent 5,742,121: THIN-FILM EDGE FIELD EMITTER DEVICE AND METHOD OF MANUFACTURE THEREFOR; filed 5 June 1996; patented 21 April 1998.//Patent application 08/237,579: FLEXIBLE HIGH-DAMPING COMPOSITE STRUCTURES AND FABRICATION THEREOF; filed 3 May 1994.//Patent application 08/449,582: BIOMEDICAL IMAGING BY OPTICAL PHASE CONJUGATION; filed 24 May 1995.//Patent application 08/601,272: COATING EVALUATION SYSTEM; filed 14 February 1996.//Patent application 08/624,831: CONVEYOR SAFETY TRAY; filed 21 March 1996.//Patent application 08/669,687: CONTAMINATION CONTROL OF EMISSION DISCHARGE; filed 24 June 1996.//Patent application 08/682,878: UNDERWATER MATEABLE ELECTRICAL CONNECTOR WITH ANTI-HYDROLOCK FEATURE; filed 24 June 1997.//Patent application 08/725,217: SPINNING FILTER SEPARATION SYSTEM FOR OIL SPILL CLEAN-UP OPERATION; filed 26 September 1996.//Patent application 08/740,067: NEURAL NETWORK BASED METHOD FOR ESTIMATING HELICOPTER LOW AIRSPEED; filed 24 October 1996.//Patent application 08/744,702: WIDE-BAND OMNI TELEMETRY SYSTEM; filed 31 October 1996.//Patent application 08/773,459: ELECTRIC FIELD CONTROL OF EPILEPTIFORM ACTIVITY; filed 24 December 1996.//Patent application 08/800,417: TRIMODE FUZE; filed 14 February 1997.//Patent application 08/802,572: HYBRID NEURAL NETWORK FOR PATTERN RECOGNITION; filed 3 February 1997.//Patent application 08/802,701: DUCT FLOW CONTROL SYSTEM; filed 19 February 1997.//Patent application 08/806,375: ZINC OXIDE STABILIZED ZIRCONIA; filed 27 February 1997.//Patent application 08/815,013: NOVEL LINEAR METALLOCENE POLYMERS CONTAINING ACETYLENIC AND INORGANIC UNITS AND THERMOSETS AND CERAMICS THEREFROM; filed 14 March 1997.//Patent application 08/826,110: OHMIC CONTACT FOR SEMICONDUCTOR; filed 27 March 1997.//Patent application 08/841,343: DIAMOND OR DIAMOND LIKE CARBON COATED CHEMICAL SENSORS AND A METHOD OF MAKING SAME; filed 30 April 1997.//Patent application 08/847,171: OPTICAL NOTCH FILTERS BASED ON TWO-DIMENSIONAL PHOTONIC BAND-GAP MATERIALS; filed 8 April 1997.//Patent application 08/848,203: DESIGN AND FABRICATION OF ELECTRONIC DEVICES WITH InAlAsSb/AlSb BARRIER; filed 29 April 1997.//Patent application 08/858,633: HYBRID FIBER BRAGG GRATING/LONG PERIOD FIBER GRATING SENSOR FOR STRAIN/TEMPERATURE DISCRIMINATION; filed 19 May 1997.//Patent application 08/863,616: LABORATORY TEST METHOD TO MEASURE TOWED ARRAY HYDROPHONE RESPONSE; filed 23 May 1997.//Patent application 08/877,880: HIGH TEMPERATURE SUPERCONDUCTING.CERAMIC OXIDE COMPOSITE WITH RETICULATED METAL FOAM; filed 18 June 1997.//

Patent application 08/885,700: UNDERWATER SEARCH ANGLE SELECTION SYSTEM AND METHOD OF SPECIAL UTILITY WITH SURFACE CONTACTS; filed 30 June 1997.//Patent application 08/885,702: UNDERWATER ACOUSTIC SEARCH ANGLE SELECTION SYSTEM AND METHOD OF SPECIAL UTILITY WITH SUBMERGED CONTACTS; filed 30 June 1997.//Patent application 08/888,382: ELASTOMERIC CARTRIDGES FOR ATTENUATON OF BEARING-GENERATED VIBRATION IN ELECTRIC MOTORS; filed 19 February 1997.//Patent application 08/890,479: METHOD AND SYSTEM FOR PROCESSING ACOUSTIC SIGNALS; filed 9 July 1997.//Patent application 08/891,365: METHOD AND APPARATUS FOR SIMULATING A LOFARGRAM IN A MULTIPATH SONAR SYSTEM; filed 10 July 1997.//Patent application 08/891,366: FLUID PRESSURE MEASURING DEVICE INTERFACE; filed 10 July 1997.//Patent application 08/891,368: METHOD AND APPARATUS FOR SIMULATING REVERBERATION IN A MULTIPATH SONAR SYSTEM; filed 10 July 1997.//Patent application 08/891,369: METHOD AND APPARATUS FOR SIMULATING A MULTIPATH SONAR SYSTEM; filed 10 July 1997.//Patent application 08/891,370: SUBMERSIBLE DEVICE LAUNCHER; filed 10 July 1997.//Patent application 08/891,371: METHOD AND APPARATUS FOR SIMULATING AUTOCORRELATION COEFFICIENTS IN A MULTIPATH SONAR SYSTEM; filed 10 July 1997.//Patent application 08/891,372: METHOD AND APPARATUS FOR SIMULATING CROSS-CORRELATION COEFFICIENTS IN A MULTIPATH SONAR SYSTEM; filed 10 July 1997.//Patent application 08/896,527: FUSING CONTACT DATA FOR BEST-ESTIMATE SOLUTION; filed 7 July 1997.//Patent application 08/896,528: CONTACT DATA CORRELATION WITH REASSESSMENT; filed 7 July 1997.//Patent application 08/904,275: INLINE COAXIAL BALUN FED ULTRAWIDEBAND CORNU FLARED HORN ANTENNA; filed 31 July 1997.//Patent application 08/904,937: NUCLEAR QUADRUPOLE RESONANCE (NQR) METHOD AND PROBE FOR GENERATING RF MAGNETIC FIELDS IN DIFFERENT DIRECTIONS TO DISTINGUISH NQR FROM ACOUSTIC RINGING INDUCED IN A SAMPLE; filed 1 August 1997.//Patent application 08/910,844: POWER CYLINDER NON-METALLIC LINER SEAL ASSEMBLY; filed 13 August 1997.//Patent application 08/912,971: UNDERWATER MEASUREMENT DEVICE; filed 4 August 1997.//Patent application 08/914,019: UNDERSEA VEHICLE PROPULSION AND ATTITUDE CONTROL SYSTEM; filed 12 August 1997.//Patent application 08/914,024: STOP CYLINDER AND PISTON ASSEMBLY; filed 12 August 1997.//Patent application 08/917,963: LARGE AREA PLASMA PROCESSING SYSTEM (LAPPS); filed 27 August 1997.//Patent application 08/919,185: BELT REPAIR SYSTEM AND METHOD; filed 15 August 1997.//Patent application 08/919,346: HIGH TEMPERATURE SUPERCONDUCTOR/INSULATOR COMPOSITE THIN FILMS WITH JOSEPHSON COUPLED GRAINS; filed 28 August 1997.//Patent application 08/920,877: AMPLIFICATION BY MEANS OF DYSPROSIUM DOPED LOW PHONON ENERGY GLASS WAVEGUIDES; filed 29 August 1997.//Patent application 08/920,878: LOW PHONON ENERGY GLASS AND FIBER DOPED WITH A RARE EARTH; filed 29 August 1997.//Patent application 08/921,054: SILICONE-CONTAINING FLUOROPOLYMERS FOR CONTROLLED RELEASE OF ORGANIC LEACHANTS; filed 29 August 1997.//Patent application 08/940,043: FIBER-REINFORCED PHTHALONITRILE COMPOSITE CURED WITH LOW-REACTIVITY AROMATIC AMINE CURING AGENT; filed 2 October 1997.//Patent application 08/940,178: DIRECT MOLECULAR PATTERNING USING A MICRO-STAMP GEL; filed 30 September 1997.//Patent application 08/940,737: RED LIGHT SOURCE; filed 30 September 1997.//Patent application 08/941,932: MECHANICAL CRUSH GAUGE AND METHOD OF USING SAME TO MEASURE FREE-FIELD ENERGY FLUX DENSITY; filed 30 September 1997.//Patent application 08/942,191: MID SHIPS TOW POINT FOR SINGLE LINE AND MULTI LINE TOWED ARRAYS; filed 1 October 1997.//Patent application 08/942,192: ISOLATED SENSING DEVICE HAVING AN ISOLATION HOUSING; filed 1 October 1997.//Patent application 08/944,105: FIBER OPTIC CABLE FURCATION UNIT; filed 30 September 1997.//Patent application 08/948,013: COMBINED WEDGE-FLAP FOR IMPROVED SHIP POWERING; filed 10 October 1997.//Patent application 08/954,885: ADJUSTABLE LIFTING AND PRECISION POSITIONING DEVICE; filed 9 October 1997.//Patent application 08/954,888: TORPEDO TUBE TEST PLUG; filed 9 October 1997.//Patent application 08/962,454: FRINGE FIELD SUPERCONDUCTING SWITCH; filed 31 October 1997.//Patent application 08/965,023: AMMONOTHERMAL GROWTH OF CHALCOGENIDE SINGLE CRYSTAL MATERIALS; filed 5 November 1997.//Patent application 08/977,569: PROCESSOR FOR INTERFACING A NTDS DEVICE TO A DEVICE HAVING A BUS TOPOLOGY; filed 25 November 1997.//Patent application 08/989,271: CHEMICAL WARFARE AGENT DECONTAMINANT SOLUTION USING QUATERNARY AMMONIUM COMPLEXES; filed 11 December 1997.//Patent application 09/007,826: PHTHALONITRILE MONOMER/CURING ADDITIVE COMPOSITIONS; filed 15 January 1998.//Patent application 09/045,853: FIELD EMITTER CELL AND ARRAY WITH VERTICAL THIN-FILM-EDGE EMITTER; filed 23 March 1998.//

FOR FURTHER INFORMATION CONTACT: Mr. R.J. Erickson, Staff Patent Attorney, Office of Naval Research (Code OOCC), Arlington, VA 22217–5660, telephone (703) 696–4001.

(Authority: 35 U.S.C. 207; 37 CFR Part 404).

Dated: July 1, 1998.

Lou Rae Langevin,

LT, JAGC, USN, Alternate Federal Register Liaison Officer.

[FR Doc. 98–18702 Filed 7–13–98; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Open Meeting of the Board of Advisors to the Superintendent; Naval Postgraduate School, Monterey, California

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Board of Advisors to the Superintendent, Naval Postgraduate School, Monterey, California will meet pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 5 USC App. 2). All sessions will be open to the public.

DATES: The meetings will be held on Monday, July 27, 1998 from 8:30 a.m. to 5:00 p.m., and on Tuesday, July 28, 1998 from 8:30 a.m. to 4:30 p.m.

ADDRESSES: The meetings will be held in Hermann Hall (Building 220) at the Naval Postgraduate School, Monterey, California.

FOR FURTHER INFORMATION CONTACT: Ms. Jaye Panza, Naval Postgraduate School, Monterey, California, 93943–5000, telephone (408) 656–2514.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to elicit the advice of the board on the Navy's Postgraduate Education Program. The board examines the effectiveness with which the Naval Postgraduate School is accomplishing its mission. To this end, the board will inquire into the curricula; instruction; physical equipment; administration; state of morale of the student body, faculty, and staff; fiscal affairs; and any other matters relating to the operation of the Naval Postgraduate School as the board considers pertinent.

Dated: July 2, 1998.

Lou Rae Langevin,

Lt, JAGC, USN, Alternate Federal Liaison Officer.

[FR Doc. 98–18701 Filed 7–13–98; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

ACTION: Submission for OMB review; comment request

SUMMARY: The Acting Deputy Chief Information Officer, Office of the Chief Information Officer, invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before August 13, 1998.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Deputy Chief Information Officer, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: July 9, 1998.

Hazel Fiers,

Acting Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: Revision.

Title: Loan Servicing Appeals of William D. Ford Federal Direct Loan Program Cohort Rates.

Frequency: On Occasion.

Affected Public: Business or other for-profit; Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 97,063

Burden Hours: 965,106

Abstract: The proposed rules would provide for a school's appeal of the inclusion of a Direct Loan in its cohort rate on the basis of improper loan servicing or collection. The proposed rules would also clarify requirements concerning when a rate is final.

[FR Doc. 98–18679 Filed 7–13–98; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–637–000]

Columbia Gas Transmission Corporation; Notice of Application

July 8, 1998.

Take notice that on June 26, 1998, Columbia Gas Transmission Corporation (Columbia), 12801 Fair Lakes Parkway, Fairfax, Virginia 22030–0146 filed an application pursuant to Sections 7(b) and 7(c) of the Natural Gas Act and Part 157 of the Commission's Regulations for authorization permitting and approving the abandonment of pipeline facilities and a certificate of public convenience and necessity to construct and operate replacement pipeline facilities, an increase in deliverability from an existing storage field, and reacquisition of certain pipeline capacity storage wells, as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Columbia requests authorization for the following:

- Abandonment of 6.9 miles of 12-inch pipeline and appurtenant facilities on Line VM–108, in Sussex County, Virginia.
- Construction and operation of 6.9 miles of 20-inch pipeline and appurtenant facilities in Sussex County, Virginia (replacing the 12-inch pipeline to be abandoned).
- Increase the deliverability of the Glady Storage Field in Randolph and Pocahontas Counties, West Virginia by enhancing two existing wells.
- Reacquire existing pipeline capacity on Columbia's Solo Pipeline between the Emoria and Petersburg Compressor Stations from Transco Energy Marketing Company.

Columbia states that the proposed replacement is primarily due to age and condition. In addition, replacement of 12-inch with 20-inch pipeline will permit Columbia to fulfill a request by Virginia Natural Gas Company (VNG) for an additional 14,625 Dth per day in Firm Storage Service (FSS) and associated Firm Storage Transportation (SST) to its Norfolk, Virginia delivery point. The estimated cost of the proposed project is $7,193,200. The incremental costs associated with additional service to VNG are estimated to be $2,706,200.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 29, 1998, file with the Federal Energy Regulatory Commission, 888 First

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Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. The Commission's rules require that protestors provide copies of their protests to the party or parties directly involved. Any person wishing to become a party in any proceeding herein must file a motion to intervene in accordance with the Commission's rules.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by every one of the intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must submit copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek rehearing or appeal the Commission's final order to a federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonments and a grant of the certificate are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Columbia to appear or to be represented at the hearing.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18654 Filed 7–13–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–638–000]

Columbia Gulf Transmission Company; Notice of Request Under Blanket Authorization

July 8, 1998.

Take notice that on June 26, 1998, Columbia Gulf Transmission Company (Columbia Gulf), 206 Augusta, STE 125, Post Office Box 683, Houston, Texas 77001–0683, filed in Docket No. CP98–638–000, a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) and Columbia Gulf's blanket certificate issued in Docket No. CP83–496–000, pursuant to 18 CFR Part 157, Subpart F of the Natural Gas Act, to construct and operate delivery facilities for Tennessee Valley Authority (TVA), in Wilson, County, Tennessee, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, Columbia Gulf requests authorization to construct and operate the delivery facilities for interruptible transportation service to TVA to serve the Gallatin Plant and would provide the service pursuant to its blanket certificate authority under existing authorized rate schedules and within certificated entitlements and pursuant to TVA's request. Columbia Gulf states that TVA has requested interruptible transportation service of 240 MDth per day under Columbia Gulf's Rate Schedule ITS–1.

Columbia Gulf indicates that the facilities would include a 12-inch tap, 12-inch ball value, and 12-inch ring joint blind flange on its 30-inch mainline lateral. Columbia Gulf states that the cost to construct the facilities would be approximately $893,400 and would be paid for by TVA. Columbia Gulf also states that it would comply with all of the environmental requirements of Sections 157.206(d) of the Commission's Regulations prior to the construction of any facilities.

In addition, it is indicated in the agreement between Columbia and TVA that TVA would own and be responsible for the design and construction of 2.3 miles of 12-inch lateral pipeline extending to its Gallatin Plant. It is further indicated that nothing shall prohit or restrict TVA from selling or otherwise transferring all or part of its ownership interest in the lateral pipeline to a third party that will transport gas through the lateral pipeline.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) motion to intervene of notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18655 Filed 7–13–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–647–000]

Florida Gas Transmission Company; Notice of Application To Abandon

July 8, 1998.

Take notice that on July 1, 1998, Florida Gas Transmission Company (FGT), P.O. Box 1188, Houston, Texas 77251–1188, filed under Section 7(b) of the Natural Gas Act, for authority to abandon by sale to Acacia Natural Gas Corporation (Acacia) gas facilities consisting of 43.7 miles of pipeline in the counties of Jackson, Calhoun, and Matagorda, Texas. FGT also seeks a determination that the facilities, will not be subject to Commission jurisdiction under NGA Section 1(b) once they are conveyed to Acacia and disconnected from FGT's system. This application is on file with the Commission and open to public inspection.

Specifically, FGT proposes to sell the Palacios Lateral consisting of 12.1 miles of 6-inch line and a measurement station, the Palacios Loop consisting of 13.5 miles of 8-inch line, the Appling Lateral consisting of 11.9 miles of 4-inch line, the North LaWard Lateral consisting of 6.1 miles of 6-inch line, and the Mobil North LaWard Lateral consisting of 0.1 miles of 2-inch line. FGT states that it has no natural gas reserves attached to the facilities and that throughput is minimal.

FGT also seeks a determination that the facilities will be exempt from Commission jurisdiction after they are sold and disconnected from FGT's system. FGT states that Acacia will use the pipelines for gathering.

Any person desiring to be heard or make a protest with reference to said application should on or before July 29, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the Protesters parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required, or if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for FGT to appear or be represented at the hearing.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18656 Filed 7–13–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–724–000]

NorAm Gas Transmission Company; Notice of Site Visit

July 8, 1998.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will be conducting a site visit for NorAm Gas Transmission Company's Line F Replacement Project in Caddo, Bossier, Webster, Claiborne, and Lincoln Parishes, Louisiana on Thursday and Friday, July 16 & 17, 1998.

Anyone interested in participating in the site visit or requiring additional information about the project may contact Paul McKee in the Commission's Office of External Affairs at (202) 208–1088. Participants must provide their own transportation.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18653 Filed 7–13–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2042–010]

Public Utility District No. 1 of Pend Oreille County; Notice Rescinding Notice of Offer of Settlement

July 8, 1998.

On May 14, 1998, the United States Department of the Interior, through the Bureau of Indian Affairs and the U.S. Fish and Wildlife Service, the Public Utility District No. 1 of Pend Oreille County, Washington, the Kalispel Tribe of Indians, the Washington State Department of Fish and Wildlife, and the United States Forest Service filed an Offer of Settlement which, if approved by the Commission, would resolve the pending license amendment application for the Box Canyon Project No. 2042, filed by the District on February 18, 1997.

Notice of the Settlement Agreement was issued on may 27, 1998, 63 FR 29,983 (June 2, 1998), establishing dates of June 17, 1998, for comments and June 29, 1998, for reply comments. A second notice of the Settlement Agreement was inadvertently issued on June 25, 1998, 63 Fed. Reg. 35,920 (July 1, 1998). The June 25, 1998 notice is hereby revoked.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18657 Filed 7–13–98; 8:45 am]

BILLING CODE 6717–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1223–DR]

Florida; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Florida, (FEMA–1223–DR), dated June 18, 1998, and related determinations.

EFFECTIVE DATE: June 29, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Florida, is hereby amended to include reimbursement of local municipal fire fighting costs (Category B) under the Public Assistance program in the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of June 18, 1998:

Alachua, Baker, Bradford, Brevard, Clay, Citrus, Columbia, Dixie, Duval, Flagler, Gilchrist, Gulf, Hamilton, Hernando, Lafayette, Lake, Lee, Levy, Madison, Marion, Nassau, Okaloosa, Orange, Osceola, Pasco, Putnam, St. Johns, Seminole, Sumter, Suwannee, Taylor, Union, Volusia, and Walton Counties.

All counties in the State of Florida are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing

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Program; 83.548, Hazard Mitigation Grant Program.)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–18713 Filed 7–13–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1223–DR]

Florida; Amendment No. 4 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Florida, (FEMA–1223–DR), dated June 18, 1998, and related determinations.

EFFECTIVE DATE: June 29, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Florida, is hereby amended to include movement and use of Federal resources and reimbursement for the eligible costs associated with that use for all 67 counties in the State of Florida.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–18714 Filed 7–13–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1223–DR]

Florida; Amendment No. 5 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Florida, (FEMA–1223–DR), dated June 18, 1998, and related determinations.

EFFECTIVE DATE: July 2, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Florida, is hereby amended to include Category B under the Public Assistance program in the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of June 18, 1998.

Alachua, Baker, Bradford, Brevard, Clay, Citrus, Columbia, Dixie, Duval, Flagler, Gilchrist, Gulf, Hamilton, Hernando, Lafayette, Lake, Lee, Levy, Madison, Marion, Nassau, Okaloosa, Orange, Osceola, Pasco, Putnam, St. Johns, Seminole, Sumter, Suwannee, Taylor, Union, Volusia, and Walton Counties.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–18715 Filed 7–13–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1224–DR]

Massachusetts; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Commonwealth of Massachusetts (FEMA–1224–DR), dated June 23, 1998, and related determinations.

EFFECTIVE DATE: June 23, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated June 23, 1998, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the Commonwealth of Massachusetts, resulting from heavy rains and flooding beginning on June 13, 1998, and continuing is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93–288, as amended ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the Commonwealth of Massachusetts.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Hazard Mitigation in the designated areas and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. If Public Assistance is later requested and warranted, Federal funds provided under that program will also be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Sharon Stoffel of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the Commonwealth of Massachusetts to have been affected adversely by this declared major disaster:

Bristol, Essex, Middlesex, Norfolk, and Suffolk Counties for Individual Assistance.

All counties within the Commonwealth of Massachusetts are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment

Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

James L. Witt,

Director.

[FR Doc. 98–18716 Filed 7–13–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1224–DR]

Massachusetts; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Massachusetts, (FEMA–1224–DR), dated June 23, 1998, and related determinations.

EFFECTIVE DATE: July 2, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Massachusetts is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of June 23, 1998:

Plymouth and Worcester Counties for Individual Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Laurence W. Zensinger,

Division Director, Response and Recovery Directorate.

[FR Doc. 98–18717 Filed 7–13–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1225–DR]

Minnesota; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Minnesota (FEMA–1225–DR), dated June 23, 1998, and related determinations.

EFFECTIVE DATE: June 23, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated June 23, 1998, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

> I have determined that the damage in certain areas of the State of Minnesota, resulting from severe storms, straight-line winds and tornadoes on May 15–30, 1998, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93–288, as amended ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Minnesota.
>
> In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.
>
> You are authorized to provide Public Assistance and Hazard Mitigation in the designated areas and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Lawrence L. Bailey of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Minnesota to have been affected adversely by this declared major disaster:

Anoka, Blue Earth, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington Counties for Public Assistance.

All counties within the State of Minnesota are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

James L. Witt,

Director.

[FR Doc. 98–18718 Filed 7–13–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1227–DR]

Ohio; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Ohio, (FEMA–1227–DR), dated June 30, 1998, and related determinations.

EFFECTIVE DATE: July 2, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Ohio, is hereby amended to include Categories C through G in the following areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of June 30, 1998:

Guernsey, Muskingum, Noble, and Washington Counties for Categories C through G (already designated for Categories A and B and Individual Assistance).

Athens, Jefferson, and Knox Counties for Individual Assistance and Public Assistance.

Belmont, Jackson, and Ottawa Counties for Individual Assistance.

Meigs County for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used

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for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–18719 Filed 7–13–98; 8:45 am]

BILLING CODE 6718-02-P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1219–DR]

Pennsylvania; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Pennsylvania, (FEMA–1219–DR), dated June 8, 1998, and related determinations.

EFFECTIVE DATE: June 25, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Pennsylvania, is hereby amended to include Categories A and B under the Public Assistance program in those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of June 8, 1998:

> The counties of Allegheny, Beaver, Berks, Somerset and Wyoming Counties for Categories A and B under the Public Assistance program (already designated for Individual Assistance and Hazard Mitigation).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–18712 Filed 7–13–98; 8:45 am]

BILLING CODE 6718-02-P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–3127–EM]

Texas; Emergency and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of an emergency for the State of Texas (FEMA–3127–EM), dated June 23, 1998, and related determinations.

EFFECTIVE DATE: June 23, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated June 23, 1998, the President declared an emergency under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

> I have determined that the emergency conditions in the State of Texas, resulting from extreme fire hazards beginning on June 4, 1998, is of sufficient severity and magnitude to warrant an emergency declaration under Title V, Section 501 (a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. 93–288, as amended ("the Stafford Act"). I, therefore, declare that such an emergency exists in the State of Texas.
>
> You are authorized to coordinate with other Federal agencies to provide any form of direct Federal assistance which you deem appropriate for required emergency measures, authorized under the Stafford Act, to save lives, protect property and public health and safety, and lessen or avert the threat of a catastrophe in the designated areas. You are also authorized to provide reimbursement for the eligible costs associated with the pre-staging of Emergency Management Assistance Compact fire suppression assets. In addition, you are authorized to provide such other forms of assistance under the Stafford Act, as you may deem appropriate.
>
> In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts, as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act will be limited to 75 percent of the total eligible costs.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Graham Nance of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Texas to have been affected adversely by this declared emergency:

> FEMA has been authorized to coordinate with other Federal agencies to provide any form of direct Federal assistance appropriate for required emergency measures, authorized under the Stafford Act, to save lives, protect property and public health and safety, and lessen or avert the threat of a catastrophe in the State of Texas. Reimbursement for the eligible costs associated with the pre-staging of Emergency Management Assistance Compact's fire suppression assets is authorized.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

James L. Witt,

Director.

[FR Doc. 98–18711 Filed 7–13–98; 8:45 am]

BILLING CODE 6718-02-P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1229–DR]

West Virginia; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of West Virginia, (FEMA–1229–DR), dated July 1, 1998, and related determinations.

EFFECTIVE DATE: July 6, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of West

Virginia, is hereby amended to include Categories C through G under the Public Assistance program in the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 1, 1998:

Braxton, Gilmer, Jackson, Kanawha, Roane and Wood Counties for Categories C through G under Public Assistance (already designated for Individual Assistance and Categories A and B under Public Assistance).

Calhoun, Clay, Doddridge, Lewis, Marion, Pleasants, Ritchie, Tyler, and Wirt Counties for Individual Assistance and Public Assistance.

Harrison, Marshall, Ohio, Webster, and Wetzel Counties for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–18720 Filed 7–13–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Cross Trans Service USA, Inc., 1480 Elmhurst Road, Elk Grove Village, IL 60007. Officers: Kurt Konodi-Floch, President, Katherine Lovejoy-Berman, Vice President.

Dated: July 9, 1998.

Joseph C. Polking,

Secretary.

[FR Doc. 98–18737 Filed 7–13–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Crowley Logistics, Inc., 9487 Regency Square Boulevard, Jacksonville, FL 32225, Officers: Elliott, Burnside, President, John Hourihan, Vice President

Millennium Shipping Company, 4100 East 51st Street, Suite 104, Tulsa, OK 74135, Officers: Steven C. Reynolds, President, Karin R. Reynolds, Vice President

D. Kratt International, Inc., 841 Sivert Drive, Wood Dale, IL 60191, Officers: David P. Kratt, President, Robert Van Gent, Vice President

Dated: July 8, 1998.

Joseph C. Polking,

Secretary.

[FR Doc. 18664 Filed 7–13–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MEDIATION AND CONCILIATION SERVICE

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Mediation and Conciliation Service (FMCS).

ACTION: Notice.

SUMMARY: This notice announces that three Information Collection Requests (ICR) are coming up for renewal. These ICRs are: FMCS Arbitrator's Report and Fee Statement (Agency Form R–19), the Arbitrator's Personal Data Questionnaire (Agency Form R–22), and the Request for Arbitration Services (Agency Form R–43). The request seeks OMB approval to extend the expiration data of Forms R–19, R–22 and R–43 until November 30 ,1998. FMCS is soliciting comments on specific aspects of the collections as described below.

DATES: Comments must be submitted on or before September 11, 1998.

ADDRESSES: Submit written comments identified by the appropriate agency form number by mail to: Office of Arbitration Services, FMCS, 2100 K Street, NW, Washington, D.C. 20427, Room 707, 202/606–5111 ATTN: Annette Glaspie. Copies of the complete agency forms may be obtained from the Office of Arbitration Services at the above address or by contacting the person whose name appears under the section headed, **FOR FURTHER INFORMATION CONTACT.**

Comments and data may also be submitted by fax at (202) 606–3749 or electronic mail (e-mail) to pgmsvcsfmcs.gov. All comments and data in electronic form must be identified by the appropriate agency form number. No confidential business information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of the information as "CBI". Information so marked will not be disclosed but a copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by FMCS without prior notice. All written comments will be available for inspection in Room 707 at the Washington, D.C. address above from 8:30 AM to 4:30 PM, Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Peter L. Regner, Director of Program Services, FMCS 2100 K Street, NW, Washington, D.C. 20427. Telephone 202/606–8181; Fax 202/606/4216.

SUPPLEMENTARY INFORMATION: Copies of each of the agency forms are available from the Office of Arbitration Services by calling, faxing, or writing, to Ms. Glaspie at the above address. Please ask for the form by title and agency form number.

I. Information Collection Requests

FMCS is seeking comments on the following Information Collection Requests (ICRs).

Title: Arbitrator's Personal Data Questionnaire. ICR is R–22, OMB No. 3076–0001. Emergency expiration data 11/30/98.

Affecting entities: Parties affected by this information collection are individuals who apply for admission to the FMCS Roster of Arbitrators.

Abstract: Title II of the Labor Management Relations Act of 1947 (Public Law 90–101) as amended in 1959 (Public Law 86–527) and 1974 (Public Law 93–360), states that it is the labor policy of the United States that "the settlement of issues between

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employers and employees through collective bargaining may be advanced by making available full and adequate governmental facilities for conciliation, mediation, and voluntary arbitration to encourage employees and representatives of their employees to reach and maintain agreements rates of pay, hours, and working conditions, and to make all reasonable efforts to settle their differences by mutual agreement reached through conferences and collective bargaining or by such methods as may be provided for in any applicable agreement for the settlement of disputes." Under its regulations at 29 C.F.R. Part 1404, FMCS has established policies and procedures for its arbitration function dealing with all arbitrators listed on the FMCS Roster of Arbitrators, all applicants for listing on the Roster, and all person or parties seeking to obtain from FMCS either names or panels of names of arbitrators listed on the Roster in connection with disputes which are to be submitted to arbitration or fact-finding. FMCS strives to maintain the highest quality of dispute resolvers on it roster. To ensure, that purpose, it asks all candidates to complete an application form.

The purpose of this collection is to gather information about applicants for inclusion in the FMCS Roster of Arbitrators. This questionnaire is needed in order that FMCS may select highly qualified individuals for the arbitrator roster. The respondents are private citizens who make application for appointment to FMCS roster. This objection is pursuant to 29 U.S.C. 171(b)(, 29 C.F.R. Part 1404. This notice is a request to extend the existing form which is currently approved collection without any change in the substance or method of collection.

Burden Statement: The number of respondents is approximately 250 individuals per year; the approximate number of individuals who request membership on the FMCS Roster. The time required to complete this questionnaire is approximately one and one-half hour to complete the application. Each respondent is required to respond only once per application, and once per year for updating the biographical sketch.

Title: Request for Arbitration Services. ICR No. R–43, OMB No. 3076–0002; Emergency expiration date: 11/30/98.

Affected Entities: Employers and their representatives, employees, labor unions and their representatives who request arbitration services.

Abstract: Pursuant to 29 U.S.C. 171(b) and 29 CFR part 1404, FMCS offers panels of arbitrators for selection by labor and management to resolve grievances and disagreements arising under their collective bargaining agreements and to deal with fact finding and interest arbitration issues as well. The need for this form is to obtain information such as name, address, type of assistance desired, so that the FMCS can respond to requests efficiently and effectively for various arbitration services (e.g. furnishing lists of seven arbitrators to parties). The purpose of this information collection is to facilitate the processing of the party's request for arbitration assistance. No third party notification or public disclosure burden is associated with this collection. This notice for comments refers to a revision of the current form to include information regarding payment for services and to note if the request involves Expedited Arbitration.

Burden Statement: The current total annual burden estimate is that FMCS will receive requests from approximately 15,000 respondents per year. In most instances, the form is completed only once and takes about ten minutes to complete. Thus, the frequency of request for an arbitration panels is usually only once.

Title: Arbitrator's Report and Fee Statement. ICR Form R–19; OMB No. 3076–0003. Emergency expiration date: November 30, 1998.

Affected Entities: Individual arbitrators who render awards under appointment by the FMCS procedures.

Abstract: Pursuant to 29 U.S.C. 171(b) and 29 CFR part 1404, FMCS assumes a responsibility to monitor the work of the arbitrators who serve on its roster. This is satisfied through the requirement of completion of report and fee statement which indicates when the arbitration award was rendered, the file number, the company and union, the issues, whether briefs were filed and transcripts taken, if there were any waivers by parties on the date the award was due, and the fees and days for services as an arbitrator. This information is then contained in the agency's annual report to indicate the types of arbitration issues, the average or median arbitration fees and days spent on cases. This notice request is for an extension of the form which is currently approved for collection; no change in the substance or method of collection is involved.

Burden Statement: FMCS receives approximately 4000 responses per year. The form is only filled out once and the time required is approximately ten minutes. FMCS uses this form to review arbitrator conformance with its fee and expense reporting requirements. This information is then contained in the agency's annual report to indicate the types of arbitration issues, the average or median arbitration fees and days spent on cases. This notice request is for extension of the form which is currently approved for collection; no change in the substance or method of collection is involved.

II. Request for Comments

FMCS solicits comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.

(ii) Enhance the accuracy of the agency's estimates of the burden of the proposed collection of information.

(iii) Enhance the quality, utility, and clarity of the information to be collected.

(iv) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated electronic collection technologies or other forms of information technology, e.g. permitting electronic and fax submission of responses.

III. The Official Record

The official record is the paper record maintained at the address in ADDRESSES at the beginning of this document. FMCS will transfer all electronically received comments into printed paper form as they are received.

List of Subjects

Arbitration and Information collection requests.

Dated: July 7, 1998.

Vella Traynham,

Deputy Director.

[FR Doc. 98–18729 Filed 6–13–98; 8:45 am]

BILLING CODE 6372–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 29, 1998.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. *Patricia Lee Joseph*, Munster, Indiana; to acquire additional voting shares of First Bancshares, Inc., Highland, Indiana, and thereby indirectly acquire Centier Bank, Whiting, Indiana.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. *David Lawrence Blaine*, Paducah, Kentucky; to acquire additional voting shares of Ballard Kevil Bancorp, Inc., Kevil, Kentucky, and thereby indirectly acquire The Kevil Bank, Kevil, Kentucky.

C. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. *Ronald F. Tanner*, Cornville, Arizona, and Rex K. Alexander, Tulsa, Oklahoma; to acquire voting shares of BOC Banshares, Inc., Chouteau, Oklahoma, and thereby indirectly acquire voting shares of Bank of Commerce, Chouteau, Oklahoma.

Board of Governors of the Federal Reserve System, July 9, 1998.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 98-18743 Filed 7-13-98; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 7, 1998.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. *Bodcaw Bancshares, Inc.*, Stamps, Arkansas; to become a bank holding company by acquiring 100 percent of the voting shares of Bodcaw Bank, Stamps, Arkansas.

2. *Arvest Bank Group, Inc.*, Bentonville, Arkansas; to merge with Ameribank Corporation, Shawnee, Oklahoma, and thereby indirectly acquire United Oklahoma Bankshares, Inc., Del City, Oklahoma; American National Bank & Trust Company of Shawnee, Shawnee, Oklahoma; and United Bank, Del City, Oklahoma.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. *First National Bank Group, Inc.*, Edinburg, Texas; to acquire 51 percent of the voting shares of Nueces National Bank, Corpus Christi, Texas.

Board of Governors of the Federal Reserve System, July 9, 1998.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 98-18742 Filed 7-13-98; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 29, 1998.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. *U.S.B Holding Co., Inc.*, Orangeburg, New York; to acquire Tappen Zee Financial, Inc., Tarrytown, New York, and thereby indirectly acquire Tarrytowns Bank, FSB, Tarrytown, New York, and theregy engage in operating a savings association, pursuant to § 225.28(b)(4)(ii) of Regulation Y.

Board of Governors of the Federal Reserve System, July 9, 1998.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 98-18744 Filed 7-13-98; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Translation Advisory Committee for Diabetes Prevention and Control Programs: Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Public Law 92-463) of October 6, 1972, that the Translation Advisory Committee for Diabetes Prevention and Control Programs (TACDPCP) of the Centers for Disease Control and Prevention (CDC), Department of Health and Human Services, has been renewed for a 2-year period. The charter will now expire June 15, 2000.

FOR FURTHER INFORMATION CONTACT: Frank Vinicor, M.D., Executive Secretary, TACDPCP, CDC, 4770 Buford

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Highway, NE, (M/S K–10), telephone 770–488–5000 or fax 770/488–5966.

Dated: July 7, 1998.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–18668 Filed 7–13–98; 8:45 am]

BILLING CODE 4161–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Hanford Thyroid Morbidity Study Advisory Committee: Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Public Law 92–463) of October 6, 1972, that the Hanford Thyroid Morbidity Study Advisory Committee (HTMSAC) of the Centers for Disease Control and Prevention (CDC), Department of Health and Human Services, has been renewed for a 2-year period. The charter will now expire June 13, 2000.

FOR FURTHER INFORMATION CONTACT: Henry Falk, M.D., Executive Secretary, HTMSAC, CDC, 4770 Buford Highway, NE, (M/S F–28), telephone 770–488–7300 or fax 770/488–7044.

Dated: July 7, 1998.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–18669 Filed 7–13–98; 8:45 am]

BILLING CODE 4161–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Announcement Number 99012]

Notice of Availability of Funds; Applied Research Program in Emerging Infections Novel Diagnostic Tests for Infections of Public Health Significance

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1999 funds for competitive grants and/or cooperative agreements to support applied research on emerging infections. This announcement addresses the development of novel diagnostic tests for infections of public health significance.

CDC is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Immunization and Infectious Diseases. (For ordering a copy of Healthy People 2000, see the section WHERE TO OBTAIN ADDITIONAL INFORMATION.)

Authority

This program is authorized under Sections 301(a) and 317(k)(2) of the Public Health Service Act, as amended [42 U.S.C. 241(a) and 247b(k)(2)].

Smoke-Free Workplace

CDC strongly encourages all grant recipients to provide a smoke-free workplace and to promote the non-use of all tobacco products, and Pub. L. 103–227, the Pro-Children's Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day-care, health-care and early childhood development services are provided to children.

Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and governments and their agencies. Thus, universities, colleges, research institutions, hospitals, other public and private organizations, including State and local governments or their bona fide agents, federally recognized Indian tribal governments, Indian tribes or Indian tribal organizations.

Only one application will be accepted from any single applicant, organization, government, or agency in each focus area.

Availability of Funds

Approximately $500,000 is available in FY 1999 to fund two to three awards, ranging from $160,000 to $250,000. It is expected the awards will begin on or about February 1, 1999, and will be made for a 12-month budget period within a project period of up to three years. (The funding amounts listed above are for the first 12-month budget period and include both direct and indirect costs.) The funding estimate is subject to change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress and availability of funds.

Specifically, applications are solicited for projects addressing any of the following three areas:

1. Diagnostic Tests of High Sensitivity and Specificity for Use in Clinical Settings

The objective is to encourage the development of highly sensitive and specific diagnostic tests for infectious disease agents of high public health significance for which such tests are not currently available.

2. Development and Evaluation of Improved Tests for Malaria Diagnosis in the U.S.

The objective is to develop and evaluate a malaria diagnostic test that does not require microscopic examination of blood smears and: (a) is at least as sensitive as microscopy (4 parasites per ul. of blood); (b) can detect all 4 known species of human malaria parasites; (c) has a specificity of at least 95 percent; (d) is simple to perform; and (e) can provide results in less than 1 hour.

3. Diagnostic Tests for Field Use

The objective is to encourage the development of field tests for infectious disease agents of high public health significance. Attributes sought in these field tests are: low cost; use with noninvasive or easy to collect specimens; short time-to-result; stable reagents; minimum risks to technicians; sensitivity and specificity appropriate for setting.

Applicants may submit separate applications for projects in one or more of the three focus areas. (See Application Process Section, Application Content area, for detailed instructions.)

Determination of Which Instrument to Use

Applicants must specify the type of award for which they are applying, either grant or cooperative agreement. CDC will review the applications in accordance with the evaluation criteria. Before issuing awards, CDC will determine whether a grant or cooperative agreement is the appropriate instrument based upon the need for substantial CDC involvement in the project. To assist applicants in making a determination as to which type of award to apply for, the following information is provided:

1. Research Project Grants

A research project grant is one in which substantial programmatic involvement by CDC is not anticipated by the recipient during the project period. Applicants for grants must demonstrate an ability to conduct the proposed research with minimal assistance, other than financial support, from CDC. This would include possessing sufficient resources for clinical, laboratory, and data management services and a level of scientific expertise to achieve the objectives described in their research proposal without substantial technical assistance from CDC.

2. Cooperative Agreements

A cooperative agreement implies that CDC will assist recipients in conducting the proposed research. The application should be presented in a manner that demonstrates the applicant's ability to address the research problem in a collaborative manner with CDC.

Use of Funds

Restrictions on Lobbying

Applicants should be aware of restrictions on the use of the Department of Health and Human Services (HHS) funds for lobbying of Federal or State legislative bodies. Under the provisions of 31 U.S.C. Section 1352 (which has been in effect since December 23, 1989), recipients (and their subtier contractors) are prohibited from using appropriated Federal funds (other than profits from a Federal contract) for lobbying congress or any Federal agency in connection with the award of a particular contract, grant, cooperative agreement, or loan. This includes grants/cooperative agreements that, in whole or in part, involve conferences for which Federal funds cannot be used directly or indirectly to encourage participants to lobby or to instruct participants on how to lobby.

In addition, the FY 1998 "Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act" (Public Law 105–78) states in Section 503 (a) and (b) that no part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relations, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress or any State legislature, except in presentation to the Congress or any State legislature itself. No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature.

Background

Once expected to be eliminated as a public health problem, infectious diseases remain the leading cause of death worldwide. In the United States (U.S.) and elsewhere, infectious diseases increasingly threaten public health and contribute significantly to the escalating costs of health care.

In 1992, the Institute of Medicine of the National Academy of Sciences published a report entitled Emerging Infections, Microbial Threats to Health in the United States highlighting the threat of emerging infections and making specific recommendations to address the threat. This report emphasized a critical leadership role for CDC in a national effort to detect and control infectious disease threats.

In partnership with other Federal agencies, State and local health departments, academic institutions, and others, CDC has developed a plan for revitalizing the nation's ability to identify, contain, and prevent illness from emerging infectious diseases. The plan, "Addressing Emerging Infectious Disease Threats; A Prevention Strategy for the United States," includes applied research as a major objective, stressing the importance of integrating laboratory science and epidemiology to optimize public health practice in the United States (U.S.). CDC has developed an Extramural Applied Research Program in Emerging Infections (EARP) designed to fill gaps in existing support for research in emerging infectious disease surveillance, epidemiology, and prevention. This announcement specifically addresses novel diagnostic methods for infections of public health significance.

Proposals sought under this announcement may span the range from highly sophisticated, sensitive and specific tests that require a well-equipped laboratory and highly trained personnel to robust field tests that are simple, rapid, and can be performed without equipment by minimally trained persons yet provide reliable results. Examples of infections and issues of public health significance to be addressed include, but are not limited to, tuberculosis, malaria, dengue, enterohemorrhagic Escherichia coli other than E. coli O157:H7, antimicrobial resistance (e.g., detecting vancomycin resistance genes in enterococci), and prion disease (e.g., Bovine Spongiform Encephalitis). This announcement focuses on three specific areas:

1. Diagnostic Tests of High Sensitivity and Specificity for Use in Clinical Settings

Despite the recent advances in molecular biology and its applications to diagnostics, significant gaps still remain in infectious disease diagnostics. Commercial companies tend to focus in areas of diagnostics that have a potential for high-volume sales of diagnostic kits. Many published methods have not been adequately validated. Sample preparation procedures tend to be complex and time-consuming; many of the proposed simple sample preparation methods do not yield consistent results. Applications are encouraged that address these and similar issues and target those infectious agents for which there is clear need for better and more rapid diagnostic methods.

Polymerase Chain Reaction (PCR) amplification is being used to detect and identify unculturable organisms directly in human clinical specimens, such as blood, urine, cerebrospinal fluid, and tissues obtained by biopsy or at autopsy. Unfortunately, the success rate of this method is quite low when identification is attempted directly from clinical samples. This is due to the presence of PCR inhibitors in blood and other clinical samples and also, in part, to the often low number of organisms in the samples. For PCR amplification tests to become a valuable rapid identification method for uncultured bacteria, the inhibitors must be identified and removed or overcome, and the sensitivity of the method for a wide variety of human pathogenic bacteria in various clinical samples must be determined.

For many infectious agents, new non-culture methods have been developed that facilitate rapid detection of the pathogen in clinical specimens without its isolation. Because many local, State and Federal surveillance programs depend on the continued availability of pathogenic microorganisms isolated by culture, the Council of State and Territorial Epidemiologists (CSTE) has recently developed a new position statement on this topic. In its position statement, CSTE recommends the Food and Drug Administration require each manufacturer of non-culture tests for infectious agents of public health importance and for which routine characterization (speciation, subtyping or antimicrobial susceptibility testing) provides essential information for public health surveillance or investigation, include in their product insert a statement that positive results must be confirmed by culture. Almost all currently available non-culture

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diagnostic tests require the laboratorian to go back to the original specimen or an enrichment culture to attempt to isolate the pathogen. Public health programs will greatly benefit from rapid non-culture diagnostic methods that have built-in algorithms that facilitate the isolation of the pathogen without having to go back to the specimen or an enrichment broth. Such approaches are feasible in techniques that involve selective removal or immobilization of the target pathogen from the specimen without causing its inactivation.

2. Improved Tests for Malaria Diagnosis in the U.S.

Every year, approximately 1,000 cases of malaria are reported in the U.S. Nineteen deaths due to malaria were recorded in the U.S. during the period 1992–1994. Of particular concern, cases of locally-transmitted malaria have been reported on practically an annual basis in densely populated areas (New York City, Houston, and Palm Beach County, Florida). The substantial U.S. public health impact of malaria is very likely to increase in the future due to increased international travel combined with a worldwide resurgence of malaria. Available information indicates that malaria diagnosis is not optimally performed in the U.S. In a recent survey of samples sent to CDC's National Malaria Reference Laboratory (NMRL) by various health institutions (including State health departments, hospitals, and commercial laboratories), the diagnosis made by the NMRL differed from that made at the health institution in 21 percent of the samples. This is due mainly to the fact that the internationally accepted method for diagnosing malaria (the microscopic examination of a Giemsa-stained blood smear) requires a degree of microscopy experience that most clinical laboratorians in the U.S. lack due to their infrequent contact with malaria samples.

One solution to this problem would be a diagnostic test that depends, not on the experience and skills of a microscopist, but on more objective, quantifiable criteria. Several malaria diagnostic tests that follow this approach are currently on the market or in various development phases. Such tests identify malaria parasites by nucleic acid fluorescence or by detecting parasite-specific antigens or enzymes. However, none of these tests satisfy all desirable criteria for a malaria diagnostic tool applicable to clinical laboratory practice in the U.S. Such criteria include: (a) sensitivity at least equal to that of microscopy (4) parasites per ul. of blood); (b) detection of all 4 known species of human malaria parasites; (c) specificity above 95 percent; (d) simplicity of performance; and (e) rapidity of execution (results available in less than 1 hour). In addition, none of these tests have been adequately evaluated under strictly controlled conditions in U.S. health facilities.

3. Diagnostic Tests for Field Use

For many infectious agents, there is a critical need for rapid, simple tests that can be performed in the field without access to a sophisticated laboratory and for which minimal sample preparation is required. In the past, many of these tests have been configured on the basis of specific antigen-antibody interactions (e.g., latex agglutination tests, dipstick immunoassays, immunoprecipitation tests) using polyclonal or monoclonal antibodies. However, for the purpose of this announcement, any tests that meet the following criteria will be considered: low cost; use with noninvasive or easy to collect specimens; short time-to-result; stable reagents; minimum risks to technicians; sensitivity and specificity appropriate for setting, and demonstrated need for such tests for the proposed target pathogen.

Purpose

The purpose of the EARP is to provide financial and technical assistance for applied research projects on emerging infections in the U.S. As a component of EARP, the purpose of this grant/cooperative agreement announcement is to provide assistance for projects addressing novel methods for identification of emerging infections.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under A. (Recipient Activities) and CDC will be responsible for conducting activities under B. (CDC Activities) for cooperative agreements only:

A. Recipient Activities

1. Diagnostic Tests of High Sensitivity and Specificity for use in Clinical Settings

a. Develop diagnostic tests for use in clinical settings for one or more infectious diseases of high public health significance for which such tests do not currently exist or significantly improve an existing test; OR

b. Develop rapid diagnostic tests for use in clinical settings for one or more infectious diseases of high public health significance. Design the test in such a manner that the etiologic agent may be directly isolated from the matrix that is used for rapid detection of the etiologic agent; OR

c. Systematically develop optimal conditions for the detection of uncultured bacteria from blood, serum, and other clinical specimens, specifically addressing the problem of inhibition of the polymerase chain reaction by sample components. Complete Phase I evaluation of the diagnostic test in a clinical setting and compare against a method which has been previously validated. Demonstrate that the sensitivity and specificity of the test are significantly better than the current benchmark tests. For a.2. and a.3., demonstrate that the target pathogen can be consistently isolated from clinical specimens.

d. Organize independently or collaborate with CDC (for cooperative agreements) to organize more extensive Phase II evaluation of the test in multiple laboratories.

e. Publish and/or otherwise disseminate findings.

2. Development and Evaluation of Improved Tests for Malaria Diagnosis in the U.S.

a. Develop a new diagnostic test or improve currently available test(s) that does not require microscopic examination of blood smears and is:

(1) At least as sensitive as microscopy (4) parasites per ul. of blood).

(2) Can detect all 4 known species of human malaria parasites.

(3) Has a specificity of at least 95 percent.

(4) Is simple to perform.

(5) Can provide results in less than 1 hour.

b. Conduct a first phase of evaluation of the new or improved test(s). This should involve testing clinical samples for malaria under blinded conditions and should use mainly samples collected from non-human primates experimentally infected with human malaria parasites and malaria-infected human blood samples, both of which can be made available by CDC.

c. Collaborate with CDC (for cooperative agreements) to conduct field evaluations of the test(s) in endemic countries (e.g. a large-scale assessment in a short time period where n > = 500) and in U.S. facilities. (The actual U.S. field testing will likely require a longer time period due to low frequency of malaria and should involve collaboration with State health departments, hospitals, and commercial laboratories.)

d. Publish and/or otherwise disseminate results.

3. Diagnostic Tests for Field Use

a. Develop diagnostic tests for use under field conditions for one or more infectious diseases of high public health significance for which such tests are needed but do not currently exist or significantly improve an existing test.

b. Complete limited evaluation of the diagnostic test under field conditions and compare against a method which has been previously validated. Demonstrate that the sensitivity and specificity of the test are acceptable and appropriate for use in field settings.

c. Organize independently or collaborate with CDC (cooperative agreements) to organize more extensive Phase II evaluation of the test.

d. Publish and/or otherwise disseminate findings.

B. CDC Activities (for Cooperative Agreements)

1. Provide technical assistance in the design and conduct of the research.
2. Perform selected laboratory tests, as appropriate and necessary.
3. Participate in data management, the analysis of research data, and the interpretation and presentation of research findings.
4. Provide biological materials (e.g., strains, reagents, etc.) as necessary for studies.

Technical Reporting Requirements

Narrative progress reports are required semiannually. The first semiannual report is required with each year's noncompeting continuation application and should cover program activities from date of the previous report (or date of award for reporting in the first year of the project). The second semiannual report is due along with the Financial Status Report (FSR) (see next paragraph) 90 days after the end of each budget period and should cover activities from the date of previous report. Progress reports should address the status of progress toward specific project objectives and should include copies of any publications resulting from the project.

An original and two copies of the FSR are required no later than 90 days after the end of each budget period. A final performance report and FSR are due no later than 90 days after the end of the project period.

Application Process

1. Pre-Application Letter of Intent

In order to assist CDC in planning and executing the evaluation of applications submitted under this Program Announcement, all parties intending to submit application(s) are encouraged to inform CDC of their intention to do so as soon as possible but not later than 10 business days prior to the application due date. Notification should include: (1) name and address of institution; (2) name, address, and phone number of contact person; and (3) which focus area(s) application(s) will be submitted under. Notification can be provided by facsimile, postal mail, or electronic mail (E-mail) to Bala Swaminathan, Ph.D., National Center for Infectious Diseases, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, N.E., Mailstop C–7, Atlanta, GA 30333, Facsimile (404) 639–3333, Internet bas5@cdc.gov.

2. Application Content

Applicants may apply for assistance for projects in one or more of the three separate focus areas identified under PURPOSE and PROGRAM REQUIREMENTS sections. IF APPLICANT IS APPLYING FOR ASSISTANCE FOR MORE THAN ONE FOCUS AREA, A SEPARATE AND COMPLETE APPLICATION MUST BE SUBMITTED FOR EACH FOCUS AREA AND INDICATE WHETHER APPLYING FOR A GRANT OR COOPERATIVE AGREEMENT.

All applicants must develop their application(s) in accordance with PHS Form 398, information contained in this grant/cooperative agreement announcement, AND the attached errata sheet instructions. In order to ensure an objective, impartial, and prompt review, applications must conform to these instructions:

a. General Instructions

1. The original and five (5) complete copies of the application must be UNSTAPLED and UNBOUND.
2. ALL pages must be clearly numbered, and a complete index to the application and its appendices must be included.
3. All typewritten materials must be single-spaced, using a font no smaller than size 12. All supplemental pages of the application (i.e., in addition to the PHS 398 form) must be on the 8 ½″ by 11″ white paper.
4. All pages must be printed on ONE side only, with at least 1″ margins, headers, and footers.

b. Special Instructions

The application narrative must not exceed 10 pages (excluding budget and appendices). Unless indicated otherwise, all information requested below must appear in the narrative. Materials or information that should be part of the narrative will not be accepted if placed in the appendices. The application narrative must contain the following sections in the order presented below. (REMINDER: IF PROPOSING PROJECTS UNDER MULTIPLE FOCUS AREAS, SUBMIT A SEPARATE AND COMPLETE APPLICATION FOR EACH PROJECT AND INDICATE WHETHER APPLYING FOR GRANT OR COOPERATIVE AGREEMENT):

3. Abstract

a. Provide a brief (two pages maximum) abstract of the project. Clearly identify:

1. The specific focus area being addressed;
2. The project period proposed (not to exceed three years as indicated in AVAILABILITY OF FUNDS section); and
3. The type of award that is being applied for, grant or cooperative agreement.

4. Background and Need

Discuss the background and need for the proposed project. Demonstrate a clear understanding of the background, purpose, and objectives of the focus area.

5. Capacity and Personnel

Describe applicant's past experience in conducting activities similar to that being proposed. Describe applicant's resources, facilities, and professional personnel that will be involved in conducting the project. Include *in an appendix* curriculum vitae for all professional personnel involved with the project. Describe plans for administration of the project and identify administrative resources/personnel that will be assigned to the project. Provide *in an appendix*, letters of support from all key participating non-applicant organizations, individuals, etc. (if any), which clearly indicate their commitment to participate as described in the operational plan. Do not include letters of support from CDC personnel. Letters of support from CDC will not be accepted. Award of a cooperative agreement implies CDC participation as outlined in the PROGRAM REQUIREMENTS section of this announcement.

6. Objectives and Technical Approach

Present specific objectives for the proposed project which are measurable and time-phased and are consistent with the Background, Purpose, and Recipient Activities for the specific focus area. Present a detailed operational plan for initiating and conducting the project which clearly and appropriately addresses these objectives (if proposing

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a multi-year project, provide a detailed description of first-year activities and a brief overview of subsequent-year activities). Clearly identify specific assigned responsibilities for all key professional personnel. Include a clear description of applicant's technical approach/methods which are directly relevant to the above objectives. Describe specific study protocols or plans for the development of study protocols. Describe the nature and extent of collaboration with CDC (if proposing a cooperative agreement) and/or others during various phases of the project. Describe in detail a plan for evaluating progress toward achieving process and outcome project objectives.

7. Budget

Provide a line-item budget and accompanying detailed, line-by-line justification for the first year of the project that demonstrates the request is consistent with the purpose and objectives of this program. If requesting a multi-year project, provide estimated total budget (direct plus indirect) for subsequent years. If requesting funds for any contracts, provide the following information for each proposed contract: (1) Name of proposed contractor; (2) breakdown and justification for estimated costs; (3) description and scope of activities to be performed by contractor; (4) period of performance; and (5) method of contractor selection (e.g., sole-source or competitive solicitation).

8. Human Subjects

Whether or not exempt from DHHS regulations, if the proposed project involves human subjects, describe adequate procedures for the protection of human subjects. Also, ensure that women, racial and ethnic minority populations are appropriately represented in applications for research involving human subjects.

Evaluation Criteria

The applications will be reviewed and evaluated according to the following criteria:

1. Background and Need (10 Points)

Extent to which applicant demonstrates a clear understanding of the background, purpose, and objectives of the focus area being addressed. Extent to which applicant demonstrates that the proposed project addresses an emerging infectious disease issue of public health importance.

2. Capacity (45 Points)

Extent to which applicant describes adequate resources and facilities (both technical and administrative) for conducting the project. Extent to which applicant documents that professional personnel involved in the project are qualified and have past experience and achievements in research related to that proposed as evidenced by curriculum vitae, publications, etc. If applicable, extent to which applicant includes letters of support from participating non-applicant organizations, individuals, etc., and the extent to which such letters clearly indicate the author's commitment to participate as described in the operational plan. If requesting a grant (versus a cooperative agreement), the extent to which applicant demonstrates that they can accomplish the project without substantial technical assistance from CDC.

3. Objectives and Technical Approach (45 Points Total)

a. Extent to which applicant describes measurable and time-phased objectives of the proposed project which are consistent with the purpose of the focus area being addressed. (10 points)

b. Extent to which applicant presents a detailed operational plan for initiating and conducting the project which clearly and appropriately addresses all recipient activities for the specific programmatic focus area being addressed. Extent to which applicant clearly identifies specific assigned responsibilities of all key professional personnel. Extent to which the plan clearly describes applicant's technical approach/ methods for conducting the proposed studies and extent to which the approach/methods are feasible, appropriate, and adequate to accomplish the objectives. Extent to which applicant describes specific study protocols or plans for the development of study protocols that are appropriate for achieving project objectives. Extent to which applicant clearly describes collaboration with CDC (if proposing a cooperative agreement) and/or others during various phases of the project. If the proposed project involves human subjects, whether or not exempt from the Department of Health and Human Services (DHHS) regulations, the extent to which adequate procedures are described for the protection of human subjects. Note: Objective Review Group (ORG) recommendations on the adequacy of protections include: (1) protections appear adequate and there are no comments to make or concerns to raise, or (2) protections appear adequate, but there are comments regarding the protocol, or (3) protections appear inadequate and the ORG has concerns related to human subjects, or (4) disapproval of the application is recommended because the research risks are sufficiently serious and protection against the risks are inadequate as to make the entire application unacceptable, and (5) protections appear adequate that women, racial and ethnic minority populations are appropriately represented in applications involving human research. (30 points)

c. Extent to which applicant provides a detailed and adequate plan for evaluating progress toward achieving project process and outcome objectives. (5 points)

4. Budget (not Scored)

Extent to which the proposed budget is reasonable, clearly justifiable, and consistent with the intended use of grant/cooperative agreement funds.

Executive Order 12372 Review

This program is not subject to Executive Order 12372 Review.

Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 93.283.

Other Requirements

Paperwork Reduction Act

Projects that involve the collection of information from ten or more individuals and funded by the grant/ cooperative agreement will be subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Human Subjects

If the proposed project involves research on human subjects, the applicant must comply with the Department of Health and Human Services Regulations (45 CFR Part 46) regarding the protection of human subjects. Assurance must be provided to demonstrate that the project will be subject to initial and continuing review by an appropriate institutional review committee. The applicant will be responsible for providing evidence of this assurance in accordance with the appropriate guidelines and form provided in the application kit.

In addition to other applicable committees, Indian Health Service (IHS) institutional review committees also must review the project if any component of IHS will be involved or will support the research. If the Native American community is involved, its tribal government must also approve that portion of the project applicable to it.

Women, Racial and Ethnic Minorities

It is the policy of the Centers for Disease Control and Prevention (CDC)and the Agency for Toxic Substances and Disease Registry (ATSDR) to ensure that individuals of both sexes and the various racial and ethnic groups will be included in CDC/ATSDR-supported research projects involving human subjects, whenever feasible and appropriate. Racial and ethnic groups are those defined in OMB Directive No. 15 and include American Indian or Alaska Native, Asian, Black or African American, Hispanic or Latino, Native Hawaiian or Other Pacific Islander. Applicants shall ensure that women, racial and ethnic minority populations are appropriately represented in applications for research involving human subjects. Where clear and compelling rationale exist that inclusion is inappropriate or not feasible, this situation must be explained as part of the application. This policy does not apply to research studies when the investigator cannot control the race, ethnicity, and/or sex of subjects. Further guidance to this policy is contained in the **Federal Register**, Vol. 60, No. 179, pages 47947–47951, and dated Friday, September 15, 1995.

Animal Subjects

If the proposed project involves research on animal subjects, the applicant must comply with the "PHS Policy on Humane Care and Use of Laboratory Animals by Awardee Institutions." An applicant organization proposing to use vertebrate animals in PHS-supported activities must file an Animal Welfare Assurance with the Office for Protection from Research Risks at the National Institutes of Health.

Application Submission and Deadline

The original and five copies of each application PHS Form 398 must be submitted to Sharron Orum, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, N.E., Room 300, Mailstop E–18, Atlanta, GA 30305, on or before October 1, 1998.

1. Deadline: Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date; or

b. Sent on or before the deadline date and received in time for submission to the objective review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. Late Applications: Applications which do not meet the criteria in 1. a. or 1. b. above are considered late applications. Late applications will not be considered and will be returned to the applicant.

Where to Obtain Additional Information

To receive additional written information and to request an application kit, call 1–888-GRANTS (1–888 472–6874). You will be asked to leave your name and address and will be instructed to identify the Announcement number of interest. (Please refer to Announcement Number 99012.) You will receive a complete program description, information on application procedures and application forms. If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from Oppie M. Byrd, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, N.E., Room 314, Mailstop E–18, Atlanta, GA 30305, telephone (404) 842–6546, Facsimile (404) 842–6513, Internet oxb3@cdc.gov.

Programmatic technical assistance may be obtained from Bala Swaminathan, Ph.D., National Center for Infectious Diseases, Division of Bacterial and Mycotic Diseases, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, N.E., Mailstop C–07, Atlanta, GA 30333, Telephone (404) 639–3669, Facsimile (404) 639–3333, Internet bas5@cdc.gov.

Please refer to Announcement Number 99012 when requesting information regarding this program.

You may obtain this announcement from one of two Internet sites on the actual publication date: CDC's homepage at http://www.cdc.gov or at the Government Printing Office homepage (including free on-line access to the **Federal Register** at http://www.access.gpo.gov).

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report, Stock No. 017–001–00473–1) referenced in the INTRODUCTION through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone: (202) 512–1800.

Dated: July 8, 1998.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–18667 Filed 7–13–98; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Annual Statistical Report on Children in Foster Homes and Children in Families Receiving Payments in Excess of the Poverty Income Level from a State Program Funded under Part A of Title IV of the Social Security Act.

OMB No.: 0970–0040.

Description: This information is collected to meet the statutory requirements of section 1124 of Title I of the Elementary and Secondary Education Act (as amended by PL 103–382). It is collected by DHHS from State public welfare agencies and turned over to the Department of Education which uses it to arrive at the formula for allocating Title I grant funds to State and Local elementary and secondary schools for the purpose of providing educational assistance to disadvantaged children.

Respondents: State, Local or Tribal Govt.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ACF–4125	52	1	264	13,746

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ANNUAL BURDEN ESTIMATES—Continued

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Estimated Total Annual Burden Hours: 13,746				

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarify of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: July 8, 1998.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 98–18658 Filed 7–13–98; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Relocation of the Dockets Management Branch; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the **Federal Register** of June 16, 1998 (63 FR 32888). The document announced the relocation and partial closing of the Dockets Management Branch (DMB). The document published with an incorrect zip code. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Jennie C. Butler, Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rockville, MD 20852, 301–827–6860.

In FR Doc. 98–15878, appearing on page 32888, in the **Federal Register** of Tuesday, June 16, 1998, the following corrections are made:

1. On page 32888, in the second column, under "**SUPPLEMENTARY INFORMATION**," in line six, the zip code is corrected to read "20852," and in the second paragraph, in line eleven, the zip code is corrected to read "20852."

Dated: July 7, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–18691 Filed 7–13–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0481]

Guidance for Industry on 180–Day Generic Drug Exclusivity Under the Hatch-Waxman Amendments to the Federal Food, Drug, and Cosmetic Act; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled "180–Day Generic Drug Exclusivity Under the Hatch-Waxman Amendments to the Federal Food, Drug, and Cosmetic Act." The purpose of the guidance is to inform the public of FDA's application of the 180-day generic drug exclusivity provisions of the Federal Food, Drug, and Cosmetic Act (the act) in light of recent court decisions on the issue.

DATES: Written comments may be submitted on the guidance document by October 13, 1998. General comments on the agency guidances are welcome at any time.

ADDRESSES: Copies of the guidance are available on the Internet at "http://www.fda.gov/cder/guidance/index.htm." Submit written requests for single copies to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your request. Submit written comments on the guidance to the Dockets Management Branch, (HFD–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Jerry Phillips, Center for Drug Evaluation and Research (HFD–610), 7500 Standish Pl., Rockville, MD 20855, 301–827–5846.

SUPPLEMENTARY INFORMATION: A requirement of FDA's regulations implementing the 180-day generic drug exclusivity provisions of the act has recently been successfully challenged in court. Section 314.107(c)(1) (21 CFR 314.107(c)(1)) applies and interprets section 505(j)(5)(B)(iv) of the act (21 U.S.C. 355(j)(5)(B)(iv)). Section 314.107(c)(1) contains the "successful defense" provision, which requires an abbreviated new drug application (ANDA) applicant to be sued for patent infringement and to prevail in the litigation in order to receive the 180-day period of marketing exclusivity. Two recent circuit court decisions, *Mova Pharmaceutical Corp.* v. *Shalala*, No. 97–5082, 1998 U.S. App. Lexis 7391 (D.C. Cir. Apr. 14, 1998) and *Granutec, Inc.* v. *Shalala*, No. 97–1873 and No. 97–1874, 1998 U.S. App. LEXIS 6685, (4th Cir. Apr. 3, 1998), held that the "successful defense" requirement was not supported by the act. The effect of these decisions, together with a June 1, 1998, order of the district court in *Mova*, is that FDA will not enforce the "successful defense" provisions of § 314.107(c)(1).

FDA intends to formally remove the "successful defense" provisions from § 314.107(c)(1), but that process is not complete. Following withdrawal of the regulatory provision, FDA expects to begin a rulemaking to issue new regulations under section 505(j)(5)(B)(iv) of the act. In the meantime, the agency must make exclusivity decisions for ANDA's that are nearing approval. Until such time as the rulemaking process is complete, FDA will regulate directly from the statute and will make decisions on 180-day generic drug exclusivity on a case-by-case basis.

The guidance is intended to provide industry with information on how FDA is applying section 505(j)(5)(B)(iv) of the act in light of the decisions in *Mova* and *Granutec*. The agency will revise this guidance as additional interpretations are made.

The guidance is being implemented immediately without prior public comment because the guidance is needed to explain FDA's application of the statute in light of recent court decisions. However, the agency wishes to solicit comment from the public and is providing a 90-day comment period and establishing a docket for the receipt of comments.

This guidance is a level 1 guidance consistent with FDA's good guidance practices (62 FR 8961, February 27, 1997). It represents the agency's current thinking on 180-day generic drug exclusivity under the Hatch-Waxman Amendments. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the act.

Interested persons may submit written comments on the guidance to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 7, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 98–18690 Filed 7–13–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Health Resources and Services Administration (HRSA) will publish periodic summaries of proposed projects being developed for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans, call the HRSA Reports Clearance Officer on (301) 443–1129.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project

Grantee Reporting Requirements for the Rural Health Network Development Grant Program (OMB NO. 0915–0218)—Extension.

This is a request for extension of the reporting requirements for the Rural Network Development Grant Program authorized by section 330A of the Public Health Service Act as amended by the Health Centers Consolidation Act of 1996 (Public Law 104–229). The purpose of the program is to assist in the development of vertically integrated networks of health care providers in rural communities. Grantees will be working to change the delivery system in their service areas and will be using the Federal funds to develop network capabilities.

Grantees submit semiannual reports which provide information on progress towards goals and objectives of the network, progress toward developing the governance and organizational arrangements for the network, specific network activities, certain financial data related to the grant budget, and health care services provided by the network.

The information is used to evaluate progress on the grants, to understand barriers to network development in rural areas, to identify grantees in need of technical assistance, and to identify best practices in the development of provider networks in rural communities.

The information is also used to begin to evaluate the impact of networks on access to care.

To minimize the burden on grantees, the reports will are submitted electronically. The estimated burden is as follows:

Type of respondent	Number of respondents	Responses per respondent	Hours per response	Total burden hours
Grantees	40	2	20	1,600

Send comments to: HRSA Reports Clearance Officer, Room 14–36, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: July 7, 1998.

Jane Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 98–18692 Filed 7–13–98; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Program Exclusions: June 1998

AGENCY: Office of Inspector General, HHS.

ACTION: Notice of program exclusions.

During the month of June 1998, the HHS Office of Inspector General imposed exclusions in the cases set forth below. When an exclusion is imposed, no program payment is made to anyone for any items or services (other than an emergency item or service not provided in a hospital emergency room) furnished, ordered or prescribed by an excluded party under the Medicare, Medicaid, and all Federal Health Care programs. In addition, no program payment is made to any business or facility, e.g., a hospital, that submits bills for payment for items or services provided by an excluded party.

Program beneficiaries remain free to decide for themselves whether they will continue to use the services of an excluded party even though no program payments will be made for items and services provided by that excluded party. The exclusions have national effect and also apply to all Executive Branch procurement and non-procurement programs and activities.

Subject, city, state	Effective date
PROGRAM-RELATED CONVICTIONS	
ALEXANDER, ALVIN LANTANA, FL	07/20/1998
ARDEN, JEFFREY S LOS ANGELES, CA	07/20/1998
ARMAND, ACHILLE EGLIN AFB, FL	07/30/1998
ARTEAGA, RAQUEL HIALEAH, FL	07/20/1998
BLUE FRONT TRANSPORTATION CO W PALM BEACH, FL	07/20/1998
BOONE, WILLIE W PALM BEACH, FL	07/20/1998
BRITTON, MAXCINE Y MADISON, MS	07/20/1998
BRITTON, ALBERT B, JR MADISON, MS	07/20/1998
BROOKS, WILBUR ROY PHOENIX, AZ	07/20/1998
BURNS, FAYE I MIAMI, FL	07/20/1998
CARITHERS, KEVIN LAQUINN CONYERS, GA	07/20/1998
CLEVELAND, NATHANIEL W PALM BEACH, FL	07/20/1998
CORP, PATRICIA MARIE FAYETTEVILLE, AR	07/20/1998
DAMM, AUSTEN P GREEN VALLEY, AZ	07/20/1998
DE LA CERDA, NELSON MIAMI, FL	07/20/1998
DEHAMER, GILBERT CLEARWATER, FL	07/20/1998
ERNEST, ERNIE LAKE WORTH, FL	07/20/1998
FALANA, ROGER EGLIN AFB, FL	07/20/1998
FALANA, CHARLES JESUP, GA	07/20/1998
FANTONY, RAFAEL MIAMI, FL	07/20/1998
FIRESTONE, GERALD CANTON, OH	07/20/1998
GIEGER, JEFFERY W MONTGOMERY, AL	07/20/1998
GRADY, WILLIE COLEMAN, FL	07/20/1998
GRAHAM-MELVIN ASSOCIATES, INC COLUMBIA, MD	07/20/1998
HERNANDEZ, MIGDALIA ENID MIAMI, FL	07/20/1998
HINKSON, SHARON LINCOLNTON, GA	07/20/1998
HUBBELL, PEGGY LAKELAND, FL	07/20/1998
L K RATHI MD, INC SPRINGFIELD, MA	07/20/1998
LAWRENCE, MICHAEL W PALM BEACH, FL	07/20/1998
LENHART, RICHARD ANTHONY CAMBRIDGE, OH	07/20/1998
LENNON, JEFFREY J FLORENCE, CO	07/20/1998
MASSILON, PIERRE W PALM BEACH, FL	07/20/1998
MCGARRY, RYAN WARWICK, RI	07/20/1998
MCGILL, JOANNE OVETT, MS	07/20/1998
MILLER, INEZ C PORTLAND, OR	07/20/1998
MIMLESS, LORIN H BOSTON, MA	07/20/1998
MITCHELL, DANI ARLENE PHOENIX, AZ	07/20/1998
ONG, FEE LAS VEGAS, NV	07/20/1998
ORRA, MAHMOUD MOHAMMED WESTLAKE, OH	07/20/1998
PANTLEO, DARREN L PUEBLO, CO	07/20/1998
POLZIN, EDITH LYNNE BROOKFIELD, WI	07/20/1998
POSEY, CHARLES LEWIS ABBEVILLE, GA	07/20/1998
RAMIREZ, PRAXEDES MIAMI, FL	07/20/1998
RATHI, LAXMIKANT LONGMEADOW, MA	07/20/1998
RICHIE, MARY LOUISE FT MYERS, FL	07/20/1998
SANGAVE, CHHAYA A ROCHESTER, NY	07/20/1998
SHELTON, MARSHELL CANTRELL MARSHALL, NC	07/20/1998
SINGH, RAMBARAN LANTANA, FL	07/20/1998
STEGALL, ELIZABETH M STONE MOUNTAIN, GA	07/20/1998
STILWELL, JEFFREY WAYNE MABLETON, GA	07/20/1998
STILWELL, TONY AUSTELL, GA	07/20/1998
STILWELL, MARTHA LYNN MABLETON, GA	07/20/1998
THOMAS, LEO J MANCHESTER, KY	07/20/1998
VANWEY, ROBERT BRUCE TOLEDO, OH	07/20/1998
VITA LIGHTS INTERNATIONAL, LTD BROOKLYN, NY	07/20/1998
YANES, LOURDES HIALEAH, FL	07/20/1998
FELONY CONVICTION FOR HEALTH CARE FRAUD	
ANDERSON, DONNA KAY MESA, AZ	07/20/1998
FELONY CONTROL SUBSTANCES CONVICTION	
VALENTINE, ALLEN FRANK SAN ANTONIO, TX	07/20/1998
PATIENT ABUSE/NEGLECT CONVICTIONS	
AFRA, ADWOA PAWTUCKET, RI	07/20/1998
AMSPAUGH, DARREN JAY DUNCAN FALLS, OH	07/20/1998
ANDERSON, CHANNIE MARIE BASTROP, LA	07/20/1998
APODACA, JENNY A DENVER, CO	07/20/1998
BLAYLOCK, JOYCE CALEDONIA, MS	07/20/1998
BRADLEY, MARTIN K W WARWICK, RI	07/20/1998
BRADY, JEFFREY ALLEN LEXINGTON, OK	07/20/1998
BRANSON, ANGELA W LAWRENCE, KS	07/20/1998
BROWN, JUANITA M LINCOLN, DE	07/20/1998
CERVONE, JANET FLEISHAKER PITTSBURGH, PA	07/20/1998
DAVIS, GLORIA ALEXANDRIA, LA	07/20/1998
DICKSON, JOHN A SAYRE, OK	07/20/1998
EDMISTON, LATRICIA ANN ANTIOCH, TN	07/20/1998
ELWOOD, CATHY ANN MONTGOMERY CENTER, VT	07/20/1998
FLAVHAN, BERNARD M SUDBURY, MA	07/20/1998
HANI, JOSHUA EUGENE EUREKA, CA	07/20/1998
HARRISON, TROY JOSEPH STILLWATER, OK	07/20/1998
HATCHETT, JANICE JACKSON, MS	07/20/1998
JAMES, TONIA DANETTE LITTLE ROCK, AR	07/20/1998
LANG, BRENDA CHARLESTON, MS	07/20/1998
LEWIS, SHAWANDA LAUREL, MS	07/20/1998
LINDERMAN, FRANCES WAURIKA, OK	07/20/1998
MASON, FRANKLIN JACKSON, MS	07/20/1998
MONTOYA, HENRY LEE ALBUQUERQUE, NM	07/20/1998
MOORE, AMANDA KIETALIA LUFKIN, TX	07/20/1998
MOREY, SCOTT PROVIDENCE, RI	07/20/1998
MURPHY, CHERRY D NORMAN, OK	07/20/1998
OWENS, CINDY MICHELLE WILBURTON, OK	07/20/1998
PRICE, TERENA L ENID, OK	07/20/1998
ROWE, NATASHA ABERDEEN, MS	07/20/1998
SEVILLA, FERDINAND SAN DIEGO, CA	07/20/1998
THOMAS, MICHELLE LEE WARSAW, OH	07/20/1998
THOMPSON, LAURA CARLSBAD, NM	07/20/1998
WASHINGTON, LUCAROL GWENNETT ENID, OK	07/20/1998
WELSH, MICHAEL WAYNE CROOKSVILLE, OH	07/20/1998
WHITEHURST, LOUIS HENRY	07/20/1998

Subject, city, state	Effective date
GEORGETOWN, SC	
WILLIAMS, TERESA MARIE MOUNTAIN HOME, AR	07/20/1998
WILLIAMS, LOUCINDA BOKCHITO, OK	07/20/1998
WISE, TIJANA SHALANDA PAINESVILLE, OH	07/20/1998

CONVICTION FOR HEALTH CARE FRAUD

Subject, city, state	Effective date
AKSOY, YASAR J BECKLEY, WV	07/20/1998
BRIGGS, SHENDRAA DESHON RAYVILLE, LA	07/20/1998
CLARK, MERLIN LAFAYETTE, LA	07/20/1998
COOPER, LINDA FAYE FORT WORTH, TX	07/20/1998
MITCHELL, GINGER CLARKSDALE, MS	07/20/1998
TATE, DENITA MENYUN WINNSBORO, LA	07/20/1998

LICENSE REVOCATION/SUSPENSION/SURRENDERED

Subject, city, state	Effective date
ASTON, ROBIN BANGOR, ME	07/20/1998
BACHELOR, BARRY G CERRITOS, CA	07/20/1998
BAILEY, LAURA FRANCIS CLEVELAND, TN	07/20/1998
BANISTER, MARY DOROTHY WALNUT CREEK, CA	07/20/1998
BANKE, LAURETTE NILES, MI	07/20/1998
BLOUNT GRAEBER, MELODY G TALENT, OR	07/20/1998
BUNDY, SHAREEN S WASHINGTON, DC	07/20/1998
BUTLER, CRAIG DAMIEN ALBANY, GA	07/20/1998
BYNUM, RANDALL LEE AURORA, CO	07/20/1998
CARTER, RANDALL K PINEY FLATS, TN	07/20/1998
CLOUGH, SABRINA RAYE DOUGLASVILLE, GA	07/20/1998
COFFINO, KAREN A ANN OROVILLE, CA	07/20/1998
DABNEY, LUCILLE JENETTE STONE MOUNTAIN, GA	07/20/1998
EFIN, EMILY SAN LUIS OBISPO, CA	07/20/1998
ERVIN, LAURA LARSEN CHESAPEAKE, VA	07/20/1998
FARLEY, TWYLA J ANTELOPE, CA	07/20/1998
FARRELL, NANCY YORK, PA	07/20/1998
GALLEGOS, KARL VANCE ATLANTA, GA	07/20/1998
HEALY, PAUL THOMAS KEYSER, WV	07/20/1998
HENDERSON, BARRY MERLE MARIETTA, GA	07/20/1998
HILST, WILBUR DEAN LIBERAL, KS	07/20/1998
HOLMES, JOHN MELBURN D ROANOKE, AL	07/20/1998
HOUSTON, JOHN SCOTT MOBILE, AL	07/20/1998
HUBNER, PAMELA J ONALASKA, WA	07/20/1998
HYMAN, KENNETH AARON WHEELING, WV	07/20/1998
IGNACIO, AZUCENA C HONOLULU, HI	07/20/1998
KASTLE, MATTHEW AURORA, CO	07/20/1998
KURTZ, GENE GAYLORD HAVRE, MT	07/20/1998
LACHMAN, ROBERT E MARSHALLTOWN, IA	07/20/1998
LEACH, RICHARD EATON LAKE CHARLES, LA	07/20/1998
LEVENDUSKY, GERALD A ALIQUIPPA, PA	07/20/1998
MAHAKIAN, CHARLES G LAS VEGAS, NV	07/20/1998
MARTELL, ALGIS RENO, NV	07/20/1998
MAYS, DAVID WILLIE III MARION, OH	07/20/1998
MCCALL, CURTIS J JR PANAMA CITY, FL	07/20/1998
MILLER, MELVIN JOHN ATLANTA, GA	07/20/1998
NEWMAN, ROBERT C REDLANDS, CA	07/20/1998
PASCHALL, CATINA M CHESAPEAKE, VA	07/20/1998
PATEL, SATISH R LEXINGTON, KY	07/20/1998
POWELL, JOHN GARY LYNCHBURG, VA	07/20/1998
RAJAGOPAL, SUBRAMANYAM LINCOLN, NE	07/20/1998
ROBERTS, DONALD LEE SAN DIEGO, CA	07/20/1998
ROHLFING, WALTER ALFRED III OAKLAND, CA	07/20/1998
ROWAN, ALOYSIUS IGNATIUS AURORA, CO	07/20/1998
RUSSELL, ROGER K PEARSON, GA	07/20/1998
SCRUGGS, KAREN C LEXINGTON, KY	07/20/1998
SHORTINO, LORI ANN CANOGA PARK, CA	07/20/1998
SLACK, ROGER S COLUMBUS, OH	07/20/1998
SMILEY, LIZETTE M RICHMOND, VA	07/20/1998
SOLOMON, MARILOU A SAN MATEO, CA	07/20/1998
STEBBINS, ROBERT D PALO ALTO, CA	07/20/1998
STEIGER, KEITH DANBURY, CT	07/20/1998
SULLIVAN, JOFFRE ROLLAND SAN JOSE, CA	07/20/1998
TEODORO, JAIME L SEATTLE, WA	07/20/1998
THOMPSON, ESMON L NORFOLK, VA	07/20/1998
WATERS, JAMES LEON JR ATLANTA, GA	07/20/1998
WHITFIELD, THOMAS P CHARLOTTE, NC	07/20/1998
WILSON, PHYLLIS DELANE STOCKTON, CA	07/20/1998
WOLFENSON, ELENA H PORTLAND, OR	07/20/1998
ZAMBRANO, HERNAN A STONEHAM, MA	07/20/1998
ZANONI, VAUGHN F OXFORD, MA	07/20/1998

FEDERAL/STATE EXCLUSION/SUSPENSION

Subject, city, state	Effective date
CHOPRA, SANJIV ASTORIA, NY	07/20/1998
FRAZIER, MARK R OMAHA, NE	07/20/1998
FUERTES, ANELSON NEW YORK, NY	07/20/1998
SCHMIDT, PAUL SCOTTSDALE, AZ	07/20/1998
SURFACE, MICHAEL D PHOENIX, AZ	07/20/1998

OWNED/CONTROLLED BY CONVICTED/EXCLUDED

Subject, city, state	Effective date
COMMUNITY COUNSELING SERVICES WAYNESVILLE, MO	07/20/1998
DOCTORS FAMILY GROUP, INC MIAMI, FL	07/20/1998
ESTELA'S DME MIAMI, FL	07/20/1998
FIRST MEDICAL SUPPLIES, INC MIAMI, FL	07/20/1998
FLAMINGO MEDICAL SUPPLIES MIAMI, FL	07/20/1998
JONES FAMILY CHIROPRACTIC KENNESAW, GA	07/20/1998
MIAMI MEDICAL SUPPLIES, INC MIAMI, FL	07/20/1998
SIKES DEVELOPMENT CENTER CONYERS, GA	07/20/1998
STILWELL ENTERPRISES, INC MABLETON, GA	07/20/1998
WESTCHESTER COUNSELING SVC PEEKSKILL, NY	07/20/1998

DEFAULT ON HEAL LOAN

Subject, city, state	Effective date
ADELI, MOJGAN E LOS ANGELES, CA	07/20/1998
ALLEN, CHRISTOPHER L HOUSATONIC, MA	07/20/1998
ANDERSON, KAI DETROIT, MI	07/20/1998
BAHADUE, GEORGE P HIALEAH, FL	07/20/1998
BALDWIN, LINDA L MISSOULA, MT	07/20/1998
BARANCO, PATRICIA E BATON ROUGE, LA	07/20/1998
BARKDULL, MORGAN G VICTOR, ID	07/20/1998
BARTLETT, RICHARD W SEATTLE, WA	07/20/1998
BATES, ROBERT B	07/20/1998

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Subject, city, state	Effective date
BELLINGHAM, WA	
BEDELL, ANDREW D FORT SCOTT, KS	07/20/1998
BELL-SMITH, LINDA NASHVILLE, TN	07/20/1998
BERRY, ALBERT W ALACHUA, FL	07/20/1998
BROWN, DEREK L PALM SPRING, CA	07/20/1998
BYINGTON, BRAD A S LAKE TAHOE, CA	07/20/1998
CAMERON, WILLIAM F VIDALIA, LA	07/20/1998
CARMAN, TIMOTHY P LA JOLLA, CA	07/20/1998
CHAPMAN, JENIFER L NEWBURGH, IN	07/20/1998
COLLINS, GAIL W JR BELLINGHAM, WA	07/20/1998
DOWNEY, BRETT M HOUSTON, TX	07/20/1998
FALTH, ANNIKA M SAN FRANCISCO, CA	07/20/1998
FORMAN, STEVEN W CLEMENTON, NJ	07/20/1998
FOY, JAMES JR CLEVELAND, OH	07/20/1998
FROUMAN, CARY L AUSTIN, TX	07/20/1998
GARS, JEFFREY S ST PETERSBURG, FL	07/20/1998
GOETZ, DEREK C MIAMI BEACH, FL	07/20/1998
GOMES, MARIO A YUBA CITY, CA	07/20/1998
GOSA, ANGELA J CHICAGO, IL	07/20/1998
GOTKIN, STUART J SMYRNA, GA	07/20/1998
GRIFFIN, HANK LA JOLLA, CA	07/20/1998
HALPERN-SEBOLD, LESLIE R KNOXVILLE, TN	07/20/1998
HANSON, NYLA K DANIELSON, CT	07/20/1998
HENNELL-LARUE, RENATA A EUGENE, OR	07/20/1998
HERRING, RAYMOND A NEW HAVEN, CT	07/20/1998
HOLLANDER, GREGG M PHILADELPHIA, PA.	12/22/1997
HUME, FOREST C JR WILLIAMSBURG, KY	07/20/1998
JACKSON, JOHN SADDLE RIVER, NJ	07/20/1998
KUNEN, FREDERICK J MIAMI, FL	07/20/1998
LANDRY, NATHANIEL EARL JR NEW ORLEANS, LA	07/20/1998
MATKOWSKY, PETER MIDLOTHIAN, VA	07/20/1998
MCCLUSKEY, RONALD L GRESHAM, OR	07/20/1998
MIYAJI, CHARLES M SAN DIEGO, CA	07/20/1998
OLBERG, GREGORY S HAYWARD, CA	07/20/1998
SMITH, TED L TRUSSVILLE, AL	07/20/1998
THOMAS, DANNY L CYPRESS, CA	07/20/1998
TSCHABRUN, KEVIN L HOLDREGE, NE	07/20/1998
TULEY, BARBARA K ADA, OK	07/20/1998
TYLER, JOHN R RIALTO, CA	07/20/1998
VAZIRI, CHARLES LOS ANGELES, CA	07/20/1998
VELARDE, DIEGO F BENSENVILLE, IL	07/20/1998
VISSERS, MICHAEL J BRAWLEY, CA	07/20/1998
VIVAS, WILLIAM R MIAMI, FL	07/20/1998
WAHDAN, BUTHAYNA W SAN BERNARDINO, CA	07/20/1998
WARREN, DANIEL SCOTT HUNTINGTON BEACH, CA	07/20/1998
WEHMEYER (TUBIC), SUSAN D MILWAUKEE, WI	07/20/1998
WEIERKE, BRENDA L W SAINT PAUL, MN	07/20/1998
WELCH, RONALD B SANDPOINT, ID	07/20/1998
WILLIAMS, PETER B PORT RICHEY, FL	07/20/1998
WOOLLEY, MARK K LAS VEGAS, NV	07/20/1998
YOO, IN JOON LA CANADA, CA	07/20/1998

EXCLUSION BASED ON SETTLEMENT AGREEMENT

ADOLFO CONSULTING SERVICES INC MIAMI, FL	10/18/1997
ALERT DIAGNOSTICS, INC MIAMI, FL	12/01/1997
ANDERSON, AMANDA ESSEX JUNCTION, VT	12/23/1997
CARE DIAGNOSTIC SERVICES, INC MIAMI, FL	10/18/1997
DADE CARE HEALTH CENTER, INC MIAMI, FL	12/31/1997
GOULD, WILLIAM BOSTON, MA	07/31/1997
JAVIER, ANDRIAL MIAMI, FL	12/01/1997
LUBIN, L STEVE MEMPHIS, TN	03/09/1998
MEDICALAB, INC BROCKTON, MA	07/31/1997
NEW MEDICAL CENTER, INC HIALEAH, FL	10/18/1997
SOUTH FLORIDA DIAGNOSTIC CTR MIAMI, FL	10/18/1997
STONEFIELD, RICHARD W HINGHAM, MA	07/31/1997
URQUIJO, GUSTAVO ADOLFO JR MIAMI, FL	10/18/1997

Dated: July 6, 1998.

Joanne Lanahan,

Director, Health Care Administrative Sanctions, Office of Inspector General.

[FR Doc. 98–18622 Filed 7–13–98; 8:45 am]

BILLING CODE 4150–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Chemistry and Related Sciences Special Emphasis Panel ZRG3 SSS–Z (02).

Date: July 8, 1998.

Time: 2:00 PM to 3:30 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Ron Manning, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4158, MSC 7806, Bethesda, MD 20892, (301) 435–1723.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Chemistry and Related Sciences Special Emphasis Panel.

Date: July 15–16, 1998.

Time: 8:30 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 5520 Wisconsin Ave, Chevy Chase, MD 20815.

Contact Person: Jean D Sipe, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5152, MSC 7842, Bethesda, MD 20892, (301) 435–1743.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Chemistry and Related Sciences Special Emphasis Panel.

Date: July 16–17, 1998.

Time: 8:00 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, Silver Spring Plaza, 8777 Georgia Ave, Silver Spring, MD 20910.

Contact Person: Ron Manning, PHD, Scientific Review Administrator, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4158, MSC 7806, Bethesda, MD 20892, (301) 435-1723.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Biological and Physiological Sciences Special Emphasis Panel.

Date: July 22, 1998.

Time: 9:30 AM to 12:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Daniel B. Berch, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5204, MSC 7848, Bethesda, MD 20892, (301) 435-1256.

Name of Committee: Biological and Physiological Sciences Special Emphasis Panel ZRG2 SSS-C-2.

Date: July 23-24, 1998.

Time: 8:30 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 5520 Wisconsin Ave, Chevy Chase, MD 20815.

Contact Person: Cheri Wiggs, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5194, MSC 7848, Bethesda, MD 20892, (301) 435-1261.

Name of Committee: Clinical Sciences Special Emphasis Panel.

Date: July 24, 1998.

Time: 8:30 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Chevy Chase Pavilion, 4300 Military Road, NW, Washington, DC 20015.

Contact Person: J. Terrell Hoffeld, DDS, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4116, MSC 7816, Bethesda, MD 20892, (301) 435-1781.

Name of Committee: Chemistry and Related Sciences Special Emphasis Panel ZRG3-BBCB (2S).

Date: July 28, 1998.

Time: 2:00 PM to 3:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Donald Schneider, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4172, MSC 7806, Bethesda, MD 20892, (301) 435-1727.

Name of Committee: Biological and Physiological Sciences Special Emphasis Panel ZRG2 REN (01).

Date: July 30, 1998.

Time: 8:00 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Ramada Inn, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Abubakar A. Shaikh, DVM, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6166, MSC 7892, Bethesda, MD 20892, (301) 435-1042.

Name of Committee: Chemistry and Related Sciences Special Emphasis Panel Special Study Section—2 (03).

Date: August 3-4, 1998.

Time: 8:00 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel at Pentagon City, 1250 South Hayes Street, Arlington, VA 22202.

Contact Person: Jean D. Sipe, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5152, MSC 7842, Bethesda, MD 20892, (301) 435-1743.

Name of Committee: Chemistry and Related Sciences Special Emphasis Panel Special Study Section—2 (02).

Date: August 3, 1998.

Time: 8:30 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel, 1250 S. Hayes Street, Arlington, VA 22202.

Contact Person: Jean D. Sipe, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5152, MSC 7842, Bethesda, MD 20892, (301) 435-1743.

Name of Committee: Chemistry and Related Sciences Special Emphasis Panel ZRG3 PBC (02).

Date: August 3, 1998.

Time: 2:00 PM to 3:00 PM.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel at Pentagon City, 1250 South Hayes Street, Arlington, VA 22202.

Contact Person: Zakir Bengali, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5150, MSC 7842, Bethesda, MD 20892, (301) 435-1742.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: July 7, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98-18631 Filed 7-13-98; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Chemistry and Related Sciences Special Emphasis Panel, July 8, 1998, 2:00 PM to July 8, 1998, 4:00 PM, NIH, Rockledge 2, Bethesda, MD, 20892 which was published in the **Federal Register** on June 22, 1998, Volume 63, #119.

The meeting will be held on July 20, 1998 at the Holiday Inn, Chevy Chase, MD. The meeting is closed to the public.

Dated: July 7, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98-18632 Filed 7-13-98; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Initial Review Group Subcommittee E—Prevention & Control.

Date: August 3-4, 1998.

Time: 9:00 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, N.W., Washington, DC 20007.

Contact Person: Mary C. Fletcher, Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6130 Executive Boulevard, EPN-Room 643D, Rockville, MD 20892-7405, 301/496-4964.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction;

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93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: July 7, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–18630 Filed 7–13–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Phase II Clinical Trials of New Chemopreventive Agents

Date: July 22, 1998

Time: 1:00 PM to 3:00 PM

Agenda: To review and evaluate contract proposals

Place: 6130 Executive Blvd., 6th Floor, Rockville, MD 20852 (Telephone Conference Call)

Contact Person: C.M. Kerwin, Ph.D., Scientific Review Administrator, Special Review, Referral and Resources Branch, Division of Extramural Affairs, National Cancer Institute, National Institutes of Health, 6130 Executive Boulevard/EPN-609, Rockville, MD 20892–7405, 301/496–7421.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: July 7, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–18636 Filed 7–13–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Environmental Health Sciences Review Committee, NIEHS Review Committee.

Date: July 30–31, 1998.

Time: 8:30 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIEHS, SOUTH CAMPUS, BUILDING 101, CONFERENCE ROOM B, RESEARCH TRIANGLE PARK, NC 27709.

Contact Person: Linda Bass, PHD, Health Scientist Administrator, Nat'l Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–24, Research Triangle Park, NC 27709, (919) 541–1307.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: July 7, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–18627 Filed 7–13–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date: 9:30 AM to 10:30 AM.

Agenda: To review and evaluate grant applications.

Place: 6000 Executive Blvd., Suite 409, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Aida K. Vasquez, Grant Technical Assistant, Extramural Review Branch, National Institute on Alcohol Abuse and Alcoholism, Suite 409, 6000 Executive Boulevard, Bethesda, MD 20892, 301–443–9788.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: July 7, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–18628 Filed 7–13–98; 8:45am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date: July 15, 1998.

Time: 9:00 AM to 10:00 AM.

Agenda: To review and evaluate grant applications.

Place: 6000 Executive Blvd., Suite 409, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Aida K. Vasquez, Grant Technical Assistant, Extramural Review Branch, National Institute on Alcohol Abuse and Alcoholism, Suite 409, 6000 Executive Boulevard, Bethesda, MD 20892, 301–443–9788.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: July 7, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–18629 Filed 7–13–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of persons privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel ZAA1–EE–3 (RFP–AA–98–07).

Date: July 17, 1998.

Time: 2:00 PM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: 6000 Executive Blvd., Suite 409, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Antonio Noronha, PHD, Scientific Review Administrator, Extramual Review Branch, National Institute on Alcohol Abuse and Alcoholism, Suite 409, 6000 Executive Boulevard, Bethesda, MD 20892, 301–443–7722.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: July 7, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–18633 Filed 7–13–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental Research; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amendment (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental Research Special Emphasis Panel.

Date: July 8, 1998.

Time: 1:00 PM to 3:00 PM.

Agenda: To review and evaluate grant applications.

Place: Natcher Bldg, Bethesda, MD 20892–6400, (Telephone Conference Call).

Contact Person: Philip Washko, PhD, DMD.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Dental Research Special Emphasis Panel.

Date: July 20, 1998.

Time: 1:30 PM to 3:00 PM.

Agenda: To review and evaluate grant applications.

Place: Natcher Bldg, Bethesda, MD 20892–6400, (Telephone Conference Call).

Contact Person: Philip Washko, PhD, DMD.

Name of Committee: National Institute of Dental Research Special Emphasis Panel.

Date: July 28, 1998.

Time: 1:00 PM to 3:00 PM.

Agenda: To review and evaluate grant applications.

Place: Natcher Bldg, Bethesda, MD 20892–6400, (Telephone Conference Call).

Contact Person: Philip Washko, PhD, DMD.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: July 7, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–18634 Filed 7–13–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Mental Health Special Emphasis Panel, July 10, 1998, 1:00 p.m. to July 10, 1998, 2:00 p.m., Parklawn Building—Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, which was published in the **Federal Register** on June 23, 1998, 63 FR 34191.

The meeting will be held July 13, 1998 at 1:00 p.m. at the same location. The meeting is closed to the public.

Dated: July 7, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–18635 Filed 7–13–98; 8:45 am]

BILLING CODE 4140–01–M

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: July 16, 1998.

Time: 1:00 PM to 2:00 PM.

Agenda: To review and evaluate grant applications.

Place: Parklawn Building—Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, (Telephone Conference Call).

Contact Person: Sheila O'Malley, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Parklawn Building, 5600 Fishers Lane, Room 9C–26, Rockville, MD 20857, 301–443–6470.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: July 21, 1998.

Time: 2:30 PM to 4:30 PM.

Agenda: To review and evaluate grant applications.

Place: Parklawn Building—Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, (Telephone Conference Call).

Contact Person: Susan M. Matthews, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Parklawn Building, 5600 Fishers Lane, Room 9–101, Rockville, MD 20857, 301–443–5047.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training; 93.242, Mental Health Research Grants, National Institutes of Health, (HHS).

Dated: July 7, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH

[FR Doc. 98–18637 Filed 7–13–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: July 13, 1998.

Time: 2:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Parklawn Building—Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, (Telephone Conference Call).

Contact Person: Victoria S. Levin, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Parklawn Building, 5600 Fishers Lane, Room 9C–26, Rockville, MD 20857, 301–443–6470.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: July 14, 1998.

Time: 12:30 p.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Parklawn Building—Room 9–105, 5600 Fishers Lane, Rockville, MD 20857, (Telephone Conference Call).

Contact Person: Jean G. Noronha, PHD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Parklawn Building, 5600 Fishers Lane, Room 9C–26, Rockville, MD 20857, 301–443–6470.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: July 21, 1998.

Time: 10:15 a.m. to 12:15 p.m.

Agenda: To review and evaluate grant applications.

Place: Parklawn Building—Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, (Telephone Conference Call).

Contact Person: Victoria S. Levin, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Parklawn Building, 5600 Fishers Lane, Room 9C–26, Rockville, MD 20857, 301–443–6470.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: July 21, 1998.

Time: 1:00 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Parklawn Building—Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, (Telephone Conference Call).

Contact Person: Victoria S. Levin, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Parklawn Building, 5600 Fishers Lane, Room 9C–26, Rockville, MD 20857, 301–443–6470.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: July 22, 1998.

Time: 9:30 a.m. to 12:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: Parklawn Building—Room 17–94, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Michael J. Moody, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Parklawn Building, 5600 Fishers Lane, Room 9–105, Rockville, MD 20857, 301–443–3367.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: July 24, 1998.

Time: 9:30 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Robert H. Stretch, PHD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Parklawn Building, 5600 Fishers Lane, Room 9C–18, Rockville, MD 20857, 301–443–4728.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: July 30, 1998.

Time: 12:00 p.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Parklawn Building—Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, (Telephone Conference Call).

Contact Person: Jean G. Noronha, PHD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Parklawn Building, 5600 Fishers Lane, Room 9C–26, Rockville, MD 20857, 301–443–6470.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: July 7, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–18638 Filed 7–13–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration (SAMHSA)

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the following meeting of the SAMHSA Special Emphasis Panel I in August 1998.

A summary of the meeting and a roster of the members may be obtained from: Ms. Dee Herman, Committee Management Liaison, SAMHSA, Office of Policy and Program Coordination, Division of Extramural Activities, Policy, and Review, 5600 Fishers Lane, Room 17–89, Rockville, Maryland 20857. Telephone: 301–443–7390.

Substantive program information may be obtained from the individual named as Contact for the meeting listed below.

The meeting will include the review, discussion and evaluation of individual grant applications. These discussions could reveal personal information concerning individuals associated with the applications. Accordingly, this meeting is concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b(c)(6) and 5 U.S.C. App. 2, § 10(d).

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Dates: August 3–7, 1998.

Place: Hyatt Regency—Crystal City, 2799 Jefferson Davis Highway, Arlington, VA 22202.

Closed: August 3–6, 1998 9:00 a.m.–5:00 p.m., August 7, 1998 9:00 a.m.–adjournment.

Panel: Center for Mental Health Services Cooperative Agreements to Document and Evaluate Mental Health/Substance Abuse Services for Older Adults Through Primary Health Care SM 98–009.

Contact: W. Peter Allen, Review Administrator, Room 17–89, Parklawn Building, Telephone: 301–443–9919 and FAX: 301–443–3437.

Dated: July 8, 1998.

Jeri Lipov,

Committee Management Officer, SAMHSA.

[FR Doc. 98–18693 Filed 7–13–98; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration (SAMHSA)

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the following meeting of the SAMHSA Special Emphasis Panel I in August 1998.

A summary of the meeting and a roster of the members may be obtained from: Ms. Dee Herman, Committee Management Liaison, SAMHSA, Office of Policy and Program Coordination, Division of Extramural Activities, Policy, and Review, 5600 Fishers Lane, Room 17–89, Rockville, Maryland 20857. Telephone: 301–443–7390.

Substantive program information may be obtained from the individual named as Contact for the meeting listed below.

The meeting will include the review, discussion and evaluation of individual grant applications. These discussions could reveal personal information concerning individuals associated with the applications. Accordingly, this meeting is concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b(c)(6) and 5 U.S.C. App.2, § 10(d).

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Dates: August 3–5, 1998.

Place: Hyatt Regency at Crystal City, 2799 Jefferson Davis Highway, Arlington, VA 22202.

Closed: August 3–4, 1998 8:30 a.m.—5:00 p.m., August 5, 8:30 a.m.—adjournment.

Panel: Center for Substance Abuse Prevention Cooperative Agreements for Initiatives on Welfare Reform and Substance Abuse Prevention for Parenting Adolescents.

Contact: Pamela M. Perry, Room 13–99, Parklawn Building, Telephone: 301–443–7625 and FAX: 301–443–3437.

Dated: July 8, 1998.

Jeri Lipov,

Committee Management Officer SAMHSA.

[FR Doc. 98–18694 Filed 7–13–98; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration (SAMHSA)

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the following meeting of the SAMHSA Special Emphasis Panel I in July 1998.

A summary of the meeting and a roster of the members may be obtained from: Ms. Dee Herman, Committee Management Liaison, SAMHSA, Office of Policy and Program Coordination, Division of Extramural Activities, Policy, and Review, 5600 Fishers Lane, Room 17–89, Rockville, Maryland 20857. Telephone: 301–443–7390.

Substantive program information may be obtained from the individual named as Contact for the meeting listed below.

The meeting will include the review, discussion and evaluation of individual grant applications. These discussions could reveal personal information concerning individuals associated with the applications. Accordingly, this meeting is concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b(c)(6) and 5 U.S.C. App. 2, § 10(d).

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Dates: July 27–31, 1998.

Place: Hyatt Regency—Crystal City, 2799 Jefferson Davis Highway, Arlington, VA 22202.

Closed: July 17–30, 1998, 9:00 a.m.—5:00 p.m.; July 31, 1998 9:00 a.m.—adjournment.

Panel: Center for Mental Health Services Statewide, Consumer and Consumer Supporter Networking SM 98–013.

Contact: Sarah Silverman, Review Administrator, Room 17–89, Parklawn Building, Telephone: 301–443–3042 and FAX: 301–443–3437.

Dated: July 7, 1998.

Jeri Lipov,

Committee Management Officer, SAMHSA.

[FR Doc. 98–18695 Filed 7–13–98; 8:45 am]

BILLING CODE 4162–20–P

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071098F]

Receipt and Availability of Applications for Permits to Allow Incidental Take of Threatened and Endangered Species by The Pacific Lumber Company and its Subsidiaries, Scotia Pacific Holding Company and Salmon Creek Corporation, on Lands in Humboldt County, California

AGENCY: Fish and Wildlife Service, Interior; National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of receipt and availability for public comment.

SUMMARY: The Pacific Lumber Company and its wholly-owned subsidiaries, Scotia Pacific Holding Company and Salmon Creek Corporation (collectively, the Companies), have applied to the Fish and Wildlife Service and the National Marine Fisheries Service (collectively, the Services) for an incidental take permit from each of the Services pursuant to section 10(a) of the Endangered Species Act of 1973, as amended (ESA). The federally listed species for which the Companies have requested permits are the northern spotted owl (*Strix occidentalis caurina*), marbled murrelet (*Brachyramphus marmoratus*), American peregrine falcon (*Falco peregrinus anatum*), bald eagle (*Haliaeetus leucocephalus*), western snowy plover (*Charadrius alexandrinus nivosus*), and coho salmon (*Oncorhynchus kisutch*). The Companies have also requested that 30 currently proposed and other unlisted species be included on the permits, should the species be listed in the future under the ESA. The proposed take would occur incidental to timber harvest and other proposed activities on the Companies lands in Humboldt County, California. The applications have been assigned Fish and Wildlife Service permit number PRT–828950 and National Marine Fisheries Service permit number 1157. The Services announce the availability for public comment of the permit applications, including the associated proposed Habitat Conservation Plan (Plan) and proposed Implementation Agreement. All comments received will become part of the public record and may be released. This notice is provided pursuant to section 10(c) of the ESA. The proposed Plan is, among other things, also intended to satisfy the requirements for a Sustained Yield Plan under California State law and the requirements for an incidental take permit under section 2081(b) of the California Endangered Species Act. The Services are currently developing, with the California Department of Forestry and the California Department of Fish and Game, a joint Draft Environmental Impact Statement/Environmental Impact Report, in accordance with the National Environmental Policy Act and California Environmental Quality Act. The Services plan to release the Draft Environmental Impact Statement/Environmental Impact Report in August and to hold several public hearings on it in September.

DATES: Written comments on the permit application, Plan, and Implementation Agreement must be received on or before October 13, 1998.

ADDRESSES: Comments regarding the application, Plan, and Implementation Agreement should be addressed to Mr. Bruce Halstead, Fish and Wildlife Service, 1125 16th Street, Room 209, Arcata, California 95521–5582. Written comments may be sent by facsimile to (707) 822–8411. Please refer to permit number PRT–828950 and number 1157 when submitting comments. Please see **SUPPLEMENTARY INFORMATION** section for additional information on the availability of the Plan and Implementation Agreement.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce Halstead, Fish and Wildlife Service, (707) 822–7201, or Mr. Craig Wingert, National Marine Fisheries Service, (562) 980–4020.

SUPPLEMENTARY INFORMATION: The Companies own and manage commercial forest land in northern California. The Pacific Lumber Company, and its corporate parent, signed an agreement on September 28, 1996, with the United States and the State of California. The agreement created a framework for the transfer of approximately 7,500 acres of private forest lands, including the Headwaters Forest (approximately 4500 acres) and the Elk Head Forest (approximately 1125 acres) to State and Federal ownership. As originally structured, the Agreement anticipated an exchange of these lands and timber for Federal and State assets with a value of $300 million and a portion of the Elk River Property to be acquired by the United States for up to $80 million.

The agreement also called for, among other things, development and submission by the Companies, and processing by the Services, of applications pursuant to section 10 of the ESA for incidental take permits, accompanied by a habitat conservation plan. Under terms of the agreement, the Companies were to develop a multi-species habitat conservation plan for lands currently within their ownership, as well as certain other lands which would be acquired by the Companies under the framework envisioned by the agreement.

On November 14, 1997, Congress enacted PL 105–83. In that legislation, Congress appropriated monies to satisfy the federal funding obligations for land acquisitions anticipated in the September 1996 agreement. The authorization for the expenditure of these funds expires March 1, 1999, and is effective only when, among other things, an incidental take permit is issued covering the Pacific Lumber property.

On February 27, 1998, the parties to the September 1996 agreement signed a "Pre-Permit Application Agreement in Principle," setting forth principles to guide the Companies in developing the Plan prior to its submission to and evaluation by the Services in accordance with the ESA and the National Environmental Policy Act.

Under section 9 of the ESA and its implementing regulations, A "taking" of threatened and endangered species is prohibited. However, the Services, under limited circumstances, may issue permits to take threatened or endangered wildlife species if such taking is incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for threatened and endangered species are codified in 50 CFR 17.22, 17.32, 222.22, and 222.24–28.

In the Plan, the Companies address species conservation and ecosystem management on approximately 211,700 acres of land, primarily in the coastal redwood zone of Humboldt County, California, currently owned by the Companies or to be acquired as part of the Headwaters transaction, and also any additional lands within one mile of the boundaries of these lands, no more than 25,000 acres of which may be covered by the permit. Most of the Companies currently-owned lands occur in a largely contiguous block. The duration of the proposed permit and Plan is 50 years.

The proposed Plan addresses 36 species for which the Companies seek coverage under section 10 of the ESA. The Plan focuses on six species due to their listing status, occurrence on the property, and likelihood to be affected by activities proposed by the Companies. The six focus species are identified here.

The proposed permit and Plan would authorize take of northern spotted owls associated with management activities in northern spotted owl habitat on the Companies lands. There are currently more than 140 northern spotted owl sites on the Companies' lands within the planning area, and approximately 70 owl sites within one mile of the Companies' ownership. The Plan would allow incidental take of northern spotted owls consistent with providing adequate nesting, roosting, and foraging habitat necessary to maintain a viable breeding owl population on the Companies' lands throughout the permit period.

The proposed permit and Plan would also authorize take associated with management activities within marbled murrelet habitat and establish a system of Marbled Murrelet Conservation Areas designed to protect most of the highest quality old-growth redwood forest murrelet habitat on the property.

Coho salmon, chinook salmon (*Oncorhynchus tshawytscha*), cutthroat trout (*Oncorhynchus clarki*), and steelhead (*Oncorhynchus mykiss*) are the other focus species. In addressing conservation needs of these species for properly functioning aquatic conditions, the proposed Plan includes a riparian buffer strategy, a road strategy, stream monitoring, and a hillslope/erosion control strategy. Under the Plan, the Companies may, at their option, conduct subsequent watershed analysis to tailor mitigation prescriptions to site specific conditions.

The American peregrine falcon, bald eagle, and western snowy plover are included in the permit application to cover circumstances where these listed species may occur on the property and at some point be affected by the Companies' proposed covered activities.

Other currently unlisted species also addressed in the Plan and proposed for inclusion on the permit are the foothill yellow-legged frog (*Rana boylei*), red-legged frog (*Rana aurora*), southern torrent salamander (*Rhyacotriton variegatus*), tailed frog (*Ascaphus truei*), northwestern pond turtle (*Clemmys marmorata marmorata*), bank swallow (*Riparia riparia*), double-crested cormorant (*Phalacrocorax auritus*), great blue heron (*Ardea herodias*), great egret (*Casmerodius albus*), snowy egret (*Egretta thula*), black-crowned night heron (*Nycticorax nycticorax*), sharp-shinned hawk (*Accipiter striatus*), Cooper's hawk (*Accipiter cooperi*), northern goshawk (*Accipiter gentilis*), ferruginous hawk (*Buteo regalis*), osprey (*Pandion haliaetus*), yellow warbler (*Dendroica petechia*), yellow-breasted chat (*Icteria virens*), burrowing owl (*Speotyto cunicularia*), golden eagle (*Aquila chrysaetos*), pileated woodpecker (*Dryocopus pileatus*), purple martin (*Progne subis*), Vaux's swift (*Chaetura vauxi*), California red tree vole (*Arborimus pomo*), Humboldt martin (*Martes americana humboldtensis*), Pacific fisher (*Martes pennanti pacificia*), and the Pacific lamprey (*Lampetra tridentata*). Information supporting inclusion of the Pacific lamprey on the permit is limited. The National Marine Fisheries Service will consider all information available at the close of the comment period to determine whether permit coverage can be provided for the Pacific lamprey.

The Services invite the public to comment on the proposed Habitat Conservation Plan and the draft Implementing Agreement. Public Law 105–83 specifies a deadline of March 1, 1999, for completion of the entire process of purchasing the Headwaters. In order to meet that deadline, the Services anticipate that they will not be able to extend the public comment period.

Additional Addresses

Copies of the multi-volume plan and Implementing Agreement containing over 1000 pages, or portions thereof, can be obtained at the following copy centers for duplication and mailing charges: Sir Speedy, 601 North Market Boulevard, 350, Sacramento, California 95834, (916) 927–7171; Kinko's, 2021 Fifth Street, Eureka, California 95501, (707) 445–3334; Kinko's, Stanyan Street and Geary Boulevard, San Francisco, California 94118, (415) 750–1193; and Kinko's, 835 Wilshire Boulevard, Suite 100, Los Angeles, California 90017, (213) 892–1700. The Implementation Agreement and major portions of the plan that could be practicably reproduced electronically will be available at The California Environmental Resources Evaluation System website at http://www.ceres.ca.gov/ and through the Fish and Wildlife Service website at http://www.r1.fws.gov/text/species.html. Copies of the Implementing Agreement and those portions of the plan that can be electronically reproduced will be available on compact disc which, along with paper copies of a detailed summary, can be obtained by contacting the Fish and Wildlife Service, 1125 16th Street, Room 209, Arcata, California 95521–5582, (707) 822–7201.

The documents are also available for review at the following government offices and libraries.

Government Offices

California Department of Forestry and Fire Protection, Humboldt-Del Norte Ranger Unit, 118 South Fortuna Boulevard, Fortuna, California 95540, (707) 725–4413; California Department of Forestry and Fire Protection, Coast-Cascade Region Headquarters, 135 Ridgeway Avenue, P.O. Box 670, Santa Rosa, California 95401, (707) 576–2959; California Department of Forestry and Fire Protection, State Headquarters, 1416 Ninth Street, Room 1516–4A, Sacramento, California 95814, (916) 653–5843; Fish and Wildlife Service, Coastal California Fish and Wildlife Office, 1125 16th Street, Room 209, Arcata, California 95521–5582, (707) 822–7201; Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 3310 El Camino Avenue, Suite 120, Sacramento, California 95821–6310, (916) 979–2710; National Marine Fisheries Service, 777 Sonoma Avenue, Room 325, Santa Rosa, California 95404–6515, (310) 980–4001; and California Department of Fish and Game, 619 Second Street, Eureka, California 95501, (707) 441–5672.

Libraries

Alameda Free Library, 2264 Santa Clara Avenue, Alameda, California 94501–4506, (510) 748–4669; Alameda County Library, 2450 Stevenson Boulevard, Fremont, California 94538–2326, (510) 505–7001; Anaheim Public Library, 500 W. Broadway, Anaheim, California 92805–3699, (714) 765–1810; Berkeley Public Library, 2090 Kittredge Street, Berkeley, California 94704–1491, (510) 644–6100; California State Library, Information and Reference Center, 914 Capitol Mall, Room 301, Sacramento, California 95814, (916) 654–0261; Colusa County Free Library, 738 Market Street, Colusa, California 95932–2398, (530) 458–7671; Contra Costa County Library, 1750 Oak Park Boulevard, Pleasant Hill, California 94523–4497, (510) 646–6423; Del Norte County Library District, 190 Price Mall, Crescent City, California 95531–4395, (707) 464–9793; Humboldt County Library, 1313 Third Street, Eureka, California 95501–1088, (707) 269–1900; Humboldt State University Library, Humboldt State University, Arcata, California 95521, (707) 826–4939; Lake County Library, 1425 N. High Street,

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Lakeport, California 95453–3800, (707) 263–8816; Long Beach Public Library, 101 Pacific Avenue, Long Beach, California 90822–1097, (562) 570–6291; Los Angeles Public Library, 630 W. Fifth Street, Los Angeles, California 90071–2097, (213) 228–7515; County of Los Angeles Public Library, 7400 E. Imperial Highway, Downey, California 90242–7011, (562) 940–8462; Marin County Free Library, 3501 Civic Center Drive, San Rafael, California 94903–4188, (415) 499–6051; Mendocino County Library, 105 N. Main Street, Ukiah, California 95482–4482, (707) 463–4491; Menlo Park Public Library, 800 Alma Street, Menlo Park, California 94025–3460, (650) 858–3460; Mountain View Public Library, 585 Franklin Street, Mountain View, California 94041–1998, (650) 903–6335; National City Public Library, 200 E. 12th Street, National City, California 91950–3314, (619) 336–4280; Newport Beach Public Library, 1000 Avocado Avenue, Newport Beach, California 92660, (714) 717–3800; Oakland Public Library, 125 14th Street, Oakland, California 94612–4397, (510) 238–3633; Ontario City Library, 215 E. C Street, Ontario, California 91764–4198, (909) 988–8481; Orange Public Library (under renovation), El Modena Branch Library (alternative), 380 S. Hewes, Orange, California 92869, (714) 288–2471; Orange County Public Library, 1501 E. St. Andrew Place, Santa Ana, California 92705, (714) 566–3000; Oxnard Public Library, 251 South A Street, Oxnard, California 93030–5750, (805) 385–7500; Palo Alto City Library, 1213 Newell Road, Palo Alto, California 94303–2999, (650) 329–2516; Pasadena Public Library, 285 E. Walnut Street, Pasadena, California 91101–1598, (626) 744–4033; Redwood City Public Library, 1044 Middlefield Road, Redwood City, California 94063–1868, (650) 780–7061; Sacramento Public Library, 828 I Street, Sacramento, California 95814–2589, (916) 264–2770; San Bruno Public Library, 701 Angus Avenue W., San Bruno, California 94066–3490, (650) 877–8878; San Francisco Public Library, 100 Larkin Street, San Francisco, California 94102–4796, (415) 557–4400; San Jose Public Library, 180 W. San Carlos Street, San Jose, California 95113–2096, (408) 277–4822; San Mateo Public Library, 55 W. Third Avenue, San Mateo, California 94402–1592, (650) 377–4685; San Mateo County Library, 25 Tower Road, San Mateo, California 94402–4000, (650) 312–5258; San Rafael Public Library, 1100 E Street, San Rafael, California 94901–1907, (415) 485–3323; Santa Barbara Public Library, 40 E. Anapamu Street, Santa Barbara, California 93101, (805) 962–7653; Santa Clara Public Library, 2635 Homestead Road, Santa Clara, California 95051–5322, (408) 984–3236; Santa Clara County Library, 1095 N. Seventh Street, San Jose, California 95112–4446, (408) 293–2326; Santa Cruz Public Library, 224 Church Street, Santa Cruz, California 95060–3873, (408) 429–3532; Santa Monica Public Library, 1343 Sixth Street, Santa Monica, California 90401–1610, (310) 458–8608; Shasta County Library, 1855 Shasta Street, Redding, California 96001–0460, (530) 225–5769; Siskiyou County Free Library, 719 Fourth Street, Yreka, California 96097–3381, (530) 842–8175; Sonoma County Library, Third and E Streets, Santa Rosa, California 95404–4400, (707) 545–0831; South San Francisco Public Library, 840 W. Orange Avenue, South San Francisco, California 94080–3124, (650) 829–3872; Tehama County Library, 645 Madison Street, Red Bluff, California 96080–3383, (530) 527–0607; Trinity County Free Library, 211 N. Main Street, Weaverville, California 96093–1226, (530) 623–1373; Ventura County Library Services, 800 S. Victoria Avenue, Ventura, California 93009, (805) 662–6756; Central Library, 801 SW. 10th Avenue, Portland, Oregon 97205, (503) 248–5123; Houston Public Library, 500 McKinney Street, Houston, Texas 77002, (713) 247–2222; National Clearinghouse Library, 624 Ninth Street, NW, 600, Washington, D.C. 20425, (202) 376–8110; and New York Public Library, 455 Fifth Avenue, New York, New York 10016, (212) 340–0849.

Authority: 16 U.S.C. 1531–1544, and 4201–4245.

Dated: July 6, 1998.

Michael J. Spear,

Acting Regional Director, Fish and Wildlife Service, Region 1, Portland, Oregon.

Dated: July 7, 1998.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration.

[FR Doc. 98–18845 Filed 7–13–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF THE INTERIOR

Geological Survey

Request for Public Comments on Proposed Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposed collection of information described belo0w has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information may be obtained by contracting the Bureau's clearance officer at the phone number listed below. OMB has up to 60 days to approve or disapprove the information collection, but may respond after 30 days; therefore, public comments should be submitted to OMB within 30 days in order to assure their maximum consideration. Comments and suggestions on the proposal should be made directly to the Desk Officer for the Interior Department, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 and to the Bureau clearance officer, U.S. Geological Survey, 807 National Center, 12201 Sunrise Valley Drive, Reston, Virginia, 20192, telephone (703) 648–7313.

Specific public comments are requested as to:

1. Whether the collection of information is necessary for the proper performance of the functions of the bureau, including whether the information will have practical utility;
2. The accuracy of the bureau's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
3. The quality, utility, and clarity of the information to be collected; and
4. How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other form of information technology.

Title: User Survey for National Biological Information Infrastructure.

OMB Approval Number: New Collection.

Abstract: The U.S. Geological Survey is leading the cooperative development of the National Biological Information Infrastructure (NBII). The NBII is a distributed electronic federation of biological data and information which is available publicly on the Internet/World Wide Web (http://www.nbii.gov). Internet users from government agencies, non-government organizations, universities, and from the general public use the NBII to locate and access data and information on biological resources and resource issues. In order to better understand the requirements of NBII users and to continue to make improvements to the NBII system, both in content and in functionality, a voluntary survey will be conducted whereby visitors to the NBII World Wide Web site will have the opportunity (optional) to provide feedback on the utility and effectiveness of the NBII operation and contents in meeting their needs.

Bureau Form Number: None.

Frequency: One time per respondent.

Description of Respondents: Individuals or households, Federal Government, State, Local, or Tribal Government, Business or other for-profit, Not-for-profit institutions.

Estimated Competition Time: 3 minutes per respondent (approximate).

Number of Respondents: 320 per month (estimated based on an average of 1600 different visitors to the NBII World Wide Web site each month, and, of the total number of site visitors, an estimate survey response rate of 20 percent).

Burden Hours: 192 hours. (Estimate of annual burden hours based on an estimated 20 percent survey response rate for an average of 1600 web site visitors per month, and an estimate of 3 minutes to complete each survey).

Dated: July 9, 1998.

Byron K. Williams,

Chief, Cooperative Research Units.

[FR Doc. 98–18745 Filed 7–13–98; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–040–06–1310–01]

Pinedale Anticline Natural Gas Field Development Project EIS and Notice of Field Tour and Public Meeting, Sublette County, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to conduct public scoping and prepare an environmental impact statement.

SUMMARY: The action is to conduct scoping and to prepare an Environmental Impact Statement (EIS) on Ultra Resources, Inc., McMurry Oil Company, Alpine Gas Company, Amoco Production Company, and other companies potential natural gas development in the area referred to as the Pinedale Anticline. Those interested in participating in the process and who have concerns, issues, or alternatives they would like to see addressed in the EIS, should respond with written comments within 30 days of the date of this Notice.

DATES: A Scoping Notice will be distributed by mail on or about the date of this notice. Responses and comments will be accepted for 30 days following the date of this notice. The proponents of this action and the Bureau of Land Management (BLM) cordially invite those interested to attend a public tour of the project area on July 23, 1998. Attendees will leave from the BLM Office, 432 E. Mill Street, Pinedale, Wyoming, at 1 p.m. (parking is available), and the tour will end by 5 p.m. Transportation and refreshments will be provided as long as you RSVP by 4:30 p.m., July 17, 1998, by calling 307–367–5300.

BLM will also hold a public meeting at the Pinedale Public School Auditorium, Pinedale, Wyoming, starting at 7 p.m., July 23, 1998. BLM will be soliciting representatives from affected interests and stakeholders to participate in the environmental analysis process. All comments received at the public meeting or through written comments submitted by mail will aid the BLM in identifying alternatives and assuring all issues are analyzed in the environmental impact analysis.

ADDRESSES: Information and a copy of the Scoping Notice for the Pinedale Anticline Natural Gas Field Development Project EIS can be obtained by writing or visiting the following offices:

BLM, Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, Wyoming 82003.

BLM, Rock Springs District Office, 280 Highway 191 North, Rock Springs, Wyoming 82902–1869.

BLM, Pinedale Resource Area Office, 432 East Mill Street, P.O. Box 768, Pinedale, Wyoming 82941.

Scoping comments should be sent to: Bureau of Land Management, Rock Springs District Office, ATTN: Bill McMahan, Project Manager, 280 Highway 191 North, Rock Springs, Wyoming 82901.

FOR FURTHER INFORMATION CONTACT: Bill McMahan, Project Manager, Bureau of Land Management, Rock Springs District Office, phone 307–352–0224.

SUPPLEMENTARY INFORMATION: The total project area includes approximately 197,170 acres. This acreage includes approximately 157,330 acres Federal surface, 30,130 acres private surface, and 9,710 acres State surface. The subsurface mineral estate is comprised of approximately 164,200 acres Federal minerals, 21,980 acres of private minerals, and 10,990 acres State minerals.

The Pinedale Anticline Project area is located in the central part of Sublette County, Wyoming, bordered by Pinedale on the north, Highway 191 on the east, the northern border of the Jonah II Project area on the south, and the Green River on the west. Access to the project area is from U.S. Highway 191, Wyoming Highway 351, County roads and other roads via existing rights-of-way.

The companies would like to proceed with implementing the potential field development within the area beginning in the summer of 1999. They do not know at this time the number of wells reasonably expected to adequately extract the natural gas. Currently, the companies are drilling exploratory wells, the results of which will give the companies the necessary information upon which to project the potential number of wells reasonably possible. The information from the exploratory drilling should be available by fall of this year. Once this information is available, the companies will develop a drilling program, based on the level of exploratory drilling success, including estimated miles of access road, pipelines, and compressors that will be needed to develop the resource. The area currently has 23 wells located along 27 miles of the Pinedale Anticline. Also, two pipelines currently serve the Pinedale Anticline area. This field development project will address additional pipeline needs for transporting natural gas. The potential development would include the following associated facilities:

- At each surface well location: separator, dehydrator, production tanks, and tinhorns (for holding produced water).
- To each surface well location: access road and a 3 to 4 inch gas gathering pipeline.
- Water supply wells.
- Natural gas transmission pipeline extending southwest to tie in to an existing pipeline transportation system.
- Compressor facilities to transport the natural gas through pipelines to a gas processing facility.

The Companies will be allowed to drill a limited number of exploratory wells while the EIS document is being prepared in accordance with the May 7, 1998, decision by the Pinedale Resource Area Manager. The exploratory drilling will include evaluating the feasibility of pad drilling (multiple wells from a single pad) by some companies. The exploratory drilling will be allowed so long as there is no significant impact, no irreversible or irretrievable commitment of a resource, and/or no compromising the selection of an alternative identified through the environmental analysis process. Results from the exploratory wells will assist the BLM and the companies in determining the likely level of development necessary to achieve the Federal mandate of maximum ultimate recovery of Federal mineral resources.

The intent of the natural gas development is to extract and recover natural gas from the Pinedale Anticline lease area, allowing the companies to provide more natural gas to companies distributing and supplying natural gas to consumers. This would benefit consumers by making additional supplies of clean-burning natural gas available.

Land and resource management issues and concerns associated with the construction of roads, well pads, and pipelines; the drilling and completion of wells; and the operation and maintenance of a producing well field that will be analyzed in the EIS will include;

- Potential impacts to nesting raptors.
- Potential impacts to Threatened/Endangered/Candidate species (plant and animal).
- Potential impacts to Threatened/Endangered Colorado River fish from water depletions.
- Potential impacts to sage grouse breeding, nesting, and winter range habitat.
- Potential impacts to Sublette antelope herd migration.
- Potential impacts to Sublette mule deer herd migration.
- Potential impacts to wildlife habitat and fish habitat.
- Potential impacts to State Priority One birds and mammals.
- Potential conflicts with livestock and range improvements.
- Potential impacts on cultural resources (prehistoric and historic resources).
- Potential impacts from increased drilling related traffic on Federal and State highways and increased public access to the area.
- Potential social and economic affects to the local communities (increased Federal, State, and local revenues).
- Potential impacts to surface and groundwater resources.
- Potential impacts to air quality and air quality related values of the Bridger-Teton and Fitzpatrick Wilderness Areas.
- Potential impacts on wetlands, floodplains, and/or riparian areas.
- Potential impacts on paleontology.
- Potential impacts from hazardous substances.
- Potential impacts to visual resources (e.g., conformance with visual resource management classifications; potential impacts from development on the natural landscape).
- Potential impacts to current land use (industrialization).
- Revegetation and restoration of short-term disturbances and long-term stabilization, and control of noxious weeds.
- Potential impacts to human health and safety.
- Potential impacts to domestic animal health and safety.
- Potential cumulative impacts from the development when added to other energy-related activities ongoing or planned in the vicinity of the project.
- Split-estate concerns.
- Potential impacts to the National Historic Trail System.
- Potential impacts to sites sensitive to American Indians.

Opportunities that may be derived from the natural gas development include: increased royalties and tax revenues to local, State and Federal Governments; added employment and economic benefits to communities near the natural gas field; increase in Wyoming's share of new and existing markets; and development of natural gas to assist in the attainment of clean air in conformance with Presidential and Congressional direction.

Dated: July 8, 1998.

Alan L. Kesterke,

Associate State Director.

[FR Doc. 98–18671 Filed 7–13–98; 8:45 am]

BILLING CODE 4310-22-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–930–4214–010; COC–61331]

Proposed Withdrawal; Opportunity for Public Meeting; Colorado; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction.

SUMMARY: This action corrects Notice of Proposed Withdrawal, 62 FR66663–66664, published December 19, 1997, as FR Doc. 97–33135.

On Page 66663, third column, under T. 44 N., R. 8 W., which reads "Sec. 35, E½" is hereby corrected to read "Sec. 36, E½."

Jenny L. Saunders,

Realty Officer.

[FR Doc. 98–18700 Filed 7–13–98; 8:45 am]

BILLING CODE 4310–JB–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before July 3, 1998. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St. NW, NC400, Washington, DC 20240. Written comments should be submitted by July 29, 1998.

Carol D. Shull,

Keeper of the National Register.

ARKANSAS

Arkansas County

DeWitt Post Office (Post Offices with Section Art in Arkansas MPS), 221 W. Cross St., DeWitt, 98000915

Carroll County

Berryville Post Office (Post Offices with Section Art in Arkansas MPS), 101 E. Madison Ave., Berryville, 98000922

Chicot County

Lake Village Post Office (Post Offices with Section Art in Arkansas MPS), 206 S. Cokley St., Lake Village, 98000916

Clay County

Piggott Post Office (Post Offices with Section Art in Arkansas MPS), 119 N. Third St., Piggott, 98000917

Conway County

Morrilton Post Office (Post Offices with Section Art in Arkansas MPS), 117 N. Division St., Morrilton, 98000921

Crawford County

Van Buren Post Office (Post Offices with Section Art in Arkansas MPS), 22 S. Seventh St., Van Buren, 98000918

Cross County

Wynne Post Office (Post Offices with Section Art in Arkansas MPS), 402 E. Merriman Ave., Wynne, 98000914

Drew County

Monticello Post Office (Post Offices with Section Art in Arkansas MPS), 211 W. Gaines St., Monticello, 98000920

Faulkner County

Hiegel, Michael M., House, 504 Second St., Conway, 98000912

Howard County

Nashville Post Office (Post Offices with Section Art in Arkansas MPS), 220 N. Main St., Nashville, 98000913

Logan County

Paris Post Office (Post Offices with Section Art in Arkansas MPS), 206 N. Elm St., Paris, 98000923

Ouachita County

Clifton and Greening Streets Historic District, Roughly bounded by Clifton, and Greening Sts., and Dallas, and Cleveland Aves., Camden, 98000911

Yell County

Dardanelle Agriculture and Post Office (Post Offices with Section Art in Arkansas MPS), 103 N. Front St., Dardanelle, 98000919

FLORIDA

Gulf County

St. Joseph Catholic Mission Church, 216 8th St., Port St. Joe, 98000924

Indian River County

Royal Park Arcade, 1059 21st St., Vero Beach, 98000925

Jefferson County

Lloyd Woman's Club (Clubhouses of Florida's Woman's Clubs MPS), Bond St., Lloyd, 98000926

Polk County

Woman's Club of Winter Haven (Clubhouses of Florida's Woman's Clubs MPS), 660 Pope Ave., NW, Winter Haven, 98000927

GEORGIA

Sumter County

New Corinth Baptist Church, 1178 Hooks Mill Rd., Americus vicinity, 98000928

IOWA

Harrison County

Murray General Merchandise Store, Jct. of Mulberry and Second Sts., Little Sioux, 98000930

Woodbury County

Bailey, George A. and Mary Tinkel, House, 423 10th St., Correctionville, 98000929

KENTUCKY

Ballard County

Juett, Dr. David Polk, Farmstead (Caught in the Middle; the Civil War on the Lower Ohio River MPS), Blandville-Hinkleville Rd., Blandville vicinity, 98000936

Boyle County

Dutch Barn (Caught in the Middle; the Civil War on the Lower Ohio River MPS), Jct. of Spears Ln., and KY33, E of Shakertown Rd., Danville vicinity, 98000941.

Hankla—Walker House (Boyle MPS),

0.3 mi. NW of KY 1920, 0.6 mi. S of Whites Rd., Perryville vicinity, 98000931

Harrodsburg Pike Rural Historic District (Caught in the Middle; the Civil War on the Lower Ohio River MPS), W side of US 127, from County Line S 3.25 mi., Danville vicinity, 98000942

Butler County

Carson's Landing, 1086 Annis Ferry Rd., Morgantown vicinity, 98000935

Crittenden County

Weston Bluff Skirmish Site Caught in the Middle; the Civil War on the Lower Ohio River MPS], Along Ohio R., N of Weston, Weston, 98000937

Fayette County

Douglass School, 465 Price Rd., Lexington, 98000933

Hopkins County

Dawson Springs Historic District (Boundary Increase) (Hopkins County MPS), Roughly bounded by Keigan St., Water St., Arcadia Ave., Hunter St., and Sycamore St., Dawson Springs, 98000934

Livingston County

Fort Star (Caught in the Middle; the Civil War on the Lower Ohio River MPS), 0.3 mi. S of Smithland, Smithland, 98000938

Masonic Hall—Federal Commissary Building (Caught in the Middle; the Civil War on the Lower Ohio River MPS), Jct. of Main and Charlotte Sts., Smithland vicinity, 98000939

McCracken County

Tilghman—Woolfolk House (Caught in the Middle; the Civil War on the Lower Ohio River MPS), 631 Kentucky Ave., Paducah, 98000940

Metcalfe County

Sulphur Well Historic District, Roughly by Wister Wallace Rd., S fork of the Little Barren R., Mitchell-Edwards Rd., and KY 70, Sulphur Well, 98000932

MARYLAND

Frederick County

Grossnickel, Peter of P., Farm, 11720 Wolfsville Rd., Myersville, 98000944

MISSOURI

St. Francois County

McCormick, James Robinson, House, 324 W. Columbia St., Farmington, 98000945

MONTANA

Fallon County

Fallon County Jail, 723 S. Main, Baker, 98000946

NEW YORK

Delaware County

St. Peter's Episcopal Church Complex, Jct. of Pine and Church Sts., Hobart, 98000948

NORTH CAROLINA

Wake County

Wendell Commercial Historic District (Wake County MPS), Roughly along jct. of Main St. and Third St., Wendell, 98000947

OREGON

Jackson County

Medford Downtown Historic District, Roughly between Fourth and Ninth Sts., Oakdale and Riverside Aves., Medford, 98000949

Multnomah County

Hryszko Brothers Building (Eliot Neighborhood MPS), 836 N. Russell St., Portland, 98000950

South Portland Historic District, Roughly bounded by Arthur, Front, Grover, Hood, and Curry Sts., and Barbur Blvd., Portland, 98000951

Polk County

Wilson, A.K., Building, 887 Main St., Dallas, 98000952

PENNSYLVANIA

Allegheny County

Homestead Battle Site, S side of Monongahela R., NE of Homestead, Munhall Borough, 98000953

TENNESSEE

Franklin County

Shook—Vanzant Farm (Historic Family Homes of Middle Tennessee MPS), 210 Moore Farm Rd., Winchester vicinity, 98000954

TEXAS

Travis County

University Baptist Church, 2130 Guadalupe St., Austin, 98000955

A Correction is hereby made for the following resource:

Corrected Information

MASSACHUSETTS

Suffolk County

Revere Beach Reservation Historic District, Roughly bounded by Eliot Circle, Revere Beach Blvd., Northern Circle, and Atlantic Ocean, Revere, 98000871

[FR Doc. 98–18665 Filed 7–13–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items From Mississippi in the Possession of the Department of Sociology and Anthropology, University of Mississippi, Oxford, MS

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 43 CFR 10.10 (a)(3), of the intent to repatriate cultural items in the possession of the Department of Sociology and Anthropology, University of Mississippi which meet the definition of "unassociated funerary objects" under Section 2 of the Act.

The cultural items consist of an 1801 Jefferson Peace Medal; a piece of cane showing copper staining; two metal knives with bone handles; 1,305 glass beads; a small brass kettle; an open-work silver buckle; ten circular silver brooches or ornaments, one engraved with the mark "T.Dowler"; four silver ornament fragments; four silver bracelets; one silver crescent gorget; six brass screw rings; two silver ear pendants with red beads; ear pendant fragments; and a silver band.

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In 1917, these cultural items were removed from a grave located southwest of New Albany, MS by Mr. Will Ticer. Mr. Ticer donated these items to the Mississippi State Geological Survey in 1923. The Geological Survey Collection eventually became part of the Anthropology Museum collections at the University of Mississippi.

Based on the cultural items, the burial from which they were removed has been determined to be Native American. The prescence of the 1801 Jefferson Peace Medal indicates the burial dates to the first quarter of the nineteenth century, before Removal. This area of northeastern Mississippi from which the cultural items were recovered during this period was occupied and controlled by the present day tribe now known as the Chickasaw Nation. These cultural items are consistent with present burial practices and ethnographic accounts detailing historic-period Chickasaw burial practices.

Officials of the Department of Sociology and Anthropology, University of Mississippi have determined that, pursuant to 43 CFR 10.2 (d)(2)(ii), these 1,340 cultural items are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of an Native American individual. Officials of the Department of Sociology and Anthropology, University of Mississippi have also determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between these items and the Chickasaw Nation.

This notice has been sent to officials of the Chickasaw Nation. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these objects should contact Jay Johnson, Department of Sociology and Anthropology, University of Mississippi, Oxford, MS 38677 telephone (601) 232-7339 before August 13, 1998. Repatriation of these objects to the Chickasaw Nation may begin after that date if no additional claimants come forward.

Dated: June 29, 1998.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography.

[FR Doc. 98-18624 Filed 7-13-98; 8:45 am]

BILLING CODE 4310-70-F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items From Taunton, MA in the Possession of the Robbins Museum of Archaeology, Middleboro, MA

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 43 CFR 10.10 (a)(3), of the intent to repatriate cultural items from Taunton, MA in the possession of the Robbins Museum of Archaeology, Middleboro, MA which meet the definition of "unassociated funerary objects" under Section 2 of the Act.

The cultural items consist of a small castellated pot and a copper or brass sheet metal spoon.

In 1952, Maurice Robbins removed these cultural items from a burial at the Wampanucket site, Taunton and Lakeville, MA. In 1985, Mr. Robbins donated these items to the Robbins Museum of Archaeology.

Based on continuities of material culture and manner of interments, the Wampanucket site has been identified as a Wampanoag cemetery area used from the early Woodland period into the early postcontact period. Consultation with representatives of the Wampanoag Repatriation Confederacy indicate these cultural items are consistent with traditional Wampanoag burial practices.

Officials of the Robbins Museum of Archaeology have determined that, pursuant to 43 CFR 10.2 (d)(2)(ii), these two cultural items are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of an Native American individual. Officials of the Robbins Museum of Archaeology have also determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between these items and the Wampanoag Repatriation Confederacy on behalf of the Wampanoag Tribe of Gay Head (Aquinnah).

This notice has been sent to officials of the Wampanoag Repatriation Confederacy on behalf of the Wampanoag Tribe of Gay Head (Aquinnah). Representatives of any other Indian tribe that believes itself to be culturally affiliated with these objects should contact John Pretola, c/o Robbins Museum of Archaeology, P.O. Box 700, Middleboro, MA 2346099005; telephone (508) 947099005 before August 13, 1998. Repatriation of these objects to the Wampanoag Repatriation Confederacy on behalf of the Wampanoag Tribe of Gay Head (Aquinnah) may begin after that date if no additional claimants come forward.

Dated: July 8, 1998.

Veletta Canouts,

Acting Departmental Consulting Archeologist,

Deputy Manager, Archeology and Ethnography Program.

[FR Doc. 98-18689 Filed 7-13-98; 8:45 am]

BILLING CODE 4310-70-F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items from San Diego County, CA in the Possession of the San Diego Historical Society, San Diego, CA

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 43 CFR 10.10 (a)(3), of the intent to repatriate cultural items from San Diego County, CA in the possession of the San Diego Historical Society, San Diego, CA which meet the definition of "sacred object" under Section 2 of the Act.

The seven cultural items consist of one clay tube pipe (San Diego County Indian type), one dark brown ceramic pipe (San Diego County Indian type), one ceramic tube pipe (San Diego County Indian type), one ceramic "elbow" pipe (Sand Diego County Indian type), three steatite tube pipes, and one healing tube (San Diego Indian type).

In 1945, a healing tube was donated to the San Diego Historical Society by (?) Kimball. At an unknown date, the ceramic tube pipe was made by Julio Artega, and there is no other accession information. At an unknown date, three steatite tube pipes were found at Potrero, and there is no other accession information, but are noted in museum records as "Chumash" pipes. At an unknown date, a dark brown ceramic pipe was donated to the San Diego Historical Society. At an unknown date, a gray clay "elbow" pipe was donated to the San Diego Historical Society.

Although museum records state three of these cultural items are Chumash in origin, representatives of the Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation state that the appearance of all of these cultural items appear to be of a Luiseno style, and have presented additional anthropological sources on Southern Californian Indian material culture. The Potrero site is a known sacred and ceremonial site used by the Pechanga Band, and the San Diego Historical Society has concluded the pipes from the Potrero site were misidentified as Chumash and are of Luiseno or Pechanga origin. Consultation with representatives of the Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation also indicates these items are needed by traditional religious leaders for the practice of traditional Native American religion by present-day adherents.

Officials of the San Diego Historical Society have determined that, pursuant to 43 CFR 10.2 (d)(3), these seven cultural items are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents. Officials of the San Diego Historical Society have also determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between these items and the Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation.

This notice has been sent to officials of the Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation, Barona Group of the Capitan Grande Band of Mission Indians, Campo Band of Mission Indians, Capitan Grande Band of Mission Indians, Cuapaipe Band of Mission Indians, Inaja Band of Mission Indians, Jamul Band of Mission Indians, La Jolla Band of Mission Indians, La Posta Band of Mission Indians, Los Coyotes Band of Mission Indians, Manzanita Band of Mission Indians, Mesa Grande Band of Mission Indians, Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation, Pauma Band of Mission Indians, Rincon Band of Mission Indians, San Pasqual Band of Mission Indians, Santa Ysabel Band of Mission Indians, Sycuan Band of Mission Indians, and Viejas Band of Mission Indians. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these objects should contact Tammie Bennett, Registrar, San Diego Historical Society, P. O. Box 81825, San Diego, CA 92138; telephone (619) 232–6203, ext. 120, fax (619) 232–6297 before August 13, 1998. Repatriation of these objects to the Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation may begin after that date if no additional claimants come forward.

The National Park Service is not responsible for the determinations within this notice.

Dated: June 29, 1998.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 98–18623 Filed 7–13–98; 8:45 am]

BILLING CODE 4310–70–F

UNITED STATES INTERNATIONAL TRADE COMMISSION

Sunshine Act Meeting

TIME AND DATE: July 24, 1998 at 11:00 a.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting: none.
2. Minutes.
3. Ratification List.
4. Inv. Nos. 701–TA–380–382 and 731–TA–797–804 (Preliminary) (Stainless Steel Sheet and Strip from France, Germany, Italy, Japan, the Republic of Korea, Mexico, Taiwan, and the United Kingdom)—briefing and vote.
5. Inv. Nos. 751–TA–17–20 (Titanium Sponge from Japan, Kazakstan, Russia, and Ukraine)—briefing and vote.
6. Outstanding action jackets: none.

The Commission has postponed the briefing and vote on Titanium Sponge from July 10, 1998. In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: July 9, 1998.

By order of the Commission:

Donna R. Koehnke,

Secretary.

[FR Doc. 98–18840 Filed 7–10–98; 12:02 pm]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–98–12]

Construction Posting Requirements—Emergency Numbers and Floor Load Limits; Information Collection Requirements

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Notice; opportunity for public comment.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and information collection burdens, is conducting a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on both current and proposed collections of information in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that reporting burden (time and financial resources) is minimized, collection materials are clearly understood, impact of collection requirements on respondents can be accurately assessed, and requested data can be provided in the desired format. Currently, the Occupational Safety and Health Administration is soliciting comments concerning the collection of information requirements in § 1926.50(f) and § 1926.250(a)(2).

The Agency is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of OSHA's responsibilities, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (for example, permitting electronic submissions of responses).

DATES: Written Comments must be submitted on or before September 14, 1998.

ADDRESSES: Comments are to be submitted to the Docket Office, Docket ICR–98–12, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW, Washington, DC 20210, (202) 219–7894. Written comments limited to 10 pages or less may be transmitted by facsimile to (202) 219–5046.

FOR FURTHER INFORMATION CONTACT: Mr. Laurence Davey, Directorate of Construction, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3621, 200 Constitution Avenue, NW., Washington, DC 20210,

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(202) 219–7207. Copies of the information collection requests are available for inspection and copying in the Docket Office and will be mailed to persons who request copies by telephoning Mr. Davey at (202) 219–7207 or Barbara Bielaski at (202) 219–8076. For electronic copies of the information collection request, contact OSHA's Web Page on the Internet at http://www.osha-slc.gov (click on *Information Collection Requests*).

SUPPLEMENTARY INFORMATION:

Background

The Occupational Safety and Health Administration (OSHA) currently has approval from the Office of Management and Budget (OMB) for the information collection (posting) requirements contained in 29 CFR 1926.50(f) and 1926.250(a)(2). That approval will expire on September 30, 1998, unless OSHA applies for an extension of the OMB approvals. This notice initiates the process for OSHA to request an extension of the current OMB approval.

Currently, section 1926.50(f) requires that telephone number of physicians, hospitals, or ambulances are to be conspicuously posted. However, on June 18, 1998, at 63 FR 33469, OSHA published a final rule amending this standard to totally eliminate the requirement to post the 911 number in areas where that service is available. Following the effective date, August 17, 1998, telephone numbers of physicians, hospitals, or ambulances need only be posted in areas where 911 is not available. Since construction work is hazardous at times and the injury and severity rates are high in spite of efforts to abate identifiable hazards, there is a need to obtain medical attention or provide ambulance and hospital service as expeditiously as possible. It is therefore necessary to require that the phone numbers be conspicuously posted on construction job sites. Section 1926.250(a)(2) requires that the maximum safe load limits of floors within buildings and structures, in pounds per square foot, must be posted in all storage areas, except for floor or slab on grade. During construction of certain multi-story buildings or structures, it is necessary to store materials on elevated floors. To make sure the floors is not overloaded, OSHA requires the load limits to be posted in the storage area in pounds per square foot. This should eliminate the hazard of building collapse due to overloading.

Current Action

This notice requests public comment on OSHA's burden hour estimates prior to OSHA seeking Office on Management and Budget (OMB) approval of the information collection (posting) requirements in 29 CFR 1926.50(f) and 1926.250(a)(2).

Type of Review: Revision.

Agency: Occupational Safety and Health Administration, U.S. Department of Labor.

Title: Construction Posting Requirements—Emergency Phone Numbers and Floor Load Limits.

OMB Number: 1218–0093.

Agency Number: Docket No. ICR–98–12.

Frequency: Once.

Affected Public: Business or other For-profit.

Number of Respondents: 187,562.

Estimated Time Per Respondent: § 1926.50(f): 2 minutes; § 1926.250(a)(2): 5 minutes.

Total Burden Hours: 5,555 hours.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Signed this 7th day of July 1998.

Charles N. Jeffress,

Assistant Secretary of Labor.

[FR Doc. 98–18709 Filed 7–13–98; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL GAMBLING IMPACT STUDY COMMISSION

Meeting

AGENCY: National Gambling Impact Study Commission.

ACTION: Notice of public meeting.

SUMMARY: At its fourth on-site meeting the National Gambling Impact Study Commission, established under Public Law 104–169, dated August 3, 1996, will hear presentations from invited panels of speakers, receive public comment, and conduct its normal meeting business.

DATES: Wednesday, July 29, 1998, 8:00 a.m. to 3:45 p.m.

ADDRESSES: The meeting site will be: San Diego/Del Mar Hilton, 15575 Jimmy Durante Blvd., Del Mar, CA 92014.

DATES: Thursday, July 30, 1998, 8:00 a.m. to 5:00 p.m.

ADDRESSES: The meeting site will be: The Buttes, Wyndham Resort, 2000 Westcourt Way, Tempe, AZ 85282.

Written comments can be sent to the Commission at 800 North Capitol Street, N.W., Suite 450, Washington, D.C. 20002.

STATUS: The meeting will be open to the public both days. However, the Commission will enter executive session during its lunch period from 1:15 p.m. to 2:15 p.m. on Wednesday, July 29.

CONTACT PERSONS: For further information contact Amy Ricketts at (202) 523–8217 or write to 800 North Capitol St., N.W., Suite 450, Washington, D.C. 20002.

SUPPLEMENTARY INFORMATION: The meeting will take place over a two-day period in two separate locations, Del Mar, California on July 29, and Tempe, Arizona on July 30. The meeting agenda will include presentations from State and Local Officials and Tribal Leaders; staff briefings on Pari-mutuels and Native American gambling; testimony from invited panels of speakers on Pari-mutuels, and Native American gambling; normal meeting business; executive session; and an open forum period for public comment at both venues.

An open forum for public participation will be held both days on issues relevant to the Commission's work. On July 29 in Del Mar, it will be held from 2:55 p.m. to 3:40 p.m. On July 30 in Tempe, it will be held from 12:04 p.m. to 12:55 p.m. Anyone wishing to make an oral presentation at either location must contact Mr. Steve White by telephone only at (202) 523–8217 no later than 5:00 p.m. July 24, 1998. No requests will be accepted before 9:00 a.m. Pacific time, or 12:00 p.m. (EST), the day this notice appears in the **Federal Register.**

Callers must specify which day they wish to speak. Callers will then be asked to provide name, organization (if applicable), address, and daytime telephone number. Call-backs from staff may be required. No requests will be accepted via mail, facsimile, e-mail, or voice mail. A waiting list will be compiled once the allotted number of slots becomes filled. Oral presentations will be limited to three (3) minutes per speaker. If this is not enough time to complete comments, please restrict to three minutes a summary of your comments and bring a typed copy of full comments to file with the Commission. Persons speaking at a forum are requested, but not required, to supply twenty (20) copies of their written statements to the registration desk prior to the public comment period. Members of the public, on the waiting list or otherwise, are always invited to send written comments to the Commission at any time. However, if individuals wish to have their written comments placed into the official record of the meeting, the Commission must receive them by August 19, 1998. Each speaker is kindly asked to be prepared prior to their presentation; to refrain from any use of profanity, vulgar language, or obscene signage; to refrain from making any comments or disrupting sounds during the presentation of another speaker; and to remain seated. If visual aids are necessary during the course of a speaker's presentation, each speaker is responsible for providing the equipment to run the visual aid. A complete list of guidelines is available on the Commission's web site: *www.ngisc.gov*.

Tim Bidwill,

Special Assistant to the Chairman.

[FR Doc. 98–18705 Filed 7–13–98; 8:45 am]

BILLING CODE 6802–ET–M

NATIONAL TRANSPORTATION SAFETY BOARD

Agenda; Sunshine Act Meeting

TIME AND DATE: 9:30 a.m., Tuesday, July 21, 1998.

PLACE: NTSB Board Room, 5th floor, 490 L'Enfant Plaza, SW., Washington, DC 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

7036 Safety Study: Safety at Passive Grade Crossings.

6800B Aviation Accident Report: In-Flight Fire/Emergency Landing, Federal Expression Flight 1406, Stewart International Airport, Newburgh, New York, September 5, 1996.

6809A Pipeline Accident Summary Report: Natural Gas Pipeline Rupture and Fire during Dredging, Tiger Pass, Louisiana, October 23, 1996.

NEWS MEDIA CONTACT: Telephone: (202) 314–6100.

FOR MORE INFORMATION CONTACT: Rhonda Underwood (202) 314–6065.

Rhonda Underwood,

Federal Register Liaison Officer.

[FR Doc. 98–18873 Filed 7–10–98; 2:49 pm]

BILLING CODE 7533–01–M

NEIGHBORHOOD REINVESTMENT CORPORATION

Sunshine Act Meeting; Regular Board Meeting, of the Board of Directors

TIME & DATE: 2:00 P.M., Friday, July 24, 1998.

PLACE: Neighborhood Reinvestment Corporation, 1325 G Street, NW, Suite 800, Board Room, Washington, DC 20005.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION: Jeffrey T. Bryson, General Counsel/Secretary 202/376–2441.

AGENDA:

I. Call to Order
II. Approval of Minutes: May 29, 1998 20th Annual Meeting
III. Budget Committee Report July 20, 1998 Meeting
  a. Proposed FY 1998 Budget Reallocation
  b. Proposed FY 1999 Budget Request
  c. Proposed FY 2000 Budget Submission to OMB
IV. Treasurer's Report
V. Executive Director's Quarterly Management Report
VI. Adjourn

Jeffrey T. Bryson,

General Counsel/Secretary.

[FR Doc. 98–18850 Filed 7–10–98; 12:30 pm]

BILLING CODE 7570–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos 50–269, 50–270, and 50–287]

Duke Power Corp. (Oconee Nuclear Station, Units 1, 2, and 3); Notice of Receipt of Application for Renewal of Facility Operating Licenses Nos. DPR–38, DPR–47, and DPR–55 for an Additional 20 Year Period

The Nuclear Regulatory Commission has received an application from the Duke Power Corporation dated July 6, 1998, filed pursuant to Section 104b of the Atomic Energy Act of 1954, as amended, and 10 CFR part 54 for renewal of operating licenses DPR–38, DPR–47, and DPR–55, which authorize the applicant to operate its Oconee Nuclear Station (ONS) Units 1, 2, and 3. The current operating licenses for the ONS Units 1, 2, and 3 expire on February 6, 2013, October 6, 2013, and July 19, 2014, respectively. The ONS Units are pressurized water reactors designed by Babcock and Wilcox. The ONS Units 1, 2, and 3 are located in Oconee County, South Carolina. The acceptability of the tendered application for docketing and other matters, including an opportunity to request a hearing, will be the subject of a subsequent **Federal Register** Notice.

A copy of the application is available for public inspection at the Commission's Public Document Room, 2120 L Street, N.W., Washington, D.C. 20037, and the Local Public Document Room for the ONS Units 1, 2, and 3 located in the Oconee County Library, 501 West South Broad Street, Walhalla, SC 29691.

Dated at Rockville, Maryland, this 8th day of July 1998.

For the Nuclear Regulatory Commission.

Christopher I. Grimes,

Director, License Renewal Project Directorate, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 98–18686 Filed 7–13–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Post-Fire Safe Shutdown Circuit Analysis Workshop

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The Nuclear Regulatory Commission staff is holding a workshop to discuss with the nuclear industry and the public the status of post-fire safe shutdown circuit analysis and the implementation of circuit analysis results at commercial nuclear reactors. A summary of the questions and comments discussed at the workshop on post-fire safe shutdown circuit analysis and of staff follow up plans and actions will be generated by the staff and distributed to the registered participants after the workshop.

DATES: July 23, 1998, from 8:00 a.m.—5:00 p.m.

ADDRESSES: Bethesda Marriott, 5151 Pookshill Road, Bethesda, MD 20814.

FOR FURTHER INFORMATION CONTACT: Leon E. Whitney, Mail Stop O–8–D1, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone (301) 415–3081; Internet: LEW1@NRC.GOV.

SUPPLEMENTARY INFORMATION: The preliminary agenda for the proposed workshop is:

7:30–8:00
  Registration/Acceptance of Papers/Input from Industry and Public/Handout of Agenda
8:00–8:10
  Introduction/Presentation of Agenda—Tad Marsh, Chief, Plant Systems Branch, NRR
8:10–8:20
  Discussion of Workshop Purpose—Brian Sheron, Acting Associate Director for Technical Review
8:20–8:25
  Introductory Remarks by a Public Representative
8:30–8:30
  Introductory Remarks by an Industry Representative
8:30–9:00
  NRC Presentation of U.S. Commercial Nuclear Reactor Plant Post-fire Safe Shutdown Circuit Analysis History

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and Safety Significance. NRC Discussion of the Potential Severity of Fire-induced Reactor Plant Transients—NRR/SPLB, BNL

9:00–9:15
Summary of Industry Views of the Regulatory History of the Post-fire Safe Shutdown Circuit Analysis Issues—NEI

9:15–9:30
NRC Presentation of Post-fire Safe Shutdown Circuit Analysis Issues as Recently Identified through Inspection, Licensing and Event Experience—NRR/SPLB

Break

9:45–11:00
Industry and Public Presentations on Selected Technical Topics (five, 15 minute talks)

11:00–12:00
Public/Industry/NRC Panel Discussion on the Technical Issues Addressed in Information Notice 92–18 on "MOV Hot Shorts".

12:00–1:30
Lunch Break

1:30–2:30
Public/Industry/NRC Panel Discussion on Circuit Analysis Fault Terminology, and the Types of Assumptions Necessary Regarding Multiple Spurious Electrical Faults, Signals and/or Actuations in a Single Fire.

2:30–3:30
Public/Industry/NRC Panel Discussion of the Scope of Necessary Post-fire Safe Shutdown Circuit Analyses and Resultant Plant Modifications—Likelihood and Consequences of Circuit Damage Which Affects Post-fire Safe Shutdown Capability.

Break

3:45–4:45
Question and Answer Session (NRC, public and industry representatives on the dais).

4:45–4:50
Public Closing Remarks

4:50–4:55
Industry Closing Remarks

4:55–5:00
NRC Closing Remarks

Individuals wishing to make a presentation at the workshop should contact Leon Whitney directly. Individuals who wish to attend the workshop are encouraged to notify Leon E. Whitney at (301) 415–3081; Internet: LEW1@NRC.GOV of their planned attendance.

Dated at Rockville, Maryland this 8th day of July, 1998.

For the Nuclear Regulatory Commission.

K. Steven West,

Acting Chief, Plant Systems Branch, Division of System Safety and Analysis, Office of Nuclear Regulatory Regulation.

[FR Doc. 98–18685 Filed 7–13–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee Meeting on Safety Research Program

The ACRS Subcommittee on Safety Research Program will hold a meeting on July 17, 1998, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Friday, July 17, 1998—1:00 p.m. until the conclusion of business.

The Subcommittee will discuss the comments and recommendations included in the June 16, 1998 ACRS report regarding "Core Research Capabilities" and the associated response from the NRC Office of Nuclear Regulatory Research.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the cognizant ACRS staff engineer, Mr. Amarjit Singh (telephone 301/415–6899) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes in the proposed agenda, etc., that may have occurred.

Dated: July 8, 1998.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 98–18683 Filed 7–13–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Federal Register Notice

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of July 13, 20, 27, and August 3, 1998.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of July 13

Friday, July 17

9:30 a.m. Public Meeting on Stakeholders' Concerns (Public Meeting) (Contact: Annette Vietti-Cook, 301–415–1969)
11:30 a.m. Affirmation Session (Public Meeting)* (Please Note: This item will be affirmed immediately following the conclusion of the preceding meeting.)
a: Qivera Mining Company—Commission Review of LBP–97–20

Week of July 20—Tentative

Tuesday, July 21

1:30 p.m. Meeting with Advisory Committee on Nuclear Waste (ACNW) (Public Meeting) (Contact: John Larkins, 301–415–7360)
3:00 p.m. Affirmation Session (Public Meeting) (if needed)

Week of July 27—Tentative

Wednesday, July 29

2:00 p.m. Briefing on Operating Reactors and Fuel Facilities (Public Meeting) (Contact: Glenn Tracy, 301–415–1725)
4:00 p.m. Affirmation Session (Public Meeting) (if needed)

Week of August 3—Tentative

Thursday, August 6

10:30 a.m. Briefing of Recent Research Program Results and Core Capabilities (Public Meeting) (Contact: Lloyd Donnelly, 301–415–5828)
11:30 a.m. Affirmation Session (Public Meeting) (if needed)

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* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Bill Hill (301) 414–1661.

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

* * * * *

William M. Hill, Jr.,

Secy Tracking Officer, Office of the Secretary.

[FR Doc. 98–18656 Filed 7–10–98; 2:43 pm]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Updated Statistical Definitions of Metropolitan Areas

AGENCY: Executive Office of the President, Office of Management and Budget, Office of Information and Regulatory Affairs.

ACTION: Notice.

SUMMARY: Pursuant to 44 U.S.C. 3504(e)(3) and 31 U.S.C. 1104(d) and Executive Order No. 10253 (June 11, 1951), the Office of Management and Budget (OMB) defines metropolitan areas (MAs) for use in Federal statistical activities in accordance with a set of standards published in the **Federal Register** on March 30, 1990 (55 FR 12154–12160).

On June 23, 1998, OMB updated the MA definitions in OMB Bulletin No. 98–06. One new Metropolitan Statistical Area (MSA) was defined based on the standards and the 1996 Bureau of the Census official population estimates. The Missoula, Montana MSA (FIPS Code 5140) was defined effective June 30, 1998. The Missoula, Montana MSA comprises Missoula County, Montana. The MSA's central city is Missoula, Montana.

OMB Bulletin No. 98–06 with the list of all MAs as of June 30, 1998, is available from the National Technical Information Service (NTIS), Document Sales, 5285 Port Royal Road, Springfield, VA 2216, telephone 703–487–4650 (Accession Number PB98-146160). This list is also available through NTIS in electronic form (Accession Number PB98–502198). OMB Bulletin No. 98–06 and the current list of MAs are available electronically from the OMB home page at http://www.whitehouse.gov/WH/EOP/omb; go to OMB Documents/Selected OMB Bulletins.

For further information on MA standards and the statistical uses of MA definitions please call Suzann Evinger (202–395–7315). For information concerning the use of MA definitions in a particular Federal agency program, please contact the sponsoring agency directly.

Donald R. Arbuckle,

Acting Administrator, Office of Information and Regulatory Affairs.

[FR Doc. 98–18641 Filed 7–13–98; 8:45 am]

BILLING CODE 3110–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40178; File No. SR–NASD–98–45]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc., Relating to Supervision of Correspondence

July 7, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 7, 1998, the NASD Regulation, Inc. ("NASDR") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASDR. The NASDR has designated this proposal as one constituting a stated policy, practice, or interpretation with respect to the meaning of an existing rule under Section 19(b)(3)(A)(i) of the Act,[3] which renders the rule effective upon the Commission's receipt of this filing. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASDR is proposing to further delay the effective date of one of the provisions of recently-approved amendments to the National Association of Securities Dealers, Inc. ("NASD" or "Association") Rules 3010, "Supervision," and 3110, "Books and Records."

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASDR included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASDR has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

A proposed rule change to amend NASD Rules 3010 and 3110 was filed with the Commission on April 11, 1997.[4] The purpose of the amendments was to allow firms to develop flexible procedures for the review of correspondence with the public. In that filing, the NASDR stated that it would make the proposed rule change effective within 45 days of Commission approval. Amendment No. 1, containing a draft Notice to Members to be issued following approval of the proposed rule change, was filed with the Commission on December 1, 1997.[5] The Notice to Members described the new rules and provided guidance to NASD members on the implementation of the new rules. The Commission approved the proposed rule change and Amendment No. 1 to the proposed rule change on December 31, 1997.[6] Notice to Members 98–11 announced approval of the proposed rule change and stated that the amendments to Rules 3010 and 3110 would be effective on February 15, 1998.

Subsequent to approval of the proposed rule change by the SEC, several commenters filed letters with the SEC raising issues regarding Amendment No. 1 to the proposed rule change and its accompanying Notice to Members.[7] The NASDR, believing that

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19B–4.

[3] 15 U.S.C. 78s(b)(3)(A)(i).

[4] The proposed rule change (SR–NASD–97–24) was published for comment in the **Federal Register** on May 2, 1997. *See* Securities Exchange Act Release No. 38548 (April 25, 1997) 62 FR 24147.

[5] *See* Letter from Mary N. Revell, Associate General Counsel, NASDR, to Katharine A. England, Assistant Director, Division of Market Regulation, Commission, dated December 1, 1997 ("Amendment No. 1").

[6] *See* Securities Exchange Act Release No. 39510 (December 31, 1997) 63 FR 1131 (January 8, 1998) ("Release No. 39510").

[7] *See* Letters from Carl B. Wilkerson, American Council of Life Insurance, to Jonathan G. Katz,

Continued

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the letters raise important issues that should be fully addressed before the effectiveness of the rule change, filed a proposed rule change to postpone the effective date of the amendments to Rules 3010 and 3110 approved in Release No. 39510.[8]

The concerns raised by the commenters include issues concerning the effect of the rules on the review of incoming correspondence and the scope of the obligation of member firms to control the use of electronic communications systems that registered persons use to communicate with their customers. After considering these issues, the NASDR filed a proposed rule change to implement the amendments to Rules 3010 and 3110 approved in Release No. 39510 immediately, including the requirements set forth in Notice to Members 98–11, with the exception of the provision in the Notice stating that members must review "all incoming correspondence received in non-electronic format directed to registered representatives and related to a member's investment banking or securities business."[9] The effective date of this provision was delayed until July 7, 1998 to allow NASDR a further opportunity to consider comments on this issue.

The NASDR proposes a further delay in the effective date of the provision in the Notice addressing the review of incoming, non-electronic correspondence until September 30, 1998. At its meeting on June 25, 1998, the NASDR Board of Directors approved revisions to Rule 3010 and to the Notice to Members that are intended to address the regulatory concerns necessitating the review of incoming, non-electronic correspondence and at the same time to respond to concerns raised by member firms about the difficulty of conducting such review. The NASDR Board also approved submission of a rule filing to the SEC. The NASDR anticipates that the rule filing will be submitted to the SEC prior to July 30, 1998. When that proposed rule change is filed, the NASDR will request an indefinite extension of this provision until the SEC has acted on the rule filing. In the meantime, to ensure continuity of the requirements applicable to member firms, the NASDR proposes a delay in the effective date of the provision. Prior to the September 30, 1998 effective date, however, members will be required to review and report customer complaints as required by Rule 3070(a)(2); keep and preserve all written customer complaints as required by Rule 3110(d); and establish procedures for the review of incoming and outgoing written and electronic correspondence consistent with new Rules 3010(d) (1) and (2).

2. Statutory Basis

The NASDR believes the proposed rule change is consistent with Section 15A(b)(6) of the Act,[10] which requires, among other things, that the Association's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The NASD believes that delaying the effective date of one of the provisions of the new rules is consistent with these requirements.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASDR does not believe that the proposed rule change will impose a burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration or enforcement of an existing rule of the Association and, therefore, has become effective pursuant to Section 19(b)(3)(A) of the Act[11] and subparagraph (e) of Rule 19b–4 thereunder.[12]

At any time within 60 days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW, Washington DC. Copies of such filing also will be available for inspection and copying at the NASD. All submissions should refer to File No. SR–NASD–98–45 and should be submitted by August 4, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18640 Filed 7–13–98; 8:45 am]

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Secretary, SEC, dated January 9, 1998; Beverly A. Byre, BenefitsCorp Equities, Inc., to Jonathan G. Katz, Secretary, SEC, dated January 26, 1998; Michael S. Martin, The Equitable Life Assurance Society of the United States, to Jonathan G. Katz, SEC, dated January 29, 1998; Janet G. McCallen, International Association for Financial Planning, to Jonathan G. Katz, Secretary, SEC, dated February 13, 1998; W. Thomas Boulter, Jefferson Pilot Financial, to Jonathan G. Katz, Secretary, SEC, dated January 28, 1998; Leonard M. Bakal, Metropolitan Life Insurance Company and MetLife Securities, Inc., to Jonathan G. Katz, Secretary, SEC, dated January 28, 1998; Michael L. Kerley, MML Investors Services, Inc. to Secretary, SEC, dated January 26, 1998; Mark D. Johnson, The National Association of Life Underwriters, to Jonathan G. Katz, Secretary, SEC, dated February 5, 1998; Theodore Mathas, NYLIFE Securities, to Jonathan G. Katz, Secretary, SEC, dated January 16, 1998 and January 29, 1998; Beverly A. Byrne, One Orchard Equities, Inc., to Jonathan G. Katz, Secretary, SEC, dated January 26, 1998; Dodie Kent, Pruco Securities Corporation, to Jonathan G. Katz, Secretary, SEC, dated January 29, 1998; and James T. Bruce, Wiley, Rein & Fielding, on behalf of the Electronic Messaging Association, to Jonathan G. Katz, SEC, dated January 30, 1998.

[8] The proposed rule change (SR–NASD–98–10) became effective on filing. *See* Securities Exchange Act Release No. 39665 (February 13, 1998) 63 FR 9032 (February 23, 1998).

[9] *See* Securities Exchange Act Release No. 39866 (April 14, 1998) 63 FR 19778 (April 21, 1998) (Notice of filing and immediate effectiveness of File No. SR–NASD–98–31).

[10] 15 U.S.C. 78o–3(b)(6).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 19b–4(e).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40172; File No. SR–PCX–98–33]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc. Relating to an Increase in Position and Exercise Limits for Standardized Equity Options

July 6, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act" or "Act")[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on July 1, 1998, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PCX is proposing to modify Rule 6.8 and Rule 6.9 relating to position and exercise limits. The PCX proposes to increase the position and exercise limits on standardized equity options traded on the Exchange to three times their current levels.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, PCX Rule 6.8 subjects equity options to one of five different position limits depending on the trading volume and outstanding shares of the underlying security. The levels are: 4,500; 7,500; 10,500;, 20,000; and 25,000 contracts on the same side of the market. Under the proposed changes the new limits would be: 13,500; 22,500; 31,500; 60,000; and 75,000 contracts on the same side of the market. The Exchange believes that sophisticated surveillance techniques at the options exchanges adequately protect the integrity of the markets for the options that will be subject to these increased position and exercise limits. The Commission recently approved a similar request from the National Association of Securities Dealers ("NASD") to triple the position and exercise limits for conventional equity options with new limits set at 13,500; 22,500; 31,500; 60,000; and 75,000 contracts on the same side of the market.[3]

Commentary .01 of PCX Rule 6.9 refers to the established exercise limits as 4,500; 7,500; 10,500; 20,000; and 25000 options contracts. The rule states that the exercise limits established pursuant to PCX Rule 6.9(a) shall be 4,500; 7,500; 10,500; 20,000; and 25,000 options contracts of any particular class of option and it shall be the responsibility of each Member or Member Organization accepting orders for the purchase (in opening transactions) of option contracts to inform customers of the applicable exercise limits. The PCX proposes to change the exercise limits in PCX Rule 6.9 to 13,500; 22,500; 31,500; 60,000; and 75,000 options contracts of any particular class of option.

The Exchange believes that the existing surveillance procedures and reporting requirements at options exchanges and clearing firms that have been developed over the years are able to properly identify unusual and illegal trading activity. In addition, PCX believes that routine oversight inspections of PCX's regulatory programs by the Commission have not uncovered any material inconsistencies or shortcomings in the manner in which the Exchange's market surveillance is conducted.

Position and Exercise Limits Restrict Legitimate Options Use and Competition. In the Exchange's view, equity position limits prevent large customers like mutual funds and pension funds from using options to gain meaningful exposure to individual stocks, resulting in lost liquidity in both the options market and the stock market. The Exchange further believes that equity position limits also act as a barrier to the use of options by corporations wishing to implement options strategies with their own stock.[4]

The Exchange believes that equity position limits put listed options at a competitive disadvantage of over-the-counter ("OTC") derivatives. OTC dealers can execute options trades through overseas subsidiaries not subject to NASD regulation, and therefore not subject to position limits. As a result, the largest trades can go unobserved and unmonitored for regulatory and oversight purposes. An increase in the position limits is consistent with the Commission's reasons for the elimination of FLEX equity option position limits. The Commission recently approved the elimination of position limits for FLEX equity options stating that the elimination will allow the listed options markets to better compete with the OTC market.[5]

In addition, the Commission recently approved the NASD's proposed rule change to raise the position and exercise limit for conventional equity options (*i.e.*, those options not issued, or subject to issuance by the Options Clearing Corporation) to three times their current levels (which is the same as three times the levels established by current exchange rules for standardized options). Because conventional options often have nearly identical term as standardized, exchange-traded options, the Exchange believes the position limits for standardized options should be at least as high as those for conventional options.

2. Basis

The Exchange believes that the proposal is consistent with Section 6(b)[6] of the Act, in general, and Section 6(b)(5)[7] of the Act, in particular, in that it is designed to perfect the mechanisms of a free and open market, to promote just and equitable principles of trade, to

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] *See* Exchange Act Release No. 40087 (June 12, 1998), 63 FR 33746 (June 19, 1998). The NASD's position limit filing established position and exercise limits for conventional equity options identical to those being proposed by PCX in this filing.

[4] The Commission notes that issuers would, of course, need to comply with all applicable provisions of the federal securities laws in conducting their share repurchase programs.

[5] *See* Exchange Act Release No. 39032 (September 9, 1997) 62 FR 48683 (September 16, 1997). The Commission stated that "the elimination of position and exercise limits for FLEX equity options allows the Exchanges to better compete with the growing OTC market in customized equity options, thereby encouraging fair competition among brokers and exchange markets." *Id.* at 48685. The Commission notes that approval of the elimination of position and exercise limits for FLEX equity options was granted for a two-year pilot period and was based on several other factors including, in large part, additional safeguards adopted by the exchanges to allow them to monitor large options positions.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

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facilitate transactions in securities, and in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, located at the above address. Copies of such filing will also be available for inspection and copying at the principal office of the self-regulatory organization. All submissions should refer to File No. SR–PCX–98–33 and should be submitted by August 4, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18639 Filed 7–13–98; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Index of Administrator's Decisions and Orders in Civil Penalty Actions; Publication

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of publication.

SUMMARY: This notice constitutes the required quarterly publication of an index of the Administrator's decisions and orders in civil penalty cases. *This publication represents the quarter ending on June 30, 1998.* This publication ensures that the agency is in compliance with statutory indexing requirements.

FOR FURTHER INFORMATION CONTACT: James S. Dillman, Assistant Chief Counsel for Litigation (AGC–400), Federal Aviation Administration, 400 7th Street, SW., Suite PL 200–A, Washington, DC 20590; telephone number: (202) 366–4118.

SUPPLEMENTARY INFORMATION: The Administrative Procedure Act requires Federal agencies to maintain and make available for public inspection and copying current indexes containing identifying information regarding materials required to be made available or published. 5 U.S.C. 552(a)(2). In a notice issued on July 11, 1990, and published in the **Federal Register** (55 FR 29148; July 17, 1990), the FAA announced the public availability of several indexes and summaries that provide identifying information about the decisions and orders issued by the Administrator under the FAA's civil penalty assessment authority and the rules of practice governing hearings and appeals of civil penalty actions. 14 CFR Part 13, Subpart G.

The FAA maintains an index of the Administrator's decisions and orders in civil penalty actions organized by order number and containing identifying information about each decision or order. The FAA also maintains a cumulative subject-matter index and digests organized by order number. The indexes are published on a quarterly basis (i.e., January, April, July, and October.)

The FAA first published these indexes and digests for all decisions and orders issued by the Administrator through September 30, 1990. 55 FR 45984; October 31, 1990. The FAA announced in that notice that only the subject-matter index would be published cumulatively and that the order number index would be non-cumulative. The FAA announced in a later notice that the order number indexes published in January would reflect all of the civil penalty decisions for the previous year. 58 FR 5044; 1/19/93.

The previous quarterly publications of the indexes have appeared in the **Federal Register** as follows:

Dates of quarter	Federal Register publication
11/1/89–9/30/90	55 FR 45984; 10/31/90
10/1/90–12/31/90 ..	56 FR 44886; 2/6/91
1/1/91–3/31/91	56 FR 20250; 5/2/91
4/1/91–6/30/91	56 FR 31984; 7/12/91
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1/1/92–3/31/92	57 FR 12359; 4/9/92
4/1/92–6/30/92	57 FR 32825; 7/23/92
7/1/92–9/30/92	57 FR 48255; 10/22/92
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1/1/94–3/31/94	59 FR 22196; 4/29/94
4/1/94–6/30/94	59 FR 39618; 8/3/94
7/1/94–12/31/94	60 FR 4454; 1/23/95
1/1/95–3/31/95	60 FR 19318; 4/17/95
4/1/95–6/30/95	60 FR 36854; 7/18/95
7/1/95–9/30/95	60 FR 53228; 10/12/95
10/1/95–12/31/95 ..	61 FR 1972; 1/24/96
1/1/96–3/31/96	61 FR 16955; 4/18/96
4/1/96–6/30/96	61 FR 37526; 7/18/96
7/1/96–9/30/96	61 FR 54833; 10/22/96
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4/1/97–6/30/97	62 FR 38339; 7/17/97
7/1/97–9/30/97	62 FR 53856; 10/16/97
10/1/97–12/31/97 ..	63 FR 3373; 1/22/98
1/1/98–3/31/98	63 FR 19559; 4/20/98

The civil penalty decisions and orders, and the indexes and digests are available in FAA offices. In addition, the Administrator's civil penalty decisions have been published by commercial publishers (Hawkins Publishing Company and Clark Boardman Callahan) and are available on computer on-line services (Westlaw, LEXIS, Compuserve and FedWorld). A list of the addresses of the FAA offices where the civil penalty decisions may be reviewed and information regarding these commercial publications and computer databases appear at the end of this notice.

Information regarding the accessibility of materials filed in recently initiated civil penalty cases in FAA civil penalty cases at the DOT Docket and over the Internet is also set forth at the end of this notice.

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6/16/98 CP96NE0294
98–12 David G. Stout
6/16/98 CP96WP0304
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Civil Penalty Actions—Orders Issued by the Administrator—Digests

(Current as of June 30, 1998)

The digests of the Administrator's final decisions and orders are arranged by order number, and briefly summarize key points of the decision. The following compilation of digests includes all final decisions and orders issued by the Administrator from April 1, 1998, to June 30, 1998. The FAA will publish non-cumulative supplements to this compilation on a quarterly basis (*e.g.*, April, July, October, and January of each year).

These digests do not constitute legal authority, and should not be cited or relied upon as such. The digests are not intended to serve as a substitute for proper legal research. Parties, attorneys, and other interested persons should always consult the full text of the Administrator's decisions before citing them in any context.

In the Matter of Continental Airlines

Order No. 98–6 (4/7/98)

Standard of Review. Nowhere do the Rules of Practice state that the Administrator may only reverse a law judge's findings if they are "clearly erroneous and unsupported by any evidence." Under the Rules, reversal may be appropriate if the law judge's findings of fact are unsupported by a preponderance of reliable, probative, and substantial evidence.

Passenger/baggage matching. The law judge erred in finding that Complainant failed to prove that Continental did not carry out its passenger/baggage match procedures. Continental admitted in a letter that it failed to perform its passenger/baggage match procedures and that it could not refute the allegations. Hence, a preponderance of the evidence indicates that Continental violated the security directive requiring passenger/baggage matching.

Sanction. It is unnecessary to delay the resolution of the case by remanding it to the law judge for sanction determination. The matter is straightforward and the record is clear. A penalty in the maximum range ($7,500 to $10,000 for large air carriers) is appropriate when an air carrier fails to comply with its security program. Due to the corrective action taken by Continental, the lowest penalty in the maximum range is appropriate. A civil penalty of $7,500 for a violation of 14 CFR 107.13(a) is assessed.

In the Matter of City of Los Angeles, Department of Airports

Order No. 98–7 (4/7/98)

Appealable Issue. LAX's appeal challenges the law judge's application of the law to the case. Thus, LAX has raised an appealable issue.

Transfer of Responsibility for Airport Security. Contrary to LAX's claim, a proposed airport security program amendment that transfers away crucial security responsibilities cannot be approved by default. Thus, LAX is responsible for the breach in airport security in the instant case, in which an unbadged FAA security agent gained access to a restricted-access elevator and the air operations area. the law judge's decision assessing a $500 civil penalty for a violation of 14 CFR 107.13(a) is affirmed.

In the Matter of Paul A. Carr

Order No. 98–8 (5/4/98)

Order No. 98–2 Modified. Footnote 27 of FAA Order No. 98–2 is modified to omit footnote 27 in which it was stated that Respondent may petition a Federal Court of Appeals for review under 49 U.S.C. 46110. The footnote is deleted because that statutory provision does not apply to hazardous materials cases initiated under 49 U.S.C. 5123 (such as this case.)

In the Matter of Continental Express

Order No. 98–9 (5/4/98)

Appeal Dismissed. Complainant and Respondent filed a joint motion to withdraw their appeals. Joint motion is granted.

In the Matter of Daniel Rawlings

Order No. 98–10 (5/8/98)

Failure to Perfect Appeal. By FAA Order No. 97–33, Mr. Rawlings was ordered to perfect his appeal by filing an appeal brief by November 25, 1997. Mr. Rawlings failed to file an appeal brief. Accordingly, Rawlings' appeal is dismissed under 14 CFR 13.233(d)(2).

In the Matter of Trans World Airlines

Order No. 98–11 (6/16/98)

Intoxicated Passenger. The law judge ruled that TWA violated 14 CFR 121.575(c), by allowing a passenger to board an aircraft although she appeared intoxicated, and 14 CFR 121.575(b)(1), by serving alcoholic beverages to her during the flight while she appeared intoxicated. Further, the law judge held that TWA violated 14 CFR 121.575(d) by failing to report the disturbance created by the apparently intoxicated passenger to the FAA, and 14 CFR 121.577(a) by taking off without first collecting a champagne glass from this passenger. TWA appeals from the law judge's findings and assessment of a $40,000 civil penalty. The Administrator denies TWA's appeal.

Constitutionality of the Appearance of Intoxication Standard. The

Administrator declines to rule on whether 14 CFR 121.575(c) and (b)(1) were unconstitutionally vague, holding that such constitutional challenges belong in a Federal court of appeals. The Administrator holds that the flight crew in this case understood the standard "appears intoxicated" and that the preponderance of the evidence supports the law judge's findings that TWA (1) allowed the passenger to board when she appeared intoxicated, and (2) served alcoholic beverages to this passenger when she appeared intoxicated. The evidence of an appearance of intoxication included: (1) the passenger was loud and verbally abusive to the flight attendants and her daughter; (2) the passenger was drinking alcoholic beverages on board; (3) the flight crew had a difficult time keeping the passenger in her seat; (4) the passenger at times was unable to control her anger and at other times wept in the arms of a flight attendant.

Responsibility for the Actions of Employees. The Administrator rejected TWA's argument that it should not be held responsible for the actions of its flight crew because the crew acted contrary to the regulations and TWA policy. An employer, in this case, an air carrier, is responsible for the acts or omissions of its employees acting in the scope of their employment. In this case, the flight crew was acting in the scope of their authority, but they exercised poor judgment.

Penalty. The Administrator affirms the $40,000 civil penalty.

In the Matter of David G. Stout

Order No. 98–12 (6/16/98)

Sanction in Passenger Misconduct Case. Mr. Stout refused to follow the flight attendant's repeated instructions to fasten his seat belt, and refused to return the flight attendant's security badge to her. Complainant appealed, arguing that the law judge incorrectly reduced the civil penalty from the $3,000 sought by the agency to $1,700. Complainant argues that the law judge improperly failed to defer to the FAA inspector's sanction determination and failed to consider the extent and egregiousness of Mr. Stout's misconduct. Nothing in the Rules of Practice, however, requires law judges to defer to an FAA inspector's sanction determination. The agency bears the burden of proving the appropriate sanction amount. Although Mr. Stout's behavior cannot be minimized or condoned, the sanction imposed by the law judge is consistent with precedent and is sufficient under the circumstances. The agency's appeal is denied and the law judge's decision assessing a $1,700 civil penalty is affirmed.

In the Matter of Air St. Thomas

Order No. 98–13 (6/16/98)

Reconsideration Denied. Air St. Thomas allegedly operated an aircraft on 560 air carrier flights with deactivated and partially dismantled carburetor heat systems. After Air St. Thomas failed to file both an answer and a response to the law judge's order to show cause, the law judge entered a $20,000 default judgment. Air St. Thomas then filed a notice of appeal, but it was late, leading the Administrator to dismiss Air St. Thomas's appeal. Air St. Thomas then filed a petition for reconsideration.

The Administrator granted Air St. Thomas an additional opportunity to show good cause for the lateness of its appeal, and Air St. Thomas has filed a brief explaining that its President misread the law judge's order and thought that the case against it had been dismissed. Air St. Thomas's brief also explains that its president is confused by legal matters, but chose not to hire an attorney because he thought his money would be better spent maintaining his aircraft.

Air St. Thomas has filed to show good cause for the lateness of its notice of appeal. Air St. Thomas's petition for reconsideration is denied, and a $20,000 civil penalty is assessed.

Commercial Reporting Services of the Administrator's—Civil Penalty Decisions and Orders

1. *Commercial Publications:* The Administrator's decisions and orders in civil penalty cases are available in the following commercial publications:

Civil Penalty Cases Digest Service, published by Hawkins Publishing Company, Inc., P.O. Box 480, Mayo, MD, 21106, (410) 798–1677;

Federal Aviation Decisions, Clark Boardman Callaghan, a subsidiary of West Information Publishing Company, 50 Broad Street East, Rochester, NY 14694, 1–800–221–9428.

2. *CD–ROM.* The Administrator's order and decisions are available on CD–ROM through Aeroflight Publications, P.O. Box 854, 433 Main Street, Gruver, TX 79040, (806) 733–2483.

3. *On-Line Services.* The Administrator's decisions and orders in civil penalty cases are available through the following on-line services:

- Westlaw (the Database ID is FTRAN–FAA).
- LEXIS [Transportation (TRANS) Library, FAA file.].
- Compuserve.
- FedWorld.

Docket

The FAA Hearing Docket is located at FAA Headquarters, 800 Independence Avenue, SW., Room 926A, Washington, DC 20591 (tel. no. 202–267–3641.) The clerk of the FAA Hearing Docket is Ms. Stephanie McClain. Materials contained in the dockets of any case not containing sensitive security information (protected by 14 CFR Part 191) may be viewed at the FAA Hearing Docket. All documents required to be filed in civil penalty proceedings must be filed with the FAA hearing Docket Clerk at the FAA Hearing Docket. (See 14 CFR 13.210.)

In addition, materials filed in the FAA Hearing Docket in non-security cases in which the complaints were filed on or after December 1, 1997, will also be available for inspection at the Department of Transportation Docket, located at 400 7th Street, SW, Room PL–401, Washington, DC, 20590, (tel. no. 202–366–9329.) While the originals will be retained in the FAA Hearing Docket, the DOT Docket will scan copies of documents in non-security cases in which the complaint was filed after December 1, 1997, into their computer database. Individuals who have access to the Internet can view the materials in these dockets using the following Internet address: http://dms.dot.gov.

FAA Offices

The Administrator's decisions and orders, indexes, and digests are available for public inspection and copying at the following location in FAA headquarters:

FAA Hearing Docket, Federal Aviation Administration, 800 Independence Avenue, SW., Room 924A, Washington, DC 20591; (202) 267–3641.

These materials are also available at all FAA regional and center legal offices at the following locations:

Office of the Regional Counsel for the Aeronautical Center (AMC–7), Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73125, (405) 954–3296.

Office of the Regional Counsel for the Alaskan Region (AAL–7), Alaskan Region Headquarters, 222 West 7th Avenue, Anchorage, AL 99513; (907) 271–5269.

Office of the Regional Counsel for the Central Region (ACE–7), Central Region Headquarters, 601 East 12th Street, Federal Building, Kansas City, MO 64106; (816) 426–5446.

Office of the Regional Counsel for the Eastern Region (AEA–7), Eastern Region

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Headquarters, JFK International Airport, Federal Building, Jamaica, NY 11430; (718) 553–3285.
Office of the Regional Counsel for the Great Lakes Region (AGL–7), 2300 East Devon Avenue, Suite 419, Des Plaines, IL 60018; (708) 294–7108.
Office of the Regional Counsel for the New England Region (ANE–7), New England Region Headquarters, 12 New England Executive Park, Room 401, Burlington, MA 01803–5299; (617) 238–7050.
Office of the Regional Counsel for the Northwest Mountain Region (ANM–7), Northwest Mountain Region Headquarters, 1601 Lind Avenue, SW, Renton, WA 98055–4056; (206) 227–2007.
Office of the Regional Counsel for the Southern Region (ASO–7), Southern Region Headquarters, 1701 Columbia Avenue, College Park, GA 30337; (404) 305–5200.
Office of the Regional Counsel for the Southwest Region (ASW–7), Southwest Region Headquarters, 2601 Meacham Blvd., Forth Worth TX 76137–4298; (817) 222–5087.
Office of the Regional Counsel for the Technical Center (ACT–7), Federal Aviation Administration Technical Center, Atlantic City International Airport, Atlantic City, NJ 08405; (609) 485–7087.
Office of the Regional Counsel for the Western-Pacific Region (AWP–7), Western-Pacific Region Headquarters, 15000 Aviation Boulevard, Lawndale, CA 90261; (310) 725–7100.

Issued in Washington, DC on July 6, 1998.

James S. Dillman,

Assistant Chief Counsel.

[FR Doc. 98–18706 Filed 7–10–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–98–14]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before August 3, 1998.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. __________, 800 Independence Avenue, SW., Washington, DC 20591.

Comments may also be sent electronically to the following internet address: 9–NPRM–CMTS@faa.dot.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Tawana Matthews (202) 267–9783 or Terry Stubblefield (202) 267–7624, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11)

Issued in Washington, DC, on July 8, 1998.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions For Exemption

Docket No.: 29230.

Petitioner: Delta Air Lines, Inc.

Sections of the FAR Affected: 14 CFR 121.417(c)(2)(i)(A).

Description of Relief Sought: To permit Delta to use pictorial and text-based differences training in lieu of hands-on training to accomplish the training and qualification of crewmembers on Type III emergency automatic overwing exits installed on the Boeing 737–800 aircraft, when the crewmembers previously have been trained and qualified on Type III emergency manual overwing exits installed on other versions of Boeing 737 aircraft.

Dispositions of Petitions

Docket No.: 29239.

Petitioner: Bombardier Aerospace.

Sections of the FAR Affected: 14 CFR 25.571(e)(1).

Description of Relief Sought/ Disposition: To permit use of "V_c at sea level or .85 V_c at 8,000 feet, whichever is greater," instead of the current § 25.571(e)(1) requirement to test from "V_c at sea level to V_c at 8,000 feet."

Grant, June 25, 1998, Exemption No. 6790.

Docket No.: 28574.

Petitioner: Federal Express Corporation.

Sections of the FAR Affected: 14 CFR 121.434(c)(1)(ii).

Description of Relief Sought/ Disposition: To permit FedEx to use qualified and authorized check airmen, in lieu of an FAA inspector, to observe a qualifying pilot in command who is completing the initial or upgrade training specified in § 121.424 during at least one flight leg that includes a takeoff and a landing.

Grant, June 26, 1998, Exemption No. 6473A.

Docket No.: 28529.

Petitioner: Atlantic Aero, Inc.

Sections of the FAR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit Atlantic Aero Inc., and any part 135 operator who rents, leases, or otherwise uses any aircraft identified in Exemption No. 6459, as amended, to operate its aircraft without a TSO–C112 (Mode S) transponder installed. This exemption also allows Atlantic to operate any aircraft for which the installation of a TSO–74b or TSO–C74c ATC transponder is needed, provided the Principal Operations Inspector is notified.

Grant, June 26, 1998, Exemption No. 6459B.

Docket No.: 27294.

Petitioner: Air Transport Association of America.

Sections of the FAR Affected: 14 CFR 121.309(f)(2).

Description of Relief Sought/ Disposition: To permit ATA-member airlines to locate the aft megaphone at door 4-left on their Boeing 747 aircraft.

Grant, June 29, 1998, Exemption No. 6140B.

Docket No.: 23492.

Petitioner: United States Hang Gliding Association, Inc.

Sections of the FAR Affected: 14 CFR 103.1(a) and (b).

Description of Relief Sought/ Disposition: To permit individuals authorized by USHGA to operate unpowered ultralight vehicles (hang gliders) weighing less than 155 pounds, with another occupant, for the purpose of sport, training or recreation.

Grant, June 26, 1998, Exemption No. 4721F.

Docket No.: 28173.

Petitioner: Bemidji Aviation Services, Inc.

Sections of the FAR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/Disposition: To permit the petitioner to operate its Beech 99 aircraft without a TSO–C112 (Mode S) transponder installed. This exemption also allows BAS to operate any aircraft for which the installation of a TSO–73b or TSO–C74C ATC transponder is needed.

Grant, June 26, 1998, Exemption No. 6110A.

Docket No.: 29156.

Petitioner: Firelands Museum of Military History.

Sections of the FAR Affected: 14 CFR 91.319, 119.5(g), and 119.25(b).

Description of Relief Sought/Disposition: To permit the petitioner to operate its former military Huey helicopters, which are certificated in the experimental category, for the purpose of carrying passengers on local flights for compensation of hire, subject to certain conditions and limitations.

Grant, July 1, 1998, Exemption No. 6792.

[FR Doc. 98–18706 Filed 7–13–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent to Rule on Application to Impose and Use the Revenue From a Passenger Facility Charge (PFC) at the Huntsville International Airport, Huntsville, AL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at the Huntsville International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before August 13, 1998.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: FAA/Airports District Office, 120 North Hangar Drive, Suite B, Jackson, Mississippi 39208–2306.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Luther H. Roberts, Jr., AAE, Deputy Director of the Huntsville Madison County Airport Authority at the following address: 1000 Glenn Hearn Boulevard, Box 20008, Huntsville, AL 35824.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Huntsville Madison County Airport Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Roderick T. Nicholson, Airports Area Representative, FAA Airports District Office, 120 North Hangar Drive, Suite B, Jackson, Mississippi 39208–2306, telephone number 601–965–4628. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at the Huntsville International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

On July 7, 1998, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Huntsville Madison County Airport Authority was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than October 8, 1998.

The following is a brief overview of the application.

PFC Application Number: 98–08–C–00–HSV.

Level of the proposed PFC: $3.00.

Proposed charge effective date: 6/01/1992.

Proposed charge expiration date: 6/30/2010.

Total estimated PFC revenue: $7,873,192.

Brief description of proposed project(s): Land Acquisition, Snow Removal Equipment; Security/Access Control System Upgrade; Air Cargo Apron Expansion; Rotating Beacon Refurbishment; Airfield Sweeper/Vacuum; Airport Rescue Fire Fighting Building Renovations; General Aviation Apron Expansion and Rehabilitation; Security Vehicle; Pick-Up for Snow Plow Usage; and Communications Center Relocation and Upgrade.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Any Air Taxi/Commercial Operator (ATCO), Certified Air Carriers (CAC) and Certified Route Air Carriers (CRAC) having fewer than 500 annual enplanements.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Huntsville Madison County Airport Authority.

Issued in Jackson, Mississippi, on July 7, 1998.

Wayne Atkinson,

Manager, Airports District Office, Southern Region, Jackson, Mississippi.

[FR Doc. 98–18707 Filed 7–13–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33628]

Fort Worth and Western Railroad Company—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company

The Burlington Northern and Santa Fe Railway Company (BNSF) has agreed to grant overhead trackage rights to Fort Worth and Western Railroad Company (FWWR) over BNSF's rail line in Fort Worth, TX, between milepost 2.08 and milepost 4.67, a distance of 2.59 miles.

The transaction was scheduled to be consummated on or soon after July 3, 1998, the effective date of the exemption.

The purpose of the overhead trackage rights is to allow FWWR to directly interchange traffic with Union Pacific Railroad Company (UP) in Peach Yard (milepost 2.08), thereby improving service, financial viability, and operations.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33628, must be filed with

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the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Kevin M. Sheys, Oppenheimer Wolff Donnelly & Bayh LLP, 1350 Eye Street, NW Suite 200, Washington, DC 20005–3324.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: July 6, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–18726 Filed 7–13–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33579]

Gauley River Railroad, LLC—Purchase, Lease and Operation Exemption—CSX Transportation, Inc.

Gauley River Railroad, LLC (GRIV), a noncarrier, has filed a notice of exemption under 49 CFR 1150.31 to purchase from CSX Transportation, Inc. (CSXT) and operate approximately 30.7 miles of rail line in West Virginia.[1] GRIV will acquire two rail line segments: (1) between milepost BUE–119 (Valuation Station 5035+89.6) near Cowen, WV, and milepost BUE–129 (Valuation Station 5563+89.6) at Allingdale, WV (Line A) and (2) between milepost BUE–12.4 (Valuation Station 1096+48.2) at Muddlety Falls, WV, and milepost BUE–20.7 (Valuation Station 1092+45), including the McMillion Creek Branch, Delmont Branch, and all other connecting spur and sidetracks (Line C). GRIV will also sublease from CSXT a third line segment, which connects or bridges together Line A and Line C, extending from milepost BUE–0.0 (Valuation Station 441+43) at Allingdale, WV, to milepost BUE–12.4 (Valuation Station 649+86.8) at Muddlety Falls, WV (Line B). Line B serves as a connecting stretch of railroad linking together Lines A, B, and C.[2]

The transaction was expected to be consummated on or shortly after June 25, 1998.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33579, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Keith G. O'Brien, Esq., Rea, Cross & Auchincloss, Suite 570, 1707 L Street, NW, Washington, DC 20036.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: July 6, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–18725 Filed 7–13–98; 8:45 am]

BILLING CODE 4915–00–P

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[1] GRIV certifies that its projected revenues will not exceed those that would qualify it as a Class III carrier.

[2] Line B is currently owned by Strouds Creek and Muddlety Railroad (SC&M). SC&M leases the line to CSXT. According to CSXT's lease agreement with SC&M, CSXT is permitted to enter into the contemplated sublease.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33624]

Mississippi & Tennessee RailNet, Inc.—Acquisition and Operation Exemption—The Kansas City Southern Railway Company

Mississippi & Tennessee RailNet, Inc. (MTRN), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire and operate approximately 87.1 miles of rail line and approximately 7.53 miles of spur and side tracks from The Kansas City Southern Railway Company between milepost 281.5 at Houston, MS, and milepost 368.6 at Middleton, TN.[1]

The transaction was scheduled to be consummated on or shortly after June 26, 1998.

This transaction is related to STB Finance Docket No. 33625, *North American RailNet, Inc.,—Continuance in Control Exemption—Mississippi & Tennessee RailNet, Inc.*, wherein North American RailNet, Inc. will continue in control of MTRN upon its becoming a Class III rail carrier.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke does not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33624, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Robert A. Wimbish, Esq., Rea, Cross, & Auchincloss, 1707 L Street, NW, Suite 750, Washington, DC 20036.

Board decisions and notices re available on our website at "WWW.STB.DOT.GOV."

Decided: July 6, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–18569 Filed 7–13–98; 8:45 am]

BILLING CODE 4915–00–M

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[1] MTRN states that its projected revenues will not exceed those that would qualify it as a Class III rail carrier and its revenues are not projected to exceed $5 million.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33625]

North American RailNet, Inc.—Continuance in Control Exemption—Mississippi & Tennessee RailNet, Inc

North American RailNet, Inc. (NARN), has filed a verified notice of exemption to continue in control of Mississippi & Tennessee RailNet, Inc. (MTRN), upon MTRN becoming a Class III railroad.

The transaction was scheduled to be consummated on or shortly after June 26, 1998.

This transaction is related to STB Finance Docket No. 33624, *Mississippi & Tennessee RailNet, Inc.—Acquisition and Operation Exemption—The Kansas City Southern Railway Company*, wherein MTRN seeks to acquire and operate a rail line from The Kansas City Southern Railway Company.

NARN controls three existing Class III railroads; Nebraska, Kansas & Colorado RailNet, Inc., operating in Nebraska, Kansas, and Colorado; Illinois RailNet, Inc., operating in Illinois; and Camas Prairie RailNet, Inc., operating in Mississippi and Tennessee.

NARN states that: (i) The rail lines operated by MTRN do not connect with any railroad in the corporate family; (ii) the transaction is not part of a series of anticipated transactions that would connect MTRN's lines with any railroad in the corporate family; and (iii) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33625, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001. In addition, a copy of each pending must be served on Robert A. Wimbish, Esq., Ree, Cross, & Auchincloss, 1707 L Street, NW, Suite 570, Washington, DC 20036.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: July 6, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–18566 Filed 7–13–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Bond—Export Warehouse Proprietor, Export Bond—Customs Bonded Cigar Manufacturing Warehouse, Extension of Coverage of Bond, Bond Under 26 U.S.C 6423, Manufacturer of Tobacco Products.

DATES: Written comments should be received on or before September 14, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Linda Barnes, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Cliff Mullen, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8181.

SUPPLEMENTARY INFORMATION:

Title: Bond—Export Warehouse Proprietor, ATF F 2103 (5220.5), Export Bond—Customs Bonded Cigar Manufacturing Warehouse, ATF F 2104 (5200.15), Extension of Coverage of Bond, ATF F 2105 (5000.7), Bond Under 26 U.S.C. 6423, ATF F 2490 (5620.10), Bond—Manufacturer of Tobacco Products, ATF F 3070 (5210.13)

OMB Number: 1512–0534.

Form Number: See Titles.

Abstract: These forms provide an efficient method of collecting the required information for the excise tax on wine, and provide a statutory system of controls for securing payment of taxes properly due. The recordkeeping requirement for this information collection is 2 years.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 15.

Estimated Time Per Respondent: 1 hour and 40 minutes.

Estimated Total Annual Burden Hours: 25.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 29, 1998.

Steve L. Mathis,

Acting Assistant Director (Management)/CFO.

[FR Doc. 98–18521 Filed 7–13–98; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Marks and Notices on Packages of Tobacco Products.

DATES: Written comments should be received on or before September 14, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Linda Barnes, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Cliff Mullen, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8181.

SUPPLEMENTARY INFORMATION:

Title: Marks on Notices on Packages of Tobacco Products.

OMB Number: 1512–0532.

Recordkeeping Requirement ID Number: ATF REC 5210/13.

Abstract: This information collection requires the manufacturer, or exporter to

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place a mark and notice indicating the tax classification and quantity on packages, cases or containers. Statutory authority for labeling and marking requirements pertaining to tobacco products is set forth in 26 U.S.C. 5723. There is a need for this information to appear on packages of tobacco products to assure effective administration of the Federal excise taxes imposed on tobacco products. There is no recordkeeping or reporting burden imposed on the proprietors.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 120.

Estimated Time Per Respondent: 0.

Estimated Total Annual Burden Hours: 1.

Request For Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 29, 1998.

Steve L. Mathis,

Assistant Director (Management)/CFO.

[FR Doc. 98–18522 Filed 7–13–98; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Application for Registration of Firearms Acquired By Certain Governmental Entities.

DATES: Written comments should be received on or before September 14, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Linda Barnes, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to William O'Brien, National Firearms Act Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8508.

SUPPLEMENTARY INFORMATION:

Title: Application for Registration of Firearms Acquired By Certain Governmental Entities

OMB Number: 1512–0029

Form Number: ATF F 10 (5320.10)

Abstract: ATF F 10 (5320.10) is used by State and local government agencies to effect the registration of otherwise unregisterable National Firearms Act (NFA) firearms. The information on the form is verified by ATF personnel in the processing of the application to ensure that an unregistered NFA firearm is being registered and that the applicant is a government agency eligible to possess the firearm.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension

Affected Public: Federal Government, State, Local or Tribal Government

Estimated Number of Respondents: 600

Estimated Time Per Respondent: 30 minutes

Estimated Total Annual Burden Hours: 300

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 24, 1998.

William T. Earle,

Assistant Director (Management)/CFO.

[FR Doc. 98–18523 Filed 7–13–98; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Application for Tax-Exempt Transfer of Firearm and Registration to Special (Occupational) Taxpayer (Title 26, U.S.C. Chapter 53).

DATES: Written comments should be received on or before September 14, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Linda Barnes, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to William O'Brien, National Firearms Act Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8508.

SUPPLEMENTARY INFORMATION:

Title: Application for Tax-Exempt Transfer of Firearm and Registration to Special (Occupational) Taxpayer (Title 26, U.S.C. Chapter 53).

OMB Number: 1512–0026.

Form Number: ATF F 3 (5320.3).

Abstract: This application allows a special taxpayer firearms licensee to transfer a National Firearms Act firearm without payment of tax to another eligible special taxpayer upon approval of ATF. The data is used to establish the eligibility of the transferor to transfer, and the transferee to receive, the firearms described.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Individuals or households, Business or other for-profit, State, Local or Tribal Government.

Estimated Number of Respondents: 22,579.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 112,895.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 24, 1998.

William T. Earle,

Assistant Director (Management)/CFO.

[FR Doc. 98–18524 Filed 7–13–98; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Administrative Remedies, Closing Agreements.

DATES: Written comments should be received on or before September 14, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Linda Barnes, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Teri Byers, Revenue Operations Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8195.

SUPPLEMENTARY INFORMATION:

Title: Administrative Remedies, Closing Agreements.

OMB Number: 1512–0528.

Abstract: 26 U.S.C. 7121 authorizes the Bureau of Alcohol, Tobacco and Firearms to prescribe regulations for entering into an agreement in writing with any person relating to any tax liability of such person imposed under 26 U.S.C. which is enforced and administered by ATF. Closing agreements may be related to the total tax liability of the taxpayer or to one or more separate items affecting the tax liability.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 1.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 1.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 24, 1998.

William T. Earle,

Assistant Director (Management)/CFO.

[FR Doc. 98–18525 Filed 7–13–98; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Bond Covering Removal To and Use of Wine at Vinegar Plant.

DATES: Written comments should be received on or before September 14, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Linda Barnes, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or

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copies of the form(s) and instructions should be directed to Barry Fields, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8522.

SUPPLEMENTARY INFORMATION:

Title: Bond Covering Removal To and Use of Wine at Vinegar Plant.

OMB Number: 1512–0529.

Form Number: ATF F 1676 (5510.2).

Abstract: ATF F 1676 (5510.2) is a bond form which serves as a contact between the proprietor of a vinegar plant and a surety. The bond coverage stated on the form is in an amount sufficient to cover the federal excise tax on wine in transit to and stored on the vinegar plant premises until the wine becomes vinegar.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 25.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 25.

Request For Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 24, 1998.

William T. Earle,

Assistant Director (Management)/CFO.

[FR Doc. 98–18526 Filed 7–13–98; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Proprietors or Claimants Exporting Liquors.

DATES: Written comments should be received on or before September 14, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Linda Barnes, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Barry Fields, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8522.

SUPPLEMENTARY INFORMATION:

Title: Proprietors or Claimants Exporting Liquors.

OMB Number: 1512–0385.

Recordkeeping Requirement ID Number: ATF REC 5900/1.

Abstract: Distilled spirits, wine and beer may be exported from bonded premises without payment of excise taxes or they may be exported if their taxes have been paid and the exporters may claim drawback of the taxes paid. This recordkeeping requirement is needed to allow the amounts exported to be verified and to maintain accountability over products. The records retention requirement for this information collection is 2 years.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 120.

Estimated Time Per Respondent: 60 hours per year.

Estimated Total Annual Burden Hours: 7,200.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 24, 1998.

William T. Earle,

Assistant Director (Management)/CFO.

[FR Doc. 98–18527 Filed 7–13–98; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Wholesale Dealers Records of Receipt of Alcoholic Beverages, Disposition of Distilled Spirits, and Monthly Summary Report.

DATES: Written comments should be received on or before September 14, 1998, to be assured of consideration.

ADDRESSES: Direct all written comments to Linda Barnes, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Charles N. Bacon, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8528.

SUPPLEMENTARY INFORMATION:

Title: Wholesale Dealers Records of Receipt of Alcoholic Beverages, Disposition of Distilled Spirits, and Monthly Summary Report.

OMB Number: 1512–0353.

Recordkeeping Requirement ID Number: ATF REC 5170/2.

Abstract: ATF uses these records and reports as an accounting tool to ensure protection of the revenue. Records of receipt and disposition are the basic documents that describe the activities of wholesale dealers. They provide an audit trail of taxable commodities from point of production to point of sale. Records of disposition are required only for distilled spirits. ATF requires the monthly report only in exceptional circumstances to ensure that a particular wholesale dealer is maintaining the required records. The records retention requirement is 3 years.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 50.

Estimated Time Per Respondent: 2 hours per month.

Estimated Total Annual Burden Hours: 1,200.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 24, 1998.

William T. Earle,

Assistant Director (Management)/CFO.

[FR Doc. 98–18528 Filed 7–13–98; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Manufacturers of Nonbeverage Products—Records to Support Claims for Drawback.

DATES: Written comments should be received on or before September 14, 1998, to be assured of consideration.

ADDRESSES: Direct all written comments to Linda Barnes, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Steve Simon, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8522.

SUPPLEMENTARY INFORMATION:

Title: Manufacturers of Nonbeverage Products—Records to Support Claims for Drawback

OMB Number: 1512–0379.

Recordkeeping Requirement ID Number: ATF REC 5530/2.

Abstract: The recordkeeping requirements included in ATF REC 5530/2 are part of the system that is necessary to prevent diversion of drawback spirits to beverage use. The records are necessary to maintain accountability over these spirits. The record retention requirement for this information collection is 3 years.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 611.

Estimated Time Per Respondent: 21 hours per year.

Estimated Total Annual Burden Hours: 12,831.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 24, 1998.

William T. Earle,

Assistant Director (Management)/CFO.

[FR Doc. 98–18529 Filed 7–13–98; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995,

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Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Application for Restoration of Firearms and/or Explosives Privileges.

DATES: Written comments should be received on or before September 14, 1998, to be assured of consideration.

ADDRESSES: Direct all written comments to Linda Barnes, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Vivian Pena, Firearms Programs Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–7770.

SUPPLEMENTARY INFORMATION:

Title: Application for Restoration of Firearms and/or Explosives Privileges.

OMB Number: 1512–0005.

Form Number: ATF F 3210.1.

Abstract: The information on the form is required in order to determine whether or not firearms and/or explosives privileges may be restored. It is used to conduct an investigation to establish if it is likely that the applicant will act in a manner dangerous to public safety or contrary to public interest.

Current Actions: The form has been revised to include 2 new questions under section 17. APPLICANT DATA. and a further explanation of those questions in a new section, Important Notices, 1. and 2. Also, the mailing address for forwarding the completed form has changed.

Type of Review: Extension.

Affected Public: Individuals or households, Business or other for-profit.

Estimated Number of Respondents: 5,000.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 2,500.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: July 7, 1998.

William T. Earle,

Assistant Director (Management)/CFO.

[FR Doc. 98–18530 Filed 7–13–98; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Consignment of Tobacco Products and Cigarettes Papers and Tubes Export Shipments.

DATES: Written comments should be received on or before September 14, 1998, to be assured of consideration.

ADDRESS: Direct all written comments to Linda Barnes, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Cliff Mullen, Regulations Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8181.

SUPPLEMENTARY INFORMATION:

Title: Consignment of Tobacco Products and Cigarette Papers and Tubes Export Shipments.

OMB Number: 1512–0531.

Recordkeeping Requirement ID Number: ATF REC 5210/1.

Abstract: Tobacco products have historically been a major source of excise tax revenues for the Federal government. In order to safeguard these taxes, members of the regulated tobacco industry are required to maintain a system of records designed to establish accountability over the tobacco products manufactured. The recordkeeping requirement for this information collection is 2 years.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for profit.

Estimated Number of Respondents: 314.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 21,195.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Date: June 29, 1998.

Steve L. Mathis,

Assistant Director (Management)/CFO.

[FR Doc. 98–18531 Filed 7–13–98; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Drawback of Tax on Tobacco Products and Cigarette Papers and Tubes—Export Shipment.

DATES: Written comments should be received on or before September 14, 1998, to be assured of consideration.

ADDRESSES: Direct all written comments to Linda Barnes, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Cliff Mullen, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8181.

SUPPLEMENTARY INFORMATION:

Title: Drawback of Tax on Tobacco Products and Cigarette Papers and Tubes—Export Shipment.

OMB Number: 1512–0533.

Recordkeeping Requirement ID Number: ATF REC 5210/2.

Abstract: Tobacco products have historically been a major source of excise tax revenues for the Federal government. In order to safeguard these taxes, tobacco products manufacturers are required to maintain a system of records designed to establish accountability over the tobacco products and cigarette papers and tubes. Exporters of tobacco products and cigarette papers and tubes on which they have paid tax may claim drawback of tax by complying with the requirements of laws and regulations. The records retention period is 3 years.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 1.

Estimated Time Per Respondent: 5.

Estimated Total Annual Burden Hours: 5.

Request For Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information tecnology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 29, 1998.

Steve L. Mathis,

Acting Assistant Director (Management)/CFO.

[FR Doc. 98–18532 Filed 7–13–98; 8:45 am]

BILLING CODE 4810–31–U

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Offer In Compromise of Liability Incurred Under the Federal Alcohol Administration Act.

DATES: Written comments should be received on or before September 14, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Linda Barnes, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Rosa Jeter, Market Compliance Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8130.

SUPPLEMENTARY INFORMATION:

Title: Offer In Compromise of Liability Incurred Under the Federal Alcohol Administration Act.

OMB Number: 1512–0222.

Form Number: ATF F 5640.2.

Abstract: In 1935, Congress passed the Federal Alcohol Administration Act (FAA Act). Persons who have committed violations of the FAA Act may submit an offer in compromise. The offer is a request by the party in violation to compromise penalties for the violations in lieu of civil or criminal action. ATF F 5640.2 identifies the violation(s) to be compromised by the person committing them, the amount of the offer plus a justification for acceptance of the offer.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 12.

Estimated Time Per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 24.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Date: June 29, 1998.

Steve L. Mathis,

Acting Assistant Director (Management)/CFO.

[FR Doc. 98–18533 Filed 7–13–98; 8:45 am]

BILLING CODE 4810–31–P

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DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Formula and Process for Nonbeverage Product.

DATES: Written comments should be received on or before September 14, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Linda Barnes, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Steve Simon, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8183.

SUPPLEMENTARY INFORMATION:

Title: Formula and Process for Nonbeverage Product.

OMB Number: 1512–0095.

Form Number: ATF F 5154.1.

Abstract: The information collected on ATF F 5154.1 is used by ATF laboratory personnel to determine whether the product described on the form is eligible for nonbeverage drawback. This determination is made once for each formula that is submitted. Records must be kept as long as claims are filed under the formula, and for 3 years thereafter.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 611.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 2,500.

Request For Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 29, 1998.

Steve L. Mathis,

Acting Assistant Director (Management)/CFO.

[FR Doc. 98–18534 Filed 6–13–98; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Annual Report of Concentrate Manufacturers and Usual and Customery Business Records—Volatile Fruit-Flavor Concentrate Plants.

DATES: Written comments should be received on or before September 14, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Linda Barnes, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Cliff Mullen, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8181.

SUPPLEMENTARY INFORMATION:

Title: Annual Report of Concentrate Manufacturers and Usual and Customary Business Records—Volatile Fruit-Flavor Concentrate Plants.

OMB Number: 1512–0098.

Form Number: ATF F 5520.2.

Recordkeeping Requirement ID Number: ATF REC 5520/1.

Abstract: Manufacturers of volatile fruit-flavor concentrate must provide reports as necessary to insure the protection of the revenue. The report accounts for all concentrates manufactured, removed, or treated so as to be unfit for beverage use. The information is required to verify that alcohol is not being diverted thereby jeopardizing tax revenues. Records and reports will be retained by the proprietor for 3 years from the date they were prepared, or 3 years from the date of the last entry, whichever is later.

Current Actions: There has been a small increase in the number of respondents which results in an increase in burden hours.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 91.

Estimated Time Per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 30.

Request For Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 29, 1998.

Steve L. Mathis,

Acting Assistant Director (Management)/CFO.

[FR Doc. 98–18535 Filed 7–13–98; 8:45 am]

BILLING CODE 4810–31–P

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition

AGENCY: United States Information Agency.

SUBJECT: Culturally Significant Objects Imported for Exhibition Determinations.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 F.R. 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 F.R. 27393, July 2, 1985).

ACTION: I hereby determine that the objects on the list specified below, to be included in the exhibit, "Buddhist Treasures from Nara," imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the exhibition or display of the listed exhibit objects at the Cleveland Museum of Art, in Cleveland, Ohio, from on or about August 9, 1998, to on or about September 27, 1998, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Carol Epstein, Assistant General Counsel, Office of the General Counsel, 202/619–6981, and the address is Room 700, U.S. Information Agency, 301 4th Street, S.W., Washington, D.C. 20547–0001.

Dated: July 8, 1998.

Les Jin,

General Counsel.

[FR Doc. 98–18696 Filed 7–13–98; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974, Addition of Routine Use to Three Systems of Records

ACTION: Notice.

SUMMARY: As required by the Privacy Act of 1974, 5 U.S.C. 552a(e), notice is hereby given that the Department of Veterans Affairs (VA) proposes to add a routine use to three existing systems of records.

DATES: The proposed routine use will be effective 30 calendar days from the date of this publication July 14, 1998, unless comments are received before this date which would result in a contrary determination.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed amended routine use statements to the Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW., Room 1154, Washington, DC 20420. All relevant material received before August 13, 1998, will be considered. All written comments received will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Thomas D. Roberts, Deputy Chief Counsel, Board of Veterans' Appeals (01C3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 565–5978.

SUPPLEMENTARY INFORMATION: Under current law and regulations, VA reviews fee agreements between beneficiaries and attorneys for two reasons: to award attorney fees out of a beneficiary's past-due benefits (38 U.S.C. 5904(d)) and to review fee agreements between a beneficiary and an attorney under 38 U.S.C. 5904(c)(2). Both actions are taken by the Board of Veterans' Appeals. In either instance, VA regulations (for example, 38 CFR 20.609) and principles of due process require that both the beneficiary and the attorney have notice and a right to present evidence and/or argument before the Board makes a decision. Because the nature of representation before VA includes waiver of Privacy Act provisions, there is generally no legal bar to providing a representative the information necessary to make whatever presentation is appropriate—for example, notice of an award of past-due benefits.

In some cases, a beneficiary, for a number of possible reasons, will have discharged the attorney prior to the Board's action. VA's General Counsel has ruled that, under some circumstances, a discharged attorney may be paid a fee out of past-due benefits awarded to the beneficiary. VAOPGREC 22–95, 61 FR 10063, 10064 (Mar. 12, 1996). Similarly, the Board could be required to review an agreement for reasonableness after the attorney has been discharged. In either case, because of Privacy Act restrictions, the Board is required to contact the beneficiary to obtain permission to provide proper notice to the attorney.

This routine use would permit VA to disclose information to former representatives to the extent necessary to develop and adjudicate a claim for payment of attorney fees from past-due benefits or to review a fee agreement. VA would not be permitted to release a beneficiary's address under this routine use.

VA has determined that release of information under circumstances such as those described above is a necessary and proper use of information in this system of records and that the specific routine use proposed for the transfer of this information is appropriate.

VA proposes to add the routine use to the following systems of records which are contained in the **Federal Register** at the following pages indicated.

44VA01 Veterans Appellate Records System, established at 40 FR 38095 (8/26/75) and revised at 56 FR 15663 (4/17/91).

81VA01 Representatives' Fee Agreement Records system established at 56 FR 18874 (4/24/91) and amended at 57 FR 8792 (3/12/92).

58VA21/22 Compensation, Pension, Education and Rehabilitation Records established at 41 FR 9294 (3/3/76) and amended at 43 FR 3984 (1/30/78); 43 FR 15026 (4/10/78); 43 FR 23797 (6/1/78); 45 FR 57641 (8/28/80); 45 FR 77220 (11/21/80); 47 FR 367 (1/5/82); 47 FR 16132 (4/14/82); 47 FR 40742 (9/15/82); 48 FR 1384 (1/12/83); 48 FR 15994 (4/13/83); 48 FR 39197 (8/29/83); 48 FR 52798 (11/22/83); 49 FR 23974 (6/8/84); 49 FR 36046 (9/13/84); 50 FR 10886 (3/18/85); 50 FR 26875 (6/28/85); 50 FR 31453 (8/2/85); 51 FR 24781 (7/8/86); 51 FR 25141 (7/10/86); 51 FR 28289 (8/6/86); 51 FR 36894 (10/16/86); 52 FR 4078 (2/9/87); 54 FR 36933 (9/5/89); 55 FR 28508 (7/11/90); 55 FR 42540 (10/19/90); 56 FR 15667 (4/17/91); 56 FR 16354 (4/22/91); 57 FR 12374 (4/9/92); 57 FR 44007 (9/23/92); 58 FR 38164 (7/15/93); 58 FR 54643 (10/22/93); 60 FR 20156 (4/24/95), and 63 FR 7196 (2/12/98).

A "Report of Altered System" and an advance copy of the revised system have been sent to the chairmen and ranking members of the Committee on Governmental Reform and Oversight of the House of Representatives and the Committee on Governmental Affairs of the Senate, and to the Office of Management and Budget, as required by 5 U.S.C. 552a(o) (Privacy Act) and

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guidelines issued by the Office of Management and Budget.

Approved: July 1, 1998.

Togo D. West, Jr.,

Secretary of Veterans Affairs.

Notice of Addition of Routine Use to Systems of Records

1. In the system identified as 44VA01, "Veterans Appellate Records System", established at 40 FR 38095 (8/26/75) and revised at 56 FR 15663 (4/17/91) the following routine use is added:

44VA01

SYSTEM NAME:

Veterans Appellate Records System—VA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

6. A record from this system (other than the address of the beneficiary) may be disclosed to a former representative of a beneficiary to the extent necessary to develop and adjudicate a claim for payment of attorney fees to such representative from past-due benefits under 38 U.S.C. 5904(d) or to review a fee agreement between such representative and the beneficiary for reasonableness under 38 U.S.C. 5904(c)(2).

2. In the system identified as 81VA01 "Representatives' Fee Agreement Records System", appearing at 56 FR 18874 (4/24/91) and amended at 57 FR 8792 (3/12/92)" the following routine use is added:

81VA01

SYSTEM NAME:

Representatives' Fee Agreement Records System—VA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

5. A record from this system (other than the address of the beneficiary) may be disclosed to a former representative of a beneficiary to the extent necessary to develop and adjudicate a claim for payment of attorney fees to such representative from past-due benefits under 38 U.S.C. 5904(d) or to review a fee agreement between such representative and the beneficiary for reasonableness under 38 U.S.C. 5904(c)(2).

3. In the system identified as 58VA21/22 "Compensation, Pension, Education and Rehabilitation Records", appearing at 41 FR 9294 (3/3/76) and amended at 43 FR 3984 (1/30/78); 43 FR 15026 (4/10/78); 43 FR 23797 (6/1/78); 45 FR 57641 (8/28/80); 45 FR 77220 (11/21/80); 47 FR 367 (1/5/82); 47 FR 16132 (4/14/82); 47 FR 40742 (9/15/82); 48 FR 1384 (1/12/83); 48 FR 15994 (4/13/83); 48 FR 39197 (8/29/83); 48 FR 52798 (11/22/83); 49 FR 23974 (6/8/84); 49 FR 36048 (9/13/84); 50 FR 10886 (3/18/85); 50 FR 26875 (6/28/85); 50 FR 31453 (8/2/85); 51 FR 24781 (7/8/86); 51 FR 25141 (7/10/86); 51 FR 28289 (8/6/86); 51 FR 36894 (10/16/86); 52 FR 4078 (2/9/87); 54 FR 36933 (9/5/89); 55 FR 28508 (7/11/90); 55 FR 42540 (10/19/90); 56 FR 15667 (4/17/91); 56 FR 16354 (4/22/91); 57 FR 12374 (4/9/92); 57 FR 44007 (9/23/92); 58 FR 38164 (7/15/93); 58 FR 54643 (10/22/93); 60 FR 20156 (4/24/95), and 63 FR 7196 (2/12/98), the following routine use is added:

58VA21/22

SYSTEM NAME:

Compensation, Pension, Education and Rehabilitation Records—VA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

61. A record from this system (other than the address of the beneficiary) may be disclosed to a former representative of a beneficiary to the extent necessary to develop and adjudicate a claim for payment of attorney fees to such representative from past-due benefits under 38 U.S.C. 5904(d) or to review a fee agreement between such representative and the beneficiary for reasonableness under 38 U.S.C. 5904(c)(2).

* * * * *

[FR Doc. 98–18643 Filed 7–13–98; 8:45 am]

BILLING CODE 8320-01-M

Corrections

Federal Register
Vol. 63, No. 134
Tuesday, July 14, 1998

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301–116]

Termination of Action: Protection of Intellectual Property Rights by the Government of Honduras

Correction

In notice document 98–17485 beginning on page 35633 in the issue of Tuesday, June 30, 1998, make the following corrections:

1. On page 35633, in the second column, in the 11th line "wise-spread" should read "wide-spread".

On page 35634, in the first column:

2. In the second line from the bottom "(ii)" should read "(ii).".
3. In the seventh line from the bottom, "of" should read "to".
4. In the 11th line from the bottom, "0707.20; 0707.00; 0807.11.30" should read "0707.00.20; 0707.00.40; 0807.11.30".
5. In the 17th line from the bottom, "0707.00" should read "0707.00.40".
6. In the 18th line from the bottom, "0707.020" should read "0707.00.20"
7. In the 21st line from the bottom, "of" should read "to".
8. In the 28th line from the bottom, after "effective" insert "dates".
9. On the same page, in the second column, in the eighth line, after "0807.11.30;" insert "2402.10.30".
10. On the same page, in the second column, in the last line above the file line "produce" should read "product".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 401 and 402

[USCG-1998-3976]

Great Lakes Pilotage; Reorganization of Regulations

Correction

In the issue of Wednesday, July 8, 1998, on page 36992, in the second column, in the correction of rule document 98-17269, the CFR title is corrected to read as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98-AGL-22]

Modification of Class E Airspace; Griffith, IN

Correction

In rule document 98–17050 beginning on page 34804 in the issue of Friday, June 26, 1998, make the following correction:

§ 71.1 [Corrected]

On page 34805, in the first column, in § 71.1, the line under the first five asterisks is corrected to read:

AGL IN E5 Griffith, IN [Revised]

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8606

Correction

In notice document 98–13458 appearing on page 27789 in the issue of Wednesday, May 20, 1998, make the following correction:

On page 27789, in the second column, in the **DATES** section, in the second line, "May 20, 1998" should read "July 20, 1998".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 2350

Correction

In notice document 98–13457 beginning on page 27788 in the issue of Wednesday, May 20, 1998, make the following correction:

On page 27788, in the third column, in the **DATES** section, in the second line, "May 20, 1998" should read "July 20, 1998".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1040 and Schedules A, B, C, C–EZ, D, D–1, E, EIC, F, H, J, R and SE

Correction

In notice document 98–17824 beginning on page 36737 in the issue of Tuesday, July 7, 1998, make the following correction:

On page 36737, in the second column, in the **DATES** section, in the second line, "July 8, 1998" should read "September 8, 1998".

BILLING CODE 1505-01-D

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Part II

Postal Service

39 CFR Part 111

Domestic Mail Manual Changes to Implement the Rate, Fee, and Classification Changes in Docket No. R97–1; Final Rule

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POSTAL SERVICE

39 CFR Part 111

Domestic Mail Manual Changes To Implement the Rate, Fee, and Classification Changes in Docket No. R97–1

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule sets forth the Domestic Mail Manual (DMM) standards adopted by the Postal Service to implement the rate, fee, and classification changes for all classes of mail included in the Decision of the Governors of the Postal Service in Postal Rate Commission Docket No. R97–1.

EFFECTIVE DATE: This final rule is effective at 12:01 a.m. on January 10, 1999.

FOR FURTHER INFORMATION CONTACT: Lynn M. Martin, 202–268–6351 (all topics); Paul Lettman, 202–268–6261 (Parcel Post); Thomas DeVaughan, 202–268–4491 (Business Reply Mail).

SUPPLEMENTARY INFORMATION: On July 10, 1997, the Postal Service, acting under sections 3622 and 3623 of the Postal Reorganization Act (39 U.S.C. 3622, 3623), filed a request for a recommended decision by the Postal Rate Commission (PRC) on proposed rate, fee, and classification changes. The PRC designated this filing as Docket No. R97–1. A notice of filing, with a description of the Postal Service's proposals, was published by the PRC on July 23, 1997, in the **Federal Register** (62 FR 39660).

On March 16, 1998, the Postal Service published for public comment in the **Federal Register** a proposed rule (63 FR 12864) that provided information on the implementation rules for the rate, fee, and classification changes that the Postal Service proposed to adopt if its requested changes in Docket No. R97–1 were recommended by the PRC and approved by the Governors of the Postal Service.

Pursuant to 39 U.S.C. 3624, on May 11, 1998, the PRC issued its Recommended Decision on the Postal Service's Request to the Governors of the Postal Service. The PRC recommendations made revisions to some of the mail classification structure, rates, and fees requested by the Postal Service. Based on an extensive analysis of the PRC's Recommended Decision and deliberation as to its consequences to the Postal Service and its customers, and pursuant to 39 U.S.C. 3625, the Governors acted on the PRC's recommendations on June 29, 1998. The Governors determined to approve the PRC's Recommended Decision except for the recommended classifications and fees for Prepaid Reply Mail and the recommended "shell classification" for Courtesy Envelope Mail. The Governors expressed concern about the necessity for these separate classifications. The Governors have encouraged management to consider whether refinements to the approved Qualified Business Reply Mail (QBRM) classifications and fees can be developed which improve upon the accounting options and fees approved for QBRM. The Postal Service plans to further study the issue of consumer automation discounts.

The Governors allowed under protest, and returned to the Postal Rate Commission for reconsideration, the rate schedules for Within County Periodicals, Library Rate Mail, and DDU Parcel Post.

The Board of Governors set an implementation date of January 10, 1999, for the approved rate, fee, and classification changes to take effect, except for delivery confirmation and the electronic form of return receipt (signature confirmation) service for delivery confirmation customers. The Board of Governors determined that implementation of the new delivery confirmation service approved in the Governors' Decision, as well as the classification change allowing delivery confirmation as a sole prerequisite for return receipt service, should take place after the effective date established for the other changes approved and allowed by the Governors, but not later than June 1, 1999. Later implementation will provide time for deployment of the technology used to provide these service features. The Board of Governors determined that an effective date for delivery confirmation and the electronic form of return receipt (signature service) will be selected through future action by the Board.

A notice announcing the Governors' decision and the issuance of final Domestic Mail Classification Schedule and Rate Schedule changes is contained in a separate notice to be published in the **Federal Register**.

This final rule contains the DMM standards adopted by the Postal Service to implement the Governors' decision. The revised DMM standards will take effect on January 10, 1999. The standards for delivery confirmation and the electronic form of return receipt (signature confirmation) service are not included in this final rule. They will be contained in a separate **Federal Register** notice when an implementation date is set by the Board of Governors.

Part A of this notice summarizes major changes that have been made to or added to the proposed implementation standards since the proposed rule. This includes changes made because of differences in the Postal Service's proposal and the PRC's recommended decision; changes made in response to the Governors' decisions, and changes made by the Postal Service in response to mailer comments or for other reasons. Part B provides a summary of all of the changes in Domestic Mail Manual standards made as a result of Docket No. R97–1 and this rulemaking process. Part C contains an analysis of comments received on the proposed rule and the Postal Service responses. Part D summarizes the changes to the DMM by DMM module, followed by the text of the revised DMM standards.

A. Major Changes and Additions Other Than Rate and Fee Levels Since the March 16, 1998, Proposed Rule

1. Express Mail

a. Hazardous Materials Surcharges

The Postal Rate Commission did not recommend the proposed surcharges for hazardous medical materials and for other hazardous materials. Therefore, provisions for hazardous materials surcharges have not been included in the DMM.

2. Priority Mail

a. Hazardous Materials Surcharges

The Postal Rate Commission did not recommend the proposed surcharges for hazardous medical materials and for other hazardous materials. Therefore, provisions for hazardous materials surcharges have not been included in the DMM.

b. Weight

The weight at which heavy First-Class Mail pieces must be paid at the Priority Mail rates is increased from First-Class Mail weighing over 11 ounces to First-Class Mail weighing over 13 ounces. At the mailer's option, any other mail matter (including regular First-Class Mail weighing 13 ounces or less) may be mailed as Priority Mail.

3. First-Class Mail

a. Hazardous Materials Surcharges

The Postal Rate Commission did not recommend the proposed surcharges for hazardous medical materials and for other hazardous materials. Therefore, provisions for hazardous materials surcharges have not been included in the DMM.

b. Heavy Piece Discount

The additional heavy piece presort discount of $0.046 for the first ounce of mailpieces weighing more than 2 ounces remains in effect.

c. Maximum Weight

The maximum weight of First-Class Mail is increased from 11 ounces to 13 ounces.

d. Prepaid Reply Mail

Prepaid Reply Mail will not be implemented.

4. Periodicals

a. Eligibility for In-County High Density Rates

Eligibility for the high density rate for In-County pieces will be revised to allow walk-sequenced pieces for a carrier route to qualify when there are either a minimum of 125 pieces for a carrier route or addressed pieces for at least 25 percent of the total active possible deliveries on a carrier route.

5. Standard Mail (A)

a. Hazardous Materials Surcharges

The Postal Rate Commission did not recommend the proposed surcharges for hazardous medical materials and for other hazardous materials. Therefore, provisions for hazardous materials surcharges have not been included in the DMM.

b. "Presorted Standard" Marking

A two-year transition period (instead of one year) will be permitted for mailers to change their "Bulk Rate" markings to "Presorted Standard." Until January 10, 2001, mailers of regular rate Standard Mail (A) material (matter at regular Presorted Standard Mail (A), regular automation, and regular Enhanced Carrier Route rates) may use either the "Bulk Rate" or the "Presorted Standard" markings or their respective authorized abbreviations on their mailings. At the mailer's option the "Presorted Standard" marking or its abbreviation may be used instead of "Bulk Rate" or its abbreviation effective immediately.

c. "RSS" Marking

The Postal Service will not require a separate "RSS" marking for pieces that are subject to the residual shape surcharge.

d. Pieces Not Qualifying for Standard Mail

(A). Mailers have indicated that they may have pieces prepared with Standard Mail (A) rate markings that cannot be mailed at a Standard Mail (A) rate under the provisions for "residual" pieces set forth in the proposed rule and this final rule. Reasons include the mailer having pieces remaining in a mailing job that cannot be matched to a correct 5-digit ZIP Code, or the mailer choosing not to hand-sort handwritten pieces that could not be barcoded and sorted by a multi-line optical character reader (MLOCR). In such instances, mailers must pay single-piece First-Class Mail or Priority Mail postage on the pieces.

If mailers desire to receive First-Class or Priority Mail service as applicable based on the weight of the mailpieces (including forwarding and return services), they must re-envelope or otherwise prepare the mailpieces so that they bear only the proper First-Class Mail or Priority Mail rate markings, ancillary service endorsements, Address Change Service (ACS) codes, etc. Metered pieces weighing over 13 ounces and less than 16 ounces must always be prepared under this method.

Except for metered pieces weighing over 13 ounces and less than 16 ounces, mailers who do not desire to receive First-Class or Priority Mail service on such pieces may submit them "as is" (i.e., bearing the Standard Mail (A) markings and endorsements). No additional markings or postage are to be added to these pieces. First-Class Mail or Priority Mail postage must be paid for these pieces using the appropriate First-Class or Priority Mail postage statement. Except for metered pieces weighing over 13 ounces and less than 16 ounces, mail bearing metered or precanceled stamp postage must, under this option, pay the difference between the postage affixed and the First-Class Mail or Priority Mail rates by means of an advance deposit account or by affixing a meter strip for the appropriate amount to the postage statement. If the pieces weigh 13 ounces or less, mailers must use special line items on the new First-Class postage statements under the heading "From Standard Mail (A)" to record the pieces mailed. This option may be used for fewer than 200 pieces of permit imprint mail only if the pieces were part of a larger mailing job and are submitted for acceptance along with the mail and a Standard Mail (A) postage statement for the other pieces in the same mailing job. Metered pieces weighing over 13 ounces and less than 16 ounces cannot use this option since there is no postage statement on which they can be reported and therefore must be re-enveloped and prepared as Priority Mail.

6. Standard Mail (B)

a. Barcoded Discounts

(1) Additional Barcode Option. A fourth barcode symbology, UCC/EAN Code 128, has been added. The USPS, in cooperation with the parcel shipping industry, has adopted the UCC/EAN Code 128 as its preferred code structure and symbology standard. The UCC/EAN Code 128 permits encoding of either the 5-digit ZIP Code or the ZIP+4 code. The ZIP Code information must be preceded by the Application Identifier "420" that signifies a domestic ZIP Code, and must not include the trailing verifier character "9" used with other barcode symbologies. The UCC/EAN code 128 will become mandatory for the barcoded discount in five years (January 10, 2004). During the 5-year phase-in period, UCC/EAN Code 128, as well as USS Code 128; USS Code I 2/5; and USS Code 39 symbologies will be permitted.

(2) Numeric Equivalent of Barcode. The requirement to print human-readable characters representing the numeric equivalent of the ZIP Code information in the barcode (i.e., omitting the verifier character or, for UCC/EAN Code 128, omitting the 3-digit application identifier characters) near the barcode will not be required if the barcode is on the same label as the address block and is placed in close proximity to the address. The human-readable numeric equivalent of the ZIP Code information in the barcode will be required for barcodes not printed on the same label as the address block on mailpieces.

(3) Parcel Post ASF Barcoded Rate Exclusion. The exclusion from the barcoded discount of machinable pieces eligible for DBMC rates that are entered at an auxiliary service facility (ASF) has been revised. Since the Phoenix, Arizona, ASF has parcel barcode reading equipment, machinable pieces of Parcel Post DBMC rate mail entered at the Phoenix ASF will be eligible for barcoded discounts. Since no other ASFs have barcode reading equipment, DBMC rate mail entered at ASFs other than Phoenix will not be eligible for the barcoded discount.

b. Hazardous Materials Surcharges

The Postal Rate Commission did not recommend the proposed surcharges for hazardous medical materials and for other hazardous materials. Therefore, provisions for hazardous materials surcharges have not been included in the DMM.

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c. Parcel Post BMC Presort and OBMC Presort Discounts

(1) Mail Preparation. The proposed requirement to prepare machinable parcels in pallet boxes measuring 72 inches high and to fill the boxes with at least 54 inches of mail to qualify for these discounts is revised. The new requirement is to prepare machinable parcels in pallet boxes measuring 69 inches high and to fill the boxes with at least 52 inches of mail to qualify for these discounts. The preparation requirements for nonmachinable mail did not change.

(2) Documentation. The requirement for documentation listing number of pieces per individual pallet is eliminated.

d. Parcel Post Oversized Pieces.

The 10% limit per mailing of pieces that measure over 108 inches but not more than 130 inches in combined length and girth is removed. In its place the PRC recommended and the Governors of the Postal Service approved oversized rates for such pieces. These oversized rates are greater than the rates for 70-pound parcels.

e. Parcel Post DSCF Rate

(1) Sacking Requirements Revised. The minimum number of pieces per 5-digit sack is revised from 10 pieces to 7 pieces. A provision also is added to allow one overflow sack per 5-digit destination. The overflow sack has no minimum quantity requirement.

(2) New Pallet Preparation Option Added. In response to mailer comments that the pallet minimums were too high, a new pallet preparation option has been added. This option allows preparation of 5-digit pallets with a minimum of 35 pieces and 200 pounds of mail, provided the average number of pieces placed on pallets qualifying for the DSCF rate in such a mailing is at least 50 pieces. In order to document that no pallet contains less than 35 pieces and 200 pounds and that the average number of pieces per pallet claiming the DSCF rate is at least 50 pieces, mailers will be required to submit detailed documentation and place sequential identification numbers on qualifying pallets of DSCF rate mail. The documentation must list each pallet in sequential order by pallet identification number. The listing must show for each pallet: the pallet identification number, the 5-digit ZIP Code of the pallet, the total weight of pieces on the pallet, the total number of pieces on the pallet, and the cumulative total of pieces (i.e., the number equal to the number of pieces for that pallet plus the sum of the pieces on all pallets listed above it).

(3) Overflow Provisions for Palletized Mail Added. Provisions are added to allow overflow from 5-digit pallets to be placed in corresponding 5-digit sacks. The overflow 5-digit sacks have no minimum quantity requirement, and the pieces placed in them will qualify for the DSCF rate. Mailers will also have the option of preparing a 5-digit overflow pallet. However, the pieces on overflow pallets, which by definition contain less than the minimum quantity required for a qualifying DSCF rate pallet, are not eligible for DSCF rates and are subject to the DBMC rates.

(4) Pallet Boxes. The prohibition against use of pallet boxes on pallets for the DSCF rate is eliminated. Pallet boxes on pallets will be permitted for any 5-digit facility that can handle pallets, provided the pallet boxes measure no more than 60 inches high and meet the pallet box provisions in DMM M041. Mail prepared in pallet boxes is subject to the same pallet minimum preparation options as parcels placed directly on pallets.

(5) Sacks on Pallets. Under DMM M045.12, mailers may consolidate 5-digit sacks prepared under DMM M630 and/or under DMM M045.11 that qualify for the DSCF rate on an SCF pallet. Both 5-digit sacks meeting or exceeding the 7-piece minimum and overflow sacks (overflow from sacks and overflow from pallets) may be palletized in this manner. However, if in the same mailing, mail is palletized under M045.11.1 and sacked under M630, the sacks that are prepared as overflow from pallets must, at the time of acceptance, be separated from sacks prepared under M630. SCF pallets containing 5-digit sacks qualifying for the DSCF rate may be prepared without having to first prepare all possible 5-digit pallets and without having to meet a 250-pound pallet minimum. A special pallet label is specified for these pallets in M045.

(6) Additional Information Pertaining to Drop Shipment Product. Mailers must use the following additional information when using the Drop Shipment Product to determine whether mail for a 5-digit ZIP Code delivery unit may be prepared on pallets to qualify for the DSCF rate. The DMM standards are revised to specify that when the Drop Shipment Product shows that mail for a single 5-digit ZIP Code area is delivered from more than one facility, the facility listed in the Drop Shipment Product that delivers mail to the majority of city carrier routes will be considered the delivery unit for parcel post. Two exhibits, Exhibits E652.6.0 and 652.7.0 that contain exceptions to the "majority of city carriers" rule, are also added to the DMM. If a 5-digit ZIP Code is listed in DMM Exhibit E652.6.0 or E652.7.0, the facility listed in one of those exhibits must be used to determine the name of the delivery unit. The name of the delivery unit must then be looked up in the Drop Shipment Product to determine if mail for it, and therefore mail for the 5-digit ZIP Code, can be prepared on pallets to qualify for the DSCF rate. At some point in the future the information in these two exhibits will be incorporated in the Drop Shipment Product.

(7) Nonmachinable Outsides. Nonmachinable outside (NMO) parcels by definition cannot be prepared in sacks because they will not fit in a sack. Therefore, NMOs must be prepared directly on pallets or in pallet boxes on pallets. If overflow pallets are prepared, the pieces on such pallets are subject to the DBMC rates. The DSCF rate is not available for NMOs at those 5-digit delivery units that cannot handle palletized mail as listed in the Drop Shipment Product and in Exhibits E652.6.0 and E652.7.0.

(8) Exceptions to DMM Exhibit E652.5.0. Provisions are added to allow mailers to submit a written request to the Area Manager, Operations Support, for permission to bring palletized mail for a 5-digit ZIP Code area listed in DMM Exhibit E652.5 to the DSCF rather than to the applicable BMC. Such exceptions must be requested at least 15 days in advance and may be granted for a limited period of time only.

(9) Separation of Perishable and Nonperishable Parcels. The requirement to separate perishable and nonperishable parcels is deleted from the final DMM rules.

f. Parcel Post DDU Rate

(1) Pallet Boxes. The prohibition against the use of pallet boxes on pallets is eliminated. Pallet boxes on pallets will be permitted for any 5-digit facility that can handle pallets, provided that the pallet boxes measure no more than 60 inches high and meet the pallet box provisions in DMM M041.

(2) Additional Lists Pertaining to Drop Shipment Product. Mailers must use the following additional information when using the Drop Shipment Product to determine the location of the delivery unit for a 5-digit ZIP Code area. When mail for a single 5-digit ZIP Code area is delivered from more than one facility, the facility listed in the Drop Shipment Product that delivers mail to the majority of city carrier routes is the delivery unit at which mail must be entered to claim the DDU rate. There are two exceptions to this general rule. Two

exhibits, Exhibit E652.6.0 and Exhibit E652.7.0 are added to DMM E652. Exhibit E652.6.0 contains exceptions to the "majority of city carrier routes" rule. Exhibit E652.7.0 contains other anomalous situations including those where a parcel annex is used to deliver mail for multiple 5-digit ZIP Codes. If a 5-digit ZIP Code is listed in DMM Exhibit E652.6.0 or Exhibit E652.7.0, the facility location in one of those lists is the delivery unit to which the mail must be brought to qualify for the DDU rate. This facility must be looked up in the Drop Shipment Product to determine if that facility can handle pallets and (for facilities listed in Exhibit E652.6.0) to determine the address of the facility.

(3) Pallet Stacking. Mailers may stack pallets of mail entered at destination delivery units provided that the mailer unloads and unstacks the pallets at the delivery unit and removes any strapping material.

(4) Appointments. To facilitate the scheduling of drop shipments to delivery units, the Postal Service will allow standing appointments if shipment frequency is weekly or more often. A provision also has been added in E652.3.4 to specify that appointments are required for mixed loads of Periodicals and Standard Mail (B) entered at destination entry rates. DMM E250.2.4 already contains a similar provision for DDU entry of mixed loads of Periodicals and Standard Mail.

(5) Grace Period for Late Arrivals. The grace period allowed for late arrival of shipments at DDUs, previously stated to be 1 hour, is revised to 20 minutes.

g. Markings

(1) Parcel Post. Except for mail qualifying for a drop shipment rate, mailers will be given a one-year grace period, until January 10, 2000, to print the "Parcel Post" or "PP" markings in the postage area. As of January 10, 1999, Drop Shipment rate mail must show the "Parcel Post" or "PP" marking in the postage area and the marking "Drop Ship" or "D/S" in either the postage area or on the line above or two lines above the address. An exception is that DBMC rate mailers currently using the "DBMC Parcel Post" or "DBMC PP" marking may continue to do so until January 10, 2000.

(2) Standard Mail (B) Other than Parcel Post. Mailers not already doing so will have until January 10, 2000, to place the current required subclass markings "Bound Printed Matter," "Special Standard," and "Library Mail" or "Library Rate" in the postage area (as opposed to elsewhere on the mailpiece).

(3) Bound Printed Matter. At the mailer's option the "Presorted" marking may be used instead of "Bulk Rate" effective immediately. (This marking will be required effective January 10, 2000.) In addition, mailers may use the marking "Presorted Standard" (or "PRSRT STD") instead of "Presorted" (or "PRSRT") wherever the "Presorted" marking is required or permitted.

7. Special Services

a. Bulk Insurance

A provision requiring an electronic manifest to qualify for the bulk insurance discount was recommended by the PRC and approved by the Governors of the Postal Service. Therefore, one of the requirements to obtain this discount will be to provide a hard copy of Form 3877, Firm Mailing Book for Accountable Mail (or facsimile), and a copy of Form 3877 on a diskette or other electronic medium. When systems that electronically capture information on accountable mail are completed and programming changes that will tie the St. Louis ASC into these systems are completed, mailers will be required to file claims electronically. When or before these changes and systems are completed, bulk insurance mailers will be provided with instructions for a new format for the electronic Form 3877 and with instructions for electronically filing claims.

b. Business Reply Mail

Mailers will have until January 10, 2001, to comply with the standard that Qualified Business Reply Mail pieces and other BRM pieces bearing a barcode that measure more than 4¼ inches by 6 inches must meet a minimum thickness requirement of .009 inch. In addition, mailers of QBRM and other BRM pieces that bear a barcode will be given until January 10, 2001, to meet the amended requirements for the barcode clear zone, window placement for lower right barcodes, and placement of the leftmost bar of lower right barcodes. The barcode specifications that are in DMM C840 will be required, rather than optional. The basis weight requirement for envelopes in C810.7.1 will not apply to BRM. BRM envelopes must continue to meet a minimum paper basis weight of 20 pounds (measured using 500 sheets of 17- by 22-inch paper). The standard in current S922.6.4 that envelope material must not have a phosphorescence exceeding 4.0 phosphor meter units is retained and corrected to state that envelope material must not have a red fluorescence exceeding 4.0 phosphor meter units.

c. Delivery Confirmation

Standards concerning delivery confirmation were removed pending an implementation date.

d. Merchandise Return Service

The Postal Service revised the requirements for preprinted rate markings. The Priority Mail marking will not be required to be preprinted on all matter that might be subject to that rate upon return. It is understood that permit holders may not be able to predict whether a piece that might be returned will weigh over 13 ounces but less than 16 ounces and therefore need a Priority Mail marking on the merchandise return label. Therefore, the permit holder must preprint a Priority Mail marking only when it is desired that the mail matter be returned at those rates regardless of its weight. Pieces prepared with merchandise return labels that do not contain a preprinted rate marking will be returned at the First-Class Mail rates if weighing 13 ounces or less, at the Priority Mail rates if weighing over 13 ounces but less than 16 ounces, and at the Parcel Post rates if weighing 16 ounces or more.

d. Return Receipt

The Postal Service determined not to revise DMM D042.1.7.

B. Summary of all DMM Revisions for R97–1

1. Express Mail

a. Rate Highlights

Overall, Express Mail rates will increase 9%. For Post Office to Addressee service, the letter rate will increase to $11.75 and the 2-pound flat rate will increase to $15.75. The fee for pickup service will increase from $4.95 to $8.25 per occurrence.

b. Rate Structure

There are no changes to the rate structure.

2. Priority Mail

a. Rate Highlights

On average, Priority Mail rates will increase 5.6%. The fee for pickup service will increase from $4.95 to $8.25 per occurrence.

b. Classification and Rate Structure

(1) *Keys and Identification Devices.* Keys and identification devices that weigh more than 13 ounces but not more than 2 pounds will be subject to the 2-pound Priority Mail rate plus a $0.30 fee.

(2) *Elimination of Presort Category.* The Presorted Priority Mail rate category

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will be eliminated. Therefore, DMM labeling list L102, ADCs—Presorted Priority Mail, also will be eliminated.

(3) *Delivery Confirmation.* A new delivery confirmation service will be available with Priority Mail in early 1999. See further details under "Special Services."

3. First-Class Mail

a. Rate Highlights

The single-piece first-ounce letter rate will be increased one cent from $0.32 to $0.33, and the rate for each additional ounce will decrease to $0.22. The nonstandard surcharges for non-card-rate pieces will not increase and will remain at $0.11 for single-piece rate mail and $0.05 for presorted mail. For card rates, no change will be made to the single-piece rates, nonautomation Presorted rates, automation 3-digit rates and automation basic rates. No change will be made to 3/5-digit automation flat rates. Small increases will be made to other automation rates and Presorted rates. The annual presort mailing fee will be increased from $85.00 to $100.00.

b. Classification and Rate Structure

(1) *Increase in Maximum Weight.* The maximum weight of First-Class Mail will be increased from 11 ounces to 13 ounces.

(2) *Keys and Identification Devices.* Keys and identification devices that weigh 13 ounces or less will be subject to the applicable single-piece letter rate, plus a $0.30 fee and, if applicable, the nonstandard surcharge.

(3) *Qualified Business Reply Mail.* A new classification category and rate structure for qualified business reply mail (QBRM) that must be letter-size (including cards), automation-compatible, and barcoded will be added. As a result, the BRMAS fee category will be eliminated. The rate structure for QBRM includes a lower first-ounce rate. The fee structure for QBRM requires an annual permit fee, an annual accounting fee, and a fee for each piece returned. More specific requirements for this new classification category are described under DMM E150 and under "Special Services" below.

c. Rate Markings

The abbreviation "PRSRT" will be permitted for the required "Presorted" marking.

4. Periodicals

a. Rate Highlights

There will be average rate increases of 4.6% for Regular, 1.1% for In-County, 8.0% for Nonprofit, and 12.1% for Classroom publications. Authorization fees will not change, except that the additional entry fee decreases from $85.00 to $50.00.

b. Classification and Rate Structure

(1) *Per-Piece Rates.* Separate 5-digit presort per-piece rates and 3-digit presort per-piece rates will be added for Regular, Nonprofit, Classroom, and In-County subclasses. Furthermore, the 3-digit presort level rates will apply to both unique and nonunique 3-digit ZIP Code prefixes.

To qualify for the nonautomation 5-digit per-piece rates, mail must be prepared in a 5-digit package of six or more pieces and must be containerized as follows: for letter mail, be placed in a 5-digit tray; for nonautomation flat mail, be placed in a 5-digit sack or on any presort level of pallet. To qualify for automation 5-digit per-piece rates for letters, mail must be part of a group of 150 pieces for the same 5-digit or 5-digit scheme, properly placed in a 5-digit or 5-digit scheme tray. To qualify for automation 5-digit per-piece rates for flats, mail must be prepared in a 5-digit package of six or more pieces and placed in any level of sack or on any level of pallet.

To qualify for the nonautomation 3-digit per-piece rates, sacked flat-sized mail must be prepared in a 5-digit package of six or more pieces or in a 3-digit package of six or more pieces, and must be placed in a 3-digit sack; trayed letter-size mail must be prepared in a 5-digit package of six or more pieces or in a 3-digit package of six or more pieces, and must be placed in a 3-digit tray. Palletized flat-sized mail must be prepared in a 3-digit package of six or more pieces and placed on a 3-digit or higher (e.g., SCF, ADC) level of pallet.

To qualify for automation 3-digit per-piece rates for letters, mail must be part of a group of 150 pieces for the same 3-digit or 3-digit scheme and be properly placed in a 3-digit or 3-digit scheme tray. To qualify for automation 3-digit per-piece rates for flats, mail must be prepared in a 3-digit package of six or more pieces and placed in a 3-digit or higher (e.g. ADC or mixed ADC) level of sack or on a 3-digit or higher (e.g., SCF, ADC) level of pallet.

(2) *Eligibility for In-County High Density Rates.* Eligibility for the high density rate for In-County pieces will be revised to allow walk-sequenced pieces for a carrier route to qualify when there are either a minimum of 125 pieces for the carrier route, or addressed pieces for at least 25 percent of the total active possible deliveries on the carrier route.

c. Mail Preparation

(1) *Automation Letters.* Preparation of the 5-digit or 5-digit scheme sort for letter-size automation rate mailings will be revised from a required level of sort to an optional level of sort.

(2) *SCF Sack.* The current optional SCF sack for nonletter mail will be revised to a required level of preparation. Preparation of an optional origin/required entry SCF sack will be added. Preparation of an optional origin/required entry 3-digit sack will be eliminated. SCF packages are not and will not be permitted.

d. Forwarding and Return

Charges for the return of Periodicals mail bearing the "Address Service Requested" endorsement will be paid at the First-Class Mail rates for pieces weighing 13 ounces or less and at the Priority Mail rates for pieces weighing more than 13 ounces. (Priority Mail rates also apply to pieces weighing 16 ounces or more.) This is due to the elimination of the Standard Mail (A) single-piece rates discussed below.

5. Standard Mail (A)

a. Rate Highlights

There will be average rate increases of 2.6% for Regular, 2.3% for Enhanced Carrier Route, and 14.0% for Nonprofit subclasses. On average, there will be a 8.0% decrease in Nonprofit Enhanced Carrier Route rates. Nonprofit and Nonprofit ECR pound rates will decrease. Regular and ECR pound rates will remain the same. For the first time, the automation 5-digit letter rate will be lower than the basic Enhanced Carrier Route rate. The basic Enhanced Carrier Route minimum per-piece rates will be the same for letter-size and for nonletter-size pieces. The destination entry discounts will maintain their current discount differentials between BMC and SCF and between SCF and DDU. The annual presort mailing fee will increase from $85.00 to $100.00.

b. Rate Structure

(1) *Elimination of Single-Piece Rates.* The single-piece Standard Mail (A) rates will be eliminated. This will affect the treatment of pieces in situations where there are fewer than 200 pieces remaining in a mailing job after preparation of an Enhanced Carrier Route and/or an automation rate mailing, situations in which there are fewer than 200 pieces in a mailing job, or situations in which the pieces are not or may not be presorted. See "Mail Preparation" below for further information. It also affects the fees for forwarding and return of Standard Mail

(A) as described below under "Forwarding and Return." With one exception, single pieces that weigh less than 16 ounces will be subject to return postage at single-piece First-Class or Priority Mail rates multiplied by 2.472. The exception is that single pieces weighing less than 16 ounces that could qualify for single-piece Special Standard Mail or Library Mail rates will continue to be eligible for those rates upon return if properly endorsed because there are no minimum weight requirements for those two subclasses of Standard Mail (B).

(2) *Residual Shape Surcharge.* Pieces that are prepared as parcels or that are not letter-size or flat-size will be subject to a $0.10 per piece residual shape surcharge in addition to the applicable nonletter postage. This surcharge applies to such pieces mailed at all Standard Mail (A) subclasses (Regular, Enhanced Carrier Route, Nonprofit, Nonprofit Enhanced Carrier Route).

c. Mail Preparation

(1) *Bulk Rate Markings and Nomenclature.* Effective January 10, 2001, the basic rate marking requirements for regular rate mailings (including Enhanced Carrier Route) will be changed from "Bulk Rate" or "Blk. Rt." to "Presorted Standard" or "PRSRT STD." During the two-year transition period, either the "Bulk Rate" or the "Presorted Standard" markings or their authorized abbreviations will be acceptable. For consistency, the DMM will use the term "Presorted Standard Mail (A)" or "Presorted Standard" when referring to the mailings and rates currently referred to as "nonautomation presort (3/5 and basic) Standard Mail (A)." At the mailer's option the "Presorted Standard" or "PRSRT STD" marking may be used instead of "Bulk Rate" effective immediately.

(2) *Markings for Standard Mail* (A) Matter Paid at Standard Mail (B) Rates. Effective January 10, 1999, mailings paid at Standard Mail (B) rates under the exception in DMM E612.4.6 must bear the appropriate Standard Mail (B) rate marking, not the applicable Standard Mail (A) rate marking. DMM E612.4.6 contains provisions that allow Standard Mail (A) matter weighing less than 16 ounces to pay Standard Mail (B) rates if those rates are lower than Standard Mail (A) rates and the matter and the mailing could qualify for the Standard Mail (B) rate except for weight. For example, if a mailer had flat-size printed matter pieces that met the qualifications for Bound Printed Matter in DMM E630 (until January 10, DMM E620) except that the pieces each weighed less than one pound, and if the applicable Bound Printed Matter Rates were less than the applicable Standard Mail (A) rates, the mailer could presort them as Standard Mail (A) flats and claim basic presorted Bound Printed Matter rates. Under this example, if the pieces weighed four ounces and the mailing was only for the local zone, the Bound Printed Matter rates would be lower than the Presorted Standard Mail (A) rates. Therefore, the mailer could claim local zone Bound Printed Matter rates if: (1) the pieces are presorted according the Presorted Standard Mail (A) requirements to 5-digit, 3-digit, ADC, and Mixed ADC (that are similar to the presort requirements for presorted Bound Printed Matter), (2) the pieces are marked "Presorted" or "Presorted Standard" and "Bound Printed Matter," and (3) documentation is submitted to substantiate that the pieces qualified for the local zone rate.

(3) *Elimination of Single-Piece Rates.* Currently, Standard Mail (A) single-piece rates apply to pieces that cannot meet the separate minimum volume requirement of 200 pieces for a Presorted Standard mailing either because the mailing job itself contains fewer than 200 pieces or because after preparing an Enhanced Carrier Route and/or automation mailing the pieces remaining in the mailing job are fewer than 200. Other instances where single-piece rates currently apply include mailers using MLOCRs to prepare the mail who may have pieces remaining in a mailing job that could not be matched to a 5-digit ZIP Code, or mailers who choose not to hand-sort handwritten pieces that could not be barcoded and sorted by a MLOCR. The single-piece Standard Mail (A) rate is eliminated. Mailers will now have three options concerning preparation and payment for mailing pieces that formerly were paid at the single-piece Standard Mail (A) rates.

Option one applies to pieces that remain in a mailing job after a mailer has prepared an Enhanced Carrier Route and/or an automation mailing. A new provision in DMM E630.1.1 and 1.2 will allow pieces in an Enhanced Carrier Route rate mailing and/or in an automation rate mailing that have each separately met a 200-piece or 50-pound minimum quantity requirement to be counted toward the minimum quantity requirement for a Presorted Standard (⅗ and basic rate) mailing, provided that (1) the Enhanced Carrier Route rate mailing and/or the automation mailing, and the Presorted Standard mailing are part of the same mailing job, and (2) the mailings are all reported on the same postage statement. Under no circumstances may pieces mailed at the Presorted Standard (nonautomation ⅗ and basic) rates be counted toward the minimum volume requirements for an Enhanced Carrier Route or an automation rate mailing. The pieces mailed at the Presorted Standard rates under this provision must meet all other requirements for those rates, including the sortation and other preparation requirements in M610. As prescribed in DMM M610.1.1e, the pieces mailed at the Presorted Standard rates must not bear any Enhanced Carrier Route or automation markings. Only "Presorted Standard" (or, until January 10, 2001, "Bulk Rate"), "Nonprofit Organization," or their applicable authorized abbreviations may appear on pieces mailed at the Presorted Standard rates.

Options two and three apply to mailings that cannot qualify for the Presorted Standard Mail rates under the above provisions for residual minimum volume. These might be mailings containing fewer than 200 pieces that cannot be reported on the same postage statement as other mailings in the mailing job because the pieces have a different per piece weight (because of different editions in the same job). They could also be pieces remaining after sorting a mailing job that could not be matched to a correct 5-digit ZIP Code, or pieces that could not be barcoded and sorted by a MLOCR because they bear handwritten addresses and the mailer chose not to hand-sort the pieces. In such instances, mailers must pay single-piece First-Class Mail or Priority Mail postage on the pieces.

Option two is for mailers of such pieces who desire to receive First-Class or Priority Mail service (including forwarding and return services) on such pieces as applicable, based on the weight of the mailpieces. Under this option, mailers must re-envelope the pieces or initially prepare them so that they bear only the proper First-Class Mail or Priority Mail markings, ancillary service endorsements, ACS codes, etc. These pieces must not bear Standard Mail (A) markings, endorsements or ACS codes. This option will also be required for metered mailpieces weighing over 13 ounces, but less than 16 ounces, that cannot be mailed under option one.

Option three is for mailers who have pieces (other than metered pieces weighing over 13 ounces, but less than 16 ounces) that cannot qualify for the Presorted Standard Mail (A) rates, but that are prepared as Standard Mail (A), and who do not desire to receive First-Class Mail or Priority Mail service for those pieces. Under this option the pieces may be submitted "as is" (i.e., bearing the Standard Mail (A) markings

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and endorsements). No additional markings or postage are to be added to these pieces. Single-piece First-Class Mail or Priority Mail postage must be paid for these pieces using the appropriate First-Class or Priority Mail postage statement. Mail bearing metered or precanceled stamp postage must pay the difference between the postage affixed at the Standard Mail (A) rates and the single-piece First-Class Mail or Priority Mail rates by means of an advance deposit account or by affixing a meter strip for the appropriate amount to the postage statement. Mail bearing permit imprints must pay the single-piece First-Class or Priority Mail postage by completing the appropriate First-Class or Priority Mail postage statement. If the pieces weigh 13 ounces or less, mailers must use special line items under Part C on the reverse side of Form 3600–R, Postage Statement—First-Class Mail Permit Imprint, or Form 3600–P, Postage Statement—First-Class Mail Postage Affixed. The new line items on the postage statements appear under the heading "From Standard Mail (A)." If the pieces weigh over 13 ounces but less than 16 ounces, and are paid with permit imprint, Form 3600–PM, Postage Statement—Priority Mail Permit Imprint, must be appropriately completed to show that the pieces are from a Standard Mail (A) mailing. Option 3 may be used for permit imprint mail only if there are at least 200 pieces to be mailed under this option, or if the pieces were part of a larger mailing job and are submitted for acceptance along with the mail and a Standard Mail (A) postage statement for the other pieces in the same mailing job.

d. Forwarding and Return. With two exceptions, charges for the forwarding and return of Standard Mail (A) are paid at the First-Class Mail rates for pieces weighing 13 ounces or less and at the Priority Mail rates for pieces weighing over 13 ounces. This is because single-piece Standard Mail (A) rates have been eliminated as discussed above. The exceptions are (1) matter returned under Bulk Parcel Return Service (BPRS) and (2) matter that qualifies for a single-piece Special Standard Mail or Library Mail rate under DMM E630 and is endorsed to show that forwarding and return is requested at one of those rates.

6. Standard Mail (B)

a. Rate Highlights

Some Parcel Post rates will decrease and many will increase, some as much as 30%. New rate categories and discounts will be added to Parcel Post as described in 6b below. On average, Bound Printed Matter rates will increase 5%. The discount will increase for sorting Bound Printed Matter to carrier route. Special Standard Mail rates will decrease. Library Mail rates will be the same as Special Standard Mail rates, resulting in a rate increase. The annual fees for destination bulk mail center (DBMC) rates and presorted Special Standard Mail will increase from $85.00 to $100.00. The fee for pickup service for Parcel Post will increase from $4.95 to $8.25 per occurrence. (Pickup service is not available for mailings claiming Parcel Post destination entry rates or Origin Bulk Mail Center (OBMC Presort) Presort discounts.)

b. Rate Structure for All Standard Mail (B)

(1) Barcoded Discount. A discount of $0.03 per piece will apply to machinable pieces in mailings meeting a 50-piece minimum quantity requirement that bear a correct and properly prepared barcode representing the 5-digit ZIP Code (or, for UCC/EAN Code 128, the ZIP+4 code) of the address on the mailpiece. Mail for each Standard Mail (B) subclass (Parcel Post, Bound Printed Matter, Special Standard, and Library Mail) must separately meet the 50-piece minimum volume requirement.

The barcode specifications and clear zone requirements are in DMM C850. UCC/EAN Code 128 as well as USS Code 128; USS Code I 2/5; and USS Code 39 symbologies will be permitted until January 10, 2004. Beginning January 10, 2004, only UCC/EAN Code 128 will be permitted. For all barcode symbologies except UCC/EAN Code 128, the barcode must represent the correct 5-digit ZIP Code of the address on the mailpiece followed by the verifier character "9." The UCC/EAN Code 128 barcode must represent either the correct 5-digit ZIP Code or the ZIP+4 code for the address on the mailpiece. For the UCC/EAN Code 128 barcode, the ZIP Code information must be preceded by the Application Identifier "420" that signifies a domestic ZIP Code, and must not include the trailing verifier character "9" used with the other barcode symbologies. Mailers must print human-readable characters representing the numeric equivalent of the ZIP Code information in the barcode (i.e., omitting the verifier character or, for UCC/EAN Code 128, omitting the 3-digit application identifier characters) preceded by the word "ZIP" near the barcode. An exception is that the numeric equivalent of the ZIP Code information in the barcode will not be required if the barcode is on the same label as the address block and is placed in close proximity to the address.

The barcoded discount reflects the savings for parcels that are routinely processed individually on BMC parcel sorters equipped with barcode readers. Therefore, the discount will not be available for nonmachinable parcels and will not be available for parcels that are intended to bypass individual BMC sortation. The barcoded discount will therefore not be available for: (1) any nonmachinable parcel, (2) Parcel Post mail entered at destination sectional center facility (DSCF) rates, (3) Parcel Post mail entered at destination delivery unit (DDU) rates; (4) Parcel Post DBMC rate mail entered at any auxiliary service facility (ASF) other than the ASF at Phoenix, AZ (which has barcode readers), (5) Bound Printed Matter at the Carrier Route rates, and (6) Presorted Special Standard Mail at the 5-digit rate.

(2) Delivery Confirmation. A new delivery confirmation service will be available for Standard Mail (B) in early 1999. See further details under "Special Services."

c. Rate Structure for Parcel Post

(1) Presort Discounts for Inter-BMC Rates. A new Origin Bulk Mail Center Presort (OBMC Presort) discount of $0.57 per piece will be available for mail entered at a BMC that meets sortation criteria specific for the type of parcel. Machinable parcels must be sorted to BMCs and nonmachinable parcels must be sorted to BMCs and ASFs. A new BMC Presort discount of $0.22 per piece will be available for pieces that are sorted in the same manner as those qualifying for the OBMC Presort discount (sorted to BMCs if machinable parcels or sorted to BMCs and ASFs if nonmachinable parcels) and entered at any postal facility other than a BMC that accepts bulk mailings. To qualify for either of these rates, pieces must be part of a mailing of at least 50 pieces mailed at Parcel Post rates. See "Mail Preparation" below for more details.

(2) Drop Shipment Rates. New destination delivery unit (DDU) rates will be available for pieces entered at the delivery unit from which the parcels are delivered. DDU rate pieces must be part of a mailing of at least 50 pieces mailed at Parcel Post rates. New rates will also be available for pieces entered at the destination sectional center facility (DSCF). DSCF rate pieces must be part of a mailing of at least 50 pieces mailed at Parcel Post rates. DSCF rate pieces must be sorted to 5-digit ZIP Codes as described under "Mail Preparation" below.

(3) Balloon Rate. Any item weighing less than 15 pounds and measuring over 84 inches (but not more than 108

inches) in combined length and girth will be charged the applicable Parcel Post rate for a 15-pound parcel.

(4) Oversized Pieces. Pieces in a Parcel Post mailing will be permitted to measure over 108 inches, but not more than 130 inches, in combined length and girth. These pieces will be charged new oversized rates which are higher than the 70-pound rates.

d. Markings

(1) General. Currently, mailers are required to place subclass markings "Bound Printed Matter," "Special Standard," and "Library Rate" or "Library Mail" (or authorized abbreviations) on pieces qualifying for those rates. However, the Domestic Mail Manual does not clearly specify where on the mailpiece these markings must appear. Effective January 10, 2000, the current required subclass markings ("Bound Printed Matter," "Special Standard," and "Library Rate" or "Library Mail") or their authorized abbreviations will be required to be placed in the postage area on each mailpiece (i.e., be printed or produced as part of, or directly below, or to the left of the permit imprint indicia, meter stamp or impression, or adhesive or precanceled stamp). The Postal Service prefers that mailers begin to do this as soon as possible.

(2) Parcel Post Mail. Except for mail qualifying for drop shipment rates, mailers will have until January 10, 2000, to place a "Parcel Post" or "PP" rate marking in the postage area on all Parcel Post Mail. Effective January 10, 1999, mailings qualifying for the new DSCF and DDU drop shipment rates must bear the marking "Drop Ship" or its abbreviation "D/S" and the marking "Parcel Post" or "PP." The "Parcel Post" or "PP" marking must appear in the postage area (printed or produced as part of, or directly below, or to the left of the permit imprint or metered postage) and the marking "Drop Ship" or "D/S" must appear either in the postage area or in the line above or two lines above the address as described in DMM M012. DBMC rate mail will also be required to bear the "Drop Ship" and "Parcel Post" markings or authorized abbreviations according to these placement rules. However, since DBMC rate mail is currently required to bear the marking "DBMC Parcel Post," the Postal Service is allowing mailers a one-year grace period to convert to the new marking. From January 10, 1999, to January 10, 2000, DBMC rate mailers may use either "DBMC Parcel Post" or "Parcel Post" and "Drop Ship" (or their applicable abbreviations). Effective January 10, 2000, DBMC Parcel Post must bear the new "Parcel Post" and "Drop Ship" markings, or their applicable abbreviations.

Effective January 10, 1999, the Postal Service is eliminating the requirement to show the 5-digit or 3-digit ZIP Code of the post office of mailing in the drop shipment marking if the postage for the piece is paid with a permit imprint and the office of mailing is in a different 3-digit ZIP Code area from the post office in the return address. The requirement for a "Bulk Rate" marking also will be eliminated. Mailpieces bearing the 3-digit ZIP Code of the office of mailing and "Bulk Rate" markings will be accepted until January 10, 2000.

(3) Bound Printed Matter. Effective January 10, 2000, the "Bound Printed Matter" marking must appear in the postage area of single-piece rate mail. Until January 10, 2000, the "Bound Printed Matter" marking may appear elsewhere on the mailpiece.

The marking "Bulk Rate" or "Blk. Rt." will be changed to "Presorted" or "PRSRT" for bulk Bound Printed Matter mailings. The marking "Presorted Standard" or "PRSRT STD" also will be permissible. The "Presorted" or "Presorted Standard" portion of the marking will be permitted to appear in either the postage area or in the line above or two lines above the address. Mailers will be given until January 10, 2000, to begin using the new markings. Between January 10, 1999 and January 10, 2000, mailers may use either "Bulk Rate" or "Presorted" or their respective authorized abbreviation. At the mailer's option the "Presorted" marking may be used instead of "Bulk Rate" effective immediately. The name of the rate category also is changing from bulk Bound Printed Matter to presorted Bound Printed Matter. At the mailer's option the "Presorted" marking may be used instead of "Bulk Rate" effective immediately. Between now and January 10, 2000, the marking "Bound Printed Matter" may appear either in the postage area or in the line above or two lines above the address on presorted Bound Printed Matter. Effective January 10, 2000, the "Bound Printed Matter" marking on presorted Bound Printed Matter must appear in the postage area.

For carrier route Bound Printed Matter, the need for the "Bulk Rate" marking in addition to the "Carrier Route Presort" marking will be eliminated effective January 10, 1999. Carrier route Bound Printed Matter mailings must show "Bound Printed Matter" in the postage area and "Carrier Route Presort" or "CAR–RT SORT" in the postage area or in the line above or two lines above the address. Mailers will be given until January 10, 2000, to place the "Bound Printed Matter" marking in the postage area. Effective January 10, 1999, mailers will be permitted, but not required, to show the "Presorted" or "PRSRT" (or "Presorted Standard" or "PRSRT STD") marking on carrier route Bound Printed Matter in addition to the required "Bound Printed Matter" and "Carrier Route Presort" or "CAR–RT SORT" markings.

The "Catalog" or "Catalog Rate" marking will be eliminated for Bound Printed Matter. Pieces bearing the "Catalog" or "Catalog Rate" markings will be accepted until January 10, 2000.

(4) Special Standard. For Presorted Special Standard mail, the "Presorted" portion of the current marking will be permitted to be abbreviated "PRSRT" and to appear either in the postage area or in the line above or two lines above the address. Effective January 10, 2000, the "Special Standard" marking must be placed in the postage area.

f. Mail Preparation—OBMC Presort Discount

To qualify for the Origin Bulk Mail Center Presort (OBMC Presort) discount, a mailpiece must be part of a mailing of at least 50 Parcel Post rate pieces. Pieces eligible for the OBMC Presort rate must be entered at a BMC listed in DMM L601.

Machinable parcels at OBMC Presort rates must: (1) be sorted to BMCs using DMM labeling list L601 and, (2) be prepared in 69-inch pallet boxes placed on pallets, each labeled to a BMC and each containing a minimum of 52 inches of mail. OBMC Presort machinable parcels must not be prepared as parcels placed directly on pallets. Overflow containers (pallets, pallet boxes on pallets, or sacks) are not permitted.

Nonmachinable parcels at OBMC Presort rates must: (1) be sorted to BMCs and ASFs using new DMM labeling list L605 and, (2) be placed directly on pallets (no pallet boxes on pallets are allowed), each labeled to a BMC or ASF and each pallet containing at least 42 inches of mail. Overflow containers (pallets, pallet boxes on pallets, or sacks) are not permitted.

Pallets and pallet boxes also must meet the provisions of M041. The minimum height of mail in a pallet box on a pallet (machinable parcels) or of mail placed directly on a pallet (nonmachinable parcels) is measured from the top of the pallet to the top of the lowest mailpiece (i.e., excludes the height of the pallet).

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g. Mail Preparation—BMC Presort Discount

To qualify for the BMC Presort discount, a piece must meet the same rules for sorting machinable parcels to BMCs and nonmachinable parcels to BMCs and ASFs as required for the OBMC Presort discount above. The difference is that BMC Presort mail may be entered at any postal facility (other than a BMC in DMM L601) that accepts bulk mailings.

h. Mail Preparation—DSCF Rate

To qualify for the DSCF rate, a piece must be part of a mailing of at least 50 Parcel Post rate pieces and must be presorted to 5-digit ZIP Code destinations. Pieces eligible for the DSCF rate must be entered at an SCF listed in DMM L005 and must be for delivery within the service area of the entry SCF. For palletized mail only, certain 5-digit ZIP Codes listed in DMM Exhibit E652.5.0 must be entered at the BMC facility serving the SCF.

To qualify for the DSCF rates the pieces must be presorted and labeled to 5-digit sacks or 5-digit pallets (including pallet boxes on pallets). Machinable and nonmachinable parcels may be combined in the same sack or on the same pallet (or same pallet box on a pallet) to meet the minimum sortation requirements. If sacked, each 5-digit sack must contain a minimum of 7 pieces, except that one overflow sack per 5-digit ZIP Code that contains fewer than 7 pieces is allowed. If palletized, each 5-digit pallet (including pallet boxes on pallets) in the mailing must meet one of the following basic minimum preparation requirements: (1) contain at least 50 pieces and 250 pounds of mail, or (2) contain at least 36 inches of mail (height of mail excluding pallet). Overflow from a full 5-digit pallet may be placed in 5-digit sacks or may be palletized. If the overflow is placed in a 5-digit sack it will be eligible for the DSCF rates. If the overflow is placed on a 5-digit pallet it is subject to the DBMC rates. Pallets prepared under the piece and pound minimum and pallets prepared under the minimum height requirement may both be combined in a single mailing. Sacked mail and mail palletized according to either of the minimum quantity options listed above also may be included in the same mailing, provided that at the time of verification the mailer separates sacks that are overflow from the palletized portion of the mailing from sacks that were prepared under the provisions for sacking mail.

If mailers can provide certain documentation, they also may prepare a mailing exclusively under the following alternate pallet preparation option. The minimum number of pieces on a 5-digit pallet (including a pallet box on a pallet) may be 35 pieces and 200 pounds provided that within the mailing the average number of DSCF pieces per 5-digit pallet is at least 50. To substantiate that no pallet contains less than 35 pieces and 200 pounds and that the average number of DSCF pieces per 5-digit pallet in the mailing is at least 50 pieces, mailers must submit documentation that lists each pallet in sequential order by pallet identification number. For each 5-digit pallet containing mail claimed at the DSCF rates the documentation must show: the unique pallet identification number, the 5-digit ZIP Code of the pallet, the total weight of pieces on the pallet, the total number of pieces on the pallet, and the cumulative total of pieces (i.e., the number of pieces on that pallet plus the sum of the pieces on all 5-digit pallets qualifying for the DSCF rates listed before it). Under this alternate pallet option, overflow from a full 5-digit pallet may be placed in 5-digit sacks or may be palletized. If the overflow is placed in a 5-digit sack, it will be eligible for the DSCF rates. If the overflow is placed on a 5-digit pallet, it is subject to the DBMC rates. Mailers using this 50-piece average-per-pallet alternative must exclude pieces that are prepared as overflow under any of the foregoing methods (sacked or palletized) from the computation (documentation) that the 50-piece per pallet average is met.

For any palletization option, mailers may place parcels directly on pallets or in pallet boxes on pallets. If pallet boxes are used they must not exceed 60 inches in height and must otherwise meet the provisions for pallet boxes in DMM M041. All pallets must meet the provisions of DMM M041.

Under any palletization option, the following additional requirements or restrictions also apply. Currently, many BMCs transport mail for certain 5-digit ZIP Code areas directly to the 5-digit associate post office. A list of these 5-digit areas is found in DMM Exhibit E652.5.0. Five-digit pallets prepared for the DSCF rate for the 5-digit ZIP Codes listed in this exhibit must be entered at the BMC, not at the SCF, to qualify for the DSCF rate. This will avoid additional handling and transportation of this mail at the affected SCFs. However, sacked mail for the 5-digit ZIP Codes listed in Exhibit E652.5.0 must always be entered at the SCF (not at the BMC). There is one exception to this rule provided for in DMM E652.1.3. This rule allows a mailer to request from the Area Manager, Operations Support, an exception to the requirement to drop palletized mail for the ZIP Codes in Exhibit E652.5 at the BMC. Such exceptions must be requested at least 15 days in advance and may only be granted for a limited time.

In addition, there are certain associate post offices that cannot handle pallets. A list of these facilities is found in the Drop Shipment Product currently available from the National Customer Support Center (NCSC) in Memphis, TN (1–800–238–3150). For these 5-digit ZIP Codes, the DSCF rate will be available only for mail that can be prepared in 5-digit sacks as described above (i.e., the DSCF rate will not be available for palletized mail for 5-digit delivery units that cannot handle pallets).

In instances where the Drop Shipment Product shows that mail for a single 5-digit ZIP Code area is delivered from more than one facility, the facility listed in the Drop Shipment Product that delivers mail to the majority of city carrier routes will be considered the delivery unit for parcel post. Two exhibits, Exhibits E652.6.0 and E652.7.0 that contain exceptions to the "majority of city carriers" rule, are also added to the DMM. If a 5-digit ZIP Code is listed in DMM Exhibit E652.6.0 or E652.7.0, the facility listed in one of those exhibits must be used to determine the name of the delivery unit. The name of the delivery unit must then be looked up in the Drop Shipment Product to determine if mail for it, and therefore mail for the 5-digit ZIP Code, can be prepared on pallets to qualify for the DSCF rate. At some point in the future the information in these two exhibits will be incorporated in the Drop Shipment Product.

Nonmachinable outside (NMO) parcels by definition cannot be prepared in sacks because they will not fit in a sack. Therefore, NMOs must be prepared directly on pallets or in pallet boxes on pallets as described above to qualify for the DSCF rates. If overflow pallets are prepared, the pieces on such pallets are subject to the DBMC rates. The DSCF rate is not available for NMOs at those facilities listed in the Drop Shipment Product, and Exhibits E652.6.0 and E652.7.0, as unable to handle palletized mail.

The Postal Service will unload palletized loads for DSCF rate mail. Mailers must unload sacked and bedloaded mailings. A provision has been added to allow mailers to prepare 5-digit sacks qualifying for the DSCF rate on SCF pallets. Such SCF pallets have no minimum pallet weight and may be prepared without having to first prepare all possible 5-digit pallets. A special pallet label is prescribed for this mail in M045.12.

Except for local mailings, appointments for dropping any Standard Mail (B) at an SCF must be scheduled through the appropriate district control center (see DMM E652).

i. Mail Preparation—DDU Rate

To qualify for the DDU rate, a piece must be part of a mailing of at least 50 Parcel Post rate pieces. Pieces eligible for the DDU rate must be entered at the postal facility where the carrier who delivers the parcel is located. A list of these facilities and their telephone numbers are in the Drop Shipment Product currently available from the National Customer Support Center (NCSC) in Memphis, TN, 1–800–238–3150. In instances where the Drop Shipment Product shows that a 5-digit area is served by more than one facility, the facility that delivers mail to the majority of city carrier routes should be used for purposes of determining where to enter a destination delivery unit mailing. Exceptions to that general rule are those ZIP Codes listed in DMM Exhibit E652.6.0 and in Exhibit E652.7.0. If a ZIP Code appears in DMM Exhibit E652.6.0 or Exhibit E652.7.0, the mail must be entered at the delivery unit listed in the exhibit for that ZIP Code.

There are no specific sortation requirements for the DDU rates other than the requirement that mail must be separated by 5-digit ZIP Code when unloaded at a DDU facility. Mailers may choose to sack or palletize DDU rate pieces. If so, there are no minimum sack or pallet requirements but the sack or pallet must be labeled as a 5-digit sack or pallet. Mailers may present mail to the DDU prepared in pallet boxes on pallets provided the pallet boxes do not exceed 60 inches in height and otherwise meet the provisions of M041. The Drop Shipment Product and DMM Exhibits E652.6.0 and E652.7.0 may be used to determine which postal facilities can handle pallets. If the facility cannot handle a pallet, and mail is transported to the facility on pallets, the mailer must unload the mail from pallets into a container as specified by the delivery unit.

The mailer will be responsible for unloading all DDU loads (even if palletized). If palletized and the pallets are stacked, the mailer will be responsible for unloading, unstacking, and removing the strapping material from the pallets. Appointments for entry must be made by contacting the DDU at least one day in advance. Mailers desiring electronic confirmation of DDU mail entry also must schedule the appointment through the district control center. Standing appointments may be made if shipment frequency is weekly or more frequently. The grace period for late arrivals will be 20 minutes.

j. Destination Entry Mail Preparation—Plant-Verified Drop Shipment (PVDS)

Pieces must be part of a mailing of at least 50 Parcel Post rate pieces to qualify for DDU, DSCF, and DBMC rates and to qualify for OBMC Presort, BMC Presort, and barcoded discounts. When Parcel Post rate pieces are submitted under PVDS procedures, mailers may use the total of all line items for all destinations on a PVDS register or PVDS postage statement to meet the minimum 50-piece volume requirement. This means a mailer may enter fewer than 50 pieces at an individual destination, provided there is a total of at least 50 Parcel Post rate pieces for all of the entry points for that single mailing job listed on the PVDS register or PVDS postage statement.

k. Bulk Parcel Post

Bulk Parcel Post is a "shell" classification of Standard Mail (B) for which there are no separate rates prescribed. Current DMM E620.2.4e states that "the bulk Parcel Post rate is the rate applicable to each piece in a bulk Parcel Post rate mailing at the single-piece rate or DBMC rate for that zone for an item equal to the average weight per piece for all parcels in the mailing to that zone, rounded up to the next whole pound." This DMM section therefore establishes a method of computing postage at Parcel Post rates. For mailings of identical weight pieces, this averaging method is irrelevant, because the average weight of all the pieces to a zone is always the weight of a single piece. For mailings of nonidentical weight pieces, DMM E620.2.2b states that this method of postage payment may be used only if authorized by the rates and classification service center (RCSC) serving the post office of mailing. The Postal Service is removing sections E620.2.2 and E620.2.4e from the DMM. Postal Service Headquarters is not aware of any mailer that is currently authorized to use this method of postage payment. If in fact there are mailers using this method, they may request that their RCSC issue an authorization for continuation of their postage payment procedure as an alternate mailing system under DMM P730. The Postal Service is implementing various new rates and discounts for Parcel Post that could be considered "bulk rates" because they require a minimum volume of 50 pieces per mailing. Therefore, removing references to "Bulk Parcel Post" rates in DMM E620 will reduce confusion in the eligibility section for Parcel Post rates in new DMM E630. As indicated above, the Postal Service also will be removing the requirement to mark pieces with a "Bulk Parcel Post" rate marking. New DMM E630.6.0 is reserved for any future rates and requirements for the Bulk Parcel Post classification.

7. Special Services

a. Address Correction

No changes will be made to address correction service fees. They will remain at $0.50 for manual corrections and $0.20 for automated (ACS) corrections, per notice issued.

b. Address Changes for Election Boards

No changes will be made to the fee. It will remain $0.17. See DMM R900.10.3.

c. Business Reply Mail (BRM)

(1) *Fees and Per-Piece Charges.* The annual permit fee will increase from $85.00 to $100.00, and the annual accounting fee will increase from $205.00 to $300.00. For regular BRM, mailers will pay the applicable First-Class Mail rates plus a per-piece charge. The per-piece charge for regular BRM with an advance deposit account will decrease from $0.10 to $0.08. The per-piece charge for regular BRM without an advance deposit account will decrease from $0.44 to $0.30.

(2) *Qualified Business Reply Mail.* A new classification category and rate structure will be added for qualified business reply mail (QBRM) that must be letter-size, automation-compatible, and barcoded. As a result, the BRMAS fee category will be eliminated. The First-Class rate structure for QBRM includes a lower single-piece first-ounce rate of postage of $0.30 for letters and $0.18 for cards. The fee structure requires an annual BRM permit fee, an annual BRM accounting fee, and for each piece returned a $0.05 per-piece BRM charge.

(3) *Mailpiece Design and Barcoding Requirements.* Mailpiece design and barcoding requirements will be revised for both regular BRM and QBRM. Regular BRM pieces that bear a barcode and QBRM pieces that bear a barcode will be required to meet the automation letter mailpiece design requirements in DMM C810 (except C810.7.1) and the barcoding standards in C840 so that there are uniform requirements for all mail that is processed on barcode sorters.

For barcoded and nonbarcoded BRM, references to mailpiece design

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requirements in DMM C810 and C830 will replace current BRM standards relative to reflectance requirements, paper weight, tabs and self-mailers. This will add basis weight, tabbing, and other requirements for all self-mailers. It is likely that self-mailers will be processed on automated equipment. Meeting these requirements will ensure their ability to be processed without damage. QBRM and other barcoded mailpieces must meet all the mailpiece design requirements in C810 except the requirement in C810.7.1. The basis weight requirement for envelopes in C810.7.1 will not apply to BRM. BRM envelopes, including QBRM, must continue to meet the current minimum paper basis weight of 20 pounds (measured using 500 sheets of 17- by 22-inch paper). In addition, the standard in current S922.6.4 that envelope material must not have a phosphorescence exceeding 4.0 phosphor meter units is retained and corrected to state that envelope material must not have a red fluorescence exceeding 4.0 phosphor meter units. Mailers will have until January 10, 2001, to comply with the requirement in DMM C810.2.1c that Qualified Business Reply Mail pieces and other BRM pieces that bear a barcode and measure more than 4¼ inches by 6 inches meet a minimum thickness requirement of .009 inch.

Mailers currently have the option of preparing pieces with lower right barcodes according to the standards in C840. They also currently have the option of preparing the pieces so that the left boundary of the barcode clear zone and of a lower right barcode window is ¼ inch closer to the right edge of the mailpiece than required under C840, and to place the leftmost bar of a lower right barcode ⅛ inch closer to the right edge of the mailpiece than required under C840. The revised standards will no longer permit mailers to use the option that does not meet the DMM C840 requirements. However, mailers will be given until January 10, 2001, to use existing stocks of such prebarcoded BRM envelopes and cards that: (1) Have a barcode clear zone with a left boundary that is 4½ inches from the right edge of the piece (not 4¾ inches as required in C840); (2) have a lower right barcode for which the leftmost bar is located between 3¼ and 4 inches from the right edge of the piece (not between 3½ and 4¼ inches as required under C840); (3) have a lower right barcode window, that has a left boundary measuring 4½ inches from the right edge of the piece (not 4¾ inches as required under C840).

The revised standards also will allow a company logo to appear beneath the delivery address line of a prebarcoded BRM or QBRM mailpiece, provided the logo is placed no lower than ⅝ inch from the bottom edge of the mailpiece and does not interfere with the barcode clear zone.

d. Carrier Sequencing of Address Cards

The fee will increase from $0.17 to $0.20. See DMM R900.1.0.

e. Certificate of Mailing

The fees will increase. See DMM R900.4.0.

f. Certified Mail

The fee will increase from $1.35 to $1.40. See DMM R900.5.0.

g. Collect on Delivery (COD)

COD fees will increase. See DMM R900.6.0. The standards in DMM S921 will also be revised to remove references to the availability of COD with single-piece Standard Mail (A).

h. Correction of Mailing Lists

The per-correction fee will be increased from $0.17 to $0.20 and the minimum per-list fee is increased from $5.50 to $7.00. See DMM R900.10.1.

i. Delivery Confirmation

A new delivery confirmation service will be available for Priority Mail and Standard Mail (B) in early 1999. This service, when available, will provide the mailer with information about the date of delivery or attempted delivery. This service will be available in two forms: (1) an electronic option for mailers who apply identifying barcodes to each piece, provide an electronic manifest, and retrieve confirmation information electronically; and (2) a retail (manual) option for which delivery information will be available through a USPS Internet address or a toll-free number. Signature (electronic return receipt) service also will be available in early 1999.

j. Express Mail Insurance

The fees for merchandise insured for $500.01 to $5,000.00 will increase. See DMM R900.8.0.

k. Insured Mail

The fees for insurance service will increase. See DMM R900.9.0. The DMM provisions in S913 will be revised to delete the applicability of insurance to single-piece Standard Mail (A). Since single-piece Standard Mail (A) will be eliminated, mail that was formerly mailed at those rates will be subject to single-piece First-Class Mail or Priority Mail rates as applicable for the weight of the mailpiece. Because First-Class Mail and Priority Mail may be insured, mailpieces formerly mailed at single-piece Standard Mail (A) rates will retain their eligibility for insurance when mailed at First-Class Mail or Priority Mail rates.

In addition, a bulk insurance service discount of $0.40 per piece is introduced. To be eligible for the bulk insurance service discount, mailers must (1) enter mailings of insured articles under an approved manifest mailing system agreement, (2) mail a minimum of 10,000 insured articles annually (a total of all insured articles mailed at multiple locations), (3) provide a hard copy of Form 3877, Firm Mailing Book for Accountable Mail, or facsimile and (4) provide a copy of Form 3877 on a diskette or other electronic medium. Mailers must submit an application for bulk insurance to their local postmaster or designee. The local postmaster or designee will approve or deny the application. Authorized mailers will be provided instructions for filing claims under the bulk insurance service by the local postmaster or designee. When systems that electronically capture information on accountable mail are completed and programming changes that will tie the St. Louis ASC into these systems are completed, mailers will be required to file claims electronically using a new (soft) electronic format for the Form 3877. When or before these changes and systems are completed, bulk insurance mailers will be provided with instructions for a new format for the electronic Form 3877 and with instructions for electronically filing claims.

l. Merchandise Return Service

The annual permit fee will increase from $85.00 to $100.00. The charge per returned mailpiece remains at $0.30. Revisions are made to the postage that is applicable to pieces returned that weigh less than 16 ounces and to the marking requirements that specify the return rate of postage. These changes will be necessary because of the elimination of single-piece Standard Mail (A) rates. Matter bearing a merchandise return label without a preprinted rate marking will be returned at: (1) the Parcel Post rate if it weighs 16 ounces or more, (2) the Priority Mail rates if it weighs over 13 ounces but less than 16 ounces, and (3) the First-Class Mail rates if it weighs 13 ounces or less. If the permit holder desires matter to be returned the Special Standard, or Library Mail rates, the permit holder will be required to preprint the appropriate rate marking on the label. If the permit holder desires matter weighing 13 ounces or less or matter weighing 16 ounces or more to be mailed at the Priority Mail rates, the mailer will be required to preprint the Priority Mail marking on the merchandise return label. It is recommended but not required that matter to be returned at the First-Class Mail, Priority Mail, or Parcel Post rates bear the applicable preprinted marking "First-Class" or "First-Class Mail," "Priority Mail," or "Parcel Post" (or "PP").

m. Money Orders

The fee for domestic money orders will be reduced from $0.85 to $0.80. The fee for a postal military money order will remain at $0.30 and the inquiry fee will remain at $2.75.

n. On-Site Meter Settings

There will be increases to two of the on-site meter setting fees. The fee for an additional meter setting will increase from $3.25 to $4.00, and the fee for checking a meter in and out of service will increase from $7.50 to $8.50. No increases will be made to the scheduled appointment setting fee for the first meter ($27.00) or to the unscheduled or emergency setting fee for the first meter ($31.00).

o. Parcel Airlift

There will be no changes to parcel airlift fees ($0.40 for up to two pounds, $0.75 for over two up to three pounds, $1.15 for over three up to four pounds, and $1.55 for over four pounds).

p. Permit Imprint

The application fee for permit imprints will increase from $85.00 to $100.00.

q. Post Office Boxes, Caller Service, and Reserve Call Numbers

Post office box fees (except the $0 fee for all box sizes in Group E) will increase. Fees for caller service and reserve call numbers also will increase (see R900.3.0 and DMM R900.16.0).

r. Registered Mail

The maximum value level for registered mail without postal insurance will be decreased from $100.00 to $0.00. All registered mail with a value of $0.01 or more will be automatically provided with insurance (up to a maximum indemnity of $25,000 per piece). Insurance coverage is included in the applicable registered mail fee. Only mail of no value may be mailed as uninsured registered mail. In addition, registered mail fees will increase (see DMM R900.18.0).

s. Restricted Delivery

The restricted delivery fee will not change (it remains $2.75).

t. Return Receipt

Fees for return receipt will increase from $1.10 to $1.25 when requested at time of delivery and from $6.60 to $7.00 when requested after mailing.

u. Return Receipt for Merchandise

The fee for return receipt for merchandise will increase from $1.20 to $1.40, and the fee for a delivery record will increase from $6.60 to $7.00. DMM S917 will be revised to delete the availability of this service with single-piece Standard Mail (A), because single-piece Standard Mail (A) will be eliminated.

v. Special Handling

There will be no change to the fees for special handling ($5.40 for matter weighing not more than 10 pounds and $7.50 for matter weighing more than 10 pounds). In addition, DMM S930.1 will be revised to conform to the Domestic Mail Classification Schedule (DMCS) by making it clear that special handling may be used with First-Class Mail and Priority Mail.

w. Stamped Cards

A $0.01 fee per stamped card and a $0.02 fee per double stamped card will be added to cover manufacturing and printing costs. A fee of $0.40 will be added to the price of a sheet of 40 stamped cards. This is consistent with the existing fee structure for stamped envelopes, where customers are charged postage plus a small fee for the envelope itself.

x. Stamped Envelopes

The fees for some stamped envelopes will increase and others will decrease. In addition, the fee structure will be simplified: except for hologram stamped envelopes, all stamped envelopes will be grouped together by size and whether they are plain or printed.

y. ZIP Coding of Mailing Lists

Fees will increase from $60.00 to $70.00 per 1,000 addresses or fraction thereof.

C. Summary of Comments From the March 16, 1998, Proposed Rule

The Postal Service received 32 pieces of correspondence offering comments on the March 16, 1998, proposed rule. Respondents included five major mailer associations; 24 publishers, printers, and mailers; and three individuals.

The specific points raised in the comments are presented below, organized by general comments and then by class of mail and special service.

1. General Comments

Three comments were received concerning the implementation date of the new rates, fees, and classifications. Each commenter indicated that the implementation date should allow time for mailers to make software changes. Suggested dates ranged from 90 days to 8 months after the Board of Governors' decision. The implementation date for Docket No. R97–1 is determined by the Board of Governors of the Postal Service and is outside the scope of this rulemaking process. Postal management did however, consider these comments when it provided advice to the Board of Governors concerning the effective dates.

Various comments also were received that requested changes to rates and fees. One commenter requested that the revised rates not apply to his company for two to five years. These comments are beyond the scope of this rulemaking. The rates, rate structure, and basic standards for rates in Docket No. R97–1 were subject to litigation before the Postal Rate Commission and cannot be revised unilaterally by the Postal Service in a rulemaking process.

Three commenters requested that a single item not be subject to both a hazardous medical materials and an other hazardous materials surcharge. As the PRC did not recommend the proposed hazardous materials surcharges, these comments will not be addressed.

One commenter indicated that the Postal Service should re-solicit comments for any items that were affected by the PRC decision. Because the Postal Service cannot revise rates and DMCS language that is recommended by the PRC and approved by the Governors of the Postal Service, it does not believe that soliciting comments on such items would have any value.

2. Priority Mail

One commenter requested clarification as to whether Priority Mail must always bear the "Priority Mail" marking. This commenter further asked whether the "Priority Mail" marking will delay the mail when deposited in an overnight First-Class Mail area and, if so, could such mail pieces be marked "First-Class" instead of "Priority Mail." Priority Mail must always bear the marking "Priority Mail" or "Priority." This marking is used to ensure that mail is placed in and processed through the Priority Mail network and to collect cost

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and revenue data through the Postal Service's statistical sampling systems. Deployment of the Priority Mail Processing Center (PMPC) network has affected overnight service standards for some ZIP Codes. While the vast majority of service standard changes have resulted in improved service, there are, as the commenter suggests, a small number of 5-digit ZIP Code areas that may experience two-day service instead of overnight. However, the Postal Service does not plan to waive the marking requirement for pieces mailed in such 5-digit ZIP Code areas.

3. First-Class Mail

Two commenters requested that the Prepaid Reply Mail proposal should not be implemented because of administrative complexity and costs to the mailer. For other reasons, the Governors did not approve Prepaid Reply Mail.

One commenter supported the provision allowing "Presorted" to be abbreviated "PRSRT" when used in the "Presorted First-Class" marking. Another commenter was concerned that it appeared the revised DMM M012.2.1a required single-piece First-Class Mail to bear a "First-Class" marking. The Postal Service has revised DMM M012 to make it clear that single-piece First-Class Mail is not required to bear a rate marking.

4. Periodicals

Two commenters suggested that for clarity, proposed DMM E230.3.0b and E230.4.0b concerning eligibility for 5-digit and 3-digit presort rates be revised to indicate that 5-digit and 3-digit packages of 6 or more pieces may be palletized under M045 to obtain the 5-digit and 3-digit presort rates. The Postal Service has adopted this suggestion.

Two commenters suggested that the forwarding rules table in DMM F010.5.2g should be clarified so it does not appear that use of ACS will always result in the return of the mailpiece. One of these commenters suggested that it would be clearer if the entire chart in this DMM section had been reproduced so that it was clear that footnote 1 stating "Valid for all pieces, including Address Change Service (ACS) participating pieces" also applied to pieces that bear no endorsement. When Periodicals pieces bear no endorsement, after 60 days or, if the piece is undeliverable, a separate address correction or reason for nondelivery is provided, the address correction fee is charged (the automated fee if ACS service is used), and the piece is disposed of by the Postal Service. The entire chart in DMM F010.5.2g is reproduced in this final rule to make it clear that this policy has not changed.

One commenter indicated that it appeared the Postal Service intends to revise current rules in DMM F010.6.1 to require that Periodicals mail with a nonincidental First-Class attachment be returned to the mailer. The Postal Service revisions to DMM F010.6.1 in both the proposed and this final rule revise only the rate of postage at which such pieces are returned from the single-piece Standard Mail (A) rate to the First-Class or Priority Mail rate as applicable for the weight of the piece. Postal Service policy for some years has provided that Periodicals pieces with nonincidental First-Class Mail attachments be returned. However, Periodicals pieces with incidental First-Class Mail attachments, as defined in DMM M070.5.0, are treated as dead mail unless endorsed "Address Service Requested." To avoid confusion, in Part D of this final rule, the Postal Service has published DMM F010.6.1 in its entirety to show the treatment of incidental First-Class attachments as well as treatment of nonincidental First-Class attachments.

One commenter indicated that the current interpretation of "mailing" for Periodicals allows mailers to treat and report mail for different rate categories, including automation mail, carrier route mail, and other non-automation mail, as one "mailing." This commenter asked if the proposed definition of a mailing in DMM M011.1.4 would require that a separate mailing statement be prepared for each rate category of Periodicals mail. The DMM currently does not allow preparation of automation, carrier route, and other non-automation mail in a single "mailing." Separate presort and eligibility requirements are prescribed for each of these rate categories. However, each of these rate categories are permitted to be reported on a single postage statement for a single publication and edition. To clarify that the current practice continues to be permitted, a new section DMM M011.1.4d has been added concerning "mailings" of Periodicals.

5. Standard Mail (A)

Five commenters indicated their support for allowing pieces in an Enhanced Carrier Route rate mailing and/or in an automation rate mailing that have each separately met a 200-piece or 50-pound minimum quantity requirement to be counted toward the minimum quantity requirement for a Presorted Standard (3/5 and basic rate) mailing, provided that (1) the Enhanced Carrier Route rate mailing and/or the automation mailing and the Presorted Standard mailing are part of the same mailing job, and (2) the mailings are all reported on the same postage statement.

One commenter asked what DMM section E612.4.6 means. DMM E612.4.6 contains provisions that allow Standard Mail (A) matter weighing less than 16 ounces to pay Standard Mail (B) rates if those rates are lower than Standard Mail (A) rates and the matter and the mailing could qualify for the Standard Mail (B) rate except for weight. For example, suppose a mailer had flat-size printed matter pieces that met all of the qualifications for Bound Printed Matter except that the pieces each weighed 4 ounces and therefore did not meet the requirement of weighing at least one pound. In such an instance the mailer could presort the pieces as Standard Mail (A) flats and claim basic presorted Bound Printed Matter rates if those rates were less than the applicable Standard Mail (A) rates. The mailer could presort the pieces according to the Presorted Standard Mail (A) requirements to 5-digit, 3-digit, ADC, and mixed ADC, which are similar to the presort requirements for presorted Bound Printed Matter, and claim the local zone Bound Printed Matter rates provided the mailer marked the pieces "Presorted" or "Presorted Standard" and "Bound Printed Matter" and submitted documentation to substantiate that the pieces qualified for the local zone rate.

One commenter requested that the Postal Service not apply the residual shape surcharge to Enhanced Carrier Route rate merchandise samples prepared with detached labels. The Postal Rate Commission recommended and the Governors of the Postal Service approved a residual shape surcharge for Enhanced Carrier Route mail. Since these provisions are in the Domestic Mail Classification Schedule to take effect January 10, 1999, the Postal Service cannot unilaterally change these provisions. Therefore, merchandise samples at the Enhanced Carrier Route rates will be subject to the residual shape surcharge.

One commenter requested that the Postal Service revise the rule placed into effect under Classification Reform that allows mail whose size meets both the letter-size requirements and the automation flats requirements to be prepared as flats on pallets if a portion of the mailing qualifies for automation flats and if palletized mail at the Presorted Standard rates is limited to 10% of the total palletized mail. This rule further requires that mail unable to be palletized either due to density or because it exceeded the 10% limit be prepared as a separate letter-size mailing. This issue is not related to the implementation rules for the Docket No. R97–1 rate case and will not be revised as a part of this rulemaking process. However, this matter has been brought to the attention of the Presort Optimization working group of the Mailers Technical Advisory Committee.

One commenter indicated that on occasion he will have a mailing that is set up as Standard Mail (A) (i.e., bears Standard Mail (A) rate markings and pre-printed endorsements for Change Service Requested using ACS) and subsequently discover that a particular mailing list has fewer than 200 names. Such a mailing would not qualify for Standard Mail (A) rates, and would be subject to single-piece First-Class Mail rates, unless it could meet the revised volume requirements under DMM E620.1.2. This commenter indicated that he could cover the bulk rate indicias with First-Class stamps, but that the ACS participant code on the mailpieces would be that assigned for Standard Mail (A), not First-Class. This commenter accordingly asked if changes could be made to the Centralized Forwarding System (CFS) to handle this, and if not, asked how could it be mailed. The CFS system cannot be modified to handle such instances. It would be unlikely that a postal employee would be able to tell that such a mailpiece was modified from a Standard Mail (A) mailpiece if a stamp is covering the bulk rate indicia. Furthermore, if mailers added "single-piece" or "single-piece First-Class" markings to such mailpieces it would be difficult and time consuming to have carriers search all undeliverable mailpieces for such markings in order to forward them to CFS sites, and then for CFS employees to notice the markings and respond accordingly. Two options have been added to the DMM for payment at First-Class or Priority Mail rates for such pieces and for pieces that for other reasons are subject to the appropriate First-Class Mail or Priority Mail rates. Mailers who desire to receive First-Class Mail or Priority Mail service on mailpieces subject to those rates must re-envelope or otherwise prepare the mailpieces so that they bear only the proper First-Class Mail or Priority Mail rate markings, ancillary service endorsements, Address Change Service (ACS) codes, etc. Metered pieces weighing over 13 ounces and less than 16 ounces must always be prepared under this method. Except for metered pieces weighing over 13 ounces and less than 16 ounces, mailers who do not desire to receive First-Class Mail or Priority Mail service on such pieces may submit them "as is" (i.e., bearing the Standard Mail (A) markings and endorsements). No additional markings or postage are to be added to these pieces. First-Class Mail or Priority Mail postage must be paid for these pieces using the appropriate First-Class or Priority Mail postage statement. Except for metered pieces weighing over 13 ounces and less than 16 ounces, mail bearing metered or precanceled stamp postage must pay the difference between the postage affixed and the First-Class Mail or Priority Mail rates by means of an advance deposit account or by affixing a meter strip for the appropriate amount to the First-Class postage statement. If the pieces weigh 13 ounces or less, mailers must use special line items on the new First-Class postage statements under the heading "From Standard Mail (A)" to record the pieces mailed. This option may be used for fewer than 200 pieces of permit imprint mail only if the pieces were part of a larger mailing job and are submitted for acceptance along with the mail and a Standard Mail (A) postage statement for the other pieces in the same mailing job.

One commenter was concerned that the revised definition of a mailing in DMM M011.1.4d(6) seemed to preclude his company's current practice of co-mailing Nonprofit and Regular rate mail. This section has been renumbered as M011.1.4e(6) in this final rule. This section begins with the phrase "Except as provided by standard," which means that other rules in the DMM may permit practices that entail combining or copalletizing such pieces. For clarity the following sentence was added to this section in the final rule. "See M041.6.0, M045.5.0, M045.7.0, and M200.6.0 for copalletized, combined, or mixed-rate level mailings." Accordingly, if a mailer is currently authorized to combine or copalletize Nonprofit and Regular rate mail, he or she may continue to do so after the new rates and mailing definitions are effective.

Two commenters supported the change in the Standard Mail (A) rate marking for Regular rate mailings from "Bulk Rate" to "Presorted Standard." Two commenters indicated that the "Presorted Standard" marking should be optional. These two commenters indicated that they would prefer to use the new marking on their advertising mail but do not wish to use it on fulfillment parcels because it will be costly to revise the current cartons. One of these commenters indicated that if the marking is not made optional, there should be a transition period of at least two years for mailers to convert to the new marking. For simplicity in its statistical sampling systems, the Postal Service will not allow both markings to be used indefinitely. However, mailers will be given two years to convert their regular rate Presorted, regular rate automation, and regular rate Enhanced Carrier Route mailings to the new "Presorted Standard" marking or its authorized abbreviation "PRSRT STD." Until January 10, 2001, either the "Bulk Rate" or the "Presorted Standard" marking or authorized abbreviation will be accepted.

Five commenters requested that the proposed "RSS" marking for pieces subject to the residual shape surcharge be eliminated. Four of these commenters indicated the marking uses too much space on a mailpiece, one indicated that it detracts visually from the mailpiece, two did not see the purpose of it, and one indicated it would require additional labor for the shipper. One commenter was a mailer association, who indicated it would be impossible for some of its mailers to predict which pieces would need the marking. One such mailer has pieces that could be considered either flat-size or a machinable parcel and decides which way to prepare the mail based on the density of orders received. Only machinable parcel mailings would need to bear the marking. Another such mailer indicated they cannot predict the final size of the product shipped ahead of time. For example, multiple pieces ordered could be sent as one or more pieces each having a different shape. Based on the comments received, the Postal Service has determined to not require the use of an "RSS" marking.

6. Standard Mail (B)

a. General

There were 10 commenters among the 32 submitting comments to the Postal Service whose statements concerned Standard Mail B topics. Of the 10, seven were private firms, including three parcel consolidators, and three were parcel shipper associations. Their comments concentrated mainly on the following subject areas: barcoded discount, destination mailings at the sectional center and delivery unit levels; new bulk mail center presort (BMC Presort) and origin bulk mail center presort (OBMC Presort) discounts; 10% limitation on oversized parcels; criteria for machinability and nonmachinability; combined mailings of Standard Mail (A) and Standard Mail (B) parcels; and vehicle unloading requirements.

In addition to receiving comments as part of the formal rulemaking process, the Postal Service has had extensive ongoing exchanges of viewpoints with representatives of the parcel shipping industry. This cooperative effort has led

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to the development of revised standards that the Postal Service believes strikes a better balance between the interests of mailers and their concerns about qualifying for the most advantageous postage rate discounts at the lowest possible mailing costs and the needs of the Postal Service for providing high-quality service, containing costs, and optimizing operational efficiency. Significant revisions have been made in the proposed standards, especially as they relate to mail preparation requirements for the new destination sectional center and delivery unit discount rates.

Several other issues unrelated to the R97–1 rate case emerged and are not addressed in the final standard. These issues concern extension of the destination bulk mail center rates (DBMC) to Alaska, Hawaii, and Puerto Rico, new criteria for parcel machinability or nonmachinability, and updated definitions of "perishable" and "nonperishable" parcels that take into account improved packaging and containerization. They will be reviewed separately by the Postal Service in the future and any changes to existing standards will be handled through separate rulemaking procedures.

b. Parcel Barcodes

Two commenters indicated that they would support a barcode certification process, and that this process should be published at least 60 days prior to rate availability. In lieu of a barcode certification process, the Postal Service is looking at methods to verify the quality of barcodes during the verification process using commercially available barcode verification equipment.

One commenter indicated that the barcoded discount should be available for pieces processed at any postal facility that is automated to use the ZIP Code barcode for sorting, including ASFs that now or in the future have barcode scanning capabilities. The Postal Service has determined that the Phoenix, Arizona, ASF has barcode scanning capabilities. Accordingly, the Postal Service has revised the standards for eligibility for the barcoded discount for Parcel Post mail to include machinable parcels eligible for the DBMC rate that are entered at the Phoenix ASF.

One commenter raised a question about the need for having human-readable characters representing the 5-digit barcode appear on a mailpiece's address label since it duplicates information already provided in the address and takes up limited label space. Having the human-readable ZIP Code appear as part of the barcode printing process immediately below the barcode is useful in determining that the correct barcode was applied to the mailpiece, particularly if the barcode is applied in a process separate from applying the address. Since generally the ZIP Code in the address block is used in the process of applying an address block barcode, the Postal Service has decided to revise the standard. Therefore, the numeric equivalent of the barcode will not be required to appear immediately below the barcode when the barcode is printed as part of the address block (on the same label as the mailing address and in close proximity to that address). However, if the barcode label is produced separately from the address label, the human readable ZIP Code information must be included. This decision will give mailers some flexibility in how they prepare their address labels while still meeting postal concerns about having barcodes that are correct for the addresses on the parcels.

Another commenter raised several questions about the technical specifications included in the proposed rule. Clarification was requested for the average measured narrow element (bar or space) width. The average measured narrow element is the barcode X-dimension that typifies the arithmetic mean of the barcode narrow elements. A minimum clear or quiet zone equal to 10 times the average measured narrow element (bar or space) width must be maintained on either side of a barcode as defined in ANSI X3.182–1990.

A second question was whether mailers and their suppliers would have to start measuring barcode spaces and bar widths more scientifically to determine what dimension is appropriate for the clear space surrounding parcel barcodes on either side. The Postal Service is confident that mailers will be able to determine the average narrow element widths and barcode quality by using commercially available barcode verification equipment.

A related question had to do with how the Postal Service would administer this specification. The Postal Service is looking at methods to verify the quality of barcodes during verification by using commercially available barcode verifiers to measure barcode parameters.

Another question concerned the basis for requiring a minimum clear zone equal to 10 times the average measured narrow element (bar or space) width on either side of the barcode. The advantage to the Postal Service for using a minimum clear zone of 10 times the average narrow element width is to ensure the reliable reading of barcodes on currently deployed postal equipment. The quiet zone specification for the barcode symbologies in question is defined in the AIM/USS symbol specification. Additionally, manufacturers of barcode readers advise that a minimum clear zone of 10 times the average narrow element width enhances barcode readability.

This commenter also asked why the ⅛-inch dimension could not be used. The reason is that ⅛ inch is less than 10 times the average narrow element width for the minimally defined narrow element width of 13 mils, and, therefore, not in compliance with the AIM/USS symbology specification and the ANSI print code quality guidelines (ANSI X3.182–1990). Another question from this same commenter concerned whether the proposed measurement would allow greater room for shifting of the piece under the barcode reader on the parcel sorter machines. The proposed clear zone specification is the minimum acceptable standard as provided in the ANSI print code quality guidelines of ANSI X3.182–1990.

c. Oversized Parcels

The Postal Service had included in the proposed rule provisions for mailing oversized parcels (parcels exceeding 108 inches but not more than 130 inches in combined length and girth) at the rates equal to a 70-pound parcel for the applicable zone provided they constituted no more than 10% of the total pieces in a mailing. Two commenters questioned the 10% limit. The PRC's recommended decision included zoned rates for such oversized pieces that are higher than the 70-pound rates. The PRC did not recommend a 10% limit on such pieces but recommended higher rates. Since the Governors of the Postal Service approved this provision of the PRC's recommended decision, the final DMM standards do not include a 10% limit on such oversized pieces.

d. DSCF Rate Mailings

Nine of the 10 Standard Mail (B) commenters had comments about the proposed standards for destination sectional center facility (DSCF) and delivery unit (DDU) rate mailings. Three parcel consolidation shipping companies submitted comments favoring more flexible, less restrictive requirements. In general, the comments favored lower minimum volumes for rate eligibility than those proposed by the Postal Service, optional entry points, and greater flexibility in the preparation requirements so mailers could choose to prepare pieces directly on pallets, in pallet boxes on pallets, or in sacks.

One commenter proposed that the Postal Service eliminate the use of sacks for the DSCF rate. This commenter believed that eliminating sacks as an option would avoid additional handlings of sacks at postal facilities. This commenter also indicated that very few parcel mailers would be able to place 10 parcels in a single sack and that this minimum could effectively eliminate sacked mail. Five other commenters also thought the proposed sack minimum of 10 pieces was too high and said it would discourage DSCF mailings. While several commenters proposed adopting minimums that would utilize sack volume and weight factors, these factors are not included as part of the costing determinations for the rate. The critical cost determinant for the rate is the number of pieces per handling. In the final DMM standards the minimum number of pieces per sack has been reduced from 10 to seven. The decision to reduce the minimum to seven pieces is being made with the expectation that an average of 10 pieces per sack will be achieved to support the worksharing discount. In addition, the final DMM standards allow for one overflow sack per 5-digit destination that may contain fewer than seven pieces.

Six commenters sought to eliminate the provision prohibiting overflow pallets. One commenter said that since overflow trays of letters are permitted, overflow pallets of parcels also should be allowed. This argument is not persuasive because the cost of handling a pallet is much greater than the cost of handling a tray. It costs as much to handle a less-than-full pallet as it does a full one. However, the standard has been modified in this final rule to accommodate overflow from pallets. Provisions have been added to the DMM standards that allow overflow from 5-digit pallets to be placed in 5-digit sacks. Overflow sacks will have no minimum piece requirement and the pieces in overflow sacks will be eligible for the DSCF rates. The Postal Service also has added provisions that will allow a mailer to present to a DSCF overflow 5-digit pallets (that by definition do not meet the pallet minimums for the DSCF rate) provided the DBMC rates are paid for the pieces on such overflow pallets.

Five commenters expressed concern over the 5-digit pallet minimums specified in the proposed rule. In setting the minimum specified in the proposed rule, the Postal Service was guided by per-piece handling costs and concerns that a reduction in the average number of pieces per handling resulting in higher costs, would adversely affect the viability of the rate. Small volume pallets would increase handling costs and also would take more cube space on transportation. While suggesting differing alternatives to the Postal Service proposal, these five commenters were in agreement that the requirement of a minimum of 50 pieces and 250 pounds per pallet was too high. To resolve their concerns and those of the Postal Service about piece handling and transportation costs, the Postal Service has added a new option for preparing 5-digit pallets to qualify for the DSCF rate. Under the new option, pallets may be prepared that contain as few as 35 pieces and 200 pounds of mail provided the total number of pallets prepared for the DSCF rate in the mailing average at least 50 pieces per pallet. Under this new option, no other pallet preparation or sack option may be used within a single mailing. Mailers will be required to submit detailed documentation and place sequential identification numbers on qualifying pallets of DSCF rate mail. The documentation must list each pallet in sequential order by pallet identification number. The listing must show for each pallet: the pallet identification number, the 5-digit ZIP Code of the pallet, the total weight of pieces on the pallet, the total number of pieces on the pallet, and the cumulative total of pieces (i.e., the number equal to the number of pieces for that pallet plus the sum of the pieces on all pallets listed above it). This documentation must not include pieces prepared in overflow sacks at the DSCF rate, pieces prepared on overflow pallets at the DBMC rates, or pieces claimed at any other rate in the mailing.

The requirement for BMC entry of DSCF rate mailings prepared on pallets to ZIP Codes listed in Exhibit E652.5.0 has been retained. The BMC provides direct transportation to the 5-digit facilities represented by the listed 5-digit ZIP Codes, thereby allowing certain quantities of mail to bypass the affected SCFs. The Postal Service believes that there is a need for palletized mail for the 5-digit ZIP Codes listed on Exhibit E652.5.0 to continue to bypass the affected SCFs because of the potentially limited capabilities of those SCF facilities. Three commenters said that they would like to have an option to enter DSCF rate mailings either at a BMC or an SCF. To support this position, one commenter contended that the same dock procedures for handling 5-digit containers are followed at the SCF as are followed at the BMC and that the distance from the SCF to a 5-digit facility would be less than from the BMC. The Postal Service disagrees. BMCs do not currently sort sacks to 5-digits or cross-dock 5-digit sacks. They are shipped to the SCF in 3-digit containers and are re-worked to 5-digits at the SCF, thus adding handlings. Further, granting an option on a blanket basis is likely to worsen the problems experienced by some sectional center facilities in accommodating palletized mailings due to limited dock space, restricted vehicle maneuvering area, and other constraints. Recognizing that requiring BMC entry may present certain difficulties for mailers, the Postal Service has amended the proposed standard to allow exceptions on a case by case basis. A mailer may submit a written request to the appropriate Area Manager, Operation Support asking for an exception to Exhibit E652.5.0. The exception request must be submitted at least 15 days prior to the mailing and may be granted only for a limited time.

The proposed standard specified that palletized DSCF rate mailings must be entered at the appropriate BMC listed in Exhibit E652.5.0. and sacked mailings must be entered at an SCF. Two commenters objected to these requirements. Since the requirement is consistent with the costing and worksharing assumptions that underlie the rate, it has been left unchanged. The rate assumes no handling of sacks at BMCs. Some mailers who were claiming the DBMC rate will benefit because now they can get a DSCF rate when dropping at a BMC.

A parcel consolidator also stated that the DSCF rate should be allowed for mail prepared on pallets for 5-digit facilities that are not capable of handling pallets according to the Drop Shipment Product. The requirements as written allow the Postal Service to recoup the cost savings passed on to the mailer in the lower DSCF rate. These cost savings will not be realized if the SCF facility receives a 5-digit pallet for a 5-digit facility that cannot handle pallets. The SCF would need to manually unload the parcels off of the mailer-prepared 5-digit pallet and place them into another type of 5-digit container before the SCF could transport the parcels to that 5-digit facility. Accordingly, the DMM standards will not be revised to allow the DSCF rate for mail prepared on pallets for 5-digit facilities that are not capable of handling pallets.

Six commenters requested reconsideration of the prohibition against use of pallet boxes on pallets. After further evaluation, the Postal Service decided to allow the use of

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mailer-supplied pallet boxes that measure up to a maximum of 60 inches in height, except in the case of facilities unable to handle pallets. There is no minimum height requirement for the pallet box as long as the appropriate piece and pound minimum requirement or the 36-inches of mail minimum requirement are met for each pallet. One commenter also asked to be allowed to double-stack pallet boxes on pallets. The proposed standard has been revised to permit double stacking. Just as pallets are not allowed at the DSCF rate for those 5-digit destinations listed in the Drop Shipment Product as unable to handle pallets, pallet boxes on pallets will not be allowed for those same offices.

e. DDU Rate Mailings

The proposed standard did not allow the use of pallet boxes for DDU rate mailings. Four commenters felt that pallet boxes should be allowed. The Postal Service agrees that they may be used and that mailers will need to supply them. If a mailer chooses to do so, they may be double-stacked. As with DDU mailings that are bedloaded or sacked or prepared as parcels placed directly on pallets, the vehicle driver is required to unload the pallet boxes and place them at a designated location at the delivery unit. If they are double-stacked, the driver must remove them from the vehicle, unstack them, and then remove any strapping material. At DDU facilities listed in the Drop Shipment Product as being unable to handle pallets, mail that has been placed directly on pallets or in pallet boxes on pallets must be off-loaded by the vehicle driver from the pallet or pallet box into other containers specified by the delivery unit.

Two commenters stated that Standard Mail (A) pieces should be counted towards the minimum volume required for the DDU rate. However, eligibility for the DDU rate category, as with each of the other destination rate categories for Parcel Post, has a fixed minimum volume requirement of 50 pieces of Parcel Post mail. This requirement is in the Domestic Mail Classification Schedule (DMCS) and cannot be unilaterally modified by the Postal Service.

One commenter asked whether a separation would be required beyond a 5-digit destination to be eligible for the DDU rate. The Postal Service requires a 5-digit separation only. However, if more than one 5-digit ZIP Code is served by a delivery unit, the mailer must separate the pieces by 5-digit ZIP Code when entered at the DDU.

Another commenter wanted to bedload parcels entered at DDUs. Mailings may be bedloaded, placed directly on pallets, or placed in pallet boxes on pallets, if the facility can handle them. Since the DDU rate is based on worksharing factors that do not include unloading by Postal Service employees, the requirement for vehicle drivers to unload all DDU rate mailings is retained.

f. OBMC Presort and BMC Presort Rate Mailings

Three commenters questioned why it is required that machinable parcels be placed in pallet boxes on pallets and why they could not be placed directly on pallets. In addition, three commenters wanted to use pallet boxes for both machinable parcels and nonmachinable parcels. The proposed standard has been left unchanged. The cost savings underlying the discount for machinable parcels assumes that machinable parcels are placed in pallet boxes that can be dumped by tipping the box onto the parcel sorting equipment instead of having to manually unload individual pieces from a pallet. A pallet box is placed at an incoming door of a BMC where there is a dumping operation. Nonmachinable parcels must be placed directly on pallets because they are worked at separate locations within a BMC. They are not dumped onto a parcel sorting machine since they are not machinable. These nonmachinable pieces are sorted manually. It is safer and more efficient to manually remove such pieces from pallets when they are placed directly on the pallet rather than in a pallet box.

One commenter indicated that the proposed documentation for the BMC Presort and OBMC Presort discounts that requires a listing of the number of pieces on each individual BMC pallet was too onerous. The commenter suggested that a listing by BMC destination should satisfy the needs of the Postal Service. The Postal Service has reconsidered its documentation needs for verification purposes. Metered mail is required to bear the exact postage on each piece and, therefore documentation is not needed to verify postage. Permit imprint mail must be prepared so that all the mail in a single container is of the same weight and rate of postage unless the mail is prepared under a manifest mailing system or another system of documentation or records that permits the Postal Service to adequately verify postage. The manifest system will require mailers to list pieces for these rates by BMC destination. Accordingly, the Postal Service does not believe that any additional documentation will be necessary for mail entered at the BMC Presort or OBMC Presort discounts and has removed the documentation requirement from the DMM standards in this final rule.

One commenter requested that the proposed standards for BMC Presort and OBMC Presort discounts be changed to allow overflow containers if the container was at least 50% full. The rate is based on piece handling efficiencies that are not realized when the containers do not meet the required minimum volumes. Therefore the prohibition on overflow containers has been retained.

g. Bedloading

A requirement was included in proposed standard DMM E652.2.1 that perishable and nonperishable items in a bedloaded DBMC or bedloaded DDU rate mailing would have to be separated. Fruit shippers in particular expressed opposition to this on grounds that the current method of preparing mailings without separation was satisfactory and that the new requirement would only add to their mail preparation costs. The Postal Service has removed the requirement from the final standard after further consideration of the need for separation.

Two commenters also requested to be allowed to bedload DSCF rate mailings as is allowed for DBMC and DDU rate mailings. The original provision limiting bedloading to DBMC rate mail entered at BMCs and ASFs and to DDU rate mail entered at delivery units has been retained in the final standard. This is because the DSCF rate is based upon receiving 5-digit containers of parcels that can be cross-docked to the 5-digit delivery unit.

h. Destinating Facility Appointments and Vehicle Unloading

The standard requiring the mailers' drivers to unload destination delivery unit mailings was the principal area drawing opposing comments. Six commenters objected to the driver unloading requirement for the DDU rate. A parcel shippers association and a company commenter took the position that unloading by drivers should be limited to bedloaded shipments only. The same two commenters said that postal employees should unload pallets of Standard Mail (B) parcels just as they do [Standard Mail (A)] flat mail. The current standards for the Standard Mail (A) DDU rates do however, require that vehicle drivers must unload DDU rate mailings. The comments of the parcel shippers association included a suggestion that assistance by postal employees should be provided whenever possible. One commenter questioned the unloading requirement on the basis that the Postal Service was unlikely to make forklifts available to drivers and another raised the possibility that having drivers unload mailings might violate a postal labor agreement.

Since the worksharing DDU rate assumes that postal employees will not unload shipments from vehicles, it was necessary for the Postal Service to retain the proposed standard without amendment. However, to facilitate the scheduling of drop shipments to delivery units, a provision has been made to allow standing appointments if shipment frequency is weekly or more often. Another change was made with respect to the proposed standard covering deposit conditions (E652.3.7) that stated mailings arriving more than 1 hour late for scheduled appointments at delivery units may be refused. This 1-hour allowance was incorrect. The proposed standard should have indicated 20 minutes to be consistent with current deposit conditions at delivery units for Standard Mail (A) mailings. Accordingly, the standard has been modified to specify 20 minutes.

Several comments were received about destination entry shipments that generally requested an easing of existing provisions. For example, one commenter wanted to see the requirement for the time allowed for driver unloading of destination entry shipments to BMCs, ASFs, and SCFs increased from 8 to 12 hours. Another company submitting comments disagreed with the existing 2-hour grace period allowed for scheduled appointments at BMCs, requesting that the time allowance be doubled or even expanded to 8 hours during the peak fall mailing season. Such liberalization of existing standards would adversely impact the window needed by the Postal Service to handle mailings and will not be adopted.

Another commenter wanted the Postal Service to allow a drop and pick option for palletized loads at BMCs. Again, the impact on postal operations of such a change would be negative, as, for example, postal employees would then have to shuttle trailers back and forth from staging areas to facility docks and back. Accordingly, this comment will not be adopted.

Two commenters maintained that the Postal Service should reimburse mailers for waiting time charges, demurrage, or other detention costs when the cause is clearly attributable to the Postal Service or, alternatively, that there should be an expanded appeal process to the national Headquarters level. Under existing procedures two appeal levels, local facility manager and district manager, customer service, are already available to mailers. While the Postal Service is willing to consider possible future changes, no changes are made at this time.

i. Markings

Two commenters supported the proposed use of a single drop shipment marking for DBMC, DSCF, and DDU Parcel Post rate mail. One commenter disagreed with the requirement for any drop shipment markings. Drop shipment markings are needed to develop meaningful statistical samples for the in-office costing system. Costs developed from this system are used in rate cases. Although individual rate markings for each of the drop shipment rates would result in more accurate costing, the Postal Service has determined, based on mailer input, to require only a single drop shipment marking for use on DBMC, DSCF and DDU Parcel Post rate mail. An exception will be that the current "DBMC Parcel Post" or "DBMC PP" marking will continue to be permitted on DBMC rate mail instead of the new "Parcel Post" and "Drop Ship" markings until January 10, 2000.

One commenter indicated that the "Presorted Standard" marking should be extended to Standard Mail (B). This commenter stated that many mailers now use the "Bulk Rate" indicia for both Standard Mail (A) and bulk Bound Printed Matter mailings by simply adding the "Bound Printed Matter" marking directly to the left of the "Bulk Rate" indicia. The Postal Service has amended this final rule to allow use of the "Presorted Standard" marking in lieu of the "Presorted" marking for presorted Bound Printed Matter.

One commenter asked what will happen to an individual customer's mail if it does not bear the "Parcel Post" marking. If this mail is entered at a retail window, the retail clerk will add the marking to the mailpiece. If this mail is entered at an acceptance unit, the appropriate verification and acceptance processes will be performed to ensure that the mail is entered with proper markings. Since matter weighing over 16 ounces is not permitted to be placed in collection boxes, there is little likelihood that mail without the "Parcel Post" marking will be entered in the mailstream.

j. Combined Parcels

One commenter stated that Standard Mail (A) parcels should be permitted to be combined with Standard Mail (B) parcels prepared for DDU entry because the preparation requirements are identical. The Postal Service disagrees with this statement. To qualify for Standard Mail (A) DDU rates, pieces must be sorted to carrier route. Except for merchandise samples prepared with detached address labels, the maximum size of Enhanced Carrier Route mail is 11¾ inches high by 14 inches long, by ¾ of an inch thick (which is flat-sized mail). Because of the maximum size dimensions and the requirement to walk-sequence or LOT-sequence Enhanced Carrier Route mail, the only parcels that can qualify for Enhanced Carrier Route rates are merchandise samples prepared with detached address labels. The separate preparation requirements for merchandise samples with detached address labels prepared to qualify for the Enhanced Carrier Route rates does not lend itself to combined preparation with Standard Mail (B) parcels. Accordingly, Standard Mail (A) and Standard Mail (B) parcels will not be permitted to be combined when qualifying for their separate DDU rates.

One commenter requested that the requirement for minimum volumes to be met by Standard Mail (B) alone should be removed since the incentive for combining classes is to use the combined volume to meet the pallet and sacking minimums. Meeting the pallet and sack minimums based on Standard Mail (B) alone is required only when the Standard Mail (B) preparation method requires a minimum number of pieces (e.g., it is not required when the DSCF minimum of 36 inches of mail on a 5-digit pallet is used). The Postal Service wants to ensure that it is moving a substantial volume of mail on a single 5-digit pallet. If mailers fill a pallet with 36 inches of predominately Standard Mail (A) mail, it would take a large number of Standard Mail (A) pieces to do so. By the same token, placing predominately Standard Mail (A) parcels on a pallet based on a 50-piece minimum criteria could result in a very small pallet. Therefore the Postal Service is retaining the rules as proposed.

7. Special Services

a. Business Reply Mail

Eleven comments were received concerning the proposal to increase the minimum thickness of BRM pieces from 0.007 inch to 0.009 inch thick for those pieces that bear a barcode and measure greater than 4¼ by 6 inches. Nine commenters stated that 0.009 inch thick paper stock is more expensive than 0.007 inch thick paper stock. Six

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commenters indicated that the increased weight of the stock would increase shipping and trucking costs of the paper stock and increase pound-rate postage on the outgoing mailpiece (publication) that the BRM piece is inserted into. Four commenters suggested that mailers will cease using the cards and use some other medium than the mail to increase their circulation and market their products. One commenter stated that this change is not directly related to rate and fee increases in Docket No. R97–1. One commenter suggested the Postal Service develop a new maximum size limit that could be used with 0.007 inch thick paper stock, such as 5 inches by 7 inches. Four commenters stated that the Postal Service should study the impact on mailers and the Postal Service before adopting this requirement. Three commenters indicated that no compelling rationale for this change was provided in the proposal, such as the existence of machinability problems. Nine commenters indicated that there is currently only a limited supply of 0.009 inch card stock. Two commenters indicated that mailers would need a grace period before this requirement went into effect so that their printers could develop new paper supplies. One commenter indicated that Postal Service testimony in R97–1 indicated that only a small proportion of BRM is processed through BRMAS or through barcode sorters and that the additional expense of thicker paper stock is not warranted if the pieces are not likely to be handled in an automated fashion.

A low incidence of processing mail on barcode sorters is true only for the accounting activities related to BRM. However, the lower First-Class postage rate for QBRM is based on lower costs due to processing pieces on barcode sorters in non-accounting operations (i. e. in processing the mail from the collection box to the facility where the accounting procedures are performed).

The Postal Service has adopted the minimum thickness requirement of 0.009 inch for pieces measuring over 4¼ in height and/or 6 inches in length as proposed. This requirement is based on engineering studies. These studies have shown that mailable pieces not larger than 4¼ by 6 inches with a minimum thickness of 0.007 inch and meeting specified basis weight requirements can be successfully processed on automation equipment, while pieces larger than 4¼ by 6 inches generally must be 0.009 inch thick to be successfully processed on automation equipment. Adoption of this rule will ensure that business reply pieces entered at the automation QBRM rate or that otherwise bear a barcode will be sufficiently sturdy to be successfully transported through postal automation equipment and will minimize the potential for damaged pieces. The Postal Service implemented this minimum thickness requirement for automation rate mailings on February 24, 1991, based on these studies and on mailer complaints concerning damaged pieces. Although at that time these minimum thickness requirements were not applied to BRMAS or other barcoded BRM pieces, the Postal Service believed then and believes today that the 0.009 inch minimum thickness requirement for pieces measuring over 4¼ by 6 inches is necessary for efficient processing on automation equipment. In view of the discounted First-Class postage rate applied to QBRM postage that is based primarily on the savings for automated processing, the Postal Service feels it is appropriate to apply the same standards to this mail as it does to other mail entered at automation rates. The Postal Service understands that mailers may need time to deplete existing stock of BRM mailpieces and to develop suppliers of thicker paper stock. Therefore, the effective date of the 0.009 inch minimum thickness requirement for barcoded BRM pieces measuring over 4¼ by 6 inches will be January 10, 2001. This gives mailers 2–½ years notice to comply with this change.

Only one comment was received regarding barcode placement. This commenter indicated that the proposed change to DMM S922.5.1 was confusing. This commenter assumed that the Postal Service was not seeking to further restrict placement of barcodes on letter-size BRM and asked why the one-year grace period for compliance was needed. The proposed change was to make the placement of lower right barcodes for BRM comply with C840. Currently, pieces of BRM prebarcode in the lower right corner may: (1) have a barcode clear zone with a left boundary that is 4½ inches from the right edge of the piece (not 4¾ inches as required in C840); (2) have a lower right barcode for which the leftmost bar is located between 3¼ and 4 inches from the right edge of the piece (not between 3½ and 4¼ inches as required under C840); (3) have a lower right barcode window, that has a left boundary measuring 4½ inches from the right edge of the piece (not 4¾ inches as required under C840). The final standards in DMM S922.5.1 have been revised to clarify this matter. Mailers will be given until January 10, 2001, to use existing stocks of such prebarcoded BRM envelopes and cards and to procure new stock that meets the DMM C840 requirements.

One comment was received questioning why proposed S922.6.8c(4) prohibits the use of business reply labels on letter-size envelopes with a height more than 4½ inches. This is not a change. The same standard appears today in S922.6.10c(4). This standard will be maintained in order to assure the readability of the address on the letter-size piece. If labels were permitted on letter-size pieces up to the maximum height of 6⅛ inches, the address on the label would not be placed within the optical character read (OCR) area of the mailpiece.

One comment was received regarding the format error notification process described in proposed DMM S922.5.3. The commenter stated that although mailers are willing to correct errors immediately, they need a grace period in which pieces already distributed will be returned. The cited DMM section only requires that all future BRM pieces distributed by any means must meet the BRM format standards. This commenter also indicated that the requirement for mailers who have had their BRM permit revoked for repeatedly distributing BRM mail that does not meet the format requirements to submit 2 samples of each BRM format for approval for a two-year period after completing a new BRM application is overly punitive. The commenter stated publishers receive inserts too close to printing dates to allow time for the Postal Service to review the format. The commenter should note that this provision is not a change. The same standard appears today in S922.5.7 and has been in place for several years. The Postal Service feels that no change in policy is warranted at this time. This provision only applies to permit holders whose permit was previously revoked for repeated format violations and should not affect the vast majority of mailers.

b. Insurance

One commenter requested clarification of DMM S913.12b. He indicated it is not clear what level of service would be provided to an item mailed under this DMM section. This section in essence states that matter mailed at First-Class Mail or Priority Mail rates may be insured only if it consists of matter that could also be mailed at Standard Mail rates (that is, it is not any of the types of items required to be mailed at First-Class rates under DMM E110). The level of service provided for these items will be First-Class or Priority Mail service according to the weight of the item and the rate of postage paid.

c. Return Receipt Service

Three commenters had concerns over the Postal Service's proposal to modify DMM D042.1.7a and b. The proposed revisions stipulated that organizations receiving large volumes of pieces bearing return receipts would only need to sign a manifest listing all of the accountable mail before the mail was delivered to the organization. The current DMM rules stipulate that the recipient sign the delivery receipt and the return receipt and hand the receipts over to the Postal Service before the mailpieces can be opened, or given to the recipient. These commenters were concerned that allowing customers to complete return receipts without Postal Service controls is inappropriate and does not guarantee the customer that the return receipt he or she has paid for will be returned or will be completed properly. The Postal Service proposed this revision to reflect the operational conditions in plants that employ automated delivery receipt systems for processing accountable mail. However, based on the mailer comments received, the Postal Service determined not to revise DMM D042.1.7a and b. The Postal Service will work with its customers that receive large volumes of return receipts to ensure that our customers get the recipient's signature, date of delivery, and address, if different, under the standards in the current DMM.

e. Requests for Use of Various Special Services With Standard Mail (A)

Two commenters recommended that DMM E612.4.10 be revised to allow COD, insurance, and registry service with Presorted Standard Mail (A). Another commenter indicated that certified, COD, insurance, registered, return receipt, return receipt for merchandise, special handling, and delivery confirmation services should be available for Standard Mail (A) since these services are available today for merchandise and providing these services would generate revenue. DMM E612.4.10 contains the information in current DMM E612.4.1. This section states that bulk rate Standard Mail (A) may not use certified, collect on delivery, insurance, registry, return receipt for merchandise, and special handling services. The proposed DMM language simply moved this information into a separate section so that it is easier to find. Although a few of the above services were previously available for Standard Mail (A) matter mailed at the single-piece rates, the elimination of the single-piece Standard Mail (A) rates now excludes any Standard Mail (A) from receiving these services. Offering these services with Standard Mail (A) would in many instances require a classification case to be filed with the PRC. Therefore, such changes will not be implemented with these R97–1 implementation rules. However, the Postal Service may consider offering some of these services with Standard Mail (A) at a future date.

D. Summary of Domestic Mail Manual (DMM) Changes

The following are changes organized by DMM module. They are intended as an overview only and should not be viewed by readers as defining every revision.

A Addressing

A060.5.3 is amended to eliminate the option to pay postage for excess or undeliverable detached address labels (DALs) or items being returned at the single-piece Standard Mail (A) rates. Postage for excess or undeliverable DALs or items being returned is computed at the applicable single-piece rate (First-Class Mail, Priority Mail, or Standard Mail (B)) for the combined weight of the DAL and the accompanying item, regardless of whether both are being returned.

C Characteristics and Content

References to single-piece Standard Mail (A) are deleted throughout. C050 is revised to add "Nonmachinable" to the title of 5.0 and 6.0 (Irregular and Outside Parcels). C100.4.0 is revised to include keys and identification devices as items that may be considered nonstandard mail. C600.1.2 is amended to allow Parcel Post mailings to include pieces measuring over 108 inches, but not over 130 inches, in combined length and girth, if the oversized Parcel Post rate is paid. C600.1.2 also is amended to require Parcel Post pieces that weigh less than 15 pounds but measure more than 84 inches in combined length and girth to pay a rate equal to that of a 15-pound parcel for the zone to which the parcel is addressed. C600.2 is amended to delete the nonstandard surcharge criteria that formerly applied to single-piece Standard Mail (A). C810.2 is amended to provide new maximum weights for automation "heavy" letters. C820.2 is amended to increase the maximum weight limit for First-Class automation rate flats to 13 ounces. C840.8 is amended to add a stipulation for ZIP+4 barcodes for QBRM and other barcoded BRM. A new C850 is added to provide standards for barcodes on parcels.

D Deposit, Collection, and Delivery

D010.1.1 is amended to delete the term "single-piece." D010.1.2 is amended to exclude Parcel Post pieces mailed at the DDU and DSCF rates (as well as mail at DBMC rates), or claiming the OBMC Presort discount, from obtaining pickup service. D600.2 is amended to remove the sentence that allowed single-piece Standard Mail (A) bearing adhesive stamps to be placed in collection boxes.

E Eligibility

E060.5 is amended to reflect the new 13-ounce weight limit for First-Class Mail. E060.12 is amended to remove single-piece Standard Mail (A) as a permissible rate for the return of items under penalty merchandise return service. E110.4 is revised to delete references to Presorted Priority Mail. E120 is revised to remove references to Presorted Priority Mail, to add information on rates and fees applicable to keys and identification devices, and to make minor organizational changes. E130 is revised for clarity and to add information on rates and fees applicable to keys and identification devices. E150 is added to provide information on qualified business reply mail. E200.14 is amended to reflect the elimination of single-piece Standard Mail (A) rates. E230.1, and E230.3 through E230.5 is revised to provide for separate 5-digit and 3-digit rates for Regular, Nonprofit, Classroom, and In-County subclasses, and to show that the applicable 3-digit rates will apply to both unique and nonunique 3-digit ZIP Code areas. E230.6 is revised to allow In-County mail to qualify for high density carrier walk-sequence rates based on either a minimum of 125 pieces per route or 25% of the total active possible deliveries on the carrier route. E230.7 is amended to require documentation for pieces and copies mailed to all 3-digit destinations, (not only unique 3-digit destinations). E240.2 is amended to is revised to provide for separate 5-digit and 3-digit rates for Regular, Nonprofit, Classroom, and In-County subclasses, and to show that the applicable 3-digit rates will apply to both unique and nonunique 3-digit ZIP Code areas. E600 is revised throughout to delete references to single-piece Standard Mail (A) and to change the name "nonautomation presort" to "Presorted" or "Presorted Standard." E612 is revised to change the weight breakpoints for the Standard Mail (A) minimum per-piece rates, require Standard Mail (A) mailed at a Standard Mail (B) rate to show the applicable Standard Mail (B) marking, and to move restrictions on use of

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special services from E612.4.1 to new section E612.4.10. E620 and E630 are reorganized so that E620 contains standards for Standard Mail (A) and E630 contains standards for Standard Mail (B). E620 is revised to add new minimum volume requirements for Presorted Standard mailings, to add provisions for mailing certain matter not eligible for Standard Mail (A) rates that bears Standard Mail (A) markings at the single-piece First-Class or Priority Mail rates, and to add provisions for the new residual shape surcharge. E630 is revised to add provisions for new DSCF and DDU rates and new OBMC Presort, BMC Presort discounts, the oversized parcel provisions, and balloon rate provisions. E630 is revised to add provisions for a barcoded discount for Standard Mail (B) rates. E630 is revised to change marking requirements for Standard Mail (B). E640 is amended to clarify that Nonprofit rate mail may qualify for automation rates. E652 is revised to add provisions for DSCF and DDU Parcel Post rates.

F Forwarding and Related Services

F010 is amended throughout to delete references to single-piece Standard Mail (A). F010 is amended to revise forwarding and related services for Periodicals and for Standard Mail (A) to show that return postage is subject to the First-Class or Priority Mail rates based on weight, except for machinable Standard Mail (A) parcels returned under Bulk Parcel Return Service (BPRS). F020 is revised to remove references to single-piece Standard Mail (A).

G General Information

G043 is revised to add names and addresses of organizations from whom barcode specifications and barcode grading requirements can be obtained.

L Labeling Lists

Section L100, including labeling list L102, ADCs—Presorted Priority Mail, is deleted. New labeling list L605, BMCs—Nonmachinable Parcel Post, is added.

M Mail Preparation and Sortation

M011.1 is revised to add the definition of an overflow sack for Parcel Post DSCF rate mailings. M011.1 is revised to amend the definition of a mailing. M012 is revised to change marking requirements for Standard Mail (A) and (B), to clarify that no marking is needed for single-piece First-Class Mail, and to specify time frames for the new marking requirements. In M032, Exhibit 1.3 is revised to show headings for new Periodicals rate levels and for new Parcel Post rates and to change the name "bulk Bound Printed Matter" to "presorted Bound Printed Matter." M033.1 is revised to reflect the new 13-ounce weight limit for First-Class Mail. M041 is revised to reflect requirements for new Standard Mail (B) rates (OBMC Presort, BMC presort, DSCF, DDU). M045 is revised to add preparation requirements for new Standard Mail (B) rates (OBMC Presort, BMC presort, DSCF, DDU). M050.4 is amended to reflect revised placement of sequencing date information on mailing statements and to add documentation requirements for the Periodicals In-County rate mail that qualifies for high density rates under the new 25% of the total active possible deliveries per carrier route criteria. M072.1.1 is amended for clarity. M072.2.5 is amended to delete references to "Bulk Parcel Post," revise "bulk Bound Printed Matter" to "presorted Bound Printed Matter," add an exception to the zone separation requirement, and to add information on preparation of drop shipment mail for Parcel Post DSCF and DDU rates. M073 is revised to add information about permissibility and preparation requirements for combining Standard Mail (A) and Standard Mail (B) parcels in mailings qualifying for new Parcel Post rates (OBMC Presort, BMC Presort, DSCF, and DDU). M120 is revised to delete the sections on Presorted Priority Mail. M200 is revised to require preparation of an SCF level of sack. M130.2 and M130.3 are amended to revise their titles. M130.5 is revised to reflect the new 13-ounce weight limit for First-Class Mail. M200.3 is revised to require preparation of an SCF sack for nonletters, to delete the provisions for an optional origin/required entry 3-digit sack, and to add provisions for an optional origin/required entry SCF sack. M620 is revised to change "nonautomation presort" to "Presorted," to revise references to E620 and E630, and to revise rate marking requirements including time frames for changing the "Bulk Rate" marking to "Presorted Standard." M630 is amended to add preparation requirements for DSCF and DDU rates; to change "nonautomation presort" to "Presorted;" to revise references to E620 and E630; and to revise rate marking requirements for all Standard Mail (B) including placement of subclass markings, new generic rate markings for drop shipment rates, revising "bulk Bound Printed Matter" to "presorted Bound Printed Matter, eliminating the "Bulk Parcel Post" marking, removing the requirement for a 5-digit or 3-digit ZIP Code in the rate marking for DBMC rates, eliminating the "catalog rate" marking for Bound Printed Matter, and adding the abbreviation "PRSRT" for "Presorted" in the "Presorted Special Standard" marking. M810 is reorganized and revised for clarity and to add new rate categories for Periodicals and to make the 5-digit/scheme sortation level optional for Periodicals automation letters. M820 is revised to make the SCF sack a required level of presort for Periodicals automation flats, to delete the provisions for an optional origin/required entry 3-digit sack, and to add provisions for an optional origin/required entry SCF sack.

P Postage and Payment Methods

P011 is revised to delete references to single-piece Standard Mail (A). P012 revises standardized documentation for Periodicals to add separate 5-digit and 3-digit rates for both automation and nonautomation and to add new rate abbreviations for nonautomation 5-digit and 3-digit rates. P013 is revised to reflect payment for keys and identification devices at First-Class Mail and Priority Mail rates plus a $0.30 fee instead of single-piece Standard Mail (A) rates, to delete sections concerning computation of single-piece Standard Mail (A) rates, to revise the breakpoints for Standard Mail (A) rates, to delete references to Bulk Parcel Post, and to revise the term "bulk Bound Printed Matter" to "presorted Bound Printed Matter." P014.2 is revised to delete references to single-piece Standard Mail (A). P030.1.5 is revised to reflect the new 13-ounce weight limit for First-Class Mail. P030.5.4 is revised to delete a reference to single-piece Standard Mail (A). P040.4.1 is revised to reflect the new rate marking requirements for First-Class and Standard Mail and delete examples for single-piece Standard Mail (A). P100 is revised to add payment provisions for mailing certain matter not eligible for Standard Mail (A) rates that bears Standard Mail (A) markings at the single-piece First-Class or Priority Mail rates. P600 is revised to establish postage payment methods for Standard Mail (B) containing a combination of discounts, to delete information on payment and use of "SNGLP" marking for single-piece Standard Mail (A), and to clarify that for mailings of identical weight, Standard Mail (A) postage may be affixed to all pieces in the mailing at the lowest rate in the mailing job. P710 is revised to reflect the new marking requirements for regular rate Standard Mail (A). P750 is revised to include instructions on the new Parcel Post DSCF and DDU rates. P760 is revised to change "nonautomation" to "Presorted" for Standard Mail (A) and to delete references to single-piece Standard Mail (A).

R Rates and Fees

The entire module is revised to reflect new rates and fees.

S Special Services

S010 is revised to add information on claims for the new bulk insurance service. S070 is revised to clarify applicability of Priority Mail Drop Shipment. S911 is revised to reflect changes to indemnity coverage for registered mail. S913 is revised to eliminate references to single-piece Standard Mail (A), to provide clarification to matter eligible for insurance, and to include rules for the new bulk insurance service. S915.1 and S915.2 are amended for clarity. S917 is amended to delete availability of return receipt for merchandise with single-piece Standard Mail (A). S921 is amended to delete availability of COD with single-piece Standard Mail (A). S922 is revised to change references from BRMAS to QBRM, to remove eligibility requirements for BRMAS (these are relocated under QBRM in E150), to require all BRM bearing barcodes to meet the requirements of C810 and C840 (except basis weight requirements for envelopes in C810.7.1), and to replace current BRM standards relative to reflectance requirements, paper weight, and self-mailers with current mailpiece design requirements in C810 and C830 (except basis weight requirements for envelopes in C810.7.1, and the retention and clarification of current prohibition of red fluorescence in excess of 4.0 phosphor meter units). S923 is revised to eliminate the return of merchandise return service pieces at single-piece Standard Mail (A) rates, to prescribe new rates of return and corresponding markings, and to reflect new standards concerning registered mail used with that service. S924 is revised to eliminate references to single-piece Standard Mail (A). S930 is amended to remove availability of special handling service for single-piece Standard Mail (A), and to correct the rules to allow First-Class Mail and Priority Mail to receive special handling.

List of Subjects in 39 CFR Part 111

Postal Service.

For the reasons discussed above, the Postal Service hereby adopts the following amendments to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations (see 39 CFR Part 111).

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 5001.

2. Revise the following sections of the Domestic Mail Manual as follows:

A Addressing

A000 Basic Addressing

* * * * *

A060 Detached Address Labels (DALs)

* * * * *

5.0 POSTAGE

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5.3 Returns

[Amend the first sentence of 5.3 by replacing "Standard Mail" with "First-Class Mail" to read as follows:]

Postage for excess or undeliverable DALs that are properly endorsed or for items being returned is computed at the applicable single-piece rate (First-Class Mail, Priority Mail, or Standard Mail (B)) applicable to the combined weight of the DAL and the accompanying item, regardless of whether both are being returned. * * *

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C Characteristics and Content

C000 General Information

C010 General Mailability Standards

1.0 MINIMUM AND MAXIMUM DIMENSIONS

* * * * *

1.6 Nonstandard Surcharge

[Amend 1.6 by removing "or C600, respectively," and "or Single-Piece Standard Mail" to read as follows:]

Because of address placement (orientation) under C100, a mailable piece of First-Class Mail weighing 1 ounce or less can be subject to the corresponding nonstandard surcharge.

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C022 Perishables

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3.0 LIVE ANIMALS

3.1 Day-Old Poultry

[Amend 3.1f by adding "or Priority Mail" for clarity as follows:]

Day-old poultry vaccinated with Newcastle disease (live virus) is nonmailable. Live day-old chickens, ducks, geese, partridges, pheasants (mailable only from April through August), guinea fowl, quail, and turkeys are acceptable in the mail only if:

* * * * *

f. The shipment bears special handling postage in addition to regular postage, unless sent at the First-Class Mail or Priority Mail rate.

* * * * *

C024 Other Restricted or Nonmailable Matter

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18.0 ODD-SHAPED ITEMS IN ENVELOPES

18.1 Nonmailable

[Amend 18.1 by removing "Standard Mail (A) rate" to read as follows:]

Pens, bottle caps, and similar odd-shaped items are not acceptable in letter-size envelopes at the single-piece First-Class Mail rate.

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C050 Mail Processing Categories

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[Amend 5.0 to add "Nonmachinable" to the title as follows:]

5.0 IRREGULAR PARCEL (NONMACHINABLE)

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[Amend 6.0 to add "Nonmachinable" to the title as follows:]

6.0 OUTSIDE PARCEL (NONMACHINABLE)

* * * * *

C100 First-Class Mail

1.0 DIMENSIONS

1.1 Maximum Weight and Size

[Revise 1.1 to show the new maximum weight of 13 ounces to read as follows:]

Each piece may not weigh more than 70 pounds. Matter at First-Class Mail rates may not exceed 13 ounces. The combined length and girth of a piece (i.e., the length of its longest side plus the distance around its thickest part) may not exceed 108 inches. (Lower size or weight standards apply to mail claimed at certain rates or addressed to certain APOs and FPOs.)

* * * * *

4.0 NONSTANDARD MAIL

[Revise 4.0 to include keys and identification devices as items subject to the nonstandard classification as follows:]

Except for Priority Mail, any piece of First-Class Mail (including keys or identification devices) weighing 1 ounce or less and not claimed at a card rate is nonstandard and subject to the applicable surcharge if its thickness

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exceeds ¼ inch or, if based on the placement (orientation) of the address, its length exceeds 11½ inches, its height exceeds 6⅛ inches, or its aspect ratio (length divided by height) is less than 1.3 or more than 2.5.

* * * * *

C600 Standard Mail

1.0 DIMENSIONS

1.1 Standard Mail (A)

[Amend 1.1b to read as follows:]

These dimensional standards apply to Standard Mail (A):

* * * * *

b. Presorted (⅗ and basic rate) Regular and Nonprofit Standard Mail (A) are subject only to the basic mailability standards in C010.

* * * * *

1.2 Standard Mail (B)

[Amend and renumber 1.2 as follows to specify requirements for oversized Parcel Post and add a Parcel Post balloon rate:]

These dimensional standards apply to Standard Mail (B):

a. No piece may weigh more than 70 pounds, except matter at Bound Printed Matter rates may not weigh more than 15 pounds.

b. Except for Parcel Post under 1.2c, the combined length and girth of a piece (i.e., the length of its longest side plus the distance around its thickest part) may not exceed 108 inches.

c. Parcel Post pieces measuring over 108 inches in combined length and girth, but not more than 130 inches in combined length and girth, are mailable at the applicable oversized rate.

d. Parcel Post pieces measuring over 84 inches in combined length and girth, but not more than 108 inches in combined length and girth, and weighing less than 15 pounds are mailable at the rate equal to that of a 15-pound parcel for the zone to which the parcel is addressed.

e. Two or more packages may be mailed as a single parcel, if they are about the same size or shape or if they are parts of one article, if they are securely wrapped or fastened together, and if they do not together exceed the weight or size limits.

f. Lower size or weight standards apply to mail claimed at certain rates, addressed to certain APOs and FPOs, or sent by the Department of State to U.S. Government personnel abroad.

g. Pieces might be subject to minimum weight or dimensions based on the standards for specific rates.

[Delete current 2.1, renumber current 2.2 as 2.0 and revise to read as follows:]

2.0 NONMACHINABLE SURCHARGE

Items described in E630 and mailed at the inter-BMC/ASF Parcel Post rates are subject to a nonmachinable surcharge unless the applicable special handling fee is paid.

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C800 Automation-Compatible Mail

C810 Letters and Cards

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2.0 DIMENSIONS

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2.3 Maximum Weight

[Amend 2.3c through 2.3f to revise the maximum ounce weights for heavy letters to read as follows:]

Maximum weight limits are as follows:

* * * * *

c. 3.3087 ounces: automation Regular Standard Mail (A) heavy letters, subject to 7.5.

d. 3.3062 ounces: automation Enhanced Carrier Route heavy letters, subject to 7.5.

e. 3.2873 ounces: automation Nonprofit Standard Mail (A) heavy letters, subject to 7.5.

f. 3.3103 ounces: automation Nonprofit Enhanced Carrier Route, automation First-Class Mail, and automation Periodicals heavy letters, subject to 7.5.

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C820 Flats

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2.0 DIMENSIONS

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2.4 Maximum Weight

[Revise 2.4 to show the new maximum weight of 13 ounces to read as follows:]

Maximum weight limits are as follows:

a. For First-Class Mail, 13 ounces.

b. For Periodicals, 16 ounces.

c. For Standard Mail (A), less than 16 ounces

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C840 Barcoding Standards

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8.0 5-DIGIT AND ZIP+4 BARCODES

[Revise the title and add a new sentence to 8.1 to read as follows:]

8.1 Permissibility

An automation rate letter-size piece may not bear a 5-digit or ZIP+4 barcode in the lower right corner (barcode clear zone); the piece may bear a 5-digit or ZIP+4 barcode in the address block only if a DPBC appears in the lower right corner. A Qualified Business Reply Mail piece and other barcoded letter-size Business Reply Mail must only bear a ZIP+4 barcode; the ZIP+4 barcode may appear in the address block when printed on an insert that appears through a window or on an address label affixed directly to the piece; or may appear in the lower right corner either printed directly on the mailpiece or on an insert that appears through a window. An automation rate flat-size piece must not bear a 5-digit barcode.

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[Add new C850 to read as follows.]

C850 Standard Mail (B) Barcode Standards

1.0 BARCODE SYMBOLOGIES

1.1 Basic Requirement

Every addressed mailpiece eligible for a Standard Mail (B) barcode discount described in E630 must bear a properly prepared barcode that represents the correct ZIP Code information for the address on the mailpiece plus the appropriate verifier character suffix or application identifier prefix characters appropriate for the barcode symbology used as described in 1.0 through 4.0. The combination of appropriate ZIP Code and appropriate verifier or application identifier characters uniquely identifies the barcode as the postal routing code.

1.2 Permissible Barcode Symbologies.

Until January 10, 2004, barcodes must be printed in one of the following symbologies: UCC/EAN Code 128; USS Code 128; USS Code I ⅖; and USS Code 39. Effective January 10, 2004, only the UCC/EAN Code 128 may be used.

1.3 Postal Routing Barcode Elements

a. UCC/EAN Code 128. For barcodes prepared using the UCC/EAN Code 128 symbology the postal routing barcode must consist of the leading Application Identifier (AI) of "420" followed by the ZIP Code for the address on the mailpiece. The ZIP Code for the address on the mailpiece may be either the 5-digit ZIP Code or the ZIP+4 code. The Application Identifier indicates the meaning of the barcode. The USPS has designated 420 as the AI for domestic postal routing barcodes (and 421 as the AI for international postal routing barcodes). UCC/EAN Code 128 barcodes MUST NOT include the trailing verifier character "9".

b. Other Permissible Symbologies. For the USS Code 128, USS Code I ⅖, and USS Code 39 symbologies, the postal routing barcode must consist of the 5-digit ZIP Code for the address on the mailpiece, followed by the 1-digit verifier character "9." Barcodes prepared under these symbologies MUST NOT include the prefix "420."

1.4 Technical Specifications

UCC/EAN Code 128 barcodes must meet the technical specifications in the "UCC/EAN–128 Application Identifier Standard," which can be obtained from Uniform Code Council, Inc. and the specifications in 2.0. The UCC specifications can be obtained from: UNIFORM CODE COUNCIL, INC, 8163 OLD YANKEE RD STE J, DAYTON OH 45458–1839

USS Code I 2/5, USS Code 39, and USS Code 128 barcodes must meet the technical specifications in Uniform Symbology Specification (USS) documents USS–I 2/5, USS–39, and USS–128, respectively, and the specifications in 2.0. The USS Code specifications are available from: AUTOMATIC IDENTIFICATION MANUFACTURERS (AIM), 634 ALPHA DR, PITTSBURGH PA 15238–2802, www.aimusa.org

1.5 One Postal Routing Barcode.

A mailer may include more than one barcode on a mailpiece provided there is only one barcode that is prepared under the postal routing code structure. That is, a mailpiece must contain only one barcode encoded with a 5-digit numeric code followed by the character "9" or encoded with "420" followed by a 5-digit or 9-digit numeric code.

2.0 BARCODE CHARACTERISTICS

2.1 Dimensions

The preferred range of widths of narrow bars and spaces is 0.015 inch to 0.017 inch. The width of the narrow bars or spaces must be at least 0.013 inch but no more than 0.021 inch. All bars must be at least 0.75 inch high. The wide/narrow bar width ratio for Code I 2/5 and Code 39 must be at least 2.5 to 1.

2.2 Reflectance

When measured in the red spectral range between 630 nanometers and 675 nanometers, the minimum white bar (space) reflectance (Rs) must be greater than 50%, and the maximum bar reflectance (Rb) must be less than 25%. The minimum print reflectance difference (Rs–Rb) is 40%. Reflectance must be measured with a USPS-specified reflectance meter or barcode verifier.

2.3 Quality

All barcodes in each mailing must measure American National Standards Institute (ANSI) grade C or above. At least 70% of the barcodes in each mailing must measure ANSI grade A or B. For all printing processes, it is strongly recommended that the symbols be tested to ensure that they meet specification requirements. Information concerning ANSI guidelines X3.182–1990 may be obtained from: AMERICAN STANDARDS INSTITUTE INC, 11 W 42ND ST, NEW YORK NY 10036–8002, (212) 642–4900

2.4 Substrate Material

All barcode symbols must be printed on substrate material that preserves the optical specification as described in the AIM–USA Uniform Symbology Specification documents. Typically, white label stock commonly used for barcode generation is suitable, providing it is not glossy (causing mirror-like [specular] reflection) nor prone to smearing or smudging.

3.0 BARCODE LOCATION

3.1 General Standards

The address and barcode must be on the side of the mailpiece with the largest surface area, except that the address and barcode must be on the top surface of the mailpiece when its shape requires specific orientation for stability during automated processing. The barcode should be placed immediately adjacent to the address and at least 1 inch from the edge of the mailpiece. The delivery address or barcode may be printed on an attachment or on an enclosure in a window envelope, subject to the reflectance standards in 2.2.

3.2 Barcode Clear Zone

The barcode must be located as specified in 3.1. No printing may appear in an area ⅛ inch above and below the barcode regardless of location. A minimum clear zone equal to 10 times the average measured narrow element (bars or space) width must be maintained to the left and right of the barcode.

4.0 BARCODE CONTENT

4.1 Human-Readable Barcode Information

If the barcode is printed on the same label as the mailing address, and in close proximity to that address, the human-readable equivalent of the ZIP Code or ZIP+4 code encoded in the barcode may be omitted. If the barcode is printed on a separate label from the mailing address, the human-readable equivalent of the 5-digit ZIP Code or ZIP+4 code encoded in the barcode (i.e., omitting the existing "420" Application Identifier for UCC/EAN 128 and omitting the existing "9" verifier character for the other three barcode symbologies) must be printed between ⅛ inch and ½ inch below the barcode preceded by the word "ZIP" in 10 point or larger bold sans serif type. In addition, the location of the word "ZIP" may be alternatively placed no less than 10 time the average narrow bar or space element width and not more than ½ inch to the left of the barcode, in 12 point or larger bold sans serif type.

* * * * *

D Deposit, Collection, and Delivery

D000 Basic Information

D010 Pickup Service

1.0 BASIC STANDARDS

1.1 Availability

[Amend 1.1b to delete the term "single-piece rate" to read as follows:]

Subject to the standards in D010, pickup service is available from designated post offices for:

* * * * *

b. Priority Mail.

* * * * *

1.2 Not Available

[Amend 1.2c to include all destination entry rate pieces as follows:]

Pickup service is not available for pieces:

* * * * *

c. Claimed at the Parcel Post DBMC, DSCF, or DDU destination entry rates, or claiming the Parcel Post OBMC Presort discount.

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D600 Standard Mail

* * * * *

2.0 MAIL DEPOSIT

[Amend the heading and contents of 2.1 to read as follows:]

2.1 Single-Piece Standard Mail (B) Rates

Single-piece rate Standard Mail (B) must be deposited at a time and place specified by the mailing post office postmaster. Metered mail must be deposited in locations under the jurisdiction of the licensing post office, except as permitted in D072. Permit imprint mail must be presented at the post office under P040 or P700. Precanceled stamp mail must be presented at the post office under P023.

E Eligibility

E000 Special Eligibility Standards

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E060 Official Mail (Penalty)

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5.0 SERVICES, CLASSES, RATES, PREPARATION, AND DETENTION

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5.3 Basic Preparation

[Revise 5.3d to incorporate the new 13-ounce weight limit for First-Class Mail as follows:]

Penalty mail must:

* * * * *

d. Be endorsed for class or rate except for single-piece rate First-Class Mail not exceeding 13 ounces and single-piece rate Parcel Post. All mail with penalty mail stamps, other than First-Class Mail weighing 13 ounces or less, must be marked to show the class at which it is mailed.

* * * * *

12.0 PENALTY MERCHANDISE RETURN SERVICE

12.1 Description

[Amend 12.1 by inserting "(B)" and by removing "Single-Piece Standard Mail" to read as follows:]

Merchandise return service allows a merchandise return permit holder to authorize individuals and organizations to send single-piece First-Class Mail (including Priority Mail) and single-piece Standard Mail (B) (Parcel Post, Special Standard Mail, and Bound Printed Matter) to the permit holder. The permit holder pays the return postage and fees.

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E 100 First-Class Mail

E110 Basic Standards

* * * * *

4.0 FEES

4.1 Presort Mailing

[Amend the first sentence of 4.1 to delete the reference to Presorted Priority Mail to read as follows:]

A First-Class Mail presort mailing fee must be paid once each 12-month period at each office of mailing by any person or organization entering mailings at automation or Presorted First-Class Mail rates. Payment of one fee allows a mailer to enter mail at both those rates. Persons or organizations paying this fee may enter mail of their clients as well as their own mail. The fee may be paid in advance only for the next year and only during the last 30 days of the current service period. The fee charged is that which is in effect on the date of payment.

* * * * *

E120 Priority Mail

1.0 BASIC STANDARDS

1.1 Description

[Revise 1.1 to reflect the new maximum weight of First-Class Mail to read as follows:]

Priority Mail is First-Class Mail weighing more than 13 ounces and, at the mailer's option, any other mail matter (including regular First-Class Mail) weighing 13 ounces or less. Priority Mail rates are based on zone and/or weight.

* * * * *

[Delete current 1.4, renumber current 2.2 as new 1.4 to read as follows:]

1.4 Marking

The marking "Priority" or "Priority Mail" must be placed prominently on the address side of each piece of Priority Mail.

[Amend 2.0 to read as follows:]

2.0 RATES

2.1 Application

Priority Mail rates apply to pieces meeting the standards in 1.0.

2.2 Flat Rate Envelope

Any amount of material that can be mailed in the special flat rate envelope available from the USPS is subject to the 2-pound Priority Mail rate, regardless of the weight of the material placed in the envelope.

2.3 Balloon Rate

Items weighing less than 15 pounds but measuring more than 84 inches in combined length and girth are charged a minimum rate equal to that for a 15-pound parcel for the zone to which it is addressed.

2.4 Keys and Identification Devices

Keys and identification devices (identification cards or uncovered identification tags) that weigh more than 13 ounces but not more than 2 pounds are returned at the 2-pound Priority Mail rate plus a $0.30 fee if they bear, contain, or have securely attached the name and complete address of a person, organization, or concern, with instructions to return the piece to that address and a statement guaranteeing payment of postage due on delivery.

[Delete current 3.0 pertaining to Presorted Priority Mail.]

E130 Nonautomation Rates

1.0 BASIC STANDARDS

1.1 All Pieces

[Revise 1.1 to reflect the new maximum weight for First-Class Mail to read as follows:]

All pieces of nonautomation First-Class Mail must:

a. Meet the basic standards for First-Class Mail in E110.

b. Weigh 13 ounces or less.

c. Bear a delivery address.

d. Meet the applicable documentation and postage payment standards in P012, P013, and P100.

* * * * *

[Delete 1.3.]

2.0 SINGLE-PIECE RATE

[Revise 2.1, renumber 2.2 as 2.3, and insert new 2.2 to read as follows:]

2.1 Rate Application

The single-piece rates for First-Class Mail are applied as follows:

a. The card rate applies to a card meeting the applicable standards in C100 that is not eligible for or claimed at the Presorted rate, an automation rate, or a qualified business reply mail (QBRM) rate.

b. The letter rate applies to any other First-Class Mail (letter, flat, and parcel) weighing 13 ounces or less that is not eligible for and claimed at the card rate, the Presorted rate, an automation rate, a qualified business reply mail (QBRM) rate, or required to be paid at a rate for keys and identification devices.

2.2 Keys and Identification Devices

Keys and identification devices (identification cards or uncovered identification tags) that weigh not more than 13 ounces are mailed at the applicable single-piece letter rate, plus a $0.30 fee, and if applicable, the nonstandard surcharge. The keys and identification devices must bear, contain, or have securely attached, the name and complete address of a person, organization, or concern, with instructions to return the piece to that address and a statement guaranteeing payment of postage due on delivery.

* * * * *

[Insert new 4.0 to read as follows:]

4.0 NONSTANDARD SURCHARGE

Single-piece (including keys and identification devices) and Presorted First-Class Mail are subject to the applicable nonstandard surcharge in R100 if they are not mailed at the card rate, weigh 1 ounce or less, and meet the definition of nonstandard mail in C100.

* * * * *

[Insert new E150 to read as follows:]

E150 Qualified Business Reply Mail (QBRM) Rates

1.0 BASIC STANDARDS

1.1 Description

Qualified Business Reply Mail (QBRM) is First-Class Mail that:

a. Is letter-size and is prepared to meet the automation compatibility requirements in C810 (except 7.1).

b. Meets all the Business Reply Mail (BRM) standards in S922.

c. Has postage and BRM per-piece fees paid through a business reply mail advance deposit account.

d. Is authorized to mail at QBRM rates and fees under 2.0. During the authorization process, the mailer is assigned a unique ZIP+4 code for each rate category of QBRM to be returned under the system (one for card-rate pieces, one for letter-size pieces weighing 1 ounce or less, and one for letter-size pieces weighing over 1 ounce up to and including 2 ounces).

e. Bears the unique ZIP+4 code assigned during the application process in the address of each piece distributed. The ZIP+4 code on each piece must be the proper one assigned to the rate category of the piece on its return. The ZIP+4 codes assigned for this program must be used only on the organization's appropriate QBRM pieces.

f. Bears the correct barcode that corresponds to the unique ZIP+4 code in the address on each piece distributed. The barcode must be correctly prepared under C840 and S922.5.

g. Bears a properly prepared facing identification mark (FIM) C on each piece distributed.

2.0 AUTHORIZATION

To participate in QBRM, the mailer must submit a written request to open a QBRM account to the postmaster or business mail entry manager at the post office to which the pieces are to be returned. If the mailer's request is approved, the USPS issues the mailer an authorization letter and instructions on how to prepare BRM, including the ZIP+4 codes to be used. The mailer must have a valid BRM permit and pay the annual accounting fee to participate in QBRM. Preproduction samples, if provided with the request, are reviewed by the USPS for compliance with the relevant standards. Any BRM approved under the former Business Reply Mail Accounting System need not make reapplication to qualify for QBRM.

3.0 RATES AND FEES

3.1 Rates

The single-piece rates for QBRM First-Class Mail are applied to each returned piece as follows:

a. The QBRM rate for cards in R100 applies to a card meeting the applicable standards in 1.0 and C100.

b. The QBRM rate for letters in R100 applies to a letter meeting the applicable standards in 1.0 that is not eligible for and claimed at the QBRM rate for cards.

3.2 Fees

The following fees apply to QBRM First-Class Mail:

a. The annual BRM permit fee in S922 and R900.

b. The annual BRM accounting fee in S922 and R900.

c. The QBRM fee in R900 for each returned piece.

E200 Periodicals

E210 Basic Standards

E211 All Periodicals

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14.0 BASIC RATE ELIGIBILITY

* * * * *

14.4 Copies Mailed by Public

[Amend 14.4 by adding "Priority" and "(B)" to read as follows:]

The applicable single-piece First-Class, Priority, or Standard Mail (B) rate is charged on copies of publications mailed by the general public (i.e., other than publishers or registered news agents) and on copies returned to publishers or news agents.

* * * * *

E230 Nonautomation Rates

1.0 BASIC INFORMATION

* * * * *

1.3 ZIP Code Accuracy

[In the first sentence, change "3/5" to "5-digit, 3-digit," to read as follows:]

All 5-digit ZIP Codes in addresses on pieces claimed at the 5-digit, 3-digit, or basic rates must be verified and corrected within 12 months before the mailing date by a USPS-approved method. * * *

* * * * *

[Replace current 3.0 through 5.0 with new 3.0 through 5.0 to read as follows:]

3.0 5-DIGIT RATES

Subject to M200, 5-digit rates apply to:

a. Letter-size pieces in 5-digit packages of six or more pieces each, placed in 5-digit trays.

b. Flat-size pieces in 5-digit packages of six or more pieces each, placed in 5-digit sacks or palletized under M045.

4.0 3-DIGIT RATES

Subject to M200, 3-digit rates apply to:

a. Letter-size pieces in 5-digit and 3-digit packages of six or more pieces each, placed in 3-digit trays.

b. Flat-size pieces in 5-digit and 3-digit packages of six or more pieces each, placed in 3-digit sacks or palletized under M045.

5.0 BASIC RATES

Basic rates apply to pieces prepared under M200 that are not claimed at carrier route, 5-digit, or 3-digit rates.

6.0 WALK-SEQUENCE DISCOUNTS

* * * * *

6.4 Density Standards

[Revise 6.4b, renumber 6.4c through 6.4d as 6.4d through 6.4e, insert new 6.4c, and revise renumbered 6.4e to read as follows:]

Walk-sequence rate mailings are subject to these density standards:

* * * * *

b. Except under 6.4c, at least 125 walk-sequenced addressed pieces must be prepared for each carrier route receiving mail claimed at the high density rate. Mail for carrier routes of 124 or fewer possible deliveries can qualify for the high density rate if there are at least 125 addressed pieces for the route, or if pieces are addressed to every possible delivery on the route. This mail may also qualify for the saturation rate, subject to 6.4e. In-County rate pieces may also qualify for high density rates under 6.4c.

c. Mail may qualify for In-County high density rates when there are addressed pieces for a minimum of 25% of the total active possible deliveries on a carrier route. If a route contains addresses both within and outside the county, the number of pieces addressed to the entire carrier route will be used to determine if the 25% requirement has been met. However, for such carrier routes meeting the 25% requirement, only the pieces for that carrier route that are addressed to addresses within the county in which the original entry is located may qualify for the In-County high density rates.

* * * * *

e. More than one addressed piece per delivery address may be included in a high density rate mailing and may be counted for the density standard, in 6.4b, for the high density rate. Only one piece per delivery address may be counted toward the density standards

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for high density in 6.4c and for the saturation rate in 6.4d.

7.0 COMBINING MULTIPLE PUBLICATIONS OR EDITIONS

* * * * *

7.4 Documentation Elements

[Amend the first sentence of 7.4 to read as follows:]

Presort documentation required under P012 also must show the total number of addressed pieces and copies of each publication or edition mailed to each carrier route, 5-digit, and 3-digit destination. * * *

* * * * *

E240 Automation Rates

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2.0 RATE APPLICATION

[Replace current 2.1 through 2.3 with new 2.1 through 2.3 to read as follows:]

2.1 5-Digit Rates

Subject to M200, 5-digit automation rates apply to:

a. Letters. 5-digit rates apply to groups of 150 or more pieces to the same 5-digit or 5-digit scheme placed in a 5-digit or 5-digit scheme tray or trays prepared under M810. (Preparation to qualify for the 5-digit rate is optional, and if performed, need not be done for all 5-digit or 5-digit scheme destinations.)

b. Flats. 5-digit rates apply to pieces in 5-digit packages of six or more pieces each, prepared under M820 or M045.

2.2 3-Digit Rates

Subject to M200, 3-digit automation rates apply to:

a. Letters. 3-digit rates apply to groups of 150 or more pieces to the same 3-digit or 3-digit scheme placed in a 3-digit/scheme tray or trays under M810.

b. Flats. 3-digit rates apply to pieces in 3-digit packages of six or more pieces each, prepared under M820 or M045.

2.3 Basic Rates

Subject to M200, basic automation rates apply to:

a. Letters. Basic rates apply to pieces prepared under M810 that are not claimed at 5-digit or 3-digit rates.

b. Flats. Basic rates apply to pieces prepared under M820 or M045 that are not claimed at 5-digit or 3-digit rates.

* * * * *

E600 Standard Mail

E610 Basic Standards

E611 All Standard Mail

1.0 BASIC INFORMATION:

* * * * *

1.8 Documentation

[Amend the reference to single-piece rate mail to specify single-piece Standard Mail (B) as follows:]

A postage statement, completed and signed by the mailer, using the correct USPS form or an approved facsimile, must be submitted with each mailing except for single-piece rate Standard Mail (B) mailings in which the correct postage is affixed to each piece. Additional supporting documentation may be required by the standards for the rate claimed or postage payment method used.

E612 Additional Standards for Standard Mail (A)

* * * * *

[Amend the heading of 4.0 by removing "BULK" to read as follows:]

4.0 RATES

4.1 General Information

[Revise the section numbers and the names of nonautomation rates and remove information about special services to read as follows:]

All Standard Mail (A) rates are bulk rates (sometimes referred to as presort rates). Bulk rates apply to mailings meeting the basic standards in E611 and the corresponding standards for Enhanced Carrier Route, automation, Presorted, and destination entry in E620, E640, and E650 as appropriate for the rate claimed. Nonprofit rates may be used only by organizations authorized by the USPS under E670. Not all processing categories qualify for every bulk rate.

4.2 Minimum Per-Piece Rates

[In the first sentence, change "nonautomation" to "Presorted" and amend the weight breakpoints for the minimum per-piece rates as follows:]

The minimum per piece rates (i.e., the minimum postage that must be paid for each piece) apply to Enhanced Carrier Route rate pieces weighing no more than 0.2066 pound rounded (3.3062 ounces rounded); Regular Presorted and automation rate pieces weighing no more than 0.2068 pound rounded (3.3087 ounces rounded); Nonprofit Enhanced Carrier Route rate pieces weighing no more than 0.2069 pound rounded (3.3103 ounces rounded); and Nonprofit Presorted and automation rate pieces weighing no more than 0.2055 pound rounded (3.2873 ounces rounded). * * *

* * * * *

4.6 Exception

[Amend 4.6 by revising the second sentence to read as follows:]

When the postage computed at the bulk Standard Mail (A) rates is higher than a Standard Mail (B) rate for which the matter and the mailing could qualify except for its weight, the Standard Mail (B) rate may be paid without adding needless weight. When the Standard Mail (B) rate is paid, the pieces must bear the rate marking appropriate for the Standard Mail (B) rate at which postage is paid. All other standards for bulk Standard Mail (A) apply, including mail preparation.

* * * * *

4.9 Preparation

[Amend 4.9b to read as follows:]

Each bulk rate mailing is subject to these general standards:

* * * * *

b. Each mailing must contain at least 200 pieces or 50 pounds of pieces. See E620.1.2 for volume requirement eligibility unique to Presorted Standard rate mailings. Other volume standards also can apply, based on the rate claimed.

* * * * *

[Add new 4.10 as follows:]

4.10 Special Services

Bulk rate Standard Mail (A) may not use certified, collect on delivery (COD), insurance, registered, return receipt, return receipt for merchandise, or special handling.

* * * * *

[Revise the title of E620. Delete current 1.0. Move current E620.2.0 through 5.7 into E630. Renumber current E630.1.0 through E630.2.9 as E620.1.0 through E620.2.9. Renumber E620.1.2 as E620.1.5; renumber E620.1.3 as E620.1.4; add new E620.1.2,E620.1.3, E620.1.6, and E620.2.10; and revise to read as follows:]

E620 Nonautomation Standard Mail (A) Rates

1.0 PRESORTED REGULAR AND NONPROFIT RATES

1.1 Basic Standards

All pieces in a Presorted Regular or Presorted Nonprofit Standard Mail (A) mailing must:

a. Meet the basic standards for Standard Mail in E611 and E612.

b. Except as provided in 1.2, be part of a single mailing of at least 200 pieces or 50 pounds of pieces qualifying for Presorted Standard Mail (A). Regular and Nonprofit mailings must meet separate minimum volumes.

c. Bear a delivery address that includes the correct ZIP Code or ZIP+4 code, unless an alternative address format is used subject to A040.

Upgradable pieces are subject to additional standards in M610. Pieces prepared with detached address labels are subject to additional standards in A060.

d. Be marked, sorted, and documented as specified in M610.

1.2 Residual Volume Requirement

Pieces in an Enhanced Carrier Route rate mailing that has separately met a 200 piece or 50 pound minimum quantity requirement may be counted toward the minimum quantity requirement for a Presorted rate mailing, provided that the Enhanced Carrier Route rate mailing and the Presorted rate mailing are part of the same mailing job and are reported on the same postage statement. Likewise, pieces in an automation rate mailing that has separately met a 200 piece or 50 pound minimum quantity requirement may be counted toward the minimum quantity requirement for a Presorted rate mailing, provided that the automation rate mailing and the Presorted mailing are part of the same mailing job and are reported on the same postage statement. Pieces mailed at Presorted Standard Mail (A) rates must not be counted toward the minimum volume requirements for an Enhanced Carrier Route rate or an automation rate mailing.

1.3 Residual Mail Subject to First-Class or Priority Mail Rates

Pieces prepared as Standard Mail (A) (i.e., bear Standard Mail (A) rate markings, ancillary service markings, etc.) that do not qualify for Enhanced Carrier Route, automation, or Presorted Standard Mail (A) rates are subject to the single-piece First-Class or Priority Mail rates as applicable for the weight of the mailpiece. Metered pieces weighing over 13 ounces, but less than 16 ounces that do not qualify for Standard Mail (A) rates, and any mailpieces that do not qualify for Standard Mail (A) rates for which First-Class or Priority Mail service is desired, must be re-enveloped or otherwise prepared so that they do not bear Standard Mail (A) markings, endorsements and ACS codes, and must bear the proper First-Class Mail or Priority Mail rate markings, ancillary service endorsements, and ACS codes. Mailers who have pieces (other than metered pieces weighing over 13 ounces, but less than 16 ounces) that do not qualify for Standard Mail (A) rates, but that are prepared as Standard Mail (A), and who do not desire to receive First-Class Mail or Priority Mail service for those pieces, may enter their mailpieces "as is" (i.e., bearing the Standard Mail (A) markings and endorsements), provided the requirements in P100 are met.

1.4 ZIP Code Accuracy

All 5-digit ZIP Codes included in addresses on pieces claimed at regular Presorted and Nonprofit Presorted rates must be verified and corrected within 12 months before the mailing date, using a USPS-approved method. The mailer must certify that this standard has been met when the corresponding mail is presented to the USPS. This standard applies to each address individually, not to a specific list of mailing. An address meeting this standard may be used in mailings at any other rates to which the standard applies during the 12-month period after its most recent update.

1.5 Presorted Rates

Presorted Regular or Nonprofit Standard Mail (3/5 and basic) rates apply to Regular or Nonprofit Standard Mail letters, flats, and machinable and irregular parcels weighing less than 16 ounces, that are prepared under M610 or palletized under M045. Basic rates apply to pieces that do not meet the standards for the 3/5 rates described below. Basic rate and 3/5 rate pieces prepared as part of the same mailing are subject to a single minimum volume standard. Pieces that do not qualify for the 3/5 rate must be paid at the basic rate and prepared accordingly. Pieces may qualify for the 3/5 rate if they are presented:

a. In quantities of 150 or more letter-size pieces for a single 3-digit area, prepared in 5-digit or 3-digit packages of 10 or more pieces each and placed in 5-digit or 3-digit trays.

b. In quantities of 150 or more upgradable letter-size pieces (as defined in M610) for a single 3-digit area and placed in 5-digit or 3-digit trays.

c. In a 5-digit or 3-digit package of 10 or more flat-size pieces and placed in a 5-digit or 3-digit sack containing at least 125 pieces or 15 pounds of pieces.

d. In a 5-digit or 3-digit package of 10 or more flat-size pieces palletized under M045.

e. In a 5-digit, destination ASF (if required), or destination BMC sack containing at least 10 pounds of machinable parcels. (The 3/5 rates are available only if all possible 5-digit sacks are prepared.)

f. On a 5-digit, destination ASF (if required), or destination BMC pallet of machinable parcels. (The 3/5 rates are available only if all possible 5-digit pallets are prepared.)

g. In a 5-digit or 3-digit sack of irregular parcels containing at least 125 pieces or 15 pounds of pieces.

1.6 Residual Shape (Parcel) Surcharge

Presorted Standard Mail that is prepared as a parcel, or is not letter-size or flat-size as defined in C050, is subject to the residual shape surcharge.

2.0 ENHANCED CARRIER ROUTE RATES

2.1 All Pieces

All pieces in an Enhanced Carrier Route Standard Mail mailing (letters, flats, or irregular parcels, including merchandise samples distributed with detached address labels) must:

a. Meet the basic standards for Standard Mail in E611 and E612.

b. Be part of a single mailing of at least 200 pieces or 50 pounds of pieces of Enhanced Carrier Route Standard Mail, except that automation basic carrier route rate pieces are subject to a separate 200-piece/50-pound minimum volume standard and may not be included in the same mailing as other Enhanced Carrier Route mail. Regular and Nonprofit mailings must meet separate minimum volumes.

c. Be sorted to carrier routes, marked, and documented under M045 (if palletized) or M620.

2.2 Flats and Merchandise Samples

Enhanced Carrier Route rate mail may not be more than 11–3/4 inches high, 14 inches long, or 3/4-inch thick. Merchandise samples with detached address labels may exceed these dimensions if the labels meet the standards in A060.

2.3 Preparation

Preparation to qualify for any of the Enhanced Carrier Route rates is optional and need not be performed for all carrier routes in a 5-digit area. An Enhanced Carrier Route mailing may include pieces at basic, high-density, and saturation Enhanced Carrier Route rates. Automation basic carrier route rate pieces must be prepared as a separate mailing, subject to the eligibility standards in E640.

2.4 Carrier Route Information

Except for mailings prepared with a simplified address under A040, carrier route codes must be applied to mailings using CASS-certified software and the current USPS Carrier Route Information System (CRIS) scheme, hard copy CRIS files, or another AIS product containing carrier route information, subject to A930 and A950. Carrier route information must be updated within 90 days before the mailing date.

2.5 Sequencing

Basic carrier route rate mail must be prepared either in carrier walk sequence or in line-of-travel (LOT) sequence according to LOT schemes prescribed by the USPS (see M050). High-density and saturation rate mailings must be prepared in carrier walk sequence according to schemes prescribed by the USPS.

2.6 Addressing

Saturation rate mail may be prepared with detached address labels, subject to A060, or with an alternative addressing format, subject to A040. High-density pieces must have a complete delivery address or an address in occupant or exceptional format. Saturation pieces addressed for delivery on a city route must have a complete delivery address or an address in occupant or exceptional format, except that official mail from certain government entities also may use the simplified format. Saturation pieces for delivery on rural or highway contract routes, or through general delivery or a post office box, must have a complete delivery address or an alternative address format.

2.7 Density

High-density and saturation rate mailings are subject to these density standards:

a. There is no minimum volume per 5-digit ZIP Code delivery area. Pieces need not be sent to all carrier routes within a 5-digit delivery area.

b. For the high-density rate, at least 125 pieces must be prepared for each carrier route for which that discount is claimed, except that fewer pieces may be prepared and the high-density rate may be claimed for carrier routes of 124 or fewer possible deliveries if a piece is addressed to every possible delivery on the route. Multiple pieces per delivery address can count toward this density standard.

c. For the saturation rate, pieces must be addressed either to 90% or more of the active residential addresses or to 75% or more of the total number of active possible delivery addresses, whichever is less, on each carrier route receiving this mail, except that mail addressed in the simplified address format must meet the 100% coverage standard in A040. Multiple pieces per delivery address do not count toward this delivery standard. Sacks with fewer than 125 pieces and less than 15 pounds of pieces may be prepared to a carrier route when the saturation rate is claimed for the contents and the applicable density standard is met.

2.8 Basic Rates

Basic (nonautomation) carrier route rates apply to each piece that is sorted under M620 into the corresponding qualifying groups:

a. Letter-size pieces in a full carrier route tray, or in a carrier route package of 10 or more pieces placed in a 5-digit carrier routes or 3-digit carrier routes tray.

b. Flat-size pieces in a carrier route package of 10 or more pieces palletized under M045, or placed in a carrier route sack containing at least 125 pieces or 15 pounds of pieces or in a 5-digit carrier routes sack.

c. Irregular parcels (merchandise samples prepared with detached address labels under A060) in a carrier route sack or in a carrier route carton(s) containing a total of 125 pieces or 15 pounds of pieces, or in a 5-digit carrier routes sack or carton. (DALs must be in carrier route packages of 10 or more pieces and prepared under A060.)

2.9 High-Density and Saturation

High-density and saturation rates apply to pieces qualified for the basic rates that also meet the applicable addressing and density standards in 2.6 and 2.7.

2.10 Residual Shape (Parcel) Surcharge

Enhanced Carrier Route mail that is prepared as a parcel, or is not letter-size or flat-size as defined in C050, is subject to the residual shape surcharge.

[Revise the title of E630 as follows:]

E630 Standard Mail (B)

[Delete current 630.1 through 630.2. Insert new 630.1 through 630.5.9, which combines former E620.2 through E620.5 with former E630.3 and E630.4 to reorganize and separate standards for Standard Mail (A) from those for Standard Mail (B) and to include new Standard Mail (B) rate categories to read as follows:]

1.0 PARCEL POST

1.1 Basic Standards

Parcel Post is Standard Mail weighing 16 ounces or more that is not mailed as Bound Printed Matter, Special Standard Mail, or Library Mail. Any Standard Mail (B) matter may be mailed at Parcel Post rates, subject to the basic standards in E611 and E613.

1.2 Enclosures

Parcel Post may contain any printed matter mailable as Standard Mail (A), in addition to the enclosures and additions listed in E611.

1.3 Rate Eligibility

There are five Parcel Post rate categories: Intra-BMC, Inter-BMC, destination bulk mail center (DBMC), destination sectional center facility (DSCF), and destination delivery unit (DDU). Intra-BMC, Inter-BMC, and DBMC Parcel Post rates are calculated based on the zone to which the parcel is addressed and the weight of the parcel. DSCF and DDU rates are calculated based on the weight of the parcel. Generally, Intra-BMC rates apply to parcels mailed and delivered within the same BMC service area and Inter-BMC rates apply to parcels mailed in one BMC service area and delivered in a different BMC service area. Specific standards for Inter-BMC and Intra-BMC rates and applicable discounts are described below. Generally, to qualify for destination entry rates (DBMC, DSCF, or DDU), mailers must enter their parcels at the destination BMC, SCF, or delivery unit postal facility that will process or deliver the parcels (see additional requirements in E652). Additional requirements for Parcel Post rates and discounts (other than destination entry rates) are set forth below.

a. Intra-BMC rates apply to all Parcel Post originating and destining in the service area of the same BMC or ASF. Intra-BMC rates also apply to Parcel Post originating and destining in the same state for Alaska and Hawaii and in the same territory for Puerto Rico. See Exhibit 1.3.

b. Inter-BMC rates for machinable parcels apply to all Parcel Post mail that weighs 35 pounds or less; is machinable; originates in the service area of a BMC/ASF, or in Alaska, Hawaii, or Puerto Rico, and destinates outside that area; and is not eligible for destination entry rates.

c. Inter-BMC rates for nonmachinable Parcel Post include the nonmachinable surcharge and apply to all inter-BMC/ASF Parcel Post mail that weighs more than 35 pounds or otherwise is nonmachinable as defined in 1.4; originates in the service area of a BMC/ASF, or in Alaska, Hawaii, or Puerto Rico, and destinates outside that area; and is not eligible for destination entry rates.

d. Parcel Post for which OBMC Presort, BMC Presort, and barcoded discounts are claimed, and parcel post which is mailed at a destination entry rate (DBMC, DSCF, DDU (E652)), must be part of a mailing of 50 or more Parcel Post rate pieces. Eligibility for one of those rates or discounts does not require a separate 50 qualifying pieces per rate or per discount. Eligibility for more than one of those rates or discounts in the same Parcel Post mailing is possible, provided there are a total of at least 50 pieces of mail qualifying for any or all Parcel Post rates in the mailing and all other preparation and eligibility requirements for the rates or discounts are met.

e. The bulk mail center (BMC) Presort per-piece discount applies to pieces of inter-BMC Parcel Post sorted to BMC destinations under L601 for machinable pieces and sorted to BMC and ASF destinations for nonmachinable pieces under L605. To qualify, machinable pieces must be placed in pallet boxes on pallets and nonmachinable pieces must be placed directly on pallets under M041 and M045. The mail must be entered at a postal facility that is not a BMC and be part of a mailing containing 50 or more Parcel Post rate pieces.

f. The origin bulk mail center presort (OBMC Presort) per-piece discount applies to pieces of inter-BMC Parcel Post sorted to BMC destinations under L601 for machinable pieces and sorted to BMC and ASF destinations for nonmachinable pieces under L605. To qualify, machinable pieces must be placed in pallet boxes on pallets and nonmachinable pieces must be placed directly on pallets under M041 and M045. The mail must be entered at a BMC listed in L601 and be part of a mailing containing 50 or more Parcel Post rate pieces.

g. The barcoded discount applies to Parcel Post machinable parcels (C050) that each bear a correct, readable barcode under C850 for the ZIP Code of the delivery address; are part of a mailing of 50 or more Parcel Post rate pieces; are not mailed at the DSCF or DDU rates; and if claiming the DBMC rates, are not entered at an ASF. An exception is that properly prepared machinable pieces of DBMC rate mail entered at the Phoenix, AZ, ASF may claim the barcoded discount because that facility uses barcode scanning equipment.

h. Pieces measuring over 108 inches but not more than 130 inches in combined length and girth, are mailable at the applicable oversized Parcel Post rate.

i. Pieces measuring over 84 inches, but not more than 108 inches in combined length and girth and weighing less than 15 pounds are subject to the rate equal to that of a 15-pound parcel for the zone to which the parcel is addressed.

Exhibit 1.3 BMC/ASF Service Areas

[Renumber and insert former Exhibit E620.2.4 as Exhibit E630.1.3.]

1.4 Nonmachinable Surcharge

The nonmachinable surcharge applies only to the items listed in 1.4a through 1.4i if mailed at the Inter-BMC/ASF Parcel Post rates and no special handling fee is paid. The nonmachinable surcharge applies to items within these categories:

a. A parcel more than 34 inches long, 17 inches wide, 17 inches high, or weighing more than 35 pounds.

b. A parcel containing more than 24 ounces of liquid in glass containers, or 1 gallon or more of liquid in metal or plastic containers.

c. An insecurely wrapped or metal-banded parcel.

d. A can (paint, etc.), roll, or tube, or wooden or metal box.

e. A shrub or tree.

f. A perishable, such as eggs.

g. Books, printed matter, or business forms weighing more than 25 pounds.

h. A high-density parcel weighing more than 15 pounds and exerting more than 60 pounds per-square-foot pressure on its smallest side.

i. A film case weighing more than 5 pounds or with strap-type closures, except any film case the USPS authorizes to be entered as a machinable parcel under C050 and to be identified by the words "Machinable in United States Postal Service Equipment," permanently attached as a nontransferable decal in the lower right corner of the case.

1.5 Fees

Renumber former E620.2.6 as E630.1.5 and revise to read as follows:]

Parcel Post mail is subject to these fees, as applicable:

a. The fee for mailing at destination BMC (DBMC), destination sectional center facility (DSCF), and destination delivery unit (DDU) Parcel Post rates must be paid once each 12-month period at each post office of mailing by or for any person or organization that mails at the destination entry rates, except as provided otherwise for plant-verified drop shipments. All destination entry rates are covered under the payment of a single annual fee. The fee may be paid in advance only for the next year and only during the last 30 days of the current service period. The fee charged is that which is in effect on the date of payment (R600).

b. The Parcel Post pickup fee must be paid every time pickup service is provided, subject to the corresponding standards in D010.

2.0 BOUND PRINTED MATTER

2.1 Description and Rate Categories

[Renumber former E620.3.1 as E630.2.1 and revise to include new rate categories as follows:]

Bound Printed Matter is Standard Mail weighing at least 1 pound but not more than 15 pounds and meeting the standards in E611, E613, and E630. Bound Printed Matter rates are based on zones and on the weight of the piece. The rate categories are as follows:

a. Single-Piece Rate. The single-piece rate applies to Bound Printed Matter not mailed at the presorted rate or carrier route rate.

b. Presorted Rate. The presorted rate applies to Bound Printed Matter prepared in a mailing of at least 300 pieces, prepared and presorted as specified in M045 and M630.

c. Carrier Route Rate. The carrier route rate applies to Bound Printed Matter prepared in a mailing of at least 300 pieces presorted to carrier routes, prepared and presorted as specified in M045 and M630.

2.2 Characteristics

[Renumber former E620.3.2 as E630.2.2.]

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2.3 Combining Pieces

[Renumber former E620.3.3 as E630.2.3.]

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2.4 Enclosures

[Renumber former E620.3.4 as E630.2.4.]

* * * * *

[Add new 2.5 to specify barcoded discount standards as follows:]

2.5 Barcoded Discount

The barcoded discount applies to machinable parcels (C050) bearing a correct, readable barcode under C850 for the ZIP Code shown in the delivery address that are part of a mailing of at least 50 Bound Printed Matter pieces, and are mailed at the single-piece rates or, under the following conditions, mailed at the presorted rates. Except for 5-digit bedloaded bundles, presorted Bound Printed Matter that is prepared under the machinable parcel preparation standards in M045 and M630 is eligible for the barcoded discount. Bedloaded bundles of presorted Bound Printed Matter that are required to be prepared under the sortation standards for flats and irregular parcels are not eligible for barcoded discounts. Carrier route Bound Printed Matter is not eligible for the barcoded discount.

[Renumber E630.3.1 as 2.6 and revise to delete references to E620 to read as follows:]

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2.6 Preparation for Presorted Rates

Presorted Bound Printed Matter must meet the basic standards in 2.1 through 2.5 and the applicable preparation standards in M630. Mailings may contain nonidentical-weight pieces only if the correct postage is affixed to each piece or if the RCSC serving the post office of mailing has authorized payment of postage by permit imprint under P710, P720, or P730 or M630.8. Each mailing must contain 300 or more pieces of presorted Bound Printed Matter. Insurance, special handling, and COD services may be used, but selective use of these services for individual parcels must be approved by the RCSC.

[Renumber former E630.3.2 as 2.7.]

2.7 Additional Standards for Carrier Route Rates

Carrier route Bound Printed Matter is subject to these additional standards:

a. Each mailing must contain 300 or more pieces sorted under M630 into groups of at least 10 pieces, 20 pounds, or 1,000 cubic inches each for the same carrier route, rural route, highway contract route, post office box section, or general delivery unit.

b. Residual pieces (not sorted as described in 2.7a) do not count toward the minimum specified in 2.7a, are ineligible for the carrier route Bound Printed matter rates, and must have postage paid at the appropriate presorted Bound Printed Matter rates. Residual pieces may be included in a carrier route Bound Printer Matter rate mailing and be endorsed "Carrier Route Presort" or "CAR–RT SORT." The number of residual pieces to any single 5-digit ZIP Code area may not exceed 5% of the total qualifying carrier route pieces addressed to that 5-digit area. Residual pieces must be separated from the pieces that qualify for the carrier route rate and must be prepared under M630.

c. Subject to A930, the mailer must apply carrier route codes to mailings using CASS-certified software and the current USPS Carrier Route Information System (CRIS) scheme or another AIS product containing carrier route information. The carrier route information must be updated within 90 days before the mailing date.

[Renumber former E620.4.0 as E630.3.0.]

3.0 SPECIAL STANDARD MAIL

[Renumber former E620.4.1 as E630.3.1 and add rate categories as follows:]

3.1 Qualification

Special Standard Mail is Standard Mail matter meeting the standards in E611, E613, and those below. Special Standard Mail rates are based on the weight of the piece, without regard to zone. The rate categories are as follows:

a. Single-Piece Rate. The single-piece rate applies to Special Standard Mail not mailed at a 5-digit or BMC rate.

b. Presorted 5-Digit Rate. The 5-digit rate applies to Presorted Special Standard Mail mailings of at least 500 pieces and meeting the other requirements of 4.0 and that are prepared and presorted to 5-digit destination ZIP Codes as specified in M630 or M041 and M045.

c. Presorted BMC Rate. The BMC rate applies to Presorted Special Standard Mail mailings of at least 500 pieces and meeting the other requirements of 4.0 and that are prepared and presorted to destination bulk mail centers as specified in M630 or M041 and M045.

[Renumber former E620.4.2 as E630.3.2.]

3.2 Qualified Items

* * * * *

[Renumber former E620.4.3 as E630.3.3.]

3.3 Loose Enclosures

* * * * *

[Renumber former E620.4.4 as E630.3.4.]

3.4 Enclosures in Books

* * * * *

[Insert current E630.4.0. Amend 4.3 by revising the second sentence and add new E630.4.7 to read as follows:]

4.0 PRESORTED SPECIAL STANDARD MAIL

* * * * *

4.3 One Presort Level

A Presorted Special Standard Mail rate mailing receives only one level of presort rate. The mailer may, however, prepare two separate mailings in order to use both levels of presort rates and claim them on the same postage statement. Pieces that do not qualify for a presort rate must be presented separately from any presorted rate mailings, but may be claimed on the same postage statement as a 5-digit rate and BMC presort rate mailing.

* * * * *

4.7 Barcoded Discount

The barcoded discount applies to machinable parcels (C050) mailed at single-piece rates and Presorted Special Standard Mail BMC rates that bear a correct, readable barcode under C850 for the ZIP Code shown in the delivery address, and that are part of a mailing of at least 50 pieces of Special Standard Mail. The discount does not apply to pieces mailed at the Presorted Special Standard Mail 5-digit rates.

[Renumber former E620.5.0 and 5.1 as E630.5.0 and E630.5.1 to read as follows:]

5.0 LIBRARY MAIL

5.1 Qualification

Library Mail is Standard Mail matter meeting the standards in E611, E613, and those below. Library Mail rates are based on the weight of the piece, without regard to zone. The basic rate category applies to all Library Mail.

[Renumber former E620.5.2 through E620.5.7 as E630.5.2 through E630.5.7.]

[Insert new 5.8 as follows:]

5.8 Barcoded Discount

The barcoded discount applies to machinable parcels (C050) of Library Mail bearing a correct, readable barcode under C850 for the ZIP Code shown in the delivery address and that are part of a mailing of at least 50 Library Mail pieces.

[Insert new 6.0 to read as follows:]

6.0 BULK PARCEL POST

[Reserved]

[Revise the title of E640 and the first sentence of E640.1.1 to read as follows:]

E640 Automation Standard Mail (A) Rates

1.0 REGULAR AND NONPROFIT RATES

1.1 All Pieces

All pieces in an automation rate Regular or Nonprofit Standard Mail (A) mailing must: * * *

* * * * *

E650 Destination Entry

* * * * *

E652 Parcel Post

1.0 BASIC STANDARDS

[Amend 1.1 through 1.4 to add information on DSCF and DDU destination entry rates to read as follows:]

1.1 Definitions

Destination entry discounts apply to Parcel Post mailings prepared as specified in M041, M045, and M630 and addressed for delivery within the service area of a destination BMC (or auxiliary service facility), sectional center facility (SCF), or delivery unit (DU) where they are deposited by the mailer. For this standard, the following destination facility definitions apply:

a. A destination bulk mail center (DBMC) includes all bulk mail centers (BMCs) and auxiliary service facilities (ASFs) under L602, and designated sectional center facilities (SCFs) under 4.0.

b. A destination sectional center facility (DSCF) includes all facilities listed under L005. Mail that is prepared on pallets for 5-digit ZIP Codes listed in Exhibit 5.0 must be entered at the BMC shown in the exhibit instead of at the SCF serving the 5-digit ZIP Codes of the delivery addresses appearing on mailpieces unless an exception has been granted under 1.3e.

c. A destination delivery unit (DDU) is a facility that delivers to the addresses appearing on the deposited pieces in a destination entry rate Parcel Post mailing. Refer to the Drop Shipment Product maintained by the National Customer Support Center (NCSC) (see G043) to determine the location of a 5-digit delivery facility. There is a charge for the Drop Shipment Product. When the Drop Shipment Product shows that mail for a single 5-digit ZIP Code area is delivered out of more than one postal facility, use the facility from which the majority of city carrier routes are delivered as the facility at which the DDU mail must be entered unless the 5-digit ZIP Code is listed in Exhibit 6.0 or Exhibit 7.0.

1.2 General

A destination entry mailing is a Parcel Post mailing that:

a. May be bedloaded, on pallets, or in pallet boxes on pallets, sacks, or other authorized containers as specified in 2.0 through 5.0, depending on the facility at which the pieces are deposited and;

b. Is not plant-loaded.

1.3 DBMC, DSCF, and DDU Rates

For DBMC, DSCF, or DDU rates, pieces must meet the applicable standards in 1.0 through 5.0 and meet the following criteria:

a. Be part of a single mailing of 50 or more pieces that are eligible for and claimed at any Parcel Post rate or rates.

b. Be deposited at a destination BMC (DBMC) or auxiliary service facility, or other equivalent facility; destination sectional center (DSCF); or destination delivery unit (DDU) as applicable for the rate claimed and as specified by the USPS.

c. Be addressed for delivery within the ZIP Code ranges that the applicable entry facility serves.

d. For destination BMC (DBMC) rates, be part of a Parcel Post mailing that is deposited at a BMC or ASF under L602 or other designated facility under 4.0, addressed for delivery within the ZIP Code range of that facility and prepared in accordance with M041 and M045 or M630.

e. For destination sectional center facility (DSCF) rates, be part of a Parcel Post mailing deposited at a designated SCF facility under L005 (or at a BMC under Exhibit 5.0); addressed for delivery within the ZIP Code service area of that SCF facility under L005 and prepared in accordance with M041 and M045, and/or M630. For 5-digit ZIP Code areas listed under Exhibit 5.0, mail prepared on pallets must be entered at the corresponding BMC facility shown in that Exhibit (not at the SCF) unless an exception is requested 15 days in advance of the mailing in writing and granted by the Area Manager, Operations Support having jurisdiction over the BMC and SCF. Exceptions, if granted, will be for a limited time. Mailers must not prepare mail on pallets (including pallet boxes on pallets) for the DSCF rate if the 5-digit delivery facility is unable to handle pallets. Refer to the Drop Shipment Product maintained by the National Customer Support Center (NCSC) (see G043) to determine which 5-digit delivery facilities can handle pallets (including pallet boxes on pallets). There is a charge for the Drop Shipment Product. When the Drop Shipment Product shows that mail for a single 5-digit ZIP Code area is delivered out of more than one postal facility, use the facility where the majority of city carrier routes are located for purposes of determining if the delivery facility can handle pallets, unless the 5-digit ZIP Code is listed in Exhibit 6.0 or Exhibit 7.0. For ZIP Codes in Exhibits 6.0 and 7.0 use the name of the facility associated with the 5-digit ZIP Code on the respective exhibit along with the Drop Shipment Product to determine if pallets may be prepared for one of those 5-digit areas.

f. For destination delivery unit (DDU) rates, be part of a Parcel Post mailing prepared in accordance with M041 and M045 and/or M630 and deposited at a designated destination delivery unit that delivers parcels to the addresses appearing on the deposited pieces. There is no required minimum number of pieces that must be deposited for the DDU rate and no specific preparation requirements; however, they must be part of a mailing of at least 50 Parcel Post rate pieces and must be separated by 5-digit ZIP Codes. Refer to the Drop Shipment Product maintained by the National Customer Support Center (NCSC) (see G043) to determine the location of the 5-digit delivery facility and whether it can handle pallets (including pallet boxes on pallets). There is a charge for the Drop Shipment Product. When the Drop Shipment Product shows that mail for a single 5-digit ZIP Code area is delivered out of more than one postal facility, use the facility from which the majority of city carrier routes are delivered as the facility at which the DDU mail must be entered and to determine whether that facility can handle pallets, unless the 5-digit ZIP Code is listed in Exhibit 6.0 or Exhibit 7.0. For ZIP Codes in Exhibits 6.0 and 7.0 use the name of the facility associated with the 5-digit ZIP Code on the respective exhibit as the facility at which DDU mail must be entered for that 5-digit ZIP Code. This facility name should be used along with the Drop Shipment Product to determine if that facility can handle pallets. If a DDU facility cannot handle pallets, and a mailer transports mail to the DDU facility on pallets, the driver will have to unload the pallets into a container specified by the delivery unit.

1.4 Postage Payment

Postage payment for DBMC, DSCF, and DDU rate mail is subject to the same standards that apply generally to Standard Mail (B). Except for plant-verified drop shipments (see P750) or metered mail drop shipment (see D072), the mailer must have a meter license or permit imprint authorization at the destination facility parent post office for mailings deposited for entry at a DBMC or ASF, at a destination sectional center facility, or at the parent post office of a destination delivery unit. Postage and fees (under E630) are paid to the post office that verifies the mailings. The mailer must ensure that Form 8125 accompanies all plant-verified drop shipments.

[Rename 1.5 to read as follows:]

1.5 BMC as Agent

The DBMC may act as acceptance agent only for its parent post office (see Exhibit 1.5) and only if authorized by Form 4410 for each mailer depositing DBMC entry rate mail.

[Delete 1.6.]

2.0 PREPARATION

[Amend 2.0 to include new destination entry rates as follows:]

2.1 Bedloaded Parcels

[Revise 2.1 to limit bedloaded destination entry mailings to BMCs and DDUs as follows:]

A mailer may present bedloaded DBMC parcels if the mailer's vehicle has a road-to-bed height of 50 (±2) inches. If applicable, the mail to be entered at different destinations must be separated to prevent mixing of mailings for deposit at different destinations. DBMC rate mailings may be bedloaded for deposit at BMCs/ASFs, and DDU rate mailings may be bedloaded for deposit at DDUs. Refer to the Drop Shipment Product available from the National Customer Support Center (NCSC) (see G043) to determine dock requirements

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for a DDU facility. (There is a charge for this information.)

2.2 Containers

[Reorganize and revise 2.2 to include DSCF and DDU mailings and delete use of BMC over-the-road containers for the DBMC rate as follows:]

DBMC (if not bedloaded), DDU rate mailings (if not bedloaded), and all DSCF mailings must be prepared as follows:

a. Machinable parcels for which a DBMC, DSCF, or DDU rate is claimed must be sacked under M630 or prepared on pallets under M041 and M045.

b. For DBMC rate mail, nonmachinable parcels that each weigh 35 pounds or less must be sacked under M630 if the parcels do not contain perishables and the size of the parcels allows a sack to hold at least two pieces. DBMC rate nonmachinable parcels that cannot be sacked in this manner or that weigh more than 35 pounds must be transported as outside (unsacked) pieces. If authorized in advance by the USPS, DBMC rate nonmachinable parcels may be palletized.

c. DSCF rate mail, if sacked under M630, must contain at least 7 pieces per sack or, if the sack is overflow from a 5-digit sack that contains at least 7 pieces it may contain less. DSCF rate mail, if sacked under M045 as overflow from a 5-digit pallet that meets the applicable pallet minimum, may contain any number of pieces. Machinable and nonmachinable pieces may be included in the same sack.

d. For the DSCF rate, 5-digit sacks may be bedloaded or they may be placed on SCF pallets that are labeled and otherwise prepared under M045.

e. For DSCF rate and DDU rate mail, nonmachinable parcels may be palletized (including pallet boxes on pallets). Nonmachinable parcels may be combined with machinable parcels on 5-digit pallets (including pallet boxes on pallets) claimed at DSCF or DDU rates under M041 and M045.

f. For DDU rate mail, there are no minimums for sacks, pallets, or pallet boxes on pallets. DDU rate mail must be separated by 5-digit ZIP Code (even if bedloaded) and, if placed in sacks or on pallets (including pallet boxes on pallets), it must be properly labeled to the 5-digit ZIP Code. Machinable and nonmachinable pieces may be included in the same sack or on the same pallet (including pallet boxes).

3.0 DEPOSIT

3.1 Freight

Drop shipments are freight until deposited and accepted as mail at the destination facility. The mailer may request use of a numbered PVDS band seal to secure mailer vehicles transporting plant-verified drop shipments.

3.2 Presentation

[Revise to include requirements for DSCF and DDU destination entry mailings as follows:]

Destination entry rate mailings must be verified under a plant-verified drop shipment authorization by a detached mail unit (DMU) in the mailer's plant or at the origin post office business mail entry unit (BMEU) serving the mailer's plant. They also may be deposited for verification at a business mail entry unit located at a destination BMC, destination sectional center facility, or other designated destination postal facility. Only plant-verified drop shipments may be deposited at a destination delivery unit not co-located with a post office or other postal facility having a business mail entry unit. When presented to the USPS, destination entry mailings must meet the following requirements:

a. Separation by zone for DBMC rate mailings is required only for permit imprint mailings of identical-weight pieces that are not mailed using a postage payment system under P710, P720, or P730, or not mailed under M630.8.0.

b. Each mailing must be separated from other mailings, and destination entry rate mailings for deposit at one destination postal facility must be separated from mailings for deposit at other facilities.

c. Mail must be separated from freight transported on the same vehicle.

d. Each piece of DBMC, DSCF, or DDU rate Parcel Post must be marked as specified in M012 and M630.

e. The mailer must ensure that Form 8125 accompanies all plant-verified drop shipments.

f. If Periodicals mail is on the same vehicle as Standard Mail (B) the Periodicals mail should be loaded in the tail of the vehicle.

[Rename the title of 3.3 to read as follows:]

3.3 BMC as Agent

The DBMC may verify and accept mail if authorized by Form 4410 to act as agent for the parent post office where the mailer's account or license is held.

3.4 Appointments

[Revise 3.4 to change and update appointment procedures as follows:]

a. Except for local mailers under 3.5 and mailings of perishable commodities, appointments for deposit of destination entry rate mail at BMCs, ASFs, and SCFs must be scheduled through the appropriate appointment control center at least a day in advance. Same day appointments may be granted by a control center on the basis of a telephone request. All appointments for BMC loads must be scheduled by the appropriate BMC control center. Appointments for SCFs and ASFs must be scheduled through the appropriate district control center. Appointments may be made up to thirty (30) calendar days prior to a desired appointment date. Mailers must comply with the scheduled mail deposit time and location. The mailer must cancel any appointment by notifying the appropriate control center at least a day in advance of a scheduled appointment time.

b. Electronic appointments may be made by mailers/agents using a USPS-issued computer log-on ID. Electronic appointments or cancellations must be made at least 12 hours prior to the desired time and date. All information required by the USPS appointment system regarding a mailing must be furnished.

c. For deposit of DDU mailings, an appointment must be made by contacting the DDU at least 24 hours in advance. If the appointment must be canceled, a mailer must notify the DDU at least a day in advance of a scheduled appointment. Mailers desiring electronic confirmation of DDU mail entry also must schedule the appointment through the district control center. Recurring (standing) appointments will be allowed if shipment frequency is weekly or more often.

d. When Periodicals are transported together with Standard Mail (A) or (B) as a mixed load (E250), an appointment must be obtained for deposit at a destination entry facility.

* * * * *

3.7 Deposit Conditions

[Revise 3.7a to clarify that rescheduling is permitted for refused mailings as follows:]

Deposit of mail also is subject to these conditions:

a. Destination facilities may refuse mailings that are unscheduled or late (i.e., if vehicles arrive more than 2 hours after the scheduled appointment at ASFs, BMCs, or SCFs and more than 20 minutes late at delivery units). If a mailing is refused, a mailer is permitted to make a new appointment.

* * * * *

3.8 Vehicle Unloading

[Revise 3.8 to include DSCF and DDU rate mail as follows:]

Unloading of destination entry mailings is subject to these conditions:

a. Properly prepared containerized loads (e.g., pallets) are unloaded by the USPS at BMCs, ASFs, and SCFs. The USPS does not unload or permit the mailer (or mailer agent) to unload palletized loads that are unstable or severely leaning or that have otherwise not maintained their integrity in transit.

b. The driver must unload bedloaded shipments within 8 hours of arrival at BMCs, ASFs, and SCFs. Combination containerized and bedloaded drop shipment mailings are classified as bedloaded shipments for unload times. The USPS may assist in unloading.

c. At delivery units, the driver must unload all mail, whether bedloaded, sacked, or palletized (including pallet boxes on pallets) within 1 hour of arrival. If pallets (including pallet boxes on pallets) are stacked, the driver is required to unload, unstack, and unstrap them. If a DDU facility cannot handle pallets, and a mailer transports mail to the DDU facility on pallets, the driver must unload the pallets into a container specified by the delivery unit. The driver may be required to place bedloaded pieces in containers provided by the delivery unit in order to maintain separation by 5-digit ZIP Codes or to place containerized mail so as to maintain the separation of 5-digit ZIP Codes.

d. When driver unloading is required, the driver or assistant must stay with and continue to unload the vehicle once at the dock.

e. The driver must remove the vehicle from USPS property after unloading. The driver and assistant are not permitted in USPS facilities except the dock and designated driver rest area.

3.9 Charges

[Revise 3.9 to include all destination rate mailings as follows:]

The USPS is not responsible for demurrage or detention charges incurred by a mailer who presents destination rate mailings.

3.10 Appeals

Mailers who believe that they are denied equitable treatment may appeal to the manager, customer service (district), responsible for the destination postal facility.

3.11 Documentation

[Revise 3.11 to include DSCF and DDU mailings as follows:]

A postage statement must accompany each destination entry rate mailing. Any other documentation must be submitted as required by the standards for the rate claimed or the postage payment method used.

* * * * *

[Add 5.0 as follows to provide for deposit of some DSCF mail at a BMC:]

5.0 DSCF MAIL ENTERED AT A DESIGNATED BMC

DSCF rate mail prepared on pallets (including pallet boxes on pallets) that is for a 5-digit ZIP Code listed in Exhibit 5.0 must be entered at the corresponding BMC facility listed on that exhibit instead of at the DSCF unless an exception has been granted under 1.3e. Sacked DSCF rate mail for the 5-digit ZIP Codes in Exhibit 5.0 must be entered at the DSCF.

EXHIBIT E652.5.0, BMC DEPOSIT OF DSCF RATE PALLETS

BMC	Destination ZIP code
ATLANTA	30006–08, 30, 32–37, 60–69, 71, 80–86, 88–90.
	30305–07, 19, 24, 28–29, 38, 40–42, 45–46, 59, 62–63, 66, 76.
	31101.
	39901.
CHICAGO	53140–44.
	53401–08.
	60016–17, 19, 25, 53, 56, 68, 70, 76–77.
	60103, 05, 07, 20–23, 26, 31, 53–54, 60–65, 68, 76, 79, 87, 89, 92–95.
	60301–04, 06–99.
	60409, 11–12, 15, 22, 25, 30–33, 35–36, 38–41, 46, 53–58, 62, 64–65, 67, 73, 77–78, 82, 90.
	60504–07, 15–17, 21–23, 25–26, 40, 42, 63–64, 66–68, 98.
	60601, 05, 08–60, 67, 81, 90, 93–94.
	60714.
	60803–05.
CINCINNATI	None.
DALLAS	None.
DENVER	69190.
	80001–19, 32, 40–42, 44, 46–47.
	80110–15, 20–29, 50–56, 60–63, 65–67.
	80215, 21–22, 24, 26–29, 31–33, 35–37, 51.
	80401–19.
	80521–28, 53–54.
	80631–39.
DES MOINES	50000–50399, 50900–50999.
DETROIT	48007, 15, 21, 25–26, 34,37, 42–46, 66–73, 75–76, 80–84, 86, 89–93,98–99.
	48103–04, 06–09, 11–13, 20–28, 30, 34, 41, 50–54, 61–62, 70, 74, 80, 82–88, 92, 96, 97–98.
	48192, 95, 97–98.
	48204, 20–21, 27–28, 35.
	48310–18, 40–43, 97.
GREENSBORO	27101–02.
	27408–10.
	27514–16.
	27701.

EXHIBIT E652.5.0, BMC DEPOSIT OF DSCF RATE PALLETS—Continued

BMC	Destination ZIP code
JACKSONVILLE	31520–25, 27.
	32065, 67, 73, 84–86, 91–92, 95.
	32173–76.
	32205, 07, 10–11, 16, 20–22, 24–25, 30, 36, 38–39, 44–45, 47, 54, 77.
	32901–12, 19, 22–32, 34–37, 40–41, 51–56, 58–69, 76–78.
	33427–29, 31–34, 60–67, 81, 86–87, 96–98.
	33755–67, 70–79.
	33880–85.
	34101–06, 08–10, 12–14, 16–17, 19–20.
	34470–82.
	34945–51, 54, 79–82, 94–97.
KANSAS CITY	64013–15, 50–51, 55–56, 58.
	64116–19, 51, 53–54, 57–61, 63–64, 67, 88, 90.
	66002, 44–49.
LOS ANGELES	90220–23, 40–42, 80.
MEMPHIS	38018, 88.
	38115, 18, 25, 33–35, 38–39, 41, 75, 81, 83–84, 88, 93, 95.
	38614.
	38732.
MINNEAPOLIS/ST. PAUL	None.
NEW JERSEY	None.
PHILADELPHIA	19001–04, 06–10, 12–18, 20–23, 25–26, 28–41, 43–44, 46–50, 52–53, 61, 63–67, 70, 72–76, 78–91, 93–96.
	19111, 14–16, 19–20, 24, 28, 34–37, 40, 44, 49, 52, 54–55, 60.
PITTSBURGH	None.
ST. LOUIS	62002, 40.
	62220–23, 26.
	63005–06, 11, 17, 21–22, 24, 31–34, 42–45, 74.
	63104–41, 43–44, 46–47, 51, 57–58.
	63301–04.
SAN FRANCISCO	93921–23.
	94002–03, 10–12, 22–28, 30, 35, 39–43, 59, 61–65, 70, 86–89.
	94401–99.
	94504, 06, 08, 11–24, 26–29, 33, 35–46, 48, 55–56, 58–63, 67, 70–71, 73–81, 83–85, 89–99.
SEATTLE	98002–04, 23, 31, 35, 63–64, 92–93.
SPRINGFIELD	None.
WASHINGTON	None.

6.0 DELIVERY FACILITY EXCEPTIONS TO THE "MAJORITY OF CITY CARRIERS" RULE

For ZIP Codes in Exhibit 6.0 use the name of the facility associated with the 5-digit ZIP Code in that exhibit as the facility at which DDU rate mail for that 5-digit ZIP Code must be entered, and for both DDU and DSCF mail; to determine whether that 5-digit facility can handle pallets. See 1.1 and 1.3.

Exhibit E652.6.0, Delivery Facility Exceptions to the "Majority of City Carriers" Rule

This listing identifies 5-digit ZIP Codes that are exceptions to the "majority of city carriers rule" which is used to determine the Standard (B) parcel facility for a 5-digit ZIP Code in instances of where a ZIP Code is delivered by multiple facilities. The name of the primary facility for parcel delivery is listed beside each 5-digit ZIP Code. Additional information about the facility including drop ship address and whether the facility can handle a pallet is included in the Drop Shipment Product. At a future date this list will be available in the Drop Shipment Product.

ZIP Code	Facility name
ALABAMA:	
36130	Montgomery.
ALASKA:	
99701	Main Office.
99709	Main Office.
99801	Mendenhall.
CALIFORNIA:	
91941	La Mesa.
92056	Oceanside.
92122	Universal City Annex.
92623	Harvest Station.
92693	San Juan Capistrano.
94087	Sunnyvale.
94304	Palo Alto.
FLORIDA:	
34743	Buena Ventura Lakes.
34747	Celebration.
GEORGIA:	
30811	Keysville.
31704	Albany.
IOWA:	
52401	Cedar Rapids.
KANSAS:	
66044	Jayhawk.
66226	Monticello.
66619	Hicrest.
KENTUCKY:	
40022	Simpsonville.
40763	Williamsburg.
41730	Hyden.
42338	Hartford.
LOUISIANA:	
70503	Oil Center.
71201	Monroe.
MAINE:	
04043	Kennebunk.
04345	Gardiner.
04402	Eastern Maine Carrier Annex.
04769	Presque Isle.
04841	Rockland.
MASSACHUSETTS:	
02584	Nantucket.
MINNESOTA:	
55369	Maple Grove.
55378	Burnsville.
56387	Waite Park.
MISSOURI:	
64113	Country Club.
MONTANA:	
59106	Billings.
NEW HAMPSHIRE:	
03224	Tilton.
NEW YORK:	
14304	Niagara Falls.
NORTH CAROLINA:	

ZIP Code	Facility name
27706	Durham.
28018	Forest City.
28309	Lafayette.
OHIO:	
45013	Hamilton.
45459	Centerville.
PENNSYLVANIA:	
18073	Red Hill.
18241	Nuremberg.
19026	Pilgrim Gardens.
19136	Holmesburg Carrier Annex.
RHODE ISLAND:	
02842	Middleton.
SOUTH DAKOTA:	
57402	Aberdeen.
TENNESSEE:	
37224	South.
TEXAS:	
75501	Texarkana.
75903	Lufkin.
VIRGINIA:	
22320	Alexandria.
22405	Fredericksburg.
23433	Driver.
23521	LC Page.
WASHINGTON:	
98203	Claremont.
98324	Carbonado.
98375	South Hill Annex.
98387	Spanaway.
98687	East Vancouver DDU.
WEST VIRGINIA:	
25801	Beckley.
26302	Eastpointe.
26330	Eastpointe.
WISCONSIN:	
53703	Madison.

7.0 DELIVERY FACILITIES DIFFERENT THAN THOSE IN THE DROP SHIPMENT PRODUCT

For ZIP Codes in Exhibit 7.0 use the name of the facility associated with the 5-digit ZIP Code in that exhibit as the facility at which DDU rate mail for that 5-digit ZIP Code must be entered, and for both DDU and DSCF mail, to determine whether that 5-digit facility can handle pallets. See 1.1 and 1.3.

Exhibit E652.7.0, Delivery Facilities Different than those in the Drop Shipment Product

Parcel Post mailings for the ZIP Codes shown must be deposited at the facilities listed in order to qualify for destination delivery unit rates. The listing identifies 5-digit ZIP codes and facilities that are different from the ones indicated in the Drop Shipment Product for letters and flats. At a future date this information will be available in the Drop Shipment Product.

ZIP codes served	Destination delivery unit location
ALASKA:	
99702	Fairbanks—5400 Mail Trail, Fairbanks, AK 99709–9998.
CALIFORNIA:	
90223	Compton—701 S. Santa Fe Avenue, Compton, CA 90221–9998.
92677	Laguna Niguel—29911 Niguel Road, Laguna Beach, CA 92607–9998.
92684	Westminster—15080 Goldenwest Circle, Westminister, CA 92685–9998.
FLORIDA:	
34278	Manasota P&DC—850 Tallevast Road, Sarasota, Florida 34243–3249.
MASSACHUSETTS:	
02113, 14, 29, 99 02215.	Boston P&DC—25 Dorchester Avenue, Boston, MA 02205–9998.
02144–45	Incoming Mail Center—307 Beacham Street, Chelsea, MA 02150–9998.
MISSISSIPPI:	
39563	Pascagoula—911 Jackson Avenue, Pascagoula, MS 39567–9998.
MINNESOTA:	
55102	Saint Paul—180 Kellogg Blvd. E., Saint Paul, MN 55101–9997.
MONTANA:	
59401, 04–05, 14	Great Falls Annex—1409 14th Street SW, Great Falls, MT 59404–9998.
NEW YORK:	
10001, 18, 26, 27, 29, 32–35, 40, 43, 60, 81, 87, 90, 95, 98, 99. 10115–23, 99.	New York City—James A. Farley Building, 441 8th Avenue, New York, NY 10001–9998.
10017, 21, 22, 28, 30, 31, 37, 39, 44, 55. 10128, 51–55, 62, 65–78.	Bronx—East Side Parcel Post Annex, 500 East 132nd Street, Bronx, NY 10454–4619.
10002–07, 09–14, 16, 19, 20, 23–25, 36, 38, 41. 10103–07, 10, 49, 58. 10210, 56–60, 65, 70, 71, 79, 80–82, 85, 86, 92	New York—Central Parcel Post Facility, 341 9th Avenue, New York, NY 10199–9991.
10008, 15, 45–48, 80 10203, 49, 61, 67.	New York—Church Street Station, 90 Church Street, New York, NY 10007–9998.
10111, 12, 29, 85	New York—Times Square Station, 340 W. 42nd Street, New York, NY 10036–9998.
10461	Soundview—1687 Gleason Avenue, Bronx, NY 10472–9998.
10463	Mott Haven—517 E. 139th Street, Bronx, NY 10454–9998.
14901	Elmira P&DC—1580 Sullivan Street, Elmira, NY 14901–9997.
PENNSYLVANIA:	
15131–35	McKeesport—850 Walnut Street, McKeesport, PA 15134.
15122	West Mifflin—500 Regis Avenue, Pittsburgh, PA 15236–9998.
15201	Bloomfield—5182 Liberty Avenue, Pittsburgh, PA 15224–9998.
15223	Glenshaw—1541 Butler Park Road, Pittsburgh, PA 15116–9998.
15225	Woods Run Annex—2840 New Beaver Avenue, Pittsburgh, PA 15233–9998.
15240	Oakland—347 S. Bouquet Street, Pittsburgh, PA 15213–9998.
15244	Greentree—770 Trumbull Drive, Pittsburgh, PA 15220.
17735	Canton—55 Troy Street, Canton, PA 17724–9998.

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9.0 MAILING WHILE APPLICATION PENDING

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9.2 Postage Record

[Amend 9.2 by removing "or Single-Piece Standard Mail" in the last sentence to read as follows:]

While an application is pending, postage must be paid at the applicable First-Class Mail or Priority Mail rates, or at the following Standard Mail (A) rates: regular Enhanced Carrier Route; regular automation, or regular Presorted. The USPS records the difference between postage paid at the regular Standard Mail (A) rates (Enhanced Carrier Route, automation and Presorted) and the postage that would have been paid at the Nonprofit Standard Mail rates. No record is kept if postage is paid at First-Class Mail or Priority Mail rates.

9.3 Refund

[Amend 9.3b by removing "or Single-Piece Standard Mail" to read as follows:]

If an authorization to mail at Nonprofit Standard Mail rates is issued, the mailer may be refunded the postage paid at that office in excess of the Nonprofit Standard Mail rate since the effective date of the authorization. No refund is made:

* * * * *

b. If postage was paid at First-Class Mail or Priority Mail rates.

* * * * *

F Forwarding and Related Services

F000 Basic Services

F010 Basic Information

* * * * *

3.0 DIRECTORY SERVICE

[Amend 3.0d by removing "or Single-Piece Standard Mail" to read as follows:]

USPS letter carrier offices give directory service to the types of mail listed below that have an insufficient address or cannot be delivered at the address given (the USPS does not compile a directory of any kind):

* * * * *

d. Parcels mailed at any Standard Mail (B) rate or endorsed by the mailer.

* * * * *

5.0 CLASS TREATMENT FOR ANCILLARY SERVICES

5.1 Priority Mail and First-Class Mail

[Insert new sentence before the chart in 5.1 to read as follows:]

Undeliverable Priority Mail and First-Class Mail (including stamped cards and postcards) are treated as described in the chart below. During months 13 through 18, pieces are returned to the sender with an on-piece address correction at no charge. Forwarding address information is not provided for mail with the exceptional address format. The Priority Mail portion of a Priority Mail drop shipment receives the forwarding, return, and address correction services described in this chart. The mail enclosed in a Priority Mail drop shipment receives the services appropriate for its class. First-Class Mail and Priority Mail that bear Standard Mail (A) markings and endorsements as permitted in E620.1.3 and P100, receive forwarding, return, and address correction services for Standard Mail (A) under 5.3.

* * * * *

5.2 Periodicals

[Amend 5.2e and 5.2g to read as follows:]

Undeliverable Periodicals publications (including publications pending Periodicals authorization) are treated as described in the chart below and under these conditions:

* * * * *

e. The publisher may request the return of copies of undelivered Periodicals publications by printing the endorsement "Address Service Requested" on the envelopes or wrappers, or on one of the outside covers of unwrapped copies, immediately preceded by the sender's name, address, and ZIP+4 or 5-digit ZIP Code. The per piece rate charged for return is the appropriate single-piece First-Class Mail or Priority Mail rate as applicable for the weight of the piece. When the address correction is provided incidental to the return of the piece, there is no charge for the correction. This endorsement obligates the publisher to pay return postage.

* * * * *

g. Periodicals matter is forwarded only to domestic addresses.

[Amend the "Address Service Requested" portion of 5.2g (chart) to read as follows:]

Mailer endorsement	USPS action on UAA pieces
"Address Service Requested" [1].	First 60 days: piece forwarded; no charge. After 60-day period, or if undeliverable: piece returned with address correction or reason for nondelivery attached; single-piece First-Class or Priority Mail rate as applicable for weight of piece charged.
"Forwarding Service Requested".	Not available for Periodicals.
"Return Service Requested"	Not available for Periodicals.
"Change Service Requested".	Not available for Periodicals.
No endorsement [1]	First 60 days: piece forwarded; no charge. After 60-day period, or if undeliverable: separate address correction or reason for nondelivery provided; address correction fee charged; piece disposed of by USPS.

[1] Valid for all pieces, including Address Change Service (ACS) participating pieces.

5.3 Standard Mail (A)

[Amend 5.3 by deleting 5.3a and renumbering 5.3b through 5.3i as 5.3a through 5.3h, respectively. Revise renumbered 5.3a, 5.3b, and 5.3f through 5.3h to read as follows:]

Undeliverable Standard Mail (A) is treated as described in the chart below and under these conditions:

a. Mail that qualifies for a single-piece Special Standard or Library Mail Standard Mail (B) rate under the applicable standards is forwarded and returned at that rate, if the mailer's endorsement includes the name of the applicable Standard Mail (B) rate.

b. Mail that qualifies for Shipper Paid Forwarding (F020) under the applicable standards is forwarded at, and (if necessary) returned at the single-piece First-Class or Priority Mail rate as applicable for the weight of the piece.

* * * * *

f. The weighted fee is the appropriate single-piece First-Class or Priority Mail rate, as applicable for the weight of the piece, multiplied by 2.472 and rounded up to the next whole cent (if the computation yields a fraction of a cent). The weighted fee is computed (and rounded if necessary) for each piece individually. Neither the applicable postage, the factor, nor any necessary rounding is applied cumulatively to multiple pieces. The fee is charged when an unforwardable or undeliverable piece is returned to the sender and the piece is endorsed "Address Service Requested" or "Forwarding Service Requested." These endorsements obligate the sender to pay the weighted fee on all returned pieces.

g. Mail that qualifies for Bulk Parcel Return Service (BPRS) under the applicable standards in S924 is returned at the BPRS per piece fee if the mailer uses one of the endorsements that includes "—BPRS."

Mailer endorsement	USPS action on UAA pieces
"Return Service Requested—BPRS". "Address Service Requested—BPRS".	Piece returned with new address or reason for nondelivery attached; only the Bulk Parcel Return Service fee charged (address correction fee not charged).
	Months 1 through 12: piece forwarded; no charge to addressee; separate ACS notice of new address provided; ACS address correction fee and postage at single-piece First-Class or Priority Mail rate as applicable for weight of piece charged via ACS participant code.
	Months 13 through 18: piece returned with new address attached; only the Bulk Parcel Return Service fee charged (address correction fee not charged).
	After Month 18, or if undeliverable: piece returned with reason for nondelivery attached; only Bulk Parcel Return Service fee charged (address correction fee not charged).

h. Standard Mail (A) is forwarded only to domestic addresses.

Mailer endorsement	USPS action on UAA pieces
"Address Service Requested"[1].	Months 1 through 12: piece forwarded; no charge; separate notice of new address provided; address correction fee charged.
	Months 13 through 18: piece returned with new address attached; only weighted fee charged (address correction fee not charged).
	After month 18, or if undeliverable: piece returned with reason for nondelivery attached; only weighted fee charged (address correction fee not charged).
"Forwarding Service Requested".	Months 1 through 12: piece forwarded; no charge.
	Months 13 through 18: piece returned with new address attached; only weighted fee charged (address correction fee not charged).
	After month 18, or if undeliverable: piece returned with reason for nondelivery attached; only weighted fee charged (address correction fee not charged).
"Return Service Requested"	Piece returned with new address or reason for nondelivery attached; only return postage at single-piece First-Class or Priority Mail rate as applicable for weight of piece charged (address correction fee not charged).
"Change Service Requested"[1].	Separate notice of new address or reason for nondelivery provided; in either case, address correction fee charged; piece disposed of by USPS.
No endorsement	Piece disposed of by USPS.

[1] Valid for all pieces, including Address Change Service (ACS) participating pieces.

* * * * *

6.0 ENCLOSURES AND ATTACHMENTS

[Amend the first sentences of 6.1 and 6.2 to read as follows:]

6.1 Periodicals

Undeliverable Periodicals publications (including publications pending Periodicals authorization) with a nonincidental First-Class Mail attachment or enclosure are returned at the single-piece First-Class Mail or Priority Mail rate as applicable for the weight of the piece. The weight of the attachment or enclosure is not included when computing the charges for return of the mailpiece. Undeliverable Periodicals publications (including publications pending Periodicals authorization) with an incidental First-Class Mail attachment or enclosure are treated as dead mail unless endorsed "Address Service Requested."

6.2 Standard Mail (A)

Undeliverable, unendorsed Standard Mail (A) with a nonincidental First-Class Mail attachment or enclosure is returned at the single-piece First-Class Mail or Priority Mail rate as applicable for the weight of the piece. The weight of the First-Class Mail attachment or enclosure is not included when computing the charges for return of the mailpiece. Undeliverable, unendorsed Standard Mail (A) with an incidental First-Class Mail attachment or enclosure is treated as dead mail.

* * * * *

8.0 DEAD MAIL

8.1 Basic Information

[Amend 8.1 to read as follows:]

Dead mail is matter deposited in the mail that is or becomes undeliverable and cannot be returned to the sender from the last office of address. Every reasonable effort is made to match articles found loose in the mail with the envelope or wrapper from which lost and to return or forward the articles.

a. Nonmail matter (e.g., wallets and bank deposits) found in collection boxes or at other points within USPS jurisdiction is returned postage due at the single-piece First-Class Mail or Priority Mail rate for keys and identification devices that is applicable based on the weight of the matter.

* * * * *

F020 Forwarding

* * * * *

2.0 FORWARDABLE MAIL

* * * * *

2.3 Discontinued Post Office

[Amend 2.3 by removing "and all Single-Piece Standard Mail" to read as follows:]

All Express Mail, First-Class Mail, Periodicals, and Standard Mail (B) addressed to a discontinued post office may be forwarded without added charge

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to a post office that the addressee designates as more convenient than the office to which the USPS ordered the mail sent.

2.4 Rural Delivery

[Amend 2.4 by removing "and all Single-Piece Standard Mail" to read as follows:]

When rural delivery service is established or changed, a customer of any office receiving mail from the rural carrier of another office may have all Express Mail, First-Class Mail, Periodicals, and Standard Mail (B) forwarded to the latter office for delivery by the rural carrier without added charge, if the customer files a written request with the postmaster at the former office.

* * * * *

2.6 Mail for Military Personnel

[Amend the first sentence of 2.6 by removing "and all Single-Piece Standard Mail" to read as follows:]

All Express Mail, First-Class Mail, Periodicals, and Standard Mail (B) addressed to persons in the U.S. Armed Forces (including civilian employees) serving where U.S. mail service operates is forwarded at no added charge when the change of address is caused by official orders. * * *

3.0 POSTAGE FOR FORWARDING

* * * * *

3.5 Standard Mail (A)

[Amend the second sentence of 3.5 to read as follows:]

* * * Shipper Paid Forwarding, used in conjunction with Address Change Service (F030), provides mailers of Standard Mail (A) machinable parcels an option of paying forwarding postage at the single-piece First-Class or Priority Mail rate as applicable for the weight of the piece. * * *

* * * * *

G The USPS and Mailing Standards

* * * * *

G040 Information Resources

* * * * *

G043 Address List For Correspondence

[Add the following at the end of the unit:]

Other

AMERICAN STANDARDS INSTITUTE INC, 11 W 42ND ST, NEW YORK NY 10036–8002, (212) 642–4900

AUTOMATIC IDENTIFICATION MANUFACTURERS (AIM), 634 ALPHA DR, PITTSBURGH PA 15238–2802, www.aimusa.org

UNIFORM CODE COUNCIL INC, 8163 OLD YANKEE RD STE J, DAYTON OH 45458–1839

* * * * *

L Labeling Lists

* * * * *

[Delete the heading "L100 First-Class Mail" and labeling list L102.]

L600 Standard Mail

* * * * *

[Insert new labeling list L605 as follows:]

L605 BMCs—Nonmachinable Parcel Post

Mailers preparing BMC Presort and OBMC Presort Parcel Post mailings of nonmachinable parcels must sort the parcels and label pallets according to this list.

Column A—destination ZIP codes	Column B—label to
005–007, 009, 068–079, 085–098, 100–119, 124–127, 340	BMC NEW JERSEY NJ 00102
006–009	SCF SAN JUAN PR 006[1]
008	BMC NEW JERSEY NJ 00102[2]
008	BMC JACKSONVILLE FL 32099[3]
010–067, 120–123, 128, 129	BMC SPRINGFIELD MA 05500
130–136, 140–149	ASF BUFFALO NY 140
150–168, 260–266, 439–447	BMC PITTSBURGH PA 15195
080–084, 137–139, 169–199	BMC PHILADELPHIA PA 19205
200–212, 214–239, 244, 254, 267, 268	BMC WASHINGTON DC 20499
240–243, 245–249, 270–297, 376	BMC GREENSBORO NC 27075
298, 300–312, 317–319, 350–352, 354–368, 373, 374, 377–379, 399	BMC ATLANTA GA 31195
299, 313–316, 320–339, 341, 342, 344, 346, 347, 349	BMC JACKSONVILLE FL 32099
369–372, 375, 380–397, 700, 701, 703–705, 707, 708, 713, 714, 716, 717, 719–729	BMC MEMPHIS TN 38999
250–253, 255–259, 400–418, 421, 422, 425–427, 430–433, 437, 438, 448–462, 469–474	BMC CINCINNATI OH 45900
434–436, 465–468, 480–497	BMC DETROIT MI 48399
500–516, 520–528, 612, 680, 681, 683–689	BMC DES MOINES IA 50999
498, 499, 540–551, 553–564, 566	BMC MPLS/ST PAUL MN 55202
570–577	ASF SIOUX FALLS SD 570
565, 567, 580–588	ASF FARGO ND 580
590–599, 821	ASF BILLINGS MT 590
463, 464, 530–532, 534, 535, 537–539, 600–611, 613	BMC CHICAGO IL 60808
420, 423, 424, 475–479, 614–620, 622–631, 633–639	BMC ST LOUIS MO 63299
640, 641, 644–658, 660–662, 664–679, 739	BMC KANSAS CITY KS 64399
730, 731, 734–738, 740, 741, 743–746, 748, 749	ASF OKLAHOMA CITY OK 730
706, 710–712, 718, 733, 747, 750–799, 885	BMC DALLAS TX 75199
690–693, 800–816, 820, 822–831	BMC DENVER CO 80088
832–834, 836, 837, 840–847, 893, 898, 979	ASF SALT LAKE CTY UT 840
850, 852, 853, 855–857, 859, 860, 863, 864	ASF PHOENIX AZ 852
865, 870–875, 877–884	ASF ALBUQUERQUE NM 870
889–891, 900–908, 910–928, 930–935	BMC LOS ANGELES CA 90901
894, 895, 897, 936–969	BMC SAN FRANCISCO CA 94850
835, 838, 970–978, 980–986, 988–999	BMC SEATTLE WA 98000

[1] Mailed from ZIP Code areas 006–009.

[2] If the entry post office is in ZIP Code areas 010–269, combine with mail for ZIP Code areas 005–007, 009, 068–079, 085–098, 100–119, 124–127, and 340, and label to BMC NEW JERSEY NJ 00102.

[3] If the entry post office is in ZIP Code areas 270–999, combine with mail for ZIP Code areas 299, 313–316, 320–339, 341, 342, 344, 346, 347, and 349, labeled to BMC JACKSONVILLE FL 32099.

* * * * *

M Mail Preparation and Sortation

M000 General Preparation Standards

M010 Mailpieces

M011 Basic Standards

1.0 TERMS AND CONDITIONS

* * * * *

1.3 Preparation Instructions

[Insert new 1.3r and 1.3s to read as follows:]

For purposes of preparing mail:

* * * * *

r. An overflow sack for Parcel Post DSCF rate mail is a 5-digit sack prepared with fewer than 7 pieces after all other sacks for that same 5-digit ZIP Code area are prepared with 7 or more pieces per sack as required by M630. If all of the mail is sacked under M630, only one overflow sack is permitted for each 5-digit ZIP Code. If a mailing is prepared on pallets, remaining pieces of Parcel Post mail may be prepared in one or more 5-digit overflow sacks only after one or more 5-digit pallets are prepared to meet the minimum pallet requirement specified in M045. More than one overflow sack per 5-digit ZIP Code area is permitted for mail prepared to 5-digit pallets under M045. Pieces in overflow sacks qualify for the Parcel Post DSCF rates.

s. An overflow pallet in a Parcel Post DSCF rate mailing is a 5-digit pallet containing pieces that remain after one or more 5-digit pallets have been prepared to meet the minimum pallet requirement specified in M045. Only one overflow pallet per 5-digit ZIP Code area is permitted for DSCF rate mail palletized under M045. Pieces on 5-digit overflow pallets qualify for the DBMC rates.

1.4 Mailing

[Amend 1.4 to read as follows:]

Mailings are defined as:

a. *General.* A mailing is a group of pieces within the same class of mail and, except for certain parcel rates, the same processing category that may be sorted together and/or may be presented under a single minimum volume mailing requirement under the applicable standards. Generally, types of mail that follow different flows through the postal processing system (e.g., automation, nonautomation carrier route, and other nonautomation) and mail for each separate class and subclass must be prepared as a separate mailing. Other specific standards may define whether separate mailings may be combined, palletized, reported, or deposited together.

b. *First-Class Mail.* The following types of First-Class Mail may not be part of the same mailing despite being in the same processing category:

(1) automation rate and any other type of mail;

(2) nonautomation Presorted rate and any other type of mail;

(3) nonautomation Presorted rate mail prepared under the optional upgradable preparation and nonautomation Presorted rate mail prepared under the required preparation;

(4) single-piece rate and any other type of mail.

c. *First-Class Postcards.* Postcards and letters must be prepared as separate mailings except that they may be sorted together if each meets separate minimum volume mailing requirements.

d. *Periodicals.* Mail qualifying for the In-County subclass rates may be part of a mailing at the Regular rates, or the Nonprofit rates, or the Classroom rates. Mail at carrier route rates, nonautomation presort rates, and automation rates must each be sorted as separate mailings. However, each of these mailings may be reported on the same postage statement provided the pieces are for the same publication and edition. See M041.6.0, M045.5.0, M045.7.0, and M200.6.0 for copalletized, combined, or mixed-rate level mailings.

e. *Standard Mail (A).* Except as provided in E620.1.2, the following types of Standard Mail (A) may not be part of the same mailing:

(1) automation Enhanced Carrier Route and any other type of mail;

(2) non-carrier route automation and any other type of mail;

(3) nonautomation Enhanced Carrier route and any other type of mail;

(4) Presorted rate mail and any other type of mail;

(5) Presorted rate mail prepared under the optional upgradable preparation and Presorted rate mail prepared under the required preparation;

(6) except as provided by standard, Regular mail may not be in the same mailing as Nonprofit mail, and Enhanced Carrier Route mail may not be in the same mailing as Nonprofit Enhanced Carrier Route mail.

See M041.6.0, M045.5.0, M045.7.0, and M200.6.0 for copalletized, combined, or mixed-rate level mailings.

f. *Standard Mail (B).* Except for single-piece rate pieces not otherwise subject to a minimum mailing requirement that are presented under an approved manifest mailing system under P710, the following types of Standard Mail (B) may not be part of the same mailing even if in the same processing category:

(1) Parcel Post mail and any other type of mail;

(2) Bound Printed Matter and any other type of mail;

(3) Special Standard and any other type of mail;

(4) Library Mail and any other type of mail.

* * * * *

M012 Markings and Endorsements

[Renumber current M012.3.0 and M012.4.0 as M012.4.0 and M012.5.0, respectively. Reorganize and revise M012.1.0 and M012.2.0 and insert new M012.3.0 to read as follows:]

1.0 MARKINGS—BASIC STANDARDS

1.1 Class and Rate

Except for single-piece First-Class Mail, mailpieces must be marked under the corresponding standards to show the class of service and/or rate paid:

a. Single-Piece First-Class Mail may be identified under E130.2.5.

b. Presorted First-Class Mail and Standard Mail (A) must be marked under 2.0.

c. Standard Mail (B) must be marked under 3.0.

d. Priority Mail must be identified under E120.

e. Periodicals must be identified under E211.

f. Express Mail is identified with the Express Mail mailing label (Label 11 or Form 5625) without any other required class or rate marking.

g. All mailable hazardous materials must be labeled and/or marked as required in C020.

1.2 Enclosures

Enclosures, attachments, and mixed rate mailpieces must be marked under the applicable standards in E070, M070, and P070.

1.3 Printing and Designs

Required markings may be printed by a postage meter, special slug, ad plate, or other means that ensures a legible marking. A marking may not include or be part of a decorative design or advertisement.

2.0 MARKINGS—FIRST-CLASS MAIL AND STANDARD MAIL (A)

2.1 Placement

a. *Basic Marking.* The basic required marking that indicates the class or subclass—"First-Class," "Presorted Standard" or "PRSRT STD" (or, until January 10, 2001, "Bulk Rate" or "Blk. Rt."); or "Nonprofit Organization" or "Nonprofit Org." or "Nonprofit" must be printed or produced as part of, or directly below or to the left of, the permit imprint indicia, meter stamp or impression, or adhesive or precanceled stamp.

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b. Other Markings. Other rate-specific markings ("Presorted" or "PRSRT" and "Single-Piece" or "SNGLP" (First-Class Mail only); "AUTO" and "AUTOCR" (First-Class Mail and Standard Mail (A)); "ECRLOT," "ECRWSH," and "ECRWSS" (Standard Mail (A) only) may be placed in the location specified in 2.1a or, if the marking appears alone or if no other information appears on the line with the marking except postal optional endorsement line information under M013 or postal carrier route package information under M014, may be placed in the address area on the line directly above or two lines above the address. If preceded by two asterisks, the "AUTO," "AUTOCR," "Single-Piece," or "SNGLP" markings also may be placed on the line above or two lines above the address in a mailer keyline or a manifest keyline or placed above the address and below the postage in an MLOCR ink-jet printed date correction/meter drop shipment line. Alternatively, the "AUTO" or "AUTOCR" markings may be placed to the left of the DPBC (subject to the barcode location and clear zone standards in C840).

c. Additional Requirements for Carrier Route. "AUTOCR" (First-Class Mail only), "ECRLOT," "ECRWSH," and "ECRWSS" (Standard Mail (A) only) must appear in their entirety wherever placed, except "ECR" may be placed in the postage area if "LOT," "WSH," or "WSS," as applicable, is placed in the line above or two lines above the address, as specified in 2.1b.

2.2 Exceptions to Markings

a. AUTO Marking. Non-carrier route automation rate First-Class Mail and Standard Mail (A) pieces do not require an "AUTO" marking if they bear a DPBC in the address block or on an insert visible through a window in the address block or lower right corner. Non-carrier route automation rate First-Class pieces not marked "AUTO" must bear both the "Presorted" and "First-Class" markings. Non-carrier route automation rate Standard Mail (A) pieces not marked "AUTO" must bear the appropriate basic marking for Standard Mail in 2.1a.

b. Manifest Mailings. The basic marking must appear in the postage area on each piece as required in 2.1a. The two-letter rate category code required in the keyline on manifest mailing pieces prepared under P710 meets the requirement for other rate markings (e.g., on a First-Class piece mailed at automation carrier route rates, the "AC" code may replace the "AUTOCR" marking).

3.0 Placement of Markings—Standard Mail (B)

3.1 Basic Markings

The basic required marking that indicates the subclass—"Bound Printed Matter;" "Special Standard Mail" or "SPEC STD," "Library Rate" or "Library Mail"—must be printed on the mailpiece. Effective January 10, 2000, these basic required markings must be printed or produced as part of, or directly below or to the left of, the permit imprint indicia or meter stamp or impression. The markings "Parcel Post" or "PP" also must be printed or produced as part of, or directly below or to the left of, the permit imprint indicia or meter stamp or impression. These Parcel Post markings are required for drop shipment rate mail and, effective January 10, 2000, will be required for all Parcel Post mail.

3.2 Other Parcel Post Markings

The required markings "Drop Ship" or "D/S" for Parcel Post drop shipment rate mail may be placed in the postage area location specified in 3.1. Alternatively, it may be placed in the address area on the line directly above or two lines above the address if the marking appears alone (no other information appears on that line). Until January 10, 2000, mail qualifying for the DBMC rate may bear the marking "DBMC Parcel Post" or "DBMC PP" in either location.

3.3 Other Bound Printed Matter Markings

The required markings "Presorted" (or "PRSRT") or "Presorted Standard" (or "PRSRT STD") or "Carrier Route Presort" (or "CAR-RT SORT") may be placed in the location specified in 3.1. Alternatively, these markings may be placed in the address area on the line directly above or two lines above the address if the marking appears alone or if no other information appears on the line with the marking except postal optional endorsement line information under M013 or postal carrier route package information under M014.

3.4 Other Special Standard Markings

The required "Presorted" or "PRSRT" for Special Standard mail may be placed in the location specified in 3.1. Alternatively, it may be placed in the address area on the line directly above or two lines above the address if the marking appears alone (no other information appears on that line).

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M032 Barcoded Labels

1.0 BASIC STANDARDS—TRAY AND SACK LABELS

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1.3 Content Line (Line 2)

[Amend Exhibit 1.3a by deleting the following headings and all information under them: Priority Mail Letters—Presorted; Priority Mail Flats—Presorted; and Priority Mail Parcels—Presorted.]

[Amend Exhibit 1.3a, Periodicals (PER), by changing the heading "PER Letters—⅗ and Basic" to "PER Letters—5-Digit, 3-Digit, and Basic."]

[Amend Exhibit 1.3a, Periodicals (PER), by changing the heading "PER Flats—⅗ and Basic" to "PER Flats—5-Digit, 3-Digit, and Basic."]

[Amend Exhibit 1.3a, Periodicals (PER), by changing the heading "PER Parcels—⅗ and Basic" to "PER Parcels—5-Digit, 3-Digit, and Basic."]

[Amend Exhibit 1.3a, Periodicals (NEWS), by changing the heading "NEWS Letters—⅗ and Basic" to "NEWS Letters—5-Digit, 3-Digit, and Basic."]

[Amend Exhibit 1.3a, Periodicals (NEWS), by changing the heading "NEWS Flats—⅗ and Basic" to "NEWS Flats—5-Digit, 3-Digit, and Basic."]

[Amend Exhibit 1.3a, Periodicals (NEWS), by changing the heading "NEWS Parcels—⅗ and Basic" to "NEWS Parcels—5-Digit, 3-Digit, and Basic."]

[Amend Exhibit 1.3a, Standard Mail (B), by changing the heading "Bulk Bound Printed Matter Flats—Carrier Route" to "Bound Printed Matter Flats—Carrier Route"]

[Amend Exhibit 1.3a, Standard Mail (B), by changing the heading "Bulk Bound Printed Matter Flats—Basic" to "Presorted Bound Printed Matter Flats—Basic"]

[Amend Exhibit 1.3a, Standard Mail (B), by changing the heading "Bulk Bound Printed Matter Irregular Parcels—Carrier Route" to "Bound Printed Matter Irregular Parcels—Carrier Route"]

[Amend Exhibit 1.3a, Standard Mail (B), by changing the heading "Bulk Bound Printed Matter Irregular Parcels—Basic" to "Presorted Bound Printed Matter Irregular Parcels—Basic"]

[Amend Exhibit 1.3a, Standard Mail (B), by changing the heading "Bulk Bound Printed Matter Machinable Parcels—Basic" to "Presorted Bound Printed Matter Machinable Parcels—Basic"]

[Amend Exhibit 1.3a, Standard Mail (B), by inserting a new Parcel Post category after Parcel Post Machinable Parcels to read as follows:]

Class and mailing	Human-readable	
	CIN	Content line
* * *	*	*
Parcel Post DSCF and DDU Rates		
5-digit sacks	688	STD B 5D
* * *	*	*

M033 Sacks and Trays

1.0 BASIC STANDARDS

1.2 Equipment

[Revise 1.2c to reflect the new 13-ounce weight limit for First-Class Mail to read as follows:]

Mailings must be prepared in the container appropriate for the processing category and rate of the mail as follows:

* * * * *

c. First-Class Mail parcels weighing less than 13 ounces must be prepared in green USPS sacks.

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M041 General Standards

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4.0 PALLET BOXES

[Revise 4.1, 4.2, and 4.4 to read as follows:]

4.1 Use

A mailer may use pallet boxes constructed of single-, double-, or triple-wall corrugated fiberboard placed on pallets to hold sacks or parcels prepared under M045. Pallet boxes must protect the mail and maintain the integrity of the pallet loads throughout transportation, handling, and processing. Single-wall corrugated fiberboard may be used only for light loads (such as lightweight parcels) that do not require transportation by the USPS beyond the entry office, or for Parcel Post DSCF rate mail. Mailers must supply their own pallet boxes. The base of the boxes must measure approximately 40 by 48 inches. M045 requires the use of pallet boxes meeting the size requirements in 4.2 for machinable Parcel Post claiming OBMC Presort and BMC Presort discounts. M045 prohibits use of pallet boxes for nonmachinable Parcel Post claiming OBMC Presort and BMC Presort discounts. Pallet boxes meeting the size dimensions in 4.2 also may be used at the mailer's option for Parcel Post DSCF and Parcel Post DDU rate mail.

4.2 Height

The combined height of a single pallet, pallet box, and mail may not exceed 77 inches. The contents of the box may not extend above the top rim of the box. For Parcel Post DSCF and Parcel Post DDU rate mailings, the height of the pallet box may not exceed 60 inches (excluding the pallet). For Parcel Post OBMC Presort and BMC Presort rate mailings of machinable pieces, the height of the pallet box must be 69 inches (excluding the pallet).

* * * * *

4.4 Nonconforming

Except when mailing Parcel Post claiming a DSCF or DDU rate, a nonconforming mailer (see 1.4) may use pallet boxes only if the boxes are constructed of triple-wall corrugated fiberboard (C-flute and/or B-flute material) with a maximum height (pallet and box) of 77 inches.

5.0 PREPARATION

* * * * *

5.2 Required Preparation

[Revise text of 5.2 to read as follows:]

These standards apply to:

a. Periodicals, Standard Mail (A), and Parcel Post (other than BMC Presort, OBMC Presort, DSCF and DDU rate mail). [Insert current 5.2.]

b. Parcel Post Mailed at BMC Presort, OBMC Presort, DSCF and DDU Rates. Pallets must meet the requirements specifically prescribed for these rates in M045.

5.3 Minimum Load

[Revise text of 5.3 to read as follows.]

These standards apply to:

a. Periodicals, Standard Mail (A), and Parcel Post (Other than BMC Presort, OBMC Presort, DSCF and DDU Rate Mail). [Insert current 5.3.]

b. Parcel Post Mailed at BMC Presort, OBMC Presort, DSCF and DDU Rates.

A minimum load for the rate claimed may be stated in terms of weight, combined piece minimum and weight, or minimum height. M045 specifies separate minimum mail heights for machinable parcels and for nonmachinable parcels claimed at OBMC Presort and BMC Presort rates. Mail entered at the Parcel Post DSCF rates and prepared directly on pallets or in pallet boxes on pallets must be prepared under either a minimum height requirement or under one of two options requiring a minimum number of pieces and pounds per pallet under M045. There is no minimum weight requirement for an SCF pallet containing 5-digit sacks prepared for the DSCF rate under M630 (see M045). There are no minimums for the Parcel Post DDU rate.

[Renumber current 5.4 through 5.7 as 5.5 through 5.8, respectively. Insert new 5,4 to read as follows:]

5.4 Minimum Height of Mail

The definitions of the minimum height of mail used to qualify for OBMC Presort, BMC Presort and DSCF Parcel Post rates are:

a. Machinable Parcels at OBMC Presort and BMC Presort Discounts and Parcels at DSCF Rates. The minimum height of mail in a pallet box is the shortest vertical distance measured from the bottom of a pallet box to the top of the lowest mailpiece. The height of the pallet is not included in this measurement.

b. DSCF Rates and Nonmachinable Parcels at OBMC Presort and BMC Presort Discounts. The minimum height of mail on a pallet is the shortest vertical distance measured from the top of the pallet to the top of the lowest mailpiece. The height of the pallet is not included in this measurement.

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M045 Palletized Mailings

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2.0 PACKAGES OF FLATS

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2.4 Size—Standard Mail (B)

[In 2.4c to change the phrase "bulk Bound Printed Matter" to "presorted Bound Printed Matter.]

* * * * *

[Add sections 9.0 through 12.0 to specify preparation requirements for the new BMC Presort, OBMC Presort, DSCF, and DDU rates as follows:]

9.0 PARCEL POST—BULK MAIL CENTER (BMC) PRESORT DISCOUNT

9.1 Machinable Parcels

a. To qualify for the BMC Presort discount, machinable pieces must be sorted to BMCs under L601 in 69-inch pallet boxes. Each pallet box must contain at least 52 inches of mail (not including pallet) for a BMC (see M041). Overflow pallet boxes are not permitted. Preparation in sacks, directly on pallets, or in other containers is not permitted.

b. Pallet Box preparation and Line 1 labeling: destination BMC (required); for Line 1 use L601.

c. Pallet Box Line 2 labeling: "STD B MACH BMC."

9.2 Nonmachinable Parcels

a. To qualify for the BMC Presort discount, nonmachinable pieces must

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be sorted to BMCs and ASFs under L605 directly on pallets. Each pallet for a BMC or ASF destination must have a minimum height of 42 inches of mail (not including the height of the pallet) (see M041). Overflow pallets are not allowed. Preparation in sacks, pallet boxes, or in other containers is not permitted.

b. Pallet preparation and Line 1 labeling: destination BMC or destination ASF (required); for line 1, use L605.

c. Pallet Line 2 labeling: "STD B NON MACH BMC" or "STD B NON MACH ASF," as appropriate.

10.0 PARCEL POST—ORIGIN BULK MAIL CENTER PRESORT (OBMC PRESORT) DISCOUNT

10.1 Machinable Parcels

a. To qualify for the OBMC Presort discount, machinable pieces must be sorted to BMCs under L601 in 69-inch pallet boxes. Each pallet box must contain at least 52 inches of mail (not including pallet) for a BMC (see M041). Overflow pallet boxes are not permitted. Preparation in sacks, directly on pallets, or in other containers is not permitted.

b. Pallet Box preparation and Line 1 labeling: destination BMC (required); for Line 1, use L601.

c. Pallet Box Line 2 labeling: "STD B MACH BMC."

10.2 Nonmachinable Parcels

a. To qualify for the OBMC Presort discount, nonmachinable pieces must be sorted to BMCs and ASFs under L605 directly on pallets. Each pallet for a BMC or ASF destination must have a minimum height of 42 inches of mail (not including the height of the pallet) (see M041). Overflow pallets are not allowed. Preparation in sacks, pallet boxes, or in other containers is not permitted.

b. Pallet preparation and Line 1 labeling: destination BMC or destination ASF (required); for line 1, use L605.

c. Pallet Line 2 labeling: "STD B NON MACH BMC" or "STD B NON MACH ASF," as appropriate.

11.0 PARCEL POST DSCF RATES—PARCELS ON PALLETS

11.1 Basic Preparation, Parcels on Pallets

Unless prepared under 11.2, or in sacks under M630, mail must be prepared for the DSCF rate as follows:

a. General. Parcels for each SCF area must be sorted to 5-digit ZIP Codes on pallets. For purposes of this section the term pallets includes preparation of parcels directly on pallets and preparation of parcels in pallet boxes on pallets. Except when prepared under 11.2, each 5-digit pallet must meet a minimum volume requirement under one of the criteria in 11.1b. Machinable and nonmachinable pieces may be combined on the same pallet or in the same overflow sack. In a single mailing mailers may prepare some pallets under the minimum volume requirement in 11.1b(1) and some pallets under the minimum volume requirement in 11.1b(2). A mailing entered at a destination SCF facility containing pallets prepared under 11.1 also may include mail that is sacked for the DSCF rate under M630. Double-stacking is permitted if the requirements of M041 are met.

b. Minimum Volume. The minimum volume per 5-digit pallet can be met in one of the following ways.

(1) pieces may be placed on 5-digit pallets each containing at least 50 pieces and 250 pounds, or

(2) pieces can be placed on 5-digit pallets each having a minimum height of 36 inches of mail (not including the height of the pallet) (see M041).

c. Overflow. If after filling a pallet or pallets to a 5-digit destination, pieces remain that do not meet the minimum pallet requirements they may be prepared in one of the following ways. One or both methods may be used in a single mailing.

(1) Placed in 5-digit overflow sacks (no minimum number of pieces per sack) that are labeled in accordance with the 5-digit sacking requirements for the DSCF rate in M630. Overflow pieces sacked in this manner are eligible for the DSCF rates.

(2) Placed on a 5-digit pallet labeled under 11.1d that does not meet the minimums for the DSCF rate. Overflow pieces palletized in this manner are not eligible for the DSCF rates but are eligible for the DBMC rates.

d. 5-digit pallet labeling:

(1) for Line 1, use city, state, and 5-digit ZIP Code destination of contents.

(2) for Line 2 use: "STD B 5D."

e. Separation. If sacks prepared under M630 are included in the same mailing as pallets prepared under this section, at the time of acceptance the mailer must separate sacks that are overflow from palletized mail from those sacks that were prepared under the provisions of M630.

11.2 Alternate Preparation, Parcels on Pallets

DSCF rate mailings not prepared under 11.1 may be prepared as follows:

a. General. All DSCF rate mail in the mailing must be sorted to 5-digits under 11.2 (i.e., mail prepared under 11.1 and mail sacked under M630 must not be included in a mailing prepared under 11.2). For purposes of this section the term pallets includes preparation of parcels directly on pallets and preparation of parcels in pallet boxes on pallets. Machinable and nonmachinable pieces may be combined on the same pallet or in the same overflow sack. The documentation in 11.2e must be presented at the time of verification. Double-stacking is permitted if the requirements of M041 are met.

b. Minimum Volume. To qualify for the DSCF rate, no pallet may contain fewer than 35 pieces and 200 pounds, and for the entire mailing the average number of DSCF rate pieces per 5-digit pallet must be at least 50.

c. Overflow. If after filling a pallet or pallets to a 5-digit destination, pieces remain that do not meet the minimum pallet requirement they may be prepared in one of the following ways. One or both methods may be used in a single mailing.

(1) Placed in 5-digit overflow sacks (no minimum number of pieces per sack) that are labeled in accordance with the DSCF sacking requirements in M630. Overflow pieces sacked in this manner are eligible for the DSCF rates.

(2) Placed on a 5-digit pallet labeled under 11.2d that does not meet the minimums for the DSCF rate. Overflow pieces palletized in this manner are not eligible for the DSCF rates but are eligible for the DBMC rates:

d. 5-digit pallet labeling:

(1) For Line 1, use city, state, and 5-digit ZIP Code destination of contents.

(2) For Line 2 use: "STD B 5D."

(3) In mailer area below line 3: the pallet ID number.

e. Documentation. A list of each 5-digit pallet in the mailing that qualifies for the DSCF rate must be submitted. The pallets in the mailing that qualify for the DSCF rate must be numbered sequentially, and this pallet identification number must be printed below Line 3 on the pallet label. The documentation must list each pallet in sequential order by pallet identification number. The listing must show for each pallet the pallet identification number, the 5-digit ZIP Code of the pallet, the total weight of pieces on the pallet, the total number of pieces on the pallet, and the cumulative total of pieces (i.e., the number equal to the number of pieces for that pallet plus the sum of the pieces on all pallets listed above it). This documentation must not include: pieces prepared in overflow sacks at the DSCF rate, and pieces prepared on overflow pallets at the DBMC rates, or pieces claimed at any other rate in the mailing.

11.3 5-Digit ZIP Codes for Which Pallets May Not Be Prepared

Refer to the Drop Shipment Product available from the National Customer Support Center (NCSC) (see G043) and to Exhibits E652.6.0 and E652.7.0 to determine if the facility serving the 5-digit destination can handle pallets. There is a charge for the Drop Shipment Product. If a facility cannot handle pallets, the DSCF rate is not applicable unless the mail can be prepared under the sacking requirement in M630.

11.4 5-Digit ZIP Codes Requiring BMC Entry

Refer to Exhibit E652.5.0 for 5-digit destinations where palletized mail must be entered at the BMC that serves the SCF to obtain the DSCF rate.

12.0 PARCEL POST DSCF RATES—SACKS ON PALLETS

Mailers who prepared DSCF rate mail in 5-digit sacks under M630 may place 5-digit sacks for the same SCF area on an SCF pallet (including a pallet box on a pallet). Mailers who prepare overflow from pallets under 11.1 or 11.2 may place 5-digit sacks for the same SCF area on an SCF pallet (including a pallet box on a pallet). See 11.1e for requirements concerning separation of sacks prepared under M630 from sacks prepared under 11.1. There are no pallet minimums for such pallets. Mailers may prepare such SCF pallets without having to prepare all possible 5-digit pallets prior to preparing the SCF pallet. The pallets must be labeled in the following manner:

Line 1: Use L002, Column C
Line 2: STD B PP 5D SACKS

13.0 PARCEL POST DDU RATES

Parcels may be bedloaded, sacked, or palletized. For purposes of this section the term pallets includes preparation of parcels directly on pallets and preparation of parcels in pallet boxes on pallets. There are no preparation or presort requirements for DDU rate mailings other than separation by 5-digit. If pieces are sacked or palletized, they must be prepared to 5-digits and labeled as follows: Line 1 labeling—use city, state, and 5-digit ZIP Code destination; Line 2 use "STD B 5D." Machinable and nonmachinable pieces may be combined. Refer to the Drop Shipment Product maintained by the National Customer Support Center (NCSC) (see G043) and the information in E652 including Exhibits E652.6.0 and E652.7.0 to determine the location of the 5-digit delivery facility, whether that facility can handle pallets (including pallet boxes on pallets). If a DDU facility cannot handle pallets, and a mailer transports mail to the DDU facility on pallets, the driver must unload the pallets into a container specified by the delivery unit.

M050 Delivery Sequence

* * * * *

4.0 DOCUMENTATION

[Revise 4.1 and 4.2 to read as follows:]

4.1 General

The mailer must provide documentation as described below to substantiate compliance with the standards for carrier sequencing. Unless the documentation is submitted with the corresponding mailing, the mailer must be able to provide the USPS with documentation of accurate sequencing or delivery statistics for each carrier route to which walk-sequence rate pieces are mailed. The mailer must annotate the postage statement to show the earliest (oldest) date of the method (in 41.a through 4.1e) used to obtain sequencing of delivery stop information for the mailing. For Periodicals the postage statement must be annotated in the "Sequencing Date" block on each of the lines where high density and saturation per piece rate postage is reported. For Standard Mail (A) the postage statement must be annotated in the "Sequencing Date" block on the front of the postage statement where total postage for Enhanced Carrier Route rates is reported. One or more of these must be submitted:

a. CDS invoice.

b. DSF invoice or DSF documentation.

c. Copies of the delivery unit summaries that served as the mailer's bills for address sequencing service charges.

d. Evidence of receipt of information from postmasters under A930 for simplified address mailings.

e. Date LOT product used.

4.2 High Density

The following documentation must be submitted for high density rate mail:

a. Standard Mail (A) and Periodicals Other than In-County Mail Qualifying Under E230.6.4c. For each carrier route to which high density rate mail is addressed, the mailer must document the total number of addressed pieces to the route. If there are fewer than 125 addressed pieces for a given route, the documentation also must show the number of possible deliveries on the route.

b. Periodicals In-County Mail Qualifying Under E230.6.4c. For each carrier route for which Periodicals In-County high density rates are claimed under the minimum 25% of the total active possible deliveries per carrier route under E230.6.4c, the documentation must show for each carrier route for which the rates are claimed the total number of active possible deliveries and the number and percentage of deliveries to which mailpieces are addressed. The documentation must be listed by 5-digit ZIP Code and, within each, by carrier route. It must be submitted with each applicable mailing.

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M070 Mixed Classes

* * * * *

M072 Express Mail and Priority Mail Drop Shipment

1.0 BASIC STANDARDS

1.1 Standards

[Revise 1.1 by adding references to M072 and D071 to read as follows:]

The Express Mail or Priority Mail portion of the shipment must meet the standards in M500 or M100 respectively, and the applicable standards in M072 and D071.

* * * * *

2.0 ADDITIONAL STANDARDS FOR ENCLOSED MAIL

2.5 Standard Mail (B)

[Amend 2.5 to delete the reference to "Bulk Parcel Post," to change the phrase "bulk Bound Printed Matter" to "presorted Bound Printed Matter," to add and exception to the zone separation requirement, and to add information on new Parcel Post DSCF and DDU rates to read as follows:]

Presorted Bound Printed Matter paid with meter or permit imprint, or single-piece rate Parcel Post or Bound Printed Matter paid with permit imprint, must be sorted by zone in separate Priority Mail or Express Mail pouches unless presented under a special postage payment system under P710, P720, or P730. If the enclosed mail is not presented under a special postage payment system under P710, P720, or P730, the Priority Mail or Express Mail pouches must be separated into groups by postal zone when presented to the USPS. For Parcel Post mail, the DBMC, DSCF, or DDU entry rate may be claimed subject to E652 and the destination of the Express Mail or Priority Mail sack.

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[Revise the title of M073 to read as follows:]

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M073 Combined Mailings of Standard Mail (A) and Standard Mail (B) Parcels

[Revise the title of 1.0 to read as follows:]

1.0 COMBINED MACHINABLE PARCELS—RATES OTHER THAN PARCEL POST OBMC PRESORT, BMC PRESORT, DSCF, AND DDU

[Renumber current 1.1 as 1.2, insert new 1.1, and revise section numbers in renumbered 1.2 to read as follows:]

1.1 Qualification

Machinable Standard Mail (A) and machinable Standard Mail (B) parcels may be combined under the sortation and other requirements in 1.0 except when claiming the following Parcel Post rates or discounts: OBMC Presort, BMC Presort, DSCF, and DDU. When claiming the OBMC Presort, BMC Presort, or DSCF rates, machinable Standard Mail (A) and machinable Standard Mail (B) parcels may be combined under the sortation and other requirements in 2.0. Standard Mail (A) parcels must not be combined with Standard Mail (B) parcels prepared for DDU rates.

1.2 Description

Subject to 1.1 and authorization under 1.5, a mailer who is authorized plant load or plant-verified drop shipment privileges may prepare a combined mailing of Standard Mail (A) and Standard Mail (B) machinable parcels that have been merged and sorted together in sacks (under 1.5) or on pallets (under M040) to achieve the finest presort level. The combined mailing must meet the standards in 1.0 and those that apply to the rates claimed. Each parcel in a combined mailing is subject to the applicable Standard Mail rate, based on the corresponding standards. Required volume for bulk or presort rates is based solely on the quantity of pieces eligible for each rate at the required presort level. Pieces claimed at other rates in the same sack or on the same pallet do not count.

[Renumber existing 1.2 and 1.3 as 1.3 and 1.4, respectively.]

[Renumber existing 2.0 as 1.5. Renumber existing 2.1 through 2.3 as 1.5a through 1.5c, respectively.]

[Renumber existing 3.0 as 1.6. Renumber existing 3.1 as 1.6a and existing 3.1a through 3.1d as 1.6a(1) through a(4), respectively. Renumber existing 3.2 as 1.6b and existing 3.2a through 3.2e as 1.6b(1) through 1.6b(5), respectively.]

[Add 2.0 to read as follows:]

2.0 COMBINED PARCELS—PARCEL POST OBMC PRESORT, BMC PRESORT, AND DSCF RATES

2.1 Qualification

a. When claiming Parcel Post OBMC Presort and BMC Presort discounts and DSCF rates, machinable Standard Mail (A) parcels may be combined with machinable Standard Mail (B) parcels under 2.0.

b. When claiming the Parcel Post DSCF rate, machinable and nonmachinable Standard Mail (A) may be combined with machinable and nonmachinable Standard Mail (B) parcels under 2.0.

c. Standard Mail (A) parcels may not be combined with Standard Mail (B) parcels prepared for DDU rates.

2.2 Authorization

Mailers must be authorized under 1.5 to prepare mailings that combine Standard Mail (A) and Standard Mail (B) parcels.

2.3 Postage Payment

Postage for all pieces must be paid with permit imprint at the post office serving the mailer's plant under an approved manifest mailing system under P710. The applicable agreement must include procedures for combined mailings approved by the RCSC.

2.4 Preparation and Rates

a. Minimum Mailing Volume. Separate minimum mailing volume requirements must be met for Standard Mail (A) parcels and for Standard Mail (B) parcels.

b. Parcel Post Qualifying for DSCF Rates. The combined mailings must be prepared under the applicable 5-digit sack requirements in M630, or the applicable 5-digit pallet requirements in M040 for the Parcel Post DSCF rates. All other requirements for the Parcel Post DSCF rates and the Presorted Standard Mail (A) rates, as applicable, must be met. The following additional requirements apply:

(1) If sacked under M630, the minimum requirement of 7 pieces per sack must be met with only Standard Mail (B) parcels. After the minimum sack volume has been met, Standard Mail (A) parcels may be included in the sack or in overflow sacks.

(2) If palletized under the option to prepare 5-digit pallets when there are at least 50 pieces and 250 pounds per pallet, this pallet minimum must be met with only Standard Mail (B) parcels. After the minimum pallet volume has been met, Standard Mail (A) parcels may be included on the pallet or in overflow sacks.

(3) If palletized under the alternate pallet preparation where no pallet may contain fewer than 35 pieces and 200 pounds provided the average number of pieces on pallets qualifying for the DSCF rate is at least 50, Standard Mail (A) parcels may not be combined with Standard Mail (B) parcels.

(4) If palletized under the option to prepare 5-digit pallets under the 36-inch high (mail only) pallet minimum, any combination of Standard Mail (A) and Standard Mail (B) parcels may be used to meet the minimum pallet height requirement.

(5) Line 2 of 5-digit pallet and sack labels must read: "STD A/B 5D."

(6) Standard Mail (A) parcels are eligible for the Presorted 3/5 rate.

c. Parcel Post Qualifying for OBMC Presort or BMC Presort rates. The combined mailings must be prepared under the M040 BMC pallet requirements for machinable parcels at Parcel Post OBMC Presort or BMC Presort rates. All other requirements for the Parcel Post OBMC Presort or BMC Presort rates and the Presorted Standard Mail (A) rates must be met. The following additional requirements apply:

(1) The minimum height requirement for each pallet or pallet box on a pallet may be met using any combination of Standard Mail (A) and Standard Mail (B) parcels.

(2) Line 2 of BMC pallet box labels must read: "STD A/B MACH BMC."

(3) Standard Mail (A) parcels are eligible for the Presorted ⅗ rate only if it can be shown by documentation that there was insufficient volume of Standard Mail (A) parcels in the mailing to prepare separate 5-digit pallets required for Standard Mail (A) machinable parcels under M045. Otherwise, Presorted basic rates apply to the Standard Mail (A) parcels.

2.5 Documentation

Presort documentation is required as applicable for each rate claimed if the manifest does not list pieces in presort order. Separate postage statements must be prepared for the Standard Mail (A) and Standard Mail (B) pieces. Within each group, combined forms may be prepared where the standards and the forms permit. All postage statements must be provided at the time of mailing.

* * * * *

M120 Priority Mail

* * * * *

[Delete 2.0.]

M130 Presorted First-Class Mail

* * * * *

[Revise the title of 2.0 to read as follows:]

2.0 REQUIRED PREPARATION—LETTER-AND CARD-SIZE PIECES

* * * * *

[Revise the title of 3.0 to read as follows:]

3.0 OPTIONAL UPGRADABLE PREPARATION—LETTER-AND CARD-SIZE PIECES

* * * * *

5.0 PARCELS

5.1 Standards

[Revise 5.1 to reflect the new 13-ounce weight limit for First-Class Mail to read as follows:]

First-Class parcels weighing 13 ounces or less, except Priority Mail, must be prepared under the standards below. All Priority Mail, including any First-Class parcel weighing more than 13 ounces must be must be prepared under the applicable standards in M120.

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M200 Periodicals (Nonautomation)

1.0 BASIC STANDARDS

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[Delete 1.6.]

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3.0 SACK PREPARATION (FLAT-SIZE PIECES AND IRREGULAR PARCELS)

3.1 Sack Preparation

[Revise 3.1d and 3.1e to read as follows:]

Sack size, preparation sequence, and Line 1 labeling:

* * * * *

d. 3-digit: required at 24 pieces, optional with one six-piece package minimum except under 1.5; for Line 1, use L002, Column A.

e. SCF: required at 24 pieces (no minimum for required origin/optional entry SCF), optional with one six-piece package minimum except under 1.5; for Line 1, use L002, Column C.

* * * * *

M600 Standard Mail (Nonautomation)

[Amend the title of M610. Delete 610.1.0 and renumber 610.2.0 through 610.7.0 as 610.1.0 through 610.6.0, respectively. Make other revisions as shown below for clarity and to change "nonautomation" rates to "Presorted Standard" rate and change "Bulk Rate" to "Presorted Standard."]

M610 Presorted Standard Mail (A)

1.0 BASIC STANDARDS

1.1 All Mailings

All mailings at Presorted Standard rates (3/5 and basic) are subject to specific preparation standards in 2.0 through 6.0 and to these general standards (automation rate mail must be prepared under M810 or M820, as applicable):

a. Each mailing must meet the applicable standards in E620 and in M010, M020, and M030.

* * * * *

e. Subject to M012, all pieces eligible for and claimed at Nonprofit Presorted Standard rates must be marked "Nonprofit Organization" (or "Nonprofit Org." or "Nonprofit"). Regular Presorted Standard pieces must be marked "Presorted Standard" (or "PRSRT STD") or, until January 10, 2001, "Bulk Rate" (or "Blk. Rt."). Pieces mailed at Nonprofit or Regular Presorted Standard rates must not bear "ECRWSS," "ECRWSH," "ECRLOT," "AUTO," "AUTOCR," "Single-Piece" or "SNGLP" markings.

* * * * *

1.3 Exception—Standard Mail (A)

When the size of the pieces in a Standard Mail (A) mailing job allows them to qualify for preparation as either letters or automation flats and when part of the job is prepared as palletized automation flats, the remainder of the job may be prepared as palletized flats at Enhanced Carrier Route nonletter rates and Presorted nonletter rates if the number of Presorted rate pieces does not exceed 10% of the total number of pieces in the entire mailing job. Presorted rate pieces in the mailing job that exceed the 10% limit and therefore may not be palletized as flats must be prepared in trays as letter mail and must be paid for at the letter rates. A separate 200-piece minimum volume requirement must be met for the trayed letter mailing to qualify for Standard Mail (A) rates.

1.4 Processing Instructions

[Change the phrase "nonautomation rate" to "Presorted rate" to read as follows:]

If a mailer prefers that the USPS not upgrade (automate) letter-size or card-size pieces presented at a Presorted rate, the mailer must identify each tray of such mail with a facing slip or other device marked "DO NOT AUTOMATE" and (for letter-size mail) a tray label on which Line 2 includes "Non-OCR."

[Revise the title of 2.0 to read as follows:]

2.0 LETTER-SIZE PIECES—REQUIRED PREPARATION

* * * * *

[Revise the title of 3.0 to read as follows:]

3.0 LETTER-SIZE PIECES—OPTIONAL UPGRADABLE PREPARATION

* * * * *

6.0 BEDLOADED BUNDLES OF FLAT-SIZE PIECES

6.1 Authorization

[In the first sentence of 6.1, change "nonautomation rate" to "Presorted rate."]

The RCSC manager serving the post office where the mailing is to be made may authorize preparation of Presorted rate Standard Mail (A) in bundles that are outside sacks if this preparation benefits the USPS. * * *

* * * * *

M620 Enhanced Carrier Route Standard Mail

1.0 BASIC STANDARDS

1.1 All Mailings

[Revise 1.1a and 1.1e to read as follows:]

All nonautomation rate Enhanced Carrier Route mailings are subject to these general standards (automation rate Enhanced Carrier Route mailings must be prepared under M810):

a. Each mailing must meet the applicable standards in E620 and in M010, M020, and M030.

* * * * *

e. Subject to M012, all pieces eligible for and claimed at Nonprofit rates must be marked "Nonprofit Organization" (or "Nonprofit Org." or "Nonprofit"); all other pieces must be marked "Presorted Standard" (or "PRSRT STD"), or, until January 10, 2001, "Bulk Rate" (or "Blk. Rt."). In addition, basic, high-density, and saturation rate pieces must each be marked "ECRLOT," "ECRWSH," or "ECRWSS," respectively. Pieces not claimed at the corresponding nonautomation Enhanced Carrier Route rate must not be marked "ECRLOT," "ECRWSH," or "ECRWSS."

* * * * *

1.4 Exception—Standard Mail (A)

[In 1.4, change the phrase "nonletter nonautomation rates" to "Presorted rates," and make further clarifications to read as follows:]

When the size of the pieces in a Standard Mail (A) mailing job allows them to qualify for preparation as either letters or automation flats and when part of the job is prepared as palletized

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automation flats, the remainder may be prepared as palletized flats at Enhanced Carrier Route nonletter rates and Presorted nonletter rates if the number of Presorted rate pieces does not exceed 10% of the total number of pieces in the entire mailing job. Presorted rate pieces in the mailing job that exceed the 10% limit and therefore may not be palletized as flats must be prepared in trays as letter mail and must be paid for at the applicable letter rates. A separate 200-piece minimum volume requirement must be met for the trayed letter mailing to qualify for Standard Mail (A) rates.

* * * * *

5.0 RESIDUAL PIECES

Pieces not sorted under 2.0 and either 3.0 or 4.0 must be prepared as a separate mailing at Standard Mail (A) automation or Presorted rates, or at single-piece First-Class or Priority Mail rates, as appropriate.

* * * * *

M630 Standard Mail (B)

[Amend 1.0 to add preparation requirements in 1.3–1.6 for new destination entry Parcel Post rates, introduce new drop ship markings, eliminate the "Catalog" marking, and make other marking changes to read as follows:]

1.0 PARCEL POST

1.1 Marking

[Amend 1.1 to provide for identifying Parcel Post pieces as follows:]

Each piece mailed at the DBMC, DSCF, or DDU Parcel Post rates must be marked "Parcel Post" or "PP" and "Drop Ship" or "D/S" under M012. An exception is that until January 10, 2000, DBMC rate mail may be marked "DBMC Parcel Post" or "DBMC PP." All other Parcel Post rate pieces may bear the "Parcel Post" or "PP" markings, and effective January 10, 2000, must bear the "Parcel Post" or "PP" marking under M012. Pieces not marked with the appropriate drop shipment marking as required are treated as single-piece rate Parcel Post and are subject to additional postage as necessary.

1.2 Separation

[Amend 1.2 to add requirements for the DSCF and DDU rate categories as follows:]

Parcel Post pieces must be separated by zones when presented for acceptance unless either the correct postage is affixed to each piece or the mailing is prepared under 8.0, or presented under a special postage payment system under P710, P720, or P730. If sacks prepared under 1.5 are included in the same mailing as pallets prepared under M045, at the time of acceptance the mailer must separate sacks that are overflow from palletized mail from those sacks that were prepared under the provisions of 1.5.

1.3 Documentation

[Amend 1.3 to read as follows:]

A complete, signed postage statement, using the correct USPS form or an approved facsimile, must accompany each bulk mailing (a mailing that includes pieces qualifying for rates that require a 50-piece minimum volume requirement). When presented for acceptance, documentation of postage by entry office and presort level (e.g., by BMC for DBMC, OBMC Presort and BMC Presort mail and by 5-digit ZIP Code for DSCF and DDU rates) is required under P710, P720, or P730. Except for DSCF rate mail palletized under the alternate preparation option that requires separate documentation, documentation is not required when the correct rate is affixed to each piece, or when each piece is of identical weight and the pieces are separated by zone and within each zone are grouped by pieces subject to the same combination of rates. DSCF rate mail palletized under the alternate preparation option in M045 must submit the detailed documentation required in M045.

[Add 1.4 for DSCF mailings as follows:]

1.4 DSCF Rate

To qualify for the DSCF rate, pieces for the same SCF area (L002, Column C or L005) must be sorted to 5-digit ZIP Code destinations either in sacks under 1.5 or directly on pallets or in pallet boxes on pallets under M041 and M045. Pieces must be part of a mailing of at least 50 Parcel Post pieces. They must be entered at the designated SCF facility under L005 that serves the 5-digit ZIP Code destinations of the pieces except when palletized and entry is required at a BMC (see Exhibit E652.5.0). The DSCF rate is not available for palletized mail for facilities that are unable to handle palletized mailings. Refer to the Drop Shipment Product available from the National Customer Support Center (NCSC) (see G043) and Exhibit E652.6.0 and Exhibit E652.7.0 to determine if the facility serving the 5-digit destination can handle pallets. There is a charge for the Drop Shipment Product.

[Add 1.5 to describe sacking requirements for DSCF mailings as follows:]

1.5 DSCF Sack Preparation

Sacking requirements for DSCF rates are as follows:

a. Only 5-digit sacks are permitted.

b. Each 5-digit sack must contain a minimum of 7 pieces (smaller volume not permitted). Machinable and nonmachinable pieces may be combined in the same sack to meet this requirement. One overflow sack per 5-digit ZIP Code is permitted (no piece minimum).

c. Sack Line 1 labeling: use city, state, and 5-digit ZIP Code destination of pieces, preceded for military mail by the prefixes under M031.

d. Sack Line 2: "STD B 5D."

e. See M045 for option to place 5-digit DSCF sacks on an SCF pallet.

[Add 1.6 to describe preparation for DDU rate mailings as follows:]

1.6 DDU Rate

The requirements for the DDU rate are as follows:

a. For the DDU rate, pieces must be part of a mailing of at least 50 Parcel Post pieces.

b. The pieces must be entered by the mailer at the postal facility where the carrier delivers the parcels (delivery unit) as defined in E652.

c. There are no minimum sacking or pallet preparation standards. DDU rate mailings may be bedloaded, sacked, placed directly on pallets or in pallet boxes on pallets. Machinable and nonmachinable pieces may be combined in the same sack or on the same pallet (including pallet boxes on pallets).

d. If the delivery unit serves more than one 5-digit ZIP Code, the pieces must be separated by 5-digit ZIP Code when unloaded. Refer to the Drop Shipment Product available from the National Customer Support Center (see G043) and Exhibits E652.6.0 and E652.7.0 to determine the location of the delivery unit, whether it serves more than one 5-digit ZIP Code, and whether it can handle pallets. There is a charge for the Drop Shipment Product.

e. If mail is sacked it must be labeled as follows:

Line 1: City, state, and 5-digit ZIP Code destination, preceded for military mail by the prefixes under M031.

Line 2: "STD B 5D."

2.0 BOUND PRINTED MATTER

* * * * *

2.3 Marking

[Revise 2.3 to provide for using new Bound Printed Matter markings as follows:]

Each piece claimed at single-piece Bound Printed Matter rates must be marked "Bound Printed Matter" under M012. Each piece claimed at presorted Bound Printed Matter rates must be marked "Bound Printed Matter" and either "Presorted" (or "PRSRT") or "Presorted Standard" (or "PRSRT STD") under M012. Pieces not marked as required are treated as single-piece rate Parcel Post, subject to additional postage as necessary.

[Delete 2.4. Renumber existing 2.5 through 2.7 as 2.4 through 2.6, respectively.]

3.0 CARRIER ROUTE BOUND PRINTED MATTER

* * * * *

3.2 Marking

[Revise 3.2 to eliminate the markings "Blk. Rt." and "CATALOG" as follows:]

Each piece claimed at carrier route Bound Printed Matter rates must be marked "Bound Printed Matter" and "Carrier Route Presort" (or "Bound Printed Matter" and "CAR–RT SORT") under M012. The mailer also may opt to include the marking "Presorted" (or "PRSRT") or "Presorted Standard" (or "PRSRT STD") with the above required markings under M012. Residual pieces in a carrier route Bound Printed Matter mailing may have the "Carrier Route Presort" or "CAR–RT SORT" marking if the number of residual pieces to any single 5-digit ZIP Code area does not exceed 5% of the total qualifying carrier route rate pieces addressed to that 5-digit area. The residual pieces must be separated from the qualifying pieces when presented to the USPS. Pieces not marked as required are treated as single-piece rate Parcel Post and subject to additional postage as necessary.

* * * * *

3.7 Residual Pieces

[Amend the third sentence of 3.7 by replacing the phrase "bulk Bound Printed Matter" with "presorted Bound Printed Matter."]

4.0 SPECIAL STANDARD MAIL

* * * * *

4.2 Marking

[Revise 4.2 to add the marking "PRSRT" as follows:]

Each piece claimed at Special Standard Mail rates must be marked "Special Standard Mail" or "SPEC STD" under M012. Each piece claimed at presorted Special Standard Mail rates also must be marked "Presorted" or "PRSRT" under M012. Pieces not marked as required are treated as single-piece Parcel Post, subject to additional postage as necessary.

* * * * *

5.0 LIBRARY MAIL

* * * * *

5.2 Marking

[Revise 5.2 to add a reference to M012 to read as follows:]

Each piece of Library Mail must be marked "Library Rate" or "Library Mail" under M012. Pieces not marked as required are treated as single-piece Parcel Post, subject to additional postage as necessary.

* * * * *

M800 All Automation Mail

M810 Letter-Size Mail

1.0 BASIC STANDARDS

* * * * *

[Amend 1.2 to delete the reference to 3/5 rates and to include information on mail qualifying for carrier route automation rates. Amend 1.2 and 1.3 to move information about postage statements and documentation from 1.2 to 1.3.]

1.2 Mailings

The requirements for mailings are as follows:

a. *General.* All pieces in a mailing must meet the standards in C810 and must be sorted together to the finest extent required. The definitions of a mailing and permissible combinations are in M011.

b. *First-Class.* A single automation rate First-Class mailing may include pieces prepared at carrier route, 5-digit, 3-digit, and basic automation rates.

c. *Periodicals.* A single automation rate Periodicals mailing may include pieces prepared at 5-digit, 3-digit, and basic automation rates.

d. *Standard Mail (A).* Pieces prepared to qualify for carrier route automation rates must be prepared as a separate mailing (meet a separate minimum volume requirement) from pieces prepared to qualify for 5-digit, 3-digit, and basic automation rates.

1.3 Documentation

A complete, signed postage statement, using the correct USPS form or an approved facsimile, must accompany each mailing and must be supported by documentation produced by PAVE-certified (or, except for Periodicals, MAC-certified) software or by standardized documentation under P012. Mailers may use a single postage statement and a single documentation report for all rate levels in a single mailing. Standard Mail (A) mailers may use a single postage statement and a single documentation report for both an automation carrier route mailing and a mailing containing pieces prepared at 5-digit, 3-digit, and basic automation rates as applicable, submitted for entry at the same time. Documentation of postage is not required if the correct rate is affixed to each piece or if each piece is of identical weight and the pieces are separated by rate when presented for acceptance. Combined mailings of Periodicals publications also must be documented under M200.

* * * * *

3.0 PERIODICALS

3.1 Tray Preparation

[Amend 3.1a to read as follows:]

Tray size, preparation sequence, and Line 1 labeling:

a. 5-digit/scheme: optional, but 5-digit trays required for rate eligibility (150-piece minimum); overflow allowed; for Line 1, for 5-digit trays, use 5-digit ZIP Code destination of pieces, preceded for military mail by the prefixes under M031; for Line 1, for optional 5-digit scheme trays, use destination shown in the current City State File.

* * * * *

M820 Flat-Size Mail

1.0 BASIC STANDARDS

* * * * *

[Amend 1.2 to add a reference to 5-digit and 3-digit rates. Amend 1.2 and 1.3 to move information about postage statements and documentation from 1.2 to 1.3.]

1.2 Mailings

All pieces in a mailing must meet the standards in C820 and must be sorted together to the finest extent required. First-Class Mail and Standard Mail (A) mailings may include pieces prepared at automation 3/5 and basic rates, as applicable. Periodicals mailings may include pieces prepared at automation 5-digit, 3-digit, and basic rates, as applicable. The definitions of a mailing and permissible combinations are in M011.

1.3 Documentation

[Insert the following after the first sentence in 1.3:]

* * * Mailers may use a single postage statement and a single documentation report for all rate levels in a single mailing. * * *

* * * * *

3.0 PERIODICALS

* * * * *

3.2 Sack Preparation

[Revise 3.2b and 3.2c to read as follows:]

Sack size, preparation sequence, and Line 1 labeling:

* * * * *

b. 3-digit: required at 24 pieces; optional with one six-piece package

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minimum except under 1.7; for Line 1, use L002, Column A.

c. SCF: required at 24 pieces (no minimum for required origin/optional entry SCF); optional with one six-piece package minimum except under 1.7; for Line 1, use L002, Column C.

* * * * *

P Postage and Payment Methods

P000 Basic Information

P010 General Standards

P011 Payment

1.0 PREPAYMENT AND POSTAGE DUE

1.1 Prepayment Conditions

[Revise 1.1e to read as follows:]

The mailer is responsible for proper payment of postage. Postage on all mail must be fully prepaid at the time of mailing, except as specifically provided by standard for:

* * * * *

e. Keys and identification devices returned to owners (see E120 and E130).

* * * * *

1.5 Shortpaid Mail-Basic Standards

[Amend the first sentence of 1.5 by removing "and nonstandard single-piece Standard Mail (A)" to read as follows:]

Mail of any class, including mail indicating special services (except Express Mail, registered mail, and nonstandard First-Class Mail), which is received at either the office of mailing or office of address without enough postage is marked to show the total deficiency of postage and fees. * * *

* * * * *

1.8 Shortpaid Nonstandard Mail

[Amend 1.8 by removing "nonstandard Single-Piece Standard Mail" to read as follows:]

Shortpaid nonstandard First-Class Mail is returned to the sender.

* * * * *

2.0 MAILABLE MATTER IN OR ON PRIVATE MAIL RECEPTACLES

* * * * *

2.3 Partial Distribution

[Amend 2.3 to reflect elimination of single-piece Standard Mail (A) rates to read as follows:]

If there is a distribution of pieces to some, but not all, addresses on a route, pieces are returned to the delivery unit for use in computing the postage due. First-Class Mail rates are applied to matter that would require First-Class Mail postage if mailed. For other matter, if the piece weighs less than 16 ounces, the applicable single-piece First-Class Mail or Priority Mail rate based on the weight of the piece is applied, or an applicable Standard Mail (B) rate is applied, whichever is lower. If the piece weighs 16 ounces or more, the Standard Mail (B) rate is applied.

* * * * *

P012 Documentation

* * * * *

2.0 STANDARDIZED DOCUMENTATION (FIRST-CLASS MAIL, PERIODICALS, AND STANDARD MAIL (A)

* * * * *

2.3 Rate Level Column Headings

[Amend 2.3a and 2.3b to reflect the new separate 5-digit and 3-digit presort rate categories for Periodicals mail as follows:]

The actual name of the rate level (or corresponding abbreviation) is used for column headings required by 2.2 and shown below:

a. Automation First-Class Mail, Periodicals, and Standard Mail (A):

Rate	Abbreviation
Carrier Route [First-Class Mail letters/cards].	CB
5-Digit [First-Class Mail letters/cards, Periodicals letters and flats, and Standard Mail letters].	5B
3-Digit [First-Class Mail letters/cards, Periodicals letters and flats, and Standard Mail letters].	3B
3/5[First-Class Mail and Standard Mail flats].	3/5B
Basic [letters/cards and flats]	BB

b. Presorted First-Class Mail, nonautomation presorted Periodicals, and Standard Mail (A):

Rate	Abbreviation
Presorted [First-Class Mail letters/cards, flats, and parcels].	Presort
5-Digit [Periodicals letters, flats, and parcels].	5D
3-Digit [Periodicals letters, flats, and parcels].	3D
3/5 [Standard Mail letters, flats, and parcels].	3/5
Basic [letters/cards and flats]	BS

* * * * *

2.4 Sortation Level

[Amend 2.4 by deleting row "Unique 3-Digit [Periodicals]" and "3DGU" and by revising the SCF sortation level to read as follows:]

The actual sortation level (or corresponding abbreviation) is used for the package, tray, sack, or pallet levels required by 2.2 and shown below:

Sortation level	Abbreviation
* * * * *	
SCF [pallets, Periodicals flats, Bound Printed Matter].	n/a
* * * * *	

* * * * *

P013 Rate Application and Computation

1.0 BASIC STANDARDS

* * * * *

1.4 Affixing Postage—Single-Piece Rate Mailings

[Amend the first sentence of 1.4 by removing "or Standard Mail (A)" to read as follows:]

In a postage-affixed single-piece rate Express Mail, First-Class Mail, or Priority Mail mailing, or in any postage-affixed Standard Mail (B) mailing, the mailer must affix to each piece a value in adhesive stamps, precanceled stamps, or meter impressions equal to at least the postage required for the piece. * * *

* * * * *

2.0 RATE APPLICATION—EXPRESS MAIL, FIRST-CLASS MAIL, AND PRIORITY MAIL

* * * * *

[Insert new 2.6 to read as follows:]

2.6 Keys and Identification Devices

Keys and identification devices weighing 13 ounces or less are charged the First-Class Mail rates per ounce or fraction thereof in accordance with 2.3, plus a $0.30 fee. Keys and identification devices weighing more than 13 ounces but no more than 2 pounds are mailed at the 2-pound Priority Mail rate in accordance with 2.4, plus a $0.30 fee.

* * * * *

4.0 RATE APPLICATION—STANDARD MAIL (A)

[Remove 4.1 and 4.2 and redesignate current 4.3 as the text of 4.0. Amend 4.0 to revise the breakpoints as follows:]

Standard Mail (A) rates are based on the weight of the pieces and are applied differently to pieces weighing less than or equal to a "breakpoint" (rounded to four decimal places) and those weighing more, as follows:

a. The appropriate minimum per-piece rate applies to Enhanced Carrier Route rate pieces weighing 0.2066 pound (3.3062 ounces) or less; Regular Presorted and automation rate pieces weighing 0.2068 pound (3.3087 ounces) or less; Nonprofit Enhanced Carrier Route rate pieces weighing 0.2069 pound (3.3103 ounces) or less; and Nonprofit Presorted and automation rate pieces weighing 0.2055 pound (3.2873 ounces) or less.

b. A rate determined by adding the appropriate fixed per-piece charge and the corresponding variable per-pound charge (based on the weight of the piece) applies to pieces weighing more than 0.2066 pound (3.3062 ounces) at Enhanced Carrier Route rates; weighing more than 0.2068 pound (3.3087 ounces) at Regular Presorted and automation rates; weighing more than 0.2069 pound (3.3103 ounces) at Nonprofit Enhanced Carrier Route rates; and weighing more than 0.2055 pound (3.2873 ounces) at Nonprofit Presorted and automation rates.

* * * * *

5.0 RATE APPLICATION—STANDARD MAIL (B)

5.1 Basis

Postage is based on the rate that applies to the weight (postage) increment of each address piece, and where applicable, on the zone to which the piece is addressed.

* * * * *

[Delete current 5.6 and renumber current 5.7 as 5.6. Revise renumbered 5.6 to change the name of the rate from "bulk" to "presorted" to read as follows:]

5.6 Presorted Bound Printed Matter

The presorted Bound Printed Matter rate has a per-piece charge and a per-pound charge. The minimum postage rate for an addressed piece is one unit of the per-piece charge plus the per-pound charge for an addressed piece weighing 1 pound.

* * * * *

8.0 COMPUTING POSTAGE—STANDARD MAIL (A)

[Remove 8.1 and renumber current 8.2 through 8.5 as 8.1 through 8.4, respectively; no other changes.]

* * * * *

9.0 COMPUTING POSTAGE—STANDARD MAIL (B)

9.1 Mailing Weight

[In 9.1a revise the term "bulk Bound Printed Matter" to read "presorted Bound Printed Matter."]

[Revise the title of 9.2 to read as follows:]

9.2 Total Postage—Presorted Bound Printed Matter

[In 9.2 revise the term "bulk Bound Printed Matter" to read "presorted Bound Printed Matter."]

* * * * *

9.4 Computing Affixed Postage—Individual Pieces

[In the first and second sentences of 9.4 revise the term "bulk Bound Printed Matter" to read "presorted Bound Printed Matter."]

9.5 Permit Imprint

[In the first sentences of 9.5a and 9.5b revise the term "bulk Bound Printed Matter" to read "presorted Bound Printed Matter."]

P014 Refunds and Exchanges

* * * * *

2.0 POSTAGE AND FEES REFUNDS

* * * * *

2.3 Torn or Defaced Mail

[Amend 2.3 by removing "Single-Piece Standard Mail" as follows:]

If First-Class Mail or Standard Mail (B) is torn or defaced during USPS handling so that the addressee or intended delivery point cannot be identified, the sender may receive a postage refund. This applies only when the failure to process and/or deliver is the fault of the USPS. Where possible, the damaged item is returned with the postage refund.

* * * * *

P030 Postage Meters and Meter Stamps

1.0 BASIC INFORMATION

* * * * *

1.5 Reply Postage

[Revise 1.5 to reflect the new 13-ounce weight limit for First-Class Mail to read as follows:]

Meter stamps may prepay reply postage on Express Mail; Priority Mail when the rate is the same for all zones; First-Class postcards, letters, and flats up to a maximum of 13 ounces; single-piece rate Special Standard Mail; and Library Mail, under the following conditions:

* * * * *

c. Postage on Priority Mail over 13, ounces, single-piece rate Special Standard Mail, or Library Mail may be paid only with meter-stamped address labels.

* * * * *

5.0 MAILINGS

5.1 Notification of Metered Mailings Presented in Bulk

[Amend the names of the rates in the first sentence of 5.1 to read as follows:]

Mailers who want to present Presorted First-Class Mail, Standard Mail (A), Parcel Post in bulk quantities, presorted Bound Printed Matter, Carrier Route Bound Printed Matter, or Presorted Special Standard Mail using metered postage must complete Form 3615. * * *

* * * * *

5.4 Place of Mailing

[Amend 5.4a by removing "Standard Mail (A)" to read as follows:]

Except as noted below, metered mail must be deposited at a post office acceptance unit, retail unit, or other location designated by the postmaster of the licensing post office (i.e., the post office shown in the meter stamp) and may not be given to a delivery employee or deposited in a street collection box, mailchute, receiving box, cooperative mailing rack, or other mail collection receptacle. Exceptions to this general standard are listed below.

a. Express Mail, Priority Mail (in a weight category for which rates do not vary by zone), or single-piece rate First-Class Mail, may be deposited in any street collection box or such other place where mail is accepted and that is served by the licensing post office.

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P040 Permit Imprints

* * * * *

4.0 INDICIA Format

4.1 Basic Standard

* * * * *

Exhibit 4.1a Indicia Formats for Mailgram and Official Mail

[Under the heading "Standard Mail (A) Official Mail," delete the first example, in the second example change "BULK RATE" to "PRSRT STD," and in the third example change "BULK RATE AUTOCR" to "PRESORTED STANDARD AUTOCR," add a new example that reads "PRSRT STD, AUTO, POSTAGE AND FEES PAID, AGENCY NAME, PERMIT NO. G–999."]

[Under the heading "Standard Mail (B) Official Mail," in the third example change "BULK RATE BOUND PRINTED MATTER" to "PRSRT BOUND PRINTED MATTER."]

Exhibit 4.1b Indicia Formats for First-Class Mail and Standard Mail

[Under the heading "Standard Mail (A)," in the first example change "BULK

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RATE ECRWSS" to "PRESORTED STANDARD ECRWSS," in the second example change "BULK RATE AUTOCR" to "PRESORTED STANDARD AUTOCR," in the third example change "BLK RT AUTO" to "PRSRT STD AUTO," in the seventh and eighth examples change "BULK RATE" to "PRESORTED STANDARD," delete the ninth example.]

[Under the heading "Standard Mail (B)," in the second example delete the word "BLK RT," in the third example change "BULK PARCEL POST" to "PARCEL POST," add a fifth example that reads "PP D/S, U.S. POSTAGE PAID, NEW YORK, NY, PERMIT NO. 1," add a sixth example that reads "PRESORTED BOUND PRINTED MATTER, U.S. POSTAGE PAID, NEW YORK, NY, PERMIT NO. 1."]

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P100 First-Class Mail

* * * * *

2.0 SINGLE-PIECE RATE

* * * * *

[Insert new 2.6 to read as follows:]

2.6 Residual Standard Mail (A) Subject to First-Class Rates

Mailers who have pieces weighing 13 ounces or less that do not qualify for Standard Mail (A) rates, but that are prepared as Standard Mail (A), must pay single-piece First-Class Mail postage for such pieces. If mailers do not desire to receive First-Class Mail service for such pieces they may enter the mailpieces "as is" (i.e., bearing the Standard Mail (A) markings and endorsements), under the following conditions:

a. Additional markings and/or postage must not be added to these pieces.

b. Mail bearing metered or precanceled stamp postage must pay the difference between the postage affixed at the Standard Mail (A) rates and the single-piece First-Class Mail rates by means of an advance deposit account or by affixing a meter strip for the appropriate amount to Form 3600–P, Postage Statement—(First-Class Mail Postage Affixed. The number of pieces, rate, and any surcharge information must be entered in Part C on the reverse side of Form 3600–P in the space provided under the special heading "From Standard Mail (A)".

c. Mail bearing permit imprints must pay the appropriate single-piece First-Class rates by completing Form 3600–R, Postage Statement—(First-Class Mail Permit Imprint. The number of pieces, rate, and any surcharge information must be entered in Part C on the reverse side of Form 3600–R in the space provided under the special heading "From Standard Mail (A)." For permit imprint mail there must be at least 200 pieces, except when the pieces are part of a larger mailing job and are submitted for acceptance along with the mail and a Standard Mail (A) postage statement for the other pieces in the same mailing job.

3.0 PRIORITY MAIL RATES

* * * * *

[Insert new 3.4 to read as follows:]

3.4 Residual Standard Mail (A) Subject to Priority Mail Rates

Mailers who have permit imprint pieces weighing over 13 ounces, but less than 16 ounces, that do not qualify for Standard Mail (A) rates, but that are prepared as Standard Mail (A), must pay Priority Mail postage for such pieces. Mailpieces paid with meters or permit imprints must re-envelope or otherwise prepare the pieces so that when mailed they bear only the appropriate Priority Mail markings, ancillary service endorsements, and ACS codes, and do not bear Standard Mail (A) markings, endorsements, or ACS codes. Mailpieces paid with permit imprints for which mailers do not desire to receive Priority Mail service may enter the mailpieces "as is" (i.e., bearing the Standard Mail (A) markings and endorsements), under the following conditions:

a. Additional markings and/or postage must not be added to these pieces.

b. The appropriate Priority Mail rates must be paid by completing Form 3600–PM, Postage Statement—Priority Mail Permit Imprint. The pieces must be recorded on this postage statement on the line titled "Pieces From Standard Mail (A)" in the postage calculation section. For permit imprint mail there must be at least 200 pieces, except when the pieces are part of a larger mailing job and are submitted for acceptance along with the mail and a Standard Mail (A) postage statement for the other pieces in the same mailing job.

* * * * *

P600 Standard Mail

1.0 BASIC INFORMATION

1.1 Payment Method

[Amend 1.1 to read as follows:]

Standard Mail postage must be paid using one of the following methods:

a. Standard Mail (A). The mailer is responsible for proper postage payment. Postage for Standard Mail (A) must be paid with meters, permit imprints, or precanceled stamps. Postage-affixed pieces must bear the correct postage unless excepted by standard. A permit imprint may be used for mailings that contain nonidentical-weight pieces only if authorized by the RCSC serving the mailing office.

b. Standard Mail (B). The mailer is responsible for proper postage payment. Subject to the corresponding standards, postage for single-piece rate Standard Mail (B) may be paid by any method. Postage for bulk rate (rate has minimum mailing volume requirement) or presort rate Standard Mail (B) must be paid with meters or permit imprints. Postage-affixed pieces must bear the correct postage unless excepted by standard. A permit imprint may be used for mailings that contain nonidentical-weight pieces only under P710, P720, or P730. Permit imprints may be used for identical weight pieces provided that the mail can be separated into groups that each contain pieces subject to the same zone and same combination of rates (e.g., all are zone 4, Inter-BMC, with a BMC Presort discount and a barcode discount). Identical weight permit imprint mail also may be mailed under P710, P720, or P730.

* * * * *

[Delete 1.3.]

[Revise title of 2.0 and clarify the language in 2.1 to read as follows:]

2.0 Standard Mail (A)—Presorted and Enhanced Carrier Route

2.1 Identical-Weight Pieces

Mailings of identical-weight pieces in a Presorted or Enhanced Carrier Route mailing may have postage affixed to each piece at the exact rate for which the piece qualifies, or each piece in the mailing may have postage affixed at the lowest rate applicable to pieces in the mailing or in the mailing job. Alternatively, a nondenominated precanceled stamp may be affixed to every piece in the mailing or mailing job, or each piece may bear a permit imprint. If exact postage is not affixed, all additional postage must be paid at the time of mailing with an advance deposit account or with a meter strip affixed to the required postage statement. If exact postage is not affixed, documentation meeting the standards in P012 must be submitted to substantiate the additional postage unless the pieces are identical weight and separated by rate when presented for acceptance.

* * * * *

[Revise the heading of 3.0 to read as follows:]

3.0 STANDARD MAIL (A)—AUTOMATION RATES

* * * * *

P710 Manifest Mailing System (MMS)

* * * * *

3.0 Keyline

3.1 Letter-Size Mail

* * * * *

Exhibit P710.3.1 Letter-Size Keyline Information

[Amend the postage indicia in the upper right corner of the second (Standard Mail (A))sample mailpiece by replacing "BULK RATE" with "PRSRT STD" to read as follows:]

PRSRT STD
U.S. POSTAGE PAID
NEW YORK, NY
PERMIT NO. 1

* * * * *

P750 Plant-Verified Drop Shipment (PVDS)

* * * * *

2.0 PROGRAM PARTICIPATION

* * * * *

2.11 Mailer Transport of PVDS

[Revise 2.11 to provide for additional DSCF and DDU rate Parcel Post mailings as follows:]

Using any means of transportation, including Express Mail or Priority Mail drop shipment, the mailer must transport PVDS mailings from the origin plant to the destination postal facility or facilities. The mailer must not transport PVDS mailings on the same vehicle with shipments not entered as PVDS. For Standard Mail PVDS, the mailer must meet the scheduling standards for mail deposit at destination entry postal facilities. If a vehicle contains mail paid at the Parcel Post destination entry rates, the applicable standards for scheduling of deposits and unloading of vehicles apply to any other mail on the same vehicle for the same destination facility. Any material classified as hazardous under C023 may not be carried in the same vehicle as PVDS mailings.

2.12 Separation of PVDS Mailings

[Renumber 2.12d and 2.12e as 2.12e and 2.12f, respectively. Add new 2.12d to provide for separation of Parcel Post at different destination entry rates in the same shipment as follows:]

PVDS mailings must be kept separate:

* * * * *

d. When a vehicle contains a shipment of Standard Mail (B) claiming more than one destination entry discount for deposit at the same postal facility, the mail eligible for each destination entry discount must be physically separated.

* * * * *

5.0 POSTAGE

* * * * *

5.3 Standard Mail (B)

[Revise 5.3 to explain zone-based postage computation as follows:]

Postage for Standard Mail (B) PVDS must be paid with meter stamps or with a permit imprint under the applicable authorization at the post office serving the mailer's location. Postage for DBMC mailings is computed from the BMC parent post office.

* * * * *

P760 First-Class or Standard Mail Mailings with Different Payment Methods

* * * * *

2.0 POSTAGE

* * * * *

2.2 Metered Pieces Standard Mail (A)

[Revise the first sentence of 2.2 to change the term "nonautomation" to "Presorted." Delete the last sentence.]

Metered pieces in a combined mailing must bear postage at a Presorted or automation rate for which the pieces are eligible. Additional postage due for metered pieces in a combined mailing is deducted from the mailer's postage due advance deposit account.

* * * * *

2.4 Precanceled Pieces Standard Mail (A)

[Amend 2.4 by deleting the last sentence.]

* * * * *

3.0 PRODUCING THE COMBINED MAILING

* * * * *

3.3 Rejected Pieces

[In 3.3a, change the phrase "Standard Mail (A) 3/5 presort rate" to "3/5 Presorted Standard Mail (A) rate as follows:"]

Pieces rejected for any reason by the mailer's automated sorting system and pulled out of the combined mailing stream must be identified by the mailer, specifically accounted for in documentation, and:

a. If postage-affixed, bear postage or have additional postage affixed to equal a rate no lower than the correct Presorted First-Class rate or 3/5 Presorted Standard Mail (A) rate for letters, as applicable.

* * * * *

[Revise entire R module to read as follows:]

BILLING CODE 7710–12–P

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R000 Stamps and Stationery

1.0 PLAIN STAMPED ENVELOPES

Plain stamped envelopes are priced as follows:

Type	Size[1]	Denomination or Value	Quantity and Price		
			Each (less than 500)	500	1,000
Basic[2]	6-3/4	$0.33	$0.40	$173.50	$347.00
	10	0.33	0.40	176.50	353.00
Hologram	6-3/4	—	—	—	—
	10	0.33	0.41	180.50	361.00
Bulk Rate Regular	6-3/4	0.10	—	58.50	117.00
	10	0.10	—	61.50	123.00
Nonprofit Regular & Window	6-3/4	0.05	—	33.50	67.00
	10	0.05	—	36.50	73.00

[1] Size 10 includes all intermediate sizes through 10.

[2] Basic includes all types of envelopes other than those specifically listed.

2.0 PERSONALIZED STAMPED ENVELOPES

Personalized stamped envelopes are priced as follows:

Type	Size[1]	Denomination or Value	Quantity and Price		
			50	500	1,000
Basic[2]	6-3/4	$0.33	$19.50	$179.00	$358.00
	10	0.33	19.75	180.00	360.00
Hologram	6-3/4	—	—	—	—
	10	0.33	20.00	184.00	368.00
Bulk Rate Regular	6-3/4	0.10	—	64.00	128.00
	10	0.10	—	65.00	130.00
Nonprofit Regular & Window	6-3/4	0.05	—	39.00	78.00
	10	0.05	—	40.00	80.00

[1] Size 10 includes all intermediate sizes through 10.

[2] Basic includes all types of envelopes other than those specifically listed.

3.0 STAMPED CARDS

Stamped cards are priced as follows:

Configuration	Postage	Fee	Total Price
Cut single card	$0.20	$0.01	$0.21
Sheet of 40 cards	8.00	0.40	8.40
Double reply-paid card	0.40	0.02	0.42

4.0 POSTAGE STAMPS

Postage stamps are available in the following denominations:

Purpose	Form	Denomination
Regular Postage	Panes of up to 100	$0.01, .02, .03, .04, .05, .10, .15, .20, .22, .23, .25, .28, .29, .30, .32, .33, .40, .45, .46, .50, .52, .55, .60, .75, .77, .78, $1, $2, $3.20, $5, $11.25
	Booklets	$0.20 ($2.00 booklet)
		$0.33 ($3.30, $4.95, and $6.60 booklets)
	Coils of 100	$0.20, .22 (additional ounce postage), .23, .33
	Coils of 500	$0.01, .02, .03, .04, .05, .10, .20, .23, .33, $1
	Coils of 3,000	$0.01, .02, .03, .04, .05, .10, .20, .23, .33
	Coils of 10,000	$0.05, .33
Precanceled Presorted Rate Postage — First-Class Mail and Standard Mail (A)	Coils of 500, 3,000, and 10,000	Various nondenominated (available only to permit holders)
Commemorative	Panes of up to 50	$0.33 and other denominations
	20-Stamp Booklets	$0.33 ($6.60 booklets)

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R100 First-Class Mail

1.0 NONAUTOMATION—SINGLE PIECES WEIGHING 13 OUNCES OR LESS

Card Rate
1.1

Single and double cards meeting the standards in C100 and E110:

Type	Rate
Single	$0.200

Letters, Flats, and Parcels
1.2

Letters, flats, and parcels (i.e., not card rate); nonstandard surcharge in 11.0 might apply:

Weight Increment	Rate
First ounce or fraction of an ounce	$0.330
Each additional ounce or fraction of an ounce	0.220

2.0 AUTOMATION—SINGLE PIECES OF QUALIFIED BUSINESS REPLY MAIL

Card Rate
2.1

Single cards meeting the standards in C100, C810, C840, E110, E150, and S922:

Type	Rate[1]
Single	$0.180

[1] QBRM is also subject to fees in R900 and the standards in S922.

Letters
2.2

Letter-size pieces other than cards meeting the standards in C810, C840, E150, and S922:

Weight Increment	Rate[1]
First ounce or fraction of an ounce	$0.300
Second ounce or fraction	0.220

[1] QBRM is also subject to fees in R900 and the standards in S922.

3.0 NONAUTOMATION—PRESORTED

Card Rate
3.1

Single and double cards meeting the standards in C100 and E110: $0.180 each.

Letters, Flats, and Parcels
3.2

Letters, flats, and parcels (i.e., not card rate); nonstandard surcharge in 11.0 might apply:

Weight Increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing not more than 2 ounces)	$0.305
(For pieces weighing more than 2 ounces)	0.259
Each additional ounce or fraction of an ounce	0.220

4.0 AUTOMATION—BASIC

Card Rate
4.1

Single and double cards meeting the standards in C100 and E110: $0.166 each.

Letters 4.2 Letter-size pieces other than card rate:

Weight increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing not more than 2 ounces)	$0.270
(For pieces weighing more than 2 ounces)	0.224
Each additional ounce or fraction of an ounce	0.220

Flats 4.3 Flat-size pieces; nonstandard surcharge in 11.0 might apply:

Weight increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing not more than 2 ounces)	$0.300
(For pieces weighing more than 2 ounces)	0.254
Each additional ounce or fraction of an ounce	0.220

5.0 AUTOMATION—3-DIGIT

Card Rate 5.1 Single and double cards meeting the standards in C100 and E110: $0.159 each.

Letters 5.2 Letter-size pieces other than card rate:

Weight increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing not more than 2 ounces)	$0.261
(For pieces weighing more than 2 ounces)	0.215
Each additional ounce or fraction of an ounce	0.220

6.0 AUTOMATION—5-DIGIT

Card Rate 6.1 Single and double cards meeting the standards in C100 and E110: $0.146 each.

Letters 6.2 Letter-size pieces other than card rate:

Weight increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing not more than 2 ounces)	$0.243
(For pieces weighing more than 2 ounces)	0.197
Each additional ounce or fraction of an ounce	0.220

7.0 AUTOMATION—3/5 (FLAT-SIZE PIECES)

Flat-size pieces; nonstandard surcharge in 11.0 might apply:

Weight increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing not more than 2 ounces)	$0.270
(For pieces weighing more than 2 ounces)	0.224
Each additional ounce or fraction of an ounce	0.220

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8.0 AUTOMATION—CARRIER ROUTE

Card Rate 8.1 Single and double cards meeting the standards in C100 and E110: $0.141 each.

Letters 8.2 Letter-size pieces other than card rate:

Weight Increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing not more than 2 ounces)	$0.238
(For pieces weighing more than 2 ounces)	0.192
Each additional ounce or fraction of an ounce	0.220

Summary of First-Class Rates

Letters, Flats, and Parcels Weight Not Over (ounces)	Nonautomation		Automation					
			Letter-Size				Flat-Size	
	Single-Piece	Presorted	Basic	3-Digit	5-Digit	Carrier Route	Basic	3/5
1	$0.33[1]	$0.305[1]	$0.270	$0.261	$0.243	$0.238	$0.300[1]	$0.270[1]
2	0.55	0.525	0.490	0.481	0.463	0.458	0.520	0.490
3[2]	0.77	0.699	0.664	0.655	0.637	0.632	0.694	0.664
4	0.99	0.919	0.884[3]	0.875[3]	0.857[3]	0.852[3]	0.914	0.884
5	1.21	1.139	—	—	—	—	1.134	1.104
6	1.43	1.359	—	—	—	—	1.354	1.324
7	1.65	1.579	—	—	—	—	1.574	1.544
8	1.87	1.799	—	—	—	—	1.794	1.764
9	2.09	2.019	—	—	—	—	2.014	1.984
10	2.31	2.239	—	—	—	—	2.234	2.204
11	2.53	2.459	—	—	—	—	2.454	2.424
12	2.75	2.679	—	—	—	—	2.674	2.644
13	2.97	2.899	—	—	—	—	2.894	2.864
Card Rate[4]								
Single	$0.20	$0.180	$0.166	$0.159	$0.146	$0.141	—	—

[1] Nonstandard surcharge in 11.0 might apply: single piece $0.11; presorted $0.05.

[2] Presorted and automation rates for pieces weighing over 2 ounces reflect a first-ounce rate that is $0.046 lower than for pieces weighing 2 ounces or less (see 3.0 through 8.0).

[3] Weight not to exceed 3.3103 ounces; pieces over 3 ounces subject to additional standards.

[4] Single rate applies to a double card when originally mailed; reply half of double postcard must bear postage at applicable rate when returned.

9.0 KEYS AND IDENTIFICATION DEVICES

Weight Not Over (ounces)	Rate[1]
1[2]	$0.63
2	0.85
3	1.07
4	1.29
5	1.51
6	1.73
7	1.95
8	2.17
9	2.39
10	2.61
11	2.83
12	3.05
13	3.27
2 pounds	3.50

[1] Includes $0.30 fee.

[2] Nonstandard surcharge in 11.0 might apply.

10.0 PRIORITY MAIL

Weight Not Over (pounds)[1]	Zone					
	L, 1, 2, & 3	4	5	6	7	8
1	$3.20	$3.20	$3.20	$3.20	$3.20	$3.20
2[2]	3.20	3.20	3.20	3.20	3.20	3.20
3	4.30	4.30	4.30	4.30	4.30	4.30
4	5.40	5.40	5.40	5.40	5.40	5.40
5	6.50	6.50	6.50	6.50	6.50	6.50
6	6.60	6.90	7.10	7.45	7.70	8.25
7	6.70	7.30	7.70	8.40	8.90	10.00
8	6.80	7.70	8.30	9.35	10.10	11.75
9	6.90	8.10	8.90	10.30	11.30	13.50
10	7.00	8.50	9.50	11.25	12.50	15.25
11	7.20	9.15	10.30	12.20	13.45	16.50
12	7.40	9.80	11.05	13.10	14.45	17.80
13	7.75	10.40	11.80	14.05	15.50	19.10
14	8.10	11.05	12.55	14.95	16.50	20.40
15	8.50	11.70	13.30	15.85	17.50	21.70
16	8.85	12.30	14.00	16.75	18.55	23.00
17	9.20	12.95	14.75	17.70	19.55	24.30
18	9.60	13.60	15.50	18.60	20.60	25.60
19	9.95	14.20	16.25	19.50	21.60	26.95
20	10.35	14.85	17.00	20.40	22.65	28.20
21	10.70	15.50	17.70	21.35	23.65	29.45
22	11.05	16.15	18.45	22.25	24.70	30.65
23	11.45	16.75	19.20	23.15	25.70	31.85
24	11.75	17.40	19.95	24.05	26.70	33.05
25	12.15	18.05	20.70	25.00	27.75	34.35
26	12.55	18.65	21.40	25.90	28.75	35.55
27	12.90	19.30	22.15	26.80	29.80	36.75
28	13.25	19.95	22.90	27.70	30.80	37.95
29	13.65	20.55	23.65	28.60	31.85	39.15
30	14.00	21.20	24.40	29.55	32.85	40.35
31	14.35	21.85	25.10	30.45	33.90	41.55
32	14.75	22.45	25.85	31.35	34.90	42.80
33	15.10	23.10	26.60	32.25	35.95	44.00
34	15.45	23.70	27.35	33.15	36.95	45.20
35	15.80	24.35	28.10	34.10	37.95	46.40
36	16.20	25.00	28.80	35.00	39.00	47.60
37	16.60	25.65	29.55	35.90	40.00	48.80
38	16.90	26.25	30.30	36.85	41.05	50.05
39	17.30	26.90	31.05	37.75	42.05	51.25
40	17.70	27.55	31.80	38.65	43.10	52.45
41	18.00	28.15	32.50	39.55	44.10	53.65
42	18.40	28.80	33.25	40.45	45.15	54.85
43	18.80	29.45	34.00	41.40	46.15	56.10
44	19.15	30.05	34.75	42.30	47.20	57.35
45	19.50	30.70	35.50	43.20	48.20	58.55
46	19.85	31.35	36.20	44.10	49.20	59.75
47	20.25	31.95	36.95	45.05	50.25	60.95
48	20.60	32.60	37.70	45.95	51.25	62.15
49	20.95	33.25	38.45	46.85	52.30	63.35
50	21.35	33.85	39.20	47.75	53.30	64.55
51	21.70	34.50	39.90	48.65	54.25	65.80
52	22.05	35.15	40.65	49.60	55.30	67.00
53	22.45	35.75	41.40	50.50	56.25	68.20
54	22.80	36.40	42.15	51.40	57.25	69.40
55	23.15	37.05	42.90	52.30	58.20	70.60
56	23.55	37.65	43.60	53.25	59.20	71.80
57	23.90	38.30	44.35	54.15	60.20	73.05
58	24.25	38.95	45.10	55.05	61.15	74.25
59	24.65	39.55	45.85	55.95	62.20	75.45
60	25.00	40.20	46.60	56.90	63.15	76.65
61	25.35	40.85	47.30	57.80	64.15	77.90
62	25.75	41.45	48.05	58.70	65.10	79.10
63	26.10	42.10	48.80	59.60	66.10	80.35
64	26.50	42.75	49.55	60.55	67.10	81.55
65	26.85	43.35	50.25	61.45	68.05	82.75
66	27.20	44.00	51.00	62.35	69.10	83.95
67	27.60	44.65	51.75	63.25	70.05	85.15
68	27.95	45.25	52.50	64.15	71.00	86.35
69	28.30	45.90	53.25	65.10	72.05	87.55
70	28.70	46.55	53.95	66.00	73.00	88.80

[1] Parcels that weigh less than 15 pounds but measure more than 84 inches in combined length and girth are charged the applicable rate for a 15-pound parcel.

[2] The 2-pound rate is charged for matter sent in a flat-rate envelope provided by the USPS, regardless of the actual weight of the piece.

11.0 SURCHARGES

Nonstandard Surcharge 11.1

Surcharge per piece:

a. Single-piece rate: $0.11.

b. Presorted and automation (flat-size) rate: $0.05.

12.0 FEES

Mailing 12.1

Presort fee, per 12-month period, per office of mailing: $100.00.

Address Correction Service 12.2

Charge per notice issued:

a. Manual: $0.50.

b. Automated: $0.20.

Pickup 12.3

Priority Mail only, per occurrence: $8.25. May be combined with Express Mail and Standard Mail (B) Parcel Post pickups.

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R200 Periodicals

1.0 REGULAR

Pound Rates 1.1 Per pound or fraction:

a. For the nonadvertising portion: $0.161.

b. For the advertising portion:

Zone	Rate
Delivery Unit	$0.155
SCF	0.178
1 & 2	0.215
3	0.229
4	0.263
5	0.316
6	0.371
7	0.438
8	0.495

Piece Rates 1.2 Per addressed piece:

		Automation[1]	
Presort Level	Nonautomation	Letter-Size	Flat-Size
Basic	$0.294	$0.232	$0.248
3-Digit	0.253	0.206	0.214
5-Digit	0.197	0.162	0.168
Carrier Route	0.122	—	—
High Density	0.103	—	—
Saturation	0.085	—	—

[1] Lower maximum weight limits apply: letter-size at 3 ounces (or 3.3103 ounces for heavy letters); flat-size at 16 ounces.

Discounts 1.3 Piece rate discounts:

a. Nonadvertising adjustment for each 1% of nonadvertising content: $0.00059 per piece.

b. Delivery unit zone piece discount for each addressed piece claimed in the pound rate portion at the delivery unit zone rate: $0.013.

c. SCF zone piece discount for each addressed piece claimed in the pound rate portion at the SCF zone rate: $0.007.

2.0 PREFERRED—IN-COUNTY

Pound Rates 2.1 Per pound or fraction:

Zone	Rate
Delivery Unit	$0.107
All Others	0.133

Piece Rates 2.2 Per addressed piece:

Presort Level	Nonautomation	Automation[1]	
		Letter-Size	Flat-Size
Basic	$0.095	$0.033	$0.049
3-Digit	0.086	0.041	0.064
5-Digit	0.080	0.045	0.059
Carrier Route	0.043	—	—
High Density	0.029	—	—
Saturation	0.025	—	—

[1] Lower maximum weight limits apply: letter-size at 3 ounces (or 3.3103 ounces for heavy letters); flat-size at 16 ounces.

Discount 2.3 Delivery unit zone piece discount for each addressed piece claimed in the pound rate portion at the delivery unit zone rate: $0.004.

3.0 PREFERRED—NONPROFIT

Pound Rates 3.1 Per pound or fraction:

a. For the nonadvertising portion: $0.156.

b. For the advertising portion:

Zone	Rate
Delivery Unit	$0.155
SCF	0.178
1 & 2	0.215
3	0.229
4	0.263
5	0.316
6	0.371
7	0.438
8	0.495

Piece Rates 3.2 Per addressed piece:

Presort Level	Nonautomation	Automation[1]	
		Letter-Size	Flat-Size
Basic	$0.251	$0.169	$0.205
3-Digit	0.206	0.161	0.184
5-Digit	0.183	0.148	0.162
Carrier Route	0.113	—	—
High Density	0.094	—	—
Saturation	0.076	—	—

[1] Lower maximum weight limits apply: letter-size at 3 ounces (or 3.3103 ounces for heavy letters); flat-size at 16 ounces.

Discounts 3.3 Piece rate discounts:

a. Nonadvertising adjustment for each 1% of nonadvertising content: $0.00044 per piece.

b. Delivery unit zone piece discount for each addressed piece claimed in the pound rate portion at the delivery unit zone rate: $0.007.

c. SCF zone piece discount for each addressed piece claimed in the pound rate portion at the SCF zone rate: $0.004.

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4.0 PREFERRED—CLASSROOM

Pound Rates 4.1

Per pound or fraction:

a. For the nonadvertising portion: $0.156.

b. For the advertising portion:

Zone	Rate
Delivery Unit	$0.155
SCF	0.178
1 & 2	0.215
3	0.229
4	0.263
5	0.316
6	0.371
7	0.438
8	0.495

Piece Rates 4.2

Per addressed piece:

		Automation[1]	
Presort Level	Nonautomation	Letter-Size	Flat-Size
Basic	$0.251	$0.189	$0.205
3-Digit	0.208	0.161	0.184
5-Digit	0.183	0.148	0.162
Carrier Route	0.113	—	—
High Density	0.094	—	—
Saturation	0.076	—	—

[1] Lower maximum weight limits apply: letter-size at 3 ounces (or 3.3103 ounces for heavy letters); flat-size at 16 ounces.

Discounts 4.3

Piece rate discounts:

a. Nonadvertising adjustment for each 1% of nonadvertising content: $0.00044 per piece.

b. Delivery unit zone piece discount for each addressed piece claimed in the pound rate portion at the delivery unit zone rate: $0.007.

c. SCF zone piece discount for each addressed piece claimed in the pound rate portion at the SCF zone rate: $0.004.

5.0 PREFERRED—SCIENCE-OF-AGRICULTURE

Pound Rates 5.1

Per pound or fraction:

a. For the nonadvertising portion: $0.161.

b. For the advertising portion:

Zone	Rate
Delivery Unit	$0.116
SCF	0.133
1 & 2	0.161
3	0.229
4	0.263
5	0.316
6	0.371
7	0.438
8	0.495

Piece Rates
5.2

Per addressed piece:

		Automation[1]	
Presort Level	Nonautomation	Letter-Size	Flat-Size
Basic	$0.294	$0.232	$0.248
3-Digit	0.253	0.205	0.214
5-Digit	0.197	0.182	0.188
Carrier Route	0.122	—	—
High Density	0.103	—	—
Saturation	0.085	—	—

[1] Lower maximum weight limits apply: letter-size at 3 ounces (or 3.3103 ounces for heavy letters); flat-size at 16 ounces.

Discounts
5.3

Piece rate discounts:

a. Nonadvertising adjustment for each 1% of nonadvertising content: $0.00059 per piece.

b. Delivery unit zone piece discount for each addressed piece claimed in the pound rate portion at the delivery unit zone rate: $0.013.

c. SCF zone piece discount for each addressed piece claimed in the pound rate portion at the SCF zone rate: $0.007.

6.0 FEES

Application
6.1

Fees as appropriate, per application:

a. Original entry: $305.00.

b. News agent registry: $50.00.

c. Additional entry: $50.00.

d. Reentry: $50.00.

Address Correction Service
6.2

Charge per notice issued:

a. Manual: $0.50.

b. Automated: $0.20.

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R500 Express Mail

1.0 EXPRESS MAIL—ALL SERVICE LEVELS

Weight Not Over (pounds)	Service				Weight Not Over (pounds)	Service			
	Same[1] Day Airport	Custom Designed	Next Day & Second Day PO to PO	Next Day & Second Day PO to Addressee		Same[1] Day Airport	Custom Designed	Next Day & Second Day PO to PO	Next Day & Second Day PO to Addressee
1/2		$9.55	$9.70	$11.75	36		65.25	65.40	67.45
1		13.55	13.70	15.75	37		66.45	66.60	68.65
2[2]		13.55	13.70	15.75	38		67.80	67.95	70.00
3		16.30	16.45	18.50	39		69.05	69.20	71.25
4		19.05	19.20	21.25	40		70.30	70.45	72.50
5		21.80	21.95	24.00	41		71.55	71.70	73.75
6		24.55	24.70	26.75	42		72.90	73.05	75.10
7		27.20	27.35	29.40	43		74.15	74.30	76.35
8		28.40	28.55	30.60	44		75.45	75.60	77.65
9		29.60	29.75	31.80	45		76.75	76.90	78.95
10		30.80	30.95	33.00	46		77.95	78.10	80.15
11		32.25	32.40	34.45	47		79.30	79.45	81.50
12		34.60	34.75	36.80	48		80.55	80.70	82.75
13		35.85	36.00	38.05	49		81.80	81.95	84.00
14		37.20	37.35	39.40	50		83.05	83.20	85.25
15		38.40	38.55	40.60	51		84.40	84.55	86.60
16		39.70	39.85	41.90	52		85.60	85.75	87.80
17		41.05	41.20	43.25	53		86.95	87.10	89.15
18		42.25	42.40	44.45	54		88.20	88.35	90.40
19		43.55	43.70	45.75	55		89.45	89.60	91.65
20		44.85	45.00	47.05	56		90.80	90.95	93.00
21		46.10	46.25	48.30	57		92.00	92.15	94.20
22		47.35	47.50	49.55	58		93.30	93.45	95.50
23		48.70	48.85	50.90	59		94.70	94.85	96.90
24		49.90	50.05	52.10	60		96.20	96.35	98.40
25		51.20	51.35	53.40	61		97.80	97.95	100.00
26		52.45	52.60	54.65	62		99.30	99.45	101.50
27		53.75	53.90	55.95	63		100.80	100.95	103.00
28		55.00	55.15	57.20	64		102.40	102.55	104.60
29		56.30	56.45	58.50	65		103.90	104.05	106.10
30		57.60	57.75	59.80	66		105.50	105.65	107.70
31		58.85	59.00	61.05	67		107.00	107.15	109.20
32		60.15	60.30	62.35	68		108.60	108.75	110.80
33		61.40	61.55	63.60	69		110.10	110.25	112.30
34		62.70	62.85	64.90	70		111.60	111.75	113.80
35		63.95	64.10	66.15					

1 Same Day Airport service is currently suspended.

2 The 2-pound rate is charged for matter sent in a flat-rate envelope provided by the USPS, regardless of the actual weight of the piece.

2.0	**FEES**
Address Correction Service 2.1	Charge per notice issued: a. Manual: $0.50. b. Automated: $0.20.
Pickup 2.2	Per occurrence: $8.25. May be combined with Priority Mail and Standard Mail (B) Parcel Post pickups.
Delivery Stops 2.3	Custom Designed Service only, each: $8.25.

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R600 Standard Mail

1.0 REGULAR STANDARD MAIL (A)

Letter-Size Minimum Per-Piece Rates
1.1

Pieces 0.2068 pound (3.3087 ounces) or less:

	Presorted		Automation[1]		
Entry Discount	Basic	3/5	Basic	3-Digit	5-Digit
None	$0.235	$0.207	$0.183	$0.176	$0.160
DBMC	0.219	0.191	0.167	0.160	0.144
DSCF	0.214	0.186	0.162	0.155	0.139
DDU	—	—	—	—	—

1 Pieces weighing over 3 ounces subject to additional standards.

Nonletter-Size Minimum Per-Piece Rates
1.2

Pieces 0.2068 pound (3.3087 ounces) or less:

	Presorted[1]		Automation[2]	
Entry Discount	Basic	3/5	Basic	3/5
None	$0.304	$0.240	$0.245	$0.203
DBMC	0.288	0.224	0.229	0.187
DSCF	0.283	0.219	0.224	0.182
DDU	—	—	—	—

1 Residual shape surcharge in 10.0 might apply. Add $0.10 per piece for items that are prepared as a parcel or are not letter-size or flat-size.
2 Available only for automation-compatible flats.

Piece/Pound Rates
1.3

Pieces more than 0.2068 pound (3.3087 ounces):

	Presorted[2]		Automation[3]	
Piece/Pound Rate[1]	Basic	3/5	Basic	3/5
Per Piece	$0.164	$0.100	$0.105	$0.063
Per Pound (includes entry discount if applicable)	PLUS	PLUS	PLUS	PLUS
None	$0.677	$0.677	$0.677	$0.677
DBMC	0.598	0.598	0.598	0.598
DSCF	0.577	0.577	0.577	0.577
DDU	—	—	—	—

1 Each piece is subject to both a piece rate and a pound rate.
2 Residual shape surcharge in 10.0 might apply. Add $0.10 per piece for items that are prepared as a parcel or are not letter-size or flat-size.
3 Available only for automation-compatible flats.

2.0 ENHANCED CARRIER ROUTE STANDARD MAIL (A)

Letter-Size Minimum Per-Piece Rates
2.1

Pieces 0.2066 pound (3.3062 ounces) or less:

	Nonautomation			Automation[1]
Entry Discount	Basic	High Density	Saturation	Basic
None	$0.162	$0.139	$0.130	$0.156
DBMC	0.146	0.123	0.114	0.140
DSCF	0.141	0.118	0.109	0.135
DDU	0.136	0.113	0.104	0.130

1 Pieces weighing over 3 ounces subject to additional standards.

Nonletter-Size Minimum Per-Piece Rates
2.2

Pieces 0.2066 pound (3.3062 ounces) or less:

Entry Discount[1]	Basic	High Density	Saturation
None	$0.162	$0.151	$0.140
DBMC	0.146	0.135	0.124
DSCF	0.141	0.130	0.119
DDU	0.136	0.125	0.114

1 Residual shape surcharge in 10.0 might apply. Add $0.10 per piece for items that are prepared as a parcel or are not letter-size or flat-size.

Piece/Pound Rates
2.3

Pieces more than 0.2066 pound (3.3062 ounces):

Piece/Pound Rate[1, 2]	Basic	High Density	Saturation
Per Piece	$0.025	$0.014	$0.003
Per Pound (includes entry discount if applicable)	PLUS	PLUS	PLUS
None	$0.663	$0.663	$0.663
DBMC	0.584	0.584	0.584
DSCF	0.563	0.563	0.563
DDU	0.537	0.537	0.537

1 Residual shape surcharge in 10.0 might apply. Add $0.10 per piece for items that are prepared as a parcel or are not letter-size or flat-size.

2 Each piece is subject to both a piece rate and a pound rate.

3.0 NONPROFIT STANDARD MAIL (A)

Letter-Size Minimum Per-Piece Rates
3.1

Pieces 0.2055 pound (3.2873 ounces) or less:

Entry Discount	Presorted		Automation[1]		
	Basic	3/5	Basic	3-Digit	5-Digit
None	$0.169	$0.142	$0.119	$0.114	$0.093
DBMC	0.153	0.126	0.103	0.098	0.077
DSCF	0.148	0.121	0.098	0.093	0.072
DDU	—	—	—	—	—

1 Pieces weighing over 3 ounces subject to additional standards.

Nonletter-Size Minimum Per-Piece Rates
3.2

Pieces 0.2055 pound (3.2873 ounces) or less:

Entry Discount	Presorted[1]		Automation[2]	
	Basic	3/5	Basic	3/5
None	$0.233	$0.165	$0.182	$0.144
DBMC	0.217	0.149	0.166	0.128
DSCF	0.212	0.144	0.161	0.123
DDU	—	—	—	—

1 Residual shape surcharge in 10.0 might apply. Add $0.10 per piece for items that are prepared as a parcel or are not letter-size or flat-size.

2 Available only for automation-compatible flats.

Piece/Pound Rates
3.3

Pieces more than 0.2055 pound (3.2873 ounces):

Piece/Pound Rate[1]	Presorted[2]		Automation[3]	
	Basic	3/5	Basic	3/5
Per Piece	$0.120	$0.052	$0.069	$0.031
Per Pound (includes entry discount if applicable)	PLUS	PLUS	PLUS	PLUS
None	$0.550	$0.550	$0.550	$0.550

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DBMC	0.471	0.471	0.471	0.471
DSCF	0.450	0.450	0.450	0.450
DDU	—	—	—	—

1 Each piece is subject to both a piece rate and a pound rate.

2 Residual shape surcharge in 10.0 might apply. Add $0.10 per piece for items that are prepared as a parcel or are not letter-size or flat-size.

3 Available only for automation-compatible flats.

4.0 NONPROFIT ENHANCED CARRIER ROUTE STANDARD MAIL (A)

Letter-Size Minimum Per-Piece Rates 4.1

Pieces 0.2069 pound (3.3103 ounces) or less:

	Nonautomation			Automation[1]
Entry Discount	Basic	High Density	Saturation	Basic
None	$0.099	$0.078	$0.072	$0.092
DBMC	0.083	0.062	0.056	0.076
DSCF	0.078	0.057	0.051	0.071
DDU	0.073	0.052	0.046	0.066

1 Pieces weighing over 3 ounces subject to additional standards.

Nonletter-Size Minimum Per-Piece Rates 4.2

Pieces 0.2069 pound (3.3103 ounces) or less:

Entry Discount[1]	Basic	High Density	Saturation
None	$0.099	$0.092	$0.084
DBMC	0.083	0.076	0.068
DSCF	0.078	0.071	0.063
DDU	0.073	0.066	0.058

1 Residual shape surcharge in 10.0 might apply. Add $0.10 per piece for items that are prepared as a parcel or are not letter-size or flat-size.

Piece/Pound Rates 4.3

Pieces more than 0.2069 pound (3.3103 ounces):

Piece/Pound Rate[1, 2]	Basic	High Density	Saturation
Per Piece	$0.039	$0.032	$0.024
Per Pound (includes entry discount if applicable)	PLUS	PLUS	PLUS
None	$0.290	$0.290	$0.290
DBMC	0.211	0.211	0.211
DSCF	0.190	0.190	0.190
DDU	0.164	0.164	0.164

1 Residual shape surcharge in 10.0 might apply. Add $0.10 per piece for items that are prepared as a parcel or are not letter-size or flat-size.

2 Each piece is subject to both a piece rate and a pound rate.

5.0 PARCEL POST STANDARD MAIL (B)

Inter-BMC/ASF Single-Piece Machinable Parcel Post

5.1

Inter-BMC/ASF ZIP Codes only, no discount, no surcharge:

Weight Not Over (pounds)	Zone[1, 2, 3, 4, 5]						
	1 & 2	3	4	5	6	7	8
2	$3.15	$3.15	$3.15	$3.15	$3.15	$3.15	$3.15
3	3.59	3.90	4.25	4.25	4.25	4.25	4.25
4	3.73	4.16	4.91	5.35	5.35	5.35	5.35
5	3.86	4.39	5.33	6.45	6.45	6.45	6.45
6	3.99	4.62	5.71	7.10	7.40	7.60	8.15
7	4.11	4.82	6.07	7.72	8.35	8.75	9.85
8	4.24	5.01	6.36	8.26	9.30	9.90	11.55
9	4.33	5.19	6.71	8.76	10.25	11.06	13.25
10	4.45	5.36	6.99	9.23	10.92	12.20	14.95
11	4.54	5.53	7.27	9.66	11.47	13.30	16.10
12	4.64	5.68	7.53	10.06	11.97	14.30	17.35
13	4.73	5.81	7.77	10.44	12.44	15.17	18.65
14	4.82	5.97	8.01	10.80	12.89	15.74	19.90
15	4.90	6.10	8.24	11.13	13.31	16.28	21.15
16	4.98	6.23	8.45	11.45	13.70	16.77	21.85
17	5.07	6.34	8.66	11.74	14.08	17.25	22.49
18	5.14	6.46	8.85	12.02	14.42	17.69	23.10
19	5.23	6.56	9.04	12.29	14.76	18.12	23.67
20	5.29	6.68	9.20	12.54	15.07	18.52	24.21
21	5.36	6.80	9.37	12.79	15.38	18.90	24.72
22	5.43	6.89	9.54	13.02	15.66	19.26	25.21
23	5.50	7.01	9.71	13.23	15.93	19.60	25.67
24	5.55	7.10	9.85	13.45	16.19	19.94	26.12
25	5.62	7.19	10.01	13.64	16.44	20.24	26.54
26	5.68	7.28	10.15	13.84	16.68	20.54	26.93
27	5.75	7.37	10.28	14.02	16.90	20.82	27.32
28	5.80	7.46	10.43	14.20	17.12	21.09	27.68
29	5.86	7.55	10.56	14.36	17.33	21.35	28.04
30	5.92	7.63	10.67	14.52	17.52	21.60	28.36
31	5.98	7.70	10.80	14.67	17.72	21.85	28.68
32	6.03	7.79	10.92	14.82	17.90	22.06	28.99
33	6.08	7.87	11.04	14.97	18.07	22.30	29.26
34	6.14	7.93	11.14	15.11	18.24	22.51	29.56
35	6.19	8.01	11.26	15.24	18.40	22.71	29.83

[1] For OBMC discount, deduct $0.57 per piece.

[2] For BMC Presort discount, deduct $0.22 per piece.

[3] For barcoded discount, deduct $0.03 per piece.

[4] Parcels that weigh less than 15 pounds but measure more than 84 inches (but not more than 108 inches) in combined length and girth are charged the applicable rate for a 15-pound parcel.

[5] For pieces weighing more than 35 pounds, see 5.2.

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5.2 Inter-BMC/ASF Single-Piece Nonmachinable Parcel Post

Inter-BMC/ASF ZIP Codes only, nonmachinable surcharge of $1.65 included:

Weight Not Over (pounds)	Zone[1, 2, 3, 4, 5]						
	1 & 2	3	4	5	6	7	8
2	$4.80	$4.80	$4.80	$4.80	$4.80	$4.80	$4.80
3	5.24	5.55	5.90	5.90	5.90	5.90	5.90
4	5.38	5.81	6.56	7.00	7.00	7.00	7.00
5	5.51	6.04	6.98	8.10	8.10	8.10	8.10
6	5.64	6.27	7.36	8.75	9.05	9.25	9.80
7	5.76	6.47	7.72	9.37	10.00	10.40	11.50
8	5.89	6.66	8.03	9.91	10.95	11.55	13.20
9	5.98	6.84	8.36	10.41	11.90	12.70	14.90
10	6.10	7.01	8.64	10.88	12.57	13.85	16.60
11	6.19	7.18	8.92	11.31	13.12	14.95	17.75
12	6.29	7.33	9.18	11.71	13.62	15.95	19.00
13	6.38	7.46	9.42	12.09	14.09	16.82	20.30
14	6.47	7.62	9.66	12.45	14.54	17.39	21.55
15	6.55	7.75	9.89	12.78	14.96	17.93	22.80
16	6.63	7.88	10.10	13.10	15.35	18.42	23.50
17	6.72	7.99	10.31	13.39	15.73	18.90	24.14
18	6.79	8.11	10.50	13.67	16.07	19.34	24.75
19	6.86	8.23	10.69	13.94	16.41	19.77	25.32
20	6.94	8.33	10.85	14.19	16.72	20.17	25.86
21	7.01	8.45	11.02	14.44	17.03	20.55	26.37
22	7.08	8.54	11.19	14.67	17.31	20.91	26.86
23	7.15	8.66	11.36	14.88	17.58	21.25	27.32
24	7.20	8.75	11.50	15.10	17.84	21.59	27.77
25	7.27	8.84	11.66	15.29	18.09	21.89	28.19
26	7.33	8.93	11.80	15.49	18.33	22.19	28.58
27	7.40	9.02	11.93	15.67	18.55	22.47	28.97
28	7.45	9.11	12.08	15.85	18.77	22.74	29.33
29	7.51	9.20	12.21	16.01	18.98	23.00	29.69
30	7.57	9.28	12.32	16.17	19.17	23.25	30.01
31	7.63	9.35	12.45	16.32	19.37	23.50	30.33
32	7.68	9.44	12.57	16.47	19.55	23.73	30.64
33	7.73	9.52	12.69	16.62	19.72	23.95	30.93
34	7.79	9.58	12.79	16.76	19.89	24.16	31.21
35	7.84	9.66	12.91	16.89	20.05	24.36	31.48
36	7.89	9.72	13.03	17.02	20.21	24.55	31.74
37	7.94	9.79	13.12	17.15	20.36	24.75	31.99
38	7.99	9.87	13.23	17.26	20.50	24.92	32.23
39	8.05	9.93	13.32	17.37	20.64	25.09	32.46
40	8.09	10.00	13.42	17.49	20.78	25.27	32.67
41	8.15	10.07	13.51	17.60	20.91	25.43	32.89
42	8.19	10.13	13.60	17.70	21.03	25.58	33.10
43	8.23	10.19	13.70	17.80	21.16	25.73	33.29
44	8.28	10.24	13.78	17.89	21.27	25.87	33.49
45	8.32	10.31	13.87	17.99	21.39	26.01	33.67
46	8.37	10.37	13.95	18.09	21.50	26.15	33.84
47	8.42	10.43	14.03	18.17	21.61	26.28	34.02
48	8.46	10.49	14.12	18.25	21.70	26.40	34.18
49	8.50	10.54	14.20	18.34	21.81	26.53	34.33
50	8.54	10.59	14.26	18.42	21.91	26.65	34.49
51	8.59	10.65	14.35	18.50	22.00	26.76	34.63
52	8.63	10.71	14.42	18.58	22.09	26.87	34.77
53	8.67	10.76	14.48	18.65	22.18	26.98	34.92
54	8.71	10.82	14.56	18.73	22.27	27.09	35.05
55	8.75	10.85	14.64	18.79	22.34	27.18	35.18
56	8.80	10.92	14.70	18.87	22.43	27.28	35.31
57	8.84	10.97	14.77	18.93	22.51	27.38	35.42
58	8.88	11.01	14.83	19.00	22.58	27.47	35.54
59	8.92	11.06	14.90	19.06	22.66	27.55	35.65
60	8.96	11.11	14.98	19.12	22.72	27.64	35.77
61	9.01	11.17	15.03	19.18	22.80	27.73	35.92
62	9.05	11.21	15.09	19.24	22.86	27.80	36.06
63	9.07	11.26	15.16	19.29	22.93	27.88	36.20
64	9.11	11.30	15.22	19.34	22.99	27.95	36.33
65	9.15	11.35	15.27	19.40	23.06	28.03	36.46
66	9.20	11.40	15.33	19.45	23.11	28.10	36.58
67	9.24	11.44	15.39	19.51	23.18	28.17	36.71
68	9.27	11.48	15.46	19.56	23.23	28.24	36.84
69	9.31	11.52	15.51	19.60	23.29	28.31	36.94
70	9.35	11.58	15.57	19.66	23.34	28.37	37.07
Oversized	34.07	38.18	44.22	53.79	65.11	80.53	106.01

1 For OBMC discount, deduct $0.57 per piece.

2 For BMC Presort discount, deduct $0.22 per piece.

3 Pieces that measure more than 108 inches (but not more than 130 inches) in combined length and girth pay the oversized rate, regardless of the actual weight of the piece.

4 Parcels that weigh less than 15 pounds but measure more than 84 inches (but not more than 108 inches) in combined length and girth are charged the applicable rate for a 15-pound parcel.

5 If special handling, subtract $1.65 nonmachinable surcharge.

Local and Intra-BMC/ASF Single-Piece Parcel Post
5.3

Weight Not Over (pounds)	Zone[1, 2, 3]				
	Local	1 & 2	3	4	5
2	$2.67	$2.80	$2.80	$2.80	$2.80
3	2.87	3.17	3.26	3.27	3.29
4	3.04	3.32	3.57	3.58	4.14
5	3.19	3.45	3.85	3.88	4.63
6	3.28	3.58	4.13	4.15	5.08
7	3.35	3.69	4.37	4.40	5.50
8	3.43	3.82	4.59	4.63	5.90
9	3.50	3.91	4.77	4.86	6.27
10	3.58	4.03	5.01	5.08	6.62
11	3.64	4.12	5.18	5.27	6.94
12	3.71	4.23	5.33	5.47	7.28
13	3.78	4.32	5.46	5.65	7.54
14	3.84	4.41	5.55	5.83	7.82
15	3.90	4.49	5.68	5.99	8.06
16	3.97	4.56	5.81	6.15	8.33
17	4.02	4.65	5.93	6.31	8.56
18	4.07	4.72	6.05	6.45	8.80
19	4.12	4.81	6.16	6.59	9.01
20	4.19	4.88	6.27	6.74	9.21
21	4.23	4.94	6.36	6.87	9.41
22	4.28	5.02	6.47	7.00	9.60
23	4.33	5.08	6.59	7.13	9.79
24	4.38	5.14	6.68	7.24	9.96
25	4.43	5.20	6.77	7.36	10.13
26	4.47	5.27	6.86	7.47	10.29
27	4.52	5.33	6.96	7.56	10.44
28	4.56	5.38	7.05	7.69	10.59
29	4.62	5.45	7.14	7.80	10.74
30	4.67	5.50	7.22	7.89	10.89
31	4.71	5.56	7.28	7.99	11.02
32	4.75	5.62	7.37	8.09	11.15
33	4.80	5.67	7.45	8.19	11.29
34	4.84	5.72	7.51	8.27	11.40
35	4.88	5.77	7.59	8.37	11.52
36	4.91	5.82	7.66	8.46	11.65
37	4.95	5.88	7.72	8.54	11.76
38	4.99	5.93	7.80	8.62	11.87
39	5.04	5.98	7.87	8.71	11.97
40	5.08	6.02	7.93	8.78	12.08
41	5.12	6.06	8.01	8.87	12.18
42	5.16	6.12	8.06	8.94	12.27
43	5.20	6.16	8.13	9.02	12.38
44	5.25	6.21	8.18	9.10	12.46
45	5.28	6.25	8.24	9.16	12.56
46	5.32	6.31	8.31	9.24	12.64
47	5.36	6.36	8.36	9.30	12.73
48	5.40	6.40	8.42	9.38	12.83
49	5.43	6.44	8.48	9.44	12.90
50	5.47	6.47	8.53	9.51	12.99
51	5.51	6.53	8.58	9.57	13.06
52	5.54	6.57	8.65	9.64	13.14
53	5.58	6.60	8.70	9.70	13.21
54	5.62	6.64	8.75	9.76	13.29
55	5.66	6.68	8.79	9.82	13.36
56	5.69	6.73	8.85	9.89	13.42
57	5.72	6.77	8.91	9.94	13.50
58	5.76	6.81	8.94	9.99	13.57
59	5.80	6.85	9.00	10.06	13.63
60	5.82	6.89	9.05	10.11	13.70
61	5.86	6.94	9.10	10.17	13.77
62	5.90	6.98	9.14	10.22	13.82
63	5.94	7.01	9.19	10.28	13.88
64	5.97	7.05	9.23	10.33	13.95
65	6.01	7.09	9.28	10.38	14.00
66	6.03	7.14	9.33	10.44	14.07
67	6.08	7.18	9.37	10.49	14.12
68	6.11	7.20	9.41	10.54	14.17
69	6.15	7.24	9.45	10.59	14.23
70	6.18	7.28	9.52	10.64	14.28
Oversized	19.43	26.42	26.42	26.42	26.42

[1] For barcoded discount, deduct $0.03 per piece (machinable parcels only).

[2] Pieces that measure more than 108 inches (but not more than 130 inches) in combined length and girth pay the oversized rate, regardless of the actual weight of the piece.

[3] Parcels that weigh less than 15 pounds but measure more than 84 inches (but not more than 108 inches) in combined length and girth are charged the applicable rate for a 15-pound parcel.

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5.4 Destination Entry Parcel Post (DDU/DSCF/DBMC)

Destination facility ZIP Codes only, discount included:

Weight Not Over (pounds)	DDU[1,2]	DSCF[1,2]	DBMC Zone[1,2,3]			
			1 & 2	3	4	5
2	$1.10	$1.67	$2.23	$2.40	$2.40	$2.40
3	1.35	1.78	2.40	2.86	2.87	2.89
4	1.42	1.91	2.58	3.17	3.18	3.94
5	1.48	2.02	2.74	3.45	3.48	4.40
6	1.53	2.12	2.88	3.73	3.75	4.83
7	1.58	2.21	3.02	3.97	4.00	5.22
8	1.63	2.30	3.15	4.19	4.23	5.60
9	1.69	2.40	3.28	4.37	4.46	5.95
10	1.74	2.48	3.40	4.51	4.68	6.29
11	1.78	2.56	3.51	4.67	4.87	6.59
12	1.83	2.64	3.62	4.81	5.07	6.89
13	1.88	2.72	3.73	4.93	5.25	7.16
14	1.91	2.78	3.82	5.08	5.43	7.42
15	1.95	2.84	3.91	5.20	5.59	7.67
16	2.00	2.92	4.01	5.32	5.75	7.91
17	2.03	2.98	4.09	5.43	5.91	8.13
18	2.08	3.04	4.18	5.54	6.05	8.35
19	2.11	3.10	4.26	5.64	6.19	8.55
20	2.15	3.16	4.34	5.75	6.34	8.74
21	2.19	3.22	4.42	5.85	6.47	8.94
22	2.22	3.27	4.49	5.94	6.60	9.12
23	2.26	3.32	4.56	6.05	6.73	9.30
24	2.29	3.38	4.63	6.14	6.84	9.46
25	2.33	3.43	4.70	6.21	6.96	9.62
26	2.36	3.47	4.76	6.31	7.07	9.78
27	2.40	3.53	4.83	6.38	7.18	9.92
28	2.43	3.57	4.89	6.47	7.29	10.07
29	2.47	3.63	4.96	6.57	7.40	10.21
30	2.49	3.67	5.01	6.63	7.49	10.35
31	2.53	3.72	5.08	6.70	7.59	10.48
32	2.56	3.78	5.13	6.79	7.69	10.61
33	2.59	3.81	5.19	6.85	7.79	10.73
34	2.63	3.86	5.25	6.92	7.87	10.84
35	2.65	3.90	5.31	6.99	7.97	10.96
36	2.69	3.94	5.36	7.05	8.06	11.08
37	2.71	3.97	5.40	7.11	8.14	11.19
38	2.75	4.02	5.46	7.19	8.22	11.29
39	2.78	4.06	5.51	7.24	8.31	11.39
40	2.81	4.10	5.56	7.31	8.38	11.50
41	2.84	4.14	5.61	7.38	8.47	11.59
42	2.86	4.17	5.65	7.44	8.54	11.68
43	2.90	4.22	5.71	7.49	8.62	11.79
44	2.92	4.26	5.75	7.54	8.70	11.87
45	2.95	4.29	5.79	7.61	8.76	11.96
46	2.99	4.34	5.85	7.67	8.84	12.04
47	3.02	4.37	5.89	7.72	8.90	12.13
48	3.04	4.40	5.93	7.77	8.96	12.22
49	3.07	4.45	5.98	7.83	9.04	12.29
50	3.10	4.48	6.02	7.88	9.11	12.38
51	3.13	4.51	6.06	7.93	9.17	12.45
52	3.16	4.55	6.11	8.00	9.24	12.52
53	3.18	4.58	6.14	8.05	9.30	12.60
54	3.20	4.61	6.18	8.09	9.36	12.67
55	3.24	4.65	6.23	8.13	9.42	12.74
56	3.27	4.69	6.27	8.19	9.49	12.80
57	3.29	4.71	6.30	8.24	9.54	12.88
58	3.33	4.76	6.35	8.28	9.59	12.94
59	3.34	4.78	6.38	8.33	9.66	13.01
60	3.37	4.82	6.42	8.39	9.71	13.07
61	3.40	4.85	6.46	8.42	9.77	13.14
62	3.43	4.88	6.50	8.46	9.82	13.19
63	3.45	4.91	6.53	8.52	9.88	13.25
64	3.48	4.94	6.57	8.55	9.93	13.31
65	3.51	4.98	6.61	8.61	9.98	13.37
66	3.54	5.01	6.65	8.66	10.04	13.43
67	3.56	5.04	6.68	8.70	10.09	13.48
68	3.58	5.07	6.71	8.74	10.14	13.54
69	3.61	5.10	6.75	8.78	10.19	13.59
70	3.65	5.14	6.79	8.83	10.24	13.64
Oversized	8.69	11.99	15.43	22.73	28.00	28.00

1 Parcels that weigh less than 15 pounds but measure more than 84 inches (but not more than 108 inches) in combined length and girth are charged the applicable rate for a 15-pound parcel.

2 Pieces that measure more than 108 inches (but not more than 130 inches) in combined length and girth pay the oversized rate, regardless of the actual weight of the piece.

3 For barcoded discount, deduct $0.03 per piece (machinable parcels only). Barcoded discount is not available for DDU and DSCF rates and DBMC mail entered at an ASF. Barcoded discount is available for Parcel Post at the Phoenix, AZ, ASF.

6.0 BOUND PRINTED MATTER STANDARD MAIL (B)

Single-Piece Rate 6.1

a. Base Bound Printed Matter Single-Piece Rate:

Rate	Zone[1]							
	Local	1 & 2	3	4	5	6	7	8
Per Piece	$1.08	$1.44	$1.44	$1.44	$1.44	$1.44	$1.44	$1.44
Per Pound	0.039	0.064	0.087	0.126	0.184	0.246	0.321	0.385

1 For barcoded discount, deduct $0.03 per piece (machinable parcels only). Barcoded discount is not available for parcels mailed at the local zone rate.

b. Bound Printed Matter Single-Piece Rate:

Weight Not Over (pounds)	Zone[1, 2]							
	Local	1 & 2	3	4	5	6	7	8
1.5	$1.14	$1.54	$1.57	$1.63	$1.72	$1.81	$1.92	$2.02
2.0	1.16	1.57	1.61	1.69	1.81	1.93	2.08	2.21
2.5	1.18	1.60	1.66	1.76	1.90	2.06	2.24	2.40
3.0	1.20	1.63	1.70	1.82	1.99	2.18	2.40	2.60
3.5	1.22	1.66	1.74	1.88	2.08	2.30	2.56	2.79
4.0	1.24	1.70	1.79	1.94	2.18	2.42	2.72	2.98
4.5	1.26	1.73	1.83	2.01	2.27	2.55	2.88	3.17
5.0	1.28	1.76	1.88	2.07	2.36	2.67	3.05	3.37
6.0	1.31	1.82	1.96	2.20	2.54	2.92	3.37	3.75
7.0	1.35	1.89	2.05	2.32	2.73	3.18	3.69	4.14
8.0	1.39	1.95	2.14	2.45	2.91	3.41	4.01	4.52
9.0	1.43	2.02	2.22	2.57	3.10	3.65	4.33	4.91
10.0	1.47	2.08	2.31	2.70	3.28	3.90	4.65	5.29
11.0	1.51	2.14	2.40	2.83	3.46	4.15	4.97	5.68
12.0	1.55	2.21	2.48	2.95	3.65	4.39	5.29	6.06
13.0	1.59	2.27	2.57	3.08	3.83	4.64	5.61	6.45
14.0	1.63	2.34	2.66	3.20	4.02	4.88	5.93	6.83
15.0	1.67	2.40	2.75	3.33	4.20	5.13	6.26	7.22

1 These amounts are correct for the corresponding weights. Compute postage exactly for items of intermediate weights as provided in P013.

2 For barcoded discount, deduct $0.03 per piece (machinable parcels only).

Presorted Rate 6.2

a. Base Bound Printed Matter Presorted Rate:

Rate[1]	Zone							
	Local	1 & 2	3	4	5	6	7	8
Per Piece[2]								
Basic	$0.540	$0.720	$0.720	$0.720	$0.720	$0.720	$0.720	$0.720
Carrier Route	0.463	0.643	0.643	0.643	0.643	0.643	0.643	0.643
Per Pound	0.028	0.051	0.073	0.112	0.171	0.233	0.307	0.371

1 Applicable per piece rate plus the per pound rate.

2 For barcoded discount, deduct $0.03 per piece (machinable parcels only). Barcoded discount is not available for parcels mailed at Carrier Route rates.

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b. Computed Basic Presorted Bound Printed Matter Rate:

Weight Not Over (pounds)	Zone[1, 2]							
	Local	1 & 2	3	4	5	6	7	8
1.5	$0.582	$0.797	$0.830	$0.888	$0.977	$1.070	$1.181	$1.277
2.0	0.596	0.822	0.866	0.944	1.062	1.186	1.334	1.462
2.5	0.610	0.848	0.903	1.000	1.148	1.303	1.488	1.648
3.0	0.624	0.873	0.939	1.056	1.233	1.419	1.641	1.833
3.5	0.638	0.899	0.976	1.112	1.319	1.536	1.795	2.019
4.0	0.652	0.924	1.012	1.168	1.404	1.652	1.948	2.204
4.5	0.666	0.950	1.049	1.224	1.490	1.769	2.102	2.390
5.0	0.680	0.975	1.085	1.280	1.575	1.885	2.255	2.575
6.0	0.708	1.026	1.158	1.392	1.746	2.118	2.562	2.946
7.0	0.736	1.077	1.231	1.504	1.917	2.351	2.869	3.317
8.0	0.764	1.128	1.304	1.616	2.088	2.584	3.176	3.688
9.0	0.792	1.179	1.377	1.728	2.259	2.817	3.483	4.059
10.0	0.820	1.230	1.450	1.840	2.430	3.050	3.790	4.430
11.0	0.848	1.281	1.523	1.952	2.601	3.283	4.097	4.801
12.0	0.876	1.332	1.596	2.064	2.772	3.516	4.404	5.172
13.0	0.904	1.383	1.669	2.176	2.943	3.749	4.711	5.543
14.0	0.932	1.434	1.742	2.288	3.114	3.982	5.018	5.914
15.0	0.960	1.485	1.815	2.400	3.285	4.215	5.325	6.285

[1] These amounts are correct for the corresponding weights. Compute postage exactly for items of intermediate weights as provided in P013.

[2] For barcoded discount, deduct $0.03 per piece (machinable parcels only).

c. Computed Carrier Route Bound Printed Matter Rate:

Weight (pounds)	Zone[1]							
	Local	1 & 2	3	4	5	6	7	8
1.5	$0.505	$0.720	$0.753	$0.811	$0.900	$0.993	$1.104	$1.200
2.0	0.519	0.745	0.789	0.867	0.985	1.109	1.257	1.385
2.5	0.533	0.771	0.826	0.923	1.071	1.226	1.411	1.571
3.0	0.547	0.796	0.862	0.979	1.156	1.342	1.564	1.756
3.5	0.561	0.822	0.899	1.035	1.242	1.459	1.718	1.942
4.0	0.575	0.847	0.935	1.091	1.327	1.575	1.871	2.127
4.5	0.589	0.873	0.972	1.147	1.413	1.692	2.025	2.313
5.0	0.603	0.898	1.008	1.203	1.498	1.808	2.178	2.498
6.0	0.631	0.949	1.081	1.315	1.669	2.041	2.485	2.869
7.0	0.659	1.000	1.154	1.427	1.840	2.274	2.792	3.240
8.0	0.687	1.051	1.227	1.539	2.011	2.507	3.099	3.611
9.0	0.715	1.102	1.300	1.651	2.182	2.740	3.406	3.982
10.0	0.743	1.153	1.373	1.763	2.353	2.973	3.713	4.353
11.0	0.771	1.204	1.446	1.875	2.524	3.206	4.020	4.724
12.0	0.799	1.255	1.519	1.987	2.695	3.439	4.327	5.095
13.0	0.827	1.306	1.592	2.099	2.866	3.672	4.634	5.466
14.0	0.855	1.357	1.665	2.211	3.037	3.905	4.941	5.837
15.0	0.883	1.408	1.738	2.323	3.208	4.138	5.248	6.208

[1] These amounts are correct for the corresponding weights. Compute postage exactly for items of intermediate weights as provided in P013.

7.0 SPECIAL STANDARD MAIL

Weight Not Over (pounds)	Single-Piece[1]	5-Digit	BMC[1]
1	$1.13	$0.64	$0.95
2	1.58	1.09	1.40
3	2.03	1.54	1.85
4	2.48	1.99	2.30
5	2.93	2.44	2.75
6	3.38	2.89	3.20
7	3.83	3.34	3.65
8	4.11	3.62	3.93
9	4.39	3.90	4.21
10	4.67	4.18	4.49
11	4.95	4.46	4.77
12	5.23	4.74	5.05
13	5.51	5.02	5.33
14	5.79	5.30	5.61
15	6.07	5.58	5.89
16	6.35	5.86	6.17
17	6.63	6.14	6.45
18	6.91	6.42	6.73
19	7.19	6.70	7.01
20	7.47	6.98	7.29
21	7.75	7.26	7.57
22	8.03	7.54	7.85
23	8.31	7.82	8.13
24	8.59	8.10	8.41
25	8.87	8.38	8.69
26	9.15	8.66	8.97
27	9.43	8.94	9.25
28	9.71	9.22	9.53
29	9.99	9.50	9.81
30	10.27	9.78	10.09
31	10.55	10.06	10.37
32	10.83	10.34	10.65
33	11.11	10.62	10.93
34	11.39	10.90	11.21
35	11.67	11.18	11.49
36	11.95	11.46	11.77
37	12.23	11.74	12.05
38	12.51	12.02	12.33
39	12.79	12.30	12.61
40	13.07	12.58	12.89
41	13.35	12.86	13.17
42	13.63	13.14	13.45
43	13.91	13.42	13.73
44	14.19	13.70	14.01
45	14.47	13.98	14.29
46	14.75	14.26	14.57
47	15.03	14.54	14.85
48	15.31	14.82	15.13
49	15.59	15.10	15.41
50	15.87	15.38	15.69
51	16.15	15.66	15.97
52	16.43	15.94	16.25
53	16.71	16.22	16.53
54	16.99	16.50	16.81
55	17.27	16.78	17.09
56	17.55	17.06	17.37
57	17.83	17.34	17.65
58	18.11	17.62	17.93
59	18.39	17.90	18.21
60	18.67	18.18	18.49
61	18.95	18.46	18.77
62	19.23	18.74	19.05
63	19.51	19.02	19.33
64	19.79	19.30	19.61
65	20.07	19.58	19.89
66	20.35	19.86	20.17
67	20.63	20.14	20.45
68	20.91	20.42	20.73
69	21.19	20.70	21.01
70	21.47	20.98	21.29

[1] For barcoded discount, deduct $0.03 per piece (machinable parcels only). Barcoded discount is not available for parcels mailed at the 5-digit rate.

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8.0 LIBRARY MAIL

Weight Not Over (pounds)	Single-Piece[1]
1	$1.13
2	1.58
3	2.03
4	2.48
5	2.93
6	3.38
7	3.83
8	4.11
9	4.39
10	4.67
11	4.95
12	5.23
13	5.51
14	5.79
15	6.07
16	6.35
17	6.63
18	6.91
19	7.19
20	7.47
21	7.75
22	8.03
23	8.31
24	8.59
25	8.87
26	9.15
27	9.43
28	9.71
29	9.99
30	10.27
31	10.55
32	10.83
33	11.11
34	11.39
35	11.67
36	11.95
37	12.23
38	12.51
39	12.79
40	13.07
41	13.35
42	13.63
43	13.91
44	14.19
45	14.47
46	14.75
47	15.03
48	15.31
49	15.59
50	15.87
51	16.15
52	16.43
53	16.71
54	16.99
55	17.27
56	17.55
57	17.83
58	18.11
59	18.39
60	18.67
61	18.95
62	19.23
63	19.51
64	19.79
65	20.07
66	20.35
67	20.63
68	20.91
69	21.19
70	21.47

[1] For barcoded discount, deduct $0.03 per piece (machinable parcels only).

9.0 FEES

Mailing 9.1	Fee, as appropriate, per 12-month period: a. Standard Mail (A) (Regular, Enhanced Carrier Route, Nonprofit, and Nonprofit Enhanced Carrier Route): $100.00. b. Bulk Parcel Return Service Permit: $100.00. c. Parcel Post (destination BMC, destination SCF, destination DU): $100.00. d. Presorted Special Standard Mail: $100.00.
Address Correction Service 9.2	Charge per notice issued: a. Manual: $0.50. b. Automated: $0.20.
Pickup 9.3	Parcel Post only, per occurrence: $8.25. May be combined with Express Mail and Priority Mail pickups.
Bulk Parcel Return Service Fee — Standard Mail (A) 9.4	Machinable pieces only, fee per piece returned: $1.75.

10.0 SURCHARGES

Residual Shape Surcharge — Standard Mail (A) 10.1	Items that are prepared as a parcel or are not letter-size or flat-size, per piece: $0.10.

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R900 Services

1.0 ADDRESS SEQUENCING SERVICE

Basic Service and Blanks for Missing Addresses Service 1.1

Per card included by the mailer that was removed by the USPS for an incorrect or undeliverable address: $0.20.

Missing or New Addresses Service 1.2

Per card included by the mailer that was removed by the USPS for an incorrect or undeliverable address, and for each address (possible delivery) that is added to the customer's list: $0.20.

2.0 BUSINESS REPLY MAIL (BRM)

Annual Fees 2.1

Per 12-month period:

a. BRM permit fee: $100.00.

b. BRM accounting fee: $300.00.

Per-Piece Charges 2.2

Each piece is charged the applicable postage plus the appropriate fee upon return to the permit holder:

Type	Postage (per piece)	Fee with Advance Deposit Account (In addition to postage)	Fee without Advance Deposit Account (In addition to postage)
Regular BRM	Letters: $0.33 first ounce or fraction $0.22 each additional ounce or fraction Postcards: $0.20	$0.08	$0.30
Qualified BRM[1]	Letters: $0.30 first ounce or fraction $0.22 second ounce or fraction Postcards: $0.18	$0.05	N/A

[1] Accounting fee required.

3.0 CALLER SERVICE

Fees are charged as follows:

a. For service provided, per semiannual period:

Fee Group	Fee
A	$275.00
B	275.00
C	275.00
D	275.00

b. For each reserved call number, per calendar year (all post offices): $36.00.

4.0 CERTIFICATE OF MAILING

Individual Pieces 4.1 For service provided (in addition to postage):

a. For individual article listing (Form 3817 or facsimile), per article: $0.60.

b. For additional copies of Form 3817 or mailing receipt, per page: $0.60.

c. For firm mailing books (Form 3877 or facsimile), per article listed: $0.25.

Bulk Quantities 4.2 For bulk quantities using certificate of mailing:

Service	Fee
Up to 1,000 pieces (one certificate (Form 3606) for total number)	$5.00
Each additional 1,000 pieces or fraction thereof	0.40
Duplicate copy	0.60

5.0 CERTIFIED MAIL

Fee, in addition to postage and other fees, per mailpiece: $1.40.

6.0 COLLECT ON DELIVERY (COD)

Fee, in addition to postage and other fees:

Amount to be collected or insurance coverage desired[1]	Fee
$0.01 to $50.00	$4.00
50.01 to 100.00	5.00
100.01 to 200.00	6.00
200.01 to 300.00	7.00
300.01 to 400.00	8.00
400.01 to 500.00	9.00
500.01 to 600.00	10.00
Restricted delivery[2]	$2.75
Notice of nondelivery	$3.00
Alteration of COD charges or designation of new addressee	$3.00
Registered COD[3]	$4.00

1 For Express Mail COD shipments, the fee charged is based on the amount to be collected. Express Mail insurance automatically provides up to $500 merchandise insurance. If the amount to be collected for an Express Mail COD shipment is between $500 and $600, the maximum COD fee ($10.00) must be paid.

2 Not available with Express Mail COD.

3 Fee for registered COD is as shown, regardless of insurance value.

7.0 [RESERVED]

8.0 EXPRESS MAIL INSURANCE

Fee, in addition to postage and other fees, for additional Express Mail insurance:

a. For amount of merchandise insurance liability:

Insurance Coverage Desired	Fee
$0.01 to $500.00	none
500.01 to 5,000.00	$0.95 for each $100 or fraction thereof over $500 in desired coverage
Express Mail merchandise maximum liability: $5,000.00.	

b. Document reconstruction maximum liability: $500.00.

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9.0 INSURED MAIL

Fee, in addition to postage and other fees, for merchandise insurance liability:

Insurance Coverage Desired	Fee	Bulk Insurance Fee[1]
$ 0.01 to $ 50.00	$0.85	$0.45
50.01 to 100.00	1.80	1.40
100.01 to 200.00	2.75	2.35
200.01 to 300.00	3.70	3.30
300.01 to 400.00	4.65	4.25
400.01 to 500.00	5.60	5.20
500.01 to 600.00	6.55	6.15
600.01 to 700.00	7.50	7.10
700.01 to 800.00	8.45	8.05
800.01 to 900.00	9.40	9.00
900.01 to 1,000.00	10.35	9.95
1,000.01 to 5,000.00	10.35 plus $0.95 for each $100 or fraction thereof over $1,000 in desired coverage	9.95 plus $0.55 for each $100 or fraction thereof over $1,000 in desired coverage
Insured mail maximum liability: $5,000.00.		

1 Includes discount of $0.40 per piece.

10.0 MAILING LIST SERVICE

List Correction 10.1 For correction of name and address lists and occupant lists:

a. Per name on list: $0.20.

b. Minimum per list: $7.00.

5-Digit ZIP Code Sortation 10.2 For sortation of mailing lists on cards into groups labeled by 5-digit ZIP Code (available only for multi-ZIP Code post offices), per 1,000 addresses or fraction: $70.00.

Election Boards 10.3 For address changes provided to election boards and voter registration commissions, for each Form 3575 or Form 3575-WWW: $0.17.

11.0 MERCHANDISE RETURN SERVICE

For services provided:

a. Fee, per 12-month period: $100.00.

b. Charge (in addition to postage), per mailpiece returned: $0.30.

12.0 METER SERVICE

On-Site 12.1 Fees for on-site meter setting or examination:

Basis	First Meter	Each Additional Meter	Surcharge for Each Meter Checked In or Out of Service
Scheduled	$27.50	$4.00	$8.50
Unscheduled	31.00	4.00	8.50

Applicability 12.2 The fees apply to meters set or examined at a customer's place of business or at a meter manufacturer's office. The surcharge must be paid in addition to the on-site fee.

13.0 MONEY ORDER

Per money order issued or service provided:

a. Postal military money order fee (issued by military facilities authorized by the Department of Defense): $0.30.

b. Domestic money order fee (issued at other post offices, including those with branches or stations on military installations): $0.80.

c. Inquiry fee (includes the issuance of a copy of a paid money order): $2.75.

14.0 PARCEL AIRLIFT (PAL)

Fee, in addition to the regular surface rate of postage and other fees:

Weight	Fee
Not more than 2 pounds	$0.40
Over 2 but not more than 3 pounds	0.75
Over 3 but not more than 4 pounds	1.15
Over 4 pounds	1.55

15.0 PERMIT IMPRINT

Application fee: $100.00.

16.0 POST OFFICE BOX SERVICE

For service provided as described in D910:

a. Deposit per key issued: $1.00.

b. Box fee per semiannual (6-month) period:

Fee Group	Box Size and Fee				
	1	2	3	4	5
A	$30.00	$46.00	$80.00	$151.00	$261.00
B	27.00	41.00	70.00	136.00	217.00
C	22.00	32.00	57.00	97.00	162.00
D	7.00	12.00	22.00	33.00	52.00
E	0.00	0.00	0.00	0.00	0.00

17.0 REGISTERED MAIL

The mailer must declare the full value of the article at the time of mailing and must pay the appropriate fee based on that value as shown below. Any article with value sent as registered mail is insured (up to a maximum indemnity of $25,000 per piece). Only mail of no value may be mailed as uninsured registered mail.

Insurance Status	Declared Value			Fee (In addition to postage and handling charge)	Handling Charge (In addition to postage and fee)
Without Insurance	$ .00			$6.00	None
With Insurance (for declared value)	$ 0.01	to	100.00	6.20	None
	100.01	to	500.00	6.75	None
	500.01	to	1,000.00	7.30	None
	1,000.01	to	2,000.00	7.85	None
	2,000.01	to	3,000.00	8.40	None
	3,000.01	to	4,000.00	8.95	None
	4,000.01	to	5,000.00	9.50	None
	5,000.01	to	6,000.00	10.05	None
	6,000.01	to	7,000.00	10.60	None
	7,000.01	to	8,000.00	11.15	None

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Insurance Status	Declared Value			Fee (in addition to postage and handling charge)	Handling Charge (in addition to postage and fee)
	8,000.01	to	9,000.00	11.70	None
	9,000.01	to	10,000.00	12.25	None
	10,000.01	to	11,000.00	12.80	None
	11,000.01	to	12,000.00	13.35	None
	12,000.01	to	13,000.00	13.90	None
	13,000.01	to	14,000.00	14.45	None
	14,000.01	to	15,000.00	15.00	None
	15,000.01	to	16,000.00	15.55	None
	16,000.01	to	17,000.00	16.10	None
	17,000.01	to	18,000.00	16.65	None
	18,000.01	to	19,000.00	17.20	None
	19,000.01	to	20,000.00	17.75	None
	20,000.01	to	21,000.00	18.30	None
	21,000.01	to	22,000.00	18.85	None
	22,000.01	to	23,000.00	19.40	None
	23,000.01	to	24,000.00	19.95	None
	24,000.01	to	25,000.00	20.50	None
With Insurance (maximum insurance liability: $25,000.00)	$25,000.01	to	$1,000,000.00	$20.50	$0.55 per $1,000 or fraction over first $25,000.
	$1,000,000.01	to	$15,000,000.00	$556.75	$0.55 per $1,000 or fraction over first $1,000,000.
	$15,000,000.01	or	more	$8,256.75	Amount determined by Postal Service based on weight, space, and value.

18.0 RESTRICTED DELIVERY

Fee, in addition to postage and other fees, per mailpiece: $2.75.

19.0 RETURN RECEIPT

Fee, in addition to postage and other fees, per mailpiece:

Type	Fee
Requested at time of mailing (showing to whom delivered, signature, date of delivery, and addressee's address, if different)	$1.25
Requested after mailing (showing only to whom and date delivered)	7.00

20.0 RETURN RECEIPT FOR MERCHANDISE

Fee, in addition to postage and other fees, per mailpiece:

Type	Fee
Requested at time of mailing (showing to whom delivered, signature, date of delivery, and addressee's address, if different)	$1.40
Delivery record	7.00

21.0 SPECIAL HANDLING

Fee, in addition to postage and other fees, per mailpiece:

Weight	Fee
Not more than 10 pounds	$5.40
More than 10 pounds	7.50

BILLING CODE 7710-12-C

S Special Services

S000 Miscellaneous Services

S010 Indemnity Claims

* * * * *

2.0 GENERAL FILING INSTRUCTIONS

2.1 Who May File

[Insert new 2.1d to read as follows:]

A claim may be filed by:

* * * * *

d. Only the sender, for bulk Insured service mail.

2.2 When to File

[Amend the chart to add the following:]

Mail type or service	When to file (from mailing date)	
	No sooner than	No later than
Bulk insured	30 days	6 months
* *	*	* *

* * * * *

2.11 Payable Claim

[Amend 2.11a and add new 2.11n to read as follows:]

Insurance for loss or damage to insured, registered, or COD mail within the amount covered by the fee paid or within the indemnity limits for Express Mail as explained in 2.12 is payable for the following:

a. Actual value of lost articles at the time and place of mailing (see 2.11n for bulk insured articles).

* * * * *

n. For bulk insured articles, indemnity is provided for the lesser of (1) the actual value of the article at the time of mailing, or (2) the wholesale cost of the contents to the sender.

* * * * *

2.13 Payment

[Amend 2.13 to read as follows:]

The USPS does not make payment for more than the actual value of the article (or, for bulk insurance, the wholesale cost of the contents to the sender if a lesser amount) nor make payment for more than the maximum amount covered by the fee paid.

* * * * *

4.0 ADJUDICATION

4.1 Initial

[Amend 4.1 to read as follows:]

The St. Louis Accounting Service Center (ASC) adjudicates and pays or disallows all domestic claims except the initial adjudication of domestic unnumbered insured claims that are not bulk insured service and those appealed under 4.3. Domestic unnumbered insured claims, except for bulk insured service, are adjudicated and paid locally at the post office accepting the claims.

* * * * *

[Insert new 6.0 to read as follows:]

6.0 BULK INSURED CLAIMS

Mailers authorized to mail at bulk insured rates under S913 will receive instructions for filing claims from their postmaster or designee, including specific claim numbers to be used when filing claims. At some time in the future, electronic filing of indemnity claims will become mandatory. Prior to mandatory electronic claims filing, customers will be provided with the format instructions for the new electronic (soft copy) of Form 3877, Firm Mailing Book for Accountable Mail, and instructions for electronic filing of indemnity claims.

* * * * *

S070 Mixed Classes

1.0 BASIC INFORMATION

[Amend 1.1 and 1.2 to read as follows:]

1.1 Priority Mail Drop Shipment

For a Priority Mail drop shipment, enclosed First-Class Mail may be sent certified or special handling; enclosed Standard Mail (B) may be sent special handling. Enclosed mail, regardless of class, may not be sent registered, insured, or collect on delivery (COD). No special services may be given to the Priority Mail segment of the drop shipment.

1.2 Special Handling

A combination mailpiece sent as a Standard Mail (B) parcel may be sent using special handling; only one special handling fee is charged for the parcel.

* * * * *

S900 Special Postal Services

S910 Security and Accountability

S911 Registered Mail

* * * * *

2.0 FEES AND LIABILITY

* * * * *

2.3 Postal Insurance

[Amend 2.3 to read as follows:]

Postal insurance is provided for articles with a value of at least $0.01 up to a maximum insured value of $25,000. Insurance is included in the fee. Postal insurance is not available for articles with no value ($0.00).

* * * * *

S913 Insured Mail

1.0 BASIC INFORMATION

1.1 Description

[Amend 1.1 to add a reference to the bulk insurance discount read as follows:]

Retail insured mail provides up to $5,000 indemnity coverage for a lost, rifled, or damaged article, subject to the standards for the service and payment of the applicable fee. A bulk insurance discount is available for insured articles entered by authorized mailers who meet the criteria in 3.0. No record of insured mail is kept at the office of mailing. Insured mail service provides the sender with a mailing receipt. For mail insured for more than $50, a delivery record is kept at the post office of address. Insured mail is dispatched and handled in transit as ordinary mail.

1.2 Eligible Matter

[Amend 1.2 to read as follows:]

The following types of mail matter may be insured:

a. Standard Mail (B).

b. Standard Mail matter mailed at the First-Class Mail or Priority Mail rates (i.e., is not matter described in E110 as required to be mailed as First-Class Mail). Sealed matter must be endorsed "Standard Mail Enclosed" in addition to the First-Class Mail or Priority Mail endorsement.

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c. Official government mail endorsed "Postage and Fees Paid." *

1.3 Ineligible Matter

[Insert new 1.3f and 1.3g to read as follows:]

The following items may not be insured:

* * * * *

f. Matter mailed at Standard Mail (A) rates.

g. Matter mailed at First-Class Mail rates (including Priority Mail) that consists of items described in E110 as required to be mailed at the First-Class rates.

* * * * *

[Renumber current 3.0 as 4.0 and insert new 3.0 to read as follows:]

3.0 ADDITIONAL REQUIREMENTS—BULK INSURANCE

3.1 Eligibility

To mail at the bulk insured service rates, mailers must obtain an authorization under 3.2 and must meet the following criteria:

a. Enter mailings of insured articles under an approved manifest mailing system agreement.

b. Mail a minimum of 10,000 insured articles annually. To meet the minimum volume requirement, mailers may total all insured articles mailed at multiple locations.

c. Provide a hard copy of Form 3877, Firm Mailing Book for Accountable Mail, or facsimile and a copy of Form 3877 on a disk or other electronic medium.

d. Effective at a future date, provide a soft (electronic) copy of Form 3877, Firm Mailing Book for Accountable Mail, in a new, approved format.

3.2 Authorization

Mailers must apply for authorization to mail at the bulk insured service rates through their local postmaster or designee by completing the customer portion of the Bulk Insured Service (BIS) verification form. The postmaster or designee will verify on this form that the mailer meets the requirements in 3.1. If the mailer does not meet the requirements, the application will be denied. If the mailer meets the requirements in 3.1, the postmaster or designee will certify on the Bulk Insured Service (BIS) verification form that the mailer qualifies and forward the form to the manager of Claims Processing at the St. Louis Accounting Service Center (ASC). After reviewing the information, St. Louis will notify the postmaster of their concurrence of the application and provide a range of claim numbers to be used by the mailer for filing claims. The postmaster or designee will then provide the customer with the approval of the application and with information needed to file claims, including the assigned claim numbers. At a future date, electronic filing of indemnity claims will become mandatory. Prior to mandatory electronic claims filing, customers will be provided with the format instructions for the new electronic (soft copy) of Form 3877, Firm Mailing Book for Accountable Mail, and instructions for electronic filing of indemnity claims.

* * * * *

S915 Return Receipt

1.0 BASIC INFORMATION

1.1 Description

[Clarify 1.1 to read as follows:]

Return receipt service provides a mailer with evidence of delivery (to whom the mail was delivered and date of delivery). A return receipt also supplies the recipient's actual delivery address if it is different from the address used by the sender. A return receipt may be requested before or after mailing.

* * * * *

2.0 OBTAINING SERVICE

2.1 At Time of Mailing

[Correct the first sentence by changing "Form 3811 or marking the mail" to "Form 3811 and marking the mail" as follows:]

The mailer may request the service at the time of mailing by using Form 3811 and marking the mail with the appropriate endorsement in 1.3. * * *

* * * * *

S917 Return Receipt for Merchandise

1.0 BASIC INFORMATION

* * * * *

1.2 Availability

[Amend 1.2 to delete "Single-Piece Standard Mail" as follows:]

The service is available only for merchandise sent at the Priority Mail or Standard Mail (B) (Parcel Post, Bound Printed Matter, Special Standard Mail, or Library Mail) rates. This service may not be used on international mail.

1.3 Additional Services

[Amend 1.3 to delete "Single-Piece Standard Mail" and add "Priority Mail" as follows:]

Special handling is available for Priority Mail, Parcel Post, Bound Printed Matter, Special Standard Mail, or Library Mail, subject to payment of the applicable fee.

* * * * *

[Add new S918 as follows:]

S918 [Reserved]

S920 Convenience

S921 Collect on Delivery (COD) Mail

1.0 BASIC INFORMATION

* * * * *

1.2 Eligible Matter

[Amend 1.2 by removing "Single-Piece Standard Mail" to read as follows:]

COD service may be used for Express Mail, First-Class Mail, Priority Mail, and Standard Mail (B) (Parcel Post, Bound Printed Matter, Special Standard Mail, and Library Mail) if:

* * * * *

S922 Business Reply Mail (BRM)

1.0 BASIC INFORMATION

* * * * *

[Delete 1.5 and renumber current 1.6 as 1.5]

2.0 PERMITS

* * * * *

[Delete 2.2. Renumber current 2.3 through 2.8 as 2.2 through 2.7.]

3.0 POSTAGE AND FEES

3.1 Permit Fee

[Amend 3.1 to read as follows:]

An annual BRM permit fee is charged each 12-month period.

* * * * *

[Replace current 3.4 with new 3.4 to read as follows:]

3.4 Charges

a. Postage. The applicable First-Class Mail or Priority Mail postage on each returned piece is collected from the addressee on delivery. A lower rate of First-Class Mail postage applies to QBRM (R100).

b. Fee Per Piece. The applicable BRM fee must be collected for each returned piece of BRM in addition to the applicable single-piece First-Class Mail or Priority Mail postage. Lower piece fees apply to mail paid through a BRM advance deposit account and to QBRM pieces (R900).

c. Improperly Prepared QBRM. The appropriate non-QBRM First-Class Mail postage plus the non-QBRM per piece fee is charged for:

(1) Business reply cards and letters returned under QBRM that were rejected by USPS barcode sorters and found not to meet the standards for QBRM.

(2) QBRM pieces with an incorrect barcode (e.g., a barcode representing the card rate on a letter-size piece).

[Delete current 3.5 and renumber current 3.6 through 3.11 as 3.5 through

3.10, respectively. Amend renumbered 3.6 to read as follows:]

3.6 Cash or Postage Due

Payment may be paid in cash or by a regular postage-due account. The applicable BRM fee is collected, but no business reply accounting fee is charged when a regular postage-due account is used (P011). A postage-due account does not qualify the BRM for the lower per-piece charge given to permit holders with a business reply account.

3.7 Account Use

[Amend renumbered 3.7c and 3.7d to read as follows:]

A BRM advance deposit account must be used only for payment of postage and fees on BRM, subject to these conditions:

* * * * *

c. When a permit holder with a business reply account desires a separation of charges, payment of a business reply accounting fee is required for each separate billing prepared. If a business reply accounting fee is not paid for each separation, the permit holder pays the appropriate non-QBRM First-Class Mail postage, plus for each separation the per-piece charge applicable to any mailer without a business reply account.

d. A sufficient balance must be maintained in the permit holder's advance deposit account for BRM. The permit holder is notified if funds are insufficient. After 3 days, if no funds are deposited, BRM on hand is charged at the fee for postage due or cash transactions.

* * * * *

3.8 Single Item

[Amend renumbered 3.8 to read as follows:]

Except for QBRM, two or more BRM pieces may be mailed as a single piece if the BRM pieces are identically addressed and prepared in accordance with C100. BRM postage-due calculations are based on the total weight of the piece and the appropriate First-Class Mail or Priority Mail postage plus the BRM per-piece charge for one piece. If the combined pieces become separated, BRM postage and fee charges are calculated for each piece.

* * * * *

4.0 FORMAT

* * * * *

4.3 Print Reflectance

[Amend 4.3 to read as follows:]

All ink colors are acceptable if the piece meets the appropriate reflectance standards in C830 and C840.

* * * * *

4.8 Delivery Address

[Amend 4.8 to read as follows:]

Unless printed on an address label or on an insert for a window envelope under 6.0, the complete address (including the permit holder's name, street address and/or post office box number, city, state, and ZIP Code) must be printed directly on the piece, subject to these conditions:

a. For pieces distributed under QBRM, the address must include a unique ZIP+4 code that is preassigned for the BRM piece and that identifies the type of BRM, the applicable rate, and the individual permit holder (see E150).

b. Preprinted labels with only delivery address information (including a ZIP+4 barcode under 5.0) are permitted for addressing BRM, but the permit holder's name must still be printed directly on the BRM. Permit holders are liable for the postage and fees on BRM returned with improper addressing.

c. The bottom line of the address must not be lower than 5/8 inch or higher than 2–1/4 inches from the bottom edge of the piece. A clear margin void of any extraneous matter (except for the horizontal bars specified in 4.9) of at least 1 inch is required between the left and right edges of the piece and the address.

* * * * *

f. A company logo is permitted on prebarcoded BRM if placed no lower than 5/8 inch from the bottom edge of the piece and is permitted on nonbarcoded BRM if placed no lower than the top of the street address or the post office box line of the address. The logo must not interfere with any required business reply endorsements.

* * * * *

5.0 PREBARCODED BRM

[Delete current 5.1 through 5.7, and insert new 5.1 through 5.3 to read as follows:]

5.1 General Format Standards

Prebarcoding of BRM is optional except for letter-size BRM enclosed in automation rate mailings and for QBRM. Prebarcoded BRM must meet all general format standards in 4.0, the applicable barcoding standards in C840, the mailpiece design requirements in C810 (except the envelope basis weight requirements in 7.1), and these standards:

a. An envelope or any mailpiece formed by an outer sheet or sheets sealed on all four edges must be prepared from paper with a minimum basis weight of 20 pounds (measured weight for 500 17 by 22-inch sheets).

b. FIM C must be used (see C100).

c. The ZIP+4 codes and barcodes assigned to the BRM permit holder by the USPS must be used. Delivery point barcodes are not permitted on BRM.

d. Except as provided in e, the ZIP+4 barcode must be placed on the address side of the piece and positioned in either of these two locations:

(1) As part of the delivery address block under C840 if printed on an insert placed in a window envelope or on an address label affixed directly to the piece.

(2) Within the barcode clear zone in the lower right corner of the piece if printed directly on the piece or if printed on an insert or a label affixed to an insert and placed in an envelope with a lower right barcode window under C840.

e. Until January 10, 2001, mailers may continue to use existing stocks of prebarcoded BRM envelopes and cards with barcodes in the lower right corner that:

(1) Have a barcode clear zone with a left boundary that is 4½ inches from the right edge of the piece (not 4¾ inches as required in C840).

(2) Have a lower right barcode for which the leftmost bar is located between 3¼ and 4 inches from the right edge of the piece (not between 3½ and 4¼ inches as required under C840).

(3) Have a lower right barcode window, that has a left boundary measuring 4½ inches from the right edge of the piece (not 4¾ inches as required under C840).

f. Mailers have until January 10, 2001, to comply with C810.2.1c(2) that requires pieces measuring more than 4¼ inches high or 6 inches long, or both to measure at least 0.009 inch thick. Until January 10, 2001, such pieces need only meet the minimum thickness of 0.007 inch.

5.2 Samples

Mailers are encouraged to submit preproduction samples of BRM to the USPS for approval.

5.3 Error Notification

If the USPS discovers a BRM format error, the responsible permit holder or authorized permit user receives written notification of the error and applicable specification. The permit holder must correct the error and make sure that all future BRM pieces distributed by any means meet appropriate specifications. The repeated distribution of BRM with a format error, as determined by the

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USPS, is grounds for revoking a business reply permit. To obtain a new permit after a BRM permit is revoked for not following BRM format specifications, a former permit holder must complete a new application on Form 3615, pay the required BRM permit fee, pay a new business reply accounting fee if applicable, and submit two samples of each BRM format to the appropriate post office for approval for the next 2-year period.

[Replace 6.0 with the following:]

6.0 MAILPIECE CHARACTERISTICS

6.1 Paper Weight

Paper envelopes used for BRM must have a minimum basis weight of 20 pounds (500 17- by 22-inch sheets). Other pieces must meet the basis weight requirements in C810.

6.2 Nonpaper Envelopes

USPS Engineering must approve nonpaper envelopes for mailability.

6.3 Reflectance

BRM pieces must meet the reflectance requirements in C830. In addition, envelope material must not have a red fluorescence exceeding 4.0 phosphor meter units.

6.4 Sealing and Edges

Any BRM piece is nonmailable if sealed with wax, clasps, string, staples, or buttons; if all edges are not straight; or if the piece is not rectangular.

6.5 Window Envelope

The following standards apply to BRM prepared in a window or open-panel envelope:

a. The pieces must meet the standards in C830 for envelopes with an address windows and inserts.

b. The endorsement "NO POSTAGE NECESSARY IF MAILED IN THE UNITED STATES," horizontal bars, FIM, and the legend "BUSINESS REPLY MAIL" must be printed directly on the address side of the envelope. Other required elements, including "FIRST-CLASS MAIL PERMIT NO.," city, state, "POSTAGE WILL BE PAID BY ADDRESSEE," and the permit holder's name and complete delivery address, may appear either on the enclosure in the window or be printed directly on the envelope.

c. The address showing through the window must be that of the permit holder or an authorized agent/dealer.

6.6 BRM Self-Mailer

Self-mailers must be at least 0.007 inch thick, not more than 0.25 inch thick, and meet the requirements for sealing and folding self-mailers in C810.4.0 and C810.7.2. Self-mailers must contain instructions to the user for sealing and folding, so that on return the self-mailer will meet the applicable sealing and folding requirements in C810. Barcoded self-mailers, including QBRM pieces also must meet the requirements in 5.0.

6.7 BRM Card

A BRM card must be rectangular, not less than 3½ by 5 inches or more than 4¼ by 6 inches, and of uniform thickness not less than 0.007 inch or more than 0.016 inch to qualify for the card postage rate. Any card larger than those dimensions is mailable but is charged at the First-Class Mail rate for matter other than cards. Additional standards in 5.0 and C810 apply to prebarcoded BRM, including QBRM.

6.8 BRM Label

The following standards apply to BRM labels:

a. For other than letter-size pieces, the minimum size of a label with the legend "Business Reply Label" is 2 inches high and 3 inches long. It is not necessary to print FIMs or barcodes on these labels, but all other BRM format standards must be met.

b. For letter-size envelopes, the minimum size of a label with the legend "Business Reply Label" is 2⅝ inches high and 4¼ inches long. A FIM must be printed on the label. The label must be coated with a permanent adhesive strong enough to firmly attach the label to an envelope. The labels must meet the standards in 4.8 and 4.9 except that the series of horizontal bars on labels must be at least ¾-inch high.

c. For letter-size envelopes, the permit holder must supply the user with instructions describing how the label should be applied to an envelope and what precautions must be observed when applying the label (see Exhibit 6.8). A pictorial diagram showing proper placement of the label must be included with the instructions. At a minimum, the instructions must include the following directions:

(1) Place the label squarely on the upper right corner of the envelope.

(2) Do not write on the envelope.

(3) Do not use a window envelope, an envelope that is less than 1 inch taller than the label, or an envelope with any printing other than the return address.

(4) Do not use the label on an envelope more than 4½ inches high.

(5) Do not use tape to affix the label.

d. The address must be printed in the address block, and the envelope with label affixed must meet applicable OCR readability standards in C830.

e. Business reply labels may not be distributed under QBRM.

[Renumber former Exhibit 6.10 as Exhibit 6.8.]

[Delete the entire contents of 7.0.]

S923 Merchandise Return Service

1.0 BASIC INFORMATION:

1.1 Description

[Delete the words "Single-Piece Standard Mail" in 1.1.]

* * * * *

1.3 Payment Guarantee

[Amend 1.3 for clarification and to eliminate return of articles at the single-piece Standard Mail (A) rate to read as follows:]

a. The permit holder guarantees payment of the proper postage and fees on all returned merchandise return service articles distributed under the permit holder's permit number. Charges are collected for each article as postage due at the time of delivery or from a centralized advance deposit account using Form 3582–C, Postage Due Invoice.

b. Articles are charged the required fees and the proper single-piece rate as follows:

(1) The Priority Mail, First-Class Mail, Bound Printed Matter, Special Standard, or Library Mail rate as marked on the label.

(2) If no rate marking appears on the label, pieces weighing less than 16 ounces are charged the applicable First-Class Mail or Priority Mail rates based on weight, and pieces weighing 16 ounces or more are charged the Parcel Post rate.

(3) See 1.12 for postage on articles received without a return address or a postmark.

* * * * *

1.11 Mailer Markings and Endorsements

[Revise 1.11 to read as follows:]

If the permit holder desires matter weighing 16 ounces or more to be returned at a rate other than Parcel Post, the permit holder must preprint the appropriate rate marking on the label. If the permit hold desires matter weighing 16 ounces or less to be returned at the Special Standard or Library Mail rates, or matter weighing 13 ounces or less to be mailed at the Priority Mail rates, the mailer must preprint the appropriate rate marking on the label. Otherwise, matter weighing 13 ounces or less will be returned at the First-Class Mail rates and matter weighing over 13 ounces and less than 16 ounces will be returned at the Priority Mail rates. It is recommended but not required that matter to be returned at the First-Class Mail, Priority Mail, or Parcel Post rates bear the applicable preprinted marking "First-Class" or "First-Class Mail," "Priority Mail," or "Parcel Post" (or "PP").

1.12 No Return Address or Postmark

Articles received without a return address or postmark are charged the required fees and the proper single-piece rate as follows:

a. The Priority Mail, First-Class Mail, Bound Printed Matter, Special Standard, or Library Mail rate as marked on the label.

b. If no rate marking appears on the label, pieces weighing 13 ounces or less are charged the First-Class Mail rates, pieces weighing over 13 ounces and less than 16 ounces are charged the Priority Mail rates, and pieces weighing 16 ounces or more are charged the Parcel Post rates.

c. Zoned rates are calculated at zone 4.

* * * * *

3.0 POSTAGE AND FEES

* * * * *

3.2 Transaction Fee

[Change "Standard Mail" to "Standard Mail (B)" as follows:]

The applicable transaction fee is assessed for each item returned, in addition to single-piece Priority Mail, First-Class Mail, or Standard Mail (B) rate postage and as applicable, the fees for pickup or special services.

* * * * *

4.0 ADDITIONAL FEATURES

4.1 Insured Mail

[Amend 4.1 to read as follows:]

The permit holder may obtain insured mail service with direct merchandise return service but not with Priority Mail reshipment. The customer using a merchandise return label to return an article that does not have the appropriate postage due computation markings in 5.0 or the endorsement specified in 4.2 may not obtain insured mail service. Only Standard Mail matter (i.e., matter not required to be mailed at First-Class Mail rates under E110) returned at the Standard Mail (B) rates or First-Class Mail or Priority Mail rates may be insured. If the matter is to be returned as First-Class Mail or Priority Mail, the endorsement "Standard Mail Enclosed" must appear below the class of mail endorsement on the merchandise return label.

* * * * *

4.7 Special Handling

[Revise the last sentence to read as follows:]

* * * Special handling service is available only for articles returned at First-Class Mail, Priority Mail, or Standard Mail (B) rates.

* * * * *

4.10 Combining Special Services

[Amend 4.10 to read as follows:]

Standard Mail articles (i.e., matter not required to be mailed at First-Class Mail rates under E110) may be both insured and receive special handing if the permit holder meets the applicable standards.

Registered merchandise return pieces cannot receive any other special service.

* * * * *

5.0 FORMAT

* * * * *

5.6 Format Elements

* * * * *

[Revise 5.6c to read as follows:]

Format standards required for the merchandise return label are shown in Exhibit 5.6a, Exhibit 5.6b, and Exhibit 5.6c and described as follows:

* * * * *

c. Rate Marking. If the matter to be returned bears a rate marking as required or recommended under 1.11, the rate marking must be placed in the space to the right and above the "Merchandise Return Label" rectangle. The marking must be at least ¼-inch high and printed or rubber-stamped. Only the permit holder may apply this marking.

* * * * *

[Revise 5.6e(3) to read as follows:]

e. Registry Service. * * *

* * * * *

(3) The appropriate insurance endorsement, below the "TOTAL POSTAGE AND FEES DUE" entry: if matter returned has value ($0.01 or greater), "REGISTERED MAIL SERVICE WITH POSTAL INSURANCE DESIRED BY PERMIT HOLDER"; if matter returned has no value ($0.00), "REGISTERED MAIL SERVICE WITHOUT POSTAL INSURANCE DESIRED BY PERMIT HOLDER."

* * * * *

S924 Bulk Parcel Return Service

* * * * *

2.0 PERMITS

2.1 Application Process and Participation

[Revise 2.1a and 2.1b to read as follows:]

To participate in BPRS, the mailer must make a written request to the postmaster at each post office where parcels are to be returned. The request must:

a. At a given delivery point, demonstrate receipt of 10,000 returned machinable parcels (originally mailed at Standard Mail (A) rates) during the previous 12 months, or

b. At a given delivery point, demonstrate a high likelihood of receiving a minimum of 10,000 returned machinable parcels (originally mailed at Standard Mail (A) rates) in the coming 12 months. * * *

* * * * *

2.2 Permit Renewal

[In the last two sentences change "single-piece Standard Mail (A) rate" to "single-piece First-Class Mail or Priority Mail rate as appropriate for the weight of the piece."]

* * * * *

S930 Handling

1.0 SPECIAL HANDLING

1.1 Description

[In 1.1 change "E620" to "E630."]

[Amend 1.2 through 1.4 to read as follows:]

1.2 Availability

Special handling service is available only for First-Class Mail, Priority Mail, and Standard Mail (B) (Parcel Post, Bound Printed Matter, Special Standard Mail, and Library Mail).

* * * * *

1.4 Bees and Poultry

Unless sent at the First-Class Mail or Priority Mail rates, special handling is required for parcels containing honeybees or baby poultry. Under C022.37, only queen honeybees may be shipped by aircraft. Check with your local post office for mailability prior to mailing honeybees other than queen honeybees at First-Class Mail or Priority Mail rates.

* * * * *

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published if the proposal is adopted.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 98–18271 Filed 7–13–98; 8:45 am]

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Part III

Department of the Treasury

Fiscal Service

31 CFR Parts 317, 321, 330, 359, and 360
Offering and Governing Regulations For United States Savings Bonds, Series I; Issuing and Paying Agents; and Payment; Final Rule

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DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Parts 317, 321, 330, 359, and 360

Offering and Governing Regulations for United States Savings Bonds, Series I; Issuing and Paying Agents; and Payment Under Special Endorsement

AGENCY: Bureau of the Public Debt, Fiscal Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury ("Department" or "Treasury") is publishing in final form new regulations providing an offering circular for United States Series I Savings Bonds, new regulations governing United States Series I Savings Bonds, and conforming amendments to existing regulations governing issuing and paying agents. The regulations provide for the public offering of new Treasury inflation-indexed savings bonds ("Series I") by the Department. The regulations also set forth the provisions governing transactions in inflation-indexed savings bonds. In addition, this rule makes certain technical clarifications and conforming changes.

EFFECTIVE DATE: September 1, 1998.

ADDRESSES: Copies of this final rule are available for downloading from the Bureau of the Public Debt at the following World Wide Web address: <http://www.savingsbonds.gov> or may be obtained from the Bureau of the Public Debt, Division of Staff Services, 200 3rd St., Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Wallace L. Earnest, Director, Division of Staff Services, at (304)480–6319 or by e-mail at <wearnest@bpd.treas.gov>; Edward C. Gronseth, Deputy Chief Counsel, at (304)480–5192 or by e-mail at <egronset@bpd.treas.gov>; or Dean A. Adams, Assistant Chief Counsel, Office of the Chief Counsel, at (304)480–5192 or by e-mail at <dadams@bpd.treas.gov>.

SUPPLEMENTARY INFORMATION:

I. Background

31 CFR Part 359, referred to as the offering circular, sets out the terms and conditions for the sale and issuance of United States Savings Bonds, Series I, by the Department of the Treasury to the public. 31 CFR Part 360, referred to as the governing regulations, sets out the terms and conditions governing transactions in United States Savings Bonds, Series I. Together, the offering circular and governing regulations represent comprehensive and exclusive statements of those terms and conditions.

The regulations in 31 CFR part 317 (also referred to as Department of the Treasury Circular, Public Debt Series No. 4–67, Second Revision, as amended), 31 CFR part 321 (also referred to as Department of the Treasury Circular No. 750, Fourth Revision, as amended), and 31 CFR Part 330 (also referred to as Department of the Treasury Circular No. 888, Fifth Revision, as amended), are being amended to incorporate changes relating to Series I.

The Department has decided to offer a new type of savings bond, referred to as an inflation-indexed or Series I savings bond, whose rate will be adjusted for inflation as described below. The Department believes the issuance of these new inflation-indexed savings bonds will reduce borrowing costs to the Treasury over the long term, will broaden the types of debt instruments available to investors, and will make available to all investors a security whose value is tied generally to changes in inflation. This new series of savings bonds contains terms relating to the use of the U.S. City Average All Items Consumer Price Index for All Urban Consumers ("CPI-U"), published by the Bureau of Labor Statistics ("BLS") to measure inflation, that potential investors should review closely.

Because these savings bonds contain terms different from savings bonds previously issued by the Department, the interested investor is urged to read "Investment Considerations" set forth in the "Summary of Significant Features", Paragraph (24), and § 359.3.

II. Summary of Significant Features

Offering Regulations (31 CFR part 359), Governing Regulations (31 CFR part 360)

(1) Availability (§ 359.0)

The public will be able to purchase Series I bonds over-the-counter at many financial institutions and through employers who choose to offer Series I bonds through payroll savings plans.

(2) Denominations (§ 359.2(b))

Series I bonds will be offered at par value in denominations of $50, $75, $100, $200, $500, $1,000, $5,000, and $10,000. Issuance of Series I bonds at par value is different from Series EE bonds, which are issued at a 50% discount to par value (or face amount). Thus, it will cost $50 to purchase a $50 Series I bond, and $25 for a $50 Series EE bond.

(3) Purchase Limitation (§ 359.5)

The amount of Series I bonds which may be purchased in the name of any one person, in any one year, is limited to $30,000 (par value) per social security account number.

(4) Transferability (§§ 360.15, 360.16)

Series I bonds will not be transferable, negotiable, or available for pledge or use as collateral, except as specifically provided in the regulations.

(5) Exchange

Series I bonds will not be available for exchange for other series of savings bonds.

(6) Rate Announcements (§ 359.2(e)(1)(i))

Rates applicable to Series I bonds will be set forth in rate announcements published each May and November. If the regularly scheduled date for the announcement (for example, May 1) is a day when the Treasury is not open for business, then the announcement will be made on the next business day; however, the effective date of the rates will remain the first day of the month of the announcement.

(7) Fixed Rate of Return (§ 359.2(e)(1)(i),(ii))

The Secretary of the Treasury shall determine fixed rates of return for Series I savings bonds. The Department's rate announcements effective each May 1 and November 1 will reflect the Secretary's determination of the fixed rate of return for bonds purchased during the six-month period beginning with the effective date of the announcement. For example, a fixed rate reflected in the May 1, 1999, announcement will apply to any Series I bond purchased in the period May through October 1999. The fixed rate of return applicable at the time a Series I bond is issued will apply to such bond throughout its 30-year life. Accordingly, the Department's rate announcements each May and November will not affect the fixed rates established for bonds previously issued.

(8) Semiannual Inflation Rate (§ 359.2(e)(1)(iii))

Each May and November, Treasury will announce a variable semiannual inflation rate for inflation-indexed savings bonds. The index used to determine this rate will be the non-seasonally adjusted U.S. City Average All Items Consumer Price Index for All

Urban Consumers ("CPI–U") published by the Bureau of Labor Statistics ("BLS") of the U.S. Department of Labor. (§ 359.3 of the Series I offering regulations sets forth index contingencies for determining an inflation component if the CPI–U is not available.) More specifically, the rate will reflect the percentage change in the CPI–U during the six-month period ending each March and September. For example, the semiannual inflation rate to be announced May 1, 1999, will reflect the change in the index over the period October 1998 through March 1999. The semiannual inflation rate will be reflected in a Series I bond's value beginning on that bond's next semiannual interest period following the announcement. For a complete discussion of this lag feature, see paragraph (24)(b) below.

The rate of change over the six-month period will be expressed as a percentage, rounded to the nearest one hundredth of one percent. More specifically, using the above example, the semiannual inflation rate will equal the CPI–U value for the most recent March less the value for the preceding September with that difference then being divided by the CPI–U value for the preceding September and the result being multiplied by 100 to convert the rate to a percentage. The resulting rate will be rounded to the nearest one-hundredth of one percent. The semiannual inflation rate to be effective with the November announcement, reflecting the change in the CPI–U for the six-month period ending with the immediately preceding September, will be similarly determined. In deflationary conditions, the semiannual inflation rate may be negative to such an extent that it offsets or exceeds the fixed rate of return; however, the redemption value of a Series I bond for any particular month of payment will not be less than the value for the preceding payment month.

(9) Composite Rate (§ 359.2(e)(1)(v))

Series I bonds will accrue earnings based on both a fixed rate of return and the semiannual inflation rate. A single annual rate will be constructed to reflect the combined effects of the fixed rate of return and the semiannual inflation rate. The following formula demonstrates how the composite rate will be determined.

The fixed rate of return, FR, and the semiannual inflation rate, SIR, will be divided by 100 to remove the percentage format and then combined into a composite annual rate, CR, in accordance with the following formula:

$$CR = \{SIR + (FR \div 2) + [SIR \times (FR \div 2)]\} \times 2$$

The resulting annual rate will be converted to a percentage and rounded to the nearest one hundredth of one percent. The composite rates will be announced by Treasury each May and November, and will be derived from the semiannual inflation rate announced on the same date and the fixed rates of return applicable to Series I savings bonds.

(10) Deflation (§ 359.2(e)(1)(iii))

Negative as well as positive changes in the CPI–U will be used to calculate composite rates. In the event of deflation, the negative change in the CPI–U will reduce the composite rate. If deflation is such that it more than fully offsets the fixed rate of return and produces a negative composite rate, the composite rate will not be reduced below zero, *i.e.*, the redemption value of the bond will remain constant through the period and become the base for calculating earnings that may apply during the subsequent period.

(11) Base Denomination (§ 359.2(e)(1)(vi))

All value calculations are performed on a hypothetical denomination of $25 having a value at the beginning of the first semiannual rate period equal to the issue price of $25. The hypothetical denomination of $25 is used because all Series I bond denominations are divisible by $25. Redemption values for bonds of greater denominations are in direct proportion according to the ratio of denominations. For example, if the value of a hypothetical $25 denomination is $41.20—*i.e.*, $25.00 issue price plus $16.20 accrued interest—on the same redemption date, the value of a $50 bond bearing the same issue date is $41.20 × (50/25) or $82.40.

(12) Issue Date (§ 359.2(e)(1)(vii))

The issue date of a Series I bond is the first day of the month in which payment of the issue price is received by an authorized issuing agent. Thus, if an authorized issuing agent receives the issue price on the 20th of a month, the issue date is the first of the month.

(13) Redemption Value (§ 359.2(e)(1)(viii))

The redemption value of a bond is that amount that will be paid when the bond is redeemed.

(14) Accrual Date (§ 359.2(e)(1)(ix))

Earnings on a Series I bond, if any, accrue on the first day of each month. The redemption value of a bond does not change between accrual dates.

(15) Semiannual Rate Periods (§ 359.2(e)(1)(x))

Semiannual rate periods are the six-month periods beginning on the date of issue and on each semiannual anniversary of the date of issue to maturity.

(16) Maturity (§ 359.2 (c),(e)(1)(xi))

Series I bonds have a maturity period of 30 years, consisting of an original maturity period of 20 years and an automatic extension period of 10 years. The bonds have an interest paying life of 30 years after date of issue and cease to increase in value as of that date.

(17) Interest Rates and Monthly Accruals (§ 359.2(e)(2),(4))

Series I composite rates apply to earnings during the first semiannual rate period beginning on or after the effective date of the rate. Interest, at the composite rate from the beginning of the initial semiannual rate period, accrues according to the formula specified in § 359.2(e)(4)(ii). The following table shows, for any given month of issue with composite rates announced each May and November, the months making up the semiannual rate period during which interest is earned at the composite rate specified in the announcement.

Month of issuance	Semiannual rate period (1) begins	Announcement date of composite rate that applies during rate period (1)	Semiannual rate period (2) begins	Announcement date of composite rate that applies during rate period (2)
January	January 1	November 1 (announced 2 months prior to beginning of semiannual rate period).	July 1	May 1 (announced 2 months prior to beginning of semiannual rate period).
February	February 1	November 1 (announced 3 months prior to beginning of semiannual rate period).	August 1	May 1 (announced 3 months prior to beginning of semiannual rate period).

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Month of issuance	Semiannual rate period (1) begins	Announcement date of composite rate that applies during rate period (1)	Semiannual rate period (2) begins	Announcement date of composite rate that applies during rate period (2)
March	March 1	November 1 (announced 4 months prior to beginning of semiannual rate period).	September 1	May 1 (announced 4 months prior to beginning of semiannual rate period).
April	April 1	November 1 (announced 5 months prior to beginning of semiannual rate period).	October 1	May 1 (announced 5 months prior to beginning of semiannual rate period).
May	May 1	May 1	November 1	November 1.
June	June 1	May 1 (announced 1 month prior to beginning of semiannual rate period).	December 1	November 1 (announced 1 month prior to beginning of semiannual rate period).
July	July 1	May 1 (announced 2 months prior to beginning of semiannual rate period).	January 1	November 1 (announced 2 months prior to beginning of semiannual rate period).
August	August 1	May 1 (announced 3 months prior to beginning of semiannual rate period).	February 1	November 1 (announced 3 months prior to beginning of semiannual rate period).
September	September 1	May 1 (announced 4 months prior to beginning of semiannual rate period).	March 1	November 1 (announced 4 months prior to beginning of semiannual rate period).
October	October 1	May 1 (announced 5 months prior to beginning of semiannual rate period).	April 1	November 1 (announced 5 months prior to beginning of semiannual rate period).
November	November 1	November 1	May 1	May 1.
December	December 1	November 1 (announced 1 month prior to beginning of semiannual rate period).	June 1	May 1 (announced 1 month prior to beginning of semiannual rate period).

Notes: Notwithstanding any consideration of interest penalty for early redemption, interest earned during each month of a semiannual rate period accrues according to the formula specified in § 359.2(e)(4)(ii). Also, if the regularly scheduled date for a composite rate announcement is a day that Treasury is not open for business, the announcement will be made on the next business day; however, the effective date of the rate will be the first day of the month of the announcement.

See also the discussion of inflation lag in paragraph (24)(b) below.

(18) Redemption (§ 359.2(d))

A Series I bond may be redeemed beginning six months after its issue date or at any time thereafter. The Secretary of the Treasury may not call a Series I bond for redemption prior to an original maturity period of 20 years and an automatic extension period of 10 years, for a total period of 30 years from its issue date.

(19) Interest Penalty (§ 359.2(e)(3))

A Series I bond may be redeemed beginning six months after issuance, although a bond redeemed less than five years from the date of issue will be subject to a three-month interest penalty. If a Series I bond is redeemed less than five years following the date of issue, the overall earning period from the date of issue to the date of redemption will be reduced by three months. For example, if a bond issued on January 1, 1999, is redeemed nine months later on October 1, 1999, the redemption value will be determined by applying the value calculation procedures described in § 359.2(e)(4) and the Series I bond composite rate for that bond as if the redemption date were three months earlier (July 1, 1999). The redemption value of a bond subject to the three-month interest penalty will not be reduced below the issue price. This penalty does not apply to bonds redeemed five years or more after the date of issue. For a discussion of interest penalty, see paragraph (24)(d) below.

(20) Redemption Value Calculations (§ 359.2(e)(4))

Interest on a bond accrues and becomes part of the redemption value which is paid when the bond is surrendered for payment. The redemption value of a bond for the accrual date (the first day of each month) is determined in accordance with § 359.2(e)(4). Redemption value calculations will provide for monthly increases in bond values, with all values calculated using the formula in § 359.2(e)(4), and will take into account a three-month loss of earnings for bonds held less than five years from date of issue.

(21) The Secretary's Determination (§ 359.2(e)(5))

The determination by the Secretary of the Treasury, or the Secretary's designee, of fixed rates of return, semiannual inflation rates, composite rates, and savings bond redemption values shall be final and conclusive.

(22) Tables of Redemption Values (§ 359.2(e)(6))

Tables of redemption values are made available in various formats and media, including on the Internet, by the Bureau of the Public Debt, Parkersburg, West Virginia 26106–1328. Treasury reserves the right to cease making the tables of redemption values available in any of these formats or media. Redemption values published in such tables reflect the three-month interest penalty applied to bonds redeemed prior to five years from the date of issue.

(23) Taxation (§§ 359.9, 359.10)

The increase in value, represented by the difference between the face or par amount of a Series I bond and the redemption value received for it, is interest. Thus, earnings produced by the composite rate (which consists of both the fixed rate and the semiannual inflation rate) are treated as interest. Interest earned on Series I bonds is exempt from State and local income taxes. Series I bond interest will be included on Federal tax returns in the same way as Series EE bonds. In general, owners may defer reporting the increment for Federal income tax purposes until: (i) they redeem the bonds, (ii) the bonds cease earning interest after 30 years, or (iii) are otherwise disposed of, whichever is earlier. However, an owner may elect to accrue the increment each year it is earned. Thus, if an investor takes no action, the gain is deferred until the first of the three events described above occurs. Only if an investor affirmatively acts by making such an election will the increase in value be includable in income annually. The current special tax benefits available for education savings with EE bonds purchased after 1989 will apply to Series I bonds. If a taxpayer qualifies under current rules and the bonds are redeemed to pay for post-secondary tuition and fees, he or she can exclude all or part of the interest (the difference between the redemption value and face value) earned on Series I bonds from income for that tax year. Authoritative information about the Education Savings Bond Program can be found in Internal Revenue Service Publication 17, "Your Federal Income Tax", and Publication 550, "Investment Income and Expenses."

(24) Investment Considerations (§§ 359.2, 359.3)

(a) Index Contingencies (§ 359.3(a))

This section clarifies the Treasury's course of action if the CPI is: discontinued, or, in the judgment of the Secretary, either fundamentally altered in a manner materially adverse to the interests of an investor in the savings bond or altered by legislation or Executive Order in a manner materially adverse to the interests of an investor in the savings bond.

A change to the CPI would be considered fundamental if it affected the character of the CPI. Technical changes made by the BLS to the CPI to improve its accuracy as a measure of the cost of living would not be considered fundamental changes. Technical changes include, but are not limited to: (1) The specific items (e.g., apples or major appliances) to be priced for the index; (2) the way individual price quotations are aggregated to construct component price indices for these items (aggregation of item sub-strata); (3) the method for combining these component price indices to obtain the comprehensive, all-items CPI (aggregation of item strata); and (4) the procedures for incorporating new goods into the index and making adjustments for quality changes in existing goods.

Technical changes to the CPI previously made or announced by BLS include introducing probability sampling to select the precise items for which prices are collected and the stores in which collection takes place, and changing the way in which price movements of major components, such as shelter costs for homeowners in the early 1980s and medical care costs beginning in 1997, are measured.

The Advisory Commission to Study the Consumer Price Index (the Boskin Commission) made a number of recommendations to improve the calculation of changes in the cost of living. Some of these recommendations were directed to BLS and were designed to improve the calculation of the monthly CPI. These recommendations, if and to the extent implemented by BLS, would constitute technical changes rather than fundamental changes.

The Boskin Commission also recommended construction of an annual measure of the cost of living as a supplement to the monthly CPI. Development and use of such a supplement, by itself, would not change the monthly CPI itself. While the Boskin Commission did not suggest that such a measure replace the CPI, a decision by BLS to replace, rather than supplement, the current monthly CPI with an annual measure of consumer prices, would constitute a fundamental change.

In addition, if the Secretary determines that the CPI is altered by legislation or Executive Order in a manner that is materially adverse to the interests of an investor in the savings bond, the Secretary would propose an alternative index.

If the CPI for a particular month is not reported by the last day of the following month, the last CPI that has been reported (including any revision of a previously reported CPI number) will be used to calculate CPI numbers for months for which the CPI has not been reported for such day.

(b) Inflation Lag (§ 359.3(b))

The inflation rate component of investor earnings will be determined twice each year. This rate will be the percentage change in the CPI–U for the six months ending each March and September. The rate will be included in the composite rate that is announced each May and November. Each composite rate will be effective for the entirety of all semiannual rate periods that begin while the rate is in effect. Thus, notwithstanding any interest penalty, an inflation rate may affect interest accruals from 3 to 13 months from the date that the CPI–U is measured.

For example, the inflation rate determined from the CPI–U for the six-month period from October 1, 2003, through March 31, 2004, will be included in the composite rate announced on May 1, 2004. For a bond purchased in May 1999, this rate will go into effect immediately with the new semiannual rate period for this bond beginning on May 1, 2004. Series I bonds issued in May begin new semiannual rate periods in the months of May and November. In this example, the inflation rate will have its earliest impact in June 2004, when interest from May accrues, three months after the end of the six-month CPI–U period that ended March 31, 2004.

As another example, the May 1, 2004, rate will apply similarly to a bond purchased in October 1999. Series I bonds issued in October begin new semiannual rate periods in the months of April and October. Thus, for this bond, the May 1, 2004, composite rate (which includes the fixed rate applicable when the bond was purchased in October 1999 and the inflation rate announced on May 1, 2004) will not go into effect until a new semiannual rate period starts on October 1, 2004. This rate, therefore, will determine the inflation-indexed portion of each interest accrual from November 2004 through April 2005. In this example, the inflation rate will have its latest impact in April 2005, 13 months after the end of the six-month CPI–U period that ended March 31, 2004.

(c) Liquidity (§ 359.2(d), (e)(3))

A Series I bond may not be redeemed until six months after its issue date. However, a bond redeemed less than five years from the date of issue will be subject to a three-month interest penalty.

(d) Early Redemption Penalty (§ 359.2(e)(3))

If a Series I bond is redeemed less than five years following the date of issue, the overall earning period from the date of issue will be reduced by three months. For example, if a bond issued January 1, 1999, is redeemed nine months later on October 1, 1999, the redemption value will be determined by applying the value calculation procedures described in § 359.2(e)(4) and the Series I bond composite rate for that bond as if the redemption date were three months earlier (July 1, 1999). The redemption value of a bond subject to the three-month interest penalty shall not be reduced below the issue price. This penalty does not apply to bonds redeemed five years or more after the date of issue.

III. Section-by-Section Summary

This final rule provides for the sale and issuance of, and the governing of transactions in, Series I savings bonds. This rule also amends Parts 317, 321

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and 330, relating to issuing and paying agents of savings bonds, to incorporate changes to accommodate the processing of Series I savings bonds. The regulations also contain changes designed to reduce operating costs and provide for increased efficiency, without any reduction in the level of service to bondowners and financial institutions serving as financial agents.

Part 359, Offering of United States Savings Bonds, Series I

(1) Section 359.0 provides that the offering for sale of Series I savings bonds is effective September 1, 1998.

(2) Section 359.1 cross-references the regulations governing transactions in Series I savings bonds.

(3) Section 359.2 describes Series I savings bonds in terms of denominations, issue prices, maturity period, redemption features, determination of the composite rate, and redemption value calculations.

(4) Section 359.3 describes investment considerations, to include CPI index contingencies, the inflation lag factor, liquidity, and the early redemption penalty.

(5) Section 359.4 sets out general provisions regarding the registration and issuance of Series I savings bonds.

(6) Section 359.5 sets the limitation on annual purchases at $30,000 issue price per person determined by social security account number.

(7) Section 359.6 provides for the purchase of Series I savings bonds through payroll plans, over-the-counter/mail, bond-a-month plans, and various employee plans.

(8) Section 359.7 describes mail deliveries of Series I savings bonds.

(9) Section 359.8 sets out general provisions for the payment or redemption of Series I savings bonds by financial institutions and Federal Reserve Banks and Branches.

(10) Section 359.9 sets out various provisions regarding the taxation of Series I savings bonds.

(11) Section 359.10 briefly describes the education savings bond program feature of Series I savings bonds.

(12) Section 359.11 authorizes the Commissioner of the Public Debt to convert definitive Series I savings bonds to book-entry.

(13) Section 359.12 authorizes the Commissioner of the Public Debt to refuse to issue Series I savings bonds under certain circumstances.

(14) Section 359.13 authorizes the Commissioner of the Public Debt to waive or modify any provision of these regulations if certain conditions are met.

(15) Section 359.14 sets out the Federal Reserve Banks and Branches that provide savings bond services in the various geographic areas.

(16) Section 359.15 describes the Secretary of the Treasury's authority to supplement or amend this offering at any time.

Part 360, Regulations Governing United States Savings Bonds, Series I

(17) Section 360.0 provides that these regulations govern transactions in Series I savings bonds.

(18) Section 360.1 sets out the Federal Reserve Banks and Branches that process savings bond transactions in the various geographic areas.

(19) Section 360.2 contains the specific definitions of terms used in the governing regulations.

(20) Section 360.5 provides that the registration of a Series I savings bond is conclusive of ownership. It also sets out registration forms and gift bond inscriptions.

(21) Section 360.6 describes the authorized forms of registration, including single ownership, coownership, and beneficiary.

(22) Section 360.7 provides that the issuance of Series I savings bonds in a chain letter or pyramid scheme is prohibited.

(23) Section 360.10 specifies the annual purchase limitations for individuals and employee plans.

(24) Section 360.11 sets out the computation of purchase amounts by taxpayer identifying number.

(25) Section 360.12 provides for the adjustment of excess purchases.

(26) Section 360.13 sets out conditions of eligibility for various employee plans.

(27) Section 360.15 provides that Series I savings bonds are non-transferable and are only payable to the owners named on the bonds.

(28) Section 360.16 provides that Series I savings bonds may not be pledged or used as security for the performance of an obligation.

(29) Section 360.20 sets out restrictions on the recognition of judicial proceedings pertaining to Series I savings bonds.

(30) Section 360.21 sets out the procedures for making payment to judgment creditors.

(31) Section 360.22 provides for payment or reissue pursuant to divorce.

(32) Section 360.23 sets out the evidence necessary to establish the validity of judicial proceedings.

(33) Section 360.24 provides for payment procedures pursuant to judicial or administrative forfeiture.

(34) Section 360.25 provides for the recognition of claims for lost, stolen, or destroyed bonds.

(35) Section 360.26 sets out the claims procedures after an investor has received a bond.

(36) Section 360.27 sets out the claims procedures when an investor has not received a bond.

(37) Section 360.28 provides for the recovery of bonds. A bond for which relief has been granted is the property of the United States.

(38) Section 360.29 provides for the handling of claims filed 10 years after payment of the bond or 10 years after maturity.

(39) Section 360.35 sets out general provisions for the payment of Series I savings bonds.

(40) Section 360.36 provides for payment during an owner's lifetime.

(41) Section 360.37 provides for payment to either coowner.

(42) Section 360.38 provides for payment to the registered owner of a bond on which a beneficiary is named.

(43) Section 360.39 sets out general procedures for the surrender of Series I savings bonds for payment.

(44) Section 360.40 sets out special provisions for the payment of Series I savings bonds.

(45) Section 360.41 provides for partial redemption of a Series I savings bond.

(46) Section 360.42 provides that notice should be given to the paying agency if the payment remittance is not received or has been lost.

(47) Section 360.43 establishes the date upon which the rights of the parties are fixed for the purpose of payment.

(48) Section 360.44 provides for the withdrawal of a request for payment by an owner, coowner, or legal representative.

(49) Section 360.45 sets out the conditions for reissue.

(50) Section 360.46 establishes the date upon which the rights of the parties are fixed for the purpose of reissue.

(51) Section 360.47 provides for reissue under limited circumstances, to include divorce.

(52) Section 360.48 provides that reissue may not be made solely to change denominations or eliminate the United States Treasury as coowner.

(53) Section 360.49 provides that reissue may be made to correct an error in registration.

(54) Section 360.50 provides that reissue may be made pursuant to a legal change of name.

(55) Section 360.51 provides that, under certain specified circumstances, a request for reissue of a coowner bond must be made by both coowners, while a bond registered in beneficiary form may be reissued at the request of the owner without the consent of the beneficiary.

(56) Section 360.55 sets out who is authorized to certify a request for payment, reissue or a signature to a Public Debt form.

(57) Section 360.56 provides general instructions and sets out the liability of certifying officers.

(58) Section 360.57 explains when a certifying officer may not certify requests.

(59) Section 360.58 specifies when forms are to be certified.

(60) Section 360.60 provides for payment to the representative of the estate of an owner who is a minor or incompetent.

(61) Section 360.61 provides for payment to the representative after the ward has died.

(62) Section 360.62 provides for payment to a minor.

(63) Section 360.63 provides for payment to a parent or other person on behalf of a minor.

(64) Section 360.64 provides for payment to or the reinvestment of bonds by a voluntary guardian on behalf of an owner incapable of making the request, and for whom no legal representative has been appointed.

(65) Section 360.65 specifies the conditions under which a bond owned by a minor or person under legal disability may be reissued.

(66) Section 360.70 sets out the rules governing entitlement for single owner, coowner, and beneficiary bonds, upon the death of one or both of the registrants, without the bond having been surrendered for payment or reissue.

(67) Section 360.71 provides for the payment or reissue of bonds to the legal representative of a deceased bondowner's estate.

(68) Section 360.72 sets out procedures for the payment or reissue of bonds that are the property of a decedent's estate.

(69) Section 360.75 provides for payment or reissue during the existence of a fiduciary estate.

(70) Section 360.76 provides for payment or reissue after termination of a fiduciary estate.

(71) Section 360.90 authorizes the Commissioner of the Public Debt to waive or modify any provision of the regulations if certain conditions are met.

(72) Section 360.91 provides that the Commissioner of the Public Debt may require additional evidence or a bond of indemnity as he deems necessary for the protection of the United States.

(73) Section 360.92 sets out the Secretary of the Treasury's authority to supplement or amend the Series I savings bond regulations at any time.

IV. Procedural Requirements

This final rule does not meet the criteria for a "significant regulatory action" pursuant to Executive Order 12866. Therefore, the regulatory review procedures contained therein do not apply.

This final rule relates to matters of public contract and procedures for U.S. securities. The notice and public procedures requirements of the Administrative Procedure Act are inapplicable, pursuant to 5 U.S.C. 553(a)(2).

Since no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) do not apply.

There is no new collection of information contained in this final rule, and, therefore, the Paperwork Reduction Act (44 U.S.C. 3507) does not apply.

List of Subjects

31 CFR Parts 317, 321, 330

Banks, banking, Bonds.

31 CFR Parts 359 and 360

Bonds, Federal Reserve System, Government securities, Securities.

Dated: July 8, 1998.

Donald V. Hammond,

Acting Fiscal Assistant Secretary.

For the reasons set forth in the preamble, 31 CFR Chapter II, Subchapter B, is amended as follows:

PART 317—REGULATIONS GOVERNING AGENCIES FOR ISSUE OF UNITED STATES SAVINGS BONDS

1. The authority citation for part 317 is revised to read as follows:

Authority: 2 U.S.C. 901; 5 U.S.C. 301; 12 U.S.C. 391; 31 U.S.C. 3105.

2. Section 317.0 is revised to read as follows:

§ 317.0 Purpose and effective date.

The regulations in this part govern the manner in which an organization may qualify and act as an agent for the sale and issue of Series EE and Series I United States Savings Bonds.

3. In § 317.1, paragraph (d) is revised to read as follows:

§ 317.1 Definitions

* * * * *

(d) *Offering circular* refers to Department of the Treasury Circular, Public Debt Series No. 1–80, current revision, for Series EE savings bonds, and to Department of the Treasury Circular, Public Debt Series No. 1–98 for Series I bonds.

* * * * *

§ 317.8 [Amended]

4. Subpart A, Paragraph 1 of the Appendix to § 317.8 is revised to read as follows:

Appendix to § 317.8—Remittance of Sales Proceeds and Registration Records, Department of the Treasury Circular, Public Debt Series No. 4–67, Second Revision (31 CFR Part 317) Fiscal Service, Bureau of the Public Debt

Subpart A—General Information

1. *Purpose.* This appendix is issued for the guidance of organizations qualified as issuing agents of Series EE and I United States Savings Bonds under the provisions of Department of the Treasury Circular, Public Debt Series No. 4–67, current revision. Its purpose is to supplement the provisions of § 317.8 of the Circular relating to the remittance of savings bond sales proceeds and registration records, including the interest charge to be collected for late remittances.

* * * * *

5. Subpart D, Paragraph 1. of the Appendix to § 317.8 is revised to read as follows:

* * * * *

Subpart D—Interest on Late Remittances

1. *Rate of Interest.* Interest will be assessed for each day's delay in the remittance of sales proceeds, based on the actual date of remittance. The rate of interest to be used will be the current value of funds to the Department of the Treasury, as set forth each quarter in the Treasury Financial Manual. The rate applied will be that in effect during the entire period in which the remittance is late. The interest assessment will be collected by the designated Federal Reserve Bank.

* * * * *

6. Section 317.9 is amended by removing paragraph (b)(2), by redesignating paragraph (b)(1) as paragraph (b), and by revising the entry for the Federal Reserve Bank of Minneapolis in the table in newly designated paragraph (b) to read as follows:

§ 317.9 Role of the Federal Reserve Banks.

* * * * *

(b) * * *

Servicing office	Reserve districts served	Geographic area served
* *	*	* *
Federal Reserve Bank of Minneapolis, 90 Hennepin Avenue, Minneapolis MN 55401.	Minneapolis, Chicago.	IA, IL (northern half), IN (northern half), MI, MN, MT, ND, SD, WI.

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Servicing office	Reserve districts served	Geographic area served
* *	*	* *

PART 321—PAYMENTS BY BANKS AND OTHER FINANCIAL INSTITUTIONS OF UNITED STATES SAVINGS BONDS AND UNITED STATES SAVINGS NOTES (FREEDOM SHARES)

7. The authority citation for part 321 is revised to read as follows:

Authority: 2 U.S.C. 901; 5 U.S.C. 301; 12 U.S.C. 391; 31 U.S.C. 3105, 3126.

8. In § 321.0, paragraphs (a) and (b) are revised to read as follows:

§ 321.0 Purpose

* * * * *

(a) United States Savings Bonds of Series A, B, C, D, E, EE, and I, and United States Savings Notes (Freedom Shares), presented for cash payment; and

(b) Eligible Series E and EE savings bonds and savings notes presented for redemption in exchange for Series HH savings bonds under the provisions of Department of the Treasury Circular, Public Debt Series No. 2–80 (31 CFR part 352).

9. In § 321.1, paragraph (o) is revised to read as follows:

§ 321.1 Definitions.

* * * * *

(o) *Security* means a United States Savings Bond of Series A, B, C, D, E, EE, or I and/or a United States Savings Note (Freedom Share).

* * * * *

10. In § 321.3, paragraph (c) is revised to read as follows:

§ 321.3 Procedure for qualifying and serving as paying agent.

* * * * *

(c) *Announcement of authority.* Upon receipt of a certificate of qualification from a Federal Reserve Bank referred to in § 321.25, a financial institution may announce or advertise its authority to redeem eligible securities for cash and to process eligible Series E and EE savings bonds and savings notes presented for redemption in exchange for Series HH savings bonds under the provisions of Department of the Treasury Circular, Public Debt Series No. 2–80 (31 CFR part 352).

* * * * *

11. Section 321.6 is revised to read as follows:

§ 321.6 General.

Securities are issued only in registered form (subject to 31 CFR 359.11), are not transferable, may not be hypothecated or used as collateral for a loan, and, except as otherwise specifically provided in the governing regulations and this part, are payable to the owner or coowner named on the security. The regulations governing Series EE and HH bonds are contained in Department of the Treasury Circular, Public Debt Series No. 3–80, current revision (31 CFR part 353); those governing Series I bonds are contained in Department of the Treasury Circular, Public Debt Series No. 2–98 (31 CFR part 360); and, those governing all other series of U.S. savings securities are contained in Department of the Treasury Circular No. 530, current revision (31 CFR part 315).

12. In § 321.7, paragraphs (a) and (g) are revised to read as follows:

§ 321.7 Authorized cash payments.

(a) *General.* Subject to the terms and conditions appearing on the securities, the governing regulations, and the provisions of this part, and any instructions issued in connection therewith, an agent may make payment of savings bonds of Series A, B, C, D, E, EE, and I, and savings notes, presented for cash redemption. Except as provided in paragraphs (b) through (d), and (f) of this section, the securities must be presented by an individual whose name is inscribed on the securities as owner or coowner, and who is known to the agent, or who can establish his or her identity in accordance with Treasury instructions and guidelines (See § 321.11(b)).

* * * * *

(g) *Interest reporting.* A paying agent is required to report interest in the amount of $10 or more, paid as part of the redemption value of securities, to the payee and to the Internal Revenue Service, in accordance with 26 CFR 1.6049–4. (See Item 26 of the appendix to this part for information concerning the education feature of Series EE savings bonds issued on or after January 1, 1990, and of Series I savings bonds.)

13. In § 321.9, paragraph (a) is revised to read as follows:

§ 321.9 Specific limitations on payment authority.

* * * * *

(a) If it is a Series EE bond or a Series I bond presented for payment prior to six months from its issue date.

* * * * *

14. Section 321.12 is revised to read as follows:

§ 321.12 Redemption value of securities.

The redemption value of each savings security is determined by the terms of its offering and the length of time it has been outstanding. The Bureau of the Public Debt determines redemption values for Series A–E bonds, eligible Series EE and I bonds, and savings notes, that should be used in redeeming savings securities.

15. Section 321.25 is amended by removing paragraph (b)(2), by redesignating paragraph (b)(1) as paragraph (b), and by revising the entry for the Federal Reserve Bank of Minneapolis in the table in newly designated paragraph (b) to read as follows:

§ 321.25 Role of Federal Reserve Banks.

* * * * *

(b) * * *

Servicing office	Reserve districts served	Geographic area served
* *	*	* *
Federal Reserve Bank of Minneapolis, 90 Hennepin Avenue, Minneapolis MN 55401.	Minneapolis, Chicago.	IA, IL (northern half), IN (northern half), MI, MN, MT, ND, SD, WI.
* *	*	* *

16. The appendix heading and paragraphs 2(a) and 2(b) of Subpart A of the appendix to part 321 are revised to read as follows:

Appendix to Part 321—Appendix to Department of the Treasury Circular No. 750, Fourth Revision

* * * * *

Subpart A—General Information

* * * * *

2. * * *

(a) *Offering circulars.* Department of the Treasury Circulars, Public Debt Series Nos. 1–80 (31 CFR part 351, Series EE bonds), 2–80 (31 CFR part 352, Series HH bonds), 1–98 (31 CFR part 359, Series I bonds), and 3–67 (31 CFR part 342, savings notes), and Department of the Treasury Circulars Nos. 653 (31 CFR part 316, Series E bonds) and 905 (31 CFR part 339, Series H bonds).

(b) *Regulations.* Department of the Treasury Circular, Public Debt Series No. 3–80 (Series EE and HH bonds); Department of the Treasury Circular, Public Debt Series 2–98 (Series I bonds); Department of the Treasury Circulars

Nos. 530 (all other series of savings securities) and 888 (special endorsements); Federal Tax Regulations (26 CFR 1.6049); Federal Claims Collection Standards (4 CFR parts 101–105); Regulation J, Collection of Checks and Other Items and Wire Transfers of Funds (12 CFR part 210); and operating circulars issued by Federal Reserve Banks relating to the collection of cash items and Federal payments by ACH.

* * * * *

17. Subpart C, paragraph 7(a) and 10(a), of the appendix to part 321 are revised to read as follows:

* * * * *

Subpart C—Scope of Authority

7. * * *

(a) *General.* [§ 321.7(a)] The general authority of paying agents to redeem savings securities for cash extends to Series A, B, C, D, E, EE, and I bonds and savings notes presented by the owner, coowner, surviving beneficiary, parent on behalf of a minor, legal representative designated in the registrations of savings securities presented, or legal representative of the last deceased registrant's estate. The presenter must sign the requests for payment and establish his or her identity and, in the case of a beneficiary, parent or legal representative of the last deceased registrant's estate, entitlement to request payment.

* * * * *

10. * * *

(a) *Requirements for redeeming securities.* [§ 321.10(a)] A paying agent shall redeem eligible savings securities during its regular business hours for a presenter who establishes his or her identity as the owner or coowner of the securities, in accordance with this part and this appendix. While a paying agent is not required to redeem eligible Series E and EE savings bonds and savings notes in exchange for Series HH bonds for any presenter, or Series E, EE, or I bonds or savings notes for cash upon the request of a surviving beneficiary or legal representative, it is encouraged to do so, provided the presenter can establish his/her identity and provide acceptable evidence to accordance with this part and this appendix (See § 321.7 (d) and (f)). An agent is not required to redeem savings securities during Saturday and evening hours if it is open during such periods primarily as a service for its depositors.

* * * * *

18. Subpart D, paragraphs 13(a), 13 (b), 13(d), 14(d), 15 and 17(b) of the appendix to part 321 are revised to read as follows:

* * * * *

Subpart D—Payment and Transmittal of Securities

* * * * *

13. * * *

(a) *Redemption value tables.* [§ 321.12] The Bureau of the Public Debt distributes redemption values in various formats and as part of programs for personal computers, for: (1) Series E bonds, (2) Series EE bonds, (3) Series I bonds, and (4) savings notes. Additional tables or information may be requested from the appropriate Federal Reserve Bank referred to in § 321.25.

(b) *Use of tables.* [§ 321.12] Care should be exercised to correctly determine the current redemption value of the security presented for the month in which it is redeemed. Incorrect payments can lead to costly and time-consuming adjustments for the agent, Department of the Treasury, and the appropriate Federal Reserve Bank referred to in § 321.25.

* * * * *

(d) *Redemption-exchange.* [§ 321.12] The redemption values of eligible Series E and EE savings bonds and savings notes presented for exchange (Series I savings bonds are not eligible for exchange) for Series HH bonds shall be those payable in the month the agent accepts a correctly completed and signed exchange subecription, Public Debt Form 3253. The total redemption value of securities presented for exchange in any one transaction must be at least $500. If the redemption value is $500 or an even multiple thereof, Series HH bonds must be requested in that exact amount. If the redemption value exceeds $500, but is not an even multiple of that amount, the presenter may add cash to increase the amount of the subecription to the next higher $500 multiple, or reduce the amount of the subecription to the next lower $500 multiple. The maximum amount which may be added to or refunded in an exchange transaction is $499.99. For example, if the total redemption value of the securities is $4,253.33, the presenter may request no less than $4,000 and no more than $4,500 in Series HH bonds. In the first instance, the agent will pay the presenter $253.33; in the second, it will collect $246.67 when it accepts the exchange subecription.

14. * * *

(d) *Redemption-exchange.* [§ 321.13] Eligible Series E and EE savings bonds and savings notes presented for redemption-exchange shall be stamped "PAID" in the same manner as securities redeemed for cash, but only when all elements of the transaction have been completed, including receipt of any additional cash. The exact date of redemption shall also be recorded on the exchange subecription to enable the appropriate Federal Reserve Bank referred to in § 321.25 to establish the proper issue date for the Series HH bonds. An officer or other authorized employee of the agent shall also sign the exchange subecription, in his or her official capacity, and furnish other requested information that identifies the paying agent.

* * * * *

15. *Transmittal of securities to Federal Reserve Bank.* [§ 321.14] An agent shall transmit and receive settlement for redeemed securities via EZ CLEAR, *i.e.*, the Check Department of a Federal Reserve Bank or Branch or the Regional Check Processing Center. Redeemed securities may be transmitted in separately sorted or mixed cash letters to the Check Department of a Federal Reserve Bank or Branch, or to a Regional Check Processing Center, either directly, or via a parent office or correspondent institution. An agent shall transmit redeemed securities under cover of the appropriate transmittal document. Eligible Series E and EE savings bonds and savings notes redeemed in exchange for Series HH bonds must be transmitted for settlement via EZ CLEAR at the same time as the exchange application (Public Debt Form 3253) and any additional cash needed to complete the transaction are forwarded to the Fiscal Agency Department of the servicing Federal Reserve Bank referred to in § 321.25. Eligible Series E and EE savings bonds and savings notes redeemed on exchange may be commingled with cash redemptions in mixed or separately sorted cash letters.

* * * * *

17. * * *

(b) *Composition of cash letters.* [§ 321.14] Series A, B, C, D, E, EE, and I bonds and savings notes redeemed for cash or eligible Series E and EE bonds and savings notes redeemed on exchange may be commingled in mixed cash letters containing commercial checks and other items or separately sorted cash letters containing only redeemed securities. Each cash letter shall also contain a listing prepared in accordance with the Federal Reserve Bank's instructions.

* * * * *

19. Subpart F, paragraph 23(e), of the Appendix to part 321 is revised to read as follows:

* * * * *

Subpart F—Forwarding Items

23. * * *

(e) *Partial redemption.* [§§ 321.9(l) and 321.22] Partial redemption of a security other than a $25 Series E bond or savings note, a $50 Series EE or I bond, or a $500 Series H or HH bond may be made by the appropriate Federal Reserve Bank referred to in § 321.25. The amount paid must be equal to the redemption value of one or more authorized denominations on the date of the transaction. If a security is received by an agent for partial redemption, the words "to the extent of $ (face amount) and reissue of the remainder" should be added to the first sentence of the request for payment. The request should then be completed in the regular manner and the signature of the presenter certified or guaranteed. The security shall be forwarded to the Fiscal Agency Department of a Federal Reserve Bank.

* * * * *

20. Subpart G, paragraph 26(a), of the Appendix to part 321 is revised to read as follows:

* * * * *

Subpart G—Miscellaneous Provisions

* * * * *

26. * * *

(a) Section 6009 of the Technical Corrections and Miscellaneous Revenue Act of 1988, Public Law 100–647 (see 26 U.S.C. 135), permits taxpayers to exclude all, or a portion, of the interest earned on Series EE savings bonds bearing issue dates on or after

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January 1, 1990, and on Series I savings bonds from their income under certain conditions. This legislation did not create new savings bond redemption and interest reporting requirements for savings bond paying agents. However, if a bond owner indicates that he or she intends to seek the special tax treatment offered under this program, the paying agent is encouraged to provide assistance by:

(1) Suggesting that he or she read IRS Form 8815 (particularly, the instructions on the form) as well as relevant portions of IRS Publication 17, "Your Federal Income Tax ", and Publication 550, "Investment Income and Expenses," for detailed information; and

(2) Suggesting that the presenter make a record of eligible bonds redeemed either by using IRS Optional Form 8818, or otherwise.

* * * * *

PART 330—REGULATIONS GOVERNING PAYMENT UNDER SPECIAL ENDORSEMENT OF UNITED STATES SAVINGS BONDS AND UNITED STATES SAVINGS NOTES (FREEDOM SHARES)

21. The authority citation for part 330 is revised to read as follows:

Authority: 5 U.S.C. 301; 31 U.S.C. 3105.

22. In § 330.1, paragraph (f) is revised to read as follows:

§ 330.1 Definition of terms.

* * * * *

(f) *Savings bond(s)* or *bond(s)* means a United States Savings Bond of Series A, B, C, D, E, EE, or I.

* * * * *

23. In § 330.5, paragraph (a) is revised to read as follows:

§ 330.5 Evidence of owner's or beneficiary's authorization to affix special endorsement.

(a) *Form of authorization.* The Treasury does not prescribe the form or type of instructions an agent must obtain from each owner, co-owner or beneficiary in order to use the special endorsement procedure. In the case of eligible Series E and EE savings bonds and savings notes presented for a redemption-exchange, the owner, coowner or beneficiary authorized to request the exchange (as specified in Circular No. 750, § 321.8(b)), must sign the exchange subscription even though the eligible Series E and EE savings bonds and savings notes are specially endorsed.

* * * * *

24. In § 330.6, paragraph (a) is revised to read as follows:

(a) *General authority.* A qualified agent is authorized to affix the special endorsement to:

(1) Savings bonds of Series A, B, C, D, E, EE, and I and savings notes to be redeemed for cash; and

(2) Eligible savings bonds of Series E and EE and savings notes to be redeemed in exchange for Series HH bonds under the provisions of Circular No. 2–80 (31 CFR part 352).

* * * * *

25. Section 330.7 is revised to read as follows:

§ 330.7 Payment or redemption-exchange by agent.

Specially endorsed securities may be paid in cash or, if they are eligible Series E and EE savings bonds or savings notes, redeemed in exchange for Series HH bonds pursuant to the authority and subject, in all other respects, to the provisions of Circular No. 750, current revision (31 CFR part 321), its appendix, and any other instructions issued under its authority. Each specially endorsed bond or note paid by an agent must have the agent's payment stamp imprinted on its face and show the date and amount paid. Securities so paid should be combined with other securities paid under that Circular and presented for settlement through EZ CLEAR. Securities redeemed by an agent in an exchange must be presented for settlement through EZ CLEAR separately from, but at the same times as, an exchange subscription and any remittance are forwarded to the Fiscal Agency Department of the appropriate Federal Reserve Bank.

26. Section 330.8 is revised to read as follows:

§ 330.8 Payment or redemption-exchange by Federal Reserve Bank.

Specially endorsed securities which an agent is not authorized to redeem for cash or on exchange should be forwarded to the Fiscal Agency Department of the designated Federal Reserve Bank. The transmittals must be accompanied by appropriate instructions governing the transaction and the disposition of the redemption proceeds or new bonds, as the case may be. The securities must be kept separate from others the agent has paid and must be submitted in accordance with instructions issued by the Bank.

27. In § 330.9, paragraph (b)(2) is removed, paragraph (b)(1) is redesignated as paragraph (b) and the table in newly designated paragraph (b) is amended by revising the entry for the Federal Reserve Bank of Minneapolis to read as follows:

§ 330.9 Fiscal agents.

* * * * *

(b) * * *

Servicing office	Reserve districts served	Geographic area served
* *	*	* *
Federal Reserve Bank of Minneapolis, 90 Hennepin Avenue, Minneapolis MN 55401.	Minneapolis, Chicago.	IA, IL (northern half), IN (northern half), MI, MN, MT, ND, SD, WI.
* *	*	* *

28. Section 330.10 is revised to read as follows:

§ 330.10 Modifications of other circulars.

The provisions of this part shall be considered as amending and supplementing: Department of the Treasury Circulars Nos. 530, 653, and 750 (31 CFR parts 315, 316, and 321, respectively), and Department of the Treasury Circulars, Public Debt Series Nos. 1–80, 2–80, 3–80, 3–67, 1–98, and 2–98 (31 CFR parts 351, 352, 353, 342, 359, and 360 respectively), and any revisions thereof or amendments or supplements thereto, and those Circulars are hereby modified to the extent necessary to accord with the provisions of this part.

29. Part 359 is added to read as follows:

PART 359—OFFERING OF UNITED STATES SAVINGS BONDS, SERIES I

Sec.
359.0 Offering of bonds.
359.1 Governing regulations.
359.2 Description of bonds.
359.3 Investment considerations.
359.4 Registration and issue.
359.5 Limitation on purchases.
359.6 Purchase of bonds.
359.7 Delivery of bonds.
359.8 Payment or redemption.
359.9 Taxation.
359.10 Education savings bond program.
359.11 Reservation as to book-entry bonds.
359.12 Reservation as to issue of bonds.
359.13 Waiver.
359.14 Fiscal agents.
359.15 Reservation as to terms of offer.

Authority: 5 U.S.C. 301; 12 U.S.C. 391; 31 U.S.C. 3105.

§ 359.0 Offering of bonds.

The Secretary of the Treasury offers for sale to the people of the United States, United States Savings Bonds of Series I, hereinafter referred to as Series I bonds or bonds. This offer, effective September 1, 1998, will continue until terminated by the Secretary of the Treasury.

§ 359.1 Governing regulations.

Series I bonds are subject to the regulations of the Department of the Treasury, now or hereafter prescribed, governing United States Savings Bonds of Series I, contained in Department of the Treasury Circular, Public Debt Series No. 2–98 (31 CFR part 360), hereinafter referred to as Circular No. 2–98. Treasury expressly disclaims the effect of, and does not warrant the correctness of, any representations or warranties regarding Series I bonds, wherever made, that in any way conflict with the terms and conditions of Series I bonds, as set out in these regulations and other applicable law. The regulations in 31 CFR part 370 apply to transactions for the purchase of United States Savings Bonds issued through the Bureau of the Public Debt. The regulations in 31 CFR part 370 do not apply to transactions for the purchase of bonds through issuing agents generally, unless and to the extent otherwise directed by the Commissioner of the Bureau of the Public Debt or the Commissioner's designee.

§ 359.2 Description of bonds.

(a) *General.* Series I bonds are issued only in registered form (subject to § 359.11) and are non-transferable. The bonds may be either in book-entry or definitive form.

(b) *Denominations and prices.* Series I bonds are issued at par (face amount). The denominations and purchase prices are as follows:

Denomination	Purchase price
$ 50	$50.00
75	75.00
100	100.00
200	200.00
500	500.00
1,000	1,000.00
5,000	5,000.00
10,000	10,000.00

(c) *Term—maturity period.* The issue date of a Series I bond is the first day of the month in which the issue price is received by an authorized issuing agent. Series I bonds have a maturity period of 30 years, consisting of an original maturity period of 20 years and an automatic extension period of 10 years.

(d) *Redemption.* A Series I bond may be redeemed beginning six months after its issue date or at any time thereafter. The Secretary of the Treasury may not call a Series I bond for redemption prior to an original maturity period of 20 years and an automatic extension period of 10 years, for a total period of 30 years from its issue date.

(e) *Composite rates and redemption values.* (1) The following definitions apply for determining the composite rates and redemption values:

(i) *Rate announcements.* Rates applicable to Series I bonds will be furnished in rate announcements published each May 1 and November 1. If the regularly scheduled date for the announcement (for example, May 1) is a day when the Treasury is not open for business, then the announcement is made on the next business day; however, the effective date of the rates remains the first day of the month of the announcement.

(ii) *Fixed rate of return.* Each May and November the Secretary shall establish the fixed rate of return for Series I bonds issue-dated during the six-month period beginning on such date. Such fixed rate of return will be applicable for the life of the bond.

(iii) *Semiannual inflation rate.* Each May and November, Treasury will announce a variable semiannual inflation rate for Series I bonds. The index used to determine this rate will be the non-seasonally adjusted U.S. City Average All Items Consumer Price Index for All Urban Consumers ("CPI–U") published by the Bureau of Labor Statistics ("BLS") of the U.S. Department of Labor. The semiannual inflation rate to be effective with the May announcement will reflect the rate of change in the CPI–U for the six-month period ending with the immediately preceding March 31. The rate of change over the six-month period will be expressed as a percentage, rounded to the nearest one hundredth of one percent. More specifically, the semiannual inflation rate will reflect the CPI–U value for the most recent March less the value for the preceding September, that difference will then be divided by the CPI–U value for the preceding September, and the result will be multiplied by 100 to convert the rate to a percentage. The resulting rate will be rounded to the nearest one-hundredth of one percent. The semiannual inflation rate to be effective with the November announcement, reflecting the change in the CPI–U for the six-month period ending with the immediately preceding September, will be similarly determined. In certain deflationary conditions, the semiannual inflation rate may be negative to such an extent that it will offset the fixed rate of return. However, the redemption value of a Series I bond for any particular month will not be less than the value for the preceding month. (See § 359.3(b) for a discussion of the lag between when inflation is measured and when it is reflected in the value of a bond.)

(iv) *Index contingencies.* If a previously reported CPI–U is revised, Treasury will continue to use the previously reported CPI–U in calculating redemption values. If the CPI–U is rebased to a different year, Treasury will continue to use the CPI–U based on the base reference period in effect when the security was first issued, as long as that CPI continues to be published. If, while an inflation-indexed savings bond is outstanding, the applicable CPI–U is: discontinued, in the judgment of the Secretary, fundamentally altered in a manner materially adverse to the interests of an investor in the security, or in the judgment of the Secretary, altered by legislation or Executive Order in a manner materially adverse to the interests of an investor in the security, Treasury, after consulting with the Bureau of Labor Statistics ("BLS"), or any successor agency, will substitute an appropriate alternative index. Treasury will then notify the public of the substitute index and how it will be applied. Determinations of the Secretary in this regard will be final.

(v) *Composite rate.* (A) The fixed rate of return, FR, and the semiannual inflation rate, SIR, as determined in paragraphs (e)(1)(ii) and (iii) of this section are divided by 100 to remove the percentage format (*i.e.*, to convert to decimal form) and are then combined into a composite annual rate, CR, in accordance with the following formula:

$$CR = \{SIR + (FR \div 2) + [SIR \times (FR \div 2)]\} \times 2$$

(B) The resulting annual rate is converted to a percentage and is rounded to the nearest one-hundredth of one percent. The composite rates will be announced by Treasury each May and November, and will be derived from the semiannual inflation rate announced on the same date and the fixed rates of return applicable to Series I savings bonds.

(vi) *Base denomination.* All value calculations are performed on a hypothetical denomination of $25 having a value at the beginning of the first semiannual rate period equal to the issue price of $25. Redemption values for bonds of greater denominations are in direct proportion according to the ratio of denominations. For example, if the value of a hypothetical $25 denomination is $41.20—*i.e.*, $25.00 issue price plus $16.20 accrued interest—on the same redemption date, the value of a $50 bond bearing the same issue date is $41.20 × (50/25) or $82.40.

(vii) *Issue date.* The issue date of a Series I bond is the first day of the

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month in which payment of the issue price is received by an authorized issuing agent.

(viii) *Redemption value.* The redemption value of a bond is that amount that will be paid when the bond is redeemed.

(ix) *Accrual date.* Earnings on a Series I bond, if any, accrue on the first day of each month. The redemption value of a bond does not change between these accrual dates.

(x) *Semiannual rate periods.* Semiannual rate periods are the six-month periods beginning on the date of issue and on each semiannual anniversary of the date of issue to maturity.

(xi) *Maturity.* Series I bonds have a maturity period of 30 years, consisting of an original period of 20 years and an automatic extension period of 10 years. The bonds have an interest paying life of 30 years after the date of issue and cease to increase in value as of that date.

(2) *Interest rates and monthly accruals.* Series I composite rates, defined in paragraph (e)(1)(v) of this section, apply to earnings during the first semiannual rate period beginning on or after the effective date of the rate. Interest, at the composite rate from the beginning of the semiannual rate period, accrues according to the formula specified in paragraph (e)(4)(ii) of this section. The following table shows, for any given month of issue with composite rates announced each May and November, the months making up the semiannual rate period during which interest is earned at the composite rate specified in the announcement:

Month of issuance	Semiannual rate period (1) begins	Announcement date of composite rate that applies during rate period (1)	Semiannual rate period (2) begins	Announcement date of composite rate that applies during rate period (2)
January	January 1	November 1 (announced 2 months prior to beginning of semiannual rate period).	July 1	May 1 (announced 2 months prior to beginning of semiannual rate period).
February	February 1	November 1 (announced 3 months prior to beginning of semiannual rate period).	August 1	May 1 (announced 3 months prior to beginning of semiannual rate period).
March	March 1	November 1 (announced 4 months prior to beginning of semiannual rate period).	September 1	May 1 (announced 4 months prior to beginning of semiannual rate period).
April	April 1	November 1 (announced 5 months prior to beginning of semiannual rate period).	October 1	May 1 (announced 5 months prior to beginning of semiannual rate period).
May	May 1	May 1	November 1	November 1.
June	June 1	May 1 (announced 1 month prior to beginning of semiannual rate period).	December 1	November 1 (announced 1 month prior to beginning of semiannual rate period).
July	July 1	May 1 (announced 2 months prior to beginning of semiannual rate period).	January 1	November 1 (announced 2 months prior to beginning of semiannual rate period).
August	August 1	May 1 (announced 3 months prior to beginning of semiannual rate period).	February 1	November 1 (announced 3 months prior to beginning of semiannual rate period).
September	September 1	May 1 (announced 4 months prior to beginning of semiannual rate period).	March 1	November 1 (announced 4 months prior to beginning of semiannual rate period).
October	October 1	May 1 (announced 5 months prior to beginning of semiannual rate period).	April 1	November 1 (announced 5 months prior to beginning of semiannual rate period).
November	November 1	November 1	May 1	May 1.
December	December 1	November 1 (announced 1 month prior to beginning of semiannual rate period).	June 1	May 1 (announced 1 month prior to beginning of semiannual rate period).

Notes: (1) Notwithstanding any consideration of the interest penalty for early redemption, interest earned during each month of a semiannual rate period accrues according to the formula specified in § 359.2(e)(4)(ii).

(2) Also, if the regularly scheduled date for a composite rate announcement is a day that Treasury is not open for business, the announcement will be made on the next business day; however, the effective date of the rate will be the first day of the month of the announcement.

(3) *Interest penalty for Series I bonds redeemed less than five years following the issue dates.* If a Series I bond is redeemed less than five years following the date of issue, the overall earning period from the date of issue will be reduced by three months. For example, if a bond issued January 1, 1999, is redeemed nine months later on October 1, 1999, the redemption value will be determined by applying the value calculation procedures described in paragraph (e)(4) of this section and the Series I bond composite rate for that bond as if the redemption date were three months earlier (July 1, 1999). The redemption value of a bond subject to the three-month interest penalty shall not be reduced below the issue price. This penalty does not apply to bonds redeemed five years or more after the date of issue.

(4) *Redemption value calculations.* (i) Interest on a bond accrues and becomes part of the redemption value which is paid when the bond is redeemed.

(ii) The redemption value of a bond for the accrual date (the first day of each month) is determined in accordance with this section and the following:

(A) Determine the composite rate as defined in paragraph (e)(1)(v) of this section. If the result of the composite rate calculation is a negative value, zero will be the assumed composite rate in the redemption value calculation. Redemption values are calculated using the following formula:

$$FV = PV \times \{[1 + (CR \div 2)]^{(m \div 6)}\}$$

Where:

FV (future value) = redemption value on the accrual date rounded to the nearest cent.

PV (present value) = value at the beginning of the semiannual rate period calculated without consideration of penalty. For bonds that are older than five years, PV will equal the redemption value at the start of the semiannual rate period.
CR = composite rate as defined in paragraph(e)(1)(v) of this section converted to decimal form by dividing by 100.
m = number of full calendar months elapsed during the semiannual rate period.

(B) The following hypothetical examples illustrate how this formula is applied:

(*1*) For a bond five years or older:

Example: i. Given a Series I bond composite rate of 5.02%, effective May 1, 2003, for a hypothetical bond denominated at $25, with an issue date of September 1, 1998, and a redemption value of $31.90 as of September 1, 2003, the February 1, 2004, redemption value is calculated as follows: bonds issue-dated in September have semiannual rate periods beginning each March 1 and September 1. The first semiannual rate period to begin on or after the date of the May 1, 2003, rate announcement composite rate would be the period beginning September 1, 2003. PV, the present value, $31.90, would be the redemption value of the bond at the beginning of the semiannual rate period (September 1, 2003). The composite rate, 5.02% converted to a decimal, would be 0.0502. The number of months, m, is five, since five full calendar months (September through January) have lapsed since the beginning of the semiannual rate period. FV, the redemption value (rounded to the nearest cent), is then the result of the formula:

$$FV = PV \times \{[1 + (CR \div 2)]^{(m \div 6)}\} \text{ where}$$
$$FV = 31.90 \times \{[1 + (0.0502 \div 2)]^{(5 \div 6)}\} = \$32.57$$

ii. The redemption value for the actual denomination of a Series I bond can be determined by applying the appropriate multiple, for example: $32.57 x ($100.00 ÷ $25.00) for a bond with a $100.00 face amount; or $32.57 x ($1000.00 ÷ $25.00) for a bond with a $1000.00 face amount.

(*2*) For a bond less than five years old:

Example: i. Assume a composite rate of 5.07% effective May 1, 2003, for a bond denominated at $25.00, with an issue date of December 1, 2000, a redemption date of February 1, 2004, and a value on June 1, 2003, of $28.45, without consideration of penalty. A three-month penalty is assessed since the redemption date is less than five years after the issue date. The penalty is accounted for by assuming that the redemption date is three months earlier (November 1, 2003). The February 1, 2004, redemption value is then calculated as follows: bonds issue-dated in December have semiannual rate periods that begin each June 1 and December 1. The first semiannual rate period to begin on or after the May 1, 2003, rate announcement composite rate would be the period beginning June 1, 2003. PV, the present value, $28.45, is the value of the bond at the beginning of the semiannual rate period (June 1, 2003), without consideration of penalty. The composite rate, 5.07%, converted to a decimal, would be 0.0507. The number of months, m, is five, since five full calendar months (June through October) have elapsed since the beginning of the semiannual rate period and the redemption date (as adjusted for penalty). FV, the redemption value (rounded to the nearest cent), is then the result of the formula:

$$FV = PV \times \{[1 + (CR \div 2)]^{(m \div 6)}\} \text{ where}$$
$$FV = \$28.45 \times \{[1 + (0.0507 \div 2)]^{(5 \div 6)}\} = \$29.05$$

ii. The redemption value for the actual denomination of a Series I bond can be determined by applying the appropriate multiple, for example: $29.05 x ($100.00 ÷ $25.00) for a bond with a $100.00 face amount; or $29.05 x ($1000.00 ÷ $25.00) for a bond with a $1000.00 face amount.

(5) *The Secretary's determination.* The determination by the Secretary of the Treasury, or the Secretary's designee, of fixed rates of return, semiannual inflation rates, composite rates, and savings bond redemption values shall be final and conclusive.

(6) *Tables of redemption values.* Tables of redemption values are made available in various formats and media, including on the Internet, by the Bureau of the Public Debt, Parkersburg, West Virginia 26106–1328. Treasury reserves the right to cease making the tables of redemption values available in any of these formats or media. Redemption values published in such tables reflect the three-month interest penalty applied to bonds redeemed prior to five years from the date of issue.

§ 359.3 Investment considerations.

(a) *Index contingencies.* (1) If a previously reported CPI is revised, Treasury will continue to use the previously reported CPI in calculating redemption values.

(2) If the CPI is rebased to a different year, Treasury will continue to use the CPI based on the base reference period in effect when the savings bond was first issued, as long as that CPI continues to be published.

(3) If, while a Series I savings bond is outstanding, the applicable CPI is discontinued, in the judgment of the Secretary, fundamentally altered in a manner materially adverse to the interests of an investor in the savings bond, or in the judgment of the Secretary, altered by legislation or Executive Order in a manner materially adverse to the interests of an investor in the savings bond, Treasury, after consulting with the Bureau of Labor Statistics, or any successor agency, will substitute an appropriate alternative index. Treasury will then notify the public of the substitute index and how it will be applied. Determinations of the Secretary in this regard will be final.

(4) If the CPI for a particular month is not reported by the last day of the following month, the Treasury will announce an index number based on the last 12-month change in the CPI available. Any calculations of the Treasury's payment obligations on the inflation-indexed savings bond that rely on that month's CPI will be based on the index number that Treasury has announced.

(b) *Inflation lag.* (1) The inflation rate component of investor earnings will be determined twice each year. This rate will be the percentage change in the CPI–U for the six months ending each March and September. The rate will be included in the composite rate that is announced each May and November. Each composite rate will be effective for the entirety of all semiannual rate periods that begin while the rate is in effect. Thus, an inflation rate may affect interest accruals from 3 to 13 months from the date that the CPI–U is measured.

(2) For example, the inflation rate determined from the CPI–U for the six-month period from October 1, 2003, through March 31, 2004, will be included in the composite rate announced on May 1, 2004. For a bond purchased in May 1999, this rate will go into effect immediately, since a new semiannual rate period for this bond will begin on May 1, 2004. Series I bonds issued in May begin new semiannual rate periods in the months of May and November. In this example, the inflation rate will have its earliest impact in June 2004, when interest from May accrues, three months after the end of the six-month CPI–U period that ends March 31, 2004.

(3) As another example, the May 1, 2004, rate will apply similarly to a bond purchased in October 1999. Series I bonds issued in October begin new semiannual rate periods in the months of April and October. Thus, for this bond, the May 1, 2004, composite rate (which includes the inflation rate) will not go into effect until a new semiannual rate period begins on October 1, 2004. This rate, therefore, will determine the inflation-indexed portion of each interest accrual from November 2004 through April 2005. In this example, the inflation rate will have its latest impact in April 2005, 13 months following the six-month CPI-U period that ended March 31, 2004.

(c) *Liquidity.* A Series I bond may be redeemed beginning six months after its issue date or at any time thereafter. However, a bond redeemed less than five years from its issue date will be

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subject to a three-month interest penalty.

(d) *Early redemption penalty.* If a Series I bond is redeemed less than five years following the date of issue, the overall earning period from the date of issue will be reduced by three months. For example, if a bond issued January 1, 1999, is redeemed nine months later on October 1, 1999, the redemption value will be determined by applying the redemption value calculation procedures described in § 359.2(e)(4) and the Series I composite rate for that bond as if the redemption date were three months earlier (July 1, 1999). The redemption value of a bond subject to the three-month interest penalty shall not be reduced below the issue price. This penalty does not apply to bonds redeemed five years or more after the date of issue.

§ 359.4 Registration and issue.

(a) *Registration.* Bonds may be registered as set forth in 31 CFR part 360, subpart B, also published as Department of the Treasury Circular, Public Debt Series No. 2–98. Generally, bonds may be registered in the names of natural persons in single owner, coowner (for example: "John Doe 123–45–6789 OR Mary Doe"), or beneficiary ("John Doe 123–45–6789 payable on death to (POD) Mary Doe") forms of registration.

(b) *Validity of issue.* A bond is validly issued when it is registered as provided in Circular No. 2–98, and when it bears an issue date, as well as the validation indicia of an authorized issuing agent.

(c) *Taxpayer Identifying Number (TIN).* The inscription of a bond must include the TIN of the owner or first-named coowner. If the bond is being purchased as a gift or award and the owner's TIN is not known, the TIN of the purchaser must be included in the inscription on the bond.

(d) *Prohibition on chain letters.* The issuance of bonds in the furtherance of a chain letter or pyramid scheme is against the public interest and is prohibited. An issuing agent is authorized to refuse to issue a bond or accept a purchase order if there is reason to believe that a purchase is in connection with a chain letter. The agent's decision is final.

§ 359.5 Limitation on purchases.

The amount of Series I bonds which may be purchased in the name of any one person, in any one calendar year, is limited to $30,000 par value. Circular No. 2–98 (31 CFR part 360, subpart C) contains the rules governing the computation of amounts and the special limitation for employee plans.

§ 359.6 Purchase of bonds.

(a) *Payroll sales*—(1) *Payroll savings plans.* Bonds may be purchased through deductions from the pay of employees of organizations that maintain payroll savings plans. The bonds must be issued by an authorized issuing agent.

(2) *Employee thrift, savings, vacation, and similar plans.* Bonds registered in the names of employee plans may be purchased in book-entry form in authorized denominations through a designated Federal Reserve Bank after Bureau of the Public Debt approval of the plan as eligible for the special limitation under 31 CFR 360.13, also published as § 360.13 of Department of the Treasury Circular, Public Debt Series No. 2–98.

(b) *Over-the-counter sales*—(1) *Eligible issuing agents.* Bonds may be purchased through any issuing agent, except that an organization serving as an issuing agent because of its status as an employer or an organization operating an employer's payroll savings plan under 31 CFR 317.2(c) may sell bonds only through payroll savings plans.

(2) *Manner of sale.* An application for the purchase of a bond must be accompanied by a remittance to cover the issue price. The purchase application and remittance may be submitted to an issuing agent by any means acceptable to the issuing agent. An application may authorize purchases on a recurring basis. The issuing agent bears the burden of collection and the risk of loss for non-collection or return of the remittance.

§ 359.7 Delivery of bonds.

Issuing agents are authorized to arrange for the delivery of Series I bonds. Mail deliveries are made at the risk and expense of the United States to the address given by the purchaser, if it is within the United States, its territories or possessions, or the Commonwealth of Puerto Rico. No mail deliveries elsewhere will be made, except to residents of Mexico and Canada who participate in payroll saving plans. Bonds purchased by a citizen of the United States residing abroad will be delivered only to such address in the United States as the purchaser directs.

§ 359.8 Payment or redemption.

(a) *Incorporated banks, savings and loan associations and other financial institutions*—(1) *Payment in general.* A financial institution qualified as a paying agent under the provisions of 31 CFR part 321, also published as Department of the Treasury Circular No. 750, will pay the current redemption value of a Series I bond presented for payment by an individual whose name is inscribed on the bond as owner or coowner, provided:

(i) The bond is in order for payment; and

(ii) The presenter establishes his or her identity to the satisfaction of the agent, in accordance with Treasury instructions and identification guidelines, and signs and completes the request for payment.

(2) *Payment to beneficiary or legal representative.* A paying agent may (but is not required to) pay the current redemption value of a Series I bond upon the request of a beneficiary, if he or she survives the owner, or a legal representative designated in the bond registration by name and capacity, or a court-appointed representative of the last-deceased registrant's estate provided:

(i) The bond is in order for payment; and

(ii) The presenter establishes his or her identity to the satisfaction of the agent in accordance with Treasury instructions and identification guidelines, and otherwise complies with evidentiary requirements.

(b) *Federal Reserve Banks and Branches.* A Federal Reserve Bank or Branch referred to in § 359.14 will pay the current redemption value of a Series I bond presented for payment, provided the bond is in order for payment and the request for payment on the bond is properly signed and certified in accordance with Circular No. 2–98.

§ 359.9 Taxation.

(a) *General.* The increment in value, represented by the difference between the face (par amount) of a Series I bond and the redemption value received for it, is interest. This interest is subject to all taxes imposed under the Internal Revenue Code of 1986, as amended. The bonds are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all other taxation now or hereafter imposed on the principal or interest by any State, any possession of the United States or any local taxing authority.

(b) *Federal income tax on bonds.* (1) An owner of Series I bonds may use either of the following two methods for reporting the increase in the redemption value of the bond for Federal income tax purposes:

(i) *Cash basis.* Defer reporting the increase to the year of final maturity, redemption, or other disposition, whichever is earlier; or

(ii) *Accrual basis.* Elect to report the increase each year as it accrues, in which case the election applies to all Series I bonds then owned by the taxpayer and those subsequently acquired as well as to any other obligations purchased on a discount basis, such as savings bonds of Series E or EE.

(2) If the method in paragraph (b)(1)(i) of this section is used, the taxpayer may change to the method in paragraph (b)(1)(ii) of this section without obtaining permission from the Internal Revenue Service. However, once the election to use the method in paragraph (b)(1)(ii) of this section is made, the taxpayer may change the method of reporting only by following the specific procedure prescribed by the Internal Revenue Service. For further information, the District Director of the taxpayer's district, or the Internal Revenue Service, Washington, DC 20224, should be consulted.

(c) *Reissue.* A reissue that affects the rights of any of the persons named on a Series I bond may have a tax consequence.

§ 359.10 Education savings bond program.

A bond owner or coowner may be able to exclude from income for Federal income tax purposes all or part of the interest received on the redemption of qualified savings bonds during the year, if that owner or coowner paid qualified higher education expenses during the same year and certain other conditions are satisfied. This exclusion is known as the Education Savings Bond Program, and authoritative information about the program can be found in Internal Revenue Service Publication 17, "Your Federal Income Tax", and Publication 550, "Investment Income and Expenses."

§ 359.11 Reservation as to book-entry bonds.

The Commissioner of the Public Debt, as designee of the Secretary of the Treasury, reserves the right: To convert at any time, in whole or in part, any definitive Series I savings bonds to book-entry Series I savings bonds; and to issue Series I savings bonds only in book-entry form. The Commissioner's action in any such respect is final.

§ 359.12 Reservation as to issue of bonds.

The Commissioner of the Public Debt, as designee of the Secretary of the Treasury, is authorized to reject any application for Series I bonds, in whole or in part, and to refuse to issue, or permit to be issued, any bonds in any case or class of cases, if the Commissioner deems the action to be in the public interest, and the Commissioner's action in any such respect is final.

§ 359.13 Waiver.

The Commissioner of the Public Debt, as designee of the Secretary of the Treasury, may waive or modify any provision of this Circular in any particular case or class of cases for the convenience of the United States or in order to relieve any person or persons of unnecessary hardship:

(a) If such action would not be inconsistent with law or equity;

(b) If it does not impair any material existing rights; and

(c) If he or she is satisfied that such action would not subject the United States to any substantial expense or liability.

§ 359.14 Fiscal agents.

(a) Federal Reserve Banks and Branches referred to below, as fiscal agents of the United States, are authorized to perform such services as may be requested of them by the Secretary of the Treasury, or his or her designee, in connection with the issue, servicing and redemption of Series I bonds. The Federal Reserve Banks and Branches, as fiscal agents of the United States, are subject to change (for example, due to consolidation), as determined by the Secretary of the Treasury, or his or her designee.

(b) The following Federal Reserve Offices have been designated to provide savings bond services:

Servicing office	Reserve district served	Geographic area served
Federal Reserve Bank, Buffalo Branch, 160 Delaware Avenue, Buffalo, NY 14202.	New York, Boston	Connecticut, Maine, Massachusetts, New Hampshire, New Jersey (northern half), New York, Rhode Island, Vermont, Puerto Rico, Virgin Islands.
Federal Reserve Bank, Pittsburgh Branch, 717 Grant Street, Pittsburgh, PA 15219.	Cleveland, Philadephia	Delaware, Kentucky (eastern half), New Jersey (southern half), Ohio, Pennsylvania, West Virginia (northern panhandle).
Federal Reserve Bank of Richmond, 701 East Byrd Street, Richmond, VA 23219.	Richmond, Atlanta	Alabama, District of Columbia, Florida, Georgia, Louisiana (southern half), Maryland, Mississippi (southern half), North Carolina, South Carolina, Tennessee (eastern half), Virginia, West Virginia (except northern panhandle).
Federal Reserve Bank of Minneapolis, 90 Hennepin Avenue, Minneapolis, MN 55401.	Minneapolis, Chicago	Illinois (northern half), Indiana (northern half), Iowa, Michigan, Minnesota, Montana, North Dakota, South Dakota, Wisconsin.
Federal Reserve Bank of Kansas City, 925 Grand Boulevard, Kansas City, MO 64106.	Dallas, Kansas City, St. Louis, San Francisco.	Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Illinois (southern half), Indiana (southern half), Kansas, Kentucky (western half), Louisiana (northern half), Mississippi (northern half), Missouri, Nebraska, Nevada, New Mexico, Oklahoma, Oregon, Tennessee (western half), Texas, Utah, Washington, Wyoming, Guam.

§ 359.15 Reservation as to terms of offer.

The Secretary of the Treasury may at any time or from time to time supplement or amend the terms of this offering of bonds.

30. Part 360 is added to read as follows:

PART 360—REGULATIONS GOVERNING UNITED STATES SAVINGS BONDS, SERIES I

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360.0 Applicability.
360.1 Official agencies.
360.2 Definitions.

Subpart B—Registration

360.5 General rules.
360.6 Authorized forms of registration.
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360.12 Disposition of excess.
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Subpart D—Limitations on Transfer or Pledge

360.15 Transfer.
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Subpart E—Judicial Proceedings

360.20 General.
360.21 Payment to judgment creditors.
360.22 Payment or reissue pursuant to divorce.
360.23 Evidence.
360.24 Payment pursuant to judicial or administrative forfeiture.

Subpart F—Relief for Loss, Theft, Destruction, Mutilation, Defacement, or Nonreceipt of Bonds

360.25 General.
360.26 Application for relief; after receipt of bond.
360.27 Application for relief; nonreceipt of bond.
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Subpart G—General Provisions for Payment

360.35 Payment (redemption).
360.36 Payment during life of sole owner.
360.37 Payment during lives of both coowners.
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Subpart H—Reissue and Denominational Exchange

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Subpart J—Minors, Incompetents, Aged Persons, Absentees, et al.

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360.64 Payment or reinvestment—voluntary guardian of an incapacitated person.
360.65 Reissue.

Subpart K—Deceased Owner, Coowner or Beneficiary

360.70 General rules governing entitlement.
360.71 Estate administered.
360.72 Procedures for the payment or reissue of bonds that are property belonging to a decedent's estate.

Subpart L—Fiduciaries

360.75 Payment or reissue during the existence of the fiduciary estate.
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Subpart M—Miscellaneous Provisions

360.90 Waiver of regulations.
360.91 Additional requirements; bond of indemnity.
360.92 Supplements, amendments, or revisions.

Authority: 5 U.S.C. 301; 31 U.S.C. 3105 and 3125.

Subpart A—General Information

§ 360.0 Applicability.

The regulations in this circular, Department of the Treasury Circular, Public Debt Series No. 2–98 (this part 360), govern transactions in United States Savings Bonds of Series I. These bonds bear issue dates of September 1, 1998, or thereafter.

§ 360.1 Official agencies.

(a) The Bureau of the Public Debt of the Department of the Treasury is responsible for administering the Savings Bond Program. Authority to process transactions has been delegated to Federal Reserve Banks and Branches listed in paragraph (b) of this section, as fiscal agents of the United States. The Federal Reserve Banks and Branches, and their authority to process transactions, as fiscal agents of the United States, are subject to change, as determined by the Secretary of the Treasury, or his or her designee.

(b) Communications concerning transactions and requests for forms should be addressed to:

(1) A Federal Reserve Bank or Branch in the list below; or, the Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328.

(2) The following Federal Reserve Offices have been designated to provide savings bond services:

Servicing office	Reserve district served	Geographic area served
Federal Reserve Bank, Buffalo Branch, 160 Delaware Avenue, Buffalo, NY 14202.	New York, Boston	Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, (northern half), New York, Rhode Island, Vermont, Puerto Rico, Virgin Islands.
Federal Reserve Bank, Pittsburgh Branch, 717 Grant Street, Pittsburgh, PA 15219.	Cleveland, Philadelphia	Delaware, Kentucky (eastern half), New Jersey, (southern half), Ohio, Pennsylvania, West Virginia.
Federal Reserve Bank of Richmond, 701 East Byrd Street, Richmond, VA 23219.	Richmond, Atlanta	Alabama, District of Columbia, Florida, Georgia, Louisiana, (southern half), Maryland, Mississippi (southern half), North Carolina, South Carolina, Tennessee (eastern half), Virginia, West Virginia (except northern panhandle).
Federal Reserve Bank of Minneapolis, 90 Hennepin Avenue, Minneapolis, MN 55401.	Minneapolis, Chicago	Illinois (northern half), Indiana, (northern half), Iowa, Michigan, Minnesota, Montana, North Dakota, South Dakota, Wisconsin.
Federal Reserve Bank of Kansas City, 925 Grand Boulevard, Kansas City, MO 64106.	Dallas, San Francisco, Kansas City, St. Louis.	Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Illinois (southern half), Indiana (southern half), Kansas, Kentucky, (western half), Louisiana (northern half), Mississippi (northern half), Missouri, Nebraska, Nevada, New Mexico, Oklahoma, Oregon, Tennessee (western half), Texas, Utah, Washington, Wyoming, Guam.

(c) Notices and documents must be filed with the agencies referred to in paragraphs (a) and (b) of this section and as indicated in the regulations in this part.

§ 360.2 Definitions.

(a) *Bond* means a United States Savings Bond of Series I, either in book-entry form, represented by an accounting entry or electronic record of a Federal Reserve Bank acting as fiscal agent of the United States, or the Department of the Treasury, or in definitive form, as a certificate.

(b) *Incompetent* means an individual who is incapable of handling his or her business affairs because of a legal, mental or medical disability, except that a minor is not an incompetent solely because of age.

(c) *Issuing agent* means an organization that has been qualified under the provisions of Department of the Treasury Circular, Public Debt Series No. 4–67, as revised and amended (31 CFR part 317), to issue savings bonds.

(d) *Paying agent* means a financial institution that has been qualified under the provisions of Department of the Treasury Circular No. 750, as revised and amended (31 CFR part 321), to make payment of savings bonds.

(e) *Payment* means redemption, unless otherwise indicated by the context.

(f) *Person* means a legal entity including an individual or fiduciary estate.

(g) *Personal trust estates* means trust estates established by natural persons in their own right for the benefit of themselves or other natural persons in whole or in part, and common trust funds comprised in whole or in part of such trust estates.

(h) *Reissue* means the cancellation and retirement of a bond and the issuance of a new bond or bonds of the same series, same issue date, and same total face amount.

(i) *Representative of the estate of a minor, incompetent, aged person, absentee, et al.* means the court-appointed or otherwise qualified person, regardless of title, who is legally authorized to act for the individual. The term does not include parents in their own right, voluntary or natural guardians, attorneys-in-fact, trustees of personal and similar trust estates, or the executors or administrators of decedents' estates.

(j) *Surrender* means the actual receipt of a definitive bond with an appropriate request for payment or reissue by either a Federal Reserve Bank or Branch or the Bureau of the Public Debt, or, if a paying agent is authorized to handle the transaction, the actual receipt of the definitive bond and the request for payment by the paying agent.

(k) *Taxpayer Identifying Number* means a social security account number or an employer identification number.

(l) *Voluntary guardian* means an individual who is recognized as authorized to act for an incompetent, as provided by § 360.64.

Subpart B—Registration

§ 360.5 General rules.

(a) *Registration is conclusive of ownership.* Savings bonds of Series I are issued only in registered form. The registration must express the actual ownership of, and interest in, the bond. The registration is conclusive of ownership, except as provided in § 360.49.

(b) *Requests for registration.* (1) Registrations requested must be clear, accurate and complete, conform substantially with one of the forms set forth in this subpart, and include the taxpayer identifying number of the owner or first-named coowner. The registration of all bonds owned by the same individual or fiduciary estate should be uniform with respect to the name of the owner and any description of the fiduciary capacity.

(2) An individual should be designated by the name he or she is ordinarily known by or uses in business, including at least one full given name. The name may be preceded or followed by any applicable title, such as Mr., Mrs., Ms., Miss, Dr., Rev., M.D., or D.D. A suffix, such as Sr. or Jr., must be included when ordinarily used or when necessary to distinguish the owner from another member of his family. A married woman's own first name, not that of her husband, must be used, for example, Mary A. Jones or Mrs. Mary A. Jones, NOT Mrs. Frank B. Jones. The address must include, where appropriate, the number and street, route, or any other local feature; city, State, and ZIP Code.

(c) *Inscription of bonds purchased as gifts.* If the bonds are purchased as gifts, awards, prizes, etc., and the taxpayer identifying numbers of the intended owners are not known, the purchaser's number must be furnished. Bonds so inscribed will not be associated with the purchaser's own holdings. A bond registered in the name of a purchaser with another person as coowner or beneficiary is not considered a gift or an award. If the purchaser so requests, a bond may be inscribed to provide a "Mail to" instruction, followed by a delivery name and address. No rights of ownership are conferred on such designee.

§ 360.6 Authorized forms of registration.

Subject to any limitations or restrictions contained in these regulations on the right of any person to be named as owner, coowner, or beneficiary, bonds should be registered as indicated in this section. A savings bond inscribed in a form not substantially in agreement with one of the forms authorized by this subpart is not considered validly issued.

(a) *Natural persons.* A bond may be registered in the names of individuals in their own right, but only in one of the forms authorized by this paragraph (a).

(1) *Single ownership form.* A bond may be registered in the name of one individual.

Example: Julie B. Jones, 123–45–6789.

(2) *Coownership form.* A bond may be registered in the names of two individuals in the alternative as coowners. The form of registration "A and B" is not authorized.

Examples: David R. Johnson 123–45–6789 or Anna B. Johnson. Maria S. Gonzalez 987–65–4321 or Juan C. Gonzalez.

(3) *Beneficiary form.* A bond may be registered in the name of one individual payable on death to another. "Payable on death to" may be abbreviated to "P.O.D.".

Examples: Catherine B. Jordan 123–45–6789 payable on death to Daniel A. Jordan. Henry C. Rodriguez 123–45–6789 P.O.D. Maria S. Rodriguez.

(b) *Fiduciaries (including legal guardians, trustees, and similar representatives).* (1) *General.* A bond may be registered in the name of any person or persons or any organization acting as fiduciary of a single fiduciary estate, but not where the fiduciary will hold the bond merely or principally as security for the performance of a duty, obligation, or service. A bond's registration should conform to a form authorized by this paragraph. A common trust fund established and maintained by a financial institution authorized to act as a fiduciary will be considered a single fiduciary estate within the meaning of the regulations in this part.

(2) *Legal guardians, conservators, similar representatives, certain custodians, etc.* A bond may be registered in the name and fiduciary capacity of the legally appointed or authorized representative of the estate of a minor, incompetent, aged or infirm person, absentee, et al., or of a personal or testamentary trust.

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Examples: Tenth National Bank, Guardian (or Conservator, Trustee, etc.) of the Estate of George N. Brown 123–45–6789, a minor (or an incompetent, aged person, infirm person, or absentee). Henry C. Smith, Conservator of the Estate of John R. White 123–45–6789, an adult, pursuant to Sec. 633.572 of the Iowa Code. Juan B. Gonzalez 123–45–6789, a minor (or an incompetent) under custodianship by designation of the Veterans Administration. Frank M. Redd 123–45–6789, an incompetent for whom Eric A. Redd has been designated trustee by the Department of the Army pursuant to 37 U.S.C. 602. Richard A. Rowe 123–45–6789, for whom Reba L. Rowe is representative payee for social security benefits (or black lung benefits, as the case may be). Henry L. Green 123–45–6789 or George M. Brown, a minor under legal guardianship of the Tenth National Bank. Henry L. Green 123–45–6789 P.O.D. George M. Brown, a minor under legal guardianship of the Tenth National Bank. Harbor State Hospital and School, selected payee for Beth R. Weber 123–45–6789, a Civil Service annuitant, pursuant to 5 U.S.C. 8345(e). John F. Green or Mary B. Doe, Trustees of the Estate of Moe Green 123–45–6789. Thomas J. White and Tenth National Bank, Trustees under the Will of Robert J. Benjamin, deceased 12–3456789. Tenth National Bank, Trustee under Agreement with Mark S. Dunston, dated 2/1/98, 12–3456789. Ruth B. Grace and Pat A. Banks, Trustees under Agreement with Susan L. Chambers, dated 7/30/97, 12–3456789. Dennis R. Adams, Trustee under Declaration of Trust, dated 5/1/98, 12–3456789.

(3) *Employee thrift, savings, vacation and similar plans.* Bonds may be registered in the name and title, or title alone, of the trustee of an eligible employee thrift, savings, vacation, 401(k) or similar plan, as defined in § 360.13. If the instrument creating the trust provides that the trustees shall serve for a limited term, their names may be omitted.

Examples: Tenth National Bank, trustee of Pension Fund of Safety Manufacturing Company, U/A with the company, dated March 31, 1996, 12–3456789.

Trustees of Retirement Fund of Safety Manufacturing Company, under directors' resolution adopted March 31, 1996, 12–3456789.

County Trust Company, trustee of the Employee Savings Plan of Jones Company, Inc., U/A dated January 17, 1996, 12–3456789.

Trustees of the Employee Savings Plan of Brown Brothers, Inc.,.U/A dated January 20, 1996, 12–3456789.

(c) *The United States Treasury.* A person who desires to have a bond become the property of the United States upon his or her death may designate the United States Treasury as beneficiary.

Example: George T. Jones 123–45–6789 P.O.D. the United States Treasury.

§ 360.7 Chain letters prohibited.

The issuance of bonds in the furtherance of a chain letter, pyramid, or similar scheme is against the public interest and is prohibited.

Subpart C—Limitations on Annual Purchases

§ 360.10 Amounts which may be purchased.

The amount of savings bonds of Series I which may be purchased and held, in the name of any one person in any one calendar year, is computed according to the provisions of § 360.11 and is limited as follows:

(a) General annual limitation, $30,000 (par value).

(b) Special limitation, $4,000 (par value) multiplied by the highest number of employees participating in an eligible employee plan, as defined in § 360.13, at any time during the calendar year in which the bonds are issued.

§ 360.11 Computation of amount.

(a) *General.* The purchases of bonds in the name of any person in an individual capacity are computed separately from purchases in a fiduciary capacity, *e.g.*, as representative for the estate of an individual.

(b) *Bonds included in computation.* In computing the purchases for each person, the following outstanding bonds are included:

(1) All bonds registered in the name and bearing the taxpayer identifying number of that person alone;

(2) All bonds registered in the name of the representative of the estate of that person and bearing that person's taxpayer identifying number; and

(3) All bonds registered in the name of that person as coowner that also bear that person's taxpayer identifying number.

(c) *Bonds excluded from computation.* In computing the purchases for each person, the following are excluded:

(1) Bonds on which that person is named beneficiary;

(2) Bonds to which that person has become entitled—

(i) Under § 360.70 as surviving beneficiary upon the death of the registered owner;

(ii) As an heir or a legatee of the deceased owner;

(iii) By virtue of the termination of a trust or the happening of a similar event; and

(3) Bonds that are purchased and redeemed within the same calendar year.

§ 360.12 Disposition of excess.

If any person at any time has savings bonds issued during any one calendar year in excess of the prescribed amount, instructions should be obtained from the Bureau of the Public Debt, Parkersburg, WV 26106–1328, for appropriate adjustment of the excess. Under the conditions specified in § 360.90, the Commissioner of the Public Debt may permit excess purchases to stand in any particular case or class of cases.

§ 360.13 Employee plans—Conditions of eligibility.

(a) *Definition of plan.* Employee thrift, savings, vacation, 401(k), and similar plans are contributory plans established by the employer for the exclusive and irrevocable benefit of its employees or their beneficiaries. Each plan must afford employees the means of making regular savings from their wages through payroll deductions and provide for employer contributions to be added to these savings.

(b) *Definition of terms used in this section.* (1) The term *assets* means all the employees' contributions and assets purchased with them and the employer's contributions and assets purchased with them, as well as accretions, such as dividends on stock, the increment in value on bonds and all other income; but, notwithstanding any other provision of this section, the right to demand and receive all assets credited to the account of an employee shall not be construed to require the distribution of assets in kind when it would not be possible or practicable to make such a distribution; for example, Series I bonds may not be reissued in unauthorized denominations.

(2) The word *beneficiary* means:

(i) The person or persons, if any, designated by the employee in accordance with the terms of the plan to receive the benefits of the plan upon the employee's death; or

(ii) The estate of the employee.

(c) *Conditions of eligibility.* An employee plan must conform to the following rules in order to be eligible for the special limitation provided in § 360.10.

(1) *Crediting of assets.* All assets of a plan must be credited to the individual accounts of participating employees and may be distributed only to them or their beneficiaries, except as provided in paragraph (c)(3) of this section.

(2) *Purchase of bonds.* Bonds may be purchased only with assets credited to the accounts of participating employees and only if the amount taken from any account at any time for that purpose is equal to the purchase price of a $50 bond or bonds in an authorized denomination or denominations, and shares in the bonds are credited to the

accounts of the individuals from which the purchase price was derived, in amounts corresponding with their shares. For example, if $100 credited to the account of John Jones is commingled with funds credited to the accounts of other employees to make a total of $5,000 with which a Series I bond in the denomination of $5,000 (face amount) is purchased in December 1998 and registered in the name and title of the trustee, the plan must provide, in effect, that John Jones' account be credited to show that he is the owner of a Series I bond in the denomination of $100 (face amount) bearing an issue date of December 1, 1998.

(3) *Irrevocable right of withdrawal.* Each participating employee has an irrevocable right to request and receive from the trustee all assets credited to the employee's account (or their value, if the employee prefers) without regard to any conditions other than the loss or suspension of the privilege of participating further in the plan. A plan may limit or modify such right in any manner required for qualification of the plan under section 401 of the Internal Revenue Code of 1986, as amended (26 U.S.C. 401).

(4) *Rights of beneficiary.* Upon the death of an employee, his or her beneficiary shall have the absolute and unconditional right to demand and receive from the trustee all assets credited to the account of the employee or their value, if he or she so prefers.

(5) *Reissue or payment upon distribution.* (i) When settlement is made with an employee or his or her beneficiary with respect to any bond registered in the name and title of the plan trustee in which the employee has a share, the bond must be paid or reissued to the extent of the share.

(ii) If an employee or the beneficiary is to receive distribution in kind, bonds bearing the same issue dates as those credited to the employee's account will be reissued in the name of the employee or the employee's beneficiary to the extent entitled, in authorized denominations, in any authorized form of registration, upon the request and certification of the trustee.

(d) *Application for special limitation.* A trustee of an employee plan who desires to purchase bonds under the special limitation should submit to the designated Federal Reserve Bank or Branch a copy of:

(1) The plan;

(2) Any instructions issued under the plan that concern Series I bonds; and

(3) The trust agreement, in order to establish the plan's eligibility.

(e) *Vacation plans.* Savings bonds may be purchased under certain vacation plans. Questions concerning the eligibility of these plans to purchase bonds in excess of the general limitation should be addressed to the Bureau of the Public Debt, Parkersburg, WV 26106–1328.

Subpart D—Limitations on Transfer or Pledge

§ 360.15 Transfer.

Savings bonds are not transferable and are payable only to the owners named on the bonds, except as specifically provided in these regulations and then only in the manner and to the extent so provided.

§ 360.16 Pledge.

A savings bond may not be hypothecated, pledged, or used as security for the performance of an obligation.

Subpart E—Judicial Proceedings

§ 360.20 General.

(a) The Department of the Treasury will not recognize a judicial determination that gives effect to an attempted voluntary inter vivos transfer of a bond, or a judicial determination that impairs the rights of survivorship conferred by the regulations in this part upon a coowner or beneficiary. All provisions of this subpart are subject to these restrictions, except as provided in § 360.24.

(b) The Department of the Treasury will recognize a claim against an owner of a savings bond and conflicting claims of ownership of, or interest in, a bond between coowners or between the registered owner and the beneficiary, if established by valid judicial proceedings, but only as specifically provided in this subpart. Section 360.23 specifies the evidence required to establish the validity of the judicial proceedings.

(c) The Department of the Treasury and the agencies that issue, reissue, or redeem savings bonds will not accept a notice of an adverse claim or notice of pending judicial proceedings, nor undertake to protect the interests of a litigant not in possession of a savings bond.

§ 360.21 Payment to judgment creditors.

(a) *Purchaser or officer under levy.* The Department of the Treasury will pay (but not reissue) a savings bond to the purchaser at a sale under a levy or to the officer authorized under appropriate process to levy upon property of the registered owner or coowner to satisfy a money judgment. Payment will be made only to the extent necessary to satisfy the money judgment. The amount paid is limited to the redemption value 60 days after the termination of the judicial proceedings. Except in the case of a levy by the Internal Revenue Service, payment of a bond registered in coownership form pursuant to a judgment or a levy against only one coowner is limited to the extent of that coowner's interest in the bond. That interest must be established by an agreement between the coowners or by a judgment, decree, or order of a court in a proceeding to which both coowners are parties. Payment of a bond registered in coownership form pursuant to a levy by the Internal Revenue Service will be made if the levy is against either coowner on the bond.

(b) *Trustee in bankruptcy, receiver, or similar court officer.* The Department of the Treasury will pay, at current redemption value, a savings bond to a trustee in bankruptcy, a receiver of an insolvent's estate, a receiver in equity, or a similar court officer under the provisions of paragraph (a) of this section.

§ 360.22 Payment or reissue pursuant to divorce.

(a) *Divorce.* (1) The Department of the Treasury will recognize a divorce decree that ratifies or confirms a property settlement agreement disposing of bonds or that otherwise settles the interests of the parties in a bond. Reissue of a savings bond may be made to eliminate the name of one spouse as owner, coowner, or beneficiary or to substitute the name of one spouse for that of the other spouse as owner, coowner, or beneficiary pursuant to the decree. However, if the bond is registered in the name of one spouse with another person as coowner, there must be submitted either:

(i) A request for reissue by the other person; or

(ii) a certified copy of a judgment, decree, or court order entered in proceedings to which the other person and the spouse named on the bond are parties, determining the extent of the interest of that spouse in the bond. Reissue will be permitted only to the extent of that spouse's interest.

(2) The evidence required under § 360.23 must be submitted in every case. When the divorce decree does not set out the terms of the property settlement agreement, a certified copy of the agreement must be submitted. Payment, rather than reissue, will be made if requested.

(b) *Date for determining rights.* When payment or reissue under this section is to be made, the rights of the parties will be those existing under the regulations

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current at the time of the entry of the final judgment, decree, or court order.

§ 360.23 Evidence.

(a) *General.* To establish the validity of judicial proceedings, certified copies of the final judgment, decree, or court order, and of any necessary supplementary proceedings, must be submitted. If the judgment, decree, or court order was rendered more than six months prior to the presentation of the bond, there must also be submitted a certification from the clerk of the court, under court seal, dated within six months of the presentation of the bond, showing that the judgment, decree, or court order is in full force.

(b) *Trustee in bankruptcy or receiver of an insolvent's estate.* A request for payment by a trustee in bankruptcy or a receiver of an insolvent's estate must be supported by appropriate evidence of appointment and qualification. The evidence must be certified by the clerk of the court, under court seal, as being in full force on a date that is not more than six months prior to the presentation of the bond.

(c) *Receiver in equity or similar court officer.* A request for payment by a receiver in equity or a similar court officer, other than a receiver of an insolvent's estate, must be supported by a copy of an order that authorizes the presentation of the bond for redemption, certified by the clerk of the court, under court seal, as being in full force on a date that is not more than six months prior to the presentation of the bond.

§ 360.24 Payment pursuant to judicial or administrative forfeiture.

(a) *Definitions.* As used in this part:

(1) *Contact point* means the individual designated to receive referrals from the Bureau of the Public Debt, as provided for in this section, by the Federal investigative agency, United States Attorney's Office, or forfeiting agency specified in Public Debt Form 1522.

(2) *Forfeiting agency* means the federal law enforcement agency responsible for the forfeiture.

(3) *Forfeiture.* (i) *Administrative forfeiture* means the process by which property may be forfeited by a federal agency rather than through judicial proceedings.

(ii) *Judicial forfeiture* means either a civil or a criminal proceeding in a United States District Court that may result in a final judgment and order of forfeiture.

(4) *Public Debt Form 1522* means the written notification of the forfeiture provided by the forfeiting agency to the Bureau of the Public Debt on a Public Debt Form 1522 SPECIAL FORM OF REQUEST FOR PAYMENT OF UNITED STATES SAVINGS AND RETIREMENT SECURITIES WHERE USE OF A DETACHED REQUEST IS AUTHORIZED. Public Debt Form 1522 must specify: the contact point; the issue date of each bond; the serial number for each bond; the date of forfeiture; the forfeiture fund to which payment is to be made; and be signed by an individual authorized by the forfeiting agency. The forfeited bonds and the completed Public Debt Form 1522 are to be mailed to the Department of the Treasury, Bureau of the Public Debt, Parkersburg, WV 26106–1328.

(b) *Forfeiture of bond.* (1) Upon receipt and review of the Public Debt Form 1522, as described in paragraph (a)(4) of this section, the Bureau of the Public Debt will make payment to the forfeiture fund specified on the form.

(2) The Bureau of the Public Debt will record the forfeiture, the forfeiture fund into which the proceeds were paid, the contact point, and any related information.

(3) The Bureau of the Public Debt will rely exclusively upon the information provided by the Federal agency in the Public Debt Form 1522 and will not make any independent evaluation of the validity of the forfeiture order, the request for payment, or the authority of the individual signing the request for payment.

(4) The amount paid is limited to the redemption value of the savings bonds as of the date of forfeiture specified in the Public Debt Form 1522.

(c) *Inquiry from previous owner.* (1) Upon payment made pursuant to paragraph (b) of this section, all inquiries from the previous owner, including requests for payment, reissue, or applications for relief, related to forfeited savings bonds, will be referred by the Bureau of the Public Debt to the contact point named in the Public Debt Form 1522.

(2) The Bureau of the Public Debt will notify the submitter of the inquiry of the referral to the contact point.

(3) The Bureau of the Public Debt will not investigate the inquiry and will defer to the forfeiting agency's determination of the appropriate course of action, including settlement where appropriate. Any settlement will be paid from the forfeiture fund into which the proceeds were deposited.

Subpart F—Relief for Loss, Theft, Destruction, Mutilation, Defacement, or Nonreceipt of Bonds

§ 360.25 General.

Relief, by the issue of a substitute bond or by payment, is authorized for the loss, theft, destruction, mutilation, or defacement of a bond after receipt by the owner or his or her representative. As a condition for granting relief, the Commissioner of the Public Debt, as designee of the Secretary of the Treasury, may require a bond of indemnity, in the form, and with the surety, or security, he or she considers necessary to protect the interests of the United States. In all cases, the claimant or claimants must identify the lost, stolen, destroyed, mutilated, or defaced savings bond or savings bonds by serial number or serial numbers and must submit satisfactory evidence of the loss, theft, or destruction, or a satisfactory explanation of the mutilation or defacement.

§ 360.26 Application for relief; after receipt of bond.

(a) If the serial numbers of the lost, stolen, or destroyed bonds are known, the claimant should execute an application for relief on the appropriate form and submit it to the Bureau of the Public Debt, Parkersburg, WV 26106–1328.

(b) If the bond serial numbers are not known, the claimant must provide sufficient information to enable the Bureau of the Public Debt to identify the bond by serial number. See § 360.29(c). The Bureau will furnish the proper application form and instructions.

(c) A defaced bond and all available fragments of a mutilated bond should be submitted to a Federal Reserve Office listed in § 360.1(b)(2) or the Bureau of the Public Debt.

(d) The application must be made by the person or persons (including both coowners, if living) authorized under the regulations in this part to request payment of the bond. In addition:

(1) If the bond is in beneficiary form and the owner and beneficiary are both living, the application must be made by the owner, and the beneficiary may also be required to join in the application to protect the interests of the United States.

(2) If a minor named on a bond as owner, coowner, or beneficiary is not of sufficient competency and understanding to request payment, the parents or other person authorized to request payment under § 360.63 will ordinarily be required to join in the application.

(e) If the application is approved, relief will be granted either by the issuance of a bond bearing the same issue date as the bond for which the claim was filed or by the issuance of a remittance in payment.

§ 360.27 Application for relief; nonreceipt of bond.

If a bond issued on any transaction is not received, the issuing agent must be notified as promptly as possible and given all information available about the nonreceipt. An appropriate form and instructions will be provided. If the application is approved, relief will be granted by the issuance of a bond bearing the same issue date as the bond that was not received. Also, relief is authorized for the issuance of bonds for which the Secretary has not received payment, in order to preserve public confidence in dealing with issuing agents.

§ 360.28 Recovery or receipt of bond before or after relief is granted.

(a) If a bond reported lost, stolen, destroyed, or not received, is recovered or received before relief is granted, the Bureau of the Public Debt, Parkersburg, WV 26106–1328, must be notified promptly.

(b) A bond for which relief has been granted is the property of the United States and, if recovered, must be promptly submitted to the Bureau of the Public Debt, Parkersburg, 26106–1328, for cancellation.

§ 360.29 Adjudication of claims.

(a) *General.* The Bureau of the Public Debt will adjudicate claims for lost, stolen or destroyed bonds on the basis of records created and regularly maintained in the ordinary course of business.

(b) *Claims filed 10 years after payment.* Any claim filed 10 years or more after the recorded date of redemption or other retirement will be barred.

(c) *Claims filed 10 years after maturity.* Any claim filed 10 years or more after the maturity of a savings bond will be barred.

Subpart G—General Provisions for Payment

§ 360.35 Payment (redemption).

(a) *General.* Payment of a Series I savings bond will be made to the person or persons entitled under the provisions of the regulations in this part, except that the redemption payment will not be delivered to addresses in areas with respect to which the Department of the Treasury restricts or regulates the delivery of remittances, including checks and electronic payments, drawn against funds of the United States. See Department of the Treasury Circular No. 655, current revision (31 CFR part 211). Payment will be made without regard to any notice of adverse claims to a bond and no stoppage or caveat against payment of a bond will be entered.

(b) *Mandatory initial holding period.* A Series I bond will be paid at any time after six months from issue date at the current redemption value determined in the manner described in Department of the Treasury Circular, Public Debt Series No. 1–98 (31 CFR part 359).

§ 360.36 Payment during life of sole owner.

A savings bond registered in single ownership form (i.e., without a coowner or beneficiary) will be paid to the owner during his or her lifetime upon surrender with an appropriate request.

§ 360.37 Payment during lives of both coowners.

A savings bond registered in coownership form will be paid to either coowner upon surrender with an appropriate request, and upon payment (as determined in § 360.43), the other coowner will cease to have any interest in the bond. If both coowners request payment, the payment will be made in the form, "John A. Jones AND Mary C. Jones".

§ 360.38 Payment during lifetime of owner of beneficiary bond.

A savings bond registered in beneficiary form will be paid to the registered owner during his or her lifetime upon surrender with an appropriate request. Upon payment (as determined in § 360.43) the beneficiary will cease to have any interest in the bond.

§ 360.39 Surrender for payment.

(a) *Procedure for definitive bonds of Series I presented at authorized paying agents.* The owner, coowner, or other person entitled to payment of a definitive Series I bond may present the bond to an authorized paying agent for redemption. The presenter must establish his or her identity and entitlement to payment in accordance with Treasury instructions and identification guidelines. The presenter must sign the request for payment on the bond or, if authorized, on a separate detached request, and add his or her address. If the request for payment has been signed, or signed and certified, before presentation of the bond, the paying agent must be satisfied that the person presenting the bond for payment is the owner, coowner, or other person entitled to payment, and may require the person to sign the request for payment again. If the bond is in order for payment, the paying agent will make payment at the current redemption value without charge to the presenter. Paying agents are not authorized to process any case involving partial redemption.

(b) *Procedure for all other cases.* In the case of definitive bonds to which the procedure in paragraph (a) of this section, does not apply, or if otherwise preferred, the owner or coowner, or other person entitled to payment should establish his or her identity to the satisfaction of an officer authorized by the regulations in this part to certify requests for payment, sign the requests for payment, and provide delivery information for the payment. The bonds must be forwarded to a designated Federal Reserve Bank or Branch or the Bureau of the Public Debt. Usually, payment will be expedited by submission to a designated Federal Reserve Bank or Branch. In all cases, the cost and risk of presentation of a bond will be borne by the owner. Payment will be made to the registered owner or other person entitled and will be delivered according to the instructions of the owner or the other person entitled and the regulations in this part.

(c) *Date of request.* Requests executed more than six months before the date of receipt of a bond for payment will not be accepted. Neither will a bond be accepted if payment is requested as of a date more than three months in the future.

§ 360.40 Special provisions for payment.

(a) *Owner's signature not required.* A bond may be paid by a paying agent or a designated Federal Reserve Bank or Branch without the owner's signature to the request for payment if the bond bears the special endorsement of a paying agent specifically qualified to place such an endorsement on savings bonds.

(b) *Signature by mark.* A signature by mark (X) must be witnessed by at least one disinterested person and a certifying officer. See subpart I of this part. The witness must attest to the signature by mark substantially as follows: "Witness to signature by mark", followed by his or her signature and address.

(c) *Name change.* If the name of the owner, coowner, or other person entitled to payment, as it appears in the registration or in any related evidence or documents has been changed in any legal manner, the signature to the request for payment must show both names and the manner in which the change was made; for example, "Mary

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T. Jones Smith (Mary T. J. Smith or Mary T. Smith) changed by marriage from Mary T. Jones", or "John R. Young, changed by order of court from Hans R. Jung". See § 360.50.

(d) *Attorneys-in-fact.* A request for payment executed by an attorney-in-fact on behalf of the bond owner or other person entitled to payment of the bond will be recognized if it is accompanied by a copy of the power of attorney which meets the following requirements:

(1) The power of attorney must bear the grantor's signature, properly certified or notarized, in accordance with applicable State law;

(2) The power of attorney must grant, by its terms, authority for the attorney-in-fact to sell or redeem the grantor's securities, sell his or her personal property, or otherwise contain similar authority; and

(3) In the case of a grantor who has become incapacitated, the power of attorney must conform with pertinent provisions of State law concerning its durability. Generally, in such circumstances, the power of attorney should provide that the authority granted will not be affected by the subsequent incompetence or incapacity of the grantor. Medical evidence or other proof of the grantor's condition may be required in any case.

§ 360.41 Partial redemption.

A bond may be redeemed in part at current redemption value, but only in amounts corresponding to authorized denominations, upon surrender of the bond to a designated Federal Reserve Bank or Branch or to the Bureau of the Public Debt in accordance with § 360.39(b). In any case in which partial redemption is requested, the phrase "to the extent of $ ______ (face amount) and reissue of the remainder" should be added to the request. Upon partial redemption of the bond, the remainder will be reissued as of the original issue date, as provided in subpart H of this part.

§ 360.42 Nonreceipt or loss of remittance issued in payment.

If a remittance in payment of the redemption value of a bond surrendered for redemption is not received within a reasonable time or is lost after receipt, notice should be given to the same agency to which the bond was surrendered for payment. The notice should give the date the bond was surrendered for payment and describe the bond by series, denomination, serial number, and registration, including the taxpayer identifying number of the owner.

§ 360.43 Effective date of request for payment.

The Department of the Treasury will treat the receipt of a bond with an appropriate request for payment by:

(a) A Federal Reserve Bank or Branch;

(b) The Bureau of the Public Debt; or

(c) A paying agent authorized to pay that bond, as the date upon which the rights of the parties are fixed for the purpose of payment.

§ 360.44 Withdrawal of request for payment.

(a) *Withdrawal by owner or coowner.* An owner or coowner, who has surrendered a bond to a Federal Reserve Bank or Branch or to the Bureau of the Public Debt or to an authorized paying agent with an appropriate request for payment, may withdraw the request if notice of intent to withdraw is received by the same agency prior to payment.

(b) *Withdrawal on behalf of deceased owner or incompetent.* A request for payment may be withdrawn under the same conditions as in paragraph (a) of this section by the executor or administrator of the estate of a deceased owner or by the person or persons who could have been entitled to the bond under Subpart K of this part, or by the legal representative of the estate of a person under legal disability, unless surrender of the bond for payment has eliminated the interest of a surviving coowner or beneficiary. See § 360.70(b) and (c).

Subpart H—Reissue and Denominational Exchange

§ 360.45 General

Reissue of a bond may be made only under the conditions specified in these regulations, and only at: A designated Federal Reserve Bank or Branch, or the Bureau of the Public Debt. Reissue will not be made if the request is received less than one full calendar month before the maturity date of a bond. See 31 CFR part 359. The request, however, will be effective to establish ownership as though the requested reissue had been made.

§ 360.46 Effective date of request for reissue.

The Department of the Treasury will treat the receipt by: A Federal Reserve Bank or Branch, or the Bureau of the Public Debt of a bond and an acceptable request for reissue as determining the date upon which the rights of the parties are fixed for the purpose of reissue. For example, if the owner or either coowner of a bond dies after the bond has been surrendered for reissue, the bond will be regarded as having been reissued in the decedent's lifetime.

§ 360.47 Authorized reissue; during lifetime.

A bond belonging to a living individual may be reissued in any form of registration authorized by the regulations in this part upon an appropriate request under the conditions and for the purposes outlined in this section.

(a) *Single ownership.* A bond registered in single ownership form may be reissued:

(1) To add a coowner or beneficiary; or

(2) To name a new owner, with or without a coowner or beneficiary as requested by the new owner, but only if the previous owner and the new owner are parties to a divorce or annulment; or

(3) To name as new sole owner the personal trust estate created by the previous owner or which designates as beneficiary the previous owner.

(b) *Coownership.* During the lifetime of both coowners:

(1) A coownership bond may be reissued to name a new owner, with or without a coowner or beneficiary as requested by the new owner, but only if at least one of the coowners and the new owner are parties to a divorce or annulment, but reissue is limited to the extent of that coowner's interest in the bond (See § 360.22(a)); or

(2) To name as new sole owner the personal trust estate created by at least one of the coowners or which designates as beneficiary at least one of the coowners.

(c) *Beneficiary.* A bond registered in beneficiary form may be reissued:

(1) To substitute another individual as beneficiary; or

(2) To eliminate the beneficiary, and, if the beneficiary is eliminated, to effect any of the reissues authorized by paragraph (a) of this section.

§ 360.48 Restrictions on reissue; denominational exchange.

Reissue is not permitted solely to change denominations.

§ 360.49 Correction of errors.

A bond may be reissued to correct an error in registration upon appropriate request supported by satisfactory proof of the error.

§ 360.50 Change of name.

An owner, coowner, or beneficiary whose name is changed by marriage, divorce, annulment, order of court, or in any other legal manner after the issue of the bond should submit the bond with a request for reissue to substitute the new name for the name inscribed on the bond. Documentary evidence may be required in any appropriate case.

§ 360.51 Requests for reissue.

Subject to the conditions set out in this subpart, a request for reissue of bonds in coownership form must be signed by both coowners, except that a request solely to eliminate the name of one coowner may be signed by that coowner only. A bond registered in beneficiary form may be reissued upon the request of the owner, without the consent of the beneficiary. Public Debt forms are available for requesting reissue.

Subpart I—Certifying Officers

§ 360.55 Individuals authorized to certify.

The following individuals are authorized to act as certifying officers for the purpose of certifying a request for payment, reissue, or a signature to a Public Debt form:

(a) *Officers generally authorized*—(1) *Banks, trust companies, and member organizations of the Federal Home Loan Bank System.* (i) Any officer of a bank incorporated in the United States, the territories or possessions of the United States, or the Commonwealth of Puerto Rico.

(ii) Any officer of a trust company incorporated in the United States, the territories or possessions of the United States, or the Commonwealth of Puerto Rico.

(iii) Any officer of an organization that is a member of the Federal Home Loan Bank System. This includes Federal savings and loan associations.

(iv) Any officer of a foreign branch or domestic branch of an institution indicated in paragraphs (a)(1)(i) through (iii) of this section.

(v) Any officer of a Federal Reserve Bank, a Federal Land Bank, or a Federal Home Loan Bank.

(vi) Any employee of an institution in paragraphs (a)(1)(i) through (v) of this section, who is expressly authorized to certify by the institution.

(2) *Credit unions.* Any officer or employee of a credit union, who is expressly authorized to certify by the institution. Certification by these officers or designated employees must be authenticated by a legible imprint of either the corporate seal of the institution or of the issuing or paying agent's stamp. The employee expressly authorized to certify by an institution must sign his or her name over the title "Designated Employee".

(3) *Issuing and paying agents.* Any officer or expressly authorized employee of an organization that is not included in paragraphs (a)(1)(i) through (v) of this section but is qualified as an issuing or paying agent for savings bonds of Series E, EE, or I. The agent's stamp must be imprinted in the certification.

(4) *By United States officials.* Any judge, clerk, or deputy clerk of a United States court, including United States courts for the territories and possessions of the United States and the Commonwealth of Puerto Rico; any United States Commissioner, United States Attorney, or United States Collector of Customs, including their deputies; in the Internal Revenue Service, any Regional Commissioner, District Director, Service Center Director, or Internal Revenue agent.

(b) *Officers with limited authority*—(1) *In the Armed Forces.* Any commissioned officer or warrant officer of the Armed Forces of the United States, but only for members of the respective services, their families, and civilian employees at posts, bases, or stations. The certifying officer must indicate his or her rank and state that the individual signing the request is one of the class whose request the certifying officer is authorized to certify.

(2) *Veterans Administration, Federal penal institutions, and United States Public Health Service hospitals.* Any officer in charge of a home, hospital or other facility of the Veterans Administration, but only for the patients, or employees of the facility; any officer of a Federal penal institution or a United States Public Health Service hospital expressly authorized to certify by the Secretary of the Treasury or his designee, but only for the inmates, patients or employees of the institution involved. Officers of Veterans Administration facilities, Federal penal institutions, and Public Health Service hospitals must use the stamp or seal of the particular institution or service.

(c) *Authorized officers in foreign countries.* Any United States diplomatic or consular representative, or the officer of a foreign branch of a bank or trust company incorporated in the United States whose signature is attested by an imprint of the corporate seal or is certified to the Department of the Treasury. If none of these individuals is available, a notary public or other officer authorized to administer oaths may certify, but, if not in a country that is a party to the Hague Convention, his or her official character and jurisdiction must be certified by a United States diplomatic or consular officer under seal of his or her office.

(d) *Authorized officers in particular localities.* The Governor and the Treasurer of Puerto Rico; the Governor and the Commissioner of Finance of the Virgin Islands; the Governor and the Director of Finance of Guam; or the Governor and the Director of Administrative Services of American Samoa.

(e) *Special provisions.* If no certifying officer is readily accessible, the Commissioner of the Public Debt, Deputy Commissioner, any Assistant Commissioner, or other designated official of the Bureau or of a Federal Reserve Bank or Branch is authorized to make special provision for any particular case.

§ 360.56 General instructions and liability.

(a) The certifying officer must:

(1) Require the person presenting a bond, or an appropriate Public Debt transaction form, to establish his or her identity in accordance with Department of the Treasury instructions and identification guidelines;

(2) Place a notation on the back of the bond or on the appropriate Public Debt transaction form, or in a separate record, showing exactly how identification was established; and

(3) Affix, as part of the certification, his or her official signature, title, seal or issuing or paying agent's stamp, address, and the date of execution.

(b) The certifying officer and, if such person is an officer or an employee of an organization, the organization will be held fully responsible for the adequacy of the identification.

(c) A signature guaranteed stamp under the Securities Transfer Agents Medallion Program (STAMP) is an acceptable official seal.

§ 360.57 When a certifying officer may not certify.

Certifying officers may not certify the requests for payment or reissue of bonds, or appropriate Public Debt transaction forms if, in their own right or in a representative capacity, they:

(a) Have an interest in the bonds; or

(b) Will, by virtue of the requests being certified, acquire an interest in the bonds.

§ 360.58 Forms to be certified.

When required in the instructions on a Public Debt transaction form, the form must be signed before an authorized certifying officer.

Subpart J—Minors, Incompetents, Aged Persons, Absentees, et al.

§ 360.60 Payment to representative of an estate.

(a) The representative of an estate of an owner who is a minor, an aged person, incompetent, absentee, et al., may receive payment upon request:

(1) If the registration shows the name and capacity of the representative;

(2) If the registration shows the capacity but not the name of the

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representative and the request is accompanied by appropriate evidence; or

(3) If the registration includes neither the name of the representative nor his or her capacity but the request is accompanied by appropriate evidence.

(b) (1) Appropriate evidence for paragraphs (a) (2) and (3) of this section includes Public Debt Forms 5385 (redemption) and 5386 (reissue) completed and signed by the representative in accordance with the proper form's instructions, which are incorporated herein, or a certified copy of the letters of appointment or, if the representative is not appointed by a court, other proof of qualification.

(2) Except in the case of corporate fiduciaries, the evidence must show that the appointment is in full force and be dated not more than one year prior to the presentation of the bond for payment. The request for payment appearing on the back of a bond must be signed by the representative as such, for example, "John S. Jones, guardian (committee) of the estate of Henry W. Smith, a minor (an incompetent)".

§ 360.61 Payment after death.

After the death of the ward, and at any time prior to the representative's discharge, the representative of the estate will be entitled to obtain payment of a bond to which the ward was solely entitled.

§ 360.62 Payment to minor.

If the owner of a savings bond is a minor and the form of registration does not indicate that there is a representative of the minor's estate, payment will be made to the minor upon his or her request, provided the minor is of sufficient competency to sign the request for payment and to understand the nature of the transaction. In general, the fact that the request for payment has been signed by a minor and certified will be accepted as sufficient proof of competency and understanding.

§ 360.63 Payment to a parent or other person on behalf of a minor.

(a) If the owner of a savings bond is a minor and the form of registration does not indicate that there is a representative of his or her estate, and if the minor is not of sufficient competency to sign the request for payment and to understand the nature of the transaction, payment will be made to either parent with whom the minor resides or to whom legal custody has been granted. If the minor does not reside with either parent, payment will be made to the person who furnishes the chief support for the minor.

(b) The request must appear on the back of the bond in one of the following forms:

(1) Request by parent:

I certify that I am the mother of John C. Jones (with whom he resides) (to whom legal custody has been granted). He is ____ years of age and is not of sufficient understanding to make this request.

Mary Jones on behalf of John C. Jones

(2) Request by other person:

I certify that John C. Jones does not reside with either parent and that I furnish his chief support. He is ____ years of age and is not of sufficient understanding to make this request.

Alice Brown, grandmother, on behalf of John C. Jones

§ 360.64 Payment or reinvestment—voluntary guardian of an incapacitated person.

(a) *Payment of bonds.* (1) When an adult owner of bonds is incapable of requesting payment as a result of incapacity and there is no other person legally qualified to do so, the relative, or other person, responsible for the owner's care and support may submit an application for recognition as voluntary guardian for the purpose of redeeming the owner's bonds, if the total redemption value of all of the owner's bonds does not exceed $20,000. The bonds and application should be submitted to a designated Federal Reserve Bank or the Bureau of the Public Debt.

(2) The redemption value of the bonds shall be determined as of the date the bonds are received, accompanied by an appropriate request for payment. If the total redemption value exceeds $20,000, a legal representative must be appointed, as set forth in § 360.60.

(b) *Reinvestment of bonds.* (1) If the bonds have matured and ceased earning interest, they may be redeemed and the proceeds reinvested in any other savings bonds available. The new bonds must be registered in the name of the incapacitated person, followed by words showing that he or she is under voluntary guardianship; for example, "John Jones 123–45–6789, under voluntary guardianship". A living coowner or beneficiary named on the matured bonds must be designated on the new bonds, unless such person furnishes a certified statement consenting to omission of his or her name.

(2) If an amount insufficient to purchase an additional bond of any authorized denomination of savings bond remains after the reinvestment, the voluntary guardian may furnish additional funds sufficient to purchase another savings bond of the lowest available denomination. If additional funds are not furnished, the remaining amount will be paid to the voluntary guardian for the use and benefit of the incapacitated person.

§ 360.65 Reissue.

A bond on which a minor or other person under legal disability is named as the owner or coowner, or in which he or she has an interest, may be reissued under the following conditions, but only in accordance with subpart H of this part:

(a) A minor for whose estate no representative has been appointed may request reissue if the minor is of sufficient competency to sign his or her name to the request and to understand the nature of the transaction.

(b) Except to the extent provided in paragraph (a) of this section, reissue will be restricted to a form of registration which does not adversely affect the existing ownership or interest of a minor or other person under legal disability. Requests for reissue should be executed by the person authorized to request payment under §§ 360.60 and 360.63, or the person who may request recognition as voluntary guardian under § 360.64.

Subpart K—Deceased Owner, Coowner or Beneficiary

§ 360.70 General rules governing entitlement.

The rules in this section govern ownership or entitlement where one or both of the persons named on a bond have died without the bond having been surrendered for payment or reissue. Proof of death may be in the form of a properly completed Public Debt Form or death certificate, or other evidence as required by the Bureau of the Public Debt.

(a) *Single owner bond.* If the owner of a bond registered in single ownership form has died, the bond becomes the property of that decedent's estate, and payment or reissue will be made as provided in this subpart.

(b) *Coowner bond*—(1) *One coowner deceased.* If one of the coowners named on a bond has died, the surviving coowner will be recognized as the sole and absolute owner, and payment or reissue will be made as though the bond were registered in the name of the survivor alone. Any request for reissue by the surviving coowner must be supported by proof of death of the other coowner.

(2) *Both coowners deceased.* If both coowners named on a bond have died, the bond becomes the property of the estate of the coowner who died last, and

payment or reissue will be made as if the bond were registered in the name of the last deceased coowner alone. Proof of death of both coowners will be required to establish the order of death.

(3) *Simultaneous death of both coowners.* If both coowners die under conditions where it cannot be established, either by presumption of law or otherwise, which coowner died first, the bond becomes the property of the estates of both equally, and payment or reissue will be made accordingly.

(c) *Beneficiary bond*—(1) *Owner deceased.* If the owner of a bond registered in beneficiary form has died and is survived by the beneficiary, upon proof of death of the owner, the beneficiary will be recognized as the sole and absolute owner of the bond. Payment or reissue will be made as though the bond were registered in the survivor's name alone. A request for payment or reissue by the beneficiary must be supported by proof of death of the owner.

(2) *Beneficiary deceased.* If the beneficiary's death occurs before, or simultaneously with, that of the registered owner, payment or reissue will be made as though the bond were registered in the owner's name alone. Proof of death of the owner and beneficiary is required to establish the order of death.

(d) *Nonresident aliens.* If the person who becomes entitled to a bond because of the death of an owner is an alien who is a resident of an area with respect to which the Department of the Treasury restricts or regulates the delivery of remittances, including checks and electronic payments, drawn against funds of the United States or its agencies or instrumentalities, delivery of the redemption payment will not be made so long as the restriction applies. See Department of the Treasury Circular No. 655, current revision (31 CFR part 211).

§ 360.71 Estate administered.

(a) *During administration.* The court-appointed or otherwise legally qualified representative of an estate may request payment of bonds, including any bond redemption proceeds, that are the property of the estate or may have the bonds reissued in the names of persons entitled to share in the estate. The representative should use the procedure and Public Debt Form referred to in § 360.72 to request payment or reissue. The representative's request may instead be supported by evidence of authority in the form of a court certificate or a certified copy of the representative's letters of appointment which must be dated within six months of the date of presentation of the bond, unless the evidence shows that the appointment was made within one year prior to presentation of the bond.

(b) *After administration.* If the decedent's estate has been settled through judicial proceedings, bonds, including any bond redemption proceeds, that are the estate's property, will be paid, or the bonds will be reissued, upon the request of persons entitled. Persons entitled should use the procedure and the Public Debt Form referred to in § 360.72 to request payment or reissue. A request by persons entitled may be supported by a certified copy of the court-approved final account for the estate, the court's decree of distribution, or other pertinent court records.

§ 360.72 Procedures for the payment or reissue of bonds that are property belonging to a decedent's estate.

(a) If bonds are the property of the estate of a decedent in accordance with § 360.70, the bonds and any redemption proceeds shall be paid, or the bonds shall be reissued, in accordance with the rules in this part, pursuant to an appropriate request.

(b) Bonds shall be reissued or proceeds distributed in the following order of precedence:

(1) To the court-appointed or otherwise legally qualified representative of the last deceased bond registrant's estate;

(2) To the persons entitled after the estate of the last deceased bond registrant has been settled, and the court has discharged the representative;

(3) To the persons entitled to share in the estate of the last deceased bond registrant's estate in accordance with State law relating to summary settlement of decedents' estates or settlement of small estates of decedents when no representative has been appointed by the court and none is to be appointed;

(4) To the surviving spouse if no representative has been appointed by the court, none is to be appointed, and there is no surviving child or descendant of a deceased child of the decedent;

(5) To the surviving spouse to the extent of one-half and the child or children of the decedent, and the descendants of deceased children by representation, to the extent of one-half if there are both a surviving spouse and a child, children, or descendants of deceased children, no representative has been appointed by the court, and none is to be appointed, or by the agreement of all the persons entitled in this class;

(6) To the child or children of the decedent, and the descendants of deceased children by representation, if there is no surviving spouse, no representative has been appointed by the court, and none is to be appointed;

(7) To the parents if none of the above;

(8) To the brothers and sisters and descendants of deceased brothers and sisters by representation if none of the above;

(9) To other next-of-kin as determined by the laws of the domicile at the time of death if none of the above;

(10) To persons related to the decedent by marriage, *i.e.*, heirs of a spouse of the last deceased registrant where such spouse predeceased that registrant, if none of the above;

(11) To the person who paid the burial and funeral expenses, or a creditor of the decedent's estate, but payment may be made only to the extent and to the proportion the person has not been reimbursed, and reissue will not be permitted, if none of the above;

(12) Escheat.

(c) Payments made pursuant to this section shall be made as set out in paragraph (b) of this section either to a person individually, or individually and for the account of other persons entitled of the same class. A person receiving payment of bond proceeds individually and for the account of other persons shall agree, and be obligated, to make fair and proper distribution of such proceeds to such other persons. The provisions of this section are for the convenience of the Department of the Treasury and do not purport to determine ownership of the bonds or of their proceeds. The Department of the Treasury, Bureau of the Public Debt, Federal Reserve Banks, and any authorized paying agents may rely on the information provided by the person who requests payment or reissue, and shall not be liable for any action taken as set out in this section, in accordance with the information so furnished.

Subpart L—Fiduciaries

§ 360.75 Payment or reissue during the existence of the fiduciary estate.

(a) *Request from the fiduciaries named in the registration.* A request for reissue or payment signed by at least one, but less than all, of the fiduciaries named in the registration shall be deemed sufficient and acceptable proof that less than all of the fiduciaries may properly execute the request. If the fiduciaries named in the registration are still acting, no further evidence will be required. In other cases, *i.e.*, cases in which the fiduciary is not designated by

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name and title in the bond registration or a fiduciary designated in the bond registration is no longer acting, the request must be made in accordance with Subparts J and K of this part.

(b) *Corporate fiduciaries.* If a bond is registered in the name of a public or private corporation, such as a financial institution, or a governmental body as fiduciary, the request must be signed by an authorized officer in the name of the organization as fiduciary. Ordinarily, a signed and certified request will be accepted without further evidence.

(c) *Trustee of a common trust fund.* A bond held by a financial institution as a trustee may be reissued in the name of the institution as trustee of its common trust fund to the extent that participation in the common trust fund is authorized by law or regulation. The request for reissue should be executed by the institution and any co-trustee.

(d) *Successor fiduciary.* If the fiduciary in whose name the bond is registered has been replaced by another fiduciary, a properly executed form or satisfactory evidence of successorship should be furnished.

§ 360.78 Payment or reissue after termination of the fiduciary estate.

A bond registered in the name or title of a fiduciary may be paid or reissued to the person who has become entitled by reason of the termination of an estate, other than a decedent's estate (see Subpart K of this part). Requests for reissue made by a fiduciary pursuant to the termination of a fiduciary estate should be made on the appropriate form. Requests for payment or reissue by other than the fiduciary must be accompanied by evidence to show that the person has become entitled in accordance with applicable State law or otherwise. When two or more persons have become entitled, the request for payment or reissue must be signed by each of them.

Subpart M—Miscellaneous Provisions

§ 360.90 Waiver of regulations.

The Commissioner of the Public Debt, as designee of the Secretary of the Treasury, may waive or modify any provision or provisions of the regulations in this part. He or she may do so in any particular case or class of cases for the convenience of the United States or in order to relieve any person or persons of unnecessary hardship:

(a) If such action would not be inconsistent with law or equity;

(b) If it does not impair any material existing rights; and

(c) If he or she is satisfied that such action would not subject the United States to any substantial expense or liability.

§ 360.91 Additional requirements; bond of indemnity.

The Commissioner of the Public Debt, as designee of the Secretary of the Treasury, may require:

(a) Such additional evidence as he or she may consider necessary or advisable; or

(b) A bond of indemnity, with or without surety, in any case in which he or she may consider such a bond necessary for the protection of the interests of the United States.

§ 360.92 Supplements, amendments, or revisions.

The Secretary of the Treasury may at any time, or from time to time, prescribe additional, supplemental, amendatory, or revised rules and regulations governing United States Savings Bonds.

[FR Doc. 98–18621 Filed 7–8–98; 4:13 pm]

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Part IV

Department of the Interior

Fish and Wildlife Service

Notice of Intent To Prepare a Comprehensive Conservation Plan and Environmental Assessment for Arthur R. Marshall Loxahatchee National Wildlife Refuge in Palm Beach, County, Florida, and Hobe Sound National Wildlife Refuge in Martin County, Florida; Notice

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Arthur R. Marshall Loxahatchee National Wildlife Refuge

ACTION: Notice of intent to prepare a Comprehensive Conservation Plan and Environmental Assessment for Arthur R. Marshall Loxahatchee National Wildlife Refuge in Palm Beach, County, Florida, and Hobe Sound National Wildlife Refuge in Martin County, Florida, and notice of meeting to seek public participation.

SUMMARY: This notice advises the public that the Fish and Wildlife Service, Southeast Region, intends to gather information necessary to prepare a Comprehensive Conservation Plan and an Environmental Assessment for Arthur R. Marshall Loxahatchee National Wildlife Refuge, Florida, and Hobe Sound National Wildlife Refuge, Florida. The Service is furnishing this notice in compliance with Service comprehensive conservation planning policy, the National Environmental Policy Act, and implementing regulations to achieve the following:

(1) Advise other agencies and the public of our intentions, and

(2) obtain suggestions and information on the scope of issues, opportunities, and concerns for inclusion in the environmental assessment.

DATES: A public meeting concerning Arthur R. Marshall Loxahatchee National Wildlife Refuge will be held at 7 p.m. on August 17, 1998, at the Boynton Beach Civic Center, located at 128 East Ocean Avenue, Boynton Beach, Florida. A public meeting concerning Hobe Sound National Wildlife Refuge will be held at 7 p.m. on August 18, 1998, at the Hobe Sound Civic Center, located at 8980 Southeast Olympus Avenue, Hobe Sound, Florida.

ADDRESSES: Address comments and requests for more information to: Refuge Manager, Arthur R. Marshall Loxahatchee National Wildlife Refuge, U.S. Fish and Wildlife Service, 10216 Lee Road, Boynton Beach, Florida 33437–4796.

SUPPLEMENTARY INFORMATION: Arthur R. Marshall Loxahatchee National Wildlife Refuge, located 15 miles southwest of West Palm Beach, Florida, consists of 221 square miles of the remaining northern Everglades. The refuge is one of three large freshwater storage areas surrounded by levees and canals. These storage areas, built by the U.S. Army Corps of Engineers, were later placed under the jurisdiction of the South Florida Water Management District. The primary objective of the refuge, established through an agreement between the Service and the South Florida Water Management District, is to maintain suitable habitat for a variety of wildlife native to the northern Everglades. Sawgrass marshes, wet prairies, sloughs, and free islands compose more than 90 percent of the area's unique wetlands. The refuge also provides critical habitat for the snail kite, American alligator, and neotropical birds as well as numerous other threatened and endangered species.

Hobe Sound National Wildlife Refuge, located 25 miles north of West Palm Beach, Florida, consists of a 735-acre island tract and a 232-acre mainland tract. The island tract consists of mangrove swamps and coastal sand dunes, and the mainland tract consists of sand pine-scrub oak forests. The sand dunes provide critical nesting habitat for loggerhead turtles. The refuge is also important to numerous endangered and threatened species such as the eastern indigo snake, the Florida scrub jay, and the gopher tortoise.

Dated: July 8, 1998.

Judy L. Jones,

Acting Regional Director.

[FR Doc. 98–18670 Filed 7–13–98; 8:45 am]

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Part V

Department of Education

Privacy Act of 1974; Computer Matching Program; Notice

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DEPARTMENT OF EDUCATION

Privacy Act of 1974; Computer Matching Program

AGENCY: Department of Education.

ACTION: Notice—Computer Matching between the U.S. Department of Education and the Social Security Administration.

SUMMARY: Pursuant to the Computer Matching and Privacy Protection Act of 1988, Pub. L. 100–503, and the Office of Management and Budget (OMB) Guidelines on the Conduct of Matching Programs, notice is hereby given of the computer matching program between the U.S. Department of Education (ED) (the recipient agency), and the Social Security Administration (SSA) (the source agency).

Notice of the matching program was originally published in the **Federal Register** on December 1, 1995 (60 FR 61687); the program was effective on January 1, 1996. Duration was 18 months plus a one-year extension permitted by the Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act of 1988 (5 U.S.C. 522a(o)(2)(D)). The one-year extension will expire on July 7, 1998. The following notice represents the approval of a new agreement by the SSA and ED Data Integrity Boards to continue the matching program on the effective date as indicated below.

In accordance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503), the Office of Management and Budget (OMB) Final Guidelines on the Conduct of Matching Programs (see 54 FR 25818, June 19, 1989), and OMB Circular A–130, the following information is provided:

1. Names of Participating Agencies

The U.S. Department of Education and the Social Security Administration.

2. Purpose of the Match

The purpose of the match is to verify any social security number (SSN) and citizenship status provided by an applicant for student financial assistance. Section 484(p) of the Higher Education Act of 1965, as amended (HEA) requires the Secretary of Education, in cooperation with the Commissioner of the Social Security Administration (SSA), to verify any SSN provided by an applicant for assistance under title IV of that Act. Section 484(g) of the HEA requires the Secretary to verify statements provided by title IV applicants with regard to their citizenship and immigration status using an automated or other system, with other Federal agencies that may be in possession of information relevant to such statements and supporting documentation.

This matching program provides an efficient and comprehensive method of verifying the accuracy of each applicant's SSN and claim to U.S. citizenship for the purpose of meeting eligibility requirements under the title IV programs. The matching program quickly identifies those applicants whose records indicate that they may not be U.S. citizens, who do not have valid SSNs or proof of U.S. citizenship to receive title IV funds.

3. Authority for Conducting the Matching Program

Sections 484(g) and (p) of the HEA; section 1106(a) of the Social Security Act.

4. Categories of Records and Individuals Covered by the Match

ED will submit for verification from its Central Processing System files the SSN and other identifying information for each applicant for title IV assistance. This information will be matched against the SSA Numident, which contains the SSN, citizenship status and identifying information for all SSN holders.

5. Effective Dates of the Matching Program

The matching program will become effective 40 days after a copy of the agreement, as approved by the Data Integrity Board of each agency, is sent to Congress and the Office of Management and Budget (OMB) (or later if OMB objects to some or all of the agreement), or 30 days after publication of this notice in the **Federal Register**, whichever date is later. The matching program will continue for 18 months after the effective date and may be extended for an additional 12 months thereafter, if the conditions specified in 5 U.S.C. 522a(o)(2)(D) have been met.

6. Address for Receipt of Public Comments or Inquiries

Individuals wishing to comment on this matching program or obtain additional information about the program including a copy of the computer matching agreement between ED and SSA should contact Ms. Edith Bell, Program Specialist, Policy Development Division, U.S. Department of Education, 600 Independence Avenue SW, (Room 3053, ROB–3), Washington, DC 20202–5447, Telephone (202) 708–8242. Written comments should be submitted to Ms. Bell at this address.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday. Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the previous paragraph.

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

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To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free through either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office at (202) 512–1530 or, toll free at 1–888–293–6498.

Anyone may view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of this document is the document published in the **Federal Register**.

Dated: July 6, 1998.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 98–18698 Filed 7–13–98; 8:45 am]

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Part VI

Department of Labor

Mine Safety and Health Administration

30 CFR Part 75

Safety Standards for Underground Coal Mine Ventilation; Proposed Rule

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DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 75

RIN 1219–AB10

Safety Standards for Underground Coal Mine Ventilation

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Proposed rule.

SUMMARY: MSHA is proposing to amend the examination interval for preshift examinations of underground coal mines by requiring preshift examinations to be conducted at 8-hour intervals. After MSHA promulgated a comprehensive revision of its ventilation standards in March of 1996, the United States Court of Appeals for the District of Columbia Circuit (Court) reviewed the validity of the rule. On June 17, 1997, the Court issued an order invalidating, on procedural grounds only, the provision relating to the interval for preshift examinations. This proposed rule would be essentially the same as the standard that was promulgated in 1996 and invalidated by the Court on procedural grounds. The proposed rule would clarify both when a preshift examination would be required and the length of the shift covered by the preshift examination.

DATES: Comments must be submitted on or before September 14, 1998. Submit written comments on the information collection no later than September 14, 1998.

ADDRESSES: Comments by electronic mail must be clearly identified as such and sent to this e-mail address: comments@msha.gov. Comments by fax must be clearly identified as such and sent to: MSHA, Office of Standards, Regulations, and Variances, 703–235–5551. Send mail comments to: MSHA, Office of Standards, Regulations, and Variances, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203–1984. Commenters are encouraged to submit comments to MSHA on a computer disk along with their original comments in hard copy. Submit written comments on the information collection requirement to MSHA at the address above and to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Bldg., 725 17th St. NW., Rm. 10235, Washington, DC 20503, Attn: Desk Officer for MSHA.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, MSHA: 703–235–1910.

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act

This proposed rule contains an information collection which is subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA 95). The title, description, and respondent description of the information collection are shown below with an estimate of the annual reporting burden. Included in the estimate is the time to conduct an additional preshift examination, the time to make a record, the time to obtain a countersignature from the mine foreman or equivalent mine official, and the time to file the form.

With respect to the following collection of information, MSHA invites comments on: (1) Whether the proposed collection of information is necessary for proper performance of the functions of the Agency, including whether the information will have practical utility; (2) the accuracy of the estimate by MSHA of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Description

Section 75.360(a)(1) would require that a certified person designated by the operator make a preshift examination within 3 hours preceding the beginning of any 8-hour interval during which any person is scheduled to work or travel underground. Presently § 75.360(f) requires a record of the results of each preshift examination, including a record of hazardous conditions and their locations found by the examiner during each examination and of the results and locations of air and methane measurements. The record must also include a notation that the hazardous conditions found during the preshift examination were corrected. This record must be countersigned by the mine foreman or equivalent mine official by the end of the mine foreman's or equivalent mine official's next regularly scheduled working shift. The mine operator has the option of conducting a portion of the additional preshift examination concurrently with the on-shift examination. In this instance, the additional preshift examination essentially would consist of the examination of outby areas not covered by an on-shift examination such as travelways, work areas, and electrical installations. Because large mines generally have longer outby travelways and more outby work areas and electrical installations to be examined than small mines, the additional time to perform the preshift examination would take longer in large mines. MSHA estimates that it would take an examiner an additional hour to conduct an additional preshift examination in a large underground coal mine and an additional 45 minutes in a small underground coal mine. An examiner would take about 30 minutes to make the record in a large mine and about 15 minutes in a small mine, and the mine foreman or equivalent mine official would take about 10 minutes to review and countersign the record in a large mine and about 5 minutes in a small mine.

Description of Affected Mines

The affected mines are underground coal mines. MSHA estimates that this provision annually would affect 127 underground coal mines (75 with fewer than 20 employees and 52 with 20 or more employees).

Information Collection Burden

Based on MSHA's traditional definition of "small mine" as one with fewer than 20 employees, the total estimated burden for all affected mines would be 78,001 hours, and compliance costs associated with such hours would be $2,182,000. Under MSHA's traditional definition, total burden to small mines would be 13,000 hours at a cost of $361,000. Specifically, small mines' burden hours and costs consist of: 9,000 hours related to conducting the additional preshift examination at a cost of $243,000; 3,000 hours related to making the record at a cost of $81,000; and 1,000 hours related to reviewing, countersigning and filing the record at a cost of $37,000. The total burden to large mines would be 65,001 hours at a cost of $1,821,000. Large mines' burden hours and costs consist of: 39,000 hours related to conducting the preshift examination at a cost of $1,053,000; 19,500 hours related to making the record at a cost of $527,000; and 6,501 hours related to reviewing, countersigning and filing the record at a cost of $241,000.

Using the SBA definition, when a "small mine" is defined as a mine with 500 or fewer employees, 126 of the 127 affected mines are considered small. Under this definition, 76,751 of the 78,001 burden hours are related to small mines. The costs related to the 76,751 burden hours are $2,147,000. Of the

76,751 burden hours: 47,250 hours are related to conducting the additional preshift examination at a cost of $1,276,000; 22,125 hours are related to making a record at a cost of $598,000; and 7,376 hours are related to reviewing and countersigning the record at a cost of $273,000. Burden hours to the one large mine affected would be 1,250 hours at a cost of $35,000.

Under § 3507(o) of PRA 95, the Agency has submitted a copy of this proposed rule to OMB for its review and approval of the information collection. Interested persons are requested to send comments regarding these burden estimates or any other aspect of this information collection, including suggestions for reducing this burden to: (1) the Office of Information and Regulatory Affairs, OMB, Attn: Desk Officer for MSHA, New Executive Office Bldg., 725 17th St. NW., Rm. 10235, Washington, DC 20503; and (2) Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, MSHA, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203.

II. Background

The preshift examination is a critically important, fundamental safety practice in the mining industry. It has historically been a primary means of determining the effectiveness of an underground coal mine ventilation system, and of detecting hazardous conditions and practices. The preshift examination has proven to be particularly effective because it provides a thorough safety check before work commences underground on the shift for which the examination is conducted. A preshift examination can detect developing hazards as well as existing hazards.

The Federal Mine Safety and Health Act of 1977 (Mine Act) contains interim mandatory safety standards that address preshift examinations. Interim standard § 303(d)(1) requires that preshift examinations be conducted "within 3 hours immediately preceding the beginning of any shift * * *." MSHA adopted this provision as a permanent safety standard in its regulations for underground coal mines, promulgating it in 1978 as 30 CFR 75.303(a).

Section 303(d)(2) of the Mine Act is another interim standard that addresses preshift examinations. It provides that no person, other than certified persons designated to conduct the examination, is permitted to enter any underground area, except during any shift, unless a preshift examination of such area has been made within 8 hours prior to the person entering the area. Under this provision, miners already working on a shift for which a preshift has been completed may remain working underground during the subsequent preshift examination being conducted for the oncoming shift. In 1978, MSHA adopted this provision as a permanent safety standard in its regulations for underground coal mines as 30 CFR 75.303(b).

The general practice in the mining industry at the time the Mine Act was enacted was for coal miners to work in shifts of 8 hours. Thus, the effect of the preshift examination requirement was that examiners conducted preshift examinations every 8 hours. Since 1977, overlapping work shifts and work shifts of various lengths (novel work shifts) have become common, making it necessary for MSHA to address this issue in its 1992 revisions to the ventilation standards for underground coal mines.

MSHA revised its preshift examination standards as part of a final rule for ventilation standards and retained the requirement that preshift examinations are to be conducted "within 3 hours preceding the beginning of any shift." However, in its preamble discussion to the 1992 ventilation final rule (57 FR 20893), MSHA interpreted this language to mean that if the mine used regular shifts that were longer than 8 hours in length, the preshift examination would apply to the entire length of the shift. The 1992 revisions continued to allow work to proceed underground during the preshift examination for the oncoming shift.

In 1994, the Agency proposed a new preshift examination rule in an attempt to clarify and standardize the application of certain provisions of the 1992 preshift examination rule. In the comments submitted to MSHA during the 1994 rulemaking, a segment of the mining community expressed concern that because of novel work schedules, preshift examinations were not being conducted frequently enough to assure safe working conditions. A second concern expressed was that conducting preshift examinations at intervals longer than 8 hours would reduce the protection afforded miners under the Mine Act. A final concern expressed was that MSHA introduced confusion into the preshift examination requirements when it interpreted the acceptable intervals for preshift examinations. Another segment of the public argued that by the language of § 303(d)(2) Congress tacitly accepted shifts longer than 8 hours with only one preshift examination required. The same segment of the public argued that a practice had built up over a period of time allowing not only longer shifts but also "excursions" where miners work over 8 hours under specific conditions. Finally, commenters representing both labor and industry recommended that MSHA adopt a rule requiring preshift examinations for each 8 hour period that miners are underground.

In response to these comments, the Agency substituted the phrase "8-hour interval" for the phrase "beginning of any shift" when it promulgated the 1994 proposed rule as a final rule in 1996. The 1996 standard thus required a preshift examination, "* * * within 3 hours preceding the beginning of any 8-hour interval during which any person is scheduled to work or travel underground * * *". MSHA also acknowledged in the preamble to the final rule (61 FR 9791) that, in accordance with longstanding practice, unplanned short excursions past the 8-hour period that occur infrequently are accepted without an additional preshift examination.

In the preamble to the 1996 final rule (61 FR 9791), MSHA discussed its rationale for adopting an 8-hour preshift examination rule. MSHA stated that:

> * * * MSHA agrees with commenters that evolution within the industry in shift scheduling has presented a number of questions and controversies regarding the standard which must be resolved to assure that proper preshift examinations are conducted within suitable time frames. Based on comments, the final rule adopts a modification to clarify and standardize the application of the preshift examination in recognition of the use of novel shifts while maintaining the protection of the existing standard. * * *
>
> Underground working schedules of three 8-hour shifts per day were virtually standard when the previous rule was implemented. Currently a substantial number of mining operations have work shifts of more than 8 hours. Other operations stagger or overlap shifts providing for continuous underground mining activities. Some mines that operate around the clock schedule persons to begin shifts at one- or two-hour intervals. In such cases, controversies and misunderstandings have developed regarding application of the current standard.

In adopting an 8-hour preshift requirement, the Agency also agreed (61 FR 9791) with comments suggesting that "the original legislation of the Mine Act envisioned that preshift examinations would be conducted for each 8-hour interval that persons worked underground." MSHA reached this conclusion both from the traditional practice at the time of the legislation and from the language of § 303(d)(2) of the Mine Act.

On June 17, 1997, the United States Court of Appeals for the District of

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Columbia Circuit, in *National Mining Association v. Mine Safety and Health Administration and Secretary of Labor (MSHA)*, 116 F.3d 520, (D.C. Cir. 1997) issued an order granting a petition for review on the National Mining Association's challenge of 30 CFR 75.360(a) relating to preshift examinations. The court acknowledged that the approach used by MSHA in adopting the 8-hour time interval for the preshift examination was a reasonable one,[1] but invalidated the provision on procedural grounds due to lack of sufficient notice to the parties in the rulemaking (supra 116 F.3d 520, 530). The effect of the decision was to reinstate the portion of the previous regulation that requires a preshift examination to be conducted prior to the beginning of any shift. MSHA published a **Federal Register** document on June 30, 1997 (62 FR 35085) conforming the language of the existing standard to the Court's order.

MSHA continues to believe that it is necessary to address the issues surrounding the preshift examination interval. The standard must provide for sufficient protection, be clear in its recommendations, and be properly implemented to ensure safe working conditions in underground coal mines. Accordingly, MSHA encourages all parties to fully express their viewpoints during this rulemaking to assist the Agency in promulgating a final rule that most appropriately addresses the safety of our nation's underground coal miners.

III. Discussion

Section 75.360 Preshift Examination at Fixed Intervals

Existing § 75.360(a)(1) of the MSHA ventilation standards provides

> Except as provided in paragraph (a)(2) of this section, a certified person designated by the operator shall make a preshift examination within 3 hours preceding the beginning of any shift during which any person is scheduled to work or travel underground. No person other than certified examiners may enter or remain in any underground area unless a preshift examination has been completed for the shift.

Proposed paragraph (a)(1) would modify the existing language of § 75.360(a)(1) to require preshift examinations at fixed 8-hour intervals. It would replace the word "shift" with the phrase "8-hour interval". In addition, the proposed rule would add the sentence, "The operator shall establish the 8-hour intervals of time subject to the required preshift examinations."

The Agency believes that, considering the speed at which underground conditions can change, a reasonable period must be identified after which another examination is necessary. For example, methane, an explosive gas naturally occurring in coal mines, commonly builds up over time, especially in newly mined areas. Methane may also accumulate in other areas, such as where water accumulation interferes with mine ventilation. A preshift examination should result in the detection of this explosive gas and the timely correction of the condition before it reaches a hazardous level. Also, the roof and ribs tend to deteriorate over time in outby entries used as travelways and on the sections of a mine where miners are assigned to work. Roof pressures and subsequent falls can damage ventilation controls, resulting in hazardous conditions. Equipment damaged by a roof fall, including belt haulage systems or trolley wire systems, can lead to mine fires or explosions. A preshift examination provides a vehicle to detect these developing hazards.

MSHA has reviewed the history of fatalities that have occurred at underground coal mines since 1990 to determine if any of the fatalities occurred more than 8 hours after the start of the shift, and therefore may have been prevented had the proposed rule been in place. MSHA has placed in the rulemaking record 32 fatal accident reports of MSHA investigations conducted since 1990 in which the accident was identified as occurring more than 8 hours into the shift. At least six of the reports, representing seven fatalities, address instances where an additional preshift examination might have identified the hazards that resulted in the fatalities and allowed an opportunity for corrective action.[2] This is approximately 3 percent of the total number of fatalities which occurred at underground coal mines during this time period.

In reviewing these accident reports, MSHA recognizes the difficulty in determining whether an additional preshift examination would have prevented a specific fatality from occurring, particularly since prior examinations had in some cases failed to identify the hazardous conditions or practices. However, MSHA does not concede that subsequent examinations will necessarily fail in their purpose simply because one or more previous examinations may have been inadequate. A preshift examination conducted at 8-hour intervals would provide an opportunity for the examiner to identify hazardous conditions or practices that may have been overlooked in an earlier examination. It should also be noted that the conditions in a mine may have further deteriorated after 8 hours into the shift, and that the same examiner or a different examiner conducting the additional preshift examination might have identified the hazard and caused appropriate actions to be taken to correct the condition and protect the safety of the miners.

It is not the intent of the Agency that the preshift examination be a continuous examination without a beginning or an end. Once a preshift examination has been conducted, an additional preshift examination would not be necessary during the 8-hour interval covered by the preshift examination simply because persons start to work after the beginning of the normal shift start time. Under the proposed rule, persons could enter or leave the mine, regardless of their shift schedule, during any established 8-hour period for which a preshift examination has been conducted. However, another preshift examination must be completed prior to the beginning of the next 8-hour interval if any persons, other than examiners, remain in the mine during the next 8-hour interval or are scheduled to enter the mine during the oncoming interval. For example, if the established time interval for the 8-hour preshift examination covers the period from 8:00 a.m. to 4:00 p.m., no one except mine examiners may enter the mine or remain underground after 4:00 p.m. unless a preshift examination has been conducted for the 8-hour interval beginning at 4:00 p.m. As with the existing standard, no person other than examiners may enter any underground area that is subject to a preshift examination prior to the completion of the preshift examination for that area. Also, supplemental examinations continue to be required under § 75.361 before anyone enters areas of the mine that had not had a preshift examination.

The proposal would require one preshift examination at mines that operate with only one 8-hour shift per day. If the mine uses regular shifts that are longer than 8 hours in length, the preshift examination would cover an 8-hour interval. The proposal would require three preshift examinations where persons are underground for more than 16 hours per day. For example, at a mine operating two 10-hour shifts per day, the proposed rule would require three examinations per day. As with the existing standard, the proposed rule would not require examinations for designated 8-hour periods when no one enters the mine. Also consistent with the existing standard, no one, except other designated preshift examiners, may accompany a preshift examiner during the examination.

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[1] The Court stated, "At the least, 30 CFR 75.360(a)(1) is a reasonable interpretation of open-ended statutory language. * * * We see no reason why we should not think of 30 CFR 75.360(a)(1) as just such an 'improved mandatory safety standard[]' issued in light of changed circumstances in the mining industry." (116 F.3d 520, 530)

[2] The accidents are: Linda Enterprise, Inc., #31-A mine, March 23, 1990, 1 fatality; Waco Limited Partnership No.1, No. 2 mine, December 18, 1995, 1 fatality; Miller Branch Enterprises, Inc., No. 1 mine, 1 fatality; MAG Inc., Alloy Deep Mine #2, October 2, 1993, 1 fatality; M&D Coal Co., Inc., No. 3 mine, August 15, 1996, 1 fatality; and Day Branch Coal Co., Inc., No. 9 mine, May 11, 1994, 2 fatalities.

MSHA recognizes that the proposed rule may cause some mine operators to perform additional examinations that are not currently required. For example, some mines operate single or multiple extended shifts of up to 14 hours each. Mines that are not currently conducting preshift examinations at 8-hour intervals during extended shifts would be impacted by the proposed rule. The proposed rule would require additional preshift examinations at these mines. During the 1996 MSHA ventilation rulemaking and subsequent litigation, a segment of the mining community expressed the view that extended and novel work shifts are being used more frequently by mine operators and that the time interval for preshift examinations should not be limited to 8 hours. The Agency solicits comments on the benefits and hazards associated with an alternative approach to preshift examinations that would permit an 8½, 9, or up to a 10-hour interval for preshift examinations. The Agency specifically solicits comments on any benefits and hazards that may be associated with this alternative approach.

Earlier comments suggested that the longstanding MSHA practice of accepting certain excursions beyond the 8-hour preshift examination time interval should be continued. MSHA has permitted excursions in the past when miners are required to stay beyond an 8-hour shift to catch up on production, perform mechanical repairs, install roof support, or as a result of a mantrip delay. The Agency solicits comments on: whether any excursions should be permitted beyond 8 hours without an additional examination; the maximum length of any such excursion; and the safety impact of such an excursion.

A commenter has stated that requiring preshift examinations every 8 hours creates overlaps and confusion with State laws, specifically the laws of West Virginia. While MSHA is not barred from promulgating otherwise appropriate safety and health standards because they may result in additional responsibilities for operators, neither does the Agency desire to impose requirements that are confusing or unduly burdensome.

A commenter in the 1996 ventilation rulemaking also suggested that the regulation should stipulate specific times for examinations, such as 12:00 midnight, 8:00 a.m., and 4:00 p.m. as the beginning of the 8-hour intervals for which preshift examinations would be required. MSHA believes there is no safety or health benefit to be gained through prohibiting operators from adopting other 8-hour intervals, e.g., 10:00 p.m., 6:00 a.m., and 2:00 p.m., to accommodate their individual operations and the proposed standard would therefore allow operators the flexibility to establish their own shift schedules. For example, an operator may elect a starting time of 11:00 a.m. for a weekend project, provided the preshift examination is conducted within the 3 hours prior to the beginning of the shift.

As proposed, the preshift examination would be conducted within 3 hours preceding the beginning of any 8-hour interval. For accuracy, the title of § 75.360 would be changed from "Preshift examination" to "Preshift examination at fixed intervals." The text of the proposed standard and the preamble discussion of the standard would continue to refer to the examination as the "preshift examination." Because of the history of the term and the widespread understanding in the industry of the safety checks required by a preshift examination, MSHA is proposing to continue the use of the term "preshift examination" in the body of the standard and to continue to refer to the examination as the preshift examination.

IV. Executive Order 12866 and Regulatory Flexibility Act

Executive Order 12866 requires that agencies assess both the costs and benefits of proposed regulations. MSHA has determined that this proposed rule does not meet the criteria of a significant regulatory action and, therefore, has not prepared a separate analysis of costs and benefits. All of the compliance costs of this proposed rule are paperwork related costs. Thus, the derivation of the compliance costs that are summarized in this document are contained in the paperwork package that was submitted to the Office of Management and Budget. Copies of the paperwork package are available upon request from MSHA, Office of Standards, Regulations, and Variances (703–235–1910).

Benefits

A timely preshift examination in underground coal mines is a primary method of assuring safety to miners. Coal miners rely on the preshift examination to provide protection and often take it for granted that an adequate examination has been conducted.

There is a potential for multiple fatalities in an underground coal mine when explosive quantities of methane exist or when a roof deteriorates and falls. It is extremely difficult to specifically quantify safety benefits related to a particular safety factor such as a preshift examination. Due to the hazardous environment that miners work in, an unsafe condition or work practice could jeopardize the well-being of all miners underground.

As discussed earlier, MSHA has identified seven fatalities, associated with six mining accidents that have occurred since 1990, which could potentially have been prevented if the requirements of the proposed rule were followed. This is approximately 3 percent of the total number of fatalities which occurred at underground coal mines during this time period.

During this same period of time there were 59,000 injuries for all underground coal mines. Although the reports of the accidents do not permit us to make a precise analysis of the causes of all the injuries, if we were to extrapolate using the same 3 percent that we used for fatalities the Agency predicts that 1,770 injuries might have been prevented. MSHA believes that if a preshift examination had been conducted at the intervals that would be established by the proposed rule, it is reasonable to expect that the examiners would have identified at least some of the hazardous conditions or practices resulting in the injuries and fatalities. MSHA realizes that in some cases this assumes that the additional preshift examinations would have identified hazardous conditions or practices that earlier examinations failed to recognize. However, an additional examination would afford the mine operator with another opportunity to identify hazards. MSHA believes that this position is reasonable and that subsequent examinations could discover hazardous conditions or practices, even though earlier examinations may have been inadequate. Furthermore, the requirement that a preshift examination be conducted during every 8-hour interval is not unreasonable in light of the fact that within such a time period it is possible that conditions in a mine

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can deteriorate. It was in this spirit that Congress originally enacted the interim preshift examination standards which envisioned such examinations occurring for each 8-hour shift.

Therefore, MSHA has found it prudent to take a conservative approach and propose an 8-hour interval for preshift examinations to provide adequate protection for miners. This proposed rule should decrease the occurrence of fatalities, injuries, and accidents in underground coal mines.

Compliance Costs

MSHA estimates that approximately 127 underground coal mine operators would need to conduct an additional preshift examination. Based on a small mine definition of fewer than 20 employees, about 75 of the mines are small mines and 52 are large mines. The mine operator has the option of conducting a portion of the additional preshift examination concurrently with the on-shift examination. Therefore, the compliance costs of the additional preshift examination essentially consist of the cost of the examination of outby areas not covered by an on-shift examination, such as travelways, work areas, and electrical installations.

The proposed rule is estimated to cost about $2,182,000 per year, of which small mine operators (those with fewer than 20 employees) would incur about $361,000 per year and large mine operators would incur $1,821,000 per year.

V. Regulatory Flexibility Act (RFA) and Small Business Regulatory Enforcement Fairness Act (SBREFA)

The RFA requires regulatory agencies to consider a rule's impact on small entities. Under the SBREFA amendments to the RFA, MSHA must use the Small Business Administration (SBA) definition for a small mine of 500 or fewer employees or, after consultation with the SBA Office of Advocacy, establish an alternative definition for the mining industry by publishing that definition in the **Federal Register** for notice and comment. MSHA traditionally has considered small mines to be those with fewer than 20 employees. For the purposes of the RFA and this certification, MSHA has analyzed the impact of the proposed rule on all affected mines with 500 or fewer employees, as well as on those with fewer than 20 employees.

The Agency has provided a copy of this proposed rule and regulatory flexibility certification statement to the SBA Office of Advocacy. In addition, MSHA will mail a copy of the proposed rule, including the preamble and regulatory flexibility certification statement, to all mine operators and miners' representatives.

Regulatory Flexibility Certification

In accordance with section 605 of the RFA, MSHA certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities. No small governmental jurisdictions or nonprofit organizations are affected.

Under the SBREFA amendments to the RFA, MSHA must include a factual basis in the proposed rule for this certification. The Agency also must publish the regulatory flexibility certification in the **Federal Register**, along with its factual basis, followed by an opportunity for comment by the public.

Factual Basis for Certification

The underlying data in Table I shows that the compliance costs of this proposed rule does not exceed 1 percent of the estimated revenues of the underground coal mines affected by this proposed rule. When small underground coal mines affected by this proposed rule are defined as those that employ fewer than 20 employees, then small mines account for about $361,000 of the total compliance costs and estimated revenues of such mines are approximately $50.2 million. Thus compliance costs as a percent of estimated revenues for the affected mines are 0.72 percent. When small underground coal mines affected by this proposed rule are defined as those that employ 500 or fewer employees, then small mines account for $2,147,000 of the total compliance costs and estimated revenues of such mines are approximately $641,237,000. In this case compliance costs as a percentage of estimated revenues for the affected mines are 0.33 percent.

TABLE I.—COSTS AND REVENUES FOR AFFECTED UNDERGROUND COAL MINES

Section 75.360(a)(1)	Proposed rule costs (thous.)	Estimated revenues of affected mines (thous.)	Costs as percent of revenues
Small Mines (<20)	$361	$50,200	0.72
Small Mines (≤500)	$2,147	$641,237	0.33

This proposed rule would not have a significant impact on a substantial number of small entities that are affected by this rule.

VI. Unfunded Mandates and Executive Order 12875

For purposes of the Unfunded Mandates Reform Act of 1995, as well as E.O. 12875, this proposed rule does not include any Federal mandate that may result in increased expenditures by State, local, and tribal governments, or increased expenditures by the private sector of more than $100 million.

VII. Executive Order 13045

In accordance with Executive Order 13045, MSHA has evaluated the environmental health or safety effect of the proposed rule on children. The Agency has determined that the proposal will have no effect on children.

List of Subjects in 30 CFR Part 75

Mine safety and health, Reporting and recordkeeping requirements, Underground coal mining, Ventilation.

Dated: July 8, 1998.

J. Davitt McAteer,

Assistant Secretary for Mine Safety and Health.

Accordingly, it is proposed to amend part 75, subchapter O, chapter I, title 30 of the Code of Federal Regulations as follows:

PART 75—MANDATORY SAFETY STANDARDS—UNDERGROUND COAL MINES

1. The authority citation for part 75 continues to read as follows:

Authority: 30 U.S.C. 811.

2. In subpart D of Part 75, in § 75.360, revise the section heading and paragraph (a)(1) to read as follows:

§ 75.360 Preshift examination at fixed intervals.

(a)(1) Except as provided in paragraph (a)(2) of this section, a certified person designated by the operator shall make a preshift examination within 3 hours preceding the beginning of any 8-hour interval during which any person is scheduled to work or travel underground. No person other than certified examiners may enter or remain in any underground area unless a preshift examination has been completed for the established 8-hour interval. The operator shall establish 8-hour intervals of time subject to the required preshift examinations.

* * * * *

[FR Doc. 98–18687 Filed 7–13–98; 8:45 am]

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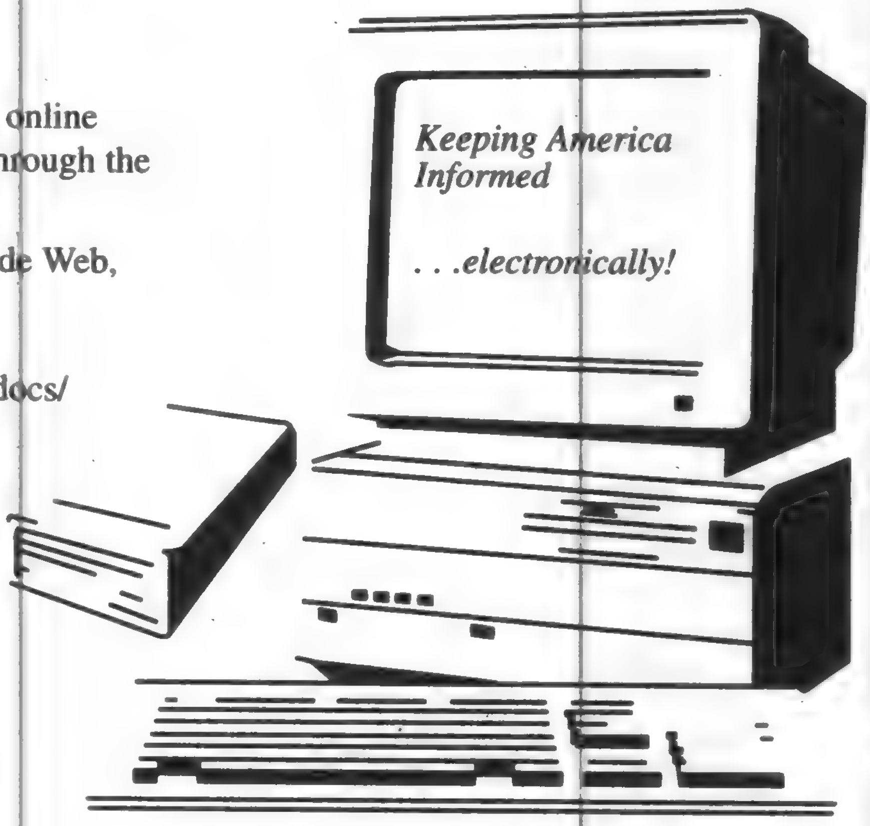

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Title 3—

The President

Proclamation 7108 of July 13, 1998

50th Anniversary of the Integration of the Armed Services, 1998

By the President of the United States of America

A Proclamation

On July 26, 1948, with the stroke of a pen, President Harry Truman changed the course of American history. By signing Executive Order 9981, "Establishing the President's Committee on Equality of Treatment and Opportunity in the Armed Services," he officially declared that "there shall be equality of treatment and opportunity for all persons in the armed services without regard to race, color, religion or national origin." His action reflected the growing realization by more and more Americans that our Nation could no longer reconcile segregation with the values we had fought a war to uphold.

The United States had emerged from World War II with a new understanding of the importance of racial and ethnic diversity to our Nation's strength and unity. Nazi racism and the horrors of the concentration camps shocked Americans and revealed the true dangers of prejudice and discrimination. Hundreds of thousands of our fellow citizens from many different ethnic and racial backgrounds served and sacrificed in the war. The valor of segregated African American soldiers—from the Tuskegee Airmen and the 761st Tank Battalion to individuals like General Benjamin O. Davis and General Daniel "Chappie" James—could not be ignored. These heroes risked their lives for our country overseas, and yet still faced discrimination here at home. By signing Executive Order 9981, President Truman set America on the path to right this wrong.

We have come a long way in the subsequent 50 years, and the United States Armed Forces have been in the vanguard of our crusade to abolish discrimination in our society. Today our men and women in uniform represent so many aspects of the diversity that has made our Nation great, and they have proved that different people, sharing the same values, can work together as a mighty force for peace and freedom at home and around the world. We still have much to accomplish in our journey to become a society that respects our differences, celebrates our diversity, and unites around our shared values, but we should proudly mark the milestones on that journey and rejoice in the progress we have made thus far.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim July 26, 1998, as the 50th Anniversary of the Integration of the Armed Services. I call upon all Americans to observe this day with appropriate programs, ceremonies, and activities.

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IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of July, in the year of our Lord nineteen hundred and ninety-eight, and of the Independence of the United States of America the two hundred and twenty-third.

William J. Clinton

[FR Doc. 98–19040
Filed 7–14–98; 8:45 am]
Billing code 3195–01–P

Rules and Regulations

Federal Register
Vol. 63, No. 135
Wednesday, July 15, 1998

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM147; Special Conditions No. 25–139–SC]

Special Conditions: Boeing Model 757–300; High-Intensity Radiated Fields

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Boeing Model 757–300 airplane. This airplane will utilize new avionics/electronic systems that provide critical data to the flightcrew. The applicable regulations do not contain adequate or appropriate safety standards for the protection of these systems from the effects of high-intensity radiated fields. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

EFFECTIVE DATE: August 14, 1998.

FOR FURTHER INFORMATION CONTACT: John Dimtroff, FAA, Airplane and Flight Crew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98055–4056, telephone (425) 227–2117 or facsimile (425) 227–1320.

SUPPLEMENTARY INFORMATION:

Background

On February 21, 1996, the Boeing Commercial Airplane Group, P. O. Box 3707, Seattle, Washington 98124–2207, applied for an amendment to Type Certificate No. A2NM to include the new Model 757–300, a derivative of the 757–200. The 757–300 is a swept-wing, conventional-tail, twin-engine, turbofan-powered transport. Each engine is capable of delivering 43,100 pounds of thrust. The flight controls are unchanged beyond those changes deemed necessary to accommodate the stretched configuration. The airplane has a seating capacity of up to 295, and a maximum takeoff weight of 270,000 pounds (122,470 Kg).

Type Certification Basis

Under the provisions of Title 14 CFR 21.101, Boeing must show that the Model 757–300 meets the applicable provisions of the regulations incorporated by reference in Type Certificate No. A2NM, or the applicable regulations in effect on the date of application for the change to the Model 757–300. The regulations incorporated by reference in the type certificate are commonly referred to as the "original type certification basis." The regulations incorporated by reference in Type Certificate No. A2NM include 14 CFR part 25, as amended by Amendments 25–1 through 25–45, and certain other later amended sections of part 25 that are not relevant to these special conditions. Except for certain earlier amended sections of part 25 that are not relevant to these special conditions, Boeing has chosen to comply with part 25 as amended by Amendments 25–1 through 25–85, the applicable regulations in effect on the date of application. In addition to the applicable airworthiness regulations and special conditions, the 757–300 must comply with the fuel vent and exhaust emission requirements of part 34, effective September 10, 1990, plus any amendments in effect at the time of certification; and the noise certification requirements of part 36, effective December 1, 1969, as amended by Amendment 36–1 through the amendment in effect at the time of certification. These special conditions form an additional part of the type certification basis.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25, as amended) do not contain adequate or appropriate safety standards for the 757–300 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16 to establish a level of safety equivalent to that established in the regulations.

Special conditions, as appropriate, are issued in accordance with § 11.49 of the FAR after public notice, as required by §§ 11.28 and 11.29(b), and become part of the type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Novel or Unusual Design Features

The 757–300 airplane avionics enhancement utilizes electronic systems that perform critical functions, including the following airframe Line Replaceable Units (LRU): Multi-Mode Receiver (MMR), Flight Control Computer (FCC), Yaw Damper Stabilizer Trim Module (YSM), Air Data Inertial Reference System (ADIRS), and the Allied Signal Radio Altimeter (RA). These systems may be vulnerable to high-intensity radiated fields (HIRF) external to the airplane.

Discussion

There is no specific regulation that addresses protection requirements for electrical and electronic systems from HIRF. Increased power levels from ground based radio transmitters, and the growing use of sensitive electrical and electronic systems to command and control airplanes, have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved equivalent to that intended by the regulations incorporated by reference, special conditions are needed for the 757–300, which require that new technology electrical and electronic systems, such as the MMR, FCC, YSM, ADIRS, and RA, be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of HIRF.

High-Intensity Radiated Fields

With the trend toward increased power levels from ground based transmitters, plus the advent of space and satellite communications, coupled with electronic command and control of

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the airplane, the immunity of critical digital avionics systems to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling of electromagnetic energy to cockpit-installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special condition is shown with either paragraphs 1 or 2 below:

1. A minimum threat of 100 volts per meter peak electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the following field strengths for the frequency ranges indicated.

Frequency	Field strength (volts per meter)					
	US		UK/European		Consolidated	
	Peak	Avg.	Peak	Avg.	Peak	Avg.
10 kHz–100 kHz	30	30	50	50	50	50
100 kHz–500 kHz	40	30	60	60	60	60
500 kHz–2 MHz	30	30	70	70	70	70
2 MHz–30 MHz	190	190	200	200	200	200
30 MHz–70 MHz	20	20	30	30	30	30
70 MHz–100 MHz	20	20	30	30	30	30
100 MHz–200 MHz	30	30	150	30	150	30
200 MHz–400 MHz	30	30	70	70	70	70
400 MHz–700 MHz	80	80	700	40	700	80
700 MHz–1 GHz	690	240	1700	80	1700	240
1 GHz–2 GHz	970	70	5000	360	5000	360
2 GHz–4 GHz	1570	350	4500	360	4500	360
4 GHz–6 GHz	7200	300	5200	300	7200	300
6 GHz–8 GHz	130	80	2000	330	2000	330
8 GHz–12 GHz	2100	80	3500	270	3500	270
12 GHz–18 GHz	500	330	3500	180	3500	330
18 GHz–40 GHz	780	20	NA	NA	780	20

The field strengths are expressed in terms of peak root-mean-square (rms) values.

The threat levels identified above differ from those used in previous special conditions and are the result of an FAA review of existing studies on the subject of HIRF, in light of the ongoing work of the Electromagnetic Effects Harmonization Working Group of the Aviation Rulemaking Advisory Committee. In general, these standards are less critical than the threat level that was previously used as the basis for earlier special conditions

Discussion of Comments

Notice of Proposed Special Conditions No. 25–98–02–SC for the 757–300 was published in the **Federal Register** on March 25, 1998 (63 FR 14381). Three commenters responded.

The first commenter, representing the interests of airline pilots, concurs with the special conditions as proposed.

The second commenter, the United Kingdom Civil Aviation Authority (CAA), states that harmonized HIRF requirements and associated guidance material arising from FAA/Joint Aviation Authorities (JAA) participation in a working group of the Aviation Rulemaking Advisory Committee (ARAC) are well established and known to the FAA and should be applied by the FAA where special conditions of this nature are required. The commenter also states that the JAA has applied the harmonized requirements and means of compliance, and as the FAA may be faced with finding compliance on behalf of the JAA, it may be inappropriate for the FAA to apply any special condition or means of compliance that is not in accordance with the harmonized standards.

The FAA concurs with this commenter; however, at the time of application for certification of the 757–300, the requirements depicted in the certification program were not fully harmonized. The HIRF requirements in place at the time were as depicted in the proposed special condition. Future airplane certification programs will include the fully harmonized requirements. Also, Boeing can elect to use the newer, harmonized requirement table if they so choose.

The applicant, Boeing Commercial Airplane Group, also provided comments on the proposed special conditions. Boeing does not believe a HIRF special condition should be applied to existing production airplane models. The FAA does not agree. Section 21.101 of 14 CFR part 21 states that special conditions can be applied to both new and substantially complete redesigns of a component, equipment installation, or system installation. Upgrades of existing production airplanes, if the upgrade incorporates new or substantially complete redesigns of a component, equipment installation, or system installation, do fall within the scope of § 21.101.

Boeing also states that applying the HIRF special conditions would deter them from upgrading existing airplane models. The FAA has consistently applied the requirements in the HIRF special condition to avionics upgrades of existing production model airplanes. Many of these upgrades have been in the form of supplemental type certifications on Boeing airplanes and were designed and installed by applicants other than Boeing. The special conditions have not deterred other applicants from upgrading existing Boeing airplanes. Also, Boeing already applies the requirements within the HIRF special conditions to existing production model airplanes. When Boeing certified the Model 777–200 and the Model 777–300, components, equipment installations, or system installations from the Model 777–200, which were new or substantially redesigned, were shown to comply with the requirements of the HIRF special condition. When the engines on the Model 767 were upgraded to include Full Authority Digital Engine Controls

(FADECs), the FADECs were shown to comply with the HIRF special conditions. The FAA HIRF requirements have been consistent, and Boeing has been aware of and complied with these requirements for several years.

Boeing further states that the HIRF special condition would effectively deter them from upgrading electronic equipment that incorporates safety and reliability enhancing features. The FAA requirements in the HIRF special condition reflect the need to address a known environmental hazard, recognized by the technical and regulatory community worldwide. Protection against this known environmental hazard is required by FAA for all systems performing functions whose failure would contribute to or cause a catastrophic failure condition that would prevent the continued safe flight and landing of the airplane. This policy applies, regardless of whether the new or significantly changed component, equipment, or system is intended to improve an unrelated safety or reliability issue. Improving one aspect of safety or reliability should not degrade another aspect of safety.

The FAA has consistently applied the requirements in the HIRF special conditions to certification programs for over 12 years, regardless of whether the certification was based on a new airplane type, or a change to an existing airplane. Changing this policy for one model of Boeing airplanes would not be consistent with the FAA policy over the last 12 years. Therefore, special conditions for the 757–300 are adopted as proposed in Notice 25–98–02–SC.

Applicability

As discussed above, these special conditions are applicable initially to the Model 757–300 airplane. Should Boeing apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well, under the provisions of § 21.101(a)(1).

Conclusion

This action affects certain design features only on the Model 757–300. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on this model.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Boeing Model 757–300 series airplanes.

1. *Protection from Unwanted Effects of High-Intensity Radiated Fields (HIRF).* Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high-intensity radiated fields.

2. For the purpose of this special condition, the following definition applies:

Critical Functions. Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Renton, Washington, on July 7, 1998.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–18857 Filed 7–14–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–41–AD; Amendment 39–10651; AD 98–15–01]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–145 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain EMBRAER Model EMB–145 series airplanes, that requires a one-time inspection to detect bulging or cracking of the pitot 1 and pitot 2 drain tubes in the forward electronic compartment; and cleaning the tubes or replacing drain tubes with new tubes, if necessary. This amendment also requires modification of the pitot/static system. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to detect and correct bulging and cracking of the pitot 1 and pitot 2 drain tubes in the forward electronic compartment caused by cycles of water freezing and expanding inside the tubes, which could result in erroneous airspeed indications to the flight crew and reduced operational safety in all phases of flight.

DATES: Effective August 19, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 19, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Neil Berryman, Aerospace Engineer, Systems and Flight Test Branch, ACE–116A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30337–2748; telephone (770) 703–6066; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain EMBRAER Model EMB–145 series airplanes was published in the **Federal Register** on April 8, 1998 (63 FR 17130). That action proposed to require a one-time inspection to detect bulging or cracking of the pitot 1 and pitot 2 drain tubes in the forward electronic compartment; and cleaning the tubes or replacing drain tubes with new tubes, if necessary. That action also proposed modification of the pitot/static system.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

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Request to Provide Option for Compliance With Inspection

One commenter suggests that clarification should be added to paragraph (b) of the proposed AD to specify that if operators have accomplished the actions described in EMBRAER Service Bulletin 145–34–0008, it is no longer necessary to accomplish the one-time visual inspection described in EMBRAER Service Bulletin 145–34–0010, as required by paragraph (a) of the proposed AD. The commenter states that EMBRAER Service Bulletin 145–34–0008 accomplishes the same system check as that specified in EMBRAER Service Bulletin 145–34–0010 and, in addition, replaces the problem lines.

The FAA agrees that accomplishment of the actions specified in EMBRAER Service Bulletin 145–34–0008, dated September 10, 1997, would eliminate the need to accomplish the one-time visual inspection described in EMBRAER Service Bulletin 145–34–0010, Change 01, dated September 25, 1997. A new paragraph (c) has been added to this final rule to remove the requirement to accomplish paragraph (a) if the action required by paragraph (b) has been accomplished prior to the effective date of this AD, or is accomplished within the compliance time specified in paragraph (a).

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 15 airplanes of U.S. registry will be affected by this AD.

It will take approximately 2 work hours per airplane to accomplish the required inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection required by this AD on U.S. operators is estimated to be $1,800, or $120 per airplane.

In addition, it will take approximately 2 work hours per airplane to accomplish the modification required by this AD, at an average labor rate of $60 per work hour. Required parts will be supplied by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the modification required by this AD on U.S. operators is estimated to be $1,800, or $120 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

98–15–01 Empresa Brasileira de Aeronautica, S.A. (EMBRAER): Amendment 39–10651. Docket 98–NM–41–AD.

Applicability: Model EMB–145 series airplanes, serial numbers 145004 through 145028 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct bulging and cracking of the pitot 1 and pitot 2 drain tubes in the forward electronic compartment, which could result in erroneous airspeed indications to the flight crew and reduced operational safety in all phases of flight, accomplish the following:

(a) Except as provided by paragraph (c) of this AD, within 50 hours time-in-service after the effective date of this AD, perform a one-time visual inspection to detect bulging or cracking of the pitot 1 and pitot 2 drain tubes in the forward electronic compartment, in accordance with EMBRAER Service Bulletin 145–34–0010, Change 01, dated September 25, 1997.

(1) If no bulging or cracking is detected, prior to further flight, clean the pitot tubes in accordance with the service bulletin.

(2) If any bulging or cracking is detected in any drain tube, prior to further flight, replace the pitot drain tube with a new tube in accordance with the service bulletin.

Note 2: Accomplishment of the visual inspection, cleaning, or replacement of the pitot 1 and pitot 2 drain tubes prior to the effective date of this AD in accordance with EMBRAER Service Bulletin 145–34–0010, dated July 25, 1997, is considered acceptable for compliance with the applicable action specified by paragraph (a) of this AD.

(b) Within 400 hours time-in-service after the effective date of this AD: Modify the pitot/static system in accordance with EMBRAER Service Bulletin 145–34–0008, dated September 10, 1997.

(c) For airplanes on which the modification required by paragraph (b) of this AD has been accomplished prior to the effective date of this AD, or is accomplished within the compliance time specified in paragraph (a) of this AD (i.e., within 50 hours time-in-service after the effective date of this AD), the one-time visual inspection specified in paragraph (a) of this AD is not required.

(d) As of the effective date of this AD, no person shall install a pitot/static system on any airplane, unless it has been modified in accordance with EMBRAER Service Bulletin 145–34–0008, dated September 10, 1997.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA, Small Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(g) The actions shall be done in accordance with the following EMBRAER service bulletins, which contain the specified list of effective pages:

Service bulletin referenced and date	Page number shown on page	Revision level shown on page	Date shown on page
145–34–0010, Change 01, September 25, 1997	1, 2 3–9	1 Original	September 25, 1997. July 25, 1997.
145–34–0008, September 10, 1997	1–22	Original	September 10, 1997.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in Brazilian airworthiness directive 97–07–12R1, dated November 3, 1997.

(h) This amendment becomes effective on August 19, 1998.

Issued in Renton, Washington, on July 6, 1998.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–18470 Filed 7–14–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–87–AD; Amendment 39–10656; AD 98–15–05]

RIN 2120–AA64

Airworthiness Directives; British Aerospace Model BAe 146–200A Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain British Aerospace Model BAe 146–200A series airplanes, that requires a one-time inspection of the gust damper of the elevator control system to determine if the gust damper is properly charged, and of the horizontal stabilizer to detect cracking of elevator hinge rib 1; and corrective action, if necessary. This amendment is prompted by the issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to detect and correct cracking of elevator hinge rib 1 of the horizontal stabilizer, which could occur if the gust damper of the elevator control system discharges and allows the elevator to move freely in ground gust conditions. Such cracking could result in damage to the structural attachment of the elevator to the horizontal stabilizer, and consequent reduced controllability of the airplane.

DATES: Effective August 19, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 19, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from AI(R) American Support, Inc., 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain British Aerospace Model BAe 146–200A series airplanes was published in the Federal Register on April 16, 1998 (63 FR 18852). That action proposed to require a one-time inspection of the gust damper of the elevator control system to determine if the gust damper is properly charged, and of the horizontal stabilizer to detect cracking of elevator hinge rib 1; and corrective action, if necessary.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

Request To Revise Cost Information

One commenter, the manufacturer, advises that the cost information provided in the proposed AD contains an error. The commenter states that the number of BAe 146–200A series airplanes of U.S. registry that would be affected by the AD is 5, rather than 19, as stated in the proposed AD. The FAA concurs with the commenter. The cost impact information, below, has been revised to reflect the correct number of affected airplanes on the U.S. register.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change described previously. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 5 British Aerospace Model BAe 146–200A series

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airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required inspections, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspections required by this AD on U.S. operators is estimated to be $300, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

98–15–05 British Aerospace Regional Aircraft (Formerly British Aerospace Regional Aircraft Limited, Avro International Aerospace Division; British Aerospace, PLC; British Aerospace Commercial Aircraft Limited): Amendment 39–10656. Docket 98–NM–87–AD.

Applicability: Model BAe 146–200A series airplanes, as listed in British Aerospace Service Bulletin SB.55–16, dated July 14, 1997; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct cracking of elevator hinge rib 1 of the horizontal stabilizer, which could result in damage to the structural attachment of the elevator to the horizontal stabilizer and consequent reduced controllability of the airplane; accomplish the following:

(a) Within 60 days after the effective date of this AD, accomplish paragraphs (a)(1) and (a)(2) of this AD, in accordance with British Aerospace Service Bulletin SB.55–16, dated July 14, 1997.

(1) Perform a visual inspection of the gust damper of the elevator control system to determine if the gust damper is properly charged. If any gust damper is found to be improperly charged, prior to further flight, recharge the gust damper in accordance with the service bulletin.

(2) Perform a detailed visual inspection, using a borescope, to detect cracking of elevator hinge rib 1, on the left and right side of the airplane, in accordance with the service bulletin. If any cracking is found, prior to further flight, replace any cracked hinge rib 1 with a new or serviceable part, in accordance with a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or procedures provided by the manufacturer that are approved by the Civil Aviation Authority.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The inspections and recharge shall be done in accordance with British Aerospace Service Bulletin SB.55–16, dated July 14, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from AI(R) American Support, Inc., 13850 Mclearen Road, Herndon, Virginia 20171. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in British airworthiness directive 010–07–97, dated March 2, 1998.

(e) This amendment becomes effective on August 19, 1998.

Issued in Renton, Washington, on July 7, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–18651 Filed 7–14–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–197–AD; Amendment 39–10655; AD 98–15–04]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A320 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A320 series airplanes, that requires repetitive inspections for fatigue cracking of the bottom flanges of the longitudinal floor beams at frame 43; and repair, if necessary. This amendment also requires a one-time inspection for fatigue cracking of the fastener holes in the longitudinal floor beams, and modification of the floor

beams, which constitutes terminating action for the repetitive inspections. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent fatigue cracking on the bottom flanges of the longitudinal floor beams, which could result in reduced structural integrity of the airplane.

DATES: Effective August 19, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 19, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A320 series airplanes was published in the **Federal Register** on April 14, 1998 (63 FR 18158). That action proposed to require repetitive inspections for fatigue cracking of the bottom flanges of the longitudinal floor beams at frame 43; and repair, if necessary. That action also proposed to require a one-time inspection for fatigue cracking of the fastener holes in the longitudinal floor beams, and modification of the floor beams, which would constitute terminating action for the repetitive inspections.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter supports the proposed rule.

Request To Allow Flight With Cracks

One commenter requests that the proposed AD be revised to allow continued operation of the airplane following the detection of cracks, provided operators follow the defined values for follow-on inspections and repairs as recommended in Airbus Service Bulletin A320–53–1085. The commenter states that the structure of Airbus A320 series airplanes is classified as damage tolerant. Additionally, based on fatigue test results and calculations of the crack propagation rate, the manufacturer has defined in the service bulletin an appropriate number of flight cycles for continued flight with cracks, depending on the crack length detected. Finally, the commenter notes that the inspection program recommended in the service bulletin was developed in order to prevent the need for extensive repair of the aircraft.

The FAA does not concur with the commenter's request to allow continued operation of the airplane following the detection of cracks. Generally, the FAA considers that damage tolerance assessment methodologies are effective for establishing an inspection program that will detect cracks before failure occurs, but they are not sufficiently accurate to predict precisely and reliably the rates at which identified cracks will propagate to failure. Additionally, the FAA recognizes that there are adverse human factors associated with the performance of repetitive inspections that may reduce safety if such repair deferrals are practiced routinely.

Therefore, it is FAA policy to require repair of known cracks prior to further flight whether the airplane structure is classified as damage tolerant or not, rather than to use the principles of damage tolerance as a tool to manage existing cracks. There may be certain exceptions to this policy for cases where there is an unusual need for a temporary deferral of the repair, such as difficulty in acquiring parts to accomplish a repair in a timely manner. Since the commenter has not identified any unusual need that would warrant an exception to FAA policy in this instance, the FAA has determined that, due to the safety implications and consequences associated with such cracking, any subject bottom flange or fastener hole that is found to be cracked must be repaired or modified prior to further flight. No change to the final rule is necessary.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 5 airplanes of U.S. registry will be affected by this AD. It will take approximately 3 work hours per airplane to accomplish the required inspection of the bottom flanges, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection required by this AD on U.S. operators is estimated to be $900, or $180 per airplane, per inspection cycle.

It will take approximately 32 work hours per airplane to accomplish the required inspection of the fastener holes and required modification, at an average labor rate of $60 per work hour. Required parts will cost between $649 and $3,056 per airplane, depending on the service kit purchased. Based on these figures, the cost impact of the inspection of the fastener holes and modification required by this AD on U.S. operators is estimated to be as low as $12,845, or $2,569 per airplane, and as high as $24,880, or $4,976 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is

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contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

98–15–04 Airbus Industrie: Amendment 39–10655. Docket 97–NM–197–AD.

Applicability: Model A320 series airplanes, on which Airbus Modification 20904 (reference Airbus Service Bulletin A320–53–1008, dated March 31, 1995) has not been accomplished, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking on the bottom flanges of the longitudinal floor beams at frame 43, which could result in reduced structural integrity of the airplane, accomplish the following:

(a) Prior to the accumulation of 20,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later, perform a visual inspection for fatigue cracking of the longitudinal floor beams at frame 43, in accordance with Airbus Service Bulletin A320–53–1085, dated March 31, 1995.

(1) If no cracking is detected, repeat the visual inspection thereafter at intervals not to exceed 6,000 flight cycles.

(2) If any cracking is detected, prior to further flight, repair in accordance with a method approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate.

(b) Prior to the accumulation of 32,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later, accomplish paragraphs (b)(1) and (b)(2) of this AD. Accomplishment of paragraphs (b)(1) and (b)(2) constitutes terminating action for the repetitive inspection requirements of this AD.

(1) Perform a one-time eddy current (rotary probe) non-destructive test (NDT) inspection for fatigue cracking of the fastener holes on the longitudinal floor beams at frame 43, in accordance with Airbus Service Bulletin A320–53–1008, dated March 31, 1995. If any cracking is detected, prior to further flight, repair in accordance with a method approved by the Manager, International Branch, ANM–116.

(2) Modify the floor beam fasteners in accordance with Airbus Service Bulletin A320–53–1008, dated March 31, 1995.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The visual inspection shall be done in accordance with Airbus Service Bulletin A320–53–1085, dated March 31, 1995. The eddy current inspection and the modification shall be done in accordance with Airbus Service Bulletin A320–53–1008, dated March 31, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in French airworthiness directive 96–236–089(B), dated October 23, 1996.

(f) This amendment becomes effective on August 19, 1998.

Issued in Renton, Washington, on July 7, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–18650 Filed 7–14–98; 8:45 am]

BILLING CODE 4910–13–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4044

Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation's regulation on Allocation of Assets in Single-Employer Plans prescribes interest assumptions for valuing benefits under terminating single-employer plans. This final rule amends the regulation to adopt interest assumptions for plans with valuation dates in August 1998.

EFFECTIVE DATE: August 1, 1998.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (For TTY/TDD users, call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: The PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) prescribes actuarial assumptions for valuing plan benefits of terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. Among the actuarial assumptions prescribed in part 4044 are interest assumptions. These interest assumptions are intended to reflect current conditions in the financial and annuity markets.

Two sets of interest assumptions are prescribed, one set for the valuation of benefits to be paid as annuities and one set for the valuation of benefits to be paid as lump sums. This amendment adds to appendix B to part 4044 the annuity and lump sum interest assumptions for valuing benefits in plans with valuation dates during August 1998.

For annuity benefits, the interest assumptions will be 5.40 percent for the first 25 years following the valuation date and 5.25 percent thereafter. The annuity interest assumptions represent a decrease (from those in effect for July 1998) of 0.10 percent for the first 25 years following the valuation date and are otherwise unchanged. For benefits to be paid as lump sums, the interest assumptions to be used by the PBGC will be 4.00 percent for the period during which a benefit is in pay status and during any years preceding the benefit's placement in pay status. The lump sum interest assumptions are unchanged from those in effect for July 1998.

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation of benefits in plans with valuation dates during August 1998, the PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this action is not a "significant regulatory action" under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects in 29 CFR Part 4044

Pension insurance, Pensions.

In consideration of the foregoing, 29 CFR part 4044 is amended as follows:

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

1. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

2. In appendix B, a new entry is added to Table I, and Rate Set 58 is added to Table II, as set forth below. The introductory text of each table is republished for the convenience of the reader and remains unchanged.

Appendix B to Part 4044—Interest Rates Used to Value Annuities and Lump Sums

TABLE I.—ANNUITY VALUATIONS

[This table sets forth, for each indicated calendar month, the interest rates (denoted by i_1, i_2, * * *, and referred to generally as i_t) assumed to be in effect between specified anniversaries of a valuation date that occurs within that calendar month; those anniversaries are specified in the columns adjacent to the rates. The last listed rate is assumed to be in effect after the last listed anniversary date]

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t=	i_t	for t=	i_t	for t=
* * *	*	*	*	*		*
August 1998	.0540	1–25	.0525	>25	N/A	N/A

TABLE II.—LUMP SUM VALUATIONS

[In using this table: (1) For benefits for which the participant or beneficiary is entitled to be in pay status on the valuation date, the immediate annuity rate shall apply; (2) For benefits for which the deferral period is y years (where y is an integer and $0<y\leq n_1$), interest rate i_1 shall apply from the valuation date for a period of y years, and thereafter the immediate annuity rate shall apply; (3) For benefits for which the deferral period is y years (where y is an integer and $n_1 < y \leq n_1 + n_2$), interest rate i_2 shall apply from the valuation date for a period of $y - n_1$ years, interest rate i_1 shall apply for the following n_1 years, and thereafter the immediate annuity rate shall apply; (4) For benefits for which the deferral period is y years (where y is an integer and $y > n_1 + n_2$), interest rate i_3 shall apply from the valuation date for a period of $y - n_1 - n_2$ years, interest rate i_2 shall apply for the following n_2 years, interest rate i_1 shall apply for the following n_1 years, and thereafter the immediate annuity rate shall apply]

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)	i_1	i_2		
	On or after	Before				i_3	n_1	n_2
*	*	*	*	*		*	*	*
58	08–1–98	09–1–98	4.00	4.00	4.00	4.00	7	8

Issued in Washington, DC, on this 6th day of July 1998.

David M. Strauss,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 98–18682 Filed 7–14–98; 8:45 am]

BILLING CODE 7708–01–P

POSTAL SERVICE

39 CFR Part 111

Changes in Preferred Postage Rates—Periodicals and Standard Mail

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: Public Law No. 103–123 authorizes annual changes in the reduced rates for preferred periodicals and non-profit standard mail formerly financed by appropriations for revenue forgone. This action implements these changes for FY 1999.

DATES: Effective Date: October 4, 1998. The changes pertaining to postage rates will be implemented effective 12:01 a.m., Sunday, October 4, 1998.

FOR FURTHER INFORMATION CONTACT: Thomas DeVaughan, (202) 268–4491.

SUPPLEMENTARY INFORMATION: Under 39 U.S.C. 3626(a) and 3642, the Postal Service is authorized to make adjustments in the Periodicals Preferred In-County pound rates and the nonadvertising per piece rates for

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Preferred Nonprofit publications, the nonadvertising pound rates and the per piece rates for Preferred Classroom publications; and postal rates for Nonprofit Standard Mail, Nonprofit Enhanced Carrier Route Standard Mail, and Library Mail. These adjustments are necessary to phase up the institutional-costs contribution of this mail to the levels required by law by FY 1999.

The rates for Periodicals Science-of-Agriculture publications zones 1 and 2 will remain the same at 75 percent of the rates charged on advertising in regular-rate publications, as specified by law. These rates will not change until regular Periodicals advertising rates change through a general rate case. Also, since the maximum weight for automation heavy letters is traditionally the heaviest weight break Standard Mail (A) minimum per-piece rates, the maximum weight for these letters mailed at First-Class Mail and Periodicals is also changed with this notice.

Please note, that the full rates resulting from these adjustments will be superseded by the full rates resulting from the Docket Number R97–1 Rate Case, which will take effect 12:01 a.m., Sunday, January 10, 1999.

List of Subjects in 39 CFR Part 111

Postal Service.

For the reasons discussed above, the Postal Service hereby adopts the following amendments to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations (see 39 CFR Part 111).

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Revise the following sections of Domestic Mail Manual Issue 53 as set forth below:

C Characteristics and Content

* * * * *

C800 Automation-Compatible Mail

C810 Letters and Cards

* * * * *

2.0 DIMENSIONS

* * * * *

2.3 Maximum Weight

[Amend 2.3f to read as follows:]

Maximum weight limits are as follows:

* * * * *

f. 3.3388 ounces: automation First-Class Mail, automation Periodicals, and automation Nonprofit Standard Mail heavy letters, subject to 7.5.

* * * * *

E Eligibility

* * * * *

E600 Standard Mail

E610 Basic Standards

* * * * *

E612 Additional Standards for Standard Mail (A)

* * * * *

4.0 BULK RATES

* * * * *

4.2 Minimum Per Piece Rates

[Amend 4.2 by revising the first sentence to read as follows:]

The minimum per piece rates (i.e., the minimum postage that must be paid for each piece) apply to Enhanced Carrier Route rate pieces weighing no more than 0.2066 pound (3.3062 ounces) rounded; Regular nonautomation and automation rate pieces weighing no more than 0.2068 pound (3.3087 ounces) rounded; Nonprofit Enhanced Carrier Route rate pieces weighing no more than 0.2084 pound (3.3348 ounces) rounded; and Nonprofit nonautomation and automation rate pieces weighing no more than 0.2087 pound (3.3388 ounces) rounded. * * *

* * * * *

P Postage and Payment Methods

P000 Basic Information

P010 General Standards

* * * * *

P013 Rate Application and Computation

* * * * *

4.0 RATE APPLICATION—STANDARD MAIL (A)

* * * * *

4.3 Bulk Rates

[Amend 4.3 to read as follows:]

Bulk rates are based on the weight of the pieces and are applied differently to pieces weighing less than or equal to a "breakpoint" (rounded to four decimal places) and those weighing more, as follows:

a. The appropriate minimum per piece rate applies to pieces weighing:

(1) 0.2066 pound (3.3062 ounces) or less for Enhanced Carrier Route rates

(2) 0.2068 pound (3.3087 ounces) or less for Regular rates

(3) 0.2084 pound (3.3348 ounces) or less for Nonprofit Enhanced Carrier Route rates

(4) 0.2087 pound (3.3388 ounces) or less for Nonprofit rates

b. A rate determined by adding the appropriate fixed per piece charge and the corresponding variable per pound charge (based on the weight of the piece) applies to pieces weighing more than the above.

* * * * *

R Rates and Fees

* * * * *

R100 First-Class Mail

* * * * *

Summary of First-Class Rates

[Amend footnote 3 to read as follows:]

3. Weight not to exceed 3.3388 ounces; pieces over 3 ounces subject to additional standards.

* * * * *

R200 Periodicals

1.0 REGULAR

* * * * *

1.2 Piece Rates

[Amend footnote 1 to read as follows:]

1. Lower maximum weight limits apply: letter-size at 3 ounces (or 3.3388 ounces for heavy letters); flat-size at 16 ounces.

* * * * *

2.0 PREFERRED—IN-COUNTY

2.1 Pound Rates

Per pound or fraction:

Zone	Rate
Delivery Unit	$0.116
All Others	0.126

2.2 Piece Rates

[Amend footnote 1 to read as follows:]

1. Lower maximum weight limits apply: letter-size at 3 ounces (or 3.3388 ounces for heavy letters); flat-size at 16 ounces.

* * * * *

3.0 PREFERRED—NONPROFIT

* * * * *

3.2 Piece Rates

Per addressed piece:

Presort level	Nonautomation	Automation[1]	
		Letter-size	Flat-size
Basic	$0.219	0.189	0.195
3/5	0.174		0.150
3-Digit		0.151	
5-Digit		0.151	
Carrier Route	0.107		
High Density	0.100		
Saturation	0.085		

[1] Lower maximum weight limits apply: letter-size at 3 ounces (or 3.3388 ounces for heavy letters); flat-size at 16 ounces.

* * * * *

4.0 PREFERRED—CLASSROOM

4.1 Pound Rates

Per pound or fraction:

a. For the nonadvertising portion: $0.142.

* * * * *

4.2 Piece Rates

Per addressed piece:

Automation[1]	Presort level	Nonautomation	
		Letter-size	Flat-size
Basic	$0.219	$0.189	$0.195
3/5	0.174		0.150
3-Digit		0.151	
5-Digit		0.151	
Carrier Route	0.107		
High Density	0.100		
Saturation	0.086		

[1] Lower maximum weight limits apply: letter-size at 3 ounces (or 3.3388 ounces for heavy letters); flat-size at 16 ounces.

4.3 Discounts

Piece rate discounts:

* * * * *

b. Delivery unit zone piece discount for each addressed piece claimed in the pound rate portion at the delivery unit zone rate: $0.012.

c. SCF zone piece discount for each addressed piece claimed in the pound rate portion at the SCF zone rate: $0.006.

5.0 PREFERRED—SCIENCE-OF-AGRICULTURE

* * * * *

5.2 Piece Rates

[Amend footnote 1 to read as follows:]

1. Lower maximum weight limits apply: letter-size at 3 ounces (or 3.3388 ounces for heavy letters); flat-size at 16 ounces.

* * * * *

R600 Standard Mail

* * * * *

4.0 NONPROFIT STANDARD MAIL

4.1 Letter-Size Minimum Per Piece Rates

Pieces 0.2087 pound (3.3388 ounces) or less:

Entry discount	Nonautomation		Automation[1]		
	Basic	3/5	Basic	3-Digit	5-Digit
None	$0.138	$0.120	$0.105	$0.101	$0.088
DBMC	0.125	0.107	0.092	0.088	0.075
DSCF	0.120	0.102	0.087	0.083	0.070
DDU					

[1] Pieces weighing over 3 ounces subject to additional standards.

4.2 Nonletter-Size Minimum Per Piece Rates

Pieces 0.2087 pound (3.3388 ounces) or less:

Entry discount	Nonautomation		Automation[1]	
	Basic	3/5	Basic	3/5
None	$0.201	$0.149	$0.177	$0.125
DBMC	0.188	0.136	0.164	0.112
DSCF	0.183	0.131	0.159	0.107

Entry discount	Nonautomation		Automation[1]	
	Basic	3/5	Basic	3/5
DDU	....	....	....	....

[1] Available only for automation-compatible flats.

4.3 Piece/Pound Rates

Pieces more than 0.2087 pound (3.3388 ounces):

Piece/pound rate[1]	Nonautomation		Automation[2]	
	Basic	3/5	Basic	3/5
Per Piece	$0.100	$0.048	$0.076	$0.024
Per Pound (includes entry discount if applicable)	PLUS	PLUS	PLUS	PLUS
None	0.484	0.484	0.484	0.484
DBMC	0.422	0.422	0.422	0.422
DSCF	0.396	0.396	0.396	0.396
DDU	....	....	....	....

[1] Each piece is subject to both a piece rate and a pound rate.
[2] Available only for automation-compatible flats.

5.0 NONPROFIT ENHANCED CARRIER ROUTE STANDARD MAIL

5.1 Letter-Size Minimum Per Piece Rates

Pieces 0.2084 pound (3.3348 ounces) or less:

Entry discount	Nonautomation			Automation[1]
	Basic	High density	Saturation	Basic
None	$0.099	$0.093	$0.087	$0.085
DBMC	0.086	0.080	0.074	0.072
DSCF	0.081	0.075	0.069	0.067
DDU	0.075	0.069	0.063	0.061

[1] Pieces weighing over 3 ounces subject to additional standards.

* * * * *

9.0 LIBRARY MAIL

Weight not over (pounds)	Single-piece
1	$1.12
2	1.54
3	1.96
4	2.38
5	2.80
6	3.22
7	3.64
8	3.86
9	4.08
10	4.30
11	4.52
12	4.74
13	4.96
14	5.18
15	5.40
16	5.62
17	5.84
18	6.06
19	6.28
20	6.50
21	6.72
22	6.94
23	7.16
24	7.38
25	7.60
26	7.82
27	8.04
28	8.26
29	8.48
30	8.70
31	8.92
32	9.14
33	9.36
34	9.58
35	9.80
36	10.02
37	10.24
38	10.46
39	10.68
40	10.90
41	11.12
42	11.34
43	11.56
44	11.78
45	12.00
46	12.22
47	12.44
48	12.66
49	12.88
50	13.10
51	13.32
52	13.54
53	13.76
54	13.98
55	14.20
56	14.42
57	14.64
58	14.86
59	15.08
60	15.30
61	15.52
62	15.74
63	15.96
64	16.18
65	16.40
66	16.62
67	16.84
68	17.06
69	17.28
70	17.50

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An appropriate amendment to 39 CFR 111.3 will be published to reflect these changes.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 98–18752 Filed 7–14–98; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CO–001–0024a; FRL–6124–4]

Approval and Promulgation of Air Quality Implementation Plans; Colorado; 1993 Periodic Carbon Monoxide Emission Inventories for Colorado

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Colorado on September 16, 1997. The effect of this action is to approve 1993 periodic carbon monoxide (CO) emission inventories for Colorado Springs, Denver, Fort Collins, and Longmont that were submitted by the Governor, as a revision to the State Implementation Plan (SIP), as required by section 187(a)(5) of the Clean Air Act (CAA), as amended in 1990. This action is being taken under section 110 of the CAA.

DATES: This direct final rule is effective on September 14, 1998 without further notice, unless EPA receives adverse comments by August 14, 1998. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments may be mailed to Richard R. Long, Director, Air Program, Mailcode 8P2–A, Environmental Protection Agency (EPA), Region VIII, 999 18th Street, Suite 500, Denver, Colorado, 80202. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado, 80202. Copies of the State documents relevant to this action are available for public inspection at the Colorado Department of Public Health and Environment, Air Pollution Control Division, 4300 Cherry Creek Drive South, Denver, Colorado 80246–1530.

FOR FURTHER INFORMATION CONTACT: Cindy Rosenberg, EPA, Region VIII, (303) 312–6436.

SUPPLEMENTARY INFORMATION: On September 16, 1997, the State of Colorado submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of the 1993 periodic carbon monoxide (CO) emission inventories for Colorado Springs, Denver, Fort Collins, and Longmont.

I. Background

As required by the CAA, States have the responsibility to inventory emissions contributing to NAAQS nonattainment, to track these emissions over time, and to ensure that control strategies are being implemented that reduce emissions and move areas towards attainment. The CAA required States with moderate or serious CO nonattainment areas to initially submit a base year CO inventory that represented actual emissions during the peak CO season by November 15, 1992. This base year inventory was for calendar year 1990. Moderate and serious CO nonattainment areas were also required to submit a revised emissions inventory periodically. The 1990 base year inventory was to serve as the primary inventory from which the periodic inventories were to be derived. As per CAA section 187(a)(5), the submittal of the first periodic emissions inventory, as a revision to the SIP, was required no later than September 30, 1995, and every three years thereafter until the area is redesignated to attainment. This requirement applies to Colorado Springs, Denver, Fort Collins, and Longmont. Further information on these inventories and their purpose can be found in the document "Emission Inventory Requirements for Carbon Monoxide State Implementation Plans", USEPA, Office of Air Quality Planning and Standards, EPA–450/4–91–011, March, 1991, and the September 30, 1994, guidance memorandum entitled "1993 Periodic Emission Inventory Guidance", signed by J. David Mobley, Chief of the Emission Inventory Branch (hereafter, the Mobley Memorandum).

The periodic inventories were to be prepared in similar detail as was done with the 1990 base year inventories and were to address actual CO emissions for the area during the peak CO season. The peak CO season should reflect the months when peak CO air quality concentrations occur. As winter is the peak CO season for Colorado Springs, Denver, Fort Collins, and Longmont, the 1993 periodic inventories included the period November through January. The periodic inventories are to address emissions from stationary point, area, on-road mobile, and non-road mobile sources.

II. Summary of SIP Revision

A. Review of the 1993 CO Periodic Emissions Inventories (PEI) for Colorado Springs, Denver, Fort Collins, and Longmont

The September 30, 1994, Mobley memorandum allowed for two options for the approach to developing the 1993 PEI. If the 1993 PEI was to be used for a regulatory purpose (i.e., milestone compliance demonstration, rate of progress, maintenance plan tracking, etc.) a rigorous, comprehensive PEI was to be developed similar in detail and documentation to that which was done for the 1990 base year inventory. If, however, EPA and the State determined that the 1993 PEI would not be used to support a regulatory purpose other than to fulfill the CAA section 187(a)(5) requirement, a less rigorous approach could be appropriate. Colorado chose the latter option for all four 1993 PEIs.

EPA has reviewed the 1993 PEIs for Colorado Springs, Denver, Fort Collins, and Longmont. Summary tables, calculations for all identified sources in each source category, and adequate documentation were provided by the State for each of the four PEIs. EPA has determined that the Colorado Springs, Denver, Fort Collins, and Longmont 1993 PEIs satisfy the requirements of section 187(a)(5) of the CAA.

The 1993 CO emissions from point sources, area sources, on-road mobile sources, and non-road mobile sources for Colorado Springs, Denver, Fort Collins, and Longmont are summarized in the following table:

CARBON MONOXIDE SEASONAL EMISSIONS IN TONS PER DAY

Non-attainment area	Point source emissions*	Area source emissions	On-road mobile emissions	Non-road mobile emissions	Total emissions
Colorado Springs	2.83	29.49	250.80	34.70	317.82

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CARBON MONOXIDE SEASONAL EMISSIONS IN TONS PER DAY—Continued

Non-attainment area	Point source emissions*	Area source emissions	On-road mobile emissions	Non-road mobile emissions	Total emissions
Denver	13.37	72.40	1441.97	152.96	1680.70
Fort Collins	0.18	7.54	49.99	8.96	66.67
Longmont	0.03	2.36	20.78	5.54	28.71

*Major CO point sources (i.e., CO emissions equal to or greater than 100 tons per year).

All supporting calculations and documentation for these 1993 carbon monoxide periodic inventories are contained in the State's Technical Support Document (TSD) for this action.

B. Procedural Background

The CAA requires States to observe certain procedural requirements in developing SIP revisions for submittal to EPA. Section 110(a)(2) of the CAA provides that each SIP revision (including emission inventories) be adopted after going through a reasonable notice and public hearing process prior to being submitted by a State to EPA.[1] The State held a public hearing for the Colorado Springs, Denver, Fort Collins, and Longmont 1993 PEIs on December 21, 1995, directly after which the inventories were adopted by the Air Quality Control Commission (AQCC); the inventories were formally submitted by the Governor on September 16, 1997. EPA determined the submittal was complete on February 23, 1998.

III. Final Action

EPA is approving the carbon monoxide 1993 periodic emission inventories for Colorado Springs, Denver, Fort Collins, and Longmont as fulfilling the requirements of section 187(a)(5) of the CAA. These inventories were submitted by the Governor with a letter dated September 16, 1997.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective September 14, 1998 without further notice unless the Agency receives adverse comments by August 14, 1998.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. Any parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on September 14, 1998 and no further action will be taken on the proposed rule.

IV. Administrative Requirements

A. Executive Orders 12866 and 13045

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled "Regulatory Planning and Review," review.

The final rule is not subject to Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks," because it is not an "economically significant" action under Executive Order 12866.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements.

Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

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[1] Memorandum from John Calcagni, Director, Air Quality Management Division, and William G. Laxton, Director, Technical Support Division, to Regional Air Division Directors, Region I–X, "Public Hearing Requirements for 1990 Base-Year Emission Inventories for Ozone and Carbon Monoxide Nonattainment Areas," September 29, 1992.

D. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 14, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

F. Approving SIP Revisions in Audit Law States

Nothing in this action should be construed as making any determination or expressing any position regarding Colorado's audit privilege and penalty immunity law (13–25–126.5, C.R.S.) or its impact upon any approved provision in the SIP, including the revision at issue here. The action taken herein does not express or imply any viewpoint on the question of whether there are legal deficiencies in this or any other Clean Air Act program resulting from the effect of Colorado's audit privilege and immunity law. A state audit privilege and immunity law can affect only state enforcement and cannot have any impact on federal enforcement authorities. EPA may at any time invoke its authority under the Clean Air Act, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the Clean Air Act is likewise unaffected by a state audit privilege or immunity law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: July 6, 1998.

Patricia D. Hull,

Acting Regional Administrator, Region VIII.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart G—Colorado

2. Section 52.348 is amended by designating the existing text as paragraph (a) and by adding paragraph (b) to read as follows:

§ 52.348 Emission inventories.

* * * * *

(b) On September 16, 1997, the Governor of Colorado submitted the 1993 Carbon Monoxide Periodic Emission Inventories for Colorado Springs, Denver, Fort Collins, and Longmont as revisions to the Colorado State Implementation Plan. These inventories address carbon monoxide emissions from stationary point, area, non-road mobile, and on-road mobile sources.

[FR Doc. 98–18662 Filed 7–14–98; 8:45 am]

BILLING CODE [illegible]

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[CS Docket No. 97–80; FCC 98–116]

Commercial Availability of Navigation Devices

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: These rules provide for the commercial availability of set top boxes and other consumer equipment used to receive video signals and other services. The intended effect of these rules is to expand opportunities for consumers to purchase this equipment from sources other than the service provider.

DATES: Effective upon approval by the Office of Management and Budget ("OMB"), but no sooner than August 14, 1998, except for § 76.1204, which shall become effective July 1, 2000. When approval is received, the Commission will publish a document announcing the effective date. Written comments by the public on the modified information collection requirements should be submitted on or before September 14, 1998.

ADDRESSES: A copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, NW, Washington, DC 20554, or via the Internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: Thomas Horan, Cable Services Bureau, (202) 418–7200. For additional information concerning the information collections contained herein, contact Judy Boley at 202–418–0214, or via the Internet at jboley@fcc.gov.

PAPERWORK REDUCTION ACT: This *Report and Order* has been analyzed with respect to the Paperwork Reduction Act of 1995 (the "1995 Act") and found to impose new or modified information collection requirements on the public. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to take this opportunity to comment on the information collection requirements contained in this *Report and Order*, as required by the 1995 Act. Public comments are due September 14, 1998. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: 3060–XXXX (new collection).

Title: Commercial Availability of Navigation Devices.

Type of Review: New collection.

Respondents: Businesses or other for-profit entities.

Number of Respondents: 200.

Estimated Time Per Response: 10 minutes to 40 hours.

Frequency of Response: On occasion.

Total Annual Burden to Respondents: 3,266 hours.

Total Annual Cost to Respondents: $29,632.

Needs and Uses: The disclosure requirements set forth in this

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proceeding will ensure that consumers can make informed decisions about the purchase and proper installation of navigation devices. The § 76.1207 petition process will give providers of multichannel video programming and equipment providers a forum in which to request relief from regulations adopted under this part for a limited time, provided that there is an appropriate showing that such a waiver is necessary to assist the development or introduction of a new or improved multichannel video programming or other service offered over multichannel video programming systems, technology, or products. The § 76.1208 petition process allows interested parties to petition the Commission to provide for a sunset of navigation devices regulations. The semiannual reports will be used by the Commission to monitor the progress of key industry entities of their efforts to assure the commercial availability of navigation devices.

SUPPLEMENTARY INFORMATION:

1. The *Report and Order* addresses the issues raised in the *Notice of Proposed Rulemaking* in CS Docket No. 97–80, 62 FR 10011 (March 5, 1997) ("*NPRM*"), regarding the mandate expressed in Section 629 of the Communications Act (47 U.S.C. § 549) to ensure the commercial availability of "navigation devices," the equipment used to access video programming and other services from multichannel video programming systems.

2. *Entities Covered by Section 629.* The Commission concludes that Section 629 is jurisdictionally broad in terms of the multichannel video programming systems to which it applies. The rules adopted will be applied to multichannel video programming distributors (MVPDs) as defined by 47 U.S.C. § 522(13). Section 76.1200 of the rules defines the entities to which the rules apply. 47 U.S.C. § 573(c)(1) requires exclusion of open video systems operators from the requirements of Section 629.

3. *Equipment Covered.* The language of Section 629 indicates that Congress sought to have the marketplace offer consumers a choice over a broad range of equipment. Section 629(a) enumerates "converter boxes, interactive communications equipment, and other equipment used by consumers to access multichannel video programming and other services." Section 629 neither exempts nor limits any category of equipment used to access multichannel video programming or services offered over such systems from its coverage. Equipment used to access video programming and other services offered over multichannel video programming systems include televisions, VCRs, cable set-top boxes, personal computers, program guide equipment and cable modems. Section 76.1200(c) of the rules defines the equipment to which the rules apply.

4. *Right to Attach.* The rules provide subscribers the right to attach any compatible navigation device to an MVPD system, regardless of its source, subject to the proviso that the attached equipment not cause harmful interference, injury to the system or compromise legitimate access control mechanisms. The Commission's rules make clear to subscribers that an MVPD is not the exclusive purveyor of navigation devices for its system. In addition to being directly restrained from attaching navigation equipment, consumers must also not be precluded from the possibility of obtaining equipment from commercial outlets by virtue of contractual or other restrictions on the availability of equipment that the service provider might seek to directly impose on suppliers of equipment. Section 76.1202 enforces the right to attach by precluding contractual or other arrangements, other than those involving equipment performing conditional access or security functions, that prevent navigation devices from being made available to subscribers from retailers, manufacturers, or other vendors that are unaffiliated with such service provider.

5. *Information on Technical Interface Specifications.* The Commission will require that MVPDs provide to the requesting party the technical information concerning interface parameters necessary for a navigation device to operate with the services delivered by the MVPD's system. Section 76.1205 delineates these requirements. The Commission will not replicate the more complete interface specification rules used in the telephone context, but will monitor closely industry progress on development of standards for attaching equipment, as well as MVPD compliance with the network disclosure requirements.

6. *Protection of Network Facilities.* The rules will allow MVPDs to restrict the attachment or use of equipment to their systems where electronic or physical harm would be caused by the attachment or operation of such equipment. MVPDs must publish, and provide to subscribers, standards and descriptions of devices that may not be used or attached to their systems because of the potential for harm. These requirements are contained in § 76.1203. To the extent that there is a dispute whether an MVPD's equipment restrictions are unreasonable, the Commission's petition procedures are available.

7. *Security and Theft of Service.* No Commission action in this proceeding should be construed to authorize or justify any use, manufacture, or importation of equipment that would violate Section 633 of the Communications Act or any other provision of law precluding the unauthorized reception of MVPD service. Similarly, nothing in this proceeding should be construed as diminishing an operator's ability to seek civil damages against parties involved with navigation devices providing unauthorized reception of services.

8. *Signal Leakage.* When combined with the 47 CFR 76 signal leakage requirements, the 47 CFR 15 provisions provide sufficient safeguards for signal leakage and interference concerns for retail navigation devices. The part 15 provisions include limitations on signal leakage from electronic equipment and also specify equipment authorization procedures.

9. *Rules for Equipment Providing Conditional Access.* As of July 1, 2000, MVPDs covered by Section 629 who wish to distribute devices using integrated security may do so only if they also make available security modules separately. The device supplied by the service provider must be designed to connect to and function with other navigation devices through the use of a commonly used interface or through an interface that conforms to appropriate technical standards promulgated by a national standards organization. The rule requiring separation of security functions does not apply to MVPDs that support navigation devices that are portable throughout the continental United States, and are available from retail outlets and other vendors. There is an exception in the rules (§ 76.1204(d)) for situations in which where separation is not feasible. This exception is intended, however, to be a narrow exception to the general rules to account for unusual types of equipment.

10. The Commission is requiring the eight multiple system operators that are involved in the CableLabs/OpenCable project to advise the Commission semiannually—on January 7, 1999, July 7, 1999, January 7, 2000, and July 7, 2000—as to the progress of their efforts and the efforts of CableLabs to assure the commercial availability, to consumers of equipment used to access multichannel video programming and other services offered over multichannel video programming systems, from

manufacturers, retailers, and other vendors not affiliated with any multichannel video programming distributor. The reports should detail the progress being made toward meeting the July 1, 2000 deadline. The information should advise the Commission of the status of any standards or certification process and any anticipated dates for approval.

11. The Commission's rules permit MVPDs to continue to provide equipment on an integrated basis until January 1, 2005, so long as modular security components are also made available. MVPDs may continue to sell or lease boxes after this date provided the boxes have a severable security component rather than integrated security. In the year 2000, once separate security modules are available, the Commission will assess the state of the market to determine whether that time frame is appropriate and will review the mechanics of the phase out of integrated boxes.

12. *Affiliation.* Affiliation is defined based on common ownership or control as defined in the notes accompanying 47 CFR 76.501.

13. *Subsidies.* Existing equipment rate rules applicable to cable television systems not facing effective competition address Section 629(a)'s requirement that charges to consumers for such devices and equipment are separately stated and not subsidized by charges for any other service. While a cable operator subject to rate regulation may offer navigation devices necessary to receive regulated services, it may do so only within the parameters of 47 CFR 76.923. Section 76.923 sets forth the rules for determining the rates for equipment and installation used to receive the basic service tier and states that cable operators subject to rate regulation are not permitted to charge subscribers for equipment beyond actual cost. The relevant rule is found in § 76.1206.

14. *Waivers.* A provider of multichannel video programming and other services offered over multichannel video programming systems, or an equipment provider, may petition the Commission for a waiver. The Commission may waive a regulation adopted under Section 629 if such service or equipment provider makes an appropriate showing that such waiver is necessary to assist the development or introduction of a new or improved multichannel video programming or other service offered over multichannel video programming systems, technology, or products. The Commission will apply the procedural rules set forth in 47 CFR 76.7. The relevant rule is contained in § 76.1207.

15. *Sunset of Regulations.* The regulations adopted under this section shall cease to apply when, as stated in Section 629(e), the Commission determines that (1) the market for MVPDs is fully competitive; (2) the market for converter boxes and interactive communications equipment used in conjunction with that service is fully competitive; and (3) elimination of the regulations would promote competition and the public interest. An interested party may petition the Commission to determine that Section 629(e) has been satisfied. This rule is found in § 76.1208.

16. *Digital Television Compatibility.* In the context of this and other proceedings, the issue of transmitting digital television signals to consumers has been raised. Since the record on this issue in this proceeding is extremely limited, and the matter may more appropriately be addressed in another proceeding, the Commission will defer consideration here. The Commission intends to monitor developments with respect to the compatibility of set-top boxes and digital televisions.

17. *Electronic Program Guides.* An issue was raised in this proceeding, regarding whether electronic program guide equipment and guide services are covered by the requirements of Section 629. Based on the plain language of Section 629, it appears clear that the equipment used to access such electronic program guides is "equipment used by consumers to access . . . services offered over multichannel video programming systems" and hence falls within the requirements of Section 629. While the Commission is committed to encouraging the development of the market for the provision of electronic program guide services as part of its broader goal of promoting consumer choice, the record in this proceeding is limited on this issue. Therefore, the Commission cannot adequately address at this time the extent of any obligation of multichannel video programming systems to make such services available pursuant to Section 629 or otherwise. The Commission will monitor developments with respect to the availability of electronic program guides to determine whether any action is appropriate in the future.

Final Regulatory Flexibility Analysis

18. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis ("IRFA") was incorporated into the *NPRM* in this proceeding. The Commission sought written public comment on the possible impact of the proposed policies and rules on small entities in the *NPRM*, including comments on the IRFA. This Final Regulatory Flexibility Analysis ("FRFA") in this *Report and Order* conforms to the RFA.

19. *Need for Action and Objectives of the Rules.* The 1996 Act added a new Section 629 to the Communications Act of 1934, as amended, that requires the Commission to develop rules to assure competitive availability of navigation devices used in conjunction with multichannel video programming distributors ("MVPD"). The Commission is promulgating these rules in order to implement this provision of Section 629. The statutory objective of Section 629 is assure that navigation devices used by consumers to access a particular MVPD's programming are available to consumers from manufactures, retailers and other vendors not affiliated with that MVPD.

20. *Summary of Significant Issues Raised by the Public Comments in Response to the IRFA.* No comments were filed specifically in response to the IRFA. The Commission, however, considered the economic impact on small entities through consideration of comments that pertain to issues of concern to MVPDs. Commenters cautioned that rules enacted to implement the requirements of Section 629 must not jeopardize the system and signal security of MVPDs and should not mandate technical standards that would interfere with innovation of navigation devices or development of new technologies. In the *Report and Order*, the Commission notes concern with system security and allows MVPDs to restrict the attachment or use of navigation equipment to their systems where electronic or physical harm would be caused by the attachment or operation of such equipment. As for signal security, the rules allow MVPDs to disconnect service to subscribers using a navigation device that assists in the unauthorized reception of service. The rules promulgated also note concern for inhibiting innovation or development of new technologies. The Commission does not mandate particular standards or require specific action, but seeks to recognize accepted industry standards that have evolved or are evolving.

21. *Description and Estimate of the Number of Small Entities to Which the Rules Will Apply.* The RFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that might be affected by the rules here adopted. The

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RFA defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. Under the Small Business Act, a small business concern is one which: (a) is independently owned and operated; (b) is not dominant in its field of operation; and (c) satisfies any additional criteria established by the SBA. The rules adopted in this *Report and Order* will affect cable systems, multipoint multichannel distribution systems, direct broadcast satellites, home satellite dish manufacturers, satellite master antenna television, local multipoint distribution systems, small manufacturers, electronic equipment manufacturers, computer manufacturers, and small retailers.

22. *Small Multichannel Video Programming Distributors ("MVPD"):* The SBA has developed a definition of small entities for cable and other pay television services, which includes all such companies generating $11 million or less in annual receipts. This definition includes cable system operators, closed circuit television services, direct broadcast satellite services, multipoint distribution systems, satellite master antenna systems and subscription television services. According to the Bureau of the Census, there are approximately 1,758 total cable and other pay television services and 1,423 had less than $11 million in revenue. Below each service is addressed to provide a more precise estimate of small entities.

23. *Cable Systems:* The Commission has developed, with SBA's approval, our own definition of a small cable system operator for the purposes of rate regulation. Under the Commission's rules, a "small cable company" is one serving no more than 400,000 subscribers nationwide. Based on recent information, the Commission estimates that there were 1439 cable operators that qualified as small cable companies at the end of 1995. Since then, some of those companies may have grown to serve over 400,000 subscribers, and others may have been involved in transactions that caused them to be combined with other cable operators. Consequently, the Commission estimates that there are fewer than 1439 small entity cable system operators that may be affected by the decisions and rules we are adopting. The Commission concludes that only a small percentage of these entities currently provide qualifying "telecommunications services" as required by the Communications Act and, therefore, estimate that the number of such entities are significantly fewer than noted.

24. The Communications Act also contains a definition of a small cable system operator, which is "a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1% of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000." The Commission has determined that there are 61,700,000 cable subscribers in the United States. Therefore, the Commission found that an operator serving fewer than 617,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all of its affiliates, do not exceed $250 million in the aggregate. Based on available data, the Commission finds that the number of cable operators serving 617,000 subscribers or less totals 1450. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250,000,000, the Commission is unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

25. *Multipoint Multichannel Distribution Systems ("MMDS"):* The Commission refined its definition of "small entity" for the auction of MMDS as an entity that together with its affiliates has average gross annual revenues that are not more than $40 million for the preceding three calendar years. This definition of a small entity in the context of MMDS auctions has been approved by the SBA.

26. The Commission completed its MMDS auction in March 1996 for authorizations in 493 basic trading areas ("BTAs"). Of 67 winning bidders, 61 qualified as small entities. Five bidders indicated that they were minority-owned and four winners indicated that they were women-owned businesses. MMDS is an especially competitive service, with approximately 1573 previously authorized and proposed MMDS facilities. Information available to us indicates that no MMDS facility generates revenue in excess of $11 million annually. The Commission concludes that, for purposes of this FRFA, there are approximately 1634 small MMDS providers as defined by the SBA and the Commission's auction rules.

27. *ITFS:* There are presently 2032 ITFS licensees. All but 100 of these licenses are held by educational institutions. Educational institutions are included in the definition of a small business. However, the Commission does not collect annual revenue data for ITFS licensees and is not able to ascertain how many of the 100 non-educational licensees would be categorized as small under the SBA definition. No commenters address these non-educational licensees. Accordingly, the Commission concludes that at least 1932 licensees are small businesses.

28. *Direct Broadcast Satellite ("DBS"):* Because DBS provides subscription services, DBS falls within the SBA definition of cable and other pay television services (SIC 4841). As of December 1996, there were eight DBS licensees. However, the Commission does not collect annual revenue data for DBS and, therefore, is unable to ascertain the number of small DBS licensees that could be affected by these proposed rules. Although DBS service requires a great investment of capital for operation, in the *NPRM*, the Commission acknowledged that there are several new entrants in this field that may not yet have generated $11 million in annual receipts, and therefore may be categorized as a small business, if independently owned and operated. Since the publication of the *NPRM*, however, more information has become available. In light of the 1997 gross revenue figures for the various DBS operators, the Commission concludes that no DBS operator qualifies as a small entity.

29. *Home Satellite Dish ("HSD"):* The market for HSD service is difficult to quantify. Indeed, the service itself bears little resemblance to other MVPDs. HSD owners have access to more than 500 channels of programming placed on C-band satellites by programmers for receipt and distribution by MVPDs, of which 350 channels are scrambled and approximately 150 are unscrambled. HSD owners can watch unscrambled channels without paying a subscription fee. To receive scrambled channels, however, an HSD owner must purchase an integrated receiver-decoder from an equipment dealer and pay a subscription fee to an HSD programming packager. Thus, HSD users include: (1) Viewers who subscribe to a packaged programming service, which affords them access to most of the same programming provided to subscribers of other MVPDs; (2) viewers who receive only nonsubscription programming; and (3) viewers who receive satellite

programming services illegally without subscribing.

30. According to the most recently available information, there are approximately 20 to 25 program packagers nationwide offering packages of scrambled programming to retail consumers. These program packagers provide subscriptions to approximately 2,184,470 subscribers nationwide. This is an average of about 77,163 subscribers per program packager. This is substantially smaller than the 400,000 subscribers used in the Commission's definition of a small multiple system operator ("MSO").

31. *Satellite Master Antenna Television ("SMATVs"):* Industry sources estimate that approximately 5200 SMATV operators were providing service as of December 1995. Other estimates indicate that SMATV operators serve approximately 1.162 million residential subscribers as of June 30, 1997. The ten largest SMATV operators together pass 848,450 units. Assuming that these SMATV operators serve 50% of the units passed, the ten largest SMATV operators serve approximately 40% of the total number of SMATV subscribers. Because these operators are not rate regulated, they are not required to file financial data with the Commission. Furthermore, the Commission is not aware of any privately published financial information regarding these operators. Based on the estimated number of operators and the estimated number of units served by the largest ten SMATVs, the Commission concludes that a substantial number of SMATV operators qualify as small entities.

32. *Local Multipoint Distribution System ("LMDS"):* Unlike the above pay television services, LMDS technology and spectrum allocation will allow licensees to provide wireless telephony, data, and/or video services. A LMDS provider is not limited in the number of potential applications that will be available for this service. Therefore, the definition of a small LMDS entity may be applicable to both cable and other pay television (SIC 4841) and/or radiotelephone communications companies (SIC 4812). The SBA approved definition for cable and other pay services that qualify as a small business is defined above. A small radiotelephone entity is one with 1500 employees or fewer. However, for the purposes of this *Report and Order* on navigation devices, the Commission includes only an estimate of LMDS video service providers.

33. An auction for licenses to operate LMDS systems was recently completed by the Commission. The vast majority of the LMDS license auction winners were small businesses under the SBA's definition of cable and pay television (SIC 4841). The Commission adopted a small business definition for entities bidding for LMDS licenses as an entity that, together with affiliates and controlling principles, has average gross revenues not exceeding $40 million for each of the three preceding years. The Commission has not yet received approval by the SBA for this definition.

34. There is only one company, CellularVision, that is currently providing LMDS video services. In the IRFA, the Commission assumed that CellularVision was a small business under both the SBA definition and our auction rules. No commenters addressed the tentative conclusions reached in the *NPRM*. Accordingly, the Commission affirms the tentative conclusion that a majority of the potential LMDS licensees will be small entities, as that term is defined by the SBA.

35. *Small Manufacturers:* The SBA has developed definitions of small entity for manufacturers of household audio and video equipment (SIC 3651) and for radio and television broadcasting and communications equipment (SIC 3663). In each case, the definition includes all such companies employing 750 or fewer employees.

36. *Electronic Equipment Manufacturers:* The Commission has not developed a definition of small entities applicable to manufacturers of electronic equipment, and therefore, will use the SBA definition of manufacturers of Radio and Television Broadcasting and Communications Equipment. According to the SBA's regulations, a TV equipment manufacturer must have 750 or fewer employees in order to qualify as a small business concern. Census Bureau data indicates that there are 858 U.S. firms that manufacture radio and television broadcasting and communications equipment, and that 778 of these firms have fewer than 750 employees and would be classified as small entities. The Census Bureau category is very broad, and specific figures are not available as to how many of these firms are exclusive manufacturers of television equipment or how many are independently owned and operated. The Commission concludes that there are approximately 778 small manufacturers of radio and television equipment.

37. *Electronic Household/Consumer Equipment:* The Commission has not developed a definition of small entities applicable to manufacturers of electronic equipment used by consumers, as compared to industrial use by television licensees and related businesses, and therefore will utilize the SBA definition applicable to manufacturers of Household Audio and Visual Equipment. According to the SBA's regulations, a household audio and visual equipment manufacturer must have 750 or fewer employees in order to qualify as a small business concern. Census Bureau data indicates that there are 410 U.S. firms that manufacture radio and television broadcasting and communications equipment, and that 386 of these firms have fewer than 500 employees and would be classified as small entities. The remaining 24 firms have 500 or more employees; however, the Commission is unable to determine how many of those have fewer than 750 employees and therefore, also qualify as small entities under the SBA definition. Furthermore, the Census Bureau category is very broad, and specific figures are not available as to how many of these firms are exclusive manufacturers of television equipment for consumers or how many are independently owned and operated. The Commission concludes that there are approximately 386 small manufacturers of television equipment for consumer/household use.

38. *Computer Manufacturers:* The Commission has not developed a definition of small entities applicable to computer manufacturers, and therefore will use the SBA definition of Electronic Computers. According to SBA regulations, a computer manufacturer must have 1,000 or fewer employees in order to qualify as a small entity. Census Bureau data indicates that there are 716 firms that manufacture computers and of those, 659 have fewer than 500 employees and qualify as small entities. The remaining 57 firms have 500 or more employees; however, the Commission is unable to determine how many of those have fewer than 1,000 employees and therefore also qualify as small entities under the SBA definition. The Commission concludes that there are approximately 659 small computer manufacturers.

39. *Small Retailers:* The Commission has not developed a definition of small entities applicable to navigation retail devices, and therefore will utilize the SBA definition. The 1992 Bureau of the Census data indicates: there were 9,663 U.S. firms classified as Radio, TV & electronic stores (SIC 5731), and that 9,385 of these firms had $4.999 million or less in annual receipts and 9,473 of these firms had $7.499 million or less in annual receipts. Consequently, the Commission concludes that there are approximately 9,663 small entities that

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produce and distribute radio, television, and electronic equipment that may be affected by the decisions in the *Report and Order*.

40. *Description of Reporting, Recordkeeping and Other Compliance Requirements.* This analysis examines the costs and administrative burdens associated with our rules and requirements. The rules adopted require MVPDs to make available, upon request, technical information concerning interface parameters. The Commission believes, however, that this requirement would not necessitate any additional professional, engineering, or customer service skills beyond those already utilized in the ordinary course of business by MVPDs.

41. *Steps Taken to Minimize Significant Economic Impact On Small Entities and Significant Alternatives Considered.* The Commission believes that the rules, implemented to assure commercial availability of navigation devices, will have the positive result of opening up to small retailers the market to sell or lease navigation devices to MVPD subscribers. Section 629 includes provisions which may lessen compliance impact on small entities affected by the rules adopted in this *Report and Order*. Section 629(c) specifies that the Commission shall waive the regulations developed to implement Section 629 when necessary for an MVPD to develop new or improved services offered over its system. Second, Section 629(e) requires the Commission to sunset the rules adopted in the *Report and Order* once a determination is made that (1) the market for MVPDs is fully competitive; (2) the market for convertor boxes and interactive communications equipment used in conjunction with that service is fully competitive; and (3) elimination of the regulations would promote competition and the public interest. The rules also consider situations and offer relief where the commercial availability of navigation devices performing conditional access functions could adversely impact an MVPD. An MVPD is not subject to the rules requiring the commercial availability of navigation devices if: (1) it is not reasonably feasible to separate conditional access functions from other functions; or (2) it is not reasonably feasible to prevent the unauthorized reception of service by subscribers using navigation devices obtained from other sources.

42. In the *NPRM*, the Commission asked for comment as to other means for achieving a competitive market for navigation devices. Commenters suggest means which would lead to more governmental involvement in the equipment design process and the retail marketplace. For instance, some commenters advocate that the Commission require MVPDs to license proprietary design specifications to manufacturers of navigation devices. The Commission has determined that allowing for technical innovation and flexible design standards would be the best means of meeting Section 629's statutory mandate of maximizing consumer choice in consumer electronics equipment. The Commission noted the ongoing activities of several industry organizations to develop open equipment standards. Accordingly, the Commission has adopted a regulatory regime to implement Section 629's requirements that causes minimum intrusion into the commercial marketplace.

43. It is ordered that, pursuant to authority found in Sections 4(i), 303(r), and 629 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), and 549, the Commission's rules are hereby amended as set forth below.

44. It is further ordered that the rules as amended shall become effective upon approval by OMB, but no sooner than August 14, 1998, except for § 76.1204, which shall become effective July 1, 2000.

45. It is further ordered that Tele-Communications, Inc., Time Warner Cable, Jones Intercable, U S WEST Media Group, Marcus Cable, Advance/Newhouse Communications, Cox Communications, and Comcast Corporation Shall file reports on January 7, 1999, July 7, 1999, January 7, 2000, and July 7, 2000 detailing the progress of their efforts and the efforts of CableLabs to assure the commercial availability, to consumers of equipment used to access multichannel video programming and other services offered over multichannel video programming systems, from manufacturers, retailers, and other vendors not affiliated with any multichannel video programming distributor.

46. It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 76

Cable television.

Federal Communications Commission.
Magalie Roman Salas,
Secretary.

Rule Changes

Part 76 of title 47 of the Code of Federal Regulations is amended as follows:

PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

1. The authority citation for part 76 is revised to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 302, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 503, 521, 522, 531, 532, 533, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, 573.

2. Subpart P is added to read as follows:

Subpart P—Competitive Availability of Navigation Devices

§ 76.1200 Definitions.

As used in this subpart:

(a) *Multichannel video programming system.* A distribution system that makes available for purchase, by customers or subscribers, multiple channels of video programming other than an open video system as defined by § 76.1500(a). Such systems include, but are not limited to, cable television systems, multichannel multipoint distribution systems, direct broadcast satellite systems, other systems for providing direct-to-home multichannel video programming via satellite, and satellite master antenna systems.

(b) *Multichannel video programming distributor.* A person such as, but not limited to, a cable operator, a multichannel multipoint distribution service, a direct broadcast satellite service, or a television receive-only satellite program distributor, who owns or operates a multichannel video programming system.

(c) *Navigation devices.* Devices such as converter boxes, interactive communications equipment, and other equipment used by consumers to access multichannel video programming and other services offered over multichannel video programming systems.

(d) *Affiliate.* A person or entity that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person, as defined in the notes accompanying § 76.501.

(e) *Conditional access.* The mechanisms that provide for selective access and denial of specific services and make use of signal security that can prevent a signal from being received except by authorized users.

§ 76.1201 Rights of subscribers to use or attach navigation devices.

No multichannel video programming distributor shall prevent the connection or use of navigation devices to or with its multichannel video programming system, except in those circumstances where electronic or physical harm would be caused by the attachment or operation of such devices or such devices may be used to assist or are intended or designed to assist in the unauthorized receipt of service.

§ 76.1202 Availability of navigation devices.

No multichannel video programming distributor shall by contract, agreement, patent right, intellectual property right or otherwise prevent navigation devices that do not perform conditional access or security functions from being made available to subscribers from retailers, manufacturers, or other vendors that are unaffiliated with such owner or operator, subject to § 76.1209.

§ 76.1203 Incidence of harm.

A multichannel video programming distributor may restrict the attachment or use of navigation devices with its system in those circumstances where electronic or physical harm would be caused by the attachment or operation of such devices or such devices that assist or are intended or designed to assist in the unauthorized receipt of service. Such restrictions may be accomplished by publishing and providing to subscribers standards and descriptions of devices that may not be used with or attached to its system. Such standards shall foreclose the attachment or use only of such devices as raise reasonable and legitimate concerns of electronic or physical harm or theft of service. In any situation where theft of service or harm occurs or is likely to occur, service may be discontinued.

§ 76.1204 Availability of equipment performing conditional access or security functions.

(a)(1) A multichannel video programming distributor that utilizes navigation devices to perform conditional access functions shall make available equipment that incorporates only the conditional access functions of such devices. Commencing on January 1, 2005, no multichannel video programming distributor subject to this section shall place in service new navigation devices for sale, lease, or use that perform both conditional access and other functions in a single integrated device.

(2) The foregoing requirement shall not apply to a multichannel video programming distributor that supports the active use by subscribers of navigation devices that: (i) operate throughout the continental United States, and (ii) are available from retail outlets and other vendors throughout the United States that are not affiliated with the owner or operator of the multichannel video programming system.

(b) Conditional access function equipment made available pursuant to paragraph (a)(1) of this section shall be designed to connect to and function with other navigation devices available through the use of a commonly used interface or an interface that conforms to appropriate technical standards promulgated by a national standards organization.

(c) No multichannel video programming distributor shall by contract, agreement, patent, intellectual property right or otherwise preclude the addition of features or functions to the equipment made available pursuant to this section that are not designed, intended or function to defeat the conditional access controls of such devices or to provide unauthorized access to service.

(d) Notwithstanding the foregoing, navigation devices need not be made available pursuant to this section where:

(1) It is not reasonably feasible to prevent such devices from being used for the unauthorized reception of service; or

(2) It is not reasonably feasible to separate conditional access from other functions without jeopardizing security.

(e) The requirements of this section shall become applicable on July 1, 2000.

§ 76.1205 Availability of interface information.

Technical information concerning interface parameters that are needed to permit navigation devices to operate with multichannel video programming systems shall be provided by the system operator upon request in a timely manner.

§ 76.1206 Equipment sale or lease charge subsidy prohibition.

Multichannel video programming distributors offering navigation devices subject to the provisions of § 76.923 for sale or lease directly to subscribers, shall adhere to the standards reflected therein relating to rates for equipment and installation and shall separately state the charges to consumers for such services and equipment.

§ 76.1207 Waivers.

The Commission may waive a regulation adopted under this subpart for a limited time, upon an appropriate showing by a provider of multichannel video programming and other services offered over multichannel video programming systems, or an equipment provider that such a waiver is necessary to assist the development or introduction of a new or improved multichannel video programming or other service offered over multichannel video programming systems, technology, or products. Such waiver requests should be made pursuant to § 76.7. Such a waiver shall be effective for all service providers and products in the category in which the waiver is granted.

§ 76.1208 Sunset of regulations.

The regulations adopted under this subpart shall cease to apply when the Commission determines that (1) the market for multichannel video distributors is fully competitive; (2) the market for converter boxes, and interactive communications equipment, used in conjunction with that service is fully competitive; and (3) elimination of the regulations would promote competition and the public interest. Any interested party may petition the Commission for such a determination.

§ 76.1209 Theft of service.

Nothing in this subpart shall be construed to authorize or justify any use, manufacture, or importation of equipment that would violate 47 U.S.C. 553 or any other provision of law intended to preclude the unauthorized reception of multichannel video programming service.

§ 76.1210 Effect on other rules.

Nothing in this subpart affects § 64.702(d) of the Commission's regulations or other Commission regulations governing interconnection and competitive provision of customer premises equipment used in connection with basic common carrier communications services.

[FR Doc. 98–18838 Filed 7–14–98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 541

[Docket No. NHTSA–98–3752]

RIN 2127–AH06

Federal Motor Vehicle Theft Prevention Standard; Final Listing of Model Year 1999 High-Theft Vehicle Lines

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule.

SUMMARY: This final rule announces NHTSA's determination for model year (MY) 1999 high-theft vehicle lines that are subject to the parts-marking requirements of the Federal motor vehicle theft prevention standard, and high-theft lines that are exempted from the parts-marking requirements because the vehicles are equipped with antitheft devices determined to meet certain statutory criteria for MY 1999, pursuant to the statute relating to motor vehicle theft prevention.

EFFECTIVE DATE: The amendment made by this final rule is effective July 15, 1998.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalind Proctor, Motor Vehicle Theft Group, Office of Planning and Consumer Programs, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590. Ms. Proctor's telephone number is (202) 366–0846. Her fax number is (202) 493–2739.

SUPPLEMENTARY INFORMATION: The "Anti Car Theft Act of 1992," P. L. 102–519, amended the law relating to the parts-marking of major component parts on designated high-theft vehicle lines and other motor vehicles. The Anti Car Theft Act amended the definition of "passenger motor vehicle" in 49 U.S.C. § 33101(10) to include a "multipurpose passenger vehicle or light duty truck when that vehicle or truck is rated at not more than 6,000 pounds gross vehicle weight." Since "passenger motor vehicle" was previously defined to include passenger cars only, the effect of the Anti Car Theft Act is that certain multipurpose passenger vehicle (MPV) and light-duty truck (LDT) lines may be determined to be high-theft vehicles subject to the Federal motor vehicle theft prevention standard (49 CFR Part 541).

The purpose of the theft prevention standard is to reduce the incidence of motor vehicle theft by facilitating the tracing and recovery of parts from stolen vehicles. The standard seeks to facilitate such tracing by requiring that vehicle identification numbers (VINs), VIN derivative numbers, or other symbols be placed on major component vehicle parts. The theft prevention standard requires motor vehicle manufacturers to inscribe or affix VINs onto covered original equipment major component parts, and to inscribe or affix a symbol identifying the manufacturer and a common symbol identifying the replacement component parts for those original equipment parts, on all vehicle lines selected as high-theft.

The Anti Car Theft Act also amended 49 U.S.C. § 33103 to require NHTSA to promulgate a parts-marking standard applicable to major parts installed by manufacturers of "passenger motor vehicles (other than light duty trucks) in not to exceed one-half of the lines not designated under 49 U.S.C. § 33104 as high-theft lines." NHTSA published a final rule amending 49 CFR Part 541 to include the definitions of MPV and LDT, and major component parts. See 59 FR 64164, December 13, 1995.

49 U.S.C. § 33104(a)(3) specifies that NHTSA shall select high-theft vehicle lines, with the agreement of the manufacturer, if possible. Section 33104(d) provides that once a line has been designated as likely high-theft, it remains subject to the theft prevention standard unless that line is exempted under § 33106. Section 33106 provides that a manufacturer may petition to have a high-theft line exempted from the requirements of § 33104, if the line is equipped with an antitheft device as standard equipment. The exemption is granted if NHTSA determines that the antitheft device is likely to be as effective as compliance with the theft prevention standard in reducing and deterring motor vehicle thefts.

The agency annually publishes the names of the lines which were previously listed as high-theft, and the lines which are being listed for the first time and will be subject to the theft prevention standard beginning in a given model year. It also identifies those lines that are exempted from the theft prevention standard for a given model year under § 33104.

On April 8, 1996, the final listing of high-theft lines for the MY 1997 vehicle lines was published in the **Federal Register** (61 FR 15390). The final listing identified vehicle lines that were listed for the first time and became subject to the theft prevention standard beginning with the 1997 model year. However, the agency was subsequently informed that beginning with MY 1997, two of those lines, the Chevrolet Beretta and the Chevrolet Caprice, are no longer being manufactured for sale in the United States. Therefore, those two vehicle lines were not properly included on the list in Appendix A, and have been deleted. In addition, two other General Motors car lines, the Chevrolet Corsica and the Oldsmobile Cutlass Ciera underwent name and platform changes for model year 1997. The new names have been substituted in Appendix A, with a footnote indicating the former name and the date of the change.

On July 31, 1997, the final listing of high-theft lines for the MY 1998 vehicle lines was published in the **Federal Register** (62 FR 40949). The final listing identified vehicle lines that were listed for the first time and became subject to the theft prevention standard beginning with the 1998 model year.

For MY 1999, the agency identified four new vehicle lines that are likely to be high-theft lines, in accordance with the procedures published in 49 CFR Part 542. The new lines are the Honda Odyssey, the Hyundai (nameplate to be announced), the Toyota Lexus RX300 (SUV) and the Toyota Solara. In addition to these four vehicle lines, the list of high-theft vehicle lines includes all lines previously selected as high-theft and listed for prior model years. Furthermore, Appendix A has been amended to reflect a name change for the Suzuki Sidekick (MPV) and the Oldsmobile Achieva. The Suzuki Sidekick has been renamed the Suzuki Grand Vitara, and the Oldsmobile Achieva has been renamed the Oldsmobile Alero beginning with MY 1999.

The list of lines that have been exempted by the agency from the parts-marking requirements of Part 541 includes high-theft lines newly exempted in full beginning with MY 1999. The three vehicle lines newly exempted in full are the BMW Car line 3, the General Motors Oldsmobile Alero and the Nissan Maxima. Additionally, the agency was subsequently informed that the Mazda Amati 1000 car line has never been manufactured for sale in the United States. Therefore, the Mazda Amati 1000 car line has been deleted from Appendix A–I of this listing.

The vehicle lines listed as being subject to the parts-marking standard have previously been selected as high-theft lines in accordance with the procedures set forth in 49 CFR Part 542. Under these procedures, manufacturers evaluate new vehicle lines to conclude whether those new lines are likely to be high theft. The manufacturer submits these evaluations and conclusions to the agency, which makes an independent evaluation; and, on a preliminary basis, determines whether the new line should be subject to the parts-marking requirements. NHTSA informs the manufacturer in writing of its evaluations and determinations, together with the factual information considered by the agency in making them. The manufacturer may request the agency to reconsider the preliminary determinations. Within 60 days of the receipt of these requests, the agency makes its final determination. NHTSA informs the manufacturer by letter of these determinations and its response to the request for reconsideration. If there is no request for reconsideration, the agency's determination becomes final 45 days after sending the letter with the preliminary determination. Each of the new lines on the high-theft list has been the subject of a final determination under either 49 U.S.C. § 33103 or § 33104.

Similarly, the lines listed as being exempt from the standard have previously been exempted in accordance with the procedures of 49 CFR Part 543 and 49 U.S.C. § 33106.

Therefore, NHTSA finds for good cause that notice and opportunity for comment on these listings are unnecessary. Further, public comment on the listing of selections and exemptions is not contemplated by 49 U.S.C. Chapter 331.

For the same reasons, since this revised listing only informs the public of previous agency actions and does not impose additional obligations on any party, NHTSA finds for good cause that the amendment made by this notice should be effective as soon as it is published in the **Federal Register**.

Regulatory Impacts

1. Costs and Other Impacts

NHTSA has analyzed this rule and determined that it is not "significant" within the meaning of the Department of Transportation's regulatory policies and procedures. The agency has also considered this notice under Executive Order 12866. As already noted, the selections in this final rule have previously been made in accordance with the provisions of 49 U.S.C. § 33104, and the manufacturers of the selected lines have already been informed that those lines are subject to the requirements of 49 CFR Part 541 for MY 1999. Further, this listing does not actually exempt lines from the requirements of 49 CFR Part 541; it only informs the general public of all such previously granted exemptions. Since the only purpose of this final listing is to inform the public of prior agency actions for MY 1999, a full regulatory evaluation has not been prepared.

2. Regulatory Flexibility Act

The agency has also considered the effects of this listing under the Regulatory Flexibility Act. I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. As noted above, the effect of this final rule is simply to inform the public of those lines that are subject to the requirements of 49 CFR Part 541 for MY 1999. The agency believes that the listing of this information will not have any economic impact on small entities.

3. Environmental Impacts

In accordance with the National Environmental Policy Act of 1969, the agency has considered the environmental impacts of this rule, and determined that it will not have any significant impact on the quality of the human environment.

4. Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this final rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

5. Civil Justice Reform

This final rule does not have a retroactive effect. In accordance with § 33118 when the Theft Prevention Standard is in effect, a State or political subdivision of a State may not have a different motor vehicle theft prevention standard for a motor vehicle or major replacement part. 49 U.S.C. § 33117 provides that judicial review of this rule may be obtained pursuant to 49 U.S.C. § 32909. Section 32909 does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 541

Administrative practice and procedure, Labeling, Motor vehicles, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR Part 541 is amended as follows:

PART 541—[AMENDED]

1. The authority citation for Part 541 continues to read as follows:

Authority: 49 U.S.C. 33102–33104 and 33106; delegation of authority at 49 CFR 1.50.

2. In Part 541, Appendices A, A–I and A–II are revised to read as follows:

Appendix A to Part 541—Lines Subject to the Requirements of This Standard

Manufacturer	Subject lines
ALFA ROMEO	Milano 161.
	164.
BMW	Z3.
CHRYSLER	6 Car Line.
	Chrysler Cirrus.
	Chrysler Executive, Sedan/Limousine.
	Chrysler Fifth Avenue/Newport.
	Chrysler Laser.
	Chrysler LeBaron/Town & Country.
	Chrysler LeBaron GTS.
	Chrysler's TC.
	Chrysler New Yorker Fifth Avenue.
	Chrysler Sebring.
	Chrysler Town & Country.
	Dodge 600.
	Dodge Aries.
	Dodge Avenger.
	Dodge Colt.
	Dodge Daytona.

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Manufacturer	Subject lines
	Dodge Diplomat.
	Dodge Lancer.
	Dodge Neon.
	Dodge Shadow.
	Dodge Stratus.
	Dodge Stealth.
	Eagle Summit.
	Eagle Talon.
	Jeep Cherokee (MPV).
	Jeep Grand Cherokee (MPV).
	Jeep Wrangler (MPV).
	Plymouth Caravelle.
	Plymouth Colt.
	Plymouth Laser.
	Plymouth Gran Fury.
	Plymouth Neon.
	Plymouth Reliant.
	Plymouth Sundance.
	Plymouth Breeze.
CONSULIER	Consulier GTP.
FERRARI	Mondial 8.
	308.
	328.
FORD	Ford Aspire.
	Ford Crown Victoria.
	Ford Escort.
	Ford Mustang.
	Ford Probe.
	Ford Taurus.
	Ford Thunderbird.
	Lincoln Continental.
	Lincoln Mark.
	Lincoln Town Car.
	Mercury Capri.
	Mercury Cougar.
	Mercury Grand Marquis.
	Mercury Sable.
	Mercury Tracer.
	Merkur Scorpio.
	Merkur XR4Ti.
GENERAL MOTORS	Buick Electra.
	Buick Reatta.
	Buick Skylark.
	Chevrolet Astro (MPV).
	Chevrolet Lumina Minivan.
	Chevrolet Malibu.[1]
	Chevrolet Monte Carlo (MYs 1987–88).
	Chevrolet Nova.
	Chevrolet Blazer (MPV).
	Chevrolet Prizm.[2]
	Chevrolet S–10 Pickup.
	Geo Storm.
	Chevrolet Tracker (MPV).[2]
	GMC Jimmy (MPV).
	GMC Safari (MPV).
	GMC Sonoma Pickup.
	Oldsmobile Achieva (MYs 1997–1998).[3]
	Oldsmobile Bravada.
	Oldsmobile Cutlass.[4]
	Oldsmobile Cutlass Supreme (MYs 1988–1997).[5]
	Oldsmobile Intrigue.
	Pontiac Fiero.
	Pontiac Grand Am.
	Saturn Sports Coupe.
	Pontiac Grand Prix.
HONDA	Accord.
	CRV (MPV).
	Odyssey (MPV).[6]
	Passport.
	Prelude.
	Acura Integra.
HYUNDAI	Accent.
	(nameplate to be announced).[6]

Manufacturer	Subject lines
	Sonata.
	Tiburon.
ISUZU	Impulse.
	Rodeo.
	Stylus.
	Trooper/Trooper II.
JAGUAR	XJ.
	XJ–6.
	XJ–40.
KIA MOTORS	S–II.
LOTUS	Elan.
MASERATI	Biturbo.
	Quattroporte.
	228.
MAZDA	GLC.
	626.
	MX–3.
	MX–5 Miata.
	MX–6.
MERCEDES-BENZ	190 D.
	190 E.
	250D–T.
	260 E.
	300 SE.
	300 TD.
	300 SDL.
	300 SEC/500 SEC.
	300 SEL/500 SEL.
	420 SEL.
	560 SEL.
	560 SEC.
	560 SL.
MITSUBISHI	Cordia.
	Eclipse.
	Mirage.
	Montero (MPV).
	Montero Sport (MPV).
	Tredia.
	3000GT.
NISSAN	240SX.
	Pathfinder.
	Sentra/200SX.
	Stanza/Altima.
PEUGEOT	405.
PORSCHE	924S.
SUBARU	XT.
	SVX.
	Forester.
	Legacy.
SUZUKI	X90.
	Samurai (MPV).
	Sidekick (MYs 1997–1998).[7]
	Grand Vitara (MPV).
TOYOTA	Toyota 4-Runner (MPV).
	Toyota Avalon.
	Toyota Camry.
	Toyota Celica.
	Toyota Corolla/Corolla Sport.
	Toyota MR2.
	Toyota RAV4 (MPV).
	Toyota Sienna (MPV).
	Toyota Solara.[6]
	Toyota Starlet.
	Toyota Tercel.
	Lexus RX300 (SUV).[6]
VOLKSWAGEN	Audi Quattro.
	Volkswagen Rabbit.
	Volkswagen Scirocco.

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[1] Replaced the Chevrolet Corsica beginning with MY 1997.
[2] The Geo make identifier was replaced by the Chevrolet make identifier beginning with MY 1998.
[3] Renamed the Oldsmobile Alero beginning with MY 1999.
[4] Replaced the Oldsmobile Cutlass Ciera in MY 1997.
[5] Renamed the Oldsmobile Intrigue beginning with MY 1998.
[6] Lines added for MY 1999.

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[7] Renamed the Suzuki Grand Vitara beginning with MY 1999.
[8] Lines added for MY 1999.

Appendix A-I—High-Theft Lines With Antitheft Devices Which are Exempted From the Parts-Marking Requirements of This Standard Pursuant to 49 CFR Part 543

Manufacturer	Subject lines
AUSTIN ROVER	Sterling.
BMW	3 Car Line.[1]
	5 Car Line.
	7 Car Line.
	8 Car Line.
CHRYSLER	Chrysler Conquest.
	Chrysler Imperial.
GENERAL MOTORS	Buick Park Avenue.
	Buick Regal/Century.
	Buick Riviera.
	Cadillac Allante.
	Cadillac Seville.
	Chevrolet Cavalier.
	Chevrolet Corvette.
	Chevrolet Lumina/Monte Carlo.
	Oldsmobile Alero.[1].
	Oldsmobile Aurora.
	Oldsmobile Toronado.
	Pontiac Sunfire.
HONDA	Acura CL.
	Acura Legend (MYs 1987–1996).[2]
	Acura NSX.
	Acura RL.
	Acura SLX.
	Acura TL.
	Acura Vigor (MYs 1992–1995).[3]
ISUZU	Impulse (MYs 1987–1991).
JAGUAR	XK8
MAZDA	929.
	RX–7.
	Millenia.
MERCEDES-BENZ	124 Car Line (the models within this line are):
	300D.
	300E.
	300CE.
	300TE.
	400E.
	500E.
	129 Car Line (the models within this line are):
	300SL.[4]
	500SL.[5]
	600SL.[6]
	SL320.
	SL500.
	SL600.
	202 Car Line (the models within this line are):
	C220.
	C230.
	C280.
	C36
MITSUBISHI	Galant.
	Starion.
	Diamante.
NISSAN	Nissan Maxima.[7]
	Nissan 300ZX.
	Infiniti I30.
	Infiniti J30.
	Infiniti M30.
	Infiniti QX4.
	Infiniti Q45.
PORSCHE	911.
	928.
	968.
	Boxster.
SAAB	900.
	9000.
TOYOTA	Toyota Supra.

Manufacturer	Subject lines
	Toyota Cressida.
	Lexus ES.
	Lexus GS.
	Lexus LS.
	Lexus SC
VOLKSWAGEN	Audi 5000S.
	Audi 100.
	Audi 200.
	Audi A6.
	Audi S4.
	Audi S6.
	Audi Cabriolet.
	Volkswagen Cabrio.
	Volkswagen Corrado.
	Volkswagen Golf/GTI.
	Volkswagen Passat.
	Volkswagen Jetta/Jetta III

[1] Exempted in full beginning with MY 1999.
[2] Renamed the Acura RL beginning with MY 1997.
[3] Replaced by the Acura TL beginning with MY 1996.
[4] Replaced by the SL320 beginning with MY 1997.
[5] Renamed the SL500 beginning with MY 1994.
[6] Renamed the SL600 beginning with MY 1994.
[7] Exempted in full beginning with MY 1999.

Appendix A—II to Part 541—High-Theft Lines With Antitheft Devices Which are Exempted In-Part From the Parts-Marking Requirements of This Standard Pursuant to 49 CFR Part 543

Manufacturers	Subject lines	Parts to be marked
GENERAL MOTORS	Buick LeSabre	Engine, Transmission.
	Cadillac Deville	Engine, Transmission.
	Cadillac Eldorado	Engine, Transmission.
	Cadillac Sixty Special [1]	Engine, Transmission.
	Oldsmobile Ninety-Eight	Engine, Transmission.
	Pontiac Bonneville	Engine, Transmission.
	Pontiac Firebird	Engine, Transmission.
	Chevrolet Camaro	Engine, Transmission.
	Oldsmobile Eighty-Eight	Engine, Transmission.

[1] Renamed the Cadillac Concours beginning with MY 1994.

Issued on: June 30, 1998.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 98–18538 Filed 7–14–98; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 980406085-8164-01; I.D. 031998C]

RIN 0648–AJ27

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Management Measures for Nontrawl Sablefish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement management measures recommended by the Pacific Fishery Management Council (Council) for the limited entry, fixed gear sablefish fishery north of 36° N. lat. These measures provide a three-tiered management regime with three different cumulative landings limits for permit holders participating in the regular, limited entry, fixed gear sablefish fishery. The cumulative landings limit available to a permit holder depends on the tier to which the permit is assigned, with tier assignment based on historical and more recent participation in the fixed gear sablefish fishery. Both the limited entry and open access fixed gear sablefish fisheries will be closed for 48 hours immediately before and for 30 hours immediately after the regular fishery, with different restrictions applying during the two closed periods. Provisional 1997 regulatory language is updated by this final rule. These actions are intended to recognize the historical and more recent participation and investment in the fixed gear sablefish fishery while eliminating the traditional "derby" style management system.

DATES: Effective July 10, 1998.

ADDRESSES: Copies of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) and the Final Regulatory Flexibility Analysis (FRFA) for this action are available from the Pacific Fishery Management Council, 2130 SW. Fifth Avenue, Suite 224, Portland, OR 97201. Comments regarding the collection-of-information requirements contained in this rule should be sent to William Stelle, Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, BIN C15700, Seattle, WA 98115–0070 or to

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William Hogarth, Administrator, Southwest Region, NMFS, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, (OMB) Washington, DC 20503 (ATTN: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Yvonne deReynier at 206–526–6140, or Wes Silverthorne at 562–980–4000.

SUPPLEMENTARY INFORMATION:

Background

NMFS issues this final rule to implement recommendations from the Council, under the authority of the Pacific Coast Groundfish Fishery Management Plan (FMP) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), to implement changes to the management measures for the limited entry, fixed gear sablefish fishery. The notice of proposed rulemaking for this action (63 FR 19878, April 22, 1998) fully described the background and rationale for the Council's recommendations. NMFS requested public comments on this action through May 22, 1998. NMFS received 26 letters during the comment period, which are addressed later in the preamble to this final rule.

In summary, limited entry permits with sablefish endorsements are divided into three tiers, with placement based on the cumulative sablefish catch associated with that permit from 1984 through 1994. Each tier is allowed a different cumulative limit during the regular, limited entry, fixed gear fishery. These measures apply only north of 36° N. lat.

Three-Tier Program

NMFS has accepted the Council's recommendation for qualifying criteria for the three different tiers. To qualify for the highest tier, Tier 1, a permit must be associated with at least 898,000 lb (407.33 mt) of cumulative sablefish landings made from 1984 through 1994. To qualify for the middle tier, Tier 2, a permit must be associated with between 380,000 lb (172.36 mt) and 897,999 lb (407.33 mt) of cumulative sablefish landings made from 1984 through 1994. Permits with sablefish endorsements that are associated with less than 380,000 lb (172.36 mt) of cumulative sablefish landings from 1984 through 1994 qualify for the lowest tier, Tier 3.

Analysts examined the distribution of sablefish cumulative catch histories over the 1984 through 1994 period to determine whether there were any large gaps between groupings of the cumulative catch histories of limited entry permits with sablefish endorsements that might serve as logical breakpoints between tiers. The Council wanted broad divisions of permit catch history between permits assigned to different tiers. Based on the analysis available at its meetings, the Council determined that the above qualifying criteria for Tier 1 reflected the largest break among a series of high catch history breakpoints, and that the qualifying criteria for Tier 2 reflected the largest break among a series of mid-range catch history breakpoints.

Permit catch history will be used to determine tier assignments for limited entry permit holders with sablefish endorsements. Permit catch history includes the catch history of the vessel(s) that initially qualified for the permit, as well as subsequent catch history that was accrued when the limited entry permit or permit rights were associated with other vessels. Permit catch history also includes the catch associated with any interim permit held during the appeal of an initial NMFS decision to deny the initial issuance of a limited entry permit, but only if (1) the appeal for which an interim permit was issued was lost by the appellant, and (2) the owner's current permit was used by the owner in the 1995 limited entry sablefish fishery. The catch history of an interim permit where the full "A" permit was ultimately granted will also be considered part of the catch history of the "A" permit. If the current permit is the result of the combination of multiple permits, the combined catch histories of all of the permits that were combined to create a new permit before March 12, 1998, will be used in calculating the tier assignment for the resultant permit, together with any catch history (during the qualifying period) of the resultant permit. Only sablefish catch regulated by the FMP that was legally taken with longline or fishpot gear will be considered for tier placement. Harvest taken in tribal sablefish set-asides will not be included in calculating permit catch histories.

Under the regulations that implemented Amendment 9 to the FMP, which established the sablefish endorsement requirement, if two limited entry, fixed gear permits are combined to generate a single permit with a larger length endorsement, the resulting permit also will have a sablefish endorsement only if all permits being combined have sablefish endorsements. After tier assignments are issued by NMFS, if permits are combined, the resulting permit will be assigned to the highest tier held by either of the original permits before combination.

The three-tier program maintains a ratio between the cumulative landings limits for the three tiers that approximates the 1991–1995 catch relationships between permits assigned to each tier on a group average basis. Setting cumulative limits by ratios ensures that the long-term relationships between the cumulative limits for each tier will remain stable. With cumulative limits set by ratio, impacts from changes in the numbers of permits distributed to each tier will be shared by all vessels in the fleet. The cumulative landings limit ratio for the tiers is 3.85 (Tier 1); 1.75 (Tier 2); and 1 (Tier 3). For example, if Tier 3 had a cumulative limit of 10,000 lb (4,536 kg), Tier 2 would have a corresponding cumulative limit of 17,500 lb (7,938 kg), and Tier 1 would have a corresponding cumulative limit of 38,500 lb (17,463 kg).

Overhead guidelines will be used to set the cumulative limits for each tier and for the overall expected catch for the fishery. "Overhead" is defined as the difference between the expected harvest level and the total harvest that would occur if each permitted vessel took its cumulative limit (maximum potential harvest). The concept of overhead is based on the premise that not all participants in this fishery will harvest the cumulative limit. NMFS considers a fishery where all participants have the opportunity to catch a cumulative limit and are all able to catch that limit to be an Individual Fishing Quota (IFQ) program. The Magnuson-Stevens Act imposes a moratorium on implementation of new IFQ programs until October 1, 2000.

Cumulative limits and season lengths for the limited entry, fixed gear regular sablefish fishery will be set to achieve a projected overhead, based on the most reasonable assumptions, of at least 25 percent and an overhead based on worst-case assumptions of at least 15 percent for the fleet as a whole. The overhead goal for any single tier will be at least 15 percent, based on the most reasonable assumptions.

Tier assignments for limited entry permits with sablefish endorsements will be issued by NMFS, before the start of the regular 1998 limited entry, fixed gear sablefish season. NMFS has used landings records from the Pacific States Marine Fisheries Commission's Pacific Fisheries Information Network (PacFIN) database to preliminarily determine which limited entry permits meet the Council-recommended qualifications for each tier.

The Sustainable Fisheries Division (SFD), NMFS Northwest Region, has notified each limited entry permit owner with a sablefish endorsement by letter whether PacFIN records indicate that his or her permit qualifies for Tier 1, Tier 2, or Tier 3.

A permit owner who believes that his or her permit qualifies for a different tier than the tier indicated by PacFIN records has 30 days to send supporting documentation, such as fish tickets, to the SFD to demonstrate how the qualifying criteria for a different tier have been met. A new tier will be assigned if the permit owner demonstrates that his or her permit meets the qualifying criteria. If the SFD, after review of the information submitted by the permit owner, decides that the permit does not qualify for the tier requested by the owner, the owner will have 30 days to appeal the decision to the Regional Administrator, NMFS Northwest Region. Unlike the initial limited entry permitting process but similar to the sablefish endorsement issuance process, there will be no industry appeals board to review appeals of tier placement.

For the 1998 season only, permit owners with sablefish endorsements will be issued certificates of tier assignment that will need to be kept with, and considered part of, their limited entry permits. When limited entry permit owners renew their permits for 1999, tier assignments for those limited entry permit owners with sablefish endorsements will be indicated directly on the limited entry permit.

Applications for sablefish endorsements, implemented in 1997 under Amendment 9 to the FMP, will not be accepted after November 30, 1998, which is the limited entry permit renewal deadline for the 1999 fishing year.

Changes From the Proposed Rule

NMFS received Council recommendations on the two changes to the proposed rule described in this section.

At the March 1998 Council meeting, the Council learned from its analysts that the initial analysis presented before the 1997 Council decision on the three-tier program had two mistakes directly related to the Council's decision. The Council reconsidered the affected portions of its recommendations. The first mistake was that the database used for the initial analysis for the three-tier program had inadvertently included some sablefish taken in waters off Alaska and later landed at a Pacific Coast port. Tier qualification catch history includes only sablefish landed from the Pacific Coast groundfish fishery. The catch histories of some permits were inflated because of this inclusion of Alaska-caught sablefish. Once the Alaska-caught sablefish was removed from the permit catch history database, the tier qualification levels had to be re-analyzed to determine whether the breaks between permit catch histories (described above) were still large enough to draw clear distinctions between permits above and below the breaks. The Council particularly did not wish to set a qualification level that was within a few thousand pounds of the next lowest permit catch history level. Removal of Alaska sablefish data did not significantly change the breaks in cumulative catch histories identified by the Council at its November 1997 meeting. The break for Tier 1, 898,000 lb (407.33 mt), actually became larger, and so is a more effective fleet-division indicator than it was when the Alaska data were included in the cumulative catch histories. The qualifying amount that the Council had originally recommended for Tier 2, 411,000 lb (186.43 mt), also occurs at a large break in cumulative catch histories, but it is no longer the lowest large breakpoint in its class. Analysis presented at the March 1998 meeting showed that 398,000 lb (180.53 mt) was the most significant break in cumulative catch histories, and the lowest large break among mid-range breakpoints. The Council commented on this issue, stating that it preferred to use the lowest large breakpoint in the mid-range area. In order to cushion any further possible data mistakes, the Council recommended setting the Tier 2 qualifying poundage at 380,000 lb (172.37 mt). NMFS received no public comment on this issue, and implements this change with this final rule.

The second mistake in the November 1997 analysis was made when the Council considered whether permits that were the result of the combination of two earlier permits would be assigned to a tier based on the cumulative catch history of one of the earlier permits, or based on the combined cumulative catch histories of both permits together. The analysis presented to the Council in November indicated that no permit holder would be denied qualification to a higher tier if the cumulative catch history of the highest of two combined permits were used as the qualifying catch history for that permit, rather than the summed cumulative catch history of both permits that were used to create the currently held permit. However, analysts later discovered a permit that is a result of two previously combined permits with catch histories that would each qualify for Tier 2, but that combined would qualify the resultant permit for Tier 1. This mistake was presented to the Council at its March 1998 meeting, after which the Council recommended changing its initial decision so that permits that are the result of a combination of multiple permits made before March 12, 1998, may combine the cumulative catch histories of all of the permits that went into the combination in order to determine the tier qualification status for the resultant permit. The Council only allowed this change for pre-existing combinations, but not for future combinations, so that permit holders would not have an incentive to buy up latent effort in the fleet to expand the capacity of their own operations. During the comment period, NMFS received two letters expressing support for the new Council recommendation. NMFS implements this change with this final rule.

Management Measures for 1998 and Beyond

To facilitate enforcement, there will be a 48–hour closure before the start of the limited entry, fixed gear regular season, during which time all fixed gear north of 36° N. lat. must be out of the water, and no sablefish may be landed by a fixed gear vessel. The 1998 pre-season closure will begin at noon local time (l.t.) on Thursday, July 30, and end at noon l.t. on Saturday, August 1, at the start of the fishery. There will be no opportunities for any fishers to set their gear before the 1998 regular season start time.

The 1998 limited entry, fixed gear regular season will begin at noon l.t. on Saturday, August 1, 1998. Only holders of limited entry permits with sablefish endorsements and tier assignments may participate in this fishery. The fishery will be 6 days long, ending at noon l.t. on Friday, August 7, 1998. The cumulative landings limits for participants in the limited entry, fixed gear sablefish fishery will be 52,000 lb (23,587 kg) for Tier 1; 23,500 lb (10,660 kg) for Tier 2, and 13,500 lb (6,124 kg) for Tier 3. During the regular and mop-up seasons, there is a trip limit in effect for sablefish smaller than 22 inches (56 cm) total length, which may comprise no more than 1,500 lb (680 kg) or 3 percent of all legal sablefish 22 inches (56 cm) or larger, whichever is greater.

To facilitate enforcement at the end of the regular season, there will be a 30–hour post-season closure north of 36° N. lat., during which time no sablefish taken with fixed gear (limited entry or open access) may be taken and retained

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for the 30 hours immediately after the end of the regular season. However, sablefish taken and retained during the regular season may be possessed and landed during that 30–hour period. The post-season closure has been changed from 48 hours in duration to 30 hours in duration. This shorter post-season closure is a compromise between vessel owners with pot gear who would prefer a short post-season closure so that they may retrieve gear as soon after offloading as possible, and vessels delivering sablefish to ports in Puget Sound that are farther from the main fishing grounds than from direct ocean ports. In 1998, this 30–hour post-season closure will begin at noon l.t. on August 7 and end at 1800 hours l.t. on August 8. Gear may remain in the water during the 30–hour post-season closure; however, gear used to take and retain groundfish may not be set or retrieved during this period.

Commencing at 1800 hours l.t., August 8, 1998, the daily trip limits for fixed gear sablefish will resume at 300 lb (136 kg) per day north of 36° N. lat. (Daily trip limits apply to calendar days. Therefore, on August 8, 1998, a daily trip limit may be landed between 1800 hours and 12 midnight l.t. Beginning at 0001 hours l.t. on August 9, 1998, daily trip limits will apply to the full 24 hours.) A vessel participating in the regular fishery must begin landing its catch before 1800 hours l.t., August 8, 1998, and complete the offloading before returning to sea or continuing a trip at sea, or the daily trip limit will apply to the fish remaining on board after 1800 hours l.t. on August 8, 1998.

Estimates of the likely total harvest in the regular fishery have been made conservatively in order to ensure that the fishery does not exceed its total allocation. Because of this conservative management and the need to provide harvest overhead in setting cumulative landings limits for the three tiers, the regular fishery may not harvest all of the limited entry, fixed gear allocation for north of 36° N. lat. in excess of that required for the daily trip limit fishery. Following an estimation of the catch from the regular fishery, there will be a mop-up fishery to harvest this excess. The recommendation on the size of the mop-up cumulative limit will be made by the Council's Groundfish Management Team, after calculation of the actual landed catch from the regular fishery and the daily trip limit fishery. NMFS will announce the start date, duration, and cumulative limit amount for the mop-up portion of the fishery in the **Federal Register** before the start of the mop-up season.

Comments and Responses

The comments in 26 letters received during the public comment period ending on May 22, 1998, are summarized below. Comments 1 through 17 were received from 12 individuals in opposition to the three-tier program. Comments 18 through 30 are comments were received from 13 individuals and from an attorney representing west Coast fixed gear fishers. One letter in support of the rule included a suggestion that permit owners be allowed to stack multiple permits to pursue multiple cumulative limits during the regular fishery and a suggestion that the regular fishery be managed with an option of two different start dates, one in April and one in August. Neither of these suggestions was within the scope of the proposed rule or the Council's considerations for the three-tier program, so those comments have not been responded to below.

Comments Opposing the Rule

Comment 1: No justifiable need has been demonstrated for tiered sablefish allocation. Tiered allocation does nothing to further the stated purpose of the overall management program—to end derby fishing. In fact, derby fishing would be perpetuated by this program. The three-tier program does not address the safety-at-sea issue.

Response: For the past several years, the Council has expressed a strong desire to end the status quo management regime of an open competition derby while still maintaining historic trends in catch distribution among participants. Each year, since 1987, the open competition derby season has shortened in duration, yet the Council has been unable to choose whether to support the management recommendations of long-term fleet members who wanted to maintain their historic share of sablefish landings, or the management recommendations of new entrants to the fleet who wanted to increase their future shares of sablefish landings. The history of the fixed gear sablefish management regime is discussed in the preamble to the proposed rule. Finally, for 1998 and beyond, the Council recommended the three-tier program, a compromise that recognizes historic and recent fishery participation levels. The unrestricted competition derby will end with the implementation of the three-tier program.

The amount of sablefish available to a three-tier regular fishery provides a 6-day fishery in 1998. Without this rule, the regular fishery would be an unrestricted derby of 2 to 3 days. With this rule, approximately one-third of the expected participating vessels will be able to slow their rate of fishing over the rate that they would have fished under an unrestricted derby fishery, without reducing their catch. The Council has several times deliberated on whether this fishery would still be unsafe for vessels unable to catch the cumulative limit within the time allotted for the fishery. Fishers who knew that they would not be able to catch the cumulative limit within the time available have testified before the Council that any increase in the number of days in the fishery would allow them to slow the pace of their fishing and improve their ability to operate in a safer manner. The Council concluded that the three-tier program was an appropriate compromise because it would substantially slow the fishery without the adverse impacts of the alternatives that would have more drastically redistributed the catch.

The regular fishery under the three-tier program will still be a short, intense season. However, the only management option that has been suggested to end such seasons entirely was to set equal, monthly cumulative landings limits, an option with other offsetting drawbacks. Equal monthly landings limits would drastically redistribute catch from longer term participants to more recent and smaller capacity entrants. Cumulative limits also give fishers incentive to aim for a limit, and in aiming for that limit, they often exceed the limit and must discard any fish exceeding the limit. Discard mortality is largely unmeasured, and thus is a danger to the long-term health of the fish stocks. A system of monthly limits risks the possibility that fishers will aim for and exceed 12 small landings limits. The three-tier program has just the large, regular fishery limit to aim for, plus an expected second, smaller limit in the mop-up portion of the fishery.

Comment 2: The three-tier program is based solely on historic catch. Historic catch is not mentioned in the Magnuson-Stevens Act. The Magnuson-Stevens Act states that if the available resource must be allocated to American fishers, historic participation shall be required. All fishers with sablefish endorsements have shown historic participation in the fishery.

Response: Under section 303 of the Magnuson-Stevens Act, a Council may establish a limited access program if it takes into account, among other things, "historical fishing practices in, and dependence on, the fishery." The three-tier program uses cumulative sablefish landings from the 1984 through 1994 period to quantify the historical fishing practices and dependence of participating fishers on the fixed gear sablefish fishery.

National standard 4 of the Magnuson-Stevens Act states that, "Conservation and management measures shall not discriminate between residents of different States. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (A) fair and equitable to all such fishermen; (B) reasonably calculated to promote conservation; and (C) carried out in such a manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges." The three-tier program is fair and equitable to participants in the program because it recognizes historic and recent participation and dependence on the fishery, and because it divides fishing privileges in a manner designed to minimize economic impact on those participants, within the constraints of the Magnuson-Stevens Act prohibition on implementing new IFQ programs.

Derbies, three-tier programs, and series of monthly cumulative limits, were three of the major alternatives considered in this action. Each provides a different means of controlling harvest in this fishery, each with different social, economic, and conservation implications that would change over time and with conditions in the fishery. The implementation of any of these alternatives would promote resource conservation. Deteriorating social and economic conditions resulting from derby fishery management led to the consideration of alternative conservation measures.

Finally, if the fishery could be managed in a way that would allow each of the permits to harvest the entire cumulative limit associated with the tiers, each of the permits in the top tier would be receiving just 1.4 percent of the total catch available to that fishery. A small number of fleet participants own more than one permit, so it is extremely unlikely that any one individual, corporation, or any other entity will acquire an excessive share of the privileges associated with this fishery through the three-tier program.

Comment 3: The Magnuson-Stevens Act states that economic gain shall not be used to allocate fish resources.

Response: National standard 5 of the Magnuson-Stevens Act states that, "Conservation and management measures shall, where practicable, consider efficiency in the utilization of fishery resources; except that no such measure shall have economic allocation as its sole purpose." The purpose of the three-tier program is to move away from the unrestricted derby fishery with a management program that allows sablefish catch distribution to reflect historic and recent participation levels in the fishery. A management measure that would improve the efficiency of the use of a fishery resource would, among other things, remove or discourage redundant capacity in the fleet targeting that resource. Derby management encourages each fishery participant to increase the capacity of his or her vessel, to maximize the amount of fish that a vessel can catch during the time of the fishery. If the catching capacity of each vessel in a fleet is increased to improve its competitive advantage over other vessels, the total catching capacity in the fleet becomes so great that the duration of the derby must be shortened to prevent these vessels from exceeding the harvest guideline for the target species. The Pacific Coast fixed gear sablefish fishery has had a classic case history of a derby fishery that rushed into the vicious spiral of ever-increasing redundant capacity and ever-decreasing fishery duration. The three-tier program is intended to decrease the intensity of this spiral by matching permits to the tiers that most closely reflect their historic landings shares of the fishery. Fishers within each tier will be allowed to pursue cumulative limits that match more closely their current vessel capacities, and will thus as a group have less incentive to continue to increase those vessel capacities. There will still be incentive for vessels that are unable to catch their cumulative limit in the allotted time to increase their capacity (about two-thirds of the fleet), but the degree of incentive will be reduced. The three-tier program is a compromise program resulting from constraints created by the Magnuson-Stevens Act moratorium on the creation of new IFQ programs and the major reallocative effects of other alternative management strategies (e.g., a year-round series of monthly cumulative limits). Economic allocation is not the sole purpose of this regulation. As discussed in response to comments 1 and 2, the rule also has social and conservation purposes.

Comment 4: The tier system rewards overcapitalization by large producers by giving them an unreasonably larger allocation of sablefish in comparison to the rest, and majority, of the fleet.

Response: Fleet overcapitalization is primarily the result of two factors: individual fishers improving and supplementing their gear and vessel catching capabilities, and increasing numbers of new entrants to the fleet. Both of these factors contributed to overcapitalization in the fixed gear sablefish fishery. It is incorrect to say that, during any given period, a vessel that added gear contributed more to the overcapacity problem than a fisher bringing in a similar amount of capacity as a new entrant, or to say that this program rewards overcapitalization by recognizing historic and recent fishery participation. The three-tier program is designed to reflect, in part, dependence on the fishery.

The ratio that describes this distribution of cumulative catch limits between tiers approximates the 1991 through 1995 catch relationships between permits assigned to each tier on a group average basis. Setting cumulative limits by ratios ensures that the long-term relationships between the cumulative limits for each tier will remain stable. With cumulative limits set by ratio, impacts from changes in the numbers of permits distributed to each tier will be shared by all vessels in the fleet. The cumulative limits ratio for the tiers will be 3.85 (Tier 1); 1.75 (Tier 2); and 1 (Tier 3). The ratio between the average permit catch histories for permits in the three different tiers over the 1984 through 1994 period is 10.9 (permits in Tier 1) to 3.9 (permits in Tier 2) to 1 (permits in Tier 3). Tier 1 fishers will not have an unreasonably larger allocation of sablefish as compared with the rest of the fleet, particularly given the difference between the historic cumulative catch ratio and the cumulative limits ratio implemented by the three-tier program.

Comment 5: The tier program criteria are arbitrary and inappropriately inflexible. The criteria do not adequately allow for the changing circumstances and contingencies common in the industry, such as boat and gear loss, weather, price fluctuations, etc.

Response: NMFS disagrees. The three-tier program qualifying criteria include the initial 1984 through 1988 window period used to qualify vessels for limited entry permits, plus the 1989 through 1994 period that was added to the limited entry window period for sablefish endorsement qualification. In considering this question, it is important to remember that NMFS considers the relevant history to be the history of the groundfish fishing firm as represented by the groundfish permit. Within the 11-year window period, NMFS expects that most fishers had some period of relatively low fishing activity due to any number of possible problems they might have had with their boats, gear and weather, with personal health and family needs or with basic changes in market

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conditions. The long (11 years) qualifying period reduces the impact of any particular problem that might have affected a fisher's participation in this fishery. For vessels that may have entered the fishery in the latter part of the qualifying period, such as those qualifying for a limited entry permit based on construction provisions, notice was given as early as the November 1991 Council meeting (announced at 57 FR 4394, February 5, 1992), that additional actions might be taken to further restrict access to the fishery, and that the Council was reserving the option to not consider subsequent investment and dependence on the fishery in determining future allocation questions with regard to this fishery. The qualifying requirement represents a balance that considers both the duration of involvement in the fishery and the size of the harvest operation. A fisher who entered the fishery as a large producer in the later part of the qualification window would have an opportunity to qualify for one of the higher tiers, as would a fisher who participated at a lower, but consistent, level over a longer period.

Comment 6: The catch requirements for tier placement would unfairly favor large vessels and handicap smaller vessels. Recent derby management has artificially widened the catch gap between larger and smaller vessels, because small boats are more vulnerable to adverse weather and must spend a greater percent of time in transit, loading, and offloading. Thus, the catch rate of these smaller vessels has been constrained during the extremely short seasons.

Response: NMFS agrees that there is some correlation between vessel size and vessel catch history. However, there are also several examples of small-sized vessels in the Tier 1 that have had high and consistent sablefish landings over the entire 11-year qualifying period. Conversely, there are very large vessels in Tier 3 with relatively low cumulative catch histories. Many factors contribute to whether a vessel has a relatively large or small sablefish catch history. In addition to basic vessel length, cumulative catch history might be related to sablefish abundance near the home port of the vessel, the fishing skills of the captain and crew, the type and condition of the gear used, the condition of the vessel, choices of the vessel owner to participate in the West Coast sablefish fishery or in other simultaneous fisheries, the number of years in this fishery, and many other possible factors. During the 1984 through 1994 window period, only the last three seasons could be classified as short in duration, being 15 days in 1992, 21 days in 1993, and 20 days in 1994. These short periods necessarily constrained the catch rates of all participating vessels to ensure that the fishery did not exceed the available harvest guideline. NMFS does not agree that smaller sized vessels necessarily spend more time in transit, or in loading and offloading than larger vessels.

Comment 7: High-producing pot fishers had an advantage of high harvest levels during the window period because they, unlike longliners, were allowed to set their gear before the start of the season. This was supposedly justified by safety concerns that boats carrying too many pots would be unstable.

Response: In 1993 and 1994, fixed gear vessels were prohibited from taking and retaining, possessing, or landing sablefish for the 72 hours before the start of the regular sablefish fishery (58 FR 16629, March 30, 1993). For those 2 years, all fixed gear fishers could deploy their gear during the 72–hour pre-season closure, but no sablefish could be taken from the water until the season start. In 1995, longliners were prohibited from deploying their gear until the start of the season, while pot fishers were allowed to deploy and bait their gear in advance of the start of the regular season (60 FR 34473, July 3, 1995). Because tier qualification status is based on landings made from 1984 through 1994, the pot pre-set allowance in 1995 and 1996 did not affect harvest during the three-tier qualification period.

Comment 8: The three-tier program does not consider the impact on the small fishing ports along the coast, as directed by the Magnuson-Stevens Act.

Response: National standard 8 of the Magnuson-Stevens Act requires that, "Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impact on such communities." NMFS notes that, according to the Council's decisional analysis, the three-tier program is expected to cause little change in the inter-port distribution of harvest over past years' harvest distributions. Moreover, other alternatives to unrestricted derby management, such as providing a single period equal cumulative limit fishery for all vessels or a series of equal monthly cumulative limits, would have imposed greater changes to inter-port harvest distribution than the three-tier program implemented by this rule. The program implemented by this rule meets the requirements of national standard 8.

Comment 9: The three-tier plan is only a disguised IFQ program, which is not allowed under the Magnuson-Stevens Act. The "overhead" allowance does not remedy this being an IFQ program. Additionally, the season has been artificially shortened in order to maintain this "overhead" fiction, increasing the fishery's hazardousness for all participants.

Response: The October 11, 1996, Sustainable Fisheries Act significantly revised and renamed the Magnuson-Stevens Act. The new changes to the Magnuson-Stevens Act included a moratorium on the implementation of new IFQ programs until October 1, 2000. An IFQ is defined in the Magnuson-Stevens Act as, "a Federal permit under a limited access system to harvest a quantity of fish, expressed by a unit or units representing a percentage of the total allowable catch of a fishery that may be received or held for exclusive use by a person."

Management measures for the limited entry, fixed gear sablefish fishery have been carefully designed not to violate this IFQ prohibition. As with the 1997 equal cumulative limit fishery, the Council recommended using overhead guidelines in setting the cumulative limits for each tier and for the overall expected catch for the total fishery. "Overhead" is defined as the difference between the expected harvest level and the total harvest that would occur if each permitted vessel took its full cumulative limit (maximum potential harvest). The concept of overhead is based on the premise that not all participants in this fishery will be able to harvest the cumulative limit. Because not all participants will be able to harvest the cumulative limits, and the remaining fish will be made available to others in the fleet, the cumulative limits are not held for "exclusive use by a person." These limits are merely caps on what the most productive members of each tier may harvest during the regular season. NMFS considers a fishery where all participants have the opportunity to catch a cumulative limit and they are all able to catch that limit to be an IFQ program. The Council recommended setting cumulative limits and season lengths in 1998 and beyond to achieve a projected overhead, based on the most reasonable assumptions, of at least 25 percent and an overhead, based on worst-case assumptions, of at least 15 percent for the fleet as a whole. The goal overhead for any single tier would be at least 15 percent, based on the most reasonable assumptions. Overhead provisions ensure that fishery participants do not have exclusive use of the cumulative limits. Any fish that is not harvested in the cumulative limit fishery will be redistributed in another catch opportunity during the mop-up fishery. NMFS is satisfied that a management program based on these conservative overhead guidelines will not result in all participating fishers being able to catch their full cumulative limits and that such a program will, therefore, not be an IFQ program. NMFS agrees that a longer season would be more desirable for its safety benefits. However, a longer season is not possible under the current IFQ moratorium, and would not achieve the Council's goal of ending the unrestricted derby with a management program that recognizes historic and recent participation.

Comment 10: Adequate consideration has not been given to alternative means of achieving the program's objectives. Alternatives to the three-tier program include management by equal allocation of sablefish for all limited entry permit holders, as in 1997.

Response: NMFS disagrees that adequate consideration has not been given to alternative means of achieving the program's objectives. The history of Council deliberation regarding this management system was described in the preamble to the proposed rule. The Council specifically considered, analyzed, and rejected options that provide equal allocation of sablefish for all permit holders as having too great a redistributive effect on the fishery. Because an option was not adopted does not mean that it was not considered.

The 1997 management scheme for the limited entry, fixed gear sablefish fishery set equal cumulative limits for all limited entry permit holders with sablefish endorsements. This scheme was specifically adopted for 1 year only because a long-term equal limits policy would have had significant adverse social and economic effects. This option, in addition to an option to set monthly equal cumulative limits, was included in the Council's decisional analysis for the management of this fishery in 1998 and beyond. In addition to these options, the Council considered a status quo derby option, three different three-tier options, and one four-tier option. The Council thoroughly analyzed and considered all seven management options before choosing the three-tier program implemented by this rule.

Comment 11: One commenter opposed to the rule supported the single period equal cumulative limit with mop-up option. The commenter noted that the Council's analysis for this issue showed that only 18 percent of fishery participants would experience a greater than 5–percent decrease in their incomes, making this less than NMFS's standard "significant impact" criteria of 20 percent.

Response: This comment appears to refer to NMFS criteria for determining whether an action will have a significant economic impact on a substantial number of small entities, a determination NMFS makes pursuant to the Regulatory Flexibility Act (RFA). NMFS considers an impact to be "significant" if it results in a reduction in annual gross revenues by more than 5 percent, an increase in annual compliance costs of greater than 5 percent, compliance costs at least 10 percent higher than for large entities, compliance costs that require significant capital expenditures, or the likelihood that 2 percent of the small entities would be forced out of business. NMFS considers a "substantial number" of small entities to be more than 20 percent of those small entities affected by the regulation that are engaged in the fishery. This determination is discussed in the Classification section of this rule, and analyzed in the EA/RIR/IRFA/FRFA for this action.

The Council set an equal cumulative limit regime in 1997 forall sablefish endorsement holders with the understanding that such a division of fishing opportunities within a fleet with vastly differing historical fishery participation rates and dependence levels would be an unfair allocation as a long-term policy. In the final rule implementing the 1997 regime, NMFS stated that, while the equal cumulative limit regime was preferable to a derby, the agency would support a 1998 management system that better reflected historic and more recent levels of fishery participation. NMFS does not agree that an equal allocation for all sablefish endorsement holders is an appropriate management option for this fishery. Although the single period equal cumulative limit option would have resulted in fewer businesses with economic loss, the degree of impact on those businesses would have been much greater. Those businesses that would have lost economically under this option would have lost revenue to a greater degree than those businesses losing revenue under any of the tier options. Comparisons of revenue losses and gains under the different management options considered by the Council are analyzed in the EA/RIR/IRFA and FRFA for this action. There is a higher likelihood that applying the NMFS RFA criteria to a management measure to implement a long-term policy of equal cumulative limits would have resulted in a finding of significant economic impacts to fleet participants on the basis of the standard that more than 2 of participating small businesses could have been forced to cease operations. Thus, while the three-tier program results in a greater number of businesses experiencing losses, those losses are smaller, and the impacts of the new management regime are spread more evenly through the fleet.

Comment 12: Equal opportunity to access the fisheries is the fair and long-established approach to fishery management. There is no justification for managing this one fishery differently from other West Coast fisheries. Monthly trip limits have worked for trawlers, why can't they be used for the longline and pot sablefish fishery?

Response: Management of the trawl and longline fishery for sablefish diverged in 1987, when the Council established constraining trip limits for the trawl fishery, but did not set trip limits for the non-trawl fishery. Since then, the fisheries have developed in different manners. A sudden shift to monthly trip limits for the non-trawl fishery would have drastic reallocative impacts on the fishery, which the Council specifically wanted to avoid. While equal trip limits could be imposed on the fixed gear fleet, the effect would be, and was in 1997, very different than for trawl vessels because of the different management paths these two gear groups have taken. The trawl fishery reached its current trip limit levels over a period of many years, with some downward adjustments made each year. The sudden imposition of today's limits on a trawl fleet previously constrained only by season length would be extremely reallocative and disruptive. When the size of harvests is changed dramatically and suddenly, rather than over time, greater dislocations result, both in terms of labor and business, as well as personal capital. The monthly trip limit for trawlers is not without problems. An overcapitalized fleet fishing on relatively low trip limits in a multi-species fishery may have high discard rates, with reduced economic viability for many of the fishery participants. Any management scheme has drawbacks, and the Council must balance all competing factors in choosing a management regime for any fishery.

Comment 13: If a permit received an endorsement, the Council should allow permit holders who did not qualify for limited entry permits to use their vessel

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catch history, rather than just the permit catch history, to qualify that permit for tier placement.

Response: Permit catch history includes the catch history of the vessel(s) that initially qualified for the permit and subsequent catch histories accrued when the limited entry permit or permit rights were associated with other vessels. This comment suggests that a permit holder who purchased a permit after the limited entry program went into effect should be able to add his or her personal vessel's pre–1994 catch history to the pre–1994 catch history of the vessel that initially qualified for the purchased permit.

It has been the Council's policy to allow permit catch history to include a vessel's catch only from a time when that vessel was associated with the permit. Permit catch history includes the catch history of the vessel that initially qualified for the permit (before 1994), plus any catch history accumulated by vessels using that permit after issuance (1994 - present). It would be inconsistent with historic Council and NMFS policy to change these parameters for vessel and permit catch history for the three-tier program. To the degree possible, it is important to maintain consistent policy so that people can move in and out of the fishery and plan their fishery investments. Changing a policy that has been consistently followed since 1989 would create uncertainty about future policies for current participants and new entrants, and would require substantial justification.

A different set of qualifying histories would require redesign of the entire program, with the result being a different set of permit owners benefitting and losing under the new qualifying histories. If the proposal in this comment were adopted, either the qualifying requirements for the tiers would have to be raised to maintain a similar number of permits in each tier, or the cumulative limits for all vessels would have to be reduced in order to accommodate a greater number of permits in higher tiers. The net effect in the former case is that some permits would be moved down so that others could move up, or that everyone would experience a decrease in his or her harvest so that more permits could move up.

Comment 14: In 1992, the Council established a window period for future sablefish access limitation programs with a 1991 cutoff date. A commenter noted that fishing business decisions were based on this cutoff date and that, for this reason, his West Coast landings after 1991 are not as high as they would have been if he had known that there would be a later cutoff date.

Response: On February 5, 1992, NMFS published a Notice of Control Date (57 FR 4394), indicating that the Council was considering further access restrictions to the limited entry groundfish fisheries. At that time, the Council intended to consider individual quota (IQ) programs for West Coast halibut and sablefish fisheries. In the Notice of Control Date, NMFS stated, "If IQ programs are adopted, the Council has expressed its intent to exclude from consideration fishing activity occurring after November 13, 1991, in establishing priorities for issuance and shares of individual quotas for these fisheries." The notice also explained that IQ programs were only a potential future management program, and that setting a control date was intended to "discourage speculative entry into these fisheries (sablefish and halibut) while discussions on access control continues." Just as the Council prepared to take final action on whether to implement an IQ program, it received a letter from the West Coast congressional delegation requesting that it defer action until national policy guidance could be developed. The Council delayed action in response to this letter and the industry controversy surrounding the issue. Subsequently, Congress enacted a moratorium on new IFQ programs.

On August 1, 1995, NMFS published another Notice of Control Date (60 FR 39144), this time stating that the Council was considering establishing a sablefish endorsement program for limited entry, fixed gear permit holders to control participation or effort in the regular sablefish season. The notice read "If a limited entry program is established, the Council is considering June 29, 1995, as a possible control date. Consideration of a control date is intended to discourage new entry by nontrawl 'A'permit holders into the sablefish fishery based on economic speculation during the Council's deliberation on the issues." This notice also explained that the Council might choose a different control date or might choose a management regime thatdid not make use of a control date. The purpose of a published notice of control date was to prevent fishers from rushing into the fishery in the hopes of accumulating catch history for possible future management schemes.

The sablefish endorsement program and the Council's recommendation for a three-tier management program have the same 11-year qualification period of 1984 through 1994. This qualification period incorporates catch over a long period and includes both historic and recent participation. It also accounts for the fact that some fishers may depend on different fisheries in different years or may have some years of relatively low catch for reasons outside their control.

The use of control dates is a difficult issue. Control dates are necessary for the protection of the resources and the fishers that are dependent on the fishery. However, when a policy is not developed fairly soon after the issuance of the control date, so many changes occur in the fishery that adherence to old control dates lead to perceived inequities. The need to maintain the control date is difficult to balance with the need to account for changes in the fishery. One way to resolve this balance is to recognize that one of the purposes of the qualification criteria is to establish degree of dependence on the fishery. If the Council had not set the 1991 control date, the commenter may have made investments and fished at a level that established a degree of dependence entitling his or her permit to qualify for a higher tier. However, during the intervening years, such investment was not made, and a greater degree of dependence on future income from sablefish was not established. There is a greater probability that the commenter's fishing enterprise will be able to withstand a harvest reduction associated with assignment to a lower tier, or the need to purchase a permit for a higher tier, than an enterprise that has harvested at a higher rate. It is also possible, depending on his or her catch history, that, even in the lowest tier, the commenter will experience an increase relative to recent harvests.

Comment 15: A commenter suggested that the qualifying amount for Tier 1 should be lower than it is, because some long-time participants in the fishery may be placed in Tier 2.

Response: As discussed in this document and in the preamble to the proposed rule for the three-tier program, the tier qualification amounts are based on the largest breaks between a ranking of the cumulative catch histories of all of the limited entry permits with sablefish endorsements. A permit's tier placement reflects the catch history associated with that permit, as compared with the catch histories associated with all of the other permits with sablefish endorsements. These 163 permits are associated with a wide range of cumulative catch histories, from under 40,000 lb (18.14 mt) cumulative catch history from 1984 through 1994 to over 3,000,000 lb (1,360.78 mt) cumulative catch history during that same period. The breakpoints in this three-tier program fall at levels where there were large and obvious divisions between groupings of permit catch histories.

Qualification requirements have to do not only with being a fisher and a boat owner, but also with the level of participation in the fixed gear sablefish fishery. A long-term owner in the fishery and steady participant should end up in a tier somewhat reflective of his or her general harvest levels. Because the program cannot provide individual allocations due to the Magnuson-Stevens Act's moratorium on IQ programs, there will inevitably be some reallocation from historic catch shares; some fishers will receive more than their demonstrated production levels and others will receive less. To those who sold a vessel or permit with catch history or who recently invested in a vessel with little catch history, many notices have been given since the close of the 1988 limited entry window period that access rules for the fishery might change overtime.

Comment 16: If there is to be a tiered system, the regulations should have an appeal procedure under which hardship circumstances adversely affecting an individual boat owner's tier placement can be heard and placement upgraded if adequately justified.

Response: A permit holder eligible for participation in the three-tier program has the opportunity to appeal his or her permit's tier placement if that permit holder believes that the permit has been placed in the wrong tier based on incorrect information about the catch history associated with that permit. Like the sablefish endorsement program, the three-tier program does not include a hardship provision for tier placement. The three-tier program has a long qualifying period (1984 through 1994) that encompasses the limited entry window period plus more recent years.

Tier assignments are based on catch history of the permit, which includes the catch history of the vessel that initially qualified for the permit during the time before the permit was issued, plus any subsequent catch made by vessels operating under the permit. The qualifying window period for limited entry permits was July 11, 1984, through August 1, 1988. Most vessels that qualified for an initial limited entry permit based on personal hardship had to have been fishing before the end of the limited entry qualifying period. Every permit should have a long permit history, except for those that qualified under vessel construction or conversion criteria.

The vessel construction/conversion criteria required that construction on the vessel must have been started before 1988 and completed by September 1990. Vessels qualifying under this provision had at least 4 years of fishing opportunity during the three-tier window period, except where unexpected circumstances may have prevented construction completion before September 1990. A construction history running from before August 1, 1988 through September 1990 or later demonstrates some degree of ability to survive financially without substantial fishing income.

Vessels entering the fishery for the first time in 1991, or later, arrived in the fishery when there were only short derby fishing opportunities and after the Council had provided notice of impending changes to fishery access rules. A vessel that was a high producer during the last four derbies in the three-tier qualification period (1991 through 1994) may have established a high enough permit history to qualify that permit for Tier 2. Conversely, low-producing vessels that participated only in the 1991 through 1994 derbies have shown a relatively low level of dependence on the fishery. Vessels that entered the fishery at a later date had less of an opportunity to qualify for a higher tier assignment than vessels with a long history of fishery participation.

Comment 17: A commenter suggested that, if the tier system is approved, upon death of a permit holder or sale of any permit, the permit's associated cumulative limit should be forfeited into the total amount available to all sablefish endorsement holders, to be divided between active permits.

Response: NMFS is uncertain exactly how this proposal would work. It appears that the proposal is to make sablefish harvesting a non-transferable privilege, as opposed to the other fishing privileges conferred by permit ownership. Similar provisions have been considered in the past, but rejected because of complications having to do with methods by which "sales" can be circumvented, and defining deaths where partnerships or corporations are involved in the ownership. The three-tier program is a program to allocate the fixed gear portion of the limited entry sablefish allocation between participants in the regular fishery; it is not a capacity reduction program. However, the Council has expressed an interest in capacity reduction programs, and this idea might be considered during future Council efforts to develop capacity reduction programs.

Comments Supporting the Rule

Comment 18: The three-tier plan is equitable because it recognizes historic dependence on and investment in the fishery as a rational method of fishery management. The 11-year window period of 1984 through 1994 for the three-tier program is inclusive of both historical participation and (at the time of program development) current dependence upon the fishery. Using catch history to allocate fish is the best method of distributing reductions in fishing opportunity through an overcapitalized fleet. The time has come to implement a management regime that will maintain a semblance of economic stability and continued participation in a long-established fishery.

This three-tier program is also a compromise that gives low level participants a higher harvest catch level than they have historically enjoyed, while greatly reducing the poundage of the high level producers. Vessels in Tier 1 will lose about 3.2 percent of their total catch, while vessels in Tiers 2 and 3 are expected to gain 1.0 percent and 0.7 percent respectively. Reallocation of proportional catch share within and between permit holders in each tier is relatively modest.

The length of the qualifying period and the lack of an exception for personal hardship represents a balance in the consideration of the dependence of long-term producers and more recent entrants. For owners of permits with a long catch history, the lack of a hardship provision is another way of weighing the degree of dependence established in the fishery. For the three-tier program, the question is not whether a vessel will qualify for a tier assignment, but which tier assignment the associated permit will receive. Owners of permits not qualifying for a higher tier may move to a higher tier by purchasing a higher tier permit; just as people who have not yet entered the fishery will have to do to enter even the lowest tier.

Response: This comment refers in part to analysis in the EA/RIR/IRFA for this issue that shows how the distribution of catch shares between vessels in the fishery would change upon implementation of the three-tier program. NMFS agrees that the three-tier program takes both historic and recent participation into account in setting qualification levels for the three tiers. NMFS also agrees that the three-tier program has been carefully designed to spread the burden of more rational management among fleet members. NMFS notes that many of the comments in favor of the three-tier program were received from persons who would have been negatively affected (as compared with status quo derby management) by either the equal cumulative limits program or the three-tier program, but

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who prefer the three-tier program for its recognition of differing fishery participation levels. However, NMFS also notes that, despite this effort to reduce the reallocative effects of this program, the degree of reallocation of proportional catch shares within the tiers is still substantial, with some vessels experiencing increases and others decreases.

Comment 19: The proposed rule would provide an effective mechanism for the prevention of overfishing and the achievement of optimum yield by providing close control over harvesting conducted by an over-capitalized fleet. The proposed rule would enhance conservation of the fishery by making the fishery easier to manage, increasing the likelihood that harvests will remain within the harvest guideline, thus improving the sustainability of the fishery. For these reasons, the three-tier program complies with national standard 1.

Response: NMFS disagrees that the fishery is necessarily easier to manage under the three-tier system than it would be under the derby. The sum of the cumulative limits for all vessels in the fishery substantially exceeds the total amount of available fish. Cumulative limit management with overhead allows a longer fishery than unrestricted derby management, at a similar degree of risk and conservativeness. Additionally, there are enforcement and monitoring problems with cumulative limits that must be recognized. Under derby management, no incentive exists for vessels to under-report landings. Under cumulative limit management, vessels able to take their cumulative limits in the available time might under-report their landing in order to land more sablefish than the limits allow. All of these factors were taken into account when the Council and NMFS balanced conservation, safety, allocation, and other management objectives in selecting what they determined to be the best management option.

Comment 20: The three-tier program complies with national standard 2, which states that "Conservation and management measures shall be based on the best scientific information available." Not only did the Council use the most current data and analyses in shaping the three-tier program, but also, when analysts discovered errors in the database of permit catch histories, those mistakes were properly and timely disclosed, and the Council reviewed and reconsidered its decisions based on the new data.

Response: NMFS agrees. Changes from the proposed rule to the final rule result from decisions made at the Council's March 1998 meeting, and are described above.

Comment 21: According to one commenter, opponents of the three-tier program argue that catch history should not be used to allocate the sablefish resource and that equal allocation is the most fair allocation. That same commenter noted that "fairness of allocation (national standard 4) is in the eye of the receiver." This commenter pointed out that the 1997 equal limits management allowed permits that had caught only 16,000 pounds in a single year to fish toward a limit of 34,000 pounds, also allocating 34,000 pounds to permits with historical annual catches of 300,000 pounds. Additionally, several commenters noted that, in the three-tier program, fishers in Tiers 1 and 2 will lose catch opportunity, and fishers in Tier 3 will gain catch opportunity, commenting that this program is a well compromised allocation.

Response: As indicated in the response to Comment 11, NMFS agrees that the three-tier program, which spreads the burden of catch reductions more evenly through the fleet, is a fairer allocation than a long-term equal cumulative limit allocation.

Comment 22: The three-tier program is an initial step toward capacity reduction. Before capacity can be reduced, it must be prevented from increasing. By assigning each permit an allocation, fleet harvest capacity cannot increase because the incentive to catch more fish disappears. In this way, the program complies with national standard 5, which states that "conservation and management measures shall, where practicable, consider efficiency in the utilization of fishery resources; except that no such measure shall have economic allocation as its sole purpose."

Response: NMFS partially agrees. As stated in the responses to Comment 3, derby-style fishery management encourages each individual in a given fleet to expand his or her vessel's catching capacity to better compete with all of the other vessels in the fleet. Even if a limited entry program restricts the number of vessels in the derby, individual fishers have incentives to improve the competitive abilities of their vessels. Derby management inevitably leads to the cumulative catching ability of the fleet exceeding the actual capacity needed to harvest the available resource. The three-tier program reduces but does not end this derby-style management, and attempts to match permits to tiers based on the cumulative catch associated with those permits. During the fishery, a portion of vessels in each of the tiers will closely match the catching ability associated with the available cumulative limit and the time available, while some vessels will have more than enough catching ability, and some vessels will have less catching ability than needed for taking that cumulative limit within the available time.

Comment 23: One commenter stated that he appreciated the stability this program will bring to a fishery that has a history of management difficulties. The commenter noted that the stability of this program will allow him to assure his crew members that otherwise lean years can be filled out by catch in the sablefish season, and anticipated that this stability would ensure loyalty from his experienced crew members throughout the year.

The commenter further noted that the three-tier program will also allow flexibility to participate in multiple fisheries. The three-tier program, with a fixed fishery period and a mop-up following shortly afterwards, allows fishers to get their gear on and off their boats and to pursue the multiple fisheries necessary to make a year round living. The commenter also was pleased that the three-tier program accounts for the different fishing strategies of the many fleet participants, the three-tier program follows national standard 6, which states that "Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches."

Response: In developing the three-tier program, one of the Council's goals was to begin to bring stability and rational management to a frenetic and unstable fishery. The Council and NMFS recognize that fixed gear fishers participate in a variety of fisheries throughout the year, and season start dates for this fishery are set to accommodate as many alternative fishery schedules as possible.

Comment 24: The fixed gear sablefish fleet is diverse and divided into opposing categories: long term participants and new entrants, large catch histories and small catch histories, large boat and small boats. This program causes some losses and gains for some coastal communities because we all deliver to and support coastal communities, not because of a disregard for coastal communities. The three-tier program complies with national standard 8, which states that the interests of fishing communities be taken into account when implementing conservation and management measures.

Response: NMFS agrees. As stated in the response to Comment 8, the three-tier program is expected to cause little change in the inter-port distribution of fixed gear sablefish landings, and less variation in inter-port distribution than would have occurred under a long-term system of equal cumulative limits. All of the vessels involved in this fishery are considered small businesses, and all of the boats in the fishery deliver their fish to coastal communities. National standard 8, which addresses the dependence of fishing communities on fishery resources, does not constitute a basis for allocating resources to specific fishing communities.

Comment 25: One commenter stated that a longer fishery, even if it is longer only by several days, allows him to keep and handle his bycatch. Open derbies lead to people setting out more gear than they can haul in a given time, resulting in a waste of gear and hooked fish. At the other end of the scale, a monthly trip limit fishery would unquestionably lead to high-grading and increased bycatch on a regular basis. The commenter noted that this longer fishery will also allow him to handle his gear more carefully, making him less likely to lose gear. By minimizing bycatch, the three-tier program complies with national standard 9.

Response: Bycatch can occur for many reasons. In a derby fishery, where all vessels are participating at their highest possible rates of fishing, fishers may not have the time to fish in a selective manner. Fish would be hauled on board as quickly as possible without regard to species or size, and then a portion would be discarded according to market or regulatory constraints on what catch should and may be retained. Conversely, in a fishery where all participants have ample time to sort through their catch and fish until their vessels are filled with the highest value fish, many lower value fish may be discarded in the process. The three-tier program will allow some fishers to slow their rates of fishing and to improve the selectivity of their fishing methods. To some extent, however, selectivity in fishing is a matter of personal ethics and fishing skill. NMFS does agree that a slower paced fishery should have the much-desired result of reducing gear abandonment and ghostfishing by lost gear.

Comment 26: The three-tier program provides increased safety with respect to the status quo derby because fishers will know how much fish they are allowed to catch and the season can be tailored to more favorable weather patterns. The three-tier program allows 6 days fishing while an unrestricted derby would probably allow 2. Several commenters noted that any increase in the number of days in the fishery, even if it is from 2 days to 6 days, is a safety improvement. These commenters concluded that, for these reasons, the three-tier program complies with national standard 10, which states that "Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea." Finally, one commenter noted with irony that if the Council had been able to implement an IFQ program, the fishery could be several months long, rather than several days long.

Response: NMFS agrees that a 6-day fishery provides greater safety than a 2-day fishery. It is unfortunate that overcapitalization and the reduced 1998 sablefish harvest guideline level have severely shortened the fishery duration. NMFS expects that the primary safety benefit of a 6-day fishery over a 2-day fishery will occur for the approximately one-third of the fleet easily able to take the allotted cumulative limit during the time allowed. For the other two-thirds of the fleet still operating in the derby mode, the effect of this action on safety is uncertain. Income will increase as the length of the fishery increases, and it is possible that risk-taking behavior will decline as the amount of potential income increases. However, the Council decision documents show that these are not conclusive findings.

NMFS also agrees that IFQ management for this fishery nwould allow fishers adequate time to catch sablefish poundage associated with their tiers. If this fishery were managed with an IFQ program (an option currently prohibited under the Magnuson-Stevens Act), regardless of how the available catch were allocated between permits, each permit owner would likely be able to catch his or her entire allocation at any time during the year, and likely without landings limits.

Comment 27: The three-tier program complies with section 303(b)(6) of the Magnuson-Stevens Act, which states that, "Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may — (6) establish a limited access system for the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account—(A) present participation in the fishery, (B) historical fishing practices in, and dependence on, the fishery, (C) the economics of the fishery, (D) the capability of fishing vessels used in the fishery to engage in other fisheries, (E) the cultural and social framework relevant to the fishery and any affected fishing communities, and (F) any other relevant considerations." In making its recommendations for this program, the Council considered all of the factors required under this section and, has therefore, met the requirements of this section.

Response: NMFS agrees, see also response to Comment 2.

Comment 28: As stated in the proposed rule for the three-tier program, the Council initially decided not to allow permit owners with permits that were the result of a combination of multiple permits to determine their tier placement based on the combined catch histories of those original permits. This decision was based on a study that showed that no individuals currently operating in the fishery would be affected by that restriction. After further study, however, analysts showed that this first assumption was incorrect and that this decision would negatively affect a few individuals who had combined their permits long before discussions of the three-tier program. We the commenters who would have been harmed by this action, supported the Council's March 1998 recommendation to allow permits that were a result of a combination made before March 12, 1998, to combine their cumulative catch histories for tier qualification status.

Response: NMFS agrees. The Council's initial recommendation on this issue was based on an incorrect analysis. After receiving more complete information, the Council revised that recommendation to allow permits that were the result of a combination of multiple permits to receive tier placement based on the combined cumulative catch histories of the permits that went into the combination. Regulatory language detailed in the proposed rule has been changed to reflect public and Council comments on this issue.

Comment 29: One commenter supports the three-tier program, but would like to be allowed to set his pots for 24 hours before the opening of the regular fishery, since it takes at least 48 hours for him to set all of his pots.

Response: As stated in the response to Comment 7, in 1995 and 1996, pot fishers were allowed to set their gear before the start of the regular fishery. Longliners were opposed to this practice because it gave pot fishers the chance to choose and then monopolize premium fishing ground positions before the start of the derby. Because of these concerns and because the 1997 10-day fishery period was expected to provide all pot gear participants with sufficient time to set and tend their gear, this pot pre-set

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option was not allowed in the 1997 regular fishery. The Council reconsidered a pot pre-set allowance for the three-tier system, but concluded that the tiered cumulative limits would constrain pot fisher catch levels enough so that they would not need to fish at a speed that would require a pre-set allowance.

Comment 30: Several commenters who have participated in and/or have studied the Alaska halibut and sablefish IFQ program support future consideration of an IFQ program in the fixed gear sablefish fishery once the Magnuson-Stevens Act moratorium is lifted.

Response: A Council may not submit and the Secretary may not approve or implement an IFQ program before October 1, 2000. However, a Council may begin development of an IFQ program before that date.

Comment 31: The proposed rule would not implement an IFQ system. Under the Magnuson-Stevens Act and NMFS interpretation, for a program to be an IFQ program, it must grant permits that give recipients a privilege to harvest a specified percentage of the total annual catch (TAC). Unless sold or otherwise disposed of, that permit holder has an annual, guaranteed privilege to harvest that same percentage of the TAC. With the three-tier program, no person is guaranteed a percent of the harvest, fishers are merely separated into three different tiers with three different cumulative limits that they can then try to achieve in the given season. The "overhead" system embedded in the rule ensures that this program is not an IFQ system. The proposed rule would ensure that there is no guaranteed right to a specific amount of fish—the antithesis of an IFQ system.

Response: NMFS agrees that the three-tier program is not an IFQ program. See response to Comment 9.

Classification

Under 5 U.S.C. 553(d)(3), the Assistant Administrator finds good cause to waive the 30-day delay in effectiveness for this rule. August 1 was chosen as a season opening date to promote safety and to allow fishers to participate in other fisheries aside from this directed sablefish fishery. In order to avoid a 2 to 3 day derby fishery this year and to allow the limited entry fixed gear sablefish fishery to fully benefit from the increased vessel safety of holding the regular and consequent mop-up seasons before the most difficult autumn weather, this rule must be made effective to allow implementation of the three-tier program before the August 1, 1998, start date of the regular season. To this extent, to delay the effectiveness of this rule would be contrary to the public interest.

This final rule has been determined to be not significant for the purposes of E.O. 12866.

The Final Regulatory Flexibility Analysis (FRFA) consists of the FRFA supplemental analysis prepared by NMFS, the IRFA (as submitted by the Council and supplemented by the preamble to the proposed rule (63 FR 19878, April 22, 1998)), and the preamble to this final rule. NMFS considers an impact to be "significant" if it results in a reduction in annual gross revenues by more than 5 percent, an increase in annual compliance costs of greater than 5 percent, compliance costs at least 10 percent higher for small entities than for large entities, compliance costs that require significant capital expenditures, or the likelihood that 2 percent of the small entities would be forced out of business. NMFS considers a "substantial number" of small entities to be more than 20 percent of those small entities affected by the regulation that are engaged in the fishery.

There are 163 limited entry, fixed gear permit owners with sablefish endorsements. All of the permit owners and vessels in the Pacific Coast, limited entry, fixed gear fleet are considered small entities. As indicated in the FRFA for this action, 42 permit holders with sablefish endorsements (26 percent) would suffer a greater than 5 percent loss in total gross fishing revenue over what they would have been expected to earn if the open competition derby management had been continued for 1998.

The Council initially reviewed six different management options aside from status quo, open competition derby management. Of those six options, two options would have resulted in fewer than 26 percent of endorsement holders suffering a greater than 5 percent loss in gross annual revenue. The Council considered continuing the status quo derby undesirable, expecting that a future policy of unrestricted derby fishing would cause significant negative social and economic impacts to fishery participants, with potentially grave safety consequences. An option to continue the 1997 style fishery management of a single period equal cumulative limit regime would have resulted in 18 percent of endorsement holders suffering a greater than 5 percent loss in total gross annual revenue. Although this option would have resulted in fewer businesses with significant economic loss, those businesses that would have lost economically under this option would have lost revenue to a greater degree than those businesses losing revenue under any of the tier options. This option would have also resulted in a greater proportion of the harvest being reallocated amongst fleet members than the proportion of harvest reallocation under the three-tier management program implemented by this rule. There is a higher likelihood that a management measure to implement a long-term policy of equal cumulative limits would have been found to have significant economic impacts to fleet participants on the basis of the standard that questions whether more than 2 percent of participating small businesses would have been forced to cease operations. Thus, while the option chosen by the Council results in a greater number of businesses with significant economic losses, the impacts of that option are spread more evenly through the fleet. The Council also specifically decided when it recommended a single period equal cumulative limit for 1997 that it would not recommend continuing such an option for 1998 because of the severe reallocative impacts.

The other option that would have resulted in fewer than 26 percent of permit owners suffering a greater than 5 percent loss in gross annual revenue was a four-tiered access system. This option was projected as leading to greater than a 5 percent loss in gross annual revenue for 22 percent of permit holders with sablefish endorsements. One major impediment to Council recommendation of a four-tiered option was that maintaining an overhead to prevent designation as an IFQ system would have been more difficult under a four-tiered option. The greater the number of tiers in a tiered access system, the more likely it is that fishers will be able to achieve their tier limits, and the greater the likelihood that the agency would find the program to function as an IFQ. In an IFQ fishery, all fishers would be allowed to use as much time as necessary to catch whatever cumulative limits are available for the year. The Council chose the option that would have the least impact on fishers' revenues while still maintaining enough overhead to avoid the NMFS IFQ classification criteria and eliminating derby management.

In addition to the single-period equal cumulative limit fishery, the three-tier options, the four-tier option and the status quo derby, the Council considered setting a year-round series of equal, monthly cumulative limits as an option that could offer greater safety benefits than the three-tier program. However, a year-round fishery would have resulted in the greatest reallocation of catch among participants, and would have had significant, negative economic consequences for the greatest number of fleet participants. The Council was also concerned that this option would increase discard of sablefish. Finally, the Council expected that the effects of year-round cumulative trip limits in this fishery would be contrary to Magnuson-Stevens Act national standards on fairness and equity, and on providing for sustained participation and minimizing adverse effects on fishing communities.

This action is not expected to result in an increase in annual compliance costs of greater than 5 percent, compliance costs at least 10 percent higher for small entities than for large entities, compliance costs that require significant capital expenditures, or the likelihood that 2 percent of the small entities will be forced out of business.

In summary, all of the affected entities are small entities. Therefore, there are no special provisions that can be inserted to affect small entities differently than large entities. The losses from one small entity turn to gains for another small entity. In order to eliminate the traditional, unrestricted derby fishery, some small entities will suffer negative economic impacts. The Council selected the legally-available option that would eliminate the traditional unrestricted derby, while minimizing the reallocation of catch.

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) that has been approved by the OMB under OMB Control Number 0648–0203. Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number. This rule's collection of information burden applies only to those permit owners who disagree with the initial NMFS tier assignment, and who wish to provide documentation to prove that they have in fact met the tier qualifications for the tier that they wish to have assigned to their permits. It is expected that the public reporting burden will be 2 hours to make an initial application and possible appeal. This is a one-time only collection-of-information, and this rule imposes no annual reporting and recordkeeping burden. Send comments regarding the collection-of-information burden or any other aspect of the information collection to NMFS and OMB (see ADDRESSES).

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: July 9, 1998.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Section 660.323 is amended by revising paragraph (a)(2) to read as follows:

§ 660.323 Catch restrictions.

(a) * * *

(2) *Nontrawl sablefish.* This paragraph (a)(2) applies to the regular and mop-up seasons for the nontrawl limited entry sablefish fishery north of 36° N. lat., except for paragraphs (a)(2)(ii), (iv), and (vii) of this section, which also apply to the open access fishery north of 36° N. lat. Limited entry and open access fixed gear sablefish fishing south of 36° N. lat. is governed by routine management measures imposed under paragraph (b) of this section.

(i) *Sablefish endorsement.* A vessel may not participate in the regular or mop-up season for the nontrawl limited entry fishery, unless the vessel's owner holds (by ownership or otherwise) a limited entry permit for that vessel, affixed with both a gear endorsement for longline or trap (or pot) gear, and a sablefish endorsement.

(ii) *Pre-season closure—open access and limited entry fisheries.* (A) Sablefish taken with fixed gear in the limited entry or open access fishery in the EEZ may not be retained or landed during the 48 hours immediately before the start of the regular season for the nontrawl limited entry sablefish fishery.

(B) All fixed gear used to take and retain groundfish must be out of EEZ waters during the 48 hours immediately before the opening of the regular season for the nontrawl limited entry sablefish fishery.

(iii) *Regular season—nontrawl limited entry sablefish fishery.* (A) The Regional Administrator will announce a season for waters north of 36° N. lat. to start on any day from August 1 through September 30, based on consultations with the Council, taking into account tidal conditions, Council meeting dates, alternative fishing opportunities, and industry comments.

(B) During the regular season, each vessel with a limited entry permit with a sablefish endorsement that is registered for use with that vessel may land up to the cumulative trip limit announced for the tier to which the permit is assigned. Each permit will be assigned to one of three tiers. A cumulative trip limit is the maximum amount of sablefish that may be taken and retained, possessed, or landed per vessel in a specified period of time, with no limit on the number of landings or trips.

(C) The Regional Administrator will annually calculate the length of the regular season and the size of the cumulative trip limit for each tier in accordance with the process specified in chapter 1 of the EA/RIR/IRFA for "Fixed Gear Sablefish Tiered Cumulative Limits," dated February 1998, which is available from the Council. The season length and the size of the cumulative trip limits will vary depending on the amount of sablefish available for the regular and mop-up fisheries and the projected harvest for the fishery. The season will be set to be as long as possible, under the constraints described in chapter 1 of the EA/RIR/IRFA, up to a maximum season length of 10 days.

(D) During the regular and mop-up season, limited entry nontrawl sablefish fishers may also be subject to trip limits to protect juvenile sablefish.

(E) There will be no limited entry, daily trip limit fishery during the regular season.

(iv) *Post-season closure—limited entry and open access.* No sablefish taken with fixed gear north of 36° N. lat. during the 30 hours immediately after the end of the regular season for the nontrawl limited entry sablefish fishery, may be retained. Sablefish taken and retained during the regular season may be possessed and landed during the 30–hour period. Gear may remain in water during the 30–hour post-season closure. Fishers may not set or pull from the water fixed gear used to take and retain groundfish during the 30–hour post-season closure.

(v) *Mop-up season—limited entry fishery.* A mop-up season to take the remainder of the limited entry nontrawl allocation will begin in waters north of

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36° N. lat. about 3 weeks, or as soon as practicable, after the end of the regular season. During the mop-up fishery, a cumulative trip limit will be imposed. A cumulative trip limit is the maximum amount of sablefish that may be taken and retained, possessed, or landed per vessel in a specified period of time, with no limit on the number of landings or trips. The length of the mop-up season and the amount of the cumulative trip limit, will be determined by the Regional Administrator in consultation with the Council or its designees, and will be based primarily on the amount of fish remaining in the limited entry nontrawl allocation, the amount of sablefish needed for the remainder of the daily trip limit fishery, and the number of mop-up participants anticipated. The Regional Administrator may determine that too little of the nontrawl allocation remains to conduct an orderly or manageable fishery, in which case there will not be a mop-up season. There will be no limited entry daily trip limit fishery during the mop-up season.

(vi) *Other announcements.* The dates and times that the regular season starts and ends (and trip limits on sablefish of all sizes are resumed), the size of the cumulative trip limits for the three tiers in the regular fishery, the dates and times for the 30–hour post-season closure, the dates and times that the mop-up season begins and ends, and the size of the cumulative trip limit for the mop-up fishery will be announced in the **Federal Register**, and may be modified. Unless otherwise announced, these seasons will begin and end at 12 noon on the specified date.

(vii) *Trip limits.* Trip and/or frequency limits may be imposed in the limited entry fishery before and after the regular season, and after the mop-up season, under paragraph (b) of this section. Trip and/or size limits to protect juvenile sablefish in the limited entry or open-access fisheries also may be imposed at any time under paragraph (b) of this section. Trip limits may be imposed in the open-access fishery at any time under paragraph (b) of this section.

* * * * *

3. In § 660.333, the first sentence of paragraph (c)(1), paragraphs (d) introductory text, (f)(2), and (h)(2)(iii) are revised to read as follows:

§ 660.333 Limited entry fishery—general.

* * * * *

(c) *Transfer and registration of limited entry permits and gear endorsements.* (1) When the SFD transfers a limited entry permit, the SFD will reissue the permit in the name of the new permit holder with such gear and, if applicable, species endorsements and tier assignments as are eligible for transfer with the permit. * * *

* * * * *

(d) *Evidence and burden of proof.* A vessel owner (or person holding limited entry rights under the express terms of a written contract) applying for issuance, renewal, transfer, or registration of a limited entry permit has the burden to provide evidence that qualification requirements are met. The owner of a permit endorsed for longline or trap (or pot) gear applying for a sablefish endorsement or a tier assignment under § 660.336(c) or (d) has the burden to submit evidence to prove that qualification requirements are met. The following evidentiary standards apply:

* * * * *

(f) * * *

(2) Gear endorsements, sablefish endorsements, and sablefish tier assignments may not be transferred separately from the limited entry permit.

* * * * *

(h) * * *

(2) * * *

(iii) Two or more limited entry permits with "A" gear endorsements for the same type of limited entry gear may be combined and reissued as a single permit with a larger size endorsement. With respect to permits endorsed for nontrawl limited entry gear, a sablefish endorsement will be issued for the new permit only if all of the permits being combined have sablefish endorsements. If two or more permits with sablefish endorsements are combined, the new permit will receive the same tier assignment as the tier with the largest cumulative landing limit of the permits being combined. The vessel harvest capacity rating for each of the permits being combined is that indicated in Table 2 of this part for the LOA (in feet) endorsed on the respective limited entry permit. Harvest capacity ratings for fractions of a foot in vessel length will be determined by multiplying the fraction of a foot in vessel length by the difference in the two ratings assigned to the nearest integers of vessel length. The length rating for the combined permit is that indicated for the sum of the vessel harvest capacity ratings for each permit being combined. If that sum falls between the sums for two adjacent lengths on Table 2 of this part, the length rating shall be the higher length.

* * * * *

4. In § 660.336, the section heading paragraphs (a)(1), (a)(2), (b) introductory text, (b)(1), (c) heading, and paragraph (c)(1), are revised; and paragraphs (b)(3), (d), and (e) are added to read as follows:

§ 660.336 Limited entry permits—sablefish endorsement and tier assignment.

(a) * * *

(1) A sablefish endorsement with a tier assignment will be affixed to the permit and will remain valid when the permit is transferred.

(2) A sablefish endorsement and its associated tier assignment are not separable from the limited entry permit, and therefore may not be transferred separately from the limited entry permit.

(b) *Endorsement and tier assignment qualifying criteria.* A sablefish endorsement will be affixed to any limited entry permit that meets the sablefish endorsement qualifying criteria and for which the owner submits a timely application. Limited entry permits with sablefish endorsements will be assigned to one of three different cumulative trip limit tiers, based on the qualifying catch history of the permit.

(1) Permit catch history will be used to determine whether a permit meets the qualifying criteria for a fixed gear sablefish endorsement and to determine the appropriate tier assignment for endorsed permits. Permit catch history includes the catch history of the vessel(s) that initially qualified for the permit, and subsequent catch histories accrued when the limited entry permit or permit rights were associated with other vessels. The catch history of a permit also includes the catch of any interim permit held by the current owner of the permit during the appeal of an initial NMFS decision to deny the initial issuance of a limited entry permit, but only if the appeal for which an interim permit was issued was lost by the appellant, and the owner's current permit was used by the owner in the 1995 limited entry sablefish fishery. The catch history of an interim permit where the full "A" permit was ultimately granted will also be considered part of the catch history of the "A" permit. If the current permit is the result of the combination of multiple permits, then for the combined permit to qualify for an endorsement, at least one of the permits that were combined must have had sufficient sablefish history to qualify for an endorsement; or the permit must qualify based on catch occurring after it was combined, but taken within the qualifying period. If the current permit is the result of the combination of multiple permits, the combined catch histories of all of the permits that were combined to create a new permit before March 12, 1998, will

be used in calculating the tier assignment for the resultant permit, together with any catch history (during the qualifying period) of the resultant permit. Only sablefish catch regulated by this part that was taken with longline or fish trap (or pot) gear will be considered for this endorsement. Sablefish harvested illegally or landed illegally will not be considered for this endorsement.

* * * * *

(3) Only limited entry, fixed gear permits with sablefish endorsements will receive cumulative trip limit tier assignments. The qualifying criteria for Tier 1 are: At least 898,000 lb (406,794 kg) cumulative round weight of sablefish caught with longline or trap (or pot) gear over the years 1984 through 1994. The qualifying criteria for Tier 2 are: At least 380,000 lb (172,365 kg), but no more than 897,999 lb (406,793 kg) cumulative round weight of sablefish caught with longline or trap (or pot) gear over the years 1984 through 1994. Fixed gear permits with less than 380,000 lb (172,365 kg) cumulative round weight of sablefish caught with longline or trap (or pot) gear over the years 1984 through 1994 qualify for Tier 3. All catch must be sablefish managed under this part. Sablefish taken in tribal set aside fisheries does not qualify.

(c) *Issuance process for sablefish endorsements.* (1) The SFD has notified each limited entry, fixed gear permit holder, by letter of qualification status, whether Pacific States Marine Fisheries Commission's Pacific Fisheries Information Network (PacFIN) records indicate that his or her permit qualifies for a sablefish endorsement. A person who has been notified by the SFD, by letter of qualification status, that his or her permit qualifies for a sablefish endorsement will be issued a revised limited entry permit with a sablefish endorsement if, by November 30, 1998, that person returns to the SFD the endorsement application and pays the one-time processing fee. No new applications for sablefish endorsements will be accepted after November 30, 1998.

* * * * *

(d) *Issuance process for tier assignments.* (1) The SFD will notify each owner of a limited entry permit with a sablefish endorsement, by letter of qualification status, of the tier assignment for which his or her permit qualifies, as indicated by PacFIN records. The SFD will also send to the permit owner a tier assignment certificate.

(2) If a permit owner believes there is sufficient evidence to show that his or her permit qualifies for a different tier than that listed in the letter of qualification status, that permit owner must, within 30 days of the issuance of the SFD's letter of qualification status, submit information to the SFD to demonstrate that the permit qualifies for a different tier. Section 660.333(d) sets out the relevant evidentiary standards and burden of proof.

(3) After review of the evidence submitted under paragraph (d)(2) of this section, and any additional information the SFD finds to be relevant, the SFD will issue a letter of determination notifying a permit owner of whether the evidence submitted is sufficient to alter the initial tier assignment. If the SFD determines the permit qualifies for a different tier, the permit owner will be issued a revised tier assignment certificate once the initial certificate is returned to the SFD for processing.

(4) If a permit owner chooses to file an appeal of the determination under paragraph (d)(3) of this section, the appeal must be filed with the Regional Administrator within 30 days of the issuance of the letter of determination (at paragraph (d)(3) of this section). The appeal must be in writing and must allege facts or circumstances, and include credible evidence demonstrating why the permit qualifies for a different tier assignment. The appeal of a denial of an application for a different tier assignment will not be referred to the Council for a recommendation under § 660.340(e).

(5) Absent good cause for further delay, the Regional Administrator will issue a written decision on the appeal within 30 days of receipt of the appeal. The Regional Administrator's decision is the final administrative decision of the Department of Commerce as of the date of the decision.

(e) *Tier assignment certificates.* For the 1998 season only, permit holders with sablefish endorsements will be issued certificates of tier assignment that are to be kept with and are considered part of their limited entry permits. When limited entry permit holders renew their permits for 1999, tier assignments for those limited entry permit holders with sablefish endorsements will be indicated directly on the limited entry permit.

[FR Doc. 98–18751 Filed 7–10–98; 9:51 am]

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Proposed Rules

Federal Register
Vol. 63, No. 135
Wednesday, July 15, 1998

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–148–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 737 series airplanes. This proposal would require repetitive ultrasonic inspections to detect broken bolts that attach the terminal support fittings to the upper part of the Body Station 1088 bulkhead, and corrective actions, if necessary. This proposal also would require eventual replacement of the existing bolts with new, improved bolts, which, when accomplished, would terminate the requirements of the AD. This proposal is prompted by reports that bolts that attach the terminal support fittings to the upper part of the bulkhead were found broken. The actions specified by the proposed AD are intended to prevent such broken bolts, which could result in reduced structural integrity of the vertical fin installation and possible loss of the vertical fin.

DATES: Comments must be received by August 31, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–148–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Rick Kawaguchi, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1153; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–NM–148–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–148–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports indicating that broken bolts were found in the terminal support fittings that attach the aft spar of the vertical fin to the upper part of the bulkhead at Body Station 1088 on Boeing Model 737 series airplanes. The broken bolts were made of H–11 steel alloy. Bolts made of such material are susceptible to stress corrosion cracking. Such broken bolts, if not corrected, could result in reduced structural integrity of the vertical fin installation, and multiple broken bolts could result in loss of the vertical fin.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Service Bulletin 737–53–1107, Revision 3, dated August 26, 1993; as revised by Notices of Status Change 737–53–1107 NSC 3, dated June 9, 1994, and 737–53–1107 NSC 4, dated September 22, 1994; and Boeing Service Bulletin 737–53–1107, Revision 4, dated February 8, 1996. These service bulletins describe procedures for repetitive ultrasonic inspections to detect broken bolts that attach the terminal support fittings to the upper part of the Body Station 1088 bulkhead, and replacement of the existing bolts with new, improved bolts. The replacement includes removing the bolts, performing an eddy current inspection to detect cracking or corrosion of the bolt holes, oversizing the bolt holes, and installing new Inconel bolts. Installation of the new Inconel bolts would eliminate the need for the repetitive inspections described previously. Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletins and notices of status change described previously, except as discussed below.

Differences Between Proposed Rule and Service Bulletin

Operators should note that, although the service bulletins specify that the manufacturer may be contacted for disposition of certain repair conditions, this proposal would require the repair of those conditions to be accomplished in accordance with a method approved by the FAA.

Cost Impact

There are approximately 1,485 airplanes of the affected design in the worldwide fleet. The FAA estimates that 630 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 3 work hours per airplane to accomplish the proposed inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators is estimated to be $113,400, or $180 per airplane, per inspection cycle.

It would take approximately 9 work hours per airplane to accomplish the proposed replacement, at an average labor rate of $60 per work hour. Required parts would cost approximately $471 per airplane. Based on these figures, the cost impact of the replacement proposed by this AD on U.S. operators is estimated to be $636,930, or $1,011 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 98–NM–148–AD.

Applicability: Model 737 series airplanes, line numbers 1 through 1485 inclusive, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent broken bolts that attach the terminal support fittings to the upper part of the Body Station (BS) 1088 bulkhead, which could result in reduced structural integrity of the vertical fin installation and possible loss of the vertical fin, accomplish the following:

(a) Within 18 months after the effective date of this AD, perform an ultrasonic inspection to detect broken bolts that attach the terminal support fittings to the upper part of the BS 1088 bulkhead, in accordance with Boeing Service Bulletin 737–53–1107, Revision 3, dated August 26, 1993; as revised by Notice of Status Change 737–53–1107 NSC 3, dated June 9, 1994, and Notice of Status Change 737–53–1107 NSC 4, dated September 22, 1994; or Boeing Service Bulletin 737–53–1107, Revision 4, dated February 8, 1996.

(1) If no broken bolt is found, repeat the ultrasonic inspection thereafter at intervals not to exceed 18 months.

(2) If any broken bolt is found, prior to further flight, perform the actions specified in paragraph (b) of this AD.

(b) Prior to the accumulation of 20 years since date of manufacture of the airplane, or within 18 months after the effective date of this AD, whichever occurs later, remove all 16 H–11 steel alloy bolts that attach the terminal support fittings to the upper part of the bulkhead, and perform an eddy current inspection to detect cracking or corrosion of the bolt holes, in accordance with Figure 2 of Boeing Service Bulletin 737–53–1107, Revision 3, dated August 26, 1993; as revised by Notice of Status Change 737–53–1107 NSC 3, dated June 9, 1994, and Notice of Status Change 737–53–1107 NSC 4, dated September 22, 1994; or Boeing Service Bulletin 737–53–1107, Revision 4, dated February 8, 1996.

(1) If no cracking or corrosion is found, prior to further flight, oversize all 16 bolt holes and install new Inconel bolts, in accordance with Figure 2 of the service bulletin. Accomplishment of this installation constitutes terminating action for the repetitive inspection requirements of this AD.

(2) If any corrosion is found, prior to further flight, oversize the bolt hole within the limits specified in Figure 2, Step 4, of the service bulletin, and install a new Inconel bolt, in accordance with Figure 2 of the service bulletin. Accomplishment of the installation for all 16 bolt holes constitutes terminating action for the repetitive inspection requirements of this AD. If corrosion does not clean up within the limits specified in Figure 2, Step 4, of the service bulletin, prior to further flight, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

(3) If any cracking is found, prior to further flight, oversize the bolt hole within the limits specified in Figure 2, Step 5, of the service bulletin, and perform another eddy current inspection to ensure cracks have been removed, in accordance with Figure 2 of the service bulletin.

(i) If, after oversizing, no cracking is found, prior to further flight, oversize the bolt hole again, and install a new Inconel bolt, in accordance with Figure 2 of the service bulletin. Accomplishment of the installation for all 16 bolt holes constitutes terminating action for the repetitive inspection requirements of this AD.

(ii) If, after oversizing, any cracking is found, prior to further flight, repair in accordance with a method approved by the Manager, Seattle ACO.

Note 2: Replacement of all H–11 steel alloy bolts accomplished prior to the effective date of this AD, in accordance with Boeing Service Bulletin 737–53–1107, dated October 15, 1987; Revision 1, dated June 22, 1989; or Revision 2, dated September 10, 1992; is considered acceptable for compliance with the applicable actions specified in paragraph (b) of this AD.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

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Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on July 8, 1998.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–18779 Filed 7–14–98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–296–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 747 series airplanes. This proposal would require repetitive inspections to detect cracks in the edge frame web and doubler of the number 1 main entry door cutout; and repair, if necessary. This proposed AD also provides for optional terminating action for the repetitive inspections. This proposal is prompted by reports indicating that fatigue cracks were found in the edge frame web and doubler at the door stop number 1 of the number 1 main entry door cutout. The actions specified by the proposed AD are intended to detect and correct such fatigue cracking, which could result in rapid decompression of the airplane.

DATES: Comments must be received by August 31, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No.97–NM–296–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Bob Breneman, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2776; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 97–NM–296–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–296–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports indicating that, while replacing the inner chord of the frame on Boeing Model 747 series airplanes, cracks were found in the edge frame web and doubler of the number 1 main entry door cutout at station 488, between stringers 25 and 26 (door stop number 1). The edge frame web in each incident was almost completely severed. These airplanes had accumulated as few as 18,502 total flight cycles. In addition, the FAA has received a report indicating that, during fatigue testing on a Boeing Model 747SR test article, cracking occurred in the edge frame web at 27,500 total pressure cycles and in the inner chord at 30,750 total pressure cycles. The cause of such cracking in all incidents has been attributed to fatigue. This condition, if not detected and corrected, could result in rapid decompression of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 747–53A2414, dated August 7, 1997. This alert service bulletin describes procedures for repetitive high frequency eddy current (HFEC) inspections to detect cracks in both the aft side of the edge frame web along the lower edge of the backup structure attachment at the stop fitting number 1, and the forward side of the doubler at the lower edge of door stop number 1 of the number 1 main entry door cutout; and repair, if necessary.

The alert service bulletin specifies that operators of Group 1 airplanes are to perform those inspections of the subject areas on both the left and right sides of the airplane; whereas, operators of Group 2 airplanes are to perform those inspections of the subject areas on the left side only of the airplane. Group 1 airplanes are those Model 747 series airplanes that have a number 1 main entry door on both the left and right sides of the airplane. Group 2 airplanes are those Model 747 series airplanes that only have a number 1 main entry door on the left side of the airplane.

This alert service bulletin also describes procedures for a preventative modification of the edge frame web and doubler, which involves trimming the lower portion of the subject web; removing the trimmed web and the doubler; and installing a new web, doubler, and splice plate. For airplanes on which the inner chord of the edge frame is not being replaced concurrently with the repair specified in the alert service bulletin, the procedures also include an open hole HFEC inspection of the inner chord of the edge frame. Accomplishment of the preventative modification would eliminate the need for the repetitive inspections. Accomplishment of the actions specified in the alert service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the inspections and repair, if necessary, specified in the alert service bulletin described previously. The proposed AD also provides for optional terminating action, which, if accomplished, would terminate the repetitive inspections.

The FAA considers three criteria for those situations where repetitive inspections of a crack-prone area, such as in this proposed AD, may be permitted to continue indefinitely, even though a positive fix to the problem exists: (1) the area is easily accessible, (2) the cracking is easily detectable, and (3) the consequences of the cracking are not likely to be catastrophic. In consideration of the cracking that may occur at the edge frame web and doubler at station 488, the FAA has determined that the circumstances warranting continual repetitive inspections meet these three criteria.

Cost Impact

There are approximately 685 airplanes of the affected design in the worldwide fleet. The FAA estimates that 211 airplanes of U.S. registry would be affected by this proposed AD, and that the average labor rate is $60 per work hour.

The FAA estimates that 191 airplanes are equipped with a number 1 main entry door on both the left and right sides (Group 1 airplanes), that it would take approximately 2 work hours per airplane to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators of these airplanes is estimated to be $22,920, or $120 per airplane, per inspection cycle.

The FAA estimates that 20 airplanes are equipped with a number 1 main entry door on the left side only (Group 2 airplanes), that it would take approximately 1 work hour per airplane to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators of these airplanes is estimated to be $1,200, or $60 per airplane, per inspection cycle.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Should an operator of Group 1 airplanes elect to accomplish the optional terminating action that would be provided by this AD action, it would take approximately 40 work hours to accomplish it, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the optional terminating action would be $2,400 per airplane.

Should an operator of Group 2 airplanes elect to accomplish the optional terminating action that would be provided by this AD action, it would take approximately 20 work hours to accomplish it, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the optional terminating action would be $1,200 per airplane.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 97–NM–296–AD.

Applicability: Model 747 series airplanes, line numbers 1 through 685 inclusive, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracks in the edge frame web and doubler of the number 1 main entry door cutout, which could result in rapid decompression of the airplane, accomplish the following:

(a) Perform a high frequency eddy current (HFEC) (pencil probe eddy current) inspection to detect cracks in both the aft side of the lower edge frame web and the forward side of the edge frame web doubler at station 488, between stringers 25 and 26 (door stop number 1), of the number 1 main entry door cutout; in accordance with Boeing Alert Service Bulletin 747–53A2414, dated August 7, 1997; at the time specified in paragraph (a)(1), (a)(2), (a)(3), or (a)(4) of this AD, as applicable. For Group 1 airplanes (as identified in the alert service bulletin), the inspection shall be accomplished on both the left and right sides of the airplane. For Group 2 airplanes (as identified in the alert service bulletin), the inspection shall be accomplished only on the left side of the airplane.

(1) For airplanes that have accumulated less than 16,000 total flight cycles as of the effective date of this AD: Inspect prior to the accumulation of 16,000 total flight cycles, or within 1,500 flight cycles after the effective date of this AD, whichever occurs later.

(2) For airplanes that have accumulated 16,000 or more total flight cycles but less than 20,000 total flight cycles as of the effective date of this AD: Inspect prior to the accumulation of 21,000 total flight cycles, or within 1,500 flight cycles after the effective date of this AD, whichever occurs first.

(3) For airplanes that have accumulated 20,000 or more total flight cycles but less than 25,000 total flight cycles as of the

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effective date of this AD: Inspect prior to the accumulation of 25,500 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs first.

(4) For airplanes that have accumulated 25,000 or more total flight cycles as of the effective date of this AD: Inspect within 500 flight cycles after the effective date of this AD.

(b) If no crack is detected during any inspection required by paragraph (a) of this AD, repeat the HFEC inspection thereafter at intervals not to exceed 3,000 flight cycles.

(c) If any crack is detected during any inspection required by paragraph (a) of this AD, prior to further flight, repair in accordance with Boeing Alert Service Bulletin 747–53A2414, dated August 7, 1997.

Note 2: The alert service bulletin emphasizes the importance of performing an open hole HFEC inspection of the inner chord of the frame within 6.0 inches of the web or doubler crack (as applicable), if the inner chord of the frame is not replaced concurrently with the web and doubler repair.

(d) Accomplishment of the repair or preventative modification specified in Boeing Alert Service Bulletin 747–53A2414, dated August 7, 1997, constitutes terminating action for the repetitive inspection requirements of this AD for that repaired/modified edge frame web and doubler.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on July 8, 1998.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–18778 Filed 7–14–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–51–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 767 series airplanes. This proposal would require detailed visual inspections to detect corrosion or chrome plating cracks on the fuse pins, load distribution plates, and bushings of the outboard support of the main landing gear (MLG) beam. This proposal also would require either installation of the existing fuse pins and repetitive inspections; or installation of newer-type fuse pins, which would constitute terminating action for the repetitive inspections. This proposal is prompted by a report indicating that corrosion was found on a fuse pin in the outboard support of the MLG beam. The actions specified by the proposed AD are intended to detect and correct such corrosion and cracking, which could result in the failure of a fuse pin and, consequently, lead to collapse of the MLG.

DATES: Comments must be received by August 31, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–51–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: James G. Rehrl, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (425) 227–2783; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 97–NM–51–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–51–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received a report of corrosion on a fuse pin in the outboard support of the main landing gear (MLG) beam on a Boeing Model 767 series airplane. At the time the corrosion was detected, the airplane had accumulated 23,637 total flight hours and 5,652 total flight cycles. Investigation revealed that the chrome plating on the fuse pin did not have a sufficient bond to the base metal, which allowed the chrome plate to crack and peel from the base metal. This cracking in the chrome plate allowed moisture to accumulate in the subject area and, consequently, caused corrosion on the base metal of the fuse pin. Such cracking and corrosion, if not detected and corrected, could result in failure of a fuse pin and, consequently, lead to collapse of the MLG.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 767–57A0054, Revision 2, dated April 18, 1996, which describes procedures for detailed visual inspections to detect corrosion or chrome plating cracks on the fuse pins of the outboard support of the MLG beam. The alert service bulletin also describes procedures for either installation of existing 4330M steel fuse pins and repetitive detailed visual inspections; or installation of newer-type 15–5PH CRES fuse pins, which would eliminate the need for the repetitive inspections. The alert service bulletin also describes procedures for inspections of the load distribution plates and fuse pin bushings to detect corrosion. These latter parts make up a portion of the MLG outboard support fitting assembly into which the fuse pins are installed. Accomplishment of the actions specified in the alert service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the alert service bulletin described previously, except as discussed below.

Differences Between the Proposed Rule and the Relevant Service Information

Operators should note that, although the alert service bulletin specifies that the manufacturer may be contacted for disposition of certain repair conditions, this proposal would require that the repair of those conditions to be accomplished in accordance with a method approved by the FAA.

Also, whereas the alert service bulletin uses the term "close visual inspection," this proposal uses the more common term "detailed visual inspection." For the purpose of this proposal, the two terms are considered to be synonymous.

Cost Impact

There are approximately 609 Boeing Model 767 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 151 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 4 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of this proposed AD on U.S. operators is estimated to be $36,240, or $240 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 97–NM–51–AD.

Applicability: Model 767 series airplanes, line numbers 1 through 609 inclusive, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct cracking and corrosion of the fuse pins, load distribution plates, and bushings in the outboard support of the main landing gear (MLG) beam, which could result in the failure of a fuse pin and, consequently, lead to collapse of the MLG, accomplish the following:

(a) Within 4 years of service since the MLG was new, or within 18 months after the effective date of this AD, whichever occurs later, perform detailed visual inspections of the fuse pins of the MLG outboard support beam to detect corrosion or chrome plating cracks on the fuse pin, and of the load distribution plates and bushings of the MLG outboard support beam to detect corrosion; in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 767–57A0054, Revision 2, dated April 18, 1996.

(b) If any corrosion or plating crack of a fuse pin is found during any inspection required by paragraph (a) of this AD, prior to further flight, accomplish either paragraph (b)(1) or (b)(2) of this AD.

(1) Install a new or serviceable 4330M steel fuse pin in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 767–57A0054, Revision 2, dated April 18, 1996. Repeat the detailed visual inspections required by paragraph (a) of this AD thereafter at intervals not to exceed 48 months. Or

(2) Install a newer-type 15–5PH CRES fuse pin in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 767–57A0054, Revision 2, dated April 18, 1996. Accomplishment of this installation constitutes terminating action for the repetitive inspection requirements of paragraphs (a), (b)(1), and (d)(1) of this AD.

(c) If any corrosion of a load distribution plate or bushing is found during any inspection required by paragraph (a) or (b) of this AD, prior to further flight, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

(d) If no corrosion or plating crack is found on the fuse pins, load distribution plates, or bushings, prior to further flight, accomplish the requirements of either paragraph (d)(1) or (d)(2) of this AD in accordance with the Accomplishment Instructions of Boeing Alert

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Service Bulletin 767–57A0054, Revision 2, dated April 18, 1998.

(1) Install the existing 4330M steel fuse pins in accordance with the Accomplishment Instructions of the alert service bulletin. Repeat the detailed visual inspections required by paragraph (a) of this AD thereafter at intervals not to exceed 48 months. Or

(2) Install newer-type 15–5PH CRES fuse pins in accordance with the Accomplishment Instructions of the alert service bulletin. Accomplishment of this installation constitutes terminating action for the repetitive inspection requirements of paragraphs (a), (b)(1), and (d)(1) of this AD.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on July 8, 1998.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–18777 Filed 7–14–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–159–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A320–111, –211, and –231 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A320 series airplanes. This proposal would require modification of certain fastener holes on the outer frames of the fuselage, and installation of new, improved fasteners. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent fatigue cracking of certain fastener holes on the outer frames of the fuselage, which could result in reduced structural integrity of the airplane.

DATES: Comments must be received by August 14, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–159–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 97–NM–159–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–159–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A320 series airplanes. The DGAC advises that it has received a report indicating that cracking was detected during fatigue testing of a test article after 78,000 simulated flights. This cracking was found at the fastener holes located at fuselage frame 35 between left-and right-hand stringers 30 and 31. Such fatigue cracking, if not corrected, could result in reduced structural integrity of the airplane.

Explanation of Relevant Service Information

Airbus has issued Service Bulletin A320–53–1137, dated June 24, 1997, which describes procedures for a modification that entails removing existing fasteners located at fuselage frame 35 between the left- and right-hand stringers 30 and 31, performing a rotating probe inspection of the fastener holes to detect any cracking, modifying the fastener holes, and installing new, improved fasteners. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The DGAC classified this service bulletin as mandatory and issued French airworthiness directive 98–154–113(B), dated April 8, 1998, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Differences Between Proposed Rule and Service Bulletin

Operators should note that, although the service bulletin specifies that the manufacturer may be contacted for disposition of certain repair conditions, this proposal would require the repair of those conditions to be accomplished in accordance with a method approved by either the FAA or the Direction Générale de l'Aviation Civile (or its delegated agent).

Cost Impact

The FAA estimates that 9 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 6 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $390 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $6,750, or $750 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Docket 97–NM–159–AD.

Applicability: Model A320–111, –211, and –231 series airplanes, on which Airbus Modification 20903 has not been installed; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking of certain fastener holes on the outer frames of the fuselage, which could result in reduced structural integrity of the airplane, accomplish the following:

(a) Prior to the accumulation of 20,000 total flight cycles, or within 4,000 flight cycles after the effective date of this AD, whichever occurs later, remove the existing fasteners located at fuselage frame 35 between the left- and right-hand stringers 30 and 31, and perform a rotating probe inspection to detect fatigue cracking of the fastener holes, in accordance with Airbus Service Bulletin A320–53–1137, dated June 24, 1997.

(1) If no cracking is detected, prior to further flight, modify the fastener holes and install new, improved fasteners, in accordance with the service bulletin.

(2) If any cracking is detected, prior to further flight, repair in accordance with a method approved by the Manager, International Branch, ANM–116; FAA, Transport Airplane Directorate; or the Direction Générale de l'Aviation Civile (or its delegated agent).

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in French airworthiness directive 98–154–113(B), dated April 8, 1998.

Issued in Renton, Washington, on July 8, 1998.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–18776 Filed 7–14–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–227–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 727–200 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Boeing Model 727–200 series airplanes. This proposal would require repetitive inspections to detect cracks in certain areas between the upper and lower sills of the number 1 cargo door, and repair,

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if necessary. This proposal is prompted by reports indicating that fatigue cracks were found in certain structures adjacent to the number 1 cargo door cutout at the forward and aft doorway frames. The actions specified by the proposed AD are intended to detect and correct such fatigue cracking, which could result in rapid decompression of the fuselage and consequent reduced structural integrity of the airplane.

DATES: Comments must be received by August 31, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No.97–NM–227–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Walter Sippel, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2774; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 97–NM–227–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–227–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports indicating that cracks were found in the structure adjacent to the number 1 cargo door cutout at the doorway frames at body station (BS) 560 and BS 620 on Boeing Model 727–200 series airplanes. In one of these incidents, the aft frame web and frame inner chord of the number 1 cargo door cutout, which was previously repaired because of cracking, was found completely severed. In another incident, a crack was found in the aft doorway structure of the number 1 cargo door during pressure cycling of the fuselage of a Model 727–200 series airplane. The frame web and the frame inner and outer chords were severed and cracks were found in the bear strap and skin, which prevented pressurization of the airplane. The cracking has been attributed to fatigue, caused by pressurization cycles of the fuselage structure. Such fatigue cracking, if not corrected, could result in rapid decompression of the fuselage and consequent reduced structural integrity of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 727–53A0219, Revision 1, dated May 8, 1997, which describes the following procedures:

- Performing repetitive close visual inspections to detect cracks in the forward and aft frames, bear strap, and fuselage skin between the upper and lower sills of the number 1 cargo door at BS 560 and BS 620;
- Performing repetitive high frequency eddy current inspections to detect cracks in the forward and aft frames, and bear strap between the upper and lower sills of the number 1 cargo door at BS 560 and BS 620; and
- Repairing any cracked forward or aft frame, bear strap, or fuselage skin.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the alert service bulletin described previously, except as discussed below.

Differences Between Proposed Rule and Relevant Alert Service Bulletin

Operators should note that, although the referenced alert service bulletin specifies that the manufacturer may be contacted for disposition of certain conditions, this proposal would require the repair of those conditions to be accomplished in accordance with a method approved by the FAA. Likewise, operators also should note that, although the alert service bulletin defines the inspection intervals and methods for inspecting repairs that have been accomplished after contacting the manufacturer for repair information, this proposal would require the inspection methods and intervals to be accomplished in accordance with methods and intervals approved by the FAA.

Interim Action

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Other Relevant Rulemaking

The FAA has previously issued AD 98–11–03, amendment 39–10530 (63 FR 27455, May 19, 1998), which addresses, in part, cracking of the number 1 cargo door cutout structure on certain Model 727 series airplanes. That AD requires that the FAA-approved maintenance or inspection program be revised to include inspections of Structural Significant Items, and repair of cracked structure. These actions are conducted as part of the Supplemental Structural Inspection Program. (Components of the number 1 cargo door cutout structure are identified as structural significant items.) This proposed AD would not affect the current requirements of AD 98–11–03.

Cost Impact

There are approximately 1,100 airplanes of the affected design in the worldwide fleet. The FAA estimates that 770 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 60 work hours per airplane to accomplish the proposed inspections, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the inspections proposed by this AD on U.S. operators is estimated to be $2,772,000, or $3,600 per airplane, per inspection cycle.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 97–NM–227–AD.

Applicability: All Model 727–200 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking between the upper and lower sills of the number 1 cargo door, which could result in rapid decompression of the fuselage and consequent reduced structural integrity of the airplane, accomplish the following:

(a) Perform a close visual inspection or a high frequency eddy current (HFEC) inspection (as applicable) to detect cracks in the forward and aft frames (web, inner chord, and outer chord), bear strap, and fuselage skin between the upper and lower sills of the number 1 cargo door at BS 560 and BS 620; in accordance with Boeing Alert Service Bulletin 727–53A0219, Revision 1, dated May 8, 1997; at the time specified in paragraph (a)(1), (a)(2), or (a)(3) of this AD, as applicable.

(1) For airplanes on which the repair to the forward or aft frame (web, inner chord, or outer chord), bear strap, or fuselage skin specified in the alert service bulletin has not been accomplished: Inspect prior to the accumulation of 30,000 total flight cycles, or within 3,000 flight cycles after the effective date of this AD, whichever occurs later.

(2) For airplanes on which the repair to the forward or aft frame (web, inner chord, or outer chord) specified in the alert service bulletin has been accomplished: Inspect within 3,000 flight cycles after the effective date of this AD.

(3) For airplanes on which the repair to the bear strap, fuselage skin, or a combination of the frame web and chord (inner or outer) on either the forward or aft frame specified in the alert service bulletin has been accomplished: Inspect within 3,000 flight cycles after the effective date of this AD, in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note 2: Where there are differences between this AD and the referenced alert service bulletin, the AD prevails.

Note 3: The inspections specified in paragraph (a)(3) of this AD are not defined in the alert service bulletin.

(b) If no crack is detected during any inspection required by paragraph (a) of this AD, accomplish paragraph (b)(1) or (b)(2) of this AD, as applicable.

(1) For airplanes identified in paragraphs (a)(1) and (a)(2) of this AD: Repeat the close visual and HFEC inspection required by paragraph (a) of this AD thereafter at the times specified in paragraphs (b)(1)(i) and (b)(1)(ii) of this AD.

(i) Repeat the close visual inspection of the frame web at intervals not to exceed 3,000 flight cycles.

(ii) Repeat the close visual and HFEC inspections (as applicable) of the frame web, frame inner and outer chords, bear strap, and fuselage skin thereafter at intervals not to exceed 15,000 flight cycles.

(2) For airplanes identified in paragraph (a)(3) of this AD: Repeat the inspections of the repaired bear strap, fuselage skin, or combination of a repaired frame web and chord (inner or outer) thereafter at intervals not to exceed those approved by the Manager, Seattle ACO.

(c) If any crack is detected during any inspection required by paragraph (a) of this AD, prior to further flight, accomplish paragraph (c)(1) or (c)(2) of this AD, as applicable.

(1) For any crack detected in the frame web, inner chord, or outer chord: Repair in accordance with Boeing Alert Service Bulletin 727–53A0219, Revision 1, dated May 8, 1997. Prior to the accumulation of 3,000 flight cycles after accomplishment of the repair, accomplish the close visual and HFEC inspections specified in paragraph (a) of this AD. Repeat the close visual inspection of the frame web thereafter at intervals not to exceed 3,000 flight cycles. Repeat the close visual and HFEC inspections (as applicable) of the frame web, inner chord, and outer chord thereafter at intervals not to exceed 15,000 flight cycles.

(2) For any crack detected in the fuselage skin, bear strap, or a combination of the frame web and chord (inner or outer): Repair and perform repetitive inspections in accordance with both a method and repetitive inspection interval approved by the Manager, Seattle ACO.

Note 4: The repairs and inspections specified in paragraph (c)(2) of this AD are not defined in the alert service bulletin.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 5: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

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Issued in Renton, Washington, on July 8, 1998.

S. R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–18775 Filed 7–14–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–67–AD]

RIN 2120–AA64

Airworthiness Directives; Slingsby Sailplanes Ltd., Models Dart T.51, Dart T.51/17, and Dart T.51/17R Sailplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to all Slingsby Sailplanes Ltd. (Slingsby) Models Dart T.51, Dart T.51/17, and Dart T.51/17R sailplanes that are equipped with aluminum alloy spar booms. The proposed AD would require repetitively inspecting the aluminum alloy spar booms and the wing attach fittings for delamination or corrosion damage, and repairing any delamination or corrosion damage found. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for the United Kingdom. The actions specified by the proposed AD are intended to prevent failure of the spar assembly and adjoining structure caused by delamination or corrosion damage to the aluminum alloy spar booms or the wing attach fittings, which could result in reduced controllability or loss of control of the sailplane.

DATES: Comments must be received on or before August 14, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–67–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Slingsby Aviation Ltd., Kirbymoorside, York Y06 6EZ England; telephone: +44(0)1751 432474; facsimile: +44(0)1751 431173. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Kiesov, Aerospace Engineer, Small Airplane Directorate, Aircraft Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6934; facsimile: (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98–CE–67–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–67–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, notified the FAA that an unsafe condition may exist on Slingsby Models Dart T.51, Dart T.51/17, and Dart T.51/17R sailplanes that are equipped with aluminum alloy spar booms. The CAA reports an incident of glue joint failure on a starboard wing caused by water entering the area of the airbrake box. Investigation of this incident revealed delamination and corrosion in the area of the aluminum alloy spar booms and the wing attach fittings.

These conditions, if not detected and corrected, could result in failure of the spar assembly and adjoining structure with possible reduced controllability or loss of control of the sailplane.

Relevant Service Information

Slingsby has issued Technical Instruction (TI) No. 109/T51, Issue No. 2, dated October 7, 1997, which specifies procedures for inspecting the aluminum alloy spar booms and the wing attach fittings for delamination or corrosion damage.

The CAA classified this service bulletin as mandatory and issued British AD 005–09–97, dated October 3, 1997, in order to assure the continued airworthiness of these sailplanes in the United Kingdom.

The FAA's Determination

These sailplane models are manufactured in the United Kingdom and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above.

The FAA has examined the findings of the CAA; reviewed all available information, including the service information referenced above; and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Slingsby Models Dart T.51, Dart T.51/17, and Dart T.51/17R sailplanes equipped with aluminum alloy spar booms of the same type design registered in the United States, the FAA is proposing AD action. The proposed AD would require repetitively inspecting the aluminum alloy spar booms and the wing attach fittings for delamination or corrosion damage, and repairing any delamination or corrosion damage found. Accomplishment of the proposed inspection would be in accordance with Slingsby TI No. 109/T51, Issue No. 2, dated October 7, 1997.

Compliance Time of the Proposed AD

The unsafe condition specified by the proposed AD is caused by corrosion. Corrosion can occur regardless of whether the aircraft is in operation or is in storage. Therefore, to assure that the unsafe condition specified in the proposed AD does not go undetected for a long period of time, the compliance is presented in calendar time instead of hours time-in-service (TIS).

Differences Between the British AD, the Technical Instruction, and This Proposed AD

Both Slingsby TI No. 109/T51, Issue No. 2, dated October 7, 1997, and British AD 005–09–97, dated October 3, 1997, specify the initial inspection prior to further flight.

The FAA does not have justification through its regulatory process to require the initial inspection prior to further flight. To assure that no affected sailplanes are inadvertently grounded, the FAA is proposing a compliance time of 6 calendar months for the initial inspection.

Cost Impact

The FAA estimates that 3 sailplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 40 workhours per sailplane to accomplish the proposed initial inspection, and that the average labor rate is approximately $60 an hour. Based on these figures, the total cost impact of the initial inspection specified in this proposed AD on U.S. operators is estimated to be $7,200, or $2,400 per sailplane.

These figures only take into account the costs of the proposed initial inspection and do not take into account the costs of repetitive inspections and the costs associated with any repair that would be necessary if corrosion or delamination damage is found. The FAA has no way of determining the number of repetitive inspections an owner/operator will incur over the life of the sailplane, or the number of sailplanes that will need repairs.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

Slingsby Sailplanes Ltd.: Docket No. 98–CE–67–AD.

Applicability: Models Dart T.51, Dart T.51/17, and Dart T.51/17R sailplanes, all serial numbers, certificated in any category, that are equipped with aluminum alloy spar booms.

Note 1: This AD applies to each sailplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For sailplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent failure of the spar assembly and adjoining structure caused by delamination or corrosion damage to the aluminum alloy spar booms or the wing attach fittings, which could result in reduced controllability or loss of control of the sailplane, accomplish the following:

(a) Within the next 6 calendar months after the effective date of this AD and thereafter at intervals not to exceed 5 years, inspect the aluminum alloy spar booms and the wing attach fittings for delamination or corrosion damage. Accomplish this inspection in accordance with Slingsby Technical Instruction (TI) No. 109/T51, Issue No. 2, dated October 7, 1997.

Note 2: Slingsby TI No. 109/T51, Issue No. 2, dated October 7, 1997, includes guidance to determine whether an affected sailplane is equipped with aluminum alloy spar booms.

(b) If any corrosion or delamination damage is found during any inspection required by paragraph (a) of this AD, prior to further flight, accomplish the following:

(1) Obtain a repair scheme from the manufacturer through the FAA, Small Airplane Directorate, at the address specified in paragraph (d) of this AD; and

(2) Incorporate this scheme and continue to repetitively inspect as required by paragraph (a) of this AD, unless specified differently in the instructions to the repair scheme.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the sailplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from Small Airplane Directorate.

(e) Questions or technical information related to Slingsby Technical Instruction No. 109/T51, Issue No. 2, dated October 7, 1997 should be directed to Slingsby Aviation Ltd., Kirbymoorside, York Y06 6EZ England; telephone: +44(0)1751 432474; facsimile: +44(0)1751 431173. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Note 4: The subject of this AD is addressed in British AD 005–09–97, dated October 3, 1997.

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Issued in Kansas City, Missouri, on July 8, 1998.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–18869 Filed 7–14–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Parts 234, 241, 250, 298, and 374a

[Docket No. OST–98–4043; Notice No. 98–10]

RIN 2105–AC71

Aviation Data Requirements Review and Modernization Program

AGENCY: Office of the Secretary, DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Department on its own initiative is requesting public comments from reporting carriers and aviation data users on the nature, scope, source, and means for collecting, processing, and distributing airline traffic, fare, and financial data. Specifically, the Department is inviting comments on whether existing airline traffic, fare, and financial data should be amended, supplemented, or replaced; whether selected forms and reports should be retained, modified, or eliminated; whether the Department should require all aviation data to be filed electronically; and how the aviation data system should be reengineered to enhance efficiency and to reduce costs for both the Department and the airline industry.

It is the Department's preliminary position that its current aviation data systems may not provide sufficiently reliable data in some areas to ensure that the Department can fully meet its regulatory and statutory responsibilities, and that its aviation data requirements should be reviewed and modernized.

The Department may engage one or more contractors to assist it in its aviation data requirements assessment and in the reengineering of the Department's aviation data systems.

DATES: Comments must be submitted on or before September 14, 1998. Reply comments must be submitted on or before October 13, 1998.

ADDRESSES: Comments are to be filed in Room PL–401, Docket OST–98–4043, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590. Late filed comments will be considered to the extent practical. To facilitate consideration of comments, each respondent should file six copies of its comments.

FOR FURTHER INFORMATION CONTACT: Regis P. Milan, Office of Aviation Analysis, (202) 366–2344, or David B. Richards, Office of International Aviation, (202) 366–2432; 400 7th Street, S.W., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION:

Background

Public Law 98–443 requires the Department of Transportation, under the authority of the Secretary of Transportation (49 U.S.C. 329(b)(1)), to collect and disseminate information on civil aeronautics, other than that collected and disseminated by the National Transportation Safety Board. In meeting this responsibility, the Department collects traffic and financial data submitted under 14 CFR Part 241 (Uniform System of Accounts for Large Certificated Air Carriers) and traffic data submitted under 14 CFR Part 298 (Exemptions for Air Taxi and Commuter Air Carriers). The Department also collects certain traffic data from foreign air carriers for flights to or from the U.S. under 14 CFR Part 217 and Section 25 of 14 CFR Part 241. The Department collects service quality data from U.S. carriers submitted under 14 CFR Part 234 (Airline Service Quality Performance Reports), and under 14 CFR 250 it collects information on passengers denied boarding. In addition, under Part 374a, airlines are required to report information on any extensions of credit for air transportation services provided to federal political candidates.

The Department uses these data in a variety of ways, including monitoring the fitness of individual carriers and the economic health of the airline industry, assessing the competitiveness of aviation markets, providing consumers with data to make decisions on air travel, providing data for forecasting traffic and for airport funding and traffic control purposes, and providing the basis for policy decisions on aviation matters, including international aviation negotiations.

The Department maintains two large traffic data bases, one for domestic and international passenger origin-destination movements, including ticket price and itinerary, which are submitted by U.S. carriers only (Section 19–7 of Part 241, the Passenger Origin-Destination Survey), and another for aircraft flight data submitted by U.S. and foreign air carriers (Section 25 of Part 241 and Part 217, the T–100 and T–100(f) segment and on-flight market reports).

The Department collects Form 41 data, which consist of comprehensive financial and traffic data reported by large and small air carriers. Form 41 also includes fuel cost and consumption and aircraft fleet inventory data.

The Department requires air taxi and commuter carriers to report limited traffic and market data on Form 298C.

The Department also collects data on oversales/denied boardings, air service quality performance, and extensions of credit by airlines to federal political candidates.

The Department's aviation databases are used by a number of federal departments and agencies, Congress, state and local authorities, airlines, airports, manufacturers, industry associations, consultants, academics, researchers, financial analysts, investors, and the general public.

For the most part, the data collected by the Department are based upon regulatory requirements designed for an economic environment that has evolved significantly since enactment of the Airline Deregulation Act in 1978. Many changes in the airline industry have taken place since these data reporting systems were established. Nearly all domestic air carriers now operate hub-and-spoke systems, have extensive code-sharing and other marketing agreements with other carriers, offer frequent flyer programs, provide ticketless travel, and use integrated computer reservation systems. This environment represents a marked change from the linear, point-to-point systems in place 20 years ago, when the domestic airline industry was deregulated. Internationally, the last few years have seen the development of global, multi-national carrier alliances and an increasing number of open-skies and liberalized-entry agreements with other nations.

Along with these changes, the needs of the Department and other aviation data users have evolved and expanded, while the collected data and associated processing systems have changed slowly. However, the Department has significantly reduced the reporting burden on the industry by eliminating some Form 41 schedules and line items over the last 20 years. Nonetheless, the Department intends to reexamine whether all data items that we now collect remain relevant to today's economic and regulatory environment.

Request for Comments

We are issuing this advance notice of proposed rulemaking to invite comments on whether traffic, fare, and financial data reporting systems should be retained, amended, supplemented, or replaced; whether other selected forms and reports which are less utilized by the Department and other government users should be retained, compressed, or deleted; and finally, whether the Department should require all data to be filed by electronic communication means (e.g., Internet, direct-wire) or on magnetic media (e.g., tape, disk, cassette).

The Department now collects data from over 400 U.S. and foreign airlines for certain data collections. These data must be processed, validated, and edited. We are seeking comments on alternative data and collection methods to address deficiencies in the structure of these data systems.

We request comments on whether there are alternate, more reliable sources of these data, and whether changes to data items may make these data more useful.

Note: We welcome comments on all aspects of our data systems. However, for identification, reference, and administrative convenience, we have specifically numbered particular requests for comments by section, with an identification number placed after each request. Please use these identifiers in your response.

A. The T–100 System—Report of Traffic, Capacity, and Statistics

This database provides airport pair traffic and capacity data by non-stop segment by aircraft type and on-flight market. Schedule T–100 reports are filed by all large certificated air carriers, where large certificated air carriers are defined as those that conduct operations using "large" aircraft (aircraft with more than 60 seats or 18,000 pounds of payload capacity, 14 CFR Parts 217.3 and 241.25). However, carriers conducting only domestic charter or all-cargo operations are not required to file Schedule T–100, with the exception of intra-Alaska cargo operations (Part 241, Section 19–1(a)). The T–100 system does not require U.S. and foreign carriers who exclusively operate aircraft with 60 or fewer seats to report T–100 data. Foreign air carriers serving the U.S. generally have the same reporting requirements as U.S. carriers, except that they instead file Schedule T–100(f).

The Department last year reviewed its Schedule T–100 and T–100(f) traffic data systems and determined that the data-confidentiality restrictions for international service should be shortened to no earlier than six months after the submission date for the data; reporting of available seats and payload weight should be added to the reporting requirements for foreign carriers, similar to that required for U.S. carriers; and the requirement to report passenger data by cabin configuration should be eliminated (62 FR 6715–6719, February 13, 1997).

We request that respondents provide specific comments on the following matters:

[A–1] Is there a continuing need to collect T–100/T–100(f) data? Explain the usefulness of these data in satisfying your requirements.

[A–2] Is there a way to modify or restructure T–100/T–100(f) data to make them more functional?

[A3] Are there alternate sources of and/or more efficient modes for delivery of these data to the Department?

[A–4] Should the Department require T–100/T–100(f) data from carriers who exclusively operate aircraft with fewer than 60 seats?

[A–5] Should the Department require T–100 data from domestic all-cargo carriers?

[A–6] If yes to A–4 and/or A–5, what criteria should be used in setting the data reporting threshold (e.g., aircraft size, air carrier operations, annual operating revenues, revenue passenger enplanements, number of flights, some combination of these specified criteria, or other unspecified criteria)?

[A–7] Are there alternate sources of comparable data available for smaller carriers or domestic all-cargo carriers?

[A–8] Should the Department amend T–100 and T–100(f) to require that international data include summary citizenship data (e.g., U.S. or non-U.S.)?

B. The Origin and Destination Survey of Airline Passenger Traffic

The O&D Survey (Survey) provides U.S. air carrier traffic using a ten percent sample of ticketed passengers. These data are reported for the scheduled operations only of large U.S. carriers, except where certain foreign carriers provide data similar to those required of U.S. carriers as a condition for approval of, and antitrust immunity for, carrier alliances (*See* e.g., Order 96–11–1, November 1, 1996). U.S. carriers who exclusively operate aircraft with 60 or fewer seats do not report Survey data for their operations and such data are included in the Survey only if incidentally reported as part of an itinerary reported by a large carrier.

The Survey was originally designed in the early 1960s, with fare data (from the ticket) added in 1979. As with other regulatory reporting requirements, time and technology have rendered this data collection methodology virtually obsolete. Nearly all carriers now rely on computer reservation systems for reservation/ticketing procedures, and a significant and growing percentage of passengers are traveling using "ticketless or electronic" procedures. Carrier use of the physical ticket for revenue accounting and control purposes is rapidly declining.

The processing of the current Survey data is costly both for the reporting carriers and the Department. Moreover, the Department's quarterly release of the domestic Survey data has been unacceptably delayed because of significant carrier submission errors and omissions. While imposing economic sanctions for filing such poor quality data may improve their accuracy and timeliness, the fundamental problem is that this O&D Survey data system is hampered by outmoded and inefficient transmission, collection, and processing procedures that rely extensively on paper tickets.

[B–1] Is there a continuing need to collect O&D data? Explain the usefulness of these data in satisfying your requirements.

[B–2] Is there a way to modify or restructure O&D data to make them more functional?

[B–3] Are there alternate sources of and/or more efficient modes for delivery of these data to the Department?

[B–4] Should the Department require O&D data from carriers who exclusively operate aircraft with fewer than 60 seats?

[B–5] If yes to B–4, what criteria should be used in setting the data reporting threshold (e.g., aircraft size, air carrier operations, annual operating revenues, revenue passenger enplanements, number of flights, some combination of these specified criteria, or other unspecified criteria)?

[B–6] Should O&D data be collected for U.S. domestic services and international services of U.S. air carriers only, as is the procedure under the current Survey, or should foreign air carrier international O&D data, involving a U.S. point in the flight itinerary, be required and processed in the Survey?

[B–7] If it is determined that foreign air carrier international O&D data should be required and processed in the Survey, should those carriers be required to submit information on the full flight itineraries or only on those flight segments to/from the U.S., or some combination thereof?

[B–8] Should there be confidentiality restrictions imposed for access to international data included in the Survey, and if so, what should be the degree and duration of such access restrictions?

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[B–9] What should be the time-frame for submission to the Department—weekly, monthly, or quarterly?

Other Automated Sources of O&D Data

The Department wishes to consider whether there are alternatives to the current ticket-based O&D System, especially ones that could be based on existing internal automated data systems maintained by airlines and/or computer reservation systems (CRSs). As an example, there is a CRS-based data file called the Transaction Control Number (TCN) files. In the process of ticketing airline passengers, airlines and related computer reservation systems electronically record the majority of transactions in the standard TCN formats for various accounting, reconciliation, and seat inventory control purposes. Under a current industry data interchange program, many airlines and CRSs routinely exchange the TCN data through the Airline Tariff Publishing Company (ATPCO) electronically on a daily basis. The Department believes that these TCN data could provide an alternative, less expensive source of traffic and fare data.

We request that respondents provide specific comments on the following matters:

[B–10] List and describe alternative data sources, such as TCN, that could provide the types of comprehensive passenger O&D itinerary and fare data we are seeking, and the potential advantages and disadvantages of each source.

[B–11] If the Department decides to use TCN or alternative data as the basis of a new O&D Survey, should carriers continue to submit data independently to the Department, or should such data be submitted via a common exchange (such as a CRS or common exchange point like ATPCO)?

[B–12] Under a new system, should the replacement O&D data be submitted for ticketed or booked passengers only, or should such data be held until reconciliation, e.g. until the reservation is actually used (as evidenced by a coupon lifted at the time of flight) or is canceled?

[B–13] What are carriers' best cost estimates for the submission of domestic and international TCN data to the Department via CRS or ATPCO?

[B–14] What are carriers' best cost estimates for the submission of data from other potential sources?

[B–15] What are the best cost estimates of carriers who do not use CRS services or ATPCO for reconciliation or control purposes to file independent submissions of this type of data to the Department directly or via an intermediary?

C. Form 41, Uniform System of Accounts and Reports of Financial and Operating Statistics for Large Certificated Air Carriers

This database provides U.S. air carrier financial data, predicated on a uniform system of accounts, and selected traffic statistics, generally termed the Form 41 schedules. A list of such schedules is shown in 14 CFR Part 241, Section 22. These schedules include the balance sheet, profit and loss statement, various operating expense schedules, and summary traffic and capacity schedules.

We request that respondents provide specific comments on the following matters:

[C–1] Is there a continuing need to collect Form 41 data? Explain the usefulness of these data in satisfying your requirements.

[C–2] Is there a way to modify restructure Form 41 data to make them more functional?

[C–3] Are there alternate sources of and/or more efficient modes for delivery of these data to the Department?

D. Commuter, Part 298, Exemptions for Air Taxi and Commuter Air Carrier Operations

This rule provides air taxi and commuter air carriers certain exemptions from traffic and financial data reporting required of large certificated air carriers. However, less detailed reporting schedules (Form 298–C) are required, including, for example, the full reporting of on-line origin-destination passengers instead of the Department's standard O&D Survey, expense reporting by general category, rather than by detailed sub-account, and simplified quarterly reporting of traffic rather than the monthly T–100 schedule.

We request that respondents provide specific comments on the following matters:

[D–1] Is there a continuing need to collect Form 298–C data? Explain the usefulness of these data in satisfying your requirements.

[D–2] Is there a way to modify or restructure Form 298–C data to make them more functional?

[D–3] Are there alternate sources of and/or more efficient modes for delivery of these data to the Department?

[D–4] Should the Department retain, modify, or eliminate the 60-seat exemption under Part 298?

[D–5] Air taxi and commuter carriers are asked to indicate their use of computer reservation systems, with specific attention to the possible use of TCN data derived from CRS records to replace the Survey.

E. Part 234, Airline Service Quality Performance Reports

These data are collected from air carriers accounting for at least one percent of domestic scheduled passenger revenues. This monthly report includes flight delays, on-time flight performance, enplaned passengers, and the number of mishandled-baggage reports filed with air carriers.

We request that respondents provide specific comments on the following matters:

[E–1] Is there a continuing need to collect Part 234 data? Explain the usefulness of these data in satisfying your requirements.

[E–2] Is there a way to modify Part 234 data to make them more functional?

[E–3] Are there alternate sources of and/or more efficient modes for delivery of these data to the Department?

F. Part 250, *Oversales,* requires that U.S. and foreign air carriers report various data on the number of passengers that are denied boarding, and the total number of boardings, each quarter. Our reporting requirements were last reviewed in 1995.

We request that respondents provide specific comments on the following matters:

[F–1] Is there a continuing need to collect Part 250 data? Explain the usefulness of these data in satisfying your requirements.

[F–2] Is there a way to modify Part 250 data to make them more functional?

[F–3] Are there alternate sources of and/or more efficient modes for delivery of these data to the Department?

G. Part 374a, *Extension of Credit by Airlines to Federal Political Candidates,* requires air carriers to make monthly reports with respect to credit for transportation furnished to political candidates, or persons acting on behalf of candidates, during the period from six months before nomination or election, until the date of election. Continuing reports are to be made until a filing indicates that no debt is owed the carrier.

We request that respondents provide specific comments on the following matters:

[G–1] Is there a continuing need to collect Part 374a reports? Explain the usefulness of these data in satisfying your requirements.

[G–2] Is there a way to modify or restructure Part 374a reports to make them more functional?

[G–3] Are there alternate sources of and/or superior submission techniques for these reports?

H. Electronic Filing of Data

The Department currently accepts data submissions either in paper form or on magnetic disk or tape. Most large carriers submit the bulk of their data on magnetic media, with large data submissions, such as the Passenger Origin-Destination Survey and T–100 market reports nearly universally submitted on tape or cassette. Electronic submission of data can be processed more quickly, and at lower cost, than similar data submitted in paper form.

The Department now accepts the official filing of international fare and fare rules tariffs electronically (See 14 CFR Part 221 and 61 FR 18070–18075, April 24, 1996). Given the Department's limited resources, it would be impossible to process the volume of tariff data received if these data were filed in a wholly paper environment. Similarly, the Department is increasingly burdened by the filing of required financial and traffic data in paper form.

We request that respondents provide specific comments on the following matters:

[H–1] All air carriers who supply aviation data to the Department are requested to comment on their ability to file data electronically or on magnetic media, i.e., via tape or disk, or over the Internet.

[H–2] If certain large database material now accepted by the Department in electronic form (e.g., the T–100/T–100(f), Origin-Destination Survey, and 298–C reports) are submitted on paper, relevant carrier respondents are requested to indicate why magnetic media are not employed for their submissions.

Contact Persons

We recognize that formal comments submitted to the Department on rulemaking matters are usually submitted by corporate counsel. However, we are seeking comments regarding complex technical issues in anticipation of a formal rulemaking, in areas which are generally outside the area of expertise of legal counsel. It would aid in our evaluation of any technical comments to be able to contact persons with direct knowledge of technical issues being commented upon. Respondents are urged to supply the names, telephone numbers, and addresses of knowledgeable individuals who can be contacted for a more detailed discussion of any technical matters that the respondent counsel cannot answer directly. There may be multiple contact persons for any particular item, or in total. These contact persons should be listed on the last page of any submitted filing, along with their area(s) of expertise.

Regulatory Process Matters

Executive Orders 12612 and 12866

The Department has determined that the proposed notice of proposed rulemaking is not a significant regulatory action under Executive Order 12866. However, the proposed rule may be significant under the Department's Regulatory Policies and Procedures (44 CFR 11304), because of substantial industry interest and because it may result in a reduction in paperwork and filing burden for U.S. carriers. The Department has also analyzed the proposal in accordance with the principles and criteria contained in Executive Order 12612 ("Federalism"), and has determined that the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This rule would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601 et seq., was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. The Act requires agencies to review proposed regulations that may have a significant economic impact on a substantial number of small entities. For purposes of this notice, small entities include air taxis, commuter air carriers, and smaller U.S. and foreign airlines.

Although we do not believe the existing rule imposes a significant economic impact on a substantial number of small entities, it does affect many small entities. For that reason, we specifically seek public comment on what steps we can take to lessen or eliminate any burdens it imposes on small entities.

Paperwork Reduction Act

Our current rules contain significant collection-of-information requirements. Changes we may propose will be subject to the Paperwork Reduction Act, Public Law No. 96–411, 44 U.S.C. Chapter 35. The revised rules are expected to result in a net paperwork reduction for the industry.

Regulation Identifier Number

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

Patrick V. Murphy,

Deputy Assistant Secretary for Aviation International Affairs.

Robert A. Knisely,

Acting Director, Bureau of Transportation Statistics.

[FR Doc. 98–18855 Filed 7–14–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 812

[Docket No. 98N–0394]

RIN 0910–ZA14

Medical Devices; Investigational Device Exemptions

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the Investigational Device Exemptions (IDE) regulation. The proposed regulatory changes are intended to reflect amendments to the Federal Food, Drug, and Cosmetic Act (the act) by the FDA Modernization Act of 1997 (FDAMA). These amendments provide that the sponsor of an IDE may modify the device and/or clinical protocol, without approval of a new application or supplemental application, if the modifications meet certain criteria and if notice is provided to FDA within 5 days of making the change. The proposed rule also defines the credible information to be used by sponsors to determine if the criteria are met.

DATES: Submit written comments on or before September 28, 1998. Written comments on the information collection provisions should be submitted by August 14, 1998.

ADDRESSES: Submit written comments on the proposed rule to the Documents Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit written comments on the information collection requirements to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Desk Officer for FDA.

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FOR FURTHER INFORMATION CONTACT: Joanne R. Less, Center for Devices and Radiological Health (HFZ–403), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–1190.

SUPPLEMENTARY INFORMATION:

I. Background

Experience has shown that during the course of a clinical investigation, the sponsor of the study will often want or need to make modifications to the investigational plan, including changes to the device and/or the clinical protocol. These changes may be simple modifications, such as clarifying the instructions for use, or they may be significant changes, such as modifications to the study design or device design.

Currently, § 812.35(a) (21 CFR 812.35(a)) states, in part:

> A sponsor shall: (1) Submit to FDA a supplemental application if the sponsor or an investigator proposes a change in the investigational plan that may affect its scientific soundness or the rights, safety, or welfare of subjects, and (2) obtain FDA approval under § 812.30(a) of any such change, and IRB approval when the change involves the rights, safety, or welfare of subjects (see §§ 56.110 and 56.111), before implementation.

Under § 812.25 *Investigational plan* (21 CFR 812.25), the investigational plan includes: (1) The purpose of the study, (2) the clinical protocol, (3) a risk analysis, (4) a description of the investigational device, (5) monitoring procedures, (6) labeling, (7) informed consent materials, and (8) institutional review board (IRB) information. Although written guidance on the types of modifications that can be made without prior FDA approval has not previously been developed, the agency has permitted changes to all parts of the investigational plan, without new or supplemental IDE application approvals, if the changes did not affect the scientific soundness of the plan or the rights, safety, or welfare of the subjects, and if such changes were reported to FDA in the upcoming annual report under § 812.150(b)(5) (21 CFR 812.150(b)(5)).

On November 21, 1997, the President signed into law FDAMA. Section 201 of FDAMA (Pub. L. 105–115) amended the act by adding new section 520(g)(6) to the act (21 U.S.C. 360j(g)(6)). Section 520(g)(6) of the act permits, upon issuance of a regulation, certain changes to be made to either the investigational device or the clinical protocol without prior FDA approval of an IDE supplement. Specifically, this section of the statute permits:

> (i) developmental changes in the device (including manufacturing changes) that do not constitute a significant change in design or in the basic principles of operation and that are made in response to information gathered during the course of an investigation; and
>
> (ii) changes or modifications to clinical protocols that do not affect—
>
> (I) the validity of the data or information resulting from the completion of an approved protocol, or the relationship of likely patient risk to benefit relied upon to approve a protocol;
>
> (II) the scientific soundness of an investigational plan submitted [to obtain an IDE]; or
>
> (III) the rights, safety, or welfare of the human subjects involved in the investigation.

The current IDE regulation and the new statute permit certain changes to be made to the investigational plan without prior agency approval. FDA views the changes and modifications allowed under section 520(g)(6) of the act as consistent with the way the agency has previously interpreted § 812.35(a).

Section 520(g)(6) of the act, which is a result of the new law, also specifies that the implementing rule provide that such changes or modifications may be made without prior FDA approval if the IDE sponsor determines, on the basis of credible information (as defined by the Secretary of Health and Human Services), that the previous conditions are met and if the sponsor submits, not later than 5 days after making the change or modification, a notice of the change or modification. Lastly, section 520(g)(6) of the act requires that FDA issue a final regulation implementing this section no later than 1 year after the date of enactment of FDAMA.

To implement new section 520(g)(6), FDA is proposing to amend § 812.35(a) to permit changes to the investigational device, including manufacturing changes, or to the clinical protocol, in accordance with the statutory criteria. This proposed rule also implements the 5 day notice requirement and defines the credible information to be used by sponsors to determine if the statutory criteria are met. The agency is soliciting comments on the proposal and, in particular, on the definition of credible information. Finally, the amended regulation codifies existing agency practice regarding the types of changes that could be made to other parts of the investigational plan (i.e., other than changes to the device or clinical protocol) and be reported in the annual progress report without prior agency approval.

II. Discussion of Proposed Amendments

The proposed rule amends part 812 by revising § 812.35(a) to track the new statutory language and to define the credible information to be used by IDE sponsors to determine if the statutory criteria are met. This proposal consists of the following provisions:

A. Changes Requiring Prior Approval

Proposed § 812.35(a)(1) requires that changes to the investigational plan, except as provided for in proposed § 812.35(a)(2) through (a)(4), be approved by FDA and the IRB, as applicable under §§ 56.110 and 56.111 (21 CFR 56.110 and 56.111), before being implemented. In addition, this section continues to require an IDE sponsor who intends to conduct an investigation that involves an exception to informed consent under § 50.24 (21 CFR 50.24) to submit a new IDE application rather than an IDE supplement.

B. Changes Effected for Emergency Use

Proposed § 812.35(a)(2), which parallels the existing regulation, addresses deviations from the investigational plan to protect the life or physical well-being of a subject in an emergency. Such deviations would not require prior FDA approval but must be reported to the agency by the sponsor within 5 working days of when the sponsor learns of the deviation. A detailed discussion of this provision was provided in the guidance document entitled, "Guidance for the Emergency Use of Unapproved Medical Devices" (50 FR 42866, October 22, 1985).

C. Changes Effected With Notice to FDA Within 5 Days

Proposed § 812.35(a)(3) describes the statutory criteria under which developmental changes to the investigational device, including manufacturing changes, and changes to the clinical protocol may be made without prior approval by FDA. As stated in section 520(g)(6) of the act, developmental changes to the device or manufacturing process may be made if the changes do not constitute a significant change in design or basic principles of operation and are made in response to information gathered during the course of the investigation.

Changes to the clinical protocol may be made if the modifications do not affect the validity of the data or information resulting from the study, the likely risk to benefit relationship that was used to approve the protocol, the scientific soundness of the investigational plan, or the rights, safety, or welfare of the subjects in the trial. As noted previously, the current IDE regulation allows sponsors to modify the investigational plan without prior agency approval if the modification does not affect the scientific soundness of the plan or the rights, safety, or welfare of the subjects. The new statute specifies that, in addition to these criteria, IDE sponsors who change the clinical protocol must also consider the impact that the change may have on the validity of the data resulting from the study and the risk to benefit relationship that was used to approve the protocol. FDA believes that these additional criteria are consistent with the agency's general criteria under the current regulation that provide that changes may be made to the investigational plan as long as such changes ensure the protection of patient safety and rights and the integrity of the clinical trial.

D. Definition of Credible Information

To help sponsors decide if the criteria set forth in section 520(g)(6) of the act have been met, and in accordance with FDAMA, the agency is defining what it would consider to be credible information to support a decision by the sponsor that prior agency approval for a proposed change to a device, manufacturing process, or protocol is not required and that a notice within 5 days of effecting a change will be sufficient. As described in the following paragraph, FDA believes that the definition of credible information will be different depending upon whether the sponsor is modifying the device (or manufacturing process) or the clinical protocol.

1. Device and Manufacturing Changes

For changes to the device, including manufacturing changes, FDA believes that the data generated by design control procedures during the device development process will help manufacturers distinguish those changes that could be implemented without prior approval from those that would require approval. Under § 812.1(a) (21 CFR 812.1(a)), manufacturers of investigational devices are exempt from the good manufacturing practice (GMP) requirements of section 520(f) of the act, except for the design control procedure requirements (§ 820.30 (21 CFR 820.30)), if applicable. Design control procedures consist of a system of inter-related checks and balances that make the systematic assessment of design an integral part of the device development process. Under the design-control section of the quality system regulation, manufacturers are required to have in place a systematic set of requirements and activities for the management of design and development, including documentation of design inputs, appropriate risk analysis, design output, test procedures, verification and validation procedures, and documentation of formal design reviews. Use of design controls in the development process for medical devices contributes to the protection of the public in general, as well as of patients involved in clinical trials, from potentially unsafe devices. By using the information generated by design controls, IDE sponsors are able to assess the potential impact of changes in the device design or manufacturing process prior to implementing them in their clinical investigations.

Under the new law and this proposed implementing regulation, certain developmental changes to the investigational device (including manufacturing changes), which are made in response to information gathered during the course of the investigation, are eligible for implementation without prior agency approval. Modifications that constitute a significant change in design or basic principles of operation, however, may not be made without prior approval of an IDE supplement. Through the data generated by the appropriate risk analysis and the subsequent verification and validation testing done as a part of the design control process, sponsors should be able to judge whether a change to the device would constitute a significant change in design or one that changes the basic principles of operation. The agency believes that any change that could significantly affect the safety and/or effectiveness of the device is a significant change. FDA also believes that any change to the basic principles of operation of a device would be highly likely to constitute a significant change; however, the agency is soliciting comments on this premise.

In determining whether a change to the design of the device would be considered significant and require agency approval prior to implementation, FDA is proposing that IDE sponsors rely upon information generated by design controls to supply the credible information that would be the basis of that decision. Specifically, the manufacturer should conduct an appropriate risk analysis, followed by verification and validation testing, as required by design control procedures. If it is determined that no new types of risks are introduced by the change and that the subsequent testing demonstrates that the design outputs meet the design input requirements, then the change could be made without prior agency approval, if the sponsor notifies FDA within 5 days of implementation. If, however, the risk analysis identifies new types of risks, the verification/validation testing indicates that the design input requirements are no longer satisfied, or the design input requirements need to be modified, then the change would require prior approval.

As an example, consider a change in material from polyvinylchloride (PVC) to silicone in a catheter. In accordance with design control procedures, the manufacturer would conduct the appropriate risk analysis. Assuming that the risk analysis did not identify any new types of risks for this device compared to the unmodified device, then the manufacturer would proceed to conduct the verification and validation testing. As a part of these activities, the manufacturer should also conduct any other performance testing that addresses a safety or performance concern that may have been identified to the IDE sponsor in a recognized standard or other agency correspondence for this device. If the results of the testing demonstrate that all of the risks (those identified in the risk analysis and those identified by the agency in its previous correspondence to the firm) have been adequately addressed and that the design output meets the design input requirements, then the change could be implemented without prior FDA approval. Alternatively, if the manufacturer had proposed a change from PVC to latex, the risk analysis should have indicated a new type of risk, e.g., possible latex sensitivity. In this case, the change should not be made without prior FDA review and approval.

Using the same device in a second example, consider a change in the diameter of the lumen of the catheter. If no new types of risks are identified in the risk analysis, the manufacturer could proceed to conduct the verification and validation testing. If the testing demonstrates that the design input requirements are met, the change could be implemented without prior FDA approval. If, however, during the testing, it is determined that the intended flow rate was compromised by the change in diameter, then the manufacturer would have two options. The manufacturer could adjust the modification so that the original intended flow rate is still achieved or the manufacturer could submit an IDE supplement, including a justification for the change, and pursue FDA approval.

By using the data generated by design control procedures, the manufacturer should be able to identify significant changes to the investigational device or manufacturing process, i.e., those that introduce new types of risks or cause

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the design outputs to no longer meet the design input requirements. In the guidance document entitled, "Deciding When to Submit a 510(k) for a Change to an Existing Device," the agency has identified generic types of device and manufacturing modifications. The previous guidance may be found on the World Wide Web at "http://www.fda.gov/cdrh". Although this guidance applies to modifications of marketed devices, the types of changes identified in the document are also applicable to investigational devices. These include changes to the control mechanism, principle of operation, energy type, environmental specifications, performance specifications, ergonomics of patient-user interface, dimensional specifications, software or firmware, packaging or expiration dating, sterilization, and the manufacturing process (including the manufacturing site). Such changes can range from minor to significant, depending upon the particular device, the type of modification, and the extent of the modification. As discussed previously, significant changes of any of the previous types would not be eligible for the 5 day notice provision, but rather would require prior FDA approval.

2. Protocol Changes

The new statute also permits changes to the clinical protocol to be made and reported within 5 days of implementation if the changes do not affect the validity of the data or information that will result from the clinical trial, the likely patient risk to benefit relationship used to approve the study, the scientific soundness of the investigational plan, or the rights, safety, or welfare of the subjects. FDA is proposing that the credible information relied upon to support this change should consist of a statistical analysis performed by the sponsor and independent confirmation by the IRB chairperson, the data safety monitoring board (DSMB), or published literature. For a modification to be eligible for implementation under this provision, FDA believes the IDE sponsor should conduct an assessment of the impact of the proposed change on the study design and planned statistical analysis and determine that they would not be adversely affected. In addition to this assessment, FDA is proposing that the credible information that is the basis of the sponsor's determination include approval by the IRB chairperson (or designee) or concurrence of the DSMB. For certain types of changes, peer reviewed published literature also could be the additional credible evidence to support a protocol modification. Generally, FDA would rely upon the IRB chairperson to review changes that are related to the rights, safety, or welfare of the subjects in the trial, while the approval/recommendation of the DSMB or the peer reviewed published literature would be relied upon for changes that are related to the scientific soundness of the investigational plan or validity of the data. Several examples of these types of changes are provided as follows.

1. Increasing the frequency at which data or information is gathered or lengthening the subject follow-up period. Assuming that the sponsor's assessment of the impact of the proposed change on the study design and planned statistical analysis demonstrates that they would not be adversely affected, FDA believes this type of modification could be implemented without agency approval if the IRB chairperson agrees that the rights, safety, and welfare of the subjects would not be affected.

2. Modifying the protocol to include additional patient observations/measurements or modifying the inclusion/exclusion criteria to better define the target patient population. After confirming that the proposed change would not have a significant impact on the study design or planned statistical analysis, this type of change could be implemented if the DSMB either recommends the change or approves it. Approval by the IRB chairperson or peer reviewed published literature that supports the change may be substituted for the DSMB's concurrence, depending upon the extent of these types of changes.

3. Increasing the number of investigational sites or number of subjects to be enrolled in the study. Again, after determining that the proposed change would not have a significant impact on the study design or planned statistical analysis, the sponsor could increase the number of investigational sites or subjects in the trial if the DSMB overseeing the clinical investigation either recommends or concurs with the study expansion. If such a change to the protocol is implemented, however, IDE sponsors are reminded that the study, as expanded, would need to be completed before the marketing application could be submitted. Furthermore, under 21 CFR 812.7(c), sponsors are prohibited from unduly prolonging a clinical investigation, i.e., commercializing an investigational device. Therefore, sponsors should ensure that the study expansion is well justified.

4. Modifying the secondary endpoint(s). Following the assessment of the impact of the proposed change on the study design and planned statistical analysis, the secondary endpoint(s) could be modified if the DSMB or peer reviewed published literature supports the change. For example, eliminating the assessment of post-void residuals in a benign prostatic hyperplasia (BPH) study could be implemented if peer review published literature supported the change, i.e., if the literature indicated that this is not a significant outcome measure for the intervention being studied.

Alternatively, FDA believes that the following types of protocol modifications would not generally be eligible for implementation without prior agency approval because they are likely to have a significant effect on the validity of the data resulting from the trial and/or on the scientific soundness of the trial design:

- Change in indication
- Change in type or nature of study control
- Change in the primary endpoint variable
- Change in the method of statistical evaluation
- Early termination of the study (except for reasons related to patient safety)

E. Notice of IDE Change

Proposed § 812.35(a)(3)(iv) would require IDE sponsors who have determined, based on the credible evidence as defined by FDA, that changes to their device and/or clinical protocol do not require prior agency approval to notify the agency within 5 days of making the change. To be in compliance with this requirement, sponsors would be required to submit the notice within 5-calendar days of the date the device, incorporating the change, is first distributed to the investigator(s). For protocol changes, the notice would need to be submitted within 5-calendar days of the sponsor's notification to the clinical investigators that the protocol has been modified or, for sponsor-investigator studies, within 5-calendar days of when the sponsor-investigator incorporates the protocol change. In addition, proposed § 812.35(a)(3)(iv) states that the notification shall be identified as a "Notice of IDE Change." FDA is proposing to require that the notices be identified in this manner so that they can be easily distinguished from IDE supplements being submitted for agency approval.

This proposed section of the regulation also describes the information to be included in the notice. For a device or manufacturing change, FDA is proposing that the notice include: (1) A summary of the relevant information gathered during the course of the investigation upon which the change was based; (2) a description of the change that has been made to the device or manufacturing process, including a cross-reference to appropriate sections of the original device description or manufacturing process; and (3) a statement that no new risks were identified by the appropriate design control risk analysis and that the verification/validation testing demonstrated that the design outputs met the design input requirements. For a protocol change, FDA is proposing that the notice include: (1) A description of the change that has been made to the clinical protocol, including a cross-reference to appropriate sections of the original protocol, and (2) an assessment supporting the conclusion that the change does not have a significant impact on the study design or planned statistical analysis of safety and effectiveness. As discussed in the previous section, protocol changes that relate to the rights, safety, or welfare of the subjects would be required to be supported by a letter from the IRB chairperson (or designee) stating that the change is acceptable. Protocol changes that relate to the scientific soundness of the investigational plan or validity of the data would require the support of a data safety monitoring board overseeing the investigation or peer reviewed published literature, as appropriate.

F. Review of the Notices

Under proposed § 812.35(a)(3), it is the sponsor's responsibility to determine if a change made to the device or the manufacturing process would affect the safety and effectiveness of the device and thus would be considered a significant change requiring prior agency approval. Similarly, the sponsor must decide if a change to the clinical protocol would affect the validity of the data resulting from the clinical trial, the likely risk to benefit relationship relied upon to approve the study, the scientific soundness of the investigational plan, or the rights, safety, or welfare of the subjects. Under proposed § 812.35(a)(3)(iii), the agency has defined the type of credible information IDE sponsors should use in determining if the change meets the statutory criteria.

Under proposed § 812.35(a)(3)(v), however, FDA reserves the right to question the sponsor's determination that the change met the statutory criteria. Thus, if the agency has reason to believe, based on the information submitted in the Notice of IDE Change or on other available information, such as reports of adverse events, that the modification did not meet the criteria, FDA will notify the sponsor that the change should have been reviewed and approved before being implemented. Upon receipt of such a communication from FDA, the sponsor would have the option of suspending the investigation until approval is obtained for the change or of reverting to the unmodified device, manufacturing process, or protocol. FDA recognizes the potential impact that this action could have on the IDE sponsor and the clinical trial and, therefore, intends to take such action only if the agency determines that the modification to the device, manufacturing process, or clinical protocol could jeopardize patient safety, the scientific soundness of the investigation, or the validity of the data resulting from the trial. Such determinations would be made by the individuals authorized to approve IDE's.

G. Changes Submitted in the Annual Report

Under proposed § 812.35(a)(4), changes to certain portions of the investigational plan other than to the device, manufacturing process, or clinical protocol may continue to be submitted in an IDE annual report under § 812.150(b)(5). Changes to the purpose of the study, the risk analysis, monitoring procedures, labeling for the investigational device, informed consent materials, and IRB information may continue to be submitted in an IDE annual report if the changes do not affect the validity of the data/information resulting from the trial, the risk to benefit relationship relied upon to approve the protocol, the scientific soundness of the investigational plan, or the rights, safety, or welfare of the subjects. The types of changes that would normally satisfy these criteria would be those that would serve to increase patient safety, e.g., clarifying the instructions for use, providing additional information in the informed consent document, or enhancing the monitoring procedures.

Each of the following parts of the investigational plan is discussed as follows and specific examples are provided to illustrate the types of changes that would usually be considered appropriate for submission in an annual report.

1. *Purpose.* Under § 812.25(a), the purpose of the study includes the name and intended use of the device as well as the objectives and duration of the investigation. Examples of changes that may be made to this section of the investigational plan and reported in the annual report include:

- *Changes to the name of the device.* This type of change can be made provided that the new name does not imply a new intended use. Name changes that are made in conjunction with a modification to the device, however, should be submitted either as an IDE supplement or as a notice within 5 days of implementation, as appropriate for the device modification.
- *Clarifications to the intended use of the device.* Such changes may be made if the modifications do not implicitly or explicitly affect the intended use.
- *Minor modifications to the study objectives.* Such changes include clarifying the study objectives as long as the intent of the objectives and the study endpoints are not changed. Study objectives related to future labeling claims for the device may be added under the annual report requirements if the change is minor, as described in proposed § 812.35(a)(4). If, however, the change in the objectives requires protocol modifications, the change should be submitted as an IDE supplement or a notice within 5 days of implementation, as appropriate for the protocol modification.
- *Changes in the duration of the investigation.* If the investigation will take less time or more time to complete than was anticipated at the time the IDE application was submitted, this information may be submitted in the annual report.

2. *Risk Analysis.* If information to be added to the risk analysis does not affect the risk to benefit relationship, it may be reported in the annual report. For example, modifying the risk analysis to include foreign data that confirms the original patient risk to benefit relationship could be submitted in the annual report. If, however, during the course of the investigation, the sponsor becomes aware of information that may adversely affect the risk analysis, this information should be submitted as a supplement under § 812.35 indicating that the risk to benefit relationship has changed.

3. *Monitoring Procedures.* A change in the name and/or address of the monitor may be submitted in the annual report. In addition, changes in the monitoring procedures that are consistent with the "Guideline for the Monitoring of Clinical Investigations" are eligible for this type of reporting mechanism.

4. *Labeling.* Labeling changes that clarify the instructions for use or serve to increase subject safety may be

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implemented without prior agency approval and submitted in the annual report. Adding contraindications, hazards, adverse effects, interfering substances/devices, warnings, or precautions to the labeling, however, may require concomitant changes to the protocol (e.g., modifications to the exclusion criteria) and should be submitted in an IDE supplement or notice within 5 days of implementation, as appropriate for the protocol modification.

5. *Informed Consent.* Revisions to the informed consent materials may be made without prior approval and submitted in the annual report if the changes are, for example, to include preliminary results from the trial (if in agreement with expected outcome(s)), clarify the risks and/or potential benefits of the investigational device, or clarify the procedures/tests to which the subjects may be subject.

6. *IRB Information.* A change in the IRB chairperson or address may be reported in the annual report. Changes in approval status of the study, however, must be reported to FDA, all reviewing IRB's, and participating investigators in accordance with § 812.150(b)(2).

III. Environmental Impact

The agency has determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Analysis of Impacts

FDA has examined the impact of this proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612) (as amended by subtitle D of the Small Business Regulatory Fairness Act of 1996 (Pub. L. 104–121)), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Order 12866 directs agencies to assess all costs of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this proposed rule is consistent with the regulatory philosophy and principles identified in the Executive Order. This proposed rule has been determinated to be a significant regulatory action as defined by the Executive Order and so is subject to review under the Executive Order.

Unless the head of the agency certifies that the rule would not have a significant economic impact on a substantial number of small entities, the Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. This proposed rule amends existing regulations to implement section 520(g)(6) of the act.

FDAMA added new section 520(g)(6) to permit certain changes to a device, manufacturing processes, or clinical protocols during the course of a clinical investigation without having to obtain prior FDA approval of a new IDE or an IDE supplement. In addition to specifying the types of changes to clinical studies allowed without prior approval, section 520(g)(6) provides that the sponsor must provide notice within 5 days of making the change, and that the agency define, by regulation, the term "credible information" that the sponsor must use as a basis to decide that the types of changes meet the criteria for implementation without prior FDA approval.

Under the existing regulations and policy, §§ 812.35 and 812.150(b)(5), a sponsor is allowed to make certain changes in its investigational device or protocol without prior FDA approval, provided that such changes are reported in an annual progress report. Under the proposed regulation, such changes would be reported in a 5 day notice report, instead of an annual report. Accordingly, the proposed regulation does not require industry to submit a new type of report because a change in a device or protocol triggers a reporting requirement under both the existing and proposed regulation.

FDA's interpretation of the types of changes that are allowed without prior approval in annual reports under the existing regulation, and the proposed regulation's criteria to allow changes without prior approval in 5-day notice reports are consistent. Accordingly, the criteria stated in the proposed regulation does not affect the types of changes that sponsors will be allowed to implement without prior approval, and, therefore, would not add any additional burden to industry.

The kind of credible information that the proposed regulation would require as a basis to determine that a change can be made without prior FDA approval is either currently required under existing regulations, or will not add additional costs. The proposed regulation provides that the type of credible information depends on the type of change.

For design and manufacturing changes, the proposed regulation provides that credible information must be information generated by design controls. The generation of this information currently is required under §§ 812.1 and 820.30. Moreover, this type of information is already required to be submitted in annual progress reports. Under the current regulation, sponsors provide testing data to support the device change. Under the proposed regulation, sponsors are allowed to provide summary information generated by design control procedures. Therefore, sponsors will be able under the proposed regulation to provide less detailed testing information than currently provided in annual progress reports. Accordingly, the proposed regulation's definition of credible information that must be used as a basis to file a 5 day notice does not add any additional burden to industry.

For clinical protocol type changes, the proposed regulation provides that credible information consists of an assessment of the impact of the change on the study design and planned statistical analysis, and approval from the IRB chairperson, a recommendation or concurrence from a DSMB, or published literature that supports the change. The proposed regulation's requirement for an assessment of the impact of the change on the study design and planned statistical analysis is consistent with the analysis performed by sponsors under the current regulation when assessing whether their protocol modification does not affect the scientific soundness. Consultation with an IRB and a DSMB is customary for protocol modifications. Under current regulatory authority, sponsors must report changes to the IRB. *See* 21 CFR 56.108(a)(3), 56.110(b)(2), 812.40 and 812.150(b)(5). Since the current regulations already require that information relating to the study would be generated and provided to IRB's, the generation of this information under the proposed regulation does not add any add additional costs. Although the proposed regulation would add the requirement of IRB chairperson approval, or DSMB recommendation or concurrence, these entities are not paid by the sponsors, and would not generate additional costs.

Similarly, the proposed regulation's requirement for providing FDA with published literature supporting a change does not add additional costs. Under § 812.27(b), sponsors are currently required to submit all publications, whether adverse or supportive, in an IDE application. Supporting publications for changes after approval of an IDE application are submitted in an annual progress report under § 812.150(b)(5).

The only additional burden posed by the proposed rule would be the timing of the submission. Section 520(g)(6) of the act, as added by FDAMA, requires that the sponsor submit a notice within 5 days of the change. As stated previously, the type of information in the 5 day notice in the proposed regulation would be submitted annually in a progress report under the current regulatory authority. FDA believes that the additional cost of submitting information on each change when that change is made, is not significantly greater than compiling the information and sending it in one annual report. The primary additional costs will be minimal mailing costs.

For the reasons stated previously, the Commissioner of Food and Drugs certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities. Additionally, this proposed rule does not trigger the requirement for a written statement under section 202(a) of the Unfunded Mandates Reform Act because it does not impose a mandate that results in an expenditure of $100 million or more by State, local, or tribal governments in the aggregate, or by the private sector, in any 1 year.

V. Paperwork Reduction Act of 1995

This proposed rule contains information collection provisions which are subject to review by OMB under the Paperwork Reduction Act of 1995 (the PRA) (44 U.S.C. 3501–3520). A description of these provisions is given below with an estimate of the annual reporting burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each collection of information.

FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Title: Medical Devices; Investigational Device Exemptions; Supplemental Applications.

Description: Section 201 of FDAMA amended the act by adding new section 520(g)(6) to the act, which permits a sponsor to implement certain changes to an investigational device or to a clinical protocol without prior approval of an IDE supplement if the modifications meet certain criteria and if notice is provided to FDA within 5 days of making the change. In order to implement this provision, FDA is proposing to amend § 812.35(a) to describe which types of changes may be made without prior approval and to describe the information to be included in a notice to FDA if this provision is to be exercised. For developmental or manufacturing changes, sponsors would be required to submit a summary of the information from the study upon which the change was based, a description of the change, and a statement that no new risks were identified and that the device testing demonstrated that the design outputs met the design input requirements. For a protocol change, the sponsor must submit a description of the change, an assessment of the impact of the change, and supporting documentation from the IRB chairperson, data safety monitoring board, or peer reviewed published literature, as appropriate. FDA will review the notices to determine whether they meet the criteria of section 520(g)(6) of the act or whether additional action is necessary to assure the protection of the public health.

Description of Respondents: Businesses or other for profit organizations.

FDA estimates the burden for this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
812.35(a)(3)	300	1	300	10	3,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Based upon a review of IDE's submitted in recent years, FDA estimates that approximately 300 of these notices of IDE changes will be submitted each year. Based upon discussions with sponsors of IDE's and FDA's own experience in reviewing these types of documents, FDA estimates that it will take approximately 10 hours for a sponsor to prepare a Notice of IDE Change. Therefore, FDA estimates that the total annual burden for preparation of these notices will be 3,000 hours.

As required by section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the agency has submitted the information collection provisions of this proposed rule to OMB for review. Interested persons are requested to send comments regarding the information collection by August 14, 1998 to the Office of Information and Regulatory Affairs, OMB (address above).

VI. Comments

Interested persons may by September 28, 1998, submit to the Dockets Management Branch (address above) written comments regarding this proposed rule. Two copies of any comment are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 812

Health records, Medical devices, Medical research, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act, and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 812 be amended as follows:

PART 812—INVESTIGATIONAL DEVICE EXEMPTIONS

1. The authority citation for 21 CFR part 812 continues to read as follows:

Authority: 21 U.S.C. 331, 351, 352, 353, 355, 356, 357, 360, 360c–360f, 360h–360j, 371, 372, 374, 379e, 381, 382, 383; 42 U.S.C. 216, 241, 262, 263b–263n.

2. Section 812.35 is amended by revising paragraph (a) to read as follows:

§ 812.35 Supplemental applications.

(a) *Changes in investigational plan*—(1) *Changes requiring prior approval.* Except as described in paragraphs (a)(2) through (a)(4) of this section, a sponsor shall submit to FDA a supplemental application if the sponsor or an investigator proposes a change in the investigational plan and obtains FDA approval under § 812.30(a) of any such change, and IRB approval as applicable (see §§ 56.110 and 56.111 of this chapter), before implementation. If a sponsor intends to conduct an investigation that involves an exception to informed consent under § 50.24 of this chapter, a sponsor shall submit a separate investigational device exemption (IDE) application in accordance with § 812.20(a).

(2) *Changes effected for emergency use.* The requirements of paragraph (a)(1) of this section regarding FDA approval of a supplement do not apply in the case of a deviation from the investigational plan to protect the life or physical well-being of a subject in an emergency. Such deviation shall be reported to FDA within 5-working days after the sponsor learns of it (see § 812.150(a)(4)).

(3) *Changes effected with notice to FDA within 5 days.* A sponsor may make certain changes without prior approval of a supplemental application under paragraph (a)(1) of this section if the sponsor determines that these changes meet the criteria described in paragraphs (a)(3)(i) and (a)(3)(ii) of this section, on the basis of credible information defined in paragraph (a)(3)(iii) of this section, and the sponsor provides notice to FDA within 5 days of making these changes.

(i) *Developmental changes.* The requirements in paragraph (a)(1) of this section regarding FDA and IRB approval of a supplement do not apply to developmental changes in the device (including manufacturing changes) that do not constitute a significant change in design or basic principles of operation and that are made in response to information gathered during the course of an investigation.

(ii) *Changes to clinical protocol.* The requirements in paragraph (a)(1) of this section regarding FDA approval of a supplement do not apply to changes to clinical protocols that do not affect:

(A) The validity of the data or information resulting from the completion of the approved protocol, or the relationship of likely patient risk to benefit relied upon to approve the protocol;

(B) The scientific soundness of the investigational plan; or

(C) The rights, safety, or welfare of the human subjects involved in the investigation. The requirements in paragraph (a)(1) of this section regarding IRB approval for such changes are described in paragraph (a)(3)(iii)(B) of this section.

(iii) *Definition of credible information*—(A) Credible information to support developmental changes in the device (including manufacturing changes) is defined as the information generated from the design control procedures under § 820.30.

(B) Credible information to support changes to clinical protocols is defined as the sponsor's documentation supporting the conclusion that a change does not have a significant impact on the study design or planned statistical analysis, and evidence of IRB chairperson (or designee) approval, in accordance with the expedited review procedures described in § 56.110 of this chapter, the concurrence or recommendation of a data safety monitoring board, or peer reviewed published literature supporting the change, as appropriate.

(iv) *Notice of IDE Change.* Changes meeting the criteria in paragraphs (a)(3)(i) and (a)(3)(ii) of this section that are supported by credible information as defined in paragraph (a)(3)(iii) of this section may be made without prior FDA approval if the sponsor submits a notice of the change to the IDE not later than 5-calendar days after making the change. Changes to devices are deemed to occur on the date the device, manufactured incorporating the design or manufacturing change, is distributed to the investigator(s). Changes to a clinical protocol are deemed to occur when a clinical investigator is notified by the sponsor that the change should be implemented in the protocol or, for sponsor-investigator studies, when a sponsor-investigator incorporates the change in the protocol. Such notices shall be identified as a "Notice of IDE Change."

(A) For a developmental or manufacturing change to the device, the notice shall include a summary of the relevant information gathered during the course of the investigation upon which the change was based; a description of the change to the device or manufacturing process (cross-referenced to the appropriate sections of the original device description or manufacturing process); and a statement that no new risks were identified by appropriate risk analysis and that the verification and validation testing demonstrated that the design outputs met the design input requirements.

(B) For a protocol change, the notice shall include a description of the change (cross-referenced to the appropriate sections of the original protocol); an assessment supporting the conclusion that the change does not have a significant impact on the study design or planned statistical analysis, and; for changes related to the rights, safety or welfare of the subjects, a letter of approval from the IRB chairperson (or designee). For changes related to the scientific soundness of the investigational plan or validity of the data, documentation of the concurrence/recommendation of the data safety monitoring board, or peer reviewed published literature supporting the change, as appropriate.

(v) *Review of the Notices.* If, at any time during the course of the investigation, FDA has reason to believe that the change(s) made in accordance with paragraphs (a)(3)(i) or (a)(3)(ii) of this section did not meet the applicable criteria, the agency will notify the sponsor that the change(s) required approval under paragraph (a)(1) of this section before being implemented. Upon receipt of such notification, the sponsor shall either suspend the investigation or revert to an investigation of the unmodified device or protocol until the change is approved under paragraph (a)(1) of this section.

(4) *Changes submitted in annual report.* The requirements of paragraph (a)(1) of this section do not apply to minor changes to the investigational plan that do not involve developmental, manufacturing, or protocol changes (i.e., the purpose of the study, risk analysis, monitoring procedures, labeling, informed consent materials, and IRB information) that do not affect:

(i) The validity of the data or information resulting from the completion of the approved protocol, or the relationship of likely patient risk to benefit relied upon to approve the protocol;

(ii) The scientific soundness of the investigational plan; or

(iii) The rights, safety, or welfare of the human subjects involved in the investigation. Such changes shall be reported in the annual progress report for the IDE, under § 812.150(b)(5).

* * * * *

Dated: June 16, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 98–18754 Filed 7–14–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–106031–98]

RIN 1545–AW13

Trading Safe Harbors; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains corrections to REG–106031–98, which was published in the **Federal Register** on Friday, June 12, 1998 (63 FR 32164), relating to the treatment of foreign taxpayers trading in derivative financial instruments for their own account.

FOR FURTHER INFORMATION CONTACT: Milton Cahn, (202) 622–3870 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking that is the subject of this correction is under section 864(b) of the Internal Revenue Code.

Need for Correction

As published, REG–106031–98 contains errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the notice of proposed rulemaking (REG–106031–98), which is the subject of FR Doc. 98–15452, is corrected as follows:

1. On page 32164, column 3, in the preamble under the paragraph heading "Background", the second paragraph, line 3, the language "promulgated in 1972. Since the" is corrected to read "promulgated in 1968. Since the".

2. On page 32165, column 2, in the preamble under the paragraph heading "2. *Eligible Nondealer*", the third paragraph, line 9, the language "securities in 475(c)(1)(B), including" is corrected to read "securities in section 475(c)(1)(B), including".

§ 1.864(b)–1 [Corrected]

3. On page 32166, columns 2 and 3, § 1.864(b)–1(b)(1) introductory text, the last line in column 2 and the first line in column 3, the language "*nondealer* is a person that is not a resident of the United States and is not," is corrected to read "*nondealer* is a foreign corporation or a person that is not a resident of the United States, and either of which is not,".

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 98–18749 Filed 7–14–98; 8:45 am]

BILLING CODE 4830–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CO–001–0024b; FRL–6124–5]

Approval and Promulgation of Air Quality Implementation Plans; Colorado; 1993 Periodic Carbon Monoxide Emission Inventories for Colorado

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the Governor of the State of Colorado on September 16, 1997. The revision contains the 1993 periodic carbon monoxide (CO) emission inventories for Colorado Springs, Denver, Fort Collins, and Longmont that were submitted to satisfy the requirements of section 187(a)(5) of the Clean Air Act (CAA), as amended in 1990. In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received on or before August 14, 1998.

ADDRESSES: Written comments may be mailed to Richard R. Long, Director, Air Program, Mailcode 8P2–A, Environmental Protection Agency (EPA), Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202. Copies of the State documents relevant to this action are available for public inspection at the Colorado Department of Public Health and Environment, Air Pollution Control Division, 4300 Cherry Creek Drive South, Denver, Colorado 80246–1530.

FOR FURTHER INFORMATION CONTACT: Cindy Rosenberg, EPA, Region VIII, (303) 312–6436.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title which is located in the Rules and Regulations Section of this **Federal Register**.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: July 6, 1998.

Patricia D. Hull,

Acting Regional Administrator, Region VIII.

[FR Doc. 98–18863 Filed 7–14–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 261

[FRL–6124–2]

RIN 2050–AD88

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Petroleum Refining Process Wastes; and Land Disposal Restrictions for Newly Hazardous Wastes; Notice of Data Availability

AGENCY: Environmental Protection Agency.

ACTION: Notice of Data Availability and Request for Comment.

SUMMARY: The Environmental Protection Agency (EPA) is making available for public comment data and information relating to its Notice published in the **Federal Register** on November 20, 1995 (60 FR 57747). That Notice proposed to amend EPA regulations under the Resource Conservation and Recovery Act (RCRA) by designating as hazardous wastes certain petroleum refining waste streams, and to apply universal treatment standards under the Land Disposal Restrictions program to the wastes proposed for listing. That Notice also proposed to broaden existing RCRA exclusions for the recycling of oil-bearing residuals in petroleum refineries. In response to that proposal (and related to a separate, recently-finalized rulemaking on fuels produced from hazardous waste), EPA has received specific information on a technology (gasification) that can

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recycle oil-bearing residuals into fuels. EPA is assessing whether or not, as a result of this new information, the proposed rule should also exclude oil-bearing hazardous secondary materials recycled in gasification units. Today's Notice seeks comment on the additional information the Agency has received on gasification, specifically in the context of recycling oil-bearing hazardous secondary materials.

DATES: The Agency is reopening the comment period only for the limited purpose of obtaining information and views on the new data and information described in this document. Comments on the additional data will be accepted through August 14, 1998.

ADDRESSES: Commenters must send an original and two copies of their comments referencing docket number F–98–PR2A–FFFFF to: RCRA Docket Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA, HQ), 401 M Street, SW, Washington, D.C. 20460. Hand deliveries of comments should be made to the Arlington, VA, address listed below. Comments may also be submitted electronically by sending electronic mail through the Internet to: rcradocket@epamail.epa.gov. Comments in electronic format should also be identified by the docket number F–98–PR2A–FFFFF. All electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. If comments are not submitted electronically, EPA is asking prospective commenters to voluntarily submit one additional copy of their comments on labeled personal computer diskettes in ASCII (TEXT) format or a word processing format that can be converted to ASCII (TEXT). It is essential to specify on the disk label the word processing software and version/edition as well as the commenter's name. This will allow EPA to convert the comments into one of the word processing formats utilized by the Agency. Please use mailing envelopes designed to physically protect the submitted diskettes. EPA emphasizes that submission of comments on diskettes is not mandatory, nor will it result in any advantage or disadvantage to any commenter.

Commenters should not submit electronically any confidential business information (CBI). An original and two copies of CBI must be submitted under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, 401 M Street, SW, Washington, D.C. 20460.

Public comments and supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling (703) 603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page. For information on accessing paper and/or electronic copies of the document, see the "Supplementary Information" section.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at (800) 424–9346 or TDD (800) 553–7672 (hearing impaired). In the Washington, D.C., metropolitan area, call (703) 412–9810 or TDD (703) 412–3323. For information on specific aspects of this Notice, contact Maximo Diaz, Jr., or Ross Elliott, Office of Solid Waste (5304W), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460. [E-mail addresses and telephone numbers: Diaz.max@epamail.epa.gov, (703) 308–0439; elliott.ross@epamail.epa.gov, (703) 308–8748].

SUPPLEMENTARY INFORMATION: The index to the docket is available on the Internet. Follow these instructions to access the information electronically:

WWW: http://www.epa.gov/epaoswer/osw/hazwaste.htm#id

FTP: ftp.epa.gov

Login: anonymous

Password: your Internet address

Files are located in /pub/epaoswer

The official record for this action will be kept in paper form, and will be maintained at the address in **ADDRESSES** at the beginning of this document. EPA will transfer all comments received electronically into paper form and place them in the official record, which will also include all comments submitted directly in writing. The official record is the paper record.

EPA responses to comments, whether the comments are written or electronic, will be in a notice in the **Federal Register** or in a response to comments document placed in the official record for this rulemaking. EPA will not immediately reply to commenters electronically other than to seek clarification of electronic comments that may be garbled in transmission or during conversion to paper form, as discussed above.

Background

On April 19, 1996, EPA proposed to exclude so-called "comparable fuels" from the regulatory definition of solid waste. 62 FR at 17459. A comparable fuel is a fuel produced from a hazardous waste which meets a series of specifications for hazardous constituents and other properties based on comparable levels in representative fossil fuels. EPA included among these proposed specifications one for synthesis gas fuel (more usually referred to as syngas) when produced from hazardous wastes. *Id.* at 17465.

Commenters from the gasification industry maintained that syngas fuels were not contained gases and so were not solid wastes and could not be regulated under subtitle C under any circumstance. EPA disagrees, due to the plenary authority to regulate fuels produced from hazardous wastes set out in RCRA section 3004 (q)(1). See 62 FR at 24253 (May 2, 1997). However, it appears to the Agency that gasification of petroleum industry secondary materials might be an activity warranting exclusion as a matter of Agency discretion (rather than due to a statutory mandate), since gasification of such materials can potentially be viewed as a means of recovering otherwise un-utilizable hydrocarbons from the secondary materials and thus potentially be regarded as a final stage of crude oil refining. These are issues at the heart of the instant rulemaking involving listing and exclusion determinations for petroleum refining wastes and secondary materials. Consequently, as the Agency indicated in the recently-finalized comparative fuels rule, we have decided to consider the possibility of a regulatory exclusion for petroleum refining industry secondary materials being gasified in the present proceeding.

Specifically, EPA is assessing whether oil-bearing hazardous secondary materials generated within the petroleum industry should be excluded from the definition of solid waste when inserted into gasification units, in a manner similar to insertion into petroleum cokers as proposed at 40 CFR 261.4(a)(12). 60 FR at 57796. EPA has decided that this Notice of data availability is a useful exercise and will help to strengthen the record for the Agency's decisions, and provide a useful opportunity for further public comment.

The remainder of this Notice addresses new data prompted by public comments.

Description of Gasification Process

Gasification is a chemical conversion process that converts hydrocarbon feedstocks into a synthetic natural gas product, often called "synthesis gas" or "syngas". This process occurs under oxygen-starved (or reducing) conditions, which distinguishes gasification from combustion. Under high temperature and pressure, the hydrocarbon feedstocks are converted primarily into carbon monoxide, hydrogen gas, nitrogen gas, and hydrogen sulfide. Solid residues from gasification include a glass-like slag produced in the gasification process, and sulfur from clean-up of the synthesis gas. Information the Agency has received indicates the potential advantages of gasification, including very efficient conversion of hydrocarbons to synthesis gas, the lack of air emissions (i.e., SO_x and NO_x compounds) formed during gasification, and a relatively clean product fuel. Based upon the information submitted to the Agency, the gasification process in some ways might compete with the petroleum coker for the same types of oil-bearing materials, but in a somewhat different manner such that gasification does a better job of recovery of energy values. For example, the synthesis gas produced from oil-bearing materials can be used as a fuel (i.e., a substitute for natural gas) in units such as a combustion turbine for producing electricity and/or steam. In addition, the syngas can be used as a feedstock in producing other chemicals, or processed further to produce hydrogen.

Hydrocarbon Feedstocks for Gasification

According to information supplied to EPA suitable hydrocarbon feedstocks for gasification include many of the oil-bearing secondary materials generated at petroleum refineries that are the subject of the proposed exclusions in the November 21, 1995 proposal, including primary and secondary wastewater treatment sludges, and API separator sludges. 60 FR at 57747. Petroleum coke itself (both on-spec and off-spec) can be used as a gasification feedstock. The continued extraction and recovery of hydrocarbon values from these oil-bearing hazardous secondary materials within the petroleum industry is the basis for these proposed exclusions. 60 FR at 57754. It is from this perspective that the Agency is interested in information that would help determine whether or not to extend the exclusion for oil-bearing hazardous secondary materials that are inserted into petroleum refineries, to the same materials when they are inserted into gasification units. The Agency would consider the same conditions on the exclusion as was proposed for materials inserted into petroleum refineries, such as the limitation on the source of the oil-bearing materials, the condition barring land placement or speculative accumulation, and the regulation of residuals generated during the processing of oil-bearing hazardous secondary materials (if the residuals are to be disposed).[1]

Information in the Docket

Information placed in the docket for this Notice was submitted to the Agency primarily from members of the Gasification Technologies Council, both before and after the proposed rulemaking on April 19, 1996 and November 20, 1995. This information includes descriptions of the gasification process, suitable feedstocks for gasification, a description of gasification activities worldwide, and environmental and economic benefits of gasification. Also included are (1) public comments submitted by the gasification industry to EPA during the related comparative fuels rulemaking mentioned above; (2) EPA's letter of May 28, 1995 to Mr. William Spratlin of EPA Region VII describing the present regulatory status of a particular gasification operation operated by Texaco; (3) public comments of Strategic Environmental Analysis, Inc. in this proceeding, maintaining that the gasification process is an environmentally superior means of recovering hydrocarbon values from petroleum industry secondary materials. EPA will evaluate any new comments on whether this additional information supports inclusion of gasification units, along with petroleum refining units, as places where certain oil-bearing hazardous secondary materials can be recycled and still be excluded under the proposed rule.

Dated: June 4, 1998.

Elizabeth A. Cotsworth,

Acting Director, Office of Solid Waste.

[FR Doc. 98–18731 Filed 7–14–98; 8:45 am]

BILLING CODE [illegible]

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 28

[CGD 89–079]

RIN 2115–AD12

Implementation of the Commercial Fishing-Industry Vessel Regulations

AGENCY: Coast Guard, DOT.

ACTION: Notice of termination of proposed rule.

SUMMARY: This rulemaking project was initiated to address all applicable provisions of the Commercial Fishing Industry Vessel Safety Act of 1988. The Coast Guard addressed all these provisions with the exception of two, immersion suits and vessel stability. Because these issues were controversial, the Coast Guard delayed developing regulations covering them so that other provisions of the Act could proceed. Since that time, new issues pertaining to commercial fishing vessel safety have been identified. The Coast Guard believes it to be in the fishing industry's best interest to develop only one set of regulations to include immersion suits, vessel stability, and all newly identified commercial fishing industry issues. The Coast Guard intends to terminate this docket [89–079], and create a new docket to resolve the remaining issues.

DATES: This notice is effective July 15, 1998.

ADDRESSES: You may mail comments to the Docket Management facility, [USCG 89–079], U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001, or deliver them to room PL–401, located on the Plaza Level of the Nassif Building at the same address, between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

The Docket Management Facility maintains the public docket for this request for information. Comments, and documents as indicated in this preamble, are part of this docket and will be available for inspection or copying at room PL–401, located on the Plaza level of the Nassif Building at the same address, between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also access this docket on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: For information on the public docket, call Carol Kelley, Coast Guard Dockets

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[1] See example of letter to interested parties requesting comment on the issue of residuals dated October 1, 1997 from David Bussard to Kyle Isakower, American Petroleum Institute; see also comment in response from Amoco Petroleum Products, Comment #PRA–L0011.

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Team Leader, or Paulette Twine, Chief, Documentary Services Division, U.S. Department of Transportation, telephone 202–366–9329. For information concerning the notice of termination, contact Lieutenant Commander Randy Clark, Office of Operating and Environmental Standards (G–MSO), telephone 202–267–0836.

SUPPLEMENTARY INFORMATION:

Commercial Fishing Industry Vessel Safety Act of 1988

On September 9, 1988, chapter 45 (Uninspected Commercial Fishing Industry Vessels, sections 4501 through 4508) of title 46 United States Code, was amended by the Commercial Fishing Industry Vessel Safety Act of 1988, Pub. L. 100–424 (the Act). The Act requires the Secretary of Transportation to prescribe regulations for safety equipment and vessel operating procedures on commercial fishing industry vessels. The Secretary delegated this authority to regulate commercial fishing vessels to the Commandant of the Coast Guard.

Rulemakings Developed Under the Act

Under the Act, several rulemakings emerged. On 14 August 1991, a final rule entitled, "Commercial Fishing Industry Vessel Regulations" was published in the **Federal Register** (56 FR 40364). The regulations are for U.S. documented or state numbered uninspected fishing, fish processing, and fish tender vessels. The provisions established requirements for navigation; radio; firefighting and lifesaving equipment; fuel, ventilation, and electrical systems; as well as the original requirements for immersion suits.

On 3 August 1992, the Coast Guard published an interim final rule in the **Federal Register** (57 FR 34188). As a result of the public comments, the rule removed the requirements for vessels to carry immersion suits for each individual on board both undocumented commercial fishing industry vessels operating on coastal waters that are only seasonably cold and documented commercial fishing industry vessels operating inside the Boundary Line on coastal waters that are only seasonably cold.

On 20 May 1993, the Coast Guard published a notice of proposed rulemaking entitled, "Immersion Suits for Documented and Undocumented Commercial Fishing Industry Vessels Operating on Coastal Waters that are Seasonably Warm" in the **Federal Register** (58 FR 29502). This rulemaking proposed the reinstatement of the original requirements published in the final rule on 3 August 1992. The proposed action was a result of consultation between the Coast Guard and the Commercial Fishing Industry Vessel Advisory Committee.

Throughout the notice and comment process for all of the rulemakings, significant controversy was identified concerning the provisions affecting immersion suits and vessel stability. Because of this controversy, the Coast Guard recognized that regulatory action would not occur in a timely fashion. Consequently, requirements covering immersion suits and vessels stability were held in abeyance so that other provision of the Act could proceed.

On 24 October 1995, the Coast Guard published a final rule in the **Federal Register** (60 FR 54441) to address the requirements of the Aleutian Trade Act [Pub. L. 101–595].

On 4 September 1997, the Coast Guard published a final rule entitled, "Commercial Fishing Industry Vessel Regulations" in the **Federal Register** (62 FR 46672). This rule established requirements for safety equipment and vessel operating procedures on commercial fishing industry vessels to improve their overall safety.

Since that time, other issues pertaining to commercial fishing vessel safety have been identified. The Coast Guard has determined that it can most effectively develop regulations for immersion suits, vessel stability, and other newly identified issues by initiating a new rulemaking under a new docket number.

Dated: May 18, 1998.

R.C. North,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 98–18819 Filed 7–14–98; 8:45 am]

BILLING CODE 4910–15–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[GC Docket No. 98–73; FCC 98–98]

Permit-But-Disclose Proceedings

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to amend its regulations concerning ex parte presentations as applied to Joint Board proceedings and proceedings before the Commission involving a recommendation from a Joint Board. In such proceedings, the Commission proposes to require disclosure of presentations by state commissions, their members, and their staffs to Joint Boards and the FCC only if the presentations are of substantial significance and clearly intended to affect the ultimate decision. The intended effect of this proposal is to facilitate communications by the states in Joint Board proceedings.

DATES: Comments must be filed on or before August 14, 1998; reply comments must be filed on or before August 31, 1998.

ADDRESSES: Federal Communications Commission, Room 610, 1919 M Street NW., Washington DC 20554.

FOR FURTHER INFORMATION CONTACT: David S. Senzel, Office of General Counsel (202) 418–1720.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM), GC Docket No. 98–73, adopted on June 26, 1998, and released June 30, 1998. The full text of the NPRM is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, Washington, DC 20036, telephone (202) 857–3800.

Summary of Further Notice of Proposed Rule Making

1. The provisions of the Communications Act recognize the strong public interest in the cooperation of the FCC and the states in deciding questions relating to common carriers. Section 410(c) of the Act, 47 U.S.C. 410(c), requires the establishment of Federal-State Joint Boards with respect to any matter concerning jurisdictional separations of common carrier property, and, with the exception of adjudications designated for hearing, allows the Commission to refer to a Joint Board any other matter relating to common carrier communications of joint federal-state concern. *See also* 47 U.S.C. 410(a). Joint Boards are empowered to issue recommended decisions for review and action by the Commission. They have played a key role in deciding crucial public policy issues regarding common carriers.

2. Joint Boards are subject to the Commission's ex parte rules (47 CFR 1.1200 *et seq.*), which are intended to ensure fairness in Commission proceedings. *See generally, Report and Order in GC Docket No. 95–21*, 62 FR 15852 (April 3, 1997), 12 FCC Rcd 7348 (1997), *pet. recon. pending*. Under these rules, Joint Board proceedings and

proceedings before the Commission involving a recommendation from a Joint Board are classified as "permit-but-disclose." 47 CFR 1.1206(a)(8). Ex parte presentations to decisionmakers are permissible but must be disclosed on the record in accordance with the procedures set forth in the rules. 47 CFR 1.1206(a). Accordingly, all persons, including the states, must file copies of written ex parte presentations[1] to Joint Boards or the Commission for inclusion in the record and must file memoranda of new arguments or data contained in oral ex parte presentations.[2]

3. The Commission believes that the public interest served by this joint federal-state decisionmaking would be further enhanced by allowing appropriate persons from individual states somewhat more freedom to communicate informally with the Joint Board and the Commission. Specifically, as with Congress and the Executive Branch, the Commission proposes that presentations from state commissions, their members, and their staffs in Joint Board proceedings only be required to be disclosed if they are of substantial significance and clearly intended to affect the ultimate decision. This will allow the states a greater opportunity, for example, to discuss issues informally with the Commission and state Joint Board members and staff and thus will lead to a deeper, more vigorous level of federal-state cooperation. These states may also elect to participate in the process by filing formal comments, but the proceedings involved are policy-oriented rulemakings, rather than the kind of adjudicatory proceedings in which the significance of party status would be more pronounced.

4. The Commission therefore invites the states and other interested persons to comment on the following question: should the ex parte rules for Joint Board proceedings and proceedings before the Commission involving a recommendation from a Joint Board be modified to provide that those presentations made by states to Joint Boards or the Commission (or their respective staffs) must be disclosed only if they are of substantial significance and clearly intended to affect the ultimate decision?

Initial Regulatory Flexibility Certification

5. Section 603 of the Regulatory Flexibility Act, as amended, requires a final regulatory flexibility analysis in a notice and comment rulemaking proceeding unless we certify that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." 5 U.S.C. 605(b). We believe that the rule we propose today will not have a significant economic impact on a substantial number of small entities.

6. As noted above, our purpose in proposing to modify the ex parte rules is to facilitate the participation of states in Joint Board proceedings and proceedings before the Commission involving a recommendation from a Joint Board. The proposed rule does not impose any additional compliance burden on persons dealing with the Commission, including small entities. The new rule would reduce the reporting requirements applicable to the states under the current rules and would not otherwise affect the rights of persons participating in Commission proceedings. There is no reason to believe that operation of the new rule would impose any costs on parties to Commission proceedings.

7. Accordingly, we certify, pursuant to section 605(b) of the Regulatory Flexibility Act, as amended by the Contract with America Advancement Act of 1996 (CWAAA), Pub. L. 104–121, 110 Stat. 847 (1996), that the rules will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). The Commission shall send a copy of this Notice of Proposed rulemaking, including this certification, to the Chief Counsel for Advocacy of the SBA. 5 U.S.C. 605(b).

List of Subjects in 47 CFR Part 1

Administrative practice and procedure, Radio, Telecommunications, Television.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

Part 1 of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

PART 1—PRACTICE AND PROCEDURE

1. The authority citation for part 1 continues to read as follows:

Authority: 47 U.S.C. 151, 154, 303, and 309(j) unless otherwise noted.

2. Section 1.1206 is amended by revising paragraph (a)(8) and paragraph (b)(3) to read as follows:

§ 1.1206 Permit-but-disclose proceedings.

(a) * * *

(8) A proceeding before a Joint Board, a proceeding before the Commission involving a recommendation from a Joint Board or a proceeding before the Commission involving further actions that may be required in any such proceeding;

(b) * * *

(3) Notwithstanding paragraphs (b)(1) and (b)(2) of this section, in permit-but-disclose proceedings presentations made by members of Congress or their staffs or by an agency or branch of the Federal Government or its staff shall be treated as ex parte presentations only if the presentations are of substantial significance and clearly intended to affect the ultimate decision. In proceedings before a Joint Board, proceedings before the Commission involving a recommendation from a Joint Board or proceedings before the Commission involving further actions that may be required in any such proceeding, presentations from a state commission, one or more of its members or its staff regarding the proceeding shall be treated as ex parte presentations only if the presentations are of substantial significance and clearly intended to affect the ultimate decision. The Commission staff shall prepare a written summary of such oral presentations covered by this subparagraph and place them in the record in accordance with paragraph (b)(2) of this section and place such written presentations covered by this subparagraph in the record in accordance with paragraph (b)(1) of this section.

* * * * *

[FR Doc. 98–18837 Filed 7–14–98; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 14

Importation, Exportation, and Transportation of Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent.

SUMMARY: This document announces the U.S. Fish and Wildlife Service's (Service) intent to review aspects of the wildlife importation and exportation

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[1] 47 CFR 1.1206(b)(1). Written ex parte presentations are written communications directed to the merits or outcome of a proceeding that are not served on all parties to the proceeding. 47 CFR 1.1202(b)(1).

[2] 47 CFR 1.1206(b)(2). Oral ex parte presentations are oral communications directed to the merits or outcome of a proceeding that are made without giving advance notice to the parties and an opportunity for them to be present. 47 CFR 1.1202(b)(2).

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regulations pertaining to domesticated species, certain captive-bred and captive-born species. In addition, the Service intends to review the current user fee structure. The Service intends for this review to lead to proposed changes in the wildlife importation and exportation regulations that would ease the burden on importers and exporters dealing in wildlife that involves no conservation risk, and allow the Service to focus its resources on areas of greater concern. This review will assess whether proposed changes in the current method of assessing user fees are warranted. Any proposed changes in the regulation of domesticated species and certain captive bred or captive-born species, will be addressed in a separate rule from any possible proposed changes to the user fee structure.

DATES: Comments and other information received on or before September 14, 1998, will be considered by the Service in developing proposed amendments to 50 CFR part 14.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Director, U.S. Fish and Wildlife Service, P.O. Box 3247, Arlington, Virginia 22203–3247. Comments and materials may be hand-delivered to the U.S. Fish and Wildlife Service, Office of Law Enforcement, 4401 N. Fairfax Drive, Room 500, Arlington, Virginia, between the hours of 8 a.m. and 4 p.m. Monday through Friday. Comments may also be submitted via electronic mail (E-mail) to: r9le_www@fws.gov.

FOR FURTHER INFORMATION CONTACT: Kevin R. Adams, Chief, Office of Law Enforcement, U.S. Fish and Wildlife Service, (703) 358–1949.

SUPPLEMENTARY INFORMATION:

Background

On June 21, 1996, the Service published a final rule (61 FR 31868) that defined "domesticated species" to include a list of certain species that would be exempt from the requirements of 50 CFR part 14, subpart B. The Service has experienced difficulty determining which species qualify as domesticated under the current definition in 50 CFR 14.4. In addition, the Service has received continual requests for additions to the list. The Service is considering creating a new definition for "domesticated species" and reviewing the list to determine whether species should be added or deleted, or whether the list should be clarified or eliminated.

The Service is interested in reviewing its role in the regulation of international trade of captive-bred and captive-born wildlife parts and products where it can be determined that no conservation risk exists. Many species are regularly bred or born in captivity for international trade such as the Ostrich (*Struthio camelus*) and American Bison (*Bison bison bison*), but are not considered to be domesticated animals and thus are subject to all wildlife import and export regulatory requirements. The Service intends to review those species that are routinely bred or born in captivity, where the commodities in international trade are primarily produced from captive-bred or captive-born populations in order to determine whether a reduced level of regulatory control and/or user fees is warranted.

Finally, in the June 21, 1996 (61 FR 31868) final rule amendments to 50 CFR part 14, the Service also enacted new user fee requirements. All commercial importers and exporters of wildlife are required to be licensed and pay appropriate user fees for each shipment. Since the implementation of the new user fees, the Service has received numerous complaints from small businesses about the increased burden on their operation. Although the Service does not intend to change the license requirement for commercial importers and exporters, the Service is interested in reviewing the user fees charged for each shipment. The Service is exploring different user fee structures including a tiered system that would assess user fees based on various factors including quantity and value. The Service is interested in receiving comments on the current user fees including information documenting specific economic, paperwork, or other burdens that have been imposed on small businesses.

List of Subjects in 50 CFR Part 14

Animal welfare, Exports, Fish, Imports, Labeling, Reporting and recordkeeping requirements, Transportation, Wildlife.

Dated: June 23, 1998.

Donald J. Barry,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 98–18756 Filed 7–14–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[I.D. 070198A]

Western Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Public meeting; availability of documents.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold its 97th meeting in Kailua Kona, Hawaii. The Council will consider, among other things, action on new framework measures for the American Samoa pelagic and NWHI lobster fisheries. Documents for an American Samoa pelagics closure and a Northwestern Hawaiian Islands (NWHI) lobster fishery harvest limitation program are available for comment.

DATES: The Council meeting will be held on July 27–29, 1998. Comments on the documents describing new framework measures for the American Samoa pelagic and NWHI lobster fisheries should be received in the Council office no later than July 27, 1998.

ADDRESSES: The Council's 97th meeting will be held at the King Kamehameha Hotel, Kailua Kona, Hawaii; telephone: 808–329–2911. Copies of the meeting agenda and documents describing new framework measures for the American Samoa pelagic and NWHI lobster fisheries are available from the Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone 808–522–8220.

SUPPLEMENTARY INFORMATION:

Times and Dates

The Council's Standing Committees will meet on July 27, as follows: Enforcement from 7:30 a.m. to 9:00 a.m., Crustaceans from 8:00 a.m. to 10:00 a.m., VMS from 9:00 a.m. to 10:30 a.m., Pelagics and Bottomfish (concurrent) from 10:30 a.m. to 12:30 p.m., Indigenous Fishing Rights and Ecosystem & Habitat (concurrent) from 1:30 p.m. to 3:00 p.m., and Precious Corals and Executive/Budget & Programing (concurrent) from 3:00 p.m. to 5:00 p.m. The full Council will meet on July 28 and 29, 1998, from 8:30 a.m. to 5:00 p.m., each day.

Agenda

The Council is one of eight regional fishery management councils authorized by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The full Council will meet to address the agenda items below. The order in which agenda items will be addressed may change. The Council will meet as late as necessary to complete its scheduled business.

Although other issues not contained in this agenda may come before the Council for discussion, in accordance with the Magnuson-Stevens Act, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice.

8:30 a.m. Tuesday, 28 July 1998

A. Call to order, opening remarks, introductions;
1. Approval of agenda and 95th and 96th Council Minutes;
B. Reports from the Islands: American Samoa, Guam, Hawaii, and Commonwealth of the Northern Mariana Islands (CNMI);
C. Enforcement;
1. Reports from the U.S. Coast Guard, National Marine Fisheries Service Office of Enforcement, and NOAA General Counsel Southwest Region;
2. Cooperative agreement for Guam and CNMI;
3. Standing Committee recommendations;
4. Public comment;
D. Vessel Monitoring System (VMS);
1. Report on NMFS Industry Advisory Panel and National VMS Policy;
2. Report on the Hawaii VMS program;
3. Standing Committee recommendations;
E. Pelagics;
1. Second quarter report for longline fisheries in Hawaii and American Samoa in 1998;
2. Final action on an area closure framework measure for the American Samoa pelagic fishery (see summary of document E.2);
3. Reports on the 3rd Multilateral High-level Conference;
4. Protected species interactions: Albatross and turtles;
5. Issues concerning shark finning in the Western Pacific Region;
6. Report on universal minimum size limit for swordfish in the United States;
7. Pelagic longline and charter interactions in Hawaii;
8. Report on Secretariat of the Pacific Community meetings;
9. Scientific and Statistical Committee (SSC) and Standing Committee recommendations;
10. Public comment/hearing;
F. Crustaceans;
1. Annual allocation of bank-specific harvest guidelines including 1998 bank-specific guidelines and discussion of a framework regulatory measure governing future bank-specific guidelines (see summary of document F.1);
2. SSC, and Standing Committee recommendations;
3. Public comment/hearing;

8:30 a.m. Wednesday, 29 July 1998

G. Reports from Fishery Agencies and Organizations, including: Department of Commerce National Marine Fisheries Service Southwest Region, Southwest Fisheries Science Center, and NOAA General Counsel; and Department of the Interior Fish and Wildlife Service;
H. Precious corals;
1. Consistency between state and Federal regulations;
2. Plan Team, SSC and Standing Committee recommendations;
3. Public comments;
I. Bottomfish;
1. The 1997 annual report for American Samoa, Guam, Hawaii and CNMI, including recommendations;
2. Management of Main Hawaiian Islands onaga, ehu, and hapupuu including: Status of genetic research on stock range and related studies, NMFS research activities (Hawaii, Guam, and CNMI), and implementation of Department of Land and Natural Resources' (DLNR) management plan and Federal management alternatives;
3. Final Council action on amendment to establish a Mau Zone limited access program. Copy of the draft amendment is available for comment from the Council office (see ADDRESSES);
4. SSC and Standing Committee recommendations;
5. Public hearing;
J. Native rights and indigenous fishing issues;
1. Review of marine conservation plans from American Samoa, Guam, and CNMI;
2. Status of the CNMI turtle conservation workshop;
3. Status of the community development program;
4. Report on NMFS vessel financing program and status of the drift gillnet vessel in Guam;
5. Advisory Panel appointments;
6. Standing Committee recommendations;
7. Public hearing;
K. Ecosystems and habitat;
1. Coral reef ecosystems;
2. Status of EIS on Farallon de Mendinilla, CNMI;
3. Current ecosystem and habitat issues;
4. SSC and Standing Committee recommendations;
5. Public comment;
L. Program planning;
1. Final Council action on the comprehensive Sustainable Fisheries Act (SFA) amendment for all FMPs regarding bycatch, fishing sectors, fishing communities, overfishing and designation of essential fish habitat(EFH) (including potential fishing and non-fishing threats to EFH and conservation and enhancement measures to mitigate impacts to EFH), and environmental impact of SFA provisions. Copy of the draft amendment is available for comment from the Council office (see ADDRESSES);
2. Advisory Panel and Plan Team final comments and SSC and Standing Committee recommendations;
3. Report on WPacFIN;
4. Revision of Council milestones;
5. Public comment/hearing;
M. Administrative matters;
1. Administrative reports;
2. Reports on meetings, workshops, and proposed 98th Council Meeting in November 1998, in Honolulu, Hawaii;
3. Standing Committee recommendations;
4. Public comment; and
N. Other business.

Summary of Documents for Public Comment

American Samoa Pelagics Closure Proposal (E.2)

1. The Council will be taking final action on an area closure framework measure for the American Samoa pelagic fishery.

2. Action is being taken under framework procedures for new measures in the Pelagics Fisheries Management Plan.

3. At its May 1998 meeting, the Council agreed to proceed with this management measure, adopted the initial preferred alternative, and asked that this be included on the agenda for the 97th Council meeting in July 1998 for final Council action. The Council also directed Council staff to prepare a detailed document describing the preferred management alternative and the rejected alternatives which would be available for public comment prior to the July Council meeting.

4. Fishermen in American Samoa who are members of the Council's advisory panels have expressed concern about the long-term sustainability of the local small-boat pelagics fishery. In

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particular, there is concern that large longline vessels will seek new fishing opportunities in the exclusive economic zone (EEZ) around American Samoa as fisheries in other areas of the U.S. EEZ become increasingly restricted. In the late 1980s, a rapid influx of large vessels in the Hawaii longline fishery, resulted in extensive gear conflicts. In addition, there is concern that the large vessels supplying fish to American Samoa's tuna canneries already fish in the EEZ occasionally. A widely held perception among small-scale trollers and longliners is that these larger vessels intercept fish migrating to local waters and reduce the supply of tuna and other pelagic species available for capture by artisanal and recreational fishermen.

The Council was asked at the 92nd meeting, in April 1997, to assist in forming a fishermen's working group to consider various management options to ensure the long-term sustainability of the small-boat fishery. Various meetings of the working group and other fishermen were convened by the Council and the American Samoa Department of Marine and Wildlife Resources between June and October 1997. The consensus among fishermen was that the most effective management action would be to close an area around the islands of American Samoa to pelagic fishing vessels longer than 50 ft (15.2 m).

At its April 1998 meeting, the Council recommended as its initial preferred alternative a prohibition against all U.S. fishing vessels (e.g. longliners, purse seiners, trollers and pole-and-line bait boats) greater than 50 ft (15.2 m) in length fishing for pelagic management unit species within an area approximately 100 nautical miles from the islands of American Samoa. Those longline vessels larger than 50 ft (15.2 m) that had acquired a permit and had landed a pelagic management unit species in American Samoa prior to November 14, 1997, would still be eligible to fish within the closed area.

5. A document describing the issue, alternative actions, preferred Council action, and anticipated impacts is available for public comment (see **ADDRESSES**).

NWHI Annual Bank-Specific Harvest Guidelines (F.1)

1. The Council will be discussing and may be taking initial action to establish a process for setting annual bank-specific harvest guidelines for the 1999 NWHI lobster season and beyond.

2. Action is being taken under the framework procedure for new measures in the Crustacean Fisheries Management Plan.

3. At its April 1998 meeting, the Council requested the development of options governing the process by which the NMFS Regional Administrator, in consultation with the Council, allocates the annual harvest guideline among banks or areas to prevent overfishing and achieve optimum yield.

4. A background document summarizing this issue, the need for framework management measure, and alternative actions is available for public comment (see **ADDRESSES**).

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, 808–522–8220 (voice) or 808–522–8226 (fax), at least 5 days prior to the meeting date.

Dated: July 10, 1998.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–18889 Filed 7–10–98; 4:02 pm]

BILLING CODE 3510–22–F

Notices

Federal Register

Vol. 63, No. 135

Wednesday, July 15, 1998

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Approval of Silos and Smokestacks Partnership Management Plan

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: Pursuant to the Omnibus Parks and Public Lands Management Act of 1996, the Secretary of Agriculture hereby gives notice of approval of the Partnership Management Plan submitted for establishment of the America's Agricultural Heritage Partnership.

FOR FURTHER INFORMATION CONTACT: Bart Chilton (202–720–4581), Senior Policy Director, Rural Development, U.S. Department of Agriculture, Room 206–W, Jamie L. Whitten Federal Building, 1400 Independence Avenue, S.W., Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: The Omnibus Parks and Public Lands Management Act of 1996 (Pub. L. 104–333) authorized the establishment of the America's Agricultural Heritage Partnership (Partnership) in Iowa upon publication of notice in the **Federal Register** that a Partnership Management Plan has been submitted to and approved by the Secretary of Agriculture. Silos and Smokestacks is a non-profit regional agricultural heritage tourism organization based in Iowa that is creating a network of sites, activities, and events to tell the story of American agriculture, past and present. Silos and Smokestacks has developed and submitted a management plan to the Department of Agriculture (USDA) for the Partnership. Approval of the management plan by the Secretary does not obligate USDA to expend resources. Consistent with USDA's rural development mission and support for agricultural heritage tourism as a viable economic development tool, the Secretary of Agriculture has approved the America's Agricultural Heritage Partnership plan.

Dated: July 8, 1998.

Dan Glickman,

Secretary of Agriculture.

[FR Doc. 98–18912 Filed 7–14–98; 8:45 am]

BILLING CODE 3410–07–U

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent to Seek Approval to Collect Information

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub.L. No. 104–13) and Office of Management and Budget (OMB) regulations at 5 CFR Part 1320 (60 FR 44978, August 29, 1995), this notice announces the intent of the Agricultural Research Service (ARS) to request approval for new information collection, the Food and Nutrition Information Center (FNIC) Customer Satisfaction Survey of Food and Nutrition Service Audiences. This information will assist FNIC staff in providing and delivering better services according to the needs of FNIC's targeted audiences.

DATES: Comments on this notice must be received by September 21, 1998 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Shirley King Evans, Ed.M., R.D., Food and Nutrition Information Center, NAL/ARS/USDA, Room 304, 10301 Baltimore Avenue, Beltsville, MD 20705–2351, 301) 504–7374.

SUPPLEMENTARY INFORMATION: *Title*: Food and Nutrition Information Center (FNIC) Customer Satisfaction Survey for Food and Nutrition Service Audiences.

Type of Request: Approval to collect information on customer satisfaction of the Food and Nutrition Service targeted audiences.

Abstract: The Agricultural Research Service, National Agricultural Library, Public Services Division, Food and Nutrition Information Center is interested in conducting a customer satisfaction survey of Food and Nutrition Service audiences; they are personnel working at the state or local levels of the government, including personnel working on the following: State Child Nutrition programs; Child and Adult Care Food Program; Food Distribution Program on Indian Reservations; Special Nutrition Program for Women, Infants, and Children; and the Nutrition Education and Training Program. Changes in delivery and provision of services have been implemented at the National Agricultural Library so it is important to assess needs, particularly since FNIC has special funding to serve those needs. Data will be analyzed to evaluate how well FNIC currently is serving Food and Nutrition Service audiences and what services need to be modified to meet their needs more effectively. FNIC would like to conduct the survey from September through October 1998.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 30 minutes per response.

Respondents: Health professionals and administrators in government agencies.

Estimated Number of Respondents: 600.

Estimated Total Annual Burden on Respondents: 300 hours.

Copies of this information collection and related intructions can be obtained without charge from Shirley King Evans, Ed.M., R.D., Food and Nutrition Information Center, NAL/ARS/USDA, Room 304, 10301 Baltimore Avenue, Beltsville, MD 20705–2351, (301) 504–7374.

Comments

Comments are invited on (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, such as through the use of appropriate automated, electronic, mechanical, other technological collection techniques, or other forms of information technology. Comments may be sent to: Shirley King Evans, Ed.M.,

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R.D., Food and Nutrition Information Center, NAL/ARS/USDA, Room 304, 10301 Baltimore Avenue, Beltsville, MD 20705–2351, (301) 504–7374. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Keith W. Russell,

Deputy Director, NAL.

[FR Doc. 98–18728 Filed 7–14–98; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 98–027–1]

International Sanitary and Phytosanitary Standard-Setting Activities

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice and solicitation of comments.

SUMMARY: In accordance with legislation implementing the results of the Uruguay Round of negotiations under the General Agreement on Tariffs and Trade, we are informing the public of international standard-setting activities of the Office International des Epizooties, the Secretariat of the International Plant Protection Convention, and the North American Plant Protection Organization, and we are soliciting public comment on the standards to be considered.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 98–027–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state in your letter that your comments refer to Docket No. 98–027–1, and state the name of the committee or working group to which your comments are addressed. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. John Greifer, Acting Director, Trade Support Team, International Services, APHIS, room 1128, South Building, 14th Street and Independence Avenue SW., Washington, DC, 20250, (202) 720–7677; or e-mail: jgreifer@aphis.usda.gov.

SUPPLEMENTARY INFORMATION: The World Trade Organization (WTO) was established on January 1, 1995, as the common international institutional framework for the conduct of trade relations among its members in matters related to the Uruguay Round Agreements. The WTO is the successor organization to the General Agreement on Tariffs and Trade. U.S. membership in the WTO was approved by Congress when it enacted the Uruguay Round Agreements Act, which was signed into law (Public Law 103–465) by the President on December 8, 1994. The Uruguay Round Agreements Act amended title IV of the Trade Agreements Act of 1979 (19 U.S.C. 2531 *et seq.*) by adding a new subtitle F, "International Standard-Setting Activities." Subtitle F requires the President to designate an agency to be responsible for informing the public of the sanitary and phytosanitary (SPS) standard-setting activities of each international standard-setting organization. The designated agency must inform the public by publishing a notice in the **Federal Register** that provides the following information: (1) The sanitary or phytosanitary standards under consideration or planned for consideration by the international standard-setting organization; and (2) for each sanitary or phytosanitary (SPS) standard specified: a description of the consideration or planned consideration of the standard; whether the United States is participating or plans to participate in the consideration of the standard; the agenda for United States participation, if any; and the agency responsible for representing the United States with respect to the standard.

Subtitle F defines "international standard" as a standard, guideline, or recommendation: (1) Adopted by the Codex Alimentarius Commission (Codex) regarding food safety; (2) developed under the auspices of the Office International des Epizooties (OIE) regarding animal health and zoonoses; (3) developed under the auspices of the Secretariat of the International Plant Protection Convention (IPPC) in cooperation with the North American Plant Protection Organization (NAPPO) regarding plant health; or (4) established by or developed under any other international organization agreed to by the member countries of the North American Free Trade Agreement (NAFTA) or by member countries of the WTO.

The President, pursuant to Proclamation No. 6780 of March 23, 1995 (60 FR 15845), designated the United States Department of Agriculture as the agency responsible for informing the public of the SPS standard-setting activities of Codex, OIE, IPPC, and NAPPO. This responsibility was delegated to the United States Department of Agriculture's (USDA's) Food Safety and Inspection Service (FSIS) for Codex activities and Animal and Plant Health Inspection Service (APHIS) for OIE, IPPC, and NAPPO activities.

FSIS is responsible for publishing an annual notice in the **Federal Register** to inform the public of SPS standard-setting activities for Codex. Codex was created in 1962 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization. It is the major international organization for encouraging international trade in food and protecting the health and economic interests of consumers.

APHIS is responsible for publishing notice of OIE, IPPC, and NAPPO activities related to international standards and representing the United States with respect to these standards.

Following are descriptions of OIE, IPPC, and NAPPO scheduled activities for the coming year. In some cases, working groups and committees have not yet set meeting dates and locations or determined specific standards to be discussed. The OIE, IPPC, and NAPPO sanitary and phytosanitary standard-setting activities for the coming year may be modified as emergency situations may affect the agenda of each standard-setting body.

OIE Standard-Setting Activities

The OIE was created in Paris, France, in 1924 with the signing of an international agreement by 28 countries. It is currently composed of 151 member nations, each of which is represented by a delegate, who, in most cases, is the chief veterinary officer of that country.

The WTO has designated the OIE as the international forum for setting animal health standards, reporting global animal situations and disease status, and presenting guidelines and recommendations on sanitary measures.

The OIE facilitates intergovernmental cooperation to prevent the spread of contagious diseases in animals through the sharing of scientific research among its members. The major function of the OIE is to ensure that scientifically justified standards govern international trade in animals and animal products. The OIE aims to achieve this through the development and revision of international standards for diagnostic tests and vaccines for the safe international trade of animals and animal products.

The OIE provides annual reports on the global distribution of animal diseases, recognizes disease-free status of member countries, categorizes animal diseases with respect to their international significance, publishes bulletins on global disease status and timely reviews of pertinent animal health issues, and provides animal disease control guidelines to member countries.

Positions, policies, and standards established by the OIE can be adopted by consensus or by vote of the delegates upon recommendations from various commissions and working groups within the OIE. The following is a list of those commissions and groups. Each listing contains a description of the general purpose of the commission or group, the items on its current agenda, and the dates and locations of its meetings. Also listed are the U.S. agencies represented or serving as contact points on each commission or group. Commission and working group members are drawn from the five OIE regional commissions and are selected based on their expertise; each commission is made up of three to six members. The scientific community of the United States has the honor of being represented on most, but not all, of the commissions.

OIE Commissions and Working Groups

1. *Committee/Working Group:* General Session.

U.S. Participant: Veterinary Services, USDA–APHIS; Alternate—International Services, USDA–APHIS.

General Purpose: Establish, review, and adopt international standards dealing with animal health.

Date of Meeting: May (annually).

Location of Meeting: Paris, France.

Major Discussion/Agenda: Animal health standards related to trade, including risk assessment standards, global disease control procedures, regionalization, specific disease issues, and quality assurance of veterinary services.

2. *Committee/Working Group:* Regional Commission for the Americas.

U.S. Participant: Veterinary Services, USDA–APHIS.

General Purpose: The Regional Commission for the Americas is one of five OIE Regional Commissions. Regional Commissions nominate candidates for election to the expert commissions and working groups, discuss regional animal health issues, and propose topics of regional concern as agenda items or for scientific review at upcoming meetings of the OIE General Session.

Date of Meeting: May (annually) and March or April (every 2 years).

Location of Meeting: Variable.

Major Discussion/Agenda: Location of regional office for the Americas, animal health disease control issues of regional concern.

3. *Committee/Working Group:* Standards Commission.

U.S. Participant: Veterinary Services, USDA–APHIS.

General Purpose: The Standards Commission recommends new standards and changes in existing international standards for diagnostic tests and vaccines. These changes, when approved by the General Session, are published in the *OIE Manual of Standards for Diagnostic Tests and Vaccines.*

Dates of Meetings: February and September (twice annually).

Location of Meetings: Paris, France.

Major Discussion/Agenda: Review and recommend revisions to international diagnostic test standards published in the *OIE Manual of Standards for Diagnostic Tests and Vaccines*; review OIE reference laboratories, OIE reference sera, and laboratory quality assurance, and make recommendations to the OIE International Animal Health Code Commission; discuss the most appropriate diagnostic procedures for specific animal and poultry diseases.

4. *Committee/Working Group:* International Animal Health Code Commission.

U.S. Participant: International Services, USDA–APHIS.

General Purpose: The International Animal Health Code Commission develops and updates disease-specific international standards regarding the movement of animals and animal products and generic standards for animal transport, regionalization and risk assessment procedures, surveillance and monitoring guidelines, and evaluation of animal health infrastructures. The Director General appoints ad-hoc groups of experts to assist the Commission in the drafting and review of disease standards. When adopted by the General Session, these standards are published in the *OIE International Animal Health Code*, the WTO-recognized manual of standards for international movement of animals and animal products.

Date of Meeting: January and September (twice annually).

Location of Meeting: Paris, France.

Major Discussion/Agenda: The International Animal Health Code Commission reviews and updates the Code. Proposed changes are circulated twice yearly to member countries for comments, and are then submitted for adoption at the General Session.

5. *Committee/Working Group:* Foot and Mouth Disease (FMD) and Other Epizootics Commission.

U.S. Participant: None.

General Purpose: The FMD and Other Epizootics Commission monitors the world status of FMD and other major animal diseases and prepares epidemiological recommendations for adoption by the General Assembly.

Date of Meeting: January and September (twice annually).

Location of Meeting: Paris, France.

Major Discussion/Agenda: Current issues facing the Commission: International standards for FMD serological testing, protocols for endorsement of FMD-free areas, standards for epidemiological surveillance for contagious bovine pleuropneumonia, surveillance and monitoring standards for bovine spongiform encephalopathy (BSE), and criteria for recognition of BSE-free status.

6. *Committee/Working Group:* Fish Diseases Commission.

U.S. Participant: U.S. Fish and Wildlife Service, Department of Interior.

General Purpose: The Fish Diseases Commission drafted an *Aquatic Animal Health Code* and a *Diagnostic Manual for Aquatic Animal Diseases* that contain international standards for fish diseases. These manuals have been approved by the General Session.

Date of Meeting: September (annually).

Location of Meeting: Paris, France.

Major Discussion/Agenda: Current activities of the Fish Diseases Commission: Continual updating of the OIE fish disease manuals, preparation of the annual OIE report on the worldwide status of fish diseases, and planning and hosting international conferences on current topics in aquatic animal health.

7. *Committee/Working Group:* Ad Hoc Working Group on Biotechnology.

U.S. Participant: Animal Disease Research Unit, Agricultural Research Service, USDA.

General Purpose: The Ad Hoc Working Group on Biotechnology reviews the biotechnological aspects of each chapter of the *OIE Manual for Diagnostic Tests and Vaccines* and prepares an annual report and recommendations dealing with biotechnology for consideration by the General Session. The Working Group has also developed an international database on sources of biotechnologically engineered vaccines and diagnostic reagents.

Date of Meeting: The working group meets when called by the Director General.

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Location of Meeting: Paris, France.

Major Discussion/Agenda: Current issues facing the working group: Ongoing reviews of diagnostic test kits, applications of genetic engineering to animal health, veterinary products developed using biotechnology, and possible uses of new biotechnological techniques in veterinary medicine.

8. *Committee/Working Group:* Working Group on Veterinary Drug Registration.

U.S. Participant: Center for Veterinary Medicine, Food and Drug Administration, in cooperation with USDA–APHIS.

General Purpose: Prepares recommendations for the General Session.

Date of Meeting: Every 2 years.

Location of Meeting: Paris, France.

Major Discussion/Agenda: Current issues facing the working group: Developing training programs for veterinary drug registration officials of OIE member countries and assisting an OIE ad hoc group in developing draft international guidelines for veterinary drug registration.

9. *Committee/Working Group:* Working Group on Informatics and Epidemiology.

U.S. Participant: USDA–APHIS is a consultant to the working group.

General Purpose: The Working Group on Informatics and Epidemiology develops programs to increase the efficiency of OIE communications and to assist animal health officials of member countries to more effectively utilize contemporary communications technology. One project of the working group is HandiStatus, an information network on animal diseases of international importance.

Date of Meeting: The working group meets when called by the Director General.

Location of Meeting: Paris, France.

Major Discussion/Agenda: The working group is currently developing a Windows version of HandiStatus and designing and developing the OIE web page.

10. *Committee/Working Group:* Working Group on Wildlife Diseases.

U.S. Participant: Southeastern Cooperative Wildlife Disease Study, College of Veterinary Medicine, University of Georgia.

General Purpose: The working group addresses the relationship between diseases of wildlife and those of domestic animals and poultry.

Date of Meeting: The working group meets when called by the Director General, usually annually in the summer or fall.

Location of Meeting: Paris, France.

Major Discussion/Agenda: Some issues currently facing the working group are: development of reporting methods for wildlife diseases (particularly those naturally transmissible between domesticated and wild species); facilitating worldwide wildlife disease surveillance and the applicability of routine diagnostic tests to wildlife species; and problems related to propagation of wildlife species in captivity and the disease hazards associated with their release from zoos or game farms.

11. *Committee/Working Group:* Ad Hoc Group on Transmissible Spongiform Encephalopathies (TSEs): Coordination of Research and Epidemiological Studies

U.S. Participant: Veterinary Services, USDA–APHIS (periodically, depending upon expertise required at each specific meeting).

General Purpose: The group reports its findings and research recommendations on TSEs and BSE to the Code Commission.

Date of Meeting: At the request of the Director General.

Location of Meeting: Paris, France.

Major Discussion/Agenda: Updating information on TSEs.

For further information on any of the OIE standards, publications, or commissions or working groups, contact Dr. Robert F. Kahrs, Trade Policy Liaison, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–6194; or e-mail: rfkahrs@aphis.usda.gov.

IPPC Standard-Setting Activities

The IPPC is an international treaty, first ratified in 1952, aimed at promoting international cooperation to control and prevent the spread of harmful plant pests associated with the movement of people and commodities.

The Convention has been, and continues to be, administered at the national level by plant quarantine officials whose primary objective is to safeguard plant resources from injurious pests. Under the IPPC, the understanding of plant protection has been, and continues to be, broad, encompassing the protection of both cultivated and noncultivated plants from direct or indirect injury by plant pests.

In last year's notice, we explained that the IPPC was undergoing revision as a result of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (WTO SPS Agreement). Signatory countries agreed on the need to revise the Convention to reflect significant changes in international trade and plant quarantine since the last revision of the IPPC. New revised text was adopted by the FAO Conference in November 1997.

One of the primary objectives of the revision process was to ensure that the IPPC was able to develop international standards, guidelines, and recommendations as envisioned in the SPS Agreement. The standards, guidelines, and recommendations developed by the IPPC are important within the framework of the SPS Agreement for two reasons. First, a WTO member is required to base its phytosanitary measures on international standards, guidelines, and recommendations where they exist, or justify a measure that achieves a higher level of protection. Second, a standard, guideline, or recommendation developed by the IPPC serves as a "safe haven" standard, i.e., a national phytosanitary measure that conforms to an IPPC standard will be presumed to be consistent with the requirements set forth in the WTO SPS Agreement and in the General Agreement on Tariffs and Trade.

Member countries agreed that in order for the IPPC to fulfill its role as a standard-setting body, the IPPC would have to strengthen its capability to develop phytosanitary standards. Although the IPPC began developing and adopting standards following the establishment of the Secretariat in 1993, it had not formalized the institutional capability for producing phytosanitary standards in the Convention. The revision of the IPPC began with the primary intent to (1) Institutionalize a standard-setting capability within the IPPC and (2) ensure consistency between the IPPC and the WTO SPS Agreement by incorporating and clarifying within the IPPC a number of phytosanitary concepts contained in the WTO SPS Agreement. The revised IPPC established the Commission on Phytosanitary Measures as the body responsible for carrying out the objectives of the revised IPPC. However, the revised IPPC will not be in force until two-thirds of the member countries accept the revisions. Until this happens, FAO has approved the meeting of an Interim Commission on Phytosanitary Measures, which will serve in the role designed for the Commission in the revised IPPC, but actions will not receive official recognition without FAO council action.

The revised IPPC also formalized the role of the IPPC Secretariat, which is responsible for implementing the policies and activities of the Commission on Phytosanitary Measures. The Secretariat is appointed by the

Director General of FAO and is responsible for the dissemination of information to IPPC member countries regarding (1) Proposed and approved standards; (2) lists of regulated pests; (3) phytosanitary requirements, restrictions, and prohibitions; and (4) translations of all standards and meeting documentation into the official languages of FAO.

The Commission on Phytosanitary Measures

The Commission on Phytosanitary Measures actively examines the state of plant protection in the world and proposes and establishes standards that help to eliminate plant pests and control their spread. The Commission is composed of technically competent officials from member countries who are ultimately responsible for implementing IPPC standards and policies in their countries. The Commission provides member countries with a forum in which to propose international standards and discuss and exchange information on phytosanitary measures, standards, and other issues of concern.

IPPC standards are proposed in a number of ways. The IPPC Secretariat may initiate development of a draft standard by forming a working group to develop a standard deemed a priority by IPPC members. Draft standards or discussion papers may also be submitted to the Secretariat for IPPC consideration by regional or national plant protection organizations or other interested parties. The IPPC Secretariat refers draft standards to the Committee of Experts on Phytosanitary Measures (CEPM), which considers the drafts and recommends action. Drafts approved by the CEPM are then submitted to member countries for consultation and comment (country consultation). Comments made during country consultation are then considered by the Secretariat, which revises the standard before resubmitting it to the CEPM.

If the CEPM approves the revised draft, it is submitted to the Commission on Phytosanitary Measures for adoption.

Each member country is represented on the Commission by a single delegate. Although experts and advisers may accompany the delegate to meetings of the Commission, only the delegate or an authorized alternate may vote on proposed standards or other initiatives. Parties involved in a vote by the Commission are to make every effort to reach agreement on all matters by consensus. Only after all efforts to reach a consensus have been exhausted may a decision on a standard be passed by a vote of two-thirds of delegates present and voting.

Technical experts from the United States have participated directly in working groups and indirectly as reviewers of all IPPC draft standards. In addition, documents and positions developed by APHIS and NAPPO have served as the basis for many of the standards adopted to date.

Scheduled IPPC Meetings

The first meeting of the Interim Commission on Phytosanitary Measures will be held in Rome, November 3–6, 1998.

The 10th Technical Consultation of Regional Plant Protection Organizations will be held in Rome, November 9–10, 1998.

The Regulated Non-quarantine Pest Working Group will convene during the first week of October 1998 (tentative), at a location to be determined.

The next meeting of the Committee of Experts on Phytosanitary Measures (CEPM) is tentatively scheduled for the second week in May, 1999.

Status of International Standards for Phytosanitary Measures

Various formal documents and standards are currently moving through different stages of development, review, and approval. The status of all IPPC formal documents and standards (existing, drafted, and proposed) is listed below.

Existing Standards (subject to revision):

- *The International Plant Protection Convention* (existing, and new revised text), revised November 1997.
- *Principles of Plant Quarantine as Related to International Trade* (reference standard), adopted in 1993.
- *Code of Conduct for the Import and Release of Biological Control Agents*, adopted November 1995.
- *Guidelines for Pest Risk Analysis*, adopted November 1995.
- *Requirements for the Establishment of Pest Free Areas*, adopted November 1995.
- *Glossary of Phytosanitary Terms* (reference standard), revised in September 1995.
- *Guidelines for Surveillance*.
- *Export Certification System*.

Proposed standards to be submitted to the Commission for final approval in November 1998:

- Determination of pest status.
- Guidelines for pest eradication programs. Draft standards undergoing country consultation prior to meeting of regional plant protection organizations in November 1998:
- Requirements for the establishment of pest-free places of production.
- Inspection methodology.
- Pest risk analysis for quarantine pests. Draft standards to be reviewed by the Council of Experts on Phytosanitary Measures in May 1999:
- Guidelines for an import regulatory system.
- Guidelines for phytosanitary certificates.
- Guidelines for surveillance for specific pests: Citrus canker.

Existing standards being updated for alignment with the revised IPPC (1997):

- *Principles of Plant Quarantine as Related to International Trade* (first draft prepared by the Secretariat).
- *Guidelines for Pest Risk Analysis* (first draft prepared by the Secretariat).

Standards under development by the IPPC. The following standards will be prioritized at the November 1998 meeting:

- Guidelines for the preparation of regulated pest lists (no draft or discussion paper).
- Technical justification for regulating nonquarantine pests (draft discussion paper by the IPPC Secretariat; working group for fall 1998).
- Guidelines for notification—interceptions and noncompliance (no draft or discussion paper).
- Systems approaches for risk management (discussion paper in preparation).
- Low pest prevalence (no draft or discussion paper).
- Quarantine nomenclature for plants and plant products (no draft or discussion paper).
- Dispute settlement (draft in preparation).
- Procedures for the preparation of a standard (pending discussion by the Commission).
- Pest-specific monitoring and testing requirements (no draft or discussion paper).
- Training and accreditation of inspectors (no draft or discussion paper).
- Pest control procedures (no draft or discussion paper).
- Procedures for post-entry quarantine (no draft or discussion paper).
- Systems for approving phytosanitary treatments (no draft or discussion paper).
- Guidelines for research requirements for treatment efficacy (no draft or discussion paper).
- Commodity-specific standards (no draft or discussion paper).

Further information on the IPPC standards is available from the FAO web page at: http://www.fao.org/waicent/faoinfo/agricult/agp/agpp/PQ/Default.htm. This page may contain outdated information but is tentatively

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scheduled to be updated by July 31, 1998.

Information on U.S. participation in IPPC standard setting, as well as up-to-date information on activities and meetings, is also available by contacting Mr. Alfred Elder, Acting Deputy Administrator, APHIS, USDA, room 302-E, Whitten Building, 14th Street and Independence Avenue SW., Washington, DC 20250.

NAPPO Standard-Setting Activities

NAPPO was created in 1976 to coordinate plant protection activities in Canada, the United States, and Mexico. NAPPO provides a mechanism by which the three countries can exchange information related to plant pest control. NAPPO cooperates with other regional plant protection organizations and the FAO to achieve the objectives of the IPPC.

NAPPO conducts its business through permanent and ad hoc panels and annual meetings of the three member countries. The NAPPO Executive Committee charges individual panels with the responsibility for drawing up proposals for NAPPO positions, policies, and standards. These panels are made up of representatives from each member country who have scientific expertise related to the policy or standard being considered.

Proposals drawn up by the individual panels are then circulated for review to government and industry by Canada, Mexico, and the United States, which may suggest revisions. Once revisions are made, the proposal is then sent to the NAPPO Working Group and the NAPPO Standards Panel for technical reviews, and finally to the Executive Committee for final approval, which is made by consensus.

The following is a summary of panel charges as they relate to the development of standards (see the NAPPO web page for more information, including a list of U.S. participants on the panels, at http://www.nappo.org):

NAPPO Standards Panel

The NAPPO Standards Panel handles or supports development of NAPPO standards and other cross-commodity issues, reviews proposed international standards, and recommends NAPPO positions on proposed international standards. This panel reviews the standards proposed by the other panels before they are sent out for full review, with a focus on modifying such proposed standards where necessary to clarify whether NAPPO or FAO definitions and standards will apply to particular NAPPO activities.

Other current charges to the Standards Panel include:

- Proposing elements for an international standard on regulated nonquarantine pests to submit to the FAO.
- Providing updates to the International Standards for Phytosanitary Measures and NAPPO Standards for the NAPPO Newsletter.

Accreditation Panel

The panel will continue the development of the draft *NAPPO Standard for Laboratory Accreditation* for consideration by the NAPPO Working Group in July 1998 and approval by the Executive Committee in October 1998.

Biological Control Panel

No charges are currently available for this panel.

Biotechnology Panel

The panel will continue working on issues related to transgenic crops in their centers of origin. This includes completion of the report of the workshop on transgenic maize held in Mexico City in October 1997.

Citrus Panel

The panel will develop a draft NAPPO Standard for Phytosanitary Measures establishing requirements for the importation of citrus into a NAPPO member country.

Forestry Panel

The panel will:

- Incorporate comments from the Standards Panel into the draft *NAPPO Dunnage Standard*, circulate the draft for review, and revise it by June 30, 1998, for consideration by the NAPPO Working Group in July 1998. This draft standard is expected to require extensive review, and action may be suspended until each of the three countries has an opportunity for consultation with and input from affected parties.
- Develop a glossary of phytosanitary terms unique to the forestry sector by June 30, 1998, for consideration by the NAPPO Working Group in July 1998 and approval by the Executive Committee in October 1998.

Fruit Fly Panel

The panel will incorporate comments from the Standards Panel, circulate the draft *Surveillance for Fruit Flies Standard* for full review, and revise by June 30, 1998, for consideration by the Working Group in July 1998 and Executive Committee approval in October 1998.

Fruit Tree and Grapevine Nursery Stock Certification Panel

The panel will:

- Incorporate comments from the Standards Panel and circulate the draft *Grapevine Standard* for full review by June 30, 1998, for consideration by the NAPPO Working Group in July 1998. The policy of this draft standard is being carefully reviewed to determine its impact on current industry practice. The review period will be extended as necessary to accommodate further consultation and review.
- Continue work on development of *Citrus, Prunus,* and *Malus* standards; draft citrus standard for initial review by Standards Panel in July 1998, and circulate for full review in August 1998.

Grains Panel

The panel will:

- Review the treatment options available for risk management of *Tilletia indica* (Karnal bunt) and recommend treatments for endorsement by NAPPO.
- Identify whether there are phytosanitary or commercial problems associated with weed seeds imported into, or shipped within, North America.
- Develop harmonized procedures to deal with contaminated grain shipments.
- Develop a harmonized regulatory approach to deal with shipments of grain contaminated with *Tilletia* species of ryegrass.

Pest Risk Analysis Panel

The panel will classify areas within North America (as requested by the Grains Panel) according to the relative risk of the introduction (entry and establishment) of *Tilletia indica.*

Potato Panel

The panel will begin work with the European Plant Protection Organization on a global standard for potatoes.

Training Panel

The panel will develop criteria to assess the proficiency of persons to perform tasks described in the *NAPPO Standard for the Accreditation of Individuals to Issue Phytosanitary Certificates* by July 1998.

The current NAPPO meeting schedule is as follows:

NAPPO Annual Meetings

July 19–23, 1998, Halifax, Canada.

October 18–22, 1998, Guanajuato, Mexico.

NAPPO Working Group

July 20–22, 1998, Ottawa, Canada.

October 18, 1998, Halifax, Canada.

NAPPO Executive Committee

August 18, 1998, Grand Rapids, Michigan, United States.

October 19, 1998, Halifax, Canada.

Up-to-date information on NAPPO policies, standard setting activities, U.S. participants, and meeting agendas and dates is available on the NAPPO web page at http://www.nappo.org. Interested individuals may also contact Mr. Alfred Elder, Acting Deputy Administrator, PPQ, APHIS, room 302–E, Whitten Building, 14th Street and Independence Avenue SW., Washington, DC 20250.

Comments on standards being considered or to be considered by any of the OIE, IPPC, or NAPPO committees or working groups listed above may be sent to APHIS as directed under the heading ADDRESSES.

Done in Washington, DC, this 9th day of July, 1998.

Craig A. Reed,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–18839 Filed 7–14–98; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Texas Blowdown Changed Condition Analysis, National Forests and Grasslands in Texas, Angelina, Montgomery, Sabine, San Augustine, San Jacinto, and Walker Counties, Texas

AGENCY: Forest Service.

ACTION: Notice.

SUMMARY: This notice is to announce that the U.S. Forest Service will prepare an analysis of storm-damaged areas on the Angelina, Sabine, and Sam Houston National Forests to determine changed conditions due to a catastrophic windstorm. The changed condition analysis will be used to identify proposed actions for site preparation and reforestation on national forest lands extensively damaged by the February 1998 windstorm. Initial plans are for the analysis to consider only areas within Management Area 1—Upland Forest Ecosystems and Management Area 2—Red cockaded Woodpecker (RCW) Emphasis on the three affected National Forests. The analysis will determine the existing conditions of these management areas, the desired future conditions for the areas as directed in the 1996 Land and Resource Management Plan (LRMP) for the National Forests and Grassland in Texas (NFGT), and potential management actions to achieve the desired future conditions.

In addition to the determination of appropriate reforestation needs, the information gathered in this process would be used to analyze the need to amend the forest plan's allocation of Management Area 2 on the Angelina and Sabine National Forests due to changed conditions on these forest caused by the storm damage.

Public involvement will be requested and accepted continually throughout these efforts. Public involvement will also be conducted as part of "scoping" following the issuance on the Notice of Intent to prepare an Environmental Impact Statement based on the results of the Changed Condition Analysis.

DATES: The Texas Blowdown Changed Condition Analysis is scheduled to be completed by October 1998.

ADDRESSES: Requests for information, and comments concerning the notice can be sent to: Team Leader, Texas Blowdown Changed Condition Analsysis, National Forests and Grasslands in Texas, 701 North First Street, Lufkin, Texas 75961.

FOR FURTHER INFORMATION CONTACT: Keith Baker, Project Environmental Coordinator. Phone: 409–344–6205 (New Waverly, TX).

SUPPLEMENTARY INFORMATION:

1. Background on the Changed Conditions and Actions Taken to Date

On the afternoon of February 10, 1998, a storm with hurricane-force winds stuck the forests of east Texas. The storm left a path of destruction from near Houston to Toledo Bend Reservoir, a distance of approximately 150 miles. Approximately 103,000 acres of national forest land on the Sabine, Angelina and Sam Houston National Forests were damaged by the windstorm. The LRMP had allocated the majority of the lands affected by the storm to Management Area 1 (upland forest ecosystems) and Management Area 2 (red-cockaded woodpecker emphasis). Other Management Areas (MAs) were also affected, including MA–4 (streamside management zones), MA–8 (special area management), MA–9 (recreation area management), and MA–10 (administrative and special use sites).

The Forest Service categorized the storm damage severity and extent on the three affected national forests as follows:

- extensive damage—loss of greater than 60 percent of the existing trees (11,600 acres),
- moderate damage—loss of 30 to 60 percent of the existing trees (65,400 acres), and
- light damage—loss of 10 to 30 percent of the existing trees (26,000 acres).

The NFGT determined that an emergency response was needed to meet three objectives: (A) reduce the potential for high intensity wildfires spreading into the intermingled private ownerships that include individual homes, subdivisions, and rural communities; (B) minimize further damage to RCW and bald eagle habitat; and (C) reduce the risk of anticipated bark beetle attack to living trees that could kill additional federal and private timber, RCW habitat, and bald eagle habitat. The Forest Service requested approval for alternative arrangements for compliance with the National Environmental Policy Act of 1969 (NEPA) from the Council on Environmental Quality (CEQ) to expedite the removal of the blown down and damaged timber. On March 10, 1998, CEQ approved the Forest Service's request for alternative arrangements and the NFGT undertook actions to remove blown down and damaged trees to meet the three objectives. As part of those alternative arrangements, the Forest Service and CEQ agreed that the actions taken to reforest the damaged areas of the three affected national forests would be analyzed and the effects disclosed in an Environmental Impact Statement.

2. Preparation of the Texas Blowdown Changed Condition Analysis

The objectives of the Changed Condition Analysis are twofold: (1) to provide the basis for reforestation proposals in the storm damaged areas of the NFGT and (2) to analyze the need to adjust land allocations to MA–2 on the Angelina and Sabine National Forests to meet LRMP objectives for red-cockaded woodpecker habitat. The analysis will synthesize a range of information about the affected areas, including inventories of existing vegetation and special features such as heritage sites, threatened, endangered, and sensitive species; potential vegetation as guided by the Ecological Classification System (ECS) developed in conjunction with the Kisatchie National Forest and the Nature Conservancy; and management direction from the 1996 LRMP.

The inventory information will be used to define the existing conditions within the blowdown-affected areas. The ECS information and LRMP direction will provide the basis for the desired future conditions. Comparing the existing conditions to the desired future conditions will identify the management opportunities to meet the objectives of the LRMP.

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Once opportunities have been determined, management practices, such as those for site preparation and reforestation or for changes in MA–2 allocations, will be identified and developed into a Proposed Action. The Changed Condition Analysis is scheduled to be completed on or about October 1998.

3. Public Involvement in the analysis Process

The concerns and expectations of National Forest constituents played a significant role in the development of the 1996 LRMP. The February windstorm brought sudden and unexpected changes to the biological and social components of the NFGT, particularly on the Angelina and Sabine National Forests. It is important to involve the public as the Forest Service develops the analysis and determines the opportunities for management actions. Since the analysis will not be a "decision document" and will not involve the NEPA process, formal public involvement through scoping will not be done. The NFGT has been regularly informing the public about the progress of the ongoing storm recovery actions through regular information updates. The NFGT will contact the interested public with information about the analysis and offer the opportunity for participation in the analysis process.

4. Issuing the Notice of Intent to Prepare an Environmental Impact Statement

The NFGT will issue a Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) after developing proposed actions based on the Changed Condition Analysis. The NOI will include a description of preliminary proposed actions, issues, and alternatives. The public will be asked to comment on these items as part of the scoping process under NEPA. Public comments will be used to further refine the proposed action, issues, and alternatives, and the range of alternatives to be considered in the EIS.

Dated: July 9, 1998.

Ronnie Raum,

Forest Supervisor.

[FR Doc. 98–18823 Filed 7–14–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Submission For OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Survey of Income and Program Participation 1996 Panel Wave 9.

Form Number(s): SIPP 16905(L) Director's Letter, CAPI Instrument.

Agency Approval Number: 0607–0813.

Type of Request: Revision of a currently approved collection.

Burden: 117,800 hours.

Number of Respondents: 77,700.

Avg Hours Per Response: Half an hour.

Needs and Uses: The Bureau of the Census conducts the Survey of Income and Program Participation (SIPP) to collect information from a sample of households concerning the distribution of income received directly as money or indirectly as in-kind benefits. SIPP data are used by economic policymakers, the Congress, state and local governments, and Federal agencies that administer social welfare and transfer payment programs such as the Department of Health and Human Services, the Department of Housing and Urban Development, and the Department of Agriculture.

The SIPP is a longitudinal survey, in that households in the panel are interviewed 12 times at 4 month intervals or waves over the life of the panel, making the duration of the panel about 4 years. The next panel of households will be introduced in the year 2000.

The survey is molded around a central core of labor force and income questions, health insurance questions, and questions concerning government program participation that remain fixed throughout the life of a panel. The core questions are asked at Wave 1 and are updated during subsequent interviews. The core is supplemented with additional questions or topical modules designed to answer specific needs.

This request is for clearance of the topical modules to be asked during Wave 9 of the 1996 Panel. The core questions have already been cleared. Topical modules for waves 10 through 12 will be cleared later. The topical modules for Wave 9 are: 1) Assets, Liabilities, and Eligibility, 2) Medical Expenses/Utilization of Health Care Services, and 3) Work Related Expenses and Child Support Paid. Wave 9 interviews will be conducted from December 1998 through March 1999.

Affected Public: Individuals or households.

Frequency: Every 4 months.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C, Section 182.

OMB Desk Officer: Nancy Kirkendall, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Nancy Kirkendall, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: July 9, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–18854 Filed 7–14–98; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

Showcase Exhibit of U.S. Exports

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Showcase Exhibit of U.S. Exports.

SUMMARY: The International Trade Administration ("ITA") of the Department of Commerce announces an exhibition of exported U.S. products and services. The exhibition will showcase U.S. exports by displaying successfully exported products and services at ITA headquarters in Washington, D.C., to highlight the benefits of exporting and the impact of exports on the U.S. economy. Companies and trade associations are encouraged to express interest in providing exhibit material. The energy sector will be the next industrial sector to be represented.

DATES: July 15, 1998.

FOR FURTHER INFORMATION CONTACT: *On the energy sector exhibit only, please contact:* Mr. John Rasmussen, Office of Energy, Infrastructure, and Machinery; U.S. Department of Commerce/ITA; Room 4056; Washington, D.C. 20230; Telephone (202) 482–1889; fax (202) 482–0170.

SUPPLEMENTARY INFORMATION:

Background

ITA is showcasing U.S. exports by exhibiting successfully exported products and services at its headquarters in Washington, D.C., to highlight the benefits of exporting and the impact of exports on the U.S. economy. The exhibit, which represents a series of industries and a variety of companies, is located in the Office of the Under Secretary for International Trade. The exhibit will be rotated approximately every four months. The first sector selected was the motor vehicles and automotive parts industry.

The second sector to be displayed is the energy sector. Companies and trade associations in this sector are encouraged to express interest in showcasing their exports of goods and/ or services by contacting ITA through the individual listed above. Displayed items may include illustrations, miniaturized or actual models, or actual products. Examples of appropriate displays would include models or illustrations of drilling platforms or refineries, oil and gas pipeline equipment, geologic instrumentation systems, power plants or electric distribution lines that have been constructed overseas and incorporate substantial U.S. products and/or services.

Selection Process

Items will be selected for exhibition on the basis of the following factors:

(1) Items must be produced in, or representative of services exported from, the United States and have at least a 51% U.S. content, including materials, equipment and labor (in the case of large development projects, the applicant should identify substantial U.S. products or services into the completed project). To highlight the impact of exports on small businesses, items will also be considered that are produced by U.S. companies that do not directly export but rather whose goods or services are incorporated into another company's for export.

(2) The items must relate to the industry selected by ITA and be suitable for exhibition in a limited space.

(3) The company must not be owned or controlled, indirectly or directly, by a foreign government.

(4) Items chosen should reflect diversity of company size, location, demographics, and traditional under-representation in business.

Other conditions: Displayed items will be considered loans to the Department. Companies will be responsible for shipment of the item to and from the Commerce Department, for obtaining appropriate insurance, and for all related costs.

Time Frame for Applications: Expressions of interest from the energy sector should be received by August 17, 1998. Expressions of interest should be sent to the ITA official identified above.

A **Federal Register** notice will be published subsequently to announce the next sector to be highlighted.

Authority:15 U.S.C. 1512.

Dated: July 10, 1998.

David L. Aaron,

Under Secretary for International Trade.

[FR Doc. 98–18853 Filed 7–14–98; 8:45 am]

BILLING CODE 3510–25–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Fastener Quality Act—Provisional Listing of Facilities

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506 (c)(2)(A)).

DATES: Written comments must be submitted on or before September 14, 1998.

ADDRESSES: Direct written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) should be directed to Dr. Subhas G. Malghan, NIST, Building 820, Room 250, Gaithersburg, MD 20899; (301) 975–6101.

SUPPLEMENTARY INFORMATION:

I. Abstract

This submission under the Paperwork Reduction Act represents a request for extension of a currently approved collection by the U.S. Department of Commerce's National Institute of Standards and Technology (NIST). NIST requires this information to ensure that manufacturing facilities that are seeking provisional listing do, in fact, meet all requirements of the Fastener Quality Act (FQA) and the implementing regulations while completing their formal registration process. During the provisional listing period, the listed facilities will be able to test and certify that their fasteners meet the stated standards and specifications, and comply with the FQA.

II. Method of Collection

Applicants will submit written information to NIST.

III. Data

OMB Number: 0693–0026.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Businesses and for-profit organizations.

Estimated Number of Respondents: 50.

Estimated Time Per Response: 4.

Estimated Total Annual Burden Hours: 200.

Estimated Total Annual Cost: The estimate of the total annual cost to submit this information for fiscal year 1998 and future years is $500. There are no capital expenditures required.

IV. Requests for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and costs) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated July 8, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–18814 Filed 7–14–98; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Fastener Quality Act—Laboratory Accreditation Body Approval and Registrar Accreditation Body Approval

ACTION: Proposed collection; comment request.

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SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–12 (44 U.S.C. 3506 (c)(2)(A)).

DATES: Written comments must be submitted on or before September 14, 1998.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Dr. Subhas G. Malghan, NIST, Building 820, Room 282, Gaithersburg, MD 20899; (301) 975–6101.

SUPPLEMENTARY INFORMATION:

I. Abstract

This submission under the Paperwork Reduction Act represents a request for extension of a currently approved collection by the U.S. Department of Commerce's National Institute of Standards and Technology (NIST). NIST requires this information to evaluate laboratory accreditation bodies that apply for NIST's approval to accredit laboratories under the Fastener Quality Act and to registrar accreditation bodies that apply for NIST's approval to accredit quality system registrars and who in turn will register fastener manufacturing facilities that use quality assurance system of manufacturing fasteners.

II. Method of Collection

Applicants will submit information in written form to NIST.

III. Data

OMB Number 0693–0015.

Form Number NIST 1269.

Type of Review Regular submission.

Affected Public Business and other non-profit organizations.

Estimated Number of Respondents: 10.

Estimated Time Per Response: 12.

Estimated Total Annual Burden Hours: 120.

Estimated Total Annual Cost: The estimate of the total annual cost to submit this information for fiscal year 1998 and future years is $1,500. The cost is borne by the entities submitting the information. No capital expenditures are required.

IV. Requests for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and costs) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: July 8, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–18815 Filed 7–14–98; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 980429111–8111–01]

RIN 0648–ZA43

Coastal Services Center Coastal Change Analysis Program; Correction

AGENCY: National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of Federal assistance; correction.

SUMMARY: On June 18, 1998, the Coastal Services Center announced the availability of Federal assistance for fiscal year 1999 in the Coastal Change Analysis Program (63 FR 33352), FR Doc. 98–16268. This document contained incorrect dates for submitting applications and the award target start date.

FOR FURTHER INFORMATION CONTACT: Dr. Dorsey Worthy, (843) 740–1234 or dworth@csc.noaa.gov.

CORRECTION: In the **Federal Register** issue of June 18, 1998, in FR Doc. 98–16268, on page 33352, in the second column, correct the Date to read:

DATES: Completed applications will be accepted through 5:00 pm Eastern Daylight Time on August 31, 1998. Target award date is anticipated to be January 4, 1999.

On page 33354, first column, correct the Selection Schedule paragraph to read:

SELECTION SCHEDULE: The following are the approximate milestones and dates for the selection schedule of the cooperator:

Applications due: August 31, 1998.

Award target start date: January 4, 1999.

Nancy Foster,

Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 98–18933 Filed 7–13–98; 3:09 am]

BILLING CODE 3510–08–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT98–80–000]

Boundary Gas, Inc.; Notice of GRI Refund Report

July 9, 1998.

Take notice that on July 6, 1998, Boundary Gas, Inc. (Boundary) tendered for filing a refund report reflecting the flowthrough of the Gas Research Institute (GRI) refund received by Boundary on May 29, 1998.

Boundary states that it has calculated refunds proportionally for its firm customers of non-discounted service based on the GRI surcharges those customers paid during calendar year 1997. Boundary states that it mailed each customer a check for its portion of the refund on or about July 2, 1998.

Boundary also states that copies of this filing were served upon each of Boundary's affected customers and the state commissions of New York, Connecticut, New Jersey, Massachusetts, New Hampshire, and Rhode Island.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before July 16, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18791 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–343–000]

Dauphin Island Gathering Partners; Notice of Proposed Changes in FERC Gas Tariff

July 9, 1998.

Take notice that on July 2, 1998, Dauphin Island Gathering Partners (DIGP) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, to become effective August 1, 1998:

First Revised Sheet No. 217
First Revised Sheet No. 226

DIGP states that the modifications to the listed tariff sheets are proposed to comply with the requirements of Order 587–G, issued by the FERC on April 16, 1998.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18808 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–325–000]

Eastern Shore Natural Gas Company; Notice of Filing

July 9, 1998.

Take notice that on July 1, 1998 Eastern Shore Natural Gas Company (Eastern Shore) tendered a filing to terminate its Account No. 191—Unrecovered Purchased Gas Costs as of October 31, 1997, and to refund/surcharge the balance in such account to its customers as necessary. Eastern Shore states that such termination is the result of Eastern Shore's conversion to a Part 284 open access transportation pipeline and the implementation of its new open access FERC Gas Tariff on November 1, 1997, (*See* 81 FERC ¶ 61,013 (1998)).

Eastern Shore states that Section 38—Transition Cost Recovery Mechanism, of the General Terms and Conditions ("GT & C") of its FERC Gas Tariff, Second Revised Volume No. 1, effective November 1, 1997, provides for the recovery of costs incurred as a result of implementing, in connection with implementing, or attributable to the requirements of the Commission's Order No. 636, such costs being referred to as "transition costs". Eastern Shore states that the Commission identified from specific types of transition costs: (1) Account No. 191 costs; (2) Gas Supply Realignment Costs; (3) Stranded Costs; and (4) certain new facilities. Eastern Shore states that this filing, however, pertains only to the first category described above, Account No. 191 costs.

Eastern Shore further states that Section 38(a) of the CT & C permits Eastern Shore to direct bill a customer, in the case of a positive (debit) Account No. 191 balance, or refund a customer, in the case of a negative (credit) Account No 191 balance, that customer's share of the total unrecovered costs contained in Eastern Shore's Account No. 191. The portion of unrecovered costs that relate to demand shall be allocated on the basis of each particular customer's contract demand quantity under Eastern Shore's former CD–1 or CD–E rate schedule in effect on October 31, 1997, the day prior to the implementation of open access on Eastern Shore's system. The portion of unrecovered costs that relate to commodity shall be allocated on the basis of each particular customer's commodity purchases under Eastern Shore's former CD–1 or CD–E rate schedules for the period November 1, 1996 through October 31, 1997, the twelve immediately preceding the implementation of open access on Eastern Shore's system.

Finally, Eastern Shore states that it intends to distribute refunds or direct bill surcharges on September 1, 1998, and has calculated the appropriate carrying charges through such date.

Eastern Shore states that copies of the filing have been served upon its affected customers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.214 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before July 14, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18803 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–287–020]

El Paso Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

July 9, 1998.

Take notice that on July 1, 1998, El Paso Natural Gas Company (El Paso) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1–A, the following tariff sheets, to become effective July 1, 1998:

Seventeenth Revised Sheet No. 30
Ninth Revised Sheet No. 31

El Paso states that the above tariff sheets are being filed to implement four negotiated rate contracts pursuant to the Commission's Statement of Policy on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines and Regulation of Negotiated Transportation Services of Natural Gas Pipelines issued January 31, 1996 at

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Docket Nos. RM95–6–000 and RM–96–7–000.

Any person desiring to be protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,
Acting Secretary.

[FR Doc. 98–18799 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–310–006]

Garden Banks Gas Pipeline, LLC; Notice of Proposed Changes in FERC Gas Tariff

July 9, 1998.

Take notice that on July 1, 1998, Garden Banks Gas Pipeline, LLC (GBGP) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Sub. Third Revised Sheet No. 136, proposed to be effective June 30, 1998.

GBGP states the purpose of the filing is to correctly state the GIGP standards that were adopted by reference on its filing made June 2, 1998 in Docket No. RP97–310–005.

Any person desiring protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,
Acting Secretary.

[FR Doc. 98–18784 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP91–143–046]

Great Lakes Gas Transmission Limited Partnership; Notice of Interest Plan

July 9, 1998.

Take notice that on July 2, 1998, Great Lakes Gas Transmission Limited Partnership (Great Lakes) tendered for filing with the Commission a proposed Interest Plan to be applicable to Past Period refunds and charges amounts established in Great Lakes' rate proceeding in Docket No. RP91–143 et al., and approved under prior Commission orders.

Great Lakes states that the filing of the Interest Plan is made pursuant to the Commission's order issued on June 29, 1998 in Docket No. RP91–143–045 and the U.S. Court of Appeals (DC Circuit) decision issued January 16, 1998, in *Southeastern Michigan Gas* v. *FERC*, 133 F. 3d 34 (1998) reh'g denied (May 21, 1998), wherein Great Lakes was directed to determine interest on refunds and charges for the entire period that incremental rates were in effect.

Any person desiring to file comments with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, should file their comments on or before July 17, 1998. The comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,
Acting Secretary.

[FR Doc. 98–18796 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT98–76–000]

Kentucky West Virginia Gas Company L.L.C.; Notice of Proposed Changes in FERC Gas Tariff

July 9, 1998.

Take notice that on June 30, 1998, as corrected on July 2, 1998, Kentucky West Virginia Gas Company, L.L.C. (Kentucky West), tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheet, to become effective July 1, 1998.

Fourth Revised Sheet No. 320

Kentucky West states that this filing is made to update Kentucky West's index of customers. In Order No. 581 the Commission established a revised format for the Index of Customers to be included in the tariffs of interstate pipelines and required the pipelines to update the index on a quarterly basis to reflect changes in contract activity. Kentucky West requests a waiver of the Commission's notice requirements to permit the tariff sheet to take effect on July 1, 1998, the first calendar quarter, in accordance with Order No. 581.

Kentucky West States that a copy of its filing has been served upon its customers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,
Acting Secretary.

[FR Doc. 98–18789 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–273–000]

Kentucky West Virginia Gas Company L.L.C.; Notice of Proposed Changes in FERC Gas Tariff

July 9, 1998.

Take notice that on June 30, 1998, as corrected on July 2, 1998, Kentucky West Virginia Gas Company, L.L.C. (Kentucky West) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets to become effective August 1, 1998:

Fourth Revised Sheets No. 173
Original Sheets No. 174
Sheets Nos. 175–202

Kentucky West states that the purpose of this filing is to comply with the Commission's Order No. 587–G issued on April 16, 1998 in Docket No. RM96–1–007 adopting new, revised and interpretation of the standards promulgated by the Gas Industry Standards Board (GISB). These standards require interstate natural gas pipelines to follow certain new and revised business practice procedures. The Commission directed pipelines to make a filing to change all references to GISB standards in their tariffs to Version 1.2 by August 1, 1998. This version number applies to all standards contained in GISB's Version 1.2 Standards Manuals, including standards that have not changed from the previous versions. In compliance, Kentucky West filed to adopt Version 1.2 in Section 38 of its General Terms and Conditions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,
Acting Secretary.

[FR Doc. 98–18802 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–2–53–002]

KN Interstate Gas Transmission Co.; Notice of Revised Tariff Filing

July 9, 1998.

Take notice that on July 1, 1998, KN Interstate Gas Transmission Co. (KNI) tendered for filing as part of its FERC Gas Tariff, the following revised tariff sheets, proposed to be effective August 1, 1998:

Third Revised Volume No. 1–A

2nd Rev First Revised Sheet No. 4–E
2nd Rev First Revised Sheet No. 4–F

First Revised Volume No. 1–C

2nd Rev Substitute Ninth Revised Sheet No. 4

KNI states that this filing revises the fuel and loss percentage rates previously filed on June 1, 1998 in this proceeding, and sets forth a system-wide fuel and loss reimbursement percentage, rather than the zonal fuel and loss percentage previously filed. KNI states that, pursuant to the suspension order in its general rate proceeding in Docket No. RP98–117, it will be implementing a system-wide fuel rate effective August 1, 1998.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,
Acting Secretary.

[FR Doc. 98–18810 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–639–000]

Midwestern Gas Transmission Company; Notice of Request Under Blanket Authorization

July 9, 1998.

Take notice that on June 26, 1998, Midwestern Gas Transmission Company (Midwestern), P.O. Box 2511, Houston, Texas 77252–2511, filed in Docket No. CP98–639–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to operate an existing delivery point facility that was initially constructed under Section 311(a) of the Natural Gas Policy Act of 1978 (NGPA), under Midwestern's blanket certificate issued in Docket No. CP82–414–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

The proposal states that Midwestern has recently constructed a delivery point (Purdue Farm Delivery Point) under Section 311(a) of the NGPA for use in the transportation of natural gas under Subpart B of Part 284 of the Commission's regulations. Granting this requested authorization will enable Midwestern to fully utilize the facility for all transportation services, pursuant to Section 311 of the NGPA and Section 7 of the NGA and will increase the transportation options of customers on Midwestern's system.

Midwestern states that the proposed activity is not prohibited by its existing tariff and that it has sufficient capacity to accomplish the changes without detriment or disadvantage to other customers. There will not be an effect on Midwestern's peak day and annual deliveries and the total volumes deliveries will not exceed total volumes authorized prior to this request.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedures Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,
Acting Secretary.

[FR Doc. 98–18785 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–340–000]

Mississippi River Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

July 9, 1998.

Take notice that on July 2, 1998, Mississippi River Transmission Corporation (MRT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following revised tariff sheet to be effective August 1, 1998:

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Fifth Revised Sheet No. 80

In compliance with the Commission's April 16, 1998 Order No. 587–G in Docket No. RM96–1–007, MRT submits the referenced tariff sheet to incorporate by reference GISB Standards Version 1.2.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18805 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–648–000]

National Fuel Gas Supply Corporation; Notice of Application

July 9, 1998.

Take notice that on July 1, 1998, National Fuel Gas Supply Corporation (National Fuel), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP98–648–000, an application pursuant to Section 7(c) of the Natural Gas Act and Part 157 of the Federal Energy Regulatory Commission's (Commission) regulations for a certificate of public convenience and necessity authorizing National Fuel to revise the storage field boundary for its Zoar Storage Field (Zoar) in Erie and Cattaraugus County, New York, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

National Fuel requests Commission authorization to extend Zoar's storage boundary in the areas northeast and southwest of the field to include an additional 4,127 acres and 772 acres, respectively, exclusive of the buffer zone. The proposed, revised storage area will be protected by a 1,000 foot buffer zone. National Fuel states that it has acquired and/or obtained operating rights with regard to each of the wells found to be in communication with Zoar in the proposed expanded storage area to the northeast of the existing storage area.

Any person desiring to participate in the hearing process or to make any protest with reference to said application should on or before July 30, 1998 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. The Commission's rules require that protestors provide copies of their protests to the party or person to whom the protests are directed. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents issued by the Commission, filed by the applicant, or filed by all other intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must submit copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as filing an original and 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of such comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek rehearing or appeal the Commission's final order to a Federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for National Fuel to appear or be represented at the hearing.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18788 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–446–003]

Nautilus Pipeline Company, LLC; Notice of Proposed Changes in FERC Gas Tariff

July 9, 1998.

Take notice that on July 1, 1998, Nautilus Pipeline Company, LLC (Nautilus) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Substitute First Revised Sheet No. 216, proposed to be effective June 30, 1998.

Nautilus states the purpose of this filing is to correctly state the Gas Industry Standards Board (GISB) standards that were adopted by reference on its filing made June 3, 1998 in Docket No. RP97–446–002.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18801 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–339–000]

NorAm Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

July 9, 1998.

Take notice that on July 2, 1998, NorAm Gas Transmission Company (NGT) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following revised tariff sheet to be effective August 1, 1998:

Fourth Revised Sheet No. 306

In compliance with the Commission's April 16, 1998 Order No. 587–G in Docket No. RM96–1–007, NGT submits the referenced tariff sheet to incorporate by reference GISB Standards Version 1.2.

NGT states that copies of the filing have been served to each of NGT's customers and interested state commissions.

Any persons desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18804 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–347–013]

Northern Natural Gas Company; Notice of Filing

July 9, 1998.

Take notice that on July 12, 1998, pursuant to the Carlton Settlement filed in Docket No. RP96–347 and its FERC Gas Tariff, Northern Natural Gas (Northern) has filed various schedules detailing the Carlton surcharge dollars reimbursed to the appropriate parties.

Northern states that copies of the filing were served upon Northern's customers and interested State Commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before July 16, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18797 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–341–000]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

July 9, 1998.

Take notice that on July 2, 1998, Northern Natural Gas Company (Northern), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, proposed to be effective August 2. 1998:

Fourth Revised Sheet No. 201
First Revised Sheet No. 304
First Revised Sheet No. 305

Northern states that the above-referenced tariff sheets amend the General Terms and Conditions of Northern's Tariff to allow Northern to acquire and hold interruptible contractual rights on other pipelines for transportation and storage capacity for operational support.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18806 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11574–000–CT]

City of Norwich, Department of Public Utilities; Notice of Site Visit to Project Area

July 9, 1998.

On July 24, 1998, the Federal Energy Regulatory Commission staff will visit the Occum Hydro Project, FERC No. 11574, located on the Shetucket in the City of Norwich, New London County, Connecticut.

The site visit is scheduled to begin at 9:00 a.m. at 16 South Golden Street in Norwich, Connecticut.

If you have any questions concerning this matter, please contact Mr. Ed Lee at (202) 219–2809 or Mr. Peter Polubiatko at (860) 887–2555.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18795 Filed 7–10–98; 8:45 am]

BILLING CODE 6717–01–M

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–3615–000]

Rochester Gas and Electric Corporation; Notice of Filing

July 9, 1998.

Take notice that on June 29, 1998, Rochester Gas and Electric Corporation (RG&E), tendered for filing a Market Based Service Agreement between RG&E and Ontario Hydro (Customer). This Service Agreement specifies that the Customer has agreed to the rates, terms and conditions of RG&E's FERC Electric Rate Schedule, Original Volume No. 3 (Power Sales Tariff).

RG&E requests waiver of the Commission's sixty (60) day notice requirements and an effective date of June 1, 1998, for an Ontario Hydro Service Agreement.

RG&E has served copies of the filing on the New York State Public Service Commission and on the Customer.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions and protests should be filed on or before July 17, 1998. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18781 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–138–007]

Shell Gas Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

July 9, 1998.

Take notice that on July 1, 1998 Shell Gas Pipeline Company (SGPC) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Sub. Third Revised Sheet No. 137, proposed to be effective June 30, 1998.

SGPC states the purpose of the filing is to correctly state the GISB standards that were incorporated by reference on its filing made June 2, 1998 in Docket No. RP97–138–006.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE. Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18798 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–643–000]

Tennessee Gas Pipeline Company; Notice of Request Under Blanket Authorization

July 9, 1998.

Take notice that on June 30, 1998, Tennessee Gas Pipeline Company (Tennessee), Post Office Box 2511, Houston, Texas 77252–2511, filed in Docket No. CP98–643–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to install a delivery point to provide transportation service to Edinburg Energy Limited Partnership (Edinburg), an independent electric power producer. Tennessee makes such request under its blanket certificate issued in Docket No. CP82–413–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Tennessee proposes to install a delivery point at approximately Mile Post 409A–101+5 on Tennessee's 24-inch South Texas Donna Line in Hidalgo County, Texas to provide transportation service on a released capacity basis of up to a proposed maximum of 200,000 dekatherms per day to Edinburg. Tennessee states it will install a 12-inch hot tap, electronic gas measurement (EMG), communications equipment, chromatograph, and approximately 40-feet of interconnecting pipe to the edge of Tennessee's right-of-way. It is further states that Tennessee will inspect Edinburg's installation of interconnecting pipe from the edge of Tennessee's right-of-way to the meter station, flow control equipment, separator with containment, and measurement facilities.

Tennessee indicates that the installation will take place within the meter station site provided by Edinburg, and that Edinburg will own, operate and maintain the interconnecting pipe from the edge of Tennessee's right-of-way to the meter station, separator with containment, and will own and maintain the flow control equipment and measurement facilities. It is states that Edinburg will provide any necessary site preparations, additional utility services, and an all-weather access road.

Tennessee states that it will own, operate and maintain the 12-inch hot tap, EMG, communications equipment, chromatograph and interconnecting pipe to the edge of Tennessee's right-of-way, and will operate the flow control equipment and measurement facilities.

It is averred that the total quantities to be delivered to Edinburg after the delivery point is installed will not exceed the total quantities authorized prior to this request. Tennessee asserts that the proposed modification is not probated by its tariff, and that it has sufficient capacity to accomplish deliveries at the delivery point without detriment or disadvantage to Tennessee's other customers.

Tennessee estimates the project cost to be approximately $220,900 stating that Edinburg has agreed to reimburse Tennessee's cost.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18786 Filed 7–14–98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–644–000]

Tennessee Gas Pipeline Company; Notice of Application

July 9, 1998.

Take notice that on June 30, 1998, Tennessee Gas Pipeline Company (Tennessee), PO Box 2511, Houston, Texas 77252–2511, filed in Docket No. CP98–644–000 an application pursuant to Section 7(b) of the Natural Gas Act for authorization to abandon minor metering facilities in Lamar County, Alabama, all as more fully set forth in the application on file with the Commission and open to public inspection.

Tennessee proposes to abandon facilities associated with Meter No. 1–2069, which were installed in 1990 under the authorization of Section 311 of the Natural Gas Policy Act and subsequently converted to Section 7(c) authorization. Specifically, Tennessee proposes to abandon by removal the check valve, riser and interconnecting pipe and to abandon the tap in place. Tennessee states that the facilities were installed for deliveries to Bishop Pipeline Company, which no longer receives gas at this point and has removed its meter. It is stated that the facilities are no longer used and that no customers would lose service as a result of the abandonment.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 30, 1998, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Tennessee to appear or be represented at the hearing.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18787 Filed 7–14–98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–344–010]

Texas Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

July 9, 1998.

Take notice that on July 1, 1998, Texas Gas Transmission Corporation (Texas Gas) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, Substitute Tenth Revised Sheet No. 13, with an effective date of June 1, 1998.

Texas Gas states that this filing is being made to correct a typographical error on Tenth Revised Sheet No. 13 which presents the FSS injection/withdrawal commodity maximum daily rate as $0.00114 rather than the correct rate of $0.0114 as shown in the minimum rate column. Texas Gas has discussed this error with the only customer currently using service under this rate schedule, and the customer agrees that the corrected rate, which is equal to the minimum rate, will be billed for June 1998 service. Therefore, Texas Gas is filing Substitute Tenth Revised Sheet No. 13 to correct the referenced rate effective June 1, 1998.

Texas Gas states that a copy of the revised tariff sheet is being mailed to Texas Gas's jurisdictional customers and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18800 Filed 7–14–98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–344–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

July 9, 1998.

Take notice on July 2, 1998, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing certain revised tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1, which tariff sheets are enumerated in the filing. The proposed effective date for the tariff sheets is August 1, 1998.

Transco states that the purpose of the instant filing is to comply with the Commission's Order No. 587–G issued April 16, 1998 in Docket No. RM96–1–007 (the Order). The Order incorporates by reference Version 1.2 of the Gas Industry Standards Board (GISB) standards and adopts regulations for electronic communication.

Transco is serving copies of the instant filing to customers. State Commissions and other interested parties.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to

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be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18809 Filed 7–14–98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–12–29–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

July 9, 1998.

Take notice that on July 2, 1998 Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing certain revised tariff sheets to Third Revised Volume No. 1 of its FERC Gas Tariff. Transco states that Appendix A attached to the filing contains the enumeration and effective dates of the revised tariff sheets.

Transco states that the purpose of the instant filing is to track rate changes attributable to transportation service purchased from Texas Gas Transmission Corporation (Texas Gas) under its Rate Schedule FT the costs of which are included in the rates and charges payable under Transco's Rate Schedule FT–NT. The filing is being made pursuant to tracking provisions under Section 4 of Transco's Rate Schedule FT–NT.

Included in Appendix B attached to the filing is the explanation of the rate changes and details regarding the computation of the revised Rate Schedule FT–NT rates.

Transco states that copies of the filing are being mailed to each of its FT–NT customers and interested State Commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18811 Filed 7–14–98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT98–79–000]

Williston Basin Interstate Pipeline Company; Notice of Filing

July 9, 1998.

Take notice that on July 1, 1998, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets to become effective July 1, 1998:

Ninth Revised Sheet No. 775
Thirteenth Revised Sheet No. 776
Fifteenth Revised Sheet No. 777
Fourthteenth Revised Sheet No. 825
Twelfth Revised Sheet No. 826
Seventeenth Revised Sheet No. 827
Twelfth Revised Sheet No. 828
Nineteenth Revised Sheet No. 829
Eighteenth Revised Sheet No. 830
Twenty-fourth Revised Sheet No. 831
Twenty-fourth Revised Sheet No. 833

Williston Basin states that the revised tariff sheets are being filed simply to update and clarify its Master Receipt/Delivery Point List.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18790 Filed 7–14–98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Amendment of License

July 8, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment to License.

b. *Project No.:* 2131–015.

c. *Date Filed:* June 18, 1998.

d. *Applicant:* Wisconsin Electric Power Company.

e. *Name of Project:* Kingsford Project.

f. *Location:* The project is located on the Menominee River in Dickinson County, Michigan and Florence County, Wisconsin.

g. *Filed Pursuant to:* 18 CFR 4.200.

h. *Applicant Contact:* Ms. Rita L. Hayen, Wisconsin Electric Power Company, 231 W. Michigan, P.O. Box 2046, Milwaukee, WI 53201–2046, (414) 221–2345.

i. *FERC Contact:* Steve Hocking, (202) 219–2656.

j. *Comment Date:* August 13, 1998.

k. *Description of Amendment:* Wisconsin Electric Power Company (Wisconsin Electric) filed an application to amend its license for the Kingsford Hydroelectric Project. Wisconsin Electric proposes to remove a 220-acre parcel of land from the Kingsford project boundary. This 220-acre parcel would become part of a larger Florence County Planned Development Unit. Removing the parcel would satisfy, in part, a settlement agreement among Wisconsin Electric, Wisconsin Department of Natural Resources, Michigan Department of Natural Resources, U.S. Fish and Wildlife Service, National Park Service, River Alliance of Wisconsin and Michigan Hydro Relicensing Coalition. The parcel of land is located south of U.S. Highway 2 bordering the Menominee River in sections 11 and 14 of Township 39 North, Range 19 East, Florence County, Wisconsin.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,
Acting Secretary.

[FR Doc. 98–18783 Filed 7–14–98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Tendered for Filing With the Commission

July 9, 1998.

Take notice that the following hydroelectric application has been filed With the Commission and is available for public inspection:

a. *Type of Application:* Minor License.

b. *Project No.:* 2161–006.

c. *Date Filed:* June 26, 1998.

d. *Applicant:* Rhinelander Paper Company.

e. *Name of Project:* Rhinelander Hydroelectric Project.

f. *Location:* On the Wisconsin River in the Town of Rhinelander, Oneida County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Bruce Olson, Rhinelander Paper Company, 515 West Davenport Street, Rhinelander, Wisconsin 54501, (715) 369–4244.

i. *FERC Contact:* Chris Metcalf (202) 219–2810.

j. *Comment Date:* 60 days from the filing date shown in paragraph (c).

k. *Description of Project:* The existing, operating project consists of: (1) an 180-foot-long earth dam with a concrete section containing two waste gates; (2) a 3,576-acre reservoir with normal water surface elevation 15555.33 feet msl; (3) an intake structure containing 14 gates; (4) a 965-foot-long and 60-foot-wide intake canal; (5) a 36-foot-wide Tainter gate spillway adjacent to the intake canal; (6) a brick powerhouse containing two 560-kW and one 1,000-kW generating units; (7) transmission line connections; and (8) appurtenant facilities.

l. With this notice, we are initiating consultation with the *WICSONSIN STATE HISTORIC PRESERVATION OFFICER (SHPO)*, as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

m. Pursuant to Section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the filing date and serve a copy of the request on the applicant.

David P. Boergers,
Acting Secretary.

[FR Doc. 98–18792 Filed 7–14–98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Tendered for Filing with the Commission

July 9, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Major License.

b. *Project No.:* 2192–008.

c. *Date Filed:* June 26, 1998.

d. *Applicant:* Consolidated Water Power Company.

e. *Name of Project:* Biron Hydroelectric Project.

f. *Location:* On the Wisconsin River in the Village of Biron, Wood and Portage Counties, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Kenneth K. Knapp, Consolidated Water Power Company, P.O. Box 8050, Wisconsin Rapids, WI 54495, (715) 422–3073.

i. *FERC Contact:* Chris Metcalf (202) 219–2810.

j. *Comment Date:* 60 days from the filing date shown in paragraph (c).

k. *Description of Project:* The existing, operating project consists of: (1) a 2,533-foot-long, 34-foot-high concrete gravity dam with intake section, three spillway sections, and 22 Tainter gates; (2) a concrete seawall and earth embankments along the banks of the reservoir; (3) a 2,078-acre reservoir at water surface elevation 1035.3 feet National Geodetic Vertical Datum; (4) a powerhouse, integral with the dam, containing two 1,450-kW generators and an industrial building with one 400-kW generator; (5) generator leads; and appurtenant electrical facilities necessary to interconnect with transmission system.

l. With this notice, we are initiating consultation with the *WISCONSIN STATE HISTORIC PRESERVATION OFFICER (SHPO)*, as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

m. Pursuant to Section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the filing date and serve a copy of the request on the applicant.

David P. Boergers,
Acting Secretary.

[FR Doc. 98–18793 Filed 7–14–98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulation Commission

Notice of Application Ready for Environmental Analysis

July 9, 1998.

Take notice that the following hydroelectric application has been filed

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with the Commission and is available for public inspection:

a. *Type of Application:* Minor License.

b. *Project No.:* 2487–006.

c. *Date filed:* December 10, 1997.

d. *Applicant:* John M. Skorupski.

e. *Name of Project:* Hoosick Falls Hydroelectric Project.

f. *Location:* On the Hoosic River in Rensselaer County, New York.

g. *Filed pursuant to:* Federal Power Act, 16 USC 791(a)–825(r).

h. *Applicant Contact:*

John M. Skorupski, 71 River Road, Hoosick Falls, New York, (518) 686–0062

Douglas C. Clark, Clark Engineering & Surveying, P.C., 658 Route 20, P.O. Box 730, New Lebanon, NY 12125, (518) 794–8613

i. *FERC Contact:* John Costello at (202) 219–2914.

j. *Deadline Date:* See standard paragraph D10.

k. *Status of Environmental Analysis:* This application has been accepted for filing and is ready for environmental analysis at this time.

l. *Description of Project:* The proposed project would consist of: (1) an existing 16-foot-high and 14.5-foot-long dam; (2) an existing 16-acre reservoir; (3) a powerhouse containing two generating units for a total installed capacity of 830 KW; (4) a 500-foot-long transmission line; and (5) appurtenant facilities. The applicant estimates that the total average annual generation would be 3,700 MWh, for the project.

m. *Purpose of Project:* Project power would be provided to Niagara Mohawk Power Corporation; who would either use the power or utilize it for sale to their customers.

n. *This notice also consists of the following standard paragraphs:* A4 and D10.

o. *Available Locations of Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 First Street, NE, Washington, DC 20426 or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Clark Engineering & Surveying, P.C., 658 Route 20, New Lebanon, New York, 12125 or by calling (518) 794–8613.

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

D10. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to Section 4.34(b) of the Regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. All reply comments must be filed with the Commission within 105 days from the date of this notice.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "COMMENTS", "REPLY COMMENTS," "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b).

Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commisson in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18794 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Tendered for Filing With the Commission

July 9, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Minor License.

b. *Project No.:* 2110–003.

c. *Date Filed:* June 26, 1998.

d. *Applicant:* Consolidated Water Power Company.

e. *Name of Project:* Stevens Point Hydroelectric Project.

f. *Location:* On the Wisconsin River in the Town of Stevens Point, Portage County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contract:* Kenneth K. Knapp, Consolidated Water Power Company, P.O. Box 8050, Wisconsin Rapids, Wisconsin 54495, (715) 422–3073.

i. *FERC Contact:* Chris Metcalf (202) 219–2810.

j. *Comment Date:* 60 days from the filing date shown in paragraph (c).

k. *Description of Project:* The existing, operating project consists of: (1) a 28-foot-high and 1,390-foot-long concrete gravity dam composed of a powerhouse section, a spillway section with fifteen Tainter gates, and dikes at the ends of the dam; (2) a 3,915-acre reservoir at water surface elevation 1,087.4 feet National Geodetic Vertical Datum (NGVD); (3) a 2,000-foot-long concrete uncontrolled overflow spillway located about 1¼ mile upstream of the dam having crest elevation at 1,088.6 feet NGVD; (4) a powerhouse with six generating units each rated at 640–kW; (5) generator leads; and (6) appurtenant electrical facilities necessary to interconnect with transmission system.

l. With this notice, we are initiating consultation with the *Wisconsin State Historic Preservation Officer (SHPO)*, as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

m. Pursuant to Section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the filing date and serve a copy of the request on the applicant.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18813 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP97–346–000, TM97–3–24–000, and RP98–123–000]

Equitrans, L.P.; Notice of Informal Settlement Conference

July 9, 1998.

Take notice that an informal settlement conference will be convened in this proceeding on Wednesday, July 15, 1998, at 10:00 a.m., and will continue on Thursday, July 16, 1998, at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC, 20426, for the purpose of reviewing the draft settlement documents in the above-referenced dockets.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact Irene E. Szopo at (202) 208–1602 or Robert A. Young at (202) 208–5705.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18812 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–309–000]

Great Lakes Gas Transmission Company; Notice of Technical Conference

July 9, 1998.

On July 16, 1998, the staff of the Office of Pipeline Regulation (OPR) will conduct a technical conference with representatives of the Great Lakes Gas Transmission Company and Entrix, OPR's third party contractor for the Great Lakes 300 Expansion Project Environmental Impact Statement (EIS). The purpose of the conference is to discuss the proposed schedule for the EIS and the timing for providing environmental information required for completion of the EIS.

The conference will be held at the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

Although all interested parties may attend, only issues pertaining to the scheduling of environmental information needed to complete the EIS will be discussed.

For further information, please contact Paul McKee at (202) 208–1088.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18782 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–342–000]

Panhandle Eastern Pipe Line; Notice of Reconciliation Report

July 9, 1998.

Take notice that on July 2, 1998, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing its final reconciliation report in accordance with Commission's letter orders issued December 24, 1997 in Docket No. RP98–75–000 and May 29, 1998 in Docket No. RP98–211–000. The Commission's letter orders required the filing of a reconciliation report as soon as practicable following the suspension of the Miscellaneous Stranded Transportation Cost Reservation Surcharge.

Panhandle states that its filing of May 1, 1998, in Docket No. RP98–211–000 reduced the Miscellaneous Stranded Transportation Cost Reservation Surcharge applicable to firm transportation services provided under Rate Schedules FT, EFT and LFT and the Miscellaneous Stranded Transportation Cost Volumetric Surcharge applicable to service provided under Rate Schedule SCT for the Reconciliation Recovery Period effective June 1, 1998. Panhandle's May 1, 1998 filing was approved by Commission letter order issued May 20, 1998.

Panhandle states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before July 16, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18807 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6123–9]

Sole Source Aquifer Determination for the Cloverly Aquifer (Dakota and Lakota Sands)

Elk Mountain, Wyoming

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final determination.

SUMMARY: Pursuant to section 1424(e) of the Safe Drinking Water Act, the Regional Administrator in Region VIII of the U.S. Environmental Protection Agency (EPA) has determined that the Cloverly Aquifer, Dakota and Lakota Sands at Elk Mountain, Wyoming and the immediately adjacent recharge area is the sole or principal source of drinking water for a region. The region is located in south central Wyoming extending (in an irregular shape) from the Town of Elk Mountain 3 miles east, 7 miles west along the Interstate 80 corridor and 18 miles to the south. The entire area is within Carbon County, Wyoming. No viable alternative sources of drinking water with sufficient supply exist. If this aquifer is contaminated a significant hazard to public health could occur.

The boundaries of the designated area have been reviewed and approved by EPA. As a result of this action, Federal

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financially assisted projects constructed in the approximately 174 square mile area mentioned above will be subject to EPA review to ensure that these projects are designed and constructed in a manner which does not create a significant hazard to public health. For the purposes of this designation the Aquifer Service Area and the Project Review Area are the same as the Designated Area.

EFFECTIVE DATE: This determination shall be promulgated for purposes of judicial review at 1:00 p.m. Mountain Daylight time on July 15, 1998.

ADDRESSEES: The data upon which these findings are based and a map of the designated area are available to the public and may be inspected during normal business hours at the U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, CO 80202–2405.

FOR FURTHER INFORMATION CONTACT: William J. Monheiser, Sole Source Aquifer Coordinator, Ground Water Program, 8P2-W-GW, U.S. EPA Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2405, Phone: (303) 312–6271, e-mail: *monheiser.william@epamail.epa.gov.*

SUPPLEMENTARY INFORMATION: Notification is hereby given that, pursuant to section 1424(e) of the Safe Drinking Water Act, 42 U.S.C. 300f, 300h-3(e), Pub. L. 93–523 as amended, the Regional Administrator of the U.S. Environmental Protection Agency has determined that the Cloverly Aquifer is the sole or principal source of drinking water for the Elk Mountain area of south central Wyoming described above. Pursuant to section 1424(e), Federal financially assisted projects constructed anywhere in the Elk Mountain area described above will be subject to EPA review.

I. Background

Section 1424 (e) of the Safe Drinking Water Act states

> If the Administrator determines, on his own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health, he shall publish notice of that determination in the **Federal Register**. After the publication of any such notice, no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for Federal financial assistance may, if authorized under another provision of the law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer.

Effective March 9, 1987, authority to make a Sole Source Aquifer Designation Determination was delegated to the U.S. EPA Regional Administrators.

On August 18, 1997, a petition was received from the Town of Elk Mountain, P.O. Box 17, Elk Mountain, Wyoming, 82324, requesting EPA to designate the ground water resources of the Cloverly Aquifer, Dakota and Lakota Sands in the Elk Mountain area as a Sole Source Aquifer. In response to this petition, EPA published a notice of a public meeting held in the Town of Elk Mountain, Wyoming on February 17, 1998. This document was published in the Saratoga Sun and the Rawlins Daily Times. EPA also sent copies of the notice with descriptive information to all parties in the Elk Mountain area. This document announced receipt of the petition and requested public comment in writing or oral comments at the public meeting and for a 30-day comment period. Comments received by telephone were also accepted. The public comment period extended from February 2, 1998 to March 4, 1998.

Subsequently, EPA determined that the petition is both administratively and technically complete and adequate.

II. Basis for Determination

Among the factors considered by the Regional Administrator in connection with the designation of a Sole Source Aquifer under section 1424(e) are: (1) Whether the aquifer is the area's sole or principal source of drinking water and (2) whether contamination of the aquifer would create a significant hazard to public health.

On the basis of information available to this Agency, the Regional Administrator has made the following findings, which are the basis for the determination noted above:

1. The Cloverly Aquifer (Dakota and Lakota sands) serves as the "sole source" of drinking water for approximately 186 permanent residents within the Town of Elk Mountain. There is no existing alternative drinking water source or combination of sources which could provide fifty percent or more of the drinking water to the designated area, nor is there any projected future alternative source capable of supplying the area's drinking water needs at an economical cost.

2. Although the Cloverly Formation underlies much of the State of Wyoming, in the Elk Mountain area the aquifer is of high quality, able to be used as a drinking water source with minimal treatment. This constitutes a resource unique to this area and if contaminated would create a significant hazard to public health. Potential sources of contamination include: (1) Petroleum, mineral exploration, and geophysical drilling, (2) direct impacts to the exposed outcrop of the Cloverly Formation from silvaculture and agriculture, (3) accidental spills along roadways, and (4) abandoned but unplugged petroleum, mineral and geophysical wells.

III. Description of the Petitioned Aquifer

The Town of Elk Mountain is located in the Pass Creek Basin of south central Wyoming along the northern flank of the Medicine Bow Mountains. Typically Pass Creek Basin strata are folded and faulted inward into a series of north plunging, asymmetrical anticlines less than 1 mile in width.

The Cloverly Aquifer consists of lower Cretaceous age sediments with a medium to fine grained clean Dakota sandstone and the clean conglomeritic Lakota Sandstone separated by Fuson Shale. The aquifer is confined and averages about 90 feet thick. Since the sediments have been extensively folded and faulted the target water producing zones are structurally controlled and vary from 2,380 to 2,780 feet below ground surface. Transmissivities are about 1100 gal/day/ft with an estimated porosity of .18, and a hydraulic gradient of .032 to the northwest along the axis of the regional anticlines.

IV. Information Utilized in Determination

The information utilized in this determination includes the petition from the Town of Elk Mountain, research of available literature, the results of investigative efforts conducted to date on the ground-water resources of the area, and written and verbal comments submitted by the public. These data are available to the public and may be inspected during normal business hours at EPA Region VIII, 999 18th Street, Denver, Colorado.

V. Project Review

EPA Region VIII will work with the Federal agencies that may in the future provide financial assistance to projects in the designated area. Interagency procedures will be developed in which EPA will be notified of proposed commitments by Federal agencies for projects which could contaminate the aquifer. EPA will evaluate such projects and, where necessary, conduct an in-depth review, including soliciting public comments where appropriate. Should EPA determine that a project may contaminate the aquifer so as to create a significant hazard to public health, no commitment for Federal assistance may be entered into. However, a commitment for Federal assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not contaminate the aquifer.

Although the project review process cannot be delegated to state or local agencies, the EPA will rely upon any existing or future state and local control mechanisms to the maximum extent possible in protecting the ground-water quality of the aquifer. Included in the review of any Federal financially assisted project will be coordination with local agencies. Their comments will be given full consideration, and the Federal review process will attempt to complement and support state and local groundwater quality protection mechanisms.

VI. Summary and Discussion of Public Comments

In response to the public notice and public meeting, a total of 42 oral and written comments were received. In general those who favor designation reside in the Town of Elk Mountain and are financially responsible for the drinking water system. Those opposed to designation are from the area outside of town and within the designated area. The majority of comments support the designation of the area as a sole or principal source of drinking water. In addition, a resolution supporting designation was adopted by the Town Council.

No data were presented during the public comment period regarding aquifer characteristics, the boundary delineation or potential errors of fact presented in the petition.

Dated: July 1, 1998

Jack W. McGraw,

Acting Regional Administrator, Region 8.

[FR Doc. 98–18865 Filed 7–14–98; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–66252; FRL 5797–2]

Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel certain pesticide registrations.

DATES: Unless a request is withdrawn by January 11, 1999, orders will be issued cancelling all of these registrations.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Office location for commercial courier, delivery telephone number and e-mail: Rm. 216, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5761; e-mail: hollins.james@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, provides that a pesticide registrant may, at any time, request that any of its pesticide registrations be cancelled. The Act further provides that EPA must publish a notice of receipt of any such request in the **Federal Register** before acting on the request.

II. Intent to Cancel

This Notice announces receipt by the Agency of requests to cancel some 28 pesticide products registered under section 3 or 24(c) of FIFRA. These registrations are listed in sequence by registration number (or company number and 24(c) number) in the following Table 1.

TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Product Name	Chemical Name
000352 WA–88–0009	Du Pont Vendex 50 WP Miticide	Hexakis(2-methyl-2-phenylpropyl)distannoxane
000655–00351	Prentox (R) Residual Spray Contains Propoxur	*o*-Isopropoxyphenyl methylcarbamate
000655–00641	Prentox Roach and Ant Killer with 1.0% Propoxur	*o*-Isopropoxyphenyl methylcarbamate
000655–00642	Prentox Roach and Ant Killer with 0.5% Propoxur	*o*-Isopropoxyphenyl methylcarbamate
001021–01005	Pyrocide Intermediate 6894	*o*-Isopropoxyphenyl methylcarbamate
		N-Octyl bicycloheptene dicarboximide
		(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
		Pyrethrins
001270–00094	Zep Roach and Ant Surface Spray	*o*-Isopropoxyphenyl methylcarbamate
004822–00055	Johnson End Bac Pressurized Disinfectant Spray	Ethanol
		Alkyl* dimethyl benzyl ammonium chloride *(60%C_{14}, 30%C_{16}, 5%C_{18}, 5%C_{12})
		Alkyl* dimethyl ethylbenzyl ammonium chloride *(50%C_{12}, 30%C_{14}, 17%C_{16}, 3%C_{18})
004822–00088	Glade Spray Disinfectant	Ethanol
		Alkyl* dimethyl benzyl ammonium chloride *(60%C_{14}, 30%C_{16}, 5%C_{18}, 5%C_{12})

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TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Product Name	Chemical Name
		Alkyl* dimethyl ethylbenzyl ammonium chloride *(50%C_{12}, 30%C_{14}, 17%C_{16}, 3%C_{18})
		Triethylene glycol
004822–00095	New Formula Raid Ant and Roach Killer	*o*-Isopropoxyphenyl methylcarbamate
		2,2-Dichlorovinyl dimethyl phosphate
004822–00100	Johnson Buggy Whip Residual Crawling Insect Killer	*o*-Isopropoxyphenyl methylcarbamate
004822–00101	Raid Wasp and Hornet Killer	*o*-Isopropoxyphenyl methylcarbamate
		(1-Cyclohexene-1,2-dicarboximido)methyl 2,2-dimethyl-3-(2-methylpropenyl)cycloprop
004822–00111	Raid Ant & Roach Killer	*o*-Isopropoxyphenyl methylcarbamate
		2,2-Dichlorovinyl dimethyl phosphate
004822–00329	Glade Disinfectant	Ethanol
004822–00333	Raid Wasp & Hornet Formula X	*o*-Isopropoxyphenyl methylcarbamate
		(1-Cyclohexene-1,2-dicarboximido)methyl 2,2-dimethyl-3-(2-methylpropenyl)cycloprop
005383–00060	Troysan 186	4,4-Dimethyloxazolidine
005905–00488	Agco Dipel 150 Dust	Bacillus thuringiensis *subsp. kurstaki*
009688–00063	Automatic Insect Fogger "D"	2-Methyl-4-oxo-3-(2-propenyl)-2-cyclopenten-1-yl *d-trans*-2,2-dimethyl-
		O,O-Diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate
010163 OR–77–0017	Imidan 50-WP Agricultural-Insecticide-Wettable Power	*N*-(Mercaptomethyl)phthalimide *S*-(*O,O*-dimethyl phosphorodithioate)
010163 OR–81–0096	Imidan 50-WP Agricultural Insecticide	*N*-(Mercaptomethyl)phthalimide *S*-(*O,O*-dimethyl phosphorodithioate)
010163 OR–91–0002	Imidan 50-WP Agricultural Insecticide	*N*-(Mercaptomethyl)phthalimide *S*-(*O,O*-dimethyl phosphorodithioate)
010163 OR–92–0008	Imidan 50-WP Agricultural Insecticide	*N*-(Mercaptomethyl)phthalimide *S*-(*O,O*-dimethyl phosphorodithioate)
010163 OR–96–0040	Prefar 6-E Herbicide	*S*-(*O,O*-Diisopropyl phosphorodithioate) ester of *N*-(2-mercaptoethyl)benzenesulfonamide
010370–00174	Roach and Cricket Bait	*o*-Isopropoxyphenyl methylcarbamate
011556–00062	Para-Ban Pressurized Spray	*o*-Isopropoxyphenyl methylcarbamate
036029–00008	This Is the Way Bait for Ground Squirrels (.52%)	Strychnine
047000–00081	CPI "RE-SID" Ant & Roach Spray	*o*-Isopropoxyphenyl methylcarbamate
		N-Octyl bicycloheptene dicarboximide
		(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
		Pyrethrins
049585–00019	Super K Gro-Rotenone Dust	Rotenone
		Cube Resins other than rotenone
068098 WA–94–0024	Mycoshield Brand of Agricultural Terramycin	Calcium oxytetracycline

Unless a request is withdrawn by the registrant within 180 days of publication of this notice, orders will be issued cancelling all of these registrations. Users of these pesticides or anyone else desiring the retention of a registration should contact the applicable registrant directly during this 180–day period. The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA Company Number.

TABLE 2. — REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company No.	Company Name and Address
000352	E. I. Du Pont De Nemours & Co., Inc., Barley Mill Plaza, Walker's Mill, Wilmington, DE 19880.
000655	Prentiss Inc., C.B. 2000, Floral Park, NY 11001.

TABLE 2. — REGISTRANTS REQUESTING VOLUNTARY CANCELLATION—Continued

EPA Company No.	Company Name and Address
001021	Mclaughlin Gormley King Co., 8810 Tenth Ave North, Minneapolis, MN 55427.
001270	ZEP Mfg. Co., Box 2015, Atlanta, GA 30301.
004822	S.C. Johnson & Son Inc., 1525 Howe Street, Racine, WI 53403.
005383	Lewis & Harrison, Agent For: Troy Chemical Corp., 122 C St NW, Ste 740, Washington, DC 20001.
005905	Helena Chemical Co., 6075 Poplar Ave, Suite 500, Memphis, TN 38119.
009688	Chemsico, Div of United Industries Corp., Box 15842, St Louis, MO 63114.
010163	Gowan Co., Box 5569, Yuma, AZ 85366.
010370	AgrEvo Environmental Health, 95 Chestnut Ridge Rd., Montvale, NJ 07645.
011556	Bayer Corp., Agriculture Division, Animal Health, Box 390, Shawnee Mission, KS 66201.
036029	Wilco Distributors, Inc., Box 291, Lompoc, CA 93438.
047000	Chem-Tech Ltd, Attn: James Melton, 4515 Fleur Dr. #303, Des Moines, IA 50321.
049585	Alljack, Division of United Industries Corp., Box 15842, St Louis, MO 63114.
068098	Mt Adams Orchard Corp., Box 1588, Yakima, WA 98907.

III. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to James A. Hollins, at the address given above, postmarked before January 11, 1999. This written withdrawal of the request for cancellation will apply only to the applicable 6(f)(1) request listed in this notice. If the product(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

IV. Provisions for Disposition of Existing Stocks

The effective date of cancellation will be the date of the cancellation order. The orders effecting these requested cancellations will generally permit a registrant to sell or distribute existing stocks for 1 year after the date the cancellation request was received. This policy is in accordance with the Agency's statement of policy as prescribed in **Federal Register** (56 FR 29362) June 26, 1991; [FRL 3846–4]. Exceptions to this general rule will be made if a product poses a risk concern, or is in noncompliance with reregistration requirements, or is subject to a data call-in. In all cases, product-specific disposition dates will be given in the cancellation orders.

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the affected product(s). Exceptions to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in Special Review actions, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: June 30, 1998.

Richard D. Schmitt,

Acting Director, Information Resources and Services Division, Office of Pesticide Programs.

[FR Doc. 98–18861 Filed 7–14–98; 8:45 am]

BILLING CODE 6560-50-F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6124–6]

Fresno Industrial Supply Inc. Superfund Site; Notice of Proposed Agreement for Payment Future Costs and Recovery of Past Response Costs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; Request for public comment.

SUMMARY: In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended by the Superfund Amendments and Reauthorization Act (SARA), notice is hereby given that a proposed CERCLA Section 122(h)(i) Agreement for Payment of Future Costs and Recovery of Past Response Costs (Agreement) associated with the Fresno Industrial Supply Inc Site (Site) was executed by EPA and the U.S. Department of Defense (DOD), including the following component agencies: the Department of the Army, the Department of the Navy, the Department of the Air Force and the Defense Logistics Agency. The proposed Agreement would resolve certain claims of EPA under section 107 of CERCLA, 42 U.S.C. 9607. The proposed Agreement would require DOD, including its component agencies, to pay to EPA $387,000 from fiscal year 1998 funds for future work to be conducted by EPA at the Site. The proposed Agreement also would require DOD, including its component agencies, to use best efforts to obtain specific

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appropriations from Congress to reimburse EPA $778,425 for past costs incurred by EPA at the Site.

For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the settlement. If requested prior to the expiration of this notice, EPA will provide an opportunity for a public meeting in the affected area. EPA's response to any comments received will be available for inspection at the U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

DATES: Comments must be submitted on or before August 14, 1998.

ADDRESSES: *Availability:* A copy of the proposed Agreement may be obtained from Danita Yocom, Assistant Regional Counsel (RC–3), 75 Hawthorne Street, San Francisco, California 94105. Comments should reference the Fresno Industrial Supply Inc., Superfund Site and EPA Docket No. 98–2, and should be addressed to Danita Yocom at the above address.

FOR FURTHER INFORMATION CONTACT: Danita Yocom, Office of Regional Counsel, U.S. EPA, Region IX, 75 Hawthorne Street, (RC–3), San Francisco, California 94105; E-mail: yocom.danita@epa.gov; Telephone: (415) 744–1347.

Dated: July 6, 1998.

Michael Feeley,

Deputy Director, Superfund Division, U.S. EPA, Region IX.

[FR Doc. 98–18864 Filed 7–14–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Statement of Policy Regarding the National Environmental Policy Act of 1969

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Proposed Statement of Policy.

SUMMARY: As part of the FDIC's systematic review of its regulations and written policies under section 303(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI Act), the FDIC is proposing to revise its Statement of Policy on the National Environment Policy Act of 1969 (NEPA). The original Statement of Policy, issued on March 31, 1980, describes the FDIC's responsibility and procedures with respect to the NEPA.

The revised Statement of Policy reflects the FDIC's experience in applying the current NEPA Statement of Policy, and primarily affects applications for deposit insurance for de novo institutions, establishment of a domestic branch, and relocation of a domestic branch or main office. Categorical exclusions are established for all other filings submitted to the FDIC pursuant to 12 CFR part 303. In extraordinary circumstances, however, the NEPA procedures may also impact categorically excluded filings. The revision also makes the Statement of Policy more concise and understandable.

DATES: Comments must be submitted on or before August 31, 1998.

ADDRESSES: Send written comments to Robert E. Feldman, Executive Secretary, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, D.C. 20429. Comments may be hand delivered to the guard station located at the rear of the 17th Street building, on F Street, on business days between 7:00 a.m. and 5:00 p.m. The FAX number is (202) 898–3838, and the Internet address is comments@fdic.gov. Comments may be inspected and photocopied at the FDIC Public Information Center, Room 100, 801 17th Street NW, Washington, D.C., between 9:00 a.m. and 4:30 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Marilyn Reddy, Review Examiner, Division of Supervision (202) 898–6772; A. Ann Johnson, Counsel, Legal Division (202) 898–3573; David Fisher, Counsel, Legal Division (202)–736–3103, Federal Deposit Insurance Corporation, Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION: The FDIC is conducting a systematic review of its regulations and written policies. Section 303(a) of the CDRI Act, 12 U.S.C. 4803(a), requires the FDIC to streamline and modify its regulations and written policies in order to improve efficiency, reduce unnecessary costs, and eliminate unwarranted constraints on credit availability. Section 303(a) also requires the FDIC to remove inconsistencies and outmoded and duplicative requirements from its regulations and written policies.

As part of this review, the FDIC has determined that its Statement of Policy on the NEPA should be revised. The NEPA sets forth a national policy to promote preservation of the environment. It requires, in part, that all agencies of the Federal Government include in every recommendation or report on major Federal actions significantly affecting the quality of the human environment a detailed statement that addresses the environmental impact of the proposal. The Council on Environmental Quality (CEQ) has adopted regulations that implement this requirement. 40 CFR part 1500.

The FDIC issued its current Statement of Policy in 1980 to provide guidance on the NEPA and its implementing regulations. The Statement of Policy provides that the FDIC will consider relevant environmental factors and make a threshold determination that a proposed action does or does not significantly affect the environment. The determination is required for applications for deposit insurance, to establish a branch, to merge, or to move an office. The current Statement of Policy also provides detailed information on the preparation of an environmental impact statement.

Consistent with the goals of the CDRI Act review, the FDIC is proposing modifications to the Statement of Policy that will enhance efficiency in implementing the NEPA requirements. Pursuant to the CEQ regulations (40 CFR 1507.3(b)), the proposed Statement of Policy establishes categorical exclusions for all filings made by depository institutions pursuant to 12 CFR part 303 with the exception of applications for deposit insurance for de novo institutions, and applications for establishment of a domestic branch or relocation of a domestic branch or main office. Absent extraordinary circumstances, filings subject to a categorical exclusion require no further NEPA action.

For those applications that are categorically excluded, the proposed Statement of Policy provides that the FDIC may request additional information from applicants if extraordinary circumstances indicate that a normally excluded action may have a significant environmental effect. For example, additional information may be requested where filings involve real property with endangered or threatened species, wetlands or floodplains, cultural or historic sites, or where construction is proposed.

The proposed Statement of Policy also describes the responsibilities of the applicant in submitting a part 303 filing and the FDIC in reviewing the filing. Before approving a filing that is not categorically excluded, the FDIC must prepare an environmental assessment (EA). The applicant is required to submit sufficient information for the FDIC to determine whether the application may affect the quality of the human environment.

If the EA prepared by the FDIC indicates that approval of the filing will not significantly affect the quality of the human environment, the NEPA process will conclude with a finding of no significant impact (FONSI) to document the FDIC's determination.

On the other hand, if the EA indicates that approval of the filing may significantly affect the quality of the human environment, the FDIC will prepare and circulate an environmental impact statement (EIS) in accordance with the CEQ regulations. Because cases that involve the preparation of an EIS are expected to be extremely rare, the proposed Statement of Policy no longer includes detailed information on the preparation of an EIS. Instead, the proposed Statement of Policy states that the FDIC will comply with the requirements of the CEQ regulations.

In addition, the proposed Statement of Policy provides for public involvement in the FDIC's NEPA compliance activities.

According to the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), the FDIC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. Although the proposed Statement of Policy does not create or change any collection of information, OMB has approved the information collections referenced in the proposed Statement of Policy as parts of a larger collection of information. OMB control numbers for the approved information collections specifically referenced in the proposed Statement of Policy are OMB control number 3064–0001, expiring on July 31, 2000, for applications dealing with deposit insurance, and OMB control number 3064–0070, expiring on November 30, 2000, for applications dealing with establishment of a branch, relocation of a main office, and relocation of a branch. Application requirements and procedures are located at 12 CFR part 303.

The Board of Directors of the FDIC hereby proposes the revised Statement of Policy on the National Environmental Policy Act, as set forth below.

Proposed Statement of Policy; National Environmental Policy Act; Procedures Relating to Filings Made With the FDIC

This Statement of Policy addresses the FDIC's compliance with the National Environmental Policy Act of 1969, 42 U.S.C. 4331, et seq. (NEPA), with respect to applications, notices, and requests (filings) submitted to the FDIC in accordance with governing regulations at 12 CFR part 303. The procedures in this Statement of Policy primarily affect applications for deposit insurance for de novo institutions, establishment of a domestic branch, and relocation of a domestic branch or main office. There may be extraordinary circumstances where these NEPA procedures also impact other filings submitted pursuant to part 303.

A. Responsibility of the FDIC

The NEPA sets forth a national policy to promote preservation of the environment. Section 102(2)(C) of the NEPA requires, in part, that all agencies of the Federal Government include in every recommendation or report on major Federal actions significantly affecting the quality of the human environment a detailed statement that addresses the environmental impact of the proposal. The Council on Environmental Quality (CEQ) has adopted regulations that implement section 102(2)(C) of the NEPA. 40 CFR part 1500.

The FDIC believes that its decisions on part 303 filings will rarely have a significant effect on the human environment. Nevertheless, it is the policy of the FDIC to evaluate fully its regulatory actions, as necessary, in accordance with the requirements of the NEPA. This Statement of Policy supplements, and shall be used by the FDIC in conjunction with, the CEQ regulations.

B. Background

NEPA and the implementing CEQ regulations require a Federal agency to prepare an "environmental impact statement" (EIS) to analyze the effects of, and discuss alternatives for, any proposed major Federal action (including approval of a filing) significantly affecting the quality of the human environment. Often, to determine whether an EIS must be prepared, an agency will prepare an "environmental assessment" (EA). The EA will result in either a finding that an EIS must be prepared, or a finding of no significant impact (FONSI).

C. Definitions

As used in this statement of policy:

- "Major Federal action" includes actions with effects that may be major and which are potentially subject to Federal control and responsibility.
- "Environmental impact statement" (EIS) means a detailed written statement as required by section 102(2)(C) of the NEPA which analyzes the environmental impact of the FDIC's approval of a filing.
- "Environmental assessment" (EA) means a concise document that sets forth sufficient information for the FDIC to determine whether to prepare an EIS.
- "Finding of no significant impact" (FONSI) means a determination that approval of the filing will not have a significant effect on the quality of the human environment and therefore no further NEPA analysis is required.
- "Categorical exclusion" means a category of filings that do not individually or cumulatively have a significant effect on the human environment, and which require no NEPA analysis.

D. Categorical Exclusions

The CEQ regulations require Federal agencies to develop categorical exclusions as part of the agencies' NEPA procedures. 40 CFR 1507.3(b)(2)(ii). Accordingly, the FDIC is establishing categorical exclusions for all filings made by depository institutions pursuant to part 303 with the exception of applications for:

(1) Deposit insurance for de novo institutions.

(2) Establishment of a domestic branch, or relocation of a domestic branch or main office.

All other part 303 filings are subject to categorical exclusions and, therefore, require no further NEPA action. Consistent with the CEQ regulations, however, the FDIC may request additional information from applicants if extraordinary circumstances indicate that a normally categorically excluded action may have a significant environmental effect. Such extraordinary circumstances may exist, for example, where filings involve real property where endangered or threatened species, wetlands or floodplains may be present, where the applicant's proposed activity impacts cultural or historic sites, or where construction is proposed.

E. FDIC Procedure

In reviewing a part 303 filing, the FDIC will determine whether the filing falls within the categorical exclusions established by this statement of policy. If the filing falls within the categorical exclusions, the FDIC will determine whether the proposal involves any extraordinary circumstances that require NEPA analysis. If necessary, the FDIC may request additional information from an applicant to aid in this determination.

1. Environmental Assessment

The FDIC must prepare an EA before approving a filing for (1) deposit insurance for a de novo institution, or (2) establishment of a domestic branch, or relocation of a domestic branch or main office. The applicant must provide sufficient information for the FDIC to determine whether the application may

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affect the quality of the human environment.

The applicant shall provide information on compliance with local zoning laws and regulations, and effects on traffic patterns (including, for example, adequacy of roads and parking places, increase or decrease of traffic hazards and congestion, and favorable impacts such as potential decrease in pollution or fuel consumption). The FDIC may request additional information, as warranted, on other matters. Based on its evaluation of this information, the FDIC will prepare the EA.

2. Finding of No Significant Impact

If the EA indicates that approval of the filing will not significantly affect the quality of the human environment, the NEPA process will conclude with a FONSI to document the FDIC's determination of no significant effect on the human environment.

3. Environmental Impact Statement

If the EA indicates that approval of the filing may significantly affect the quality of the human environment, the FDIC will prepare an EIS in accordance with the CEQ regulations.

F. Public Involvement

Pursuant to the CEQ regulations, the FDIC will make diligent efforts to involve the public in its NEPA compliance activities. In addition to the public notice requirements set forth in part 303, the FDIC will apprise the public of the availability of any environmental impact statements it prepares and will provide opportunity for public comment prior to the finalization of those documents.

G. Summary and Conclusion

Most of the filings made by depository institutions pursuant to part 303 will fall within the categorical exclusions established by this Statement of Policy. For those filings not falling within the categorical exclusions, or involving extraordinary circumstances, the FDIC will analyze relevant information with respect to environmental factors and incorporate it into the FDIC's environmental assessment. Filings that require the FDIC's preparation of an environmental impact statement are expected to be extremely rare. When those instances arise, the FDIC will comply with the requirements of the CEQ regulations regarding the preparation and processing of environmental impact statements.

H. Information Requests

Inquiries regarding specific filings and requests for documents and information should be directed to the appropriate regional director of the FDIC's Division of Supervision.

By order of the Board of Directors.

Dated at Washington, D.C., this 7th day of July, 1998.

Federal Deposit Insurance Corporation.

James LaPierre,

Deputy Executive Secretary.

[FR Doc. 98–18817 Filed 7–14–98; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

DATE & TIME: Tuesday, July 21, 1998 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 98–19038 Filed 7–13–98; 3:45 pm]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 203–011325–016

Title: Westbound Transpacific Stabilization Agreement

Parites:

A.P. Moller-Maersk Line
American President Lines, Ltd.
China Ocean Shipping Company, Inc.
Hapag-Lloyd Container Line GmbH
Kawasaki Kisen Kaisha, Ltd.
Mitsui O.S.K. Lines, Ltd.
Nippon Yusen Kaisha Line
Orient Overseas Container Line, Inc.
P&O Nedlloyd Limited
P&O Nedlloyd B.V.
Sea-Land Service, Inc.
Evergreen Marine Corporation, Ltd.
Hanjin Shipping Co., Ltd.
Hyundai Merchant Marine Co., Ltd.
Transpacific Westbound Rate Agreement

Synopsis: The proposed amendment (1) clarifies operating procedures regarding the adoption of policy or rate guidelines, (2) shifts the Agreement's communications functions and responsibilities to the Agreement's Secretariat and Managing Director, and (3) corrects the title of the Chief Executive Officer of the Agreement.

Agreement No.: 203–011479–005

Title: Serpac Service Agreement

Parties:

Compania Sudamericana de Varpores S.A.
Transportation Maritima Grancolombiana S.A.
Columbus Line

Synopis: The proposed modification revises the Agreement to include intermodal authority in both the U.S. and foreign portions of the geographic scope.

Agreement No.: 201–201020–002

Title: Jacksonville-Jaxport Refrigerated Services Terminal Lease Agreement

Parties:

Jacksonville Port Authority
Jaxport Refrigerated Services, Inc.

Synopsis: The proposed amendment amends the provision for wharfage and the Minimum Annual Guarantee. The amendment also includes a provision for a crane rental. The agreement continues to run through March 9, 2017.

Dated: July 9, 1998.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 98–18755 Filed 7–14–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 30, 1998.

A. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. *Thomas Sexton*, St. Paul, Minnesota; to acquire voting shares of Yellow Medicine Bancshares, Inc., Granite Falls, Minnesota, and thereby indirectly acquire voting shares of Yellow Medicine County Bank, Granite Falls, Minnesota.

Board of Governors of the Federal Reserve System, July 10, 1998.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 98–18867 Filed 7–14–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 30, 1998.

A. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. *Carolina First Corporation*, Greenville, South Carolina; to acquire Poinsett Bank, FSB, Travelers Rest, South Carolina, and thereby engage in operating a savings and loan association, pursuant to § 225.28(b)(4)(ii) of Regulation Y.

Board of Governors of the Federal Reserve System, July 10, 1998.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 98–18866 Filed 7–14–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:00 a.m., Monday, July 20, 1998.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551

STATUS: Closed

MATTERS TO BE CONSIDERED:

1. Proposed amendments to the Voluntary Guide to Conduct for Federal Reserve System Officials. (This item was originally announced for a closed meeting on June 22, 1998.)

3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

4. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.bog.frb.fed.us for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: July 10, 1998.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 98–18931 Filed 7–13–98; 10:34 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR–136]

Public Health Assessments Completed

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice announces those sites for which ATSDR has completed public health assessments during the period October 1997–March 1998. This list includes sites that are on or proposed for inclusion on the National Priorities List (NPL), and includes a site for which an assessment was prepared in response to a request from the public.

FOR FURTHER INFORMATION CONTACT: Robert C. Williams, P.E., DEE, Director, Division of Health Assessment and Consultation, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, NE., Mailstop E–32, Atlanta, Georgia 30333, telephone (404) 639–0610.

SUPPLEMENTARY INFORMATION: The most recent list of completed public health assessments was published in the **Federal Register** on March 11, 1998, [63 FR 11896]. This announcement is the responsibility of ATSDR under the regulation, Public Health Assessments and Health Effects Studies of Hazardous Substances Releases and Facilities [42 CFR Part 90]. This rule sets forth ATSDR's procedures for the conduct of public health assessments under section 104(i) of the Comprehensive Environmental Response, Compensation, and Liability Act (of 1980) (CERCLA), as amended by the Superfund Amendments and Reauthorization Act (of 1986) (SARA) [42 U.S.C. 9604(i)].

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Availability

The completed public health assessments and addenda are available for public inspection at the Division of Health Assessment and Consultation, Agency for Toxic Substances and Disease Registry, Building 33, Executive Park Drive, Atlanta, Georgia (not a mailing address), between 8 a.m. and 4:30 p.m., Monday through Friday except legal holidays. The completed public health assessments are also available by mail through the U.S. Department of Commerce, National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, or by telephone at (703) 487–4650. NTIS charges for copies of public health assessments and addenda. The NTIS order numbers are listed in parentheses following the site names.

Public Health Assessments Completed or Issued

Between October 1, 1997 and March 31, 1998 public health assessments were issued for the sites listed below:

NPL Sites

Alabama

USA Alabama Army Ammunition Plant—Childersburg—(PB98–118631)

Arizona

Williams Air Force Base—Mesa—(PB98–113236)

California

Sacramento Army Depot—Sacramento—(PB98–108939)
Sharpe Army Depot (aka Defense Distribution Depot, San Joaquin, California—Sharpe)—Lathrop—(PB98–137342)

Hawaii

Schofield Barracks—Wahiawa—(PB98–126196)

Indiana

Carter Lee Lumber Company—Indianapolis—(PB98–114739)

Maryland

Naval Surface Warfare Center Indian Head Division (NSWC–IHDIV)—Indian Head—(PB98–119167)

Massachusetts

Natick Laboratory Army Research—[aka U.S. Army Soldier System Command (SSCOM)—Natick]—Natick—(PB98–133630)

Michigan

Aircraft Components (Michigan Radiologic) (aka D & L Sales)—Benton Harbor—(PB98–113590)
H & K Sales (Michigan Radiologic) (aka D & L Sales)—Belding—(PB98–113590)
Organic Chemicals Incorporated—Grandville—(PB98–133622)

New York

Rosen Site (aka Rosen Brothers Site)—Cortland—(PB98–117930)

Washington

Fairchild Air Force Base (4 Areas)—Spokane—(PB98–118672)
Palermo Wellfield Groundwater Contamination—Tumwater—(PB98–116031)

West Virginia

Sharon Steel Corporation (aka Fairmont Coke Works)—Fairmont—(PB98–110901)

Non-NPL Petitioned Sites

U.S. Virgin Islands

Bovoni Dump—St. Thomas—(PB98–124332)

Dated: July 8, 1998.

Georgi Jones,

Director, Office of Policy and External Affairs, Agency for Toxic Substances and Disease Registry.

[FR Doc. 98–18767 Filed 7–14–98; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention (CDC)

Safety and Occupational Health Study Section: Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the Safety and Occupational Health Study Section, National Institute for Occupational Safety and Health (NIOSH), of the Department of Health and Human Services, has been renewed for a 2-year period beginning July 1, 1998, through June 30, 2000.

For further information, contact Pervis C. Major, Ph.D., Scientific Review Administrator, Office of Extramural Coordination and Special Projects, Office of the Director, NIOSH, 1095 Willowdale Road, Morgantown, West Virginia 26505. Telephone 304/285–5979.

Dated: July 8, 1998.

Carolyn J. Russell

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–18825 Filed 7–14–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Announcement 98082]

National Minority Organizations Strategies for the Prevention and Control of Diabetes, The National Diabetes Education Program; Notice of Availability of Fiscal Year 1998 Funds

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of funds for fiscal year (FY) 1998 for the award of cooperative agreements to national minority organizations (NMOs) for National Diabetes Education Program (NDEP) activities related to the prevention and control of diabetes within special populations groups disproportionately burdened by this chronic disease (i.e. Black or African-American, Hispanic or Latinos, Asian, Native Hawaiian or Other Pacific Islanders, and American Indian or Alaska Native). These awards will assist NMOs to reach their targeted populations with culturally and linguistically appropriate NDEP prevention and control messages through community-based intervention approaches and delivery channels.

CDC is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a national activity to reduce morbidity and mortality and to improve the quality of life. This announcement is related to the priority area of Diabetes and Chronic Disabling Conditions. (To order a copy of Healthy People 2000, see the section "Where To Obtain Additional Information".)

Authority

This program is authorized under Sections 301(a) and 317(k)(2) [42 U.S.C. 241(a) and 247b (k) (2)] of the Public Health Service Act, as amended. Applicable program regulations are found in 45 CFR Part 74.

Smoke-Free Workplace

CDC strongly encourages all grant recipients to provide a smoke-free workplace and to promote the nonuse of all tobacco products, and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive federal funds in which education, library, day care, health care, or early childhood development services are provided to children.

Eligible Applicants

Eligible applicants are public and private nonprofit, national minority organizations that have the ability to reach those special populations specified in the Introduction. Eligible applicants must meet all the criteria listed below and provide evidence of eligibility in a cover letter and supporting documentation attached to their application. If the applicants do not meet all the eligibility criteria below, the application will be returned and not reviewed.

A. The applicant organization must have a primary relationship with one of the targeted populations. A primary relationship is one in which the targeted population is viewed as the most important benefactor or constituent of the organization's mission and activities. The relationship to the targeted population must be direct (membership or service) rather than indirect or secondary (philanthropy or fund-raising).

B. The applicant organization must have affiliate offices, chapters, or related-membership organizations in more than one State or territory. Individual affiliates or chapters of parent organizations are not eligible to apply.

C. The applicant organization must provide a copy of a letter of commitment from the organization's President or Executive Director, acknowledging their intent to develop a diabetes prevention and control policy and plan that will be adopted by the national organization, and moved for adoption by affiliates, chapters, and related-membership organizations. If a diabetes prevention and control policy and plan already exists within the national organization's office, they should be submitted in lieu of a letter of commitment.

D. A private nonprofit organization must include evidence of its nonprofit status with the application. Any of the following is acceptable evidence.

1. A reference to the organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in section 501(c)(3) of the IRS Code.

2. A copy of a currently valid Internal Revenue Service Tax exemption certificate.

3. A statement from a state taxing body, State Attorney General, or other appropriate State official certifying that the applicant organization has a nonprofit status and that none of the net earnings accrue to any private shareholders or individuals.

4. A certified copy of the organization's certificate of incorporation or similar document if it clearly establishes the nonprofit status of the organization.

In addition, to be considered a national minority organization, eligible applicants must meet the following criteria:

1. At least 51 percent of persons on the governing board must be members of racial or ethnic minority populations.

2. The organization must possess a documented history of serving racial and ethnic minority populations through its offices, affiliates, or participating minority organizations at the national level for at least 12 months before submission of the application to CDC.

Note: Effective January 1, 1996, Public Law 104–65 states that an organization described in Section 501(c)(4) of the Internal Revenue Code of 1986 which engages in lobbying activities will not be eligible for the receipt of federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

Availability of Funds

Approximately $1.5 million is available in FY 98 to fund from five to six awards.

CDC expects to fund one award in each of the following targeted populations: Black or African-American, Hispanic or Latinos, Asian, Native Hawaiian or Other Pacific Islanders, and American Indian or Alaska Native.

It is expected that the average award will be $300,000, ranging from $200,000 to $400,000. It is expected that the awards will begin on or about September 30, 1998, and will be made for a 12-month budget period within a project period of up to 3 years. Funding estimates may vary and are subject to change.

Continuation awards within the approved project period will be made on the basis of satisfactory progress and the availability of funds.

Funds may not be expended for the purchase or lease of land or buildings, construction of facilities, renovation of existing space, or the delivery of clinical and therapeutic services. The purchase of equipment is discouraged but will be considered for approval if justified on the basis of being essential to the program and not available from any other source.

Use of Funds

Restrictions on Lobbying

Applicants should be aware of restrictions on the use of HHS funds for lobbying of Federal or State legislative bodies. Under the provisions of 31 U.S.C. Section 1352 (which has been in effect since December 23, 1989), recipients (and their subtier contractors) are prohibited from using appropriated Federal funds (other than profits from Federal contract) for lobbying Congress or any Federal agency in connection with the award of a particular contract, grants, cooperative agreement, or loan. This includes grants/cooperative agreements that, in whole or in part, involve conferences for which Federal funds cannot be used directly or indirectly to encourage participants to lobby or to instruct participants on how to lobby.

In addition, the FY 1998 Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act (Public Law 105–78) states in Sec. 503(a) and (b) no part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relations, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress or any State legislature, except in presentation to the Congress or any State legislative body itself. No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature.

Background

Diabetes is a serious and costly public health problem in the United States. In 1997, an estimated 15.7 million people (5.9 percent) have diabetes and one-third or 5.4 million people are undiagnosed. Diabetes contributed to approximately 187,800 deaths in 1995 and it was the seventh leading cause of death according to the National Center for Health Statistics. Approximately 798,000 new diabetes cases are diagnosed annually. The prevalence of diabetes is 8.2 percent, equally impacting both males and females. Diabetes disproportionately affects those aged 65 years or older. For example, the prevalence of diabetes in the general population aged 20 years or older is 8.2 percent; the prevalence is 18.4 percent among those aged 65 years or older. The population 65 years or older represent 12.8 percent of the U.S. population.

Diabetes is the leading cause of blindness among working-aged adults. It is the leading cause of kidney failure requiring dialysis and transplantation. Additionally, more than half of lower limb amputations occur among people

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with diabetes. Diabetes imposes a tremendous cost with the direct medical and indirect costs totaling approximately $92 billion in 1992. People with diabetes have a twofold-fourfold increase in cardiovascular disease. The incidence of diabetes is expected to rise in the United States given the aging of America, increase in minority populations, and trends in higher prevalence of obesity.

The racial and ethnic population in the United States is disproportionately affected by diabetes. For instance, the prevalence of diabetes among non-Hispanic blacks is 10.8 percent or 38.5 percent higher than among non-Hispanic whites (7.8 percent). On average, Hispanic/Latinos are nearly twice as likely to have diabetes as non-Hispanic whites of similar age. Prevalence data for Asian Americans and Pacific Islanders are limited, however, selected studies such as the King County, Washington study indicate that among second-generation Japanese Americans 45 to 74 years of age, 20 percent of the men and 16 percent of the women had diabetes.

Strong scientific evidence exists to support secondary and tertiary prevention efforts to reduce the medical, social, and economic burden of diabetes among all populations. Results of the Diabetes Control and Complications Trial (DCCT) clearly showed that persons with Type 1 diabetes who maintained tight control of their blood glucose levels can dramatically reduce their risk for long-term medical complications such as blindness, lower limb amputations, and kidney failure. Other studies suggest that tight glucose control has similar benefits for persons with Type 2 diabetes and reduces the risk for heart attacks, strokes, and peripheral vascular diseases. With so much scientific evidence, the question now becomes, What could and should be done to improve the prognosis for all people with diabetes?

The answer begins with the recognition that there is a big gap between what is known versus current practice in good diabetes care. There is a lack of awareness that diabetes is serious, common, costly, and controllable; and that prevention and early detection practices may prevent or delay the progression of long-term medical complications. This gap is especially true among racial and ethnic minority populations who have less access to culturally and linguistically appropriate diabetes information in the communities where they live. The U.S. health care system inadequately provides prevention and early detection services to people with diabetes and does not have the capacity to address the special needs of racial/ethnic diverse populations.

CDC and the National Institutes of Health (NIH) joined forces in 1995 to develop a major new initiative, the NDEP. The NDEP is a collaborative effort to improve the treatment and outcome for people with diabetes, promote early diagnosis, and ultimately, prevent the onset of disease. The NDEP will initially focus on secondary and tertiary strategies aimed at the prevention, early detection and control of medical complications related to diabetes including the reduction of risk factors for cardiovascular disease.

Targeted audiences of the NDEP include the general public, people with diabetes and their families, health professionals, and, purchasers and payers of health care and policy makers. The goal of the NDEP is to reduce morbidity and mortality caused by diabetes and its complications. The NDEP objectives are to (1) increase public awareness of the seriousness of diabetes, its risk factors, and potential strategies for preventing diabetes and its complications; (2) improve understanding of diabetes and its control and to promote self-management behaviors among people with diabetes; (3) improve health care providers' understanding of diabetes and its control and to promote an integrated approach to care; and, (4) promote health care policies and activities that improve quality and access to diabetes care.

The underlying theme of NDEP messages is, "diabetes is serious, common, costly, and controllable."

Through a nationwide Partnership Network, diverse public and private sector organizations will be brought together to collaboratively address the nation's diabetes burden. The NDEP will facilitate the coordination of efforts to reduce the burden of diabetes from a national perspective. Science-based diabetes messages will be developed and delivered using a wide variety of approaches and channels that effectively reach targeted audiences. NDEP messages and strategies will be integrated into existing systems of diabetes care, education programs, and community-based interventions. NDEP partners include federal agencies; State and local health departments; multiple professional, voluntary health, racial and ethnic minority groups, national, academic, community-based, and civic organizations; as well as private sector enterprises (e.g., managed care organizations, corporations and small businesses, pharmaceutical and diabetes equipment companies, national and local media including racial and ethnic minority media, and others).

It is essential to reach racial and ethnic minority populations through the NDEP. Creative and nontraditional methods need to be employed to accommodate the cultural, language, literacy, intergenerational, and other challenges of delivering diabetes messages and education programs to these groups. National minority organizations have a great depth of cultural understanding and established trust with their targeted populations and many who serve them. They have established relationships with individuals and organizations at the national, State and local levels that are respected by the targeted populations. Additionally, they have unique knowledge of how to effectively reach the targeted populations with awareness and education programs. NMOs are critical partners of the NDEP. It is through them and the partnerships formed to extend the reach of the NDEP that an impact may be made in reducing the burden of diabetes among racial and ethnic minority populations.

Purpose

The purpose of this announcement is to strengthen the capacity of national minority organizations (NMOs) to collaborate with the NDEP to reduce the disproportionate burden of diabetes among high-risk populations (e.g. Black or African-American, Hispanic or Latinos, Asian, Native Hawaiian or Other Pacific Islanders, and American Indian or Alaska Native). These awards will assist NMOs to reach their targeted populations with culturally and linguistically appropriate NDEP prevention and control messages through trusted and valued community-based intervention approaches and delivery channels.

Program Requirements

Program activities should focus on delivering NDEP messages to the targeted populations using a variety of culturally valued and effective community-based approaches and channels, establishing coalitions and partnerships to extend the reach of the NDEP in the targeted populations, and strengthening the health care system's capacity to competently provide culturally and linguistically appropriate diabetes education and support to diverse racial and ethnic minority populations. All program activities should support and be consistent with the purpose, goal, objectives, partnership guidelines, messages, and strategies of the NDEP.

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under A. (Recipient Activities), and CDC will be responsible for conducting activities under B. (CDC Activities).

A. Recipient Activities

1. Required Activities (Select 3 or More) (based on the needs and priorities of the targeted populations and adequacy of existing diabetes awareness and education activities).

(a) Identify and replicate effective cultural and linguistically appropriate community-based diabetes awareness and education activities and programs that are consistent with the NDEP and deliver them through trusted and valued channels. Examples: lay health workers or promoters, church-based education, or worksite education.

(b) Develop and carry out creative new community-based intervention strategies for the delivery of culturally and linguistically appropriate NDEP messages designed to improve the knowledge, attitude, skills, and behaviors related to the prevention, early detection, and control of diabetes complications. Example: community information and diabetes health promotion partnerships with local businesses, health care organizations, government health care programs (e.g., Medicare), or media outlets that serve the targeted populations.

(c) Establish community-based diabetes coalitions among organizations that serve the targeted population to extend the reach of the NDEP in at least 5 geographically distinct communities with a high concentration of the targeted population. Geographically distinct communities may be located in different States where the targeted population resides. Examples: Actively engage coalition members in a State and local partnership network to identify community needs and resources, incorporate NDEP messages into existing programs, develop joint initiatives and otherwise extend the reach of the NDEP.

(d) Develop and disseminate user friendly, consumer oriented inventories of diabetes education and care resources available to the targeted population in 5 or more geographically distinct communities with a high concentration of the targeted population. Geographically distinct communities may be located in different States where the targeted population resides. Examples: referral and resource directories.

(e) Establish culturally and linguistically appropriate mechanisms to respond to public inquiries regarding diabetes generated by NDEP media and other activities. Examples: multi language 1–800 number or information service from local multi language health care clinics.

(f) Identify, evaluate, and recommend existing diabetes awareness & education products that are culturally and linguistically appropriate for the targeted population, based on current science and consistent with the NDEP. Examples: brochures and pamphlets, videos, books, and public service announcements.

(g) Strengthen the capacity of the State/local health care system to competently provide culturally and linguistically appropriate diabetes information, education and support to the targeted population consistent with the NDEP. Examples: provider training on cultural sensitivity relative to diabetes or patient advocate and outreach program.

2. Other Required Activities:

(a) Participate in appropriate NDEP work groups to define the characteristics and needs of the targeted population, recommend priority activities and delivery strategies, and develop and test culturally and linguistically appropriate diabetes messages, information and educational products, and guidelines for developing community-based programs that reach the targeted population through participation on appropriate NDEP work groups.

(b) Incorporate culturally and linguistically appropriate NDEP diabetes prevention and control messages into all proposed program activities.

(c) Establish public and private sector partnerships to extend the reach of the NDEP in the targeted population.

(d) Assess the accomplishment and effectiveness of each program objective and major activity following a well-designed evaluation plan.

(e) Participate in the annual CDC Diabetes Control Conference, annual NDEP Partnership Network meeting, and 1–2 NDEP work group meetings (as appropriate).

(f) Identify additional public and private sector resources to extend, sustain and expand NDEP program activities initiated under this program announcement.

(g) Disseminate pertinent program information to other CDC-funded grantees, NDEP partner organizations, and other appropriate agencies and partners at the national, State and local levels.

B. CDC Activities

1. Provide periodic updates of the nationwide activities and progress of the NDEP and an explanation of how they relate to the purpose of this award.

2. Include recipients as participants in NDEP work groups formed to develop specific program components that are relevant to the purpose of this award.

3. Provide culturally and linguistically tested NDEP messages, information and education products, and guidelines for the development of community-based programs that reach the targeted populations as they become available for dissemination.

4. Collaborate with recipients in the development, implementation, evaluation, and dissemination of proposed program activities to ensure their consistency with the NDEP and provide technical assistance and consultation, as needed.

5. Provide periodic updates about public knowledge, attitudes, practices, and effective interventions for the prevention, early detection, and control of diabetes, and up-to-date scientific information.

6. Collaborate with recipients in the development of publications, manuals, modules, etc. that relate to this award.

Technical Reporting Requirements

An original and two copies of a quarterly progress report are due 30 days after the end of each quarter. The progress reports must include the following for each program, function, or activity: (1) A comparison of actual accomplishments to the objectives established for the reporting period; (2) the reasons for slippage if established objectives were not met; and (3) other pertinent information.

An original and two copies of the financial status report (FSR) must be submitted no later than 90 days after the end of each budget period. A final financial status and performance reports providing an overall evaluation of the 3 year program are required no later than 90 days after the end of the project period. All reports are submitted to the Grants Management Branch, Procurement and Grants Office, CDC.

Application Content

Applicants should focus on reaching the targeted population that they have the greatest likelihood of impacting and propose program activities that are consistent with the purpose of the award and description of recipient activities in this announcement. All program activities should support and be consistent with the purpose, goal, objectives, partnership guidelines, messages, and strategies of the NDEP. The application should be organized and presented following the outline described below. Program definitions

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and information that can be helpful in completing the application are attached.

Applicants must develop their applications in accordance with PHS Form 5161–1 (OMB Number 0937–0189), information contained in the program announcement, and the instructions below. The application should be limited, including PHS forms, budget information, and appendixes, to no more than 75 single-spaced pages. All materials should be suitable for photocopying. The application should not contain audiovisual materials, posters, tapes, etc.

A. Background and Need

1. Describe the targeted population to include the magnitude and scope of diabetes, existing activities and programs, barriers and gaps in diabetes prevention and control efforts, and need for the proposed program activities.

2. Describe the characteristics of the targeted population relative to their racial and ethnic diversity and knowledge, attitudes, beliefs, and health practices relative to diabetes.

B. Objectives

1. Identify the 3-year measurable outcome objectives for the program consistent with the purpose of this announcement and recipient activities.

2. Identify the process objectives for each budget year.

C. Program Activities

1. Clearly describe the specific activities that will be undertaken to achieve each of the program's process objectives during the year 01 budget period consistent with the recipient activities.

2. Briefly describe the activities planned for budget years 2 and 3.

D. Capabilities

1. Describe the organization's mission, structure and function, size, national membership, substructure, activities on a regional, State, or local level, and methods of routine communication with constituents and members (newsletters, journals, meetings, etc.). Explain how this infrastructure will be used to support successful implementation of the proposed program activities.

2. Describe the organization's past and present awareness and education activities in the prevention, early detection, and control of diabetes. Describe the organization's other past and present diabetes activities such as diabetes support groups and clinical services. Explain how NDEP messages can be integrated and how the proposed program activities will expand rather than duplicate present activities.

3. Describe the organization's past and present participation in planning or developing the National Diabetes Education Program.

4. Describe past and present collaborative partnerships with public and private sector organizations that serve or have established linkages in the targeted population. Include evidence of collaborations with partners such as memorandums of agreement. Explain how these partnerships can be used to support successful implementation of the proposed program activities.

5. Describe the nature and extent of constituent support for past and present organizational activities related to awareness and education activities for the prevention and control of diabetes. Explain how constituent support will be secured for the proposed program activities.

E. Project Management

1. Submit a work plan that outlines the main implementation steps and activities to be completed by specified targeted dates to achieve the process objectives for the budget year. Identify the persons or positions responsible for carrying out the activities.

2. Describe each proposed position for this program by job title, function, general duties, and the main activities with which that position will be involved. Describe the qualifications for the project coordinator position in terms of education, experience and desired skills. Include the level of effort and allocation of time for each project activity by staff position. Minimal staffing should include a full-time project coordinator and one program assistant.

F. Program Evaluation Plan

Identify methods for attaining measurable outcome and process objectives, accomplishing program activities, and monitoring program quality including the consistency of activities with the NDEP. The evaluation plan should include qualitative and quantitative data collection and assessment mechanisms. As appropriate, this plan should include baseline data for the proposed objectives or the mechanism that will be used to establish the baseline data; the minimum data to be collected to evaluate the achievement of proposed program objectives; and the systems for collecting and analyzing the data. Data to be reported will be dependent on the proposed program objectives and activities, however, examples of potential data include, but are not limited to the following:

1. The number expected to be reached in the targeted population and the plan for evaluating the number actually reached.

2. Information about the State affiliates, local community-based organizations and other partners reached and their activities.

3. Information about the health organizations and providers reached and populations served.

4. When, where, and how often activities are conducted.

5. Cultural and linguistically appropriate program products developed and disseminated and their consistency with the NDEP.

6. Information on the change in knowledge, attitudes, and self-management practices among people with diabetes.

7. Information on the number of existing programs or organizations that have incorporated the NDEP messages and strategies including a description of their activities.

8. Information on the number and types of public and private sector partnerships and coalitions established to extend the reach of the NDEP including a description of their activities.

G. Budget and Narrative Justification

Provide a detailed line-item budget and narrative justification for all operating expenses consistent with the proposed objectives and planned activities. Be precise about the program purpose of each budget item and itemize calculations when appropriate.

Applicants should budget for the following costs: Out-of-State Travel: Participation in CDC-sponsored training workshops and meetings is essential for the effective implementation of diabetes control programs. Travel funds should be budgeted for the following meetings:

1. Two persons to attend the CDC Diabetes Prevention and Control Conference (3 days) held during Spring of 1999.

2. Two persons to attend the 1999 NDEP Partnership Network Meeting in Atlanta, or another specified location (2–3 days).

3. One person to attend 1–2 NDEP work group meetings related to program development during 1999 (2 days each meeting).

H. Attachments

Provide these attachments:

1. An organizational chart and 1-page résumés of current and proposed staff. Include 1 page job descriptions of proposed staff.

2. A list of applicant's constituents by regional, State, and local organization(s).

3. Evidence of collaboration with other organizations that serve the same targeted populations. Include Memorandums of Agreement and letters of support.

4. A description of funding from other sources to conduct similar activities:

(a) Describe how funds requested under this announcement will be used differently or in ways that will expand on the funds already received, applied for, or being received.

(b) Identify proposed personnel devoted to this project who are supported by other funding sources and the activities they are supporting.

(c) Written statement that the funds being requested will not duplicate or supplant funds received from any other sources.

5. Proof of eligibility.

Typing and Mailing

Applicants are required to submit an original and two copies of the application. Number all pages clearly and sequentially and include a complete table of contents for the application and its appendixes. The original and each copy of the application must be submitted unstapled and unbound. Print all material, single-spaced, in a 12-point or larger font on 8 1/2″ by 11″ paper, with at least 1″ margins and printed on one side only. The application length should be no more than 75 pages total including appendixes, an itemized budget with justification and the required forms.

Evaluation Criteria (100 Points)

Objective Review panels evaluate the scientific and technical merit of applications and their responsiveness to the information requested in the "Application Content" section above. The application will be reviewed and evaluated according to the following criteria:

A. Background and Need (10 Points)

The extent to which the applicant demonstrates an understanding of the program's purpose and objectives, describes the characteristics, diabetes burden and needs of the targeted population, and justify the need for the proposed activities.

B. Objectives (15 Points)

The extent to which the proposed outcome and process objectives are specific, time-related, measurable, appropriate for the targeted audience, and consistent with the stated purpose of this announcement.

C. Program Activities (25 Points)

The appropriateness of the proposed program activities for the targeted population, likelihood that they are achievable, and expectation that their implementation will lead to accomplishment of the proposed process and outcome objectives within the project period.

D. Capabilities (20 Points)

1. The capacity of the applicant's infrastructure in supporting successful implementation of the proposed program activities in the targeted population.

2. The success of the applicant's past and present experiences in working with the targeted population, conducting diabetes awareness and education activities, collaborating with public and private sector partners and the potential contribution of these experiences to the success of the proposed program activities.

3. The success of the applicant in generating constituent support for past and present organizational activities and the likelihood that strong support can be secured for the proposed program activities.

E. Project Management (20 Points)

1. The adequacy of the work plan in outlining the main program implementation steps with time lines and identification of appropriate responsible positions or persons.

2. The adequacy of proposed personnel time allocations and the extent to which proposed staff exhibit appropriate qualifications and experience to accomplish the program activities.

F. Program Evaluation Plan (10 Points)

The appropriateness and quality of the evaluation plan for monitoring the program's progress, quality and accomplishments relative to the achieving the outcome and process objectives and completing the proposed program activities.

G. Budget and Justification (Not Weighted)

The extent to which the budget is reasonable and consistent with the purpose and objectives of the cooperative agreement.

Content of Noncompeting Continuation Applications

In compliance with 45 CFR 74.51(d), noncompeting continuation applications submitted within the project period need only include:

A. A brief progress analysis that describes the accomplishments from the start of the project period.

B. Any new or significantly revised items or information (objectives, scope of activities, operational methods, evaluation, etc.) not included in the year 01 application.

C. An annual budget and justification. Existing budget items that are unchanged from the previous budget period do not need rejustification. Simply list the items in the budget and indicate that they are continuation items. Supporting justification should be provided where appropriate.

Executive Order 12372 Review

Applications are not subject to Executive Order 12372, Intergovernmental Review of Federal Programs.

Public Health System Reporting Requirements

This program is subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.283.

Other Requirements

Paperwork Reduction Act

Projects that involve the collection of information from 10 individuals or more and funded by the cooperative agreement will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Human Subjects Requirements

If a project involves research on human subjects, assurance (in accordance with Department of Health and Human Services Regulations, 45 CFR Part 46) of the protection of human subjects is required. In addition to other applicable committees, Indian Health Service (IHS) institutional review committees also must review the project if any component of IHS will be involved with or will support the research. If any American Indian community is involved, its tribal government must also approve that portion of the project applicable to it. Unless the grantee holds a Multiple Project Assurance, a Single Project Assurance is required, as well as an assurance for each subcontractor or cooperating institution that has immediate responsibility for human subjects. The Office for Protection from Research Risks (OPRR) at the National Institutes of Health (NIH) negotiates assurances for all activities involving human subjects that are supported by the Department of Health and Human Services.

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Inclusion of Women and Racial and Ethnic Minorities in Research

It is the policy of the Centers for Disease Control and Prevention (CDC) and the Agency for Toxic Substances and Disease Registry (ATSDR) to ensure that individuals of both sexes and the various racial and ethnic groups will be included in CDC/ATSDR-supported research projects involving human subjects, whenever feasible and appropriate. Racial and ethnic groups are those defined in OMB Directive No. 15 and include American Indian or Alaska Native, Asian, Black or African American, Hispanic or Latino, Native Hawaiian or Other Pacific Islander. Applicants shall ensure that women, racial and ethnic minority populations are appropriately represented in applications for research involving human subjects. Where clear and compelling rationale exist that inclusion is inappropriate or not feasible, this situation must be explained as part of the application. This policy does not apply to research studies when the investigator cannot control the race, ethnicity, and/or sex of subjects. Further guidance to this policy is contained in the **Federal Register**, Vol. 60, No. 179, pages 47947–47951, and dated Friday, September 15, 1995.

Application Submission and Deadline

The original and two copies of the application PHS Form 5161–1 (Revised 5/96, OMB Number 0937–0189) must be submitted to Sharron P. Orum, Grants Management Officer, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), Room 300, Mail Stop E–18, 255 East Paces Ferry Road, NE., Atlanta, GA 30305, on or before August 15, 1998.

1. Deadline: Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; and

(b) Sent on or before the deadline date and received in time for submission to the objective review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks will not be accepted as proof of timely mailing.)

2. Late Applications: Applications that do not meet the criteria in 1.(a) and 1.(b) above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where to Obtain Additional Information

A complete program description and information on application procedures may be obtained in an application package. Business management technical assistance may be obtained from Sharron Orum, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), Room 314, Mail Stop E–18, 255 East Paces Ferry Road, NE., Atlanta, GA 30305; telephone (404) 842–6508 or the Internet at, slh3@cdc.gov. Programmatic technical assistance may be obtained from Rita Díaz-Kenney, Division of Diabetes Translation, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention (CDC), Mail Stop K–10, 4770 Buford Highway NE., Atlanta, GA 30341–3724; telephone (770) 488–5016, or the Internet at: rvd1@cdc.gov.

You may also obtain this announcement, and other CDC announcements, from one of two Internet sites on the actual publication date: CDC's home-page at http://www.cdc.gov or the Government Printing Office home-page (including free on-line access to the **Federal Register** at http://www.access.gpo.gov).

Please refer to Announcement number 98082 when requesting information and submitting an application.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report; stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report; stock No. 017–001–00473–1) referenced in the Introduction through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325; telephone (202) 512–1800.

Dated: July 9, 1998.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–18824 Filed 7–14–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Ethics Subcommittee and the Advisory Committee to the Director, Centers for Disease Control and Prevention: Cancellation of Meetings

This notice announces the cancellation of previously announced meetings.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 63 FR 34901, June 26, 1998.

PREVIOUSLY ANNOUNCED TIMES AND DATES: 9 a.m.–3 p.m., July 16, 1998, and 8:30 a.m.–3 p.m. July 17, 1998.

CHANGE IN THE MEETING: These meetings have been cancelled.

CONTACT PERSON FOR MORE INFORMATION: Linda Kay McGowan, Executive Secretary, Advisory Committee to the Director, CDC, 1600 Clifton Road, NE, M/S D–24, Atlanta, Georgia 30333, telephone 404/639–7080.

Dated: July 10, 1998.

Nancy C. Hirsch,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–18934 Filed 7–14–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[FDA 225–98–8001]

Memorandum of Understanding Between the Food and Drug Administration and the Indian Health Service

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing notice of a memorandum of understanding (MOU) between FDA and the Indian Health Service (IHS). The purpose of the MOU is to develop a more cohesive relationship to mutually address American Indian and Alaska Native issues within the context of each organization's jurisdiction.

DATES: The agreement became effective July 9, 1997.

FOR FURTHER INFORMATION CONTACT: Mary C. Wallace, Office of External Affairs (HFE–3), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4406.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 20.108(c), which states that all written agreements and MOU's between FDA and others shall be published in the **Federal Register**, the agency is publishing notice of this MOU.

Dated: July 6, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

BILLING CODE 4160-01-F

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225-98-8000

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE FOOD AND DRUG ADMINISTRATION
AND
THE INDIAN HEALTH SERVICE

I. PURPOSE

The Food and Drug Administration (FDA) and the Indian Health Service (IHS), U.S. Department of Health and Human Services (DHHS), have mutual interests in fostering improved health care and access to policy and education programs.

FDA and IHS intend to work to develop a more cohesive relationship to mutually address American Indian and Alaska Native issues within the context of each organization's jurisdiction. FDA and IHS agree to work together to promote and support appropriate ongoing DHHS and organizationally specific initiatives, such as:

- Collaborative Tribal Consultations
  - -- National Congress of American Indians
  - -- National Indian Health Board
  - -- Regional Health Boards
- The White House Initiative on Tribal Colleges and Universities
- Expert Technical Assistance
- Collaborative Public Health Education Campaigns
  - -- Tobacco
  - -- Clinical Trials and Education
  - -- Women's Health Issues --(Urban and Rural)
  - -- "Take Time to Care" Campaign
  - -- Food Labeling Education
  - -- Food/Nutrient/Deficiency/Food supplementation issues for women of child bearing age and health professionals
  - -- Food Safety Initiative
  - -- Health Fraud
- Collaborative Consumer Studies
- Collaborative Recruitment

This MOU establishes policies and principles by which the parties may be guided when executing specific interagency agreements for the exchange of funds, services, or personnel.

II. AUTHORITY

Food and Drug Administration: Section 903 of the FFDCA (21 U.S.C. 393), Section 301 of the PHSA, (42 U.S.C. 241), Sections 1701 et seq. of the PHSA (42 U.S.C. 300u et seq.)

Indian Health Service: Transfer Act (42 U.S.C. 2001) of 1954.

III. BACKGROUND

The FDA and the IHS have been independently conducting activities, in the context of their jurisdictions, to improve the knowledge base of American Indian and Alaska Native populations and to involve these individuals in their respective processes. The FDA and the IHS recognized that the success of those efforts can be enhanced by greater collaboration.

The IHS has focused its outreach activities primarily on the needs of American Indian and Alaska Native populations. Similarly, the FDA has focused its efforts primarily upon the needs of the general population with intermittent emphasis upon American Indian and Alaska Native populations.

The goals of the FDA and the IHS collaborations will be to accomplish the following:

(1) More effectively interface with the IHS, the National Indian Health Board, the National Congress of American Indians, Regional Health Boards, and other DHHS components by:

-- soliciting tribal advice and recommendations on approaches to achieve appropriate levels of effective and efficient involvement of American Indians and Alaska Natives in the FDA's regulatory and outreach processes;

-- Enhancing local consultations and collaborations with tribal governments, when appropriate;

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-- receiving assistance in improving involvement of American Indians and Alaska Natives in Agency policy initiatives;

-- discussing collaborative approaches to promote the safe and practical use of FDA-regulated products among American Indian and Alaska Native populations;

-- discussing approaches and establishing distribution systems for materials through IHS Tribal and Urban Indian Health Programs, Indian schools, community colleges and universities, IHS Medical Centers and the Department of Veterans Affairs' regional medical centers;

(2) Improve access of American Indians and Alaska Natives to FDA generated information on health risks and policy issues;

(3) provide community based organizations and concerned individuals with the opportunities to have appropriate input into regulatory processes such as;

-- encourage participation of American Indians and Alaska Natives in Agency-sponsored conferences, meetings, focus groups, and consumer studies;

-- promote opportunities to serve on the FDA's advisory committees and panels, science boards, and in research;

(4) provide FDA and IHS officials and managers with the perspectives on American Indian and Alaska Native health care and education needs and policy issues;

(5) promote diversity in the planning and application of existing educational programs and services that encourage youth to pursue careers in the sciences, math, and other disciplines that may lead to careers in the advanced sciences, engineering and the health professions; and

(6) continue recruitment efforts to American Indian and Alaska Native populations through programs such as the Cooperative Education Programs (CO-OP), Commissioned Officer Student Training and Extern Program (COSTEP), fellowships, personnel exchanges, and summer employment programs through Tribal Colleges and Universities and professional associations.

IV. SCOPE OF WORK

The FDA and the IHS hereby express their firm intentions to jointly address American Indian and Alaska Native issues within the context of regulatory processes and programs conducted by the FDA primarily for the general U.S. population, as resources permit. Given the diversity of education, knowledge, understanding and cultures within the American Indian and Alaska Native populations, the IHS will work with FDA to enhance its activities with American Indian and Alaska Native populations.

FDA and IHS have established formal liaisons for both Agencies that will foster an information exchange on all aspects of the MOU. Other functions of the Agency liaisons may include the following:

- Work with intra/inter-agency task groups to identify the type of technical assistance and outreach necessary to provide American Indian and Alaska Native populations with information and education.
- Exchange information on currently funded programs that have objectives to address the health education needs of American Indian and Alaska Native populations.
- Review opportunities for mutual and flexible funding and cooperative extension of funded programs for American Indian and Alaska Native populations through FDA and IHS grant programs.
- Strengthen mutual cooperative activities and technical support in working with other DHHS components in developing resources to collect improved statistics on American Indian and Alaska Native populations.

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V. DURATION OF AGREEMENT

This MOU will become effective upon acceptance by both parties and will continue in effect indefinitely. This MOU may be modified by mutual written consent or terminated by either party upon 60 day advance notice to the other party.

VI. LIAISONS/PROJECT OFFICERS

Mary C. Wallace
Director of Consumer Programs
and FDA Minority Health Liaison
Food and Drug Administration
Office of External Affairs
Office of Consumer Affairs
5600 Fishers Lane, Room 16-85, HFE-3
Rockville, MD 20857
(301) 827-4406
Fax (301) 443-9767

Phyllis Eddy
Special Assistant to the Director
of Headquarters Operations
Indian Health Service
Office of the Director
5600 Fishers Lane, Room 6-22
Rockville, MD 20857
(301) 443-7261
Fax (301) 481-3192

VII. AUTHORIZING SIGNATURES AND DATES

APPROVED AND ACCEPTED BY
FOOD AND DRUG
ADMINISTRATION

LEAD DEPUTY COMMISSIONER
FOOD AND DRUG
ADMINISTRATION

Date: JUL - 9 1997

APPROVED AND ACCEPTED BY
INDIAN HEALTH SERVICE

DIRECTOR
INDIAN HEALTH SERVICE

Date: 07/9/97.

[FR Doc. 98-18829 Filed 7-14-98; 8:45 am]
BILLING CODE 4160-01-C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Statement of Organization, Functions and Delegations of Authority

This notice amends Part R of the Statement of Organization Functions and Delegations of Authority of the Department of Health and Human Services (DHHS), Health Resources and Services Administration (60 FR 56605 as amended November 6, 1995, as last amended at 63 FR 35938–39 dated July 1, 1998). This notice reflects the establishment of the Health Resources and Services Administration (HRSA) Office for the Advancement of Telehealth (RAB).

Establish The Office for the Advancement of Telehealth (RAB) in the Office of the Administrator to read as follows:

Telehealth is the use of electronic communications and information technologies to provide and support health care services and training when distance separates the participants. The Office for the Advancement of Telehealth (OAT) serves as the focal point within the Health Resources and Services Administration (HRSA) for coordinating and advancing the use of electronic communications and information (telehealth) technologies. Telehealth technologies can be used in a broad array of applications, including, but not limited to, the provision of: health care at a distance (telemedicine); technical assistance to grantees using electronic media; distance-based learning to improve the knowledge of HRSA staff, grantees, and others; and improved information dissemination to both consumers and providers about the latest developments in health care, and other activities designed to improve the health status of the nation. The Office for the Advancement of Telehealth carries out the following functions. Specifically: provides leadership within HRSA in developing and coordinating telehealth programs and policies and in facilitating the electronic dissemination of best practices in health care to health professionals and others; (2) provides technical assistance and support to HRSA components and others as they develop telehealth initiatives; (3) produces, and provides technical support and training to HRSA components in the production and planning of health-related media; (4) administers grant programs to promulgate and evaluate the use of appropriate telehealth technologies among HRSA grantees and others; (5) assesses new and existing telehealth technologies and advises the HRSA Administrator on strategies to maximize the potential of these technologies for meeting HRSA's educational, technical assistance and other objectives; (6) provides a resource center for the dissemination of the latest information and research findings related to the use of telehealth technologies in HRSA programs and underserved areas, including findings on "best practices"; (7) staffs the Joint Working Group on Telemedicine; (8) works with other components of the Department, with other Federal and state agencies, and with the private sector to promote and overcome barriers to cost-effective telehealth programs; and (9) advises the Administrator and the Department on telehealth policy.

Delegations of Authority. All delegations and redelegations of authority which were in effect immediately prior to the effective date hereof have been continued in effect in them or their successors pending further redelegation.

This reorganization is effective upon date of signature.

Dated: July 7, 1998.

Claude Earl Fox,

Administrator.

[FR Doc. 98–18753 Filed 7–14–98; 8:45 am]

BILLING CODE 4160–15–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities Under Emergency Review by the Office of Management and Budget

The Substance Abuse and Mental Health Services Administration (SAMHSA) has submitted the following request (see below) for emergency OMB review under the Paperwork Reduction Act (44 U.S.C. Chapter 35). OMB approval has been requested by July 30, 1998. A copy of the information collection plans may be obtained by calling the SAMHSA Reports Clearance Officer on (301)443–7978.

Title: CAPI/ACASI Pretest of 1999 National Household Survey on Drug Abuse (NHSDA).

OMB Number: 0930-New.

Frequency: Single time.

Affected public: Individuals or households.

SAMHSA will conduct a field pretest and cognitive laboratory testing of the proposed 1999 NHSDA questionnaire from August 1–31, 1998. Household screening will be conducted electronically, using a hand-held computer. The interview will be conducted using a laptop computer. Sections of the questionnaire currently administered on paper by an interviewer will be Computer-Assisted Personal Interview (CAPI) and those sections which are currently self-administered by respondents on paper will be Audio Computer-Assisted Self Interview (ACASI). The national implementation of fully automated data collection in the NHSDA was originally planned for the year 2000. In early June, the Department of Health and Human Services made the decision to include in the 1999 NHSDA an expanded tobacco module to be conducted using ACASI. SAMHSA has determined that using the computer-assisted methodology for only one portion of the interview could be problematic. Therefore, the entire 1999 NHSDA interview will be conducted using this methodology, and will be pretested in a field sample and in a cognitive laboratory. Approximately 150 field interviews and 150 laboratory interviews will be conducted with persons age 12 and older. The estimated response burden for the field test is shown below:

	No. of respondents	Responses/ respondent	Hours per response	Response burden
Electronic household screener	836	1	0.05	41.8
Electronic household questionnaire:				
Respondents age 12–17	75	1	1.20	90.0
Respondents age 18+	75	1	1.20	90.0
Screening verification	25	1	.067	1.7
Interview verification	23	1	.067	1.5

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	No. of respondents	Responses/respondent	Hours per response	Response burden
Cognitive laboratory electronic questionnaire:				
Respondents age 12–17 (tobacco module)	50	1	0.75	37.5
Respondents age 12+	100	1	1.50	150.0
TOTAL				412.5

Written comments and recommendations concerning the proposed information collection should be sent within two weeks of this notice to: Daniel Chenok, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: July 9, 1998.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 98–18826 Filed 7–14–98; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. 4349–N–27]

Notice of Proposed Information Collection: Comment Request

AGENCY: Office of the Assistant Secretary for Administration.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: September 14, 1998.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Christine Jenkins, Real Estate Assessment Center, Department of Housing and Urban Development, 490 L'Enfant Plaza East, SW., Washington, DC 20024–2135.

FOR FURTHER INFORMATION CONTACT: Christine Jenkins (202) 755–2082 X134 (this is not a toll-free number) for copies of the proposed forms and other available documents:

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Assessment of Resident Satisfaction with their Living Conditions.

OMB Control Number, if applicable: None.

Description of the need for the information and proposed use: This survey will supply the Real Estate Assessment Center with an additional source of information on the performance of FHA multifamily participants and public housing authorities.

Agency form numbers, if applicable: None.

Members of affected public: Individuals or households.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

Respondents	Frequency	Hours per response	Total hours
400	1	.25	100

Status of the proposed information collection: New Collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: July 7, 1998.

Donald J. LaVoy,

Director, Real Estate Assessment Center.

[FR Doc. 98–18822 Filed 7–14–98; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of application.

The following applicant has applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

PRT–844502

Applicant: James W. Eckblad, Luther College, Decorah, Iowa.

The applicant requests a permit to take (capture, handle, and release) fat pocketbook [*Potamilus* (=*Proptera*) *capax*], Higgins' eye pearlymussel (*Lampsilis higginsi*), and winged mapleleaf mussel (*Quadrula fragosa*) in the states of Illinois, Iowa, Missouri, and Wisconsin. Activities are proposed to document presence or absence of the species for the purpose of survival and enhancement of the species in the wild.

Written data or comments should be submitted to the Regional Director, U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, and must be received within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056. Telephone: (612/713–5332); FAX: (612/713–5292).

Dated: July 7, 1998.

John A. Blankenship,

Assistant Regional Director, IL, IA, MO (Ecological Services), Region 3, Fort Snelling, Minnesota.

[FR Doc. 98–18765 Filed 7–14–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of a Draft Environmental Assessment/Habitat Conservation Plan and Receipt of Application for an Incidental Take Permit for the City of Austin for the Operation and Maintenance of Barton Springs Pool and Adjacent Springs

ACTION: Second Notice of Availability.

SUMMARY: This is the second issuance of this draft document. The Service has decided that new information incorporated into this document was significant enough to warrant an additional public comment period. The City of Austin has applied to the Fish and Wildlife Service (Service) for an incidental take permit pursuant to Section 10(a) of the Endangered Species Act (Act). The applicant has been assigned permit number PRT–839031. The requested permit, which is for a period of 15 years, would authorize the incidental take of the endangered Barton Springs salamander (*Eurycea sosorum*). The proposed take would occur as the result of the operation and maintenance of Barton Springs Pool and adjacent springs in Austin, Travis County, Texas. The Service and the City of Austin have prepared an Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take permit application. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made before at least 30 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

DATES: Written comments on the application should be received on or before August 14, 1998.

ADDRESSES: Persons wishing to review the EA/HCP may obtain a copy by contacting Matthew Lechner, Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0057). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8:00 to 4:30) at the U.S. Fish and Wildlife Service, Austin, Texas. Written data or comments concerning the application and EA/HCP should be submitted to the Field Supervisor, Ecological Services Field Office, Austin, Texas, at the above address. Please refer to permit number PRT–839031 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Matthew Lechner at the above Austin Ecological Services Field Office.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the "taking" of endangered species such as the Barton Springs salamander. Take means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect. However, the Service, under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

Applicant: The City of Austin plans to maintain and operate Barton Springs Pool and the adjacent springs in Austin, Travis County, Texas. This action may cause the incidental take of less than 20 salamanders per year, for the 15-year term of the permit. The applicant proposes to minimize and mitigate for the incidental take of the Barton Springs salamander by placing 10 percent of the total revenues generated at Barton Springs Pool into a conservation fund. The fund will be used for enhancing habitat and for ecological and biological research on the Barton Springs salamander. In addition, mitigation measures are included in the Habitat Conservation Plan.

Dated: July 6, 1998.

Frank Shoemaker,

Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 98–18827 Filed 7–14–98; 8:45 am]

BILLING CODE 4510–55–U

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Receipt of Letter of Intent To Submit a Petition for Federal Acknowledgement of Existence as an Indian Tribe

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

This is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8. Pursuant to 25 CFR 83.9(a) notice is hereby given that the: Mackinac Bands of Chippewa and Ottawa Indians, 132 North State Street, St. Ignace, Michigan 49781 has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs (BIA) on May 13, 1998, and was signed by members of the group's governing body.

This is a notice of receipt of a petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be sent by mail to the petitioner and other interested parties at the appropriate time.

Under Section 83.9(a) of the Federal regulations, third parties may submit factual or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the BIA's files. Such submissions will be provided to the petitioner upon receipt by the BIA. The petitioner will be provided an opportunity to respond to such submissions prior to a final determination regarding the petitioner's status.

The petition may be examined, by appointment, in the Department of the Interior, Bureau of Indian Affairs, Branch of Acknowledgment and Research, 1849 C Street, N.W., MS 4603-MIB, Washington, D.C. 20240, (202) 208–3592.

Dated: June 1, 1998.

Hilda Manuel,

Deputy Commissioner of Indian Affairs.

[FR Doc. 98–18818 Filed 7–14–98; 8:45 am]

BILLING CODE 4310–02–U

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Gulf of Mexico Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Availability of Environmental Documents.

Prepared for OCS Mineral Proposals on the Gulf of Mexico OCS.

SUMMARY: Minerals Management Service (MMS), in accordance with Federal Regulations (40 CFR Section 1501.4 and Section 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related Site-Specific Environmental Assessments (SEA's) and Findings of No Significant Impact (FONSI's), prepared by MMS for the following oil and gas activities proposed

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on the Gulf of Mexico OCS. This listing includes all proposals for which the FONSI's were prepared by the Gulf of Mexico OCS Region in the period subsequent to publication of the preceding notice.

Acitivity/operator	Location	Date
Shell Pipeline Corporation, Pipeline Activity, SEA No. G–19666.	Viosca Knoll Area, Blocks 786, 785, 829, 828, 827, 826, 782, 781, 780, 779, 736, 735, and 734; Main Pass Area, South and East Addition, Blocks 283, 284, 285, 286, 287, 288, and 289; Lease OCS–G 19666, 67 to 73 miles south of Mobile County, Alabama.	04/17/98
Viosca Knoll Gathering Company, Pipeline Activity, SEA No. G–19675.	Main Pass Area, South and East Addition, Blocks 261 and 260; Lease OCS–G 19675, 61 miles South of Baldwin County, Alabama.	04/17/98
Amoco Production Company, Pipeline Activity, SEA Nos. G–19681 and G–19682.	Viosca Knoll Area, Blocks 915, 871, 827, 826, 782, 738, 694, and 693; Main Pass area, South and East Addition, Blocks 259, 260, 249, 248, and 225; Leases OCS–G 19681 and 19682, 50 miles east of Plaquemines Parish, Louisiana.	04/01/98
Transcontinental Gas Pipe Line Corporation, Pipeline Activity, SEA No. G–20503.	Main Pass Area, South and East Addition, Blocks 259, 260, and 261, Lease OCS–G 20503, 61 miles south of Baldwin County, Alabama.	05/21/98
Walter Oil and Gas Corporation, Pipeline Activity, SEA No. G–20499.	Garden Banks Area, Blocks 179, 180, and 136; High Island Area, East Addition, South Extension, Blocks A–397, A–385, and A–384; Lease OCS–G 20499, 110 miles south of Cameron Parish, Louisiana.	06/05/98
Shell Offshore, Incorporated, Pipeline Activity, SEA No. G–20510.	High Island Area, South Addition, Blocks A–545, A–548, and A–547, Lease OCS–G 20510, 103 miles south of Jefferson County, Texas.	06/11/98
Union Oil Company of California, Exploration Activity, SEA No. N–6029.	Mobile Area, Block 871, Lease OCS–G 13044, 6.9 miles south of Baldwin County, Alabama.	05/14/98
Union Oil Company of California Exploration Activity, SEA No. N–6057.	Mobile Area, Blocks 1004, 1005, and 1006, Leases OCS–G 15406, 15407, and 15408, 15 miles south of Baldwin County, Alabama.	05/15/98
Exxon Company, U.S.A., Development Activity, SEA No. N–6134U.	East Breaks Area, Blocks 945, 946, and 988, Leases OCS–G 8211, 8212, and 8213, 126 miles south-southeast of Brazoria County, Texas.	06/19/98
Chevron U.S.A., Exploration Activity, SEA No. N–6173.	Viosca Knoll Area, Block 390, Lease OCS–G 15429, 41 miles south of Baldwin County, Alabama.	06/19/98
Union Oil Company of California, Development Activity, SEA No. S–4525U.	Mobile Area, Blocks 915, 917, 961, and 962, Leases OCS–G 5752, 5754, 5761, and 12115, 9.5 miles south of Baldwin County, Alabama.	04/22/98
Chevron U.S.A., Development and Pipeline Activity, SEA No. S–4667.	Mobile Area, Blocks 862, 863, and 864, Leases OCS–G 5748, 5063, and 5064, 5–7 miles south of Baldwin County, Alabama.	06/29/98
Vastar Resources, Inc., Exploration Activity, SEA No. R–3202.	Viosca Knoll Area, Block 1001, Lease OCS–G 16560, 56 miles southeast of Plaquemines Parish, Louisiana.	06/01/98
Union Pacific Resources Corporation, Structure Removal Operation, SEA Nos. ES/SR 97–063A.	Galveston Area, Block A–125, Lease OCS–G 9055, 56 miles southeast of Brazoria County Texas.	06/19/98
Forest Oil Corporation, Structure Removal Operations, SEA Nos. ES/SR 97–147A through 97–149A.	West Cameron Area, Block 44, Lease OCS–G 6566, 7 miles south of Cameron Parish, Louisiana.	03/05/98
Taylor Energy Company, Structure Removal Operations, SEA No. ES/SR 98–017.	Vermilion Area, Block 247, Lease OCS–G 2080, 56 miles south of Vermilion Parish, Louisiana.	04/24/98
Chevron U.S.A., Structure Removal Operations, SEA Nos. ES/SR 98–018 through 98–022.	Main Pass Area, Blocks 42 and 127, Leases OCS 0375 and OCS–G 1312, 25 to 32 miles east of Venice, Louisiana.	04/22/98
Chevron U.S.A., Structure Removal Operations, SEA No. ES/SR 98–023.	Eugene Island Area, Block 252, Lease OCS–G 0983, 46 miles south-southwest from the shoreline of Terrebonne Parish, Louisiana.	04/24/98
Chevron U.S.A., Structure Removal Operations, SEA No. ES/SR 98–024 and 98–025.	Vermilion Area, Block 24, Lease OCS–G 3543, 7 miles south of Vermilion Parish, Louisiana.	05/14/98
Samedan Oil Corporation, Structure Removal Operations, SEA No. ES/SR 98–027 and 98–028.	West Cameron Area, Block 458, Lease 5332; High Island Area, Block A–515; Lease OCS–G 4189, 78 miles south of Cameron Parish, Louisiana and 80 miles south of Jefferson County, Texas.	04/24/98
Forecenergy Inc., Structure Removal Operations, SEA No. ES/SR 98–038.	High Island Area, Block A–490, Lease OCS–G 3117, 103 miles south of Jefferson County, Texas.	04/30/98
Forest Oil Corporation, Structure Removal Operations, SEA No. ES/SR 98–039A.	South Marsh Area, Block 143, Lease OCS–G 1217, 84 miles south of St. Mary Parish, Louisiana.	05/22/98
Forest Oil Corporation, Structure Removal Operations, SEA No. ES/SR 98–039.	South Marsh Island Area, Block 143, Lease OCS–G 1217, 84 miles south of St. Mary Parish, Louisiana.	05/14/98
EEX Corporation, Structure Removal Operations, SEA No. ES/SR 98–040.	Brazos Area, Block 455, Lease OCS–G 7220, 18 miles south of Matagorda County, Texas.	05/20/98
Chevron U.S.A., Structure Removal Operations, SEA No. ES/SR 98–041.	Mobile Area, Block 862, Lease OCS–G 5063, 3 miles south of Jackson County, Mississippi.	05/22/98
Vastar Resources, Inc., Structure Removal Operations, SEA No. ES/SR 98–042.	Mustang Island Area, Block 789, Lease OCS–G 12761, 24 miles south of Harbor Island, Texas.	05/01/98
Murphy Exploration & Production Company, Structure Removal Operations, SEA Nos. ES/SR 98–043 through 98–046.	Matagorda Island Area, Blocks 589 and 604, Leases OCS–G 10196 and OCS–G 6037, 20 miles southeast of Port O'Connor, Texas.	06/01/98
The Houston Exploration Company, Structure Removal Operations, SEA No. ES/SR 98–047.	Galveston Area, Block 297, Lease OCS–G 12501, 32 miles south of Galveston, Texas.	05/20/98
Forcenergy Inc., Structure Removal Operations, SEA Nos. ES/SR 98–048 through 98–053.	South Marsh Island Area, Block 11, Lease OCS–G 1182, 44 miles south of Vermilion Parish, Louisiana.	06/03/98
Santa Fe Energy Resources, Inc., Structure Removal Operations, SEA No. ES/SR 98–054.	West Cameron Area, Block 141, Lease OCS–G 13559, 20 miles south of Cameron Parish, Louisiana.	06/23/98

Acitivity/operator	Location	Date
Ocean Energy, Inc., Structure Removal Operations, SEA No. ES/SR 98–055.	Eugene Island Area, Block 301, Lease OCS–G 14476, 64 miles south of Terrebonne Parish, Louisiana.	06/17/98
Newfield Exploration Company, Structure Removal Operations, SEA No. ES/SR 98–057.	West Delta Area, Block 20, Lease OCS–G 7789, 18 miles south of Plaquemines Parish, Louisiana.	06/23/98
Burlington Resources Offshore Inc., Structure Removal Operations, SEA Nos. ES/SR 98–061 and 98–062.	Eugene Island Area, Blocks 93 and 94, Leases OCS 0228 and OCS–G 5488, 26 miles south of St. Mary Parish, Louisiana.	06/09/98

Persons interested in reviewing environmental documents for the proposals listed above or obtaining information about EA's and FONSI's prepared for activities on the Gulf of Mexico OCS are encouraged to contact the MMS office in the Gulf of Mexico OCS Region.

FOR FURTHER INFORMATION CONTACT: Public Information Unit, Information Services Section, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, Telephone (504) 736–2519.

SUPPLEMENTARY INFORMATION: MMS prepares EA's and FONSI's for proposals which relate to exploration for and the development/production of oil and gas resources on the Gulf of Mexico OCS. The EA's examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects.

Environmental Assessments are used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA Section 102(2)(C). A FONSI is prepared in those instances where MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

This notice constitutes the public notice of availability of environmental documents required under the NEPA Regulations.

Dated: July 8, 1998.

Chris C. Oynes,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 98–18766 Filed 7–14–98; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Department policy, 28 C.F.R. § 50.7, notice is hereby given that on the 23rd day of March, 1998, a proposed Consent Decree in *United States*, v. *Rudi R. Vafadari, et al.*, Civil Action CV 96–1434 PHX EHC was lodged with the United States District Court for the District of Arizona. The Complaint was filed in this case for recovery of response costs and civil penalties from Rudi R. Vafadari and others, pursuant to Sections 104, 106 and 107 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. 9604, 9606 and 9607, related to the DCE Circuits site, in Phoenix, Arizona.

Pursuant to the consent decree, the defendants will pay $328,500 in response costs, and a civil penalty of $10,000 for failure to provide timely and complete responses to information request letters.

For thirty (30) days from the date of publication of this notice, the Department of Justice will receive written comments relating to the Consent Decree from persons who are not parties to the action. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to *United States* v. *Rudi R. Vafadari et al.*, D. J. Ref. No. 90–11–2–413C.

The proposed Consent Decree may be examined at the Region IX office of the U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, California 94105, or at the U.S. Attorney's Office, 230 First Avenue, Phoenix, Arizona.

Copies of the Consent Decree also may be examined at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 2005, telephone number (202) 634–0892. A copy of the Consent Decree may be obtained in person or by mail from the Consent Decree Library. In requesting a copy, please tender a check in the amount of $6.75 (25 cents per page reproduction charge) payable to "Consent Decree Library."

Joel Gross,

Chief, Environmental Enforcement Section.

[FR Doc. 98–18849 Filed 7–14–98; 8:45 am]

BILLING CODE 4410–15–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 30–31373–CivP; ASLBP No. 98–735–01–CivP; EA 97–207]

Atomic Safety and Licensing Board; Notice of Evidentiary Hearing

July 9, 1998.

In the Matter of: Conam Inspection, Inc., Itasca, Illinois (License No. 12–16559–01). Order Imposing Civil Monetary Penalty.

Notice is hereby given that, as provided in the Licensing Board's Memorandum and Order dated June 4, 1998, the evidentiary hearing in this civil penalty proceeding will commence on Monday, September 14, 1998, at 9:30 a.m. CDT, and will continue, to the extent necessary, on September 15–18, 1998, beginning at 9:00 a.m. CDT each day. The hearing will be held at the Federal Building, Room LLA, 536 South Clark Street, Chicago, IL 60610. Parties are to file formal lists of witnesses and documents to be utilized to be in our possession by Wednesday, September 9, 1998.

Members of the public are invited to attend these hearing sessions. Materials concerning this proceeding are on file at the Commission's Public Document Room, 2120 L Street N.W., Washington, D.C. 20555, and at the Commission's Region III Office, 801 Warrenville Road, Lisle, Illinois 60532–4351.

For the Atomic Safety and Licensing Board.

Charles Bechhoefer,

Chairman, Administrative Judge, Rockville, Maryland.

[FR Doc. 98–18836 Filed 7–14–98; 8:45 am]

BILLING CODE 7590–01–P

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NUCLEAR REGULATORY COMMISSION

[Docket No. 50–298]

Nebraska Public Power District; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–46, issued to Nebraska Public Power District (the licensee), for operation of the Cooper Nuclear Station (CNS) located in Nemaha County, Nebraska.

The proposed amendment in the licensee's application of March 27, 1997, would increase the minimum volume of diesel fuel oil in the fuel oil storage tanks from 48,000 gallons to 49,500 gallons. This change is Document of Change (DOC) 3.8.3–M.2 of the conversion of the current Technical Specifications (CTS) for the CNS to the improved Technical Specifications (ITS) that was noticed in the **Federal Register** on March 17, 1998 (63 FR 13074). DOC 3.8.3–M.2 is the second more restrictive change to ITS Section 3.8.3 for the CNS.

This proposed change would have a value different from the CTS and the Improved Standard Technical Specifications (ISTS) provided in NUREG–1433, "Standard Technical Specifications, General Electric Plants, BWR/4," Revision 1, dated April 1995. The conversion is based on NUREG–1433 and the Commission's "Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors," published on July 22, 1993 (58 FR 39132).

The exigent circumstances for this notice is that the staff has recently determined that this change in the minimum volume of diesel fuel oil in the fuel oil storage tanks is beyond the scope of the conversion to the ITS; however, the change should be made to the ITS because the proposed value more properly accounts for the fuel oil needed for the diesel generators during all design basis accidents. The staff expects to issue the ITS for the CNS by July 29, 1998. To allow the staff to include the higher value for the minimum volume of fuel oil in the ITS, it is necessary for the staff to issue of this notice of proposed change to the CTS before July 15, 1998, to meet the requirements in 10 CFR 50.91 on notices for public comment of license amendments.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

In accordance with the criteria set forth in 10 CFR. 50.92, the Nebraska Public Power District has evaluated this proposed Technical Specifications change and determined it does not represent a significant hazards consideration. The following is provided in support of this conclusion.

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change provides more stringent requirements for operation of the facility. These more stringent requirements do not result in operation that will increase the probability of initiating an analyzed event and do not alter assumptions relative to the mitigation of an accident or transient event. The more restrictive requirements continue to ensure process variables, structures, systems, and components are maintained consistent with safety analyses and [CNS] licensing basis. [The storage of fuel oil is not an initiator of a design basis accident for the CNS and the licensee has an approved fire protection program.] Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed) or changes in the methods governing normal plant operation. The proposed change does impose different requirements. However, this change is consistent with the assumptions in the safety analyses and [CNS] licensing basis. [The licensee has an approved fire protection program for the hazard of having to store more fuel oil.] Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

The imposition of more restrictive requirements either has no impact on or increases the margin of plant safety. As provided in the discussion of the change, each change in this category [(more restrictive)] is by definition, providing additional restrictions to enhance plant safety. The change maintains requirements within the safety analyses and [CNS] licensing basis. [The additional amount of diesel fuel oil required will provide additional assurance that there is sufficient fuel oil to run the diesel generators through an event.] Therefore, this change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 14-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of

Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below. By August 14, 1998, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Auburn Memorial Library, 1810 Courthouse Avenue, Auburn, NE 68305. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Mr. John R. McPhail, Nebraska Public Power District, Post Office Box 499, Columbus, NE 68602–0499, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated March 27, 1997, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room, located at the Auburn Memorial Library, 1810 Courthouse Avenue, Auburn, NE 68305.

Dated at Rockville, Maryland, this 9th day of July 1998.

For the Nuclear Regulatory Commission.

Jack N. Donohew,

Senior Project Manager, Project Directorate IV–1, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–18831 Filed 7–14–98; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–280 and 50–281]

Virginia Electric and Power Company, Surry Nuclear Power Station, Units 1 and 2; Confirmatory Order Modifying License Effective Immediately

I

Virginia Electric and Power Company (VEPCO, the Licensee) is the holder of Facility Operating License No. DPR–32, which authorizes operation of Surry Nuclear Power Station (SNPS), Unit 1, and Facility Operating License No. DPR–37, which authorizes operation of SNPS, Unit 2, located in Surry County, Virginia.

II

The staff of the U.S. Nuclear Regulatory Commission (NRC) has been concerned that Thermo-Lag 330–1 fire barrier systems installed by licensees may not provide the level of fire endurance intended and that licensees that use Thermo-Lag 330–1 fire barriers may not be meeting regulatory requirements. During the 1992 to 1994 timeframe, the NRC staff issued Generic Letter (GL) 92–08, "Thermo-Lag 330–1 Fire Barriers" and subsequent requests for additional information that requested licensees to submit plans and schedules for resolving the Thermo-Lag issue. The NRC staff has obtained and reviewed all licensees' corrective plans and schedules. The staff is concerned that some licensees may not be making adequate progress toward resolving the plant-specific issues, and that some implementation schedules may be either too tenuous or too protracted. For example, several licensees informed the NRC staff that their completion dates had slipped by 6 months to as much as 3 years. For SNPS, Units 1 and 2, which had corrective action scheduled beyond 1997, the NRC reviewed with VEPCO the schedule of Thermo-Lag corrective actions described in the VEPCO submittal to the NRC dated December 18, 1997. Based on the information submitted by VEPCO, the NRC staff has concluded that the schedules presented are reasonable. This conclusion is based on the need to perform certain plant modifications during outages as opposed to those that can be performed while the plant is at power. In order to remove compensatory measures such as fire watches, it has been determined that resolution of the Thermo-Lag corrective actions by VEPCO must be completed in accordance with current VEPCO schedules. By letter dated May 14, 1998, the NRC staff notified VEPCO of its plan to incorporate VEPCO's schedule commitment into a requirement by issuance of an Order and requested consent from the Licensee. By letter dated May 22, 1998, VEPCO provided its consent to issuance of a Confirmatory Order.

III

The Licensee's commitment as set forth in its letter of December 18, 1997, is acceptable and is necessary for the NRC to conclude that public health and safety are reasonably assured. To preclude any schedule slippage and to assure public health and safety, the NRC staff has determined that the Licensee's commitment in its December 18, 1997, letter be confirmed by this Order. The Licensee has agreed to this action. Based on the above, and the Licensee's consent, this Order is immediately effective upon issuance.

IV

Accordingly, pursuant to sections 103, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 50, *It is hereby ordered*, effective immediately, that:

> Virginia Electric and Power Company shall complete final implementation of Thermo-Lag 330–1 radiant energy shields corrective actions at Surry Units 1 and 2, described in the VEPCO submittal to the NRC dated December 18, 1997, by the completion of the next refueling outage scheduled to begin in October 1998 for Unit 1, and scheduled to begin in April 1999 for Unit 2.

The Director, Office of Nuclear Reactor Regulation, may relax or rescind, in writing, any provisions of this Confirmatory Order upon a showing by the Licensee of good cause.

V

Any person adversely affected by this Confirmatory Order, other than the Licensee, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Attention: Chief, Rulemakings and Adjudications Staff, Washington, DC 20555. Copies of the hearing request shall also be sent to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Deputy Assistant General Counsel for Enforcement at the same address, to the Regional Administrator, NRC Region II, Atlanta Federal Center, 61 Forsyth Street, SW., Suite 23T85, Atlanta, Georgia 30303, and to the Licensee. If such a person requests a hearing, that person shall set forth with particularity the manner in which his/her interest is adversely affected by this Order and shall address criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any such hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this Order.

Dated at Rockville, Maryland this 9th day of July 1998.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 98–18835 Filed 7–14–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–280 and 50–281]

Virginia Electric and Power Company; Surry Power Station, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of a revised exemption from certain requirements of its regulations for Facility Operating License No. DPR–32 and Facility Operating License No. DPR–37, issued to Virginia Electric and Power Company (the licensee), for operation of the Surry Power Station, Units 1 and 2, located in Surry County, Virginia.

Environmental Assessment

Identification of Proposed Action

The proposed action would revise the exemption granted on August 21, 1997, to Virginia Electric and Power Company from the requirements of Title 10 of the Code of Federal Regulations (10 CFR), Part 70.24(a), which requires, in each area in which special nuclear material is handled, used, or stored, a monitoring system that will energize clear audible alarms if accidental criticality occurs. The proposed action would also exempt the licensee from the requirements to maintain emergency procedures for each area in which this licensed special nuclear material is handled, used, or stored to ensure that all personnel withdraw to an area of safety upon the sounding of the alarm, to familiarize personnel with the evacuation plan, and to designate responsible individuals for determining the cause of the alarm, and to place radiation survey instruments in accessible locations for use in such an emergency.

The proposed action is in accordance with the licensee's application for a revised exemption dated January 14, 1998.

The Need for the Proposed Action

The purpose of 10 CFR 70.24 is to ensure that if a criticality were to occur during the handling of special nuclear material, personnel would be alerted to that fact and would take appropriate action. At a commercial nuclear power plant the inadvertent criticality with which 10 CFR 70.24 is concerned could occur during fuel handling operations. The special nuclear material that could be assembled into a critical mass at a commercial nuclear power plant is in the form of nuclear fuel; the quantity of other forms of special nuclear material that is stored on site is small enough to preclude achieving a critical mass. Because the fuel is not enriched beyond 5.0 weight percent Uranium-235 and because commercial nuclear plant licensees have procedures and features designed to prevent inadvertent criticality, the staff has determined that inadvertent criticality is not likely to occur due to the handling of special nuclear material at a commercial power reactor. The requirements of 10 CFR 70.24(a), therefore, are not necessary to ensure the safety of personnel during the handling of special nuclear materials at commercial power reactors.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that there is no significant environmental impact if the revised exemption is granted. Inadvertent or accidental criticality will be precluded through compliance with the Surry Power Station Technical Specifications (TS), the design of the fuel storage racks providing geometric spacing of fuel assemblies in their storage locations, and administrative controls imposed on fuel handling procedures. TS requirements specify reactivity limits for the fuel storage racks and minimum spacing between the fuel assemblies in the storage racks.

Appendix A of 10 CFR Part 50, "General Design Criteria for Nuclear Power Plants," Criterion 62, requires that criticality in the fuel storage and handling system shall be prevented by physical systems or processes, preferably by use of geometrically safe configurations. This is met at Surry Units 1 and 2, as identified in the TS.

Surry TS Section 5.4, Fuel Storage, states that the new fuel assemblies are stored vertically in an array with a distance of 21 inches between assemblies to assure that the effective neutron multiplication factor, K_{eff}, will remain less than or equal to 0.95 if fully flooded with unborated water, and to assure K_{eff} less than or equal to 0.98 under conditions of low-density optimum moderation. The spent fuel assemblies are stored vertically in an array with a distance of 14 inches between assemblies to assure K_{eff} less than or equal to 0.95 if fully flooded with unborated water.

The proposed revised exemption would not result in any significant radiological environmental impacts. The proposed revised exemption would not affect radiological plant effluents or cause any significant occupational exposures since the TS, design controls, including geometric spacing of fuel assembly storage spaces, and administrative controls preclude inadvertent criticality. The amount of radioactive waste would not be changed by the proposed revised exemption.

The proposed revised exemption would not result in any significant nonradiological environmental impacts. The proposed revised exemption involves features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other nonradiological environmental impact.

Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded that there is no significant environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed revised exemption, the staff considered denial of the requested exemption revision. Denial of the request would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the "Final Environmental Statement for the Surry Power Station."

Agencies and Persons Consulted

In accordance with its stated policy, the NRC staff consulted with Mr. Foldesi of the Virginia Department of Health on April 22, 1998, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated January 14, 1998, which is available for public inspection at the Commission's Public Document Room, which is located at The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Swem Library, College of William and Mary, Williamsburg, Virginia.

Dated at Rockville, Maryland, this 9th day of July 1998.

For the Nuclear Regulatory Commission.

Pao-Tsin Kuo,

Acting Director, Project Directorate II–1, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98–18834 Filed 7–14–98; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Pub. L. 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Pub. L. 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from June 22, 1998, through July 2, 1998. The last biweekly notice was published on July 1, 1998 (63 FR 35986).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administration Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By August 14, 1998, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Commonwealth Edison Company, Docket Nos. STN 50–454 and STN 50–455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois

Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of amendment request: May 29, 1998.

Description of amendment request: The proposed amendment would revise the technical specifications to credit the automatic function of the pressurizer power operated relief valves (PORVs) to provide mitigation for inadvertent safety injection at power accident. The limiting condition for operation and surveillance requirements for the PORVs would also be revised.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The changes to the Technical Specification (TS) Limiting Condition for Operation (LCO), Surveillance Requirements, and Bases do not involve an increase in the probability or consequences of the Inadvertent Operation of Emergency Core Cooling System (Spurious SI) at Power transient. Crediting the PORVs in the maximum pressurizer overfill case for this transient does not increase the probability of the occurrence of the transient since the automatic function of the PORVs for Reactor Coolant System (RCS) pressure control is not an initiator for the Spurious SI at Power transient. This change allows for the NRC Standard Review Plan (NUREG–0800) acceptance criteria to be met for the Spurious SI at Power transient, ensuring that the consequences of this transient remain within acceptable levels.

As documented in various Safety Evaluation Reports (SERs) from the NRC, the overpressure protection function of the PORVs was not originally considered to be a safety related function. In response to Generic Issue 70, the NRC performed a regulatory analysis related to PORV and block valve reliability in Pressurized Water Reactor (PWR) plants. This regulatory analysis is documented in NUREG–1316, "Technical Findings and Regulatory Analysis Related to Generic Issue 70, Evaluation of Power-Operated Relief Valve and Block Valve Reliability in PWR Nuclear Power Plants," where the NRC staff concluded that it was not cost effective to backfit non-safety related PORVs to upgrade them to safety related status to perform safety related functions. The safety related functions were those detailed in Section 2.1 of NUREG–1316 and any other safety related function identified in the future. As an example, the PORVs are credited for the cold overpressure protection function of the reactor pressure vessel during low temperature operations. The analysis documented in this License Amendment request demonstrates that the PORVs provide an acceptable level of quality and performance to allow them to be credited to mitigate the consequences of the Spurious SI at Power transient documented in Byron and Braidwood Updated Final Safety Analysis Report (UFSAR) Section 15.5.1. The PORVs are equipped with safety related actuators and safety related accumulator tanks which maintain valve function during a loss of instrument air. The position indication and control switches in the Main Control Room (MCR) are safety related. All pressurizer PORV open/close functions and circuitry are supplied with uninterruptible Class 1E power supplies. The automatic portion of the PORV circuitry which processes the high pressurizer and high RCS pressure at low temperature is designated non-safety related and is isolated from the safety related portions of the circuitry by safety related interposing relays which actuate on a faulted condition. However, both Byron and Braidwood Stations have implemented modifications for both Units 1 and 2, which ensure that automatic control of both PORVs is available during loss of offsite power conditions. In addition, the PORV function is monitored within the scope of the Maintenance Rule Program and the postulated failure of the PORV automatic function does not result in unacceptable risk.

The probability of a Spurious SI at Power transient is not affected by this proposed change and the above analysis demonstrates that the PORVs will adequately function in automatic mode to mitigate the consequences of the transient. As such, there are no changes in the type or amount of any effluent released offsite as a result of this change. Therefore, based on this evaluation, this proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

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This proposed change does not create the possibility of a new or different accident from any accident previously evaluated. This change would specifically allow for the PORV automatic function to be credited in Modes 1, 2, and 3 for the Spurious SI at Power transient only. This change allows for added assurance that the acceptance criteria as documented in the NRC Standard Review Plan (NUREG–0800) for ANS Condition II transients will be met. The acceptance criteria of concern is that a Condition II transient must not lead to an event (Condition III or IV) of more significant consequences without additional failures occurring. The PORV automatic function is to be credited with mitigating the maximum pressurizer overfill case for the Spurious SI at Power transient. This case has the acceptance criteria that the pressurizer must not go water solid prior to RCS pressure reaching the setpoint of the pressurizer safety relief valves (PSRVs). This conservative acceptance criteria is based on the fact that the PSRVs are not qualified to pass subcooled water and reseat, thereby creating a concern for an uncontrolled release path from the RCS. This proposed change helps ensure that the acceptance criteria for this accident are met. There is a small probability that the PORV function, either automatic or manual, would not successfully mitigate this transient due to the failure of one or both PORVs. However, the low likelihood of a total failure of the PORV function during the Spurious SI at Power transient does not create a new accident because a similar scenario is already addressed by UFSAR Section 15.6.1, "Inadvertent Opening of a Pressurizer Safety or Relief Valve." The UFSAR analysis for the Section 15.6.1 ANS Condition II transient indicates that the radiological consequences of this transient are significantly less than that of a LOCA and are therefore, acceptable. The same arguments for radiological consequences apply to the Spurious SI at Power transient in the event the PORV automatic function fails and water relief occurs through the PSRVs.

The proposed change to the LCO requirements in TS Section 3/4.4.4 would allow for the PORV block valve to be closed but remain energized in the event a PORV was considered inoperable due to the automatic actuation circuitry. Currently, the PORV block valve is closed but remains energized only if a PORV is considered inoperable due to excessive seat leakage. The proposed change would extend the allowance to include the circumstance where the PORV was inoperable due to the automatic actuation circuitry. This allows a PORV to remain functional in the manual mode for other safety related functions consistent with the discussion contained in NRC NUREG–1316. However, this revised LCO requirement would not represent a new failure mode or accident over what has been previously evaluated.

In summary, the proposed changes documented in this TS amendment to credit the automatic PORV function and to revise the TS LCO requirements for PORV inoperability do not create the potential for any new or different accidents from what was previously evaluated.

3. The change does not involve a significant reduction in a margin of safety.

The current TS bases do not credit the function of the pressurizer PORVs for any Mode 1, 2, or 3 transients. This change would allow for the PORV automatic function to be credited for the Spurious SI at Power transient only. This does not represent a significant reduction in the margin of safety. This change would allow for the conservative acceptance criteria for the current UFSAR design analysis to be met. The PORVs are reliable and are maintained in a manner consistent with their proposed safety related function to mitigate the Spurious SI at Power transient. This proposed change would not result in a significant increase in risk or consequences, and therefore, does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Local Public Document Room location: For Byron, the Byron Public Library District, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603.

NRC Project Director: Stuart A. Richards.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Nuclear Generating Plant, Unit No. 3, Citrus County, Florida

Date of amendment request: May 28, 1998.

Description of amendment request: The proposed amendment proposes changes to the Final Safety Analysis Report (FSAR) to include a description of the use of Generic Letter (GL) 87–11, "Relaxation in Arbitrary Intermediate Pipe Rupture Requirements," and NUREG/CR–2913, "Two-Phase Jet Loads," as a part of the approved licensing basis and design basis for Crystal River Unit 3. GL 87–11 will be used to determine where high energy line breaks (HELB) are postulated to occur for high energy lines located inside the Reactor Building (RB) and analyzed in accordance with the guidelines described in USAS B31.1.0–1967, "USA Standard Code for Pressure Piping, Power Piping." NUREG/CR–2913 will be used to determine the effects of the resultant jet impingement from postulated Reactor Coolant System (RCS) piping ruptures on safety-related systems, structures, and components (SSCs).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below.

1. Involve a significant increase in the probability or consequences of an accident previously evaluated?

The use of new design methodologies for determining postulated break locations of RCS piping and other high energy lines located inside containment, and the dynamic effects of postulated ruptures of RCS piping on SSCs required for safe shutdown or accident mitigation, does not impact the design of these high energy lines such that previously analyzed ruptures would now be more likely to occur. The approval of the license amendment will not result in an actual modification to RCS piping or other high energy lines which would reduce their design capabilities to maintain pressure boundary integrity during normal operating and accident conditions. By using these new design methodologies, protection of SSCs required for accident mitigation is assured. Protection of SSCs required for accident mitigation will continue to be assured by use of these well-defined design methodologies if modifications to those SSCs are implemented in the future. Therefore, there will be no reduction in the capability of those SSCs in limiting the consequences of previously evaluated accidents, and the proposed amendment does not significantly increase the probability or consequence of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from previously evaluated accidents?

The use of new design methodologies for determining postulated break locations of RCS piping and other high energy lines located inside containment, and the dynamic effects of postulated ruptures of RCS piping on SSCs required for safe shutdown or accident mitigation, does not impact the design of these high energy lines such that previously unanalyzed ruptures would now occur. The approval of the license amendment will not result in an actual modification to RCS piping or other high energy lines which would reduce their design capabilities to maintain pressure boundary integrity during normal operating and accident conditions. By using these new design methodologies, the current design of RCS piping and other high energy lines located inside containment can be shown to include sufficient design margin to prevent unanalyzed ruptures from occurring. Therefore, use of these design methodologies instead of the previous licensing basis requirements cannot create the possibility of a new or different kind of accident.

3. Involve a significant reduction in a margin of safety?

The use of new design methodologies for determining postulated break locations of RCS piping and other high energy lines located inside containment, and the dynamic effects of postulated ruptures of RCS piping on SSCs required for safe shutdown or accident mitigation, does not impact the design of these high energy lines such that unanalyzed ruptures would now occur, and cannot create a reduction in the margin of safety for those ruptures of high energy lines previously analyzed. The approval of the license amendment will not result in an actual modification to RCS piping or other high energy lines which would reduce their design capabilities to maintain pressure boundary integrity during normal operating and accident conditions. By using these new design methodologies, protection of SSCs required for accident mitigation is assured. Protection of SSCs required for accident mitigation will continue to be assured by use of these well-defined design methodologies if modifications to those SSCs are implemented in the future. Therefore, the capability of those SSCs to limit the consequences of previously evaluated accidents at levels below the approved acceptance limits will continue to be assured. As a result, use of these design methodologies instead of the previous licensing basis and design basis requirements cannot significantly reduce the existing margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 34428.

Attorney for licensee: R. Alexander Glenn, General Counsel, Florida Power Corporation, MAC—A5A, P. O. Box 14042, St. Petersburg, Florida 33733–4042.

NRC Project Director: Frederick J. Hebdon.

GPU Nuclear, Inc. et al., Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of amendment request: May 28, 1998.

Description of amendment request: Revision of Technical Specification (TS) 4.5.A.1 such that the first Type A test required by the primary containment leakage rate testing program be performed during refueling outage 18 rather than refueling outage 17.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. *The proposed TS change does not involve a significant increase in the probability or consequences of an accident previously evaluated.*

The proposed changes does not alter the design, function or manner of operation of any structures, systems or components. As a result, the proposed change does not affect any of the parameters or conditions that could contribute to initiation of any accidents. NUREG–1493 found that the effect of containment leakage on overall accident risk is small since risk is dominated by accident sequences that result in failure or bypass of the containment. The major contributor to the total identified leakage from Primary Containment comes from Type B and C tested components. Only a small portion of the total leakage is detectable soley through Type A testing. The leaks that have been found by Type A tests have been only marginally above existing requirements. In addition, Oyster Creek has two means (monitoring nitrogen use and performing torus to drywell vacuum breaker leak tests) of detecting gross containment leakage. The proposed change does not alter the requirements to perform Type B and C testing in accordance with the Primary Containment Leakage Rate Testing Program and does not affect the ability of the facility to mitigate the consequences of an accident.

Therefore, the proposed TS change does not involve an significant increase in the probability or consequences of an accident previously evaluated.

2. *The proposed TS change does not create the possibility of a new or different kind of accident from any previously evaluated.*

Deferring the Type A test for an operating cycle does not alter the design, function or manner of operation of any structures, systems or components. The proposed change does not affect any of the parameters or conditions that could contribute to initiation of any accidents nor does it introduce any new mechanisms which could contribute to the creation of a new or different kind of accident than previously evaluated.

3. *The proposed TS changes do not involve a significant reduction in a margin of safety.*

The proposed change does not alter the design, function or manner of operation of any structures, systems or components. The proposed change does not impact the primary containment system's ability to provide a barrier against the uncontrolled release of fission products in the event of a break in the reactor coolant system nor does the proposed change impact the primary containment accident leak rate. In addition, NUREG–1493's Summary of Technical Findings states "Reducing the frequency of Type A tests (ILRTs) from the current three per 10 years to one per 20 years was found to lead to an imperceptible increase in risk. The estimated increase in risk is very small because ILRTs identify only a few potential containment leakage paths that cannot be identified by Type B and C testing, and the leaks that have been found by Type A tests have been only marginally above existing requirements." Therefore, the proposed TS change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Ocean County Library,

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Reference Department, 101 Washington Street, Toms River, NJ 08753.

Attorney for licensee: Ernest L. Blake, Jr., Esquire. Shaw, Pitman, Poets & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Cecil O. Thomas.

Northeast Nuclear Energy Company (NNECO), et al., Docket No. 50–423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of amendment request: June 10, 1998.

Description of amendment request: The proposed revision to the Millstone Unit 3 licensing basis would address post-accident mitigation activities, vital area access travel routes, and time. NNECO determined that the Final Safety Analysis Report (FSAR) description of post-accident vital area routing was out of date because the radiological control area boundary fence created an access problem on the designated routes to the hydrogen recombiner and fuel building. The FSAR change would revise the routes to accommodate the fence location and allow for the time to unlock gates.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

NNECO has reviewed the proposed revision in accordance with 10 CFR 50.92 and has concluded that the revision does not involve a significant hazards consideration (SHC). The basis for this conclusion is that the three criteria of 10 CFR 50.92(c) are not satisfied. The proposed revision does not involve an SHC because the revision would not:

1. Involve a significant increase in the probability or consequence of an accident previously evaluated.

Final Safety Analysis Report (FSAR) Section 12.3.1.3.2, Post-accident access to vital areas, and its associated Figures and Tables are being updated. The current FSAR descriptions are out of date and as such do not include all required post-accident actions. Therefore, this FSAR change adds actions to those listed in the FSAR as well as incorporating the recalculation of the doses associated with the required post-accident actions. The dose calculations utilize the appropriate post-accident source terms, area access requirements and stay times, including the appropriate routes to the areas. The calculations show that for all design basis required post-accident actions the calculated dose to the Operators/Emergency workers performing those actions remains below the 5 rem criterion of General Design Criteria (GDC) 19. The revision to the FSAR provides the required post-accident required operator actions. Changing the FSAR to include the current post-accident vital access requirements and associated information for the supporting dose calculations [cannot] cause an accident. In addition, the calculated dose to the Operators/Emergency workers for all design basis required actions is below the GDC 19 limit of 5 rem.

Therefore, the proposed revision does not involve a significant increase in the probability or consequence of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The change is to the calculated post-accident vital access dose analyses and the FSAR description of that analyses. No new procedural Operator/Emergency worker actions are associated with the change.

However, since the information in the FSAR was outdated, there are Operator/Emergency actions being added to the FSAR. Dose calculations associated with those actions have been performed utilizing the appropriate assumptions with respect to source terms, vital area access travel routes and stay times, and times when the post-accident actions would be performed. The analyses confirmed that the calculated doses associated with all required post-accident actions are less than the 5 rem limit of GDC 19. There are no changes to the Emergency Operating Procedures associated with this change.

Therefore, the proposed revision does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The dose calculations confirm that the calculated dose associated with all design basis post-accident Operator/Emergency worker actions is below the limit of 5 rem of GDC 19. There is one action, initiation of hydrogen purge, for which the calculated dose to the Operator/Emergency worker exceeds 5 rem. This action is a backup means of limiting the hydrogen concentration inside containment post-accident. This action would only be performed for multiple failures which would disable both trains of the safety-grade hydrogen recombiner system. As such this action is not a required design basis action and does not need to meet the 5 rem limit. The calculated dose for this action is below the 25 rem limit that is specified in the Station Emergency Plan for severe accident mitigation actions.

Therefore, the proposed revision does not involve a significant reduction in a margin of safety.

In conclusion, based on the information provided, it is determined that the proposed revision does not involve an SHC.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, Connecticut.

NRC Deputy Director: Phillip F. McKee.

PECO Energy Company, Public Service Electric and Gas Company, Demarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Units Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: February 4, 1998.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS) Surveillance Requirement (SR) concerning Secondary Containment doors at Peach Bottom Atomic Power Station, Units 2 and 3.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed TS changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

TS SR 3.6.4.1.2 will be revised to require either all inner or outer secondary containment access doors to be closed in each air lock. This revision will not adversely affect the ability of the Secondary Containment to mitigate the radiological consequences of a Loss-of-Coolant Accident or fuel handling accident, and does not involve a significant increase in the probability or consequences of an accident previously evaluated. During those times that one or more inner (or outer) doors are open, the closed outer (or inner) doors will serve as the Secondary Containment boundary.

Allowing certain inner or outer Secondary Containment access doors in an air lock to be open does not compromise the design of the Secondary Containment. No commitment is made in the UFSAR to consider the single failure of passive structural components such as Secondary Containment doors. As discussed in Section 1.5 of the UFSAR, "* * * Essential safety actions shall be carried out by equipment of sufficient redundance and independence that no single failure of *active* components can prevent the required actions". The same UFSAR section goes on to state that, "For systems or components to which IEEE–279 (1968) is applicable, single failures of *passive electrical components* are considered, as well as single failures of active components, in recognition of the higher anticipated failure rates of passive electrical components relative to passive mechanical components." Therefore, based on this UFSAR discussion, it is concluded that failure of outer (inner) secondary containment doors need not be postulated with the inner (outer) door being open.

The performance of the Secondary Containment and the Standby Gas Treatment System is unaffected by this activity. Surveillance testing will prove the capability to maintain Secondary Containment with only inner or only outer doors closed. This change will not result in greater or more frequent loading of Secondary Containment doors, and does not result in changes that impact the reliability of the Secondary Containment and the Standby Gas Treatment System.

2. The proposed TS changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The Secondary Containment, in conjunction with the Standby Gas Treatment System, provides the means for mitigating the radiological consequences of an accident. The configuration of the Secondary Containment has no effect on accident initiators which lead to a new or different kind of accident. This change will not involve any changes to plant systems, structures, or components which could act as new accident initiators. The design, function, and reliability of Secondary Containment and the Standby Gas Treatment System are also not impacted by this change. Therefore, this change will not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed TS changes do not involve a significant reduction in a margin of safety.

No margins of safety are reduced as a result of this change to the TS. No safety limits will be changed as a result of this TS change. The Secondary Containment will continue to perform its intended safety function of limiting the ground level release of airborne radioactive materials and to provide a means for controlled elevated release of the building atmosphere so that off-site doses from the postulated design basis accidents are below the limits of 10 CFR 100. The design and reliability of the Secondary Containment are also not impacted as a result of this change.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, PA 17105.

Attorney for Licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, PECO Energy Company, 2301 Market Street, Philadelphia, PA 19101.

NRC Project Director: Robert A. Capra.

Power Authority of the State of New York, Docket No. 50–286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of amendment request: November 13, 1997.

Description of amendment request: The proposed amendment will reduce the maximum test interval from 1 year to 6 months for the test frequency of the main turbine stop and control valves (TS & CVs) in Table 4.1–3 and add a footnote.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response

The proposed license amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed change increases the frequency of testing of the TS & CVs by reducing the maximum allowable test interval. The maximum test interval is reduced from one year to six months. Thus, the proposed change will make the maximum test interval more conservative. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response

The proposed license amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed change does not involve the addition of any new or different type of equipment, nor does it involve the operation of equipment required for safe operation of the facility in a manner different from those addressed in the Final Safety Analysis Report.

(3) Does the proposed license amendment involve a significant reduction in a margin of safety?

Response

The proposed license amendment does not involve a significant reduction in a margin of safety. The proposed change does not adversely affect performance of any safety related system or component, instrument operation, or safety system setpoints and does not result in increased severity of any accidents considered in the safety analysis. The proposed change does not reduce the frequency of testing of these valves but updates the methodology for determination of the test frequency and reduces the maximum test interval from one year to six months. It establishes a more conservative acceptance criteria of 5.0×10^{-6} per year than the NRC acceptance criteria of 1.0×10^{-5} for a turbine missile event. Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

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Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. David E. Blabey, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: S. Singh Bajwa, Director.

Power Authority of the State of New York, Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of amendment request: June 16, 1998.

Description of amendment request: The proposed amendment would relocate the Safety Review Committee review, audit and related record keeping requirements from the Technical Specifications (TSs) to Chapter 17 of the Final Safety Analysis Report (FSAR) (i.e., Quality Assurance Program).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously analyzed?

Response

This amendment application does not involve a significant increase in the probability or consequences of an accident previously analyzed. The relocation of the SRC [Safety Review Committee] review, audit, and related record keeping requirements from the TS to the FSAR does not alter the performance or frequency of these activities. Future changes to the QA [Qualify Assurance] program, located in Chapter 17 of the FSAR, which constitute a reduction in commitments, are governed by 10 CFR 50.54(a). Therefore, sufficient controls for these requirements exist and these changes do not involve a significant increase in the probability or consequences of an accident previously analyzed.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response

This amendment application does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed changes involve the relocation of SRC requirements from the TS to the FSAR. Relocation of these requirements does not affect plant equipment or the way the plant operates. The reviews, audits, and record keeping will continue to be performed in the identical manner as they are currently being performed. Therefore, the proposed revisions cannot create a new or different kind of accident.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

Response

This amendment application does not involve a significant reduction in a margin of safety. The requested Technical Specification revisions relocate SRC review, audit and related record keeping requirements from the TS to the FSAR. These requirements are not being altered by this relocation. The reviews, audits, and record keeping will continue to be performed in the identical manner as they are currently being performed. Any changes to these requirements which constitute a reduction in commitments will be processed in accordance with 10 CFR 50.54(a). Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Mr. David Blabey, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: S. Singh Bajwa.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: April 30, 1998 (TS 98–01).

Brief description of amendments: The amendments would change the Sequoyah (SQN) Technical Specifications (TSs) to allow surveillance testing of the reactor coolant system (RCS) pressurizer power-operated relief valves (PORVs) in Modes 3, 4, and 5.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), Tennessee Valley Authority (TVA), the licensee, has provided its analysis of the issue of no significant hazards consideration, which is presented below:

TVA has concluded that operation of SQN Units 1 and 2, in accordance with the proposed change to the TSs, does not involve a significant hazards consideration. TVA's conclusion is based on its evaluation, in accordance with 10 CFR 50.91(a)(1), of the three standards set forth in 10 CFR 50.92(c).

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The possibility of occurrence or the consequences for an accident or malfunction of equipment is not increased as the test conditions for the PORVs in Mode 5 are representative conditions based on a steam bubble being present, and testing in this mode is more conservative, if RCS pressure is less, since there is less fluid force to aid the solenoid force in opening the valve. Testing in Modes 3 and 4 was the initial request of GL [Generic Letter] 90–06. No changes are proposed to operation of the PORV block valves. Offsite dose consequences are unchanged by this request.

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

A possibility for an accident or malfunction of a different type than any evaluated previously in SQN's Final Safety Analysis Report is not created; nor is the possibility for an accident or malfunction of a different type. A new test method is not required. No new failure modes are introduced.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

The margin of safety has not been reduced for testing in Mode 5 since the proposed test conditions are equal to or more conservative, if RCS pressure is less, than those currently in use with existing SRs [surveillance requirements]. Testing in Modes 3 and 4 was the initial request of GL 90–06. The results of the accident analysis remain unchanged by this request.

The NRC has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 10H, Knoxville, Tennessee 37902.

NRC Project Director: Frederick J. Hebdon.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: June 26, 1998 (TS 98–02).

Brief description of amendments: The amendments would change the Sequoyah Nuclear Plant (SQN) Technical Specifications (TS) and their Bases to lower the specific activity of the primary coolant from 1.0 microcurie/gram dose equivalent iodine-131 to 0.35 microcurie/gram, as provided for in NRC Generic Letter 95–05, "Voltage-Based Repair Criteria for Westinghouse Steam Generator Tubes Affected by Outside Diameter Stress Corrosion Cracking." This change allows a proportional increase in main steam line break induced primary-to-secondary leakage when implementing the alternate steam generator tube repair criteria, which the NRC has already approved for Units 1 and 2.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the Tennessee Valley Authority (TVA), the licensee, has provided its analysis of the issue of no significant hazards consideration, which is presented below:

TVA has concluded that operation of SQN Units 1 and 2, in accordance with the proposed change to the TS [or operating license(s)], does not involve a significant hazards consideration. TVA's conclusion is based on its evaluation, in accordance with 10 CFR 50.91(a)(1), of the three standards set forth in 10 CFR 50.92(c).

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed TS change lowers the [maximum allowable] reactor coolant specific activity, which allows an increase in the leakage quantity that would be postulated to occur during a MSLB accident. This in turn allows a larger quantity of tubes with axial ODSCC to remain in service. The methodology for identifying and defining the ODSCC and for developing the leakage quantity remains unchanged. Therefore, the proposed change does not result in a significant increase in the probability of an accident.

An increase in the consequences of an accident would not occur because the proportional decrease in reactor coolant specific activity, while proportionally increasing the primary-to-secondary leakage during a postulated MSLB accident, has been evaluated to confirm the amount of activity released to the environment remains unchanged. The evaluation uses the same methodology used to establish the original primary-to-secondary leak limits in [Westinghouse Topical Report] WCAP–13990.

The control room dose, the low population zone dose, and the dose at the exclusion area boundary remains bounded by the acceptance criteria of NUREG–0800 and continue to satisfy an appropriate fraction of the 10 CFR 100 dose limits and GDC [General Design Criterion] 19. Therefore, the proposed TS change does not result in a significant increase in the consequences of an accident previously analyzed.

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed TS change does not alter the configuration of the plant. The changes do not directly affect plant operation. The change will not result in the installation of any new equipment or systems or the modification of any existing equipment or systems. No new operating procedures, conditions or modes will be created by this proposed change. SG [steam generator] tube structural integrity, as defined in draft Regulatory Guide 1.121, remains unchanged.

Therefore the possibility of a new or different kind of accident from any accident previously evaluated is not created.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

Lowering the reactor coolant specific activity, while allowing the proportional increase in the primary-to-secondary leakage during a postulated MSLB accident, keeps the amount—of activity released to the environment unchanged. Design basis and offsite dose calculation assumptions remain satisfied. Therefore, the proposed change does not result in a significant reduction in the margin of safety.

The NRC has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 10H, Knoxville, Tennessee 37902.

NRC Project Director: Frederick J. Hebdon.

TU Electric Company, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Units 1 and 2, Somervell County, Texas

Date of amendment request: February 27, 1998 (TXX–98033), June 10, 1998 (TXX 98145).

Brief description of amendments: The proposed amendment would increase the RWST Low-Low level setpoint from "greater than or equal to 40%" to "greater than or equal to 45%" of span for CPSES, Units 1 and 2. The change raises the RWST Low-Low level setpoint in order to increase the volume available to complete containment spray switchover without turning off the containment spray pumps.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

The changes in the License Amendment Request proposes more restrictive setpoint Allowable Values for the RWST Low-Low setpoint. This more restrictive value assures that all applicable safety analysis limits are being met. Changing an RWST Low-Low setpoint from greater than or equal to 40% to greater than or equal to 45% in the Technical Specifications has no impact on the probability of occurrence of any accident previously evaluated. None of the accident analyses were affected, therefore, the consequences of all previously evaluated accidents remain unchanged.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes involve the use of a more conservative value for the RWST Low-Low setpoint. As such, none of the changes effect plant hardware or the operation of plant systems in a way that could initiate an accident. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

There were no changes made to any of the accident analyses or safety analysis limits as a result of this proposed change. Further, the proposed

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change does not affect the acceptance criteria for any analyzed event. ECCS, Containment spray, and the RWST will remain capable of performing their safety function, and the new requirement will continue to provide adequate assurance of that capability. Raising the RWST Low-Low setpoint from 40% to 45% has no impact on the assumptions used in the safety analysis as discussed in Chapter 15 of the FSAR. The margin of safety established by the Limiting Conditions for Operation also remains unchanged. Thus there is no effect on the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92 are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of Texas at Arlington Library, Government Publications/Maps, 702 College, P.O. Box 19497, Arlington, TX 76019.

Attorney for licensee: George L. Edgar, Esq., Morgan, Lewis and Bockius, 1800 M Street, N.W., Washington, DC 20036.

NRC Project Director: John N. Hannon.

Virginia Electric and Power Company, Docket Nos. 50–280 and 50–281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment request: June 19, 1998. This amendment request supersedes the November 5, 1997, submittal in its entirety (63 FR 19981).

Description of amendment request: The proposed Operating License change and changes to the technical specifications (TS) would permit the use of a temporary alternate supply line (jumper) to provide service water (SW) to the component cooling heat exchangers. The temporary jumper will permit maintenance to be performed on the existing supply line.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Virginia Electric and Power Company has reviewed the proposed changes against the criteria of 10 CFR 50.92 and has concluded that the changes do not pose a significant safety hazards consideration as defined therein. The proposed Operating License and Technical Specifications and Bases changes are necessary to allow the use of a temporary, seismic, non-missile protected jumper to provide service water (SW) to the Component Cooling Heat Exchangers (CCHXs) while maintenance work is performed on the existing SW supply line to the CCHXs. Since there is only one SW supply line to the CCHXs, an alternate SW supply must be provided whenever the line is removed from service. The temporary jumper provides this function. The jumper will only be used for a 35-day period during each of two Unit 1 refueling outages.

The use of the temporary jumper has been thoroughly evaluated, and appropriate constraints and compensatory measures (including a Contingency Action Plan) have been developed to ensure that the temporary jumper is reliable, safe, and suitable for its intended purpose. A complete and immediate loss of SW supply to the operating CCHXs is not considered credible, given the project constraints and the unlikely probability of a generated missile or heavy load drop. Existing station abnormal procedures already address a loss of component cooling, and the use of alternate cooling for a loss of decay heat removal, in the unlikely event that they are required. Furthermore, appropriate mitigative measures have been identified to address potential flooding concerns. The minor administrative changes merely correct a table format inconsistency and update Basis section references.

Consequently, the operation of Surry Power Station with the proposed amendment and license condition will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The SW and CC Systems will function as designed under the Unit operating constraints specified by this project (i.e., Unit 2 in operation and Unit 1 in a refueling outage), and the potential for a loss of component cooling is already addressed by Station Abnormal Procedures. Therefore, there is no increase in the probability of an accident previously evaluated. The possibility of flooding due to failure of the temporary SW supply jumper in the Turbine Building basement has been evaluated and dispositioned by the implementation of appropriate precautions and compensatory measures to preclude damage to the temporary jumper and to respond to a postulated flooding event. A flood watch will be present around-the-clock with authority and procedural guidance to isolate the jumper, if required. Furthermore, the CCHXs serve no design basis accident mitigating function. Therefore, the consequences of an accident previously evaluated are not increased.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The SW and CC Systems' design functions and basic configurations are not being altered as a result of using a temporary SW supply jumper. The temporary jumper is designed to be safety-related and seismic with all of the design attributes of the normal SW supply line, except for the automatic isolation function and complete missile and heavy load drop protection. The design functions of the SW and CC systems are unchanged as a result of the proposed changes due to (1) required plant conditions, (2) compensatory measures, (3) a Contingency Action Plan for restoration of the normal SW supply if required, and (4) strict administrative control of the temporary SW isolation valve to preclude flooding or to isolate non-essential SW within the design basis assumed time limits. Unit 1 will be in a plant condition which will provide adequate time to restore the normal SW supply, if required. Therefore, since the SW and CC systems will basically function as designed and will be operated in their basic configuration, the possibility of a new or different type of accident than previously evaluated in the UFSAR [Updated Final Safety Analysis Report] is not created.

3. Involve a significant reduction in a margin of safety.

The margin of safety as defined in the Technical Specifications is not reduced since an operable SW flowpath to the required number of CCHXs is provided, and Unit operating constraints, compensatory measures and contingencies will be implemented as required to ensure the integrity and the capability of the SW flowpath. The use of the temporary jumper will be limited to the time period when missile producing weather is not expected, and Unit 1 meets specified unit conditions. Therefore, the temporary SW jumper, under the imposed project constraints and compensatory measures, provides the same reliability as the normal SW supply line. Furthermore, the Probabilistic Safety Assessment for Surry Power Station has been reviewed relative to the use of the temporary SW jumper. It has been determined that due to the SW restoration project's compensatory and contingency measures, as well as the configuration restrictions that will be imposed by the Maintenance Rule online risk matrix, the impact on core damage frequency is negligible.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219.

NRC Project Director: P. T. Kuo, Acting.

Westinghouse Electric Corporation (Licensee), Westinghouse Test Reactor, Waltz Mill Site, Westmoreland, Pennsylvania, Docket No. 50–22, License No. TR–2

Date of amendment request: December 22, 1997, supplemented on June 15, 1998.

Description of amendment request: In 1959, the Westinghouse Electric Corporation was granted a license for the Westinghouse Test Reactor (WTR) at Waltz Mill. On December 22, 1997, the licensee informed the Nuclear Regulatory Commission it had changed its name to CBS Corporation, and requested the license to be amended to reflect the name change.

On June 15, 1998, the CBS Corporation agreed that the name of the WTR licensee, as reflected on the license, can be revised to "CBS Corporation acting through its Westinghouse Electric Company Division." Therefore, the purpose of this amendment is to change the name of the licensee as indicated on the WTR license from Westinghouse Electric Corporation to CBS Corporation acting through its Westinghouse Electric Company Division.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The staff agrees with the licensee's no significant hazards consideration determination submitted on June 15, 1998 for the following reason.

This corporate name change does not involve any change in the management, organization, location, facilities equipment, or procedures related to or personnel responsible for the licensed activities of the WTR license. All existing commitments, obligations and representations remain in effect.

Based on a review of the licensee's analysis, and on the staff's analysis detailed above, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for license: Lisa A. Campagna, Assistant General Counsel, Law Department, CBS Corporation, P.O. Box 355, Pittsburgh, Pennsylvania 15230.

NRC Project Director: Seymour H. Weiss.

Wisconsin Electric Power Company, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Plant, Units 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: February 26, 1998 (TSCR 204).

Description of amendment request: The proposed changes would modify Technical Specifications (TS) and bases to reflect a lower containment leakage limit, a revised program for control of primary coolant sources outside containment, a revised control room emergency filtration design, and the addition of the primary auxiliary building exhaust filtration system.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. Operation of this facility under the proposed Technical Specifications will not create a significant increase in the probability or consequences of an accident previously evaluated.

The probabilities of accidents previously evaluated are based on the probability of initiating events for these accidents. Initiating events for accidents previously evaluated for Point Beach include: Control rod withdrawal and drop, CVCS [chemical volume control system] malfunction (Boron Dilution), startup of an inactive reactor coolant loop, reduction in feedwater enthalpy, excessive load increase, losses of reactor coolant flow, loss of external electrical load, loss of normal feedwater, loss of all AC [alternating current] power to the auxiliaries, turbine overspeed, fuel handling accidents, accidental releases of waste liquid or gas, steam generator tube rupture, steam pipe rupture, control rod ejection, and primary coolant system ruptures.

This license amendment request proposes to change the limiting conditions for operation, action statements, allowable outage times, and surveillance requirements for the Point Beach Nuclear Plant [PBNP] Technical Specifications associated with the maximum permissible containment leak rate, control room emergency filtration, primary auxiliary building exhaust filtration, and primary coolant sources outside containment. These proposed changes do not cause an increase in the probabilities of any accidents previously evaluated because these changes will not cause an increase in the probability of any initiating events for accidents previously evaluated. In particular, these changes affect accident mitigation systems and equipment which do not cause accidents.

The consequences of the accidents previously evaluated in the PBNP FSAR [Final Safety Analysis Report] are determined by the results of analyses that are based on initial conditions of the plant, the type of accident, transient response of the plant, and the operation and failure of equipment and systems. The changes proposed in this license amendment request provide appropriate limiting conditions for operation, action statements, allowable outage times, and surveillance requirements for maximum permissible containment leak rate, control room emergency filtration, primary auxiliary building exhaust filtration, and primary coolant sources outside containment.

The proposed changes affect components that are required to ensure the proper operation of accident mitigation systems and equipment. The proposed changes do not increase the probability of failure of this equipment or its ability to operate as required for the accidents previously evaluated in the PBNP FSAR.

Therefore, this proposed license amendment does not affect the consequences of any accident previously evaluated in the Point Beach Nuclear Plant FSAR, because the factors that are used to determine the consequences of accidents are not being changed.

2. Operation of this facility under the proposed Technical Specifications change will not create the possibility of

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a new or different kind of accident from any accident previously evaluated.

New or different kinds of accidents can only be created by new or different accident initiators or sequences. New and different types of accidents (different from those that were originally analyzed for Point Beach) have been evaluated and incorporated into the licensing basis for Point Beach Nuclear Plant. Examples of different accidents that have been incorporated into the Point Beach Licensing basis include anticipated transients without scram and station blackout. The changes proposed by this license amendment request do not create any new or different accident initiators or sequences because these changes to limiting conditions for operation, action statements, allowable outage times, and surveillance requirements for maximum permissible containment leak rate, control room emergency filtration, primary auxiliary building exhaust filtration, and primary coolant sources outside containment will not cause failures of equipment or accident sequences different than the accidents previously evaluated. Therefore, these proposed Technical Specifications changes do not create the possibility of an accident of a different type than any previously evaluated in the Point Beach FSAR.

3. Operation of this facility under the proposed Technical Specifications change will not create a significant reduction in a margin of safety.

The margins of safety for Point Beach are based on the design and operation of the reactor and containment and the safety systems that provide their protection.

The changes proposed by this license amendment request provide the appropriate limiting conditions for operation, action statements, allowable outage times, and surveillance requirements for maximum permissible containment leak rate, control room emergency filtration, primary auxiliary building exhaust filtration, and primary coolant sources outside containment. This ensures that the safety systems that protect the reactor and containment will operate as required. The design and operation of the reactor and containment are not affected by these proposed changes. Therefore, the margins of safety for Point Beach are not being reduced because the design and operation of the reactor and containment are not being changed and the safety systems and limiting conditions of operation for these safety systems that provide their protection that are being changed will continue to meet the requirements for accident mitigation for Point Beach Nuclear Plant.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: The Lester Public Library, 1001 Adams Street, Two Rivers, Wisconsin 54241.

Attorney for licensee: John H. O'Neill, Jr., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Cynthia A. Carpenter.

Wisconsin Electric Power Company, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Plant, Units 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: May 28, 1998 (TSCR 203).

Description of amendment request: The proposed amendments would revise Technical Specifications (TS) to provide a specific numerical setting for reactor trip, reactor coolant pump trip, and auxiliary feedwater initiation on a loss of power to the 4 kilovolt (kV) buses. Changes to the bases for the affected TS sections are also being made.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. Operation of the Point Beach Nuclear Plant [PBNP] in accordance with the proposed amendments will not create a significant increase in the probability or consequences of an accident previously evaluated.

The probabilities of accidents previously evaluated are based on the probability of initiating events for these accidents. Initiating events for accidents potentially affected by the proposed amendments previously evaluated for Point Beach include losses of reactor coolant flow, loss of external electrical load, loss of normal feedwater, and loss of all AC [alternating current] power to the auxiliaries.

This license amendment request proposes to clarify the setting limit for the undervoltage reactor trip, auxiliary feedwater initiation and reactor coolant pump trip by providing an actual numerical value in place of the word "Normal" thereby eliminating any confusion as to the actual value used in the setting limit for this protection function.

This proposed change does not cause an increase in the probabilities of any accidents previously evaluated because the change will not cause an increase in the probability of any initiating events for accidents previously evaluated. In particular, the proposed change more clearly defines the actual setting limit for the 4 KV undervoltage protection function taking into account the effects of voltage decay and response times. This is a protection function for mitigation of these events. Appropriate delay times are implemented in this function to ensure momentary voltage transients do not initiate these events while ensuring appropriate protection for these loss of power events. Therefore, there is no significant increase in the probability or consequences of any event previously analyzed.

The consequences of the accidents previously evaluated in the PBNP FSAR [Final Safety Analysis Report] are determined by the results of analyses that are based on initial conditions of the plant, the type of accident, transient response of the plant, and the operation and failure of equipment and systems. The changes proposed in this license amendment request provide appropriate limiting conditions for the setting limits for the Point Beach Nuclear Plant Technical Specifications for the 4 KV undervoltage protection function. Thus the analyses of the events remain valid and demonstrate that there are no radiological consequences from these events.

Therefore, this proposed license amendment does not affect the consequences of any accident previously evaluated in the Point Beach Nuclear Plant FSAR, because the factors that are used to determine the consequences of accidents are not being changed.

2. Operation of the Point Beach Nuclear Plant in accordance with the proposed amendments will not create the possibility of a new or different kind of accident from any accident previously evaluated.

New or different kinds of accidents can only be created by new or different accident initiators or sequences. New and different types of accidents (different from those that were originally analyzed for Point Beach) have been evaluated and incorporated into the licensing basis for Point Beach Nuclear Plant. Examples of different accidents that have been incorporated into the Point Beach Licensing basis include anticipated transients without scram and station blackout.

The change proposed by the amendments to provide specific undervoltage setting limits does not create any new or different accident initiators or sequences because the change to the 4 KV undervoltage protection function will not cause failures of equipment or accident sequences different than the accidents previously evaluated. Therefore, the proposed Technical Specification change does not create the possibility of an accident of a different type than any previously evaluated in the Point Beach FSAR.

3. Operation of the Point Beach Nuclear Plant in accordance with the proposed amendments [will] not create a significant reduction in a margin of safety.

The margins of safety for Point Beach are based on the design and operation of the reactor and containment and the safety systems that provide their protection.

The change proposed by this license amendment request provides the appropriate setting limit for the 4 KV undervoltage protection function. This ensures that the safety systems that protect the reactor and containment will operate as required. The design and operation of the reactor and containment are not affected by these proposed changes. Therefore, the margins of safety for Point Beach are not being reduced because the design and operation of the reactor and containment are not being changed.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: The Lester Public Library, 1001 Adams Street, Two Rivers, Wisconsin 54241.

Attorney for licensee: John H. O'Neill, Jr., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Cynthia A. Carpenter.

Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Consumers Energy Company, Docket No. 50–255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: June 17, 1998, as supplemented June 23, 1998.

Brief description of amendment request: The proposed amendment would revise Section 3.1.1c of the Technical Specifications (TS), Appendix A of the Operating License for the Palisades Nuclear Plant, to change the minimum required primary coolant system flow. The currently specified value is 140.7×10^6 lb/hr [pounds per hour] or greater, when corrected to 532 °F. The licensee proposed to revise the TS to specify a value of greater than or equal to 352,000 gpm [gallons per minute], which is equivalent to approximately 135×10^6 lb/hr, when corrected to 532 °F.

Date of publication of individual notice in **Federal Register**: July 2, 1998 (63 FR 36271)

Expiration date of individual notice: August 3, 1998.

Local Public Document Room location: Van Wylen Library, Hope College, Holland, Michigan 49423–3698.

Detroit Edison Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of amendment request: June 26, 1998 (NRC–98–0040).

Brief description of amendment request: The proposed amendment would provide a one-time extension of the interval for a number of technical specification (TS) surveillance requirements that will be performed in the sixth refueling outage. TS 4.0.2 and Index page xxii would be revised and TS tables 4.0.2–1 and 4.0.2–2 would be replaced to reflect the extensions.

Date of publication of individual notice in **Federal Register**: July 2, 1998 (63 FR 36273).

Expiration date of individual notice: August 3, 1998.

Local Public Document Room location: Monroe County Library System, Ellis Reference and Information Center, 3700 South Custer Road, Monroe, Michigan 48161.

Duquesne Light Company, et al., Docket Nos. 50–334 and 50–412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania

Date of amendment request: June 19, 1998.

Brief description of amendment request: This amendment revises the Beaver Valley Power Station, Units 1 and 2 (BVPS–1 and BVPS–2), Technical Specifications (TS) definition of a channel calibration to add two sentences stating that (1) the calibration of instrument channels with resistance temperature detector or thermocouple sensors may consist of an inplace qualitative assessment of sensor behavior and normal calibration of the remaining adjustable devices in the channel and (2) whenever a sensing element is replaced, the next required channel calibration shall include an inplace cross calibration that compares the other sensing elements with the recently installed sensing element. This proposed change would make the BVPS–1 and BVPS–2 TS definition of channel calibration consistent with the definition of a channel calibration contained in the NRC's improved Standard Technical Specifications for Westinghouse Plants (NUREG–1431, Revision 1).

Date of publication of individual notice in **Federal Register**: June 26, 1998.

Expiration date of individual notice: July 27, 1998 (63 FR 34939).

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, PA 15001.

Pennsylvania Power and Light Company, Docket No. 50–388, Susquehanna Steam Electric Station, Unit 2, Luzerne County, Pennsylvania

Date of amendment request: June 17, 1998.

Brief description of amendment request: This amendment revises the applicability requirement in TS Sections 3.4.2, "Safety/Relief Valves" (Action c); 4.4.2; 3.3.7.5, "Accident Monitoring Instrumentation" (TS Table 3.3.7.5–1, Action 80 and 4.3.7.5, "Surveillance Requirements," Table 4.3.7.5–1 "Accident-Monitoring Instrumentation Surveillance Requirements"). The change to the referenced TSs adds the following applicability footnote:

> Compliance with these requirements for the "J" SRV acoustic monitor is not required for the period beginning June 15, 1998, until the next unit shutdown of sufficient duration to allow for containment entry, not to exceed the 9th refueling and inspection outage.

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Date of publication of individual notice in **Federal Register**: June 23, 1998 (63 FR 34200).

Expiration date of individual notice: July 23, 1998.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved.

Commonwealth Edison Company, Docket Nos. 50–373 and 50–374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of application for amendments: May 27, 1997, as supplemented on August 1, 1997, and March 24, 1998.

Brief description of amendments: The amendments revise Technical Specification Section 6, "Administrative Controls," to incorporate revised organizational titles and delete Unit 1 Facility Operating License Condition 2.C.(30)(a). In addition, the amendments change the submittal frequency of the Radiological Effluent Release Report from semiannually to annually and make several administrative and editorial changes.

Date of issuance: June 26, 1998.

Effective date: Immediately, to be implemented within 90 days.

Amendment Nos.: 128 and 113.

Facility Operating License Nos. NPF–11 and NPF–18: The amendments revised the Unif 1 Facility Operating License and the Technical Specifications.

Date of initial notice in **Federal Register**: July 30 ,1997. The August 1, 1997, submittal provided clarifying information that did not change the initial proposed no significant hazards consideration determination. The March 24, 1998, submittal changed the scope of the initial **Federal Register** notice. The proposed amendments were renoticed on May 20, 1998 (63 FR 27759).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 26, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Jacobs Memorial Library, Illinois Valley Community College, Oglesby, Illinois 61348.

Commonwealth Edison Company, Docket No. 50–373, LaSalle County Station, Unit 1, LaSalle County, Illinois

Date of application for amendment: November 24, 1997, as supplemented April 16, 1998.

Brief description of amendment: The amendment revises Technical Specification 3/4 3.2, "Isolation Actuation Instrumentation" to add/revise various isolation setpoints for leak detection instrumentation. These changes are necessary due to modifications to the Reactor Water Cleanup (RWCU) system to restore "hot" suction to the RWCU pumps and due to a re-evaluation of the high energy line break analysis. In addition, the amendment eliminates isolation actuation trip functions for the Residual Heat Removal system steam condensing mode and shutdown cooling mode.

Date of issuance: July 6, 1998.

Effective date: Immediately, to be implemented prior to restart from L1F35

Amendment No.: 129.

Facility Operating License No. NPF–11: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: January 14, 1998 (63 FR 2278). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 6, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Jacobs Memorial Library, Illinois Valley Community College, Oglesby, Illinois 61348

Connecticut Yankee Atomic Power Company, Docket No. 50–213, Haddam Neck Plant, Middlesex County, Connecticut

Date of application of amendments: May 30, 1997, as supplemented May 7, 1998 and June 18, 1998.

Brief description of amendments: The amendments revise the Facility Operating License and Technical Specifications to reflect the permanently shut down and defueled status of the reactor.

Date of issuance: June 30, 1998.

Effective date: As of the date of issuance (June 30, 1998) and shall be implemented within 90 days.

Amendment No.: 193.

Facility Operating License No. DPR–61: The amendments revised the Operating License and the Technical Specifications.

Date of initial notice in **Federal Register**: July 16, 1997 (62 FR 38132 and 62 FR 38133). The May 7, 1998, supplement relocated the provisions of Technical Specification 3/4.9.15. The June 18, 1998, supplement consisted of supporting technical information. The supplements did not change the staff's initial proposed no significant hazards consideration determination or expand the scope of the original notice. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 30, 1998.

No significant hazards consideration received: No.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

Detroit Edison Company, Docket No. 50–16, Enrico Fermi Atomic Power Plant, Unit 1, Monroe County, Michigan

Date of amendment request: January 27, 1998 (Reference NRC–98–0023).

Brief description of amendment: This amendment revises the Fermi 1 License to allow Detroit Edison to receive, acquire, possess, use, and transfer byproduct material without restriction to chemical form for sample analysis, instrument calibration, or associated with radioactive apparatus, hardware, tools, and equipment, provided the cumulative radioactive material quantity of the byproduct material does not exceed the criteria contained in Section 30.72, Schedule C, Quantities of Radioactive Materials Requiring Consideration of the Need for an Emergency Plan for Responding to a Release.

Date of issuance: June 22, 1998.

Effective date: Within 60 calendar days from the date of issuance of this amendment.

Amendment No.: 12.

Facility Operating License No. DPR–9: Amendment revised License by adding a subpart 3 to Part 2.B.

Date of initial notice in **Federal Register**: April 8, 1998 (63 FR 17223).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 22, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Duke Energy Corporation, Docket Nos. 50–269 and 50–287, Oconee Nuclear Station, Units 1 and 3, Seneca, South Carolina

Date of application of amendments: June 4, 1998.

Brief description of amendments: The amendments revise Technical Specification 4.17.2 to allow continued operation with certain steam generator tubes that exceed their repair limit as a result of tube end anomalies. This action temporarily exempts these tubes from the requirement for sleeving, rerolling, or removal from service until they are repaired during or before the next scheduled refueling outages for the respective unit. This action supersedes the Notice of Enforcement Discretion that was issued by the staff on June 4, 1998.

Date of Issuance: July 1, 1998.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment Nos.: Unit 1—230; Unit 2—227.

Facility Operating License Nos. DPR–38 and DPR–55: The amendments revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: Yes. (63 FR 33097 dated June 17, 1998). The notice provided an opportunity to submit comments on the Commission's proposed no significant hazards consideration determination. No comments have been received. The notice also provided for an opportunity to request a hearing by July 18, 1998, but indicated that if the Commission makes a final no significant hazards consideration determination, any such hearing would take place after issuance of the amendments.

The Commission's related evaluation of the amendments, finding of exigent circumstances, and a final no significant hazards consideration determination are contained in a Safety Evaluation dated July 1, 1998.

Local Public Document Room location: Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina.

Entergy Operations, Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: June 3, 1997, as supplemented by letter dated May 1, 1998.

Brief description of amendment: The amendment changed the Appendix A Technical Specifications (TSs) by changing the action requirements for TS 3/4.3.2 for the Safety Injection System Sump Recirculation Actuation Signal (RAS). It revised the allowed outage time for a channel of RAS to be in the tripped condition from "prior to entry into the applicable MODE(S) following the next COLD SHUTDOWN" to the more restrictive time limit of 48 hours, and added a shutdown requirement. Additionally, the TS 3.0.4 exemption was removed from the action for the tripped condition. A change to TS Bases Section 3/4.3.2 was also included.

Date of issuance: July 2, 1998.

Effective date: July 2, 1998, to be implemented within 60 days.

Amendment No.: 143.

Facility Operating License No. NPF–38: Amendment revised the Technical Specifications. *Date of initial notice in* **Federal Register**: June 18, 1997 (62 FR 33124).

The additional information contained in the supplemental letter dated May 1, 1998, was clarifying in nature and thus, it was within the scope of the initial notice and did not affect the staff's proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 2, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, LA 70122.

North Atlantic Energy Service Corporation, et al., Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: March 2, 1998, as supplemented by letter dated April 21, 1998.

Description of amendment request: The amendment revised Technical Specification 4.5.2.b.1 for the emergency core cooling system subsystems to delete the requirement to vent the operating chemical volume and control system centrifugal pump casing.

Date of issuance: June 24, 1998.

Effective date: As of its date of issuance, to be implemented within 60 days.

Amendment No.: 58.

Facility Operating License No. NPF–86. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: April 8, 1998 (63 FR 17225).

The supplemental letter provided clarifying information that did not change the staff's proposed no significant hazards determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 24, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Exeter Public Library, Founders Park, Exeter, NH 03833.

Northeast Nuclear Energy Company, et al., Docket No. 50–336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of application for amendment: April 13, 1998.

Brief description of amendment: The amendment changes the Technical Specifications (TSs) by adding a new TS 3.5.5, "Emergency Core Cooling Systems—Trisodium Phosphate (TSP)." The TSP surveillance requirements in TSs 4.5.2.c.3 and 4.5.2.c.4 are relocated to new TS 3.5.5 as TS 4.5.5.1 and TS 4.5.5.2, respectively. Also, the amount of TSP is increased, the surveillance requirements are modified, a new limiting condition of operation is included, and the applicable TS Index pages and Bases sections are updated to reflect the changes.

Date of issuance: June 22, 1998.

Effective date: As of the date of issuance to be implemented within 60 days.

Amendment No.: 217.

Facility Operating License No. DPR–65: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: May 6, 1998 (63 FR 25114).

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The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 22, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

Northeast Nuclear Energy Company, et al., Docket No. 50-336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of application for amendment: November 13, 1997, as supplemented on December 29, 1997, and April 8, 1998.

Brief description of amendment: The amendment changes the Technical Specifications (TSs) by modifying TS 3.1.2.1, "Flow Paths—Shutdown;" TS 3.1.2.2, "Flow Paths—Operating;" TS 3.1.2.3, "Charging Pump—Shutdown;" TS 3.1.2.4, "Charging Pumps—Operating;" TS 3.1.2.5, "Boric Acid Pumps—Shutdown;" TS 3.1.2.6, "Boric Acid Pumps—Operating;" TS 3.1.2.8, "Borated Water Sources—Operating;" TS 3.4.1.3, "Coolant Loops and Coolant Circulation—Shutdown;" TS 3.4.3, "Relief Valves;" TS 3.4.9.1, "Reactor Coolant System;" TS 3.4.9.2, "Pressurizer;" TS 3.4.9.3, "Overpressure Protection Systems;" TS 3.5.3, "ECCS Subsystems—T_{avg} < 300 °F;" and TS 3.10.3, "Pressure/Temperature Limitation—Reactor Criticality," and their associated Bases in the areas that are affected by the modified Low Temperature Overpressure Protection system, the updated reactor coolant system pressure and temperature curves and heatup and cooldown limits. Additionally, minor changes are made to correct various items, such as, updating of redundant or outdated TSs.

Date of issuance: July 1, 1998.

Effective date: As of the date of issuance to be implemented within 60 days.

Amendment No.: 218.

Facility Operating License No. DPR-65: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: January 28, 1998 (63 FR 4315).

The December 29, 1997; and April 8, 1998, letters provided clarifying information that did not change the scope of the November 13, 1997, application and the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 1, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of application for amendments: February 27, 1997, as supplemented by letter dated December 4, 1997.

Brief description of amendments: The amendments revised the combined Technical Specifications (TS) for the Diablo Canyon Power Plant, (DCPP) Unit Nos. 1 and 2 to change Technical Specification (TS) 3/4.8.1.1, "A.C. Sources—Operating," to clarify that emergency diesel generator (EDG) testing is initiated from standby conditions rather than "ambient" conditions. The associated TS Bases were revised to discuss the temperature range that satisfies EDG standby conditions. TS 3/4.3.2, "Instrumentation—Engineering Safety Features Actuation System Instrumentation" was also changed. This revision clarified that when one or both of the first level load shed relays, or one or both of the second level undervoltage relays are inoperable, the associated EDG for that bus shall be declared inoperable.

Date of issuance: June 5, 1998.

Effective date: June 5, 1998, to be implemented within 90 days from the date of issuance.

Amendment Nos.: Unit 1—127; Unit 2—125

Facility Operating License Nos. DPR-80 and DPR-82: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: April 9, 1997 (62 FR 17240).

The December 4, 1997, supplemental letter provided additional clarifying information and did not change the staff's initial no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 5, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of application for amendments: April 10, 1998, as supplemented by letter dated May 1, 1998.

Brief description of amendments: The amendments revised the combined Technical Specifications (TS) for the Diablo Canyon Power Plant (DCPP) Units 1 and 2 to revise TS 6.2.2.g and TS 6.3 to change the name of the Operations Manager to Operations Director, to add the position of Operations Middle Manager, and to change the requirement for the Operations Director to hold a senior reactor operator (SRO) license.

Date of issuance: June 11, 1998.

Effective date: June 11, 1998.

Amendment Nos.: Unit 1–128; Unit 2–126.

Facility Operating License Nos. DPR-80 and DPR-82: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: May 6, 1998 (63 FR 25116).

The May 1, 1998, supplemental letter provided additional clarifying information and did not change the staff's initial no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 11, 1998.

No significant hazards consideration comments received: Yes.

The Commission received one letter with comments which did not change its finding and conclusion as discussed in the safety evaluation.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Pennsylvania Power and Light Company, Docket Nos. 50-387 and 50-388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of application for amendments: May 12, 1998

Brief description of amendments: These amendments relocate certain requirements related to fire protection from the TSs to the Updated Final Safety Analysis Report. The TS sections to be relocated are: 3/4.3.7.9, Fire Detection Instrumentation; 3/4.7.6, Fire Suppression Systems; 3/4.7.7, Fire

Rated Assemblies; and 6.2.2e, Fire Brigade Staffing. The amendments also replace License Condition 2.C.(6) for Unit 1 and License Condition 2.C.(3) for Unit 2. These amendments are consistent with the guidance of NRC Generic Letter (GL) 86–10, "Implementation of Fire Protection Requirements," and GL 88–12, "Removal of Fire Protection Requirements from Technical Specifications."

Date of issuance: June 24, 1998.

Effective date: Both units, as of date of issuance, to be implemented within 30 days.

Amendment Nos.: 177 and 150.

Facility Operating License Nos. NPF–14 and NPF–22: The amendments revised the Technical Specifications and Licenses.

Date of initial notice in **Federal Register**: May 21, 1998 (63 FR 28010).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 24, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Power Authority of the State of New York, Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: November 26, 1997, as supplemented April 17, 1998.

Brief description of amendment: The amendment relocates snubber operability, surveillance, and records requirements from the Technical Specifications to plant controlled documents. A condition is added to the license to require that the relocated requirements be described in the Final Safety Analysis Report such that 10 CFR 50.59 will apply to future changes to those requirements.

Date of issuance: June 30, 1998.

Effective date: As of the date of issuance to be implemented within 90 days.

Amendment No.: 243.

Facility Operating License No. DPR–59: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: January 29, 1997 (62 FR 4352).

The April 17, 1998, supplemental letter provided clarifying information that did not change the initial proposed no significant hazards consideration.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 30, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Southern California Edison Company, et al., Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of application for amendments: November 6, 1995, as supplemented by letters dated January 9, 1998, and February 3, 1998, for the safety injection tanks (SITs), and November 8, 1995, as supplemented by letters dated January 9, 1998, and February 3, 1998, for the low pressure safety injection (LPSI).

Brief description of amendments: The amendments modify the technical specifications (TSs) to extend the allowed outage times (AOTs) for a single inoperable SIT from one hour to 24 hours, and for a single inoperable SIT specifically due to malfunctioning SIT water level or nitrogen cover pressure instrumentation inoperability from one hour to 72 hours. In addition, the amendments extend the AOT for a single inoperable LPSI train from 72 hours to 7 days. The amendments also add a Configuration Risk Management Program to the TSs that puts a proceduralized probabilistic risk assessment-informed process in place that ensures the licensee assesses the overall impact of plant maintenance on plant risk.

Date of issuance: June 19, 1998.

Effective date: June 19, 1998, to be implemented within 30 days from the date of issuance.

Amendment Nos.: Unit 2—139; Unit 3—131.

Facility Operating License Nos. NPF–10 and NPF–15: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: April 10, 1996 (61 FR 15995) and February 11, 1998 (63 FR 6991).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 19, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Main Library, University of California, P. O. Box 19557, Irvine, California 92713.

Southern Nuclear Power Company, Inc., et al., Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of application for amendments: September 4, 1997, as supplemented by letters dated November 20, 1997, May 19 and June 12, 1998.

Brief description of amendments: The changes to the common Technical Specifications allow an increase in the Unit 1 spent fuel storage capacity from 288 to 1476 fuel assemblies.

Date of issuance: June 29, 1998.

Effective date: As of the date of issuance to be implemented on a schedule consistent with the receipt and storage of new fuel in the fall of 1998 for the spring 1999 refueling outage of Unit 1.

Amendment Nos.: Unit 1—102; Unit 2—80.

Facility Operating License Nos. NPF–68 and NPF–81: Amendments revised the Technical Specifications, Operating Licenses, and Appendix D.

Date of initial notice in **Federal Register**: December 31, 1997 (62 FR 68317); and renoticed on May 11, 1998 (63 FR 25883).

The supplements dated May 19 and June 12, 1998, provided clarifying information that did not change the scope of the September 4, 1997, application and the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 29, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Burke County Library, 412 Fourth Street, Waynesboro, Georgia.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: June 7, 1996, as supplemented on September 26, 1997, January 21, 1998, May 28, 1998, and June 29, 1998 (TS 95–19).

Brief description of amendments: The amendments change the Technical Specifications (TS) by relocating portions of Section 6, "Administrative Controls," to the Sequoyah Nuclear Quality Assurance Plan. This Change is consistent with NUREG–1431, "Standard Technical Specifications—Westinghouse Plants."

Date of issuance: July 1, 1998.

Effective date: July 1, 1998.

Amendment Nos.: 233 and 223.

Facility Operating License Nos. DPR–77 and DPR–79: Amendments revise the TS.

Date of initial notice in **Federal Register**: July 17, 1996 (61 FR 37302).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 1, 1998.

No significant hazards consideration comments received: None.

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Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company, Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit 1, Ottawa County, Ohio

Date of application for amendment: December 23, 1997, as supplemented by letter dated June 11, 1998.

Brief description of amendment: This amendment revises Technical Specification (TS) Section 1.0, "Definitions," to clarify the meaning of core alteration; relocates TS Section 3/4.9.5, "Refueling Operations—Communications," and the associated bases to the Technical Requirements Manual; and adds TS Section 3.0.6 and associated bases to address the return to service of inoperable equipment.

Date of issuance: June 30, 1998.

Effective date: June 30, 1998.

Amendment No.: 224.

Facility Operating License No. NPF–3: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 28, 1998 (63 FR 4327).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 30, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Toledo, William Carlson Library, Government Documents Collection, 2801 West Bancroft Avenue, Toledo, OH 43606.

Virginia Electric and Power Company, et al., Docket Nos. 50–338 and 50–339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of application for amendments: March 25, 1998.

Brief description of amendments: The amendments revise the Technical Specifications (TS) Sections 6.1.1; 6.2.1.b; 6.5.1.1; 6.5.1.6.a,d,h, and m; 6.5.1.7.c; 6.5.1.8; 6.14.1.2; 6.15.b; 6.2.3.5; 6.5.1.2; 6.5.1.7.a for Unit 1 and 6.1.1; 6.2.1.b; 6.5.1.1; 6.5.1.6.a,d,h, and m; 6.5.1.7.c; 6.5.1.8; 6.13.b; 6.14.b; 6.2.3.5; 6.5.1.2; and 6.5.1.7.a for Unit 2, changing the title of Station Manager to Site Vice President, and the titles of the Assistant Station Managers to Manager-Station Operation and Maintenance and Manager-Station Safety and Licensing.

Date of issuance: June 23, 1998.

Effective date: June 23, 1998.

Amendment Nos.: 212 and 193.

Facility Operating License Nos. NPF–4 and NPF–7: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 22, 1998 (63 FR 19980).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 23, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903–2498.

Dated at Rockville, Maryland, this 8th day of July 1998.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Acting Director, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–18684 Filed 7–14–98; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Interest Assumption for Determining Variable-Rate Premium; Interest on Late Premium Payments; Interest on Underpayments and Overpayments of Single-Employer Plan Termination Liability and Multiemployer Withdrawal Liability; Interest Assumptions for Multiemployer Plan Valuations Following Mass Withdrawal

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of interest rates and assumptions.

SUMMARY: This notice informs the public of the interest rates and assumptions to be used under certain Pension Benefit Guaranty Corporation regulations. These rates and assumptions are published elsewhere (or are derivable from rates published elsewhere), but are collected and published in this notice for the convenience of the public. Interest rates are also published on the PBGC's web site (http://www.pbgc.gov).

DATES: The interest rate for determining the variable-rate premium under part 4006 applies to premium payment years beginning in July 1998. The interest assumptions for performing multiemployer plan valuations following mass withdrawal under part 4281 apply to valuation dates occurring in August 1998. The interest rates for late premium payments under part 4007 and for underpayments and overpayments of single-employer plan termination liability under part 4062 and multiemployer withdrawal liability under part 4219 apply to interest accruing during the third quarter (July through September) of 1998.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (For TTY/TDD users, call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION:

Variable-Rate Premiums

Section 4006(a)(3)(E)(iii)(II) of the Employee Retirement Income Security Act of 1974 (ERISA) and § 4006.4(b)(1) of the PBGC's regulation on Premium Rates (29 CFR part 4006) prescribe use of an assumed interest rate in determining a single-employer plan's variable-rate premium. The rate is the "applicable percentage" (described in the statute and the regulation) of the annual yield on 30-year Treasury securities for the month preceding the beginning of the plan year for which premiums are being paid (the "premium payment year"). The yield figure is reported in Federal Reserve Statistical Releases G.13 and H.15.

For plan years beginning before July 1, 1997, the applicable percentage of the 30-year Treasury yield was 80 percent. The Retirement Protection Act of 1994 (RPA) amended ERISA section 4006(a)(3)(E)(iii)(II) to change the applicable percentage to 85 percent, effective for plan years beginning on or after July 1, 1997. (The amendment also provides for a further increase in the applicable percentage " to 100 percent " when the Internal Revenue Service adopts new mortality tables for determining current liability.)

The assumed interest rate to be used in determining variable-rate premiums for premium payment years beginning in July 1998 is 4.85 percent (*i.e.*, 85 percent of the 5.70 percent yield figure for June 1998).

(Under section 774(c) of the RPA, the amendment to the applicable percentage was deferred for certain regulated public utility (RPU) plans for as long as six months. The applicable percentage for RPU plans has therefore remained 80 percent for plan years beginning before January 1, 1998. For "partial" RPU plans, the assumed interest rates to be used in determining variable-rate premiums can be computed by applying the rules in § 4006.5(g) of the premium rates regulation. The PBGC's 1997 premium payment instruction booklet also describes these rules and provides a worksheet for computing the assumed rate.)

The following table lists the assumed interest rates to be used in determining variable-rate premiums for premium payment years beginning between August 1997 and July 1998. The rates for August through December 1997 in the table (which reflect an applicable percentage of 85 percent) apply only to non-RPU plans. However, the rates for months after December 1997 apply to RPU (and "partial" RPU) plans as well as to non-RPU plans.

For premium payment years beginning in	The assumed interest rate is
August 1997	5.53
September 1997	5.59
October 1997	5.53
November 1997	5.38
December 1997	5.19
January 1998	5.09
February 1998	4.94
March 1998	5.01
April 1998	5.06
May 1998	5.03
June 1998	5.04
July 1998	4.85

Late Premium Payments; Underpayments and Overpayments of Single-Employer Plan Termination Liability

Section 4007(b) of ERISA and § 4007.7(a) of the PBGC's regulation on Payment of Premiums (29 CFR part 4007) require the payment of interest on late premium payments at the rate established under section 6601 of the Internal Revenue Code. Similarly, § 4062.7 of the PBGC's regulation on Liability for Termination of Single-employer Plans (29 CFR part 4062) requires that interest be charged or credited at the section 6601 rate on underpayments and overpayments of employer liability under section 4062 of ERISA. The section 6601 rate is established periodically (currently quarterly) by the Internal Revenue Service. The rate applicable to the third quarter (July through September) of 1998, as announced by the IRS, is 8 percent.

The following table lists the late payment interest rates for premiums and employer liability for the specified time periods:

From	Through	Interest rate (percent)
4/1/92	9/30/92	8
10/1/92	6/30/94	7
7/1/94	9/30/94	8
10/1/94	3/31/95	9
4/1/95	6/30/95	10
7/1/95	3/31/96	9
4/1/96	6/30/96	8
7/1/96	12/31/96	9
1/1/97	3/31/97	9
4/1/97	6/30/97	9
7/1/97	9/30/97	9
10/1/97	12/31/97	9
1/1/98	3/31/98	9
4/1/98	6/30/98	8
7/1/98	9/30/98	8

Underpayments and Overpayments of Multiemployer Withdrawal Liability

Section 4219.32(b) of the PBGC's regulation on Notice, Collection, and Redetermination of Withdrawal Liability (29 CFR part 4219) specifies the rate at which a multiemployer plan is to charge or credit interest on underpayments and overpayments of withdrawal liability under section 4219 of ERISA unless an applicable plan provision provides otherwise. For interest accruing during any calendar quarter, the specified rate is the average quoted prime rate on short-term commercial loans for the fifteenth day (or the next business day if the fifteenth day is not a business day) of the month preceding the beginning of the quarter, as reported by the Board of Governors of the Federal Reserve System in Statistical Release H.15 ("Selected Interest Rates"). The rate for the third quarter (July through September) of 1998 (*i.e.*, the rate reported for June 15, 1998) is 8.50 percent.

The following table lists the withdrawal liability underpayment and overpayment interest rates for the specified time periods:

From	Through	Rate (percent)
4/1/92	9/30/92	6.50
10/1/92	6/30/94	6.00
7/1/94	9/30/94	7.25
10/1/94	12/31/94	7.75
1/1/95	3/31/95	8.50
4/1/95	9/30/95	9.00
10/1/95	3/31/96	8.75
4/1/96	12/31/96	8.25
1/1/97	3/31/97	8.25
4/1/97	6/30/97	8.25
7/1/97	9/30/97	8.50
10/1/97	12/31/97	8.50
1/1/98	3/31/98	8.50
4/1/98	6/30/98	8.50
7/1/98	9/30/98	8.50

Multiemployer Plan Valuations Following Mass Withdrawal

The PBGC's regulation on Duties of Plan Sponsor Following Mass Withdrawal (29 CFR part 4281) prescribes the use of interest assumptions under the PBGC's regulation on Allocation of Assets in Single-employer Plans (29 CFR part 4044). The interest assumptions applicable to valuation dates in August 1998 under part 4044 are contained in an amendment to part 4044 published elsewhere in today's **Federal Register**. Tables showing the assumptions applicable to prior periods are codified in appendix B to 29 CFR part 4044.

Issued in Washington, DC, on this 6th day of July 1998.

David M. Strauss,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 98–18681 Filed 7–14–98; 8:45 am]

BILLING CODE 7708-01-P

Postal Rate Commission

Sunshine Act Meetings

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 63 FR 33420, June 18, 1998.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:30 a.m., July 23, 1998.

CHANGES IN THE MEETING: The meeting will begin at 9:30 a.m. instead of 10:30 a.m.

CONTACT PERSON FOR MORE INFORMATION: Stephen L. Sharfman, General Counsel, Postal Rate Commission, Suite 300, 1333 H Street, NW, Washington, DC 20268–0001, (202) 789–6820.

Dated: July 13, 1998.

Cyril J. Pittack,

Acting Secretary.

[FR Doc. 98–18996 Filed 7–13–98; 2:22 pm]

BILLING CODE 7710-FW-M

POSTAL RATE COMMISSION

Announcement of Visit

SUMMARY: Representatives of E-Stamp Corporation will visit the Commission to present a briefing on a system for electronic generation of postage indicia.

DATES: The date of the visit is Thursday, July 16, 1998, beginning at 2:30 p.m.

ADDRESSES: Postal Rate Commission (Conference Room), 1333 H Street, NW, Suite 300, Washington, DC 20268–0001.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, Postal Rate Commission, Suite 300, 1333 H Street, NW, Washington, DC 20268–001, (202) 789–6820.

SUPPLEMENTARY INFORMATION: During this visit, representatives of E-Stamp Corporation will brief the Commission on a system for electronic generation of postage indicia.

Dated: July 10, 1998.

Cyril J. Pittack,

Acting Secretary.

[FR Doc. 98–18844 Filed 7–14–98; 8:45 am]

BILLING CODE 7710-FW-M

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UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS

Sunshine Act Meeting

Governors Vote to Close Meeting

In person and by telephone vote on May 12, 1998, a majority of the Governors contacted and voting, the Governors voted to close to public observation a meeting held in Washington, D.C. The Governors determined that prior public notice was not possible.

Item Considered: 1. Appointment and Compensation of the Postmaster General.

General Counsel Certification: The General Counsel of the United States Postal Service has certified that the meeting was properly closed under the Government in the Sunshine Act.

Contact Person for More Information: Requests for information about the meeting should be addressed to the Secretary of the Board, Thomas J. Koerber, at (202) 268–4800.

Thomas J. Koerber,

Secretary.

[FR Doc. 98–18914 Filed 7–14–98; 8:45 am]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 11Ac1–4, SEC File No. 270–405, OMB Control No. 3235–0462

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. § 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 11Ac1–4 (17 CFR § 240.11Ac1–4) under the Securities Exchange Act of 1934 requires specialists and market makers to publicly display a customer limit order when that limit order is priced superior to the quote that is currently being displayed by the specialist or market maker. Customer limit orders that match the bid or offer being displayed by the specialist or market maker must also be displayed if the limit order price matches the national best bid or offer. It is estimated that approximately 580 broker and dealer respondents incur an average burden of 5,684 hours per year to comply with this rule.

Rule 11Ac1–4 does not contain record retention requirements. Compliance with the rule is mandatory. Responses are not confidential. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, N.W., Washington, DC 20549.

Dated: July 7, 1998.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18761 Filed 7–14–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23306; 812–10578]

Calvert Social Investment Fund, et al.; Notice of Application

July 8, 1998.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an order under sections 6(c) and 17(b) of the Investment Company Act of 1940 (the "Act") for an exemption from section 17(a) of the Act and under section 17(d) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered investment companies to invest up to a specified percentage of their assets in an affiliated non-profit social and community development foundation.

APPLICANTS: Calvert Social Investment Fund ("CSIF"), The Calvert Fund, Calvert World Values Fund, Inc. and any existing or future registered investment company, advised by Calvert Asset Management Company, Inc. ("CAMCO") and whose investment policies permit investment in the Calvert Social Investment Foundation ("Funds").[1]

FILING DATES: The application was filed on March 17, 1997, and amended on September 2, 1997, May 18, 1998, and June 11, 1998.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on August 3, 1998, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, 4550 Montgomery Avenue, Bethesda, MD 20814.

FOR FURTHER INFORMATION CONTACT: Mary Kay Frech, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch 450 Fifth Street, N.W., Washington, D.C. 20549 (tel. 202–942–8090).

Applicant's Representations

1. Each Fund is registered under the Act as an open-end management investment company. CSIF and The Calvert Fund are organized as Massachusetts business trusts. The Calvert World Values Fund, Inc. is organized as a Maryland corporation.

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[1] All existing Funds that currently intend to rely on the order have been named as applicants. Any other existing Funds and any future Funds will rely on the order only in accordance with its terms and conditions.

The Funds' investment adviser is CAMCO, an investment adviser registered under the Investment Advisers Act of 1940.

2. Each Fund's investment policy permits it to invest a specified percentage of its assets in high social impact investments ("HSII") that offer a rate of return below the prevailing market rate and that present attractive opportunities for furthering the Fund's social criteria.[2] HSII are typically illiquid and unrated and generally considered non-investment grade debt securities which involve a greater risk of default or price decline than investment-grade securities. Each Funds' investments in HSII were approved by the Fund's shareholders.

3. The Funds currently invest directly in community organizations and other HSII. Applicants propose to invest assets, allocated for investment in HSII, in the Calvert Social Investment Foundation ("Foundation"). The Foundation will then place the assets in the community.

4. The Foundation is a non-profit organization that seeks to use community development opportunities to assist the poor, correct social injustices, and improve society in a pro-active way. The Foundation's securities are exempt from registration under section 3(a)(4) of the Securities Act of 1933. The Foundation is exempt from registration as an investment company under section 3(c)(10)(A) of the Act. The Foundation has nine directors, eight of whom are members of CSIF's board of trustees, four of whom are members of The Calvert Fund's board of trustees, and four of whom are members of the Calvert World Values Fund, Inc.'s board of directors.

5. The Foundation receives grants and loans from various foundations and Acacia Mutual Life Insurance Company ("Acacia"), the parent company of the Funds' investment adviser. The Foundation also receives funding from individual investors, through a program called Calvert Community Investments ("CI"). Investments in the Foundation are evidenced by Calvert Community Investments notes ("CI Notes"). Investors in CI Notes are allowed to choose the interest rate (ranging from 0% to 4%) that they would like to receive on their investment. The average interest rate currently for CI Notes is 3%. The Foundation generally realizes a basis point spread on each investment to cover administrative and overhead costs. The basis point spread is the difference between the interest rate that purchasers of the CI Notes receive and the average interest rate at which the Foundation makes investments in community development organizations.

6. Under the proposed arrangement, each Fund will receive a CI Note evidencing its investment in the Foundation. The Funds' boards of trustees/directors ("Boards") will determine the interest rate and the maturity of the CI Notes that the Funds receive from the Foundation. The Funds' assets invested in the Foundation will be pooled with the Foundation's other assets and will be used by the Foundation to make investments in community development organizations. The Foundation's investments are evidenced by promissory notes at below market rates in amounts between $50,000 and $500,000 each and for terms of one, three, or five years, with interest rate currently ranging from 4.5% to 8.8%. Applicants expect that a Fund will invest in the CI Notes quarterly.

7. Each Fund will invest its HSII assets in the CI Notes only in accordance with its investment objectives, policies and restrictions. Each Fund's Board will monitor this proposed arrangement to ensure that it is consistent with the Fund's investment objectives, policies and restrictions. Each Fund's Board also will periodically review the adequacy of the Fund's disclosure of the proposed arrangement and of the possible risks of loss to the Fund and its shareholders. The percentage of each Fund's assets which may be invested in HSII will not be increased without shareholder approval. Any future Fund relying on the requested relief will obtain prior shareholder approval to invest in the Foundation.

8. Neither the Funds, CAMCO, nor the Funds' subadvisers will invest directly in the organizations in which the Foundation invests or plans to invest. Neither Acacia, CAMCO, nor the Funds' subadvisers will invest in the Foundation by purchasing CI Notes. Further, neither CAMCO nor any subadviser will receive any compensation for the Funds' investment in CI Notes.

Applicants' Legal Analysis

A. Section 17(a)

1. Section 17(a) of the Act makes it unlawful for any affiliated person of a registered investment company, acting as principal, to sell or purchase any security to or from the company. Section 2(a)(3) of the Act defines an affiliated person of an investment company as any person directly or indirectly controlling, controlled by, or under common control with such investment company, and any officer, director, partner, copartner, or employee of the investment company. Section 2(a)(36) defines a security to include, among other things, any note, stock treasury stock, or evidence of indebtedness. Applicants believe that the Foundation may be considered to be an affiliated person of the Funds due to common directors/trustees that serve on the boards of the Funds and the Foundation. Thus, investment by the Funds in the CI Notes may be prohibited by section 17(a).

2. Section 17(b) of the Act authorities the SEC to exempt a transaction from section 17(a) if the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policy of each investment company concerned and the general purposes of the Act. Section 6(c) authorizes the Commission to exempt transactions from the provisions of the Act to the extent that such exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act.

3. Applicants believe that the Funds' proposed investment in the Foundation meets the standards of section 17(b) and 6(c). Applicants state that the Fund's investment in the Foundation will be consistent with each Fund's investment objectives, policies and restrictions and that investment in HSII has been approved by each Fund's shareholders. Applicants assert that each Fund will likely recognize certain economies of scale by having the Foundation undertake analysis, placing and processing of prospective investments in HSII. Each Fund's investments in HSII through the Foundation will be on the same terms and in the same amounts as currently made directly, with comparable rates of interest.

B. Section 17(d) and Rule 17d–1

1. Section 17(d) of the Act and rule 17d–1 prohibit an affiliated person of a

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[2] CSIF's investment policy permits investment of less than 1% of its assets in HSII. The policies of the Calvert International Equity Fund (a series of the Calvert World Values Fund, Inc.) and the Calvert New Vision Small Cap Fund (a series of The Calvert Fund) permit investment up to 1% and 3%, respectively, of their assets in HSII. The policy of the Calvert Capital Accumulation Fund (a series of Calvert World Values Fund, Inc.) permits investment of up to 3% of its assets in HSII when its assets reach $100 million.

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registered investment company, acting as principal, from participating in any joint arrangement with the investment company unless the SEC has issued an order authorizing the arrangement. Applicants believe that each Fund may be deemed to be participating in a joint transaction with each other Fund through the pooling of assets in the Foundation, and that the Funds could be deemed to be participating in a joint transaction with the Foundation through their investments in HSII.

2. In determining whether to grant an exemption under rule 17d–1, the SEC considers whether the investment company's participation in the joint enterprises in consistent with the provisions, policies and purposes of the Act, and the extend to which such participation is on a basis different from or less advantageous than that of other participants. Applicants assert that all investors in the Foundation will participate on the same basis.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18760 Filed 7–14–98; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCAHNGE COMMISSION

[Rel. No. IC–23308; 812–10006]

Corporate Income Fund, et al.; Notice of Application

July 9, 1998.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("Act").

SUMMARY OF APPLICATION: Applicants request an order under section 6(c) of the Investment Company Act of 1940 to permit certain unit investment trusts to invest up to 10.5% of their assets in securities of an issuer that derives more than 15% of its gross revenues from securities-related activities.

APPLICANTS: Corporate Income Fund, Equity Income Fund, International Bond Fund, and Defined Asset Funds, each on behalf of its component unit investment trust (each a "Trust").

FILING DATES: The application was filed on February 22, 1996, and amended on July 10, 1996, January 13, 1997, and January 23, 1998.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on August 3, 1998, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, DC 20549. Applicants, c/o Merrill Lynch, Pierce, Fenner & Smith Inc., P.O. Box 9051, Princeton, N.J. 08543–9051, Attention: Teresa Koncick, Esq.

FOR FURTHER INFORMATION CONTACT: Mary T. Geffroy, Senior Counsel, (202) 942–0553, or Nadya B. Roytblat, Assistant Director, (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth St. N.W., Washington, D.C. 20549 (tel. (202) 942–8090).

Applicant's Representations

1. Each applicant is a unit investment trust registered under the Act and composed of one or more separate Trusts. The depositors of the Trusts are Merrill Lynch, Pierce, Fenner & Smith Inc., PaineWebber Inc., Smith Barney Inc., and Dean Witter Reynolds Inc. (collectively, the "Sponsors").

2. Each Trust pursues its investment objective by investing over its life in a fixed portfolio of securities. Following the initial deposit of securities in a Trust, the Sponsors may, in response to investor demand for units, deposit additional securities. Subsequent deposits of securities into the Trust must generally maintain the original proportionate relationship among the securities comprising the Trust's portfolio.

3. Disposition of a Trust's portfolio securities is generally limited to sales made in response to redemptions of units and at the termination of the Trust. Other than these specific instances, the Sponsors' discretion to sell a Trust's portfolio securities is limited to narrow circumstances, principally: a default in payment by an issuer; the institution of certain legal proceedings; a default under certain documents adversely affecting the future declaration of dividends or payment of amounts due by an issuer; to maintain a Trust's qualification under the federal tax laws; to remain consistent with a Trust's investment objectives; or the occurrence of certain other market or credit factors that, in the opinion of the Sponsors, would make the retention of certain securities in a Trust detrimental to the interest of the unitholders.

4. Applicants would like the flexibility to invest up to 10.5% of a Trust's assets in securities of an issuer that derives more than 15% of its gross revenues from securities-related activities (as defined below). No Trust will invest in securities issued by any of the Sponsors or other underwriters for the Trusts.

Applicants' Legal Analysis

1. Section 12(d)(3) of the Act generally prohibits a registered investment company from acquiring any security issued by any person who is a broker, dealer, investment adviser, or engaged in the business of underwriting (collectively, "securities-related activities"). Rule 12d3–1 under the Act, in relevant part, exempts from the prohibition of section 12(d)(3) purchases of securities of an issuer that derives more than 15% of its gross revenues from securities-related activities if certain conditions are met. One of these conditions, set forth in rule 12d3–1(b)(3), requires that, immediately after the acquisition, the investment company has invested not more than 5% of the value of its total assets in securities of the issuer.

2. Applicants request an exemption from rule 12d3–1(b)(3) to permit a Trust to invest up to 10.5% of its assets in securities of an issuer that derives more than 15% of its gross revenues from securities-related activities. Applicants will comply with all other requirements of rule 12d3–1.

3. Section 6(c) of the Act provides that the SEC may exempt any person, security, or transaction from any provision of the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Applicants state that section 12(d)(3) was designed to prevent certain potential conflicts of interest and to eliminate certain reciprocal practices between investment companies and securities-related businesses. One potential abusive practice is that an

investment company may purchase shares of a broker-dealer firm to reward it for selling shares of the investment company.

Applicants assert that their proposal does not raise this concern because units of the Trusts are sold almost exclusively by the Sponsors and the Trusts will not purchase shares of the Sponsors or other underwriters for the Trusts. The Sponsors estimate that, over the past year, both in the primary and secondary markets, over 99% of all unit sales for the Trusts were made by the Sponsors. Applicants also state that the balance of sales generally are made by a few regional brokerage firms as dealers, that these firms are not members of the underwriting group and that no special incentives are paid to these dealers to induce sales of Trust units.

5. Another concern underlying section 12(d)(3) was that an investment company may direct brokerage to a broker-dealer in which it has invested to enhance the broker-dealers' profitability or assist it during financial difficulty, although the broker-dealer may not offer the best price and execution. Applicants assert that their proposal does not raise this concern because, as a condition to the requested relief, the Trusts will not rely on the order to purchase securities of any issuer that executes portfolio transactions for the Trusts. Applicants also note that the Trusts, as unmanaged vehicles, do not engage in portfolio transactions with the same frequency or purpose as managed investment companies.

6. Section 12(d)(3) also was designed to prevent the practice of a broker-dealer giving advice to its customers regarding which investment company to invest in based on whether the investment company has invested in the broker-dealer; thus using the investment company's assets to boost the price of the broker-dealer's securities. Applicants assert that the concern about purchases by a Trust affecting the price of the issuer's securities is not present in the proposed arrangement because a Trust does not actively trade its portfolio securities.

Applicants' Conditions

Applicants agree that the order shall be subject to the following conditions:

1. The debt obligations and non-voting preferred stocks held by a Trust relying on the order will be rated investment grade by a nationally recognized statistical rating organization or be of comparable quality at the time of their initial deposit.

2. The common stocks held by a Trust relying on the order will be listed on a nationally or internationally recognized securities exchange or market at the time of their initial deposit.

3. No company whose securities constitute more than 5% of the total assets of the portfolio of a Trust relying on the order nor any affiliate thereof will act as broker for any purchase or sale of any portfolio security for any Trust relying on the order.

4. No Trust relying on the order will invest more than 5% of its total assets as of its initial date of deposit in the securities of any company that, to the knowledge of the Sponsors, has sold, or whose affiliate has sold, units of any other Trust within one year preceding such initial date of deposit.

5. No company whose securities constitute more than 5% of the total assets of the portfolio of a Trust relying on the order nor any affiliate thereof will, for a period of at least one year after the date of the last deposit into the Trust, act as an underwriter of the units of any other Trust or be permitted to acquire any such units directly from a Sponsor.

6. With respect to any securities acquired in reliance on the order, such securities will be acquired only in the secondary market and not as part of any offering by the issuers thereof.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18842 Filed 7–14–98; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–23307; 812–11122]

EuroPacific Growth Fund, et al.; Notice of Application

July 9, 1998.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an order under section 6(c) of the Investment Company Act of 1940 (the "Act") for relief from section 2(a)(19) of the Act.

SUMMARY OF APPLICATION: Applicants request an order under section 6(c) of the Act declaring that a director on the boards of certain registered investment companies who also is an outside director for the parent company of a registered broker-dealer, will not be deemed an "interested person" of the registered investment companies.

APPLICANTS: EuroPacific Growth Fund ("EUPAC"), the New Economy Fund ("NEF"), New Perspective Fund, Inc. ("NPF"), SMALLCAP World Fund, Inc. ("SCWF"), The Investment Company of America ("ICA") (collectively, the "Fund"); Capital Research and Management Company ("Capital Research"); and American Funds Distributors, Inc. ("AFD").

FILING DATES: The application was filed on April 29, 1998.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on August 3, 1998, and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants: 333 South Hope Street, Los Angeles, CA 90071–1447.

FOR FURTHER INFORMATION CONTACT: Mary T. Geffroy, Senior Counsel, at (202) 942–0553, or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549 (tel. (202) 942–8090).

Applicant's Representations

1. Each of the Funds is an open-end management investment company registered under the Act. EUPAC and NEF are Massachusetts business trusts. NPF and SCWF are Maryland corporations. ICA is a Delaware corporation.

2. Capital Research, an investment adviser registered under the Investment Advisers Act of 1940, serves as investment adviser to the Funds and certain other registered investment companies. The Funds and these investment companies, together with any future registered investment company advised by Capital Research, are referred to as the "American Funds." AFD, a wholly-owned

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subsidiary of Capital Research, is the principal underwriter of the Funds.

3. Each Fund has a board of directors ("Board"), a majority of whom are not "interested persons" within the meaning of section 2(a)(19) of the Act. ICA and NPF also have advisory boards, as defined in section 2(a)(1) of the Act, whose members consult with Capital Research and the Funds' Boards.

4. William H. Kling serves as a director of NEF, SCWF, NPF and EUPAC, and as an advisory board member of ICA. Mr. Kling's principal occupation is as President of Minnesota Public Radio. Mr. Kling also is a non-employee director of Irwin Financial Corporation ("Irwin Financial").[1] Irwin Financial is a bank holding company that is primarily engaged in the mortgage banking business. One of Irwin Financial's indirect wholly-owned subsidiaries is Irwin Securities, a broker-dealer registered under the Securities Exchange Act of 1934 (the "1934 Act"). Approximately 0.4% of Irwin Financial's net revenues comes from Irwin Securities.[2]

5. Irwin Securities is a small firm. It does not execute any portfolio transactions for the Funds. Irwin Securities provides *de minimis* distribution services to the Funds. The gross sales by Irwin Securities of Fund shares during the period 1991 through 1996 was approximately $3.55 million, or 0.003% of the total gross sales of Fund shares by all broker-dealers for the same period. The fees received by Irwin Securities from the sale of Fund shares for the past five years represented approximately 0.017% of Irwin Financial's total net revenues. The Funds have adopted plans pursuant to rule 12b–1 under the Act and make payments to their distributors, including Irwin Securities, pursuant to those plans.

Applicants' Legal Analysis

1. Section 2(a)(19)(A)(v) of the Act defines an "interested person" of a registered investment company to include any broker-dealer registered under the 1934 Act or any affiliated person of the broker-dealer. Applicants state that Mr. Kling may be deemed an affiliated person of Irwin Securities by virtue of his position as a director of Irwin Financial, an entity that controls Irwin Securities within the meaning of section 2(a)(9) of the Act. Because Mr. Kling may be deemed an affiliated person of Irwin Securities, Mr. Kling currently is considered an interested person of the Funds.

2. Rule 2a19–1 under the Act provides, in relevant part, that a director of a registered investment company will not be considered an interested person solely because the director is an affiliated person of a registered broker-dealer, provided that: (1) the broker-dealer does not execute any portfolio transactions for the "company complex," as that term is defined in the rule, engaged in any principal transactions with the company complex, or distribute shares of the company complex, for at least six months prior to the time the director is to be considered independent and for the period during which the director continues to be considered independent; (2) the company's board of directors finds that the company and its shareholders will not be adversely affected if the broker-dealer does not engage in transactions for or with the company complex; and (3) no more than a minority of the company's independent directors are affiliated with broker-dealers. Applicants state that they may not rely on rule 2a–19 in determining Mr. Kling's status because Irwin Securities provides *de minimis* services to the Funds.

3. Applicants believes that, because Mr. Kling's affiliation with Irwin Securities is solely the result of his position as a non-employee director of Irwin Financial, and because Irwin Securities provides only *de minimis* distribution services to the Funds, it would be more appropriate to treat Mr. Kling as an independent director. Applicants thus request an order under section 6(c) of the Act declaring that Mr. Kling will not be deemed an interested person under section 2(a)(19) of the Act.[3]

4. Section 6(c) of the Act provides, in part, that the Commission may exempt any person from any provision of the Act or any rule under the Act if and to the extent the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants contend that their request for relief from interested person status for Mr. Kling meets this standard because Mr. Kling's relationship with Irwin Securities is attenuated and poses no real or potential conflict of interest and because Irwin Securities' only business relationship with the Funds involves a *de minimis* amount of distribution services for the Funds.

5. Applicants state that, in his position as a non-employee director of Irwin Financial, Mr. Kling has no authority or responsibility for the operations of Irwin Securities and does not control or influence the day-to-day management of Irwin Securities. Applicants also represent that Mr. Kling has no material business or professional relationship with Irwin Financial, Irwin Securities, American Funds, Capital Research, AFD or any affiliated person of these entities.

Applicants' Conditions

Applicants agree that the order granting the requested relief will be subject to the following conditions:

1. All of the requirements of rule 2a19–1 will be met, except that Irwin Securities will be permitted to provide limited distribution services to the American Funds;

2. No more than 1% of Irwin Financial's gross revenues will come from the distribution of any one American Fund's shares; and no more than 5% of Irwin Financial's gross revenues will come from the distribution of all of the American Funds' shares;

3. No more than 1% of any one of the American Fund's shares, and no more than 5% of all of the American Funds' shares, will be distributed by Irwin Securities; and

4. Irwin Securities will not serve as a "regular broker or dealer," as that term

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[1] In 1996, Mr. Kling's aggregate compensation from Irwin Financial was approximately $16,000. As a non-employee director, Mr. Kling also participates in Irwin Financial's mandatory and non-mandatory stock options plans. In April 1997, Mr. Kling was granted 400 stock options, 100 of which are currently vested. The exercise price of the options is $23.375 per share. The market value of Irwin Financial's common stock as of the close of trading on February 26, 1998 was $47.25 per share. In addition, as of March 11, 1997, Mr. Kling beneficially owned 3,404 shares, or approximately 0.03%, of Irwin Financial's common stock, with market value on February 26, 1998 of approximately $160,839. The applicants represent that Mr. Kling's ownership of Irwin Financial's common stock is not material to Mr. Kling since it does not represent a material portion of his financial holdings generally.

[2] This figure is based on Irwin Financial's net revenues in 1996.

[3] Applicants are not requesting relief from the provisions of rule 12b–1(b)(2) that require a rule 12b–1 plan to be approved by the directors of an investment company "who are not interested persons of the company and have no direct or indirect financial interest in the operation of the plan or in any agreements related to the plan." Applicants state that they intend to treat Mr. Kling as a director who meets these requirements, based on Mr. Kling's lack of material business or professional relationship with Irwin Financial and applicants' belief that Mr. Kling's ownership of Irwin Financial's common stock is not a material portion of Mr. Kling's financial holding generally. Applicants represent that, should Mr. Kling develop a direct or indirect financial interest in the operation of the American Funds' rule 12b–1 plans, he will no longer be treated as meeting the above requirements of rule 12b–1.

is defined in rule 10b–1 under the Act, for any American Fund.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18762 Filed 7–14–98; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (Financial Federal Corporation, Common Stock, $.50 Par Value) File No 1–14237

July 9, 1998.

Financial Federal Corporation ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security ("Security") from listing and registration on the American Stock Exchange, Inc. ("Amex" or "Exchange").

The reasons cited in the application for withdrawing the Security from listing and registration include the following:

The Company submitted an application to list the Security on the New York Exchange, Inc. ("NYSE") and the NYSE approved such application. The Company believes that listing the Security on the NYSE will create better visibility for the Company and its securities, thus enhancing shareholder value.

The Company has complied with Amex Rule 18 by filing with the Amex a certified copy of the resolutions adopted by the Board of Directors of the Company authorizing the withdrawal of the Security from listing and registration on the Amex and a statement from the Company setting forth in detail the reasons and facts supporting such proposed withdrawal.

By letter dated June 12, 1998, the Amex raised no objection to the Company's filing its application with the Commission to remove the Security from listing on the Amex.

Any interested person may, on or before July 30, 1998, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–18841 Filed 7–14–98; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [63 FR 37608, July 13, 1998].

STATUS: Closed Meeting.

PLACE: 450 Fifth Street, N.W., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: July 13, 1998.

CHANGE IN MEETING: Cancellation of Meeting.

The closed meeting scheduled for Thursday, July 16, 1998, at 11:00 a.m., has been cancelled.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary (202) 942–7070.

Dated: July 13, 1998.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–19047 Filed 7–13–98; 4:00 pm]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40179; File Nos. SR–DTC–98–09, SR–NSCC–98–05]

Self-Regulatory Organizations; The Depository Trust Company; National Securities Clearing Corporation; Order Approving a Proposed Rule Change Relating to Direct Clearing Services and New York Window Services

July 8, 1998.

On May 13, 1998, The Depository Trust Company ("DTC") and the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") proposed rule changes (File Nos. SR–DTC–98–09 and SR–NSCC–98–05) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] Notice of the proposals was published in the **Federal Register** on June 4, 1998.[2] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule changes.

I. Description

Under the rule changes, NSCC will discontinue its Direct Clearing Services ("Direct Clearing") and New York Window Services ("Window"). DTC will offer its participants most of the services currently offered by NSCC through Direct Clearing and the Window through a new service called the New York Window Services.

Direct Clearing is a physical securities processing service which NSCC provides to its participants that do not have offices in New York City. The principal services of Direct Clearing include (i) processing over-the-window receives and deliveries, (ii) processing transfers of physical securities certificates, and (iii) processing deliveries to designated agents in connection with reorganizations and other corporate actions. In the course of providing these and other Direct Clearing services, NSCC may have custody of participants' physical securities certificates including overnight custody for one or more days.[3] The principal services of NSCC's Window are similar to those of Direct Clearing, but they initially were provided to NSCC participants located in New York City. NSCC has decided to discontinue providing Direct Clearing and the Window in order to focus its resources on its core businesses.

Under the rule changes, DTC is adopting new procedures for the operation of its New York Window Services. DTC's procedures for its New York Window Services are substantially the same as NSCC's Rule 31[4] except that DTC's new procedures do not include provisions similar to section 4 of NSCC Rule 31, which relates to money settlement through the Window. Currently, it is anticipated that NSCC will discontinue providing Direct Clearing and the Window and that DTC

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[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 40045 (May 29, 1998), 63 FR 30543.

[3] For a more complete description of Direct Clearing, refer to Securities Exchange Act Release No. 32221 (April 26, 1993) 58 FR 26570 [File No. SR–NSCC–93–03]

[4] The current version of NSCC Rule 31 was approved by the Commission in 1996. Securities Exchange Act Release No. 37631 (September 3, 1996), 61 FR 47534 [File No. SR–NSCC–96–08].

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will begin offering its New York Window Services on July 13, 1998.[5]

II. Discussion

Section 17A(b)(3)(F) of the Act[6] requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. The Commission believes that the proposed rule changes are consistent with DTC's and NSCC's obligations under Section 17A(b)(3)(F). The Commission believes that the arrangements between DTC and NSCC should ensure that securities transactions that are currently processed through Direct Clearing and the Window will be processed efficiently through DTC's New York Window Services. In addition, the Commission believes that DTC's procedures for its New York Window services, which are similar to those the Commission previously approved for NSCC, should assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposals are consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule changes (File Nos. SR–DTC–98–09 and SR–NSCC–98–05) be and hereby are approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18764 Filed 7–14–98; 8:45 am]

BILLING CODE 8010–01–M

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[5] Conversation between Jeffrey T. Waddle, Associate Counsel, DTC, and Theodore R. Lazo, Attorney-Adviser, Division of Market Regulation, Commission (June 17, 1998).

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40182; File No. SR–PCX–98–12]

Self-Regulatory Organizations; Pacific Exchange, Inc.; Order Approving Proposed Rule Change Relating to the Treatment of PMP Orders Generated Through the Matching of Profiles by the PCX Application of the OptiMark System

July 9, 1998.

I. Introduction

On March 2, 1998, the Pacific Exchange ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act" or "Act")[1] and Rule 19b–4 thereunder,[2] to amend its interpretation of Rule 5.32(a) "PMP-Only" of its Rules of Board of Governors so that it will clarify how PMP orders will be treated when generated from the matching of Profiles through the PCX Application of the OptiMark System ("PCX Application").[3]

Notice of the proposed rule change was published in the **Federal Register**.[4] The Commission received no comment letters in response to the notice of the proposed rule change.

II. Description of the Proposal

PCX has proposed to amend its interpretation of Rule 5.32(a) "PMP-Only" of its Rules of Board of Governors so that it will clarify how PMP orders will be treated when generated from the matching of Profiles through the PCX Application. A new commentary has been added to Rule 5.32(a).

PCX will modify the interpretation of its Rule 5.32(a) so that executions resulting from the operation of the PCX Application would be considered as a part of the "primary market" for the purposes of execution of orders marked "PMP." The purpose of the proposed interpretation of the rule is to respond to the SEC staff's request to clarify the meaning of Rule 5.32(a) "PMP Only." Through the addition of proposed Commentary .01, Rule 5.32(a) would be interpreted as meaning that during regular "primary" market trading hours, an order specifically marked "PMP" would receive primary market protection, which would include not only the traditional primary markets (*e.g.*, New York markets) but also matches resulting from the PCX Application. Accordingly, executions resulting from the PCX Application may trigger the execution of an order marked "PMP Only," even if the primary markets have not traded at that price. Similarly, a PMP order reflected *into* the PCX Application as a Profile, which is matched in the PCX Application and results in an execution, would require that such PMP limit order be filled, even if the price is out of range from an otherwise existing "primary" market, however defined. This would then be consistent with the overall premise that under no circumstance can a specialist accept an execution arising out of orders generated from a cycle of the PCX Application, without also executing any eligible booked orders that were put in the book before the cycle began.

III. Discussion

The Commission believes that proposed rule change is consistent with the provisions of Section 6(b)(5) of the Exchange Act, which provides, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade and to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers or dealers. The Commission believes that by including PMP orders in the PCX Application, and giving those orders not only traditional primary market protection, but also the potentially improved pricing that may result from inclusion in the PCX Application, the PCX is seeking to protect the interests of investors and to promote just and equitable principles of trade, while striving to prevent unfair discrimination between customers, brokers, and dealers. This effort should also help to remove impediments to, and perfect the mechanism of, a free and open market, consistent with the purpose of Section 6(b)(5) of the Act.

In addition, the Commission believes that the proposed rule change is consistent with the provisions of Section 11A(a)(1)(B) of the Exchange Act, which states that new data processing and communications techniques create the opportunity for more efficient and effective market operations. By employing the facility of the PCX Application, an advanced data processing and communications system, to process PMP orders and to give potentially improved pricing to those orders or otherwise to fill more expeditiously PMP limit orders, the PCX is furthering the purposes of Section 11A(a)(1)(B) of the Act.

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1991).

[3] For a description of the PCX Application of the OptiMark System, *see* Securities Exchange Act Release No. 39086 (Sept. 17, 1997), 62 FR 50036 (Sept. 24, 1997) (Commission order granting approval for the PCX Application).

[4] Securities Exchange Act Release No. 39818 (Mar. 30, 1998), 63 FR 17252 (Apr. 8, 1998).

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[5] that the proposed rule change (SR–PCX–98–12) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18843 Filed 7–14–98; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40180; File No. SR–Phlx–98–22]

July 8, 1998.

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., and Amendment No. 1 Thereto Relating to Amendments to Phlx Rule 931 Regarding Approved Lessors

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 18, 1998, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Phlx. On June 8, 1998, the Phlx filed an amendment to the proposal.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx seeks to amend Phlx Rule 931, "Approved Lessor." The text of the proposed rule change is available at the Office of the Secretary, the Phlx, and at the Commission.

II. Self-Regulatory Organization's Statements Regarding the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Phlx proposes to amend Phlx Rule 931 to substitute the word "Exchange" for the word "Corporation" throughout the rule and to require disclosure on an initial and periodic (quarterly) basis of lists of limited partners, limited liability organization members and shareholders of corporate entities of approved lessors. Phlx Rule 931(d), as amended, will require a lessor who is a natural person to file with the Exchange an attestation in a form prescribed by the Exchange as to the source of funds used to purchase the membership in addition to a completed Form U–4. For a lessor who is not a natural person, Phlx Rule 931(d) will require that a statement of assets, liabilities and net work and (1) if a partnership, an executed partnership agreement along with executed Form U–4 for all partners who are natural persons; (2) if a limited liability entity other than a corporation, an executed copy of the operating agreement along with accompanying Form U–4 for all such members who are natural persons; or (3) if a corporation, the corporate articles of incorporation, corporate by-laws, a listing of all officers, directors and shareholders along with accompanying Form U–4s. For a lessor who is not a natural person, Phlx Rule 931(e) will require periodic reports to be submitted to the Exchange within seventeen business days after the conclusion of the reporting period, in a form prescribed by the Exchange, including but not limited to the following information: (i) As of the last business day of each calendar quarter, a list of all limited partners if the lessor is a limited partnership, a membership list if the lessor is a limited liability entity other than a corporation along with any new subscription agreements and shareholder list if the lessor is a corporation, and (ii) any material change in the corporate or organizations structure within ten days of the change in the structure.

According to the Phlx, the proposed amended rule codifies existing practices of the Exchange's Office of the Secretary and Examinations Department respecting processing of applications for approval as an approved lessor of the Phlx. The proposal will allow the Exchange to monitor any changes in the ownership interest respecting the membership or memberships held by approved lessors. The proposal will also allow the Exchange to monitor for any potential statutory disqualifications respecting shareholders, partners and members of limited liability entities by requiring the filing of Form U–4 and amendments to Form U–4 for natural persons as well as various corporate, organizational agreements or partnership interest disclosures for other entities.

The Phlx believes that the proposed rule change is consistent with Section 6 of the Act,[4] in general, and Section 6(b)(5),[5] in particular, in that it is designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, as well as to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulation Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were either solicited or received.

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[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Murray L. Ross, Esq., Vice President and Secretary, Phlx, to Michael Walinskas, Esq., Deputy Associate Director, Division of Market Regulation, Commission, dated June 6,1998 ("Amendment No. 1"). In Amendment No. 1, the Phlx consents to have the proposed rule change published for notice and comment and treated pursuant to Section 19(b)(2) of the Act. In addition, in Amendment No. 1 the Phlx proposes to adopt Commentary .01 to Phlx Rule 931 which will require approved lessors to update Form U–4, submitted pursuant to Phlx Rule 931(d), within thirty days of learning that the information contained in Form U–4 has become incomplete or inaccurate. Where an amendment to Form U–4 involves a statutory disqualification as defined in Sections 3(a)(39) and 15(b)(4) of the Act, Commentary .01 will require that the amended Form U–4 be submitted not later than ten (10) days after the statutory disqualification occurs.

[4] 15 U.S.C. 78f.

[5] 15 U.S.C. 78f(b)(5).

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III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Phlx consents, the Commission will:

(A) by order approve such proposed rule change, or,

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are file with the Commission, and all communications relating to the rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File SR–Phlx–98–22 and should be submitted within 21 days after the date of this publication.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18763 Filed 7–14–98; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Environmental Impact Statement: Cincinnati/Northern Kentucky International Airport; Covington, Kentucky

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent.

SUMMARY: The Federal Aviation Administration announces that it will prepare an Environmental Impact Statement (EIS) for implementation of projects proposed in the Master Plan for Cincinnati/Northern Kentucky International Airport.

FOR FURTHER INFORMATION CONTACT: Peggy S. Kelley, Federal Aviation Administration, Airports District Office, 3385 Airways Blvd, Suite 302, Memphis, Tennessee 38116–3841; Telephone 901–544–3495, Ext. 19.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration will prepare and consider an EIS for implementation of proposed projects in the Master Plan Update for Cincinnati/Northern Kentucky International Airport.

The Kenton Country Airport Board completed its Master Plan Update in 1996. The Master Plan was accepted by FAA June 7, 1996. The Airport Layout Plan was conditionally approved June 7, 1996, subject to environmental analysis. Major airfield improvements proposed in the Master Plan and to be assessed in the EIS are a third parallel north/south runway, 8000 feet long, located approximately 4300 feet west of the existing Runway 18R–36L; an extension of Runway 9–27, 2000 feet to the west; and construction of additional taxiways or taxiway extensions. Other improvements include proposed terminal expansion; proposed aviation related development; associated road relocation and construction; and parking improvements.

The Kenton County Airport Board conducted numerous workshops and a public hearing during the development of the Master Plan Study. To ensure that the full range of issues related to the proposed projects are addressed and that all significant issues are identified, FAA intends to consult and coordinate with Federal, State and local agencies which have jurisdiction by law or have specific expertise with respect to any environmental impacts associated with the proposed projects. The meeting for public agencies will be held at Cincinnati/Northern Kentucky International Airport Board Room, located on the second level of Terminal One at the Airport, at 1:00 p.m., Tuesday, August 18, 1998. FAA will also solicit input from the public with two meetings. The first public scoping meeting will be Tuesday, August 18, 1998, from 5:00 to 8:00 p.m. at Oak Hills High School, 3200 Ebenezer Road, Cincinnati, Ohio, and the second public scoping meeting will be Wednesday, August 19, 1998, from 5:00 to 8:00 p.m. at Conner Middle School, 3300 Cougar Path, Hebron, Kentucky. In addition to providing input at the public scoping meetings, the public may submit written comments on the scope of the environmental study to the address identified in **FOR FURTHER INFORMATION CONTACT.** Comments should be submitted within 30 days of the publication of this Notice.

Issued on July 9, 1998 in Memphis, Tennessee.

Charles L. Harris,

Assistant Manager, Memphis Airports District Office.

[FR Doc. 98–18858 Filed 7–14–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice to Prepare an Environmental Impact Statement and Conduct Scoping for a Terminal Radar Approach Control (TRACON) Facility and Associated Air Traffic Control (ATC) Procedural Changes in and Near the Baltimore-Washington Metropolitan Area

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent to prepare an Environmental Impact Statement and conduct Scoping meetings.

SUMMARY: The Federal Aviation Administration is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared and considered for the consolidation and construction of a new Terminal Radar Approach Control (TRACON) facility in the Baltimore/Washington area. There are four stand-alone TRACONs within the study area located at Baltimore—Washington International Airport, Ronald Reagan Washington National Airport, and Washington Dulles International Airport; and the FAA operated TRACON located at Andrews Air Force Base, Maryland. The Federal Aviation Administration intends to prepare a tiered Environmental Impact Statement. The first tier will address the physical

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[6] 17 CFR 200.30–3(a)(12).

consolidation of the four TRACONs as well as building siting and construction. All reasonable building alternatives, including a no build option, will be considered. This first tier will also evaluate, at a programmatic level, potential airspace changes that could result from a decision to consolidate; however, it will not address specific changes to aircraft routes. A subsequent tier, or tiers, will be prepared and considered at a later date to assess the potential impacts resulting from air traffic control procedural changes associated with the proposed consolidation of these facilities as these issues become ripe for decision. All reasonable alternatives will be considered including the no-change option. The airspace tier (2nd tier) will evaluate alternatives to air traffic control routes and procedures beyond the immediate airport area. Changes to existing take-off and/or landing noise abatement procedures are not being considered. In order to ensure that all significant issues pertaining to the proposed action are identified, public scoping meetings will be held.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Champley, Project Support Specialist, Federal Aviation Administration, Suite 400, 8201 Corporate Drive, Landover, Maryland 20785 (800) 762–9531. Email: joe.champley@faa.dot.gov.

SUPPLEMENTARY INFORMATION: A TRACON facility provides radar air traffic control services to aircraft operating on Instrument Flight Rules (IFR) and Visual Flight Rules (VFR) procedures beyond 5 miles and generally within 50 miles of the host airport at altitudes from the surface to approximately 17,000 feet. These distances and altitudes may vary depending on local conditions and infrastructural constraints such as adequate radar and radio frequency coverage. The primary function of the TRACON is to provide a variety of air traffic control services to arrival, departure, and transient aircraft within its assigned airspace. These services include aircraft separation, in flight traffic advisories and navigational assistance. The four existing TRACON facilities provide terminal radar air traffic control services to the four major airports and a number of small reliever airports located within the study area.

Current technologies exist that allow for the siting of TRACON facilities away from an airport environment. This capability also allows for the consolidation of facilities when it makes economic and environmental sense. Three of the four facilities that are the subject of this study are at or approaching their designed life-cycle and are not able to accommodate expected increases in air traffic demand or planned equipment modernization. The FAA recently performed a cost to benefit analysis and found that the consolidation of these four TRACONs was economically advantageous to the government and users of their services.

In addition to the proposed infrastructural improvements, the FAA will conduct an in depth analysis of the air traffic control operational environment. The purpose is to determine what, if any, new ATC procedures can be implemented that will take advantage of facility consolidation, improved aircraft performance, and new and emerging ATC technologies. These items will be addressed in the second tier of the EIS.

The project study area is generally within a 75 miles radius of the Georgetown Non-Directional Radio Beacon, a radio navigational aid located new the Chain Bridge.

Public Scoping Meetings: To facilitate the receipt of comments on the first tier, five public scoping meetings will be held. The meetings will be held from 2 to 4 p.m. and 7 to 10 p.m. at the following locations:

August 3, 1998 at Hillcrest Elementary School, 1500 Frederick Road, Baltimore (Catonsville), MD 21228 (At the intersection of S. Rolling Road (I–195 away from BWI) and Frederick Road)
August 4, 1998 at the Holiday Inn Capitol, 550 C St SW, Washington, DC 20024 (Between National Air and Space Museum and Dept. of Transportation (intersection of C and 5th or 6th Street) near L'Enfant Plaza Metro Station)
August 6, 1998 at Chantilly High School, 4201 Stringfellow Road, Chantilly, VA 22033 (Off Stringfellow Road, Between Route 50 and Route 29)
August 10, 1998 at the Westpark (Holiday Inn) Hotel, 1900 North Fort Myer Drive, Arlington, VA 22209 (Adjacent to Key Bridge in Arlington)
August 12, 1998 at the Colony South, 7401 Surratts Road, Clinton, MD 20748 (Near Andrews AFB, off Route 5 in Clinton, MD)

A separate meeting will be held from 1 to 4 p.m. for Federal, State, and local agency staff in accordance with NEPA coordination requirements:

August 5, 1998 at the Holiday Inn Capitol, 550 C St SW, Washington, DC 20024 (Between National Air and Space Museum and Dept. of Transportation (intersection of C and 5th or 6th Street) near L'Enfant Plaza Metro Station)

The scoping period for this project formally begins with this announcement. Scoping will conclude forty-five days after the date of this announcement.

To ensure that the full range of issues related to this proposed project are addressed and all significant issues identified, comments and suggestions on the scope are invited from Federal, State, and local agencies, and other interested parties.

Comments and suggestions may be sent to: FAA Potomac TRACON Project, c/o Mr. Fred Bankert, PRC Inc., 12005 Sunrise Valley Drive, Reston, VA 20191–3423. EMAIL: fred.bankert@faa.dot.gov

Dated: July 9, 1998.

Walter Kwiatek,

Acting Potomac Program Director.

[FR Doc. 98–18659 Filed 7–14–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance/ RST–97–3

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received from the National Railroad Passenger Corporation (Amtrak) a request for waiver of compliance with certain requirements of 49 CFR Part 213: TRACK SAFETY STANDARDS.

The purpose of Amtrak's petition is to secure approval from FRA to operate equipment known as express cars at up to four inches of cant deficiency in passenger trains that are now permitted to operate at four inches of cant deficiency.

Amtrak is presently taking delivery of its first order of express cars. Amtrak states that this equipment will be used on trains primarily for time-sensitive and perishable express items. Amtrak also states that the growth of its express business is a critical component to its plan to recover all of its operating costs by 2002.

For several years, Amtrak has operated passenger trains with a variety of equipment at four inches of cant deficiency (underbalance) on tracks either owned by Amtrak or by other railroads such as the former Union Pacific, Burlington Northern, and the Southern Pacific railroads.

Currently, 49 CFR 213.57(b) permits a maximum of three inches to be used as

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the underbalance term (cant deficiency) in the formulation of curve/speed tables by track maintenance engineers defining train speeds for curved track superelevations for any route between two points. The waivers granted Amtrak and the other railroads to permit the substitution of four inches in the Vmax formula in § 213.57.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number RST–97–3) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, FRA, Nassif Building, 400 Seventh Street, S.W., Mail Stop 10, Washington, D.C. 20590. Communications received within 30 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m.–5:00 p.m.) at FRA's temporary docket room located at 1120 Vermont Avenue, N.W., Room 7051, Washington, D.C. 20005.

Issued in Washington, D.C. on July 6, 1998.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 98–18820 Filed 7–14–98; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance/Docket No. H–98–2

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received from the National Railroad Passenger Corporation (Amtrak) a request for waiver of compliance with certain requirements of 49 CFR Part 213: TRACK SAFETY STANDARDS.

The purpose of Amtrak's petition is to secure approval from FRA to conduct testing and demonstrations of the Talgo trainset at operating speeds up to 125 mph and four inches of cant deficiency on Amtrak's Northeast Corridor. Amtrak anticipates the testing will be completed within three days after commencement. Following the successful completion of the testing, Amtrak seeks to conduct three "VIP" demonstration trips between Washington, D.C., and Philadelphia, Pennsylvania.

Amtrak and the State of Washington jointly purchased a total of three Talgo trainsets which are currently in production in Seattle, Washington. The Amtrak and Washington State contracts require Talgo to demonstrate lateral stability at speeds up to 125 mph before the cars can be accepted. Amtrak states that this testing can only be accomplished on the Northeast Corridor.

In order to conduct the testing and demonstrations, Amtrak requests a waiver from 49 CFR 213.9, Classes of track, which currently limits the maximum train speed to 110 mph, and Section 213.57(b), Curves; Elevations and Speed Limitations, which currently permits a maximum of three inches to be used as the underbalance term (cant deficiency) in the determination of the maximum speed on a curve based on superelevation and degree of curvature.

Amtrak states that Talgo trainsets routinely operate at up to 125 mph and seven inches of cant deficiency in Spain. In addition, the Talgo was tested in 1997 at up to eight inches of cant deficiency in the Pacific Northwest.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number H–98–2) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, FRA, Nassif Building, 400 Seventh Street, S.W., Mail Stop 10, Washington, D.C. 20590. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m.–5:00 p.m.) at FRA's temporary docket room located at 1120 Vermont Avenue, N.W., Room 7051, Washington, D.C. 20005.

Issued in Washington, D.C. on July 6, 1998.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 98–18821 Filed 7–14–98; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[CO–99–91]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, CO–99–91 (TD 8490), Limitations on Corporate Net Operating Loss (§ 1.382–3).

DATES: Written comments should be received on or before September 14, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Limitations on Corporate Net Operating Loss.

OMB Number: 1545–1345.

Regulation Project Number: CO–99–91.

Abstract: This regulation modifies the application of the segregation rules under Internal Revenue Code section 382 in the case of certain issuances of stock by a loss corporation. The regulation provides exceptions to the segregation rules for certain small issuances of stock and for certain other issuances of stock for cash. The regulation also provides that taxpayers may make an irrevocable election to apply the exceptions retroactively.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of OMB approval.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 10.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 10.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 7, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–18747 Filed 7–14–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33595]

Delaware and Hudson Railway Company, Inc.—Acquisition and Operation Exemption—Consolidated Rail Corporation

AGENCY: Surface Transportation Board.

ACTION: Notice of Exemption.

SUMMARY: The Board exempts from the prior approval requirements of 49 U.S.C. 10902 the acquisition and operation by Delaware and Hudson Railway Company, Inc. (D&H) of 1.7 miles of rail line in Lackawanna County, PA. D&H will acquire Consolidated Rail Corporation's (Conrail) Taylor Yard Industrial Track between milepost 135.84 and milepost 136.7. Included in this is the D&H segment of Conrail's Keyser Wye track between milepost 135.84 and milepost 136.37, which is parallel and adjacent to the subject portion of the Conrail Keyser Industrial Track.

DATES: This exemption will be effective on August 14, 1998. Petitions to stay must be filed by July 30, 1998. Petitions to reopen must be filed by August 10, 1998.

ADDRESSES: An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33595, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of all pleadings must be served on petitioner's representative, Larry D. Starns, Esq., Leonard, Street & Deinard, 150 South Fifth Street, Suite 2300, Minneapolis, MN 55402.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC News & Data, Inc., 1925 K Street, N.W., Suite 210, Washington, DC 20006. Telephone: (202) 289–4357. [Assistance for the hearing impaired is available through TDD services at (202) 565–1695.]

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: June 29, 1998.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 98–18047 Filed 7–14–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33608]

Rock & Rail, Inc.—Lease and Operation Exemption—Royal Gorge Express, LLC

Rock & Rail, Inc., a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to lease from Royal Gorge Express, LLC, and to operate, approximately 11.75 miles of rail line in Freemont County, CO, between milepost 171.90, at Parkdale, and milepost 160.15, at Canon City.[1]

The transaction was scheduled to be consummated on or after July 6, 1998.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33608, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Fritz R. Kahn, Esq., 1100 New York Avenue, NW, Suite 750, Washington, DC 20005–3934.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: July 8, 1998.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–18851 Filed 7–14–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33622]

Royal Gorge Express—LLC—Acquisition and Operation Exemption—Union Pacific Railroad Company

Royal Gorge Express, LLC, a noncarrier, has filed a verified notice of

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[1] The lease of the line is subject to a permanent, irrevocable overhead trackage rights easement retained by the Union Pacific Railroad Company. *See Royal Gorge Express, LLC—Acquisition and Operation Exemption—Union Pacific Railroad Company*, STB Finance Docket No. 33622 (STB served July 15, 1998).

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exemption under 49 CFR 1150.31 to acquire from Union Pacific Railroad Company (UP) and to operate approximately 11.75 miles of UP's Tennessee Pass railroad line in Freemont County, CO, between milepost 171.90, at Parkdale, and milepost 160.15, at Canon City.[1]

The transaction was scheduled to be consummated on or after July 6, 1998.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33622, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Fritz R. Kahn, Esq., 1100 New York Avenue, NW., Suite 750, Washington, DC 20005–3954.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: July 8, 1998.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–18852 Filed 7–14–98; 8:45 am]

BILLING CODE 4915–00–P

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[1] UP will retain permanent, irrevocable overhead trackage rights so as to preserve the integrity of the Tennessee Pass through route.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33618]

Timber Rock Railroad, Inc.—Acquisition and Operation Exemption—Lines of The Burlington Northern and Santa Fe Railway Company

Timber Rock Railroad, Inc. (TRRR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from The Burlington Northern and Santa Fe Railway Company (BNSF) and operate approximately 38.4 miles of rail line located in Texas and Louisiana, between milepost 0.96 near Kirbyville, TX, and milepost 39.36 at DeRidder, LA. TRRR will also acquire incidental overhead trackage rights over BNSF's 20.04 mile rail line between milepost 0.96 near Kirbyville and milepost 21.0 at Silsbee, TX.

The transaction was scheduled to be consummated on or shortly after June 23, 1998.

This transaction is related to STB Finance Docket No. 33623, *Richard B. Webb and Susan K. Lundy—Continuance in Control Exemption—Timber Rock Railroad, Inc.*, where Richard B. Webb and Susan K. Lundy will continue in control of TRRR, upon its becoming a Class III rail carrier.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33618, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Karl Morell, BALL JANIK LLP, 1455 F. Street, N.W., Suite 225d, Washington, DC 20005.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: July 9, 1998.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–18848 Filed 7–14–98; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33623]

Richard B. Webb and Susan K. Lundy—Continuance in Control Exemption—Timber Rock Railroad, Inc.

Richard B. Webb and Susan K. Lundy (Applicants), have filed a verified notice of exemption to continue in control of Timber Rock Railroad, Inc. (TRRR), upon TRRR becoming a Class III railroad.

The transaction was scheduled to be consummated on or shortly after June 23, 1998.

This transaction is related to STB Finance Docket No. 33618, *Timber Rock Railroad, Inc.—Acquisition and Operation Exemption—Lines of the Burlington Northern and Santa Fe Railway Company*, wherein Applicants seek to acquire and operate a rail line from BNSF.

In addition to TRRR,[1] Applicants controls two existing Class III railroads: South Kansas and Oklahoma Railroad Company (SKO), operating in Kansas and Oklahoma; and Palouse River & Coulee City Railroad, Inc. (PRCC), operating in Washington and Idaho.[2]

Applicants state that: (i) the rail lines operated by SKO and PRCC do not connect with any railroad in the corporate family; (ii) the transaction is not part of a series of anticipated transactions that would connect TRRR's line with any railroad in the corporate family; and (iii) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33623, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Karl Morell, Of Counsel, BALL JANIK LLP, 1455 F Street, NW., Suite 225, Washington, D.C. 20005.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

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[1] TRRR is a noncarrier corporation formed for the purpose of acquiring the rail line from BNSF and operating the 38.4 miles of rail line.

[2] On May 15, 1998, applicants filed a petition for exemption seeking Board approval to indirectly control the Blue Mountain Railroad, Inc., and the Southeast Kansas Railroad Company in STB Finance Docket No. 33603, *Richard B. Webb and Susan K. Lundy—Control Exemption—Blue Mountain Railroad, Inc. and Southeast Kansas Railroad Company*. This proceedings is currently pending. Also on June 16, 1998, Applicants filed a notice of exemption seeking to continue in control of Stillwater Central Railroad, Inc. in SBT Finance Docket No. 33619, *Richard B. Webb and Susan K. Lundy—Continuance in Control Exemption—Stillwater Central Railroad, Inc.*, which is also pending before the Board.

Decided:

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–18847 Filed 7–14–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[PS–100–88]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, PS–100–88 (TD 8540), Valuation Tables (§§ 1.7520–1 through 1.7520–4, 20.7520–1 through 20.7520–4, and 25.7520–1 through 25.7520–4).

DATES: Written comments should be received on or before September 14, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Valuation Tables.

OMB Number: 1545–1343.

Regulation Project Number: PS–100–88.

Abstract: Internal Revenue Code section 7520 provides rules for determining the valuation of an annuity, an interest for life or a term of years, or a remainder or reversionary interest. Code section 7520(a) allows a respondent to make an election to value an interest that qualifies, in whole or in part, for a charitable deduction, by use of a different interest rate component that is more favorable to the respondent. This regulation requires individuals or fiduciaries making the election to file a statement with their estate or gift tax return.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of OMB approval.

Affected Public: Individuals or households.

Estimated Number of Respondents: 6,000.

Estimated Time Per Respondent: 45 minutes.

Estimated Total Annual Burden Hours: 4,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 8, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–18748 Filed 7–14–98; 8:45 am]

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Corrections

Federal Register
Vol. 63, No. 135
Wednesday, July 15, 1998

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40094; File No. SR-NYSE-97-36]

Self-Regulatory Organizations; New York Stock Exchange,Inc.; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 2 Thereto to Revise Exchange Policy for Entry of MOC/LOC Orders and Publication of Imbalances

Correction

In notice document 98–16510 beginning on page 33975, in the issue of Monday, June 22, 1998, make the following correction:

On page 33975, in the third column, the docket number is corrected to read as set forth above.

BILLING CODE 1505-01-D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40123; File No. SR-AMEX-98-10]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 1. to Proposed Rule Change Relating to Market-at-the-Close and Limit-at-the-Close Order Handling Requirements

Correction

In notice document 98–17561 beginning on page 36280, in the issue of Thursday, July 2, 1998, make the following correction:

On page 36280, in the third column, the docket number is corrected to read as set forth above.

BILLING CODE 1505-01-D

federal register

Wednesday
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Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 93

Noise Limitations for Aircraft Operations in the Vicinity of Grand Canyon National Park; Proposed Rule

Establishment of Corridors in the Grand Canyon National Park Special Flight Rules Area; Proposed Rule

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

[Docket No. 28770; Notice No. 96–15]

RIN 2120–AG34

Noise Limitations for Aircraft Operations in the Vicinity of Grand Canyon National Park

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental amendment to proposed rule.

SUMMARY: This supplemental amendment amends the notice of proposed rulemaking published (NPRM) on December 31, 1996 (61 FR 69334), which proposed to establish noise limitations for certain aircraft operating in the vicinity of Grand Canyon National Park (GCNP). Specifically, the FAA is removing two sections from the NPRM that proposed to establish a corridor in the Torroweap/Shinumo Flight-free Zone through the National Canyon area as an incentive route for quiet technology aircraft. The FAA, in consultation with the National Park Service (NPS), is removing these two sections from the NPRM because the agencies have determined not to proceed with an air tour route in the vicinity of National Canyon and are presently considering alternatives to this route. This supplemental amendment does not affect any other provisions contained in the NPRM. The FAA will address all substantive comments filed in response to the National Canyon proposed in this NPRM is the near future.

FOR FURTHER INFORMATION CONTACT: Thomas Connor, Manager Technology Division, AEE–100, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–8933.

SUPPLEMENTARY INFORMATION:

Background

On December 31, 1996, the FAA published in the **Federal Register** three concurrent actions, an NPRM (61 FR 69334), a Notice of Availability of Proposed Commercial Air Tour Routes (61 FR 69356), and a Final Rule (61 FR 69302). These actions were part of an overall strategy to reduce further the impact of aircraft noise on the park environment and to assist the NPS in achieving the statutory mandate imposed by Public Law 100–91.

The NPRM proposed to establish noise limitations for certain aircraft operations within the vicinity of GCNP, including the National Canyon corridor that was to be used by quiet technology aircraft. Based on comments received during comment period for the Notice of Availability of Proposed Commercial Routes, the FAA received valuable information from commenters, as well as suggestions for alterations and refinements of the route structure from officials of the GCNP and NPS that could potentially produce noise reduction benefits. Furthermore, the comments submitted on the National Canyon corridor, as proposed in the NPRM, from the air tour operators, the environmentalists, and the Native Americans led the FAA to conclude that this proposed route was not a viable option.

As a result of the comments submitted on both notices, the FAA issued a new proposed route structure concurrent with the issuance of a second NPRM (Notice No. 97–6) (62 FR 26902; May 15, 1997). Notice 97–6 proposed to amend two Flight-free Zones by establishing two corridors; a revised National Canyon corridor through the Toroweap/Shinumo Flight-free Zone and a corridor through the Bright Angel Flight-Free Zone.

The revised National Canyon route was designed to provide a viable air tour route through the center of the canyon while at the same time providing mitigation of the effects of noise over Havasupai cultural and sacred sites. Because it was designed to be used only by the quietest technology aircraft for westbound traffic after December 31, 2001, the National Canyon route was found to provide noise mitigation. The proposed Bright Angel Corridor for use by the quietest technology aircraft was crafted as an incentive for operators to convert to quiet technology.

The FAA, in consultation with the NPS, has determined not to proceed with the proposed that would establish an air tour route through the National Canyon area at this time. The agencies are presently considering alternatives to the National Canyon area for air tour routes. The FAA recognizes its responsibility to address the comments filed in response to the proposed National Canyon corridor and will do so in the near future. However, in order to facilitate the development of the air tour route structure, the FAA is removing the sections that propose the National Canyon corridor now and will dispose of the comments in a separate document. In a companion document to this supplement amendment published elsewhere in this issue of the **Federal Register**, the FAA has withdrawn Notice 97–6, the NPRM that proposed a revised National Canyon route and superseded the National Canyon route proposed in this NPRM. Consequently, the FAA formally removes the National Canyon corridor from this NPRM. The FAA notes that all other provisions of this NPRM was not affected by this supplement amendment. The FAA will dispose of all substantive comments with respect to the National Canyon corridor in this NPRM in the near future.

Environmental Review

The effects of the National Canyon provisions in Notice 96–15 were evaluated in the December 1996 Final Environmental Assessment/Finding of No Significant Impact (1996 Final EA/FONSI) for the Special Flight Rules in the Vicinity of Grand Canyon National Park and subsequent evaluations. The FAA determined that the conclusions in the 1996 Final EA/FONSI were still substantially valid. Once the air tour route structure is determined, the FAA will conduct the appropriate environmental review and provide for notice and public comment.

List of Subjects in 14 CFR Part 93

Air traffic control, Airports, Navigation (air), Reporting and recordkeeping requirements.

The Proposed Amendment

For the reasons set forth above, the Federal Aviation Administration proposes to amend 14 CFR part 93 as follows:

PART 93—SPECIAL AIR TRAFFIC RULES AND AIRPORT TRAFFIC PATTERNS

1. The authority citation for part 93 continues to read follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40109, 40113, 44502, 44514, 44701, 44719, 46301.

§ 93.305 [Amended]

2. The amendments to § 93.305(c), as proposed at 61 FR 69353, are removed.

§ 93.306 [Amended]

3. Section 93.306, as proposed to be added at 61 FR 69353, is removed.

Issued in Washington, DC on July 10, 1998.

James D. Erickson,

Director, Office of Environment and Energy.

[FR Doc. 98–18832 Filed 7–10–98; 12:52 pm]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORATION

Federal Aviation Administration

14 CFR Part 93

[Docket No. 28902; Notice No. 97–6]

RIN 2120–AG33

Establishment of Corridors in the Grand Canyon National Park Special Flight Rules Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); withdrawal.

SUMMARY: The FAA is withdrawing an NPRM that was published on May 15, 1997 (62 FR 26902), which proposed to amend two of the Flight-Free Zones within the Grand Canyon National Park (GCNP) by establishing two corridors through the Flight-free Zones (Notice No. 97–6). The first corridor through the Bright Angel Flight-free Zone would have been an incentive corridor to be used only by the most noise efficient aircraft. The second corridor in the Torroweap/Shinumo Flight-free Zone through the National Canyon area would create a viable air tour route in the central section of the Park while addressing some concerns of the Native Americans. The FAA, in consultation with the National Park Service (NPS), is withdrawing this NPRM because the agencies have determined not to proceed with an air tour route in the vicinity of National Canyon and are presently considering alternatives to this route. The FAA will addres all substantive comments filed in response to Notice 97–6 in the near future.

DATES: The proposed rule at 62 FR 26902 is withdrawn July 10, 1998.

FOR FURTHER INFORMATION CONTACT: Dave Metzbower, Office of Flight Standards, Air Transporation Division (AFS–200), 800 Independence Avenue, S.W., Washington, DC 20591, telephone (202) 267–3724.

SUPPLEMENTARY INFORMATION:

Background

On December 31, 1996, the FAA published in the **Federal Register** three concurrent actions a Notice of Proposed Rulemaking (61 FR 69334), a Notice of Availability of Proposed Commercial Air Tour Routes (61 FR 69356), and a Final Rule (61 FR 69302). These actions were part of an overall strategy to reduce further the impact of aircraft noise on the park environment and to assist the NPS in achieving the statutory mandate imposed by Public Law 100–91.

Based on comments received during the comment period for the Notice of Availability of Proposed Commercial Routes, the FAA received valuable information from commenters, as well as suggestions for alterations and refinements of the route structure from officials of the GCNP and NPS that could potentially produce noise reduction benefits. Furthermore, comments submitted by the air tour operators, the environmentalists, and the Native Americans on the National Canyon corridor in the NPRM led the FAA to conclude that the Natioal Canyon air tour routes was not a viable option.

As a result of teh comments received on both notices, the FAA issued a new proposed route structure concurrent with the issuance of a second NPRM (Notice No. 97–6) (62 FR 26902; May 15, 1997), which included a revised National Canyon corridor.

The revised National Canyon route proposed in Notice 97–6 was designed to provide a viable air tour route through the center of the canyon while at the same time providing mitigation of the effects of noise over Havasupai cultural and sacred sites. Because it was designed to be used only by the quietest technology aircraft for westbound traffic after December 31, 2001, the National Canyon route was found to provide noise mitigation. The proposed Bright Angel Corridor for use by quietest technology aircraft was crafted as an incentive for operators to convert to quiet technology. The comment period for Notice No. 97–6 closed June 16, 1997, and approximaely 142 comments were received.

The FAA, in consultation with the NPS, has determined not to proceed with the proposals set forth in Notice No. 97–6 at this time. The agencies are presently considering alternatives to the National Canyon area for air tour routes. Once the air tour route structure for GCNP has been determined, the FAA will issue a Notice of Availability of Proposed Routes and provide for notice and public comment on any associated rulemaking. The FAA recognizes its responsibility to address the comments filed in response to Notice 97–6 and will do so in the near future. However, in order to faciliate the development of the air tour route structure, the FAA is withdrawing the NPRM now and will dispose of the comments in a separate document. In a companion document to this NPRM withdrawal published elsewhere in this issue of the **Federal Register**, the FAA has amended the proposed rule, Notice No. 96–15, to remove the two sections that first proposed a National Canyon corridor.

Environmental Review

In conjunction with Notice 97–6, the FAA reevaluated the December 1996 Final Environmental Assessment/Finding of No Significant Impact (1996 Final EA/FONSI) for the Special Flight Rules in the Vicinity of Grand Canyon National Park to determine whether the proposed changes in NPRM 97–6 of the second Notice of Availability of Proposed Routes, published concurrently, were substantial so as to warrant preparation of additional environemntal documentation. The FAA determined that the conclusions in the 1996 Final EA/FONSI were still substantially valid. Once the air tour route structure is determined, the FAA will conduct the appropriate environmental review and provide for notice and public comment.

Witdrawal of Proposed Rule

Accodingly, Notice No. 97–6 published in the **Federal Register** on May 15, 1997 (62 FR 26902) is withdrawn.

Issued in Washington, DC on July 10, 1998.

Richard O. Gordon,

Director, Flight Standards Service.

[FR Doc. 98–18833 Filed 7–10–98; 12:52 pm]

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Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 91

Proposed Airspace and Flight Operations Requirements for the Kodak Albuquerque International Balloon Fiesta; Albuquerque, NM; Proposed Rule

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 29279 Notice No. 98–7]

RIN 2120–AG61

Proposed Airspace and Flight Operations Requirements for the Kodak Albuquerque International Balloon Fiesta; Albuquerque, NM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes a Special Federal Aviation Regulation (SFAR), applicable for the period of October 3 through October 11, 1998, to establish a temporary flight restriction (TFR) area for the upcoming Kodak Albuquerque International Balloon Fiesta (KAIBF). The FAA is proposing this action to manage aircraft operating in the vicinity of the KAIBF, and to prevent any unsafe congestion of sightseeing and other aircraft over and around the Balloon Fiesta launch site.

DATES: Comments must be received on or before August 31, 1998.

ADDRESSES: Comments on this NPRM may be delivered or mailed in triplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attn.: Rules Docket (AGC–200), Docket No. [29279], Room 915G, 800 Independence Avenue, SW., Washington, DC 20591. Comments submitted must be marked "Docket No. [29279]." Comments may also be sent electronically to the following Internet address: 9-nprm-cmts@faa.dot.gov. Comments may be examined in room 915G, weekdays, between 8:30 a.m. and 5:00 p.m., except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Terry Brown, Airspace and Rules Division, ATA–400, Office of the Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of this proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the proposals in this notice are also invited. Substantive comments should be accompanied by cost estimates. Comments must identify the regulatory docket or notice number and be submitted in triplicate to the Rules Docket address specified above.

All comments received, as well as a report summarizing each substantive public contact with FAA personnel on this rulemaking, will be filed in the docket. The docket is available for public inspection before and after the comment closing date.

All comments received on or before the closing date will be considered by the Administrator before taking action on this proposed rulemaking. Late-filed comments will be considered to the extent practicable. The proposals contained in this notice may be changed in light of the comments received.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a pre-addressed, stamped postcard with those comments on which the following statement is made: "Comments to Docket No. [29279]" The postcard will be date stamped and mailed to the commenter.

Availability of NPRM

An electronic copy of this document may be downloaded, using a modem and suitable communications software, from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703–321–3339), the **Federal Register's** electronic bulletin board service (telephone: 202–512–1661), or the FAA's Aviation Rulemaking Advisory Committee Bulletin Board service (telephone: (800) 322–2722 or (202) 267–5948).

Internet users may reach the FAA's web page at http://www.faa.gov/avr/arm/nprm/nprm.htm or the **Federal Register's** web page at http://www.access.gpo.gov/su_docs/aces/aces140.html for access to recently published rulemaking documents.

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9680. Communications must identify the notice number of docket number of this NPRM.

Persons interested in being placed on the mailing list for future NPRM's should request from the above office a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, that describes the application procedure.

Comment Period Justification

The FAA is requesting a comment period of 45 days to allow for the consideration and incorporation of comments to this proposal, and to expedite publication of the SFAR for those aircraft planning operations in the vicinity of the KAIBF.

The early publication of this action would reduce the potential confusion of pilots since the proposed SFAR restrictions could change normal operating procedures of the affected area. Further, early publication of the SFAR would result in a safe operation and the prevention of any unsafe congestion of sightseeing and other aircraft over the Balloon Fiesta launch site.

Background

The KAIBF will be held on October 3 through October 11, 1998, at a site 9 miles north of Albuquerque International Sunport, in Albuquerque, NM.

This proposed SFAR would establish a TFR area to provide for the safety of persons and property in the air and on the ground during the KAIBF. The proposed TFR area would restrict aircraft operations in a specified location; however, access to this area may be allowed with the appropriate air traffic control (ATC) authorization from the Albuquerque International Sunport Airport Traffic Control Tower (ATCT). ATC would retain the ability to manage aircraft through the TFR area in accordance with established ATC procedures.

Specifically, the proposed TFR area would be 9 miles north of the Albuquerque International Sunport ATCT and just west of Interstate Highway 25 (I–25). The TFR area would be centered on the Albuquerque Very High Frequency Omnidirectional Range/Tactical Air Navigation (VORTAC) 038° radial 14 distance measuring equipment (DME) fix. The area would encompass a 4 nautical mile (NM) radius, extending from the surface up to but not including 8,000 feet mean sea level (MSL). The TFR area would be in effect between the hours of 0530 Mountain Daylight Time (MDT) and 1200 MDT, and from 1600 MDT until 2200 MDT on October 3 through October 11, 1998. Unauthorized aircraft would be required to remain clear of this area during these times.

The location, dimensions, and effective times of the proposed TFR area would be published and disseminated via the Notice to Airmen (NOTAM) system.

Exceptions

The proposed SFAR would contain provisions to provide flexible, efficient management and control of air traffic. ATC would have the authority to give priority to, or exclude from the requirements of the special regulation, flight operations dealing with or containing essential military, medical emergency, rescue, law enforcement, Presidential, and heads of state.

Notice to Airmen Information

Time-critical aeronautical information that is of a temporary nature, or is not sufficiently known in advance to permit publication on aeronautical charts or in other operational publications, receives immediate dissemination via the NOTAM system. All domestic operators planning flight to the KAIBF would need to pay particular attention to NOTAM D and Flight Data Center (FDC) NOTAM information.

NOTAM D contains information on airports, runways, navigational aids, radar services, and other information essential to flight. An FDC NOTAM contains information which is regulatory in nature, such as amendments to aeronautical charts and restrictions to flight. FDC NOTAM and NOTAM D information would also be provided to international operators in the form of International NOTAMs. NOTAMs are distributed through the National Communications Center in Kansas City, MO, for transmission to all air traffic facilities having telecommunications access.

Pilots and operators would need to consult the monthly NOTAM Domestic/International publication. This publication contains NOTAM FDC and D NOTAMs. Special information, including graphics, would be published in the biweekly publication several weeks in advance of the Balloon Fiesta. For more detailed information concerning the NOTAM system, refer to the Aeronautical Information Manual "Preflight" section would need to be made.

Other U.S. Laws and Regulations

Aircraft operators should clearly understand that the proposed SFAR is in addition to other laws and regulations of the U.S. The SFAR would not waive or supersede any U.S. statute or obligation. When operating within the jurisdictional limits of the U.S., operators of foreign aircraft must conform with all applicable requirements of U.S. Federal, State, and local governments. In particular, aircraft operators planning flights into the U.S. must be aware of and conform to the rules and regulations established by the:

1. U.S. Department of Transportation regarding flights entering the U.S.;
2. U.S. Customs Service, Immigration and other authorities regarding customs, immigrations, health, firearms, and imports/exports;
3. U.S. FAA regarding flight in or into U.S. airspace. This includes compliance with Parts 91, 121 and 135 of Title 14 of the Code of Federal Regulations regarding operations into or within the U.S. through air defense identification zones, and compliance with general flight rules; and
4. Airport management authorities regarding use of airports and airport facilities.

Environmental Effects

This proposed action would establish a TFR area for safety purposes and would curtail or limit certain aircraft operations within a designated area on defined dates and times. Additionally, this proposed action would be temporary in nature and effective only for the dates and times necessary to provide for the management of air traffic operations and the protection of participants and spectators on the ground. ATC would retain the ability to direct aircraft through the restricted area in accordance with normal traffic flows. The FAA believes the proposed establishment of a TFR area would have minimal impact on ATC operations.

Further, this action would reduce aircraft activity in the vicinity of the Balloon Fiesta by restricting aircraft operations. There would be fewer aircraft operations in the vicinity of the Balloon Fiesta than would occur if the TFR area were not in place, and noise levels associated with that greater aircraft activity would also be reduced. Additionally, aircraft avoiding the TFR area would not be routed over any particular area. This action would not, therefore, result in any long-term action which would routinely route aircraft over noise-sensitive areas. For the reasons stated above, the FAA concludes that this proposed rule would not significantly affect the quality of the human environment.

International Compatibility

The FAA has reviewed corresponding International Civil Aviation organization international standards and recommended practices and Joint Aviation Authorities regulations, where they exist, and has identified no differences in these proposed amendments and the foreign regulations.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), there are no requirements for information collection associated with this proposed regulation.

Regulatory Evaluation Summary

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this proposed rule is not "a significant regulatory action" as defined in the Executive Order and the Department of Transportation Regulatory Policies and Procedures. This proposed rule would not have a significant impact on a substantial number of small entities and would not constitute a barrier to international trade. The FAA invites the public to provide comments, and supporting data, on the assumptions made in this evaluation. All comments received will be considered in the final regulatory evaluation.

This regulatory evaluation examined the costs and benefits of the proposed SFAR applicable for the period October 3 through October 11, 1998. The SFAR proposes to establish a TFR area for the upcoming KAIBF to be held in Albuquerque, NM. Since the impacts of the proposed change are relatively minor, this economic summary constitutes the analysis and no regulatory evaluation will be placed in the docket.

The major economic impact, in this case, would be the inconvenience of circumnavigation to operators who may want to operate in the area of the TFR. An aircraft operator could avoid the restricted airspace by flying over it or by circumnavigating the restricted airspace. Because the possibility of such occurrences is for a limited time and the restricted areas are limited in size, the FAA believes that any circumnavigation costs would be negligible.

The benefits of the proposed TFR airspace would primarily be a lowered risk of midair collisions between aircraft and balloons due to increased positive control of TFR airspace. While benefits cannot be quantified, the FAA believes the benefits are commensurate with the small costs attributed to the temporary inconvenience of the flight restrictions for operators near the TFR area.

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Initial Regulatory Flexibility Act Determination

The Regulatory Flexibility Act of 1980 establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation." To achieve that principle, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis (RFA) as described in the Act.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 Act provides that the head of the agency may so certify and an RFA is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The FAA conducted the required review of this proposal and determined that it would not have a significant economic impact on a substantial number of small entities. Accordingly, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), the FAA certifies that this rule will not have a significant impact on a substantial number of small entities. The FAA solicits comments from affected entities with respect to this finding and determination.

International Trade Impact Analysis

The provisions of this proposed rule would have little or no impact on trade for both U.S. firms during business in foreign countries and foreign firms doing business in the U.S.

Federalism Implications

The regulation proposed herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposed regulation would not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Pub. L. 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on a proposed "significant intergovernmental mandate." A "significant intergovernmental mandate" under the Act is any provision in a Federal agency regulation that would impose an enforceable duty upon State, local, and tribal governments, in the aggregate, of $100 million (adjusted annually for inflation) in any one year. Section 203 of the Act, 2 U.S.C. 1533, which supplements section 204(a), provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that, among other things, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals.

This rule does not contain a Federal intergovernmental or private sector mandate that exceeds $100 million a year.

List of Subjects in 14 CFR Part 91

Air traffic control, Aircraft, Airports, Aviation safety.

The Proposed Special Federal Aviation Regulation (SFAR)

In consideration of the foregoing, the Federal Aviation Administration proposes to amend part 91 of Title 14, Code of Federal Regulations (14 CFR part 91) as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(g), 1155, 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, articles 12 and 29 of the Convention on International Civil Aviation (61 stat. 1180).

2. Amend part 91 by adding Special Federal Aviation Regulation No. XX to read as follows:

SFAR NO. XX AIRSPACE AND FLIGHT OPERATIONS REQUIREMENTS FOR THE 1998 KODAK ALBUQUERQUE INTERNATIONAL BALLOON FIESTA, ALBUQUERQUE, NM

1. *General*. (a) Each person shall be familiar with all NOTAMs issued pursuant to this SFAR and all other available information concerning that operation before conducting any operation into or out of an airport or area specified in this SFAR or in NOTAMs pursuant to this SFAR. In addition, each person operating an international flight that will enter the U.S. shall be familiar with any international NOTAMs issued pursuant to this SFAR. NOTAMs are available for inspection at operating FAA air traffic facilities and regional air traffic division offices.

(b) Notwithstanding any provision of Title 14, Code of Federal Regulations, no person may operate an aircraft contrary to any restriction procedure specified in this SFAR or by the Administrator, or through a NOTAM issued pursuant to this SFAR.

(c) As conditions warrant, the Administrator is authorized to—

(1) Restrict, prohibit, or permit IFR/VFR operations in the temporary flight restricted area designated in this SFAR or in a NOTAM issued pursuant to this SFAR;

(2) Give priority to or exclude the following flights from provisions of this SFAR and NOTAMs issued pursuant to this SFAR:

(i) Essential military.
(ii) Medical and rescue.
(iii) Presidential and Vice Presidential.
(iv) Flights carrying visiting heads of state.
(v) Law enforcement and security.
(vi) Flights authorized by the Director, Air Traffic Service.

(d) For security purposes, the Administrator may issue NOTAMs during the effective period of this SFAR to cancel or modify provisions of this SFAR and NOTAMs issued pursuant to this SFAR if such action is consistent with the safe and efficient use of airspace and the safety and security of persons and property on the ground as affected by air traffic.

2. *Temporary Flight Restriction.* At the following location, flight is restricted during the indicated dates and times: That airspace within a 4 NM radius centered on the Albuquerque VORTAC 038 radial 14 DME fix from the surface up to but not including 8,000 feet MSL unless otherwise authorized by Albuquerque ATCT.

3. *Dates and Times of Designation.* (a) October 3 through October 11, 1998, and from 0530 MDT until 1200 MDT.

(b) October 3 through October 11, 1998, and from 1600 MDT until 2200 MDT.

4. *Expiration*. This Special Federal Aviation Regulation expires on October 12, 1998.

Issued in Washington, DC, on July 8, 1998.

John S. Walker,

Program Director for Air Traffic Airspace Management.

[FR Doc. 98–18652 Filed 7–14–98; 8:45 am]

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Part IV

Department of Education

Privacy Act of 1974; System of Records; Notice

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DEPARTMENT OF EDUCATION

Privacy Act of 1974; System of Records

AGENCY: Department of Education.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Department of Education (the Department) publishes this notice of a new system of records for the Receivables Management System, as authorized by the Federal Claims Collection Act of 1966, Debt Collection Act of 1982, and the Debt Collection Improvement Act of 1996. This system contains a data base of accounts receivable for claims for payment of debts due the Department. This system contains records of activities relative to the collection of those debts.. The Department seeks comments on the proposed routine uses of this system of records.

DATES: Comments on proposed routine uses for this system of records must be received on or before July 17, 1998. The Department filed a report of the new system of records with the Chairman of the Committee on Governmental Affairs of the Senate, the Chairman of the Committee on Government Reform and Oversight Operations of the House of Representatives, and the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB) on July 10, 1998. This system of records will become effective after the 30-day period for OMB review of the system expires on August 10, 1998, unless OMB gives specific notice within the 30 days that the system is not approved for implementation or requests an additional 10 days for its review. The Department will publish any changes to the routine uses that are a result of the comments.

ADDRESSES: Comments on the proposed routine uses should be addressed to the Privacy Act Officer, Information Management Group, Office of the Chief Financial and Chief Information Officer, U.S. Department of Education, 600 Independence Avenue SW., Room 5624, General Services Administration (GSA), Regional Office Building #3, Washington, DC 20202–4651. Comments may also be sent through the Internet to: comments@ed.gov

You must include the term "Receivables Management System" in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: Philip A. Maestri, Director, Financial Improvement and Receivables Group, Office of the Chief Financial Officer, U. S. Department of Education, 600 Independence Avenue, SW., Room 3117, Washington, DC 20202–4330. Telephone number: (202) 205–3511. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotapes, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION:

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding proposed routine uses of this system.

All comments submitted in response to the proposed routine uses will be available for public inspection, during and after the comment period, in Room 5624, GSA Regional Office Building #3, 7th and D Streets, SW., between the hours of 8 a.m. and 4:30 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

On request the Department supplies an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking docket for this notice. An individual with a disability who wants to schedule an appointment for this type of aid may call (202) 205–8113 or (202) 260–9895. An individual who uses a TDD may call the Federal Information Relay Service at 1–800–877–8339, between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Background

The Privacy Act of 1974 (5 U.S.C. 552a(e)(4)) requires the Department to publish in the **Federal Register** this notice of a new system of records. The Department's regulations implementing the Privacy Act of 1974 are contained in the Code of Federal Regulations (CFR) in 34 CFR part 5b.

This system of records is being developed to comply with the Federal Claims Collection Act of 1966, Debt Collection Act of 1982, and the Debt Collection Improvement Act of 1996. The information collected in the Receivables Management System is to aid in the collection of funds due to the Department. Information in the system includes the name of debtor, address, Social Security Number, loan or case number or other debt identifier, telephone number, account history and supporting documents. The Department intends to use the information to notify a debtor of his or her liability to the Government and to take other actions to service the debt. The debt servicing staff of the Financial Improvement and Receivables Group, Office of the Chief Financial Officer, and its private contractors will have access to the information collected. Direct access is restricted to authorized agency and contractor staff in the performance of their official duties. The information will be kept in metal file drawers and computers in a secured building. All physical access to the sites of the contractor and the Department of Education where this system of records is maintained, is controlled and monitored by security personnel who check each individual entering the building for an employee's or a visitor's badge.

The computer system employed by the Department offers a high degree of resistance to tampering and circumvention. This security system limits data access to the Department and contract staff on a "need to know" basis, and controls individual users' ability to access and alter records within the system. All users of this system are given a unique user ID with a personal identifier. All interactions by individual users with the system are recorded.

Electronic Access to this Document

Anyone may view this document, as well as all other Department documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
http://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office toll free at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone (202) 291–1411 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of this document is the document published in the **Federal Register**.

Dated: July 10, 1998.

Donald Rappaport,

Chief Financial Officer.

(Catalog of Federal Domestic Assistance Number does not apply.)

The Chief Financial Officer publishes notice of a new system of records to read as follows.

18–11–0028

SYSTEM NAME:

Receivables Management System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATIONS:

U.S. Department of Education, Office of the Chief Financial Officer, Financial Improvement and Receivables Group, 600 Independence Avenue, SW., Washington, DC 20202–4330.

U.S. Department of Education, Office of the Chief Information Officer, 7th and D Streets, SW., Washington, DC 20202.

Nationwide Credit, Inc., Credit Claims and Collection, 2253 Northwest Parkway, Marietta, Georgia 30067.

Payco American Corporation, 180 N. Executive Drive, Brookfield, Wisconsin 53005–6011.

CSC Credit Services, Inc., 7909 Parkwood Circle, Suite 200, Houston, Texas 77036–6565.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the system include: Persons billed by the Department of Education (the Department) for materials and services such as Freedom of Information Act requests and computer tapes of statistical data, persons ordered by a court of law to pay restitutions to the Department, individuals who received grants under the Bilingual Education Fellowship Program and who have not provided evidence to the Department of fulfilling their work requirements as described in the Bilingual Education Fellowship Program Contract, individuals who have received funds through the Rehabilitation Services Administration (RSA) Scholarship program and who have not provided evidence of fulfilling their obligations under that program, current and former Department employees who received overpayments on travel allowances or who received salary overpayments and the overpayments have not been waived by the Department, individuals who were overpaid or inappropriately paid under grant programs administered by the Department other than Title IV of the Higher Education Act of 1965, as amended (HEA) and claims against individuals, including orders by a court or other authority to make restitution for the misuse of Federal funds in connection with any program administered by the Department.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents maintained in the system include: activity logs, copies of checks, contracts, court orders, letters of notice, promissory notes, telephone logs, and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Claims Collection Act of 1966; Debt Collection Act of 1982; and the Debt Collection Improvement Act of 1996.

PURPOSE(S):

The Receivables Management System is a database system that is kept for servicing general consumer debts owed to the Department and issuing reports of operations and the status of accounts to the U.S. Department of Treasury (Treasury) and the Office of Management and Budget. The receivables are generated from bills to individuals for materials and services from the Department, claims arising from court-ordered restitutions for any program administered by ED, loans and overpayments to individuals under programs other than the student financial assistance programs authorized under Title IV of the Higher Education Act of 1965, as amended.

Records will be used by debt servicing staff to bill debtors to the Department and collect the debts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosures under the following routine uses may be made on a case-by-case basis or, in appropriate circumstances under computer matching agreements authorized under the Privacy Act of 1974 (5 U.S.C. 552a). Records may be disclosed for the following debt servicing program purposes:

(a) *Program purposes:* (1) To verify the identity and location of the debtor, disclosures may be made to credit agencies and Federal agencies. (2) To enforce the terms of a loan or where disclosure is required by Federal law, disclosure may be made to credit agencies, educational and financial institutions, and Federal, State, or local agencies.

(b) *Debt servicing.* Records under routine use may be disclosed to the United States Department of the Treasury and privately contracted collection companies for debt servicing.

(c) *Litigation disclosure.* (1) In the event that one of the parties listed below is involved in litigation, or has an interest in litigation, the Department may disclose certain records to the parties described in paragraphs (2), (3) and (4) of this routine use under the conditions specified in those paragraphs:

(i) The Department, or any component of the Department;

(ii) Any Department employee in his or her official capacity;

(iii) Any employee of the Department in his or her individual capacity where the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;

(iv) Any employee of the Department in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(2) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation and is compatible with the purpose for which the records were collected. The Department may disclose those records as a routine use to the DOJ.

(3) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudication body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve disputes is relevant and necessary to the administrative litigation and is compatible with the purpose for which the records were collected, the Department may disclose those records as a routine use to the adjudicative body, individual or entity.

(4) *Opposing counsel, representatives and witnesses.* If the Department determines that disclosure of certain records to an opposing counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation and is compatible with the purpose for which the records were collected, the Department may disclose those records as a routine use to the counsel, representative or witness.

(d) *Enforcement disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the relevant records in the system of records may be referred, as a routine use, to the

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appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting this violation or charged with enforcing or implementing the statute, or executive order or rule, regulation, or order issued pursuant thereto.

(e) *Contract disclosure.* If the Department contracts with an entity for the purpose of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records as a routine use to those employees. Before entering into a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(f) *Disclosure to the Office of Management and Budget (OMB) for Credit Reform Act (CRA) Support.* The Department may disclose individually identifiable information to OMB as necessary to fulfill CRA requirements.

(g) *Employee grievance, complaint or conduct disclosure.* Records may be disclosed if a record maintained in this system of records is relevant to present or former employee grievance, complaint, discipline or competence determination proceedings of another agency of the Federal Government. In this case, the Department may disclose the record as a routine use in the course of the proceedings if the disclosure is compatible with the purposes for this system of records.

(h) *Labor organization disclosure.* Records under this routine use may be disclosed whenever a contract between a component of the Department and a labor organization recognized under Title V of the United States Code, Chapter 71, provides that the Department will disclose personal records relevant to the organization's mission. The disclosures will be made only as authorized by law.

(i) *Research disclosure.* Records under this routine use may be disclosed whenever an appropriate official of the Department determines that an individual or organization is qualified to carry out specific research related to functions or purposes of this system of records. The official may disclose records from this system of records to that researcher solely for the purpose of carrying out that research related to the functions or purposes of this system of records. The researcher is required to maintain Privacy Act safeguards with respect to these records.

(j) *Freedom of Information Act (FOIA) Advice Disclosure.* Records under this routine use may be disclosed to the DOJ and the OMB in the event that the Department deems it desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(k) *Disclosure to the Department of Justice.* Records may be disclosed under this routine use to the DOJ from this system of records as a routine use to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the programs covered by this system.

(l) *Congressional member disclosure.* The Department may disclose information from this system of records to a member Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The Member's right to the information is no greater than the right of the individual who requested it.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records under this system will be kept on paper files in metal file cabinets and in data files in computers. They are stored in desk top and mainframe computers with records backed up on magnetic media.

RETRIEVABILITY:

The data will be retrieved by name, loan or case number, or Social Security Number.

SAFEGUARDS:

All physical access to the sites of the Department of Education and the contractors where this system of records is maintained, are controlled and monitored by security personnel who check each individual entering the building for an employee's or visitor's badge.

The computer system employed by the Department offers a high degree of resistance to tampering and circumvention. This security system limits data access to Department of Education and contract staff on a "need to know" basis, and controls individual users' ability to access and alter records within the system. All users of this system are given a unique user ID. All interactions by individual users with the system are recorded.

At contractor sites, access to all automated data processing facilities are restricted by photo identification, sign-in and out logs, CYPHER locks, or ID card readers. Smoke and fire detection devices are installed and maintained operational on all facilities including tape and disk library areas.

Physical security of the building involves restricted access as well as 24-hour security guard at the ground-floor entrance to the building. Access to building is obtained through the use of key entry doors. The system permits entry to an individual only with an access code.

RETENTION AND DISPOSAL:

Records are disposed of in accordance with the National Archives and Records Administration's General Records Schedule (GRS) 6, items 1a, 10b, and 10c; and GRS 7.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Financial Improvement and Receivables Group, Office of the Chief Financial Officer, U.S. Department of Education, 600 Independence Avenue, SW., Room 3117, Washington, DC 20202–4330. Telephone number: (202) 205–3511.

NOTIFICATION PROCEDURE:

If an individual wishes to determine whether a record exists regarding him or her in this system of records, the individual should provide the system manager his or her name, Social Security Number, case or loan number, or other debt identifying number. Requests for notification about an individual must meet the requirements in the Department's Privacy Act regulations at 34 CFR 5b.5.

RECORD ACCESS PROCEDURES:

If an individual wishes to gain access to a record in this system, he or she should contact the system manager and provide information described in the notification procedure. Requests by an individual for access to a record must meet the requirements in the Department's Privacy Act regulations at 34 CFR 5b.5.

CONTESTING RECORD PROCEDURES:

If an individual wishes to change the content of a record in the system of records, he or she should contact the system manager with the information described in the notification procedure, identify the specific item(s) to be changed, and provide a written justification for the change. Requests to amend a record must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information is obtained from Department program offices, debtors, court orders, and probation officers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 98–18872 Filed 7–14–98; 8:45 am]

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Part V

Department of Education

Notices Inviting Applications for New Awards for Fiscal Year (FY) 1999: Ronald E. McNair Postbaccalaureate Achievement Program; Upward Bound and Upward Bound Math/Science Programs; Notice

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DEPARTMENT OF EDUCATION

[CFDA NO: 84.217]

Notice Inviting Applications for New Awards for Fiscal Year (FY) 1999—Ronald E. McNair Postbaccalaureate Achievement Program

Purpose: The purpose of this program is to provide grants for higher education institutions to prepare low-income, first generation college students, and students from groups underrepresented in graduate education, for doctoral study.

Eligible Applicants: Institutions of higher education and combinations of those institutions.

Deadline for Transmittal of Applications: October 2, 1998.

Deadline for Intergovernmental Review: December 31, 1998.

Applications Available: August 1, 1998.

Supplementary Information: The Department is publishing this notice at this time to give potential applicants adequate time to prepare their applications even though the Congress has not yet reauthorized the Ronald E. McNair Postbaccalaureate Achievement Program or appropriated money to fund new awards under this program. The Department anticipates that the program will be reauthorized and that the reauthorized program will be virtually unchanged from the current program. In addition, the Department anticipates that funds will be appropriated to funds new awards. However, if legislative changes are made that materially affect the grant award process or the operation of grant projects, the Department will provide additional time for applicants to amend their applications to reflect these changes.

Currently, there are Ronald E. McNair Postbaccalaureate Achievement Program grants that expire in Fiscal Year 1999 and Fiscal Year 2000. However, to receive a new four or five year grant, applicants, including those that have five year grants that expire in Fiscal Year 2000, must submit an application under this funding competition.

Grantees whose grants expire in Fiscal Year 2000: If such a grantee is successful under this competition, its new award will begin when its existing grant expires, i.e., October 1, 2000.

Available Funds: The estimated amount of funds available for this program is based in part on the President's 1999 budget.

Estimated Range of Awards: $190,000–$285,000 per year.

Estimated Average Size of Awards: $215,000 per year.

Estimated Number of Awards: 109.

Note: The Department is not bound by any of the estimates in this notice.

Project Period: Up to 60 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74, 75, 77, 79, 82, 85, and 86; (b) The regulations governing the Ronald E. McNair Postbaccalaureate Achievement Program in 34 CFR Part 647.

For Further Information Contact: Eileen S. Bland, Federal TRIO Programs, U.S. Department of Education, 600 Independence Avenue, SW, The Portals Building, Suite 600D, Washington, D.C. 20202–5249. Telephone number: (202) 708–4804 or by Internet to TRIO@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Services (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

Individuals with disabilities may obtain a copy of the application package in an alternate format, also, by contacting that person. However, the Department is not able to reproduce in an alternate format the standards forms included in the application package.

Technical Assistance Workshops

The Department of Education will conduct 11 technical assistance workshops for the Ronald E. McNair Postbaccalaureate Achievement Program. At these workshops, Department of Education staff will assist prospective applicants in developing proposals and will provide budget information regarding these programs. The technical assistance workshops will be held as follows:

University of Massachusetts/Boston, Media Auditorium, Lower Level, Healy Library, 100 Morrissey Blvd., Boston, Massachusetts 02125, Contact: James McCarthy, (617) 287–5845.	August 11, 1998, 1:30 p.m.–5:00 p.m.
Miami-Dade Community College, Wolfson Campus, Room 3210 / Bldg. # 3 2nd Floor, Chapman Conference Center, 300 N.E. Second Avenue, Miami, Florida 33132, Contact: Bernice O. Belcher, (305) 237–0940.	August 11, 1998, 1:30 p.m.–5:00 p.m.
Arizona State University, Business College–12 C Wing, Room 316, Tempe, Arizona 85287, Contact: Irvin Coin, (602) 965–6483.	August 11, 1998, 1:30 p.m.–5:00 p.m.
John Jay College, 445 West 59th Street, Room 1524, New York, New York 10019, Contact: Karen Delucca, (212) 237–8280.	August 13, 1998, 1:30 p.m.–5:00 p.m.
Saint Mary's University, University Center, Conference Room A, One Camino Santa Maria Street, San Antonio, Texas 78228–8500, Contact: Jackie Dansby-Edwards, (210) 436–3206.	August 13,1998, 1:30 p.m.–5:00 p.m.
California State University/Los Angeles, 5151 State University Drive, University Student Union, Glendale Room, Los Angeles, California 90032, Contact: David Godoy (213)343–3103.	August 13, 1998, 1:30 p.m.–5:00 p.m.
University of Utah, Engineering and Mines Classroom Bldg., Room 102 Lecture Hall, Salt Lake City, Utah 84112, Contact: Kathryn Felker, (801) 581–7188.	August 18, 1998 1:30 p.m.–5:00 p.m.
University of Missouri/Kansas City, University Center, Pearson Auditorium, 5000 Holmes, Kansas City, Missouri 64110, Contact: Linda Carter, (816) 235–1163.	August 18, 1998, 1:30 p.m.–5:00 p.m.
Universidad Central De Bayamon, P.O. Box 1725, Caya Avenue, Caya Verde Sector, Hato Tejas, Bayamon, Puerto Rico 00959, Contact: Leonor Aviles Cordero, (787) 786–3030.	August 18, 1998, 1:30 p.m.–5:00 p.m.
University of Chicago, Ida Noyes Hall, 1212 East 59th St., Chicago, Illinois 60637, Contact: Terhonda Palacios, (773) 702–8288.	August 20, 1998, 1:30 p.m.–5:00 p.m.
GSA Auditorium, ROB #3, 7th and D Street, S.W., Washington, D.C. 20202, Contact: Federal TRIO Program Staff, (202) 708–4804.	August 25, 1998, 1:30 p.m.–5:00 p.m.

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http://ocfo.ed.gov/fedreg.htm
http://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S.

Government Printing Office toll free at 1–888–293–6498.

Anyone may also view these documents in text copy on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of a document is the document published in the **Federal Register**.

Program Authority: 20 U.S.C. 1070a–11 and 1070a–15.

Dated: July 10, 1998.

Maureen A. McLaughlin,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 98–18871 Filed 7–14–98; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA Nos. 84.047 and 84.047M]

Notice Inviting Applications for New Awards for Fiscal Year (FY) 1999—Upward Bound and Upward Bound Math/Science Programs

Purpose: (a) The Upward Bound Program provides grants to enable applicants to conduct projects designed to (1) identify qualified youths who are low-income and potential first-generation college students and to generate the skills and motivation necessary for success in completing high school and enrolling into postsecondary education; (2) encourage youths in the program to remain and complete the secondary level of education; and (3) encourage youths to enroll in a postsecondary institution and graduate.

(b) The Upward Bound Math/Science Program provides grants to conduct projects to prepare high school students for postsecondary education programs that lead to careers in the fields of math and science.

Eligible Applicants: Institutions of higher education, public and private agencies and organizations, combinations of institutions, agencies, and organizations, and, in exceptional cases, secondary schools, if there are no other applicants capable of providing an Upward Bound Program in the proposed target area.

Supplementary Information: The Department is publishing this notice at this time to give potential applicants adequate time to prepare their applications even though the Congress has not yet reauthorized the Upward Bound Program or appropriated money to fund new awards under this program. The Department anticipates that the program will be reauthorized and that the reauthorized program will be virtually unchanged from the current program. In addition, the Department anticipates that funds will be appropriated to funds new awards. However, if legislative changes are made that materially affect the grant award process or the operation of grant projects, the Department will provide additional time for applicants to amend their applications to reflect these changes.

Currently, there are Upward Bound and Upward Bound Math/Science grants that expire in Fiscal Year 1999 and Fiscal Year 2000. However, to receive a new four or five year grant, applicants, including those that have five year grants that expire in Fiscal Year 2000, must submit an application under this funding competition.

Grantees whose grants expire in Fiscal Year 2000: If such a grantee is successful under this competition, its new award will begin when its existing grant expires, *i.e.*, September 1, 2000.

Deadline for Transmittal of Applications:

October 2, 1998—Upward Bound Math/Science

October 30, 1998—Upward Bound

Deadline for Intergovernmental Review: December 31, 1998.

Application Available: August 1, 1998.

Available Funds: The estimated amount of funds available for these programs is based on the President's 1999 budget.

Estimated Range of Awards:

84.047A–$200,000–$690,000

84.047M–$200,000–$300,000

Estimated Size of Awards:

84.047A–$319,000

84.047M–$254,000

Estimated Number of Awards:

84.047A–682

84.047M–99

Note: The Department is not bound by any of the estimates in this notice.

Project Period: Up to 60 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 82, 85, and 86; and (b) the regulations for these programs in 34 CFR parts 645.

For Application or Information Contact: For Upward Bound (84.047A) contact Sheryl Wilson or Gaby Watts. For Upward Bound-Math/Science, (84.047M) contact Geraldine Smith, Federal TRIO Programs, U.S. Department of Education, 600 Independence Avenue, SW, The Portals Building, Suite 600 D, Washington, DC 20202–5249. Telephone: (202) 708–4804 or by Internet to TRIO @ed.gov or Sheryl__Wilson@ed.gov, Gaby__Watts@ed.gov, or Geraldine__Smith@ed.gov

Individuals with disabilities may obtain this document in an alternate format (e.g. Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

Individuals with disabilities may obtain a copy of the application package in an alternate format, also, by contacting that person. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

Technical Assistance Workshops: The Department of Education will conduct 11 technical assistance workshops for the Upward Bound and the Upward Bound Math/Science Programs. At these workshops, Department of Education staff will assist prospective applicants in developing proposals and will provide budget information regarding these programs. The technical assistance workshops will be held as follows:

University of Massachusetts/Boston, Media Auditorium, Lower Level, Healy Library, 100 Morrissey Blvd., Boston, Massachusetts 02125, Contact: James McCarthy, (617) 287–5845.	August 11, 1998, 8:00 a.m.–12:30 p.m.
Miami-Dade Community College, Wolfson Campus, Room 3210/Bldg. #3 2nd Floor, Chapman Conference Center, 300 N.E. Second Avenue, Miami, Florida 33132, Contact: Bernice O. Belcher, (305) 237–0940.	August 11, 1998, 8:00 a.m.—12:30 p.m.
Arizona State University, Business College—C Wing, Room 316, Tempe, Arizona 85287, Contact: Irvin Coin, (602) 965–6483.	August 11, 1998, 8:00 a.m.—12:30 p.m.
John Jay College, 445 West 59th Street, Room 1524, New York, New York 10019, Contact: Karen Delucca, (212) 237–8280.	August 13, 1998, 8:00 a.m.—12:30 p.m.
Saint Mary's University, University Center, Conference Room A, One Camino Santa Maria Street, San Antonio, Texas 78228–8500, Contact: Jackie Dansby-Edwards, (210) 436–3206.	August 13, 1998, 8:00 a.m.—12:30 p.m.
California State University/Los Angeles, 5151 State University Drive, University Student Union, Glendale Room, Los Angeles, California 90032, Contact: David Godoy (213)343–3103.	August 13, 1998, 8:00 a.m.—12:30 p.m.

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University of Utah, Engineering and Mines Classroom Bldg., Room 102 Lecture Hall, Salt Lake City, Utah 84112, Contact: Kathryn Felker, (801) 581–7188.	August 18, 1998, 8:00 a.m.—12:30 p.m.
University of Missouri/Kansas City, University Center, Pearson Auditorium, 5000 Holmes, Kansas City, Missouri 64110, Contact: Linda Carter, (816) 235–1163.	August 18, 1998, 8:00 a.m.—12:30 p.m.
Universidad Central De Bayamon, P.O. Box 1725, Caya Avenue, Caya Verde Sector, Hato Tejas, Bayamon, Puerto Rico 00959, Contact: Leonor Aviles Cordero, (787) 786–3030.	August 18, 1998, 8:00 a.m.—12:30 p.m.
University of Chicago, Ida Noyes Hall, 1212 East 59th St., Chicago, Illinois 60637, Contact: Terhonda Palacios, (773) 702–8288.	August 20, 1998, 8:00 a.m.—12:30 p.m.
GSA Auditorium, ROB #3, 7th and D Street, SW, Washington, D.C. 20202, Contact: Federal TRIO Program Staff, (202) 708–4804.	August 25, 1998, 8:00 a.m.—12:30 p.m.

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http://ocfo.ed.gov/fedreg.htm
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Anyone may also view these documents in text copy on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files// Announcements, Bulletins and Press Releases.

Note: The official version of a document is the document published in the **Federal Register**.

Program Authority: 20 U.S.C. 1070 a–11; 1070 a–13.

Dated: July 10, 1998.

Maureen A. McLaughlin,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 98–18870 Filed 7–14–98; 8:45 am]

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Part VI

Department of Housing and Urban Development

Funding Availability for the HUD Colonias Initiative (HCI), Fiscal Year 1998; Notice

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4360-N-01]

Notice of Funding Availability for the HUD Colonias Initiative (HCI), Fiscal Year 1998

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of funding availability (NOFA).

SUMMARY: This NOFA announces the availability of $5 million for assistance to organizations serving colonia residents. Of this amount, up to $4 million will be provided to carry out development projects in colonias. One grant of $1 million may be provided to one or more private intermediary organization(s) (for profit and nonprofit) that would provide capacity-building loans, grants, or technical assistance to local nonprofit organizations serving colonias residents. This document sets forth the application instructions for the development grants and capacity-building grants made available under the NOFA. As indicated in the body of this NOFA, applicants may use either of two definitions for the term "rural county."

APPLICATION DUE DATES: Completed applications (one original and two copies) must be submitted no later than 12:00 midnight, Eastern time, on August 14, 1998, to the address shown below. The above-stated application deadline is firm as to date and hour. In the interest of fairness to all applicants, HUD will treat as ineligible for consideration any application that is not received before the application deadline. Applicants should submit their materials as early as possible to avoid any risk of loss of eligibility because of unanticipated delays or other delivery-related problems. HUD will not accept, at any time during the NOFA competition, application materials sent by facsimile (FAX) transmission.

ADDRESSES AND APPLICATION SUBMISSION PROCEDURES: *Addresses:* Completed applications (one original and two copies) must be submitted to: Department of Housing and Urban Development, 451 Seventh Street, SW, Room 7184, Washington, DC 20410; ATTN: HUD Colonias Initiative.

Applications Procedures. Mailed Applications. Applications will be considered timely filed if postmarked on or before 12:00 midnight on the application due date and received at the address above on or within five (5) days of the application due date.

Applications Sent by Overnight/Express Mail Delivery. Applications sent by overnight delivery or express mail will be considered timely filed if received before or on the application due date, or upon submission of documentary evidence that they were placed in transit with the overnight delivery service by no later than the specified application due date.

Hand Carried Applications. Hand carried applications delivered before and on the application due date must be brought to the specified location and room number between the hours of 8:45 am to 5:15 pm, Eastern time. Applications hand carried on the application due date will be accepted in the South Lobby of the HUD Headquarters Building at the above address from 5:15 pm until 12:00 midnight, Eastern time.

FOR APPLICATION KITS, FURTHER INFORMATION, AND TECHNICAL ASSISTANCE: All information and materials required to submit an application for funding under the HUD Colonias Initiative are included in the appendix to this notice. For information concerning the HUD Colonias Initiative, and technical assistance, contact Yvette Aidara, Office of Block Grant Assistance, Department of Housing and Urban Development, 451 7th Street, SW, Room 7184, Washington, DC 20410; telephone (202) 708–1322 (this is not a toll-free number). Persons with speech or hearing impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

All program documents referred to in this NOFA are accessible through HUD's web site at http://www.hud.gov.

SUPPLEMENTAL INFORMATION:

I. Authority; Definitions; Background; Purpose; Amount Allocated; Eligibility

(A) Authority

Title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998 (Pub.L. 105–65, 111 Stat. 1357, approved October 27, 1997) (FY 1998 HUD Appropriations Act).

(B) Definitions

Capacity-building is the transferring of skills and knowledge in planning, developing and administering activities funded under this NOFA. For purposes of this NOFA, capacity-building may include provision of loans and grants as well as training and technical assistance activities.

Colonia means any identifiable community that:

(a) Is located in the State of Arizona, California, New Mexico, or Texas;

(b) Is located in the U.S.-Mexico border region (that is, within 150 miles of the border between the U.S. and Mexico); and

(c) Meets objective criteria, including lack of potable water supply, lack of adequate sewage systems, and lack of decent, safe, sanitary, and accessible housing.

Although section 916(e)(4) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 5306(e)(4)) included the notation that a colonia must have been in existence and generally recognized as such prior to its enactment, HUD recognizes that additional identifiable colonias have come into existence, in the near-decade since the enactment, and are in need of assistance to the same extent as older colonias. These newer colonias are eligible for assistance under this NOFA.

Rural County may be defined in either of two ways:

(a) *Bureau of the Census Definition.* A rural county is a place having fewer than 2,500 inhabitants (within or outside of metropolitan areas).

(b) *Department of Agriculture's Beale Code Definition.* A rural county is a county with no urban population (i.e., city) of 20,000 inhabitants or more.

Visitability means at least one entrance at grade (no steps), approached by an accessible route such as a sidewalk; the entrance door and all interior passage doors provide a minimum 2 feet 10 inches (34-inch) clear opening. Allowing use of 2′10″ doors is consistent with the Fair Housing Act (at least for the interior doors), and may be more acceptable than requiring the 3 foot doors that are required in fully accessible areas under the Uniform Federal Accessibility Standards for a small percentage of units.

(C) Background

(1) Colonias eligible for assistance under this NOFA are any of the severely distressed, rural, unplanned, predominantly unincorporated settlements located along the 2,000 mile United States-Mexico border. Due to a lack of affordable housing in this area, many colonias came into existence as a result of developers selling unimproved lots, to buyers with extremely limited means, under high-interest bearing contracts for deed (i.e., the developers retain title to the land until the debt is fully paid). Due to the nature of land contract sales, buyers typically could not secure mortgage-secured loans to build standard housing. As a consequence, they often constructed

whatever limited dwellings or shelters they could afford. Thus, most colonias developed without regard to local zoning or other laws or covenants, adequate roads and drainage, and non-existent water and/or sewer facilities. The majority of housing in colonias is sub-standard and not in accordance with building codes.

(2) One response to these needs was passage of Section 916 of the Cranston-Gonzalez National Affordable Housing Act which required the States of Arizona, California, New Mexico, and Texas to set aside ten percent of their Fiscal Year 1991 State Community Development Block Grant allocations to assist colonias. Subsequent years required colonias to be assisted at up to ten percent (California has been funded at two percent), as determined by HUD to be appropriate. Texas, with the largest population of colonia residents, accounts for approximately two-thirds of the set-aside in any given year.

(3) Due to the limited State CDBG colonias set-asides in relation to the overwhelming needs, funding has generally been given to infrastructure activities, with special consideration to water and sewer services. The provision of housing has not been a primary focus of the limited CDBG funds available to colonias. This current initiative, in an effort to address the continuing need for decent, safe, sanitary, and accessible housing for colonias residents, is designed to encourage the production of decent, safe, sanitary, and accessible affordable housing for colonia residents.

(D) Purpose

The FY 1998 HUD Appropriations Act provided $25 million to test comprehensive approaches to developing a job base through economic development, developing affordable low- and moderate-income rental and homeownership housing, and increasing the investment of both private and nonprofit capital in rural and tribal areas of the US. Of that amount, $5 million has been targeted for this initiative to support assistance to organizations administering projects to address the housing needs of colonia residents in rural areas. HUD anticipates making grants totaling $4 to 5 million to address housing needs in the four border States where colonias are found (California, Arizona, New Mexico, and Texas). Of the $5 million, $1 million may be provided to one or more private intermediary organization(s) (for profit and nonprofit) that would provide capacity-building loans, grants, or technical assistance to local nonprofit organizations serving colonia residents. The intermediary organization would demonstrate experience in providing technical assistance in housing development to colonias or areas with similar economic and social conditions that exist in colonias and the capacity to administer a program to increase the capacity of colonia-based organizations to address local housing needs.

(E) Amounts Allocated

This NOFA makes available a total of $5 million in FY 1998 funding. Of this amount, HUD expects to allocate a total of $4 to 5 million for programs administered by competitively selected grantees in each of the four colonias border states. It is expected that applicants serving colonias residents in the State of Texas will receive a greater portion of the funds available under this NOFA since Texas has the largest population of colonia residents. Based on final negotiations of budgets and project plans, the Department reserves the right to award grants of up to $800,000 per applicant in each of the four states. The Department also reserves the right to provide multiple grants in each state, with multiple awards likely in Texas.

Additionally, of the total $5 million available, HUD may award up to $1 million to one or more private organizations (for profit and nonprofit) for the purpose of building capacity among locally-based nonprofit organizations meeting the affordable housing needs of colonia residents. Preference will be given to applicants with the ability to serve the broadest area of the colonias region, and with the ability to serve colonia residents with disabilities. Note that if there are insufficient fundable applications for the capacity-building competition (i.e., scoring a minimum of 70 points), HUD reserves the right to shift the balance (including up to the full $1 million) to the housing development category to allow full utilization of the funding targeted for this initiative.

(F) Eligible Applicants/Recipients

Private (for profit and nonprofit) entities currently providing assistance to and for residents of colonias, including in any of the four colonia States (Arizona, California, New Mexico, and Texas) are eligible to apply for funds under the development activities portion of this NOFA to undertake activities within their respective States. Private (for profit and nonprofit) with the ability to provide capacity-building resources and technical assistance to locally-based nonprofit organizations serving colonias in the four-State colonias region are eligible to compete for the capacity-building funds. For-profit organizations are eligible to apply for funding under this NOFA with the stipulation that compensation be provided in accordance with Federal procurement guidelines (i.e., payment will be on a cost reimbursement basis without profit).

(G) Eligible Activities

(1) *General*. HUD Colonias Initiative (HCI) funds are to be used to address the housing and related needs of residents of colonias. The Department is especially interested in supporting self-help housing construction, homeownership opportunities, and rehab of units (where rehab is a viable alternative to new construction) for current residents of colonias. In undertaking activities under this NOFA, applicants must comply with applicable provisions of the Americans with Disabilities Act and should design construction, rehabilitation or modifications to buildings and facilities to be accessible and visitable for persons with disabilities and others who may also benefit, such as mothers with strollers or persons delivering appliances. In providing technical assistance and other educational opportunities, training and informational materials related to program activities should be made available in languages appropriate to the residents served or in video or audio formats. Use of intermediaries and collaborative partnerships, to the greatest extent possible, and leveraging of the funds provided under this NOFA to achieve the maximum positive impact is encouraged.

(2) *Primary Activities*. It is expected that the majority of funding for each proposed project will be budgeted for the following primary housing activities that will result in decent, safe, sanitary, and accessible affordable housing:

(a) New housing construction, including self-help, energy-efficient and innovative housing design initiatives. Housing may be single- or multi-family, owner- or renter-occupied;

(b) Self-help construction training for residents and prospective owners/tenants;

(c) Homeownership assistance;

(d) Rehabilitation of existing permanent housing structures to meet local codes;

(e) Construction of additions onto existing permanent housing structures, such as to provide for bathroom facilities or to reduce overcrowding, where cost-effective;

(f) Installation of water wells or septic systems for individual permanent housing structures;

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(g) Refinancing of existing landowner/homeowner debt to convert contracts-for-deed into mortgages;

(h) Acquisition of land from existing owners or deed-holders, for resale to colonias residents;

(i) Surveying and replatting of existing subdivisions;

(j) Acquisition of land, relocation payments to residents and costs of developing new subdivisions, where existing development sites have been determined to be legally or environmentally inappropriate for habitation; and

(k) Tenant-based assistance.

(3) *Other Related Activities to Support Housing Development.* Applicants may propose other activities (public improvements, economic development, public services, administrative costs), that directly support the housing activities listed above, providing such activities do not constitute more than thirty percent (30%) of the budget in the aggregate, and clearly support and serve the same general population as the housing activities. Such activities may include:

(a) Construction of publicly- or privately-owned utilities needed to serve the housing site(s) for which primary activities are funded, such as water supply/distribution systems, sewage collection/treatment systems, electricity or gas distribution lines;

(b) Construction of public facilities such as libraries, parks and recreation centers, fire stations (including purchase of fire trucks and other equipment), or community centers;

(d) Provision of financial or technical assistance to start or expand businesses, for purposes of creating jobs or providing goods or services for colonias residents living in or near the proposed housing site(s);

(e) Funding microenterprise assistance programs to enable colonias residents to start their own businesses or to expand existing businesses;

(f) Provision of public services which are directly supportive of the housing activities proposed, including but not limited to legal assistance, housing counseling, classes on purchasing a home, home maintenance and repair training, tenant services, education, health services, recreation programs, day care, transportation services, or costs of operating recreation centers, libraries or community centers; and

(g) Recipient costs of administering the funding and carrying out of activities, to the extent allowed at 24 CFR part 84, but at a rate not to exceed 10% of the funds provided.

(4) *Capacity-Building Funds.* Applicants for Capacity-Building funds (not to exceed $1 million) will provide loans, grants or technical assistance to regionally or locally-based nonprofit organizations working in colonias to meet housing and related needs. The nonprofit organizations may use the assistance for:

(a) Provision of planning, training, and pre-development assistance to existing nonprofit organizations to expand their scope of expertise, to implement larger-scale projects, and/or enhance existing projects;

(b) Self-help assistance, including skill in fiscal management, for colonias residents;

(c) Dissemination of capacity-building information and citizen participation activities; and

(d) Coordination of existing resources to maximize housing or economic opportunities funded under the provisions of this NOFA.

(H) Ineligible Activities

The following activities are not eligible for funding under this NOFA:

(1) Acquisition, construction or rehabilitation of buildings for the general conduct of government, such as city halls, county courthouses, county jails, etc.;

(2) General government expenses required to carry out the regular responsibilities of a unit of general local government;

(3) Political activities; and

(4) Provision of technical assistance to staff of award recipients.

II. Program Requirements

(A) Compliance With Fair Housing and Civil Rights Laws

All applicants must comply with all Fair Housing and civil rights laws, statutes, regulations and executive orders as enumerated in 24 CFR § 5.105(a).

(B) Additional Nondiscrimination Requirements

Applicants must also comply with the Americans with Disabilities Act, and Title IX of the Education Amendments Act of 1972.

(C) Affirmatively Furthering Fair Housing

Recipients will have a duty to affirmatively further fair housing. Applicants should include in their work plan the specific steps that they will take to (1) address the elimination of impediments to fair housing that were identified in the jurisdiction's Analysis of Impediments (AI) to Fair Housing Choice; (2) remedy discrimination in housing; or (3) promote fair housing rights and fair housing choice. Further, applicants have a duty to carry out the specific activities cited in their responses to the Factors for Award that address affirmatively furthering fair housing.

(D) Economic Opportunities for Low and Very Low-Income Persons (Section 3)

Recipients of HUD assistance must comply with section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u (Economic Opportunities for Low and Very Low-Income Persons) and the HUD regulations at 24 CFR part 135, including the reporting requirements subpart E. Section 3 provides that recipients shall ensure that training, employment and other economic opportunities, to the greatest extent feasible, be directed to: (1) low and very low income persons, particularly those who are recipients of government assistance for housing; and (2) business concerns which provide economic opportunities to low and very low income persons.

(E) Relocation

Any person (including individuals, partnerships, corporations or associations) who moves from real property or moves personal property from real property as a direct result of a written notice to acquire or the acquisition of the real property, in whole or in part, for a HUD-assisted activity is covered by acquisition policies and procedures and the relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and the implementing governmentwide regulation at 49 CFR part 24. Any person who moves permanently from real property or moves personal property from real property as a direct result of rehabilitation or demolition for an activity undertaken with HUD assistance is covered by the relocation requirements of the URA and the governmentwide regulation.

(F) OMB Circulars

The policies, guidances, and requirements of OMB Circular No. A–122 (Cost Principles for Nonprofit Organizations) and 24 CFR part 84 (Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations) apply to the award, acceptance and use of assistance under this NOFA, and to the remedies for noncompliance, except when inconsistent with the provisions of the FY 1998 HUD Appropriations Act, other Federal statutes or the provisions of this NOFA. Copies of the OMB Circular may be obtained from EOP Publications, Room 2200, New Executive Office Building, Washington, DC 10503, telephone (202) 395–7332 (this is not a toll free number).

(G) Conflicts of Interest

Consultants or experts assisting HUD in rating and ranking applicants for funding under this NOFA are subject to 18 U.S.C. 208, the Federal criminal conflict of interest statute, and to the Standards of Ethical Conduct for Employees of the Executive Branch regulation published at 5 CFR part 2635. As a result, individuals who have assisted or plan to assist applicants with preparing applications for this NOFA may not serve on a selection panel or as a technical advisor to HUD for this NOFA. All individuals involved in rating and ranking this NOFA, including experts and consultants, must avoid conflicts of interest or the appearance of conflicts. If the selection or non-selection of any applicant under this NOFA affects the individual's financial interests set forth in 18 U.S.C. 208 or involves any party with whom the individual has a covered relationship under 5 CFR 2635.502, that individual must, prior to participating in any matter regarding this NOFA, disclose this fact to the General Counsel or the Ethics Law Division.

(H) Eligible Populations to be Served

The HCI is designed to serve colonias in rural areas in the States of Arizona, California, New Mexico, and Texas. See definitions of "colonias" and "rural county" above.

(I) Grant Amounts

In the event an applicant is awarded an HCI grant that has been reduced (e.g. the application contained some activities that were ineligible or budget information did not support the request), the applicant will be required to modify its project plans and application to conform to the terms of HUD's approval before execution of a grant agreement. HUD reserves the right to reduce or de-obligate the HCI award if approvable modifications to the proposed project are not submitted by the awardee in the required amounts in a timely manner. Any modifications must be within the scope of the original HCI application. HUD reserves the right not to make awards under this NOFA.

(J) Grant Period

Recipients will have 36 months from the date of funding award to complete all project activities except the final evaluation and reporting, fulfillment of audit requirements and final project close-out.

(K) Leveraging of Other Resources

(1) A key component of the HCI is the leveraging of other sources of capital to significantly expand the scope of accomplishments to be realized with this funding.

(2) Potential recipients must demonstrate the commitment of additional resources to support their proposed projects. Sources of this other funding can be other public (Federal, State or local) agencies, private funding or internal resources. In-kind services, "sweat equity" and commitments of funds for activities which are already being implemented may be counted toward the leveraging requirements. Funding for which commitments were received prior to publication of this NOFA may be counted, provided that the commitment is still valid, is for the project activities proposed, and that implementation of the activity had not yet begun. Final negotiation of budgets and implementation schedules may be conditioned upon evidence that leveraging requirements have been met.

(L) Negotiations

After all applications have been rated and ranked and a selection has been made, HUD may require that awardees participate in negotiations to determine the specific tasks and grant budget. Where a specific area or one or more specific sites for project activities are identified in an application or during negotiations, HUD may undertake and complete its environmental review during negotiations. In cases where HUD cannot successfully conclude negotiations or a selected applicant fails to provide HUD with requested information, or if the reduced amount of funding makes the project infeasible, awards will not be made. In such instances, HUD will offer an award to the next highest ranking applicant and proceed with negotiations with that next highest ranking applicant.

(M) Adjustments to Funding

(1) HUD reserves the right to fund less than the full amount requested in any application to ensure the purpose of the initiative is met. HUD may not fund portions of the applications that are ineligible for funding under applicable program statutory or regulatory requirements, or which do not meet the requirements of this NOFA, but may fund eligible portions of the applications.

(2) If funds remain after funding the highest ranking applications in each State, HUD may fund part of the next highest ranking application in the same category (i.e., development or capacity-building). If the applicant turns down the award offer, or if the project is not feasible at the proposed funding level, HUD will make the same determination for the next highest ranking applications in each category.

(N) Environmental Review

Selection for award does not constitute approval of any proposed sites. Following selection for award, HUD will perform an environmental review of activities proposed for assistance under this part, in accordance with 24 CFR part 50. The results of the environmental review may require that proposed activities be modified or that proposed sites be rejected. Applicants are particularly cautioned not to undertake or commit funds for acquisition or development of proposed properties prior to HUD approval of specific properties or areas. Each application shall contain an assurance that the applicant will assist HUD to comply with part 50; will supply HUD with all available, relevant information to perform an environmental review for each proposed property; will carry out mitigating measures required by HUD or select alternate property; and will not acquire, rehabilitate, convert, lease, repair or construct property, nor commit HUD or local funds for these program activities with respect to any eligible property, until HUD approval of the property is received.

III. Application Selection Process

(A) Rating and Ranking

(1) *General.* To review and rate applications, HUD may establish panels including outside experts or consultants to obtain certain expertise and outside points of view, including views from other Federal agencies. A total of 100 points is possible. For the capacity-building category, a minimum score of 70 points must be achieved to be considered for funding.

(2) *Rating.* All applicants for funding under this NOFA will be evaluated against the criteria below. The rating of the "applicant" or the "applicant's organization and staff" for technical merit or threshold compliance, unless otherwise specified, will include any sub-contractors, consultants, sub-recipients, and members of consortia which are firmly committed to the project.

(3) *Ranking.* Applicants will be ranked within each of the two set-aside program areas: housing development activities and capacity-building. Applicants will be ranked only against

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others in the separate set-aside program areas. Once scores are assigned, all applications will be ranked in order of points assigned, with the applications receiving more points ranking above those receiving fewer points. The highest ranking applications in each State area will be funded; the highest ranking capacity-building application will be funded, provided it has achieved a score of at least 70 points. As noted above, if the highest ranking application in the capacity-building category may be funded at an amount less than $1 million, additional grants may be made to the extent funds and fundable applicants remain.

(4) If HUD determines that an application rated, ranked and fundable could be funded at a lesser HCI grant amount than requested consistent with feasibility of the funded project or activities and the purposes of this NOFA, HUD reserves the right to reduce the amount of the HCI grant award and fund the next ranking application in that State if sufficient funds remain to undertake a feasible project in the scope of that application. Any remaining amounts may be pooled to fund the next highest ranked application in any of the four states.

(B) Threshold Requirements

HUD will review each application to determine whether the application meets all of the threshold criteria described for program funding made available under this NOFA. Applications that meet the threshold criteria will be eligible to be rated and ranked, based on the criteria described, and the total number of points to be awarded. The threshold criteria are:

(1) An applicant must be a private for-profit or nonprofit entity organized according to State law where situated.

(2) If an applicant (a) has been charged with a violation of the Fair Housing Act by the Secretary; (b) is the defendant in a Fair Housing Act lawsuit filed by the Department of Justice; (c) has received a letter of noncompliance findings under Title VI of the Civil Rights Act or Section 504 of the Rehabilitation Act; or (d) has been debarred, the applicant is not eligible to apply for funding under this NOFA until the applicant resolves such charge, lawsuit, letter of findings, or debarment to the satisfaction of the Department.

(C) Narrative Statement

Each applicant shall provide: (1) a narrative statement describing the activities that will be carried out with the HCI grant funds; and (2) an explanation of how the use of HCI grant funds meets the rating factors identified below. The description of activities should include a statement of how the proposed uses of HCI funds will meet the objectives of this initiative. The application as a whole (narrative and responses to the Factors for Award, below) shall not exceed 25 8.5″ by 11″ pages. Applicants may also submit videotapes and/or photographs of the area or neighborhood that would be assisted by grant funds under this NOFA. The applicant must indicate which factor(s) the photographs and/or video tapes address.

(D) Factors for Award

All applicants will be considered for selection based on the following factors that demonstrate the need for the proposed project or activities, and the applicant's creativity, capacity and commitment to provide the maximum benefit to the residents of the colonias areas served and the extent to which the proposed project will increase the supply of decent, safe, sanitary, and accessible affordable housing in colonias. The maximum points awarded for the factors total 100.

Rating Factor 1: Capacity of the Applicant and Relevant Organizational Staff (20 points).

This factor addresses the applicant's organizational experience in administering similar types of funding, and the demonstrated capacity to carry out the proposed activities. Applicants must demonstrate previous relevant experience working in colonias. When responding to this factor, the applicant should identify the number of projects undertaken, the type of project, and the number of units of affordable housing developed, as applicable. The response should include a discussion of how housing units were made affordable for low-income persons. The rating of the applicant or the applicant's organization and staff for technical merit will include any faculty, subcontractors, consultants, subrecipients, and members of consortia which are firmly committed (i.e. has a written agreement or a signed letter of understanding with the applicant agreeing in principle to its participation and role in the project). HUD will also consider past performance in carrying out HUD-funded or other projects, including projects similar in size and scope to the project proposed, and the extent to which projects encourage and incorporate collaborative and partnership relationships in serving colonia residents.

Rating Factor 2: Need/Extent of the Problem (20 points).

This factor addresses the extent of colonia need(s) for housing, including accessible housing, and related investments, including a description of physical and social conditions. In applying this factor, HUD will consider current levels of distress in the immediate community to be served by the project. Level of distress will be indicated most directly by data on the size and condition of the existing housing stock, homeownership and land tenure, availability of housing finance, and rental assistance need. Additional indicators of distress may include: infrastructure and community facility needs, education and employment of residents, and the need for legal or other assistance. HUD requires that applicants use sound, reliable and verifiable data to support the level of distress claimed in the application.

Rating Factor 3: Soundness of Approach (40 points).

This factor addresses the appropriateness and effectiveness of the proposed activities in substantially addressing identified needs. HUD will consider the extent to which the plan is logical, feasible, and substantially likely to achieve its stated purpose and provides benchmarks to measure actual increase in the number of decent, safe, sanitary, and accessible affordable housing units. HUD's desire is to fund projects and activities which will quickly produce demonstrable results and advance the public interest including the number of colonia residents to be assisted and the impact of the projects and activities on the distress factors indicated by the applicant's response to Factor 2. An applicant must demonstrate that it has an understanding of the steps required to implement its project, the actions that it and others responsible for implementing the project must complete and shall include a reasonable time schedule for carrying out the project. In considering this factor, HUD will take into account the cost per unit for construction or rehab of housing units.

Rating Factor 4: Financial Feasibility/Leveraging Resources (20 points).

This factor addresses the extent to which the proposed project will leverage the use of other public and private financial resources to provide a fiscally sound project. A minimum ratio of RDDC funds in any project is not specified. However, applicants that have the greatest ratio of other funds or in-kind services to RDDC funds will receive a greater number of points for leveraging resources. Documentation of funds pledged and in-kind services to be provided must be submitted with the application to be considered. This documentation might include letters of financial commitment or verifiable evidence of other loan or grant assistance to address the housing development needs of the colonia project area and residents. Also considered in determining the points for this factor must be the extent to which project costs (as evidenced by a complete budget-by-task) are reasonable and financially feasible.

IV. Application Submission Requirements

The application must include an original and two copies of the items listed below:

(A) Transmittal letter from applicant;

(B) Table of contents;

(C) A signed SF–424 (application form);

(D) A narrative statement as described above;

(E) Responses to each of the Factors for Award;

(F) Written agreements or signed letters of understanding in support of Rating Factor 1: "Capacity of the Applicant and Relevant Organizational Staff";

(G) Documentation of funds pledged in support of Rating Factor 4: "Financial Feasibility/Leveraging Resources";

(H) A budget-by-task to accompany Factor 4;

(I) Required certifications (signed, as appropriate, and attached as an appendix); and

(J) Acknowledgment of Application Receipt form (submitted with application and returned to applicant as verification of timely receipt).

V. Corrections to Deficient Applications

After the application due date, HUD may not, consistent with 24 CFR part 4, subpart B, consider unsolicited information from an applicant. HUD may contact an applicant, however, to clarify an item in the application or to correct technical deficiencies. Applicants should note, however, that HUD may not seek clarification of items or responses that improve the substantive quality of the applicant's response to any eligibility or selection criterion. Examples of curable technical deficiencies include failure to submit an application containing an original signature by an authorized official. In each case, HUD will notify the applicant in writing by describing the clarification or technical deficiency. HUD will notify applicants by facsimile or by return receipt requested mail. Applicants must submit clarifications or corrections of technical deficiencies in accordance with the information provided by HUD within 7 calendar days of the date of receipt of the HUD notification. If the deficiency is not corrected within this time period, HUD will reject the application as incomplete.

VI. Findings and Certifications

(A) Paperwork Reduction Act Statement

The information collection requirements contained in this NOFA have been submitted to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The OMB approval number, once assigned, will be published in the **Federal Register**. *An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.*

(B) Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, implementing section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection during business hours in the Office of the Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500.

(C) Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this NOFA will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the notice is not subject to review under the Order. This notice is a funding notice and does not substantially alter the established roles of HUD, the States, and local governments.

(D) Accountability in the Provision of HUD Assistance

Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act) and the regulations in 24 CFR part 4, subpart A contain a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14, 1992 (57 FR 1942), HUD published a notice that also provides information on the implementation of section 102. HUD will comply with the documentation, public access, and disclosure requirements of section 102 with regard to the assistance awarded under this NOFA, as follows:

(1) *Documentation and public access requirements.* HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a 5-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis.

(2) *Disclosures.* HUD will make available to the public for 5 years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than 3 years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15.

(E) Section 103 HUD Reform Act

HUD will comply with section 103 of the Department of Housing and Urban Development Reform Act of 1989 and HUD's implementing regulations in subpart B of 24 CFR part 4 with regard to the funding competition announced today. These requirements continue to apply until the announcement of the selection of successful applicants. HUD employees involved in the review of applications and in the making of funding decisions are limited by section 103 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under section 103 and subpart B of 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Office of Ethics (202) 708–3815. (This is not a toll-free number.)

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(F) Prohibition Against Lobbying Activities

Applicants for funding under this NOFA are subject to the provisions of section 319 of the Department of Interior and Related Agencies Appropriation Act for Fiscal Year 1991 (31 U.S.C. 1352) (the Byrd Amendment) and to the provisions of the Lobbying Disclosure Act of 1995 (Pub. L. 104–65; approved December 19, 1995).

The Byrd Amendment, which is implemented in regulations at 24 CFR part 87, prohibits applicants for Federal contracts and grants from using appropriated funds to attempt to influence Federal executive or legislative officers or employees in connection with obtaining such assistance, or with its extension, continuation, renewal, amendment, or modification. The Byrd Amendment applies to the funds that are the subject of this NOFA. Therefore, applicants must file a certification stating that they have not made and will not make any prohibited payments and, if any payments or agreement to make payments of nonappropriated funds for these purposes have been made, a form SF–LLL disclosing such payments must be submitted. The certification and the SF–LLL are included in the application.

The Lobbying Disclosure Act of 1995 (Pub. L. 104–65; approved December 19, 1995), which repealed section 112 of the HUD Reform Act, requires all persons and entities who lobby covered executive or legislative branch officials to register with the Secretary of the Senate and the Clerk of the House of Representatives and file reports concerning their lobbying activities.

Dated: July 10, 1998.

Saul N. Ramirez, Jr.,

Assistant Secretary for Community Planning and Development.

Appendix—Checklist, Forms and Certifications

Page No.

______ 1. Transmittal Letter
______ 2. Checklist and Submission Table of Contents
______ 3. Standard Form for Application for Federal Assistance (SF–424)
______ 4. Narrative Statement
______ 5. Response to Factors for Award
______ 6. Written Agreements/Signed Letters of Understanding in Support of Rating Factor 1
______ 7. Budget-by-Task and Benchmarks in Support of Rating Factor 3
______ 8. Documentation of Funds/In-Kind Services Pledged in Support of Rating Factor 4
______ 9. Required Certifications (signed)
  ______ a. Certification for a Drug-Free Workplace (HUD–50070)
  ______ b. Certification of Payments to Influence Federal Transactions (HUD–50071) (See 24 CFR part 87, Appendix A)
  ______ c. If required, Disclosure of Lobbying Activities (SF–LLL) (See 24 CFR part 87, Appendix B)
  ______ d. Applicant/Recipient Disclosure/Update Report (HUD–2880)
  ______ e. Applicant Nondiscrimination Certifications
  ______ f. Certification Regarding Debarment & Suspension (HUD–2992)
______ 10. Acknowledgement of Application Receipt (to be returned to applicant)

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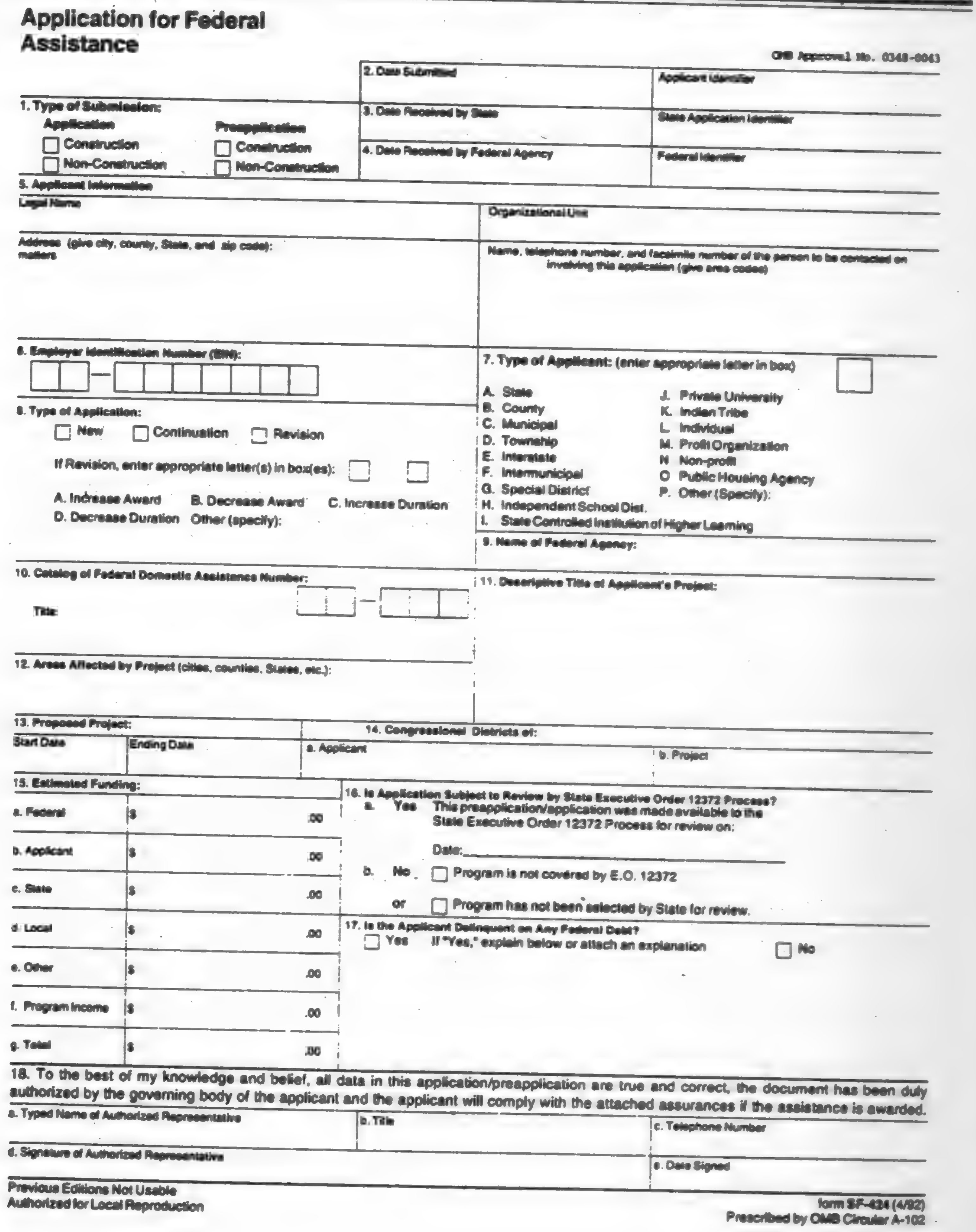

Application for Federal Assistance

OMB Approval No. 0348-0043

1. Type of Submission:

Application
☐ Construction
☐ Non-Construction

Preapplication
☐ Construction
☐ Non-Construction

2. Date Submitted

Applicant Identifier

3. Date Received by State

State Application Identifier

4. Date Received by Federal Agency

Federal Identifier

5. Applicant Information

Legal Name

Organizational Unit

Address (give city, county, State, and zip code):

Name, telephone number, and facsimile number of the person to be contacted on matters involving this application (give area codes)

6. Employer Identification Number (EIN):

☐☐–☐☐☐☐☐☐☐

7. Type of Applicant: (enter appropriate letter in box) ☐

- A. State
- B. County
- C. Municipal
- D. Township
- E. Interstate
- F. Intermunicipal
- G. Special District
- H. Independent School Dist.
- I. State Controlled Institution of Higher Learning
- J. Private University
- K. Indian Tribe
- L. Individual
- M. Profit Organization
- N. Non-profit
- O. Public Housing Agency
- P. Other (Specify):

8. Type of Application:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):

9. Name of Federal Agency:

10. Catalog of Federal Domestic Assistance Number: ☐☐–☐☐☐

Title:

11. Descriptive Title of Applicant's Project:

12. Areas Affected by Project (cities, counties, States, etc.):

13. Proposed Project:

Start Date

Ending Date

14. Congressional Districts of:

a. Applicant

b. Project

15. Estimated Funding:

a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. Total	$	.00

16. Is Application Subject to Review by State Executive Order 12372 Process?

a. Yes This preapplication/application was made available to the State Executive Order 12372 Process for review on:

Date:______________________________

b. No ☐ Program is not covered by E.O. 12372

or ☐ Program has not been selected by State for review.

17. Is the Applicant Delinquent on Any Federal Debt?

☐ Yes If "Yes," explain below or attach an explanation ☐ No

18. To the best of my knowledge and belief, all data in this application/preapplication are true and correct, the document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded.

a. Typed Name of Authorized Representative

b. Title

c. Telephone Number

d. Signature of Authorized Representative

e. Date Signed

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Form SF-424 (4/92)
Prescribed by OMB Circular A-102

Instructions for the SF-424

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Please do not return your completed form to the Office of Management and Budget; send it to the address provided by the sponsoring agency.

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item Entry

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) and applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
   - "New" means a new assistance award.
   - "Continuation" means an extension for an additional funding budget period for a project with a projected completion date.
   - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

Item Entry

12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

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form SF-424 (4/92)
Prescribed by OMB Circular A-102

Certification for a Drug-Free Workplace

U.S. Department of Housing and Urban Development

Applicant Name

Program/Activity Receiving Federal Grant Funding:

Acting on behalf of the above named Applicant as its Authorized Official, I make the following certifications and agreements to the Department of Housing and Urban Development (HUD) regarding the sites listed below:

I certify that the above named Applicant will or will continue to provide a drug-free workplace by:

a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Applicant's workplace and specifying the actions that will be taken against employees for violation of such prohibition.

b. Establishing an on-going drug-free awareness program to inform employees ---

(1) The dangers of drug abuse in the workplace:

(2) The Applicant's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

c. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph a.;

d. Notifying the employee in the statement required by paragraph a. that, as a condition of employment under the grant, the employee will ---

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

e. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph d.(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federalagency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

f. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph d.(2), with respect to any employee who is so convicted ---

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs a. thru f.

2. **Sites for Work Performance.** The Applicant shall list (on separate pages) the site(s) for the performance of work done in connection with the HUD funding of the program/activity shown above: Place of Performance shall include the street address, city, county, State, and zip code. Identify each sheet with the Applicant name and address and the program/activity receiving grant funding.)

Check here ☐ if there are workplaces on file that are not identified on the attached sheets.

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official:

Title:

Signature:

X

Date:

form HUD-50070 (3/98)
ref. Handbooks 7417.1, 7475.13, 7485.1 & .3

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Certification of Payments to Influence Federal Transactions

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

Applicant Name

Program/Activity Receiving Federal Grant Funding

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official: Title:

Signature: Date:

X

Previous edition is obsolete

form HUD 50071 (3/98)
ref. Handbooks 7417.1, 7475.13, 7485.1, & 7485.3

Disclosure of Lobbying Activities

Approved by OMB 0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse side for instructions.)

Public Reporting Burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Please do not return your completed form to the Office of Management and Budget; send it to the address provided by the sponsoring agency.

1. Type of Federal Action:
☐
a. contract
b. grant
c. cooperative agreement
d. loan
e. loan guarantee
f. loan insurance

2. Status of Federal Action:
☐
a. bid/offer/application
b. initial award
c. post-award

3. Report Type:
☐
a. initial filing
b. material change
For Material Change Only:
year ________ quarter ________
date of last report ________

4. Name and Address of Reporting Entity:
☐ Prime ☐ Subawardee Tier ________, if known:

Congressional District, if known:

5. If Reporting Entity in No. 4 is Subawardee, enter Name and Address of Prime:

Congressional District, if known:

6. Federal Department/Agency:

7. Federal Program Name/Description:

CFDA Number, if applicable: ________

8. Federal Action Number, if known:

9. Award Amount, if known:
$

10a. Name and Address of Lobbying Registrant
(if individual, last name, first name, MI):

b. Individuals Performing Services (including address if different from No. 10a.) (last name, first name, MI):

11. Information requested through this form is authorized by Sec.319, Pub. L. 101-121, 103 Stat. 750, as amended by sec. 10; Pub. L. 104-65, Stat. 700 (31 U.S.C. 1352). This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semiannually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: ________

Print Name: ________

Title: ________

Telephone No.: ________ **Date:** ________

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Standard Form-LLL (1/96)

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Instructions for Completion of SF-LLL, Disclosure of Lobbying Activities

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state and zip code of the registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

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Standard Form-LLL (1/96)

Applicant/Recipient Disclosure/Update Report

U.S. Department of Housing
and Urban Development
Office of Ethics

OMB Approval No. 2510-0011 (exp. 3/31/96)

Instructions. (See Public Reporting Statement and Privacy Act Statement and detailed instructions on page 4.)

Part I Applicant/Recipient Information

Indicate whether this is an Initial Report ☐ or an Update Report ☐

1. Applicant/Recipient Name, Address, and Phone (include area code)

Social Security Number or Employer ID Number

2. Project Assisted/ to be Assisted (Project/Activity name and/or number and its location by Street address, City, and State)

3. Assistance Requested/Received	4. HUD Program	5. Amount Requested/Received $

Part II. Threshold Determinations — Applicants Only

1. Are you requesting HUD assistance for a specific project or activity, as provided by 24 CFR Part 12, Subpart C, and have you received, or can you reasonably expect to receive, an aggregate amount of all forms of covered assistance from HUD, States, and units of general local government, in excess of $200,000 during the Federal fiscal year (October 1 through September 30) in which the application is submitted? ☐ Yes ☐ No

   If Yes, you must complete the remainder of this report.

   If No, you must sign the certification below and answer the next question.

   I hereby certify that this information is true. (Signature) ______________________ Date ________

2. Is this application for a specific housing project that involves other government assistance? ☐ Yes ☐ No

   If Yes, you must complete the remainder of this report.

   If No, you must sign this certification.

   I hereby certify that this information is true. (Signature) ______________________ Date ________

If your answers to both questions are No, you do not need to complete Parts III, IV, or V, but you must sign the certification at the end of the report.

Part III. Other Government Assistance Provided/Requested

Department/State/Local Agency Name and Address	Program	Type of Assistance	Amount Requested/Provided

Is there other government assistance that is reportable in this Part and in Part V, but that is reported only in Part V? ☐ Yes ☐ No

If there is no other government assistance, you must certify that this information is true.

I hereby certify that this information is true. (Signature) ______________________ Date ________

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Part IV. Interested Parties

Alphabetical list of all persons with a reportable financial interest in the project or activity (for individuals, give the last name first)	Social Security Number or Employee ID Number	Type of Participation in Project/Activity	Financial Interest in Project/Activity ($ and %)

If there are no persons with a reportable financial interest, you must certify that this information is true.

I hereby certify that this information is true. (Signature) ____________________ Date ________

Part V. Report on Expected Sources and Uses of Funds

Source

If there are no sources of funds, you must certify that this information is true.

I hereby certify that this information is true. (Signature) ______________________ Date ________

Use

If there are no uses of funds, you must certify that this information is true.

I hereby certify that this information is true. (Signature) ______________________ Date ________

Certification

Warning: If you knowingly make a false statement on this form, you may be subject to civil or criminal penalties under Section 1001 of Title 18 of the United States Code. In addition, any person who knowingly and materially violates any required disclosure of information, including intentional non-disclosure, is subject to civil money penalty not to exceed $10,000 for each violation.

I certify that this information is true and complete.

Signature	Date

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Public reporting burden for this collection of information is estimated to average 2.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection information unless that collecton displays a valid OMB control number.

Privacy Act Statement. Except for Social Security Numbers (SSNs) and Employer Identification Numbers (EINs), the Department of Housing and Urban Development (HUD) is authorized to collect all the information required by this form under section 102 of the Department of Housing and Urban Development Reform Act of 1989, 42 U.S.C. 3531. Disclosure of SSNs and EINs is optional. The SSN or EIN is used as a unique identifier. The information you provide will enable HUD to carry out its responsibilities under Sections 102(b), (c), and (d) of the Department of Housing and Urban Development Reform Act of 1989, Pub. L. 101-235, approved December 15, 1989. These provisions will help ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. They will also help ensure that HUD assistance for a specific housing project under Section 102(d) is not more than is necessary to make the project feasible after taking account of other government assistance. HUD will make available to the public all applicant disclosure reports for five years in the case of applications for competitive assistance, and for generally three years in the case of other applications. Update reports will be made available along with the disclosure reports, but in no case for a period generally less than three years. All reports, both initial reports and update reports, will be made available in accordance with the Freedom of Information Act (5 U.S.C. §552) and HUD's implementing regulations at 24 CFR Part 15. HUD will use the information in evaluating individual assistance applications and in performing internal administrative analyses to assist in the management of specific HUD programs. The information will also be used in making the determination under Section 102(d) whether HUD assistance for a specific housing project is more than is necessary to make the project feasible after taking account of other government assistance. You must provide all the required information. Failure to provide any required information may delay the processing of your application, and may result in sanctions and penalties, including imposition of the administrative and civil money penalties specified under 24 CFR §12.34.

Note: This form only covers assistance made available by the Department. States and units of general local government that carry out responsibilities under Sections 102(b) and (c) of the Reform Act must develop their own procedures for complying with the Act.

Instructions (See Note 1 on last page.)

I. Overview. Subpart C of 24 CFR Part 12 provides for (1) initial reports from applicants for HUD assistance and (2) update reports from recipients of HUD assistance. An overview of these requirements follows.

A. Applicant disclosure (initial) reports: General. All applicants for assistance from HUD for a specific project or activity must make a number of disclosures, if the applicant meets a dollar threshold for the receipt of covered assistance during the fiscal year in which the application is submitted. The applicant must also make the disclosures if it requests assistance from HUD for a specific housing project that involves assistance from other governmental sources.

Applicants subject to Subpart C must make the following disclosures:

Assistance from other government sources in connection with the project,

The financial interests of persons in the project,

The sources of funds to be made available for the project, and

The uses to which the funds are to be put.

B. Update reports: General. All recipients of covered assistance must submit update reports to the Department to reflect substantial changes to the initial applicant disclosure reports.

C. Applicant disclosure reports: Specific guidance. The applicant must complete all parts of this disclosure form if either of the following two circumstances in paragraph 1. or 2., below, applies:

1.a. Nature of Assistance. The applicant submits an application for assistance for a specific project or activity (See Note 2) in which:

HUD makes assistance available to a recipient for a specific project or activity; or

HUD makes assistance available to an entity (other than a State or a unit of general local government), such as a public housing agency (PHA), for a specific project or activity, where the application is required by statute or regulation to be submitted to HUD for any purpose; and

b. Dollar Threshold. The applicant has received, or can reasonably expect to receive, an aggregate amount of all forms of assistance (See Note 3) from HUD, States, and units of general local government, in excess of $200,000 during the Federal fiscal year (October 1 through September 30) in which the application is submitted. (See Note 4)

2. The applicant submits an application for assistance for a specific housing project that involves other government assistance. (See Note 5) Note: There is no dollar threshold for this criterion: any other government assistance triggers the requirement. (See Note 6)

If the Application meets **neither** of these two criteria, the applicant need only complete Parts I and II of this report, as well as the certification at the end of the report. If the Application meets **either** of these criteria, the applicant must complete the entire report.

The applicant disclosure report must be submitted with the application for the assistance involved.

D. Update reports: Specific guidance. During the period in which an application for covered assistance is pending, or in which the assistance is being provided (as indicated in the relevant grant or other agreement), the applicant must make the following additional disclosures:

1. Any information that should have been disclosed in connection with the application, but that was omitted.

2. Any information that would have been subject to disclosure in connection with the application, but that arose at a later time, including information concerning an interested party that now meets the applicable disclosure threshold referred to in Part IV, below.

3. For changes in previously disclosed other government assistance:

For programs administered by the Assistant Secretary for Community Planning and Development, any change in other government assistance that exceeds the amount of such assistance that was previously disclosed by $250,000 or by 10 percent of the assistance (whichever is lower).

For all other programs, any change in other government assistance that exceeds the amount of such assistance that was previously disclosed.

4. For changes in previously disclosed financial interests, any change in the amount of the financial interest of a person that exceeds the amount of the previously disclosed interests by $50,000 or by 10 percent of such interests (whichever is lower).

5. For changes in previously disclosed sources or uses of funds:

a. For programs administered by the Assistant Secretary for Community Planning and Development:

Any change in a source of funds that exceeds the amount of all previously disclosed sources of funds by $250,000 or by 10 percent of those sources (whichever is lower); and

Any change in a use of funds under paragraph (b)(1)(iii) that exceeds the amount of all previously disclosed uses of funds by $250,000 or by 10 percent of those uses (whichever is lower).

b. For all programs, other than those administered by the Assistant Secretary for Community Planning and Development:

For projects receiving a tax credit under Federal, State, or local law, any change in a source of funds that was previously disclosed.

For all other projects, any change in a source of funds that exceeds the lower of:

The amount previously disclosed for that source of funds by $250,000, or by 10 percent of the amount previously disclosed for that source, whichever is lower; or

The amount previously disclosed for all sources of funds by $250,000, or by 10 percent of the amount previously disclosed for all sources of funds, whichever is lower.

c. For all programs, other than those administered by the Assistant Secretary for Community Planning and Development:

For projects receiving a tax credit under Federal, State, or local law, any change in a use of funds that was previously disclosed.

For all other projects, any change in a use of funds that exceeds the lower of:

The amount previously disclosed for that use of funds by $250,000, or by 10 percent of the amount previously disclosed for that use, whichever is lower; or

The amount previously disclosed for all uses of funds by $250,000, or by 10 percent of the amount previously disclosed for all uses of funds, whichever is lower.

Note: Update reports must be submitted within 30 days of the change requiring the update. The requirement to provide update reports only applies if the application for the underlying assistance was submitted on or after the effective date of Subpart C.

II. Line-by-Line Instructions.

A. Part I. Applicant/Recipient Information.

All applicants for HUD assistance specified in Section I.C.1.a., above, as well as all recipients required to submit an update report under Section I.D., above, must complete the information required by Part I. The applicant/recipient must indicate whether the disclosure is an initial or an update report. Line-by-line guidance for Part I follows:

1. Enter the full name, address, city, State, zip code, and telephone number (including area code) of the applicant/recipient. Where the applicant/recipient is an individual, the last name, first name, and middle initial must be entered. Entry of the applicant/recipient's SSN or EIN, as appropriate, is optional.

2. Applicants enter the name and full address of the project or activity for which the HUD assistance is sought. Recipients enter the name and full address of the HUD-assisted project or activity to which the update report relates. The most appropriate government identifying number must be used (e.g., RFP No.; IFB No.; grant announcement No.; or contract, grant, or loan No.) Include prefixes.

3. Applicants describe the HUD assistance referred to in Section I.C.1.a. that is being requested. Recipients describe the HUD assistance to which the update report relates.

4. Applicants enter the HUD program name under which the assistance is being requested. Recipients enter the HUD program name under which the assistance, that relates to the update report, was provided.

5. Applicants enter the amount of HUD assistance that is being requested. Recipients enter the amount of HUD assistance that has been provided and to which the update report relates. The amounts are those stated in the application or award documentation. NOTE: In the case of assistance that is provided pursuant to contract over a period of time (such as project-based assistance under section 8 of the United States Housing Act of 1937), the amount of assistance to be reported includes all amounts that are to be provided over the term of the contract, irrespective of when they are to be received.

Note: In the case of Mortgage Insurance under 24 CFR Subtitle B, Chapter II, the mortgagor is responsible for making the applicant disclosures, and the mortgagee is responsible for furnishing the mortgagor's disclosures to the Department. Update reports must be submitted directly to HUD by the mortgagor.

Note: In the case of the Project-Based Certificate program under 24 CFR Part 882, Subpart G, the owner is responsible for making the applicant disclosures, and the PHA is responsible for furnishing the owner's disclosures to HUD. Update reports must be submitted through the PHA by the owner.

B. Part II. Threshold Determinations — Applicants Only

Part II contains information to help the applicant determine whether the remainder of the form must be completed. **Recipients filing Update Reports should not complete this Part.**

1. The first question asks whether the applicant meets the Nature of Assistance and Dollar Threshold requirements set forth in Section I.C.1. above.

If the answer is Yes, the applicant must complete the remainder of the form. If the answer is No, the form asks the applicant to certify that its response is correct, and to complete the next question.

2. The second question asks whether the application is for a specific housing project that involves other government assistance, as described in Section I.C.2. above.

If the answer is Yes, the applicant must complete the remainder of the form. If the answer is No, the form asks the applicant to certify that its response is correct.

If the answer to both questions1 and 2 is No, the applicant need not complete Parts III, IV, or V of the report, but must sign the certification at the end of the form.

C. Part III. Other Government Assistance.

This Part is to be completed by both applicants filing applicant disclosure reports and recipients filing update reports. Applicants must report any other government assistance involved in the project or activity for which assistance is sought. Recipients must report any other government assistance involved in the project or activity, to the extent required under Section I.D.1., 2., or 3., above.

Other government assistance is defined in note 5 on the last page. For purposes of this definition, other government assistance is expected to be made available if, based on an assessment of all the circumstances involved, there are reasonable grounds to anticipate that the assistance will be forthcoming.

Both applicant and recipient disclosures must include all other government assistance involved with the HUD assistance, as well as any other government assistance that was made available before the request, but that has continuing vitality at the time of the request. Examples of this latter category include tax credits that provide for a number of years of tax benefits, and grant assistance that continues to benefit the project at the time of the assistance request.

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The following information must be provided:

1. Enter the name and address, city, State, and zip code of the government agency making the assistance available. Include at least one organizational level below the agency name. For example, U.S. Department of Transportation, U.S. Coast Guard; Department of Safety, Highway Patrol.

2. Enter the program name and any relevant identifying numbers, or other means of identification, for the other government assistance.

3. State the type of other government assistance (e.g., loan, grant, loan insurance).

4. Enter the dollar amount of the other government assistance that is, or is expected to be, made available with respect to the project or activities for which the HUD assistance is sought (applicants) or has been provided (recipients).

If the applicant has no other government assistance to disclose, it must certify that this assertion is correct.

To avoid duplication, if there is other government assistance under this Part and Part V, the applicant/recipient should check the appropriate box in this Part and list the information in Part V, clearly designating which sources are other government assistance.

D. Part IV. Interested Parties.

This Part is to be completed by both applicants filing applicant disclosure reports and recipients filing update reports.

Applicants must provide information on:

(1) All developers, contractors, or consultants involved in the application for the assistance or in the planning, development, or implementation of the project or activity and

(2) any other person who has a financial interest in the project or activity for which the assistance is sought that exceeds $50,000 or 10 percent of the assistance (whichever is lower).

Recipients must make the additional disclosures refferred to in Section I.D.1.,2., or 4, above.

Note: A financial interest means any financial involvement in the project or activity, including (but not limited to) situations in which an individual or entity has an equity interest in the project or activity, shares in any profit on resale or any distribution of surplus cash or other assets of the project or activity, or receives compensation for any goods or services provided in connection with the project or activity. Residency of an individual in housing for which assistance is being sought is not, by itself, considered a covered financial interest.

The information required below must be provided.

1. Enter the full names and addresses of all persons referred to in paragraph (1) or (2) of this Part. If the person is an entity, the listing must include the full name of each officer, director, and principal stockholder of the entity. All names must be listed alphabetically, and the names of individuals must be shown with their last names first.

2. Entry of the Social Security Number (SSN) or Employee Identification Number (EIN), as appropriate, for each person listed is optional.

3. Enter the type of participation in the project or activity for each person listed: i.e., the person's specific role in the project (e.g., contractor, consultant, planner, investor).

4. Enter the financial interest in the project or activity for each person listed. The interest must be expressed both as a dollar amount and as a percentage of the amount of the HUD assistance involved.

If the applicant has no persons with financial interests to disclose, it must certify that this assertion is correct.

5. Part V. Report on Sources and Uses of Funds. This Part is to be completed by both applicants filing applicant disclosure reports and recipients filing update reports.

The applicant disclosure report must specify all expected sources of funds — both from HUD and from any other source — that have been, or are to be, made available for the project or activity. Non-HUD sources of funds typically include (but are not limited to) other government assistance referred to in Part III, equity, and amounts from foundations and private contributions. The report must also specify all expected uses to which funds are to be put. All sources and uses of funds must be listed, if, based on an assessment of all the circumstances involved, there are reasonable grounds to anticipate that the source or use will be forthcoming.

Note that if any of the source/use information required by this report has been provided elsewhere in this application package, the applicant need not repeat the information, but need only refer to the form and location to incorporate it into this report. (It is likely that some of the information required by this report has been provided on SF 424A, and on various budget forms accompanying the application.) If this report requires information beyond that provided elsewhere in the application package, the applicant must include in this report all the additional information required.

Recipients must submit an update report for any change in previously disclosed sources and uses of funds as provided in Section I.D.5., above.

General Instructions — sources of funds

Each reportable source of funds must indicate:

a. The name and address, city, State, and zip code of the individual or entity making the assistance available. At least one organizational level below the agency name should be included. For example, U.S. Department of Transportation, U.S. Coast Guard; Department of Safety, Highway Patrol.

b. The program name and any relevant identifying numbers, or other means of identification, for the assistance.

c. The type of assistance (e.g., loan, grant, loan insurance).

Specific instructions — sources of funds.

(1) For programs administered by the Assistant Secretaries for Fair Housing and Equal Opportunity and Policy Development and Research, each source of funds must indicate the total amount of approved, and received; and must be listed in descending order according to the amount indicated.

(2) For programs administered by the Assistant Secretaries for Housing-Federal Housing Commissioner, Community Planning and Development, and Public and Indian Housing, each source of funds must indicate the total amount of funds involved, and must be listed in descending order according to the amount indicated.

(3) If Tax Credits are involved, the report must indicate all syndication proceeds and equity involved.

General instructions—uses of funds.

Each reportable use of funds must clearly identify the purpose to which they are to be put. Reasonable aggregations may be used, such as "total structure" to include a number of structural costs, such as roof, evevators, exterior masonry, etc.

Specific instructions -- uses of funds.

(1) For programs administered by the Assistant Secretaries for Fair Housing and Equal Opportunity and Policy Development and Research, each use of funds must indicate the total amount of funds involved; must be broken down by amount committed, budgeted, and planned; and must be listed in descending order according to the amount indicated.

(ii) For programs administered by the Assistant Secretaries for Housing-Federal Housing Commissioner, Community Planning and Development, and Public and Indian Housing, each use of funds must indicate the total amount of funds involved and must be listed in descending order according to the amount involved.

(iii) If any program administered by the Assistant Secretary for Housing-Federal Housing Commissioner is involved, the report must indicate all uses paid from HUD sources and other sources, including syndication proceeds. Uses paid should include the following amounts.

AMPO
Architect's fee — design
Architect's fee — supervision
Bond premium
Builder's general overhead
Builder's profit
Construction interest
Consultant fee
Contingency Reserve
Cost certification audit fee
FHA examination fee
FHA inspection fee
FHA MIP
Financing fee
FNMA / GNMA fee
General requirements
Insurance
Legal — construction
Legal — organization
Other fees
Purchase price
Supplemental management fund
Taxes
Title and recording
Operating deficit reserve
Resident initiative fund
Syndication expenses
Working capital reserve
Total land improvement
Total structures

Uses paid from syndication must include the following amounts:

Additional acquisition price and expenses
Bridge loan interest
Development fee
Operating deficit reserve
Resident initiative fund
Syndication expenses
Working capital reserve

Footnotes:

1. All citations are to 24 CFR Part 12, which was published in the Federal Register on March 14, 1991 at 56 Fed. Reg. 11032.
2. A list of the covered assistance programs can be found at 24 CFR §12.30, or in the rules or administrative instructions governing the program involved. Note: The list of covered programs will be updated perodically.
3. Assistance means any contract, grant, loan, cooperative agreement, or other form of assistance, including the insurance or guarantee of a loan or mortgage, that is provided with respect to a specific project or activity under a program administered by the Department. The term does not include contracts, such as procurements contracts, that are subject to the Federal Acquisition Regulation (FAR) (48 CFR Chapter 1).
4. See 24 CFR §§12.32 (a)(2) and (3) for detailed guidance on how the threshold is calculated.
5. "Other government assistance" is defined to include any loan, grant, guarantee, insurance, payment, rebate, subsidy, credit, tax benefit, or any other form of direct or indirect assistance from the Federal government (other than that requested from HUD in the application), a State, or a unit of general local government, or any agency or instrumentality thereof, that is, or is expected to be made, available with respect to the project or activities for which the assistance is sought.
6. For further guidance on this criterion, and for a list of covered programs, see 24 CFR §12.50.
7. For purposes of Part 12, a person means an individual (including a consultant, lobbyist, or lawyer); corporation; company; association; authority; firm; partnership; society; State, unit of general local government, or other government entity, or agency thereof (including a public housing agency); Indian tribe; and any other organization or group of people.

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Applicant Nondiscrimination Certifications

As the duly authorized representative of the applicant, I certify that the applicant:

1. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to:
    - a) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and regulations pursuant thereto (24 CFR Part 1), which prohibit discrimination on the basis of race, color or national origin;
    - b) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), and implementing regulations at 24 CFR Part 8, which prohibit discrimination on the basis of handicap;
    - c) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), and implementing regulations at 24 CFR Part 146, which prohibit discrimination on the basis of age; and,
    - d) the requirements of any other nondiscrimination statute(s) which may apply to the application.

2. Will comply with the Fair Housing Act of (42 U.S.C. 3601-19), as amended, and with implementing regulations at 24 CFR Part 100 et seq., which prohibit discrimination in housing on the basis of race, color, religion, sex, handicap, familial status or national origin, and administer its programs and activities relating to housing in a manner to affirmatively further fair housing.

3. Will comply with Section 109 of the Housing and Community Development Act of 1974, as amended, (42 U.S.C. 5301-5322), which states that no person shall on the ground of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

Signature of Authorized Certifying Official: X	Applicant:
Title:	Date:

Certification Regarding Debarment and Suspension

U.S. Department of Housing and Urban Development

Certification A: Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions

1. The prospective primary participant certifies to the best of its knowledge and belief that its principals;

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal debarment or agency;

b. Have not within a three-year period preceding this proposal, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;

c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

d. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Instructions for Certification (A)

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was place when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded**, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines this eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph (6) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.

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Certification B: Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Instructions for Certification (B)

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded,** as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of these regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph (5) of these instructions, if a participant in a lower covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies including suspension and/or debarment.

Applicant	Date
Signature of Authorized Certifying Official	Title

Acknowledgment of Application Receipt

U.S. Department of Housing and Urban Development

Type or clearly print the Applicant's name and full address in the space below.

(fold line)

Type or clearly print the following information:

Name of the Federal Program to which the applicant is applying: ______________________

To Be Completed by HUD

☐ HUD received your application by the deadline and will consider it for funding. In accordance with Section 103 of the Department of Housing and Urban Development Reform Act of 1989, no information will be released by HUD regarding the relative standing of any applicant until funding announcements are made. However, you may be contacted by HUD after initial screening to permit you to correct certain application deficiencies.

☐ HUD did not receive your application by the deadline; therefore, your application will not receive further consideration. Your application is:

- ☐ Enclosed
- ☐ Being sent under separate cover

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Memorandum of July 8, 1998

Delegation of Authority Under Section 1406(b) of the National Defense Authorization Act for Fiscal Year 1998

Memorandum for the Secretary of Defense

By the authority vested in me by the Constitution and the laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby delegate to the Secretary of Defense the functions conferred upon the President by section 1406(b) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85).

The authority delegated by this memorandum may be redelegated not lower than the Under Secretary level.

You are authorized and directed to publish this memorandum in the **Federal Register**.

William J Clinton

THE WHITE HOUSE,
Washington, July 8, 1998.

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Rules and Regulations

Federal Register
Vol. 63, No. 136
Thursday, July 16, 1998

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 98–072–1]

Gypsy Moth Generally Infested Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the gypsy moth quarantine and regulations by adding Indiana to the list of States quarantined because of gypsy moth. We are also adding Steuben County in Indiana to the list of generally infested areas. As a result, the interstate movement of certain articles from Steuben County will be restricted. This action is necessary to prevent the artificial spread of gypsy moth to noninfested States.

DATES: Interim rule effective July 16, 1998. Consideration will be given only to comments received on or before September 14, 1998.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 98–072–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 98–072–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Ms. Coanne E. O'Hern, Operations Officer, Domestic and Emergency Programs, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236, (301) 734–8247; or e-mail: cohern@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The gypsy moth, *Lymantria dispar* (Linnaeus), is a destructive pest of forest and shade trees. The gypsy moth regulations (contained in 7 CFR 301.45 through 301.45–12 and referred to below as the regulations) quarantine certain States because of the gypsy moth and restrict the interstate movement of certain articles from generally infested areas in the quarantined States to prevent the artificial spread of the gypsy moth.

In accordance with § 301.45–2 of the regulations, generally infested areas are, with certain exceptions, those States or portions of States in which a gypsy moth general infestation has been found by an inspector, or each portion of a State that the Administrator deems necessary to regulate because of its proximity to infestation or its inseparability for quarantine enforcement purposes from infested localities. Less than an entire State will be designated as a generally infested area only if: (1) The State has adopted and is enforcing a quarantine or regulation that imposes restrictions on the intrastate movement of regulated articles that are substantially the same as those that are imposed with respect to the interstate movement of such articles; and (2) the designation of less than the entire State as a generally infested area will be adequate to prevent the artificial interstate spread of infestations of the gypsy moth.

Designation of Areas as Generally Infested Areas

In § 301.45, paragraph (a) lists States quarantined because of gypsy moth. Section 301.45–3 lists generally infested areas in the quarantined States. We are amending 301.45(a) of the regulations by adding Indiana to the list of States quarantined because of gypsy moth. We are also amending § 301.45–3 of the regulations by adding Steuben County, IN, to the list of generally infested areas. As a result, the interstate movement of regulated articles from Steuben County will be restricted.

We are taking this action because, in cooperation with the States, the United States Department of Agriculture conducted surveys that detected all life stages of the gypsy moth in Steuben County. Based on these surveys, we determined that reproducing populations exist at significant levels in this area. Eradication of these populations is not considered feasible because this area is immediately adjacent to areas currently recognized to be generally infested and therefore subject to continued reinfestation.

Emergency Action

The Administrator of the Animal and Plant Health Inspection Service has determined that an emergency exists that warrants publication of this interim rule without prior opportunity for public comment. Immediate action is necessary because of the possibility that the gypsy moth could be spread artificially to noninfested areas of the United States, where it could cause economic losses due to defoliation of susceptible forest and shade trees.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make it effective upon publication in the **Federal Register**. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

This action amends the list of generally infested areas under the gypsy moth quarantine and regulations by adding Steuben County, IN. Immediate action is necessary to prevent the artificial spread of gypsy moth to noninfested areas of the United States.

This emergency situation makes compliance with section 603 and timely compliance with section 604 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) impracticable. If we determine that this rule would have a significant economic impact on a substantial

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number of small entities, then we will discuss the issues raised by section 604 of the Regulatory Flexibility Act in our Final Regulatory Flexibility Analysis.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we are amending 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 147a, 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.22, 2.80, and 371.2(c).

§ 301.45 [Amended]

2. In § 301.45, paragraph (a) is amended by adding "Indiana," immediately before "Maine,".

3. In § 301.45–3, paragraph (a) is amended by adding an entry for Indiana, in alphabetical order, to read as follows:

§ 301.45–3 Generally infested areas.

(a) * * *

Indiana

Steuben County. The entire county.

* * * * *

Done in Washington, DC, this 10th day of July 1998.

Craig A. Reed,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–19001 Filed 7–15–98; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 931

[Docket No. FV98–931–1 IFR]

Fresh Bartlett Pears Grown in Oregon and Washington; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule decreases the assessment rate established for the Northwest Fresh Bartlett Pear Marketing Committee (Committee) under Marketing Order No. 931 for the 1998–99 and subsequent fiscal periods from $0.03 to $0.02 per standard box handled. The Committee is responsible for local administration of the marketing order which regulates the handling of fresh Bartlett pears grown in Oregon and Washington. Authorization to assess fresh Bartlett pear handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The 1998–99 fiscal period began July 1 and ends June 30. The assessment rate will continue in effect indefinitely unless modified, suspended, or terminated.

DATES: Effective July 17, 1998. Comments received by September 14, 1998, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax (202) 205–6632. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Teresa L. Hutchinson, Northwest Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, Room 369, Portland, OR 97204; telephone: (503) 326–2724, Fax: (503) 326–7440 or George J. Kelhart, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 141 and Order No. 931 (7 CFR part 931), regulating the handling of fresh Bartlett pears grown in Oregon and Washington hereinafter referred to as the "order." The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, fresh Bartlett pear handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable fresh Bartlett pears beginning July 1, 1998, and continuing until modified, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule decreases the assessment rate established for the Committee for the 1998–99 and subsequent fiscal periods from $0.03 to $0.02 per standard box handled.

The fresh Bartlett pear marketing order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of fresh Bartlett pears. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 1997–98 and subsequent fiscal periods, the Committee recommended, and the Department approved, an assessment rate that would continue in effect from fiscal period to fiscal period indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee met on May 28, 1998, and unanimously recommended 1998–99 expenditures of $97,000 and an assessment rate of $0.02 per standard box of fresh Bartlett pears handled. In comparison, last year's budgeted expenditures were $111,441. The assessment rate of $0.02 is $0.01 less than the rate currently in effect and will reduce the financial burden on handlers. At the current rate of $0.03 per standard box and estimated 1998 fresh Bartlett pear shipments of 3,000,000 standard boxes, the projected reserve on June 30, 1999, would exceed the level the Committee believed to be adequate to administer the program. The Committee discussed lower assessment rates, but decided that an assessment rate of less than $0.02 would not generate the income necessary to administer the program with an adequate reserve.

Major expenses recommended by the Committee for the 1998–99 fiscal period include $38,878 for salaries, $5,323 for office rent, and $4,062 for health insurance. Budgeted expenses for these items in 1997–98 were $48,454, $8,187, and $4,956, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of fresh Bartlett pears. With fresh Bartlett pear shipments for 1998–99 estimated at 3,000,000 standard boxes, the $0.02 per standard box assessment rate should provide $60,000 in assessment income. Income derived from handler assessments, along with funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve will be kept within the maximum permitted by the order (approximately one fiscal year's operational expenses; § 931.42).

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 1998–99 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by the Department.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 1,800 producers of fresh Bartlett pears in the production area and approximately 65 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than $500,000 and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. The majority of fresh Bartlett pear producers and handlers may be classified as small entities.

This rule decreases the assessment rate established for the Committee and collected from handlers for the 1998–99 and subsequent fiscal periods from $0.03 to $0.02 per standard box handled. The Committee unanimously recommended 1998–99 expenditures of $97,000 and an assessment rate of $0.02 per standard box of fresh Bartlett pears handled. In comparison, last year's budgeted expenditures were $111,441. The assessment rate of $0.02 is $0.01 less than the rate currently in effect. At the rate of $0.03 per standard box and estimated 1998 fresh Bartlett pear shipments of 3,000,000 standard boxes, the projected reserve on June 30, 1999, would exceed the level the Committee believed to be adequate to administer the program. The assessment rate reduction would also lessen the financial burden on handlers. The Committee decided that an assessment rate of less than $0.02 would not generate the income necessary to administer the program with an adequate reserve.

Major expenses recommended by the Committee for the 1998–99 fiscal period include $38,878 for salaries, $5,323 for office rent, and $4,062 for health insurance. Budgeted expenses for these items in 1997–98 were $48,454, $8,187, and $4,956, respectively.

With fresh Bartlett pear shipments for 1998–99 estimated at 3,000,000 standard boxes, the $0.02 rate of assessment should provide $60,000 in assessment income. Income derived from handler assessments, along with funds from the Committee's authorized reserve and miscellaneous income, will be adequate to cover budgeted expenses. Funds in the reserve (estimated to be $33,000 at the end of the 1997–98 fiscal period) will be kept within the maximum permitted by the order (approximately one fiscal year's operational expenses; § 931.42).

Recent price information indicates that the grower price for the 1998–99 marketing season will range between $7.59 and $12.72 per standard box of fresh Bartlett pears. Therefore, the estimated assessment revenue for the 1998–99 fiscal period as a percentage of total grower revenue will range between 0.26 and 0.16 percent.

This action decreases the assessment obligation imposed on handlers. Assessments are applied uniformly on

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all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers and may reduce the burden on producers. In addition, the Committee's meeting was widely publicized throughout the fresh Bartlett pear industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the May 28, 1998, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This action will not impose any additional reporting or recordkeeping requirements on either small or large fresh Bartlett pear handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule. After consideration of all relevant matter presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This action reduces the current assessment rate for fresh Bartlett pears; (2) the 1998–99 fiscal period began on July 1, 1998, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable fresh Bartlett pears handled during such fiscal period; (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (4) this interim final rule provides a 60-day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 931

Marketing agreements, Pears, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 931 is amended as follows:

PART 931—FRESH BARTLETT PEARS GROWN IN OREGON AND WASHINGTON

1. The authority citation for 7 CFR part 931 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 931.231 [Amended]

2. Section 931.231 is amended by removing the words "July 1, 1997," and adding in their place the words "July 1, 1998," and by removing "$0.03" and adding in its place "$0.02."

Dated: July 10, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–19000 Filed 7–15–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 948

[Docket No. FV98–948–1 IFR]

Irish Potatoes Grown in Colorado; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule decreases the assessment rate established for the Colorado Potato Administrative Committee, San Luis Valley Office (Area II) (Committee) under Marketing Order No. 948 for the 1998–99 and subsequent fiscal periods from $0.0030 to $0.0015 per hundredweight of potatoes handled. The Committee is responsible for local administration of the marketing order which regulates the handling of Irish potatoes grown in Colorado. Authorization to assess potato handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The 1998–99 fiscal period begins September 1 and ends August 31. The assessment rate will continue in effect indefinitely unless modified, suspended, or terminated.

DATES: Effective July 17, 1998. Comments received by September 14, 1998, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax (202) 205–6632. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Dennis L. West, Northwest Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, Room 369, Portland, OR 97204; telephone: (503) 326–2724, Fax: (503) 326–7440, or George J. Kelhart, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone (202) 720–2491, Fax: (202) 205–6632.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 97 and Order No. 948, both as amended (7 CFR part 948), regulating the handling of Irish potatoes grown in Colorado hereinafter referred to as the "order." The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, Colorado potato handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable potatoes beginning September 1, 1998, and continuing until modified, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule decreases the assessment rate established for the Committee for the 1998–99 and subsequent fiscal periods from $0.0030 to $0.0015 per hundredweight of potatoes handled.

The Colorado potato marketing order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of Colorado Area II potatoes. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

In Colorado, both a State and a Federal marketing order operate simultaneously. The State order authorizes promotion, including paid advertising, which the Federal order does not. All expenses in this category are financed under the State order. The jointly operated programs consume about equal administrative time and the two orders continue to split administrative costs equally.

For the 1996–97 and subsequent fiscal periods, the Committee recommended, and the Department approved, an assessment rate that would continue in effect from fiscal period to fiscal period indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee met on May 21, 1998, and recommended, by a nine to one vote, 1998–99 expenditures of $66,895 and an assessment rate of $0.0015 per hundredweight of potatoes. The Committee member voting no objected to the amount being budgeted for the executive director's salary, but had no problem with the total amount budgeted or the reduction in the assessment rate. In comparison, last year's budgeted expenditures were $63,329. The assessment rate of $0.0015 is $0.0015 less than the rate currently in effect. The Committee voted to lower the assessment rate and use some of the funds in its operating reserve in order to bring the reserve closer to the amount it believes necessary to administer the program. The decrease would reduce the financial burden on handlers as prices for San Luis Valley potatoes have been extremely low the past two seasons. Over production of the 1996 fall crop and unusually cold weather during the 1997 fall crop growing season resulted in major financial disasters within the San Luis Valley potato industry. The Committee discussed various assessment rates, but decided that an assessment rate of less than $0.0015 would not generate the income necessary to administer the program with an adequate reserve.

Major expenses recommended by the Committee for the 1998–99 fiscal period include $37,210 for salaries, $10,850 for office expenses, which include telephone, supplies, and postage, and $5,250 for building maintenance, which includes insurance and utilities. Budgeted expenses for these items in 1997–98 were $35,579, $9,500, and $5,250, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of Colorado Area II potatoes. Potato shipments for the year are estimated at 16,500,000 hundredweight which should provide $24,750 in assessment income. Income derived from handler assessments, along with funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve ($124,903 as of September 1, 1997) will be kept within the maximum permitted by the order (less than approximately two fiscal periods' expenses; § 948.78).

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 1998–99 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by the Department.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 285 producers of Colorado Area II potatoes in the production area and approximately 100 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than $500,000 and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. The majority of Colorado Area II potato producers and handlers may be classified as small entities.

The rule decreases the assessment rate established for the Committee and collected from handlers for the 1998–99 and subsequent fiscal periods from $0.0030 to $0.0015 per hundredweight of potatoes handled. The Committee by a nine to one vote recommended 1998–99 expenditures of $66,895 and an assessment rate of $0.0015 per hundredweight of potatoes handled. The Committee member voting no objected to the amount being budgeted for the executive director's salary but

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had no problem with the total amount budgeted or the reduction in the assessment rate. In comparison, last year's budgeted expenditures were $63,329. The assessment rate of $0.0015 is $0.0015 less than the rate currently in effect. The Committee voted to lower the assessment rate and use some of the funds in its operating reserve in order to bring the reserve closer to the amount it believes necessary to administer the program. The decrease would reduce the financial burden on handlers as prices for San Luis Valley potatoes have been extremely low the past two seasons. Overproduction of the 1996 fall crop and unusually cold weather during the 1997 fall crop growing season resulted in major financial disasters within the San Luis Valley potato industry. The Committee discussed various assessment rates, but decided that an assessment rate of less than $0.0015 would not generate the income necessary to administer the program with an adequate reserve.

Major expenses recommended by the Committee for the 1998–99 fiscal period include $37,210 for salaries, $10,850 for office expenses, which include telephone, supplies, and postage, and $5,250 for building maintenance which includes insurance and utilities. Budgeted expenses for these items in 1997–98 were $35,579, $9,500, and $5,250, respectively.

With Colorado Area II potato shipments for 1998–99 estimated at 16,500,000 hundredweight, the $0.0015 rate of assessment should provide $24,750 in assessment income. Income derived from handlers assessments, along with funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve ($124,903 as of September 1, 1997) will be kept within the maximum permitted by the order (less than approximately two fiscal periods' expenses; § 948.78).

Recent price information indicates that the grower price for the 1998–99 marketing season will range between $1.60 and $6.15 per hundredweight of Colorado potatoes. Therefore, the estimated assessment revenue for the 1998–99 fiscal period as a percentage of total grower revenue will range between 0.0900 and 0.0243 percent.

This action decreases the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers and may reduce the burden on producers. In addition, the Committee's meeting was widely publicized throughout the Colorado Area II potato industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the May 21, 1998, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This action will not impose any additional reporting or recordkeeping requirements on either small or large Colorado Area II potato handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

After consideration of all relevant matter presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This action reduces the current assessment rate for Colorado Area II potatoes; (2) the 1998–99 fiscal period begins on September 1, 1998, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable Colorado Area II potatoes handled during such fiscal period; (3) handlers are aware of this action which was recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (4) this interim final rule provides a 60-day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 948

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 948 is amended as follows:

PART 948—IRISH POTATOES GROWN IN COLORADO

1. The authority citation for 7 CFR part 948 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 948.216 [Amended]

Section 948.216 is amended by removing the words "September 1, 1996," and adding in their place the words "September 1, 1998," and by removing "$0.0030" and adding in its place "$0.0015."

Dated: July 10, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–18998 Filed 7–15–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–117–AD; Amendment 39–10661; AD 98–15–10]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB SF340A and SAAB 340B Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Saab Model SAAB SF340A and SAAB 340B series airplanes, that requires modification of the detachable center inlet component of the air intake system of the engine. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent fuel and/or oil that may be present in the nacelle from entering the air intake system of the engine, which could result in a possible engine fire.

DATES: Effective August 20, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 20, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Saab Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. This information may be examined at the Federal Aviation

Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2110; fax (425) 227-1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Saab Model SAAB SF340A and SAAB 340B series airplanes was published in the **Federal Register** on May 20, 1998 (63 FR 27694). That action proposed to require modification of the detachable center inlet component of the air intake system of the engine.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 135 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 work hours per airplane to accomplish the required modification, and that the average labor rate is $60 per work hour. Required parts will be provided by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $16,200, or $120 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

98-15-10 SAAB Aircraft AB (Formerly SAAB Fairchild): Amendment 39-10661. Docket 98-NM-117-AD.

Applicability: Model SAAB SF340A and Model SAAB 340B series airplanes, as listed in SAAB Service Bulletin 340-30-073, dated August 18, 1997; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fuel and/or oil that may be present in the nacelle from entering the air intake system of the engine, which could result in a possible engine fire, accomplish the following:

(a) Within 2 years after the effective date of this AD, modify the detachable center inlet component of the air intake system of the engine, in accordance with Saab Service Bulletin 340-30-073, dated August 18, 1997, including Attachment 1, dated March 6, 1997.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM-116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM-116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM-116.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The modification shall be done in accordance with SAAB Service Bulletin 340-30-073, dated August 18, 1997, including Attachment 1, dated March 6, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Saab Aircraft AB, SAAB Aircraft Product Support, S-581.88, Linköping, Sweden. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Swedish airworthiness directive 1-119, dated August 21, 1997.

(e) This amendment becomes effective on August 20, 1998.

Issued in Renton, Washington, on July 8, 1998.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98-18774 Filed 7-15-98; 8:45 am]

BILLING CODE 4910-13-U

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–149–AD; Amendment 39–10663; AD 98–15–12]

RIN 2120–AA64

Airworthiness Directives; Aerospatiale Model ATR42 and ATR72 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Aerospatiale Model ATR42 and ATR72 series airplanes, that requires a one-time inspection of the electromagnetic interference (EMI) filter capacitors and electronic cards of the cabin air recirculation fans to detect damage. This amendment also requires replacement of damaged components with new or serviceable parts, and modification of the cabin air assembly fans. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent overheating and consequent failure of the EMI filter capacitors, which could result in emission of toxic smoke and fumes throughout the airplane, and consequent adverse effects on flight crew and passengers.

DATES: Effective August 20, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 20, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Aerospatiale Model ATR42 and ATR72 series airplanes was published in the **Federal Register** on May 20, 1998 (63 FR 27688). That action proposed to require a one-time inspection of the electromagnetic interference (EMI) filter capacitors and electronic cards of the cabin air recirculation fans to detect damage. That action also proposed to require replacement of damaged components with new or serviceable parts, and modification of the cabin air assembly fans.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Explanation of Changes Made to This Final Rule

In the applicability paragraph of the proposal, the FAA inadvertently referenced Avions de Transport Regional Service Bulletin ATR42–21–0069, dated February 5, 1998, and Avions de Transport Regional Service Bulletin ATR72–21–1048, dated February 5, 1998, as Aerospatiale Service Bulletins. Therefore, the FAA has revised the final rule accordingly.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator or increase the scope of the AD.

Interim Action

This is considered to be interim action until final action is identified, at which time the FAA may consider additional rulemaking.

Cost Impact

The FAA estimates that 81 airplanes of U.S. registry will be affected by this AD.

It will take approximately 3 work hours per airplane to accomplish the required inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection required by this AD on U.S. operators is estimated to be $14,580, or $180 per airplane.

It will take approximately 2 work hours per airplane to accomplish the required modification at an average labor rate of $60 per work hour. The cost of the required parts will be minimal. Based on these figures, the cost impact of the modification required by this AD on U.S. operators is estimated to be $9,720, or $120 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

98–15–12 Aerospatiale: Amendment 39–10663. Docket 98–NM–149–AD.

Applicability: Model ATR42–300, –320, and –500 series airplanes, as listed in Avions de Transport Regional Service Bulletin ATR42–21–0069, dated February 5, 1998; and Model ATR72–101, –102, –201, –202, –211, –212, and –212A series airplanes, as listed in Avions de Transport Regional Service Bulletin ATR72–21–1048, dated February 5, 1998; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent overheating and consequent failure of the electromagnetic interference (EMI) filter capacitors, which could result in emission of toxic smoke and fumes throughout the airplane, and consequent adverse effects on flight crew and passengers, accomplish the following:

(a) Within 11 months after the effective date of this AD, perform a one-time visual inspection to detect damage of the EMI filter capacitors and electronic cards of the cabin air recirculation fan of the right and left air-conditioning packs, in accordance with Avions de Transport Regional Service Bulletin ATR42–21–0069, dated February 5, 1998 (for Model ATR42 series airplanes), or ATR72–21–1048, dated February 5, 1998 (for Model ATR72 series airplanes), as applicable.

(1) If no discrepancy is detected, prior to further flight, modify and re-identify each fan assembly, in accordance with the applicable service bulletin.

(2) If any discrepancy is detected, prior to further flight, replace the damaged components with new or serviceable components, and modify and re-identify the fan assembly, in accordance with the applicable service bulletin.

Note 2: Avions de Transport Regional Service Bulletin ATR42–21–0069, dated February 5, 1998 (for Model ATR42 series airplanes), and ATR72–21–1048, dated February 5, 1998 (for Model ATR72 series airplanes), reference EG&G Rotron Service Bulletin 011232500–21–1, dated December 12, 1997, as an additional source of service information for accomplishment of the modification.

(b) As the effective date of this AD, no person shall install on any airplane a cabin air-conditioning recirculation Rotron fan having part number (P/N) 011232500 Amend. A, or P/N 011494500 Amend. A, on the left or right air-conditioning pack.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch ANM–116.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The actions shall be done in accordance with Avions de Transport Regional Service Bulletin ATR42–21–0069, dated February 5, 1998, or Avions de Transport Regional Service Bulletin ATR72–21–1048, dated February 5, 1998, as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in French airworthiness directives 98–070–074(B) and 98–073–037(B), both dated February 11, 1998.

(f) This amendment becomes effective on August 20, 1998.

Issued in Renton, Washington, on July 8, 1998.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–18772 Filed 7–15–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–230–AD; Amendment 39–10658; AD 98–15–07]

RIN 2120–AA64

Airworthiness Directives; Dassault Model Mystere-Falcon 50 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Dassault Model Mystere-Falcon 50 series airplanes, that requires installation of a reinforcement fitting at the junction of the baggage floor and frame 35 on both the left- and right-hand sides of the airplane. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent fatigue cracking in the subject area, which could result in reduced structural integrity of the airframe.

DATES: Effective August 20, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 20, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Dassault Falcon Jet, P.O. Box 2000, South Hackensack, New Jersey 07606. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Dassault Model Mystere-Falcon 50 series airplanes was published in the **Federal Register** on August 5, 1997 (62 FR 42077). That action proposed to require installation of a reinforcement fitting at the junction of the baggage floor and frame 35 on both the left- and right-hand sides of the airplane.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Request To Revise Cost Impact Information

One commenter requests that the FAA's estimate of the number of airplanes of U.S. registry affected by the proposed AD be revised from 26 to 18 in the cost impact paragraph of the AD. The commenter states that only 18 airplanes of U.S. registry would be affected by the proposed AD because

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Avions Marcel Dassault-Breguet Aviation (AMD–BA) Service Bulletin F50–122 (F50–53–2), dated June 25, 1986, has already been accomplished for the remaining airplanes. Based on this additional information received since issuance of the proposed AD, the FAA concurs with the commenter's request, and has revised the cost impact information, below, to reflect this information.

One commenter identifies a typographical error in the Explanation of Relevant Service Information section of the proposed AD. The date of AMD–BA Service Bulletin F50–163 (F50–00–8), dated April 10, 1986, was incorrectly specified as April 10, 1996. The FAA acknowledges that an inadvertent typographical error appeared in the proposed AD, and that the correct date of the service bulletin is April 10, 1986. However, since the Explanation of Relevant Service Information section of the preamble to the proposed AD is not restated in the final rule, no change to the final rule is necessary.

Explanation of Changes Made to This Final Rule

In the proposal, the FAA inadvertently omitted the word 'cycle' in references to the number of flight cycles specified for appropriate compliance times for accomplishment of the requirements of this AD. The final rule has been revised throughout paragraph (a) to specify "flight cycles" for those compliance times.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 26 Dassault Model Mystere-Falcon 50 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 50 work hours per airplane to accomplish the required installation, and that the average labor rate is $60 per work hour. Required parts will cost approximately $7,000 per airplane. Based on these figures, the cost impact of the installation required by this AD on U.S. operators is estimated to be $260,000, or $10,000 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. However, the FAA has been advised that the installation required by this AD has already been accomplished on 8 airplanes; therefore, only 18 airplanes of U.S. registry are affected. Therefore, the future economic cost impact of the installation required by this AD on U.S. operators is now only $180,000.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

98–15–07 Dassault Aviation: Amendment 39–10658. Docket 96–NM–230–AD.

Applicability: Model Mystere-Falcon 50 series airplanes, serial numbers 1 through 49 inclusive, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking at the junction of the baggage floor and frame 35, which could result in reduced structural integrity of the airframe, accomplish the following:

(a) Install a reinforcement fitting at the junction of the baggage floor and frame 35 on both the left- and right-hand sides of the airplane, in accordance with Avions Marcel Dassault-Breguet Aviation (AMD–BA) Service Bulletin F50–122 (F50–53–2), dated June 25, 1986, at the time specified in paragraph (a)(1) or (a)(2) of this AD, as applicable.

(1) For airplanes on which AMD–BA Service Bulletin F50–163 (F50–00–8) has been incorporated as of the effective date of this AD: Prior to the accumulation of 10,000 total flight cycles or within 6 months after the effective date of this AD, whichever occurs later.

(2) For airplanes on which AMD–BA Service Bulletin F50–163 (F50–00–8) has not been incorporated as of the effective date of this AD: Perform the requirements of paragraph (a) of this AD at the time specified in either paragraph (a)(2)(i) or (a)(2)(ii) of this AD, as applicable.

(i) Except for those airplanes identified in paragraph (a)(2)(ii), prior to the accumulation of 14,000 total flight cycles or within 6 months after the effective date of this AD, whichever occurs later.

(ii) If incorporation of AMD–BA Service Bulletin F50–163 (F50–00–8) is accomplished at or after the accumulation of 10,000 total flight cycles and prior to the accumulation of 14,000 total flight cycles: Perform the requirements of paragraph (a) of this AD concurrently with the incorporation of AMD–BA Service Bulletin F50–163 (F50–00–8).

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The installation shall be done in accordance with Avions Marcel Dassault-Breguet Aviation (AMD–BA) Service Bulletin F50–122 (F50–53–2), dated June 25, 1986. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Dassault Falcon Jet, P.O. Box 2000, South Hackensack, New Jersey 07606. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in French airworthiness directive 86–74–5(B), dated June 25, 1986.

(e) This amendment becomes effective on August 20, 1998.

Issued in Renton, Washington, on July 8, 1998.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–18771 Filed 7–15–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–02–AD; Amendment 39–10659; AD 98–15–06]

RIN 2120–AA64

Airworthiness Directives; British Aerospace Model BAe 146 and Model Avro 146–RJ Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain British Aerospace Model BAe 146 and Model Avro 146–RJ series airplanes, that requires repetitive detailed visual inspections of the top wing skins for stress corrosion cracks, damage, or missing surface protective finish of the metallic surfaces; and repair, if necessary. This amendment is prompted by reports of stress corrosion cracks found on the top wing skin during routine inspection on three airplanes. The actions specified by this AD are intended to detect and correct such cracking, which could result in reduced structural integrity of the wing.

DATES: Effective August 20, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 20, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from AI(R) American Support, Inc., 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain British Aerospace Model BAe 146 and Model Avro 146–RJ series airplanes was published in the **Federal Register** on June 17, 1997 (62 FR 32701). That action proposed to require repetitive detailed visual inspections of the top wing skins for stress corrosion cracks, damage, or missing surface protective finish of the metallic surfaces, and repair, if necessary.

Consideration of Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

Components Made of 7150–T651 Aluminum Material

The commenter supports the proposed AD. However, the commenter expresses a concern that other airplane components made from the same material could pose a similar problem. As a result, the commenter requests the FAA to accomplish the following actions:

—Identify any other aircraft components made from the same material.

—Review the inspection criteria and frequency for those applications.

—Ensure that a failure of the material will be detected prior to the failure posing a risk to continued flight safety.

The FAA acknowledges the concerns of the commenter. Based on additional information from the manufacturer, the FAA has determined that the problem is limited to a discrepant production lot of 7150–T651 aluminum material that was produced with the incorrect thickness for the wing skins. In addition, the FAA has determined that no other components made of this aluminum material are affected. In light of this information, the FAA finds that it is unnecessary to take any additional action, and that the actions required by this AD are adequate in order to ensure the continued safety of the fleet.

Explanation of New Service Information

Since the issuance of the proposed AD, the manufacturer issued British Aerospace Service Bulletin SB.57–49, Revision 1, dated June 19, 1997, which replaces British Aerospace Service Bulletin SB.57–49, dated June 4, 1996. Revision 1 reduces the effectivity specified in the previous service bulletin to those airplanes on which 7150–T651 aluminum material from a discrepant production lot was used for the top wing skins. The discrepant material was manufactured with an inappropriate thickness, which causes the wings to be susceptible to early stress corrosion cracking on the top wing skin, and which could result in reduced structural integrity of the airplane wing. However, since the discovery of this problem, subsequent 7150–T651 aluminum material used for the top wing skins has been machined to the appropriate thickness and, as a result, is not susceptible to early stress corrosion cracking. In all other respects, Revision 1 of the service bulletin is essentially the same as the original issue of the service bulletin.

The FAA has reduced the applicability of this final rule to those airplanes having wing skins made from 7150–T651 aluminum material, as specified in British Aerospace Service Bulletin SB.57–49, Revision 1, dated June 19, 1997. In addition, the FAA has revised paragraph (a) of the final rule to require accomplishment of those actions in accordance with either the original service bulletin or Revision 1.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air

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safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 12 British Aerospace Model BAe 146 and Model Avro 146–RJ series airplanes of U.S. registry will be affected by this AD, that it will take approximately 4 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $2,880, or $240 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

98–15–08 British Aerospace Regional Aircraft (Formerly British Aerospace Regional Aircraft Limited, Avro International Aerospace Division; British Aerospace, PLC; British Aerospace Commercial Aircraft Limited): Amendment 39–10659. Docket 97–NM–02–AD.

Applicability: Model BAe 146 and Model Avro 146–RJ series airplanes, as listed in British Aerospace Service Bulletin SB.57–49, Revision 1, dated June 19, 1997, and having wing skins made from 7150–T651 aluminum; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct stress corrosion cracking in the wing skin, which could result in reduced structural integrity of the wing, accomplish the following:

(a) Within 4 months after the effective date of this AD; and thereafter at intervals not to exceed 4,000 landings or 2 years, whichever occurs first: Perform a detailed visual inspection of the top wing skins to detect stress corrosion cracking, and any damaged or missing surface protective finish that exposes the metallic surfaces, in accordance with British Aerospace Service Bulletin SB.57–49, dated June 4, 1996, or Revision 1, dated June 19, 1997.

(1) If any damaged or missing surface protective finish is detected, and no cracking or corrosion is detected, prior to further flight, reapply the protective finish in accordance with the service bulletin. Repeat the detailed visual inspection, thereafter, at intervals not to exceed 4,000 landings or 2 years, whichever occurs first.

(2) If any cracking is detected, prior to further flight, repair in accordance with a method approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate.

Note 2: During the detailed visual inspections of the top wing skins, pay particular attention to the edge of cutouts, skin edges, and attachment bolt holes.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) Except as provided by paragraph (a)(2) of this AD, the inspections and repairs shall be done in accordance with British Aerospace Service Bulletin SB.57–49, dated June 4, 1996; or British Aerospace Service Bulletin SB.57–49, Revision 1, dated June 19, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from AI(R) American Support, Inc., 13850 Mclearen Road, Herndon, Virginia 20171. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in British airworthiness directive 005–06–96, dated June 4, 1996.

(e) This amendment becomes effective on August 20, 1998.

Issued in Renton, Washington, on July 8, 1998.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–18770 Filed 7–15–98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–160–AD; Amendment 39–10660; AD 98–15–09]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A320–111 and –211 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A320–111 and –211 series airplanes. This action requires repetitive inspections to detect fatigue cracking of the frames of the sliding windows in the cockpit, and repair, if necessary. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified in this AD are intended to detect and correct fatigue cracking of the frames of the sliding windows in the cockpit, which could result in reduced structural integrity of the pressure vessel of the fuselage of the airplane.

DATES: Effective July 31, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 31, 1998.

Comments for inclusion in the Rules Docket must be received on or before August 17, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–160–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A320–111 and –211 series airplanes. The DGAC advises that, during full-scale fatigue testing, fatigue cracking was found on the frame of a sliding window in the cockpit, at the junction with a doubler. Such fatigue cracking of the frames of the sliding windows in the cockpit, if not corrected, could result in reduced structural integrity of the pressure vessel of the fuselage of the airplane.

Explanation of Relevant Service Information

The manufacturer has issued Airbus Service Bulletin A320–53–1065, dated May 4, 1992. This service bulletin describes procedures for repetitive ultrasonic inspections to detect fatigue cracking around fasteners A, B, and C of the frames of the sliding windows in the cockpit; and repetitive eddy current inspections to detect fatigue cracking around fasteners D and E of the frames of the sliding windows. The service bulletin also specifies that the inspections for fatigue cracking of the frames of the sliding windows should be accomplished only on the left side of certain airplanes, and only on the right side of certain other airplanes. In the case of one airplane, the inspections should be accomplished on both sides of the airplane. The DGAC classified this service bulletin as mandatory and issued French airworthiness directive 96–235–088(B), dated October 23, 1996, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.19) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to detect and correct fatigue cracking of the frames of the sliding windows in the cockpit, which could result in reduced structural integrity of the pressure vessel of the fuselage of the airplane. This AD requires accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Differences Between This Rule and Service Bulletin

Operators should note that, unlike the procedures described in Airbus Service Bulletin A320–53–1065, this amendment would not permit further flight if cracking of the frame of a sliding window in the cockpit is detected. The FAA has determined that, because of the safety implications and consequences associated with such cracking, any subject window frame that is found to be cracked must be repaired prior to further flight.

Operators also should note that, although the service bulletin specifies that the manufacturer may be contacted for disposition of repair conditions, this AD requires the repair of those conditions to be accomplished in accordance with a method approved by either the FAA, or the DGAC (or its delegated agent). In light of the type of repair that is required to address the identified unsafe condition, and in consonance with existing bilateral airworthiness agreements, the FAA has determined that, for this AD, a repair approved by either the FAA or the DGAC is acceptable for compliance with this AD.

Cost Impact

None of the airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would require approximately 4 work hours (2 work hours for each side of the airplane) to accomplish the required inspections, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this AD would be $240 per airplane, per inspection cycle.

Determination of Rule's Effective Date

Since this AD action does not affect any airplane that is currently on the U.S. register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, prior notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the **Federal Register**.

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Comments Invited

Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 97–NM–160–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

98–15–09 Airbus Industrie: Amendment 39–10660. Docket 97–NM–160–AD.

Applicability: Model A320–111 and –211 series airplanes, serial numbers 002 through 004 inclusive, and 023; on which Airbus Modification 20473 has not been accomplished; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking of the frames of the sliding windows in the cockpit, which could result in reduced structural integrity of the pressure vessel of the fuselage of the airplane, accomplish the following:

(a) Prior to the accumulation of 20,000 total flight cycles, or within 2,000 flight cycles after the effective date of this AD, whichever occurs later, accomplish the requirements of paragraphs (a)(1) and (a)(2) of this AD, in accordance with Airbus Service Bulletin A320–53–1065, dated May 4, 1992.

(1) Perform an ultrasonic inspection to detect fatigue cracking around fasteners A, B, and C of the frame of the sliding window in the cockpit, on the left or right side of the airplane, as applicable.

(2) Perform an eddy current inspection to detect fatigue cracking around fasteners D and E of the frame of the sliding window in the cockpit, on the left or right side of the airplane, as applicable.

(b) If no cracking is detected during the inspections required by paragraph (a) of this AD, repeat the inspections thereafter at intervals not to exceed 13,000 flight cycles.

(c) If any cracking is detected during the inspections required by paragraph (a) of this AD, and the total length of the cracks is less than 20 mm: Prior to further flight, repair in accordance with a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the Direction Générale de l'Aviation Civile (DGAC) (or its delegated agent). Accomplishment of such repair constitutes terminating action for the inspection requirements of paragraph (a) of this AD.

(d) If any cracking is detected during the inspections required by paragraph (a) of this AD, and the total length of the cracks is 20 mm or greater: Prior to further flight, repair in accordance with a method approved by the Manager, International Branch, ANM–116; or the DGAC (or its delegated agent).

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(g) The inspections shall be done in accordance with Airbus Service Bulletin A320–53–1065, dated May 4, 1992. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in French airworthiness directive 96–235–088(B), dated October 23, 1996.

(h) This amendment becomes effective on July 31, 1998.

Issued in Renton, Washington, on July 8, 1998.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–18769 Filed 7–15–98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–NM–94–AD; Amendment 39–10657; AD 98–15–06]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A320 and Model A321 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A320 and Model A321 series airplanes, that requires repetitive inspections to verify proper installation of the plain bushings of the upper and lower connection links on the forward and aft passenger/crew doors, and correction of discrepancies. This amendment also requires installation of shouldered bushings on the frame segment used for attachment of the connection links or modification of the frame segment bushing (as applicable), which terminates the repetitive inspection requirements. This amendment is prompted by a report that, during an emergency evacuation of in-service airplanes, the left aft passenger/crew door jammed against the fuselage structure in a nearly closed position due to bushing migration. The actions specified by this AD are intended to prevent jamming of the passenger/crew door, which could delay or impede the evacuation of passengers during an emergency.

DATES: Effective August 20, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 20, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A320 and A321 series airplanes was published as a supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on February 25, 1997 (62 FR 8408). That action proposed to require repetitive inspections to verify proper installation of the plain bushings of the upper and lower connection links on the forward and aft passenger/crew doors, and correction of discrepancies. That action also proposed to require replacement of the shouldered bushing on the locking mechanism with a new oversized bushing or modification of the frame segment bushing (as applicable), which terminates the repetitive inspection requirements.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Request to Revise Applicability

One commenter, Airbus, requests that the applicability of the supplemental NPRM be revised to specify that the AD applies to (1) airplanes on which Airbus Modification 24497 has not been installed in production; and (2) airplanes on which Airbus Service Bulletin A320–52–1027, Revision 2, dated February 18, 1993, Revision 3, dated December 10, 1993, or Airbus Service Bulletin A320–52–1064, Revision 1, dated September 8, 1995, has not been installed.

Airbus advises that installation of Airbus Modification 22422 in production is not equivalent to accomplishment of Airbus Service Bulletin A320–52–1027. (The applicability of the supplemental NPRM incorrectly equates Modification 22422 to Airbus Service Bulletin A320–52–1027.) The commenter adds that airplanes on which Airbus Service Bulletin A320–52–1027 has been accomplished are not affected by the requirements of the supplemental NPRM. The commenter states further that Airbus Service Bulletin A320–52–1064 must be accomplished on airplanes on which Airbus Modification 22422 was installed in production.

The FAA concurs with the commenter's request. Installation of shouldered bushings on the segment frame is necessary in order to provide a full solution and adequately address the identified unsafe condition. Airbus Modification 22422 installed in production added interference fit plain bushings, in place of plain bushings. However, several occurrences of migration of the bushings were reported on those airplanes having Modification 22422 installed in production. Subsequently, Airbus has developed a further modification of the frame segment bushing, which entails removing the plain bushings and installing shouldered bushings on the frame used for attachment of the connection links. Airbus Modification 24497 accomplishes this installation for airplanes in production, using interference fit shouldered bushings. (For retrofit solutions, installation of the shouldered bushings is accomplished with Loctite sealant rather than interference fit).

Airbus Service Bulletin A320–52–1027 is the retrofit solution equivalent to Modification 24497, to be accomplished on those airplanes in a pre-Modification 22422 configuration. For those airplanes on which Modification 22422 was installed in production, installation of shouldered bushings is also necessary, and is to be accomplished in accordance with the procedures described in Airbus Service Bulletin A320–52–1064. Accomplishment of the retrofit solution described in A320–52–1027 or A320–52–1064, as applicable, would terminate the repetitive inspection requirements of this AD. The FAA has revised the applicability and paragraphs (a), (b), (c), and (d) of the final rule to clarify the effectivity of the AD.

Request to Extend Compliance Time

One commenter requests that the compliance time for accomplishing the initial detailed visual inspection be extended from the proposed 450 flight hours to 460 flight hours, and that the repetitive interval be extended from the proposed 900 flight hours to 920 flight hours. The commenter states that such an extension will allow the inspection to be accomplished during a regularly scheduled "A" and "2A" check, and thereby eliminate any additional expenses that would be associated with special scheduling. The FAA does not concur. In developing an appropriate compliance time for this action, the

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FAA considered the safety implications, parts availability, and normal maintenance schedules for timely accomplishment of the detailed visual inspection. Since maintenance schedules vary from operator to operator, there would be no assurance that the detailed visual inspection will be accomplished during a regularly scheduled "A" or "2A" check. However, under the provisions of paragraph (e) of the final rule, the FAA may approve requests for adjustments to the compliance time if data are submitted to substantiate that such an adjustment would provide an acceptable level of safety.

Correction to the Supplemental NPRM

In paragraph (c) and in the Discussion section of the supplemental NPRM, the FAA made incorrect reference to the modification involving shouldered bushings, which would be required to be accomplished in accordance with Airbus Service Bulletin A320–57–1027, Revision 3, dated December 10, 1993. Although the supplemental NPRM specifies "replacement of the shouldered bushing on the locking mechanism with a new oversized bushing (Kit No. 521027A02)", the modification entails installation of shouldered bushings on the frame segment used for attachment of the connection links, as the service bulletin specifies in reference to Kit No. 521027A02. Applicable portions of the preamble and paragraph (c) of this final rule have been revised to correctly describe the installation of shouldered bushings.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 94 Airbus Model A320 and Model A321 series airplanes of U.S. registry will be affected by this AD.

It will take approximately 6 work hours per airplane to accomplish the required detailed visual inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the detailed visual inspection required by this AD on U.S. operators is estimated to be $33,840, or $360 per airplane, per inspection cycle.

For certain airplanes, it will take approximately 72 work hours per airplane to accomplish the required modification, at an average labor rate of $60 per work hour. Required parts will be supplied by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the modification required by this AD on U.S. operators is estimated to be $4,320 per airplane.

For certain other airplanes, it will take approximately 53 work hours per airplane to accomplish the required modification, at an average labor rate of $60 per work hour. Required parts will be supplied by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the modification required by this AD on U.S. operators is estimated to be $3,180 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

98–15–06 Airbus Industrie: Amendment 39–10657. Docket 94–NM–94–AD.

Applicability: Model A320 and Model A321 series airplanes, as listed below, certificated in any category:

- On which Airbus Modification 24497 has not been installed in production. Or
- On which Airbus Service Bulletin A320–52–1027, Revision 2, dated February 18, 1993, Revision 3, dated December 10, 1993, or Airbus Service Bulletin A320–52–1064, Revision 1, dated September 8, 1995; has not been accomplished.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent jamming of the passenger/crew door, which could delay or impede the evacuation of passengers during an emergency, accomplish the following:

(a) For Model A320 series airplanes on which Airbus Modification 22422 has *not* been installed in production: Within 450 flight hours after the effective date of this AD, perform a detailed visual inspection to verify proper installation of the plain bushings of the upper and lower connection links on the forward and aft passenger/crew doors, in accordance with Airbus Service Bulletin A320–52–1047, dated April 25, 1994.

(1) If all bushings are installed properly, repeat the inspection thereafter at intervals not to exceed 900 flight hours until the modification required by paragraph (c) of this AD is accomplished.

(2) If any bushing has migrated, prior to further flight, remove the passenger/crew door and visually inspect the bushing to

detect damage, in accordance with the service bulletin.

(i) If the bushing housings are not damaged, prior to further flight, reinstall the bushing in accordance with the service bulletin. Repeat the detailed visual inspections of the bushings thereafter at intervals not to exceed 450 flight hours until the modification required by paragraph (c) of this AD is accomplished.

(ii) If any bushing housing is damaged, prior to further flight, ream the door structure and install an oversize shouldered bushing, in accordance with the service bulletin. If the damage is not completely removed after reaming, prior to further flight, repair the bushing housing in accordance with a method approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate.

(b) For Model A320 and Model A321 series airplanes on which Airbus Modification 22422 has been installed in production: Within 450 flight hours after the effective date of this AD, perform a detailed visual inspection to verify proper installation of the plain bushings of the upper and lower connection links (2 bushings per door), in accordance with Airbus All Operators Telex AOT 52–07, dated July 28, 1994, or Airbus Service Bulletin A320–52–1066, dated March 6, 1995.

(1) If the bushings are installed properly, repeat the detailed visual inspection thereafter at intervals not to exceed 900 flight hours, until the modification required by paragraph (d) of this AD is accomplished.

(2) If any bushing is found to be improperly installed, prior to further flight, modify the frame segment bushings in accordance with Airbus Service Bulletin A320–52–1064, Revision 1, dated September 8, 1995. Accomplishment of the modification constitutes terminating action for the requirements of this AD.

(c) For Model A320 series airplanes on which Airbus Modification 22422 has *not* been installed in production: Within 3,500 flight hours after the effective date of this AD, install shouldered bushings on the frame segment used for attachment of the connection links (Kit No. 521027A02), in accordance with Airbus Service Bulletin A320–52–1027, Revision 3, dated December 10, 1993. Accomplishment of this modification constitutes terminating action for the repetitive inspection requirements of paragraph (a) of this AD.

Note 2: Replacement in accordance with Airbus Service Bulletin A320–52–1027, Revision 2, dated February 18, 1993, is considered acceptable for compliance with the requirements of paragraph (c) of this AD.

(d) For Model A320 and Model A321 series airplanes on which Airbus Modification 22422 has been installed in production: Within 15 months after the effective date of this AD, modify the frame segment bushing in accordance with Airbus Service Bulletin A320–52–1064, Revision 1, dated September 8, 1995. Accomplishment of the modification constitutes terminating action for the repetitive detailed visual inspection requirements of paragraph (b) of this AD.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(f) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(g) Except for the repair action provided in paragraph (a)(2)(ii), the actions shall be done in accordance with the following Airbus Service Bulletins and All Operators Telex (AOT), which contain the specified list of effective pages:

Service bulletin and AOT referenced and date	Page No.	Rrevision level shown on page	Date shown on page
Service Bulletin A320–52–1047, April 25, 1994	1–15	Original	April 25, 1994.
AOT 52–07, July 28, 1994	1–2	Original	July 28, 1994.
Service Bulletin A320–52–1066, March 6, 1995.	1–13	Original	March 6, 1995.
Service Bulletin A320–52–1064, Revision 1, September 8, 1995.	1–4, 8, 21	1	September 8, 1995.
	5–7, 9–20	Original	November 28, 1994.
Service Bulletin A320–53–1027, Revision 3, December 10, 1993	1–6, 8, 11, 18, 19	3	December 10, 1993.
	37–42		
	7, 12, 14–17, 20–36	1	September 25, 1992
	9, 10	Original	January 30, 1992.
	13	2	February 18, 1993.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in French airworthiness directive 93–207–048(B), dated December 8, 1993.

(h) This amendment becomes effective on August 20, 1998.

Issued in Renton, Washington, on July 8, 1998.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–18768 Filed 7–15–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–92–AD; Amendment 39–10664; AD 98–15–13]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company 90, 100, 200, and 300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Raytheon Aircraft Company (Raytheon) 90, 100, 200, and 300 series airplanes (formerly known as Beech Aircraft Corporation 90, 100, 200,

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and 300 series airplanes). This AD requires: checking the airplane maintenance records from January 1, 1994, up to and including the effective date of this AD, for any MIL–H–6000B fuel hose replacements on the affected airplanes; inspecting any replaced rubber fuel hose for a spiral or diagonal external wrap with a red stripe the length of the hose with 94519 printed along the stripe; and replacing any MIL–H–6000B rubber fuel hose matching this description with an FAA-approved hose having a criss-cross or braided external wrap. This AD was prompted by a report of a product defect by the manufacturer that could cause fuel system blockage and engine stoppage. The actions specified by this AD are intended to prevent fuel flow interruption, which could lead to uncommanded loss of engine power and loss of control of the airplane.

DATES: Effective August 28, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 28, 1998.

ADDRESSES: Service information that applies to this AD may be obtained from Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085; telephone: (800) 625–7043. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–92–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Randy Griffith, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, Room 100, 1801 Airport Rd., Wichita, Kansas 67209; telephone: (316) 946–4145; facsimile: (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Raytheon 90, 100, 200, and 300 series airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on March 4, 1998 (63 FR 10573). The NPRM proposed to require: replacing all of the MIL–H–6000B rubber fuel hoses in the affected airplanes that were manufactured from January 1, 1994, and after, with an FAA-approved rubber fuel hose that has a criss-cross or braided pattern on the external wrap. For airplanes manufactured prior to January 1, 1994, the proposed AD would require checking the airplane maintenance records from January 1, 1994, up to and including the effective date of the proposed AD, for any MIL–H–6000B rubber fuel hose replacements; and, if a replacement has been made, checking the replacement hose for diagonal or spiral wrap that has a ⅜-inch-wide red or orange-red, length-wise stripe, with the manufacturer's code, 94519, printed periodically along the line in red letters on one side. In the case of the Raytheon Models C90A, B200, and B300 airplanes with this fuel hose installed at the factory, the proposed AD would require replacing the fuel hoses with FAA-approved MIL–H–6000B fuel hoses that have a criss-cross or braided external wrap. Accomplishment of the proposed action as specified in the NPRM would be in accordance with Raytheon Aircraft Mandatory Service Bulletin No. 2718, Rev. 1, Issued: January, 1997, Revised: June, 1997.

The NPRM was the result of a report of a product defect by the manufacturer that could cause fuel system blockage and engine stoppage.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the one comment received.

The FAA received a comment from the manufacturer, Raytheon Aircraft Company. Raytheon states that the Model C90B listed in the applicability section of the proposed AD should actually be listed as Model C90A because the model number C90B was only used as a designation on certain airplanes for marketing purposes. There are not actually any Raytheon airplanes with the model number C90B.

The FAA concurs and will change the model number in the applicability section of the AD to read:

Model	Serial No.
C90A	LJ–1288, LJ–1295, and LJ–1300 through LJ–1445.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for the model change referenced above and minor editorial corrections. The FAA has determined that this change and minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Cost Impact

The FAA estimates that 4,868 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 1 workhour per airplane to accomplish this initial check, and that the average labor rate is approximately $60 an hour. Parts and labor cost will be covered under the manufacturer's warranty program if the hose is returned to the manufacturer. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $292,080 or $60 per airplane.

Since an owner/operator who holds at least a private pilot's certificate as authorized by sections 43.7 and 43.9 of the Federal Aviation Regulations (14 CFR 43.7 and 43.9) can accomplish the initial check of the airplane maintenance records, the only cost impact upon the public is the time it will take the affected airplane owners/operators of airplanes to check the records. The FAA has not taken into account the cost of the inspection of the hoses because this inspection would be on the condition a hose replacement had been made within a certain time frame. The cost of replacing the hose is not included in the initial cost estimate, since the manufacturer is offering warranty credit for the hose replacement.

The cost impact figure discussed above is based on the assumption that no operator has yet accomplished any of the requirements of this AD action, and that no operator will accomplish these actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

98–15–13 Raytheon Aircraft Company: Amendment 39–10664; Docket No. 97–CE–92–AD.

Applicability: The following airplane models and serial numbers, certificated in any category.

Note 1: The airplane models and serial numbers listed in this AD take precedence over those listed in Raytheon Aircraft Service Bulletin No. 2718, Rev. 1, Issued: January, 1997; Revised: June, 1997.

Models	Serial Nos.
65–90	LJ–1 through LJ–75, and LJ–77 through LJ–113.
65–A90	LJ–76, LJ–114 through LJ–317, and LJ–178A.
B90	LJ–318 through LJ–501.
C90	LJ–502 through LJ–1062.
C90A	LJ–1063 through LJ–1445.
E90	LW–1 through LW–347.
F90	LA–2 through LA–236.
H90	LL–1 through LL–61.
100	B–2 through B–89, and B–93.
A100	B–1, B–90 through B–92, B–94 through B–204, and B–206 through B–247.
A100–1 (RU–21J)	BB–3 through BB–5.
B100	BE–1 through BE–137.
200	BB–2, BB–6 through BB–185, BB–187 through BB–202, BB–204 through BB–269, BB–271 through BB–407, BB–409 through BB–468, BB–470 through BB–488, BB–490 through BB–509, BB–511 through BB–529, BB–531 through BB–550, BB–552 through BB–562, BB–564 through BB–572, BB–574 through BB–590, BB–592 through BB–608, BB–610 through BB–626, BB–628 through BB–646, BB–648 through BB–664, BB–735 through BB–792, BB–794 through BB–797, BB–799 through BB–822, BB–824 through BB–828, BB–830 through BB–853, BB–872, BB–873, BB–892, BB–893, and BB–912.
200C	BL–1 through BL–23, and BL–25 through BL–36.
200CT	BN–1.
200T	BT–1 through BT–22, and BT–28.
A200	BC–1 through BC–75, and BD–1 through BD–30.
A200C	BJ–1 through BJ–66.
A200CT	BP–1, BP–7 through BP–11, BP–22, BP–24 through BP–63, FC–1 through FC–3, FE–1 through FE–36, and GR–1 through GR–19.
B200	BB–829, BB–854 through BB–870, BB–874 through BB–891, BB–894, BB–896 through BB–911, BB–913 through BB–990, BB–992 through BB–1051, BB–1053 through BB–1092, BB–1094, BB–1095, BB–1099 through BB–1104, BB–1106 through BB–1116, BB–1118 through BB–1184, BB–1186 through BB–1263, BB–1265 through BB–1288, BB–1290 through BB–1300, BB–1302 through BB–1425, BB–1427 through BB–1447, BB–1449, BB–1450, BB–1452, BB–1453, BB–1455, BB–1456, and BB–1458 through BB–1536.
B200C	BL–37 through BL–57, BL–61 through BL–140, BU–1 through BU–10, BV–1 through BV–12, and BW–1 through BW–21.
B200CT	BN–2 through BN–4, BU–11, BU–12, FG–1, and FG–2.
B200T	BT–23 through BT–27, and BT–29 through BT–38.
300	FA–1 through FA–230, and FF–1 through FF–19.
B300	FL–1 through FL–141.
B300C	FM–1 through FM–9, and FN–1.

Note 2: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this, unless already accomplished.

To prevent fuel flow interruption, which if not corrected, could lead to uncommanded loss of engine power and loss of control of the airplane, accomplish the following:

(a) For airplanes manufactured prior to January 1, 1994: within the next 200 hours time-in-service (TIS) after the effective date of this AD, check the airplane maintenance records for any MIL–H–6000B fuel hose replacement from January 1, 1994, up to and including the effective date of this AD. Accomplish the following in accordance with PART II of the ACCOMPLISHMENT INSTRUCTIONS section in Raytheon Aircraft Mandatory Service Bulletin (SB) No. 2718, Rev. 1, Issued: January, 1997; Revised: June, 1997:

(1) If the airplane records show that an MIL–H–6000B fuel hose has been replaced, prior to further flight, inspect the airplane fuel hoses for a ⅜-inch-wide red or orange-red, length-wise stripe, with the manufacturer's code, 94519, printed periodically along the line in red letters on one side. The hoses have a spiral or diagonal outer wrap with a fabric-type texture on the rubber surface.

(2) Prior to further flight, replace any fuel hose that matches the descriprion in paragraph (a)(1) of this AD with an FAA-approved MIL–H–6000B fuel hose that has a criss-cross or braided external wrap.

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(b) An owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) can accomplish paragraph (a) required by this AD, and must enter the accomplished action into the aircraft records showing compliance with this AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

(c) For Raytheon Models C90A, B200, and B300 airplanes that were manufactured on January 1, 1994, and after: within the next 200 hours time-in-service (TIS) after the effective date of this AD, replace the MIL–H–6000B fuel hoses in accordance with PART I of the ACCOMPLISHMENT INSTRUCTIONS section of Raytheon SB No. 2718, Rev. 1, Issued: January, 1997, Revised: June, 1997.

(d) As of the effective date of this AD, no person shall install a rubber fuel hose having spiral or diagonal external wrap with a ⅜-inch-wide red or orange-red, length-wise stripe running down the side of the hose, with the manufacturer's code, 94519, printed periodically along the line in red letters on any of the affected airplanes.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) An alternative method of compliance or adjustment of the compliance times that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office, Room 100, 1801 Airport Rd., Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita Aircraft Certification Office.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita Aircraft Certification Office.

(g) The inspection and replacement required by this AD shall be done in accordance with Raytheon Aircraft Mandatory Service Bulletin No. 2718, Rev. 1, Issued: January, 1997; Revised: June, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from to Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(h) This amendment becomes effective on August 28, 1998.

Issued in Kansas City, Missouri, on July 9, 1998.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–18868 Filed 7–15–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 622

[Docket No. 971128281–8165–02; I.D. 102197D]

RIN 0648–AG27

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery Off the Southern Atlantic States; Golden Crab Fishery Off the Southern Atlantic States; Amendment 8; OMB Control Numbers

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement the approved measures in Amendment 8 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). This final rule limits access to the commercial snapper-grouper fishery; allows the retention of snapper-grouper in excess of the bag limits on a permitted vessel that has a single bait net or cast nets on board; and, subject to specific conditions, exempts snapper-grouper lawfully harvested in Bahamian waters from the requirement that they be maintained on board a vessel in the exclusive economic zone (EEZ) of the South Atlantic with head and fins intact. This final rule also corrects the regulations for golden crab. Finally, NMFS informs the public of the approval by the Office of Management and Budget (OMB) of the collection-of-information requirements contained in this rule, publishes the OMB control number for these collections, and corrects the list of control numbers applicable to title 50 of the Code of Federal Regulations. The intended effects of this rule are to conserve and manage the snapper-grouper resources off the southern Atlantic states.

DATES: This final rule is effective August 17, 1998, except that the amendments to 15 CFR 902.1(b), 50 CFR 622.4(g), 622.7(b), and 622.40(b)(3)(ii)(B), and the addition of § 622.18 to subpart B are effective July 16, 1998, and the amendments to § 622.4(a)(2)(vi) and § 622.44 introductory text and the revision of § 622.44(c) are effective December 14, 1998.

ADDRESSES: Copies of the final regulatory flexibility analysis (FRFA) may be obtained from the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702. Comments regarding the collection-of-information requirements contained in this rule should be sent to Edward E. Burgess, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702, and to the Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Peter Eldridge, 813–570–5305.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery off the southern Atlantic states is managed under the FMP. The FMP was prepared by the South Atlantic Fishery Management Council (Council) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

On October 30, 1997, NMFS announced the availability of Amendment 8 and requested comments on the amendment (62 FR 58703). On January 12, 1998, NMFS published a proposed rule to implement the measures in Amendment 8 and additional measures proposed by NMFS and requested comments on the rule (63 FR 1813). The background and rationale for the measures in the amendment and proposed rule, including a detailed explanation of the limited access program and key dates, are contained in the preamble to the proposed rule and are not repeated here. On January 28, 1998, after considering the comments received on the amendment and proposed rule, NMFS partially approved Amendment 8. Revised definitions of "overfishing," "overfished," and of "threshold level" were disapproved.

Definitions of Overfishing, Overfished, and Threshold Level

NMFS disapproved the revised definitions of overfished/overfishing and the threshold criterion for all snapper-grouper species because they were inconsistent with the Magnuson-Stevens Act requirement to prevent overfishing. Specifically, reducing the overfished/overfishing definitions from the 30-percent to the 20-percent level of the spawning potential ratio (SPR) could allow a higher level of fishing mortality that would jeopardize the capacity of the fisheries to produce maximum sustainable yield (MSY) on a continuing basis. Retention of the overfished/overfishing definitions at the 30-percent SPR level is more risk averse and more likely to assure the attainment of MSY on a continuing basis. The SPR Strategy

Committee advised the Council that the best estimate of OY for snapper-grouper species lies between 30 and 40 percent SPR. This advice constitutes the best scientific information available at this time.

The proposed overfishing threshold of 10 percent SPR was disapproved because it is inconsistent with the Magnuson-Stevens Act requirement to maintain a stock size that has the capacity to produce MSY on a continuing basis. Since the MSY level for species in the snapper-grouper complex is at least 30 percent SPR, the 10-percent criterion would be too low. Thus, the 10-percent criterion was disapproved because it was not consistent with national standard 1.

Comments and Responses

Comments on Amendment 8 and on the proposed rule were received from the Council and 11 individuals.

Comment: The Council reiterated its support for Amendment 8 and stated that it did not understand why NMFS disapproved the threshold level.

Response: NMFS agrees with the Council on the approved measures of Amendment 8. The proposed overfishing threshold of 10 percent SPR was disapproved because it is inconsistent with the Magnuson-Stevens Act requirement to maintain a stock size that has the capacity to produce MSY on a continuing basis.

Comment: One fisherman stated that he wanted snapper-grouper landings from Gulf statistical area number 2 to be included for eligibility purposes.

Response: Amendment 8 allows landings from Gulf statistical area number 2 to be included for eligibility purposes, provided these landings were harvested, landed, and sold in compliance with all state and Federal regulations.

Comment: Six individuals, who did not meet the criterion of having a Federal snapper-grouper permit during the period February 11, 1996, through February 11, 1997, oppose this criterion for the limited access program. They believe that all currently permitted vessels should be allowed to remain in the fishery.

Response: NMFS disagrees with these comments for the following reasons. The average number of permitted vessels between 1993 and 1996 has been approximately 2,100 vessels. Of these, over 1,200 did not report any landings of snapper-grouper species. It appears that many vessel owners obtained snapper-grouper permits for speculative purposes.

On July 30, 1991, a notice of control date for entry into the snapper-grouper fishery was published in the **Federal Register** (56 FR 36052). This notice announced that anyone entering the snapper-grouper fishery in the EEZ off the South Atlantic states after July 30, 1991 (control date), may not be assured of future access to the fishery if a management regime is developed and implemented. Since that time, NMFS and the South Atlantic Council have informed the public on several occasions that entry to the fishery could be limited. The purpose of these announcements was to discourage new entry into the fishery based on economic speculation.

After extensive analysis, the Council concluded that the size and capacity of the fleet have increased significantly in recent years. Presently, there is excessive harvesting capacity in the fishery. The Council concluded that any gains from conservation measures would lead to new entries into the fishery, which would negate the positive impacts of conservation measures. In addition, the entry of new vessels would lead to gear and area conflicts as more vessels competed for available resources on the same fishing grounds.

The Council and NMFS believe that limiting participation to those vessels that held a permit between February 11, 1996, and February 11, 1997, will stabilize the number of vessels in the fishery. Further, the two-for-one transfer provision will reduce the number of vessels to the level that the resource can sustain. In summary, this measure will promote orderly utilization of the resource, promote stability in the fishery and facilitate long-term planning, minimize gear and area conflicts among fishermen, and decrease incentives for overcapitalization. Thus, NMFS supports the limited access program.

Comment: One individual believes everyone has a right to fish snapper-grouper commercially.

Response: The snapper-grouper resources belong to all citizens of the United States, including future generations. The Magnuson-Stevens Act directs that overfishing be prevented while achieving, on a continuing basis, the OY from each fishery. Further, the Magnuson-Stevens Act directs that overfished stocks be rebuilt. Given these statutory mandates and the fragile nature of the snapper-grouper resource, not everyone will be allowed to fish commercially. In fact, fishing pressure must be reduced substantially to rebuild currently overfished species in the snapper-grouper management unit within statutory time frames.

Comment: Two individuals, who will qualify for a trip-related commercial permit, oppose the provision that a replacement vessel shall be equal to or less than the size (length and gross tonnage) of the replaced vessel.

Response: Although the Council is allowing low-volume fishermen to continue to fish, it does not want these fishermen to add to the overfishing problem. If low volume fishermen were allowed to increase the size or capacity of their vessel, they would increase the fishing power of the vessel which could lead to greater catches, thereby exacerbating the overfishing problem in the fishery. The comments do not provide substantive information that would provide a basis for disapproval of this provision. NMFS, therefore, disagrees with the comments and has approved this provision.

Delayed Effectiveness for Commercial Trip Limits

The revisions to the commercial trip limits in § 622.44 introductory text and paragraph (c) are made effective December 14, 1998 to avoid differential regulatory effects on permittees based solely on their birth month (date of permit expiration) and to minimize administrative problems related to permit issuance. December 14, 1998 is the date that limited access permits are required and that prior snapper-grouper commercial permits are no longer valid. If the commercial trip limits were effective prior to that date, permittees whose permits expire before that date and who would be eligible only for a trip-limited permit would be forced to obtain the trip-limited permit and to be constrained by the associated commercial trip limit. However, such permittees whose permits would not expire by that date could continue to fish until that date with their existing commercial permits and without a commercial trip limit. This differential regulatory impact based solely on birth month (permit expiration date) is undesirable. Also, it is likely that this group of permittees would defer application for a limited access (trip-limited) permit as long as possible, thus impeding orderly issuance of such permits.

Changes From the Proposed Rule

In § 622.4(a)(2)(vi), the proposed language regarding the terms "transferable commercial permit" and "trip-limited commercial permit" was determined to be unnecessary and was removed because the existing term, "commercial vessel permit" is adequate. The requirement to have either a transferable commercial permit or a trip-limited commercial permit is addressed specifically in § 622.18(a).

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Minor editorial revisions are made in §§ 622.4(g) and 622.7(b) to conform to revisions implemented by the final rule for Amendment 15 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (62 FR 67714, December 30, 1997), which occurred after publication of the proposed rule for snapper-grouper Amendment 8.

In § 622.18 of the proposed rule, minor editorial changes were made in paragraph (b) to improve clarity. Further, the language in paragraph (d)(2)(iv) was inadvertently duplicated in paragraph (d)(3)(ii). In this final rule, § 622.18(d)(3)(ii) is removed, and § 622.18(d)(3)(iii) is redesignated as § 622.18(d)(3)(ii) to eliminate the redundancy and reorder the section.

In § 622.41 of the proposed rule, the headings of paragraphs (d)(3), (d)(4), and (d)(5) were revised to reflect more accurately the effect of the paragraphs, and minor editorial revisions to those paragraphs were made to state the provisions more concisely.

NMFS is also making a technical amendment to § 622.40(b)(3)(ii)(B), which was not included in the proposed rule. This technical amendment revises a phrase that did not appropriately express the intent of the Fishery Management Plan for the Golden Crab Fishery of the South Atlantic Region. Specifically, the phrase "hinges and fasteners" is revised to read "hinges or fasteners." The effect is that either hinges or fasteners must be constructed of degradable materials; the prior existing regulatory language incorrectly required both hinges and fasteners to be degradable.

Under NOAA Administrative Order 205–11, 7.01, dated December 17, 1990, the Under Secretary for Oceans and Atmosphere, Department of Commerce, has delegated authority to sign material for publication in the **Federal Register** to the Assistant Administrator for Fisheries, NOAA (AA).

Classification

The Regional Administrator, Southeast Region, NMFS, with the concurrence of the AA, determined that the approved measures of Amendment 8 are necessary for the conservation and management of the snapper-grouper fishery off the southern Atlantic states and that, with the exception of the measures that were not approved, Amendment 8 is consistent with the Magnuson-Stevens Act and other applicable law.

This final rule has been determined to be not significant for purposes of E.O. 12866.

NMFS prepared a FRFA based on an initial regulatory flexibility analysis (IRFA). No public comments were received on the IRFA and no other information was received that would alter the IRFA conclusions. Also, the disapproval of certain amendment measures did not result in changes to the final rule compared to the proposed rule. For these reasons, the FRFA adopts the analyses and findings of the IRFA without change. The FRFA concludes that a significant economic impact on a substantial number of small entities will result from implementation of Amendment 8. A summary of the FRFA follows.

The rule is based largely on the need to resolve overcapitalization problems in the fishery; the Council is revising the existing permit system to cap the number of participants in the fishery and to follow that with future actions to control the level of overall effort and catch. Other actions in the rule allow fishermen to catch bait with nets and also exempt recreational fishermen from the requirement to land snapper-grouper species with the head and fins intact if the fish were caught legally in Bahamian waters and the fisherman does not fish in the EEZ. The rule will affect about 2,500 commercial snapper-grouper fishermen who operate vessels and equipment worth from $53,000 to $237,000 per operation. A number of these operations land only a minor amount of the snapper-grouper species, and this is indicated by the observation that average annual snapper-grouper landings per vessel are valued at about $6,200. The rule contains three new, minor data collection requirements that can be met by the fishermen without the need for additional reporting or recordkeeping skills. The Council considered a number of alternatives to the proposed options and, in all cases, rejected the status quo because the objectives of the rule would not be met. The options considered ranged from options that would create only slight changes relative to the status quo to options that would meet the objectives, but only at the cost of a considerable negative economic impact on existing fishermen. The Council chose the preferred options on the basis that progress toward the objectives would be made without imposing excessive negative impacts on existing small business entities.

Copies of the FRFA are available (see ADDRESSES).

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid OMB control number.

This rule contains three new, one-time collection-of-information requirements subject to the PRA—namely, the submission of applications for limited access commercial permits for snapper-grouper, reconsideration of determinations that applicants are not eligible for initial limited access commercial permits, and submission of contracts that provide for transfers of rights to limited access commercial permits. These requirements have been approved by OMB under OMB control number 0648–0340. The public reporting burdens for these collections of information are estimated at 20, 45, and 15 minutes per response, respectively, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Send comments regarding these burden estimates or any other aspects of the collections of information, including suggestions for reducing the burden, to NMFS and OMB (see ADDRESSES).

Timely and orderly implementation of the new limited access program for South Atlantic snapper-grouper requires that § 622.18 and related provisions in §§ 622.4(g) and 622.7(b) be made effective as soon as possible, i.e., July 16, 1998. Section 622.18 deals exclusively with the administrative and operational aspects of the limited access program. The provisions of § 622.18 outline numerous deadlines for actions by persons seeking to obtain a limited access permit, criteria for permit eligibility, and administrative actions by NMFS that must precede actions by a permit applicant. These permit-related provisions are interrelated. To ensure adequate time for NMFS to perform prerequisite actions, such as determination of eligibility and notification of owners, to provide a reasonable amount of time for applicants to respond as required by the provisions of Amendment 8 and this rule, and to assure orderly implementation of the limited access program, § 622.18 must be made effective as soon as possible. Similarly, the provisions related to permit transferability in § 622.4(g), the prohibition on falsifying information on a permit application in § 622.7(b), and the OMB control numbers for the three new, one-time collection-of-information requirements contained in 15 CFR 902.1(b) are directly related to the initial implementation of the limited access program and must also be made effective as soon as possible. Under 5 U.S.C. 553(d)(3), the AA, for good cause, finds that it would be unnecessary and contrary to the public interest to delay for 30 days the effective date of the amendments to §§ 622.4(g), 622.7(b), 622.18, and 15 CFR 902.1(b).

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: July 10, 1998.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 15 CFR part 902 and 50 CFR part 622 are amended as follows:

15 CFR CHAPTER IX

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

2. Effective July 16, 1998, in § 902.1, paragraph (b) table, under 50 CFR, the following entry is added in numerical order to read as follows:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) * * *

CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648–)
* * *	* *
50 CFR	
* * *	* *
622.18	–0340
* * *	* *

50 CFR Chapter VI

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

3. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

4. Effective December 14, 1998, in § 622.4, the last sentence of paragraph (a)(2)(vi) is revised to read as follows:

§ 622.4 Permits and fees.

(a) * * *

(2) * * *

(vi) * * * See § 622.18 for limitations on the use, transfer, and renewal of a commercial vessel permit for South Atlantic snapper-grouper.

* * * * *

5. Effective July 16, 1998, in § 622.4, the first sentence of paragraph (g) is revised to read as follows:

§ 622.4 Permits and fees.

* * * * *

(g) Transfer. A vessel permit, license, or endorsement or dealer permit issued under this section is not transferable or assignable, except as provided in paragraph (m) of this section for a commercial vessel permit for Gulf reef fish, in paragraph (n) of this section for a fish trap endorsement, in paragraph (p) of this section for a red snapper license, in paragraph (q) of this section for a king mackerel permit, in § 622.17(i) for a commercial vessel permit for golden crab, or in § 622.18(e) for a commercial vessel permit for South Atlantic snapper-grouper. * * *

* * * * *

6. Effective July 16, 1998, in § 622.7, paragraph (b) is revised to read as follows:

§ 622.7 Prohibitions.

* * * * *

(b) Falsify information on an application for a permit, license, or endorsement or submitted in support of such application, as specified in § 622.4(b), (g), (p), or (q), or in § 622.17, or in § 622.18.

* * * * *

7. Effective July 16, 1998, § 622.18 is added to subpart B to read as follows:

§ 622.18 South Atlantic snapper-grouper limited access.

(a) *Applicability.* Beginning December 14, 1998, the only valid commercial vessel permits for South Atlantic snapper-grouper are those that have been issued under the limited access criteria in this section. A vessel may have either a transferable commercial permit or a trip-limited commercial permit for South Atlantic snapper-grouper.

(b) *Initial eligibility.* A vessel is eligible for an initial limited access commercial permit for South Atlantic snapper-grouper if the owner owned a vessel with a commercial vessel permit for South Atlantic snapper-grouper at any time from February 11, 1996, through February 11, 1997, and owned a permitted vessel that had at least one landing of snapper-grouper from the South Atlantic from January 1, 1993, through August 20, 1996, as reported on fishing vessel logbooks received by the SRD on or before August 20, 1996. An owner whose permitted vessels had landings of snapper-grouper from the South Atlantic of at least 1,000 lb (453.6 kg), whole weight, in any one of the years 1993, 1994, or 1995, or in 1996 through August 20, as reported on fishing vessel logbooks received by the SRD on or before August 20, 1996, is eligible for an initial transferable permit. All other qualifying owners are eligible for an initial trip-limited permit.

(c) *Determinations of eligibility*—(1) *Permit history.* The sole basis for determining whether a vessel had a commercial vessel permit for South Atlantic snapper-grouper at any time from February 11, 1996, through February 11, 1997, is NMFS' permit records. An owner of a currently permitted vessel who believes he/she meets the February 11, 1996, through February 11, 1997, permit history criterion based on ownership of a vessel under a different name, as may have occurred when ownership has changed from individual to corporate or vice versa, must document his/her continuity of ownership. No more than one owner of a currently permitted vessel will be credited with meeting the permit history criterion based on a vessel's permit history.

(2) *Landings.* (i) Landings of snapper-grouper from the South Atlantic during the qualifying period are determined from fishing vessel logbooks received by the SRD on or before August 20, 1996. State trip ticket data may be considered in support of claimed landings provided such trip ticket data were received by the state on or before September 20, 1996.

(ii) Only landings when a vessel had a valid commercial permit for snapper-grouper and only landings that were harvested, landed, and sold in compliance with state and Federal regulations may be used to establish eligibility.

(iii) For the purpose of eligibility for a limited access commercial permit for snapper-grouper, the owner of a vessel that had a commercial snapper-grouper permit during the qualifying period retains the snapper-grouper landings record of that vessel during the time of his/her ownership unless a sale of the vessel included a written agreement that credit for such landings was transferred to the new owner. Such transfer of credit must be for the vessel's entire

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record of landings of snapper-grouper from the South Atlantic.

(d) *Implementation procedures*—(1) *Notification of status.* On or about July 27, 1998, the RD will notify each owner of a vessel that had a commercial permit for South Atlantic snapper-grouper at any time from February 11, 1996, through February 11, 1997, and each owner of a vessel that has a commercial permit for South Atlantic snapper-grouper on July 16, 1998, of NMFS' initial determination of eligibility for either a transferable or a trip-limited, limited access commercial permit for South Atlantic snapper-grouper. Each notification will include an application for such permit. Addresses for such notifications will be based on NMFS' permit records. A vessel owner who believes he/she qualifies for a limited access commercial permit for South Atlantic snapper-grouper and who does not receive such notification must obtain an application from the RD.

(2) *Applications.* (i) An owner of a vessel who desires a limited access commercial permit for South Atlantic snapper-grouper must submit an application for such permit postmarked or hand-delivered not later than October 14, 1998. Failure to apply in a timely manner will preclude permit issuance even when the vessel owner meets the eligibility criteria for such permit.

(ii) A vessel owner who agrees with NMFS' initial determination of eligibility, including type of permit (transferable or trip-limited), need provide no documentation of eligibility with his/her application.

(iii) A vessel owner who disagrees with the initial determination of eligibility or type of permit must specify the type of permit applied for and provide documentation of eligibility. Documentation and other information submitted on or with an application are subject to verification by comparison with state, Federal, and other records and information. Submission of false documentation or information may disqualify an owner from initial participation in the limited access commercial South Atlantic snapper-grouper fishery and is a violation of the regulations in this part.

(iv) If an application that is postmarked or hand delivered in a timely manner is incomplete, the RD will notify the vessel owner of the deficiency. If the owner fails to correct the deficiency within 20 days of the date of the RD's notification, the application will be considered abandoned.

(3) *Issuance.* (i) If a complete application is submitted in a timely manner and the eligibility requirements specified in paragraph (b) of this section are met, the RD will issue an initial commercial vessel permit, transferable or trip-limited, as appropriate, and mail it to the vessel owner not later than December 3, 1998.

(ii) If the eligibility requirements specified in paragraph (b) of this section are not met, the RD will notify the vessel owner, in writing, not later than November 13, 1998 of such determination and the reasons for it.

(4) *Reconsideration.* (i) A vessel owner may request reconsideration of the RD's determination regarding initial permit eligibility by submitting a written request for reconsideration to the RD. Such request must be postmarked or hand delivered within 20 days of the date of the RD's notification denying initial permit issuance and must provide written documentation supporting permit eligibility.

(ii) Upon receipt of a request for reconsideration, the RD will forward the initial application, the RD's response to that application, the request for reconsideration, and pertinent records to an Application Oversight Board consisting of state directors (or their designees) from each state in the Council's area of jurisdiction. Upon request, a vessel owner may make a personal appearance before the Application Oversight Board.

(iii) If reconsideration by the Application Oversight Board is requested, such request constitutes the vessel owner's written authorization under section 402(b)(1)(F) of the Magnuson-Stevens Act for the RD to make available to the Application Oversight Board members such confidential catch and other records as are pertinent to the matter under reconsideration.

(iv) The Application Oversight Board may only deliberate whether the eligibility criteria specified in paragraph (b) of this section were applied correctly in the vessel owner's case, based solely on the available record, including documentation submitted by the owner. The Application Oversight Board may not consider whether an owner should have been eligible for a commercial vessel permit because of hardship or other factors. The Application Oversight Board members will provide individual recommendations for each application for reconsideration to the RD.

(v) The RD will make a final decision based on the eligibility criteria specified in paragraph (b) of this section and the available record, including documentation submitted by the vessel owner, and the recommendations and comments from members of the Application Oversight Board. The RD may not consider whether a vessel owner should have been eligible for a commercial vessel permit because of hardship or other factors. The RD will notify the owner of the decision and the reason for it, in writing, within 15 days of receiving the recommendations from the Application Oversight Board members. The RD's decision will constitute the final administrative action by NMFS.

(e) *Transfers of permits.* A snapper-grouper limited access permit is valid only for the vessel and owner named on the permit. To change either the vessel or the owner, an application for transfer must be submitted to the RD.

(1) *Transferable permits.* (i) An owner of a vessel with a transferable permit may request that the RD transfer the permit to another vessel owned by the same entity.

(ii) A transferable permit may be transferred upon a change of ownership of a permitted vessel with such permit from one to another of the following: Husband, wife, son, daughter, brother, sister, mother, or father.

(iii) A transferable permit may be transferred to a vessel whose owner had, as of August 20, 1996, a written contract for the purchase of a vessel that included a provision transferring to the new owner the rights to any limited access permit to which the former owner might become entitled under the provisions for initial issue of limited access permits. To be considered, any such written contract must be submitted to the RD postmarked or hand-delivered on or before December 14, 1998.

(iv) Except as provided in paragraphs (e)(1)(i), (ii), and (iii) of this section, a person desiring to acquire a limited access, transferable permit for South Atlantic snapper-grouper must obtain and exchange two such permits for one new permit.

(v) A transfer of a permit that is undertaken under paragraph (e)(1)(ii), (e)(1)(iii), or (e)(1)(iv) of this section will constitute a transfer of the vessel's entire catch history to the new owner.

(2) *Trip-limited permits.* An owner of a vessel with a trip-limited permit may request that the RD transfer the permit to another vessel owned by the same entity provided the length and gross tonnage of the replacement vessel are equal to or less than the length and gross tonnage of the replaced vessel.

(f) *Renewal.* NMFS will not reissue a commercial vessel permit for South Atlantic snapper-grouper if the permit is revoked or if the RD does not receive an application for renewal within 60 days of the permit's expiration date.

8. In § 622.38, paragraph (a) is revised and paragraph (i) is added to read as follows:

§ 622.38 Landing fish intact.

* * * * *

(a) The following must be maintained with head and fins intact: Cobia, king mackerel, and Spanish mackerel in or from the Gulf, Mid-Atlantic, or South Atlantic EEZ, except as specified for king mackerel in paragraph (h) of this section; South Atlantic snapper-grouper in or from the South Atlantic EEZ, except as specified in paragraphs (e) and (i) of this section; yellowtail snapper in or from the Caribbean EEZ; and finfish in or from the Gulf EEZ, except as specified in paragraphs (c) and (d) of this section. Such fish may be eviscerated, gilled, and scaled, but must otherwise be maintained in a whole condition.

* * * * *

(i) In the South Atlantic EEZ, snapper-grouper lawfully harvested in Bahamian waters are exempt from the requirement that they be maintained with head and fins intact, provided valid Bahamian fishing and cruising permits are on board the vessel and the vessel is in transit through the South Atlantic EEZ. For the purpose of this paragraph (i), a vessel is in transit through the South Atlantic EEZ when it is on a direct and continuous course through the South Atlantic EEZ and no one aboard the vessel fishes in the EEZ.

9. In § 622.39, paragraph (a)(3) is added to read as follows:

§ 622.39 Bag and possession limits.

(a) * * *

(3) Paragraph (a)(1) of this section notwithstanding, the bag and other limits specified in § 622.35(b) apply for South Atlantic snapper-grouper in or from the EEZ to a person aboard a vessel for which a commercial permit for South Atlantic snapper-grouper has been issued that has on board a longline in the longline closed area.

* * * * *

10. Effective July 16, 1998, in § 622.40(b)(3)(ii)(B), the last sentence is revised to read as follows:

§ 622.40 Limitations on traps and pots.

* * * * *

(b) * * *

(3) * * *

(ii) * * *

(B) * * * The hinges or fasteners of such door or panel must be made of either ungalvanized or uncoated iron wire no larger than 19 gauge (0.04 inch (1.0 mm) in diameter) or untreated cotton string no larger than 3/16 inch (4.8 mm) in diameter.

* * * * *

11. In § 622.41, paragraph (d)(2)(ii) introductory text and paragraph (d)(3) are revised and paragraphs (d)(4) and (d)(5) are added to read as follows:

§ 622.41 Species specific limitations.

* * * * *

(d) * * *

(2) * * *

(ii) Except as specified in paragraphs (d)(3) through (d)(5) of this section, a person aboard a vessel with unauthorized gear on board, other than trawl gear, that fishes in the EEZ on a trip is limited on that trip to:

* * * * *

(3) *Possession allowance regarding sink nets off North Carolina.* A vessel that has on board a commercial permit for South Atlantic snapper-grouper, excluding wreckfish, that fishes in the EEZ off North Carolina with a sink net on board, may retain, without regard to the limits specified in paragraph (d)(2)(ii) of this section, otherwise legal South Atlantic snapper-grouper taken with bandit gear, buoy gear, handline, rod and reel, or sea bass pot. For the purpose of this paragraph (d)(3), a sink net is a gillnet with stretched mesh measurements of 3 to 4.75 inches (7.6 to 12.1 cm) that is attached to the vessel when deployed.

(4) *Possession allowance regarding bait nets.* A vessel that has on board a commercial permit for South Atlantic snapper-grouper, excluding wreckfish, that fishes in the South Atlantic EEZ with no more than one bait net on board, may retain, without regard to the limits specified in paragraph (d)(2)(ii) of this section, otherwise legal South Atlantic snapper-grouper taken with bandit gear, buoy gear, handline, rod and reel, or sea bass pot. For the purpose of this paragraph (d)(4), a bait net is a gillnet not exceeding 50 ft (15.2 m) in length or 10 ft (3.1 m) in height with stretched mesh measurements of 1.5 inches (3.8 cm) or smaller that is attached to the vessel when deployed.

(5) *Possession allowance regarding cast nets.* A vessel that has on board a commercial permit for South Atlantic snapper-grouper, excluding wreckfish, that fishes in the South Atlantic EEZ with a cast net on board, may retain, without regard to the limits specified in paragraph (d)(2)(ii) of this section, otherwise legal South Atlantic snapper-grouper taken with bandit gear, buoy gear, handline, rod and reel, or sea bass pot. For the purpose of this paragraph (d)(5), a cast net is a cone-shaped net thrown by hand and designed to spread out and capture fish as the weighted circumference sinks to the bottom and comes together when pulled by a line.

* * * * *

12. Effective December 14, 1998, in § 622.44, the last sentence of the introductory text and paragraph (c) are revised to read as follows:

§ 622.44 Commercial trip limits.

* * * For fisheries governed by this part, commercial trip limits apply as follows (all weights are round or eviscerated weights):

* * * * *

(c) *South Atlantic snapper-grouper.* When a vessel fishes on a trip in the South Atlantic EEZ, the vessel trip limits specified in this paragraph (c) apply, provided persons aboard the vessel are not subject to the bag limits. See § 622.39(a) for applicability of the bag limits.

(1) *Trip-limited permits.* A vessel for which a trip-limited permit for South Atlantic snapper-grouper has been issued is limited to 225 lb (102.1 kg) of snapper-grouper.

(2) *Golden tilefish.* (i) Until the fishing year quota specified in § 622.42(e)(2) is reached, 5,000 lb (2,268 kg).

(ii) After the fishing year quota specified in § 622.42(e)(2) is reached, 300 lb (136 kg).

(3) *Snowy grouper.* (i) Until the fishing year quota specified in § 622.42(e)(1) is reached, 2,500 lb (1,134 kg).

(ii) After the fishing year quota specified in § 622.42(e)(1) is reached, 300 lb (136 kg).

* * * * *

[FR Doc. 98–18909 Filed 7–15–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 522 and 556

Implantation or Injectable Dosage Form New Animal Drugs; Spectinomycin Solution; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that appeared in the Federal Register of May 1, 1998 (63 FR 24106). The document amended the animal drug regulations to reflect approval of a new animal drug application (NADA)

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filed by Pharmacia & Upjohn Co. The NADA provides for veterinary prescription use of Adspec™ (spectinomycin) sterile solution for cattle. The document incorrectly listed the tolerance for spectinomycin residues in cattle muscle. This document corrects that error.

EFFECTIVE DATE: July 16, 1998.

FOR FURTHER INFORMATION CONTACT: George K. Haibel, Center for Veterinary Medicine (HFV–133), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1644.

SUPPLEMENTARY INFORMATION: In FR Doc. 98–11686 appearing on page 24106 in the **Federal Register** of Friday, May 1, 1998, the following correction is made:

§ 556.600 [Corrected]

1. On page 24107, in the second column, in § 556.600 *Spectinomycin*, in paragraph (c), in the fourth line, "0.4" is corrected to read "0.25".

Dated: July 9, 1998.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 98–18956 Filed 7–15–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 529

Certain Other Dosage Form New Animal Drugs; Formalin Solution

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Western Chemical, Inc. The supplement provides for use of formalin solution in the water of all finfish as a parasiticide and all finfish eggs as a fungicide.

EFFECTIVE DATE: July 16, 1998.

FOR FURTHER INFORMATION CONTACT: Thomas A. Bell, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1649.

SUPPLEMENTARY INFORMATION: Western Chemical, Inc., 1269 Lattimore Rd., Ferndale, WA 98248, is sponsor of NADA 140–989 that provides for use of Parasite-S® (formalin, an aqueous solution of 37 percent formaldehyde) in the water (tanks, raceways, and ponds) of select fish and penaeid shrimp for the control of specific external parasites, and as a fungicide for select fish eggs. Western Chemical, Inc., filed a supplemental NADA that provides for use of formalin in the water of all finfish for the control of specific external parasites and as a fungicide for all finfish eggs. The supplemental NADA is approved as of June 18, 1998, and the regulations are amended in 21 CFR 529.1030 to reflect the approval.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this supplement may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 529

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 529 is amended as follows:

PART 529—CERTAIN OTHER DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 529 continues to read as follows:

Authority: 21 U.S.C. 360b.

2. Section 529.1030 is amended by revising paragraphs (b)(1) and (b)(2), by redesignating paragraph (c) as paragraph (d) and reserving paragraph (c), by revising newly redesignated paragraphs (d) introductory text, (d)(1) and (d)(2)(i), and by adding paragraphs (d)(2)(iv) and (d)(2)(v) to read as follows:

§ 529.1030 Formalin solution.

* * * * *

(b) * * *

(1) No. 050378 for use as in paragraphs (d)(1)(iii), (d)(1)(iv), (d)(1)(v), (d)(2)(iii), (d)(2)(iv), (d)(2)(v), and (d)(3).

(2) Nos. 049968 and 051212 for use as in paragraphs (d)(1)(i), (d)(1)(ii), (d)(2)(i), (d)(2)(ii), and (d)(3).

* * * * *

(c) [Reserved]

(d) *Conditions of use.* It is added to environmental water as follows:

(1) *Indications for use.* (i) Select finfish. For control of external protozoa *Ichthyophthirius* spp., *Chilodonella* spp., *Costia* spp., *Scyphidia* spp., *Epistylis* spp., and *Trichodina* spp., and monogenetic trematodes *Cleidodiscus* spp., *Gyrodactylus* spp., and *Dactylogyrus* spp., on salmon, trout, catfish, largemouth bass, and bluegill.

(ii) Select finfish eggs. For control of fungi of the family Saprolegniaceae on salmon, trout, and esocid eggs.

(iii) Penaeid shrimp. For control of external protozoan parasites *Bodo* spp., *Epistylis* spp., and *Zoothamnium* spp.

(iv) All finfish. For control of external protozoa *Ichthyophthirius* spp., *Chilodonella* spp., *Costia* spp., *Scyphidia* spp., *Epistylis* spp., and *Trichodina* spp., and monogenetic trematodes *Cleidodiscus* spp., *Gyrodactylus* spp., and *Dactylogyrus* spp.

(v) All finfish eggs: For control of fungi of the family Saprolegniaceae.

(2) * * *

(i) For control of external parasites on select finfish:

* * * * *

(iv) For control of external parasites on all finfish:

Aquatic species	Administer in tanks and raceways for up to 1 hour (microliter/liter or part per million (µL/L or ppm))	Administer in earthen ponds indefinitely (µL/L or ppm)
Salmon and trout:		
Above 50 °F	Up to 170	15 to 25[1, 2]
Below 50 °F	Up to 250	15 to 25[1, 2]
All other finfish	Up to 250	15 to 25[1, 2]

[1] Use the lower concentration when ponds, tanks, or raceways are heavily loaded with phytoplankton or fish to avoid oxygen depletion due to the biological oxygen demand by decay of dead phytoplankton. Alternatively, a higher concentration may be used if dissolved oxygen is strictly monitored.

[2] Although the indicated concentrations are considered safe for cold and warm water finfish, a small number of each lot or pond to be treated should always be used to check for any unusual sensitivity to formalin before proceeding.

(v) For control of fungi of the family Saprolegniaceae on all finfish eggs: Eggs of all finfish except Acipenseriformes, 1,000 to 2,000 µL/L (ppm) for 15 minutes; eggs of Acipenseriformes, up to 1,500 µL/L (ppm) for 15 minutes.

* * * * *

Dated: July 9, 1998.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 98–18955 Filed 7–15–98; 8:45 am]

BILLING CODE 4160–01–F

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4011, 4022, 4041A, 4044, 4050 and 4281

RIN 1212–AA88

Valuation and Payment of Lump Sum Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation is amending its regulations to increase the maximum value of benefits that the PBGC may pay in lump sum form, and certain other lump sum thresholds, from $3,500 to $5,000. The amendments do not affect lump sum benefits paid by ongoing plans.

DATES: The amendments to 29 CFR 4022.7, 4044.52(b), and 4044.54 are effective July 16, 1998. (However, except to the extent they affect determinations under § 4022.7, the amendments to 29 CFR 4044.52(b) and 4044.54 apply only to a plan with a termination date on or after August 17, 1998.) The final rule is otherwise effective August 17, 1998.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, or Marc L. Jordan, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, Suite 340, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4024. (For TTY/TTD users, call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: Section 203(e) of ERISA specifies the maximum value that a plan may provide it will pay in a lump sum (*i.e.*, single installment) to a participant or surviving spouse without consent. The Taxpayer Relief Act of 1997 increased the section 203(e) maximum from $3,500 to $5,000 effective for plan years beginning after August 5, 1997.

On April 30, 1998, the PBGC proposed to amend its regulations to increase various $3,500 thresholds to $5,000 and to make other changes relating to lump sum payments. The PBGC received no comments in response to the proposed rule and is issuing the final rule without change, as follows:

- Under the final rule, the PBGC may make a lump sum payment of a benefit that has a value of $5,000 or less as of the plan's termination date. (*See* § 4022.7 and, to the extent they affect determinations under § 4022.7, §§ 4044.52(b), and 4044.54.) There are special rules for applying the lump sum threshold where the PBGC issues a determination on title IV benefits before it issues a determination on benefits payable under ERISA section 4022(c). Consistent with its current practice, the PBGC will give the participant the option to receive the benefit in the form of an annuity if the monthly benefit (at normal retirement age in the normal form for an unmarried participant) is equal to or greater than $25.

Applicability: This amendment applies to any initial determination issued on or after July 16, 1998. For any initial determination issued before July 16, 1998, the PBGC may make a lump sum payment of a benefit with a value of $5,000 or less, provided (1) the benefit is not yet in pay status, and (2) the participant (with spousal consent) or beneficiary elects the lump sum payment.

- Under the final rule, the lump sum threshold under §§ 4044.52(b) and 4044.54, which is used for determining whether lump sum or annuity assumptions are used to value benefits for purposes of allocating assets to benefits under ERISA section 4044, is $5,000.

Applicability: This amendment applies to any plan with a termination date on or after August 17, 1998.

- The reference to the lump sum threshold in the PBGC's Model Participant Notice (Part 4011, Appendix A) is changed from $3,500 to $5,000.

Applicability: This amendment applies to any Participant Notice issued on or after August 17, 1998. However, for a reasonable time period, the PBGC will not treat a Participant Notice as failing to satisfy the Participant Notice requirements merely because it refers to the $3,500 threshold.

- The dollar thresholds in the Missing Participants regulation are increased from $3,500 to $5,000. *See* §§ 4050.2 (definition of *missing participant annuity assumptions*) and 4050.5(a)(2) (*de minimis* lump sum).

Applicability: This amendment applies to missing participants for whom the deemed distribution date is on or after August 17, 1998.

- The dollar threshold up to which the plan sponsor of a terminated multiemployer plan that is closing out may make a lump sum payment of nonforfeitable benefits is increased from $3,500 to $5,000 (*see* § 4041A.43(b)(1)).

Applicability: This amendment applies to any distribution made on or after August 17, 1998.

- In the case of participant deaths after the termination date, the final rule allows the PBGC to make a lump sum payment of a qualified preretirement survivor annuity with a value of $5,000 or less if the surviving spouse elects a lump sum (§ 4022.7(b)(1)(iii)).

Applicability: This amendment applies to any lump sum payment made on or after July 16, 1998.

- The final rule allows the PBGC to make a lump sum payment, without regard to amount, of any benefits due to an estate (*e.g.*, under a certain and continuous benefit where the designated beneficiary predeceases the participant) if the estate elects a lump sum (*see* § 4022.7(b)(1)(iv)).

Applicability: This amendment applies to any payment made on or after July 16, 1998.

Finally, the final rule (1) eliminates, as unnecessary, two provisions in its multiemployer valuation regulation that refer to the $3,500 limit, and (2) makes clear that the lump sum value of a benefit is calculated by valuing the monthly annuity benefit (which excludes the value of certain preretirement death benefits, such as a qualified preretirement survivor annuity).

Rulemaking Requirements

The PBGC has determined that good cause exists to make certain amendments (the amendments to 29 CFR 4022.7 and, to the extent they affect determinations under 29 CFR 4022.7, the amendments to §§ 4044.52(b) and 4044.54) effective and applicable immediately. These amendments impose requirements only on the PBGC. A delayed effective date is unnecessary because no person other than the PBGC needs time to prepare. *See* 5 U.S.C. 553(d)(3).

E.O. 12866 and the Regulatory Flexibility Act

The PBGC has determined that this final rule is not a "significant regulatory action" under the criteria set forth in Executive Order 12866. The PBGC certifies that the amendments will not have a significant economic impact on a substantial number of small entities. The amendments will affect only *de minimis* benefits and will have an immaterial effect on liabilities

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associated with plan termination. Accordingly, as provided in section 605(b) of the Regulatory Flexibility Act, sections 603 and 604 do not apply.

List of Subjects

29 CFR Parts 4022 and 4041A

Pension insurance, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 4044

Pension insurance, Pensions.

29 CFR Parts 4011, 4050 and 4281

Pensions, Reporting and recordkeeping requirements.

For the reasons set forth above, the PBGC is amending parts 4011, 4022, 4041A, 4044, 4050, and 4281 of 29 CFR chapter XL as follows:

PART 4011—DISCLOSURE TO PARTICIPANTS

1. The authority citation for part 4011 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3) and 1311.

Appendix A to Part 4011 [Amended]

2. Appendix A to Part 4011 is amended by removing the sentence "The PBGC does not pay lump sums exceeding $3,500." which immediately precedes the heading "WHERE TO GET MORE INFORMATION", and adding in its place the sentence "The PBGC generally does not pay lump sums exceeding $5,000."

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

3. The authority citation for part 4022 continues to read as follows:

Authority: 29 U.S.C. 1302 and 1322.

4. In § 4022.7, paragraph (b)(1) is revised, and new paragraph (d) is added, to read as follows:

§ 4022.7 Benefits payable in a single installment.

* * * * *

(b)(1) *Payment in lump sum.* Notwithstanding paragraph (a) of this section:

(i) *In general.* If the lump sum value of a benefit payable by the PBGC is $5,000 or less and the benefit is not yet in pay status, the benefit may be paid in a lump sum. In determining whether the lump sum value of a benefit is $5,000 or less, the value of any amounts returned under paragraph (b)(2) of this section is disregarded. If the PBGC determines a title IV benefit before it determines the benefit payable under section 4022(c) of ERISA, the $5,000 threshold shall apply separately to the title IV benefit. The section 4022(c) benefit shall be paid in annuity form if the title IV benefit is paid in annuity form, and otherwise shall be separately subject to the $5,000 threshold.

(ii) *Annuity option.* If the PBGC would otherwise make a lump sum payment in accordance with paragraph (b)(1)(i) of this section and the monthly benefit is equal to or greater than $25 (at normal retirement age and in the normal form for an unmarried participant), the PBGC shall provide the participant (or the beneficiary of a participant who is deceased as of the termination date) the option to receive the benefit in the form of an annuity.

(iii) *Election of QPSA lump sum.* If the lump sum value of a qualified preretirement survivor annuity is $5,000 or less, the benefit is not yet in pay status, and the participant dies after the termination date, the benefit may be paid in a lump sum if so elected by the surviving spouse.

(iv) *Certain and continuous payments to estates.* The PBGC may pay any benefits payable to an estate (*e.g.*, in the case of benefits under a certain and continuous annuity where the designated beneficiary predeceases the participant) in a lump sum without regard to the threshold in paragraph (b)(1)(i) of this section if so elected by the estate. The payments shall be discounted using the immediate interest rate that would be applicable to the plan under § 4044.52(b) if the termination date had been the date of death (or, if later, July 16, 1998).

* * * * *

(d) *Determination of lump sum amount.* The lump sum value of a benefit shall be determined in accordance with § 4044.52(b).

PART 4041A—TERMINATION OF MULTIEMPLOYER PLANS

5. The authority citation for part 4041A continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1341a, 1441.

§ 4041A.43 [Amended]

6. In § 4041A.43, paragraph (b)(1) is amended by removing "$3,500" and adding, in its place, "$5,000'.

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

7. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

8. In section 4044.52, the introductory text to paragraph (b) is revised to read as follows:

§ 4044.52 Valuation of benefits.

* * * * *

(b) *Benefits payable as lump sums.* For valuing benefits payable as lump sums (including the return of accumulated employee contributions upon death), and for determining whether the lump sum value of a benefit exceeds $5,000, the plan administrator shall determine the lump sum value of a benefit by valuing, in accordance with paragraph (a) of this section, the monthly annuity benefits payable in the form determined under § 4044.51(a) and commencing at the time determined under § 4044.51(b), except that—

* * * * *

§ 4044.54 [Amended]

9. Section 4044.54 is amended by removing "$3,500" and adding, in its place, "$5,000".

PART 4050—MISSING PARTICIPANTS

10. The authority citation for part 4050 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1350.

§ 4050.2 [Amended]

11. In § 4050.2, paragraph (5) of the definition of *Missing Participant Annuity Assumptions* is amended by removing "$3,500" and adding, in its place, "$5,000".

§ 4050.5 [Amended]

12. In § 4050.5, paragraph (a)(2) is amended by removing "$3,500" and adding, in its place, "$5,000".

Appendix A to Part 4050 [Amended]

13. In Appendix A, the heading is amended by adding at the end, the words "in plans with deemed distribution dates on and after August 17, 1998"; the introductory text to Example 1 is amended by removing "$1,750" and adding, in its place, "$3,500"; paragraph (1) to Example 1 is amended by removing "$1,700" each time it appears and adding, in each place, "$3,000"; paragraph (2) to Example 1 is amended by removing "$3,700" and adding, in its place, "$5,200" and removing "$3,200" each time it appears and adding, in each place, "$4,700"; paragraph (3) to Example 1 is amended by removing "$3,400" and adding, in its place, "$4,900" and removing "$3,450" each time it appears and adding, in each place, "$4,950"; and paragraph (1) of Example 2 is amended by removing

"$3,500" and adding, in its place, "$5,000".

PART 4281—DUTIES OF PLAN SPONSOR FOLLOWING MASS WITHDRAWAL

14. The authority citation for part 4281 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1341a, 1399(c)(1)(D), and 1441.

§ 4281.13 [Amended]

15. In section 4281.13, paragraph (b) is removed, the introductory text to paragraph (a) is amended by removing the paragraph designation, the heading, and the words "paragraph (b) of this section (regarding the valuation of benefits payable as lump sums under trusteed plans) and", and paragraphs (a)(1) through (a)(5) are redesignated as paragraphs (a) through (e).

§ 4281.14 [Amended]

16. In section 4281.14, the section heading is amended by removing the phrase "—in general", and paragraph (a) is amended by removing the words "Except as otherwise provided in § 4281.15 (regarding the valuation of benefits payable as lump sums under trusteed plans), and subject" and adding, in their place, the word "Subject".

§ 4281.15 [Removed and Reserved]

17. Section 4281.15 is removed and reserved.

Issued in Washington, DC, this 10th day of July, 1998.

Alexis M. Herman,

Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued on the date set forth above pursuant to a resolution of the Board of Directors authorizing its Chairman to issue this final rule.

Terrence Deneen,

Acting Secretary, Board of Directors, Pension Benefit Guaranty Corporation.

[FR Doc. 98–18995 Filed 7–15–98; 8:45 am]

BILLING CODE 7708–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD11–97–010]

RIN 2115–AE84

Regulated Navigation Area: Copper Canyon, Lake Havasu, Colorado River

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a Regulated Navigation Area (RNA) within the Copper Canyon, Lake Havasu region on the waters of the Colorado River. This action is necessary because the Coast Guard has determined that the extremely heavy traffic of recreational vessels in this area, particularly during peak holiday periods, creates conditions hazardous to navigation and causes vessels carrying law enforcement and emergency medical personnel to be unable to access the area. This RNA will establish an access lane to enhance navigation safety and to permit law enforcement and emergency response officials to reach all areas of Copper Canyon and provide services.

DATES: Effective August 17, 1998.

FOR FURTHER INFORMATION CONTACT: Petty Officer Greg Nelson, U.S. Coast Guard Marine Safety Office; telephone number (619) 683–6492.

SUPPLEMENTARY INFORMATION:

Regulatory History

On April 2, 1998, the Coast Guard published a notice of proposed rulemaking (NPRM) for this regulation in the **Federal Register** (63 FR 16181–16182). The comment period ended June 1, 1998. The Coast Guard received no comments on the proposal. A public hearing was not requested and no hearing was held.

Discussion of Rule

In the past, emergency medical and law enforcement personnel have had difficulty getting through the severe congestion of recreational boats in Copper Canyon. This hazardous condition has become a major public safety concern, particularly during holidays and other times of heavy congestion. This RNA will effectively provide an emergency access lane for law enforcement and other emergency services officials. This land will significantly enhance public safety by allowing quicker emergency response time.

Vessels using Copper Canyon, other than designated patrol vessels, are prohibited from anchoring, mooring, loitering in, or otherwise impeding the transit of any other vessel within the emergency access lane. These non-patrol vessels shall expeditiously and continuously transit the land via the most direct route consistent with navigational safety. At times of heavy congestion, however, designated by periodic Coast Guard Broadcast Notices to Mariners on VHF–FM Channel 16, the emergency access land will be closed to all traffic other than designated patrol vessels, and no entry will be permitted by any recreational or commercial vessel except with the express permission of the Captain of the Port or his designated representative.

The geographic description of the emergency access land constituting this RNA is as follows: beginning at the approximate center of the mouth of Copper Canyon and drawing a line down the approximate center of the canyon, extending shoreward to the end of the navigable waters of the canyon, and comprising a semi-rectangular area extending 30 feet on each side of the line, for a total semi-rectangular width of 60 feet.

This line is more precisely described as: beginning at latitude 34°25′42″ N, longitude 114°18′26″ W, thence southwesterly to latitude 34°25′36″ N, longitude 114°18′26″ W, thence southwesterly to latitude 34°25′37″ N, longitude 114°18′26″ W, thence southwesterly to latitude 34°25′34″ N, longitude 114°18′26″ W, thence southwesterly to latitude 34°25′33″ N, longitude 114°18′28″ W, thence southwesterly to latitude 34°25′29″ N, longitude 114°18′29″ W, thence to the end of the navigable waters of the canyon.

Discussion of Comments

No comments were received.

Regulatory Evaluation

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this regulation to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of the Department of Transportation is unnecessary, because use of the Copper Canyon by both recreational and commercial vessels will not be precluded by this regulation; nor will such use be more nominally affected.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" may include small businesses and not-for-profit

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organizations that are not dominant in their fields and governmental jurisdictions with populations less than 50,000.

Because it expects the impact of this rule to be so minimal, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this rule will not have a substantial impact on a significant number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this regulation under the principles and criteria in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that under paragraph 2.B.2 of Commandant Instruction M16475.1c, Figure 2–1, paragraph (34)(g), it will have no significant environmental impact and it is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and Environmental Analysis Checklist are included in the docket maintained at the address listed in ADDRESSES.

Unfunded Mandates

Under the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), the Coast Guard must consider whether this rule will result in an annual expenditure by state, local, and tribal governments, in the aggregate of $100 million (adjusted annually for inflation). If so, the Act requires that a reasonable number of regulatory alternatives be considered, and that from those alternatives, the least costly, most cost-effective, or least burdensome alternative that achieves the objective of the rule be selected.

No state, local, or tribal government entities will be effected by this rule, so this rule will not result in annual or aggregate costs of $100 million or more. Therefore, the Coast Guard is exempt from any further regulatory requirements under the Unfunded Mandates Act.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measure, Waterways.

Regulation

For the reasons set out in the preamble, the Coast Guard amends 33 CFR Part 165, as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A new section 165.1115 is added to read as follows:

§ 165.1115 Copper Canyon, Lake Havasu, Colorado River—Regulated Navigation Area.

(a) *Location.* The following is a regulated navigation area:

(1) In the water area of Copper Canyon, Lake Havasu, Colorado River, beginning at the approximate center of the mouth of Copper Canyon and drawing a line down the approximate center of the canyon extending shoreward to the end of the navigable waters of the canyon, and comprising a semi-rectangular area extending 30 feet on each side of the line, for a total semi-rectangular width of 60 feet.

(2) This line is more precisely described as: beginning at latitude 34°25′67.6″N, longitude 114°18′38.5″W, thence southwesterly to latitude 34°25′64″N, longitude 114°18′45.7″W, thence northwesterly to latitude 34°25′65.6″N, longitude 114°18′46.7″W, thence southeasterly to latitude 34°25′60.7″N, longitude 114°18′42.7″W, thence southwesterly to longitude 34°25′51.4″N, latitude 114°18′46.2″W, thence southeasterly to latitude 34°25′47.1″N, longitude 114°18′49.4″W, thence to the end of the navigable waters of the canyon.

(b) *Definitions.* For the purposes of this section:

(1) *Vessel:* Every description of watercraft, used or capable of being used as a means of transportation on the water, and regardless of mode of power.

(2) *Patrol Vessel:* Vessels designated by the Captain of the Port, San Diego, to enforce or assist in enforcing these regulations, including Coast Guard, Coast Guard Auxiliary, and San Bernardino County Sheriff's Department Vessels.

(c) *Regulations.*

(1) Vessels, with the exception of patrol vessels, shall not anchor, moor, loiter in, or otherwise impede the transit of any other vessel within the regulated navigation area. Furthermore, all vessels, with the exception of patrol vessels, shall expeditiously and continuously transit the regulated navigation area via the most direct route consistent with navigational safety.

(2) During periods of vessels congestion within the Copper Canyon area, as determined by the Captain of the Port or his or her designated on-scene representative, the regulated navigation area will be closed to all vessels, with the exception of patrol vessels. During designated closure periods, no vessel may enter, remain in, or transit through the regulated navigation area, with the exception of patrol vessels. Designation of periods of vessel congestion and announcement of the closure of the regulated navigation area will be conducted by broadcast notices to mariners on VHF–FM Channel 16 no less frequently than every hour for the duration of the closure period.

(3) Each person in the regulated navigation area shall comply with the directions of the Captain of the Port or his or her designated on-scene representative regarding vessel operation.

Dated: June 25, 1998.

R.D. Sirois,

Captain, U.S. Coast Guard Commander, Eleventh Coast Guard District Acting.

J.C. Card,

Vice Admiral, U.S. Coast Guard Commander, Eleventh Coast Guard District.

[FR Doc. 98–18948 Filed 7–15–98; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD11–98–009]

RIN 2115–AE46

Special Local Regulations; World Series of Power Boat Racing on Mission Bay (Formerly Known as Thunderboat Regatta)

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

SUMMARY: This notice implements 33 CFR 100.1101, Southern California Annual marine events, for the World Series of Power Boat Racing on Mission Bay. This event, formerly known as the Thunderboat Regatta, consists of racing using high-speed powerboats with a maximum length of 27 feet. Neither the sponsor, nor the date, nor the location of the event has changed since this event was listed as the "Thunderboat Regatta" in Table 1 of 33 CFR 100.1101.

These regulations will be effective on that portion of Fiesta Bay and Mission Bay, San Diego, California, that is described in Table 1 of 33 CFR 100.1101. Implementation of 33 CFR 100.1101 is necessary to control vessel traffic in the regulated area during the event to ensure the safety of participants and spectators.

Pursuant to 33 CFR 100.1101(a), Commander, Coast Guard Activities San Diego, is designated Patrol Commander for this event; he has the authority to delegate this responsibility to any commissioned, warrant, or petty officer of the Coast Guard.

DATES: This section is effective from 7:30 a.m. PDT until 6 p.m. PDT, September 18, 1998, and continues to be effective from 7:30 a.m. PDT until 6 p.m. PDT every day through, and including, September 20, 1998. If the event concludes prior to the scheduled termination date and/or time, the Coast Guard will cease enforcement of this section and will announce that fact via Broadcast Notice To Mariners.

FOR FURTHER INFORMATION CONTACT: QMC Michael C. Claeys, U.S. Coast Guard Activities San Diego, California; Tel: (619) 683–6309.

SUPPLEMENTARY INFORMATION:

Discussion of Implementation

The World Series of Power Boat Racing on Mission Bay is scheduled to occur on September 18 and continues daily through, and including, September 20, 1998. This event, formerly known as the Thunderboat Regatta, consists of racing using high-speed powerboats with a maximum length of 27 feet. Neither the sponsor, nor the date, nor the location of the event has changed since this event was listed as the "Thunderboat Regatta" in Table 1 of 33 CFR 100.1101.

These Special Local Regulations permit Coast Guard control of vessel traffic in order to ensure the safety of spectator and participant vessels. In accordance with the regulations in 33 CFR 100.1101, no persons or vessels shall block, anchor, or loiter in the regulated area; nor shall any person or vessel transit through the regulated area, or otherwise impede the transit of participant or official patrol vessels in the regulated area, unless cleared for such entry by or through an official patrol vessel acting on behalf of the Patrol Commander.

Dated: June 25, 1998.

J.C. Card,

Vice Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

[FR Doc. 98–18947 Filed 7–15–98; 8:45 am]

BILLING CODE 4910–15–M

POSTAL SERVICE

39 CFR Part 111

Use and Determination of Postage Value of Breast Cancer Research Semi-postal Stamp

AGENCY: Postal Service.

ACTION: Final rule; request for comments.

SUMMARY: This rule amends the Domestic Mail Manual to establish the terms and conditions for use and determination of value of the Breast Cancer Research Semi-postal Stamp.

DATES: Effective July 29, 1998. Comments must be received on or before August 17, 1998.

ADDRESSES: Mail or deliver written comments to the Manager, Mail Preparation and Standards, 475 L'Enfant Plaza, SW, Room 6800, Washington, DC, 20260–2405. Copies of all written comments will be available for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday at USPS Headquarters Library, 475 L'Enfant Plaza SW, 11th Floor N, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Anne Emmerth, (202) 268–2363.

SUPPLEMENTARY INFORMATION: The Stamp Out Breast Cancer Act, Pub. L. No. 105–41, 111 Stat. 1119 (1997), directs the Postal Service to make available a Breast Cancer Research Semi-postal Stamp at a special price to enable the public to make contributions to fund breast cancer research. The Act specifies that the price of the special postage stamp is the First-Class Mail single-piece first-ounce letter rate plus a differential not to exceed 25 percent of that rate category. The Act empowers the Governors of the United States Postal Service to establish the price for the stamp. Pursuant to the Act, the Governors have established a price of 40 cents for each Breast Cancer Research Semi-postal Stamp.

Mailers may use the Breast Cancer Research Semi-postal Stamp in place of First-Class Mail single-piece first-ounce letter rate stamps on their mail, if they so choose, in order to make a contribution. The difference between the purchase price of the stamp (40 cents) and the First-Class Mail single-piece first-ounce letter rate (currently 32 cents) less associated costs will be used to fund breast cancer research. Pursuant to the Act, the Postal Service is directed to pay, after deduction for its reasonable costs, 70 percent of the revenue from the differential to the National Institutes of Health, and the remainder to the Department of Defense.

The stamp's dual purposes, namely, as a means of payment of postage and as a device for raising funds for breast cancer research, require that special terms and conditions apply to the use of the stamp. In particular, because the stamp must be made available for a two-year period, and given that the Act does not require that the stamp's price be changed in the event that a change in the First-Class Mail single-piece rate is implemented during the two-year period, the Postal Service has determined that the stamp will be non-denominated. This measure preserves the Governors' option of maintaining the price of the Breast Cancer Research Semi-postal Stamp at 40 cents, even after the First-Class Mail single-piece rate is raised to 33 cents after the stamp's issuance, without the need to reprint the stamp with a new numerical denomination. When the First-Class Mail single-piece rate is increased to 33 cents on January 10, 1999, the postage value of Semi-postal stamps purchased before such change is effected will remain the same. Stamps purchased after a change in the First-Class Mail single-piece rate is effected will have a postage value equivalent to that rate at the time of purchase. Thus, Semi-postal stamps purchased before the First-Class Mail single-piece rate is changed on January 10, 1999, will have a postage value of $0.32; Semi-postal stamps purchased after the rate change is implemented will have a postage value of $0.33.

In lieu of a numerical denomination, the stamp will bear the words "First-Class." This measure is intended to inform mailers that the stamp's postage value is equal to the First-Class Mail single-piece letter rate in effect at the time of purchase. In addition, the Domestic Mail Manual distinguishes the price of the stamp from its postage value and establishes that the postage value of the stamp is determined by the First-Class Mail first-ounce single-piece letter rate in effect at the time of purchase.

Conforming limitations on refunds and valuation for purposes of exchange or conversion are also included in the final rule. A conforming amendment is also made to DMM R000.4.0.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding rulemaking by 39 U.S.C. 410(a), the Postal Service is seeking comments on the following revisions of the Domestic Mail Manual (DMM), incorporated by reference in the Code of Federal Regulations. See 39 CFR part 111.

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List of Subjects in 39 CFR Part 111

Postal Service.

Accordingly, 39 CFR 111 is amended as follows:

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 is amended to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 414, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Revise the following sections of the Domestic Mail Manual as set forth below:

P Postage and Payment Methods

* * * * *

P014 Refunds and Exchanges

1.0 STAMP EXCHANGES

1.1 USPS Fault

[Amend to read:]

The post office may correct mistakes in selling damaged, defective, or otherwise unserviceable stamps by exchanging stamps at full postage value.

1.2 Damaged in Customer's Possession

[Amend the last sentence to read as follows:]

* * * Each such transaction is limited to $100 worth of postage from each customer.

* * * * *

1.5 Purchase Error

[Amend the first sentence to read as follows:]

If a customer bought the wrong denomination stamps (or the wrong kind, size, or denomination envelope), they may be exchanged at full postage value. * * *

* * * * *

2.0 POSTAGE AND FEES REFUNDS

* * * * *

[Add new 2.10 to read as follows:]

2.10 Breast Cancer Research Semi-postal Stamps

Customers may exchange or convert Breast Cancer Research Semi-postal Stamps for their postage value, i.e., the price of the stamps less the contribution amount, to the extent exchange or conversion of postage stamps is permitted under P014. The postage exchanged or converted is equivalent to the First-Class Mail single-piece rate in effect at the time of purchase (currently $0.32), as supported by the mailer's receipt. The contribution amount is not included in the exchange or conversion value. If the mailer cannot produce a receipt, the exchange or conversion value of each Breast Cancer Research Semi-postal Stamp cannot exceed $0.32 per stamp, regardless of whether the First-Class Mail single-piece rate in effect at the time of purchase is $0.33 or higher.

* * * * *

P020 Postage Stamps and Stationery

P022 Adhesive Stamps

1.0 PURCHASE AND USE

* * * * *

[Create 1.6 to read as follows:]

1.6 Breast Cancer Research Semi-postal Stamps

Breast Cancer Research Semi-postal Stamps are subject to special limitations and conditions:

a. Breast Cancer Research Semi-postal Stamps provide a means for customers to make contributions toward breast cancer research. Breast Cancer Research Semi-postal Stamps are offered for sale for a limited time as provided under 39 U.S.C. 414.

b. The price of the Breast Cancer Research Semi-postal Stamp is 40 cents. The postage value of the Breast Cancer Research Semi-postal Stamp is the First-Class Mail Nonautomation Single-Piece first-ounce letter rate in R100.1.2 that is in effect at the time of purchase. The difference between the purchase price and the First-Class Mail Nonautomation Single-Piece first-ounce letter rate in effect at the time of purchase constitutes a contribution to breast cancer research, and cannot be used to pay postage. Additional postage must be affixed to pieces weighing in excess of one ounce, pieces subject to the nonstandard surcharge, or pieces for which special services have been elected. The postage value of Breast Cancer Research Semi-postal Stamps is fixed according to the First-Class Mail Nonautomation Single-Piece first-ounce letter rate in effect at the time of purchase; the postage value of Breast Cancer Research Semi-postal Stamps purchased before any subsequent change in the First-Class Mail Nonautomation Single-Piece first-ounce letter rate is unaffected by any subsequent change in that rate.

c. Contributions to breast cancer research made through purchase of Breast Cancer Research stamps are not refundable. The postage value of Breast Cancer Research stamps for purposes of exchange or conversion under P014 is determined by the First-Class Mail Nonautomation Single-Piece rate in effect at the time of purchase, or as otherwise provided in P014.2.10.

* * * * *

R Rates and Fees

R000 Stamps and Stationery

* * * * *

[Amend the table in R000.4.0 to include the following line item:]

Purpose	Form	Denomination
*	*	* * * * *
Breast Cancer Research.	Panes of up to 20	Purchase Price of $0.40; Postage Value Equivalent to First-Class Mail Nonautomation Single-Piece Rate (currently $0.32); remainder is contribution to fund Breast Cancer Research.

* * * * *

An appropriate amendment to 39 CFR 111.3 will be published to reflect these changes.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 98–19017 Filed 7–15–98; 8:45 am]

BILLING CODE 7710–12–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

42 CFR Part 1008

RIN 0991–AA85

Medicare and State Health Care Programs: Fraud and Abuse; Issuance of Advisory Opinions by the OIG

AGENCY: Office of Inspector General (OIG), HHS.

ACTION: Final rule.

SUMMARY: In accordance with section 205 of the Health Insurance Portability and Accountability Act of 1996, this final rule sets forth the specific procedures by which the Department, through the Office of Inspector General (OIG), in consultation with the Department of Justice (DoJ), will issue advisory opinions to outside parties regarding the interpretation and applicability of certain statutes relating to the Federal and State health care programs. The procedures for submitting a request and obtaining an advisory opinion from the OIG were established through interim final regulations published in the **Federal Register** on February 19, 1997. In response to public comments received on these interim final regulations, this final rule revises and clarifies various aspects of the earlier rulemaking.

EFFECTIVE DATE: This rule is effective on July 16, 1998.

FOR FURTHER INFORMATION CONTACT: Joel Schaer, (202) 619–0089, OIG Regulations Officer.

SUPPLEMENTARY INFORMATION:

I. Background

A. Section 205 of Public Law 104–191

The Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104–191, specifically required the Department to provide a formal guidance process to requesting individuals and entities regarding the application of the anti-kickback statute, the safe harbor provisions, and other OIG health care fraud and abuse sanctions. In accordance with section 205 of HIPAA, the Department, in consultation with the DoJ, issues written advisory opinions to parties with regard to: (1) what constitutes prohibited remuneration under the anti-kickback statute; (2) whether an arrangement or proposed arrangement satisfies the criteria in section 1128B(b)(3) of the Social Security Act (the Act), or established by regulation, for activities which do not result in prohibited remuneration; (3) what constitutes an inducement to reduce or limit services to Medicare or Medicaid program beneficiaries under section 1128A(b) of the Act[1]; and (4) whether an activity or proposed activity constitutes grounds for the imposition of civil or criminal sanctions under sections 1128, 1128A, or 1128B of the Act. Thus, advisory opinions may be issued with regard to the criminal provisions of section 1128B of the Act, which includes the anti-kickback statute, as well as the provisions of section 1128 of the Act, which authorizes the Department to exclude individuals and entities from participation in Federal and State health care programs. Exclusions are authorized in a wide variety of circumstances, including, for example, conviction of health care related offenses, State licensure action, and submission of claims in excess of usual charges or for services that fail to meet professionally recognized standards of health care. In addition, advisory opinions are available regarding the civil money penalty provisions of section 1128A of the Act, which authorizes penalties for a variety of acts, including, among others, presentation of a false or fraudulent Medicare or Medicaid claim and hospital payments to physicians to induce them to reduce or limit care to any Medicare or Medicaid beneficiary under their direct care.

B. OIG Interim Final Regulations

Because HIPAA required that specific procedures and final regulations on the advisory opinion process be in place by February 21, 1997, the Secretary determined that it was both impracticable and contrary to the public interest to first issue regulations in proposed rulemaking form. As a result, on February 19, 1997, the OIG published interim final regulations (62 FR 7350) establishing a new part 1008 in 42 CFR chapter V addressing the various procedural issues and aspects of the advisory opinion process. Specifically, the interim final rule set forth (1) the procedures to be followed by parties applying for advisory opinions and by the OIG in responding to these requests; (2) the time frames pursuant to which the OIG will receive and respond to requests; (3) the type and amount of fees to be charged to requesting parties; and (4) the manner in which the public will be informed of the issuance of any advisory opinions.

The interim final rule also set forth a 60-day public comment period for specific comments and recommendations for refining the advisory opinion process.

C. Summary of the Interim Final Rule

The establishment of a new part 1008 in 42 CFR chapter V specifically addressed, among other provisions, the following procedural aspects of the advisory opinion process:

1. Responsibilities of Outside Parties

Section 1008.15 of the interim final rule indicated that any individual or entity may submit a request for an advisory opinion, but that the arrangement in question must, at the time of the request for an opinion, either be in existence or be an arrangement into which the parties have a good faith intention to enter in the future.[2] Section 1008.15(b) stated that requests presenting general questions of interpretation, posing hypothetical situations, or seeking an opinion about the activities of third parties would not qualify for advisory opinions. Section 1008.11 stated that the OIG would not provide advisory opinions to persons not involved directly in the arrangement. In addition, §§ 1008.53 and 1008.55(b) of the rule stated that an advisory opinion would be legally binding on the Department and the requesting party only with respect to the specific conduct of the requesting party; it would not be legally binding with respect to third party conduct, even if such conduct appears similar to the conduct of the initial requestor.

Section 1008.36 of the interim final rule indicated that a request for an advisory opinion must be submitted to the OIG in written form and must present all facts relevant to the subject matter for which the opinion is being requested. Section 1008.37 provided that all parties and potential parties to the arrangement must be identified.

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[1] Public Law 104–191 erroneously cited this provision as section 1128B(b) of the Act. Section 4331(a) of the Balanced Budget Act of 1997, Public Law 105–33, corrected this citation to section 1128A(b) of the Act.

[2] Any individual or entity may submit a request for an advisory opinion. However, we anticipate that most requests will apply to health care business arrangements. Therefore, for purposes of this discussion, we will generally use the term "arrangement" to refer to the factual circumstances about which an advisory opinion is requested, even though we realize that some requests will involve facts not related to a business arrangement.

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Section 1008.38 of the regulations required the requesting party to certify to the truth, correctness, and completeness of all information submitted to the OIG, to the requestor's best knowledge. It also required a requesting party seeking an advisory opinion about a proposed arrangement to certify its good faith intent to enter into the arrangement upon receipt of a favorable advisory opinion.

Section 1008.18 of the interim final rule provided that requestors may contact the OIG directly to inquire about the type and scope of information needed to process their requests, and that the OIG could provide requestors with a list of suggested preliminary questions to aid in formulating their requests. As set forth in § 1008.39, at any time after the preliminary request for an advisory opinion, the OIG may request additional information that the OIG deems necessary to address the advisory opinion request.

2. Fees To Be Charged

In accordance with HIPAA, subpart C of 42 CFR part 1008 of the regulations addressed fees for the cost of advisory opinions. Specifically, § 1008.31 of the regulations stated that the OIG will charge a fee to the requestor (payable to the U.S. Treasury) equal to the costs incurred by the Department in responding to the request. The regulations stated that the fees will factor in the salary, benefits, and overhead costs of attorneys and others who work on analyzing the request and writing the advisory opinion. Because processing fees will vary according to the complexity of the request and the time needed to prepare the response, the rule did not establish specific processing costs in advance. The interim final rule's preamble discussion, however, contains broad estimates of costs and staff time to aid prospective requestors.

3. Responding to the Advisory Opinion Request

Subpart E of the interim final rule addressed the obligations and responsibilities of the OIG in accepting and issuing formal advisory opinions. Section 1008.41 specifically indicated that the OIG would promptly examine the request for an advisory opinion upon receipt and determine whether additional information would be required. The regulations established that within ten (10) working days of receiving the request, the OIG would notify the requestor in writing that (i) it was formally accepting the request, (ii) it was declining to accept the request, or (iii) it needed additional information to process the request.

In accordance with § 1008.43(c) of the rule, once sufficient information is provided to the OIG, the OIG will consult with DoJ and issue an advisory opinion within sixty (60) days after formally accepting the advisory opinion request. Section 1008.45 of the regulations addresses the OIG's right to rescind an advisory opinion after its issuance in limited circumstances.

4. Dissemination of Advisory Opinions

Section 1008.47 of the interim final rule addressed the circumstances under which the OIG may disclose information submitted by requestors, including making copies of issued opinions available for public inspection and on the OIG's Internet web site.[3]

II. Response to Comments and Summary of Revisions

As indicated above, the interim final rule established a 60 day comment period for soliciting relevant public comments on the scope and applicability of the provisions set forth in 42 CFR part 1008. We received a total of twenty (20) timely-filed public comments from various health care associations and organizations and from several State and professional medical societies. The comments included both broad concerns about the issuance of advisory opinions in general and more detailed comments on specific aspects of the advisory opinion process. In addition, based on informal discussions with potential requestors and experience gained in reviewing and processing advisory opinion requests since issuance of the interim final rule, the OIG is using this opportunity to clarify portions of the regulations consistent with the statute and the intent of this procedural rulemaking. Set forth below is a synopsis of the various comments received and a summary of the specific revisions and clarifications being made to the regulations in 42 CFR part 1008.

A. General Comments

Comment: Many commenters welcomed the prospect of advisory opinions and expressed general support for the advisory opinion process established by the interim final rule. One commenter indicated that the interim final rule is an attempt "to develop an effective advisory opinion process as a method of bringing clarity to the current Federal fraud and abuse statutory and regulatory system." Another commenter stated that the interim final rule was a "positive step in the right direction." A third commenter, reflecting the view of several, stated that "the best deterrent to fraud and abuse in the health care industry is clear guidance from the Government concerning its view of the applicable requirements."

The general support of these remarks notwithstanding, these commenters and others expressed concerns about the advisory opinion process. Several commenters viewed the regulations as overly restrictive and complex. Commenters stated that the requirements for submitting substantial amounts of supporting information would dissuade parties from seeking advisory opinions. One commenter stated that other agencies rendering advisory opinions have less onerous requirements, citing the DoJ Antitrust Division Procedures for Business Review Letters, 28 CFR 50.6, and the Federal Trade Commission (FTC) Advisory Opinion Procedures, 16 CFR 1.1 through 1.4. This commenter and others believed that the OIG advisory opinion process could be simplified without compromising the OIG's position. One commenter suggested that the requirements, which it perceived as burdensome, reflect the OIG's opposition to issuing advisory opinions during the legislative process.

Response: The OIG intends to carry out Congress' mandate in good faith and to the best of our ability. We are hopeful that an effective advisory opinion program will further the OIG's fraud-fighting mission by aiding requestors in complying with the fraud and abuse laws. Deterring fraud and abuse in the Federal health care programs continues to be an integral part of that mission. For example, the OIG special fraud alerts and model compliance plans are specifically targeted at deterring fraudulent and abusive activities. Consistent with the OIG mission, we endeavored to develop an advisory opinion process that balances the industry's desire for a process that is not overly burdensome with the OIG's need for full and complete disclosure of facts pertaining to the arrangements under review.

Our goal is to render meaningful and informed opinions based on a complete and comprehensive understanding of the relevant facts and circumstances of a given arrangement, protecting in the process only those arrangements that pose little or no risk of fraud or abuse to the Federal health care programs. For complex arrangements, this may require relatively extensive submissions by a requestor. We believe that it is difficult to develop bright line rules for the submission of information uniformly applicable to the wide array of arrangements and sanction authorities that may be the subject of advisory opinions.

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[3] http://www.dhhs.gov/progorg/oig

The Department is in a unique position among agencies of being compelled by statute to provide advisory opinions that bind the Department and the requestors in criminal, as well as civil, matters. The Department must issue these opinions within a sixty (60) day period, regardless of the complexity of the arrangement in question. Accordingly, the OIG has a heightened need to scrutinize arrangements closely to assure that fraudulent or abusive arrangements are not inappropriately granted protection from sanction.

As we gain experience in issuing advisory opinions, we will continue to look for ways to simplify the process. Presently, we are revising these regulations to provide increased flexibility to respond to the circumstances of individual situations. As described in greater detail below, these changes include, among others, expressly permitting submission of requests by counsel; allowing submission of drafts, models, or narrative descriptions of operative documents for proposed arrangements; providing for informal consultation with requestors to aid the OIG's deliberative process; and providing for notice, an opportunity to respond, and a reasonable unwinding period in the unlikely event of termination of a favorable advisory opinion. In addition, these regulations add a procedure for obtaining initial non-binding fee estimates.

Comment: One commenter recommended that the OIG publish generic standards and criteria by which the "case specific" safe harbors afforded by advisory opinions would be granted. The commenter believed that without the promulgation of such standards and criteria, the advisory opinion process could be viewed as arbitrary and capricious.

Response: These regulations are designed to establish procedures for obtaining advisory opinions that will provide the public with meaningful advice regarding the anti-kickback statutes and other OIG sanction authorities as applied to specific factual situations. The statutory and regulatory safe harbors to the anti-kickback statute describe generalized, hypothetical arrangements that are protected. In contrast, an advisory opinion is a means of relating the anti-kickback statute, as well as other OIG sanction authorities, to the facts of a particular arrangement. There are likely to be factors that make some specific arrangements appropriate for a favorable advisory opinion, even in subject matter areas where a generalized safe harbor may be impractical. Thus, we believe that particularized or "case specific" safe harbor treatment is appropriate where the specific arrangement contains limitations, requirements, or controls that give adequate assurance that Federal health care programs cannot be abused. Our use of the phrase "particularized" or "case specific" safe harbors refers simply to a determination by the OIG, in the exercise of prosecutorial discretion, not to impose sanctions for specific arrangements that may constitute technical violations of OIG authorities.

B. Specific Comments on the Advisory Opinion Process

Section 1008.1, Basis and Purpose

Comment: A number of commenters suggested that requiring a requestor to be a party to the arrangement, or proposed arrangement, that is the subject of a request appears to prevent an attorney from requesting an advisory opinion on behalf of a client.

Response: We recognize that many requesting parties will employ attorneys to assist them in preparing advisory opinion requests. We believe that it is appropriate for an attorney, acting as counsel, to submit an advisory opinion request on behalf of a client, provided that the client is a proper requesting party in all respects under these regulations. This means that the client itself must comply with all requirements for being a proper requesting party under these regulations, including, but not limited to, the requirements under § 1008.36 that the requesting party be specifically identified, and under § 1008.38 that the requesting party provide certain certifications (these certifications must be signed by the client, not by the attorney). Section 1008.1 is being clarified accordingly.

Section 1008.5, Matters Subject to Advisory Opinions

Comment: One commenter requested that we clarify the meaning of the term "authority" as we used it in our preamble to the interim final rule at page 7352. Specifically, the preamble stated:

> "To the extent that the subject matter of the request is the requestor's potential liability under one sanction authority, we believe the request should provide a complete description of the facts addressing the elements of that authority. Under these interim final regulations, if the request asks the OIG to advise on whether an arrangement is subject to sanction under more than one legal authority, we believe the submission should include a complete description of the facts regarding the different sanction authorities in those statutes."

Response: We agree with the commenter that clarification of our use of the term "authority" would be helpful. "Authority," as used in the interim final rule preamble cited above, refers to each separate sanction authority enumerated in sections 1128, 1128A, 1128B of the Act, i.e., each potential ground for exclusion, civil money penalty, or criminal penalty. The section 1128, 1128A, and 1128B sanction authorities cover a wide range of conduct, from kickbacks to false claims to doing business with sanctioned persons. It is unlikely that any one arrangement that is the subject of an advisory opinion would implicate all of the section 1128, 1128A, and 1128B sanction authorities. Because it is most familiar with the circumstances of its arrangement, a requesting party is in the best position, as an initial matter, to identify those authorities that may be implicated in its arrangement and thus expedite processing of its advisory opinion request. Accordingly, when submitting advisory opinion requests, requestors should identify the specific sanction authority or authorities within sections 1128, 1128A, and 1128B of the Act about which they seek an advisory opinion and should describe the facts relevant to each identified authority. Requesting parties may seek an advisory opinion on all sanction authorities they believe may be implicated by their arrangements. However, a blanket designation that a party seeks an advisory opinion on sections 1128, 1128A, and 1128B of the Act, without more specificity, is likely to elicit an OIG request for substantial additional information and delay processing of the advisory opinion. For these same reasons, requestors seeking opinions on compliance with the anti-kickback safe harbors should specify those safe harbors they believe may apply to their arrangements. We have revised the regulations to require designation of the specific sanction authorities about which an advisory opinion has been requested.

Comment: In HIPAA, Congress enacted a new statutory safe harbor to the anti-kickback statute for certain shared-risk arrangements (section 1128B(b)(3)(F) of the Act). This safe harbor is the subject of an on-going negotiated rulemaking process mandated by HIPAA and being

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conducted under the auspices of the OIG. The goal of the negotiated rulemaking is the promulgation of regulations governing the safe harbor. One commenter expressed the view that the OIG should not withhold advisory opinions on the shared-risk exception pending the outcome of the negotiated rulemaking.

Response: We discern nothing in HIPAA that permits us to decline to give advisory opinions on the shared-risk safe harbor pending the outcome of the negotiated rulemaking and promulgation of applicable regulations. Accordingly, we will opine on the statute as written. Any advisory opinion issued will be binding on the Department and the requesting parties as provided in these regulations. However, favorable and unfavorable advisory opinions issued before the outcome of the rulemaking process may be subject to modification or termination based on the rule eventually promulgated.

Comment: Two commenters believed that the OIG advisory opinions should address the application of the "Stark amendment" under section 1877 of the Act.

Response: Section 4314 of the Balanced Budget Act of 1997, Public Law 105–33, includes a new requirement that the Department issue advisory opinions on the "Stark" provisions. These opinions will be issued by the Health Care Financing Administration (HCFA) in accordance with regulations issued by the Department. To aid in coordinating both advisory opinion processes, we are modifying our regulations to require requesting parties to notify the OIG if they apply to HCFA for a "Stark" opinion on the same arrangement for which they are seeking an OIG advisory opinion.

Section 1008.15, Facts Subject to Advisory Opinions

Comment: Several commenters suggested that trade associations should be permitted to seek advisory opinions on behalf of their members. These commenters assert that such requests would benefit association members who may not have sufficient resources to obtain an advisory opinion independently. One commenter noted that trade association opinions would be particularly valuable for arrangements involving "national issues." Several commenters also suggested that we issue advisory opinions about "model" arrangements that might be duplicated by many individual entities and that we issue non-binding opinions or business guidance to individual parties and trade associations similar to advice provided by the FTC and DoJ on antitrust matters.

Response: Section 205 of HIPAA contemplates advisory opinions regarding arrangements currently existing or proposed by specific, identified requestors. This follows from HIPAA's mandate that advisory opinions be binding on the parties, as well as the Department. It is difficult to discern how an advisory opinion issued to a trade association could be made binding for association members or others who later implement an arrangement described in a trade association request. The same difficulty would arise with respect to parties attempting to duplicate protected "model" arrangements. HIPAA's requirements notwithstanding, it is unlikely that a party could precisely duplicate an approved arrangement; invariably, there would be differences, some of which might be significant. Sanction authorities impose liability based on acts by specific people in particular factual circumstances. Thus, a particular arrangement may be legal with respect to one party, but not with respect to another. We believe that it is impossible to identify all hypothetical factors that might lead to different results.

We will continue, however, to offer other industry guidance in the form of safe harbor regulations and special fraud alerts. As part of the OIG's expanded fraud-fighting efforts, we are actively working to finalize the existing proposed safe harbors, to issue new special fraud alerts, and to consider new safe harbors proposed by the public. In accordance with HIPAA, we will formally solicit public comments annually regarding new proposals for safe harbors and special fraud alerts. However, we welcome written comments from the public at any time regarding these topics or other fraud and abuse concerns.

Section 1008.31, Oig Fees for the Cost of Advisory Opinions

Comment: We received several comments regarding the fee provisions of the regulations. A number of commenters objected to the OIG charging a fee for processing an advisory opinion. These commenters believed that a fee would deter some requesting parties and would impose an undue burden on small companies.

Response: Under section 205 of HIPAA Congress directed that the Department charge a fee equal to the costs incurred by the Department in processing an advisory opinion (42 U.S.C. 1320a–7d(b)(5)(B)(ii)).

Comment: Many commenters believed that the amount of the fee charged for an advisory opinion should be limited. These commenters contend that uncertainty about the ultimate fee to be charged for an opinion will be especially problematic for individuals and small entities. Several commenters suggested that the "triggering dollar amount" provided for in the interim final rule, permitting requestors to designate the maximum fee they are willing to incur, does not adequately address the problem of unlimited fees, although some commenters generally supported the concept and advocated its retention. One commenter observed that once the triggering dollar amount is reached, a requesting party "is faced with the untenable decision of paying the triggering dollar amount and receiving nothing to show for its money, or authorizing the OIG to proceed to process the request regardless of the cost." Many commenters suggested that the solution to this dilemma would be for the OIG to provide a fee estimate based on an initial review of the request. Commenters essentially proposed two types of estimates: (1) an initial estimate, with a cap on the final fee equal to a certain percentage above the original estimate (for example, 110% of the original estimate), or (2) a non-binding estimate combined with continued use of the triggering dollar amount designation, which designation could be amended based on the non-binding estimate. Additionally, four commenters suggested that the OIG adopt a fixed fee schedule similar to the one used by the Internal Revenue Service (IRS) for processing private letter rulings.

Response: In light of our limited experience with the advisory opinion process, at this time we believe that a binding estimate with a percentage cap would be contrary to section 205 of HIPAA, which requires recovery of actual costs incurred. We do not have enough experience to estimate actual costs with sufficient reliability to make such estimates binding. Similarly, it is not possible at this time to develop fee schedules that would reflect actual costs. As the OIG gains experience, we may be able to provide binding estimates or fee schedules; nothing in these regulations precludes us from revising these proposals at a later date if circumstances warrant.

Until such time, we believe that providing an initial, non-binding estimate is reasonable and feasible. Accordingly, we are revising the regulations to provide for a non-binding, good faith estimate, if requested, based on an initial review of an advisory opinion request. This initial estimate will be provided at the time an advisory opinion is accepted. However, we will toll processing of the advisory opinion request from the date of acceptance of the request until the requesting party authorizes us in writing to continue the processing. This tolling will enable requesting parties who find that the estimated fee is more than they wish to spend to withdraw their requests before incurring additional costs. We are retaining the triggering dollar amount designation procedures and providing for revised designations in response to our non-binding fee estimates. We note that fees for advisory opinions issued to date generally have been in the range of $1,500 to $3,000, with several costing considerably less.

Comment: Some commenters believed that not all requestors may be able to afford advisory opinions. One commenter suggested that the OIG use a sliding fee schedule based on after-tax net profits of the requestor. Further, one commenter believed that the $250 deposit was excessive for individuals and small entities making simple requests for which the costs might not total $250, i.e., requesting confirmation of the applicability of an existing opinion to a new participant in the arrangement. Another commenter urged the OIG to notify the requestor prior to processing an advisor opinion if the processing costs are likely to exceed the designated triggering dollar amount to permit requestors who do not wish to pay more than the designated amount to withdraw their requests before incurring costs.

Response: Section 205 of HIPAA contains no financial hardship exception to the mandate that the Department collect a fee equal to the costs incurred by the Department. Even if there were such an exception, the proposal for a sliding scale based on a requestor's after-tax net profits strikes us as impractical to calculate and administer. It is unclear how such a system would apply to individual requestors or non-profit organizations. The $250 initial deposit represents the OIG's reasonable assessment of the minimum processing costs for advisory opinion requests. Every request for an advisory opinion takes time to read and analyze to ensure that the OIG has an accurate understanding of the facts submitted and the application of the fraud statutes to those facts. The OIG must then consult with DoJ and write the actual advisory opinion. Our experience thus far demonstrates that it is unlikely that even the simplest advisory opinions will cost the agency less than $250. Where possible, we will try to notify requestors informally if, as an initial matter, we believe that their designated triggering dollar amounts are likely to be exceeded.

Comment: One commenter suggested that the OIG notify requestors if experts for which costs will be incurred will be required.

Response: Section 1008.33 of the interim final rule provided for notice to requestors, with an estimate of costs, if expert opinions are required. For purposes of clarity, that provision is being moved to § 1008.31(e). We are further revising the rule to clarify that requestors will be responsible for payment of the actual costs of expert opinions and that the expert's work and opinion will be subject to the sole direction of the OIG regardless of the source of payment.

Section 1008.33, Expert Opinions From Outside Sources

Comment: One commenter suggested that requestors should be permitted to review and comment on expert opinions from outside sources, and should be given an opportunity to provide their own expert opinions.

Response: Nothing in the regulations precludes a requestor from submitting an expert opinion if they so desire. In addition, the OIG can solicit a requestor's views on expert opinions if the OIG believes such input would aid its deliberative process. However, we do not believe that it is necessary or cost-efficient to require the OIG to consult with requestors regarding expert opinions in all cases.

Subpart D, Submission of a Formal Request for an Advisory Opinion

Comment: Subpart D of these regulations enumerates the information requestors must submit with their advisory opinion requests. A number of commenters found the requirements of this subpart overly burdensome and likely to dissuade parties from seeking advisory opinions. These commenters expressed the view that the advisory opinion process was not intended as a preliminary enforcement tool by which the OIG could collect large quantities of information about providers and other health care entities.

Response: The procedural requirements set forth in this subpart are intended to ensure that the OIG has a complete record on which to base its advisory opinion, which will bind the Department and the parties. An advisory opinion serves as an individualized safe harbor against criminal and civil penalties; therefore, it is incumbent upon the OIG to conduct a thorough review.

Section 1008.36, Submission of a Request

Comment: Several commenters stated that requesting parties should not be required to provide extensive information about potential participants in an arrangement who are not actual requestors. One commenter expressed the view that the focus of an advisory opinion should be on the factual circumstances of an arrangement, not on the identities of the parties. Additionally, several commenters believed that sometimes it would be impossible or highly impractical to identify all potential participants to an arrangement. According to their concerns, some arrangements might involve hundreds or even thousands of parties. One commenter cited as an example a request involving all network providers in a managed care plan. The commenter explained that there might be practical difficulties in identifying all such providers; moreover, the problem could be further complicated if the roster of providers were subject to change as a direct result of implementation of the arrangement.

Response: We believe that the identity of parties is sometimes important to rendering an informed decision about an arrangement. There may be different implications under the sanction authorities for different parties in similar factual circumstances. For example, the analysis of a proposed joint venture arrangement under the anti-kickback statute may depend on whether or not the proposed investors are potential referral sources or have other business relationships. Furthermore, identification of parties helps the OIG to determine if the arrangement in question or a similar arrangement is the subject of any ongoing investigation or is, or has been, the subject of a governmental proceeding. As stated in § 1008.15 of these regulations, the OIG will not opine on any matters under investigation.

Section 1008.36(b)(1) requires disclosure of participants to the extent known to the requestor. We agree that there may be situations in which it is not possible or practical to identify all potential participants in an arrangement. In many of these select cases, the OIG may be able to render an informed opinion without knowing the identities of all participants. The managed care network described above might be one such case. Another example might be a proposed pricing arrangement affecting hundreds or thousands of potential customers. In

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these types of circumstances, requesting parties should make clear in their requests the reasons why the identities of all potential participants cannot be provided. If it appears to the OIG that the identities of potential participants are reasonably available, the OIG may decline to process the request or may accept the request subject to the subsequent receipt of the identities of potential participants. An advisory opinion issued in such circumstances will be binding only on the requesting party. The requesting party may not be protected by an advisory opinion if the material facts about the unidentified parties differ from the material facts described in the request. For example, if a requestor seeking an advisory opinion about a pricing arrangement describes potential customers as hospitals and the character of the customers is material, a favorable advisory opinion would not be binding on sales to non-hospital customers. Parties joining an arrangement after issuance of an advisory opinion may seek a separate advisory opinion in their own right.

Comment: Several commenters recommended that requestors be permitted to submit anonymous requests, identifying themselves only when it appeared that the OIG would issue a favorable opinion.

Response: Early identification of requestors helps the OIG determine whether the party making the request is under investigation or is involved in proceedings involving the Department or other governmental agencies that would preclude issuance of an advisory opinion under § 1008.15. By making this determination as early in the process as practicable, the OIG can minimize processing fees incurred by requestors.

Comment: Several commenters objected to the required disclosure of the identities of non-requesting parties. Commenters were concerned that such disclosures could undermine the business and competitive interests of all parties to an arrangement. One commenter explained that non-requesting parties may not want to identify themselves in the early planning stages of a transaction, before they are assured that the proposed transaction passes fraud and abuse muster. This is especially true, according to some commenters, because the anti-kickback statute reaches mere offers of prohibited remuneration. Further, they believe there may also be proprietary business reasons for non-requesting parties to withhold their identities. For example, they may be engaged in preliminary discussions and not want to risk being disadvantaged by competitors who may discover their identity. For these reasons, some commenters believed that the OIG should permit generic descriptions of non-requesting parties to the transaction.

Response: For reasons previously stated, we believe that the identities of parties can be essential to rendering an informed opinion about an arrangement. We recognize that some proposed arrangements may be presented to us at an early stage before all parties are fully committed to participate in the arrangement. For example, a group of surgeons planning an ambulatory surgical center may not have commitments from all prospective investors. Requestors in such circumstances run the risk that the OIG response may be rendered meaningless by subsequent changes in the identities of the parties, i.e., a non-referral source party is replaced in an arrangement by a potential referral source. As set forth in § 1008.53, advisory opinions are operative and binding only for requestors. If parties desire protection, they must be identified as requestors. Non-requesting parties seeking protection after the advisory opinion is issued would need to submit a new request for an advisory opinion.

We are mindful that the risk of disclosures of proprietary information may be troublesome from a business perspective. The OIG is subject to the Freedom of Information Act (FOIA), 5 U.S.C. 552, and the Department's FOIA regulations set forth in 45 CFR part 5. The OIG will endeavor to protect submissions of proprietary information to the extent and in the manner permitted by these authorities.

Comment: Several commenters suggested that the OIG not require requestors to provide complete copies of all operative documents. Instead, these commenters advocated permitting detailed descriptions of such documents. In addition, some commenters noted that operative documents may not be available for proposed arrangements and that requiring their preparation would impose significant costs for arrangements that might never be implemented. Commenters also expressed concerns regarding the potential for disclosure of operative documents under FOIA. One commenter asked that the OIG clarify the meaning of the term "operative documents."

Response: As used in these regulations, "operative documents" broadly encompasses all written documents relevant to the organization or operation of the arrangement in question. These may include, but are not limited to, contracts, leases, lease guarantees, deeds, loan documents (promissory notes, loan agreements, guarantees, mortgages, etc.), employment agreements, court documents and records, settlement agreements, licenses, permits, corporate and partnership organizational documents (articles of incorporation, bylaws, partnership agreements, operating agreements, etc.), and any documents related to these documents. The specific documents required for review of a particular arrangement will depend on the nature of the arrangement.

We are clarifying the regulations to provide that for proposed arrangements, draft or model documents or detailed descriptions of material terms to be contained in such documents may be provided in lieu of operative documents. We caution requestors that material differences between the drafts, models, or descriptions provided and the final operative documents, including changes or omissions, may affect the enforceability of their options. Accordingly, requestors are encouraged to provide full, complete, and accurate information regarding material terms of operative documents for proposed arrangements.

We are further revising these regulations to permit parties to submit initially only those portions of documents relevant to the arrangement at issue. Parties submitting partial documents must clearly identify and describe in general terms those portions that have been withheld. For example, a diversified corporation may elect to submit only those portions of its business plan relating to health care items or services that are the subject of the request. Nothing in these regulations precludes the OIG from subsequently requesting copies of the withheld portions (and from tolling the processing time in accordance with § 1008.39 pending receipt), if the OIG deems those portions necessary in order to render an informed opinion. The ultimate determination of the relevancy of operative documents, or portions thereof, rests in the sole discretion of the OIG.

Comment: One commenter proposed eliminating the requirement that requesting parties provide Medicare and Medicaid provider numbers.

Response: We agree that provider numbers are not necessary in every case. We are eliminating the requirement for submitting these numbers, but reserve the right to request provider numbers, or other identifying information, if we determine that they are necessary in particular circumstances. We have determined, however, that the Debt Collection Improvement Act of 1996 (section 31001 of Public Law 104–134) requires agencies to collect the Taxpayer Identification Number (TIN) from all persons or business entities "doing business with a Federal agency" (see 31 U.S.C. 7701(c)). We believe that requesting, receiving and paying for the OIG's work on an advisory opinion fits into the category of "doing business with a Federal agency." Therefore, a request for an advisory opinion must include the requestor's TIN. The TIN will be used for purposes of collecting and reporting on any delinquent amounts arising out of the requestor's failure to render proper payment for the advisory opinion.

Comment: Five commenters stated that requiring requestors to provide detailed and highly specific information regarding existing or prospective arrangements raises questions about the requesting and non-requesting parties' exposure to sanction in the event of an unfavorable opinion. These commenters considered this potential exposure to be a disincentive to using the advisory opinion process. One commenter explained, for example, that if the OIG determines that an arrangement violates the anti-kickback statute, the requester will have given the OIG much, if not all, of the information necessary to prosecute. This commenter suggested that the OIG adopt a "grace" period to allow parties found to be in violation to terminate or restrict an arrangement without risk of prosecution.

Response: There is an unavoidable risk in submitting a request for an advisory opinion regarding the potential applicability of a criminal statute to an existing arrangement. A thorough and detailed understanding of arrangements about which advisory opinions are sought is necessary for the OIG to render an informed opinion. to the extent the arrangement does not qualify for a "safe harbor" or a favorable advisory opinion, it is subject to scrutiny and potential investigation. Otherwise, we believe unscrupulous parties could use the advisory opinion process to immunize themselves from prosecution. In most instances, however, we believe the risk to be minimal. First, most requests will be about arrangements that are not yet operative. Second, in seeking an advisory opinion, most requesting parties presumably will have reviewed the arrangement and determined that it poses little risk of fraud and abuse to Federal health care programs. Third, the failure to obtain a favorable advisory opinion does not mean that an arrangement is illegal; it means only that the arrangement may pose some risk of fraud and abuse.

As we have observed in the past, the fact that an arrangement does not qualify for a safe harbor or for a favorable advisory opinion does not mean that the anti-kickback statute has been violated or that an enforcement action is appropriate. For example, in an enforcement proceeding, whether an arrangement in fact constitutes a violation of the anti-kickback statute would depend on a showing of requisite intent to solicit, receive, offer, or pay remuneration to induce referrals or business covered by a Federal health care program.

Comment: We indicated in the preamble to the interim final rule that because of the wide diversity of arrangements about which the OIG might be asked to opine, we could not detail in the regulations all of the information a particular requestor would need to submit. Instead, we provided for the use of suggested preliminary questions, which we would provide, and permitted potential requestors to contact us for further guidance about what information to submit. We specifically solicited comments regarding this approach. One commenter agreed that the information necessary to issue an advisory opinion depends on the nature of the request, and that it is not feasible to set hard and fast rules regarding the specific types of information required to issue an advisory opinion.

Response: We are leaving in place the provision regarding the use of the preliminary questions. Moreover, we will continue to permit potential requestors to contact us in writing for guidance on the specific types of information that might be needed for their particular requests.

Section 1008.37, Disclosure of Ownership and Related Information

Comment: One commenter opposed the requirement that requesting parties disclose ownership and related information on the ground that such requirement is burdensome.

Response: We are not persuaded that this requirement is burdensome. The majority of requestors will likely already be providing this information to HCFA through required filings of HCFA form 1513. A copy of a requestor's current HCFA form 1513 will satisfy this requirement.

Section 1008.38, Signed Certifications by the Requestor

Comment: We solicited comments regarding the certification process outlined in the interim final rule. This process requires requesting parties to certify to the truthfulness of their submissions, including their good faith intent to enter into proposed arrangements. Several commenters viewed the certification requirement as an unnecessary and burdensome requirement not contemplated by section 205 of HIPAA. These commenters stated that the certification requirement is unnecessary because the OIG is not bound by an advisory opinion if it later discovers that a requestor did not fully and accurately disclose information. One commenter suggested that we replace the certification requirement with a provision stating that the protection afforded by an advisory opinion would be applicable only to the arrangement as described in the request and only to the extent implemented by the requestor in accordance with the facts represented in the request. Another commenter believed that certifications were unnecessary, because the advisory opinion process itself is a complicated and costly procedure adequate to deter providers from seeking advisory opinions on arrangements that are hypothetical or not under serious consideration.

Response: The required certifications help ensure that the OIG's time and resources are spent addressing real concerns of legitimate requestors. In particular, the requirement that requestors seeking advisory opinions about proposed arrangements certify to a good faith intent to enter into the proposed arrangement safeguards against abuse of the advisory opinion process by requestors seeking opinions about competitor's practices or hypothetical questions. We are not persuaded that our ability to invalidate an opinion upon later discovery of discrepancies in the facts or implementation is a sufficient or efficient means of protecting against improper or inappropriate requests. In addition, we are not convinced that the advisory opinion process is so costly or complex as to thwart misuse of the process.

As a practical matter, our experience suggests that the certification requirement benefits requesting parties as well. The requirement serves as an incentive to requestors to focus on the completeness and accuracy of their presentations and to research

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thoroughly and document their arrangements before submitting their requests or submitting additional information. We believe that this keeps costs down and expedites issuance of opinions by reducing our need to request clarifications and additional information. Additionally, enhanced diligence should reduce the need for ancillary opinions after issuance of the original advisory opinion when new facts or understandings surface that were not fully investigated or considered by the requestor at the time of the initial request. Consequently, we believe that certifications will help ensure more meaningful and informed opinions.

We are clarifying the certification requirements in § 1008.38 in two ways. First, we are adding a provision, inadvertently omitted from the interim final rule, designating the appropriate signatory on behalf of requestors that are limited liability companies. Second, we are clarifying that each requesting party must provide the required certification. These certifications must be signed by the requesting party, not by its attorney.

Comment: Several commenters objected to the requirement for certification of a good faith intent to enter into an arrangement upon receipt of a favorably advisory opinion. These commenters argue that there may be legitimate business reasons, unrelated to the fraud and abuse determination, that an arrangement is not consummated. For example, seeking an advisory opinion may be part of the parties' initial feasibility determinations. Commenters explained that in the fluid and changing health care marketplace, many legitimate business factors may arise between the time a request is filed and the advisory opinion is issued would cause the parties to abandon their proposed arrangements. One commenter questioned what action the OIG would or could take if an arrangement described in a favorable advisory opinion is not implemented. Several commenters urged that failure to implement an approved arrangement should not subject a requestor to any adverse action or inference.

Response: We continue to believe that requiring a good faith intent to enter into a transaction is a reasonable safeguard against misuse of an advisory opinion process. The certification requirement as set forth in these regulations does not preclude abandonment of a proposed arrangement for legitimate business reasons (i.e., an investor withdraws, financing becomes unavailable) that were not reasonably foreseeable at the time the certification was signed.

Comment: One commentor requested that we revise § 1008.38 to accommodate a change in the individual signing additional certifications if, for example, the requestor hires a new chief executive officer while the advisory opinion is pending.

Response: The person signing certifications on behalf of a requestor should be the person occupying the position listed in § 1008.38(c). We are clarifying this section to make clear that changes of the type described by this commentor are allowed.

Section 1008.40, Withdrawal

Comment: Three commenters suggested that all documents submitted in support of a withdrawal request should be returned to the requestor.

Response: We do not believe that requesting parties have a right to the return of documents voluntarily submitted to the Government. In particular, there is no right to the return of potential evidence of a violation of law, and the Government would be remiss in returning such information. In addition, it may be necessary to retain submitted materials to document the workings of the advisory opinion process. Nevertheless, although the OIG reserves the right to retain documents submitted by requestors, nothing in these regulations precludes the OIG from returning documents in its discretion to the extent allowed by law. Parties should note that as part of OIG's required consultation with DoJ, copies of requests and related documents may be sent to DoJ. The OIG can make no representation as to return of such documents to DoJ.

Section 1008.41, Oig Acceptance of the Request

Comment: We requested comments on the process for screening requests for advisory opinions. One commenter suggested that instead of screening and rejecting incomplete requests, such requests should be accepted contingent on receipt of the missing information, and the processing time should be tolled until the missing information is submitted. This commenter explained that in the dynamic health care marketplace, all information may not be available at the time of the request. Another commenter maintained that § 1008.41(b)(3), which provides for formally declining a request, is unnecessary and should be deleted.

Response: We disagree that § 1008.41(b)(3) is unnecessary. There may be circumstances in which a request must be declined in accordance with section 205 of HIPAA, for example, where it seeks a determination of fair market value or asks whether a physician is an employee of a hospital for purposes of qualifying for the employee safe harbor to the anti-kickback statute. However, nothing in these regulations precludes the OIG, in appropriate circumstances, from accepting incomplete requests conditionally, and we have done so in practice.

Comment: One commenter suggested that the OIG should provide a written statement of reasons for declining a request.

Response: In order to make the advisory opinion program meaningful, it has generally been our practice to inform requestors of the bases for declining to issue a requested advisory opinion, particularly in situations where the requestor may be able to correct or modify a request so as to make it acceptable. Section 1008.15 sets forth certain circumstances under which advisory opinions will not be issued. We are taking this opportunity to clarify in the rule that the circumstances set forth in § 1008.15 preclude both acceptance and issuance of advisory opinions. In addition, requests will not be accepted if they fall outside the scope of the advisory opinion process, as set forth in § 1008.5, or otherwise fail to satisfy the technical requirements of these regulations.

Section 1008.43, Issuance of a Formal Advisory Opinion

Comment: Several commenters suggested that requestors be given an opportunity to meet with the OIG during processing of requests to answer questions and address any concerns the OIG might have about their arrangements. Commenters proposed that the OIG provide prior notice to requestors if the OIG determines that it is going to issue an unfavorable opinion, thus permitting requestors to withdraw their requests or make changes to their proposed arrangements to address OIG objections.

Response: Our experience with advisory opinions has demonstrated that informal oral consultation with requestors often aids our understanding of the arrangements at issue and better enables us to render meaningful and informed opinions. However, requiring consultation for every request would impose an unwarranted burden on the OIG and, in many cases, serve only to increase costs to requesting parties with no significant benefit to the process. Nothing in these regulations precludes informal consultation, and we intend to continue working with requestors in appropriate circumstances to facilitate the advisory opinion process. During these informal consultations, we may identify concerns that, if not adequately addressed by the requestor before the advisory opinion is issued, may lead us to render an unfavorable opinion. However, it is not our role to structure business arrangements. We believe that parties needing such assistance should seek private business and legal guidance.

We are aware that some requestors may want an opportunity to address the OIG's concerns about their arrangements in a manner that would enable them to structure acceptable arrangements and avoid, where possible, an unfavorable outcome. A formal notification requirement, however, could permit unscrupulous parties to misuse the advisory opinion process to "test" hypothetical arrangements, as well as lead to inefficient use of the OIG's resources. We believe that the informal consultation process described above is a better approach and will more effectively address the concerns of requestors who may want an opportunity to modify their arrangements in response to the OIG's concerns.

While requestors may request informal consultations, we anticipate that we will initiate most consultations when we determine that the requestor's input would be helpful. If there are facts or issues that a requestor wants us to consider, the requestor should bring those facts or issues to our attention (and provide any desired explanation) either in its request for an advisory opinion or, if the facts or issues arise after the initial request, in a supplemental submission of additional information.

Additional material information provided in the course of oral consultations will need to be submitted in writing and certified in accordance with §§ 1008.38 and 1008.39. For purposes of calculating the time for issuing the opinion, if the additional information substantially changes the arrangement under consideration, the original request will be treated as having been withdrawn and a new request as having been resubmitted as of the date the OIG receives the additional information in writing.

Comment: Several commenters proposed that the OIG be required to explain its analysis and bases for decision in the written advisory opinion, since the analysis and reasoning will serve as useful guidance to the requestors, the Department and the health care industry.

Response: As indicated in the preamble to the interim final rule, advisory opinions will restate the material facts known to the OIG and will discuss the OIG's analysis and conclusions regarding the legal questions to be applied to the facts presented. We believe that § 1008.43, as written, reflects this intent. We iterate that opinions are only binding upon the specific parties to whom they are issued.

Comment: One commenter suggested that changes made to an arrangement to correct aspects deemed objectionable by the OIG in an unfavorable advisory opinion should not require an additional advisory opinion in order to be protected.

Response: We are not persuaded that this suggestion is workable in practice. We are unwilling to rely on a determination by the parties that modifications or changes they have made to their arrangements correct in all respects those aspects to which we objected. Moreover, we could not be certain, without further review, that modifications or changes made to one aspect of an arrangement would not adversely impact some other aspect of the arrangement. We are mindful, however, that requestors want to minimize costs associated with requesting a second opinion. We will make a good faith effort to control costs of a subsequent advisory opinion by avoiding duplication of effort expended on the first advisory opinion to the extent possible.

Section 1008.45, Rescission

Comment: The OIG received many responses to its solicitation of comments regarding whether § 1008.45 reasonably balances the Government's need to ensure that advisory opinions are legally correct and the requestor's interest in finality of advisory opinions. Most commenters were concerned that the OIG's authority to rescind advisory opinions defeats the main purpose of obtaining an opinion, which is to ensure that an arrangement will not be subject to sanction under the fraud and abuse statutes. Several commenters urged the OIG to identify a narrower standard to be applied in deciding to rescind an advisory opinion than "in the public interest". These commenters indicated that rescission should be limited to changes in law or material facts. Some commenters objected to using good faith reliance on the request as the standard for enforcement proceedings, suggesting instead that the OIG not proceed against a requestor unless the requestor failed to disclose materially adverse facts. One commenter thought that the OIG should not require parties to unwind transactions unless the OIG had not been provided with all relevant information or the information provided was misleading or inaccurate. If unwinding were to be required, several commenters urged the OIG to permit a reasonable unwinding period during which a requestor would not be subject to sanction. Further, several commenters noted the significant investment of time and money involved in arrangements operating under the protection of advisory opinions. It was suggested that the OIG limit the use of rescinded opinions to putting parties on notice that the OIG has changed its analysis for the future. Another commenter recommended that the OIG's right to rescind an advisory opinion should be limited to one year from the date of the opinion.

Response: In crafting these regulations, we have been mindful of a requestor's significant interest in the finality of an advisory opinion and have endeavored to balance that interest against the government's compelling interest in protecting the integrity of the Federal agencies, including the Federal Trade Commission, the International Trade Commission, the Food and Drug Administration, and the Internal Revenue Service (See, for example, 16 CFR 1.1.3, 19 CFR 211.54(b), 21 CFR 108.5, and 26 CFR 601.201(1).)

Our use of the words "rescind" and "revoke" in § 1008.45 may have led some members of the public to misconstrue the intent of this section. If a requestor has fully and accurately provided all material information regarding an arrangement in its submission to the OIG, its advisory opinion will bind the Department and the parties during the period it is in effect, that is, until it is terminated, if ever. If, on the other hand, the OIG determines that a requestor's submissions did not fully and accurately provide all material information regarding an arrangement, the OIG may rescind the advisory opinion retroactively to the date of issuance. For purposes of clarity, we are substituting the word "terminate" for "revoke" where appropriate in this section, to more clearly distinguish these two concepts. In addition, as discussed below, we are amending § 1008.45 to make clear that in appropriate cases there is a third, intermediate possibility which is modification of an advisory opinion.

Accordingly, for the purposes of part 1008 we are adding definitions in § 1008.45 for the terms "rescind," "terminate," and "modify." To "rescind" an advisory opinion will mean that the advisory opinion is revoked retroactively to the original date of issuance with the result that the

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advisory opinion will be deemed to have been without force and effect from the original date of issuance. Rescission will be reserved for those situations where a requestor has not fully, completely and accurately disclosed facts to the OIG that it knew, or should have known, were relevant and material to the subject matter of the advisory opinion. (The OIG will make the determination of whether the requestor had this state of mind following an opportunity for the requestor to comment on this issue.)

To "terminate" an advisory opinion will mean that the advisory opinion is revoked as of the termination date and is no longer in force and effect after the termination date. However, the opinion will have been in effect as originally issued from the date of issuance until the date of termination.

To "modify" an advisory opinion will mean that the advisory opinion is amended, altered or limited, and that the advisory opinion continues in full force and effect in modified form thereafter. However, the opinion will have been in effect as originally issued from the date of issuance until the date of modification.

The regulations reserve the right of the OIG to rescind, terminate, or modify an advisory opinion after its issuance solely in circumstances "where the public interest requires." We expect that rescissions, terminations, and modifications of advisory opinions will be rare, occurring only in limited circumstances, such as when the OIG learns after the issuance of the opinion that the arrangement in question may lead to fraud or abuse, and the potential for such fraud or abuse was not foreseeable at the time the advisory opinion was issued. Situations that might lead to termination or modification of an advisory opinion may include the following circumstances—

- changes in the law or the business operations of the health care industry that make it possible for an arrangement that previously carried little risk of fraud or abuse to result in fraud or abuse in the future;
- changes in medical science or technology that render an arrangement subject to the risk of fraud or abuse;
- material changes in the arrangement during the course of its implementation; or,
- the operation of the arrangement in practice differs from what the OIG anticipated based on the advisory opinion request.

The latter two examples reflect the fact that proposed business arrangements sometimes change in unexpected ways during and after their implementation.

Prior to any rescission, termination or modification, the OIG will notify the requesting party that it intends to rescind, terminate, or modify the advisory opinion and afford the requesting party a reasonable opportunity to comment in response. An advisory opinion will only be rescinded, terminated, or modified after appropriate consultation with the requesting party. With respect to modifications, if the party does not agree to modifications proposed by the OIG, or does not itself suggest modifications that satisfy the OIG's concerns, the OIG may instead terminate the advisory opinion under this section. In the event of a determination to rescind, terminate, or modify an advisory opinion under § 1008.45, the OIG will notify the requestor and make such final notice available to the same extent as an advisory opinion.

Except as discussed below, the requestor will not be subject to OIG sanction for actions it took prior to the final notice of termination or modification if the requestor (1) acted in good faith reliance on the advisory opinion, and (2) promptly discontinues such actions upon notification of a termination or promptly modifies such actions upon notification of a modification, as the case may be. We recognize that it may be impracticable to discontinue immediately certain complex business arrangements. Accordingly, except in exceptional circumstances or as otherwise described below, a requestor will be afforded a reasonable opportunity to unwind or otherwise disengage from arrangements subject to terminated advisory opinions, provided that the requestor pursues such unwinding or disengagement promptly, diligently and in good faith. A requestor will be afforded a similar reasonable opportunity to implement modifications to an arrangement that is subject to a modified advisory opinion. During any unwinding period, the protection afforded by the advisory opinion will continue in effect.

We are revising § 1008.45 to provide for a reasonable unwinding period set at the discretion of OIG, after consultation with the requestor, based on the facts and circumstances of the arrangement. For example, the unwinding period for a complex business structure may be a period of years, whereas it may be a much shorter period for a simple compensation arrangement. In determining the duration of the reasonable unwinding or modification period, the OIG will take into account the complexity of the arrangements involved and the impact of unwinding or modification of Federal program beneficiaries. If the OIG determines, however, that the requestor failed to provide material information or provided untruthful information in its submissions to the OIG, the advisory opinion will be deemed to have been without effect from the time is was issued and no unwinding period will be recognized.

Comment: One commenter requested that the OIG return documents submitted in connection with rescinded opinions. This commenter argued that such documents should be exempted from FOIA as pre-decisional documents.

Response: As indicated in our discussion of § 1008.40, we do not believe that requesting parties have a right to the return of documents voluntarily submitted to the Government, especially where those documents are potential evidence of a violation of law. In addition, retention of submitted materials may be necessary to document the workings of the advisory opinion process. However, the OIG may return such documents at its discretion to the extent allowed by law. While certain documents may have been provided to DoJ in the course of our consultations, the OIG has no authority over the return of such documents by DoJ. The OIG is subject to FOIA and intends to release documents if required by FOIA, in accordance with procedures set forth in 45 CFR part 5.

Section 1008.47, Disclosure

Comment: Several commenters stated that the disclosure provisions of § 1008.47 do not comport with congressional intent in enacting the advisory opinion program. Several commenters expressed concern about our statement that we could use information submitted by requestors for "any governmental purpose." One commenter specifically stated that if "any governmental purpose" means that the OIG can use information submitted with requests as a basis for investigation, the OIG should expressly say so and put parties on notice to that effect. These commenters indicated that the risk of information being used for any governmental purpose would inhibit the industry from seeking guidance, and considered the risk of public disclosure of a requestor's identity and of the result of its advisory opinion as a further deterrent. One commenter believed that such disclosure could adversely impact a requestor's stock prices or general competitiveness.

Response: Our primary purpose under these regulations is to gather and assess information in order to render informed advisory opinions. However, the anti-kickback statute is a criminal statute, and therefore review of arrangements that potentially implicate the statute requires heightened scrutiny. As a law enforcement agency, the OIG cannot ignore information lawfully obtained to further legitimate governmental purposes.

Comment: Several commenters recommended that the OIG redact names and identifying information from published advisory opinions, as the IRS does with its private letter rulings.

Response: Our current practice is to limit public disclosure of names and identifying information, subject to the requirements of FOIA. Unlike the OIG, the IRS has a specific statutory exception (26 U.S.C. 6110) to FOIA that affords it greater latitude in protecting information from disclosure.

Comment: One commenter requested that the OIG not disclose information without first notifying the requestor and obtaining its consent.

Response: The OIG is subject to FOIA and the Department's FOIA regulations set forth at 45 CFR part 5. These regulations provide that the Department will make reasonable efforts to notify submitters—in this case, the requestors—if the Department determines that material that submitters have designated as exempt from disclosure under exemption 4 to FOIA (trade secrets and confidential commercial or financial information) may have to be disclosed in response to a FOIA request. The regulations at 45 CFR 5.65 provide that submitters of records may designate in writing that all or part of the information contained in such records is exempt from disclosure under exemption 4 at the time they submit such records or within a reasonable time thereafter. Under the Department's FOIA regulations, requestors have an opportunity to respond and, if desired, file a court action to prevent disclosure of exempt records. Requesting parties must specifically identify in their requests for advisory opinions any information they reasonably believe is exempt from disclosure under exemption 4.

These advisory opinion regulations have been amended to incorporate more clearly the requirement for designating trade secrets and confidential commercial or financial information with specificity. Information should be designated in the manner described in 45 CFR 5.65(c) and (d). Parties are encouraged to refrain from designating more information than arguably may be classified as trade secrets or confidential commercial or financial information. Wholesale designations of entire request letters are counterproductive and may make it more difficult for legitimately exempt information to be protected under FOIA. The requestor's assertions about the nature of the information it has submitted are not controlling. Consistent with the OIG's law enforcement responsibilities, we reserve the right to make disclosures other than in response to FOIA requests where the public interest requires, to the extent authorized by law. Unauthorized releases of confidential information would be a criminal violation of 18 U.S.C. 1905 (the Trade Secrets Act).

In addition, although a document may be exempt from disclosure under FOIA, facts reflected in that document may become part of the advisory opinion that the OIG will provide to the public. We will describe the material facts of the arrangement in question in the body of each advisory opinion, which will be made available to the public. To the extent that it may be necessary to reveal specific facts that could be regarded as confidential information, we believe we have the authority to do so under sections 1106(a) and 1128D(b) of the Act. Nevertheless, we do not intend to incorporate any such facts into the body of an advisory opinion unless we believe incorporating such information is necessary in order to render an informed opinion. Moreover, where we intend to incorporate into an advisory opinion information designated by the requesting party as confidential proprietary information, we will endeavor to provide the requesting party with reasonable notice and a reasonable opportunity to respond or withdraw its request.

Section 1008.53, Affected Parties

Comment: One commenter suggested that all parties should be required to consent to a request for an advisory opinion and that the requestor should be required to certify that such consent has been obtained.

Response: The crux of this comment appears to center around a concern that one party to an arrangement may submit information to the OIG without the knowledge or consent of another party who may not want such information disclosed. We believe that this is a matter best handled and resolved between the parties. In addition, for reasons set forth above, we believe that it may be impractical, if not impossible, to obtain consent from all potential parties to certain types of arrangements.

Section 1008.55, Admissibility of Evidence

Comment: While several commenters commended the OIG for prohibiting adverse inferences to be drawn from a party's failure to obtain an advisory opinion, other commenters suggested that we delete or clarify § 1008.55(b), which they found confusing with regard to the prohibition on the use of advisory opinions by third parties. One commenter objected to paragraph (b) of this section because an advisory opinion may be probative evidence as to why someone structured an arrangement in a particular way. The commenter questioned whether the OIG has the power to create evidentiary rules that would be binding on courts or administrative law judges.

Response: We agree that § 1008.55(b) was confusing as originally written. Consistent with our original intent to preclude legal reliance by non-requestors, this section is being revised to read as follows: "An advisory opinion may not be introduced into evidence by a person or entity that was not the requester of the advisory opinion to prove that the person or entity did not violate the provisions of sections 1128, 1128A, or 1128B of the Act or any other law." The Department has the authority to create procedural rules applicable in its tribunals (42 CFR 1005, for example). With respect to other tribunals, the OIG believes it is proper to limit the use of documents created by the OIG for a specific purpose. Consistent with HIPAACs statutory directive that advisory opinions bind *only* requesting parties and the Department, it is our intention to preclude legal reliance by non-requestors; it follows necessarily that an advisory opinion may not be introduced into evidence by such non-requestors in any tribunal.

Section 1008.59, Range of Advisory Opinion

Comment: One commenter stated that advisory opinions should be binding on DoJ as well. The commenter believed that it would be unfair if DoJ, which must be consulted during the advisory opinion process, could still instigate enforcement proceedings against a requestor that has a favorable advisory opinion from the Department.

Response: Section 205 of HIPAA requires only that advisory opinions be binding on this Department. The Department lacks the authority to bind DoJ through the Department's rulemaking.

III. Additional Technical Changes

- In § 1008.5(b)(1), the phrase "what the" is being changed to "whether" to

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correct a technical error, and the word "and" is being changed to "or" to be consistent with the statutory directive and our intent that we will not opine on questions of fair market value or bona fide employee status.

- In § 1008.31(c), the phrase "to be" in the first sentence is being deleted to be consistent with the intent of the regulation that the OIG will calculate the actual costs incurred by the Department in responding to an advisory opinion request.
- The phrase,"from the time the OIG notifies the requestor" is being added in § 1008.31(d)(4) to be consistent with our original intention that the time period in question commences upon the OIG's notice.
- In § 1008.37, the phrase "will" in the first sentence is being replaced by "must" to be consistent with the mandatory nature of the requirement, and the phrase "or entity" is being inserted to be consistent with the usage of the same term at the beginning of the sentence.
- In § 1008.38(c), the phrase "will" is being replaced by "must" to be consistent with the mandatory nature of the requirement.
- In § 1008.43(a), the word "when" is being replaced by "and" to clarify, consistent with our original intent and practice, that an advisory opinion is issued when payment is received and the opinion is dated, numbered, and signed.
- In § 1008.43(b) is being revised to provide internal consistency within the section and to be consistent with our intent that advisory opinions will be based on the information provided by requestors.
- The word "next" appearing in § 1008.43(c)(2) has been repositioned to correct a technical error. In § 1008.47(c), the word "in" is being replaced by the word "by" to correct a technical error.
- Section 1008.59 has been revised to reflect more clearly our intent that the OIG will not provide legal opinions on questions or issues regarding authorities vested in other Federal, State, or local government agencies.

IV. Regulatory Impact Analysis

Executive Order 12866

The Office of Management and Budget (OMB) has reviewed this final rule in accordance with the provisions of Executive Order 12866. Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when rulemaking is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, safety, distributive, and equity effects).

As indicated in our preamble discussions, this rule addresses procedural issues involved in processing requests for advisory opinions submitted to the OIG. It sets up the procedures, as required by Public Law 104-191, for obtaining an advisory opinion on whether or not certain activities violate designated fraud and abuse authorities. This rule does not address the substance of the anti-kickback or other sanction statutes. Nor does it address the substance or content of advisory opinions which may be issued in the future. To the extent that advisory opinions affect the behavior of health care providers, that effect is the product of the substantive content of the sanction statutes themselves and the substantive content of the advisory opinions which will be issued on a case-by-case basis in the future. The effect of advisory opinions on health care providers is not a function of the *process* for requesting an advisory opinion.

In addition, the extent to which advisory opinions will result in alteration of future business practices, if any, is impossible to analyze without experience. It would be completely speculative to try to divine to what degree business deals may or may not occur as a result of the substance of advisory opinions issued in the future.

Moreover, we have no way of knowing in advance what the volume of requests for advisory opinions will be. However, we estimate that we will receive approximately 100 requests per year that will generally require between 3 and 60 hours each to process. Accordingly, it would likely cost in the range of $30,000 to $600,000 per year to issue advisory opinions.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), if a rule has a significant economic effect on a substantial number of small businesses the Secretary must specifically consider the effects of the rule on small business entities and analyze regulatory options that could lessen the impact of the rule. As stated above, this rule does not address the substance of the fraud and abuse statutes or the substance of advisory opinions which may be issued in the future. It describes the *process* by which an individual or entity may receive an opinion about the application of these statutes to particular business practices. The aggregate economic impact of this rulemaking on small business entities should, therefore, be minimal. There will, however, be costs involved in filing requests for opinions by OIG. Those costs will vary depending on the complexity of the request. Compared to the costs of seeking private legal advice, it would appear that fees charged for the OIG's review will not be substantial. Furthermore, the requirement that applicants pay cost-based fees for advisory opinions is not a product of this rulemaking; it is prescribed by statute. This rule merely lays out the procedures for such costs to be paid. Thus, we have concluded, and the Secretary certifies, that this final rule will not have a significant economic impact on a substantial number of small business entities, and that a regulatory flexibility analysis is not required for this rulemaking.

V. Paperwork Reduction Act

A. Introduction

In order to provide appropriate advisory opinions, the OIG has specified certain information from the parties who request advisory opinions. Under section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we are required to solicit public comments and secure final approval from OMB on these information collection requirements. In the interim final regulations published on February 19, 1997, we indicated that §§ 1008.18, 1008.36(b) and 1008.37 through 1008.40, along with a listing of voluntary preliminary questions, specifically contained information collection requirements that required approval by OMB. As a result, the OIG published a Federal Register notice on March 21, 1997 (62 FR 13621) specifically requesting comments on these information collection activities. The information collection requirements set forth in the interim final rule were subsequently approved by OMB in September, 1997 under control number 0990–0213. OMB also approved a set of preliminary questions which provide guidance as toe what should be included in a request for an advisory opinion.

B. Discussion of Revised Information Collection Requirements

This final rulemaking is now easing or streamlining a number of these information collection activities in response to public comments received on the interim final regulations. Specifically, as indicated in this preamble, we are revising § 1008.36(b), with respect to the submission of a request, to permit parties to submit only those portions of documents relevant to the arrangement at issue, and describe in general terms those portions of the documents that have been withheld. In addition, to avoid a blanket designation when a party seeks an advisory opinion, we have revised § 1008.36(b)(3) to indicate that requestors must give explicit designation of the specific sanction authorities about which an advisory opinion has been requested. Also in § 1008.36, we are eliminating the requirement that requesting parties submit their Medicare and Medicaid provider numbers. We are, however, adding a new paragraph (b)(8) to this section to require, in accordance with the Debt Collection Improvement Act of 1996, that requesting parties include their Taxpayer Identification Number when requesting an advisory opinion.

Further, new §§ 1008.36(b)(7) and 1008.39(e) are also being added to require requesting parties to notify the OIG if they apply to HCFA for an advisory opinion in accordance with 42 CFR part 411 on the same arrangement for which they are seeking an OIG advisory opinion. We believe that this change will better aid efforts to address and coordinate both the OIG and the HCFA advisory opinion processes.

Finally, we are revising or clarifying certain requirements in § 1008.38(c) concerning who may sign original (and additional) certifications submitted by requestors. Specifically, this revised section now clearly designates the appropriate signatory on behalf of requestors that are limited liability companies, and clarifies that each requesting party, and not its attorney, must provide the required certifications.

C. Proposed Information Collection Activities

The proposed information collection requirement described below will be submitted to the OMB for review and approval, as required by the Paperwork Reduction Act. In accordance with the Paperwork Reduction Act, we are soliciting public comment on the collection of the information in conjunction with section 205 of HIPAA that are contained in this revised final. Interested persons are invited to send comments regarding burden estimates or any aspect of the collection of information, including (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Type of information collection request: OIG Advisory Opinion Procedures in 42 CFR Part 1008. Section 205 of HIPAA, Public Law 104–191, requires the Department to provide advisory opinions to the public regarding several categories of subject matter, including the requestor's potential liability under sections 1128, 1128A and 1128B of the Social Security Act (the Act). The OIG published interim final regulations in the **Federal Register** on February 19, 1997 (62 FR 7350), setting forth the procedures under which members of the public may request advisory opinions from the OIG, and a **Federal Register** notice on March 21, 1997 (62 FR 13621) that contained a more thorough discussion of the information collection activities associated with the advisory opinion process. In order to aid potential requestors and the OIG in providing opinions under this process, a series of preliminary questions that may be answered in an advisory opinion request was developed by the OIG. These preliminary questions remain voluntary. The information collection requirements in the interim final rule and the preliminary questions were approved by OMB under control number 0990–0213.

The aggregate information burden for the information collection requirements contained in these revised final regulations is set forth below.

Respondents: The "respondents" for the collection of information described in the OIG rulemaking will be self-selected individuals and entities that choose to submit request for advisory opinions to the OIG. We anticipate that the respondents will include many types of health care providers, from sole practitioner physicians to large diversified publicly-traded corporations.

Estimated number of respondents: 500. Most individuals and entities that provide medical services that may be paid for by Medicare, Medicaid or Federal health care programs could potentially have questions regarding one of the subject matters about which the OIG will issue advisory opinions. In reality, we believe that the number of requestors will be a small fraction of such providers.

Over the past several years, the Office of the General Counsel, Inspector General Division has answered telephone inquires from individuals and entities seeking informal guidance with respect to the Medicare and State health care programs' anti-kickback statute and other sanction authorities. Many of the inquires related to authorities outside the scope of the advisory opinion process, such as the self-referral provisions of section 1877 of the Act. In addition, we believe that most of the inquiries received have been of a nature that the caller or requestor would be unlikely to request a formal written advisory opinion on the subject matter. Many inquiries related to rather simple and straight-forward matters that could have been researched by private counsel at relatively minor expense. Nevertheless, the rate of telephone inquiries form a starting point for estimating point for estimating the potential number of advisory opinion requests.

We estimate that the OIG received an average of six related telephone inquiries per day over the past several years. Using that history as a general guide and benchmark, we estimate an annual number of 500 respondents. Obviously, the actual number of requests could be larger since, for the first time, formal written opinions are available. Conversely, the number of inquiries could be less based on combination of several unquantifiable reasons, including the desire not to have one's arrangement be subject to scrutiny by the OIG (following issuance of the opinion) and the general public.

Estimated number of responses per respondent: One.

Estimated total annual (hour) burden on respondents: 5,000 hours. We believe that the burden of preparing requests for advisory opinions will vary widely depending upon the differences in the size of the entity making the request and the complexity of the advice sought. We estimate that the average burden for each submitted request for an advisory opinion will be in the range of 2 to 40 hours. We further believe that the burden for most request will be closer to the lower end of this range, with an average burden of approximately 10 hours per respondent.

The OIG is requiring requests for advisory opinions to involve actual or intended fact scenarios. We anticipate that most requests will involve business arrangements into which the requesting party intends to enter. Because the facts will relate to business plans, the requesting party will have collected and analyzed all, or almost all, of the information we will need to collect to review the request. Therefore, in order to request an advisory opinion, in many instances the requestor will simply have need to compile already collected information for our examination. In some cases, the requestor may need to expend a more significant amount of time and cost in preparing a submission related to more complex arrangements

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that involve a large number of parties or participants.

Estimated annual cost burden on respondents (in addition to the hour burden): $1,000,000. In addition to the hour burden on respondents discussed above, some respondents may incur additional information collection costs related to the purchase of outside professional services, such as attorneys or consultants. We believe that the cost burden related to such outside assistance will vary from zero to 40 hours per request, with an average of 10 hours. At the rate of $200 per hour, this total burden would amount to $1,000,000.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Interested persons are invited to submit comments regarding this collection of information. Comments on this information collection should refer to the document identifier code OIG–10–F, and should be sent both to: Cynthia Agens Bauer, OS Reports Clearance Officer, Room 503H, Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201, FAX: (202) 690–6352; and Allison Herron Eydt, OIG Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, 725 17th Street, N.W., Washington, D.C. 20053, *FAX:* (202) 395–6974.

To request more information on the project or to obtain a copy of the information collection plans, please contact the OS Reports Clearance Officer, (202) 690–6207. Written comments should be received by [60 days from date of publication in the Federal Register], but in order to expedite full consideration of any concerns we recommend that comments be submitted as soon as possible within the first 30 days. After due consideration of all timely-filed public comments on these revised information collection activities, we will re-submit these sections to OMB for their approval under the Paperwork Reduction Act. These sections will not become effective until cleared by OMB. In the interim, requestors should rely on the preliminary questions issued by the OIG on which OMB has already granted approval.

List of Subjects in 42 CFR Part 1008

Administrative practice and procedures, Fraud, Grant programs—health, Health facilities, Health professions, Medicaid, Medicare, Penalties.

Accordingly, the interim final rule adding 42 CFR part 1008, which was published at 62 FR 7350 on February 19, 1997, is adopted as a final rule with the following changes:

PART 1008—[AMENDED]

1. The authority citation for part 1008 continues to read as follows:

Authority: 42 U.S.C. 1320a–7d(b).

2. Section 1008.1 is amended by revising paragraphs (a) and (b) to read as follows:

§ 1008.1 Basis and purpose.

(a) This part contains the specific procedures for the submission of requests by an individual or entity for advisory opinions to, and the issuance of advisory opinions by, the OIG, in consultation with the Department of Justice (DoJ), in accordance with section 1128D(b) of the Social Security Act (Act), 42 U.S.C. 1320a–7d(b). The OIG will issue such advisory opinions based on actual or proposed factual circumstances submitted by the requesting individual or entity, or by counsel on behalf of the requesting individual or entity, provided all other requirements of this part are satisfied (including the requirement that the requesting individual or entity provide the certifications required in accordance with § 1008.38 of this part).

(b) An individual or entity may request an advisory opinion from the OIG regarding any of five specific subject matters described in § 1008.5 of this part.

* * * * *

3. Section 1008.5 is amended by republishing introductory paragraph (b) and by revising paragraph (b)(1) to read as follows:

§ 1008.5 Matters subject to advisory opinions.

* * * * *

(b) *Exceptions.* The OIG will not address through the advisory opinion process—

(1) What the fair market value will be, or whether fair market value was paid or received, for any goods, services or property; or

* * * * *

4. Section 1008.15 is amended by revising introductory paragraph (c) and paragraph (c)(3) to read as follows:

§ 1008.15 Facts subject to advisory opinions.

* * * * *

(c) Advisory opinion request will not be accepted, and/or opinions will not be issued when—

* * * * *

(3) An informed opinion cannot be made, or could be made only after extensive investigation, clinical study, testing, or collateral inquiry.

5. Section 1008.18 is amended by revising paragraph (b) to read as follows:

§ 1008.18 Preliminary questions suggested for the requesting party.

* * * * *

(b) Questions the OIG suggests that the requestor address may be obtained from the OIG. Requests should be made in writing, specify the subject matter, and be sent to the headquarter offices of the OIG.

* * * * *

6. Section 1008.31 is amended by revising paragraphs (c), (d)(1), (d)(2), (d)(3), and (e)(2); by redesignating paragraphs (d)(2) through (d)(5) as paragraphs (d)(3) through (d)(6) respectively; and by adding a new paragraph (d)(2) to read as follows:

§ 1008.31 OIG fees for the cost of advisory opinions.

* * * * *

(c) *Calculation of costs:* Prior to the issuance of the advisory opinion, the OIG will calculate the costs incurred by the Department in responding to the request. The calculation will include the costs of salaries and benefits payable to attorneys and others who have worked on the request in question, as well as administrative and supervisory support for such person. The OIG has the exclusive authority to determine the cost of responding to a request for an advisory opinion and such determination is not reviewable or waiveable.

(d) *Agreement to pay all costs.* (1) By submitting the request for an advisory opinion, the requestor agrees, except as indicated in paragraph (d)(4) of this section, to pay all costs incurred by the OIG in responding to the request for an advisory opinion.

(2) In its request for an advisory opinion, the requestor may request a written estimate of the cost involved in processing the advisory opinion. Within 10 business days of receipt of the request, the OIG will notify in writing of such estimate. Such estimate will not be binding on the Department, and the actual cost to be paid may be higher or lower than estimated. The time period for issuing the advisory opinion will be tolled from the time the OIG notifies the requestor of the estimate until the OIG receives written confirmation from the requestor that the requestor wants the OIG to continue processing the request. Such notice may include a new or revised triggering dollar amount, as set forth in paragraph (d)(3) of this section.

(3) In its request for an advisory opinion, the requestor may designate a

triggering dollar amount. If the OIG estimates that the costs of processing the advisory opinion request have reached, or are likely to exceed, the designated triggering dollar amount, the OIG will notify the requestor. The requestor may revise its designated triggering dollar amount in writing in its response to notification of a cost estimate in accordance with paragraph (d)(2) of this section.

* * * * *

(e) *Fees for outside experts.* * * *

(2) If the OIG determines that it is necessary to obtain expert advice to issue a requested advisory opinion, the OIG will notify the requestor of that fact and provide the identity of the appropriate expert and an estimate of the costs of the expert advice.

7. Section 1008.33 is amended by revising paragraphs (b) and (c) to read as follows:

§ 1008.33 Expert opinions from outside sources.

* * * * *

(b) The time period for issuing an advisory opinion will be tolled from the time that the OIG notifies the requestor of the need for an outside expert opinion until the time the OIG receives the necessary expert opinion.

(c) Once payment is made for the cost of the expert opinion, as set forth in § 1008.31(e) of this part, either directly to the expert or otherwise, the OIG will arrange for a prompt expert review of the issue or issues in question. Regardless of the manner of payment, the expert's work and opinion will be subject to the sole direction of the OIG.

8. Section 1008.36 is amended by republishing introductory paragraph (b); by revising paragraphs (b)(1), (b)(3), and (b)(4); by deleting existing paragraph (b)(5); by redesignating (b)(6) and (b)(7) as (b)(5) and (b)(6) respectively and revising them; and by adding new paragraphs (b)(7) and (b)(8) to read as follows:

§ 1008.36 Submission of a request.

* * * * *

(b) Each request for an advisory opinion must include—

(1) To the extent known to the requestor, the identities, including the names and addresses, of the requestor and of all other actual and potential parties to the arrangement, that are the subject of the request for an advisory opinion;

* * * * *

(3) A declaration of the subject category or categories as described in § 1008.5 of this part for which the advisory opinion is requested. To the extent an individual or entity requests an advisory opinion in accordance with §§ 1008.5(a)(3) or (a)(5) of this part, the requesting individual or entity should identify the specific subsections of sections 1128, 1128A or 1128B of the Act or the specific provision of § 1001.952 of this chapter about which an advisory opinion is sought:

(4) A complete and specific description of all relevant information bearing on the arrangement for which an advisory opinion is requested and on the circumstances of the conduct,[1] including—

(i) Background information,

(ii) For existing arrangements, complete copies of all operative documents,

(iii) For proposed arrangements, complete copies of all operative documents, if possible, and otherwise descriptions of proposed terms, drafts, or models of documents sufficient to permit the OIG to render an informed opinion,

(iv) Detailed statements of all collateral or oral understandings, if any, and

(v) If applicable, a designation of trade secrets or confidential commercial or financial information in the manner described in 45 CFR 5.65;

(5) Signed certifications by the requestor(s), as described in § 1008.37 of this part;

(6) A check or money order payable to the Treasury of the United States in the amount of $250, as discussed in § 1008.31(b) of this part;

(7) A declaration regarding whether an advisory opinion in accordance with part 411 of this title has been or will be requested from HCFA about the arrangement that is the subject of the advisory opinion request; and

(8) Each requesting party's Taxpayer Identification Number. (Approved by the Office of Management and Budget under control number 0990–0213)

9. Section 1008.37 is revised to read as follows:

§ 1008.37 Disclosure of ownership and related information.

Each individual or entity requesting an advisory opinion must supply full and complete information as to the identity of each entity owned or controlled by the individual or entity, and of each person with an ownership or control interest in the entity, as defined in section 1124(a)(1) of the Social Security Act (42 U.S.C. 1302a–3(a)(1)) and part 420 of this chapter.

(Approved by the Office of Management and Budget under control #0990–0213)

10. Section 1008.38 is amended by revising paragraphs (a) and (b), introductory paragraph (c), paragraphs (c)(2) and (c)(3); and by adding a new paragraph (c)(4) to read as follows:

§ 1008.38 Signed certifications by the requestor.

(a) Every request must include the following signed certification from all requestors: "With knowledge of the penalties for false statements provided by 18 U.S.C. 1001 and with knowledge that this request for an advisory opinion is being submitted to the Department of Health and Human Services, I certify that all of the information provided is true and correct, and constitutes a complete description of the facts regarding which an advisory opinion is sought, to the best of my knowledge and belief."

(b) If the advisory opinion relates to a proposed arrangement, the request must also include the following signed certification from all requestors: "The arrangement described in this request for an advisory opinion is one that [the requestor(s)] in good faith plan(s) to undertake." This statement may be made contingent on a favorable OIG advisory opinion, in which case, the phrase "If the OIG issues a favorable advisory opinion" should be added to the certification.

(c) The certification(s) must be signed by—

* * * * *

(2) The chief executive officer, or comparable officer, of the requestor, if the requestor is a corporation;

(3) The managing partner of the requestor, if the requestor is a partnership; or

(4) The managing member, or comparable person, if the requestor is a limited liability company.

11. Section 1008.39 is amended by revising paragraph (c) and by adding new paragraphs (e) and (f) to read as follows:

§ 1008.39 Additional information.

* * * * *

(c) Additional information should be provided in writing and certified to be a true, correct and complete disclosure of the requested information in a manner equivalent to that described in § 1008.38 of this part.

* * * * *

(e) Requesting parties are required to notify the OIG if they request an advisory opinion in accordance with part 411 of this title from HCFA about the arrangement that is the subject of their advisory opinion request.

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[1] The requestor is under an affirmative obligation to make full and true disclosure with respect to the facts regarding the advisory opinion being requested.

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(f) Where appropriate, after receipt of an advisory opinion request, the OIG may consult with the requesting parties to the extent the OIG deems necessary.

12. Section 1008.41 is amended by revising paragraph (a); and by republishing introductory paragraph (b) and revising paragraph (b)(3) to read as follows:

§ 1008.41 OIG acceptance of the request.

(a) Upon receipt of a request for an advisory opinion, the OIG will promptly make an initial determination whether the submission includes all of the information the OIG will require to process the request.

(b) Within 10 working days of receipt of the request, the OIG will—

* * * * *

(3) Formally decline to accept the request.

* * * * *

13. Section 1008.43 is amended by revising paragraphs (a), (b) and (c)(2); and by republishing introductory paragraph (c)(3) and revising paragraph (c)(3)(i) to read as follows:

§ 1008.43 Issuance of a formal advisory opinion.

(a) An advisory opinion will be considered issued once payment is received and it is dated, numbered, and signed by an authorized official of the OIG.

(b) An advisory opinion will contain a description of the material facts provided to the OIG with regard to the arrangement for which an advisory opinion has been requested. The advisory opinion will state the OIG's opinion regarding the subject matter of the request based on the facts provided to the OIG. If necessary, to fully describe the arrangement, the OIG is authorized to include in the advisory opinion the material facts of the arrangement, notwithstanding that some of these facts could be considered confidential information or trade secrets within the meaning of 18 U.S.C. 1905.

(c) * * * * *

(2) If the 60th day falls on a Saturday, Sunday, or Federal holiday, the time period will end at the close of the next business day following the weekend or holiday;

(3) The 60 day period will be tolled from the time the OIG—

(i) Notifies the requestor that the costs have reached, or are likely to exceed, the triggering amount until the time when the OIG receives written notice from the requestor to continue processing the request;

* * * * *

14. Section 1008.45 is revised to read as follows:

§ 1008.45 Rescission, termination or modification.

(a) Any advisory opinion given by the OIG is without prejudice to the right of the OIG to reconsider the questions involved and, where the public interest requires, to rescind, terminate or modify the advisory opinion. Requestors will be given a preliminary notice of the OIG's intent to rescind, terminate or modify the opinion, and will be provided a reasonable opportunity to respond. A final notice of rescission, termination or modification will be given to the requestor so that the individual or entity may discontinue or modify, as the case may be, the course of action taken in accordance with the OIG advisory opinion.

(b) For purposes of this part—

(1) To *rescind* an advisory opinion means that the advisory opinion is revoked retroactively to the original date of issuance with the result that the advisory opinion will be deemed to have been without force and effect from the original date of issuance. Recission may occur only where relevant and material facts were not fully, completely and accurately disclosed to the OIG.

(2) To *terminate* an advisory opinion means that the advisory opinion is revoked as of the termination date and is no longer in force and effect after the termination date. The OIG will not proceed against the requestor under this part if such action was promptly, diligently, and in good faith discontinued in accordance with reasonable time frames established by the OIG after consultation with the requestor.

(3) To *modify* an advisory opinion means that the advisory opinion is amended, altered, or limited, and that the advisory opinion continues in full force and effect in modified form thereafter. The OIG will not proceed against the requestor under this part if such action was promptly, diligently, and in good faith modified in accordance with reasonable time frames established by the OIG after consultation with the requestor.

15. Section 1008.47 is amended by revising paragraphs (c) and (d) to read as follows:

§ 1008.47 Disclosure.

* * * * *

(c) Any pre-decisional document, or part of such pre-decisional document, that is prepared by the OIG, DoJ, or any other Department or agency of the United States in connection with an advisory opinion request under the procedures set forth in this part generally will be exempt from disclosure under 5 U.S.C. 552, and will not be made publicly available.

(d) Documents submitted by the requestor to the OIG in connection with a request for an advisory opinion may be available to the public in accordance with 5 U.S.C. 552 through procedures set forth in 45 CFR part 5.

* * * * *

16. Section 1008.55 is amended by revising paragraph (b) to read as follows:

§ 1008.55 Admissibility of evidence.

* * * * *

(b) An advisory opinion may not be introduced into evidence by a person or entity that was not the requestor of the advisory opinion to prove that the person or entity did not violate the provisions of sections 1128, 1128A or 1128B of the Act or any other law.

17. Section 1008.59 is amended by revising paragraph (a) to read as follows:

§ 1008.59 Range of the advisory opinion.

(a) An advisory opinion will state only the OIG's opinion regarding the subject matter of the request. If the arrangement for which an advisory opinion is requested is subject to approval or regulation by any other Federal, State or local government agency, such advisory opinion may not be taken to indicate the OIG's views on the legal or factual issues that may be raised before that agency. The OIG will not provide any legal opinion on questions or issues regarding an authority which is vested in other Federal, State or local government agencies.

* * * * *

Dated: February 6, 1998.

June Gibbs Brown,

Inspector General, Department of Health and Human Services.

Approved: March 24, 1998.

Donna E. Shalala,

Secretary.

[FR Doc. 98–18874 Filed 7–15–98; 8:45 am]

BILLING CODE 4150–04–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA–7246]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the

base (1% annual chance) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base flood elevations for new buildings and their contents.

DATES: These modified base flood elevations are currently in effect on the dates listed in the table and revise the Flood Insurance Rate Map(s) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Associate Director for Mitigation reconsider the changes. The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–3461.

SUPPLEMENTARY INFORMATION: The modified base flood elevations are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based upon knowledge of changed conditions, or upon new scientific or technical data.

The modifications are made pursuant to Section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR Part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director for Mitigation certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This interim rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
Arizona:					
Maricopa	Unincorporated Areas.	May 14, 1998, May 21, 1998, *Arizona Republic.*	The Honorable Janice K. Brewer, Chairman, Maricopa County Board of Supervisors, 301 Jefferson Street, Phoenix, Arizona 85003.	April 16, 1998	040037
Maricopa	City of Phoenix	May 14, 1998, May 21, 1998, *Arizona Republic.*	The Honorable Skip Rimsza, Mayor, City of Phoenix, 200 West Washington Street, 11th Floor, Phoenix, Arizona 85003–1611.	April 16, 1998	040051
Maricopa	City of Phoenix	May 12, 1998, May 19, 1998, *Arizona Republic.*	The Honorable Skip Rimsza, Mayor, City of Phoenix, 200 West Washington Street, 11th Floor, Phoenix, Arizona 85003–1611.	April 7, 1998	040051
Pima	City of Tucson	May 21, 1998, May 28, 1998, *Arizona Daily Star.*	The Honorable George Miller, Mayor, City of Tucson, P.O. Box 27210, Tucson, Arizona 85726.	April 17, 1998	040076
California:					

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State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
Los Angeles	City of Montebello	May 21, 1998, May 28, 1998, *Montebello Messenger*.	The Honorable Art Payan, Mayor, City of Montebello, 1600 West Beverly Boulevard, Montebello, California 90640.	April 21, 1998	060141
Shasta	City of Redding	May 22, 1998, May 29, 1998, *Record Searchlight*.	The Honorable Ken Murray, Mayor, City of Redding, 760 Parkview Avenue, Redding, California 96001.	August 27, 1998	060360
San Diego	Unincorporated Areas.	May 8, 1998, May 15, 1998, *Vista Press*.	The Honorable Greg Cox, Chairperson, San Diego County Board of Supervisors, 1600 Pacific Highway, Room 335, San Diego, California 92101.	August 13, 1998	060284
Santa Barbara	Unincorporated Areas.	May 19, 1998, May 26, 1998, *Santa Barbara News Press*.	The Honorable Gail Marshall, Chairperson, Santa Barbara County Board of Supervisors, 105 East Anapamu Street, Santa Barbara, California 93101.	August 24, 1998	060331
Sonoma	Unincorporated Areas.	April 30, 1998, May 7, 1998, *Sonoma County Independent*.	The Honorable Paul Kelley, Chairman, Sonoma County Board of Supervisors, 575 Administration Drive, Room 100A, Santa Rosa, California 95403.	March 31, 1998	060375
Solano	City of Vallejo	May 6, 1998, May 13, 1998, *Vallejo Times Herald*.	The Honorable Gloria Exline, Mayor, City of Vallejo, P.O. Box 3068, Vallejo, California 94590.	April 1, 1998	060374
San Diego	City of Vista	May 8, 1998, May 15, 1998, *Vista Press*.	The Honorable Gloria McClellan, Mayor, City of Vista, P.O. Box 1988, Vista, California 92085.	August 13, 1998	060297
Sonoma	Town of Windsor	April 29, 1998, May 6, 1998, *The Times*.	The Honorable Sam Salmon, Mayor, Town of Windsor, P.O. Box 100, Windsor, California 95492.	March 31, 1998	060761
Colorado:					
Jefferson and Adams.	City of Arvada	May 7, 1998, May 14, 1998, *Arvada Jefferson Sentinel*.	The Honorable Robert Frie, Mayor, City of Arvada, City Hall, 8101 Ralston Road, Arvada, Colorado 80002.	August 12, 1998	085072
Douglas	Unincorporated Areas.	May 21, 1998, May 28, 1998, *The Denver Post*.	The Honorable M. Michael Cooke, Chairman, Douglas County Board of Commissioners, 101 Third Street, Castle Rock, Colorado 80104.	May 4, 1998	080049
Douglas	Town of Parker	May 21, 1998, May 28, 1998, *The Denver Post*.	The Honorable Gary Lanter, Mayor, Town of Parker, 20120 East Main Street, Parker, Colorado 80138.	May 4, 1998	080310
Louisiana:					
St. Landry Parish.	Town of Krotz Springs.	May 5, 1998, May 12, 1998, *The Daily World*.	The Honorable Gary Soileau, Mayor, Town of Krotz Springs, P.O. Box 218, Krotz Springs, Louisiana 70750.	April 22, 1998	220170
Nevada:					
Clark	City of Las Vegas	May 1, 1998, May 8, 1998, *Las Vegas Review Journal*.	The Honorable Jan Laverty Jones, Mayor, City of Las Vegas, 400 East Stewart Avenue, Las Vegas, Nevada 89101.	March 31, 1998	325276
New Mexico:					
Bernalillo	City of Albuquerque.	May 21, 1998, May 28, 1998, *Albuquerque Journal*.	The Honorable Jim Baca, Mayor, City of Albuquerque, P.O. Box 1293, Albuquerque, New Mexico 87103–1293.	April 24, 1998	350002
Bernalillo	City of Albuquerque.	May 22, 1998, May 29, 1998, *Albuquerque Journal*.	The Honorable Jim Baca, Mayor, City of Albuquerque, P.O. Box 1293, Albuquerque, New Mexico 87103–1293.	April 24, 1998	350002
Oklahoma:					
Tulsa	City of Tulsa	April 29, 1998, May 6, 1998, *Tulsa World*.	The Honorable M. Susan Savage, Mayor, City of Tulsa, City Hall 200 Civic Center, Tulsa, Oklahoma 74103.	April 7, 1998	405381
Texas:					
Collin	City of Allen	April 22, 1998, April 29, 1998, *The Allen American*.	The Honorable Steve Terrell, Mayor, City of Allen, One Butler Circle, Allen, Texas 75013.	March 30, 1998	480131

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
Archer	Unincorporated Areas.	April 29, 1998, May 6, 1998, *Wichita Falls Times Record News.*	The Honorable Paul Wylie, Archer County Judge, P.O. Box 458, Archer City, Texas 76351.	April 16, 1998	481078
Brazos	City of Bryan	May 20, 1998, May 27, 1998, *Bryan-College Station Eagle.*	The Honorable Lonnie Stabler, Mayor, City of Bryan, P.O. Box 1000, Bryan, Texas 77805.	May 4, 1998	480082
Collin	Unincorporated Areas.	May 15, 1998, May 22, 1998, *Frisco Enterprise.*	The Honorable Ron Harris, Collin County Judge, 210 South McDonald Street, McKinney, Texas 75069.	April 7, 1998	480130
Collin	Unincorporated Areas.	April 29, 1998, May 6, 1998, *Plano Star Courier.*	The Honorable Ron Harris, Collin County Judge, Commissioners Court, Collin County Courthouse, McKinney, Texas 75069.	March 31, 1998	480130
Denton	City of Corinth	May 20, 1998, May 27, 1998, *Lake Cities Sun.*	The Honorable Shirley Spellerberg, Mayor, City of Corinth, 2003 South Corinth, Corinth, Texas 76205.	April 30, 1998	481143
Tarrant	City of Forest Hill	May 21, 1998, May 28, 1998, *Forest Hill News.*	The Honorable Bill Wilson, Mayor, City of Forest Hill, 6800 Forest Hill Drive, Forest Hill, Texas 76104.	April 20, 1998	480595
Fort Bend	Unincorporated Areas.	April 29, 1998, May 6, 1998, *Fort Bend Star.*	The Honorable Michael D. Rozell, Fort Bend County Judge, 301 Jackson Street, Suite 719, Richmond, Texas 77469.	April 1, 1998	480228
Collin	City of Frisco	May 22, 1998, May 29, 1998, *Frisco Enterprise.*	The Honorable Kathy Seei, Mayor, City of Frisco, P.O. Drawer 1100, Frisco, Texas 75034.	April 30, 1998	480134
Collin	City of Frisco	May 15, 1998, May 22, 1998, *Frisco Enterprise.*	The Honorable Kathy Seei, Mayor, City of Frisco, P.O. Drawer 1100, Frisco, Texas 75034.	April 7, 1998	480134
Harris	City of Houston	May 22, 1998, May 29, 1998, *Houston Chronicle.*	The Honorable Lee P. Brown, Mayor, City of Houston, 901 Bagby, Houston, Texas 77002.	August 27, 1998	480296
Dallas	City of Mesquite	April 28, 1998, May 5, 1998, *Dallas Morning News.*	The Honorable Mike Anderson, Mayor, City of Mesquite, P.O. Box 850137, Mesquite, Texas 75185–0137.	March 30, 1998	485490
Collin	City of Plano	April 29, 1998, May 6, 1998, *Plano Star Courier.*	The Honorable John Longstreet, Mayor, City of Plano, P.O. Box 860358, Plano, Texas 75086–0358.	March 31, 1998	480140
Harris	City of South Houston.	May 22, 1998, May 29, 1998, *Houston Chronicle.*	The Honorable Cipirano Romero, Mayor, City of South Houston, 1018 Dallas Street, South Houston, Texas 77587.	August 27, 1998	480311
Fort Bend	City of Sugar Land.	April 29, 1998, May 6, 1998, *Fort Bend Star.*	The Honorable Dean Hrbacek, Mayor, City of Sugar Land, P.O. Box 110, Sugar Land, Texas 77487–0110.	April 1, 1998	480234
Wichita	Unincorporated Areas.	April 29, 1998, May 6, 1998, *Wichita Falls Times Record News.*	The Honorable Rick Gipson, Wichita County Judge, Wichita County Courthouse, Room 202, Wichita Falls, Texas 76301.	April 16, 1998	481189
Archer and Wichita.	City of Wichita Falls.	April 29, 1998, May 6, 1998, *Wichita Falls Times Record News.*	The Honorable Kay Yeager, Mayor, City of Wichita Falls, 1300 Seventh Street, Wichita Falls, Texas 76301.	April 16, 1998	480662

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(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: July 7, 1998.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 98–18969 Filed 7–15–98; 8:45 am]

BILLING CODE 6718-04-P

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 532 and 552

[APD 2800.12A, CHGE 80]

RIN 3090–AG

General Services Administration Acquisition Regulation; 10 Day Payment Clause for Certain Federal Supply Service Contracts and Authorized Price Lists Under Federal Supply Service Schedule Contracts

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Interim rule adopted as final with changes.

SUMMARY: The General Services Administration is adopting as final, with a change, the interim rule published in the **Federal Register** at 63 FR 12965, March 16, 1998. This final rule amends the General Services Administration Acquisition Regulation (GSAR) to include Internet-based invoice processing, in addition to electronic data interchange (EDI) and electronic funds transfer (EFT), as an accepted electronic commerce (EC) transaction. This rule also amends the GSAR to allow contractors under the Federal Supply Service (FSS) multiple award schedule (MAS) program to print and distribute contract pricelists without prior written approval from the contracting officer.

DATES: Effective Date: July 16, 1998.

FOR FURTHER INFORMATION CONTACT: Gloria Sochon, GSA Acquisition Policy Division, (202) 208–6726.

SUPPLEMENTARY INFORMATION:

A. Background

The interim rule amended GSAR Part 532 and 552 to provide for payment of invoices in 10 days under Federal Supply Service (FSS) contracts in the Stock, Special Order, or Schedules Programs for contractors who agree to process orders and invoices electronically using implementation conventions provided by GSA. The rule defined full cycle EC and provided contract clauses establishing the conditions for 10 day payment of invoices.

No public comments were received in response to the interim GSAR rule. The interim GSAR rule is being converted to final with a change to add Internet-based invoice processing to the accepted EC transactions. This change will increase the base of contractors eligible to participate in full cycle EC.

In addition, GSA is removing the requirement that contractors under the FSS MAS program obtain written approval from the contracting officer prior to printing or distributing contract pricelists. This change will allow FSS MAS contractors to begin selling their products through their schedule contracts, and make the contracts available for Government agencies to use, as quickly as possible. In the past, FSS MAS contracts all started on a common date. FSS awarded many contracts in advance of the common start date, allowing time between award and the start date for the process of approving the pricelists. Many schedule contracts now have a variable contract period, effective on the date of award. The process of approving pricelists only delays the ability of contractors and customers to begin using the established contracts on that date. Other contractual remedies, including price adjustment or termination, sufficiently protect the Government's interest in the event that a contractor issues an incorrect pricelist. GSA expects this rule will have no significant cost or administrative burden on contractors or offerors. The rule simplifies administrative processes by removing the requirement to seek and obtain Government approval to print or distribute a contract pricelist. It also eliminates the costs involved in seeking and obtaining the approval.

B. Executive Order 12866

This regulatory action was not subject to Office of Management and Budget Review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

C. Regulatory Flexibility Act

The GSA certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The rule provides that the Government will make payment in 10 days from receipt of a proper invoice when the contractor agrees to full cycle EC. Because not all contractors are EDI capable, full cycle EC is not mandatory. Contractors who do not agree to the terms will be paid under standard Prompt Payment Act (31 U.S.C. 3903) procedures and suffer no adverse consequences. Contractors who agree to full cycle EC will benefit from receiving payment more quickly and being able to streamline administrative procedures and costs associated with processing contract orders.

The change to allow contractors under the FSS MAS program to print and distribute contract pricelists without prior written approval from the contracting officer is not a significant revision requiring public comments and therefore the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, does not apply.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the GSAR do not impose recordkeeping or information collection requirements, or otherwise collect information from offerors, contractors, or members of the public that require approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

List of Subjects in 48 CFR Parts 532 and 552

Government procurement.

Accordingly, the interim rule amending 48 CFR Parts 532 and 552 which was published at 63 FR 12965, March 16, 1998, is adopted as a final rule with the following changes:

1. The authority citation for 48 CFR Parts 532 and 552 continues to read as follows:

Authority: 40 U.S.C. 486(c).

PART 532—CONTRACT FINANCING

2. Section 532.902 is amended by revising the introductory paragraph to read as follows:

532.902 Definitions.

"Full cycle electronic commerce" means the use of electronic data interchange (EDI), Internet-based invoice processing, and electronic funds transfer (EFT):

* * * * *

3. Section 532.905 is amended by revising paragraph (c)(2) to read as follows:

532.905 Invoice payments.

* * * * *

(c) * * *

* * * * *

(2) The 10 day payment terms apply to each order that meet all the following conditions:

(i) FSS places the order using EDI in accordance with the Trading Partner Agreement.

(ii) The contractor submit EDI invoices in accordance with the Trading Partner Agreement or invoices through the GSA Finance Center Internet-based invoice process.

(iii) A GSA Finance Center pays the invoices using EFT.

* * * * *

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Section 552.232–25 is amended by revising the clause date and deviation citation and revising paragraph (a)(2)(ii) to read as follows:

552.232–25 Prompt payment.

* * * * *

PROMPT PAYMENT (JUL 1998)
(DEVIATION FAR 52.232–25)

* * * * *

(a) *Invoice payments.*

* * * * *

(2) * * *

* * * * *

(ii) The Contractor must generate and submit to the Government valid EDI invoices (transaction set 810) or submit invoices through the GSA Finance Center Internet-based invoice process. Internet-based invoices must be submitted using procedures provided by GSA.

* * * * *

5. Section 552.232–70 is amended by revising the clause date and paragraph (b)(2) to read as follows:

552.232–70 Invoice payments.

* * * * *

INVOICE PAYMENTS (JUL 1998)

* * * * *

(b) * * *

* * * * *

(2) The Contractor must generate and submit to the Government valid EDI invoices (transaction set 810) or submit invoices through the GSA Finance Center Internet-based invoice process. Internet-based invoices must be submitted using procedures provided by GSA.

* * * * *

6. Section 552.238–74 is amended by revising the clause data and paragraph (b) to read as follows:

552.238–74 Submission and distribution of authorized FSS schedule pricelists.

* * * * *

SUBMISSION AND DISTRIBUTION OF AUTHORIZED FSS SCHEDULE PRICELISTS (JUL 1998)

* * * * *

(b) The Contracting Officer will return one copy of the Authorized FSS Schedule Pricelist to the Contractor with the notification of contract award.

* * * * *

Dated: July 8, 1998.

Ida M. Ustad,

Deputy Associate Administrator for Acquisition Policy.

[FR Doc. 98–18816 Filed 7–15–98; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 7

[Docket No. OST–96–1430; Amdt. 1]

RIN 2105–AC69

Public Availability of Information; Electronic FOIA Amendment

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: The Department of Transportation revises its regulations implementing the Freedom of Information Act (FOIA), 5 U.S.C. 552. This amendment provides changes to conform to the requirements of the Electronic Freedom of Information Act Amendments of 1996 (EFOIA), Public Law 104–231, provides changes to DOT's fee schedule, and reflects certain organizational changes.

DATES: This rule takes effect on August 17, 1998.

FOR FURTHER INFORMATION CONTACT: Robert I. Ross, Office of the General Counsel, C–10, Department of Transportation, Washington, DC 20590, telephone (202) 366–9156, FAX (202) 366–9170; electronic mail bob.ross@ost.dot.gov.

SUPPLEMENTARY INFORMATION: These revisions reflect changes required by the Electronic Freedom of Information Act Amendments of 1996 (Public Law 104–231). New provisions implementing the amendments are found at §§ 7.5 (frequently requested documents), 7.8 (electronic reading room requirements), 7.21 (deletion markings and volume estimation), 7.31 (timing of responses, multi-track and expedited processing), and 7.33 (unusual circumstances). Revisions to DOT's fee schedule can be found at § 7.43. DOT will be charging fees at rates based on an average of hourly rates for three pay scale levels. Finally, references to DOT's Urban Mass Transportation Administration (UMTA) are changed to the Federal Transit Administration (FTA) to reflect a statutory revision to the name of the agency. This amendment was published for public comment (63 FR 18855; April 16, 1998), but none was received. We are therefore issuing this amendment as proposed.

Regulatory Notices and Analysis

This amendment is not a "significant regulatory action" within the meaning of Executive Order 12866 or the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531 *et seq.*). It is also not significant within the definition in DOT's Regulatory Policies and Procedures, 49 FR 11034 (1979), in part because it does not involve any change in important DOT policies. Because the economic impact should be minimal, further regulatory evaluation is not necessary. Under the Regulatory Flexibility Act, the group of persons who will be directly affected by this amendment are the public, who will find it easier to obtain information from the DOT under FOIA. Individual members of the public do not qualify as small entities, but small organizations, businesses, etc., do and all will have burdens lessened by this amendment, as its effect will be to make records available through electronic media and to streamline FOIA processing activities; however, it is not likely that any such burden reduction will be large nor that it will be convertible into economic equivalents. Hence, I certify that this amendment will not have a significant economic impact on a substantial number of small entities.

This amendment does not significantly affect the environment, and therefore an environmental impact statement is not required under the National Environmental Policy Act of 1969. It has also been reviewed under Executive Order 12612, Federalism, and it has been determined that it does not have sufficient implications for federalism to warrant preparation of a Federalism Assessment.

Finally, the amendment does not contain any collection of information requirements, requiring review under the Paperwork Reduction Act, as amended.

List of Subjects in 49 CFR Part 7:

Freedom of information.

In accordance with the above, DOT revises 49 CFR Part 7 to read as follows:

PART 7—PUBLIC AVAILABILITY OF INFORMATION

Subpart A—General Provisions

Sec.
7.1 General.
7.2 Definitions.

Subpart B—Information Required to be Made Public by DOT

7.3 Publication in the Federal Register.
7.4 Publication required.
7.5 Availability of opinions, orders, staff manuals, statements of policy, and interpretations and indices.
7.6 Deletion of identifying detail.
7.7 Access to materials and indices.
7.8 Copies.
7.9 Protection of records.
7.10 Public records.

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Subpart C—Availability of Reasonably Described Records Under the Freedom of Information Act

7.11 Applicability.
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7.13 Records available.
7.14 Requests for records.
7.15 Contacts for records requested under the FOIA.
7.16 Requests for records of concern to more than one government organization.
7.17 Consultation with submitters of commercial and financial information.

Subpart D—Procedures for Appealing Decisions Not to Disclose Records and/or Waive Fees

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7.32 Final determinations.
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Subpart F—Fees

7.41 General.
7.42 Payment of fees.
7.43 Fee schedule.
7.44 Services performed without charge or at a reduced charge.
7.45 Transcripts.
7.46 Alternative sources of information.

Authority: 5 U.S.C. 552; 31 U.S.C. 9701; 49 U.S.C. 322; E.O. 12600, 3 CFR, 1987 Comp., p. 235.

Subpart A—General Provisions

§ 7.1 General.

(a) This part implements 5 U.S.C. 552, and prescribes rules governing the availability to the public of DOT records. Many documents are made available to the public for inspection and copying through DOT's Primary Electronic Access Facility and public record unit locations that are discussed in subpart B of this part, which contains the DOT regulations concerning the availability to the public of opinions issued in the adjudication of cases, policy issuances, administrative manuals, and other information made available to the public, without need for a specific request.

(b) Subpart C of this part describes the records that are not required to be disclosed on DOT's own action under this part, but that may be available upon request under FOIA.

(c) Indices are maintained to reflect all records subject to subpart B of this part, and are available for public inspection and copying as provided in subpart B.

§ 7.2 Definitions.

As used in this part—

Act and *FOIA* mean the Freedom of Information Act, 5 U.S.C. 552, as amended.

Administrator means the head of each DOT component of DOT and includes the Commandant of the Coast Guard, the Inspector General, and the Director of the Bureau of Transportation Statistics.

Concurrence means that the approval of the person being consulted is required in order for the subject action to be taken.

Consultation means that the approval of the person being consulted is not required in order for the subject action to be taken.

Department or *DOT* means the Department of Transportation, including the Office of the Secretary of Transportation, the Office of the Inspector General, and the following DOT components, all of which may be referred to as DOT components. Means of contacting each of these DOT components appear in § 7.15. This definition specially excludes the Surface Transportation Board, which has its own FOIA regulations (49 CFR Part 1001):

(1) United States Coast Guard,

(2) Federal Aviation Administration,

(3) Federal Highway Administration,

(4) Federal Railroad Administration,

(5) National Highway Traffic Safety Administration,

(6) Federal Transit Administration,

(7) Saint Lawrence Seaway Development Corporation,

(8) Maritime Administration,

(9) Research and Special Programs Administration, and

(10) Bureau of Transportation Statistics.

Primary Electronic Access Facility means the electronic docket facility in the DOT Headquarters Building, 400 7th Street, S.W., Washington, D.C. 20590.

Reading room records are those records required to be made available to the public under 5 U.S.C. 552(a)(2) as described in § 7.5 of Subpart B of this part. These records are made available through DOT's Primary Electronic Access Facility. Other records may also be made available at DOT's discretion at DOT inspection facilities, including DOT's Primary Electronic Access Facility.

Record includes any writing, drawing, map, recording, tape, film, photograph, or other documentary material by which information is preserved. The term also includes any such documentary material stored by computer.

Responsible DOT official means the head of the DOT component concerned, or the General Counsel or the Inspector General, as the case may be, or the designee of any of them, authorized to take an action under this part.

Secretary means the Secretary of Transportation or any person to whom the Secretary has delegated authority in the matter concerned.

Subpart B—Information Required To Be Made Public by DOT

§ 7.3 Publication in the Federal Register.

This section implements 5 U.S.C. 552(a)(1), and prescribes rules governing publication in the **Federal Register** of the following:

(a) Descriptions of DOT's organization, including its DOT components and the established places at which, the officers from whom, and the methods by which, the public may secure information and make submittals or obtain decisions;

(b) Statements of the general course and methods by which DOT's functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(c) Rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(d) Substantive rules of general applicability adopted as authorized by law and statements of general policy or interpretations of general applicability formulated and adopted by DOT; and

(e) Each amendment, revision, or repeal of any material listed in paragraphs (a) through (d) of this section.

§ 7.4 Publication required.

(a) *General.* The material described in § 7.3 will be published in the **Federal Register**. For the purposes of this paragraph, material that will reasonably be available to the class of persons affected by it will be considered to be published in the **Federal Register** if it has been incorporated by reference with the approval of the Director of the Federal Register.

(b) *Effect of nonpublication.* Except to the extent that he/she has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, any procedure or matter required to be published in the **Federal Register**, but not so published.

§ 7.5 Availability of opinions, orders, staff manuals, statements of policy, and interpretations and indices.

(a) This section implements 5 U.S.C. 552(a)(2). It prescribes the rules governing the availability for public inspection and copying of the following reading room materials:

(1) Any final opinion (including a concurring or dissenting opinion) or order made in the adjudication of a case.

(2) Any policy or interpretation that has been adopted under DOT authority,

including any policy or interpretation concerning a particular factual situation, if that policy or interpretation can reasonably be expected to have precedential value in any case involving a member of the public in a similar situation.

(3) Any administrative staff manual or instruction to staff that affects any member of the public, including the prescribing of any standard, procedure, or policy that, when implemented, requires or limits any action of any member of the public or prescribes the manner of performance of any activity by any member of the public. However, this does not include staff manuals or instructions to staff concerning internal operating rules, practices, guidelines, and procedures for DOT inspectors, investigators, law enforcement officers, examiners, auditors, and negotiators and other information developed predominantly for internal use, the release of which could significantly risk circumvention of agency regulations or statutes.

(4) Copies of all records, regardless of form or format, that have been released to any person under subpart C of this part and which, because of the nature of their subject matter, a DOT component determines have become or are likely to become the subject of subsequent requests for substantially the same records.

(5) A general index of the records listed in this paragraph.

(b) Any material listed in paragraph (a) of this section that is not made available for public inspection and copying, or that is not indexed as required by § 7.7, may not be cited, relied on, or used as precedent by DOT to affect any member of the public adversely unless the person to whose detriment it is relied on, used, or cited has had actual timely notice of the material.

(c) This section does not apply to material that is published in the **Federal Register** or covered by subpart C of this part.

§ 7.6 Deletion of identifying detail

Whenever it is determined to be necessary to prevent a clearly unwarranted invasion of personal privacy, identifying details will be deleted from any record covered by this subpart that is published or made available for inspection. Whenever it is determined to be necessary to prevent the disclosure of information required or authorized to be withheld by another Federal statute, such information shall be deleted from any record covered by this subpart that is published or made available for inspection. A full explanation of the justification for the deletion will accompany the record published or made available for inspection.

§ 7.7 Access to materials and indices.

(a) Except as provided in paragraph (b) of this section, material listed in § 7.5 will be made available for inspection and copying to any member of the public at DOT document inspection facilities. It has been determined that it is unnecessary and impracticable to publish the index of materials in the **Federal Register**. Information as to the kinds of materials available at each facility may be obtained from the facility or the headquarters of the DOT component of which it is a part.

(b) The material listed in § 7.5 that is published and offered for sale will be indexed, but is not required to be kept available for public inspection. Whenever practicable, however, it will be made available for public inspection at the appropriate DOT reading room.

(c) Each DOT component will also make the reading room records identified in section 7.5(a) that are created by DOT on or after November 1, 1996, available electronically. This includes indices of its reading room records as required by law after December 1, 1999.

§ 7.8 Copies

Copies of any material covered by this subpart that is not published and offered for sale may be ordered, upon payment of the appropriate fee, from the Docket Offices listed in § 7.10. Copies will be certified upon request and payment of the fee prescribed in § 7.43(f).

§ 7.9 Protection of records.

(a) Records made available for inspection and copying may not be removed, altered, destroyed, or mutilated.

(b) 18 U.S.C. 641 provides for criminal penalties for embezzlement or theft of government records.

(c) 18 U.S.C. 2071 provides for criminal penalties for the willful and unlawful concealment, mutilation or destruction of, or the attempt to conceal, mutilate, or destroy, government records.

§ 7.10 Public Records.

Publicly available records are located in DOT's Primary Electronic Access Facility at 400 7th Street, S.W., Washington, D.C. 20590.

(a) The Primary Electronic Access Facility maintains materials for the Office of the Secretary, including former Civil Aeronautics Board material, and materials for the DOT components. This facility is located at Plaza Level 401, and the hours of operation are 10:00–17:00.

(b) Certain DOT components also maintain public record units at regional offices and at the offices of the Commandant and District Commanders of the United States Coast Guard. These facilities are open to the public Monday through Friday except Federal holidays, during regular working hours. The Saint Lawrence Seaway Development Corporation has facilities at 180 Andrews Street, Massena, New York 13662–0520.

(c) Operating Administrations may have separate facilities for manual records. Additional information on the location and hours of operations for Docket Offices and inspection facilities can be obtained through DOT's Primary Electronic Access Facility, at (202) 366–9322.

Subpart C—Availability of Reasonably Described Records Under the Freedom of Information Act

§ 7.11 Applicability.

(a) This subpart implements 5 U.S.C 552(a)(3), and prescribes the regulations governing public inspection and copying of reasonably described records under FOIA.

(b) This subpart does not apply to:

(1) Records published in the **Federal Register**, opinions in the adjudication of cases, statements of policy and interpretations, and administrative staff manuals that have been published or made available under subpart B of this part.

(2) Records or information compiled for law enforcement purposes and covered by the disclosure exemption described in § 7.13(c)(7) if—

(i) The investigation or proceeding involves a possible violation of criminal law; and

(ii) There is reason to believe that—

(A) The subject of the investigation or proceeding is not aware of its pendency, and

(B) Disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings.

(3) Informant records maintained by a criminal law enforcement component of DOT under an informant's name or personal identifier, if requested by a third party according to the informant's name or personal identifier, unless the informant's status as an informant has been officially confirmed.

§ 7.12 Administration of subpart.

Authority to administer this subpart and to issue determinations with respect

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to initial requests is delegated as follows:

(a) To the General Counsel for the records of the Office of the Secretary other than the Office of Inspector General.

(b) To the Inspector General for records of the Office of Inspector General.

(c) To the Administrator of each DOT component, who may redelegate to officers of that administration the authority to administer this part in connection with defined groups of records. However, each Administrator may redelegate the duties under subpart D of this part to consider appeals of initial denials of requests for records only to his or her deputy or to not more than one other officer who reports directly to the Administrator and who is located at the headquarters of that DOT component.

§7.13 Records available.

(a) *Policy.* It is DOT policy to make its records available to the public to the greatest extent possible, in keeping with the spirit of FOIA. This includes providing reasonably segregable information from documents that contain information that may be withheld.

(b) *Statutory disclosure requirement.* FOIA requires that DOT, on a request from a member of the public submitted in accordance with this subpart, make requested records available for inspection and copying.

(c) *Statutory exemptions.* Exempted from FOIA's statutory disclosure requirement are matters that are:

(1)(i) Specifically authorized under criteria established by Executive Order to be kept secret in the interest of national defense or foreign policy, and

(ii) In fact properly classified pursuant to such Executive order;

(2) Related solely to the internal personnel rules and practices of an agency;

(3) Specifically exempted from mandatory disclosure by statute (other than the Privacy Act or the Government in the Sunshine Act), provided that such statute—

(i) Requires that the matters be withheld from the public in such a manner as to leave not any discretion on the issue, or

(ii) Establishes particular criteria for withholding or refers to particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Inter-agency or intra-agency memorandums or letters that would not be available by law to a party other than an agency in litigation with the agency;

(6) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information—

(i) Could reasonably be expected to interfere with enforcement proceedings,

(ii) Would deprive a person of a right to a fair or an impartial adjudication,

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy,

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a State, local, Tribal, or foreign agency or authority or any private institution that furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source,

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual;

(8) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) Geological and geophysical information and data, including maps, concerning wells.

(d) *Deleted information.* The amount of information deleted from frequently-requested electronic records that are available in a public reading room will be indicated on the released portion of the record, unless doing so would harm an interest protected by the exemption concerned. If technically feasible, the amount of information deleted will be indicated at the place in the record where the deletion is made.

§7.14 Requests for records.

(a) Each person desiring access to or a copy of a record covered by this subpart shall comply with the following provisions:

(1) A written request must be made for the record.

(2) Such request should indicate that it is being made under FOIA.

(3) The envelope in which a mailed request is sent should be prominently marked: "FOIA."

(4) The request should be addressed to the appropriate office as set forth in §7.15.

(5) The request should state the format (e.g., paper, microfiche, computer diskette, etc.) in which the information is sought, if the requestor has a preference.

(b) If the requirements of paragraph (a) of this section are not met, treatment of the request will be at the discretion of the agency. The twenty-day limit for responding to requests, described in §7.31, will not start to run until the request has been identified, or would have been identified with the exercise of due diligence, by an employee of DOT as a request pursuant to FOIA and has been received by the office to which it should have been originally sent.

(c) *Form of requests.* (1) Each request should describe the particular record to the fullest extent possible. The request should describe the subject matter of the record, and, if known, indicate the date when it was made, the place where it was made, and the person or office that made it. If the description does not enable the office handling the request to identify or locate the record sought, that office will notify the requestor and, to the extent possible, indicate the additional data required.

(2) Each request shall—

(i) Specify the fee category (commercial use, news media, educational institution, noncommercial scientific institution, or other) in which the requestor claims the request to fall and the basis of this claim (see subpart F of this part for fees and fee waiver requirements),

(ii) State the maximum amount of fees that the requestor is willing to pay or include a request for a fee waiver, and

(iii) A request seeking a fee waiver shall, to the extent possible, address why the requestor believes that the criteria for fee waivers set out in §7.44(f) are met.

(3) Requesters are advised that the time for responding to requests set forth in subpart E will not begin to run—

(i) If a requestor has not sufficiently identified the fee category applicable to the request,

(ii) If a requestor has not stated a willingness to pay fees as high as anticipated by DOT,

(iii) If a fee waiver request is denied and the requestor has not included an alternative statement of willingness to pay fees as high as anticipated by DOT, or

(iv) If a fee waiver request does not address fee waiver criteria.

(d) *Creation of records.* A request may seek only records that are in existence at the time the request is received. A request may not seek records that come into existence after the date on which it is received and may not require that new records be created in response to the request by, for example, combining or compiling selected items from manual files, preparing a new computer program, or calculating proportions, percentages, frequency distributions, trends, or comparisons. In those instances where DOT determines that creating a new record will be less burdensome than disclosing large volumes of unassembled material, DOT may, in its discretion, agree to creation of a new record as an alternative to disclosing existing records. Records will be provided in the form or format sought by the requestor if the record is readily reproducible in the requested format.

(e) *Search for records.* (1) Each record made available under this subpart will be made available for inspection and copying during regular business hours at the place where it is located, or photocopying may be arranged with the copied materials being mailed to the requestor upon payment of the appropriate fee. Original records ordinarily will be copied except in this instance where, in DOT's judgment, copying would endanger the quality of the original or raise the reasonable possibility of irreparable harm to the record. In these instances, copying of the original would not be in the public interest. In any event, original records will not be released from DOT custody. Original records, regardless of format, may be returned to agency service upon provision of a copy of the record to the requestor, or, in the case of a denial, upon creation and retention of a copy of the original for purposes of FOIA processing.

(2) DOT will make a reasonable effort to search for requested records in electronic form or format, unless doing so would significantly interfere with operation of the affected automated information system.

(f) If a requested record is known not to exist in the files of the agency, or to have been destroyed or otherwise disposed of, the requestor will be so notified.

(g) Fees will be determined in accordance with subpart F of this part.

(h) Notwithstanding paragraphs (a) through (g) of this section, informational material, such as news releases, pamphlets, and other materials of that nature that are ordinarily made available to the public as a part of any information program of the Government will be available upon oral or written request. A fee will be not be charged for individual copies of that material so long as the material is in supply. In addition DOT will continue to respond, without charge, to routine oral or written inquiries that do not involve the furnishing of records.

§ 7.15 Contacts for records requested under the FOIA.

Each person desiring a record under this subpart should submit a request in writing (via paper, facsimile, or electronic mail) to the DOT component where the records are located:

(a) FOIA Offices at 400 7th Street, S.W., Washington, DC 20590:

(1) Office of the Secretary of Transportation, Room 5432.

(2) Federal Highway Administration, Room 4428.

(3) National Highway Traffic Safety Administration, Room 5221.

(4) Federal Transit Administration, Room 9400.

(5) Maritime Administration, Room 7221.

(6) Research and Special Programs Administration, Room 8419.

(7) Bureau of Transportation Statistics, Room 3430.

(8) Office of Inspector General, Room 9210.

(b) Federal Aviation Administration, 800 Independence Avenue, S.W., Room 906A, Washington, DC 20591.

(c) United States Coast Guard, 2100 2nd Street, S.W., Room 6106, Washington, DC 20593–0001.

(d) Director, Office of Finance, Saint Lawrence Seaway Development Corporation, 180 Andrews Street, P.O. Box 520, Massena, New York 13662–0520.

(e) Federal Railroad Administration, 1120 Vermont Avenue NW, 7th Floor, Washington, DC. (Mailing address: 400 Seventh St., SW, Washington, DC 20590.)

(f) Certain DOT components also maintain FOIA contacts at regional offices and at the offices of the Commandant and District Commanders of the United States Coast Guard. Additional information on the location of these offices can be obtained through the FOIA contact offices listed in this section.

(g) If the person making the request does not know where in DOT the record is located, he or she may make an inquiry to the Chief, FOIA Division, Office of the General Counsel (voice: 202.366.4542; facsimile: 202.366.8536).

(h) Requests for records under this part, and Freedom of Information Act inquiries generally, may be made by accessing the DOT Home Page on the Internet (www.dot.gov) and clicking on the Freedom of Information Act link (www.dot.gov/foia).

§ 7.16 Requests for records of concern to more than one government organization.

(a) If the release of a record covered by this subpart would be of concern to both DOT and another Federal agency, the determination as to release will be made by DOT only after consultation with the other interested agency.

(b) If the release of the record covered by this subpart would be of concern to both DOT and a State, local, or Tribal government, a territory or possession of the United States, or a foreign government, the determination as to release will be made by DOT only after consultation with the interested government.

(c) Alternatively, DOT may refer the request (or relevant portion thereof) for decision by a Federal agency that originated or is substantially concerned with the records, but only if that agency is subject to FOIA. Such referrals will be made expeditiously and the requestor notified in writing that a referral has been made.

§ 7.17 Consultation with submitters of commercial and financial information.

(a) If a request is received for information that has been designated by the submitter as confidential commercial information, or which DOT has some other reason to believe may contain information of the type described in § 7.13(c)(4), the submitter of such information will, except as is provided in paragraphs (c) and (d) of this section, be notified expeditiously and asked to submit any written objections to release. At the same time, the requestor will be notified that notice and an opportunity to comment are being provided to the submitter. The submitter will, to the extent permitted by law, be afforded a reasonable period of time within which to provide a detailed statement of any such objections. The submitter's statement shall specify all grounds for withholding any of the information. The burden shall be on the submitter to identify all information for which exempt treatment is sought and to persuade the agency that the information should not be disclosed.

(b) The responsible DOT component will, to the extent permitted by law, consider carefully a submitter's objections and specific grounds for nondisclosure prior to determining whether to disclose business information. Whenever a decision is

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made to disclose such information over the objection of a submitter, the office responsible for the decision will forward to the submitter a written notice of intent to disclose that will, to the extent permitted by law, be forwarded to the submitter a reasonable number of days prior to the specified date upon which disclosure is intended. At the same time the submitter is notified, the requestor will be notified of the decision to disclose information. The written notice will include:

(1) A statement of the reasons for which the submitter's disclosure objections were not accepted;

(2) A description of the business information to be disclosed; and

(3) A specific disclosure date.

(c) The notice requirements of this section will not apply if:

(1) The office responsible for the decision determines that the information should not be disclosed;

(2) The information lawfully has been published or otherwise made available to the public; or

(3) Disclosure of the information is required by law (other than 5 U.S.C. 552).

(d) The procedures established in this section will not apply in the case of:

(1) Business information submitted to the National Highway Traffic Safety Administration and addressed in 49 CFR Part 512.

(2) Information contained in a document to be filed or in oral testimony that is sought to be withheld pursuant to Rule 39 of the Rules of Practice in Aviation Economic Proceedings (14 CFR 302.39).

(e) Whenever a requestor brings suit seeking to compel disclosure of confidential commercial information, the responsible DOT component will promptly notify the submitter.

Subpart D—Procedures for Appealing Decisions Not to Disclose Records and/or Waive Fees

§ 7.21 General.

(a) Each officer or employee of DOT who, upon a request by a member of the public for a record under this part, makes a determination that the record is not to be disclosed, either because it is subject to an exemption or not in DOT's custody and control, will give a written statement of the reasons for that determination to the person making the request; and indicate the names and titles or positions of each person responsible for the initial determination not to comply with such request, and the availability of an appeal within DOT. The denial letter will include an estimate of the volume of records or information withheld, in number of pages or in some other reasonable form of estimation. This estimate does not need to be provided if the volume is otherwise indicated through deletions on records disclosed in part, or if providing an estimate would harm an interest protected by an applicable exemption. Records disclosed in part will be marked or annotated to show both the amount and the location of the information deleted whenever practicable.

(b) When a request for a waiver of fees pursuant to § 7.44 has been denied in whole or in part, the requestor may appeal the denial.

(c) Any person to whom a record has not been made available within the time limits established by § 7.31 and any person who has been given a determination pursuant to paragraph (a) of this section that a record will not be disclosed may appeal to the responsible DOT official. Any person who has not received an initial determination on his or her request within the time limits established by § 7.31 can seek immediate judicial review, which may be sought without the need first to submit an administrative appeal. Judicial review may be sought in the United States District Court for the judicial district in which the requestor resides or has his or her principal place of business, the judicial district in which the records are located, or in the District of Columbia. A determination that a record will not be disclosed and/or that a request for a fee waiver or reduction will not be granted does not constitute final agency action for the purposes of judicial review unless:

(1) It was made by the responsible DOT official; or

(2) The applicable time limit has passed without a determination on the initial request or the appeal, as the case may be, having been made.

(d) Each appeal must be made in writing within thirty days from the date of receipt of the original denial and should include the DOT file or reference number assigned to the request and all information and arguments relied upon by the person making the request. (Appeals may be submitted via facsimile and conventional mail, but not via electronic mail.) Such letter should indicate that it is an appeal from a denial of a request made under FOIA. The envelope in which a mailed appeal is sent should be prominently marked: "FOIA Appeal." If these requirements are not met, the twenty-day limit described in § 7.32 will not begin to run until the appeal has been identified, or would have been identified with the exercise of due diligence, by a DOT employee as an appeal under FOIA, and has been received by the appropriate office.

(e) Whenever the responsible DOT official determines it necessary, he/she may require the requestor to furnish additional information, or proof of factual allegations, and may order other proceedings appropriate in the circumstances; in any case in which a request or order is made, DOT's time for responding ceases to count while the requestor responds to the request or order. The decision of the responsible DOT official as to the availability of the record or the appropriateness of a fee waiver or reduction constitutes final agency action for the purpose of judicial review.

(f) The decision of the responsible DOT official not to disclose a record under this part or not to grant a request for a fee waiver or reduction is considered to be a denial by the Secretary for the purpose of 5 U.S.C. 552(a)(4)(B).

(g) Any final determination by the head of an DOT component not to disclose a record under this part, or not to grant a request for a fee waiver or reduction, is subject to concurrence by a representative of the General Counsel.

(h) Upon a determination that an appeal will be denied, the requestor will be informed in writing of the reasons for the denial of the request and the names and titles or positions of each person responsible for the determination, and that judicial review of the determination is available in the United States District Court for the judicial district in which the requestor resides or has his or her principal place of business, the judicial district in which the requested records are located, or the District of Columbia.

Subpart E—Time Limits

§ 7.31 Initial determinations.

An initial determination whether to release a record requested pursuant to subpart C of this part will be made within twenty Federal working days after the request is received by the appropriate office in accordance with § 7.14, except that this time limit may be extended by up to ten Federal working days in accordance with § 7.33. The person making the request will be notified immediately of such determination. If the determination is to grant the request, the desired record will be made available as promptly as possible. If the determination is to deny the request, the person making the request will be notified in writing, at the same time he or she is notified of such determination, of the reason for the determination, the right of such person to appeal the determination, and the name and title of each person responsible for the initial determination to deny the request.

(a) *In general.* Components ordinarily will respond to requests according to their order of receipt.

(b) *Multitrack processing.* (1) A component may use two or more processing tracks by distinguishing between simple and more complex requests based on the amount of work and/or time needed to process the request, or on the number of pages involved.

(2) A component using multitrack processing may provide requesters in its slower track(s) with an opportunity to limit the scope of their requests in order to qualify for faster processing within the specified limits of the component's faster track(s). A component doing so will contact the requestor either by telephone, letter, facsimile, or electronic mail, whichever is most efficient in each case.

(c) *Expedited processing.* (1) Requests and appeals will be taken out of order and given expedited treatment whenever a compelling need is demonstrated and it is determined that the compelling need involves:

(i) Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual;

(ii) Requests made by a person primarily engaged in disseminating information, with an urgency to inform the public of actual or alleged Federal Government activity.

(2) A request for expedited processing may be made at the time of the initial request for records or at any later time. For a prompt determination, a request for expedited processing must be received by the proper component. Requests must be submitted to the component that maintains the records requested.

(3) A requestor who seeks expedited processing must submit a statement, certified to be true and correct to the best of that person's knowledge and belief, explaining in detail the basis for requesting expedited processing. For example, a requestor within the category in paragraph (c)(1)(ii) of this section, if not a full-time member of the news media, must establish that he or she is a person whose main professional activity or occupation is information dissemination, though it need not be his or her sole occupation. A requestor within the category in paragraph (c)(1)(ii) of this section also must establish a particular urgency to inform the public about the government activity involved in the request, beyond the public's right to know about government activity generally. The formality of certification may be waived as a matter of discretion.

(4) Within ten calendar days of receipt of a request for expedited processing, the proper component will decide whether to grant it and will notify the requestor of the decision. If a request for expedited treatment is granted, the request will be given priority and will be processed as soon as practicable. If a request for expedited processing is denied, any appeal of that decision will be acted on expeditiously.

§ 7.32 Final determinations.

(a) A determination with respect to any appeal made pursuant to § 7.21 will be made within twenty Federal working days after receipt of such appeal except that this time limit may be extended by up to ten Federal working days in accordance with § 7.33. The person making the request will be notified immediately of such determination pursuant to § 7.21.

(b) *In general.* Components ordinarily will respond to appeals according to their order of receipt.

(c) *Multitrack processing.* (1) A component may use two or more processing tracks by distinguishing between simple and more complex appeals based on the amount of work and/or time needed to process the appeal, or on the number of pages involved.

(2) A component using multitrack processing may provide persons making appeals in its slower track(s) with an opportunity to limit the scope of their appeals in order to qualify for faster processing within the specified limits of the component's faster track(s). A component doing so will contact the person making the appeal either by telephone, letter, facsimile, or electronic mail, whichever is most efficient in each case.

(d) *Expedited processing.* (1) An appeal will be taken out of order and given expedited treatment whenever a compelling need is demonstrated and it is determined that the compelling need involves:

(i) Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual;

(ii) A request made by a person primarily engaged in disseminating information, with an urgency to inform the public of actual or alleged Federal Government activity.

(2) A request for expedited processing may be made at the time of the appeal or at any later time. For a prompt determination, a request for expedited processing must be received by the proper component, which is the component that is processing the appeal for the records requested.

(3) A requestor who seeks expedited processing must submit a statement, certified to be true and correct to the best of that person's knowledge and belief, explaining in detail the basis for requesting expedited processing. For example, a requestor within the category in § 7.31(c)(1)(ii), if not a full-time member of the news media, must establish that he or she is a person whose main professional activity or occupation is information dissemination, though it need not be his or her sole occupation. A requestor within the category in § 7.31(c)(1)(ii) also must establish a particular urgency to inform the public about the government activity involved in the request, beyond the public's right to know about government activity generally. The formality of certification may be waived as a matter of discretion. A person who was granted expedited processing under § 7.31 need merely certify that the same circumstances apply.

(4) Within ten calendar days of receipt of a request for expedited processing, the proper component will decide whether to grant it and will notify the requestor of the decision. If a request for expedited treatment is granted, the appeal will be given priority and will be processed as soon as practicable. If a request for expedited processing of an appeal is denied, no further administrative recourse is available.

§ 7.33 Extension.

(a) In unusual circumstances as specified in this section, the time limits prescribed in § 7.31 and § 7.32 may be extended by written notice to the person making the request setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. Such notice may not specify a date that would result in a cumulative extension of more than 10 Federal working days without providing the requestor an opportunity to modify the request as noted in this section. As used in this paragraph, "unusual circumstances" means, but only to the extent reasonably necessary to the proper processing of the particular request:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.

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(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request; or

(3) The need for consultation, which will be conducted with all practicable speed, with any other agency or DOT component having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

(b) Where the extension is for more than 10 working days, the DOT component will provide the requestor with an opportunity either to modify the request so that it may be processed within the time limits or to arrange an alternative time period with the component for processing the request or a modified request.

(c) Where a component reasonably believes that multiple requests submitted by a requestor, or by a group of requesters acting in concert, constitute a single request that would otherwise involve unusual circumstances, and the requests involve clearly related matters, they may be aggregated for the purposes of fees and processing activities. Multiple requests involving unrelated matters will not be aggregated.

Subpart F—Fees

§ 7.41 General.

(a) This subpart prescribes fees for services performed for the public under subparts B and C of this part by DOT.

(b) All terms defined by FOIA apply to this subpart, and the term "hourly rate" means the actual hourly base pay for a civilian employee or, for members of the Coast Guard, the equivalent hourly pay rate computed using a 40-hour week and the member's normal basic pay and allowances.

(c) This subpart applies to all employees of DOT, including those of non-appropriated fund activities of the Coast Guard and the Maritime Administration.

(d) This subpart does not apply to any special study, special statistical compilation, table, or other record requested under 49 U.S.C. 329(c). The fee for the performance of such a service is the actual cost of the work involved in compiling the record. All such fees received by DOT in payment of the cost of such work are deposited in a separate account administered under the direction of the Secretary, and may be used for the ordinary expenses incidental to providing the information.

(e) This subpart does not apply to requests from record subjects for records about themselves in DOT systems of records, which are determined in accordance with the Privacy Act, as implemented by DOT regulations (49 CFR part 10).

§ 7.42 Payment of fees.

(a) The fees prescribed in this subpart may be paid by check, draft, or money order, payable to the DOT component where fees were incurred, for deposit in the General Fund of the Treasury of the United States, *e.g.* DOT/FAA.

(b) Charges may be assessed by DOT for time spent searching for requested records even if the search fails to locate records or the records located are determined to be exempt from disclosure. In addition, if records are requested for commercial use, DOT may assess a fee for time spent reviewing any responsive records located to determine whether they are exempt from disclosure.

(c) When it is estimated that the search charges, review charges, duplication fees, or any combination of fees that could be charged to the requestor will likely exceed US $25, the requestor will be notified of the estimated amount of the fees, unless the requestor has indicated in advance his or her willingness to pay fees as high as those anticipated. In cases where a requestor has been notified that actual or estimated fees may amount to more than US $25, the request will be deemed not to have been received until the requestor has agreed to pay the anticipated total fee. The notice will also inform the requestor how to consult with the appropriate DOT officials with the object of reformulating the request to meet his or her needs at a lower cost.

(d) Payment of fees may be required prior to actual duplication or delivery of any releasable records to a requestor. However, advance payment, *i.e.*, before work is commenced or continued on a request, may not be required unless:

(1) Allowable charges that a requestor may be required to pay are likely to exceed US $250; or

(2) The requestor has failed to pay within 30 days of the billing date fees charged for a previous request to any part of DOT.

(e) When paragraph (d)(1) of this section applies, the requestor will be notified of the likely cost and, where he/she has a history of prompt payment of FOIA fees, requested to furnish satisfactory assurance of full payment of FOIA fees. Where the requestor does not have any history of payment, he or she may be required to make advance payment of any amount up to the full estimated charges.

(f) When paragraph (d)(2) of this section applies, the requestor will be required to demonstrate that the fee has, in fact, been paid or to pay the full amount owed, including any applicable interest, late handling charges, and penalty charges as discussed in paragraphs (g) and (h) of this section. The requestor will also be required to make an advance payment of the full amount of the estimated fee before processing of a new request or continuation of a pending request is begun.

(g) DOT will assess interest on an unpaid bill starting on the 31st day following the day on which the notice of the amount due is first mailed to the requestor. Interest will accrue from the date of the notice of amount due and will be at the rate prescribed in 31 U.S.C. 3717. Receipt by DOT of a payment for the full amount of the fees owed within 30 calendar days after the date of the initial billing will stay the accrual of interest, even if the payment has not been processed.

(h) If payment of fees charged is not received within 30 calendar days after the date the initial notice of the amount due is first mailed to the requestor, an administrative charge will be assessed by DOT to cover the cost of processing and handling the delinquent claim. In addition, a penalty charge will be applied with respect to any principal amount of a debt that is more than 90 days past due. Where appropriate, other steps permitted by Federal debt collection statutes, including disclosure to consumer reporting agencies and use of collection agencies, will be used by DOT to encourage payment of amounts overdue.

(i) Notwithstanding any other provision of this subpart, when the total amount of fees that could be charged for a particular request (or aggregation of requests) under subpart C of this part, after taking into account all services that must be provided free of, or at a reduced, charge, is less than US $10.00 DOT will not make any charge for fees.

§ 7.43 Fee schedule.

The rates for manual searching, computer operator/programmer time and time spent reviewing records will be calculated based on the grades and rates established by the Washington-Baltimore Federal White-Collar Pay Schedule or equivalent grades, as follows:

When performed by employees:

GS–1 through GS–8—Hourly rate of GS–5 step 7 plus 16%

GS–9 through GS–14—Hourly rate of GS–12 step 7 plus 16%

GS–15 and above—Hourly rate of GS–15 step 7 plus 16%

(a) The standard fee for a manual search to locate a record requested under subpart C of this part, including making it available for inspection, will be determined by multiplying the searcher's rate as calculated from the chart in this section and the time spent conducting the search.

(b) The standard fee for a computer search for a record requested under subpart C of this part is the actual cost. This includes the cost of operating the central processing unit for the time directly attributable to searching for records responsive to a FOIA request and the operator/programmer's rate as calculated from the chart for costs apportionable to the search.

(c) The standard fee for review of records requested under subpart C of this part is the reviewer's rate as calculated from the chart multiplied by the time he/she spent determining whether the requested records are exempt from mandatory disclosure.

(d) The standard fee for duplication of a record requested under subpart C of this part is determined as follows:

(1) Per copy of each page (not larger than 8.5 x 14 inches) reproduced by photocopy or similar means (includes costs of personnel and equipment)—US $0.10.

(2) Per copy prepared by computer such as tapes or printout—actual costs, including operator time.

(3) Per copy prepared by any other method of duplication—actual direct cost of production.

(e) Depending upon the category of requestor, and the use for which the records are requested, in some cases the fees computed in accordance with the standard fee schedule in paragraph (d) of this section will either be reduced or not charged, as prescribed by other provisions of this subpart.

(f) The following special services not required by FOIA may be made available upon request, at the stated fees: Certified copies of documents, with DOT or DOT component seal (where authorized)—US $4.00; or true copy, without seal—US $2.00.

§ 7.44 Services performed without charge or at a reduced charge.

(a) A fee is not to be charged to any requestor making a request under subpart C of this part for the first two hours of search time unless the records are requested for commercial use. For purposes of this subpart, when a computer search is required two hours of search time will be considered spent when the hourly costs of operating the central processing unit used to perform the search added to the computer operator's salary cost (hourly rate plus 16 percent) equals two hours of the computer operator's salary costs (hourly rate plus 16 percent).

(b) A fee is not to be charged for any time spent searching for a record requested under subpart C if the records are not for commercial use and the requestor is a representative of the news media, an educational institution whose purpose is scholarly research, or a non-commercial scientific institution whose purpose is scientific research.

(c) A fee is not to be charged for duplication of the first 100 pages (standard paper, not larger than 8.5 x 14 inches) of records provided to any requestor in response to a request under Subpart C unless the records are requested for commercial use.

(d) A fee is not to be charged to any requestor under subpart C to determine whether a record is exempt from mandatory disclosure unless the record is requested for commercial use. A review charge may not be charged except with respect to an initial review to determine the applicability of a particular exemption to a particular record or portion of a record. A review charge may not be assessed for review at the administrative appeal level. When records or portions of records withheld in full under an exemption that is subsequently determined not to apply are reviewed again to determine the applicability of other exemptions not previously considered, this is considered an initial review for purposes of assessing a review charge.

(e) Documents will be furnished without charge or at a reduced charge if the official having initial denial authority determines that disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requestor.

(f) Factors to be considered by DOT officials authorized to determine whether a waiver or reduction of fees will be granted include:

(1) Whether the subject matter of the requested records concerns the operations or activities of the Federal government;

(2) Whether the disclosure is likely to contribute to an understanding of Federal government operations or activities;

(3) Whether disclosure of the requested information will contribute to the understanding of the public at large, as opposed to the individual understanding of the requestor or a narrow segment of interested persons;

(4) Whether the contribution to public understanding of Federal government operations or activities will be significant;

(5) Whether the requestor has a commercial interest that would be furthered by the requested disclosure; and

(6) Whether the magnitude of any identified commercial interest to the requestor is sufficiently large in comparison with the public interest in disclosure that disclosure is primarily in the commercial interest of the requestor.

(g) Documents will be furnished without charge or at a reduced charge if the official having initial denial authority determines that the request concerns records related to the death of an immediate family member who was, at the time of death, a DOT employee or a member of the Coast Guard.

(h) Documents will be furnished without charge or at a reduced charge if the official having initial denial authority determines that the request is by the victim of a crime who seeks the record of the trial or court-martial at which the requestor testified.

§ 7.45 Transcripts.

Transcripts of hearings or oral arguments are available for inspection. Where transcripts are prepared by a nongovernmental contractor, and the contract permits DOT to handle the reproduction of further copies, § 7.43 applies. Where the contract for transcription services reserves the sales privilege to the reporting service, any duplicate copies must be purchased directly from the reporting service.

§ 7.46 Alternative sources of information.

In the interest of making documents of general interest publicly available at as low a cost as possible, alternative sources will be arranged whenever possible. In appropriate instances, material that is published and offered for sale may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402; U.S. Department of Commerce's National Technical Information Service (NTIS), Springfield, Virginia 22151; or National Audio-Visual Center, National Archives and Records Administration, Capitol Heights, MD 20743–3701.

Rodney E. Slater,
Secretary of Transportation.

[FR Doc. 98–18757 Filed 7–15–98; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[I.D. 071098I]

Atlantic Tuna Fisheries; Atlantic Bluefin Tuna Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Catch limit adjustment.

SUMMARY: NMFS adjusts the daily catch limit for the Angling category fishery for Atlantic Bluefin Tuna (BFT) in all areas to one fish from the large school or small medium size class per vessel. The intent of this action is to ensure reasonable fishing opportunities without risking overharvest of the quota established for the Angling category fishery.

DATES: Effective 1:00 a.m. local time on July 16, 1998, through December 31, 1998.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin, 301–713–2347, or Mark Murray-Brown, 978–281–9260.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 285.

Implementing regulations for the Atlantic tuna fisheries at § 285.24 allow for adjustments to the daily catch limits in order to provide for maximum utilization of the quota spread over the longest possible period of time. The Assistant Administrator for Fisheries, NOAA (AA) may increase or reduce the per angler catch limit for any size class BFT or may change the per angler limit to a per boat limit or a per boat limit to a per angler limit.

NMFS previously adjusted the southern area (south of 38°47′ N. lat.) daily catch limit to one fish per angler, with a maximum of three fish per vessel, from the school size class and one fish per vessel from the large school or small medium size class (63 FR 35161, June 29, 1998). The duration of the catch limit adjustment was specified as the period of June 26 through July 27, 1998. However, NMFS indicated that an interim closure or additional catch limit adjustment may be necessary to enhance scientific data collection from all geographic areas, and that such action would be announced through publication in the **Federal Register**.

Based on information collected by NMFS through dockside and telephone surveys and through the Automated Catch Reporting System (reported landings and estimated fishing effort), NMFS has determined that recent catch rates in the last few weeks are considerably higher than those for the same time period in 1997, which formed the basis for the previous catch limit adjustment. Therefore, NMFS has determined that an additional catch limit adjustment is warranted for all areas, i.e., north and south of 38°47′ N. lat. The catch limit for all areas is adjusted as follows: No more than one BFT from the large school or small medium size class (measuring 47 to less than 73 inches) may be retained each day per Angling category vessel. This daily catch limit adjustment is effective July 16 through December 31, 1998, or until further notice.

Additional adjustments to the daily catch limit or closures, if any, shall be announced through publication in the **Federal Register**. In addition, anglers may call the Atlantic Tunas Information Line at 888–USA-TUNA (888–872–8862), 301–713–1279, or 978–281–9305 for updates on quota monitoring and catch limit adjustments.

Anglers aboard Charter/Headboat vessels, when engaged in recreational fishing for school, large school, and small medium BFT, are subject to the same rules as anglers aboard Angling category vessels. All BFT landed under the Angling category quota outside of North Carolina must be reported within 24 hours of landing to the NMFS Automated Catch Reporting System by phoning 888–USA-TUNA (888–872–8862), or in North Carolina, to a reporting station. For information about the North Carolina Harvest Tagging Program, including reporting station locations, call 800–338–7804.

The fishery for large medium and giant BFT (measuring 73 inches or greater) is not affected by this closure and remains open in all areas until further notice, subject to the trophy fish limit of one-per-vessel-per-year. Anglers should verify that the trophy category remains open by calling the Atlantic Tunas Information Line prior to each fishing trip. In addition, anglers may continue to tag and release BFT of all sizes under the NMFS tag-and-release program (50 CFR 285.27).

Classification

This action is taken under 50 CFR 285.24(d)(3) and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 971 *et seq.*

Dated: July 10, 1998.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–18930 Filed 7–13–98; 10:01 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 971208297–8054–02; I.D. 071098D]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Central Regulatory Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Modification of a closure.

SUMMARY: NMFS is opening directed fishing for Pacific ocean perch in the Central Regulatory Area of the Gulf of Alaska management area (GOA). This action is necessary to fully utilize the 1998 total allowable catch (TAC) of Pacific ocean perch in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 12, 1998.

FOR FURTHER INFORMATION CONTACT: Andrew Smoker, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In accordance with § 679.20(c)(3)(ii), the Final 1998 Harvest Specifications of Groundfish for the GOA (63 FR 12027, March 12, 1998) established the amount of the 1998 TAC of Pacific ocean perch in the Central Regulatory Area of the Gulf of Alaska 6,600 metric tons (mt).

The Administrator, Alaska Region, NMFS (Regional Administrator), has established a directed fishing allowance of 5,600 mt, and set aside the remaining 1,000 mt as bycatch to support other anticipated groundfish fisheries. The fishery for Pacific ocean perch in the Central Regulatory Area of the GOA was closed to directed fishing under § 679.20(d)(1)(iii) on July 6, 1998, (63 FR 37071, July 9, 1998).

NMFS has determined that as of July 9, 1998, 2,000 mt remain in the directed fishing allowance. Therefore, NMFS is terminating the previous closure and is opening directed fishing for Pacific ocean perch in the Central Regulatory Area of the GOA.

Classification

All other closures remain in full force and effect. This action responds to the best available information recently obtained from the fishery. It must be implemented immediately in order to allow full utilization of the Pacific ocean perch TAC. Providing prior notice and opportunity for public comment for this action is impracticable and contrary to the public interest. Further delay would only disrupt the FMP objective of providing the Pacific ocean perch TAC for harvest. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 10, 1998.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–18893 Filed 7–10–98; 4:48 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 971208297–8054–02; I.D. 071098A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Eastern Regulatory Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Modification of a closure.

SUMMARY: NMFS is opening directed fishing for Pacific ocean perch in the Eastern Regulatory Area of the Gulf of Alaska management area (GOA). This action is necessary to fully utilize the 1998 total allowable catch (TAC) of Pacific ocean perch in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 12, 1998.

FOR FURTHER INFORMATION CONTACT: Andrew Smoker, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In accordance with § 679.20(c)(3)(ii), the Final 1998 Harvest Specifications of Groundfish for the GOA (63 FR 12027, March 12, 1998) established the amount of the 1998 TAC of Pacific ocean perch in the Eastern Regulatory Area of the Gulf of Alaska as 2,366 metric tons (mt).

The Administrator, Alaska Region, NMFS (Regional Administrator), has established a directed fishing allowance of 2,116 mt, and set aside the remaining 250 mt as bycatch to support other anticipated groundfish fisheries. The fishery for Pacific ocean perch in the Eastern Regulatory Area of the GOA was closed to directed fishing under § 679.20(d)(1)(iii) on July 6, 1998, (63 FR 37071, July 9, 1998).

NMFS has determined that as of July 9, 1998, 1,900 mt remain in the directed fishing allowance. Therefore, NMFS is terminating the previous closure and is opening directed fishing for Pacific ocean perch in the Eastern Regulatory Area of the GOA.

Classification

All other closures remain in full force and effect. This action responds to the best available information recently obtained from the fishery. It must be implemented immediately in order to allow full utilization of the Pacific ocean perch TAC. Providing prior notice and opportunity for public comment for this action is impracticable and contrary to the public interest. Further delay would only disrupt the FMP objective of providing the Pacific ocean perch TAC for harvest. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 10, 1998.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–18892 Filed 7–10–98; 4:48pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 971208297–8054–02; I.D. 071098C]

Fisheries of the Economic Exclusive Zone Off Alaska; "Other Rockfish" Species Group in the Eastern Regulatory Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Modification of a closure.

SUMMARY: NMFS is opening directed fishing for the "other rockfish" species group in the Eastern Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to fully utilize the total allowable catch (TAC) of "other rockfish" in that area.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), July 12, 1998, until 2400 hours, A.l.t., December 31, 1998.

FOR FURTHER INFORMATION CONTACT: Andrew Smoker, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In accordance with § 679.20(c)(3)(ii), the Final 1998 Harvest Specifications of Groundfish for the GOA (63 FR 12027, March 12, 1998) established the amount of the 1998 TAC of "other rockfish" in the Eastern Regulatory Area of the Gulf of Alaska as 1,500 metric tons (mt). The Final 1998 Harvest Specifications of Groundfish for the GOA also closed directed fishing for "other rockfish" in the Eastern Regulatory Area of the GOA (see § 679.20(d)(1)(iii)) in anticipation that the TAC would be needed as incidental catch to support other anticipated groundfish fisheries during 1998.

The Regional Administrator has determined that the entire TAC for "other rockfish" will not be needed as incidental catch and is establishing a directed fishing allowance of 1,400 mt and is setting aside the remaining 100 mt as bycatch to support other anticipated groundfish fisheries.

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NMFS has determined that as of July 9, 1998, 1,400 mt remain in the directed fishing allowance. Therefore, NMFS is terminating the previous closure and is opening directed fishing for "other rockfish" in the Eastern Regulatory Area of the GOA.

All other closures remain in full force and effect. This action responds to the best available information recently obtained from the fishery. It must be implemented immediately in order to allow full utilization of the "other rockfish" TAC. Providing prior notice and opportunity for public comment for this action is impracticable and contrary to the public interest. Further delay would only disrupt the FMP objective of providing the "other rockfish" TAC for harvest. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived. All other closures remain in full force and effect.

Classification

This action is required by § 679.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 10, 1998.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–18891 Filed 7–10–98; 4:48 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 971208298–8055–02; I.D. 071098B]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Central Aleutian District of the Bering Sea and Aleutian Islands

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch in the Central Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 1998 total allowable catch (TAC) of Pacific ocean perch in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 11, 1998, until 2400 hrs, A.l.t., December 31, 1998.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR part 600 and CFR part 679.

The 1998 TAC of Pacific ocean perch for the Central Aleutian District was established by Final 1998 Harvest Specifications of Groundfish for the BSAI (63 FR 12689, March 16, 1998) as 3,192 metric tons (mt). See § 679.20(c)(3)(iii).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 1998 TAC for Pacific ocean perch in the Central Aleutian District will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 2,192 mt, and is setting aside the remaining 1,000 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the Central Aleutian District.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent overharvesting the 1998 TAC of Pacific ocean perch for the Central Aleutian District of the BSAI. A delay in the effective date is impracticable and contrary to the public interest. Further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action should not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 10, 1998.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–18890 Filed 7–10–98; 4:48 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 63, No. 136
Thursday, July 16, 1998

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 246

RIN 0584–AC55

Special Supplemental Nutrition Program for Women, Infants and Children (WIC): Requirements for and Evaluation of WIC Program Requests for Bids for Infant Formula Rebate Contracts

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: At the time the current cost containment regulations were published in 1989, there were only minor differences in infant formula wholesale prices and few differences in types of infant formulas offered by manufacturers, i.e., milk-and soy-based infant formula. However, current wholesale prices vary considerably among manufacturers for similar formulas and several new infant formulas have emerged on the market over the last decade. Therefore, to reflect market changes in the infant formula industry and to optimize competition in the WIC Program's infant formula rebate contracts, this proposed rule would require WIC State agencies to award infant formula rebate contracts based on the lowest net price, allowing highest gross rebate as a basis of award only when retail prices of the different brands of infant formula vary, on average, by 5 percent or less. Additionally, this proposed rule would define the types and forms of infant formula that must be included in cost containment systems. It would also expand on conditions that must be met for the issuance of infant formulas not covered by rebate contracts.

DATES: To be assured of consideration, written comments on this rule must be received on or before September 14, 1998.

ADDRESSES: Comments may be mailed to Ronald J. Vogel, Acting Director, Supplemental Food Programs Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 540, Alexandria, Virginia 22302, (703) 305–2746. All written comments will be available for public inspection during regular business hours (8:30 a.m.–5:00 p.m., Monday through Friday) at the above address.

FOR FURTHER INFORMATION CONTACT: Deborah McIntosh, Chief, Program Analysis and Monitoring Branch, Supplemental Food Programs Division, Food and Nutrition Service, USDA, phone number (703) 305–2710.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been reviewed by the Office of Management and Budget, and has been determined to be economically significant under Executive Order 12866, and major under the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. Chapter 8).

Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). Shirley R. Watkins, Under Secretary, Food, Nutrition and Consumer Services, has certified that this rule will not have a significant economic impact on a substantial number of small entities. This rule, if implemented, will help ensure that WIC State agencies will be able to serve the maximum number of eligible applicants possible within their grant levels provided by the Federal government by removing current regulatory ambiguities that have resulted in the proliferation of protests of infant formula rebate contract awards. This rule further defines evaluation procedures for WIC State agencies' infant formula rebate contracts. While some WIC local agencies and WIC vendors may be small entities, the changes proposed by this rule will not affect them.

Executive Order 12372

The Special Supplemental Nutrition Program for Women, Infants and Children (WIC) is listed in the Catalog of Federal Domestic Assistance Programs under No. 10.557. For the reasons set forth in the final rule in 7 CFR 3015, Subpart V, and related Notice (48 FR 29115, June 24, 1983), this program is included in the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have a preemptive effect with respect to any State or local laws, regulations, or policies which conflict with its provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless so specified in the "Effective Dates" paragraph of this preamble. Prior to any judicial challenge to the provisions of this rule or the applications of its provisions, all applicable administrative procedures must be exhausted.

Public Law 104–4

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the Food and Nutrition Service generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires the Food and Nutrition Service to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private section of $100 million or more in any one year. Thus today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, the Food and Nutrition Service is submitting for

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public comment the changes in the information collection burden that would result from the adoption of the proposals in the rule.

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to Laura Oliven, Desk Officer, Officer of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, D.C. 20503 (a copy may also be sent to Deborah McIntosh at the address below). For further information, or for copies of the information collection, please contact Deborah McIntosh, Branch Chief, Program Analysis and Monitoring Branch, Supplemental Food Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 540, Alexandria, Virginia 22302–1594.

Comments and recommendations on the proposed information collection must be received by September 14, 1998. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Title: WIC Program Regulations.

OMB Number: 0584–0043.

Expiration Date: May 31, 1999.

Type of Request: Revision of a currently approved collection.

Abstract: This rule proposed would require documentation from a health care professional for any infant formula that is not covered by the State agency's infant formula rebate contract. Proposed documentation would include the following items: brand name of the formula prescribed; medical diagnosis warranting the prescribed formula; length of time the prescribed formula is medically required by the participant; and signature of the health care professional requesting the formula.

Respondents: Licensed health care professionals.

Estimated Number of Respondents: 16,000.

Estimated Number of Responses per Respondent: One.

Estimate of Burden: The proposed estimates of the reporting burden for information collections affected by this rule are detailed below.

Licensed health care professional	Respondents	Frequ.	Hrs/Resp	Total Hrs.
Proposed	16,000	1	0.03	533

Estimated Total Annual Burden on Respondents: 533 hours.

Background on Infant Formula Cost Containment

In response to rising food costs in the 1980's and the desire to use their food grants more efficiently, several WIC State agencies initiated infant formula rebate systems. In these early, voluntary infant formula rebate systems, a WIC State agency received rebate payments from one or more infant formula manufacturers based on: (1) the number of cans of their infant formula purchased with WIC funds by participants at retail outlets, or (2) the manufacturer's overall market share in the State.

At the time, infant formula expenditures represented almost 40 percent of all WIC food costs, making infant formula rebates an important cost-containment strategy. In fact, in fiscal year 1988, these rebate savings amounted to more than $30 million and grew to about $250 million in fiscal year 1989. Rebate savings escalated to $1.18 billion in fiscal year 1996, allowing the WIC Program to serve an additional 1.7 million participants. United States Department of Agriculture (The Department) figures show that nearly one out of every four WIC participants is supported with rebate savings. Without these savings, millions of low-income women, infants and children would not have the advantage of nutritious supplemental foods, nutrition education, and health care referrals provided by the WIC Program.

Legislative Background

Building on the success of voluntary State infant formula rebate systems, Public Law 100–460, the Department's fiscal year 1989 appropriations act required all WIC State agencies (except Indian State agencies with participation levels under 1,000) to explore the feasibility of cost-containment measures for infant formula and implement such measures where feasible. As a result of this mandatory legislative requirement, WIC State agencies with participation levels over 1,000 implemented infant formula cost-containment measures, primarily infant formula rebate systems. With the passage of the Child Nutrition and WIC Reauthorization Act of 1989 (section 123(a)(6) of Public Law 101–147), these cost containment requirements were made a permanent program feature. As a result, section 17(h)(8)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)(A)) WIC State agencies are required to implement a competitive bidding system for the procurement of infant formula, or any other infant formula cost containment measure that yields savings equal to or greater than savings generated by a competitive bidding system. As defined in section 17(b)(17) of the Child Nutrition Act of 1966 (42 U.S.C. 1786 (b)(17)), competitive bidding is a process by which a WIC State agency selects a single source offering the lowest price, as determined by the submission of sealed bids, for the product(s) for which bids are sought.

Since the time when infant formula cost containment legislation was enacted, the infant formula industry has changed considerably. The manufacturers have changed and product lines have expanded. The Department believes that the current rebate regulations need to be updated to reflect these changes and should include provisions which accommodate future possible market dynamics. Therefore, this proposed rule addresses numerous major issues, discussed in detail below.

Lowest Net Price Cost of Infant Formula

Competition is a critical factor in achieving the lowest possible price for infant formula. Without adequate competition, manufacturers may offer lower rebate bids and the WIC Program could experience a substantial increase in food package costs. It is imperative, therefore, that fair and open competition in the awarding of infant formula rebate contracts be a major policy objective of the national WIC Program.

Current program regulations at 7 CFR section 246.16(k)(1) require WIC State agencies to evaluate infant formula rebate bids by one of two methods: (1) the lowest net wholesale cost, or (2) the highest rebate offered. However, because the current wholesale prices for various brands of infant formula differ considerably, manufacturers that have a significantly lower wholesale cost(s) are effectively placed at a competitive disadvantage in the bidding process if a WIC State agency evaluates bids based on the highest rebate offered. This competitive disadvantage was addressed by Congress in Public Law 104–180, the Department's fiscal year 1997 agriculture appropriations act and again in Public Law 105–86, the Department's fiscal year 1998 appropriations act. Both laws require State agencies to award infant formula rebate contracts on the basis of the lowest net price, unless the State agency demonstrates to the satisfaction of the Secretary that the weighted average retail price for different brands of infant formula in the State does not vary by more than 5 percent. "Net price" is defined in section 17(b)(20) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(20)) and in section 246.2 of the program regulations as the difference between the manufacturer's wholesale price for infant formula and the rebate level or the discount offered by the manufacturer.

When a WIC State agency evaluates bids based on the lowest net price per unit, the rebate offered by the manufacturer is subtracted from the manufacturer's wholesale price per unit. With this evaluation method, the manufacturer offering the lowest net price for infant formula wins the bid. This evaluation method recognizes the highest discount a manufacturer will provide.

New Requirement for Evaluating Rebate Bids

This proposed rule would require in section 246.16(k)(1)(iv) that WIC State agencies evaluate bids for infant formula rebate contracts on the basis of the lowest net price, with one exception. A WIC State agency may evaluate the bids received based on the highest rebate earned if the WIC State agency demonstrates to the satisfaction of the Food and Nutrition Service prior to the bid solicitation that the weighted average retail price for different brands of iron-fortified, milk-based infant formula in the State vary by 5 percent or less. The retail price must include WIC and non-WIC vendors in the State. In these cases, the retail prices of all manufacturer's formulas are comparable and consequently, highest rebate would yield approximately the same benefit as lowest net price.

Vendor Controls

There is concern among some WIC State agencies that if bids are evaluated by the lowest net price, the optimal rebate savings from the bid evaluation may not be realized by the WIC Program because the actual cost of infant formula depends on the vendor's retail price charged, less the rebate paid to the WIC State agency. For example, vendors who purchase one infant formula at a lower wholesale price than another do not invariably pass the savings on to their customers. As a result, such vendors charge a retail price for the infant formula that is approximately the same as for other formulas regardless of the wholesale cost. In such instances, the grocery store earns a larger profit on the formula with a lower wholesale cost. Consequently, some or all of the cost containment advantage of the rebate savings would be offset by the increased retail price. State agencies should be alert to these situations. The Department reminds State agencies that they may use WIC food price as a criteria when authorizing or reauthorizing vendor participation.

Definitions Pertaining to Infant Formula

Compliance with the Federal Food, Drug and Cosmetic Act (FDC Act) ensures that all infant formulas sold in the U.S. are safe, effective and properly labeled. The Food and Drug Administration (FDA), U.S. Department of Health and Human Services (DHHS), is the Federal agency with the exclusive legal authority to set the standards for infant formula and to monitor the production of infant formulas in this country. This proposed rule would define infant formula and exempt infant formula as those terms used in the FDC Act and the FDA's implementing regulations. By cross referencing the requirements in the FDC Act and regulations, any changes to these requirements will automatically apply to the WIC regulations.

Currently, the FDC Act defines infant formula as "a food which purports to be or is represented for special dietary use solely as a food for infants by reason of its simulation of human milk or its suitability as a complete or partial substitute for human milk." The FDC Act defines exempt infant formula as an "infant formula which is represented and labeled for use by an infant who (A) has an inborn error of metabolism, or a low birth weight, or (B) who otherwise has an unusual medical or dietary problem * * *" and exempts such formulas from certain FDC Act requirements.

Types and Forms of Infant Formula Subject to Bid Requirement

Section 17(h)(8)(A) of the Child Nutrition Act of 1966 requires WIC State agencies to use a competitive bidding system, or any other system that yields savings equal or greater, with respect to the procurement of infant formula. Current regulations at section 246.16(k) expand on the law, requiring most WIC State agencies to "implement infant formula cost containment measures for each of the types and forms of infant formulas prescribed to the majority of participants, i.e., milk and soy-based iron fortified, liquid concentrate formulas, or whatever other types and forms of formula routinely prescribed."

As a result of the introduction of various infant formulas to the market, this proposed rule would clarify and expand what infant formulas must be included in each State agency's cost containment system.

First, this proposed rule also would change the basis by which rebate contracts are evaluated by State agencies. To simplify the bidding process, section 246.16(k)(1)(i) will require that the bid evaluation process for infant formula rebates use as the common basis of bids only those offered for iron-fortified milk-based infant formula which meet the nutritional requirements of a Food Package I or II formula (section 246.10(c)(1)(i) and (2)) and can be routinely issued to the majority of generally healthy, full-term infants. However, rebates will be required for all non-exempt formulas produced by the manufacturer. While product lines vary somewhat among manufacturers, all manufacturers offer formulas to accommodate infants who cannot tolerate lactose. Thus, for bidding purposes, the estimated number of infants shall include all infants the State agency expects to participate less those who are breastfeeding or prescribed exempt formulas.

This proposed rule would require each manufacturer awarded a WIC infant formula rebate contract to pay a rebate on any infant formula in its product line that is not an exempt formula that is issued by the WIC State agency. This rebate must yield the same percentage discount on the wholesale cost as the iron-fortified milk-based infant formula for which the manufacturer submitted a winning bid. For example, if the wholesale price for the iron-fortified milk-based infant formula is $2 per can and the rebate is $1.50 per can (75% of the wholesale

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price), the rebate for any other non-exempt infant formula (e.g., soy-based formula) produced by the winning manufacturer would be 75 percent of the respective wholesale price of the other infant formula issued. The same infant formulas would be required to be included in any alternate cost containment system; the program regulations at section 246.16(k)(2) concerning the comparative method of implementing a cost containment system would continue to require the alternative system to cover the identical types and forms of infant formula as in the competitive bidding system.

This requirement does not obligate WIC State agencies to approve or issue all the types of infant formula covered in the contract. In fact, State agencies are encouraged to carefully limit the issuance of all alternative formulas under WIC Food Packages I and II to only those infants who have warranted nutritional needs that cannot be appropriately met by the iron-fortified milk-based infant formula upon which the bid was submitted. Limiting the issuance of formulas other than these is important to WIC State agencies for several reasons: manageability, ease of transition to another WIC contract formula manufacturer that has a different product line, and WIC vendor integrity.

Infant Formula Documentation Requirements

This proposed rule also would revise existing language in section 246.10 concerning a physician's determination of the need for a particular formula and documentation of that determination. Current WIC regulations state that a physician must authorize the issuance of any formula that does not meet the requirements of an iron-fortified infant formula as described in section 246.10(c)(1)(i). Examples of formulas that do not meet these requirements include low-iron infant formulas and many designed to meet the nutritional needs of infants with documented medical conditions. Questions have arisen about whether a medical prescription is required for documentation in these instances and whether someone other than a physician may make the determination in those State in which other health care professionals are authorized to write medical prescriptions. This proposed rule would make clear that the determination of the need for an alternate formula may be made by any health care professional authorized by State law to write medical prescriptions and that medical documentation must be issued by that health care professional before an alternate formula may be issued by WIC local agencies. This proposed rule would also strengthen medical documentation requirements. First, it would include all noncontract formulas among those formulas requiring medical documentation whether or not they comply with the requirements of an iron-fortified infant formula as described in section 246.10(c)(1)(i). This addition is intended to appropriately limit the issuance of noncontract infant formulas to those cases warranted for medical reasons so WIC State agencies can maximize their infant formula contract rebate savings to serve the greatest number of needy participants.

Second, the proposed rule would clarify that all exempt infant formulas (i.e., those designed for use with infants who have special dietary needs or serious medical conditions) must be supported with medical documentation. This requirement is not new; however, because this proposed rule introduces the term "exempt infant formula," the Department believes it will be helpful to include this new term in connection with existing medical documentation requirements.

To summarize the medical documentation requirements, this proposed rule would require medical documentation for all noncontract infant formula. Medical documentation would continue to be required for low-iron infant formula and for all exempt infant formulas.

The Department encourages comments specifically regarding the requirement of medical documentation for all non-contract infant formula.

List of Subjects in 7 CFR Part 246

Administrative practice and procedure, Civil rights, Food assistance programs, Food donations, Grant programs—health, Grant programs—social programs, Indians, Infants and children, Maternal and child health, Nutrition, Nutrition education, Penalties, Reporting and recordkeeping requirements, Public assistance programs, WIC, Women.

PART 246—SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS AND CHILDREN

Accordingly, 7 CFR Part 246 is proposed to be amended as follows:

1. The authority citation for part 246 continues to read as follows:

Authority: 42 U.S.C. 1786.

2. In section 246.2, the definitions of *Exempt infant formula* and *Infant formula* are added in alphabetical order to read as follows:

§ 246.2 Definitions

* * * * *

Exempt infant formula means an infant formula that meets the requirements for an exempt formula under section 412(h) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 350a(h)) and the regulations at 21 U.S.C. Parts 106 and 107.

* * * * *

Infant formula means infant formula as defined in section 201(z) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321(z)) and that meets the requirements for infant formula under section 412 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321) and the regulations at 21 U.S.C. Part 106 and 107.

* * * * *

3. In section 246.10:

a. Sentences 1 through 4 in paragraph (c)(1)(i) are revised.

b. The introductory text in paragraph (c)(3) is revised.

The revisions read as follows:

§ 246.10 Supplemental foods

* * * * *

(c) * * *

(1) *Food Package I—Infants 0 Through 3 Months.* (i) Iron-fortified infant formula, which is a complete formula not requiring the addition of any ingredients other than water prior to being served in a liquid state, and which contains at least 10 milligrams of iron per liter of formula at standard dilution which supplies 67 kilocalories per 100 milliliters; i.e., approximately 20 kilocalories per fluid ounce of formula at standard dilution. The State agency's contract brand of such iron-fortified formula shall be provided, unless a licensed health care professional authorized to write medical prescriptions under State law determines that the infant has a medical condition which dictates the use of other infant formula including, but not limited to, medical conditions which contraindicate the use of iron-fortified formula, metabolic disorders, inborn errors of amino acid metabolism, gastrointestinal disorders, malabsorption syndromes, and allergies. Provision of formula, other than the State agency's contract brand iron-fortified formula, shall be supported with medical documentation. This documentation shall be kept in the participant's certification file and shall include the: brand name of the formula prescribed; medical diagnosis warranting the prescribed formula; length of time the prescribed formula is medically required by the participant; and signature of the health care

professional requesting the formula. Low-calorie formulas may not be prescribed solely for the purpose of managing body weight of infants. * * *

* * * * *

(3) *Food Package III—Children/Women with Special Dietary Needs.* Children and women with special dietary needs may receive the following supplemental foods if a licensed health care professional, authorized to write medical prescriptions under State law, determines that the participant has a medical condition which precludes or restricts the use of conventional foods and necessitates the use of a formula including, but not limited to, metabolic disorders, inborn errors of amino acid metabolism, gastrointestinal disorders, malabsorption syndrome and allergies. The supplemental foods described below are not authorized solely for the purpose of enhancing nutrient intake or managing body weight of children and women participants. Any formula issued shall be supported with a medical documentation. This documentation shall be kept in the participant's certification file and shall include at a minimum the: brand name of the formula prescribed; medical diagnosis warranting the prescription; length of time the prescribed formula is medically required by the participant; and signature of the health care professional requesting the formula.

* * * * *

4. In section 246.16:

a. The introductory text of paragraph (k) is revised.

b. Paragraph (k)(1) is revised.

c. The first sentence in paragraph (k)(2)(i)(A) is revised.

The revisions read as follows:

§ 246.16 Distribution of funds.

* * * * *

(k) *Requirements for infant formula procurement.* Unless granted a waiver under paragraph (l) of this section, all State agencies with retail food delivery systems (except Indian State agencies with 1000 or fewer participants in April of any fiscal year, which shall be exempted for the following fiscal year) shall implement an infant formula cost containment measure through one of the two methods cited below:

(1) *Single-supplier competitive method.* The single-supplier competitive method is a solicitation of sealed competitive bids for rebates from infant formula manufacturers, as follows:

(i) Invitations for bids shall be for each of the forms (e.g., concentrated liquid, powdered and ready-to-feed) of a single iron-fortified, milk-based infant formula that:

(A) Meets the requirements of an iron-fortified infant formula as described in § 246.10(c)(1)(i);

(B) Can be routinely issued to the majority of generally healthy, full-term infants.

(ii) State agencies shall solicit bids based on an estimated total amount of infant formula it expects to issue. Such estimates shall be based on the current number of infant participants, excluding those infants exclusively breastfed and those issued an exempt infant formula. The estimated total amount of infant formula shall be expressed in terms of the proportion of each form of formula expected to be issued (e.g., concentrated liquid, powdered and ready-to-feed).

(iii) Invitations for bid and contracts shall require the manufacturer to pay a rebate for any nonexempt infant formula the winning bidder produces that is issued by the State agency. The rebate for each of these other infant formulas shall yield the same percentage discount on the wholesale cost as the rebate for the infant formula described in paragraph (k)(1)(i) of this section.

(iv) State agencies shall award the contract(s) as follows:

(A) Based on the lowest net price for the infant formula described in paragraph (k)(1)(i) of this section; or

(B) Based on the highest rebate, provided the State agency demonstrates to the satisfaction of FNS before issuing the invitation for bids that the weighted average retail prices for different brands of infant formula in the State that meet the requirements of paragraph (k)(1)(i) of this section vary by 5 percent or less. The weighted average retail price must take into account the proportion of each infant formula the State agency expects to issue and both authorized food vendors and stores which do not participate in the program in the State.

(2) * * *

(i) *Food cost savings.*

(A) *Single Supplier Competitive System.* The State agency shall project food costs savings in the single-supplier competitive system based on the net wholesale price or highest rebate, as described in paragraph (k)(1)(v)(B) of this section, the total number of units of the specified types and forms of infant formula to be purchased under the program less the number of units of alternative brands anticipated to be prescribed by physicians and purchased by participants. * * *

* * * * *

Dated: July 10, 1998.

Shirley R. Watkins,

Under Secretary, Food, Nutrition and Consumer Services.

[FR Doc. 98–18957 Filed 7–15–98; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Docket No. FV98–905–3 PR]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate from $0.0035 to $0.00385 per 4/5 bushel carton established for the Citrus Administrative Committee (Committee) under Marketing Order No. 905 for the 1998–99 and subsequent fiscal periods. The Committee is responsible for local administration of the marketing order which regulates the handling of citrus grown in Florida. Authorization to assess citrus handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period begins August 1 and ends July 31. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by August 17, 1998.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 205–6632. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Doris Jamieson, Southeast Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 2276, Winter Haven, FL 33883–2276; telephone: (941) 299–4770, Fax: (941) 299–5169; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720-2491, Fax: (202) 205–6632. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington,

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DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 84 and Order No. 905, both as amended (7 CFR part 905), regulating the handling of Oranges, Grapefruit, Tangerines, and Tangelos grown in Florida, hereinafter referred to as the "order." The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, Florida citrus handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable citrus beginning on August 1, 1998, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule would increase the assessment rate established for the Committee for the 1998–99 and subsequent fiscal periods from $0.0035 to $0.00385 per 4/5 bushel carton handled.

The Florida citrus marketing order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 1996–97 and subsequent fiscal periods, the Committee recommended, and the Department approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee met on May 22, 1998, and unanimously recommended 1998–99 expenditures of $242,275 and an assessment rate of $0.00385 per ⅘ bushel carton of citrus. In comparison, last year's budgeted expenditures were $242,000. The assessment rate of $0.00385 is $0.00035 higher than the rate currently in effect. Shipments of fresh citrus for the 1997–98 season are expected to be less than the Committee's initial estimate of 65,000,000 cartons. Estimated shipments for 1998–99 are 61,500,000 cartons, or 3,500,000 million cartons less than the 1997–98 estimate. Due to the reduced fresh shipments of Florida citrus to interstate and export markets, the Committee voted to increase the assessment rate to generate funds necessary to meet Committee operating expenditures, and maintain an adequate operating reserve.

The major expenditures recommended by the Committee for the 1998–99 year include $115,800 for salaries, $36,000 for Manifest Department-FDACS, $18,400 for insurance and bonds, and $12,325 for retirement plan. Budgeted expenses for these items in 1997–98 were $105,300, $36,000, $16,500, and $11,200, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of Florida citrus. As mentioned earlier, citrus shipments for 1998–99 are estimated at 61,500,000 cartons which should provide $236,775 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, would be adequate to cover budgeted expenses. Funds in the reserve (currently $109,371) would be kept within the maximum permitted by the order (approximately one-half of one fiscal period's expenses; § 905.42).

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate would be in effect for an indefinite period, the Committee would continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 1998–99 budget and those for subsequent fiscal periods would be reviewed and, as appropriate, approved by the Department.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 11,000 producers of citrus in the production area and approximately 109 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. The majority of Florida citrus producers and handlers may be classified as small entities.

This rule would increase the assessment rate established for the Committee and collected from handlers for the 1998–99 and subsequent fiscal periods from $0.0035 per 4/5 bushel carton to $0.00385 per 4/5 bushel carton handled. The Committee unanimously recommended 1998–99 expenditures of $242,275 and an assessment rate of $0.00385 per 4/5 bushel carton. The proposed assessment rate of $0.00385 per 4/5 bushel carton is $0.00035 higher than the 1997–98 rate. The quantity of assessable citrus for the 1998–99 season is estimated at 61,500,000. Thus, the $0.00385 rate should provide $236,775 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, would be adequate to meet this year's expenses.

The Committee estimates a reduced amount of fresh shipments of Florida citrus for the 1998–99 season. They unanimously recommended 1998–99 expenditures of $242,275 which included increases in staff salaries and benefits, and equipment rental. Due to the anticipated reduction of fresh shipments, the Committee voted to increase the assessment rate to generate the funds necessary to meet the Committee's operating expenses and maintain an adequate operating reserve. The Committee's authorized reserve (approximately one-half of one fiscal period's expenses) is currently $109,371. The revenue from assessments, along with interest income and funds from the Committee's authorized reserve, would be adequate to cover budgeted expenses.

The Committee reviewed and unanimously recommended 1998–99 expenditures of $242,275 which included increases in staff salaries and benefits, and equipment rental. Prior to arriving at this budget, the Committee considered information from various sources, such as the Committee's Budget Sub-Committee. Alternative expenditure levels were discussed. However, it was determined that the increases in salaries, benefits, and equipment were needed and justified. The assessment rate of $0.00385 per 4/5 bushel carton of assessable Florida citrus was then determined by dividing the total recommended budget by the quantity of assessable citrus, estimated at 61,500,000 4/5 bushel cartons for the 1998–99 fiscal period. This is approximately $5,500 below the anticipated expenses. Assessment income, along with interest income and funds from the Committee's authorized reserve, would be adequate to cover budgeted expenses, which the Committee determined to be acceptable.

There are several varieties of citrus regulated under the order. In the 1997–98 season, the f.o.b. price ranged from around $5.83 to $6.71 for oranges, from around $5.26 to $6.31 for grapefruit, and from around $7.17 to $20.39 for speciality citrus. Depending on the volume and variety produced by the individual grower, the price for Florida citrus during the 1998–99 season is expected to range between $5.26 and $20.39 per 4/5 bushel carton. Therefore, the estimated assessment revenue for the 1998–99 fiscal period as a percentage of total grower revenue could range between 0.02 and 0.07 percent.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the Florida citrus industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the May 22, 1998, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large Florida citrus handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. Thirty days is deemed appropriate because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1998–99 fiscal period begins on August 1, 1998, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable citrus handled during such fiscal period; and (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 905

Grapefruit, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 905 is proposed to be amended as follows:

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

1. The authority citation for 7 CFR part 905 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 905.235 is proposed to be revised to read as follows:

§ 905.235 Assessment rate.

On and after August 1, 1998, an assessment rate of $0.00385 per 4/5 bushel carton is established for assessable Florida citrus covered under the order.

Dated: July 10, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–18913 Filed 7–15–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 924

[Docket No. FV98–924–1 PR]

Fresh Prunes Grown in Designated Counties in Washington and Umatilla County, Oregon; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate established for the Washington-Oregon Fresh Prune Marketing Committee (Committee) under Marketing Order No. 924 for the 1998–99 and subsequent fiscal periods from $0.75 to $1.00 per ton of fresh prunes handled. The Committee is responsible for local administration of the marketing order which regulates the handling of fresh prunes grown in designated counties in Washington and Umatilla County, Oregon. Authorization to assess fresh prune handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The 1998–99 fiscal period began April 1 and ends

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March 31. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by August 17, 1998.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax (202) 205–6632. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Teresa L. Hutchinson, Northwest Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, Room 369, Portland, OR 97204; telephone: (503) 326–2724, Fax: (503) 326–7440 or George J. Kelhart, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 690–3919, Fax: (202) 205–6632. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 927, both as amended (7 CFR part 924), regulating the handling of fresh prunes grown in designated counties in Washington and Umatilla County, Oregon hereinafter referred to as the "order." The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, fresh prune handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as proposed herein would be applicable to all assessable fresh prunes beginning April 1, 1998, and continue until modified, suspended, or terminated. This rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule would increase the assessment rate established for the Committee for the 1998–99 and subsequent fiscal periods from $0.75 to $1.00 per ton of fresh prunes handled.

The order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The Committee consists of six producer members and three handler members, each of whom is familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The budget and assessment rate were discussed at a public meeting and all directly affected persons had an opportunity to participate and provide input.

For the 1997–98 and subsequent fiscal periods, the Committee recommended, and the Department approved, an assessment rate of $0.75 per ton that would continue in effect from fiscal period to fiscal period indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee met on June 3, 1998, and unanimously recommended 1998–99 expenditures of $7,003 and an assessment rate of $1.00 per ton of fresh prunes handled during the 1998–99 and subsequent fiscal periods. In comparison, last year's budgeted expenditures were $7,233. The assessment rate of $1.00 is $0.25 more than the rate currently in effect. The Committee recommended an increased assessment rate because the current rate would not generate enough income to adequately administer the program. The Committee decided that an assessment rate of more than $1.00 would generate income in excess of that needed to adequately administer the program.

Major expenses recommended by the Committee for the 1998–99 fiscal period include $2,880 for manager salary, $1,000 for travel, $528 for rent and maintenance, and $475 for audit. Budgeted expenses for these items in 1997–98 were $2,880, $1,000, $440, and $465, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of fresh prunes. Fresh prune shipments for the year are estimated at 4,800 tons, which should provide $4,800 in assessment income. Income derived from handler assessments, along with funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve (currently $6,709) would be kept within the maximum permitted by the order of approximately one fiscal period's operational expenses (§ 924.42).

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate would be in effect for an indefinite period, the Committee would continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 1998–99 budget and those for subsequent fiscal periods would be reviewed and, as appropriate, approved by the Department.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact this rule would have on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 350 producers of fresh prunes in the production area and approximately 30 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than $500,000 and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. The majority of fresh prune producers and handlers may be classified as small entities.

This rule would increase the assessment rate established for the Committee for the 1998–99 and subsequent fiscal periods from $0.75 to $1.00 per ton of fresh prunes handled. The Committee met on June 3, 1998, and unanimously recommended 1998–99 expenditures of $7,003 and an assessment rate of $1.00 per ton of fresh prunes handled. In comparison, last year's budgeted expenditures were $7,233. The assessment rate of $1.00 is $0.25 more than the rate currently in effect. The Committee recommended an increased assessment rate because the current rate would not generate enough income to adequately administer the program. The Committee decided that an assessment rate of more than $1.00 would generate income in excess of that needed to adequately administer the program.

Major expenses recommended by the Committee for the 1998–99 fiscal period include $2,880 for manager salary, $1,000 for travel, $528 for rent and maintenance, and $475 for audit. Budgeted expenses for these items in 1997–98 were $2,880, $1,000, $440, and $465, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of fresh prunes. Fresh prune shipments for the year are estimated at 4,800 tons, which should provide $4,800 in assessment income. Income derived from handler assessments, along with funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses. The reserve is within the maximum permitted by the order of approximately one fiscal period's operational expenses (§ 924.42).

Recent price information indicates that the grower price for the 1998–99 marketing season will range between $200 and $500 per ton of fresh prunes handled. Therefore, the estimated assessment revenue for the 1998–99 fiscal period as a percentage of total grower revenue will range between 0.20 and 0.50 percent.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the fresh prune industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the June 3, 1998, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large winter pear handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A 30-day comment period is provided to allow interested persons the opportunity to respond to this request for information and comments. Thirty days is deemed appropriate because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1998–99 fiscal period began on April 1, 1998, and the order requires that the rate of assessment for each fiscal period apply to all assessable fresh prunes handled during such fiscal period; (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 924

Marketing agreements, Plums, Prunes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 924 is proposed to be amended as follows:

PART 924—FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN WASHINGTON AND UMATILLA COUNTY, OREGON

1. The authority citation for 7 CFR part 924 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 924.236 [Amended]

2. Section 924.236 is proposed to be amended by removing the words "April 1, 1997," and adding in their place the words "April 1, 1998," and by removing "$0.75" and adding in its place "$1.00."

Dated: July 10, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–18999 Filed 7–15–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–58–AD]

RIN 2120–AA64

Airworthiness Directives; SOCATA-Groupe Aerospatiale Model TBM 700 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain SOCATA-Groupe Aerospatiale (SOCATA) Model TBM 700 airplanes. The proposed AD would require modifying the oxygen generators. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for France. The actions specified by the proposed AD are intended to prevent failure of the oxygen generators, which could result in crew incapacitation and loss of the airplane.

DATES: Comments must be received on or before August 20, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation

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Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–58–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from SOCATA Groupe Aerospatiale, Customer Support, Aerodrome Tarbes-Ossun-Lourdes, BP 930—F65009 Tarbes Cedex, France; telephone (33) 5.62.41.76.52; facsimile (33) 5.62.41.76.54; or the Product Support Manager, SOCATA -Groupe AEROSPATIALE, North Perry Airport, 7501 Pembroke Road, Pembroke Pines, Florida 33023; telephone (954) 894–1160; facsimile: (954) 964–4191. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut Street, Suite 900, Kansas City, Missouri 64106; telephone (816) 426–6934; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98–CE–58–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–58–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain SOCATA TBM 700 airplanes. The DGAC reports that operation of the oxygen generators failed on one of the affected airplanes. The oxygen generators are located under the passenger and crew seats and are pin-fired. Further investigation revealed that the firing pin was not lining up correctly and was not striking the generator in the right place to release oxygen into the cabin.

This condition, if not corrected, could result in failure of the oxygen generators, which could result in crew incapacitation and loss of the airplane.

Relevant Service Information

SOCATA has issued Mandatory Service Bulletin No. 70–046–35, dated May 1998, which specifies procedures for modifying the oxygen generator.

The DGAC classified this service bulletin as mandatory and issued French AD No. T98–195(A), dated June 3, 1998, in order to assure the continued airworthiness of these airplanes in France.

The FAA's Determination

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above.

The FAA has examined the findings of the DGAC; reviewed all available information, including the service information referenced above; and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other SOCATA Model TBM 700 airplanes of the same type design registered in the United States, the FAA is proposing AD action. The proposed AD would require modifying the oxygen generator by replacing the firing pin and adding a washer. This modification should ensure that the firing pin stays aligned and strikes the oxygen generator in the correct manner. Accomplishment of the proposed modification would be in accordance with SOCATA Mandatory Service Bulletin No. 70–046–35, dated May 1998.

Cost Impact

The FAA estimates that 60 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 2 workhours per airplane to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. Parts are available at minimal costs. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $7,200, or $120 per airplane.

Differences Between the French AD, the Service Bulletin, and This Proposed AD

French AD No. T98–195(A), dated June 3, 1998, and SOCATA Mandatory Service Bulletin No. 70–046–35, dated May 1998, both specify modifying the oxygen generator at the next scheduled maintenance inspection. The foreign AD and the service information differ in that the DGAC mandates that this action be accomplished no later than August 31, 1998, and the service bulletin specifies that the action be accomplished no later than 3 months from the date of the service bulletin. This proposed AD, if followed with a final rule, would require the modification be accomplished within 45 days after the effective date of the AD.

The modification required by the proposed AD does not differ from the DGAC AD or the SOCATA service bulletin.

Compliance Time of the Proposed AD

The compliance time of this proposed AD is presented in calendar time instead of hours time-in-service (TIS). The FAA has determined that a calendar time compliance is the most desirable method because the unsafe condition described by this proposed AD occurs regardless of the hours time-in-service. The oxygen generator failure could occur on any flight where it may be relied upon to provide the crew and passengers with oxygen. To ensure that the above-referenced condition is corrected on all of the affected airplanes within a reasonable period of time without inadvertently grounding any airplanes, the FAA is proposing a compliance schedule based upon calendar time instead of hours TIS.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

Socata—Groupe Aerospatiale: Docket No. 98–CE–58–AD.

Applicability: Model TBM 700 airplanes, serial numbers 1 through 125, 127, 128, and 130 through 133, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within 45 days after the effective date of this AD, unless already accomplished.

To prevent failure of the oxygen generators, which could result in crew incapacitation and loss of the airplane, accomplish the following:

(a) Modify the oxygen generator by replacing the firing pin and adding a washer in accordance with the Accomplishment Instructions section of SOCATA Mandatory Service Bulletin No. 70–046–35, dated May 1998.

(b) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by theManager, Small Airplane Directorate, FAA, 1201 Walnut,Suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(d) Questions or technical information related to SOCATA Mandatory Service Bulletin No. 70–046–35, dated May 1998, should be directed to SOCATA Groupe AEROSPATIALE, Customer Support, Aerodrome Tarbes-Ossun-Lourdes, BP 930–F65009 Tarbes Cedex, France; telephone (33) 5.62.41.76.52; facsimile (33) 5.62.41.76.54; or the Product Support Manager, SOCATA—Groupe AEROSPATIALE, North Perry Airport, 7501 Pembroke Road, Pembroke Pines, Florida 33023; telephone (954) 894–1160; facsimile: (954) 964–4191. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Note 3: The subject of this AD is addressed in French AD No. T98–195(A), dated June 3, 1998.

Issued in Kansas City, Missouri, on July 10, 1998.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–18940 Filed 7–15–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–176–AD]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB 340B Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Saab Model SAAB 340B series airplanes. This proposal would require a one-time inspection for moisture or other contamination of a certain wiring harness, electrical relay, and relay socket; a one-time inspection for electrical damage of the same electrical relay and socket; corrective actions, if necessary; and replacement of certain nut plates with new, improved parts. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent a short circuit caused by fluid leakage, which could result in inability to extend or retract the landing gear.

DATES: Comments must be received by August 17, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–176–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Saab Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linkping, Sweden. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

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SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–NM–176–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–176–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Luftfartsverket (LFV), which is the airworthiness authority for Sweden, notified the FAA that an unsafe condition may exist on certain Saab Model SAAB 340B series airplanes. The LFV advises that it has received a report indicating that circuit breaker 7GA opened while an airplane was in flight, which resulted in the flightcrew being unable to extend and lock down the landing gear. In another incident, circuit breaker 7GA opened shortly after takeoff of an airplane, which resulted in the flightcrew being unable to retract the landing gear. Investigation revealed that the design of nut plates installed on the cockpit floor allowed fluid to leak through carpet attachment holes on the floor. Such fluid leakage contaminated electrical relay 15GA, which is located directly below the nut plates, and caused a short circuit that caused circuit breaker 7GA to open. Fluid leakage also contaminated related wiring harnesses, which could cause the wiring insulation to break down and lead to a short circuit. This condition, if not corrected, could result in inability to extend or retract the landing gear, or possible collapse of the landing gear if it is not locked down properly upon landing.

Explanation of Relevant Service Information

The manufacturer has issued Saab Service Bulletin 340–32–115, dated April 7, 1998. This service bulletin describes procedures for a one-time detailed visual inspection for moisture or other contamination of a wiring harness above relay consoles 305VU and 306VU, and cleaning the wiring harness, if necessary. This service bulletin also describes procedures for a one-time detailed visual inspection for moisture or other contamination of electrical relay 15GA and its socket, which involves removing the relay from its socket; and corrective actions, if necessary. These corrective actions include removing the socket from the relay console, disconnecting the wires from the relay socket, and cleaning the relay socket and relay. This service bulletin also describes procedures for a one-time detailed visual inspection for electrical damage (i.e., arcing, discoloration, or charring) of electrical relay 15GA and its socket; and replacement of the relay and its socket with new parts, if necessary. The service bulletin also describes procedures for replacement of certain existing nut plates on the floor of the cockpit with new, improved parts. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The LFV classified this service bulletin as mandatory and issued Swedish airworthiness directive SAD 1–125, dated April 7, 1998, in order to assure the continued airworthiness of these airplanes in Sweden.

FAA's Conclusions

This airplane model is manufactured in Sweden and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LFV has kept the FAA informed of the situation described above. The FAA has examined the findings of the LFV, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 120 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 1 work hour per airplane to accomplish the proposed inspections, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspections proposed by this AD on U.S. operators is estimated to be $7,200, or $60 per airplane.

It would take approximately 3 work hours per airplane to accomplish the proposed replacement, at an average labor rate of $60 per work hour. Required parts would be provided by the manufacturer at no cost to operators. Based on these figures, the cost impact of the replacement proposed by this AD on U.S. operators is estimated to be $21,600, or $180 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

SAAB Aircraft AB: Docket 98–NM–176–AD.

Applicability: Model SAAB 340B series airplanes, manufacturer serial numbers 380 through 499 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent a short circuit caused by fluid leakage, which could result in inability to extend or retract the landing gear, accomplish the following:

(a) Within 400 flight hours after the effective date of this AD, accomplish the actions required by paragraphs (a)(1), (a)(2), (a)(3), and (a)(4) of this AD, in accordance with Saab Service Bulletin 340–32–115, dated April 7, 1998.

(1) Perform a detailed visual inspection to detect moisture or other contamination of the electrical wiring harness above relay consoles 305VU and 306VU. If any moisture or other contamination is found, prior to further flight, clean the wiring harness.

(2) Perform a detailed visual inspection to detect moisture or other contamination of electrical relay 15GA and its socket. If any moisture or other contamination is found, prior to further flight, accomplish corrective actions.

(3) Perform a detailed visual inspection for electrical damage of electrical relay 15GA and its socket. If any sign of electrical damage (arcing, discoloration, or charring) is detected, prior to further flight, replace the existing relay and socket with new parts.

(4) Replace the existing nut plates on the floor of the cockpit with new, improved nut plates, on the left and right sides of the airplane.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in Swedish airworthiness directive SAD 1–125, dated April 7, 1998.

Issued in Renton, Washington, on July 8, 1998.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–18949 Filed 7–15–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 206

RIN 1010–AC09

Establishing Oil Value for Royalty Due on Federal Leases

AGENCY: Minerals Management Service, Interior.

ACTION: Further supplementary proposed rule.

SUMMARY: The Minerals Management Service (MMS) is proposing additional changes to its second supplementary proposed rulemaking regarding the valuation of crude oil produced from Federal leases.

DATES: Comments must be submitted on or before July 24, 1998.

ADDRESSES: Mail comments, suggestions, or objections regarding the proposed rule to: Minerals Management Service, Royalty Management Program, Rules and Publications Staff, P.O. Box 25165, MS 3021, Denver, Colorado 80225–0165, e-mail address is RMP.comments@mms.gov.

FOR FURTHER INFORMATION CONTACT: David S. Guzy, Chief, Rules and Publications Staff, Royalty Management Program, Minerals Management Service, telephone (303) 231–3432, fax (303) 231–3385, e-mail RMP.comments@mms.gov.

SUPPLEMENTARY INFORMATION:

I. Background

MMS published an advance notice of its intent to amend the current Federal oil valuation regulations in 30 CFR parts 202 and 206 on December 20, 1995 (60 FR 65610). The purpose of this notice was to solicit comments on new methodologies to establish the royalty value of Federal (and Indian) crude oil production in view of the changes in the domestic petroleum market and particularly the market's move away from posted prices as an indicator of market value.

Based on comments received on the advance notice, together with information gained from a number of presentations by experts in the oil marketing business, MMS published its initial notice of proposed rulemaking on January 24, 1997 (62 FR 3742), applicable to Federal leases only. MMS held public meetings in Lakewood, Colorado, and Houston, Texas, to hear comments on the proposal.

In response to the variety of comments received on the initial proposal, MMS published a supplementary proposed rule on July 3, 1997 (62 FR 36030). This proposal expanded the eligibility requirements for valuing oil disposed of under arm's-length transactions.

Because of the substantial comments received on both proposals, MMS reopened the rulemaking to public comment on September 22, 1997 (62 FR 49460). MMS specifically requested comments on five valuation alternatives arising from the public comments. MMS held seven public workshops to discuss valuation alternatives.

As a result of comments received on the proposed alternatives and comments made at the public workshops, MMS published a second supplementary proposed rule on February 6, 1998 (63 FR 6113). The comment period for this second supplementary proposed rule was to close on March 23, 1998, but was extended to April 7, 1998 (63 FR 14057). MMS held five public workshops (63 FR 6887) on this second supplementary

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proposed rule: in Houston, Texas, on February 18, 1998; Washington, D.C., on February 25, 1998; Lakewood, Colorado, on March 2, 1998; Bakersfield, California, on March 11, 1998; and Casper, Wyoming, on March 12, 1998.

By **Federal Register** notice dated July 8, 1998, (63 FR 36868) MMS reopened the comment period for the February 6, 1998, second supplementary proposed rule from July 9, 1998, until July 24, 1998, to receive further comment on the proposed rule. A meeting involving MMS, several industry representatives, and members of Congress was held in Washington, D.C., on July 9, 1998.

II. Revisions to Supplementary Proposed Rule

In response to comments received so far, MMS is proposing some changes to the February 6, 1998, second supplementary proposed rule. MMS is requesting public comments on these further proposed provisions.

Definition of "Affiliate"

Several commenters to the February 6, 1998, second supplementary proposed rule objected to the proposed definition of "affiliate" in § 206.101. Under this proposed definition, 10 percent ownership was the threshold for defining control, requiring non-arm's-length valuation for transactions between persons with such a degree of affiliation. Commenters argued that 10 percent was too low because affiliates with this small amount of ownership actually have no control over the affiliated entity. Accordingly, they believed that too many lessees would be excluded from using their gross proceeds as value in bona fide arm's-length transactions. They suggested retaining the current definition of affiliate, as defined by the term "arm's-length contract," where ownership of 10 percent through 50 percent creates a presumption of control. One commenter suggested 20 percent to 50 percent ownership as the criteria for creating a presumption of control, consistent with the definition used by the Bureau of Land Management. One commenter suggested deleting reference to partnerships and joint ventures because lessees might not have access to records of these entities and these terms could create confusion as to whether the affiliate test applies to the property, field, or corporate level.

MMS understands the concern raised in the industry comments regarding presumption of control. Therefore, MMS now is proposing to retain the current meaning of affiliate embodied in the current rules at proposed § 206.101. Less than 10 percent ownership would create a presumption of non-control. Ownership of between 10 and 50 percent would create a presumption of control that the lessee could rebut. Ownership in excess of 50 percent would establish control.

However, in the current rule, affiliation is defined within the definition of the term "arm's length." In this proposed rule, although we have retained the current meaning of affiliation, we have made "affiliate" a separate definition from "arm's length." We believe this clarifies and simplifies the definitions and should promote better understanding of both "arm's length" and "affiliate."

Breach of Duty to Market

Some commenters were concerned about the provision in proposed § 206.102(c)(2)(ii) which allows MMS to disallow arm's-length gross proceeds as royalty value if the lessee breaches its duty to market its oil for the mutual benefit of the lessee and lessor. The concern expressed was that MMS would use this provision to "second-guess" a lessee's marketing decision and thereby force the lessee to use index-based valuation.

The provision which is the subject of the commenters' concerns is identical to the provision in the existing rules (see 30 CFR § 206.102(b)(1)(iii)) and has been in the rules for more than 10 years. This provision has never been used to "second-guess" a lessee's marketing decisions to try to impose benchmarks of § 206.102(c) on arm's-length transactions. Nevertheless, MMS is also proposing to modify the proposed § 206.102(c)(2) to clarify that the lessee's duty to market does not mean that MMS will second-guess a company's marketing decisions. Lessees generally may structure their business arrangements however they wish, and absent misconduct, MMS will look to the ultimate arm's-length disposition in the open market as the best measure of value. The provision's purpose is to protect royalty value if, for example, a lessee were to inappropriately enter into a substantially below-market transaction for the purpose of reducing royalty.

Exchanges

The July 3, 1997, supplementary proposed rule extended the use of gross proceeds valuation to oil exchanged and then sold at arm's length. In those cases where a lessee disposed of the produced oil under an exchange agreement with a non-affiliated person, and after the exchange the lessee sold at arm's length the oil acquired in the exchange, the lessee would have had the option of using either its gross proceeds under the arm's-length sale or the index pricing method to value the lease production (proposed paragraph 206.102(a)(6)(i)). This option would have applied only when there was a single exchange. If the lessee chose gross proceeds under this option, the lessee would have valued all oil production disposed of under all other arm's-length exchange agreements in the same manner (proposed paragraph 206.102(a)(6)(iii)). For any oil exchanged or transferred to affiliates, or subject to multiple exchanges, the lessee would have used the index pricing method to value the lease production (proposed paragraph 206.102(a)(6)(ii)).

Participants in MMS's workshops held in October 1997 indicated that they often use several exchanges to transport their production from offshore leases to onshore market centers. They believed that MMS should give the lessee an option of valuing exchanged oil either by using so-called "lease-market" benchmarks (rather than index prices) or by using the lessee's resale price less an exchange differential, regardless of the number of exchanges needed to reposition the crude oil for sale.

In response to those comments, in the February 6, 1998, proposal, MMS expanded gross proceeds valuation to include situations where the oil received in exchange is ultimately sold arm's-length, regardless of the number of arm's-length exchanges involved. However, because of the numerous industry and State comments now claiming that tracing multiple exchanges would be overly burdensome, if not impossible, MMS is proposing to return to the July 3, 1997, proposal's "first-exchange" rule, where value will be determined based on the arm's-length sale after a single arm's-length exchange. MMS is proposing to modify § 206.102 (c)(3) so that if two or more exchanges are involved, even if they are all at arm's length, the lessee must use index pricing.

Gathering vs. Transportation

MMS received comments on the definition of "gathering" as contained in the existing regulations in 30 CFR 206.101, which is the same as in proposed § 206.101. The commenters noted that development, especially of deepwater leases, often involves a sub-sea completion with no platform. Bulk, unseparated production is moved sometimes in excess of 50 miles to a platform where it first surfaces and is treated. The commenters asserted that in these situations the movement of production from sub-sea production over long distances should be deductible as a transportation allowance. MMS specifically requests comment on whether the definition of gathering should be modified to address this situation.

MMS requests comments on the revisions to the second supplementary proposed rule (63 FR 6113) including this notice or any other comments you may want to submit on this proposed rule. If you have commented already on other portions of the rule, you do not need to resubmit those comments since they are already part of the rulemaking record. MMS will respond to comments in the final rule.

List of Subjects in 30 CFR Part 206

Coal, Continental Shelf, Geothermal energy, Government contracts, Indians—lands, Mineral royalties, Natural gas, Petroleum, Public lands—mineral resources, Reporting and recordkeeping requirements.

Dated: July 14, 1998.

Sylvia V. Baca,

Acting Assistant Secretary, Land and Minerals Management.

For the reasons set forth in the preamble, the second supplementary proposed rule published at 63 FR 6113 on February 6, 1998, amending 30 CFR Part 206, is further amended as follows:

PART 206—PRODUCT VALUATION

1. The Authority citation for Part 206 continues to read as follows:

Authority: 5 U.S.C. 301 *et seq.*; 25 U.S.C. 396 *et seq.*, 396a *et seq.*, 2101 *et seq.*; 30 U.S.C. 181 *et seq.*, 351 *et seq.* 1001 *et seq.* 1701 *et seq.*; 31 U.S.C. 9701, 43 U.S.C. 1301 *et seq.* 1331 *et seq.*, and 1801 *et seq.*

Subpart C—Federal Oil

2. Section 206.101 as proposed to be revised at 63 FR 6113 is further amended by revising the following definition to read as follows:

§ 206.101 Definitions

Affiliate means a person who controls, is controlled by, or is under common control with another person.

(1) For this subpart, based on ownership of an entity's voting securities, interest in a partnership or joint venture, or other forms of ownership:

(i) Ownership greater than 50 percent constitutes control;

(ii) Ownership of 10 through 50 percent creates a presumption of control; and

(iii) Ownership of less than 10 percent creates a presumption of noncontrol that MMS may rebut if it demonstrates actual or legal control, including but not limited to interlocking directorates.

(2) MMS may require the lessee to certify the percentage of ownership. Aside from the percentage ownership criteria, relatives, either by blood or marriage, are affiliates.

3. Section 206.102 as proposed to be revised at 63 FR 6113 is further amended by revising paragraphs (c)(2) and (c)(3) to read as follows:

§ 206.102 How do I calculate royalty value for oil that I or my affiliate sell under an arm's-length contract?

* * * * *

(c) * * *

(2) You must value the oil under § 206.103 if MMS determines that the value under paragraph (a) of this section does not reflect the reasonable value of the production due to either:

(i) Misconduct by or between the parties to the arm's-length contract; or

(ii) Breach of your duty to market the oil for the mutual benefit of yourself and the lessor. MMS will not use this provision to dispute lessees' marketing decisions made reasonably and in good faith. It will apply only when a lessee or its affiliate inappropriately sells its oil at a price substantially below market value.

(3) You must use § 206.103 to value oil disposed of under an exchange agreement. However, if you enter into a single arm's-length exchange agreement, and following that exchange you dispose of the oil received in the exchange in a transaction to which paragraph (a) of this section applies, then you must value the oil under paragraph (a) of this section. Adjust that value for any location or quality differential or other adjustments you received or paid under the arm's-length exchange agreement(s). But if MMS determines that any arm's-length exchange agreement does not reflect reasonable location or quality differentials, MMS may require you to value the oil under § 206.103. If you enter into more than one sequential exchange agreement to dispose of your production, you must use § 206.103 to value that production.

* * * * *

[FR Doc. 98–19135 Filed 7–15–98; 8:45 am]

BILLING CODE 4310–MR–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR PARTS 73 and 74

[MM Docket No. 98–98; FCC 98–130]

Call Sign Assignments for Broadcast Stations

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this *Notice of Proposed Rulemaking (NPRM)*, the Federal Communications Commission proposes to modify its practices and procedures regarding the assignment of call signs for radio and television broadcast stations. Pursuant to these proposals, the Commission's existing manual procedures will be replaced by an on-line system for the electronic preparation and submission of requests for the reservation and authorization of new and modified call signs.

DATES: Comments are due on or before August 17, 1998, and reply comments are due on or before August 31, 1998. Written comments by the public on the proposed information collections are due August 17, 1998.

ADDRESSES: Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to jboley@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725–17th Street, N.W., Washington DC 20503, or via the Internet to fain_t@al.eop.gov.

FOR FURTHER INFORMATION CONTACT: James J. Brown or Jerianne Timmerman at (202) 418–1600. For additional information concerning the information collections contained in this *NPRM* contact Judy Boley at (202) 418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

Synopsis of Notice of Proposed Rulemaking

In this *Notice of Proposed Rulemaking (NPRM)*, the Federal Communications Commission is proposing to modify its practices and procedures regarding the assignment of call signs to radio and television broadcast stations. Pursuant to this proposal, the Commission's existing manual procedures will be replaced by an on-line system for the electronic preparation and submission of requests for the reservation and authorization of new and modified call signs. Because the Commission believes that the new electronic call sign reservation and authorization system will significantly improve service to all radio and television broadcast station licensees and permittees, the *NPRM* requests

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comment on whether licensees and permittees should be required to utilize the system to make call sign requests. However, as the Commission is sensitive to the possible inconveniences that mandatory use of the new electronic system could impose on certain licensees and permittees, the *NPRM* also seeks comment on whether use of the on-line system should be permissive, rather than mandatory, for certain licensees and permittees, or whether, if mandatory, the Commission should phase in such a requirement. The complete text of this *NPRM* is available for inspection and copying during normal business hours in the Federal Communications Commission Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and it may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20036, (202) 857–3800.

Paperwork Reduction Act

This *NPRM* contains proposed information collections subject to the Paperwork Reduction Act of 1995 (PRA), Public Law No. 104–13. It has been submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. The Commission, as part of its continuing effort to reduce paperwork burdens, invites OMB, the general public and other Federal agencies to comment on the proposed information collections contained in this *NPRM*, as required by the PRA. Public and agency comments are due at the same time as other comments on this *NPRM*; OMB comments are due 60 days from date of publication of this *NPRM* in the **Federal Register**. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: 3060–0188.

Title: Call Sign Reservation and Authorization System.

Form No.: FCC 380.

Type of Review: Revision of a currently approved collection.

Respondents: Businesses or other for-profit, Not-for-profit institutions, state, local or tribal government.

Number of Respondents: 1,400.

Estimated Time Per Response: 0.166 hours–0.25 hours.

Frequency of Response: On occasion reporting requirement.

Cost to Respondents: $108,500 (attorney fees).

Total Annual Burden: 291.

Needs and Uses: With the adoption of this *NPRM*, the Commission is proposing to modify its practices and procedures with regard to the assignment of call signs to radio and television broadcast stations by implementing an on-line call sign reservation and authorization system. The call sign reservation and authorization system would be used by permittees, licensees or persons acting on their behalf to determine the availability of a call sign and to request an initial call sign or change an existing call sign.

Initial Regulatory Flexibility Act Analysis

1. As required by the Regulatory Flexibility Act (RFA) (see 5 U.S.C. 603), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this *NPRM*. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments of the *NPRM*. The Office of Public Affairs, Reference Operations Division will send a copy of the *NPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. *See* 5 U.S.C. 603(a).

2. *Need For and Objectives of the Proposed Rules.* With this *NPRM*, the Commission commences a proceeding to modify its procedures regarding the assignment of call signs for radio and television broadcast stations. By replacing its existing manual procedures with a new on-line system for the electronic preparation and submission of requests for new and modified call signs, the Commission will enhance the speed and certitude of radio and television broadcast station call sign assignments, while at the same time conserving Commission resources. The proposed implementation of the on-line call sign system will serve the Commission's goals of improving service to all broadcast stations licensees and permittees and maximizing efficiency in the use of Commission resources. This review is taken in conjunction with the Commission's 1998 biennial regulatory review. Although Congress did not mandate this area of review, the Commission nonetheless undertakes it to assure that its rules and processes are no more regulatory than necessary to achieve Commission goals.

3. *Legal Basis.* Authority for the actions proposed in this *NPRM* may be found in sections 4(i), 4(j) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j) and 303.

4. *Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply.* Under the RFA, small entities may include small organizations, small businesses, and small governmental jurisdictions. 5 U.S.C. 601(6). The RFA, 5 U.S.C. 601(3), generally defines the term "small business" as having the same meaning as the term "small business concern" under the Small Business Act, 15 U.S.C. 632. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies "unless an agency after consultation with the Office of Advocacy of the SBA and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**."[1]

5. The proposed rules and policies will apply to television broadcasting licensees and permittees and radio broadcasting licensees and permittees. The Small Business Administration defines a television broadcasting station that has no more than $10.5 million in annual receipts as a small business. Television broadcasting stations consist of establishments primarily engaged in broadcasting visual programs by television to the public, except cable and other pay television services.

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[1] We tentatively believe that the SBA's definition of "small business" greatly overstates the number of radio and television broadcast stations that are small businesses and is not suitable for purposes of determining the impact of the proposals in this *NPRM* on small television and radio stations. For purposes of this *NPRM*, however, we will utilize the SBA's definition in determining the number of small businesses to which the proposed rules would apply. We reserve the right to adopt a more suitable definition of "small business" as applied to radio and television broadcast stations subject to the proposed rules in this *NPRM*, and to consider further in the future the issue of the number of radio and television broadcasters that are small entities.

Included in this industry are commercial, religious, educational, and other television stations. Also included are establishments primarily engaged in television broadcasting and which produce taped television program materials. Separate establishments primarily engaged in producing taped television program materials are classified under another SIC number. There were 1,509 television stations operating in the nation in 1992. That number has remained fairly steady as indicated by the approximately 1,569 operating television stations in the nation as of January 31, 1998. For 1992, the number of television stations that produced less than $10.0 million in revenue was 1,155 establishments.

6. Additionally, the Small Business Administration defines a radio broadcasting station that has no more than $5 million in annual receipts as a small business. A radio broadcasting station is an establishment primarily engaged in broadcasting aural programs by radio to the public. Included in this industry are commercial, religious, educational, and other radio stations. Radio broadcasting stations that primarily are engaged in radio broadcasting and that produce radio program materials are similarly included. However, radio stations that are separate establishments and are primarily engaged in producing radio program material are classified under another SIC number. The 1992 Census indicates that 96% (5,861 of 6,127) radio station establishments produced less than $5 million in revenue in 1992. Official Commission records indicate that 11,334 individual radio stations were operating in 1992. As of January 31, 1998, official Commission records indicate that 12,241 radio stations were operating, of which 7,488 were FM stations.

7. Thus, the proposed rules will affect many of the approximately 1,569 television stations, approximately 1,208 of which are considered small businesses. Additionally, the proposed rules will affect some of the 12,241 radio stations, approximately 11,751 of which are small businesses. These estimates may overstate the number of small entities since the revenue figures on which they are based do not include or aggregate revenues from non-television or non-radio affiliated companies.

8. *Description of Projected Recording, Recordkeeping, and Other Compliance Requirements.* The measures proposed in the *NPRM* would reduce the burdens on broadcast station licensees and permittees applying for or requesting a change in their station call signs. The proposal to replace the current manual call sign assignment process with an entirely electronic system would reduce the overall administrative burden upon both broadcast licensees and the Commission. Given the expected benefits of the new electronic system, we seek comment on whether to require all broadcast licensees and permittees to utilize the system to make call sign requests, and also seek comment as to whether to do so on a phased-in basis. We note that such a phased-in procedure has been used elsewhere with regard to electronic filing of applications so as to benefit small businesses. We believe that utilization of the new on-line system will, among other things, increase the speed and certitude of the call sign assignment process, conserve Commission resources, and aid licensees and permittees by informing them of errors in their call sign requests before they are actually sent. The measures proposed in the *NPRM* do not alter the Commission's current rules and policies regarding call signs (such as what constitutes a valid call sign), but modify the procedures by which call signs are assigned.

9. *Steps Taken to Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered.* This *NPRM* solicits comments regarding the implementation of the Mass Media Bureau's new on-line call sign reservation system. Given the expected benefits of the new electronic system for both broadcast station licensees and the Commission, we seek comment on whether all broadcast licensees and permittees should be required to utilize the system for reserving call signs. We also ask for comment on other alternatives, including exempting certain licensees and permittees (such as small entities) from a requirement to use the electronic system or providing for a phase-in period before mandating use of the new system. Any significant alternatives presented in the comments will be considered.

10. *Federal Rules that Overlap, Duplicate, or Conflict with the Proposed Rules.* The initiatives and proposed rules raised in this proceeding do not overlap, duplicate or conflict with any other rules.

11. *Comments and Reply Comments.* Pursuant to applicable procedures set forth in sections 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before August 17, 1998 and reply comments on or before August 31, 1998. To file formally in this proceeding, you must file an original plus six copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original plus eleven copies. You should send comments and reply comments to the Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239), 1919 M Street, Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to jboley@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725 – 17th Street, N.W., Washington, DC 20503 or via the Internet to fain__t@al.eop.gov.

12. *Ex parte Rules.* This proceeding will be treated as a "permit-but-disclose" proceeding subject to the "permit-but-disclose" requirements under section 1.1206(b) of the rules. *See* 47 CFR 1.1206(b), as revised. *Ex parte* presentations are permissible if disclosed in accordance with the Commission's rules, except during the Sunshine Agenda period when presentations, *ex parte* or otherwise, are generally prohibited. Persons making oral *ex parte* presentations are reminded that a memorandum summarizing a presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two-sentence description of the views and arguments presented is generally required. *See* 47 CFR 1.1206(b)(2), as revised. Additional rules pertaining to oral and written presentations are set forth in section 1.1206(b).

13. Authority for issuance of this *NPRM* contained in sections 4(i), 4(j) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j) and 303.

List of Subjects in 47 CFR parts 73 and 74

Radio broadcasting, Reporting and recordkeeping requirements, Television broadcasting.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Proposed Rule Changes

For the reasons discussed in the preamble, parts 73 and 74 of Title 47 of

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the Code of Federal Regulations are amended as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, and 336.

2. Section 73.3550 is revised to read as follows:

§ 73.3550 Requests for new or modified call sign assignments.

(a) All requests for new or modified call sign assignments for radio and television broadcast stations shall be made via the FCC's on-line call sign reservation and authorization system accessible through the Internet's World Wide Web by specifying http://www.fcc.gov. Licensees and permittees may utilize this on-line system to determine the availability and licensing status of any call sign; to select an initial call sign for a new station; to change a station's currently assigned call sign; to modify an existing call sign by adding or deleting an "-FM" or "-TV" suffix; to exchange call signs with another licensee or permittee in the same service; or to reserve a different call sign for a station being transferred or assigned.

(b) No request for an initial call sign assignment will be accepted from a permittee for a new radio or full-service television station until the FCC has granted a construction permit. Each such permittee shall request the assignment of its station's initial call sign expeditiously following the grant of its construction permit. All initial construction permits for low power TV stations will be issued with a five-character low power TV call sign, in accordance with § 74.783(d).

(c) Following the filing of a transfer or assignment application, the proposed assignee/transferee may request a new call sign for the station whose license or construction permit is being transferred or assigned. No change in call sign assignment will be effective until such transfer or assignment application is granted by the FCC and notification of consummation of the transaction is received by the FCC.

(d) Where an application is granted by the FCC for transfer or assignment of the construction permit or license of a station whose existing call sign conforms to that of a commonly-owned station not part of the transaction, the new licensee of the transferred or assigned station shall expeditiously request a different call sign, unless consent to retain the conforming call sign has been obtained from the primary holder and from the licensee of any other station that may be using such conforming call sign.

(e) Call signs beginning with the letter "K" will not be assigned to stations located east of the Mississippi River, nor will call signs beginning with the letter "W" be assigned to stations located west of the Mississippi River.

(f) Only four-letter call signs (plus an LP suffix or FM or TV suffixes, if used) will be assigned.

However, subject to the other provisions of this section, a call sign of a station may be conformed to a commonly owned station holding a three-letter call sign assignment (plus FM, TV or LP suffixes, if used).

(g) Subject to the foregoing limitations, applicants may request call signs of their choice if the combination is available. Objections to the assignment of requested call signs will not be entertained at the FCC. However, this does not hamper any party from asserting such rights as it may have under private law in some other forum. Should it be determined by an appropriate forum that a station should not utilize a particular call sign, the initial assignment of a call sign will not serve as a bar to the making of a different assignment.

(h) Stations in different broadcast services (or operating jointly in the 535–1605 kHz band and in the 1605–1705 kHz band) which are under common control may request that their call signs be conformed by the assignment of the same basic call sign if that call sign is not being used by a non-commonly owned station. For the purposes of this paragraph, 50% or greater common ownership shall constitute a prima facie showing of common control.

(i) The provisions of this section shall not apply to International broadcast stations or to stations authorized under Part 74 of the rules (except as provided in § 74.783 of this chapter).

(j) A change in call sign assignment will be made effective on the date specified in the postcard acknowledging the assignment of the requested new call sign and authorizing the change. Unless the requested change in call sign assignment is subject to a pending transfer or assignment application, the requester is required to include in its on-line call sign request a specific effective date to take place within 45 days of the submission of its electronic call sign request. Postponement of the effective date will be granted only in response to a timely request and for only the most compelling reasons.

(k) Four-letter combinations commencing with "W" or "K" which are assigned as call signs to ships or to other radio services are not available for assignment to broadcast stations, with or without the "-FM" or "-TV" suffix.

(l) Users of nonlicensed, low-power devices operating under Part 15 of the FCC rules may use whatever identification is currently desired, so long as propriety is observed and no confusion results with a station for which the FCC issues a license.

(m) Where a requested call sign, without the "-FM," "-TV" or "-LP" suffix, would conform to the call sign of any other non-commonly owned station(s) operating in a different service, an applicant utilizing the on-line reservation and authorization system will be required to certify that consent to use the secondary call sign has been obtained from the holder of the primary call sign.

PART 74—EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

3. The authority citation for part 74 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 307, and 554.

4. Section 74.783 is amended by revising paragraph (e) to read as follows:

§ 74.783 Station identification.

* * * * *

(e) Low power TV permittees or licensees may request that they be assigned four-letter call signs in lieu of the five-character alpha-numeric call signs described in paragraph (d) of this section. Parties requesting four-letter call signs are to follow the procedures delineated in § 73.3550. Such four-letter call signs shall begin with K or W; stations west of the Mississippi River will be assigned an initial letter K and stations east of the Mississippi River will be assigned an initial letter W. The four-letter call sign will be followed by the suffix "-LP."

* * * * *

[FR Doc. 98–18887 Filed 7–15–98; 8:45 am]

BILLING CODE 6712–01–P

OFFICE OF PERSONNEL MANAGEMENT

48 CFR Parts 1609, 1632, 1652

RIN 3206–AI16

Federal Employees Health Benefits Program Improving Carrier Performance; Conforming Changes

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: The Office of Personnel Management (OPM) is proposing to issue a regulation that would amend the Federal Employees Health Benefits Acquisition Regulation (FEHBAR) to underscore accountability for customer service and contractual compliance among the Federal Employees Health Benefits (FEHB) Program community-rated carriers. The regulation would enable OPM to better manage carriers' performance over key contract areas, including customer service measures, information and reporting requirements, and significant events that might affect service to enrollees. Accurate and timely performance by carriers will facilitate the Program meeting its customer service standards.

DATES: Comments must be received on or before August 17, 1998.

ADDRESSES: Written comments may be sent to Abby L. Block, Chief, Insurance Policy and Information Division, Office of Insurance Programs, Retirement and Insurance Service, Office of Personnel Management, P.O. Box 57, Washington, DC 20044; delivered to OPM, Room 3425, 1900 E Street NW., Washington, DC; or FAX to (202) 606–0633.

FOR FURTHER INFORMATION CONTACT: Mary Ann Mercer, (202) 606–0004.

SUPPLEMENTARY INFORMATION: Among OPM's guiding principles in its role as administrator of the FEHB Program, and consistent with the Government's customer service initiatives, is the goal of ensuring high quality customer service for enrollees in the FEHB Program. In order to accomplish this goal, each carrier participating in the Program must meet its responsibility to provide high quality customer service.

OPM's customer service focus has led to our establishing certain Program requirements that will enable both OPM and carriers to provide enrollees with the quality of service they expect. These requirements are generally set by regulation, the FEHB contract, or OPM's administrative policies, and the vast majority of FEHB carriers comply with them. Nevertheless, sometimes FEHB carriers fall short of one or more of the requirements, for example, by failing to meet a specified standard for customer service or submitting a required report late or with incorrect information. A carrier's failure to meet its obligations reduces OPM's ability to ensure that the FEHB Program provides good customer service to FEHB enrollees, and may reduce the Program's efficiency and effectiveness. Accordingly, OPM seeks to implement a system of monetary performance incentives that would hold community-rated carriers accountable for their performance. Such incentives are already in place for experience-rated carriers.

OPM has identified certain carrier obligations that, when unmet, can delay or keep customer service goals from being met. Some examples of poor performance reducing customer service are: Failure to meet customer service standards; failure to provide accurate and timely benefits and rate information, brochures, or reports; failure to comply with the disputed claims process; failure to comply with the requirement for a paperless enrollment system, failure to accurately reconcile enrollment data; and failure to cooperate in survey administration. A carrier's failure to meet its obligations, particularly with regard to surveys and brochures, impedes or delays OPM's ability to provide enrollees with information that will enable them to make an informed decision in selecting a health plan. An additional critical obligation is the carrier's responsibility to provide information regarding events that might have a material effect upon the carrier's ability to meet its obligations under the contract, such as, changes to its participating providers, a change of corporate name or ownership or a transfer of assets, and labor disputes. These events may reduce the carrier's ability to provide required services to our enrollees.

Under authority of the regulations, OPM would withhold a portion of the community-rated carrier's premium if the carrier does not meet its FEHB Program obligations. It should be emphasized that we expect the vast majority of community-rated carriers will receive minor, if any, premium adjustment.

Incentive percentage factors will be assigned to two basic elements, Customer Service and Critical Contract Compliance Requirements, described below. The Contracting Officer will assign a percentage factor for each basic element based on the carrier's demonstrated record in meeting its obligations during the contract year. The percentage factor will be applied to each community-rated carrier's total FEHB premiums. The aggregate withhold amount for any carrier would not exceed one percent of premium paid for any contract year. OPM would evaluate the carrier's performance after the contract year ends, apply the percentage factors directly to the total net-to-carrier premium dollars paid for the preceding contract year, and withhold the amount from the carrier's periodic premium payments payable during the first quarter of the following contract year. Carriers could make alternative payment arrangements acceptable to their FEHB contracting officer.

So that there will be no question as to what level of effort OPM expects, we have developed a standard evaluation list with sub-elements that will be used by the FEHB contracting officers in evaluating the carriers' performance, and will share it with all community-rated carriers during the public comment period. An understanding of the elements and sub-elements should make it easier for carriers to achieve full performance under the contract and ensure that the FEHB Program maintains its position as a leader in meeting its customers' needs.

The regulation also amends FEHBAR 1632.170, Recurring payments to carriers, FEHBAR 1652.232–70, Payments-community-rated contracts, and FEHBAR 1652.232–71, Payments-experience-rated contracts, to enable OPM to withhold monies from premium payments for other contractual obligations, such as the carrier's share of the cost of a customer satisfaction survey.

Reference changes have been made to the FEHBP Clause Matrix at 1652.3 to conform to reference changes in the Federal Acquisition Regulation (FAR) [Chapter 1 of Title 48, Code of Federal Regulations] since the last FEHBP Clause Matrix update, and the reference to FAR 52.215–70 is corrected to read 1652.215–70.

Reduction of Comment Period for Proposed Rulemaking

I have determined that the comment period will be thirty days because OPM must receive public comments on this new initiative as soon as possible in order to analyze them, work with interested parties, and publish a final regulation prior to the beginning of the 1999 Contract Year.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because in no case will it affect more than one percent of a carrier's premium.

List of Subjects in 48 CFR Parts 1609, 1632, and 1652

Administrative practice and procedure, Government employees, Government procurement, Health facilities, Health insurance, Health professions, Reporting and recordkeeping requirements, Retirement.

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Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, OPM is proposing to amend Chapter 16 of Title 48, Code of Federal Regulations, as follows:

CHAPTER 16—OFFICE OF PERSONNEL MANAGEMENT FEDERAL EMPLOYEES HEALTH BENEFITS ACQUISITION REGULATION

1. The authority citation for 48 CFR Parts 1609, 1632, and 1652 continue to read as follows:

Authority: 5 U.S.C. 8913; 40 U.S.C. 486(c); 48 CFR 1.301.

PART 1609—CONTRACTOR QUALIFICATIONS

2. Subpart 1609.71 is added to read as follows:

Subpart 1609.71—Performance Incentives

Sec.
1609.7101 Policy.
1609.7101–1 Community-rated carrier incentive elements.
1609.7101–2 Community-rated carrier performance incentive factors.

Subpart 1609.71—Performance Incentives

1609.7101 Policy.

At the end of each contract period, the contracting officer shall determine each community-rated carrier's responsiveness to the Program requirements in 1609.7101–1.

1609.7101–1 Community-rated carrier incentive elements.

(a) Customer Service. This incentive element is intended to assist OPM in achieving the goal of providing customer service that meets or exceeds the expectations of Federal enrollees. The Customer Service element shall represent 70 percent of the total calculation and shall be based on the carrier's compliance with the following sub-elements:

(1) *Meeting Customer Service Performance Standards.* Compliance with this sub-element is essential so that OPM can ensure that the carrier is providing quality health care and other services to enrollees. The contracting officer will evaluate this sub-element based on the carrier's compliance with the *FEHB Quality Assurance* clause of the contract and shall consider the carrier's demonstrated efforts in responding to its members' needs, providing quality services, applying its quality assurance program, verifying that its physicians are credentialed, making appointments for patients, assessing the quality of its health care, accurately processing claims, properly responding to requests for reconsideration of disputed claims, and making timely payments to members and providers.

(2) *Timely Closure on Rates and Benefits Consistent with Policy Guidelines.* In order for information to be available to our customers in time for the annual Open Season, carriers must work with OPM to conclude benefits and rate negotiations by mid-August. The contracting officer will evaluate this sub-element based on the carrier's demonstrated record in providing its rate proposal, rate reconciliation data, and necessary clarifications within the time frames prescribed by and in the format required by OPM. The contracting officer also will evaluate this sub-element based on the carrier's record in submitting proposed benefit changes and clarifications and proposed brochure language in accordance with the instructions in the Call Letter.

(3) *Customer Information.* Enrollees must have accurate information and adequate time to make informed Open Season choices in selecting a health plan. In evaluating this sub-element, the contracting officer will consider the carrier's timely submission of the contract, signed by the contracting official, to OPM; the carrier's compliance with FEHBP Supplemental Literature Guidelines; the timeliness of the carrier's compliance with the *Information and Marketing Materials* clause of the contract and the carrier's efforts in submitting complete and accurate brochures to OPM's distribution center for annuitants, OPM contract specialists, and its current enrollees. The contracting officer shall also consider the timely submission of an electronic brochure for OPM's World Wide Web Site and the carrier's efforts in verifying, within the OPM-specified time frame, the accuracy of the information in the current FEHB Guide in preparation for the upcoming contract period as part of this requirement.

(4) *Cooperation in Surveys.* FEHB enrollees rely on feedback from the customer satisfaction survey in selecting a health plan. The contracting officer will evaluate this sub-element based on the carrier's record in cooperating with OPM and/or its designated representative in administering a customer satisfaction survey as specified in the FEHB contract and OPM guidance.

(5) *Reconsideration/Disputed Claims.* The requirement for carriers to reconsider disputed health benefits claims is in 5 CFR 890.105. An incomplete explanation of denied benefits by the carrier places a burden on enrollees, causing them to seek reconsideration because the carrier did not fully explain its denial. Incomplete responses to enrollee requests for reconsideration drive enrollees to take the additional step of requesting reconsideration by OPM. Late carrier responses to OPM's requests for the carrier's reconsideration file delays OPM's response to enrollees. When a dispute is brought to OPM through the disputed claims process, community-rated carriers must provide thorough and complete information according to OPM-specified time frames. The contracting officer will evaluate this sub-element based on the carrier's reconsideration files, including the responses to enrollees' requests for reconsideration and the carrier's submission of the reconsideration files to OPM for review of the carrier's decisions within the time frame specified by OPM.

(6) *Paperless Enrollment/Enrollment Reconciliation*—(i) *Paperless Enrollment.* The requirement to cooperate in the OPM designated system for paperless enrollment is under the section entitled "Enrollment Instructions" in the FEHB Supplemental Literature Guidelines in the FEHB contract. The contracting officer will evaluate this sub-element based on the carrier's efforts at setting up a method of accepting electronic data transmission from the OPM designated electronic enrollment system, processing enrollment changes on a weekly basis, and issuing ID cards timely. Consideration will also be given if the carrier does not accept enrollment verification letters provided through the electronic system as proof of insurance.

(ii) *Enrollment Reconciliation.* The requirement for carriers to reconcile their enrollment records on a quarterly basis with those provided by Federal Government agencies is in the *Records and Information to be Furnished by OPM* clause of the contract, as well as 5 CFR 890.110 and 5 CFR 890.308 (final regulations pending). The carrier's cooperation in the enrollment reconciliation process is essential so that OPM can determine the total premium payment to the carrier. The contracting officer will evaluate this sub-element based on the carrier's demonstrated record of complying with OPM guidance in reconciling enrollments and resolving enrollment discrepancies, as well as on the carrier's demonstrated record of following disenrollment procedures in accordance with 5 CFR 890.110 and 890.308 (final regulations pending).

(b) Critical Contract Compliance Requirements. This performance incentive element shall represent 30 percent of the total computation and shall be based on the carrier's compliance with the following sub-elements:

(1) *Notification of Changes in Name or Ownership; or Transfer of Assets.* OPM must be able to assess the viability of the carrier and its ability to provide health care to enrollees so that they do not experience difficulty obtaining treatment and other services. The contracting officer will evaluate this sub-element based on the carrier's compliance with FEHBAR Subparts1642.12, Novation and Change-of-Name Agreements, and 1642.70, Management Agreement (in Lieu of Novation Agreement).

(2) *Notification of Other Significant Events.* The carrier must notify OPM of significant events such as lawsuits, strikes, and natural disasters so that OPM can assess the carrier's ability to pay claims and provide services to enrollees. In evaluating this sub-element, the contracting officer will consider the carrier's demonstrated record of compliance with 1652.222–70, including timely notification and explanation of all significant events that may have a material effect on the carrier's ability to perform the contract. Such events include, but are not limited to: Disposal of major assets; loss of 15% or more of its overall membership; addition or termination of provider agreements; and changes of participating plans.

(3) *Notification of Changes in Contract Administrators.* OPM must be able to reach the person responsible for managing the carrier's FEHB contract without delay when an enrollee calls OPM in need of urgent medical treatment, an ID card, or other service. Each carrier's designated contact will maintain telephone and electronic communications with OPM so that issues can be resolved quickly. The contracting officer will evaluate this sub-element based on the carrier's compliance with the *Notice* clause and *Contract Administration Data* sheet in the contract, and will consider the carrier's record in notifying OPM promptly of changes in its carrier Representative or contracting official, mailing or electronic address, telephone or FAX number.

(4) *Submission of Required Reports.* The reports specified in the *Statistics and Special Studies* and *FEHB Quality Assurance* clauses of the contract and are essential for tracking enrollment, finances, rates, etc. The contracting officer will base the carrier's performance in this sub-element on its demonstrated record in providing timely and accurate performance, demographics, fraud and abuse, debarment, and CPA reports, HEDIS and FACCT measures, and other reports as required by OPM within the OPM-specified time frames.

1609.7101–2 Community-rated carrier performance incentive factors.

OPM will apply the Customer Service and Critical Contract Compliance Requirements percentage factors specified by the contracting officer when a community-rated carrier does not provide the information, payment, or service, perform the function, or otherwise meet its obligations as stated in 1609.7101–1. The factors will be added and applied to the carrier's total premium dollars paid for the preceding contract period. The amount obtained after the total premium is multiplied by the factor will be withheld from the carrier's periodic premium payments payable during the first quarter of the following contract period, unless an alternative payment arrangement is made with the carrier's contracting officer.

The incentive factors for each basic element are set forth below:

COMMUNITY-RATED CARRIER PERFORMANCE INCENTIVE FACTORS

Element	Incentive factor (To be multiplied by premium and withheld from carrier's payments)
I. Customer Service (70% of Total)	.007
II. Critical Contract Compliance Requirements (30% of Total)	.003
Maximum Aggregate Percent of Premium	.01

(2) The sum of the two performance incentive factors applicable under 1609.7101–2 will be multiplied by the carrier's total net-to-carrier premium dollars paid for the preceding contract period. The amount obtained after the total premium is multiplied by the sum of the factors will be withheld from the carrier's periodic premium payment payable during the first quarter of the following contract period unless an alternative payment arrangement is made with the carrier's contracting officer. OPM will deposit the withheld funds in the carrier's contingency reserve for the plan. The aggregate amount withheld annually for performance for any carrier shall not exceed one percent of premium for any contract period.

PART 1632—CONTRACT FINANCING

3. In section 1632.170, paragraphs (a) and (b)(1) are revised to read as follows:

1632.170 Recurring premium payments to carriers.

(a)(1) *Recurring payments to carriers of community-rated plans.* OPM will pay to carriers of community-rated plans the premium payments received for the plan less the amounts credited to the contingency and administrative reserves, amounts assessed under paragraph (a)(2) of this section, and amounts due for other contractual obligations. Premiums will be due and payable not later than 30 days after receipt by the Employees Health Benefits (EHB) Fund.

(b)(1) *Recurring payments to carriers of experience-rated plans.* OPM will make payments on a letter of credit (LOC) basis. Premium payments received for the plan, less the amounts credited to the contingency and administrative reserves and amounts for other obligations due under the contract, will be made available for carrier drawdown not later than 30 days after receipt by the EHB Fund.

* * * * *

PART 1652—CONTRACT CLAUSES

4. The clause heading and paragraph (a) of the clause in section 1652.232–70 are revised to read as follows:

1652.232–70 Payments—community-rated contracts.

* * * * *

PAYMENTS (JAN 1999)

(a) OPM will pay to the Carrier, in full settlement of its obligations under this contract, subject to adjustment for error or fraud, the subscription charges received for the plan by the Employees Health Benefits Fund (hereinafter called the Fund) less the amounts set aside by OPM for the Contingency Reserve and for the administrative expenses of OPM, amounts assessed under 1609.7101–2, and amounts for other obligations due under the contract, plus any payments made by OPM from the Contingency Reserve.

* * * * *

5. In section 1652.232–71, the clause heading and paragraph (a) of the clause are revised to read as follows:

1652.232–71 Payments—experience-rated contracts.

* * * * *

PAYMENTS (JAN 1999)

(a) OPM will pay to the Carrier, in full settlement of its obligations under this contract, subject to adjustment for error or fraud, the subscription charges received for the Plan by the Employees Health Benefits

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Fund (hereinafter called the Fund) less the amounts set aside by OPM for the Contingency Reserve and for the administrative expenses of OPM and amounts for other obligations due under the contract, plus any payments made by OPM from the Contingency Reserve.

* * * * *

1652.244–70 [Amended]

6. In section 1652.244–70, in paragraph (f) of the clause, the FAR reference "15.903(d)" is removed and the FAR reference "15.404–4(c)(4)(i)" is added in its place.

7. Section 1652.370 in the table in paragraph (c) the following clauses and Text references in the FEHBP Clause Matrix are revised as follows: FAR 52.215–22 and FAR 15.804–8(a) are revised to read 52.215–10 and 15.408(b) respectively; 52.215–24 and 15.804–8(c) are revised to read 52.215–12 and 15.408(d) respectively; 52.215–27 and 15.804–8(e) are revised to read 52.215–15 and 15.408(g) respectively; 52.215–30 and 15.904(a) are revised to read 52.215–16 and 15.408(h) respectively; 52.215–31 and 15.904(b) are revised to read 52.215–17 and 15.408(i) respectively; and 52.215–39 and 15.804–8(f) are revised to read 52.215–18 and 15.408(j) respectively; FAR 52.215–70 is revised to read 1652.215–70.

[FR Doc. 98–18967 Filed 7–15–98; 8:45 am]

BILLING CODE 6325–01–P

Notices

Federal Register

Vol. 63, No. 136

Thursday, July 16, 1998

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[TM-98-00-5]

The National Organic Standards Board Meeting: Correction

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice; correction.

SUMMARY: The Agricultural Marketing Service (AMS) published a document in the **Federal Register** of July 10, 1998, concerning NOSB meeting. The document contained an incorrect time for the Public Input session on July 21, 1998.

FOR FURTHER INFORMATION CONTACT: Keith Jones, Program Manager, Room 2510 South Building, U.S. Department of Agriculture, AMS, Transportation and Marketing, National Organic Program Staff, P.O. Box 96456, Washington, D.C. 20090-6456. Phone (202) 720-3252.

Correction

In the **Federal Register** issue of July 10, 1998, in FR Doc. 98-18540; on page 37314, make the following corrections:

In the first column, under the **DATES** caption the times for July 21, 1998, should read 9:00 a.m. to 5:00 p.m.

In the second column, under the "Type of Meeting" caption the second sentence should read "NOSB has scheduled time for public input on July 21, 1998, beginning at 9:00 a.m. and continuing until 12:00 p.m."

Dated: July 13, 1998.

Eileen S. Stommes,

Deputy Administrator, Transportation and Marketing.

[FR Doc. 98-19077 Filed 7-14-98; 12:30 pm]

BILLING CODE 3410-02-P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Food Distribution Program: Value of Donated Foods From July 1, 1998 to June 30, 1999

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the value of donated foods or, where applicable, cash in lieu thereof to be provided in the 1999 school year for each lunch served by schools participating in the National School Lunch Program (NSLP) or by commodity only schools and for each lunch and supper served by institutions participating in the Child and Adult Care Food Program.

EFFECTIVE DATE: July 1, 1998.

FOR FURTHER INFORMATION CONTACT: Heddy Turpin, Acting Chief, Schools and Institutions Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, Virginia 22302 or telephone (703) 305-2644.

SUPPLEMENTARY INFORMATION: These programs are listed in the Catalog of Federal Domestic Assistance under Nos. 10.550, 10.555, and 10.558 and are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V, and final rule related notice published at 48 FR 29114, June 24, 1983.)

This notice imposes no new reporting or recordkeeping provisions that are subject to Office of Management and Budget review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601-612) and thus is exempt from the provisions of that Act. This notice has been determined to be exempt under Executive Order 12866.

National Average Minimum Value of Donated Foods for the Period July 1, 1998 through June 30, 1999

This notice implements mandatory provisions of sections 6(e), 14(f) and 17(h)(1)(B) of the National School Lunch Act (the Act) (42 U.S.C. 1755(e), 1762a(f), and 1766(h)(1)(B)). Section 6(e)(1)(A) of the Act establishes the national average value of donated food assistance to be given to States for each lunch served in NSLP at 11.00 cents per meal. Pursuant to section 6(e)(1)(B), this amount is subject to annual adjustments as of July 1 of each year to reflect changes in a three-month average value of the Price Index for Food Used in Schools and Institutions for March, April, and May each year. Section 17(h)(1)(B) of the Act provides that the same value of donated foods (or cash in lieu of donated foods) for school lunches shall also be established for lunches and suppers served in the Child and Adult Care Food Program. Notice is hereby given that the national average minimum value of donated foods, or cash in lieu thereof, per lunch under NSLP (7 CFR Part 210) and per lunch and supper under the Child and Adult Care Food Program (7 CFR Part 226) shall be 14.75 cents for the period July 1, 1998 through June 30, 1999.

The Price Index for Food Used in Schools and Institutions (Price Index) is computed using five major food components in the Bureau of Labor Statistics' Producer Price Index (cereal and bakery products; meats, poultry and fish; dairy products; processed fruits and vegetables; and fats and oils). Each component is weighed using the same relative weight as determined by the Bureau of Labor Statistics. The value of food assistance is adjusted each July 1 by the annual percentage change in a three-month average value of the Price Index for March, April and May each year. The three-month average of the Price Index decreased by 0.81 percent from 130.18 for March, April and May of 1997 to 129.12 for the same three months in 1998. When computed on the basis of unrounded data and rounded to the nearest one-quarter cent, the resulting national average for the period July 1, 1998 through June 30, 1999 will be 14.75 cents per meal. This is a decrease of 0.25 cents from the school year 1998 rate.

Section 14(f) of the Act provides that commodity only schools shall be eligible to receive donated foods equal in value to the sum of the national average value of donated foods established under section 6(e) of the Act and the national average payment established under section 4 of the Act (42 U.S.C. 1753). Such schools are eligible to receive up to 5 cents per meal of this value in cash for processing and handling expenses related to the use of such commodities.

Commodity only schools are defined in section 12(d)(2) of the Act (42 U.S.C. 1760(d)(2)) as "schools that do not participate in the school lunch program under this Act, but which receive commodities made available by the Secretary for use by such schools in nonprofit lunch programs."

For the 1999 school year, commodity only schools shall be eligible to receive donated food assistance valued at 32.75 cents for each paid lunch served, and 33.50 cents for each free and reduced price lunch served. This amount is based on the sum of the section 6(e) level of assistance announced in this notice and the adjusted section 4 minimum national average payment factor for school year 1999. The section 4 factor for commodity only schools does not include the two cents per lunch increase for schools where 60 percent of the lunches served in the school lunch program in the second preceding school year were served free or at reduced prices, because that increase is applicable only to schools participating in the NSLP.

Authority: Sections 6(e)(1)(A) and (B), 14(f) and 17(h)(1)(B) of the National School Lunch Act, as amended (42 U.S.C. 1755(e)(1)(A) and (B), 1762a(f), and 1766(h)(1)(B)).

Dated: July 10, 1998.

George A. Braley,

Acting Administrator.

[FR Doc. 98–18974 Filed 7–15–98; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Squaw/Pole II Timber Sale, Boise National Forest, Gem County, ID

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare Environmental Impact Statement.

SUMMARY: The Boise National Forest will prepare an Environmental Impact Statement (EIS) to document the analysis and disclose the environmental impacts of a proposed timber sale in the Second and Third Fork drainages on the Emmett Ranger District. The proposed timber sale lies within the Snowbank Inventoried Roadless Area (IRA).

Under this proposal, 313 acres of suitable timber land would be harvested, producing about 4.3 million board feet (MMBF) of sawtimber. A total of 188 acres would be harvested through shelterwood methods; 55 acres would be commercially thinned; 36 acres would be harvested through seed-tree methods; 20 acres would be harvested through sanitation salvage methods; and 14 acres would be clearcut. A total of 178 acres would be helicopter yarded; 125 acres would be tractor skidded; and 10 acres would be skyline yarded. A total of 188 acres would be planted. To facilitate natural regeneration and planting success, 120 acres would be underburned, and 20 acres would be mechanically scarified.

Stands to be treated would be accessed by existing roads. Included are two short road segments of 0.37 and 0.22 mile, respectively, constructed in the Snowbank IRA in the fall of 1997. This month (July 1998), these road segments will be treated to block vehicle access at the IRA boundary, using a combination of gates and earth barriers. The road surface will also be disked for about 100 feet behind the gate. Consequently, the proposed action would include removal of the earth barriers, and blading of the disked surface, to facilitate access for harvest activities.

DATES: Written comments concerning the scope of the analysis described in this notice should be received by August 17, 1998, to ensure timely consideration. No scoping meetings are planned at this time.

ADDRESSES: Send written comments to Morris Huffman, Emmett District Ranger, Boise National Forest, 1805 Highway 16, Emmett, ID 83716.

FOR FURTHER INFORMATION CONTACT: Questions concerning the proposed action and EIS should be directed to Morris Huffman at 208–365–7000.

SUPPLEMENTARY INFORMATION: In August 1995, Deputy Forest Supervisor Cathy Barbouletos made a decision to implement the Squaw/Pole timber sale in an area that encompassed about 5,500 acres on the Emmett Ranger District. The environmental assessment for the Squaw/Pole timber sale stated that no activities were planned for the Snowbank IRA as part of this project.

In the fall of 1997, it was discovered that incorrect maps had been used in the original analysis regarding the location of the IRA boundary, and that 313 acres of ground-based and helicopter harvest units had been located within the IRA, and 0.59 mile of new road had been constructed within the IRA. Because the roads within the IRA have already been constructed, they are considered part of the existing condition and will be analyzed as such; however, the no-action alternative will include obliteration of the road segments.

Based on this new information, the Boise National Forest determined the proposal may have a significant effect on the roadless resource and decided to prepare an EIS. The proposal may result in the reduction of approximately 885 acres of the Snowbank IRA from the National Forest System. The IRA currently encompasses 35,541 acres. Proposals that may substantially alter the undeveloped character of an IRA require the preparation of an EIS.

Initial analysis has identified one preliminary issue; namely, the effect of the proposal on the undeveloped character and wilderness attributes of the Snowbank IRA. Other potential issues may be identified during the current scoping period.

The Forest Service is seeking information and comments from Federal, State, and local agencies, as well as individuals and organizations who may be interested in, or affected by, the proposed action. The Forest Service invites written comments and suggestions on the issues related to the proposal and the area being analyzed.

Information received will be used in preparation of the draft EIS and final EIS. For the most effective use, comments should be submitted to the Forest Service within 30 days from the date of publication of this notice in the **Federal Register**.

The Responsible Official is David D. Rittenhouse, Forest Supervisor, Boise National Forest, Boise, Idaho. The decision to be made is whether to harvest and replant timber stands in the project area and, if so, how should these activities be carried out. The draft EIS is expected to be available for public review in November 1998, with a final EIS estimated to be completed in March 1999. The comment period on the draft EIS will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft EIS's must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contention (*Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978)). Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts (*City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986), and *Wisconsin Heritages, Inc.* v.

Harris, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980)). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapter of the draft EIS. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the draft EIS. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR Part 215 or 217. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentiality should be aware that, under the FOIA, confidentiality may be granted in only limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality; and, where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within 10 days.

Dated: July 8, 1998.

Allan B. McCombie,

Acting Forest Supervisor.

[FR Doc. 98–19002 Filed 7–15–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Designation Amendment for Michigan to Provide Official Services in the Lima (OH) Area

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA).

ACTION: Notice.

SUMMARY: The designation of Michigan Grain Inspection Services, Inc., (Michigan), has been amended to include part of Ohio.

DATES: Effective on August 1, 1998.

ADDRESSES: USDA, GIPSA, Janet M. Hart, Chief, Review Branch, Compliance Division, STOP 3604, 1400 Independence Ave. S.W., Washington, DC 20250–3604.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart, telephone 202–720–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the April 1, 1998, **Federal Register** (63 FR 15827), GIPSA announced the designation of Michigan to provide official inspection services under the Act, effective May 1, 1998, and ending April 30, 2001. Subsequently, Michigan asked GIPSA to amend their geographic area to include part of Ohio, due to the purchase of the formerly designated corporation, Lima Grain Inspection Service, Inc. (Lima). Section 7A(c)(2) of the Act authorizes GIPSA's Administrator to designate an agency to perform official services within a specified geographic area, if such agency is qualified under Section 7(f)(1)(A) of the Act. GIPSA evaluated all available information regarding the designation criteria in Section 7(f)(1)(A) of the Act, and determined that Michigan is qualified. GIPSA is announcing the change in Michigan's assigned geographic area, and that Michigan is the officially designated service provider in the area of Ohio formerly assigned to Lima. The Michigan geographic area, in the States of Michigan and Ohio is:

Bounded on the North by the northern Michigan State line;

Bounded on the East by the eastern Michigan State line south and east to State Route 53; State Route 53 south to State Route 46; State Route 46 west to Sheridan Road; Sheridan Road south to Barnes Road; Barnes Road west to State Route 15; State Route 15 south to the Genesee County line; the northern Genesee County line west to the Shiawassee County line; the northern Shiawassee County line west to State Route 52; State Route 52 south to State Route 21; State Route 21 west to Clinton County; the eastern and northern Clinton County lines west to U.S. Route 27; U.S. Route 27 south to U.S. Route 127; U.S. Route 127 south to the Michigan-Ohio State line. In Ohio, the northern State line west to the Williams County line; the eastern Williams County line south to the Defiance County line; the northern and eastern Defiance County lines south to U.S. Route 24; U.S. Route 24 northeast to State Route 108; State Route 108 south to Putnam County; the northern and eastern Putnam County lines; the eastern Allen County line; the northern Hardin County line east to U.S. Route 68; U.S. Route 68 south to U.S. Route 47;

Bounded on the South by U.S. Route 47 west-southwest to Interstate 75 (excluding all of Sidney, Ohio); Interstate 75 south to the Shelby County line; the southern and western Shelby County lines; the southern Mercer County line; and

Bounded on the West by the Ohio-Indiana State line from the southern Mercer County line to the northern Williams County line; in Michigan, by the southern Michigan State line west to the Branch County line; the western Branch County line north to the Kalamazoo County line; the southern Kalamazoo and Van Buren County lines west to the Michigan State line; the western Michigan State line north to the northern Michigan State line.

Michigan's assigned geographic area does not include the following grain elevators inside Michigan's area which have been and will continue to be serviced by the following official agencies:

1. Detroit Grain Inspection Service, Inc.: St. Johns Coop., St. Johns, Clinton County, Michigan.

2. Northeast Indiana Grain Inspection: E.M. P. Grain, Payne, Paulding County, Ohio.

Effective August 1, 1998, Michigan's present geographic area is amended to include part of Ohio. Michigan's designation to provide official inspection services terminates April 30, 2001. Official services may be obtained by contacting Michigan at 616–781–2711.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

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Dated: July 2, 1998.

Neil E. Porter,

Director, Compliance Division.

[FR Doc. 98–18961 Filed 7–15–98; 8:45 am]

BILLING CODE 3410–EN–P

COMMISSION ON CIVIL RIGHTS

Amended Notice of Public Meeting of the Delaware Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Delaware Advisory Committee to the Commission which was to have convened on July 23, 1998 has been rescheduled for July 28, 1998. This notice was originally published in the **Federal Register** on July 2, 1998, vol. 63, no. 124, FR 36212. This notice is change of day only.

Persons desiring additional information should contact Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, July 10, 1998.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 98–18944 Filed 7–13–98; 11:42 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Amended Notice of Public Meeting of the Maryland Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Maryland Advisory Committee to the Commission will convene at 9:30 a.m. and adjourn at 4:30 p.m. on July 23, 1998, at the Holiday Inn Inner Harbor, 301 West Lombard Street, Baltimore, Maryland 21201. This notice originally published in the **Federal Register** on June 29, 1998, vol. 63, no. 124, FR 35188. This notice is change of address and day only.

Persons desiring additional information should contact Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, July 10, 1998.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 98–18945 Filed 7–13–98; 11:42 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 37–98]

Foreign-Trade Zone 202, Los Angeles, CA; Proposed Foreign-Trade Subzone, Tosco Refining Company (Oil Refinery Complex); Los Angeles, CA Area

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Los Angeles Board of Harbor Commissioners, grantee of FTZ 202, requesting special-purpose subzone status for the oil refinery complex of Tosco Refining Company, located in the Los Angeles, California, area. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on July 8, 1998.

The refinery complex (727 acres) is located at 4 sites in the Los Angeles, area (Los Angeles County), California: *Site 1* (118,750 BPD capacity, 425 acres)—main refinery complex, located at 1660 West Anaheim Street, some 25 miles south of downtown Los Angeles; *Site 2* (96 tanks, 3.3 mil. barrel capacity, 235 acres)—storage facility used for crude oil and intermediate feedstocks, located at 1520 East Sepulveda Blvd., 5 miles northeast of the refinery; *Site 3* (26 tanks, 840,000 barrel capacity, 17 acres)—located within FTZ 202, *Site 1*, Los Angeles Harbor Marine Terminal at Berths 148, 149, 150, 151, 1 mile southeast of the refinery; *Site 4* (24 tanks, 2.1 million barrel capacity, 50 acres)—Torrance Tank Farm used for crude oil and finished product storage, located at 2650 West Lomita Blvd., approx. 4 miles northwest of the refinery.

The refinery (575 employees) is used to produce fuels and petrochemical feedstocks. Fuel products include gasoline, jet fuel, distillates, residual fuels, naphthas and motor fuel blendstocks. Petrochemical feedstocks and refinery by-products include methane, ethane, propane, propylene, butane, petroleum coke and sulfur. Some 10 percent of the crude oil (92 percent of inputs) and some motor fuel blendstocks are sourced abroad.

Zone procedures would exempt the refinery from Customs duty payments on the foreign products used in its exports. On domestic sales, the company would be able to choose the Customs duty rates that apply to certain petrochemical feedstocks and refinery by-products (duty-free) by admitting incoming foreign crude oil and natural gas condensate in non-privileged foreign status. The duty rates on inputs range from 5.25¢/barrel to 10.5¢/barrel. The application indicates that the savings from zone procedures would help improve the refinery's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is September 14, 1998.

Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to September 29, 1998.

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, Export Assistance Center, 11000 Wilshire Blvd., Room 9200, Los Angeles, California 90024

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW, Washington, DC 20230.

Dated: July 9, 1998.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–18880 Filed 7–15–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-428-801, A-475-801, A-401-801]

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Germany, Italy, and Sweden; Amended Final Results of Antidumping Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final court decision and amended final results of administrative reviews.

SUMMARY: On May 7, 1998, the United States Court of Appeals for the Federal Circuit affirmed the United States Court of International Trade's affirmation of the Department of Commerce's final remand results affecting final assessment rates for the third administrative reviews of the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof from Germany, Italy, and Sweden with respect to SKF. The classes or kinds of merchandise covered by these reviews are ball bearings and parts thereof, cylindrical roller bearings and parts thereof, and spherical plain bearings and parts thereof. As there is now a final and conclusive court decision in these actions, we are amending our final results of reviews and we will instruct the U.S. Customs Service to liquidate entries subject to these reviews.

EFFECTIVE DATE: July 16, 1998.

FOR FURTHER INFORMATION CONTACT: Dave Dirstine or Richard Rimlinger, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-4033 or (202) 482-4477.

Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions in effect as of December 31, 1994. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to the regulations as codified at 19 CFR Part 353 (April 1, 1997).

SUPPLEMENTARY INFORMATION:

Background

On July 26, 1993, the Department published its final results of administrative reviews of the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof from France, Germany, Italy, Japan, Romania, Singapore, Sweden, Thailand, and the United Kingdom, covering the period May 1, 1991 through April 30, 1992 (AFBs III) (58 FR 39729). These final results were amended on August 9, 1993, September 30, 1993, December 15, 1993, February 28, 1994, and April 16, 1998 (see 58 FR 42288, 58 FR 51055, 58 FR 65576, 59 FR 9469, and 63 FR 18877, respectively). The classes or kinds of merchandise covered by these reviews are ball bearings and parts thereof (BBs), cylindrical roller bearings and parts thereof (CRBs), and spherical plain bearings and parts thereof (SPBs). Subsequently, two domestic producers, the Torrington Company and Federal-Mogul, and a number of other interested parties filed lawsuits with the U.S. Court of International Trade (CIT) challenging the final results. These lawsuits were litigated at the CIT and the United States Court of Appeals for the Federal Circuit (CAFC). On April 16, 1998, as a result of a final court decision, we issued amended final results for all firms whose dumping margins had changed as a result of litigation except for SKF GmbH (SKF Germany), SKF Industrie S.p.A. (SKF Italy), and SKF Sverige AB (SKF Sweden). *See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et al.; Amended Final Results of Antidumping Duty Administrative Reviews* (63 FR 18877) (Amended Final Results). At that time, our determination of SKF Germany's, SKF Italy's, and SKF Sweden's dumping margins were still subject to outstanding litigation.

On May 7, 1998, the CAFC affirmed the CIT's decision in *Federal-Mogul Corp. v. United States*, 951 F. Supp. 1026 (*Federal-Mogul). The Torrington Company and Federal-Mogul Corporation* v. *United States*, 1998 U.S. App. LEXIS 12370 (May 7, 1998) (*Torrington*). The CIT's decision in *Federal-Mogul* affirmed the Department's remand results which were prepared pursuant to the CIT's earlier decision in *Federal-Mogul Corp.* v. *United States*, 918 F. Supp. 386 (1996), with respect to SKF Germany, SKF Italy, and SKF Sweden, among others, and dismissed the case. As a result of this and other litigation cited in our April 16, 1998, notice of Amended Final Results, we have made methodological changes and recalculated the dumping margins for SKF Germany, SKF Italy, and SKF Sweden. Specifically, the Department has, *inter alia*, (1) reconsidered its methodology for computing inventory carrying costs; (2) denied an adjustment to foreign market value (FMV) for home market (HM) pre-sale freight expenses where FMV was calculated using purchase price; (3) developed a methodology which removes post-sale price adjustments and rebates paid on sales of out-of-scope merchandise from its calculations of FMV or, if no viable method could be developed, denied such an adjustment in its calculation of FMV; and (4) corrected certain clerical errors.

As there is now a final and conclusive court decision with respect to SKF Germany, SKF Italy, and SKF Sweden, we are amending our final results of review for these companies and we will subsequently instruct the U.S. Customs Service to liquidate the relevant entries subject to these reviews.

Amendment to Final Results

Pursuant to section 516A(e) of the Act, we are now amending the final results of administrative reviews of the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof from Germany, Italy, and Sweden, for the period May 1, 1991, through April 30, 1992, with respect to SKF Germany, SKF Italy, and SKF Sweden. The revised weighted-average percentage margins are as follows:

Company	BBs	CRBs	SPBs
	Germany		
SKF	17.66	8.66	8.98
	Italy		
SKF	4.98	0.00	
	Sweden		
SKF	7.77	4.80	

Accordingly, the Department will determine and the U.S. Customs Service will assess appropriate antidumping duties on entries of the subject merchandise produced by SKF Germany, SKF Italy, and SKF Sweden. Individual differences between United States price and foreign market value may vary from the percentages listed above. The Department will issue appraisement instructions to the U.S. Customs Service after publication of these amended final results of reviews.

This notice is published pursuant to section 751(a) of the Act.

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Dated: July 2, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–18881 Filed 7–15–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–805]

Circular Welded Non-Alloy Steel Pipe and Tube From Mexico: Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amended final results of antidumping duty administrative review.

SUMMARY: On June 17, 1998, the Department of Commerce (the Department) published the final results of its administrative review of the antidumping duty order on circular welded non-alloy steel pipe from Mexico covering exports of this merchandise to the United States by one manufacturer/exporter, Hylsa S.A. de C.V. ("Hylsa") during the period November 1, 1995 through October 31, 1996. *See Circular Welded Non-Alloy Steel Pipe and Tube from Mexico: Final Results of Antidumping Duty Administrative Review*, 63 FR 33041. The Department has since determined that the published weighted-average dumping margin was incorrect and is therefore amending the final results of review for Hylsa.

EFFECTIVE DATE: July 16, 1998.

FOR FURTHER INFORMATION CONTACT: Ilissa Kabak at (202) 482–0145 or John Kugelman at (202) 482–0649, Enforcement Group III—Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all references to the Department's regulations are to 19 CFR Part 353 (April 1, 1997).

SUPPLEMENTARY INFORMATION:

Background

On June 17, the Department published the final results of its administrative review of the antidumping duty order on circular welded non-alloy steel pipe from Mexico covering exports of this merchandise to the United States by Hylsa during the period November 1, 1995 through October 31, 1996. This notice stated that the weighted-average dumping margin for Hylsa was 8.31 percent. After these final results were published, the Department determined that, as a result of a clerical error, the 8.31 percent figure included in that notice was incorrect. *See* Memorandum to the File, July 7, 1998 (Analysis Memo). The final results should have indicated that the weighted-average dumping margin for Hylsa is 7.39 percent.

Scope of the Review

The products covered by this order are circular welded non-alloy steel pipes and tubes, of circular cross-section, not more than 406.4 millimeters (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, beveled end, threaded, or threaded and coupled). These pipes and tubes are generally known as standard pipes and tubes and are intended for the low pressure conveyance of water, steam, natural gas, and other liquids and gases in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses, and generally meet ASTM A–53 specifications. Standard pipe may also be used for light load-bearing applications, such as for fence tubing, and as structural pipe tubing used for framing and support members for reconstruction or load-bearing purposes in the construction, shipbuilding, trucking, farm equipment, and related industries. Unfinished conduit pipe is also included in these orders.

All carbon steel pipes and tubes within the physical description outlined above are included within the scope of this order, except line pipe, oil country tubular goods, boiler tubing, mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished conduit. Standard pipe that is dual or triple certified/stenciled that enters the U.S. as line pipe of a kind used for oil or gas pipelines is also not included in this order.

Imports of the products covered by this order are currently classifiable under the following Harmonized Tariff Schedule (HTS) subheadings: 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90.

Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of these proceedings is dispositive.

The period of review (POR) is November 1, 1995 through October 31, 1996. This review covers sales of circular welded non-alloy steel pipe and tube by Hylsa.

Amended Final Results of Review

We determine that the correct weighted-average margin for Hylsa is 7.39 percent for the period November 1, 1995 through October 31, 1996.

The Department will determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. Because Hylsa was the only importer during the POR, we have calculated the importer-specific per-unit duty assessment rate for the merchandise imported by Hylsa by dividing the total amount of antidumping duties calculated during the POR by the total quantity entered during the POR. Individual differences between U.S. price and normal value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of this notice of amended final results of review for all shipments of circular welded non-alloy steel pipe from Mexico entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by § 751(a)(1) of the Act: (1) The amended cash deposit rate for Hylsa will be the rate stated above; (2) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (3) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (4) the cash deposit rate for all other manufacturers or exporters will continue to be the "all others" rate of 32.62 percent.[1] *See Notice of Antidumping Orders: Certain Circular Welded Non-Alloy Steel Pipe from*

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[1] The preliminary results of this administrative review incorrectly stated that the "all others" rate was 36.62 percent. *Preliminary Results* at 62 FR 64503.

Brazil, the Republic of Korea (Korea), Mexico, and Venezuela, and Amendment to Final Determination of Sales at Less Than Fair Value: Certain Circular Welded Non-Alloy Steel Pipe from Korea, 57 FR 49453 (November 2, 1992). These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR § 353.26 of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR § 353.34(d)(1) of the Department's regulations. Timely notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

These amended final results of administrative review and notice are in accordance with § 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR § 353.28.

Dated: July 8, 1998.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–18883 Filed 7–15–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–818]

Certain Pasta From Italy; Notice of Extension of Time Limit for New Shipper Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: July 16, 1998.

FOR FURTHER INFORMATION CONTACT: John Brinkmann or Edward Easton, Office of AD/CVD Enforcement II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue N.W., Washington, DC 20230; telephone (202) 482–5288 or 482–1777, respectively.

SUPPLEMENTARY INFORMATION: On March 4, 1998, the Department of Commerce (the Department) initiated a new shipper review relating to the antidumping duty order on certain pasta from Italy, covering the period July 1, 1997, through December 31, 1997 (63 FR 10590). Therefore, the current deadline for the preliminary results of this new shipper review is August 31, 1998. Section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (the Act), requires the Department to make a preliminary determination within 180 days after the date on which the new shipper review was initiated. However, when the Department determines a case is extraordinarily complicated, it may extend the 180-day period to 300 days, 19 CFR 351.214(i)(2), (62 FR 27296, 27396 (1997)).

Pursuant to section 751(a)(2)(B)(iv) of the Act, the Department has determined that this case is extraordinarily complicated given the complex nature of the issues involved in the concurrent administrative review of this proceeding and activities connected with the judicial remand of the Department's final determination in the investigation of Certain Pasta from Italy. See *Borden, Inc.* v. *US*, Slip Op. 98–36 (March 26, 1998). Thus, in accordance with the statutory and regulatory authority cited above, the Department is extending the deadline for issuing the preliminary results of this new shipper review by 30 days to no later than September 30, 1998. We plan to issue the final results within 90 days after the date the preliminary results are issued.

This extension is in accordance with section 751(a)(2)(B)(iv) of the Act.

Dated: July 9, 1998.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–18885 Filed 7–15–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–807]

Polyethylene Terephthalate Film, Sheet, and Strip From the Republic of Korea; Initiation of New Shipper Antidumping Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Initiation of New Shipper Antidumping Duty Administrative Reviews.

SUMMARY: The Department of Commerce has received requests for new shipper reviews of the antidumping duty order on polyethylene terephthalate film, sheet, and strip (PET film) from the Republic of Korea issued on June 5, 1991. In accordance with our regulations, we are initiating new shipper reviews covering Kohap, Ltd. (Kohap) and H.S. Industries Co., Ltd. (HSI).

EFFECTIVE DATE: July 16, 1998.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney or John Kugelman, AD/CVD Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482–4475 or 0649, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all references to the Department's regulations are to 19 CFR part 351 (62 FR 27295, May 19, 1997).

Background

The Department received a timely request, in accordance with section 751(a)(2)(B) of the Tariff Act and 19 CFR 351.214(b) of the Department's regulations, for a new shipper review of the antidumping duty order on PET film from Korea, which has a June anniversary date. (*See* Antidumping Duty Order and Amendment to Final Determination of Sales at Less Than Fair Value: Polyethylene Terephthalate Film, Sheet, and Strip From the Republic of Korea, 56 FR 25669 (June 5, 1991).)

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Initiation of Review

Pursuant to the Department's regulations at 19 (CFR 351.214(b), Kohap and HRI certified in their June 30, 1998 submissions that they did not export merchandise to the United States during the period of the investigation (POI) (November 1, 1989 through April 30, 1990), and that they were not affiliated with any exporter or producer of the subject merchandise to the United States during the POI. Kohap and HRI submitted documentation establishing the date on which the merchandise was first entered for consumption in the United States.

In accordance with section 751(a)(2)(B) of the Tariff Act and section 351.214(d) of the Department's regulations, we are initiating new shipper reviews of Kohap and HRI for the antidumping duty order on PET film from the Republic of Korea. These reviews cover the period June 1, 1997 through May 31, 1998. We intend to issue the final results of the review no later than 270 days from the date of publication of this notice.

We will instruct the Customs Service to allow, at the option of the importer, the posting, until completion of the review, of a bond or security in lieu of a cash deposit for each entry of the merchandise exported by Kohap and HRI, in accordance with 19 CFR 351.214(e).

Interested parties may submit applications for disclosure under administrative protective order in accordance with 19 CFR 353.305(b).

This initiation and this notice are in accordance with section 751(a) of the Tariff Act (19 U.S.C. 1675(a)) and section 351.214 of the Department's regulations (19 CFR 351.214).

Dated: July 10, 1998.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 98–19018 Filed 7–15–98; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–824]

Polyvinyl Alcohol From Taiwan: Amended Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Amended Final Results of the Administrative Review of the Antidumping Duty Order on Polyvinyl Alcohol from Taiwan.

SUMMARY: On June 16, 1998, the Department of Commerce published the final results in this administrative review (63 FR 32810). Subsequent to the publication of the final results, we received timely comments from E.I. du Pont de Nemours & Co. alleging a ministerial error. After analyzing the comments submitted, we agree and are amending our final results to correct this ministerial error. This amendment to the final results is published in accordance with 19 CFR 353.28(c) (April 1997).

EFFECTIVE DATE: July 16, 1998.

FOR FURTHER INFORMATION CONTACT: Brian Smith at (202) 482–1766, or Everett Kelly at (202) 482–4194, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230.

APPLICABLE STATUTE AND REGULATIONS: Unless otherwise indicated, all citations to the Tariff Act of 1930 ("the Act"), as amended, are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). Additionally, unless otherwise indicated all citations to the Department's regulations are to 19 CFR Part 353 (April 1997).

SUPPLEMENTARY INFORMATION:

Background

On June 16, 1998, the Department of Commerce ("the Department") published in the **Federal Register** the final results of the administrative review of the antidumping duty order covering the period of May 15, 1996, through April 30, 1997, on polyvinyl alcohol from Taiwan. *See, Polyvinyl Alcohol from Taiwan: Final Results of Antidumping Duty Administrative Review*, 63 FR 32810. Subsequently, on June 18, 1998, respondent E.I. du Pont de Nemours & Co. ("DuPont") submitted a ministerial error allegation. The petitioner, Air Products and Chemicals, Inc., did not submit comments concerning DuPont's clerical error allegation.

A summary of the allegation along with the Department's response is discussed below. We are hereby amending our final results, pursuant to Section 751(h) of the Act and 19 CFR 353.28(c), to reflect the correction of the error which is clerical in nature.

Scope of Review

The product covered by this review is polyvinyl alcohol ("PVA"). PVA is a dry, white to cream-colored, water-soluble synthetic polymer. Excluded from this review are PVAs covalently bonded with acetoacetylate, carboxylic acid, or sulfonic acid uniformly present on all polymer chains in a concentration equal to or greater than two mole percent, and PVAs covalently bonded with silane uniformly present on all polymer chains in a concentration equal to or greater than one-tenth of one mole percent. PVA in fiber form is not included in the scope of this review.

The merchandise under review is currently classifiable under subheading 3905.30.00 of the *Harmonized Tariff Schedule of the United States* ("HTSUS"). Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope is dispositive.

Amended Final Results of Review

DuPont alleges that the Department made a ministerial error in calculating constructed export price ("CEP") for its sales of further manufactured PVA. DuPont claims that the alleged ministerial error occurred during the process wherein the Department, after the preliminary results were published, changed the way it calculated CEP for DuPont's sales of further manufactured PVA. In the preliminary results, DuPont states, the Department calculated CEP the same way for sales of imported PVA as it did for sales of further manufactured PVA. In the preliminary results, we calculated CEP for sales of further manufactured PVA by deducting from the starting price discounts and rebates, movement expenses, and direct and indirect selling expenses associated with DuPont's economic activities occurring in the United States. We also deducted an amount for profit and further manufacturing costs (*see Calculation Memorandum for the Preliminary Results for E.I. duPont de Nemours & Co.*, dated February 2, 1998).

In its case brief, the petitioner contended that our computer program failed to find comparable matches for PVA sold by DuPont in the United States and Australia because of the omission of a critical conversion factor. The petitioner indicated that since the further manufactured product is comprised of only a fraction of the imported PVA, the amount reported in DuPont's variable manufacturing costs for sales of further manufactured merchandise represented the costs for only that fraction of subject merchandise. Accordingly, the petitioner argued that the Department should adjust the reported variable manufacturing costs for U.S. sales of further manufactured merchandise by stating the per-unit costs on the same basis as the variable manufacturing costs of the Australian sales (*see Case Brief on behalf of Petitioner Air Products and Chemicals, Inc.* at page 19). DuPont did not object to the petitioner's comment.

Because further manufactured PVA comprises only a percentage of subject merchandise, we agreed with the petitioner that the prices, costs and expenses involved in the further manufactured product should be based on the same percentage of subject merchandise incorporated in the further manufactured sales at issue. Accordingly, in the final results, we adjusted the reported amounts of variable and total manufacturing costs, gross unit price, and CEP selling expenses for further manufactured PVA by a conversion factor (*i.e.*, the value-added ratios reported in DuPont's Section E submission) in order to state the prices, costs, and expenses of further manufactured PVA on a per-unit basis (USD/lb) of imported PVA (*see Calculation Memorandum for the Final Results for E.I. duPont de Nemours & Co.*, dated June 9, 1998).

While DuPont agrees that the Department was correct in altering its preliminary calculation of the CEP sales at issue, DuPont claims that because the further manufactured PVA comprises only a percentage of subject merchandise, the quantity involved in the further manufactured product should also have been adjusted to reflect the same percentage of subject merchandise incorporated in the further manufactured sales at issue. Instead, DuPont asserts that for the final results, rather than adjust the quantity to reflect the actual amount of PVA used, the Department converted prices from units of dollars per kilogram of further manufactured PVA to dollars per kilogram of imported PVA by dividing the unit prices of further manufactured PVA by the above-mentioned value-added ratios (*see Polyethylene Terephthalate Film, Sheet, and Strip from the Republic of Korea; Final Results of Antidumping Duty Administrative Review*, 60 FR 42835, 42845 (August 17, 1995)(where the Department made the same type of adjustment to CEP calculation for sales of further manufactured merchandise). Thus, DuPont contends, the effect of multiplying these converted prices (in dollars per kilogram of the imported PVA) by the total quantity of further manufactured PVA was a significant overstatement of the quantity of merchandise subject to antidumping duties (*i.e.*, subject merchandise) and, therefore, the amount of dumping. Thus, DuPont claims that the Department should make this adjustment to the reported quantity for its sales of further manufactured products.

We agree that a ministerial error was made in our margin calculation as alleged by DuPont. Without adjusting the reported quantity for DuPont's sales of further manufactured PVA to reflect the amount of subject merchandise actually used in the further manufactured sales, we incorrectly multiplied the value of imported PVA by the quantity of further manufactured PVA when we should have used the percentage of subject merchandise incorporated in the further manufactured PVA. For a detailed discussion, *see Memorandum to Louis Apple, Office Director, from Team*, dated July 6, 1998. *See also, Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Amendment of Final Results of Antidumping Duty Administrative Review*, 63 FR 2200 (January 14, 1998), in which the Department amended its final results due to a ministerial error in calculating interest expense, which resulted in an overstatement of the interest-expense factor and, consequently, of the dumping margin.

Accordingly, we are amending our final results. We hereby determine the following weighted-average margin existed for the period May 15, 1996, through April 30, 1997:

Manufacturer/producer/exporter	Original margin (percent)	Revised margin (percent)
E.I. duPont de Nemours & Co.	9.45	4.20

Assessment Rates

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. We have calculated an importer-specific duty assessment rate based on the ratio of the total amount of AD duties calculated for the examined transactions in the POR to the total entered value of the same transactions. This rate will be assessed uniformly on all entries of that particular importer made during the POR. The Department will issue appraisement instructions concerning the respondent directly to the U.S. Customs Service.

The amended cash deposit requirement will be effective upon publication of this notice of amended final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act, at the cash deposit rate for DuPont indicated above.

This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

The amended final results of this administrative review are in accordance with section 751(h) of the Act and 19 CFR 353.28. This amendment to the final results is published in accordance with 19 CFR 353.28(c).

Dated: July 9, 1998.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–18886 Filed 7–15–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–504]

Porcelain-on-Steel Cookware From Mexico: Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Antidumping Duty Administrative Review.

SUMMARY: On January 9, 1998, the Department of Commerce published the preliminary results of the administrative review of the antidumping duty order on certain porcelain-on-steel cookware from Mexico (63 FR 1430). The review, the tenth review of the underlying order, covers Cinsa, S.A. de C.V. and Esmaltaciones de Norte America, S.A. de C.V., manufacturers/exporters of the subject merchandise to the United States and the period December 1, 1995, through November 30, 1996. We gave interested parties an opportunity to comment on the preliminary results. Based on our analysis of the comments received and the correction of certain clerical and computer program errors, we have changed the preliminary results. The final results are listed below in the section "Final Results of Review."

EFFECTIVE DATE: July 16, 1998.

FOR FURTHER INFORMATION CONTACT: Kate Johnson or David J. Goldberger, Office 5, AD/CVD Enforcement Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone:

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(202) 482–4929 or (202) 482–4136, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 9, 1998, the Department of Commerce (the Department) published in the **Federal Register** the preliminary results of the 1995–96 administrative review of the antidumping duty order on certain porcelain-on-steel (POS) cookware from Mexico (63 FR 1430) (*preliminary results*). During February 3–4, 1998, the Department verified the respondents' submissions concerning the allegation of duty reimbursement. On February 25, 1998, and March 4, 1998, General Housewares Corp. (GHC) (the petitioner) and, Cinsa, S.A. de C.V. (Cinsa) and Esmaltaciones de Norte America, S.A. de C.V. (ENASA) submitted case and rebuttal briefs. The Department held a hearing on March 11, 1998. On April 9, 1998, Columbian Home Products, LLC (CHP) informed the Department that it is the legal successor-in-interest to GHC pursuant to the March 31, 1998, sale of all of GHC's porcelain-on-steel cookware production assets, product lines, inventory, real estate, and brand names to CHP. The Department has now completed its administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the provisions codified at 19 CFR Part 353 (April 1997). Where we cite the Department's new regulations (19 CFR Part 351, 62 FR 27926 (May 19, 1997) (New Regulations)) as an indication of current Department practice, we have so stated.

Scope of the Review

Imports covered by this review are shipments of porcelain-on-steel cookware, including tea kettles, which do not have self-contained electric heating elements. All of the foregoing are constructed of steel and are enameled or glazed with vitreous glasses. This merchandise is currently classifiable under *Harmonized Tariff Schedule of the United States* (HTSUS) subheading 7323.94.00. Kitchenware currently classifiable under HTSUS subheading 7323.94.00.30 is not subject to the order. Although the HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of this proceeding is dispositive.

Changes Since the Preliminary Results

We have made the following changes in these final results for both Cinsa and ENASA:

1. We deducted commissions from constructed export price (CEP) sales. The adjustment for commission expenses was inadvertently omitted from the preliminary margin calculations.
2. We converted Mexican peso-denominated brokerage and inland freight expenses to U.S. dollars.
3. We corrected the U.S. price calculation for export price (EP) sales by not deducting CEP profit and selling expenses, which were inadvertently deducted in the preliminary results.
4. We increased direct materials costs to reflect adjustments to reported frit costs based on verification findings. *See* Comment 2, below.
5. We used the Federal Reserve Bank's actual daily exchange rates for currency conversion purposes because Mexico experienced significant inflation during the period of review.
6. We recalculated CIC's indirect selling expenses. *See* Comments 4 and 9, below.
7. We tested home market sales for below-cost prices *before* determining the most appropriate match for each U.S. model sold (we continued to match on a monthly basis). *See* Comment 6, below.
8. We corrected a clerical error in calculating U.S. inland freight expenses. *See* Comment 8, below.
9. We corrected a computer programming error associated with the cost test because some data were incorrectly replaced from the computer sales file when the summary cost file was merged back into the home market database.
10. We applied the cost test on a period-wide as opposed to a monthly basis.

Interested Party Comments

Comment 1: Alleged Reimbursement of U.S. Affiliate CIC for Antidumping Duties

The petitioner argues that the record of this review clearly demonstrates that Cinsa and ENASA are reimbursing Cinsa's and ENASA's U.S. affiliate, Cinsa International Corporation (CIC), for antidumping duties. The petitioner states that Cinsa and ENASA admit on the record that their affiliated holding company, Grupo Industrial Saltillo (GIS), which functions as corporate treasurer, transferred funds to CIC expressly to pay antidumping duties. In addition, the petitioner states that the Department confirmed that the holding company's payment to CIC was a grant and not a loan because CIC was not required to repay these funds.

The petitioner further argues that the Department's preliminary results ignore long-standing principles that (1) money is fungible within a corporate family, and (2) expenses incurred by holding companies without operations are for the benefit of their affiliates with operations. Moreover, the petitioner states that the Department verified that the funds transferred to CIC contained monies to which Cinsa and ENASA contributed. Accordingly, the petitioner argues that the Department should find reimbursement of antidumping duties based on these facts and assess double the calculated antidumping margin upon liquidation of the entries subject to this review, pursuant to 19 CFR 353.26(a).

The respondents argue that, for purposes of the final results, the Department should continue to reject the proposition that a capital contribution to the importer of record by a corporate entity that is not the producer or exporter of the subject merchandise constitutes a reimbursement of antidumping duties within the meaning of the Department's regulations. Cinsa and ENASA contend that the Department's regulations require that, in order to trigger the reimbursement provision, the producer or reseller must have either (1) directly paid antidumping duties or deposits on behalf of the importer, or (2) reimbursed the importer for the payment of antidumping duties or deposits. In addition, Cinsa and ENASA argue that the Department verified that neither respondent reimbursed CIC for its payment of antidumping duty deposits or assessments to the U.S. Customs Service. Moreover, the respondents argue that the Department also verified that no written agreement exists for the reimbursement of antidumping duties between CIC and Cinsa or ENASA and that the funds transferred to CIC from GIS and GISSA Holding USA did not originate from Cinsa and ENASA.

Furthermore, the respondents contend that the Department has consistently held that the mere existence of intercompany transfers of funds among affiliated parties does not constitute reimbursement of antidumping duties. Lastly, Cinsa and ENASA submit that the cases cited by the petitioner with regard to the principle of the "fungibility of money" relate to the calculation of cost of production (COP) and are not relevant to the issue of reimbursement.

DOC Position

We do not believe that it is appropriate to apply the reimbursement regulation for purposes of this administrative review. Pursuant to its regulations, the Department will deduct from export price "the amount of any antidumping duty which the producer or reseller: (1) Paid directly on behalf of the importer; or (2) reimbursed to the importer." 19 CFR 353.26(a).

The Department verified during the instant review and previous administrative review periods that CIC or its predecessor company, Global Imports, Inc. (Global), paid all antidumping duty deposits and antidumping duty assessments. The petitioner's claim for a deduction rests on the April 1997 capital contribution by GISSA Holding USA to CIC. The monies at issue were paid by GIS (the ultimate parent company of Cinsa, ENASA, and several other producing entities, as well as of the importer, CIC) to GISSA Holding USA (which is a holding company for CIC but not for Cinsa or ENASA). GISSA Holding USA then provided these funds to CIC for purposes that included payment of antidumping duties assessed on entries imported by Global during the 5th and 7th review periods, which were liquidated during 1996.

The Department preliminarily determined not to apply the reimbursement regulation based on a literal construction of that regulation and the fact that the transfer in question was not provided directly by a producer or exporter. Therefore, it took no position on whether a finding of reimbursement as to the 5th and 7th review entries could serve as the basis for application of the reimbursement regulation as to 10th review entries. As a result, the parties have not had an opportunity to comment on and provide evidence in connection with any new policy that might involve a finding of reimbursement as to either the 5th and 7th review entries or as to subsequent entries. Even if the Department were to agree with petitioners that Cinsa and ENASA reimbursed CIC for antidumping duties paid on 5th and 7th review entries, it could not apply the reimbursement regulation to these 10th review entries. To do so would be equivalent to imposing an irrebuttable (in this review) presumption that a pattern of reimbursement of duties paid on entries from earlier periods would be continued as to entries in later periods. This issue was not raised during the 10th review. It is well established that potentially affected parties must be given an opportunity to submit evidence specifically to rebut a presumption established by the Department, especially when, as in this case, the Department took a position in the preliminary results that made the submission of such evidence unnecessary during the administrative proceeding. *See, e.g., British Steel plc* v. *United States*, 879 F. Supp. 1254, 1316–17 (CIT 1995), *Sigma Corp.* v. *United States*, 841 F. Supp. 1255, 1267 (CIT 1993). The facts underlying this issue have not changed from the 9th review final results in which we determined that the reimbursement regulation did not apply. Therefore, the Department will maintain, for purposes of this review, the position taken in the 9th review and in the 10th review preliminary results based on the rationale given therein.

The Department has concerns about the nature of the cash transfer at issue in this case and intends to reconsider, in future reviews, whether reimbursement by Cinsa's and ENASA's corporate parent would constitute reimbursement under the Department's regulations. In the future, the Department may find it appropriate to apply the reimbursement regulation in instances in which a parent or other affiliate of a producer or exporter provided funds specifically for the payment of antidumping duties. Thus, the Department will examine closely transfers of funds between the producer/exporter, its affiliates, and the importer, made for the purpose of paying antidumping duties and cash deposits.

Further, we disagree with petitioner's arguments that we should find reimbursement based on (1) the principle of the fungibility of money and (2) the idea that expenses incurred by holding companies without operations are for the benefit of their subsidiaries with operations. See "Issues Memo for the Final Results" dated July 8, 1998, for additional information. In antidumping cases, the Department uses both of these concepts to deal with allocation of expenses associated with a parent company to the COP and constructed value (CV) of the company producing subject merchandise. In antidumping cases, the so-called "fungibility principle" is an aspect of the Department's methodology for calculating financial costs incurred in producing and selling subject merchandise based on an interest expense ratio reflecting the overall corporate borrowing experience. *E.g., Final Determination of Sales at Less than Fair Value: New Minivans from Japan*, 57 FR 21937, 21946 (Comment 18) (May 26, 1992). Just as the "fungibility principle" is used in dealing with interest expense, the holding company rule relates to the allocation of a portion of the general and administrative (G&A) expenses incurred by a non-producing parent company to the cost calculations for a firm producing subject merchandise that benefits from the activities/services generating such expenses. In the *Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products * * * From Canada*, 58 FR 37099, 37114 (Comment 47) (July 9, 1993), the Department expressed this principle as follows: "The general expenses incurred by a parent company, without operations, relate to all of its subsidiaries with operations." This simply allows the Department to allocate a portion of general costs to the cost of producing subject merchandise.

Comment 2: Enamel Frit Cost

For purposes of the final results, respondents Cinsa and ENASA argue that the Department should use the transfer prices reported for enamel frit obtained from their affiliated supplier, ESVIMEX, without adjustment. However, the respondents state that, if the Department decides to adjust materials costs to reflect an "adjusted market price," both the respondents and the petitioner agree that the Department erred in calculating the amount of the differential between market price and adjusted market price. The respondents believe that the Department improperly focused solely on the price difference between ESVIMEX's prices to Cinsa and ENASA, and ESVIMEX's prices to unaffiliated customers, rather than comparing the price paid by Cinsa and ENASA for ESVIMEX's frit, and the price paid by those producers for the enamel frit purchased from an unaffiliated producer, in order to determine whether ESVIMEX's prices to Cinsa and ENASA reflect fair market prices.

The respondents argue that the Department improperly concluded that the difference between ESVIMEX's prices to affiliated parties and those to unaffiliated parties was not attributable entirely to cost savings to ESVIMEX on its sales to affiliated parties, because the preliminary results failed to take into account prompt payment discounts, the existence of which was verified by the Department. Furthermore, the respondents argue that, even if prompt payment discounts are not taken into consideration, any remaining portion of the price differential not accounted for by verified cost savings represented a quantity discount granted to affiliated

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purchasers because such purchasers accounted for a large majority of ESVIMEX's sales of enamel frit. Therefore, the transfer prices paid by Cinsa and ENASA to ESVIMEX would be fair market prices, according to the respondents.

Finally, Cinsa and ENASA contend that, even if it were appropriate for the Department to adjust Cinsa's and ENASA's reported raw material costs, the preliminary results overstated the adjustment. The respondents argue that, rather than corresponding to the percent of list price that is *not* documented by cost savings, the Department's adjustment incorrectly corresponds to the percent of list price that *is* documented by verified cost savings.

The petitioner maintains that Cinsa's and ENASA's cost of enamel frit purchased from its affiliate, ESVIMEX, should be based on unadjusted market prices, defined as the prices that unrelated parties paid ESVIMEX for frit, which is equivalent to the list prices less only the general discount given to all unrelated parties. The petitioner contends that the Department cannot conclude that Cinsa's and ENASA's transfer prices reflect market value, as claimed by the respondents, because the record demonstrates that ESVIMEX's prices for frit to Cinsa and ENASA were lower than the prices charged to unaffiliated customers. Moreover, the petitioner claims that the respondents base their claim on a comparison with a *de minimis* volume purchased from an unaffiliated supplier.

Alternatively, the petitioner argues that the Department should correct its preliminary calculation for purposes of the final results so that it adjusts Cinsa's and ENASA's material costs upward by what it terms the full difference between the market prices for frit and the adjusted market prices for frit, and provides a calculation which it claims will have this effect.

Furthermore, the petitioner asserts that regarding discounts (1) the Department should disregard the prompt payment discount because the respondents did not even allege the existence of such a discount prior to verification and provided no evidence indicating how often ESVIMEX granted this discount, and (2) there is no evidence to support the respondents' claimed quantity discount.

Finally, the petitioner contends that the Department should reject Cinsa's and ENASA's alternate calculation of the adjustment to materials costs because it calculates the percentage difference between market prices and theoretical transfer prices, not actual transfer prices, and therefore understates the appropriate percentage increase to Cinsa's and ENASA's materials costs.

DOC Position

For purposes of the preliminary results, we intended to increase the frit portion of the direct materials cost to account for difference between market prices and reported transfer prices that is not accounted for by documented cost savings. However, we agree with the respondents that we inadvertently overstated the amount necessary to increase the transfer price to equal an "adjusted market price" corresponding to the situation in which ESVIMEX sells to Cinsa and ENASA. Accordingly, for purposes of the final results, we have used in our calculation the percent of list price that is *not* documented by cost savings, as opposed to the percent of list price that *is* documented by verified cost savings, which we incorrectly used in our preliminary calculations.

We disagree with the petitioner's suggestion that the Department should make an adjustment to material costs based on the difference between the market prices for frit and the Department's calculation of an "adjusted market price" (*i.e.*, a price that the Department believes Cinsa and ENASA would have paid had they been unaffiliated purchasers). The adjustment made by the Department is intended to increase Cinsa's and ENASA's submitted frit costs (*i.e.*, transfer prices) so that they include the portion of the "affiliates" discount off list price which was not supported at verification as being attributable to cost savings. Therefore, the appropriate calculation measures the difference between the reported transfer price and the Department's adjusted market price.

With regard to the petitioner's argument that the reported prices are "theoretical" prices as opposed to "actual prices," we verified invoices showing that the reported transfer prices (prices from ESVIMEX to Cinsa and ENASA) correspond to list prices minus the standard discount to affiliated parties.

In addition, we do not agree with Cinsa's and ENASA's argument that the Department must accept ESVIMEX's frit transfer prices as reported on the theory that the transfer price sales were made at a fair market value. Pursuant to section 773(f)(2) of the Act, a transaction between affiliated parties is considered an appropriate source of ascertaining the value of an input if it fairly represents the amount usually reflected in sales of subject merchandise in the relevant market. Based on the documents examined at verification, we have determined that, although the respondents adequately supported their claim with respect to all cost efficiencies listed on the schedule submitted at verification, these costs efficiencies did not account for the full extent of the discount accorded only to affiliated parties. Although Cinsa and ENASA then claimed that the unaccounted for portion of the affiliated party discount should be attributed to a volume discount, they were unable to quantify and support how the volume of their purchases resulted in market-based savings equivalent to that unaccounted for portion. Therefore, in accordance with the Department's longstanding policy of considering that transactions between affiliated parties are not at arm's length in the absence of sufficient evidence to the contrary, the Department reasonably determined that this standard had not been met with respect to ESVIMEX's frit transfer prices to Cinsa and ENASA, and based its cost calculations instead upon the "adjusted market price" described above.

We have also rejected Cinsa's and ENASA's suggestion that, in measuring the extent to which market forces do not account for the difference between the discount off list price given to affiliates and the discount off list price given to unaffiliated parties, we should take into account prompt payment discounts. Although the Department verified that such discounts are offered, Cinsa and ENASA have not provided any information on the frequency with which such discounts are actually given. In addition, such discounts constitute a recognition that a limited number of customers will require a lesser extension of credit by Cinsa and ENASA, not a general adjustment to price. Thus, the Department reasonably did not assume the existence of such a discount in calculating the normal market price for unaffiliated purchasers of frit.

Similarly, we decline to find that the prices for Cinsa's minimal purchases of enamel frit from an unaffiliated producer are an appropriate basis for determining whether their purchases from ESVIMEX reflect fair market prices. Because certain information regarding these transactions is business proprietary, *see* the *Issues Memo*.

Moreover, we do not agree with the respondents that it is sufficient to show that ESVIMEX's frit prices to affiliates are above ESVIMEX's COP. The respondents' argument to this effect ignores the provisions of section 773(f)(2) of the Act, which requires a comparison of transfer prices and market prices when the latter are available, and permits the use of the higher of those prices. Thus, we compared the transfer prices Cinsa and ENASA paid to prices charged to unaffiliated customers. We noted that the prices charged to unaffiliated customers were greater than both the affiliated transfer prices and the actual costs incurred to produce the frit supplied to Cinsa and ENASA. Because the prices charged to unaffiliated customers did not reflect certain market-based savings unique to ESVIMEX's affiliates, however, we constructed an "adjusted market price" which did reflect these elements. Because this price was higher than both ESVIMEX's COP and the transfer price, in conformity with section 773(f)(2) and (3) of the Act, we based Cinsa's and ENASA's frit cost on the "adjusted market price."

Comment 3: Cinsa's and ENASA's Classification of Certain U.S. Sales as EP Rather Than CEP

The petitioner argues that Cinsa's and ENASA's classification of certain sales as EP is incorrect because, it claims, this classification is based only on the first of the three factors used by the Department for determining the classification of sales made through affiliated importers, *i.e.*, the fact that the merchandise in question was shipped directly from the manufacturer to the unrelated buyer, without being introduced into the physical inventory of the related selling agent. The petitioner claims that, in order to classify U.S. sales through an affiliated importer as EP sales, the respondent must also provide evidence that EP was the customary commercial channel for sales of this merchandise between the parties involved, and that the affiliated importer acted only as a processor of documentation and a communication link with the unaffiliated U.S. buyer.

With regard to the second criterion, the petitioner argues that the relative volumes and values of sales direct from Mexico are not high enough for EP sales channel to be considered customary. With regard to the third criterion, the petitioner asserts that CIC's level of activity with respect to all U.S. sales, including those sales classified as EP sales, was far beyond what would be undertaken by a mere "processor of sales documentation." Accordingly, the petitioner believes that the Department should reclassify as CEP sales all sales reported as EP sales.

Cinsa and ENASA argue that all three factors the Department uses to classify certain sales as EP were present with respect to the sales they classified as EP, claiming that the EP channel of trade with the participation of its U.S. affiliate is customary because it has been present since the initial investigation and in all subsequent reviews and that, although perhaps significant, the affiliate's activities consist of ministerial functions, such as the processing of purchase orders, collection of payment, arrangement of transportation, etc., as opposed to setting sales terms and prices and negotiating sales contracts.

DOC Position

We agree with the respondents that the facts on the record of this review shows that the sales reported as EP sales in this review should continue to be classified as EP sales. Pursuant to section 772(a) and (b) of the Act, an EP sale is a sale of merchandise by a producer or exporter outside the United States for export to the United States that is made prior to importation. A CEP sale is a sale made in the United States, before or after importation, by or for the account of the producer or exporter or by an affiliate of the producer or exporter. In determining whether the sales activity in the United States warrants using the CEP methodology, the Department has examined the following criteria: (1) Whether the merchandise was shipped directly from the manufacturer to the unaffiliated U.S. customer, (2) whether this was the customary commercial channel between the parties involved, and (3) whether the function of the U.S. affiliate is limited to that of a "processor of sales-related documentation" and a "communication link" with the unrelated U.S. buyer. *See e.g., Final Results of Antidumping Duty Administrative Review: Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate From Canada (Canadian Steel)* 63 FR 12725, 12738 (March 16, 1998). In the Canadian Steel case, the Department clarified its interpretation of the third prong of this test, as follows. "Where the factors indicate that the activities of the U.S. affiliate are ancillary to the sale (*e.g.*, arranging transportation or customs clearance, invoicing), we treat the transactions as EP sales. Where the U.S. affiliate has more than an incidental involvement in making sales (*e.g.*, solicits sales, negotiates contracts or prices) or providing customer support, we treat the transactions as CEP sales."

With respect to the first prong, it is undisputed that the merchandise associated with these sales was shipped directly to the unaffiliated customer, without passing through the U.S. affiliate.

With respect to the second prong, this is the customary commercial channel between the parties involved. We agree with the respondents that it is not necessary for EP sales to be the predominant channel of trade in a given review for it to be the customary channel between the parties involved. EP sales have been made, with the participation of a U.S. affiliate, in the investigation and in all subsequent reviews. Thus, this is clearly a customary channel of trade.

With respect to the third prong, the verification report confirms that, for the sales classified as EP, prices are set by the Cinsa export office in Saltillo, Mexico. The participation of affiliate CIC in these sales relates primarily to: issuing payment invoices, accepting payment and forwarding it to Mexico, posting antidumping duty deposits, and clearing products through Customs. These services are clearly among those the Department considers "ancillary" to the sale. CIC does not solicit or negotiate these sales, does not set the price for these sales, and does not provide customer support in connection with these sales.

Therefore, for the purposes of this review, we will continue to treat as EP those sales which Cinsa and ENASA reported as EP sales. For further details *see* the *Issues Memo.*

Comment 4: Reallocation of Indirect Selling Expenses

The petitioner argues that, if the Department accepts Cinsa's and ENASA's designation of certain of their U.S. sales as EP sales, the Department should revise the indirect selling expense calculations and allocate CIC's total expenses over a sales value that excludes sales designated as EP based on the respondents' claim that CIC had no role in making EP sales. Otherwise, at a minimum, the petitioner maintains that the Department should not allocate to EP sales any of the indirect selling expenses incurred by CIC related to salesmen's salaries and benefits, travel expenses, warehouse lease, office rental, advertising, and any other expenses relating to functions that the respondents claim were not performed by CIC in support of EP sales.

The respondents argue that they properly allocated these expenses to all U.S. sales because indirect selling expenses are incurred on overall operations, which necessarily include both EP and CEP sales.

DOC Position

We agree with the petitioner that, for purposes of calculating indirect selling expenses, CIC expenses are more properly allocated over a U.S. sales value that excludes the EP sales. We

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verified Cinsa's and ENASA's claim that CIC performed very limited sales-related functions with respect to these EP sales, and equal allocation of all CIC expenses across all U.S. sales in which CIC is involved would disproportionately shift these costs from CEP to EP sales. However, we disagree with the petitioner's suggested allocation because it would allocate all EP expenses to CEP sales. The numerator proposed by the petitioner would include all of CIC's expenses, *i.e.*, expenses for both EP and CEP sales, whereas the denominator would include the sales value of only CEP sales. We interpret the petitioner's alternative allocation methodology to mean we should, to the extent possible, allocate only to CEP sales (the only sales from which indirect selling expenses are deducted) the expenses that are only incurred on CEP sales. Accordingly, we have reallocated CIC's indirect selling expenses by including in the numerator the indirect selling expenses pertaining only to CEP sales (warehouse lease, advertising, forklift rental, salesmen's salaries and salesmen training) and a portion of the joint CEP and EP expenses (based on the percentage that CEP sales represent, by value, of total CIC sales). The new denominator is the value of only CEP sales. *See also* Final Results Calculation Memorandum. (*Calculation Memo*). Thus, we have excluded EP indirect selling expenses from the numerator and have excluded the value of EP sales from the denominator.

We disagree with the respondents that (all) indirect selling expenses are incurred on "overall operations." Certain of CIC's indirect selling expenses (see list above) are not incurred on EP sales.

Comment 5: CEP Offset Adjustment

Cinsa and ENASA state they are entitled to a CEP offset because a comparison of the normal value (NV) level of trade to the CEP level of trade demonstrates that the NV level of trade is more advanced as well as at a different point in the chain of distribution because it includes a greater number of selling functions than the CEP level of trade. Cinsa and ENASA state that the Department's regulations require that when the CEP level of trade is determined, all economic activities in the United States and the indirect selling expenses attributable thereto are to be excluded. In contrast, when the normal value level of trade is determined it is inclusive of substantive selling functions and the indirect selling expenses necessary to execute a sale to unaffiliated customers. Accordingly, for purposes of comparison to the NV level of trade, Cinsa and ENASA argue that the selling functions and the indirect selling expenses of the CEP level of trade are limited to the initial sale by Cinsa's and ENASA's export department to CIC. Cinsa and ENASA further state that they are entitled to the CEP offset under the terms of the statute, 19 U.S.C. 1677b(a)(7)(B), because only one level of trade has been determined to exist in the home market, and Cinsa and ENASA are unable to quantify any pricing differential between the home market level of trade and the nonexistent CEP level of trade in the home market.

The petitioner argues that the Department should reject the respondents' claim for a CEP offset adjustment in the final results, based on the respondents' failure to establish that home market and CEP sales are at different levels of trade. The petitioner states that the record shows that the respondents sold to wholesalers and distributors in both markets and that these customers are not at a more remote point in the chain of distribution than CIC. In addition, the petitioner concludes that the selling functions are the same in both markets.

DOC Position

We agree with the petitioner. Section 773(a)(1)(B) of the Act requires that the Department establish NV, to the extent possible, based on home market sales at the same level of trade as the CEP or the EP sale. The SAA notes that if the Department is able to compare sales at the same level of trade, it will not make any level of trade adjustment or CEP offset in lieu of a level of trade adjustment. SAA at 829. Further, section 773(a)(7) expressly requires a difference in level of trade between the U.S. and home market sales as a prerequisite to a CEP offset. Specifically, sales in the home market must be at a more advanced stage of distribution.

In the home market, Cinsa and ENASA sell directly to wholesalers, distributors, large retailers and supermarkets. Cinsa and ENASA did not identify which of their home market customers fell into which of these categories and did not claim that there were differences in selling functions with respect to these designations. In short, the respondents treated these customers as being similarly situated for purposes of the LOT analysis. CIC is also a wholesaler/distributor of POS cookware. With regard to selling functions, Cinsa and ENASA reported in their April 28, 1997, questionnaire response that they performed the following selling functions for home market sales: freight and delivery services, inventory maintenance, and order processing and billing services. For sales to CIC, Cinsa's export department arranged freight and delivery services, incurred inventory maintenance, and provided sales support services such as invoice processing and billing. Therefore, Cinsa and ENASA have not demonstrated that their home market purchasers are at a different point in the chain of distribution than CIC and that the selling functions associated with Cinsa's and ENASA's sales to CIC were different from those associated with sales to customers in the home market. Thus, our analyses leads us to conclude that sales within each market and between markets are not made at different levels of trade.

Finally, we disagree with Cinsa's and ENASA's argument that the preliminary results failed to account for the fact that home market indirect selling expenses are included in the price associated with the "NV level of trade", whereas CIC's indirect selling expenses are excluded from the price associated with the "CEP level of trade." First, the indirect selling expenses incurred in the United States by CIC's sales departments are, pursuant to section 772(d)(1)(D) of the statute, properly excluded from the price calculated for the U.S. CEP sales. Pursuant to this and other section 772(d) adjustments, CIC's price to its unaffiliated customer (the "starting price") is transformed into a constructed export price, *i.e.*, a constructed equivalent of a market-based sale by Cinsa or ENASA to CIC. This is the point at which the level of trade comparison is made. *See* New Regulations, 62 FR at 27414.[1] Second, Cinsa's and ENASA's itemized home market indirect selling expenses and itemized indirect selling expenses incurred in Mexico with respect to making sales to CIC are virtually the same. Therefore, the record reflects no difference between the functions performed by the respondents in selling to home market customers and the functions performed in selling to CIC.

Accordingly, we can compare sales in the home market and the U.S. market at the same level of trade. Therefore, a CEP offset is not warranted.

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[1] This approach was recently challenged in *Borden, Inc. v. United States (Borden)* Slip Op. 98–36 (March 26, 1998), at 55–59 (rejecting the Department's practice of making 1677a(d) adjustments prior to making the level of trade comparisons). The Department intends to appeal this decision, and thus will continue to apply the methodology set forth in the New Regulations. We note, however, that, because the sales made by Cinsa and ENASA in the home market are not at a more advanced stage in the chain of distribution than either those made *to* CIC or those made *by* CIC (both are at a wholesale/distributor level of trade), implementation of the *Borden* decision would not affect the outcome in this case.

Comment 6: Whether to Limit NV Comparisons to Sales Made in Same Month

Cinsa and ENASA argue that the Department's high inflation margin calculation methodology, which limits NV comparisons to the month of the U.S. sale, results in unduly high margins in the instant review because the Department based NV on CV when there were no home market sales of the most comparable model in the same month as the U.S. sale. Cinsa and ENASA suggest that, in order to obtain more price-to-price matches, the Department should use home market matches within the full 90/60 window period surrounding each U.S. sale, but index prices when it is necessary to compare a U.S. sale to a home market sale during a different month.

Alternatively, Cinsa and ENASA argue that the Department should expand the one-month window forward and use prices for identical merchandise in one of the two months subsequent to the date of the U.S. sales, without price adjustment.

The petitioner states that Cinsa's and ENASA's proposed methodology is not in accordance with the Department's policy regarding high inflation comparisons. In short, according to the petitioner, Cinsa and ENASA have not demonstrated that there is anything in the way they manufacture and sell subject merchandise that makes application of the Department's high inflation price comparison methodology inappropriate or unfair.

Finally, the petitioner believes the Department should reject Cinsa's and ENASA's alternative request to expand the price comparison window by two months because the further away from the same month the Department looks for a comparable home market sale in a high inflation case, the more likely it is that there would be distortion caused by inflation.

DOC Position

We agree with the petitioner. As in our preliminary results, we have limited our comparisons to sales in the same month rather than applying the Department's 90/60 rule, whereby the Department may use as NV comparison market prices from the three months prior to and the two months after the month in which the U.S. sale was made. The same month comparison rule accords with the Department's current practice in cases involving high inflation.

We disagree with the respondents' claim that the Department's high inflation methodology creates unduly high margins in this review. The Department's inflation methodology is designed to eliminate distortion caused by high inflation. It is neutral in purpose and is not designed to punish or benefit anyone. However, as a result of a recent court decision, the respondents' concerns have been addressed at least in part, albeit indirectly. On January 8, 1998, the Court of Appeals for the Federal Circuit issued a decision in *CEMEX* v. *United States*, 133 F.3d 897 (*CEMEX*). In that case, based on the pre-URAA version of the Act, the Court addressed the appropriateness of using CV (rather than similar merchandise) as the basis for foreign market value when the Department finds home market sales of the most similar merchandise to be outside the "ordinary course of trade." This issue was not raised by any party in this proceeding. However, in response to the Court's decision in *Cemex*, the Department has revised its application of the cost test and has determined that it would be inappropriate to resort directly to CV, in lieu of foreign market sales, as the basis for NV upon finding foreign market sales of merchandise identical or most similar to that sold in the United States to be outside the "ordinary course of trade." Instead we will match a given U.S. sale to foreign market sales of the next most similar model sold during the same month when all sales of the most comparable model are below cost. The Department will use CV as the basis for NV only when there are no above-cost sales in the appropriate comparison period that are otherwise suitable for comparison.

Therefore, for the final results in this proceeding, when making comparisons in accordance with section 771(16) of the Act, we considered all products sold in the home market, as described above in the "Scope of Review" section of this notice, that were in the ordinary course of trade during the same month for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade during the same month to compare with U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade during the same month, based on the characteristics listed in Sections B and C of our antidumping questionnaire.

With regard to comparisons involving sets, where there were no sales of identical merchandise in the home market in the same month to compare to U.S. sales of subject merchandise sold in sets, we compared U.S. sales of sets to the CV of the set as we do not have the appropriate data in this review to compare non-identical sets. We will, however, request such information for purposes of future reviews.

In a few instances involving comparisons of open stock merchandise, we have still resorted to the use of CV due to the absence of comparable above-cost matches in the same month for certain U.S. sales.

Finally, the respondent's suggestion that we account for the effects of inflation by indexing *prices* for POS cookware is contrary to the Department's high inflation methodology. Although it is necessary to use *cost* indexing in high-inflation cases in order to calculate meaningful POR-average costs, the Department has rejected the use of indexed *prices*. It is the Department's position that price-to-price margin calculations should be made based only on actual, rather than indexed, prices, as using indexed prices would yield less accurate results.

Comment 7: Home Market Freight Expense Allocation

The petitioner argues that Cinsa's and ENASA's claim for an adjustment to NV for freight expenses incurred to ship subject merchandise from the factories in Saltillo to (1) the remote warehouses in Mexico City and Guadalajara, and (2) unaffiliated customers in the Monterrey region is distortive and should be rejected because these shipments contained both Cinsa- and ENASA-produced merchandise, as well as both subject and non-subject merchandise. The petitioner further argues that Cinsa billed ENASA for its share of the freight expenses based on the number of boxes of ENASA merchandise in each shipment, as opposed to the weight of the ENASA merchandise, which is heavier gauge that Cinsa's merchandise, thus incorrectly shifting expense from ENASA to Cinsa and artificially reducing Cinsa's NV.

In addition, with regard to post-sale freight expenses, the petitioner contends that allocating the total expense over subject and non-subject merchandise could inappropriately shift expense to subject merchandise if non-subject merchandise customers are located farther from the factories, on average, than customers of subject merchandise. The petitioner urges the Department to either reject Cinsa's and ENASA's claim for a freight adjustment or require them to revise their freight expense allocation.

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The respondents argue that they were unable to report transaction-specific freight expenses because they received freight bills on a monthly basis, rather than a shipment-by-shipment basis. According to the respondents, the allocation of mixed-shipment freight expenses between the companies was reasonable because the packing list generated by the freight company indicated the number of boxes but not the weight of boxes. Moreover, the respondents argue that, because the freight expense was incurred on the basis of weight and the freight rate did not vary by the type of merchandise shipped, inclusion of sales of non-subject merchandise was not distortive to the calculation. Finally, the respondents note that not only has the Department accepted Cinsa's and ENASA's comparable allocations in all previous proceedings, but that the respondents' reporting of warehouse-specific freight factors represents a refinement in their reporting of pre- and post-sale freight expenses.

DOC Position

We have accepted the respondents' methodology for the calculation of home market freight expenses, including their allocation of such expenses (1) between Cinsa and ENASA and (2) between subject and non-subject merchandise.

The Department's preference is that, wherever possible, freight adjustments should be reported on a sale-by-sale basis rather than allocated over all sales. *See Final Results of Antidumping Duty Administrative Review: Replacement Parts for Self-Propelled Bituminous Paving Equipment from Canada*, 56 FR 47451 (September 19, 1991). If the respondent does not maintain freight records on a sale-by-sale basis, then our preference is to apply an allocation methodology at the most specific level permitted by the respondent's records kept in the normal course of business. *See Final Determination of Sales at Less Than Fair Value: Melamine Institutional Dinnerware Products from Indonesia*, 62 FR 1719, 1724 (January 13, 1997).

Cinsa and ENASA stated in their June 2, 1997, supplemental response that they do not maintain freight records on a sale-by-sale basis because Cinsa, which handles freight arrangements for both itself and ENASA, is billed only on a weight-per-truckload basis by its unaffiliated freight carrier. The freight company does not provide a weight-based breakout between Cinsa merchandise and ENASA merchandise. However, the packing list for each shipment indicates how many boxes contain Cinsa merchandise and how many boxes contain ENASA merchandise.

We disagree with the petitioner's claim that allocating the cost for each truckload between the two companies on the basis of number of boxes shifts freight expense to Cinsa. Although ENASA's products are heavy gauge steel and Cinsa's are light and medium gauge steel, a Cinsa "box" is not necessarily lighter than an ENASA "box"; different boxes may contain different cookware items (*i.e.*, different models and sizes), and some boxes contain multiple items. In the absence of weight-based data, the box-based comparison is the most reasonable overall.

Likewise, we disagree with the petitioner's claim that the respondents' allocation of freight costs between subject and non-subject merchandise is distortive since the June 2, 1997, response shows that subject and non-subject merchandise destined for the same delivery point are charged the same weight-based rate. Further, the record shows that the respondents reported warehouse-specific freight factors. Thus, calculation of a weight-based factor based upon the freight expense and shipping weight for all merchandise and application of the resulting factor to the weight of subject merchandise yields a non-distortive allocation of the freight expense attributable only to subject merchandise. Finally, Cinsa and ENASA have used comparable allocation methodologies in each of the previous segments of this proceeding, in each of which the Department has determined that they are reasonable in light of the objectives of the antidumping law. Accordingly, we accepted Cinsa's and ENASA's freight calculations as submitted in their sales databases in this review as reasonable and non-distortive.

Comment 8: Freight Expenses on U.S. Sales

The petitioner states that Cinsa and ENASA reported freight expenses incurred to ship subject merchandise to the United States by allocating total freight expenses incurred over the weight of all merchandise shipped. These freight expenses were reported in two steps: (1) expenses incurred to ship merchandise from Saltillo to the U.S. border (for EP and CEP sales), and (2) expenses incurred to ship merchandise from the U.S. border to CIC's warehouse in San Antonio, Texas (CEP sales only). The petitioner argues that the denominators in the above-referenced calculations are incorrect because the weight of the merchandise shipped in Step 1, which should contain both EP and CEP sales, is significantly lower than the weight of the merchandise shipped in Step 2, which should contain only CEP sales. Furthermore, according to the petitioner, the weights used in these calculations do not correspond to the weights of merchandise sold as reported on the respondents' sales tapes. Accordingly, for purposes of the final results, the petitioner maintains that the Department should reject Cinsa's and ENASA's U.S. freight calculations and, as facts available, recalculate the per kilogram expenses based on the weight of merchandise sold as reported on the sales tapes.

Cinsa and ENASA concede that the weight amount reported by CIC for shipment from Laredo to San Antonio was inadvertently overstated, but state that the error can be corrected using information already in the record. The respondents disagree with the petitioner's suggestion that the weight of EP and CEP sales from the sale tape be used as the denominator for Mexican inland freight because that freight factor was calculated on the basis of expenses incurred upon sales of both subject and non-subject merchandise, which were shipped together. Therefore, according to the respondents, the reported weight of the merchandise shipped must include both subject and non-subject merchandise. Likewise, the respondents also disagree with using the weight of CEP sales from the sales tape as the denominator for the U.S. inland freight factor because in addition to the inclusion of non-subject merchandise, the U.S. inland freight factor was calculated based on freight expenses incurred on all merchandise shipped from Laredo to San Antonio, regardless of whether it was resold to unrelated U.S. customers during the period of review (POR) or whether it remained in inventory in San Antonio.

DOC Position

The Department agrees that the denominator of the U.S. inland freight ratio (Step 2, above) should be recalculated by subtracting the weight of the merchandise shipped from Saltillo to Laredo, which was inadvertently also included in the Step 2 weight calculation. The petitioner's suggestion that the weight of CEP sales, as derived from the sales tape, be used as the denominator for U.S. inland freight is incorrect because it fails to take into consideration two important details. First, the numerator in the calculation (freight expenses) includes both subject and non-subject merchandise. Second, the numerator also includes expenses incurred on all merchandise shipped from Laredo to San Antonio, Texas, regardless of whether it was resold to unrelated U.S. customers or whether it remained in inventory in San Antonio. Accordingly, in order to obtain a proper ratio, the denominator (weight shipped) must be based correspondingly upon the weight of all subject and non-subject merchandise as well as on the weight of both merchandise sold and that remaining in inventory in San Antonio. The weight on the sales tapes represents total CEP sales; thus this figure does not include non-subject merchandise or merchandise remaining in inventory in San Antonio. Therefore, for purposes of the final results, we have deducted freight expenses, corrected as noted above, from U.S. price. *See Calculation Memo.*

Comment 9: Calculation of Indirect Selling Expenses and CEP Profit

The petitioner argues that the Department's preliminary results calculation of U.S. indirect selling expenses and CEP profit for Cinsa and ENASA are understated because they do not include (1) all of CIC's reported indirect selling expenses (depreciation, financial and bad debt expenses were excluded), (2) expenses incurred by CIC to finance antidumping duty cash deposits and assessments, and (3) indirect selling expenses incurred in Mexico in support of sales to the United States. The petitioner believes that the Department should include the above-mentioned expenses in the calculation of U.S. indirect selling expenses and CEP profit for purposes of the final results.

Cinsa and ENASA disagree with the petitioner's claim that the Department should have deducted the above-referenced expenses from CEP. The respondents claim that: (1) Depreciation, financial and bad debt expenses are financial and operating expenses and do not involve expenses related to the sale of the subject merchandise or overhead expenses of the U.S. affiliate and, according to the statute, only direct selling expenses, indirect selling expenses and general and administrative expenses are to be deducted from CEP; (2) expenses incurred in the payment of antidumping duties are not indirect selling expenses that benefit U.S. sales of subject merchandise; and (3) indirect selling expenses of Cinsa's export department and the inventory carrying costs for the period in which the exported merchandise was in Mexican inventory do not relate to economic activity in the United States.

DOC Position

For purposes of the final results, we have deducted from CEP depreciation, financial and bad debt expenses, as well as commissions. We did not deduct the indirect selling expenses of Cinsa's export department or the inventory carrying costs for the period in which the exported merchandise was in Mexican inventory.

CIC's sole function is to sell merchandise produced by Cinsa, ENASA, and their affiliates in the U.S. market. In such circumstances, the Department's practice is to deduct CIC's selling, general, and administrative expenses from CEP. *See Notice of Final Determination of Sales at Less Than Fair Value: Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, from Germany,* 61 FR 38166, 38176 (July 23, 1996). This includes CIC's depreciation, financial and bad debt expenses, which are considered related to CIC sales of the subject merchandise and thus deducted from CEP pursuant to section 772(d)(1)(D). With regard to CIC's expenses to finance loans from Cinsa used for payment of antidumping cash deposits, although we have long maintained, and continue to maintain, that antidumping duties and cash deposits of antidumping duties are not expenses that we should deduct from U.S. price, it is also the Department's position that, unlike the duties and cash deposits themselves, financial expenses associated with cash deposits are not a direct, inevitable consequence of an antidumping duty order. Therefore, we agree with the petitioner that it is reasonable to include such financing expenses in the indirect selling expense calculation for the CEP sales made by CIC. *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan,* 63 FR 2558, 2571 (January 15, 1998). However, the record of this review does not indicate whether CIC's interest expenses with respect to intracorporate loans to pay antidumping duties and cash deposits that were either incurred or accrued during the POR were included in CIC's reported U.S. indirect selling expense calculation. Therefore, the Department made no adjustment to U.S. indirect selling expenses, which may already include CIC's interest expenses to finance loans from Cinsa. We will, however, request clarification of this issue on the record of future reviews.

With regard to indirect selling expenses incurred in Mexico in support of sales to the United States, we agree with the respondents that such expenses do not relate to economic activity in the United States. The Department's current practice, as indicated by the preamble to the Department's New Regulations, is to deduct indirect selling expenses incurred in Mexico from the CEP calculation only if they relate to sales to the unaffiliated purchaser in the United States. We do not deduct from the CEP calculation indirect selling expenses incurred in Mexico on the sale to the affiliated purchaser. Accordingly, because Cinsa and ENASA reported that certain indirect expenses incurred in Mexico are not associated with selling activity occurring in the United States, but are limited to selling activities associated with the sale of merchandise in Mexico to the affiliated party, CIC, we have not deducted these Mexican indirect selling expenses from the CEP calculation.

Comment 10: Calculation of U.S. Imputed Credit Expenses

According to the respondents, although the Department's analysis memorandum for the preliminary results (*see Antidumping Duty Administrative Review of Porcelain-on-Steel Cookware from Mexico* (95–96): Adjustments to Submitted Data) stated that the Department modified the calculation of reported credit cost to reflect U.S. imputed credit cost based on unit prices net of discounts, the computer program used for the preliminary results failed to reflect this intent. Therefore, credit cost was overstated because imputed credit on U.S. sales was based on gross price rather than net price.

The petitioner argues that the Department did not deduct any values from gross unit price in its calculation of U.S. credit expense because Cinsa and ENASA reported that they did not grant any discounts or rebates on U.S. sales during the POR. According to the petitioner, the values identified as rebates by Cinsa and ENASA are actually warranty expenses and the calculation of U.S. credit expenses net of warranty or any other direct selling expenses would be contrary to the Department's policy.

DOC Position

We agree with Cinsa and ENASA that discounts should be deducted from the U.S. imputed credit calculation. However, for purposes of this review, the issue is moot because no discounts were reported in the U.S. market. We also agree with the respondents that the rebates reported by Cinsa and ENASA are not warranties, as claimed by the

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petitioner. The respondents have characterized these rebates as "post-sale price adjustments to account for short-shipments or returned merchandise." There is no information on the record to indicate that the returned merchandise is defective—a prerequisite for a warranty expense. However, this issue is also moot since we did not deduct rebates or warranties from the price on which imputed credit is based.

Final Results of Review

As a result of this review, we have determined that the following margins exist for the period December 1, 1995 through November 30, 1996:

Manufacturer/Exporter	Margin (percent)
Cinsa	17.33
ENASA	62.75

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. We have calculated an importer-specific assessment rate based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total value of those same sales. This rate will be assessed uniformly on all entries of that particular importer made during the POR. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements shall be effective, upon publication of this notice of final results of administrative review, for all shipments of the subject merchandise from Mexico that are entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Tariff Act: (1) The cash deposit rates for Cinsa and ENASA will be the rates established above; (2) for previously investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) The cash deposit rate for all other manufacturers or exporters of this merchandise will continue to be 29.52 percent, the all others rate established in the final results of the less than fair value investigation (51 FR 36435, October 10, 1986). The cash deposit rate has been determined on the basis of the selling price to the first unaffiliated customer in the United States. For appraisement purposes, where information is available, the Department will use the entered value of the merchandise to determine the assessment rate.

The deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulation and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 353.22.

Dated: July 8, 1998.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–18884 Filed 7–15–98; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

A–583–815

Certain Welded Stainless Steel Pipe From Taiwan; Final Results of Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of administrative review.

SUMMARY: On January 9, 1998, the Department of Commerce (the Department) published in the **Federal Register** the preliminary results of the 1995–1996 administrative review of the antidumping duty order on certain welded stainless steel pipe from Taiwan (A–583–815). This review covers one manufacturer/exporter of the subject merchandise during the period December 1, 1995 through November 30, 1996.

We gave interested parties an opportunity to comment on the preliminary results. Although, based upon our analysis of the comments received, we have changed the results from those presented in our preliminary results of review, a *de minimis* dumping margin still exists for Ta Chen's sales of welded stainless steel pipe (WSSP) in the United States. Accordingly, we will instruct the U.S. Customs Service to assess antidumping duties on entries of Ta Chen merchandise during the period of review, in accordance with the Department's regulations (19 CFR 353.6).

EFFECTIVE DATE: July 16, 1998.

FOR FURTHER INFORMATION CONTACT: Robert James at (202) 482–5222 or John Kugelman at (202) 482–0649, Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

Applicable Statute and Regulations: Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act), are to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 353 (April 1, 1997).

SUPPLEMENTARY INFORMATION:

Background

On December 30, 1992, the Department published in the **Federal Register** the antidumping duty order on welded stainless steel pipe (WSSP) from Taiwan (57 FR 62300). On December 3, 1996, the Department published the notice of "Opportunity to Request Administrative Review" for the period December 1, 1995 through November 30, 1996 (61 FR 64051). In accordance with 19 CFR 353.22(a)(1) (1997), respondent Ta Chen Stainless Pipe Co., Ltd. and its wholly-owned U.S. subsidiary, Ta Chen International (collectively, Ta Chen), requested that we conduct a review of their sales. On January 17, 1997, we published in the **Federal Register** our notice of initiation of this antidumping duty administrative review covering the period December 1, 1995 through November 30, 1996 (62 FR 2647).

Because it was not practicable to complete this review within the normal time frame, on July 24, 1997, we published in the **Federal Register** our notice of extension of time limits for this review (62 FR 39824). We published the preliminary results of this review in the **Federal Register** on January 9, 1998 (Certain Welded Stainless Steel Pipe From Taiwan; Preliminary Results of Administrative Review, 63 FR 1437 (Preliminary Results)). We published our notice of extension of time limits for these final results in the **Federal Register** on March 17, 1998 (63 FR 13032).

Furthermore, on January 12 through January 20, 1998, the Department conducted a verification of Ta Chen's home market sales data at Ta Chen's headquarters in Tainan, Taiwan. We also verified Ta Chen's U.S. sales data at the premises of Ta Chen International on January 26 through January 29, 1998 (see "Results of Verification," below). The full results of our verification are detailed in the Department's verification reports. Public versions of these, and all public documents referenced in this notice, are on file in Room B–099 of the main Commerce building.

Petitioners and Ta Chen timely filed case briefs on May 14, 1998; Ta Chen replied with its rebuttal brief dated May 21, 1998.

The Department has now completed this review in accordance with section 751 of the Tariff Act.

Scope of the Review

The merchandise subject to this administrative review is certain welded austenitic stainless steel pipe (WSSP) that meets the standards and specifications set forth by the American Society for Testing and Materials (ASTM) for the welded form of chromium-nickel pipe designated ASTM A–312. The merchandise covered by the scope of the order also includes austenitic welded stainless steel pipes made according to the standards of other nations which are comparable to ASTM A–312.

WSSP is produced by forming stainless steel flat-rolled products into a tubular configuration and welding along the seam. WSSP is a commodity product generally used as a conduit to transmit liquids or gases. Major applications for WSSP include, but are not limited to, digester lines, blow lines, pharmaceutical lines, petrochemical stock lines, brewery process and transport lines, general food processing lines, automotive paint lines, and paper process machines.

Imports of WSSP are currently classifiable under the following Harmonized Tariff Schedule of the United States (HTS) subheadings: 7306.40.5005, 7306.04.5015, 7306.40.5040, 7306.40.5065, and 7306.40.5085. Although these subheadings include both pipes and tubes, the scope of this investigation is limited to welded austenitic stainless steel pipes. Although the HTS subheadings are provided for convenience and Customs purposes, our written description of the scope of this order is dispositive.

The period for this review is December 1, 1994 through November 30, 1995. This review covers one manufacturer/exporter, Ta Chen.

Results of Verification

As provided in section 782(i) of the Tariff Act, we verified information provided by the respondent using standard verification procedures, including on-site inspection of Ta Chen's facilities in Tainan, Taiwan and Ta Chen International's headquarters in Long Beach, California, the examination of relevant sales and financial records, and selection of original documentation containing relevant information. Our verification results for the home market and U.S. verifications are outlined in public versions of, respectively, the Home Market Verification Report and the U.S. Verification Report, available to the public in Room B–099 of the main Commerce building. In preparing for verification Ta Chen discovered minor corrections which it presented to the Department's verifiers at the start of the home market and U.S. verifications. In addition, as noted in the "Analysis of Comments" section, below, our verifications revealed other minor inaccuracies in Ta Chen's submitted data. Where appropriate, we have adjusted Ta Chen's reported sales data to reflect these corrections.

Analysis of Comments Received

Comment 1: Export Price Versus Constructed Export Price Sales

Petitioners take issue with the determination in the Preliminary Results to treat all of Ta Chen's U.S. sales as export price (EP) sales, as defined in section 772(a) of the Tariff Act. Rather, petitioners maintain, Ta Chen's so-called "back-to-back" sales through Ta Chen International (TCI) properly are considered constructed export price (CEP) transactions. Petitioners assert that the Department customarily examines the activities of the affiliated U.S. importer in determining whether U.S. sales should be classified as EP or CEP sales using a three-prong test: (i) Whether the merchandise is shipped directly from the manufacturer to the unaffiliated purchaser without entering the physical inventory of the U.S. affiliate; (ii) whether direct shipment from the manufacturer to the unaffiliated purchaser is the customary channel of sales for the subject merchandise; and (iii) whether the U.S. selling agent acted merely as a processor of sales-related paperwork and a communication link between the manufacturer and the unaffiliated purchaser. See Petitioners' May 14, 1998 Case Brief (Case Brief) at 2, citing Roller Chain, Other Than Bicycle Chain, From Japan, 63 FR 25450 (May 8, 1998) (Roller Chain). Even if the transactions involving TCI meet the first two prongs of this test, petitioners continue, record evidence establishes that, as to the third point, TCI acted as more than just a paper processor or communications link. Claiming that TCI is "integrally involved" with Ta Chen's U.S. sales of subject merchandise, petitioners point out that U.S. customers approach TCI, not Ta Chen, when seeking price quotes. Case Brief at 3, quoting the Department's Home Market Verification Report at 12. The verification report continues by stating that the president of Ta Chen and TCI, Robert Shieh, responds directly to the unaffiliated U.S. customer. According to petitioners, what happens when the customer rejects the initial quote and further price negotiations are required is not clear; petitioners therefore make the "reasonable inference" that TCI concludes any such negotiations itself on behalf of Ta Chen in Taiwan. *Id.* at 4. Further, petitioners argue, Ta Chen "glosses over" Mr. Shieh's role in Ta Chen's U.S. sales; as noted, in addition to being president of Ta Chen, Mr. Shieh is also president of TCI, and spends a considerable amount of his time in the United States at TCI's Long Beach headquarters. Petitioners suggest that this indicates that Mr. Shieh is acting as president of TCI, not of Ta Chen in Taiwan, when he negotiates U.S. sales of welded stainless steel pipe.

Petitioners stress that when viewing sales transactions involving a U.S. firm affiliated with the exporter, the Department will presume that the transactions are CEP sales unless the record indicates that the affiliate's role in the sale was "incidental or ancillary." Case Brief at 5, citing Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From Korea, 63 FR 13170, 13177 (March 18, 1998) (Korean Steel III). When viewed in its totality, petitioners aver, the evidence demonstrates that TCI's role was more than ancillary and, thus, Ta Chen's U.S.

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sales should be treated as CEP sales. For example, petitioners argue, TCI purchases subject pipe from Ta Chen and assumes ownership and risk of loss, and TCI, not Ta Chen in Taiwan, actually enters into the sales contract with the unaffiliated U.S. customers. This situation, petitioners maintain, is analogous to that found in Korean Steel III where, as here, the U.S. affiliate acted as the conduit for the foreign parent's U.S. sales, the U.S. affiliate entered into the sales contracts with unaffiliated U.S. customers, the U.S. affiliate played a key role in all sales activities (such as issuing invoices, collecting payment, financing the sale, etc.), and the U.S. affiliate incurred "significant selling expenses in the United States." Case Brief at 6. In light of TCI's "very meaningful" role in Ta Chen's U.S. sales, petitioners conclude, the Department should treat all of Ta Chen's sales as CEP transactions.

Ta Chen counters that the Department's treatment of Ta Chen's U.S. sales as EP transactions was the correct interpretation of the statutory definition of EP sales. Furthermore, Ta Chen insists, nothing found at verification contradicted Ta Chen's long-standing assertion that its U.S. sales comprised EP (or, under the pre-URAA statute, "purchase price") transactions. Citing Extruded Rubber Thread From Malaysia, 62 FR 33588 (June 20, 1997) (Extruded Rubber), Ta Chen argues that the Department examined a similar fact pattern surrounding so-called "back-to-back" sales and concluded that where all three conditions of the Department's test are met (*i.e.*, the merchandise was shipped directly to the unaffiliated U.S. customer, the channel of distribution was normal for the parties involved, and the U.S. selling agent acted as a communication link only), the transactions qualify for treatment as EP sales. According to Ta Chen, Extruded Rubber also noted that the Tariff Act defines EP as "the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States * * *" Ta Chen's Rebuttal Brief at 5, quoting Extruded Rubber at 33597 (Ta Chen's emphasis).

Ta Chen submits that all of its sales of subject pipe during this review were shipped directly from Ta Chen's Tainan plant to the unaffiliated U.S. customer. This channel of distribution, Ta Chen avers, has been customary between Ta Chen and its U.S. customers "since well before the U.S. dumping matter began," noting that it employed "back-to-back" sales as one of its major channels of distribution prior to the 1991 filing of the antidumping petition.

As to the third test, whether Ta Chen International acted merely as a processor of sales-related documents and communications link between Ta Chen and its U.S. customers, Ta Chen insists that TCI's activities are even less extensive than those typically cited by the Department as possible indicators that a U.S. affiliate played a more substantial part in the sales in question. For example, Ta Chen continues, the Department's January 22, 1998 Antidumping Manual suggests that functions "such as the administration of warranties, advertising, in-house technical assistance, and the supervision of further manufacturing may indicate that the [U.S.] agent is more than the sales facilitator envisioned for EP sales." Rebuttal Brief at 5, quoting Antidumping Manual, Chapter 7 (Ta Chen's emphasis). That TCI engages in none of the activities suggested as indicating sales might be considered CEP transactions, Ta Chen maintains, further supports the Department's preliminary determination that these sales warranted EP treatment.

Furthermore, Ta Chen continues, in Extruded Rubber the Department found sales to be EP transactions "irrespective of any involvement in the pricing of these sales by the U.S. subsidiary." Rebuttal Brief at 6. In Ta Chen's view the key determinant in the EP versus CEP analysis is the statute's focus on whether the "subject merchandise is first sold (or agreed to be sold) before the date of importation," as is the case in the instant review. Ta Chen submits that for its U.S. transactions the subject merchandise was first sold to the unaffiliated U.S. customer before importation and subsequently shipped directly to that customer, pointing to the purchase orders and shipment dates as confirmation. Thus, Ta Chen argues, the controlling statutory language defines these as EP sales. As to Robert Shieh's involvement in setting prices, Ta Chen argues in both its case and rebuttal briefs that Mr. Shieh "acts under the direction of Ta Chen Taiwan's Board of Directors" which has "directed Mr. Shieh to set U.S. prices based on cost of production in Taiwan and Ta Chen's home market prices * * *" Ta Chen's Case Brief at 3 and 4; Ta Chen's Rebuttal Brief at 7, quoting Ta Chen's supplemental response at 253. "Robert Shieh's authority," Ta Chen asserts, "flows from Ta Chen Taiwan," and not from TCI. Rebuttal Brief at 9. In any event, Ta Chen concludes, a U.S. affiliate's active participation in the sales process is insufficient grounds for treating sales as EP transactions where the affiliate lacks the ability to set prices or terms of sale. *Id.* at 8, citing Certain Stainless Steel Wire Rods From France, 58 FR 68865 (December 29, 1993).

Ta Chen also contests several factual conclusions posited in petitioners case brief. According to Ta Chen, TCI passed requests for quotes from U.S. customers to Ta Chen Taiwan, a role consistent with that of a paper processor. Ta Chen also insists that the amount of time Mr. Shieh spends in the United States is a "personal decision" relating to his family which is irrelevant to the Department's antidumping analysis. Further, that TCI actually purchases the subject merchandise and then enters into contracts to sell it to unaffiliated U.S. customers (in "back-to-back" sales transactions) is the same situation found in Extruded Rubber and Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From Korea, 62 FR 18404 (April 15, 1997) (Korean Steel II), where the Department analyzed the sales in question as EP transactions. Finally, Ta Chen rejects petitioners' "speculative claims" that TCI takes over and concludes price negotiations for Ta Chen's U.S. sales independently of Ta Chen Taiwan in those cases where a customer rejects Ta Chen's initial price offering.

Furthermore, Ta Chen argues, petitioners reliance on Korean Steel III is misplaced, noting several quantitative and qualitative differences between the activities of TCI when compared to those of the affiliated U.S. resellers in Korean Steel III. Ta Chen suggests that in the latter case, U.S. customers seldom had contact with the foreign producer, nor did the foreign producer set prices for U.S. sales. Furthermore, the U.S. affiliates financed U.S. sales by borrowing to finance accounts receivable. These facts, Ta Chen insists, do not obtain in the instant review.

Assuming, arguendo, that Ta Chen's sales are properly considered CEP transactions, Ta Chen suggests that the record contains sufficient information to make any adjustments to U.S. price and normal value required under a CEP analysis. Furthermore, Ta Chen argues that should the Department elect to treat Ta Chen's sales as CEP transactions, Ta Chen should be granted a CEP offset in lieu of a level-of-trade adjustment, as its home market sales represent a more advanced stage of marketing than the Ta Chen—TCI CEP level of trade. Ta Chen makes further comments regarding the Department's treatment of sales to specific customers in prior review periods. As these customers do not appear in this review, any comments concerning sales made in prior PORs are thus irrelevant to this review and are not addressed here.

Department's Position

We disagree with petitioners, and agree, in part, with respondent that Ta Chen's U.S. sales in this review warrant treatment as EP transactions. As a threshold matter, while we agree with Ta Chen that its U.S. sales in this review warrant EP treatment, we disagree with Ta Chen's assertions that the statute requires the Department in every instance to treat sales which precede importation as EP sales. Rather, while the statute defines EP as involving sales made prior to importation, the relevant statutory definition of CEP states clearly that

> * * * "constructed export price" means the price at which the subject merchandise is first sold (or agreed to be sold) into the United States *before or after* the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter * * *

See Section 772(b) of the Tariff Act (emphasis added).

Thus, nothing in the statute requires the Department to treat as EP transactions all sales which happen to precede the date of importation. Rather, sales taking place prior to importation may be either EP or CEP sales, given the specific circumstances surrounding the transactions. In the instant review, as we stated above, the evidence on record does not support a reclassification of Ta Chen's U.S. sales from EP to CEP transactions. Nothing in the statute, however, precludes the Department from doing so, where appropriate.

To ensure proper application of the statutory definitions, where a U.S. affiliate is involved in making a sale, we consider the sale to be CEP unless the record demonstrates that the U.S. affiliate's involvement in making the sale is incidental or ancillary. See Korean Steel III, 63 FR 13170, 13177 (March 18, 1998). Whenever sales are made prior to importation through an affiliated entity in the United States, the Department applies a three-pronged test to determine whether to treat such sales as EP, as follows: (i) Whether the merchandise was shipped directly to the unaffiliated buyer, without first being introduced into the affiliated selling agent's inventory; (ii) whether direct shipment from the manufacturer to the unaffiliated buyer was the customary channel for sales of this merchandise between the parties involved; and (iii) whether the affiliated selling agent located in the United States acts only as a processor of sales-related documentation and communication link between the foreign producer and the unaffiliated purchaser. See, e.g., *PQ Corp.* v. *U.S.*, 652 F. Supp. 724, 731 (CIT 1987) and *Outokumpu Copper Rolled Products* v. *United States*, 829 F. Supp. 1371, 1379 (CIT 1993). Where all three of these criteria are met, we consider the exporter's sales functions to have been relocated geographically from the country of exportation to the United States, where the sales agent performs them. See, e.g., Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, From Germany, 61 FR 38166 (July 23, 1996), New Minivans From Japan, 57 FR 21937 (May 26, 1992), and Certain Internal-Combustion Forklift Trucks From Japan, 53 FR 12552 (April 15, 1988). Furthermore, as we stated in Stainless Steel Wire Rod From Spain, 63 FR 10849 (March 5, 1998) (Preliminary Determination), where "the activities of the U.S. affiliate are ancillary to the sale (e.g., arranging transportation or customs clearance), we treat the transactions as EP sales. Where the U.S. affiliate is substantially involved in the sales process (e.g., negotiating prices, performing support functions), we treat the transactions as CEP sales." 63 FR 10849, 10852; see also Korean Steel III.

As for the first criterion in this case, i.e., direct shipment to the unaffiliated U.S. customer, no party to these proceedings has presented any evidence to challenge Ta Chen's statements that in the instant review Ta Chen shipped the subject merchandise directly to the unaffiliated U.S. customer's location (or to the U.S. port designated by the customer) without first introducing the merchandise into TCI's physical inventory. Further, we discovered no evidence at verification to suggest that the merchandise was shipped in any other fashion.

With respect to the second criterion, i.e., whether direct shipment to the customer is the customary channel of trade, we agree with Ta Chen. No evidence on record contradicts Ta Chen's statement that direct shipment was the normal course of business long before this dumping matter began. See Ta Chen's April 14, 1997, questionnaire response at 5 and 6. In the most-recently-concluded past review, the Department has treated Ta Chen's sales as EP sales based, in part, upon direct shipment from Ta Chen to the U.S. customer. See Certain Welded Stainless Steel Pipe From Taiwan; Preliminary Results of Administrative Review, 62 FR 1435, 1436.

With respect to the third criterion, i.e., whether Ta Chen International (TCI) acted as a processor of sales-related documentation and a communication link with the unaffiliated purchaser, the facts on record indicate that TCI's role is ancillary to the sales process with respect to sales of subject merchandise during this administrative review. In this review TCI did not play a key role in the sales negotiation process, nor did TCI play a major role in the selling activities in the United States. Accordingly, we have continued to accord EP treatment to Ta Chen's sales in this review.

In this case the available evidence of record indicates that Ta Chen in Taiwan is responsible for setting the prices of U.S. sales, acting through its president, Robert Shieh.[1] Ta Chen sets base, or minimum, prices using its costs of production in Taiwan. Ta Chen responds to requests for price quotes, and Ta Chen officials in Tainan develop new quotes for any sizes or schedules of pipe not found on Ta Chen's prepared lists. See, e.g., Ta Chen's supplemental response at 79, n. 12, and U.S. Verification Report at 10. Further, Ta Chen knows the final price to the U.S. customer at the time it sets its transfer prices between Ta Chen and TCI, and the record clearly indicates that TCI has no say in the prices of these transactions.[2] Thus, the subject merchandise is first sold to the unaffiliated customer in the United States before it is sold to the affiliated distributor, TCI. There is no record evidence, either submitted by the parties or generated at verification, to indicate that TCI has any independent authority to negotiate or set prices for direct sales of subject merchandise in the United States. For example, the Home Market Verification Report at 13 notes that the vice-president of TCI will not quote prices to customers; rather, he defers to Mr. Shieh, whether the latter is in Long Beach or in Tainan. This is decidedly not the case for TCI's sales of non-subject merchandise from its

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[1] While we agree with Ta Chen that in setting prices Mr. Shieh is acting principally in his role as president of Ta Chen, rather than as president of TCI, we reject Ta Chen's dictum that he "acts under the direction of Ta Chen's Board of Directors," or that the Board of Directors issues specific instructions to Mr. Shieh as to how to set prices. Rather, the record evidence, including Mr. Shieh's statements at verification, makes abundantly clear that Mr. Shieh acts on his own authority with no direction or input whatever from any other member of Ta Chen's Board.

[2] That TCI has no say whatever in the profitability of its own sales of subject merchandise, by determining the amount of a price markup, is further evidence that the entire sales process is controlled by Ta Chen in Taiwan. See Korean Steel III at 13183.

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warehouse facilities. The U.S. Verification Report notes that:

> [c]ustomers' requests for price quotes are handled by TCI and not forwarded to Ta Chen. A number of officials at TCI are authorized to provide quotes to customers for these sales * * *. The customer's [purchase order] is handed directly to TCI's shipping department for preparation and shipment.

U.S. Verification Report at 8 (emphasis added).

Moreover, the authority to set prices as indicated above is further evidenced by the ways in which the companies set prices for "back-to-back" sales and sales out of TCI's inventory. The prices of TCI's sales from its Long Beach inventory are set on an entirely different basis than prices for direct shipments. Prices for products sold out of inventory are derived from a multiplier of a domestic mill's list prices, whereas prices for direct shipments are computed from Ta Chen's cost of production. Finally, unlike the case of Korean Steel III, in the present case unaffiliated U.S. customers maintain direct contact with the foreign exporter or producer, Ta Chen.

With respect to any subsequent price negotiations that may become necessary when a customer rejects Ta Chen's initial quote, it is clear from the record that in Ta Chen's "back-to-back" sales arrangement no official other than Mr. Shieh is authorized to provide prices, grant discounts, or allow credits for damaged or defective goods. After discussions with company officials at verifications in Tainan and Long Beach, it is clear that TCI company officials are not authorized to negotiate prices. See, e.g., Home Market Verification Report at 13 ("Using the same pricing scheme (cost + GNA + profit), Ta Chen Taiwan will provide a price quote"), and U.S. Verification Report at 3 ("While TCI's vice-president, James Chang, is nominally head of the pipe and fittings sales division, Mr. Chang himself averred that Mr. Shieh 'handles all the [pipe and pipe fittings] sales' ").

As for petitioners' observation that Ta Chen resumed sales of subject merchandise from inventory immediately following the instant POR, thus supporting a conclusion that Ta Chen's sales in this POR should be considered CEP transactions, we find this fact does not relate to the issue of how direct "back-to-back" sales were negotiated during the instant review. As we have noted, sales from inventory follow an entirely different course, and are concluded by different individuals, using different pricing formulae, than are Ta Chen's direct "back-to-back" sales.

Further, we did not include in our analysis the fact that TCI did not engage in such activities as warranties, advertising, in-house technical assistance and supervision of further manufacturing, as was the case, for example, in Korean Steel III and Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate From Canada, 63 FR 12725 (March 16, 1998). Although these types of activities are clearly selling functions, the issue of who performs such activities is only relevant where such activities are in fact performed for the sale of the subject merchandise. In this case, neither TCI nor Ta Chen engaged in such activities with respect to sales of the subject merchandise.[3]

The purpose of this portion of the test is to determine which entity performs the primary selling functions pertaining to the sale of the subject merchandise during the POR. Accordingly, that analysis is conducted on a case-by-case basis and is based upon the actual selling functions performed in each case. In the present case the selling activities performed for the sale of this commodity product, for both Ta Chen and TCI combined, appear to be minimal.

Finally, during this review, we note that TCI engaged in the process of issuing invoices, collecting payment, paying antidumping duty deposits, and taking title to the subject merchandise after entry into the United States. We do not find that these activities alone are sufficient to warrant treatment of such sales as CEP transactions. Rather, consistent with our past precedent in these matters, such activities are fully consistent with those of the selling agent that takes over the sales functions which have been "relocated geographically from the country of exportation to the United States, where the sales agent performs them." Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, From Germany, 61 FR 38166 (July 23, 1996).

Comment Two: U.S. Packing Costs

Petitioners charge Ta Chen with understating the cost of packing materials (specifically, wooden crates) used to package shipments for export to the United States. According to petitioners, the Department's Home Market Verification Report notes that this understatement occurred on four of the five sales transactions examined at verification. Petitioners urge the Department to make an upward adjustment to Ta Chen's export packing materials equal to the average percentage difference between the reported material expenses and the actual amounts found at verification.

Also understated, petitioners contend, was Ta Chen's packing labor for export sales. Petitioners note that Ta Chen's supplemental questionnaire response and home market and U.S. sales listings contained revised packing labor costs, with labor costs for home market packing considerably higher than that for U.S. sales. Turning to the Department's verification report, petitioners note that Ta Chen derived these figures using estimates provided by Ta Chen's supervisor for packing, but was unable to provide any documentation or worksheets to support the supervisor's estimates. Petitioners suggest that Ta Chen contradicted these estimates when it admitted at verification that "export shipping, in fact, requires more steps and takes longer per kilogram than home market shipments." Case Brief at 8, quoting the Home Market Verification Report at 21 and 22 (petitioners' emphasis omitted). Thus, petitioners insist, by Ta Chen's own admission the actual packing labor costs for U.S. sales exceed actual packing labor costs for domestic shipments within Taiwan. That statement is consistent with the extra steps (such as packing the subject pipe in wooden crates) required for export shipments. To correct this alleged under-reporting of U.S. packing labor, petitioners argue, the Department should use the ratio of U.S. and home market packing material costs as the basis for adjusting upward Ta Chen's U.S. packing labor expenses.

Ta Chen submits that its records do not permit a breakdown of packing labor by market or product type and, therefore, it simply allocated packing costs over the U.S. and home market weights packed. According to Ta Chen, it included revised packing costs based on an estimate of the relative time spent packing home market and export shipments in its supplemental response as instructed by the Department in its supplemental questionnaire. Ta Chen concedes that export shipments require more packing materials and more steps to pack the merchandise than do shipments within Taiwan. On the other hand, Ta Chen continues, the larger quantities of merchandise packed for export work to reduce the per-kilogram packing costs associated with export sales. As for petitioners' comments concerning wooden crate expenses, Ta Chen did not reply.

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[3] Ta Chen Taiwan does provide minimal advertising in the form of product brochures; no other advertising medium is employed either by Ta Chen or by TCI.

Noting that it can "appreciate" the Department seeking to determine a more accurate method of calculating packing labor costs (by investigating alternative reporting methodologies in its supplemental questionnaire), Ta Chen expresses "no objections" to the Department's use of the data originally submitted with Ta Chen's April 14, 1997 response. Ta Chen does, however, object to petitioners' proposal to recalculate packing labor costs based on the ratio of packing material costs for the respective markets, claiming that such an allocation "makes no sense" and has no rational connection to actual packing labor time.

Department's Position

We agree with petitioners on both points. During verification we compared the reported export packing material costs for the wooden crates, reported as data field PACKM1P, to the actual per-kilogram expenses as reflected in Ta Chen's "Packing & Finished Goods Turn-in Reports." For four of the five transactions examined Ta Chen's reported packing material expenses were understated (wooden crate costs for the remaining transaction were overstated). We conclude, therefore, that Ta Chen's allocation methodology for reporting these expenses bears little or no relationship to the manner in which these costs are actually incurred. Therefore, we have recalculated Ta Chen's wooden crate expenses using Ta Chen's own data gathered at verification. Based on these data, we have adjusted PACKM1P upward by the average percentage difference between the actual wooden crate costs reflected in Ta Chen's shipping department records and the values reported in Ta Chen's U.S. sales listing. See the Department's Final Results Analysis Memorandum, July 8, 1998, a public version of which is on file in Room B–099 of the main Commerce building.

With respect to packing labor, as noted in the Ta Chen Verification Report, packing for export requires additional steps, additional materials, and, consequently, additional time. However, Ta Chen used an allocation methodology for its packing labor expenses which apportions a significantly greater amount of these expenses to its home market sales, based upon "an estimate provided by the supervisor of the packing division." Home Market Verification Report at 21. The resultant home market and U.S. packing labor factors do not, as the report notes, "comport with Ta Chen's actual experience in packing subject merchandise for the respective markets." That the report also notes "no discrepancies with this allocation" cannot be read as the Department's endorsement of the specific allocation methodology selected. Rather, it indicates that Ta Chen used verifiably accurate figures for total labor expense and total shipments in its allocation, not that the allocation methodology itself was appropriate in this case. In fact, as with the wooden crate expenses, Ta Chen's method of reporting its packing labor expenses bears no relationship to the manner in which Ta Chen actually incurred these expenses. Ta Chen's use of an estimate to allocate packing labor expenses "does not necessarily mean that [Ta Chen] incurred the expenses differently" due to shipping for the home market versus for the export market. Tapered Roller Bearings and Parts Thereof, Finished and Unfinished From Japan, 63 FR 2558, 2579 (January 15, 1998) (TRBs From Japan). Rather, the sole support for this allocation is the allocation itself. When we asked officials at Ta Chen to provide some support, in the form of internal time studies, worksheets used by the supervisor in devising the estimate, etc., Ta Chen responded that it had no such documentation. Therefore, we have rejected Ta Chen's reporting of packing labor based upon the unsupported estimate of the packing labor supervisor.

Likewise, while not as egregious, Ta Chen's original packing labor methodology included in its April 14, 1997 response has the effect of understating packing labor costs attributable to export shipments while overstating these costs for home market shipments. We have stated in a different context that we will not reject a respondent's allocation methodologies in favor of the facts otherwise available if (i) a fully-cooperating respondent is unable to report the requested information in a more specific manner *and* (ii) the selected allocation methodology is not unreasonably distortive. See Antifriction Bearings (Other Than Tapered Roller Bearings), and Parts Thereof, From France, *et al.*, 72 FR 2081, 2090 (January 15, 1997); see also TRBs From Japan, 63 FR 2558, 2566 (January 15, 1998). While we believe that Ta Chen has satisfied the first test (Ta Chen's records kept in its ordinary course of business do not readily permit a breakdown of home market versus export packing labor), we cannot accept a resulting allocation methodology which is unreasonably distortive. Allocating this expense so that home market packing labor is equal to, or greater than, export packing labor, while simultaneously acknowledging that the latter is more labor-intensive, is unreasonably distortive.

As to Ta Chen's suggestion that it merely revised its labor costs in response to the Department's request, we reject that assertion. The Department's inquiry on this point, included in its October 9, 1997 supplemental questionnaire, reads:

> It appears as though you have reported the same packing labor costs for both H[ome] M[arket] and U.S. sales while your response indicates that U.S. sales require additional labor (i.e., packing of merchandise into wooden boxes). Please explain and, if necessary, revise your labor costs to reflect this additional service for export sales.

Supplemental Questionnaire at 8.

In response, Ta Chen argued that any differences in packing labor expenses in the two markets would, of necessity, be *de minimis*, but then proceeded to reallocate these expenses in such a fashion as to actually decrease the portion of Ta Chen's labor expenses relating to export shipments. As indicated above, we find that neither of Ta Chen's selected reporting methodologies reflects its actual experience in the packing and shipping of subject merchandise. Therefore, we have recalculated Ta Chen's U.S. packing labor expenses. As facts available, we relied on Ta Chen's own data submitted on the record of this review. We compared the ratio of home market to U.S. packing material costs and applied the resulting ratio to Ta Chen's reported packing labor. For a discussion of the precise calculation of this revised packing labor factor, please see the Department's Final Results Analysis Memorandum, a public version of which is on file in Room B–099 of the main Commerce building.

Comment Three: Import Duties and Cost of Production

Ta Chen imports stainless steel coil to its customs-bonded factory in Tainan where it fashions the stainless steel into finished pipe subject to the order and other merchandise (for example, stainless steel pipe fittings) which is not subject to the order. It also resells some stainless steel coil in the home market. For finished products subsequently sold in Taiwan Ta Chen is liable for import duties (these duties are forgiven if the finished products are exported). Petitioners note that the Department in its Preliminary Results increased U.S. price by the amount of Taiwan import duties because Ta Chen's home market prices included these duties. If, petitioners suggest, Ta Chen's home market prices included import duties on imported stainless steel coil, Ta Chen's cost of production should also reflect

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these home market duties to avoid comparison of duty-inclusive home market prices to duty-exclusive costs of production. Petitioners contend that such an approach would be consistent with the Department's treatment of this identical issue in the final results of the 1994–1995 administrative review. Case Brief at 10 and 11, citing Certain Welded Stainless Steel Pipe From Taiwan; Final Results of Administrative Review, 62 FR 37543, 37555 (July 14, 1997) (Stainless Pipe From Taiwan).

Ta Chen responds by confirming that its home market gross unit prices include Taiwan import duties, and suggests that the Department deduct these duties when calculating the net home market price used for comparison to COP. This approach, Ta Chen avers, "most accurately determines the true profitability of each individual sale." Rebuttal Brief at 17. The alternative, i.e., adding the import duties to Ta Chen's reported costs of production, would, Ta Chen insists, result in double-counting of these duties.

Department's Position

We agree with petitioners and with Ta Chen. As we stated in the final results of the 1994–1995 administrative review, "[w]e have adjusted our calculation of the net home market price used in our COP test to deduct the amount of the import duties." Stainless Pipe From Taiwan 62 FR 37543, 37555 (July 14, 1997).

Consistent with Stainless Pipe From Taiwan, we conducted the cost test on a duty-exclusive basis. Thus, no change is required to our final margin computer program because the preliminary program already deducts import duties from the net price used in the cost test. See the Public Version of the Department's Preliminary Analysis Memorandum, December 29, 1997, at Attachment One, line 148.

Comment Four: Duty Drawback

In addition to their comment regarding the treatment of import duties in Ta Chen's cost of production, petitioners argue that Ta Chen is not entitled to an upward "duty drawback" adjustment to EP. Petitioners note that unlike in prior reviews, Ta Chen purchased much of the stainless steel coil used to fabricate subject WSSP from domestic sources; the Home Market Verification Report states that a Taiwanese mill was Ta Chen's single largest coil supplier during the POR. Case Brief at 12, quoting the Home Market Verification Report at 10. Furthermore, petitioners maintain, Ta Chen's own questionnaire response indicated that Ta Chen "does not pay any Taiwan import duties on material used to make pipe." *Id.*, quoting Ta Chen's April 14, 1997 response at 70. Petitioners contend that this issue did not arise in prior reviews when Ta Chen imported all of the stainless steel coil used to produce subject merchandise (and, thus, all home market sales of finished pipe were subject to the Taiwanese import duties). In contrast, petitioners argue, in the instant review the record indicates that a portion of Ta Chen's input stainless steel coil came from Taiwanese mills. In light of this change petitioners urge the Department to "conduct its standard analysis to determine whether Ta Chen meets the requirements for a duty drawback adjustment."

Petitioners point to Stainless Steel Bar From India, where the Department stated that any duty drawback adjustment would depend upon a finding that (i) the import duty and rebate are directly linked to, and dependent upon, each other, and (ii) the company claiming the adjustment can demonstrate sufficient imports of raw material to account for the claimed drawback received. Case Brief at 13, quoting Stainless Steel Bar From India; Final Results of Antidumping Duty Administrative Review, 63 FR 13622, 13625 (March 20, 1998). According to petitioners, information gathered at verification concerning Ta Chen's purchases of stainless steel coil from domestic and off-shore mills indicates that Ta Chen's imports of stainless steel coil were not sufficient to account for the drawback applicable to Ta Chen's exports. Furthermore, petitioners continue, it is reasonable to assume that Ta Chen used domestic coil to produce subject pipe for sale in the home market precisely because such coil would not be subject to Taiwan import duties. Because Ta Chen did not meet the Department's requirements for a duty drawback adjustment, petitioners conclude, the Department should deny this adjustment in the final results of this review.

Ta Chen insists it is entitled to a circumstance-of-sale adjustment to account for home market import duties, just as a "comparable circumstances of sale [sic] adjustment is made for the U.S. import duties Ta Chen pays on its U.S. sales." Rebuttal Brief at 17. According to Ta Chen, its section B home market sales listing reflects that, in fact, for most sales the unaffiliated customer paid the duties (and, therefore, Ta Chen reported a value of zero for import duties). In those instances where Ta Chen did pay the duties, it reported these on a per-kilogram basis. Ta Chen notes that its home market gross unit prices are reported inclusive of import duties.

As for petitioners' comments regarding the quantities of stainless steel coil purchased by Ta Chen from domestic and off-shore mills, Ta Chen points out that petitioners failed to note the "enormous quantity" of stainless steel coil sold in coil form, i.e., as purchased, by Ta Chen. Furthermore, the figures cited by petitioners demonstrate the stainless steel coil imported by Ta Chen was more than sufficient to account for the volume of pipe Ta Chen sold domestically and for export.

Department's Position

We disagree with petitioners. Welded stainless steel pipe is produced, essentially, from a single raw material: annealed and pickled austenitic stainless steel sheet or plate in coil form. Traditionally Ta Chen sourced all of its stainless steel coil from foreign mills; during the instant period of review as well the vast majority of Ta Chen's coil came from abroad. As Ta Chen's plant is a customs bonded facility, imports of stainless steel coil are not subject to import duties at the time of importation. Import duties are only owed at such time as the finished merchandise enters Taiwan customs territory, i.e., it is sold in the home market. No import duties are collected if the imported raw material is subsequently re-exported, whether in the form of finished pipe or pipe fittings, or in cut-to-length or coil form. Ta Chen's questionnaire responses and the information presented at verification amply demonstrate the nature of these import duties and the manner in which they are assessed. See, e.g., Ta Chen Verification Report at 23 and 24. Further, Ta Chen satisfied the Department as to the amount of such duties ("[w]e traced the total [duties paid] to Ta Chen's monthly import duty for domestic sales report, general ledger, and statement of checking account without discrepancy * * *"). *Id.* at 15. As the Court of International Trade has consistently held, "there is no requirement that [a] specific input be traced from importation through exportation before allowing drawback on duties paid * * *" *See, e.g., Far East Machinery Co. v. U.S.*, 699 F. Supp. 309, 312 (CIT 1988); see also *LaClede Steel Co. v. U.S.*, Slip Op. 94–160 (October 12, 1994) (LaClede Steel). Thus, we are convinced that the import duties and the amount "not collected by reason of the exportation of the subject merchandise to the United States" are directly linked to, and dependent upon, each other. *See* Section 772(c)(1)(B) of the Tariff Act.

As for the second prong of the test, whether there were sufficient imports of raw materials to account for the drawback received, the record evidence, including data obtained during verification, indicates that Ta Chen more than satisfied this requirement. As Ta Chen notes in its rebuttal brief, petitioners' comment fails to take into account the volumes of stainless steel coil that Ta Chen re-sold in coil form in the home market, or subsequently exported in coil form. Nor do petitioners consider the volume of imported and domestic stainless steel coil used to fabricate non-subject merchandise for the domestic and export markets, such as stainless steel pipe fittings. In this case, we believe that we have, as the Court stated in *LaClede Steel*, "verified that [the respondent] imported sufficient raw materials to account for duty drawback received on exports of pipe."

Finally, with respect to Ta Chen's statement that it "does not pay any Taiwan import duties on material used to make pipe," the record indicates clearly that Ta Chen does not pay these duties at the time of importation of the stainless steel coil. Rather, these duties are due when the finished product (e.g., welded stainless steel pipe) enters Taiwan customs territory. Thus, we find this case analogous to Certain Welded Carbon Steel Pipes and Tubes From India, where a similar import duty scheme was described as presenting "the rare situation in which, rather than being rebated as is usually the case, the import duties were actually 'not collected, by reason of the exportation of the subject merchandise to the United States.'" 62 FR 47632, 47634 (September 10, 1997). As we concluded in that case, so we conclude here: "[t]his type of program falls within the express language of section 772(c)(1)(B)" of the Tariff Act. Accordingly, we have accepted Ta Chen's claimed adjustment for duty drawback for these final results.

Comment Five: Effect of Compensating Balances on U.S. Credit Expenses

According to petitioners, Ta Chen's imputed credit expenses for U.S. sales must be increased to include the costs of compensating balances. Petitioners note that the Department's October 9, 1997 supplemental questionnaire and Ta Chen's October 31, 1997 supplemental response both indicated that Ta Chen's reported imputed credit expenses did not take into account these compensating balances. Further, Ta Chen's supplemental response provided the amounts of these compensating balances and the factor necessary to calculate revised imputed credit expenses for U.S. sales. Petitioners urge the Department to implement this revision for the final results of this review.

Ta Chen offered no rebuttal to this comment.

Department's Position

We agree with petitioners and have made the appropriate correction to U.S. credit costs. We did this by multiplying the reported credit amounts on Ta Chen's U.S. sales listing by the revised factor supplied by Ta Chen to account for compensating balances.

Comment Six: Comments on Verification Reports

Ta Chen insists that the completeness of its U.S. sales listing was fully verified through reconciliation of the reported sales values to Ta Chen's audited financial statements, a process used by Ta Chen and accepted by the Department in the past. Ta Chen takes issue with the tone of the U.S. Verification Report which suggests that Ta Chen failed to provide documentation of its reported U.S. sales quantities. According to Ta Chen, its audited financial statements record total sales value, but do not contain any information concerning sales quantities. The Department, Ta Chen avers, has never insisted on a separate confirmation of its sales quantities, once it had reconciled successfully its overall sales value.

Ta Chen also maintains that it provided ample documentation at verification to demonstrate that certain U.S. sales of pipe entered the United States prior to the instant POR and, therefore, properly were excluded from Ta Chen's section C U.S. sales listing.

Contrary to statements in the Ta Chen Verification Report, Ta Chen submits, its packing personnel did not have difficulty bundling and weighing subject pipe and, in any event, the weight figures reported to the Department were taken from records kept in Ta Chen's normal course of business.

With respect to home market sales to one affiliated customer, Blossum, Ta Chen intimates that these sales represented an insignificant portion of Ta Chen's home market sales and, thus, Blossum's downstream sales would not be required for the Department's analysis.

Ta Chen also commented on our description of the verification of home market freight expenses. Ta Chen attributes the uncertainty of one company official as to home market shipping distances to that "high-level" official's unfamiliarity with the minutiae of domestic shipping patterns; when the responsible company official addressed the issue, no uncertainty remained. Also, Ta Chen sold its company-owned flatbed truck at the midpoint of this POR. While Ta Chen's home market freight expenses were not reduced by the value of refunded vehicle plate taxes for the six months after Ta Chen sold its truck, Ta Chen suggests that (i) the data exist to permit a recalculation and (ii) any such revision would have a *de minimis* effect. As to fuel costs, Ta Chen takes issue with the Home Market Verification Report's comment that Ta Chen could not document these costs. According to Ta Chen, there were no outstanding, unanswered requests for gasoline receipts or other documentation at the close of verification.

Finally, Ta Chen makes a number of suggestions to correct typographical errors in the reports.

Department's Position

While we agree in essence with many of Ta Chen's comments, we stand by the verification reports as written. With respect to the completeness test, we were unable to verify separately the quantities reported in Ta Chen's U.S. sales listing. However, we did fully reconcile the reported U.S. sales value to Ta Chen's and TCI's audited financial statements and, furthermore, noted no discrepancies in an unusually extensive random check of invoices and purchase orders issued throughout the POR. The Department considers Ta Chen's home market and U.S. sales quantities fully verified. We also agree with Ta Chen that it satisfied the verifiers that certain sales of pipe entered the United States prior to the POR, and that no outstanding questions on this issue remained at the close of verification.

As for the comment on the facility with which Ta Chen's packing personnel handled pipe at the scale, Ta Chen claimed at verification that the weights reported for its home market and U.S. sales listings were based on transaction-specific actual weights obtained, Ta Chen claimed, by weighing each shipment of pipe as it was prepared for dispatch. We asked to see this process in operation and returned to Ta Chen's pipe mill. There Ta Chen personnel mishandled the pipe, had difficulty gathering the proper number of pieces in a single bundle, struggled to fasten the scale's sling to the scale's lift, and, using a two-button switch box, nonetheless lowered the scale when they meant to raise it, and raised it when they meant to lower it. Thus, we

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stand by our characterization of this process as "difficult."

Ta Chen provided exhaustive explanations of its sales transactions involving Blossom. We have no basis for rejecting Ta Chen's sales to Blossom or for requiring that Ta Chen report Blossom's subsequent home market sales. Similarly, we did not use the downstream U.S. sales through one U.S. customer, Team Alloys, that Ta Chen subsequently acquired, even though Ta Chen reported these downstream sales in a separate section C computer file.

As for home market shipping expenses, we have used the expenses as reported by Ta Chen, and have made no corrections in light of our findings at verification.

Finally, the Department agrees with Ta Chen's suggested typographical clarifications.

Final Results of Review

Based on our review of the arguments presented above, for these final results we have made changes in our margin calculations for Ta Chen. After comparison of Ta Chen's EP to normal value (NV), we have determined that Ta Chen's weighted-average margin for the period December 1, 1994 through November 30, 1995 is 0.10 percent.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between U.S. price and NV may vary from the percentage stated above. The Department will issue appraisement instructions directly to Customs.

Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of WSSP from Taiwan entered, or withdrawn from warehouse, for consumption on or after the publication of the final results of this administrative review, as provided in section 751(a)(1) of the Tariff Act:

(1) The cash deposit rate for Ta Chen will be zero percent, in light of its *de minimis* weighted-average margin;

(2) For previously reviewed or investigated companies other than Ta Chen, the cash deposit rate will continue to be the company-specific rate published for the most recent period;

(3) If the exporter is not a firm covered in this review, a prior review, or the LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and

(4) If neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 19.84 percent. See Amended Final Determination and Antidumping Duty Order; Certain Welded Stainless Steel Pipe From Taiwan, 57 FR 62300 (December 30, 1992). These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

All U.S. sales by the respondent Ta Chen will be subject to one deposit rate according to the proceeding. The cash deposit rate has been determined on the basis of the selling price to the first unrelated customer in the United States. For appraisement purposes, where information is available, we will use the entered value of the subject merchandise to determine importer-specific appraisement rates.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 751(a)(1) and 777(l)(1) of the Tariff Act.

Dated: July 8, 1998.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–18882 Filed 7–15–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071098H]

New England Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Public meetings; public hearing.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a number of public meetings of its oversight committees and advisory panels in August, 1998 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from these groups will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meetings will be held between August 3 and August 7, 1998. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: Meetings will be held in South Portland, Maine and Saugus, MA. See **SUPPLEMENTARY INFORMATION** for specific locations.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council;(781) 231–0422. Requests for special accommodations should be addressed to the New England Fishery Management Council, 5 Broadway, Saugus, MA 01906–1036; telephone: (781) 231–0422.

SUPPLEMENTARY INFORMATION:

Meeting Dates and Agendas

Monday, July 3, 1998, 9:00 a.m.—Joint New England Fishery Management Council Herring Advisory Panel and Atlantic States Marine Fisheries Commission Herring Section Advisory Panel Meeting

Location: Sheraton South Portland, 363 Maine Mall Road, South Portland, ME 04106; telephone: (207) 775–6161.

Development of advice on proposed management measures for inclusion in the Atlantic Herring Fishery Management Plan (FMP).

Monday, July 3, 1998, 2:00 a.m.—Joint New England Fishery Management Council Herring Committee and Atlantic States Marine Fisheries Commission Herring Section Meeting

Location: Sheraton South Portland, 363 Maine Mall Road, South Portland, ME 04106; telephone (207) 775–6161.

Review of public comments and selection of management measures for inclusion in the Atlantic Herring FMP.

Friday, August 7, 1998, 9:30 a.m.—Mid-Atlantic Plans Committee Meeting

Location: New England Fishery Management Council Office conference room, 5 Broadway, Saugus, MA 01906; telephone (781) 231–0422.

Development of recommendations for the following Mid-Atlantic Fishery Management Council and New England

Council FMPs: Atlantic Squid, Mackerel and Butterfish; Summer Flounder and Whiting. These discussions will also include issues related to mackerel joint-venture allocations and discards in the summer flounder fishery.

Although other issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: July 13, 1998.

Bruce Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–19010 Filed 7–15–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071098G]

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's Groundfish Management Team will hold a public meeting.

DATES: The meeting will be held on Monday, August 10, beginning at 1 p.m. and may go into the evening until business for the day is completed. The meeting will reconvene from 8 a.m. to 5 p.m. on Tuesday, August 11, Wednesday, August 12, and Thursday, August 13, 1998.

ADDRESSES: The meeting will be held at NMFS Alaska Fisheries Science Center Facility, 7600 Sand Point Way NE, Room 2079, Building 4, Seattle, WA; telephone: (206) 526–6150.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Jim Glock, Groundfish Fishery Management Coordinator; telephone: (503) 326–6352.

SUPPLEMENTARY INFORMATION: The first day of the meeting will be dedicated to reevaluation of the appropriateness of $F_{40\%}$ as the proxy for maximum sustainable yield for rockfish. Agenda items scheduled also include review of recent stock assessments, development of preliminary recommendations for 1999 harvest levels and management measures, inseason management projections, final review of fishery management plan amendments, preliminary preparation of the annual stock assessment and fishery evaluation (SAFE) document, a proposal to allow landing of fish in excess of cumulative limits (overages), lingcod and rockfish allocation, research and data needs, and stocks to be assessed in 1999.

Although other issues not contained in this agenda may come before this Team for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be of formal action during this meeting. Action will be restricted to those issues specifically identified in the agenda listed in this notice.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. John Rhoton at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: July 13, 1998.

Bruce Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–19011 Filed 7–15–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 070998A]

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Ad Hoc Allocation Committee will hold a meeting which is open to the public.

DATES: The meeting will begin on Monday, August 3, at 10 a.m. and will continue through Tuesday, August 4, 1998, as necessary.

ADDRESSES: The meeting will be held at the Pacific Fishery Management Council Office, 2130 SW Fifth Avenue, Suite 224, Portland, OR.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Julie Walker, Fishery Management Analyst; telephone: (503) 326–6352.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to prepare options for allocation of lingcod and bocaccio rockfish between the recreational and commercial fisheries and between gear sectors of the limited entry fleet. The committee will also discuss longer-term priorities for allocation of other rockfish species. In addition, the committee will discuss alternative groundfish management strategies, such as permit stacking, a shorter limited entry season, and species endorsements. The committee will prepare a report to present to the Council at its September meeting.

Although other issues not contained in this agenda may come before this Committee for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Action will be restricted those issues specifically identified in the agenda listed in this notice.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. John Rhoton at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: July 10, 1998.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–19012 Filed 7–15–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071098E]

Marine Mammals; File No. 738–1454

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permit.

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SUMMARY: Notice is hereby given that Ms. Carole Conway, Genomic Variation Laboratory, Department of Animal Science, Meyer Hall, University of California, Davis, CA 95616–3322, has been issued a permit to import blue whale (*Balaenoptera musculus*) skin samples for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289); and

Regional Administrator, Southwest Region, National Marine Fisheries Service, NOAA, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213 (562/980–4001).

FOR FURTHER INFORMATION CONTACT: Sara Shapiro or Ruth Johnson, 301/713–2289.

SUPPLEMENTARY INFORMATION: On May 13, 1998, notice was published in the **Federal Register** (63 FR 26574) that a request for a scientific research permit to take blue whales (*Balaenoptera musculus*) had been submitted by the above-named individual. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR parts 217–227).

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: July 10, 1998.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–19009 Filed 7–15–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 061698E]

Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Mr. Fred Sharpe, Behavioral Ecology Research Group, Department of Biological Sciences, Simon Fraser University, Burnaby, B.C., Canada V5A 1S6,has been issued a permit to take North Pacific humpback whales (*Megaptera novaeangliae*) and killer whales (*Orcinus orca*) for purposes of scientific research.

ADDRESSES: The amendment and related documents are available for review upon written request or by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289); and

Regional Administrator, Director, Alaska Region, NMFS, 709 W. 9th Street, Federal Building, P.O. Box 21668, Juneau, Alaska 99802 (907/586–7012).

FOR FURTHER INFORMATION CONTACT: Jeannie Drevenak, 301/713–2289.

SUPPLEMENTARY INFORMATION: On May 11, 1998, notice was published in the **Federal Register** (63 FR 25834) that a request for a scientific research permit to take North Pacific humpback whales and killer whales had been submitted by the above-named individual. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the Regulations Governing the Taking, Importing, and Exporting of Endangered Fish and Wildlife (50 CFR part 222).

Issuance of this amendment, as required by the ESA, was based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of this permit; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: July 7, 1998.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–19013 Filed 7–15–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 060898B]

Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permit amendment.

SUMMARY: Notice is hereby given that Mason Weinrich, Cetacean Research Unit, P.O. Box 59, Gloucester, MA, has been issued an amendment to scientific research Permit No. 959.

ADDRESSES: The amendment and related documents are available for review upon written request or by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289); and

Regional Administrator, Northeast Region, NMFS, NOAA, One Blackburn Drive, Gloucester, MA 01930–2298 (508/281–9250).

FOR FURTHER INFORMATION CONTACT: Jeannie Drevenak, 301/713–2289.

SUPPLEMENTARY INFORMATION: On May 4, 1998, notice was published in the **Federal Register** (63 FR 24530) that an amendment of permit No. 959, issued June 19, 1995 (60 FR 30844), had been requested by the above-named individual. The requested amendment has been issued under the authority of the Marine Mammal Protection Act of1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the Regulations Governing the Taking, Importing, and Exporting of Endangered Fish and Wildlife (50 CFR part 222).

Issuance of this amendment, as required by the ESA, was based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of this permit; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: July 9, 1998.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–19014 Filed 7–15–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Department of the Army

Inland Waterways Users Board

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: Section 302 of Public Law (PL) 99–662 established the Inland Waterways Users Board. The Board is an independent Federal advisory committee. Its 11 members are appointed by the Secretary of the Army. This notice is to solicit nominations for six (6) appointments or reappointments to two-year terms that will begin January 1, 1999.

ADDRESSES: Office of the Assistant Secretary of the Army (Civil Works), Department of the Army, Washington, DC 20310–0103. Attention: Inland Waterways Users Board Nominations Committee.

FOR FURTHER INFORMATION CONTACT: Dr. Joseph W. Westphal, Assistant Secretary of the Army (Civil Works) (703) 697–8986.

SUPPLEMENTARY INFORMATION: The selection, service, and appointment of Board members are covered by provisions of Section 302 of PL 99–662. The substance of those provisions is as follows:

a. Selection

Members are to be selected from the spectrum of commercial carriers and shippers using the inland and intracoastal waterways, to represent geographical regions, and to be representative of waterborne commerce as determined by commodity ton-miles statistics.

b. Service

The Board is required to meet at least semi-annually to develop and make recommendations to the Secretary of the Army on waterways construction and rehabilitations priorities and spending levels for commercial navigation improvements, and report is recommendations annually to the Secretary and Congress.

c. Appointment

The operation of the Board and appointment of its members are subject to the Federal Advisory Committee Act (PL 92–463, as amended) and departmental implementing regulations. Members serve without compensation but their expenses due to Board activities are reimbursable. The considerations specified in section 302 for the selection of the Board members, and certain terms used therein, have been interpreted, supplemented, or otherwise clarified as follows:

(1) Carriers and Shippers

The law uses the terms "primary users and shippers." Primary users has been interpreted to mean the providers of transportation services on inland waterways such as barge or towboat operators. Shippers has been interpreted to mean the purchasers of such services for the movement of commodities they own or control. Individuals are appointed to the Board, but they must be either a carrier or shipper, or represent a firm that is a carrier or shipper. For that purpose a trade or regional association is neither a shipper or primary user.

(2) Geographical Representation

The law specifies "various" regions. For the purpose of selecting Board members, the waterways subjected to fuel taxes and described in PL 95–502, as amended, have been aggregated into six regions. The are (1) the Upper Mississippi River and its tributaries above the mouth of the Ohio; (2) the Lower Mississippi River and its tributaries below the mouth of the Ohio and above Baton Rouge; (3) the Ohio River and its tributaries; (4) the Gulf Intracoastal Waterway in Louisiana and Texas; (5) the Gulf Intracoastal Waterway east of New Orleans and associated fuel-taxed waterways including the Tennessee-Tombigbee, plus the Atlantic Intracoastal Waterway below Norfolk; and (6) the Columbia-Snake Rivers System and Upper Willamette. The intent is that each region shall be represented by at least one Board member, with that representation determined by the regional concentration of the individual's traffic on the waterways.

(3) Commodity Representation

Waterway commerce has been aggregated into six commodity categories based on "inland" ton-miles shown in Waterborne Commerce of the United States. In rank order they are (1) Farm and Food Products; (2) Coal and Coke; (3) Petroleum, Crude and Products; (4) Minerals, Ores, and Primary Metals and Mineral Products; (5) Chemicals and Allied Products; and (6) All other. A consideration in the selection of Board members will be that the commodities carried or shipped by those individuals or their firms will be reasonably representative of the above commodity categories.

d. Nomination

Reflecting preceding selection criteria, the current representation by the six (6) Board members whose terms expire December 31, 1998, is one member representing each of the six regions previously described. Also, these Board members represent three shipper/carriers, one shipper and two carriers.

Three (3) of the six members whose terms expire December 31, 1998, are eligible for reappointment.

Nominations to replace Board members whose terms expire December 31, 1998, may be made by individuals, firms or associations. Nominations will:

(1) State the region to be represented;

(2) State whether the nominee is representing carriers, shippers or both.

(3) Provide information on the nominee's personal qualifications;

(4) Include the commercial operations of the carrier and/or shipper with whom the nominee is affiliated. This commercial operations information will show the actual or estimated ton-miles of each commodity carried or shipped on the inland waterways system in a recent year (or years) using the waterway regions and commodity categories previously listed.

Nominations received in response to last year's **Federal Register** notice, published on July 9, 1997, have been retained for consideration. Renomination is not required but may be desirable.

e. Deadline for Nominations

All nominations must be received at the address shown above no later than August 31, 1998.

Gregory D. Showalter,

Army Federal Register, Liaison Officer.

[FR Doc. 98–19024 Filed 7–15–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement/Draft Environmental Impact Report (DEIS/R) for the Napa River, California, Salt Marsh Restoration Feasibility Study

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

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SUMMARY: The San Francisco District, U.S. Army Corps of Engineers together with its local sponsor, the California State Coastal Conservancy, and the California Department of Fish and Game, are conducting a feasibility study for restoration of salt marshes in areas currently occupied by constructed salt ponds west of the Napa River, Napa and Solano Counties, California. A reconnaissance study has determined that there is a Federal interest in an alternative that would restore four of the seven ponds to tidal marsh while reducing salinity in the remaining three ponds. This alternative would provide substantial ecological benefits, and has the support of the local sponsor and the California Department of Fish and Game.

The Corps of Engineers is the lead agency for this project under the National Environmental Policy Act (NEPA), and the California State Coastal Conservancy is the lead agency under the California Environmental Quality Act (CEQA). The DEIS/R will enable the lead agencies to comply with the requirements of NEPA and CEQA.

FOR FURTHER INFORMATION CONTACT: Mr. Bill DeJager at (415) 977–8670, or at the U.S. Army Corps of Engineers, San Francisco District, 333 Market Street, 7th Floor, San Francisco, CA 94105–2197.

SUPPLEMENTARY INFORMATION: The Napa River, Salt Marsh Restoration Feasibility Study is being conducted under authority of a resolution adopted by the Committee on Public Works and Transportation of the U.S. House of Representatives on September 28, 1994. A reconnaissance study of potential marsh restoration alternatives along the lower Napa River was completed in 1997. This study determined that there is a Federal interest in a marsh restoration project in the study area. A detailed (feasibility) study has subsequently been initiated with the California State Coastal Conservancy to support further Federal participation in the project. The California Department of Fish and Game, while not formally a sponsor, owns the salt ponds under study and is participating in the study.

One alternative was developed for the reconnaissance study, based upon information available at that time. This alternative would initially remove excess salts from all the ponds using controlled flushing through new water control structures. After salt concentrations in the four less-saline ponds reaches levels close to that of San Pablo Bay, the water control structures would be removed and establishment and growth of tidal marshes would be allowed to occur naturally. The remaining three ponds would be retained as saline pond habitat, but with less-saline conditions than at present. Other alternatives could include pumping water through the pond complex to dilute salts, or using treated sewage effluent to dilute the salts.

Due to uncertainties regarding the feasibility and environmental impacts of these alternatives, the first phase of the feasibility study will focus on gathering baseline data, developing restoration objectives, and conducting modeling of existing conditions and potential alternatives. The second phase of the study will develop and analyze specific alternatives for meeting study objectives.

The Corps of Engineers is requesting public input during the preparation of the DEIS/R for this project. All interested Federal, State, and local agencies, Indian tribes, private organizations, and individuals are invited to participate in the environmental scoping process established by Federal regulations.

A scoping meeting will be held at the Napa County Board of Supervisors offices, 1195 Third Street, Room 305, Napa, California on July 21, 1998 at 7:30 P.M. The purpose of the meeting will be to determine the environmental issues of concern to the public that should be addressed by the DEIS/R. A public comment period for the proposal will open on July 17, 1998 and will close on August 17, 1998. The public will have an additional opportunity to comment on proposed alternatives after the DEIS/R is released to the public at a later date.

The DEIS/R will examine environmental issues of public concern arising from the scoping process, and project impacts already known to the Corps. These impacts will include, but are not limited to: wildlife, waterfowl, fisheries, threatened and endangered species, wetlands and mudflats, water quality, recreation, navigation and dredging, aesthetics, law enforcement, construction impacts, and concerns of nearby landowners.

The DEIS/R will disclose the project's compliance with all applicable statutes, rules, and regulations. Included will be coordination with the U.S. Fish and Wildlife Service (FWS) under the Fish and Wildlife Coordination Act and the Endangered Species Act (ESA), coordination with the FWS and the National Marine Fisheries Service under the ESA, and consultation with the State of California under the Coastal Zone Management Act, Clean Water Act, and Clean Air Act.

The California State Coastal Commission is issuing a separate notice regarding compliance with the requirements of CEQA. The aforementioned DEIS scoping meeting will also serve as a scoping meeting for the purposes of CEQA.

Peter T. Grass,

Lieutenant Colonel, Corps of Engineers, District Engineer.

[FR Doc. 98–19022 Filed 7–15–98; 8:45 am]

BILLING CODE 3710–19–M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) To Evaluate a Permit Application by The Port Authority of New York and New Jersey To Construct and Operate a Confined Dredged Material Disposal Facility (Sub-Channel Disposal Cells) in Newark Bay, NJ

AGENCY: U.S. Corps of Engineers, DoD.

ACTION: Notice of Intent.

SUMMARY: The Port Authority of New York and New Jersey has submitted an application for a Department of the Army (DA) permit to construct and operate a confined dredged material disposal facility by constructing disposal cells beneath the existing Federal Navigation Channel (Project No. 64) in Newark Bay. The creation of a facility for the disposal of dredged material by dredging and discharging of dredged material into waters of the United States requires a Department of the Army Permit pursuant to Section 10 of the Rivers and Harbors Appropriation Act of 1899 (33 U.S.C. 403), Section 404 of the Clean Water Act (33 U.S.C. 1344), and Section 103 of the Marine Protection, Research and Sanctuaries Act (33 U.S.C. 1413). An Environmental Impact Statement (EIS) will assist the U.S. Army Corps of Engineers (USACE) in determining whether to issue a permit for the project under these authorities. This determination will take place in accordance with the USACE policies and procedures for implementing the National Environmental Policy Act (NEPA) (42 U.S.C. 4332), as set forth at Title 33 of the Code of Federal Regulations (CFR) Part 230, and for review of applications for DA permits, set forth at 33 CFR Part 325. This notice of intent is published as required by the President's Council on Environmental Quality regulations implementing NEPA, set forth at 40 CFR parts 1500–1508.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph J. Seebode, Chief, Regulatory Branch, New York District Corps of Engineers, 26 Federal Plaza, Room 1937, New York, New York 10278–0090, Telephone (212) 264–3996.

SUPPLEMENTARY INFORMATION:

1. Project Description

The project proposed by the applicant, the Port Authority of New York and New Jersey, would provide a subaqueous site for confined disposal of material dredged from the Port of New York and New Jersey. The proposed work would include dredging sediment from areas ranging form approximately 10 to 30 acres within the footprint of the existing Federal Navigation Channel in Newark Bay, for the purpose of constructing sub-channel disposal cells. Cell sizes and capacities would vary depending upon their exact locations. The maximum proposed cell depth would be approximately 90 feet below mean low water (MLW), or to bedrock, if bedrock is encountered at a shallower depth. Cell capacities would be approximately 75% of the volume of dredged sediment, based upon an anticipated 1.2 "bulking factor". Cells would be constructed on an as needed basis, but only one (1) cell would be operational at any time. Up to 20 cells are proposed for construction with a total capacity of approximately 10,000,000 cubic yards.

Accumulated surface and near-surface sediment dredged during construction, which has been exposed to contemporary or historic sources of contamination, would be disposed of at the Newark Bay Confined Disposal Facility or in a previously constructed cell. Underlying sediment would be utilized for some type of beneficial use, such as remediation material at the Historic Area Restoration Site (HARS) off Sandy Hook, New Jersey, construction material for restoration or remediation projects, or in wetland creation/enhancement projects in the New York-New Jersey region.

The proposed cells would be filled to 2.5 feet below the authorized channel depth, through restricted point source discharges of dredged materials from the Port of New York and New Jersey. Natural sedimentation would return the site to the authorized channel depth.

2. Alternatives

Decision options available to the District Engineer are issue the permit, issue the permit with modifications or conditions, or deny the permit. In addition to the no action alternative, the alternatives to be considered within the EIS will include the following:

a. Alternative sites and site configurations for subaqueous disposal of dredged material.

b. Alternative methods of dredged material disposal:

(1) Containment Islands and Areas (land extension).

(2) Upland Disposal.

(3) Wetland Creation.

(4) Incineration and other decontamination technologies.

(5) Disposal at independent contractor's option.

3. EIS Scoping

As part of the EIS scoping process, comments on the proposed scope of the EIS will be accepted until the expiration of 45 calendar days after the publication of this Notice of Intent in the **Federal Register**. All comments should be addressed to the indicated contact person. In addition to receiving written comments, the USACE will receive oral comments during a public scoping meeting to be scheduled during the latter part of the scoping period. Formal notice of this meeting will be made through mailings and/or legal notices in newspapers.

4. Public Participation in the EIS Process

Creation of the EIS process will provide opportunities for full participation by interested state and local agencies, as well as other interested organizations and the general public. These opportunities will include public meetings and information sessions. All interested parties are encouraged to submit their names and addresses to the contact person indicated above for inclusion on the EIS distribution list and any related public notices.

5. Federal Agency Participation in the EIS Process

Full opportunity for federal agency participation will be provided. Federal agencies with an interest in this EIS effort are invited to participate as cooperating agencies pursuant to 40 CFR 1501.6. Interested federal agencies are requested to indicate their desire to participate to the contact person.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 98–19023 Filed 7–15–98; 8:45 am]

BILLING CODE 3710–06–M

DEPARTMENT OF ENERGY

Notice of Reissuance of Solicitation for Financial Assistance Number DE–PS07–98ID13651—Industrial Process Control With Laser-Based Ultrasonics

AGENCY: Idaho Operations Office, DOE.

SUMMARY: This is a reissuance of DE–PS07–98ID13651. The U.S. Department of Energy (DOE), Idaho Operations Office (ID) is seeking applications for cost-shared research and development of Laser-Based Ultrasonic technologies that will enhance economic competitiveness, reduce energy consumption and reduce environmental impacts of the steel industry. The objective of the solicitation is to develop and use an integrated laser ultrasonic system for in-process manufacturing applications in the U.S. steel industry via: (1) Development of an integrated sensor system to combine the use of laser ultrasonics with other measurement tools to meet the in-process monitoring requirements for accuracy and reproducibility; and (2) installation and use of this integrated system in an industrial process demonstrating the cost-savings utility to the industry. A total of $1,500,000 in federal funds ($550,000 in fiscal year 1998, $500,000 in fiscal year 1999, and $450,000 in fiscal year 2000) is expected to be available to fund this effort. DOE anticipates making a single award with a duration of three years or less. A minimum of 30% non-federal cost-share is required for research and development and a minimum of 50% non-federal cost-share is required for later demonstration and process evaluation. Collaborations between industry, university, and Federal Laboratory participants are encouraged.

FOR FURTHER INFORMATION CONTACT: T. Wade Hillebrant, Contract Specialist; Procurement Services Division, U.S. DOE, Idaho Operations Office, 850 Energy Drive, MS 1221, Idaho Falls, ID 83401–1563; telephone (208) 526–0547, e-mail—hillebtw@id.doe.gov.

SUPPLEMENTARY INFORMATION: The statutory authority for the program is the Federal Non-Nuclear Energy Research and Development Act of 1974 (P.L. 93–577). The Catalog of Federal Domestic Assistance (CFDA) Number for this program is 81.086. The solicitation text is posted on the ID Procurement Services Division home page and may be accessed using Universal Resource Locator address at http://www.id.doe.gov/doeid/solicit.html. This site also includes a link to the report of the workshop on Industrial Applications of Laser Ultrasonics. The Application Instruction

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package forms (No.'s 1 through 6 and 7 if applicable) may be accessed at http://www.id.doe.gov/doeid/application.html. Sources intending to propose should send a notice of intent to propose to Mr. Hillebrant (point of contact listed above) by July 15, 1998. Deadline for receipt of applications is July 31, 1998, with additional time allowed for cost share commitment information submittal. Hard copies of the solicitation and the application forms may also be requested from Mr. Hillebrant.

Issued in Idaho Falls, Idaho, on June 24, 1998.

R. Jeffrey Hoyles,

Director, Procurement Services Division.

[FR Doc. 98–18972 Filed 7–15–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–650–000]

Equitrans, L.P.; Notice of Application

July 10, 1998.

Take notice that on July 2, 1998, Equitrans, L.P. (Equitrans) located at 3500 Park Lane, Pittsburgh, Pennsylvania 15275 filed in the referenced docket an application pursuant to Section 7(b) of the Natural Gas Act (NGA), as amended and Part 157 of the Federal Energy Regulatory Commission's Regulations thereunder (18 CFR Sections 157.7 and 157.18), requesting issuance of a Commission order authorizing Equitrans to effect the sale and transfer to Tri-County Oil & Gas Company (Tri-County) certain of its natural gas gathering facilities comprising the North Littleton gathering system, located in Wetzel and Monongalia Counties, West Virginia, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Equitrans seeks a determination that once conveyed, these facilities will be gathering facilities exempt from the Commission's jurisdiction.

Specifically, Equitrans proposes to abandon and transfer to Tri-County, the North Littleton gathering system consisting of 216 segments of pipe totaling 214,028 feet and ranging from 2 to 16 inches in diameter with each segment less than 2 miles in length and 13 metering stations. Equitrans proposes to sell these facilities to Tri-County for the negotiated amount of $238,744.

Currently, Equitable Gas Company (Equitable), the predominant shipper on the North Littleton system and an affiliate of Equitrans, serves the communities of Burton, Eastview and Hundred, West Virginia as well as 92 rural distribution customers from taps on the system. In addition, Equitable and other third parties ship local production on the system for delivery to Carnegie Interstate Pipeline Company or the transmission system of Equitrans. Equitrans indicates that Tri-County has agreed that none of these arrangements with Equitrans, Equitable and other third party shippers will be discontinued, and that for a period of two years, Tri-County has agreed that the gathering charge to shippers will not exceed the maximun rate for gathering which Equitrans is authorized to charge under its FERC Gas Tariff.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 31, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed with the time required herein or if the Commission on its own review of the matter, finds that a grant of the certificate for the proposal is required by the public convenience and necessity. If the Commission believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Equitrans to appear or be represented at the hearing.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18918 Filed 7–15–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP96–610–003]

Granite State Gas Transmission, Inc.; Notice of Compliance Filing

July 10, 1998.

Take notice that on June 26, 1998, Granite State Gas Transmission, Inc. (Granite State), tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following revised and original tariff sheets:

First Revised Sheet Nos. 27 through 28
Original Sheet Nos. 29 and 30
First Revised Sheet No. 100
First Revised Sheet No. 183
Original Sheet Nos. 184 through 199

The tariff sheets are filed in compliance with the provisions of the May 27, 1998 certificate order issued in CP96–610–000.[1] Granite State states that the tariff sheets reflect the initial rates for the firm LNG storage and vaporization service approved in the certificate order and the provisions of Rate Schedule LNG–1 for firm service. The filing also includes a proposed Rate Schedule LNG–2 for interruptible peaking storage service and the proposed rates for such service.

Granite State further states that it will file substitute replacement tariff sheets with effective dates not less than 60 days before the date on which the completed and tested storage facility is ready to receive shipments of LNG for injection and storage. Granite State says it will also file, at that time, any revisions to the General Terms and Conditions of its tariff that are necessary to reflect the effect of the two new storage services and any proposed changes in the initial rates, if necessary. Granite State says that it must file an executed contract with Northern Utilities, Inc. for firm peaking storage service under Rate Schedule LNG–1 before construction can commence, as conditioned by the certificate order. Granite State also says that when it submits the executed contract, it will also file the forms of requests for service under Rate Schedules LNG–1 and LNG–2 and the forms of contracts for service in tariff sheet format.

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[1] See 83 FERC ¶61,194.

The subject sheets will be reviewed as pro forma tariff sheets. A further order will be issued prior to the filing by Granite State of tariff sheets not less than 30 days nor more than 60 days prior to the proposed effective date.

Any person desiring to be heard or to make any protest with reference to said filing should on or before July 31, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18921 Filed 7–15–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–517–001]

NorAm Gas Transmission Company; Notice of Amended Application

July 10, 1998.

Take notice that on July 1, 1998, NorAm Gas Transmission Company (NGT), a subsidiary of NorAm Energy Corporation, whose main office is located at 111 Louisiana Street, Houston, Texas 77210–4455, filed in the referenced docket an amended application pursuant to Section 7(b) of the Natural Gas Act (NGA), as amended and Part 157 of the Federal Energy Regulatory Commission's (Commission) Regulations thereunder (18 CFR 157.7 and 157.18), requesting issuance of a Commission order authorizing NGT to effect the sale and transfer to NorAm Field Services Corporation (NFS) of Line 0–577 and equipment appurtenant thereto, located in Haskell County, Oklahoma and all as more fully set forth in the application which is on file with the Commission and open to public inspection.

NGT seeks a determination that once conveyed, these facilities will be gathering facilities exempt from the Commission's jurisdiction.

Specifically, NGT proposes to abandon and transfer to NFS Line 0–577, a gas supply line that was inadvertently omitted from the original application filed May 12, 1997. Line 0–577 is 10.39 miles of 6-inch diameter pipe that operates at a pressure of 150 psig and carries undehydrated gas. NGT proposes to sell these facilities to NFS for the net book value of the assets at the time of closing, which at this time is estimated to be $339,450.15.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 27, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein or if the Commission on its own review of the matter, finds that a grant of the certificate for the proposal is required by the public convenience and necessity. If the Commission believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for NGT to appear or be represented at the hearing.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18920 Filed 7–15–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–655–000]

Northwest Pipeline Corporation; Notice of Request Under Blanket Authorization

July 10, 1998.

Take notice that on July 6, 1998, Northwest Pipeline Corporation (Northwest), P.O. Box 58900, Salt Lake City, Utah 84158–0900, filed in Docket No. CP98–655–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to construct and operate a new meter station, located in Kittitas County, Washington to accommodate a request for service by Puget Sound Energy, Inc. (Puget), under Northwest's blanket certificate issued in Docket No. CP82–433–000, pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northwest proposes to construct and operate a new meter station to be named the Kittitas Meter Station, located in Kittitas County, Washington, to accommodate a request by Puget for a new delivery point to serve a new market in the Kittitas, Washington area under authorized transportation agreements.

Northwest states that Northwest and Puget have entered into a Facilities Agreement dated May 19, 1998, where Northwest has agreed to construct and own a new 6-inch tap and appurtenant facilities on its 8-inch Wenatchee Lateral and to design and install electronic flow measurement (EFM) equipment at the proposed meter station. Northwest declares that Puget has agreed to construct and own the remainder of the proposed meter station facilities, which will consist of a 12-inch turbine meter, filter, valves, EFM equipment, and appurtenances, to be constructed on a site acquired by Puget. Northwest states that together the tap and meter facilities will comprise the new Kittitas Meter Station that will be operated by Northwest as part of its open-access transportation system.

Northwest asserts that the delivery capacity of the new Kittitas Meter Station will depend upon the pressure that exists on the Wenatchee Lateral at the time of delivery. Northwest declares that the meter station's projected initial deliveries are estimated to be in the range of 375 Dth per day and the MAOP will be 850 psig.

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Northwest states that the estimated cost of installing the new meter station will be approximately $257,050, comprised of approximately $20,000 for the tap facilities and the remainder for the meter facilities, with expenses totally reimbursed by Puget.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18917 Filed 7–15–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–765–000]

ANR Pipeline Company; Notice of Availability of the Environmental Assessment for the Proposed Wisconsin Loop Expansion Project

July 10, 1998.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) on the natural gas pipeline facilities proposed by ANR Pipeline Company (ANR) in the above-referenced docket.

The EA was prepared to satisfy the requirements of the National Environmental Policy Act. The staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

The EA assesses the potential environmental effects of the construction and operation of the proposed Wisconsin Loop Expansion Project facilities including:

- About 11.7 miles of 30-inch-diameter pipeline loop on ANR's existing Wisconsin mainline in Waukesha County, Wisconsin;
- The relocation of an existing pig receiver from ANR's existing Milwaukee Tap and Meter Station No. 10 to a parcel of land adjacent to ANR's existing mainline Station No. 12 in Waukesha County, Wisconsin;
- A valve station at milepost 7.7 along the proposed 30-inch-diameter pipeline loop; and
- A new meter station (Somers Meter Station) at milepost 12.19 along ANR's existing Racine lateral in Kenosha County, Wisconsin.

ANR would transport an additional 116 million cubic feet of natural gas per day to shippers in the Chicago hub markets.

The EA has been placed in the public files of the FERC. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street, N.E., Room 2A, Washington, DC 20426, (202) 208–1371.

Copies of the EA have been mailed to Federal, state and local agencies, public interest groups, interested individuals, newspapers, and parties to this proceeding.

Any person wishing to comment on the EA may do so. To ensure consideration prior to a Commission decision on the proposal, it is important that we receive your comments before the date specified below. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send two copies of your comments to: Secretary, Federal Energy Regulatory Commission, 888 First St., N.E., Room 1A, Washington, DC 20426;
- Label one copy of the comments for the attention of the Environmental Review and Compliance Branch, PR–11.1.
- Reference Docket No. CP97–765–000; and
- Mail your comments so that they will be received in Washington, DC on or before August 7, 1998.

Comments will be considered by the Commission but will not serve to make the commentor a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).

The date for filing timely motions to intervene in this proceeding has passed. Therefore, parties now seeking to file late interventions must show good cause, as required by Section 385.214(b)(3), why this time limitation should be waived. Environmental issues have been viewed as good cause for late intervention. You do not need intervenor status to have your comments considered.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18919 Filed 7–15–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11512–000 Oregon]

John H. Bigelow; Notice of Availability of Draft Environmental Assessment

July 10, 1998.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR Part 380 (Order No. 486, 52 F.R. 47897), the Office of Hydropower Licensing has reviewed the application for a new license for the existing McKenzie Project, and has prepared a Draft Environmental Assessment (DEA) for the project. The project is located on the McKenzie River, in Lane County, Oregon. The DEA contains the staff's analysis of the potential environmental impacts of the project and has concluded that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

Copies of the DEA are available for review in the Public Reference Room, Room 2A, of the Commission's offices at 888 First Street, N.E., Washington, D.C. 20426.

Any comments should be filed within 45 days from the date of this notice and should be addressed to David P. Boergers, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. For further information, contact Gaylord W. Hoisington, Project Coordinator, at (202) 219–2756.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18923 Filed 7–15–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2685–005]

New York Power Authority; Notice of Availability of Environmental Assessment

July 10, 1998.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order 486, 52 FR 47897), the Commission's Office of Hydropower Licensing reviewed a flood erosion control plan for the Blenheim-Gilboa Project, No. 2685–005. The Blenheim-Gilboa Project is on Schoharie Creek in Schoharie County, New York. An Environmental Assessment (EA) was prepared for the flood erosion control plan. The EA finds that approving the plan would not constitute a major federal action significantly affecting the quality of the human environment.

The EA was written by staff in the Office of Hydropower Licensing, Federal Energy Regulatory Commission. Copies of the EA can be viewed in the Public Reference Branch, Room 2A, of the Commission's offices at 888 First Street, N.E., Washington, D.C. 20426.

Comments should be addressed to David P. Boegers, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. Please affix Project No. 2685–005 to all comments. For further information, please contact the project manager, Ms. Monica Maynard, at (202) 219–2652.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18916 Filed 7–15–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1025–020 Pennsylvania]

Safe Harbor Water Power Corporation; Notice of Availability of Environmental Assessment

July 10, 1998.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order 486, 52 F.R. 47897), the Commission's Office of Hydropower Licensing has reviewed the application for license amendment for the Safe Harbor Hydroelectric Project, No. 10255–020. The Safe Harbor Project is located on the Susquehanna River in York and Lancaster Counties, Pennsylvania. The licensee is proposing to raise the normal maximum forebay elevation by 0.8 ft., from Elevation 227.2 ft. to Elevation 228.0 ft. Raising the forebay elevation can be completed operationally, and would not require any modifications to project structures. A Draft Environmental Assessment (DEA) was prepared, and the DEA finds that approproving the amendment application would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the DEA are available for review in the Commission's Reference and Information Center, Room 2A, 888 First Street, N.E., Washington, D.C. 20426.

Please submit any comments within 30 days from the date of this notice. Any comments, conclusions, or recommendations that draw upon studies, reports, or other working papers of substance should be supported by appropriate documentation.

Comments should be addressed to David P. Boergers, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. Please affix Project No. 6375–006 to all comments. For further information, please contact Ms. Hillary Berlin, at (202) 219–0038.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18922 Filed 7–15–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP98–61–000 and RP98–226–000]

Koch Gateway Pipeline Company; Notice of Technical Conference

July 10, 1998.

In the Commission's order issued on June 19, 1998, in the above-captioned proceeding, 83 FERC ¶ 61,301 (1998), the Commission ordered that a technical conference be convened to resolve issues raised by the filing. The conference to address the issues has been scheduled for July 29, 1998, at 10:00 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18915 Filed 7–15–98; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6124–8]

Access to Confidential Business Information By Booz-Allen, & Hamilton, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is authorizing Booz-Allen, & Hamilton, Inc. to participate in reviews of selected Superfund cost recovery documentation and records management. During the review, the contractor will have access to information which has been submitted to EPA under section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Some of this information may be claimed or determined to be Confidential Business Information (CBI).

DATES: The contractor (Booz-Allen, & Hamilton, Inc.) will have access to this data until July 23, 1998.

ADDRESSES: Send or deliver, written comments to Veronica Kuczynski, U.S. Environmental Protection Agency, Office of the Comptroller (3PM30), 1650 Arch Street, Philadelphia, Pennsylvania 19103.

FOR FURTHER INFORMATION CONTACT: Veronica Kuczynski, Office of the Comptroller, (3PM30), 1650 Arch Street, Philadelphia, Pennsylvania 19103, Telephone (215) 814–5169.

SUPPLEMENTARY INFORMATION: Under Contract 68–W4–0010, Work Assignment #ESS026, Booz-Allen, & Hamilton, Inc. will be conducting an on-site review of the procedures and systems currently in place for compliance with Superfund cost recovery and record keeping requirements in the State of Virginia. This review involves conducting transaction testing to evaluate recipient conformance with applicable regulations and acceptable business practices and documenting findings. The contractor will examine transactions for the following:

(1) Expenditures Review: expenditure documentation such as expense reports, timesheets, and purchase requests from the point of origination to the point of payment

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to determine compliance with such requirements as site-specific accounting data, authorizing signature and reconciliation of timesheets to expense reports.

(2) Financial Reports: review financial drawdowns, Financial Status Reports, and internal status reports, to determine if information is consistent between these documents, if recipient is properly using information, and if the reports are submitted when required.

(3) Record Keeping Procedures: review samples of Superfund documentation to determine the effectiveness of the recipient procedures to manage and reconcile this documentation (focusing on site-specific documentation, retention schedules, and the ability of the recipient to provide EPA with required financial documentation for cost recovery purposes in the specified time frame).

In providing this support, Booz-Allen, & Hamilton, Inc., employees may have access to recipient documents which potentially include financial documents submitted under section 104 of CERCLA, some of which may contain information claimed or determined to be CBI.

Pursuant to EPA regulations at 40 CFR part 2, subpart B, EPA has determined that Booz-Allen, & Hamilton, Inc., requires access to CBI to provide the support and services required under the Delivery Order. These regulations provide for five working days notification before contractors are given access to CBI.

Booz-Allen, & Hamilton, Inc. will be required by contract to protect confidential information. These documents are maintained in recipient office and file space.

Dated: July 7, 1998.

Thomas Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 98–18994 Filed 7–15–98; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6124–9]

Investigator-Initiated Grants: Request for Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of request for applications.

SUMMARY: This document provides information on the availability of fiscal years 1998 and 1999 investigator-initiated grants program announcements, in which the areas of research interest, eligibility and submission requirements, evaluation criteria, and implementation schedules are set forth. Grants will be competitively awarded following peer review.

DATES: Receipt dates vary depending on the specific research area within the solicitation and are listed below.

FOR FURTHER INFORMATION CONTACT: U.S. Environmental Protection Agency, National Center for Environmental Research and Quality Assurance (8703R), 401 M Street, SW, Washington DC 20460, telephone (800) 490–9194. The complete announcement can be accessed on the Internet from the EPA home page: http://www.epa.gov/ncerqa under "announcements."

SUPPLEMENTARY INFORMATION: In its Requests for Applications (RFA) the U.S. Environmental Protection Agency (EPA) invites research grant applications in the following areas of special interest to its mission: (1) Futures: Detecting the Early Signals; (2) Airborne Particulate Matter Centers; (3) Endocrine Disruptors (in cooperation with the National Institute of Environmental Health Sciences, Department of the Interior, National Oceanic and Atmospheric Administration, and the Office of Science and Technology Policy); and (4) Children's Vulnerability to Toxic Substances in the Environment. Applications must be received as follows: August 31, 1998, for topic (1); October 28, 1998, for topic (2); September 16, 1998, for topic (3); and September 30, 1998, for topic (4).

The RFAs provide relevant background information, summarize EPA's interest in the topic areas, and describe the application and review process.

Contact persons for the Futures RFA are Roger Cortesi (cortesi.roger@epamail.epa.gov), telephone 202–564–6852, and Robert Menzer (menzer.robert@epamail.epa.gov), telephone 202–564–6849. Contact person for the Airborne Particulate Matter Centers RFA is Deran Pashayan (pashayan.deran@epamail.epa.gov), telephone 202–564–6913. Contact persons for the Endocrine Disruptors RFA are EPA: David Reese (reese.david@epamail.epa.gov), telephone 202–564–6919, and Robert Menzer; NIEHS: Gwen Collman (collman@niehs.nih.gov), telephone 919–541–4980, and Jerry Heindel (heindel_j@niehs.nih.gov), telephone 919–541–0781; DOI: Michael Mac (michael_mac@usgs.gov), telephone 703–648–4073; and NOAA: Teri Rowles (teri.rowles@noaa.gov), telephone 301–713–2322. Contact person for the Children's Vulnerability RFA is Chris Saint (saint.chris@epamail.epa.gov), telephone 202–564–6909.

Dated: June 30, 1998.

Deborah Y. Dietrich,

Acting Assistant Administrator for Research and Development.

[FR Doc. 98–18993 Filed 7–15–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6125–2]

Announcement of a Joint Application Design Meeting on the Development of Public Access Component of the National Contaminant Occurrence Database

AGENCY: Environmental Protection Agency (EPA).

ACTION: Announcement of a Joint Application Design (JAD) meeting on the development of public access component of the National Contaminant Occurrence Database (NCOD).

SUMMARY: The U.S. Environmental Protection Agency (EPA) has scheduled a two-day public meeting on EPA's development of public access component of the NCOD. The focus of this meeting will be to capture the design and user interface requirements of NCOD users in the public arena. The meeting will be open to any interested parties. EPA encourages the full participation of stakeholders throughout this process. Of particular interest for this meeting are potential NCOD users from educational institutions, state and local governments, the general public, and anyone that does not have access to the EPA Local Area Network (LAN). Providing the information within the NCOD to the public in a readily accessible format is required by the 1996 amendments to the Safe Drinking Water Act (SDWA).

DATES: The stakeholder meeting on the Joint Application Design of the public access component of the NCOD will be held on August 17–18, 1998, from 9 a.m. to 4 p.m. EST.

ADDRESSES: U.S. EPA Washington Information Center (WIC), 400 M Street SW, Washington, DC 20460, Conference Room WIC 4 South.

FOR FURTHER INFORMATION CONTACT: For general information about the meeting, please contact Ms. Valerie Love-Smith, U.S. EPA Office of Ground Water and Drinking Water, Mail Code 4606, 400 M Street SW, Washington, DC 2046, (202) 260–5596.

For other information on National Contaminant Occurrence Database, please contact Charles Job, at the U.S. Environmental Protection Agency, Phone: 202–260–7084, Fax: 202–260–3762.

Members of the public wishing to attend the meeting may register by phone by contacting the Safe Drinking Water Hotline by August 10, 1998 at 1–800–426–4791. Those registered for the meeting will receive background materials prior to the meeting.

SUPPLEMENTARY INFORMATION:

A. Background on the National Contaminant Occurrence Database

The Safe Drinking Water Act Amendments of 1996 (SDWA Amendments, section 126, appendix A) require establishing a NCOD to: (1) Include both regulated and unregulated contaminants; (2) identify contaminants that may be placed on the Contaminant Candidate List; (3) support the Administrator's determinations to regulate contaminants in the future; (4) support the review of existing regulations every six years and of monitoring requirements; (5) make the data base available to the public in readily accessible form; and (6) be assembled by August 1999, and maintained thereafter.

The NCOD is planned to be a collection of data of documented quality on unregulated and regulated chemical, radiological, microbial, and physical contaminants, and other such contaminants likely to occur, in finished, raw and source waters of public water systems (PWS) of the United States and its territories.

B. Request for Stakeholder Involvement

The upcoming meeting deals specifically with EPA's efforts to develop the user interface tools to provide information within the NCOD to the general public. The EPA Office of Ground Water and Drinking Water (OGWDW) sees the involvement of interested parties, representing a variety of perspectives and expertise, as critical to meeting the requirement established in the 1996 SDWA amendments. Specifically, the amendments stipulate the information within the NCOD will be provided to the public in a readily accessible format. This JAD meeting will provide an important opportunity for such involvement. Some anticipated issues for discussion include the following questions:

1. Should the NCOD provide data currently available in other EPA water data systems (e.g., SDWIS, STORET)? Should the NCOD provide products to the public, in addition to the products and queries used to satisfy the internal primary drinking water program goals of the NCOD (e.g., establish and maintain Contaminant Candidate List (CCL); determination to regulate or not regulate future contaminants; review existing regulations; etc.)?
2. What is a "readily accessible format"? Is INTERNET access enough? What type of non-electronic format is needed?
3. What capabilities are needed by the public: download query results, graphs, charts, tabular results?
4. What, if any, restrictions should be placed on the amount of data a user could electronically download? Should someone be able to download one hundred megabytes of data on a 14400 modem?
5. If electronic access time is restricted, as indicated above, how could data be provided (file type and media) for public use?

EPA has convened this public meeting to hear the views of stakeholders on the development of the public access component of the NCOD. The public is invited to provide comments on the issues listed above or other related issues during the August 17–18, 1998 meeting.

Dated: July 10, 1998.

Elizabeth Fellows,

Acting Director, Office of Ground Water and Drinking Water.

[FR Doc. 98–18992 Filed 7–15–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6125–4]

Interstate Lead Company Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed de minimis settlement and modification of consent decree.

SUMMARY: Under section 122 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the United States Environmental Protection Agency (EPA) has proposed to settle claims for response costs at the Interstate Lead Company (ILCO) Superfund Site located in Leeds, Alabama with the City of Leeds. EPA will consider public comment on the proposed settlement for thirty (30) days. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate that the proposed settlement is inappropriate, improper, or inadequate.

DATES: Written comments may be submitted to Mrs. Kim Dao-Vu at the below address on or before August 17, 1998.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed settlement is available from: Ms. Paula V. Batchelor, U.S. Environmental Protection Agency, Region 4, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, GA 30303, 404/562–8887.

SUPPLEMENTARY INFORMATION: In addition, the EPA intends to request the United States District Court for the Northern District of Alabama to modify the Consent Decree relating to the ILCO Superfund Site entered in *U.S.* v. *Alpert Iron & Metal, et al,* Case No. CV–97–AR–0001 to add the following parties as Defendants in such matter:

Baker Iron & Metal Company, Inc.
Crown/Battery Mfg. Co. Inc.
D.H. Griffin Wrecking Company, Inc.
Daniell Battery Manufacturing Company, Inc.
Shredders, Inc.
Southern Foundry Supply, Inc.
Southern Scrap Company, Inc.
Taracorp, Inc.

EPA will consider public comment on the proposed modification for thirty (30) days. EPA may withdraw from the proposed modification should such comments disclose facts or considerations which indicate that the proposed settlement is inappropriate, improper, or inadequate. A copy of the Consent Decree is available from Ms. Paula V. Batchelor at above mentioned address. Written comments may be submitted to Mrs. Kim Dao-Vu at the above address within 30 days of the date of publication of this notice.

Dated: June 29, 1998.

Franklin E. Hill,

Chief, Programs Services Branch, Waste Management Division.

[FR Doc. 98–18991 Filed 7–15–98; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6125–3]

Proposed Settlement Under Section 122(g) of the Comprehensive Environmental Response, Compensation, and Liability Act; Allied Waste Systems, Inc. and Prestige Foods Corporation

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: Notice of De Minimis Settlement: In accordance with section 122(l)(1) of the Comprehensive

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Environmental Response, Compensation and Liability Act of 1984, as amended (CERCLA), notification is hereby given of a proposed administrative settlement concerning the Muskego Sanitary Landfill hazardous waste site north of State Highway 24 and east of Crowbar Road in Muskego, Wisconsin. The agreement was proposed by EPA Region 5 on January 12, 1998. Subject to review by the public pursuant to this document, the agreement has been approved by the United States Department of Justice. Allied Waste Services, Inc. and Prestige Foods Corporation have executed binding certifications of their consent to participate in the settlement.

DATES: Comments must be provided on or before August 17, 1998.

ADDRESSES: Comments should be addressed to the Docket Clerk, U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590, and should refer to: In Re Muskego Sanitary Landfill, Muskego, Wisconsin, U.S. EPA Docket No. V–W–98C–484.

FOR FURTHER INFORMATION CONTACT: Thomas J. Krueger, U.S. Environmental Protection Agency, Office of Regional Counsel, C–14J, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590, (312) 886–0562.

SUPPLEMENTARY INFORMATION: EPA is entering into this agreement under the authority of section 122(g) and 107 of CERCLA. Section 122(g) authorizes early settlements with *de minimis* parties to allow them to resolve their liabilities at Superfund sites without incurring substantial transaction costs. Under the proposed settlement, these parties would agree not to sue the United States for any claims arising out of the response actions taken at the Muskego Sanitary Landfill site. In exchange for that covenant, and in consideration of payments these parties have already made toward performance of response actions at the site, EPA would provide a covenant not to sue the settling parties and the contribution protection provided by sections 113(f)(2) and 122(g)(5) of CERCLA, 42 U.S.C. sections 9613(f)(2) and 9622(g)(5). EPA has determined that the amount of hazardous substances contributed to the site by the proposed settlors, and the toxic and hazardous effects of the hazardous substances contributed to the site by the proposed settlors, is minimal in comparison to other hazardous substances at the site.

The Environmental Protection Agency will receive written comments relating to this agreement for 30 days from the date of publication of this document.

A copy of the proposed administrative settlement agreement may be obtained in person or by mail from the EPA's Region 5 Office of Regional Counsel, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590. Additional background information relating to the settlement is available for review at the EPA's Region V Office of Regional Counsel.

Authority: The Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. sections 9601–9675.

David A. Ullrich,

Acting Regional Administrator, Region V.

[FR Doc. 98–18990 Filed 7–15–98; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[PB–402404–OR; FRL–5799–5]

Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities; State of Oregon Authorization Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for comments and opportunity for public hearing.

SUMMARY: On March 31, 1998, the State of Oregon submitted an application for EPA approval to administer and enforce training and certification requirements, training program accreditation requirements, and work practice standards for lead-based paint activities in target housing and child-occupied facilities under section 402 of the Toxic Substances Control Act (TSCA). This notice announces the receipt of Oregon's application, provides a 45–day public comment period, and provides an opportunity to request a public hearing on the application.

DATES: Comments on the authorization application must be received on or before August 31, 1998. Public hearing requests must be received on or before July 30, 1998.

ADDRESSES: Submit all written comments and/or requests for a public hearing identified by docket control number "PB–402404–OR" (in duplicate) to: Barbara Ross, Environmental Protection Agency, Region X, 1200 Sixth Avenue, WCM-128, Seattle, WA 98101.

Comments, data, and requests for a public hearing may also be submitted electronically to: ross.barbara@epamail.epa.gov. Follow the instructions under Unit V. of this document. No information claimed to be Confidential Business Information (CBI) should be submitted through e-mail.

FOR FURTHER INFORMATION CONTACT: Barbara Ross, Regional Lead Coordinator, Environmental Protection Agency, Region X, 1200 Sixth Avenue, WCM-128, Seattle, WA 98101, telephone: (206) 553–1985, e-mail address: ross.barbara@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On October 28, 1992, the Housing and Community Development Act of 1992, Pub. L. 102–550, became law. Title X of that statute was the Residential Lead-Based Paint Hazard Reduction Act of 1992. That Act amended TSCA (15 U.S.C. 2601 *et seq.*) by adding Title IV (15 U.S.C. 2681–92), entitled "Lead Exposure Reduction."

Section 402 of TSCA authorizes and directs EPA to promulgate final regulations governing lead-based paint activities in target housing, public and commercial buildings, bridges, and other structures. Those regulations are to ensure that individuals engaged in such activities are properly trained, that training programs are accredited, and that individuals engaged in these activities are certified and follow documented work practice standards. Under section 404, a State may seek authorization from EPA to administer and enforce its own lead-based paint activities program.

On August 29, 1996 (61 FR 45777) (FRL–5389–9), EPA promulgated final TSCA section 402/404 regulations governing lead-based paint activities in target housing and child-occupied facilities (a subset of public buildings). Those regulations are codified at 40 CFR part 745, and allow both States and Indian Tribes to apply for program authorization. Pursuant to section 404(h) of TSCA, EPA is to establish the Federal program in any State or Tribal Nation without its own authorized program in place by August 31, 1998.

States and Tribes that choose to apply for program authorization must submit a complete application to the appropriate Regional EPA Office for review. Those applications will be reviewed by EPA within 180 days of receipt of the complete application. To receive EPA approval, a State or Tribe must demonstrate that its program is at least as protective of human health and the environment as the Federal program, and provides for adequate enforcement (section 404(b) of TSCA). EPA's regulations (40 CFR part 745, subpart Q) provide the detailed requirements a State or Tribal program must meet in order to obtain EPA approval.

A State may choose to certify that its lead-based paint activities program meets the requirements for EPA approval, by submitting a letter signed by the Governor or Attorney General stating that the program meets the requirements of section 404(b) of TSCA. Upon submission of such certification letter, the program is deemed authorized. This authorization becomes ineffective, however, if EPA disapproves the application.

Pursuant to section 404(b) of TSCA, EPA provides notice and an opportunity for a public hearing on a State or Tribal program application before authorizing the program. Therefore, by this notice EPA is soliciting public comment on whether Oregon's application meets the requirements for EPA approval. This notice also provides an opportunity to request a public hearing on the application. If a hearing is requested and granted, EPA will issue a **Federal Register** notice announcing the date, time, and place of the hearing. EPA's final decision on the application will be published in the **Federal Register**.

II. State Program Description Summary

The following summary of the State of Oregon's proposed program has been provided by the applicant:

On March 31, 1998, Oregon State Health Division applied to EPA for authorization to administer and enforce a State Lead-based Paint Program. The Lead-based Paint Program is administered by the Oregon Health Division who shares responsibilities for certification and for enforcement with the Construction Contractors Board (CCB).

The purpose of the Oregon State lead program is to protect the public from the hazards of improperly conducted lead-based paint activities. The program is designed to protect families from exposure to lead in paint, dust, and soil. The lead program ensures that contractors claiming to know how to inspect, assess, or remove lead-based paint, dust or soil are well-qualified, trained, and certified to conduct these activities. Training and certification is required to ensure the proficiency of contractors who offer to conduct lead-based paint inspection, risk assessment and abatement services in residences and day care centers. Accreditation is required to ensure that training programs provide quality instruction in current and effective work practices.

No person or firm may perform lead-based paint services in target housing or child-occupied facilities without first receiving certification. Lead-based paint services include lead paint inspections and risk assessments, and the design and application of lead paint hazard reduction (abatement) operations. Work practice standards are required to ensure that lead-based paint activities are conducted safely, reliable, and effectively.

The Lead-based Paint Program is administered by the Oregon Health Division (the Division). This agency shares responsibilities for certification and for enforcement with the Construction Contractors Board (CCB) (ORS 701.500; 701.505; 701.510; 701.990, 701.992; 431.920).

Rules for the certification of individuals and firms engaged in lead-based paint activities (OAR 333-069) were promulgated on May 1, 1997. These rules describe the requirements for certification of individuals and firms offering or providing lead-based paint services in Oregon. No person or firm may perform lead-based paint services in target housing or child occupied facilities without first receiving certification. Lead-based paint services include lead paint inspections and risk assessments, and the design and application of lead paint hazard reduction (abatement) operations. Work practice standards for these activities are described in the rules. The Division requires a 24–hour written notice prior to the commencement of an abatement project.

The certification process includes licensure by both the Division and CCB. The Division certifies individuals and firms. The CCB licenses individuals and registers and provides firms with a lead endorsement. Certified individuals may conduct lead-paint activities only for certified and registered firms. Certified and registered firms may only hire certified and licensed individuals to conduct lead-paint activities. Candidates for certification must pass a third-party qualifying examination administered by the Division. A schedule of fees for certification and renewal in respective lead paint disciplines is described. The rules for certification grant the Division the authority to deny, suspend, or revoke certification.

Rules for the Accreditation of Training Programs (OAR 333-068) were promulgated on December 18, 1997. No person shall provide, offer, or claim to provide an accredited lead-based paint activities course unless the person has received accreditation or provisional accreditation from the Division. The Division will accept only training provided by a Division accredited training provider as a qualification for certification. These rules provide for the accreditation of providers of lead-based paint training courses. Accreditation requirements set standards for staff qualifications, operations, curriculum design, course content, and instructional methods.

These rules for accreditation grant the Division the authority to deny, suspend, revoke or modify a provider's accreditation. A schedule of fees for accreditation and renewal of training course is described.

Enforcement and compliance activities will be carried out jointly by the Division and the CCB. The CCB, in its roles as a consumer protection agency, regularly responds to tips and complaints; conducts field investigations; assesses flexible remedies (beginning with oral and written warnings through revocation of registration); issues notices and subpoenas; holds hearings; and assesses civil penalties. The enabling legislation for Oregon's lead program also makes provision for criminal penalties: violation of the statutes is a misdemeanor. Criminal prosecution is initiated through the state office of the Attorney General.

The Division will support the CCB by: (1) Forwarding tips and complaints, (2) initiating case development for targeted inspections pursuant to a required abatement notice, and (3) providing investigative assistance, particularly in the gathering of lead paint samples.

The Division and the CCB will also work together on the development of a training program for investigative and field staff and on compliance assistance activities. With regard to the latter objective, the CCB will assist the division in accessing the communication channels that the former maintains for informing and educating the regulated community.

III. Federal Overfiling

TSCA section 404(b) makes it unlawful for any person to violate, or fail or refuse to comply with, any requirement of an approved State or Tribal program. Therefore, EPA reserves the right to exercise its enforcement authority under TSCA against a violation of, or a failure or refusal to comply with, any requirement of an authorized State or Tribal program.

IV. Applicability of Regulatory Assessment Requirements

EPA's actions on State or Tribal lead-based paint activities program applications are informal adjudications, not rules. Therefore, the requirements of the Regulatory Flexibility Act (RFA, 5 U.S.C. 601 *et seq.*), the Congressional Review Act (5 U.S.C. 801 *et seq.*), Executive Order 12866 ("Regulatory Planning and Review," 58 FR 51735,

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October 4, 1993), and Executive Order 13045 ("Protection of Children from Environmental Health Risks and Safety Risks," 62 FR 1985, April 23, 1997), do not apply to this action. In addition, this action does not contain any Federal mandates, and therefore is not subject to the requirements of the Unfunded Mandates Reform Act (2 U.S.C. 1531-1538) or Executive Order 12875 ("Enhancing the Intergovernmental Partnership," 58 FR 58093, October 28, 1993). Finally, this action does not contain any information collection requirements and therefore does not require review or approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

V. Public Record and Electronic Submissions

The official record for this action, as well as the public version, has been established under docket control number "PB–402404–OR." Copies of this notice, the State of Oregon's authorization application, and all comments received on the application are available for inspection in the Region X office, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket is located at the EPA Region X Library, Environmental Protection Agency, 1200 Sixth Avenue, OMP-104, Seattle, WA.

Commenters are encouraged to structure their comments so as not to contain information for which Confidential Business Information (CBI) claims would be made. However, any information claimed as CBI must be marked "confidential," "CBI," or with some other appropriate designation, and a commenter submitting such information must also prepare a nonconfidential version (in duplicate) that can be placed in the public record. Any information so marked will be handled in accordance with the procedures contained in 40 CFR part 2. Comments and information not claimed as CBI at the time of submission will be placed in the public record.

Electronic comments can be sent directly to EPA at: ross.barbara@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number "PB–402404–OR." Electronic comments on this document may be filed online at many Federal Depository Libraries. Information claimed as CBI should not be submitted electronically.

Authority: 15 U.S.C. 2682, 2684.

List of Subjects

Environmental protection, Hazardous substances, Lead, Reporting and recordkeeping requirements.

Dated: June 30, 1998.

Chuck Clarke,

Regional Administrator, Region X.

[FR Doc. 98–18989 Filed 7–15–98; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2283]

Petitions for Reconsideration and Clarification of Action in Rulemaking Proceeding

July 9, 1998.

Petitions for reconsideration and clarification have been filed in the Commission's rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, NW., Washington, DC, or may be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800. Oppositions to these petitions must be filed July 31, 1998. See Section 1.4(b)(1) of the Commission's rule (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of the Commission's Rules Regarding Installment Payment Financing for Personal Communications Services (PCS) Licenses (WT Docket No. 97–82).

Number of Petitions Filed: 11.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–18975 Filed 7–15–98; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Information Collection Activities: Submission for OMB Review; Comment Request

The Department of Health and Human Services, Office of the Secretary publishes a list of information collections it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) and 5 CFR 1320.5. The following are those information collections recently submitted to OMB.

Proposed Projects 1. Analysis of Employer Group Long-Term Care Insurance—New—The Office of Assistant Secretary for Planning and Evaluation is planning to survey employers offering group long-term care insurance in order to identify current products and best practices in the employer long-term care insurance market.

Respondents: State or local governments, Businesses or other for-profit—Burden Information for Insurance Companies.

Number of Respondents: 11.

Burden per Response: 170 minutes.

Total Burden for Insurance Companies: 31 hours—Burden Information for Employers.

Number of Respondents: 125.

Average Burden per Response: 85 minutes.

Total Burden for Employers: 177 hours.

Total Burden: 208 hours.

OMB Desk Officer: Allison Eydt.

Copies of the information collection packages listed above can be obtained by calling the OS Reports Clearance Officer on (202) 690–6207. Written comments and recommendations for the proposed information collection should be sent directly to the OMB desk officer designated above at the following address: Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW., Washington, DC 20503.

Comments may also be sent to Cynthia Agens Bauer, OS Reports Clearance Officer, Room 503H, Humphrey Building, 200 Independence Avenue S.W., Washington, DC 20201. Written comments should be received within 30 days of this notice.

Dated: July 8, 1998.

Dennis P. Williams,

Deputy Assistant Secretary, Budget.

[FR Doc. 98–18875 Filed 7–5–98; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Notice of a Cooperative Agreement With the National Latino Children's Institute

The Office of Minority Health (OMH), Office of Public Health and Science, announces that it will enter into an umbrella cooperative agreement with the National Latino Children's Institute (NLCI). This cooperative agreement will establish the broad programmatic framework in which specific projects can be funded as they are identified during the agreement period.

The purpose of this cooperative agreement is to assist NLCI to expand and enhance its activities aimed at improving the general welfare of Latino children throughout the country in areas such as health promotion, disease prevention, and education. Future projects are expected to focus on programs and policies that will strive to eliminate health and socio-economic disparities that affect Hispanic children.

OMH will provide consultation, including administrative and technical assistance, as needed, for the execution and evaluation of all aspects of this cooperative agreement. OMH will also participate and/or collaborate with the awardee in any workshops or symposia to exchange current information, opinions, and research findings during this agreement.

Authorizing Legislation

This cooperative agreement is authorized under Section 1707(d)(1) of the Public Health Service Act.

Background

Assistance will be provided only to the National Latino Children's Institute (NLCI). No other applications are solicited. NLCI is uniquely qualified to administer this cooperative agreement because it has:

1. Focused the nation's attention on policies, programs, and community initiatives that lead to the full and health development of Latino children;
2. Furnished training and technical assistance to programs and policies that value Hispanic youth, such as organizing and sponsoring an annual youth summit that provides leadership experience to young Latinos;
3. Promoted and implemented the National Latino Children's Agenda (NLCA) that encompasses health, environment, economic, and educational conditions of Hispanic children as a means of improving their overall quality of life;
4. Helped build healthy communities by conveying the most effective strategies for accessing and impacting the Latino population;
5. Carried out the principles of the NLCA in local communities in partnership with corporations, community-based organizations, federal agencies, youth, and families that are committed to seeking solutions to the many problems young Latinos face and to act expeditiously to improve their life conditions;
6. Sponsored and collaborated with local and nationwide initiatives that create policies and services respectful of Latino values and language;
7. Identified and selected La Promesa community programs that have demonstrated how the wise and efficient use of culture, language, and values can improve services to the Latino population and serve as models that may be replicated throughout the nation; and
8. Developed a collaborative network of local community work groups and organizations recognized as La Promesa model youth programs, among others, to whom it provides access to information services on policies and programs affecting Latino children.

This cooperative agreement will be awarded in FY 1998 for a 12-month budget period within a project period of 5 years. Depending upon the types of projects and availability of funds, it is anticipated that this cooperative agreement will receive approximately $50,000 to $100,000. Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

Where To Obtain Additional Information

If you are interested in obtaining additional information regarding this cooperative agreement, contact Mr. Guadalupe Pacheco, Office of Minority Health, 5515 Security Lane, Suite 1000, Rockville, Maryland 20852 or telephone (301) 443–5084.

The Catalogue of Federal Domestic Assistance number is 93.004.

Dated: July 1, 1998.

Clay E. Simpson Jr.,

Deputy Assistant Secretary for Minority Health.

[FR Doc. 98–19008 Filed 7–15–98; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS) Executive Subcommittee.

Time and Dates: 9:00 a.m.–4:00 p.m. July 22, 1998.

Place: Room N–502, State of Illinois Building, 160 N. LaSalle Street, Chicago, Illinois.

Status: Open.

Purpose: The Executive Subcommittee of the National Committee on Vital and Health Statistics will hold a meeting on July 22, 1998 in Chicago. At the meeting, the Subcommittee will review the status of current work plans and progress, and plan future priorities and activities. The Subcommittee also is expected to plan the agenda for the upcoming September and November 1998 meetings of the full committee.

Contact person for more information: Substantive information as well as an agenda for the meeting and a roster of committee members may be obtained by visiting the NCVHS website (http://aspe.os.dhhs.gov/ncvhs), where an agenda will be posted prior to the meeting. You may also call James Scanlon, NCVHS Executive Staff Director, Office of the Assistant Secretary for Planning and Evaluation, DHHS, Room 440–D. Humphrey Building, 200 Independence Avenue S.W., Washington, D.C. 20201, telephone (202) 690–7100, or Marjorie S. Greenberg, Executive Secretary, NCVHS, NCHS, CDC, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone (301) 436–7050.

Dated: July 8, 1998.

James Scanlon,

Director, Division of Data Policy.

[FR Doc. 98–18876 Filed 7–15–98; 8:45 am]

BILLING CODE 4151–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Government-Owned Inventions; Availability for Licensing

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

The inventions named in this notice are owned by agencies of the United States Government and are available for licensing in the United States (U.S.) in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to Thomas E. O'Toole, M.P.H., Licensing and Marketing Specialist, Technology Transfer Office, Centers for Disease Control and Prevention (CDC), Mailstop

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E–67, 1600 Clifton Rd., NE., Atlanta, GA 30333, telephone (404) 639–6270; facsimile (404) 639–6266. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Detection and Identification of Non-polio Enteroviruses

Kilpatrick, David R.
Filed 2 October 96
Serial No. 60/027, 353 (ref# I–001–96)

This invention allows the diagnosis, detection, and differentiation of clinical paralysis cases due to polioviruses. A new and novel method for designing polymerase chain reaction (PCR) primes was developed to differentiate between the three poliovirus serotypes. This method has been further developed to produce PCR primers capable of differentiating the 60+ serotypes of nonpolio enterviruses.

Generation of Viral Transfectants Using Recombinant DNA-Derived Nucleocapsid Proteins

Shaw, Michael W.
Filed 1 May 96
Serial No. 60/017,907 (CDC Ref# I–002–96)

This invention provides a method of producing viral transfectants that eliminates the need for purified RNP complexes or for purified viral RNA polymerases. The methods of this invention thus dramatically simplify the preparation of viral transfectants. The development of reverse genetics for influenza viruses has allowed the direct manipulation of virion gene products and the creation of entirely new recombinant viruses not seen in nature.

Nucleic Acid Assay for the Detection and Differentiation of Three Chlamydia Species

Messemer, Trudy
Filed 5 September 96
Serial No. 60/025, 509 (Ref# I–006–96)

This invention provides a novel assay for easily and readily detecting three important Chlamydia sp., i.e., C. trachormatis, C. psittaci, and C. pneumoniae. These three species may be detected and differentiated in the same sample aliquot at the same time through the use of amplification primers targeted to the 16s rRNA gene specific for each of the species. Additionally, even though multiple targets are used, the assay described is highly sensitive and specific consistently.

Inhibitors of Casein Kinase II (Protein Kinase CK2) Inhibit HIV–1 Replication

Critchfield, William
Filed 16 January 98
Serial No. (Ref# I–012–96)

This invention provides compositions and methods which are effective in inhibiting the activity of specific cellular components associated with viral replication, specifically protein kinase enzymes such as casein kinases. These compositions are easily administered by oral, subcutaneous and intravenous routes, and can be given in dosages that are safe, and provide inhibition of viral replication. The present invention provides a method of treating mammalian diseases mediated by viral infection by administering a composition comprising an anti-viral compound in a dosage sufficient to inhibit transcription and translation of viral genomes thereby preventing the propagation of viral particles.

DNA Polymerase From Treponema Pallidum

Steiner, Bret Martain
Filed 10 June 97
Serial No. 08/872, 094 (Ref# I–013–96)

This invention provides the nucleic acid and amino acid sequences of the DNA polymerase I region of the Treponema pallidum genome and sequences of nucleic acid molecules that selectively hybridize with nucleic acid molecules encoding the DNA polymerase I enzyme from Treponema pallidum or certain complementary sequences that are described. The nucleic acid molecules are useful for the production of recombinant DNA polymerase I enzyme or as probes to detect the presence of T. pallidum. The nucleic acid and amino acid sequences are also useful as laboratory research tools to study the organism and the disease and to develop therapies and treatments for syphilis.

Nucleic Acids for Detection Aspergillus Species

Morrison, Christine
Filed 2 May 97
Serial No. 60/045, 400 (Ref# I–016–96)

The present invention relates to nucleic acids for detecting Aspergillus species. Unique internal transcribed spacer 2 coding regions permit the development of probes specific for five different species, A. flavus, A. fumigatus, A. niger, A. terreus, and A. nidulans. The invention thereby provides methods for the species-specific detection and diagnosis of Aspergillus infection in a subject.

Nucleic Acids of the M Antigen Gene of Histoplasma Capsulatum, Isolated and Recombinantly-Produced Antigens, Vaccine and Antibodies, Methods and Kits for Detecting Histoplasmosis

Lott, Timothy J.
Filed 30 April 98
Serial No. 60/083,676 CDC Ref# I–002–97

This invention relates to nucleic acids (DNAs) relating to the M antigen gene of Histoplasma capsulatum; to vectors and host expression systems containing these nucleic acids; to nucleic acids (RNAs) which encode the M antigen of H. capsulatum; to isolated and recombinantly-produced antigens encoded by these nucleic acids; to antibodies produced against these antigens; to methods and kits for detecting histoplasmosis using these nucleic acids, antigens and antibodies; and to vaccines for treatment or prevention of histoplasmosis.

Dust Detector Tube

Volkwein, Jon C
Filed 3 July 97
Serial No. 60/052, 619 (Ref# I–004–97)

The present invention relates to an apparatus for real time dust dosimetry using the sampling pump having inlet port coupled to the dust detecting device or tube for detecting dust mass exposure using differential pressure measurements. The tube is elongated with the collection filter positioned therein for trapping dust mass. The dust detecting device coupled to the pump draws the flow of gas there through and traps selected dust mass at the collection filter. Differential pressure between the pump side of the collection filter and the atmosphere is indicative of the cumulative dust mass trapped.

Isocyanate Derivatizing Agent and Methods of Production and Use

Streicher, Robert P.
Filed 13 May 98
Serial No. 60/085,260 (CDC Ref# I–005–97)

This invention relates to a derivatizing agent and method for detecting and quantifying isocyanate contamination in an environmental sample. A novel isocyanate derivatizing agent, useful for the determination of isocyanates in an environmental sample, is provided. A method for producing this agent and a method for measuring the total level of isocyanate in an environmental sample are also provided.

Rapid and Sensitive Method for Detecting Histoplasma Capsulatum

Schafer, Millie P.
Filed 21 April 98
Serial No. 60/082,477 (CDC Ref# I–006–97)

This invention relates to detecting a pathogenic fungus, Histoplasma capsulatum, using oligonucleotide probes specific for H. capsulatum to amplify H. capsulatum DNA by means of the polymerase chain reaction. Test samples may originate from the environment where H. capsulatum are found, or from clinical samples obtained from the patients.

New Retrovirus Isolated From Humans

Sandstrom, Paul A.
Filed 3 February 97
Serial No. 08/798, 071 (Ref# I–012–97)

This invention comprises a spumavirus isolate of human origin that has been definitively isolated from a human with no apparent disease. This novel spumavirus has been maintained through tissue culture cells where it causes characteristic vacuolation of the cells. The spumavirus also has a reagent for the immunological screening of such viruses. The spumavirus can also serve as a vector in gene therapy because the virus appears to cause no disease in humans and is not transmitted to other humans. Additionally, the spumavirus can be used as a reagent in pathogenicity studies of these and related viruses. Finally, the sequences of the spumavirus can be used as probes to detect virus in biological samples.

Hand Wipe Disclosing Method for the Presence of Lead

Esswein, Eric
Filed 11 June 97
Serial No. (Ref# I–014–97)

A method for the detection of lead in surfaces using a handwipe system and chemical test which includes either rhodizonate or sulfide ions. This invention is especially useful in detecting the presence of lead on skin and assessing the effectiveness of hand washing in removal of lead from the skin of exposed individuals. This invention is also especially useful in field evaluation for the presence of lead, and the effectiveness of its subsequent removal.

Epitope Peptides Immunogenic Against Streptococcus Pneumoniae

Carlone, George
Filed 2 March 98
Serial No. 60/076, 565 (Ref# I–017–97)

This invention describes novel immunogenic peptides obtained from a random library by selection for high affinity binding to monoclonal antibodies specific for Psa A epitopes. In addition, the peptides of the invention have the capability if serving as immunogens in a subject, thereby effectively eliciting the production of antibodies by the subject and additionally conferring protective immunity against infection by S. pneumoniae on the subject. The invention also relates to a selection method employed to obtain such peptides.

Instrumented Cable; Wire for Monitoring Bolts

Martain, Lewis A.
Filed 27 February 98
Serial No. 69/076, 138 (Ref# I–023–97)

This invention provides an apparatus for providing support to a structure, and for measuring stress placed on the apparatus when present in the structure. The stress placed upon the apparatus can be measured at more than one location along the length of the apparatus, and the apparatus is spinnable into a rock mass without damaging said stress measuring devices.

Remote Monitoring Safety System

Marshall, Thomas E.
Filed 9 December 97
Serial No. (CDC Ref# I–024–97)

This invention relates to a roof monitoring safety system in which a single point or multipule points in a single bore hole can be measured to detect movement or sag in the roof strata of an underground mine. Movement of the rock strata overlying the mine is measured directly by use of one or more potentiometers connected via cables to the rock strata at different locations in a bore hole in the roof strata.

Method for Developing Degenerate PCR Primers

Kilpatrick, David R.
Filed 15 April 98
Serial No. 60/081,944 (CDC Ref# I–031–97)

The method of this invention provides degenerate primers for the amplification and subsequent detection of virtually all genes that encode an amino acid sequence. The degenerate primers are effective for detection of any gene which lies within a coding region that results in the production of a protein. Examples of genes that can be detected include those where the sequence of the specific target gene is structural, nonstructural, or enzymatic. The method provides highly specific primers which are effective for substantial amplification of a target sequence even where the target nucleic acid sequence is unknown.

Oligonucleotide Probes for Detecting Enterbacteriaceae and Quinolone-Resistant Enterobacteriaceae

Tenover, Fred C.
Filed 1 April 98
Serial No. (Ref# I–003–98)

This invention provides a simple, rapid, and useful method for differentiating Enterobacteriaceae species and determining their quinolone-resistance status. This invention also provides material and methods to apply the species-specific probes to isolated DNA from host samples for an in vitro diagnosis of Enterobacteiaceae infection.

Method for the Determination of Hexavalent Chromium Using Ultrasonication and Strong Anion Exchange Solid Phase Extraction

Wang, Jin
Filed 27 February 98
Serial No. 60/076,137 (CDC Ref# I–010–98)

This invention relates to a method for the determination of hexavalent chromium. Based on the chemical properties of chromium species in aqueous solutions, a simple, fast, sensitive, and economical field method has been developed and evaluated for the determination of hexavalent chromium in environmental and workplace air samples.

Intrinsically-safe Roof Hazard Alert Module

Mayercheck, William D.
Filed 30 April 98
Serial No. 60/083,677 (CDC Ref# I–012–98)

The invention relates to an intrinsically-safe roof hazard warning device designed to be attached to the roof of a mine to indicate unsupported roof conditions or other unsafe conditions. The device of this invention is especially useful in underground mining operations in order to discourage miners from going into unsupported mine roof areas by rendering the attendant hazard more evident, directing the miner's attention to an appropriate warning message on the module, and thus avoiding the hazard beyond the device. The warning device of this invention is intrinsically-safe, self-contained, simple to use, inexpensive to build and operate, portable, light weight, compact, and low-profile. These features make it useful in short-term or temporary hazardous situations where the installation of complex or bulky warning systems may not be warranted or justified.

Dated: July 10, 1998.

Joseph R. Carter,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–18936 Filed 7–15–98; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting.

Name: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Cooperative Agreement for Prevention Research Centers, Program Announcement #98028 meeting.

Times and Dates: 8:30–8:50 a.m., August 4, 1998 (Open). 9 a.m.–4:30 p.m., August 4, 1998 (Closed). 9 a.m.–4:40 p.m., August 5, 1998 (Closed).

Place: National Center for HIV, STD, and TB Prevention, CDC, Corporate Square Office Park, Building 12, Room 1307 (Library), Atlanta, Georgia 30329.

Status: Portions of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Associate Director for Management and Operations, CDC, pursuant to Public Law 92–463.

Matters to be Discussed: The meeting will include the review, discussion, and evaluation of applications received in response to Program Announcement #98028.

Contact Person for More Information: John R. Lehnnherr, Chief, Prevention Support Office, National Center for HIV, STD, and TB Prevention, CDC, Corporate Square Office Park, 11 Corporate Square Boulevard, m/s E07, Atlanta, Georgia 30329, telephone 404/639–8025.

Dated: July 10, 1998.

Nancy C. Hirsch,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention CDC.

[FR Doc. 98–18937 Filed 7–15–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Workshop on Toxoplasmosis; Meeting

The National Center for Infectious Diseases (NCID), Division of Parasitic Diseases (DPD) of the Centers for Disease Control and Prevention (CDC) announces the following meeting.

Name: National Workshop on Toxoplasmosis: Preventing Congenital Toxoplasmosis.

Times and Dates: 8:30 a.m.–6 p.m., September 9, 1998.; 8:30 a.m.–3 p.m., September 10, 1998.

Place: CDC, 1600 Clifton Road, Auditorium A, Atlanta, GA 30333.

Status: Open to the public, limited only by the space available.

Purpose: The purpose of this working meeting is to define the key strategies to reduce the burden of congenital toxoplasmosis in the United States.

Matters to be Discussed: Participants will include representatives from public, private, and foreign organizations. They will (1) define approaches to reduce the prevalence of congenital toxoplasmosis, (2) identify data needs to evaluate and/or implement these strategies, and (3) identify critical next steps.

Agenda items are subject to change as priorities dictate.

Written comments are welcome and should be received by the contact person listed below prior to the opening of the meeting.

Contact Person For More Information: Vance Dietz, Epidemiology Branch, DPD, NCID, CDC, M/S F–22, 1600 Clifton Road, NE, Atlanta, Georgia 30333, telephone 770/488–7771, fax 770/488–7761, e-mail vxd0@cdc.gov.

Dated: July 10, 1998.

Nancy C. Hirsch,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC)

[FR Doc. 98–18938 Filed 7–15–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Centers for Disease Control and Prevention Statement of Organization, Functions, and Delegations of Authority

Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 63 FR 31785–31786, June 10, 1998) is amended to reflect the establishment of the Office of Global Health within the Office of the Director, Centers for Disease Control and Prevention (CDC), and the abolishment of the International Health Program Office.

Section C–B, Organization and Functions, is hereby amended as follows:

Delete in its entirety the title, mission, and functional statement for the *International Health Program Office (CG).*

After the title and functional statement for the *Division of Media Relations (CAA33), Office of Communication (CAA*, insert the following:

Office of Global Health (CAB). Under the direction of the Associate Director for Global Health, the Office of Global Health (OGH) provides leadership, policy guidance, coordination, technical expertise, and services to promote the agency's global health initiatives. In carrying out this mission, OGH: (1) Advises the CDC Director on global health issues relevant to the agency; (2) assesses evolving global health issues and, in cooperation with Ministries of Health and other appropriate institutions, identifies and develops activities to which the application of CDC's technical expertise would be of maximum public health benefit; (3) collaborates with CDC Centers/Institute/Offices (CIO's), other federal agencies, countries, and organizations, as appropriate, to assist CIO's in the development of appropriate policy for global health initiatives for which they have responsibility; (4) coordinates plans for the allocation of global health resources and assists in the development of external funding sources for programs and projects; (5) coordinates cross-cutting CDC global health enterprises; (6) provides leadership in the development and implementation of the CDC Global Health Strategic Plan and guides CDC's efforts to enhance institutional global health capacity; (7) coordinates international collaboration with external partners, including administration, budgets, and technical assistance to assure that agency obligations are met; (8) provides for the enhancement of internal and external global health partnerships; (9) coordinates the recruitment and orientation of CDC assignees to other agencies or countries; (10) stimulates research and program development through the dissemination of information acquired through on-going global health initiatives; (11) provides global health expertise to CIO international projects, as appropriate and requested by CIO's; (12) coordinates bilateral health agreements between CDC and foreign governments; (13) administers the Exchange Visitors Program; (14) in carrying out the above responsibilities, coordinates activities with CDC/CIO's, the Office of Public Health and Science's Office of International and Refugee Health, the Department of Health and Human

Services' Office of International Affairs, other government and nongovernment organizations, and academic institutions, as appropriate.

Office of the Director (CAB1). (1) Manages, directs, and coordinates the activities of the OGH; (2) provides leadership in developing OGH policy, program planning, implementation, and evaluation; (3) coordinates the management of legislated international ceiling exempt positions; (4) coordinates the CDC cable clearance function; (5) provides for the orientation and scheduling of foreign visitors to CDC; (6) provides CDC support services related to international travel, such as the acquisition of passports, visas, and international clearances; (7) maintains international travel database and develops related reports; (8) serves as the CDC focal point for information regarding CDC's overseas assignees.

Dated: July 7, 1998.

Claire V. Broome, M.D.,

Acting Director.

[FR Doc. 98–18935 Filed 7–15–98; 8:45 am]

BILLING CODE 4160–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0494]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the requirements for domestic manufacturers and initial importers of devices to register their establishments and list their devices.

DATES: Submit written comments on the collection of information by September 14, 1998.

ADDRESSES: Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Margaret R. Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301827–1223

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Medical Device Registration and Listing—21 CFR 807

Section 510 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360) requires that manufacturers and initial importers engaged in the manufacture, preparation, propagation, compounding, assembly, or processing of medical devices intended for human use and in commercial distribution register their establishments and list the devices they manufacture with FDA. This is accomplished by completing FDA Form 2891, "Initial Registration of Device Establishment" and FDA Form 2892, "Medical Device Listing." In addition, each year active, registered establishments must notify FDA of changes to the current registration and device listing for the establishment. Annual changes to current registration information are pre-printed on FDA Form 2891a and sent to registered establishments. The form must be sent back to FDA's Center for Devices and Radiological Health (CDRH), even if no changes have occurred. Changes to listing information are submitted on Form 2892. Refurbishers/reconditioners are not required to register or list; however, FDA will accept voluntary registration and listings from firms that wish to be registered with FDA.

In addition, under § 807.31 (21 CFR 807.31), each owner or operator is required to maintain a historical file containing the labeling and advertisements in use on the date of initial listing, and in use after October 10, 1978, but before the date of initial listing. The owner or operator must maintain in the historical file any labeling or advertisements in which a material change has been made anytime after initial listing, but may discard labeling and advertisements from the file 3 years after the date of the last shipment of a discontinued device by an owner or operator. Along with the recordkeeping requirements above, the owner or operator must be prepared to submit to FDA upon specific request all labeling and advertising mentioned above (§ 807.31(e)).

The information collected through these provisions is used by FDA to identify firms subject to FDA's regulations and is used to identify geographic distribution in order to effectively allocate FDA's field resources for these inspections and to identify the class of the device which determines the inspection frequency. When complications occur with a particular device or component, manufacturers of similar or related devices can easily be identified.

The likely respondents to this information collection will be domestic establishments engaged in the manufacture, preparation, propagation, compounding, assembly, or processing of medical devices intended for human use and commercial distribution.

FDA estimates the burden of this collection of information as follows:

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TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	FDA Form	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
807.22(a)	Form 2891–Initial Establishment. Registration	1,462	1	1,462	.25	366
807.22(b)	Form 2892–Device Listing (initial and update)	5,640	1	5,640	.50	2,820
807.22(a)	Form 2891a–Registration Update	22,000	1	22,000	.25	5,500
807.31(e)		200	1	200	.50	100
TOTALS						8,786

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
807.31	7,900	10	79,000	0.5	39,500
TOTALS					39,500

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The annual reporting burden hours to respondents for registering establishments and listing devices is estimated to be 8,786 hours, and recordkeeping burden hours for respondents is estimated to be 39,500 hours. The estimates cited in the tables above are based primarily upon the annual FDA Accomplishment Report, which includes actual FDA registration and listing figures from fiscal year (FY) 1997. These estimates are also based on conversations with industry and trade association representatives, and internal review of the FDA forms and documents referred to in the previous tables.

According to 21 CFR part 807, all owners/operators are required to list, and establishments are required to register. Each owner/operator has an average of two establishments, according to statistics gathered from FDA's Registration and Listing Data Base. The data base has 22,000 establishments listed in it. Based on past experience, the agency anticipates that approximately 1,462 registrations will be processed annually, and that 5,640 initial and update device listings will be submitted. Although FDA only processed 12,237 annual registrations during FY 1997 due to a delay in sending out the annual registration forms, the normal amount of processing of annual registrations in the past has been 22,000. FDA anticipates reviewing 200 historical files annually. Finally, because initial importers (currently estimated at 6,200) do not have to maintain historical files, FDA estimates that the number of recordkeepers required to maintain the initial historical information will be 7,900 (which is the number of establishments, 22,000 minus the number of initial importers, 6,200, divided by 2, the average number of establishments per owner/operator).

Dated: July 8, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–18877 Filed 7–15–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97E–0271]

Determination of Regulatory Review Period for Purposes of Patent Extension; PANDEL Cream

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for PANDEL Cream and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6620.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product PANDEL Cream (hydrocortisone buteprate). PANDEL Cream is indicated for the relief of the inflammatory and pruritic manifestations of corticosteroid-responsive dermatoses in patients 18 years of age or older. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for PANDEL Cream (U.S. Patent No. 4,290,962) from Taisho Pharmaceutical Co. Ltd., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated July 18, 1997, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of PANDEL Cream represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for PANDEL Cream is 4,165 days. Of this time, 3,078 days occurred during the testing phase of the regulatory review period, 1,087 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355) became effective*: October 6, 1985. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on October 6, 1985.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the act*: March 10, 1994. The applicant claims March 1, 1994, as the date the new drug application (NDA) for PANDEL Cream (NDA 20–453) was initially submitted. However, FDA records indicate that NDA 20–453 was submitted on March 10, 1994.

3. *The date the application was approved*: February 28, 1997. FDA has verified the applicant's claim that NDA 20–453 was approved on February 28, 1997.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,096 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before September 14, 1998, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before January 12, 1999, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 23, 1998.

Thomas J. McGinnis,

Deputy Associate Commissioner for Health Affairs.

[FR Doc. 98–18878 Filed 7–15–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0506]

Medical Devices: Draft Global Harmonization Task Force Study Group 3 Process Validation Guidance; Draft; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance document entitled "Draft Global Harmonization Task Force Study Group 3 Process Validation Guidance." The draft guidance document has been created by members of the International Global Harmonization Task Force Study Group 3 (GHTF SG3) to propose harmonized international process validation technical requirements and guidance for the manufacture of medical devices. The agency is requesting public comment regarding the draft guidance document as proposed by the GHTF SG3. Because FDA intends to utilize the GHTF document as guidance for the agency and industry, FDA is also publishing this document for comment under its good guidance practices (GGP's).

DATES: Written comments concerning this draft guidance document must be received by August 14, 1998.

ADDRESSES: Submit written comments concerning the draft guidance document entitled "Draft Global Harmonization Task Force Study Group 3 Process Validation Guidance" to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments should be identified with the docket number found in brackets in the heading of this document. Submit written requests for single copies on a 3.5" diskette of the draft guidance document to the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Collin L. Figueroa, Center for Devices and Radiological Health (HFZ–341), Food and Drug Administration, 2098 Gaither Rd., Rockville, MD 20850, 301–594–4648.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, many important initiatives have been undertaken by governmental regulatory authorities, industry associations, and individual sponsors to promote the international harmonization of regulatory requirements. FDA has participated in numerous efforts to enhance this harmonization and has expressed its commitment to promote the international harmonization of regulatory requirements. As part of this effort, FDA has been actively involved in a Global Harmonization Task Force (GHTF). The GHTF has subsequently formed four study groups, each tasked with aspects designed to facilitate global harmonization.

Study Group 3 of the GHTF drafted the process validation guidance to harmonize quality systems requirements

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to ensure manufactured products meet their intended requirements. FDA is committed to publicizing the work product of the GHTF study groups and encourages dissemination of these harmonization documents. Because FDA intends to utilize this GHTF document as guidance for the agency and industry, FDA also is publishing this document for comment under its GGP's. The information and guidance contained in the draft document is intended to help manufacturers understand quality system requirements that involve process validation and how process validation relates to product design and corrective actions.

II. Significance of Guidance

This draft guidance document represents the agency's current thinking on global harmonization and process validation. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statute, regulations, or both.

The agency has adopted GGP's, which set forth the agency's policies and procedures for the development, issuance, and use of guidance documents (62 FR 8961, February 27, 1997). This guidance document is issued as a Level 1 guidance consistent with GGP's.

III. Electronic Access

In order to receive the "Draft Global Harmonization Task Force Study Group 3 Process Validation Guidance" via your fax machine, call the CDRH Facts-On-Demand (FOD) system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. At the first voice prompt press 1 to access DSMA Facts, at second voice prompt press 2, and then enter the document number 2268 followed by the pound sign (#). Then follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the draft guidance document may also do so using the World Wide Web (WWW). The Center for Devices and Radiological Health (CDRH) maintains an entry on the WWW for easy access to information including text, graphics, and files that may be downloaded to a PC with access to the Web. Updated on a regular basis, the CDRH home page includes "Draft Global Harmonization Task Force Study Group 3 Process Validation Guidance," device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, mammography matters, and other device-oriented information. The CDRH home page may be accessed at http://www.fda.gov/cdrh. The "Draft Global Harmonization Task Force Study Group 3 Process Validation Guidance" will be available at "http://www.fda.gov/cdrh/comp/ghtfproc.html" and "http://www.fda.gov/cdrh/comp/ghtfproc.pdf".

A text-only version of the CDRH Web site is also available from a computer or VT–100 compatible terminal by dialing 800–222–0185 (terminal settings are 8/1/N). Once the modem answers, press Enter several times and then select menu choice 1: FDA BULLETIN BOARD SERVICE. From there follow instructions for logging in, and at the BBS TOPICS PAGE, arrow down to the FDA home page (do not select the first CDRH entry). Then select MEDICAL DEVICES AND RADIOLOGICAL HEATLH. From there select CENTER FOR DEVICES AND RADIOLOGICAL HEALTH for general information, or arrow down for specific topics.

IV. Comments

Interested persons may, on or before August 14, 1998, submit to the Dockets Management Branch (address above) written comments regarding this draft guidance document. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance document and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 9, 1998.

D.B. Burlington,

Director, Center for Devices and Radiological Health.

[FR Doc. 98–19109 Filed 7–14–98; 12:30 pm]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0469]

Draft Guidance for Industry on Labeling of OTC Topical Drug Products for the Treatment of Vaginal Yeast Infections (Vulvovaginal Candidiasis); Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled "Labeling Guidance for OTC Topical Drug Products for the Treatment of Vaginal Yeast Infections (Vulvovaginal Candidiasis)." The guidance is intended to provide a general labeling format for all over-the-counter (OTC) drug products for the treatment of vaginal yeast infections. The draft guidance provides recommendations for both the carton and the educational brochure.

DATES: Written comments on the draft guidance may be submitted by October 14, 1998. General comments on the agency guidances are welcome at any time.

ADDRESSES: Copies of this draft guidance are available on the Internet at "http://www.fda.gov/cder/guidance/index.htm." Submit written requests for single copies of the draft guidance entitled "Labeling Guidance for OTC Topical Drug Products for the Treatment of Vaginal Yeast Infections (Vulvovaginal Candidiasis)" to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your request. Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Requests and comments are to be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Cheryl A. Turner, Center for Drug Evaluation and Research (HFD–560), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–2222.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a draft guidance for industry entitled "Labeling Guidance for OTC Topical Drug Products for the Treatment of Vaginal Yeast Infections (Vulvovaginal Candidiasis)." Current labeling for such OTC drug products varies widely among manufacturers. However, the content to be communicated in labeling is nearly identical for each product; thus the labeling for these products should convey a clear and consistent message for the consumer. The intent of this document is to provide labeling guidance for all OTC drug products to treat vaginal yeast infections.

Until 1990, topical drug products for the treatment of vulvovaginal candidiasis were available by prescription only. In 1990, FDA convened an advisory committee meeting to obtain expert on opinion whether the agency should allow topical therapies to be made available for OTC use. The advisory committee recommended that women whose initial episode of vulvovaginal candidiasis was diagnosed and treated by a physician could adequately self-treat their condition without the supervision of a health care provider. The first 7-day intravaginal drug product for the treatment of vulvovaginal candidiasis was approved for OTC use in 1990; the first 3-day product in 1995; and the first single-dose product in 1997.

In the **Federal Register** of February 27, 1997 (62 FR 9024), the agency published a notice entitled "Over-the-Counter Human Drugs; Proposed Labeling Requirements," proposing a standardized format for the labeling of OTC drug products. This proposed standardized format is frequently referred to as the "Drug Facts Format." The agency is developing this guidance document on labeling for OTC drug products for the treatment of vaginal yeast infections in accordance with the "Drug Facts Format."

Labeling for OTC drug products for the treatment of vaginal yeast infections consists of three components: (1) The carton, (2) the educational brochure, and (3) the overwrap. With OTC drug products, the agency believes that labeling takes on the critical role of providing information to the consumer. Therefore, consumers must have information that is easily understood to allow for appropriate self-selection and appropriate use of the product. Since there are a variety of OTC products currently available for the treatment of vaginal yeast infections, and since in most cases, the content to be communicated in labeling is nearly identical for each product, the labeling for these products should convey a clear and consistent message to the consumer. The intent of the draft guidance is to provide labeling guidance for all OTC drug products for the treatment of vaginal yeast infections.

The draft guidance represents the agency's current thinking on the labeling of OTC topical drug products for the treatment of vaginal yeast infections. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both.

Interested persons may, on or before October 14, 1998, submit written comments on the draft guidance to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. The draft guidance document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 7, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–18879 Filed 7–15–98; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–116, HCFA–416, HCFA–R–148, and HCFA–R–231]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Clinical Laboratory Improvement Amendments (CLIA) Application Form and Supporting Regulations in 42 CFR 493.1—.2001; Form No.: HCFA–116 (OMB# 0938–0581); *Use:* These certification requirements have been established for any entity that performs testing on human beings for diagnostic or treatment purposes. If a laboratory conducts relatively simple tests that are categorized as waived or provider performed microscopy test procedures (PPMP), it must obtain a certificate of waiver or certificate of PPMP. If the laboratory conducts any tests outside of these two categories, it must apply for a certificate of compliance or certificate of accreditation and initially obtain a registration certificate. These certificates ensure that laboratories are in compliance with CLIA.; *Frequency:* Biennially; *Affected Public:* Business or other for profit, Not for profit institutions, Federal Government, and State, local or tribal government; *Number of Respondents:* 16,000; *Total Annual Responses:* 16,000; *Total Annual Hours:* 20,000.

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Annual Early and Periodic Screening, Diagnostic, and Treatment Services (EPSDT) Participation Report and Supporting Regulations in 42 CFR 441.60; *Form No.:* HCFA–416 (OMB# 0938–0354); *Use:* States are required to submit an annual report on the provision of EPSDT services to HCFA pursuant to section 1902(a)(43) of the Social Security Act. These reports provide HCFA with data necessary to assess the effectiveness of State EPSDT programs. It is also helpful in developing trend patterns, national projections, responding to inquiries, and determining a State's results in achieving its participation goal.; *Frequency:* Annually; *Affected Public:* State, Local or Tribal Government; *Number of Respondents:* 56; *Total Annual Responses:* 56; *Total Annual Hours:* 1,568.

3. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Limitation on Provider-Related Donations and Health Care-Related Taxes; Limitations on Payments to Disproportionate Share Hospitals; Medicaid and Supporting Regulations in 42 CFR 433.68, 433.74, 447.74 and 447.272; *Form No.:* HCFA–R–148 (OMB# 0938–0618); *Use:* These information collection requirements specify limitations on the amount of Federal financial participation available for medical assistance expenditures in a fiscal year. States receive donated funds from providers and revenues are generated by health care related taxes. These donations and revenues are used to fund medical assistance programs.; *Frequency:* Quarterly; *Affected Public:* State, Local, or Tribal Government; *Number of Respondents:* 51; *Total Annual Responses:* 51; *Total Annual Hours:* #3,892.

4. *Type of Information Request:* Revision of a currently approved collection; *Title of Information*

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Collection: Medicare+Choice (M+C) Providers Sponsored Organization (PSO) Waiver Request Form and Supporting Regulations in 42 CFR 422.370–422.378; *Form Number:* HCFA–R–231; *Use:* The PSO waiver request form is for use by PSO's that do not have a State risk-bearing entity licence and that wish to enter into a M+C contract with HCFA to provide prepaid health care services to eligible Medicare beneficiaries. HCFA will use the information requested on this form to determine whether the applicant is eligible for a waiver of the state licensure requirement for M+C organizations as allowed under section 1855(a)(2) of the Social Security Act.; *Frequency:* One-time.; *Affected Public:* Business or other for-profit, Not-for-profit institutions, and Federal Government.; *Annual Number of Respondents:* 30.; *Total Annual Responses:* 30.; *Total Annual Hours Requested:* 300.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: July 9, 1998.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 98–19003 Filed 7–15–98; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Privacy Act of 1974; Report of Altered Systems

AGENCY: Department of Health and Human Services (HHS), Health Care Financing Administration (HCFA).

ACTION: Notice of the global addition of three new routine uses to designated HCFA Systems of Records.

SUMMARY: HCFA is adding three additional routine uses to the Systems of Records specified in Appendix A. These routine uses will permit HCFA to disclose individual-specific information for the purpose of combating fraud or abuse in the health benefit programs administered by HCFA and for other compatible purposes. These new routine uses will permit HCFA to make disclosures as follows: (1) To a HCFA contractor, including but not necessarily limited to fiscal intermediaries and carriers under title XVIII of the Social Security Act, to administer some aspect of a HCFA-administered health benefits program, or to a grantee of a HCFA-administered grant program, which program is or could be affected by fraud or abuse, for the purpose of preventing, deterring, discovering, detecting, investigating, examining, prosecuting, suing with respect to, defending against, correcting, remedying, or otherwise combating such fraud or abuse in such program; (2) To another Federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States, including any state or local government agency, for the purpose of preventing, deterring, discovering, detecting, investigating, examining, prosecuting, suing with respect to, defending against, correcting, remedying, or otherwise combating fraud or abuse in a health benefits program funded in whole or in part by Federal funds; and, (3) To any entity that makes payment for or oversees the administration of health care services, for the purpose of preventing, deterring, discovering, detecting, investigating, examining, prosecuting, suing with respect to, defending against, correcting, remedying, or otherwise combating fraud or abuse against such entity or the program or services administered by such entity, subject to certain conditions.

EFFECTIVE DATES: HCFA filed an altered system report with the Chairman of the Committee on Government Reform and Oversight of the House of Representatives, the Chairman of the Committee on Governmental Affairs of the Senate, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), on June 29, 1998. The proposed new routine uses will become effective 40 days from the date the altered system report is submitted to Congress and to OMB or 30 days from the publication of this notice, whichever is later.

ADDRESSES: The public should address comments to Phillip L. Brown, Director, Division of Freedom of Information and Privacy Office, C2–26–21, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Comments received will be available for review at this location by appointment, Monday through Friday 9 a.m.–3 p.m., eastern time zone.

FOR FURTHER INFORMATION CONTACT: Mr. Nelson Berry, Director, Division of Data Liaison and Distribution, Office of Information Services, HCFA, N3–13–15, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. His telephone number is (410) 786–0182.

SUPPLEMENTARY INFORMATION: We are publishing this notice to inform the public of our intent to add three routine uses under which HCFA may release information without the consent of the individual to whom such information pertains in order to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in the programs HCFA administers. Each proposed disclosure of information under these routine uses will be evaluated to ensure that the disclosure is legally permissible, including but not limited to ensuring that the purpose of the disclosure is compatible with the purpose for which the information was collected. Also, HCFA will require each prospective recipient of such information to agree in writing to certain conditions to ensure the continuing confidentiality of the information. More specifically, as a condition of each disclosure under these routine uses, HCFA will:

(a) Determine that no other Federal statute specifically prohibits disclosure of the information;

(b) Determine that the use or disclosure does not violate legal limitations under which the information was provided, collected, or obtained;

(c) Determine that the purpose for which the disclosure is to be made;

(1) Cannot reasonably be accomplished unless the information is provided in individually identifiable form;

(2) Is of sufficient importance to warrant the effect on or the risk to the privacy of the individual(s) that additional exposure of the record(s) might bring;

(3) There is a reasonable probability that the purpose of the disclosure will be accomplished;

(d) Require the recipient of the information to:

(1) Establish reasonable administrative, technical, and physical safeguards to prevent unauthorized access, use or disclosure of the record or any part thereof. The physical safeguards shall provide a level of security that is at least the equivalent of the level of security contemplated in OMB Circular No. A–130 (revised), Appendix III—Security of Federal Automated Information Systems which sets forth guidelines for security plans for automated information systems in Federal agencies;

(2) Remove or destroy the information that allows the subject individual(s) to be identified at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the request;

(3) Refrain from using or disclosing the information for any purpose other than the stated purpose under which the information was disclosed;

(4) Make no further use or disclosure of the information except:

(i) To prevent or address an emergency directly affecting the health or safety of an individual;

(ii) For use on another project under the same conditions, provided HCFA has authorized the additional use(s) in writing; and,

(iii) When required by law;

(e) Secure a written statement or agreement from the prospective recipient of the information whereby the prospective recipient attests to an understanding of and willingness to abide by the foregoing provisions and any additional provisions that HCFA deems appropriate in the particular circumstances; and,

(f) Determine whether the disclosure constitutes a computer "matching program" as defined in 5 U.S.C. 552a(a)(8). If the disclosure is determined to be a computer "matching program," the procedures for matching agreements as contained in 5 U.S.C. 552a(o) must be followed.

The new routine uses established by this notice are to be considered as the next three numbers following the existing enumerated routine uses in each of the individual systems of records being affected as listed in Appendix A. These new routine uses read as follows:

(1) To a HCFA contractor, including but not necessarily limited to fiscal intermediaries and carriers under title XVIII of the Social Security Act, to administer some aspect of a HCFA-administered health benefits program, or to a grantee of a HCFA-administered grant program, which program is or could be affected by fraud or abuse, for the purpose of preventing, deterring, discovering, detecting, investigating, examining, prosecuting, suing with respect to, defending against, correcting, remedying, or otherwise combating such fraud or abuse in such programs.

(2) To another Federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States, including any state or local government agency, for the purpose of preventing, deterring, discovering, detecting, investigating, examining, prosecuting, suing with respect to, defending against, correcting, remedying, or otherwise combating fraud or abuse in a health benefits program funded in whole or in part by Federal funds.

(3) To any entity that makes payment for, or oversees the administration of, health care services, for the purpose of preventing, deterring, discovering, detecting, investigating, examining, prosecuting, suing with respect to, defending against, correcting, remedying, or otherwise combating fraud or abuse against such entity or the program or services administered by such entity, provided:

(a) Such entity enters into an agreement with HCFA to share knowledge and information regarding actual or potential fraudulent or abusive practices or activities regarding the delivery or receipt of health care services, or regarding securing payment or reimbursement for health care services, or any practice or activity that, if directed toward a HCFA-administered program, might reasonably be construed as actually or potentially fraudulent or abusive;

(b) Such entity does, on a regular basis, or at such times as HCFA may request, fully and freely share such knowledge and information with HCFA, or as directed by HCFA, with HCFA's contractors; and,

(c) HCFA determines that it may reasonably conclude that the knowledge or information it has received or is likely to receive from such entity could lead to preventing, deterring, discovering, detecting, investigating, examining, prosecuting, suing with respect to, defending against, correcting, remedying, or otherwise combating fraud or abuse in the Medicare, Medicaid, or other health benefits program administered by HCFA or funded in whole or in part by Federal funds.

These proposed new routine uses are consistent with the relevant provisions of the Privacy Act of 1974, as amended, 5 U.S.C. 552a.

Because these proposed routine uses will significantly alter the systems of records listed in Appendix A, we are preparing a report of altered system of records under 5 U.S.C. 552a(r).

Dated: June 29, 1998.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

Appendix A

09–70–0005 National Claims History (NCH), HHS/HCFA/BDMS
09–70–0040 Health Care Financing Administration Organ Transplant Data File, HS/HCFA/BDMS
09–70–0501 Carrier Medicare Claims Records, HHS/HCFA/BPO
09–70–0503 Intermediary Medicare Claims Records, HHS/HCFA/BPO
09–70–0505 Supplemental Medical Insurance (SMI) Accounting Collection and Enrollment System (SPACE), HHS/HCFA/BPO
09–70–0516 Medicare Physician Supplier Master File, HHS/HCFA/BPO
09–70–0518 Medicare Clinic Physician Supplier Master File, HHS/HCFA/BPO
09–70–0520 End Stage Renal Disease (ESRD) Program Management and Medical Information System (PMMIS), HHS/HCFA/BDMS
09–70–0524 Intern and Resident Information System, HHS/HCFA/BPO
09–70–0525 Medicare Physician Identification and Eligibility System (MPIES), HHS/HCFA/BPO
09–70–0526 Common Working File (CWF), HHS/HCFA/BPO
09–70–0527 HCFA Utilization Review Investigatory Files, HHS/HCFA/BPO
09–70–0529 Medicare Supplier Identification File, HHS/HCFA/BPO
09–70–1511 Physical Therapists in Independent Practice (Individuals), HHS/HCFA/HSQB
09–70–2003 HCFA Program Integrity/Program Validation Case Files HHS/HCFA/BPO
09–70–2006 Income and Eligibility Verification for Medicaid Eligibility Quality Control (MEQC) Review, HHS/HCFA
09–70–4001 Group Health Plan (GHP) System, HHS/HCFA/OMC
09–70–4003 Medicare HMO/CMP Beneficiary Reconsideration System (MBRS), HHS/HCFA/OMC
09–70–6001 Medicaid Statistical Information System (MSIS), HHS/HCFA/BDMS

[FR Doc. 98–17944 Filed 7–15–98; 8:45 am]
BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Commission on Childhood Vaccines Request for Nominations for Voting Members

AGENCY: Health Resources and Services Administration, HHS.

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ACTION: Notice.

SUMMARY: The Health Resources and Services Administration (HRSA) is requesting nominations to fill three vacancies on the Advisory Commission on Childhood Vaccines (ACCV). The ACCV was established by Title XXI of the Public Health Service Act (the Act), as enacted by Public Law (Pub. L.) 99–660 and as subsequently amended, and advises the Secretary of Health and Human Services (the Secretary) on issues related to implementation of the National Vaccine Injury Compensation Program (VICP).

FOR FURTHER INFORMATION CONTACT: Ms. Melissa Palmer, Principal Staff Liaison, Policy and Commission Branch, Division of Vaccine Injury Compensation, at (301) 443–3196.

DATES: Nominations are to be submitted by August 17, 1998.

ADDRESSES: All nominations are to be submitted to the Director, Division of Vaccine Injury Compensation, Bureau of Health Professions, HRSA, Parklawn Building, Room 8A–35, 5600 Fishers Lane, Rockville, Maryland 20857.

SUPPLEMENTARY INFORMATION: Under the authorities that established the ACCV, viz., the Federal Advisory Committee Act of October 6, 1972 (P.L. 92–463) and section 2119 of the Act, 42 U.S.C. 300aa–19, as added by P.L. 99–660 and amended, HRSA is requesting nominations for three voting members of the ACCV.

The ACCV advises the Secretary on the implementation of the VICP; on its own initiative or as the result of the filing of a petition, recommends changes in the Vaccine Injury Table; advises the Secretary in implementing the Secretary's responsibilities under section 2127 regarding the need for childhood vaccination products that result in fewer or no significant adverse reactions; surveys Federal, State, and local programs and activities relating to the gathering of information on injuries associated with the administration of childhood vaccines, including the adverse reaction reporting requirements of section 2125(b); advises the Secretary on means to obtain, compile, publish, and use credible data related to the frequency and severity of adverse reactions associated with childhood vaccines; and recommends to the Director, National Vaccine Program Office, research related to vaccine injuries which should be conducted to carry out the VICP.

The ACCV consists of nine voting members appointed by the Secretary as follows: three health professionals, of whom at least two are pediatricians, who are not employees of the United States, who have expertise in the health care of children, the epidemiology, etiology and prevention of childhood diseases, and the adverse reactions associated with vaccines; three members from the general public, of whom at least two are legal representatives (parents or guardians) of children who have suffered a vaccine-related injury or death; and three attorneys, of whom at least one shall be an attorney whose specialty includes representation of persons who have suffered a vaccine-related injury or death, and one shall be an attorney whose specialty includes representation of vaccine manufacturers. In addition, the Director of the National Institutes of Health, the Assistant Secretary for Health and Surgeon General, the Director of the Centers for Disease Control and Prevention, and the Commissioner of the Food and Drug Administration (or the designees of such officials) serve as nonvoting ex officio members.

Specifically, HRSA is requesting nominations for three voting members of the ACCV representing: (1) a health professional with special experience in childhood diseases; (2) an attorney whose specialty includes representation of persons who have suffered a vaccine-related injury or death; and (3) a member from the general public who is a legal representative (parent or guardian) of a child (or children) who has suffered a vaccine-related injury or death. Nominees will be invited to serve 3-year terms beginning January 1, 1999, and ending December 31, 2001.

Interested persons may nominate one or more qualified persons for membership on the ACCV. Nominations shall state that the nominee is willing to serve as a member of the ACCV and appears to have no conflict of interest that would preclude the ACCV membership. Potential candidates will be asked to provide detailed information concerning such matters as financial holdings, consultancies, and research grants or contracts to permit evaluation of possible sources of conflicts of interest. A curriculum vitae or résumé should be submitted with the nomination.

The Department of Health and Human Services has special interest in assuring that women, minority groups, and the physically handicapped are adequately represented on advisory committees and therefore extends particular encouragement to nominations for appropriately qualified female, minority, or physically handicapped candidates.

Dated: July 10, 1998.

Claude Earl Fox,

Administrator.

[FR Doc. 98–18954 Filed 7–15–98; 8:45 am]

BILLING CODE 4160–15–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Project Grants for Health Care and Other Facilities

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of limited competition for grant funds.

SUMMARY: The Health Resources and Services Administration (HRSA) announces a limited competition to provide $510,203 in construction funding to Iowa hospitals which were recipients of Rural Health Transition Grants from the Health Care Financing Administration. Funds were appropriated for this purpose by Public Law 105–78 under the Public Health Service Act.

Funds are available to support one or two construction/renovation projects. In accordance with the directive set forth in the House and Senate Conference Report on Public Law 105–78, competition is limited to the hospitals listed below (H.R. Report No. 105–390, dated November 7, 1997). Award consideration will be limited to the following Iowa facilities:

Adair County Memorial Hospital, Greenfield;
Audubon County Memorial Hospital, Audubon;
Cass County Memorial Hospital, Atlantic;
Davis County Hospital, Bloomfield;
Greene County Medical Center, Jefferson;
Guthrie County Hospital, Guthrie Center;
Hamilton County Public Hospital, Webster City;
Horn Memorial Hospital, Ida Grove;
Mahaska County Hospital, Oskaloosa;
Manning General Hospital, Manning;
Monroe County Hospital, Albia;
Montgomery County Memorial Hospital, Red Oak;
Palo Alto County Hospital, Emmetsburg;
Ringgold County Hospital, Mount Ayr;
St. Anthony Regional Hospital, Carroll;
St Joseph's Mercy Hospital, Centerville;
Story County Hospital, Nevada;
Van Buren County Hospital, Xerosauqua;
Washington County Hospital, Washington;
Wayne County Hospital, Corydon;
Winneshiek County Memorial Hospital, Decorah.

Other Award Information: HHS strongly encourages all grant and contract recipients to provide a smoke free workplace and to promote the nonuse of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children.

FOR FURTHER INFORMATION CONTACT: Additional information relating to technical and program issues may be obtained from Mr. Paul Murphy, Chief, Facilities Monitoring Branch, Division of Facilities Compliance and Recovery, Office of Special Programs, HRSA, Twinbrook Metro Plaza Building, 12300 Twinbrook Parkway, Suite 520, Rockville, Maryland 20857, (301) 443–4303. Information regarding business, administrative, or fiscal issues related to the awarding of grants under this Notice may be requested from Mr. Tom Castonguay, Grants Management Specialist, HIV/AIDS Bureau, HRSA, Parklawn Building, Room 7–27, 5600 Fishers Lane, Rockville, Maryland 20857, 301 443–2385. Applicants for grants will use Form PHS 5161–1, approved under OMB Control Number 0937–0189.

The OMB Catalog of Federal Domestic Assistance number for Health Care Facilities is 93.887.

Dated: July 10, 1998.

Claude Earl Fox,

Administrator.

[FR Doc. 98–18953 Filed 7–15–98; 8:45 am]

BILLING CODE 4160–15–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Phase I Trial: Autologous, Tumor-pulsed Dendritic Cells.

Date: August 3–4, 1998.

Time: 8:00 AM to 6:00 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Martin H. Goldrosen, PhD, Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6130 Executive Boulevard, Room 635C, Rockville, MD 20852–7408, (301) 496–7930.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: July 10, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–18926 Filed 7–15–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, RFA 98–003—Peroxisome Proliferators and Mechanisms of Carcinogenesis.

Date: July 22, 1998.

Time: 8:30 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIEHS-East Campus, 79 T.W. Alexander Drive, Bldg. 4401, Room 3162, Research Triangle Park, NC 27709.

Contact Person: Carol K. Shreffler, Ph.D., Health Scientist Administrator, 104 T.W. Alexander Drive, Research Triangle Park, NC 27709, (919) 541–1445.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Probing for Substrate Binding Residues of Mammalian FMOs.

Date: July 28, 1998.

Time: 1:00 PM to 3:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIEHS, 79 T.W. Alexander Drive, Building 4401, Conference Room 3446, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: David Brown, MPH, Nat'l Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, NC 27709, (919) 541–4964.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Lead and CaMPKII Modulation of Hair Cells.

Date: July 29, 1998.

Time: 1:00 PM to 3:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIEHS, 79 T.W. Alexander Drive, Building 4401, Conference Room 3446, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: David Brown, MPH, Nat'l Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, NC 27709, (919) 541–4964.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: July 10, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–18924 Filed 7–15–98; 8:45 am]

BILLING CODE 4140–01–M

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice if hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: July 13, 1998.

Time: 4:00 PM to 7:00 PM.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency-Baltimore, 300 Light Street, Baltimore, MD 21202.

Contact Person: Gerald E. Calderone, Ph.D., Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Parklawn Building, 5600 Fishers Lane, Room 9C–18, Rockville, MD 20857, 301–443–1340.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: July 15–16, 1998.

Time: 8:15 AM to 6:00 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Lawrence E. Chaitkin, Ph.D., Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Parklawn Building, 5600 Fishers Lane, Room 9C–26, Rockville, MD 20857, 301–443–6470.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: July 23, 1998.

Time: 9:00 AM to 2:00 PM.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Chevy Chase Pavilion, 4300 Military Road, NW, Washington, DC 20015.

Contact Person: Gerald E. Calderone, Ph.D., Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Parklawn Building, 5600 Fishers Lane, Room 9C–18, Rockville, MD 20857, 301–443–1340.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: July 28, 1998.

Time: 9:00 AM to 2:00 PM.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Gerald E. Calderone, Ph.D., Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Parklawn Building, 5600 Fishers Lane, Room 9C–18, Rockville, MD 20857, 301–443–1340.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: July 10, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–18925 Filed 7–15–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4281–N–06]

Withdrawal of Request for Comment on Notice of Proposed Information Collection

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This notice withdraws the notice requesting public comments on information collection requirements for the Urban Empowerment Zone Initiative. The notice requesting public comments was published in error.

FOR FURTHER INFORMATION CONTACT: James Salvaggi, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410, telephone (202) 708–3773. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: On July 2, 1998 (63 FR 36253), HUD published a notice of proposed information collection requesting public comments for a period of 60 days on the proposed information collection requirements for the Urban Empowerment Zone (EZ) Initiative (Round Two). This notice was published in error. The 60-day public comment request on the information collection requirements for the EZ Round Two Initiative was contained in the interim rule published on April 16, 1998 (63 FR 19109). Accordingly, this notice is withdrawn. The next notice to be published should be a notice that advises that OMB approval number 2506–0148 (the current OMB approval number for the EZ Round Two Initiative), which expires on August 31, 1998, has been approved for a period of three years.

Dated: July 10, 1998.

Camille Acevedo,

Assistant General Counsel for Regulations.

[FR Doc. 98–18997 Filed 7–15–98; 8:45 am]

BILLING CODE 4210–29–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

PRT–844465

Applicant: John Monson, Bedford, NH.

The applicant requests a permit to import a sport-hunted trophy of a cheetah (*Acinonyx jubatus*) from Namibia for the purpose of enhancement to the survival of the species.

PRT–844454

Applicant: Robert Lange, Bloomington, MN.

The applicant requests a permit to import a sport-hunted trophy of a cheetah (*Acinonyx jubatus*) from Namibia for the purpose of enhancement to the survival of the species.

PRT–844457

Applicant: Charles Merryman, Riverview, FL.

The applicant requests a permit to import a sport-hunted trophy of a cheetah (*Acinonyx jubatus*) from Namibia for the purpose of enhancement to the survival of the species.

PRT–843424

Applicant: White Oak Conservation Center, Yulee, FL.

The applicant requests a permit to export one male captive-born Black rhinoceros (*Diceros bicornis*) to the Marakele National Park, Republic of South Africa for the purpose of re-introduction into the wild.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

The public is invited to comment on the following application for a permit to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18).

PRT–844287

Applicant: Ishikawa Zoo Foundation, Ishikawa, Japan.

Permit Type: Take for Public Display.

Name and Number of Animals: Northern sea otter (*Enhydra lutris lutris*), up to 24.

Summary of Activity to be Authorized: The applicant requests a permit to collect and export up to 3 northern sea otters for the purpose of public display at the Ishikawa Zoo. Up to 24 otters may be captured in the course of collection activities in order to obtain 1 male and 2 female otters for export and public display. It is intended that collections will be made at the same time to provide otters to the Kagoshima City Aquarium (PRT–844288) and the Suma Aqualife Park (PRT–844289). Therefore, a total of 24 takes is requested to collect up to 6 otters that will be distributed among the three facilities. Any otter not selected for export will be immediately released to the wild.

Source of Marine Mammals: In the vicinity of Kodiak Island, AK, Afognak Strait, Gnak Bay and Kupreanof Strait.

Period of Activity: Up to 5 years from issuance date of permit, if issued.

PRT–844288

Applicant: Kagoshima City Aquarium, Kakoshima-Pre, Japan.

Permit Type: Take for Public Display.

Name and Number of Animals: northern sea otter (*Enhydra lutris lutris*), up to 24.

Summary of Activity to be Authorized: The applicant requests a permit to collect and export up to 2 northern sea otters for the purpose of public display at the Kagoshima City Aquarium. Up to 24 otters may be captured in the course of collection activities in order to obtain 2 female otters for export and public display. It is intended that collections will be made at the same time to provide otters to the Ishikawa Zoo Foundation (PRT–844287) and the Suma Aqualife Park (PRT–844289). Therefore, a total of 24 takes is requested to collect up to 6 otters that will be distributed among the three facilities. Any otter not selected for export will be immediately released to the wild.

Source of Marine Mammals: In the vicinity of Kodiak Island, AK, Afognak Strait, Gnak Bay and Kupreanof Strait.

Period of Activity: Up to 5 years from issuance date of permit, if issued.

Applicant: Suma Aqualife Park, Kobe, Japan, PRT–844289.

Permit Type: Take for Public Display.

Name and Number of Animals: northern sea otter (Enhydra lutris lutris), up to 24.

Summary of Activity to be Authorized: The applicant requests a permit to collect and export up to 1 northern sea otter for the purpose of public display at the Suma Aqualife Park. Up to 24 otters may be captured in the course of collection activities in order to obtain 1 female otter for export and public display. It is intended that collections will be made at the same time to provide otters to the Ishikawa Zoo Foundation (PRT–844287) and the Kagoshima City Aquarium (PRT-844288).Therefore, a total of 24 takes is requested to collect up to 6 otters that will be distributed among the three facilities. Any otter not selected for export will be immediately released to the wild.

Source of Marine Mammals: In the vicinity of Kodiak Island, AK, Afognak Strait, Gnak Bay and Kupreanof Strait.

Period of Activity: Up to 5 years from issuance date of permit, if issued.

Concurrent with the publication of this notice in the **Federal Register**, the Office of Management Authority is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Written data or comments, requests for copies of the complete application, or requests for a public hearing on this application should be sent to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281 and must be received within 30 days of the date of publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Documents and other information submitted with the application are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request for a copy of such documents to the above address within 30 days of the date of publication of this notice.

Dated: July 10, 1998.

MaryEllen Amtower,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 98–18888 Filed 7–15–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Minor Adjustment of Kenai National Wildlife Refuge Boundary

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of boundary adjustment.

SUMMARY: The Secretary of the Interior, acting through the Regional Director, Region 7, of the Fish and Wildlife Service, has made a minor modification to the boundary of the Kenai National Wildlife Refuge in the State of Alaska. This boundary adjustment was made to incorporate within the Refuge a parcel of land, purchased by the United States, which is adjacent to the former Refuge boundary. This action added 71.84 acres to the Refuge.

DATES: Title to the land in question vested in the United States of America on December 24, 1996. Notification to Congress of the proposed boundary change was provided August 5, 1997.

ADDRESSES: Division of Realty, Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska 99503–6199.

FOR FURTHER INFORMATION CONTACT: Sharon N. Janis, 907–786–3490.

SUPPLEMENTARY INFORMATION: In 1996, a 1377-acre parcel of land was purchased from the Salamatof Native Corporation by the United States, for administration by the Fish and Wildlife Service. The majority of this parcel lies within the boundaries of the Kenai National Wildlife Refuge as established by the Alaska National Interest Lands Conservation Act. A portion of the purchased land, 71.84 acres in size, falls between the ANILCA boundary and the Kenai River. This portion is more particularly described as Lot 7 of Section 31, and Lots 8 and 9 of Section 32, Township 5 North, Range 9 West, Seward Meridian, Alaska.

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Section 103(b) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3103(b)) establishes authority for the Secretary of the Interior to make minor boundary adjustments to the Wildlife Refuges created by the Act. Under this authority, and following due notice to Congress, the Secretary, acting through the Regional Director, Region 7, of the Fish and Wildlife Service, has used this authority to adjust the boundaries of the Kenai Refuge to include the 71.84-acre parcel described above. This adjustment modifies the boundary previously described in the **Federal Register** (48 FR 7955, Feb. 24, 1983).

Robyn Thorson,

Acting Regional Director.

[FR Doc. 98–19005 Filed 7–15–98; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–060–07–1990–00]

Call for Nominations for the Bureau of Land Management's California Desert District Advisory Council

SUMMARY: The Bureau of Land Management's California Desert District is soliciting nominations from the public for five members of its District Advisory Council to serve the 1999–2001 three-year term. Council members provide advice and recommendations to BLM on the management of public lands in southern California. Public notice begins with the publication date of this notice. Nominations will be accepted through August 31, 1998. The three-year term would begin January 1, 1999.

The five positions to be filled include:

—One elected official representative (representing county government);
—One nonrenewable resources representative;
—One public-at-large representative;
—Two recreation representatives.

Council members serve three-year terms and may be nominated for reappointment for an additional three-year term. Four council members are eligible for reappointment. The elected official representative, who represents county government interests on the council, will retire December 31, 1998.

The California Desert District Advisory Council is comprised of 15 private individuals who represent different interests and advise BLM officials on policies and programs concerning the management of 10 million acres of public land in southern California. The Council meets in formal session three to four times each year in various locations throughout the California Desert District. Council members serve without compensation except for reimbursement of travel expenditures incurred in the course of their duties.

Section 309 of the Federal Land Policy and Management Act (FLPMA) directs the Secretary of the Interior to involve the public in planning and issues related to management of BLM administered lands. The Secretary also selects council nominees consistent with the requirements of the Federal Advisory Committee Act (FACA), which requires nominees appointed to the council be balanced in terms of points of view and representative of the various interests concerned with the management of the public lands.

The Council also is balanced geographically, and BLM will try to find qualified representatives from areas throughout the California Desert District. The District covers portions of eight counties, and includes 10 million acres of public land in the California Desert Conservation Area and 300,000 acres of scattered parcels in San Diego, western Riverside, western San Bernardino, Orange, and Los Angeles Counties (known as the South Coast).

Any group or individual may nominate a qualified person, based upon their education, training, and knowledge of BLM, the California Desert, and the issues involving BLM-administered public lands throughout southern California. Qualified individuals also may nominate themselves.

Nominations must include the name of the nominee; work and home addresses and telephone numbers; a biographical sketch that includes the nominee's work and public service record; any applicable outside interests or other information that demonstrates the nominees qualifications for the position; and the specific category of interests in which the nominee is best qualified to offer advice and council. Nominees may contact the BLM California Desert District public affairs staff at (909) 697–5217/5220 or write to the address below and request a copy of the nomination form.

All nominations must be accompanied by letters of reference from represented interests, organizations, or elected officials supporting the nomination. Individuals nominating themselves must provide at lease one letter of recommendation. Advisory Council members are appointed by the Secretary of the Interior, generally in late January or early February.

Nominations should be sent to the District Manager, Bureau of Land Management, California Desert District, 6221 Box Springs Boulevard, Riverside, California 92507.

FOR FURTHER INFORMATION CONTACT: BLM California Desert District External Affairs: Carole Levitzky, (909) 697–5217 or Doran Sanchez, (909) 697–5220.

Dated: July 8, 1998.

Tim Salt,

Acting District Manager.

[FR Doc. 98–18946 Filed 7–15–98; 8:45 am]

BILLING CODE 4310–40–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–050–1020–001]

Mojave-Southern Great Basin Resource Advisory Council—Notice of Meeting Locations and Times

AGENCY: Bureau of Land Management, Interior.

ACTION: Resource Advisory Council Meeting Locations and Times.

DATES: Date is August 10, 1998 from 8 a.m. to 4 p.m. and will reconvene on August 11, 1998 from 5 a.m. to 12:35 p.m. The public comment period will begin at 2:30 p.m., August 10, 1998.

ADDRESSES: The Council will meet in the Oasis Hotel in Mesquite, Nevada, (702) 346–5232.

FOR FURTHER INFORMATION CONTACT: Philip L. Guerrero, Las Vegas Field Office, Public Affairs Officer, telephone: (702) 647–5046.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C., the Department of the Interior, Bureau of Land Management (BLM), council meeting of the Mojave-Southern Great Basin Resource Advisory Council (RAC) will be held as indicated above. The agenda includes a public comment period, and discussion of public land issues.

The Resource Advisory Council develops recommendations for BLM regarding the preparation, amendment, and implementation of land use plans for the public lands and resources within the jurisdiction of the council. For the Mojave-Great Basin RAC this jurisdiction is Clark, Esmeralda, Lincoln and Nye counties in Nevada. Except for the purposes of long-range planning and the establishment of resource management priorities, the RAC shall not provide advice on the allocation and expenditure of Federal funds, or on personnel issues.

The RAC may develop recommendation for implementation of ecosystem management concepts, principles and programs, and assist the BLM to establish landscape goals and objectives.

All meetings are open to the public. The public may present written comments to the council. Public comments should be limited to issues for which the RAC may make recommendations within its area of jurisdiction. Depending on the number of persons wishing to comment, and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need further information about the meetings, or need special assistance such as sign language interpretation or other reasonable accommodations, should contact Phillip L. Guerrero at the Las Vegas District Office, 4765 Vegas Dr., Las Vegas, NV 89108, telephone, (702) 647–5000.

Dated: July 6, 1998.

Phillip L. Guerrero,

Public Affairs Officer.

[FR Doc. 98–18903 Filed 7–15–98; 8:45 am]

BILLING CODE 4310–HC–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–4210–05, N–59066, and N–61108]

Termination of Land Exchange Segregation; Clark County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action terminates the land exchange segregation, dated July 23, 1997, for N–61855. The lands are being made available for a Recreation & Public Purpose (R&PP) Leases to Clark County for a County Operations Facility (N–59066) and a park site (N–61108).

EFFECTIVE DATE: July 16, 1998.

FOR FURTHER INFORMATION CONTACT: Cheryl Frassa-McDonough, (702) 647–5088.

SUPPLEMENTARY INFORMATION: Upon notation to the public land office records, on July 23, 1997, the lands were segregated for exchange purposes. The lands became segregated from all other forms of appropriation under the public land laws including location and entry under the mining laws. The lands are needed for R&PP Leases. The segregation is hereby terminated on the following described lands:

N–59066

Mount Diablo Meridian, Nevada

T. 21 S., R. 61 E.,
  Sec. 31, Lots, 21, 26, 27, 28, 30, 35, 36
    W½W½NE¼NW¼,
    SE¼SW¼NE¼NW¼,
    SW¼SE¼NE¼NW¼,
    E½,SE¼NE¼NW¼.

Approximately 38.34 acres.

N–61108

Mount Diablo Meridian,

T. 22 S., R. 61 E.,
  Sec. 15, NE¼SE¼NE¼, SE¼SE¼NE¼.

Approximately 20.0 acres.

The areas described aggregate 58.34 acres.

The land is hereby made available for Recreation & Public Purposes. The land will remain closed to surface entry and mining due to an overlaping segregation.

Dated: July 9, 1998.

Rex Wells,

Assistant Field Office Manager, Las Vegas Field Office.

[FR Doc. 98–18942 Filed 7–15–98; 8:45 am]

BILLING CODE 4310–HC–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–4210–05, and N–57883]

Termination of Land Exchange Segregation; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action terminates the land exchange segregation, dated July 23, 1997, for N–61855. The lands are being made available for a Recreation & Public Purpose (R&PP) Lease to Clark County for a park site.

EFFECTIVE DATE: July 16, 1998.

FOR FURTHER INFORMATION CONTACT: Cheryl Frassa-McDonough.

SUPPLEMENTARY INFORMATION: Upon notation to the public land office records, on July 23,1997, the lands were segregated for exchange purposes. The lands became segregated from all other forms of appropriation under the public land laws including location and entry under the mining laws. The lands are needed for a R&PP Lease. The segregation is hereby terminated on the following described lands:

Mount Diablo Meridian, Nevada

T. 20 S., R. 60 E.,
  Sec.6, E½NW¼SE¼NW¼,
    SW¼SE¼NW¼, NW¼NE¼SW¼,
    W½SW¼NE¼SW¼.

Approximately 30.0 acres Clark County.

The land is hereby made available for R&PP. The land will remain closed to surface entry and mining due to an overlapping segregation.

Dated: July 8, 1998.

Rex Wells,

Assistant Field Office Manager, Las Vegas Field Office.

[FR Doc. 98–18943 Filed 7–15–98; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–97–1430–01; N–57698]

Termination of Recreation and Public Purposes Classification; Nevada

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice.

SUMMARY: This notice terminates Recreation and Public Purposes Classification N–57698, in part, as it relates to the lands described below and provides for opening the land to disposal by exchange to Carl Volkmar, pursuant to section 206 of the Federal Land Policy and Management Act of October 21, 1976 (43 CFR 2200).

EFFECTIVE DATE: July 16, 1998.

FOR FURTHER INFORMATION CONTACT: Cheryl Ruffridge, Las Vegas District Office, Bureau of Land Management, 4765 Vegas Drive, Las Vegas, NV 89108, (702) 647–5064.

SUPPLEMENTARY INFORMATION: On January 22, 1996, a lease was issued to the Lady of Victory Catholic Church for a church site pursuant to the Recreation and Public Purposes Act (43 CFR 2740) for the following described land, as well as additional lands to be retained as reflected in case file N–57698, comprising 5.0 acres:

Mount Diablo Meridian, Nevada

T. 22 S., R. 61 E.,
  Sec. 14: W½E½NW¼NE¼NW¼.

The church site has been reconfigured as reflected by a subsequent, classification dated October 20, 1997, the lessee relinquished the above described portion of the lease on February 11, 1998. Carl Volkmar has requested the parcel in an exchange. The lands are segregated for exchange purposes by notation to the public land records and will remain closed to other forms of disposition.

Pursuant to Recreation and Public Purpose Act of July 25, 1979 (43 CFR 2740), classification of the above described lands, serial number N–57698, is hereby terminated. And in

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accordance with section 206 of the Federal Land Policy and Management Act of October 21, 1976, (43 CFR 2200), and the Federal Land Exchange Facilitation Act of August 20, 1988, (43 CFR Parts 2090 and 2200), the land will remain closed to all other forms of appropriation including the mining and mineral laws, pending disposal of the land by exchange.

Dated: July 6, 1998.

Rex Wells,

Assistant Field Office Manager, Division of Lands.

[FR Doc. 98–19006 Filed 7–15–98; 8:45 am]

BILLING CODE 4310-HC-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–957–00–1420–00: G8–0253]

Filing of Plats of Survey: Oregon/Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Oregon State Office, Portland, Oregon, thirty (30) calendar days from the date of this publication.

Willamette Meridian

Oregon

T. 16 S., R. 3 E., accepted May 15, 1998
T. 18 S., R. 13 E., accepted May 19, 1998
T. 20 S., R. 29 E., accepted June 11, 1998
T. 1 S., R. 36 E., accepted June 23, 1998
T. 9 S., R. 39 E., accepted April 27, 1998
T. 15 S., R. 1 W., accepted May 7, 1998
T. 16 S., R. 2 W., accepted May 26, 1998
T. 22 S., R. 7 W., accepted June 23, 1998

Washington

T. 9 S., R. 16 E., accepted June 30, 1998
T. 11 S., R. 2 W., accepted May 22, 1998

If protests against a survey, as shown on any of the above plat(s), are received prior to the date of official filing, the filing will be stayed pending consideration of the protest(s). A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

The plat(s) will be placed in the open files of the Oregon State Office, Bureau of Land Management, 1515 S.W. 5th Avenue, Portland, Oregon 97201, and will be available to the public as a matter of information only. Copies of the plat(s) may be obtained from the above office upon required payment. A person or party who wishes to protest against a survey must file with the State Director, Bureau of Land Management, Portland, Oregon, a notice that they wish to protest prior to the proposed official filing date given above. A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the proposed official filing date.

The above-listed plats represent dependent resurveys, survey and subdivision.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, (1515 S.W. 5th Avenue) P.O. Box 2965, Portland, Oregon 97208.

Dated: July 8, 1998.

Robert D. DeViney, Jr.,

Chief, Branch of Realty and Records Services.

[FR Doc. 98–19004 Filed 7–15–98; 8:45 am]

BILLING CODE 4310-33-M

INTERNATIONAL TRADE COMMISSION

Temporary Closure of the Law Library

AGENCY: United States International Trade Commission.

ACTION: Temporary closure to the public of the Commission's Law Library.

SUMMARY: Because of painting, carpeting, and renovation, the Commission's Law Library will be closed to the public beginning Monday, July 20, 1998, and will be reopened to the public on Monday, August 17, 1998.

FOR FURTHER INFORMATION CONTACT: Steven J. Kover or Maureen E. Bryant, Law Librarians, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–3287.

Issued: July 10, 1998.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–18968 Filed 7–15–98; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Air Act

Pursuant to 28 CFR 50.7, notice is hereby given that on June 29, 1998, a proposed Consent Decree in *United States* v. *Michigan Department of Transportation*, Civil Action No. 98–72712 was lodged with the United States District Court for the Eastern District of Michigan.

The United States has asserted, in a civil complaint under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 *et seq.*, that the Michigan Department of Transportation is a potentially responsible party at the Clare Water Supply Superfund Site in the City of Clare, Clare County, Michigan.

Under the proposed Consent Decree, the Michigan Department of Transportation has agreed to pay $150,000.00 to the Hazardous Waste Superfund, representing its share of responsibility at the Site and an appropriate premium.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Michigan Department of Transportation*, Civil Action No. 98–72712, D.J. Ref. 90–11–2–1212/1.

The Consent Decree may be examined at the Office of the United States Attorney for the Eastern District of Michigan, 211 West Fort Street, Suite 2001, Detroit, MI 48226–3211; at the Region 5 Environmental Protection Agency Library, Reference Desk, 77 W. Jackson Boulevard, Chicago, Illinois 60604; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, 202–624–0892. A copy of the Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check in the amount of $5.75 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–18900 Filed 7–15–98; 8:45 am]

BILLING CODE 4410-15-M

DEPARTMENT OF JUSTICE

Notice of Lodging of Amendment to Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

Under Section 122(d)(2) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. 9622(d)(2), and 28 CFR 50.7, notice is hereby given that on July 2, 1998, a proposed Amendment to Consent Decree in *United States* v. *City of North Miami, Florida,* Case No. 91–2834–CIV–RYSKAMP, was lodged with the United States District Court for the Southern District of Florida.

The Amendment to Consent Decree seeks to amend the Consent Decree for the Munisport Landfill Site, North Miami, Dade County, Florida, to incorporate the provisions of a Record of Decision (ROD) Amendment issued by the United States Environmental Protection Agency on September 5, 1997. The ROD Amendment provides for no further action under CERCLA.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Amendment to Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *City of North Miami,* D.J. Ref. 90–11–3–624.

The Amendment to Consent Decree may be examined at Florida International University, North Campus Library, 3000 North East 145th Street, North Miami, Florida, 33181–3601, at the United States Environmental Protection Agency Records Center, 61 Forsyth Street, SW, Atlanta, Georgia, 30303 Phone (404) 562–8862, and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the Amendment to Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check in the amount of $2.50 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–18899 Filed 7–15–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that a consent decree in *United States* v. *County of Oswego, et al.,* Civil Action No. *87–CV–0994* (FJS/GLS) (N.D.N.Y.) was lodged with the United States District Court for the Northern District of New York on June 24, 1998.

The proposed consent decree resolves claims asserted by the United States, on behalf of the U.S. Environmental Protection Agency ("EPA"), against forty parties ("Settling Defendants") under Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. §§ 9606, 9607. The claims sought to recover past and future response costs and to obtain an order requiring the Settling Defendants to implement the selected remedy for Operable Unit One at the Volney Landfill Superfund Site ("Site") in the Town of Volney, New York. The United States alleged that, under Section 107(a) of CERCLA, 42 U.S.C. 9607(a), various municipalities were liable as current owners and former owners and operators of the Site, and various private parties were liable as generators that arranged for their wastes to be disposed at the Site.

The proposed Consent Decree requires the County of Oswego to implement the selected remedy for the Site at an estimated cost of $7 million. The United States' past response costs of $1.8 million will be reimbursed by the County of Oswego, five municipalities that are former owners and operators of the facility, and thirty-three other parties that generated hazardous substances found on the Site. The Settling Defendants will also pay EPA's future response costs associated with the Site and will reimburse the Department of the Interior $6,500 for assessing potential damage to natural resources.

The Department of Justice will accept written comments relating to the proposed consent decree for thirty (30) days from the date of publication of this notice. Please address comments to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044 and refer to *United States* v. *County of Oswego, et al.,* (N.D.N.Y.), DJ # 90–11–3–268A.

Copies of the proposed consent decree may be examined at the Office of the United States Attorney for the Northern District of New York, 45 Broadway, Room 231, Albany, NY 12207; at the U.S. Environmental Protection Agency, Region II, 290 Broadway, New York, NY 10007–1866; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the consent decree may also be obtained in person or by mail at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. When requesting a copy of the consent decree by mail, please enclose a check in the amount of $69.60 (twenty-five cents per page reproduction costs) payable to the "Consent Decree Library."

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division, U.S. Department of Justice.

[FR Doc. 98–18902 Filed 7–15–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 CFR § 50.7, and Section 122 of CERCLA, 42 U.S.C. 9622, notice is hereby given that on June 18, 1998, a proposed Consent Decree in *United States* v. *Reilly Industries, Inc.,* Civil Action No. 5:98 CV 1409, was lodged with the United States District Court for the Northern District of Ohio, Eastern Division. This consent decree represents a settlement of claims brought by the United States, pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 *et seq.,* against Reilly Tar and Chemical Corporation for reimbursement of response costs and injunctive relief in connection with the Reilly Tar and Chemical Corporation Superfund Site ("Site") located in Tuscarawas County, Ohio.

Under this settlement with the United States, Reilly Industries will implement the remedy for the Site as set forth in the Record of Decision issued by the United States Environmental Protection Agency in March 1997, and pay $400,000 in reimbursement of response costs incurred by the United States Environmental Protection Agency at the Site. In addition, Reilly Industries will pay all future costs for this response action, including U.S. EPA's oversight costs.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Reilly Industries, Inc.,* D.J. Ref. 90–11–2–1282.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Northern District of Ohio, 1800 Bank One Center, 600 Superior Avenue, Cleveland, OH

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44114–2600, at the Region 5 Office of the Environmental Protection Agency, 77 West Jackson Street, Chicago, Illinois 60604–3590, and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy, please enclose a check in the amount of $19.75 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–18901 Filed 7–15–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Section 1301.34 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on May 19, 1998, Knight Seed Company, Inc., 151 W. 126th Street, Burnsville, Minnesota 55337, made application by renewal to the Drug Enforcement Administration to be registered as an importer of marihuana (7360), a basic class of controlled substance listed in Schedule I.

This application is exclusively for the importation of marihuana seed which will be rendered non-viable and used as bird seed.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above, and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.43 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than (30 days from publication).

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1301.34(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: July 2, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–18894 Filed 7–15–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated January 21, 1998, and published in the **Federal Register** on February 12, 1998, (63 FR 7181), Knoll Pharmaceutical Company, 30 North Jefferson Road, Whippany, New Jersey 07981, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Dihydromorphine (9145)	I
Hydromorphone (9150)	II

The firm plans to produce bulk product and finished dosage units for distribution to its customers.

DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Knoll Pharmaceutical Company to manufacture the listed controlled substances is consistent with the public interest at this time. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: June 30, 1996.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–18895 Filed 7–15–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (OJP)–1185]

RIN 1121–ZB22

State and Local Domestic Preparedness Equipment Support Program

AGENCY: Office of Justice Programs, Office for State and Local Domestic Preparedness Support (OSLDPS), Justice.

ACTION: Request for proposals.

SUMMARY: The Office for State and Local Domestic Preparedness Support is soliciting grant applications from Chief Executive Officers (CEO) in targeted jurisdictions; e.g., selected counties and cities, to fund the acquisition of certain types of equipment in the following categories: personal protective equipment, and detection, decontamination, and communications equipment. This equipment will be needed by first responders; i.e., fire services, emergency medical services, hazardous materials response units, and law enforcement agencies, to respond to a terrorist incident and the use of weapons of mass destruction.

DATES: Applications for funding must be received by the Office for State and Local Domestic Preparedness Support not later than July 17, 1998.

ADDRESSES: Applications must be mailed to: Office for State and Local Domestic Preparedness Support, 810 7th St., NW, Washington, D.C. 20531.

FOR FURTHER INFORMATION CONTACT: The National Criminal Justice Reference Service (NCJRS) at 1–800–688–4252 or the U.S. Department of Justice Response Center at 1–800–421–6770.

SUPPLEMENTARY INFORMATION:

Authority

This action is authorized under Public Law 105–119; the Departments of Commerce, Justice, and State; the

Judiciary; and the Related Agencies Appropriations Act of 1998.

Background

The title for this grant funding program is the State and Local Domestic Preparedness Equipment Support Program (SLDPESP).

Grant Offering: OSLDPS is soliciting competitive grant applications from the Chief Executive Officers (CEO) in the 120 most populous jurisdictions in the nation. OSLDPS will provide $12 million for grant funding, and will make awards based on the demonstrated need CEO's state in their proposals. A panel of experts will review the grant applications and submit the panel's ratings for each complete application. Eligible applicants are assigned to a group (Group A, B, or C). Eligible applicants in Group A may apply for funding not to exceed $500,000, Group B not to exceed $250,000, and Group C not to exceed $150,000. Approximately 46 grant awards will be made; 10 awards in Group A, 16 awards in Group B, and 20 awards in Group C. Eligible applicants and assigned groups are listed in the following section. The Office of Justice Programs reserves the right to award a lesser or greater amount than that specified in the application.

Eligible Applicants

Eligible applicants and groups are the Chief Executive Officers (CEO) in the following list of cities and counties. The maximum award amount each group may apply for is identified in parenthesis next to the Group heading:

Group A ($500,000)

1—Los Angeles County, CA
2—City of New York, NY
3—Cook County, IL
4—City of Los Angeles, CA
5—Harris County, TX
6—City of Chicago, IL
7—San Diego County, CA
8—Orange County, CA
9—Maricopa County, AZ
10—Wayne County, MI
11—Dade County, FL
12—Dallas County, TX
13—City of Houston, TX
14—King County, WA
15—Philadelphia City/County, PA
16—San Bernardino County, CA
17—Santa Clara County, CA
18—Cuyahoga County, OH
19—Pima County, AZ
20—Suffolk County, NY
21—Middlesex County, MA
22—Allegheny County, PA
23—Alameda County, CA
24—Nassau County, NY
25—Broward County, FL
26—Riverside County, CA
27—Bexar County, TX
28—Tarrant County, TX
29—City of San Diego, CA
30—Oakland County, MI
31—Sacramento County, CA
32—Hennepin County, MN
33—City of Dallas, TX
34—City of Phoenix, AZ
35—City of Detroit, MI
36—St. Louis County, MO
37—Franklin County, OH
38—Erie County, NY
39—City of San Antonio, TX
40—Milwaukee County, WI

Group B ($250,000)

41—Palm Beach County, FL
42—Westchester County, NY
43—Hamilton County, OH
44—Honolulu City/County, HI
45—Hillsborough County, FL
46—Fairfax County, VA
47—Pinellas County, FL
48—Clark County, NV
49—Shelby County, TN
50—Contra Costa County, CA
51—Bergen County, NJ
52—DuPage County, IL
53—Marion County/Indianapolis, IN
54—City of San Jose, CA
55—Montgomery County, MD
56—Essex County, NJ
57—Salt Lake County, UT
58—Prince George's County, MD
59—Francisco County/City, CA
60—Macomb County, MI
61—Baltimore County, MD
62—City of Baltimore, MD
63—Monroe County, NY
64—Orange County, FL
65—Worcester County, MA
66—Fresno County, CA
67—Duval County/Jacksonville, FL
68—Montgomery County, PA
69—Ventura County, CA
70—Middlesex County, NJ
71—Jefferson County, KY
72—Essex County, MA
73—Fulton County, GA
74—San Mateo County, CA
75—Jefferson County, AL
76—City of Columbus, OH
77—City of Boston, MA
78—Jackson County, MO
79—EL Paso County, TX
80—Norfolk County, VA

Group C ($150,000)

81—Pierce County, WA
82—City of Milwaukee, WI
83—Travis County, TX
84—Oklahoma County, OK
85—City of Memphis, TN
86—Multonomah County, OR
87—Kern County, CA
88—Montgomery County, OH
89—Monmouth County, NJ
90—Dekalb County, GA
91—Bucks County, PA
92—Hudson County, NJ
93—Delaware County, PA
94—City of El Paso, TX
95—Lake County, IL
96—Mecklenberg County, NC
97—Summit County, OH
98—Tulsa County, OK
99—City of Seattle, WA
100—Nashville/Davidson County, TN
101—Kent County, MI
102—Camden County, NJ
103—Bristol County, MA
104—San Joaquin County, CA
105—City of Cleveland, OH
106—Snohomish County, WA
107—Bernalilo County, NM
108—Union County, NJ
109—City of Austin, TX
110—New Orleans Parish/City, LA
111—Ramsey County, MN
112—Denver County, CO
113—Lake County, IN
114—Cobb County, GA
115—Onondaga County, NY
116—Lucas County, OH
117—Jefferson Parish, LA
118—Wake County, NC
119—Passaic County, NJ
120—Jefferson County, CO

Application Procedures

A. Problem Statement

The applicant must provide a statement describing the jurisdiction's terrorist vulnerability and threat assessment.

B. Equipment Needs

The applicant must provide an assessment of equipment needs of the fire service, law enforcement, emergency medical services, and hazardous materials response and prioritize requested equipment in the following categories: personal protective equipment, detection and decontamination equipment, and communications equipment.

C. Previous Funding

Identify other Federal support for equipment. A demonstrated need is the single most significant criteria for funding consideration. It is assumed that previous equipment support received from other Federal agencies for this type of equipment should have reduced the need for additional equipment.

D. Goals and Objectives

The applicant must provide a description of the goals and objectives of the jurisdiction's plan to acquire equipment and describe how the equipment will enhance operations.

E. Implementation and Evaluation Plan

The applicant must provide a program implementation plan for equipment acquisitions and deadlines for completion of each increment of the procurement process.

F. Additional Resources

Applicants are encouraged to leverage other resources at the State and local level, in support of its equipment acquisition plan.

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G. Equipment Coordination Certification

The Chief Executive Officer (CEO) of the jurisdiction must sign a certificate confirming that the application was coordinated with the fire service, emergency medical services, hazardous materials response units, and law enforcement agencies, operating within the jurisdiction.

Application Kits

Application kits will be mailed to the Chief Executive Officers in each of the targeted jurisdictions. Interested eligible applicants are encouraged to contact the National Criminal Justice Reference Service (NCJRS) at 1–800–688–4252 to ensure that they receive an application kit for the State and Local Domestic Preparedness Equipment Support Program. An application kit containing the necessary forms will be mailed to eligible applicants upon request.

Laurie Robinson,

Assistant Attorney General, Office of Justice Programs.

[FR Doc. 98–18971 Filed 7–15–98; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

National Institute of Corrections

Request for Cooperative Agreement Applications (RFAs)

AGENCY: National Institute of Corrections, U.S. Department of Justice.

ACTION: Request for Cooperative Agreement Applications (RFAs).

SUMMARY: The U.S. Department of Justice (DOJ), National Institute of Corrections (NIC) announces the availability of funds in FY '98 for a single cooperative agreement to fund various evaluation components of a "Drug-Free State Demonstration Project: A Program That Will Help to Reduce or Eliminate the Use of Illegal Drugs in Prisons." While up to ten awards will be made to States, the District of Columbia, and Territorial Departments of Corrections under this project, only one award will be made for the evaluation tasks.

Purpose: The National Institute of Corrections is seeking proposals for single cooperative agreement to evaluate the applications that States, the District of Columbia, and Territorial Departments of Corrections will be making to insure that each application that receives an award under the drug-free demonstration project includes an effective evaluation methodology, part of which will involve pre and post drug testing. The organization performing this task will also evaluate the feasibility of establishing common data elements for as many of the state/territorial awardees as possible, and assist in communicating these elements to the Departments of Corrections. After the awards are made, this organization will oversee the evaluation efforts of each awardee, conduct one visit to meet with the evaluators at each site, and compile both an interim and final evaluation report of the entire project for the NIC.

Authority: Pub. L. 93–415.

Funds Availability/Funding Limits: Funding for the evaluation tasks in this project is estimated at approximately $300,000. The award will be limited to a maximum of $300,000 (direct and indirect costs). The evaluation component of this project will not exceed three years and six months in length.

Deadline for Receipt of Application: 4:00 pm Eastern time on August 31, 1998. At The National Institute of Corrections, 320 First Street, NW, Washington, DC 20534. Applications shall be considered as meeting the deadline if they are either: (1) Received on or before the deadline date: or (2) postmarked on or before the deadline date and received in time for orderly processing. Applicants must obtain a legible dated receipt from a commercial carrier or the U.S. Postal Service in lieu of a postmark. Private metered postmarks will not be acceptable as a proof of timely mailing. Late applications will be returned to the sender.

Address and Further Information: Requests for the application kit, which also includes further details on the project's objectives, selection criteria, etc., should be directed to: Judy Evens, Control Office, National Institute of Corrections, 320 First Street., NW, Room 5007, Washington, DC 20534 or by calling 1–800–995–6423, ext. 159 or 202–307–3106, ext. 159. E-Mail: jevens@bop.gov.

All technical and programmatic information under this program announcement should be directed to: Allen Ault, Chief, Special Projects, National Institute of Corrections, 320 First Street, NW, Washington, DC 20543 or by calling 1–800–995–6423, ext. 125 or 202–307–3106, ext. 125. E-Mail: aault@bop.gov.

Eligible Applicants: An eligible applicant is any organization with experience in the evaluation of criminal justice programs and policies. The organization must also have experience with drug testing.

Review of Consideration: Applications received under this announcement will be subject to a review process by the NIC.

Number of Awards: One (1).

NIC Application Number: 98K45. This number should appear as a reference line on your cover letter and also in box 11 of Application for Federal Assistance (Standard Form 424). The cover letter should be addressed to Morris L. Thigpen, Director, NIC, 320 First Street, NW, Washington, DC 20543.

Other Information: Applicants are advised that narrative description of their program, not including the budget narrative and resumes of key staff, *should not* exceed 15 double spaced pages.

The Catalogue of Federal Domestic Assistance number is: 16–602.

Morris L. Thigpen,

Director, National Institute of Corrections.

[FR Doc. 98–19020 Filed 7–15–98; 8:45 am]

BILLING CODE 4410–36–M

DEPARTMENT OF JUSTICE

National Institute of Corrections

Request for Cooperative Agreement Applications (RFA)

AGENCY: National Institute of Corrections, U.S. Department of Justice.

ACTION: Request for Cooperative Agreement Applications (RFAs).

SUMMARY: The U.S. Department of Justice (DOJ), National Institute of Corrections (NIC) announces the availability of funds in FY' 98 for several cooperative agreements to fund a "Drug-Free State Demonstration Project: A Program That Will Help to Reduce or Eliminate the Use of Illegal Drugs in Prisons." Several awards will be made available to States, the District of Columbia, and Territorial Departments of Corrections.

Purpose: The National Institute of Corrections is seeking proposals for cooperative agreements to assist States, the District of Columbia, and Territorial Departments of Corrections interested in testing a variety of project strategies, with multiple targets and a combination of outcome measurement(s), whose goal will be to reduce or eliminate the use of illegal drugs in prisons. Proposed project sites will choose from a variety of components, including but not limited to new technologies for drug detection, drug treatment programs, drug testing, developing policies and sanctions, personnel training, telephone monitoring and intelligence systems. In their efforts to reduce illegal drugs in prison, proposals may include one or a combination of targets, including visitors, vendors, volunteers, staff and inmates working in outside contact areas. Outcomes may be measured based on changes in pre- and post-inmate drug testing results, along with other measurements, such as reduced inmate on staff and inmate on inmate assaults. NIC is seeking a geographic and programmatic diversity which allows for duplication of results, befitting a demonstration project of this nature. NIC is also seeking projects that can be replicated in different jurisdictions if proven successful, as well as projects that show a specific added value to current policies and procedures. In this regard, linkages to other programs (e.g., between detection and treatment) will be an important part of a successful project.

Authority: Pub. L. 93–415.

Funds Available: Funding for this project is estimated at approximately $4.2 million for several cooperative agreements to be awarded to States, the District of Columbia, and Territorial Departments of Corrections.

Funding Limits: The awards will be limited to a maximum of $500,000 each (direct and indirect costs). *An individual project can not exceed three years in length.*

Funds can not be used for construction, or to acquire or build real property.

Deadline for Receipt of Application: 4:00 PM Eastern time on August 31, 1998. At The National Institute of Corrections, 320 First Street, NW, Washington, DC 20534. Applications shall be considered as meeting the deadline if they are either: (1) Received on or before the deadline date; or (2) postmarked on or before the deadline date and received in time for orderly processing. Applicants must obtain a legible dated receipt from a commercial carrier or the U.S. Postal Service in lieu of a postmark. Private metered postmarks will not be acceptable as a proof of timely mailing. Late applications will be returned to the sender.

Address and Further Information: Requests for the application kit, which also includes further details on the project's objectives, selection criteria, etc., should be directed to: Judy Evens, Control Office, National Institute of Corrections, 320 First Street, NW, Room 5007, Washington, DC 20534 or by calling 1–800–995–6423, ext. 159 or 202–307–3106, ext 159. E-Mail: jevens@bop.gov.

All technical and programmatic information under this program announcement should be directed to: Allen Ault, Chief, Special Projects, National Institute of Corrections, 320 First Street, NW, Washington, DC 20543 or by calling 1–800–995–6423, ext. 125 or 202–307–3106, ext. 125. E-Mail: aault@bop.gov.

Eligible Applicants: An eligible applicant is any State, the District of Columbia, or Territorial Department of Corrections.

Review Consideration: Applications received under this announcement will be subject to a review process established by NIC.

Number of Awards: Approximately ten (10).

NIC Application Number: 98K46. This number should appear as a reference line on your cover letter and also in box 11 of Application for Federal Assistance (Standard Form 424). The cover letter should be addressed to Morris L. Thigpen, Director, NIC, 320 First Street, NW, Washington, DC 20543.

Other Information: Applicants are advised that the narrative description of their program, not including the budget and budget narrative, *should not* exceed 12 double spaced pages.

The Catalogue of Federal Domestic Assistance number is: 16–602.

Morris L. Thigpen,

Director, National Institute of Corrections.

[FR Doc. 98–19021 Filed 7–15–98; 8:45 am]

BILLING CODE 4410–36–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

July 13, 1998.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Todd R. Owen ({202} 219–5096 ext. 143) or by E-Mail to Owen-Todd@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ({202} 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Occupational Safety and Health Administration.

Title: Notice of Alleged Safety and Health Hazards.

OMB Number: 1218–0064 (reinstatement).

Form Number: OSHA–7 Form.

Frequency: On occasion.

Affected Public: Individuals or households.

Number of Respondents: 28,713.

Total Responses: 28,713.

Estimated Time per Respondent: 25 minutes for complaints received via fax or letter; 15 minutes for complaints received via telephone.

Total Burden Hours: 8,155.

Total annualized capital/startup costs: $0.

Total annual costs (operating/maintaining systems or purchasing services): $0.

Description: Section 8(f)(1) of Public Law 91–596, the Occupational Safety and Health Act of 1970 (OSH Act), states that an employee or employee representative who believes that a violation of an occupational safety and health standard exists, or that an imminent danger exists, may request an inspection by notifying the Secretary *in writing*. The OSH Act requires that the notice set forth the ground for the compliant with *"reasonable particularity"* and that it be signed.

Agency: Office of the Assistant Secretary for Policy.

Title: The survey form of the National Agricultural Workers Survey.

OMB Number: 1225–0044 (Revision of currently approved collection).

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Frequency: Annually (The survey is administered in three 10–12 week cycles each year. Approximately one third of the farmworker respondents are interviewed each cycle).

Affected Public: Farm employers and farm employees.

Number of Respondents: 6,000 (includes both farmworkers and farm employees).

Total Responses: 6,000.

Estimate Time per Respondent: 20 minutes for farm employers, one hour for farm employees.

Total annualized capital/startup costs: $0.

Total annual costs (operating/maintaining systems or purchasing services): $0.

Description: The National Agricultural Worker Survey (NAWS) provides data to the public and private service programs and data analysts which are used for planning, implementing and evaluation of farmworker programs. Analysis provides an understanding of the manpower resources available to the U.S. agriculture and the importance of immigrants in the labor market. It is the only national source of data on the demographic and employment characteristics of farmworkers. This action also requests OMB approval to conduct a one year pilot with a larger sample size and an enhanced focus on occupational health.

Todd R. Owen,

Departmental Clearance Officer.

[FR Doc. 98–18984 Filed 7–15–98; 8:45 am]

BILLING CODE 4510–28–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,475; NAFTA–02331]

Ocean Beauty, Astoria, Oregon; Notice of Negative Determination Regarding Application for Reconsideration

By application dated May 27, 1998, the company and the United Food and Commercial Workers Local 555 requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA) and NAFTA-Transitional Adjustment Assistance (NAFTA–TAA), applicable to workers and former workers of the subject firm. The denial notices applicable to workers of the subject firm located in Astoria, Oregon, were signed on May 12, 1998. The TAA and NAFTA–TAA decisions were published in the **Federal Register** on June 22, 1998 (63 FR 33958) and May 29, 1998 (63 FR 29431), respectively.

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The TAT petition, filed on behalf of workers of Ocean Beauty, Astoria, Oregon, producing processed fish was denied because the "contributed importantly" group eligibility requirement of Section 222(3) of the Trade Act of 1974, as amended, was not met. The "contributed importantly" test is generally demonstrated through a survey of the workers' firm's customers. None of the Ocean Beauty customers responding to the survey reported purchases of imported processed fish during the relevant time period (1997–1998).

The NAFTA–TAA petition for the same worker group was denied because criteria (3) and (4) of the group eligibility requirements in paragraph (a)(1) of Section 250 of the Trade Act, as amended, were not met. There were no company or customer imports of processed fish from Mexico or Canada, nor was there a shift in production from the workers' firm to Mexico or Canada.

In support of their application for reconsideration, the petitioners assert that some of the significant customers of Ocean Beauty were not surveyed concerning their import purchases of raw fish. An official of Ocean Beauty was contacted to respond to this allegation. Ocean Beauty has confirmed that customers identified by the petitioners were major customers, but they did not decrease their purchases of processed fish from Ocean Beauty during the relevant time period.

The petitioners provided U.S. Department of Agriculture import data for various fish to support their claim that increased imports of like products were significant enough to facilitate a reduction in market value of the finished product causing production expenses to exceed sales receipts. The Department, however, must examine the import purchases of processed fish by customers of the subject firm.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decisions. Accordingly, the application is denied.

Signed at Washington, DC, this 8th day of July, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–18981 Filed 7–15–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,658]

IRI International Corporation Formerly Cardwell International Limited, El Dorado, Kansas; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 15, 1998 in response to a worker petition which was filed on behalf of workers at IRI International Corporation, El Dorado, Kansas.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C., this 27th day of June 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–18982 Filed 7–15–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,596]

Koehler Manufacturing Company (Marlborough, MA); Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 1, 1998 in response to a worker petition which was filed on behalf of workers at Koehler Manufacturing Company, Marlborough, Massachusetts.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC this 2nd day of July 1998.

Linda G. Poole,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 98-18980 Filed 7-15-98; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-34,606]

Mid-Atlantic Regional Joint Board, UNITE, Bristol, VA; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Acting Director of the Office of Trade Adjustment Assistance for workers at the Mid-Atlantic Regional Joint Board, UNITE, Bristol, Virginia. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-34,606; Mid-Atlantic Regional Joint Board, UNITE, Bristol, Virginia (July 9, 1998).

Signed at Washington, D.C., this 9th day of July, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98-18978 Filed 7-15-98; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Acting Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 211(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 27, 1998.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 27, 1998.

The petitions filed in this case are available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 29th day of June, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted on 06/29/98]

TA-W	Subject firm (petitioners)	Location	Date of petition	Product(s)
34,692	Sivaco Rolling Mills (Wrks)	Sivaco, NY	06/17/98	Wire Products.
34,693	Teledyne Electronic Tech. (Comp)	Scottsdale, AZ	06/17/98	Solid State Relays.
34,694	TKC Apparel, Inc (Comp)	Reidsville, GA	06/16/98	Ladies' Tops and Knit Shirts.
34,695	Energizer Power System (Comp)	Gainesville, FL	06/12/98	Rechargeable Batteries.
34,696	Calgon Carbon Corp (USWA)	Pittsburgh, PA	06/10/98	Calgon Pellets.
34,697	Daniel Green Co (Comp)	Dolgeville, NY	06/15/98	Men's, Ladies' & Children's Slippers.
34,698	National Garment Co (Wrks)	Columbia, MO	06/11/98	Children's Apparel.
34,699	Heinz Pet Products (Wrks)	Kankakee, IL	06/16/98	Machinery to Mfg Pet Foods.
34,700	Willamette Industries (Comp)	Saginaw, OR	06/19/98	Softwood Lumber.
34,701	Gorge Lumber Co (Wkrs)	Portland, OR	06/15/98	Lumber.
34,702	United Design Corp (Comp)	Wewoka, OK	06/15/98	Giftware.
34,703	Eagle Moulding (Wkrs)	Dorris, CA	05/26/98	Wood Mouldings, Baseboards, Etc.
34,704	Bennett Uniform Mfg (Comp)	Greensboro, NC	06/19/98	Uniforms.
34,705	Stanly Knitting Mills (Comp)	Mountain City, TN	06/18/98	Sport Caps.
34,706	Tarantola Trucking Co (Comp)	Flemington, NJ	06/09/98	Trucking Service for Lipton Co.
34,707	Bindicator Co (Wkrs)	Port Huron, MI	06/10/98	Level Control Units.
34,708	Sanyo E and E Corp (Comp)	San Diego, CA	06/16/98	Refrigerators and Freezers.
34,709	Gilbert and Bennett Mfg. (USWA)	Blue Island, IL	06/16/98	Light Gauge Wire Fencing & Fence Post.
34,710	Nemanco, Inc (Wrks)	DeKalb, MS	06/18/98	Jeans and Slacks.
34,711	Kellermann Logging Co (Wrks)	Joseph, OR	06/17/98	Finished Logs.
34,712	American Meter Co (IUE)	Erie, PA	06/19/98	Natural Gas Meters.
34,713	NCC Industries, Inc (UNITE)	New York, NY	06/18/98	Bras.

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[FR Doc. 98–18976 Filed 7–15–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–02409]

JPM Company (Winnsboro, SC); Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on May 20, 1998, in response to a petition submitted on that date and filed on behalf of workers of the JPM Company, Winnsboro, South Carolina.

The petitioner requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C., this 2nd day of July 1998.

Linda G. Poole,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 98–18979 Filed 7–15–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–02406]

Koehler Manufacturing Company, Marlborough, MA; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on May 20, 1998 in response to a petition filed on behalf of workers at Koehler Manufacturing Company, Marlborough, Massachusetts.

In a letter dated June 25, 1998, the petitioner requested that the petition for NAFTA–TAA be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

A trade adjustment assistance investigation (TA–W–34,596) is currently underway to determine if workers are eligible to apply for benefits under the Trade Act of 1974. The investigation was instituted on June 1, 1998. A final determination should be made within 60 days of the institution date.

Signed at Washington, DC, this 2nd day of July 1998.

Linda G. Poole,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 98–18977 Filed 7–15–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

National Advisory Committee on Occupational Safety and Health; Notice of Meeting

Notice is hereby given of the date and location of the next meeting of the National Advisory Committee on Occupational Safety and Health (NACOSH), establish under section 7(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) to advise the Secretary of Labor and the Secretary of Health and Human Services on matters relating to the administration of the Act. NACOSH will hold a meeting on August 5 and 6, 1998 in Room N5437 A–D of the Department of Labor Building located at 200 Constitution Avenue NW, Washington, D.C. The meeting is open to the public and will begin at 1:00 p.m. lasting until approximately 4:45 p.m. the first day, August 5. On August 6, the meeting will begin at 8:30 a.m. and last until approximately 4:00 p.m.

Agenda items will include: a brief overview of current activities in the Occupational Safety and Health Administration (OSHA) and the National Institute for Occupational Safety and Health (NIOSH), a discussion of the standards development process, a discussion of targeting and performance measurement systems, and a review of the 11(c) task force report. Other subjects to be discussed include: needlestick injuries, privitization of some DOE facilities, a literature search related to incentive programs, as well as reports from workgroups.

Written data, views or comments for consideration by the committee may be submitted, preferably with 20 copies, to Joanne Goodell at the address provided below. Any such submissions received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting. Because of the need to cover a wide variety of subjects in a short period of time, there is usually insufficient time on the agenda for members of the public to address the committee orally. However, any such requests will be considered by the Chair who will determine whether or not time permits. Any request to make an oral presentation should state the amount of time desired, the capacity in which the person would appear, and a brief outline of the content of the presentation. Individuals with disabilities who need special accommodations should contact Theresa Barry (phone: 202–219–8615, extension 106; FAX: 202–219–5986) one week before the meeting.

An official record of the meeting will be available for public inspection in the OSHA Technical Data Center (TDC) located in Room N2625 of the Department of Labor Building (202–219–7500). For additional information contact: Joanne Goodell, Occupational Safety and Health Administration (OSHA); Room N–3641, 200 Constitution Avenue NW, Washington, D.C., 20210 (phone: 202–219–8021, extension 107; FAX: 202–219–4383; e-mail joanne.goodell@osha-no.osha.gov).

Signed at Washington, D.C., this 10th day of July, 1998.

Charles N. Jeffress,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 98–18983 Filed 7–15–98; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 98–096]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Prospective Patent License.

SUMMARY: NASA hereby gives notice that Thermo Fibergen, Inc., of Bedford, Massachusetts, has applied for an exclusive license to practice the invention disclosed in U.S. Patent No. 5,772,912, entitled "Anti-Icing Fluid or Deicing Fluid," which is assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to NASA Ames Research Center.

DATES: Responses to this notice must be received by September 14, 1998.

FOR FURTHER INFORMATION CONTACT: Kathleen Dal Bon, Patent Counsel, Ames Research Center, Mail Stop 202A–3, Moffett Field, CA 94035–1000, telephone (650) 604–5104.

Dated: July 8, 1998.

Edward A. Frankle,

General Counsel.

[FR Doc. 98–19019 Filed 7–15–98; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Submission for OMB Review; Comment Request

July 9, 1998.

The National Endowment for the Arts, on behalf of the Federal Council on the Arts and the Humanities, has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). Copies of this ICR, with applicable supporting documentation, may be obtained by calling the National Endowment for the Arts' Indemnity Administrator, Alice Whelihan (202/682–5574).

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the National Endowment for the Arts, Office of Management and Budget, Room 10235, Washington, D.C. 20503 (202/395–7316), within thirty days of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;

—Enhance the quality, utility and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Agency: National Endowment for the Arts.

Title: Application for Indemnification.

OMB Number: 3135–0094.

Frequency: renewed every four years.

Affected Public: Non-profit, tax exempt organizations, individuals and governments.

Number of Respondents: 40 per year.

Estimated Time per Respondent: 45 hours.

Total Burden Hours: 1800.

Total Annualized Capital/Startup Costs: 0.

Total Annual Costs (Operating/Maintaining Systems or Purchasing Services): $75,000.

Description: This application form is used by non-profit, tax-exempt organizations (primarily museums), individuals and governmental units to apply to the Federal Council on the Arts and the Humanities (through the National Endowment for the Arts) for indemnification of eligible works of art and artifacts, borrowed from abroad for exhibition in the United States, or sent from the United States for exhibition abroad. The indemnity agreement is backed by the full faith and credit of the United States. In the event of loss or damage to an indemnified object, the Federal Council certifies the validity of the claim and requests payment from Congress. 20 U.S.C. 973 *et seq.* requires such an application and specifies information which must be supplied. This statutory requirement is implemented by regulation at 45 CFR 1160.4.

Murray Welsh,

Director, Administrative Services.

[FR Doc. 98–18970 Filed 7–15–98; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Combined Arts Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Combined Arts Panel, Dance Section (Creation & Presentation category) to the National Council on the Arts will be held on August 4–7, 1998. The panel will meet from 9:00 a.m. to 6:00 p.m. on August 4, 5, and 6, and from 9:30 a.m. to 4:00 p.m. on August 7, in Room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC, 20506. A portion of this meeting, from 9:30 a.m. to 11:00 a.m. on August 7, will be open to the public for a policy discussion on field issues and needs, Leadership Initiatives, Millennium projects, and guidelines.

The remaining portions of this meeting, from 9:00 a.m. to 6:00 p.m. on August 4, 5, and 6, and from 10:30 a.m. to 4:00 p.m. on August 7, are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of May 14, 1998, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and, if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC, 20506, or call 202/682–5691.

Dated: July 8, 1998.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 98–18896 Filed 7–15–98; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Combined Arts Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Combined Arts Panel, Theater/Musical Theater (B) Section (Creation & Presentation category) to the National Council on the Arts will be held on August 10–14, 1998. The panel will meet from 9:30 a.m. to 6:30 p.m. on

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August 10, 11, and 12, from 10:00 a.m. to 6:00 p.m. on August 13, and from 9:30 a.m. to 5:30 p.m. on August 14, in Room 714 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506. A portion of this meeting, from 10:00 a.m. to 12:00 p.m. on August 13, will be open to the public for a policy discussion on field issues and needs, Leadership initiatives, Millennium projects, and guidelines.

The remaining portions of this meeting, from 9:30 a.m. to 6:30 p.m. on August 10, 11, and 12, from 12:00 p.m. to 6:00 p.m. on August 13, and from 9:30 a.m. to 5:30 p.m. on August 14, are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman on May 14, 1998, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and, if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5691.

Dated: July 8, 1998.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 98–18897 Filed 7–15–98; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Bioengineering and Environmental Systems (1189); Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Bioengineering & Environmental Systems.

Date and Time: July 30, 1998, 8:00 a.m. to 5:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Rooms 320 & 330, Arlington, VA 22230.

Contact Person: Dr. A. Fred Thompson, Program Director, Environmental Technology Program, Division of Bioengineering & Environmental Systems, Room 565, NSF, 4201 Wilson Blvd., Arlington, VA 22230 703/306–1318.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Industrial Ecology proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government Sunshine Act.

Dated: July 10, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–18928 Filed 7–15–98; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. Type of submission, new, revision, or extension: Revision.

2. The title of the information collection: 10 CFR Part 39—Licenses and Radiation Safety Requirements for Well Logging.

3. How often the collection is required: Applications for new licenses and amendments may be submitted at any time. Applications for renewal are submitted every 10 years. Reports are submitted as events occur.

4. Who will be required or asked to report: Applicants for and holders of specific licenses authorizing the use of licensed radioactive material in well logging.

5. The number of annual responses: 518 NRC licensees and 1,036 Agreement State licensees.

6. The number of annual respondents: 51 NRC licensees and 102 Agreement State licensees.

7. The number of hours needed annually to complete the requirement or request: Approximately 3.4 hours annually per respondent for applications and reports, plus approximately 232 hours annually per recordkeeper. The industry total burden is 11,094 hours annually for NRC licensees and 24,004 hours annually for Agreement State licensees.

8. An indication of whether Section 3507(d), Pub. L. 104–13 applies: Not applicable.

9. Abstract: NRC regulations in 10 CFR Part 39 establish radiation safety requirements for the use of radioactive material in well logging operations. The information in the applications, reports and records is used by the NRC staff to ensure that the health and safety of the public is protected and that licensee possession and use of source and byproduct material is in compliance with license and regulatory requirements.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (http://www.nrc.gov) under the FedWorld collection link on the home page tool bar. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer by August 17, 1998.

Erik Godwin, Office of Information and Regulatory Affairs (3150–0130), NEOB–10202, Office of Management and Budget, Washington, DC 20503

Comments can also be submitted by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 8th day of July, 1998.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–18959 Filed 7–15–98; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–269, 50–270, and 50–287]

Duke Energy Corporation; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR–38, DPR–47, and DPR–55, issued to Duke Energy Corporation (the licensee), for operation of the Oconee Nuclear Station, Units 1, 2, and 3, respectively, located in Seneca, South Carolina.

If approved, the proposed amendments would allow temporary noncompliance with the Penetration Room Ventilation System air flow surveillance requirements of Technical Specification (TS) 4.5.4.1.b.1 until modifications can be completed to support testing in accordance with ANSI Standard N510–1975, as required by the TSs. These modifications are scheduled to be completed on all three units by August 30, 1998.

Oconee TS 4.5.4.1.b.1 requires that every 18 months the Penetration Room Ventilation System fans be demonstrated to operate at design flow (+/-10 percent) when tested in accordance with ANSI Standard N510–1975. ANSI Standard N510–1975 requires that a pitot tube velocity-traverse method be used in accordance with Section 9 of the American Conference of Government Industrial Hygienists Industrial Ventilation requirements. The flow measurement method that has been used since original construction uses installed orifice plates to measure the air flow.

However, during a Safety System Engineering Inspection at Oconee for the Control Room Ventilation System (CRVS) and Penetration Room Ventilation System (PRVS), the NRC identified a violation that indicated that the PRVS fans were not tested in accordance with the TSs and ANSI Standard N510–1975. This violation was included in Inspection Report Nos. 50–269/98–03, 50–270/98–03, and 50–287/09–03 dated May 4, 1998. By letter dated June 4, 1998, the licensee denied the violation based on a belief that the use of the orifice plates met the requirements of the TSs and the ANSI standard. As part of the review of this issue, the licensee conducted flow measurement tests using a pitot tube array and attempted (unsuccessfully) to locate calibration data for the orifices. The licensee was unable to develop an alternate method to measure flow that was reliable.

By letter dated July 6, 1998, the NRC informed the licensee that its denial of the violation was rejected. Consequently, the licensee entered TS 3.0, which required that all three units be in the hot shutdown condition within 12 hours, and requested that a Notice of Enforcement Discretion (NOED) be granted. The NOED was issued on July 8, 1998, and will be effective until the proposed amendments that were submitted on July 8, 1998, are processed. Since the proposed amendments are designed to complete the review process and implement the TS changes, pursuant to the NRC's policy regarding exercising discretion for an operating facility set out in Section VII.c of the "General Statement of Policy and Procedures for NRC Enforcement Actions" (Enforcement Policy), NUREG–1600, and be effective for the period until the issuance of the related TS amendments, these circumstances require that the amendments be processed under exigent circumstances.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

[This proposed change has been evaluated against the standards in 10 CFR 50.92 and has been determined to involve no significant hazards, in that operation of the facility in accordance with the proposed amendments would not:]

1. Involve a significant increase in the probability or consequences of an accident previously evaluated:

This proposed change does not increase the probability of an accident evaluated in the SAR [Safety Analysis Report] because:

This evaluation addresses the potential impact of revising Technical Specification 4.5.4.1.b.1 to include a note to allow a temporary noncompliance with this surveillance requirement until August 30, 1998, to complete the necessary modifications to enable flow testing in accordance with ANSI N510–1975.

As described in the technical justification (Attachment 3 [of the July 8, 1998, submittal]), the use of orifice plates in the Oconee Units 1, 2, and 3 Penetration Room Ventilation Systems (PRVSs) to measure the flow from the PRVS fans, in lieu of ANSI N510–1975 requirements, does not increase the probability of an accident evaluated in the SAR because this condition is not an accident initiator. There is no physical change to any plant structures, systems, or components (SSCs) or operating procedures. Neither electrical power systems, nor important to safety mechanical SSCs will be adversely affected. The PRVS has been evaluated as operable for normal and accident conditions. There are no shutdown margin, reactivity management, or fuel integrity concerns. There is no increase in accident initiation likelihood, therefore analyzed accident scenarios are not impacted.

This proposed change does not increase the probability of a malfunction of equipment important to safety evaluated in the SAR because:

As described in the technical justification, the use of orifice plates which are currently used in Oconee Units 1, 2, and 3 to measure the flow from the PRVS fans, in lieu of ANSI N510–1975 requirements, does not increase the probability of a malfunction of equipment important to safety. This activity does not physically change or modify any plant system, structure, or component. The PRVS is QA [quality assurance] condition 1 (QA–1) and is required to filter reactor building leakage which enters the East and West Penetration Rooms. This activity does not change any test procedures. Nothing is being done to inhibit the integrity or function of the PRVS. No valve manipulations, electrical alignments, or system configurations are required.

This change does not increase the consequences of an accident evaluated in the SAR because:

This activity will not adversely affect the ability to mitigate any SAR described accidents. The PRVS flow is within the system design limits as measured by the orifice plates. In addition, Duke [Duke Energy Corporation] has performed bounding analyses which demonstrate that the carbon filter efficiency is still within the Technical Specification limits at higher flow rates. Therefore, Oconee Units 1, 2, and 3 will meet system design requirements for the PRVS. There is no adverse impact on containment integrity, radiological release pathways, fuel

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design, filtration systems, main steam relief valve setpoints, or radwaste systems.

This change does not increase the consequences of a malfunction of equipment important to safety evaluated in the SAR because:

No safety related or important to safety equipment necessary to place or maintain the plant in safe shutdown condition will be impacted by allowing a temporary noncompliance with this surveillance requirement until August 30, 1998, to complete flow testing in accordance with ANSI N510–1975. As described in the technical justification, the use of orifice plates which are currently used in Oconee Units 1, 2, and 3 to measure the flow from the PRVS fans, in lieu of ANSI N510-1975 requirements, does not increase the consequences of a malfunction of equipment important to safety. The PRVS flow is within the system design limits as measured by the orifice plates. In addition, Duke has performed bounding analyses which demonstrate that the carbon filter efficiency is still within the Technical Specification limits at higher flow rates. Therefore, Oconee Units 1, 2, and 3 will meet system design requirements for the PRVS. There is no adverse impact on containment integrity, radiological release pathways, fuel design, filtration systems, main steam relief valve setpoints, or radwaste systems.

(2) Create the possibility of a new or different kind of accident from any kind of accident previously evaluated:

This change does not create the possibility for an accident of a different type than any evaluated in the SAR because:

There is no increased risk of unit trip, or challenge to the Reactor Protection System (RPS) or other safety systems. There is no physical effect on the plant, i.e. none on Reactor Coolant System (RCS) temperature, boron concentration, control rod manipulations, core configuration changes, and no impact on nuclear instrumentation. There is no increased risk of a reactivity excursion. No new failure modes or credible accident scenarios are postulated from this activity.

This change does not create the possibility for a malfunction of a different type than any evaluated in the SAR because:

There is no physical change to the plant SSCs or operating procedures. This change does not involve any plant changes, electrical lineups, or valve manipulations. Analyses have been performed which demonstrate that the PRVS can perform its intended safety function relying on the orifice plates to measure flow. No new equipment or components were installed. No credible new failures are postulated.

(3) Involve a significant reduction in a margin of safety.

This change does not involve a significant reduction in the margin of safety because:

No function of any importance to safety SSC will be adversely affected or degraded as a result of continued operation. No safety parameters, setpoints, or design limits are changed. There is no adverse impact to the nuclear fuel, cladding, RCS, or required containment systems.

Duke has concluded, based on the above, that there are no significant hazards considerations involved in this amendment request.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendments until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendments before the expiration of the 14-day notice period, provided that its final determination is that the amendments involve no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By August 17, 1998, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene.

Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendments are issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Mr. J. Michael McGarry, III, Winston and Strawn, 1200 17th Street, NW., Washington, DC 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated July 8, 1998, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room, located at the Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina.

Dated at Rockville, Maryland, this 13th day of July 1998.

For the Nuclear Regulatory Commission.

David E. LaBarge,

Senior Project Manager Project Directorate II–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98–18960 Filed 7–15–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Knowledge and Abilities Catalog Revision; Notice of Availability

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

SUMMARY: NUREG–1122, "Knowledge and Abilities Catalog for Nuclear Power Plant Operators: Pressurized Water Reactors," and NUREG–1123, "Knowledge and Abilities Catalog for Nuclear Power Plant Operators: Boiling Water Reactors," were developed in 1985 to assist operator licensing examiners in the development of content valid written and operating examinations to administer to reactor plant operators and senior operators. The Knowledge and Abilities (K/A) catalogs were revised in 1995 to resolve inconsistencies between the two catalogs and inconsistencies in content within the K/A catalogs. Revision 1 also incorporated evolutionary changes in the operator licensing program and revised definition of operator's tasks within facility licensee's organizations.

The current Revision 2 incorporates corrections to the Revision 1 catalogs that were identified during examination development associated with a proposed revision of 10 CFR 55 and implementation of NUREG–1021, Interim Rev. 8, "Operator Licensing Examination Standards for Power Reactors." Revision 2 of the respective K/A catalogs has been prepared for use in conjunction with the implementation of NUREG–1021, final Revision 8, but may be used immediately.

Copies of NUREG–1122, Revision 2 and NUREG–1123, Revision 2 may be purchased from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013–7082. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. A copy is also available for inspection and/or copying for a fee in the NRC Public Document Room. These documents are also available at the NRC Web Site, http://www.nrc.gov. See the links under "Technical Reports in the NUREG Series" on the "Reference Library" page.

FOR FURTHER INFORMATION CONTACT: Frank Collins, Mail Stop O9–D24, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, telephone (301) 415–3173.

Dated at Rockville, Maryland, this 9th day of July, 1998.

For the Nuclear Regulatory Commission.

Richard J. Eckenrode,

Acting Chief, Operator Licensing and Human Performance Branch, Division of Reactor Controls and Human Factors, Office of Nuclear Reactor Regulation.

[FR Doc. 98–18958 Filed 7–15–98; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

Visits to Facilities

AGENCY: Postal Rate Commission.

ACTION: Notice of cancellation of visit.

SUMMARY: A Commission visit to the Pitney Bowes facility in Stamford, CT has been canceled. Notice of the visit was announced at 63 FR 32209, June 23, 1998.

DATES: The visit had been scheduled for Monday, July 20, 1998.

FOR FURTHER INFORMATION CONTACT:
Stephen L. Sharfman, General Counsel, Postal Rate Commission, Suite 300, 1333 H Street, NW, Washington, DC 20268–0001, (202) 789–6720.

Dated: July 13, 1998.

Cyril J. Pittack,

Acting Secretary.

[FR Doc. 98–19015 Filed 7–15–98; 8:45 am]

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RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Employer Service and Compensation Reports.

(2) *Form(s) submitted:* UI–41, UI–41a.

(3) *OMB Number:* 3220–0070.

(4) *Expiration date of current OMB clearance:* 9/30/1998.

(5) *Type of request:* Revision of a currently approved collection.

(6) *Respondents:* Business or other for profit.

(7) *Estimated annual number of respondents:* 30.

(8) *Total annual responses:* 4,500.

(9) *Total annual reporting hours:* 600.

(10) *Collection description:* The reports obtain the employee's service and compensation for a period subsequent to those already on file and the employee's base year compensation. The information is used to determine the entitlement to and the amount of benefits payable.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and the OMB reviewer, Laura Oliven (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 98–18898 Filed 7–15–98; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Existing collection in use without an OMB Number: Rule 8c–1; SEC File No. 270–455; OMB Control No. 3235—new

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for Approval.

Rule 8c–1 generally prohibits a broker-dealer from using its customers' securities as collateral to finance its own trading, speculating, or underwriting transactions. More specifically, the rule states three main principles: first, that a broker-dealer is prohibited from commingling the securities of different customers as collateral for a loan without the consent of each customer; second, that a broker-dealer cannot commingle customers' securities with its own securities under the same pledge; and third, that a broker-dealer can only pledge its customers' securities to the extent that customers are in debt to the broker-dealer. *See* Securities Exchange Act Release No. 2690 (November 15, 1940); Securities Exchange Act Release No. 9428 (December 29, 1971). Pursuant to Rule 8c–1, respondents must collect information necessary to prevent the rehypothecation of customer accounts in contravention of the rule, issue and retain copies of notices to the pledgee of hypothecation of customer accounts in accordance with the rule, and collect written consents from customers in accordance with the rule. The information is necessary to ensure compliance with the rule, and to advise customers of the rule's protections.

There are approximately 258 respondents per year (*i.e.*, broker-dealers that carry or clear customer accounts that also have bank loans) that require an aggregate total of 5,805 hours to comply with the rule. Each of these approximately 258 registered broker-dealers makes an estimated 45 annual responses, for an aggregate total of 11,610 responses per year. Each response takes approximately 0.5 hours to complete. Thus, the total compliance burden per year is 5,805 burden hours. The approximate cost per hour is $20, resulting in a total cost of compliance for the respondents of $116,100 (5,805 hours @ $20 per hour).

Written comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, N.W., Washington, DC 20549.

Dated: July 9, 1998.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18904 Filed 7–15–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Extension: Rule 15Bc3–1; Form MSDW; SEC File No. 270–98; OMB Control No. 3235–0087

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget ("OMB") a request for approval of extension on the following rule: Rule 15Bc3–1.

Rule 15Bc3–1 under the Securities Exchange Act of 1934 provides that a notice of withdrawal from registration with the Commission as a bank municipal securities dealer must be filed on Form MSDW.

Approximately 20 respondents will utilize this notice annually, with a total burden of 10 hours. The average number of hours necessary to comply with the requirements of Rule 15Bc3–1 is .5 hours. The average cost per hour is approximately $40. Therefore, the total cost of compliance for the respondents is $400.

Providing the information on the notice is mandatory in order to withdraw from registration with the Commission as a bank municipal securities dealer. The information contained in the notice will not be confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

General comments regarding the estimated burden hours should be directed to the following persons: (i) Deck Officer for the Securities and Exchange Commission, Officer of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: July 10, 1998.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18908 Filed 7–15–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23310; 812–7860]

McLaughlin, Piven, Vogel Securities, Inc.; Notice of Application

July 10, 1998.

AGENCY: Securities and Exchange Commission ("SEC" or the "Commission").

ACTION: Notice of application for an exemption under the Investment Company Act of 1940 (the "Act").

SUMMARY OF APPLICATION: Applicant requests a conditional order under section 9(c) exempting applicant from the disqualification provisions of section 9(a) solely with respect to a securities related injunction entered against one of applicant's affiliates. The conditional order would permit applicant to act as sponsor, depositor, and principal underwriter for one or more unit investment trusts.

FILING DATES: The application was filed on January 30, 1992, and amendments to the application were filed on March 5, 1992, August 6, 1992, October 6, 1992, March 4, 1997, and January 20, 1998.

HEARING OF NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC 5:30 p.m. on August 4, 1998, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writers's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, 30 Wall Street, New York, New York 10005.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Attorney Advisor, at (202) 942–0574, or Nadya B. Roytblat, Assistant Director, (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee by writing to SEC's Public Reference Branch at 450 Fifth Street, N.W., Washington, D.C. 20549, tel. (202) 942–8090.

Applicant's Representatives

1. Applicant is a New York corporation engaged in the underwriting and securities brokerage business. Applicant is a member of the National Association of Securities Dealers, Inc. and is registered with the Commission as a broker-dealer.

2. Subject to receiving the requested exemption, applicant proposes to serve as sponsor, principal underwriter, and depositor for the Traditional Value Guaranteed Income Trust, Series 1, and subsequent series (the "Trust"), a unit investment trust to be registered under the Act. Units of the Trust are to be registered for sale to the public under the Securities Act of 1933 (the "1933 Act"). Applicant also may serve as sponsor, principal underwriter, and depositor for future series of the Trust and for other unit investment trusts that it may organize in the future.

3. James J. McLaughlin ("McLaughlin") is the Senior Vice-President and a director of applicant, and owns 52.32% of applicant's shares. In 1973, the Commission brought an action alleging that McLaughlin, an assistant sales vice president of Paragon Securities Incorporated of New York ("Paragon"), acting in concert with others, violated section 17(a) of the 1933 Act and sections 10(b), 15(a), 15(b), and 15(c) of the Securities Exchange Act of 1934 (the "1934 Act"), and various rules thereunder in connection with Paragon's activities as a broker-dealer. *Securities and Exchange Commission* v. *Paragon Securities Co.*, Civil Action No. 1120 (D.C. N.J.). On October 3, 1974, without admitting or denying wrongdoing, McLaughlin consented to the entry of a permanent injunction (the "Injunction") enjoining him from conduct in violation of such provisions. In addition, McLaughlin agreed to disgorge $8,450. Applicant represents that since 1974, McLaughlin has not been the subject of any proceedings, or allegations of violations of state or federal securities laws other than those discussed in the application.[1]

4. Applicant is not currently in violation of the provisions of section 9(a), as it does not serve as an investment adviser or depositor of any registered investment company, or principal underwriter for any registered open-end company, registered unit investment trust, or registered face-amount certificate company. Because McLaughlin has been permanently enjoined from engaging in certain conduct in connection with his activities at paragon, however, applicant is prohibited under section 9(a)(3) of the Act from acting as an investment adviser or depositor of any registered investment company, or principal underwriter for any registered open-end company, registered unit investment trust, or registered face-amount certificate company. Accordingly, applicant seeks the requested relief solely with respect to the Injunction so that it may engage in the proposed activities.

Applicant's Legal Analysis

1. Section 9(a)(2) of the Act, in pertinent part, prohibits any person who have been enjoined from engaging in or continuing any conduct or practice in connection with the purchase or sale of

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[1] Although certain actions have been brought against applicant and McLaughlin, these actions do not trigger the disqualification provisions of section 9(a) of the Act. In December 1992, applicant and McLaughlin, without admission of liability or wrongdoing, entered into a settlement agreement in the amount of $250,000. The complaint arose out of plaintiff's purchase of bonds issued by the Washington Public Power Supply System and alleged violations by the defendants of section 10(b) of the 1934 Act and rule 10b–5 thereunder, as well as common law fraud and breach of contract. In addition, thirteen separate orders and sanctions have been imposed against applicant by state regulatory agencies during the period from 1982 to the present. The violations included acting as a broker-dealer in states where applicant was unregistered; the sale of securities by unlicensed employees of applicant; and the failure to file required documents. In addition, in November 1995, the New York Stock Exchange affirmed a hearing panel decision in which Applicant was fined $15,000 for including in its registered representative employment agreements a provision which waived arbitration. In December 1996, the SEC affirmed the hearing panel's decision.

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a security from acting as an "employee, officer, director, member of an advisory board, investment adviser, or depositor of any registered investment company, or principal underwriter for any registered open-end company, registered unit investment trust, or registered face amount certificate company." A company with an employee or other affiliated person ineligible to serve in any of these capacities under section 9(a)(2) is similarly ineligible under section 9(a)(3).

2. Section 9(c) provides that the Commission shall grant an application for an exemption from the disqualification provisions of section 9(a), either unconditionally or on an appropriate temporary or other conditional basis, if it is established that these provisions, as applied to the applicant, are unduly or disproportionately severe or that the conduct of the applicant has been such as not to make it against the public interest or protection of investors to grant such application.

3. As a result of the Injunction, applicant is subject to the disqualification provisions of section 9(a). Applicant asserts that the application of such provisions to applicant is unduly and disproportionately severe. Applicant notes that almost twenty years have passed since the activities which gave rise to the Injunction. Applicant states that since the entry of the Injunction in 1974, McLaughlin has not been enjoined by any court, or sanctioned by the Commission, any self-regulatory organization, or any state securities commission. Applicant also states that to the best of its knowledge, there have been no customer complaints against McLaughlin, nor any securities related administrative or legal proceedings involving McLaughlin, except as described in footnote 1.

4. Applicant further asserts that McLaughlin's conduct has been such as to not make it against the public interest or protection of investors to grant the requested relief. The conduct that give rise to the Injunction was not in any way related to investment company activities.

5. Applicant states that it will undertake every effort to ensure that McLaughlin does not and will not serve in any capacity related to applicant's role as depositor for any registered investment company or as principal underwriter for any registered unit investment trust. Applicant states that McLaughlin's role as an officer and director of applicant will not involve him in investment company activities. Applicant states that McLaughlin is semi-retired and is no longer involved in the daily management or operation of applicant. Moreover, applicant has consented to the conditions set forth below, which are intended to ensure that McLaughlin will not serve in any capacity related to applicant's role as sponsor, depositor, and principal underwriter for a unit investment trust.

6. In addition, applicant retained outside counsel to conduct an independent review of compliance by applicant with the state and federal securities laws affecting applicant's business as a broker-dealer and of the adequacy of the procedures applicant has in place to provide reasonable assurance of compliance. Based upon its review, counsel made a number of recommendations with respect to applicant's compliance and supervisory procedures, including, among other things, the revision of applicant's supervisory manual and education of applicant's personnel. In a letter dated August 4, 1992, counsel certified that applicant's revised compliance procedures and practices, if adhered to, should provide reasonable assurance that applicant will comply with the provisions of the 1934 Act, the laws of the states relating to broker-dealer and broker-dealer representative registration, and the provisions of the Act in connection with applicant's proposed role as sponsor, principal underwriter, and depositor for unit investment trusts.[2]

Applicant's Conditions

Applicant agrees that any order granted by the Commission pursuant to the application will be subject to the conditions set forth below:

1. McLaughlin will not serve in any capacity directly related to providing investment advice to, or acting as depositor for, any registered investment company, or acting as principal underwriter for any registered open-end company, registered unit investment trust, or registered face amount certificate company without making further application to the Commission. McLaughlin will not sell interests in investment companies sponsored by applicant, or for which applicant serves as principal underwriter or depositor.

2. Applicant's legal department or its counsel shall develop, and applicant shall adopt, written procedures designed to ensure that McLaughlin does not and will not serve in any capacity directly related to providing investment advice to, or acting as depositor for, any registered investment company, or acting as principal underwriter for any registered open-end company, registered unit investment trust, or registered face amount certificate company. Such procedures shall include, but shall not be limited to, the following: (a) applicant shall notify in writing its Chairman of the Board, its owners and executive officers, its Chief Compliance Officer, and all employees working under the direct supervision of McLaughlin (collectively, the "Affected Personnel") immediately upon the granting of any order issued pursuant to the application, with respect to the responsibilities of and restrictions on McLaughlin. Applicant shall notify in writing any new member of the Affected Personnel upon his or her employment by or affiliation with applicant, with respect to the responsibilities of and restrictions on McLaughlin. Receipt of notification will be acknowledged in writing by each recipient and returned to applicant; and (b) applicant will obtain, on an annual basis, written certification from each member of the Affected Personnel that he or she has not discussed any matters relating to the Trust with McLaughlin.

3. McLaughlin will not attend any future meetings of applicant's board of directors where the operations of any investment company for which applicant acts as depositor or principal underwriter, including the Trust, are on the agenda.

4. McLaughlin shall be excused from all meetings of applicant's board of directors where the operations of any investment company for which applicant acts as depositor or principal underwriter, including the Trust, are proposed to be discussed prior to any such discussion.

5. Applicant's general counsel or chief executive officer will certify on an annual basis that applicant and McLaughlin have complied with the procedures referred to above and the conditions set forth above.

6. The certificates, acknowledgements of notification, and procedures referred to in these conditions shall be maintained as part of the records of applicant and shall be available for inspection by the Commission staff.

7. Applicant's general counsel or its chief executive officer will certify on an annual basis that applicant has complied with the procedures and practices referred to in the Certification and that such procedures and practices continue to be sufficient to insure applicant's compliance with the state

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[2] The certification is attached as an exhibit to the amendment to the application filed on August 6, 1992. An additional certification is attached as an exhibit to the amendment to the application filed on January 20, 1998. The two certifications are referred to collectively as the "Certification."

and federal securities laws noted in the Certification.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18965 Filed 7–15–98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–26894]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

July 10, 1998.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by August 4, 1998, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of fact or law that are disputed. A person who so requests will be notified by any hearing, if ordered, and will receive a copy of any notice or order in the matter. After August 4, 1998, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

New Century Energies, Inc., et al. (70–9199)

New Century Energies, Inc. ("New Century"), a registered holding company, Public Service Company of Colorado, a wholly owned electric and gas subsidiary of New Century ("PSC Colorado"), and, NC Enterprises, Inc. ("NC Enterprises"), a wholly owned nonutility subsidiary of New Century, all located at 1225 17th Street, Denver, Colorado 80202–5533 ("Applicants"), have filed an application-declaration under sections 6(a), 7, 9(a), 10, and 12(f) of the Act and rules 43 and 54 under the Act.

Applicants seek authority to: (1) Acquire 50% of the equity securities of WYCO Development LLC ("WYCO"), a nonutility company formed for the purpose of facilitating the transactions described herein, for an amount not to exceed $26 million; (2) purchase, through WYCO, the Front Range and Powder River Lateral Expansion ("Powder River") pipeline projects from PSC Colorado and Wyoming Interstate Company, a non-associated company, respectively; and (3) lease the Front Range and Powder River pipelines back to PSC Colorado and Wyoming Interstate Company.

PSC Colorado provides electric and retail natural gas distribution service to the Denver and Front Range metropolitan areas. PSC Colorado is subject to regulation by the Colorado Public Utilities Commission ("Colorado PUC"). The Front Range Pipeline construction, sale and lease is subject to review and approval by the Colorado PUC. The Powder River lease is subject to review and approval by the Federal Energy Regulatory Commission.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18966 Filed 7–15–98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40189; File No. SR–AMEX–97–39]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the American Stock Exchange, Inc. Relating to Minimum Trading Increments (Rule 127)

July 10, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 22, 1997, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval to the proposed rule chage.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to amend Exchange Rule 127 to add Commentary .03 to permit members to trade on the Exchange in increments smaller than 1/16 in order to match bids and offers displayed in other markets for the purpose of preventing Intermarket Trading System ("ITS") trade-throughs. The text of the proposed rule change is available at the Office of the Secretary, the Amex and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspect of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Amex Rule 127 currently provides that the minimum fractional change for transactions on the Exchange is 1/16 for securities selling above 1/4, and 1/32 for securities selling below 1/4. In May 1997, the Exchange extended trading in sixteenths to all Amex equity securities selling at $10 or higher, having previously only traded securities priced under $10 in sixteenths. The Exchange took this step based on its belief that trading in increments of 1/16 promotes investor protection by enhancing price improvement opportunities on the Exchange.

Since Amex's initiative and subsequent initiatives by other markets to implement sixteenths trading, certain third market makers have disseminated quotations in a limited number of listed securities in fractions smaller than a sixteenth. In addition, ITS has been modified to permit commitments to trade to be sent through ITS in fractions as small as 1/64. This ITS modification permits Amex members to send orders

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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via ITS to a market displaying a quotation in 1/32 or 1/64.

The Exchange believes it is important to provide its members with flexibility to effect transactions on the Exchange at a smaller increment than 1/16 for the purpose of matching a displayed bid or offer in another market at such smaller increment (i.e., 1/32 or 1/64) for the purpose of preventing ITS trade-thoughs.[3] For example, if the best bid on the Amex is 8 and a bid of 8 1/32 is displayed through ITS in another market center, the Amex specialist or floor broker may execute a market or marketable limit order at 8 1/32 in order to match the other market's bid. Amex will retain its existing requirement that limit orders can only be entered increments no smaller than 1/16.[4]

2. Statutory Basis

The basis under the Act for the proposed rule change is the requirement under Section 6(b)(5)[5] that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[6] Specifically, the Commission believes the proposal is consistent with the Section 6(b)(5)[7] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public.[8]

Recently, there has been a movement within the industry to reduce the minimum trading and quotation increments imposed by the various self-regulatory organizations ("SROs"). Last year, the Amex, Nasdaq Stock Market ("Nasdaq"), New York Stock Exchange ("NYSE") and Chicago Board Options Exchange ("CBOE") reduced their minimum increments.[9] Currently, exchange rules provide for trading of most equity securities in increments as small as 1/16 of a dollar.[10] Amex represents that several third market makers have begun quoting securities in increments smaller than those approved for trading on the primary markets. The proposed rule change will provide Amex with the limited flexibility it needs to address this development and remain competitive with these markets.

The size of the minimum trading increment for securities traded through the facilities of Nasdaq is determined by the technical limitations of the Nasdaq system. Currently, Nasdaq systems are capable of trading securities priced under $10 in increments as fine as 1/32 of one dollar. Securities priced over $10 may be traded in increments as fine as 1/16 of one dollar.[11] As a result, the Commission recognizes that Nasdaq third market makers may trade exchange listed securities priced at less than $10 in increments finer than sixteenths. Nasdaq has informed the Commission that Nasdaq third market makers are currently posting quotes for listed securities in increments finer than sixteenths.[12] The proposed amendment to Exchange Rule 127, will allow Amex traders to match prices disseminated by Nasdaq market makers that may better the Amex quote by an increment finer than the current 1/16 minimum increment. In addition, the Commission notes that the proposal will enable the Exchange to match prices disseminated by other exchanges in the event that another exchange were to reduce its minimum trading increment.[13] The proposal should assist Exchange members to fulfill their obligation to obtain the best price for their customers. Accordingly, the Commission believes that it is reasonable for the Exchange to allow trading in increments finer than sixteenths for the limited purpose of preventing an ITS trade-through.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. Approval of the proposal will provide Amex members with the ability to match a better bid or offer made available through ITS, thereby helping to prevent ITS trade-throughs and ensuring the best execution of Amex customer orders. The Commission notes that this proposal is similar to a proposal by the NYSE that was published for the full notice and comment period, no comments were made on that proposal.[14] Therefore, the Commission believes it is consistent with Section 6(b)(5) and Section 19(b)(2) of the Act to grant accelerated approval to the proposed rule change.[15]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Amex–97–39 and should be submitted by August 6, 1998.

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[3] *See* Amex Rule 236.

[4] *But see* Amex Rule 127, Commentary .01, which provides that Standard & Poor's Depositary Receipts® and MidCap SPDRs™ may trade on the Exchange in increments as small as 1/64 of one dollar.

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] In approving this rule change, the Commission has considered the proposed rules' impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[9] Securities Exchange Act Release No. 38571 (May 5, 1997), 62 FR 25682 (May 9, 1997) (approving an Amex proposal to reduce the minimum trading increment to 1/16 for certain Amex-listed equity securities); Securities Exchange Act Release No. 38678 (May 27, 1997), 62 FR 30363 (June 6, 1997) (approving a Nasdaq rule change to reduce the minimum quotation increment to 1/16 for certain Nasdaq-listed securities); Securities Exchange Act Release No. 38897 (Aug. 1, 1997), 62 FR 42847 (Aug. 8, 1997) (approving a NYSE rule change to reduce the minimum quotation increment to 1/16 for certain NYSE-listed securities) and Securities Exchange Act Release No. 39159 (Sept. 30, 1997), 62 FR 52365 (Oct. 9, 1997) (approving a CBOE rule change to reduce the minimum quotation increment to 1/16 for stocks).

[10] *Id.*

[11] The Commission notes that any change to the minimum increment for securities traded through the facilities of the Nasdaq system would be considered a change in an existing order-entry or trading system of an SRO. Accordingly, the NASD would be required to file a proposed rule change under Section 19(b)(3)(A) of the Act to change its minimum increment.

[12] Telephone conversation between Andrew S. Margolin, Senior Attorney, Nasdaq, Gene Lopez, Vice President, Trading and Market Services, Nasdaq and David Sieradzki, Attorney, Commission on July 8, 1998.

[13] To change its minimum increment, an exchange would be required to file a proposed rule change that would become immediately effective under Section 19(b)(3)(A) of the Act.

[14] *See* Securities Exchange Act Release No. 38897 (Aug. 1, 1997), 62 FR 42847 (Aug. 8, 1997).

[15] 15 U.S.C. 78f(b)(5) and 78s(b)(2).

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[16] that the proposed rule change (SR–Amex–97–39) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18962 Filed 7–15–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40186; File No. SR–CBOE–98–20]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. and Amendment No. 1 Thereto Relating to RAES Eligibility Requirements for OEX and DJX Options

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 18, 1998, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. On June 24, 1998, the CBOE filed an amendment to the proposal.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to add a new sub-paragraph to CBOE Rule 24.17, *RAES Eligibility in OEX and DJX*, that would allow a Market-Maker to participate on the Retail Automatic Execution System ("RAES") in both options on the Standard & Poor's 100 Index ("OEX") and options on the Dow Jones Industrial Average ("DJX") during the same calendar month by meeting the eligibility requirements for OEX alone, DJX alone, or eligibility requirements which consider the percentage of transactions and contracts a Market-Maker transacted in OEX and DJX combined. The text of the proposed rule change is available at the Office of the Secretary, the CBOE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, CBOE Rule 24.17(b)(v) sets forth four eligibility requirements that a Market-Maker must meet before he can participate in RAES in either OEX or DJX. One of these requirements is that the Market-Maker must execute at least seventy-five percent of his Market-Maker contracts for the preceding calendar month in the option class in which the Market-Maker is participating on RAES. Because of the high percentage requirement, a Market-Maker who qualifies to participate in RAES in either OEX or DJX would not be able to qualify to participate in RAES in the other class. In fact, the Exchange believes the seventy-five percent requirement is so high that it serves as a disincentive for a Market-Maker on one side of the common structure in which OEX and DJX are traded to move into the other side of the structure to trade the other option product for fear that the Market-Maker will no longer qualify for RAES in his primary trading area.

The Exchange believes, however, that a strength of the Market-Maker system is the ability of Market-Makers to move from one trading pit to another to provide liquidity and capital when market conditions warrant. Because the traders in OEX or DJX stand right next to each other in the same physical trading structure, they are in the best position to provide added liquidity and capital to the products by moving from one side of the trading structure to the other. Consequently, the Exchange determined to add new sub-paragraph (b)(vi) to Rule 24.17 to allow a Market-Maker to qualify for RAES in both OEX and DJX during the same calendar month (1) by meeting the individual requirements for OEX, (2) by meeting the individual requirements for DJX, or (3) by transacting seventy-five percent of his contracts for the month in both OEX and/or DJX combined and by transacting seventy-five percent of his contracts in OEX and DJX during the month in person. A Market-Maker can participate in RAES in both OEX and DJX during the same calendar month as long as he meets one of the sets of criteria above and as long as the two products continue to be traded at the same physical trading location. It should be noted that in the equity posts on the floor, a Market-Maker may participate in RAES in all classes traded at that post. Although OEX and DJX are technically traded at two separate trading posts, the Market-Makers for each product are separated by a movable railing within the same physical structure. A Market-Maker must be present in the particular trading crowd where the class is traded while he is participating in RAES for that class.

The Exchange proposes to implement this rule change at the beginning of the next calendar month after the rule proposal is approved by the Commission. Finally, the Exchange is proposing to delete current Interpretation .02 because it is no longer relevant now that December 1, 1997 has passed.

2. Statutory Basis

By eliminating a disincentive for Market-Makers, in the physical structure where OEX and DJX are traded, to move between trading pits to provide added liquidity and capital when market conditions warrant, the Exchange believes the proposed rule change is

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[16] 15 U.S.C. 78s(b)(2).

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Timothy H. Thompson, Director, Regulatory Affairs, Legal Department, CBOE, to Deborah Flynn, Attorney, Division of Market Regulation, Commission, dated June 19, 1998 ("Amendment No. 1"). In Amendment No. 1, the CBOE proposes to amend the proposed rule change to add cross-references to new paragraph (b)(vi) where the Rule only refers to paragraph (b)(v) presently. The proposed change will make clear to joint account participants, or the nominee of the member organization, that the requirements of paragraph (b)(v) need not be met in order to participate in the joint account, or in the firm's Retail Automatic Execution System account, if the requirements for paragraph (b)(vi) are met.

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consistent with Section 6 of the Act,[4] in general, and with section 6(b)(5),[5] in particular, because it is designed to promote just and equitable principles of trade and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–98–20 and should be submitted by August 6, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18905 Filed 7–15–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40187; File No. SR–CHX–98–13]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Stock Exchange, Inc. Amending the Exchange's Clearing the Post Policy for Cabinet Securities

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 10, 1998, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CHX. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend interpretation and policy .02 of CHX Rule 10 of Article XX and amend CHX Rule 11 of Article XX relating to clearing the post and to make permanent the policy contained in Article XX, Rule 11 regarding the ability of oral bids and offers to clear the cabinet post by phone. The text of the proposed rule change is as follows: Additions are italicized; deletions are [bracketed].

ARTICLE XX

Rule 10. Manner of Bidding and Offering.

No change in text.

* * * **Interpretations and Policies**

02. Clearing the Post.

Policy. All orders received by floor brokers or originated by market makers on the floor of the Exchange must effectively clear the post before the orders may be routed to another market, either via the ITS System or through the use of alternative means.

Floor brokers who receive an order on the floor have a fiduciary responsibility to seek a best price execution for such order. This responsibility includes clearing of the Exchange's post prior to routing an order to another market so that other buying and selling interest at the post can be checked for a potential execution that may be as good as or better than the execution available in another market.

Market makers are required to provide depth and liquidity to the Exchange market, among other things. Exchange Rules require that all market maker transactions constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market. In so doing, market makers must adhere to traditional agency/auction market principles on the floor. Transactions by Exchange market makers on other exchanges which fail to clear the Exchange post do not constitute such a course of dealings.

Notwithstanding the above, it is understood that on occasion a customer will insist on special handling for a particular order that would preclude it from clearing the post on the Exchange floor. For example, a customer might request that a specific order be given a primary market execution. These situations must be documented and reported to the Exchange. Customer directives for special handling of all orders in a particular stock or all stocks, however, will not be considered as exceptions to clearing the post policy.

All executions resulting from bids and offers reflected on Instinet terminals resident on the Exchange floor constitute "orders" which are "communicated" to the Exchange floor. Therefore, all orders resulting from interest reflected on Instinet terminals on the Exchange floor must be handled as any other order communicated to the floor. All such orders must be presented to the post during normal trading hours. All trades between Instinet and Exchange floor members are Exchange trades and must be executed on the Exchange.

Method of Clearing the Post. [Subject to Article XX, Rule 11 relating to cabinet securities,] [t]*T*he Exchange's clearing the post policy requires the floor broker or market maker to be physically present *on the Exchange floor and to be present* at the post. *So long as the floor broker or market maker is physically present on the Exchange floor, a floor broker's or market maker's bids and*

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[4] 15 U.S.C. 78f.

[5] 15 U.S.C. 78f(b)(5).

[6] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1) (1994).

[2] 17 CFR 240.19b–4 (1997).

offers may be made by clearing the post by phone provided that such bids and offers are audibly announced at the post through a speaker system maintained by the Exchange. A market maker, after requesting the specialist's market quote, must bid or offer the price and size of his intended interest at the post. A floor broker must clear the post by requesting a market quote from the specialist. If the specialist or any other member who has the post indicates an interest to trade at the price that was bid or offered by the market maker or the price of the floor broker's order (even though that order has not yet been bid or offered), then the trade may be consummated with the specialist (or whomever has the post) in accordance with existing Exchange priority, parity and precedence rules. If the specialist (or any other member who has the post) indicates interest to trade at that price but the member communicating the intended interest, including Instinet interest, determines not to consummate the trade with the specialist or such member, then, to preserve the Exchange's existing priority, parity and precedence rules, the trade may not be done with any other Exchange floor member. (See Article XXX, Rule 2). If the trade is consummated with the specialist or other member who has the post, the specialist (or any customer represented by the specialist) is not required to pay any fees to the broker or market maker in connection with the execution of the order, unless such fee is expressly authorized by an Exchange Rule. If the specialist does not indicate an interest to trade, then the trade may be consummated with another Exchange floor member on the Exchange floor with a resultant Exchange print.

Failure to clear the post may result in a "trade-through" or "trading ahead" of other floor interest. In addition, failure to properly clear the post may result in a violation of the Exchange's Just and Equitable Trade Principles Rule (Article VIII, Rule 7) and a market maker rule that requires all market maker transactions to constitute a course of dealing reasonably calculated to contribute to the maintenance of a fair and orderly market (Article XXXIV, Rule 1). Failure to properly clear the post may also subject the violator to a minor rule violation under the Exchange's Minor Rule Violation Plan.

Rule 11. Cabinet Securities

Stocks having no designated specialist unit of trading shall be assigned for dealings by use of cabinets and shall be dealt in at a location designated for that purpose.

The Exchange may also designate bonds which are to be dealt in by use of cabinets.

Bids and offers in securities dealt in by use of cabinets shall be written on cards, which shall be filed in the cabinets in the following sequence:

1. According to price, and
2. According to the time received at the cabinet.

Orders in such securities shall be filled according to the bids and offers filed in the cabinets, in the sequence indicated above, except that oral bids and offers in such securities may be made if not in conflict with bids and offers in the cabinets. *Oral bids and offers may be made by clearing the cabinet post by phone provided that such bids and offers are audibly announced at the cabinet post through a speaker system maintained by the Exchange.*

Every card placed in the cabinets shall bear a definite price and number of shares and no mark or identification shall be placed thereon to indicate it is other than a limited order at the price.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CHX included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined in the places specified in Item IV below. The CHX has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to make permanent the policy contained in Article XX, Rule 11 regarding the ability of oral bids and offers to clear the cabinet post by phone.[3] The proposed rule change will also amend Article XX, Rule 10 to expand this policy to bids and offers in all securities traded on the trading floor.

Under the proposed rule change, as long as the floor broker or market maker is physically present on the Exchange floor, a floor broker's or market maker's bids and offers in any security traded on the trading floor may be made by clearing the post by phone, provided they are audibly announced at the post through a speaker system maintained by the Exchange. The Exchange has not experienced any adverse effects from the implementation of this policy for cabinet issues, and believes that the differences obtained with the use of a speaker system in cabinet issues should be extended floor wide.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act[4] in that it is designed to prevent fraudulent and manipulative acts and practices and to perfect the mechanism of a free and open market.

(B) Self-Regulatory Organization's Statement on Burden of Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions

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[3] *See* Securities Exchange Act Release No. 39519 (January 6, 1998), 63 FR 1985 (January 13, 1998) (Order approving proposed rule change SR–CHX–97–28 relating to a six month pilot program for Exchange's clearing the post policy for cabinet securities); and Securities Exchange Act Release No. 40144 (June 30, 1998), 63 FR 37157 (July 9, 1998) (Order approving proposed rule change SR–CHX–98–17 relating to a five month extension of the pilot program for the Exchange's clearing the post policy for cabinet securities).

[4] 15 U.S.C. 78f(b)(5).

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should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CHX–98–13 and should be submitted by August 8, 1998.

For the Commission, by the Division of Market Regulations, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18906 Filed 7–15–98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40191; File No. SR–DTC–98–5]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating to Shared Control Accounts

July 10, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on April 7, 1998, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II, below, which items have been prepared primarily by DTC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to allow DTC to make shared control accounts available to its participants.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

New York State recently enacted revised Article 8 of the Uniform Commercial Code ("UCC"). Revised Article 8 gives priority in certain situations to a pledgee that has control over pledged securities (or other financial assets). According to DTC, a pledgee has control over securities when it has the ability to have the securities sold or transferred without further consent by the pledgor. The control of the pledgee need not be exclusive. The pledgor can retain the right to redeliver or make substitutions for the pledged securities.

Currently, when a participant pledges securities to the pledgee account of a pledgee at DTC, the securities are under the sole control of the pledgee. Therefore, only the pledgee can redeliver or release the securities.

The purpose of the proposed rule change is to make shared control accounts available at DTC as an alternative to the use of pledgee accounts.[3] As a result of the rule change, a DTC participant will be able to establish a shared control account and to designate any DTC pledgee as the pledgee for the shared control account. A pledgee will have control over securities delivered by a participant to the participant's shared control account at DTC because the pledgee will have the ability to redeliver the securities without further consent by the participant. However, the participant also will have the ability to redeliver or to make substitutions for the securities without obtaining the pledgee's release of the securities. DTC states that, except as modified by the procedures for DTC shared control accounts,[4] the operation of a shared control account will be identical to the operation of a DTC pledgee account and all DTC procedures applicable to pledgee accounts are applicable to shared control accounts.

DTC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder because it is consistent with DTC's obligation to safeguard securities and funds in its custody or control or for which it is responsible.[5]

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impact or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The proposed rule change was developed through discussions with several participants. No written comments have been solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3) of the Act requires that the rules of a clearing agency be consistent with its obligation to safeguard securities and funds in its custody or control or for which it is responsible.[6] The Commission believes that the rule change is consistent with this obligation because the proposal should help facilitate the processing of secured transactions through DTC's facilities. In addition, the operation of shared control accounts will be essentially identical to the operation of pledgee accounts which are currently available at DTC. Therefore, DTC's experience in the operation of pledgee accounts will help enable DTC to operate shared control accounts in a safe and efficient manner.

DTC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after publication of the notice of this filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after publication of the notice because accelerated approval will permit DTC to immediately make shared control accounts available to its participants and to make its procedures reflect revised Article 8 as recently enacted by the State of New York.[7]

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[5] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by DTC.

[3] Pledgee accounts will continue to be available at DTC.

[4] The procedures for DTC shared control accounts are attached as Exhibit 2 to DTC's proposed rule change (File No. SR–DTC–98–5) which is available for inspection and copying at the Commission's Public Reference Room or through DTC.

[5] 15 U.S.C. 78q–1(b)(3)(F).

[6] 15 U.S.C. 78q–1(b)(3)(F).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of DTC. All submissions should refer to File No. SR–DTC–98–5 and should be submitted by August 6, 1998.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–DTC–98–5) be and hereby is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18963 Filed 7–15–98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40190; International Series Release No. 1145; File No. SR–EMCC–98–5]

Self-Regulatory Organizations; Emerging Markets Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Changing Relating to Warrant Processing

July 10, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby give that on May 28, 1998, the Emerging Markets Clearing Corporation ("EMCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which items have been prepared primarily by EMCC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposal Rule Change

The purpose of the proposed rule change is to provide a mechanism whereby EMCC may process cash payments made with respect to warrants for which there are outstanding fail receive and deliver obligations and to permit EMCC to pair-off outstanding warrant fail receive obligations with fail deliver obligations.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, EMCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposal rule change. The text of these statements may be examined at the places specified in Item IV below. EMCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

From time to time, issuers of warrants may declare a money distribution on their warrants ("warrant payment"). If EMCC is notified that a warrant payment has been declared by a warrant issuer, those members with a fail deliver or fail receive obligation relating to such warrant will receive a report from EMCC. The report will specify the amount each member is obligated to pay/receive. EMCC will also instruct the qualified securities depository[2] of each such member to appropriately debit and/or credit each member's account on payable date with the amount(s) specified on the report. (Fail deliver obligations will result in debits, and fail receive obligations will result in credits.)

EMCC will not guarantee warrant payments. EMCC's willingness to pay members with fail receive obligations is contingent on its ability to collect these amounts from members with fail deliver obligations. If a member with a fail deliver obligation does not pay EMCC the cash owed with respect to a warrant payment, the proposed rule change (i) permits EMCC to reverse the payment made to the member with the fail receive obligations that was the original counterparty to the transaction underlying such fail deliver obligation and (ii) obligates the member with the fail deliver obligation that did not pay EMCC such monies owed, to compensate EMCC for such non-payment.

The proposed rule change also provides that the member with the fail receive obligation will be entitled to compensation for its late receipt of the warrant payment if EMCC collects from the member with the fail deliver obligation that failed to make timely payment. The proposed rule change provides that if a member with a fail receive obligation does not receive a warrant payment or if such a warrant payment is reverse and, EMCC has ceased to act for the member with the fail deliver obligation, the member with the fail receive obligation may request that EMCC file a claim for the payment with the estate of the member with the fail deliver obligation. Any such action shall be taken at the sole cost and expense of the member with the fail receive obligation.[3]

EMCC states that, historically, fail rates with respect to warrant transactions are high. Firms would periodically employ a process by which they bilaterally paired-off outstanding warrant receive and deliver obligations

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[7] The staff of the Board of Governors of the Federal Reserve System has concurred with the Commission's granting of accelerated approval. Telephone conversation between Kristen Wells, Senior Analyst, Division of Reserve Bank Operations, Board of Governors of the Federal Reserve System, and Jeffrey Mooney, Special Counsel, Division of Market Regulation, Commission (July 9, 1998).

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] Currently, the Cedel Bank, Societe anonyme and the Euroclear system, which is operated by the Brussels Office of Morgan Guaranty Trust Company of New York, are the only qualified securities depositories.

[3] This approach is similar to that taken with respect to fail obligations relating to warrants, as set forth in Rule 8, Sections 7(f) and 8(f).

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in order to eliminate warrant fail obligations. Since warrants have been eligible at EMCC, EMCC's records also indicate that there is high fail rate with respect to warrant obligations. In order to eliminate there fails, members have requested that EMCC implement a similar process. The proposed rule change would allow EMCC to perform a bilateral pair-off process for warrant obligations.

In order to be eligible to be paired-off, the obligations must be within the same ISIN, and the fail deliver obligations and fail receive obligations must have a contract value of $0. In addition, fail deliver and fail receive obligations will be paired-off only if the quantity of warrants with respect to one or more fail receive obligations (either singly or in the aggregate) is equal to the quantity of warrants with respect to one or more fail deliver obligations (either singly or in the aggregate).

Using the process described above, EMCC will determine which fail deliver and fail receive obligations are to be paired-off and will issue a report to each member identifying such paired-off obligations. EMCC will also instruct the member's qualified securities depository to cancel the previously issued debit and credit instructions relating to such paired-off obligations. At the time the report is distributed to members, their rights or obligations with respect to the paired-off fail deliver and fail receive obligations, under the Rules are extinguished.

Although EMCC becomes the counterparty to all transactions submitted to it, upon receipt of securities by EMCC they are redelivered from EMCC to the original counterparty to the underlying transaction. It is possible that the pair-off process will result in the canceling of the fail obligation of only one of the original counterparties, leaving the corresponding fail obligation open at EMCC. Under these circumstances, EMCC will allocate any warrants received by giving priority first to the oldest fail receive obligation and next to the fail receive obligation relating to the largest number of warrants. EMCC will not allocate any warrants which would not fully satisfy a fail receive obligation. For example, if EMCC receives 10 warrants from a member with a fail deliver obligation (where the corresponding fail receive obligation had been canceled) and there are 3 fail receive obligations of the same age, one of which is for 7 warrants, one of which is for 6 warrants, and one of which is for 5 warrants, EMCC will deliver 7 of the 10 warrants received to satisfy the fail receive obligation for 7 warrants and will not deliver the remaining 3 warrants until it has received a sufficient quantity of warrants which will allow it to fully satisfy at least one fail receive obligation.

EMCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder because it will facilitate the prompt and accurate clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

EMCC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments relating to the proposed rule change have been solicited or received. EMCC will notify the Commission of any written comments received by EMCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to facilitate the prompt and accurate clearance and settlement of securities transactions for which it is responsible. The Commission believes that the rule change should provide EMCC with a process that should reduce the number of outstanding fail receive obligations and fail deliver obligations relating to warrants. The failure of one party to satisfy their settlement obligations threatens the entire clearance and settlement system because that party's failure may in turn cause other parties to fail to meet their obligations. Therefore, by reducing the number of outstanding fails at EMCC, the proposed rule change should facilitate the prompt and accurate clearance and settlement of securities transactions.

EMCC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after publication of notice because accelerated approval will enable EMCC to begin reducing the number of fail obligations relating to warrants immediately.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of EMCC. All submissions should refer to File No. SR–EMCC–98–5 and should be submitted by August 6, 1998.

It is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[4] that the proposed rule change (File No. SR–EMCC–98–5) be and hereby is approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18964 Filed 7–15–98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40185; File No. SR–NSCC–97–13]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Approving a Proposed Rule Change Relating to Changes in Membership Standards

July 9, 1998.

On October 30, 1997, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") and on December 31, 1998, amended a proposed rule change (File No. SR–NSCC–97–13) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] Notice of the proposal was published in the **Federal Register** on February 27, 1998.[2] One comment letter was received.[3] For the reasons discussed below, the Commission is approving the proposed rule change.

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[4] 15 U.S.C. 78s(b)(2).

[5] 17 CFR 200.30–3(a)(12).

I. Description

Currently, NSCC's rules provide that it will establish, as deemed necessary or appropriate, standards of financial responsibility, operational capability, experience, and competence for membership, as well as guidelines for the application of membership standards.[4] The purpose of the rule change is to establish specific standards under which NSCC may deny an applicant membership or to cease to act for a participant.[5]

The revised rule will allow NSCC to deny membership to any applicant or to cease to act for any participant if a person who has either significant managerial responsibility or significant ability to influence the policies and actions of the applicant or participant (through ownership interest, contract, or otherwise), whether or not the person currently acts as a principal or registered representative, has a record that reflects any adverse history as enumerated in the rule. The types of adverse history enumerated in the rule include felony and misdemeanor proceedings and convictions; certain disciplinary, regulatory, or administrative proceedings and actions; arbitration or civil actions; multiple customer complaints; termination or permitted resignation after investigation or allegation of sales practice problems, violation of rules, regulation, laws, or standards of conduct; or being subject to heightened supervision.

Any action, complaint, or proceeding referred to in the rule that is not taken against a person will nonetheless be deemed to be taken against that person if his or her activities are cited in whole or in part as being a contributing cause. However, no person will be deemed to have an adverse regulatory history due to being named in customer complaints or adverse civil proceedings merely because of the persons's management or ownership position in the applicant or participant unless the number of complaints or proceedings are disproportionate to the size of the firm.

The rule change will also allow NSCC to deny membership to an applicant or to cease to act for a participant if a correspondent of the applicant or participant or any entity for which the applicant or participant is financially responsible would fail to meet the above membership standards. However this provision of the rule will apply only if the size of the business of the correspondent or other entity is significant relative to the capital of the applicant or participant. NSCC has informed the Commission that it intends to construe the new rule in a manner which will not limit its authority under its rules to deny membership to, to cease to act for, or to obtain further assurances from any applicant or participant when the circumstances warrant even if the circumstances include or consist solely of items that are not specific grounds for such action under the rule change.

II. Comment Letters

The Commission received one comment letter in response to the proposed rule change (*supra* note 3). The commenter supported the rule change but believed an applicant or participant should be able to appeal a decision to deny membership.

III. Discussion

Section 17A(b)(3)(F) of the Act[6] requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible. The Commission believes that the proposed rule change is consistent with NSCC's obligations under Section 17A(b)(3)(F) because it should enable NSCC to better manage its risk exposure by specifically authorizing NSCC to consider applicant's and participants' regulatory history. An adverse regulatory history can indicate that an applicant would or a participant does present an unacceptably high risk to NSCC and its participants.

Section 17A(b)(3)(H) of the Act[7] also requires that the rules of the clearing agency provide a fair procedure with respect to the denial of participation and the prohibition or limitation by the clearing agency of any person with respect to access to services offered by the clearing agency. The Commission believes that the proposed rule change is consistent with NSCC's obligations under Section 17A(b)(3)(H) because it defines the specific bases upon which NSCC may deny membership or cease to act for a participant.

In response to the issue of whether an applicant can appeal a denial of its membership application, the Commission notes that Rule 2 of NSCC's Rules and Procedures currently provides a hearing process for any applicant that is deemed to not meet membership requirements before the applicant is denied membership.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–NSCC–97–13) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18907 Filed 7–15–98; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Small Business Investment Company of Connecticut (License #02–0052), Notice of License Surrender

Notice is hereby given that the Small Business Investment Company of Connecticut (SBIC/CT), Bridgeport, Connecticut, has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended ("the Act"). SBIC/CT was licensed by the Small Business Administration on January 31, 1961.

Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender of the license was accepted on June 29, 1998, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

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[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 39693 (February 23, 1998), 63 FR 10058.

[3] Letter from William C. Alsover, President, Centennial Securities Company, to David F. Hoyt, NSCC (November 7, 1997).

[4] Rule 15 of NSCC's Rules and Procedures.

[5] NSCC has taken note of the findings set forth in the April 15, 1997, memorandum entitled, "The Joint Regulatory Sales Practice Sweep; Heightened Supervisory Procedures," which was the product of an initiative involving the National Association of Securities Dealers, Inc., the New York Stock Exchange, Inc., the Securities and Exchange Commission, and the North American Securities Administrators Association, Inc.

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] 15 U.S.C. 78q–1(b)(3)(H).

[8] 17 CFR 200.30–3(a)(12)..

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Dated: July 7, 1998.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 98–18985 Filed 7–15–98; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending July 3, 1998

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings:

Docket Number: OST–98–3997.

Date Filed: June 26, 1998.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: July 24, 1998.

Description: Application of Passaredo Transportes Aereos S.A. pursuant to Section 402 of the Act and Subpart Q, applies for an air carrier permit authorizing the carriage of passengers on a charter basis between a point or points in Brazil and a point or points in the United States.

Docket Number: OST–98–4009.

Date Filed: June 29, 1998.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: July 27, 1998.

Description: Application of Tower Air, Inc. pursuant to 49 U.S.C. Section 41108 and Subpart Q, applies for the issuance of a new Certificate of Public Convenience and Necessity or Amendment of its existing Certificate for Route 401, to engage in foreign air transportation of persons, property and mail between any points in the United States, directly and via intermediate points, and any points in France, and beyond France to points in third countries, as limited by applicable bilateral agreements.

Docket Number: OST–98–4010.

Date Filed: June 29, 1998.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: July 27, 1998.

Description: Application of Federal Express Corporation pursuant to 49 U.S.C. Section 41102 and Subpart Q, applies for issuance of a new Certificate of Public Convenience and necessity authorizing Federal Express to provide scheduled foreign air transportation of property and mail between points in the United States, on the one hand, and points in the forty-eight (48) foreign countries listed, on the other hand.

Dorothy W. Walker,

Federal Register Liaison.

[FR Doc. 98–18951 Filed 7–15–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings, Agreements Filed During the Week Ending July 3, 1998

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. Sections 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–98–4015

Date Filed: July 1, 1998

Parties: Members of the International Air Transport Association

Subject:

PTC12 Telex Mail Vote 946–r1–4

USA-Austria/Belgium/Germany/Neth/Scand/Switz fares

r1–002m, r2–054vv, r3–044v, r4–064vv

Intended effective date: August 1, 1998

Docket Number: OST–98–4016

Date Filed: July 2, 1998

Parties: Members of the International Air Transport Association

Subject:

PTC2 ME 0045 dated June 26, 1998

Within Middle East Expedited Resos

r–1–002j, r–2–070ba, r–3–071ea, r–4–072c, r–5–079b, r–6–085dd, r–7–002o

Intended effective date: August 1/October 1, 1998

Docket Number: OST–98–4017

Date Filed: July 2, 1998

Parties: Members of the International Air Transport Association

Subject:

COMP Telex Mail Vote 948

Standard Condition Resolution for Special Fares

Intended effective date: August 1, 1998

Docket Number: OST–98–4020

Date Filed: July 2, 1998

Parties: Members of the International Air Transport Association

Subject:

PTC2 EUR–ME 0056 dated June 30, 1998

Europe-Middle East Expedited Resos 002a

Intended Effective Date: August 1, 1998

Dorothy W. Walker,

Federal Register Liaison.

[FR Doc. 98–18952 Filed 7–15–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Railroad Rehabilitation and Improvement Financing

July 9, 1998.

ACTION: Notice.

SUMMARY: The Transportation Equity Act for the 21st Century ("TEA–21"), Pub. L. No. 105–178, 112 Stat. 107 (1998), established the Railroad Rehabilitation and Improvement Financing program ("RRIF"). To assist in its implementation, the Federal Railroad Administration ("FRA") is requesting information on (1) types of projects which might benefit from financial assistance available under RRIF, and (2) potential applicants for such financial assistance.

ADDRESSES: Responses should be sent to James T. McQueen, Associate Administrator, Office of Railroad Development, Federal Railroad Administration, 400 7th Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: James T. McQueen or JoAnne M. McGowan, Chief, Freight Programs, (202) 632–3290.

SUPPLEMENTARY INFORMATION: TEA–21 amended Title V of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended, 45 U.S.C. 821 et seq., by establishing RRIF, which will make financial assistance, in the form of *direct loans and loan guarantees,* available for eligible railroad projects. The aggregate unpaid principal balance of all financial assistance outstanding may not exceed $3.5 billion, of which not less than $1 billion shall be available solely for other than Class I railroads.

Applicants for assistance include State or local governments, government sponsored authorities and corporations, shippers, railroads, and joint ventures, but *each application must include at least one railroad.* Funds can be used to (1) acquire, improve or rehabilitate intermodal or rail equipment or facilities, including track, components of track, bridges, yards, buildings and shops; (2) refinance outstanding debt incurred for the purposes described above; or (3) develop or establish new intermodal or railroad facilities. Priority will be given to projects that—

(1) enhance public safety;

(2) enhance the environment;

(3) promote economic development;

(4) enable U.S. companies to be more competitive in international markets;

(5) are endorsed by plans prepared under 23 U.S.C. 135, by the state or states in which they are located; or

(6) preserve or enhance rail intermodal service to small communities or rural areas.

Prerequisites to granting financial assistance under RRIF include:

(1) the repayment of the financial assistance is required to be made within a term of not more than 25 years from the date of its execution;

(2) the financial assistance is justified by the present and probable future demand for rail services or intermodal facilities;

(3) the applicant has given reasonable assurances that the facilities or equipment to be acquired, rehabilitated, improved, developed, or established with the proceeds of the financial assistance will be economically and efficiently utilized; and

(4) the obligation can reasonably be repaid, using an appropriate combination of credit risk premiums and collateral offered by the applicant to protect the Federal Government.

The Federal Credit Reform Act of 1990, 2 U.S.C. 661, requires that before making any loan or loan guarantee, agencies of the Federal Government must have received an appropriation of funds from Congress adequate to cover the cost to the Government of making that loan or loan guarantee (referred to in the TEA–21 as the credit risk premium ("Premium")). However, this requirement is modified by TEA–21 which provides that *the source of the Premium may be either appropriated Federal funds, funds from a non-Federal source, or any combination thereof.* Congress has not appropriated funds to provide the Premium for borrowers, and in the absence of such an appropriation, the Premium associated with any direct loan or loan guarantee must be provided by the project applicant or infrastructure partner, which includes any participant in the project. The Premium must be paid before disbursement of any loan proceeds.

FRA anticipates many different applicants and for many types of projects. These could include *cooperative ventures for railroad acquisition, rehabilitation, or improvement involving railroads, states, local governments and/or shippers.* Of particular interest to the FRA are the implementation of Positive Train Control systems and the improvement of highway-rail crossing protection. Further, RRIF is not limited to rail freight projects, and passenger service of all types are eligible.

FRA is seeking comments on a project or projects that a potential applicant may submit under the RRIF. Comments should include a brief description of the project, preliminary cost estimates, and type and term of financial assistance that might be sought. The information will not constitute an application, but it will greatly enhance FRA's understanding of the potential scope of applications and accordingly assist in the appropriate implementation of RRIF. Please submit comments by August 14, to provide an opportunity for adequate consideration.

Issued in Washington, D.C. on July 9, 1998.

Jolene M. Molitoris,

Federal Railroad Administrator.

[FR Doc. 98–18941 Filed 7–15–98; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF THE TREASURY

Commission to Study Capital Budgeting

AGENCY: Commission to Study Capital Budgeting, DOT.

ACTION: Notice of meetings.

SUMMARY: The agenda for the next meetings of the Commission to Study Capital Budgeting includes discussions on capital budgeting issues and the draft outline for the final report on Friday, July 24. On Saturday morning, July 25, the Commission will continue its discussions of different aspects of capital budgeting and discuss the next steps to be taken in preparation of its report. The Commission's final report on capital budgeting is due on December 13, 1998. Meetings are open to the public. Limited seating capacity is available.

Dates, Times and Places of the Next Commission Meetings

July 24, 9:00 a.m. to 5:00 p.m., White House Conference Center, Lincoln Room (9:00 a.m. to Noon); Truman Room (Noon to 5:00 p.m.), 726 Jackson Place, NW, Washington, DC 20503

July 25, 1998, 9:00 a.m. to 12:00 noon, White House Conference Center, Truman Room, 726 Jackson Place, NW, Washington, DC 20503

The Commission is seeking all views on capital budgeting. Interested parties may submit their views to: Dick Emery, Executive Director, President's Commission to Study Capital Budgeting, Old Executive Office Building (Room 258), Washington, DC 20503, Voice: (202) 395–4630, Fax: (202) 395–6170, E-Mail: capital__budget@omb.eop.gov, Website: http://www.whitehouse.gov/WH/EOP/OMB/PCSCB/

FOR FURTHER INFORMATION CONTACT: E. William Dinkelacker, Ph.D., Designated Federal Official, Room 4456 Main Treasury, Washington, DC 20220, Voice: (202) 622–1285, Fax: (202) 622–1294, E-Mail: william.dinkelacker@treas.sprint.com

Angel E. Ray,

Committee Management Officer.

[FR Doc. 98–18927 Filed 7–15–98; 8:45 am]

BILLING CODE 4810-25-P

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition Determinations: "Monet in the 20th Century"

AGENCY: United States Information Agency.

ACTION: I hereby determine that the objects to be included in the exhibit "Monet in the 20th Century," (see list), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with a foreign lender. I also determine that the exhibit or display of the listed exhibit objects at the Museum of Fine Arts, Boston, Massachusetts, beginning on or about September 20, 1998 through December 27, 1998 is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985.22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 June 27, 1985 (50 27393, July 2, 1985).

FOR FURTHER INFORMATION CONTACT: Paul Manning, Assistant General Counsel at 202/619–5997. The address is U.S. Information Agency, 301 4th Street, S.W., Washington, DC 20547–0001.

Dated: July 13, 1998.

Les Jin,

General Counsel.

[FR Doc. 98–18973 Filed 7–15–98; 8:45 am]

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UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition Determinations

ACTION: Thereby determine that the objects on the list specified below, to be included in the exhibit, "Van Gogh's Van Goghs: Masterpieces from the Van Gogh Museum, Amsterdam," imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the exhibition or display of the listed exhibit objects at the National Gallery of Art, in Washington, D.C., from on or about October 12, 1998, to on or about January 3, 1999, and at the Los Angeles County Museum of Art, Los Angeles, California, from on or about January 17, 1999, to on or about April 4, 1999, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register.**

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985).

FOR FURTHER INFORMATION CONTACT: Jacqueline Caldwell, Assistant General Counsel, Office of the General Counsel, 202/619–6982, and the address is Room 700, U.S. Information Agency, 301 4Th Street, SW, Washington, D.C. 20547–0001.

Dated: July 10, 1998.

Les Jin,

General Counsel.

[FR Doc. 98–18929 Filed 7–15–98; 8:45 am]

BILLING CODE 8230-01-M

UNITED STATES INFORMATION AGENCY

Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations

AGENCY: United States Information Agency.

ACTION: Notice; request for public comments.

SUMMARY: The United States Information Agency has combined into one form the Form IA–1119 (10/85)—Guidelines for the Administration of Assistance Awards Awarded by the United States Information Agency and the former Form IA–1120 (10/85)—United States Information Agency, Office of Contracts, General Conditions, Assistance Awards. The combined form has been retitled IA–1119 (04/98)—Terms and Conditions for the Administration of United States Information Agency Assistance Awards.

DATES: Written comments must be sent by August 17, 1998.

Authority: This notice is issued under the authority of 22 U.S.C. 2658 and E.O. 12048.

ADDRESSES: Send comments to USIA, Office of Contracts, Grants Division, 301 4th Street SW., Room M22, Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: Joyce C. Love on 202–205–8590 or Carolyn Payne-Fuller on 202–260–3145.

Dated: July 8, 1998.

James W. Durham,

Acting Director, Office of Contracts.

Terms and Conditions for the Administration of United States Information Agency Assistance Awards

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I. Introduction

This document defines award terms and conditions and procedures for institutions and organizations to use in receiving, disbursing and accounting for funds awarded by the United States Information Agency. Any questions concerning these procedures should be addressed to: U.S. Information Agency, Office of Contracts, Grants Division, M/KG, Washington, DC 20547, Phone: (202) 205–5477.

II. Assistance Awards (Grant Agreement, Cooperative Agreement or Letter Agreement)

An agreement is formalized by a document signed by the Grants Officer, U.S. Government, duly appointed by the Agency, and accepted by the recipient institution or organization. The agreement will contain the terms and conditions appropriate to the purpose of the project, and the recipient is required to follow the provisions of the agreement in carrying out the program. These Terms and Conditions apply, unless specifically modified or deleted in the text of the award document, to all grants, cooperative agreements or letter agreements awarded by the United States Information Agency. As used in these Terms and Conditions, all references to the Grants Officer refer to the officer, his or her successor or designee, executing the award document for the Agency.

III. Amendments

The agreement is subject to amendment for such purposes as are necessary to enable the grantee to assist the Agency in the conduct of its programs. However, requests for amendments will not be considered unless the Recipient is in compliance with all reporting requirements stipulated in the Agreement.

IV. Audits

Revised Circular A–133, which implements the Single Audit Act Amendments of 1996, provides uniform single audit requirements for all non-federal grantees—state and local governments (including Indian tribal governments), colleges and universities, hospitals and other non-profit organizations (however non-U.S. based entities are exempt). It applies to audits of fiscal years beginning after June 30, 1996.

V. Compliance With Federal and State Laws

In the performance of the work authorized pursuant to this award, the recipient agrees to comply with all applicable Federal and State laws, rules and regulations which deal with or relate to the employment by the recipient of the employees necessary for such performance.

VI. Convict Labor

In connection with the performance of work under this award, the recipient agrees not to employ any person undergoing sentence of imprisonment except as provided by Pub. L. 89–176, September 10, 1965 (18 U.S.C. 4082 (c)(2)) and Executive Order 11755, December 29, 1973.

VIII. Disputes

A. Except as otherwise provided in this award, any dispute concerning a question of fact arising under this award that is not disposed of by agreement shall be decided by the Grants Officer, who shall reduce his/her decision to writing and mail or otherwise furnish a copy to the recipient. The decision of the Grants Officer shall be final and conclusive unless, within thirty (30 days from the date of receipt of such copy, the recipient mails or otherwise furnishes to the Grants Officer a written appeal addressed to the Director of the United States Information Agency. The decision of the Director's authorized representative for the determination of such appeal shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this clause, the recipient shall be allowed an opportunity to be heard and to offer evidence in support of this appeal. Pending final decision of a dispute, the recipient shall proceed diligently with the performance of the award and in accordance with the Grants Officer's decision.

B. Any failure by the parties to agree on the allowability or allocability of costs under this award shall be considered a dispute concerning a question of fact for decision by the Grants Officer within the meaning of this clause.

C. This Disputes clause does not preclude consideration of legal questions in connection with decisions provided in paragraph (A) above: *Provided*, that nothing in this award shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

VIII. Examination of Records (OMB Circular A-110)

The United States Information Agency, the Inspector General, the Comptroller General of the United States, or any of their duly authorized representatives, have the right of timely and unrestricted access to any books, documents, papers, or other records of the recipient that are pertinent to the award, in order to make audits, examinations, excerpts, transcripts and copies of such documents. This right also includes timely and reasonable access to a recipient's personnel for the purpose of interview and discussion related to such documents. The rights of access in this paragraph are not limited to the required retention period, but shall last as long as records are retained.

IX. Payment of Interest on Recipient's Claim

A. If an appeal is filed by the recipient from a final decision of the Grants Officer under the disputes clause of this award, denying a claim arising under the award, simple interest on the amount of the claim finally determined owed by the Government shall be payable to the recipient. Such interest shall be at the rate determined by the Secretary of the Treasury pursuant to Pub. L. 92-41, 85 Stat. 97, from the date the recipient furnishes to the Grants Officer a written appeal under the Disputes clause of this award, to the date of (1) a final judgement by a court of competent jurisdiction, or (2) mailing to the recipient of a supplemental agreement for execution either confirming complete negotiations between the parties or carrying out a decision of a board of contract appeals.

B. Notwithstanding (A) above, (1) interest shall be applied only from the date payment was due, if such date is later than the filing of appeal, and (2) interest shall not be paid for any period of time that the Grants Officer determined the recipient has unduly delayed in pursuing remedies before a board of contract appeals or a court of competent jurisdiction.

X. Refunds

A. If any of the funds made available to the recipient are unexpended upon the expiration or termination of the award, as of the due date of the final financial report, a check made payable to the United States Information Agency for the unexpended balance shall accompany the final financial report(s).

B. Subsequent Refunds

The recipient shall refund to the Agency all refunds, rebates, or credits, received after submission of the final financial report. The recipient may, however, deduct from any such refunds, rebates, or credits all *bona fide* costs incurred by the recipient prior to the expiration date of the agreement but not billed to the recipient until after submission of the financial report. When subsequent transactions of this nature occur, a notice shall be sent to the Agency describing each item and amount involved and indicating that this subsequent notice amends the report previously submitted. A copy of such notice, together with the net amount of the refund, shall be forwarded to the Agency.

XI. Reports

A. *Program*—The agreement will state the due date and the type of report required for the recipient to fulfill its program obligations. The program report shall include the agreement number, period covered and whether it is an "interim" or "final" report.

B. *Financial*—The agreement will state the due date of the report. SF-269, "Financial Status Report" (sample attached), should be used to report all expenditures of funds. The report shall include the agreement number, the period covered, and whether it is an "interim" or "final" report. The final financial report shall be certified by the recipient's chief fiscal officer, or officer with comparable function and authority, as follows:

> "I hereby certify to the best of my knowledge and belief that this report is correct and complete and that all outlays and unliquidated obligations are for the purposes set forth in the award documents."

C. If, for reasons beyond its control, the recipient institution or organization cannot submit the program and financial reports when due, it should request permission from the Grants Officer to submit them at a later date.

XII. Subcontractors and Outside Associates and Consultants

None of the substantive programmatic work under a grant or other agreement may be subcontracted or transferred without prior approval of the USIA Grants Officer. This provision does not apply to the purchase of supplies, material, equipment, or general support services.

XIII. Termination

A. Termination for Cause

The Federal sponsoring agency may reserve the right to terminate any grant or other agreement in whole or in part at any time before the date of completion, whenever it is determined that the recipient has failed to comply with the conditions of the agreement. The Federal sponsoring agency shall promptly notify the recipient in writing of the determination and reasons for the termination, together with the effective date. Payments made to recipient or recoveries by the Federal sponsoring agency under grants or other agreements terminated for cause shall be in accordance with the legal rights and liabilities of the parties.

B. Termination for Convenience

1. The Federal sponsoring agency or recipient may terminate grants and other agreements in whole or in part when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial terminations, the portion to be terminated. The

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recipient shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible.

2. The Federal sponsoring agency shall allow full credit to the recipient for the Federal share of the noncancellable obligations, properly incurred by the recipient prior to termination.

XIV. Travel

A. Definitions

The terms used in this clause have the following meanings:

1. "International air transportation" means transportation of persons (and their personal effects) or property by air between a place in the United States and a place outside thereof or between two places both of which are outside the United States.

2. "U.S. Flag Air Carrier" means one of a class of air carriers holding a certificate of public convenience and necessity issued by the Civil Aeronautics Board, approved by the President, authorizing operations between the United States and/or its territories and one or more foreign countries.

3. The term "United States" includes the fifty states, Commonwealth of Puerto Rico, possessions of the United States, and the District of Columbia.

B. Preference for U.S. Flag Air Carriers

1. Pub. L. 93–623 requires that all Federal agencies and Government contractors, subcontractors and award recipients use U.S. Flag Air Carriers for international air transportation of personnel (and their personal effects) or property, to the extent services by such carriers is available. It further provides that the Comptroller General of the United States shall disallow any expenditure from appropriated funds for international air transportation on other than a U.S. Flag Air Carrier in the absence of satisfactory proof of the necessity.

2. In the event that the recipient selects a carrier other than a U.S. Flag Air Carrier for international air transportation, a certification must be included on vouchers involving such transportation essentially as follows:

Certification of Unavailability of U.S. Flag Air Carriers

I hereby certify that transportation service for personnel (and their personal effects) or property by a certified U.S. Flag Air Carrier was unavailable for the following reason(s): (state reason(s))

3. The recipient shall include the substance of this clause, including this paragraph (3), in each subcontract, subgrant or purchase hereunder which may involve international air transportation.

4. *U.S. Flag Air Carriers*—All transportation of persons or property to be paid with funds provided by the agreement must be performed on a U.S. Flag Air Carrier when such service is "available." In all but the most unusual circumstances, all travel that originates, terminates or involves stopovers in the United States must be on U.S. Flag Air Carriers.

5. a. Examples of the "unavailability" of passenger service by a U.S. Flag Air Carrier:

(1) When the gateway airport abroad is the traveler's origin or destination airport, and the use of a U.S. Flag Air Carrier would extend the time in travel status, including delay at origin and early arrival at destination, by at least 24 hours; or

(2) When the gateway airport abroad is an interchange point and the use of a U.S. Flag Air Carrier would require the traveler to wait six hours or more to make connections at that point; or

(3) When connecting with ongoing flights at the gateway airport in the United States would extend the traveler's time in travel status by at least six hours.

b. U.S. Flag Air Carrier service will be used to the furthest interchange point with foreign carriers and foreign carrier service will be used to the nearest interchange point with U.S. Flag Air Carriers which will not extend the traveler's time in travel status by more than six hours between points of origin and destination.

C. Economy Class Accommodations

In conformity with general U.S. Government policy, it is the policy of the Agency that persons traveling under Agency programs use economy class accommodations. There are exceptional circumstances, however, when the use of other than economy class accommodations may be necessary. The recipient may apply the following limited guidance in determining whether other than economy class accommodations may be permitted.

D. Mode of Travel

1. Train Travel

(a) Sleeping Car Accommodations. When overnight travel is involved, the least expensive first class sleeping accommodations available shall be allowed. Higher cost accommodations may be authorized or approved upon certification by the traveler on the travel voucher that the lowest cost accommodations were not available or that the higher cost accommodations were authorized or approved by the Agency for reasons of security.

(b) Parlor Car and Reserved Coach Accommodations. For train travel exceeding four hours, reserved coach accommodations will be used to the greatest extent possible. A parlor car seat may be allowed when reserved coach accommodations are not available.

(c) Extra-Fare Trains. Travel by extra-fare trains may be authorized when administratively determined to be advantageous to the Government or required for security reasons. The use of the Metroliner coach service is considered to be advantageous to the Government.

2. Air Travel

A. Policy

It is the policy of the Government that employees or individuals on official business using commercial air carriers for domestic or international flights travel in economy class accommodations. The limited exceptions to this policy are listed below.

B. Exceptions to Economy Class Travel May Occur When

(1) Regularly scheduled flights between the authorized origin and destination points (including connection points) provide only business class service. The traveler must provide certification to that effect on the travel voucher.

(2) Space is not available in economy class accommodations on any scheduled flights in time to accomplish the purpose of the travel, which is so urgent that it cannot be postponed.

(3) Business class accommodations are necessary due to the disabling condition of the traveler that other accommodations cannot be used. Such condition must be substantiated by medical authority.

(4) Business-class accommodations are required for security purposes or because exceptional circumstances make their use essential to the successful performance of an Agency mission.

(5) Economy class accommodations on foreign carriers do not provide adequate sanitation or meet minimum health standards.

C. Authority for Business Class Travel

The authority to authorize or approve business class air travel for exceptions (1) through (5) above is lodged with the Associate Director for the Bureau of

Educational and Cultural Affairs and cannot be redelegated. The authorization for business class travel shall be made in advance of actual travel unless circumstances make advanced authorization impossible. In these cases, the Program Officer will obtain written approval from the Associate Director as soon as possible.

3. *Travel Arrangements and Payment.* If the funds are withheld by the Agency, with payment made by the Agency or its designated representative (Embassy), the recipient institution/organization or its designated representative will make all arrangements for the travel authorized in the agreement. Such arrangements include planning the itinerary and obtaining the tickets.

[FR Doc. 98–18697 Filed 7–15–98; 8:45 am]

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Corrections

Federal Register
Vol. 63, No. 136
Thursday, July 16, 1998

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER94-1247-019]

NorAm Energy Services, Inc.; Notice of Filing

Correction

In notice document 98-18366 appearing on page 37369 in the issue of Friday, July 10, 1998, the docket number in the heading should be corrected as above.

BILLING CODE 1505-01-D

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4361-N-02]

Super Notice of Funding Availability for National Competition Programs (National SuperNOFA); Reopening of Application Period for FHIP and Housing Counseling; and Technical Correction

Correction

In notice document 98-18125 appearing on page 37024, in the issue of Wednesday, July 8, 1998, the agency line on the separate part cover should read as above.

BILLING CODE 1505-01-D

NUCLEAR REGULATORY COMMISSION

[Texas License L03835]

ProTechnics International, Inc.–Houston, TX: Field Flood Tracer Study; Finding of No Significant Impact and Notice of Opportunity for a Hearing

Correction

In notice document 98-16537 beginning on page 33966 in the issue of Monday, June 22, 1998, make the following correction:

On page 33967, in the second column, under *Conclusion*, in the the last line "significant" should read "insignificant".

BILLING CODE 1505-01-D

federal register

Thursday
July 16, 1998

Part II

Department of Transportation

Research and Special Programs Administration

49 CFR Parts 171, 177, 178, and 180

Hazardous Materials: Safety Standards for Preventing and Mitigating Unintentional Releases During the Unloading of Cargo Tank Motor Vehicles in Liquefied Compressed Gas Service; Proposed Rule

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 177, 178, 180

[Docket No. RSPA–97–2718 (HM–225A)]

RIN 2137–AD07

Hazardous Materials: Safety Standards for Preventing and Mitigating Unintentional Releases During the Unloading of Cargo Tank Motor Vehicles in Liquefied Compressed Gas Service

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of establishment of advisory committee for negotiated rulemaking and notice of first meeting.

SUMMARY: RSPA announces the establishment of an advisory committee to develop recommendations for alternative safety standards for preventing and mitigating unintentional releases of hazardous materials during the unloading of cargo tank motor vehicles in liquefied compressed gas service. The Committee will develop and adopt its recommendations through negotiation. The Committee is composed of persons who represent the interests affected by the proposed rule, such as businesses that transport and deliver propane, anhydrous ammonia, and other liquefied compressed gases; manufacturers of DOT specification MC 330 and MC 331 cargo tank motor vehicles used to transport liquefied compressed gases; state and local public safety and emergency response agencies; and the federal Department of Transportation. This notice also announces the time and place of the first advisory committee meeting. The public is invited to attend; an opportunity for members of the public to make oral presentations will be provided if time permits.

DATES: The first meeting of the advisory committee will be from 9:30 a.m. to 4:00 p.m. on Tuesday, July 28, 1998 and will continue from 9:30 a.m. to 4:00 p.m. on Wednesday, July 29, 1998.

ADDRESSES: The first meeting of the advisory committee will take place at the Department of Transportation, Room 2230, 400 Seventh Street, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Jennifer Karim, 202–366–8553, Office of Hazardous Materials Standards, Research and Special Programs Administration, Department of Transportation; or Nancy Machado, 202–366–4400, Office of the Chief Counsel, Research and Special Programs Administration, U.S. Department of Transportation. *Facilitator:* Philip J. Harter, The Mediation Consortium, 202–887–1033.

SUPPLEMENTARY INFORMATION:

I. Background

On June 4, 1998, RSPA published a notice of intent to establish an advisory committee (Committee) for a negotiated rulemaking to develop recommendations for alternative safety standards for preventing and mitigating unintentional releases of hazardous materials during the unloading of cargo tank motor vehicles (CTMVs) in liquefied compressed gas service. The notice requested comment on membership, the interests affected by the rulemaking, the issues the Committee should address, and the procedures it should follow. The reader is referred to the June 4 notice (63 FR 30572) for further information on these issues.

RSPA received 19 written comments on the notice of intent. In addition, 43 people participated in a public meeting in Washington, D.C., on June 23–24, 1998. All endorsed the negotiated rulemaking process. Based on this response, and for the reasons stated in the notice of intent, RSPA has determined that establishing an advisory committee on this subject is appropriate and in the public interest. In accordance with the Federal Advisory Committee Act (FACA; 5 U.S.C. App. I sec. 9(c)), RSPA prepared a Charter for the Establishment of a Negotiated Rulemaking Advisory Committee. RSPA intends to file the charter within fifteen (15) days from the date of this publication.

II. Membership

A total of 29 individuals were nominated or applied for membership to the Negotiated Rulemaking Committee either through written comments or at the June 23–24 public meeting.

In considering requests for representation on the Committee, the task before RSPA was to decide whether the requesters represent interests significantly affected by the proposed rulemaking. As identified in the notice of intent, in addition to the Department of Transportation (DOT), these interests are: the National Propane Gas Association (NPGA); The Fertilizer Institute (TFI); National Tank Truck Carriers, Inc. (NTTC); the National Fire Protection Association (NFPA); small businesses that transport and deliver propane, anhydrous ammonia, and other liquefied compressed gases; large businesses that transport and deliver propane, anhydrous ammonia, and other liquefied compressed gases; manufacturers of DOT MC 330 and MC 331 specification CTMVs used to transport liquefied compressed gases; state safety regulatory agencies; state safety enforcement agencies; and state/local emergency response and fire services agencies.

In response to comments, RSPA has modified the list of interests to add the Compressed Gas Association to represent the interest of companies that produce and use liquefied compressed gases other than propane and anhydrous ammonia, such as oxygen and nitrogen. In addition, to accommodate the separate interests of large and small companies that may be affected by the rulemaking and the separate interests of companies that transport propane versus anhydrous ammonia, RSPA has identified as distinct interests small propane distribution companies, large propane distribution companies, small anhydrous ammonia distribution companies, and large anhydrous ammonia distribution companies. Finally, RSPA believes that the interests of companies that manufacture so-called "bobtail" CTMVs (most commonly defined as truck-mounted tanks having a capacity under 3,500 gallons) differ sufficiently from the interests of companies that manufacture "transport" CTMVs (most commonly defined as semi-trailers or full trailers having a capacity greater than 3,500 gallons) as to justify separate representation on the Committee.

In the notice of intent, RSPA requested comments on how best to include manufacturers of cargo tank components, such as internal self-closing stop valves, pumps, meters, and other components of emergency discharge control systems and remote shut-off systems. RSPA believes that component manufacturers have technical expertise that would be valuable to the Committee's deliberations. As noted in the notice of intent, the convener's report examined several options for integrating component manufacturers into the negotiated rulemaking process. The convener recommended that they participate as members of work groups that the Committee may establish to gather information and develop proposals for specific issues related to the rulemaking, but not as members of the Committee itself.

Many commenters support the recommendation of the convener's report and oppose inclusion of component manufacturers on the Committee because these manufacturers may have a vested interest in developing a solution that includes their equipment. However, other commenters believe that component manufacturers should be members of the Committee because they will be significantly affected by any rulemaking that results from the Committee's deliberations. RSPA agrees with these commenters and believes that technology interests, such as manufacturers of internal self-closing stop valves, hoses, remote shut-off systems, and leak detection sensors and monitors, should be included on the Committee. Thus, RSPA has modified the list of interests that will be represented to include a technology interest.

Following is the list of Committee members, identified by interest. Members are encouraged to designate alternates who can serve in place of the member if necessary. As noted in the notice of intent, the Committee will make its decisions through a process of negotiation leading to consensus. "Consensus" means the unanimous concurrence among the interests represented on the Committee, unless the Committee explicitly adopts a different definition. Where two representatives are identified, RSPA expects that they will act together to represent the interest's views and perspectives in the negotiations.

For the interest identified as "Cargo Tank Manufacturers—Bobtail," RSPA has requested that the three individuals identified below consult with each other to determine how their interest will be represented on the Committee. Similarly, for the interest identified as "Technology," RSPA has asked the three identified individuals to consult with each other to determine how the technology interest will be represented on the Committee.

1. *Department of Transportation*
   Edward Mazzullo, Research and Special Programs Administration
2. *National Propane Gas Association*
   Charles Revere, Revere Gas and Appliance
3. *The Fertilizer Institute*
   Charles Rosas, Farmland Industries
4. *National Tank Truck Carriers*
   Clifford Harvison
5. *Compressed Gas Association*
   Ronald McGrath
6. *National Fire Protection Association*
   Theodore Lemhoff
7. *Propane Distribution—Small*
   Mike Gorham, Northwest Gas, and Lin Johnson, Lin's Propane
8. *Propane Distribution—Large*
   Russell Rupp, Suburban Propane, and Ken Faulhaber, Ferrellgas
9. *Anhydrous Ammonia/Dual Use Anhydrous Ammonia-Propane—Small*
   Charles Whittington, Grammer Industries
10. *Anhydrous Ammonia/Dual Use Anhydrous Ammonia-Propane—Large*
    Jean Trobec, Growmark, and Jim York, National Private Truck Council
11. *State Safety Enforcement Agencies*
    Steve Herman, Cooperative Hazardous Materials Enforcement Development (COHMED), and Eric Adair, Commercial Vehicle Safety Alliance (CVSA)
12. *State Safety Regulatory Agencies*
    Vicki O'Neill, Bureau of Liquefied Petroleum Gas Inspections/Florida Department of Agriculture and Consumer Services, and Ronald Coleman, California State Fire Marshal
13. *State/Local Emergency Response Agencies and Fire Services*
    Ronald Dykes, International Association of Fire Chiefs
14. *Cargo Tank Manufacturers—Transports*
    Mike Pitts, Mississippi Tank
15. *Cargo Tank Manufacturers—Bobtails* (one of the following)
    David Auxier, Bulk Tank and Transport, or Jerry Kowalski, Arrow Tank and Engineering, or David Fulbright, White River Distributors
16. *Technology* (one of the following)
    Jim Griffin, Fisher Controls, or David Stainbrook, REGO Valve, or Bob Lyons, Thermolite, or Todd Coady, Rocket Supply

In addition to those listed above, the following people asked to be members or were nominated for membership on the Committee: Gary Nelson, Nevada Propane Board (Nelson); Douglas Buchan (Buchan); Paul Horgan, California Highway Patrol (Horgan); and Terry Pollard, Nebraska Highway Patrol (Pollard).

Buchan asked to participate based on his expertise and experience with the issues that are the subject of the regulatory negotiation; however, because he does not represent an interest that will be affected by the rulemaking, he was not selected. Horgan and Pollard were nominated by a commenter; RSPA agrees that they are well qualified to represent the interests of state safety enforcement agencies on the Committee. However, the number of state representatives on the Committee is necessarily limited. Both Horgan and Pollard have been invited to participate as alternate members and on working groups that the Committee may establish to make recommendations on technical issues. Nelson was nominated by a commenter to represent the interest of state regulatory agencies. RSPA agrees that state regulatory agencies should be represented on the Committee. However, RSPA believes that the Committee should also reflect geographic diversity. Since many of the members selected are from the western United States, RSPA decided to select a representative of a state regulatory agency—Bureau of Liquefied Petroleum Gas Inspections/Florida Department of Agriculture and Consumer Services—from an eastern state.

Persons not selected as members of the Committee will have ample opportunities to participate in the negotiated rulemaking process. For example, RSPA expects that the Committee will establish one or more technical working groups to offer advice and recommendations on specific issues. Further, there will be opportunities for non-members to speak or provide written comments at meetings of the Committee. RSPA encourages all those who are interested in this rulemaking to take advantage of these opportunities to assure that the Committee considers their views.

One commenter recommended that committee membership be determined on a proportional basis, so that those interests having what they believe to be the most at stake in the rulemaking would be allotted the most representatives on the committee. RSPA does not agree and believes that this comment stems from a fundamental misunderstanding of the negotiated rulemaking process. A negotiated rulemaking is intended to be an inclusive process that affords all the interests that will be significantly affected by a rulemaking an opportunity to contribute to development of a consensus regulation. Each member of a negotiated rulemaking committee speaks for the interest he represents and has an equal voice in the process of negotiating towards consensus. The key to success for a negotiated rulemaking is to assure that all the interests that may be affected are represented.

This commenter also suggested that representatives of the propane industry could also adequately represent companies that transport both propane and other liquefied compressed gases. RSPA does not agree. Transportation of anhydrous ammonia in MC 330 and MC 331 CTMVs presents safety and operational issues that differ from those involved with the transportation of propane. For this reason, RSPA believes that companies that transport anhydrous ammonia have an interest in the negotiated rulemaking that is distinct and separate from the interest of propane transporters and should, therefore, have separate representation.

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Similarly, RSPA believes that companies that transport liquefied compressed gases other than propane and anhydrous ammonia are a distinct and separate interest and should have separate representation on the Committee.

Several commenters recommended that a university transportation institute be included as a member of the Committee and specifically suggested the Pennsylvania Transportation Institute (PTI). These commenters believe that a transportation institute could be a valuable source of unbiased technical information and assistance. RSPA agrees. However, a transportation institute does not represent an interest that would be significantly affected by the rulemaking. It would, therefore, not be appropriate for a transportation institute to participate as a member of the Committee. RSPA expects that the Committee will gather information from a variety of sources and will encourage the Committee to consult with any organizations that can provide relevant data and technical information.

III. Participation by Non-Members

Meetings of the advisory committee will be open to the public so that individuals who are not part of the Committee may attend and observe. Any person attending the Committee meetings may address the Committee if time permits or file statements with the Committee.

IV. Key Issues for Negotiation

In its notice of intent, RSPA tentatively identified major issues that should be considered in this negotiated rulemaking and asked for comment concerning the appropriateness of these issues for consideration and whether other issues should be added. These issues were:

A. Prevention of Unintentional Releases

The Committee should examine possible preventive measures to reduce or eliminate the incidence of unintentional releases during unloading. For example, some commenters to the Advanced Notice of Proposed Rulemaking (ANPRM) issued under Docket No. RSPA–97–2718 (HM–225A) [62 FR 44059] on August 18, 1997, have suggested that RSPA adopt a rigorous hose management system that assures that delivery hoses and lines meet high standards for quality, strength, and durability, and that requires periodic examination and testing to assure continued suitability for use in the transfer of high risk hazardous materials. Advocates of such a system say that it could significantly reduce the number of unloading incidents related to failures in hoses or hose assemblies. Similarly, the Committee should consider whether there are preventive measures, such as daily inspections or periodic testing, that should be implemented for other parts of the cargo tank delivery system, including pumps, valves, and piping.

B. Detection of Unintentional Releases

Preventive measures alone cannot assure the safety of cargo tank unloading operations. Despite the best efforts of the industry and the government, incidents will occur, and unintentional releases of high risk hazardous materials such as propane or anhydrous ammonia will occur. The Committee thus should consider methods to assure that unintentional releases can be detected and controlled. One such detection method is provided by the current regulatory requirement for continual visual observation of the cargo tank throughout the unloading process. Alternatives that have been suggested include remote monitoring and signaling systems, such as sensors, alarms, and electronic surveillance equipment, or "patrolling" whereby the person attending the unloading operation moves between the storage tank and the cargo tank to assure that each is monitored periodically throughout the unloading process.

C. Mitigation of Unintentional Releases

Once a leak has been detected, methods to prevent catastrophic consequences are critical. A passive system for shutting down unloading when a leak has been detected operates automatically, that is, without human intervention. Examples include excess flow valves, which are intended to close the internal self-closing stop valve if the flow rate exceeds a threshold level, and thermal links, which are intended to close the internal self-closing stop valve if the temperature reaches a threshold level. A remote system provides a means to shut down cargo tank unloading operations using a mechanical device that is located on the CTMV but away from the valve(s) that it operates. Many CTMVs have remote mechanical shut-offs located near the vehicle cab. The remote shut-off may be manually activated. An off-truck electro-mechanical remote system includes a portable device that can shut down cargo tank unloading operations away from the CTMV. In many instances, an off-truck electro-mechanical remote is manually activated, although some systems default to the fail-safe mode under certain circumstances. The Committee should evaluate alternatives with a view towards determining which methods or combination of methods provide the most cost-effective means for controlling unintentional releases during cargo tank unloading operations.

V. Comments on Issues List

In response to the notice of intent, one person submitted comments on the issues involved in the regulatory negotiation. The commenter suggested that, in addition to the issues outlined in the notice of intent, the Committee should consider: (1) Defining an acceptable hose life and specific inspection pressures for hoses; (2) alternatives to the current attendance requirements; (3) specific requirements for off-truck remote systems; and (4) limiting the types of fittings and valves used directly on cargo tank walls to malleable steel or ductile iron construction for vessels in propane service. RSPA agrees that the first three issues should be considered by the Committee and notes that hose management, monitoring of unloading operations, and off-truck remotes are all included in the issues list in the notice of intent. However, RSPA does not agree that the issue of the material used for fittings or valves located directly on cargo tank walls should be included in the issues that will be considered by the Committee. This rulemaking is concerned only with operational issues related to unloading of MC 330 and MC 331 CTMVs and with the components of a CTMV's emergency discharge system. General issues related to cargo tank design and construction are more properly the subject of a separate rulemaking. This recommendation will be considered as part of RSPA's docket HM–213.

VI. Procedure and Schedule

Staff support for the advisory committee will be provided by RSPA and the facilitator, and meetings will take place in Washington, D.C., unless agreed otherwise by the Committee.

Consistent with FACA requirements, the facilitator will prepare summaries of each Committee meeting. These summaries and all documents submitted to the Committee will be placed in the public docket for this rulemaking.

As stated in the Notice of Intent, the Committee's objective is to prepare a report containing an outline of its recommendations for a notice of proposed rulemaking with suggestions for specific preamble and regulatory language based on the Committee's recommendations, as well as information relevant to a regulatory evaluation and an evaluation of the impacts of the proposal on small businesses. One commenter recommended that the Committee's final product be a Notice of Proposed Rulemaking (NPRM), with the Committee reaching consensus on the language of the NPRM and preamble. RSPA believes that this is a decision that the Committee should make as it develops ground rules and timetables for its deliberations.

The negotiation process will proceed according to a schedule of specific dates that the Committee devises at its first meeting on July 28–29, 1998. RSPA will publish notices of future meetings in the **Federal Register**. RSPA anticipates that the Committee will meet for up to five two-day sessions beginning in July 1998. If the Committee establishes working groups to support its work, additional meetings for the working groups may be necessary. RSPA expects the Committee to reach consensus and prepare a report recommending a proposed rule within six months of the first meeting. RSPA expects to publish an NPRM based on the Committee's recommendations by February 15, 1999, and a final rule by May 1, 1999. If unforeseen delays in the anticipated schedule occur, the Research and Special Programs Administrator may agree to an extension of time if the consensus of the Committee is that additional time will result in agreement.

VII. Meeting Agenda

The first meeting of the negotiated rulemaking committee will begin at 9:30 a.m. on July 28 with consideration of Committee ground rules, procedures, and calendar. The Committee will then address the specific issues that should be included in the negotiation and how data to support its deliberations will be developed. In addition, the Committee will consider whether to establish working groups to provide technical support and recommendations for specific aspects of the negotiations. The first meeting will conclude at 4:00 p.m. on July 29.

Title 41 CFR Sec. 105–54.301 requires that notices of advisory committee meetings must be published at least 15 calendar days prior to a meeting. However, that section also permits less than 15 days notice of a meeting in exceptional circumstances provided that the reasons for doing so are included in the meeting notice published in the **Federal Register**. RSPA determined that an early date for the first meeting was necessary because the agency timeframe for publication of an NPRM is very short. The temporary regulation that is an issue in this rulemaking expires on July 1, 1999. RSPA was unable to provide 15 days' notice for the first meeting because of delays in contacting potential committee members to confirm their interest in participating. However, RSPA indicated in its June 4 notice of intent that the first meeting of the committee would be scheduled for July 1998. Additionally, RSPA provided a tentative meeting schedule that included the July 28–29 meeting date at the June 23–24 public meeting. Thus, representatives of the identified interests were informed of the meeting date well in advance of the 15 day period. RSPA expects that all Committee members will be present for this first important meeting.

Issued in Washington, DC on July 14, 1998 under authority delegated in 49 CFR Part 1.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety, Research and Special Programs Administration.

[FR Doc. 98–19108 Filed 7–15–98; 8:45 am]

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H.R. 651/P.L. 105–189

To extend the deadline under the Federal Power Act for the construction of a hydroelectric project located in the State of Washington, and for other purposes. (July 14, 1998; 112 Stat. 622)

H.R. 652/P.L. 105–190

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H.R. 848/P.L. 105–191

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H.R. 1184/P.L. 105–192

To extend the deadline under the Federal Power Act for the construction of the Bear Creek Hydroelectric Project in the State of Washington, and for other purposes. (July 14, 1998; 112 Stat. 625)

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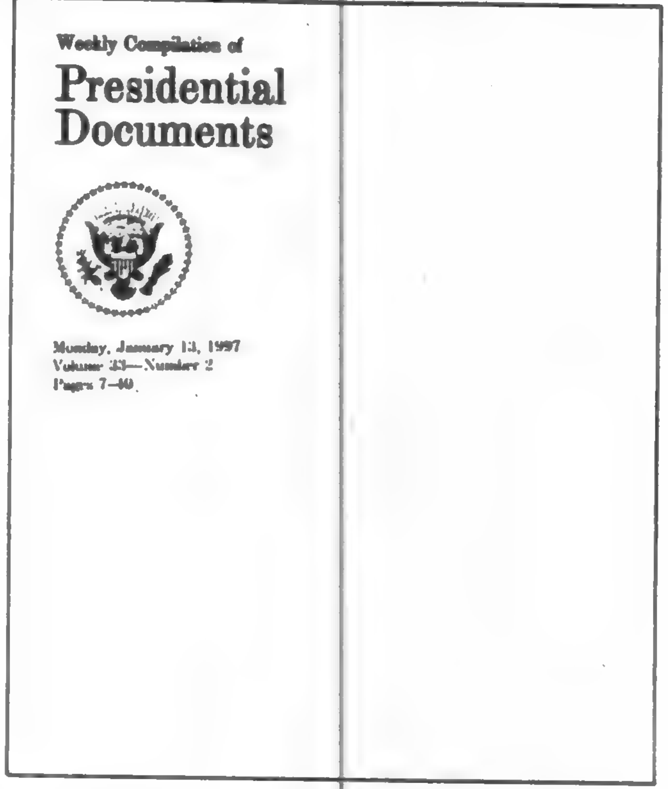

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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 560

[No. 98–70]

RIN 1550–AB12

Disclosures for Adjustable-Rate Mortgage Loans

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Thrift Supervision (OTS) is issuing a final rule revising adjustable-rate mortgage loan (ARM) disclosure requirements for savings associations. In the interim final rule, the OTS conformed its ARM disclosure rule text to recent changes to related disclosure provisions in Regulation Z, which was issued by the Federal Reserve Board (FRB) under the Truth in Lending Act (TILA). In today's final rule, the OTS replaces its existing rule with a simple cross-reference to the Regulation Z disclosure provisions. The rule also makes minor technical changes. This substitution does not affect the rule's function of promoting safe and sound lending by savings associations nor OTS's enforcement of its provisions.

EFFECTIVE DATE: Effective date: July 17, 1998. *Compliance date:* Compliance is optional until October 1, 1998.

FOR FURTHER INFORMATION CONTACT: Susan Miles, Attorney, (202) 906–6798, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

I. Background

To assist borrowers in making informed decisions on the cost of credit, the OTS and FRB have issued regulations imposing disclosure requirements on creditors issuing ARMs. The FRB disclosure rules at 12 CFR Part 226 implement TILA[1] and are commonly referred to as Regulation Z. Regulation Z applies to all lenders subject to TILA, including savings associations. Regulation Z, however, specifically states that information provided in accordance with the variable rate regulations of other federal agencies, such as the OTS, may be substituted for the disclosures required by Regulation Z.[2] To this extent, Regulation Z incorporates the OTS ARM disclosure rule at 12 CFR 560.210, and the OTS rule serves as an implementing regulation of TILA.

Section 560.210 applies to ARMs with a term of more than one year that are secured by property occupied by or to be occupied by the borrower. This rule was first issued by the OTS's predecessor agency, the Federal Home Loan Bank Board (FHLBB) under the agency's authority under the Home Owners' Loan Act (HOLA)[3] to ensure that savings associations operate in a safe and sound manner. The FHLBB believed the regulation was necessary because "[s]afe and sound lending using ARMs requires that the borrower have a full understanding of the type of obligation being incurred in order to make a reasonable and meaningful decision concerning ability to repay."[4] The OTS continues to consider promoting safe and sound lending an important function of this regulation.

Although the original FHLBB regulation was more detailed than Regulation Z, the disclosures required under OTS regulations have been identical to those required under Regulation Z since 1988. Under Regulation Z, if a variable rate transaction exceeds a term of one year and is secured by the consumer's principal dwelling, the creditor must provide various initial disclosures for each variable rate program in which the consumer is interested.[5] Until recently amended, Regulation Z required an institution to provide: (1) A fifteen-year historical example, based on a $10,000 loan amount, illustrating how payments and the loan balance would have been affected by interest rate changes implemented according to the terms of the loan program; and (2) The maximum interest rate and payment for a $10,000 loan, originated at the most recent interest rate shown in the historical example assuming the maximum periodic increases in rates and payments under the loan, and the initial interest rate and payment for that loan.

Section 2105 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA)[6] amended section 128(a) of TILA to permit a creditor to elect to provide a statement that periodic rates may substantially increase or decrease (together with the maximum interest rate and payment amount based on a $10,000 loan amount), in lieu of the historical example. On December 1, 1997, the FRB published a final rule implementing section 2105 of EGRPRA.

On January 8, 1998, the OTS published an interim final rule making identical amendments to § 560.210.[7] Under the OTS interim final rule, a savings association may provide either the historical example or the maximum interest rate and payment. If the savings association chooses the maximum interest rate and payment option, however, it must also provide the initial rate and payment amount and a statement that the periodic rate may increase or decrease substantially.

Consistent with the FRB final rule, the OTS interim rule also modified how the interest rate is calculated under the maximum interest rate and payment option. Before the interim final rule, a savings association calculated the maximum interest rate using "the most recent interest rate shown in the historical example." Since a savings association is not required to provide the historical example when it elects the maximum interest rate and payment option, the interim final rule provided for the disclosure of "the initial interest rate (index value plus margin, adjusted by the amount of any discount or premium) in effect as of an identified month and year for the particular loan program."

Similarly, before the interim final rule, the OTS required a savings association to explain how a customer could calculate payments for the loan

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[1] 15 U.S.C. 1601 *et seq.*

[2] 12 CFR 226.19(b) n. 45a and 226.20(c) n. 45c.

[3] 12 U.S.C. 1463(a) and 1464(a).

[4] 50 FR 32005 (Aug. 8, 1985).

[5] 12 CFR 226.19(b)(2) (1997).

[6] Pub. L. 104–208, 110 Stat. 3009 (September 30, 1996).

[7] 63 FR 1051.

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amount based on the most recent payment shown in the historical example. To allow customers to understand the relationship between their transactions and the disclosures made under the maximum interest rate and payment option, the interim final rule permits a savings association to provide a customer with a similar explanation using the initial interest rate. The FRB made a similar change to Regulation Z.

II. Discussion of Comments

The OTS received comments from three commenters: one state-chartered savings institution, one federal savings bank, and one law firm. All three commenters supported the substantive changes in the interim final rule. Accordingly, today's final rule incorporates the substantive changes to the ARM disclosure requirements.

The OTS specifically solicited comment on whether it should delete the text of the disclosure requirements in § 560.210 and rely on the disclosure requirements in Regulation Z. All three commenters urged the OTS to adopt this approach.

The OTS has deleted the text of the disclosure requirements from the final rule and has substituted appropriate cross-references to Regulation Z. This approach will permit OTS-regulated institutions to immediately comply with all future changes to the Regulation Z disclosures in this area without waiting for the OTS to conform its rule through the rulemaking process.[8] Thus, the rule will ensure that all competing lenders are subject to similar regulatory requirements for ARM loans. This approach is consistent with section 303 of the Community Development Regulatory Improvement Act of 1994 (CDRIA), which instructs each banking agency to review their regulations and remove duplicate requirements and encourages common interagency supervisory policies. Finally, this change more closely conforms OTS rules to those issued by the Office of the Comptroller of the Currency and Federal Deposit Insurance Corporation. These agencies' rules do not prescribe any ARM disclosures and, instead, rely entirely on Regulation Z.

Rather than delete all references to ARM disclosure requirements from the regulations, the OTS has decided to retain appropriate cross-references to the disclosure provisions in Regulation Z. This approach, which two commenters supported, preserves the OTS's authority to utilize the full panoply of enforcement actions available under the HOLA and section 8 of the Federal Deposit Insurance Act (FDIA)[9] when an institution has improperly adjusted ARM interest rates. As noted above, § 560.210 implements both HOLA and TILA. Although TILA authorizes the OTS to utilize the standard enforcement remedies under section 8 of the FDIA, it limits when an agency may require an institution to "make dollar adjustments" for errors. Under TILA, the agency is authorized to direct an institution to make dollar adjustments only where an annual percentage rate or finance charge was inaccurately disclosed.[10]

By contrast, the OTS may seek any remedy authorized under the HOLA or section 8 of the FDIA for violations of regulations adopted pursuant to its authority under the HOLA.[11] As previously discussed, a long-standing purpose of the disclosure requirements of § 560.210 and its predecessor regulations has been promoting safe and sound lending by savings associations through ensuring that borrowers have a full understanding of their obligations and can therefore make reasonable and meaningful decisions about their ability to repay their loans. Thus, when enforcing § 560.210 as a safety and soundness regulation, the agency has a wider array of enforcement tools than would be available if it were solely enforcing violations of TILA. Section 8 of the FDIA, for example, permits the OTS to issue cease and desist orders requiring affirmative corrective actions, which may include account adjustments. FDIA also authorizes the OTS to require an institution to make restitution if the institution was unjustly enriched, or acted with reckless disregard.

Changing the format of the regulation to incorporate some provisions of Regulation Z by cross-referencing does not affect this authority. As with other OTS regulations that incorporate regulations of other agencies by cross referencing (e.g., 12 CFR 560.93, 563.43), OTS has the responsibility of enforcing the incorporated regulations as they apply to savings associations. The OTS will continue to enforce violations of § 560.210 using the enforcement remedies provided under the HOLA and FDIA.[12]

In the preamble to the interim rule, the OTS observed that § 560.210, on its face, applies to loans secured by a borrower's principal dwelling or by a second home. By contrast, the applicable Regulation Z disclosure requirements at 12 CFR 226.19(b) and 226.20(c) apply only when the secured property serves as the borrower's primary dwelling.[13] Two commenters urged the OTS to eliminate coverage for loans secured by second homes.

In recent years, the OTS has revised the scope of its ARM disclosure rule to more closely conform to Regulation Z requirements. For example, in the recent Lending and Investment rulemaking, OTS eliminated coverage of ARM loans that are primarily for a business, commercial, or agricultural purpose. The OTS made this revision to minimize the differences between its ARM regulation and Regulation Z and to ensure parity in coverage for all lenders.[14] To ensure that the scope of the OTS rule is, and continues to be, coextensive with Regulation Z, the cross-reference in the final rule refers to variable rate transactions as described under 12 CFR 226.19(b) and 226.20(c). These transactions are limited to those involving principal residences.

In addition to the changes discussed above, the OTS has made minor technical changes to current § 560.210. For example, the new cross-references to variable rate mortgage transactions under Regulation Z, permit the deletion of the existing definitions of "adjustable-rate mortgage loan," "applicant," and "home."

The OTS has also deleted current § 560.210(e). This paragraph states that a savings association making a closed- or open-end ARM loan must comply with Regulation Z (12 CFR 226.30) by specifying in their credit contracts the maximum interest rate that may be imposed during the term of the obligation. This section simply reiterates already applicable requirements under Regulation Z, and may be deleted as unnecessary.

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[8] We note that the recent FRB final rule was effective on November 21, 1997. The OTS's related interim final rule was effective on January 8, 1998.

[9] 12 U.S.C. 1818.

[10] 15 U.S.C. 1607(b) & (e)(5).

[11] 12 U.S.C. 1464(d).

[12] One commenter noted that borrowers have additional enforcement remedies under state law and under RESPA's mortgage loan servicing provisions. *See* 12 U.S.C. 2605(e)(1)(B). The OTS does not wish to rely on the efforts of the individual plaintiffs to ensure that thrift institutions use safe and sound banking practices and comply with applicable laws and regulation. Rather, the OTS has retained and will exercise the broadest possible enforcement authority permitted under the existing statutes.

[13] *See e.g.*, 12 CFR Part 226, Supp. I. Official Staff Interpretation, Section 226.19, Paragraph 19(b), Comment 1.

[14] 61 FR 50951, 50962–63 (Sept. 30, 1996). Moreover, we note that the FHLBB's initial ARM disclosure regulation originally specifically excluded the coverage of second homes. 50 FR 32010 (August 8, 1985). In 1987, however, the relevant language was deleted without any discussion. 52 FR 3668 (February 5, 1987).

III. Effective Date

The OTS has determined that there is good cause to dispense with a 30-day delayed effective date under 5 U.S.C. 553(d)(3). The revised disclosure requirements reduce regulatory confusion by conforming the OTS disclosure rules under the HOLA more closely to those of the FRB under TILA. The changes do not have an adverse impact on savings associations because they reduce regulatory burden. Moreover, the substantive changes to disclosure requirements were immediately effective upon publication of the interim rule in January, 1998 and many institutions have already adopted the changes. Accordingly, OTS-regulated institutions will not require additional time to adjust their policies or practices to comply with the rule.

The OTS has also determined, for the reasons stated in the preceding paragraph, that good cause exists to adopt an effective date that is before date that would otherwise be required by section 302 of CDRIA (i.e., the first day of the calendar quarter after the date of publication).

Accordingly, the final rule is effective immediately. However, like the FRB rule, compliance with the OTS rule is optional until October 1, 1998.

IV. Paperwork Reduction Act of 1995

The collections of information contained in this final rule were submitted to and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under OMB Control Number 1550–0078.

Comments on all aspects of this information collection above should be sent to the Office of Management and Budget, Paperwork Reduction Project (1550–0078), Washington, DC 20503, with copies to the Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number assigned to the collection of information in this final rule is displayed at 12 CFR 506.1(b).

The collection of information requirements in this final rule are found at 12 CFR 560.210. The OTS needs the disclosures requirements to ensure that savings associations comply with a statutory TILA requirement and to otherwise supervise safe and sound lending by savings associations. The likely respondents/recordkeepers are OTS-regulated savings associations.

V. Executive Order 12866

The Director of the OTS has determined that this final rule does not constitute a "significant regulatory action" for the purposes of Executive Order 12866.

VI. Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act, the OTS certifies that this final rule will not have a significant economic impact on a substantial number of small entities. The final rule will not impose any additional burdens or requirements. Rather, it reduces the disclosures required for ARMs and eases the compliance burden on all savings associations, including small savings associations. Accordingly, a regulatory flexibility analysis is not required.

VII. Unfunded Mandates Act of 1995

The OTS has determined that the requirements of this final rule will not result in expenditures by State, local, and tribal governments, or by the private sector, of more than $100 million in any one year. Accordingly, a budgetary impact statement is not required under section 202 of the Unfunded Mandates Act of 1995, as codified at 2 U.S.C. 1571(a).

List of Subjects in 12 CFR Part 560

Consumer protection, Investments, Manufactured homes, Mortgages, Reporting and recordkeeping requirements, Savings associations.

Accordingly, the Office of Thrift Supervision amends title 12, chapter V, of the Code of Federal Regulations as set forth below:

PART 560—LENDING AND INVESTMENT

1. The authority citation for part 560 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1701j–3, 1828, 3803, 3806; 42 U.S.C. 4106.

2. Section 560.210 is revised to read as follows:

§ 560.210 Disclosures for variable rate transactions.

A savings association must provide the initial disclosures described at 12 CFR 226.19(b) and the adjustment notices described at 12 CFR 226.20(c) for variable rate transactions, as described in those regulations. The OTS administers and enforces those provisions for savings associations.

Dated: July 14, 1998.

By the Office of Thrift Supervision.

Ellen Seidman,

Director.

[FR Doc. 98–19143 Filed 7–16–98; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–133–AD; Amendment 39–10662; AD 98–15–11]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Dornier Model 328–100 series airplanes, that requires replacing the existing roll spoiler control rods with improved parts. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent bending stress to the fork end of the roll spoiler, which could result in failure of the roll spoiler and consequent reduced controllability of the airplane.

DATES: Effective August 21, 1998. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 21, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Fairchild Dornier, Dornier Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD)

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that is applicable to certain Dornier Model 328–100 series airplanes was published in the **Federal Register** on May 20, 1998 (63 FR 27690). That action proposed to require replacing the existing roll spoiler control rods with improved parts.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 50 airplanes of U.S. registry will be affected by this AD, that it will take approximately 3 work hours per airplane to accomplish the required replacement, and that the average labor rate is $60 per work hour. Required parts will be provided by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the replacement required by this AD on U.S. operators is estimated to be $9,000, or $180 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

98–15–11 Dornier Luftfahrt GMBH: Amendment 39–10662. Docket 98–NM–133–AD.

Applicability: Model 328–100 series airplanes, serial numbers 3005 through 3047 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent bending stress to the fork end of the roll spoiler, which could result in failure of the roll spoiler and consequent reduced controllability of the airplane, accomplish the following:

(a) Within 4 months after the effective date of this AD, replace the existing roll spoiler control rods on the right and left sides of the airplane with improved parts, in accordance with Dornier Service Bulletin SB–328–27–247, Revision 1, dated February 19, 1998.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The replacement shall be done in accordance with Dornier Service Bulletin SB–328–27–247, Revision 1, dated February 19, 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fairchild Dornier, Dornier Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in German airworthiness directive 1998–042, dated January 29, 1998.

(e) This amendment becomes effective on August 21, 1998.

Issued in Renton, Washington, on July 8, 1998.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–18773 Filed 7–16–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–209–AD; Amendment 39–10665; AD 98–15–14]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model MD–11 series airplanes, that currently requires a revision of the Airplane Flight Manual (AFM) to alert the flightcrew that both flight management computers (FMC's) must be installed and operational. That AD also requires an inspection to determine the serial number of the FMC's; and

follow-on corrective actions, if necessary, which terminate the AFM revision. That amendment was prompted by a report indicating that, due to incorrect multiplexers that were installed in the FMC's during production, certain data busses failed simultaneously during a ground test. This amendment removes the terminating action from the existing AD. The actions specified in this AD are intended to prevent loss of airspeed and altitude indications on both primary flight displays in the cockpit, and/or loss or degradation of the autopilot functionality due to installation of incorrect multiplexers, and consequent failure of the data busses.

DATES: Effective August 3, 1998.

Comments for inclusion in the Rules Docket must be received on or before September 15, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–209–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Information pertaining to this rulemaking action may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5350; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: On April 28, 1998, the FAA issued AD 98–10–01, amendment 39–10512 (63 FR 24742, May 5, 1998), applicable to certain McDonnell Douglas Model MD–11 series airplanes. That AD requires a revision of the Airplane Flight Manual (AFM) to alert the flightcrew that both flight management computers (FMC's) must be installed and operational. That AD also requires an inspection to determine the serial number of the FMC's, and follow-on corrective actions, if necessary; which terminate the AFM revision. That action was prompted by a report indicating that, due to incorrect multiplexers that were installed in the FMC's during production, certain data busses failed simultaneously during a ground test. The actions required by that AD are intended to prevent loss of airspeed and altitude indications on both primary flight displays in the cockpit, and/or loss or degradation of the autopilot functionality due to installation of incorrect multiplexers, and consequent failure of the data busses.

Actions Since Issuance of Previous Rule

The existing AD requires terminating action for only a small subgroup of affected airplanes (those with FMC multiplexers having certain part numbers). However, since the issuance of that AD, additional defective multiplexers (not previously identified) have been found.

Airplanes having affected FMC's that have been purged of suspected defective multiplexers, in compliance with AD 98–10–01, would be considered airworthy. However, FMC's or mutliplexes may have been exchanged or replaced during routine maintenance subsequent to compliance with AD 98–10–01, and it would be impossible to determine whether units inspected in accordance with that AD may now contain suspected defective multiplexers. Therefore, the AFM revision will continue to be required until the entire fleet can be systematically inspected for suspected defective multiplexers. The AFM revision requirement will ensure the continued safe operation of the entire fleet during this interim period.

The AFM revision currently required by the existing AD, and retained in this new action, requires that both FMC's be installed and operational. The identified unsafe condition could not occur unless both FMC's fail. Therefore, the FAA finds that the AFM limitation adequately addresses the identified unsafe condition.

Interim Action

This is considered to be interim action. The FAA may consider further rulemaking to require inspection of all MD–11 FMC's to detect defective multiplexers. However, the compliance time under consideration for these actions is sufficiently long so that notice and opportunity for prior public comment will be practicable.

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of this same type design, this AD supersedes AD 98–10–01 to continue to require an AFM revision to alert the flightcrew that both FMC's must be installed and operational. In addition, this AD removes the terminating action required by AD 98–10–01.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–NM–209–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–10512 (63 FR 24742, May 5, 1998), and by adding a new airworthiness directive (AD), amendment 39–10665, to read as follows:

98–15–14 McDonnell Douglas: Amendment 39–10665. Docket 98–NM–209–AD. Supersedes AD 98–10–01, amendment 39–10512.

Applicability: Model MD–11 series airplanes, manufacturer's fuselage numbers 0447 through 0552 inclusive, and 0554 through 0621 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of airspeed and altitude indications on both primary flight displays in the cockpit, and/or loss or degradation of the autopilot functionality due to installation of incorrect multiplexers, and consequent failure of the data busses, accomplish the following:

(a) Within 5 days after May 20, 1998 (the effective date of AD 98–10–01, amendment 39–10512), revise Section 1, page 5–1, of the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following statement. This may be accomplished by inserting a copy of this AD into the AFM.

"Prior to dispatch of the airplane, both Flight Management Computer 1 (FMC–1) and FMC–2 must be installed and operational."

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Operations Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) This amendment becomes effective on August 3, 1998.

Issued in Renton, Washington, on July 10, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–19044 Filed 7–16–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AWP–14]

Revision of Class D and Establishment of Class E Airspace; Yuma MCAS–Yuma International Airport, AZ; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date and correction.

SUMMARY: This document confirms the effective date of a direct final rule which amends the Class D airspace area operating times and establishes a Class E airspace surface area at Yuma MCAS-Yuma International Airport, AZ; and corrects the Class E airspace legal description, as published in the direct final rule.

DATES: The direct final rule published in 63 FR 30125 is effective on 0901 UTC, August 13, 1998. This correction is effective on August 13, 1998.

FOR FURTHER INFORMATION CONTACT: Debra Trindle, Air Traffic Division, Airspace Branch, AWP–520.10, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; telephone: (310) 725–6613.

SUPPLEMENTARY INFORMATION: On June 3, 1998, the FAA published in the **Federal Register** a direct final rule; request for comments which amended the operating times of the Class D airspace area and established a Class E airspace surface area at Yuma MCAS-Yuma International Airport, Yuma, AZ. (FR Document 98–14757, 63 FR 30125, Airspace Docket No. 98–AWP–14). An error was subsequently discovered in the legal description of the Class E airspace surface area. The Class E surface area description specifies an altitude stratum from the surface up to and including 2,700 feet MSL. Defined altitudes are not a required or appropriate definition for Class E airspace surface areas in accordance with FAA Order 7400.2D, Procedures for Handling Airspace Matters and FAA Order 7400.9E, Airspace Designations and Reporting Points. After careful review of all available information related to the subject present above, the FAA has determined that air safety and the public interest require adoption of the rule. The FAA has determined that this correction will not change the meaning of the action nor add any additional burden on the public beyond that already published. This action corrects the error and confirms the effective date of the direct final rule.

The FAA uses the direct final rulemaking procedure for a noncontroversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on August 13, 1998. No adverse comments were received, and thus this document confirms that this direct final rule will become effective on that date.

Correction

In rule FR Doc. 98–14757 published in the **Federal Register** on June 3, 1998, 63 FR 30125, make the following correction to the Yuma MCAS-Yuma International Airport, Yuma, AZ, Class E airspace designation incorporated by reference in 14 CFR 71.1:

§ 71.1 [Corrected]

AWP AZ E2 Yuma MCAS-Yuma International Airport, AZ [Corrected]

On page 30126, in the third column, under Yuma MCAS-Yuma International Airport, AZ correct "That airspace extending upward from the surface to and including 2,700 feet MSL within a 5.2-mile radius of Yuma MCAS/Yuma International Airport" to read "That airspace within a 5.2-mile radius of Yuma MCAS/Yuma International Airport."

Issued in Los Angeles, California on July 7, 1998.

Sherry Avery,

Acting Assistant Manager, Air Traffic Division, Western Pacific Region.

[FR Doc. 98–19097 Filed 7–16–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29280; Amdt. No. 1878]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (NFDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 25, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

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Issued in Washington, DC, on July 10, 1998.

Tom E. Stuckey,

Acting Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

Effective 13 August, 1998

Fayetteville/Springdale/Rogers, AR, Northwest Arkansas Regional, ILS/DME RWY 16, Orig
Fayetteville/Springdale/Rogers, AR, Northwest Arkansas Regional, ILS/DME RWY 34, Orig
Fayetteville/Springdale/Rogers, AR, Northwest Arkansas Regional, GPS RWY 16, Amdt 1
Fayetteville/Springdale/Rogers, AR, Northwest Arkansas Regional, RWY 34, Amdt 1
Delano, CA, Delano Muni, VOR RWY 32, Amdt 7
Delano, CA, Delano Muni, GPS RWY 32, Orig
Porterville, CA, Porterville Muni, GPS RWY 12, Orig
Porterville, CA, Porterville Muni, GPS RWY 30, Orig
Anderson, IN, Anderson Muni-Darlington Field, ILS RWY 30, Orig
Stevensville, MT, Stevensville, GPS–A, Orig

Effective 10 September, 1998

Le Mars, IA, Le Mars Muni, VOR/DME OR GPS RWY 36, Amdt 2
Le Mars, IA, Le Mars Muni, NDB RWY 18, Amdt 10
Le Mars, IA, Le Mars Muni, GPS RWY 18, Orig

Effective 8 October, 1998

St. Elmo, AL, St Elmo, GPS RWY 6, Orig
Moultrie, GA, Moultrie Muni, GPS RWY 22, Amdt 12
Moultrie, GA, Moultrie Muni, VOR RWY 4, Orig
Moultrie, GA, Moultrie Muni, GPS RWY 22, Orig
Fitchburg, MA, Fitchburg Muni, GPS RWY 14, Orig
Fitchburg, MA, Fitchburg Muni, GPS RWY 20, Orig
Fitchburg, MA, Fitchburg Muni, GPS RWY 32, Orig
Moorhead, MN, Moorhead Muni, GPS RWY 30, Orig
Berlin, NJ, Camden County, GPS RWY 5, Orig
Berlin, NJ, Camden County, GPS RWY 23, Orig
Angola, NY, Angola, VOR/DME–A, Amdt 1
Angola, NY, Angola, GPS RWY 1, Orig
Angola, NY, Angola, GPS RWY 19, Orig
Leesburg, VA Leesburg Muni/Godfrey Field, GPS RWY 17, Amdt 1
Moses Lake, WA, Grant County Intl, GPS RWY 4, Orig
Moses Lake, WA, Grant County Intl, GPS RWY 14L, Orig
Moses Lake, WA, Grant County Intl, GPS RWY 22, Orig
Moses Lake, WA, Grant County Intl, GPS RWY 32R, Orig
Summersville, WV, Summersville, GPS RWY 4, Amdt 1
Summersville, WV, Summersville, GPS RWY 22, Amdt 1

[FR Doc. 98–19101 Filed 7–16–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29281; Amdt. No. 1879]

[RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (*Mail Address:* P.O. Box 25082, Oklahoma City, OK 73125) *Telephone:* (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation's Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAM for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been canceled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMS, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on July 10, 1998.

Tom E. Stuckey,

Acting Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB; NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

* * * *Effective Upon Publication*

FDC date	State	City	Airport	FDC No.	SIAP
06/24/98	KY	Louisville	Louisville Intl-Standiford Field	FDC 8/4237	ILS RWY 35L, ORIG...
06/24/98	OH	Youngstown-Warren	Youngstown-Warren Regional	FDC 8/4224	ILS RWY 14, AMDT 6...
06/25/98	KY	Frankfort	Frankfort/Capital City	FDC 8/4270	GPS RWY 24, ORIG...
06/25/98	KY	Frankfort	Frankfort/Capital City	FDC 8/4273	LOC/DME RWY 24, ORIG–A...
06/25/98	KY	Mount Sterling	Mount Sterling-Montgomery County	FDC 8/4269	NDB or GPS RWY 3, AMDT 1...
06/25/98	KY	Mount Sterling	Mount Sterling-Montgomery County	FDC 8/4271	NDB RWY 21, AMDT 1...
06/25/98	KY	Mount Sterling	Mount Sterling-Montgomery County	FDC 8/4272	GPS RWY 21, ORIG...
06/25/98	OH	Carrollton	Carrollton County-Tolson	FDC 8/4290	GPS RWY 7, ORIG...
06/26/98	WI	Manitowish Waters	Manitowish Waters	FDC 8/4313	GPS RWY 32, ORIG–A...
06/26/98	WI	Shell Lake	Shell Lake Muni	FDC 8/4316	NDB RWY 32, ORIG–A...
06/29/98	IA	Sibley	Sibley Muni	FDC 8/4383	NDB or GPS RWY 35, AMDT 1...
06/29/98	IA	Sibley	Sibley Muni	FDC 8/4384	NDB or GPS RWY 17, AMDT 1...
06/30/98	OH	Cambridge	Cambridge Muni	FDC 8/4425	LOC/DME RWY 22, ORIG...
06/30/98	OH	Cambridge	Cambridge Muni	FDC 8/4426	VOR or GPS–A, AMDT 3...
06/30/98	OH	Mount County	Knox County	FDC 8/4422	VOR/DME RNAV or GPS RWY 28, AMDT 2...
06/30/98	OH	Mount Vernon	Knox County	FDC 8/4423	VOR or GPS–A, AMDT 7...
06/30/98	OH	Mount Vernon	Knox County	FDC 8/4424	VOR/DME RNAV or GPS RWY 10, AMDT 2...
06/30/98	WI	Manitowish Waters	Manitowish Waters	FDC 8/4404	NDB RWY 32, ORIG...
07/01/98	NY	Saranac Lake	Adirondack Regional	FDC 8/4455	ILS RWY 23 AMDT 7...
07/01/98	NY	Saranac Lake	Adirondack Regional	FDC 8/4465	VOR/DME or GPS RWY 5 AMDT 2...
07/01/98	NY	Saranac Lake	Adirondack Regional	FDC 8/4467	VOR or GPS RWY 9 ORIG...
07/06/98	IA	Atlantic	Atlantic Muni	FDC 8/4630	NDB RWY 12, AMDT 9...
07/06/98	IA	Chariton	Chariton Muni	FDC 8/4627	NDB RWY 17, AMDT 3...

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FDC date	State	City	Airport	FDC No.	SIAP
07/06/98	IA	Chariton	Chariton Muni	FDC 8/4628	GPS RWY 10, ORIG...
07/06/98	IA	Chariton	Chariton Muni	FDC 8/4629	VOR or GPS RWY 17, AMDT 1...
07/06/98	MA	Boston	General Edward Lawrence Logan Intl	FDC 8/4621	VOR/DME or GPS RWY 15R AMDT 1...
07/06/98	NY	Plattsburgh	Clinton County	FDC 8/4610	VOR or GPS RWY 19 AMDT 3...
07/06/98	NY	Plattsburgh	Clinton County	FDC 8/4612	VOR/DME or GPS–A AMDT 2...
07/06/98	NY	Plattsburgh	Clinton County	FDC 8/4615	ILSRWY 1 AMDT 4...
07/06/98	RI	Newport	Newport State	FDC 8/4623	VOR/DME or GPS RWY 16 ORIG...
07/06/98	RI	Newport	Newport State	FDC 8/4624	LOC RWY 22 AMDT 7...
07/07/98	IA	Newport	Newton Muni	FDC 8/4663	ILS RWY 32, AMDT 1B...
07/07/98	MN	Cook	Cook Muni	FDC 8/4641	NDB or GPS RWY 31, AMDT 1...
07/07/98	MN	Park Rapids	Park Rapids Muni	FDC 8/4652	NDB or GPS RWY 31, AMDT 1...
07/07/98	MN	Park Rapids	Park Rapids Muni	FDC 8/4653	VOR/DME RWY 13, AMDT 8...
07/07/98	MN	Park Rapids	Park Rapids Muni	FDC 8/4654	ILS RWY 31 AMDT 1...
07/07/98	MN	Park Rapids	Park Rapids Muni	FDC 8/4658	VOR RWY 31, AMDT 13...
07/07/98	MN	St. Cloud	St. Cloud Regional	FDC 8/4642	GPS RWY 23, ORIG...
07/07/98	MN	St. Cloud	St. Cloud Regional	FDC 8/4643	GPS RWY 5, ORIG...
07/07/98	NE	Grant Island	Central Nebraska Regional	FDC 8/4659	ILS RWY 35, AMDT 9...
07/07/98	NE	Omaha	Millard	FDC 8/4680	VOR/DME RNAV RWY 12, AMDT 6...
07/07/98	NE	Omaha	Millard	FDC 8/4681	NDB RWY 12, AMDT 10...
07/07/98	NE	Omaha	Millard	FDC 8/4682	GSP RWY 13, ORIG...

[FR Doc. 98–19100 Filed 7–16–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29282; Amdt. No. 1880]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAP's) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAP's, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) *Telephone:* (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAP's. The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 14 CFR 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Form 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAP's, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. The SIAP's contained in this amendment are based on the criteria contained in the

United States Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports.

The FAA has determined through testing that current non-localizer type, non-precision instrument approaches developed using the TERPS criteria can be flown by aircraft equipped with a Global Positioning System (GPS) and or Flight Management System (FMS) equipment. In consideration of the above, the applicable SIAP's will be altered to include "or GPS or FMS" in the title without otherwise reviewing or modifying the procedure. (Once a stand alone GPS or FMS procedure is developed, the procedure title will be altered to remove "or GPS or FMS" from these non-localizer, non-precision instrument approach procedure titles.)

The FAA has determined through extensive analysis that current SIAP's intended for use by Area Navigation (RNAV) equipped aircraft can be flown by aircraft utilizing various other types of navigational equipment. In consideration of the above, those SIAP's currently designated as "RNAV" will be redesignated as "VOR/DME RNAV" without otherwise reviewing or modifying the SIAP's.

Because of the close and immediate relationship between these SIAP's and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are, impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on July 10, 1998.

Tom E. Stuckey,

Acting Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113–40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

2. Amend 97.23, 97.27, 97.33 and 97.35, as appropriate, by adding, revising, or removing the following SIAP's, effective at 0901 UTC on the dates specified:

Effective August 13, 1998

Selma, AL, Selma/Craig Field, VOR RWY 15, Orig
CANCELLED
Selma, AL, Selma/Craig Field, VOR or GPS RWY 15, Orig
Selawik, AK, Selawik, VOR RWY 3, Orig
CANCELLED
Selawik, AK, Selawik, VOR or GPS RWY 3, Orig
Selawik, AK, Selawik, VOR RWY 21, Orig
CANCELLED
Selawik, AK, Selawik, VOR or GPS RWY 21, Orig
Benton, AR, Benton/Saline County, VOR or GPS–A, Amdt 6
CANCELLED
Benton, AR, Benton/Saline County, VOR–A, Amdt 6
Bentonville, AR, Bentonville Muni/Louise M. Thaden Field, VOR/DME or GPS–B, Amdt 4
CANCELLED
Bentonville, AR, Bentonville Muni/Louise M. Thaden Field, VOR/DME–B, Amdt 4
Bentonville, AR, Bentonville Muni/Louise M. Thaden Field, VOR, or GPS–A, Amdt 11
CANCELLED
Bentonville, AR, Bentonville Muni/Louise M. Thaden Field, VOR–A, Amdt 11
Clarksville, AR, Clarksville Muni, NDB or GPS–A, Amdt 5
CANCELLED
Clarksville, AR, Clarksville Muni, NDB–A, Amdt 5
Corning, AR, Corning Muni, VOR/DME or GPS–A, Amdt 1B
CANCELLED
Corning, AR, Corning Muni, VOR/DME–A, Amdt 1B
Lake Village, AR, Lake Village Muni, VOR/DME or GPS–B, Amdt 5
CANCELLED
Lake Village, AR, Lake Village Muni, VOR/DME–B, Amdt 5
Lake Village, AR, Lake Village Muni, VOR or GPS–A, Amdt 7
CANCELLED
Lake Village, AR, Lake Village Muni, VOR–A, Amdt 7
Mountain Home, AR, Mountain Home/Baxter County Regional, VOR or GPS–A, Amdt 9A
CANCELLED
Mountain Home, AR, Mountain Home/Baxter County Regional, VOR–A, Amdt 9A
Stuttgart, AR, Stuttgart Muni, VOR/DME or GPS–A, Amdt 1
CANCELLED
Stuttgart, AR, Stuttgart Muni, VOR/DME–A, Amdt 1
West Memphis, AR, West Memphis Muni, VOR/DME–A, Amdt 6
CANCELLED
West Memphis, AR, West Memphis Muni, VOR/DME–A, Amdt 6
West Memphis, AR, West Memphis Muni, NDB or GPS–B, Amdt 3
CANCELLED
West Memphis, AR, West Memphis Muni, NDB–B, Amdt 3
Grand Canyon, AZ, Grand Canyon/Valle, VOR RWY 3, Orig
CANCELLED
Grand Canyon, AZ, Grand Canyon/Valle, VOR or GPS RWY 3, Orig
Santa Ana, CA, Santa Ana/John Wayne Airport-Orange County, NDB RWY 19R, Amdt 1
CANCELLED
Santa Ana, CA, Santa Ana/John Wayne Airport-Orange County, NDB RWY 19R, Amdt 1
Punta Gorda, FL, Punta Gorda/Charlotte County, VOR/DME RNAV, RWY 27, Orig
CANCELLED
Punta Gorda, FL, Punta Gorda/Charlotte County, VOR/DME RNAV or GPS RWY 27, Orig
Jasper, GA, Jasper/Pickens County, NDB or GPS RWY 34, Amdt 1
CANCELLED
Jasper, GA, Jasper/Pickens County, NDB or GPS RWY 34, Amdt 1
Hampton, IA, Hampton Muni, NDB RWY 17, Amdt 4
CANCELLED
Hampton, IA, Hampton Muni, NDB RWY 17, Amdt 4
Shenandoah, IA, Shenandoah Muni, NDB RWY 4, Orig
CANCELLED
Shenandoah, IA, Shenandoah Muni, NDB or GPS RWY 4, Orig
Hugoton, KS, Hugoton Muni, NDB RWY 2, Amdt 2
CANCELLED
Hugoton, KS, Hugoton Muni, NDB or GPS RWY 2, Amdt 2
Iola, KS, Iola/Allen County, NDB RWY 1, Amdt 1
CANCELLED
Iola, KS, Iola/Allen County, NDB or GPS RWY 1, Amdt 1
Liberal, KS, Liberal Muni, VOR/DME RWY 17, Amdt 2
CANCELLED
Liberal, KS, Liberal Muni, VOR/DME RWY 17, Amdt 2
Scott City, KS, Scott City Muni, NDB or GPS RWY 35, Amdt 1

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CANCELLED
Scott City, KS, Scott City Muni, NDB or GPS RWY 35, Amdt 1
Eunice, LA, Eunice, NDB RWY 16, Orig
CANCELLED
Eunice, LA, Eunice, NDB or GPS RWY 16, Orig
Tallulah/Vicksburg, LA, Tallulah/Vicksburg Tallulah Regional, NDB RWY 36, Orig–B
CANCELLED
Tallulah/Vicksburg, LA, Tallulah/Vicksburg Tallulah Regional, NDB or GPS RWY 36, Orig–B
CANCELLED
Appleton, MN, Appleton Muni, NDB RWY 13, Orig-A
CANCELLED
Appleton, MN, Appleton Muni, NDB or GPS RWY 13, Orig-A
Brainerd, MN, Brainerd-Crow Wing County Regional, VOR/DME RWY 12, Amdt 9
CANCELLED
Brainerd, MN, Brainerd-Crow Wing County Regional, VOR/DME or GPS RWY 12, Amdt 9
Park Rapids, MN, Park Rapids Muni, VOR/DME RWY 13, Amdt 13
CANCELLED
Park Rapids, MN, Park Rapids Muni, VOR/DME or GPS RWY 13, Amdt 13
Rochester, MN, Rochester Intl, VOR/DME RWY 20, Amdt 13
CANCELLED
Rochester, MN, Rochester Intl, VOR/DME or GPS RWY 20, Amdt 13
Macon, MO, Macon-Fower Memorial, VOR/DME RWY 20, Orig-A
CANCELLED
Macon, MO, Macon-Fower Memorial, VOR/DME or GPS RWY 20, Orig-A
Monett, MO, Monett Muni, VOR/DME RNAV RWY 18, Orig
CANCELLED
Monett, MO, Monett Muni, VOR/DME RNAV or GPS RWY 18, Orig Rolla, MO, Rolla Downtown, VOR/DME–A, Amdt 2A
CANCELLED
Rolla, MO, Rolla Downtown, VOR/DME or GPS–A, Amdt 2A
Bowman, ND, Bowman Muni, NDB RWY 29, Amdt 2A
CANCELLED
Bowman, ND, Bowman Muni, NDB or GPS RWY 29, Amdt 2A
Fairmont, NE, Fairmont State Airfield, NDB RWY 17, Orig
CANCELLED
Fairmont, NE, Fairmont State Airfield, NDB or GPS RWY 17, Orig
Millville, NJ, Millville Muni, VOR/DME RNAV RWY 28, Amdt 1
CANCELLED
Millville, NJ, Millville Muni, VOR/DME RNAV or GPS RWY 28, Amdt 1
Millville, NJ, Millville Muni, VOR–A, Orig
CANCELLED
Millville, NJ, Millville Muni, VOR or GPS–A, Orig
Charlotte, NC, Charlotte/Douglas Intl, VOR/DME RWY 18R, Amdt 6
CANCELLED
Charlotte, NC, Charlotte/Douglas Intl, VOR/DME or GPS RWY 18R, Amdt 6
Wadsworth, OH, Wadsworth Muni, VOR/DME–A, Amdt 1A
CANCELLED
Wadsworth, OH, Wadsworth Muni, VOR/DME or GPS–A, Amdt 1A
Wapokoneta, OH, Wapokoneta/Neil Armstrong, VOR/DME RNAV RWY 26, Amdt 5B
CANCELLED
Wapokoneta, OH, Wapokoneta/Neil Armstrong, VOR/DME RNAV or GPS RWY 26, Amdt 5B
Ada, OK, Ada Muni, VOR/DME–A, Orig-A
CANCELLED
Ada, OK, Ada Muni, VOR/DME or GPS–A, Orig-A
Newport, OR, Newport Muni, VOR/DME RWY 34, Orig
CANCELLED
Newport, OR, Newport Muni, VOR/DME or GPS RWY 34, Orig
Redmond, OR, Redmond/Roberts Field, NDB RWY 22, Amdt 1
CANCELLED
Redmond, OR, Redmond/Roberts Field, NDB or GPS RWY 22, Amdt 1
Clarion, PA, Clarion County, VOR/DME RNAV RWY 6, Orig-A
CANCELLED
Clarion, PA, Clarion County, VOR/DME RNAV or GPS RWY 6, Orig-A
Clarion, PA, Clarion County, VOR/DME RNAV RWY 24, Orig
CANCELLED
Clarion, PA, Clarion County, VOR/DME RNAV or GPS RWY 24, Orig
Easton, PA, Easton, VOR–C, Amdt 2
CANCELLED
Easton, PA, Easton, VOR or GPS–C, Amdt 2
Latrobe, PA, Latrobe/Westmoreland County, VOR/DME RNAV RWY 5, Amdt 1
CANCELLED
Latrobe, PA, Latrobe/Westmoreland County, VOR/DME RNAV or GPS RWY 5, Amdt 1
Philadelphia, PA, Philadelphia/Wings Field, NDB RWY 6, Amdt 8
CANCELLED
Philadelphia, PA, Philadelphia/Wings Field, NDB or GPS RWY 6, Amdt 8
Pittsburgh, PA, Pittsburgh Intl, VOR RWY 28L/C, Amdt 5
CANCELLED
Pittsburg, PA, Pittsburgh Intl, VOR or GPS RWY 28L/C, Amdt 5
Myrtle Beach, SC, Myrtle Beach Intl, VOR/DME–A, Orig-A
CANCELLED
Myrtle Beach, SC, Myrtle Beach Intl, VOR/DME or GPS–A, Orig-A
Mitchell, SD, Mitchell Muni, VOR RWY 30, Amdt 4
CANCELLED
Mitchell, SD, Mitchell Muni, VOR or GPS RWY 30, Amdt 4
Harlingen, TX, Harlingen/Valley Intl, NDB RWY 17L, Amdt 5
CANCELLED
Harlingen, TX, Harlingen/Valley Intl, NDB or GPS RWY 17L, Amdt 5
Houston, TX, Houston/Sugar Land Muni/Hull Field, NDB RWY 17, Amdt 8
CANCELLED
Houston, TX, Houston/Sugar Land Muni/Hull Field, NDB or GPS RWY 17, Amdt 8
Norfolk, VA, Norfolk Intl, NDB/DME RWY 23, Orig
CANCELLED
Norfolk, VA, Norfolk Intl, NDB/DME or GPS RWY 23, Orig
Orange, VA, Orange County, VOR/DME–A, Amdt 2
CANCELLED
Orange, VA, Orange County, VOR/DME or GPS–A, Amdt 2
Washington, DC, Washington National, NDB RWY 36, Amdt 9
CANCELLED
Washington, DC, Washington National, NDB or GPS RWY 36, Amdt 9
Washington, DC, Washington National, VOR/DME RNAV–A, Amdt 6
CANCELLED
Washington, DC, Washington National, VOR/DME RNAV or GPS–A, Amdt 6
Oshkosh, WI, Oshkosh/Wittman Regional, VOR RWY 9, Amdt 8B
CANCELLED
Oshkosh, WI, Oshkosh/Wittman Regional, VOR or GPS RWY 9, Amdt 8B

[FR Doc. 98–19099 Filed 7–16–98; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 4

Access to Records by Foreign Governments

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission is amending Rules 4.10(d) and (e) of its Rules of Practice, which describe confidentiality protections for materials that the agency obtains pursuant to process in a law enforcement investigation, materials that the agency obtains voluntarily in lieu of such process that are designated confidential by their submitters, and other materials designated as confidential. These amendments conform the agency's rules to its disclosure authority under the International Antitrust Enforcement Assistance Act.

DATES: The amendments are effective July 17, 1998.

FOR FURTHER INFORMATION CONTACT: Marc Winerman, Office of the General Counsel, (202) 326–2451.

SUPPLEMENTARY INFORMATION: The Commission is amending Rule 4.10(d) of its Rules of Practice, 16 C.F.R. 4.10(d), which applies to materials submitted pursuant to compulsory process in a law enforcement investigation and to materials designated confidential and submitted voluntarily in lieu of such process. That rule provides that covered materials shall not be made available, except as provided therein, to anyone other than Commission officers, employees, contractors or consultants.

The Commission is also amending Rule 4.10(e) of its Rules, 16 C.F.R. 4.10(e), which provides that other materials that are designated confidential by their submitters may not be disclosed, except as provided therein, unless the Commission: (1) determines that they are neither trade secrets nor confidential commercial information; and (2) provides ten days' pre-disclosure notice to the submitter. These provisions implement and expand upon protections in sections 6(f) and 21 of the FTC Act, 15 U.S.C. 46(f), 57b–2. The amendments adopted herein conform the Commission's rules to its authority and obligations under agreements entered pursuant to the International Antitrust Enforcement Assistance Act ("IAEAA"), 15 U.S.C 6201 *et. seq.*

The IAEAA authorizes the Commission and the Department of Justice ("the agencies") to enter into mutual assistance agreements with foreign antitrust authorities for the purpose of providing reciprocal assistance in antitrust investigations. In accordance with the IAEAA's terms, 15 U.S.C. 6206, the agencies have published for comment the first proposed IAEAA agreement.[1]

Pursuant to requests under IAEAA agreements, the agencies may collect information on behalf of foreign antitrust authorities. 15 U.S.C. 6202. The agencies may also share information with those authorities, including both information collected at their behest and certain information already in the agencies' files. As reflected in these amendments, the IAEAA expressly authorizes disclosures of materials notwithstanding sections 6(f) and 21 of the FTC Act. 15 U.S.C. 6205.

The amendments adopted herein will reconcile the Commission's rules with the agency's obligations to provide assistance under IAEAA agreements. Because failure to make these amendments could impair the Commission's ability to meet its obligations, the amendments are exempt from notice and comment under the Administrative Procedure Act by virtue of the foreign affairs exemption to the Act. 5 U.S.C. 553(a)(1). They are also exempt from the notice and comment requirements of the APA and the Commission's rules by virtue of the good cause exemptions in 5 U.S.C. 553(b)(3) and 16 CFR 1.26(b), respectively. Except for non-substantive stylistic changes, the amendments merely implement agreements that are themselves subject to public comment, and comment on the amendments is therefore unnecessary.[2]

This action does not entail a collection of information for purposes of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* It is not subject to the requirements of the Regulatory Flexibility Act because it concerns a foreign affairs function of the United States. *See* 5 U.S.C. 601(2), Section 1(a)(2) of E.O. 12291, 46 FR 13193 (1981).

List of Subjects in 16 CFR Part 4

Administrative practice and procedure, Freedom of Information Act, Privacy Act, Sunshine Act.

For the reasons set forth in the preamble, the Federal Trade Commission amends Title 16, Chapter 1, Subchapter A of the Code of Federal Regulations, as follows:

PART 4—MISCELLANEOUS RULES

1. The authority citation for Part 4 continues to read as follows:

Authority: Sec. 6, 38 Stat. 721; 15 U.S.C. 46.

2. Amend § 4.10 by revising paragraphs (d) and (e) to read as follows:

§ 4.10 Nonpublic material.

* * * * *

(d) Except as provided in paragraphs (f) or (g) of this section, in § 4.11(b), (c), or (d), or as contemplated by agreements under the International Antitrust Enforcement Assistance Act (15 U.S.C. 6201 *et seq.*), no material that is marked or otherwise identified as confidential and that is within the scope of § 4.10(a)(8), and no material within the scope of § 4.10(a)(9) that is not otherwise public, will be made available, without the consent of the person who produced the material, to any individual other than a duly authorized officer or employee of the Commission or a consultant or contractor retained by the Commission who has agreed in writing not to disclose the information. All other Commission records may be made available to a requester under the procedures set forth in § 4.11 or may be disclosed by the Commission except where prohibited by law.

(e) Except as provided in paragraphs (f) or (g) of this section, in § 4.11(b), (c), or (d), or as contemplated by agreements under the International Antitrust Enforcement Assistance Act (15 U.S.C. 6201 *et seq.*), material not within the scope of § 4.10(a)(8) or § 4.10(a)(9) that is received by the Commission and is marked or otherwise identified as confidential may be disclosed only if it is determined that the material is not within the scope of § 4.10(a)(2), and the submitter is provided at least ten days' notice of the intent to disclose the material.

* * * * *

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 98–19213 Filed 7–16–98; 8:45 am]

BILLING CODE 6750-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Ivermectin Liquid

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Phoenix Scientific, Inc. The ANADA provides for veterinary prescription use of ivermectin oral liquid in horses to treat and control parasites and parasitic conditions.

EFFECTIVE DATE: July 17, 1998.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209.

SUPPLEMENTARY INFORMATION: Phoenix Scientific, Inc., 3915 South 48th St. Terrace, P.O. Box 6457, St. Joseph, MO 64506–0457, filed ANADA 200–202 that provides for veterinary prescription use of Phoenectin™ Liquid (10 milligram per milliliter (mg/mL) ivermectin oral liquid) for horses for the treatment and control of infections of large strongyles (adult) (*Strongylus equinus*), (adult and arterial larval stages) (*S. vulgaris*), (adult and migrating tissue stages) (*S. endentatus*), (adult) (*Triodontophorus* spp.); small strongyles, including those resistant to some benzimidizole class compounds (adults and fourth-stage larvae) (*Cyathostomum* spp.,

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[1] "Request for Comments on Proposed Agreement Between the Government of the United States of America and the Government of Australia on Mutual Antitrust Enforcement Assistance," 62 FR 20022 (Apr. 24, 1997) (comment period closed June 9, 1997).

[2] *See International Brotherhood of Teamsters* v. *Peña*, 17 F.3d 1478, 1486 (D.C. Cir. 1994) (APA foreign affairs exemption and good cause exception of agency rule); *WBEN* v. *United States*, 396 F.2d 601, 616 (2d Cir. 1968) (APA foreign affairs exemption).

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Cylicocyclus spp., *Cylicodontophorus* spp., (*Cylicostephanus* spp.), pinworms (adult and fourth-stage larvae) (*Oxyuris equi*); ascarids (third- and fourth-stage larvae and adults) (*Parascaris equorum*); hairworms (adult) (*Trichostrongylus axei*); large-mouth stomach worms (adult) (*Habronema muscae*); stomach bots (oral and gastric stages) (*Gastrophilus* spp.); lungworms (adults and forth-stage larvae) (*Dictyocaulus arnfieldi*); intestinal threadworms (adults) (*Strongyloides westeri*); summer sores caused by *Habronema* and *Draschia* spp. cutaneous third-stage larvae; and dermatitis caused by neck threadworm microfilariae (*Onchocerca* spp.).

Approval of ANADA 200–202 for Phoenix Scientific, Inc.'s, ivermectin oral liquid is as a generic copy of Merial Ltd.'s, NADA 140–439 Eqvalan ® (ivermectin) liquid for horses. The ANADA is approved as of June 5, 1998, and the regulations are amended in 21 CFR 520.1195(b) to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and § 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 520.1195 [Amended]

2. Section 520.1195 *Ivermectin liquid* is amended in paragraph (b) by removing "No. 050604" and adding in its place "Nos. 050604 and 059130".

Dated: July 9, 1998.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 98–19028 Filed 7–16–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Bacitracin Methylene Disalicylate Soluble

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Alpharma Inc. The supplemental NADA provides for using soluble bacitracin methylene disalicylate (BMD) powder to make a medicated drinking water for growing quail for prevention of ulcerative enteritis.

EFFECTIVE DATE: July 17, 1998.

FOR FURTHER INFORMATION CONTACT: William T. Flynn, Center for Veterinary Medicine (HFV–133), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1644.

SUPPLEMENTARY INFORMATION: Alpharma Inc., One Executive Dr., P.O. Box 1399, Fort Lee, NJ 07024, filed supplemental NADA 65–470 that provides for use of BMD® Soluble (BMD soluble powder) to make a medicated drinking water for growing quail containing the equivalent of 400 milligrams of bacitracin per gallon used for prevention of ulcerative enteritis due to *Clostridium colinum* susceptible to BMD. The supplemental NADA is approved as of May 27, 1998, and the regulations in 21 CFR 520.154a are amended to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(d)(4) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

2. Section 520.154a is amended in paragraph (a) by removing the phrase "paragraph (d)(3)" and by adding in its place the phrase "paragraphs (d)(3) and (d)(4)" and by adding paragraph (d)(4) to read as follows:

§ 520.154a Soluble bacitracin methylene disalicylate.

* * * * *

(d) * * *

(4) *Growing quail*—(i) *Amount.* 400 milligrams per gallon in drinking water.

(ii) *Indications for use.* For prevention of ulcerative enteritis due to *Clostridium colinum* susceptible to bacitracin methylene disalicylate.

(iii) *Limitations.* Prepare fresh solution daily. Use as sole source of drinking water.

Dated: July 9, 1998.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 98–19026 Filed 7–16–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs For Use in Animal Feeds; Bacitracin Methylene Disalicylate, Decoquinate, and Roxarsone

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the

animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Alpharma Inc. The NADA provides for using approved bacitracin methylene disalicylate, decoquinate, and roxarsone Type A medicated articles to make combination drug Type C medicated broiler chicken feeds.

EFFECTIVE DATE: July 17, 1998.

FOR FURTHER INFORMATION CONTACT: Charles J. Andres, Center for Veterinary Medicine (HFV–128), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1638.

SUPPLEMENTARY INFORMATION: Alpharma Inc., One Executive Dr., P.O. Box 1399, Fort Lee, NJ 07024, is sponsor of NADA 141–100 that provides for combining approved Type A medicated articles containing BMD® (10, 25, 30, 40, 50, 60, or 75 grams per pound (g/lb) bacitracin methylene disalicylate) with Deccox® (6 percent or 27.2 g/lb decoquinate), and 3-Nitro® (45.4, 90, or 227 g/lb roxarsone) to make Type C medicated broiler feeds containing 50 g/ton (g/t) bacitracin methylene disalicylate, 27.2 g/t decoquinate, and 22.7 to 45.4 g/t roxarsone. The Type C medicated broiler feeds are used as an aid in the prevention of necrotic enteritis, for the prevention of coccidiosis, and for increased rate of weight gain, improved feed efficiency, and improved pigmentation in broiler chickens. The NADA is approved as of June 2, 1998, and the regulations are amended in 21 CFR 558.76(d)(3) and 558.195(d) by adding new entries, and 558.530(d)(5)(x) is revised to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

This approval is for use of single ingredient Type A medicated articles to make combination drug Type C medicated feeds. One ingredient, roxarsone, is a Category II drug as defined in 21 CFR 558.3(b)(1)(ii). Prior to enactment of the Animal Drug Availability Act of 1996 (Pub. L. 104–250) (ADAA), an approved medicated feed application (MFA) was required for feed mills to make Type C medicated feeds from Type A medicated articles containing Category II drugs. The ADAA revised the Federal Food, Drug, and Cosmetic Act to replace the requirement for MFA's with a requirement for feed mill licenses.

The agency has determined under 21 CFR 25.33(a)(2) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

2. Section 558.76 is amended by adding paragraph (d)(3)(xv) to read as follows:

§ 558.76 Bacitracin methylene disalicylate.

* * * * *

(d) * * *

(3) * * *

(xv) Decoquinate and roxarsone as in § 558.195.

3. Section 558.195 is amended in the table in paragraph (d) by adding an entry for "27.2 (0.003 pct)" following the entry for "Bacitracin 10 to 50" and before the entry for "Chlortetracycline 100 to 200" to read as follows:

§ 558.195 Decoquinate.

* * * * *

(d) * * *

Decoquinate in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
* *	*	*	*	*
27.2 (0.003 pct)	Bacitracin methylene disalicylate 50 and roxarsone 22.7–45.4.	Broiler chickens; for prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. mivati, E. acervulina, E. maxima, E. brunetti*; as an aid in the prevention of necrotic enteritis caused or complicated by *Clostridium* spp. or other organisms susceptible to bacitracin; for increased rate of weight gain, improved feed efficiency, and improved pigmentation.	Feed continuously as sole ration. Withdraw 5 days before slaughter. Do not feed to laying chickens. Not for use in breeder chickens. Use as sole source of organic arsenic. Poultry should have access to drinking water at all times. Drug overdosage or lack of drinking water may result in leg weakness or paralysis. Decoquinate, bacitracin methylene disalicylate, and roxarsone, as provided by No. 046573 in § 510.600(c) of this chapter.	046573
* *	*	*	*	*

3. Section 558.530 is amended by removing and reserving paragraph (c), and by revising paragraph (d)(5)(x) to read as follows:

§ 558.530 Roxarsone.

* * * * *

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(c) [Reserved]

(d) * * *

(5) * * *

(x) Decoquinate alone or in combination as in § 558.195.

* * * * *

Dated: July 9, 1998.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 98–19025 Filed 7–16–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD07–98–006]

RIN 2115–AE46

Security Zone; Coast Waters Adjacent to Florida

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: Pursuant to Presidential Proclamation No. 6867, declaring a national emergency, the Coast Guard, after consultation with the Department of Justice, established a security zone, restricting the operation of certain vessels within the internal waters and territorial seas of the United States, adjacent to or within the coastal waters around southern Florida. The Coast Guard is revising the security zone to encompass all of the internal waters and territorial seas of the United States adjacent to or within the State of Florida and within the boundaries of the Seventh Coast Guard District (defined in 33 CFR 3.35–1); that is, all the described waters in and off Florida with the exception of those waters west of 083–50 W. The Coast Guard Captain of the Port (COTP) may exercise complete control over all vessel operations and movements within the security zone. Non-public vessels of less than 50 meters (165 feet) in length, may not get underway in or depart the security zone with the intent to enter Cuban territorial waters, absent express authorization from the COTP. These vessels control measures are necessary to provide for the safety of the United States citizens and residents and to prevent threatened disturbances of the international relations of the United States.

DATES: This rule is effective July 14, 1998 and will terminate when the National Emergency as declared by the President in Presidential Proclamation No. 6867 terminates. The Coast Guard will publish a separate document in the **Federal Register** announcing termination of this rule.

ADDRESSES: Permission of a Captain of the Port (COTP) to depart the security zone with the intent of entering Cuban territorial waters may be obtained from the following U.S. Coast Guard units: Marine Safety Office Miami, 51 S.W. First Avenue, Miami, FL 33130, ph. (305) 536–5693; Marine Safety Office Tampa, 155 Columbia Drive, Tampa, FL 33603, ph. (813) 228–2195; Marine Safety Office Jacksonville, 7802 Arlington Expy., Suite 400, Jacksonville, FL 32211–7445; Station Miami Beach, 100 MacArthur Causeway, Miami Beach, FL 33139, ph. (305) 535–4368; Station Fort Lauderdale, 7000 N. Ocean Dr., FL 33004, ph. (305) 927–1611; Station Marathon, 1800 Overseas Highway, Marathon, FL 33050, ph. (305) 743–1945; Station Islamorada, PO Box 547, 183 Palermo Dr., Islamorada, FL 33036, ph. (305) 292–8862; Station Key West, Key West, FL 33040, ph. (305) 292–8862; Station Fort Myers Beach, 719 San Carlos Drive, Fort Myers Beach, FL 33931, ph. (813) 463–5754. Additional locations may be established.

FOR FURTHER INFORMATION CONTACT: Chief, Marine Safety Division, Seventh Coast Guard District, 909 SE First Avenue, Brickell Plaza Federal Building, Miami, FL 33931, Phone (305) 536–5651.

SUPPLEMENTARY INFORMATION:

Background and Purpose

Regulatory History

On March 1, 1996, the President of the United States signed Proclamation No. 6867 declaring a national emergency following the February 24 1996, shooting down of two Brothers to the Rescue aircraft by Cuban armed forces. The Proclamation, which addressed the disturbances or threatened disturbances of United States international relations, the President authorized the Secretary of Transportation to regulate the anchorage and movement of domestic and foreign vessels. Order No. 96–3–7, signed by the Secretary of Transportation delegated this authority to the Commandant, United States Coast Guard. This authority has been further delegated to the Commander, Seventh Coast Guard District and appropriate Captains of the Port. To secure the rights and obligations of the United States and to protect its citizens and residents from the use of excessive force upon them by foreign powers, the Coast Guard on March 8, 1996 (61 FR 9348), pursuant to its regulatory authority in 50 U.S.C. 191 and as supplemented by the authority delegated to the Secretary of Transportation in the Presidential Proclamation, established a security zone.

This security zone established on March 1, 1996, restricted the operation of vessels within the internal waters and territorial seas of the United States, adjacent to or within the coastal waters around southern Florida. The security zone prohibits private, noncommercial vessels less than 50 meters in length from departing the security zone with the intent to enter Cuban territorial waters, absent express authorization from the Captain of the Port (COTP).

On May 14, 1997 (62 FR 26390) the Coast Guard published a temporary rule revising the security zone by additional security measures that prohibit a similar class of vessels from getting underway in or departing the security zone with the intent to enter Cuban territorial waters without express authorization from the COTP. Additionally, under the revised security zone, commercial vessels less than 50 meters in length became subject to the same restrictions as private, noncommercial vessels less than 50 meters in length.

Discussion of Rule

This temporary rule further amends the security zone by expanding its geographic scope of the Florida peninsula. During the Pope's visit to Cuba in January, 1998, several boaters asserted that they had evaded the requirements of the security zone by departing for Cuba from a port north of Fort Lauderdale, outside the geographic limits of the prior security zone. Expansion of the geographic limits of the security zone around Florida will cure this potential enforcement problem, thereby enhancing boater safety and better preventing a possible disturbance of the foreign relations of the United States.

The Coast Guard has determined that control of the movement of non-public vessels less than 50 meters in length in the security zone, or departure of such vessels from the security zone, with the intent to enter Cuban territorial waters (hereinafter "subject vessels"), is necessary to protect the safety of United States citizens and residents and prevent threatened disturbance of the international relations of the United States. These controls do not apply to foreign flag vessels in innocent passage in the territorial sea of the United States. Maintaining such control of vessel movement will necessitate some temporary limitations on traditional freedoms of navigation. Efforts will be made to keep these limitations to a minimum.

A COTP may issue appropriate orders to control the launching, anchorage, docking, mooring, operation, and movement of all subject vessels within the security zone. Additionally, the COTP may remove all persons not specifically authorized to go or remain on board the subject vessel, may place guards on the subject vessel and may take full or partial possession or control of any such vessel or part thereof. Such actions to be taken are in the discretion of the COTP as deemed necessary to ensure compliance with the provisions of the security zone or any other order issued under the authority of the COTP.

Under the special regulations included in this rule, subject vessels may not get underway in or depart from the security zone without express authorization from the COTP. Authorization may be requested in person or in writing. If the request is approved, the COTP will issue a written authorization. As a condition of getting underway in or departing from the security zone, the COTP has the discretion, where there is an articulable basis to believe that a vessel intends to enter Cuban territorial waters, to require the owner, master or person in charge to provide verbal assurance to the COTP that the vessel will not enter Cuban territorial waters and require that the COTP be informed of the identity of all persons on board the vessel.

Vessels 50 meters or greater in length and foreign flagged vessels in innocent passage in the territorial sea of the United States are exempt from these security zone control regulations. Past experiences, including flotillas on July 13, 1995, September 2, 1995, March 2, 1996, July 13, 1996, May 17, 1997, July 13, 1997, November 1, 1997, and January 23–24, 1998, did not involve vessels outside the subject class of vessels. This temporary rule expands the geographic scope of the security zone to the Florida peninsula.

Any non-public vessel less than 50 meters in length getting underway from a berth, pier, mooring, or anchorage in the security zone or departing from the security zone, with the intent to enter Cuban territorial waters, without having express authorization from the COTP will be in violation of the security zone. Failure to comply with the regulations or orders issued under the authority of the COTP may result in seizure and forfeiture of the vessel, suspension or revocation of Coast Guard licenses, and criminal fines and imprisonment. Making a false statement to any agency of the United States may result in additional penalties pursuant to 18 USC § 1001.

This rule is published as a final rule, which is effective upon the signing of this rule. It is based upon a Presidential declaration of a national emergency. Because of recent events discussed in the preamble above, immediate action is needed to protect the safety of lives and property at sea and to prevent threatened disturbance of the international relations of the United States. For this reason, the Coast Guard finds good cause, under 5 USC 553(B) and (d), that notice and public comment on the rule before the effective date of this rule are, impractical, unnecessary, contrary to the public interest and this rule should be made effective in less than 30 days after publication. Further, because this temporary rule involves the foreign affairs of the United States it is excepted from rulemaking procedures in accordance with 5 USC 553(a)(1).

Regulatory Process Matters

This final rule, designed under the emergency conditions, is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential cost and benefits under section 6(a)(3) of that order. Therefore, a regulatory evaluation is not required. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). For the reasons stated above, the USCG certifies that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This rule does not impose unfunded mandates or contain reporting or record keeping requirements that require new approval under the Paperwork Reduction Act.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1 of Commandant Instruction M16475.1C, this proposal is categorically excluded from further environmental documentation. A categorical exclusion determination and an environmental analysis checklist have been completed and are available in the docket.

Federalism Assessment

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this rule will not have sufficient federalism implication to warrant preparation of a Federalism Assessment.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures and waterways.

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for part 165 continues to read as follows:

Authority: 33 USC 1231; 50 USC 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. In § 165.T07–013 revise the heading and paragraph (a) to read as set forth below, and republish paragraphs (b) through (d) to read as follows:

§ 165.T07–013 Security Zone: Internal waters and territorial seas adjacent to the Florida peninsula.

(a) *Location*. The following area is established as a security zone: All U.S. internal waters and territorial seas adjacent to the State of Florida south of the Florida-Georgia border and extending seaward three nautical miles from the baseline from which the territorial sea is measured around the Florida peninsula to the extent where the Florida panhandle and adjacent internal waters and territorial sea intersect with longitude 83°50′ West. In general these are the U.S. internal waters and territorial seas adjacent to the Florida peninsula.

(b) *Applicability*. This section applies to non-public vessels less than 50 meters (165 feet) in length and all associated auxiliary vessels within the security zone, but shall not apply to foreign flagged vessels in innocent passage in the territorial sea of the United States. For the purpose of this section, an "auxiliary vessel" includes every description of watercraft or other artificial contrivance used or capable of being used as a means of transportation on water attached to, or embarked in, another vessel to which this section applies.

(c) *Regulations*. (1) The general regulations in § 165.33 of this part do not apply to this security zone.

(2) Non-public vessels less than 50 meters (165 feet) in length and persons on board those vessels may not get underway from a berth, pier, mooring or anchorage in the security zone, or depart from the security zone, with the intent to enter Cuban territorial waters without express written authorization from one of the following officials or their designees; Commander, Seventh Coast Guard District; the Captain of the Port Miami; or the Captain of the Port Tampa. The aforementioned officials may issue orders to control the

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movement of vessels to which this section applies.

(3) Where there is an articulable basis to believe a vessel to which this section applies intends to enter Cuban territorial waters, an official referenced in paragraph (c)(2) of this section may require the master, owner, or person in charge of a vessel within the security zone, including all auxiliary vessels, to provide verbal assurance that the vessel will not enter Cuban territorial waters as a condition for a vessel to get underway from a berth, pier, mooring, or anchorage in the security zone, or depart from the security zone. In addition, an official referenced in paragraph (c)(2) may require the master, owner, or person in charge of the vessel to identify all persons on board the vessel and provide verbal assurances that all persons on board have received actual notice of the regulations in this section.

(4) The owner or person in charge of the vessel shall maintain the express written authorization for the vessel on board the vessel.

(d) *Enforcement.* (1) Vessels or persons violating this section may be subject to:

(i) Seizure and forfeiture of the vessel;

(ii) A monetary penalty of not more than $10,000; and

(iii) Imprisonment for not more than 10 years.

(2) Violation of 18 U.S.C. 1001 may result in imprisonment for not more than five years or a fine, or both.

(e) This section implements Presidential Proclamation No. 6867. This section is issued under the authority delegated in Department of Transportation Order No. 96–3–7.

Dated: July 14, 1998.

R.C. Olsen, Jr.,

Captain, U.S. Coast Guard, Commander, Seventh Coast Guard District Acting

[FR Doc. 98–19265 Filed 7–15–98; 3:37 pm]

BILLING CODE 4910–15–M

POSTAL SERVICE

39 CFR Part 20

Stay of Interim Rule for Global Package Link to Germany and France

AGENCY: Postal Service.

ACTION: Stay of interim rule.

SUMMARY: The Postal Service is staying its recently published interim rule on Global Package Link which added a merchandise return service for customers utilizing the GPL service to Germany and France.

DATES: The amendment to the International Mail Manual published in the **Federal Register** on July 10, 1998 (63 FR 37251–37254), is stayed until further notice as of 12:01 a.m. on July 17, 1998.

ADDRESSES: Any written comments should be mailed or delivered to the International Business Unit, U.S. Postal Service, 475 L'Enfant Plaza SW, room 370–IBU, Washington, DC 20260–6500. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, at the above address.

FOR FURTHER INFORMATION CONTACT: Bill Brandt (202) 314–7165.

SUPPLEMENTARY INFORMATION: Pending further internal review, the Postal Service is staying an interim rule in the **Federal Register** on July 10, 1998 (63 FR 37251–37254), concerning the establishment of a GPL return service in Germany and France. This stay will be effective immediately, and the contemplated service will not be available until the internal review has been completed and a further notice published.

List of Subjects in 39 CFR Part 20

International postal service, Foreign relations.

The Postal Service hereby stays its amendment of July 10, 1998, to the International Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 20.1.

PART 20—[AMENDED]

1. The authority citation for 39 CFR part 20 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 401, 404, 407, 408.

I. Subchapter 620 of the International Mail Manual, Issue 20, sections 626.24 and 626.25, are stayed until further notice.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 98–19170 Filed 7–15–98; 10:40 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–6123–4]

Delegation of National Emission Standards for Hazardous Air Pollutants for Source Categories; State of Arizona; Arizona Department of Environmental Quality

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to delegate the authority to implement and enforce specific national emission standards for hazardous air pollutants (NESHAPs) to the Arizona Department of Environmental Quality (ADEQ) in Arizona. The preamble outlines the process that ADEQ will use to receive delegation of any future NESHAP, and identifies the NESHAP categories to be delegated by today's action. EPA has reviewed ADEQ's request for delegation and has found that this request satisfies all of the requirements necessary to qualify for approval. Thus, EPA is hereby granting ADEQ the authority to implement and enforce the unchanged NESHAP categories listed in this rule.

DATES: This rule is effective on September 15, 1998, without further notice, unless EPA receives relevant adverse comments by August 17, 1998. If EPA receives such comment, then it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the request for delegation and other supporting documentation are available for public inspection (docket number A–96–25) at the following location: U.S. Environmental Protection Agency, Region IX, Rulemaking Office (AIR–4), Air Division, 75 Hawthorne Street, San Francisco, California 94105–3901.

FOR FURTHER INFORMATION CONTACT: Mae Wang, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901, (415) 744–1200.

SUPPLEMENTARY INFORMATION:

I. Background

Section 112(l) of the Clean Air Act, as amended in 1990 (CAA), authorizes EPA to delegate to state or local air pollution control agencies the authority to implement and enforce the standards set out in 40 CFR Part 63, National Emission Standards for Hazardous Air Pollutants for Source Categories. On November 26, 1993, EPA promulgated regulations, codified at 40 CFR Part 63, Subpart E (hereinafter referred to as "Subpart E"), establishing procedures for EPA's approval of state rules or programs under section 112(l) (*see* 58 FR 62262).

Any request for approval under CAA section 112(l) must meet the approval criteria in 112(l)(5) and 40 CFR Part 63, Subpart E. To streamline the approval process for future applications, a state or local agency may submit a one-time demonstration that it has adequate authorities and resources to implement and enforce any CAA section 112 standards. If such demonstration is approved, then the state or local agency would no longer need to resubmit a demonstration of these same authorities and resources for every subsequent request for delegation of CAA section 112 standards. However, EPA maintains the authority to withdraw its approval if the State does not adequately implement or enforce an approved rule or program.

On October 30, 1996, EPA approved the Arizona Department of Environmental Quality's (ADEQ's) program for accepting delegation of section 112 standards that are unchanged from Federal standards as promulgated (*see* 61 FR 55910). The approved program reflects an adequate demonstration by ADEQ of general resources and authorities to implement and enforce section 112 standards. However, formal delegation for an individual standard does not occur until ADEQ obtains the necessary regulatory authority to implement and enforce that particular standard, and EPA approves ADEQ's formal delegation request for that standard.

ADEQ informed EPA that it intends to obtain the regulatory authority necessary to accept delegation of section 112 standards by incorporating section 112 standards into the Arizona Administrative Code. The details of this delegation mechanism are set forth in a Memorandum of Agreement (MOA) between ADEQ and EPA, and are available for public inspection at the U.S. EPA Region IX office (docket No. A–96–25).

On May 29, 1998, ADEQ requested delegation for several individual section 112 standards that have been incorporated by reference into the Arizona Administrative Code. The standards that are being delegated by today's action are listed in a table at the end of this rule.

II. EPA Action

A. Delegation for Specific Standards

After reviewing ADEQ's request for delegation of various national emissions standards for hazardous air pollutants (NESHAPs), EPA has determined that this request meets all the requirements necessary to qualify for approval under CAA section 112(l) and 40 CFR 63.91. Accordingly, ADEQ is granted the authority to implement and enforce the requested NESHAPs. These delegations will be effective on September 15, 1998. A table of the NESHAP categories that will be delegated to ADEQ is shown at the end of this rule. Although ADEQ will have primary implementation and enforcement responsibility, EPA retains the right, pursuant to CAA section 112(l)(7), to enforce any applicable emission standard or requirement under CAA section 112. In addition, EPA does not delegate any authorities that require implementation through rulemaking in the **Federal Register**, or where Federal overview is the only way to ensure national consistency in the application of the standards or requirements of CAA section 112.

After a state or local agency has been delegated the authority to implement and enforce a NESHAP, the delegated agency becomes the primary point of contact with respect to that NESHAP. Pursuant to 40 CFR 63.9(a)(4)(ii) and 63.10(a)(4)(ii), EPA Region IX waives the requirement that notifications and reports for delegated standards be submitted to EPA as well as to ADEQ.

In its May 29, 1998 request, ADEQ included a request for delegation of the regulations implementing CAA section 112(i)(5), codified at 40 CFR Part 63, Subpart D. These requirements apply to state or local agencies that have a permit program approved under title V of the Act (see 40 CFR 63.70). ADEQ received final interim approval of its title V operating permits program on October 30, 1996 (see 61 FR 55910). State or local agencies implementing the requirements under Subpart D do not need approval under section 112(l). Therefore, EPA is not taking action to delegate 40 CFR Part 63, Subpart D to ADEQ.

ADEQ also included a request for delegation of the regulations implementing CAA sections 112(g) and 112(j), codified at 40 CFR Part 63, Subpart B. These requirements apply to major sources only, and need not be delegated under the section 112(l) approval process. When promulgating the regulations implementing section 112(g), EPA stated its view that "the Act directly confers on the permitting authority the obligation to implement section 112(g) and to adopt a program which conforms to the requirements of this rule. Therefore, the permitting authority need not apply for approval under section 112(l) in order to use its own program to implement section 112(g)" (*see* 61 FR 68397). Similarly, when promulgating the regulations implementing section 112(j), EPA stated its belief that "section 112(l) approvals do not have a great deal of overlap with the section 112(j) provision, because section 112(j) is designed to use the title V permit process as the primary vehicle for establishing requirements" (*see* 59 FR 26447). Therefore, state or local agencies implementing the requirements under sections 112(g) and 112(j) do not need approval under section 112(l). As a result, EPA is not taking action to delegate 40 CFR Part 63, Subpart B to ADEQ.

B. Delegation Mechanism for Future Standards

Today's document serves to notify the public of the details of ADEQ's procedure for receiving delegation of future NESHAPs. As set forth in the MOA, ADEQ intends to incorporate by reference, into the Arizona Administrative Code, each newly promulgated NESHAP for which it intends to seek delegation. ADEQ will then submit a letter to EPA Region IX, along with proof of regulatory authority, requesting delegation for each individual NESHAP. Region IX will respond in writing that delegation is either granted or denied. If a request is approved, the delegation of authorities will be considered effective upon the date of the response letter from Region IX. Periodically, EPA will publish in the **Federal Register** a listing of the standards that have been delegated. Although EPA reserves its right, pursuant to 40 CFR 63.96, to review the appropriateness of any future delegation request, EPA will not institute any additional comment periods on these future delegation actions. Any parties interested in commenting on this procedure for delegating future unchanged NESHAPs should do so at this time.

C. Opportunity for Public Comment

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in the Proposed Rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal for this action should relevant adverse comments be filed. This action will be effective September 15, 1998, without further notice unless the Agency receives relevant adverse comments by August 17, 1998.

If EPA receives such comments, then EPA will publish a document withdrawing this final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action is advised that this rule will be effective on September 15, 1998, and no further action will be taken on the proposed rule.

III. Administrative Requirements

A. Executive Orders 12866 and 13045

The Office of Management and Budget has exempted this regulatory action from review under Executive Order (E.O.) 12866.

This final rule is not subject to E.O. 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks," because it is not an "economically significant" action under E.O. 12866.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Delegations of authority to implement and enforce unchanged Federal standards under section 112(l) of the Clean Air Act do not create any new requirements but simply transfer primary implementation authorities to the State. Therefore, because this action does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected.

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate, or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the delegation action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under state or local law, and imposes no new Federal requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 15, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (*see* section 307(b)(2)).

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of Section 112 of the Clean Air Act, as amended, 42 U.S.C. 7412.

Dated: June 26, 1998.

David P. Howekamp,

Director, Air Division, Region IX.

Title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Subpart E—Approval of State Programs and Delegation of Federal Authorities

2. Section 63.99 is amended by adding paragraph (a)(3) to read as follows:

§ 63.99 Delegated federal authorities.

(a) * * *

(3) *Arizona.* The following table lists the specific Part 63 standards that have been delegated unchanged to the air pollution control agencies in the State of Arizona. The (X) symbol is used to indicate each category that has been delegated.

DELEGATION STATUS FOR PART 63 STANDARDS—ARIZONA

Subpart	Description	ADEQ[1]	MCESD[2]	PDEQ[3]	PCAQCD[4]
A	General Provisions	X			
F	Synthetic Organic Chemical Manufacturing Industry	X			
G	Synthetic Organic Chemical Manufacturing Industry: Process Vents, Storage Vessels, Transfer Operations, and Wastewater.	X			
H	Organic Hazardous Air Pollutants: Equipment Leaks	X			

DELEGATION STATUS FOR PART 63 STANDARDS—ARIZONA—Continued

Subpart	Description	ADEQ[1]	MCESD[2]	PDEQ[3]	PCAQCD[4]
I	Organic Hazardous Air Pollutants: Certain Processes Subject to the Negotiated Regulation for Equipment Leaks.	X			
L	Coke Oven Batteries	X			
M	Perchloroethylene Dry Cleaning	X			
N	Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.	X			
O	Ethylene Oxide Sterilization Facilities	X			
Q	Industrial Process Cooling Towers	X			
R	Gasoline Distribution Facilities	X			
T	Halogenated Solvent Cleaning	X			
U	Group I Polymers and Resins	X			
W	Epoxy Resins Production and Non-Nylon Polyamides Production	X			
X	Secondary Lead Smelting	X			
CC	Petroleum Refineries	X			
DD	Off-Site Waste and Recovery Operations	X			
EE	Magnetic Tape Manufacturing Operations	X			
GG	Aerospace Manufacturing and Rework Facilities	X			
JJ	Wood Furniture Manufacturing Operations	X			
KK	Printing and Publishing Industry	X			
OO	Tanks—Level 1	X			
PP	Containers	X			
QQ	Surface Impoundments	X			
RR	Individual Drain Systems	X			
VV	Oil-Water Separators and Organic-Water Separators	X			
JJJ	Group IV Polymers and Resins	X			

[1] Arizona Department of Environmental Quality.
[2] Maricopa County Environmental Services Department.
[3] Pima County Department of Environmental Quality.
[4] Pinal County Air Quality Control District.

* * * * *

[FR Doc. 98–19136 Filed 7–16–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300682; FRL–6016–6]

RIN 2070–AB78

Myclobutanil; Extension of Tolerance for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule extends a time-limited tolerance for residues of the fungicide myclobutanil and its metabolites in or on mint (peppermint and spearmint) at 2.5 part per million (ppm) for an additional eighteen months, to January 31, 2000. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on mint (peppermint and spearmint). Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA) requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA.

DATES: This regulation becomes effective July 17, 1998. Objections and requests for hearings must be received by EPA, on or before September 15, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300682], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300682], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: OPP–docket@epamail.epa.gov. Follow the instructions in Unit II. of this preamble. No Confidential Business Information (CBI) should be submitted through e-mail.

FOR FURTHER INFORMATION CONTACT: By mail: David Deegan, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location , telephone number, and e-mail address: Rm. 280, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-308-9358; e-mail: deegan.dave@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a final rule, published in the **Federal Register** of July 9, 1997 (62 FR 36671) (FRL–5729–3), which announced that on its own initiative and under section 408(e) of the FFDCA, 21 U.S.C. 346a(e) and (l)(6), it established a time-limited tolerance for the residues of myclobutanil and its metabolites in or on mint (peppermint and spearmint) at 2.5 ppm, with an expiration date of July 1, 1998. EPA established the tolerance because section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will

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result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment.

EPA received a request to extend the use of myclobutanil on mint for this year's growing season due to the recurrence of emergency levels of powdery mildew on mint grown in the states of Idaho and Washington. After having reviewed the submission, EPA concurs that emergency conditions exist for these states. EPA has authorized under FIFRA section 18 the use of myclobutanil on mint for control of powdery mildew in Idaho and Washington.

EPA assessed the potential risks presented by residues of myclobutanil in or on mint (peppermint and spearmint). In doing so, EPA considered the new safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the new safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the final rule of July 9, 1997 (62 FR 36671). Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerance will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerance is extended for an additional eighteen month period. Although this tolerance will expire and is revoked on January 31, 2000, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on mint (peppermint and spearmint) after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerance. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

I. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to "object" to a tolerance regulation issued by EPA under new section 408(e) and (l)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by September 15, 1998, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

II. Public Record and Electronic Submissions

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the Virginia address in "ADDRESSES" at the beginning of this document

Electronic comments may be sent directly to EPA at:

OPP-docket@epamail.epa.gov.

Electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Objections and hearing requests will also be accepted on disks in WordPerfect 51/6.1 or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP-300682]. No CBI should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

III. Regulatory Assessment Requirements

This final rule extends a time-limited tolerancethat was previously extended by EPA under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). In addition, this final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

Since this extension of an existing time-limited tolerance does not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

IV. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to publication of this rule in today's **Federal Register**. This is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 30, 1998.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

§ 180.443 [Amended]

2. In § 180.443, by amending paragraph (b) in the table, for the commodities "Peppermint" and "Spearmint" by changing the date "July 1, 1998" to read "1/31/00".

[FR Doc. 98–18988 Filed 7–16–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300612; FRL–5768–3]

RIN 2070–AB78

Fipronil; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes new tolerances for combined residues of fipronil, its metabolites MB46136 and MB45950, and its photodegradate MB46513, in or on rice grain and rice straw. In pesticide petition (PP) 7F4832, Rhone Poulenc AG, Inc. requested these tolerances under the Federal Food, Drug and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA).

DATES: This regulation is effective July 17, 1998. Objections and requests for hearings must be received by EPA on or before September 15, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, OPP–300612, must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, OPP–300612, must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number OPP–300612. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Ann Sibold, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–6786, e-mail: sibold.ann@epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 20, 1997 (62 FR 33641) (FRL–5723–7), EPA issued a notice pursuant to section 408 of the FFDCA, 21 U.S.C. 346a(e), announcing the filing of a pesticide petition for a tolerance (PP 7F4832) by Rhone Poulenc AG, Inc., P.O. Box 12014, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709. This notice included a summary of the petition prepared by Rhone Poulenc AG, Inc., the registrant. There were 11 comments received in response to the notice of filing and all supported establishing the tolerance.

The petition proposed to use a 56% flowable solid (FS) formulation (Product name: ICON 6.2 FS Insecticide) to treat rice seed to control the pests rice water weevil and chinch bugs.

The petition further requested that 40 CFR 180.517 be amended by establishing new tolerances for combined residues of the insecticide fipronil, its metabolites MB46136 and MB45950, and its photodegradate MB46513 in or on rice grain at 0.04 parts per million (ppm) and rice straw at 0.10 ppm. Tolerances for residues of fipronil (expressed as fipronil and its metabolites MB45950 and MB46136) in or on animal commodities have recently been established (40 CFR 180.517(a)).

Fipronil is registered in the United States for use on field corn, on golf course and commercial turf, on pets, and in roach and ant bait stations.

I. Risk Assessment and Statutory Findings

New section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) of the FFDCA defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate

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exposure to the pesticide chemical residue. . . .''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides based primarily on toxicological studies using laboratory animals. These studies address many adverse health effects, including (but not limited to) reproductive effects, developmental toxicity, toxicity to the nervous system, and carcinogenicity. Second, EPA examines exposure to the pesticide through the diet (e.g., food and drinking water) and through exposures that occur as a result of pesticide use in residential settings.

A. Toxicity

1. *Threshold and non-threshold effects.* For many animal studies, a dose response relationship can be determined, which provides a dose that causes adverse effects (threshold effects) and doses causing no-observed effects (the ''no-observed effect level'' or ''NOEL'').

Once a study has been evaluated and the observed effects have been determined to be threshold effects, EPA generally divides the NOEL from the study with the lowest NOEL by an uncertainty factor (usually 100 or more) to determine the Reference Dose (RfD). The RfD is a level at or below which daily aggregate exposure over a lifetime will not pose appreciable risks to human health. An uncertainty factor (sometimes called a ''safety factor'') of 100 is commonly used since it is assumed that people may be up to 10 times more sensitive to pesticides than the test animals, and that one person or subgroup of the population (such as infants and children) could be up to 10 times more sensitive to a pesticide than another. In addition, EPA assesses the potential risks to infants and children based on the weight of the evidence of the toxicology studies and determines whether an additional uncertainty factor is warranted. Thus, an aggregate daily exposure to a pesticide residue at or below the RfD (expressed as 100% or less of the RfD) is generally considered acceptable by EPA. EPA generally uses the RfD to evaluate the chronic risks posed by pesticide exposure. For shorter-term risks, EPA uses a RfD approach or calculates a margin of exposure (MOE) by dividing the estimated human exposure into the NOEL from the appropriate animal study. Commonly, EPA finds MOEs lower than 100 to be unacceptable. This 100-fold MOE is based on the same rationale as the 100-fold uncertainty factor.

Lifetime feeding studies in two species of laboratory animals are conducted to screen pesticides for cancer effects. When evidence of increased cancer is noted in these studies, the Agency conducts a weight of the evidence review of all relevant toxicological data including short-term and mutagenicity studies and structure activity relationship. Once a pesticide has been classified as a potential-human carcinogen, different types of risk assessments (e.g., linear low-dose extrapolations or MOE calculation based on the appropriate NOEL) will be carried out based on the nature of the carcinogenic response and the Agency's knowledge of its mode of action.

2. *Differences in toxic effect due to exposure duration.* The toxicological effects of a pesticide can vary with different exposure durations. EPA considers the entire toxicity data base, and based on the effects seen for different durations and routes of exposure, determines which risk assessments should be done to assure that the public is adequately protected from any pesticide-exposure scenario. Both short and long durations of exposure are always considered. Typically, risk assessments include ''acute,'' ''short-term,'' ''intermediate-term,'' and ''chronic'' risks. These assessments are defined by the Agency as follows.

Acute risk, by the Agency's definition, results from 1-day consumption of food and water, and reflects toxicity which could be expressed following a single-oral exposure to the pesticide residues. High-end exposure to food and water residues are typically assumed.

Short-term risk results from exposure to the pesticide for a period of 1-7 days, and therefore overlaps with the acute risk assessment. Historically, this risk assessment was intended to address primarily dermal and inhalation exposure which could result, for example, from residential pesticide applications. However, since enaction of FQPA, this assessment has been expanded to include both dietary and non-dietary sources of exposure, and will typically consider exposure from food, water, and residential uses when reliable data are available. In this assessment, risks from average food and water exposure, and high-end residential exposure, are aggregated. High-end exposures from all three sources are not typically added because of the very-low probability of this occurring in most cases, and because the other conservative assumptions built into the assessment assure adequate protection of public health. However, for cases in which high-end exposure can reasonably be expected from multiple sources (e.g. frequent and widespread homeowner use in a specific geographical area), multiple high-end risks will be aggregated and presented as part of the comprehensive risk assessment/characterization. Since the toxicological endpoint considered in this assessment reflects exposure over a period of at least 7 days, an additional degree of conservatism is built into the assessment; i.e., the risk assessment nominally covers 1-7 days exposure, and the toxicological endpoint/NOEL is selected to be adequate for at least 7 days of exposure. (Toxicity results at lower levels when the dosing duration is increased.)

Intermediate-term risk results from exposure for 7 days to several months. This assessment is handled in a manner similar to the short-term risk assessment.

Chronic risk assessment describes risk which could result from several months to a lifetime of exposure. For this assessment, risks are aggregated considering average exposure from all sources for representative population subgroups including infants and children.

B. Aggregate Exposure.

In examining aggregate exposure, section 408 of the FFDCA requires that EPA take into account available and reliable information concerning exposure from the pesticide residue in the food in question, residues in other foods for which there are tolerances, residues in groundwater or surface water that is consumed as drinking water, and other non-occupational exposures through pesticide use in gardens, lawns, or buildings (residential and other indoor uses). Dietary exposure to residues of a pesticide in a food commodity are estimated by multiplying the average daily consumption of the food forms of that commodity by the tolerance level or the anticipated pesticide residue level. The Theoretical Maximum Residue Contribution (TMRC) is an estimate of the level of residues consumed daily if each food item contained pesticide residues equal to the tolerance. In evaluating food exposures, EPA takes into account varying consumption patterns of major identifiable subgroups of consumers, including infants and children. The TMRC is a ''worst case'' estimate since it is based on the assumptions that food contains pesticide residues at the tolerance level and that 100% of the crop is treated by pesticides that have established tolerances. If the TMRC exceeds the RfD or poses a lifetime cancer risk that is greater than approximately one in a million, EPA attempts to derive a more accurate exposure estimate for the pesticide by evaluating additional types of information (anticipated residue data and/or percent of crop treated data) which show, generally, that pesticide residues in most foods when they are eaten are well below established tolerances.

II. Aggregate Risk Assessment and Determination of Safety

The toxicology data base for fipronil has previously been evaluated and was considered adequate to support registration for use on corn (62 FR 62970) (FRL–5757–4). Since that time, MB46513 has been identified. It appears to have greater toxicity than the parent, fipronil. MB46513 is not an animal or plant metabolite. Rather, it forms when the parent compound fipronil is exposed to sunlight. It is not present on corn, but is potentially present on rice due to the foliar application (to germinated rice seed).

Consistent with section 408(b)(2)(D) of the FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action, EPA has sufficient data to assess the hazards of fipronil and to make a determination on aggregate exposure, consistent with section 408(b)(2) of the FFDCA, for tolerances for combined residues of fipronil, its metabolites MB46136 and MB45950, and its photodegradate MB46513 in or on rice grain at 0.04 ppm and rice straw at 0.10 ppm.

A. Toxicology Data Base

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by fipronil and its photodegradate MB46513 are discussed in this unit.

1. *Acute studies*—i. *Technical fipronil*. A battery of acceptable acute toxicity studies place technical fipronil in toxicity Categories II and III. It is classified as a non-sensitizer.

ii. *Icon 6.2 FS (56% fipronil)*. A battery of acute toxicity studies submitted for Icon 6.2 FS places it in toxicity categories II and III. This formulation is classified as a sensitizer.

iii. *MB46513*. Based on acute oral and acute dermal studies, MB46513 is classified in toxicity category I. No studies were submitted for acute inhalation, primary eye, primary dermal, and dermal sensitization.

2. *Subchronic toxicity testing*. The data base for subchronic toxicity is considered complete. No additional studies are required at this time.

i. *Fipronil*. a. An acceptable subchronic oral toxicity feeding study in the rat established the lowest observed-effect level (LOEL) to be 30 ppm for males (1.93 milligram (mg)/kilogram (kg)/day) and females (2.28 mg/kg/day) based on alterations in serum-protein values and increased weight of the liver and thyroid. The NOEL was 5 ppm for males (0.33 mg/kg/day) and females (0.37 mg/kg/day).

b. An acceptable subchronic oral toxicity feeding study in the mouse established the LOEL at 25 ppm (3.2 and 4.53 mg/kg/day, for males and females, respectively) based on a possible decreased body-weight gain. The no-observed adverse-effect level (NOAEL) was 10 ppm (1.27 and 1.72 mg/kg/day, for males and females, respectively). The NOEL is less than or equal to 1 ppm (0.13 and 0.17 mg/kg/day for males and females, respectively) based on hepatic hypertrophy at all doses.

c. An acceptable subchronic oral toxicity [capsule] study in the dog established that the LOEL is 10.0 mg/kg/day for males (based on clinical signs of toxicity) and 2.0 mg/kg/day for females (based on clinical signs of toxicity and decreased body-weight gain). The NOEL is 2.0 mg/kg/day for males and 0.5 mg/kg/day for females.

d. An acceptable repeated dose dermal study using the rat found that the systemic LOEL was 10 mg/kg/day based on decreased body-weight gain and food consumption; the dermal irritation LOEL is greater than 10.0 mg/kg/day. The systemic NOEL was 5.0 mg/kg/day; the dermal irritation NOEL was greater than or equal to 10.0 mg/kg/day.

ii. *MB46513*. a. An acceptable subchronic oral toxicity feeding study using the rat found that the LOEL was 3 ppm (0.177 and 0.210 mg/kg/day for males and females, respectively) based on the occurrence of aggressivity, irritability to touch and increased motor activity in one male (these signs are also observed in the mouse). The NOEL was 0.5 ppm (0.029 and 0.035 mg/kg/day for males and females, respectively). The study demonstrates that the metabolite is more toxic than the parent chemical fipronil when administered to rats for 90 days.

b. An acceptable subchronic oral toxicity feeding study using the mouse found that the LOEL is 2 ppm (0.32 mg/kg/day), based on the aggressive and irritable behavior with increased motor activity in males. The NOEL is 0.5 ppm (0.08 mg/kg/day).

c. An acceptable subchronic oral toxicity feeding study using the dog established that the LOEL is 35 ppm (1.05 mg/kg/day), based on behavioral changes in 2 out of 5 females. The NOEL is 9.5 ppm (0.29 mg/kg/day).

3. *Chronic toxicity studies*. The data base for chronic toxicity is considered complete. No additional studies are required at this time.

i. An acceptable chronic feeding study in the rat using fipronil found that the LOEL is 1.5 ppm for males (0.059 mg/kg/day) and females (0.078 mg/kg/day) based on an increased incidence of clinical signs and alterations in clinical chemistry and thyroid parameters. The NOEL is 0.5 ppm for males (0.019 mg/kg/day) and females (0.025 mg/kg/day). The study demonstrated that fipronil is carcinogenic to rats at doses of 300 ppm in males (12.68 mg/kg/day) and females (16.75 mg/kg/day).

ii. An acceptable chronic oral toxicity [capsule] study in the dog using fipronil established a LOEL at 2.0 mg/kg/day based on clinical signs of neurotoxicity and abnormal neurological examinations. The NOEL is 0.2 mg/kg/day.

4. *Carcinogenicity studies*. The data base for carcinogenicity is considered complete. No additional studies are required at this time.

i. The results of a carcinogenicity study in the rat using fipronil is described in Unit II.A.3.i of this preamble.

ii. A acceptable carcinogenicity [feeding] study in the mouse using fipronil found that the LOEL is 10 ppm (1.181 mg/kg/day for males and 1.230 mg/kg/day for females) based on decreased body-weight gain, decreased food conversion efficiency (males), increased liver weights and increased incidence of hepatic histopathological changes. The NOEL is 0.5 ppm (0.055 mg/kg/day for males and 0.063 mg/kg/day for females). The study demonstrated that fipronil is not carcinogenic to CD–1 mice when administered at doses of 30 ppm.

5. *Developmental toxicity studies*. The data base for developmental toxicity is considered complete. No additional studies are required at this time.

i. *Fipronil*. a. An acceptable prenatal developmental study in the rat found that the maternal toxicity LOEL was 20 mg/kg/day based on reduced body-weight gain, increased water consumption, reduced food consumption, and reduced food efficiency. The maternal toxicity NOEL was 4 mg/kg/day. The developmental toxicity LOEL was greater than 20 mg/

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kg/day. Developmental toxicity NOEL was 20 mg/kg/day or higher.

b. An acceptable prenatal developmental study in the rabbit found that the maternal toxicity LOEL was 0.1 mg/kg/day or lower, based on reduced body-weight gain, reduced food consumption and efficiency. Maternal toxicity NOEL was less than 0.1 mg/kg/day. The developmental toxicity LOEL was greater than 1.0 mg/kg/day. The developmental toxicity NOEL was 1.0 mg/kg/day or higher.

ii. *MB46513.* An acceptable prenatal developmental study using the rat found that the maternal toxicity LOEL was 2.5 mg/kg/day and the NOEL was 1.0 mg/kg/day based an increase in clinical signs of toxicity (reduced body-weight gain, food consumption and food efficiency). The Developmental Toxicity LOEL was 2.5 mg/kg/day and the NOEL was 1.0 mg/kg/day based on the slight increase in fetal and litter incidence of reduced ossification of several bones.

6. *Reproduction toxicity studies.* The data base for reproductive toxicity is considered complete. No additional studies are required at this time.

An acceptable two-generation reproduction study in the rat using fipronil concluded that the LOEL for parental (systemic) toxicity was 30 ppm (2.54 mg/kg/day for males and 2.74 mg/kg/day for females) based on increased weight of the thyroid glands and liver in males and females; decreased weight of the pituitary gland in females; and an increased incidence of follicular epithelial hypertrophy in the females. The NOEL for parental (systemic) toxicity was 3 ppm (0.25 mg/kg/day for males and 0.27 mg/kg/day for females).

The LOEL for reproductive toxicity was 300 ppm (26.03 mg/kg/day for males and 28.40 mg/kg/day for females) based on clinical signs of toxicity in the F_1 and F_2 offspring; decreased litter size in the F_1 and F_2 litters; decreased body weights in the F_1 and F_2 litters; decrease in the percentage of F_1 parental animals mating; reduction in fertility index in F_1 parental animals; reduced post-implantation survival and offspring postnatal survivability in the F2 litters; and delay in physical development in the F_1 and F_2 offspring. The NOEL for reproductive toxicity was 30 ppm (2.54 mg/kg/day for males and 2.74 mg/kg/day for females).

7. *Neurotoxicity.* The data base for neurotoxicity is considered complete. No additional studies are required at this time.

i. *Fipronil.* a.An acceptable acute neurotoxicity study in the rat concluded the following: The NOEL was 0.5 mg/kg for males and females. The LOEL was 5.0 mg/kg for males and females based on decreased hind-leg splay at the 7 hour post-treatment evaluation in males and females.

b. An acceptable acute neurotoxicity study in the rat concluded that the NOEL was 2.5 mg/kg. The LOEL is 7.5 mg/kg, based on decreased body-weight gains, food consumption and feed efficiency in females, decreased hindlimb splay in males (at 7-hours post test) and decreased grooming in females (14-days post test).

c. An acceptable subchronic neurotoxicity screening battery in the rat concluded the LOEL was 150 ppm (8.89 mg/kg/day, males; 10.8 mg/kg/day, females) based on the results of the functional observational battery (FOB); the NOEL was 5.0 ppm (0.301 mg/kg/day, males; 0.351 mg/kg/day, females).

d. In a developmental neurotoxicity study, fipronil was administered to 30 female rats/group in the diet at dose levels of 0, 0.5, 10, or 200 ppm (0.05, 0.90, or 15 mg/kg/day, respectively) from gestation day 6 to lactation day 10. This study found that the maternal LOEL was 200 ppm (15 mg/kg/day), based on decreased body weight, body-weight gain, and food consumption. The maternal NOEL was 10 ppm (0.90 mg/kg/day). The developmental toxicity LOEL is 10 ppm (0.9 mg/kg/day), based on a marginal but statistically significant decrease in group mean pup weights during lactation and significant increase in time of preputial separation in males. The NOEL for developmental toxicity is 0.5 ppm (0.05 mg/kg/day). The developmental neurotoxicity LOEL is 200 ppm (15 mg/kg/day) based on: Decreased auditory startle response; reduced swimming direction scores, group mean angle measurements, and water "Y" maze times trails; and decreased absolute-brain weights. The NOEL for developmental neurotoxicity is 10 ppm (0.90 mg/kg/day).

It is noted that developmental toxicity occurred at a dose lower than the maternal-toxicity NOEL in this study. However, EPA did not consider this to indicate increased susceptibility to infants and children. See Unit II.F.1.ii.d of this preamble for a detailed discussion of this point.

ii. *MB46513.* An acceptable acute neurotoxicity study in the rat concluded that the neurobehavioral LOEL for rats is 12 mg/kg based on decreases in body-weight gains and food consumption for males and females during the week following treatment, significant decreases in locomotor activity 6-hours post dosing for both males and females, decreases in hind-limb splay and rectal temperature at 6-hours post dose in males and females, decreases in the proportion of high-dose males with an immediate righting reflex on days 7 and 14. Decreased forelimb grip strength in males on day 7 and increased forelimb grip strength in high-dose females at 6-hours post dosing was possibly related to the treatment, because there were also slight increases in forelimb grip strength in high-dose males at 6 hours and slight decreases in forelimb grip strength in high dose females at 7 days and in high-dose males and females at 14 days.. The NOEL is 2 mg/kg.

8. *Mutagenicity.* The available studies indicate that fipronil and MB46513 are not mutagenic in bacteria and are not clastogenic *in vitro* or *in vivo* up to doses that showed clear test material interaction with the target cells. Based on these considerations, EPA concluded that there is no concern for mutagenicity. The submitted test battery for both compounds satisfy the new mutagenicity initial testing battery guidelines. No further studies are required at this time.

i. *Fipronil.* a. An acceptable gene mutation/bacteria test using salmonella typhimurium concluded that fipronil was not mutagenic.

b. An acceptable *in vitro* gene mutation assay in mammalian cells/Chinese hamster V79 cells concluded as follows: Fipronil was negative for inducing forward gene mutations at the HGPRT locus in cultured Chinese hamster V79 cells.

c. An acceptable cytogenetic *in vivo* micronucleus assay in the mouse concluded as follows: There was no evidence of a clastogenic or aneugenic effect at any dose or at any harvest time.

d. An acceptable cytogenetic assay in human lymphocytes concluded as follows: There was no evidence of a clastogenic effect when human lymphocytes were exposed *in vitro* to fipronil.

ii. *MB46513.* a. An acceptable gene mutation/bacteria test using salmonella typhimurium showed that there was no evidence of a mutagenic response at any dose.

b. An acceptable gene mutation/*in vitro* assay in mammalian cells considering the HPRT locus in Chinese Hamster Ovary (CHO) cells showed that MB46513 did not induce forward mutations at the HPRT locus in CHO cells at any dose level tested.

c. An acceptable cytogenetics/*in vivo* mouse bone marrow micronucleus assay showed that there was no significant increase in the frequency of MPCEs in bone marrow after any MB46513 treatment time; therefore, the test article is considered negative in this micronucleus assay.

9. *Metabolism study.* The data base for metabolism is considered to be

complete. No additional studies are required at this time.

i. *Fipronil.* An acceptable metabolism study in the rat using 14–C labeled and unlabeled fipronil showed the following: With oral dosing, the rate and extent of absorption appeared similar among all dose groups, but may have been decreased at the high dose. There were no significant sex-related differences in excretion. Feces appeared to be the major route of excretion for fipronil derived radioactivity, where 45–75% of an administered dose was excreted. Excretion in urine was between 5–25%. Major metabolites in urine included two ring-opened products of the metabolite MB45897, two oxidation products (MB46136 and RPA200766), and the parent chemical. In feces, the parent was detected as a significant fraction of the sample radioactivity as well as the oxidation product MB46136 and MB45950. Since MB46513 is not an animal metabolite but a photodegradate, it was not found in this study.

ii. *MB46513.* In a acceptable rat metabolism study, ^{14}C labeled MB46513 was administered to rats by gavage as a single dose or as a single dose following a 14–day pretreatment with unlabeled MB46513. Unchanged MB46513 in urine accounted for less than 0.1% of the dose. Fecal excretion of unchanged MB46513 is the principal pathway for elimination of MB46513 from rats. The high levels of radioactivity in fat compared to blood and the prolonged elimination half-life indicate that there is a potential for bioaccumulation of MB46513 in fatty tissues.

10. *Dermal absorption*—i. *Fipronil.* An acceptable study using the rat found that the quantity of fipronil absorbed was less than 1% at all doses. The system was saturated at 3.88 mg/cm^2. The dermal absorption rat was calculated to be less than 1% at 24 hours.

ii. *MB46513.* An acceptable study in the rat using [^{14}C] labeled MB46513 found that after 24 hours of exposure, dermal absorption of MB46513 was minimal. For all dose groups, the majority of the dose was not absorbed (90.2–102.3%), and only trace amounts (equal to or less than 0.1%) of radioactivity were excreted in the urine and feces. There was 2.35% adhered to the skin and absorbed at the 10 hour time point with the lowest dose applied (0.006 mg/cm^2).

11. *Special studies*—i. *Fipronil.* a. A supplemental thyroid function study in the rat showed the following: The treatment with fipronil or Noxyflex appeared to result in stimulation of the thyroid glands as evidenced by increased accumulation of ^{125}I in the thyroid glands and by increases in the ratios of radioactive distribution between the blood and thyroid. These changes were accompanied by increases in thyroid weight. Treatment with propylthiouracil (PTU) produced decreases in the amount of ^{125}I incorporated in the thyroid and in the blood: Thyroid ratios along with elevated levels of ^{125}I in the blood. However, the weights of the thyroids from these animals were increased by over 2.5 fold compared to the controls and therefore, the ratio of ^{125}I in the blood to thyroid weight was reduced. The administration of perchlorate produced further reductions in the ^{125}I content in the thyroids and in the blood: Thyroid ^{125}I radioactivity ratio. There was no evidence of an inhibition of iodide incorporation by either fipronil or noxyflex.

b. A supplemental thyroxine clearance study in the rat using technical fipronil showed the following: Fipronil had no effect on mortality or other ante mortem parameters. Phenobarbital-treated animals were observed to have collapsed posture, lethargy and shallow breathing on the first day of treatment. There was no effect of fipronil on clearance after 1 day of treatment. However, after 14 days, there was a decrease in terminal half life (52% of control level) and increases in clearance and volume of distribution (261% and 137% of control level, respectively). The effects seen with phenobarbital treatment were similar, although quantitatively not as severe and were evident on day one of treatment.

c. An acceptable 28–day dietary study in the rat concluded that the LOEL is 25 ppm or lower (3.4 mg/kg/day in males; 3.5 mg/kg/day in females), based on clinical laboratory changes, increased absolute liver weights in females and histopathological alterations in the thyroid glands. The NOEL is less than 25 ppm.

ii. *MB46513.* An acceptable 28–day dietary range-finding study in the rat measured thyroid hormone levels as well as standard study parameters. It found that the LOEL is 30 ppm (2.20 and 2.32 mg/kg/day for males and females, respectively), based on clinical signs including piloerection, curling up and thin appearance; and decreased body weights in both sexes. The NOEL is 3 ppm (0.23 and 0.24 mg/kg/day for males and females, respectively).

B. Toxicology Endpoints

The toxicology endpoints for fipronil and MB46513 are presented in this unit.

1. *Fipronil*—i. *RfD.* The RfD for fipronil is 0.0002 mg/kg/day using a NOEL of 0.019 mg/kg/day (0.5 ppm) established from a combined chronic toxicity/carcinogenicity study in rats and an uncertainty factor of 100. The LOEL=1.5 ppm (male (M): 0.059 mg/kg/day; female (F): 0.078 mg/kg/day), based on an increased incidence of clinical signs (seizures and death) and alterations in clinical chemistry (protein) and thyroid parameters.

ii. *Carcinogenic classification and risk quantification.* EPA has classified this chemical as a Group C—Possible Human Carcinogen, based on increases in thyroid follicular-cell tumors in both sexes of the rat, which were statistically significant by both pair-wise and trend analyses. EPA has used the RfD methodology to estimate human risk because the thyroid tumors are due to a disruption in the thyroid-pituitary status. There was no apparent concern for mutagenicity.

iii. *Dermal absorption.* The percent absorbed was less than 1% at 24 hours based on a dermal absorption study.

iv. *Other toxicological endpoints*—a. *Acute dietary (1 day).* In an acute neurotoxicity study in rats the NOEL was 2.5 mg/kg/day based on decreased body-weight gains, food consumption and feed efficiency in females, and decreased hind-limb splay in males at 7-hours post dosing at 7.5 mg/kg/day LOEL. Although a developmental neurotoxicity study with the parent compound fipronil had a lower NOEL, EPA determined that the effects from that study are not attributable to a single exposure (dose) and therefore are not appropriate for acute dietary-risk assessments.

b. *Short- and intermediate-term residential (dermal).* In a 21-day dermal study the NOEL was 5 mg/kg/day based on decreased body-weight gain and food consumption in male and female rabbits observed at the LOEL of 10 mg/kg/day. The dermal NOEL is supported by the oral NOEL of 0.05 mg/kg/day established in a developmental neurotoxicity study when used in conjunction with a dermal absorption factor of 1%. This yields an equivalent-dermal dose of 5 mg/kg/day.

c. *Chronic residential (non-cancer).* In a combined chronic toxicity/carcinogenicity study in the rat, the NOEL is 0.5 ppm (M: 0.019 mg/kg/day; F: 0.025 mg/kg/day), based on an increased incidence of clinical signs (seizures and death) and alterations in clinical chemistry (protein) and thyroid parameters (increased TSH, decreased T4) at 1.5 ppm (M: 0.059 mg/kg/day; F: 0.078 mg/kg/day). Since the NOEL identified is from an oral study, a

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dermal absorption factor of less than 1% was used in risk calculations. (This study/dose was also used to establish the chronic RfD).

2. *MB46513*—i. *RfD*. There is no long-term (chronic or carcinogenicity) studies are available for MB46513. However, the toxicity profile of MB46513 indicate this material to be approximately 10 times more potent than the parent compound when the NOELs/LOELs are compared (with the exception of the acute toxicity tests). See table 1 in this preamble.

TABLE 1.—A COMPARISON OF TOXICITIES OF PHOTODEGRADATE MB46513 AND FIPRONIL

Study	Photodegradate MB46513	Fipronil
Acute Oral.	LD_{50}= 16 mg/kg	LD_{50}= 92 mg/kg
Acute Neurotoxicity.	NOEL/LOEL= 2/12 mg/kg	NOEL/LOEL= 2.5/7.5 mg/kg NOEL/LOEL= 0.5/5.0 mg/kg
28–Day Oral—Rat.	NOEL/LOEL= 0.23/2.2 mg/kg/day	NOEL/LOEL= 3.4 mg/kg/day lowest dose tested (LDT)
90–Day Oral—Mouse.	NOEL/LOEL= 0.08/0.32 mg/kg/day	NOEL/LOEL= 1.7/3.2 mg/kg/day
90–Day Oral—Rat.	NOEL/LOEL= 0.029/0.18 mg/kg/day	NOEL= 0.33/1.9 mg/kg/day
Developmental—Rat.	Maternal NOEL/LOEL= 1/2.5 mg/kg/day Developmental NOEL/LOEL= 1/2.5 mg/kg/day	Maternal NOEL/LOEL= 4/20 mg/kg/day Developmental NOEL/LOEL= 20 mg/kg/day highest dose tested (HDT)

As shown in table 1 of this preamble, the 28-day and 90-day subchronic oral studies and oral developmental studies consistently demonstrated an approximately 10-fold greater potency of MB46513 as compared to the parent compound, fipronil. In the acute oral tests, the difference between the LD_{50} values for MB46513 and fipronil is not considered significant due to the insensitivities inherent in this test.

EPA concluded that there is sufficient experimental evidence to warrant the application of a 10-fold Potency Adjustment Factor (PAF) to the chronic NOEL for the parent compound to calculate a chronic NOEL for MB46513 in the absence of test data on the chemical. An adjusted NOEL was established at 0.0019 mg/kg/day for MB46513.

An Uncertainty Factor (UF) of 100 was applied to account for inter (10 x)- and intra-(10x) species variation.

ii. *Carcinogenic classification and risk quantification*. No carcinogenicity studies are available with MB46513. Fipronil, the parent compound, was classified as a Group C Carcinogen (Possible Human Carcinogen). This classification is based on increased incidence of thyroid follicular-cell tumors in rats. EPA used the RfD methodology for the quantification of human risk because the thyroid tumors are related to a disruption in the thyroid-pituitary status and there was no apparent concern for mutagenicity or available information from structurally related analogs. EPA has no reason to believe MB46513 is more carcinogenic than the parent. EPA determined that it was appropriate to use the RfD methodology to quantify chronic risk for MB46513. The NOEL used for the chronic RfD has been adjusted by the PAF to account for the fact that MB46513 is about 10 times more toxic than the parent (except for acute toxicity).

iii. *Dermal absorption*. The percent absorbed is estimated at approximately 2% at 10 hours based on a dermal absorption study with MB46513.

iv. *Other toxicological endpoints*—a. *Acute dietary*. The NOEL is 2 mg/kg in an acute neurotoxicity study in rats (with MB46513) based on significant decreases in locomotor activity in both sexes during the first 30 minutes as well as decreases in hind-limb splay and rectal temperature in both sexes at 6-hours post dosing at 12 mg/kg/day LOEL. Effects were seen on the day of treatment after a single-oral exposure (dose) and thus is appropriate for this risk assessment. For reasons noted in Unit II.B.1.iv of this preamble, EPA did not use a developmental neurotoxicity study with the parent compound fipronil for this risk assessment.

b. *Short- and intermediate-term dermal exposure (1 to 7 days) (1 week to several months)*. The adjusted dose of 0.5 mg/kg/day was derived by dividing the study NOEL of 5 mg/kg/day by the PAF of 10 (5/10= 0.5 mg/kg/day). The LOEL was based on decreases in body-weight gain and food consumption. The dose and endpoint from the 21-day dermal study with the parent compound was used for the following reasons:

(1) A 21–dermal toxicity study with MB46513 is not available.

(2) There is low potential for risk from dermal exposure due to minimal dermal absorption as indicated for both the parent (< 1%) and the MB46513 (2%) materials.

(3) The developmental/developmental neurotoxicity NOEL of 0.05 mg/kg/day for fipronil (established in the developmental neurotoxicity study), adjusted for 1% dermal absorption (DA), results in a comparable dermal dose of 5 mg/kg/day (i.e., 0.05 mg/kg/day ′ 1% DA= 5 mg/kg/day) which essentially is the same as the NOEL for fipronil in the 21–day dermal toxicity study.

Residential exposure to MB46513 is not expected while spraying or handling a recently treated pet as these are brief periods usually occurring indoors, and MB46513 forms upon exposure to sunlight. Post-application exposure to the degradate is also not expected due to the products reportedly strong affinity to the sebum and epidermis of pets.

c. *Chronic dermal exposure (several months to lifetime)*. Based on the current use pattern for MB46513 (i.e., 1 application/year at planting), long-term exposure via the dermal route is not expected. Residential exposures are not chronic in nature as label uses for pets indicate treatment every 1 to 3 months.

d. *Recommendation for aggregate exposure risk assessments*. An aggregate systemic (oral) and dermal exposure-risk assessment is not appropriate due to differences in the toxicity endpoints observed between the oral (neurotoxicity and alterations in clinical chemistry and thyroid parameters) and dermal (decreases in body-weight gain and food consumption) routes. An aggregate oral and inhalation risk assessment is not required due to the lack of exposure potential via the inhalation route based on the current use pattern.

C. Exposures and Risks

1. *From food and feed uses*. Tolerances have been established (40 CFR 180.517) for the combined residues of fipronil in or on on corn, eggs, meat, milk, and poultry. Risk assessments were conducted by EPA to assess dietary exposures and risks from fipronil and MB46513 as follows:

i. *Acute dietary risk*. An acute dietary risk assessment is required for fipronil and its metabolites and degradate. The NOEL of 2.5 mg/kg was selected as the endpoint to be used for fipronil, MB46136, MB45950, and MB46513. Since MB46513 does not appear to be significantly more acutely toxic than the parent, it was incorporated into the acute dietary risk evaluation system (DRES) run for rice. If further refinements in the acute dietary risk assessment are required in the future, a separate DRES run for MB46513 only will be performed.

TABLE 2.—ACUTE RISK FOR FIPRONIL, ITS METABOLITES, AND DEGRADATE

Subgroup	RfD (mg/kg/day)	Level of concern	Exposure (mg/kg/day)	Percent of RfD
General U.S. Population.	0.025	100% RfD	0.0018	7
Infants (< 1 year).	0.025	100% RfD	0.003	12
Children (1–6 years).	0.025	100% RfD	0.003	12
Females (13+ years).	0.025	100% RfD	0.0012	5
Males (13+ years).	0.025	100% RfD	0.0014	6

EPA does not consider the acute dietary risks to exceed the level of concern.

ii. *Chronic dietary risk.* A chronic dietary risk assessment is required for fipronil, MB46136, and MB45950. The RfD used for the chronic dietary analysis for parent fipronil and 2 metabolites is 0.0002 mg/kg/day. The RfD used for MB46513 is 0.00002 mg/kg/day. The analysis evaluates individual food consumption as reported by respondents in the United States Department of Agriculture (USDA) 1977–78 Nationwide Food Consumption Survey (NFCS) and accumulates exposure to the chemical for each commodity.

Chronic DRES for fipronil, MB46136, MB45950, and MB46513 are summarized in Table 3 of this preamble. The DRES analysis utilized the anticipated residues calculated from field-trial data for all animal, corn, and rice commodities. The proposed fipronil uses result in an Anticipated Residue Contribution (ARC) that is equivalent to the following percent of the RfD:

TABLE 3.—CHRONIC DIETARY RISK

Subgroups	Fipronil, MB46136, and MB45950	Photodegradate MB46513	Total
U.S. Population (48 states)	4.8%	1.7%	6.5%
Hispanics	6.2%	2.9%	8.1%
Non-Hispanic Others	5.8%	3.9%	9.7%
Nursing Infants (< 1 year old)	2.8%	2.3%	5.1%
Non-Nursing Infants (< 1 year old)	11.2%	5.5%	16.7%
Females (13+ years, pregnant)	3.3%	1.2%	4.5%
Females (13+ years, nursing)	4.2%	1.6%	5.8%
Children (1–6 years old)	11.4%	3.8%	15.2%
Children (7–12 years old)	7.6%	2.3%	9.9%
Females (20+ years, not pregnant, not nursing).	3.0%	1.2%	4.2%

EPA does not consider the chronic dietary risk to exceed the level of concern.

Anticipated residues. Section 408(b)(2)(E) of the FFDCA authorizes EPA to consider available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide chemicals that have been measured in food. If EPA relies on such information, EPA must require that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. Following the initial data submission, EPA is authorized to require similar data on a time frame it deems appropriate.

Percent crop treated. Section 408(b)(2)(F) of the FFDCA states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk onl if the Agency can make the following findings:

(1) That the data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue.

(2) That the exposure estimate does not underestimate exposue for any significant subpopulation group.

(3) If data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposue for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of percent crop treated as required by the section 408 (b)(2)(F) of the FFDCA, EPA may require registrants to submit data on percent crop treated.

Anticipated residues, based on average field trial values, and percent crop treated information were used to estimate dietary risk for the chronic dietary risk assessment. For the acute dietary risk assessment, anticipated residues in blended commodities (such as corn and rice processed commodities) were used, without the adjustment for percent crop treated. However, tolerance level residues were used for fat; meat by-products; meat of cattle, goats, hogs, horses, sheep, and poultry; and eggs. Since milk is a blended commodity, an anticipated residue value was used. As required by the FQPA, EPA will issue a data call-in under section 408(f) of the FFDCA to all fipronil registrants for data on anticipated residues, to be submitted no later than 5 years from the date of issuance of these tolerances.

The percent of crop treated estimates for fipronil and MB46513 were based on an estimate of percent crop treated by existing products used to control rice water weevil and chinch bugs. In addition, as set forth in 62 FR 62970, market share estimates were used for corn. They were based on an estimate of percent crop treated by other insecticides to control corn rootworm, wireworm, and corn borer. EPA considers these data reliable. A range of estimates are supplied by this data and the upper end of this range was used for the exposure assessment. By using this upper end estimate of percent crop treated, the Agency is reasonably certain that exposure is not underestimated for any significant subpopulation. Further, regional consumption information is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Review of this regional

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data allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency.

To provide for the periodic evaluation of these estimates of percent crop treated and to meet the requirement for data on anticipated residues, EPA may require fipronil registrants to submit data on percent crop treated.

2. *Dietary exposure (drinking water source).* EPA does not have monitoring data available to perform a quantitative drinking water risk assessment for fipronil at this time. Using environmental fate data, EPA developed ground and surface water exposure estimates for use on corn and rice.

i. *Ground water (tiered assessment).* The environmental fate data for fipronil indicate a moderate to high persistence and relatively low mobility in terrestrial environments. Based on the SCI-GRO model, acute drinking water concentrations in shallow ground water on highly vulnerable sites are not likely to exceed the values set forth in tables 4–7 of this preamble:

TABLE 4.—ESTIMATED GROUND WATER RESIDUES OF FIPRONIL AND ITS METABOLITES

	Corn parts per billion (ppb)	Rice (ppb)
Fipronil	0.055	0.00804
MB46136	0.001	0.00038
MB45950	0.00036	0.000685
Total:	0.05636	0.009105

TABLE 5.—ESTIMATED GROUND WATER RESIDUES OF PHOTODEGRADATE MB46513

	Corn (ppb)	Rice (ppb)
Photodegradate MB46513.	0.00026	0.004138

Chronic concentrations are not expected to be higher than acute values. Highly vulnerable sites are those with low-organic matter, coarse textured soils (e.g., sands and loamy sands) and shallow-ground water. The fate data for fipronil and its degradates indicate a higher potential mobility on coarse-textured soils (sand or loamy sands).

ii. *Surface water (tiered assessment).* Based on the environmental fate assessment, fipronil, MB46513, MB46136, and MB45950 can potentially move into surface waters. Since fipronil is used as an in-furrow application on field corn, the runoff potential of fipronil residues is expected to be lower than for unincorporated surface application techniques. Since photodegradation is a major route of degradation for fipronil, its dissipation is expected to be dependent on physical components of the water (i.e. sediment loading) which affect sunlight penetration. The maximum fipronil concentration for acute (peak concentration) and chronic (56–day average) based on the Tier 1 GENEEC surface water modeling is shown in the table 6 of this preamble:

TABLE 6.—SURFACE WATER CONCENTRATIONS FOR FIPRONIL AND ITS METABOLITES BASED ON GENEEC MODELING

	Corn		Rice	
	Acute Peak Estimated Environmental Concentration (EEC)	Chronic 56–day EEC	Acute Peak EEC (ppb)	Chronic 56–day EEC (ppb)
Fipronil	2.05	0.78	1.45	0.40
MB46136	0.168	0.062	0.061	0.004
MB45950	0.039	0.019	0.1296	0.013
Total	2.257	0.861	1.6406	0.417

TABLE 7.—SURFACE WATER CONCENTRATIONS FOR PHOTODEGRADATE MB46513 BASED ON GENEEC MODELING

	Corn		Rice	
	Acute Peak EEC	Chronic 56–day EEC	Acute Peak EEC (ppb)	Chronic 56–day EEC (ppb)
Photodegradate MB46513	0.014	0.009	0.359	0.066

iii. *Drinking water risk (acute and chronic).* To calculate the Drinking Water Level of Concern (DWLOC) for acute exposure relative to an acute toxicity endpoint, the acute dietary food exposure (from the DRES analysis) was subtracted from acute RfD to obtain the acute exposure to fipronil (plus MB45950 and MB46136) in drinking water. To calculate the DWLOC for chronic (non-cancer, cancer) exposure relative to a chronic toxicity endpoint, the chronic dietary food exposure (from DRES) was subtracted from the chronic RfD to obtain the acceptable chronic (non-cancer) exposure to fipronil, MB45950, and MB46136 in drinking water. DWLOCs were then calculated using default body weights and drinking water consumption figures.

a. *Acute risk.* EPA has calculated DWLOCs for acute exposure to fipronil, MB45950, MB46136, and MB46513 in surface and ground water for the U.S. population and children (1–6 yrs). They are 810 and 220 ppb, respectively.

b. *Chronic risk.* For chronic (non-cancer) exposure to fipronil (plus MB45950 and MB46136) in surface and ground water, the drinking water levels of concern are 6.67 and 1.77 ppb for U.S. population and children (1–6 years old), respectively.

c. *Maximum and Average concentrations.* Estimated maximum concentrations of fipronil, MB45950, MB46136, and MB46513 in surface and ground water are 2.271 and 0.05662 ppb (with 0.00026 ppb from MB46513 included), respectively. The estimated average concentration of fipronil, MB45950, and MB46136 in surface water is 0.861 ppb. Chronic concentrations in ground water are not expected to be higher than the acute concentrations. For the purposes of the screening-level assessment, the maximum and average concentrations in ground water are not believed to vary significantly.

The maximum estimated concentrations of fipronil, MB45950, and MB46136 in surface and ground water are less than EPA's levels of concern for fipronil, MB45950, and MB46136 in drinking water as a contribution to acute aggregate exposure.

The estimated average concentrations of fipronil, MB45950, and MB46136 in surface and ground water are less than EPA's levels of concern for fipronil, MB45950, and MB46136 in drinking water as a contribution to chronic aggregate exposure. Therefore, taking into account the present uses and uses proposed in this action, EPA concludes with reasonable certainty that residues of fipronil, MB45950, and MB46136 in drinking water (when considered along with other sources of exposure for which EPA has reliable data) would not result in unacceptable levels of aggregate human health risk at this time.

d. *MB46513 (chronic only).* For chronic (non-cancer) exposure to MB46513 in surface and ground water, the drinking water levels of concern are 0.69 and 0.19 ppb for U.S. population, children (non-nursing infants, < 1 year old), respectively. To calculate the DWLOC for chronic (non-cancer, cancer) exposure relative to a chronic toxicity endpoint, the chronic dietary food exposure (from DRES) was subtracted from the RfD to obtain the acceptable chronic (non-cancer) exposure to MB46513 in drinking water. DWLOCs were then calculated using default body weights and drinking water consumption figures.

Estimated maximum concentrations of MB46513 in ground water is 0.00026 ppb. The estimated average concentration of MB46513 in surface water is 0.009 ppb. Chronic concentrations in ground water are not expected to be higher than the acute concentrations. For the purposes of the screening-level assessment, the maximum and average concentrations in ground water are not believed to vary significantly. The estimated average concentrations of MB46513 in surface and ground water are less than EPA's levels of concern for MB46513 in drinking water as a contribution to chronic aggregate exposure. Therefore, taking into account the present uses and uses proposed in this action, EPA concludes with reasonable certainty that residues of MB46513 in drinking water (when considered along with other sources of exposure for which EPA has reliable data) would not result in unacceptable levels of aggregate human health risk at this time.

3. *From non-dietary exposure.* The residential uses of fipronil include the use of ant and cockroach bait traps ranging from 0.01 to 0.05 percent active ingredient. In addition, three fipronil products are registered to control fleas and ticks on dogs and cats. These products are applied to the fur of the animal as a ready-to-use pump spray or as a ready-to-use, pour-on, spot treatment made along the back of the animal between the shoulder blades.

i. *Ant and roach baits.* Exposure from the use of fipronil in self contained bait stations is expected to result in low exposures since there is no contact with the pesticide.

ii. *Pet care.* For purposes of setting a tolerance, an aggregate short-term and intermediate-term systemic (oral) and dermal exposure risk assessment which includes the pet care products is not appropriate due to differences in the toxicity endpoints observed between the oral (neurotoxicity and alterations in clinical chemistry and thyroid parameters) and dermal (decreases in body-weight gain and food consumption) routes. Further, though fipronil is currently registered for residential uses, no chronic residential exposure is anticipated.

4. *Cumulative exposure to substances with common mechanism of toxicity.* Fipronil is structurally similar to other members of the pyrazole class of pesticides (i.e., tebufenpyrad, pyrazolynate, benzofenap, etc.). Further, other pesticides may have common toxicity endpoints with fipronil.

Section 408(b)(2)(D)(v) of the FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity." The Agency believes that "available information" in this context might include not only toxicity, chemistry, and exposure data, but also scientific policies and methodologies for understanding common mechanisms of toxicity and conducting cumulative risk assessments. For most pesticides, although the Agency has some information in its files that may turn out to be helpful in eventually determining whether a pesticide shares a common mechanism of toxicity with any other substances, EPA does not at this time have the methodologies to resolve the complex scientific issues concerning common mechanism of toxicity in a meaningful way. EPA has begun a pilot process to study this issue further through the examination of particular classes of pesticides. The Agency hopes that the results of this pilot process will increase the Agency's scientific understanding of this question such that EPA will be able to develop and apply scientific principles for better determining which chemicals have a common mechanism of toxicity and evaluating the cumulative effects of such chemicals. The Agency anticipates, however, that even as its understanding of the science of common mechanisms increases, decisions on specific classes of chemicals will be heavily dependent on chemical specific data, much of which may not be presently available.

Although at present the Agency does not know how to apply the information in its files concerning common mechanism issues to most risk assessments, there are pesticides as to which the common mechanism issues can be resolved. These pesticides include pesticides that are toxicologically dissimilar to existing chemical substances (in which case the Agency can conclude that it is unlikely that a pesticide shares a common mechanism of activity with other substances) and pesticides that produce a common toxic metabolite (in which case common mechanism of activity will be assumed).

EPA does not have, at this time, available data to determine whether fipronil has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, fipronil does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that fipronil has a common mechanism of toxicity with other substances.

5. *Endocrine disruption.* EPA is required to develop a screening program to determine whether certain substances (including all pesticides and inerts) "may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen, or such other endocrine effect...". The Agency is currently working with interested stakeholders, including other government agencies, public interest groups, industry, and research scientists in developing a screening and testing program and a priority setting scheme to implement this program. Congress has allowed 3 years from the passage of FQPA (August 3, 1999) to implement this program. At that time, EPA may require further testing of this active

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ingredient and end use products for endocrine disrupter effects.

D. Aggregate Risks and Determination of Safety for U.S. Population

1. *Acute aggregate exposure and risk.* Using refined exposure assumptions (anticipated residues for blended commodities), a high-end exposure estimate (food only) was calculated for these subgroups: females 13+ years, for the general U.S. population, infants (< 1 year), children (1–6 years), and males 13+. These risk estimates are the same as those displayed in table 2 of this preamble.

The maximum estimated concentrations of fipronil in surface and ground water are less than EPA's levels of concern for fipronil in drinking water as a contribution to acute aggregate exposure.

2. *Short- and intermediate-term aggregate exposure and risk.* An aggregate systemic (oral) and dermal exposure risk assessment is not appropriate due to differences in the toxicity endpoints observed between the oral (neurotoxicity and alterations in clinical chemistry and thyroid parameters) and dermal (decreases in body-weight gain and food consumption) routes.

3. *Chronic aggregate exposure and risk.* Chronic dietary exposure estimates for fipronil, MB46136, MB45950, and MB46513 utilized anticipated residues and a projected market share and are thus highly refined. For the U.S. population, 6.5% of the RfD is occupied by dietary (food) exposure. Though fipronil is currently registered for residential uses, no chronic residential exposure is anticipated. The estimated average concentrations of fipronil in surface and ground water are less than EPA's levels of concern for fipronil in drinking water as a contribution to chronic aggregate exposure.

4. *Aggregate cancer risk for U.S. population.* For fipronil plus MB46136 and MB45950, EPA finds that the dietary risk concerns due to long-term consumption of fipronil residues are adequately addressed by the DRES chronic exposure analysis using the RfD. For MB46513, EPA finds that the dietary risk concerns due to long-term consumption of MB46513 residues are adequately addressed by the DRES chronic exposure analysis using the RfD.

5. *Safety finding.* Based on Unit II.C. of this preamble, EPA concludes that there is a reasonable certainty of no harm from aggregate exposure to fipronil.

F. Aggregate Risks and Determination of Safety for Infants and Children

1. *Safety factor for infants and children*—i. *In general.* In assessing the potential for additional sensitivity of infants and children to residues of fipronil, EPA considered data from developmental toxicity studies in the rat and rabbit, a two-generation reproduction study in the rat, and a developmental neurotoxicity study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from pesticide exposure during prenatal development to one or both parents. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity. Growth, survival and general toxicity are evaluated for two generations of offspring. Developmental Neurotoxicity studies are designed to evaluate adverse effects on the nervous system of the developing organism resulting from pesticide exposure of the pregnant and nursing mother during several critical stages of prenatal and postnatal development.

Section 408 of the FFDCA provides that EPA shall apply an additional 10-fold margin of safety for infants and children in the case of threshold effects to account for pre-and post-natal toxicity and the completeness of the database unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using the standard MOE and uncertainty factor (usually 100 for combined inter- and intra-species variability)) and not the additional tenfold MOE/uncertainty factor when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard MOE/safety factor.

ii. *Data on Susceptibility*—a. *Neurotoxicity.* Fipronil has demonstrated neurotoxicity in the acute and subchronic rat neurotoxicity studies as well as in the rat chronic/oncogenicity and chronic dog studies.

b. *Developmental toxicity.* There are acceptable rat and rabbit developmental toxicity studies with fipronil. There is no evidence of developmental toxicity in either study. EPA also considered a developmental study conducted for MB46513. In that study, pregnant rats received oral administration of MB46513 (99.2%). For maternal toxicity, the NOEL was 1.0 mg/kg/day and the LOEL was 2.5 mg/kg/day based on an increase in clinical signs of toxicity (hair loss) and on reduced body-weight gain, food consumption, and food efficiency. For developmental toxicity, the NOEL was 1.0 mg/kg/day and the LOEL was 2.5 mg/kg/day based on a slight increase in fetal and litter incidence of reduced ossification of several bones (hyoid, 5th/6th sternebrae, 1st thoracic vertebral body, pubic bone, and one or two metatarsi). Most of the reduced ossification is weak evidence of a developmental effect. Although the minor decrement in fetal weight at 2.5 mg/kg/day has questionable biological relevance, the decrement is supported by the delayed ossification.

c. *Reproductive toxicity.* There is an acceptable two-generation reproduction study in the rat with fipronil. Toxicity to the offspring (clinical signs of toxicity, decreased litter size, decreased body weights, decreased pre- and postnatal survival, and delays in physical development.) occurred only at levels where there was maternal toxicity (including maternal mortality).

d. *Developmental neurotoxicity.* In an acceptable study with fipronil, developmental neurotoxicity (behavioral changes and decreased absolute brain weights) was seen only at levels where there was maternal toxicity (decreased body weight, body-weight gain and food consumption). However, developmental toxicity (including marginal but statistically significant decrease in group mean pup weights during lactation, and significant increase in time of preputial separation in males) was seen at levels below levels of maternal toxicity.

e. *Adequacy of data.* An acceptable two-generation reproduction study in rats and acceptable prenatal developmental toxicity studies in rats and rabbits have been submitted to the Agency, meeting basic data requirements, as defined for a food-use chemical. In addition, an acceptable developmental neurotoxicity study was conducted with fipronil and reviewed by the Agency. Further, EPA has a developmental toxicity study for MB46513. Where specific data on MB46513 are not available, the toxicity of the photodegradate can be reliably estimated by comparing the fipronil and MB46513 data bases and taking into consideration the PAF. Therefore, additional data on MB46513 are not required at this time. There are no data gaps for the assessment of the effects of fipronil on developing animals following in utero and/or early postnatal exposure.

ii. *Determination of susceptibility.* Although there is no evidence of enhanced pre or post natal susceptibility in infants and children in the developmental and reproduction studies for fipronil and MB46513, the developmental neurotoxicity study for fipronil identified a developmental NOEL (0.05 mg/kg/day) which is less than the maternal NOEL of 0.9 mg/kg/day indicating an apparent susceptibility issue. However, EPA determined that the evidence regarding susceptibility was not convincing due to the equivocal nature of the findings. Of principal importance were the following conclusions:

(1) The effects observed in the offspring at the LOEL of 0.9 mg/kg/day, although statistically significant, were marginal and appeared to define a threshold response level for this study.

(2) The body weight findings of this study are not supported by results of the two-generation reproduction study in rats at similar treatment levels.

EPA concluded that the apparent increased susceptibility in the developmental neurotoxicity study was not supported by the overall weight-of-the-evidence (including no evidence for increased susceptibility in the developmental and reproduction studies) from the fipronil data base.

iii. *Determination of the FQPA safety factor.* There is a complete toxicity data base for fipronil and exposure data is complete or is estimated based on data that reasonably accounts for potential exposures. Further, as discussed in Unit II.F.1.f of this preamble, EPA has concluded that the studies do not show that there is an increased susceptibility for developmental effects. Accordingly, EPA believes reliable data are available to remove the additional 10-fold safety factor for the protection of infants and children.

2. *Acute risk.* The total dietary (food only) percents of the acute RfD for these population subgroups females 13+ years, for the general U.S. population, infants (< 1 year), children (1–6 years), and males 13+ ranged from 6–12%. This calculation was based on an acute neurotoxicity study NOEL in rats of 2.5 mg/kg/day for fipronil and 2.0 mg/kg/day for MB46513. Despite the potential for exposure to fipronil in drinking water, EPA does not expect the acute aggregate exposure to exceed EPA's level of concern. The small percent of the acute dietary RfD calculated for females 13+ years old provides assurance that there is a reasonable certainty of no harm for both females 13+ years and the pre-natal development of infants.

3. *Chronic risk.* EPA has concluded that the percentage of the RfD that will be utilized by chronic dietary (food only) exposure to residues of fipronil ranges from 5.1% for nursing infants less than 1 year old, up to 16.7% for non-nursing infants less than 1 year old. Despite the potential for exposure to fipronil in drinking water, EPA does not expect the chronic aggregate exposure to exceed 100% of the RfD. There are uses of fipronil that result in residential exposure, but is not expected to result in chronic exposure. EPA concludes that there is a reasonable certainty that no harm will result to infants and children from acute, short- and intermediate-term, or chronic aggregate exposure to fipronil residues. That data call-in [will] require such data to be submitted every 5 years as long as the tolerances remain in force.

III. Other Considerations

A. Metabolism In Plants and Animals

1. Rhone Poulenc AG, Inc. has submitted data from a study investigating the metabolism of fipronil in rice. The qualitative nature of the residue in rice is adequately understood based on this metabolism study. Fipronil was detected in all rice commodities. MB46513 was also detected in all commodities. MB45950 and MB46136, among other metabolites, were also identified. EPA determined that the fipronil residues of concern for the tolerance expression and dietary risk assessment in plants animals are the parent and its metabolites MB46136 and MB45950 and photodegradate MB46513. The Agency, therefore, has determined that the residues of concern for the proposed tolerances are fipronil, MB45950, MB46136, and MB46513.

2. Residues in eggs, meat, milk, and poultry. Rice bran, grain, hulls, and straws are animal feed items.

i. *Fipronil.* The maximum theoretical dietary burden of fipronil to beef and dairy cattle, based on the required tolerances of 0.04 ppm for rice and 0.10 ppm for rice straw, is 0.04 ppm. The maximum theoretical dietary burden of fipronil to poultry, based on the proposed tolerances of 0.04 ppm for rice and 0.10 ppm for rice straw, is 0.04 ppm. Acceptable cow and poultry feeding studies were submitted and reviewed in conjunction with the pesticide petition for corn. Based on these studies, the Agency has already established appropriate tolerance levels for fipronil residues in/on animal commodities.

ii. *MB46513.* Based on low potential for residues in eggs, meat, and milk, EPA will not require animal feeding studies to be conducted with MB46513.

B. Analytical Enforcement Methodology

1. *Plants.* In conjunction with the cotton petition, gas chromatography/electron capture detector (GC/ECD) method EC–95–303 has been proposed for enforcement of tolerances for residues of fipronil and its metabolites MB45950, MB46136, and photodegradate MB46513, and RPA200766 in/on plant commodities. The GC methods used for the analyses of samples collected from the rice crop field trials and processing study analyze for each compound separately and are adequate for collection of residue data. Adequate method validation and concurrent method recovery have been submitted for these methods. These methods are similar to the GC method proposed for cottonseed which has undergone a successful pesticide method validation (PMV). The registrant has been notified that all directions pertaining to RPA200766 should also be removed as this metabolite has been determined to not be of regulatory concern.

2. *Animals.* A method for the determination of residues of fipronil, MB45950, and MB46136 in animal commodities was previously reviewed in conjunction with a petition for corn and animal raw agricultural commodities (RACs), and has undergone a successful PMV.

3. *Multiresidue methods.* A report on multiresidue testing of fipronil, MB45950, and MB46136 has been received and forwarded to the Food and Drug Administration (FDA). Acceptable recoveries of fipronil, MB45950, and MB46136 were obtained in corn grain. A report on multiresidue testing of MB46513 has been received and forwarded to FDA. Acceptable recoveries of MB46513 were obtained in corn forage and cottonseed.

C. Magnitude of Residues

1. *Plants.* The submitted data indicate that the combined residues of fipronil, MB45950, MB46136, and MB46513 will not exceed the proposed tolerance for rice straw (0.10 ppm), or the proposed tolerance for rice grain (0.04 ppm) in/on samples harvested at maturity following either a preplant incorporated (PPI) broadcast application of the 80% water dispersable granular (WDG) formulation or seed treatment with a 10% liquid formulation at about 0.05 lb active ingredient (ai)/acre (A) (1 x the proposed maximum rate).

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Based on the highest residue value obtained from samples harvested following the proposed PPI or seed treatments at the proposed maximum use rate, the proposed tolerance level of 0.10 ppm for rice straw is appropriate. No residues of fipronil or MB46136, MB45950, or MB46513 were detected in rice grain, so the proposed tolerance level for rice grain at the combined limits of quantitation for fipronil, MB46136, MB45950, and MB46513 (0.04 ppm) is appropriate.

2. *Processed food/feed*. Rhone Poulenc AG, Inc. submitted data depicting the potential for concentration of fipronil residues in the processed commodities of rice. The submitted rice processing data are adequate. The data indicate that total residues of fipronil, MB45950, MB46136, and MB46513, and RPA200766 are less than the limit of quantitation (LOQ) (0.01 ppm) in/on rice grain harvested at maturity following PPI broadcast application of the 80% Because treatment at 5–6 x the label application rate did not result in quantifiable levels of fipronil residues of concern in rice grain, all further requirements for the processing study are waived, and no tolerances are required for the processed commodities of rice. As a result of this use, residues of fipronil are not expected to exceed the proposed or existing tolerances.

D. International Residue Limits

There are no CODEX, Canadian, or Mexican MRLs established for fipronil in/on rice RACs. Therefore, no compatibility problems exist.

E. Rotational Crop Restrictions

An acceptable confined rotational crop study with grain, grain sorghum, lettuce, radishes, and wheat was submitted and reviewed in conjunction with the corn petition.

The rotational crop restrictions specified on the labels (1 month for leafy vegetables, 5 months for root crops, and 12 months for small grains and all other crops) are supported by the results of the confined rotational crop study.

IV. Conclusion

Therefore, the tolerances established at 40 CFR 180.517 are amended to include combined residues of the insecticide fipronil, MB46136, MB45950, and MB46513 in or on rice grain at 0.04 ppm and rice straw at 0.10 ppm.

V. Objections and Hearing Requests.

The new FFDCA section 408(g) provides essentially the same process for persons to "object" to a tolerance regulation issued by EPA under new section 408(e) and (l)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by September 15, 1998, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33. If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VI. Public Record

EPA has established a record for this rulemaking under docket control number OPP–300612 (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Electronic comments may be sent directly to EPA at:

opp-docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the Virginia address in ADDRESSES at the beginning of this document.

VII. Regulatory Assessment Requirements

This final rule establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

In addition, since these tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950) and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

VIII. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 2, 1998.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.517 by revising the introductory text of paragraph (a) and adding the following entries to the table in paragraph (a) to read as follows:

§ 180.517 Fipronil; tolerances for residues.

(a) *General.* Therefore, tolerances are established for combined residues of the insecticide fipronil (5-amino-1-[2,6-dichloro-4-(trifluoromethyl)phenyl]-4-[(1R,S)-(trifluoromethyl)sulfinyl]-1H-pyrazole-3-carbonitrile) and its metabolites 5-amino-1-[2,6-dichloro-4-(trifluoromethyl)phenyl]-4-[(trifluoromethyl) sulfonyl]-1H-pyrazole-3-carbonitrile and 5-amino-1-[2,6-dichloro-4-(trifluoromethyl) phenyl]-4-[(trifluoromethyl)thio]-1H-pyrazole-3-carbonitrile and its photodegradate 5-amino-1-(2,6-dichloro-4-(trifluoromethyl)phenyl]-4-[(1R,S)-(trifluoromethyl)]-1H-pyrazole-3-carbonitrile in or on the following items at the levels specified:

Commodity	Parts per million (ppm)
* * *	* *
Rice grain	0.04
Rice straw	0.10

* * * * *

[FR Doc. 98–18987 Filed 7–16–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300681; FRL–6016–7]

RIN 2070–AB78

Pseudomonas Fluorescens Strain PRA-25; Temporary Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a temporary exemption from the requirement of a tolerance for residues of the microbial pest control agent *pseudomonas fluorescens* strain PRA-25 on peas, snap beans, sweet corn, supersweet corn when applied/used on vegetable seeds in the planter box immediately before planting to reduce seed rot and damping-off disease cause by *Pythium spp.* and root rot caused by *Aphanomyces euteiches*. Good Bugs, Inc. submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA) as amended by the Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104-170) requesting the temporary/time-limited tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of *pseudomonas fluorescens* strain PRA-25. The tolerance will expire on July 31, 2001.

DATES: This regulation is effective July 17, 1998. Objections and requests for hearings must be received by EPA on or before September 15, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number [OPP–300681], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees) and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP-300681], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket number [OPP-300681]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Linda A. Hollis, c/o Product Manager (PM) 90, Biopesticides and Pollution Prevention Division (7511C), Environmental Protection Agency, 401

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M St., SW, Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. , 9th fl., CM #2 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703) 308-8733, e-mail: hollis.linda@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 26, 1997 (62 FR 8735) (FRL–5589–1), EPA issued a notice pursuant to section 408 of the FFDCA, 21 U.S.C. 346a(e) announcing the filing of a pesticide tolerance petition (PP 7G4803) Good Bugs, Inc. P.O. Box 939, New Glarus, WI 53574. This notice included a summary of the petition prepared by the petitioner and this summary contained conclusions and arguments to support its conclusion that the petition complied with the FQPA of 1996. The petition requested that 40 CFR part 180 be amended by establishing a temporary/time-limited tolerance for residues of *pseudomonas fluorescens* strain PRA-25.

There were no comments received in response to the notice of filing The data submitted in the petition and all other relevant material have been evaluated.

I. Risk Assessment and Statutory Findings

New section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue..." EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide us in residential settings.

II. Toxicological Profile

Consistent with section 408(b)(2)(D) of the FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

All available information indicates that there is a reasonable certainty that no harm will result from residues of *pseudomonas fluorescens* strain PRA-25 on the treated vegetables because of the ubiquitous nature of this bacterium commonly associated with roots, stems, leaves and bolossoms of a tremendous variety of plants, soil, freshwater, raw and refrigerated milk, meat, fish and cheese and readily isolated from foodstuff and its low toxicity to humans. The toxicological data submitted with this petition demonstrate a lack of human health issues and fully support a temporary exemption from the requirement of a tolererance for *psuedomonas fluorescens* strain PRA-25.

1. *Acute Mammalian Toxicity/ Pathogenicity/Infectivity Testing*- no acute toxicity/pathogenicity effects were observed when rats were given a maximum dose of >1.75 x 10^8 cfu.

2. *Nontarget Organism Testing of Microbial Pest Control Agent* - waivers were submitted for all data requirements for nontarget avian, freshwater fish and aquatic inveterbrate, insects and honeybees. No additional nontarget Tier I studies required for intended MPCA use as a pre-plant seed treatment.

3. *Acute Oral Limit Toxicity*- no acute toxicity was observed when rats were administered an acute oral dose of 1.75 x 10^8 cfu.

III. Aggregate Exposures

In examining aggregate exposure, section 408 of the FFDCA directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from groundwater or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

A. Dietary Exposure

Food. Pseudomonas fluorescens strain PRA-25 is a ubiquitous bacterium that is commonly associated with soil, water, plant roots and leaves, meat, fish, and dairy products. Therefore, no aditional exposure to food or drinking water is anticipated by using *psuedomonas fluorescens* strain PRA-25.

B. Other Non-Occupational Exposure

Non-dietary exposure such as lawn care, topical insect repellents, etc. is not anticipated since this microbial pesticide does not have these uses. Occupational exposure will be mitigated sthrough the use of proper personal protective equipment

IV. Cumulative Exposure to Substances with Common Mechanisms of Toxicity

Pseudomonas fluorescens strain PRA-25 does not exhibit a particular mechanixm of toxicity in common with other agents, therefore, cumulative effects with any other substance are not considered.

V. Determination of Safety for U.S. Population, Infants and Children

For the U.S. population, including infants and children, *pseudomonas fluorescens* strain PRA-25, EPA concludes that there is reasonable certainty that no harm will result from aggregate exposure to the U.S. population, including infants and children, to residues of *psuedomonas fluorescens* starin PRA-25. This includes all anticipated dietary exposures and all other exposures for which there is reliable information. The Agency has arrive at this conclusion because as discussed above, no toxicity to mammals has been observed for *pseudomonas fluorescens* strain PRA-25 and under reasonable foreseeable cirucumstances it does not pose a risk. Thus, a temporary tolerance for *pseudomonas fluorescens* strain PRA-25 is not necessary to ensure the saftey of consumers. Therefore, 40 CFR part 180 is amended as set forth below.

FFDCA section 408 provides that EPA shall apply an additional ten-fold margin of exposure (MOE)(safety) for infants and children in the case of threshold effects to account for pre-and post natal toxicity and the completeness of the database, unless EPA determines that a different MOE will be safe for infants and children. MOEs are often referred to as uncertainty (safety) factors. In this microbial agency is practically non-toxic to mammals, including infancts and children, and, thus, there are no threshold effects; therefore, EPA has not used a MOE approach to assess the safety of *pseudomonas fluorescens* strain PRA-25. As a result, EPA concludes that this temporary exemption will be safe without use of an additional margin of safety.

VI. Other Considerations

A. Endocrine Disruptors

The Agency has no information to suggest the *pseudomonas fluorescens* strain PRA-25 will have an effect on the immune and endocrine systems. The Agency is not requiring information on the endocrine effects of this biological pesticide at this time; Congress has allowed 3 years after August 3, 1996, for the Agency to implement a screening program with respect to endocrine effects.

B. Analytical Method(s)

The Agency proposes to establish a temporary exemption from the requirement of a tolerance without any numerical limitation;'therefore, the Agency has concluded that an analytical method is not required for enforcement purposes for *pseudomonas fluorescens* strain PRA-25.

VII. Objections and Hearing Requests

The new section 408(g) of the FFDCA provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d)and as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which governs the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by September 15, 1998, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the hearing clerk, at the address given under the ADDRESSES section (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the hearing clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VIII. Public Record and Electronic Submissions

A record has been established for this rulemaking under docket control number [OPP-300681]. A public version of this record, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above, is kept in paper form. Accordingly, in the event there are objections and hearing request, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record. The official rulemaking record is the paper record maintained at the Virginia address in ADDRESSES at the beginning of this document.

IX. Regulatory Assessment Requirements

This final rule establishes an exemption from the tolerance requirement under section 408(d) of the FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub.L. 104-4). Nor does it require and prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629), February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997). In additions, since tolerance exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

X. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the

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Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 8,1998.

Stephen L. Johnson,

Deputy Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.1200 is added to subpart D to read as follows:

§ 180.1200 Pseudomonas fluorescens strain PRA-25; temporary exemption from the requirement of a tolerance.

A temporary exemption from the requirement of a tolerance is established for residues of the microbial pesticide, *pseudomonas fluorescens* strain PRA-25 when used on peas, snap beans and sweet corn and will expire July 31, 2001.

[FR Doc. 98–18986 Filed 7–16–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 282

[FRL–6118–1]

Underground Storage Tank Program: Approved State Program for Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: The Resource Conservation and Recovery Act of 1976, as amended (RCRA), authorizes the Environmental Protection Agency (EPA) to grant approval to states to operate their underground storage tank programs in lieu of the federal program. 40 CFR part 282 codifies EPA's decision to approve state programs and incorporates by reference those provisions of the state statutes and regulations that will be subject to EPA's inspection and enforcement authorities under sections 9005 and 9006 of RCRA Subtitle I and other applicable statutory and regulatory provisions (42 U.S.C. 6991d and 6991e). This rule codifies in part 282 the prior approval of Nevada's underground storage tank program and incorporates by reference appropriate provisions of state statutes and regulations.

DATES: The regulation is effective September 15, 1998, unless EPA publishes a prior **Federal Register** document withdrawing this immediate final rule. All comments on the codification of Nevada's underground storage tank program must be received by the close of business on August 17, 1998. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register**, as of September 15, 1998, in accordance with 5 U.S.C. 552 (a).

ADDRESSES: Comments may be mailed to the U.S. EPA Office of Underground Storage Tanks (WST–8), Waste Management Division, U.S. EPA Region 9, 75 Hawthorne Street, San Francisco, California, 94105–3901. Comments received by EPA may be inspected in the public docket, located in the Office of Underground Storage Tanks, at the above address, from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays.

Copies of Nevada's underground storage tank program may be obtained from the Nevada State Office Library, Board Room, 100 Stewart Street, Carson City, Nevada, 89710; the U.S. EPA Region 9 Library, 13th Floor, 75 Hawthorne Street, San Francisco, California, 94105–3901; and the U.S. EPA Underground Storage Tank docket office and the U.S. EPA Office of Underground Storage Tanks, both located at 401 M. Street SW, Washington, D.C., 20460.

FOR FURTHER INFORMATION CONTACT: John Thayer, Nevada Program Manager, Office of Underground Storage Tanks (WST–8), U.S.EPA Region 9, 75 Hawthorne Street, San Francisco, California 94105–3901, Phone: (415) 744–2092.

SUPPLEMENTARY INFORMATION:

Background

Section 9004 of the Resource Conservation and Recovery Act of 1976, as amended, (RCRA), 42 U.S.C. 6991c, allows the U.S. Environmental Protection Agency (EPA) to approve state underground storage tank programs to operate in the state in lieu of the federal underground storage tank program. On December 24, 1992, EPA published a **Federal Register** notice announcing its tentative decision to grant approval to Nevada. (See 57 FR 248,61376, December 24, 1992.) Approval was effective on March 30, 1993.

EPA codifies its approval of state programs in Part 282 of Title 40, Code of Federal Regulations (CFR) and incorporates by reference therein the state statutes and regulations that will be subject to EPA's inspection and enforcement authorities under sections 9005 and 9006 of Subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions. Today's rulemaking codifies EPA's approval of the Nevada underground storage tank program. This codification reflects the state program in effect at the time EPA granted Nevada approval under section 9004(a), 42 U.S.C. 6991c(a) for its underground storage tank program. Notice and opportunity for comment were provided earlier on the Agency's decision to approve the Nevada program, and EPA is not now reopening that decision nor requesting comment on it.

This effort provides clear notice to the public of the scope of the approved program in each state. By codifying the approved Nevada program and by amending the Code of Federal Regulations whenever a new or different set of requirements is approved in Nevada, the status of federally approved requirements of the Nevada program will be readily discernible. Only those provisions of the Nevada underground storage tank program for which approval has been granted by EPA will be incorporated by reference for enforcement purposes.

To codify EPA's approval of Nevada's underground storage tank program, EPA has added section 282.78 to Title 40 of the Code of Federal Regulation. Section 282.78 incorporates by reference for enforcement purposes the state's statutes and regulations. Section 282.78 also references the Attorney General's Statement, Demonstration of Adequate Enforcement Procedures, the Program Description, and the Memorandum of Agreement, which are approved as part of the underground storage tank program under subtitle I of RCRA.

The Agency retains the authority under sections 9005 and 9006 of Subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions to undertake inspections and enforcement actions in approved states. With respect to such an enforcement action, the Agency will rely on federal sanctions, federal inspection authorities, and federal procedures, rather than the state authorized analogues to these provisions. Therefore, the approved Nevada enforcement authorities will not be incorporated by reference. Section 282.78 lists those approved Nevada authorities that would fall into this category.

The public also needs to be aware that some provisions of the State's underground storage tank program are not part of the federally approved state program. These non-approved provisions are not part of the RCRA Subtitle I program because they are "broader in scope" than Subtitle I of RCRA. (See 40 CFR 281.12(a)(3)(ii).) As a result, state provisions, which are "broader in scope" than the federal program, are not incorporated by reference for purposes of enforcement in part 282. Section 282.78 of the codification simply lists for reference and clarity the Nevada statutory and regulatory provisions, which are "broader in scope" than the federal program and which are not, therefore, part of the approved program being codified today. "Broader in scope" provisions cannot be enforced by EPA; the state, however, will continue to enforce such provisions.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Section 6 of Executive Order 12866.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for federal agencies to assess the effects of certain regulatory actions on state, local, and tribal governments and the private sector. Under sections 202 and 205 of the UMRA, EPA generally must prepare a written statement of economic and regulatory alternatives analyses for proposed and final rules with federal mandates, as defined by the UMRA, that may result in expenditures to state, local, and tribal governments, or to the private sector, of $100 million or more in the aggregate in any one year. The section 202 and 205 requirements do not apply to today's action, because it is not a "federal mandate" and because it does not impose annual costs of $100 million or more.

Today's rule contains no federal mandates for state, local or tribal governments or the private sector for two reasons. First, today's action does not impose new or additional enforceable duties on any state, local or tribal governments or the private sector, because it merely makes federally enforceable existing requirements with which regulated entities must already comply under state law. Second, the Act also generally excludes from the definition of a "federal mandate" duties that arise from participation in a voluntary federal program. The requirements being codified today are the result of Nevada's voluntary participation in accordance with RCRA Subtitle I.

Even if today's rule did contain a federal mandate, this rule will not result in annual expenditures of $100 million or more in the aggregate for state, local, and/or tribal governments, or the private sector, because today's action merely codifies an existing state program that EPA previously approved. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

The requirements of section 203 of UMRA also do not apply to today's action. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, section 203 of UMRA requires EPA to develop a small government agency plan. This rule contains no regulatory requirements that might significantly or uniquely affect small governments. The Agency recognizes that although small governments may own and/or operate USTs, this codification incorporates into the Code of Federal Regulations Nevada's requirements which have already been approved by EPA under 40 CFR Part 281 and, thus, small governments are not subject to any additional significant or unique requirements by virtue of this codification.

Certification Under the Regulatory Flexibility Act

EPA has determined that this codification will not have a significant economic impact on a substantial number of small entities. Such small entities which own and/or operate USTs are already subject to the state requirements authorized by EPA under 40 CFR Part 281. EPA's codification does not impose any additional burdens on these small entities. This is because EPA's codification would simply result in an administrative change, rather than a change in the substantive requirements imposed on small entities.

Therefore, EPA provides the following certification under the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act. Pursuant to the provision at 5 U.S.C. 605(b), I hereby certify that this codification will not have a significant economic impact on a substantial number of small entities. This codification incorporates Nevada's requirements, which have been approved by EPA under 40 CFR Part 281, into the Code of Federal Regulations. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each house of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

Compliance With Executive Order 13045

Executive Order 13045 applies to any rule that the Office of Management and Budget determines is "economically significant" as defined under Executive Order 12866, and that EPA determines that the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The Agency has determined that the final rule is not a covered regulatory action as defined in the Executive Order because it is not economically significant and does not address environmental health and safety risks. As such, the final rule is not subject to the requirements of Executive Order 13045.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, federal agencies must consider the paperwork burden imposed by any information request contained in a proposed or final rule. This rule will not impose any information requirements upon the regulated community.

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List of Subjects In 40 CFR Part 282

Environmental protection, Hazardous substances, Incorporation by reference, Intergovernmental relations, State program approval, Underground storage tanks, Water pollution control.

Dated: May 25, 1998.

Felicia Marcus,

Regional Administrator, Region 9.

For the reasons set forth in the preamble, 40 CFR Part 282 is amended as follows:

PART 282—APPROVED UNDERGROUND STORAGE TANK PROGRAMS

1. The authority citation for part 282 continues to read as follows:

Authority: 42 U.S.C. 6912, 6991(c), 6991(d), and 6991(e).

Subpart B—Approved State Programs

2. Subpart B is amended by adding § 282.78 to read as follows:

§ 282.78 Nevada State-Administered Program.

(a) The State of Nevada is approved to administer and enforce an underground storage tank program in lieu of the federal program under Subtitle I of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6991 *et seq.* The state's program, as administered by the Nevada Division of Environmental Protection was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this chapter. EPA approved the Nevada program on December 24, 1992 and it was effective March 30, 1993.

(b) Nevada has primary responsibility for enforcing its underground storage tank program. However, EPA retains the authority to exercise its inspection and enforcement authorities under sections 9005 and 9006 of Subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, as well as under other statutory and regulatory provisions.

(c) To retain program approval, Nevada must revise its approved program to adopt new changes to the federal Subtitle I program, which makes it more stringent in accordance with section 9004 of RCRA, 42 U.S.C. 6991c, and 40 CFR part 281, subpart E. If Nevada obtains approval for the revised requirements pursuant to section 9004 of RCRA, 42 U.S.C. 6991c, the newly approved statutory and regulatory provisions will be added to this subpart and notice of any change will be published in the **Federal Register**.

(d) Nevada has final approval for the following elements submitted to EPA in Nevada's program application for final approval and approved by EPA on December 24, 1992. Copies may be obtained from the Nevada State Office Library, Board Room, 100 Stewart Street, Carson City, Nevada 89710.

(1) *State statutes and regulations.* (i) The provisions cited in this paragraph are incorporated by reference as part of the underground storage tank program under Subtitle I of RCRA, 42. U.S.C. 6991 *et seq.*

(A) Nevada Statutory Requirements Applicable to the Underground Storage Tank Program, 1992.

(B) Nevada Regulatory Requirements Applicable to the Underground Storage Tank Program, 1992.

(ii) The following statutes and regulations are part of the approved state program, although not incorporated by reference herein for enforcement purposes.

(A) The statutory provisions include: Nevada Revised Statutes 459 Underground Storage Tank Program (1992) Sections 459.826, 459.830, 459.832, 459.834, 459.844, 459.846, 459.848, 459.850, 459.852, 459.854, and 459.856.

(B) The regulatory provisions include: none.

(iii) The following statutory and regulatory provisions are broader in scope than the federal program, are not part of the approved program, and are not incorporated by reference herein for enforcement purposes: none.

(2) *Statement of legal authority.* (i) "Attorney General's Statement of Final Approval," signed by the Attorney General of Nevada on December 1, 1992, though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(ii) Letter from the Attorney General of Nevada to EPA, dated December 1, 1992, though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(3) *Demonstration of procedures for adequate enforcement.* The "Demonstration of Procedures for Adequate Enforcement" submitted as part of the original application of October 1, 1992, though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(4) *Program description.* The program description and any other material submitted as part of the original application in October 1992, though not incorporated by reference, are referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 9 and the Nevada Division of Environmental Protection, signed by the EPA Regional Administrator on December 17, 1992, though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

3. Appendix A to Part 282 is amended by adding in alphabetical order "Nevada" and its listing.

Appendix A to Part 282—State Requirements Incorporated by Reference in Part 282 of the Code of Federal Regulations

* * * * *

Nevada

(a) The statutory provisions include:

(1) Nevada Revised Statute Chapter 459, Underground Storage Tank Program (1992), Nevada Revised Statue 590, Petroleum Fund (1991).

(2) Nevada Revised Statute Chapter 459, Underground Storage Tank Program (1992):

Section 459.810 "Operator" defined.
Section 459.814 "Person" defined.
Section 459.816 "Regulated Substance" defined.
Section 459.818 "Release" defined.
Section 459.820 "Storage Tanks" defined.
Section 459.822 Department designated as state agency for regulation of storage tanks.
Section 459.828 Owner or operator of storage tank to provide department with certain information.
Section 459.838 Fund for the management of storage tanks: Creation: Sources: Claims.
Section 459.840 Fund for the management of storage tanks: Use; reimbursement; recovery by attorney general.

(3) Nevada Revised Statue 590, Petroleum Fund (1991):

Section 590.700 Definitions.
Section 590.710 "Board" defined.
Section 590.720 "Department" defined.
Section 590.725 "Diesel fuel of grade number 1" defined.
Section 590.726 "Diesel fuel of grade number 2" defined.
Section 590.730 "Discharge" defined.
Section 590.740 "Division" defined.
Section 590.750 "Fund" defined.
Section 590.760 "Heating oil" defined.
Section 590.765 "Motor vehicle fuel" defined.
Section 590.770 "Operator" defined.
Section 590.780 "Person" defined.
Section 590.790 "Petroleum" defined.
Section 590.800 "Storage tank" defined.
Section 590.810 Legislative findings.
Section 590.820 Board to review claims: Creation; members; chairman; administrative Assistance; compensation of members.
Section 590.830 Fund for cleaning up discharges of petroleum: Creation;

administration by division; claims; interest.

Section 590.840 Collection of fee for certain fuels and heating coil; exempt products; payment of expenses of department.

Section 590.850 Registration of storage tanks: Collection of annual fee; exempt tanks; liability for noncompliance.

Section 590.860 Balance in fund to determine collection of fees by department.

Section 590.870 Report of discharge from tank required; division to clean up discharge; expectation; test of tank required for coverage.

Section 590.880 Allocation of costs resulting from discharge from certain storage tanks for heating oil.

Section 590.890 Allocation of costs resulting from discharge from other storage tanks.

Section 590.900 Liability for costs to clean up discharge caused by willful or wanton misconduct, gross negligence or violation of statute or regulation.

Section 590.910 Pro rata reduction required, if balance in fund insufficient for full payment.

Section 590.920 Tanks exempted from provisions of Sections 590.850 to 590.910 inclusive; optional coverage of exempted tank.

(4) Nevada Civil Procedure, Rule 24 (1971): Nevada Civil Procedure, Rule 24 .

(b) The regulatory provisions includes:

(1) Nevada Administrative Code 459, UST Program (1990):

Section 459.9929 "Storage Tank" defined.

Section 459.993 Compliance with federal regulations.

Section 459.995 Financial responsibility of owners and operators.

Section 459.996 Releases: Reporting.

(2) Nevada Administrative Code 590, Petroleum Fund (1991):

Section 590.720 Adoption by reference of provisions of Code of Federal Regulations.

(3) Nevada Administrative Code, Reportable Quantities (1989):

Section 445.240 Notice required.

[FR Doc. 98–19133 Filed 7–16–98; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 980402084–8166–02; I.D. 032398B]

RIN 0648–AJ51

Fisheries of the Exclusive Economic Zone Off Alaska; Scallop Fishery off Alaska; Amendment 3

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to implement Amendment 3 to the Fishery Management Plan for the Scallop Fishery off Alaska (FMP), which delegates to the State of Alaska (State) the authority to manage all aspects of the scallop fishery, except limited access. This final rule repeals all Federal regulations governing the scallop fishery off Alaska, except for the scallop vessel moratorium program. This action is necessary to eliminate duplicative regulations and management programs at the State and Federal levels and is intended to further the goals and objectives of the FMP.

DATES: Effective July 14, 1998.

ADDRESSES: Copies of Amendment 3 and the Environmental Assessment/Regulatory Impact Review (EA/RIR) prepared for Amendment 3 are available from the NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802, Attn: Lori J. Gravel, or by calling the Alaska Region, NMFS, at 907–586–7228.

FOR FURTHER INFORMATION CONTACT: Kent Lind, 907–586–7228 or kent.lind@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS and the State of Alaska manage the scallop fishery off Alaska pursuant to the FMP. The North Pacific Fishery Management Council (Council) prepared the FMP pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Federal regulations governing the scallop fishery appear at 50 CFR parts 600 and 679. State regulations governing the scallop fishery appear in the Alaska Administrative Code (AAC) at 5 AAC Chapter 38–Miscellaneous Shellfish.

The Council submitted Amendment 3 for Secretarial review on March 26, 1998, and a Notice of Availability of the amendment was published March 31, 1998 (63 FR 15376), with comments on the FMP amendment invited through June 1, 1998. NMFS published a proposed rule to implement Amendment 3 on April 16, 1998 (63 FR 18863), with comments on the proposed rule invited until June 1. No comments were received on the FMP amendment or the proposed rule by the end of the comment periods.

Based on a review of the FMP amendment, proposed rule, EA/RIR, and applicable State laws, the Administrator, Alaska Region, NMFS, determined that Amendment 3 is necessary for the conservation and management of the scallop fishery off Alaska and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

Management Background and Need for Action

The history of the scallop fishery off Alaska and the events leading up to the development of the joint State-Federal management regime under Amendment 1 to the FMP are discussed in detail in the proposed rule (63 FR 18863, April 16, 1998) and in the EA/RIR prepared for this action (see ADDRESSES). Amendment 1 established a joint State-Federal management regime under which NMFS implemented Federal scallop regulations that duplicate most State scallop regulations, including definitions of scallop registration areas and districts, scallop fishing seasons, closed waters, gear restrictions, efficiency limits, crab bycatch limits, scallop catch limits, inseason adjustments, and observer coverage requirements. This joint State-Federal management regime was designed as a temporary measure to prevent unregulated fishing in Federal waters until changes in the Magnuson-Stevens Act would enable the Council to delegate management of the fishery to the State.

While the joint State-Federal management regime established under Amendment 1 has enabled NMFS to reopen the Exclusive Economic Zone to fishing for scallops, it has proven to be cumbersome in practice. Every management action, including inseason openings and closures, must be coordinated so that State and Federal actions are simultaneously effective. NMFS must draft and publish in the **Federal Register** inseason actions that duplicate every State inseason scallop action. State scallop managers are now constrained in their ability to implement management decisions rapidly because they must coordinate each action with NMFS and provide sufficient lead-time for publication of the action in the **Federal Register**.

The only purpose of maintaining duplicate regulations at the State and Federal level is to prevent unregulated fishing by vessels not registered under the laws of the State. The State-Federal management regime established under Amendment 1 is no longer necessary to prevent unregulated fishing for scallops in Federal waters because the Sustainable Fisheries Act of 1996, which amended the Magnuson-Stevens Act, now provides authority for the Council to delegate to the State management responsibility for the scallop fishery in Federal waters off Alaska. The statutory requirements for delegation of fisheries management

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authority to a state were presented in the preamble to the proposed rule (63 FR 18863, April 16, 1998).

Repeal of Federal Scallop Regulations Under Amendment 3

Amendment 3, adopted by the Council by a 10 to 1 vote, delegates to the State the authority to manage all aspects of the scallop fishery in Federal waters, except limited access, including the authority to regulate vessels not registered under the laws of the State. Section 306(a)(3)(B) of the Magnuson-Stevens Act, as amended, requires that such a delegation of authority be made through an FMP amendment and be approved by a three-quarters majority vote of the Council.

This final rule to implement Amendment 3 removes subpart F of 50 CFR part 679. Subpart F contains all the Federal regulations specific to the scallop fishery off Alaska, with the exception of the scallop vessel moratorium program, which is set out under permit requirements at June 26, 1998, § 679.4(g). Amendment 3 and this final rule change the Federal scallop vessel moratorium program established under Amendment 2 to the FMP by simplifying scallop management in the Federal waters off Alaska through the elimination of unnecessary duplication of regulations at the State and Federal levels.

This final rule also makes minor changes to § 679.1(h) to accommodate the delegation of management authority to the State and adds a definition of Scallop Registration Area H (Cook Inlet) to the definitions at § 679.2 because this definition, previously set out in subpart F, is necessary for the scallop vessel moratorium program.

Changes Made From the Proposed Rule

This final rule removes definitions for "Dive" and "Scallop dredge" under the definition of "Authorized fishing gear" at § 679.2 because these definitions are no longer required. In addition, the final rule eliminates cross references to scallop regulations at § 679.7(h) and § 679.22(g). No additional changes were made from the proposed rule.

Classification

This action repeals duplicative Federal regulations that serve no Federal management purpose and have the potential to confuse the regulated community. In addition, this action does not significantly revise management measures for the regulated community in a manner that would require time to plan or prepare for those revisions. For these reasons, the Assistant Administrator for Fisheries, NOAA, finds that good cause exists to waive the 30-day delayed effectiveness period for this action under 5 U.S.C. 553(d).

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule would not have a significant economic impact on a substantial number of small entities. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not prepared.

This final rule has been determined to be not significant for the purposes of E.O. 12866.

The Administrator, Alaska Region, NMFS determined that fishing activities conducted under this rule would not affect endangered and threatened species listed or critical habitat designated pursuant to the Endangered Species Act in any manner not considered in prior consultations on the scallop fisheries off Alaska.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: July 13, 1998.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*

2. In § 679.1, paragraph (h) is revised to read as follows:

§ 679.1 Purpose and scope.

* * * * *

(h) *Fishery Management Plan for the Scallop Fishery off Alaska.* (1) Regulations in this part govern commercial fishing for scallops in the Federal waters off Alaska by vessels of the United States (see subpart A of this part).

(2) State of Alaska laws and regulations that are consistent with the FMP and with the regulations in this part apply to vessels of the United States that are fishing for scallops in the Federal waters off Alaska.

* * * * *

3. In § 679.2, the definition of "Authorized fishing gear," is amended by revising the introductory paragraph, removing the paragraphs (1) *Dive* and (11) *Scallop dredge*, and renumbering paragraphs (2) through (10) and (12) through (14) as paragraphs (1) through (12), respectively; and a definition "Scallop Registration Area H Cook Inlet" is added, in alphabetical order, to read as follows:

§ 679.2 Definitions.

* * * * *

Authorized fishing gear means, fixed gear, hook-and-line, jig, longline, longline pot, nonpelagic trawl, nontrawl, pelagic trawl, pot-and-line, trawl, hand troll gear, and power troll gear:

* * * * *

Scallop Registration Area H (Cook Inlet) means all Federal waters of the GOA west of the longitude of Cape Fairfield (148°50' W. long.) and north of the latitude of Cape Douglas (58°52' N. lat.).

* * * * *

4. In § 679.3, paragraph (g) is added to read as follows:

§ 679.3 Relation to other laws.

* * * * *

(g) *Scallops.* Additional regulations governing conservation and management of scallops off Alaska are contained in Alaska Statutes A.S. 16 and Alaska Administrative Code at 5 AAC Chapter 38.

§ 679.7 [Amended]

5. In § 679.7, paragraph (h) is removed and paragraph (i) is redesignated as paragraph (h).

§ 679.22 [Amended]

6. In § 679.22, paragraph (g) is removed and reserved.

§§ 679.60–679.65 (Subpart F) [Removed]

7. Subpart F, consisting of §§ 679.60–679.65, is removed.

[FR Doc. 98–19115 Filed 7-14-98; 1:45 pm]

BILLING CODE 3510-22-F

Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1753

RIN 0572–AB34

Telecommunications System Construction Policies and Procedures

AGENCY: Rural Utilities Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Utilities Service (RUS) proposes to revise its regulations on telecommunications system construction policies and procedures. This revision includes empowering the telecommunications borrowers by reducing oversight by RUS with respect to preparation of plans and specifications, bid approvals, and final document approvals. In addition to reducing the requirements for facilities construction, RUS will also make technical corrections and clarifications, and minor technical changes.

DATES: Public comments must be received by RUS or bear a postmark or equivalent, no later than September 15, 1998.

ADDRESSES: Written comments should be sent to Orren E. Cameron, III, Director, Telecommunications Standards Division, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., Room 2835–S, STOP 1598, Washington, DC 20250–1598. Telephone: (202) 720–8663. RUS requires a signed original and three copies of all comments (7 CFR 1700.4). Comments will be available for public inspection during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Orren E. Cameron III, Director, Telecommunications Standards Division, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW, Room 2835–S, Stop 1598, Washington, DC 20250–1598. Telephone (202) 720–8663. E-Mail: ecameron@rus.usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule has been determined to be not significant for purposes of Executive Order 12866 and therefore has not been reviewed by OMB.

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. RUS has determined that this proposed rule meets the applicable standards provided in Sec. 3. of the Executive Order.

Regulatory Flexibility Act Certification

RUS had determined that this proposed rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The RUS telecommunications program provides loans to borrowers at interest rates and terms that are more favorable than those generally available from the private sector. RUS borrowers, as a result of obtaining federal financing, receive economic benefits which exceed any direct economic costs associated with complying with RUS regulations and requirements. Moreover, this action liberalizes certain contract requirements by changing contract limits thereby reducing RUS oversight requirements and further offsetting economic costs.

Information Collection and Recordkeeping Requirements

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended) RUS is requesting comments on the information collection incorporated in this proposed rule.

Comments on this information collection must be received by September 15, 1998.

Comments are invited in: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques of other forms of information technology.

For further information contact Orren E. Cameron III, Director, Telecommunications Standards Division, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., Stop 1598, Washington, DC 20250–1598. Telephone: (202) 720–8663. FAX: (202) 720–4099. E-Mail: ecameron@rus.usda.gov.

Title: Telecommunications Standards/Specifications Acceptance, Telecommunications Field Trials, and Telecommunications Contract Forms.

OMB Number: 0572–0059.

Type of Request: Amendment.

Abstract: The Rural Utilities Service (RUS) proposes to revise its regulations on telecommunications system construction policies and procedures. This revision includes empowering the telecommunications borrowers by reducing oversight by RUS with respect to preparation of plans and specifications, bid approvals, and final document approvals and transferring those approval authorities to borrowers and their consulting engineers. In addition, this revision updates the regulation to include headquarters building financing which was reauthorized under certain loan programs in the Rural Electrification Loan Restructuring Act of 1993, and clarifies the manner in which RUS waives postloan engineering and construction requirements.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1 hour per response.

Respondents: Business or other for profit and non-profit institutions.

Estimated Number of Respondents: 212.

Estimated Number of Responses per Respondents: 25.

Estimated Total Annual Burden on Respondents: 3,356 hours.

Copies of this information collection can be obtained from Dawn Wolfgang, Program Development and Regulatory Analysis, Rural Utilities Service. Telephone: (202) 720–0812.

Send comments regarding this information collection requirement to F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, USDA, Rural Utilities Service, 1400 Independence Ave., SW., Room 4034,

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Stop 1522, Washington, DC 20250–1522.

Comments are best assured of having full effect if OMB receives them within 30 days of publication in the **Federal Register**. All comments will become a matter of public record.

National Environmental Policy Act Certification

RUS has determined that this proposed rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The program described by this proposed rule is listed in the Catalog of Federal Domestic Assistance Programs under No. 10.851, Rural Telephone Loans and Loan Guarantees, and No. 10.852, Rural Telephone Bank Loans. This catalog is available on a subscription basis from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402–9325.

Executive Order 12372

This proposed rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation. A Notice of Proposed Rule entitled Department Programs and Activities Excluded from Executive Order 12372 (50 FR 47034) exempts RUS and RTB loans and loan guarantees to governmental and nongovernmental entities from coverage under this Order.

Unfunded Mandates

This rule contains no Federal Mandates (under the regulatory provision of Title II of the Unfunded Mandate Reform Act) for State, local, and tribal governments of the private sector. Thus today's rule is not subject to the requirements of section 202 and 205 of the Unfunded Mandate Reform Act.

Background

RUS has undertaken a strategic review of all policies and procedures covering its preloan and postloan requirements of borrowers. This review was part of RUS efforts in governmental streamlining and empowering the recipients of the loans provided under the Rural Electrification Act (RE Act) of 1936, (U.S.C. 901 *et seq.*), as amended. As a result of this review, several procedures and policies were deemed no longer necessary. Other policies and procedures have been streamlined and RUS proposes to place more responsibility with the borrowers to insure a more cost effective review process while maintaining the required loan security. In view of this increased reliance upon borrowers and their consultants, certain provisions have been added to reduce the government's vulnerability to conflicts of interest. Provisions have also been added for construction of headquarters facilities pursuant to the Rural Electrification Loan Restructuring Act of 1993 (107 Stat. 1356).

RUS further proposes to make technical corrections to final regulations which were reorganized and redesignated on September 27, 1990, at 55 FR 39393. In particular, certain regulations contained cross references which inadvertently had not been updated. This action is simply a correction to these regulations with no change to substance. Changes to regulatory text are merely to update cross references. As currently published, the final regulations may prove to be misleading.

List of Subjects in 7 CFR Part 1753

Communications equipment, Loan programs—communications, Reporting and recordkeeping requirements, Rural areas, Telecommunication, Telephone.

For reasons set forth in the preamble, 7 CFR chapter XVII is amended as follows:

PART 1753—TELECOMMUNICATION SYSTEM CONSTRUCTION POLICIES AND PROCEDURES

1. The authority citation for part 1753 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.*; 7 U.S.C. 1921 *et seq.*; Pub. L. 103–354, 108 Stat. 3178 (7 U.S.C. 6941 *et seq.*).

2. In § 1753.1, paragraph (a) is revised to read as follows:

§ 1753.1 General

(a) The standard RUS Telecommunications Loan Documents contain provisions regarding procurement of materials and equipment and construction of telecommunications facilities by telecommunications borrowers. This part 1753 implements certain of the provisions by setting forth requirements and procedures. Borrowers shall follow these requirements and procedures whenever using loan funds to purchase materials and equipment or perform construction, unless they have received the Administrator's written approval to do otherwise.

* * * * *

3. In § 1753.2, a new definition of "loan purposes" is added, and the definitions of "major construction", "minor construction" and "modernization plan" are revised, to read as follows:

§ 1753.2 Definitions.

* * * * *

Loan purposes—The high level objectives of the loan which is funding the construction. These purposes are first stated in the characteristics letter described in 7 CFR 1737.80, which is sent to the applicant to offer a loan after RUS has completed its preloan studies. These purposes are restated in the loan contract.

Major construction—A telecommunications plant project estimated to cost more than $250,000, including all labor and materials.

Minor construction—A telecommunications plant project estimated to cost $250,000 or less, including all labor and materials.

* * * * *

Modernization plan—A State plan, which has been approved by RUS, for improving the telecommunications network of those Telecommunications Providers covered by the plan. A Modernization Plan must conform to the provisions of 7 CFR part 1751, subpart B.

* * * * *

4. The first word of § 1753.3(a) is revised from "prior" to read "advance".

5. In § 1753.5, paragraph (b)(1) is revised, paragraph (b)(2) is redesignated (b)(3), and a new paragraph (b)(2) is added, to read as follows:

§ 1753.5 Methods of major construction.

* * * * *

(b) Contract construction. (1) RUS approval of the borrower's award of the contract is not required if the contractor is selected through sealed competitive bidding, the bid amount is $500,000 or less and the contractor is not a company or organization affiliated with the borrower. This does not relieve the borrower of the requirements for bidding or bid evaluation set forth in this part.

(2) RUS approval of the borrower's award of the contract is required for all other competitively-bid and for negotiated major construction contracts.

* * * * *

6. In § 1753.6, paragraph (e) is added to read as follows:

§ 1753.6 Standards, specifications, and general requirements.

* * * * *

(e) All software, software systems, and firmware financed with loan funds must be year 2000 compliant, as defined in 7 CFR 1732.22(e).

7. In § 1753.7, paragraphs (c) and (e) are revised to read as follows:

§ 1753.7 Plans and specifications (P&S).

* * * * *

(c) The appropriate standards and specifications listed in 7 CFR part 1755 shall be included in the P&S. When RUS has not prepared standards and specifications, the borrower shall use general engineering requirements and specifications prepared by the borrower's engineer. The specifications prepared by the borrower's engineer and based on general engineering requirements shall be subject to review and approval by RUS for all major construction, including major projects which would be exempted from RUS approval under § 1753.7(e).

* * * * *

(e) RUS approval of the P&S is required for construction that is estimated to cost over $500,000 or 25% of the total loan, whichever is less, and for all building construction. P&S for all other construction are exempt from RUS review and approval except that, at the time of contract approval, RUS will examine the plans and specifications for conformity with the loan purposes and to determine that they comply with other requirements of this part.

* * * * *

8. In § 1753.8, paragraphs (a)(1), (a)(11)(i), (a)(11)(ii) introductory text, (a)(11)(iii) introductory text, and (a)(12)(i) are revised, and a new paragraph (a)(11)(iv) is added, to read as follows:

§ 1753.8 Contract construction procedures.

(a) Sealed, competitive bidding—(1) *Bid opening date:* The borrower is responsible for scheduling the bid opening date. If RUS review of the P&S is required by § 1753.7, the borrower shall wait until approval has been received before setting the date. In setting the date, sufficient time should be allowed for the bidders to examine the project site and prepare their bids. The borrower shall notify the GFR of the bid date and invite the GFR to attend.

* * * * *

(11) *Award of contract:* (i) The borrower shall obtain from the engineer the determination of the lowest responsive bid, a tabulation of all bids and the engineer's recommendation for award of the contract. Contract award is subject to RUS approval if either the cost of the project is over $500,000 or the contract is with an organization affiliated with the borrower. Contract award of all other projects is not subject to RUS approval.

(ii) If an award is made, the borrower shall award the contract to the lowest responsive bidder. The borrower may award the contract immediately upon determination of the lowest responsive bidder if the following conditions are met:

* * * * *

(iii) If RUS approval of the award of contract is required under this paragraph (a)(11), the borrower shall send to RUS for consideration of approval of the award:

* * * * *

(iv) If RUS approval of the award of contract is not required under this paragraph (a)(11), the borrower shall keep a file available for inspection by RUS. The file shall be kept for at least two years and shall include:

(A) One copy of all received bids.

(B) The engineer's recommendation and tabulation of all bids including "Buy American" evaluations, if any, and all other evaluations required by law.

(C) Evidence of acceptance of the low bid by the borrower, such as a copy of the board resolution certified by the Secretary of the board.

(12) *Execution of contract:* (i) The borrower shall submit to RUS three original counterparts of the contract executed by the contractor and borrower.

* * * * *

9. In § 1753.11, paragraphs (a)(3), (b) and (d) are revised to read as follows:

§ 1753.11 Contract amendments.

(a) * * *

(3) The amendment causes an unbonded contract to require a contractor's performance bond. This would occur when a contract that is executed in an amount below that requiring a performance bond in 7 CFR part 1788, subpart C, is amended to an amount above that amount.

(b) Advance RUS approval to execute other contract amendments is not required. These amendments may be submitted to RUS at any time prior to closeout. If a borrower wishes to receive an advance of funds based on an amended contract amount (i.e., amendments that increase a contract by less than 20%), the borrower may initiate an increase in the amount approved for advance by submitting three copies of the amendment to RUS for approval.

* * * * *

(d) Upon execution of any amendment that causes the amended contract amount to exceed the original contract amount by 20% or more, three copies of the amendment shall be submitted to RUS for approval.

* * * * *

10. In § 1753.15, paragraphs (a)(1), (a)(4)(i) and (a)(4)(ii) are revised, and a new paragraph (a)(2) is added, paragraphs (a)(2) through (a)(5) are redesignated (a)(3) through (a)(6) respectively, and a new paragraph (a)(2) is added, to read as follows:

§ 1753.15 General.

(a)(1) The standard RUS Loan Documents contain provisions regarding engineering and architectural services performed by or for RUS telephone borrowers. This part implements certain of the provisions by setting forth the requirements and procedures to be followed by borrowers in selecting architects and engineers and obtaining architectural and engineering services by contract or by force account.

(2) Borrowers shall obtain architectural and engineering services only from persons or firms which are not affiliated with, and have not represented, a contractor, vendor or manufacturer who may provide labor, materials, or equipment to the borrower under any current loan.

* * * * *

(5)(i) For major construction, services provided by architects and engineers not on the borrower's staff must be provided under Form 220, Architectural Service Contract, or Form 217, Postloan Engineering Service Contract—Telecommunications. These contracts require RUS approval.

(ii) For minor construction, borrowers may use the contracts in paragraph (a)(5)(i) of this section for postloan architectural or engineering services or any other form of contract, such as Form 245, Engineering Service Contract, Special Services-Telephone. RUS approval of contracts for postloan architectural or engineering services associated with minor construction, except for buildings covered in paragraph (a)(6) of this section, is not required.

* * * * *

11. In § 1753.16, paragraphs (b)(1) through (b)(4) are revised, to read as follows:

§ 1753.16 Architectural services.

(a) * * *

(b)(1) The borrower shall use Form 220 when contracting for architectural services for major construction, except that the borrower may use either Form 220 or Form 217 if the building is an unattended central office building.

(2) The borrower and the architect negotiate the fees for services under the Form 220 contract.

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(3) Reasonable modifications or additions to the terms and provisions in Form 220 may be made, subject to RUS approval, to obtain the specific services needed for a building.

(4)(i) Three copies of Form 220, executed by the borrower and the architect, shall be sent to the GFR to be forwarded to RUS for approval. RUS will review the contract terms and conditions. RUS will not approve the contract if, in RUS's judgement:

(A) Unacceptable modifications have been made to the contract form.

(B) The contract will not accomplish loan purposes.

(C) The architectural service fees are unreasonable.

(D) The contract presents unacceptable loan security risk to RUS.

(ii) If RUS approves the contract, RUS will send one copy to the architect and one copy to the borrower.

* * * * *

12. In § 1753.17(b)(1)(ii)(D), remove "(See 7 CFR part 1758)". Paragraph (b)(1)(ii)(E), is added, and paragraphs (c)(1)(i)(C) and (c)(2)(i)(A) are revised, to read as follows:

§ 1753.17 Engineering services.

* * * * *

(b) * * *

(1) * * *

(ii) * * *

(E) The consulting engineering firm is affiliated with or has represented a contractor, vendor, or manufacturer who may provide labor, materials, or equipment to the borrower under any current loan.

* * * * *

(c) * * *

(1) * * *

(i) * * *

(C) The names, qualifications, and responsibilities of other principal employees who will be associated with providing the engineering services.

* * * * *

(2) * * *

(i) * * *

(A) A copy of the employee's qualifications and experience record, unless previously submitted. RUS requires a minimum of four years of construction and inspection experience. The employee cannot be engaged in the actual construction.

* * * * *

13. A new § 1753.18 is added to read as follows:

§ 1753.18 Engineer/Architect contract closeout certifications.

A certification of completion and inspection of construction, required elsewhere in this part, signed by the borrower and countersigned in accordance with accepted professional engineering and architectural practice, by the engineer or architect, shall be prepared as evidence of completion of a major construction project. This certification shall make reference to the contract number and contract amount, and shall include the following:

(a) A statement that the construction is complete and was done in accordance with the RUS approved system design or layout or subsequent RUS approved changes.

(b) A statement that the construction was for loan purposes.

(c) A statement that construction used RUS-accepted materials and was in accordance with specifications published by RUS covering the construction which were in effect when the contract was executed, or in the absence of such specifications, that it meets other applicable specifications and standards (specify), and that it meets all applicable national and local code requirements as to strength and safety.

(d) A statement that the construction complies with the "Buy American" provision (7 U.S.C. 903 note) of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 et seq).

(e) A statement that all necessary approvals have been obtained from regulatory bodies and other entities with jurisdiction over the project.

(f) A statement that all closeout documents required in this part have been examined and found complete such that the Contractor has fulfilled all obligations under the contract except for warranty coverage.

(g) A statement that the engineer or architect is not affiliated with and does not represent the contractor, vendor, or manufacturer who is a participant in the contract.

14. In § 1753.25, paragraphs (a), (c) and (d) are revised as follows:

§ 1753.25 General

(a) This subpart implements and explains the provisions of the Loan Documents setting forth the requirements and the procedures to be followed by borrowers in constructing headquarters, commercial office, central office, warehouse, and garage buildings with loan funds.

* * * * *

(c) All plans and specifications for buildings to be constructed with loan funds are subject to the approval of RUS. In addition, preliminary plans and specifications for headquarters and commercial office buildings to be constructed with loan funds are subject to RUS approval.

(d) RUS Form 257, Contract to Construct Buildings, shall be used for the construction of all headquarters, commercial office, central office, warehouse, and garage buildings with loan funds. Refer to § 1753.26 for further instructions.

* * * * *

15. In § 1753.26, paragraphs (a) through (d) are redesignated (b) through (e) respectively, redesignated paragraph (b)(1 is revised, and a new paragraph (a) is added, to read as follows:

§ 1753.26 Plans and specifications (P&S).

(a) For headquarters and commercial office buildings only, the borrower shall prepare preliminary P&S showing the floor plan and general architectural details of the building to be constructed using loan funds. In particular, the preliminary P&S shall address the requirements of § 1753.25(f) and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 *et seq.*). These P&S shall be submitted to the GFR and are subject to RUS approval.

(b)* * *

(1) RUS Contract Form 257, Contract to Construct Buildings, completed to the extent explained in paragraph (c) of this section.

* * * * *

16. In § 1753.30, paragraphs (b), (c)(2), (c)(3) and (d) are revised to read as follows:

§ 1753.30 Closeout procedures.

* * * * *

(b) *RUS Form 257 Contract.* (1) Whenever changes were made in the plans and specifications which did not require immediate submission to RUS of an amendment under § 1753.11, a final contract amendment showing the changes shall be prepared.

(2) Upon completion of the project, the borrower shall obtain certifications from the licensed architect or engineer that the project and all required documentation are satisfactory and complete. The requirements for this certification are set forth in § 1753.18.

(3) The engineer's or architect's contract closeout certification and the final amendment shall be submitted to RUS as a basis for the final advance of funds for the contract.

(c) * * *

(2) Complete, with the assistance of its architect or engineer, the documents listed in the following table that are required for the closeout of force account construction.

DOCUMENTS REQUIRED TO CLOSEOUT CONSTRUCTION OF BUILDINGS

RUS form No.	Description	Use with		No. of copies prepared by		Distribution	
		Contract	Force account.	Contractor	Architect/engineer	Borrower	Contractor
238	Construction or Equipment Contract Amendment (If not previously submitted, send to RUS for approval.).	X	(3)			(to RUS)	
181	Certificate of Completion (Contract Construction) [1].	X			2	1	1
231	Certificate of Contractor	X		1		1	
224	Waiver and Release of Lien from each Supplier.	X		1		1	
213	Certificate (Buy American)	X		1		1	
None [2]	"As Built" Plans and Specifications	X	X		1	1	
None	Guarantees, Warranties, Bonds, Operating or Maintenance Instructions, et certera.	X		1		1	
None	Architect/Engineer seismic safety certification.	X	X		2	1	1

[1] Cost of materials and services furnished by borrower are not to be included in Total Cost on RUS Form 181.

[2] When only minor changes were made during construction, two copies of a statement to that effect from the Architect will be accepted instead of the "as built" Plans and Specifications.

(3) Make distribution of the completed documents as indicated in the table in this section.

(d) After all required RUS approvals are obtained, final payment is made in accordance with Article III of RUS Form 257 once the borrower has received the architect's or engineer's certifications regarding satisfactory completion of the project.

17. In § 1753.37, paragraph (c) is revised to read as follows:

§ 1753.37 Plans and specifications (P&S).

* * * * *

(c) RUS review of P&S is required for construction estimated to cost over $500,000 total or estimated to cost more than 25% of the total loan.

(1) If RUS review is required, the borrower shall submit one copy of the P&S to the GFR for RUS review.

(2) RUS will review the P&S and notify the borrower in writing of approval or disapproval.

18. In § 1753.38, paragraphs (a)(1)(i), (a)(1)(v), (a)(2)(i), (a)(2)(v), (b)(1), (b)(3), (b)(5), (e)(2), and (e)(3) are revised, to read as follows:

§ 1753.38 Procurement procedures.

(a) * * *

(1) *Solicitation of bids.* (i) After RUS approval of the specifications and equipment requirements (required only for projects exceeding $500,000 or 25% of the loan), the borrower shall send "Notice and Instructions to Bidders" to suppliers with central office equipment included in the current Informational Publication (I.P.) 300–4, "List of Materials Acceptable for Use on Telecommunications Systems of RUS Borrowers." I.P. 300–4 is a subscription item available from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250–7954. This "Notice" may also be sent to suppliers of non-domestic equipment currently accepted by RUS as meeting RUS technical standards. The "Notice" may also be sent to suppliers of central office equipment accepted for field trial.

* * * * *

(v) At the request of an invited supplier, the borrower shall provide two copies of the P&S.

(2) *Technical sessions.* (i) The borrower shall schedule individual technical sessions by the suppliers, notify each supplier of its scheduled date and time, notify the GFR of all scheduled dates and times, and request the following be available at the technical session:

* * * * *

(v) After evaluation of the technical proposals and RUS approval of the changes to the P&S (required only for projects that exceed $500,000 or 25% of the loan), sealed bids shall be solicited from only those bidders whose technical proposals meet the P&S requirements. When fewer than three bidders are adjudged qualified by the borrower to bid, RUS approval must be obtained to proceed. Generally, RUS will grant such approval only if the borrower can demonstrate to the satisfaction of RUS that a good faith effort was made to obtain at least three competitive bids. This would be demonstrated if all suppliers currently listed in I.P. 300–4 were invited to submit technical proposals. This could not be demonstrated if a listed supplier of central office equipment was not invited.

* * * * *

(b) * * *

(1) After RUS approval of the P&S and equipment requirements (required only for contracts expected to exceed $500,000 or 25% of the loan), the borrower shall send two complete copies of the approved P&S to the supplier and request that a proposal be submitted.

* * * * *

(3) If the contract is expected to exceed $500,000 or 25% of the loan, changes in the P&S resulting from the technical session shall be subject to RUS review and approval.

* * * * *

(5) The borrower shall obtain an award recommendation from its engineer.

* * * * *

(e) * * *

(2) The borrower shall prepare a plan containing an outline of the proposed use of the equipment, the proposal from the supplier and an estimate of the installation cost. If the total cost exceeds $500,000, RUS approval of the award of contract is required. The borrower shall in this case submit its plan and the supplier's proposal to the GFR. If the cost does not exceed $500,000, the borrower's award of contract is not subject to RUS approval.

(3) If RUS approval was required in paragraph (e)(2) of this section, upon RUS approval the purchase may be made using RUS Contract Form 525 or 545, or when applicable, the procedures contained in subpart I of this part.

* * * * *

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19. In § 1753.39, paragraphs (a), (e)(1), (e)(2), (f), (f)(1)(ii)(A), (f)(1)(iii), (f)(1)(iv) and (g) are revised, paragraph (e)(3) is deleted, and paragraph (h) is added, to read as follows:

§ 1753.39 Closeout documents.

* * * * *

(a) *Contract amendments.* Amendments that must be submitted to RUS for approval, as required by § 1753.11, shall be submitted promptly. All other amendments may be submitted to RUS with the engineer's contract closeout certification.

* * * * *

(e) * * *

(1) Obtain from the engineer a certification of partial closeout.

(2) Submit one copy of the summary to RUS with an FRS.

(f) Final contract closeout procedure. The documents required for the final closeout of the central office equipment contracts, RUS Contract Forms 525 and 545, are listed in the following table, which also indicates the number of copies and their distribution. The procedure to be followed is outlined as follows:

DOCUMENTS REQUIRED TO CLOSEOUT CENTRAL OFFICE EQUIPMENT CONTRACT

RUS form No.	Description	Use with		Prepared by		Distribution	
		RUS form 525	RUS form 545	Contractor	Engineer	Borrower	Contractor
238	Construction or Equipment Contract Amendment (If not previously submitted, send to RUS for approval).	X	X	....	(3)	(to RUS)	
754	Certificate of Completion and Certificate of Contractor and Indemnity Agreement (if submitted, Form 744 is not required).	X	....	3	3	2	1
517	Results of Acceptance Tests (Prepare and distribute copies immediately upon completion of the acceptance tests of each central office).	X	....	....	2	1	1
752a	Certificate of Completion—Not Including Installation.	....	X	....	2	1	1
224	Waiver and Release of Lien (from each supplier).	X	....	1	....	1	
231	Certificate of Contractor	X	....	1	....	1	
213	Certificate (Buy American)	X	X	1	....	1	
None	Switching Diagram, as installed	X	X	2	....	2	
None	Set of Drawings (Each set to include all the drawings required under the Specification, RUS Form 522).	X	X	2	....	2	

(1) * * *

(ii) * * *

(A) Prepare and assemble the documents listed in the table in this section, Documents Required to Close Out Central Office Equipment Contracts.

* * * * *

(iii) Make the documents listed in the table available for GFR review on the date of final inspection.

(iv) Distribute the documents as indicated in the table, including submission to the GFR of all documents required by RUS.

* * * * *

(g) Once RUS approval has been obtained for any required amendments, the borrower shall obtain certifications from the licensed engineer that the project and all required documentation are satisfactory and complete. The requirements for the final contract certification are set forth in § 1753.18.

(h) Once these certifications have been received, final payment shall be made according to the payment terms of the contract. Copies of the certifications shall be submitted with the FRS, requesting the remaining funds on the contract.

20. In § 1753.46, paragraphs (c)(2) and (c)(3) are revised to read as follows:

§ 1753.46 General.

* * * * *

(c) * * *

(2) Contract Form 515, which is for less than $250,000, may, at the borrower's option, be negotiated. See § 1753.48(b).

(3) Form 773 may be used for minor outside plant projects which are not competitively bid because they cannot be designed and staked at the time of contract execution. Projects of this nature include routine line extensions and placement of subscriber drops. See Subpart I of this part.

21. In § 1753.47, paragraph (c) is revised to read as follows:

§ 1753.47 Plans and specifications (P&S).

* * * * *

(c) *Submission of plans and specifications to RUS.* (1) If the project does not exceed $500,000 or 25% of the loan, the borrower shall furnish the GFR one set of the P&S and one copy of the "Checklist for Review of Plans and Specifications," RUS Form 553, signed by the engineer. The borrower may then proceed with procurement in accordance with § 1753.48.

(2) If the project exceeds $500,000 or 25% of the loan, RUS approval of the P&S is required. Two (2) sets of the P&S and one copy of the "Check List for Review and Plans and Specifications," RUS Form 553, signed by the borrower's engineer, shall be furnished to the GFR. RUS will return one set to the borrower upon notice of approval. The borrower may then proceed with procurement in accordance with § 1753.48.

22. In § 1753.48, paragraphs (a)(4) and (b)(1) are revised to read as follows:

§ 1753.48 Procurement procedures.

(a) * * *

(4) *Bid openings.* (i) Bid openings and award of the contract shall be conducted in accordance with § 1753.5(b)(1) and § 1753.8(a).

(ii) If § 1753.8 requires RUS approval of award of the bid, the borrower shall submit to RUS two copies of the assembly unit sections of the apparent lowest responsive bid accepted by the borrower.

(b) *Negotiated procurement.* (1) Competitive bids are not required for outside plant construction that is estimated to cost less than $250,000 labor and materials. If the contract exceeds $500,000 or 25% of the loan, the borrower shall obtain RUS approval of the plans and specifications before it begins negotiating with a contractor.

* * * * *

23. In § 1753.49, paragraphs (b), (c)(2) and (c)(3) are revised, to read as follows:

§ 1753.49 Closeout documents.

* * * * *

(b) *Documents required.* The following table lists the documents required to closeout the Form 515 construction contract.

DOCUMENTS REQUIRED TO CLOSEOUT CONSTRUCTION CONTRACT RUS FORM 515

RUS Form No.	Description	No. of copies prepared by		Distribution	
		Contractor	Engineer	Borrower	Contractor
724	Final Inventory—Certificate of Completion		2	1	1
724a	Final Inventory—Assembly Units		2	1	1
None	Contractor's Bond Extension (Send to RUS when required.)	(3)		(to RUS)	
281	Tabulation of Materials Furnished by Borrower	2		1	1
213	Certificate—"Buy American"	1		1	
None	Listing of Construction Change Orders		1	1	
224	Waiver and Release of Lien (from each supplier)	1		1	
231	Certificate of Contractor	1		1	
527	Final Statement of Construction		2	1	1
None	Reports on Results of Acceptance Tests		1	1	1
None	Set of Final Staking Sheets		1	1	
None	Tabulation of Staking Sheets		1	1	
None	Correction Summary (legible copy)		1	1	
None	Treated Forest Products Inspection Reports or Certificates of Compliance (prepared by inspection company or supplier).			1	
None	Final Key Map (when applicable)		1	1	
None	Final Central Office Area and Town Maps		1	1	

(c) * * *

(2) *Final inventory documents.* (i) The borrower shall obtain certifications from the licensed engineer that the project and all required documentation are satisfactory and complete. Requirements for these contract closeout certifications are set forth in § 1753.18.

(ii) The borrower shall prepare and distribute the final inventory documents as indicated in the tables in this section. The documents listed for RUS shall be retained by the borrower for inspection by RUS for at least two years from the date of the engineer's contract closeout certification.

STEP-BY-STEP PROCEDURE FOR CLOSEOUT OF CONSTRUCTION CONTRACT RUS FORM 515

Sequence		By	Procedure
Step No.	When		
1	Upon completion of construction.	Borrower's Engineer	Prepares the following: a set of Detail Maps and a set (when applicable) of Key Maps which show in red the work done under the 515 contract; a Tabulation of Staking Sheets; and a tentative Final Inventory, RUS Forms 724 and 724a.
2	After acceptance tests made.	Borrower's Engineer	Forwards letter to the borrower with copies to the GFR stating that the project is ready for final inspection. Schedules inspection date.
3	Upon receipt of letter from Borrower's Engineer.	GFR	Advises borrower whether attending the final inspection will be possible.
4	By inspection date	Borrower's Engineer	Obtains and makes available the following documents: a set of "as constructed" detail maps and (when applicable) "as built" key maps; a list of construction change orders; the final staking sheets; the tabulation staking sheets; the treated forest products inspection reports or certificates of compliance; the tentative final inventory, RUS Forms 724 and 724a; the tentative tabulation, RUS Form 231(if borrower furnished part of material); and, a report of results of acceptance tests.
5	During inspection	Borrower's Engineer	Issues instructions to contractor covering corrections to be made in construction as a result of inspection.
6	During inspection	Contractor	Corrects construction on basis of instructions from the borrower's engineer. The corrections should proceed closely behind the inspection in order that the borrower's engineer can check the corrections before leaving the system.
7	During inspection	Borrower's Engineer	Inspects and approves corrected construction. Marks inspected areas on the key map, if available, otherwise on the detail maps.
8	Upon completion of inspection.	Borrower's Engineer	Prepares or obtains all the closeout documents listed in Table 3.

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STEP-BY-STEP PROCEDURE FOR CLOSEOUT OF CONSTRUCTION CONTRACT RUS FORM 515—Continued

Sequence		By	Procedure
Step No.	When		
9	After signing final inventory.	Borrower	Prepares and submits to RUS the engineer's certifications of completion and a Financial Requirement Statement, RUS Form 481, requesting amount necessary to make final payment due under contract.
10	On receipt of final advance.	Borrower	Promptly forwards check for final payment to contractor.
11	During subsequent loan fund audit review following final payment.	RUS Field Accountant	Examines borrower's construction records for compliance with the construction contract and Subpart F, and examines RUS Form 281 (Tabulation of Materials Furnished by Borrower) if any, for appropriate costs.

(iii) When the total inventory price exceeds the maximum contract by more than 20 percent, an extension to the contractor's bond is required.

(iv) The borrower shall submit the engineer's contract closeout certification with the FRS for the final advance of funds.

(3) Final payment shall be made according to the payment provisions of Article III of RUS Form 515, except that certificates and other documents required to be submitted to or approved by the Administrator shall be submitted to and approved by the Owner.

24. Section 1753.50 is removed and reserved.

25. In § 1753.58, paragraphs (b), (c)(2) and (c)(5) are revised to read as follows:

§ 1753.58 Closeout documents.

* * * * *

(b) *Documents.* The documents required to close the FAP are listed in the following table. The following is a brief description of the closeout documents:

DOCUMENTS REQUIRED TO CLOSEOUT FORCE ACCOUNT OUTSIDE PLANT CONSTRUCTION

RUS Form No.	Description
817, 817a, 817b.	Final Inventory Force Account Construction and Certificate of Engineer. Submit one copy to RUS, if required.[1]
213	Certificate—"Buy American" (as applicable from each supplier).
None	Detail Maps.
None	Key map, if applicable.
None	Staking Sheets.
None	Tabulation of staking sheets.
None	Treated Forest Products Inspection Reports or Certificates of Compliance (prepared by inspection company or supplier).

(c) * * *

(2) The GFR shall be invited to make the final inspection accompanied by the engineer and the borrower.

* * * * *

(5) After inspection, the final inventory documents shall be assembled as indicated in the table in this section. RUS Forms 817, 817a, and 817b are to be submitted to the GFR only if the amount of the closeout exceeds the original force account proposal by 20% or more. Otherwise, the final inventory documents are to be assembled and retained by the borrower for at least two years.

* * * * *

26. In § 1753.68, paragraphs (b)(2)(i), (b)(2)(ii), (b)(2)(iii), (b)(2)(iv), (b)(2)(v), (b)(4)(i), (b)(4)(ii), (c)(2), and (d)(3) are revised to read as follows:

§ 1753.68 Purchasing special equipment.

* * * * *

(b) * * *

(2) *Initial equipment purchase.* (i) The borrower prepares the P&S and, for projects estimated to exceed $500,000 or 25% of the loan, whichever is less, sends two copies to the GFR for approval.

(ii) For projects estimated to exceed $500,000 or 25% of the loan, RUS will either approve the P&S in writing or notify the borrower of any reason for withholding approval.

(iii) For projects estimated to cost less than $500,000 or 25% of the loan, the borrower may proceed with procurement upon completion of the P&S.

(iv) If the borrower has employed full competitive bidding in the selection, a contract may be executed with the successful bidder and the borrower may proceed to paragraph (b)(2)(vi) of this section.

(v) If the borrower did not follow a fully competitive bidding process as described in § 1753.8, the selection, along with a summary of all proposals and an engineer's recommendation, shall be sent to RUS. RUS shall approve the proposal selection in writing or notify the borrower of any reason for withholding approval.

* * * * *

(4) *New system additions.* (i) The borrower prepares the P&S and, if the project is estimated to exceed $500,000 or 25% of the loan, sends two copies to the GFR for approval. The borrower may request RUS approval to negotiate for the purpose of standardization on a system basis prior to preparing the P&S.

(ii) RUS notifies the borrower in writing as to whether the borrower may negotiate for specific equipment. If P&S were required to be submitted to RUS under paragraph (b)(4)(i) of this section, RUS notifies the borrower in writing of P&S approval (or notifies the borrower of any reason for withholding approval).

* * * * *

(c) * * *

(2) The borrower shall prepare any required amendments to the special equipment contract, arrange for the execution by all parties, and submit these amendments to RUS in accordance with § 1753.11(d). RUS Form 238 , Construction or Equipment Contract Amendment, shall be used for this purpose.

* * * * *

(d) * * *

(3) *Closeout documents.* When the acceptance tests have been completed

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[1] RUS Forms 817, 817a, and 817b are to be submitted to the GFR only if required in paragraph (c)(5) of this section. Otherwise, the final inventory documents are to be assembled and retained by the borrower for at least two years.

and all deficiencies have been corrected, the borrower:

(i) Assembles and distributes the documents listed in the following table that are required for the closeout of the special equipment contract. The documents listed for RUS shall be retained by the borrower for inspection by RUS for at least two years from the date of the engineer's contract closeout certification.

DOCUMENTS REQUIRED TO CLOSEOUT SPECIAL EQUIPMENT CONTRACTS RUS FORMS 397 AND 398

RUS Form No.	Description	No. of copies prepared by					
		Form 397		Form 398		Distribution	
		Contractor	Engineer	Contractor	Engineer	Borrower	Contractor
238	Construction or Equipment Contract Amendment (If not previously submitted, send to RUS for approval.).		(3)		(3)	(to RUS)	
396	Certificate of Completion—Special Equipment Contract (Including Installation).		2			1	1
396a	Certificate of Completion—Special Equipment Contract (Not Including Installation).				2	1	1
744	Certificate of Contractor and Indemnity Agreement.	1				1	
213	Certificate (Buy American)	1		1		1	
None	Report in writing, including all measurements and other information required under Part II of the applicable specifications.	1			1	1	
None	Set of maintenance recommendations for all equipment furnished under the contract.	1		1		1	

(ii) Obtains certifications from the licensed engineer that the project and all required documentation are satisfactory and complete. Requirements for this contract closeout certification are set forth in § 1753.18.

(iii) Submits copies of the engineer's certifications to RUS with the FRS requesting the remaining funds on the contract.

(iv) Makes final payment in accordance with the payment terms of the contract.

27. In § 1753.76, paragraph (a) is revised to read as follows:

§ 1753.76 General.

(a) This subpart implements and explains the provisions of the Loan Documents setting forth the requirements and procedures to be followed by borrowers for minor construction of telecommunications facilities using RUS loan funds. Terms used in this subpart are defined in § 1753.2.

* * * * *

28. In § 1753.80, paragraph (b) is revised to read as follows:

§ 1753.80 Minor construction procedure.

* * * * *

(b) RUS financing under Form 773 contracts dated in the same calendar year is limited to the following amounts for the following discrete categories of minor construction. The date of the Form 773 contract is the date the Form 773 contract is executed.

(1) For outside plant construction, the limit is $500,000 or ten per cent (10%) of the borrower's previous calendar year's outside plant total construction, whichever is greater.

(2) For central office equipment, the limit is $500,000.

(3) For special equipment and buildings, the limit is $250,000.

* * * * *

29. Appendices A through F are removed.

Dated: July 8, 1998.

Jill Long Thompson,

Under Secretary, Rural Development.

[FR Doc. 98–18759 Filed 7–16–98; 8:45 am]

BILLING CODE 3410–15–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 20

RIN 3150–AF81

Respiratory Protection and Controls To Restrict Internal Exposures

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations regarding the use of respiratory protection and other controls to restrict internal exposure to radioactive material. The proposed amendments are intended to make these regulations more consistent with the philosophy of controlling the sum of internal and external radiation exposure, reflect current guidance on respiratory protection from the American National Standards Institute (ANSI), and make the requirements less prescriptive without reducing worker protection. The proposed amendments would provide greater assurance that worker exposures will be maintained as low as is reasonably achievable (ALARA) and that recent technological advances in respiratory protection equipment and procedures are reflected in NRC regulations and are thus clearly approved for use by licensees.

DATES: Submit comments by September 30, 1998. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Send comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff.

The NRC staff specifically requests comment on whether the technical aspects of the rule should be addressed through alternative approaches other than the proposed rule, such as a simple

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performance-based rule with a Regulatory Guide endorsing ANSI standards to permit a more rapid regulatory response by the NRC to future technical developments and changes in industry consensus standards.

In addition to comments on this proposed rule, the NRC staff requests specific comments and suggestions regarding the content and scope of a planned revision of NUREG–0041, "Manual of Respiratory Protection Against Airborne Radioactive Materials."

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland between 7:30 am and 4:15 pm Federal workdays.

You may also provide comments via the NRC's interactive rulemaking web site through the NRC home page (http://www.nrc.gov). This site provides the availability to upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking site, contact Ms. Carol Gallagher, (301) 415–5905; e-mail CAG@nrc.gov.

Certain documents related to this rulemaking, including comments received and the environmental assessment and finding of no significant impact, and NUREG–0041, may be examined at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. These same documents also may be viewed and downloaded electronically via the interactive rulemaking website established by NRC for this rulemaking.

Single copies of the environmental assessment and finding of no significant impact and the regulatory analysis may be obtained from Antoinette Walker, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: (301) 415–1282.

Single copies of the draft revision of Regulatory Guide 8.15, "Acceptable Programs for Respiratory Protection," which is related to this rulemaking, may be obtained by writing to: U.S. Nuclear Regulatory Commission, Printing and Graphics Branch, Washington, DC 20555–0001; or by fax at (301) 415–5272.

FOR FURTHER INFORMATION CONTACT: Alan K. Roecklein, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–3883; email AKR@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

A major revision of 10 CFR Part 20, "Standards for Protection Against Radiation," was published on May 21, 1991 (56 FR 23360). Although the NRC was aware that certain provisions of Subpart H and Appendix A to Part 20 were out of date and did not reflect new technology in respiratory devices and procedures, minimal changes were made because an ANSI standard was being prepared that was expected to provide state-of-the-art guidance on acceptable respiratory protection devices and procedures. The NRC decided to address further revisions to Subpart H and Appendix A to Part 20 when the ANSI guidance was complete.

In response to public comments on the proposed 10 CFR Part 20, the NRC made several changes to Subpart H in the May 21, 1991, rule to make it consistent with the new philosophy and science underlying the new Part 20. The new Subpart H required that the practice of ALARA apply to the sum of internal and external dose, permitted correction of both high and low initial intake estimates if subsequent, more accurate bioassay measurements gave different results, and clarified that a respiratory protection program consistent with Subpart H is required whenever respirators are used to limit intakes of radioactive material.

After 10 CFR Part 20 was revised, ANSI Z88.2–1992, "American National Standard for Respiratory Protection" was approved for publication by the American National Standards Institute. This document provides an authoritative consensus on major elements of an acceptable respiratory protection program, including guidance on respirator selection, training, fit testing, and assigned protection factors (APF). Consistent with the publication of ANSI Z88.2–1992 the NRC is proposing these changes to Subpart H of Part 20 to make the regulations less prescriptive without reducing worker protection.

II. Summary of the Proposed Changes

The Commission is proposing to amend § 20.1003, §§ 20.1701 through 20.1704 in Subpart H, "Respiratory Protection and Controls to Restrict Internal Exposure in Restricted Areas," of 10 CFR Part 20, and Appendix A to Part 20, "Protection Factors for Respirators".

In § 20.1003, Definitions, definitions are proposed for Assigned protection factor (APF), Disposable respirator, Fit check, Fit factor and Fit test. These added definitions are needed to add clarity to the proposed regulations at §§ 20.1701 through §§ 20.1705.

In § 20.1701, Use of process or other engineering controls, the word "decontamination" would be added to the list of examples of process or engineering controls that should be considered for controlling the concentration of radioactive material in air. The intent is to encourage licensees to consider decontamination, consistent with maintaining total effective dose equivalent (TEDE) ALARA, to reduce resuspension of radioactive material in the work place as a means of controlling internal exposure instead of using respirators.

Section 20.1702 would be revised by adding a footnote (2) to § 20.1702(c) to clarify that if a licensee performs an ALARA analysis to determine whether or not respirators should be used, safety factors other than radiological may be taken into account. A reduction in the TEDE for a worker is not reasonably achievable if an attendant increase in the workers' industrial health and safety risk would exceed the benefit obtained by the reduction in the radiation risk. Regulatory Guide 8.15 (DG–8022) and NUREG–0041 will address in more detail how factors such as heat, discomfort, reduced vision, etc., associated with respirator use, might reduce efficiency or increase stress thereby increasing external dose or health risk. Considerable licensee judgment is necessary in determining an appropriate level of respiratory protection in many cases.

Section 20.1703 states the requirements for licensees who use respiratory protection equipment to limit intake of radioactive material. The use of a respirator is by definition intended to limit intakes of airborne radioactive materials, unless the device is clearly and exclusively used for protection against non-radiological airborne hazards. Whether or not credit is taken for the device in estimating doses, it is the use of the respiratory protection device to limit intake of radioactive material and associated physiological stresses that would activate the requirements of § 20.1703. Thus § 20.1703 can be viewed as defining the minimum respiratory protection program expected of any licensee who assigns or permits the use of respirators.

In § 20.1703(a), the phrase "pursuant to § 20.1702" would be deleted. This language has been misinterpreted to mean that an approved respiratory protection program is not needed if respirators are used when concentrations of radioactive material in air are already below values that define an airborne radioactivity area. This is not the case and the proposed § 20.1703 should make it clear that, if a licensee uses respiratory protection equipment "to limit intakes," the provisions of § 20.1703 apply as a minimum.

In § 20.1703(a)(1), (proposed § 20.1703(a)), licensees are permitted to use only respirators that have been tested and certified "or had certification extended" by NIOSH. The words "or had certification extended" would be deleted because all these extensions have expired and no new extensions will be granted.

In § 20.1703(a)(2), (proposed § 20.1703(b)), licensees are permitted to apply for authorization to use equipment that has not been tested or certified by NIOSH and "has not had certification extended by NIOSH/MSHA." The words "has not had certification extended by NIOSH/MSHA" would be deleted because all these extensions have expired and no new extensions will be granted. The words "to the NRC" are added to make it clear that applications for authorized use of respiratory equipment are to be submitted to the Commission.

In § 20.1703(a)(3), (proposed § 20.1703(c)), paragraphs (c)(1) through (5) are retained as presently codified with the exception of some minor editing and that paragraph (c)(4) would be reworded to improve clarity, reorder priorities, and bring together in one paragraph all of the elements of the required written procedures. Paragraph (c)(5) would be revised to clarify that the worker's medical evaluation for using non-face sealing respirators occurs prior to first field use rather than prior to first fitting (as required for tight fitting respirators) because fit testing is not needed for these types.

A new § 20.1703(c)(6) would be added to require fit testing prior to first field use of tight fitting, face sealing respirators and periodically thereafter. This proposed change would clarify when and how often fit testing is required. The licensee would specify a frequency of retest in the procedures, not to exceed 3 years. This differs from the ANSI recommendation of annual fit testing. The NRC believes that if a licensee is alert to physiological changes that might affect an individual's ability to wear a respirator safely, annual fit testing is an excessive burden. A requirement to wear properly fitted respirators is currently in the footnotes to Appendix A to Part 20 and would be moved to the body of the rule. Several general programmatic requirements currently found in footnotes to Appendix A to Part 20 would be moved to the text of the rule where they more appropriately belong and to ensure that they are not overlooked by licensees.

The new § 20.1703(c)(6) would also codify existing NRC staff guidance and ANSI recommendations regarding the test "fit factors" that must be achieved in order to use the APFs and the frequency of fit testing. Specifically, fit testing with "fit factors" ≥10 times the APF would be required for negative pressure devices. A fit factor ≥100 would be required for all tight fitting face pieces used with positive pressure, continuous flow, and pressure-demand devices. This provision is intended to maintain a sufficient margin of safety to accommodate the greater difficulty in maintaining a good "fit" under field and work conditions as compared to fit test environments.

The proposed § 20.1703(c)(6) would also require retesting at a frequency not to exceed 3 years. Guidance in the proposed revision of Regulatory Guide 8.15 (DG–8022) on the frequency of fit testing suggests a retest period not to exceed 3 years. Currently, most licensees perform annual fit testing. The proposed 3-year retesting does not agree with the ANSI recommendation for annual retesting. The NRC believes that a 3-year interval between fit tests is adequate to protect workers under normal circumstances, given adequate surveillance of workers for physiological changes. Regulatory Guide 8.15 discusses what constitutes an adequate surveillance program, including being alert to circumstances such as significant weight loss or gain, facial changes, etc., that would suggest more frequent fit testing. Transient workers might require more frequent retesting because continuous monitoring for physiological changes is impracticable.

The current § 20.1703(a)(4), which lists requirements for licensees to issue a written policy statement, would be deleted because the NRC believes that this policy statement is not needed. This change is proposed because all of the elements required to be in the policy statement are already found in Part 20 and in the requirement for licensees to have and implement written procedures (see proposed § 20.1703(c)(4)).

Section 20.1703(a)(6) would become § 20.1703(e) and would be clarified and expanded to emphasize the existing requirements that provisions be made for vision correction, adequate communications, and low-temperature work environments. In order to comply with these requirements, a licensee would need to take into account the effects of restricted vision and communication limitations as well as the effects of adverse environmental conditions on the equipment and the wearer. The NRC considers the inability of the respirator wearer to read postings, operate equipment and/or instrumentation, or properly identify hazards to be an unacceptable degradation of personnel safety.

A requirement for licensees to consider low-temperature work environments when selecting respiratory protection devices would be added to the proposed § 20.1703(e). For example, the moisture from exhaled air when temperatures are below freezing could cause the exhalation valve on negative pressure respirators to freeze in the open position. The open valve would provide a pathway for unfiltered air into the respirator inlet covering without the user being aware of the malfunction. Lens fogging that reduces vision in a full face piece respirator is another problem that can be caused by low temperature.

The reference to skin protection currently found in § 20.1703(a)(6) would be deleted in the proposed § 20.1703(e). The NRC does not consider skin protection an appropriate reason for the use of respirators (with the exception of air supplied suits). Limitation of skin dose is currently dealt with elsewhere in the regulations for example in § 20.1201(a)(2)(ii), skin dose limit. It may be inconsistent with ALARA to use tight fitting respirators solely to prevent facial contamination; other protective measures such as the use of facelets instead of respirators or decontamination should be considered. Facial contamination may result in a less significant dose than that received as a result of respirator use or prior decontamination of the area.

A new § 20.1703(f) would be added to bring a requirement for standby rescue persons, currently found in a footnote in Appendix A to Part 20, into the rule. This new paragraph would retain a requirement for the presence of standby rescue persons whenever one-piece atmosphere-supplying suits, or any other combination of supplied air respirator device and protective equipment are used that are difficult for the wearer to take off unassisted. Standby rescue workers would also need to be in direct communication with such workers, be equipped with appropriate protective clothing and devices, and be immediately available to provide needed assistance in the event that the air supply fails. Without continuous air supply, unconsciousness can occur within seconds.

A new § 20.1703(g) would move a requirement from a footnote in Appendix A to Part 20, into the rule. This section would specify the minimum quality of supplied breathing air, as defined by the Compressed Gas Association (CGA) in their publication G–7.1, "Commodity Specification for

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Air," 1989 (ANSI–CGA G–7.1, 1989), that must be provided whenever atmosphere-supplying respirators are used. This change to recognizing the CGA recommendations for air quality was initiated by NIOSH and endorsed by ANSI. The quantity of air supplied, as a function of air pressure or flow rate, would be specified in the NIOSH approval certificate for each particular device and is not addressed in the proposed rule.

A new § 20.1703(h) is added to clarify and move a requirement from the footnotes of Appendix A to Part 20, into the rule. This section prohibits the use of respirators whenever any material or substance might interfere with the seal of the respirator. The intent of this provision is to prevent the presence of facial hair, cosmetics, spectacle earpieces, surgeons caps, and other things from interfering with the respirator seal and/or proper operation of the respirator.

Currently, § 20.1703(b)(1) discusses selection of respiratory protection equipment so that protection factors are adequate to reduce intake. This paragraph permits selection of less protective devices if that would result in optimizing TEDE. The NRC believes that this requirement is redundant with the requirement to be ALARA. These recommendations are being removed and will be discussed in the revised Regulatory Guide 8.15.

The remainder of § 20.1703(b)(1) would become § 20.1703(i) and be revised to incorporate the new ANSI terminology for "assigned protection factor" and to retain the provision for changing intake estimates if later, more accurate bioassay measurements show that exposure was greater or less than initially estimated.

Current § 20.1703(b)(2), specifying procedures for applying to the NRC to use higher APFs, is renumbered as § 20.1705.

Current § 20.1703(c) would be removed because it requires licensees to use as emergency devices only respiratory protection equipment that has been specifically certified or had certification extended for emergency use by NIOSH. This approval category no longer exists. Acceptable types of emergency and escape equipment will be discussed in the revisions of Regulatory Guide 8.15 and NUREG–0041. Because only equipment approved by NIOSH or NRC can be used in the respiratory protection program pursuant to § 20.1703(a) and (b), this provision is considered redundant.

Current § 20.1703(d) would be deleted. This section currently requires a licensee to notify in writing the director of the appropriate NRC Regional Office at least 30 days before the date that respiratory protection equipment is first used under the provisions of either current § 20.1703(a) or (b). All licensees who possess radioactive material in a form that requires a respiratory protection program are identified during the license application, amendment, or renewal processes. Their programs would be reviewed during this process. A 30-day notification requirement imposes a needless administrative burden on licensees with no increase in worker health and safety. This proposed change is considered to be a burden reduction.

Section 20.1704(a) would be revised to clarify that ALARA considerations are included in any restrictions imposed by the Commission in addition to those found in §§ 20.1702, 20.1703, and Appendix A to Part 20 on the use of respiratory protection equipment for the purpose of limiting exposures of individuals to airborne radioactive materials.

Appendix A to Part 20—"Protection Factors (PF) for Respirators," would be modified extensively. In general, new devices are recognized, APFs are revised to be consistent with current ANSI guidance and technical knowledge, and the footnotes to Appendix A are moved, deleted, revised, or adjusted so that only those necessary to explain the table remain. Footnotes that are instructive or that facilitate implementation of the rule would be moved to Regulatory Guide 8.15. Several footnotes are considered to be redundant in that they reiterate NIOSH certification criteria to be discussed in NUREG–0041 and would be removed. Generic regulatory requirements, previously contained in footnotes in Appendix A to Part 20 would be moved to the codified text of Part 20.

The column headed "Tested and Certified Equipment," would be deleted. The references to Titles 30 and 42 of the CFR currently found in this column apply primarily to respirator manufacturers and are not very useful to NRC licensees. Instruction on how to determine if a respirator is NIOSH approved will be provided in the revision to NUREG–0041.

Current footnote a to Appendix A to Part 20 would be deleted because it is considered to be redundant with air sampling requirements and requirements for estimating possible airborne concentration addressed in the proposed rule at § 20.1703(c)(1) and § 20.1703(i).

Current footnote b, which permits the use of devices only when nothing interferes with the seal of a face piece, would be moved to the codified text at § 20.1703(h).

Current footnote c, which defines the symbols for modes of operation would be revised to fit the new list of respiratory devices in Appendix A to Part 20 consistent with ANSI Z88.2–1992 and become footnote b.

Current footnote d.1 would be removed because the essential information regarding the meaning and use of APF is found in the proposed rule at § 20.1703(i). Further guidance regarding the application and limitation of APFs would be provided in the revisions of Regulatory Guide 8.15 and NUREG–0041.

Current footnote d.2(a) states that APFs are only applicable for trained individuals who are properly fitted and for properly maintained respirators. This footnote is redundant with the current and proposed § 20.1703 and would be removed. Adequate provisions for training, fit-testing, and equipment maintenance are found in the proposed rule at § 20.1703(c)(4).

Current footnote d.2(b) states that APFs are applicable for air-purifying respirators only when high-efficiency particulate filters are used in atmospheres not deficient in oxygen and not containing radioactive gas or vapor respiratory hazards. This statement would be revised in proposed footnote c to say that if using a respirator with an APF greater than 100, a filter with a minimum efficiency of 99.97 percent must be used. Further guidance will be provided in Regulatory Guide 8.15 and NUREG–0041. The definitions of filter types and efficiencies will be discussed in the revisions of Regulatory Guide 8.15 and NUREG–0041.

Current footnote d.2(c) states that APFs cannot be used for sorbents against radioactive gases and/or vapors (e.g., radioiodine). This is no longer an absolute prohibition. A provision would be made in the new proposed footnote d for licensees to apply to the Commission for the use of an APF greater than 1 for sorbent cartridges.

Current footnote d.2(d) restates part of the NIOSH approval criteria for air quality for supplied air respirators and self-contained breathing apparatus. This requirement would be changed to reflect the fact that air quality standards derive from ANSI's recognition of the Compressed Gas Association guidance, and moved to the rule at § 20.1703(g). Air quality is discussed further in Regulatory Guide 8.15 and NUREG–0041.

The current footnote e makes it clear that the APFs for atmosphere-supplying respirators and self-contained breathing apparatus are not applicable in the case of contaminants that present a skin absorption or submersion hazard. This statement would be retained in footnote d in the proposed Appendix A to Part 20. However, the current exception provided for tritium oxide requires correction in that the effective protection factor cannot exceed 3, rather than 2 as stated. This correction would be made in footnote d of the proposed Appendix A to Part 20. A discussion of the basis for this change will be found in revised NUREG–0041.

Current footnote f observes that canisters and cartridges for air purifying respirators will not be used beyond service-life limitations. This observation restates a NIOSH approval criterion and is more appropriate to guidance than to the regulations. This footnote would be deleted. Service life limitations are addressed in Regulatory Guide 8.15 and NUREG–0041.

The current footnote g addresses four issues. The first limits the use of half-mask face piece air purifying respirators to "under-chin" types only. This limitation would be retained as footnote (f) to the proposed new Appendix A to Part 20. The only type of face piece eliminated by this requirement is the so-called "quarter-mask" which seals over the bridge of the nose, around the cheeks and between the point of the chin and the lower lip. These devices exhibit erratic face-sealing characteristics, especially when the wearer talks or moves his/her mouth.

The second issue precludes this type of respirator if ambient airborne concentrations can reach instantaneous values greater than 10 times the pertinent values in Table 1, Column 1 of Appendix B to Part 20. Because respirator assignment is now based on TEDE, ALARA, and other consideration, this part of current footnote g would be deleted from the proposed footnote f.

The third issue precludes the use of this type of respirator for protection against plutonium or other high-toxicity materials. Half-mask respirators, if properly fitted, maintained and worn, provide adequate protection if used within the limitations stated in the NIOSH approval and in the rule. The NRC finds no technical or scientific basis for continuing this prohibition in view of current knowledge and proposes to remove it.

Finally this footnote requires that this type mask be tested for fit (user seal check) before each use. This provision would be removed because the proposed § 20.1703(c)(3) would require a user to perform a fit check (e.g., negative pressure check, positive pressure check, irritant smoke check) each time a respirator is used.

Current footnote h provides several conditions on air-flow rates necessary to operate supplied air hoods effectively. Because all of these requirements are elements of the NIOSH approval criteria, they are redundant and would be removed. However, these NIOSH requirements will be discussed in the revision to NUREG–0041.

Current footnote I specifies that appropriate protection factors be determined for atmosphere-supplying suits based on design and permeability to the contaminant under conditions of use. Conditions for the use of these devices are retained in footnote g to the proposed revision of Appendix A to Part 20. Guidance on the use of these devices would be included in the revision to Regulatory Guide 8.15. Current footnote I also requires that a standby rescue person equipped with a respirator or other apparatus appropriate for the potential hazards, and communications equipment be present whenever supplied-air suits are used. This requirement would be deleted from the footnotes to Appendix A to Part 20 and moved to the body of the rule at § 20.1703(f).

Current footnote j states that NIOSH approval schedules are not available for atmosphere-supplying suits. This information and criteria for use of atmosphere supplying suits would be addressed in footnote g to the proposed Appendix A to Part 20. Note that an APF is not listed for these devices. Licensees would be permitted to apply to the Commission for the use of higher APFs in accordance with § 20.1703(b).

Current footnote k permits the full face piece self-contained breathing apparatus (SCBA), when operating in the pressure-demand mode, to be used as an emergency device in unknown concentrations. This provision would be retained in footnote I to the proposed Appendix A to Part 20 and full face piece SCBA operating in positive pressure, recirculating mode is added.

Current footnote l requires quantitative fit testing with a leakage less than 0.02 percent for the use of full face piece, positive pressure, recirculating mode SCBA. This requirement would be removed from the rule to be consistent with ANSI guidance and addressed in the revision to Regulatory Guide 8.15.

Current footnote l also states that perceptible outward leakage of breathing gas from this or any positive pressure SCBA whether open circuit or closed circuit is unacceptable, because service life will be reduced substantially. This provision would be retained in footnote I to the proposed Appendix A to Part 20.

Current footnote l also requires that special training in the use of this type of apparatus be provided to the user. The NRC believes that the training requirement that would be retained at § 20.1703(c)(4) is adequate to assure the training necessary for the use of SCBA devices. This element of footnote l would be removed.

Note 1 to the current Appendix A to Part 20 discusses conditions under which the protection factors in the appendix may be used, warns against assuming that listed devices are effective against chemical or respiratory hazards other than radiological hazards, and states the need to take into account applicable approvals of the U.S. Bureau of Mines/NIOSH when selecting respirators for nonradiological hazards. Note 1 would be retained as footnote (a) to the proposed Appendix A to Part 20 and would be revised to reference Department of Labor (DOL) regulations at 29 CFR 1910. The NRC believes that these conditions are essential to the safe use of APFs and that the DOL regulations are also applicable whenever other than radiological respiratory hazards are present.

Note 2 to the current Appendix A to Part 20 warns that external dose from submersion in high concentrations of radioactive material may result in limitations on occupancy being governed by external dose limits. This note would be retained as the second paragraph of footnote a to the proposed Appendix A to Part 20.

In the title of Appendix A to Part 20, and throughout the proposed rule, the term "assigned protection factor" (APF) is used to be consistent with the new ANSI Z88.2–1992 terminology.

Although ANSI suggested an APF=10 for all half-mask face piece disposable respirators, disposables that do not have seal enhancing elastomeric components and are not equipped with two or more adjustable suspension straps would be permitted for use but would not have an APF assigned (i.e., no credit may be taken for their use). The NRC believes that without these components it is difficult to maintain a seal in the workplace. These devices have little physiological impact on the wearer, may be useful in certain situations, and they may accommodate workers who request respiratory protection devices as required by OSHA. Medical screening is not required for each individual prior to use because the devices impose very little physiological stress. In addition, fit testing is not required because an APF is not specified (i.e., no credit may be taken for their use). However, all other

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aspects of an acceptable program specified in § 20.1703 are required including training of users in the use and limitations of the device. The NRC believes that this provision allows the flexible and effective use of these devices without imposing conditions that are impracticable. However, for those licensees who would like to use the ANSI recommended APF of 10, proposed footnote e to Appendix A to Part 20 would permit an APF of 10 to be used if the licensee can demonstrate a fit factor of at least 100 using a validated or evaluated quantitative or qualitative fit test. This requirement is appropriate because fit testing is an implicit component of the ANSI approval process.

The half-mask face piece respirator would continue to be approved, but relatively new variations are referred to in the industry as "reusable," "reusable-disposable," "face-piece-filtering" or "maintenance-free" devices. In these devices, including those considered to be disposables, the filter medium may be an integral part of the face piece, is at least 99 percent efficient, and may not be replaceable. Also, the seal area is enhanced by the application of plastic or rubber to the face-to-face piece seal area and the 2 or more suspension straps are adjustable. These devices are acceptable to the NRC, are considered half masks, may be disposable, and would be given an APF=10, consistent with ANSI recommendations.

The assigned protection factor for full face piece air purifying respirators operating in the negative pressure mode would be increased from 50 to 100. This change is consistent with ANSI recommendations and industry test results. The current Appendix A to Part 20 lists a protection factor of 50 because one design that was tested at Los Alamos in 1975 did not meet the PF 100 criterion. This device is no longer available.

A fit factor of 10 times the APF for negative-pressure air-purifying respirators, which must be obtained as a result of required fit testing under § 20.1703(c)(6), is recommended by ANSI and would be required under the proposed rule; that is, a person would have to achieve a minimum of 1,000 on a fit test in order to use an APF of 100 in the field. Use of a fit factor of 10 times the APF effectively limits internal dose and accounts for any respirator leakage that might occur during workplace activities. Fit factors of 10 times the APF were previously not required for such devices.

A new category of respirator, the loose-fitting face piece, positive pressure (powered) air purifying type, would be included in the proposed Appendix A to Part 20. An APF of 25 would be assigned to this new device in accordance with ANSI Z88.2–1992.

The half-mask and the full face piece air-line respirators operating in demand mode would be listed with APF unchanged at 5. The NRC believes that supplied-air respirators operating in the demand mode should be used with great care in nuclear applications. Because they are very similar in appearance to more highly effective devices (continuous flow and pressure-demand supplied air respirators), they might mistakenly be used instead of the more protective devices.

The APFs for half-and full-face piece air-line respirators operating on continuous flow would be reduced from 1,000 to 50 and from 2,000 to 1,000 respectively. The APF for a full face piece air-line respirator operating in pressure-demand mode would be reduced from 2,000 to 1,000. These changes are based on ANSI recommendations and the results of field measurements indicating that these devices are not as effective as originally thought. This change would have little impact on licensees because typical workplace concentrations encountered are far less than 1000 times the derived air concentrations (DACs). However, licensees may apply for higher APFs if needed and justified. A half-mask air-line respirator operating in pressure-demand mode would be added to Appendix A with an APF of 50 based on ANSI recommendations. The helmet/hood air-line respirator operating under continuous flow would be retained with the APF listed as 1,000. Current footnote h which specifies NIOSH certification criteria for flow rates would be removed. The criteria for air flow rates are part of the NIOSH approval and would be addressed in the revision to NUREG–0041.

The new loose fitting face piece design is also included as an air-line respirator operating under continuous flow. This device would be assigned an APF of 25 in the proposed Appendix A to Part 20 consistent with ANSI recommendations.

The air-line atmosphere-supplied suit would not be assigned an APF. These devices have been used for many years in radiological environments such as control rod drive removal at boiling water reactors with no APF. These devices are primarily used as contamination control devices, but they are supplied with air that the wearer breathes. No problems are known to have occurred at nuclear power plants or other NRC licensees that would disallow use of these devices. The NRC is allowing the use of non-NIOSH-approved suits but wearers are required to meet all other respirator program requirements in § 20.1703 except the need for a fit test. Licensees would still have an option to apply to the Commission for higher APFs in accordance with proposed § 20.1703(b). Requirements for standby rescue persons apply to these devices (§ 20.1703(f)).

In the proposed Appendix A to Part 20, APFs for SCBA devices would remain unchanged. Use of SCBA in demand open circuit and demand recirculating mode requires considerable caution. In the NRC's view, the performance level and reliability of these devices is questionable. The chance of face piece leakage when operating in the negative pressure mode is considerably higher than when operating in a positive pressure mode. This is especially critical for devices that could be mistakenly used in emergency situations. Although ANSI lists high APFs for these devices, they are not recommended by the NRC for use and acceptable alternative devices are readily available. Footnote h requires that controls be implemented to assure that these devices are not used in immediately dangerous to life and health (IDLH) areas.

In proposed footnote d, a specific statement would be added to exclude radioactive noble gases from consideration as an airborne hazard and advising that external (submersion) dose considerations should be the basis for protective actions. In the current rule, DAC values are listed for each noble gas isotope. This has led some licensees to inappropriately base respirator assignments in whole or in part on the presence of these gases. The requirement for monitoring external dose can be found in 10 CFR 20.1502.

The complete proposed changes to Part 20, Subpart H and Appendix A to Part 20 are presented in the codified text section of this document.

III. Issue of Compatibility for Agreement States

In accordance with the new adequacy and compatibility policy and implementing procedures approved by the Commission on June 30, 1997, the proposed modifications to §§ 20.1701 through 20.1703, and § 20.1705 have health and safety significance and Agreement States should adopt the essential objectives of these rule modifications in order to maintain an adequate program. Therefore, these provisions are assigned to the "Health and Safety (H&S)" category. The proposed definition of Assigned

Protection Factor (APF) because of its precise operational meaning, is designated as compatibility category C to help insure effective communication. Therefore, Agreement States should adopt the essential objectives of this provision to avoid conflicts, duplication or gaps. The proposed definitions of Disposable respirator, Fit check, Fit factor and Fit test, are stated in general terms and are therefore designated as compatibility category D, not required for purposes of compatibility. Flexibility is also provided to States regarding § 20.1704 in how they handle imposition of additional restrictions on the use of respiratory protection. Therefore, this provision is designated as compatability category D. Comments are specifically requested on whether assigning different compatibility categories to the proposed new definitions creates any implementation problems or inconsistencies.

Appendix A to 10 CFR Part 20 is designated as compatibility category B because assigned protection factors (APFs) provide acceptable levels of protection to be afforded by respirators. Additionally, although § 20.1705 permits applying for the use of higher APFs on a case by case basis, consistency is required in APFs that are established as acceptable in NRC and Agreement State regulations to reduce impacts on licensees who may operate in multiple jurisdictions.

These proposed amendments were provided to the Agreement States during the NRC staff review process via the use of the NRC rulemaking bulletin board and notification to the States of its availability. Two comments were received. One suggested assigning compatibility categories to the five new definitions, which has been done in this proposed rule. A second noted that removal of generic requirements from the footnotes to Appendix A greatly improved the rule.

IV. Finding of No Significant Environmental Impact: Availability

The NRC has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, that the proposed amendments, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and therefore, an environmental impact statement is not required.

The proposed amendment addresses technical and procedural improvements in the use of respiratory protection devices to maintain total occupational dose as low as is reasonably achievable. None of the impacts associated with this rulemaking have any effect on any places or entities outside of a licensed site. An effect of this proposed rulemaking is expected to be a decrease in the use of respiratory devices and an increase in engineering and other controls to reduce airborne contaminants. It is expected that there would be no change in radiation dose to any member of the public as a result of the revised regulation.

The determination of this environmental assessment is that there will be no significant offsite impact to the public from this action. Therefore, in accord with its commitment to complying with Executive Order 12898—Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, dated February 11, 1994, in all its actions, the NRC has also determined that there are no disproportionate, high, and adverse impacts on minority and low-income populations. The NRC uses the following working definition of "environmental justice": the fair treatment and meaningful involvement of all people, regardless of race, ethnicity, culture, income, or educational level with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Comments on any aspect of the environmental assessment may be submitted to the NRC as indicated under the ADDRESSES heading.

The NRC has sent a copy of the environmental assessment and this proposed rule to every State Liaison Officer and requested their comments on the environmental assessment.

The draft environmental assessment is available for inspection at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC. Single copies of this document are available as indicated in the ADDRESSES heading.

V. Paperwork Reduction Act Statement

This proposed rule contains amendments to reduce the information collection requirements contained in 10 CFR Part 20 that are considered to be insignificant (250 hours annually), when compared with the overall requirements of the CFR Part (210, 205 hours annually). NRC does not consider this reduction in the burden to be significant enough to trigger the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget, approval number 3150–0014.

Public Protection Notification

If an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

VI. Regulatory Analysis

The NRC has prepared a regulatory analysis for the proposed amendment. The analysis examines the benefits and impacts considered by the NRC. The regulatory analysis is available for inspection at the NRC Public Document Room at 2120 L Street NW. (Lower Level), Washington, DC. Single copies are available as indicated under the ADDRESSES heading.

VII. Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the NRC certifies that, if adopted, this proposed rule would not have a significant economic impact on a substantial number of small entities. The anticipated impact of the proposed changes would not be significant because the revised regulation basically represents a continuation of current practice. The benefit of the proposed rule is that it would provide relief from certain reporting and recordkeeping requirements, incorporate several ANSI recommendations for improved programmatic procedures, and permit the use of new, effective respiratory devices, thus increasing licensee flexibility.

The NRC is seeking public comment on the initial regulatory flexibility certification. The NRC is seeking comment particularly from small entities as defined under the NRC's size standards 10 CFR 2.810, as to how the proposed regulations would affect them and how the regulations may be implemented or otherwise modified to impose less stringent requirements on small entities while still adequately protecting the public health and safety. Any small entity subject to this regulation who determines that, because of its size, it is likely to bear a disproportionate adverse economic impact should offer comments that specifically discuss the following items:

(a) The licensee's size and how the proposed regulation would result in a significant economic burden or whether the resources necessary to implement this amendment could be more effectively used in other ways to optimize public health and safety, as compared to the economic burden on a larger licensee;

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(b) How the proposed regulation could be modified to take into account the licensees' differing needs or capabilities;

(c) The benefits that would accrue, or the detriments that would be avoided, if the proposed regulation were modified as suggested by the licensee;

(d) How the proposed regulation, as modified, could more closely equalize the impact of NRC regulations or create more equal access to the benefits of Federal programs as opposed to providing special advantages to any individual or group; and

(e) How the proposed regulation, as modified, would still adequately protect the public health and safety.

The comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. *ATTN:* Rulemakings and Adjudications Staff. Hand deliver comments to 11555 Rockville Pike, Rockville, Maryland, between 7:30 am and 4:15 pm Federal workdays.

VIII. Backfit Analysis

Although the NRC staff has concluded that some of the changes being proposed constitute a reduction in burden, the implementation of these and other changes will require revisions to licensee procedures constituting a potential backfit under 10 CFR 50.109(a)(1). Under § 50.109(a)(2), a backfit analysis is required unless the proposed rule meets one of the exceptions listed in § 50.109(a)(4). This proposed rule meets the exception at § 50.109(a)(4)(iii) in that it is redefining the level of adequate protection as regards the use of respirators for radiological protection.

Section II, Summary of the Proposed Changes, summarizes the proposed changes to Subpart H of 10 CFR Part 20. The reasons for making these changes are also provided. Many of the proposed changes are considered by the NRC to constitute a redefinition of adequate level of protection in that they reflect new consensus technical guidance published by the American National Standards Institute (ANSI) on respiratory protection developed since 10 CFR Part 20, Subpart H was published. The changes include recognizing new respirator designs and types that were not available 20 years ago, changing the assigned protection factors (APFs) based on new data, deleting certain reporting requirements which are considered no longer needed for oversight of a mature industry, and numerous procedural improvements that have been developed and proven by respiratory practitioners.

In conclusion, the Commission believes that the proposed changes constitute a burden reduction with the exception of the need to revise procedures to implement the requirements. The proposed changes also clearly redefine the level of adequate protection required for workers who use respiratory protection and are, therefore, the type of change for which a backfit analysis is not required under § 50.109(a)(4)(iii).

List of Subjects in 10 CFR Part 20

Byproduct material, Criminal penalties, Licensed material, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers, Radiation protection, Reporting and recording requirements, Special nuclear material, Source material, Waste treatment and disposal.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR Part 20.

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

1. The authority citation for Part 20 continues to read as follows:

Authority: Secs. 53, 63, 65, 81, 103, 104, 161, 182, 186, 68 Stat. 930, 933, 935, 936, 937, 948, 953, 955, as amended (42 U.S.C. 2073, 2093, 2095, 2111, 2133, 2134, 2201, 2232, 2236), secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

2. Section 20.1003 is amended by adding the definitions Assigned protection factor (APF), Disposable respirator, Fit check, Fit factor, and Fit test to read as follows:

§ 20.1003 Definitions.

* * * * *

Assigned protection factor (APF) means the expected workplace level of respiratory protection that would be provided by a properly functioning respirator or a class of respirators to properly fitted and trained users. Operationally, the inhaled concentration can be estimated by dividing the ambient airborne concentration by the APF.

* * * * *

Disposable respirator means a respirator for which maintenance is not intended and that is designed to be discarded after excessive resistance, sorbent exhaustion, physical damage, or end-of-service-life renders it unsuitable for use. Examples of this type of respirator are a disposable half-mask respirator or a disposable escape-only self-contained breathing apparatus (SCBA).

* * * * *

Fit check (user seal check) means a performance check conducted by a respirator wearer to determine if the respirator is properly seated to the face. Examples include negative pressure check, positive pressure check, irritant smoke check, or isoamyl acetate.

Fit factor means a quantitative measure of the fit of a particular respirator to a particular individual.

Fit test means a test, quantitative or qualitative, to evaluate the fit of a respirator on an individual and to determine a fit factor.

* * * * *

3. Section 20.1701 is revised to read as follows:

§ 20.1701 Use of process or other engineering controls.

The licensee shall use, to the extent practicable, process or other engineering controls (e.g., containment, decontamination, or ventilation) to control the concentration of radioactive material in air.

4. In § 20.1702, paragraph (c) is revised to add the following footnote:

§ 20.1702 Use of other controls.

* * * * *

(c) Use of respiratory protection equipment[2]; or

5. Section 20.1703 is revised to read as follows:

§ 20.1703 Use of individual respiratory protection equipment.

If the licensee assigns or permits the use of respiratory protection equipment to limit the intake of radioactive material,

(a) The licensee shall use, only respiratory protection equipment that is tested and certified by the National Institute for Occupational Safety and Health (NIOSH).

(b) If the licensee wishes to use equipment that has not been tested or certified by NIOSH, or for which there is no schedule for testing or certification, the licensee shall submit an application to the NRC for authorized use of this equipment except as provided in this part. The application must include evidence that the material and performance characteristics of the equipment are capable of providing the proposed degree of protection under anticipated conditions of use. This must be demonstrated either by licensee testing or on the basis of reliable test information.

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[2] If the licensee performs an ALARA analysis to determine whether or not respirators should be used, safety factors other than radiological may be taken into consideration and the impact of the use of respirators on workers industrial health and safety risk should be considered.

(c) The licensee shall implement and maintain a respiratory protection program that includes:

(1) Air sampling sufficient to identify the potential hazard, permit proper equipment selection, and estimate exposures;

(2) Surveys and bioassays, as necessary, to evaluate actual intakes;

(3) Testing of respirators with APFs for operability (fit check for face sealing devices and functional check for others) immediately prior to each use;

(4) Written procedures regarding monitoring, including air sampling and bioassays; training of respirator users; fit testing; respirator selection; breathing air quality; inventory and control; storage, issuance, maintenance, repair, testing, and quality assurance of respiratory protection equipment; recordkeeping; and limitations on periods of respirator use and relief from respirator use;

(5) Determination by a physician before the initial fitting of face sealing respirators, before the first field use of non-face sealing respirators, and either every 12 months thereafter, or periodically at a frequency determined by a physician, that the individual user is medically fit to use the respiratory protection equipment;

(6) Fit testing, with fit factor ≥10 times the APF for negative pressure devices, and a fit factor ≥100 for any positive pressure, continuous flow, and pressure-demand devices, before the first field use of tight fitting, face-sealing respirators and periodically thereafter at a frequency not to exceed 3 years.

(d) The licensee shall advise each respirator user that the user may leave the area at any time for relief from respirator use in the event of equipment malfunction, physical or psychological distress, procedural or communication failure, significant deterioration of operating conditions, or any other conditions that might require such relief.

(e) The licensee shall use equipment, within limitations for type and mode of use and shall make provision for vision correction, adequate communication, low temperature work environments, and the concurrent use of other safety or radiological protection equipment in such a way as not to interfere with the proper operation of the respirator.

(f) Standby rescue persons are required whenever one-piece atmosphere-supplying suits, or any combination of supplied air respiratory protection device and personnel protective equipment are used, from which an unaided individual would have difficulty extricating himself or herself. The standby persons must be equipped with respiratory protection devices or other apparatus appropriate for the potential hazards. The standby rescue persons, shall observe or otherwise be in direct communication with the workers and must be immediately available to assist them in case of a failure of the air supply or for any other reason that requires relief from distress. A sufficient number of standby rescue persons must be available to effectively assist all users of this type of equipment.

(g) Whenever atmosphere-supplying respirators are used, they must be supplied with respirable air of grade D quality or better as defined by the Compressed Gas Association and endorsed by ANSI, in publication G–7.1, "Commodity Specification for Air," 1989, (ANSI–CGA G–7.1, 1989).

(h) No material or substance, the presence or absence of which is under the control of the respirator wearer, may be present between the skin of the wearer's face and the sealing surface of a tight-fitting respirator facepiece.

(i) In estimating the exposure of individuals to airborne radioactive materials, the concentration of radioactive material in the air that is inhaled when respirators are worn is initially assumed to be the ambient concentration in air without respiratory protection, divided by the assigned protection factor. If the exposure is later found to be greater than estimated, the corrected value must be used. If the exposure is later found to be less than estimated, the corrected value may be used.

6. Section 20.1704 is revised to read as follows:

§ 20.1704 Further restrictions on the use of respiratory protection equipment.

The Commission may impose restrictions in addition to those in §§ 20.1702, 20.1703, and Appendix A to Part 20 in order to:

(a) Ensure that the respiratory protection program of the licensee is adequate to limit exposures of individuals to airborne radioactive materials consistent with maintaining total effective dose equivalent ALARA; and

(b) Limit the extent to which a licensee may use respiratory protection equipment instead of process or other engineering controls.

7. Section 20.1705 is added to read as follows:

§ 20.1705 Application for use of higher assigned protection factors.

The licensee shall obtain authorization from the Commission before using assigned protection factors in excess of those specified in Appendix A to Part 20. The Commission may authorize a licensee to use higher assigned protection factors on receipt of an application that—

(a) Describes the situation for which a need exists for higher protection factors; and

(b) Demonstrates that the respiratory protection equipment provides these higher protection factors under the proposed conditions of use.

8. Appendix A to Part 20 is revised to read as follows:

Appendix A to Part 20

ASSIGNED PROTECTION FACTORS FOR RESPIRATORS[a]

Description	Assigned protection factors		
	Modes[b]	Particulate[c]	Gasses and vapors[d]
I. AIR PURIFYING RESPIRATORS:			
Single-use disposable[e]	NP	(e)	
Facepiece, half mask[f]	NP	10	
Facepiece, full	NP	100	
Facepiece, half mask	PP	50	
Facepiece, full	PP	1000	
Helmet/hood	PP	1000	
Facepiece, loose-fitting	PP	25	
II. ATMOSPHERE SUPPLYING RESPIRATORS:			

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ASSIGNED PROTECTION FACTORS FOR RESPIRATORS[a]—Continued

Description	Assigned protection factors		
	Modes[b]	Particulate[c]	Gases and vapors[d]
1. Air-line respirator			
Facepiece, half mask	D	5	5
Facepiece, half mask	CF	50	50
Facepiece, half mask	PD	50	50
Facepiece, full	D	5	5
Facepiece, full	CF	1000	1,000
Facepiece, full	PD	1000	1,000
Helmet/hood	CF	1000	1,000
Facepiece, loose-fitting	CF	25	25
Suit	CF	(g)	(g)
2. Self-contained breathing Apparatus (SCBA).			
Facepiece, full	D	[h]50	[h]50
Facepiece, full	PD	[i]10,000	[i]10,000
Facepiece, full	RD	[h]50	[h]50
Facepiece, full	RP	[i]10,000	[i]10,000
III. COMBINATION RESPIRATORS:			
Any combination of air-purifying and atmosphere-supply respirators		Assigned protection factor for type and mode of operation as listed above	

[a] These assigned protection factors apply only in a respiratory protection program that meets the requirements of this Part. They are applicable only to airborne radiological hazards and may not be appropriate to circumstances when chemical or other respiratory hazards exist instead of, or in addition to, radioactive hazards. Selection and use of respirators for such circumstances must also comply with Department of Labor regulations contained in 29 CFR 1910.

Radioactive contaminants for which the concentration values in Table 1, Column 3 of Appendix B to Part 20 are based on internal dose due to inhalation may, in addition, present external exposure hazards at higher concentrations. Under these circumstances, limitations on occupancy may have to be governed by external dose limits.

[b] The mode symbols are defined as follows:

NP = negative pressure (air-purifying respirator)
PP = positive pressure (air-purifying respirator)
CF = continuous flow (supplied-air respirator)
D = demand (supplied-air respirator)
PD = pressure-demand (open circuit, supplied-air respirator)
RD = demand, recirculating (closed circuit SCBA)
RP = positive pressure, recirculating (closed circuit SCBA).

[c] Air purifying respirators with APF ≤ 100 must be equipped with particulate filters that are at least 99 percent efficient. Air purifying respirators with APF ≤ 100 must be equipped with particulate filters that are at least 99.97 percent efficient.

[d] Excluding radioactive contaminants that present an absorption or submersion hazard. For tritium oxide vapor, approximately one-third of the intake occurs by absorption through the skin so that an overall protection factor of 3 is appropriate when atmosphere-supplying respirators are used to protect against tritium oxide. Exposure to radioactive noble gases is not considered a significant respiratory hazard, and protective actions for these contaminants should be based on external (submersion) dose considerations. The licensee may apply to the Commission for the use of an APF greater than 1 for sorbent cartridges as protection against airborne radioactive gasses and vapors (e.g., radioiodine).

[e] Licensees may permit individuals to use this type of respirator who have not been medically screened or fit tested on the device provided that no credit be taken for their use in estimating intake or dose. It is also recognized that it is difficult to perform an effective positive or negative pressure pre-use fit check on this type of device. All other respiratory protection program requirements listed in § 20.1703 apply. An assigned protection factor has not been assigned for these devices. However, an APF equal to 10 may be used if the licensee can demonstrate a fit factor of at least 100 by use of a validated or evaluated, qualitative or quantitative fit test.

[f] Under-chin type only. No distinction is made in this Appendix between elastomeric half-masks with replaceable cartridges and those designed with the filter medium as an integral part of the facepiece (e.g., disposable or reusable disposable). Both types are acceptable so long as the seal area of the latter contains some substantial type of seal-enhancing material such as rubber or plastic, the two or more suspension straps are adjustable, the filter medium is at least 99 percent efficient and all other requirements of this part are met.

[g] No NIOSH approval schedule is currently available for atmosphere supplying suits. This equipment may be used in an acceptable respiratory protection program as long as all the other minimum program requirements, with the exception of fit testing, are met [i.e., § 20.1703].

[h] The licensee should implement institutional controls to assure that these devices are not used in areas immediately dangerous to life and health (IDLH).

[i] This type of respirator may be used as an emergency device in unknown concentrations for protection against inhalation hazards. External radiation hazards and other limitations to permitted exposure such as skin absorption shall be taken into account in these circumstances. This device may not be used by any individual who experiences perceptible outward leakage of breathing gas while wearing the device.

Dated at Rockville, Maryland this 13th day of July 1998.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 98–19086 Filed 7–16–98; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 330

RIN 3064–AC16

Deposit Insurance Regulations; Joint Accounts and "Payable-on-Death" Accounts

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of proposed rulemaking.

SUMMARY: The FDIC is proposing to amend its regulations governing the insurance coverage of joint ownership accounts and revocable trust (or payable-on-death) accounts. These proposed amendments to the insurance regulations would supplement the revisions adopted by the FDIC in a final rule published in May 1998. The purpose of these amendments is to increase further the public's understanding of the insurance regulations through simplification. The proposed rule would make two amendments to the regulations. First, it would eliminate step one of the two-step process for determining the insurance coverage of joint accounts. Second, it would change the insurance coverage of "payable-on-death" accounts by adding parents and siblings to the current list of "qualifying beneficiaries."

DATES: Written comments must be received on or before October 15, 1998.

ADDRESSES: Written comments should be addressed to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429. Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street) on business days between 7:00 a.m. and 5:00 p.m. Also, comments may be sent by FAX ((202) 898–3838) or e-mail (comments @FDIC.gov). Comments will be available for inspection in the FDIC Public Information Center, Room 100, 801 17th Street, N.W., Washington, D.C., on business days between 9:00 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Christopher L. Hencke, Counsel, (202) 898–8839, or Joseph A. DiNuzzo, Senior Counsel, (202) 898–7349, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION:

I. Simplifying the Insurance Regulations

Federal deposit insurance plays a critical role in assuring stability and public confidence in the nation's financial system. At the same time, deposit insurance may reduce the incentive for depositors to monitor and discipline banks for excessive risk-taking. At present, the only depositors who will impose a degree of market discipline are those with deposits over the $100,000 insurance limit.

All depositors should understand the rules governing the application of the $100,000 limit. Confusion regarding these rules could lead to a loss of funds by some depositors and an erosion in public confidence. In addition, depositors over the $100,000 limit will impose no market discipline if they do not realize that their deposits are partly uninsured. For these reasons, the deposit insurance rules should be as simple as possible.

Unfortunately, recent evidence indicates that some of the insurance rules are misunderstood by a large percentage of the employees of depository institutions. This evidence includes surveys conducted in three states by public interest research groups (PIRGs). These surveys involved the FDIC's rules governing the insurance coverage of joint accounts and "payable-on-death" (POD) accounts. Of the bank employees included in the PIRG surveys, 63% to 80% misunderstood the joint account rules and 59% to 83% misunderstood the POD rules. (Copies of the PIRG survey results may be obtained by contacting the FDIC.)

Two years ago, in May 1996, the FDIC sought comments on amending the rules governing joint and POD accounts in an advance notice of proposed rulemaking (ANPR). See 61 FR 25596 (May 22, 1996). In May 1997, the FDIC published a proposed rule. See 62 FR 26435 (May 14, 1997). The amendments involving joint and POD accounts were not included in the proposed rule because the FDIC, at that time, did not possess sufficient information regarding the amendments' potential costs.

In May 1998, the proposed rule became a final rule. See 63 FR 25750 (May 11, 1998). Through this final rule, the FDIC made a number of important changes that will make the insurance regulations more understandable to the public. (A detailed explanation of these changes is set forth in the preamble of the **Federal Register** final rule.) In the preamble, the FDIC also stated that it would continue to study the policy, economic and other implications of amending the rules governing joint and POD accounts. The staff's study of those issues has resulted in the proposed rule published today.

II. The Proposed Rule

The proposed rule would amend two sections of the deposit insurance regulations: the new § 330.9 (former § 330.7), governing the insurance of joint ownership accounts; and the new § 330.10 (former § 330.8), governing the insurance of revocable trust (or POD) accounts.[1]

A. Joint Accounts

Under the current rules, qualifying joint accounts are insured separately from any single ownership accounts maintained by the co-owners at the same insured depository institution. See 12 CFR 330.9(a) (former 330.7(a)). A joint account is a "qualifying" joint account if it satisfies certain requirements: (1) the co-owners must be natural persons; (2) each co-owner must personally sign a deposit account signature card; and (3) the withdrawal rights of the co-owners must be equal. See 12 CFR 330.9(c)(1) (former 330.7(c)(1)). The requirement involving signature cards is inapplicable if the account at issue is a certificate of deposit, a deposit obligation evidenced by a negotiable instrument, or an account maintained for the co-owners by an agent or custodian. See 12 CFR 330.9(c)(2) (former 330.7(c)(2)).

Assuming these requirements are satisfied, the current rules provide that the $100,000 insurance limit shall be applied in a two-step process. First, all joint accounts owned by the same combination of persons at the same insured depository institution are added together and insured to a limit of $100,000. Second, the interests of each person in all joint accounts, whether owned by the same or some other combination of persons, are added together and insured to a limit of $100,000. See 12 CFR 330.9(b) (former 330.7(b)). The effects of this two-step process are: (1) no joint account can be insured for more than $100,000; (2) no group of joint accounts owned by the same combination of persons can be insured for more than $100,000; and (3) no person's combined interest in all joint accounts can be insured for more than $100,000.

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[1] "New" sections refer to the section numbers resulting from the recent final rule. The "new" sections became effective on July 1, 1998.

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The two-step process for insuring joint accounts often is misunderstood by bankers (as indicated by the PIRG studies) as well as consumers. This widespread confusion has resulted in the loss by some depositors of significant sums of money. For example, at one failed depository institution, three joint accounts (and no other types of accounts) were maintained by three siblings. The interest of each sibling was less than $100,000. The siblings chose to place all of their funds in joint accounts so that each of them would have access to the money in the event of an emergency or sudden illness. When the institution failed, step one of the two-step process required the aggregation of the three joint accounts. The amount in excess of $100,000 was uninsured.

In this example, all of the funds owned by the siblings could have been insured if the funds had been held in individual accounts as opposed to joint accounts. Thus, the depositors did not suffer a loss because they placed too much money in a single depository institution that failed. Rather, they suffered a loss simply because they misunderstood the FDIC's regulations.

Another example is provided by *Sekula* v. *FDIC*, 39 F.3d 448 (3d Cir. 1994). That court case involved six joint accounts owned by a husband and wife. The combined balance of these accounts was almost $170,000. Of this amount, only $100,000 was found to be insured. The court rejected the argument made by the depositors that they were entitled to insurance up to $200,000 (i.e., $100,000 for each owner). The court stated, however, that the two-step process for insuring joint accounts is unclear.

In order to simplify the coverage of joint accounts, the FDIC is proposing to eliminate the first step of the two-step process. Under this proposed amendment, the maximum coverage that any one person could obtain for his/her interests in all qualifying joint accounts would remain $100,000. The maximum insurance coverage of a particular joint account, however, would no longer be $100,000. In the case of a joint account owned by two persons, for example, the maximum coverage would increase from $100,000 to $200,000 (i.e., $100,000 for each owner).

The effects of the proposed amendment are subject to debate. For some depositors, such as the three siblings in the example, the amendment would result in an expansion of coverage. On the other hand, many or most such depositors could obtain the same level of coverage without the proposed amendment if they understood the regulations. The potential cost to the FDIC of the proposed amendment is discussed in greater detail below.

B. POD Accounts

Under the current rules, qualifying revocable trust (or POD) accounts are insured separately from any other types of accounts maintained by either the owner or the beneficiaries at the same insured depository institution. See 12 CFR 330.10(a) (former 330.8(a)). A POD account is a "qualifying" POD account if it satisfies certain requirements: (1) the beneficiaries must be the spouse, children or grandchildren of the owner; (2) the beneficiaries must be specifically named in the deposit account records; (3) the title of the account must include a term such as "in trust for" or "payable-on-death to" (or any acronym therefor); and (4) the intention of the owner of the account (as evidenced by the account title or any accompanying revocable trust agreement) must be that the funds shall belong to the named beneficiaries upon the owner's death. If the account has been opened pursuant to a formal "living trust" agreement, the fourth requirement means that the agreement must not place any conditions upon the interests of the beneficiaries that might prevent the beneficiaries (or their estates or heirs) from receiving the funds following the death of the owner. Such conditions are known as "defeating contingencies."

Assuming these requirements are satisfied, the $100,000 insurance limit is not applied on a "per owner" basis. Rather, the $100,000 insurance limit is applied on a "per beneficiary" basis to all POD accounts owned by the same person at the same insured depository institution. For example, a POD account owned by one person or a group of POD accounts owned by one person could be insured up to $500,000 if the qualifying beneficiaries (i.e., spouse, children and grandchildren) were five in number.

If one of the named beneficiaries of a POD account is not a qualifying beneficiary (i.e., not a spouse, child or grandchild), the funds corresponding to that beneficiary are treated for insurance purposes as single ownership funds of the owner (i.e., the account holder). In other words, they are aggregated with any funds in any single ownership accounts of the owner and insured to a limit of $100,000. See 12 CFR 330.10(b) (former 330.8(b)).

On a number of occasions, depositors have lost money upon the failure of an insured depository institution because they believed that POD accounts were insured on a simple "per beneficiary" or "per family member" basis. They did not understand the difference between qualifying beneficiaries and non-qualifying beneficiaries. Typically, in such cases, the named beneficiary has been a parent or sibling. In the absence of a qualifying beneficiary, the POD account has been aggregated with one or more single ownership accounts.

In response to such cases, the FDIC is proposing to add siblings and parents to the list of qualifying beneficiaries. This approach would protect most depositors who misunderstand the current rules without abandoning the basic concept that insurance for POD accounts is provided up to $100,000 on a "per qualifying beneficiary" basis. The potential cost to the deposit insurance funds is discussed below.

III. The Cost of the Proposed Rule

At the request of the Board of Directors, the FDIC staff recently conducted a study of the potential cost of eliminating step one of the two-step process for insuring joint accounts. The study also addressed the potential cost of adding parents and siblings to the list of "qualifying beneficiaries" for POD accounts. Copies of this study may be obtained from the FDIC.

The FDIC study was based upon depositor files from ten banks that failed during the past decade. At each of these banks, depositors suffered losses as a result of owning deposits over the $100,000 insurance limit. The advantage of studying the accounts at such failed banks is that the accounts were subject to actual insurance determinations. Also, as a depository institution weakens, some depositors may withdraw their deposits in order to protect themselves. For this reason, in determining the cost to the FDIC of a change in the insurance regulations, an analysis of the accounts at failed banks is more useful than an analysis of accounts at healthy institutions.

The total of all deposits at the ten banks at the time of failure was $6.7 billion, of which $57 million (0.85%) was determined to be uninsured. The FDIC's analysis involved the files of 1,300 depositors, each of whom maintained account(s) in excess of $100,000.

As discussed below, the FDIC's study suggests that the cost of the proposed rule would be minimal compared with the potential benefits. Depositors would benefit by not losing funds through misconceptions regarding the scope of their insurance coverage; the financial system would benefit through increased public confidence.

A. Joint Accounts

At the ten failed banks in the FDIC's study, uninsured joint account deposits totaled $13 million. Of this amount, $12 million was uninsured under step one of the current two-step process. This figure represented 21.5% of all uninsured deposits but only 0.18% of total deposits. The impact of eliminating step one can be estimated by applying this 0.18% figure to failed bank data from 1988 (the costliest year in recent history).

In 1988, the FDIC assumed the obligation to pay insurance on deposits in the amount of $38 billion. This figure does not represent the FDIC's losses for the year because the FDIC (as subrogee of the insured depositors) recovered a significant amount of money through the liquidation of the assets of the failed institutions. The losses for the year amounted to $6.8 billion, representing a loss ratio of 18%.

Increasing $38 billion (the deposit obligations assumed by the FDIC in 1988) by 0.18% (the increase that would result from the elimination of step one) yields additional insured funds in the amount of $69.8 million. Applying a loss ratio of 18% to this $69.8 million (18% being the FDIC's loss ratio in 1988) yields additional losses in the amount of $12.6 million. In other words, in 1988, the absence of step one of the two-step process for insuring joint accounts would have resulted in estimated additional losses to the FDIC of $12.6 million (an increase of 0.18%).

In 1993, the Federal Reserve Board found that the elimination of step one of the current joint account rules would have increased the amount of insured deposits in all FDIC-insured institutions by about $22 billion (out of a total deposit base at that time of $3.273 trillion). In its own study, the FDIC came to a different conclusion. Currently, the level of domestic deposits at all FDIC-insured institutions is $3.6 trillion. If the 0.18% figure discussed above is applied to this $3.6 trillion, the conclusion follows that the elimination of step one would increase the amount of insured deposits by $6.5 billion—not $22 billion as found in the Federal Reserve study. The difference between the two studies may be attributable to the fact that the FDIC's study was limited to failed banks that produced actual losses for depositors. In any event, in measuring the impact of a change in the insurance regulations, the important question is not the increase in the amount of insured deposits ($6.5 billion versus $22 billion) but the increase in possible losses to the FDIC. As discussed above, in 1988 (the costliest year in recent history), the absence of step one of the two-step process would not have resulted in additional losses amounting to billions of dollars. Rather, the additional loss suffered by the FDIC would have amounted to approximately $12.6 million.

B. POD Accounts

At the ten bank sample, the total deposit base was $6.7 billion. Of this amount, depositors with more than $100,000 in total deposits held $22.2 million in POD accounts for the benefit of non-qualifying beneficiaries. In accordance with the FDIC's regulations, these funds in the amount of $22.2 million were treated as single ownership accounts. In this category, most of the funds were insured. Only $6.3 million was uninsured.

From this type of study, it is difficult to draw firm conclusions about the consequences of changing the insurance rules applicable to POD accounts. The problem is the impossibility of predicting how depositors might alter their accounts in response to any such changes. In any event, the results of the FDIC's study indicate that POD accounts are not a significant component of a typical bank's deposit portfolio. For this reason, any change in the rules governing the insurance coverage of POD accounts should not produce a significant impact on the FDIC.

IV. Request for Comments

The Board of Directors of the FDIC (Board) is seeking comments on the proposed amendments to the regulations governing the insurance coverage of joint accounts and POD accounts. In addition, the Board is seeking comments on any other possible means of simplifying the insurance coverage of joint or POD accounts.

V. Paperwork Reduction Act

The proposed rule would simplify the FDIC's deposit insurance regulations. It would not involve any collections of information under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Consequently, no information has been submitted to the Office of Management and Budget for review.

VI. Regulatory Flexibility Act

The proposed rule would not have a significant impact on a substantial number of small businesses within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The amendments to the deposit insurance rules would apply to all FDIC-insured depository institutions and would impose no new reporting, recordkeeping or other compliance requirements upon those entities. Accordingly, the Act's requirements relating to an initial and final regulatory flexibility analysis are not applicable.

List of Subjects in 12 CFR Part 330

Bank deposit insurance, Banks, banking, Reporting and recordkeeping requirements, Savings and loan associations, Trusts and trustees.

The Board of Directors of the Federal Deposit Insurance Corporation hereby proposes to amend part 330 of chapter III of title 12 of the Code of Federal Regulations as follows:

PART 330—DEPOSIT INSURANCE COVERAGE

1. The authority citation for part 330 continues to read as follows:

Authority: 12 U.S.C. 1813(l), 1813(m), 1817(i), 1818(q), 1819(Tenth), 1820(f), 1821(a), 1822(c).

2. In § 330.9, paragraph (b) is revised to read as follows:

§ 330.9 Joint ownership accounts.

* * * * *

(b) *Determination of insurance coverage.* The interests of each co-owner in all qualifying joint accounts, whether owned by the same or different combinations of persons, shall be added together and the total shall be insured up to $100,000. (Example: "A&B" have a qualifying joint account with a balance of $60,000; "A&C" have a qualifying joint account with a balance of $80,000; and "A&B&C" have a qualifying joint account with a balance of $150,000. A's combined ownership interest in all qualifying joint accounts would be $120,000 ($30,000 plus $40,000 plus $50,000); therefore, A's interest would be insured in the amount of $100,000 and uninsured in the amount of $20,000. B's combined ownership interest in all qualifying joint accounts would be $80,000 ($30,000 plus $50,000); therefore, B's interest would be fully insured. C's combined ownership interest in all qualifying joint accounts would be $90,000 ($40,000 plus $50,000); therefore, C's interest would be fully insured.)

* * * * *

3. In § 330.10, paragraph (a) is revised to read as follows:

§ 330.10 Revocable trust accounts.

(a) *General rule.* Funds owned by an individual and deposited into an account evidencing an intention that upon the death of the owner the funds shall belong to one or more qualifying beneficiaries shall be insured in the amount of up to $100,000 in the

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aggregate as to each such named qualifying beneficiary, separately from any other accounts of the owner or the beneficiaries. For purposes of this provision, the term "qualifying beneficiaries" means the owner's spouse, child/children, grandchild/grandchildren, parent/parents or sibling/siblings. (Example: If A establishes a qualifying account payable upon death to his spouse, sibling and two children, assuming compliance with the rules of this provision, the account would be insured up to $400,000 separately from any other different types of accounts either A or the beneficiaries may have with the same depository institution.) Accounts covered by this provision are commonly referred to as tentative or "Totten trust" accounts, "payable-on-death" accounts, or revocable trust accounts.

* * * * *

By order of the Board of Directors.

Dated at Washington, D.C., this 7th day of July, 1998.

Federal Deposit Insurance Corporation.

James LaPierre,

Deputy Executive Secretary.

[FR Doc. 98–18830 Filed 7–16–98; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–50–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100, –200, –300, –400, and –500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: This document announces a reopening of the comment period for the above-referenced NPRM which proposed adoption of a new airworthiness directive (AD) that is applicable to all Boeing Model 737–100, –200, –300, –400, and –500 series airplanes. That NPRM invites comments concerning the proposed requirements for installation of components for the suppression of electrical transients, and/or installation of components to provide shielding and separation to the fuel system wiring that is routed to the fuel tanks from adjacent wiring; and installation of flame arrestors and pressure relief valves in the fuel vent system. This reopening of the comment period is necessary to afford all interested persons an opportunity to present their views on the proposed requirements of that NPRM.

DATES: Comments must be received by August 31, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–50–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

Information concerning this NPRM may be obtained from or examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Chris Hartonas, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056, telephone (425) 227–2864, fax (425) 227–1181; or Dorr Anderson, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056, telephone (425) 227–2684, fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Boeing Model 737–100, –200, –300, –400, and –500 series airplanes was published in the **Federal Register** on April 22, 1998 (63 FR 19852). That action proposed to require installation of components for the suppression of electrical transients, and/or installation of components to provide shielding and separation to the fuel system wiring that is routed to the fuel tanks from adjacent wiring; and installation of flame arrestors and pressure relief valves in the fuel vent system. That action invites comments on regulatory, economic, environmental, and energy aspects of the proposal.

That action was prompted by testing results, obtained in support of an accident investigation, and by re-examination of possible causes of a similar accident. The actions specified by the proposed AD are intended to prevent possible ignition of fuel vapors in the fuel tanks, and external ignition of the fuel vapor exiting the fuel vent system and consequent propagation of a flame front into the fuel tanks.

Since the issuance of that proposal, commenters have raised issues regarding the ability to implement corrective action in a timely manner, particularly because the manufacturer has yet to issue a service bulletin. Based on these and other comments, the FAA has determined that further discussion and input may be beneficial prior to the adoption of a final rule. As a result, the FAA has decided to reopen the comment period for 45 days to receive additional comments.

The comment period for Rules Docket No. 98-NM–50-AD closes August 31, 1998.

Because no other portion of the proposal or other regulatory information has been changed, the entire proposal is not being republished.

Issued in Renton, Washington, on July 8, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–18950 Filed 7–16–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–43]

Proposed Modification of Class E Airspace; Two Harbors, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify Class E airspace at Two Harbors, MN. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 24 has been developed for Richard B. Helgeson Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action would increase the radius of, and add a northeast extension to, the existing controlled airspace for Richard B. Helgeson Airport.

DATES: Comments must be received on or before September 8, 1998.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 98–AGL–43, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief

Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 98–AGL–43." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, S.W., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to modify Class E airspace at Two Harbors, MN, to accommodate aircraft executing the proposed GPS Rwy 24 SIAP at Richard B. Helgeson Airport by increasing the radius of, and adding a northeast extension to, the existing controlled for the airport. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this, proposed regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL MN E5 Two Harbors, MN [Revised]

Richard B. Helgeson Airport, MN
(Lat. 47°02′55″ N, long. 91°44′43″ W)
ANATE Waypoint
(Lat. 47°05′30″ N, long. 91°37′46″ W)

The airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Richard B. Helgeson Airport and within 2.7 miles each side of the 073° bearing from Richard B. Helgeson Airport, extending from the 6.4-mile radius to 7.4 miles northeast of the airport, and within 4.0 miles each side of the 042° bearing from ANATE Waypoint, extending from the waypoint to 6.4 miles northeast of the waypoint, excluding that airspace within the Silver Bay, MN, Class E airspace area.

* * * * *

Issued in Des Plaines, Illinois on July 6, 1998.

David B. Johnson,

Acting Manager, Air Traffic Division.

[FR Doc. 98–19102 Filed 7–16–98; 8:45 am]

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COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 17, 18, and 150

Revision of Federal Speculative Position Limits and Associated Rules

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has long established and enforced speculative position limits for futures contracts on various agricultural commodities. On April 7, 1993, the Commission promulgated interim final

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rules amending Federal speculative position limits. The interim amendments generally maintained the existing speculative position limit levels for the delivery months and increased limit levels for the deferred months, at levels below those originally proposed. The Commission is proposing to raise the levels of speculative position limits for the deferred months to the levels originally proposed.

In addition, the Commission is proposing to codify various policies relating to the requirement that exchanges set speculative position limits as required by rule 1.61, 17 CFR 1.61. These relate to the levels which the Commission has approved for such rules, and to various exemptions from the general requirement that exchanges set speculative position limits which the Commission has approved over the years. Specifically, the Commission is proposing to codify an exemption permitting exchanges to substitute position accountability rules for position limits for high volume and liquid markets. The Commission is proposing elsewhere in this issue of the **Federal Register** to amend its guideline for application for contract market designation to conform it to the changes to the speculative position limit rules proposed herein that apply at initial contract designation. *See*, Guideline No. 1, 17 CFR Part 5, Appendix A.

The Commission is also proposing to amend the applicability of the limited exemption from non-spot month speculative position limits under Commission rule 150.3, 17 CFR 150.3, for entities that authorize independent account controllers to trade on their behalf. Specifically, the Commission is proposing to amend the definition of entities eligible for this relief under Commission rule 150.1(d), 17 CFR 150.1(d), to expand the categories of eligible entities and to extend it to the separately incorporated affiliates of an eligible entity.

Finally, the Commission is proposing to amend its rule on aggregation. In particular, the Commission is proposing to clarify the applicability of a limited partnership exemption to limited partners or shareholders with less than a 25% ownership interest, or to pooled trading accounts with ten or fewer account owners. The Commission is also proposing to amend its rules to clarify that a commodity pool operator's principals and its affiliates are treated the same as the commodity pool operator itself for purposes of the Commission's aggregation rule.

DATES: Comments must be received by September 15, 1998.

ADDRESSES: Comments should be mailed to the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581, attention: Office of the Secretariat; transmitted by facsimile at (202) 418–5521; or transmitted electronically at [secretary@cftc.gov]. Reference should be made to "Speculative Position Limits."

FOR FURTHER INFORMATION CONTACT: Paul M. Architzel, Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581, (202) 418–5260, or electronically, [PArchitzel@cftc.gov].

SUPPLEMENTARY INFORMATION:

I. Background

Speculative position limits have been a tool for regulation of futures markets for over sixty years. Since the Commodity Exchange Act of 1936, Congress consistently has expressed confidence in the use of speculative position limits as an effective means of preventing unreasonable or unwarranted price fluctuations.[1] Section 4a(1) of the Commodity Exchange Act (Act), 7 U.S.C. 6a(1), provides the Commission with authority to:

> fix such limits on the amount of trading which may be done or positions which may be held by any person under contracts of sale of such commodity for future delivery on or subject to the rules of any contract market as the Commission finds are necessary to diminish, eliminate, or prevent such burden.

The Commission directly administers speculative position limits on futures contracts for most of the domestic agricultural commodities enumerated in section 2(a)(1) of the Act. *See*, 17 CFR Part 150. Prior to the Act's amendment in 1974 which expanded its jurisdiction to all "services, rights and interests" in which futures contracts are traded, only these enumerated commodities were regulated. Both prior to and after the 1974 amendments to the Act, futures markets which traded commodities not so enumerated applied speculative position limits by exchange rule, if at all. In 1981, the Commission promulgated rule 1.61, requiring exchanges to adopt rules setting speculative position limits for all contract markets not subject to Commission-set speculative position limits. Since then, all contract markets have been subject to either Commission or exchange-set speculative position limits.[2] Responsibility for enforcement of speculative position limits is shared by the Commission and the exchanges.[3]

The Commission periodically has reviewed its policies and rules pertaining to each of the three elements of the regulatory framework for speculative position limits—the levels of the limits, the exemptions from them (in particular, for hedgers), and the policy on aggregating accounts.[4] The Commission, in this notice of proposed rulemaking, is proposing to raise the levels of the Commission speculative position limits and to codify a number of broad exemptions from the requirement of rule 1.61 that exchanges establish speculative position limits for all contracts not subject to Commission limits. These exemptions to rule 1.61 were established through a series of Commission interpretations. The Commission is also proposing to broaden its speculative position limit exemption under rule 150.3 for independent account controllers and to amend its aggregation policy.

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[1] *See*, H.R. Rep. No. 421, 74th Cong., lst *Sess.* 1 (1935); *See also*, H.R. Rep. No. 624, 99th Cong., 2d Sess. 44 (1986). Section 4a(1) of the Commodity Exchange Act, 7 U.S.C. 6a(1), makes the explicit finding that:

> [e]xcessive speculation in any commodity under contracts of sale of such commodity for future delivery made on or subject to the rules of contract markets causing sudden or unreasonable fluctuations or unwarranted changes in the price of such commodity, is an undue and unnecessary burden on interstate commerce in such commodity.

[2] Commission rule 1.61, 17 CFR 1.61, requires that, absent an exemption, exchanges adopt and enforce speculative position limits for all contract markets which are not subject to the Commission-set limits. In addition, Commission rule 1.61 permits exchanges to adopt and enforce their own speculative position limits for those contracts which have Commission speculative position limits, as long as the exchange limits are not higher than the Commission's.

[3] Section 4a(e) provides that a violation of a speculative position limit established by a Commission-approved exchange rule is also a violation of the Act. Thus, the Commission can enforce directly violations of exchange-set speculative position limits as well as those provided under Commission rules.

[4] Initially, for example, the Commission redefined "hedging" (42 FR 42748 (August 24, 1977)), raised speculative position limits in wheat (41 FR 35060 (August 19, 1976)), and in 1979 issued its statement of policy on aggregation of accounts and adoption of related reporting rules (1979 Aggregation Policy), 44 FR 33839 (June 13, 1979).

Subsequently, the Commission modified and updated speculative position limits by issuing a clarification of its hedging definition with regard to the "temporary substitute" and "incidental" tests (52 FR 27195 (July 20, 1987)) and guidelines regarding the exemption of risk-management positions from exchange-set speculative position limits in financial futures contracts. 52 FR 34633 (September 14, 1987). Moreover, in 1988, the Commission promulgated Commission rule 150.3(a)(4), an exemption from speculative position limits for the positions of multi-advisor commodity pools and other similar entities which use independent account controllers. The Commission subsequently amended Commission rule 150.3(a)(4), broadening its applicability to commodity trading advisors and simplifying and streamlining the application process. 56 FR 14308 (April 12, 1991).

In 1991, the Commission solicited public comment on, and subsequently approved, exchange requests for exemptions for futures and option contracts on certain financial instruments from the Commission rule 1.61 requirement that speculative position limits be specified for all contracts. 56 FR 51687 (October 15, 1991).

II. Commission Speculative Position Limit Levels

In 1987, the Commission completely revised Commission speculative position limits. 52 FR 38914 (October 20, 1987). As part of these revisions, the Commission added Commission speculative position limits for soybean meal and soybean oil, which, because of an historical anomaly, previously were not included. The Commission also amended the structure and levels of the Commission speculative position limits. It restructured speculative position limits by establishing them by contract market, rather than generically by commodity. The Commission proposed generally to increase limit levels from the spot-month limits, which were not proposed to be increased, to progressively higher individual-month and all-futures-combined limits. However, the rules as promulgated generally did not provide for such stepped increases. Instead, the amended rules generally maintained the then existing structure of a uniform spot- and single-month level and only increased the all-months-combined level.[5]

In 1991, the Chicago Board of Trade (CBT), the New York Cotton Exchange (NYCE), the Kansas City Board of Trade (KCBT) and the Minneapolis Grain Exchange (MGE) petitioned the Commission to increase further the levels of Commission speculative position limits.[6] On August 2, 1991, the Commission published in the **Federal Register** notice of, and requested public comment on, these petitions for rulemaking. 56 FR 37049.

On April 13, 1992, the Commission proposed a number of revisions to the structure and levels of Commission speculative position limits. 57 FR 12766. The Commission proposed these revisions to the levels of the speculative position limits based upon two criteria: (1) the distribution of speculative traders in the markets; and (2) the size of open interest. Previously, the Commission had given little weight to the size of open interest in the contract in determining the appropriate speculative position limit level. The Commission noted, however, that the size of open interest and the distribution of speculative traders had not increased at the same rate over time. Accordingly, the Commission determined that, in proposing the new levels, both criteria should be taken into account. The Commission noted that:

> [t]his approach will permit speculative position limits to reflect better the changing needs and composition of the futures markets, while adhering to the policies of the Act and Commission Rule 1.61. Although the Commission in setting levels is proposing to place greater reliance on the criterion of percentage of open interest represented by a particular level than previously, it has always recognized that there is a range of acceptable limit levels [.] * * * even when relying on a single criterion * * *.

57 FR 12770.

In proposing these increases to the limit levels, the Commission reasoned that, as the total open interest of a futures market increased, speculative position limit levels could be raised. The Commission therefore applied the open interest criterion by using a formula that specified appropriate increases to the limit level as a percentage of open interest. Specifically, the Commission proposed combined futures and option speculative position limits for both a single month and for all months combined at the level of 10% of open interest up to an open interest of 25,000 contracts, with a marginal increase of 2.5% thereafter. It reasoned that such levels were "not excessively large under the criteria of Commission rule 1.61."[7] *Id.* The Commission also determined that this analysis did not apply to spot-month levels, which are "based most appropriately on an analysis of current deliverable supplies and the history of various spot-month expirations." *Id.*

The Commission received 63 comments in response to the proposed rules.[8] Typically, commodity pool operators, commodity trading advisors and futures commission merchants strongly favored the amendments. Most agricultural producers and their representative organizations strongly opposed any increase to the speculative position limits. Others, however, recommended that the Commission proceed, but in a more cautious manner. In particular, they recommended that the Commission raise speculative position limits on a phased or test basis. These commenters advocated taking additional time to study the need for, and the possible effects of, further increasing speculative position limits, and in their view, the trial implementation of expanded speculative limits would provide such an additional opportunity.

Based on its consideration of the comments received and its favorable administrative experience with the rule's prior amendment, the Commission in April 1993 adopted interim final rules to Commission speculative position limits. These interim amendments increased the position limit levels by half of the increase originally proposed, in two steps. 58 FR 18057 (April 7, 1993). The first phase, which took effect on June 7, 1993, increased speculative position limits by combining the previously separate futures and option limits. The second phase, which took effect on March 31, 1994, increased the back-month speculative position limits halfway to the level originally proposed by the Commission.

When the Commission adopted the interim final rules, it provided notice that the comment period on the original proposed levels would be reopened in March 1994, coinciding with implementation of the second phase of the interim rules. The comment period

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[5] However, the Commission did set stepped increases for the cotton contract. Those commenting on the grain and soybean complex limits opposed telescoping limits, in part, in an attempt to promote greater liquidity in the back months. In contrast, those commenting on the proposed speculative position limits in cotton did not object to the higher single-month limit level. 52 FR 38916.

In light of the strong preferences expressed by the commenters at that time, and the range of acceptable solutions which the data supported, the Commission acceded to the views of the commenters. Subsequently, as it expected, the Commission's experience monitoring both Commission and exchange-set limits with stepped increases was favorable. None of the adverse consequences hypothesized by the opposing commenters occurred.

[6] These petitions requested that the Commission amend its rules to increase Commission speculative position limits in the CBT corn, wheat, oats, soybeans, soybean oil, and soybean meal futures contracts, in the NYCE's cotton No. 2 futures contract, and in the KCBT's and MGE's wheat futures contracts. The CBT also requested that the Commission expand the current exemption for spread positions between months within the same crop year to an exemption for spread positions between any months, outside of the spot month, regardless of the crop year and to increase the overall level of this exemption. The CBT separately sought Commission approval for increases to the exchange-set speculative position limits on these commodities.

[7] Providing for a marginal increase to the speculative position limit of 2.5% was "based upon the universal observation that the size of the largest individual positions in a market do not continue to grow in proportion with increases in the overall open interest of the market." *Id.* The Commission also proposed a minimum of 1,000 contracts.

[8] Those commenters included three futures exchanges; a broad-based futures industry association; four futures commission merchants; 26 commodity pool operators, commodity trading advisors or associations of such entities; 20 groups or firms representing agricultural interests; eight individual agricultural producers; and one exchange member. In addition, the proposed rules were a topic of discussion at the October 19, 1992, meeting of the Commission's Agricultural Advisory Committee.

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was kept open for a year, closing on April 30, 1995. Anticipating that it would determine whether to adopt the levels originally proposed based upon trading experience under the interim rules, the Commission directed the Division of Economic Analysis (Division) to study the effects of the phased increases.

In April 1995, the Division reported to the Commission on the interim rule's effects. The report reviewed trading under both phases of the interim rules over a period of eighteen months and was based upon an analysis of extensive Commission and exchange data relating to individual and aggregate positions of reportable traders, as well as inter- and intra-day price series for the entire period of 1988 through 1994. The report concluded that overall the impact of the interim final rules on actual, observed large trader position was modest and that any changes in market performance were most likely attributable to factors other than changes in the rules.

Specifically, the report concluded that the phase 1 and phase 2 modifications of futures and option limits had little impact on the overall activities of large traders during the first 18 months of the interim final rules with relatively few speculative traders increasing the size of their positions above the previously permitted levels. The report further concluded that the periods of higher volatility and measurable changes in market liquidity observed in particular markets during the first 18 months of the interim rules appear to have been a result of rapidly-changing cash market conditions rather than the amended limits. Finally, the report concluded that there was no discernable negative impact on commercial use of the markets during the time period studied.

Only 13 comment letters were received during the post-phase 2 comment period, none from agricultural interests. Generally, all of the commenters supported increasing Commission speculative position limit levels as originally proposed. However, at that time concerns began to arise regarding the continued viability of the delivery provisions of the CBT's corn, soybean, and wheat futures contracts. The Commission directed its attention to resolving those surveillance-related concerns before further raising speculative position limit levels. Accordingly, the Commission took no further action on the proposed rules, and they remain pending.

The Commission recently reviewed open interest and trader position data to determine market changes since the Division's report to it following implementation of the phase 2 limits. With the exception of CBT oats, the markets' 1997 open interest substantially exceeded their 1994 open interest.[9] Although the Division's report concluded that the phase 1 increases to speculative position limits had little discernable impact on trader behavior, since then the number of large traders in these markets, the general size of their positions and the number of large traders holding positions above the phase 1 speculative position limits have increased. In addition, a number of traders now frequently hold positions greater than 80% of the current phase 2 all-months-combined level. These increases suggest that, under both of the criteria the Commission has applied in the past—size of traders' positions and open interest—expansion of the back month speculative position limits to the levels originally proposed is appropriate.

Accordingly, the Commission is reproposing to raise the back month speculative position limits to the levels it proposed initially. Consistent with its previous determination, the Commission is not proposing any change to spot-month limits.[10] The Commission has determined to seek public comment on the reproposed levels because commenters may have modified their views or additional persons may have formed an opinion during the extended period of time since the comment period closed. The following table compares the phase 2 speculative position limits now in effect for selected contracts to those that the Commission is reproposing.

SPECULATIVE POSITION LIMITS
[by contract][11]

Contract	Current levels (as of March 31, 1994)			Reproposed levels		
	Spot month	Single month	All months	Spot month	Single month	All months
CHICAGO BOARD OF TRADE						
Corn	600	3,400	6,000	600	5,500	9,000
Oats	400	900	1,200	400	1,000	1,500
Soybeans	600	2,400	4,300	600	3,500	5,500
Wheat	600	2,100	3,200	600	3,000	4,000
Soybean Oil	540	2,000	3,100	540	3,000	4,000
Soybean Meal	720	2,200	3,400	720	3,000	4,000
MIDAMERICA COMMODITY EXCHANGE						
Corn	600	1,200	1,200	600	1,200	1,200
Soybeans	600	1,200	1,200	600	1,200	1,200
Wheat	600	1,200	1,200	600	1,200	1,200
MINNEAPOLIS GRAIN EXCHANGE						
Hard Red Spring Wheat	600	2,100	3,200	600	3,000	4,000
White Wheat	600	1,200	1,200	600	1,200	1,200

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[9] In its interim final rulemaking, the Commission determined to maintain a parity of limit levels for wheat traded on the CBT, KCBT, and MGE. 58 FR 17979–179080. Accordingly, only data from the larger CBT wheat market were analyzed.

[10] The Commission originally proposed to increase the spot month limit in oats based upon changes in the cash market. *See* 57 FR at 12770, n. 17. The increases noted at the time have since reversed. Accordingly, the Commission is not proposing any change to the current spot month limit for oats.

SPECULATIVE POSITION LIMITS—Continued

[by contract] [11]

Contract	Current levels (as of March 31, 1994)			Reproposed levels		
	Spot month	Single month	All months	Spot month	Single month	All months
NEW YORK COTTON EXCHANGE						
Cotton No. 2	300	1,600	2,500	300	2,500	3,500
KANSAS CITY BOARD OF TRADE						
Hard Winter Wheat	600	2,100	3,200	600	3,000	4,000

[11] The limits are shown here in terms of the contract size traded on each exchange. The size of the speculative position limit being proposed is based upon the current contract size. Any subsequent change in contract size would require a conforming adjustment to the limit. For comparative purposes, the MCE limits are expressed here as though its contracts were for 5,000 bushels, the contract size traded on the CBT. MCE contracts are actually for 1,000 bushels, and its limits therefore would be five times the size shown on the table.

III. Exemptions From Required Exchange-set Speculative Position Limits

Although Commission rule 1.61 generally requires that all contract markets not subject to Commission speculative position limits impose exchange-set speculative position limits, the Commission over the years has approved a number of significant exemptions from this requirement. These exemptions were approved by the Commission under Commission rule 1.61(e), a broad exemptive provision enabling the Commission to exempt contract markets "consistent with the purposes of this section." In each case, the Commission considered and granted such an exemption by approving a proposed rule change of a contract market.

The first of these exchange rule changes was submitted for Commission approval by the Chicago Mercantile Exchange (CME). In requesting public comment on the proposed rule change, the Commission explained that it was considering granting exemptive relief based upon one of the factors included in rule 1.61 for setting speculative positions limit levels—the "breadth and liquidity of the cash market underlying each delivery month and the opportunity for arbitrage between the futures market and cash market in the commodity underlying the futures contract." *See,* 56 FR 51687, 51688 (October 15, 1991), citing Commission rule 1.61(a)(2). The Commission further explained that, "(b)ased upon its over ten-years experience in administering rule 1.61, the Commission believes that exemptions for three classes of futures and option contacts with varying degrees of exchange supervision for each class could be appropriately considered * * *."

These three classes were based upon the depth and liquidity of the underlying cash market and the ease of arbitrage between the futures and underlying cash market. The three classes were futures and option contracts on foreign currencies and futures and option contracts on two broad categories of financial instruments. The two categories for futures and option contracts on financial instruments were based upon the relative degree of liquidity in both the futures and option markets and in the cash market for the underlying instrument. The Commission subsequently added a fourth exemptive class, comprised of contracts for certain physical commodities. *See,* 57 FR 29054.

The Commission explained that it would exempt contracts in major foreign currencies from all of rule 1.61's requirements based upon their nearly inexhaustible deliverable supply, the very highly liquid underlying cash markets and the great ease of arbitrage between the cash and futures markets thereon. Contract markets which have been so exempted are the NYCE U.S. dollar index and NYFE foreign currencies.[12]

The second category of exempt contracts applies to futures and option contracts on financial instruments which exhibit the highest degree of liquidity in both the futures and cash markets, which are readily arbitraged. The Commission noted that for this class of contract the required speculative position limit could be replaced with a position accountability rule. Position accountability rules impose a level which triggers distinct reporting responsibilities by a trader at the request of the applicable exchange. The CME Eurodollar contracts and the CBT U.S. Treasury bond contracts were exempted under this category.[13]

The third class of exemptions was not contract markets on financial instruments having a highly liquid futures or cash market, but not of the same magnitude of liquidity as those in the highest class. For this class of contract, the position accountability rule should include, in addition to the specified reporting requirements, automatic consent of the trader not to increase further those positions which exceed the triggering level when so ordered by the exchange acting in its discretion.[14] *See,* 56 FR 51688–89. Examples of contract markets falling within this category include CBT U.S. Treasury notes and Eurodollars, NYCE 5-year U.S. Treasury notes, CME one-month LIBOR, and MCE U.S. Treasury bonds.

Finally, the Commission noted that certain contractors for tangible commodities such as precious metals and energy contracts are characterized by underlying cash markets with liquidity equivalent to or greater than certain of the financial futures and options which the Commission exempted. Because of the limitation on the delivery mechanisms of physically-delivered contracts, however, the Commission limited the exemption for such contracts on physical commodities to the deferred trading months, requiring retention of a spot-month speculative position limit. COMEX gold,

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[12] THe CME and the Philadelphia Board of Trade (PBOT), as a matter of exchange choice, have not included their foreign currency contracts in this category, instead applying to them a position accountability rule.

[13] As noted above, the CME and the PBOT voluntarily apply a "category 2" position accountability rule to their foreign currency contracts.

[14] The Commission also noted that all such exemptions under rule 1.61(e) must include appropriate plans for the continued surveillance and exchange supervision of trading in these contract markets and for monitoring and review of the operation of the exemption.

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silver, and copper contracts are examples of such contracts.[15]

These policies were first considered by the Commission in connection with specific exemptive requests by exchanges for existing contracts and, because they are based in part on the liquidity of the futures markets, are applicable only to existing markets. Except for several applications for designation of new foreign currency futures adoption contracts,[16] the Commission has approved few additional exemptions since granting the initial exemptive requests.[17] Moreover, the Commission has never formally promulgated these exceptions, nor has it incorporated these policies into Guideline No. 1, the Commission's guideline for exchange compliance with the requirements for contract market designation. As a consequence, the exemptions, which appear only in a number of **Federal Register** notices, are not readily accessible to those unfamiliar with Commission precedent.

Similarly, the open-interest criterion and numeric formula used by the Commission in its 1991 proposed amendment of Commission speculative position limits, which have provided the most definitive guidance by the Commission to date on acceptable levels for speculative position limits for tangible commodities, have not been promulgated as Commission rules.[18] Rather, the staff routinely has applied that formula (and its associated minimum levels) as a matter of administrative practice when reviewing proposed exchange speculative position limits under Commission rule 1.61. The staff examines exchange speculative position limit rules in connection with its review of applications for designation of futures and option contracts and of any subsequent proposed increases to those limits. Despite the formula's widespread use as a rule of thumb, it is not readily accessible in its present form.

The Commission is proposing to promulgate these informal policies as rules and, in a companion notice of proposed rulemaking located elsewhere in this edition of the **Federal Register**, is proposing conforming amendments to Guideline No. 1. Promulgating these policies within a single section of the Commission's rules will increase significantly their accessibility and clarify their terms.

As proposed by the Commission, the rules clarify several issues that the policies do not address. First, the proposed rules make clear that no speculative position limit or position accountability rule is required for designated contract markets in major foreign currencies. No such limitations are necessary because of the nearly inexhaustible deliverable supply of the major foreign currencies. Such foreign currencies are defined in the Commission's fast-track designation rule as a foreign currency "for which there is no legal impediment to delivery and for which there exists a liquid cash market." 17 CFR 5.1(a)(2)(i). The Commission is proposing that contract markets in other, less liquid foreign currencies be treated as a futures or option contract on any other financial instrument or product.[19]

The remaining position accountability categories are proposed to apply only to existing futures and option contracts.[20] Consistent with the policies, under the proposed rule, the type of position accountability rule that applies to a particular contract market is determined by the liquidity of the futures market, the liquidity of the cash market and the Commission's oversight experience. The Commission is proposing, however, to restate the criteria with greater clarity and precision, particularly in measuring the necessary levels of liquidity of the futures and option markets.[21]

The Commission is proposing to quantify the necessary levels of futures market liquidity similar to its use of a formula to set (and to increase) speculative position limits. The formula is based upon a market's open interest, a measure of its overall relative size.[22] When substituting position accountability rules for speculative position limits, however, the liquidity of the futures and option market—measured by volume of trading—is also particularly important.[23] Accordingly, the Commission is proposing to restate the futures market liquidity criterion as a required minimum level of open interest combined with specified, increasing levels of trading volume. As the level of open interest increases, the extent of the exemptive relief increases as well.

Specifically, the Commission is proposing that contract markets be eligible for position accountability rules in the non-spot months if they have a minimum month-end open interest of 50,000 contracts and an average daily volume of 5,000 contracts, both measured in terms of all months combined for the most recent calendar year. Financial futures contracts, as well as contracts on tangible commodities having the requisite cash market liquidity, are eligible for this proposed exemptive treatment. Financial futures contracts having a minimum month-end open interest of 50,000 contracts and an average daily trading volume of 25,000 contracts need not impose a spot month limit, but must have a position accountability rule that enables the exchange to order traders not to increase further their positions. Financial futures contracts having a minimum month-end open interest of 50,000 contracts and an average daily trading volume of 100,000 contracts may have a position accountability rule which only requires that traders provide specified information to the exchange if so ordered.

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[15] Although the Commission cited certain energy contracts as eligible for such treatment, the New York Mercantile Exchange (NYMEX) has not sought such treatment for its contract markets. COMEX was acquired by NYMEX and is now a division of NYMEX.

[16] Although the Commission exempted foreign currency contracts from the requirement for position accountability rules based upon the recognized liquidity of the underlying cash markets in the major foreign currencies, it has also approved, as a matter of exchange preference, "category 2" position accountability rules (a purely informational provision) for a number of such contracts. Futures and option contracts based on a non-major foreign currency, which are required to include position accountability rules, have been approved for "category 4" position accountability rules with spot-month speculative position limits.

[17] However, the Commission did approve for position accountability rules several newly designated contracts which are spreads between existing contracts on financial instruments that are the subject of contracts already having position accountability rules. These spread contracts, the CBT Yield Curve Spreads, were approved for the "category 4" position accountability exception.

[18] In addition, in reviewing applications for contract designation for tangible commodities, the staff has relied upon the Commission's formulation providing for a minimum level of 1,000 contracts for non-spot-month speculative position limits. Moreover, the Commission has routinely approved a level of 5,000 contracts for non-spot months in applications for designation of financial futures and energy contracts and that level has become a rule of thumb as a matter of administrative practice.

[19] Although the Commission approved an exchange proposal to apply "category 2" position accountability rules, which is a purely informational provision, to its futures and option contracts on major foreign currencies, the Commission does not require any position accountability rule for such contracts. Futures and option contracts on non-major foreign currencies are required to include a position accountability rule. Accordingly, the Commission approved a "category 4" position accountability exception (spot month limit and a provision enabling the exchange to order a trader not to increase further a position) for such a non-major foreign currency.

[20] As explained above, the only instances where position accountability rules were permitted in the absence of prior trading history was where the contracts were closely related to existing contracts for which position accountability rules had already been approved.

[21] The policy provided that position accountability could be based on either a liquid futures or cash market. The Commission is proposing to require that both the cash and futures markets be liquid. Accordingly, no futures contract can meet the proposed rule's requirement at the time of its initial designation and must first establish a trading history. The Commission will apply the rule prospectively, and any designated contracts or pending designation applications that have position accountability rules in place in reliance on the liquidity of the cash market alone may continue to rely on the policy. The Commission is seeking comment specifically on this proposed change, its proposed application only to designation applications filed after the effective date of the rule and whether the proposed rule would entail any adverse consequences.

[22] The rationale for this criterion is that, as a market's overall size grows, the size of the individual speculative positions that it can absorb and carry without adverse impact increases.

[23] A liquid market is one which has sufficient trading activity to enable individual trades coming to a market to be transacted without significantly affecting the price. A high degree of liquidity in the futures and option market better enables traders to arbitrage these markets with the underlying cash markets. Where the underlying cash markets in turn are very liquid and have extremely large deliverable supplies, the threat of market manipulation or distortions caused by large speculative positions is lessened. *See*, 56 FR at 51689.

In addition to a liquid futures market, the Commission has looked to the liquidity in the underlying cash market and to its administrative experience in approving position accountability rules for particular contract markets. The Commission is not proposing to quantify an acceptable measure of cash market liquidity. Cash markets differ greatly, and many are decentralized, making it difficult to propose a uniform means of measuring their liquidity. Generally, however, in assessing the liquidity of cash markets, the Commission looks to the depth of the market and the tightness of bids and offers. The final criterion—administrative experience—is based upon a contract market's surveillance history, whether it has been subject to problem expirations or liquidations and whether its terms or conditions are consistent with current cash market conditions.

IV. Issues Relating to Aggregation and Exemptions for Independently Controlled Accounts

Section 4a of the Act provides that, in determining whether a position exceeds the speculative position limits,

> the positions held and trading done by any persons directly or indirectly controlled by such person shall be included with the positions held and trading done by such person; and further, such limits upon positions and trading shall apply to positions held by, and trading done by, two or more persons acting pursuant to an expressed or implied agreement or understanding, the same as if the positions were held by, or the trading were done by, a single person.

The Commission and its predecessor agency have interpreted the "held or controlled" standard as applying both to ownership of positions or to control of trading decisions. Each aggregation criterion is applied separately.[24] However, beginning in 1979, the Commission has recognized a number of exceptions from the general principle. In its "Statement of Policy on Aggregation of Accounts," 44 FR 83839 (June 13, 1979) (1979 Aggregation Policy), the Commission determined that a futures commission merchant (FCM) need not aggregate the discretionary trading accounts or customer trading programs through which a trader affiliated with, but independent of, the FCM directs trading of customer-owned positions or accounts. To demonstrate the trader's independence, the FCM must maintain only supervisory control over the trader, and trading decisions in the discretionary account or program must be made independently of trading decisions in all other accounts held by the FCM.[25] *Id.* at 33843

The 1979 Aggregation Policy was based in part on structural changes made by the futures industry to respond to the increased acceptance of professional management of trading accounts and the use of trading programs. *Id.* at 83840. Further responding to this continuing trend, the Commission in 1988 promulgated rule 150.3, 17 CFR 150.3, an exemption from speculative position limits for commodity pools or similar entities which use independent account controllers. 53 FR 41563 (October 24, 1988). Commodity pools, pension funds, and other similar entities are required to aggregate their positions as the owner of the trading accounts, even if those accounts are traded independently by multiple independent account controllers. Commission rule 150.3 exempted such entities which use independent account controllers from speculative position limits outside of the spot-month. The exemption permits the total positions of the trading entity or vehicle to exceed speculative limits during non-spot months, but requires that each independent account controller trading on the entity's behalf comply with the applicable limits. During the spot month, all positions of the entity are required to be aggregated and are subject to the spot-month speculative position limit level. Under the exemption as originally promulgated, those seeking exemptive treatment were required to file an application with the Commission and to document the independence of their account controllers.

In 1991, the Commission extended eligibility for this exemption to commodity trading advisors and greatly streamlined the application procedure. Subsequently, in 1992 the Commission made the exemption self-executing. 57 FR 44492 (September 28, 1992). Commenters on both the 1991 and 1992 amendments suggested that, in addition to commodity trading advisors, the exemption should be extended to others, including investment banks, other financial intermediaries, parent/affiliate firms, corporate divisions, commercial banks, merchant banks, and insurance companies. The Commission declined to do so, saying that it:

> is aware of no adverse market effects resulting from the exemptions granted so far.
>
> Nevertheless, * * * [t]he current exemption and the proposed expansion are limited to those who trade professionally for others. * * * The classes of trader suggested by commenters for inclusion in the exemption differ from this pattern. The Commission will undertake further expansion of the exemption after it has had an opportunity to assess the impact of the current expansion and has gained a better understanding of the characteristics of the market user who might benefit from, and their need for, such an exemption.

56 FR 14308, 14312 (April 9, 1991).

Commission rule 150.3 generally has worked well. It has provided flexibility to the markets, accommodating the continuing trend toward professional management of speculative trading accounts, while at the same time protecting the markets from the undue accumulation of large speculative positions owned by a single person or entity in the spot month. Since its amendment in 1991, most questions concerning rule 150.3 have related to its application to integrated financial services companies. The number and complexity of these companies has grown in the intervening years, a consequence of mergers and consolidation in the financial services sector. Such companies generally may include affiliated futures commission

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[24] *See, e.g.*, Commission rule 18.01 ("holds, has a financial interest in or controls"). Using two independent criteria may lead to positions being aggregated in more than one manner. Although the Commission's large trader reporting system routinely aggregates positions reported by FCMs on the basis of the control criterion, Commission staff may direct FCMs to report particular accounts on the basis of ownership, as well. In addition, the Commission may require by special call that individual traders file large-trader reports for all positions which they own or control.

[25] The 1979 Aggregation Policy offered guidance on the criteria considered in determining whether the FCM exercises control over the trading decisions of the customer discretionary accounts or trading programs. These included the customer account agreement, advertising, the agreements between the FCM and its employee or other trader, the degree of supervision, the confidentiality of the program's trading decisions, reliance on the FCM for market information, and financial investment by the FCM in the program greater than 10% and common trading patterns. *Id.* at 33844.

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merchants (FCMs), commodity pool operators, and non-Commission registrants which may also trade futures and option contracts for their own accounts. They may grant their affiliates or subsidiaries independent trading authority with appropriate safeguards to maintain the affiliates' independence and the confidentiality of the affiliates' trading decisions. However, presently only affiliated commodity pool operators and commodity trading advisors meet the rule's eligibility requirement.[26]

The Commission is proposing to amend rule 150.3 better to reflect the continuing trend to greater complexity in the structure of financial services companies. Such companies, as a matter of business preference, may provide their affiliates with independent trading authority and are structured in a manner which meets the policies of rule 150.3. The Commission is proposing to include the separately incorporated affiliates of commodity pool operator, commodity trading advisor or futures commission merchant as eligible entities for the exemptive relief of rule 150.3.[27]

The Commission is also proposing to expand the classes of entities which are eligible for the exemption in response to the continuing trend toward greater professional management of trading funds. Single-investor commodity pools or commodity pools having a very limited number of participants have been created as part of this trend. Often these pools are organized as limited partnerships, and in many cases, the limited partner or partners, who may also trade professionally, provide almost all of the trading capital. The operators of such commodity pools generally, by virtue of having fewer than fifteen participants in the pools and less than $200,000 in capital contributions, would be exempt from registration under Commission rule 4.13. As discussed in greater detail below, the Commission is of the view that the trading of these limited partnerships should not be disaggregated from trading by such a limited partner. However, because these commodity pools may provide for the pool's trading by an independent account controller, the Commission believes that they appropriately can be included within the exemption from speculative position limits for the non-spot month limits under Commission rule 150.3.

The Commission is also proposing to include with the exemption banks, trust companies, savings and loan associations, insurance companies and the separately incorporated affiliates of any of the above entities. These additional classes of eligible entity were suggested for inclusion by some commenters when the Commission last proposed to revise the rule 150.3 exemption. In light of the successful operation of the exemption during the intervening years, the Commission believes that it should now consider extending the exemption to these entities. Accordingly, the Commission is proposing that any of the above entities that grants its affiliates or subsidiaries independent trading authority, maintains only the supervisory authority over their trading activity consistent with its fiduciary, statutory and regulatory responsibilities[28] and creates a system of controls to ensure that it or its affiliates have no knowledge of the trading decisions of other of its affiliates can exceed speculative position limits outside of the spot month. During the spot month, all of the affiliates' accounts, except for those of an affiliated FCM qualifying under the 1979 Aggregation Policy, must be aggregated for speculative position purposes as positions belonging to a single owner.

The Commission is proposing to codify in rule 150.4 the substance of its policies on aggregation, particularly its 1979 Aggregation Policy. The substance of its aggregation policies currently is contained in rules 17.00 and 18.01, 17 CFR 17.00 and 18.01, which specify the manner of identifying accounts for reporting purposes. The Commission is of the view that its rules on aggregating positions for speculative limit compliance should be codified as such, rather than be drawn by inference from the Commission's large-trader reporting requirements.

In codifying these policies, the Commission also is proposing to amend the limited partner exception of Commission rule 18.01.[29] Commission rule 18.01 governs the Commission's reporting requirements and parallels the 1979 Aggregation standard. It defines an account owner as a person or entity having a 10% or greater financial interest in the account, except for limited partners. Limited partners had been exempt from definitions of ownership beginning with the Commission's predecessor agency, the Commodity Exchange Authority, based upon the assumption that limited partners by definition were required to be passive investors and were prohibited from exercising control over the trading activities of the partnership. However, the degree to which limited partners can be involved in the operation of a partnership varies under state law. Although limited partners generally are precluded from "controlling" the business of the partnership, they may not be precluded from being involved to some degree in the partnership's trading decisions.[30]

The Commission has become aware of, and concerned of, trading by single-investor commodity pools. In these commodity pools, a single limited partner may contribute virtually all of the pool's trading capital, relying upon the general partner to control trading in the account. Previously, persons with this type of ownership interest may not have aggregated the pool's positions with their own in reliance of the exception under Commission rule 18.01 for limited partners in a commodity pool.[31]

In light of the possibility that limited partners may be less than wholly passive investors, the likelihood that limited partners may be involved to some degree in the trading decisions of the partnership's trading activity rises as the overall number of limited partners in a commodity pool decreases, such as in the single or limited-number investor pool or when a small number of limited partners have a relatively dominant ownership interest. Accordingly, the Commission is proposing to require a limited partner, shareholder or other type of pool participant (such as a member of a limited liability company), to aggregate the pool's positions with the trader's other positions if the trader has as an ownership interest of 25% or greater in the pooled account or if the pool has ten or fewer participants.[32]

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[26] FCMs have similar but not identical relief under the 1979 Aggregation Policy discussed above.

[27] Affiliated companies are generally understood to include one company that owns, or is owned by, another or companies that share a common owner.

[28] *See e.g.*, sections 2(a)(1)(A)(iii) and 4f(c) of the Act and Commission rule 166.3.

[29] As discussed above, the Commission is proposing to include within the exemption from speculative position limits under Commission rule 150.3 the operators of commodity pools which are exempt from registration under Commission rule 4.13.

[30] Section 303(b) of the Revised Uniform Limited Partnership Act provides in part that:

> A limited partner does not participate in the control of the business * * * solely by * * * (2) consulting with and advising a general partner with respect to the business of the limited partnership.
> * * *

[31] Commission rule 18.01 provides, in part, that:

> If any trader holds, has a financial interest in or controls more than one account, * * * all such accounts shall be considered as a single account for * * * the purpose of reporting. For the purpose of § 18.01, except for the interest of a limited partner or shareholder (other than the CPO) in a commodity pool, the term "financial interest" shall mean an interest of 10 percent or more in ownership or equity of an account.

The Commission does not intend by this proposal to modify the general treatment of limited partners or shareholders in commodity pools, but rather intends to require aggregation by limited partners or shareholders in unusual or atypical arrangements.[33] The Commission requests comments specifically to address the typical organization for pools and whether levels proposed are appropriate for reaching only unusual ownership forms.

The Commission is proposing an additional revision to the existing limited partnership exemption to clarify its application to commodity pool operators. Currently, commodity pools are excluded from the limited partnership exemption. Accordingly, commodity pool operators which are also a limited partner have a financial interest which causes them to aggregate their positions if their ownership interest is ten percent or greater. This is apart from the requirement that they aggregate positions based upon trading control. The question has arisen whether the commodity pool operator's principals or affiliates, if investing as limited partners, are covered by the ten percent interest requirement. The Commission is of the view that principles and affiliates of the commodity pool operator were intended to be treated under the rule the same as the commodity pool operator itself. This would be consistent with the explicit treatment of FCMs investing in customer trading programs or pools under the 1979 Aggregation Policy. The Commission is proposing to amend the limited partner exception to make explicit its understanding of the rule's application to the principals and affiliates of the pool operator.

III. Other Matters

A. Paperwork Reduction Act

When publishing proposed rules, the Paperwork Reduction Act of 1995 (Pub. L. 104–13 (May 13, 1996)) imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the Paperwork Reduction Act. In compliance with the Act, the Commission, through this rule proposal, solicits comment to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including the validity of the methodology and assumptions used; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) enhance the quality utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of the information on those who are to respond through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The Commission has submitted the proposed rule and its associated information collection requirements to the Office of Management and Budget. The proposed rules are part of two approved information collections. The burdens associated with these rules are as follows:

COLLECTION NUMBER
[3038–0013]

Average burden hours per response.	6
Number of respondents	12
Frequency of response	On occasion

COLLECTION NUMBER
[3038–0009]

Average burden hours per response.	4.74
Number of respondents	3709
Frequency of response	On occasion

Persons wishing to comment on the information which would be required by this proposed/amended rule should contact the Desk Officer, CFTC, Office of Management and Budget, Room 10202, NEOB, Washington, DC 20503, (202) 395–7340. Copies of the information collection submission to OMB are available from the CFTC Clearance Officer, 1155 21st St N.W., Washington, DC 20581, (202) 418–5160.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) 5 U.S.C. 601 *et seq.*, requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The Commission has previously determined that large traders are not small entities for purposes of the RFA.[34] The Commission believes that the proposed rule amendments to raise Commission speculative position limits would only impact large traders. In addition, the Commission is of the opinion that the proposed amendments to Commission rule 150.3, under which certain eligible entities will be exempted from speculative limits (except in the spot-month) would apply exclusively to large traders, as would the proposal to codify in rule 150.4 its policies on aggregation. Similarly, the Commission's proposal to aggregate the positions of participants in pooled accounts with a greater than 25 percent ownership interest in the accounts is not expected to impact a significant number of small entities. The Chairperson, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that the action taken herein will not have a significant economic impact on a substantial number of small entities. The certification is based on the fact that the proposed rules will lift speculative limits levels, extend exemptive relief from speculative limits (except in the spot-month) to certain eligible entities and codify the Commission policies on aggregation, including its rules on aggregating positions for speculative limit compliance. The proposed rules permitting such transactions subject to the specified conditions, therefore, remove a burden for all entities, regardless of size.

List of Subjects

17 CFR Part 1

Brokers, Commodity futures, Consumer protection, Reporting and recordkeeping requirements, Segregation requirements.

17 CFR Part 17

Brokers, Commodity futures, Reporting and recordkeeping requirements.

17 CFR Part 18

Brokers, Commodity futures, Reporting and recordkeeping requirements.

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[32] It should be noted that, while such positions must be aggregated, the Commission has also proposed to include such entities within the exemption of rule 150.3. Accordingly, where the limited partners in fact treat the partnership as an independent trader, they qualify for an exemption from speculative position limits for non-spot months. During the spot month, however, the limited partners or shareholders would be required to aggregate the partnership positions.

[33] The Commission is proposing to clarify that participants in additional categories of limited-liability business organizations, such as members of limited liability companies, for the purpose of these rules, are treated the same as limited partners or shareholders.

[34] 47 FR 18618 (April 30, 1982).

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17 CFR Part 150

Agricultural commodities, Bona fide hedge positions, Position limits, Spread exemptions.

In consideration of the foregoing, and pursuant to the authority contained in the Act, and in particular sections 2(a)(1), 2(a)(2), 4a, 4c, 4f, 4g, 4i, 4n, 5, 5a, 6b, 6c, 8a, and 15, 7 U.S.C. 2, 6a, 6c, 6f, 6g, 6i, 6n, 7, 7a, 12a, 13a, 13a–1, and 19, the Commission hereby proposes to amend parts 1, 17, 18, and 150 of chapter I of title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. The authority for part 1 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 2a, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 6p, 7, 7a, 7b, 8, 9, 12, 12a, 12c, 13a, 13a–l, 16, 16a, 19, 21, 23, and 24.

2. Section 1.61 is proposed to be removed and reserved.

PART 17—REPORTS BY FUTURES COMMISSION MERCHANTS, MEMBERS OF CONTRACT MARKETS AND FOREIGN BROKERS

3. The authority citation for part 17 continues to read as follows:

Authority: 7 U.S.C. 6a, 6d, 6f, 6g, 6i, 7, and 12a.

4. Section 17.00 is proposed to be amended by renumbering paragraph (b)(1) as (b) and revising it, by removing paragraphs (b)(2) and (c), by renumbering paragraphs (b)(1)(i) and (b)(1)(ii) as (b)(1) and (b)(2), respectively, and by adding paragraph (b)(3), to read as follows:

§ 17.00 Information to be furnished by futures commission merchants, clearing members and foreign brokers.

* * * * *

(b) *Interest in or control of several accounts.* Except as otherwise instructed by the Commission or its designee and as specifically provided in § 150.4 of this chapter, if any person holds or has a financial interest in or controls more than one account, all such accounts shall be considered by the futures commission merchant, clearing member or foreign broker as a single account for the purpose of determining special account status and for reporting purposes. For purposes of this section, the following shall apply:

(1) * * *

(3) *Account ownership*—Multiple accounts owned by a trader shall be considered a single account as provided under § 150.4(b), (c) and (d) of this chapter.

PART 18—REPORTS BY TRADERS

5. The authority citation for part 18 continues to read as follows:

Authority: 7 U.S.C. 2, 4, 6a, 6c, 6f, 6g, 6i, 6k, 6m, 6n, 12a, and 19; 5 U.S.C. 552 and 552(b) unless otherwise noted:

6. Section 18.01 is proposed to be revised to read as follows:

§ 18.01 Interest in or control of several accounts.

If any traders holds, has a financial interest in or controls positions in more than one account, whether carried with the same or with different futures commission merchants or foreign brokers, all such positions and accounts shall be considered as a single account for the purpose of determining whether such trader has a reportable position and, unless instructed otherwise in the special call to report under § 18.00 of this part, for the purpose of reporting.

PART 150—LIMITS ON POSITIONS

6. The authority citation for part 150 continues to read as follows:

Authority: 7 U.S.C. 6a, 6c and 12a(5).

7. In § 150.1 the introductory text of paragraph (d), and paragraphs (d)(2), (e)(2) and (e)(5) are proposed to be revised to read as follows:

§ 150.1 Definitions.

* * * * *

(d) *Eligible entity* means—

A commodity pool operator, the operator of a trading vehicle which is excluded or who itself has qualified for exclusion from the definition of the term "pool" or commodity pool operator," respectively, under § 4.5 of this chapter; the limited partner or shareholder in a commodity pool the operator of which is exempt from registration under § 4.13 of this chapter; a commodity trading advisor; a bank or trust company; a savings and loan association; an insurance company; or the separately incorporated affiliates of a futures commission merchant or of any of the above entities:

(1) * * *

(2) Which maintains: (i) only such minimum control over the independent account controller as is consistent with its fiduciary responsibilities and necessary to fulfill its duty to supervise diligently the trading done on its behalf; or (ii) if a limited partner or shareholder of a commodity pool exempt from registration under § 4.13 of this chapter, only such limited control as is consistent with its status.

(e) *Independent account controller* means a person—

(1) * * *

(2) Over whose trading the eligible entity maintains only such minimum control as is consistent with its fiduciary responsibilities to fulfill its duty to supervise diligently the trading done on its behalf or as is consistent with such other legal rights or obligations which may be incumbent upon the eligible entity to fulfill;

(3) * * *

(5) Who is registered as a futures commission merchant, introducing broker, commodity trading advisor or an associated person of any such registrant or a commodity pool operator that is exempt from registration under § 4.13 of this chapter.

8. Section 150.2 is proposed to be revised to read as follows:

§ 150.2 Position limits.

No person may hold or control positions, separately or in combination, net long or net short, for the purchase or sale of a commodity for future delivery or, on a futures-equivalent basis, options thereon, in excess of the following:

SPECULATIVE POSITION LIMITS

[By contract]

Contract	Limits by number of contracts		
	Spot month	Single month	All months
CHICAGO BOARD OF TRADE			
Corn	600	5,500	9,000
Oats	600	1,000	1,500

SPECULATIVE POSITION LIMITS—Continued

[By contract]

Contract	Limits by number of contracts		
	Spot month	Single month	All months
Soybeans	600	3,500	5,500
Wheat	600	3,000	4,000
Soybean Oil	540	3,000	4,000
Soybean Meal	720	3,000	4,000
MIDAMERICA COMMODITY EXCHANGE			
Corn	3000	6000	6000
Oats	2000	2000	2000
Soybeans	3000	6000	6000
Wheat	3000	6000	6000
Soybean Meal	800	800	800
MINNEAPOLIS GRAIN EXCHANGE			
Hard Red Spring Wheat	600	3,000	4,000
White Wheat	600	1,200	1,200
NEW YORK COTTON EXCHANGE			
Cotton No. 2	300	2,500	3,500
KANSAS CITY BOARD OF TRADE			
Hard Winter Wheat	600	3,000	4,000

9. Section 150.4 is proposed to be revised to read as follows:

§ 150.4 Aggregation of positions.

(a) *Positions to be aggregated.* The position limits set forth in § 150.2 of this part shall apply to all positions in accounts for which any person by power of attorney or otherwise directly or indirectly holds positions or controls trading or to positions held by two or more persons acting pursuant to an expressed or implied agreement or understanding the same as if the positions were held by, or the trading of the position were done by, a single individual.

(b) *Ownership of accounts.* For the purpose of applying the position limits set forth in § 150.2, except for the ownership interest of limited partners or shareholders as set forth in paragraph (c) of this section, any trader holding positions in more than one account, or holding accounts or positions in which the trader by power of attorney or otherwise directly or indirectly has a 10 percent or greater ownership or equity interest, must aggregate all such accounts or positions.

(c) *Ownership by limited partners, shareholders or other pool participants.* For the purpose of applying the position limits set forth in § 150.2, any trader having a 25 percent or greater ownership or equity interest in an account or positions as a limited partner, shareholder or other category of pool participant must aggregate those accounts or positions with all other accounts or positions owned or controlled by the trader; *Provided however,* that:

(1) A limited partner, shareholder or other pool participant that is also a principal or affiliate of the commodity pool operator must aggregate the pooled account or positions with all other accounts or positions owned or controlled by that trader if the trader's ownership or equity interest in the pooled accounts or positions is 10 percent or greater; or

(2) Each limited partner, shareholder or other pool participant having an ownership interest in a pooled account or positions with ten or fewer partners or shareholders must aggregate the pooled account or positions with all other accounts or positions owned or controlled by the trader if the trader's ownership or equity interest in the pooled accounts or positions is 10 percent or greater.

(d) *Trading Control by Futures Commission Merchants.* The position limits set forth in § 150.2 of this part shall be construed to apply to all positions held by a futures commission merchant in a discretionary account, or in an account which is part of, or participates in, or receives trading advice from a customer trading program of a futures commission merchant, or any of the officers, partners, or employees of such futures commission merchant, unless:

(1) A trader other than the futures commission merchant directs trading in such an account;

(2) The futures commission merchant maintains only such minimum control over the trading in such an account as is necessary to fulfill its duty to supervise diligently trading in the account; and

(3) Each trading decision of the discretionary account or the customer trading program is determined independently of all trading decisions in other accounts which the futures commission merchant holds, has a financial interest of 10 percent or more in, or controls.

10. New § 150.5 is proposed to be added to read as follows:

§ 150.5 Exchange-set speculative position limits.

(a) *Exchange limits.* Each contract market, as a condition of designation under part 5, appendix A of this chapter, shall by bylaw, rule, regulation, or resolution limit the maximum number of contracts a person may hold or control, separately or in combination, net long or net short, for the purchase or sale of a commodity for future delivery or, on a futures equivalent basis, options thereon. This section shall not apply to a contract market for

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which position limits are set forth in § 150.2 of this part or for a futures or option contract market on a major foreign currency for which there is no legal impediment to delivery and for which there exists a highly liquid cash market. Nothing in this section shall be construed to prohibit a contract market from fixing different and separate position limits for different types of futures contracts based on the same commodity, different position limits for different futures or for different delivery months, or from exempting positions which are normally known in the trade as "spreads, straddles, or arbitrage," or from fixing limits which apply to such positions which are different from limits fixed for other positions.

(b) *Levels at designation.* At the time of its initial designation, a contract market must provide for speculative position limit levels as follows:

(1) The spot month limit level for physical delivery contracts must be no greater than one-quarter of the estimated spot month deliverable supply calculated separately for each month to be listed and for cash-settled contracts based on a small or not highly liquid underlying cash market must be at a level that will tend to prevent or diminish price manipulation;

(2) Individual non-spot month or all-months-combined levels must be no greater than 1,000 contracts for tangible commodities other than energy products;

(3) individual non-spot month or all-months-combined levels must be no greater than 5,000 contracts for energy products and non-tangible commodities, including contracts on financial products.

(c) *Adjustments to levels.* Twelve months after a contract market's initial listing for trading, or an any time thereafter, contract markets may adjust their speculative limit levels as follows:

(1) The spot month limit level for physical delivery contracts must be no greater than one-quarter of the estimated spot month deliverable supply calculated separately for each month to be listed and for cash-settled contracts based on a small or not highly liquid underlying cash market must be at a level that will tend to prevent or diminish price manipulation; and

(2) Individual non-spot month or all-months-combined levels must be no greater than 10 percent of the average combined futures and delta-adjusted option month-end open interest for the most recent calendar year up to 25,000 contracts with a marginal increase of 2.5 percent thereafter, or be based on position sizes customarily held by speculative traders on the contract market, which shall not be extraordinarily large relative to total open positions in the contract, the breadth and liquidity of the cash market underlying each delivery month and the opportunity for arbitrage between the futures market and cash market in the commodity underlying the futures contract.

(d) *Hedge exemption.* (1) No exchange by law, rule regulation, or resolution adopted pursuant to this section shall apply to bona fide hedging positions as defined by a contract market in accordance with § 1.3(z)(1) of this chapter. *Provided,* that the contract market may limit bona fide hedging positions or any other positions which have been exempted pursuant to paragraph (e) of this section which it determines are not in accord with sound commercial practices or exceed an amount which may be established and liquidated in an orderly fashion.

(2) Traders must apply to the contract market for exemption from its speculative position limit rules. In considering whether to grant such an application for exemption, contract markets must take into account the factors contained in paragraph (d)(1) of this section.

(e) *Trader accountability exemption.* Twelve months after a contract market's initial listing for trading, or at any time thereafter, contract markets may submit for Commission approval under section 5a(a)(12) of the Act and § 1.41(b) of this chapter, a bylaw, rule, regulation, or resolution, substituting for the position limits required under paragraphs (a), (b) and (c) of this section, an exchange rule requiring traders to be accountable for large positions as follows:

(1) For futures and option contracts on a financial instrument or product having an average month-end open interest of 50,000 contracts and an average daily trading volume of 100,000 contracts and a very highly liquid cash market, an exchange bylaw, regulation or resolution requiring traders to provide information about their position upon request by the exchange;

(2) For futures and option contracts on a financial instrument or product or on an intangible commodity having an average month-end open interest of 50,000 and an average daily volume of 25,000 contracts and a highly liquid cash market, an exchange bylaw, regulation or resolution requiring traders to provide information about their position upon request by the exchange and to consent to halt increasing further the trader's positions if so ordered by the exchange;

(3) For futures and option contracts on a tangible commodity, including but not limited to metals, energy products, or international soft agricultural products, having an average month-end open interest of 50,000 contracts and an average daily volume of 5,000 contracts and a liquid cash market, an exchange bylaw, regulation or resolution requiring traders to provide information about their position upon request by the exchange and to consent to halt increasing further the trader's positions if so ordered by the exchange, *provided, however,* such contract markets are not exempt from the requirement of paragraphs (b) or (c) that they adopt an exchange bylaw, regulation or resolution setting a spot month speculative position limit with a level no greater than one-quarter of the estimated spot month deliverable supply;

(4) For purposes of this paragraph, trading volume and month-end open interest shall be calculated based upon the futures contract and its related option contract, on a delta-adjusted basis, for all trading months listed during the most recent twelve month period.

(f) *Other exemptions.* Exchange speculative position limits adopted pursuant to this section shall not apply to any position acquired in good faith prior to the effective date of any bylaw, rule, regulation, or resolution which specifies such limit or to a person that is registered as a futures commission merchant or as a floor broker under authority of the Act except to the extent that transactions made by such person are made on behalf of or for the account or benefit of such person. In addition to the express exemptions specified in this section, a contract market may propose such other exemptions from its position limits consistent with the purposes of this section and shall submit such rules for Commission review under section 5a(a)(12) of the Act and § 1.41(b) of this chapter.

(g) *Aggregation.* In determining whether any person has exceeded the limits established under this section, all positions in accounts for which such person by power of attorney or otherwise directly or indirectly controls trading shall be included with the positions held by such person; such limits upon positions shall apply to positions held by two or more person acting pursuant to an expressed or implied agreement or understanding, the same as if the positions were held by a single person.

Issued by the Commission this 13th day of July, 1998, in Washington, D.C.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–19114 Filed 7–16–98; 8:45 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 5

Economic and Public Interest Requirements for Contract Market Designation

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rulemaking.

SUMMARY: Commodity Futures Trading Commission ("Commission") is proposing revisions to its Guideline on Economic and Public Interest Requirements for Contract Market Designation, 17 CFR Part 5, Appendix A ("Guideline No. 1"). Guideline No. 1 details the information that an application for contract market designation should include in order to demonstrate that the contract market meets the economic requirements for designation. The Commission recently promulgated fast-track review procedures to reduce the time for Commission review of such applications. In furtherance of these streamlining efforts, the Commission is proposing that Guideline No. 1 itself be revised to reduce any unnecessary burdens associated with the designation application.

Specifically, the Commission is proposing to reorganize Guideline No. 1 into several specific application forms, making use to the extent possible of a checklist or chart format. Moreover, the Commission is clarifying that a portion of the application may make use of third-party generated materials. In addition, the Commission is clarifying the review standards for several of the designation requirements. The Commission is also proposing that a new appendix be added to Part 5 that would specify the information that should be included by a foreign board of trade seeking no-action relief to offer and to sell in the United States a futures contract on a securities index traded on that exchange.

DATES: Comments must be received by September 15, 1998.

ADDRESSES: Comments should be sent to the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581, attention: Office of the Secretariat. Comments may be sent by facsimile transmission to (202) 418–5521 or, by e-mail to secretary@cftc.gov. Reference should be made to "Revisions to Guideline No. 1."

FOR FURTHER INFORMATION CONTACT: Paul M. Architzel, Chief Counsel, Division of Economic Analysis. Richard A. Shilts, Director, Market Analysis Section or Kimberly A. Browning, Attorney/Advisor, Division of Economic analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581. Telephone: (202) 418–5260. E-mail: [PArchitzel@cftc.gov], [RShilts@cftc.gov] or [KBrowning@cftc.gov].

SUPPLEMENTARY INFORMATION:

I. Background

The requirement that boards of trade demonstrate that they meet specified conditions in order to be designated as a contract market has been a fundamental tool of federal regulation of commodity futures exchanges since the Futures Trading Act of 1921, Pub. L. No. 67–66, 42 Stat. 187 (1921).[1] Currently, the statutory requirements for designation are found in Sections 5 and 5a of the Commodity Exchange Act (Act) and, additionally, for indexes of securities, in Section 2(a)(1)(B) of the Act. Designated contract markets must provide for the prevention of dissemination of false information (Section 5(3) of the Act); must provide for the prevention of price manipulation (Section 5(4) of the Act); must provide for delivery periods which will prevent market congestion (Section 5A(a)(4) of the Act); and must permit delivery on the contract of such grades, at such points and at such quality and locational differentials as will tend to prevent or to diminish market manipulation (Section 5a(a)(10) of the Act).[2] Included among these provisions is the general requirement of Section 5(7) of the Act that trading in a proposed contract not be contrary to the public interest. The contract market must meet these requirements both initially and on a continuing basis.[3]

The Commission, as an aid to the exchanges, has provided guidance in meeting these statutory requirements. In 1975 the newly formed Commission, in one of its earliest actions, issued its Guideline on Economic and Public Interest Requirements for Contract Market Designation, 40 FR 25849 (1975) ("Guideline No. 1").

Subsequently, the Commission revised this guideline, publishing it as Appendix A to Part 5 of the Code of Federal Regulations. 47 FR 49832 (November 3, 1982). As revised in 1982, Guideline No. 1 was updated to address proposed innovations in the trading of futures contracts, including in particular, futures contracts on financial instruments and on various indexes and cash-settled futures contracts. Experience has demonstrated that the guideline has been adaptable and flexible, facilitating the designation of a wide range of innovative products.

Guideline No. 1 was again revised in 1992. 57 FR 3518 (January 30, 1992). The 1992 revisions streamlined the designation application for both futures and option contract markets. Under the 1992 revisions, the standard of review for specified terms and conditions of proposed contract market designations under Sections 5 and 5a of the Act was clarified. Moreover, the 1992 revisions eliminated unnecessary and redundant materials by requiring that an application for designation of a futures contract include a cash-market description only when the proposed contract differs from a currently designated contract and that it need justify only individual contract terms that are different from terms which

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[1] Designation as a contract market under the 1921 Act was contingent upon a board of trade's providing for the prevention of manipulative activity and the prevention of dissemination of false information, upon providing for certain types of recordkeeping and for admission into exchange membership of cooperative producer associations, and upon location of the contract market at a terminal cash market. *See*, §§ 5(a), (b), (c), (d) and (e) of the Futures Trading Act of 1921. Although the constitutionality of this Act was successfully challenged as an improper use of the Congressional taxing power in *Hill* v. *Wallace*, 259 U.S. 44 (1922), all subsequent legislation regulating the futures industry was patterned after this statutory scheme.

[2] The Act further requires, as a condition for contract market designation that the contract market, *inter alia:* be located at a terminal cash market or provide for terms and conditions as approved by the Commission (Section 5(1) of the Act); provide for various forms of recordkeeping (Sections 5(2) and 5a(a)(2) of the Act); permit the membership of cooperative associations (Section 5(5) of the Act); provide for compliance with Commission orders (Section 5(6) of the Act); submit its rules to the Commission (Sections 5a(a)(1) and 5a(a)(12) of the Act); provide that the terms of the contracts conform to United States commodity standards or those adopted by the Commission (Section 5a(a)(6) of the Act); accept warehouse receipts issued under United States law (Section 5a(a)(3) of the Act); and enforce exchange rules (Section 5a(a)(8) of the Act).

[3] Generally, the burden of demonstrating compliance rests with the contract market. Section 6 of the Act provides, in part, that:

> Any board of trade desiring to be designated a "contract market" shall make application to the Commission for such designation and accompany the same with a showing that it complies with the above conditions, and with a sufficient assurance that it will continue to comply with the above requirements.

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previously have been approved by the Commission. 57 FR 3521.[4]

In addition, the 1992 revisions introduced the use of a new checklist-style format for applications for designation of option contracts. The checklist application for option contracts has reduced the required filing of redundant or otherwise unnecessary information, resulting in designation applications which are clearer and more concise. Presumably, the exchanges have thereby realized savings in both the time and costs associated with filing an application. Moreover, the uniform format has enabled the Commission to review such checklist applications in a more timely and efficient manner. Applications for designation of options on futures contracts, however, are uniquely amenable to such a checklist format because option contract terms tend to be highly uniform and the majority of issues arise in connection with the designation of the underlying futures contract.

In April 1997, new Commission Rule 5.1 establishing fast-track procedures for Commission review and approval of applications for contract market designation became effective. 62 FR 10434 (March 7, 1997). That rule creates a streamlined and speedy alternative review process for Commission consideration of designation applications, reducing unnecessary regulatory burdens on exchanges while also preserving the opportunity for public participation where needed and fulfillment of the Commission's oversight responsibilities. Under the fast-track review procedures, applications for designation of certain cash-settled futures and option contracts are deemed to be approved ten days after receipt, unless the exchange is notified otherwise. Certain other applications are deemed approved 45 days after receipt absent contrary notification. Since implementing fast-track review procedures in April 1997, 45 contracts have been approved by the Commission under this rule, 18 under the 10-day procedure and 27 under the 45-day procedure.[5]

The Commission, in promulgating the fast-track review rules, indicated its intent broadly to reexamine the form and content requirements of Guideline No. 1, including consideration of the possible applicability of an option-style checklist to applications for designation of proposed futures contracts.[6] The Commission has noted that "[i]mplementation of fast-track review and approval procedures, separately and together with the planned revision of the format and content requirements for designation applications, should result in significantly streamlining the procedures and regulatory requirements associated with the current contract designation process," 62 FR 10435, and that these initiatives should permit the exchanges greater flexibility to compete with foreign exchange-traded products and with both foreign and domestic over-the-counter transactions while maintaining the basic protection embedded in the Act. 61 FR 59390 (November 22, 1996).

II. Proposed Revisions to Guideline

A. Proposed Changes to the Guideline's Format

Based upon its experience in administering the current guideline and the new fast-track procedures, the Commission is proposing to revise Guideline No. 1 in several important respects. First, the Commission is proposing to streamline Guideline No. 1 by further reducing the required paperwork and by further clarifying the information required to be included. In this regard, as discussed above, the Commission has observed the success of the checklist application for option contracts implemented in 1992 and believes that a similar, but modified, framework using a chart rather than a checklist can be used for applications for designation of futures contracts.

Specifically, the Commission is proposing to reorganize the contents of the current guideline to address applications for four different types of contracts: (1) physical delivery futures; (2) cash-settled futures; (3) options on futures; and (4) options on physicals. Except for options on physicals, the requirements for each separate application are self-contained and include the information relevant to demonstrating compliance with the designation standards for that type of contract. The information required is largely the same as under the current guideline, but is presented in a clearer, more focussed format which includes the use of charts. Information for option contracts will continue to be provided by checklist. Moreover, the Commission is proposing to clarify certain standards for review which have envolved based upon administrative experience and to clarify that exchanges may fulfill the required cash-market description with information developed by third parties. The Commission intends to make this format available to the exchanges electronically and to encourage exchanges to file electronically to reduce further the paperwork burden associated with the application process. These proposed revisions are discussed in greater detail below.

1. Cash Market Overview

Currently, exchanges are required to include a cash market description in their designation application. 17 CFR Part 5, Appendix A(a)(1). The Commission is not proposing to amend this requirement—each application (except for options on futures) would still require the inclusion of such an overview. However, the Commission is proposing to amend Guideline No. 1 to recognize explicitly the acceptability of a variety of materials in fulfillment of this requirement. Under current practices, exchanges typically produce their own specific cash-market descriptions. The Commission notes, however, that the exchanges presently are not precluded from doing otherwise and that exchanges have on occasion submitted cash market descriptions which included third-party materials.[7]

To reduce the burden on the exchanges in satisfying the guideline's cash-market overview standards, the Commission is proposing to clarify that exchanges need not submit staff-prepared documents and that they may submit cash-market descriptions based not only on materials generated by their staffs, but also on materials obtained from other sources. Such materials may be developed for an exchange by outside sources during a feasibility study of a proposed contract, as part of the exchange's development and consideration of a proposal or as part of its new product marketing effort. In this regard, as proposed to be revised, Guideline No. 1 explicitly would state that a cash-market description may include:

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[4] In conjunction with these revisions to the application for contract market designation, the Commission also modified many of its internal procedures to expedite the review and approval of new contracts and proposed amendments to existing contracts. These include, for example, a policy to notify the public of the availability of proposed contract terms for comment by publication in the **Federal Register** within one week of receipt of an application. In addition, under these procedures, substantive issues are identified and communicated informally to the exchange very shortly after receipt, permitting a prompt resolution. The review and approval of new contracts usually is completed shortly after the **Federal Register** public comment period ends or as soon as the exchange makes the modifications necessary to address a proposed contract's deficiencies. With these changes, the total review time for new contracts declined significantly.

[5] An additional 10 contracts were approved under non-fast-track review procedures. These included five equity index contracts, which were not eligible for fast-track approval because of the statutory requirement of review by the U.S. Securities and Exchange Commission (SEC), one contract that was approved under regular procedures before the end of the fast-track period, and four contracts that were processed under regular procedures at the request of the submitting exchange.

[6] Guideline No. 1 applies only to the economic requirements that must be met in order to be designated as a contract market. Additional requirements are found in the Commission's Guideline No. 2, 1 Comm. Fut. L. Rep (CCH) ¶6430. These relate to the contract market's program for compliance with its self-regulatory responsibilities. Generally, the review of these issues is most significant in connection with the first application for contract designation from a particular board of trade.

[7] For example, some exchanges have submitted background studies on proposed contracts that were prepared by outside consultants.

> Existing studies by industry trade groups, academics, governmental bodies or other entities; reports of consultations; or other materials which provide a description of the underlying cash market. These materials may be submitted in addition to, or in lieu of, information developed by the board of trade.

2. Charts Relating to Individual Contract Terms and Conditions

The current guideline requires exchanges to explain how each major term of a proposed contract, except for those identical to terms already approved by the Commission, is consistent with cash market practices or to justify the reason why the contract term appropriately is inconsistent with such practices. Exchanges submit this explanation or justification in narrative form. To further streamline the application process, the Commission is proposing that, in lieu of such a narrative description, an exchange may complete a chart to provide the required information. The proposed chart format will reduce the amount of verbiage and the overall length of designation applications.

The proposed chart is a template enumerating the significant contract terms and conditions typically contained in most contracts. In view of the diverse nature of commodities for which futures contracts may be developed, however, the template may be modified as necessary to reflect the nature of the particular commodity or the contract's specific terms and conditions. Also, to the extent that a proposed contract includes additional terms and conditions defining the economic characteristics of the underlying commodity, the board of trade may modify the form as appropriate. For example, if a contract provides for more than one quality specification under commodity characteristics (*e.g.*, a grade standard as well as a weight specification), the board of trade may add a separate line item to address each commodity characteristic separately. For line items in the chart that are not applicable to the proposed contract, the board of trade should simply indicate "N.A."

The proposed chart would require that an exchange include a brief description of the contract's major terms and conditions. Where the term is consistent with prevailing cash market practices, column 4 may be completed by providing a very brief statement as to how the term or condition comports with cash practices. However, where the term or condition does not comport with cash market practices, a more extensive discussion is required showing why the provision is necessary or appropriate for the hedging or pricing utility of the contract and the overall effect of the provision on deliverable supplies. Consistent with current requirements, no such justification of an individual term or condition would be required when that term or condition is the same as one already approved by the Commission. For such contract terms, the board of trade should reference in column 2 of the chart the rule number or other description of the original approved provision.

In keeping with current requirements, the application also requires an exchange to specify and to justify speculative position limits as required under the criteria of Commission rule 1.61, 17 CFR 1.61. The Commission is proposing that this requirement also be fulfilled by completion of a chart. However, the Commission is reviewing generally its speculative position limit policies and may propose further revisions to this section of Guideline No. 1 if it becomes appropriate in light of subsequent revisions to its speculative position limit policies.

3. Clarification of Review Standards

Central to an application for designation is an exchange's demonstration that the proposed contract will not be susceptible to price manipulation or distortion. For physical delivery contracts, this requires a demonstration that the deliverable supplies provided under the contract's terms are adequate, and for cash-settled contracts, this requires that the cash price series to be used for settlement is reliable. In light of the importance of these issues to a designation application, the Commission is proposing clarification of these requirements in the guideline.

i. Adequacy of deliverable supply. Exchanges are required to demonstrate that proposed contracts provide for deliverable supplies that will not be conducive to price manipulation or distortion. A requirement that an exchange include in its designation application an analysis of the adequacy of deliverable supply including an estimate of the deliverable supplies for the delivery months specified in the proposed contract is implicit under the current guideline. The Commission is proposing to clarify this requirement by requiring explicitly designation applications include an estimate of deliverable supplies for the specified delivery months of a proposed contract.

Specifically, the Commission is proposing that applications for designation of physical delivery futures contracts include within a separate chart of quantitative estimate of expected deliverable supplies and a description of the methodology used to derive the estimate. For commodities with seasonal supply or demand characteristics, the deliverable supply analysis should be based on the delivery month(s) when potential supplies typically are at their lowest levels. The estimate should be based on statistical data when reasonably available covering an historical period that is representative of actual patterns of production and consumption of the commodity. If data are taken from publicly available sources, the board of trade should reference the source material used. If the estimates are derived independently by the board of trade based on information not readily verifiable or on trade interviews, the Commission may request that the board of trade provide the workpapers or other source materials used in the analysis.

This estimate would be required to be made taking into consideration the terms and conditions specified for the deliverable product and the economic realities of the cash market underlying the futures contract.[8] For a physical-delivery futures contract, therefore, this estimate represents product which is in store at the delivery point(s) specified in the futures contract or economically can be moved into or through such points within a short period of time after a request for delivery and which is available for sale on a spot basis within the marketing channels that normally are tributary to the delivery point(s).

For financial instrument contracts, deliverable supply consists of available supplies of the instrument meeting the contract's delivery standards that are available, at prevailing cash market values, to traders wishing to make future delivery. For example, significant quantities of off-the-run notes and

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[8] Obviously, only product meeting the specified quality standards (*e.g.*, the grade, age, purity, weight, etc. for tangible commodities or the issue, maturity, rating, etc. for financial instruments) is eligible for delivery on a futures contract and should be considered as part of the deliverable supply.

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bonds typically may be held by the Federal Reserve System and long-term investment portfolios (*e.g.*, pension funds) and would not be readily available for delivery on proposed futures contracts on U.S. government debt instruments except at distorted prices. Recognizing this and based on the opinions of knowledgeable industry participants, Commission staff historically has used a rule-of-thumb that only 50 percent of the on-the-run U.S. Treasury bond and 10 percent of each of the next two off-the-run bonds are economically available for delivery.

The spot-month speculative position limits should be set in relation to this deliverable supply estimate. Such spot-month speculative position limits should be no greater than one-quarter of the deliverable supply estimate for that month.[9]

ii. Justification of cash settlement price. The adequacy of the procedures for determining the cash settlement price is central to the Commission's review of proposed cash-settled contracts. Applications for such proposed futures contracts would continue to be required to demonstrate that those procedures will result in a cash settlement price which reflects the underlying cash market and is not subject to manipulation or distortion. In order to provide additional guidance to exchanges in meeting this requirement, the Commission is clarifying two of the criteria which it has identified through past experience for meeting these requirements. In this regard, any cash settlement price which is determined by an exchange through a survey method to elicit price quotes should include a number of polled entities which is representative of the underlying cash market. In no event, however, may the polling sample include fewer than four unrelated entities that do not take positions for their own account in the futures, option or underlying cash markets. Where the entities to be polled may trade in such markets for their own accounts, a minimum of eight unrelated entities would be required. These rule-of-thumb criteria have been included in the relevant chart.

B. Effect on Pending Applications

The proposed revision to Guideline No. 1 streamline the application process for designation of contract markets and clarify existing requirements and Commission practice. Because the Commission is not proposing any new substantive requirements, however, the Commission is permitting exchanges immediately to begin filing applications consistent with the proposed format. Moreover, because the Commission is permitting exchanges to continue providing the required information in a narrative format if they prefer, no application filed or already under development and nearing completion which complies with the existing guideline would have to be revised.

C. Foreign Futures Markets

The offer or sale in the United States of futures contracts traded on or subject to the rules of a foreign exchange is subject to the Commission's exclusive jurisdiction.[10] Although Section 2(a)(1)(B)(ii) of the Act provides that the Commission shall not designate a board of trade as a contract market in a futures on a securities index unless the Commission finds that the board of trade meets three enumerated criteria,[11] Congress understood that a foreign exchange might lawfully offer futures contracts on stock indexes absent designation. Thus, the House Committee on Agriculture suggested that a foreign board of trade could apply for "certification" that its stock index contract meets all applicable Commission requirements. H.R. Rep. No. 565, Part 1, 97th Cong., 2d Sess. 85 (1982). That Committee further explained that a foreign exchange seeking to offer in the United States a futures contract based upon an index of United States securities must demonstrate that the proposed futures contract meets the requirements set forth in Section 2(a)(1)(B)(ii). *Id.* With regard to a foreign stock index contract based on "foreign securities," the House Committee suggested that the Commission use such criteria as it deems appropriate.

The Commission has not promulgated procedures for the filing of requests by foreign boards of trade for "certification" to offer or to sell such contracts, but instead has issued through its Office of the General Counsel, several "no-action" letters[12] regarding foreign stock index contracts based on foreign securities using the criteria set forth in Section 2(a)(1)(B)(ii) of the Act. As of June 4, 1998, such action has been taken for 24 stock index contracts for offer or sale in the United States that were submitted by 15 foreign boards of trade.[13]

Generally, the staff has analyzed such requests for a "no-action" opinion under the requirements of Section 2(a)(1)(B)(ii) of the Act. Accordingly, the staff has requested that the foreign board of trade file information which they deem relevant to those criteria. 57 FR 3518. To facilitate the staff's review of such requests by foreign boards of trade, the Commission is proposing that a separate appendix be added to Part 5 that would enumerate the information that foreign boards of trade should file with the Commission to assist in the staff's analysis of such requests. This information is the same as that previously requested to be filed. *Id.* Some of the data which should be included are: the terms and conditions of the contract and all other relevant rules of the exchange; information on information sharing arrangements or any legal obstacles to such sharing of information; and specific information related to the composition and computation of the index. All information should be submitted in English, including any supplemental material such as explanatory notes, appended tables or charts. It should be noted that the Commission consults with the SEC regarding these procedures. When such consultation occurs, additional information may be requested by the SEC.

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[9] The Commission believes that spot-month speculative position limits are not an ideal substitute for deliverable supplies. In this respect, the fact that an exchange may specify a spot-month speculative position limit that equals or is less than the "rule-of-thumb" standard of one-fourth of a low deliverable supply estimate does not mean that deliverable supplies are at adequate levels. The Commission has approved new futures contracts or amended existing futures contracts with low deliverable supplies only after an exchange has exhausted potential sources of deliverable supplies and, if necessary, adopted low spot-month speculative limits to give it the ability to limit potential delivery demand. The preferred approach under the Act if deliverable supplies are inadequate is for the exchange to modify the delivery specifications to enhance deliverable supplies. *See*, section 5a(a)(10) of the Act.

[10] Section 2(a)(1)(A), 7 U.S.C. 2 (1982); 120 Cong. Rec. 34497 (1974) (Statement of Senator Talmadge) (the terms "any other board of trade, exchange, or market" in Section 2(a)(1)(A) make clear the Commission's exclusive jurisdiction includes futures contracts executed on a foreign board of trade, exchange or market).

[11] These three criteria are contained in Section 2(a)(1)(B)(ii). They are:

(1) The contract must provide for cash settlement;

(2) The proposed contract will not be readily susceptible to manipulation or to being used to manipulate any underlying security; and

(3) The index is predominately composed of the securities of unaffiliated issuers and reflects the market for all publicly traded securities or a substantial segment thereof.

[12] A no-action letter is a written statement that staff of a specific division will not recommend enforcement action to the Commission if a proposed transaction is undertaken or a proposed activity is conducted. A no-action letter represents the position of only the division issuing it and is binding upon that division and not on the Commission or other divisions. Further, a no-action letter is only effective with respect to the person or persons to whom it was issued and has no precedential effect.

[13] These 15 foreign boards of trade include: (1) Osaka Securities Exchange; (2) Tokyo Stock Exchange; (3) Hong Kong Futures Exchange; (4) Singapore International Monetary Exchange, Ltd.; (5) Toronto Futures Exchange; (6) International Futures Exchange (Bermuda), Ltd.; (7) London International Financial Futures Exchange Limited; (8) Marche a Terme International de France; (9) Sydney Futures Exchange Limited; (10) Meff Sociedad Rectora de Productos Financieros Derivados de Renta Variable, S.A. (Spain); (11) Deutsche Terminborse; (12) Italian Stock Exchange; (13) The Amsterdam Exchanges; (14) OMLX, The London Securities and Derivatives Exchange, Ltd; and (15) OM Stockholm AB.

III. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.*, requires that agencies, in promulgating rules, consider the impact of these rules on small entities. The Commission has previously determined that contract markets are not "small entities" for purposes of the RFA, 5 U.S.C. 601 *et seq.* 47 FR 18618 (April 30, 1982). These amendments propose to establish alternative streamlined procedures for Commission review and approval of applications by contract markets for designations and of amendments to contract terms and conditions. Accordingly, the Chairperson, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that the action taken herein will not have a significant economic impact on a substantial number of small entities. However, the Commission invites comments from any firms or other persons which believe that the promulgation of these rules might have a significant impact upon their activities.

B. Paperwork Reduction Act

When publishing proposed rules, the Paperwork Reduction Act ("PRA") of 1995 {Pub. L. 104–13 (May 1, 1995)} imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. In compliance with the Act, the Commission, through this rule proposal, solicits comments to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including the validity of the methodology and assumptions used; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of the collection of the information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The Commission has submitted this proposed rule and its associated information collection requirements to the Office of Management and Budget. The burden associated with this entire collection (3038–0022), including this proposed rule, is as follows:

Average burden hours per response: 3,609
Number of Respondents: 15,693
Frequency of response: On Occasion

The burden associated with this specific proposed rule is as follows:

Average burden hours per response: 58
Number of Respondents: 11
Frequency of response: On Occasion

Persons wishing to comment on the information which would be required by this proposed rule should contact the Desk Officer, CFTC, Office of Management and Budget, Room 10202, NEOB, Washington, DC 20503, (202) 395–7340. Copies of the information collection submission to OMB are available from the CFTC Clearance Officer, 1155 21st Street, NW, Washington, DC 20581, (202) 418–5160.

Copies of the OMB-approved information collection package associated with this rulemaking may be obtained from the Desk Officer, Commodity Futures Trading Commission, Office of Management and Budget, Room 10202, NEOB Washington, D.C. 20503, (202) 395–7340.

List of Subjects in 17 CFR Part 5

Commodity futures, Contract markets, Designation application, Reporting and recordkeeping requirements.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act, and in particular sections 4c, 5, 5a, 6 and 8a, 7 U.S.C. 6c, 7, 7a, 8, and 12a, the Commission hereby proposes to amend Chapter I of Title 17 of the Code of Federal Regulations by amending Part 5 as follows:

PART 5—DESIGNATON OF AND CONTINUING COMPLIANCE BY CONTRACT MARKET

1. The authority citation for Part 5 continues to read as follows:

Authority: 7 U.S.C. 6c, 7, 7a, 8 and 12a.

2. In part 5, Appendix A is proposed to be revised to read as follows:

Appendix A to Part 5—Guideline No. 1; Interpretative Statement Regarding Economic and Public Interest Requirements for Contract Market Designation

(a) Application for Designation of Physical Delivery Futures Contracts

A board of trade shall submit:

(1) The rules setting forth the terms and conditions of the proposed futures contract.

(2) A description of the cash market for the commodity on which the contract is based.

(i) The description may include, in addition to or in lieu of materials prepared by the board of trade, existing studies by industry trade groups, academics, governmental bodies or other entities, reports of consultants, or other materials which provide a description of the underlying cash market.

(ii) Where the same, or a closely related commodity, is already designated as a contract market which is not dormant, the cash market description can be confined to those aspects relevant to particular term(s) or conditions(s) which differ from such existing contract.

(3) A demonstration that the terms and conditions, as a whole, will result in a deliverable supply such that the contract will not be conducive to price manipulation or distortion and that the deliverable supply reasonably can be expected to be available to short traders and salable by long traders at its market value in normal cash marketing channels.

For purposes of this demonstration, provide the following information in chart or narrative form.

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CONTRACT TERMS AND CONDITIONS

Term or condition	Exchange proposal	Rule number of identical approved provision, if any*	Explanation as to consistency with, or reason for variance from, cash market practice
1. Commodity characteristics (*e.g.,* grade, quality, weight, class, growth, issuer, origin, maturity, source, rating, etc.). 2. Any quality differentials for nonpar deliveries, or lack thereof, consistent with the Commission's Policy on Price Differentials. 3. Delivery Points/Region. 4. Any locational differentials for nonpar deliveries, or lack thereof, consistent with the Commission's Policy on Price Differentials. 5. Delivery facilities (type, number, capacity, ownership). 6. Contract size and/or trading unit. 7. Delivery pack or composition of delivery units. 8. Delivery instrument (*e.g.,* warehouse receipt, shipping certificate, bill of lading). 9. Transportation terms (*e.g.,* FOB, CIF, prepay frieght to destination). 10. Delivery procedures. 11. Delivery months. 12. Delivery period and last trading day. 13. Inspection/certification procedures (verification of delivery eligibility, any discounts applied for age). 14. Minimum price change (tick) equal to or less than cash market minimum price increment. 15. Daily price limit provisions (note relationship to cash market price movements).			

*If an identical provision has been approved for a nondormant contract in the same commodity, there is no need to provide an explanation in the next column.

Deliverable Supplies

Estimate of Deliverable Supplies for Trading Month(s) With Lowest Supplies	
Estimation Methodology:	

Speculative Limits

Speculative limit	Standard	Level (exchange rule)
1. Spot month	No greater than one-fourth of estimated deliverable supply	
2. Nonspot individual month and all months combined (financial and energy contracts)	5,000 contracts	
3. Nonspot individual month and all months combined (tangible commodity contracts)	1,000 contracts	
4. Reporting level	Equal to or less than levels specified in CFTC rule 15.03	
5. Aggregation rule	Same as CFTC rule 150.5(g) or previously approved language	

(4) As specifically requested, such additional evidence, information or data relating to whether the contract meets, initially or on a continuing basis, any of the specific requirements of the Act, including the public interest standard contained in Section 5(7) of the Act, and whether the contract reasonably can be expected to be, or has been, used for hedging and/or price basing on more than an occasional basis, or any other requirement for designation under the Act or Commission rules and policies.

(b) Application for Cash Settled Futures Contracts

A board of trade shall submit:

(1) The rules setting forth the terms and conditions of the proposed futures contract.

(b) A description of the cash market for the commodity on which the contract is based.

(i) The description may include, in addition to or in lieu of materials prepared by the board of trade, existing studies by industry trade groups, academics, governmental bodies or other entities, reports of consultants, or other materials which provide a description of the underlying cash market.

(ii) Where the same, or a closely related commodity, is already designated as a contract market which is not dormant, the cash market description can be confined to those aspects relevant to particular term(s) or conditions(s) which differ from such existing contract.

(3) A demonstration that cash settlement of the contract is at a price relfecting the underlying cash market, will not be subject to manipulation or distortion, and is based on a cash price series that is reliable, acceptable, publicly available and timely.

For purposes of this demonstration, provide the following information in chart or narrative form.

CONTRACT TERMS

Term or condition	Proposal	Rule number of identical approved provision, if any*	Explanation as to consistency with, or reason for variance from, cash market practice
1. Commodity characterisics (*e.g.*, grade, quality, weight, class, growth, issuer, maturity, source, rating, etc.). 2. Delivery months, noting any cyclical variations in trading activity that may affect the potential for manipulating the cash settlement price. 3. Last trading day. 4. Contract size. 5. Minimum price change (tick). 6. Daily price limit provisions, relative to cash market price movements.			

*If an identical provision has been approved for a nondormant contract in the same commodity, there is no need to provide an explanation in the next column.

CASH SETTLEMENT PRICE SERIES

Requirement	Rule number of identical approved provision	Explanation or justification
1. Where an independent third party calculates the cash settlement price series, evidence that the third party does not object to its use and provides safeguards against its susceptibility to manipulation. 2. Where board of trade generates cash settlement price series, specification of calculation procedure and safeguards in cash settlement process to protect against susceptibility to manipulation (*e.g.*, if self-generated survey, polling sample representative of cash market, but with a minimum of 4 nontrading entities or 8 entities that trade for own account). 3. Procedure for, and timeliness of, dissemination to public. 4. Evidence that price is reliable indicator of cash market values and is acceptable for hedging.		

SPECULATIVE LIMITS

Speculative limit	Standard	Level (exchange rule)
1. Spot month	Needed to minimize potential for manipulation if underlying cash market is small or trading is not highly liquid.	
2. Nonspot individual month and all months combined (financial and energy contracts).	5,000 contracts	
3. Nonspot individual month and all months combined (tangible commodity contracts).	1,000 contracts	
4. Reporting level	Equal to or less than levels specified in CFTC rule 15.03.	
5. Aggregation rule	Same as CFTC rule 150.5(g) or previously approved language.	

(4) As specifically requested, such additional evidence, information or data relating to whether the contract meets, initially or on a continuing basis, any of the specific requirements of the Act, including the public interest standard contained in Section 5(7) of the Act, and whether the contract reasonably can be expected to be, or has been, used for hedging and/or price basing on more than an occasional basis, or any other requirement for designation under the Act or Commission rules and policies.

(c) Application for Option Contracts

A board of trade shall submit:

(1) The rules setting forth the terms and conditions of the proposed option contract.

(2)(i) For options on future contracts, the terms and conditions of the proposed or existing underlying futures contract.

(2)(ii) For options on physical commodities:

(A) A description of the cash market for the commodity on which the contract is based.

(*1*) The description may include, in addition to or in lieu of materials prepared by the board of trade: existing studies by industry trade groups, academics, governmental bodies or other entities; promotional or marketing materials prepared by or for the board of trade; reports of consultants; or other materials which provide a description of the underlying cash market.

(*2*) Where the same, or a closely related commodity, is already designated and is not dormant, the cash market description can be confined to those aspects relevant to particular term(s) or conditions(s) which differ from such existing contract.

(B) Depending on the method of settling the option, the relevant chart for either a physical delivery or cash settled futures contract.

(3) The following completed chart.

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Criterion	Applicable CFTC rule (17 CFR)	Standard	Met by exchange rule number	Justification for not meeting standard, or rule number of identical approved rule
Speculative limits	150.5	Combined net position in futures and options on a futures-equivalent basis at the futures position levels, with inter-month spread exemptions that are consistent with those of the futures contract.		
2. Aggregation rule	150.4	Same as Rule 150.5(g) or previously approved language.		
3. Reporting level	15.00(b)(2)	50 contracts or fewer.		
4. Strike prices (number listed & increments).	33.4(b)(1)	Procedures for listing strikes are specified and automatic.		
5. Option expiration & last trading day.	33.4(d)(1)	Except for options on cash-settled futures contracts, expiration is not less than one business day before the earlier of the last trading day or the first notice day of the underlying future.		
6. Minimum tick	33.4(d)	Equal to, or less than, the underlying futures tick.		
7. Daily price limit, if specified	33.4(d)	Equal to, or greater than, the underlying futures price limit.		

(4) As specifically requested, such additional evidence, information or data relating to whether the contract meets, initially or on a continuing basis, any of the specific requirements of the Act, including the public interest standard contained in Section 5(7) of the Act or any other requirement for designation under the Act or Commission rules and policies.

3. Part 5 is proposed to be amended by adding new Appendix E to read as follows:

Appendix E—Information That a Foreign Board of Trade Should Submit When Seeking No-Action Relief To Offer and Sell in the United States a Futures Contract on a Foreign Securities Index Traded on That Exchange

A foreign board of trade seeking no-action relief to offer and to sell in the United States a futures contract on a foreign securities index traded on that exchange should submit the following information in English:

(1) The terms and conditions of the contract and all other relevant rules of the exchange and, if applicable, of the exchange on which the underlying securities are traded, which have an effect on the overall trading of the contract, including circuit breakers, price limits, position limits or other controls on trading;

(2) Surveillance agreements between the foreign boards of trade and the exchange(s) on which the underlying securities are traded;

(3) Information sharing agreements between the host regulator and the Commission or assurances of ability and willingness to share and assurances from the foreign exchange of its ability and willingness to share information with the Commission.

(4) When applicable, information regarding foreign blocking statutes and their impact on the ability of United States government agencies to obtain information concerning the trading of such contracts; and

(5) Information and data, denoted in U.S. dollars, relating to:

(i) The method of computation, availability, and timeliness of the index;

(ii) The total capitalization, number of stocks (including the number of unafiliated issuers if different from the number of stocks), and weighting of the stocks by capitalization and if applicable by price, in the index;

(iii) Breakdown of the index by industry segment including the capitalization and weight of each industry segment;

(iv) Procedures and criteria for selection of individual securities for inclusion in, or removal from, the index, how often the index is regularly reviewed, and any procedures for changes in the index between regularly scheduled reviews;

(v) Method of calculation of the cash-settlement price and the timing of its public release; and

(vi) Average daily volume of trading by calendar month, measured by share turnover and dollar value, in each of the underlying securities for a six-month period of time and, separately, the daily volume in each underlying security for six expirations (cash-settlement dates) or for the six days of that period on which cash-settlement would have occurred had each month of the period been an expiration month.

Issued in Washington, D.C. this 13th day of July, 1998 by the Commodity Futures Trading Commission.

Jean Webb,

Secretary of the Commission.

[FR Doc. 98-19113 Filed 7-16-98; 8:45 am]

BILLING CODE 6351-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL-6123-5]

Delegation of National Emission Standards for Hazardous Air Pollutants for Source Categories; State of Arizona; Arizona Department of Environmental Quality

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to section 112(l) of the 1990 Clean Air Act (CAA), the Arizona Department of Environmental Quality (ADEQ) requested delegation of specific national emission standards for hazardous air pollutants (NESHAPs). In the Rules section of this **Federal Register**, EPA is granting ADEQ the authority to implement and enforce specified NESHAPs. The direct final rule also explains the procedure for future delegation of NESHAPs to ADEQ. EPA is taking direct final action without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no relevant adverse comments are received in response to the direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives relevant adverse comments, the direct final rule will not take effect and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA

will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received in writing by August 17, 1998.

ADDRESSES: Written comments on this action should be addressed to: Andrew Steckel, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the submitted requests are available for public inspection at EPA's Region IX office during normal business hours (docket number A–96–25).

FOR FURTHER INFORMATION CONTACT: Mae Wang, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1200.

SUPPLEMENTARY INFORMATION:

This document concerns delegation of unchanged NESHAPs to the Arizona Department of Environmental Quality. For further information, please see the information provided in the direct final action which is located in the Rules section of this **Federal Register**.

Authority: This action is issued under the authority of Section 112 of the Clean Air Act, as amended, 42 U.S.C. Section 7412.

Dated: June 26, 1998.

David P. Howekamp,

Director, Air Division,

Region IX.

[FR Doc. 98–19137 Filed 7–16–98; 8:45 am]

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Notices

Federal Register
Vol. 63, No. 137
Friday, July 17, 1998

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Privacy Act; System of Records

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of revised Privacy Act systems of records.

SUMMARY: Notice is hereby given that the USDA proposes to revise its systems of records relating to the Rural Development Mission Area.

EFFECTIVE DATE: This notice will be adopted without further publication in the **Federal Register** on September 15, 1998, unless modified by a subsequent notice to incorporate comments received from the public. Although the Privacy Act requires only that the portion of the system which describes the "routine uses" of the system be published for comment, USDA invites comment on all portions of this notice. Comments must be received by the contact person listed below on or before August 17, 1998.

FOR FURTHER INFORMATION CONTACT: Dorothy Hinden, Freedom of Information Officer, Support Services Division, Rural Development, U.S. Department of Agriculture, 1400 Independence Avenue, SW, Stop 0742, Washington, DC 20250–0742; telephone (202) 720–9638.

SUPPLEMENTARY INFORMATION: Pursuant to the Privacy Act, 5 U.S.C. 552a, USDA is redesignating and revising seven systems of records and deleting two systems of records formerly maintained by the Farmers Home Administration ("FmHA"). In 1994, USDA reorganized, transferring the farm loan functions of FmHA to the Farm Service Agency ("FSA"). The revisions USDA is proposing reflect this reorganization. The following are the constituent agencies of Rural Development: (1) Rural Housing Service, (2) Rural Business-Cooperative Service, and (3) Rural Utilities Service. Specifically, USDA will delete the system designated as USDA/FmHA–3, "Designated Attorney and Escrow Agent File" and incorporate the records maintained in that system into USDA/Rural Development-1, "Applicant, Borrower, Grantee, or Tenant File." A second system of records, USDA/FmHA–7, "Reserved Mineral Interests", is being deleted because the records are no longer maintained by USDA. In addition, USDA is redesignating, reorganizing, and revising systems as follows:

(1) USDA will maintain the records relating to the Rural Development Mission Area formerly maintained under the system designation "USDA/FmHA–1, Applicant, Borrower, Grantee, or Tenant File" under the new designation "USDA/Rural Development-1, Applicant, Borrower, Grantee, or Tenant File." That portion of the former system pertaining to Farmer Loan Programs has already been redesignated as a separate system entitled "USDA/FSA–14, Applicant/Borrower." In addition to the redesignation to reflect the reorganization of FmHA programs as Rural Development programs, USDA is amending the system to include social security or employee identification number, bank routing and account number under the heading, "categories of records in the system."

USDA is making the following revisions to the routine uses in the system:

(1) Routine use number 3 which permits release of names, home addresses, social security numbers, and financial information to business firms in a trade area that buy chattel or crops or sell them for commission is being deleted because it is no longer needed. It is being replaced as follows: Referral of legally enforceable debts to the Department of the Treasury under the Treasury Offset Program (TOP) and the Debt Collection Improvement Act of 1996, Pub. L. 104–134. (2) Additional language is being added to routine use number 7 to provide information from this system to assist the borrower in placing the property on the market through a real estate agent. Two new routine uses have been added: (1) Routine use number 17 which provides to consumer or commercial reporting agencies information from this system indicating that an individual is responsible for a claim that is current. (2) Routine use number 18 which permits release of names, home and work addresses, home telephone numbers, social security numbers, and financial information to escrow agents (which also could include attorneys and title companies) selected by the applicant or borrower for the purpose of closing the loan.

(2) USDA is redesignating USDA/FmHA–2, "Biographical Sketch File" as USDA/Rural Development-2 "Biographical Sketch File." This system is being amended to indicate a change in the record system location; and to indicate a change in the categories of individuals covered by the system.

(3) USDA is redesignating USDA/FmHA–5, "Graduation File" as USDA/Rural Development-3, "Graduation File." This system is being amended to indicate a position title change and to remove the County Committee from the categories of records in the system since it is no longer needed. It is further being amended to add "or to assist the borrower in the sale of the property" to the routine use number 3. The purpose of this amendment is to assist the borrower in placing the property on the market through a real estate agent. Stylistic changes have been made in the three routine uses for purposes of clarification.

(4) USDA is redesignating USDA/FmHA–6, "Housing Contractor Complaint File" as USDA/Rural Development-4, "Housing Contractor Complaint File." Stylistic changes have been made in routine uses 1 and 2.

(5) USDA/FmHA–8, "Tort Claims File" is being amended to indicate a change in the system designation to USDA/Rural Development-5 "Tort Claims File." Rural Development has made stylistic changes in the language of the routine use.

(6) USDA/FmHA–9, "Training Files" is bend amended to indicate a change in the system designation to USDA/Rural Development-6, "Training Files." This system is being amended to delete the Norman, OK site. Stylistic changes have been made in the routine use for purposes of clarification.

(7) USDA/FmHA–10, "Travel Records" is being amended to indicate a change in the system designation to USDA/Rural Development-7, "Travel Records" and to reflect that the period "Two years" is being replaced with "six years" under the retention and disposal schedule.

Changes in system locations, position titles for system managers, and addresses have been made where appropriate; and all references to Farmers Home Administration have been changed to Rural Development.

A "Report on Revised System," required by 5 U.S.C. 552a(r), as implemented by Appendix III to OMB Circular A–130, was sent to the Chairman, Senate Committee on Governmental Affairs, the Chairman, House Committee on Government Reform and Oversight, and the Director, Office of Information and Regulatory Affairs, Office of Management and Budget on April 15, 1998.

Signed at Washington, DC on April 15, 1998.

Dan Glickman,

Secretary of Agriculture.

USDA/RURAL DEVELOPMENT–1

SYSTEM NAME:

Applicant, Borrower, Grantee, or Tenant File

SYSTEM LOCATION:

Each Rural Development applicant's, borrower's, grantee's, or tenant's file is located in the Local, Area, or State Office through which the financial assistance is sought or was obtained; in the Centralized Service Center, St. Louis, Missouri; and in the Finance Office in St. Louis, Missouri. A State Office version of the Local or Area Office file may be located in or accessible by the State Office which is responsible for that Local or Area Office. Correspondence regarding borrowers is located in the State and National Office files.

A list of all State Offices and any additional States for which an office is responsible is as follows:

Montgomery, AL
Palmer, AK
Phoenix, AZ
Little Rock, AR
Woodland, CA
Lakewood, CO
Camden, DE–DC, MD
Gainsville, FL
Athens, GA
Hilo, HI-Western Pacific Terr.
Boise, ID
Champaign, IL
Indianapolis, IN
Des Monies, IA
Topeka, KS
Lexington, KY
Alexandria, LA
Bangor, ME
Amherst, MA–CT, RI
East Lansing, MI
St. Paul, MN
Jackson, MS
Columbia, MO
Bozeman, MT
Lincoln, NE
Carson City, NV
Mt. Holy, NJ
Albuquerque, NM
Syracuse, NY
Raleigh, NC
Bismarck, ND
Columbus, OH
Stillwater, OK
Portland, OR
Harrisburg, PA
Hato Rey, PR
Columbia, SC
Huron, SD
Nashville, TN
Temple, TX
Salt Lake City, UT
Montpelier, VT–NH, VI
Richmond, VA
Wentchee, WA
Morgantown, WV
Stevens Point, WI
Casper, WY

The address of Local, Area, and State Offices are listed in the telephone director of the appropriate city or town under the heading "United States Government, Department of Agriculture, Rural Development." The Financial Office is located at 1520 Market Street, St. Louis, Missouri 63103.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former Rural Development applicants, borrowers, grantees, tenants, and their respective household members, including members of associations.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes files containing the names of applicants, borrowers, grantees, tenants, their social security or employer identification number, bank routing and account numbers; and their respective household members' characteristics, such as gross and net income, sources of income, capital, assets and liabilities, net worth, age, race, number of dependents, marital status, reference material, farm or ranch operating plans, and property appraisals. The system also includes credit reports and personal references from credit agencies, lenders, businesses, and individuals. In addition, a running record of observation concerning the operations of the person being financed is included. A record of deposits to and withdrawals from an individual's supervised bank account is also contained in those files where appropriate. In some Local Offices, this record is maintained in a separate folder containing only information relating to activity within supervised bank accounts. Some items of information are extracted from the individual's file and placed in a card file for quick reference.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

7 U.S.C. 1921 *et seq.*, 42 U.S.C. 1471 et seq., and 42 U.S.C. 2706.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. When a record on its face, or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, disclosure may be made to the appropriate agency, whether Federal, foreign, State, local, or tribal, or other public authority responsible for enforcing, investigating, or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto, if the information disclosed is relevant to any enforcement, regulatory, investigative, or prospective responsibility of the receiving entity.

2. A record from this system of records may be disclosed to a Member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the written request of the constituent about whom the record is maintained.

3. Rural Development will provide information from this system to the U.S. Department of the Treasury and to other Federal agencies maintaining debt servicing centers, in connection with overdue debts, in order to participate in the Treasury Offset Program as required by the Debt Collection Improvements Act, Pub. L. 104–134, Section 31001.

4. Disclosure of the name, home address, and information concerning default on loan repayment when the default involves a security interest in tribal allotted or trust land. Pursuant to the Cranston-Gonzales National Affordable Housing Act of 1990 (42 U.S.C. 12701 et seq.), liquidation may be pursued only after offering to transfer the account to an eligible tribal member, the tribe, or the Indian housing authority serving the tribe(s).

5. Referral of names, home addresses, social security numbers, and financial information to a collection or servicing contractor, financial institution, or a local, State, or Federal agency, when Rural Development determines such referral is appropriate for servicing or collecting the borrower's account or as provided for in contracts with servicing or collection agencies.

6. It shall be a routine use of the records in this system of records to disclose them in a proceeding before a court or adjudicative body, when: (a)

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The agency or any component thereof; or (b) any employee of the agency in his or her official capacity; or (c) any employee of the agency in his or her individual capacity where the agency has agreed to represent the employee; or (d) the United States is a party to litigation or has an interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation, provided, however, that in each case, the agency determines that disclosure of the records is a use of the information contained in the records that is compatible with the purpose for which the agency collected the records.

7. Referral of names, home addresses, and financial information for selected borrowers to financial consultants, advisors, lending institutions, packagers, agents, and private or commercial credit sources, when Rural Development determines such referral is appropriate to encourage the borrower to refinance his Rural Development indebtedness as required by Title V of the Housing Act of 1949, as amended (42 U.S.C. 1471), or to assist the borrower in the sale of the property.

8. Referral of legally enforceable debts to the Department of the Treasury, Internal Revenue Service (IRS), to be offset against any tax refund that may become due the debtor for the tax year in which the referral is made, in accordance with the IRS regulations at 26 CFR 301.6402–6T, Offset of Past Due Legally Enforceable Debt Against Overpayment, and under the authority contained in 31 U.S.C. 3720A.

9. Referral of information regarding indebtedness to the Defense Manpower Data Center, Department of Defense, and the United States Postal Service for the purpose of conducting computer matching programs to identify and locate individuals receiving Federal salary or benefit payments and who are delinquent in their repayment of debts owed to the U.S. Government under certain programs administered by Rural Development in order to collect debts under the provisions of the Debt Collection Act of 1982 (5 U.S.C. 5514) by voluntary repayment, administrative or salary offset procedures, or by collection agencies.

10. Referral of names, home addresses, and financial information to lending institutions when Rural Development determines the individual may be financially capable of qualifying for credit with or without a guarantee.

11. Disclosure of names, home addresses, social security numbers, and financial information to lending institutions that have a lien against the same property as Rural Development for the purpose of the collection of the debt. These loans can be under the direct and guaranteed loan programs.

12. Referral to private attorneys under contract with either Rural Development or with the Department of Justice for the purpose of foreclosure and possession actions and collection of past due accounts in connection with Rural Development.

13. It shall be a routine use of the records in this system of records to disclose them to the Department of Justice when: (a) The agency or any component thereof; or (b) any employee of the agency in his or her official capacity where the Department of Justice has agreed to represent the employee; or (c) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation and the use of such records by the Department of Justice is therefore deemed by the agency to be for a purpose that is compatible with the purpose for which the agency collected the records.

14. Referral of names, home addresses, social security numbers, and financial information to the Department of Housing and Urban Development (HUD) as a record of location utilized by Federal agencies for an automatic credit prescreening system.

15. Referral of names, home addresses, social security numbers, and financial information to the Department of Labor, State Wage Information Collection Agencies, and other Federal, State, and local agencies, as well as those responsible for verifying information furnished to qualify for Federal benefits, to conduct wage and benefit matching through manual and/or automated means, for the purpose of determining compliance with Federal regulations and appropriate servicing actions against those not entitled to program benefits, including possible recovery of improper benefits.

16. Referral of names, home addresses, and financial information to financial consultants, advisors, or underwriters, when Rural Development determines such referral is appropriate for developing packaging and marketing strategies involving the sale of Rural Development loan assets.

17. Rural Development, in accordance with 31 U.S.C. 3711(e)(5), will provide to consumer reporting agencies or commercial reporting agencies information from this system indicating that an individual is responsible for a claim that is current.

18. Referral of names, home and work addresses, home telephone numbers, social security numbers, and financial information to escrow agents (which also could include attorneys and title companies) selected by the applicant or borrower for the purpose of closing the loan.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders at the Local, Area, State, and National Offices. A limited subset of personal, financial, and characteristics data required for effective management of the programs and borrower repayment status is maintained on disc or magnetic tape at the Finance Office. This subset of data may by accessed by the authorized personnel from each office.

RETRIEVABILITY:

Records are indexed by name, identification number and type of loan or grant. Data may be retrieved from the paper records or the magnetic tapes. A limited subset of data is available through telecommunications capability, ranging from telephones to intelligent terminals. All Rural Development offices have the telecommunications capability available to access this subset of data.

SAFEGUARDS:

Records are kept in locked offices at the Local, Area, State, and National Offices. A limited subset of data is also maintained in a tape and disc library and an on-line retrieval system at the Finance Office. Access is restricted to authorized Rural Development personnel. A system of operator and terminal passwords and code numbers is used to restrict access to the on-line system. Passwords and code numbers are changed as necessary.

RETENTION AND DISPOSAL:

Records are maintained subject to the Federal Records Disposal Act of 1943 (44 U.S.C. 33), and in accordance with Rural Development's disposal schedules. The Local, Area, State, and National Offices dispose of records by shredding, burning, or other suitable disposal methods after established retention periods have been fulfilled. Finance Office records are disposed of by overprinting. (Destruction methods may never compromise the confidentiality of information contained in the records.)

Applications, including credit reports and personal references, which are rejected, withdrawn, or otherwise terminated are kept in the Local, Area, or State Office for 2 full fiscal years and 1 month after the end of the fiscal year in which the application was rejected, withdrawn, canceled, or expired. If final action was taken on the application, including an appeal, investigation, or litigation, the application is kept for 1 full fiscal year after the end of the fiscal year in which final action was taken.

The records, including credit reports, of borrowers who have paid or otherwise satisfied their obligation are retained in the Local, Area, or State Office for 1 full fiscal year after the fiscal year in which the loan was paid in full. Correspondence records at the National Office which concern borrowers and applicants are retained for 3 full fiscal years after the last year in which there was correspondence.

SYSTEM MANAGER(S) AND ADDRESS:

The Community Development Manager at the Local Office, the Rural Development Manager at the Area Office, and the State Director at the State Office, the Deputy Chief Financial Officer in St. Louis, MO, and the respective Administrators in the National Office at the following addresses: Administrator, Rural Housing Service, USDA, 1400 Independence Avenue, SW, Room 5014, South Building, Stop 0701, Washington, DC 20250–0701; Administrator, Rural Business-Cooperative Service, USDA, 1400 Independence Avenue, SW, Room 5045, South Building, Stop 3201, Washington, DC 20250–3201; Administrator, Rural Utilities Service, USDA, 1400 Independence Avenue, SW, Room 4501, South Building, Stop 1510, Washington, DC 2050–1510.

NOTIFICATION PROCEDURE:

Any individual may request information regarding this system of records, or determine whether the system contains records pertaining to him/her, from the appropriate System Manager. If the specific location of the record is not known, the individual should address his or her request to: Rural Development, Freedom of Information Officer, United States Department of Agriculture, 1400 Independence Avenue, SW., Stop 0742, Washington, DC 20250–0742.

A request for information pertaining to an individual must include a name; an address; the Rural Development office where the loan or grant was applied for, approved, and/or denied; the type of Rural Development program; and the date of the request or approval.

RECORD ACCESS PROCEDURES:

Any individual may obtain information regarding the procedures for gaining access to a record in the system which pertains to him or her by submitting a written request to one of the System Managers.

CONTESTING RECORD PROCEDURES:

Same as record access procedures.

RECORD SOURCE CATEGORIES:

Information in this system comes primarily from the applicant, borrower, grantee, or tenant. Credit reports and personal references come primarily from credit agencies and creditors.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

USDA/RURAL DEVELOPMENT–2

SYSTEM NAME:

Biographical Sketch File

SYSTEM LOCATION:

USDA/Rural Development, 1400 Independence Avenue, SW., Stop 0730, Washington, DC 20250–0730.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees and former employees of Rural Development at or above the Division Director level and all current and former Schedule C employees and Senior Executive Service members.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of files containing information concerning employee's educational and employment history, awards, marital status, number of children, present employment, place of birth, and current residence. The employee knows the file is maintained and has approved the biography.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM

7 U.S.C. 1921 *et seq.*, 42 U.S.C. 1471 *et seq.*, and 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The information is furnished to the news media, congressional committees, organizations to which the employee will be speaking, and other interested parties.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders at the National Office.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Recors are kept in a building with full-time security.

RETENTION AND DISPOSAL:

Indefinite.

SYSTEM MANAGER(S) AND ADDRESSES:

Administrator, Rural Housing Service, USDA, 1400 Independence Avenue, SW., Room 5014, South Building, Stop 0701, Washington, DC 20250–0701; Administrator, Rural Business-Cooperative Service, USDA, 1400 Independence Avenue, SW., Room 5045, South Building, Stop 3201, Washington, DC 20250–3201; Administrator, Rural Utilities Service, USDA, 1400 Independence Avenue, SW., Room 4501, South Building, Stop 1510, Washington, DC 20250–1510.

NOTIFICATION PROCEDURE

Any individual may request information concerning this system of records, or information as to whether the system contains record pertaining to him/her from the System Manager. A request for information pertaining to an individual should contain: name, address, position(s) held in Rural Development, and dates of employment.

RECORD ACCESS PROCEDURES:

Any individual may obtain information as to the procedures for gaining access to and contesting a record in the system which pertains to him/her by submitting a written request to the System Manager.

CONTESTING RECORD PROCEDURES:

Same as record access procedures.

RECORD SOURCE CATEGORIES:

Information in this system is provided by the employee, or is taken from his/her recorded with his/her concurrence.

USDA/RURAL DEVELOPMENT–3

SYSTEM NAME:

Graduation File.

SYSTEM LOCATION:

Each borrower's graduation file is located in the Local and Area Offices through which the borrower obtained his loan, and, in some cases, at the State Office responsible for that Local and Area Offices.

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A list of State Offices and any additional States for which an office is responsible is included under the system titled "USDA/Rural Development-1 Applicant, Borrower, Grantee, or Tenant File." The address of State and Local Offices are listed in the telephone directory or the appropriate city or town under the heading "United States Government, Department of Agriculture, Rural Development."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Rural Development borrowers whose loans are eligible for review to determine whether the borrower should obtain credit from other sources. All borrowers who have been in debit for at least five years on a real estate loan are considered eligible for review.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of files containing names of borrowers eligible for review, type of loan, whether graduation is advisable and any communications with the borrower concerning whether the loan has been paid off or if the borrower is usable to refinance, as well as comments of the Community Development Manager.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

7 U.S.C. 1921 *et seq.*, 42 U.S.C. 1471 *et seq.*, and 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. When a record on its face, or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, disclosure may be made to the appropriate agency, whether Federal, foreign, State, local, or tribal, or other public authority responsible for enforcing, investigating, or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto, if the information disclosed is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility of the receiving entity.

2. A record from this system of records may be disclosed to a Member of Congress or to a congressional staff member in response to an inquiry of the Congressional office made at the written request of the constituent about whom the record is maintained.

3. Referral of names, home addresses, and financial information for selected borrowers to financial consultants, advisors, lending institutions, packagers, agents, and private or commercial credit sources, when Rural Development determines such referral is appropriate to encourage the borrower to refinance his Rural Development indebtedness as required by Title V of the Housing Act of 1949, as amended (42 U.S.C. 1471), or to assist the borrower in the sale of the property.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Records are kept in locked offices at all levels, and access is restricted to authorized Rural Development officials.

RETENTION AND DISPOSAL:

Records are retained for three years after the list of borrowers eligible for review was received by the Community Development Manager.

SYSTEM MANAGER(S) AND ADDRESS:

The Community Development Manager and the State Director at the appropriate levels.

NOTIFICATION PROCEDURE:

Any individual may request information regarding this system of records, or information as to whether the system contains records pertaining to him from the appropriate System Manager. If the specific location of the record is not known, the individual should address a request to the Freedom of Information Officer, Rural Development, USDA, 1400 Independence Avenue, SW., Stop 0742, Washington, DC 20250–0742. A request for information pertaining to an individual should contain: Name, address, State and county where loan was applied for or approved, and particulars involved (i.e. date of request/approval, type of loan, etc.).

RECORD ACCESS PROCEDURES:

Any individual may obtain information as to the procedures for gaining access to a record in the system which pertains to him/her by submitting a written request to one of the System Managers referred to in the proceeding paragraph.

CONTESTING RECORD PROCEDURES:

Same as access.

RECORD SOURCE CATEGORIES:

Information in this system comes primarily from the borrower.

USDA/RURAL DEVELOPMENT–4

SYSTEM NAME:

Housing Contractor Complaint File.

SYSTEM LOCATION:

Complaints concerning housing contractors may be filed in the Local, Area, and State Offices in any State, County or District in which the contractor has conducted business.

A list of State Offices and any additional State for which an office is responsible is included under the system titled "USDA/Rural Development-1 Applicant, Borrower, Grantee, or Tenant File." The addresses of State and Local Offices are listed in the telephone directory of the appropriate city or town under the heading "United States Government, Department of Agriculture, Rural Development."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All housing contractors who have performed work for Rural Development borrowers and about whom the borrower has seen fit to file a complaint.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of files containing borrowers' complaints concerning contractors.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

7 U.S.C. 1921 *et seq.*, 42 U.S.C. 1471 *et seq.*, and 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

1. When a record on its face, or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, disclosure may be made to the appropriate agency, whether Federal, foreign, State, local, or tribal, or other public authority responsible for enforcing, investigating, or prosecuting such violation or charged with enforcing or implementing the statue, or rule, regulation, or order issued pursuant thereto, if the information disclosed is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility of receiving entity.

2. It shall be a routine use of the records in this system of records to disclose them in a proceeding before a court or adjudicative body, when: (a) The agency or any component thereof; or (b) any employee of the agency in his or her official capacity; or (c) any

employee of the agency in his or her individual capacity where the agency has agreed to represent the employee; or (d) the United States is a party to litigation or has an interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation, provided, however, that in each case, the agency determines that disclosure of the records is a use of the information contained in the records that is compatible with the purpose for which the agency collected the records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by the contractor or name of the construction company.

SAFEGUARDS:

Records are kept in locked offices at all levels. Access at all levels is restricted to authorized Rural Development officials.

RETENTION AND DISPOSAL:

Records are maintained subject to the Federal Records Disposal Act of 1943 (44 U.S.C. 33) and in accordance with Rural Development's disposal schedules. Records are retained for three years after the fiscal year of the complaint.

SYSTEM MANAGER(S) AND ADDRESS:

The Community Development Manager at the Local Office level and the State Director at the State Office level.

NOTIFICATION PROCEDURE:

Any individual may request information regarding this system of records, or information as to whether the system contains records pertaining to him/her from the appropriate System Manager. If the specific location of the record is not known, the individual should address his/her request to the Freedom of Information Officer, Rural Development, USDA, 1400 Independence Avenue, SW., Stop 0742, Washington, DC 20250–0742. A request for information pertaining to an individual should contain: Name, address, and location where work was performed for Rural Development borrowers.

RECORD ACCESS PROCEDURES:

Any individual may obtain information as to the procedures for gaining access to a record in the system which pertains to him/her by submitting a written request to one of the System Managers referred to in the preceding paragraph.

CONTESTING RECORD PROCEDURES:

Same as access.

RECORD SOURCE CATEGORIES:

Information in this system comes primarily from the complainants.

USDA/RURAL DEVELOPMENT–5

SYSTEM NAME:

Tort Claims File, USDA/Rural Development

SYSTEM LOCATION:

Each claimant's file is located in the office of the employee against whom the action was filed, the applicable State Office, and the National Office. A list of State Offices and any additional States for which an office is responsible is included under the system titled "USDA/Rural Development–1 Applicant, Borrower, Grantee or Tenant File." The addresses of State and Local Offices are listed in the telephone directory of the appropriate city or town under the heading "United States Government, Department of Agriculture, Rural Development." The National Office is located at the following address: USDA/Rural Development, 1400 Independence Avenue, SW., Stop 0742, Washington, DC 20250–0742.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All claimants who have filed civil suits against employees of Rural Development, or against the Federal Government, including those filed under the Tort Claims Act, as a result of circumstances involving Rural Development.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of files containing information as to the circumstances of the loss for which the claimant is seeking relief, opinions of the Office of General Counsel, USDA, and disposition of the case.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

7 U.S.C. 1921 *et seq.*, 42 U.S.C. 1471 et seq., and 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

When a record on its face, or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, disclosure may be made to the appropriate agency, whether Federal, foreign, State, local, or tribal, or other public authority responsible for enforcing, investigating, or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto, if the information disclosed is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility of the receiving entity.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by claimant's name.

SAFEGUARDS:

Records are kept in locked offices at all levels. Access at all levels is restricted to authorized Rural Development officials.

RETENTION AND DISPOSAL:

Records are maintained subject to the Federal Records Disposal Act of 1943 (44 U.S.C. 33) and in accordance with Rural Development's disposal schedules. Records are retained for five years after the last written report or document was placed in the file.

SYSTEM MANAGER(S) AND ADDRESS:

The Community Development Manager at the Local Office level, the State Director at the State Office level and the respective Administrators in the National Office at the following addresses: Administrator, Rural Housing Service, USDA, 1400 Independence Avenue, SW., Room 5014, South Building, Stop 0701, Washington, DC 20250–0701; Administrator, Rural Business-Cooperative Service, USDA, 1400 Independence Avenue, SW., Room 5045, South Building, Stop 3201, Washington, DC 20250–3201; Administrator, Rural Utilities Service, USDA, 1400 Independence Avenue, SW., Room 4501, South Building, Stop 1510, Washington, DC 20250–1510.

NOTIFICATION PROCEDURE:

Any individual may request information regarding this system of records, or information as to whether the system contains records pertaining to him/her from the appropriate System Manager. If the specific location of the record is not known, the individual should address his/her request to the Freedom of Information Officer, Rural Development, USDA, 1400 Independence Avenue, SW., Stop 0742,

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Washington, DC 20250–0742. A request for information pertaining to an individual should contain: Name, address, defendant in the action and date of the initiation of the action.

RECORD ACCESS PROCEDURES:

Any individual may obtain information as to the procedures for gaining access to a record in the system which pertains to him/her by submitting a written request to one of the System Managers referred to in the preceding paragraph.

CONTESTING RECORD PROCEDURES:

Same as access.

RECORD SOURCE CATEGORIES:

Information in this file comes primarily from the claimant.

USDA/RURAL DEVELOPMENT–6

SYSTEM NAME:

Training Files.

SYSTEM LOCATION:

Training files may be located at the Rural Development National Office, 501 School Street, SW., Washington, DC 20024.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons who have received or applied for training at the Rural Development Training Center and other locations if such training was to be at Rural Development expense.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of individual, date(s) of training and course(s) taken or applied for are included in this record.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

7 U.S.C. 1921 *et seq.*, 42 U.S.C. 1471 *et seq.*, and 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

When a record on its face, or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, disclosure may be made to the appropriate agency, whether Federal, foreign, State, local, or tribal, or other public authority responsible for enforcing, investigating, or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto, if the information disclosed is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility of the receiving entity.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders at the National Office.

RETRIEVABILITY:

Records are indexed by the name of the individual receiving/applying for training.

SAFEGUARDS:

Records are kept in a locked office.

RETENTION AND DISPOSAL:

Retention is indefinite.

SYSTEM MANAGER(S) AND ADDRESS:

Administrator, Rural Housing, USDA, 1400 Independence Avenue, SW, Room 5014, South Building, Stop 0701, Washington, DC 20250–0701; Administrator, Rural Business-Cooperative Service, USDA, 1400 Independence Avenue, SW, Room 5045, South Building, Stop 3201, Washington, DC 20250–3201; Administrator, Rural Utilities Service, USDA, 1400 Independence Avenue, SW, Room 4501, South Building, Stop 1510, Washington, DC 20250–1510.

NOTIFICATION PROCEDURE:

Any individual may request information regarding this system of records, or information as to whether the system contains records pertaining to him/her from the appropriate System Manager. Requests should include name and address.

RECORD ACCESS PROCEDURES:

Any individual may obtain information as to the procedures for gaining access to a record in the system which pertain to him/her by submitting a written request to the System Manager.

CONTESTING RECORD PROCEDURES:

Same as access.

RECORDS SOURCE CATEGORIES:

Information in this system comes from the applicant.

USDA/RURAL DEVELOPMENT–7

SYSTEM NAME:

Travel Records.

SYSTEM LOCATION:

Each traveler's file is located in the Local Office or Area Office in which he/she is employed; the State Office responsible for that Local Office or Area Office; or in the National Finance Office if the traveler is employed at either of those levels.

A list of State Offices and any additional States for which an office is responsible is included under the system titled "USDA/Rural Development-1 Applicant, Borrower, Grantee, or Tenant File." The addresses of State, Local, and Area Offices are listed in the telephone directory of the appropriate city or town under the heading "United States Government, Department of Agriculture, Rural Development."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Rural Development employees and former employees whose travel expenses have been paid for by Rural Development.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of files containing employees; itineraries and travel vouchers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

7 U.S.C. 1921 *et seq.*, 42 U.S.C. 1471 *et seq.*, and 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

When a record on its face, or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature,and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, disclosure may be made to the appropriate agency, whether Federal, foreign, State, local, or tribal, or other public authority responsible for enforcing, investigating, or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto, if the information disclosed is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility of the receiving entity.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Records are kept in locked offices at all levels. Access at all levels is restricted to authorized Rural Development officials.

RETENTION AND DISPOSAL:

Records are maintained subject to the Federal Records Disposal Act of 1943 (44 U.S.C. 33) and in accordance with Rural Development's disposal schedules. Records are disposed of six years after the fiscal year in which the travel occurred.

SYSTEM MANAGER(S) AND ADDRESS:

The Community Development Manager at the Local Office level, the State Director at the State Office level, the Deputy Chief Financial Officer for Finance Office records and the respective Administrators, for the National Office files at the following addresses in the National Office: Administrator, Rural Housing Service, USDA, 1400 Independence Avenue, SW, Room 5014, South Building, Stop 0701, Washington, DC 20250–0701; Administrator, Rural Business-Cooperative Service, USDA, 1400 Independence Avenue, SW, Room 5045, South Building, Stop 3201, Washington, DC 20250–3201; Administrator, Rural Utilities Service, USDA, 1400 Independence Avenue, SW, Room 4501, South Building, Stop 1510, Washington, DC 20250–1510.

NOTIFICATION PROCEDURE:

Any individual may request information regarding this system of records, or information as to whether the system contains records pertaining to him/her from the appropriate System Manager. If the specific location of the record is not known, the individual should address his/her request to the Freedom of Information Officer, Rural Development, USDA, 1400 Independence Avenue, SW., Stop 0742, Washington, DC 20250–0742. A request for information pertaining to an individual should contain: Name, address, and dates and places of employment.

RECORD ACCESS PROCEDURES:

Any individual may obtain information as to the procedures for gaining access to a record in the system which pertains to him/her by submitting a written request to one of the System Managers referred to in the preceding paragraph.

CONTESTING RECORD PROCEDURES:

Same as access.

RECORD SOURCE CATEGORIES:

Information in this system comes primarily from the employee.

[FR Doc. 98–19119 Filed 7–16–98; 8:45 am]

BILLING CODE 3410–07–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[TB–98–06]

Burley Tobacco Advisory Committee—Notice of Committee Renewal

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of Committee Renewal.

SUMMARY: Notice is hereby given that the Secretary of Agriculture has renewed the Burley Tobacco Advisory Committee for an additional period of 2 years.

FOR FURTHER INFORMATION CONTACT: John P. Duncan III, Deputy Administrator, Tobacco Programs, AMS, USDA, 300 12th Street, S.W., Room 502 Annex Building, P.O. Box 96456, Washington, D.C. 20090–6456, (202) 205–0567.

SUPPLEMENTARY INFORMATION: The Committee, which reports to the Secretary through the Assistant Secretary for Marketing and Regulatory Programs, recommends opening dates and selling schedules for the burley marketing area which aid the Secretary in making an equitable apportionment and assignment of tobacco inspectors. The Committee consists of 39 members; 21 producer representatives, 10 warehouse representatives, and 8 buyer representatives, representing all segments of the burley tobacco industry and meets at the call of the Secretary. The Secretary has determined that renewal of this Committee is in the public interest.

To ensure that recommendations of the Committee take into account the needs of diverse groups served by the Department, membership should include, to the extent practicable, persons with demonstrated ability to represent minorities, women, and persons with disabilities.

This notice is given in compliance with the Federal Advisory Committee Act (5 U.S.C. App.).

Dated: July 13, 1998.

Reba Evans,

Acting Deputy Assistant Secretary for Administration.

[FR Doc. 98–19079 Filed 7–16–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[TB–98–07]

Flue-Cured Tobacco Advisory Committee—Notice of Committee Renewal

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of Committee Renewal.

SUMMARY: Notice is hereby given that the Secretary of Agriculture has renewed the Flue-Cured Tobacco Advisory Committee for an additional period of 2 years.

FOR FURTHER INFORMATION CONTACT: John P. Duncan III, Deputy Administrator, Tobacco Programs, AMS, USDA, 300 12th Street, S.W., Room 502 Annex Building, P.O. Box 96456, Washington, D.C. 20090–6456, (202) 205–0567.

SUPPLEMENTARY INFORMATION: The Committee, which reports to the Secretary through the Assistant Secretary for Marketing and Regulatory Programs, recommends opening dates and selling schedules for the flue-cured marketing area which aid the Secretary in making an equitable apportionment and assignment of tobacco inspectors. The Committee consists of 39 members; 21 producer representatives, 10 warehouse representatives, and 8 buyer representatives, representing all segments of the flue-cured tobacco industry and meets at the call of the Secretary. The Secretary has determined that renewal of this Committee is in the public interest.

To ensure that recommendations of the Committee take into account the needs of diverse groups served by the Department, membership should include, to the extent practicable, persons with demonstrated ability to represent minorities, women, and persons with disabilities.

This notice is given in compliance with the Federal Advisory Committee Act (5 U.S.C. App.).

Dated: July 13, 1998.

Reba Evans,

Acting Deputy Assistant Secretary for Administration.

[FR Doc. 98–19078 Filed 7–16–98; 8:45 am]

BILLING CODE 3410–02–P

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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request; Form FNS–259, Food Stamp Mail Issuance Report

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with 44 U.S.C. 3506(c)(2)(A), as amended by Section 2 of Pub. L. 104–13, the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on the proposed information collections. This notice announces the Food and Nutrition Service's (FNS) intention to request that the Office of Management and Budget (OMB) review and approve the agency's proposal to continue requiring the use of the Form FNS–259, Food Stamp Mail Issuance Report, for another 3 years. Section 7 of the Food Stamp Act of 1977 (the Act), 7 U.S.C. 2016, requires that coupons be issued only to households which have been duly certified as eligible to participate in the Program; that Program benefits are timely distributed in the correct amounts; and that mail issued benefits and mail issuance reconciliation activities are properly conducted and accurately reported to FNS.

DATES: Written comments and recommendations for the proposed information collection must be received by September 15, 1998 to be assured of consideration.

ADDRESSES: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the estimated burden that the proposed collection of information would impose, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and, (d) ways to minimize the information collection burden, including the use of appropriate system automation, other electronics, mechanical, or other technological collection techniques. Comments may be sent to Abigail C. Nichols, Director, Program Accountability Division, Food and Nutrition Service, Food Stamp Program, USDA, 3101 Park Center Drive, Room 905, Alexandria, Virginia, 22302.

All responses to this notice will be summarized and included in the information collection request for OMB approval. All comments will also become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information regarding this information collection should be directed to Abigail C. Nichols at (703) 305–2414.

SUPPLEMENTARY INFORMATION:

Title: Food Stamp Mail Issuance Report.

OMB Number: 0584–0015.

Form No.: FNS–259.

Expiration Date: 10/31/98.

Type of Request: Extension of a currently approved information collection.

Abstract: Pursuant to Section 7(f) of the Act, Part 274.4 of the Food Stamp Program (FSP) regulations requires that State agencies account for all food stamp coupon mail issuances, including the number and value of mail issuance replacements. This part of the regulations requires each coupon issuer at intervals prescribed by the Secretary, but not less often than monthly, to submit a written report of the issuer's operations during such period. Part 276.2 of the regulations provides that State agencies be held strictly liable for mail issuance losses that are in excess of the State agency's preselected tolerance level for each administrative reporting unit. The program management information collected on Form FNS–259 is used by FNS to validate mail issuance, identify mail issuance losses, assess liabilities and bill State agencies for a portion of mail issuance losses.

Frequency of Responses: The FNS–259 collects monthly information for three consecutive calendar months which must be accumulated and submitted to FNS on a quarterly basis by the 45th day following the end of the quarter.

Affected Public: State and local government.

Number of Respondents: 1,470.

Number of Responses Per Respondent: 4.

Total Annual Burden Hours: 490.

Dated: July 7, 1998.

George A. Braley,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 98–19118 Filed 7–16–98; 8:45 am]

BILLING CODE 3410–30–M

DEPARTMENT OF AGRICULTURE

Forest Service

Thompson Creek Supplemental Plan of Operation; Challis National Forest, Custer County, Idaho

AGENCY: Forest Service, USDA.

ACTION: Notice; extension of comment period and correction.

SUMMARY: The notice of availability for the Draft Supplemental Environmental Impact Statement (DSEIS) for the Thompson Creek Mine Supplemental Plan of Operation published in the June 19, 1998 **Federal Register** (Vol. 63, No. 118, 33651) indicated the close of the comment period was August 3, 1998. The comment period has now been extended to August 17, 1998.

The Notice of Intent to Repair a Supplemental Environmental Impact Statement published in the February 9, 1995 **Federal Register** (Vol. 60, No. 27, 7748–7750) indicated that the Forest Supervisor was the responsible official. The responsible has now been changed to the Regional Forester, Jack A. Blackwell.

FOR FURTHER INFORMATION CONTACT: Leon Jadlowski, Acting Yankee Fork District Ranger, HC 67 Box 650, Clayton, ID 83227, Telephone (208) 838–3300.

Dated: July 13, 1998.

Christopher L. Pyron,

Deputy Regional Forester, Administration.

[FR Doc. 98–19073 Filed 7–16–98; 8:45 am]

BILLING CODE 3410–11–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: August 17, 1998.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List. Comments on this certification are invited.

Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following services have been proposed for addition to Procurement List for production by the nonprofit agencies listed.

Base Supply Center

Fort Bliss, Texas
NPA: San Antonio Lighthouse, San Antonio, Texas

Janitorial/Custodial

Naval Hospital and Dental Clinic, Naval Education and Training Center, Buildings 1, 23, 44, 46, 1121 and 1173, Newport, Rhode Island
NPA: Newport County Chapter of Retarded Citizens, Inc., Middletown, Rhode Island

Warehouse Operation

Department of Veterans Affairs, Service and Distribution Center, Building 37, Hines, Illinois
NPA: Jewish Vocational Service & Employment Center, Chicago, Illinois

Beverly L. Milkman,

Executive Director.

[FR Doc. 98–19140 Filed 7–16–98; 8:45 am]

BILLING CODE 6353-01-P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE, BLIND OR SEVERELY DISABLED

Procurement List; Proposed addition

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Addition to Procurement List.

SUMMARY: The Committee has received a proposal to add to the Procurement List commodity to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: August 17, 1998.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodity listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity to the Government.

2. The action will result in authorizing small entities to furnish the commodity to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodity has been proposed for addition to Procurement List for production by the nonprofit agency listed:

Contamination Bag

8105–01–352–1392
NPA: The Lighthouse for the Blind, Seattle, Washington

Beverly L. Milkman,

Executive Director.

[FR Doc. 98–19141 Filed 7–16–98; 8:45 am]

BILLING CODE 6353-01-P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: August 17, 1998.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On March 5 and June 5, 1998, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (63 FR 12437 and 30705) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and services and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

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1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Accordingly, the following commodities and services are hereby added to the Procurement List:

Commodities

Sling, F/M4 Carbine
  1005–01–368–9852
Turkey Baster
  M.R. 851

Services

Base Supply Center, Whiteman Air Force Base, Missouri
Grounds Maintenance, Hunton Memorial USARC, 8791 Snouffers School Road, Gaithersburg, Maryland
Grounds Maintenance, Southern Maryland Memorial USARC Center, Meadows, Maryland
Grounds Maintenance, Prince George's County Memorial USARC Center, 6601 Baltimore Avenue, Riverdale, Maryland
Grounds Maintenance, Maus Warfield USARC Center, 1850 Baltimore Road, Rockville, Maryland

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 98–19142 Filed 7–16–98; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Marine Fisheries Initiative (MARFIN).

Agency Form Number: None.

OMB Approval Number: 0648–0175.

Type of Request: Extension of a currently approved collection.

Burden: 285 hours.

Number of Respondents: 60 (with multiple responses).

Avg Hours Per Response: Ranges between one and four hours depending on the requirement.

Needs and Uses: MARFIN is a competitive Federal assistance program that promotes and endorses programs in the Southeast Region that seek to optimize research and development benefits for U.S. marine fishery resources. Grant funds are available to enhance both recreational and commercial fisheries. Information provided through the grant process is used by the National Marine Fisheries Service to evaluate applications and make funding decisions.

Affected Public: Not-for-profit institutions, individuals, businesses or other for-profit organizations, state, local or tribal government.

Frequency: Annually, semi-annually.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: July 13, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–19076 Filed 7–16–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Sensors and Instrumentation Technical Advisory Committee; Notice of Closed Meeting

A meeting of the Sensors and Instrumentation Technical Advisory Committee will be held July 28, 1998, 9:00 a.m., in the Herbert C. Hoover Building, Room 1617M(2), 14th Street between Constitution & Pennsylvania Avenues, NW., Washington, D.C. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to sensors and instrumentation equipment and technology.

The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 12958, dealing with the U.S. export control program and strategic criteria related thereto.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on December 3, 1997, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittee thereof, dealing with the classified materials listed in 5 U.S.C., 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, DC 20230. For further information, contact Lee Ann Carpenter on (202) 482–2583.

Dated: July 10, 1998.

Lee Ann Carpenter,

Director, Technical Advisory Committee Unit.

[FR Doc. 98–19106 Filed 7–16–98; 8:45 am]

BILLING CODE 3510–33–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Weather Service Modernization and Associated Restructuring

AGENCY: National Weather Service (NWS), NOAA, Commerce.

ACTION: Notice and opportunity for public comment.

SUMMARY: The NWS is publishing proposed certifications for the consolidation, automation, and closure of the—

(1) Charlotte, North Carolina Weather Service Office (WSO) which will be automated at FAA Weather Observation Service Level A and have its services

consolidated into the future Greenville/Spartanburg and Columbia, South Carolina and Raleigh/Durham, North Carolina Weather Forecast Offices (WFOs);

(2) Fort Wayne, Indiana WSO which will be automated at FAA Weather Observation Service Level B and have its services consolidated into the future Northern Indiana WFO; and

(3) South Bend, Indiana WSO which will be automated at FAA Weather Observation Service Level B and have its services consolidated into the future Northern Indiana WFO.

In accordance with Pub. L. 102–567, the public will have 60-days in which to comment on these proposed consolidation, automation, and closure certifications.

DATES: Comments are requested by September 15, 1998.

ADDRESSES: Requests for copies of the proposed consolidation, automation and closure package should be sent to Tom Beaver, Room 11426, 1325 East-West Highway, Silver Spring, MD 20910, telephone 301–713–0300. All comments should be sent to Tom Beaver at the above address.

FOR FURTHER INFORMATION CONTACT: Tom Beaver at 301–713–0300.

SUPPLEMENTARY INFORMATION: In accordance with section 706 of Pub. L. 102–567, the Secretary of Commerce must certify that these consolidations, automations, and closures will not result in any degradation of service to the affected areas of responsibility and must publish the proposed consolidation, automation, and closure certifications in the **Federal Register**. The documentation supporting these proposed certifications includes the following:

(1) A draft memorandum by the meteorologists-in-charge recommending the certification, the final of which will be endorsed by the Regional Director and the Assistant Administrator of the NWS if appropriate, after consideration of public comments and completion of consultation with the Modernization Transition Committee (the Committee);

(2) A description of local weather characteristics and weather-related concerns which affect the weather services provided within the service area;

(3) A comparison of the services provided within the service area and the services to be provided after such action;

(4) A description of any recent or expected modernization of NWS operation which will enhance services in the service area;

(5) An identification of any area within the affected service area which would not receive coverage (at an elevation of 10,000 feet) by the next generation weather radar network;

(6) Evidence, based upon operational demonstration of modernized NWS operations, which was considered in reaching the conclusion that no degradation in service will result from such action including the WSR–88D Radar Commissioning Reports, User Confirmation of Services Reports, and the Decommissioning Readiness Report (as applicable);

(7) Evidence, based upon operational demonstration of modernized NWS operations, which was considered in reaching the conclusion that no degradation in service will result from such action including the ASOS Commissioning Report; series of three letters between NWS and FAA confirming that weather services will continue in full compliance with applicable flight aviation rules after ASOS commissioning; Surface Aviation Observation Transition Checklist documenting transfer of augmentation and backup responsibility from NWS to FAA; successful resolution of ASOS user confirmation of services complaints; and an in-place supplementary data program at the responsible WFOs;

(8) Warning and forecast verification statistics for pre-modernized and modernized services which were utilized in determining that services have not been degraded;

(9) An Air Safety Appraisal for offices which are located on an airport; and

(10) A letter appointing the liaison officer.

These proposed certifications do not include any report of the Committee which could be submitted in accordance with sections 706(b)(6) and 707(c) of Pub. L. 102–567. In December 1995 the Committee decided that, in general, they would forego the optional consultation on proposed certifications. Instead, the Committee would just review certifications after the public comment period had closed so their consultation would be with the benefit of public comments that had been submitted.

This notice does not include the complete certification package because it is too voluminous to publish. Copies of the certification package and supporting documentation can be obtained through the contact listed above.

Once all public comments have been received and considered, the NWS will complete consultation with the Committee and determine whether to proceed with the final certification. At the June 25, 1997 MTC meeting the Committee stated that its endorsement of certifications is "subject to the following qualifications:

"(1) The number of trained staff in each modernized field office meets staffing requirements as established by the modernization criteria and documented in the National Implementation Plan and the Human Resources Plan (WBS 1100). Delays in training or failure to fill required positions will increase the risk of degradation of service;

"(2) The availability of operational systems in each modernized field office meets requirements as established by the modernization criteria and documented in the System Commissioning and Support Function Demonstration Plans; and

"(3) The operational and administrative infrastructures and technical development needed to support the modernized field offices be maintained as required by the modernization plan." These qualifications have been met for the above proposed certifications. If a decision to certify is made, the Secretary of Commerce must publish final certifications in the FR and transmit the certifications to the appropriate Congressional committees prior to consolidating, automating, and closing this office.

John J. Kelly, Jr.,

Assistant Administrator for Weather Services.

[FR Doc. 98–19042 Filed 7–16–98; 8:45 am]

BILLING CODE 3510–12–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 070798A]

Marine Mammals; File No. 481–1464 and 782–1355

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of applications for permit and amendment

SUMMARY: Notice is hereby given that Dr. W. John Richardson, LGL Ltd. Environmental Research Associates, 22 Fisher St., P.O.B. 280, King City, Ontario L7B 1A6, Canada has applied in due form for a permit to take bowhead whales (*Balaena mysticetus*), ringed seals (*Phoca hispida*), bearded seals (*Erignathus barbatus*) and beluga whales (*Delphinapterus leucas*) for purposes of scientific research; and Dr.

Douglas P. DeMaster, Director, National Marine Mammal Laboratory, National Marine Fisheries Service, NOAA, 7600 Sand Point Way, NE, BIN C15700, Bldg. 1, Seattle, WA 98115–0070, has requested an amendment to scientific research Permit No. 782–1355.

DATES: Written or telefaxed comments must be received on or before August 17, 1998.

ADDRESSES: The application (File No. 481–1464), amendment request (Permit No. 782–1355), and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, National Marine Fisheries Service, NOAA, Alaska Region, P.O. Box 21668, Juneau, AK 99802–1668 (907/586–7221).

Written comments or requests for a public hearing on this request should be submitted to the Chief, Permits and Documentation Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular amendment request would be appropriate.

Comments may also be submitted by facsimile at (301) 713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or other electronic media.

FOR FURTHER INFORMATION CONTACT: Sara Shapiro or Ruth Johnson, 301/713–2289.

SUPPLEMENTARY INFORMATION: The subject permit application and amendment to Permit No. 782–1355, issued on July 15, 1997 (62 FR 39826) are requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR 222.23).

Dr. Richardson (File No. 481–1464) requests authorization to study the feeding ecology of bowhead whales in the eastern Alaskan Beaufort Sea through aerial surveys and sampling of prey species.

Permit No. 782–1355 authorizes the permit holder to take Pacific Harbor seals (*Phoca vitulina*) in the following manner: Harass during census flights; capture, restrain, measure (weight length, girth), sample (flipper punch, vibrissa, blood, blubber/muscle biopsy, ultra sound, enema), radio tag, flipper tag, and release 500 animals; and incidentally harass up to 2000 during the conduct of these activities, and during collection of scat samples from haulouts. The permit holder requests authorization to: increase the number of seals instrumented with time-depth recorders, biopsy sampled, and harassed.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activities proposed are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: July 7, 1998.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–19122 Filed 7–16–98; 8:45 am]

BILLING CODE 3510–22–F

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

AGENCY: U.S. Consumer Product Safety Commission, Washington, DC 20207.

TIME AND DATE: Wednesday, July 22, 1998, 10:00 a.m.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

FY 2000 Budget Request

The Commission will consider issues related to the Commission's budget for fiscal year 2000.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: July 13, 1998.

Sadye E. Dunn,

Secretary.

[FR Doc. 98–19267 Filed 7–15–98; 2:48 pm]

BILLING CODE 6355–01–M

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

AGENCY: U.S. Consumer Product Safety Commission, Washington, DC 20207.

TIME AND DATE: Monday, July 27, 1998, 2:00 p.m.

LOCATION: Room 410, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Closed to the Public.

MATTERS TO BE CONSIDERED:

Compliance Status Report

The staff will brief the Commission on the status of various compliance matters.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207, (301) 504–0800.

Dated: July 14, 1998.

Sadye E. Dunn,

Secretary.

[FR Doc. 98–19268 Filed 7–15–98; 2:48 pm]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

TRICARE Senior Demonstration of Military Managed Care

AGENCY: Office of the Assistant Secretary of Defense (Health Affairs).

ACTION: Notice of demonstration project.

SUMMARY: This notice is to advise interested parties of a demonstration project in which the Department of Defense (DoD) will provide health care services to Medicare-eligible military retirees in a managed care program, called TRICARE Senior, and receive reimbursement for such care from the Medicare Trust Fund. The program is authorized by section 1896 of the Social Security Act, amended by section 4015 of the Balanced Budget Act of 1997 (P.L. 105–33). The statute authorizes DoD and the Department of Health and Human Services (HHS) to conduct at six sites during January 1998 through December 2000, a three-year demonstration under which dual-eligible beneficiaries will be offered enrollment in a DoD-operated managed care plan, called TRICARE Senior Prime. The legislation also authorizes Medicare HMOs to make payments to DoD for care provided to HMO enrollees by military treatment facilities (MTFs) participating in the demonstration. This part of the demonstration, to be called Medicare Partners, will allow DoD to enter into contracts with Medicare HMOs to provide specialty and inpatient care to dual-eligible beneficiaries currently provided on a space-available basis. Additional legal authority pertinent to this demonstration project is 10 U.S.C. section 1092.

Under TRICARE Senior Prime, Medicare-eligible military retirees who enroll in the program will be assigned primary care managers (PCMs) at the MTF. Enrollees will be referred to specialty care providers at the MTF and to participating members of the existing TRICARE Prime network. TRICARE Senior Prime enrollees will be afforded the same priority access to MTF care as military retiree and retiree family member enrollees in TRICARE Prime.

DoD will receive reimbursement from HCFA on a capitated basis at a rate which is 95 percent of the rate HCFA currently pays to Medicare-risk HMOs, less costs such as capital and graduate medical education, disproportionate share hospital payments, and some capital costs, which are already covered by DoD's annual appropriation. However, under the authorizing statute, DoD must meet its current level of effort for its Medicare-eligible beneficiaries before receiving payments from the Medicare Trust Fund. That is, DoD must continue to fund health care at a certain expenditure level for its Medicare-eligible population before it may be reimbursed by HCFA for care provided to TRICARE Senior Prime enrollees.

The Balanced Budget Act of 1997 required DoD and HHS to complete a memorandum of agreement (MOA) specifying the operational requirements of the demonstration project. That MOA was completed on February 13, 1998, and is published below. Except as provided in the MOA, TRICARE Senior Prime will be implemented consistent with applicable provisions of the CHAMPUS/TRICARE regulation, particularly 32 CFR sections 199.17 and 199.18.

EFFECTIVE DATE: July 15, 1998.

FOR FURTHER INFORMATION CONTACT: Larry Sobel, Office of the Assistant Secretary of Defense (Health Affairs/TRICARE Management Activity), telephone (703) 681-1742.

Dated: July 10, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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MEDICARE DEMONSTRATION OF MILITARY MANAGED CARE

-- MEMORANDUM OF AGREEMENT --

The Department of Health and Human Services (DHHS), the Health Care Financing Administration (HCFA), the Department of Defense (DoD) and the Office of the Assistant Secretary of Defense (Health Affairs) (OASD(HA)) agree to conduct a demonstration project under which DHHS will reimburse DoD from the Medicare Trust Funds for certain health care services provided to Medicare-eligible military (dual-eligible) beneficiaries at a military treatment facility (MTF) or through contracts. This demonstration will be referred to as the TRICARE Senior Project.

TRICARE Senior will consist of two types of health care delivery systems: TRICARE Senior Prime and Medicare Partners. Under TRICARE Senior Prime, the Medicare program will treat the DoD and its Military Health System (MHS) similar to a Medicare+Choice plan for dual-eligible Medicare/DoD beneficiaries. Medicare will pay for dual-eligibles enrolled in the DoD managed care program after DoD meets its current level of effort, measured in terms of health care expenditures for the dual-eligible population. Under Medicare Partners, DoD will receive payment from Medicare+Choice plans under Part C of title XVIII of the Social Security Act with which DoD contracts for inpatient and physician specialty care services provided to Medicare-eligible military beneficiaries who are enrolled with the Medicare+Choice plans.

The goal of this demonstration is, through a joint effort by DHHS and DoD, to implement a cost-effective alternative for delivering accessible and quality care to dual-eligible beneficiaries while ensuring that the demonstration does not increase the total federal cost for either agency.

TERMS OF THE AGREEMENT

The Department of Health and Human Services and the Department of Defense agree to carry out a Medicare demonstration of military managed care under the following terms.

A. TRICARE SENIOR PRIME

1. LEGAL AUTHORITY

This demonstration project is conducted under the authority of section 1896 of the Social Security Act, as added by section 4015 of the Balanced Budget Act of 1997 (P.L. 105-33).

2. SITES SELECTED AND POPULATION COVERED

a) TRICARE Senior Prime will be offered at six sites: 1) Keesler Air Force Base, Biloxi, MS; 2) Wilford Hall Medical Center and Brooke Army Medical Center, San Antonio, TX; Fort Sill, Lawton OK; and Sheppard Air Force Base, Wichita Falls, TX; 3) Fort Carson and the Air Force Academy, Colorado Springs, CO; 4) Madigan Army Medical Center, Fort Lewis, WA; 5) Naval Medical Center San Diego, San Diego, CA; and 6) Dover Air Force Base, Dover, DE. For the purpose of this demonstration, the catchment areas for San Antonio, Fort Sill, and Sheppard Air Force Base will comprise one site.

b) Eligibility for participation in TRICARE Senior Prime consists of people who (during the demonstration):

- Are covered through Medicare's aged program by Medicare Part A and Medicare Part B and are eligible for care from DoD as described in section 1074(b) or 1076(b) of title 10 United States Code (i.e., the demonstration excludes Medicare beneficiaries who are disabled or eligible for ESRD benefits),
- Enroll in TRICARE Senior Prime,
- Agree to receive covered services through TRICARE,
- Are residents of the geographic areas covered by the demonstration and where enrollment in the demonstration is offered, and
- Are a dual-eligible who, as a dual-eligible, used a Military Treatment Facility before January 1, 1998, or became dual-eligible starting after December 31, 1997.

c) Participation of Medicare-eligible military retirees or dependents in TRICARE Senior Prime shall be voluntary.

3. SERVICES COVERED AND PATIENT COPAYMENTS

Services covered include the standard Medicare benefit in addition to specific TRICARE Prime benefits. Specific benefits and patient copayments are defined in Attachment A -- "Benefits" to this final agreement as signed by the Secretaries. Patient copayments are also defined in Attachment A. TRICARE Senior Prime enrollees will not be charged a premium during the first year of the demonstration. DoD's intention is not to require a premium in the second or third years of the demonstration unless necessary to maintain cost neutrality. If DoD decides to require a premium, such premium will be subject to HCFA's Adjusted Community Rate (ACR) process.

4. SERVICES PROVIDED

The provision of services for those beneficiaries enrolled in TRICARE Senior Prime is the responsibility of DoD and services are either provided directly by DoD or arranged and paid for by DoD.

5. ENROLLMENT

a) DHHS authorizes DoD to enroll dual-eligible beneficiaries, using TRICARE Senior Prime, in the Medicare demonstration.

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b) DoD will offer enrollment to dual-eligible beneficiaries eligible under this demonstration.
c) Enrollees must pay applicable cost sharing and agree that TRICARE Senior Prime will be the exclusive source of health care for enrolled beneficiaries. Beneficiaries who choose to enroll in TRICARE Senior Prime will be subject to all Medicare+Choice requirements, including the "lock-in" provision which prevents plan enrollees from using their fee-for-service Medicare benefits.

6. APPLICATION OF CONDITIONS OF PARTICIPATION APPLICABLE TO MEDICARE+CHOICE PLANS

DoD will meet the applicable requirements of a Medicare+Choice plan. The TRICARE Senior Prime requirements are defined in Attachment B of this agreement. The Secretary of DHHS may waive, to the extent authorized by section 1896(d) of the Social Security Act, the requirement or approve equivalent or alternative ways of meeting the requirement when it reflects the unique status of DoD and is necessary to carry out the demonstration of TRICARE Senior Prime. A description of the requirements waived under section 1896(d) appears at Attachment B.

The DoD and DHHS Secretaries certify that DoD has sufficient resources and expertise to provide, consistent with payments described in Paragraph 7 below, the full range of benefits required to be provided to beneficiaries under the project and sufficient information and billing systems in place to ensure the accurate and timely submission of claims for benefits and to ensure that providers of such services, physicians, and other health care professionals are reimbursed by the entity in a timely and accurate manner. Certification of individual sites will be subject to HCFA's approval process.

7. MEDICARE REIMBURSEMENT TO DOD

Medicare reimbursement and end-of-year reconciliation is based on the following provisions as defined further in Attachment C – "Reimbursement"

a) Prior to being eligible for Medicare reimbursement under this demonstration in a given year, DoD will commit to the expenditure of resources for dual-eligible beneficiaries at a level that represents the DoD's FY96 level of effort at all demonstration sites.
b) Skilled nursing facility and home health costs, not a DoD benefit, paid by DoD for enrollees below the level of effort will be counted toward the level of effort.
c) For each demonstration year and each demonstration site, DoD and HCFA will establish a threshold for triggering interim payments during the demonstration year, expressed as a total annual dollar amount. That annual threshold will be 30 percent of the site's level of effort during the first demonstration year (pro-rated for the actual number of months of care delivery at each site), 40 percent during the second year, and 50 percent in the third. The total annual amount will be used to establish monthly dollar thresholds for triggering interim reimbursement. The monthly threshold at each site will be one-twelfth the annual threshold amount. For each demonstration month, HCFA will determine what it would pay each site for all enrollees, using the modified per capita reimbursement rates established by law. If HCFA's calculated amount exceeds

the monthly reimbursement threshold for a site, then HCFA will reimburse DoD for the amount over the threshold. If the amount that HCFA should pay the site is less than the monthly reimbursement threshold, then DoD will not receive any reimbursement for that site for that month. The reimbursement rate by Medicare to DoD is 95 percent of the applicable Medicare+Choice rate as determined under the Balanced Budget Act of 1997 (P.L. 105-33). In accordance with the authorizing legislation, the Medicare+Choice rate for each county will be adjusted to remove payments for graduate medical education (GME), indirect medical education (IME) and disproportionate share hospital (DSH). In accordance with the agreement by both Secretaries, 67 percent of capital payments will be removed. If requested by DoD and authorized by law, the Secretaries will reevaluate these latter adjustments based upon the recommendations of a demonstration evaluator or another public or private organization mutually acceptable to DHHS and DoD. Over the three years of the demonstration, the evaluation will track the rate and evaluate it against the primary goal of the demonstration.

d) As required by the Balanced Budget Act of 1997, the maximum total Medicare reimbursement to DoD from both Medicare and Medicare Partners for any demonstration year for all six demonstration sites will not exceed $50 million in the first year, $60 million in the second, and $65 million in the third. This is designed to avoid creating an artificial limitation on the demonstration and to limit the total risk to the Medicare Trust Fund. No more than 50 percent of the cap in each year shall be available for Medicare Partners. DoD will receive no payments after the maximum reimbursement amount has been reached in each demonstration year. For 1998, the $50 million ceiling shall be prorated based on the estimated enrollment at each site and the number of months that each site is operational during 1998. The ceiling for 1998 will be determined when the last site to begin in 1998 becomes operational.

e) At the end of each demonstration year, DHHS and DoD will conduct a reconciliation process. The purpose of the reconciliation is to determine whether DoD is entitled to retain reimbursements that they received under this demonstration and to determine the amount that they should retain. The reconciliation will not adjust for "underpayments" or "overpayments" that result from inefficiency or efficiency. The reconciliation process is described in detail in Attachment C: Reimbursement.

- If DoD and DHHS agree that favorable or adverse selection into the DoD plan is occurring, HCFA will recalculate what Medicare's payments should have been and adjust total payments accordingly, consistent with applicable law.
- If DoD received capitation payments from Medicare and its actual costs were less than the FY96 level of effort, DoD reimburses Medicare for all funds received under the demonstration project (TRICARE Senior Prime and Medicare Partners). For the purpose of this test, expenses for all six sites are combined and compared with a combined six-site level of effort. The contributions from individual sites toward total expenses include expenses for space available care and expenses for enrolled care. Expenses for space-available care for the demonstration-wide test will be capped at a limit that varies with demonstration year. The limit will be 70 percent of the combined six-site level of effort for the first demonstration year, 60 percent the second year, and 50 percent the third. The limit during the first year will be prorated for the months of care delivery at the various sites as described in Appendix C.

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- To retain reimbursements received under the demonstration project, expenses for enrolled care, summed across all six demonstration sites, must meet or exceed a minimum threshold that varies with the demonstration year. The threshold is 30 percent of the combined six-site level of effort for the first demonstration year, 40 percent for the second year, and 50 percent for the third.
- HCFA auditors and the DHHS IG will have access to DoD's facilities and data. HCFA and DoD will develop a process for settling any disputes that arise over the data.
- DoD will submit encounter data to HCFA for all Medicare-covered services provided to TRICARE Senior Prime beneficiaries under the demonstration.

8. LEVEL OF EFFORT

a) For the purposes of this demonstration, DoD's level of effort at each site is the actual level of effort expended by DoD on dual-eligible beneficiaries for FY96. During the first demonstration year, this will be pro-rated at each demonstration site for the number of months of care delivery. That level of effort will remain constant for the three years of the demonstration except in the following instances: 1) If for the demonstration years, overall defense health spending (Category 3 of the Defense Health Program (See definition in "Level of Effort" attachment; currently about $12 billion)), updated with an annual adjustment by the applicable composite inflation rates, changes by more than $100 million, then DoD may adjust the level of effort at each site by a proportionate amount (e.g., if the budget is $400 million lower or higher, and defense health spending (Category 3) amounts to $12 billion, the level of effort will fall or rise by approximately 3.3 percent). 2) If there are any base realignment and closure (BRAC) actions that result in reductions in DoD's ability to serve dual-eligibles, an adjustment will be made in the level of effort so as to hold DoD harmless.

b) The FY96 level of effort for each site consists of expenses incurred against the Defense Health Program for services covered under the demonstration for dual-eligible beneficiaries who are eligible to enroll in the demonstration (as specified in "Sites Selected and Population Covered"). During each demonstration year, level of effort consists of the same expenditure categories plus care provided to enrollees (i.e., enrollees below level of effort) under the demonstration.

c) The methodology for computing the FY96 level of effort for each site is described in Attachment D – "Level of Effort."

d) The FY96 level of effort for each site will:

- Exclude outpatient pharmacy expenses and Uniformed Services Treatment Facilities costs.
- Treat DoD collections from Medicare supplemental policies the same in both the baseline and the operational level of effort. Both agencies agree to reexamine this issue if there is a substantial change in collections during the demonstration.
- Take a "Population View" (versus a "Facility View"), based on the population eligible to enroll in the demonstration as specified under "Population Covered."
- Either include relevant "F" account costs from DoD's Medical Expense and Performance Reporting System (MEPRS) or directly adjust for the Institute for Defense Analysis (IDA) "add-on" factor, as specified in Attachment D. Over an

eighteen month period, DoD will validate IDA's findings regarding MEPRS cost factors and the size of the add-on factors.

e) For purposes of reconciliation, the test of whether DoD achieved its level of effort is conducted at a demonstration-wide level. The DoD's level of effort will be the sum of the six individual levels of effort.

9. PROHIBITION AGAINST INCREASING MEDICARE COST

The demonstration project shall not increase the total cost of the Medicare program over what the cost would have been in the absence of the demonstration. If the DoD or DHHS Secretaries find that the expenditures under the Medicare program increased (or are expected to increase) during a fiscal year because of the demonstration project, the Secretaries shall take such steps as may be needed to recoup for the Medicare program the amount of such increase in expenditures and to prevent any such increase in the future. Such steps shall include payment of the amount of such increased expenditures by the Secretary of Defense from the current medical care appropriation of the Department of Defense to the trust funds, the suspension or termination of the demonstration project (in whole or in part), or lowering the amount of payment to DoD.

10. JOINT ANALYSIS OF COST, UTILIZATION AND OTHER DATA

DHHS and DoD agree to carry out analyses of a merged data set of dual-eligibles based on questions (including utilization and cost prior to and during the demonstration) developed jointly by the two agencies. DHHS and DoD agree that the DHHS Secretary shall have access to all data the DHHS Secretary determines is necessary to conduct independent estimates and audits of the maintenance of effort requirement, the annual reconciliation, and related matters required under the demonstration project.

11. EVALUATION

a) In addition to the General Accounting Office review referenced in Item 12 below, the demonstration shall be evaluated by an independent evaluator chosen jointly by DHHS and DoD, funded by DoD and in place as soon as possible following the start of the demonstration.

b) The evaluation contractor will produce an annual report, an interim report within 18 months of the initiation of this demonstration, and a final report not later than twelve months from the end of the demonstration. The evaluation will be based on the evaluation questions jointly developed by DHHS and DoD as illustrated in Attachment E -- "Evaluation". Of those questions, the primary evaluation question will be "Can DoD and Medicare implement a cost-effective alternative for delivering accessible and quality care to dual-eligible beneficiaries?" The evaluation will also emphasize the four major areas identified by DHHS and DoD in delineating the evaluation questions. The evaluation will also examine the impact of the demonstration on medical services for active duty and active duty dependents.

c) DHHS and DoD will provide the necessary data to support the evaluation.

12. GENERAL ACCOUNTING OFFICE STUDY

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Section 1896(k) of the Social Security Act directs the General Accounting Office (GAO) to conduct a review and report to Congress as to whether or not the demonstration has increased the total cost of the Military Health System or the total cost of Medicare. Both agencies agree to jointly assist GAO with that review and report.

13. START DATE AND DURATION

The demonstration is authorized for three years and will end on December 31, 2000. Both Departments anticipate that the demonstration sites will become operational according to a phased schedule, to be published separately.

14. ADDITIONAL PROVISIONS

a) Military Treatment Facilities - No new military treatment facilities will be built and no existing facilities will be expanded with funds from the demonstration project.

b) Report - At least 60 days prior to the commencement of the demonstration project, the DoD and DHHS Secretaries shall submit a copy of this agreement to the Congressional committees of jurisdiction over the two departments.

c) Crediting of Payments - A payment received by the Secretary of Defense under the demonstration project shall be credited to the applicable DoD medical appropriation (and within that appropriation). Any such payment received during a fiscal year for services provided during a prior fiscal year may be obligated by the Secretary of Defense during the fiscal year in which the payment is received.

d) Inspector General - Nothing in this agreement shall limit the Inspector General of the Department of Health and Human Services from investigating any matters regarding the expenditure of funds under this title for the demonstration project, including compliance with the provisions of section 1896 of the Social Security Act and all other relevant laws.

e) Modification of TRICARE Contracts - In carrying out the demonstration project, the Secretary of Defense is authorized to amend existing TRICARE contracts (including contracts with designated providers) in order to provide the Medicare health care services to the Medicare-eligible military retirees and dependents enrolled in the demonstration project consistent with Part C of title XVIII of the Social Security Act as amended by sec. 4001 of the Balanced Budget Act of 1997.

f) This MOA will be amended as necessary following the publication of regulations for Medicare+Choice plans.

g) All automated systems will comply with federal laws, guidances, and policies for information systems security. These include, but are not limited to, the Privacy Act of 1974, the Computer Security Act of 1987, IRM Circular #10, DHHS Automated Information Systems Security Program, the HCFA Information Systems Security Policy and Program Handbook, and other HCFA systems security policies. All information systems will have a security plan. This security plan will be developed during the systems development phase, in accordance with the mandates of the Office of Management and Budget's Circular A-130, revised.

B. MEDICARE PARTNERS

1. LEGAL AUTHORITY

This demonstration project is conducted under the authority of section 1896(h) of the Social Security Act, as added by section 4015 of the Balanced Budget Act of 1997 (P.L. 105-33).

2. POPULATION COVERED

a) All sites may conduct the Medicare Partners portion of the demonstration.

b) Eligibility for participation in Medicare Partners consists of people who (during the demonstration):

- Are covered through Medicare's aged program by Medicare Part A and Medicare Part B and are eligible for care from DoD as described in section 1074(b) or 1076(b) of title 10 United States Code (i.e., the demonstration excludes Medicare beneficiaries who are disabled or eligible for ESRD benefits),
- Are enrolled in a Medicare+Choice plan with which DoD has contracted,
- Are residents of the geographic areas covered by the demonstration and where enrollment in the demonstration is offered,
- Are dual-eligible beneficiaries, who, as dual-eligibles, used a military treatment facility before January 1, 1998, or became dual-eligible starting after December 31, 1997, and
- Agree to receive covered services through a Medicare+Choice plan and to use the MTF for covered services only as referred by a Medicare+Choice plan under contract with a demonstration site.

c) Participation of Medicare-eligible military retirees or dependents in Medicare Partners shall be voluntary.

3. SERVICES COVERED UNDER MEDICARE+CHOICE PLAN CONTRACTS WITH DOD

a) Medicare+Choice plans are authorized to contract with and reimburse DoD for inpatient and physician specialty care services provided to dual-eligible beneficiaries. To the extent feasible and subject to capacity constraints, DoD may contract with Medicare+Choice plans which meet applicable HCFA requirements. DoD and HCFA will review and approve all MTF agreements with Medicare+Choice plans. Services covered include those inpatient and physician specialty care services for which DoD has contracted with the Medicare+Choice plan.

b) Priority access for dual-eligibles to the MTF shall apply only to those services for which the participating Medicare+Choice plan has contracted with DoD and is subject to the availability of resources at the MTF. Priority access to the MTF for contracted services shall be the same for Medicare Partners enrollees as for CHAMPUS-eligible retirees enrolled in TRICARE Prime.

4. SERVICES PROVIDED

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The provision of services for beneficiaries enrolled in a Medicare Partners plan is the responsibility of the participating plan in which the beneficiary has enrolled. MTFs in the demonstration sites will provide services to Medicare Partners enrollees according to the terms of the contracts reached between the participating Medicare+Choice plans and the MTFs.

5. ENROLLMENT

a) Dual-eligible beneficiaries may enroll in a Medicare+Choice plan which has a Medicare Partners agreement with DoD according to the procedures established by the plan in compliance with HCFA requirements.
b) DoD shall establish procedures to identify in its own data systems enrollees in a Medicare Partners plan.
c) Supplemental or modified marketing materials produced by a Medicare Partners plan in connection with services offered to dual-eligible enrollees shall be reviewed and approved by DoD and HCFA.

6. APPLICATION OF CONDITIONS OF PARTICIPATION APPLICABLE TO MEDICARE+CHOICE PLAN PROVIDERS

DoD will meet the applicable requirements, except as waived by HCFA, of a contract health care provider to a Medicare+Choice plan.

7. REIMBURSEMENT

Reimbursements under Medicare Partners contracts will be specific to each agreement and subject to approval by DoD and HCFA as specified in Section B, paragraph 3a. All reimbursements from Medicare Partners count toward the annual maximum reimbursement described in Section A, paragraph 7.d). No more than 50 percent of the cap in each year shall be available for Medicare Partners. The method for determining the amount of Medicare Partners reimbursement retained by DoD or returned to HCFA is described in Attachment C. To the extent feasible, the portion of DoD reimbursement from Medicare Partners attributable to graduate medical education, indirect medical education, disproportionate share, and capital, for which DoD has received appropriated funds and which has been included in HCFA's payment to the Medicare+Choice plan, will be identified and returned to HCFA as part of the annual reconciliation process.

8. LEVEL OF EFFORT

Any costs arising from services provided under Medicare Partners will not count toward the demonstration's total level of effort. In addition, DoD will not retain any reimbursement for Medicare Partners unless it exceeds the demonstration's total level of effort.

9. PROHIBITION AGAINST INCREASING MEDICARE COST

The demonstration project shall not increase the total cost of the Medicare program over what the cost would have been in the absence of the demonstration. If the DoD or DHHS Secretaries find that the expenditures under the Medicare program increased (or are expected to increase) during a fiscal year because of the demonstration project, the Secretaries shall take such steps as may be needed to recoup for the Medicare program the amount of such increase in expenditures and to prevent any such increase in the future. Such steps shall include payment of the amount of such increased expenditures by the Secretary of Defense from the current medical care appropriation of the Department of Defense to the trust funds, the suspension or termination of the demonstration project (in whole or in part), or lowering the amount of payment to DoD.

10. JOINT ANALYSIS OF COST, UTILIZATION, AND OTHER DATA

DHHS and DoD agree to carry out analyses of a merged data set of dual-eligibles based on questions (including utilization and cost prior to and during the demonstration) developed jointly by the two agencies. DHHS and DoD agree that the DHHS Secretary shall have access to all data the DHHS Secretary determines is necessary to conduct independent estimates and audits of the maintenance of effort requirement, the annual reconciliation, and related matters required under the demonstration project.

11. EVALUATION

a) In addition to the General Accounting Office review referenced in Item 12 below, the demonstration shall be evaluated by an independent evaluator chosen jointly by DHHS and DoD, funded by DoD and in place as soon as possible following the start of the demonstration.

b) The evaluation contractor will produce an annual report, an interim report within 18 months of the initiation of this demonstration, and a final report not later than twelve months from the end of the demonstration. The evaluation will be based on the evaluation questions jointly developed by DHHS and DoD as illustrated in Attachment E – "Evaluation". Of those questions, the primary evaluation question will be "Can DoD and Medicare implement a cost-effective alternative for delivering accessible and quality care to dual-eligible beneficiaries?" The evaluation will also emphasize the four major areas identified by DHHS and DoD in delineating the evaluation questions. The evaluation will also examine the impact of the demonstration on medical services for active duty and active duty dependents.

c) DHHS and DoD will provide the necessary data to support the evaluation.

12. GENERAL ACCOUNTING OFFICE STUDY

Section 1896(k) of the Social Security Act, directs the General Accounting Office (GAO) to conduct a review and report to Congress as to whether or not the demonstration has increased the total cost of the Military Health System or the total cost of Medicare. Both agencies agree to jointly assist GAO with that review and report.

13. START DATE AND DURATION

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The demonstration is authorized for three years and will end on December 31, 2000. Both Departments anticipate that Medicare Partners sites will become operational no earlier than 90 days after the start of health care delivery under TRICARE Senior Prime at that site, subject to the satisfactory progress of the TRICARE Senior Prime program as demonstrated through meeting the requirements of Attachment F- "Performance Measures" and evidence that adequate financial systems to track level of effort and reimbursement are in place.

14. ADDITIONAL PROVISIONS

a) Military Treatment Facilities - No new military treatment facilities will be built and no existing facilities will be expanded with funds from the demonstration project.
b) Report - At least 60 days prior to the commencement of the demonstration project, the DoD and DHHS Secretaries shall submit a copy of this agreement to the Congressional committees of jurisdiction over the two departments.
c) Crediting of Payments - A payment received by the Secretary of Defense under the demonstration project shall be credited to the applicable DoD medical appropriation (and within that appropriation). Any such payment received during a fiscal year for services provided during a prior fiscal year may be obligated by the Secretary of Defense during the fiscal year in which the payment is received.
d) Inspector General - Nothing in this agreement shall limit the Inspector General of the Department of Health and Human Services from investigating any matters regarding the expenditure of funds under this title for the demonstration project, including compliance with the provisions of section 1896 of the Social Security Act and all other relevant laws.
e) All automated systems will comply with federal laws, guidances, and policies for information systems security. These include, but are not limited to, the Privacy Act of 1974, the Computer Security Act of 1987, IRM Circular #10, DHHS Automated Information Systems Security Program, the HCFA Information Systems Security Policy and Program Handbook, and other HCFA systems security policies. All information systems will have a security plan. This security plan will be developed during the systems development phase, in accordance with the mandates of the Office of Management and Budget's Circular A-130, revised.

C. ATTACHMENTS

Included as part of this agreement are the following items:

Attachment A: Benefits under TRICARE Senior Prime
Attachment B: Applicable Conditions of Participation under TRICARE Senior Prime
Attachment C: Reimbursement
Attachment D: Level of Effort
Attachment E: Evaluation

Attachment F: Performance Measures

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Attachment A—Benefits for Enrollees; Medicare Demonstration of Military Managed Care

DoD will provide or arrange for the provision of a defined benefit package for enrollees in the Demonstration. The benefit package will include all services and supplies covered by the Medicare program, plus some additional services not covered by Medicare. The TRICARE Prime program will be the vehicle for delivery of the benefit package, except that standard Medicare coverage of skilled nursing facility care, home health care, and chiropractic services will apply. Additional services in the TRICARE Prime program that are not covered by Medicare include outpatient pharmacy services and preventive services. In brief, the benefit package includes coverage of medically necessary care as follows:

Medical Services

- Physician's services;
- Medical and surgical services and supplies;
- Outpatient hospital treatment;
- Mental health outpatient services;
- Physical and speech therapy;
- Clinical laboratory services and diagnostic tests;
- Durable medical equipment and supplies;
- Blood;
- Clinical preventive services;
- Outpatient pharmacy services.

Institutional Services

- Hospitalization: semiprivate room and board, general nursing and other hospital services and supplies;
- Skilled nursing facility care: semiprivate room and board, skilled nursing and rehabilitative services and other services and supplies;
- Home health care;
- Hospice care.

Cost sharing for services is described in the attached charts. It is anticipated that most services will be provided in military treatment facilities, at no charge to enrollees. When enrollees use a civilian provider, a copayment schedule will apply, featuring a $12 per visit copayment, an $11 per diem charge for most inpatient services, and a $9 per prescription charge.

Attachment A

BENEFITS FOR PRIME-ENROLLED MEDICARE ELIGIBLES: - MEDICAL INSURANCE SERVICES

SERVICES	BENEFIT	YOU PAY WITH CIVILIAN PROVIDER	YOU PAY AT MTF
MEDICAL EXPENSES Doctors' services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, and other services.	Unlimited if medically necessary.	$12 per visit (or $12 each for bills from separate entities coincident to a visit).	Nothing.
MENTAL HEALTH OUTPATIENT	Unlimited if medically necessary.	$25 per visit	Services not normally available at MTF
CLINICAL LABORATORY SERVICES Blood tests, urinalyses, and more.	Unlimited if medically necessary.	$12 per set of lab services (Nothing if provided as part of an office visit).	Nothing.
DURABLE MEDICAL EQUIPMENT AND SUPPLIES	Unlimited as long as you meet Medicare conditions.	20% of fee negotiated by the contractor for durable medical equipment.	Nothing; however availability may be limited at MTF.
OUTPATIENT HOSPITAL TREATMENT Services for the diagnosis or treatment of illness or injury.	Unlimited if medically necessary.	$30 for emergency room visit (waived if admitted), $25 copayment for ambulatory surgery.	Nothing.
BLOOD	Unlimited if medically necessary.	No additional cost beyond visit.	Nothing.
PHARMACY	Unlimited if medically necessary.	$9 per prescription.	Nothing.
CLINICAL PREVENTIVE SERVICES Comprehensive and targeted health promotion and disease prevention examinations and immunizations.	Age specific schedule to be determined, similar to Prime for younger enrollees	Nothing.	Nothing.
No separate copayment/cost share for separately billed inpatient professional charges.			

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Attachment A

BENEFITS FOR PRIME-ENROLLED MEDICARE ELIGIBLES: HOSPITAL INSURANCE SERVICES

SERVICES	BENEFIT	YOU PAY WITH CIVILIAN PROVIDER	YOU PAY AT MTF
HOSPITALIZATION (except mental health) Semiprivate room and board, general nursing and other hospital services and supplies.	Same as Medicare	$11 a day ($25 minimum).	Nothing.
MENTAL HEALTH HOSPITALIZATION	Same as Medicare 150 day limit per hospitalization	$40 per diem	Inpatient mental health services not normally available at MTF.
SKILLED NURSING FACILITY Semiprivate room and board, skilled nursing and rehabilitative services and other services and supplies.	First 20 days	Same as Medicare: Nothing	Services not normally available at MTF.
	Additional 80 days	Up to $95 a day	
	Beyond 100 days	All costs	
HOME HEALTH CARE Part-time or intermittent skilled care, home health aide services.	Unlimited as long as you meet Medicare conditions.	Same as Medicare: Nothing for services.	Services not normally available at MTF.
HOSPICE CARE Pain relief, symptom management and support services for the terminally ill.	As long as doctor certifies need.	Same as Medicare for inpatient respite care: Limited costs. For outpatient drugs: $9 prescription.	Services not normally available at MTF.
BLOOD When furnished by a hospital or skilled nursing facility during a covered stay.	Unlimited if medically necessary.	No additional cost beyond hospitalization.	No additional cost beyond hospitalization.
No separate copayment/cost share for separately billed inpatient professional charges.			

Attachment B

Medicare Demonstration of Military Managed Care
Attachment B – HCFA HMO Requirements
(Applicable Conditions of Participation)

ADMINISTRATIVE AND MANAGEMENT

HCFA Requirement:	**Determination:**
1. The HMO/CMP must have administrative and managerial arrangements satisfactory to HCFA, as demonstrated by at least the following: A policy making body that exercises control over the HMO/CMP's policies and personnel to ensure that management actions are in the best interest of the HMO/CMP and its enrollees. **42CFR417.124(a)(1)**	General policy is established at the DoD level by the Assistant Secretary of Defense for Health Affairs and the Surgeons General of the respective services. Policy is conveyed through the services to the Lead Agent to the Military Medical Treatment Facility (MTF). At the MTF level, and as delegated by the Surgeons General, the MTF Commander executes DoD policy and may establish additional policy for administration and operation of the facility. The Commander and MTF Executive Body (management, department, medical staff, nursing) plan, direct, coordinate, provide and improve health care services. MTF Commanders are active duty officers whose appointment and removal are under the control of the Service to which they belong and the Surgeon General. The Commander, Executive Body, and other organizational leaders meet routinely to provide organization, direction, and staffing for patient care and support services. Information flows within and among departments and disciplines to ensure that required data are provided efficiently for patient care and management at all levels. DoD will meet requirements for ensuring that staff and management are adequately informed and following program requirements. The MTFs will provide training to staff and providers regarding the Medicare product. New or revised Medicare requirements will be disseminated as revisions to the manual through Health Affairs to the Lead Agent.
2. The HMO\CMP has personnel and systems sufficient for the HMO/CMP to organize, plan, control, and evaluate the financial, marketing, health services, quality assurance program, administrative and management aspects of the HMO/CMP. **42CFR417.124(a)(2)**	These requirements are fulfilled through a collaborative process of support from specific offices within Health Affairs, the Lead Agent, and the Military Treatment Facilities (MTFs).

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Attachment B

HCFA Requirement:	**Determination**
3. The HMO/CMP's operations are managed by an executive whose appointment and removal are under the control of the HMO/CMP policymaking body. **42CFR417.124(a)(3)**	The Lead Agent is responsible for the integration, coordination and monitoring the implementation of TRICARE within the Region. Local operation of the Medicare demonstration will be the responsibility of the MTF Commanders. MTF Commanders are active duty officers whose appointment and removal are under the command and control of the Service to which they belong and the Surgeon General.
4. The HMO/CMP has effective procedures to develop, compile, evaluate, and report statistical and other information to the Secretary of DHHS. **42CFR417.126**	DoD provides support for the demonstration at every level, including a management information system capable of providing appropriate information. DoD's Corporate Executive Information Center (CEIS) is the center of the data collection effort and is our official source of demonstration data. The CEIS Program Office is staffed with experts that have the ability to develop, compile, evaluate, and report statistical and other information to the Secretary of DHHS.
5. The HMO/CMP has sufficient administrative capability to carry out the requirements of its Medicare contract. **42CFR417.412(a)**	Internal policy and procedures manual relative to the Medicare product will be available within the MTF. Staff and providers are provided informational materials and training in Medicare requirements such as denials and appeals. Health Affairs, through the Lead Agent, provides information to MTFs on any new or revised Medicare requirement. The MTF provides updates to staff and providers.
6. The HMO/CMP does not have any agents or management staff or persons with ownership or control interests who have been convicted of criminal offenses related to their involvement in Medicaid, Medicare, or social services programs under Title XX of the Act. **42CFR417.412(b)**	DoD health care facilities are government owned. DoD's personnel policies prohibit the continued employment in health care programs of an individual convicted of a criminal offense involving any other health care program.
7. Medicare/Medicaid enrollees do not exceed 50 percent of the HMO/CMP enrollment in the geographic area of the contract. **42CFR417.413(d)(1)**	TRICARE Prime enrollment levels are sufficient to ensure DoD compliance with this requirement.

Attachment B

HCFA Requirement:	Determination:
8. Regarding the Patient Self Determination Act, the HMO/CMP has written policies and procedures which: 1) inform enrollees of their rights under State law with respect to advance directives (living wills/durable power of attorney), and how those rights are implemented: 2) documented in the medical record whether or not the enrollee has executed an advance directive: 3) ensure compliance with State law; 4) do not condition provision of care/or discriminate on whether enrollee has executed advance directive; and 5) provide for education of staff/community regarding advance directive. **OBRA 1990 (PL 101-508)**	MTFs meet JCAHO standards for Patient Rights and Organization Ethics in both hospital and ambulatory settings. MTFs have policy regarding advance directives and a process to educate staff. MTFs will provide education on the PSDA to enrollees and staff members through marketing and education programs. Documentation requirements of the existence of living wills or durable power of attorney will be met during the enrollment process and upon each inpatient admission.

FISCAL SOUNDNESS

HCFA Requirement:	Determination:
9. The HMO/CMP's most recent balance sheet reveals a positive net worth as demonstrated by total assets being greater than total unsubordinated liabilities. **42CFR417.120(a)(1)(i)**	Not applicable.
10. The HMO/CMP has sufficient cash and adequate liquidity to meet obligations as they become due. **42CFR417.120(a)(1)(ii)**	Not applicable.

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HCFA Requirement:	**Determination:**
11 The HMO/CMP has a net operating surplus, or a financial plan acceptable to Office of Managed Care (OMC), to achieve net operating surplus within available resources. **42CFR417.120(a)(1)(iii)**	Not applicable.

INSOLVENCY PROTECTION PLAN

HCFA Requirement:	**Determination:**
12. The HMO/CMP has a plan for handling insolvency which allows for continuation of benefits for the duration of the contract period for which payment has been made and continuation of benefits to enrollees who are confined on the date of insolvency in an inpatient facility until their discharge. **42CFR417.120(a)(1)(iv), 417.122(a)**	All obligations are backed by the full faith and credit of the Department of Defense. Where DoD uses contracted providers to complete their networks, those contracts will include standard NAIC-approved hold harmless language. Also, DoD will demonstrate compliance with the requirements for continuation of benefits in these arrangements.

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COST REPORTING/ADJUSTED COMMUNITY RATE
Risk Based Contractors

HCFA Requirement:	**Determination:**
13 The HMO/CMP submits an ACR proposal to HCFA for review and approval. **42CFR417.594**	DoD will submit an ACR proposal for each site, prepared on a consistent basis, for HCFA review and approval.

UTILIZATION MANAGEMENT (UM)

HCFA Requirement:	**Determination:**
14. The HMO/CMP has effective procedures to monitor utilization of appropriate health services and to control costs of basic and supplemental health services to achieve utilization goals. **42CFR417.103(b)**	DoD will meet these requirements through the integration of the Medicare HMO enrollees into TRICARE, DoD's managed care program. The MTF will apply the same utilization and access process applicable under TRICARE, the DoD Utilization Management Policy for the Direct Care System, to the Medicare demonstration, including use of a single point of entry for all referrals. Routine referral reports are monitored by the MTF and LA.

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INCENTIVE ARRANGEMENTS

HCFA Requirement:	Determination:
15. The HMO/CMP will disclose physician incentive plan arrangements. **42CFR417.479**	DoD will disclose physician incentive plan (PIP) arrangements using the HCFA disclosure form as required for all Medicare contractors. This includes disclosure of MTF-salaried physicians and arrangements with outside contractors.

HEALTH SERVICES DELIVERY SYSTEM

HCFA Requirement:	Determination:
16. The HMO/CMP arranges for required Medicare services, and supplemental services which the Medicare enrollee has contracted for through Medicare-approved providers and suppliers. **42CFR417.101(a), 417.416(b)**	MTFs will provide the majority of health care services directly, either in the MTF or in the network of providers in place for their other TRICARE enrollees (to the extent that required services are available from Medicare certified providers within the network). For services not available within the network, the MTF through the Managed Care Support contractor, will arrange for services from other Medicare certified providers in the community. - Criteria for Selection of Network Providers).
17. HMO/CMP physicians and other practitioners must meet Medicare statutory definitions and licensure requirements. **42CFR417.416(a)**	Only licensed physicians and other practitioners who are legally authorized to provide services (physical therapists, nurse practitioners, physician assistants, clinical social workers, qualified psychologists, speech-language pathologists, etc.) will participate in this demonstration. However, DoD does not require physicians and other practitioners to be licensed or legally authorized in the State in which they currently practice. Compliance with this requirement is not feasible because DoD's unique mission of rapid deployment and backfill worldwide would be significantly hampered by this requirement. Under the authority of section 1896(d)(1) of the Social Security Act, waivers of sections 1861(r), 1861(p)(4)(B), 1861(aa)(5), 1861(gg)(1), 1861(hh)(1)(C)(i), 1861(ii), and 1861(ll)(3)(A)(i) of the Social Security Act are granted except that physicians and other practitioners must be licensed or

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	legally authorized to provide services in at least one State.
18. Institutional providers are Medicare-certified and meet conditions of participation. **42CFR417.124(h), 417.416(b)**	Participating MTFs will be deemed to meet the conditions of participation since they are JCAHO accredited. Inpatient care not provided at the MTF will be through TRICARE network institutional providers that are Medicare certified providers.

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AVAILABILITY AND ACCESSIBILITY OF SERVICES

HCFA Requirement:	**Determination:**
19. All required and other services which Medicare enrollees contracted for are accessible, with reasonable promptness, to the enrollees with respect to geographic location, hours of operation, and provision of after-hours service; and, medically necessary emergency services must be available twenty-four hours a day, seven days a week. 42CFR417.106(b), 417.416(e)(1), HMO Manual §2303.	As a general rule, DoD will utilize the same access standards that apply for TRICARE Prime for TRICARE Senior Prime, e.g., emergency services available and accessible within the service area 24 hours a day, 7 days a week, no more than 30 minute wait time in the office, appointment wait time for specialty care is no longer than 4 weeks, beneficiary travel time to PCM is no longer than 30 minutes, etc. Specific service area information will be provided as part of the application process. Enrollees will be informed through the Member Handbook. However, DoD's policy for access to a MTF has traditionally been a 40-mile area around the MTF. Historically, beneficiaries residing within that 40-mile area have been required to obtain a non-availability statement from the MTF in order to access the civilian provider community for many health care services. DoD will use this same area as the service area. Enrollees will be informed about HCFA's 30-minute/30-mile PCM access standard, and DoD will obtain waivers of this standard from enrollees who reside beyond the 30-minute/30-mile boundary.

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MAINTENANCE OF MEDICAL RECORDS AND CONTINUITY OF CARE

HCFA Requirement:	**Determination:**
20. The HMO/CMP ensures continuity of care through arrangements that include: (1) use of a health professional who is primarily responsible for coordinating the enrollee's overall health care; (2) a system of health and medical records that accumulates pertinent information about the enrollee's health care and makes it available to appropriate professionals; and (3) arrangements made directly through the HMO/CMP's providers to ensure that the HMO/CMP or the health professional who coordinates the enrollee's overall health care is kept informed about the services that the referral resources furnish to the enrollee. **42CFR417.106(c), 42CFR417.416(e)(2)**	DoD will meet this requirement. DoD's plans for meeting this requirement will be described more fully in its application to HCFA.

QUALITY ASSURANCE (QA) (ASSESSMENT AND IMPROVEMENT)

***Denotes critical element - an element that the HMO/CMP must meet.**

HCFA Requirement:	**Determination:**
21. The HMO/CMP has an ongoing QA program for its health services that meets the conditions described in: QA01a; QA01b, QA01c; QA01e; and QA01f, below. QA01a: Written QA Plan QA01b: Continuous QA Activities QA01c: Review by Board of Directors QA01d: Delegation of QA functions QA01e: Active QA Committee QA01f: Systematic Process.	DoD has a corporate program for ensuring quality of care in the MHSS which addresses all of the HCFA critical elements listed above. In addition, each site has a QA program which satisfies HCFA requirements.

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QA PROGRAM STRESSES HEALTH OUTCOMES

HCFA Requirements:	**Determination:**
22. The HMO/CMP's ongoing QA program for its health services stresses health outcomes to the extent consistent with the state of the art. **42 CFR 417.106(a)(1) and 417.418(b); FQ HMO Manual § 4200, 4201.2**	The DoD QA program meets the requirements of this section through the special studies component of the National Quality Management Program. The studies emphasize best practice. Best practice is achieving the desired clinical outcomes with the most efficient use of resources. May also be found on the World Wide Web (http://www.ha.osd.mil).

PEER REVIEW

HCFA Requirements:	**Determination:**
23. The HMO/CMP's ongoing QA health services review program provides for review by physicians and other health professionals of the process followed in the provision of health services. **42 CFR 417.106(a)(2) and 417.418(b); FQ HMO Manual § 4201, 4201.3**	The DoD requires that all of the military hospitals and clinics and all civilian network hospitals be accredited by the Joint Commission on Health Care Organizations (JCAHO). The JCAHO standards for medical staff functions and improving organization function require physician and other health care practitioner review of care. In addition, the special studies discussed above are designed by physicians and other health care practitioners and final reports are used by the hospitals and clinics to catalyze a review and improvement of their care.

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SYSTEMATIC DATA COLLECTION

HCFA Requirements:	**Determination:**
24. The HMO/CMP's ongoing health services QA program systematically collects performance data and patient results, interprets these data to its practitioners, and institute needed change. **42 CFR 417.106(a)(3) and 417.418(b); FQ HMO Manual § 4201, 4201.4**	These data are collected and reviewed at the Lead Agent and MTF levels. The MTFs are supported by MCS contractor data collection and analysis of the appropriateness of the care provided to beneficiaries. In addition, the MCS contractor performs regional quality studies over the term of the contract. The National Quality Monitoring Program special studies include all care provided by the military facilities and civilian network facilities.

REMEDIAL ACTION (CONTINUOUS QUALITY IMPROVEMENT)

HCFA Requirements:	**Determination:**
25. The HMO/CMP's ongoing QA program for its health services includes written procedures for taking appropriate remedial action whenever, as determined under the QA program, either inappropriate or substandard services have been provided or services which it should have furnished but did not provide. **42 CFR 417.106(a)(4) and 417.418(b); FQ HMO Manual § 4201, 4201.5**	DoD will meet HCFA's requirements for an ongoing QA program.

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EXTERNAL REVIEW BY PEER REVIEW ORGANIZATION (PRO)

HCFA Requirements:	**Determination:**
26. Compliance with PRO Review. The HMO/CMP agrees to: (1) comply with the requirements for PRO review of services furnished to Medicare enrollees: (2) upon the PRO's request, provide onsite access to or copies of medical records for the PRO to carry out its functions; and (3) maintain a written Memorandum of Understanding (MOU) he PRO for review of its health care services.	The MTF will execute a MOU with the designated HCFA PRO and comply with these requirements.

MARKETING ACTIVITIES

HCFA Requirements:	**Determination:**
27. The HMO/CMP offers its benefit plan to all Medicare-beneficiaries and provides prospective enrollees adequate written description of its rules, procedures, benefits, and other charges, services, and other necessary information for the beneficiary to make an informed decision about enrollment. **42 CFR 417.428(a) (1)**	Marketing materials will be developed centrally within Health Affairs with site specific information and will clearly describe the benefit plan, rules, procedures, charges, etc. DoD will submit marketing materials to HCFA for review and approval. Approved materials will be provided to prospective enrollees on enrollment and updated annually.
28. The HMO/CMP publicizes the annual open season and all enrollment periods, whether of limited or continuous duration, through appropriate media. The HMO/CMP has at least one continuous 30-day open enrollment period annually. **42 CFR 417.428(a) (2) and 42 CFR 417.426(a)**	DoD will market to Medicare eligible MHSS beneficiaries within the catchment area of participating MTFs. DoD will conduct a 30 day open enrollment season annually. Enrollment will be continuous for applicants on the waiting list as space becomes available through attrition.
29. The HMO/CMP provides a written copy of the most current member rights to the enrollee at the time of enrollment and annually thereafter. **42 CFR417.436(a) and (b)**	DoD will meet this requirement.

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HCFA Requirement:	Determination:
30. Application forms are submitted to HCFA for approval prior to use and comply with HCFA instructions regarding format and content. **42 CFR 417.430(a); HMO Manual § 2001.5 and Exhibit 1, §2099.**	DoD will meet this requirement.

PROHIBITED MARKETING ACTIVITIES

HCFA Requirement:	Determination:
31. In offering its HMO/CMP to Medicare beneficiaries, the HMO/CMP does not engage in discriminatory practices including attempts to discourage participation on the bases of age, race, or attempt to enroll persons from a high income area if a comparable effort is not made to enroll persons from lower income areas. **42 CFR 417.428(b) (1)**	DoD will meet this requirement.
32. The HMO/CMP does not engage in activities which mislead, confuse, or misinterpret (e.g., HMO/CMP may not claim recommendation or endorsement by HCFA or that HCFA recommends that the person enroll in the organization; HMO/CMP may not make erroneous written or oral statement including any statement, claim, or promise that conflicts with, materially alters, or erroneously expands upon the information contained in HCFA-approved materials) **42 CFR 417.428(b) (2)**	DoD will meet this requirement.
33. The HMO/CMP does not offer gift or payment as an inducement to enroll in the organization. **42 CFR 417.428(b) (3)**	DoD will meet this requirement.
34. The HMO/CMP does not conduct door to door solicitation of Medicare beneficiaries. **42 CFR 417.428(b) (4)**	DoD will meet this requirement.

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HCFA Requirement:	**Determination:**
35. The HMO/CMP submits all Medicare marketing materials (e.g., ads, brochures, enrollments and disenrollment notices, subscriber agreements, and other marketing material including those prepared by contracting third parties) to HCFA at least 45 days before their planned distribution. **42 CFR 417.428(a) (3)**	DoD will submit Medicare marketing materials to HCFA at least 45 days before their planned distribution.
36. The HMO/CMP does not distribute Medicare marketing materials if, before the expiration of the 45 day period, it receives written notice from HCFA has disapproved the materials because it is inaccurate or misleading or it misrepresent the organization, its marketing representative or HCFA. **42 CFR 417.428(b) (5)**	DoD will meet this requirement.
37. The HMO/CMP only charges Medicare members for deductible and coinsurance amounts (as describe in 42 CFR 417.452(b)); for furnished covered services; noncovered services or services for which the enrollee is liable (as describe in 42 CFR 417.452(b)); and services for which Medicare is not the primary payer (as provided in 42 CFR 417.528). **42 CFR 417.454(a).**	DoD will meet this requirement.
38. If the HMO/CMP offers its Medicare enrollees an optional supplemental benefit plan which includes charges for deductible and coinsurance amounts, or noncovered services, or both, then the portion of the premium for coinsurance and deductibles applicable to covered services is computed separately and is disclosed to the Medicare beneficiary/applicant before he or she elects coverage options. The sum of the amounts the HMO/CMP charges its Medicare enrollees for noncovered services under Part A or Part B may not exceed the ACR as annually approved by HCFA. **42 CFR 417.452(d)**	DoD offer the TRICARE Prime benefit package to demonstration enrollees, plus specific Medicare services not covered by Prime, i.e., chiropractic services. If DoD offers non-Medicare covered services through an optional supplemental benefit plan, then DoD will meet this requirement.

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APPLICATIONS AND ENROLLMENT
ELIGIBILITY TO ENROLL

HCFA Requirements:	**Determination:**
39. The HMO/CMP does not deny enrollment on the basis of health status except for ESRD or hospice care election in a Medicare-certified hospice (unless subject to 42CFR417.432 conversions). **42 CFR417.422(b) and HMO Manual 2003.1**	Enrollment personnel have been instructed that applicants will not be denied enrollment on the basis of health status except for ESRD or hospice care election in a Medicare-certified hospice.

APPLICATION FORMS

HCFA Requirements:	**Determination:**
40. Applications are signed and dated by the enrollee. **42 CFR 417.430(a) HMO Manual 2001.5C**	DoD will meet this requirement. Applications will not be considered completed without the applicant's signature and the date the application was completed.
41. Applications are on file for all current enrollees and are kept for at least one year following an enrollee's disenrollment. **42 CFR 417.430(a)(2); HMO Manual 2001.5C**	DoD will meet this requirement. Completed applications will be retained on file for a minimum of one year.
42. Applicants are given an opportunity to acknowledge that they understand the HMO/CMP's rules and agree to abide by them. **42 CFR 417.422(e); HMO Manual 2001.5C**	DoD will meet this requirement. DoD will provide information to prospective enrollees on the HMO rules. When applicants arrive to complete the application form, the rules will be explained and the applicant will be afforded the opportunity to ask questions about the program. Prior to completing the application, the applicant will certify that they understand and will abide by the rules. Applicants who mail in applications will be contacted by telephone to ensure understanding of the program.

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HCFA Requirements:	**Determination:**
43. Applicants are informed (through the application process or pre-enrollment marketing information) that their enrollment will result in disenrollment from another HMO/CMPs Medicare product if they are currently enrolled in another HMO/CMP. **42 CFR 417.422(c); HMO Manual § 2001.5C**	DoD will meet this requirement. The application forms will include a section that explains that enrollment in DoD's HMO will result in disenrollment from other HMO/CMPs Medicare products. Applicants will certify that they understand.

ENROLLMENT PROCEDURES

HCFA Requirements:	**Determination**
44. The HMO/CMP has an effective system in place for receiving, controlling, and processing applications from Medicare enrollees. Applications are dated as of date they are received by the HMO/CMP. Applications are processed in chronological order by date of receipt **42 CFR 417.430(b), (b) (1) and (b) (2); HMO Manual § 2001.6**	DoD will meet this requirement. Applications will be dated , given sequential numbers and processed in the order that they are received.
45. The HMO/CMP notifies the applicant in writing of receipt and/or denial prior to processing. if appropriate, of the application no later than 30 days following receipt of the application. The written notice of receipt specifies the proposed effective date of enrollment; or, if the HMO/CMP is currently enrolled to capacity, explains the procedures that will be followed when vacancies occur. **42 CFR 417.430(b)(3); (b) (4)(i) and (ii); HMO Manual § 2001.6.**	DoD will meet this requirement. DoD will confirm the information on the enrollment form through telephonic interviews and offer in-person interviews. All applicants whose enrollment form information can be verified will receive notification of their status no later than 30 days following receipt of the application. A letter will be sent to applicants who are not reachable by telephone and such applications will be held for at least 35 days before final action is taken.
46. The HMO/CMP provides the applicant with a signed and dated copy of the application form. **HMO Manual § 2001.6**	DoD will meet this requirement. Each applicant will be provided a signed and dated copy of the application form.

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HCFA Requirements:	Determination
47. The HMO/CMP transmit the applicant's enrollment information to HCFA within 30 days from the date of application or from the date a vacancy occurs if the latter is due to capacity restrictions (or, within an additional period of time approved by and HCFA) **42 CFR 417.430(b) (6); HMO Manual § 2001.7**	DoD will meet this requirement. HCFA will be provided applicant's enrollment information within 30 days from the date of application or from the date a vacancy occurs.
48. If the application is denied, then the HMO/CMP, within 30 days of application, provides the applicant with a written explanation of the reason for the denial. **42 CFR 417.430(b) (5); HMO Manual § 2001.6**	DoD will provide a written explanation of the reason for the denial, e.g. ESRD, hospice care election in a Medicare-certified hospice, etc. The application will contain a section that explains denial of application. Applicants will certify that they understand this section by initialing the section
49. When the HMO/CMP receives enrollment confirmation from HCFA, it promptly (within 14-30 days) notifies enrollees in writing of the effective date of enrollment, and sends HCFA-approved information on the rules, including benefits and enrollee rights and responsibilities. **42 CFR 417.430(b) (7) and 42 CFR 417.436(b);HMO Manual § 2001.5B**	DoD will meet this requirement. Upon notification from HCFA, DoD will notify enrollees in writing of the effective date of enrollment, and send HCFA-approved information on the rules, including benefits and enrollee rights and responsibilities.
50. When the HMO/CMP is filled to capacity, or closes enrollment following at least a 30-day open enrollment period, it notifies subsequent applicants in writing of the procedures that will be followed when enrollment reopens or vacancies occur. The procedures ensure that vacancies are filled in chronological order. **42 CFR 417.430(b) (8); HMO Manual § 2001.3F**	DoD will meet this requirement. Once enrollment capacity has been reached, prospective enrollees will be notified in writing of the procedures that will be followed when enrollment reopens or vacancies occur. Applicants will be offered the opportunity to be placed on a waiting list.
51. The HMO/CMP adheres to the requirements in requesting retroactive enrollments from the HCFA Regional Office. **HMO Manual § 2002 A and B**	DoD will meet this requirement Retroactive enrollment will be processed only in the event that enrollment was denied because an error or technical problem in the HCFA system resulted in the provision of inaccurate beneficiary information. Such applicants shall be enrolled regardless of capacity limits.

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EMPLOYER GROUP APPLICANTS AND ENROLLEES

HCFA Requirements:	**Determination:**
52. RISK HMO/CMPs ONLY (retroactive enrollment only): The HMO/CMP enrolls Medicare Employer Group Health Plan (EGHP) applicants who are enrollees of an employer group plan and certifies that it provided him/her with an explanation of enrollee rights, including the lock-in requirements. **§ 4204(e) OBRA 1990; HMO Manual § 2002 A**	Enrollment will be for Medicare-eligible MHSS beneficiaries who are 65 and over. DoD will not contract with employer groups for the purposes of this demonstration.
53. The HMO/CMP does not exceed the limitation (up to 90 days) which allows HCFA to retroactively adjust Medicare payments to the HMO/CMP to cover the period of time the applicant enrolls through the EGHP and becomes eligible to receive services under the risk contract, and the time the application is received by the HMO/CMP and transmitted to HCFA. **§ 4204(e) OBRA 1990; HMO Manual § 2002 A**	Not applicable.
54. The HMO/CMP accepts as a Medicare enrollee any individual who applies and is enrolled in the HMO/CMP during the month immediately before the month of entitlement to Medicare parts A and B, or Part B only (Conversion). **42 CFR 417.432; HMO Manual § 2003.5**	The MTF will enroll into the TRICARE Medicare Prime program any TRICARE Prime enrollee who becomes eligible for Medicare and who was enrolled in the HMO/CMP with a PCM at the MTF during the month immediately before the month of entitlement to Medicare parts A and B. Those TRICARE Prime enrollees with civilian PCMs in the service area will be given an opportunity to apply for enrollment and will be eligible for the waiting list as appropriate.

HCFA Requirements:	**Determination:**
55. For "working aged" HMO/CMP enrollees who are employed by groups which are subject to Medicare Secondary Payer regulations, the HMO/CMP only offers premium waiver (or premium reduction) if the enrollee maintains coverage through both the TEFRA risk product and the group product. **§ 4204(g) (1) (C) OBRA 1990**	DoD will meet these requirements.
56. EGHP applicants who live outside of the Medicare service area are given the opportunity to convert into the Medicare HMO/CMP, but are informed in writing of the requirement that they utilize providers within the approved Medicare service area. Such enrollees are not disenrolled due to a "move" outside the service area, unless their residence changes following enrollment. **42 CFR 417.432(c)**	Not applicable.

MEMBERSHIP

HCFA Requirements:	**Determination:**
57. The HMO/CMP notifies Medicare enrollees of the changes in its rules, at least 30 days before the effective date of the change. **42 CFR 417.436(c)**	DoD will comply with this requirement

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PREMIUMS AND OTHER AMOUNTS DUE

HCFA Requirements:	**Determination:**
58. The HMO/CMP does not make changes during the contract year which result in an increase in premiums or a decrease in benefits. If there is a mid-year regulatory change in Medicare programs benefits, the HMO/CMP notifies its enrollees of the added benefits. . § **1876(c) (2) (B) of the Social Security Act.**	DoD will comply with this requirement.
59. When the HMO/CMP incorrectly collects premiums and/or other amounts due (as defined in 42 CFR 417.456(a) (1) (2) (3)), it refunds those amounts to Medicare enrollees, or to others who made payments on behalf of such enrollees. **42 CFR 417.456(c) and (d); HMO Manual § 2170.3**	DoD will comply with this requirement. Co-payments will not apply to care provided within the MTF.
60. The HMO/CMP refunds incorrectly collected amounts by lump sum payment and/or by future premium adjustments. **42 CFR 417.456(c) and (d); HMO Manual § 2170.3**	DoD will comply with this requirement

REPORTING AND RECONCILIATION OF RECORDS

61. The HMO/CMP reviews the *HCFA Monthly Transaction Replies/Monthly Activity Report* listings and the *Maintenance Records* upon receipt and appropriately follows up on any change in enrollee's status. **HMO Manual 6004**	DoD will comply with this requirement
62. The HMO/CMP verifies its enrollees' institutional status at the beginning of each month, correctly defines such status, accurately identifies those enrollees that resided in an institution for the full month, and submits such data to HCFA. **HMO Manual 6008A 1**	DoD will comply with this requirement.

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RISK-BASED CONTRACTORS ONLY - WORKING AGED

HCFA Requirement:	Determination
63. The HMO/CMP has an effective system in place to track, control, and report enrollees' working aged status. **HCFA Program Updates, October 11 and October 20, 1994.**	The MCS contractor will administer the "HCFA Working Aged Survey" to all new members of TRICARE Senior Prime at the time of enrollment. For dual eligibles who submit applications by mail, the MCS contractor will follow-up in writing or by phone in the event the survey is not submitted or incomplete. Ongoing identification of working aged will be accomplished through an annual survey which will be given to all TRICARE Medicare Prime members. DoD will report working aged data to HCFA by the last workday of the month through the McCOY system. The MCS contractor will verify HCFA data from the common working file upon receipt.

DISENROLLMENT

GENERAL PROCEDURES (Voluntary and Involuntary Disenrollments)

HCFA Requirements:	Determination:
64. The HMO/CMP promptly disenrolls Medicare enrollees upon receipt of their written request (i.e., Disenrollments are effective no earlier than the first day of the month following the month or no later than three months from the date the HMO/CMP receives the request. Enrollees are not required to submit disenrollment requests within a specified time frame in advance of the desired date. Disenrollment requests accepted by the HMO/CMP are signed and dated by Medicare enrollees. If the enrollee is unable to manage his/her affairs, a court-appointed guardian or representative may sign and date the disenrollment request. **42CFR 417.461**	DoD will comply with this requirement. Enrollees will be disenrolled upon receipt of their written request. Enrollees will be disenrolled within 60 days of receipt of written request.

GENERAL PROCEDURES (Involuntary Disenrollments Only)

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HCFA Requirements:	**Determination**
65. The HMO/CMP does not, orally or in writing, or by any action or inaction, request or encourage a Medicare enrollee to disenroll except for failure to pay premiums, a move outside the geographic area, fraud or abuse of membership card, failure to convert to the risk contract, loss of Part B, death of the enrollee, or for cause. **42 CFR 417.460(a); HMO Manual § 2004.1**	DoD will comply with this requirement. DoD staff will be informed that Medicare enrollees will not be requested or encouraged to disenroll.
66. The HMO/CMP notifies Medicare enrollees, in writing, of the intent to disenroll them on an involuntary basis and mails such notices to enrollees and allows a reasonable amount of time for the enrollees to respond (at least 29 days following the date of the notice) before the effective disenrollment date and prior to sending notice to HCFA. The notice contains the proposed effective date, a clear explanation of the reason for disenrollment, information on the enrollee's right to a hearing under the HMO/CMP's grievance procedure, and a reminder that the enrollee must receive services through the HMO/CMP until the effective termination date. **42 CFR 417.460 and following; HMO Manual § 2004.9**	DoD will comply with this requirement. DoD will notify enrollees, in writing, of the intent to disenroll on an involuntary basis. Enrollees will be given a reasonable amount of time to respond before the effective disenrollment date and prior to sending notice to HCFA.

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INVOLUNTARY DISENROLLMENT - FAILURE TO PAY PREMIUM

HCFA Requirement:	**Determination:**
67. The HMO/CMP's disenrolls Medicare enrollees who fail to pay premiums or other imposed charges only after demonstrating it made reasonable efforts to collect amounts due. **42CFR417.460(c)(1)(i)**	DoD will comply with this requirement. DoD will disenroll Medicare enrollees who fail to pay premiums or other charges after a reasonable effort to collect has been made.

INVOLUNTARY DISENROLLMENT -ENROLLEE MOVES OUT OF HMO/CMP's GEOGRAPHIC AREA

HCFA Requirement:	**Determination:**
68. Except as specified in 42 CFR 417.460(a)(2)(iv), the HMO/CMP disenrolls Medicare enrollees who move outside of the approved service area for more than 90 consecutive days. **42CFR417.460(b)(2)**	DoD will comply with this requirement. DoD will disenroll a Medicare enrollee who has moved outside of the approved service area for more than 90 consecutive days.
69. The HMO/CMP makes reasonable efforts to establish that Medicare enrollees have permanently moved from the approved service area. Such efforts are documented in writing or evidence exists in some other form acceptable to HCFA. **42CFR417.460(f); HMO Manual 2004.3**	DoD will comply with this requirement. If DoD believes that an enrollee has permanently moved from the approved service area, it will make reasonable effort verify the moved, e.g., telephone calls to the enrollee, letters to the enrollee, asking the enrollee on the next visit.
70. When the HMO/CMP retains enrollees who leave the service area for more than 90 consecutive days, it agrees in writing with the enrollee on restrictions for obtaining health care; however, restrictions are not imposed on the scope of Medicare-covered services as defined in 42 CFR 417.400. **42CFR417.460(f)**	DoD does not propose to retain enrollees who leave the service area for more than 90 consecutive days.

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71. The option to retain Medicare enrollees who are on extended absence from the service area (more than 90 consecutive days) is made available to all enrollees, unless the HMO/CMP is affiliated with other organizations, in which case it limits the option to enrollees who more to a geographic area served by the related organization which has both a contract under section 1876 of the Act and meets the definitions of "affiliated organization." **42CFR417.460(f)(2); Federal Register, Vol.56.No. 178**	DoD does not propose to retain enrollees who leave the service area for more than 90 consecutive days.
72. The HMO/CMP disenrolls enrollees who leave the HMO/CMP's service area for an extended absence and fail to return within one year of the date he or she left the geographic area. **42CFR417.460(f)(2); Federal Register, Vol.56.No. 178**	DoD will comply with this requirement. DoD will disenroll enrollees who leave the service area for an extended absence and fail to return within one year of the date he or she left the geographic area.

INVOLUNTARY DISENROLLMENT -FRAUD OR ABUSE OF MEMBERSHIP CARD.

HCFA Requirement:	**Determination:**
73. Medicare enrollees who are disenrolled for fraud or abuse are only disenrolled if they knowingly provide fraudulent information which materially affects the organization or affects the applicant's eligibility to enroll, or because an enrollee intentionally permits others to use the membership card to receive HMO/CMP services. **42CFR417.460(d)**	DoD will comply with this requirement. DoD will certify all disenrollments for fraud or abuse. These causes will be reviewed to determined if the enrollee knowingly provided fraudulent information or intentionally permitted others to use their membership card to receive services.
74. The HMO/CMP advises HCFA of such disenrollments only after reasonable advance notice is given to enrollees. **42CFR417.460(d)(2)**	DoD will comply with this requirement. DoD will notify HCFA of disenrollments after advance notice is given to enrollees.

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HCFA Requirement:	**Determination**
75. The HMO/CMP maintains documents related to the decision to disenroll and reports these disenrollments to the Office of Inspector General. **42CFR417.460(d)(3)**	DoD will comply with this requirement. DoD will maintain documents related to the decision to disenroll. DoD will report disenrollment for cause to the Office of Inspector General.

INVOLUNTARY DISENROLLMENT -LOSS OF MEDICARE Part A and/or Part B ENTITLEMENT

HCFA Requirement:	**Determination:**
76. The HMO/CMP disenrolls Medicare enrollees who lose Part B entitlement effective with the month following the last month of such entitlement. **42CFR417.460(h)(2)**	DoD will comply with this requirement. DoD will disenroll enrollees who lose Part B entitlement. The disenrollment will be effective with the month following the last month of entitlement.
77. Enrollees who lose entitlement to Part A, but remain entitled to Part B of Medicare, automatically continue in the HMO/CMP as Part B enrollees. **42CFR417.460(h)(1)**	Compliance with this requirement is not possible because the demonstration project requires participants to be eligible for both Part A and Part B benefits, and DoD will disenroll enrollees who lose entitlement to Part A. Under the authority of section 1896(d)(1) of the Social Security Act, a waiver of this requirement is granted.

INVOLUNTARY DISENROLLMENT -FOR CAUSE

HCFA Requirement:	**Determination:**
78. The HMO/CMP disenrolls Medicare enrollees for cause only when their behavior is disruptive, unruly, abusive, or uncooperative to the extent that continuing seriously impairs the HMO/CMP's ability to furnish services to either the enrollee or other enrollees. **42CFR417.460(e)(1)**	DoD will comply with this requirement. DoD will disenroll Medicare enrollees for cause when their behavior is disruptive, unruly, abusive, or uncooperative and reasonable efforts have been unsuccessful in resolving the issue.

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HCFA Requirement:	**Determination:**
79. The HMO/CMP disenrolls Medicare enrollees for cause only after serious efforts to resolve the problem, including use of internal grievance procedures, consideration of extenuating circumstances, and HCFA's advance approval of the proposed disenrollment. **42CFR417.460(e)(2)**	DoD will comply with this requirement. MTFs will establish, through their internal grievance process, procedures to ensure that appropriate steps have been taken to resolve the problem prior to disenrolling a Medicare enrollee for cause.
80. The HMO/CMP disenrolls enrollees effective the first day of the calendar month after the month in which notice is given to them of the intended action. **42CFR417.460(e)(6)**	DoD will comply with this requirement. DoD will disenroll enrollees effective the first day of the calendar month after the month in which notice is given.

VOLUNTARY DISENROLLMENT

HCFA Requirement:	**Determination:**
81. The HMO/CMP promptly sends a letter to the enrollee acknowledging receipt of the disenrollment request, and includes a copy of the enrollee's written request to disenroll. The letter contains the proposed effective date, and explains that the enrollee must continue to receive health care from the HMO/CMP providers until that date. **42CFR417.460(b)(2)**	DoD will comply with this requirement. DoD will acknowledge receipt of enrollee's disenrollment request. The letter to the enrollee will include a copy of the enrollee's request, a proposed effective date, and an explanation that the enrollee must continue to receive health care from DoD until that date.

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CLAIMS PROCESSING

HCFA Requirement:	**Determination:**
82. The HMO/CMP assumes financial responsibility and provides reasonable reimbursement for emergency services (in and out of area) and urgently needed services (out of area only) that its Medicare enrollees obtain outside the HMO/CMP, even without prior authorization. **42CFR417.414(c)**	DoD will comply with this requirement.
83. The HMO/CMP (including its contracting providers) pays 95 percent of "clean" claims from unaffiliated providers within 30 days of receipt. When clean claims are paid in over 30 days, interest is computed and paid. **Appropriations Bill, October 1992, P.L. 102-394; Sections 1876(g)(6)(A), 1842(c)(2) and 1816(c)(2) of the Social Security Act, and Section 9311 of OBRA 1986.**	DoD will comply with this requirement.
84. The HMO/CMP (including its contracting providers) makes an initial determination within 60 days from receipt of claims (from both affiliated and unaffiliated providers). If the HMO/CMP makes a determination that is wholly or only partially adverse to the enrollee, it notifies the enrollee of its determination (denial) within 60 days from receipt of the claim. To make initial determinations timely, 95 percent of claims are processed within 60 days from the date of receipt. **42CFR417.608(a)**	DoD will comply with this requirement.
85. The HMO/CMP notifies the enrollee of the right to appeal if it has failed to make a determination (adverse) within 60 days of receipt of the claim (i.e., failure to provide notice is deemed an adverse initial determination subject to appeal. **42CFR417.608(c)**	DoD will comply with this requirement.

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MEDICARE APPEALS **

HCFA Requirement:	Determination:
86. The HMO/CMP establishes, maintains, and follows the appeals procedures and procedures for expedited reviews, and informs all enrollees in writing of the appeals and expedited review procedures for all organization determinations. Information on these processes is clearly described in the HMO/CMP's evidence of coverage (EOC). **42CFR417.600; 417.604; 417.609; 417.617**	DoD will meet this requirement.
87. The HMO/CMP properly defines and identifies complaints that are organization determinations: (1) reimbursement for emergency or urgently needed services; (2) services furnished by nonaffiliated providers or suppliers that the enrollee believes is covered by the HMO/CMP contract and should have been furnished, arranged for, or reimbursed by the HMO/CMP; (3) services which the HMO/CMP refuses to provide that the enrollee believes should be furnished through the HMO/CMP and the enrollee has not received outside the HMO/CMP; and (4) discontinuation or reduction of a service. **42CFR417.606**	DoD will meet this requirement
88. The HMO/CMP makes an organization determination (the HMO/CMP's decision to provide, authorize, deny, or pay for a service, or the discontinuation of a service) within 60 days of the enrollee's request for the service. Failure to provide a notice constitutes an adverse organization determination which the enrollee may appeal (i.e., the situation is deemed adverse). **42CFR417.608**	DoD will meet this requirement.
89. The HMO/CMP's decision to deny payment for claims, refusal to provide or authorize a service, or to discontinue a service is an adverse organization determination. The written notice of an adverse organization	DoD will meet this requirement.

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determination: states the specific reasons for the denial; informs the enrollee of the right to a reconsideration, including the right to an expedited reconsideration; includes information regarding availability of legal assistance; provides parties to the reconsideration reasonable opportunity to present evidence relating to the issue in dispute, in person as well as in writing; and includes information explaining that physicians and other health professionals may act on behalf of an enrollee in time-sensitive situations. **HMO Manual 2304.4 42CFR417.608 and 417.618**	
90. The HMO/CMP develops procedures to assure that contracting providers are fully informed of appeals procedures and their responsibility to provide written notice of adverse organization determinations. The HMO/CMP monitors these procedures. **42CFR417.606**	DoD will meet this requirement
91. The HMO/CMP accepts requests for reconsiderations and expedited reconsiderations filed within 60 days of the organization determination. **42CFR417.616**	DoD will meet this requirement
92. The HMO/CMP assures that someone not involved in making organization determination makes the reconsideration (second level of review of an adverse organization determination) decision. **42CFR417.622**	DoD will meet this requirement
93. The HMO/CMP either makes a fully favorable decision and issues a decision within 60 days to the enrollee, or, if the HMO/CMP is unable to make a fully favorable decision, the HMO/CMP forwards the case to HCFA within 60- days from the date of receipt of the reconsideration request and concurrently notifies the beneficiary of the action. **42CFR417.620(b); 417.620(c); and 417.620(f)**	DoD will meet this requirement
94. If HCFA's reconsideration determination is to hold the HMO/CMP liable, then the	DoD will meet this requirement

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HMO/CMP provides or pays for the service within 60 days from the date of HCFA's determination. **Article IV, Medicare Contract**	
95. The HMO/CMP's written grievance procedures include: • a thorough explanation of the steps to follow in completing the procedure; and • time limits for each step of the procedure. **42CFR417.600 and 417.124(g)**	DoD will meet this requirement.

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HCFA Requirement:	**Determination:**
96. The HMO/CMP properly identifies issues subject to the grievance process. Anything not subject to appeals is considered a grievance; examples: quality of service provided, long waiting times for appointments or at the physician's office, services covered under an optional supplemental plan, issues relating to premiums, and involuntary disenrollment. **42CFR471.606(c)**	DoD will meet this requirement
97. The HMO/CMP allows physicians and other health professionals to act on behalf of an enrollee in time sensitive situations when an organization determination or reconsideration is being requested. **42CFR417.604(b)(4); 417.609(c)(4); 417.617(c)(4)**	DoD will meet this requirement
98. The HMO/CMP maintains and follows expedited organization decision and reconsideration procedures which include: (1) the receipt of oral requests, followed by written documentation, within two working days, of the oral request; (2) prompt decision-making, i.e., within 72 hours, regarding whether the request will be expedited or handled within the standard 60-day time frame, including timely notification of the enrollee if the request is not expedited.; (3) notification of the enrollee or the physician/health professional, as appropriate, as expeditiously as the enrollee's health condition requires, but within 72 hours of the request of the decision regarding expediting the case, and (4) an extension of up to ten working days for the decision, if requested by the enrollee or if the HMO/CMP finds that additional information is necessary and the delay is in the interest of the enrollee. **42CFR417.609; 417.617**	DoD will meet this requirement
99. The HMO/CMP forwards cases to HCFA within 24 hours of making a decision, or within 72 hours (or the extension period) when no favorable decision is made. **42CFR417.620**	DoD will meet this requirement

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Attachment C—Reimbursement

Overview

This attachment, and figures 1 through 19, describe the specific process for Medicare Program reimbursement to the Department of Defense (DoD) and for the end-of-year reconciliation.

Medicare Interim Payments to DoD

Under the demonstration, DoD may receive interim payments for the enrollment and treatment of its dual-eligible beneficiaries. During the execution of the demonstration project during any demonstration year, the department may receive a monthly per-member per-month capitated amount for TRICARE Senior Prime enrollees when the site's enrollment is above a specified threshold. These payments are interim, or provisional, payments. At the end of each demonstration year, a reconciliation will be conducted to determine whether DoD is entitled to keep any of its interim payments, and to determine if the amount of reimbursement was appropriate. This appendix describes the threshold mechanism that triggers the interim monthly payments. Then it describes the reconciliation process.

Thresholds for Reimbursement and Reconciliation

For each demonstration year and each demonstration site, DoD and HCFA will establish a threshold that will determine whether HCFA will reimburse DoD for enrollment at the site and determine the size of the reimbursement. The triggering threshold derives from each individual site's historical level of expenses for its dual eligible beneficiaries, termed the site's "level of effort". Calculation of the site's baseline level of effort is described in Appendix D.

The threshold for triggering interim payments from Medicare will be calculated from a portion of each site's level of effort. The portion will be 30 percent of the site's level of effort for the first demonstration year, 40 percent in the second demonstration year, and 50 percent in the third. The 30 percent portion for the first demonstration year will be scaled, or prorated, to the number of months of care delivery at each site. For example, if a site's level of effort was $90 million and delivered care for 5 months of the first demonstration year, the portion used to calculate a reimbursement threshold would be $11.25 million (5/12ths of 30 percent of $90 million).

The monthly threshold that triggers payments will be calculated by dividing the total dollar portion determined in the previous paragraph by the months of care delivery for the site. Continuing the example above, the monthly threshold will be $2.25 million ($11.25 million divided by 5 months).

HCFA will calculate the amount that it would pay for all of DoD's enrollees under the demonstration program at a modified per capita Medicare+Choice reimbursement rate (described in the next section), and compare its calculated amount to the site's monthly threshold. If the calculated amount exceeds the monthly threshold, then HCFA will reimburse DoD for the difference as an interim payment. If the calculated amount is below the monthly threshold, HCFA will not make a payment to DoD for that month. Failure to enroll up to the threshold in a month will also result in an adjustment to interim payments from other months (described under Annual Reconciliation below). Payments for all demonstration sites combined are subject to a global cap for each demonstration year. The caps are $50 million for the first demonstration year, $60 million the second year, and $65 million the third. No more than 50 percent of the cap in each year shall be available for Medicare Partners.

Per Capita Reimbursement Rate

To calculate how much it would pay for TRICARE Senior Prime enrollees in the reimbursement mechanism (described in the previous section), HCFA will use the following rate. The reimbursement rate by Medicare to DoD is 95 percent of the applicable Medicare+Choice rate as determined under the Balanced Budget Act of 1997 (P.L. 105–33) . In accordance with the authorizing legislation, the Medicare+Choice rate for each county will be adjusted to remove payments for graduate medical education (GME), indirect medical education (IME), and disproportionate share hospital (DSH). In accordance with the agreement by both Secretaries, 67 percent of capital will be removed.

Annual Reconciliation

At the end of each demonstration year, DHHS and DoD will conduct a formal reconciliation and evaluation to determine whether (1) all site's are entitled to retain the reimbursements they received from Medicare and (2) whether the amount of reimbursement were appropriate. The reconciliation consists of four steps:

1. Accumulate DoD's Expenses. The first step will be to determine the total amount of DoD expenditures across all six demonstration site for all dual-eligible beneficiaries residing in the service area. Two categories of expense will be accumulated: (1) expenses for care provided on a space-available basis to non-enrolled dual eligible beneficiaries (termed "space-available level of effort"), and (2) expenses for care provided to enrollees.

Expenses for providing outpatient pharmacy services will not be included in any of the categories; nor will expenses incurred providing services under a Medicare Partners contract for services covered by the contract. Expenses incurred providing services not covered by a Medicare Partners agreement will be counted as space-available care.

Expenses for space-available care are capped at a maximum of 70 percent of the combined level of effort across all six sites during the first demonstration year, 60 percent of the combined level of effort during the second, and 50 percent during the third. Because sites will be starting care delivery at varying time during the first demonstration year, the demonstration-wide cap on space-available expenses will be prorated during the first demonstration year as follows. Each individual site's level of effort will be prorated according to the number of months of care delivery during that first demonstration year. Then, the prorated level's of effort will be added across all six sites. Finally, 70 percent of the six site total will be used for the first year space-available cap.

2. Determine Eligibility for Reimbursement. The second step will be to determine whether the demonstration sites are eligible to retain any reimbursements from Medicare. There are two tests; both must be passed. The first compares total expenditures for all six sites, both for enrolled and for space available care, to DoD's combined level of effort for all sites. For any site to be eligible to retain reimbursements from HCFA, DoD must reach its combined level of effort.

The second test compares DoD's expenditures for enrolled care across all demonstration sites against a minimum threshold that varies by demonstration year. The threshold is 30 percent of the combined six-site level of effort during the first demonstration year, 40 percent during the second, and 50 percent during the third. Again, the first year threshold on expenses for enrolled care will be prorated by the number of months of care delivery during that year in the manner similar to the way the threshold for space-available care is prorated (described in 1. above).

3. Determine Amount of Reimbursement. If DoD has met its level of effort for all demonstration sites, reimbursements from HCFA are subject to two adjustments. First, gross monthly payments from HCFA to a site will be summed over all months of a demonstration year (months of care delivery for the first demonstration year). The difference between this sum and the level of effort target will be the annual reimbursement that DoD is entitled to keep at each site. If the difference is negative, DoD will return all payments received to HCFA. This adjustment is performed at each site.

Second, total reimbursements from HCFA may be adjusted upwards or downwards during reconciliation if there is compelling evidence of adverse or favorable risk selection in DoD's enrollment, when compared with the HCFA population upon which the Medicare+Choice rates are based. The determination will be made analytically during as part of the reconciliation process and will be based upon submitted claims for covered services.

Third, DoD is only entitled to retain reimbursement above the aggregate level of effort. The level of effort will be prorated during the first demonstration year on the basis of months of care delivery at the various sites.

4. Provide Access to Data. The final step will be to provide HCFA auditors and the DHHS IG with access to DoD's records and data for demonstration sites. HCFA and DoD will develop a mutually acceptable process for settling any disputes that arise over the data.

Maximum Ceiling on Total Annual Medicare Reimbursement

For the demonstration project, the maximum total Medicare reimbursement to DoD for all six demonstration sites in any demonstration year shall not exceed $50 million in calendar year 1998, $60 million in calendar 1999, and $65 million in calendar year 2000. The cap for the first demonstration year will be prorated as described below. All reimbursements received by DoD for dual-eligible enrollees from Medicare or from Medicare Partners will count towards the annual ceiling. Should Medicare reimbursement to DoD meet the statutory cap in any of the project's three years, DoD will remain obligated to continue to provide the full range of services under the TRICARE Senior Prime benefit to all project enrollees. DoD will be financially liable for all care provided under TRICARE Senior Prime once the annual reimbursement cap is reached. No more than 50 percent of the cap in each year. shall be available for Medicare Partners.

For 1998, the $50 million ceiling shall be prorated based on the estimated enrollment at each site and the number of months that each site is operational during 1998. The ceiling for 1998 will be determined when the last site to begin in 1998 becomes operational.

At the end of each month, DoD will report to HCFA all revenue that it has received during that month from Medicare+Choice plans. HCFA will track payments for TRICARE Senior Prime enrollees. If the annual cap for that year was exceeded in a prior month, DoD will remit all such revenue for each succeeding month to HCFA.

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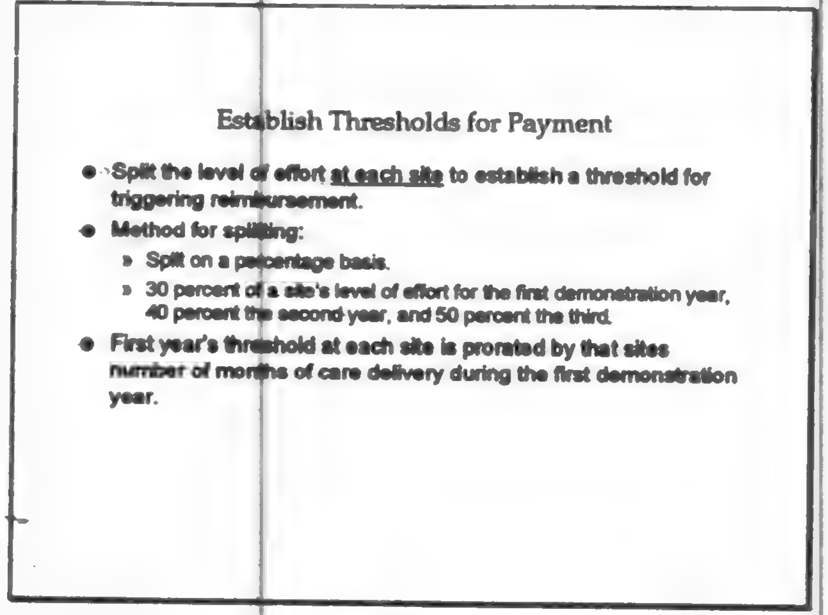

Establish Thresholds for Payment

- Split the level of effort at each site to establish a threshold for triggering reimbursement.
- Method for splitting:
  - » Split on a percentage basis.
  - » 30 percent of a site's level of effort for the first demonstration year, 40 percent the second year, and 50 percent the third.
- First year's threshold at each site is prorated by that sites number of months of care delivery during the first demonstration year.

Figure 1

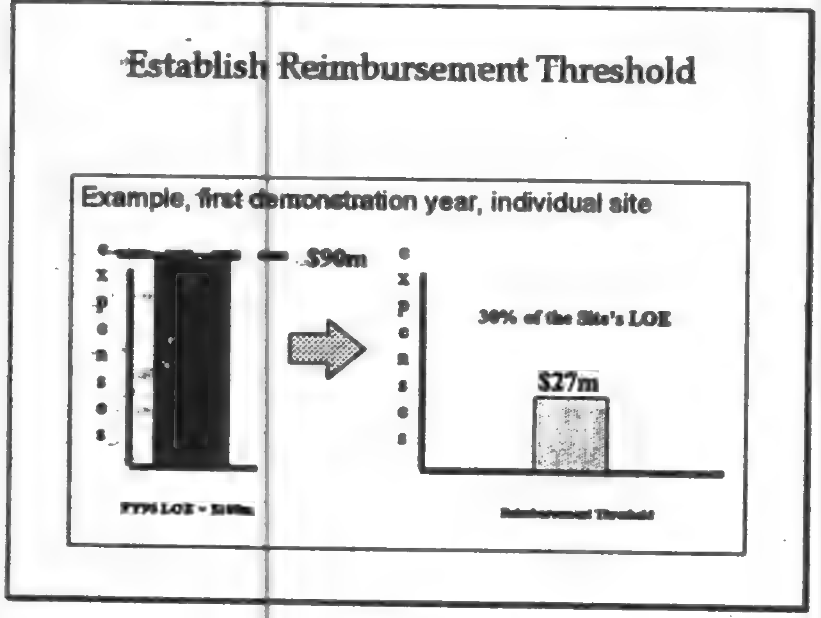

Establish Reimbursement Threshold

Example, first demonstration year, individual site

Figure 2

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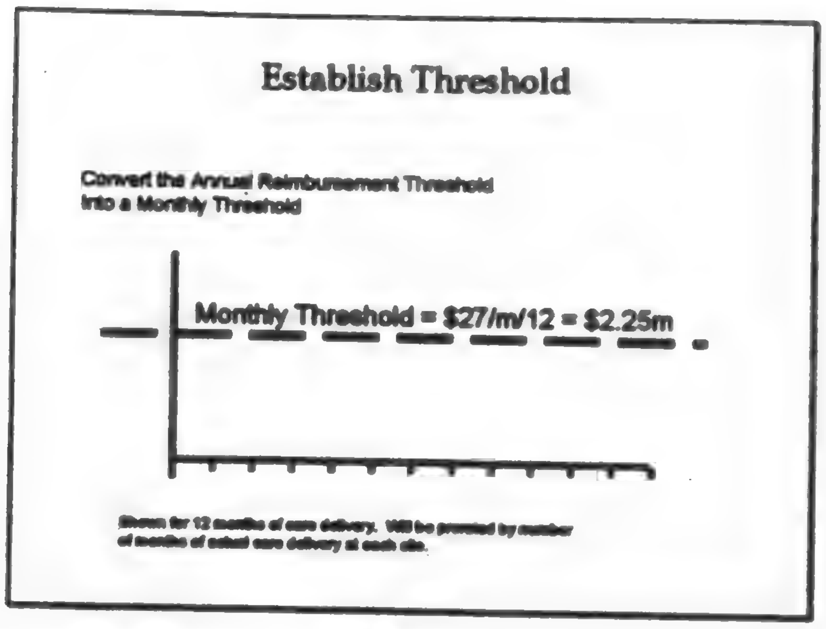

Establish Threshold

Convert the Annual Reimbursement Threshold
Into a Monthly Threshold

Monthly Threshold = $27/m/12 = $2.25m

Shown for 12 months of care delivery. Will be prorated by number
of months of actual care delivery at each site.

Figure 3

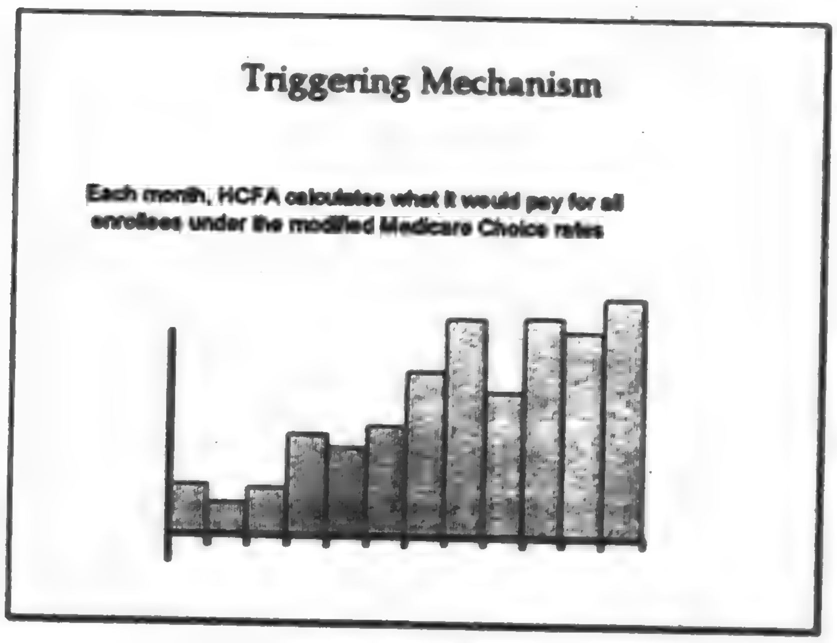

Triggering Mechanism

Each month, HCFA calculates what it would pay for all
enrollees under the modified Medicare Choice rates

Figure 4

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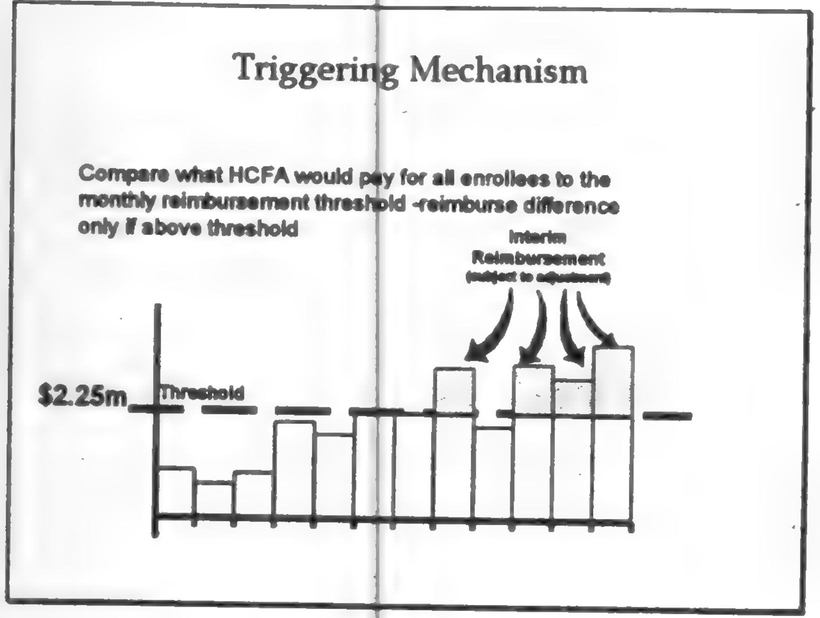

Triggering Mechanism

Compare what HCFA would pay for all enrollees to the monthly reimbursement threshold -reimburse difference only if above threshold

Figure 5

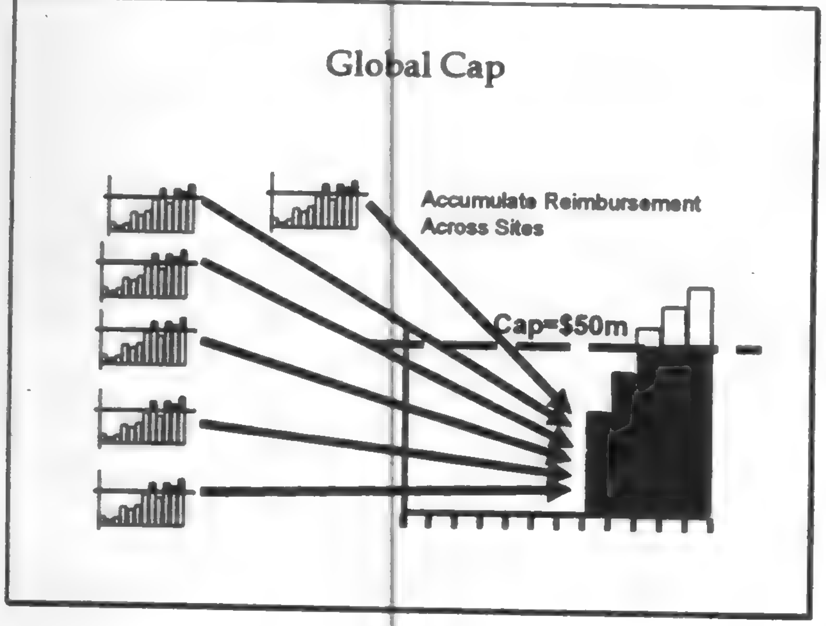

Global Cap

Accumulate Reimbursement Across Sites

Figure 6

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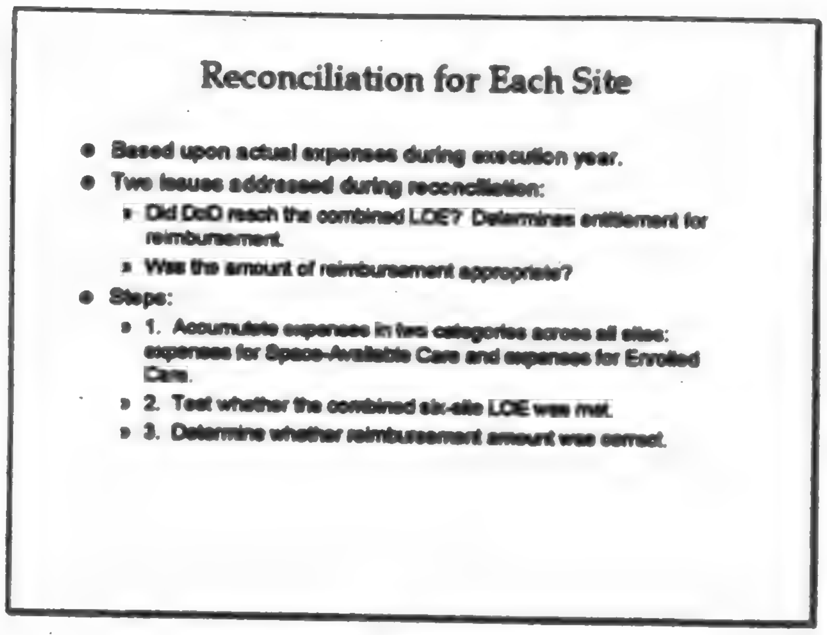

Reconciliation for Each Site

- Based upon actual expenses during execution year.
- Two issues addressed during reconciliation:
  - Did DoD reach the combined LOE? Determines entitlement for reimbursement.
  - Was the amount of reimbursement appropriate?
- Steps:
  - 1. Accumulate expenses in two categories across all sites: expenses for Space-Available Care and expenses for Enrolled Care.
  - 2. Test whether the combined six-site LOE was met.
  - 3. Determine whether reimbursement amount was correct.

Figure 7

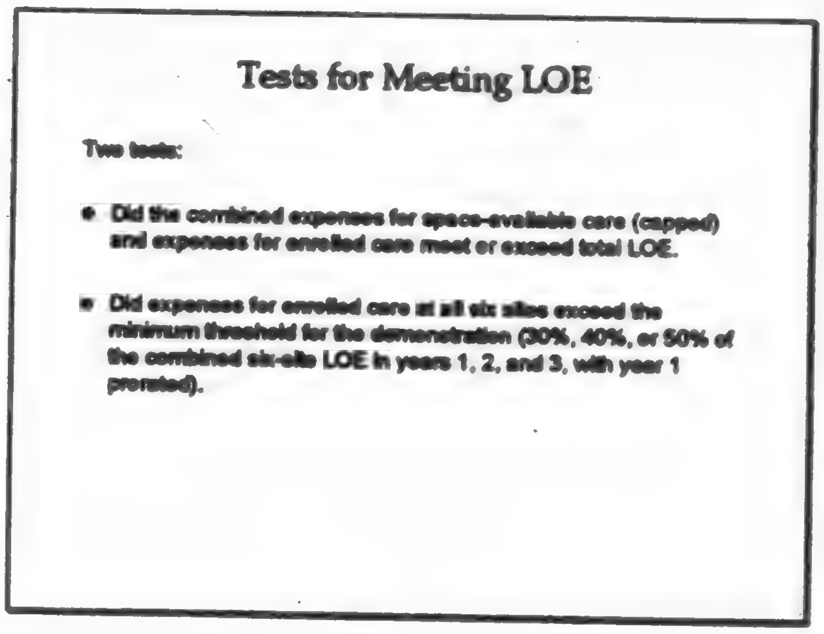

Tests for Meeting LOE

Two tests:

- Did the combined expenses for space-available care (capped) and expenses for enrolled care meet or exceed total LOE.
- Did expenses for enrolled care at all six sites exceed the minimum threshold for the demonstration (30%, 40%, or 50% of the combined six-site LOE in years 1, 2, and 3, with year 1 prorated).

Figure 8

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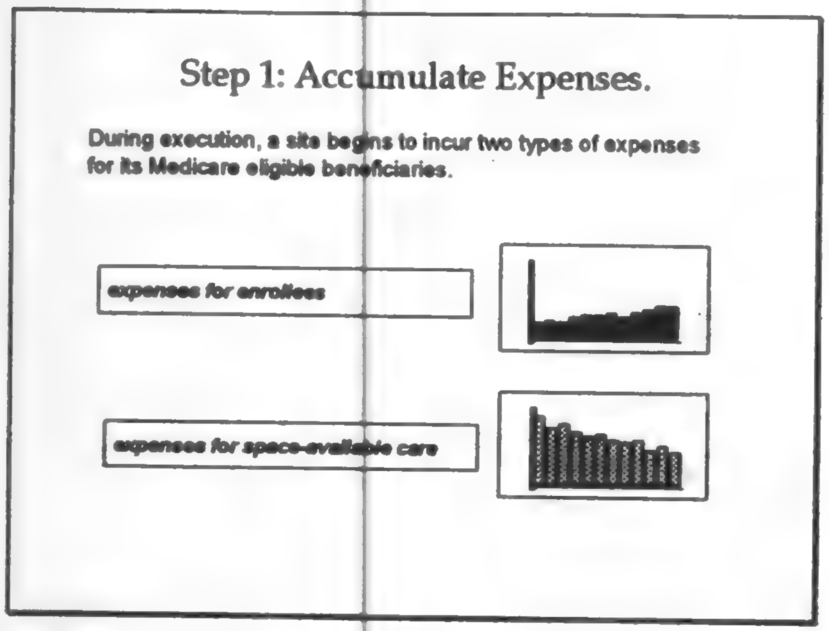

Step 1: Accumulate Expenses.

During execution, a site begins to incur two types of expenses for its Medicare eligible beneficiaries.

expenses for enrollees

expenses for space-available care

Figure 9

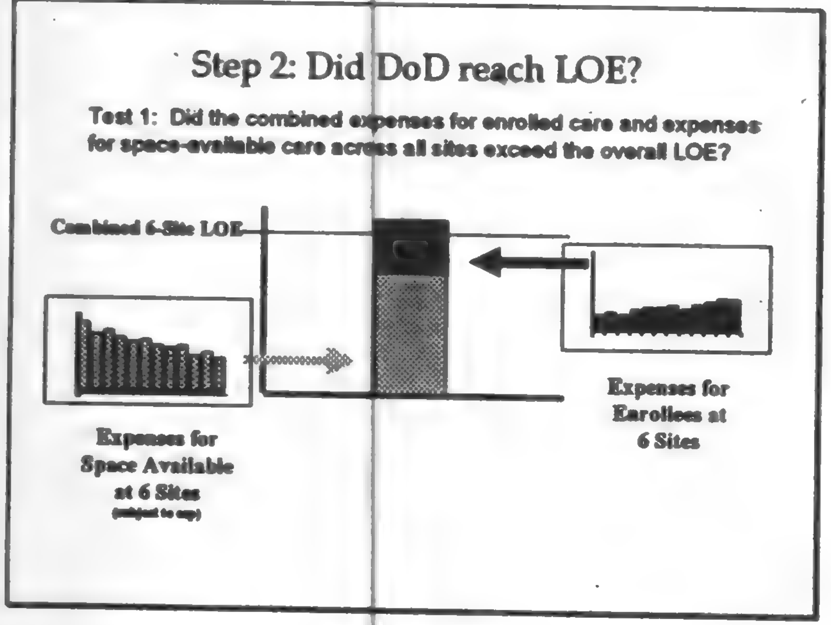

Step 2: Did DoD reach LOE?

Test 1: Did the combined expenses for enrolled care and expenses for space-available care across all sites exceed the overall LOE?

Combined 6-Site LOE
Expenses for Space Available at 6 Sites
(subject to cap)
Expenses for Enrollees at 6 Sites

Figure 10

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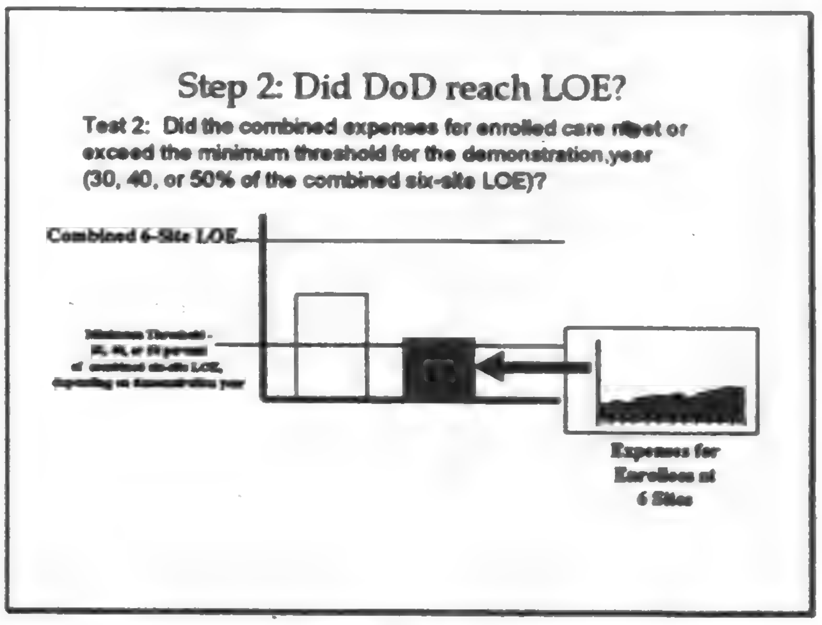

Step 2: Did DoD reach LOE?

Test 2: Did the combined expenses for enrolled care meet or exceed the minimum threshold for the demonstration year (30, 40, or 50% of the combined six-site LOE)?

Combined 6-Site LOE
Minimum Threshold - 30, 40, or 50 percent of combined six-site LOE, depending on demonstration year
Expenses for Enrollees at 6 Sites

Figure 11

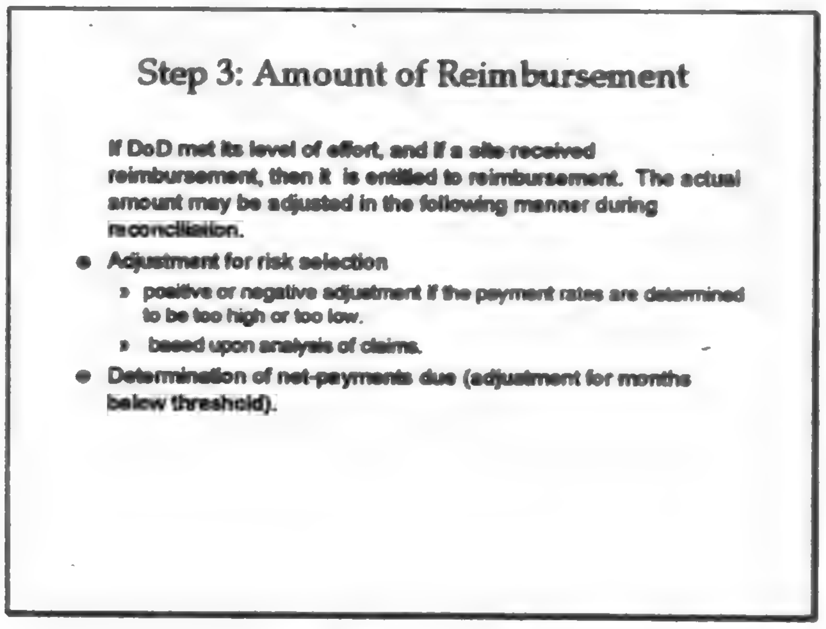

Step 3: Amount of Reimbursement

If DoD met its level of effort, and if a site received reimbursement, then it is entitled to reimbursement. The actual amount may be adjusted in the following manner during reconciliation.

- Adjustment for risk selection
  - positive or negative adjustment if the payment rates are determined to be too high or too low.
  - based upon analysis of claims.
- Determination of net-payments due (adjustment for months below threshold).

Figure 12

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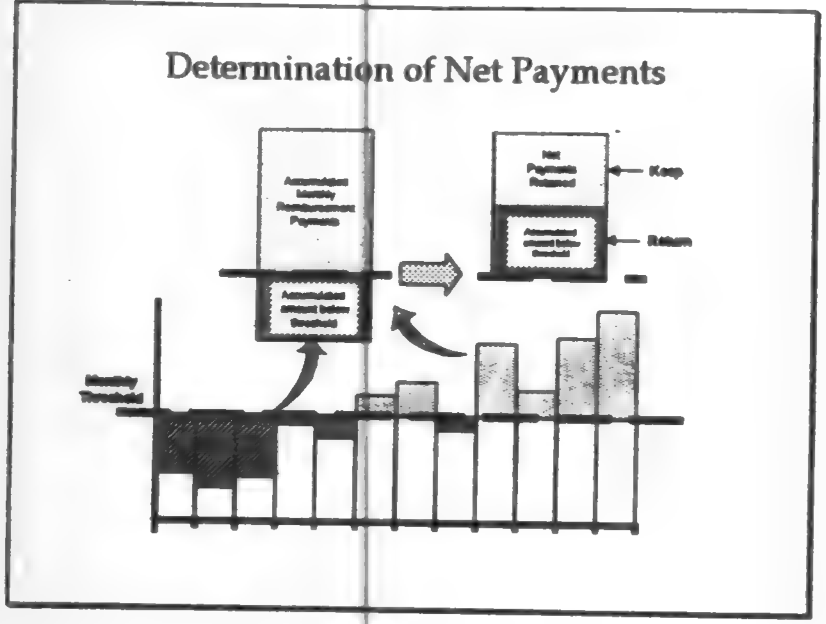
Determination of Net Payments

Figure 13

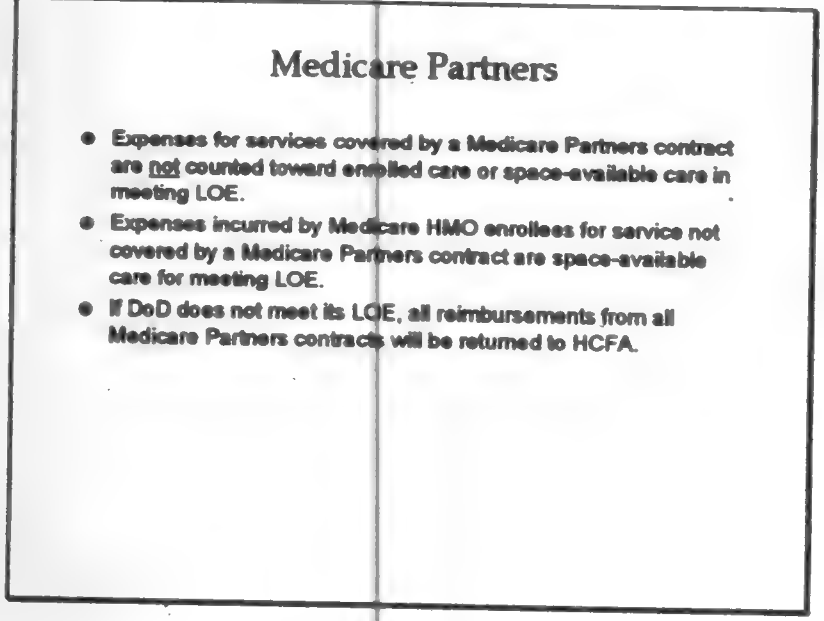
Medicare Partners

- Expenses for services covered by a Medicare Partners contract are not counted toward enrolled care or space-available care in meeting LOE.
- Expenses incurred by Medicare HMO enrollees for service not covered by a Medicare Partners contract are space-available care for meeting LOE.
- If DoD does not meet its LOE, all reimbursements from all Medicare Partners contracts will be returned to HCFA.

Figure 14

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Attachment D—Level of Effort

Introduction

Purpose

This attachment describes the methodology that the Department of Defense (DoD) will use to compute the FY96 "level of effort" (LOE) for each Medicare Demonstration site.

General Principles for Establishing Medicare Level-of-Effort

DoD will compute the FY96 level-of-effort (historical expenditures for its Medicare eligible beneficiaries) separately for the service area of each Medicare Demonstration site. Service areas will be defined by lists of specific zip-codes for each site. Expenses will be accumulated from a population perspective; they will be the sum of all applicable DHP expenses for all dual eligible beneficiaries living in the zip-codes defining the site, regardless of where in the Military Health System those expenses were incurred.[1]

The LOE will include most direct expenses for inpatient and outpatient care provided by military Medical Treatment Facilities (MTFs), with some additional burdening (explained in detail below) . It will also include the government's costs of care for Medicare eligibles referred to providers in networks operated by the Department's Managed Care Support Contractors. The FY96 LOE excludes any DoD expenses comparable to those removed from the Medicare+Choice rates as a result of the Balanced Budget Act of 1997 (e.g., expenses for Graduate Medical Education), or any types of care specifically excluded by agreement between DoD and HCFA (outpatient pharmacy costs). The FY96 LOE will also exclude DoD's monthly payments for dual-eligible enrollees of Uniform Services Treatment Facilities (USTFs) residing in the service area, unless they participate.

It is the agreement of the administering Secretaries that FY96 will be the baseline.

Detailed Methodology

This section presents the separate methodologies used to estimate inpatient and ambulatory expenses.

Terminology

Medicare Demonstration Sites. In accordance with current legislation, six sites will be picked for the Medicare Demonstration. A service area for each site will be defined geographically by a specific list of zip-codes.

IDA Add-on. In an analysis performed for the "733 Study," the Institute for Defense Analysis (IDA) determined that certain expenses should be added to the clinical expenses reported in the Medical Expense and Performance Reporting System (MEPRS). Based upon their analyses, they estimated the amounts that should be added to inpatient and outpatient clinical expenses as a percentage add-on to the expenses routinely reported in the clinical accounts. Their recommended adjustments are presented in Table 1.

Patient-Level Cost Allocation. The methodology that DoD is evolving to estimate expenses at the level of the individual patient encounter. That methodology is described in a separate document to be provided by DoD.

Inpatient Care

Data Sources

Direct Care

Clinical Data: Standard Inpatient Data Record (SIDR) for each hospital discharge. Maintained in the Corporate Executive Information System (CEIS).

Expenses: Estimated from the Medical Expense and Performance Reporting System—Central (MEPRS), part of the Defense Medical Information System or from the MEPRS Executive Query System (MEQS), depending on military department.

MCSC Provider Network

Expenses: Government paid expense on Health Care Summary Records (HCSRs) provided by the TRICARE Support Office (TSO) to the CEIS.

Methodology

Estimates of total inpatient expenses in each service area are determined by the following process:

1. Estimate inpatient expenses for care in Military Treatment Facilities (MTFs) for all Medicare eligibles in the service area.

a. From the CEIS, isolate the electronic summary discharge records for all non-active duty DoD beneficiaries age 65 and older living in the service area.

b. For each record isolated in step (1), estimate the cost of each discharge.

(1) Estimate the cost for each individual discharge using the Patient Level Costing Allocation (PLCA) methodology, as described in a separate document to be provided by DoD.

(2) Apply the IDA add-ons appropriate to the treating facility.

(a) Burden the cost of each record using IDA's percentages for DMSCC, Mgmt HQ, and Reference Labs, using the percentage developed for the Military Department of the hospital in which the care occurred (see Table 1). By agreement of the two administering Secretaries, burden the cost on each record with ⅓ of the IDA adjustment for Construction (see Table 1).

(b) Burden each record for Continuing Health Education (MEPRS Account FAL) and Patient Transportation/Movement (FEA/FEB/FEC) by allocating the actual expenditures in these accounts for treating facilities in the demonstration service area, and by the IDA percentage add-on (Table 1) for treating facilities outside the demonstration area. Since these accounts support all patient categories, as well as both inpatient and outpatient services, only a portion of their expenses will be allocated to the inpatient treatment of Medicare beneficiaries. The amount of each account allocated to Medicare inpatient expenses will be in the same proportion as MEPRS A Expenses (Inpatient Clinical Expenses) for the Medicare population are to the total of all MEPRS A and MEPRS B (Outpatient Clinical Expenses) in FY96. The amount allocated to Medicare inpatient expenses will be uniformly distributed across all Medicare inpatient records.

c. For records from teaching facilities, deflate the amount using HCFA's adjustment for Indirect Medical Education (IME) based on that facility's count of beds and of interns and residents.

d. Sum the estimated costs for the service area.

2. Estimate inpatient expenses for care provided by the MCSC provider networks.

a. Isolate all Health Care Summary Records for all non-active duty DoD beneficiaries, age 65 and older, living in the service area.

b. Total the government paid portion for all claims. [DHA1]

Outpatient Care

Data Sources

Direct Care

Clinical Data: Monthly outpatient visits by patient age and third-level MEPRS from CHCS, as well as outpatient visits reported by third-level in MEPRS-Central or MEQS.

Expenses: Dollars by third-level MEPRS from MEPRS-Central or MEQS.

MCSC Provider Network

Expenses: Government paid expense on Health Care Summary Records (HCSRs) provided by the TRICARE Support Office (TSO) to the CEIS.

Methodology

The following steps will be used to estimate outpatient expenses in each region:

1. Estimate the outpatient expenses for Medicare eligibles at all MTFs in the service area using the following steps.

a. Reconcile CHCS and MEPRS visit data.

(1) Annualize the CHCS data.

(2) Scale CHCS visit accounts to MEPRS or MEQs, if necessary.

b. From the rescaled CHCS visit data, determine the proportion of visits in each workcenter (third-level MEPRS) that are for non-active duty beneficiaries age 65 and older.

c. Apply the proportion of non-active duty beneficiaries age 65 and older to the MEPRS workcenter costs, excluding outpatient pharmacy expenses from the stepdown to ambulatory workcenters.

d. Sum the costs for the beneficiaries under consideration across all MEPRS workcenters to get total outpatient visit expenses at the facility level.

e. Apply the IDA add-ons for outpatient care.

(1) Inflate each record using IDA's percentages for DMSCC, Mgmt HQ, Reference Labs, and Clinical Investigation, using the percentage developed for the Military Department of the hospital in which the care occurred. By agreement of the two administering Secretaries, burden the cost on each record with ⅔ of the IDA adjustment for Construction (see Table 1).

(2) Burden the total expenses from d. by expenses in Continuing Health Education (MEPRS Account FAL) by allocating actual expenditures in the FAL account of the

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[1] By contrast, a "facility view" of a demonstration area would accumulate the selected DHP expenses for beneficiaries treated by facilities operating within the service area, regardless of where such beneficiaries reside.

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treating facility. The amount of each account allocated to Medicare outpatient expenses in the same proportion as MEPRS B Expenses (Outpatient Clinical Expenses) for the Medicare population are to the total of all MEPRS A (Inpatient Clinical Expenses) and MEPRS B in FY96. The amount allocated to Medicare outpatient expenses will be uniformly distributed across all Medicare outpatient records.

f. Sum the estimates for all MTFs within the service area.

2. Estimate ambulatory expenses for care provided by the MCSC provider networks.

a. Isolate all Health Care Summary Records for all non-active duty DoD beneficiaries, age 65 and older, living in the service area.

b. Total the government paid portion for all claims.

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Attachment D

Total Expenses

Sum the total Inpatient and Outpatient expenses from each site to produce the Level of Effort.

Table 1. Institute for Defense Analysis (IDA) MEPRS Adjustments.

	ARMY %	NAVY %	AIR FORCE %	AVERAGE %
Construction	4.30	4.30	4.30	4.30
DMSSC	1.29	1.29	1.29	1.29
Mgmt, HQ	0.68	1.11	0.85	0.88
FAA-Reference Labs	0.39	0.39	0.39	0.39
FAH-Clinical Investigation[2]	0.71	0.22	0.71	0.55
FAK-Student Expense[1]	4.65	2.75	2.18	3.19
FAL-Continuing Health Ed[2]	1.17	1.14	0.90	1.07
Outpatient Total	13.2	11.2	10.6	11.7
FEA-Patient Transportation[2]	3.74	2.14	2.18	2.69
Inpatient Total	16.9	13.3	12.8	14.3

1. year of training; 100% for interns and residents before year 2. Excluded from the Medicare Demonstration Project as GME expenses.
2. Includes MEPRS accounts FEB and FEC. For treating facilities within demonstration areas, actual expenditures in these MEPRS accounts are allocated between Inpatient and Outpatient care and between Medicare and all other beneficiaries. For treating facilities outside of demonstration areas, the IDA percentages will be used.

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Attachment E—Medicare Demonstration of Military Managed Care

Evaluation

Medicare Demonstration Sample Evaluation Questions—These questions are among those which may be addressed in either the GAO report required by the demonstration project's authorizing statute or in a separate evaluation conducted jointly by the Department of Defense and the Department of Health and Human Services.

- Can DoD and Medicare implement a cost-effective alternative for delivering accessible and quality care to dual-eligible beneficiaries?

The Medicare Demonstration should be able to answer the basic question of whether DoD and Medicare can meet its objective of implementing a cost-effective alternative for delivering care to dual-eligible beneficiaries through MHS. The answer to this question can be found by answering questions in four basic areas: enrollment demand, enrollee benefits, cost of the program, and impact on other DoD and Medicare beneficiaries for TRICARE Senior Prime and Medicare Partners. In each there should be a question about whether the demonstration succeeded and a set of analyses that examines the details within that area.

(1) Benefits for Enrollees

- Do dual-eligible beneficiaries benefit from Medicare reimbursement and enrollment in terms of quality, satisfaction, health status, access, or out of pocket costs?
- Will individual patients have better outcomes if treated as a DoD enrollee?
- Will beneficiaries as a whole evince better health and higher satisfaction when DoD enrollment is an option?
- Will beneficiaries have wider managed care choices?
- Will beneficiaries experience improved access to health care in general?

By definition, enrollees will have at least as generous a benefit as Medicare beneficiaries. The basic question will be: does DoD fulfill this promise and what if any additional benefits accrue to enrollees? However, the question will go much deeper than the structure of the prime benefit. Will beneficiaries as a whole experience better health, experience improved access, report higher satisfaction and encounter lower out of pocket costs when DoD enrollment is an option? In this case, we should examine the levels of satisfaction, health status, and access between those enrolled versus those not enrolled and between those in the demonstration areas versus those outside the demonstration areas.

As one measure of quality, DoD facilities are JCAHO accredited and the grid scores received will give us information on whether the MHS is maintaining its high standard of care. Data from the Health Care Survey of DoD Beneficiaries can be used to assess levels of satisfaction, access, and health status.

(2) Cost of Program

- Does Medicare reimbursement and enrollment occur without increasing the costs to either the Department of Health and Human Services and the Department of Defense?
- Will the Medicare Trust Funds experience losses or savings?
- Will the government as a whole experience losses or savings?
- What impact would Medicare reimbursement and enrollment have on the budgets of the Department of Health and Human Services and the Department of Defense?

Again, by definition, the demonstration must be budget neutral. However, the demonstration should provide an accounting that budget neutrality was achieved and that no cost were shifted from DoD to Medicare, i.e. that the Medicare trust funds did not experience any losses. This should include an analysis of the level of effort that DoD expends for the Medicare eligible as well as any reimbursements from Medicare that may be triggered during the demonstration. Analyses should also determine if DoD can in fact live within the Medicare payment, and whether its ability to live within it is determined by the level of the Medicare payment for different areas. In addition, the demonstration should highlight any cost shifting within the DoD to accommodate care for prime enrollees, both between regions and among medical programs. For Medicare Partners payments, analyses should estimate to what extent graduate medical education (GME), indirect medical education (IME), and disproportionate share hospital (DSH) amounts are included in those payments. It should also be able to forecast future budget impacts if the demonstration is continued or expanded.

Data for this section will be obtained in the same way that we estimated level of effort for reimbursement purposes. Sources include inpatient, ambulatory, and ancillary medical records and MEPRS accounting data. Because of the concern of shifting between regions and among medical programs, some level of aggregate data will need to be analyzed from outside the demonstration regions. Changes in Medicare expenditures to dual eligible beneficiaries could be accomplished with merged DoD and HCFA files similar to those being used for the initial level of effort analysis.

(3) Impact on Other DoD and Medicare Beneficiaries

- What impact (access, quality, cost) does Medicare reimbursement and enrollment have on medical care for DoD beneficiaries (active duty, active duty dependents, retirees and their dependents) other than the dual-eligible beneficiaries?
- Will the demonstration affect local health care providers or non-dual-eligible Medicare beneficiaries access to quality care?

The effect of the Medicare Demonstration may go beyond the effects on those who are Medicare eligible. Providing all inclusive care for Medicare eligibles may have effects on the access and priority of other beneficiaries in getting quality health care. The demonstration should provide answer to whether such a new benefit can be established without negatively impacting other classes of beneficiaries. In particular, the main focus of this question should be if access to non-Medicare eligible individuals has declined as a result of the demonstration. This should be examined for the different classes of beneficiaries and especially for active duty personnel and their dependents. The demonstration should also examine the effects of enrolling these individuals on CHAMPUS costs if they are displacing other beneficiaries in the direct care system.

Similar to (1) but for the remaining beneficiary categories, we propose using the Health Care Survey of DoD Beneficiaries to examine trends in access for non-Medicare eligible individuals.

(4) Enrollment Demand

- Is there sufficient demand to justify enrollment of and reimbursement for dual-eligible beneficiaries in TRICARE Senior Prime and/or Medicare Partners?
- What impact does Medicare reimbursement and enrollment have on the use of the Military Health System by dual-eligible beneficiaries?
- Will the Medicare Demonstration fare differently in different areas?

Up to this point, we do not know the degree to which Medicare eligibles are interested in participating in TRICARE Senior Prime and Medicare Partners. The demonstration should allow us to gauge the demand for such services. If few beneficiaries sign up, then one would question the need for such a program. Therefore, the basic question will be the number of Medicare Prime enrollees. We will also be interested on the total usage of the DoD system including space available use. Prior to the demonstration, beneficiaries fall into three categories: those who use the military system exclusively, those who use it for some of their health care, and those who rely exclusively on civilian care. With the demonstration, the first category will be split into two, those who enroll and those who use space available care for all their health care. The demonstration should seek the answer to who enrolls (e.g. are they prior exclusive users of DoD), what shifts between categories occurs, and does DoD continue to support at least as many beneficiaries as prior to the demonstration. It will also be of interest in projecting future enrollment to measure differences in enrollment between sites. Do those with greater military health care capability attract more enrollees than those with limited capability? Do civilian capabilities and alternatives influence the beneficiaries decision to enroll?

Data for this part of the evaluation will be from three sources. First, the enrollment files themselves will give us information on the number and kinds of beneficiaries who sign up for TRICARE Senior Prime. Second, the MHS User Survey can estimate the proportion of dual eligibles in each of the three categories. This data will also answer the questions as to what extent access of non-enrollees to space available care and pharmacy benefits are affected. Finally, the merging of utilization files from DoD and HCFA will give another look at what proportion of care is seen between the two systems.

DOD Performance Measures Attachment F—

Enrollment Systems

Performance: DoD provides appropriate enrollment information to HCFA; applications are handled according to HCFA requirements.

Criteria DoD can effectively interface with HCFA systems; applications are dated when received, handled first-come, first-served.

Grievance and Appeals

Performance: Process exists to handle beneficiary and provider complaints.

Criteria: DoD keeps an accurate log of complaints and addresses them promptly and appropriately.

Marketing

Performance: Process exists for assuring that beneficiaries are well-informed (beneficiaries are not misled, misrepresentations about the Medicare program are not made).

Criteria: DoD assures that beneficiaries are well informed, marketing materials are reviewed by HCFA before DoD distributes them.

Access/Capacity

Performance: DoD has adequate capacity and enrollees have adequate access to services.

Criteria: DoD demonstrates that TRICARE Senior Prime enrollees are getting the same priority and the same access as other military retirees who enroll in TRICARE Prime.

Paying Providers

Performance: Systems exist for processing payment to providers.

Criteria: DoD demonstrates ability to pay providers timely and accurately.

Reimbusement/Level of Effort

Performance: DoD has systems that receive and track payments from HCFA, and DoD can track actual costs for both space-available and enrollee care.

Criteria: DoD receives payment without problems; DoD demonstrates ability to track/allocate costs for space-available and enrollee care.

Encounter Data

Performance: DoD submits "test" data to fiscal intermediaries/carriers.

Criteria: DoD demonstrates successful data transmission.

[FR Doc. 98–19041 Filed 7–16–98; 8:45 am]

BILLING CODE 5000–04–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Acting Deputy Chief Information Officer, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before September 15, 1998.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Deputy Chief Information Officer, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: July 13, 1998.

Hazel Fiers,

Acting Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of Educational Research and Improvement

Type of Review: New.

Title: Third International Mathematics and Science Study Video—Repeat (TIMSS–R).

Frequency: On Occasion.

Affected Public: Individuals or households; not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 5,600.

Burden Hours: 567.

Abstract: Videotape study of 8th grade math and science classrooms in the United States, the Czech Republic, France, Japan, the Netherlands, and One Asian Nation during the 1998–1999 school year. Designed and conducted by the U.S., this study supplements the Main TIMSS–R academic assessment data collection in which 45 to 50 countries are expected to participate. This study is based on and extends the work of the previous TIMSS video study. That study included only mathematics and compared the U.S. data with two other countries—Japan and Germany. This study will include science in addition to mathematics lessons, will be conducted in five high-achieving nations, and will collect and produce video tapes that will be useful for improving teaching practices.

Office of Educational Research and Improvement

Type of Review: Revision.

Title: The Blue Ribbon Schools Program.

Frequency: One time.

Affected Public: Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 515.

Burden Hours: 25,750.

Abstract: The Blue Ribbon Schools award is a national school improvement strategy with a threefold purpose: (1) to identify and give public recognition to outstanding public and private schools across the nation; (2) to make available a comprehensive framework of key criteria for school effectiveness that can serve as a basis for participatory self-assessment and planning in schools; and (3) to facilitate communication and sharing of best practices within and among schools based on a common

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understanding of criteria related to success. The information collected will be used to determine by peer review which schools receive the award and information on their exemplary practices and policies will be made available to other schools.

Office of Special Education and Rehabilitative Services

Type of Review: Reinstatement.

Title: Annual Program Cost Report.

Frequency: Annually.

Affected Public: State, local or Tribal Gov't; SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 82.

Burden Hours: 385.

Abstract: Collected data submitted on the Annual Vocational Rehabilitation Program/Cost Report (RSA-2) by State vocational agencies for each fiscal year is used by the Rehabilitation Services Administration (RSA) to administer and manage the Title I Program, to analyze expenditures, evaluate program accomplishments, and to examine data for indication of problem areas.

Office of Educational Research and Improvement

Type of Review: Revision.

Title: Eisenhower National Clearinghouse for Mathematics and Science Education, Evaluation.

Frequency: On occasion.

Affected Public: Individuals or households; not-for-profit institutions; Federal Government; State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 80,125.

Burden Hours: 3,159.

Abstract: This submission contains a suite of nine instruments to be used in general data collection for the Eisenhower National Clearinghouse (ENC). All responses are voluntary. Subjects will be obtained as a sample of convenience at ENC workshops, demonstrations and presentations, and from recipients of ENC publications and products. Instruments are designed to provide general information for planning and evaluation purposes.

[FR Doc. 98-19068 Filed 7-16-98; 8:45 am]

BILLING CODE 4000-01-U

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection and Dissemination Activities: Comment Request

AGENCY: Energy Information Administration, DOE.

ACTION: Agency electric power information collection and dissemination activities: Proposed confidentiality comment request.

SUMMARY: The Energy Information Administration (EIA) is soliciting comments concerning the proposed revision to the EIA procedure of confidentiality treatment given to electric power data collected and disseminated by the EIA through a series of primarily mandatory surveys (Form EIA-411 is voluntary). This notice lists the electric power data elements the EIA considers could cause substantial competitive harm if made available to the public and EIA is proposing that these elements will be considered confidential if the provider documents substantial harm due to unrestricted disclosure.

DATES: Written comments must be submitted by August 31, 1998. The urgency to review and implement this policy requires close adherence to the scheduled comment period. If unusual circumstances arise during the comment period which could cause a delay in meeting the scheduled response date, please notify the contact person listed below at once. Effort will be made to accommodate all interested responders to this notice.

ADDRESSES: Send comments to John G. Colligan, EI-53; Energy Information Administration, U.S. Department of Energy, 1000 Independence Avenue, S.W.; Washington, D.C. 20585-0650; (202) 426-1174; e-mail jcolliga@eia.doe.gov; and fax (202) 426-1311.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the electric power forms and instructions should be directed to John Colligan at the address listed above. Please note, the EIA is not seeking comments on the survey forms per se, but rather on the level of confidentiality of specific data elements. A separate notice regarding forms design is being published and distributed.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Request for Comments

I. Background

In order to fulfill its responsibilities under the Federal Energy Administration Act of 1974 (FEAA) (Pub. L. 93-275) and the Department of Energy Organization Act (Pub. L. 95-91), the Energy Information Administration (EIA) is obliged to carry out a central, comprehensive, and unified energy data and information program. As part of this program, EIA collects, evaluates, assembles, analyzes, and disseminates data and information related to energy resource reserves, production, demand, and technology, and related economic and statistical information relevant to the adequacy of energy resources to meet demands in the near and longer term future for the Nation's economic and social needs.

The EIA, as part of its continuing effort to reduce paperwork and respondent burden (required by the Paperwork Reduction Act of 1995 (Pub. L. 104-13)), conducts a presurvey consultation program to provide the general public and other Federal agencies with an opportunity to comment on proposed and/or continuing reporting forms. This program helps to prepare data requests in the desired format, minimize reporting burden, develop clearly understandable reporting forms, and assess the impact of collection requirements on respondents. Also, EIA will later seek approval by the Office of Management and Budget (OMB) for the collections under Section 3507(h) of the Paperwork Reduction Act of 1995 (Pub. L. 104-13, Title 44, U.S.C. Chapter 35).

The EIA conducts surveys to collect electric power data from electric utilities, electric power marketers, nonutility electric power producers (cogenerators, small power producers, and other nonutility electric power generators), and the North American Electric Reliability Council regions. The electric power data collected include but are not limited to: ownership; accounting/financial; generation; type and character of fuels consumed; capacity; heat rates; heat rate components; demand; purchases; sales; peak loads; imports/exports; revenues; plants; equipment; distribution systems; reliability; load management; and environmental data. EIA also collects projections of load, capacity, and other related information.

The EIA surveys used to collect this data and other information are:

EIA-411, "Coordinated Bulk Power Supply Program;"
EIA-412, "Annual Report of Public Electric Utilities;"

EIA–417R, "Electric Power Systems Emergency Report;"
EIA–759, "Monthly Power Plant Report;"
EIA–767, "Steam-Electric Plant Operation and Design Report;"
EIA–826, "Monthly Electric Utility Sales and Revenue Report with State Distributions;"
EIA–860, "Annual Electric Generator Report;"
EIA–861, "Annual Electric Utility Report;"
EIA–867, "Annual Nonutility Power Producer Report;" and
EIA–900, "Monthly Nonutility Sales for Resale Report."

(The surveys currently in use to collect electric power data are subject to change reflecting the transformation of the electric power industry. The EIA is also publishing a notice in the **Federal Register**, at this time outlining proposed individual forms changes.)

II. Current Actions

With the restructuring of the generation segment of the electric power industry, the question of confidential treatment of the electric power data collected and disseminated by the EIA has become preeminent. Under existing EIA procedure, in accordance with the Freedom of Information Act (FOIA), all electric utility data, except heat rate, are available to the public. Most electric power data collected from the nonutility industry are treated as commercially sensitive and not releasable in disaggregated form. The EIA has followed this procedure since inception of the nonutility form(s) based on the nature of that market.

With the implementation of the Federal Energy Regulatory Commission (FERC) Orders 888 and 889, which facilitated wholesale electricity generation competition, and the initiation of retail competition in some states, the EIA is addressing the concern of data confidentiality, through a series of notices to the public which address the need for a change to the confidentiality of submitted data survey forms. This will result in an amended procedure that will both balance the public's right-to-know, and the proprietary right of the electric power generators to conduct business.

The EIA's initial action was a request for comment(s) from interested parties and those who might be affected by changes in the EIA confidentiality procedure. The call for comments was widely publicized through a **Federal Register** notice (FRn), and announcements on the Internet. (Refer to **Federal Register**: January 13, 1998 (Volume 63, Number 8) [pp 1960–1962]. The EIA extended the comment period of the notice beyond the customary 60 days, to accommodate all potential responders. EIA received 116 responses, (Appendix A) several from organizations representing more than a single entity. Many of the comments discussed the legal requirements related to confidentiality of data submitted to the EIA. The respondents presented cogent arguments on all sides of the issue which is the foundation of the EIA procedure being presented here.

In developing a policy of confidential treatment of electric power data collected by the EIA that is fair and equitable, the EIA weighed the concerns of the industry (as reported in their comments) with the legal implications of any action(s) taken and the laws governing the EIA survey collection series. The laws and regulations considered are:

a—Trade Secrets Act, (18 U.S.C. 1905)
b—Freedom of Information Act (FOIA), (5 U.S.C. 552)
c—Department of Energy, Freedom of Information Act (FOIA) Regulations, (10 C.F.R. 1004)
d—Clean Air Act (as it applies to emissions data), (42 U.S.C. 85)
e—Paperwork Reduction Act, (44 U.S.C. 35)

a—Trade Secrets Act

A trade secret is defined in narrow terms: as a secret commercially valuable plan, formula, process, or device that is used for the making, preparing, compounding or processing of trade commodities and that can be said to be the end product of either innovation or substantial effort. The collection and dissemination, by the EIA of electric power data does not include trade secret information or data. By definition the Trade Secrets Act is not pertinent to the issue of confidentiality of the EIA electric power data collection series.

b—Freedom of Information Act (FOIA)

The concept of FOIA is an open policy favoring disclosure. There is a presumption that disclosure is appropriate, with some limited exemptions. Exemption 4 of FOIA covers confidential commercial or financial information. However, exemptions to FOIA are narrowly construed. The test, under exemption 4 of FOIA, of whether to disclose or to withhold data at the company/plant level is a two prong examination depending on whether the submission is voluntary or required. FOIA does not contain specific provisions on information sharing.

Where information is submitted voluntarily, disclosure under FOIA is appropriate only if the data provider and/or industry organizations (in which the data provider holds membership) customarily make the data available to the public. The fact that a custodian of the data makes it available to the public is not considered voluntary submission by the submitter.

All EIA electric power data collections (except Form EIA–411) are mandatory surveys. Where information is required to be submitted, the test for FOIA disclosure is whether disclosure would cause substantial competitive harm. The question of whether substantial competitive harm will in fact occur (by release of data to the public) is a highly fact-specific one. The harm must be substantial, a mere negative effect alone does not meet the standard of substantial harm. Actual competition is a prerequisite if seeking exception from disclosure under FOIA. The entity must be operating in a competitive market, not a non-competitive market. Blanket allegations of harm will not suffice as proof of substantial harm. The burden is on the entity seeking confidential treatment of data. When granting an exemption under FOIA, the question of balance between public interest and the rights of the submitter are always at issue.

c—Department of Energy (DOE), FOIA Regulations

The DOE complies with the FOIA regulations both in letter and in spirit. The fact that the EIA has considered specific data elements nonconfidential or confidential in the past does not preclude a reevaluation of its position on confidentiality of individual data elements at any time. The electric power industry changes as do the circumstances of data reporting. The change in circumstances could affect disclosure of data collected in prior years by the EIA. For example, if data are relatively unchanged but the disclosure rule is now different, the new rule might prevail for disclosure of all such data collected in prior years. The final EIA procedure will clarify this point. If underlying data are confidential it is usually acceptable to disclose the data at an aggregated level without revealing the data submitter. DOE also complies with the Paperwork Reduction Act of 1995 which provides that a Federal agency may make confidential information available to another Federal agency if the disclosure is not inconsistent with applicable law. The EIA may make confidential information available to another Federal Agency if it will be used for statistical purposes only. In accordance with section 12(f) of the FEAA, the

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Comptroller General or the Secretary shall disclose information in a manner designed to protect its confidentiality to (1) other Federal government departments, agencies, and officials for official use upon request; (2) committees of Congress upon request; and (3) a court in any judicial proceeding under court order.

d—Clean Air Act

The Clean Air Act prohibits confidential treatment of emissions data. The Environmental Protection Agency's (EPA) FOIA implementing regulations has determined that emissions data are defined broadly and includes "information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source * * *". (EPA is one of the sponsors of Form EIA–767.)

Proposed Procedure

The EIA is proposing an update to its procedure on the confidential treatment of electric power data collected through the survey series listed above. The proposed changes are based on the review of the comments received from all sectors of the industry, and consideration of the laws and regulations discussed above.

It is the intent of the EIA to establish a procedure of equal public disclosure treatment for all market participants. The data elements designated in this document (Table 1) have a potential to be harmful to the submitter, if released without restriction. Such harm, if it exists, could qualify the individual submitter's data for exemption from unrestricted release under the provision(s) of FOIA. Circumstances vary from reporting entity to reporting entity. It is the responsibility of the respondent(s) seeking protection under FOIA to declare the fact-specific occasions that will cause damages, and explain how their company is directly affected. The burden is on the respondent to authenticate and document the likelihood of substantial harm, and the need for nondisclosure of specific data. To show substantial competitive harm, the respondent must document the existence of actual competition, how a competitor would use the data to gain a substantial competitive advantage, and that the data are not available from another source. Even if the respondent appears to meet the burden of proof, the EIA is required to balance the harm to the respondent against the public interest severed by disclosure.

It should be understood that the EIA's identification of these elements is based on the comments received from the January 1998 solicitation and a thorough review of the laws and regulations. Each respondent seeking nondisclosure protection, for individually-identifiable data, should establish that prerogative when submitting that entity's data to the EIA on the applicable survey(s).

All other data collected by the EIA on the surveys listed in Section I, Background, will be treated as nonconfidential. Listed in Appendix B are most of the major data elements (by Form) that will not be treated as confidential.

TABLE 1.—CONFIDENTIAL DATA ELEMENTS

Data elements	Forms affected
Future—generating capacity: 1—retirement dates 2—changes to existing units 3—planned generating unit data	EIA–411 generator(s) planning data for: (a) existing (changes to); (b) retirement date(s) (c) new generators (all information) EIA–767 planning data for: (a) new plants/equip.; (b) equipment updates; (c) retirement date(s) EIA–860 planning data for: (a) generator updates; (b) retirement date(s); (c) new generator(s) EIA–867 planning data for equipment
Heat rates:	EIA–411 (a) heat rate data EIA–767 (a) boiler efficiency EIA–860 (a) heat rate data
1—Sales for resale	EIA–412 name(s), quantities, demand charges, energy/other charges, revenue/settlements 2—Contracts EIA–867 names, maximum contract amount, amount delivered
Wholesale purchases/contracts with sellers	EIA–412 name(s), quantities, demand charges, purchased/exchanged, energy/other charges, total costs EIA–867 name(s), maximum contract amount, amount delivered
Fuel inventory—stocks	EIA–759
Financial data—environmental equipment	EIA–767
Sales end user(s) name(s)	EIA–867 name(s), maximum contract, amount delivered

III. Request for Comments

Prospective respondents and other interested parties should comment on the actions discussed in Section II, Current Actions. We are seeking comments on the issue of confidentiality only at this time. General comments on the forms themselves will be solicited under another FRn soon to be published. The EIA is taking this approach in order not to confuse form(s) design and survey coverage(s) with the issue of confidentiality of the electric power data. The following guidelines are provided to assist in the preparation of responses.

General Issues

The general issue of this notice is to advise and seek comments on the EIA's proposed revised procedure of confidentiality treatment of data elements collected on its several electric power survey form(s), from all interested parties. Table 1 lists the electric power data elements the EIA considers could cause substantial competitive harm if made available to the public. The EIA is proposing that these elements will be considered confidential if the provider documents substantial harm due to unrestricted disclosure. Please comment on this proposal.

As a Potential Respondent

While the general rule under FOIA is full disclosure there are limited exemptions. The question of whether data collected by the EIA's electric power survey(s) series will qualify for an exemption is not exact. The critical test is: will the release of the data element (at the plant identifiable unit level) cause or is likely to cause substantial competitive harm? The presumption of the FOIA favors disclosure, placing the burden on the data provider to document the likelihood of such harm.

As a potential respondent to an EIA electric power survey, please discuss what data elements collected on EIA's electric power surveys would cause you substantial competitive harm if your individually-identifiable data were released. Specifically, you should address the following: (1) is your information available from other public sources; and (2) how would release of your data cause you substantial competitive harm. Your response must be specific; broad statements not addressing specific data elements are not useful in deciding on what data elements, if any, should be considered as confidential.

As a Potential User

A. As a potential user of data collected in EIA's electric power surveys, please discuss what data you need in company-identifiable form and why aggregate data where individual confidentiality is maintained would not be adequate for your needs. Additionally, please document the harm and the extent of loss you would endure by not having individually-identifiable specific data.

As new data needs on electric power are identified in the future and are considered for inclusion in EIA's surveys, the confidentiality treatment of any new data element(s) will be subject to the same procedure and considerations discussed above. Before new element(s) are included in surveys, EIA will request comments through its presurvey consultation program and will seek OMB approval.

Comments received in response to this **Federal Register** notice may be included in materials submitted to OMB and will be available to the public.

Statutory Authority: Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13).

Issued in Washington, D.C. July 14, 1998.

Jay E. Hakes,

Administrator, Energy Information Administration.

Appendix A

LIST OF COMPANIES RESPONDING TO FEDERAL REGISTER NOTICE OF JANUARY 13, 1998

ID	Company	Type
1	Alaska Electric Light & Power Co	Utility.
2	Allegheny Power	Utility.
3	American Public Power Association	Association.
4	American Corporate Resources, Inc	Consultant.
5	Arizona Corporation Commission	State/Regulator.
6	Association of Electric Cooperatives	Association.
7	Baltimore Gas & Electric Co	Utility.
8	Bernadette K. Geyer	Private Citizen.
9	Bonneville Power Administration	Federal Gov.
10	Brickfield/Burchette-For 3 Texas Coop's	Electric Coop.
11	California Energy Commission	State/Regulator.
12	Carolina Power & Light Co	Utility.
13	Center for Clean Air Policy	Environmental.
14	Central & South West Services, Inc	Utility.
15	Coalition For Local Power	Citizen Group.
16	Colorado/Dept. Public Health/Environment	State/Regulator.
17	Colorado/Dept. Regulatory Agencies	State/Regulator.
18	Commonwealth Edison Co—Environmental	Utility.
19	Commonwealth Edison Co—Attorney For	Utility.
20	Commonwealth Edison Co—Law Dept	Utility.
21	Conservation Consultants, Inc	Citizen Group.
22	CONSOL Inc	Energy Co.
23	Consumers Energy	Utility.
24	Coordinated Energy Ltd	Consultant.
25	Detroit Edison	Utility.
26	Duke Energy Corporation	Utility.
27	Edison Electric Institute	Association.
28	Electric Power Group	Consultant.
29	Electric Power Supply Association	Association.
30	Energy Market & Policy Analysis, Inc	Consultant.
31	Energy	Utility.
32	First Energy	Utility.
33	Friends Of The Earth	Environmental.
34	Groundwork	Environmental.
35	Hawaiian Electric Co. Inc	Utility.
36	Illinois Power	Utility.
37	Indiana Dept. Commerce	State/Regulator.
38	Iowa Dept. Natural Resources	State/Regulator.
39	J.D. McKenzie	Consultant.
40	James Kotcon	Consultant.
41	Kansas City Power & Light Co	Utility.
42	Katherine M. Phillips	Private Citizen.
43	Kenneth D. Hammett	Private Citizen.
44	Komanoff Energy Associates	Consultants.
45	Laclede Gas Co	Energy Co.
46	Land & Water Fund	Environmental.
47	M. Cubed	Consultant.

LIST OF COMPANIES RESPONDING TO FEDERAL REGISTER NOTICE OF JANUARY 13, 1998—Continued

ID	Company	Type
48	Maryland Energy Administration	State/Regulator.
49	MDU Resources Group	Utility.
50	Michigan State—College of Business	College/Univ.
51	Michigan Municipal Electric Association	Association.
52	Michigan—Dept Consumer & Industry Services	State/Regulator.
53	Mid Atlantic Area Council	Association.
54	Mid American	Utility.
55	Mike Turcotte	Private Citizen.
56	Missouri—Dept. of Natural Resources	State/Regulator.
57	Missouri—Division of Energy	State/Regulator.
58	MSB Energy Associates, Inc	Consultant.
59	N. Carolina Dept. Environment/Natural Resources	State/Regulator.
60	National Mining Association	Association.
61	National Association of State Officials	Association.
62	National Resources Defense Council	Association.
63	National Rural Electric Cooperative Association	Electric Coop.
64	National Assoc. Regulatory Utility Commissioners	Association.
65	National Assoc. State Utility Consumer Advocates	Association.
66	Native Forest Network	Citizen Group.
67	New York Energy Research/Development Authority	State/Regulator.
68	New England Conference PUC Commissioners, Inc	Association.
69	New Century Energies	Utility.
70	New Jersey Dept. Environmental Protection	State/Regulator.
71	North American Electric Reliability Council	Association.
72	Northeast States Coordinated Air Use Management	Association.
73	Nuclear Energy Institute	Association.
74	Pacific Gas & Electric Co	Utility.
75	Paine Webber	Financial.
76	PECO Energy Co	Utility.
77	Pete Salinas, Jr	Private Citizen.
78	Philadelphia Public Health/Services Air/Man	State/Regulator.
79	Potomac Electric Power Co	Utility
80	Public Citizen	Citizen Group
81	Public Service Company of New Mexico	Utility.
82	Public Citizens Critical Mass Energy Project—1	Citizen Group.
83	Public Citizens Critical Mass Energy Project—2	Citizen Group.
84	Public Citizens Critical Mass Energy Project—3	Citizen Group.
85	PUC of Ohio	State/Regulator.
86	Puget Sound Energy, Inc.	Utility.
87	Resource Data International	Consultant.
88	Resources for the Future	Consultant.
89	Right-to-Know Energy Information	Citizen Group.
90	Sigcorp Inc	Utility.
91	Southern California Edison	Utility.
92	Southern Company	Utility.
93	Southern Environmental Law Center	Environmental.
94	Steve Osterday	Private Citizen.
95	Tampa Electric Co	Utility.
96	Terrence Kurtz	Private Citizen.
97	Texas Utilities Electric Co	Utility.
98	Tucson Electric Power Co	Utility.
99	U. of Delaware Energy & Environmental Policy	College/Univ.
100	Union of Concerned Scientists	Environmental.
101	University of Wisconsin-Madison	College/Univ.
102	U.S. Senate James M. Jeffords (Vermont)	Federal Gov.
103	U.S. Environmental Protection Agency	Federal Gov.
104	U.S. Dept Comm. Bureau Economic Analysis	Federal Gov.
105	U.S. Dept. of Agriculture	Federal Gov.
106	Utility Power Group	Consultant.
107	Vanston Shaw	Private Citizen.
108	Virginia Tech Center/Coal & Energy Research	College/Univ.
109	Virginia Power	Utility.
110	Washington-Dept./Community/Trade/Econ-Devel.	State/Regulator.
111	Washington-Utilities/Transport Commission	State/Regulator.
112	Western Resources	Utility.
113	William Kreuter	Consultant.
114	Wisconsin—Dept. of Justice	State/Regulator.
115	Wisconsin Public Service Corporation	Utility.
116	Working Assets	Consultant.

Appendix B

LIST OF DATA ELEMENTS THAT WILL NOT BE HELD CONFIDENTIAL

Data elements	Forms affected
Existing generating capacity	EIA–411 all data not listed as confidential on existing generating units such as identifiers, type, capacity, fuel, commercial operation date EIA–767 all data not listed as confidential on steam-electric plant configuration such as existing boiler design parameters (excluding heat rates & retirement date), existing plant configuration, existing generator information EIA–860 all data not listed as confidential on existing generating units such as identifiers, type, capacity, fuel, commercial operation date EIA–867 existing facility QF or EWG status, nameplate rating, existing electric generator identification/nameplate rating/ generating unit type/prime mover type/energy source
Net or Gross Generation	EIA–412 net generation by steam, nuclear, hydro, other EIA–759 net generation by plant & energy source EIA–767 net monthly generation by generator EIA–867 gross generation by generator EIA–900 gross generation by facility
Fuel Consumption	EIA–759 fuel consumption EIA–767 fuel consumed by boiler (quantity and quality) EIA–867 quantity and quality of fuel consumed
Environmental Characteristics	EIA–767 byproduct distribution for the year, air emission standards by boiler, existing cooling system/particulate collector/flue gas desulfurization/stack and flue design parameters and information EIA–867 facility environmental equipment information
Financial Data	EIA–412 public electric utility financial data not listed as confidential: balance sheet, income statement, cash flows, cost of plant in service, taxes, O&M expenses, employee statistics
Emergency Reports	EIA–417R
Retail Sales, Revenue, & Number of Consumers	EIA–826 monthly sales, revenue, number of consumers by customer class by State EIA–861 annual sales, revenue, number of consumers by customer class by State, electric operating revenues EIA–867 sales to end users EIA–900 monthly sales to end users
Sources & Disposition of Energy	EIA–861 EIA–867 EIA–900 monthly sales for resale
Demand Side Management Information	EIA–861
Distribution System Information	EIA–861

[FR Doc. 98–19126 Filed 7–16–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Research

Energy Research Financial Assistance Program Notice 98–18: Outstanding Junior Investigator Program

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice inviting grant applications.

SUMMARY: The Division of High Energy Physics of the Office of Energy Research (OER), U.S. Department of Energy, hereby announces its interest in receiving grant applications for support under its Outstanding Junior Investigator (OJI) Program. Applications should be from tenure-track faculty investigators who are currently involved in experimental or theoretical high energy physics or accelerator physics research, and should be submitted through a U.S. academic institution. The purpose of this program is to support the development of the individual research programs of outstanding scientists early in their careers. Awards made under this program will help to maintain the vitality of university research and assure continued excellence in the teaching of physics.

DATES: To permit timely consideration for award in fiscal year 1999, formal applications submitted in response to this notice should be received before November 4, 1998.

ADDRESSES: Completed formal applications referencing Program Notice 98–18 should be forwarded to: U.S. Department of Energy, Office of Energy Research, Grants and Contracts Division, ER–64, 19901 Germantown Road, Germantown, Maryland 20874–1290, ATTN: Program Notice 98–18. The above address must also be used when submitting applications by U.S. Postal Service Express, and commercial mail delivery service or when hand carried by the applicant.

FOR FURTHER INFORMATION CONTACT: Dr. Jeffrey Mandula, Division of High Energy Physics, ER–221 (GTN), U.S. Department of Energy, 19901 Germantown Road, Germantown, Maryland 20874–1290. Telephone: (301) 903–4829. E-Mail: mandula@hep2.er.doe.gov

SUPPLEMENTARY INFORMATION: The Outstanding Junior Investigator program was started in 1978 by the Department of Energy's Office of Energy Research. A principal goal of this program is to identify exceptionally talented new high energy physicists early in their careers and assist and facilitate the development of their research programs. Eligibility for awards under this notice is therefore restricted to non-tenured investigators who are conducting experimental or theoretical high energy physics or accelerator physics research. Since its debut, the program has

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initiated support for between five and ten new Outstanding Junior Investigators each year. The program has been very successful and contributes importantly to the vigor of the U.S. High Energy Physics program. Applicants should request support under this notice for normal research project costs as required to conduct their proposed research activities. The full range of activities currently supported by the Division of High Energy Physics is eligible for support under this program.

The DOE expects to make five to ten grant awards in fiscal year 1999 to meet the objectives of this program. It is anticipated that approximately $400,000 will be available in fiscal year 1999, subject to availability of appropriated funds. In the past, awards have averaged $50,000 per year, with the number of awards determined by the number of excellent applications and the total funds available for this program. Multiple year funding of grant awards is expected, with funding provided on an annual basis subject to availability of funds. Renewal beyond the initial project period is normal so long as the recipient's tenure status is unchanged.

Applications will be subjected to a formal competitive merit review and will be evaluated against the following criteria, which are listed in descending order of importance as set forth in 10 CFR Part 605:

1. Scientific and/or technical merit of the project;
2. Appropriateness of the proposed method or approach;
3. Competency of applicant's personnel and adequacy of proposed resources; and
4. Reasonableness and appropriateness of the proposed budget.

General information about development and submission of applications, eligibility, limitations, evaluations and selection processes, and other policies and procedures are contained in the Application Guide for the Office of Energy Research Financial Assistance Program and 10 CFR Part 605. The application guide is available on the World Wide Web at: http://www.er.doe.gov/production/grants/grants.html

(The Catalog Of Federal Domestic Assistance Number for this program is 81.049, and the solicitation control number is ERFAP 10 CFR Part 605)

Issued in Washington, DC, on July 2, 1998.

John Rodney Clark,

Associate Director for Resource Management, Office of Energy Research.

[FR Doc. 98–19117 Filed 7–16–98; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–3052–000]

PowerSource Corp.; Notice of Issuance of Order

July 13, 1998.

PowerSource Corp. (PowerSource) submitted for filing a rate schedule under which PowerSource will engage in wholesale electric power and energy transactions as a marketer. PowerSource also requested waiver of various Commission regulations. In particular, PowerSource requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by PowerSource.

On July 10, 1998, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by PowerSource should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, PowerSource is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of PowerSource's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is August 10, 1998. Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–19062 Filed 7–16–98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–3108–000]

Rocky Mountain Natural Gas & Electric L.L.C.; Notice of Issuance of Order

July 13, 1998.

Rocky Mountain Natural Gas & Electric L.L.C. (Rocky Mountain) filed a rate schedule under which Rocky Mountain will engage in wholesale electric power and energy transaction as a marketer. Rocky Mountain also requested waiver of various Commission regulations. In particular, Rocky Mountain requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Rocky Mountain.

On July 10, 1998, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Rocky Mountain should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, Rocky Mountain is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Rocky Mountain's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is August 10, 1998.

Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–19063 Filed 7–16–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–3–17–000]

Texas Eastern Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

July 13, 1998.

Take notice that on July 1, 1998, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1 and Original Volume No. 2, revised tariff sheets listed on Appendix A to the filing, to become effective August 1, 1998.

Texas Eastern states that these revised tariff sheets are filed pursuant to Section 15.1, Electric Power Cost (EPC) Adjustment, of the General Terms and Conditions of Texas Eastern's FERC Gas Tariff, Sixth Revised Volume No. 1. Texas Eastern states that Section 15.1 provides that Texas Eastern shall file to be effective each August 1 revised rates for each applicable zone and rate schedule based upon the projected annual electric power costs required for the operation of transmission compressor stations with electric motor prime movers.

Texas Eastern states that these revised tariff sheets are being filed to reflect changes in Texas Eastern's projected costs for the use of electric power for the twelve month period beginning August 1, 1998. Texas Eastern states that the rate changes proposed to the primary firm capacity reservation charges, usage rates and 100% load factor average costs for full Access Area Boundary service from the Access Area Zone, East Louisiana, to the three market area zones are as follows:

Zone	Reservation	Usage	100% LF
Market 1	$(0.020)/dth	$(.0002)/dth	$(.0009)/dth.
Market 2	$(0.064)/dth	$(.0006)/dth	$(.0027)/dth.
Market 3	$(0.093)/dth	$(.0008)/dth	$(.0039)/dth.

Texas Eastern states that copies of its filing have been served on all affected customers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided im Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–19089 Filed 7–16–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–1849–001, et al.]

California Independent System Operator Corporation, et al., Electric Rate and Corporate Regulation Filings

July 9, 1998.

Take notice that the following filings have been made with the Commission:

1. California Independent System Operator Corporation

[Docket No. ER98–1849–001]

Take notice that on July 6, 1998, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 1, to the Meter Service Agreement for Scheduling Coordinators between Northern California Power Agency and the ISO for acceptance by the Commission. The ISO states that Amendment No. 1, modifies the Agreement, as directed by the Commission, to comply with the Commission's order issued December 17, 1997 in Pacific Gas and Electric Co., 81 FERC ¶ 61,320 (1997).

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. California Independent System Operator Corporation

[Docket No. ER98–1891–001]

Take notice that on July 6, 1998, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 1, to the Meter Service Agreement for Scheduling Coordinators between the City of Riverside and the ISO for acceptance by the Commission. The ISO states that Amendment No. 1, modifies the Agreement, as directed by the Commission, to comply with the Commission's order issued December 17, 1997 in Pacific Gas and Electric Co., 81 FERC ¶ 61,320 (1997).

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. Montana Power Company

[Docket Nos. ER98–2382–001, OA97–679–001 and OA96–199–005]

Take notice that on June 26, 1998, Montana Power Company tendered for filing its compliance filings in the above-referenced dockets.

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Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. Alden Engineering Company

[Docket No. ER98–2622–000]

Take notice that on June 16, 1998, Aladen Engineering Company tendered for filing a Notice of Withdrawal in the above-referenced docket.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Northeast Electricity Inc.

[Docket No. ER98–3048–000]

Take notice that on July 6, 1998, Northeast Electricity Inc. (NEI), petitioned the Commission for acceptance of NEI Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market based rates; and the waiver of certain Commission Regulations.

NEI intends to engage in wholesale electric power and energy purchases and sales as a marketer. NEI is not in the business of generating or transmitting electric power. NEI is a wholly owned and privately held company, with no affiliates.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Consolidated Edison Company of New York, Inc.

[Docket No. ER98–3605–000]

Take notice that on July 2, 1998, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing Supplement to its Rate Schedule FERC No. 117, an agreement to provide transmission and interconnection service to Long Island Lighting Company (LILCO). The Supplement provides for a decrease in annual revenues under the Rate Schedule. Con Edison has requested that this decrease take effect on July 1, 1998.

Con Edison states that a copy of this filing has been served by mail upon LILCO.

Comment date: July 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Oklahoma Gas and Electric Company

[Docket No. ER98–3607–000]

Take notice that on July 6, 1998, Oklahoma Gas and Electric Company (OG&E), tendered for filing Service Agreements for parties to take service under its Short-Term Power Sales Agreement.

Copies of this filing have been served on each of the affected parties, the Oklahoma Corporation Commission and the Arkansas Public Service Commission.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Consumers Energy Company

[Docket No. ER98–3608–000]

Take notice that on July 6, 1998, Consumers Energy Company (Consumers), tendered for filing Amendment No. 1, to its Service Agreement for Network Integration Transmission Service with the City of Bay City (Bay City).

Copies of the filing were served upon the Michigan Public Service Commission and Bay City.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. California Independent System Operator Corporation

[Docket No. ER98–3609–000]

Take notice that on July 6, 1998, the California Independent System Operator Corporation (ISO), tendered for filing a Meter Service Agreement for ISO Metered Entities between the ISO and Simpson Paper Company, Humboldt Mill (Simpson Paper), for acceptance by the Commission.

The ISO states that this filing has been served on Simpson Paper and the California Public Utilities Commission.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Northern States Power Company (Minnesota Company), Northern States Power Company (Wisconsin Company)

[Docket No. ER98–3610–000]

Take notice that on July 6, 1998, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (collectively known as NSP), tendered for filing an Electric Service Agreement between NSP and ConAgra Energy Services, Inc., (Customer). This Electric Service Agreement is an enabling agreement under which NSP may provide to Customer the electric services identified in NSP Operating Companies Electric Services Tariff original Volume No. 4. NSP requests that this Electric Service Agreement be made effective on June 8, 1998.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. California Independent System Operator Corporation

[Docket No. ER98–3611–000]

Take notice that on July 6, 1998, the California Independent System Operator Corporation (ISO), tendered for filing a Meter Service Agreement for ISO Metered Entities between the ISO and Simpson Redwood Company d/b/a Simpson Timber Company (Simpson Timber) for acceptance by the Commission.

The ISO states that this filing has been served on Simpson Timber and the California Public Utilities Commission.

The ISO is requesting a waiver of the 60-day notice requirement to allow the Meter Service Agreement to be made effective as of June 23, 1998.

Copies of this filing have been served on Simpson Timber and the California Public Utilities Commission.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. California Independent System Operator Corporation

[Docket No. ER98–3612–000]

Take notice that on July 6, 1998, the California Independent System Operator Corporation (ISO), tendered for filing a Meter Service Agreement for ISO Metered Entities between the ISO and Martinez Refining Company—Division of Equilon Enterprises, L.L.C. (Martinez Refining), for acceptance by the Commission.

The ISO states that this filing has been served on Martinez Refining and the California Public Utilities Commission.

The ISO is requesting a waiver of the 60-day notice requirement to allow the Meter Service Agreement to be made effective as of June 23, 1998.

Copies of this filing have been served on Martinez Refining and the California Public Utilities Commission.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. California Independent System Operator Corporation

[Docket No. ER98–3613–000]

Take notice that on July 6, 1998, the California Independent System Operator Corporation (ISO), tendered for filing a Participating Generator Agreement between the ISO and Martinez Refining Company—Division of Equilon Enterprises LLC (Martinez Refining) for acceptance by the Commission.

The ISO states that this filing has been served on Martinez Refining and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the

Participating Generator Agreement to be made effective as of June 23, 1998.

Copies of this filing have been served on Martinez Refining and the California Public Utilities Commission.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Consumers Energy Company

[Docket No. ER98-3614-000]

Take notice that on July 6, 1998, Consumers Energy Company (CECo), tendered for filing an executed Service Agreement for Network Integration Transmission Service pursuant to Consumers' Open Access Transmission Service Tariff and a Network Operating Agreement. Both were with the Brunswick Bowling & Billiards Corporation and have effective dates of June 30, 1998.

Copies of this filing were served upon the Michigan Public Service Commission and the customer.

CECo requests an effective date of June 23, 1998.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. Louisville Gas And Electric Company

[Docket No. ER98-3616-000]

Take notice that on July 6, 1998, Louisville Gas and Electric Company (LG&E), tendered for filing an executed Service Agreement between LG&E and Minnesota Power & Light Company under LG&E's Rate Schedule GSS.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. Western Resources, Inc.

[Docket No. ER98-3617-000]

Take notice that on July 6, 1998, Western Resources, Inc., (Western Resources), tendered for filing a Long-Term Firm Transmission Service Agreement between Western Resources and Public Service Company of Oklahoma. Western Resources states that the purpose of the agreement is to permit non-discriminatory access to the transmission facilities owned or controlled by Western Resources in accordance with Western Resources' open access transmission tariff on file with the Commission.

Western Resources requests waiver of the Commission's notice requirements to permit an effective date of June 1, 2002.

Copies of the filing were served upon Public Service Company of Oklahoma and the Kansas Corporation Commission.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. Tucson Electric Power Company

[Docket No. ER98-3618-000]

Take notice that on July 6, 1998, Tucson Electric Power Company (TEP), tendered for filing an unexecuted Short-Term Umbrella Service Agreement for sales under TEP's Market-Based Power Sales Tariff, FERC Electric Tariff, Original Volume No. 3. The Umbrella Service Agreement for Short-Term Transactions with Participants in the California PX dated June 25, 1998. Service under this service agreement commenced April 1, 1998.

TEP requests waiver of the 60-day notice requirement to allow the service agreement to become effective as of April 1, 1998.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. Niagara Mohawk Power Corporation

[Docket No. ER98-3619-000]

Take notice that on July 6, 1998, Niagara Mohawk Power Corporation (ANMPC), tendered for filing with the Federal Energy Regulatory Commission an executed Transmission Service Agreement between NMPC and The Cincinnati Gas and Electric Company, PSI Energy, Inc., Indiana Corporation (collectively Cinergy Operating Companies) and Cinergy Services, Inc., as agent for and on behalf of the Cinergy Operating Companies. This Transmission Service Agreement specifies that Cinergy Services, Inc., has signed on to and has agreed to the terms and conditions of NMPC's Open Access Transmission Tariff as filed in Docket No. OA96-194-000. This Tariff, filed with FERC on July 9, 1996, will allow NMPC and Cinergy Services, Inc., to enter into separately scheduled transactions under which NMPC will provide transmission service for Cinergy Services, Inc., as the parties may mutually agree.

NMPC requests an effective date of June 29, 1998. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC has served copies of the filing upon the New York State Public Service Commission and Cinergy Services, Inc.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. Louisville Gas And Electric Company

[Docket No. ER98-3620-000]

Take notice that on July 6, 1998, Louisville Gas and Electric Company (LG&E), tendered for filing an executed Service Agreement between LG&E and Alabama Electric Cooperative, Inc., under LG&E's Rate Schedule GSS.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

20. Kentucky Utilities Company

[Docket No. ER98-3621-000]

Take notice that on July 6, 1998, Kentucky Utilities Company (KU), tendered for filing an executed Power Services Agreement between KU and ConAgra Energy Services, Inc., under KU's Power Services Tariff, Rate PS.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

21. Cinergy Services, Inc.

[Docket No. ER98-3622-000]

Take notice that on July 6, 1998, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Open Access Transmission Service Tariff (the Tariff) entered into between Cinergy and Electric Clearinghouse, Inc., (EC).

Cinergy and EC are requesting an effective date of June 15, 1998.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

22. Florida Power & Light Company

[Docket No. ER98-3623-000]

Take notice that on July 6, 1998, Florida Power & Light Company (FPL), tendered for filing proposed service agreements with Merchant Energy Group of the Americas, Inc., for Short-Term Firm and Non-Firm Transmission Service under FPL's Open Access Transmission Tariff.

FPL requests that the proposed service agreements be permitted to become effective on July 1, 1998.

FPL states that a copy of this filing is being sent to Merchant Energy Group of the Americas, Inc., and the Florida Public Service Commission.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

23. Florida Power & Light Company

[Docket No. ER98-3624-000]

Take notice that on July 6, 1998, Florida Power & Light Company (FPL), tendered for filing proposed service agreements with The Energy Authority, Inc., for Short-Term Firm transmission

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service under FPL's Open Access Transmission Tariff.

FPL requests that the proposed service agreement be permitted to become effective on June 23, 1998.

FPL states that copies of this filing are being sent to The Energy authority, Inc., and Florida Public Service Commission.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

24. Florida Power & Light Company

[Docket No. ER98–3625–000]

Take notice that on July 6, 1998, Florida Power & Light Company (FPL), tendered for filing proposed service agreements with Virginia Electric and Power Company for Short-Term Firm transmission service under FPL's Open Access Transmission Tariff.

FPL requests that the proposed service agreement be permitted to become effective on June 25, 1998.

FPL states that a copy of this filing is being sent to Virginia Electric and Power Company and the Florida Public Service Commission.

Comment date: July 24,, 1998, in accordance with Standard Paragraph E at the end of this notice.

25. Oklahoma Gas and Electric Company

[Docket No. ER98–3626–000]

Take notice that on July 6, 1998, Oklahoma Gas and Electric Company (OG&E), tendered for filing a proposed Power Supply and Transmission Service Agreement with the Southwestern Power Administration (SWPA), a Service Agreement for Network Integration Transmission Service, and a Standard Form of Network Operating Agreement.

Copies of this filing have been sent to SWPA, the Oklahoma Corporation Commission, and the Arkansas Public Service Commission.

OG&E requests an effective date of June 1, 1997.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

26. Niagara Mohawk Power Corporation

[Docket No. ER98–3627–000]

Take notice that on July 6, 1998, Niagara Mohawk Power Corporation (ANMPC), tendered for filing with the Federal Energy Regulatory Commission an executed Transmission Service Agreement between NMPC and Southern Company Energy Marketing, L.P. This Transmission Service Agreement specifies that Southern Company Energy Marketing, L.P., has signed on to and has agreed to the terms and conditions of NMPC's Open Access Transmission Tariff as filed in Docket No. OA96–194–000. This Tariff, filed with FERC on July 9, 1996, will allow NMPC and Southern Company Energy Marketing, L.P., to enter into separately scheduled transactions under which NMPC will provide transmission service for Southern Company Energy Marketing, L.P., as the parties may mutually agree.

NMPC requests an effective date of June 29, 1998. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC has served copies of the filing upon the New York State Public Service Commission and Southern Company Energy Marketing, L.P.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

27. New England Power Pool

[Docket No. ER98–3628–000]

Take notice that on July 6, 1998, the New England Power Pool Executive Committee filed for acceptance a signature page to the New England Power Pool (NEPOOL), Agreement dated September 1, 1971, as amended, signed by Duke Energy Trading and Marketing, L.L.C., (DETM). The NEPOOL Agreement has been designated NEPOOL FPC No. 2.

The Executive Committee states that the Commission's acceptance of DETM's signature page would permit NEPOOL to expand its membership to include DETM. NEPOOL further states that the filed signature page does not change the NEPOOL Agreement in any manner, other than to make DETM a member in NEPOOL. NEPOOL requests an effective date of July 6, 1998, for commencement of participation in NEPOOL by DETM.

Comment date: July 25, 1998, in accordance with Standard Paragraph E at the end of this notice.

28. Pacific Gas and Electric Company

[Docket No. ER98–3629–000]

Take notice that on July 6, 1998, Pacific Gas and Electric Company (PG&E), tendered for filing changes to a rate schedule covering services rendered by PG&E under an agreement with Midway-Sunset Cogeneration Company (Midway-Sunset), entitled The Pacific Gas and Electric Company Agreement for Installation, Allocation and Operation of Special Facilities for Parallel Operation of Non-Utility Owned Generation, dated November 20, 1987 (Agreement).

The filing seeks to revise the monthly Cost of Ownership rates under the Agreement, which are tied to PG&E's Electric Rule 2 rates, as filed with the California Public Utilities Commission (CPUC), to reflect the revised rates instituted by the CPUC, effective August 5, 1996. In addition, this filing requests automatic rate adjustments to the Agreement when future changes to PG&E's Electric Rule 2, rates occur pursuant to CPUC approval.

Copies of this filing have been served upon Midway-Sunset and the CPUC.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

29. Louisville Gas and Electric Company

[Docket No. ER98–3630–000]

Take notice that on July 6, 1998, Louisville Gas and Electric Company (LG&E), tendered for filing an executed Service Agreement between LG&E and Commonwealth Edison Company under LG&E's Rate Schedule GSS.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

30. New York State Electric Gas Corporation

[Docket No. ER98–3631–000]

Take notice that on July 6, 1998, New York State Electric & Gas Corporation (NYSEG), tendered for filing an amendment to the Rate Schedule No. 180 filed with FERC corresponding to an Agreement with the Oneida Madison Electric Cooperative, Inc., (OMEC). The proposed amendment would increase revenues by $126.49 based on the twelve month period ending June 30, 1998.

This rate filing is made pursuant to Section 3 of the December, 1996 Facilities Agreement between NYSEG and OMEC, filed with FERC. The annual charges for routine operation and maintenance and general expenses, as well as revenue and property taxes are revised based on data taken from NYSEG's Annual Report to the Federal Energy Regulatory Commission (FERC Form 1) for the twelve months ended December 31, 1997. The revised facilities charge is levied on the cost for the routine operation, maintenance and general expenses, and property, ad valorem, constructed by NYSEG for the sole use of OMEC.

NYSEG requests an effective date of July 1, 1998, and, therefore, requests waiver of the Commission's notice requirements.

Copies of the filing were served upon Oneida Madison Electric Cooperative, Inc., and on the Public Service Commission of the State of New York.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

31. Illinois Power Company

[Docket No. ER98–3632–000]

Take notice that on July 6, 1998, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing a Power Sales Tariff, Service Agreement under which Northern States Power Company will take service under Illinois Power Company's Power Sales Tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of June 26, 1998.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

32. Florida Power & Light Company

[Docket No. ER98–3633–000]

Take notice that on July 6, 1998, Florida Power & Light Company (FPL), tendered for filing proposed service agreements with Amoco Energy Trading Corporation for Short-Term Firm and Non-Firm Transmission Service under FPL's Open Access Transmission Tariff.

FPL requests that the proposed service agreements be permitted to become effective on July 1, 1998.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

33. Public Service Electric and Gas Company

[Docket No. ER98–3634–000]

Take notice that on July 6, 1998, Public Service Electric and Gas Company (PSE&G), of Newark, New Jersey tendered for filing an agreement for the sale of capacity and energy to Tennessee Valley Authority (TVA), pursuant to the PSE&G Wholesale Power Market Based Sales Tariff, presently on file with the Commission.

PSE&G further requests waiver of the Commission's Regulations such that the agreement can be made effective as of June 8, 1998.

Copies of the filing have been served upon TVA and the New Jersey Board of Public Utilities.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

34. Public Service Electric and Gas Company

[Docket No. ER98–3635–000]

Take notice that on July 6, 1998, Public Service Electric and Gas Company (PSE&G), of Newark, New Jersey tendered for filing an agreement for the sale of capacity and energy to DTE Energy Trading, Inc. (DTE), pursuant to the PSE&G Wholesale Power Market Based Sales Tariff, presently on file with the Commission.

PSE&G further requests waiver of the Commission's Regulations such that the agreement can be made effective as of June 8, 1998.

Copies of the filing have been served upon DTE and the New Jersey Board of Public Utilities.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

35. California Independent System Operator Corporation

[Docket No. ER98–3656–000]

Take notice that on July 6, 1998, the California Independent System Operator Corporation (ISO), tendered for filing an amendment to Schedule 1 to the Participating Generator Agreement between the ISO and the Southern California Edison Company (SCE). The ISO states that the amendment revises the schedule to reflect SCE's sale of certain generating facilities.

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

36. California Independent System Operator Corporation

[Docket No. ER98–3657–000]

Take notice that on July 6, 1998, the California Independent System Operator Corporation (ISO), tendered for filing an amendment to Schedule 1 to the Meter Service Agreement for ISO Metered Entities between the ISO and the Southern California Edison Company (SCE). The ISO states that the amendment revises the schedule to reflect SCE's sale of certain generating facilities.

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

37. Piney Creek Limited Partnership

[Docket No. QF86–896–009]

Take notice that on June 26, 1998, Piney Creek Limited Partnership (Applicant), of R.R.2, Box 56, Highway 3016, Clarion, Pennsylvania 16214, submitted for filing an application for recertification of a facility as a qualifying small power production facility pursuant to Section 292.207(b) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

According to the Applicant, the facility is a 33 MW, waste-fueled small power production facility located in Piney Township, Clarion County, Pennsylvania. The Commission previously certified the facility as a qualifying small power production facility in *B&W Clarion, Inc.*, 38 FERC ¶ 62,001 (1987), and recertified in *Clarion Power Co.*, 39 FERC ¶ 61,317 (1987), in *Mid-Atlantic Energy Co. of PA, Inc.*, 52 FERC ¶ 62,072 (1990) and in *Piney Creek Limited Partnership*, 75 FERC ¶ 62,014 (1996). Notices of self-recertification were filed on January 13, 1987, January 19, 1990, October 31, 1990, March 14, 1995 and July 31, 1997. According to the application, the instant recertification is requested to assure that the facility will remain a qualifying facility following a change in ownership interest, a change in the characteristics of a particular fuel source, and an addition of certain waste fuel.

Comment date: August 19, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–19066 Filed 7–16–98; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–462–000, et al.]

Southern California Edison Company, et al.; Electric Rate and Corporate Regulation Filings

July 7, 1998.

Take notice that the following filings have been made with the Commission:

1. Southern California Edison Company

[Docket No. ER98–462–000]

Take notice that on July 1, 1998, Southern California Edison Company (Edison), tendered for filing a revised Appendix to reflect the ISO offer of settlement approved by the Commission in Docket No. ER98–211–000, *et al.*, by letter order dated June 1, 1998.

The revised Appendix A reflects a pass-through to wholesale customers of the GMC, as charged to Edison by the ISO (on behalf of those customers for whom Edison serves as Scheduling Coordinator).

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Pacific Gas and Electric Company

[Docket No. ER98–556–005]

Take notice that on July 1, 1998, Pacific Gas and Electric Company (PG&E), tendered for filing proposed tariff language to comply with the Commission's June 1, 1998, letter order approving the settlement in Docket Nos. ER98–211–000, ER98–211–002, ER98–210–002, ER98–210–003, ER98–210–004, ER98–1729–001, ER98–1729–002, ER98–1729–003, ER98–462–000, ER98–556–002, ER98–556–003, ER98–557–002 and ER98–557–003. That decision approved a settlement of the California Independent System Operator Corporation's (ISO) 1998 Grid Management Charge (GMC) and PG&E's ISO Grid Management Charge Pass-Through to existing wholesale contract customers for 1998. The decision required PG&E to file revised rate sheets for those customers. PG&E requests that its filing be made effective March 31, 1998, except that the filing as to Power Exchange Corporation be made effective May 22, 1998. This filing is part of the comprehensive restructuring proposal for the California electric power industry that is before the Federal Energy Regulatory Commission.

Copies of this filing have been served upon the California Public Utilities Commission and all other parties on the Service List to this proceeding.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. Carolina Power & Light Company

[Docket No. ER98–3385–000]

Take notice that on June 30, 1998, Carolina Power & Light Company (CP&L), tendered for filing an executed Service Agreement between CP&L and Virginia Electric and Power Company under the provisions of CP&L's Market-Based Rates Tariff, FERC Electric Tariff No. 4. This Service Agreement supersedes the un-executed Agreement originally filed in Docket No. ER98–3385–000.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. New England Power Company

[Docket No. ER98–3542–000]

Take notice that on June 30, 1998, New England Power Company (NEP), tendered for filing Amendments to Service Agreements with the Town of Groveland, Massachusetts and the Town of Merrimac, Massachusetts under NEP's FERC Electric Tariff, Original Volume No. 1. The Amendments would terminate the obligation of Groveland and Merrimac to purchase from NEP, and the obligation of NEP to supply, all-requirements service and would obligate Groveland and Merrimac to compensate NEP by the payment of Contract Termination Charges. NEP also filed Amendments to Service Agreements for the provision to Groveland and Merrimac of Network Integration Transmission Service and a Network Operating Agreement under NEP's Open Access Transmission Tariff.

NEP requests an effective date of July 1, 1998, for the amendments in this filing.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Pennsylvania Electric Company

[Docket No. ER98–3544–000]

Take notice that on June 30, 1998, Pennsylvania Electric Company (Penelec), d/b/a GPU Energy, filed an executed Retail Transmission Service Agency Agreements between GPU Energy and Penn Power Energy dated May 19, 1998.

GPU Energy requests a waiver of the Commission's notice requirements for good cause shown and an effective date of November 1, 1997 and shall continue in effect until December 31, 1998, for the Retail Transmission Service Agency Agreements.

GPU Energy will be serving a copy of the filing on the Pennsylvania Public Utility Commission.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Delmarva Power & Light Company

[Docket No. ER98–3548–000]

Take notice that on June 30, 1998, Delmarva Power & Light Company tendered for filing executed Umbrella Service Agreements with Tractebel Energy Marketing, Inc., Cargill-Alliant, L.L.C. and Enserch Energy Services, Inc., under Delmarva's market rate sales tariff, FERC Electric Tariff, Original Volume No. 14, filed in Docket ER96–2571–000.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Western Resources, Inc.

[Docket No. ER98–3358–000]

Take notice that on June 30, 1998, Western Resources, Inc., (Western Resources), tendered for filing a Service Agreement between Western Resources and Tractebel Energy Marketing, Inc. Western Resources states that the purpose of the agreement is to permit the customer to take service under Western Resources' Market-Based Power Sales Tariff on file with the Commission.

The agreement is proposed to become effective June 5, 1998.

Copies of the filing were served upon Tractebel Energy Marketing, Inc., and the Kansas Corporation Commission.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Orange and Rockland Utilities, Inc.

[Docket No. ER98–3560–000]

Take notice that on June 30, 1998, Orange and Rockland Utilities, Inc. (Orange and Rockland), tendered for filing a revision to its Market-Based Power Sales tariff, which revision provides that Consolidated Edison, Inc., and its affiliates will be treated as affiliates of Orange and Rockland.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. FirstEnergy System

[Docket No. ER98–3567–000]

Take notice that on July 1, 1998, FirstEnergy System filed Service Agreements to provide Non-Firm Point-to-Point Transmission Service for Northern/AES Energy L.L.C., Northern Indiana Public Service Company, PG&E Energy Trading—Power, LP, VTEC Energy, Inc., Avista Energy, Inc., and New Energy Ventures, L.L.C., the Transmission Customers. Services are being provided under the FirstEnergy System Open Access Transmission Tariff submitted for filing by the Federal Energy Regulatory Commission in Docket No. ER97–412–000.

The proposed effective dates under the Service Agreements is June 15, 1998 and July 1, 1998, respectively.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Carolina Power & Light Company

[Docket No. ER98–3569–000]

Take notice that on July 1, 1998, Carolina Power & Light Company (CP&L), tendered for filing executed Service Agreements with CNG Power Services Corporation and FirstEnergy Corp., under the provisions of CP&L's Market-Based Rates Tariff, FERC Electric Tariff No. 4. These Service Agreements supersede the un-executed Agreements originally filed in Docket No. ER98–3385–000.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Carolina Power & Light Company

[Docket No. ER98–3570–000]

Take notice that on July 1, 1998, Carolina Power & Light Company (CP&L), tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service executed between CP&L and Allegheny Power Service Corporation; and Service Agreements for Short-Term Firm Point-to-Point Transmission Service with Constellation Power Source and Allegheny Power Service Corporation. Service to each Eligible Customer will be in accordance with the terms and conditions of Carolina Power & Light Company's Open Access Transmission Tariff.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. PacifiCorp

[Docket No. ER98–3571–000]

Take notice that on July 1, 1998, PacifiCorp, tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations, Mutual Netting/Closeout Agreements between PacifiCorp and Washington Water Power Company and Benton County Public Utility District No. 1.

Copies of this filing were supplied the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

A copy of this filing may be obtained from PacifiCorp's Regulatory Administration Department's Bulletin Board System through a personal computer by calling (503) 813–5758 (9600 baud, 8 bits, no parity, 1 stop bit).

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. FirstEnergy System

[Docket No. ER98–3572–000]

Take notice that on July 1, 1998, FirstEnergy System filed Service Agreements to provide Firm Point-to-Point Transmission Service for American Electric Power Service Corporation, Equitable Power Services Company, Northern/AES Energy, L.L.C., and Allegheny Power Service Corporation, the Transmission Customers. Services are being provided under the FirstEnergy System Open Access Transmission Tariff submitted for filing by the Federal Energy Regulatory Commission in Docket No. ER97–412–000.

The proposed effective dates under these Service Agreements are June 15, 1998 and July 1, 1998, respectively, for the above mentioned Service Agreements in this filing.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Consolidated Edison Company of New York, Inc.

[Docket No. ER98–3573–000]

Take notice that on July 1, 1998, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement between Consolidated Edison Company of New York, Inc., and Entergy Power Marketing Corporation to provide Non-Firm Point-To-Point transmission service pursuant to its Open Access Transmission Tariff to Entergy Power Marketing Group (Entergy).

Con Edison states that a copy of this filing has been served by mail upon Entergy.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. PacifiCorp

[Docket No. ER98–3574–000]

Take notice that on July 1, 1998, PacifiCorp, tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations, Revision No. 3 to Appendix A, Revision No. 4 to Appendix B and Revision No. 1 to Appendix E of the Transmission Service and Operating Agreement (Agreement) between PacifiCorp and Utah Associated Municipal Power Systems (UAMPS).

Copies of this filing were supplied to UAMPS, the Public Utility Commission of Oregon and the Washington Utilities and Transportation Commission.

A copy of this filing may be obtained from PacifiCorp's Regulatory Administration Department's Bulletin Board System through a personal computer by calling (503) 813–5758 (9600 baud, 8 bits, no parity, 1 stop bit).

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. Central Maine Power Company

[Docket No. ER98–3575–000]

Take notice that on July 1, 1998, Central Maine Power Company (CMP), tendered for filing an executed service agreement for sale of capacity and/or energy with Tractebel Energy Marketing, Inc. Service will be provided pursuant to CMP's Wholesale Market Tariff, designated rate schedule CMP—FERC Electric Tariff, Original Volume No. 4.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. Central Maine Power Company

[Docket No. ER98–3576–000]

Take notice that on July 1, 1998, Central Maine Power Company (CMP), tendered for filing an executed service agreement for sale of capacity and/or energy entered into with Great Bay Power Corporation. Service will be provided pursuant to CMP's Wholesale Market Tariff, designated rate schedule CMP—FERC Electric Tariff, Original Volume No. 4.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. Central Maine Power Company

[Docket No. ER98–3577–000]

Take notice that on July 1, 1998, Central Maine Power Company (CMP),

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tendered for filing an executed service agreement for sale of capacity and/or energy entered into with Enserch Energy Services, Inc. Service will be provided pursuant to CMP's Wholesale Market Tariff, designated rate schedule CMP—FERC Electric Tariff, Original Volume No. 4.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. Central Maine Power Company

[Docket No. ER98–3578–000]

Take notice that on July 1, 1998, Central Maine Power Company (CMP), tendered for filing an executed service agreement for sale of capacity and/or energy entered into with Noram Energy Services, Inc. Service will be provided pursuant to CMP's Wholesale Market Tariff, designated rate schedule CMP—FERC Electric Tariff, Original Volume No. 4.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

20. Central Maine Power Company

[Docket No. ER98–3579–000]

Take notice that on July 1, Central Maine Power Company (CMP), tendered for filing an executed service agreement for sale of capacity and/or energy entered into with Fitchburg Gas and Electric Light Company. Service will be provided pursuant to CMP's Wholesale Market Tariff, designated rate schedule CMP—FERC Electric Tariff, Original Volume No. 4.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

21. Central Maine Power Company

[Docket No. ER98–3580–000]

Take notice that on July 1, 1998, Central Maine Power Company (CMP), tendered for filing an executed service agreement for sale of capacity and/or energy entered into with Coral Power, L.L.C. Service will be provided pursuant to CMP's Wholesale Market Tariff, designated rate schedule CMP—FERC Electric Tariff, Original Volume No. 4.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

22. Commonwealth Electric Company Cambridge Electric Light Company

[Docket No. ER98–3581–000]

Take notice that on July 1, 1998, Commonwealth Electric Company (Commonwealth) and Cambridge Electric Light Company (Cambridge), collectively referred to as the Companies, tendered for filing with the Federal Energy Regulatory Commission executed Service Agreements between the Companies and Vermont Public Power Supply Authority

These Service Agreements specify that the Customer has signed on to and has agreed to the terms and conditions of the Companies' Market-Based Power Sales Tariffs designated as Commonwealth's Market-Based Power Sales Tariff (FERC Electric Tariff Original Volume No. 7) and Cambridge's Market-Based Power Sales Tariff (FERC Electric Tariff Original Volume No. 9).

These Tariffs, accepted by the FERC on February 27, 1997, and which have an effective date of February 28, 1997, will allow the Companies and the Customer to enter into separately scheduled short-term transactions under which the Companies will sell to the Customer capacity and/or energy as the parties may mutually agree.

The Companies and the Customer have also filed a Notice of Cancellation for service under the Companies' Power Sales and Exchange Tariffs (FERC Electric Tariff Original Volume Nos. 3 and 5).

The Companies request an effective date as specified on each Service Agreement and Notice of Cancellation.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–19065 Filed 7–16–98; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL98–56–000, et al.]

Southern Company Energy Marketing, L.P., et al.; Electric Rate and Corporate Regulation Filings

July 8, 1998.

Take notice that the following filings have been made with the Commission:

1. Southern Company Energy Marketing L.P.

[Docket No. EL98–56–000]

Take notice that on June 30, 1998, Southern Company Energy Marketing L.P. (Southern), tendered for filing a notice of termination, emergency request for waiver of notice, and alternative request for relief concerning certain agreements for the provision of electric service to Power Company of America, LP

Comment date: August 3, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. California Power Exchange Corporation

[Docket Nos. EC96–19–033 and ER96–1663–034]

Take notice that on July 1, 1998, the California Power Exchange Corporation (PX), tendered for filing compliance changes to the PX Operating Agreement and Tariff and Protocols incorporating PX Tariff Amendment No. 1, in response to the Commission order issued June 1, 1998, California Power Exchange Corporation, 83 FERC ¶ 61,241 (1998).

The PX states that its filing has been served on all parties listed on the official service list in the above-captioned dockets.

Comment date: July 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. Central Maine Power Company, The Union Water-Power Company, Cumberland Securities Corporation, Central Securities Corporation, FPL Energy Maine, Inc., FPL Energy Maine Hydro, LLC, FPL Energy Mason, LLC, FPL Energy Wyman IV, LLC, FPL Energy Wyman, LLC, FPL Energy AVEC, LLC

[Docket Nos. EC98–45–000 and ER98–3507–000]

Take notice that on June 26, 1998, Central Maine Power Company, the Union Water-Power Company, Cumberland Securities Corporation, Central Securities Corporation, (collectively referred to as Central

Maine) and FPL Energy Maine, Inc., FPL Energy Maine Hydro, LLC, FPL Energy Mason, LLC, FPL Energy Wyman IV, LLC, FPL Energy Wyman, LLC and FPL Energy AVEC, LLC (collectively referred to as FPL Energy Maine), tendered for filing an application under Sections 203 and 205 of the Federal Power Act in connection with the sale and purchase of all of Central Maine's fossil, hydroelectric and biomass generation facilities to FPL Energy Maine.

This sale is made pursuant to the terms of an Asset Purchase Agreement dated January 6, 1998 and an executed Term Sheet Regarding Supplemental Agreements dated June 16, 1998 (together the Asset Agreement). The Asset Agreement permits FPL Energy Maine to assign its interest in the purchased assets, and FPL Energy Maine has assigned its rights, in large part, to FPL Energy Maine Hydro, LLC, FPL Energy Mason, LLC, FPL Energy Wyman IV, LLC, FPL Energy Wyman, LLC and FPL Energy AVEC, LLC.

Pursuant to FPA Section 205, 16 U.S.C. § 824d, the Applicants also are requesting approval of certain agreements made in connection with the sale of generation assets, including the Continuing Site/Interconnection Agreement, the First Amendment to the Continuing Site/Interconnection Agreement and the two Transitional Power Sale Agreements.

Comment date: August 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. Steel Dynamics, Inc., v. American Electric Power Service Corporation and AEP Power Marketing, Inc., and All Other Unnamed Persons and Entities, Authorized To Sell Electric Energy and Capacity at Wholesale Market-Based Rates

[Docket No. EL98–54–000]

Take notice that on June 29, 1998, Steel Dynamics, Inc. (Steel Dynamics), tendered for filing a Complaint against American Electric Power Service Corporation and AEP Power Marketing, Inc., and All Other Unnamed Persons and Entities Authorized to Sell Electric Energy and Capacity at Wholesale Market-Based Rates in the ECAR region. Steel Dynamics requests that the Commission: (1) Initiate an investigation into the electric energy and capacity supply situation in the Midwest; (2) Initiate an investigation to determine the reasons for the extraordinary high prices; (3) Investigate whether refunds should be ordered; (4) Suspend all grants of authority to sell electric energy and capacity at market-based rates; (5) Initiate an emergency energy pricing ceiling of $100/Mwh for all transactions; (6) Impose harsh penalties for non-compliance with the order, and (6) Issue the order on an interim basis until the Commission has completed its investigation.

Comment date: August 7, 1998, in accordance with Standard Paragraph E at the end of this notice. Answer to the Complaint shall be due on or before August 7, 1998.

5. Indiana Municipal Power Agency v. PSI Energy, Inc.

[Docket No. EL98–55–000]

Take notice that on June 29, 1998, Indiana Municipal Power Agency (IMPA), tendered for filing a Complaint against PSI Energy, Inc. (PSI). IMPA requests that the Commission (1) Rule that PSI is violating the Power Coordination Agreement between PSI and IMPA by charging IMPA for Supplemental Power and Energy as if certain loads are being served by PSI when they are in fact being served from IMPA's power supply resources; (2) Rule that PSI's charges of this nature are unjust and unreasonable; (3) Establish a refund effective date no later than August 28, 1998, 60 days after the filing of this complaint; (4) Establish the basis upon which PSI's charges for Supplemental Power and Energy are thereafter to be developed to ensure proper credit for IMPA resources; (5) In the event that changes in the language of the applicable service schedule are determined to be necessary to provide proper credit for IMPA's resources, modify the provisions of the service schedule accordingly to be thereafter observed and in force; and (6) If unable to grant the requested relief on the basis of the pleadings, initiate an investigation and hearing procedures.

Comment date: August 7, 1998, in accordance with Standard Paragraph E at the end of this notice. Answer to the Complaint shall be due on or before August 7, 1998.

6. New Energy Ventures, L.L.C.

[Docket No. EL98–57–000]

Take notice that on June 30, 1998, New Energy Ventures, L.L.C. (NEV), tendered for filing a notice of termination, emergency request for waiver of notice, and alternative request for relief concerning certain agreements for the provision of electric service to The Power Company of America, L.P., entered into pursuant to NEV's Rate Schedule FERC No. 1.

Comment date: August 3, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. PacifiCorp

[Docket No. ER95–1240–003]

Take notice that on July 1, 1998, PacifiCorp, tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations and the Commission's Order under FERC Docket No. ER95–1240–000, dated April 21, 1998, a refund report.

Copies of this filing were supplied to the Colorado Public Utilities Commission, the Wyoming Public Service Commission, the Arizona Corporation Commission, the California Public Utilities Commission, the Montana Public Service Commission, the Public Utility Commission of Oregon, and the Washington Utilities and Transportation Commission and all affected wholesale customers.

A copy of this filing may be obtained from PacifiCorp's Transmission Function's Bulletin Board System through a personal computer by calling (503) 813–5758 (9600 baud, 8 bits, no parity, 1 stop bit).

Comment date: August 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Total Gas & Electricity, Inc.

[Docket No. ER97–4202–003]

Take notice that on July 2, 1998, Total Energy, Inc., tendered for filing notice of name change to Total Gas & Electricity, Inc.

Comment date: July 23, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. Pacific Gas and Electric Company

[Docket No. ER98–557–000]

Take notice that on July 2, 1998, Pacific Gas and Electric Company (PG&E), tendered for filing revisions to its April 30, 1998, filing made in Docket No. ER98–556–000 in response to the Federal Energy Regulatory Commission's (Commission) March 31, 1998, Order Clarifying Prior Order and Granting and Denying Requests for Rehearing in that Docket.

Copies of this filing have been served upon the parties on the service list and the California Public Utilities Commission.

Comment date: July 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Northern States Power Company (Minnesota Company)

[Docket No. ER98–3555–000]

Take notice that on June 30, 1998, Northern States Power Company (Minnesota) (NSP), tendered for filing an Agreement dated June 15, 1998, between NSP and the City of Shakopee

(City). In a previous agreement dated June 10, 1997, between the two parties, City agreed to continue paying NSP the current wholesale distribution substation rate of $0.47/kW-month until June 30, 1998. Since the June 10, 1997, agreement has terminated, this new Agreement has been executed to continue the current wholesale distribution substation rate of $0.47/kW-month until June 30, 1999.

NSP requests that the Agreement be accepted for filing effective July 1, 1998, and requests waiver of the Commission's notice requirements in order for the Agreement to be accepted for filing on the date requested.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Pacific Gas and Electric Company

[Docket No. ER98–3582–000]

Take notice that on July 1, 1998, Pacific Gas and Electric Company (PG&E), tendered for filing Amendment No. 6, to the Comprehensive Agreement between State of California Department of Water Resources and Pacific Gas and Electric Company (Agreement). Amendment No. 6, modifies certain terms and provisions of the Agreement to extend its term and to accommodate DWR becoming its own Scheduling Coordinator under the Tariffs and Protocols of the California Independent Systems Operator.

The Agreement and its appendices were originally accepted for filing by the Commission in FERC Docket No. ER83–142–000 and designated as PG&E Rate Schedule FERC No. 77.

Copies of this filing were served upon DWR and the California Public Utilities Commission.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Southwest Power Pool

[Docket No. ER98–3583–000]

Take notice that on July 1, 1998, Southwest Power Pool (SPP), tendered for filing ten executed service agreements for Short-Term Firm Point-To-Point transmission service and Non-Firm Point-To-Point Firm Transmission Service under SPP's Open Access Transmission Tariff.

Copies of this filing were served upon each of the parties to these agreements.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. Public Service Company of New Mexico

[Docket No. ER98–3584–000]

Take notice that on July 1, 1998, Public Service Company of New Mexico (PNM), submitted for filing a service agreement dated June 22, 1998, for Firm Point-To-Point Transmission Service between PNM (Transmission Provider) and Southwestern Public Service Company (Transmission Customer), under the terms of PNM's Open Access Transmission Service Tariff. The transmission service is for specified MW amounts of Reserved Capacity for the months of July and August 1998, from the Four Corners (345 kV) Switchyard (Point of Receipt) to the Roosevelt 230 kV Bus (Point of Delivery).

PNM requests an effective date of July 1, 1998, for this agreement.

PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Public Service Company of New Mexico

[Docket No. ER98–3585–000]

Take notice that on July 1, 1998, Public Service Company of New Mexico (PNM), submitted for filing an executed service agreement, for Short-Term Firm Point-to-Point Transmission Service under the terms of PNM's Open Access Transmission Service Tariff, with Arizona Public Service Company (APS) dated June 25, 1998. PNM will provide APS with firm transmission service for a three-month period beginning July 1, 1998, on PNM's Palo Verde to Westwing transmission path.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. Southwestern Public Service

[Docket No. ER98–3586–000]

Take notice that on July 1, 1998, Southwestern Public Service Company (SPS), submitted a Power Sale Agreement with Lubbock Power and Light, City of Lubbock (LP&L).

SPS proposes to make the effective date for the Agreement June 20, 1998, the date service to LP&L began.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. Allegheny Power Service Corp., on Behalf of Monongahela Power Co. The Potomac Edison Company, and West Penn Power Company (Allegheny Power)

[Docket No. ER98–3587–000]

Take notice that on July 1, 1998, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), tendered for filing Supplement No. 31 to add Eastern Power Distribution, Inc. (EPDI), to Allegheny Power's Open Access Transmission Service Tariff which has been submitted for filing in Docket No. OA96–18–000. Accordingly Supplement No. 31 includes a Non-Firm Point-To-Point Transmission Service Agreement with EPDI.

The proposed effective date under the Service Agreement is June 30, 1998.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. Enron Energy Services, Inc.

[Docket No. ER98–3588–000]

Take notice that on July 1, 1998, Enron Energy Services, Inc. (Enron Energy), tendered for filing a Notification of Change in Status (Notification). The Notification informs the Commission that Enron Energy's affiliate Portland General Electric Company (PGE), intends to offer certain non-jurisdictional brokering services to all participants in the Western Systems Coordinating Council, including Enron Energy and other PGE affiliates, and concludes that these transactions do not alter the characteristics that the Commission relied upon in approving the market-based pricing for EES.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. Enron Power Marketing, Inc.

[Docket No. ER98–3589–000]

Take notice that on July 1, 1998, Enron Power Marketing, Inc. (EPMI), tendered for filing a Notification of Change in Status (Notification). The Notification informs the Commission that EPMI's affiliate Portland General Electric Company (PGE), intends to offer certain non-jurisdictional brokering services to all participants in the

Western Systems Coordinating Council, including EPMI and other PGE affiliates, and concludes that these transactions do not alter the characteristics that the Commission relied upon in approving the market-based pricing for EPMI.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. Wisconsin Electric Power Company

[Docket No. ER98–3591–000]

Take notice that on July 2, 1998, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing a Short-Term Firm and Non-Firm Transmission Service Agreement under Wisconsin Energy Corporation Operating Company's FERC Electric Tariff, Original Volume No. 1.

Wisconsin Electric respectfully requests an effective date coincident with its filing.

Copies of the filing have been served on all transmission service customers, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: July 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

20. Commonwealth Edison Company

[Docket No. ER98–3592–000]

Take notice that on July 2, 1998, Commonwealth Edison Company (ComEd), tendered for filing a service agreement establishing Amoco Energy Trading Corporation (AETC), Duke/Louis Dreyfus, L.L.C. (LDFS), El Paso Energy Marketing (EPEM), Entergy Services, Inc. (EPMI), Griffin Energy Marketing L.L.C. (GEM), MidAmerican Energy Company (MEC), Tractebel Energy Marketing Inc. (TEMI), as customers under ComEd's FERC Electric Market Based-Rate Schedule for power sales.

ComEd requests an effective date of June 17, 1998 and, accordingly, seek waiver of the Commission's notice requirements.

ComEd states that a copy of the filing was served on the Illinois Commerce Commission and an abbreviated copy of the filing was served on each affected customer.

Comment date: July 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

21. PJM Interconnection, L.L.C.

[Docket No. ER98–3593–000]

Take notice that on July 2, 1998, PJM Interconnection, L.L.C. (PJM), filed on behalf of the Members of the LLC, membership applications of DTE Edison America, Inc., Enron Energy Services, Inc., and Tosco Power, Inc. PJM requests an effective date on the day after this Notice of Filing is received by FERC.

Comment date: July 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

22. The Dayton Power and Light Company

[Docket No. ER98–3595–000]

Take notice that on July 2, 1998, The Dayton Power and Light Company (Dayton), submitted service agreements establishing with e prime, Inc., Engage Energy US, L.P., Rainbow Energy Marketing Corporation as customers under the terms of Dayton's Open Access Transmission Tariff.

Dayton requests an effective date of one day subsequent to this filing for the service agreements. Accordingly, Dayton requests waiver of the Commission's notice requirements.

Copies of the this filing were served upon e prime, Inc., Engage Energy US, L.P., Rainbow Energy Marketing Corporation and the Public Utilities Commission of Ohio.

Comment date: July 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

23. The Dayton Power and Light Company

[Docket No. ER98–3596–000]

Take notice that on July 2, 1998, The Dayton Power and Light Company (Dayton), tendered for filing Short-Term Firm Transmission Service Agreements with Allegheny Power Service Corporation, Electric Clearinghouse, Inc., e prime, Inc., Morgan Stanley Capital Group Inc., under the terms of Dayton's Open Access Transmission Tariff.

Dayton requests an effective date of one day subsequent to this filing for the service agreements. Accordingly, Dayton requests waiver of the Commission's notice requirements.

Copies of the this filing were served Allegheny Power Service Corporation, Electric Clearinghouse, Inc., e prime, Inc., Morgan Stanley Capital Group Inc., and the Public Utilities Commission of Ohio.

Comment date: July 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

24. The Dayton Power and Light Company

[Docket No. ER98–3597–000]

Take notice that on July 2, 1998 The Dayton Power and Light Company (Dayton), submitted service agreements establishing Delmarva Power and Light Company, Plum Street Energy Marketing, Inc., Ohio Valley Electric Corporation as a customer under the terms of Dayton's Market-Based Sales Tariff.

Dayton requests an effective date of one day subsequent to this filing for the service agreements. Accordingly, Dayton requests waiver of the Commission's notice requirements.

Copies of the this filing were served upon Delmarva Power and Light Company, Plum Street Energy Marketing, Inc., Ohio Valley Electric Corporation and the Public Utilities Commission of Ohio.

Comment date: July 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

25. Carolina Power & Light Company

[Docket No. ER98–3598–000]

Take notice that on July 2, 1998, Carolina Power & Light Company (CP&L), tendered for filing an executed Service Agreement with First Energy Trading and Power Marketing Inc., under the provisions of CP&L's Market-Based Rates Tariff, FERC Electric Tariff No. 4. This Service Agreement supersedes the un-executed Agreement originally filed in Docket No. ER98–3395–000.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: July 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

26. Idaho Power Company

[Docket No. ER98–3599–000]

Take notice that on July 2, 1998, Idaho Power Company (IPC), tendered for filing with the Federal Energy Regulatory Commission a Service Agreement for Firm Point-to-Point Transmission Service between Idaho Power Company and The Montana Power Company under Idaho Power Company FERC Electric Tariff No. 5, Open Access Transmission Tariff.

Idaho Power Company requests that the service agreement become effective June 15, 1998.

Comment date: July 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

27. Niagara Mohawk Power Corporation

[Docket No. ER98–3600–000]

Take notice that on July 2, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing Notice of Cancellation of FERC Rate Schedule No. 205 and any supplements thereto, effective June 10, 1994 with

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New York State Electric and Gas Corporation (NYSEG).

Copies of this Notice of the proposed cancellation has been served upon New York State Electric and Gas Corporation.

Comment date: July 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

28. Enron Power Marketing, Inc.

[Docket No. ER98–3601–000]

Take notice that on July 2, 1998, Enron Power Marketing, Inc., tendered for filing a Notice of Cancellation of its Electric Rate Schedule FERC No. 44, to become effective September 30, 1998.

Enron Power Marketing, Inc., served a copy of the filing on the Bonneville Power Administration, the only other party to Rate Schedule FERC No. 44.

Comment date: July 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

29. Consolidated Edison Company of New York, Inc.

[Docket No. ER98–3603–000]

Take notice that on July 2, 1998, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a Supplement to Con Edison Rate Schedule FERC No. 94 for transmission service for Long Island Lighting Company (LILCO).

The Rate Schedule provides for transmission of power and energy from the New York Power Authority's Blenheim-Gilboa station. The Supplement provides for a decrease in annual revenues under the Rate Schedule.

Con Edison has requested that this increase take effect on July 1, 1998.

Con Edison states that a copy of this filing has been served by mail upon LILCO.

Comment date: July 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

30. Texas-New Mexico Power Company

[Docket No. ER98–3604–000]

Take notice that on July 2, 1998, Texas-New Mexico Power Company (TNMP), tendered for filing an Interconnection Agreement between TNMP, Public Service Company of New Mexico (PNM) and the City of Las Cruces. TNMP tenders with the filing a PNM certificate of concurrence.

TNMP requests that the Commission waive its notice requirement an effective date as of February 1, 1998.

Comment date: July 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

31. Doswell Limited Partnership

[Docket No. ER98–3606–000]

Take notice that on July 2, 1998, Doswell Limited Partnership (Doswell), tendered for filing an amendment to the Power Purchase and Operating Agreement (the Second Amendment) between Doswell and Virginia Electric and Power Company (Virginia Power). Doswell states that the Second Amendment modifies certain components of the energy rate, as well as certain non-rate terms and conditions, for Doswell's sales of generating capacity and energy to Virginia Power. The amount of capacity to be sold, and the capacity charge component of the rate, are unaffected by the Second Amendment.

Comment date: July 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–19064 Filed 7–16–98; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG98–90–000, et al.]

Tiverton Power Associates Limited Partnership, et al.; Electric Rate and Corporate Regulation Filings

July 6, 1998.

Take notice that the following filings have been made with the Commission:

1. Tiverton Power Associates Limited Partnership

[Docket No. EG98–90–000]

Take notice that on June 25, 1998, Tiverton Power Associates Limited Partnership (Tiverton) c/o Dennis J. Duffy, Esq., Partridge, Snow & Hahn, 180 South Main Street, Providence, Rhode Island 02903, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Tiverton will own and operate an approximately 265 megawatt electric generation facility located in Tiverton, Rhode Island, producing electricity for sale exclusively at wholesale.

Comment date: July 14, 1998, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. California Independent System Operator Corporation

[Docket Nos. EC96–19–031 and ER96–1663–032]

Take notice that on June 29, 1998, the California Independent System Operator Corporation (ISO), filed a clarification of its proposed Amendment No. 7 to the ISO Operating Agreement and Tariff (including protocols) in response to the Commission's order dated May 28, 1998, *California Independent System Operator Corporation*, 83 FERC ¶ 61,209 (1998).

Comment date: July 23, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. San Diego Gas & Electric Company and Enova Energy, Inc.

[Docket No. EC97–12–003]

Take notice that on June 26, 1998, San Diego Gas & Electric Company and Enova Energy, Inc., tendered for filing a revised version of the Required Mitigation Measures that were approved by the California Public Utilities Commission in its April 2, 1998, order.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. Consolidated Edison Company of New York, Inc., Consolidated Edison Energy, Inc., Consolidated Edison Solutions

[Docket Nos. ER98–2491–001, ER97–707–000, and ER97–705–000 (not consolidated)]

Take notice that on June 30, 1998, Consolidated Edison Company of New York, Inc., Consolidated Edison Energy, Inc. and Consolidated Edison Solutions, Inc. (the Companies), tendered for filing in the above-referenced dockets compliance filings to the Commission's Order Conditionally Accepting For Filing Proposed Market-Based Rates And Directing Revisions To Tariffs And Codes Of Conduct, issued June 1, 1998 (83 FERC ¶ 61, 236).

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Northern States Power Company (Minnesota), Northern States Power Company (Wisconsin)

[Docket No. ER98–2640–001]

Take notice that on June 30, 1998, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) tendered for revised copies of its compliance filing in the above-referenced docket.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Duke Energy Moss Landing LLC

[Docket No. ER98–2668–002]

Take notice that on June 30, 1998, in accordance with the Commission's June 25, 1998, Order Accepting For Filing and Suspending Reliability Must-Run Tariffs, Summarily Dismissing Proposed Acquisition Adjustment, Consolidating Tariffs and Establishing Hearing Procedures, 83 FERC ¶ 61,318 (1998) (June 25, 1998, Order) 18 CFR 35.10(c), Duke Energy Moss Landing (DEML), submitted for filing the revised sheets of its Must-Run Rate Schedule. In addition to the revised sheets submitted for inclusion in its Reliability Must-Run Rate Schedule, DEML also submitted workpapers setting forth the calculation of the revised rates.

DEML requests that the revised Reliability Must-Run sheets be permitted to become effective July 1, 1998.

Copies of the filing were served upon the California ISO, the Public Utilities Commission of the State of California and all parties to this proceeding.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Mississippi Power Company

[Docket No. ER98–3531–000]

Take notice that on June 29, 1998, Mississippi Power Company and Southern Company Services, Inc., its agent, tendered for filing a Service Agreement, pursuant to the Southern Companies Electric Tariff Volume No. 4—Market Based Rate Tariff, with South Mississippi Electric Power Association for the Wellman Delivery Point to Coast Electric Power Association. The agreement will permit Mississippi Power to provide wholesale electric service to South Mississippi Electric Power Association at a new service delivery point.

Copies of the filing were served upon South Mississippi Electric Power Association, the Mississippi Public Service Commission, and the Mississippi Public Utilities Staff.

Comment date: July 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Baltimore Gas and Electric Company

[Docket No. ER98–3537–000]

Take notice that on June 30, 1998, Baltimore Gas and Electric Company (BGE), filed Service Agreements with South Jersey Energy Company, dated May 18, 1998; and American Electric Power Service Corp., dated May 31, 1998, under BGE's FERC Electric Tariff Original Volume No. 3 (Tariff). Under the Service Agreements, BGE agrees to provide services to the parties to the Service Agreements under the provisions of the Tariff.

BGE requests an effective date of June 26, 1998 for the Service Agreements.

BGE states that a copy of the filing was served upon the Public Service Commission of Maryland and parties to the Service Agreements.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. New England Power Pool

[Docket No. ER98–3538–000]

Take notice that on June 30, 1998, the New England Power Pool Executive Committee filed for acceptance a signature page to the New England Power Pool (NEPOOL), Agreement dated September 1, 1971, as amended, signed by Public Service Electric and Gas Company (PSE&G). The NEPOOL Agreement has been designated NEPOOL FPC No. 2.

The Executive Committee states that the Commission's acceptance of PSE&G's signature page would permit NEPOOL to expand its membership to include PSE&G. NEPOOL further states that the filed signature page does not change the NEPOOL Agreement in any manner, other than to make PSE&G a member in NEPOOL.

NEPOOL requests an effective date of September 1, 1998, for commencement of participation in NEPOOL by PSE&G.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. American Electric Power Service Corporation

[Docket No. ER98–3539–000]

Take notice that on June 30, 1998, the American Electric Power Service Corporation (AEPSC), tendered for filing executed Firm Point-To-Point and Non-Firm Point-To-Point Service Agreements under the AEP Companies' Open Access Transmission Service Tariff (OATT). The OATT has been designated as FERC Electric Tariff Original Volume No. 4, effective July 9, 1996.

AEPSC requests waiver of Commission's notice requirements to permit the Service Agreements to be made effective for service billed on and after June 1, 1998.

A copy of the filing was served upon the Parties and the state utility regulatory commissions of Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. New England Power Pool

[Docket No. ER98–3540–000]

Take notice that on June 30, 1998, the New England Power Pool Executive Committee tendered for filing acceptance a signature page to the New England Power Pool (NEPOOL), Agreement dated September 1, 1971, as amended, signed by TransCanada Power Marketing Ltd., (TCPM). The NEPOOL Agreement has been designated NEPOOL FPC No. 2.

The Executive Committee states that the Commission's acceptance of TCPM's signature page would permit NEPOOL to expand its membership to include TCPM. NEPOOL further states that the filed signature page does not change the NEPOOL Agreement in any manner, other than to make TCPM a member in NEPOOL.

NEPOOL requests an effective date of July 1, 1998, for commencement of participation in NEPOOL by TCPM.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Idaho Power Company

[Docket No. ER98–3541–000]

Take notice that on June 30, 1998, Idaho Power Company (IPC), tendered for filing a Service Agreement for Firm Point-to-Point Transmission Service between Idaho Power Company and Amoco Energy Trading Corporation under Idaho Power Company's FERC Electric Tariff No. 5, Open Access Transmission Tariff.

IPC requests that the service agreement become effective on May 21,

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1998, and a rate schedule number be designated.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. Central Maine Power Company

[Docket No. ER98–3545–000]

Take notice that on June 30, 1998, Central Maine Power Company (CMP), tendered for filing executed service agreements for the sale of capacity energy with NORESCO; North American Energy Conservation, Inc; Promark Energy; Power Company of America, L.P., and US Gen Power Services. These service agreements are entered into under CMP's Wholesale Market Tariff, Volume No. 4.

CMP requests waiver of the Commission's notice requirements to permit the service agreements to become effective June 30, 1998.

Copies of this filing have been served upon the Maine Public Utilities Commission and the persons listed on the service list.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Central Maine Power Company

[Docket No. ER98–3546–000]

Take notice that on June 30, 1998, Central Maine Power Company (CMP), tendered for filing a service agreements for the sale of capacity and/or energy from CMP to Equitable Power Service Company, Maine Public Service Company, Morgan Stanley Capital Group, Inc., and New Energy Ventures, L.L.C.

CMP requests waiver of the Commission's notice requirements to permit service under the Agreements to become effective as of June 30, 1998.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. Central Maine Power Company

[Docket No. ER98–3547–000]

Take notice that on June 30, 1998, Central Maine Power Company (CMP), tendered for filing executed service agreements for sale of capacity and/or energy entered into with Connecticut Municipal Electric Energy Cooperative; CNG Power Service Corp.; Engage Energy US, L.P.; and Entergy Power Marketing Corp. This Service Agreements are entered into under CMP's Wholesale Market Tariff, Volume No. 4.

CMP requests waiver of the Commission's notice requirements to permit service under the Agreements to become effective June 30, 1998.

Copies of this filing have been served upon Maine Pubic Utilities Commission.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. New England Power Company

[Docket No. ER98–3550–000]

Take notice that on June 30, 1998, New England Power Company (NEP), tendered for filing with the Federal Energy Regulatory Commission a Service Agreement with Tractebel Energy Marketing, Inc., under its tariff for capacity and capacity related products, NEP Electric Tariff No. 10, which is on file with the Commission as NEP's FERC Electric Tariff Original Volume No. 11.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. ConAgra Energy Services, Inc.

[Docket No. ER98–3551–000]

Take notice that on June 30, 1998, ConAgra Energy Services, Inc. (CES), a broker and marketer of electric power, has filed a notice of cancellation pursuant to 18 CFR 35.15, as to the Power Sale And Purchase Agreement between CES and The Power Company of America, L.P. (PCA), entered into on June 16, 1997, under CES's Rate Schedule FERC No. 1.

CES has also filed a motion for waiver of the Commission's filing requirement under 18 CFR 35.15, so as to permit CES to terminate service to PCA as of July 1, 1998, by reason of PCA's default under the agreement.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. Metropolitan Edison Company

[Docket No. ER98–3553–000]

Take notice that on June 30, 1998, Metropolitan Edison Company (Met-Ed), d/b/a GPU Energy filed an executed Retail Transmission Service Agency Agreements between GPU Energy and Penn Power Energy dated May 19, 1998.

GPU Energy requests a waiver of the Commission's notice requirements for good cause shown and an effective date of November 1, 1997, for the Retail Transmission Service Agency Agreements.

GPU Energy will be serving a copy of the filing on the Pennsylvania Public Utility Commission.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. Northeast Utilities Service Company

[Docket No. ER98–3557–000]

Take notice that on June 30, 1998, Northeast Utilities Service Company (NUSCO) on behalf of its affiliates, The Connecticut Light and Power Company, Western Massachusetts Electric Company, Holyoke Water Power Company, Holyoke Power and Electric Company, and Public Service Company of New Hampshire (together the NU Companies), tendered for filing an executed Purchase of Supplemental Capacity and Supplemental Energy agreement with New York Municipal Power Agency, dated August 19, 1996, and a First Amendment to the Agreement for Purchase of Supplemental Capacity and Supplemental Energy, dated June 26, 1998, pursuant to the NU Companies' market-based rate authority.

A copy of this filing was served upon the New York Municipal Power Agency.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

20. New England Power Pool

[Docket No. ER98–3568–000]

Take notice that on June 30, 1998, the New England Power Pool (NEPOOL), Executive Committee submitted materials related to its filing on December 31, 1996 in the captioned dockets. These materials consist of Market Rules 13, 14, and 3 which relate to NEPOOL's proposed new market provisions and provide, among other things, for the authority of the NEPOOL ISO to impose sanctions for failure to meet certain Participant obligations.

The NEPOOL Executive Committee states that copies of these materials were sent to all persons identified on the Commission's official service lists in the captioned dockets, the New England State Governors and Regulatory Commissions and the participants in the New England Power Pool.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

21. New England Power Company

[Docket No. ER98–3590–000]

Take notice that on June 30, 1998, New England Power Company (NEP), tendered for filing a supplement to an amendment to Granite State Electric Company's service agreement under NEP's FERC Electric Tariff, Original Volume No. 1.

NEP requests waiver of the Commission's notice requirements to permit the Supplement to become effective date of July 1, 1998.

A copy of this filing has been served on Granite State, as well as regulatory agencies in New Hampshire.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

22. California Independent System Operator Corporation

[Docket No. ER98–3594–000]

Take notice that on June 30, 1998, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 9, to the ISO Tariff governing the issuance and use of Firm Transmission Rights.

The ISO states that this filing has been served on all parties listed on the official service list in the Docket Nos. EL96–19 and ER96–1663.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

23. Open Access Same-time Information System (OASIS) and Standards of Conduct

[Docket No. RM95–9–000]

Take notice that on June 11, 1998, the Commercial Practices Working Group (Commercial Practices Group), filed a letter seeking prompt Commission confirmation that members may voluntarily participate in an industry experiment to improve the completion of next hour transactions by using trial procedures for completing next-hour transactions during a four month experiment. After assessing the results of this test, the Commercial Practices Group may offer further recommendations as warranted.

We invite written comments on this filing on or before July 17, 1998. Any person desiring to submit comments should file an original and 14 paper copies and one copy on a computer diskette in WordPerfect 6.1 format or in ASCII format with the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. The comments must contain a caption that references Docket No. RM95–9–000.

Copies of this filing are on file with the Commission and are available for public inspection. The filing will also be posted on the Commission Issuance Posting System (CIPS), an electronic bulletin board and World Wide Web (at WWW.FERC.FED.US) service, that provides access to the texts of formal documents issued by the Commission. The complete text on diskette in WordPerfect format may be purchased from the Commission's copy contractor, La Dorn Systems Corporation. La Dorn Systems Corporation is located in the Public Reference Room at 888 First Street, N.E., Washington, D.C. 20426.

24. Open Access Same-time Information System (OASIS) and Standards of Conduct

[Docket No. RM95–9–000]

Take notice that on June 19, 1998, the Commercial Practices Working Group (Commercial Practices Group), jointly with the OASIS How Working Group (How Group), tendered for filing a report entitled Industry Report to the Federal Energy Regulatory Commission on OASIS Phase 1–A Business Practices. The Commercial Practices Group and How Group state that the report reflects a consensus based on diverse viewpoints within various customer and provider industry segments. The report offers for Commission adoption a set of business practice standards and guidelines designed to implement FERC policy on transmission service price negotiation and improved consistency of Customer-Provider interactions across OASIS nodes.

We invite written comments on this filing on or before July 31, 1998. Any person desiring to submit comments should file an original and 14 paper copies and one copy on a computer diskette in WordPerfect 6.1 format or in ASCII format with the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. The comments must contain a caption that references Docket No. RM95–9–000.

Copies of this filing are on file with the Commission and are available for public inspection. The filing will also be posted on the Commission Issuance Posting System (CIPS), an electronic bulletin board and World Wide Web (at WWW.FERC.FED.US) service, that provides access to the texts of formal documents issued by the Commission. The complete text on diskette in WordPerfect format may be purchased from the Commission's copy contractor, La Dorn Systems Corporation. La Dorn Systems Corporation is located in the Public Reference Room at 888 First Street, N.E., Washington, D.C. 20426.

25. Edison Sault Electric Company

[Docket No. OA98–14–000]

Take notice that on May 26, 1998, Edison Sault Electric Company (Edison Sault), tendered for filing standards of conduct. The Commission previously granted Edison Sault a waiver from the Order No. 889 requirements.[1] Edison Sault states that it is submitting standards of conduct in light of the merger between Wisconsin Energy Corporation, Inc., and ESELCO, Inc., the parent company of Edison Sault.[2]

Comment date: July 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–19067 Filed 7–98; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 10822–000 and 10823–000 Connecticut]

Summit Hydropower Company; Notice of Availability of Draft Environmental Assessment

July 13, 1998.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for original license for the Upper Collinsville Hydroelectric Project and the Lower Collinsville Hydroelectric Project, located on the Farmington River in Hartford County, Connecticut, and has prepared a Draft Environmental Assessment (DEA) for the projects.

Copies of the DEA are available in the Public Reference Branch, Room 2–A, of the Commission's offices at 888 First Street, N.E., Washington, D.C. 20426.

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[1] *See* Black Hills Hydro, Inc., 77 FERC ¶ 61,232 at 61,944 (1996).

[2] *See* Wisconsin Energy Corporation, Inc., 83 FERC ¶ 61,069 (1998) (approving the proposed merger).

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Any comments should be filed within 45 days from the date of this notice and should be addressed to David P. Boergers, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. For further information, contact James T. Griffin at (202) 219–2799.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–19091 Filed 7–16–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–203–000 and RP 98–203–000]

Northern Natural Gas Company; Notice of Technical Conference

July 13, 1998.

In the Commission's order issued on May 28, 1998, the Commission directed that a technical conference be held to address issues raised by the filing.

Take notice that the technical conference will be held on Wednesday, July 15, 1998, at 10:00 a.m., in Hearing Room 6, at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

All interested parties and Staff are permitted to attend.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–19090 Filed 7–16–98; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6125–5]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; NSPS Standards of Performance for Coal Preparation Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: NSPS Subpart Y—Standards of Performance for Coal Preparation Plants, OMB Control Number 2060-0122, expiration date August 31, 1998. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before August 17, 1998.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR, call Sandy Farmer at EPA, by phone at (202) 260–2740, by E-Mail at Farmer.Sandy@epamail.epa.gov or download off the Internet at http://www.epa.gov/icr/icr.htm, and refer to EPA ICR No. 1062.06.

SUPPLEMENTARY INFORMATION:

Title: NSPS Subpart Y—Standards of Performance for Coal Preparation Plants (OMB Control Number 2060–0122; EPA ICR No. 1062.06) expiring August 31, 1998. This is a request for extension of a currently approved collection.

Abstract: Owners or operators of the affected facilities described must make the following one-time-only reports: notification of the date of construction or reconstruction; notification of the anticipated and actual dates of start-up; and notification of any physical or operational change to an existing facility which may increase the regulated pollutant emission rate.

Owners or operators are also required to maintain records of the occurrence and duration of any start-up, shutdown, or malfunction in the operation of an affected facility. These notifications, reports, and records are required, in general for all sources subject to NSPS. There are no additional recordkeeping or reporting requirements specific to coal preparation plants.

Owners or operators of all affected facilities shall install, calibrate, maintain, and continuously operate a monitoring device which continuously measures the temperature of the gas stream of the thermal dryer, and if applicable, the pressure drop across the process scrubbing system. Therefore, the recordkeeping requirements for coal preparation plants that have thermal dyers consist of the occurrence and duration of any start-up and malfunction as described, temperature, pressure drop across any scrubber system, measurements of PM emissions, and the initial performance test results including conversion factors, measurements of PM emissions, and daily charge rates and hours of operation. Records of start-ups, shutdowns, and malfunctions should be noted as they occur. Any owner or operator subject to the provisions of this part shall maintain a file of these measurements, and retain the file for at least two years following the date of such measurements, maintenance reports and records.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on March 5, 1998 (63 FR 10870). No comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 37 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners/Operators of Coal Preparation Plants.

Estimated Number of Respondents: 399.

Frequency of Response: Occasionally.

Estimated Total Annual Hour Burden: 14,729 hours.

Estimated Total Annualized Cost Burden: $14,060.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1062.06 and OMB Control No. 2060–0122 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460;

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: July 13, 1998.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 98–19138 Filed 7–16–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5493–8]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared June 29, 1998 Through July 2, 1998 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 10, 1998 (63 FR 17856).

Draft EISs

ERP No. D–AFS–J65283–CO Rating EC2, North Fork Salvage Timber Analysis Area, Implementation, Medicine Bow-Routt National Forest, Routt County, CO.

Summary: EPA expressed environmental concerns and requested additional information related to increased sediment potential, large woody debris mitigation and road closure methodology.

ERP No. D–AFS–J65284–MT Rating EC2, Patty-Piper Access Road Project, Implementation, To Grant Plum Creek Authorization to Occupy and Use Land in National Forest System, Flathead National Forest, Swan Lake Ranger District, Lake County, MT.

Summary: EPA expressed environmental concerns about potential effects to water quality, fisheries (including bull trout), and the threatened grizzly bear believes additional information is needed to fully assess and mitigate all potential impacts of the management actions.

Final EISs

ERP No. F–AFS–E65024–KY, Daniel Boone National Forest Off-Highway Vehicle (OHV) Management Policy, Modification, Several Counties, KY.

Summary: EPA's review found that the preferred alternative was acceptable and provided for off-road vehicle use, while protecting valuable forest resources and other form of recreation.

ERP No. F–AFS–J65250–CO, Routt National Forest Land and Resource Management Plan, Implementation, Grand, Routt, Rio Blanco, Jackson, Moffat and Garfield Counties, CO.

Summary: EPA continues to express concerns that range reform (RA–1995) analysis not included in the final EIS.

ERP No. F–AFS–J65278–CO, South Quartzite Timber Sale, Timber Harvesting and Road Construction, White River National Forest, Rifle Ranger District, Grizzly Creek Rare II Area, Garfield County, CO.

Summary: EPA expressed lack of objections.

ERP No. F–BLM–J67026–MT, Golden Sunlight Mine Expansion, Implementation of Amendment 008 to Operating Permit No. 0065, COE Section 404 Permit, Whitehall, Jefferson County MT.

Summary: EPA expressed environmental concerns regarding the change in plans to avoid requiring installation of trench drains and shallow wells to capture contaminated seepage from waste rock piles until water quality monitoring demonstrated ground water contamination. EPA also expressed concerns regarding the large proposed ground water mixing zone, and assuring financial capability for implementing necessary perpetual water management and treatment, environmental monitoring, mitigation, and reclamation measures and believes additional information is needed to fully assess and mitigate all potential impacts of the management actions.

ERP No. F–ICC–A53053–00, Conrail Acquisition (Finance Docket No. 33388) by CSX Corporation and CSX Transportation Inc., and Norfolk Southern Corporation and Norfolk Southern Railway Company (NS), Control and Operating Leases and Agreements, To serve portion of eastern United States.

Summary: EPA continued to express concerns with the analyses performed for noise and environmental justice, and addressed the applicability of the Clean Air Act general conformity rules.

Dated: July 14, 1998.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 98–19121 Filed 7–16–98; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5493–7]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 OR (202) 564–7153.

Weekly receipt of Environmental Impact Statements
Filed July 6, 1998 Through July 10, 1998
Pursuant to 40 CFR 1506.9.

EIS No. 980259, Draft Supplement, NOA, Comprehensive Amendment Addressing Essential Fish Habitat in Fishery Management Plans for the South Atlantic Region for Shrimp, Red Drum, Coral, Coral Reefs and Live/Hard Bottom Habitat, Spiny Lobster, Snapper-Grouper, Coastal Migratory Pelagics and Golden Crab, South Atlantic Region, *Due:* August 24, 1998. *Contact:* Andrew J. Kemmerer (813) 570–5301.

The NOA for the above DSEIS should have appeared in the 7/10/98 **Federal Register**. The 45-day Comment Period is Calculated from 7/10/98.

EIS No. 980260, Regulatory Draft EIS, NOA, Calico Scallop Fishery and Sargassum Habitat Fishery, Fishery Management Plans Establishment and Implementation, South Atlantic Region, *Due:* August 24, 1998. *Contact:* Andrew J. Kemmerer (813) 570–5305.

The above NOA should have appeared in the 7/10/98 **Federal Register**. The 45-day Comment Period is calculated from 07/10/98.

EIS No. 980261, Final EIS, AFS, MT, Beaver Creek Ecosystem Management Project and Associate Timber Sale, Implementation, Little and Big Beaver Creek Drainage, Kootenai National Forest, Cabinet Ranger District, Sanders County, MT, *Due:* August 17, 1998. *Contact:* John Gubel (406) 827–3533.

EIS No. 980262, Draft EIS, FHW, WA, WA–16/Union Avenue Vicinity to WA–302 Vicinity of Tacoma Improvements, Construction, Funding, Coast Guard Permit, COE Section 10 and 404 Permits, Pierce County, WA, *Due:* August 31, 1998. *Contact:* James Leonard (360) 753–9408.

EIS No. 980263, Final EIS, AFS, CO, Sheep Flats Diversity Unit, Timber Sales and Related Road Construction, Grand Mesa, Uncompahgre and Gunnison National Forests, Collbran Ranger District, Mesa County, CO, *Due:* August 17, 1998. *Contact:* Pam Bode (970) 641–0471.

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EIS No. 980264, Draft EIS, NOA, FL, Guana, Tolomato, Matanizas, Site Designation, National Estuarine Research Reserve, Management Plan, City of Jacksonville, St. Johns and Flagler Counties, FL, *Due:* August 31, 1998. *Contact:* Stephanie Thornton (301) 713–3125.

EIS No. 980265, Draft EIS, AFS, VT, Mount Snow/Haystack Resort, Expansion of Snowmaking Coverage and Development of Alternative Water Supplies, Special-Use-Permit and COE Section 404 Permit, Green Mountain National Forest, Manchester Ranger District, Windham County, VT, *Due:* August 31, 1998. *Contact:* Nancy Burt (802) 747–6742.

EIS No. 980266, Draft EIS, UAF, NM, University of New Mexico (UNM), Construction of the Enchanted Skies Park and Observatory on Horace Mesa near Grants, Cibola County, NM, *Due:* August 31, 1998. *Contact:* Julia Cantrell (210) 536–3515.

EIS No. 980268, Draft Supplement, AFS, AZ, Grand Canyon/Tusayan Growth Area Improvements, Updated Information on three New Alternatives, General Management Plan (GMP), Special-Use-Permit, Land Exchange Options, Approval and Licenses Issuance, Coconino County, AZ, *Due:* September 02, 1998. *Contact:* R. Dennis Lund (520) 635–8200.

Dated: July 14, 1998.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 98–19120 Filed 7–16–98; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[PF–820; FRL–6019–1]

BASF Corporation; Pesticide Tolerance Petition Filing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by the docket control number PF–820, must be received on or before August 17, 1998.

ADDRESSES: By mail submit written comments to: Information and Records Integrity Branch, Public Information and Services Divison (7502C), Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 119, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by following the instructions under "SUPPLEMENTARY INFORMATION." No confidential business information should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 119 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Beth Edwards, Insecticide Branch, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 206, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 305–5400; e-mail: edwards.beth@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice of filing, as well as the public version, has been established for this notice of filing under docket control number [PF–820] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in "ADDRESSES" at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1/6.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket control number (PF–820) and appropriate petition number. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 13, 1998.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by the petitioner and represents the views of the petitioner. EPA is publishing the petition summary verbatim without editing them in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

BASF Corporation

PP 4E4411

EPA has received a pesticide petition (PP 4E4411) from BASF Corporation, Agricultural Products, P.O. Box 13528, Research Triangle Park, NC 27709 proposing pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR 180.448 by establishing a tolerance for residues of hexythiazox [trans-5-(4-chlorophenyl)-N-cyclohexyl-4-methyl-2-oxothiazolidine-3-carboxamide] and its metabolites containing the (4-chlorophenyl)-4-methyl-2-oxo-3-

thiazolidine moiety (expressed as parts per million (ppm) of the parent compound), in or on the raw agricultural commodity dried hops. The proposed analytical method is gas chromatography using Nitrogen Phosphorous detection. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant and animal metabolism.* BASF Corporation notes that metabolism in plants and animals is understood.

2. *Analytical method.* The proposed analytical method involves methanol extraction, clean-up by partition, and detection of residues by gc with npd.

3. *Magnitude of residues.* Nine residue trials were conducted in Bavaria Germany. The method of detection had a limit of detection of 0.05 ppm. After kiln drying, hops residues ranged from 0.61 to 1.53 ppm and averaged approximately 0.9 ppm.

B. Toxicological Profile

1. *Acute toxicity.* For the technical grade active ingredient:

Acute oral toxicity—Rat. LD_{50} >5,000 milligram/killograms (mg/kg) (Tox Category IV); Acute Dermal Toxicity (rat) LD_{50} > 5,000 mg/kg (Tox Category III); Acute Inhalation Toxicity (rat) LC_{50} > 2.0 mg/l (4 hrs) (Tox Category IV); Primary Eye Irritation (rabbit) - Hexythiazox is a mild ocular irritant (Tox Category III); Primary Dermal irritation (rabbit) - Hexythiazox is not a dermal irritant (Tox Category IV); Dermal Sensitization (guinea pig) - Hexythiazox is not a dermal sensitizer.

2. *Genotoxicty.* All mutagenicity tests were negative. *Ames Testing.* Negative (Accession No. 072941). *In vitro* cytogenicity (Chinese hamster ovary cells): Negative (MRID 00156894). Rat primary hepatocyte unscheduled DNA synthesis assay (MRID 00156893). Mammalian cell forward gene mutation assay (MRID 00155154).

3. *Reproductive and developmental toxicity*—i. *Developmental toxicity—Rat.* The maternal toxicity NOEL was determined to be 240 mg/kg/day. The fetotoxicity NOEL was 240 mg/kg/day, and the compound was not embryotoxic at the highest dose tested (HDT), 2,160 mg/kg/day (MRID 00147578).

ii. *Developmental toxicity— Rabbit.* No development or maternal toxicity was observed at the HDT, 1,080 mg/kg/day (MRID 00146555).

iii. *Multi-generation reproduction—Rat.* The parental toxicity NOEL was determined to be 20 mg/kg/day. No reproductive effects were observed at 2,400 ppm (200 mg/kg/day), the HDT.

4. *Chronic toxicity.* The data submitted in support of this tolerance and other relevant material have been reviewed. The toxicological and metabolism data considered in support of this tolerance are discussed in detail in related documents published in the **Federal Registers** of April 26, 1989 (54 FR 17947), and February 21, 1996 (61 FR 6552) (FRL-5350-6) .

5. *Chronic toxicity non-rodent—Dog and rodent—Rat.* The NOEL for chronic effects for hexythiazox is 2.5 mg/kg/day, based upon a 1-year dog study, and the RfD is 0.025 mg/kg/day (MRID 00146556, 00151359, and 00156895). A 2-year rat study showed a systemic NOEL of 430 ppm (21.5 mg/kg/day, MRID 00146559). No evidence of oncogenicity was observed in this study.

6. *Oncogenicity in the rodent—Mouse.* Hexythiazox produced an oncogenic effect in the livers of female mice (MRID 00147577, 00156896, 40328701, and 40328702) with a systemic NOEL of 250 ppm (37.5 mg/kg/day). The Agency has calculated an oncogenic potential of $Q^* = 0.039$ (mg/kg/day)-1.

7. *Hormonal effects.* No specific hormonal effects testing has been conducted with hexythiazox, however, the compound was tested in two developmental bioassays and a multi-generation reproduction bioassay. No hormonal effects were noted in these relevant tests.

8. *Threshold effects.* A chronic dietary exposure/risk assessment has been performed for hexythiazox using the established reference dose (RfD) of 0.025 mg/kg-bwt/day. The RfD was based on a NOEL of 2.5 mg/kg/day from a 1-year dog feeding study.

9. *Non-threshold effects.* The Agency has classified hexythiazox as a class C (possible human) carcinogen based on a significantly increased incidence of hepatocellular carcinomas ($p=0.028$), and adenomas/carcinomas combined ($p=0.024$) in female mice at the HDT (1,500 ppm) when compared to the controls as well as a significantly increased ($p> 0.001$) incidence of preneo-plastic hepatic nodules in both males and females at the HDT (1,500 ppm). The decision supporting a Category C classification (rather than a Category B) was based primarily on the fact that only one species was affected (mouse), mutagenicity assays did not support upgrading to a B classification, and structure-activity relationship of hexythiazox to other compounds supported a C classification. In classifying hexythiazox as a Category C carcinogen, the Agency concluded that a quantitative estimate of the carcinogenic potential for humans should be calculated because of the increased incidence of malignant liver tumors in the female mouse.

Thus, a Q^* of 3.9 x 10^{-2} (mg/kg/day)-1 in human equivalents has been calculated. A full review of the data indicates that although hexythiazox is a carcinogen in mice, the risks would be extremely small from the proposed use on hops. Estimated dietary carcinogenic risk to the general population based on the highly conservative assumptions that all imported hops are treated with hexythiazox and would bear residues at the proposed tolerance level is estimated to be approximately 3 x10^{-7}. In fact, the Agency estimated in 1993, that the most conservative estimate of the percentage of beer containing foreign grown hops (including imported beer and domestic beer brewed with imported hops) to be approximately 49%. In addition, the average residue seen in the residue studies supporting this tolerance was approximately 0.9 ppm. Incorporating this information into the risk calculation the estimated oncogenic risk from the proposed use is reduced to approximately 7 x 10^{-8}. Even this is an overestimation, as the calculations assume that the level of hexythiazox in finished beer is the same as the level in the dried hops. BASF has supplied information which demonstrates that finished beer brewed with hops containing an average level of 1.16 ppm results in hexythiazox levels of <0.05 ppm in the finished beer. Assuming a level of 0.05 ppm in beer produced from hops would further reduce the theoretical risk to approximately 4 x 10^{-9}.

A chronic dietary exposure/risk assessment has been performed for hexythiazox using a RfD of 0.025 mg/kg-bwt/day. The RfD was based on a NOEL of 2.5 mg/kg/day from a 1-year dog feeding study and a safety factor of 100. The endpoint effect of concern was hypertrophy of the adrenal cortex in both sexes, decreased red blood cell counts, hemoglobin content and hematocrit in males. The analysis was performed using tolerance level residues and 100% crop treated information. The exposure for established tolerances and the current proposal utilizes <1% of the RfD for the U.S.population.

C. Aggregate Exposure

1. *Dietary exposure.* The exposure for established tolerances and the current

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proposal utilizes <1% of the RfD for the U.S. population. Non-nursing infants <l represent the most exposed sub-population and the percent of the RfD consumed by this group is <3%. BASF has estimated the theoretical oncogenic risk for the currently registered uses of hexythiazox (apples and pears) to be approximately 1.5×10^{-6}. This risk number includes the very conservative assumptions that all apples and pears are treated with hexythiazox and that all resulting residues are at the tolerance level. In its recent FR Notice establishing the tolerance in apples the Agency recognized these conservative overestimations and concluded "in reality, the Agency knows that all apples would not be treated with this pesticide and expect that even apples receiving maximum treatment will have residues far below tolerance level. For example, in field trials conducted using application rates 10 times the label amount, residues in apples still did not exceed the tolerance level. Further, the maximum residue level (MRL) in apple juice would be expected to be less than 50% of the residue level in whole fruit. Based on an assessment of the cancer risks of the proposed use of hexythiazox, the Agency believes that the proposed use of hexythiazox on apples will pose an extremely small risk to humans." The current proposal will not increase the theoretical oncogenic risk significantly.

In addition, the Agency has concluded that based on the residue and feeding levels of spent hops "meat and milk tolerances are not required for this petition."

2. *"Other" exposure*. Other potential sources of exposure of the general population to residues of pesticides are residues in drinking water and exposure from non-occupational sources. Since this tolerance is for an "imported use," BASF does not anticipate exposure to residues of hexythiazox in drinking water. BASF has not estimated non-occupational exposure for hexythiazox. Since the current registrations for hexythiazox in the United States are limited to commercial apple/pear production, the potential for non-occupational exposure to the general population is considered to be insignificant.

D. Cumulative Effects

BASF also considered the potential for cumulative effects of hexythiazox and other substances that have a common mechanism of toxicity. BASF is unaware of any conclusive data regarding the potential for hexythiazox to share a common mechanism for toxic effects with any other compound. In dietary assessment, the food factor for hops is only 0.03%. Therefore, BASF concluded that any concern regarding a common mechanism of toxicity would be insignificant.

E. Safety Determination

1. *U.S. population*. Using the exposure assumptions described above, BASF concludes that aggregate exposure to hexythiazox will utilize approximately <1% of the RfD for the U.S. population. EPA generally has no concern for exposures below 100% of the RfD. In addition the calculated theoretical oncogenic risk associated with this use is more than 100 times less than the Agency's general level of concern (1×10^{-6}).

Therefore, based on the completeness and reliability of the toxicity data and the conservative exposure assessment, BASF concludes that there is a reasonable certainty that no harm will result from aggregate exposure to residues of hexythiazox, including all anticipated dietary exposure and all other non-occupational exposures.

2. *Infants and children*. The toxicity database includes both developmental and reproductive testing in which no significant concerns were identified. BASF therefore believes the established RfD of 0.025 mg/kg/day is the appropriate approach for assessing risk in children. Based on the completeness and reliability of the toxicity data and the conservative exposure assessment, BASF concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the residues of hexythiazox, including all anticipated dietary exposure and all other non-occupational exposures.

F. Other Considerations

The qualitative nature of the residues in plants and animals is adequately understood. There is a practical analytical method for detecting and measuring levels of hexythiazox in or on food with a limit of detection that allows monitoring of food with residues at or above the levels set in these tolerances.

G. International Tolerances

A maximum residue level has not been established for hexythiazox by the Codex Alimentarius Commission.

[FR Doc. 98–19247 Filed 7–16–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6126–2]

Report on the Shrimp Virus Peer Review Workshop

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of a draft final report.

SUMMARY: This document announces the availability of a draft final report of a peer review and risk assessment workshop, sponsored by the U.S. Environmental Protection Agency (EPA), National Center for Environmental Assessment, on behalf of the Joint Subcommittee on Aquaculture (JSA), National Science and Technology Council, held January 7–8, 1998. The report entitled, "Report on the Shrimp Virus Peer Review and Risk Assessment Workshop: Developing a Qualitative Risk Assessment" (EPA/630/R–98/001A), was completed under contract to the EPA. It develops a qualitative ecological risk assessment describing the potential risks of nonindigenous pathogenic shrimp viruses on wild shrimp populations in U.S. coastal waters. Expert conclusions and recommendations contained in the report are currently undergoing an independent scientific review. The results of this independent review and the draft final report will be used as the basis for a risk management workshop on shrimp viruses scheduled for July 28–29, 1998 in New Orleans (see 63 FR 36895–36896 (July 8, 1998)).

DATES: The report will be available on or about July 24, 1998.

ADDRESSES: An electronic version of the draft final report will be accessible on the EPA National Center for Environmental Assessment home page at http://www.epa.gov/ncea/.

FOR FURTHER INFORMATION CONTACT: Dr. H. Kay Austin, U.S. Environmental Protection Agency, Office of Research and Development, National Center for Environmental Assessment (8601D), 401 M Street, SW, Washington, DC 20460; telephone (202) 564–3328; fax: (202) 565–0066; e-mail *austin.kay@epa.gov*. For technical assistance contact Dr. Tom McIlwain, Chairperson of the JSA Shrimp Virus Work Group, National Marine Fisheries Service, 3209 Frederick Street, Pascagoula, MS 39567, (601) 762–4591.

SUPPLEMENTARY INFORMATION: Public concerns over the potential introduction and spread of nonindigenous pathogenic shrimp viruses to the wild shrimp fishery and shrimp aquaculture industry in U.S. coastal waters are increasing. Although these viruses pose no threat to human health, outbreaks on U.S. shrimp farms, the appearance of diseased shrimp in U.S. commerce, and new information on the susceptibility of shrimp and other crustaceans to these viruses prompted calls for action. In response, the JSA (representing Federal organizations including the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service (DOC/NOAA/NMFS); the U.S. Department of Agriculture, Cooperative State Research, Education and Extension Service (DOA/CREES); Animal Plant Health Inspection Service (DOA/APHIS); and Agricultural Research Service (DOA/ARS); U.S. Department of Energy; U.S. Department of Defense; Army Corp of Engineers (DOD/ACE); U.S. Department of Health and Human Services, Food and Drug Administration (HHS/FDA); Tennessee Valley Authority (TVA); the EPA; and the U.S. Fish and Wildlife Service (FWS)) tasked the Federal interagency Shrimp Virus Workgroup (DOC/NMFS, EPA, FWS, and USDA/APHIS) with assessing the shrimp virus problem.

Publication of this draft final report is another in a series of related activities sponsored by EPA, in cooperation with DOC/NMFS, USDA/APHIS, and FWS, on behalf of the JSA. In June 1997, the Shrimp Virus Workgroup summarized the available information on shrimp viruses in a report to the JSA entitled, "An Evaluation of Potential Shrimp Virus Impacts on Cultured Shrimp and on Wild Shrimp Populations in the Gulf of Mexico and Southeastern U.S. Atlantic Coastal Water" (JSA Shrimp Virus Report (JSVR)). The JSVR was reviewed at four stakeholder meetings (see 62 FR 31790–31791 (June 11, 1997)), jointly sponsored by EPA, DOC/NMFS, and USDA/APHIS on behalf of the JSA, during July 1997. Previous products of these efforts include the JSVR (see http://kingfish.ssp.nmfs.gov/oit/oit.html) and the Minutes of the Stakeholder Meetings Report (EPA/630/R–92/001) (see http://www.epa.gov/ncea/pdfs/shrimp5.pdf). These products and additional stakeholder (public) comments formed the basis for the shrimp virus peer review and risk assessment workshop. The workshop participants considered potential pathways to wild shrimp populations including shrimp aquaculture, shrimp processing and "other" sources and pathways, and independently assessed risks using a qualitative risk assessment approach developed by the Aquatic Nuisance Species Task Force.

The workshop report concludes that viruses could survive in pathways leading to coastal environments, and that there is potential for viruses to affect native shrimp in localized areas, such as an estuary or bay. However, it concludes that local populations of shrimp would recover rapidly as a result of reintroduction of shrimp or increases in reproduction. Although there was high uncertainty, the report concludes that the risks from viral introductions to the entire population of native shrimp in U.S. coastal waters is relatively low. Though limited by the time and information available, the report determines that impacts to organisms besides shrimp deserved further consideration.

Finally, while qualitative evaluations are valuable, the report concludes that they are associated with a great deal of uncertainty. Therefore, given the limited information currently available, it is not feasible to conduct a more comprehensive, quantitative assessment of the risks associated with nonindigenous pathogenic shrimp viruses at this time. Participants noted that there is a need to conduct further systematic research efforts to reduce uncertainty.

The workshop report, and the results of the independent scientific review of its conclusions and recommendations, will be used as the basis for a risk management workshop on shrimp viruses scheduled for July 28–29, 1998, in New Orleans. This workshop, jointly sponsored by the EPA Gulf of Mexico Program, DOC/NMFS, and DOA/CREES/ARS, will develop options and strategies for managing the threat of shrimp viruses to cultured and wild stocks of shrimp in the Gulf of Mexico and southeastern U.S. Atlantic coastal waters. Persons interested in attending the upcoming risk management workshop should contact William D. Holland, Gulf of Mexico Program Office, Building 1103, Room 202, Stennis Space Center, MS 39529–6000; telephone: (228) 688–3726; fax: (228) 688–2709; e-mail:holland.bill@epa.gov.

Dated: July 10, 1998.

William H. Farland,

Director, National Center for Environmental Assessment.

[FR Doc. 98–19248 Filed 7–16–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[PB–402404–MS; FRL–5799–4]

Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities; State of Mississippi's Authorization Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for comments and opportunity for public hearing.

SUMMARY: On March 12, 1998, the State of Mississippi submitted an application for EPA approval to administer and enforce training and certification requirements, training program accreditation requirements, and work practice standards for lead-based paint activities in target housing and child-occupied facilities under section 402 of the Toxic Substances Control Act (TSCA). This notice announces the receipt of Mississippi's application, provides a 45–day public comment period, and provides an opportunity to request a public hearing on the application.

DATES: Comments on the authorization application must be received on or before August 31, 1998. Public hearing requests must be received on or before August 3, 1998.

ADDRESSES: Submit all written comments and/or requests for a public hearing identified by docket control number "PB–402404–MS" (in duplicate) to: Environmental Protection Agency, Region IV, Air, Pesticides and Toxics Management Division, Atlanta Federal Center, 61 Forsyth St., SW., Atlanta, GA 30303–3104.

Comments, data, and requests for a public hearing may also be submitted electronically to: rudd.roseanne@epa.epamail.gov. Follow the instructions under Unit V. of this document. No information claimed to be Confidential Business Information (CBI) should be submitted through e-mail.

FOR FURTHER INFORMATION CONTACT: Rose Anne Rudd, Regional Lead Coordinator, Air, Pesticides and Toxics Management Division, Environmental Protection Agency, Region IV, Atlanta Federal Center, 61 Forsyth St., SW., Atlanta, GA 30303–3104, telephone: (404) 562–8998, e-mail address: rudd.roseanne@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On October 28, 1992, the Housing and Community Development Act of 1992, Pub. L. 102–550, became law. Title X of that statute was the Residential Lead-

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Based Paint Hazard Reduction Act of 1992. That Act amended TSCA (15 U.S.C. 2601 *et seq.*) by adding Title IV (15 U.S.C. 2681-92), entitled "Lead Exposure Reduction."

Section 402 of TSCA authorizes and directs EPA to promulgate final regulations governing lead-based paint activities in target housing, public and commercial buildings, bridges, and other structures. Those regulations are to ensure that individuals engaged in such activities are properly trained, that training programs are accredited, and that individuals engaged in these activities are certified and follow documented work practice standards. Under section 404, a State may seek authorization from EPA to administer and enforce its own lead-based paint activities program.

On August 29, 1996 (61 FR 45777) (FRL–5389–9), EPA promulgated final TSCA section 402/404 regulations governing lead-based paint activities in target housing and child-occupied facilities (a subset of public buildings). Those regulations are codified at 40 CFR part 745, and allow both States and Indian Tribes to apply for program authorization. Pursuant to section 404(h) of TSCA, EPA is to establish the Federal program in any State or Tribal Nation without its own authorized program in place by August 31, 1998.

States and Tribes that choose to apply for program authorization must submit a complete application to the appropriate Regional EPA Office for review. Those applications will be reviewed by EPA within 180 days of receipt of the complete application. To receive EPA approval, a State or Tribe must demonstrate that its program is at least as protective of human health and the environment as the Federal program, and provides for adequate enforcement (section 404(b) of TSCA). EPA's regulations (40 CFR part 745, subpart Q) provide the detailed requirements a State or Tribal program must meet in order to obtain EPA approval.

Pursuant to section 404(b) of TSCA, EPA provides notice and an opportunity for a public hearing on a State or Tribal program application before authorizing the program. Therefore, by this notice EPA is soliciting public comment on whether Mississippi's application meets the requirements for EPA approval. This notice also provides an opportunity to request a public hearing on the application. If a hearing is requested and granted, EPA will issue a **Federal Register** notice announcing the date, time, and place of the hearing. EPA's final decision on the application will be published in the **Federal Register**.

II. State Program Description Summary

The following summary of Mississippi's proposed program has been provided by the applicant:

The State of Mississippi, through the Mississippi Department of Environmental Quality (MDEQ), is seeking authorization from EPA to administer and enforce its own lead-based paint activities program. Regulations setting out the procedures and requirements for these activities were adopted by the Commission on Environmental Quality on January 22, 1998. Requirements under the regulations will be applicable beginning August 31, 1998. The authority to administer and enforce a State program was provided for in the "Lead-Based Paint Activity Accreditation and Certification Act" passed by the Mississippi Legislature during the 1997 regular session.

The State lead-based paint program regulations are applicable to persons engaged in lead-based paint activities in target housing and child-occupied facilities. The State certification program requirements include the certification of firms, inspectors, risk assessors, supervisors, project designers, and workers. Each certification discipline must meet required academic and/or experience requirements of the State program regulations. Individuals must successfully pass the third party exam applicable to the certification discipline in order to be certified. The State program sets forth work practice standards for persons performing lead-based paint activities. The State program requires the filing of a project notification, in writing, prior to the commencement of any lead-based paint abatement activity.

All initial and refresher lead-based paint activities training programs must be accredited. The State program requires training programs to notify the State prior to conducting a training course. Full approval of a training program's lead-based paint activities course is contingent on a satisfactory on-site course audit.

The State program provides for the suspension, revocation, or modification of training program accreditation and certifications of individuals and firms.

The State lead program also conducts outreach and compliance assistance activities. The objective of the activities is to educate the public and regulated community of the hazards of lead-based paint. The activities also inform the public and regulated community of the regulatory requirements applicable to lead-based paint activities.

III. Federal Overfiling

TSCA section 404(b) makes it unlawful for any person to violate, or fail or refuse to comply with, any requirement of an approved State or Tribal program. Therefore, EPA reserves the right to exercise its enforcement authority under TSCA against a violation of, or a failure or refusal to comply with, any requirement of an authorized State or Tribal program.

IV. Applicability of Regulatory Assessment Requirements

EPA's actions on State or Tribal lead-based paint activities program applications are informal adjudications, not rules. Therefore, the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Congressional Review Act (5 U.S.C. 801 *et seq.*), Executive Order 12866 ("Regulatory Planning and Review," 58 FR 51735, October 4, 1993), and Executive Order 13045 ("Protection of Children from Environmental Health Risks and Safety Risks," 62 FR 1985, April 23, 1997), do not apply to this action. In addition, this action does not contain any Federal mandates, and therefore is not subject to the requirements of the Unfunded Mandates Reform Act (2 U.S.C. 1531-1538) or Executive Order 12875 ("Enhancing the Intergovernmental Partnership," 58 FR 58093, October 28, 1993). Finally, this action does not contain any information collection requirements and therefore does not require review or approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

V. Public Record and Electronic Submissions

The official record for this action, as well as the public version, has been established under docket control number "PB–402404–MS." Copies of this notice, the State of Mississippi's authorization application, and all comments received on the application are available for inspection in the Region IV office, from 8 a.m. to 4:45 p.m., Monday through Friday, excluding legal holidays. The docket is located at the EPA Region IV Library, Environmental Protection Agency, Atlanta Federal Center, 9th Floor, 61 Forsyth St., SW., Atlanta, GA.

Commenters are encouraged to structure their comments so as not to contain information for which Confidential Business Information (CBI) claims would be made. However, any information claimed as CBI must be marked "confidential," "CBI," or with some other appropriate designation, and a commenter submitting such information must also prepare a nonconfidential version (in duplicate) that can be placed in the public record. Any information so marked will be handled in accordance with the procedures contained in 40 CFR part 2. Comments and information not claimed as CBI at the time of submission will be placed in the public record.

Electronic comments can be sent directly to EPA at:

rudd.roseanne@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number "PB-402404-MS." Electronic comments on this document may be filed online at many Federal Depository Libraries. Information claimed as CBI should not be submitted electronically.

Authority: 15 U.S.C. 2682, 2684.

List of Subjects

Environmental protection, Hazardous substances, Lead, Reporting and recordkeeping requirements.

Dated: July 8, 1998.

A. Stanley Meiburg,

Acting Regional Administrator, Region IV.

[FR Doc. 98-19139 Filed 7-16-98; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

FCC Renews EAS National Advisory Committee Charter

July 10, 1998.

In accordance with GSA Final Rule on Federal advisory committee management, 41 CFR 101-6.1015, the Federal Communications Commission (FCC) is giving official notice of the renewal of the Emergency Alert System National Advisory Committee (NAC). The term of this advisory committee runs from July 25, 1998 to July 25, 2000.

The Committee advises the FCC on all matters concerning the Emergency Alert System (EAS) and its implementation including, but not limited to, emergency alerting policies, technologies, plans, regulations, and procedures at the national, state and local levels. The Committee also recommends and develops training and education regarding the EAS and coordinates with state and local officials to assist in establishing and maintaining effective emergency alerting programs. The Committee, in general, interfaces, coordinates, and exchanges information with the public, industry, and various levels of government concerning the EAS.

For additional information, contact Bonnie Gay at (202) 418-1228.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98-19032 Filed 7-16-98; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL COMMUNICATIONS COMMISSION

[DA 98-1365]

International Traffic Data Reporting Requirements

All common carriers that provided international telecommunications services in 1997 must file a report of their international traffic data for calendar year 1997 by July 31, 1998. The detailed filing requirements are contained in the "Manual for Filing Section 43.61 Data" (Manual). This Public Notice provides first a brief overview of the Section 43.61 annual filing requirement. Second, it establishes additional billing codes that "facilities-based" and "facilities-resale" (described below) carriers should use to report U.S. and foreign billed traffic that was settled under an "alternative settlement arrangement" for which the carrier received Commission approval under § 64.1002 of the rules, 47 CFR 64.1002. It also makes a conforming change to the billing code for "pure resale" services. Third, this notice provides guidance to carriers with respect to reporting: (1) Switched traffic routed over international private lines; (2) "country direct" and "country beyond" services; and (3) "reorigination" services (foreign-billed services which a U.S.-authorized carrier "reoriginated" through the United States). Attached to this Public Notice is a revised table of billing codes for facilities-based and facilities-resale services. This table sets forth the new billing codes for facilities-based and facilities-resale services in a form that is intended to clarify the reporting of data for these services. Carriers that anticipate problems in filing their 1997 data in accordance with the guidelines and billing codes contained in this notice should obtain a waiver prior to July 31.

Overview

All common carriers that billed for international service in 1997, including pre-paid calling card and international call-back service providers, must file § 43.61 international traffic data by July 31, 1998. Some carriers do not resell international services, but do include on their bills to customers international service charges clearly identified as the charges of other carriers. Such carriers are not required to file § 43.61 international traffic data.

The § 43.61 filing requirements depend on both the type of service provided and how carriers provide the service. The simplest filing requirements are for "pure resale" services. Carriers provide "pure resale" services by reselling the international switched services of other U.S.-authorized carriers. The Manual contains simplified filing requirements for such "pure resale" services. For example, carriers report their pure resale services on a world total (rather than a country specific) basis, and they may file their data on paper only (rather than also filing on diskette).

Carriers that provided international services over international circuits that they own or lease must provide significantly more information for these services than they provide for "pure resale" services. Carriers file annual data on a country-by-country basis for their facilities-based and facilities-resale services and must include information on international settlement payments and receipts. The Manual defines "facilities-based" service as a service provided using channels of communication which the carrier owns; or in which the carrier has an ownership interest, such as an indefeasible right of use (IRU); or which the carrier leases from an entity that is not required to report those circuits in its own § 43.61 reports. The Manual defines "facilities-resale" service as a service provided over non-switched international circuits leased from other reporting international carriers. In other contexts, the Commission refers to this method of providing international service as "private line resale." The routing of switched traffic over private lines between the United States and a foreign country has also been referred to as "International Simple Resale (ISR)." The rules governing the provision of ISR are set forth in § 63.21(a), 47 CFR 63.21(a), as amended in *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market, Market Entry and Regulation of Foreign-Affiliated Entities*, IB Docket Nos. 97-142, 95-22, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891 (1997) (62 FR 64741, December 9, 1997), *recon. pending.*

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Reporting of Traffic Settled Under an Alternative Settlement Arrangement

The Commission requires that U.S.-authorized carriers include in their annual § 43.61 traffic reports their U.S. and foreign billed traffic that was settled under an "alternative" or "flexible" settlement arrangement for which the carrier received Commission approval under § 64.1002 of the rules, 47 CFR 64.1002. *See Regulation of International Accounting Rates,* CC Docket No. 90–337, Phase II, Fourth Report and Order, 11 FCC Rcd 20063 (1996) (62 FR 5535, February 6, 1997), *recon. pending,* at ¶ 61. The attached table of billing codes includes a column headed "Alternative Settlement Arrangements" that sets forth new billing codes, 21 and 22 (public) and 24, 25, and 26 (proprietary), for use by carriers in reporting this traffic.

Billing Code for Reporting of Pure Resale

As explained above, the Manual permits pure resale carriers to file their data on paper only, rather than also filing on diskette. The Manual specifies billing code 21, however, for those carriers that choose to report their pure resale traffic on diskette. Pure resale carriers filing their 1997 data on diskette should use billing code 31, rather than billing code 21. The attached table of billing codes for 1997 specifies billing code 21 for the reporting of traffic that is settled under an alternative settlement arrangement.

Reporting of Switched Traffic Routed Over Private Lines

Carriers that provided international switched or private line services over resold private lines report such traffic using the billing codes specified in the Manual for "facilities-resale" service (*i.e.*, billing codes 11 and 12 (public) and 14 (proprietary)). Additionally, the Commission has clarified that carriers that provide international switched services over their facilities-based private lines must report such traffic using the billing codes specified in the Manual for facilities-resale service. *See International Settlement Rates,* IB Docket No. 96–261, Report and Order, 12 FCC Rcd 19806 (1997) (62 FR 45758, August 29, 1997), *recon. pending, appeal filed, Cable & Wireless et al.* v. *FCC,* No. 97–1612 (D.C. Cir. filed Sept. 26, 1997), at ¶ 252 (clarifying that carriers routing non-settled switched traffic over their private line facilities should report that traffic as switched facilities-resale service). The attached table of billing codes for facilities-based and facilities-resale services includes billing codes 11 and 12 (public) and 14 (proprietary) under a column that is headed "International Simple Resale and Hubbed Traffic." This heading is intended to highlight that these billing codes should be used by carriers to report switched traffic that they routed over facilities-based or resold private lines on an unsettled basis between the United States and the country at the foreign end of the private line or between the United States and a point beyond that country via "switched hubbing." *See* 47 CFR 63.17 (switched hubbing rule). Like carriers using traditional settlement arrangements, carriers routing switched traffic over private lines are required to report their U.S. and foreign billed traffic by country of termination or origination. *See Market Entry and Regulation of Foreign-Affiliated Entities,* IB Docket No. 95–22, Report and Order, 11 FCC Rcd 3873 (1995) (60 FR 67332, December 29, 1995) (subsequent history omitted) at ¶ 170.

Country Direct and Country Beyond Services

Some international calls are initiated in foreign points by customers using "country direct" and "country beyond" services of a U.S. carrier. These calls may terminate in the United States or in other foreign points. Where such calls terminate in the United States (*i.e.*, a "country direct" service), the reporting carrier should report the message counts and minutes, the billed revenue, and the settlement payments for the country in which the calls originate. Where these calls terminate in other international points (*i.e.*, a "country beyond" service), the carrier should report separately the originating and terminating legs of the calls. Thus, approximately two minutes will be reported for each conversation minute for "country beyond" service that both originates and terminates in foreign points. Carriers should report the billed revenue for country beyond service for the country in which the calls originate. Settlements for these calls, however, should be reported separately for each leg of these calls. Where traffic is exchanged on the originating and terminating legs using different settlement or facilities arrangements, the traffic on each leg should be reported using the appropriate billing code.

Reorigination Services

U.S.-authorized carriers that "reoriginate" traffic for foreign carriers may request a waiver of the Manual requirement to report reorigination traffic using the billing codes set forth in the attached table of billing codes (rather than using billing code 3 for transit traffic). Pursuant to this waiver, the carrier would include the terminating leg of its reorigination traffic in billing codes 1, 11, and 21 (public). The U.S. carrier typically will owe and report settlements only on the terminating leg of reorigination traffic. Total receipts from the foreign carrier for these calls would be reported for the terminating leg of the call. In the proprietary version of the data, the carrier would separate out its reorigination traffic from other traffic reported under billing codes 1, 11, and 21. Both the originating and terminating legs of reoriginated calls would be reported in the proprietary version of the data. For the originating legs, the carrier would report messages and minutes only. These files would be reported using separate proprietary billing codes for the terminating leg (billing codes 5, 15, and 25) and originating leg (6, 16, and 26) of the calls.

The Manual for Filing Section 43.61 Data is available in the reference room maintained by the Common Carrier Bureau at 2000 M Street, N.W., Room 575. Copies of the Manual can be purchased by calling International Transcription Service, Inc. (ITS) at (202) 857–3800. The Manual can be downloaded [file name MANUAL95.ZIP] from the FCC-State Link internet site (http://www.fcc.gov/ccb/stats) on the World Wide Web.

For additional information, contact Linda Blake or Jim Lande of the Common Carrier Bureau's Industry Analysis Division, (202) 418–0940, or Susan O'Connell of the International Bureau's Telecommunications Division, (202) 418–1470.

Federal Communications Commission.

George Li,

Deputy Chief (Operations), Telecommunications Division, International Bureau.

BILLING CODE 6712–01–P

Table of Billing Codes
Billing Codes for Facilities-based and Facilities-Resale Services *

Switched Services	Traditional Settlement & Proportionate Return		International Simple Resale and Hubbed Traffic		Alternative Settlement Arrangements	
	public	proprietary	public	proprietary	public	proprietary
Service Originates from the U.S. point served						
Billed by U.S. Carrier						
Settled with (or settlement-like payment to) carrier in destination point; or exchanged with an affiliate in destination point						
Private line routing: traffic routed over private lines directly to country of termination	n.a.	n.a.	11	11	n.a.	n.a.
Direct routing, traditional/alternative settlement: carried over U.S. carrier half circuits to destination point (including circuits that are hard patched through an international point)	1	1	n.a.	n.a.	21	21
Indirect routing: switched transit through another international point. (U.S. carrier owes settlement to carrier in destination market and transit fee to intermediate carrier.)	1	1	n.a.	n.a.	21	21
Hubbed by a carrier in another international point **	n.a.	n.a.	11	11	n.a.	n.a.
Billed by Foreign Carrier						
Collect Call	2	2	12	12	22	22
Subscriber toll-free (800, 888, etc)	2	2	12	12	22	22
Calling card or other billing arrangement	2	2	12	12	22	22
Service Originates from international point						
And terminates in the U.S. point served						
Billed by Foreign Carrier	2	2	12	12	22	22
Billed by U.S. Carrier						
Collect Call	1	1	11	11	21	21
Subscriber toll free (800, 888, etc)	1	1	11	11	21	21
Calling card or other billing arrangement (Country Beyond or Country Direct)	1	4	11	14	21	24
And transits the U.S. point served						
Billed by Foreign Carrier						
Foreign carrier settles with country of termination directly or through cascade arrangement	3	3	n.a.	n.a.	n.a.	n.a.
Reoriginated by U.S. Carrier and treated as U.S. carrier traffic for settlement purposes						
terminating leg	1	5	11	15	21	25
originating leg	exclude	6	exclude	16	exclude	26
Billed by U.S. Carrier:						
Calling card or other billing arrangement	1	4	11	14	21	24

Private Line Services	Facilities-based		Facilities-resale	
	public	proprietary	public	proprietary
All circuits from U.S. point to theoretical midpoint of circuit	1	1	11	11

* Facilities-based services are provided using international transmission facilities owned in whole or in part by the carrier providing service. Facilities-resale services are provided by a carrier using non-switched international circuits leased from other reporting carriers. These are distinct from Pure Resale services, which are switched services that are provided by reselling the international switched services of other carriers.

** The US carrier does not make a settlement or settlement like payment directly to the carrier in the country of termination. The US carrier reports as settlement payments for the country of termination any amounts owed to the carrier(s) in the intermediate point. This amount should include any amounts paid by affiliates to the terminating carrier associated with this traffic.

[FR Doc. 98–19085 Filed 7–16–98; 8:45 am]

BILLING CODE 6712–01–C

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FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Zaky Transportation Services, Inc., 8610 N.W. 70 Street, Miami, FL 33166, *Officers:* Isaac Wahnich, C.E.O., Robert Wahnich, Director

International Globtrade, Inc. d/b/a/ JAB Forwarding; Legacy Shipping, 36 S. Wabash Avenue, Suite #602, Chicago, IL 60603, *Officers:* Spiro Jankovich, President, Frederick W. Ampt, Vice President

Southeast Logistics International, Inc., 122 Agape Street, Williamson, GA 30292, *Officers:* Patricia G. Owen, C.E.O., Larry Owens, Chief Financial Officer.

Dated: July 13, 1998.

Joseph C. Polking,

Secretary.

[FR Doc. 98–19048 Filed 7–16–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 31, 1998.

A. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. Blythe A. Friedley, New Washington, Ohio; Debra K. Hickenlooper, Apollo Beach, Florida; Scott McDougal, New Washington, Ohio; Keith McDougal, Cincinnati, Ohio; Todd McDougal, New Washington, Ohio; Blythe A. Friedley, New Washington, Ohio, as trustee of The Rolland W. Friedley Trust; Blythe A. Friedley, New Washington, Ohio, as trustee of The Arlene M. Friedley Trust; Douglas and Marjorie MacGillivary, Bellefontaine, Ohio; Mathew and Kathryn Yackshaw, North Canton, Ohio; Douglas and Amy Boy, Bellefontaine, Ohio; Timothy and Kristine Shannon, Boardman, Ohio; John and Linda Stoner, Bellefontaine, Ohio; Karen Young, Bellefontaine, Ohio; and Sandra McDonald, Bellefontaine, Ohio; all to acquire voting shares of Union Bancorp., Inc., West Mansfield, Ohio, and thereby indirectly acquire Union Banking Company, West Mansfield, Ohio.

2. Charles Boyd Brown III, Pittsburgh, Pennsylvania; Hilda Loresch Brown, Pittsburgh, Pennsylvania; Marilyn Justice Brown, Newton, Massachusettes; and Katherine Turner Adair, Hobe Sound, Florida; all to acquire voting shares of Allegheny Valley Bancorp, Pittsburgh, Pennsylvania, and thereby indirectly acquire voting shares of Allegheny Valley Bank of Pennsylvania, Pittsburgh, Pennsylvania.

Board of Governors of the Federal Reserve System, July 13, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–19036 Filed 7–16–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 10, 1998.

A. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. Killbuck Bancshares, Inc., Killbuck, Ohio; to acquire Commercial and Savings Bank, Danville, Ohio.

Board of Governors of the Federal Reserve System, July 13, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–19037 Filed 7–16–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act.

Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 13, 1998.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. *Prosperity Bancshares, Inc.*, El Campo, Texas; to acquire 100 percent of the voting shares of Union State Bank, East Bernard, Texas.

2. *Texas Capital Bancshares, Inc.*, Dallas, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Resource Bank, N.A., Dallas, Texas. Comments regarding this application must be received not later than August 12, 1998.

Board of Governors of the Federal Reserve System, July 14, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–19131 Filed 7–16–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 3, 1998.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105-1521:

1. *Wilmington Trust Corporation*, Wilmington, Delaware; to acquire WT Investments, Inc., Wilmington, Delaware, and thereby engage in investment advisory activities, pursuant to § 225.28(b)(6) of Regulation Y.

Board of Governors of the Federal Reserve System, July 14, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–19132 Filed 7–16–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10:00 a.m., Wednesday, July 22, 1998.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposals regarding building projects at a Federal Reserve Bank and Branch.

2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

3. Any matters carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board, 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.bog.frb.fed.us for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: July 15, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–19211 Filed 7–15–98; 10:33 am]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

Federal Supply Service; Move Management Services (MMS) and the General Services Administration's (GSA's) Centralized Household Goods Traffic Management Program (CHAMP)

AGENCY: Federal Supply Service, GSA.

ACTION: Notice of proposed program changes for comment.

SUMMARY: This notice announces GSA's plan to continue providing MMS under the Household Goods Tender of Service (HTOS) until October 31, 1999, with the expectation of adding MMS to the Governmentwide Employee Relocation Services Schedule as a separate service during the next open season scheduled for Spring 1999. Under this plan GSA will continue to be able to meet customer needs while transitioning MMS to a FAR contract procurement method. This notice supersedes two previous **Federal Register** notices published for comment on this subject (62 FR 64225, December 4, 1997, and 63 FR 30496, June 4, 1998).

DATES: Please submit your comments by September 15, 1998.

ADDRESSES: Mail comments to the Travel and Transportation Management Division (FBT), General Services Administration, Washington, DC 20406, Attn: **Federal Register** Notice. GSA will consider your comments prior to implementing this proposal.

FOR FURTHER INFORMATION CONTACT: Larry Tucker, Senior Program Expert, Travel and Transportation Management Division, FSS/GSA, 703–305–5745.

SUPPLEMENTARY INFORMATION: GSA has been exploring for almost a year alternative procurement strategies for providing MMS to Federal agencies, two of which were published in the **Federal Register** for comment (see references under **SUMMARY** paragraph above). It was our hope to offer GSA customers access to a full spectrum of MMS through an alternative approach by expiration of the current household goods rates on October 31, 1998.

While exploring alternatives, we have continued to meet with customer agencies and household goods industry representatives. Dialogue from these meetings, coupled with reaction to the two previous **Federal Register** notices, have led us to conclude that the Governmentwide Employee Relocation Services Schedule offers a viable long-term strategy for providing MMS to agencies. We can fully transition to providing MMS as a separate service under the schedule during the next

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open season scheduled for Spring 1999. In the interim, we plan to incorporate MMS in the current schedule as an add-on or "enhanced service" as announced previously in the **Federal Register**. To use the add-on (i.e., "enhanced service"), however, a customer agency would be required to purchase MMS as part of a total relocation services package, and would be limited to the three vendors now on schedule. While such an approach would meet the needs of a small number of Federal activities that buy the entire package of relocation services (real estate services, mortgage assistance, etc.) customers interested in acquiring only MMS would not have access to the services.

After having carefully weighed all the issues, we have concluded that for the immediate future we can best satisfy customer needs and meet industry concerns by continuing to provide MMS through the HTOS until October 31, 1999, with the clear expectation of adding MMS to the Governmentwide Employee Relocation Services Schedule as a separate service during the next open season scheduled for Spring 1999.

Under this plan, agencies that currently produce MMS under the HTOS will enjoy uninterrupted service, and agencies that wish to procure a more comprehensive package of relocation services, including MMS, will be able to do so in the very near future under the schedule. Carrier and non-schedule-broker MMS providers will be able to continue offering service under the HTOS until the next open season when they will have opportunity to compete and transition to the schedule. The broker MMS providers currently on schedule also will be able to continue offering service under the HTOS until the open season when MMS will become a separate procurement item on the schedule.

As stated in the **SUMMARY** paragraph above, this inclusive approach will allow GSA to continue meeting customer needs and address concerns raised by interested industry representatives while we transition MMS to a FAR contract procurement method.

In anticipation of favorable reaction to this inclusive plan and in an effort to keep the household goods program on target, we plan to immediately proceed with issuance of an RFO allowing both general transportation and MMS providers to file new rates for November 1, 1998, implementation (or as soon thereafter as realistically possible). Under the described plan, the new rates would be effective until October 31, 1999.

Dated: July 13, 1998.

Janice Sandwen,

Director, Travel and Transportation Management Division.

[FR Doc. 98–19107 Filed 7–16–98; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Announcement 98103]

Cooperative Agreement To Study Consumer Demand for Food Safety; Notice of Availability of Funds for Fiscal Year 1998

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1998 funds for a cooperative agreement to study consumer demand for food safety. This announcement is related to the "Healthy People 2000" priority area of Food and Drug Safety.

The purpose of the program is to contribute to the education of the U.S. public with respect to the risk of foodborne illness and to available public and private efforts to reduce that risk, and evaluate the methods used in economic evaluation of interventions designed to improve food safety. There are five objectives to the program. The recipient will address the first two objectives in combination with any or all of the other three objectives.

The first objective of the study is to develop a program designed to educate a nationally representative sample of consumers about the risks of food borne pathogen consumption at home and retail establishments, and various collective and private means of reducing these risks. As part of the educational program, consumers will be questioned about their own food safety practices and their perceptions of the effectiveness of those practices. They will be informed of food industry measures that are intended to maintain the safety of the food supply and of safety measures they can implement at home in food storage, preparation, and consumption.

The second objective is to obtain an empirical estimate of the value consumers place on reducing the risk associated with a specific food borne illness for which interventions already exist.

The third and fourth objectives are designed to address the development, refinement, and evaluation of the elicitation methods used in this type of evaluation. For example, it is not well understood how sensitive consumers are to small changes in the probability of rare health-related events and how they process probability information when forming their values of reduced risk of adverse health outcomes. Therefore, the third objective is to model the process by which consumers assess such changes in probability and risk, and how they use that assessment in forming values. The validity of the model will also be evaluated.

The fourth objective is to test whether the presentation of distinct pathogen-specific and symptom-specific scenarios result in different consumer valuations. In conducting economic evaluations of health programs, it is important to be certain about what is being valued: Do consumers value reduction of risk associated with a specific pathogen or do they value reduction of the risk of experiencing the symptoms of food borne pathogens in general. Specifically, are consumers concerned about the cause of the illness, or just whether they contract the illness?

The fifth objective is to examine how alternative combinations of private and collective risk reduction strategies affect consumer valuation of safer food. Consumers already have a certain amount of control over the risk of food borne illness. There are many strategies that can be used in preparation either in the home or at a food service establishment. In addition, there are producer and processor strategies that can improve the safety of food before it arrives at the final consumer.

B. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, other public and private nonprofit and State and local governments or their bona fide agents.

Note: Public Law 104–65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $150,000 is available in FY 98 to fund one award. It is expected that the award will begin on or about September 30, 1998, and will be made for a 12-month budget period within a project period of up to 5 years. Budgets for periods 2–5 should be submitted at a level of $200,000 per year. Funding estimates are subject to change.

Continuation awards during the approved project period are subject to the availability of funding and performance as evidenced by required progress reports.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. (Recipient Activities), and CDC will be responsible for the activities under 2. (CDC Activities).

1. Recipient Activities

a. Develop research plan and implement a procedure to collect data for a nationally representative sample of consumers regarding food safety practices and valuation of reduced risk of food borne illness.

b. Provide food safety education to the sample of interviewed consumers.

c. Develop, estimate, and evaluate an economic model of consumer valuation of reduced risk of food borne illness using the sample data.

d. Develop, implement, and evaluate a model of how consumers process risk reduction information when forming values and incorporate that model in the estimation of consumer valuation of reduced risk of food borne illness.

e. Develop, implement, and evaluate a means of testing the effect of illness presentation, whether pathogen- or symptom-specific, on consumer valuation of reduced risk of food borne illness.

f. Develop, implement, and evaluate a means of testing the effect of alternative combinations of private and collective risk reduction strategies on consumer valuation of reduced risk of food borne illness.

g. Evaluate and analyze data.

h. Disseminate findings to peer-reviewed publications and public information sources.

2. CDC Activities

a. Provide technical and subject-matter assistance in study design, data collection, modeling, consumer education, and data evaluation and analysis activities.

b. Assist in dissemination of findings.

c. Provide up-to-date scientific information and activities of other projects in the area.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 30 double-spaced pages, printed on one side, with one inch margins, and unreduced font.

1. Executive Summary

Provide a clear, concise written summary of the following: (a) Statement of need; (b) major goals, objectives, and activities of the proposed project; (c) operational plan; (d) capability of applicant; and (e) estimated cost of the project including the requested amount.

2. Table of Contents

3. Statement of Need

Describe the role of the project in providing food safety education to consumers and valuing food safety improvement, including information on the chosen intervention and the risk of and health and economic consequences of the associated pathogen.

4. Goals and Objectives

Establish and submit short term (1 year) and long term (5 year) objectives for the project phases included in the application. Objectives must be specific, measurable, time-phased, and feasible.

5. Operational Plan

a. Submit a plan to develop the project from presenting educational food safety information to assessing attributes to be included in studies and the valuation methods and design of the data collection process.

b. Submit a time schedule for all activities to be carried out in the first year including the responsible staff for each phase of the project. Describe further activities if additional funding becomes available in future years.

c. Describe procedures to disseminate the research findings through presentation and publication in appropriate form and provide necessary reports as required by the notice of award.

6. Capability

a. Identify and describe the project staff, their qualifications and experience in the areas of economic valuation of nonmarketed goods/services and food safety and their degree of availability under a resultant agreement, and association with the applicant. Include the curriculum vitae for the key project staff in the supporting materials of the appendix.

b. Identify and describe the capacity to collect nationally representative consumer data and to provide educational food safety information as a major component of the data collection process. Provide written commitments from appropriate public/private organizations expected to support activities of the project.

7. Project Evaluation

Submit a plan to evaluate the project that assesses the extent to which:

a. The research was designed for addressing the delivery of consumer food safety information and the specific food safety problem.

b. Survey and results were validated and pretested.

c. Data were disseminated through periodic reports, presentations, and publication.

8. Budget

9. Supporting Materials

F. Submission and Deadline

The original and 2 copies of the application PHS Form 5161–1 (revised 5/96) must be submitted to David Elswick, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E–13, Atlanta, GA 30305, on or before August 21, 1998.

Deadlines: Applications shall be considered as meeting the deadline above if they are either: (1) Received on or before the deadline date; or (2) sent on or before the deadline date and received in time for submission to the independent review group. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

G. Evaluation Criteria

The application will be reviewed and evaluated according to the following criteria:

1. Problem Identification (5 Percent)

a. Evidence of the importance of the problem.

b. Evidence of the effectiveness of the proposed food safety intervention to be evaluated.

2. Research Design (25 Percent)

Evidence that the research design is appropriate for the project.

3. Capability (30 Percent)

a. Evidence that key project staff and/or organization possesses recent experience in economic evaluation. More specifically, the extent to which the principal investigator has the appropriate educational background for

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implementation of this project. For example, a doctoral degree in economics or behavioral science with experience in the design and implementation of large-scale data collection processes and valuation of nonmarketed goods and services.

b. Evidence of organizational capacity for large-scale data collection.

c. Evidence of ability to cooperate in interorganizational and interdisciplinary settings.

4. Strategic Plan (25 Percent)

a. The objectives of the project are appropriate, feasible, and time-appropriate for the project.

b. The extent to which the multiple objectives of the project can be accomplished within the first year and how further objectives can be met in subsequent years.

5. Program Evaluation (10 Percent)

a. The extent to which the applicant proposes a strategy of ongoing evaluation and feedback for this project.

b. The adequacy of the applicant's plan to evaluate the overall effectiveness and success of the project.

6. Women and Racial and Ethnic Minorities in Research (5 Percent)

The extent to which the applicant addresses that they have met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes: (a) The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation; (b) The proposed justification when representation is limited or absent; (c) A statement as to whether the design of the study is adequate to measure differences when warranted; (d) A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits.

7. Budget (not Scored)

The extent to which the applicant describes the total amount of funds requested in each of the object class categories and clearly links the budget items to objectives and activities proposed for the budget period.

8. Human Subjects (not Scored)

The extent to which the applicant has addressed necessary human subjects protections.

H. Other Requirements

Technical Reporting Requirements: Provide CDC with the original plus two copies of

1. Semi-annual progress reports including the following for each goal or activity involved in the study: (a) Comparison of actual accomplishments to the objectives established for the period; (b) the reasons for slippage if objectives were not met; (c) other pertinent information including, when appropriate, analysis and explanation of unexpectedly high costs for performance.
2. Financial Status Report is required within 90 days of each budget period.
3. Final financial status report and performance report are required within 90 days after the end of the project period.

Send all reports to: David Elswick, Grants Management Specialist Grants Management Branch, Procurement and Grants Office Centers for Disease Control and Prevention, (CDC) Room 300, 255 East Paces Ferry Road, NE., Mailstop E–13 Atlanta, GA 30305–2209.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment 1, included in the application kit.

AR98–1 Human Subjects Requirements
AR98–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR98–9 Paperwork Reduction Act Requirements
AR98–10 Smoke-Free Workplace Requirements
AR98–11 Healthy People 2000
AR98–12 Lobbying Restrictions

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under the Public Health Service Act, section 317(k)(2) 42USC247247(b)(k)(2). The Catalog of Federal Domestic Assistance number assigned to this project is 93.283.

J. Where To Obtain Additional Information

To receive additional written information call 1–888–GRANTS4. You will be asked to leave your name, address, and phone number and will need to refer to Announcement **98103**. You will receive a complete program description, information on application procedures, and application forms. CDC will not send application kits by facsimile or express mail. **PLEASE REFER TO ANNOUNCEMENT NUMBER 98103 WHEN REQUESTING INFORMATION AND SUBMITTING AN APPLICATION.**

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained by contacting:

David Elswick, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement **98103**
Centers for Disease Control and Prevention (CDC), Room 300, 255 East Paces Ferry Road, NE., M/S E–13, Atlanta, GA 30305–2209, telephone (404) 842–6521

See also the CDC home page on the Internet: *http://www.cdc.gov.*

Programmatic technical assistance may be obtained from Mark L. Messonnier, Economist, Prevention Effectiveness Branch, Division of Prevention Research and Analytic Methods, Epidemiology Program Office, Centers for Disease Control and Prevention, 1600 Clifton Road, NE., Mailstop D–01, Atlanta, Georgia 30333, telephone (404) 639–4474.

Dated: July 13, 1998.

John L. Williams,

Director, Procurement and Grants Office Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–19074 Filed 7–16–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97E–0291]

Determination of Regulatory Review Period for Purposes of Patent Extension; QUADRAMET®

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for QUADRAMET® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6620.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product QUADRAMET® (samarium sm 153 EDTMP). QUADRAMET® is indicated for relief of pain in patients with confirmed osteoblastic metastatic bone lesions that enhance radionuclide bone scan. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for QUADRAMET® (U.S. Patent No. 4,898,724) from The Dow Chemical Co., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated November 7, 1997, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of QUADRAMET® represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that the FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for QUADRAMET® is 2,844 days. Of this time, 2,189 days occurred during the testing phase of the regulatory review period, 655 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505 of the Federal Food, Drug, and Cosmetic Act (the act) became effective (21 U.S.C. 355)*: June 16, 1989. The applicant claims January 28, 1986, as the date the investigational new drug application (IND) for QUADRAMET® (IND 33,240) became effective for purposes of regulatory review period determination. Applicant also states the notice of clinical investigation exemption was submitted on May 16, 1989. However, FDA records indicate that the IND effective date was June 16, 1989, which was 30 days after FDA receipt of IND 33,240.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the act*: June 13, 1995. FDA has verified the applicant's claim that the new drug application (NDA) for QUADRAMET® (NDA 20,570) was initially submitted on June 13, 1995.

3. *The date the application was approved: March 28, 1997.* FDA has verified the applicant's claim that NDA 20,570 was approved on March 28, 1997.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,412 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before September 15, 1998, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before January 13, 1999, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 23, 1998.

Thomas J. McGinnis,

Deputy Associate Commissioner for Health Affairs.

[FR Doc. 98–19027 Filed 7–16–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Nonprescription Drugs Advisory Committee: Amendment of Notice

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an amendment to the notice of meeting of the Nonprescription Drugs Advisory Committee. This meeting was announced in the **Federal Register** of June 26, 1998 (63 FR 34902). The amendment is being made to cancel the entire session on July 28, 1998. There are no other changes.

FOR FURTHER INFORMATION CONTACT: Rhonda W. Stover or Angie Whitacre, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7001, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12541.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 26, 1998 (63 FR 34902), FDA announced that a meeting of the Nonprescription Drugs Advisory Committee would be held on July 28 and 29, 1998.

1. On page 34902, in the third column, the "*Date and Time*" portion is amended to read as follows:

Date and Time: The meeting will be held on July 29, 1998, 8:30 a.m. to 5 p.m.

2. On page 34902, beginning in the third column, the "*Agenda*" portion is amended by removing the first paragraph.

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3. On page 34903, in the first column, under the "*Procedure*" portion, in the ninth line, "July 28 and 29" is corrected to read "July 29".

Dated: July 10, 1998.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 98–19031 Filed 7–17–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Nucleic Acid Testing for Hepatitis C Virus (HCV) and Other Viruses in Blood Donors; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

The Food and Drug Administration (FDA) is announcing the following public workshop: Nucleic Acid Testing for Hepatitis C Virus (HCV) and Other Viruses in Blood Donors. The topic to be discussed is the exploration of the current state of technology and implementation of nucleic acid testing for screening blood donors.

Date and Time: The workshop will be held on Wednesday, September 16, 1998, 8:30 a.m. to 5 p.m.

Location: The workshop will be held at the Parklawn Bldg., 3d floor, conference rooms D and E, 5600 Fishers Lane, Rockville, MD 20857.

Contact: Joseph Wilczek, Center for Biologics Evaluation and Research (HFM–350), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6129, FAX 301–827–2843.

Registration: Mail or fax registration information (including name, title, firm name, address, telephone, and fax number) to the contact person by Friday, September 4, 1998. Registration at the site will done on a space available basis on the day of the workshop, beginning at 7:30 a.m. There is no registration fee for the workshop. Space is limited, therefore interested parties are encouraged to register early.

If you need special accommodations due to a disability, please contact Joseph Wilczek at least 7 days in advance.

Agenda: The public workshop is intended to discuss nucleic acid testing that currently is the most sensitive method available to further reduce disease transmission by blood transfusion in the early window phase of infection. Nucleic acid testing is being implemented for blood donor screening by testing plasma pools, and pool testing may be useful by serving as an interim measure until screening of individual blood donations is technologically feasible.

Regulatory and scientific topics to be discussed at the workshop include donor testing issues, pooling strategies, and test validation and reference materials for standardization of various nucleic acid technologies.

Transcripts: Transcripts of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, approximately 15 working days after the meeting at a cost of 10 cents per page.

Dated: July 9, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–19110 Filed 7–16–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Oncologic Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Oncologic Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA regulatory issues.

Date and Time: The meeting will be held on September 1, 1998, 8:30 a.m. to 5:30 p.m., and September 2 and 3, 1998, 8 a.m. to 5:30 p.m.

Location: Holiday Inn, Versailles Ballroom, 8120 Wisconsin Ave., Bethesda, MD.

Contact Person: Karen M. Templeton-Somers, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7001, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12542. Please call the Information Line for up-to-date information on this meeting.

Agenda: On September 1, 1998, the committee will discuss: (1) New drug application (NDA) 20–893 Metaret™ (suramin hexasodium for injection), Parke-Davis Pharmaceutical Research, indicated for the treatment of patients with hormone refractory prostate cancer; and (2) NDA 20–892 Valstar™ (valrubicin 40 milligrams/milliliter), Anthra Pharmaceuticals, Inc., indicated for intravesical use in the treatment of patients with biopsy-proven carcinoma *in situ* of the urinary bladder who are refractory to bacille Calmette-Güerin (BCG) immunotherapy and for whom cystectomy is contraindicated. On September 2, 1998, the committee will discuss: (1) NDA supplement 17–970/S–040 Nolvadex® (tamoxifen citrate), Zeneca Pharmaceuticals, indicated for the prevention of breast cancer in women at high risk; and (2) biologics license application (BLA) 98–0369 Herceptin™ (trastuzumab), Genentech, Inc., indicated for the treatment of patients with metastatic breast cancer who have tumors which overexpress HER2. On September 3, 1998, the committee will discuss: (1) NDA supplement 20–571/S–08 Camptosar™ (irinotecan hydrochloride injection), Pharmacia & Upjohn, indicated for the treatment of patients with metastatic carcinoma of the colon or rectum whose disease has recurred or progressed following a 5-FU-based therapy; and (2) NDA supplement 20–451/S–003 Photofrin® (porfimer sodium) for injection, QLT PhotoTherapeutics, Inc., indicated for the reduction of obstruction and palliation of symptoms in patients with completely or partially obstructing endobronchial nonsmall cell lung cancer.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by August 14, 1998. Oral presentations from the public will be scheduled between approximately 8:45 a.m. and 9:15 a.m., on September 1, 1998, and between approximately 8:15 a.m. and 8:45 a.m., on September 2 and 3, 1998. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before August 14, 1998, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: July 9, 1998.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 98–19030 Filed 7–16–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0393]

National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guide entitled "National Shellfish Sanitation Program (NSSP) Guide for the Control of Molluscan Shellfish." The guide was developed cooperatively by FDA and the Interstate Shellfish Sanitation Conference (ISSC) with the intent of replacing the existing NSSP Manuals of Operation, Parts I and II. The guide contains a Model Ordinance for ensuring that only safe and sanitary shellfish are offered for sale in interstate commerce. Language contained in the Model Ordinance has been codified for easy adoption into law or regulation by State regulatory agencies. The guide also includes documentation supportive of the codified language of the Model Ordinance, including: The NSSP's history, public health reasons and explanations specific to the guidelines contained in the Model Ordinance, NSSP guidance documents, suggested NSSP forms, shellfish policy setting documents, pertinent Federal regulations, and references to the public health reasons and explanations. These supportive materials aid in ensuring consistent and uniform implementation of a national shellfish safety program.

DATES: Comments on the guide may be submitted at any time.

ADDRESSES: Submit written comments on the guide to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit written requests for single copies of the guide entitled "National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish" to the contact person in the nearest regional office listed in the **SUPPLEMENTARY INFORMATION** section of this document. Send two self-addressed adhesive labels to assist in processing your requests. An electronic version of the guide is available on the World Wide Web at (http/www.issc.org).

FOR FURTHER INFORMATION CONTACT: Paul W. DiStefano, Office of Seafood, Center for Food Safety and Applied Nutrition (HFS–417), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3150, FAX: 202–418–3198, e-mail: "pdistefa@bangate.fda.gov", or the contact person in the nearest regional office as listed in the **SUPPLEMENTARY INFORMATION** section of this document.

SUPPLEMENTARY INFORMATION: Copies of the guide entitled "National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish" can be obtained from the nearest regional office as follows:

FDA Addresses	Contact Person
Stoneham District Office, State Programs Branch, One Montvale Ave., Stoneham, MA 02180	David G. Field
New York Regional Office, 850 Third Ave., Brooklyn, NY 11232–1593	Jerry H. Mulnick
Baltimore District Office, Investigations Branch, 900 Madison Ave., Baltimore, MD 21201	Al A. Ondis
Atlanta Regional Office, State Cooperative Programs, 60 Eighth St. NE., Atlanta, GA 30309	James A. Casey
Charleston Resident Post, 334 Meeting St., rm. 505, P.O. Box 21077, Charleston, SC 29413	Donald Hesselman
Tallahassee Resident Post, Hobbs Federal Bldg., 227 North Bronough St., suite 4150, Tallahassee, FL 32301	Marc B. Glatzer
Baton Rouge Resident Post, 5353 Essen Lane, suite 220, Baton Rouge, LA 70809	John E. Veazey
Detroit District Resident Post, 1560 East Jefferson Ave., Detroit, MI 48207	Nicholas L. Majerus
Dallas Regional Office, 7920 Elmbrook Dr., suite 102, Dallas, TX 75247	David A. Blevins
Seattle District Office, 100 Second Ave., suite 2400, Seattle, WA 98104	Tim E. Sample
Shellfish Safety Team (HFS–628), 200 C St. SW., Washington, DC 20204	Stanley D. Ratcliffe

FDA is the Federal agency responsible for administration of the NSSP. The NSSP is a voluntary program in which State shellfish control agencies, the shellfish industry, FDA, and other Federal agencies participate. The NSSP, which has been in existence since 1925, addresses the sanitary control of fresh and frozen molluscan shellfish (oysters, clams, mussels, and scallops) offered for sale in interstate commerce. To promote uniform administrative and technical controls, the NSSP has developed and maintained recommended shellfish control practices for adoption by member States. These control practices, which were initially published as the NSSP Manuals of Operation, Parts I and II, are contained in the guide "NSSP Guide for the Control of Molluscan Shellfish."

In 1982, interested State officials and members of the shellfish industry formed the ISSC to provide a structure wherein State regulatory authorities could meet on a regular basis to discuss ways to improve shellfish sanitation and safety. FDA and the ISSC entered into a memorandum of understanding (MOU) that was published in the **Federal Register** of March 30, 1984 (49 FR 12751), agreeing, among other things, that FDA would provide technical assistance to the ISSC. The ISSC in turn would help FDA develop or revise program criteria and guidelines in the NSSP Manuals of Operation. Based on the MOU, and in cooperation with the ISSC, FDA periodically publishes revisions of the NSSP

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Manuals of Operation based on resolutions adopted by voting delegates of the ISSC and with which FDA concurs.

The success of the NSSP is largely dependent on the States adopting and implementing the recommended shellfish control practices for the operation of effective programs. These recommended practices, which traditionally have been incorporated into the NSSP Manuals of Operation have been reconstituted in the form of a "NSSP Guide for the Control of Molluscan Shellfish." The purpose of the "NSSP Guide for the Control of Molluscan Shellfish" handbook is twofold. First, it serves to redraft existing guidelines contained in the NSSP Manuals of Operation into a NSSP Model Ordinance, which contains language that can be readily codified into law or regulation by a State. Second, it sets forth supportive documentation pertinent to the codified language of the Model Ordinance, including: The NSSP's history, public health reasons and explanations specific to the guidelines contained in the Model Ordinance, NSSP guidance documents, suggested NSSP forms, shellfish policy-setting documents, pertinent Federal regulations, and references to the public health reasons and explanations.

Redrafting of the NSSP Manuals of Operation was accomplished through the efforts of the ISSC working in cooperation with FDA. This effort began in 1989 and continued through December 1997. Wherever possible, the concepts and language contained in the NSSP Manuals of Operation were used in the NSSP Model Ordinance. Where language did not exist to explain a requirement (e.g., flow charts), an explanation was developed. In cases where the intent of the NSSP Manuals of Operation was not clear, new definitions were developed. Apparently conflicting requirements in the Manuals of Operation were resolved by selecting the requirement that most clearly reflected the intent of the NSSP or by selecting the more restrictive requirement.

In 1997, FDA was asked by the ISSC to adopt the Model Ordinance. FDA recognized that if it were to do so, the NSSP Model Ordinance would be a FDA guideline, and as such, it would be subject to the policy of FDA relating to the development, issuance, and use of guidance documents, as expressed in the **Federal Register** of February 27, 1997 (62 FR 8961 at 8969 through 8971). This policy states that the public will be afforded an opportunity to comment on guidance documents in accordance with Level 1 Good Guidance Practices documents as set out in the **Federal Register** of February 27, 1997 (62 FR 8961).

The annual meeting of the ISSC, in the past and again at the July 1997 meeting, provided an essential forum for the development of revisions to the NSSP. The participatory process that occurs at this meeting serves the purposes and principles set forth in the agency's guidance documents policy. Therefore, in a notice published in the **Federal Register** of June 26, 1997 (62 FR 34480), FDA announced that the Model Ordinance was to be discussed at the July 1997 ISSC meeting, and that this meeting would act as the forum for public comment on the Model Ordinance as an FDA guidance document. FDA requested comment on the procedure, but received none.

With concurrence from FDA, the NSSP Model Ordinance was adopted by the ISSC at its July 1997 meeting in Sturbridge, MA. With this notice, FDA is announcing the availability of the Model Ordinance as contained within the guide "NSSP Guide for the Control of Molluscan Shellfish." At the Federal level, the Model Ordinance has the status of guidance and, as such, does not create or confer any rights for or on any person and does not operate to bind FDA or the public. However, through their participation in the NSSP and the ISSC, participating States have voluntarily agreed to follow the Model Ordinance as the requirements which are minimally necessary for membership.

The public may comment on this document at anytime. The public may comment in one of two ways: (1) By attending the ISSC conference held annually for the purpose of, among other things, considering changes to the Model Ordinance; or (2) by commenting to FDA. Those comments that the agency finds meritorious will be offered by FDA for consideration and vote at a subsequent ISSC.

The NSSP Model Ordinance will facilitate uniform adoption of the recommended shellfish control practices by States for regulation of their shellfish industry. Adoption of the NSSP Model Ordinance by each State will strengthen the credibility of the National Shellfish Sanitation Program and the "Interstate Certified Shellfish Shippers List" (ICSSL), which identifies shellfish dealers certified by their State of residence as being in compliance with NSSP guidelines. Assurance that all shellfish dealers are meeting the minimum criteria will foster confidence in product safety.

Interested persons may, at any time, submit to the Dockets Management Branch (address above) written comments on the guide. Two copies of any comments should be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. At the discretion of FDA, received comments will be used to develop issues for submission to the ISSC for consideration at its July 1999, annual meeting.

Dated: July 8, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–19029 Filed 7–16–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Commission: National Institute of Dental Research Special Emphasis Panel, Emphasis Panel 44 & 45.

Date: July 26–28, 1998.

Time: 8:00 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel at Pentagon City, 1250 South Hayes Street, Arlington, VA 22202.

Contact Person: Yong A. Shin, PhD, Scientific Review Administrator, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and

Disorders Research, National Institutes of Health, HHS)

Dated: July 10, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–19069 Filed 7–16–98; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisons set forth in section 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, ZDK1 GRB–8 02.

Date: July 22–24, 1998.

Time: July 22, 1998, 7:00 pm to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Hotel, 625 El Camino Real, Palo Alto, CA 94301–2380.

Contact Person: Robert J. Haber, Phd, Scientific Review Administrator, Review Branch, DEA, NIDDK, Natcher Building, Room 6AS–37, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–8898.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, ZDK1 GRB–D (01).

Date: July 27, 1998.

Time: 10:00 am to adjournment.

Agenda: To review and evaluate grant applications.

Place: Sheraton Crystal City Hotel, 1800 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Ann Hagan, Chief, Review Branch, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, Phs, Dhhs, Rm. 6as37, Bldg. 45, Bethesda, MD 20892, (301) 594–8886.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institute of Health, HHS)

Dated: July 10, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–19070 Filed 7–16–98; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, International Drug Abuse Epidemiology Data Bank.

Date: July 17, 1998.

Time: 9:00 am to 5:00 pm.

Agenda: To review and evaluate contract proposals.

Place: National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–49, Rockville, MD 20857 (Telephone Conference Call).

Contact Person: Eric Zatman, Contract Review Specialist, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 5600 Fishers Lane, 10–42, Rockville, MD 20857, (301) 443–1644.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Neurological Effects of Drug Addiction Therapies.

Date: August 3, 1998.

Time: 8:30 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel at Pentagon City, 1250 South Hayes Street, Arlington, VA 22202.

Contact Person: Kesinee Nimit, MD, Health Scientist Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 5600 Fishers Lane, Room 10–22, Rockville, MD 20857, (301) 443–9042.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: July 10, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–19071 Filed 7–16–98; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Children With Serious Emotional Disturbance; Estimation Methodology

AGENCY: Center for Mental Health Services, Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Final notice.

SUMMARY: This notice describes the final methodology to identify and estimate the number of children with a serious emotional disturbance (SED) within each State. This notice is being published as part of the requirements of Public Law 102–321, the ADAMHA Reorganization Act of 1992.

EFFECTIVE DATE: October 1, 1998.

Background

Public Law 102–321, the ADAMHA Reorganization Act of 1992, amended the Public Health Service Act and created the Substance Abuse and Mental Health Services Administration (SAMHSA). The Center for Mental Health Services (CMHS) was established within SAMHSA to coordinate Federal efforts in the prevention and treatment of mental illness, and the promotion of mental health. Title II of Public Law 102–321 establishes a Block Grant for Community Mental Health Services, administered by CMHS, that permits the allocation of funds to States for the provision of community mental health services for children with a SED and adults with a serious mental illness (SMI). Public Law 102–321 stipulates that States estimate the incidence (number of new cases) and prevalence (total number of cases in a year) of individuals with either SED or SMI in their applications for block grant funds.

As part of the process of implementing this new block grant, definitions of the terms "children with a serious emotional disturbance" and "adults with a serious mental illness" were announced on May 20, 1993, in **Federal Register** Notice, Volume 58, No. 96, p. 29422. Subsequently, a group of technical experts was convened by CMHS to develop an estimation methodology to "operationalize" the key concepts in the definition of children with SED. A similar group prepared an estimation methodology for adults with a SMI (March 28, 1997, **Federal Register** Notice, Volume 62, No. 60 p.14928).

Summary of Comments

This document reflects a thorough review and analysis of comments received in response to an earlier notice published in the **Federal Register**, on October 6, 1997. Ten letters expressing either support or concern regarding the proposed methodology were received by the close of the public comment period. Those expressing support praised the effort of the CMHS team of technical experts to develop reliable State estimates for the number of children with SED. Comments expressing concern generally noted limitations similar to those identified by the team of technical experts in the original October 6, 1997, **Federal Register** notice. These limitations included the exclusion of children from birth to age 8 and the exclusion of variables such as ethnicity and geographical location. Additionally, concerns were raised about whether the proposed methodology represented prevalence rates more precisely than State surveys or local data collection efforts.

Before addressing the comments, CMHS extends appreciation to representatives from Atlantic County, New Jersey, and the University of Texas Medical Branch at Galveston for directing attention to errors made in Table 3—1995 Estimates of Children and Adolescents with SED by State. The New Jersey upper limit for less-impaired children should read 102,594, and the Utah upper limit estimate should read 38,399. These corrections to Table 3 have been made and will be reflected in all subsequent publications.

Purpose of the Methodology

Although several comments indicated satisfaction with the estimation methodology, several others requested that CMHS clarify appropriate use of the methodology. In response, CMHS emphasizes that the methodology for children and adolescents with SED was developed specifically for States to use in the areas of planning and program development. Since it is obvious that resources for this population of children are inadequate in relation to need, States should continue to set priorities to assure the most cost-effective use of all available resources. Inclusion or exclusion of any individual based on this methodology is not intended to either confer or deny eligibility for any other service or benefit at the Federal, State, or local level.

Estimation Methods

Some comments suggested that surveys and other State-specific or local data would provide more precise estimations than the proposed methodology. CMHS understands this concern. However, a group of technical experts established by CMHS determined that the most valid method to estimate the prevalence of SED was to examine findings from extant community epidemiological studies that used a structured diagnostic interview connected to the DSM–III or DMS–III–R system. The group of technical experts thoroughly searched for studies that met this criteria and incorporated findings from all of the studies in its report. CMHS recognizes the value of local or statewide surveys but continues to support the view that the most valid estimates can be derived from community epidemiological studies that have used a structured diagnostic interview. CMHS will support the use of State data if they are based on community epidemiological studies that include a standardized diagnostic interview that is linked with the DSM system and that also includes a measurement of functional impairment.

Concerns were also raised that the singular use of poverty as an adjustment to prevalence rates was based on convenience. This is not the case and the October 6, 1997, **Federal Register** Notice summarizes the fastidious efforts taken to examine other potential variables. For each of the other variables considered, either insufficient evidence existed to determine if an adjustment should be made (e.g., for variables such as race and ethnic background, and population density) or the available evidence suggested that adjustment should not be made (i.e., gender). The findings from these efforts indicated that the prevalence of SED is greater in children from low socio-economic backgrounds than in children from middle-class or upper-class backgrounds. As a result, the decision was made to include percent-in-poverty as an adjustment factor. While the data were clear about an overall relationship, in the absence of any national studies, the quantitative adjustment that should be made could not be determined with precision. It therefore was decided that since the report could offer only general estimates of prevalence, given the shortcomings of the available data, the simplest and perhaps clearest way to adjust for percent-in-poverty would be to divide the States into groups based on the percent-in-poverty. Although this "grouping" method may potentially exaggerate the differences between States that fall in different categories, the percent-in-poverty measures differ in a relatively minor way. Because the estimates are not to be used to determine funding levels, the decision was made to use this grouping method despite minor problems. It is hoped that additional research will permit more precise estimations in the future.

With regard to estimation methods, concerns were also raised that the selection of poverty as the only variable to "correct" the estimated prevalence of SED would produce data that underestimated the State prevalence rates of SED. Several States emphasized that additional factors, including geographical data (urban/rural), would provide more representative data. CMHS recognizes the importance of this data. However, presently, the data in this area is not precise enough to draw estimates; in the absence of a national study, CMHS chose to utilize and analyze the most precise data available. In this instance, percent-in-poverty rates proved to be the most precise data available. As new data become available, these issues will be revisited.

One comment raised specific questions about the comparability of the prevalence estimates for children with SED with estimates from other studies. For example, Knitzer, in "At the Schoolhouse Door," estimates that 3 to 5 percent of children are "judged to be seriously emotionally disturbed" (p. xii). However, this book was published in 1990, before CMHS developed the definition of SED on which the present estimate is based and before the results of most of the studies included in the present report were available. Similarly, the 1969 Joint Commission on the Mental Health of Children indicates that 2 to 3 percent suffered from severe disorders. The present report is based not only on more recent data but also on new instruments and a revised diagnostic system.

Finally, concerns were raised that prevalence estimates for children/adolescent with SED in individual States are not uniformly consistent with estimates for adults with SMI published by CMHS. In comparing data for children and adults, it should be remembered that the data for children cover a restricted period of nine years (from ages nine through 17) while the adult estimates are for the adult lifetime, beginning at age 18 and over. Therefore, it is not surprising that within the same State estimates for children may be lower or higher than adults. Further, the group of technical experts that developed estimates for SMI found substantially higher prevalence rates in young adults than in older adults. Consequently, States with a high percentage of elderly will have lower overall prevalence rates of SMI than will States with a high percentage of young adults. When comparing adult prevalence rates with those for children, it is important to remember that the children's data are based on a relatively short developmental stage in relation to the adult rates.

Exclusion of Children Age Birth to 8

Several comments acknowledged the paucity of research on children from birth to 8 years and inquired about future research efforts by CMHS to address this population. CMHS acknowledges the need to develop estimation methodology for this very important population of young children. Current plans for developing this methodology include an updated literature review of prevalence data for children with a SED in the birth to 8 age group. CMHS will make these data available when obtained.

Exclusion of Puerto Rico

It was brought to the attention of CMHS that there was significant interest in obtaining prevalence estimates for children with SED in Puerto Rico. Estimates of children with SED, published on Monday, October 6, 1997, in **Federal Register**, Notice Volume 62, No 193, p. 52139, were based on 1995 U.S. Census Bureau population and poverty rate data. These Census Bureau estimates are not available for Puerto Rico and other U.S. territories. CMHS responds to these comments by obtaining SED estimates for Puerto Rico derived from 1990 census data (the most recent year for which data are available).

According to the Census Bureau, the poverty rate for Puerto Rico in 1990 was 66.8 percent for persons under 18 years. Using the steps outlined on page 52141 of the above **Federal Register** Notice, Puerto Rico with a poverty rate of 66.8 percent will be included in group C (the group with poverty rates in excess of 22 percent). At a level of functioning of 50 (LOF=50), the number of children and adolescents with SED is estimated to be between 7–9 percent of youth 9–17 years of age. At a level of functioning of 60 (LOF=60), the number of children and adolescents with SED is estimated to be between 11–13 percent of youth 9–17 years of age.

TABLE 1.—ESTIMATES OF CHILDREN AND ADOLESCENTS WITH SERIOUS EMOTIONAL DISTURBANCE; STATE ESTIMATES ALGORITHMS

Territory	Number of youth 9–17	Percent in poverty	LOF*=50		LOF*=60	
			Lower limit	Upper limit	Lower limit	Upper limit
Puerto Rico	602,309	66.8	42,162	54,208	66,254	78,300

*LOF=Level of functioning from Children's Global Assessment Scale.

Exclusion of Substance Use Disorders

The decision to exclude substance use disorders from this estimation methodology was addressed in the 1993 **Federal Register** Notice that provided a national definition of SED. Because substance use disorders are not included in the definition of serious emotional disorder, they are not included in the current estimation methodology. Please see the **Federal Register** Notice (1993, 58(96), p. 29424) for a more detailed explanation.

Instrumentation

CMHS stresses that the methodology is based on the Children's Global Assessment Scale (CGAS) because the CGAS was the most commonly used instrument found in the community-based epidemiology literature received by the group of technical experts. When other instruments were used, the findings were taken into consideration. CMHS recognizes that a number of States use the Children's Adolescent Functional Assessment Scale-Mini-Scale and, consequently, does not discourage the use of this instrument.

Definition of Serious Emotional Disturbance

Some States expressed concern that the definition of SED used to estimate prevalence may result in an over-estimate of prevalence by counting children who had a diagnosis and functional impairment over a 2-year period rather than a 1-year period.

The definition used to estimate prevalence is "total number of cases in a year." None of the studies cited in the report gathered prevalence information of a duration of greater than a year. In fact, most of the studies used to formulate the prevalence estimates utilized the Diagnostic Interview Schedule for Children, which derives prevalence information for a 6-month time period. Therefore, not only does the definition ensure against an over estimate of prevalence but also there is a possibility of a slight under estimate, based on the methods used.

Estimation Procedures

The following steps were taken to adjust for differences in State socio-economic circumstances. The 1995 State-by-State estimates of children and adolescents with SED are provided in Table 3.

Step 1

States were sorted by poverty rates (1995), in ascending order. Using this sort order, States were initially classified into three groups of equal proportions, i.e., the first 17 States were put into Group A; the next 17 States, into Group B; the remaining 17 States, into Group C. However, in reviewing the results, we noted that observations 17 and 18 differed by .01 percent. Observation number 18 was included in group A. For this reason, Group A has 18 cases, Group B has 16 cases, and Group C has 17 cases. Group A is the lowest percentage of children in poverty; Group B represents a mid-point; and Group C includes the highest percentage of children in poverty.

Step 2

At a level of functioning of 50 (LOF=50), the number of children and adolescents with SED is calculated to be between 5–7 percent of the number of youth between 9–17 years for Group A. For Group B, the estimate is between 6–8 percent of the number of youth 9–17 years. The estimated SED population for

Group C is calculated to be between 7–9 percent of the number of youth 9–17 years.

Step 3

At a level of functioning of 60 (LOF=60), the number of children and adolescents with SED is calculated to be between 9–11 percent of the number of youth 9–17 years for Group A. For Group B, the estimate is between 10–12 percent of the number of youth 9–17 years. The estimated SED population for Group C is calculated to be between 11–13 percent of the number of youth 9–17 years.

TABLE 2.—1995 ESTIMATES OF CHILDREN AND ADOLESCENTS WITH SERIOUS EMOTIONAL DISTURBANCE; STATE ESTIMATES ALGORITHMS

States	Estimated population			
	LOF*=50		LOF*=60	
	Lower limit	Upper limit	Lower limit	Upper limit
Group A Lowest percent in poverty	5%	7%	9%	11%
Group B Medium percent in poverty	6%	8%	10%	12%
Group C Highest percent in poverty	7%	9%	11%	13%

*LOF=Level of functioning from the Children's Global Assessment Scale.

TABLE 3.—1995 ESTIMATES OF CHILDREN & ADOLESCENTS WITH SERIOUS EMOTIONAL DISTURBANCE BY STATE

State	Number of youth 9–17	Percent in poverty	LOF*=50		LOF*=60	
			Lower limit	Upper limit	Lower limit	Upper limit
Total	33,706,204		2,118,269	2,792,391	3,466,516	4,140,636
1 New Hampshire	147,695	4.07	7,385	10,339	13,293	16,246
2 Alaska	90,955	8.96	4,548	6,367	8,186	10,005
3 New Jersey	932,671	9.60	46,634	65,287	83,940	102,594
4 Utah	349,086	9.76	17,454	24,436	31,418	38,399
5 Minnesota	643,892	11.30	32,195	45,072	57,950	70,828
6 Colorado	491,930	11.34	24,597	34,435	44,274	54,112
7 Nebraska	231,037	11.62	11,552	16,173	20,793	25,414
8 Missouri	709,439	11.74	35,472	49,661	63,850	78,038
9 Kansas	354,722	12.55	17,736	24,831	31,925	39,019
10 Wisconsin	706,004	12.56	35,300	49,420	63,540	77,660
11 Hawaii	143,901	13.97	7,195	10,073	12,951	15,829
12 North Dakota	91,443	14.13	4,572	6,401	8,230	10,059
13 Virginia	790,359	14.38	39,518	55,325	71,132	86,939
14 Nevada	186,695	14.41	9,335	13,069	16,803	20,536
15 Indiana	758,633	15.24	37,932	53,104	68,277	83,450
16 Rhode Island	115,176	15.36	5,759	8,062	10,366	12,669
17 Delaware	85,396	15.56	4,270	5,978	7,686	9,394
18 Maine	160,434	15.57	8,022	11,230	14,439	17,648
19 Vermont	76,500	15.79	4,590	6,120	7,650	9,180
20 Maryland	608,209	15.80	36,493	48,657	60,821	72,985
21 Wyoming	75,106	16.21	4,506	6,008	7,511	9,013
22 Georgia	942,161	16.30	56,530	75,373	94,216	113,059
23 Massachusetts	680,101	17.12	40,806	54,408	68,010	81,612
24 Iowa	385,583	17.39	23,135	30,847	38,558	46,270
25 Washington	714,567	17.81	42,874	57,165	71,457	85,748
26 Connecticut	378,473	18.03	22,708	30,278	37,847	45,417
27 Pennsylvania	1,462,731	18.07	87,764	117,018	146,273	175,528
28 Oregon	411,543	18.22	24,693	32,923	41,154	49,385
29 Michigan	1,275,452	18.36	76,527	102,036	127,545	153,054
30 Ohio	1,451,220	19.33	87,073	116,098	145,122	174,146
31 Idaho	183,829	20.57	11,030	14,706	18,383	22,059
32 South Dakota	108,855	20.74	6,531	8,708	10,886	13,063
33 North Carolina	879,091	21.06	52,745	70,327	87,909	105,491
34 Kentucky	504,373	21.25	30,262	40,350	50,437	60,525
35 Illinois	1,517,182	22.14	106,203	136,546	166,890	197,234
36 Tennessee	658,573	22.23	46,100	59,272	72,443	85,614
37 Montana	126,834	22.39	8,878	11,415	13,952	16,488
38 Arkansas	337,718	22.44	23,640	30,395	37,149	43,903
39 Texas	2,623,654	24.53	183,656	236,129	288,602	341,075
40 California	3,968,950	24.97	277,827	357,206	436,585	515,964
41 Oklahoma	457,496	24.98	32,025	41,175	50,325	59,474
42 Arizona	542,019	25.31	37,941	48,782	59,622	70,462
43 Florida	1,623,697	25.50	113,659	146,133	178,607	211,081
44 New York	2,141,435	25.51	149,900	192,729	235,558	278,387
45 West Virginia	231,390	26.93	16,197	20,825	25,453	30,081
46 Alabama	547,671	27.50	38,337	49,290	60,244	71,197
47 Louisiana	639,158	29.69	44,741	57,524	70,307	83,091

TABLE 3.—1995 ESTIMATES OF CHILDREN & ADOLESCENTS WITH SERIOUS EMOTIONAL DISTURBANCE BY STATE—Continued

State	Number of youth 9–17	Percent in poverty	LOF*=50		LOF*=60	
			Lower limit	Upper limit	Lower limit	Upper limit
48 South Carolina	470,875	32.11	32,961	42,379	51,796	61,214
49 Washington, DC	48,365	35.33	3,386	4,353	5,320	6,287
50 New Mexico	251,231	36.59	17,586	22,611	27,635	32,660
51 Mississippi	392,694	37.03	27,489	35,342	43,196	51,050

Dated: June 29, 1998.

Joseph Faha,

Director, Legislation & External Affairs.

[FR Doc. 98–19039 Filed 7–16–98; 8:45 am]

BILLING CODE 4160–20–U

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4341–N–18]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, room 7256, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1226; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 15, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: INTERIOR: Ms. Lola D. Knight, Department of Interior, 1849 C Street, NW, Mail Stop 5512–MIB, Washington, DC 20240; (202) 208–4080; GSA: Mr. Brian K. Polly, Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets, NW, Washington, DC 20405; (202) 501–2059; NAVY: Mr. Charles C. Cocks, Department of the Navy, Director, Real Estate Policy Division, Naval Facilities Engineering Command, Code 241A, 200 Stovall Street, Alexandria, VA 22332–2300; (703) 325–6342; TRANSPORTATION: Mr. Rugene Spruill, Principal, Space Management, SVC–140, Transportation Administrative Service Center, Department of Transportation, 400 7th Street, SW, Room 2310, Washington, DC 20590; (202) 366–4246; (These are not toll-free numbers).

Dated: July 9, 1998.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Economic Development.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 07/17/98

Suitable/Available Properties

Buildings (by State)

Illinois

Radar Communication Link
½ mi east of 116th St.
Co: Will IL
Landholding Agency: GSA
Property Number: 549820013
Status: Excess
Comment: 297 sq. ft. concrete block bldg. with radar tower antenna, possible lead based paint, most recent use—air traffic control
GSA Number: 2–U–IL–696

Natl Weather Svc. Meter. Obs.
Morris Blacktop Rd.
Miller Township Co: LaSalle IL 61341–
Landholding Agency: GSA
Property Number: 549820014
Status: Excess
Comment: 1400 sq. ft. office bldg. & 500 sq. ft. garage
GSA Number: 1–C–IL–708

Indiana

Vincennes Federal Building
501 Busseron St.
Vincennes Co: Knox IN 47591–
Landholding Agency: GSA
Property Number: 549820015
Status: Excess
Comment: 22,000 sq. ft., presence of asbestos, property is historically significant, most recent use—office bldg.
GSA Number: 1–G–IN–592

Massachusetts

Roberts—Tract #15–2352
Pearsall Drive
Truro Co: Barnstable MA 02666–
Landholding Agency: Interior
Property Number: 619820012
Status: Unutilized
Comment: 830 sq. ft., needs rehab, presence of lead paint, most recent use—residence, off-site use only

Wisconsin

Wausau Federal Building
317 First Street
Wausau Co: Marathon WI 54401–
Landholding Agency: GSA
Property Number: 549820016
Status: Excess
Comment: 30,500 sq. ft., presence of asbestos, eligible for listing on the Natl Register of Historic Places, most recent use—office
GSA Number: 1–G–WI–593

Land (by State)

West Virginia

East Williamson
Segment 7
Williamson Co: Mingo WV 25661–
Landholding Agency: GSA
Property Number: 549820012
Status: Excess
Comment: 3.17 acres sectioned, floodplain
GSA Number: 4–D–WV–528

Suitable/Unavailable Properties

Buildings (by State)

Oklahoma

Fed. Bldg./Courthouse
N. Washington & Broadway Streets
Ardmore Co: Carter OK 73402–
Landholding Agency: GSA
Property Number: 549820009
Status: Excess
Comment: 4000 sq. ft. bldg. w/parking, 3 story plus basement, most recent use—office, subject to historic preservation covenants
GSA Number: 7–G–TX–559

Land (by State)

Florida

13.358 acres
Naval Air Station
Hwy 98 & Perimeter Drive
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 779820141
Status: Unutilized
Comment: paved, abandoned runway, reroute security fencing

Unsuitable Properties

Buildings (by State)

Hawaii

Bldg. 447
Naval Air Station, Barbers Point
Honolulu Co: Honolulu HI 96862–
Landholding Agency: Navy
Property Number: 779820131
Status: Excess
Reason: Extensive deterioration

Bldg. 448
Naval Air Station, Barbers Point
Honolulu Co: Honolulu HI 96862–
Landholding Agency: Navy
Property Number: 779820132
Status: Excess
Reason: Extensive deterioration

Bldg. 451
Naval Air Station, Barbers Point
Honolulu Co: Honolulu HI 96862–
Landholding Agency: Navy
Property Number: 779820133
Status: Excess
Reason: Extensive deterioration

Bldg. 452
Naval Air Station, Barbers Point
Honolulu Co: Honolulu HI 96862–
Landholding Agency: Navy
Property Number: 779820134
Status: Excess
Reason: Extensive deterioration

Bldg. 453
Naval Air Station, Barbers Point
Honolulu Co: Honolulu HI 96862–
Landholding Agency: Navy
Property Number: 779820135
Status: Excess
Reason: Extensive deterioration

Bldg. 455
Naval Air Station, Barbers Point
Honolulu Co: Honolulu HI 96862–
Landholding Agency: Navy
Property Number: 779820136
Status: Excess
Reason: Extensive deterioration

Bldg. 456
Naval Air Station, Barbers Point
Honolulu Co: Honolulu HI 96862–
Landholding Agency: Navy
Property Number: 779820137
Status: Excess
Reason: Extensive deterioration

Bldg. 459
Naval Air Station, Barbers Point
Honolulu Co: Honolulu HI 96862–
Landholding Agency: Navy
Property Number: 779820138
Status: Excess
Reason: Extensive deterioration

Bldg. 464
Naval Air Station, Barbers Point
Honolulu Co: Honolulu HI 96862–
Landholding Agency: Navy
Property Number: 779820139
Status: Excess
Reason: Extensive deterioration

Pennsylvania

Bldg. 610
Naval Inventory Control Point
Mechanicsburg, PA 17055–0788
Landholding Agency: Navy
Property Number: 779820140
Status: Unutilized
Reason: Extensive deterioration

Washington

Coal Handling Facilities
Puget Sound Naval Shipyard
#908, 919, 926–929
Bremerton WA 98314–5000
Landholding Agency: Navy
Property Number: 779820142
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material

Bldg. 193
Puget Sound Naval Shipyard
Bremerton, WA 98310–
Landholding Agency: Navy
Property Number: 779820143
Status: Unutilized
Reason: Other
Comment: contamination

Floating Boathouse
Bellingham Co: Whatcom WA 98225–
Landholding Agency: DOT
Property Number: 879822001
Status: Excess
Reason: Other
Comment: inaccessible

Land (by State)

Alaska

0.02 acre
Noatak National Guard Site
Noatak Co: Kobuk AK 99761–
Landholding Agency: GSA
Property Number: 549820008
Status: Surplus
Reason: Other
Comment: no legal access
GSA Number: 9–D–AK–752

South Carolina

77 sq. ft. parcel
Hollings Judicial Center Court House
Charleston SC 29401–
Landholding Agency: GSA

Property Number: 549820010
Status: Surplus
Reason: Other
Comment: no legal access
GSA Number: 4–G–SC–595

West Virginia

Williamson Non-Structural
Segment 6
Williamson Co: Mingo WV 25661–
Landholding Agency: GSA
Property Number: 549820011
Status: Excess
Reason: Floodway
GSA Number: 4–D–WV–528A

[FR Doc. 98–18780 Filed 7–16–98; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

ACTION: Notice of receipt of applications.

SUMMARY: The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(a) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

Permit No. PRT–842116

Applicant: Lewisville Aquatic Ecosystem Research Facility, Lewisville, Texas.

Applicant requests authorization to conduct scientific research and recovery activities for Texas wildrice (*Zizania texana*).

Permit No. PRT–813889

Applicant: Navajo Fish and Wildlife Department, Window Rock, Arizona.

Applicant requests authorization to conduct presence/absence surveys for peregrine falcons (*Falco peregrinus*); black-footed ferrets (*Mustela nigripes*), southwestern willow flycatchers (*Empidonax traillii extimus*), Mancos milkvetch (*Astragalus humillimus*), and Brady pincushion cactus (*Pediocactus (=tourmeya) bradyi*) in Arizona and New Mexico and in portions of the Navajo Nation.

Permit No. PRT–839814

Applicant: Sea World of Texas, San Antonio, Texas.

Applicant requests authorization to maintain Kemp's ridley (*Lepidochelys kempii*) sea turtles, hawksbill (*Eretmochelys imbricata*) sea turtles, leatherback (*Dermochelys coriacea*) sea turtles, green (*Chelonia mydas*) sea turtles and loggerhead (*Caretta caretta*) sea turtles for research and recovery purposes, education, display and rehabilitation of sick and injured specimens of all sea turtles species from the coastal area of Texas.

Permit No. PRT–842565

Applicant: Cibola National Forest.

Applicant requests authorization to conduct presence/absence surveys for southwestern willow flycatchers (*Empidonax traillii extimus*), American peregrine falcons (*Falco pereginus anatum*), bald eagles (*Haliaeetus leucocephalus*), and Zuni fleabane (*Erigeron rhizomatus*) on the Cibola National Forests in New Mexico.

Permit No. PRT–842566

Applicant: Lamar University, Department of Biology, Beaumont, Texas.

Applicant requests authorization for scientific research and recovery purposes to collect specimens of 25 populations of Texas prairie dawn-flower (*Hymenoxys texana*) from the greater Houston, Texas, area and Harris and Fort Bend Counties, Texas.

Permit No. PRT–842583

Applicant: La Tierra Environmental Consulting, Las Cruces, New Mexico.

Applicant requests authorization to conduct presence/absence surveys for aplomado falcons (*falco femoralis septentrionalis*), and southwestern willow flycatchers (*Empidonax traillii extimus*) on Fort Bliss and New Mexico.

Permit No. PRT–831540

Applicant: City of San Marcos, San Marcos, Texas.

Applicant requests authorization to collect Texas wildrice (*Zizania texana*) for scientific research and recovery purposes in the San Marcos River, Texas.

Permit No. PRT–772084

Appliant: Sunrise Nursery, Leander, Texas.

Applicant requests authorization to sell in interstate commerce artificially propagated specimens of the federally protected star cactus (*Astrophytum (=Echinocactus) asterias*) and Pima pineapple cactus (*Coryphantha scheeri var. robustispina*).

Permit No. PRT–839505

Applicant: Aaron D. Flesch, Flagstaff, Arizona.

Applicant requests authorization to survey for masked bobwhite (*Colinus virginianus ridgwayi*) on the Buenos Aires National Wildlife Refuge in Arizona, and the Pima pineapple cactus (*Coryphantha scheeri robustispina*) in Pima County, Arizona.

Permit No. PRT–841838

Applicant: Karen Ritchie, Austin, Texas.

Applicant requests authorization to survey for nesting red-cockaded woodpeckers (*Picoides borealis*) in Bell, Hays, Travis, Williamson, Hardin, Walker, Montgomery, and Walker Counties, Texas.

Permit No. PRT–844147

Applicant: Program on Genetics, University of Arizona, Tucson, Arizona.

Applicant requests authorization to collect Arizona hedgehop cactus (*Echinocereus triglochidiatus var. arizonicus*) from the Bureau of Land Management-Safford District, Cibola, Apache-Sitgreaves, Coronado, and Gila National Forests in Arizona and New Mexico.

Permit No. PRT–828640

Applicant: Harris Environmental Group, Tucson, Arizona.

Applicant requests authorization to conduct presence/absence surveys for southwestern willow flycatchers (*Empidonax traillii extimus*) in riparian areas of Arizona and New Mexico; and lesser long-nosed bats (*Leptonycteris curasoea yerbabuenae*) within Arizona and New Mexico.

DATES: Written comments on these permit applications must be received on or before August 17, 1998.

ADDRESSES: Written data or comments should be submitted to the Legal Instruments Examiner, Division of Endangered Species/Permits, Ecological Services, P.O. Box 1306, Albuquerque, New Mexico 87103. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: U.S. Fish and Wildlife Service, Ecological Services, Division of Endangered Species/Permits, P.O. Box 1306, Albuquerque, New Mexico 87103. Please refer to the respective permit number for each application when requesting copies of documents. Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice, to the address above.

Renne Lohoefener,

ARD-Ecological Services Region 2, Albuquerque, New Mexico.

[FR Doc. 98–19075 Filed 7–16–98; 8:45 am]

BILLING CODE 4310-55-M

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing that the information collection request for the Procedures and Criteria for Approval or Disapproval of State Program Submissions at 30 CFR Part 732 described below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The information collection request describes the nature of the information collection and the expected burden and cost.

DATES: OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, public comments should be submitted to OMB by August 17, 1998, in order to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related form, contact John A. Trelease at (202) 208–2783, or electronically to jtreleas@osmre.gov.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). OSM has submitted a request to OMB to renew its approval of the collection of information contained in the Procedures and Criteria for Approval or Disapproval of State Program Submissions at 30 CFR Part 732. OSM is requesting a 3-year term of approval for this information collection activity.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this collection of information is listed in 30 CFR Part 732, which is 1029–0024.

As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments on these collections of information was published on April 27, 1998 (63 FR 20649). No comments were received. This notice provides the public with an additional 30 days in which to comment on the following information collection activity:

Title: Procedures and Criteria for Approval or Disapproval of State Program Submissions, 30 CFR Part 732.

OMB Control Number: 1029–0024.

Summary: Part 732 establishes the procedures and criteria for approval and disapproval of State program submissions. The information submitted is used to evaluate whether State regulatory authorities are meeting the provisions of their approved programs.

Bureau Form Number: None.

Frequency of Collection: On occasion and annually.

Description of Respondents: 24 State regulatory authorities.

Total Annual Responses: 65.

Total Annual Burden Hours: 8,965.

Send comments on the need for the collections of information for the performance of the functions of the agency; the accuracy of the agency's burden estimates; ways to enhance the quality, utility and clarity of the information collections; and ways to minimize the information collection burdens on respondents, such as use of automated means of collections of the information, to the following addresses. Please refer to the appropriate OMB control number in all correspondence.

ADDRESSES: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Department of Interior Desk Officer, 725 17th Street, NW, Washington, DC 20503. Also, please send a copy of your comments to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave, NW, Room 210—SIB, Washington, DC 20240, or electronically to jtrelease@osmre.gov.

Dated: July 14, 1998.

Richard G. Bryson,

Chief, Division of Regulatory Support.

[FR Doc. 98–19088 Filed 7–16–98; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree

Notice is hereby given that on July 6, 1998, a proposed Second Partial Consent Decree in *United States* v. *Findett Corporation, et al.* No. 4:97CV01557CDP (E.D. Mo.) was filed with the United States District Court for the Eastern District of Missouri. The action was filed on July 25, 1997 under Section 107 of CERCLA, 42 U.S.C. 9607, to recover response costs incurred or to be incurred by the United States associated with Findett/Hayford Bridge Road Site in St. Charles, Missouri.

Under the terms of the proposed Decree, General Motors, Mallinckrodt Chemical, and Monsanto will pay a total of $1,712,076 to the Superfund, exclusively for past United States response costs. The first Partial Consent Decree pending before the Court provides for the payment of an additional $455,000. The United States' outstanding past costs were estimated at approximately $3.2 million as of March 31, 1998.

The Second Partial Consent Decree may be examined by the Office of the United States Attorney, U.S. Court & Custom House, 1114 Market Street, Room 401, St. Louis, MO 63101; the Region VII Office of the Environmental Protection Agency, 726 Minnesota Avenue, Kansas City, Kansas 66101; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $4.25 (25 cents per page reproduction costs), payable to the Consent Decree Library.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication comments relating to the proposed Partial Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, U.S. Department of Justice, 950 Pennsylvania Ave:, N.W., Washington, D.C. 20530, and should refer to *United States* v. *Findett Corporation, et al.*, DOJ Ref. #90–11–2–417A.

Joel M. Gross,

Chief, Environmental Enforcement Section.

[FR Doc. 98–19125 Filed 7–16–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that on July 6, 1998, a proposed consent decree in *United States* v. *W.R. Grace & Co.—Conn.*, Civil Action No. 97–CV–12583–NG, was lodged with the United States

District Court for the District of Massachusetts.

In this action against defendant W.R. Grace & Co.—Conn. ("Grace"), the United States seeks reimbursement of certain response costs and a declaratory judgment for future response costs regarding the W.R. Grace Superfund Site (the "Site"), located in Action, Massachusetts. Grace has owned and operated a facility at the Site since 1954. The consent decree provides that Grace will reimburse the United States $1,525,000 for Past Response Costs out of about $4.2 million (including interest) and reimburse the United States for all Future Oversight Costs at the Site. Grace is performing cleanup activities at the Site pursuant to a 1980 settlement of claims under the Resource Conservation and Recovery Act.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *W.R. Grace & Co.—Conn.*, Civil Action No. 97–CV–12583–NG, D.J. Ref. 90–11–2–1241.

The proposed consent decree may be examined at the at the Region I Office of the Environmental Protection Agency, One Congress Street, Boston, Massachusetts, 02203 (contact Gretchen Muench, 617–565–4904) and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check in the amount of $8.25 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–19123 Filed 7–16–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Robert M. Golden, M.D.; Denial of Application

On January 9, 1998, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Robert M. Golden, M.D., of Alpharetta, Georgia, notifying him of an opportunity to show cause as to why DEA should not deny his application for registration as a practitioner under 21 U.S.C. 823(f), for reason for such registration would be inconsistent with the public interest. The order also notified Dr. Golden that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived.

The DEA received a signed receipt indicating that the order was received on January 16, 1998. No request for a hearing or any other reply was received by the DEA from Dr. Golden or anyone purporting to represent him in this matter. Therefore, the Acting Deputy Administrator, finding that: (1) 30 days have passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Golden is deemed to have waived his hearing right. After considering material from the investigative file in this matter, the Acting Deputy Administrator now enters order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Acting Deputy Administrator finds that Dr. Golden previously possessed DEA Certificate of Registration, AG6243125. On May 25, 1994, an Order to Show Cause was issued proposing to revoke that Certificate of Registration, alleging that Dr. Golden's continued registration would be inconsistent with the public interest. Following a hearing before Administrative Law Judge Paul A. Tenney, the then-Deputy Administrator revoked Dr. Golden's DEA registration effective June 17, 1996. See Robert M. Golden, M.D., 61 FR 24808 (May 16, 1996).

In the prior proceeding, the then-Deputy Administrator found that in April 1987, Dr. Golden entered into a Consent Order with the Georgia State Board of Medical Examiners based upon allegations of recordkeeping violations, the prescribing or dispensing of controlled substances while not acting in the usual course of professional practice, and the prescribing or ordering of controlled substances for an illegitimate medical purpose. In addition, the then-Deputy Administrator found that in 1992, a confidential informant received prescriptions for Xanax, a Schedule IV controlled substance, from Dr. Golden who issued the prescriptions using names other than that of the informant. Also, on two occasions in 1992, Dr. Golden issued prescriptions for Xanax to an undercover police officer for no legitimate medical purpose. In his final order the then-Deputy Administrator found that Dr. Golden's conduct "demonstrate[s] a cavalier behavior regarding controlled substances" and that "[Dr. Golden] did not acknowledge any possibility of questionable conduct in his prescribing practices." The then-Deputy Administrator found that he "was provided no basis to conclude that [Dr. Golden] would lawfully handle controlled substances in the future," and therefore revoked Dr. Golden's previous registration.

On June 15, 1997, Dr. Golden submitted an application for a new DEA registration. That application is the subject of these proceedings. The Acting Deputy Administrator concludes that the then-Deputy Administrator's May 16, 1996 decision regarding Dr. Golden is *res judicata* for purposes of this proceeding. See Stanley Alan Azen, M.D., 61 FR 57893 (1996) (where the findings in a previous revocation proceeding were held to be *res judicata* in a subsequent administrative proceeding.) The then-Deputy Administrator's determination of the facts relating to the previous revocation of Dr. Golden's DEA registration is conclusive. Accordingly, the Acting Deputy Administrator concludes that the critical consideration in this proceeding is whether the circumstances, which existed at the time of the prior proceeding, have changed sufficiently to support a conclusion that Dr. Golden's registration would be in the public interest.

The Acting Deputy Administrator finds that documentation in the investigative file reveals that since the prior proceeding, Dr. Golden's state medical license was placed on probation on April 4, 1996, for at least four years, pursuant to a Consent Order with the Composite State Board of Medical Examiners for the State of Georgia (Board). As a result of this Consent Order, Dr. Golden is prohibited from handling Schedule I through III controlled substances, and other specifically named substances. In addition, Dr. Golden must use triplicate prescriptions, maintain a log of his handling of controlled substances, and attend continuing medical education courses.

The Acting Deputy Administrator finds that there is a letter with attachments from Dr. Golden dated October 8, 1997, in the investigative file. This documentation reveals that Dr. Golden now practices cosmetic surgery; that he would like to be able to prescribe Valium and Versed, both Schedule IV controlled substances; that he has been in compliance with the Board's April 1996 Consent Order; and

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that on May 16, 1997, he completed a course in the appropriate prescribing of controlled substances. On his application for registration, Dr. Golden states that "I feel that I have become more responsible * * *." However, Dr. Golden did not respond to the Order to Show Cause, and therefore did not provide the Acting Deputy Administrator with any other evidence for consideration.

Pursuant to 21 U.S.C. 823(f), the Deputy Administrator may deny an application for a DEA Certificate of Registration if he determines that such registration would be inconsistent with the public interest. In determining the public interest, the following factors are considered.

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

These factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one or a combination of factors and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration be denied. See Henry J. Schwarz, Jr., M.D., 54 FR 16422 (1989).

As discussed above, Dr. Golden's previous registration was found to be inconsistent with the public interest. Since that time, Dr. Golden's state medical license was again placed on probation until at least April 2000. The Acting Deputy Administrator finds that Dr. Golden has not presented sufficient evidence to indicate that his registration would now be in the public interest. While Dr. Golden has taken a course in the appropriate prescribing of controlled substances, and he asserts on his application that he has "become more responsible," the Acting Deputy Administrator is not convinced that Respondent has accepted responsibility for his previous mishandling of controlled substances. Therefore, the Acting Deputy Administrator concludes that Dr. Golden's registration would be inconsistent with the public interest.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 28 CFR 0.100(b) and 0.104, hereby orders that the application for registration, executed by Robert M. Golden, M.D., be, and it hereby is, denied. This order is effective August 17, 1998.

Dated: July 10, 1998.

Donnie R. Marshall,

Acting Deputy Administrator.

[FR Doc. 98–19081 Filed 7–16–98; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Fred D. Oremland, M.D., Revocation of Registration

On January 13, 1998, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Fred D. Oremland, M.D., of California, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration, AO4999592, under 21 U.S.C. 824(a)(3), and deny any pending applications for renewal of such registration as a practitioner pursuant to 21 U.S.C. 823(f), for reason that he is not currently authorized to handle controlled substances in the State of California. The order also notified Dr. Oremland that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived.

The DEA received a signed receipt indicating that the order was received on January 31, 1998. No request for a hearing or any other reply was received by the DEA from Dr. Oremland or anyone purporting to represent him in this matter. Therefore, the Acting Deputy Administrator, finding that (1) 30 days have passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Oremland is deemed to have waived his hearing right. After considering material from the investigative file in this matter, the Acting Deputy Administrator now enters his final order without a hearing pursuant to 21 C.F.R. 1301.43(d) and (e) and 1301.46.

The Acting Deputy Administrator finds that on August 23, 1995, the Medical Board of California (Board) filed an Accusation against Dr. Oremland alleging improper and excessive treatment; improper and excessive billing; the creation of false medical records; repeated violations of patient confidence; exploitation of a patient; excessive prescribing of dangerous drugs and controlled substances; and violations of statutory recordkeeping requirements. On June 25, 1996, Dr. Oremland entered into a stipulation with the Board whereby he agreed to surrender his physician and surgeon's certificate by October 1, 1996. In addition, Dr. Oremland agreed to waive his right to renew his state certificate and to not seek reinstatement or relicensure for at least three years. This stipulation was accepted by the Board by Order dated July 17, 1996. A letter from the Board dated January 13, 1998, which is in the investigative file, indicates that Dr. Oremland's California physician and surgeon's certificate was in fact surrendered.

The Acting Deputy Administrator finds that in light of the fact that Dr. Oremland is not currently licensed to practice medicine in the State of California, it is reasonable to infer that he is not currently authorized to handle controlled substances in that state. The DEA does not have the statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he conducts his business. 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. See Romeo J. Perez, M.D., 62 FR 16, 193 (1997); Demetris A. Green, M.D., 61 FR 60, 728 (1996); Dominick A. Ricci, M.D., 58 FR 51,104 (1993).

Here it is clear that Dr. Oremland is not currently authorized to handle controlled substances in the State of California. Therefore, Dr. Oremland is not entitled to a DEA registration in that state.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration, AO4999592, previously issued to Fred D. Oremland, M.D., be, and it hereby is, revoked. The Acting Deputy Administrator further orders that any pending applications for the renewal of such registration, be, and they hereby are, denied. This order is effective August 17, 1998.

Dated: July 10, 1998.

Donnie R. Marshall,

Acting Deputy Administrator.

[FR Doc. 98–19082 Filed 7–16–98; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 97–29]

David M. Rose, MD.; Revocation of Registration

On May 15, 1997, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to David M. Rose, M.D. (Respondent), of Massachusetts, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration, BR2726365, under 21 U.S.C. 824(a)(3), and deny any pending applications for renewal of such registration as a practitioner pursuant to 21 U.S.C. 823(f), for reason that he is not currently authorized to handle controlled substances in the Commonwealth of Massachusetts.

The Order to Show Cause was ultimately received by Respondent on August 12, 1997, In a letter to the DEA Office of Administrative Law Judges dated August 15, 1997. Respondent did not dispute that his license to practice medicine in the Commonwealth of Massachusetts was suspended. Respondent further stated, "[h]owever, I am soon to enter into a probationary agreement with [the Massachusetts Board of Medicine] that will allow me to practice medicine in a restricted and monitored fashion[.] I wonder if then at that time it would be possible for me to apply for some sort of DEA license with whatever restrictions [DEA] would deem appropriate, so that I may prescribe medications if and when I am allowed to continue practice?" Respondent did not request a hearing on the issues raised by the Order to Show Cause.

The matter was docketed before Administrative Law Judge Mary Ellen Bittner. On October 16, 1997, Government counsel sent a letter to Respondent which advised him that he could either surrender his DEA Certificate of Registration, request a hearing, or waive his right to a hearing and submit a written statement for consideration regarding the proposed revocation of his registration. Respondent was further advised that if he surrendered his registration or DEA revoked it, he could reapply for a new DEA Certificate of Registration upon reinstatement of his state license, but that his DEA registration would not be automatically reinstated if he regains his state license.

Thereafter, on November 3, 1997, the Office of Administrative Law Judges sent Respondent a letter advising him that if no request for a hearing was received by November 24, 1997, he would be deemed to have waived his right to a hearing. On December 8, 1997, Judge Bittner issued a Memorandum and Order stating that since no request for a hearing was received, Respondent was deemed to have waived his opportunity for a hearing pursuant to 21 CFR 1301.43(d). Consequently, after considering relevant material from the investigative file, the Acting Deputy Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43 (d) and (e) and 1301.46.

The Acting Deputy Administrator finds that on November 9, 1994, the Commonwealth of Massachusetts, Board of Registration in Medicine issued an Order of Suspension of Respondent's license to practice medicine in the Commonwealth of Massachusetts. The suspension was based on charges related to Respondent's mental condition and dependence on alcohol and drugs; the substandard quality of medical care Respondent provided; Respondent's false statements on his Massachusetts license renewal application; and his violation of the Controlled Substances Act.

Respondent did not present any evidence that his Massachusetts medical license has been reinstated. Therefore, the Acting Deputy Administrator finds that Respondent is not currently authorized to practice medicine in the Commonwealth of Massachusetts. The Acting Deputy Administrator further finds that it is reasonable to infer that Respondent is also not authorized to handle controlled substances in that state. The DEA does not have the statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he conducts his business. 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. See *Romeo J. Perez, M.D.*, 62 FR 16,193 (1997); *Demetris A. Green, M.D.*, 61 FR 60,728 (1996); *Dominick A. Ricci, M.D.*, 58 FR 51,104 (1993).

Here it is clear that Respondent is not currently authorized to handle controlled substances in the Commonwealth of Massachusetts. Therefore, he is not entitled to a DEA registration in that state.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration, BR2726365, previously issued to David M. Rose. M.D., be, and it hereby is, revoked. The Acting Deputy Administrator further orders that any pending applications for the renewal of such registration, be, and they hereby are, denied. This order is effective August 17, 1998.

Dated: July 10, 1998.

Donnie R. Marshall,

Acting Deputy Administrator.

[FR Doc. 98–19083 Filed 7–16–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[DEA#167R]

Controlled Substances: Proposed Revised Aggregate Production Quotas for 1998

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Notice of proposed revised 1998 aggregate production quotas.

SUMMARY: This notice proposes revised 1998 aggregate production quotas for controlled substances in Schedules I and II of the Controlled Substances Act (CSA).

DATES: Comments or objections should be received on or before August 17, 1998.

ADDRESSES: Send comments or objections to the Acting Deputy Administrator, Drug Enforcement Administration, Washington, DC 20537, Attn.: DEA Federal Register Representative (CCR).

FOR FURTHER INFORMATION CONTACT: Frank L. Sapienza, Chief, Drug and Chemical Evaluation Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 307–7183.

SUPPLEMENTARY INFORMATION: Section 306 of the CSA (21 U.S.C. 826) requires that the Attorney General establish aggregate production quotas for each basic class of controlled substance listed in Schedules I and II. This responsibility has been delegated to the Administrator of the DEA by Section 0.100 of Title 28 of the Code of Federal Regulations. The Administrator, in turn, has redelegated this function to the Deputy Administrator of the DEA pursuant to Section 0.104 of Title 28 of the Code of Federal Regulations.

On November 21, 1997, a notice of established initial 1998 aggregate production quotas for certain controlled substances in Schedules I and II was published in the **Federal Register** (62 FR 62349). The notice proposing initial

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1998 aggregate production quotas (62 FR 46373) stipulated that the Deputy Administrator of the DEA would adjust the quotas in early 1998 as provided for in Section 1303 of Title 21 of the Code of Federal Regulations.

The proposed revised 1998 aggregate production quotas represent those quantities of controlled substances that may be produced in the United States in 1998 to provide adequate supplies of each substance for: the estimated medical, scientific, research, and industrial needs of the United States; lawful export requirements; and the establishment and maintenance of reserve stocks. These quotas do not include imports of controlled substances for use in industrial processes.

The proposed revisions are based on a review of 1997 year-end inventories, 1997 disposition data submitted by quota applicants, estimates of the medical needs of the United States, and other information available to the DEA.

Therefore, under the authority vested in the Attorney General by Section 306 of the CSA of 1970 (21 U.S.C. 826), delegated to the Administrator of the DEA by Section 0.100 of Title 28 of the Code of Federal Regulations, and redelegated to the Deputy Administrator pursuant to Section 0.104 of Title 28 of the Code of Federal Regulations, the Acting Deputy Administrator hereby proposes the following revised 1998 aggregate production quotas for the following controlled substances, expressed in grams of anhydrous acid or base:

Basic class	Previously established initial 1998 quotas	Proposed revised 1998 quotas
Schedule I:		
2, 5-Dimethoxyamphetamine	15,000,100	20,000,100
2, 5-Dimethoxy-4-ethylamphetamine (DOET)	2	2
3-Methylfentanyl	14	14
3-Methylthiofentanyl	2	2
3,4-Methylenedioxyamphetamine (MDA)	25	25
3,4-Methylenedioxy-N-ethylamphetamine (MDEA)	30	30
3,4-Methylenedioxymethamphetamine (MDMA)	20	20
3,4,5-Trimethoxyamphetamine	2	2
4-Bromo-2,5-Dimethoxyamphetamine (DOB)	2	2
4-Bromo-2,5-Dimethoxyphenethylamine (2–CB)	2	2
4-Methoxyamphetamine	100,100	100,100
4-Methylaminorex	2	2
4-Methyl-2,5-Dimethoxyamphetamine (DOM)	2	2
5-Methoxy-3,4-Methylenedioxyamphetamine	2	2
Acetyl-alpha-methylfentanyl	2	2
Acetylmethadol	7	7
Allylprodine	2	2
Alpha-acetylmethadol	7	7
Alpha-ethyltryptamine	2	2
Alphameprodine	2	2
Alpha-methadol	2	2
Alpha-methylfentanyl	2	2
Alphaprodine	2	2
Alpha-methylthiofentanyl	2	2
Aminorex	7	7
Beta-acetylmethadol	2	2
Beta-hydroxyfentanyl	2	2
Beta-hydroxy-3-methylfentanyl	2	2
Beta-methadol	2	2
Betaprodine	2	2
Bufotenine	2	2
Cathinone	9	9
Codeine-N-oxide	2	2
Diethyltryptamine	2	2
Difenoxin	16,000	16,000
Dihydromorphine	7	7
Dimethyltryptamine	2	2
Ethylamine Analog of PCP	5	5
Heroin	2	2
Hydroxypethidine	2	2
Lysergic acid diethylamide (LSD)	57	57
Mescaline	7	7
Methaqualone	17	17
Methcathinone	11	11
Morphine-N-oxide	2	2
N-Ethylamphetamine	7	7
N-Hydroxy-3,4-Methylenedioxyamphetamine	4	4
N,N-Dimethylamphetamine	7	7
Noracymethadol	2	2
Norlevorphanol	2	2
Normethadone	7	7
Normorphine	7	7
Para-fluorofentanyl	2	2
Pholcodine	2	2
Psilocin	2	2

Basic class	Previously established initial 1998 quotas	Proposed revised 1998 quotas
Psilocybin	2	2
Tetrahydrocannabinols	26,000	31,000
Thiofentanyl	2	2
Trimeperidine	2	2
Schedule II:		
1-Phenylcyclohexylamine	15	15
1-Piperidinocyclohexanecarbonitrile (PCC)	12	12
Alfentanil	8,100	8,100
Amobarbital	12	12
Amphetamine	4,037,000	4,178,000
Cocaine	550,100	550,100
Codeine (for sale)	62,020,000	62,020,000
Codeine (for conversion)	18,460,000	23,906,000
Desoxyephedrine 1,151,000 grams of levodesoxyephedrine for use in a non-controlled, non-prescription product and 32,000 grams for methamphetamine	1,332,000	1,183,000
Dextropropoxyphene	109,500,000	109,500,000
Dihydrocodeine	189,000	46,000
Diphenoxylate	1,600,000	1,600,000
Ecgonine	651,000	651,000
Ethylmorphine	12	12
Fentanyl	202,000	202,000
Glutethimide	2	2
Hydrocodone (for sale)	13,906,000	16,314,000
Hydrocodone (for conversion)	3,000,000	3,000,000
Hydromorphone	766,000	766,000
Isomethadone	12	12
Levo-alpha-acetylmethadol (LAAM)	356,000	356,000
Levomethorphan	2	2
Levorphanol	15,000	15,000
Meperidine	9,311,000	9,745,000
Methadone (for sale)	3,790,000	5,413,000
Methadone (for conversion)	1,169,000	585,000
Methadone Intermediate	6,777,000	7,488,000
Methamphetamine (for conversion)	723,000	723,000
Methylphenidate	14,442,000	14,442,000
Morphine (for sale)	11,535,000	12,034,000
Morphine (for conversion)	75,918,000	75,918,000
Nabilone	2	2
Noroxymorphone (for sale)	25,000	25,000
Noroxymorphone (for conversion)	2,117,000	2,177,000
Opium	615,000	615,000
Oxycodone (for sale)	9,032,000	9,451,000
Oxymorphone	120,000	126,000
Pentobarbital	16,562,000	16,562,000
Phencyclidine	60	60
Phenmetrazine	2	2
Phenylacetone	10	10
Secobarbital	301,000	397,000
Sufentanil	700	1,800
Thebaine	9,580,000	13,230,000

The Acting Deputy Administrator further proposes that aggregate production quotas for all other Schedules I and II controlled substances including §§ 1308.11 and 1308.12 of Title 21 of the Code of Federal Regulations remain at zero.

All interested persons are invited to submit their comments and objections in writing regarding this proposal. A person may object to or comment on the proposal relating to any of the above-mentioned substances without filing comments or objections regarding the others. If a person believes that one or more of these issues warrant a hearing, the individual should so state and summarize the reasons for this belief.

In the event that comments or objections to this proposal raise one or more issues which the Acting Deputy Administrator finds warrant a hearing, the Acting Deputy Administrator shall order a public hearing by notice in the **Federal Register**, summarizing the issues to be heard and setting the time for the hearing.

The Office of Management and Budget has determined that notices of aggregate production quotas are not subject to centralized review under Executive Order 12866. This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this matter does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The Acting Deputy Administrator hereby certifies that this action will have no significant impact upon small entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The establishment of aggregate production quotas for Schedule I and II controlled substances is mandated by law and by international treaty obligations. Aggregate production quotas apply to

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approximately 200 DEA registered bulk and dosage from manufacturers of Schedules I and II controlled substances. The quotas are necessary to provide for the estimated medical, scientific, research and industrial needs of the United States, for export requirements and the establishment and maintenance of reserve stocks. While aggregate production quotas are of primary importance to large manufacturers, their impact upon small entities is neither negative nor beneficial. Accordingly, the Acting Deputy Administrator has determined that this action does not require a regulatory flexibility analysis.

Donnie R. Marshall,

Acting Deputy Administrator.

[FR Doc. 98–19084 Filed 7–16–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Office of the Solicitor

Agency Information Collection Activities: Proposed Collection; Comment Request; Equal Access to Justice Act

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3505(c)(2)(A)]. The program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of the collection requirements on respondents can be properly assessed. Currently the Office of the Solicitor is soliciting comment concerning the proposed extension of the information collection request (ICR) for applications to obtain awards in administrative proceedings subject to the Equal Access to Justice Act.

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

DATES: Written comments must be submitted by September 15, 1998.

ADDRESSES: Comments are to be submitted to Department of Labor/The Office of Solicitor Attn: Peter Galvin, 200 Constitution Avenue, N.W. (Room N–2428) Washington D.C. 20210). Written comments limited to 10 pages or fewer may be transmitted by facsimile to (202) 219–6896.

FOR FURTHER INFORMATION CONTACT: Contact Peter Galvin, The Office of Solicitor, telephone (202) 219–8065 or Todd Owen at (202) 219–5096 (ext 143). Copies of the referenced information collection request are available in room N–1301, U.S. Department of Labor, 200 Constitution Avenue N.W., Washington, D.C. 20210. A copy of the ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Todd R. Owen ({202} 219–5096 Ext. 143) or by E-Mail to Owen-Todd@dol. gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Equal Access to Justice Act provides for the award of fees and expenses to certain parties involved in administrative proceedings with the United States. The statute requires, at 5 U.S.C. sec. 504(a)(2), that a party seeking an award of fees and other expenses in a covered administrative proceeding must submit to the agency "an application which shows that the party is prevailing party and is eligible to receive an award" under the Act. The Department of Labor's regulations implementing the Equal Access to Justice Act contain a subpart which specifies the contents of applications for an award, 29 CFR Part 16, Subpart B.

II. Current Actions

This notice requests an extension of the current Office of Management and Budget (OMB) approval of the paperwork requirements for the contents of applications for an award under the Equal Access to Justice Act.

Type of Review: Extension.

Agency: Office of the Solicitor.

Title: Equal Access to Justice Act.

OMB Number: 1225–0013.

Affected Public: Individuals or household; Business or other for-profit; Not-for-profit institutions; Federal Government; State, Local or Tribal Government.

Total Respondents: 10.

Frequency: On occasion.

Total Responses: 10.

Average Time per Response: 5 hours.

Estimated Total Burden Hours. 1 hour.

Total Annualized capital/startup costs: 0.

Total initial costs: 0.

Comments submitted in response to this notice will be summarized and may be included in the request for OMB approval of the final information collection request. The comments will become a matter of public record.

Dated: July 13, 1998.

Robert A. Shapiro,

Associate Solicitor for Legislation and Legal Counsel.

[FR Doc. 98–19111 Filed 7–16–98; 8:45 am]

BILLING CODE 4510–23–M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and nor providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S-3014, Washington, D.C. 20210.

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis—Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

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  MA980002 (Feb. 13, 1998)
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  CA980029 (Feb. 13, 1998)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon and Related Acts." This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at (703) 487-4630.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512-1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, D.C. This 9th Day of July, 1998.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 98–18828 Filed 7–16–98; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Census of Fatal Occupational Injuries

AGENCY: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden is minimized, reporting forms are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed revision of the "Census of Fatal Occupational Injuries." A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the addresses section of this notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before September 15, 1998.

The Bureau of Labor Statistics is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Send comments to Karin G. Kurz, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 3255, 2 Massachusetts Avenue NE., Washington, D.C. 20212. For further information contact Ms. Kurz on 202–605–7628 (this is not a toll free number.

SUPPLEMENTARY INFORMATION:

I. Background

The Bureau of Labor Statistics (BLS) was delegated responsibility by the Secretary of Labor for implementing Section 24(a) of the Occupational Safety and Health Act of 1970. This section states the "the Secretary shall compile accurate statistics on work injuries and illnesses which shall include all disabling, serious, or significant injuries and illnesses * * *"

Prior to the implementation of the Census of Fatal Occupational Injuries (CFOI), BLS generated estimates of occupational fatalities for private sector employers from a sample survey of about 280,000 establishments. Studies showed that occupational fatalities were underreported in those estimates as well as those compiled by regulatory, vital statistics, and workers' compensation systems. Estimates varied widely between 3,000 and 10,00 annually. In addition, information needed to develop prevention strategies was often missing form these earlier programs.

In the late 1980s, the National Academy of Sciences study, *Counting Injuries and Illnesses in the Workplace,* and the report, *Keystone National Policy Dialogue on Work-Related Illness and Injury Recordkeeping,* emphasized the need for BLS to compile a complete roster of work-related fatalities because of concern over the accuracy of using a sample survey to estimate the incidence of occupational fatalities. These studies also recommended the use of all available data sources to compile detailed information for fatality prevention efforts.

BLS tested the feasibility of collecting fatality data in this manner in 1989 and 1990. The resulting CFOI was implemented in 32 States in 1991. National data covering all 50 States and the District of Columbia was compiled and published for 1992–1996, approximately eight months after each calendar year.

The CFOI compiles comprehensive, accurate, and timely information on work-injury fatalities needed to develop effective prevention strategies. The system collects information concerning the incident, demographic information on the deceased, and characteristics of the employer.

Data are used to:

—develop employee safety training programs;
—develop and assess the effectiveness of safety standards;
—conduct research for developing prevention strategies; and
—compare fatalities between States.

In addition, States use the data to publish State reports, to identify State-specific hazards, to allocate resources for promoting safety in the workplace, and to evaluate the quality of work life in the State.

II. Current Actions

In 1996, 6,112 workers lost their lives as a result of injuries received on the job. This official systematic, verifiable count mutes controversy over the various counts from different sources. The CFOI count has been adopted by the National Safety Council and other organizations as the sole source of a comprehensive count of fatal work injuries for the U.S. If this information were not collected, the confusion over the number and patterns in fatal occupational injuries would continue, thus hampering prevention efforts. By providing timely occupational fatality data, the CFOI program provides safety and health managers the information necessary to respond to emerging workplace hazards.

In 1997, BLS Washington staff responded to over 3,000 requests for CFOI data from various organizations. (This figure excludes requests received by the States for State-specific data.) In addition, BLS Washington staff responded to numerous requests from safety organizations for staff members to participate in safety conferences and seminars. The CFOI research file, made available to safety and health groups, is being used by 50 organizations to conduct studies on specific topics, such as protective equipment use, forklift injuries, tractor-trailer tipovers, powerline electrocutions, homicides, construction industry falls, highway construction, and logging and forestry fatalities. (A current list of research articles and reports that include CFOI data can be found in BLS Report 922, dated June 1998, Appendix H. Copies of this report are available upon request.)

Type of Review: Revision.

Agency: Bureau of Labor Statistics.

Title: Census of Fatal Occupational Injuries.

OMB Number: 1220–0133.

Frequency: On Occasion.

Affected Public: Individuals or households, Business or other for-profit, Not-for-profit-institutions, Farms, Federal Government, State, Local or Tribal Government.

Number of Respondents: 2,665.

Estimated Time Per Response: 11 Minutes.

Total Burden Hours: 5,000 Hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the ICR; they also will become a matter of public record.

Signed at Washington, DC, this 13th day of July, 1998.

Karen A. Krein,

Acting Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 98–19112 Filed 7–16–98; 8:45 am]

BILLING CODE 4510–24–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 98–095]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Prospective Patent License.

SUMMARY: NASA hereby gives notice that Lantis Laser, Inc., has applied for a partially exclusive license to practice the invention disclosed in NASA Case No. LAR–15564–1–SB, entitled, "Method of Controlling Laser Wavelength(s)," for which a U.S. Patent Application was filed and assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to NASA Langley Research Center.

DATES: Responses to this notice must be received by September 15, 1998.

FOR FURTHER INFORMATION CONTACT: Ms. Robin W. Edwards, Patent Attorney, NASA Langley Research Center, Mail Stop 212, Hampton, VA 23681–0001. Telephone (757) 864–3230; fax (757) 864–9190.

Dated: July 13, 1998.

Edward A. Frankle,

General Counsel.

[FR Doc. 98–19080 Filed 7–16–98; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL SCIENCE FOUNDATION

National Science Foundation Proposal/Award Information—Grant Proposal Guide; Submission for OMB Review: Comment Request

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the National Science Foundation (NSF) will publish periodic summaries of proposed projects. Such a notice was published at **Federal Register**, 6393, dated May 14, 1998. No comments were received. This material is being submitted for OMB review. Send any written comments to Desk Officer, OMB, 3145–0058, OIRA, Office of Management and Budget, Washington, DC 20503. Written comments should be received by August 14, 1998.

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed project. "National Science Foundation Proposal/Award Information—Grant Proposal Guide." The mission of the NSF are to: strengthen its ability to support research in all areas of science and engineering; and promote innovative science and engineering education programs that can better prepare the Nation to meet the challenges of the future. The foundation is also committed to ensuring the Nation's supply of scientists, engineers, and science educators. In its role as leading Federal supporter of science and engineering, NSF also has an important role in national science policy planning.

The information collected is used to help the Foundation fulfill this responsibility by initiating and supporting merit-selected research and education projects in all the scientific an engineering disciplines. NSF receives more than 30,000 proposals annually for new or renewal support for research, and math/science/engineering education projects, and makes approximately 10,000 new awards. This support is made primarily through grants contracts, and other agreements awarded to approximately 2,800 colleges, universities, academic consortia, nonprofit institutions, and small businesses. The awards are based mainly on evaluations of proposal merit submitted to the Foundation (see OMB Clearance No. 3145–0060).

The Foundation has a continuing commitment to monitor the operations of its review and award processes to identify and address excessive reporting burdens. The Foundation is also committed to monitor and identify any real or apparent inequities based on gender, race, ethnicity, or handicap of the proposed principal investigator(s)/project director(s) or co-principal investigator(s)/co-project director(s). The collection of this information is a part of the regular submission of proposals to the Foundation.

Dated: July 14, 1998.

Mary Lou Higgs,

Acting NSF Clearance Officer.

[FR Doc. 98–19072 Filed 7–16–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Design, Manufacture & Industrial Innovation; Notice of Meeting

This notice is being published in accord with the Federal Advisory Committee Act (Pub. L. 92–463, as amended). During the period of August 12–September 30, 1998, the Special Emphasis Panel in Design, Manufacture & Industrial Innovation (1194) will be holding panel meetings to review and evaluate Small Business Innovation Research (SBIR) proposals. All meetings will be held at the National Science Foundation. The dates, topics and areas of proposals are as follows:

Date	Topic and area
August 6–7, 1998	Topic 23, Mechanics and Materials.

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Date	Topic and area
August 12, 1998	Topic 21, Design Manufacture and Industrial Innovation (7 panels).
August 12, 1998	Topic 20 & 27, Electrical and Communications Systems and Microelectronics Manufacturing.
August 13, 1998	Topic 20, Electrical and Communications Systems.
August 14, 1998	Topic 27, Microelectronics Manufacturing.
August 17, 1998	Topic 20, Electrical and Communications Systems.
August 19, 1998	Topic 14, Social, Behavioral and Economic Research.
	Topic 26, Next Generation Vehicles (3 panels).
August 20, 1998	Topic 26, Next Generation Vehicles (3 panels).
August 20, 1998	Topic 20, Electrical and Communications Systems.
August 21, 1998	Topic 20, Electrical and Communications Systems.
August 31, 1998	Topic 3, Materials Research (2 panels).
September 1–2, 1998	Topic 25, Education and Human Resources (6 panels).
September 9, 1998	Topic 20, Electrical and Communications Systems.
	Topic 27, Microelectronics Manufacturing.
September 14, 1998	Topic 2, Chemistry (4 panels).
	Topic 13, Biological Infrastructure.
September 15, 1998	Topic 2, Chemistry (4 panels).
	Topic 13, Biological Infrastructure.
September 18, 1998	Topic 23, Civil Mechanical Systems.
September 25, 1998	Topic 22, Chemical and Transport Systems (2 panels).

Times: 8:30 a.m. to 5:00 p.m. each day.

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.

Type of Meetings: Closed.

SBIR Program Contact Person: Cheryl Albus, Program Manager, DMII, Room 590, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230, Telephone: (703) 306–1390.

Purpose of Meetings: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted to the Small Business Innovation Research (SBIR) Program as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: July 13, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–19059 Filed 7–16–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis in Geosciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name and Committee Code: Special Emphasis Panel in Geosciences (1756).

Date and Time: August 13–14, 1998; 8:30 a.m.–5:00 p.m.

Place: Room 730, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Sunanda Basu (703) 306–1529 and Dr. Robert M. Robinson (703) 306–1531, Program Directors, Division of Atmospheric Sciences, National Science Foundation, 4201 Wilson Boulevard, Room 775, Arlington, VA 22230.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Coupling, Energetics, and Dynamics of Atmospheric Regions (CEDAR) and Coupling, Energetics, and Dynamics of Atmospheric Regions (CEDAR)/Thermosphere-Ionosphere Electrodynamics General Circulation Model (TIMED) proposals as part of the selection process for awards.

Reasons for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: July 13, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–19060 Filed 7–16–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Polar Programs; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Polar Programs (#1209).

Date & Time: August 5–7, 1998: 8:00 am to 5:00 pm.

Place: Room 770, National Science Foundation, 4201 Wilson Boulevard Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Linda Duguay, Program Director, Arctic Natural Sciences Program, Office of Polar Programs, Room 755 National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1029.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Arctic Natural Sciences Interdisciplinary proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: July 13, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–19061 Filed 7–16–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Public Hearing on Marine Accident

The National Transportation Safety Board will convene a public hearing beginning at 9:00 a.m. local time on Thursday, July 23, 1998, at the Adam's Mark Hotel, 4th & Chestnut Street, St.

Louis, Missouri. For more information, contact Leon Katcharian Office of Marine Safety at (202) 314–6458 or Terry Williams, NTSB Office of Public Affairs at (202) 314–6100.

Dated: July 14, 1998.

Rhonda Underwood,

Federal Register Liaison Officer.

[FR Doc. 98–19105 Filed 7–16–98; 8:45 am]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–16 (50–338/339]

Virginia Electric and Power Co. and Old Dominion Electric Cooperative; North Anna Independent Spent Fuel Storage Installation; Exemption

I

Virginia Electric and Power Company (Virginia Power) and Old Dominion Electric Cooperative (collectively, the licensee) hold Materials License SNM–2507 for receipt and storage of spent fuel from the North Anna Power Station at an independent spent fuel storage installation (ISFSI) located on the North Anna Power Station site. The facility is located in Louisa County, Virginia.

II

Pursuant to 10 CFR 72.7, the Nuclear Regulatory Commission (NRC) may grant exemptions from the requirements of the regulations in 10 CFR Part 72 as it determines are authorized by law, will not endanger life or property or the common defense and security, and are otherwise in the public interest.

Section 72.82(e) of 10 CFR Part 72 requires each licensee to provide a report of preoperational test acceptance criteria and test results to the appropriate NRC Regional Office with a copy to the Director, Office of Nuclear Material Safety and Safeguards, at least 30 days prior to receipt of spent fuel or high-level radioactive waste for storage in an ISFSI. The purpose of the 30-day waiting period is to allow NRC an opportunity to review test results prior to initial operation of the ISFSI. If an exemption from the requirement of 10 CFR 72.82(e) for a 30-day waiting period was granted, the licensee still would be required to submit the necessary report. However, with an exemption the licensee could start receiving fuel at the ISFSI before the end of the 30-day period.

III

By letter dated June 12, 1998, the licensee requested an exemption, pursuant to 10 CFR 72.7, from the requirement of 10 CFR 72.82(e) to submit the preoperational test acceptance criteria and test results report to NRC at least 30 days prior to receipt of fuel at the ISFSI. Specifically, the licensee requested to submit the report at least 3 days prior to receipt of fuel at the ISFSI. The licensee's exemption request to reduce the 30-day waiting period was based on the licensee's need to assure the availability of adequate storage space in the North Anna spent fuel pool to support a refueling outage of North Anna Power Station, Unit 1, in September 1998. To meet that schedule, spent fuel must be removed from the pool and loaded into a dry storage cask prior to the placement of new fuel into the spent fuel pool in late July 1998. Weather-related delays have hampered completion of construction and testing of the ISFSI prior to the end of June 1998. Thus, completion of construction and testing will occur less than 30 days prior to the need to load the first cask and transport it to the ISFSI.

NRC conducted numerous inspections of the North Anna ISFSI during its construction, as documented in part in NRC Inspection Report 50–338/97–09, 50–339/97–09, 72–16/97–03 and Inspection Report No. 50–338/97–11, 50–339/97–11, 72–16/97–04. NRC staff also observed selected portions of the licensee's preoperational dry run and walkthrough activities which were conducted between June 8 and 18, 1998.

By letter dated June 30, 1998, as supplemented by letter dated July 7, 1998, the licensee submitted its report of preoperational test acceptance criteria and test results. The preoperational tests conducted by the licensee included, among other things, the actual exercise of the licensee's written procedures for loading and unloading the storage casks. The licensee reviewed the results of these tests and made changes as necessary to affected procedures. During its onsite inspections in June 1998, NRC observed the licensee's validation of the acceptability of these procedures and is satisfied with the results.

IV

As discussed in the above paragraphs and based on its oversight and inspection of Virginia Power's ISFSI preoperational testing activities, NRC finds that Virginia Power has satisfactorily addressed all of the outstanding safety issues associated with cask loading, handling, and storage. The results of the NRC's activities described above confirm there is adequate assurance that the ISFSI can safely perform its intended function and that Virginia Power has the necessary equipment and procedures in place to safely conduct activities associated with storing spent fuel at the ISFSI.

Accordingly, NRC has determined in accordance with 10 CFR 72.7 that this exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest. Therefore, NRC hereby grants the licensee an exemption from the 30-day waiting period required by 10 CFR 72.82(e) as requested by the licensee in its letter dated June 12, 1998.

The documents related to this proposed action are available for public inspection and for copying (for a fee) at the NRC Public Document Room, 2120 L Street, NW, Washington, DC 20555 and at the Local Public Document Room located at the University of Virginia, Alderman Library, Charlottesville, Virginia 22903.

Pursuant to 10 CFR 51.32, NRC has determined that granting this exemption will have no significant impact on the quality of the human environment (63 FR 36277).

This exemption is effective upon issuance.

Dated at Rockville, Maryland this 9th day of July, 1998.

For the Nuclear Regulatory Commission.

William F. Kane,

Director,

Spent Fuel Project Office,

Office of Nuclear Material Safety and Safeguards.

[FR Doc. 98–19087 Filed 7–16–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

DATES: Friday, July 17, 1998.

PLACE: NCR Headquarters, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of July 13

Friday, July 17

9:30 a.m.

Public Meeting on Stakeholders' Concern (Public Meeting)

(Contact: Annette Vietti-Cook, 301–415–1969)

(Location: ACRS Conference Room)

(Two White Flint North, Room T2B3)

11:30 a.m.

Affirmation Session (Public Meeting)

*(Please Note: This item will be affirmed immediately following the conclusion of the preceding meeting.)

a: Qivera Mining Company—

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Commission Review of LBP–97–20
Location: ACRS Conference Room—Tentative)
(Two White Flint North, Room T2B3)

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Bill Hill (301) 415–1661.

The NRC Commission Meeting Schedule can be found on the Internet at: http:/www.nrc. gov/SECY/smj/schedule.htm

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

* * * * *

Dated: July 14, 1998.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 98–19214 Filed 7–15–98; 11:39 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Rel. No. 23312; 812–10824]

CypressTree Asset Management Corporation, Inc., North American Floating Income Fund, Inc., CypressTree Investment Management Company, Inc., and CypressTree Funds Distributors, Inc.; Notice of Application

July 10, 1998.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

SUMMARY OF APPLICATION: Applicants request an order under Section 6(c) granting an exemption from Sections 18(c) and 18(i) of the Act and rule 23c–3 under the Act, and under Section 17(d) of the Act and rule 17d–1 under the Act, to permit certain registered closed-end investment companies to issue multiple classes of shares, impose distribution and service fees, and early withdrawal charges. Applicants also request an amendment to a prior order.

APPLICANTS: CypressTree Asset Management Corporation, Inc. ("CAM"), North American Senior Floating Rate Fund, Inc. (the "Fund"), and CypressTree Investment Management Company ("CypressTree"), and CypressTree Funds Distributors, Inc. ("Distributors").

FILING DATES: The application was filed on October 22, 1997. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing request should be received by the SEC by 5:30 p.m. on August 4, 1998, and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicants: 125 High Street, Boston, Massachusetts 02110.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Staff Attorney, at (202) 942–0574, or Edward P. Macdonald, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a few at the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549 (tel. 202–942–8090).

Applicant's Representations

1. The Fund is a closed end management investment company registered under the Act and organized as a Maryland corporation. CAM, an investment adviser registered under the Investment Advisers Act of 1940 ("Advisers Act"), will serve as investment adviser to the Fund. CAM will enter into a sub-advisory agreement with CypressTree, an investment adviser registered under the Advisers Act, pursuant to which CypressTree will select the investments made by the Fund. Distributors, a broker-dealer registered under the Securities Exchange Act of 1934 (the "Exchange Act"), will distribute the Fund's shares. Applicants request that the order also apply to any other registered closed-end management investment company for which CAM or CypressTree or any entity controlling, controlled by, or under control with CAM or CypressTree acts as investment adviser, sub-investment adviser, principal underwriter, or administrator.[1]

2. The Fund's investment objective will be to provide as high a level of current income as is consistent with the preservation of capital. The Fund will invest primarily in senior secured floating rate loans made by commercial banks, investment banks, and finance companies to commercial and industrial borrowers ("Loans"). Under normal market conditions, the Fund will invest at least 80% of its total assets in Loans. Up to 20 percent of the Funds's total assets may be held in cash, invested in investment grade short-term and medium-term debt obligations, or invested in unsecured senior floating rate loans determined by CypressTree to have a credit quality at least equal to the loans.

3. The Fund will continuously offer its shares to the public at net asset value (plus a sales load in certain cases as discussed below). Applicants were granted an order permitting the Fund and certain other registered closed-end investment companies to make monthly repurchase offers in reliance on rule 23c–3 under the Act ("Prior Order").[2]

4. The Fund expects to offer three classes of shares. Class A Shares may be subject to a front-end sales charge. Class B Shares and Class C Shares will be offered without a front-end sales charge, but Shares accepted for repurchase that have been held for less than a certain period of time will be subject to early withdrawal charges ("EWCs") payable to Distributors.[3] After ten years, Class B Shares will automatically convert to

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[1] Any such investment company relying on this relief will do so in a manner consistent with the terms and conditions of this application. Applicants represent that each investment company presently intending to rely on the relief requested in this application is listed as an applicant.

[2] *CypressTree Asset Management Corporation et al.*, Investment Company Act Release Nos. 23020 (February 4, 1998) and 23055 (March 3, 1998) (order). Applicants request to amend the Prior Order to extend the relief granted in the Prior Order to any other registered closed-end investment company for which CAM or CypressTree or any entity controlling, controlled by or under common control with CAM or CypressTree acts as administrator or sub-investment adviser.

[3] Class B Shares will be subject to EWCs that decline over time to 0% after the end of the fourth year that a shareholder owns Class B Shares. Class C Shares will be subject to early withdrawal charges of 1% during the first year that a shareholder owns Class C Shares.

Class A Shares, and after eight years, Class C Shares will automatically convert to Class A Shares. Class A, Class B, and Class C Shares will be subject to an annual service fee of up to .25% of net assets. Class B and Class C Shares also will be subject to an annual distribution fee of up to .50% of net assets. Applicants represent that all of these fees will comply with the requirements of Rule2830(d) of the NASD Conduct Rules as if the Fund were an open-end investment company. Applicants also represent that the Fund intends to disclose in its prospectus the fees, expenses, and other characteristics of each class of shares offered for sale, as is required for open-end multi-class funds under Form N1–A.

5. All expenses incurred by the Fund will be allocated among the various classes of shares based on the net assets of the Fund attributable to each class. Distribution fees, service fees, and incremental expenses that may be attributable to a particular class of shares, including transfer agent fees, printing and postage expenses, state and federal registration fees, administrative fees, legal fees, will be charged directly to the net assets of a particular class. Expenses of the Fund allocated to a particular class of shares will be borne on a pro rata basis by each outstanding share of that class. The Fund may crate additional classes of shares in the future that may have different terms from Class B, Class C, and Class A Shares.

6. The Fund may waive the EWCs for certain categories of shareholders or transactions to be established in the future. With respect to any waiver of, scheduled variation in, or elimination of the EWC, the Fund will comply with rule 22d–1 under the Act as if the Fund were an open-end investment company.

7. The Fund may offer its shareholders an exchange feature under which shareholders of the Fund may exchange their shares for shares of the same class of other funds in the North American Group of investment companies. Any exchange option will comply with rule 11a–3 under the Act as if the Fund were an open-end investment company subject to that rule. In complying with rule 11a–3, the Fund will treat the EWCs imposed on Class B Shares and Class C Shares as if they were contingent deferred sales charges ("CDSCs").

Applicants' Legal Analysis

1. Section 18(c) of the Act provides, in relevant part, that a closed-end investment company may not issue or sell any senior security if, immediately thereafter, the company has outstanding more than one class of senior security. Applicants state that the creation of multiple classes of shares of the Fund may be prohibited by section 18(c).

2. Section 18(i) of the Act provides that each share of stock issued by a registered management company shall be a voting stock and have equal voting rights with every other outstanding voting stock. Applicants state that multiple classes of shares of the Fund may violate section 18(i) because each class would be entitled to exclusive voting rights with respect to matters solely related to that class.

3. Rule 23c–3(b)(1) under the Act provides that an interval fund may deduct from repurchase proceeds only a repurchase fee, not to exceed two percent of the proceeds, that is reasonably intended to compensate the fund for expenses directly related to the repurchase. Applicants state that the imposition of an EWC on shares tendered for repurchase that have been held for less than a specified period may violate rule 23c–3(b)(1).

4. Section 6(c) of the Act provides that the SEC may exempt any person, security, or transaction from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

5. Applicants request an exemption under section 6(c) of the Act from sections 18(c) and 18(i) of the Act and rule 23c–3(b)(1) to permit multiple classes of shares of the Fund and the imposition of EWCs.

6. Applicants believe that the proposed allocation of expenses and voting rights among multiple classes in equitable and would not discriminate against any group of Fund shareholders. Applicants submit that the proposed arrangements would permit the Fund to facilitate the distribution of its securities and provide investors with a broader choice of shareholder services. Applicants assert that their proposal does not raise the concerns underlying section 18 to any greater degree than open-end investment companies' multiple class systems that are permitted by rule 18f–3 under the Act. Applicants state that the Fund will comply with rule 18f–3 as if it were an open-end fund.

7. Applicants further state that EWCs are functionally similar to CDSCs that open-end investment companies may charge under rule 6c–10 under the Act. Applicants believe that EWCs may be necessary for Distributors to recover distribution costs and that EWCs may discourage shareholders from engaging in frequent trading, a practice that applicants believe imposes costs on other shareholders. Applicants will comply with rule 6c–10 under the Act as if the Fund were an open-end investment company.

8. Section 17(d) of the Act and rule 17d–1 under the Act prohibit an affiliated person of a registered investment company, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates unless the SEC issues an order permitting the transaction. In reviewing applications submitted under section 17(d) and rule 17d–1, the SEC considers whether the participation of the investment company in a joint enterprise or joint arrangement is consistent with the provisions, policies, and purposes of the Act, and to the extent to which the participation is on basis different from or less advantageous than that of other participants.

9. Rule 17d–3 under the Act provides an exemption from section 17(d) and rule 17d–1 to permit open-end funds to enter into distribution arrangements pursuant to rule 12b–1. Applicants also request an order under section 17(d) and rule 17d–1 to permit the Fund to impose asset-based distribution fees. Applicants have agreed to comply with rule 12b–1 as if the Fund were an open-end investment company.

Applicants' Condition

Applicants agree that any order granting the requested relief shall be subject to the following condition:

1. Applicants will comply with rules 18f–3, 12b–1, 6c–10, and 22d–1 under the Act and NASD Conduct Rule 2830(d), as amended from time to time, as if those rules apply to closed-end investment companies.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–19049 Filed 7–16–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–23311; 812–9962]

Morgan Stanley & Co. Incorporated; Notice of Application

July 10, 1998.

AGENCY: Securities and Exchange Commission ("Commission" or "SEC").

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ACTION: Notice of application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 (the "Act") for an exemption from section 12(d)(1) of the Act.

SUMMARY OF APPLICATION: Morgan Stanley & Co. Incorporated ("Morgan Stanley") requests an order to amend a prior order that, among other things, permits registered investment companies to own a greater percentage of the total outstanding voting stock of the AJL PEPS Trusts for which Morgan Stanley serves, or will serve, as a principal underwriter (collectively, the "Trusts") than that permitted by section 12(d)(1) of the Act ("Prior Order").[1] The requested order would permit companies that are excepted from the defintion of investment company under section 3(c)(1) or 3(c)(7) of the Act to own a greater percentage of the total outstanding voting stock of a Trust than that permitted by section 12(d)(1)(A) of the Act.

FILING DATES: The application was filed on May 5, 1998. Applicant has agreed to file an amendment, the substance of which is incorporated in this notice, during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on August 3, 1998, and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, 1585 Broadway, New York, New York 10036.

FOR FURTHER INFORMATION CONTACT: Brian T. Hourihan, Senior Counsel, at (202) 942-0526, or Mary Kay Frech, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549 (tel. (202) 942-8090).

Applicant's Representations

1. The Trusts are limited-life, grantor trusts registered under the Act as nondiversified, closed-end management investment companies. Morgan Stanley serves, or will serve, as the principal underwriter for each Trust.

2. On October 16, 1996, the Commission issued the Prior Order. The Prior Order, among other things, permits registered investment companies to own a greater percentage of the total outstanding voting stock of the Trusts than that permitted by section 12(d)(1) of the Act.

Applicant's Legal Analysis

1. Section 12(d)(1)(A)(i) of the Act prohibits any registered investment company from owning more than 3 percent of the total outstanding voting stock of any other investment company, and any investment company from owning in the aggregate more than 3 percent of the total outstanding voting stock of any registered investment company. A company that is excepted from the definition of investment company under section 3(c)(1) or 3(c)(7) of the Act is deemed to be an investment company for purposes of section 12(d)(1)(A)(i) of the Act under sections 3(c)(1) and 3(c)(7)(D) of the Act.

2. Section 12(d)(1)(J) of the Act provides that the Commission may exempt persons or transactions from any provision of section 12(d)(1), if, and to the extend that, the exemption is consistent with the public interest and the protection of investors. Applicant requests that the Prior Order be amended to permit companies excepted from the definition of investment company under section 3(c)(1) and 3(c)(7) of the Act to rely on the exemption from section 12(d)(1)(A) of the Act provided by the Prior Order.

3. Applicant asserts that investment in the Trusts by companies relying on section 3(c)(1) or 3(c)(7) of the Act will not raise concerns under section 12(d)(1) of the Act for the same reasons as those given in the application for the Prior Order with respect to registered fund's investment in the Trusts. Applicant agrees that any company relying on section 3(c)(1) or 3(c)(7) of the Act that invests in the Trusts may not rely on this order unless it complies with the terms and conditions of the Prior Order. For these reasons, applicant believes that the requested relief meets the standards of section 12(d)(1)(J).

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98-19051 Filed 7-16-98; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-26895; 70-9189]

Entergy Corporation; Order Authorizing the Issuance and Sale of Common Stock in Connection With the Adoption of the 1998 Equity Ownership Plan

July 10, 1998.

Entergy Corporation ("Entergy"), a registered holding company, located in New Orleans, Louisiana, has filed with this Commission an application-declaration under sections 6(a), 7 and 12(e) of the Public Utility Holding Company Act of 1935, as amended ("Act"), and rules 54, 62 and 65 under the Act. The Commission issued a notice of the filing on March 27, 1998 (HCAR No. 26852).

The Entergy Board of Directors ("Board") has adopted the 1998 Equity Ownership Plan of Entergy Corporation and Subsidiaries ("Equity Plan"), subject to shareholder approval. The Equity Plan will be an amendment and restatement of Entergy's current Equity Ownership Plan which was approved by its stockholders in 1991. Awards granted under the Equity Plan are intended to qualify as performance based compensation under section 162(m) of the Internal Revenue Code of 1986, as amended.

Entergy proposes, through December 31, 2008, to grant Options, Restricted Shares, Performance Shares and Equity Awards, all as defined in the Equity Plan, and to issue or sell up to 12 million shares of its common stock, $0.01 par value ("Common"), under the Equity Plan. The purpose of the Equity Plan is to give certain designated officers and executive personnel ("Key Employees") and outside directors an opportunity to acquire shares of Common to tie more closely their interests with those of Entergy's shareholders and to reward effective corporate leadership.

The Common will be available for awards under the Equity Plan, subject to adjustment for stock dividends, stock splits, recapitalizations, mergers, consolidations or other reorganizations. Shares of Common awarded under the Equity Plan may be either authorized but unissued shares or shares acquired in the open market. Shares of Common covered by awards which are not earned, or which are forfeited for any reason, and Options which expire unexercised, will again be available for subsequent awards under the Equity Plan. To the extent that shares of Common previously held in a participant's name are surrendered upon the exercise of an Option or shares relating to an award are used to pay withholding taxes, the shares will become available for subsequent awards under the Equity Plan.

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[1] *Morgan Stanley & Co. Incorporated*, Investment Company Act Release Nos. 2235 (Sept. 20, 1996) (notice) and 22284 (Oct. 16, 1996) (order).

The Equity Plan will be administered by the Board's Personnel Committee, or any other committee designated by the Board ("Committee"), to the extent required to comply with rule 16b–3 under the Securities Exchange Act of 1934, as amended. The Committee will have the exclusive authority to interpret the Equity Plan. The Committee also will have the authority to select, from among Key Employees and outside directors of Entergy and its subsidiaries, those individuals to whom awards will be granted, to grant any combination of awards to any participants and to determine the specific terms and conditions of each award.

Entergy was authorized to solicit proxies from its stockholders for use at the 1998 annual shareholders meeting ("Meeting") with respect to the approval of the Equity Plan, effective, as provided in rule 62(d) of the Act, on March 27, 1998 (HCAR No. 26852). The Equity Plan was approved by Entergy's shareholders at the Meeting, held on May 15, 1998.

Entergy represents that, except for rule 53(a)(1), the requirements of rule 53 are satisfied regarding Entergy's investments in exempt wholesale generators ("EWGs") and foreign utility companies ("FUCOs"), as defined in sections 32 and 33 of the Act. Entergy states that its aggregate investment in EWGs and FUCOs was equal to approximately 54% of its consolidated retained earnings, as defined in rule 53(a)(1), for the four quarters ended March 31, 1998 and, therefore, exceeds the 50% limitation contained in the rule. Entergy states that this is due to a decline in consolidated retained earnings, resulting primarily from a one-time windfall profits tax of $234 million imposed in 1997 by the government of Great Britain on London Electricity, a FUCO partially owned by Entergy.

Entergy states that, as of September 30, 1992, before Entergy commenced its investments in EWGs or FUCOs, Entergy's consolidated equity (including mandatorily redeemable preferred securities) to total capital ratio was 45.4%. Entergy states that, as of March 31, 1998, Entergy's consolidated capitalization consisted of 42.9% equity. On a *pro forma* basis, taking into consideration the transactions contemplated in this filing, this ratio would be 42.2%. In addition, Entergy further states that, with one exception, the credit ratings of debt issued by its subsidiaries remain at investment grade.[1] Entergy further notes that earnings from its investments in FUCOs and EWGs would have been positive in 1997 but for the one time windfall profits tax described above.

The Commission has considered the effect of the capitalization and earnings of Entergy's EWGs and FUCOs on the Entergy system, together with the impact of the proposed transactions. The facts and representations described above are sufficient, for purposes of granting the authority requested in this filing, to support a finding that the proposed transactions satisfy the standards of section 6(a) and 7

Fees and expenses in the estimated amount of $175,000 are expected to be incurred in connection with these transactions. It is stated that no state or federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Due notice of the filing of the declaration has been given in the manner prescribed in rule 23 under the Act, and no hearing has been requested of or ordered by the Commission. On the basis of the facts in the record, it is found that the applicable standards of the Act and rules are satisfied and that no adverse findings are necessary.

It is ordered, under the applicable provisions of the Act and rules under the Act, that the amended declaration be permitted to become effective immediately, subject to the terms and conditions prescribed in rule 24 under the Act.

For the Commission, by the Division of Investment, under delegated authority.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 98–19050 Filed 7–16–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–23313; 812–10684]

WRL Series Fund, Inc. and WRL Investment Management, Inc. Notice of Application

July 10, 1998.

AGENCY: Securities and Exchange Commission ("Commission" or "SEC").

ACTION: Notice of application for an order under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from section 15(a) of the Act and rule 18f–2 under the Act.

SUMMARY OF APPLICATION: The order would permit applicants to enter into and materially amend subadvisory agreements without obtaining shareholder approval.

APPLICANTS: WRL Series Fund, Inc. (the "Fund") and WRL Investment Management, Inc. (the "Adviser").

FILING DATES: The application was filed on May 13, 1997, and amended on April 2, 1998. Applicants have agreed to file an amendment, the substance of which is included in this notice, during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may be request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on August 4, 1998, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549; Applicants, 201 Highland Avenue, Largo, Florida 33770–2597.

FOR FURTHER INFORMATION CONTACT: Brian T. Hourihan, Senior Counsel, at (202) 942–0526, or Christine Y. Greenlees, Branch Chief, at (202) 942–

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[1] Entergy notes that the credit rating assigned to debt issued by one of its utility subsidiaries, Entergy Gulf States Utilities, Inc. ("GSU"), other than its senior secured debt, is below investment grade. In March of 1995, Standard & Poors ("S&P") lowered the ratings of GSU as follows: senior secured debt to triple 'B' minus from triple 'B'; senior unsecured debt and preferred stock to double 'B' from triple 'B' minus; and, preference stock to double 'B' from double 'B' plus. Thereafter, Moody's Investors Service ("Moody's") downgraded GSU's First Mortgage Bonds to Baa3 from Baa2; debentures and senior unsecured pollution control bonds to Ba1 from Baa3; and preferred stock to Ba1 from Baa3. Both S&P and Moody's cited the River Bend Nuclear facility and the decision of the Texas Public Utilities Commission to reduce rates by $52.9 million along with the then pending legal uncertainties surrounding the Cajun bankruptcy, potential Riverbend writedowns, merger costs, and, regulatory proceeding costs."

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0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549 (tel. (202) 942–8090).

Applicants' Representations

1. The Fund, a Maryland corporation, is an open-end management investment company registered under the Act. The Fund currently consists of seventeen separate series (each a "Portfolio"), each of which has its own investment objective and policies.[1] Shares of the Fund currently are sold only to separate accounts of Western Reserve Life Assurance Co. of Ohio ("Western Reserve"), PFL Life Insurance Company, and First AUSA Life Insurance Company, Inc. ("First AUSA") to fund benefits under certain variable life insurance policies and variable annuity contracts.

2. The Adviser, registered under the Investment Advisers Act of 1940 (the "Advisers Act"), serves as investment adviser to the Fund pursuant to an investment advisory agreement ("Advisory Agreement").[2] Under the Advisory Agreement, the Adviser, subject to the supervision of the board of directors of the Fund (the "Board"), selects and contracts with sub-advisers ("Sub-Advisers") to provide each Portfolio with portfolio management. The Adviser also monitors and evaluates each Sub-Adviser's performance, and may recommend its termination. Each Sub-Adviser recommended by the Adviser is approved by the Board, including a majority of the directors who are not "interested persons" of the Fund, as defined in section 2(a)(19) of the Act ("Independent Directors"). The Adviser also provides the Fund and the Portfolios with overall administrative services. The Fund pays the Adviser a fee for its services with respect to each Portfolio.

3. The Adviser has entered into contracts ("Sub-Advisory Agreements") with fourteen Sub-Advisers, each of which is registered as an investment adviser under the Advisers Act. Currently, sixteen Portfolios are advised by one Sub-Adviser and one Portfolio is advised by two Sub-Advisers. Subject to the general supervision of the Adviser and the Board, each Sub-Adviser makes the specific investment decisions for the Portfolio it advises and places orders to purchase or sell securities on behalf of that Portfolio. None of the Sub-Advisers has broader supervisory, management or administrative responsibilities with respect to a Portfolio or the Fund. The Adviser pays each Sub-Adviser out of the advisory fees it receives from each Portfolio.

4. Applicants request an order to permit the Adviser to enter into and materially amend Sub-Advisory Agreements without obtaining shareholder approval. The requested relief will not extend to a Sub-Adviser that is an "affiliated person" of either the Fund or the Adviser, as defined in section 2(a)(3) of the Act, other than by reason of serving as a Sub-Adviser to one or more of the Portfolios ("Affiliated Sub-Adviser").

Applicants' Legal Analysis

1. Section 15(a) of the Act makes it unlawful for any person to act as an investment adviser to a registered investment company except pursuant to a written contract that has been approved by a majority of the investment company's outstanding voting securities. Rule 18f–2 under the Act provides that each series or class of stock in a series company affected by a matter must approve the matter if the Act requires shareholder approval.

2. Section 6(c) of the Act authorizes the Commission to exempt person or transactions from the provisions of the Act to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act. Applicants request relief under section 6(c) from section 15(a) of the Act and rule 18f–2 under the Act. For the reasons discussed below, applicants believe the requested relief meets the standard of section 6(c).

3. Applicants assert that the Fund's investors rely on the Adviser for investment management, and except the Adviser to select and monitor one or more Sub-Advisers best suited to achieve a Portfolio's investment objective. Applicants represent that the Adviser has substantial experience in performing these functions for the Fund. Applicants submit that, consequently, from the perspective of an investor, the role of the Sub-Advisers is comparable to that of individual portfolio managers employed by other investment company advisory firms. Applicants thus contend that, without the requested relief, the Fund may be precluded from promptly and effectively employing Sub-Advisers best suited to the needs of the Portfolios. Applicants also that the Advisory Agreement will remain fully subject to the requirements of section 15 of the Act and rule 18f–2 under the Act, including the requirements for shareholder approval.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. The Adviser will not enter into a Sub-Advisory Agreement with any Affiliated Sub-Adviser without the Sub-Adviser Agreement with any Affiliated Sub-Adviser without the Sub-Advisory Agreement, including the compensation to be paid under the Agreement, being approved by the variable contract owners with assets allocated to any sub-account of a registered separate account for which the Portfolio serves as a funding medium.

2. At all times, a majority of the Board will be Independent Directors, and the nomination of new or additional Independent Directors will be within the discretion of the then-existing Independent Directors.

3. When a Sub-Adviser change is proposed for a Portfolio with an Affiliated Sub-Adviser, the Board, including a majority of the Independent Directors, will make a separate finding, reelected in the Board's minutes, that the change is in the best interests of the Portfolio and the variable contract owners with assets allocated to any sub-account of a registered separate account for which the Portfolio serves as a funding medium, and does not involve a conflict of interest from which the Adviser or the Affiliated Sub-Adviser derives an inappropriate advantage.

4. The Adviser will provide general management and administrative services to the Fund and the Portfolios, including overall supervisory responsibility for the general management and investment of the Fund's securities portfolios, and, subject to review and approval by the Board, will: (i) Set each Portfolio's overall investment strategies, (ii) select Sub-Advisers, (iii) monitor and evaluate the performance of Sub-Advisers, (iv) allocate and, when appropriate,

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[1] Applicants request that the relief also apply to future Portfolios, and to any registered open-end management investment company that in the future is advised by the Adviser, or any person controlling, controlled by, or under common control with the Adviser ("Future Fund"). All existing investment companies that currently intend to rely on the order have been named as applicants, and any Future Fund that relies on the order will comply with the terms and conditions in the application.

[2] The Adviser is a direct, wholly-owned subsidiary of Western Reserve, which, in turn, is wholly-owned by First AUSA. First AUSA is wholly-owned by AEGON USA, Inc., a financial services holding company, which, in turn, is a wholly-owned indirect subsidiary of AEGON nv, a Netherlands corporation.

reallocate a Portfolio's assets among its Sub-Advisers in those cases where a Portfolio has more than one Sub-Adviser, and (v) implement procedures reasonably designed to ensure that the Sub-Advisers comply with the Portfolio's investment objectives, policies, and restrictions.

5. Within 90 days of the hiring of any new Sub-Adviser, the Adviser will furnish the variable contract owners with assets allocated to any sub-account of a registered separate account for which the Portfolio serves as a funding medium with all information about the new Sub-Adviser that would be included in a proxy statement. The information will include any change in the disclosure caused by the addition of a new Sub-Adviser. The Adviser will meet this condition by providing the variable contract owners with an information statement meeting the requirement of Regulation 14C, Schedule 14C, and item 22 of Schedule 14A under the Securities Exchange Act of 1934.

6. The Fund will disclose in its prospectus the existence, substance, and effect of any order granted pursuant to the application. In addition, the Fund will hold itself out to the public as employing the management structure described in the application. The Fund's prospectus will prominently disclose that the Adviser has ultimate responsibility for the investment performance of the Portfolios due to its responsibility to oversee Sub-Advisers and recommend their hiring, termination, and replacement.

7. Before the Fund may rely on the requested order, the operations of each Portfolio as described in the application will be approved by a majority of the Portfolio's outstanding voting securities, as defined in the Act, pursuant to voting instructions provided by the variable contract owners with assets allocated to any sub-account of a registered separate account for which the Portfolio serves as a funding medium, or, in the case of a Future Fund whose shareholders purchased shares on the basis of a prospectus containing the disclosure contemplated by condition 6 above, by the sole shareholder before offering shares of the Future Fund to the variable contract owners through a separate account.

8. No director or officer of the Fund or of the Adviser will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by the director or officer) any interest in a Sub-Adviser, except for: (i) Ownership of interests in the Adviser or any entity that controls, is controlled by, or is under common control with the Adviser, or (ii) ownership of less than 1% of the outstanding securities of any class of equity or debt securities of a publicly traded company that is either a Sub-Adviser or an entity that controls, is controlled by, or is under common control with a Sub-Adviser.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–19052 Filed 7–16–98; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3103]

State of Iowa

As a result of the President's major disaster declaration on July 2, 1998, and amendments thereto, I find that the following counties in the State of Iowa constitute a disaster area due to damages caused by severe storms, tornadoes, and flooding beginning on June 13, 1998, and continuing: Audubon, Boone, Carroll, Cass, Chickasaw, Dallas, Fremont, Grundy, Guthrie, Hamilton, Hardin, Howard, Iowa, Jasper, Johnson, Keokuk, Louisa, Marion, Marshall, Mills, Montgomery, Muscatine, Page, Polk, Pottawattamie, Poweshiek, Shelby, Taylor, Wapello, and Washington. Applications for loans for physical damages as a result of this disaster may be filed until the close of business on August 31, 1998, and for loans for economic injury until the close of business on April 2, 1999 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Fort Worth, TX 76155.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Adair, Adams, Appanoose, Benton, Black Hawk, Bremer, Butler, Calhoun, Cedar, Crawford, Davis, Des Moines, Fayette, Floyd, Franklin, Greene, Harrison, Henry, Jefferson, Linn, Lucas, Madison, Mahaska, Mitchell, Monroe, Ringgold, Sac, Scott, Story, Tama, Union, Van Buren, Warren, Webster, Winneshiek, and Wright Counties in Iowa; Cass, Douglas, Otoe, Sarpy, and Washington Counties in Nebraska; Atchison, Nodaway, and Worth Counties in Missouri; Fillmore and Mower Counties in Minnesota; and Henderson, Mercer, and Rock Island Counties in Illinois.

The interest rates are:

	Percent
Physical Damage:	
Homeowners with credit available elsewhere	7.000
Homeowners without credit available elsewhere	3.500
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.125
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 310311. For economic injury the numbers are 992800 for Iowa; 992900 for Nebraska; 993000 for Missouri; 993400 for Minnesota; and 993500 for Illinois.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 9, 1998.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 98–19095 Filed 7–16–98; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3100]

State of Ohio

As a result of the President's major disaster declaration on June 30, 1998, and amendments thereto, I find that the following counties in the State of Ohio constitute a disaster area due to damages caused by severe storms, flooding, and tornadoes beginning on June 24, 1998 and continuing: Athens, Belmont, Coshocton, Franklin, Guernsey, Harrison, Jackson, Jefferson, Knox, Meigs, Monroe, Morgan, Muskingum, Noble, Ottawa, Perry, Pickaway, Richland, Sandusky, Tuscarawas, and Washington. Applications for loans for physical damages as a result of this disaster may be filed until the close of business on August 29, 1998, and for loans for economic injury until the close of business on March 30, 1999 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified

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date at the above location: Ashland, Carroll, Columbiana, Crawford, Delaware, Erie, Fairfield, Fayette, Gallia, Hocking, Holmes, Huron, Lawrence, Licking, Lucas, Madison, Morrow, Pike, Ross, Scioto, Seneca, Stark, Union, Vinton, and Wood Counties in Ohio, and Brooke, Hancock, Marshall, and Ohio Counties in West Virginia.

Any counties contiguous to the above-named primary counties and not listed herein have been previously declared under a separate declaration for the same occurrence.

The interest rates are:

	Percent
Physical Damage:	
Homeowners with credit available elsewhere	7.000
Homeowners without credit available elsewhere	3.500
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.125
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 310011. For economic injury the numbers are 992100 for Ohio and 992200 for West Virginia.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 8, 1998.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 98–19093 Filed 7–16–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3101]

State of Vermont

As a result of the President's major disaster declaration on June 30, 1998, I find that Addison, Chittenden, Franklin, Lamoille, Orange, Rutland, Washington, and Windsor Counties in the State of Vermont constitute a disaster area due to damages caused by severe storms and flooding beginning on June 17, 1998, and continuing. Applications for loans for physical damages as a result of this disaster may be filed until the close of business on August 29, 1998, and for loans for economic injury until the close of business on March 30, 1999 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South, 3rd Floor, Niagara Falls, NY 14303.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Bennington, Caledonia, Grand Isle, Orleans, and Windham Counties in Vermont; Essex and Washington Counties in New York; and Grafton and Sullivan Counties in New Hampshire.

The interest rates are:

	Percent
Physical Damage:	
Homeowners with credit available elsewhere	7.000
Homeowners without credit available elsewhere	3.500
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.125
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 310106. For economic injury the numbers are 992300 for Vermont, 992400 for New York, and 992500 for New Hampshire.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 8, 1998.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 98–19096 Filed 7–16–98; 8:45 am]

BILLING CODE 8025–01–P

U.S. SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3102]

State of West Virginia

As a result of the President's major disaster declaration on July 1, 1998, and an amendment thereto, I find that the following counties in the State of West Virginia constitute a disaster area due to damages caused by severe storms, flooding, and tornadoes beginning on June 26, 1998 and continuing: Braxton, Calhoun, Clay, Doddridge, Gilmer, Jackson, Kanawha, Lewis, Marion, Pleasants, Ritchie, Roane, Tyler, Wirt, and Wood. Applications for loans for physical damages as a result of this disaster may be filed until the close of business on August 30, 1998, and for loans for economic injury until the close of business on April 1, 1999 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South, 3rd Floor, Niagara Falls, NY 14303.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties in West Virginia may be filed until the specified date at the above location: Boone, Fayette, Harrison, Lincoln, Mason, Monongalia, Nicholas, Putnam, Raleigh, Taylor, Upshur, Webster, and Wetzel.

Any counties contiguous to the above-named primary counties and not listed herein have been previously declared under a separate declaration for the same occurrence.

The interest rates are:

	Percent
Physical Damage:	
Homeowners with credit available elsewhere	7.000
Homeowners without credit available elsewhere	3.500
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.125
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The numbers assigned to this disaster are 310211 for physical damage and 992600 for economic injury.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 8, 1998.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 98–19094 Filed 7–16–98; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requests (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and approval. The ICRs describe the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on (1) Brake Hose Manufacturers Identification was published on April 6, 1998 [63 FR 16854] and (2) 23 CFR Parts, Uniform Safety Program Cost Summary Form for Highway Safety Plan was published on April 15, 1998 [63 FR 18488].

DATES: Comments must be submitted on or before August 17, 1998.

FOR FURTHER INFORMATION CONTACT: Michael Robinson, NHTSA Information Collection Clearance Officer at (202) 366–9456.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration (NHTSA)

(1) Title: Brake Hose Manufacturers Identification.

OMB Control Number: 2127–0052.

Type of Request: Extension of a currently approved collection.

Affected Public: Business or other for-profit.

Abstract: Under the authority of the National Traffic and Motor Vehicle Safety Act of 1966, as amended, Title 15 United States Code 1932, Section 103, authorizes the issuance of Federal Motor Vehicle Safety Standards (FMVSS). The Act mandates that in issuing any Federal motor vehicle safety standards, the agency is to consider whether the standard is reasonable and appropriate for the particular type of motor vehicle or item of motor vehicle equipment for which it is prescribed. Using this authority, Standard 106, Brake Hoses was issued. This standard specifies labeling and performance requirements for all motor vehicle brake hose assemblers, brake hoses and brake hose and fittings manufacturers for automotive vehicles. These entitles must register their identification marks with NHTSA to comply with this standard.

Estimated Annual Burden Hours: 30.

(2) Title: 23 CFR Parts Uniform Safety Program Cost Summary Form for Highway Safety Plan.

OMB Control Number: 2127–0003.

Type of Request: Extension of currently approved collection.

Affected Public: State, Local or Tribal Government.

Abstract: The Highway Safety Act of 1966 (23 U.S.C. 401 *et seq.*) established a formula grant program to improve highway safety in the States. As a condition of the grant, the Act provides that the States must meet certain requirements contained in 23 U.S.C. 402. Section 402(a) requires each State to have a highway safety program, approved by the Secretary of Transportation, which is designed to reduce traffic crashes and the deaths, injuries, and property damage resulting from those crashes. Section 402(b) sets forth the minimum requirements with which each State's highway safety program must comply. A 1987 amendment to the Highway Safety Act required the Secretary to determine, through a rulemaking process, those programs most effective in reducing crashes, injuries, and deaths, taking into account "consideration of the States having a major role in establishing [such] programs." The Secretary was authorized to revise the rule from time to time. In accordance with this provision, the agencies have identified, over time, nine such programs, the "National Priority Program areas: (1) Alcohol and other Drug Countermeasures, (2) Police Traffic Services, (3) Occupant Protection, (4) Traffic Records, (5) Emergency Medical Services, (6) Motor Safety, (7) Pedestrian and Bicycle Safety, and (8) Speed Control & (9) Roadway Safety. Under this program, States submit the Highway Safety Program and other documentation explaining how they intend to use the grant funds. In order to account for funds expended under these priority areas and other program areas, States are required to submit a Program Cost Summary. The Program Cost Summary is completed to reflect the State's proposed allocations of funds (including carry-forward funds) by program area, based on the projects and activities identified in the Highway Safety Plan. During the past several years, numerous steps have been taken to reduce the burden of paperwork on the States. The annual burden will remain low due to the minimum amount of documentation required to be provided has been substantially reduced. We have simplified this process even more by automating the Program Cost Summary.

Estimated Annual Burden Hours: 570.

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW, Washington, DC 20503, Attention DOT Desk Officer. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Issued in Washington, DC, on July 10, 1998.

Phillip A. Leach,

Clearance Officer, United States Department of Transportation.

[FR Doc. 98–19104 Filed 7–16–98; 8:45 am]

BILLING CODE 4910-62-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application (98–05–C–00–COS) to Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Colorado Springs Airport, Submitted by the Colorado Springs Airport, Colorado Springs, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use PFC revenue at Colorado Springs Airport under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR 158).

DATES: Comments must be received on or before August 17, 1998.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Mr. Alan Wiechmann, Manager; Denver Airports District Office; Federal Aviation Administration; 26805 E. 68th Avenue, Suite 224; Denver, CO 80249–6361. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Gary W. Green, A.A.E., Director of Aviation, at the following address: 7770 Drennan Road, Colorado Springs , CO 80916.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to Colorado Springs Airport, under section 158.23 of Part 158.

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FOR FURTHER INFORMATION CONTACT: Mr. Christopher Schaffer, (303) 342–1258, 26805 E. 68th Avenue, Suite 224; Denver, CO 80249–6361. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application 98–05–C–00–COS to impose and use PFC revenue at Colorado Springs Airport, under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On July 10, 1998, the FAA determined that the application to impose and use the revenue from a PFC submitted by Colorado Springs Airport, Colorado Springs, Colorado, was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than October 13, 1998.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: August 1, 2003.

Proposed charge expiration date: November 1, 2005.

Total requested for use approval: $12,414,906.

Brief description of proposed project: Glycol pretreatment, outfall system, and new glycol pond; Airport storm drainage improvements; Centerline and touchdown zone lighting; Runway end identification lights (REILS) for runway 12/30; Snow removal equipment; Canopy improvement program; Construction taxiway "B" extension, from taxiway "B5" to taxiway "E"; Construct taxiway "C" north to taxiway "D"; Apron roadway, glycol tank and ground equipment storage area.

Class or classes of air carriers which the public agency has requested not be required to collect PFC's: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue S.W., Suite 540, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Colorado Springs Airport.

Issued in Renton, Washington, on July 10, 1998.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 98–19098 Filed 7–16–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petitions for Waivers of Compliance

In accordance with Title 49 Code of Federal Regulations (CFR) Sections 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received a request for waiver of compliance with certain requirements of the Federal railroad safety regulations. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being sought and the petitioner's arguments in favor of relief.

Northeast Illinois Railroad Corporation

[FRA Waiver Petition No. WPS–98–1]

Northeast Illinois Railroad Corporation (METRA) seeks a permanent waiver of compliance from certain provisions of the Roadway Worker Protection Standards, 49 CFR Part 214, Subpart C. Metra seeks a waiver of 49 CFR 214.337(c)(3) which states:

> (c) Individual train detection may be used to establish on-track safety only:
>
> * * *
>
> (3) On track outside the limits of a manual interlocking, a controlled point, or a remotely controlled hump yard facility; * * *

Specifically, METRA requests relief that will permit a lone worker to perform inspections and minor repairs within an interlocking or control point utilizing Individual Train Detection (ITD) supplemented by a system termed Intelligent Train Approach Warning (ITAW). According to METRA, the ITAW will consist of a vibration sensitive pager-like device and a portable audible/visual device transported to the area where the lone worker is engaged in work. METRA indicates that the ITAW will be governed by a series of rules which will enhance and promote safety as the ITAW system never walks away, gets distracted or becomes involved in other human tendencies.

METRA desires to conduct tests of the ITAW system at two locations on their system during which all provisions of 49 CFR Part 214 relating to the protection of on-track workers will be strictly adhered to utilizing either foul time or look-out protection. METRA states "only after the system's integrity and fail proof technologies have been tested and found to be fail safe 100% of the time will the provisions requested in the waiver be exercised." METRA has included with the petition a set of detailed rules and instruction for the operation and use of the ITAWS for the purpose of providing warning of approaching trains to roadway workers.

Interested parties are invited to participate in this proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with this proceeding since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number WPS–98–1) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, FRA, Nassif Building, 400 Seventh Street, SW, Washington, DC 20590. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning this proceeding are available for examination during regular business hours (9:00 a.m.–5:00 p.m.) at FRA's docket room located at 1120 Vermont Avenue, NW, Room 7051, Washington, DC 20005.

Issued in Washington, DC, on July 13, 1998.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 98–19103 Filed 7–16–98; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Revocation Notice Concerning General Agent Directives

ACTION: Notice.

SUMMARY: The Maritime Administration (MARAD) has reviewed all its files on Circular Letters to General Agents (CLs) and Operating Letters to General Agents (OLs). As a result of this review, MARAD has determined to revoke all

said Circular Letters to General Agents and Operating Letters to General Agents not heretofore terminated.

FOR FURTHER INFORMATION CONTACT: P. Jean Barile, Office of Ship Operations, Maritime Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, telephone (202) 366–5776, facsimile (202) 366–3954.

SUPPLEMENTARY INFORMATION: CLs and OLs were identical letters sent to all, or multiple, General Agents and relating to the operation of Government vessels by private companies under General Agency Agreements. During the course of reviewing files for outstanding CLs and OLs, MARAD found that all had become obsolete in the context of current vessel operations procedures and arrangements with General Agents. MARAD has determined that none of the Circular Letters to General Agents and none of the Operating Letters to General Agents presently outstanding, and not heretofore revoked, have application to current ship operations functions of the Maritime Administration, or the National Shipping Authority, and they are hereby revoked.

By Order of the Maritime Administrator.

Dated: July 14, 1998.

Joel C. Richard,
Secretary.

[FR Doc. 98–19116 Filed 7–16–98; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. MC–F–20924]

Global Passenger Services, L.L.C.—Control—Bortner Bus Company, et al.

AGENCY: Surface Transportation Board.

ACTION: Notice tentatively approving finance transactions.

SUMMARY: Global Passenger Services, L.L.C. (Global or applicant), a noncarrier, filed an application under 49 U.S.C. 14303 to acquire control of 20 motor passenger carriers, consisting of 15 existing subsidiaries—Bortner Bus Company (Bortner), C&D Transportation, Inc. (C&D), Comet Bus Lines Corporation (Comet), Connolly's Limousine Service, Inc. (Connolly's), Country & Western Tours, Inc. (C&W Tours), Franciscan Lines, Inc. (Franciscan), George Ku, Inc. (George Ku), Golden Touch Transportation, Inc. (GTT), Golden Touch Limousine of Florida, Inc. (GTT of FL), JJ Kelly Charter Bus Service Co. (JJ Kelly), The Palmeri Motor Coach Corporation (Palmeri), PROTRAV Services, Inc., d/b/a PROTRAV Charter Coach Services (PROTRAV Charter), PROTRAV Services, Inc. (PROTRAV Services), Santa Barbara Transportation Corporation (SBTC), and Tiger Air Express, Inc. (Tiger)—and 5 new target companies, Hemphill Brothers Coach Co., Inc. (Hemphill), Hansruedi and Marcia Muggli, d/b/a The Transportation Company (TTC), Pacific Explorer Lines, Inc. (Pacific), Stardust Executive Transportation, Inc. (Stardust), and Sunnyland Acquisition Corp. (SAC).[1] Persons wishing to oppose the application must follow the rules under 49 CFR part 1182, subpart B. The Board has tentatively approved the transaction, and, if no opposing comments are timely filed, this notice will be the final Board action.

DATES: Comments are due by August 31, 1998. Applicant may reply by September 21, 1998. If no comments are received by August 31, 1998, this notice is effective on that date.

ADDRESSES: Send an original and 10 copies of comments referring to STB Docket No. MC–F–20924 to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, send one copy of comments to applicant's representative: Mark J. Andrews, Barnes & Thornburg, 1401 Eye Street, N.W., Suite 500, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 565–1600. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: Global, a Delaware limited liability company, was created on May 15, 1997. According to Global, it was unaware of the requirements of 49 U.S.C. 14303 prior to January 1998.[2] After reviewing its records, Global determined that interstate and/or intrastate passenger authority had been issued to 15 entities out of the 30 corporations that it directly or indirectly controls at this time. Upon discovering this unresolved control issue, Global filed an application to acquire control, through indirect stock ownership, of the existing subsidiaries Bortner,[3] C&D,[4] Comet,[5] Connolly's,[6] C&W Tours,[7] Franciscan,[8] George Ku,[9] GTT,[10] GTT of FL,[11] JJ Kelly,[12] Palmeri,[13] PROTRAV

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[1] Global incorporated SAC, a noncarrier, to acquire the assets of Sunnyland Stages, Inc. (SSI), a Missouri corporation and motor passenger carrier.

[2] Immediately upon its creation, Global acquired the shares of two regulated motor passenger carriers—one with interstate authority and one with intrastate authority. Because the initial acquisition of the shares of a single interstate carrier did not require Board authorization, Global assumed that the subsequent stock acquisition of additional interstate carriers required no Federal approval.

[3] Bortner is a Pennsylvania corporation. It holds federally issued operating authority in MC–111191 and intrastate operating authority in Ohio and Pennsylvania. Bortner provides charter and special operations between points in the United States (including Alaska and Hawaii).

[4] C&D is a Tennessee corporation. It holds federally issued operating authority in MC–191957. C&D provides charter and special operations between points in the United States (except Alaska and Hawaii).

[5] Comet is a Florida corporation. It holds federally issued operating authority in MC–231149. Comet provides charter and special operations between points in the United States (except Hawaii).

[6] Connolly's is a Pennsylvania corporation. It holds federally issued operating authority in MC–176826 and intrastate operating authority in Pennsylvania. Connolly's provides charter and special operations between points in the United States.

[7] C&W Tours is a Tennessee corporation. It holds federally issued operating authority in MC–263068. C&W provides charter and special operations between points in the United States.

[8] Franciscan is a California corporation. It holds federally issued operating authority in MC–140403 and intrastate operating authority in California. Franciscan provides charter and special operations between points in the United States (including Alaska, but excluding Hawaii).

[9] George Ku is a Pennsylvania corporation. It holds federally issued operating authority as a common and contract carrier in MC–31422 and intrastate operating authority in Ohio and Pennsylvania. George Ku provides charter and special operations between points in the United States (except Hawaii).

[10] GTT is a Delaware corporation. It holds federally issued operating authority as a contract carrier in MC–235493 and intrastate operating authority in Florida.

[11] GTT of FL, a wholly owned subsidiary of GTT, is a corporation that holds no interstate authority but is licensed by Dade County, FL, for intrastate passenger service. The fact that these operations appear to be entirely within the State of Florida is not determinative of Board jurisdiction. It is well settled that service within a single state may be interstate commerce and subject to our jurisdiction when there is a through ticket or some other arrangement between the involved carriers for through transportation to or from a point in another state. Also, if the participants to a finance transaction are motor carriers of passengers, subject to Board jurisdiction under 49 U.S.C. 13501, then under 49 U.S.C. 14303(f), they are subject to our exclusive and plenary jurisdiction in all matters relating to their consolidation, merger, and acquisition of control, and this extends to intrastate operating rights. *See Colorado Mountain Express, Inc. and Airport Shuttle Colorado, Inc., d/b/a Aspen Limousine Service, Inc.—Consolidation and Merger— Colorado Mountain Express*, STP Docket No. MC–F–20902 (STB served Feb. 28, 1997).

[12] JJ Kelly is a Florida corporation. It holds federally issued operating authority in MC–172787. It provides charter and special operations between points in the United States (except Alaska and Hawaii).

[13] Palmeria is a Pennsylvania corporation. It holds federally issued operating authority in MC–167547 and intrastate operating authority in New Jersey and Pennsylvania. It provides passenger service as a contract carrier between points in Tennessee and Kentucky, and charter and special operations between points in the United States (except Alaska and Hawaii).

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Charter,[14] PROTRAV Services,[15] SBTC,[16] and Tiger[17] and of the target companies, Hemphill,[18] TTC,[19] Pacific,[20] Stardust,[21] and SAC.[22] According to Global, the stock of the target companies has been placed in voting trusts pending disposition of this proceeding.

Global submits that the instant transactions have not reduced and will not reduce competition in the bus industry or competitive options available to the traveling public. It also submits that it has no intention of changing the operations of any of the existing subsidiaries or target companies as a result of the approvals sought here. Global asserts that each of the subsidiaries and target companies faces substantial competition from other bus companies and transportation modes. It estimates that, at the end of 1997, its regular-route, charter and special operations accounted for approximately 0.54% of the relevant market for such services in the United States. It believes that its control of the target companies will increase that market share by only one-tenth of a percentage point.

Global also submits that its control of the subsidiaries and target companies has produced and will produce substantial benefits, including interest cost savings from restructuring of debt and reduced operating costs from Global's enhanced volume purchasing power. Specifically, Global claims that the carriers it acquires benefit from the lower insurance premiums it has negotiated and from volume discounts for equipment and fuel. Global also asserts that it improves the efficiency of all acquired carriers, while maintaining responsiveness to local conditions, by providing centralized services to support decentralized operational and marketing managers. Centralized support services are provided in such areas as legal affairs, accounting, purchasing, safety management, equipment maintenance, driver training, human resources, and environmental compliance. In addition, Global states that it facilitates vehicle sharing arrangements between acquired entities, so as to ensure maximum utilization and efficient operation of equipment. According to Global, the involved transactions offer ongoing benefits for employees of acquired carriers not only because of the efficiencies described above, but also because Global's policy is to honor all collective bargaining agreements of acquired carriers.

Global certifies that: (1) none of the involved subsidiaries or target companies has been assigned a safety rating of less than satisfactory by the U.S. Department of Transportation; (2) all involved carriers maintain sufficient liability insurance; (3) none of the involved carriers has been or is either domiciled in Mexico or owned or controlled by persons of that country; and (4) approval of the transactions will not significantly affect either the quality of the human environment or the conservation of energy resources. Additional information may be obtained from applicant's representative.

Under 49 U.S.C. 14303(b), we must approve and authorize a transaction we find consistent with the public interest, taking into consideration at least: (1) The effect of the transaction on the adequacy of transportation to the public; (2) the total fixed charges that result; and (3) the interest of affected carrier employees. The prior consummation of the transactions involving the 15 existing subsidiaries does not bar approval of the application under section 14303 if the evidence establishes that the transaction would be consistent with the public interest in other respects, and for the future.[23] Approval is granted in such circumstances when the record contains strong affirmative evidence of public benefits to be derived from the resulting control, warranting the view that the public should not be penalized by being deprived of those benefits. Moreover, in this case, the record shows an absence of intent to flout the law or of a deliberate or planned violation. *See Kenosha Auto Transport Corp.—Control,* 85 M.C.C. 731, 736 (1960).

On the basis of the application, we find that the proposed acquisition of control is consistent with the public interest and should be authorized. If opposing comments are timely filed, this finding will be deemed vacated and a procedural schedule will be adopted to reconsider the application. If no opposing comments are filed by the expiration of the comment period, this decision will take effect automatically and will be the final Board action.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Global's control of the existing subsidiaries and the target companies is approved and authorized, subject to the filing of opposing comments.

2. If timely opposing comments are filed, the findings made in this decision will be deemed vacated.

3. This decision will be effective on August 31, 1998, unless timely opposing comments are filed.

4. A copy of this notice will be served on: (1) the U.S. Department of Transportation, Office of Motor Carriers-HIA 30, 400 Virginia Avenue, SW, Suite 600, Washington, DC 20024; and (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, N.W., Washington, DC 20530.

Decided: July 9, 1998.

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[14] PROTRAV Charter is a California corporation. It holds federally issued operating authority in MC–227448 and intrastate operating authority in California. It provides charter and special operations between points in the United States (except Alaska and Hawaii).

[15] PROTRAV Services, a wholly owned subsidiary of PROTRAV Charter, is a corporation that holds no interstate authority but is licensed by Nevada for intrastate passenger service. For a discussion of the effect of intrastate operating authority, see *supra* note 11.

[16] SBTC is a California corporation. It holds federally issued operating authority in MC–198757 and intrastate operating authority in California. SBTC engages primarily in school transportation activities, which are not regulated.

[17] Tiger is a Missouri corporation. It holds federally issued operating authority as a common and contract carrier in MC–217893 and intrastate operating authority in Indiana and Missouri. It provides passenger service over certain regular routes in Arkansas, Missouri, and Oklahoma, and charter and special operations between points in the United States (except Alaska and Hawaii).

[18] Hemphill is a Tennessee corporation. It holds federally issued operating authority in MC–336635. It provides charter and special operations between points in the United States.

[19] TTC is a California corporation. It holds federally issued operating authority in MC–182176 and intrastate operating authority in California. It provides charter and special operations, beginning and ending at San Francisco and Mateo Counties, CA, and extending to points in Oregon, Washington, Nevada, Arizona, Utah, and New Mexico.

[20] Pacific is a California corporation. It holds federally issued operating authority in MC–251473 and intrastate operating authority in California. It provides charter and special operations between points in the United States (except Alaska and Hawaii).

[21] Stardust is a California corporation. It holds federally issued operating authority in MC–304399 and intrastate operating authority in California. It provides charter and special operations between points in the United States.

[22] SAC is a Delaware corporation. It is the transferee of SSI's federally issued operating authority in MC–52479 and intrastate operating authority in Missouri. It provides passenger service over certain regular routes in Arkansas and Missouri, and special and charter operations between points in the United States (except Hawaii). Because the acquisition of SSI has been structured as an asset transaction, Global reports that it has trusteed (presumably placed in trust) SAC, which will become a carrier upon its acquisition of SSI's assets.

[23] Global seeks *nunc pro tunc* approval of the control of the 15 existing subsidiaries that it already controls. While we are granting our tentative approval, the need for retroactive effect has been demonstrated. Global evidently recognizes that it should have sought our approval sooner but, under the circumstances, the Board does not intend to pursue enforcement actions against Global for the previously unauthorized common control.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 98–19128 Filed 7–16–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33631]

Union Pacific Railroad Company; Trackage Rights Exemption; The Burlington Northern and Santa Fe Railway Company

The Burlington Northern and Santa Fe Railway Company (BNSF) has agreed to grant overhead trackage rights to Union Pacific Railroad Company (UP) from milepost 345.6, at Tower 55–UPRRX near Fort Worth, to milepost 217.3, near Temple, a distance of 128.3 miles in the State of Texas.[1]

The transaction was scheduled to be consummated on July 13, 1998.

The purpose of the trackage rights is to permit UP to use BNSF trackage while UP's trackage is out of service for maintenance.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33631, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served Joseph D. Anthofer, Esq., 1416 Dodge Street, No. 830, Omaha, NE 68179.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: July 13, 1998.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–19129 Filed 7–16–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–57 (Sub–No. 45X)]

Soo Line Railroad Company; Abandonment Exemption; in Dakota County, MN

Soo Line Railroad Company (Soo) has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments* to abandon an approximately .62+/-mile line of its railroad on the Farmington Minnesota Line between milepost 143.73+/-to milepost 144.35+/-in Farmington, Dakota County, MN. The line traverses United States Postal Service Zip Code 55024.

Soo has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on August 16, 1998, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by July 27, 1998. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by August 6, 1998, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Larry D. Starns, Esq., Leonard, Street and Deinard Professional Association, 150 South Fifth Street, Suite 2300, Minneapolis, MN 55402.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

Soo has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by July 22, 1998. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), Soo shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by Soo's filing of a notice of consummation by July 17, 1999, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: July 13, 1998.

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[1] On July 6, 1998, UP filed a petition for exemption in STB Finance Docket No. 33631 (Sub-No. 1), *Union Pacific Railroad Company—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company,* wherein UP requests that the Board permit the overhead trackage rights arrangement described in the present proceeding to expire on July 31, 1998. That petition will be addressed by the Board in a separate decision.

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[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

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By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–19130 Filed 7–16–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

July 10, 1998.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before August 17, 1998 to be assured of consideration.

Departmental Offices/International Trade Data System (ITDS) Office

OMB Number: 1505–0162.

Form Number: Forms CF–3461, CF–3461–ALT, CF–7501, CF–7512 and CF–7533.

Type of Review: Extension.

Title: North American Trade Automation Prototype (NATAP) Data.

Description: The requested data is from volunteer trading community participants in the prototype test with the United States, Canada, and Mexico to improve the electronic exchange of data in the execution of North American land border commercial trade transactions.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 120.

Estimated Burden Hours Per Respondent: 3 minutes, 30 seconds.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 3,758 hours.

Clearance Officer: Lois K. Holland (202) 622–1563, Departmental Offices, Room 2110, 1425 New York Avenue, N.W., Washington, DC 20220.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–19053 Filed 7–16–98; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

July 10, 1998.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before August 17, 1998 to be assured of consideration.

U.S. Customs Service (CUS)

OMB Number: 1515–0081.

Form Number: Customs Forms 213.

Type of Review: Extension.

Title: Importer's Premises Visit, Significant Importation Report.

Description: The Customs Form 213 constitutes a summary report of an interview and findings of an Importer's Premises Visit by a Customs Officer. This collection ensures uniformity among importers. These interviews are conducted by Customs based on its responsibilities involving the appraisement and admissibility of merchandise.

Respondents: Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents: 3,000.

Estimated Burden Hours Per Respondent: 2 hours.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 6,000 hours.

OMB Number: 1515–0207.

Form Number: None.

Type of Review: Extension.

Title: Articles Assembled Abroad with Textile Components Cut to Shape in the U.S.

Description: This collection of information enables Customs to ascertain whether the conditions and requirements relating to 9802.00.80, HTSUS, have been met.

Respondents: Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents: 500.

Estimated Burden Hours Per Respondent: 20 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 750 hours.

Clearance Officer: J. Edgar Nichols (202) 927–1426, U.S. Customs Service, Printing and Records Management Branch, Ronald Reagan Building, 1300 Pennsylvania Avenue, N.W., Room 3.2.C, Washington, DC 20229.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–19054 Filed 7–16–98; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

July 7, 1998.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before August 17, 1998 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1601.

Revenue Procedure Number: Revenue Procedure 98–32.

Type of Review: Extension.

Title: EFTPS Programs for Reporting Agents.

Description: The Batch and Bulk Filer programs are used by Filers for electronically submitting enrollments, federal tax deposits, and federal tax payments on behalf of multiple taxpayers. These programs are part of the Electronic Federal Tax Payment System (EFTPS).

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 620.

Estimated Burden Hours Per Respondent/Recordkeeper: 83 hours, 41 minutes.

Frequency of Response: On occasion, Weekly, Monthly, Quarterly, Semi-annually, Annually, Biennially.

Estimated Total Reporting/ Recordkeeping Burden: 51,885 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–19055 Filed 7–16–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

July 7, 1998.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before August 17, 1998 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0704.

Form Number: IRS Form 5471 and Related Schedules.

Type of Review: Revision.

Title: Information Return of U.S. Persons with Respect To Certain Foreign Corporations.

Description: Form 5471 and related schedules are used by U.S. persons that have an interest in a foreign corporation. The form and schedules are used to satisfy the reporting requirements of section 6035, 6038 and 6046 and the regulations thereunder pertaining to the involvement of U.S. persons with certain foreign corporations.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents/ Recordkeepers: 43,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Form	Recordkeeping	Learning about the law or the form	Preparing and sending the form to the IRS
5471	81 hr., 24 min	25 hr., 20 min	31 hr., 22 min.
Schedule J	3 hr., 50 min	1 hr., 0 min	1 hr., 6 min.
Schedule M	26 hr., 33 min	6 min	32 min.
Schedule N	8 hr., 22 min	2 hr., 47 min	3 hr., 2 min.
Schedule O	10 hr., 46 min	30 min	42 min.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 7,281,930 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–19056 Filed 7–16–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

July 10, 1998.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before August 17, 1998, to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0865.

Form Number: IRS Form 8264.

Type of Review: Extension.

Title: Application for Registration of a Tax Shelter.

Description: Organizers of certain tax shelters are required to register them with the IRS using Form 8264. Other persons may have to register the tax shelter if the organizer doesn't. We use the information to give the tax shelter a registration number. Sellers of interests in the shelter furnish the number to investors who report the number on their tax returns.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents/ Recordkeepers: 1,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—33 hr., 14 min.
Learning about the law or the form—2 hr., 41 min.
Preparing, copying, assembling, and sending the form to the IRS—3 hr., 20 min.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 39,260 hours.

OMB Number: 1545–0881.

Form Number: IRS Form 8271.

Type of Review: Extension.

Title: Investor Reporting of Tax Shelter Registration Number.

Description: All persons who are claiming a deduction, loss, credit, or other tax benefit, or reporting any income on their returns from a tax shelter required to be registered (under Internal Revenue Code (IRC) 6111) must report the tax shelter registration number on that return. Form 8271 is used for this. We use the information to associate claimed benefits with the tax shelter and to determine if any compliance actions are needed.

Respondents: Individuals or households, business or other for-profit, not-for-profit institutions, Farms, State, Local or Tribal Government.

Estimated Number of Respondents/ Recordkeepers: 297,500.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—7 minutes

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Learning about the law or the form—7 minutes

Preparing the form—17 minutes

Copying, assembling, and sending the form to the IRS—14 minutes

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 220,150 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–19057 Filed 7–16–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

July 10, 1998.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before August 17, 1998, to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0902.

Form Number: IRS Forms 8288 and 8288–A.

Type of Review: Extension.

Title: U.S. Withholding Tax Return for Dispositions by Foreign Persons of U.S. Real Property Interests (8288); and Statement of Withholding on Dispositions by Foreign Persons of U.S. Real Property Interests (8288–A)

Description: Form 8288 is used by the withholding agent to report and transmit the withholding to IRS. Form 8288-A is used to validate the withholding and to return a copy to the transferor for his/her use in filing a tax return.

Respondents: Individuals or households, Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 4,918.

Estimated Burden Hours Per Respondent/Recordkeeper:

	Form 8288	Form 8288–A
Recordkeeping	5 hr., 30 min	2 hr., 52 min.
Learning about the law or the form	4 hr., 40 min	12 min.
Preparing and sending the form to the IRS	4 hr., 58 min	15 min.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 108,751 hours.

OMB Number: 1545–0904.

Regulation Project Number: INTL–45–86 Final (TD 8125).

Type of Review: Extension.

3Title: Foreign Management and Foreign Economic Processes Requirements of a Foreign Sales Corporation.

Description: The regulations provide rules for complying with foreign management and foreign economic process requirements to enable Foreign Sales Corporations to produce foreign trading gross receipts and qualify for reduced tax rates. Rules are included for maintaining records to substantiate compliance. Affected public is limited to large corporations that export goods or services.

Respondents: Business or other for-profit.

Estimated Number of Recordkeepers: 11,001.

Estimated Burden Hours Per Recordkeeper: 2 hours.

Estimated Total Recordkeeping Burden: 22,001 hours.

OMB Number: 1545–1043.

Notice Number: Notices 88–30 and 88–132.

Type of Review: Extension.

Title: Diesel Fuel and Aviation Fuel Imposed at Wholesale Level (Notice 88–30); and Diesel and Aviation Fuel Taxes (Notice 88–132); Rules Effective 1/1/89.

Description: Producers of aviation fuel must be registered by the IRS to sell the fuel tax-free. Producers must also obtain certifications from their tax-free buyers.

Respondents: Business or other for-profit, Not-for-profit institutions, Farms, State, Local or Tribal Government.

Estimated Number of Respondents/Recordkeepers: 3,500.

Estimated Burden Hours Per Respondent/Recordkeeper: 1 hour, 6 minutes.

Frequency of Response: Quarterly.

Estimated Total Reporting/Recordkeeping Burden: 3,850 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–19058 Filed 7–16–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[INTL–79–91]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, INTL–79–91 (TD 8573), Information Returns Required of United States Persons With Respect To Certain Foreign Corporations (§§ 1.6035–1, 1.6038–2 and 1.6046–1).

DATES: Written comments should be received on or before September 15, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue

Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Information Returns Required of United States Persons With Respect To Certain Foreign Corporations.

OMB Number: 1545–1317.

Regulation Project Number: INTL–79–91.

Abstract: This regulation amends the existing regulations under sections 6035, 6038, and 6046 of the Internal Revenue Code. The regulation amends and liberalizes certain requirements regarding the format in which information must be provided for purposes of Form 5471, Information Return of U.S. Persons With Respect to Certain Foreign Corporations. The regulation provides that financial statement information must be expressed in U.S. dollars translated according to U.S. generally accepted accounting principles and permits functional currency reporting of certain items.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and business or other for-profit organizations.

The burden for the collection of information is reflected in the burden for Form 5471, Information Return of U.S. Persons With Respect to Certain Foreign Corporations.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 10, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–19033 Filed 7–16–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[EE–43–92]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, EE–43–92 (TD 8619), Direct Rollovers and 20-Percent Withholding Upon Eligible Rollover Distributions From Qualified Plans (§§ 1.401(a)(31)-1, 1.402(c)-2, 1.402(f)-1, 1.403(b)-2, and 31.3405(c)-1).

DATES: Written comments should be received on or before September 15, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Direct Rollovers and 20-Percent Withholding Upon Eligible Rollover Distributions From Qualified Plans.

OMB Number: 1545–1341.

Regulation Project Number: EE–43–92.

Abstract: This regulation implements the provisions of the Unemployment Compensation Amendments of 1992 (Pub. L. 102–318), which impose mandatory 20 percent income tax withholding upon the taxable portion of certain distributions from a qualified pension plan or a tax-sheltered annuity that can be rolled over tax-free to another eligible retirement plan unless such amounts are transferred directly to such other plan in a "direct rollover" transaction. These provisions also require qualified pension plans and tax-sheltered annuities to offer their participants the option to elect to make "direct rollovers" of their distributions and to provide distributees with a written explanation of the tax laws regarding their distributions and their option to elect such a rollover.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals, business or other for-profit organizations, not-for-profit institutions, and Federal, state, local or tribal governments.

Estimated Number of Respondents: 10,323,926.

Estimated Time Per Respondent: 13 minutes.

Estimated Total Annual Burden Hours: 2,129,869.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate

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of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 10, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–19034 Filed 7–16–98; 8:45 am]

BILLING CODE 4830-01-U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[PS–50–92]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, PS–50–92 (TD 8521), Rules To Carry Out the Purposes of Section 42 and for Correcting Administrative Errors and Omissions (§ 1.42–13).

DATES: Written comments should be received on or before September 15, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Rules To Carry Out the Purposes of Section 42 and for Correcting Administrative Errors and Omissions.

OMB Number: 1545–1357.

Regulation Project Number: PS–50–92.

Abstract: This regulation concerns the Secretary of the Treasury's authority to provide guidance necessary or appropriate to carry out the purposes of Internal Revenue Code section 42, the low-income housing credit. The regulation also allows State and local housing credit agencies to correct administrative errors and omissions made in connection with allocations of low-income housing credit dollar amounts and recordkeeping within a reasonable period after their discovery.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals, business or other for-profit organizations, not-for-profit institutions, and state, local or tribal governments.

Estimated Number of Respondents: 85.

Estimated Time Per Respondent: 1 hour, 30 minutes.

Estimated Total Annual Burden Hours: 128.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 9, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–19035 Filed 7–16–98; 8:45 am]

BILLING CODE 4830-01-U

UNITED STATES INFORMATION AGENCY

Art Objects; Importation for Exhibition: Impressionists in Winter: Effects de Neige

AGENCY: United States Information Agency.

SUBJECT: Culturally significant objects imported for exhibition determinations.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 133359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985).

ACTION: I hereby determine that the objects to be included in the exhibit, "Impressionists in Winter: Effects de Neige" imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the exhibition or display of the listed exhibit objects at The Phillips Collection, Washington, DC from on or about September 19, 1998 through January 3, 1999, and The Fine Arts Museum of San Francisco (Yerba Buena Gardens, Center for the Arts), San Francisco, CA from on or about January 30, 1999 to May 2, 1999 is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Paul Manning, Assistant General Counsel, Office of the General Counsel, 202/619–5997, and the address is Room 700, U.S. Information Agency, 301 4th Street SW, Washington, DC 20547–0001.

Dated: July 13, 1998.

Les Jin,

General Counsel.

[FR Doc. 98–19127 Filed 7–16–98; 8:45 am]

BILLING CODE 8230-01-M

federal register

Friday
July 17, 1998

Part II

Department of Education

Office of Special Education and Rehabilitative Services, National Institute on Disability and Rehabilitation Research; Reinviting Applications and Pre-application Meeting for a New Award for a Rehabilitation Engineering Research Center (RERC) for Fiscal Year (FY) 1998; Notice

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DEPARTMENT OF EDUCATION

[CFDA No.: 84.133E]

Office of Special Education and Rehabilitative Services, National Institute on Disability and Rehabilitation Research; Notice Reinviting Applications and Pre-application Meeting for a New Award for a Rehabilitation Engineering Research Center (RERC) for Fiscal Year (FY) 1998

Purpose: On March 24, 1998 a notice was published in the **Federal Register** (63 FR 14252) inviting applications for a new FY 1998 award for an RERC on improved technology access for land mine survivors. Satisfactory applications were not received for this priority area. There is a continuing need for this project.

The purposes of this notice are to: (1) reinvite applications for an RERC on improved technology access for land mine survivors; and (2) invite interested parties to participate in a pre-application meeting to discuss the funding priority and receive technical assistance through individual consultation and information about the funding priority.

Eligible Applicants: Parties eligible to apply for grants under this program are States; public or private agencies, including for-profit agencies; public or private organizations, including for-profit organizations, institutions of higher education; and Indian tribes and tribal organizations.

Applications Available: July 15, 1998.

Pre-Application Meetings: Interested parties are invited to participate in a pre-application meeting to discuss the funding priority for an RERC on improved technology access for land mine survivors and to receive technical assistance through individual consultation and information about the funding priority. The pre-application meeting will be held on Monday, August 3, 1998 at the Department of Education, Office of Special Education and Rehabilitative Services, Switzer Building, Room 1002, 330 C St. SW, Washington, DC between 10:00 a.m. and 12:00 a.m. NIDRR staff will also be available at this location from 1:30 p.m. to 5:00 p.m. on that same day to provide technical assistance through individual consultation and information about the funding priority. NIDRR will make alternate arrangements to accommodate interested parties who are unable to attend the pre-application meeting in person.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 78, 80, 81, 82, 85, 86; (b) the regulations for this program in 34 CFR Part 350; (c) the notice of final priorities published on March 24, 1998 in the **Federal Register** (63 FR 14250); and (d) the notice inviting applications published on March 24, 1998 in the **Federal Register** (63 FR 14252).

Deadline for Transmittal of Applications: August 31, 1998.

Maximum Award Amount Per Year: $850,000.

Note: The Secretary will reject without consideration or evaluation any application that proposes a project funding level that exceeds the stated maximum award amount per year (See 34 CFR 75.104(b)).

Estimated Number of Awards: 1.

Note: The maximum funding level and estimated number of awards in this notice do not bind the Department of Education to a specific level of funding or number of grants.

Project Period: 60 months.

For Further Information Contact: In order to obtain further information about the funding priority and the pre-application meeting on the an RERC on improved technology access for land mine survivors contact Robert Jaeger, U.S. Department of Education, Room 3425 Switzer Building, 600 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 205–8061. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–9136.

In order to obtain an application package, contact Donna Nangle, U.S. Department of Education, Room 3423 Switzer Building, 600 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 205–5880.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

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Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of this document is the document published in the **Federal Register**.

Program Authority: 29 U.S.C. 761a and 762.

Dated: July 10, 1998.

Judith E. Heumann,

Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 98–19043 Filed 7–16–98; 8:45 am]

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Friday
July 17, 1998

Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting: Proposed Frameworks for Early-Season Migratory Bird Hunting Regulations and Regulatory Alternatives for the 1998–99 Duck Hunting Season Meeting; Proposed Rule

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AE93

Migratory Bird Hunting; Proposed Frameworks for Early-Season Migratory Bird Hunting Regulations and Regulatory Alternatives for the 1998–99 Duck Hunting Season; Notice of Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; Supplemental.

SUMMARY: The Fish and Wildlife Service (hereinafter the Service) is proposing to establish the 1998–99 early-season hunting regulations for certain migratory game birds. The Service annually prescribes frameworks, or outer limits, for dates and times when hunting may occur and the maximum number of birds that may be taken and possessed in early seasons. Early seasons generally open prior to October 1, and include seasons in Alaska, Hawaii, Puerto Rico, and the Virgin Islands. These frameworks are necessary to allow State selections of final seasons and limits and to allow recreational harvest at levels compatible with population status and habitat conditions. This supplement to the proposed rule also provides the Service's regulatory alternatives for the 1998–99 duck hunting season.

DATES: The comment period for proposed early-season frameworks will end on July 31, 1998; and for late-season proposals on September 7, 1998. The Service will hold a public hearing on late-season regulations August 6, 1998, starting at 9 a.m.

ADDRESSES: The Service will hold a public hearing August 6 in the Department of the Interior's South Auditorium, 1951 Constitution Avenue, NW., Washington, DC. This hearing was previously announced in the May 29, 1998 **Federal Register** (63 FR 29518) as taking place at the Main Auditorium, 1849 C Street, NW., Washington, DC. Parties should submit written comments on these proposals and/or a notice of intention to participate in the late-season hearing to the Chief, Office of Migratory Bird Management (MBMO), U.S. Fish and Wildlife Service, room 634–Arlington Square, Washington, DC 20240. The public may inspect comments during normal business hours in room 634, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Paul R. Schmidt, Chief, MBMO, U.S. Fish and Wildlife Service, (703) 358–1714.

SUPPLEMENTARY INFORMATION:

Regulations Schedule for 1998

On March 20, 1998, the Service published in the **Federal Register** (63 FR 13748) a proposal to amend 50 CFR part 20. The proposal dealt with the establishment of seasons, limits, and other regulations for migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. On May 29, 1998, the Service published in the **Federal Register** (63 FR 29518) a second document providing supplemental proposals for early- and late-season migratory bird hunting regulations frameworks and the proposed regulatory alternatives for the 1998–99 duck hunting season. The May 29 supplement also provided detailed information on the 1998–99 regulatory schedule and announced the Service Migratory Bird Regulations Committee and Flyway Council meetings.

This document is the third in a series of proposed, supplemental, and final rulemaking documents for migratory bird hunting regulations and deals specifically with proposed frameworks for early-season regulations and the regulatory alternatives for the 1998–99 duck hunting season. It will lead to final frameworks from which States may select season dates, shooting hours, and daily bag and possession limits for the 1998–99 season. The Service has considered all pertinent comments received through July 1, 1998, in developing this document. In addition, new proposals for certain early-season regulations are provided for public comment. Comment periods are specified above under **DATES**. The Service will publish final regulatory frameworks for early seasons in the **Federal Register** on or about August 21, 1998.

This supplemental proposed rulemaking consolidates further changes in the original framework proposals published in the March 20 **Federal Register**. The regulations for early waterfowl hunting seasons proposed in this document are based on the most current information available about the status of waterfowl populations and habitat conditions on the breeding grounds.

Presentations at Public Hearing

Five Service employees presented reports on the status of various migratory bird species for which early hunting seasons are proposed. These reports are briefly reviewed below.

Mr. James R. Kelley, Jr., Wildlife Biologist, Population and Habitat Assessment Section, provided preliminary information from the May Breeding Waterfowl and Habitat survey conducted each year by the U.S. Fish and Wildlife Service in conjunction with the Canadian Wildlife Service and various State and provincial cooperators. Estimates of ponds and duck abundance that were presented are preliminary and subject to change upon further verification. Palmer drought indices for mid to late May indicated a large area of moderate to severe dryness in the prairie pothole region, especially in western and central areas. Moderate to extreme wetness was indicated in portions of the eastern Dakotas. Breeding habitat conditions as determined by biologists in surveyed areas indicate substantial changes from 1997. In Alaska, there was very little flooding associated with ice break-up this spring, which will favor waterfowl production. Eastern and central portions of Alaska experienced early spring break-up and production will be good to excellent. South-central and western tundra areas had a cool wet spring and production should be fair to good.

Throughout much of Canada and the northern tier of the U.S. spring conditions arrived up to 2 weeks earlier than normal and precipitation was below normal in many regions. Western prairie pothole and parkland areas, as well as Montana, experienced fair to poor habitat conditions, which is a major deterioration from last year's favorable conditions. Numerous forest fires persisted throughout much of May in northern parkland regions of western Canada. Fair to poor conditions extended into southern Manitoba. However, northern Saskatchewan and Manitoba, as well as the Dakotas had mostly good to excellent habitat conditions. In western Ontario, ice-out was very early and the habitat outlook was excellent. In eastern regions, good to excellent conditions extended from Maine to eastern and central Ontario. However, the outlook for southern Ontario was only fair.

The preliminary 1998 estimate of May ponds in the traditional survey area is 4.6 million, which is a 38% decrease from 1997, but is similar to the long-term average. The number of ponds in Prairie Canada is 2.5 million, which is 50% lower than in 1997 and 27% below the long-term average. In the northcentral U.S., May ponds were estimated at 2.1 million, which is 14% below 1997 but is 44% above the long-term average.

The 1998 total duck population estimate for the traditional survey area is 37.5 million birds. This estimate is 12% lower than that of 1997, but is 15% above the long-term average. For the early season regulations meeting the breeding population estimate for blue-winged teal is of particular interest. This year's preliminary estimate for blue-wing teal is 6.5 million, which would be the highest estimate on record, but is not significantly different from 1997. This estimate is 52% above the long-term average. Unfortunately, harvest estimates from the 1997 September teal season are not available at this time. Updated band-recovery information indicates that direct recovery rates in 1997 remained below 2% for all reference areas, and are similar to recovery rates observed in years in which September teal seasons were held previously. However, until a new band-reporting rate study is conducted, we cannot determine teal harvest rates from banding data.

Dr. Dave Caithamer, Wildlife Biologist, reviewed the status of several populations of Canada geese for which the Service is proposing September seasons. In Alaska, five subspecies of Canada geese are hunted including Dusky Canada geese and Cackling Canada geese. Numbers of Dusky Canada geese, which nest primarily in the Copper River Delta of Alaska, have declined steadily since an earthquake in 1964 altered their nesting habitat and resulted in lowered recruitment rates. The January 1997 population index revealed approximately 21,300 geese, which is significantly greater than the previous year's estimate of 11,200. The Service remains concerned about the continued poor status of this population. The December 1997 survey of Cackling Canada geese revealed 205,000 geese. No comparable survey was conducted in the previous year. However, this population has grown about 11 percent per year since 1988. The 3 other subspecies of Canada geese hunted in Alaska are thought to be at or above objective levels. In the Pacific Flyway, the Rocky Mountain Population of Canada geese is surveyed during winter and spring surveys. These surveys indicate an increasing or stable population since 1988. However, results from neither of these surveys are available from the surveys conducted in 1998. The December 1997 composite index of Great Plains and Western Prairie Populations of Canada geese in the Central Flyway was 482,000 birds, which represents a 6 percent increase from 1996. Population estimates obtained from spring surveys increased at an average rate of 4 percent per year since 1988. The population of Mississippi Flyway giant Canada geese has increased in recent years, and the population estimates for the spring of 1997 was approximately 1 million geese. In some areas, numbers of giant geese have increased to record-high levels. The situation is similar in the northeastern U.S., where the "resident" goose population has more than doubled since 1989 to about 1 million birds. The Service is concerned about the rapid growth rate and large sizes of resident Canada goose populations in parts of the Atlantic and Mississippi Flyways. In some regions, the management of these large populations of resident geese is confounded by the presence of other populations, which are below population objectives. The Service recognizes the challenge facing management agencies which are striving to increase migrant populations, while simultaneously attempting to control resident populations.

Dr. Caithamer also summarized the status of several populations of sea ducks. During 1972–1996, breeding population estimates of oldsquaws declined 5 percent per year, while those of scoters declined 2 percent per year. Christmas Bird Counts conducted along across the continent indicate that white-winged scoters declined 2 percent per year during 1972–95, while no trends were detected for the other species of scoters, common eiders, oldsquaws, and harlequin ducks. In the Atlantic Flyway, indices of trends for oldsquaws were inconsistent. Common eider populations in the U.S. portion of the Atlantic Flyway appear to have increased since 1972. Indices of scoter abundance in the Atlantic Flyway suggest declining or stable populations. In the Pacific Flyway, Christmas Bird Counts of white-winged scoters declined 2 percent per year during 1972–1995.

Mr. David Sharp, Central Flyway Representative, reported on the status and harvests of sandhill cranes. The Mid-Continent Population appears to have stabilized following dramatic increases in the early 1980's. The Central Platte River Valley 1998 preliminary spring index, uncorrected for visibility, was 335,000. This index is 5 percent lower than the 1997 index of 351,000. The photo-corrected 3-year average for the 1995–97 period was 460,265, which was 4 percent above the previous year's 3-year running average and within the established population-objective range of 343,000–465,000 cranes. All Central Flyway States, except Nebraska, elected to allow crane hunting in portions of their respective States in 1997–98; about 46,800 Federal permits were issued and approximately 8,850 permittees hunted one or more times. The number of active hunters were 21 percent higher than the previous year's seasons. About 20,668 cranes were harvested in 1997–98 in the Central Flyway, a 21 percent increase from the previous year's high estimate. Harvests from Pacific Flyway, Canada and Mexico are estimated to be about 10,000 for 1997–98 sport-hunting seasons. The total North American sport harvest including crippling losses was estimated to be about 36,535 for the Mid-Continent Population.

The fall 1997 pre-migration survey for the Rocky Mountain Population was 18,036, which is 6% larger than the 1996 estimate. Limited special seasons were held during 1997 in portions of Arizona, Idaho, Montana, New Mexico, Utah, and Wyoming, and resulted in an estimated harvest of 453 cranes.

Dr. John Bruggink, Eastern Shore and Upland Game Bird Specialist, reported on the 1998 status of the American woodcock. The 1997 recruitment index for the Eastern Region (1.4 immatures per adult female) was 18 percent below the long-term regional average; the recruitment index for the Central Region (1.4 immatures per adult female) also was 18 percent below the long-term regional average. Singing-ground Survey data indicated that the number of displaying woodcock in the Eastern Region was unchanged ($P>0.1$) from 1997 levels. In the Central Region, there was a 24 percent increase ($P<0.01$) over 1997 levels in the number of woodcock heard displaying. Trends from the Singing-ground Survey during 1988–98 were negative (−4.3 and −4.2 percent per year for the Eastern and Central regions, respectively; $P<0.01$). There were long-term (1968–98) declines ($P<0.01$) of 2.6 percent per year in the Eastern Region and 1.6 percent per year in the Central Region.

Mr. David Dolton, Western Shore and Upland Game Bird Biologist, presented the mourning dove population status. The report summarized call-count information gathered over the past 33 years. Trends were calculated for the most recent 2 and 10-year intervals and for the entire 33-year period. Between 1997 and 1998, the average number of doves heard per route increased significantly in the Eastern Management Unit. There was no significant change in doves heard in either the Central or Western Units. Over the 10-year period, a significant decline was indicated in doves heard for both the Eastern and Western Management Units while a decline in the Central Unit was not significant. Between 1966 and 1998, all three management units exhibited significant declines in doves heard.

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Mr. Dolton also presented the status of white-winged doves. In Arizona, the 1998 call-count index of 35 doves heard per route was higher than the index of 31 doves per route in 1997. In the Lower Rio Grande Valley of Texas, the total number of whitewings estimated to be breeding was about 424,000, an increase of 9 percent from 1997 and 4 percent above the previous 10-year average. Additionally, about 23,000 whitewings were estimated to be nesting in West Texas, 62,000 in the Lake Corpus Christi area, and 709,000 nesting throughout a 13-county area in Upper South Texas. Whitewings are continuing to increase in density and distribution. For example, in San Antonio, whitewing numbers have gone from 174,000 in 1989 to 279,000 in 1998. The remainder of South Texas has increased from 95,000 in 1989 to 430,000 in 1998. The grand total of 1.2 million whitewings was up slightly from the 1.1 million estimated for 1997. Breeding has now been documented in Wichita Falls and Amarillo.

Next, Mr. Dolton reported on white-tipped doves in Texas. In 1998, an average of 0.41 whitetips were heard per stop on 653 stops, an increase of 17 percent over 1997. The annual harvest of these birds is small; in 1996 it was less than 4,000 birds.

Last, Mr. Dolton presented information on band-tailed pigeons. For the Coastal Population, the Breeding Bird Survey indicated a significant decline between 1968 and 1996. Data for 1997 are not available at this time. There has also been a significant decline over the most recent 10-year period, 1986–96. Late August mineral spring counts conducted in Oregon indicate that the pigeon population increased 16 percent between 1996 and 1997 from 8,874 to 9,075. Washington's call-count survey showed no significant change between 1996 and 1997. No significant trend is evident in the population from 1975–97. However, there has been a significant increase over the most recent 5 years, 1993–97. Two indirect population estimates suggest that the population was somewhere between 2.4 and 3.1 million birds in 1992. Bag limits and season lengths continue to be restricted. In Oregon, the 1996 harvest estimate was 3,300 birds while, in California, it was 13,700. For the Interior population, Breeding Bird Survey data indicated a stable population between 1968 and 1996 with no trend being evident. The same was true for the most recent 10-year period. The combined harvest for the Interior population in 1996 was 723 birds. This was less than the 1,600 taken in 1995 and well below the harvest in earlier years which ranged up to 6,000 birds.

Comments Received at Public Hearing

Mr. Brad Bales, gamebird program coordinator for the Oregon Department of Fish and Wildlife, made two statements on behalf of two separate organizations. The first, on behalf of the National Flyway Council, was an announcement that the National Flyway Council would establish a committee to address the framework question from a national perspective. At their next meeting, the National Flyway Council will determine the composition of the group and establish a time frame for the committee to complete their work and make their recommendations back to the National Flyway Council.

Mr. Bales' second comment was on behalf of the Pacific Flyway Council. He indicated that the Pacific Flyway Council urged the Service not to extend the framework dates for duck hunting in the lower Mississippi Flyway as recently proposed in the **Federal Register**. Further, he offered the support of the Pacific Flyway Council for the effort proposed by the National Flyway Council.

Mr. Robert McDowell, representing the Atlantic Flyway Council thanked the Service for providing more hunting opportunity during the Youth Hunt Day by allowing geese to be included in the bag limit. Also, he thanked the Service for agreeing to clarify the sea duck bag limits. He expressed appreciation for approving Florida's September Duck Season and for authorizing a 9-day September Teal Season in a portion of the Atlantic Flyway. However, he asked the Service to reconsider a 16-day teal season. Also, he asked the Service to reconsider New York's proposal to expand their early Canada goose season in the Montezuma area. He stressed the Flyway's proposal that framework dates remain fixed where they currently are in all Flyways and disapproved of attempts occurring outside the formal regulatory process to change them. He further indicated that if the Service finalized the proposed framework closing date extensions, all States should have the same opportunity. He supported the National Flyway Council efforts to resolve this problem that is divisive among Flyways.

Mr. Charles Kelley, representing the Alabama Department of Conservation and Natural Resources, commented in support of the proposed extension of the framework closing date for duck hunting, stating that the State had been requesting an extension for a number of years because a later hunting season would allow them to take better advantage of duck abundance in the State.

Written Comments Received

The preliminary proposed rulemaking, which appeared in the March 20 **Federal Register**, opened the public comment period for migratory game bird hunting regulations. The supplemental proposed rule, which appeared in the May 29 **Federal Register**, defined the public comment period for the Service's proposed regulatory alternatives for the 1998–99 duck hunting season. The public comment period for the proposed regulatory alternatives ended July 1, 1998. Early-season comments and comments pertaining to the proposed alternatives are summarized below and numbered in the order used in the March 20 **Federal Register**. Only the numbered items pertaining to early seasons items and the proposed regulatory alternatives for which written comments were received are included.

The Service received recommendations from all four Flyway Councils. Some recommendations supported continuation of last year's frameworks. Due to the comprehensive nature of the annual review of the frameworks performed by the Councils, support for continuation of last year's frameworks is assumed for items for which no recommendations were received. Council recommendations for changes in the frameworks are summarized below.

General

1. Ducks

The categories used to discuss issues related to duck harvest management are as follows: (A) General Harvest Strategy, (B) Framework Dates, (C) Season Length, (D) Closed Seasons, (E) Bag Limits, (F) Zones and Split Seasons, and (G) Special Seasons/Species Management. Only those categories containing substantial recommendations are included below.

A. Harvest Strategy Considerations. On May 29, 1998, the Service published for public comment the proposed regulatory alternatives for the 1998–99 duck hunting season (63 FR 29518). The proposed regulatory alternatives were identical to the alternatives utilized in 1997–98 except for the proposal to offer an extension of the framework closing date to no later than January 31 in those States in the Lower Region of the Mississippi Flyway (Arkansas, Alabama, Kentucky, Louisiana, Mississippi, and Tennessee). Further discussion of the framework issue can be found in B. Framework Dates.

Council Recommendations: All four Flyway Councils generally endorsed continuation of the 1997–98 regulatory alternatives. Modifications recommended by the Councils were identified and discussed in the May 29, 1998, **Federal Register**. The recommendations are reiterated below and modified where necessary based on subsequent comments received from the Flyway Councils.

The Atlantic Flyway Council recommended that the duck hunting packages used for the 1997–98 season be continued for the 1998–99 season.

The Upper-Regulations Committee of the Mississippi Flyway Council recommended that the 1997–98 regulations packages be maintained for the 1998–99 duck season. These consisted of 20-, 30-, 45-, and 60-day seasons, with bag limits ranging from 3 to 6 ducks, including appropriate species restrictions, and frameworks dates from the Saturday nearest October 1 to the Sunday nearest January 20.

The Lower-Region Regulations Committee of the Mississippi Flyway Council recommended that the regulatory packages for the 1997–98 season be continued in 1998–99, with the exception of framework dates (see further discussion in B. Framework Dates).

The Central Flyway Council recommended that the duck hunting packages used for the 1997–98 season be continued for the 1998–99 season.

Service Response: For the 1998–99 regular duck hunting season, the Service will utilize the four regulatory alternatives detailed in the accompanying table. Alternatives are specified for each Flyway and are designated as "VERY RES" for the very restrictive, "RES" for the restrictive, "MOD" for the moderate, and "LIB" for the liberal alternative. The Service is convinced that these alternatives will be successful at providing maximum hunting opportunity, while not jeopardizing the ability of duck species to attain population goals when habitat conditions are adequate. The Service will propose a specific regulatory alternative when survey data on waterfowl population and habitat status are available.

B. Framework Dates. Council Recommendations: The Atlantic Flyway Council recommended no change to the current framework dates, believing that extensions would be premature without knowing the potential harvest impacts, which could reduce the frequency of liberal regulations and would reduce the likelihood that eastern mallards will be fully incorporated into Adaptive Harvest Management (AHM) this year. In a subsequent letter, the Council opposed the Service's May 29, 1998, framework extension proposal because the proposal was developed outside the normal Flyway meeting schedule which prohibited Flyway Council review. The Council voiced concerns regarding the impact on the AHM process, adverse impacts on hunting opportunities across all Flyways to accommodate desires of a small region which already enjoys very high hunter success, negative biological impacts on mallard pairing and hen body condition, and impacts on eastern mallard stocks, black ducks, and wood ducks. They believe the proposal calls into question the fair allocation of a shared resource and mechanisms used to achieve that allocation. The Council warned that allowing extensions without using existing Flyway Council protocol would fracture the existing Flyway system and politicize the system. The Council recommended delaying action on frameworks for at least one year to allow appropriate State and Flyway review.

The Lower-Region Regulations Committee of the Mississippi Flyway Council recommended the Service allow States to choose a framework closing date as late as January 31 with a 10% penalty in days.

The Upper-Region Regulations Committee of the Mississippi Flyway Council recommended no change in existing framework dates. The Committee also recommended that if the Service were to offer States the opportunity to extend frameworks, the extension should be coupled with a commensurate reduction in season length and/or bag limits in the participating States to offset the predicted increase in harvest.

The Central Flyway Council recommended maintaining the current opening and closing framework dates adopted under AHM. However, at some future date, when the packages are reviewed for modification, the Council recommended that the framework dates issue should be cooperatively dealt with by all Flyways in seeking an agreement for equitable harvest opportunity. In a subsequent letter, the Council opposed the Service's May 29, 1998, proposal because it was developed outside the normal Flyway Council/Service review process. They believe the proposal's adoption will create animosity among States and erode the cooperative framework the Council system has provided for the past fifty years, and threaten the success of AHM. The Council perceives the extension issue as one of fair allocation of harvest opportunity. The Council is concerned that other States are not being offered the extension and may be held to a more stringent criteria for future changes. The Council urged the Service to work with Flyways to continue development of the AHM program, which the Council believes will promote enhanced hunting opportunities in the future. The Council stated that both early and late framework issues should be addressed when AHM packages are next revised and that they look forward to working with the other Flyways and the Service towards an agreement on equitable harvest opportunity.

The Pacific Flyway Council recommended maintaining the current opening and closing duck season framework dates adopted under AHM for the near future.

Written Comments: The Mississippi Department of Wildlife, Fisheries, and Parks commented in favor of extending the framework closing date to January 31 and submitted an analysis of data based on the most recent two years. Although their analysis indicated an appropriate reduction in season length of 3 days, they proposed to reduce the season length 8 days, based on a more liberal estimate of harvest increases.

The Kentucky Department of Fish and Wildlife Resources communicated their interest in having the option of a January 31 framework closing date. While the State had no specific data related to an appropriate penalty for the extension, they believed Mississippi's analysis was applicable for the Lower Region at this time, unless more appropriate analyses had been conducted elsewhere. Kentucky urged the Service to develop final framework packages based on the information that most accurately reflects the anticipated impacts.

The Arkansas Game and Fish Commission expressed concern that the framework issue had been pursued largely outside the Flyway Council process and threatened the long-term waterfowl management process, but believed a component of its hunters was interested in the extended opportunity. Arkansas expressed concern over the potential for the extensions to result in more restrictive harvest regulations in the future, and the inability to accurately measure harvest rates and assess impacts of the extensions.

The Tennessee Wildlife Resources Agency stated that the recent warmer-than-normal conditions had renewed sportsmen's interest in framework extensions. The State pledged the assistance of its personnel to help resolve the framework issue in a fair, equitable, and non-divisive manner. An Agency resolution called for the Service and the Mississippi Flyway Council to work towards extending season frameworks in a fair and equitable manner for the 1998–99 season and beyond.

The Louisiana Department of Wildlife and Fisheries supported a framework extension to January 31 as long as the State's participation does not require a reduction in hunting days or bag limits. Louisiana was disappointed by the proposed rule and hoped the Service would develop a practical resolution to this contentious issue. A 1997 opinion survey of Louisiana hunters indicated a large majority preferred a January 31 closing date and State waterfowl survey data indicate that more ducks are in Louisiana during December and January. The State was unable to develop, in the allotted period, an estimate of the impact on harvest rates that they would consider reliable.

The Alabama Department of Conservation and Natural Resources stated that they had supported framework extensions in Alabama for many years and support maximizing hunting opportunities as long as the resource is not negatively impacted. The Department stated that Alabama hunter success is near or below the Mississippi Flyway average as shown by seasonal duck harvest per hunter and that an increased proportion of mallards harvested in Alabama may help offset the long-term decline in Canada goose harvest opportunity in Alabama. Alabama had no data regarding an offset penalty and would rely on the analysis from Mississippi.

The Pennsylvania Game Commission opposed the extension proposal. Pennsylvania stated the proposal was developed without consultation with the other Flyway Councils, it conflicted with cooperatively developed AHM packages, and would confound attempts to assess impacts of season length on harvest. Concern was expressed about the potential for increased harvest of eastern duck stocks and the potential for more restrictive harvest opportunities on a broad scale if frameworks were extended in southern States. Pennsylvania believed that, at the very least, consideration of this proposal should be delayed until Flyway Councils and the AHM working group had assessed its ramifications.

The South Carolina Department of Natural Resources objected to the proposal to limit the extension of the framework closing date to the southern portion of the Mississippi Flyway. They stated that waterfowl hunters in South Carolina have been dissatisfied with the framework dates for a very long time, and the proposal to restrict the extension is arbitrary and capricious and violates the tenet of "fairness" that we have operated under for so many years as relates to the nationwide management of migratory birds through the regulatory process administered by the Service. They recommended that the same option for extension of the framework closing date be offered to States in the southern portion of the Atlantic Flyway.

The Georgia Department of Natural Resources did not support the extension proposal because it undermined the primary goals of the AHM process which had been adopted by all Flyways. They believed adoption of the proposal would serve as a catalyst for additional regional campaigns leading to increased regulatory inconsistency. Many of Georgia's hunters strongly desire a framework extension to January 31; however, until current packages are tested over a longer period, it was not in the long-term interest of waterfowl to extend frameworks. If changes are to be made now, extensions should be available to all States. The Lower Mississippi Flyway proposal has triggered discussions regarding a southern coalition within the Atlantic Flyway, intended to pursue southern issues and framework extensions in that region.

The New York State Department of Environmental Conservation requested that the proposed framework extension be deferred for one year to allow adequate review by all Flyway Councils and the AHM working group. New York expressed concerns that the proposal was developed without Flyway Council review, was counter to AHM principles, that efforts on framework extensions would delay the incorporation of eastern mallards into the decision process, future harvest opportunity for all Flyways could be adversely affected, eastern duck stocks could be impacted, and that adoption of the proposal would spawn additional requests from special interest groups. The Department stated that when regulation packages were set and agreed to by all Councils, it was understood that they would be stable for several years, New York recommended that the Flyway Councils and the AHM working group work this year to devise a strategy for 1999.

The North Dakota Game and Fish Department stressed that waterfowl harvest management should be based on sound scientific information and objectives established through the Flyway Council process. North Dakota expressed great concern over the unfairness of extending southern frameworks when northern States have benefitted little from special teal seasons and recently lengthened seasons. They believed if an extension is offered to southern States similar opportunity must be offered to all States.

The South Dakota Department of Game, Fish and Parks urged the Service to not extend the framework closing date in the southern part of the Mississippi Flyway, since all other Flyway Councils and the Upper-Region Regulations Committee of the Mississippi Flyway Council recommended that framework dates not be changed. Such action would be totally unfair to all other States that are willing to use the AHM process to fairly and biologically determine the framework issue.

The Kansas Department of Wildlife & Parks strongly opposed the proposal to offer extended duck hunting season framework dates to States in the lower region of the Mississippi Flyway, stating that it is blatantly unfair to other States that may be interested in such changes, and that it will establish an undesirable precedent regarding how we implement harvest regulations.

The Delaware Department of Natural Resources opposed a framework extension for the southern Mississippi Flyway because it conflicted with recommendations from all Flyways Councils (1997) to maintain consistency in regulatory packages and it could negatively affect other States through redistribution of harvest. Delaware urged all four Councils and the AHM working group work to recommend a specific strategy for 1999 to address all concerns.

The Missouri Department of Conservation opposed the framework extension due to concerns regarding biological impacts on the waterfowl resource including changes in harvest timing and composition (age, species, and sex), the inequitable provision of the extension opportunities, and conflicts with the AHM process. Missouri believes adopting this proposal would set an unfortunate precedent and have negative implications for the future of cooperative waterfowl and wetland management.

The Michigan Department of Natural Resources strongly opposed the extension proposal on the basis of its conflict with previous recommendations of the Upper-Region Regulations Committee. Michigan believed if extensions were implemented, both early and late extensions should be offered to all States.

The Connecticut Department of Environmental Protection opposed the extension proposal and requested the Service defer action until full review by all Flyways is possible. Connecticut voiced concern over reduced hunting opportunity across the nation and impacts to black ducks which are more vulnerable in late winter.

The Minnesota Department of Natural Resources continued to support recommendations of the Upper-Region Regulations Committee of the Mississippi Flyway Council and the other 3 Flyway Councils for no change in framework dates. They believe the extension proposal is extremely divisive and threatens the future of the Flyway Council system and AHM. They stated that the potentially negative physiological impacts on ducks of extensions have not been addressed and should be evaluated by States and the Service prior to implementing extensions. Minnesota believed northern States have the strongest argument for framework extensions because of weather-related limitations to long duck seasons. The extension proposal was contrary to the cooperative process of establishing migratory bird regulations; however, if it is offered, it should be offered to all States.

The Wisconsin Department of Natural Resources supported no change in framework dates. Wisconsin found the extension proposal completely unacceptable because it increases inequity, citing the current higher hunter success rates in southern States, frequently truncated season length in northern States due to freeze-up, and differences in special-teal-season availability. Wisconsin expressed concern about the possible impacts of late-winter hunting on mallard pair formation and nutrient-reserve accumulation. Wisconsin opposed offering southern States an extension, but believed if the extension was granted to southern States, northern States must be offered an extension on season opening dates.

The Illinois Department of Natural Resources stated the extension proposal was patently unfair because it was not available to all States in all Flyways. The State remains concerned about biological impacts on duck pair formation and acquisition of body reserves. Illinois believed this is an issue of national consequence and without time for a full public debate and analysis before the 1998 season, the Service should postpone implementation of any framework extensions until at least the 1999 season. However, if extensions are implemented, the offset penalty should be determined by the Service or third party and Illinois should be allowed to split the duck season in their three zones.

The Oklahoma Department of Wildlife Conservation was strongly opposed to the extension proposal. Oklahoma believed that the proposal seriously undermines the long-standing cooperative Flyway and Service process for establishing waterfowl hunting regulations and calls into question the Service's commitment to the AHM process. Oklahoma further recommended that the Service deny the framework extension until such time as the issue can be addressed through the AHM process and all States' interests are fairly and objectively considered.

The Wyoming Game and Fish Department opposed the framework extension because they believe that season recommendations should be based on Flyway/Service review and approval and not political considerations, the proposed extension threatens AHM, other States are not offered a similar opportunity, and the proposal creates animosity between States and erodes the cooperative framework of the Flyway Council system. They further encourage the Service to work with the Flyways to continue to develop and enhance AHM and believe that early and late framework issues should be addressed when the next round of AHM packages are developed.

The New Jersey Division of Fish, Game and Wildlife opposed implementation of framework extensions due to their commitment to the AHM process, concern regarding impacts on migrating wood ducks, and the potential to divide the flyway system.

The Wisconsin Conservation Congress opposed the framework extension proposal stating that it was in direct conflict with the principles of the Service to manage the resource for the benefit of all people.

The Delta Waterfowl Foundation did not support the framework extension proposal. While supporting the Service's goal of ensuring that nonparticipating States will not be impacted, they believed that reductions in bag limits and species restrictions should also be considered. They further stated that the Service should entertain other framework date extensions, such as opening dates.

The Alabama Waterfowl Association requested a January 31 extension in Alabama be experimental beginning in the 1998 season. The Association would accept a 10% penalty in hunting days. They cite conflicts between farmers and hunting-lease holders or hunters in mid-November when incomplete crop harvest prevents flooding of agricultural fields. The Association believed an extended framework would allow improved habitat management and availability at the start of the season and would have less impact on the resource than the additional hen in the bag recently offered.

Two individuals from Michigan, 45 from Wisconsin, 30 from Minnesota, 1 from Arkansas, 1 from Iowa, 1 from Florida, and 3 from Tennessee commented in opposition to the proposed extension of the framework closing date.

Three individuals from Alabama, 1 from Florida, 5 from Arkansas, 2 from Georgia, 31 from Tennessee, and 110 from Mississippi commented in favor of extending the framework closing date.

Service Response: The Service appreciates the extensive comments it received regarding the May 29 proposal (63 FR 29518) to extend the framework closing date to January 31 in the six States of the southern Mississippi Flyway (AL, AR, KY, LA, MS, TN). In the proposal, the southern Mississippi Flyway would be permitted a framework-date extension, provided it was accompanied by a reduction in season length sufficient to offset the expected increase in harvest. The Service's goal was to provide hunting opportunity that had been requested by southern Mississippi Flyway States, without expanding overall harvest in those States or affecting hunting opportunities in other States and Flyways. The Service will establish a final framework closing date for the 1998–99 duck hunting season in these six States in conjunction with the late-season regulations process.

F. Zones and Split Seasons.Written Comments: The Ohio Division of Wildlife requested elimination of the Pymatuning Waterfowl Hunting Zone in Ohio and incorporation of the affected area into the North Zone beginning in the 1998–99 season.

Service Response: In the past, hunting seasons in that portion of Ohio had to be the same as those selected by Pennsylvania for that portion of Pennsylvania. Beginning this year, the Pymatuning Area will no longer be included in the Federal waterfowl hunting frameworks as a separate area, and will be considered part of Ohio's North Zone.

G. Special Seasons/Species Management

iii. September Teal Seasons

Council Recommendations: The Atlantic Flyway Council recommended the establishment of an experimental September teal season option in the Atlantic Flyway. States deriving more

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than 80 percent of their teal harvest from mid-continent populations (Delaware, Georgia, Florida, Maryland, North Carolina, Pennsylvania, South Carolina, Virginia, and West Virginia) could hold a 9-day season between September 1 and 30 with a daily bag limit of 4 teal.

The Central Flyway Council recommended an experimental September teal season harvest strategy in the nonproduction States of the Central Flyway based on the May breeding population index (BPI) of blue-winged teal. When the BPI of blue-winged teal is 4.7 million or greater, the Council's recommended harvest strategy would consist of an additional 7 days of hunting (for a total of 16 days).

When the BPI of blue-winged teal is below 4.7 million but remains at or above 3.3 million, the Council's recommended harvest strategy would maintain the current 9-day season. When the BPI of blue-winged teal is below 3.3 million, the Council's recommended harvest strategy would consider closure of September teal seasons.

Written Comments: One individual from Wisconsin and 1 from Minnesota urged the Service to consider a special teal season for the production States.

Service Response: The Service supports the Atlantic Flyway Council's proposal for an experimental 9-day special September teal season in those States that derive 80% of their harvest from the mid-continent blue-winged teal populations (to include States from Pennsylvania and Delaware southward). These States would be required to evaluate the impacts to non-target waterfowl species by conducting hunter performance surveys. The Service remains concerned with the definition of production and non-production States, but will work with the Flyway to establish decision criteria based on historic harvests of non-target species in other Flyways. The Service strongly encourages as many of the States as possible to participate in the evaluation, as sampling requirements will be based on the number of States involved. This season will be experimental for a 3-year period but must include a pre-sunrise evaluation in order to have shooting hours begin ½-hour before sunrise. The Service will develop a Memorandum of Agreement to stipulate the guidelines and implementation of this season.

The Service also supports the Central Flyway Council's proposal for a September-teal-season harvest strategy that would provide a 16-day special season in those States that currently have operational special September teal seasons when blue-winged teal populations are above 4.7 million. The evaluation plan submitted by the Council appears adequate for annual monitoring and assessment of this expanded opportunity. Although current changes in band-reporting rates make interpretation of band-recovery data difficult, the Service believes that the 4.7 million breeding population trigger is an adequate threshold for conducting these expanded seasons. The expanded season also will be offered to those States in the Mississippi Flyway that currently are offered a special teal season, under the same stipulations as for the Central Flyway. An annual evaluation of pertinent population, habitat, and harvest information will be required, with a final report due after the seasons have been conducted for 3 years. Continuation of the season is conditional upon the completion of the annual and final reports.

The Service believes that a comprehensive review of blue-winged teal biology, an assessment of the cumulative effects of all teal harvest, and an evaluation of possible expansion of hunting opportunity in production States is needed. In order to facilitate such an evaluation the Service proposes to host a meeting this fall. The Service asks Flyway Councils to designate two representatives from each of the three involved Flyways to meet with Office of Migratory Bird Management staff to design a comprehensive evaluation of blue-winged teal biology and harvest management.

iv. September Teal/Wood Duck Seasons

Council Recommendations: The Atlantic Flyway Council recommended the continuation of the Florida September wood duck/teal season on an operational basis.

The Lower-Region Regulations Committee of the Mississippi Flyway Council recommended that the experimental September teal/wood duck seasons in Kentucky and Tennessee be continued in 1998 with no changes from the 1997 season. The Lower-Region Regulations Committee further recommended that if such seasons are suspended, all non-production States should be permitted to take up to 5 days of the regular season in September.

Written Comments: Representatives John S. Tanner, John J. Duncan, Harold Ford, Jr., William Jenkins, Van Hilleary, Zach Wamp, Ed Bryant, Bob Clement, Bart Cordon, and Senators Fred Thompson and Bill Frist from Tennessee requested that the Service not close Tennessee's early wood duck season. The commenters state that a decision by the Service to close the season would appear to be one based on administrative rationale, rather than sound biology. Further, facts that support continuation of the season are that: the season has been approved for 17 years, that the Tennessee Wildlife Resources Agency has met its preseason banding obligations, that no downward trends in the wood duck populations have been recorded in stream-float surveys, summer bandings, or the Breeding Bird Survey. Finally, survival rates for Tennessee wood ducks are similar to, or higher, than rates observed prior to 1981. Roughly one third of Tennessee's waterfowlers participate in the early wood duck season. The commenters believe that closing the season would discourage their active involvement in wood duck management.

The Tennessee Wildlife Resources Agency (Tennessee) expressed disappointment that the Service intended to suspend the September wood duck season. They pointed out the Tennessee hunters have never complained about decreased wood duck numbers, and that empirical evidence demonstrates that the wood duck population is not experiencing any long-term declines. Further, Tennessee stated that closing the popular 5-day season would be hard to justify because the evaluation of the season could not conclude whether the season is good or bad. Tennessee mentioned that the high costs associated with regional wood duck population monitoring will discourage most States from participating in any monitoring programs beyond what is currently being done. They pointed out that eliminating the September season without a clearly stated harvest alternative would stymie any new data collection efforts. Thus, they requested that Tennessee's September wood duck season be granted operational status and be grandfathered into the existing frameworks.

The Kentucky Department of Fish and Wildlife Resources (Kentucky) also expressed disappointment that the Service would recommend suspending the September wood duck season in Kentucky. They stated that evaluation of the season indicated that it met the objective of limiting harvest to local wood ducks without negatively impacting southern wood duck populations. They recognized that the conclusions of the evaluation were based on data where the level of precision was questionable, but that the data were the best available and should not be discarded. Kentucky emphasized that data collected by their agency indicated no negative impacts on local wood duck populations and therefore requested that Kentucky's September season be granted operational status and grandfathered into the existing frameworks.

The Florida Game and Fresh Water Fish Commission opposed suspension of the September Wood Duck Seasons based on the Service's contention that adequate population monitoring was lacking. They maintained that their monitoring programs have not detected any undue negative effects on local wood duck populations after 17 years. They believe that if the Service is comfortable with the regular-season harvest pressure on wood ducks caused by several changes in season lengths, then concern over Florida's September season hardly seem warranted. They believe the Service has continued to raise the standard for evaluation long after these seasons were initiated and did not provide specific criteria. They maintain that there is no evidence that Florida's season is negatively influencing their local wood populations and it appeared as though the reason for suspending the seasons was unjustly based on administrative convenience rather than biological concern.

The Minnesota Department of Natural Resources opposed hunting opportunities that are not offered to hunters in all States within a flyway. If the September wood duck seasons are suspended, they would not support non-production States in the Lower Region taking up to 5 days from the regular season in September.

The Alabama Waterfowl Association indicated that they do not see any reason to suspend the early wood duck season and maintain that southern States provide habitat enhancement projects and deserve to have harvest opportunities on locally reared wood ducks.

A petition letter signed by 110 individuals from Tennessee stress the fact that to do away with the wood duck September season would deplete a lot of interest among several organizations who get involved with nest box programs and habitat improvement projects.

Thirty-two individuals from Tennessee, 13 from Florida, and 5 from Kentucky expressed support for continuing with the September wood duck seasons to provide hunting opportunities and opposed any action by the Service to discontinue these seasons.

Service Response: The Service notes that after many years of trying to develop regional wood duck population-monitoring programs, attempts to evaluate the experimental September wood duck seasons have been unsuccessful. Without adequate regional monitoring, special seasons that target regional wood duck populations should be discontinued. Instead, wood duck harvest management should be approached at the flyway level during the regular season. The recently-completed Wood Duck Population Monitoring Initiative showed that managers have much of the capability needed to monitor wood ducks at the flyway level. The Service recognizes that improvements in the way we develop regular season approaches to wood duck harvest management are possible. These improvements should incorporate information about the status and dynamics of wood ducks. However, there is a need to conduct additional technical assessments in order to develop flyway harvest strategies. The Service will coordinate with Flyway Councils and Technical Sections to develop such strategies.

During the interim period, the Service proposes to allow Florida, Kentucky, and Tennessee to hold September wood duck seasons for a maximum of 3 more years. After September 2000, the seasons in Florida, Kentucky, and Tennessee will be discontinued. Flyway harvest strategies will then be implemented for the 2001/02 hunting season. Should the technical assessment be completed sooner, and a flyway strategy be implemented, the September seasons would be suspended at that time.

v. Youth Hunt

Council Recommendations: The Upper-Region Regulations Committee of the Mississippi Flyway Council recommended that a special one-day youth waterfowl season include the harvesting of geese.

The Lower-Region Regulations Committee of the Mississippi Flyway Council recommended that a special 2-day youth waterfowl season include the harvesting of geese.

The Central Flyway Council recommended expansion of the special youth waterfowl hunt to 2 consecutive days with a legal bag that includes geese.

The Pacific Flyway Council recommended continuation of the one-day youth hunt that allows States to select outside the general season and frameworks. The Council further recommended the addition of 1 goose to the bag limit.

Written Comments: Senator John T. Traynor of the North Dakota Senate expressed his support for the youth hunt and urged the Service to expand the special season to 2 days and include geese in the bag limit.

The Delta Waterfowl Foundation supported the expansion of the special youth hunt to 2 days and the inclusion of geese in the bag limit.

Service Response: The Service appreciates the recommendations from the Flyway Councils regarding the continuation of a youth waterfowl hunting day. Upon establishment of the special youth hunting day, the Service viewed it as a unique educational opportunity which would help ensure safe, high-quality hunting for future generations of Americans. The Service's intent was not to recruit youth hunters, but to provide the best and safest learning environment for those of our youth who are interested in hunting. Further, the Service believes that establishing such a day was consistent with our responsibility to provide general education and training in the wise use of our nation's valuable wildlife resources. The Service believes the long-term conservation of North America's migratory bird resources depends on the future attitudes and actions of today's youth and that the special youth day assists in the formation and development of a conservation ethic in future generations. The Service's intent in establishing this special day is to introduce youth to the concepts of ethical utilization and stewardship of waterfowl and other natural resources, encourage youngsters and adults to experience the outdoors together, and contribute to the long-term conservation of the migratory bird resource. With these intents in mind, there is not a compelling reason to extend the opportunity an additional day.

Additionally, the Service has not conducted an extensive national evaluation of the effects of the special youth hunt day to date, nor does the Service plan to conduct such an evaluation due to cost/benefit considerations. Because the special 1-day hunt is limited to youths, the Service believes that waterfowl populations can support the limited additional harvest. However, an additional day would potentially double the effect, which would result in increased uncertainty.

With regard to geese, the Service supports the inclusion of the regular-season daily bag limit for geese in the special youth-hunt bag limit. However, there are two considerations that States must be aware of regarding the inclusion of geese in the youth hunt: (1) in many cases, States already use the legal limit of 107 goose hunting days

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and the inclusion of geese in the youth day bag will require a 1-day reduction in the regular season length, and (2) all area/species restrictions would apply, thus complicating the regulations in areas with species restrictions or area closures.

2. Sea Ducks

Council Recommendations: The Atlantic Flyway Council recommended that the Service clarify regulatory language concerning bag limits for sea ducks so that bag limits for seas ducks during the regular season cannot exceed bag limits for sea ducks established in the special sea duck season, whether inside or outside the special sea duck area.

Service Response: The Service will continue to work with the Atlantic Flyway Council as they prepare their management plan for common eiders, and encourages the Flyway to develop management goals for other populations of sea ducks. The Service believes that a conservative approach to sea duck hunting is warranted, especially if management plans or goals have not been adopted. The Service will assess the appropriateness of current sea duck hunting regulations after finalizing a report on the status of sea duck populations; changes will be considered for the 1999 hunting season.

4. Canada Geese

A. Special Seasons. Council Recommendations: The Atlantic Flyway Council recommended that the closing date of the September goose season around Montezuma National Wildlife Refuge be extended from September 15 to 25.

The Lower-Region Regulations Committee of the Mississippi Flyway Council recommended that the Service reevaluate criteria for special Canada goose seasons (early and late), particularly as they relate to the cumulative harvest of migrant Canada geese from populations of special concern, to insure that the criteria are consistent with management efforts to increase and/or maintain migrant populations of special concern to/at planned objective levels.

Service Response: In accordance with the criteria established for early seasons on resident Canada geese, the harvest of migrant geese cannot exceed 10%. Collar observations provided by New York for 1995–97 exceed this level. Thus, the Service does not support this request. The criteria only address the ratio of collar observations without regard to the area size or number of collars or geese observed. Based on the evidence provided by New York, the potential to harvest AP geese increases substantially in late September. The Service recognizes that in some cases a single observation of a potential migrant may exceed the 10% criterion, but at this fine scale, it is very difficult to fully assess the impacts of expanding the season to September 25.

The criteria for special Canada goose seasons are designed to provide additional harvest of locally nesting Canada geese without additional impact on migrant populations. The Service believes that to date they have accomplished that objective; however, the Service will continue to monitor harvest information with reference to the provisions of the special-season criteria and objectives for migrant Canada goose populations.

B. Regular Seasons. Council Recommendations: The Upper-Region Regulations Committee of the Mississippi Flyway Council recommended that the 1998 regular goose season opening date be as early as September 26 in Michigan's Upper Peninsula and September 19 in Wisconsin.

Service Response: The Service concurs with the recommendation.

9. Sandhill Cranes

Council Recommendations: The Central and Pacific Flyway Councils recommended that the Rocky Mountain Population (RMP) greater sandhill crane hunt in Wyoming's Area 6 (Park and Bighorn Counties) become operational in 1998. The Councils further recommended that the third year of monitoring and data collection for the experimental hunt be waived.

Service Response: The Service concurs with the Central and Pacific Flyway Council recommendations for removal of experimental status of the RMP greater sandhill crane hunt in Big Horn and Park Counties of Wyoming. The third year of monitoring and data collection will be waived.

16. Mourning Doves

Written Comments: The Louisiana Department of Wildlife and Fisheries requested an extension of the framework closing date from January 15 to January 20.

Service Response: The Service does not support Louisiana's request at this time and asks that the issue be incorporated into the mourning dove management plan for the Eastern Management Unit which is currently being prepared.

18. Alaska

Council Recommendations: The Pacific Flyway Council recommended an increase in Alaska's Canada goose daily bag and possession limit from 1 and 2 to 3 and 6, respectively, within overall dark goose bag and possession limits of 4 and 8 in Alaska Game Management Subunit (GMU) 9(E) (Alaska Peninsula) and Unit 18 (Y–K Delta).

The Pacific Flyway Council recommended an archery-only Canada goose hunt on Middleton Island, Alaska (GMU 6); by registration permit only, with no more than 10 permits; mandatory goose identification class, check-in, and check-out; season dates of September 28 to December 16; bag and possession limit of 1; season to close if incidental harvest includes 5 dusky Canada geese.

Service Response: The Service supports the Council's recommendation for increased Canada goose bag limits within the overall dark goose bag limit and the limited season for Canada Geese on Middleton Island with all of the conditions recommended by the Pacific Flyway Council except the limitation of the method of take to only archery. The Service has received no rationale for limiting the method of take and believes to do so without reason would establish an undesirable precedent.

Public Comment Invited

The Service intends that adopted final rules be as responsive as possible to all concerned interests, and wants to obtain the comments and suggestions from all interested areas of the public, as well as other governmental agencies. Such comments, and any additional information received, may lead to final regulations that differ from these proposals. However, special circumstances involved in the establishment of these regulations limit the amount of time the Service can allow for public comment. Specifically, two considerations compress the time in which the rulemaking process must operate: (1) The need to establish final rules at a point early enough in the summer to allow affected State agencies to appropriately adjust their licensing and regulatory mechanisms; and (2) the unavailability, before mid-June, of specific, reliable data on this year's status of some waterfowl and migratory shore and upland game bird populations. Therefore, the Service believes allowing comment periods past the dates specified is contrary to public interest.

E.O. 12866 requires each agency to write regulations that are easy to understand. The Service invites comments on how to make this rule easier to understand, including answers to questions such as the following: (1)

Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (5) Is the description of the rule in the "Supplementary Information" section of the preamble helpful in understanding the proposed rule? What else could the Service do to make the rule easier to understand?

Send a copy of any comments that concern how this rule could be made easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, N.W., Washington, D.C. 20240. Comments may also be e-mailed to: Exsec@ios.doi.gov

Comment Procedure

It is the policy of the Department of the Interior to afford the public an opportunity to participate in the rulemaking process, whenever practical. Accordingly, interested persons may participate by submitting written comments to the Chief, MBMO, at the address listed under the caption ADDRESSES. The public may inspect comments during normal business hours at the Service's office address listed under the caption ADDRESSES. The Service will consider all relevant comments received and will try to acknowledge received comments, but may not provide an individual response to each commenter.

NEPA Consideration

NEPA considerations are covered by the programmatic document, "Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88–14)," filed with EPA on June 9, 1988. The Service published a Notice of Availability in the June 16, 1988, **Federal Register** (53 FR 22582). The Service published its Record of Decision on August 18, 1988 (53 FR 31341). Copies of these documents are available from the Service at the address indicated under the caption ADDRESSES.

Endangered Species Act Considerations

As in the past, the Service will design hunting regulations to remove or alleviate chances of conflict between migratory game bird hunting seasons and the protection and conservation of endangered and threatened species. Consultations are presently under way to ensure that actions resulting from these regulatory proposals will not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations will be included in a biological opinion and may cause modification of some regulatory measures proposed in this document. The final frameworks will reflect any modifications. The Service's biological opinions resulting from its Section 7 consultation are public documents and will be available for public inspection in the Service's Division of Endangered Species and MBMO, at the address indicated under the caption ADDRESSES.

Regulatory Flexibility Act

In the March 20, 1998, **Federal Register**, the Service reported measures it took to comply with requirements of the Regulatory Flexibility Act. One measure was to prepare a Small Entity Flexibility Analysis (Analysis) in 1996 documenting the significant beneficial economic effect on a substantial number of small entities. The Analysis estimated that migratory bird hunters would spend between $254 and $592 million at small businesses. Copies of the Analysis are available upon request from the Office of Migratory Bird Management. The Service is currently updating the 1996 Analysis with information from the 1996 National Hunting and Fishing Survey.

Executive Order (E.O.) 12866

This proposed rule is economically significant and will be reviewed by the Office of Management and Budget (OMB) under E.O. 12866.

Paperwork Reduction Act

The Service examined these proposed regulations under the Paperwork Reduction Act of 1995. The various recordkeeping and reporting requirements imposed under regulations established in 50 CFR Part 20, Subpart K, are utilized in the formulation of migratory game bird hunting regulations. OMB has approved these information collection requirements and assigned clearance numbers 1018–0015 (expires 08/31/1998) and 1018–0023 (expires 09/30/2000).

Unfunded Mandates Reform Act

The Service has determined and certifies in compliance with the requirements of the Unfunded Mandates Act, 2 U.S.C. 1502 *et seq.*, that this proposed rulemaking will not impose a cost of $100 million or more in any given year on local or State government or private entities.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this proposed rule, has determined that these regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

Taking Implication Assessment

In accordance with Executive Order 12630, these rules, authorized by the Migratory Bird Treaty Act, do not have significant takings implications and do not affect any constitutionally protected property rights. These rules will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, these rules allow hunters to exercise privileges that would be otherwise unavailable; and, therefore, reduce restrictions on the use of private and public property.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal government has been given responsibility over these species by the Migratory Bird Treaty Act. The Service annually prescribes frameworks from which the States make selections and employs guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and Tribes to determine which seasons meet their individual needs. Any State or Tribe may be more restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulation. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with Executive Order 12612, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American tribal Governments" (59 FR 22951) and 512

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DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

The rules that eventually will be promulgated for the 1998–99 hunting season are authorized under 16 U.S.C. 703–712 and 16 U.S.C. 742 a–j.

Dated: July 7, 1998.

William Leary,

Acting Deputy Assistant Secretary for Fish and Wildlife and Parks.

Proposed Regulations Frameworks for 1998–99 Early Hunting Seasons on Certain Migratory Game Birds

Pursuant to the Migratory Bird Treaty Act and delegated authorities, the Department of the Interior approved the following proposed frameworks which prescribe season lengths, bag limits, shooting hours, and outside dates within which States may select for certain migratory game birds between September 1, 1998, and March 10, 1999.

General

Dates: All outside dates noted below are inclusive.

Shooting and Hawking (taking by falconry) Hours: Unless otherwise specified, from one-half hour before sunrise to sunset daily.

Possession Limits: Unless otherwise specified, possession limits are twice the daily bag limit.

Flyways and Management Units

Atlantic Flyway—includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Mississippi Flyway—includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

Central Flyway—includes Colorado (east of the Continental Divide), Kansas, Montana (Counties of Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland, and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except the Jicarilla Apache Indian Reservation), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

Pacific Flyway—includes Alaska, Arizona, California, Idaho, Nevada, Oregon, Utah, Washington, and those portions of Colorado, Montana, New Mexico, and Wyoming not included in the Central Flyway.

Mourning Dove Management Units

Eastern Management Unit—All States east of the Mississippi River, and Louisiana.

Central Management Unit—Arkansas, Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming.

Western Management Unit—Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington.

Woodcock Management Regions

Eastern Management Region—Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Central Management Region—Alabama, Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, and Wisconsin.

Other geographic descriptions are contained in a later portion of this document.

Compensatory Days in the Atlantic Flyway: In the Atlantic Flyway States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Jersey, North Carolina, Pennsylvania, Virginia, and West Virginia, where Sunday hunting is prohibited statewide by State law, all Sundays are closed to all take of migratory waterfowl (including mergansers and coots).

Special September Teal Season

Outside Dates: Between September 1 and September 30, an open season on all species of teal may be selected by the following States in areas delineated by State regulations:

Atlantic Flyway—Delaware, Georgia, Maryland, North Carolina, Pennsylvania, South Carolina, Virginia, and West Virginia. All seasons are experimental.

Mississippi Flyway—Alabama, Arkansas, Illinois, Indiana, Kentucky, Louisiana, Mississippi, Missouri, Ohio, and Tennessee.

Central Flyway—Colorado (part), Kansas, New Mexico (part), Oklahoma, and Texas.

Hunting Seasons and Daily Bag Limits: Not to exceed 9 consecutive days in the Atlantic Flyway and 16 consecutive days in the Mississippi and Central Flyways. The daily bag limit is 4 teal.

Shooting Hours

Atlantic Flyway—One-half hour before sunrise to sunset, if evaluated; otherwise sunrise to sunset.

Mississippi and Central Flyways—One-half hour before sunrise to sunset, except in the States of Arkansas, Illinois, Indiana, Missouri, and Ohio, where the hours are from sunrise to sunset.

Special September Duck Seasons

Florida: A 5-consecutive-day season may be selected in September. The daily bag limit may not exceed 4 teal and wood ducks in the aggregate.

Kentucky and Tennessee: In lieu of a special September teal season, a 5-consecutive-day season may be selected in September. The daily bag limit may not exceed 4 teal and wood ducks in the aggregate, of which no more than 2 may be wood ducks.

Iowa: Iowa may hold up to 5 days of its regular duck hunting season in September. All ducks which are legal during the regular duck season may be taken during the September segment of the season. The September season segment may commence no earlier than the Saturday nearest September 20 (September 19). The daily bag and possession limits will be the same as those in effect last year, but are subject to change during the late-season regulations process. The remainder of the regular duck season may not begin before October 10.

Special Youth Waterfowl Hunting Day

Outside Dates: States may select 1 day per duck-hunting zone, designated as "Youth Waterfowl Hunting Day," in addition to their regular duck seasons. The day must be held outside any regular duck season on a weekend, holiday, or other non-school day when youth hunters would have the maximum opportunity to participate. The day may be held up to 14 days before or after any regular duck-season frameworks or within any split of a regular duck season, or within any other open season on migratory birds.

Daily Bag Limits: The daily bag limit may include ducks, geese, mergansers, coots, moorhens, and gallinules and would be the same as that allowed in the regular season. Flyway species and area restrictions would remain in effect.

Shooting Hours: One-half hour before sunrise to sunset.

Participation Restrictions: Youth hunters must be 15 years of age or younger. In addition, an adult at least 18 years of age must accompany the youth hunter into the field. This adult could not duck hunt but may participate in other seasons that are open on the special youth day.

Scoter, Eider, and Oldsquaw Ducks (Atlantic Flyway)

Outside Dates: Between September 15 and January 20.

Hunting Seasons and Daily Bag Limits: Not to exceed 107 days, with a daily bag limit of 7, singly or in the aggregate of the listed sea-duck species, of which no more than 4 may be scoters.

Daily Bag Limits During the Regular Duck Season: Within the special sea duck areas, during the regular duck season in the Atlantic Flyway, States may choose to allow the above sea duck limits in addition to the limits applying to other ducks during the regular duck season. In all other areas, sea ducks may be taken only during the regular open season for ducks and are part of the regular duck season daily bag (not to exceed 4 scoters) and possession limits.

Areas: In all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, and New York; in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 1 mile of open water from any shore, island, and emergent vegetation in New Jersey, South Carolina, and Georgia; and in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 800 yards of open water from any shore, island, and emergent vegetation in Delaware, Maryland, North Carolina and Virginia; and provided that any such areas have been described, delineated, and designated as special sea-duck hunting areas under the hunting regulations adopted by the respective States.

Special Early Canada Goose Seasons

Atlantic Flyway

General Seasons

Canada goose seasons of up to 15 days during September 1–15 may be selected for the Montezuma Region of New York; the Lake Champlain Region of New York and Vermont; the Eastern Unit of Maryland; Delaware; and Crawford County in Pennsylvania. Seasons not to exceed 20 days during September 1–20 may be selected for the Northeast Hunt Unit of North Carolina. Seasons may not exceed 25 days during September 1–25 in the remainder of the Flyway, except Georgia and Florida, where the season is closed. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

Daily Bag Limits: Not to exceed 5 Canada geese.

Experimental Seasons

Experimental Canada goose seasons of up to 30 days during September 1–30 may be selected by New Jersey, New York (Long Island Zone), North Carolina (except in the Northeast Hunt Unit), and South Carolina. Experimental Canada goose seasons of up to 25 days during September 1–25 may be selected in Crawford County, Pennsylvania. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

Daily Bag Limits: Not to exceed 5 Canada geese.

Mississippi Flyway

General Seasons

Canada goose seasons of up to 15 days during September 1–15 may be selected, except in the Upper Peninsula in Michigan, where the season may not extend beyond September 10, and in the Michigan Counties of Huron, Saginaw and Tuscola, where no special season may be held. The daily bag limit may not exceed 5 Canada geese. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

Central Flyway

General Seasons

Canada goose seasons of up to 15 days during September 1–15 may be selected. The daily bag limit may not exceed 5 Canada geese. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

Pacific Flyway

General Seasons

Wyoming may select an 8-day season on Canada geese between September 1–15. This season is subject to the following conditions:

1. Where applicable, the season must be concurrent with the September portion of the sandhill crane season.
2. All participants must have a valid State permit for the special season.
3. A daily bag limit of 2, with season and possession limits of 4 will apply to the special season.

Oregon may select a special Canada goose season of up to 15 days during the period September 1–15. In addition, in the NW goose management zone, a 15-day season may be selected during the period September 1–20. Any portion of the season selected between September 16 and 20 will be considered experimental. Daily bag limits may not exceed 5 Canada geese. In the NW goose zone, at a minimum, Oregon must provide an annual evaluation of the number of dusky Canada geese present in the hunt zone during the period September 16–20 and agree to adjust seasons as necessary to avoid any potential harvest of dusky Canada geese.

Washington may select a special Canada goose season of up to 15 days during the period September 1–15. Daily bag limits may not exceed 3 Canada geese.

Idaho may select a 15-day season in the special East Canada Goose Zone, as described in State regulations, during the period September 1–15. All participants must have a valid State permit and the total number of permits issued is not to exceed 110 for this zone. The daily bag limit is 2.

Idaho may select a 7-day Canada Goose Season during the period September 1–15 in Nez Perce County, with a bag limit of 4.

California may select a 9-day season in Humboldt County during the period September 1–15. The daily bag limit is 2.

Areas open to hunting of Canada geese in each State must be described, delineated, and designated as such in each State's hunting regulations.

Regular Goose Seasons

Regular goose seasons may open as early as September 19 in Wisconsin and September 26 in the Upper Peninsula of Michigan. Season lengths and bag and possession limits will be the same as those in effect last year, but are subject to change during the late-season regulations process.

Sandhill Cranes

Regular Seasons in the Central Flyway

Outside Dates: Between September 1 and February 28.

Hunting Seasons: Seasons not to exceed 58 consecutive days may be selected in designated portions of the following States: Colorado, Kansas, Montana, North Dakota, South Dakota, and Wyoming. Seasons not to exceed 93 consecutive days may be selected in designated portions of the following States: New Mexico, Oklahoma, and Texas.

Daily Bag Limits: 3 sandhill cranes.

Permits: Each person participating in the regular sandhill crane seasons must have a valid Federal sandhill crane hunting permit in their possession while hunting.

Special Seasons in the Central and Pacific Flyways:

Arizona, Colorado, Idaho, Montana, New Mexico, Utah, and Wyoming may

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select seasons for hunting sandhill cranes within the range of the Rocky Mountain. Population subject to the following conditions:

Outside Dates: Between September 1 and January 31.

Hunting Seasons: The season in any State or zone may not exceed 30 days.

Bag limits: Not to exceed 3 daily and 9 per season.

Permits: Participants must have a valid permit, issued by the appropriate State, in their possession while hunting.

Other provisions: Numbers of permits, open areas, season dates, protection plans for other species, and other provisions of seasons must be consistent with the management plan and approved by the Central and Pacific Flyway Councils. Seasons in Idaho are experimental.

Common Moorhens and Purple Gallinules

Outside Dates: Between September 1 and January 20 in the Atlantic Flyway, and between September 1 and the Sunday nearest January 20 (January 17) in the Mississippi and Central Flyways. States in the Pacific Flyway have been allowed to select their hunting seasons between the outside dates for the season on ducks; therefore, they are late-season frameworks and no frameworks are provided in this document.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 70 days in the Atlantic, Mississippi, and Central Flyways. Seasons may be split into 2 segments. The daily bag limit is 15 common moorhens and purple gallinules, singly or in the aggregate of the two species.

Rails

Outside Dates: States included herein may select seasons between September 1 and January 20 on clapper, king, sora, and Virginia rails.

Hunting Seasons: The season may not exceed 70 days, and may be split into 2 segments.

Daily Bag Limits: Clapper and King Rails—In Rhode Island, Connecticut, New Jersey, Delaware, and Maryland, 10, singly or in the aggregate of the two species. In Texas, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, and Virginia, 15, singly or in the aggregate of the two species.

Sora and Virginia Rails—In the Atlantic, Mississippi, and Central Flyways and the Pacific-Flyway portions of Colorado, Montana, New Mexico, and Wyoming, 25 daily and 25 in possession, singly or in the aggregate of the two species. The season is closed in the remainder of the Pacific Flyway.

Common Snipe

Outside Dates: Between September 1 and February 28, except in Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, and Virginia, where the season must end no later than January 31.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 107 days and may be split into two segments. The daily bag limit is 8 snipe.

American Woodcock

Outside Dates: States in the Eastern Management Region may select hunting seasons between October 6 and January 31. States in the Central Management Region may select hunting seasons between the Saturday nearest September 22 (September 19) and January 31.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 30 days in the Atlantic Flyway and 45 days in the Central and Mississippi Flyways. The daily bag limit is 3. Seasons may be split into two segments.

Zoning: New Jersey may select seasons in each of two zones. The season in each zone may not exceed 24 days.

Band-tailed Pigeons

Pacific Coast States (California, Oregon, Washington, and Nevada)

Outside Dates: Between September 15 and January 1.

Hunting Seasons and Daily Bag Limits: Not more than 9 consecutive days, with bag and possession limits of 2 and 2 band-tailed pigeons, respectively.

Zoning: California may select hunting seasons not to exceed 9 consecutive days in each of two zones. The season in the North Zone must close by October 7.

Four-Corners States (Arizona, Colorado, New Mexico, and Utah)

Outside Dates: Between September 1 and November 30.

Hunting Seasons and Daily Bag Limits: Not more than 30 consecutive days, with a daily bag limit of 5 band-tailed pigeons.

Zoning: New Mexico may select hunting seasons not to exceed 20 consecutive days in each of two zones. The season in the South Zone may not open until October 1.

Mourning Doves

Outside Dates: Between September 1 and January 15, except as otherwise provided, States may select hunting seasons and daily bag limits as follows:

Eastern Management Unit

Hunting Seasons and Daily Bag Limits: Not more than 70 days with a daily bag limit of 12, or not more than 60 days with a daily bag limit of 15.

Zoning and Split Seasons: States may select hunting seasons in each of two zones. The season within each zone may be split into not more than three periods. The hunting seasons in the South Zones of Alabama, Florida, Georgia, Louisiana, and Mississippi may commence no earlier than September 20. Regulations for bag and possession limits, season length, and shooting hours must be uniform within specific hunting zones.

Central Management Unit

Hunting Seasons and Daily Bag Limits: Not more than 70 days with a daily bag limit of 12, or not more than 60 days with a daily bag limit of 15.

Zoning and Split Seasons: States may select hunting seasons in each of two zones. The season within each zone may be split into not more than three periods. Texas may select hunting seasons for each of three zones subject to the following conditions:

A. The hunting season may be split into not more than two periods, except in that portion of Texas in which the special white-winged dove season is allowed, where a limited mourning dove season may be held concurrently with that special season (see white-winged dove frameworks).

B. A season may be selected for the North and Central Zones between September 1 and January 25; and for the South Zone between September 20 and January 25.

C. Each zone may have a daily bag limit of 12 doves (15 under the alternative) in the aggregate, no more than 2 of which may be white-tipped doves, except that during the special white-winged dove season, the daily bag limit may not exceed 10 white-winged, mourning, and white-tipped doves in the aggregate, of which no more than 5 may be mourning doves and 2 may be white-tipped doves.

D. Except as noted above, regulations for bag and possession limits, season length, and shooting hours must be uniform within each hunting zone.

Western Management Unit

Hunting Seasons and Daily Bag Limits: Idaho, Nevada, Oregon, Utah, and Washington—Not more than 30 consecutive days with a daily bag limit of 10 mourning doves (in Nevada, the daily bag limit may not exceed 10 mourning and white-winged doves in the aggregate).

Arizona and California—Not more than 60 days which may be split between two periods, September 1–15 and November 1-January 15. In Arizona, during the first segment of the season, the daily bag limit is 10 mourning and white-winged doves in the aggregate, of which no more than 6 may be white-winged doves. During the remainder of the season, the daily bag limit is restricted to 10 mourning doves. In California, the daily bag limit may not exceed 10 mourning and white-winged doves in the aggregate.

White-winged and White-tipped Doves

Hunting Seasons and Daily Bag Limits: Except as shown below, seasons in Arizona, California, Florida, Nevada, New Mexico, and Texas must be concurrent with mourning dove seasons.

Arizona may select a hunting season of not more than 30 consecutive days, running concurrently with the first segment of the mourning dove season. The daily bag limit may not exceed 10 mourning and white-winged doves in the aggregate, of which no more than 6 may be white-winged doves.

In Florida, the daily bag limit may not exceed 12 mourning and white-winged doves (15 under the alternative) in the aggregate, of which no more than 4 may be white-winged doves.

In the Nevada Counties of Clark and Nye, and in the California Counties of Imperial, Riverside, and San Bernardino, the daily bag limit may not exceed 10 mourning and white-winged doves in the aggregate.

In New Mexico, the daily bag limit may not exceed 12 mourning and white-winged doves (15 under the alternative) in the aggregate.

In Texas, the daily bag limit may not exceed 12 doves (15 under the alternative) in the aggregate, of which not more than 2 may be white-tipped doves.

In addition, Texas may also select a hunting season of not more than 4 days for the special white-winged dove area of the South Zone between September 1 and September 19. The daily bag limit may not exceed 10 white-winged, mourning, and white-tipped doves in the aggregate, of which no more than 5 may be mourning doves and 2 may be white-tipped doves.

Alaska

Outside Dates: Between September 1 and January 26.

Hunting Seasons: Alaska may select 107 consecutive days for waterfowl, sandhill cranes, and common snipe in each of five zones. The season may be split without penalty in the Kodiak Zone. The seasons in each zone must be concurrent.

Closures: The season is closed on Canada geese from Unimak Pass westward in the Aleutian Island chain. The hunting season is closed on Aleutian Canada geese, emperor geese, spectacled eiders, and Steller's eiders.

Daily Bag and Possession Limits

Ducks—Except as noted, a basic daily bag limit of 7 and a possession limit of 21 ducks. Daily bag and possession limits in the North Zone are 10 and 30, and in the Gulf Coast Zone they are 8 and 24, respectively. The basic limits may include no more than 1 canvasback daily and 3 in possession.

In addition to the basic limit, there is a daily bag limit of 15 and a possession limit of 30 scoter, common and king eiders, oldsquaw, harlequin, and common and red-breasted mergansers, singly or in the aggregate of these species.

Light Geese—A basic daily bag limit of 3 and a possession limit of 6.

Dark Geese—A basic daily bag limit of 4 and a possession limit of 8.

Dark-goose seasons are subject to the following exceptions:

1. In Units 9(e) and 18, the limits for dark geese are 3 daily and 6 in possession.
2. In Units 5 and 6, the taking of Canada geese is permitted from September 28 through December 16. A special, permit only Canada goose season may be offered on Middleton Island. No more than 10 permits can be issued. A mandatory goose identification class is required . Hunters must check-in and check-out. Bag limit of 1 daily and 1 in possession. Season to close if incidental harvest includes 5 dusky Canada geese. A dusky Canada goose is any dark-breasted Canada goose (Munsell 10 YR color value five or less) with a bill length between 40 and 50 millimeters.
3. In Unit 10 (except Unimak Island), the taking of Canada geese is prohibited.
4. In Unit 9(D) and the Unimak Island portion of Unit 10, the limits for dark geese are 6 daily and 12 in possession.

Brant—A daily bag limit of 2.

Common snipe—A daily bag limit of 8.

Sandhill cranes—A daily bag limit of 3.

Tundra Swans—Open seasons for tundra swans may be selected subject to the following conditions:

1. All seasons are by registration permit only.
2. All season framework dates are September 1—October 31.
3. In GMU 18, no more than 500 permits may be issued during the operational season. No more than 3 tundra swans permits may be issued per hunter and permits must be issued sequentially one at a time, upon filing a harvest report.
4. In GMU 22, no more than 300 permits may be issued during the operational season authorizing each permittee to take 1 tundra swan per season.
5. In GMU 23, no more than 300 permits may be issued during the experimental season. No more than 3 tundra swans permits may be issued per hunter and permits must be issued sequentially, one at a time, upon filing a harvest report. The experimental season evaluation must adhere to the guidelines for experimental seasons as described in the Pacific Flyway Management Plan for the Western Population of (Tundra) Swans.

Hawaii

Outside Dates: Between October 1 and January 31.

Hunting Seasons: Not more than 65 days (75 under the alternative) for mourning doves.

Bag Limits: Not to exceed 15 (12 under the alternative) mourning doves.

Note: Mourning doves may be taken in Hawaii in accordance with shooting hours and other regulations set by the State of Hawaii, and subject to the applicable provisions of 50 CFR part 20.

Puerto Rico

Doves and Pigeons:

Outside Dates: Between September 1 and January 15.

Hunting Seasons: Not more than 60 days.

Daily Bag and Possession Limits: Not to exceed 10 Zenaida, mourning, and white-winged doves in the aggregate. Not to exceed 5 scaly-naped pigeons.

Closed Areas: There is no open season on doves or pigeons in the following areas: Municipality of Culebra, Desecheo Island, Mona Island, El Verde Closure Area, and Cidra Municipality and adjacent areas.

Ducks, Coots, Moorhens, Gallinules, and Snipe:

Outside Dates: Between October 1 and January 31.

Hunting Seasons: Not more than 55 days may be selected for hunting ducks, common moorhens, and common snipe. The season may be split into two segments.

Daily Bag Limits: Ducks—Not to exceed 6.

Common moorhens—Not to exceed 6.

Common snipe—Not to exceed 8.

Closed Seasons: The season is closed on the ruddy duck, white-cheeked pintail, West Indian whistling duck,

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fulvous whistling duck, and masked duck, which are protected by the Commonwealth of Puerto Rico. The season also is closed on the purple gallinule, American coot, and Caribbean coot.

Closed Areas: There is no open season on ducks, common moorhens, and common snipe in the Municipality of Culebra and on Desecheo Island.

Virgin Islands

Doves and Pigeons:

Outside Dates: Between September 1 and January 15.

Hunting Seasons: Not more than 60 days for Zenaida doves.

Daily Bag and Possession Limits: Not to exceed 10 Zenaida doves.

Closed Seasons: No open season is prescribed for ground or quail doves, or pigeons in the Virgin Islands.

Closed Areas: There is no open season for migratory game birds on Ruth Cay (just south of St. Croix).

Local Names for Certain Birds: Zenaida dove, also known as mountain dove; bridled quail-dove, also known as Barbary dove or partridge; Common ground-dove, also known as stone dove, tobacco dove, rola, or tortolita; scaly-naped pigeon, also known as red-necked or scaled pigeon.

Ducks

Outside Dates: Between December 1 and January 31.

Hunting Seasons: Not more than 55 consecutive days.

Daily Bag Limits: Not to exceed 6.

Closed Seasons: The season is closed on the ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck, and masked duck.

Special Falconry Regulations

Falconry is a permitted means of taking migratory game birds in any State meeting Federal falconry standards in 50 CFR 21.29(k). These States may select an extended season for taking migratory game birds in accordance with the following:

Extended Seasons: For all hunting methods combined, the combined length of the extended season, regular season, and any special or experimental seasons shall not exceed 107 days for any species or group of species in a geographical area. Each extended season may be divided into a maximum of 3 segments.

Framework Dates: Seasons must fall between September 1 and March 10.

Daily Bag and Possession Limits: Falconry daily bag and possession limits for all permitted migratory game birds shall not exceed 3 and 6 birds, respectively, singly or in the aggregate, during extended falconry seasons, any special or experimental seasons, and regular hunting seasons in all States, including those that do not select an extended falconry season.

Regular Seasons: General hunting regulations, including seasons and hunting hours, apply to falconry in each State listed in 50 CFR 21.29(k). Regular-season bag and possession limits do not apply to falconry. The falconry bag limit is not in addition to gun limits.

Area, Unit, and Zone Descriptions

Mourning and White-winged Doves

Alabama

South Zone—Baldwin, Barbour, Coffee, Conecuh, Covington, Dale, Escambia, Geneva, Henry, Houston, and Mobile Counties.

North Zone—Remainder of the State.

California

White-winged Dove Open Areas—Imperial, Riverside, and San Bernardino Counties.

Florida

Northwest Zone—The Counties of Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Okaloosa, Santa Rosa, Walton, Washington, Leon (except that portion north of U.S. 27 and east of State Road 155), Jefferson (south of U.S. 27, west of State Road 59 and north of U.S. 98), and Wakulla (except that portion south of U.S. 98 and east of the St. Marks River).

South Zone—Remainder of State.

Georgia

Northern Zone—That portion of the State lying north of a line running west to east along U.S. Highway 280 from Columbus to Wilcox County, thence southward along the western border of Wilcox County; thence east along the southern border of Wilcox County to the Ocmulgee River, thence north along the Ocmulgee River to Highway 280, thence east along Highway 280 to the Little Ocmulgee River; thence southward along the Little Ocmulgee River to the Ocmulgee River; thence southwesterly along the Ocmulgee River to the western border of the Jeff Davis County; thence south along the western border of Jeff Davis County; thence east along the southern border of Jeff Davis and Appling Counties; thence north along the eastern border of Appling County, to the Altamaha River; thence east to the eastern border of Tattnall County; thence north along the eastern border of Tattnall County; thence north along the western border of Evans to Candler County; thence west along the southern border of Candler County to the Ohoopee River; thence north along the western border of Candler County to Bulloch County; thence north along the western border of Bulloch County to U.S. Highway 301; thence northeast along U.S. Highway 301 to the South Carolina line.

South Zone—Remainder of the State.

Louisiana

North Zone—That portion of the State north of Interstate Highway 10 from the Texas State line to Baton Rouge, Interstate Highway 12 from Baton Rouge to Slidell and Interstate Highway 10 from Slidell to the Mississippi State line.

South Zone—The remainder of the State.

Mississippi

South Zone—The Counties of Forrest, George, Greene, Hancock, Harrison, Jackson, Lamar, Marion, Pearl River, Perry, Pike, Stone, and Walthall.

North Zone—The remainder of the State.

Nevada

White-winged Dove Open Areas—Clark and Nye Counties.

Texas

North Zone—That portion of the State north of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to TX 20; west along TX 20 to TX 148; north along TX 148 to I–10 at Fort Hancock; east along I–10 to I–20; northeast along I–20 to I–30 at Fort Worth; northeast along I–30 to the Texas-Arkansas State line.

South Zone—That portion of the State south and west of a line beginning at the International Bridge south of Del Rio, proceeding east on U.S. 90 to San Antonio; then east on I–10 to Orange, Texas.

Special White-winged Dove Area in the South Zone—That portion of the State south and west of a line beginning at the International Bridge south of Del Rio, proceeding east on U.S. 90 to Uvalde; south on U.S. 83 to TX 44; east along TX 44 to TX 16 at Freer; south along TX 16 to TX 285 at Hebbronville; east along TX 285 to FM 1017; southwest along FM 1017 to TX 186 at Linn; east along TX 186 to the Mansfield Channel at Port Mansfield; east along the Mansfield Channel to the Gulf of Mexico.

Area with additional restrictions—Cameron, Hidalgo, Starr, and Willacy Counties.

Central Zone—That portion of the State lying between the North and South Zones.

Band-tailed Pigeons

California

North Zone—Alpine, Butte, Del Norte, Glenn, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama, and Trinity Counties.

South Zone—The remainder of the State.

New Mexico

North Zone—North of a line following U.S. 60 from the Arizona State line east to I–25 at Socorro and then south along I–25 from Socorro to the Texas State line.

South Zone—Remainder of the State.

Washington

Western Washington—The State of Washington excluding those portions lying east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County.

Woodcock

New Jersey

North Zone—That portion of the State north of NJ 70.

South Zone—The remainder of the State.

Special September Canada Goose Seasons

Atlantic Flyway

Connecticut

North Zone—That portion of the State north of I–95.

Maryland

Eastern Unit—Anne Arundel, Calvert, Caroline, Cecil, Charles, Dorchester, Harford, Kent, Queen Annes, St. Marys, Somerset, Talbot, Wicomico, and Worcester Counties, and those portions of Baltimore, Howard, and Prince George's Counties east of I–95.

Western Unit—Allegany, Carroll, Frederick, Garrett, Montgomery, and Washington Counties, and those portions of Baltimore, Howard, and Prince George's Counties east of I–95.

Massachusetts

Western Zone—That portion of the State west of a line extending south from the Vermont border on I–91 to MA 9, west on MA 9 to MA 10, south on MA 10 to U.S. 202, south on U.S. 202 to the Connecticut border.

Central Zone—That portion of the State east of the Berkshire Zone and west of a line extending south from the New Hampshire border on I–95 to U.S. 1, south on U.S. 1 to I–93, south on I–93 to MA 3, south on MA 3 to U.S. 6, west on U.S. 6 to MA 28, west on MA 28 to I–195, west to the Rhode Island border; except the waters, and the lands 150 yards inland from the high-water mark, of the Assonet River upstream to the MA 24 bridge, and the Taunton River upstream to the Center St.-Elm St. bridge shall be in the Coastal Zone.

Coastal Zone—That portion of Massachusetts east and south of the Central Zone.

New Hampshire

Early-season Hunt Unit—Cheshire, Hillsborough, Rockingham, and Strafford Counties.

New York

Lake Champlain Zone—The U.S. portion of Lake Champlain and that area east and north of a line extending along NY 9B from the Canadian border to U.S. 9, south along U.S. 9 to NY 22 south of Keesville; south along NY 22 to the west shore of South Bay, along and around the shoreline of South Bay to NY 22 on the east shore of South Bay; southeast along NY 22 to U.S. 4, northeast along U.S. 4 to the Vermont border.

Long Island Zone—That area consisting of Nassau County, Suffolk County, that area of Westchester County southeast of I–95, and their tidal waters.

Western Zone—That area west of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, and south along I–81 to the Pennsylvania border, except for the Montezuma Zone.

Montezuma Zone—Those portions of Cayuga, Seneca, Ontario, Wayne, and Oswego Counties north of U.S. Route 20, east of NYS Route 14, south of NYS Route 104, and west of NYS Route 34.

Northeastern Zone—That area north of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, south along I–81 to NY 49, east along NY 49 to NY 365, east along NY 365 to NY 28, east along NY 28 to NY 29, east along NY 29 to I–87, north along I–87 to U.S. 9 (at Exit 20), north along U.S. 9 to NY 149, east along NY 149 to U.S. 4, north along U.S. 4 to the Vermont border, exclusive of the Lake Champlain Zone.

Southeastern Zone—The remaining portion of New York.

North Carolina

Northeast Hunt Unit—Counties of Bertie, Camden, Chovan, Currituck, Dare, Hyde, Pasquotank, Perquimans, Tyrrell, and Washington.

South Carolina

Early-season Hunt Unit—Clarendon County and those portions of Orangeburg County north of SC Highway 6 and Berkeley County north of SC Highway 45 from the Orangeburg County line to the junction of SC Highway 45 and State Road S–8–31 and west of the Santee Dam.

Mississippi Flyway

Illinois

Northeast Canada Goose Zone—Cook, DuPage, Grundy, Kane, Kankakee, Kendall, Lake, McHenry, and Will Counties.

North Zone: That portion of the State outside the Northeast Canada Goose Zone and north of a line extending east from the Iowa border along Illinois Highway 92 to Interstate Highway 280, east along I-280 to I–80, then east along I–80 to the Indiana border.

Central Zone: That portion of the State outside the Northeast Canada Goose Zone and south of the North Zone to a line extending east from the Missouri border along the Modoc Ferry route to Modoc Ferry Road, east along Modoc Ferry Road to Modoc Road, northeasterly along Modoc Road and St. Leo's Road to Illinois Highway 3, north along Illinois 3 to Illinois 159, north along Illinois 159 to Illinois 161, east along Illinois 161 to Illinois 4, north along Illinois 4 to Interstate Highway 70, east along I–70 to the Bond County line, north and east along the Bond County line to Fayette County, north and east along the Fayette County line to Effingham County, east and south along the Effingham County line to I-70, then east along I–70 to the Indiana border.

Iowa

North Zone: That portion of the State north of a line extending east from the Nebraska border along State Highway 175 to State 37, southeast along State 37 to U.S. Highway 59, south along U.S. 59 to Interstate Highway 80, then east along I–80 to the Illinois border.

South Zone: The remainder of Iowa.

Minnesota

Twin Cities Metropolitan Canada Goose Zone

A. All of Hennepin and Ramsey Counties.

B. In Anoka County, all of Columbus Township lying south of County State Aid Highway (CSAH) 18, Anoka County; all of the cities of Ramsey, Andover, Anoka, Coon Rapids, Spring Lake Park, Fridley, Hilltop, Columbia Heights, Blaine, Lexington, Circle Pines, Lino Lakes, and Centerville; and all of the city of Ham Lake except that portion lying north of CSAH 18 and east of U.S. Highway 65.

C. That part of Carver County lying north and east of the following described line: Beginning at the northeast corner of San Francisco

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Township; thence west along the north boundary of San Francisco Township to the east boundary of Dahlgren Township; thence north along the east boundary of Dahlgren Township to U.S. Highway 212; thence west along U.S. Highway 212 to State Trunk Highway (STH) 284; thence north on STH 284 to County State Aid Highway (CSAH) 10; thence north and west on CSAH 10 to CSAH 30; thence north and west on CSAH 30 to STH 25; thence east and north on STH 25 to CSAH 10; thence north on CSAH 10 to the Carver County line.

D. In Scott County, all of the cities or Shakopee, Savage, Prior Lake, and Jordan, and all of the Townships of Jackson, Louisville, St. Lawrence, Sand Creek, Spring Lake, and Credit River.

E. In Dakota County, all of the cities of Burnsville, Eagan, Mendota Heights, Mendota, Sunfish Lake, Inver Grove Heights, Apple Valley, Lakeville, Rosemount, Farmington, Hastings, Lilydale, West St. Paul, and South St. Paul, and all of the Township of Nininger.

F. That portion of Washington County lying south of the following described line: Beginning at County State Aid Highway (CSAH) 2 on the west boundary of the county; thence east on CSAH 2 to U.S. Highway 61; thence south on U.S. Highway 61 to State Trunk Highway (STH) 97; thence east on STH 97 to the intersection of STH 97 and STH 95; thence due east to the east boundary of the State.

Northwest Goose Zone (included for reference only, not a special September Goose Season Zone)—That portion of the State encompassed by a line extending east from the North Dakota border along U.S. Highway 2 to State Trunk Highway (STH) 32, north along STH 32 to STH 92, east along STH 92 to County State Aid Highway (CSAH) 2 in Polk County, north along CSAH 2 to CSAH 27 in Pennington County, north along CSAH 27 to STH 1, east along STH 1 to CSAH 28 in Pennington County, north along CSAH 28 to CSAH 54 in Marshall County, north along CSAH 54 to CSAH 9 in Roseau County, north along CSAH 9 to STH 11, west along STH 11 to STH 310, and north along STH 310 to the Manitoba border.

Five Goose Zone—That portion of the State encompassed by a line extending north from the Iowa border along U.S. Interstate Highway 35 to the south boundary of the Twin Cities Metropolitan Canada Goose Zone, then west and north along the boundary of the Twin Cities Metropolitan Canada Goose Zone to U.S. Interstate 94, then west and north on U.S. Interstate 94 to the North Dakota border.

Two Goose Zone—That portion of the State to the north of a line extending east from the North Dakota border along U.S. Interstate 94 to the boundary of the Twin Cities Metropolitan Canada Goose Zone, then north and east along the Twin Cities Metropolitan Canada Goose Zone boundary to the Wisconsin border, except the Northwest Goose Zone and that portion of the State encompassed by a line extending north from the Iowa border along U.S. Interstate 35 to the south boundary of the Twin Cities Metropolitan Canada Goose Zone, then east on the Twin Cites Metropolitan Canada Goose Zone boundary to the Wisconsin border.

Tennessee

Middle Tennessee Zone—Those portions of Houston, Humphreys, Montgomery, Perry, and Wayne Counties east of State Highway 13; and Bedford, Cannon, Cheatham, Coffee, Davidson, Dickson, Franklin, Giles, Hickman, Lawrence, Lewis, Lincoln, Macon, Marshall, Maury, Moore, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, and Wilson Counties.

Cumberland Plateau Zone—Bledsoe, Bradley, Clay, Cumberland, Dekalb, Fentress, Grundy, Hamilton, Jackson, Marion, McMinn, Meigs, Morgan, Overton, Pickett, Polk, Putnam, Rhea, Roane, Scott, Sequatchie, Van Buren, Warren, and White Counties.

East Tennessee Zone—Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Loudon, Monroe, Sevier, Sullivan, Unicoi, Union, and Washington Counties.

Wisconsin

Early-Season Subzone A—That portion of the State encompassed by a line beginning at the Lake Michigan shore in Sheboygan, then west along State Highway 23 to State 67, southerly along State 67 to County Highway E in Sheboygan County, southerly along County E to State 28, south and west along State 28 to U.S. Highway 41, southerly along U.S. 41 to State 33, westerly along State 33 to County Highway U in Washington County, southerly along County U to County N, southeasterly along County N to State 60, westerly along State 60 to County Highway P in Dodge County, southerly along County P to County O, westerly along County O to State 109, south and west along State 109 to State 26, southerly along State 26 to U.S. 12, southerly along U.S. 12 to State 89, southerly along State 89 to U.S. 14, southerly along U.S. 14 to the Illinois border, east along the Illinois border to the Michigan border in Lake Michigan, north along the Michigan border in Lake Michigan to a point directly east of State 23 in Sheboygan, then west along that line to the point of beginning on the Lake Michigan shore in Sheboygan.

Early-Season Subzone B—That portion of the State between Early-Season Subzone A and a line beginning at the intersection of U.S. Highway 141 and the Michigan border near Niagara, then south along U.S. 141 to State Highway 22, west and southwest along State 22 to U.S. 45, south along U.S. 45 to State 22, west and south along State 22 to State 110, south along State 110 to U.S. 10, south along U.S. 10 to State 49, south along State 49 to State 23, west along State 23 to State 73, south along State 73 to State 60, west along State 60 to State 23, south along State 23 to State 11, east along State 11 to State 78, then south along State 78 to the Illinois border.

Central Flyway

South Dakota

September Canada Goose Unit—Brookings, Clark, Codington, Day, Deuel, Grant, Hamlin, Kingsbury, Lake, McCook, Moody Counties, and Miner County east of SD 25, and that portion of Minnehaha County north and west of a line beginning at the junction of County 130 (Renner Road) and the Minnesota border, then west on County 130 to I–29 and along I–29 to the Lincoln County line.

Pacific Flyway

Idaho

East Zone—Bonneville, Caribou, Fremont and Teton Counties.

Oregon

Northwest Zone—Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Polk, Multnomah, Tillamook, Washington, and Yamhill Counties.

Southwest Zone—Coos, Curry, Douglas, Jackson, Josephine, and Klamath Counties.

East Zone—Baker, Gilliam, Malheur, Morrow, Sherman, Umatilla, Union and Wasco Counties.

Washington

Southwest Zone—Clark, Cowlitz, Pacific, and Wahkiakum Counties.

East Zone—Asotin, Benton, Columbia, Garfield, Klickitat, and Whitman Counties.

Wyoming

Bear River Area—That portion of Lincoln County described in State regulations.

Salt River Area—That portion of Lincoln County described in State regulations.

Farson-Edon Area—Those portions of Sweetwater and Sublette Counties described in State regulations.

Teton Area—Those portions of Teton County described in State regulations.

Ducks

Mississippi Flyway

Iowa

North Zone: That portion of the State north of a line extending east from the Nebraska border along State Highway 175 to State 37, southeast along State 37 to U.S. Highway 59, south along U.S. 59 to Interstate Highway 80, then east along I–80 to the Illinois border.

South Zone: The remainder of Iowa.

Sandhill Cranes

Central Flyway

Colorado

Regular-Season Open Area—The Central Flyway portion of the State except the San Luis Valley (Alamosa, Conejos, Costilla, Hinsdale, Mineral, Rio Grande and Saguache Counties east of the Continental Divide) and North Park (Jackson County).

Kansas

Regular Season Open Area—That portion of the State west of a line beginning at the Oklahoma border, north on I–35 to Wichita, north on I–135 to Salina, and north on U.S. 81 to the Nebraska border.

New Mexico

Regular-Season Open Area—Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt Counties.

Middle Rio Grande Valley Area—The Central Flyway portion of New Mexico in Socorro and Valencia Counties.

Southwest Zone—Sierra, Luna, and Dona Ana Counties.

Oklahoma

Regular-Season Open Area—That portion of the State west of I–35.

Texas

Regular-Season Open Area—That portion of the State west of a line from the International Toll Bridge at Brownsville along U.S. 77 to Victoria; U.S. 87 to Placedo; Farm Road 616 to Blessing; State 35 to Alvin; State 6 to U.S. 290; U.S. 290 to Austin; I–35 to the Texas-Oklahoma border.

North Dakota

Regular-Season Open Area—That portion of the State west of U.S. 281.

South Dakota

Regular-Season Open Area—That portion of the State west of U.S. 281.

Montana

Regular-Season Open Area—The Central Flyway portion of the State except that area south of I–90 and west of the Bighorn River.

Wyoming

Regular-Season Open Area—Campbell, Converse, Crook, Goshen, Laramie, Niobrara, Platte, and Weston Counties.

Riverton-Boysen Unit—Portions of Fremont County.

Park and Bighorn County Unit—Portions of Park and Bighorn Counties.

Pacific Flyway

Arizona

Special-Season Area—Game Management Units 30A, 30B, 31, and 32.

Montana

Special-Season Area—See State regulations.

Utah

Special-Season Area—Rich County.

Wyoming

Bear River Area—That portion of Lincoln County described in State regulations.

Salt River Area—That portion of Lincoln County described in State regulations.

Eden-Farson Area—Those portions of Sweetwater and Sublette Counties described in State regulations.

All Migratory Game Birds in Alaska

North Zone—State Game Management Units 11–13 and 17–26.

Gulf Coast Zone—State Game Management Units 5–7, 9, 14–16, and 10—Unimak Island only.

Southeast Zone—State Game Management Units 1–4.

Pribilof and Aleutian Islands Zone—State Game Management Unit 10—except Unimak Island.

Kodiak Zone—State Game Management Unit 8.

All Migratory Birds in the Virgin Islands

Ruth Cay Closure Area—The island of Ruth Cay, just south of St. Croix.

All Migratory Birds in Puerto Rico

Municipality of Culebra Closure Area—All of the municipality of Culebra.

Desecheo Island Closure Area—All of Desecheo Island.

Mona Island Closure Area—All of Mona Island.

El Verde Closure Area—Those areas of the municipalities of Rio Grande and Loiza delineated as follows: (1) All lands between Routes 956 on the west and 186 on the east, from Route 3 on the north to the juncture of Routes 956 and 186 (Km 13.2) in the south; (2) all lands between Routes 186 and 966 from the juncture of 186 and 966 on the north, to the Caribbean National Forest Boundary on the south; (3) all lands lying west of Route 186 for one kilometer from the juncture of Routes 186 and 956 south to Km 6 on Route 186; (4) all lands within Km 14 and Km 6 on the west and the Caribbean National Forest Boundary on the east; and (5) all lands within the Caribbean National Forest Boundary whether private or public.

Cidra Municipality and adjacent areas—All of Cidra Municipality and portions of Aguas, Buenas, Caguas, Cayer, and Comerio Municipalities as encompassed within the following boundary: beginning on Highway 172 as it leaves the municipality of Cidra on the west edge, north to Highway 156, east on Highway 156 to Highway 1, south on Highway 1 to Highway 765, south on Highway 765 to Highway 763, south on Highway 763 to the Rio Guavate, west along Rio Guavate to Highway 1, southwest on Highway 1 to Highway 14, west on Highway 14 to Highway 729, north on Highway 729 to Cidra Municipality boundary to the point of beginning.

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REGULATORY ALTERNATIVES FOR DUCK HUNTING DURING THE 1998-99 SEASON

	ATLANTIC FLYWAY				MISSISSIPPI FLYWAY (a)				CENTRAL FLYWAY (b)				PACIFIC FLYWAY (c)(d)			
	VERY RES	RES	MOD	LIB	VERY RES	RES	MOD	LIB	VERY RES	RES	MOD	LIB	VERY RES	RES	MOD	LIB
Begining Shooting Time	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr before sunrise	1/2 hr. before sunrise	1/2 hr before sunrise	1/2 hr before sunrise	1/2 hr before sunrise
Ending Shooting Time	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset
Opening Date	Oct. 1	Oct. 1	Oct. 1	Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1	Sat nearest Oct 1	Sat. nearest Oct. 1	Sat nearest Oct. 1	Sat nearest Oct. 1	Sat nearest Oct 1	Sat nearest Oct 1	Sat nearest Oct 1	Sat nearest Oct 1
Closing Date	Jan. 20	Jan. 20	Jan. 20	Jan. 20	Sun. nearest Jan. 20	Sun nearest Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20	Sun nearest Jan. 20	Sun. nearest Jan. 20	Sun nearest Jan. 20	Sun nearest Jan 20	Sun nearest Jan 20	Sun nearest Jan 20	Sun nearest Jan 20
Season Length	20	30	45	60	20	30	45	60	25	39	60	74	38	60	86	107
Daily Bag/ Possession	3 6	3 6	6 12	6 12	3 6	3 6	6 12	6 12	3 6	3 6	6 12	6 12	4 8	4 8	7 14	7 14
Species/Sex Limits within the Overall Daily Bag Limit																
Mallard (Total/Female)	3/1	3/1	4/2	4/2	2/1	2/1	4/1	4/2	3/1	3/1	5/1	5/2	3/1	3/1	5/2	7/2
Pintail	←ACCORDING TO THE PINTAIL INTERIM HARVEST STRATEGY→															
Black Duck	1	1	1	1	1	1	1	1	-	-	-	-	-	-	-	-
H. Merganser	1	1	1	1	1	1	1	1	1	1	1	1	-	-	-	-
Canvasback	←0 OR 1, ACCORDING TO THE SERVICE'S INTERIM CANVASBACK HARVEST MANAGEMENT STRATEGY→															
Redhead	2	2	2	2	1	1	2	2	1	1	2	2	2	2	2	2
Wood Duck	2	2	2	2	2	2	2	2	2	2	2	2	-	-	-	-
Whistling Ducks	1	1	1	1	-	-	-	-	-	-	-	-	-	-	-	-
Harlequin	Closed	Closed	Closed	Closed	-	-	-	-	-	-	-	-	-	-	-	-
Mottled Duck	1	1	1	1	3	3	3	3	1	1	1	1	-	-	-	-

(a) In the States of Alabama, Arkansas, Kentucky, Louisiana, Mississippi, and Tennessee, the season length and framework closing date under the moderate and liberal packages will be determined in the late-season regulations process

(b) In the High Plains Mallard Management Unit, all regulations would be the same as the remainder of the Central Flyway with the exception of season length. Additional days would be allowed under the various options as follows very restrictive - 8, restrictive - 12, moderate and liberal - 23. Under all options, additional days must be on or after the Saturday nearest December 10.

(b) In the Columbia Basin Mallard Mangement Unit, all regulations would be the same as the remainder of the Pacific Flyway, with the exception of season length. Under all options except the liberal option, an additional 7 days would be allowed

(c) In Alaska, framework dates, bag limits, and season length would be different than the remainder of the Pacific Flyway. The bag limit would be 5-7 under the very restrictive and restrictive options, and 8-10 under the moderate and liberal options. There would be no restrictions on pintails, and canvasback limits would follow those for the remainder of the Pacific Flyway. Under all options, season length would be 107 days and framework dates would be Sep 1 - Jan 26

[FR Doc. 98–19124 Filed 7–16–98; 8:45am]

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federal register

Friday
July 17, 1998

Part IV

Department of Agriculture

Rural Utilities Service

7 CFR Part 1773

Policy on Audits of RUS Borrowers; Final Rule

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DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1773

RIN 0572–AA93

Policy on Audits of RUS Borrowers

AGENCY: Rural Utilities Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Utilities Service (RUS) hereby amends its regulations on audits of RUS borrowers. This final rule incorporates changes to the audit regulations necessitated by the Single Audit Act Amendments of 1996 and by Office of Management and Budget (OMB) Circular A–133, Audits of States, Local Governments, and Non-Profit Organizations effective for audits of fiscal years beginning after June 30, 1996. This rule also clarifies the peer review requirements in the interim final rule for certified public accountants (CPA) performing audits of RUS borrowers, adopts individual management letters for electric and telecommunications borrowers, and revises the language of the auditor's report and management letter to conform with technical guidance provided by the American Institute of Certified Public Accountants (AICPA).

EFFECTIVE DATE: July 17, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Richard C. Annan, Chief, Technical Accounting and Auditing Staff, Program Accounting Services Division, Rural Utilities Service, Stop 1523, room 2221, South Building, U.S. Department of Agriculture, 1400 Independence Avenue, SW, Washington, DC 20250–1523, telephone number (202) 720–5227.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule has been determined to be not significant for the purposes of Executive Order 12866 and therefore has not been reviewed by OMB.

Civil Justice Reform

This final rule has been reviewed under Executive Order 12998, Civil Justice Reform. RUS has determined that this final rule meets the applicable standards provided in section 3 of the Executive Order.

Regulatory Flexibility Act Certification

The Administrator of RUS has determined that this rule will not have significant impact on a substantial number of small entities defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), and therefore, the Regulatory Flexibility Act does not apply to this rule.

Information Collection and Recordkeeping Requirements

The reporting and recordkeeping requirements contained in this final rule will be submitted for approval to the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 34, as amended) under control number 0572–0095. The paperwork contained in this rule will not be effective until approved by OMB.

Send questions or comments regarding this burden or any aspect of this collection, including suggestions for reducing the burden to Mr. F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, Rural Utilities Service, Stop 1522, 1400 Independence Avenue SW, Washington, DC 20250–1522.

National Environmental Policy Act Certification

The RUS Administrator has determined that this final rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969(42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The program described by this final rule is listed in the Catalog of Federal Domestic Assistance Programs under numbers 10.850—Rural Electrification Loans and Loan Guarantees, 10.851—Rural Telephone Loans and Loan Guarantees, and 10.852—Rural Telephone Bank Loans. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC 20402.

Executive Order 12372

This final rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation. A notice of final rule entitled Department Programs and Activities Excluded from Executive Order 12372 (50 FR. 47034) exempts RUS electric loans and loan guarantees from coverage under this order.

National Performance Review

This regulatory action is being taken as part of the National Performance Review program to eliminate unnecessary regulations and improve those that remain in force.

Unfunded Mandates

This rule contains no Federal Mandates (under the regulatory provision of Title II of the Unfunded Mandate Reform Act) for State, local, and tribal governments or the private sector. Thus this rule is not subject to the requirements of section 202 and 205 of the Unfunded Mandate Reform Act.

Background

This final rule implements the changes required by the Single Audit Act Amendments of 1996 (31 U.S.C. 7501 *et seq.*) and the revised OMB Circular A–133, Audits of States, Local Governments, and Non-Profit Organizations (31 U.S.C. 7501 *et seq.*). The purposes of the Single Audit Act Amendments of 1996 were to promote sound financial management with respect to Federal awards administered by non-Federal entities, establish uniform requirements for audits of Federal awards, promote the efficient and effective use of audit resources, and reduce the burden on State and local governments, Indian tribes, and non-profit organizations. OMB Circular A–128, Audits of States and Local Governments, was merged with the former OMB Circular A–133, Audits of Institutions of Higher Education and Other Non-Profit Institutions, to form the revised OMB Circular A–133. The revised Circular implements the Single Audit Act Amendments of 1996 and raises the expenditure threshold. The Circular requires auditors to issue a report on compliance and on internal control over financial reporting and a report on compliance with requirements applicable to each major program and internal control over compliance in accordance with OMB Circular A–133.

Previously, separate reports were issued on compliance and internal controls. With the issuance of the revised Circular A–133, the AICPA developed illustrative report examples that merged the two reports into one report on compliance and on internal control over financial reporting.

On January 3, 1996, RUS published 61 FR 104 an interim final rule with request for comments amending part 1773 to comply with the 1994 revision of Generally Accepted Government Auditing Standards (GAGAS) and Statement on Auditing Standards (SAS) No. 74, Compliance Auditing Considerations in Audits of Governmental Entities and Recipients of Governmental Financial Assistance. The January 3, 1996, interim final rule also amended RUS' peer review requirements to reflect the merger of the Private Companies Practice Section of the AICPA and the AICPA quality review program and to extend the time period for peer reviews to 42 months. This final rule amends part 1773 in response to the comments filed on the interim final rule.

Section 1773.34, Management Letter, specifies the minimum requirements for the CPA's management letter. Among these is the requirement for the CPA to state whether the information submitted to RUS in its most recent December 31 RUS Form 7, Financial and Statistical Report; Form 12, Operating Report—Financial; or Form 479, Financial and Statistical Report for Telephone Borrowers, is in agreement with the borrower's records. This final rule clarifies that section to require the CPA's statement to indicate whether the most recent December 31 RUS Form 7, 12, or 479, agrees with the borrower's "audited" records if a borrower has a December 31 year end. For borrowers with a year end other than December 31, the CPA must state whether the information provided appears reasonable based upon the audit procedures performed.

The management letter for electric borrowers was also modified to conform with changes in § 1717.612, which states that funds are cash proceeds from loans made or guaranteed by RUS; § 1717.618 to redefine "substantially all" in management, operation, or maintenance contracts covering the borrower's system as being 90 percent; and § 1717.609 to delete the provision requiring the CPA to determine whether RUS approval was obtained for contracts between the borrower and its manager.

The management letter for telecommunications borrowers was changed to include additional requirements for compliance with RUS telecommunications loan and security instrument provisions. The rule clarifies that section to require the CPA to determine whether the borrower is in compliance with the provisions pertaining to the funded reserve requirements and net plant to secured debt ratio requirements for RUS loans approved after June 10, 1991, and before October 7, 1997, and the funded reserve requirement for RTB loans approved after June 10, 1991.

Both the management letters for electric and telecommunications borrowers were modified to remove the negative assurance language pertaining to items not tested in conformance with GAGAS.

The January 3, 1996, interim final rule also amended Sections 1773.5, Qualifications of CPA, and 1773.6, Audit Agreement, to include changes necessitated by the 1994 revision of GAGAS. In that amendment, the abbreviation OIG (Office of Inspector General, United States Department of Agriculture) was inadvertently replaced by OGC (Office of General Counsel) in paragraph 1773.5(c)(6)(iii) and paragraph 1773.6(a)(6). This final rule corrects that error.

The renaming of the Borrower Accounting Division (BAD) to the Program Accounting Services Division (PASD) was not incorporated into the interim final rule. This final rule serves to incorporate the name change by deleting all references to BAD and replacing them with PASD.

This final rule also adds a definition of the term "borrower" to mean all entities which receive financial assistance in the form of loans, loan guarantees, or grants from RUS.

Comments

An interim final rule entitled "Policy on Audits of RUS Borrowers," published January 3, 1996, at 61 FR 104, invited interested parties to submit comments on or before March 4, 1996. Comments were received from three accounting firms, the Assistant Administrator, Telecommunications Program, the Deputy Assistant Administrator, Electric Program, and from OIG. The following paragraphs address the topics that were discussed by the two commenters.

Comment. The revisions to §§ 1773.33 (e)(1)(iii) and 1773.33(e)(2)(iii) require the CPA to state whether the information submitted by a borrower to RUS in its most recent December 31 RUS Form 7, Financial and Statistical Report; Form 12, Operating Report-Financial; or Form 479, Financial and Statistical Report for Telephone Borrowers, is in agreement with the borrower's "audited" records. Commenters expressed concern that this requirement did not properly consider borrowers with fiscal year ends other than December 31. One commenter asked if this requirement necessitated a calendar year audit or alternate audit procedures to comply.

Response. The intent of this section was to require CPAs to state whether the information submitted by a borrower to RUS in its most recent December 31 RUS Form 7, 12, or 479 was in agreement with the borrower's audited records if the borrower has a December 31 year end. For borrowers with year ends other than December 31, the section was intended to require the CPA to state whether the information provided appeared reasonable based upon the procedures performed during the audit. The final rule has been amended to clarify this requirement.

Comment. When 7 CFR part 1717 was revised by the electric program, certain modifications affected part 1773. In § 1717.608, RUS approval of contracts between the borrower and its manager are no longer required. Additionally, the electric program determined that the quantification of "substantial part" was too low and raised it to 90 percent. Section 1717.612 defined funds as cash proceeds from loans made or guaranteed by RUS. These changes should to be incorporated into part 1773.

Response. This final rule has been amended to incorporate the changes necessitated by revisions made to part 1717.

Comment. The revisions to § 1773.33 (e)(2) excluded a requirement for compliance with RUS loan and security instrument provision for telecommunications borrowers. Under existing regulations, if the loan maturity period selected by the borrower exceeds the expected composite economic life of the facilities financed by a period of more than three years, the loan is conditioned upon the borrower electing to maintain a net plant to secured debt ratio of at least 1.2, or a funded reserve in such amount that the balance of the reserve plus the value of the facilities less depreciation be at least equal to the remaining principal payments on the loan.

Response. It was not our intent to omit this requirement for compliance with the RUS loan and security instrument from the management letter. The final rule has been amended to include this requirement.

Comment. One commenter noted that the management letter in part 1773 included a sentence that was in conflict with GAGAS. It was his opinion that the sentence concerning negative assurance should be eliminated from the management letter.

Response. We agree with the comment and we have deleted this sentence from the management letter.

Comment. The revision to § 1773.5 (c)(4)(C) set forth in the January 3, 1996, interim final rule extended the timeframe for submission of peer reviews to 42 months. Commenters expressed concern that the 42 months timeframe did not meet the requirements of GAGAS.

Response. The intent of this section was to provide a 6-month period for CPAs to submit their peer review reports to RUS. Upon further review of the interim final rule, we have revised the language in the final rule to require completion of peer reviews within 36

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months of the issuance of the prior review in accordance with GAGAS.

List of Subjects in 7 CFR Part 1773

Accounting, Electric power, Loan programs—communications, Loan programs—energy, Reporting and recordkeeping requirements, Rural areas, Telecommunications.

For reasons set forth in the preamble, RUS hereby amends 7 CFR part 1773 chapter XVII as follows:

PART 1773—POLICY ON AUDITS OF RUS BORROWERS

1. The authority citation for part 1773 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.*; 7 U.S.C. 1921 *et seq.*; Pub. L. 103–354, 108 Stat. 3178 (7 U.S.C. 6941 *et seq.*).

2. In part 1773 all references to items indicated in the left column are revised to read as stated in the right column:

Remove BAD—Borrower Accounting Division	Add PASD—Program Accounting Services Division
Director, BAD	Assistant Administrator, Program Accounting and Regulatory Analysis.
Telephone Program report on compliance	Telecommunications Program report on compliance and on internal controls over financial reporting.
Report on internal controls	Report on compliance and on internal controls over financial reporting.
Report on compliance and internal controls	Report on compliance and on internal controls over financial reporting.

3. Section 1773.2 is amended by adding the definition for Borrower.

§ 1773.2 Definitions.

* * * * *

Borrower means an entity that has an outstanding RUS, RTB, or FFB loan or loan guarantee, or that has received a grant for electric, telecommunications, distance learning, or telemedicine purposes under the act.

* * * * *

4. Section 1773.3 is amended by removing paragraph (d)(2), redesignating paragraphs (d)(3) and (d)(4) to (d)(2) and (d)(3) and revising paragraphs (d) introductory text, (d)(1) through (d)(3) introductory text, (d)(3)(ii) and (e).

§ 1773.3 Annual audit.

* * * * *

(d) A borrower that qualifies as a unit of state or local government or Indian tribe as such terms are defined in the Single Audit Act of 1984 (31 U.S.C. 7501 *et seq.*), the Single Audit Act Amendments of 1996 (31 U.S.C. 7505 *et seq.*) and OMB Circular A–133, Audits of States, Local Governments, and Non-Profit Organizations (copy available from the Executive Office of the President, Publication Services, 725 17th St., NW., Suite 2200, Washington, DC 20502; 202–395–7332), must comply with this part as follows:

(1) A borrower that expends $300,000 or more in a year in Federal awards must have an audit performed and submit an auditor's report meeting the requirements of the Single Audit Act of 1984 and the Single Audit Act Amendments of 1996.

(2) A borrower that expends less than $300,000 in Federal awards during the year must have an audit performed in accordance with the requirements of this part.

(3) A borrower must notify RUS, in writing, within 30 days of the as of audit date, of the total Federal awards expended during the year and must state whether it will have an audit performed in accordance with the Single Audit Act of 1984 and the Single Audit Act Amendments of 1996, or this part.

* * * * *

(ii) If an audit is performed in accordance with the Single Audit Act of 1984 and the Single Audit Act Amendments of 1996, an auditor's report that meets the requirements of the Single Audit Act of 1984, and the Single Audit Act Amendments of 1996, will be sufficient to satisfy that borrower's obligations under this part.

(e) OMB Circular A–133, Audits of States, Local Governments, and Non-Profit Organizations does not apply to audits of RUS electric and telecommunications cooperatives and commercial telecommunications borrowers.

* * * * *

5. Section 1773.5 is amended by revising paragraphs (c) introductory text and (c)(6)(iii) to read as follows:

§ 1773.5 Qualifications of CPA.

* * * * *

(c) *Peer review requirement.* The CPA must belong to and participate in a peer review program, and must have undergone a satisfactory peer review of the accounting and audit practice conducted by an approved peer review program under paragraph (c)(4) of this section, unless a waiver is granted under paragraph (c)(7) of this section. The reviewing organization must not be affiliated with or have had its most recent peer review conducted by the organization currently being reviewed (reciprocal reviews). After the initial peer review has been performed, the CPA must undergo a peer review of the accounting and audit practice within 36 months of the issuance of the previous peer review or at such additional times as designated by the peer review executive committee.

* * * * *

(6) * * *

(iii) A copy of the peer review report, accompanying letter of comment, and the partners' inspections must be made available to OIG, upon request.

* * * * *

6. Section 1773.6 is amended by revising paragraph (a)(6) to read as follows:

§ 1773.6 Audit agreement.

(a) * * *

(6) The CPA will make all audit-related documents, including auditor's reports, workpapers, and management letters available to RUS or its representatives (OIG and GAO), upon request, and will permit the photocopying of all audit-related documents; and

* * * * *

7. Section 1773.30 is amended by removing paragraph (a)(3), and redesignating paragraph (a)(4) to (a)(3) and revising paragraphs (a)(2) and (a)(3) to read as follows:

§ 1773.30 General.

(a) * * *

(2) A report on compliance and on internal control over financial reporting, examples of which are set forth in appendices A, exhibits 2 and 3 (Electric) and B, exhibits 4 and 5 (Telecommunications) of this part 1773; and

(3) A management letter, an example of which is set forth in appendix C of this part 1773.

* * * * *

8a. Section 1773.31 is amended by revising the last sentence to read as follows:

§ 1773.31 Auditor's Report.

* * * This report must be signed by the CPA, cover all statements presented, and refer to the separate report on compliance and on internal control over financial reporting issued in conjunction with the auditor's report.

8b. Section 1773.32 is revised to read as follows:

§ 1773.32 Report on compliance and on internal control over financial reporting.

As required by GAGAS, the CPA must prepare a written report on the tests performed for compliance with applicable laws, regulations, contracts, and grants, and on the borrower's internal control structure and on the assessment of control risk made as part of the financial statement audit. This report must be signed by the CPA and must include, as a minimum:

(a) The scope of the CPA's work to obtain an understanding of the borrower's internal control structure and in assessing the control risk;

(b) A description of the reportable conditions noted which include material weaknesses identified as a result of the CPA's work in understanding and assessing control risk;

(c) If no reportable instances of noncompliance and no reportable conditions were found, the CPA must issue a report as illustrated in appendix A, exhibit 2 (Electric), and appendix B, exhibit 4 (Telecommunications) of this part 1773;

(d) If material instances of noncompliance and reportable conditions are identified, the CPA must issue a report as illustrated in appendix A, exhibit 3 (Electric), and appendix B, exhibit 5 (Telecommunications) of this part 1773;

(e) Other nonmaterial instances of noncompliance should not be disclosed in the report on compliance and on internal control over financial reporting, but should be reported in a separate communication to the board of directors, preferably in writing. All such communications must be documented in the workpapers and submitted to RUS in compliance with § 1773.21.

(f) If the CPA has issued a separate letter detailing immaterial instances of noncompliance, the report on compliance and on internal control over financial reporting must be modified to include a statement such as:

> We noted certain immaterial instances of noncompliance that we have reported to the management of (borrower's name) in a separate letter dated (month, day, year).

(g) If the CPA has issued a separate letter to management to communicate other matters involving the design and operation of the internal control over financial reporting, the report on compliance and on internal control over financial reporting must be modified to include a statement such as:

> However, we noted other matters involving the internal control over financial reporting that we have reported to the management of (borrower's name) in a separate letter dated (month, day, year).

(h) The report must contain the status of known but uncorrected significant or material findings and recommendations from prior audits that affect the current audit objective.

9. Section 1773.33 is removed.

10. Section 1773.34 is redesignated to § 1773.33 and amended by removing paragraph (e)(1)(ii)(E), revising paragraphs (e)(1)(i), (e)(1)(ii) introductory text, (e)(1)(ii)(C) and (e)(1)(iii) and (e)(2)(iii) and adding (e)(2)(iv) to read as follows:

§ 1773.33 Management letter.

* * * * *

(e) * * *

(1) * * *

(i) The requirement for funds to be deposited in banks or other depositories designated in the loan documents or approved by RUS. For purposes of this part, funds shall be defined as cash proceeds from loans made or guaranteed by RUS in accordance with 7 CFR 1717.612.

(ii) The requirement for a borrower to obtain written approval of mortgagees to enter into any contract for the management, operation, or maintenance of the borrower's system if the contract covers all or substantially all (90 percent) of the electric system. For purposes of this part, the following contracts shall be deemed as requiring RUS approval:

* * * * *

(C) Operations and maintenance contracts in which the borrower has contracted to have another borrower or other entity operate and/or maintain all or substantially all (90 percent) of the physical plant facilities of the plant.

* * * * *

(iii) The requirement for a borrower to prepare and furnish mortgagees annual financial and statistical reports on the borrower's financial condition and operations. For borrowers with a December 31 year end, the CPA must state whether the information represented by the borrower as having been submitted to RUS in its most recent December 31 RUS Form 7 or Form 12 is in agreement with the borrower's audited records. For borrowers with a year end other than December 31, the CPA must state whether the information appears reasonable based upon the audit procedures performed. If the borrower represents that an amended report has been filed as of December 31, the comments must relate to the amended report.

(2) * * *

(iii) The requirement for a borrower to prepare and furnish mortgagees annual financial and statistical reports on the borrower's financial condition and operations. For borrowers with a December 31 year end, the CPA must state whether the information represented by the borrower as having been submitted to RUS in its most recent December 31 RUS Form 479 is in agreement with the borrower's audited records. For borrowers with a year end other than December 31, the CPA must state whether the information appears reasonable based upon the audit procedures performed. If the borrower represents that an amended report has been filed as of December 31, the comments must relate to the amended report.

(iv) The requirement that a borrower maintain either a net plant to secured debt ratio or a funded reserve.

(A) For loans approved after June 10, 1991, and before October 7, 1997, if a borrower selected a loan maturity period in excess of the expected economic life of the facilities financed, the borrower must maintain a secured debt ratio of at least 1.2 or a funded reserve. If, during the audit period, the borrower has been issued refunding notes that match the remaining composite economic life of the facilities thus eliminating the requirement, the auditor should so state.

(1) If the net plant to secured debt ratio option was selected, this ratio must be achieved one year following the first advance of funds.

(2) If the funded reserve option was selected, the reserve must be of such amount that the balance of the reserve plus the value of the facilities less depreciation be at least equal to the remaining principal payments on the loan. Funding of the reserve must begin within one year of approval of release of funds and must continue regularly over the composite economic life of the facilities financed.

(B) For loans approved after October 7, 1997, if a borrower selected a loan maturity period in excess of the expected economic life of the facilities financed, the borrower must maintain a funded reserve in such amount that the balance of the reserve plus the value of the facilities less depreciation be at least equal to the remaining principal payments on the loan. Funding of the reserve must begin within one year of approval of release of funds and must continue regularly over the composite economic life of the facilities financed. If, during the audit period, the borrower has been issued refunding notes that match the remaining composite economic life of the facilities thus eliminating the requirement for maintaining the funded reserve requirement, the auditor should so state.

* * * * *

11. Reserve § 1773.34.

12. Appendix A to Part 1773 is amended by revising exhibits 1, 2, and 3, removing exhibits 4, 5, and 6, and redesignating exhibit 7 as exhibit 4 and revising it to read as follows:

Appendix A to Part 1773—Sample Auditor's Report for an Electric Cooperative

* * * * *

Exhibit 1—Sample Auditor's Report

Certified Public Accountants, 1600 Main Street, City, State 24105

The Board of Directors, Center County Electric Cooperative: Independent Auditor's Report

We have audited the accompanying balance sheets of Center County Electric Cooperative as of December 31, 1998 and 1997, and the related statements of revenue and patronage capital, and cash flows for the years then ended. These financial statements are the responsibility of Center County Electric Cooperative's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audits in accordance with generally accepted auditing standards and the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States. Those standards required that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Center County Electric Cooperative as of December 31, 1998 and 1997, and the results of its operations and its cash flows for the years then ended in conformity with generally accepted accounting principles.

In accordance with Government Auditing Standards, we have also issued a report dated March 2, 1999, on our consideration of Center County Electric Cooperative's internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts, and grants.

Certified Public Accountants

March 2, 1999

Exhibit 2—Sample Report on Compliance and on Internal Control over Financial Reporting, the CPA found No Reportable Instances of Noncompliance and No Material Weaknesses (No Reportable Conditions Identified).

Certified Public Accountants, 1600 Main Street, City, State 24105

The Board of Directors

Center County Electric Cooperative:

We have audited the financial statements of Center County Electric Cooperative as of and for the years ended December 31, 1998 and 1997, and have issued our report thereon dated March 2, 1999. We conducted our audit in accordance with generally accepted auditing standards and the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States.

Compliance

As part of obtaining reasonable assurance about whether Center County Electric Cooperative's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grants, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance that are required to be reported under Government Auditing Standards. [If the CPA has issued a separate letter to the management detailing immaterial instances of noncompliance, modify this paragraph to include a statement such as the following: However, we noted certain immaterial instances of noncompliance which we have reported to the management of Center County Electric Cooperative in a separate letter dated March 2, 1999.]

Internal Control Over Financial Reporting

In planning and performing our audit, we considered Center County Electric Cooperative's internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements and not to provide assurance on the internal control over financial reporting. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be material weaknesses. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control over financial reporting and its operation that we consider to be material weaknesses. [If the CPA has issued a separate letter to management to communicate other matters involving the design and operation of the internal control over financial reporting, modify this paragraph to include a statement such as the following: However, we noted other matters involving the internal control over financial reporting which we have reported to the management of Center County Electric Cooperative in a separate letter dated March 2, 1999.]

This report is intended for the information of the audit committee, management, the Rural Utilities Service, and supplemental lenders. However, this report is a matter of public record and its distribution is not limited.

Certified Public Accountants

March 2, 1999

Exhibit 3—Sample Report on Compliance and on Internal Control over Financial Reporting, the CPA found Reportable Instances of noncompliance and Reportable Conditions Identified.

Certified Public Accountants, 1600 Main Street, City, State 24105

The Board of Directors

Center County Electric Cooperative:

We have audited the financial statements of Center County Electric Cooperative as of and for the years ended December 31, 1998 and 1997, and have issued our report thereon dated March 2, 1999. We conducted our audit in accordance with generally accepted auditing standards and the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States.

Compliance

As part of obtaining reasonable assurance about whether Center County Electric Cooperative's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grants, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed instances of noncompliance that are required to be reported under Government Auditing Standards. [A description of the findings should be included in the report.][If the CPA has issued a separate letter to the management detailing immaterial instances of noncompliance, modify this paragraph to include a statement such as the following: We also noted certain immaterial instances of noncompliance which we have reported to the management of Center County Electric Cooperative in a separate letter dated March 2, 1999.]

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Internal Control Over Financial Reporting

In planning and performing our audit, we considered Center County Electric Cooperative's internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements and not to provide assurance on the internal control over financial reporting. However, we noted certain matters involving the internal control over financial reporting and its operation that we consider to be reportable conditions. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control over financial reporting that, in our judgment, could adversely affect Center County Electric Cooperative's ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial statements. [A description of the reportable conditions should be included in the report.]

A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material weaknesses. However, we believe none of the reportable conditions described above is a material weakness. [If conditions believed to be material weaknesses are disclosed, the last sentence should be deleted and instead the report should identify which of the reportable conditions described above are considered to be material weaknesses.][If the CPA has issued a separate letter to management to communicate other matters involving the design and operation of the internal control over financial reporting, modify this paragraph to include a statement such as the following: We also noted other matters involving the internal control over financial reporting which we have reported to the management of Center County Electric Cooperative in a separate letter dated March 2, 1999.]

This report is intended for the information of the audit committee, management, the Rural Utilities Service, and supplemental lenders. However, this report is a matter of public record and its distribution is not limited.

Certified Public Accountants

March 2, 1999

EXHIBIT 4—SAMPLE FINANCIAL STATEMENTS

CENTER TELEPHONE COMPANY BALANCE SHEETS—DECEMBER 31, 19X9 AND 19X8 ASSETS (NOTES 1 AND 2)

	19X9	19X8
CURRENT ASSETS:		
Cash—Construction Funds	$21,000	$18,000
Cash—General Funds	128,300	140,083
Telecommunications Accounts.		
Receivable (less accumulated provision of $11,597 in 19X9 and $1,490 in 19X8)	139,642	122,623
Notes Receivable	2,500	3,000
Materials and Supplies	103,713	73,964
Prepayments (Note 3)	49,185	62,201
Other Current Assets	1,357	10,131
	445,697	430,002
NONCURRENT ASSETS:		
Nonregulated Investments: (Note 4)		
Net CATV Plant	413,511	407,086
Net Nonregulated Customer Premises Equipment	103,618	0
Deferred Maintenance and Retirements (Note 5)	40,000	45,000
	557,129	452,086
PROPERTY, PLANT, AND EQUIPMENT: (Note 6)		
Telecommunications Plant in Service	7,401,300	6,650,553
Telecommunications Plant Under Construction	57,626	199,092
Telecommunications Plant Adjustment (Note 7)	176,380	176,380
	7,645,306	7,026,025
Less: Accumulated Provision for Depreciation	1,760,587	1,504,255
	5,884,719	5,521,770
	6,887,545	6,403,858

The accompanying notes are an integral part of these statements.

CENTER TELEPHONE COMPANY BALANCE SHEETS—DECEMBER 31, 19X9 AND 19X8 LIABILITIES AND EQUITIES

	19X9	19X8
CURRENT LIABILITIES:		
Accounts Payable	$123,689	$290,484
Notes Payable	61,600	70,400
Advance Billings and Payments	2,137	2,243
Customers Deposits	11,878	4,940
Current Maturities of Long-Term Debt (Note 8)	146,646	145,998
Accrued Taxes	242,076	224,566

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CENTER TELEPHONE COMPANY BALANCE SHEETS—DECEMBER 31, 19X9 AND 19X8 LIABILITIES AND EQUITIES—Continued

	19X9	19X8
Other Current Liabilities	8,500	9,079
	596,526	747,710
LONG-TERM DEBT:		
RUS Mortgage Notes (Note 8)	4,592,658	4,128,106
OTHER LIABILITIES AND DEFERRED CREDITS:		
Unamortized Investment Tax Credits (Note 10)	53,078	61,377
Deferred Income Taxes (Note 11)	37,137	35,039
	90,215	96,416
STOCKHOLDERS' EQUITY:		
Capital Stock—Common $2 par value—300,000 Shares Authorized; 102,600 Shares Outstanding 19X9 and 19X8	205,200	205,200
Additional Paid-in Capital	820,800	820,800
Retained Earnings (Note 8)	582,146	405,626
	1,608,146	1,431,626
	6,887,545	6,403,858

The accompanying notes are an integral part of these statements.

CENTER TELEPHONE COMPANY STATEMENTS OF INCOME AND RETAINED EARNINGS FOR THE YEARS ENDED DECEMBER 31, 19X9 AND 19X8

	19X9	19X8
OPERATING REVENUES:		
Basic Local Network Services	$836,822	$862,205
Network Access Services	125,042	-0-
Long Distance Network Services	897,300	775,073
Miscellaneous	144,435	147,100
Less: Uncollectible Revenues	(24,000)	(24,500)
	1,979,599	1,759,878
OPERATING EXPENSES:		
Plant Specific Operations	564,486	480,509
Plant Nonspecific Operations	187,162	393,143
Depreciation and Amortization	274,691	
Customer Operations	94,473	78,772
Corporate Operations	157,453	134,127
	1,278,265	1,086,551
OPERATING TAXES:		
Federal and State Income. Taxes—Operating (Notes 10 and 11)	159,845	170,687
Other Operating Taxes	225,013	204,230
Provision for Deferred Taxes (Note 10)	31,566	29,468
Investment Credits—Net	6,201	1,640
	422,625	406,025
OPERATING INCOME	278,709	267,302
FIXED CHARGES:		
Interest on Long-Term Debt	88,432	85,854
Interest Charged to Construction Credit	(2,251)	(1,516)
	86,181	84,338
NONREGULATED INCOME—NET (Note 4)	19,902	10,593
NET INCOME FOR PERIOD	212,430	193,557
Retained Earnings—January 1, 19X9 and 19X8	405,626	235,153
Dividends Declared	(35,910)	(23,084)

CENTER TELEPHONE COMPANY STATEMENTS OF INCOME AND RETAINED EARNINGS FOR THE YEARS ENDED DECEMBER 31, 19X9 AND 19X8—Continued

	19X9	19X8
Retained Earnings—December 31, 19X9 and 19X8	$582,146	$405,626
Earnings Per Share of Common Stock—Average	$2.07	$1.89

The accompanying notes are an integral part of these statements.

CENTER COUNTY TELEPHONE COMPANY STATEMENTS OF CASH FLOWS FOR THE YEARS ENDED DECEMBER 31, 19X9 AND 19X8

	19X9	19X8
CASH FLOWS FROM OPERATING ACTIVITIES:		
Cash Received from Consumers	$1,962,580	$1,733,289
Cash Paid to Suppliers and Employees	(1,159,158)	(960,459)
Interest Paid	(86,181)	(84,338)
Taxes Paid	(401,316)	(376,643)
Net Cash Provided by Operating Activities	315,925	311,849
CASH FLOWS FROM INVESTING ACTIVITIES:		
Construction and Acquisition of Plant	(619,281)	(507,617)
Investment in CATV Plant	(6,425)	(18,246)
Investment in Nonregulated CPE	(103,618)	
Plant Removal Costs	(18,359)	(27,216)
(Increase)/Decrease In:		
Materials Inventory	(29,749)	(19,478)
Notes Receivable	500	1,000
Deferred Maintenance and Retirements	5,000	(45,000)
Nonregulated Income	19,902	10,593
Net Cash Used in Investing Activities	(752,030)	(605,964)
CASH FLOWS FROM FINANCING ACTIVITIES:		
Dividends Paid	(35,910)	(23,084)
Debt Proceeds	465,200	386,000
Payments on Short-term Debt	(8,800)	(7,500)
Increase/(Decrease) In:		
Consumer Deposits and Advance Payments	6,832	4,200
Net Cash Provided by Financing Activities	427,322	359,616
Net Increase/(Decrease) in Cash	(8,783)	65,501
Cash—Beginning of Year	158,083	92,582
Cash—End of Year	149,300	158,083

The accompanying notes are an integral part of these statements.

	19X9	19X8
RECONCILIATION OF NET MARGINS TO NET CASH PROVIDED BY OPERATING ACTIVITIES:		
Net Margins	212,430	193,557
Less: Nonregulated Income	(19,902)	(10,593)
Net Income from Regulated Operations	192,528	182,964
Adjustments to Reconcile Net Margins to Net Cash Provided by Operating Activities:		
Depreciation and Amortization	274,691	253,509
Provision for Uncollectible Accounts Receivable	10,107	(3,610)
(Increase)/Decrease In:		
Customer and Other Accounts Receivable	(27,126)	(22,979)
Current and Accrued Assets—Other	8,774	5,119
Prepaid Taxes	10,000	(10,000)
Other Prepaid Expenses	3,016	(5,426)
Increase/(Decrease) In:		
Accounts Payable	(166,795)	(126,472)
Accrued Taxes	17,510	37,742
Other Current Liabilities	(579)	(638)
Deferred Credits	(6,201)	1,640
Total Adjustments	123,397	128,885
Net Cash Provided by Operating Activities	315,925	311,849

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The accompanying notes are an integral part of these statements.

13. Appendix B to Part 1773 is amended by revising exhibits 1, 2, and 3, deleting exhibits 4, 5 and 6, and redesignating exhibit 7 as exhibit 4 and revising it to read as follows:

Appendix B to Part 1773–Sample Auditor's Report for A Class A or B Commercial Telecommunications Company

* * * * *

Exhibit 1—Same Auditor's Report

Certified Public Accountants, 1600 Main Street, City, State 24105

The Board of Directors, Center Telephone Company: Independent Auditor's Report

We have audited the accompanying balance sheets of Center Telephone Company as of December 31, 1998 and 1997, and the related statements of revenue and patronage capital, and cash flows for the years then ended. These financial statements are the responsibility of Center Telephone Company's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with generally accepted auditing standards and the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our audit.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Center Telephone Company as of December 31, 1998 and 1997, and the results of its operations and its cash flows for the years then ended in conformity with general accepted accounting principles.

In accordance with Government Auditing Standards, we have also issued our report dated March 2, 1999, on our consideration of Center Telephone Company's internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts, and grants.

Certified Public Accountants

March 2, 1999

Exhibit 2—Sample Report on Compliance and on Internal Control over Financial Reporting, the CPA found No Reportable Instances of Noncompliance and No Material Weaknesses(No Reportable Conditions Identified)

Certified Public Accountants, 1600 Main Street, City, State 24105

The Board of Directors

Center Telephone Company:

We have audited the financial statements of Center Telephone Company as of and for the years ended December 31, 1998 and 1997, and have issued our report thereon dated March 2, 1999. We conducted our audit in accordance with generally accepted auditing standards and the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States.

Compliance

As part of obtaining reasonable assurance about whether Center Telephone Company's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grants, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance that are required to be reported under Government Auditing Standards. [If the CPA has issued a separate letter to the management detailing immaterial instances of noncompliance, modify this paragraph to include a statement such as the following: However, we noted certain immaterial instances of noncompliance which we have reported to the management of Center Telephone Company in a separate letter dated March 2, 1999.]

Internal Control Over Financial Reporting

In planning and performing our audit, we considered Center Telephone Company's internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements and not to provide assurance on the internal control over financial reporting. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be material weaknesses. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control over financial reporting and its operation that we consider to be material weaknesses. [If the CPA has issued a separate letter to management to communicate other matters involving the design and operation of the internal control over financial reporting, modify this paragraph to include a statement such as the following: However, we noted other matters involving the internal control over financial reporting which we have reported to the management of Center Telephone Company in a separate letter dated March 2, 1999.]

This report is intended for the information of the audit committee, management, the Rural Utilities Service, and supplemental lenders. However, this report is a matter of public record and its distribution is not limited.

Certified Public Accountants

March 2, 1999

Exhibit 3—Sample Report on Compliance and on Internal Control over Financial Reporting, the CPA found Reportable Instances of Noncompliance and Reportable Conditions were Identified

Certified Public Accountants, 1600 Main Street, City, State 24105

The Board of Directors

Center Telephone Company

We have audited the financial statements of Center Telephone Company as of and for the years ended December 31, 1998 and 1997, and have issued our report thereon dated March 2, 1999. We conducted our audit in accordance with generally accepted auditing standards and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Compliance

As part of obtaining reasonable assurance about whether Center County Telephone Company's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grants, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed instances of noncompliance that are required to be reported under *Government Auditing Standards*. [A description of the findings should be included in the report.] [If the CPA has issued a separate letter to the management detailing immaterial instances of noncompliance, modify this paragraph to include a statement such as the following: We also noted certain immaterial instances of noncompliance which we have reported to the management of Center Telephone Company in a separate letter dated March 2, 1999.]

Internal Control Over Financial Reporting

In planning and performing our audit, we considered Center Telephone Company's internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements and not to provide assurance on the internal control over financial reporting. However, we noted certain matters involving the internal control over financial reporting and its operation that we consider to be reportable conditions. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control over financial reporting that, in our judgment, could adversely affect Center Telephone Company's ability to record, process, summarize and report financial data consistent with the assertions of management in the financial statements. [A description of the findings pertaining to reportable conditions should be included in the report.]

A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material weaknesses. However, we believe none of the reportable conditions described above is a material weakness. [If conditions believed to be material weaknesses are disclosed, the last sentence should be deleted and instead the report should identify which of the reportable conditions described above are considered to be material weaknesses.][If the CPA has issued a separate letter to management to communicate other matters involving the design and operation of the internal control over financial reporting, modify this paragraph to include a statement such as the following: We also noted other matters involving the internal control over financial reporting which we have reported to the management of Center Telephone Company in a separate letter dated March 2, 1999.]

This report is intended for the information of the audit committee, management, the Rural Utilities Service, and supplemental lenders. However, this report is a matter of public record and its distribution is not limited.

Certified Public Accountants

March 2, 1999

EXHIBIT 4—SAMPLE FINANCIAL STATEMENTS

CENTER COUNTY ELECTRIC COOPERATIVE BALANCE SHEETS—DECEMBER 31, 19X9 AND 19X8 ASSETS (NOTES 1 AND 2)

	19X9	19X8
ELECTRIC PLANT: (Note 3)		
In Service—at cost	$9,524,646	$9,365,264
Construction Work in Progress	407,943	317,166
	9,932,589	9,682,430
Less: Accumulated Provisions for Depreciation	3,117,629	2,917,295
	6,814,960	6,765,135
OTHER ASSETS AND INVESTMENTS:		
Nonutility Property	20,227	20,227
Investments in Associated Organizations (Note 4)	391,258	292,798
	411,485	313,025
CURRENT ASSETS:		
Cash—General Funds	37,350	51,544
Cash—Construction Funds	10,034	20,193
Accounts Receivable (Less accumulated provision for uncollectible accounts of $2,207 in 19X9 and $1,933 in 19X8)	36,527	35,255
Materials and Supplies (at average cost)	83,652	80,882
Other Current and Accrued Assets	8,613	8,692
	176,176	196,566
DEFERRED CHARGES (Note 5):	5,666	1,762
	$7,408,287	$7,276,488

The accompanying notes are an integral part of these statements.

CENTER COUNTY ELECTRIC COOPERATIVE BALANCE SHEETS—DECEMBER 31, 19X9 AND 19X8 EQUITIES AND LIABILITIES (NOTE 1)

	19X9	19X8
EQUITIES:		
Memberships	$60,145	$59,440
Patronage Capital (Note 6)	1,761,798	1,526,833
Other Equities (Note 7)	53,647	35,900
	1,875,590	1,622,173
LONG-TERM DEBT:		
RUS Mortgage Notes less current maturities (Note 8)	5,249,115	5,396,385
CURRENT LIABILITIES:		
Current Maturities of Long-Term Debt	145,000	140,000
Accounts Payable—Purchased Power	48,916	52,117
Accounts Payable—Other	21,859	6,556
Consumer Deposits	32,680	33,065

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CENTER COUNTY ELECTRIC COOPERATIVE BALANCE SHEETS—DECEMBER 31, 19X9 AND 19X8 EQUITIES AND LIABILITIES (NOTE 1)—Continued

	19X9	19X8
Accrued Taxes	10,958	9,146
Other Current and Accrued Liabilities	12,285	6,461
	271,678	247,365
DEFERRED CREDITS (Note 10)	11,904	10,565
	$7,408,287	$7,276,488

The accompanying notes are an integral part of these statements.

CENTER COUNTY ELECTRIC COOPERATIVE STATEMENTS OF REVENUE AND PATRONAGE CAPITAL FOR THE YEARS ENDED DECEMBER 31, 19X9 AND 19X8

	19X9	19X8
OPERATING REVENUES	$1,719,467	$1,605,690
OPERATING EXPENSES:		
Cost of Power	587,729	625,411
Distribution—Operation	111,058	121,682
Distribution—Maintenance	158,622	182,740
Consumer Accounts	76,675	72,927
Sales	38,378	40,755
Administrative and General	94,682	87,058
Depreciation and Amortization	288,389	279,776
Taxes	34,920	34,438
	1,390,453	1,444,787
OPERATING MARGINS BEFORE FIXED CHARGES	329,014	160,903
FIXED CHARGES:		
Interest on Long-Term Debt	113,713	115,082
OPERATING MARGINS AFTER FIXED CHARGES	215,301	45,821
G&T AND OTHER CAPITAL CREDITS	14,460	17,500
NET OPERATING MARGINS	229,761	63,321
NONOPERATING MARGINS:		
Interest Income	24,289	18,802
Other Nonoperating Income	1,200	1,200
	25,489	20,002
NET MARGINS	255,250	83,323
PATRONAGE CAPITAL—BEGINNING OF YEAR	1,526,833	1,469,125
	1,782,083	1,552,448
RETIREMENT OF CAPITAL CREDITS	20,285	25,615
PATRONAGE CAPITAL—END OF YEAR	$1,761,798	$1,526,833

The accompanying notes are an integral part of these statements.

CENTER COUNTY ELECTRIC COOPERATIVE STATEMENTS OF CASH FLOWS FOR THE YEARS ENDED DECEMBER 31, 19X9 AND 19X8

	19x9	19x8
CASH FLOWS FROM OPERATING ACTIVITIES:		
Cash Received from Consumers	$1,721,496	$1,609,933
Cash Paid to Suppliers and Employees	(1,049,139)	(1,126,367)
Interest Received	24,289	18,802
Interest Paid	(114,131)	(115,607)
Taxes Paid	(33,108)	(32,132)
Net Cash Provided by Operating Activities	549,407	354,629
CASH FLOWS FROM INVESTING ACTIVITIES:		
Construction and Acquisition of Plant	(322,234)	(216,427)

CENTER COUNTY ELECTRIC COOPERATIVE STATEMENTS OF CASH FLOWS FOR THE YEARS ENDED DECEMBER 31, 19X9 AND 19X8—Continued

	19x9	19x8
Plant Removal Costs	(25,994)	(19,268)
Materials Salvaged from Retirements	10,014	7,327
(Increase)/Decrease In:		
Materials Inventory	(2,770)	1,916
Deferred Charges-Preliminary Survey & Investigation	(3,486)	(2,617)
Investments-CFC Capital Term Certificates	(82,472)	(69,412)
Inventory Adjustment-Deferred Credit Decrease	(2,290)	(1,057)
Net Cash Used in Investing Activities	(429,232)	(299,538)
CASH FLOWS FROM FINANCING ACTIVITIES:		
Retirements of Patronage Capital Credits	(20,285)	(25,615)
Retired Capital Credits—Gain	1,200	1,200
Donated Capital	16,547	6,178
RUS Loan Advances	174,976	197,450
Payments on RUS Debt	(317,246)	(279,575)
Increase/(Decrease) In:		
Consumer Deposits	(425)	575
Memberships Issued	705	450
Net Cash Used in Financing Activities	(144,528)	(99,337)
Net Increase/(Decrease) in Cash	(24,353)	(44,246)
Cash—Beginning of Year	71,737	115,983
Cash—End of Year	47,384	71,737

The accompanying notes are an integral part of these statements.

RECONCILIATION OF NET MARGINS TO NET CASH PROVIDED BY OPERATING ACTIVITIES:		
Net Margins	$255,250	583,323
Adjustments to Reconcile Net Margins to Net Cash Provided by Operating Activities:		
Depreciation and Amortization	288,389	279,776
G&T and Other Capital Credits (Non-Cash)	(14,460)	(17,500)
Patronage Capital Credits-NRUCFC (Non-Cash)	(1,528)	(1,200)
Provision for Uncollectible Accounts Receivable	274	(526)
(Increase)/Decrease In:		
Customer and Other Accounts Receivable	(1,546)	2,523
Current and Accrued Assets-Other	79	112
Increase/(Decrease) In:		
Accounts Payable	12,102	5,117
Accrued Taxes	1,812	2,306
Deferred Energy Prepayments	3,629	2,246
Current and Accrued Liabilities-Other	5,824	(1,023)
Deferred Interest Expense	(418)	(525)
Total Adjustments	294,157	271,306
Net Cash Provided by Operating Activities	549,407	354,629

The accompanying notes are an integral part of these statements.

CENTER COUNTY ELECTRIC COOPERATIVE NOTES TO FINANCIAL STATEMENTS DECEMBER 31, 19X9 AND DECEMBER 31, 19X8

	19X9	19X8

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES:

Include a brief description of the reporting entity's significant accounting policies in accordance with Accounting Principles Board Opinion No. 22, Disclosure of Accounting Policies.

Disclosure of accounting policies should identify and describe the accounting principles followed by the borrower and the methods of applying those principles that materially affect the determination of financial position, cash flow, and results of operations.

Disclosures of accounting policies do not have to be duplicated in this section if presented elsewhere as an integral part of the financial statements.

2. ASSETS PLEDGED:

Substantially all assets are pledged as security for long-term debt to RUS.

3. ELECTRIC PLANT AND DEPRECIATION RATES AND PROCEDURES:

Listed below are the major classes of the electric plant as of December 31, 19X9, and 19X8:

	19X9	19X8
Intangible Plant	$2,194	$2,194
Distribution Plant	9,011,036	8,873,957
General Plant	511,416	489,113
Electric Plant in Service	9,524,646	9,365,254

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CENTER COUNTY ELECTRIC COOPERATIVE NOTES TO FINANCIAL STATEMENTS DECEMBER 31, 19X9 AND DECEMBER 31, 19X8—Continued

	19X9	19X8
Construction Work in Progress	407,943	317,166
	9,932,589	9,682,430
Provision has been made for depreciation of distribution plant at a straight-line composite rate of 2.86 percent per annum.		
General Plant depreciation rates have been applied on a straight-line basis as follows:		
Structures and Improvement	2.5%	
Office Furniture	6.0%	
Transportation Equipment	14.0%	
Power Operated Equipment	12.0%	
Other General Plant	4.0%	
Communications Equipment	6.0%	
4. INVESTMENTS IN ASSOCIATED ORGANIZATIONS:		
Investments in associated organizations consisted of the following at December 31, 19X9 and 19X8:		
Capital Term Certificates of the National Rural Utilities Cooperative Finance Corporation (NRUCFC)	$385,193	$288,261
NRUCFC Patronage Capital Credits	5,065	3,537
Other	1,000	1,000
	391,258	292,798
5. DEFERRED CHARGES:		
Following is a summary of amounts recorded as deferred charges as of December 31, 19X9 and 19X8:		
Preliminary Surveys 19X0—X1 Work Plan	5,666	1,762
6. PATRONAGE CAPITAL:		
At December 31, 19X9 and 19X8, patronage capital consisted of:		
Assignable	$255,250	$83,323
Assigned to Date	1,952,448	1,869,125
	2,207,698	1,952,448
Less: Retirements to Date	445,900	425,615
	1,761,798	1,526,833
Under the provisions of the Mortgage Agreement, until the equities and margins equal or exceed forty percent of the total assets of the cooperative, the return to patrons of contributed capital is generally limited to twenty-five percent of the patronage capital or margins received by the cooperative in the prior calendar year. The equities and margins of the cooperative represent 25.3 percent of the total assets at balance sheet date. Capital credit retirements in the amount of $20,285 were paid in 19X9.		
7. OTHER EQUITIES:		
At December 31, 19X9 and 19X8, other equities consisted of:		
Retired Capital Credits—Gain	$36,190	$34,990
Donated Capital	17,457	910
	53,647	35,900
8. MORTGAGE NOTES—RUS:		
Long-term debt is represented by mortgage notes payable to the United States of America. Following is a summary of outstanding long-term debt as of December 31, 19X9 and 19X8:		
2% Notes due March 31, 19X5	$1,057,155	$1,098,700
2% Notes due December 31, 19X6	2,485,927	2,502,370
5% Notes due December 31, 19X6	1,851,033	1,935,315
Less: Current Maturities	(145,000)	(140,000)
	5,249,115	5,396,385
Unadvanced loan funds of $285,600 are available to the cooperative on loan commitments from RUS.		
Principal and interest installments on the above notes are due quarterly in equal amounts of $99,600. As of December 31, 19X9, annual maturities of long-term debt outstanding for the next five years are as follows:		
19X0	$145,000	
19X1	150,000	
19X2	151,500	
19X3	154,000	
19X4	155,000	
Advance payments of $252,300 may be applied to the installments.		
9. PENSION PLAN:		
Substantially all of the employees of the Cooperative are covered by the ABC Retirement and Security Program, a multiemployer plan. Pension expense for the years ended 19X9 and 19X8 was $22,400.00 and $20,400.00, respectively.		
10. DEFERRED CREDITS:		
Following is a summary of the amounts recorded as deferred credits as of December 31, 19X9 and 19X8:		
Customer Energy Payments	$6,694	$3,065
Inventory Adjustment	5,210	7,500

CENTER COUNTY ELECTRIC COOPERATIVE NOTES TO FINANCIAL STATEMENTS DECEMBER 31, 19X9 AND DECEMBER 31, 19X8—Continued

	19X9	19X8
	11,904	10,565

11. LITIGATION:

The cooperative is a defendant in an action in which the plaintiff claims damages totaling $200,000 for personal injuries sustained. The action has been dismissed by the District Court, but is on appeal before the State Supreme Court. Management is of the opinion that no liability will be incurred by the cooperative as a result of this action.

12. COMMITMENTS:

Under its wholesale power agreement, the cooperative is committed to purchase its electric power and energy requirements from Central Power Cooperative, Inc., until December 31, 19XX. The rates paid for such purchases are subject to review annually.

14. Appendix C To Part 1773 is revised to read as follows:

Appendix C to Part 1773—Illustrative Independent Auditor's Management Letter for Electric Borrowers

RUS requires that CPAs auditing RUS borrowers provide a management letter in accordance with § 1773.33. This letter must be signed by the CPA, bear the same date as the auditor's report, and be addressed to the borrower's board of directors.

Illustrative Independent Auditors' Management Letter for Electric Borrowers

March 2, 1999

Board of Directors

[Name of Borrower]

[City, State]

We have audited the financial statements of [Name of Borrower] for the year ended December 31, 1998, and have issued our report thereon dated March 2, 1999. We conducted our audit in accordance with generally accepted auditing standards, the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States, and 7 CFR part 1773, Policy on Audits of Rural Utilities Service (RUS) Borrowers. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

In planning and performing our audit of the financial statements of [Name of Borrower] for the year ended December 31, 1998, we considered its internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing an opinion on the financial statements and not to provide assurance on the internal control over financial reporting.

A description of the responsibility of management for establishing and maintaining the internal control over financial reporting and the objectives of and inherent limitations in such control is set forth in our independent auditors' report on compliance and on internal control over financial reporting dated March 2, 1999, and should be read in conjunction with this report.

Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be material weaknesses. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control over financial reporting that we consider to be material weaknesses. [If a material weakness was noted, refer the reader to the independent auditors' report on compliance and on internal control over financial reportingstructure.]

7 CFR 1773.33 requires comments on specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, and other additional matters. We have grouped our comments accordingly. In addition to obtaining reasonable assurance about whether the financial statements are free from material misstatements, at your request, we performed tests of specific aspects of the internal control over financial reporting, of compliance with specific RUS loan and security instrument provisions, and of additional matters. The specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, and additional matters tested include, among other things, the accounting procedures and records, materials control, compliance with specific RUS loan and security instrument provisions set forth in 7 CFR 1773.33 (e)(1), related party transactions, depreciation rates, and a schedule of deferred debits and credits, upon which we express an opinion. In addition, our audit of the financial statements also included the procedures specified in 7 CFR 1773.38—.45. Our objective was not to provide an opinion on these specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, or additional matters, and accordingly, we express no opinion thereon.

No reports (other than our independent auditors' report and our independent auditors' report on compliance and on internal control over financial reporting, all dated March 2, 1999) or summary of recommendations related to our audit have been furnished to management.

Our comments on specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, and other additional matters as required by 7 CFR 1773.33 are presented below.

Comments on Certain Specific Aspects of the Internal Control Over Financial Reporting

We noted no matters regarding [Name of Borrower]'s internal control over financial reporting and its operation that we consider to be a material weakness as previously defined with respect to:

—The accounting procedures and records [list other comments];

—The process for accumulating and recording labor, material, and overhead costs, and the distribution of these costs to construction, retirement, and maintenance or other expense accounts [list other comments]; and

—The materials control [list other comments].

Comments on Compliance With Specific RUS Loan and Security Instrument Provisions

Management's responsibility for compliance with laws, regulations, contracts, and grants is set forth in our independent auditors' report on compliance and on internal control over financial reporting dated March 2, 1999, and should be read in conjunction with this report. At your request, we have performed the procedures enumerated below with respect to compliance with certain provisions of laws, regulations, contracts, and grants. The procedures we performed are summarized as follows:

—Procedure performed with respect to the requirement to maintain all funds from loans made or guaranteed by RUS in institutions whose accounts are insured by an Agency of the Federal government:

1. Obtained information from financial institutions with which [Name of Borrower] maintains cash proceeds from loans that indicated that the institutions are insured by an Agency of the Federal government.

—Procedures performed with respect to the requirement for a borrower to obtain written approval of the mortgagee to enter into any contract for the operation or maintenance of property, or for the use of mortgaged property by others for the year ended December 31, 19X5 of [Name of Borrower]:

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1. Obtained and read a borrower-prepared schedule of new written contracts entered into during the year for the operation or maintenance of its property, or for the use of its property by others as defined in § 1773.334 (e)(1)(ii).

2. Reviewed Board of Director minutes to ascertain whether board-approved written contracts are included in the borrower-prepared schedule.

3. Noted the existence of written RUS [and other mortgagee] approval of each contract listed by the borrower.

—Procedure performed with respect to the requirement to submit RUS Form 7 or Form 12 to the RUS:

1. Agreed amounts reported in Form 7 or Form 12 to [Name of Borrower]'s records.

The results of our tests indicate that, with respect to the items tested, [Name of Borrower] complied, except as noted below, in all material respects, with the specific RUS loan and security instrument provisions referred to below. The specific provisions tested, as well as any exceptions noted, include the requirements that:

—The borrower maintains all funds from loans made or guaranteed by RUS in institutions whose accounts are insured by an agency of the Federal government [list all exceptions];

—The borrower has obtained written approval of the RUS [and other mortgagees] to enter into any contract for the operation or maintenance of property, or for the use of mortgaged property by others as defined in § 1773.334 (e)(1)(ii) [list all exceptions]; and

—The borrower has submitted its Form 7 or Form 12 to the RUS and the Form 7 or Form 12, Financial and Statistical Report, as of December 31, 1998, represented by the borrower as having been submitted to RUS is in agreement with the [Name of Borrower]'s audited records in all material respects [list all exceptions] [or if the audit year end is other than December 31], appears reasonable based upon the audit procedures performed [list all exceptions].

Comments on Other Additional Matters

In connection with our audit of the financial statements of [Name of Borrower], nothing came to our attention that caused us to believe that [Name of Borrower] failed to comply with respect to:

—The reconciliation of subsidiary plant records to the controlling general ledger plant accounts addressed at 7 CFR 1773.334 (c)(1) [list all exceptions];

—The clearing of the construction accounts and the accrual of depreciation on completed construction addressed at 7 CFR 1773.334 (c)(2) [list all exceptions];

—The retirement of plant addressed at 7 CFR 1773.33 (c)(3) and (4) [list all exceptions];

—Sales of plant material, or scrap addressed at 7 CFR 1773.33 (c)(5) [list all exceptions];

—The disclosure of material related party transactions, in accordance with Statement of Financial Accounting Standards No. 57, Related Party Transactions, for the year ended December 31, 1998, in the financial statements referenced in the first paragraph of this report addressed at 7 CFR 1773.33 (f) [list all exceptions];

—The depreciation rates addressed at 7 CFR 1773.334 (g) [list all exceptions]; and

—The detailed schedule of deferred debits and deferred credits.

Our audit was made for the purpose of forming an opinion on the basic financial statements taken as a whole. The detailed schedule of deferred debits and deferred credits required by 7 CFR 1773.33 (h) and provided below is presented for purposes of additional analysis and is not a required part of the basic financial statements. This information has been subjected to the auditing procedures applied in our audit of the basic financial statements and, in our opinion, is fairly stated in all material respects in relation to the basic financial statements taken as a whole.

[The detailed schedule of deferred debits and deferred credits would be included here. The total amount of deferred debits and deferred credits as reported in the schedule must agree with the totals reported on the Balance Sheet under the specific captions of "Deferred Debits" and "Deferred Credits". Those items that have been approved, in writing, by RUS should be clearly indicated.]

This report is intended solely for the information and use of the board of directors, management, and the RUS and supplemental lenders. However, this report is a matter of public record and its distribution is not limited.

Certified Public Accountants

15. Appendix D To Part 1773 is added to read as follows:

Appendix D to Part 1773—Illustrative Independent Auditor's Management Letter for Telecommunications Borrowers

RUS requires that CPAs auditing RUS borrowers provide a management letter in accordance with § 1773.33. This letter must be signed by the CPA, bear the same date as the auditor's report, and be addressed to the borrower's board of directors.

Illustrative Independent Auditors' Management Letter for Telecommunications Borrowers

March 2, 1999

Board of Directors

[Name of Borrower]
[City, State]

We have audited the financial statements of [Name of Borrower] for the year ended December 31, 1998, and have issued our report thereon dated March 2, 1999. We conducted our audit in accordance with generally accepted auditing standards, the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States, and 7 CFR part 1773, Policy on Audits of Rural Utilities Service (RUS) Borrowers. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

In planning and performing our audit of the financial statements of [Name of Borrower] for the year ended December 31, 1998, we considered its internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing an opinion on the financial statements and not to provide assurance on the internal control over financial reporting.

A description of the responsibility of management for establishing and maintaining the internal control over financial reporting and the objectives of and inherent limitations in such control is set forth in our independent auditors' report on compliance and on internal control over financial reporting dated March 2, 1999, and should be read in conjunction with this report.

Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be material weaknesses. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control over financial reporting that we consider to be material weaknesses. [If a material weakness was noted, refer the reader to the independent auditors' report on compliance and on internal control over financial reporting.]

7 CFR 1773.33 requires comments on specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, and other additional matters. We have grouped our comments accordingly. In addition to obtaining reasonable assurance about whether the financial statements are free from material misstatements, at your request, we performed tests of specific aspects of the internal control over financial reporting, of compliance with specific RUS loan and security instrument provisions, and of additional matters. The specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, and additional matters tested include, among other things, the accounting procedures and records, materials control, compliance with specific RUS loan and security instrument provisions set forth in 7 CFR 1773.33 (e)(2), and related party transactions. In addition, our audit of the financial statements also included the procedures specified in 7 CFR 1773.38–.45. Our objective was not to provide an opinion on these specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, or additional matters, and accordingly, we express no opinion thereon.

No reports (other than our independent auditors' report, and our independent auditors' report on compliance and on internal control over financial reporting, all dated March 2, 1999) or summary of recommendations related to our audit have been furnished to management.

Our comments on specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, and other additional matters as required by 7 CFR 1773.33 are presented below.

Comments On Certain Specific Aspects of the Internal Control Over Financial Reporting

We noted no matters regarding [Name of Borrower]'s internal control over financial reporting and its operation that we consider to be a material weakness as previously defined with respect to:

—The accounting procedures and records [list other comments];

—The process for accumulating and recording labor, material, and overhead costs, and the distribution of these costs to construction, retirement, and maintenance or other expense accounts [list other comments]; and

—The materials control [list other comments].

Comments On Compliance With Specific RUS Loan and Security Instrument Provisions

Management's responsibility for compliance with laws, regulations, contracts, and grants is set forth in our independent auditors' report on compliance and on internal control over financial reporting dated March 2, 1999, and should be read in conjunction with this report. At your request, we have performed the procedures enumerated below with respect to compliance with certain provisions of laws, regulations, contracts, and grants. The procedures we performed are summarized as follows:

—Procedure performed with respect to the requirement to maintain all funds in institutions whose accounts are insured by an Agency of the Federal government:

1. Obtained information from financial institutions with which [Name of Borrower] maintains funds that indicated that the institutions are insured by an agency of the Federal government.

—Procedures performed with respect to the requirement for a borrower to obtain written approval of the mortgagee to enter into any contract for the operation or maintenance of property, for the use of mortgaged property by others, or for services pertaining to toll traffic, operator assistance, or switching for the year ended December 31, 1998 of [Name of Borrower]:

1. Obtained and read a borrower-prepared schedule of new written contracts entered into during the year for the operation or maintenance of its property, for the use of its property by others, or for services pertaining to toll traffic, operator assistance, or switching as defined in § 1773.33 (e)(2)(i).

2. Reviewed Board of Director minutes to ascertain whether board-approved written contracts are included in the borrower-prepared schedule.

3. Noted the existence of written RUS [and other mortgagee] approval of each contract listed by the borrower.

—Procedure performed with respect to the requirement to submit RUS Form 479 to the RUS:

1. Agreed amounts reported in Form 479 to [Name of Borrower]'s records.

—Procedure performed with respect to funded reserve and net plant to secured debt ratio requirements:

1. Reviewed loan security instrument to ascertain which condition was elected by the borrower.

2. If the funded reserve option was selected, review financial institution records to verify the existence of a separate bank account for the reserve, and determine that it was funded within one year of approval of release of funds and that it remained funded over the composite economic life of the facilities financed.

3. If the net plant to secured debt ratio option was selected, calculate the ratio and confirm that the 1.2 ratio was achieved one year following the first advance of loan funds.

The results of our tests indicate that, with respect to the items tested, [Name of Borrower] complied, except as noted below, in all material respects, with the specific RUS loan and security instrument provisions referred to below. The specific provisions tested, as well as any exceptions noted, include the requirements that:

—The borrower maintains all funds in institutions whose accounts are insured by an agency of the Federal government [list all exceptions];

—The borrower has obtained written approval of the RUS [and other mortgagees] to enter into any contract for the operation or maintenance of property, for the use of mortgaged property by others, or for services pertaining to toll traffic, operator assistance, or switching as defined in § 1773.33(e)(2)(i) [list all exceptions]; and

—The borrower has submitted its Form 479 to the RUS and the Form 479, Financial and Statistical Report, as of December 31, 1999, represented by the borrower as having been submitted to RUS is in agreement with the [Name of Borrower]'s audited records in all material respects [list all exceptions] [or if the audit year end is other than December 31], appears reasonable based upon the audit procedures performed [list all exceptions].

Comments on Other Additional Matters

In connection with our audit of the financial statements of [Name of Borrower], nothing came to our attention that caused us to believe that [Name of Borrower] failed to comply with respect to:

—The reconciliation of subsidiary plant records to the controlling general ledger plant accounts addressed at 7 CFR 1773.33(c)(1) [list all exceptions];

—The clearing of the construction accounts and the accrual of depreciation on completed construction addressed at 7 CFR 1773.33(c)(2) [list all exceptions];

—The retirement of plant addressed at 7 CFR 1773.33(c)(3) and (4) [list all exceptions];

—Sales of plant material, or scrap addressed at 7 CFR 1773.33(c)(5) [list all exceptions]; and

—The disclosure of material related party transactions, in accordance with Statement of Financial Accounting Standards No. 57, Related Party Transactions, for the year ended December 31, 1999, in the financial statements referenced in the first paragraph of this report addressed at 7 CFR 1773.33(f) [list all exceptions].

This report is intended solely for the information and use of the board of directors, management, and the RUS and supplemental lenders. However, this report is a matter of public record and its distribution is not limited.

Certified Public Accountants

Dated: July 8, 1998.

Jill Long Thompson,

Under Secretary, Rural Development.

[FR Doc. 98–18758 Filed 7–16–98; 8:45 am]

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To extend the deadline under the Federal Power Act for the construction of a hydroelectric project located in the State of Washington, and for other purposes. (July 14, 1998; 112 Stat. 622)

H.R. 652/P.L. 105–190

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H.R. 848/P.L. 105–191

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H.R. 1184/P.L. 105–192

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H.R. 1217/P.L. 105–193

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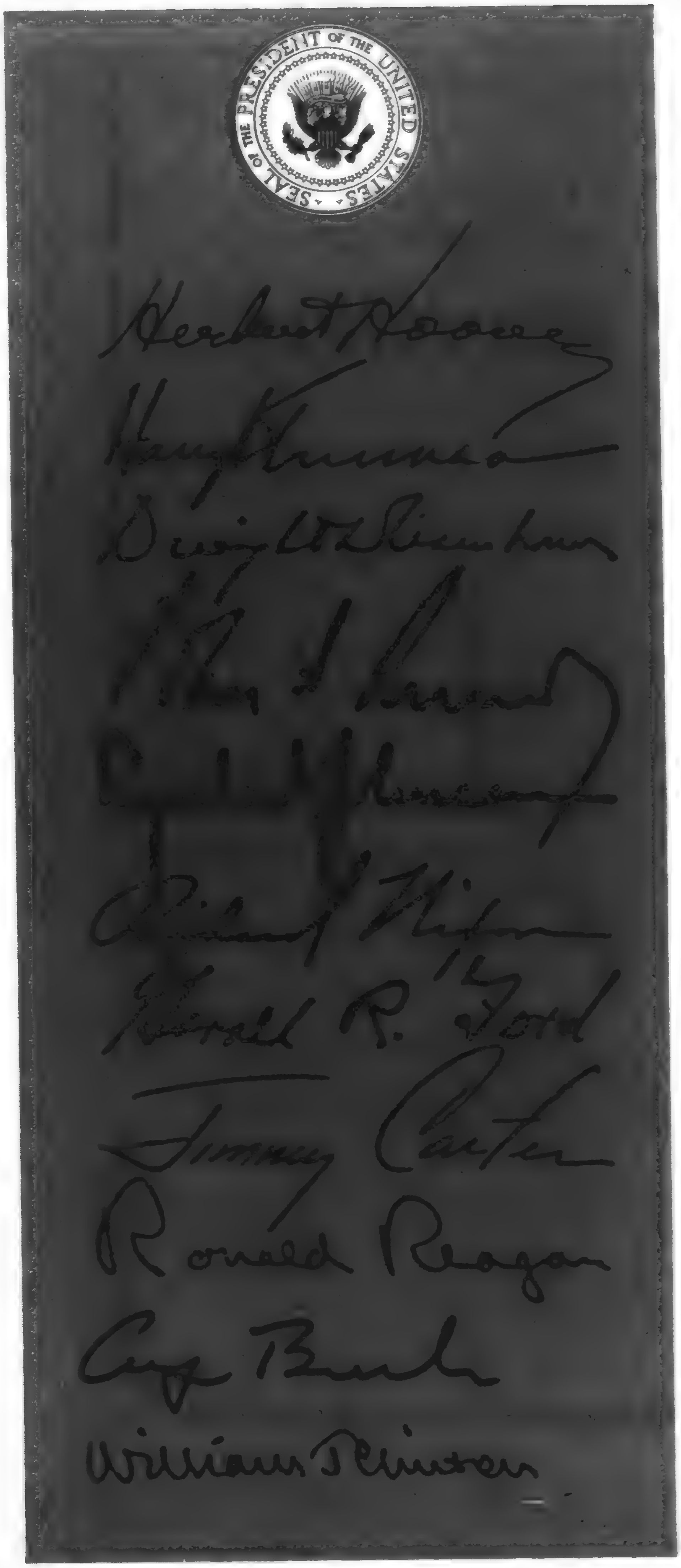
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Rules and Regulations

Federal Register
Vol. 63, No. 138
Monday, July 20, 1998

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 430

[Docket No. EE–RM–94–230]

RIN 1904–AA52

Energy Conservation Program for Consumer Products: Test Procedure for Water Heaters; Correction

AGENCY: Office of Energy Efficiency and Renewable Energy, DOE.

ACTION: Final rule; correction.

SUMMARY: This correction notice amends the Final Rule on test procedures for water heaters. The Department of Energy (the Department or DOE) is amending Section 4.3 (Water Inlet and Outlet Configuration) to include Figures 1–7 as referenced in the Final Rule published May 11, 1998. (63 FR 25996) (FR Doc. 98–12296). Soon after publication of the Final Rule, the Gas Appliance Manufacturer's Association noted that these figures were missing.

EFFECTIVE DATE: This rule is effective June 10, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Terrence L. Logee, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station EE–43, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585–0121, (202) 586–1689, or Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC–72, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585–0103, (202) 586–9507.

Correction

In Rule FR Doc. 98–12296, beginning on page 25996, in the issue of Monday, May 11, 1998, the following correction should be made:

PART 430—[CORRECTED]

Figures 1–7 should be added immediately after Appendix E to Subpart B of Part 430, Section 4.3, Water Inlet and Outlet Configuration, on page 26010, third column.

Appendix E to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Water Heaters

* * * * *

4.3 * * *

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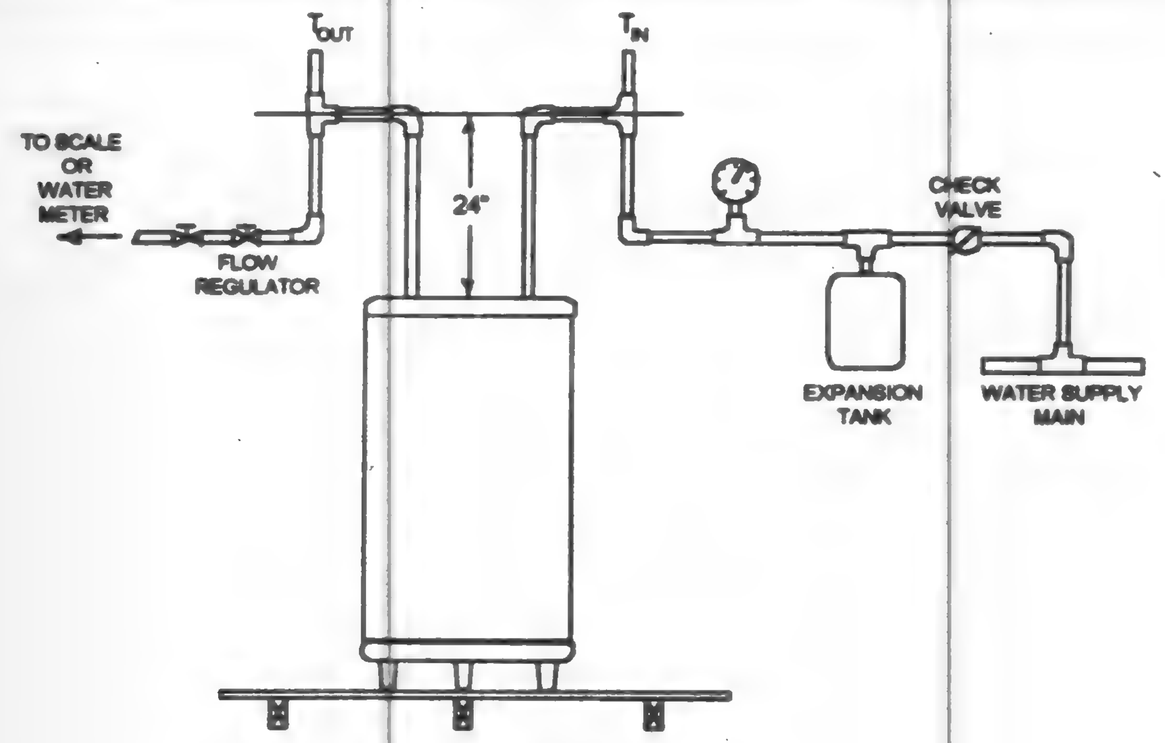
T_{OUT}
T_{IN}
TO SCALE OR WATER METER
24"
FLOW REGULATOR
CHECK VALVE
EXPANSION TANK
WATER SUPPLY MAIN

Figure 1.

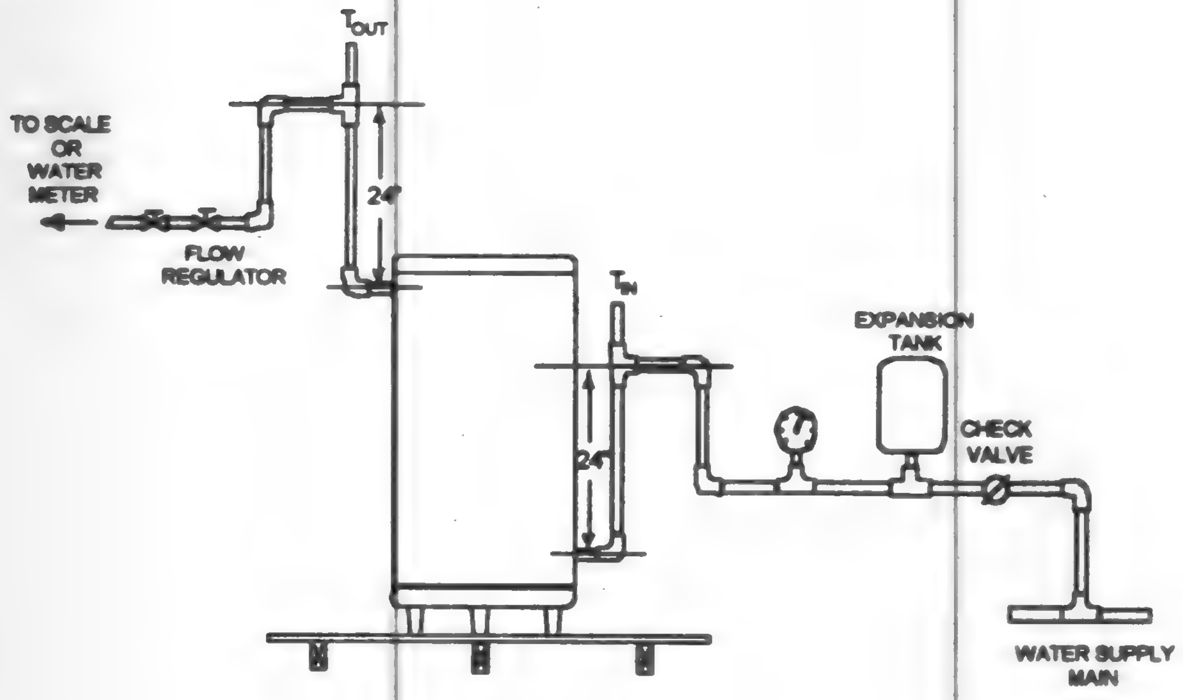
T_{OUT}
TO SCALE OR WATER METER
24"
FLOW REGULATOR
T_{IN}
EXPANSION TANK
CHECK VALVE
24"
WATER SUPPLY MAIN

Figure 2.

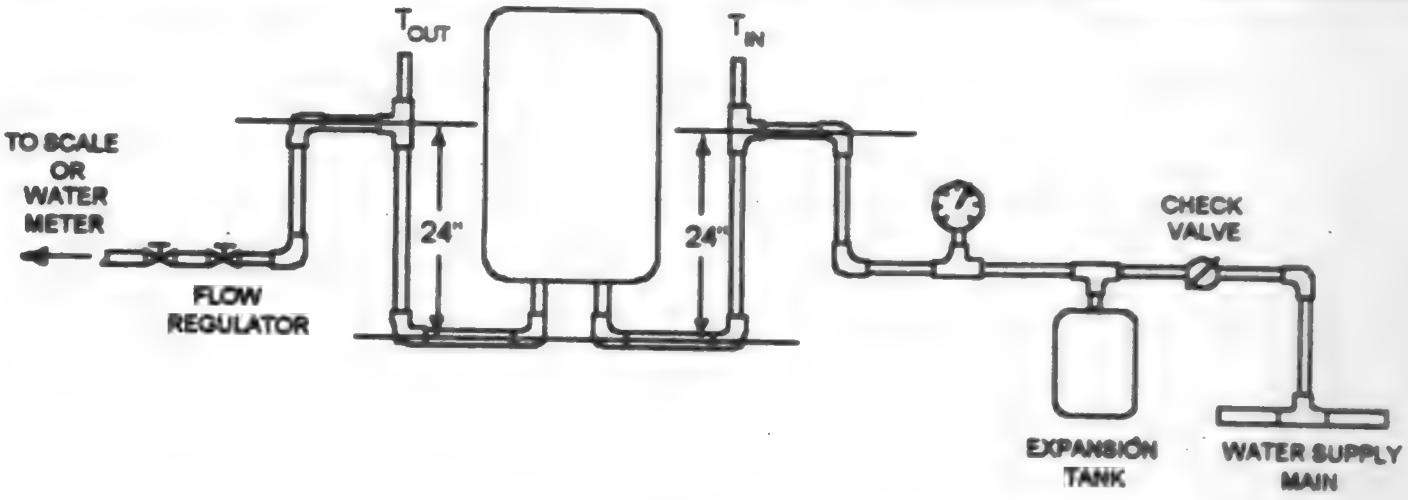
T_{OUT}
T_{IN}
TO SCALE OR WATER METER
24"
24"
FLOW REGULATOR
CHECK VALVE
EXPANSION TANK
WATER SUPPLY MAIN

Figure 3.

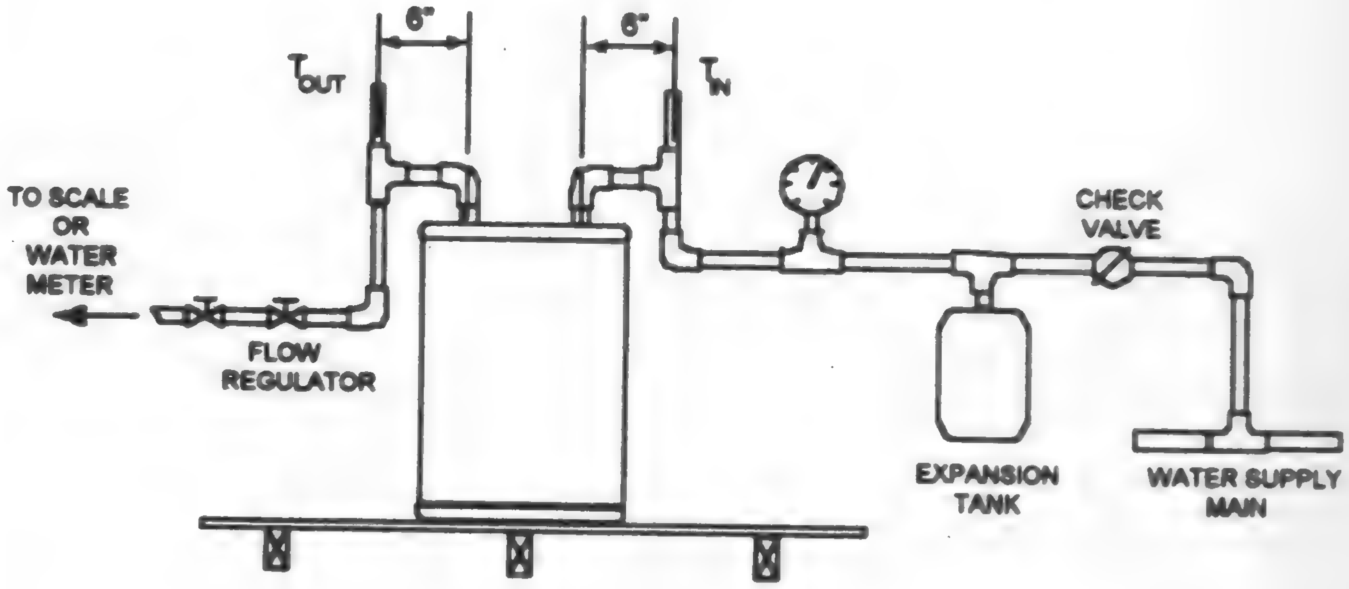
6"
6"
T_{OUT}
T_{IN}
TO SCALE OR WATER METER
FLOW REGULATOR
CHECK VALVE
EXPANSION TANK
WATER SUPPLY MAIN

Figure 4.

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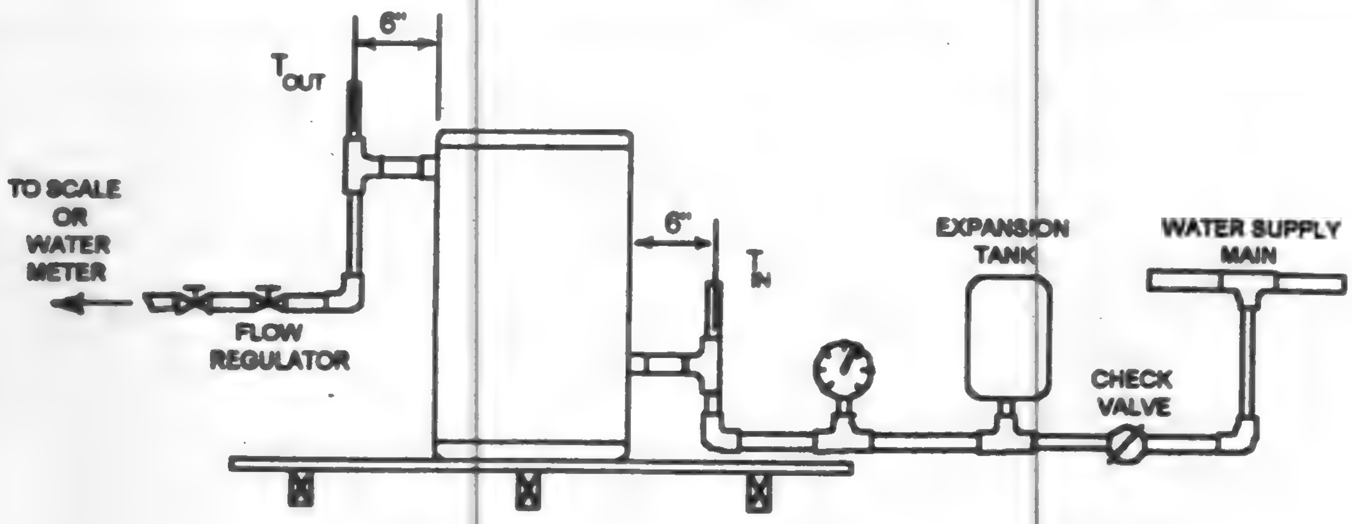
6"
T_{OUT}
TO SCALE OR WATER METER
FLOW REGULATOR
6"
T_{IN}
EXPANSION TANK
WATER SUPPLY MAIN
CHECK VALVE

Figure 5.

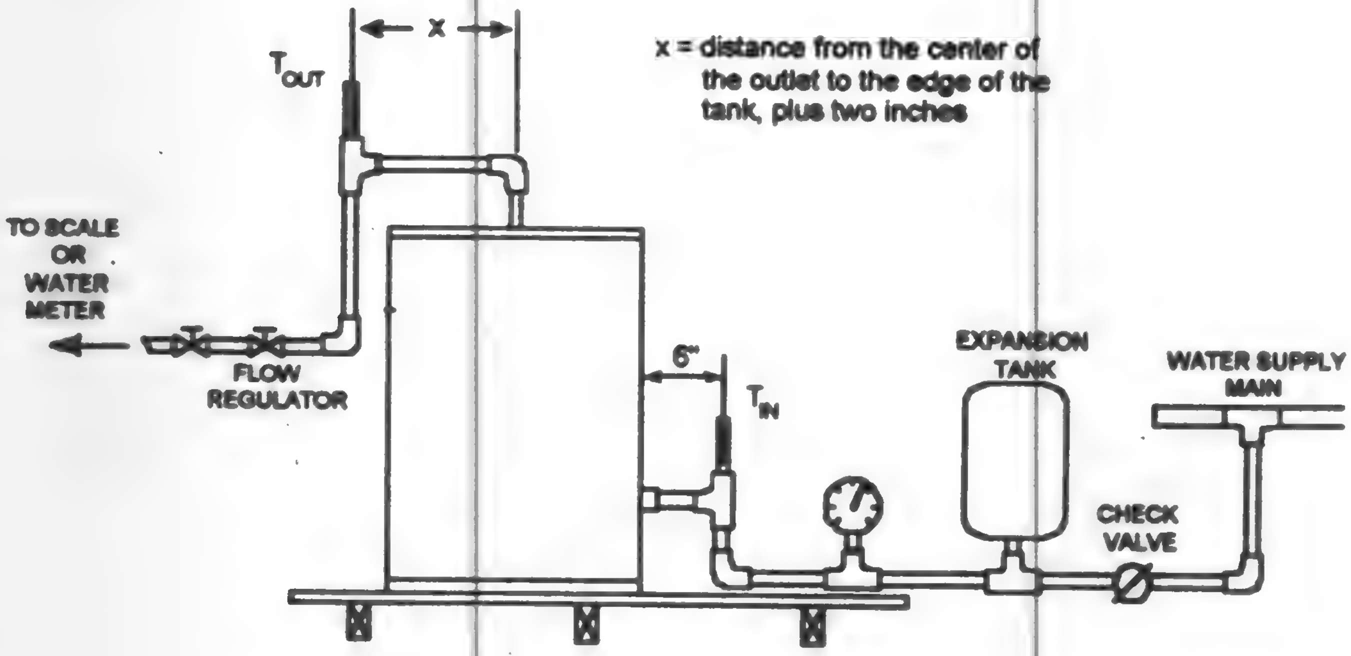
x
T_{OUT}
x = distance from the center of the outlet to the edge of the tank, plus two inches
TO SCALE OR WATER METER
FLOW REGULATOR
6"
T_{IN}
EXPANSION TANK
WATER SUPPLY MAIN
CHECK VALVE

Figure 6.

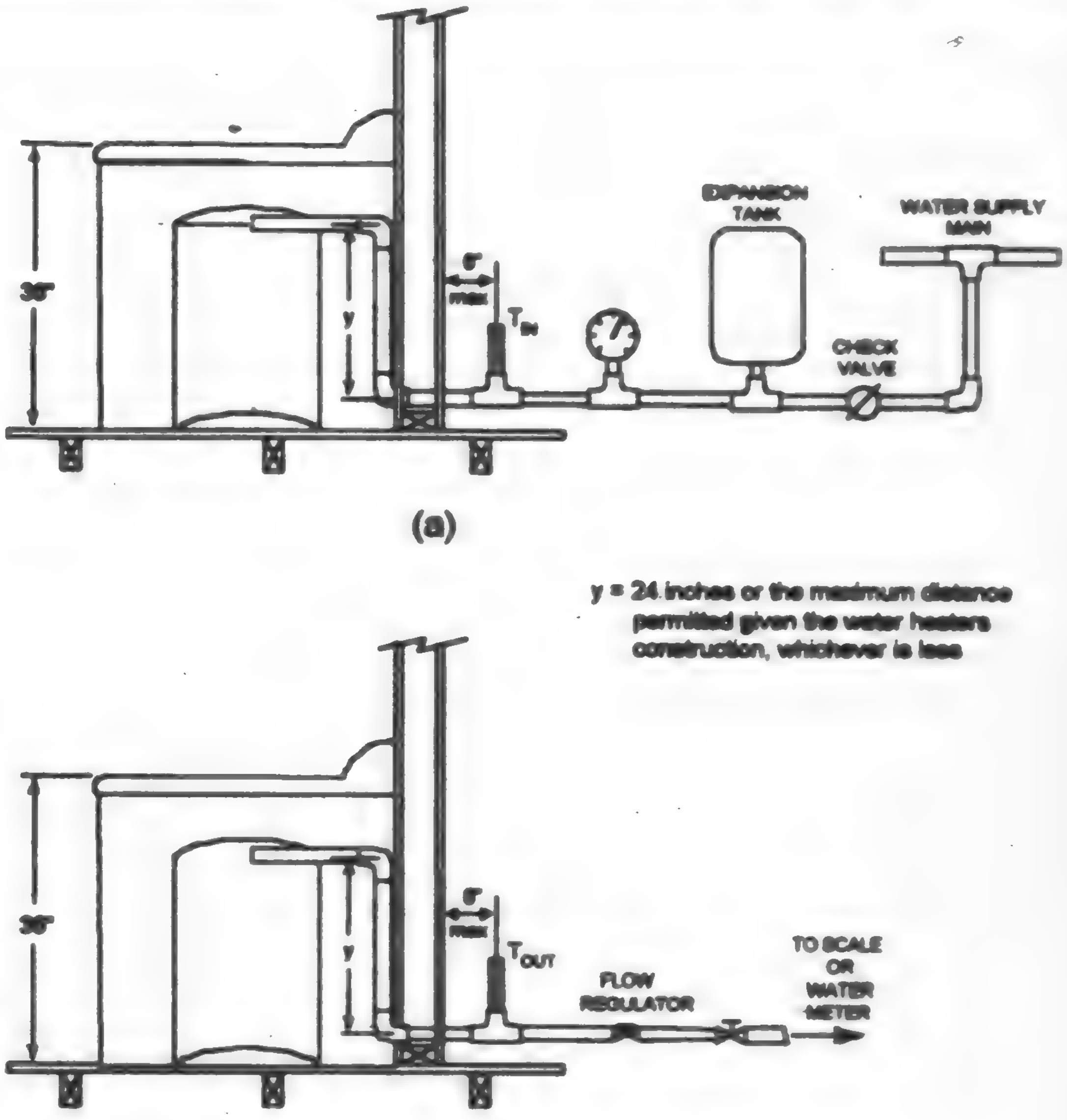
36"
y
6" max
T_{IN}
EXPANSION TANK
WATER SUPPLY MAIN
CHECK VALVE
36"
y
6" max
T_{OUT}
FLOW REGULATOR
TO SCALE OR WATER METER

(a)

y = 24 inches or the maximum distance permitted given the water heaters construction, whichever is less

(b)

Figure 7.

* * * * *

Issued in Washington, DC, July 13, 1998.

Dan Reicher,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 98–19290 Filed 7–17–98; 8:45 am]

BILLING CODE 6450–01–C

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SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Waiver of the Nonmanufacturer Rule

AGENCY: Small Business Administration.

ACTION: Notice to waive the Nonmanufacturer Rule for Towers, Telegraph Apparatus, Turbines, Cellular Handsets and Telephones, Automobile Motor Vehicles, Motor Trucks, and Radiotelephones.

SUMMARY: This notice advises the public that the Small Business Administration (SBA) is establishing a waiver of the Nonmanufacturer Rule for Towers, Telegraph Apparatus, Turbines, Cellular Handsets and Telephones, Automobile Motor Vehicles, Motor Trucks, and Radiotelephones. The basis for a waiver is that no small business manufacturers are available to participate in the Federal market for these products. The effect of a waiver will allow otherwise qualified nonmanufacturers to supply the products of any domestic manufacturer on a Federal contract set-aside for small businesses or awarded through the SBA 8(a) Program.

EFFECTIVE DATE: July 20, 1998.

ADDRESSES: David Wm. Loines, Procurement Analyst, U.S. Small Business Administration, 409 3rd Street S.W., Washington, DC 20416, Tel: (202) 205–6475.

FOR FURTHER INFORMATION CONTACT: David Wm. Loines, (202) 205–6475.

SUPPLEMENTARY INFORMATION: Public Law 100–656, enacted on November 15, 1988, incorporated into the Small Business Act the previously existing regulation that recipients of Federal contracts set-aside for small businesses or the SBA 8(a) Program procurement must provide the product of a small business manufacturer or processor if the recipient is other than the actual manufacturer or processor. This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.406(b). Section 303(h) of the law provides for waiver of this requirement by SBA for any "class of products" for which there are no small business manufacturers or processors in the Federal market. To be considered available to participate in the Federal market on these classes of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal Government within the last 24 months. The SBA defines "class of products" based on two coding systems. The first is the Office of Management and Budget Standard Industrial Classification Manual. The second is the Product and Service Code (PSC) established by the Federal Procurement Data System.

The SBA was asked to issue a waiver for Towers, Telegraph Apparatus, Turbines, Cellular Handsets and Telephones, Automobile Motor Vehicles, Motor Trucks, and Radiotelephones because of an apparent lack of any small business manufacturers or processors for them within the Federal market. The SBA searched its Procurement Marketing and Access Network (PRO-net) for small business participants and found none. We then published a notice in the **Federal Register** on April 23, 1998 (vol. 63, no. 78, p. 20139), of our intent to grant a waiver for these classes of products unless new information was found. The proposed waiver covered Towers, Telegraph Apparatus, Turbines, Cellular Handsets and Telephones, Automobile Motor Vehicles, Motor Trucks, and Radiotelephones. The notice described the legal provisions for a waiver, how SBA defines the market, and asked for small business participants of these classes of products.

After the 15-day comment period, no small businesses were identified for Towers, Telegraph Apparatus, Turbines, Cellular Handsets and Telephones, Automobile Motor Vehicles, Motor Trucks, and Radiotelephones. This waiver is being granted pursuant to statutory authority under section 303(h) of Public Law 100–656 for Towers, Telegraph Apparatus, Turbines, Cellular Handsets and Telephones, Automobile Motor Vehicles, Motor Trucks, and Radiotelephones. The waiver will last indefinitely but is subject to both an annual review and a review upon receipt of information that the conditions required for a waiver no longer exist. If such information is found, the waiver may be terminated.

Judith A. Roussel,

Associate Administrator for Government Contracting.

[FR Doc. 98–19236 Filed 7–17–98; 8:45 am]

BILLING CODE 8025–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–SW–58–AD; Amendment 39–10421; AD 98–07–03]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron, Inc. Model 412 Helicopters and Agusta S.p.A Model AB 412 Helicopters; Correction

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects a technical bulletin date in airworthiness directive (AD) 98–07–03 that was incorrectly published in the **Federal Register** on March 24, 1998 (63 FR 14026). This AD is applicable to Bell Helicopter Textron, Inc. Model 412 helicopters and Agusta S.p.A Model AB 412 helicopters and requires a temporary reduction of the never-exceed velocity (Vne) limitation until an inspection of the tail rotor yoke (yoke) assembly for fatigue damage and installation of a redesigned yoke flapping stop are accomplished. Recurring periodic and special inspections to detect occurrences of yoke overload are also required.

DATES: Effective April 8, 1998.

The incorporation by reference of certain publications listed in the regulations was previously approved by the Director of the Federal Register as of April 8, 1998 (63 FR 14026, March 24, 1998).

FOR FURTHER INFORMATION CONTACT: Mr. Shep Blackman, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5296, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: Airworthiness Directive (AD) 98–07–03, amendment 39–10421, applicable to Bell Helicopter, Textron, Inc. Model 412 Helicopters and Agusta S.p.A Model AB 412 helicopters was published in the **Federal Register** on March 24, 1998 (63 FR 14026). That AD requires a temporary reduction of the Vne limitation until an inspection of the yoke assembly for fatigue damage and installation of a redesigned yoke flapping stop are accomplished. Recurring periodic and special inspections to detect occurrences of yoke overload are also required.

As published, the Agusta Technical Bulletin date given in the Supplementary Information and in paragraphs (c)(1) and (g) is incorrect.

Since no other part of the regulatory information has been changed, the final rule is not being republished.

The effective date of the AD remains April 8, 1998.

In rule FR Doc. 98–7414 published on March 24, 1998 (63 FR 14026), make the following corrections:

§ 39.13 [Corrected]

(1) On page 14027, in the first column under Supplementary Information, change "December 2, 1996" to "April 17, 1997."

(2) On page 14028, in paragraphs (c)(1), (d), and (g), change "December 2, 1996" to "April 17, 1997."

Issued in Fort Worth, Texas, on July 10, 1998.

Larry M. Kelly,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 98–19178 Filed 7–17–98; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 305

Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act ("Appliance Labeling Rule")

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission ("Commission") amends the package labeling requirements for lamp products under the Commission's Appliance Labeling Rule ("Rule") in response to a petition from Osram Sylvania, Ltd. ("Petitioner"). The Petitioner requests that it be allowed to distribute to consumers, through retailers, lamp products without individual packaging or labeling, where the bulk shipping cartons include the disclosures currently required by the Rule and where retailers display the lamp products for sale to consumers in the bulk shipping cartons. The interpretative amendment the Commission adopts clarifies that manufacturers and private labelers of lamp products that are not packaged for individual retail sale may meet the labeling disclosure requirements of the Rule by making the disclosures on labeling on the bulk shipping carton, where the bulk shipping carton is used to display the lamps for retail sale.

EFFECTIVE DATE: July 20, 1998.

FOR FURTHER INFORMATION CONTACT: Kent C. Howerton, Attorney, Federal Trade Commission, Bureau of Consumer Protection, Division of Enforcement, Sixth St. and Pennsylvania Ave., NW, Room S–4302, Washington, D.C. 20580, (202) 326–3013 (voice), (202) 326–3259 (fax).

SUPPLEMENTARY INFORMATION:

I. Introduction

Petitioner, Osram Sylvania, Ltd., a manufacturer of lamp products, requests the Commission's authorization to market certain general service non-reflector incandescent light bulbs in bulk-pack shipping cartons that are labeled with the disclosures required by the Rule, instead of packaging and labeling the light bulbs for individual retail sale to consumers, where the light bulbs will be displayed for retail sale in the bulk-pack shipping cartons, under specific, limited conditions. The Petitioner's request, the Commission's analysis, and the interpretative amendment to the Rule adopted by the Commission are described below.

II. Overview of Rule's Labeling Requirements

On May 13, 1994, the Commission promulgated labeling requirements for various types of light bulbs and other lamp products as amendments to the Appliance Labeling Rule[1] in response to amendments the Energy Policy Act of 1992 ("EPACT")[2] made to the Energy Policy and Conservation Act ("EPCA").[3] As amended, EPCA directed the Commission to prescribe rules requiring that the labeling of specific lamp products indicate conspicuously on the packaging of the lamps, in a manner prescribed by the Commission, such information as the Commission deemed necessary to enable consumers "to select the most energy efficient lamps which meet their requirements." Congress gave the Commission the discretion to determine what specific disclosures were necessary, and where and how they should be made. The covered lamp products include: general service fluorescent lamps, general service (both non-reflector and reflector) incandescent lamps, and medium screw base compact fluorescent lamps.

To provide consumers with the information they need to select the most energy efficient lamps that meet their requirements, the Commission adopted labeling provisions, under section 305.11(e)(1)(i) of the Rule, 16 CFR 305.11(e)(1)(i), that require that the principal display panel on package labels of general service incandescent light bulbs (both non-reflector and reflector) and medium screw base compact fluorescent lamps disclose clearly and conspicuously light output (in lumens), energy used (in watts), and life (in hours).[4] The labeling provisions also mandate that the principal display panel disclose the number of lamps included in the package (if more than one), and the design voltage of each lamp included in the package (if other than 120 volts). For multi-filament incandescent light bulbs, section 305.11(e)(1)(vii), 16 CFR 305.11(e)(1)(vii), requires that the principal display panel disclose clearly and conspicuously the bulb's light output and energy used at each of the bulb's levels of light output, and the bulb's life measured on the basis of the filament that fails first. Section 305.11(e)(1)(ii), 16 CFR 305.11(e)(1)(ii), specifies how the disclosures must appear on the label.

Labels for incandescent spot lights, flood lights, and down lights and for general service fluorescent lamps must include a capital letter "E" printed within a circle and followed by an asterisk referring to a specific statement that the encircled "E" means the lamp meets federal minimum efficiency standards. The encircled "E" must be disclosed clearly and conspicuously in color-contrasting ink, and in a typeface at least as large as either the manufacturer's name or logo or another logo disclosed on the label, whichever is larger. If the required statement is not disclosed on the principal display panel, the asterisk must be followed by the statement: "*See [Back, Top, Side]

---

[1] Final rule [and Statement of Basis and Purpose] ("SBP"), 59 FR 25176 (1994) (codified at 16 CFR Part 305 (1997)). The lamp labeling requirements became effective May 15, 1995.

[2] Pub. L. No. 102–486, 106 Stat. 2776, 2817–2832 (Oct. 24, 1992) (codified at 42 U.S.C. 6201, 6291–6309).

[3] 42 U.S.C. 6291 *et seq.*

[4] Section 305.11(e)(1)(iii), 16 CFR 305.11(e)(1)(iii), requires that the light output, wattage and life disclosures for general service incandescent lamps and medium base compact fluorescent lamps be measured at 120 volts, regardless of the lamp's design voltage. If a lamp's design voltage is 125 volts or 130 volts, section 305.11(e)(1)(iii) requires that the disclosures each be followed by the phrase "at 120 volts." It allows manufacturers and private labelers of 125 or 130 design voltage lamps to add disclosures of light output, wattage, and life at the lamp's design voltage if those disclosures are each followed by the phrase "at (125/130) volts," and if all panels of the package that contain a claimed light output, wattage, or life clearly and conspicuously identify the lamp as "(125 volt/130 volt)." If the disclosures on the principal display panel of the package are for operation at 125 or 130 volts, and if the disclosures at 120 volts are made on a separate panel, the principal display panel must clearly and conspicuously disclose the following statement: "This product is designed for (125/130) volts. When used on the normal line voltage of 120 volts, the light output and energy efficiency are noticeably reduced. See (side/back) panel for 120 volt ratings."

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panel for details." 16 CFR 305.11(e)(2)–(2)(i).[5]

Section 305.11(e)(1)(vi), 16 CFR 305.11(e)(1)(vi), requires that the principal display panel for each of these lamp products also clearly and conspicuously disclose the following Advisory Disclosure:

> To save energy costs, find the bulbs with the (beam spread and) light output you need, then choose the one with the lowest watts.[6]

Section 305.11(e)(4), 16 CFR 305.11(e)(4), requires that cartons in which lamp products covered by the Rule are shipped in the United States or imported into the United States disclose clearly and conspicuously: "These lamps comply with Federal energy labeling requirements."

Last, section 305.4(a)(1), 16 CFR 305.4(a)(1), prohibits manufacturers and private labelers from distributing covered lamp products that are not labeled in accordance with the Rule's requirements; and section 305.4(a)(2), 16 CFR 305.4(a)(2), prohibits retailers and others from removing the labels or rendering them illegible.

III. Osram Sylvania's Petition

The Petitioner requests the Commission's authorization to market single-wattage 40, 60, 75, and 100 watt general service non-reflector incandescent light bulbs in bulk-pack shipping cartons that are labeled with the disclosures required by the Rule, instead of packaging and labeling the light bulbs for individual retail sale to consumers, where the light bulbs will be displayed for retail sale in the bulk-pack shipping cartons. In connection with its request, the Petitioner proposes the following conditions:

- Individual light bulbs would be etched with brand name identification, voltage, and wattage (which the Petitioner describes as current industry practice).
- Outer cartons would display the labeling disclosures that the Rule requires on the principal display panel of product packages. The Petitioner states, for example, that the cartons could be printed so that the required disclosures of light output, energy used, and life for all four wattages occupy a large area on every side of the outer carton to ensure that the required disclosures are visible no matter how the cartons are mixed or displayed.
- The authorization for these bulk-pack shipments would be limited to general service non-reflector incandescent light bulbs with a design voltage of 120 volts.
- The authorization would be limited to unusual or rare events such as "store openings" or "manager specials."

IV. Analysis and Amendment

Except for general service fluorescent lamp products (which were being distributed for retail sale to consumers in bulk packaging),[7] at the time of the original rulemaking proceeding all other light bulbs and other lamp products under discussion were being sold in individual retail-sale packages containing one or more lamps. As a result, the discussion of labeling requirements assumed that covered light bulbs and other lamp products would be packaged and labeled in retail-sale packaging units. The Rule, however, does not define the terms "label," "principal display panel," or "package," as they are used in the Rule, and, except for general service fluorescent lamps, the Rule does not specify how manufacturers and private labelers of lamp products sold to consumers without retail-sale packaging must make the required labeling disclosures.

In considering the Petition, the Commission has determined that making the disclosures required by the Rule on the labels of the bulk shipping carton, where the bulk shipping carton is used to display the lamps for retail sale ("bulk shipping/retail display carton"), is acceptable. Making the required labeling disclosures on these bulk shipping/retail display cartons satisfies the statutory mandate that package labeling disclose "such information as the Commission deems necessary to enable consumers to select the most energy efficient lamps which meet their requirements," and it is consistent with the Rule's labeling requirements. Where the bulk shipping/retail display carton is used to display these lamps for retail sale, labeling the carton with the required disclosures will ensure that: (1) The disclosures are made prior to purchase; (2) the disclosures enable consumers to select the most energy efficient lamps that meet their requirements; and (3) the disclosures are made in a manner and form that allow consumers to compare competing lamp products in making their purchase selections. For purposes of making the required labeling disclosures, therefore, the Commission interprets the terms "label," "principal display panel," and "package" in the Rule to include the shipping carton/retail display carton for lamp products that are not packaged for individual retail sale.

The Petitioner requested a limited, conditional authorization to make the required disclosures on bulk shipping cartons only for single-wattage, general service non-reflector incandescent light bulbs with a design voltage of 120 volts. The Commission, however, has determined that labeling the bulk shipping/retail display carton for lamp products that are not packaged for individual retail sale, under the circumstances described above, will provide consumers with the prepurchase information required by the Rule. This alternative to individual, retail-sale package labeling, therefore, is acceptable for all general service fluorescent lamps, medium screw base compact fluorescent lamps, and general service (both non-reflector and reflector) incandescent light bulbs covered by the Rule.

The Petitioner also suggested that certain conditions might be necessary to ensure that the labeling on the bulk shipping/retail display carton meets the requirements of the Rule. The Commission has determined that it is not necessary to impose the following conditions that were suggested by the Petitioner:

- *Marking individual lamps*—Some kind of marking or other identification on each individual bulb or tube enables consumers to select the specific bulb or tube they desire from the bulk carton. Marking or otherwise identifying each lamp with wattage and voltage is especially important for incandescent light bulbs because it is unsafe to use an incandescent light bulb with a higher wattage than the rating of the fixture in which it is used.[8] Manufacturers and private labelers, however, currently voluntarily mark incandescent light bulbs and other types of lamp products with wattage and design voltage information so that consumers can use them safely. The Commission believes that the marketplace provides incentives for manufacturers and private labelers to continue marking this information on lamp products, so it is unnecessary for the Commission to require such marking on lamp products marketed through bulk shipping/retail display cartons.[9]

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[5] Manufacturers and private labelers that do not individually package, or put labels on, their general service fluorescent lamp products may meet the labeling disclosure requirements by permanently marking the lamp clearly and conspicuously with the encircled "E." See SBP, 59 FR at 25196.

[6] The reference to beam spread is required only on labels of incandescent spot lights, flood lights, and down lights.

[7] The Rule already authorizes the use of an alternative to disclosures on individual package labeling for general service fluorescent lamps. See note 5, supra.

[8] SBP, 59 FR at 25185.

[9] See Repeal of rule [Statement of Basis and Purpose for repeal of the Light Bulb Rule, 16 CFR Part 409], 61 FR 33308, at 33311–12 (1996). In comments supporting the repeal of the Light Bulb Rule, which had required product marking, General Electric Co. stated that manufacturers would continue marking individual light bulbs with wattage and design voltage as a sound business practice that reduces liability and gives consumers important information, and the National Electrical Manufacturers Association stated that an international safety standard issued by the International Electrotechnical Commission requires

- *Making disclosures on all sides of the carton*—When lamps that are not packaged for individual retail sale are distributed to retailers in these bulk shipping/retail display cartons, the bulk shipping/retail display cartons will constitute the required labeling. The Rule already prohibits retailers from removing the required labels or rendering them illegible. Retailers, therefore, will be required to display these bulk-packaged lamp products for retail sale to consumers in the bulk shipping/retail display carton with the required labeling disclosures visible to consumers at the point of retail sale. It is unnecessary, therefore, for the Commission to require that the disclosures be made on labeling on multiple sides of the bulk shipping/retail display carton. Of course, manufacturers may choose to make the disclosures on all sides of the carton to facilitate display by the retailer.
- *Limiting use to unusual or rare sales events*—Because labeling on the bulk shipping/retail display cartons will contain the disclosures required by the Rule (to provide consumers with prepurchase information they need) and the cartons must be displayed at the point of retail sale with the required disclosures clearly visible to consumers prior to purchase, it is unnecessary to limit use of this labeling approach to unusual or rare sales events.

For the reasons explained above, the Commission adopts an interpretative amendment to the Rule to clarify that manufacturers and private labelers of all types of covered lamp products may meet the Rule's labeling disclosure requirements by making the required disclosures on the bulk shipping carton, where the lamps are not packaged or labeled for individual retail sale and where the lamps are displayed for retail sale in the bulk shipping/retail display carton.[10] The Rule continues to require that individual retail-sale packages of lamps be labeled with the disclosures required by the Rule, regardless of whether they are packaged in bulk shipping/retail display cartons that also contain the required labeling disclosures.

V. Exemption From Notice and Comment Requirements

The amendment the Commission adopts today interprets and clarifies the Rule by stating that, for any covered lamp product that is not packaged and labeled for individual retail sale, manufacturers and private labelers may meet the labeling requirements of the Rule by making the required disclosures on the labels of the bulk shipping/retail display carton, where the bulk shipping/retail display carton is used to display the lamps for retail sale. The information that will be provided to consumers, and the time at which it will be provided to them, is the same as that currently required by the Rule. This interpretative amendment does not create any new obligations, but only clarifies how the Commission interprets the terms "principal display panel," "label," and "package" for lamp products that are shipped in bulk shipping/retail display cartons without individual retail-sale packaging, where the lamps are displayed for retail sale in the bulk shipping/retail display cartons.[11] For these reasons, the Commission has determined that the amendment constitutes an interpretative rule, for which notice and public comment are not required under section 553(b)(A) of the Administrative Procedure Act ("APA"), 5 U.S.C. 553(b)(A). The amendment is effective today. Because the amendment is merely an interpretative rule, section 553(d)(2) of the APA, 5 U.S.C. 553(d)(2), which requires publication or service of a substantive rule not less than 30 days before its effective date, does not apply.

VI. Regulatory Flexibility Act

Because this amendment is an interpretative rule that is not covered by the notice and comment provisions of section 553(b) of the APA, the Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.*, does not apply. Nevertheless, the Commission has considered the potential effect of the amendment on small entities. The Rule requires that manufacturers and other lamp product sellers: (1) disclose specific information in labels and catalogs; (2) submit annual reports to the Commission for certain lamp products;[12] and (3) substantiate the required disclosures and maintain records of that substantiating data. In promulgating these disclosure requirements, the Commission certified that the lamp labeling requirements in the Appliance Labeling Rule would not have "a significant economic impact on a substantial number of small entities." The interpretative amendment adopted today does not impose any new obligations on sellers, large or small. The Commission has concluded that the impact of the amendment on small businesses as well as other entities within the affected industry, if any, will be minimal. Accordingly, this notice does not contain a regulatory analysis under section 604 of the RFA, 5 U.S.C. 604.

VII. Paperwork Reduction Act

The Paperwork Reduction Act ("PRA"), 44 U.S.C. 3501 *et seq.*, requires government agencies, before promulgating rules or other regulations that require "collections of information" (i.e., recordkeeping, reporting, or third-party disclosure requirements), to obtain approval from the Office of Management and Budget ("OMB"), 44 U.S.C. 3502. The Commission currently has OMB clearance for the Rule's information collection requirements (OMB No. 3084–0069). This interpretative amendment does not create any new information collection requirements.

List of Subjects in 16 CFR Part 305

Advertising, Consumer protection, Energy conservation, Household appliances, Labeling, Lamp products, Penalties, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 6294.

Text of Amendments

In consideration of the foregoing, the Commission amends title 16, chapter I, subchapter C of the Code of Federal Regulations, as follows:

PART 305—RULE CONCERNING DISCLOSURES REGARDING ENERGY CONSUMPTION AND WATER USE OF CERTAIN HOME APPLIANCE AND OTHER PRODUCTS REQUIRED UNDER THE ENERGY POLICY AND CONSERVATION ACT ("APPLIANCE LABELING RULE")

1. The authority for part 305 continues to read as follows:

Authority: 42 U.S.C. 6294.

§ 305.11 [Amended]

2. Section 305.11(e) is amended by revising paragraph (e)(2), redesignating paragraphs (e)(3) and (e)(4) as paragraphs (e)(4) and (e)(5), and adding a new paragraph (e)(3) to read as follows:

* * * * *

(e) * * *

(2) Any covered product that is a general service fluorescent lamp or an incandescent reflector lamp shall be labeled clearly and conspicuously with a capital letter "E" printed within a circle and followed by an asterisk. The

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marking wattage and voltage on general service incandescent light bulbs.

[10] As they currently must do under the Rule, manufacturers and private labelers also will have to disclose, clearly and conspicuously, on all cartons in which the lamps are shipped in the United States or imported into the United States, that: "These lamps comply with Federal energy labeling requirements."

[11] The interpretations of the terms "principal display panel," "label," and "package" in this Rule, are consistent with the requirements of, and the definitions of these terms in, the Fair Packaging and Labeling Act ("FPLA"), 15 U.S.C. 1541 *et seq.*, and in the Commission's Regulations under section 4 of the FPLA, 16 CFR Part 500.

[12] These reporting requirements currently have been stayed by the Commission.

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label shall also clearly and conspicuously disclose, either in close proximity to that asterisk or elsewhere on the label, the following statement:

> *[The encircled "E"] means this bulb meets Federal minimum efficiency standards.

(i) If the statement is not disclosed on the principal display panel, the asterisk shall be followed by the following statement:

> See [Back,Top, Side] panel for details.

(ii) For purposes of this paragraph (e), the encircled capital letter "E" shall be clearly and conspicuously disclosed in color-contrasting ink on the label of any covered product that is a general service fluorescent lamp and will be deemed "conspicuous," in terms of size, if it appears in typeface at least as large as either the manufacturer's name or logo or another logo disclosed on the label, such as the "UL" or "ETL" logos, whichever is larger.

(3)(i) A manufacturer or private labeler who distributes general service fluorescent lamps, compact fluorescent lamps, or general service incandescent lamps (including incandescent reflector lamps) without labels attached to the lamps or without labels on individual retail-sale packaging for one or more lamps may meet the disclosure requirements of paragraphs (e)(1) and (e)(2) of this section by making the required disclosures, in the manner and form required by those paragraphs, on the bulk shipping cartons that are to be used to display the lamps for retail sale.

(ii) Instead of labeling any covered product that is a general service fluorescent lamp with the encircled "E" and with the statement described in paragraph (e)(2) of this section, a manufacturer or private labeler who would not otherwise put a label on such a lamp may meet the disclosure requirements of that paragraph by permanently marking the lamp clearly and conspicuously with the encircled "E".

*   *   *   *   *

By direction of the Commission, Commissioner Thompson dissenting.

Donald S. Clark,

Secretary.

[FR Doc. 98–19212 Filed 7–17–98; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 173

[Docket No. 94F–0040]

Secondary Direct Food Additives Permitted in Food for Human Consumption

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of chlorine dioxide as an antimicrobial agent in water used to wash certain fruits and vegetables. This action is in response to a petition filed by the National Food Processors Association.

DATES: The regulation is effective July 20, 1998; written objections and requests for a hearing by August 19, 1998.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Robert L. Martin, Center for Food Safety and Applied Nutrition (HFS–217), Food and Drug Administration, 200 C St. SW., Washington, DC 20204–0001, 202–418–3074.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of March 24, 1994 (59 FR 13970), FDA announced that a food additive petition (FAP 4A4415) had been filed by the National Food Processors Association, 1401 New York Ave. NW., Washington, DC 20005. The petition proposed that the food additive regulations be amended to provide for the safe use of chlorine dioxide to disinfect waters in contact with fresh fruits and vegetables intended for human consumption. In its evaluation of the petition, the agency has concluded that the water is not disinfected, but the microbial contamination of the water is reduced.

An antimicrobial added to water used to wash fruits and vegetables may be subject to regulation as a food additive under section 409 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348), or may be subject to regulation as a pesticide chemical under section 408 of the act (21 U.S.C. 346a), depending upon the status of the fruit or vegetable which is washed with the antimicrobial solution. FDA regulates antimicrobials added to water used in food and for food processing.[1] An antimicrobial substance added to water used to wash fruits and vegetables that are not raw agricultural commodities[2] is an antimicrobial "used in food and for food processing." EPA regulates, as pesticides under FIFRA (7 U.S.C. 136(u)) and as pesticide chemicals under section 201(q) of the act, antimicrobial substances directed against microbes in water used to wash raw agricultural commodities.

The petition proposed the use of chlorine dioxide in water for contact with fresh fruits and vegetables, regardless of whether such fruits and vegetables are raw agricultural commodities or processed food. This proposed use would include uses subject to EPA regulatory authority, as well as FDA jurisdiction. Because FDA can act only to approve those uses subject to its jurisdiction, the approval set out in this final rule is limited to the use of chlorine dioxide in water used to wash fruits and vegetables that are not raw agricultural commodities. Any person who wishes to request an approval for the use of chlorine dioxide in water used to wash raw agricultural commodities should consult with EPA to ascertain whether a FIFRA pesticide registration and a section 408 of the act tolerance or exemption from the requirement for such tolerance would be required by EPA.

FDA has evaluated data in the petition and other relevant material. Based on this information, the agency concludes that the proposed use of chlorine dioxide to reduce the microbial contamination of water used to wash fruits and vegetables, other than raw agricultural commodities, is safe and that the additive will achieve its intended technical effect. FDA has also considered the safety of chlorine dioxide breakdown products, i.e., chlorite and chlorate, and concludes that residues of these compounds would be removed from the treated produce if the treatment with chlorine dioxide is followed by a potable water rinse or by blanching, cooking or canning. Therefore, the agency is including in the regulation the requirement that treatment of fruits and vegetables with chlorine dioxide shall be followed by a potable water rinse or by blanching, cooking or canning. Based on the agency's conclusions concerning this proposed use, the regulations in 21 CFR 173.300 should be amended as set forth below.

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[1] This is consistent with the memorandum of understanding (MOU) between FDA and the Environmental Protection Agency (EPA) on the jurisdiction over substances in drinking water (44 FR 42775, July 20, 1979). Moreover, an antimicrobial that is added to water used in food and for food processing is an antimicrobial that is used in or on a "processed food." The use of an antimicrobial in or on processed food is subject to FDA's regulatory authority as a food additive under section 409 of the act. Such use is not a pesticide use because pests that are in or on processed food are excepted from the definition of fungus in 7 U.S.C. 136(k) and from the definition of pest in 40 CFR 152.5. Therefore, such an antimicrobial is neither a "pesticide" under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136(u)) nor a "pesticide chemical" under section 201(q) of the act (21 U.S.C. 321(q)).

[2] Such nonraw agricultural commodities include, for example, those that are cut, peeled, sliced, chopped, ground, irradiated, or cooked.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

In the notice of filing, FDA gave interested parties an opportunity to submit comments on the petitioner's environmental assessment. FDA received no comments in response to that notice. The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before August 19, 1998, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

This final rule contains no collections of information. Therefore, clearance of the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

List of Subjects in 21 CFR Part 173

Food additives.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 173 is amended as follows:

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

1. The authority citation for 21 CFR part 173 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348.

2. Section 173.300 is amended by revising paragraph (b) to read as follows:

§ 173.300 Chlorine dioxide.

* * * * *

(b)(1) The additive may be used as an antimicrobial agent in water used in poultry processing in an amount not to exceed 3 parts per million (ppm) residual chlorine dioxide as determined by Method 4500–ClO_2 E, referenced in paragraph (a) of this section, or an equivalent method.

(2) The additive may be used as an antimicrobial agent in water used to wash fruits and vegetables that are not raw agricultural commodities in an amount not to exceed 3 ppm residual chlorine dioxide as determined by Method 4500–ClO_2 E, referenced in paragraph (a) of this section, or an equivalent method. Treatment of the fruits and vegetables with chlorine dioxide shall be followed by a potable water rinse or by blanching, cooking, or canning.

Dated: July 9, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–19314 Filed 7–17–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 97F–0405]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of aluminum borate as an antistatic agent and/or antifogging agent for olefin polymers intended for use as packaging materials in contact with food. This action is in response to a petition filed by Shikoku Chemical Corp.

DATES: The regulation is effective July 20, 1998; written objections and requests for a hearing by August 19, 1998.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of September 25, 1997 (62 FR 50387), FDA announced that a food additive petition (FAP 7B4559) had been filed by Shikoku Chemical Corp., c/o SRS International Corp., suite 1000, 1625 K St. NW., Washington, DC 20006–1604. The petition proposed to amend the food additive regulations in § 178.3130 *Antistatic and/or antifogging agents in food-packaging materials* (21 CFR 178.3130) to provide for the safe use of aluminum borate as an antistatic and/or antifogging agent for olefin polymers complying with 21 CFR 177.1520(c) as packaging materials intended for use in contact with food.

FDA has evaluated data in the petition and other relevant material. Based on this information, the agency concludes that the proposed use of the additive is safe, that the additive will achieve its intended technical effect, and therefore, that the regulations in § 178.3130 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the

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documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has previously considered the environmental effects of this rule as announced in the notice of filing for FAP 7B4559 (62 FR 50387, September 25, 1997). FDA has concluded that the action is of a type that does not individually or cumulatively have a significant effect on the human environment, and therefore, neither an environmental assessment nor an environmental impact statement is required.

Any person who will be adversely affected by this regulation may at any time on or before August 19, 1998, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

This final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR part 178 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 379e.

2. Section 178.3130 is amended in the table in paragraph (b) by alphabetically adding an entry under the headings "List of substances" and "Limitations" to read as follows:

§ 178.3130 Antistatic and/or antifogging agents in food-packaging materials.

* * * * *

(b) * * *

ist of substances

List of substances	Limitations
* * *	* * *
Aluminum Borate ((9Al$_2$O$_3$)•2(B$_2$O$_3$), CAS Reg. No. 11121–16–7) produced by reaction between aluminum oxide and/or aluminum hydroxide with boric acid and/or metaboric acid at temperatures in excess of 1000 °C	For use only: 1. At levels not to exceed 1 percent by weight of polypropylene films complying with § 177.1520(c) of this chapter, item 1.1, of polyethylene films complying with § 177.1520(c) of this chapter, items 2.1 and 2.2 and having a density greater than 0.94 gram per cubic centimeter, and of polyolefin copolymer films complying with § 177.1520(c) of this chapter, items 3.1(a), 3.1(b), 3.2(a), and 3.2(b). The finished polymers may be used in contact with all food types identified in Table 1 of § 176.170(c) of this chapter, under conditions of use A through H as described in Table 2 of § 176.170(c) of this chapter. The thickness of the films shall not exceed 0.005 inch. 2. At levels not to exceed 2 percent by weight of polypropylene films complying with § 177.1520(c) of this chapter, item 1.1, of polyethylene films complying with § 177.1520(c) of this chapter, items 2.1 and 2.2 and having a density greater than 0.94 gram per cubic centimeter, and of polyolefin copolymer films complying with § 177.1520(c) of this chapter, items 3.1(a), 3.1(b), 3.2(a), and 3.2(b). The finished polymers may be used in contact with all food types identified in Table 1 of § 176.170(c) of this chapter under conditions of use B through H as described in Table 2 of § 176.170(c) of this chapter. The thickness of the films shall not exceed 0.005 inch.
* * *	* * *

Dated: June 24, 1998.

L. Robert Lake,

Director, Office of Policy, Planning and Strategic Initiatives, Center for Food Safety and Applied Nutrition.

[FR Doc. 98–19174 Filed 7–17–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 522 and 556

Implantation or Injectable Dosage Form New Animal Drugs; Flunixin Meglumine

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Schering-Plough Animal Health Corp. The supplemental NADA provides for veterinary prescription use of flunixin meglumine solution, intravenously, for control of pyrexia associated with bovine respiratory disease and endotoxemia, and control of inflammation in endotoxemia, in beef and nonlactating dairy cattle.

EFFECTIVE DATE: July 20, 1998.

FOR FURTHER INFORMATION CONTACT: Estella Z. Jones, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1643.

SUPPLEMENTARY INFORMATION: Schering-Plough Animal Health Corp., 1095 Morris Ave., P.O. Box 3182, Union, NJ 07083–1982, is sponsor of NADA 101–479 Banamine® (flunixin meglumine) Injectable Solution that provides for veterinary prescription use of flunixin meglumine, intravenously or intramuscularly, for alleviation of inflammation and pain associated with musculoskeletal disorders, and alleviation of visceral pain associated with colic in the horse. The sponsor filed a supplemental NADA that provides for veterinary prescription use of flunixin meglumine solution, intravenously, for control of pyrexia associated with bovine respiratory disease and endotoxemia, and control of inflammation in endotoxemia, in beef cattle and nonlactating dairy cattle. The supplemental NADA is approved as of May 6, 1998, and the regulations are amended in 21 CFR 522.970 by revising paragraph (b), by redesignating existing paragraph (c) as (d), by revising newly redesignated paragraph (d), and by adding paragraph (c) to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In addition, a tolerance for residues of flunixin meglumine in edible tissues of cattle has not been previously established. Section 556.286 is added to provide tolerances for flunixin meglumine residues in cattle liver (target tissue) and in cattle muscle.

Also, in addition to codifying a tolerance for flunixin residues in cattle tissues, FDA is amending the regulation to codify the acceptable daily intake (ADI) for total residues of flunixin. The ADI is the amount of total drug residue that can be consumed by humans every day. Previously, FDA had codified safe concentrations which represent the ADI corrected for consumption. The safe concentrations were confusing because few individuals understood the relationship between safe concentrations, a value representing total residues, and tolerance, the part of the drug residue in a given tissue that is detected by an analytical method. To eliminate this confusion, FDA is codifying the ADI.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), this supplemental approval for beef cattle and nonlactating dairy cattle qualifies for 3 years of marketing exclusivity beginning May 6, 1998, because the supplemental application contains substantial evidence of the effectiveness of the drug involved, any studies of animal safety or, in the case of food-producing animals, human food safety studies (other than bioequivalence or residue studies) required for approval and conducted or sponsored by the applicant. Three years marketing exclusivity is limited to use of the drug for the control of pyrexia associated with bovine respiratory disease and endotoxemia, and control of inflammation in endotoxemia, in beef cattle and nonlactating dairy cattle.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 522

Animal drugs.

21 CFR Part 556

Animal drugs, Foods.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 522 and 556 are amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

2. Section 522.970 is amended by revising paragraph (b), by redesignating paragraph (c) as (d), by revising newly redesignated paragraph (d), and by adding paragraph (c) to read as follows:

§ 522.970 Flunixin meglumine solution.

* * * * *

(b) *Sponsors.* See 000061 in § 510.600(c) of this chapter for use as in paragraph (d) of this section. See 000856 and 059130 for use as in paragraph (d)(1) of this section only.

(c) *Related tolerances.* See § 556.286 of this chapter.

(d) *Conditions of use*—(1) *Horses*—(i) *Amount.* 0.5 milligram of flunixin per pound of body weight (1 milliliter per 100 pounds) per day.

(ii) *Indications for use.* For alleviation of inflammation and pain associated with musculoskeletal disorders, and alleviation of visceral pain associated with colic.

(iii) *Limitations.* For musculoskeletal disorders, administer intravenously or intramuscularly for up to 5 days. For colic, administer a single dose intravenously—treatment may be repeated when signs of colic recur. Caution: The effect of this drug on pregnancy has not been determined. Not for use in horses intended for food. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

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(2) *Beef cattle and nonlactating dairy cattle*—(i) *Amount.* 1.1 to 2.2 milligrams per kilogram of body weight (0.5 to 1 milligram per pound, 1 to 2 milliliters per 100 pounds), once a day as a single dose or divided into 2 doses administered at 12-hour intervals for up to 3 days.

(ii) *Indications for use.* For control of pyrexia associated with bovine respiratory disease and endotoxemia. Also indicated for control of inflammation in endotoxemia.

(iii) *Limitations.* Do not slaughter for food use within 4 days of last treatment. Not for use in lactating or dry dairy cows. A withdrawal period has not been established for use in preruminating calves. Do not use in calves to be processed for veal. Do not use in bulls intended for breeding as reproductive effects in this class of cattle have not been studied. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

3. The authority citation for 21 CFR part 556 continues to read as follows:

Authority: 21 U.S.C. 342, 360b, 371.

4. Section 556.286 is added to subpart B to read as follows:

§ 556.286 Flunixin meglumine.

(a) *Acceptable daily intake (ADI).* The ADI for total residues of flunixin is 0.72 micrograms per kilogram of body weight per day.

(b) *Tolerances.* For residues of parent flunixin free acid of 0.125 part per million (ppm) in cattle liver (target tissue) and 0.025 ppm in cattle muscle are established.

Dated: July 9, 1998.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 98–19176 Filed 7–17–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs For Use in Animal Feeds; Bacitracin Methylene Disalicylate and Zoalene

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Alpharma Inc. The NADA provides for using approved bacitracin methylene disalicylate and zoalene Type A medicated articles to make Type C medicated turkey feeds.

EFFECTIVE DATE: July 20, 1998.

FOR FURTHER INFORMATION CONTACT: Charles J. Andres, Center for Veterinary Medicine (HFV–128), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1600.

SUPPLEMENTARY INFORMATION: Alpharma Inc., One Executive Dr., P.O. Box 1399, Fort Lee, NJ 07024, is sponsor of NADA 141–085 which provides for combining approved BMD® (10, 25, 30, 40, 50, 60, or 75 gram per pound (g/lb) bacitracin methylene disalicylate), and Zoamix® (113.5 g/lb zoalene) Type A medicated articles to make Type C medicated feeds for growing turkeys containing 4 to 50 g per ton (g/t) bacitracin methylene disalicylate and 113.5 to 170.3 g/t zoalene. The Type C medicated turkey feed is used for prevention and control of coccidiosis, and for increased rate of weight gain and improved feed efficiency. The NADA is approved as of June 3, 1998, and the regulations are amended in 21 CFR 558.76(d)(3) by adding paragraph (d)(3)(xv), and in 21 CFR 558.680(c), in the table, in item (iii) by adding an entry to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

FDA has determined under 21 CFR 25.33(a)(2) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

2. Section 558.76 is amended by adding paragraph (d)(3)(xv) to read as follows:

§ 558.76 Bacitracin methylene disalicylate.

* * * * *

(d) * * *

(3) * * *

(xv) Zoalene alone or in combination as in § 558.680.

3. Section 558.680 is amended in the table in paragraph (c)(1) in item (iii) by alphabetically adding an entry for "Bacitracin methylene disalicylate 4–50" to read as follows:

§ 558.680 Zoalene.

* * * * *

(c) * * *

(1) * * *

Zoalene in grams/ton	Combination in grams/ton	Indications for use	Limitations
* *	* *	*	* *
(iii) 113.5–170.3 (0.0125–0.01875%)			

Zoalene in grams/ton	Combination in grams/ton	Indications for use	Limitations
	Bacitracin methylene disalicylate 4–50.	Turkeys; prevention and control of coccidiosis, and increased rate of weight gain and improved feed efficiency.	For turkeys grown for meat purposes only, not to be fed to laying birds, feed continuously as sole ration until 14 to 16 weeks of age.

* * * * * * *

* * * * *

Dated: July 9, 1998.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 98–19177 Filed 7–17–98; 8:45 am]

BILLING CODE 4160–01–F

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Part 228

RIN 0412–AA37

Rules on Source, Origin and Nationality for Commodities and Services Financed by USAID: Miscellaneous Amendments

AGENCY: United States Agency for International Development (USAID), IDCA.

ACTION: Final rule.

SUMMARY: USAID is amending its regulation on source, origin and nationality for commodities and services financed by USAID by revising two rules, one on system determinations for commodities and one on ocean transportation eligibility, and by clarifying waiver provisions.

The final rule amends the coverage on systems determinations to allow components of a commodity system to be shipped to a cooperating country without first being shipped to and assembled in an eligible country. This should reduce the cost of these transactions by reducing unnecessary shipments. The rules on eligibility of transshipments are amended to require that suppliers obtain a determination from USAID that direct service on U.S. a flag vessel is not available before transshipment from a U.S. flag to a non-U.S. flag vessel will be eligible for USAID financing. This will ensure compliance with Cargo Preference requirements that direct U.S. flag service be used when available.

DATES: Effective September 18, 1998.

FOR FURTHER INFORMATION CONTACT: Kathleen O'Hara, Office of Procurement, Policy Division (M/OP/P) USAID, Washington, DC 20523–. Telephone: (202) 712–4759, facsimile: (202) 216–3395, e-mail address: kohara@usaid.gov.

SUPPLEMENTARY INFORMATION: The regulation at 22 CFR part 228 was published as a final rule September 15, 1996 (61 FR 53615). After operating under the regulation for a year a few areas have been identified that need some additional coverage or clarification. USAID published a proposed rule to amend 22 CFR part 228 on January 23, 1998 (63 FR 3506). The only comment received was from the American Maritime Congress which affirmed its support for the revisions to the ocean transportation eligibility policy. The rule is being amended as proposed.

List of Subjects in 22 CFR Part 228

Administrative practice and procedure, Commodity procurement, Grant programs—foreign relations.

Accordingly 22 CFR part 228 is amended as follows:

PART 228—[AMENDED]

1. The authority citation continues to read as follows:

Authority: Sec. 621, Pub. L. 87–195, 75 Stat. 445 (22 U.S.C. 2381), as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

2. In § 228.11, paragraph (e) is revised as follows:

§ 228.11 Source and origin of commodities.

* * * * *

(e) *Systems determination.* When a system consisting of more than one produced commodity is procured as a single separately priced item, USAID may determine that the system itself shall be considered a produced commodity. When a determination is made to treat a system as a produced commodity, component commodities which originate from other than an authorized source country may be shipped directly to, and the system assembled in, the cooperating country, unless USAID specifically determines that assembly and shipment take place in an authorized source country. Transportation costs must still meet the requirements in subpart C of this part in order for them to be eligible for USAID financing. USAID, or the importer in the case of a Commodity Import Program, shall inform the supplier of any system determination.

* * * * *

3. Section 228.21 is amended by adding a sentence at the end of paragraph (a) and revising paragraph (c)(4) as follows:

§ 228.21 Ocean transportation.

(a) * * * USAID's policy on implementation of the Cargo Preference Act is in USAID's Automated Directives System, Chapter 315.

* * * * *

(c) * * *

(4) USAID will finance costs incurred on vessels under flag registry of any Geographic Code 935 country if the costs are part of the total cost on a through bill of lading that is paid to a carrier for initial carriage on a vessel which is eligible in accordance with paragraphs (c)(1), (2) or (3) of this section; provided that for shipments originating on a U.S. flag vessel with transshipment to a non-U.S. flag vessel, the supplier must obtain a determination that direct serve on a U.S. flag vessel is not available from USAID's Office of Procurement, Transportation Division, 1300 Pennsylvania Avenue NW., Washington, DC 20523–7900.

4. Section 228.51, paragraph (a) is amended by revising the introductory paragraph and paragraph (a)(1) as follows:

§ 228.51 Commodities.

(a) *Waiver criteria.* Any waiver must be based upon one of the criteria listed in this section. Waivers to Geographic Code 899 or Code 935 which are justified under paragraph (a)(2) or (3) of this section may only be authorized on a case-by-case basis. A waiver may be authorized when:

(1) A commodity required for assistance is of a type that is not produced in or available for purchase in

the United States; in addition, for waivers to any country or Geographic code beyond Code 941 and the cooperating country, the commodity is of a type that is not produced in or available for purchase in any country in Code 941 or the cooperating country.

* * * * *

5. Section 228.53 is amended by revising the introductory paragraph and paragraph (a) as follows:

§ 228.53 Suppliers of services—privately owned commercial suppliers and non-profit organizations.

Waiver criteria. Any waiver must be based upon one of the criteria listed in this section. Waivers to Geographic Code 899 or Code 935 which are justified under paragraph (b) or (c) of this section may only be authorized on a case-by-case basis. A waiver may be authorized when:

(a) Services required for assistance are of a type that are not available for purchase in the United States; in addition, for waivers to any country or Geographic Code beyond Code 941 and the cooperating country, the services are of a type that are not available for purchase in any country in Code 941 or the cooperating country.

* * * * *

Dated: May 26, 1998.

Marcus L. Stevenson,

Procurement Executive.

[FR Doc. 98–19253 Filed 7–17–98; 8:45 am]

BILLING CODE 6116-71-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD08–98–040]

RIN 2115–AE46

Special Local Regulations; Cross River Swim Paducah Summerfest, Ohio River Mile 934.5 to 936.0, Paducah, KY

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: Special local regulations are being adopted for the Cross River Swim Paducah Summerfest on the Ohio River. This event will be held on Sunday, July 19, 1998, between 1:30 p.m. and 3:30 p.m. on the riverfront in Paducah, KY. These regulations are needed to provide for the safety of life on navigable waters during the event.

DATES: These regulations become effective at 1:30 p.m. and terminate at 3:30 p.m. on July 19, 1998.

FOR FURTHER INFORMATION CONTACT: LTJG Tom Boyles, Coast Guard Marine Safety Office, Paducah, Kentucky at (502) 442–1621.

SUPPLEMENTARY INFORMATION:

Drafting Information: The drafters of this regulation are LTJG Tom Boyles, Project Officer, Coast Guard Marine Safety Office, Paducah, Kentucky and LTJG Michele Woodruff, Project Attorney, Eighth Coast Guard District Legal Office.

Regulatory History

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for this regulation and good cause exists for making it effective in less than 30 days from the date of publication in the **Federal Register**. Following normal rulemaking procedures would have been impractical. The application to hold the event was not received with sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effect date.

Background and Purpose

The marine event requiring this regulation is the Cross River Swim Paducah Summerfest. Approximately twenty swimmers will participate in a race across the Ohio River. Various recreational boats will also be involved as each swimmer will be accompanied by a safety vessel. Spectators will be able to view the event from areas designated by the sponsor. This event is sponsored by the Paducah Summerfest.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of the order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary, as this regulation will be in effect for approximately two hours in a limited area of the Ohio River.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their field, and governmental jurisdictions with populations of less than 50,000.

Therefore, the Coast Guard certifies under section 605(b) that this rule will not have a significant effect upon a substantial number of small entities, because the regulation is in effect for approximately eighteen hours in a limited part of the Ohio River.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism Assessment

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rulemaking does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this action consistent with section 2–1, paragraph (34)(h), Commandant Instruction M16475.1C and has determined that this rule is categorically excluded from further environmental documentation.

List of Subject in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements. Waterways.

Temporary Regulation

In consideration of the foregoing, the Coast Guard amends Part 100 of Title 33, Code of Federal Regulations, as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary section 100.35–T08–040 is added to read as follows:

§ 100.35–T08–040 Special Local Regulation, Ohio River at Paducah, Kentucky.

(a) *Regulated Area:* Ohio River Miles 934.5 to 936.0.

(b) *Special Local Regulation:* All persons and/or vessels not registered with the sponsors as participants or official patrol vessels are considered spectators. The "official patrol" consists of any Coast Guard, public, state or local law enforcement and/or sponsor provided vessels assigned to patrol the event.

(1) No spectators shall anchor, block, loiter in, or impede the through transit of participants or official patrol vessels in the regulated area during effective dates and times, unless cleared for such entry by or through an official patrol vessel.

(2) When hailed and/or signaled by an official patrol vessel, a spectator shall come to an immediate stop. Vessels shall comply with all directions given; failure to do so may result in a citation.

(3) The Patrol Commander is empowered to control the movement of all vessels in the regulated area. The Patrol Commander may terminate the event at any time it is deemed necessary for the protections of life and/or property and can be reached on VHF–FM Channel 16 by using the call sign "PATCOM"

(c) Dates: This section is effective at 1:30 p.m. and terminates at 3:30 p.m. on July 19, 1998.

Dated: July 7, 1998.

Fred J. Plute,

Rear Admiral, U.S. Coast Guard Commander, Eighth Coast Guard District.

[FR Doc. 98–19180 Filed 7–17–98; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD11–98–005]

RIN 2115–AA97

Safety/Security Zone; San Francisco Bay, San Pablo Bay, Carquinez Strait, and Suisun Bay, CA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a moving safety/security zone around vessels transporting foreign research reactor spent nuclear materials on the navigable waters of San Francisco Bay, San Pablo Bay, Carquinez Strait, and Suisun Bay, CA. The zone will extend 200 yards ahead and astern, and 100 yards to each side of each vessel carrying the nuclear materials, during transit from San Francisco Main Ship Channel buoys 7 and 8 to the Weapons Support Facility Seal Beach Detachment Concord on Suisun Bay. The zone will remain in effect while the transport vessels are moored at the Weapons Support Facility Seal Beach Detachment Concord until all nuclear materials cargo operations have been completed.

The purposes of this safety/security zone are three-fold: To ensure the safety of the participant transport vessels and crew, and of all other vessels and crew in the vicinity of the participant transport vessels; to protect the environment against potential harm; and to ensure the security of the participant transport vessels, and of the property of the United States Government contained on those vessels, against sabotage or other subversive and/or disruptive acts. No persons or vessels will be allowed to enter, operate, or anchor within this zone, except as may be authorized by Commander, Eleventh Coast Guard District, or his designated representative.

DATES: This rule becomes effective July 8, 1998.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Mark Dix, U.S. Coast Guard Marine Safety Office San Francisco Bay, at (510) 437–3073.

SUPPLEMENTARY INFORMATION:

Regulatory History

On May 7, 1998, the Coast Guard published a notice of proposed rulemaking entitled Safety/Security Zone: San Francisco Bay, San Pablo Bay, Carquinez Strait, and Suisun Bay, CA in the **Federal Register** (63 FR 25189–25191). The comment period ended July 6, 1998. The Coast Guard received no comments on the proposal. No public hearing was requested, and none was held.

Good cause exists for making this rule effective prior to publication of this Final Rule in the **Federal Register** because the shipments of spent nuclear materials necessitating promulgation of this safety/security zone may begin immediately. Consequently, shipments of spent nuclear materials might occur prior to the effective date of this regulation if the regulation does not become effective until 30 days after publication of this Final Rule in the **Federal Register**, creating hazardous, unsafe navigation conditions and serious national security concerns during the shipments.

Background and Purpose

As part of a major national security objective to further the objectives of the 1968 Treaty On Non-Proliferation of Nuclear Weapons, the United States Department of Energy (DOE) will be receiving several shipments of foreign research reactor spent nuclear fuel at the Weapons Support Facility Seal Beach Detachment Concord in Concord, CA over a period of years. As such, DOE is responsible for the shipments necessitating promulgation of this safety/security zone.

The Coast Guard is establishing a temporary moving safety/security zone around any/all vessels transporting these foreign research reactor spent nuclear materials on behalf of DOE and the United States Government on the navigable waters of San Francisco Bay, San Pablo Bay, Carquinez Strait, and Suisun Bay, CA, and at the Weapons Support Facility Seal Beach Detachment.

The Coast Guard does not anticipate that maritime traffic will be significantly impacted by the promulgation of this safety/security zone because the transit of the transport vessel(s) is expected to be expeditious, and it has been scheduled on a day and time of historically light maritime traffic, so as to maximize safety and minimize any delay or inconvenience caused by the shipment. The purposes of this safety/security zone are three-fold: (1.) Pursuant to 33 CFR 165.23, to ensure the safety of the participant transport vessel(s) and crew, and of all other vessels and crew in the vicinity of the participant transport vessel(s) (2.) pursuant to 33 CFR 165.23, to protect the environment against potential harm; and, (3.) pursuant to 33 CFR 165.33, to ensure the security of the participant transport vessel(s), and of the property of the United States Government contained on those vessels, against sabotage or other subversive and/or disruptive acts. No persons or vessels will be allowed to enter, operate, or anchor within this moving zone during transport vessel transit, including any emergency mooring or anchoring, except as may be authorized by Commander, Eleventh Coast Guard District, or his designated representative.

Discussion

The safety/security zone will extend 200 yards ahead and astern, and 100 yards to each side of each vessel carrying the nuclear materials, during transit from San Francisco Main Ship Channel buoys 7 and 8 to the Weapons Support Facility Seal Beach Detachment Concord on Suisun Bay. Once each vessel carrying the nuclear materials is safely moored, the zone will close to encompass all waters within 100 yards of each vessel and will remain so until all nuclear materials cargo handling operations have been completed. No persons or vessels will be allowed to enter, operate, or anchor within this zone, except as may be authorized by Commander, Eleventh Coast Guard District, or his designated representative.

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DOE anticipates that these shipments will take place at irregular intervals for an undetermined period of years. Thus, the actual dates and times that this safety/security zone will be activated are not known by the Coast Guard at this time. The Eleventh Coast Guard District Commander will cause notice of the activation of this safety/security zone to be made by all appropriate means to effect the widest publicity among the affected segments of the public, including publication in the **Federal Register** as practicable, in accordance with the provisions of 33 CFR 165.7(a); such means of announcement may include, but are not limited to, Broadcast Notice to Mariners. The Coast Guard will also issue a Broadcast Notice to Mariners notifying the public when nuclear materials cargo handling has been completed.

Discussion of Comments

No comments were received.

Regulatory Evaluation

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this regulation to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. Maritime traffic will not be significantly impacted because of the expeditious nature of the transit necessitating this safety/security zone, and the limited duration of the zone during transit and cargo operations.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq*), the Coast Guard must consider whether this regulation will have a significant economic impact on a substantial number of small entities. "Small entities" may include small businesses and not-for-profit organizations that are not dominant in their respective fields, and governmental jurisdictions with populations less than 50,000. For the same reasons set forth in the above Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this regulation is not expected to have a significant economic impact on any substantial number of entities, regardless of their size.

Assistance For Small Entities

In accordance with 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard wants to assist small entities in understanding this regulation so that they can better evaluate its effects on them and participate in the rulemaking process. If your small business or organization is affected by this rule and you have questions concerning its provisions or options for compliance, please contact LCDR Mark Dix, Coast Guard Marine Safety Office San Francisco Bay, at (510) 437–3073.

Collection of Information

This regulation contains no collection of information requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*).

Federalism

The Coast Guard has analyzed this regulation under the principles and criteria contained in Executive Order 12612 and has determined that this regulation does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this regulation and concluded that under Chapter 2.B.2. of Commandant Instruction M16475.1C, Figure 2–1, paragraph (34), it will have no significant environmental impact and it is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and Environmental Analysis Checklist is on file in the rulemaking docket, and is available for inspection at the address referenced in the paragraph entitled FOR FURTHER INFORMATION CONTACT.

A copy of DOE's "Final Environmental Impact Statement on a Proposed Nuclear Weapons Nonproliferation Policy Concerning Foreign Research Reactor Spent Nuclear Fuel" has also been placed in the rulemaking docket and is available for inspection at the address shown above in the paragraph entitled FOR FURTHER INFORMATION CONTACT. To request your own copy of this document, contact: Charles Head, Program Manager, Office of Spent Nuclear Fuel Management (Em–67), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585.

Unfunded Mandates

Under the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), the Coast Guard must consider whether this rule will result in an annual expenditure by state, local, and tribal governments, in the aggregate of $100 million (adjusted annually for inflation). If so, the Act requires that a reasonable number of regulatory alternatives be considered, and that from those alternatives, the least costly, most cost-effective, or least burdensome alternative that achieves the objective of the rule be selected.

No state, local, or tribal government entities will be effected by this rule, so this rule will not result in annual or aggregate costs of $100 million or more. Therefore, the Coast Guard is exempt from any further regulatory requirements under the Unfunded Mandates Act.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Safety measures, Waterways.

Regulation

In consideration of the foregoing, Subpart F of Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46.

2. A new § 165.1115 is added to read as follows:

§ 165.1115 Safety/Security Zone: San Francisco Bay, San Pablo Bay, Carquinez Strait, and Suisun Bay, CA.

(a) *Regulated area.* The following area is established as a moving safety/security zone:

(1) All waters 200 yards ahead and astern and 100 yards to each side of every vessel transporting nuclear materials on behalf of the United States Department of Energy while such vessels transit from a line drawn between San Francisco Main Ship Channel buoys 7 and 8 (LLNR 4190 & 4195, positions 37°46.9′N, 122°35.4′W & 37°46.5′N, 122°35.2′W, respectively) until safely moored at the Weapons Support Facility Seal Beach Detachment Concord on Suisun Bay (position 38°03.3′N, 122°02.5′W). All coordinates referenced use datum: NAD 1983.

(2) All waters within 100 yards of such vessels described in paragraph (a)(1) of this section while such vessels are conducting cargo operations at the Weapons Support Facility Seal Beach Detachment Concord.

(b) *Notification.* Commander, Eleventh Coast Guard District, will cause notice of the activation of this safety/security zone to be made by all appropriate means to effect the widest publicity among the affected segments of the public, including publication in the **Federal Register** as practicable, in accordance with the provisions of 33 CFR 165.7(a); such means of announcement may include, but are not limited to, Broadcast Notice to Mariners. The Coast Guard will issue a Broadcast Notice to Mariners notifying the public when nuclear materials cargo handling has been completed.

(c) *Effective Period.* The safety/security zone will be effective commencing at the time any vessel described in paragraph (a)(1) of this section enters the zone described in paragraph (a)(1) of this section and will remain in effect until all spent nuclear materials cargo handling operations have been completed at Weapons Support Facility Seal Beach Detachment Concord.

(d) *Regulations.* The general regulations governing safety and security zones contained in both 33 CFR 165.23 in 33 CFR 165.33 apply. Entry into, transit through, or anchoring within this moving safety/security zone is prohibited unless authorized by Commander, Eleventh Coast Guard District, or his designated representative.

Dated: July 7, 1998.

R.D. Sirois,

Captain, U.S. Coast Guard, Commander, Eleventh Coast Guard District Acting.

[FR Doc. 98–19179 Filed 7–17–98; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 050–1050; FRL–6124–7]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is approving new Missouri rule 10 CSR 10–2.360, "Emission Restrictions for Bakeries," as a revision to the Missouri State Implementation Plan (SIP). This rule restricts volatile organic compound (VOC) emissions from large commercial bakery operations in the Kansas City ozone maintenance area.

DATES: This rule is effective on August 19, 1998.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the: Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and the EPA Air & Radiation Docket and Information Center, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Joshua A. Tapp at (913) 551–7606.

SUPPLEMENTARY INFORMATION: The Clean Air Act (CAA) requires states to apply reasonably available control technology (RACT) to sources of VOCs in ozone nonattainment areas to reduce such emissions. For the Kansas City area, the Act required RACT for sources not covered by a control techniques guideline emitting more than 100 tons per year. RACT is defined as the lowest emissions limit that a particular source is capable of meeting by the application of control technology that is both reasonably available, as well as technologically and economically feasible.

Kansas City is currently an ozone maintenance area. It was redesignated to attainment on June 23, 1992, with the assumption that all existing major sources had RACT controls. Recently, the Missouri Department of Natural Resources discovered a major, uncontrolled commercial bakery located in Kansas City with a potential to emit greater than 100 tons per year of VOCs. This source sector should have been addressed prior to redesignation. However, this rule now addresses such sources consistent with the EPA's Alternative Control Technology Document on commercial bakery emission controls. Specifically, Missouri's rule requires a minimum of 80 percent VOC destruction and contains provisions addressing compliance determinations and recordkeeping. Rules such as this will aid Kansas City in its efforts to maintain air quality to meet the national ambient air quality standards. For more background information, the reader is referred to the proposal for this rulemaking published on August 5, 1996, at 61 FR 40591.

On September 3, 1996, the EPA received one comment from the American Bakers Association (ABA). The ABA opposes the capture efficiency language contained in subsection (4)(C) of the rule. The ABA's position is that bakery ovens operate under negative pressure and, therefore, should not be subject to capture efficiency requirements. The ABA further comments that if the language addressing capture efficiency in subsection (4)(C) is not changed, at a minimum the language referencing section 20 of rule 10 CSR 10–6.030 as a compliance method should be deleted so that the rule is consistent with the St. Louis bakery rule.

The EPA's response to these comments is that, as written, the rule is consistent with the Clean Air Act in that it addresses emissions from major sources of VOCs in an ozone maintenance area. The rule contains enforceable limitations, the requirements for compliance are clear, and the methods for determining compliance have been provided. Therefore, because this rule meets the minimum SIP approval criteria under the ACT, the EPA is approving it as a revision to the Missouri SIP.

In addition, the EPA does not have authority to revise language contained in a state rule. Such concerns are more appropriately conveyed at the time that the state holds a public hearing on such rules. In any event, under the Missouri rule the Director may approve an alternative compliance method, including a method which accounts for operation of a source under negative pressure, as long as such method has been approved by the EPA. Therefore, the rule provides the Director with the flexibility to address the ABA's concerns on a case-by-case basis.

This response to comments is also documented in an addendum to the Technical Support Document for this rulemaking.

I. Final Action

In this document, the EPA takes final action to approve Missouri rule 10 CSR 10–2.360, submitted on March 13, 1996, as a revision to the Missouri SIP.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors, and in relation to relevant statutory and regulatory requirements.

II. Administrative Requirements

A. Executive Orders 12866 and 13045

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

The final rule is not subject to Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks," because it is not an

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"economically significant" action under Executive Order 12866.

B. Regulatory Flexibility

The Regulatory Flexibility Act generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities.

SIP approvals under section 110 and subchapter I, Part D of the CAA do not create any new requirements but simply approve requirements that the state is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids the EPA to base its actions concerning SIPs on such grounds (*Union Electric Co.* v. *U.S. E.P.A.*), 427 U.S. 246, 256–66 (1976); 42 U.S.C. 7410(a)(2)).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, the EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, the EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves preexisting requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 18, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 29, 1998

Dennis Grams, P.E.,

Regional Administrator, Region VII.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart AA—Missouri

2. Section 52.1320 is amended by adding paragraph (c)(107) to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

(107) New regulation for control of volatile organic emissions from Kansas City commercial bakeries submitted by the Missouri Department of Natural Resources March 13, 1996.

(i) Incorporation by reference.

(A) Rule 10 CSR 10–2.360 entitled "Control of Emissions from Bakery Ovens," effective December 30, 1995.

[FR Doc. 98–19134 Filed 7–17–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 136

Guidelines Establishing Test Procedures for the Analysis of Pollutants

CFR Correction

In Title 40 of the Code of Federal Regulations, parts 136 to 149, revised as of July 1, 1997, page 26, § 136.3(e) is corrected in Table II by correcting the entry in the fourth column "Maximum holding time" under "metals" for "Mercury" to read "28 days".

BILLING CODE 1505-01-D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

Radio Broadcasting Services; Various Locations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, on its own motion, editorially amends the Table of FM Allotments to specify the actual classes of channels allotted to various communities. The changes in channel classifications have been authorized in response to applications filed by licensees and permittees operating on these channels. This action is taken pursuant to *Revision of Section 73.3573(a)(1) of the Commission's Rules Concerning the Lower Classification of an FM Allotment*, 4 FCC Rcd 2413 (1989), and the *Amendment of the Commission's Rules to permit FM*

Channel and Class Modifications [Upgrades] by Applications, 8 FCC Rcd 4735 (1993).

EFFECTIVE DATE: July 20, 1998.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, adopted July 1, 1998, and released July 10, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., 1231 20th Street, NW, Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR PART 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

47 CFR PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Florida, is amended by removing Channel 288A and adding Channel 288C2 at Apalachicola, by removing Channel 253C and adding Channel 253C1 at Crystal River, by removing Channel 249A and adding Channel 249C3 at Punta Rassa, and by removing Channel 245A and adding Channel 245C3 at Tavernier.

3. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by removing Channel 286C3 and adding Channel 286C2 at Blackshear.

4. Section 73.202(b), the Table of FM Allotments under Idaho, is amended by removing Channel 252A and adding Channel 252C1 at McCall.

5. Section 73.202(b), the Table of FM Allotments under Kansas, is amended by removing Channel 277C1 and adding Channel 277C at Hays.

6. Section 73.202(b), the Table of FM Allotments under Louisiana, is amended by removing Channel 264A and adding Channel 264C3 at Natchitoches.

7. Section 73.202(b), the Table of FM Allotments under Missouri, is amended by removing Channel 259A and adding Channel 259C3 at Neosho.

8. Section 73.202(b), the Table of FM Allotments under New Mexico, is amended by removing Channel 268A and adding Channel 268C1 at Gallup.

9. Section 73.202(b), the Table of FM Allotments under Oregon, is amended by removing Channel 233A and adding Channel 233C at Canyon City.

10. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 238C and adding Channel 238C1 at Austin, and by removing Channel 236C and adding Channel 239C2 at Waco.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–19302 Filed 7–17–98; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–239; RM–9195 and RM–9237]

Radio Broadcasting Services; Horseshoe Beach, FL and Otter Creek, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action in this document allots Channel 240A to Otter Creek, Florida, in response to a petition filed by Tony Downes. *See* 62 FR 66323, December 18, 1997. The coordinates for Channel 240A at Otter Creek, Florida, are 29–16–52 and 82–51–42. There is a site restriction 9.8 kilometers (6.1 miles) southwest of the community. In response to the counterproposal filed by Dixie County Broadcasters, we will allot Channel 234C3 to Horseshoe Beach at coordinates 29–26–28 and 83–17–15. With this action, this proceeding is terminated. A filing window for Channel 234C3 at Horseshoe Beach, Florida, and channel 240A at Otter Creek, Florida, will not be opened at this time. Instead, the issue of opening a filing window for these channels will be addressed by the Commission in a subsequent order.

EFFECTIVE DATE: August 24, 1998.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 97–239, adopted July 1, 1998, and released July 10, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Florida, is amended by adding Horseshoe Beach and Channel 234C3 and Otter Creek and Channel 240A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–19301 Filed 7–17–98; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 190, 191, 192, 193, 195, and 199

[Docket No. RSPA–97–2251; Amdt Nos. 190–8; 191–13; 192–84; 193–15; 194–2; 195–61; 198–3; 199–17]

RIN 2137–AD03

Pipeline Safety: Periodic Updates to Pipeline Safety Regulations (1997)

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Removal of direct final rule amendment.

SUMMARY: This document removes an amendment in a direct final rule titled, "Periodic Updates to the Pipeline Safety Regulations" (63 FR 7721), published on February 17, 1998, and restores the regulatory text that existed prior to the direct final rule. The final rule updated references to voluntary specifications

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and standards incorporated by reference, and made various clarifications and grammatical corrections. The other amendments made by the direct final rule became effective on May 4, 1998.

DATES: The removal of the amendment is effective July 20, 1998.

ADDRESSES: Comments should be sent to the Dockets Facility, U.S. Department of Transportation, Plaza 401, 400 Seventh Street, SW, Washington, DC 20590–0001. Comments should identify the docket number (RSPA–97–2251). Persons should submit the original document and one (1) copy. Persons wishing to receive confirmation of receipt of their comments must include a self-addressed, stamped postcard. The Dockets Facility is located on the plaza level of the Nassif Building in Room Number 401, 400 Seventh Street, SW, Washington, DC. The Dockets Facility is open from 10:00 a.m. to 5:00 p.m., Monday through Friday, except on Federal holidays when the facility is closed.

FOR FURTHER INFORMATION CONTACT: Eben M. Wyman, (202) 366–0918, or by e-mail (eben.wyman@rspa.dot.gov), regarding the subject matter of this Notice; or the Dockets Unit, (202) 366–4453, for copies of this final rule or other material in the docket. Further information can be obtained by accessing OPS' Internet Home Page at: ops.dot.gov.

SUPPLEMENTARY INFORMATION:

Partial Withdrawal

Under Clarifications of the direct final rule, § 192.614(c)(5) requires operators to "Provide for temporary marking of buried pipelines in the area of excavation activity before, as far as practical, the activity begins." RSPA believed that this requirement could be confusing to the reader in terms of interpreting the meaning of "as far as practical." Therefore, RSPA amended the paragraph to require temporary marking of buried pipelines before excavation activities begins "except in emergency situations."

Based on a comment to this clarification, RSPA is removing this change from this direct final rule. The comment was based on the interpretation of the phrase "as far as practical." RSPA did not mean to distort the language of the regulation, only to clarify that operators would not be responsible for marking in an emergency situation. However, based on feedback from the pipeline industry and other regulatory parties within RSPA, it was determined that the original language better served the reader of the regulation. RSPA plans to issue an interpretation of the language in § 192.614 to clarify its meaning.

PART 193—[AMENDED]

1. The authority citation for Part 192 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60110, 60113, 60118; and 49 CFR 1.53.

2. Paragraph (c)(5) of § 192.614 is revised to read as follows:

§ 192.614 Damage prevention program.

* * * * *

(c) * * *

(5) Provide for temporary marking of buried pipelines in the area of excavation activity before, as far as practical, the activity begins.

* * * * *

Issued in Washington, DC, on July 10, 1998.

Kelley S. Coyner,

Deputy Administrator.

[FR Doc. 98–18910 Filed 7–17–98; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 190 and 192

[Docket No. RSPA–97–2251; Amdt Nos. 190–8; 191–13; 192–84; 193–15; 194–2; 195–61; 198–3; 199–17]

RIN 2137–AD03

Pipeline Safety: Periodic Updates to Pipeline Safety Regulations (1997)

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Corrections to direct final rule.

SUMMARY: This document makes minor corrections to a direct final rule titled, "Periodic Updates to the Pipeline Safety Regulations" (63 FR 7721), published on February 17, 1998. The final rule updated references to voluntary specifications and standards incorporated by reference, and made various clarifications and grammatical corrections.

DATES: This correction is effective July 20, 1998.

FOR FURTHER INFORMATION CONTACT: Eben M. Wyman, (202) 366–0918, or by e-mail (eben.wyman@rspa.dot.gov), regarding the subject matter of this Notice; or the Dockets Unit, (202) 366–4453, for copies of this final rule or other material in the docket. Further information can be obtained by accessing OPS' Internet Home Page at: ops.dot.gov.

SUPPLEMENTARY INFORMATION:

Need for Corrections

1. The direct final rule incorrectly listed the amendment numbers for Part 190 and Part 192 at the beginning of the direct final rule. The correct amendment numbers are 190–8, and 192–84.

2. In updating the American Society for Testing and Materials (ASTM) Designation 2513, the direct final rule inadvertently removed the reference to the ASTM 2513–87 edition for § 192.63(a)(1). This document corrects this reference to reflect the appropriate standard, ASTM Designation D 2513 "Standard Specification of Thermoplastic Gas Pressure Pipe, Tubing and Fittings" (D 2513–87 edition for § 192.63(a)(1), otherwise D 2513–96a).

RSPA regrets any confusion this error may have caused.

Correction of Publication

Accordingly, the publication on February 17, 1998, of the final rule (63 FR 7721) is corrected as follows:

1. On page 7721, in the first column, in the docket number, amendment number "190–7" is corrected to read "190–8" and amendment number "172–83" is corrected to read "192–84."

2. On page 7723, in the second column, under paragraph C (10), the words "D 2513–87 edition for § 192.63(a)(1), otherwise" are added before "D 2513–96a."

Issued in Washington, DC, on July 10, 1998.

Kelley S. Coyner,

Deputy Administrator.

[FR Doc. 98–18911 Filed 7–17–98; 8:45 am]

BILLING CODE 4910–60–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 971208297–8054–02; I.D. 071398D]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Eastern Regulatory Area of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch in the Eastern Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 1998 total allowable catch (TAC) of Pacific ocean perch in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 14, 1998, until 2400 hrs, A.l.t., December 31, 1998.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In accordance with § 679.20(c)(3)(ii), the Final 1998 Harvest Specifications of Groundfish for the GOA (63 FR 12027, March 12, 1998) established the amount of the 1998 TAC of Pacific ocean perch in the Eastern Regulatory Area of the Gulf of Alaska as 2,366 metric tons (mt). The directed fishery for Pacific ocean perch in the Eastern Regulatory Area was closed under § 679.20(d)(1)(iii) on July 6, 1998, (63 FR 37071, July 9, 1998) and reopened on July 12, 1998, (to be published on July 16, 1998).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 1998 TAC for Pacific ocean perch will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 2,116 mt, and is setting aside the remaining 250 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the Eastern Regulatory Area of the GOA.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent overharvesting the 1998 TAC of Pacific ocean perch for the Eastern Regulatory Area of the GOA. A delay in the effective date is impracticable and contrary to the public interest. Further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action should not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by 50 CFR 679.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 14, 1998.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98-19162 Filed 7-14-98; 4:04 pm]

BILLING CODE 3510-22-F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 971208297-8054-02; I.D. 071398C]

Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish in the Central Regulatory Area of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for northern rockfish in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 1998 total allowable catch (TAC) of northern rockfish in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 14, 1998, until 2400 hrs, A.l.t., December 31, 1998.

FOR FURTHER INFORMATION CONTACT: Thomas Pearson, 907-486-6919.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR part 600 and 50 CFR part 679.

The amount of the 1998 TAC of northern rockfish in the Central Regulatory Area of the Gulf of Alaska was established by the Final 1998 Harvest Specifications of Groundfish for the GOA (63 FR 12027, March 12, 1998) as 4,150 metric tons (mt), determined in accordance with § 679.20(c)(3)(ii).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 1998 TAC for northern rockfish will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 3,650 mt, and is setting aside the remaining 500 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for northern rockfish in the Central Regulatory Area.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent overharvesting the 1998 TAC of northern rockfish for the Central Regulatory Area of the GOA. A delay in the effective date is impracticable and contrary to the public interest. Further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action should not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by 50 CFR 679.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 14, 1998.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98-19161 Filed 7-14-98; 4:04 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 971208297–8054–02; I.D. 071398E]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Central Regulatory Area of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 1998 total allowable catch (TAC) of Pacific ocean perch in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 14, 1998, until 2400 hrs, A.l.t., December 31, 1998.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–486–6919.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In accordance with § 679.20(c)(3)(ii), the Final 1998 Harvest Specifications of Groundfish for the GOA (63 FR 12027, March 12, 1998) established the amount of the 1998 TAC of Pacific ocean perch in the Central Regulatory Area of the Gulf of Alaska as 6,600 metric tons (mt). The directed fishery for Pacific ocean perch in the Central Regulatory Area was closed under § 679.20(d)(1)(iii) on July 6, 1998, (63 FR 37071, July 9, 1998) and reopened on July 12, 1998, (to be published on July 16, 1998).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 1998 TAC for Pacific ocean perch will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 5,600 mt, and is setting aside the remaining 1,000 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the Central Regulatory Area of the GOA.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent overharvesting the 1998 TAC of Pacific ocean perch for the Central Regulatory Area of the GOA. A delay in the effective date is impracticable and contrary to the public interest. Further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action should not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by 50 CFR 679.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 14, 1998.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–19160 Filed 7–14–98; 4:04 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 63, No. 138
Monday, July 20, 1998

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

Common Crop Insurance Regulations; Guaranteed Production Plan of Fresh Market Tomato Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Guaranteed Production Plan of Fresh Market Tomato Crop Insurance Provisions to change the calendar date for the end of the insurance period.

DATES: Written comments and opinions on this proposed rule will be accepted until close of business August 19, 1998 and will be considered when the rule is to be made final.

ADDRESSES: Interested persons are invited to submit written comments to the Director, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131. A copy of each response will be available for public inspection and copying from 7:00 a.m. to 4:30 p.m., CDT, Monday through Friday, except holidays, at the above address.

FOR FURTHER INFORMATION CONTACT: Louise Narber, Insurance Management Specialist, Research and Development, Product Development Division, Federal Crop Insurance Corporation, at the Kansas City, MO, address listed above, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be exempt for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Paperwork Reduction Act of 1995

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) there are no information collection requirements contained in this rule.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform of 1995 (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Executive Order 12612

It has been determined under section 6(a) of Executive Order No. 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

This regulation will not have a significant economic impact on a substantial number of small entities. New provisions included in this rule will not impact small entities to a greater extent than large entities. The amount of work required of the insurance companies delivering and servicing these policies will not increase from the amount of work currently required. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605) and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372 which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order 12988

This proposed rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action for judicial review of any determination made by FCIC may be brought.

Environmental Evaluation

This action is not expected to have a significant economic impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

FCIC proposes to amend the Common Crop Insurance Regulations (7 CFR part 457) by revising 7 CFR 457.128 effective for the 1999 and succeeding crop years. The only change to the provisions for insuring guaranteed production plan of fresh market tomatoes is to amend section 10(b)(7) to change the calendar date for the end of the insurance period for certain states. The end of the insurance period for Delaware, Maryland, New Jersey, North Carolina, and Virginia will be changed from September 20 to October 15 of the crop year. The end of the insurance period for Florida, Georgia, and South Carolina will be changed from September 20 to November 10 of the crop year. A September 20 ending date creates an insurance period that is too short in these states. Under the current crop provisions, if the crop is planted during the fall planting period in accordance with the Special Provisions in effect for the 1999 crop year, the crop will not reach maturity before the end of the insurance period. The proposed change in the dates for the end of the insurance period will allow for insurance coverage from the time of planting until maturity of the crop.

List of Subjects in 7 CFR Part 457

Crop insurance, Tomatoes.

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Proposed Rule

Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation, proposes to amend 7 CFR part 457 as follows:

PART 457—COMMON CROP INSURANCE REGULATIONS; REGULATIONS FOR THE 1998 AND SUBSEQUENT CONTRACT YEARS

1. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(p).

2. In § 457.128 revise section 10(b)(7) to read as follows:

§ 457.128 Guaranteed Production Plan of Fresh Market Tomato Crop Insurance Provisions.

10. Insurance Period.

* * * * *

(b) * * *

(7) October 15 of the crop year in Delaware, Maryland, New Jersey, North Carolina, and Virginia; October 31 of the crop year in California; November 10 of the crop year in Florida, Georgia, and South Carolina; and September 20 of the crop year in all other states.

Signed in Washington, DC, on July 13, 1998.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 98–19245 Filed 7–17–98; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 341

[Docket No. 76N–052T]

RIN 0910–AA01

Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products for Over-the-Counter Human Use; Proposed Amendment of Final Monograph for OTC Antitussive Drug Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is issuing a notice of proposed rulemaking that would amend the final monograph for over-the-counter (OTC) antitussive drug products (drug products that relieve cough) to revise the labeling warnings and directions for topical/inhalant products containing the active ingredients camphor and/or menthol. New information indicates that use of these drug products near an open flame, in hot water, or in a microwave oven can cause the products to catch on fire and cause serious burns to the user. Therefore, the agency is proposing warnings and directions for safer use of these drug products by informing consumers not to expose the products to flame, hot water, or a microwave oven. This proposal is part of the ongoing review of OTC drug products conducted by FDA.

DATES: Submit written comments by October 19, 1998; written comments on the agency's economic impact determination by October 19, 1998. FDA is proposing that any final rule that may issue based on this proposal become effective 12 months after its date of publication in the **Federal Register**.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Ryland, Center for Drug Evaluation and Research (HFD–560), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–2222.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of September 9, 1976 (41 FR 38312 at 38343), the Advisory Review Panel on OTC Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products (the Panel) recommended that the single ingredients camphor and menthol for topical/inhalant antitussive use be classified in Category III (available data are insufficient to classify as safe and effective, and further testing is required). The Panel based its recommendations on a lack of effectiveness data, but determined that these products are safe (41 FR 38312 at 38344 and 38349 to 38352). The Panel was not aware of and did not discuss any information concerning possible safety hazards occurring when these products are placed near a flame, into containers of hot water, or in a microwave oven. The Panel recommended the following directions for topical/inhalant use for camphor and menthol:

* * * 1 tablespoonful of solution per quart of water is added directly to the water in a hot steam vaporizer, bowl, or washbasin; or 2 teaspoonfuls of solution per pint of water are added to an open container of boiling water. Breathe in vapors during the period of medicated steam generation. May be repeated 3 times daily.

In the final monograph for OTC antitussive drug products (52 FR 30042 at 30045 to 30046, August 12, 1987), the agency provided the following directions in § 341.74(d)(2)(i) and (d)(2)(ii) (21 CFR 341.74(d)(2)(i) and (d)(2)(ii)) for products containing the single ingredient camphor or menthol for ointment vehicle use based on additional clinical studies that supported effectiveness:

* * * Adults and children 2 to under 12 years of age: Rub on the throat and chest as a thick layer. The area of application may be covered with a warm, dry cloth if desired. However, clothing should be left loose about the throat and chest to help the vapors rise to reach the nose and mouth. Applications may be repeated up to three times daily or as directed by a doctor. Children under 2 years of age: consult a doctor.

For products containing the single ingredient camphor or menthol for steam inhalation use, the agency provided the following directions in § 341.74(d)(2)(iv) and (d)(2)(v), based on additional clinical studies that supported effectiveness:

* * * Adults and children 2 to under 12 years of age: Add 1 tablespoonful of solution, for each quart of water, directly to the water in a hot steam vaporizer, bowl, or wash basin; or add 1½ teaspoonsful of solution, for each pint of water, to an open container of boiling water. Breathe in the medicated vapors. May be repeated up to three times daily or as directed by a doctor. Children under 2 years of age: consult a doctor.

When the final monograph was published, the agency was not aware of safety problems occurring when products containing camphor and/or menthol are added to hot water. Since that time, the agency has received new information (Refs. 1, 2, and 3) that indicates that the current warnings and directions may not be adequate and that safety concerns (e.g., burns caused by flashing) could arise if these products are heated near an open flame, in a container of hot water, or in a microwave oven. From 1983 to mid-1997, 34 fire-related events from usage of antitussive drug products containing camphor and menthol were reported (Refs. 2 and 3). Twenty-one fire-related events concerned a combination of camphor and menthol in an ointment vehicle. This product when added to hot water in a container on the stove, or when added to water and heated in a microwave oven, caused flashing and severe burns. One of the 21 events involved adding the product to hot water in a vaporizer. An additional 11 events concerned heating products that were combinations of camphor and menthol in an alcohol-based solution. These products, like the products in the ointment vehicles, also caused flashing and burns when placed in hot water or heated in a microwave oven. For example, a product flashed from the top of its container when it was opened close to the gas stove where water had been heated, but the gas flame had been extinguished. In still another fire-related event (the 33d event), the alcohol-based solution product was poured over lava rocks in a sauna. The product ignited, caught the consumer's bathrobe on fire, and caused burns over 65 percent of her body. The last reported fire-related event involved the ointment product and the alcohol-based product added to water and heated together resulting in flashing and burns. No fire-related events were reported when these products were added to cold water in a hot steam vaporizer and then heated.

In all 34 reported events, flashing occurred; in 5 events, the flashing caused first and second degree burns to the face, eyes, chest, shoulders, arms, and/or hands. In some instances, these burns may have caused permanent scarring or reduced vision. Some consumers treated themselves at home and others went to a physician's office, a clinic, a medical center, or an emergency room for treatment. One case required hospitalization.

References

(1) Food and Drug Administration Drug Product Reporting System, dated May 31, 1995, in OTC Vol. 04TFMA, Docket No. 76N–052T, Dockets Management Branch.

(2) MEDWATCH: Adverse Event Reports dated 1983 to 1995 in OTC Vol. 04TFMA, Docket No. 76N–052T, Dockets Management Branch.

(3) MEDWATCH: Adverse Event Reports dated 1995 to 1997 in OTC Vol. 04TFMA, Docket No. 76N–052T, Dockets Management Branch.

II. The Agency's Tentative Conclusions and Proposal

The agency tentatively concludes that the case reports raise safety concerns that could be alleviated by providing consumers with additional warnings and directions for topical/inhalant OTC antitussive drug products that contain camphor and/or menthol. The agency also notes that the labeling on one manufacturer's currently marketed products (containing camphor and menthol) (Ref. 3) is similar to the labeling proposed in this document. The agency believes that consumers need to be informed not to expose these products to flame or a microwave oven, not to place the products in any container in which water is being heated, and to add to cool water when using a hot steam vaporizer. Accordingly, the agency is proposing to amend the final monograph for OTC antitussive drug products to expand the warnings against possible flammability or combustibility and a precaution to keep them away from fire or flame. Labeling may also tell consumers to close caps tightly and store containers at room temperature away from heat.

The following information shall appear on any labeling that contains warnings and shall appear after the subheader "Do Not Use:" "near an open flame", "by adding to hot water", "in a microwave oven", or "in a container in which water is being heated, except when adding to cold water in only a hot steam vaporizer".

Additionally, the agency is proposing to amend the final monograph for OTC antitussive drug products to shorten and simplify the directions in § 341.74(d)(2)(i), (d)(2)(ii), (d)(2)(iv), and (d)(2)(v) for products containing camphor or menthol for topical/inhalation use. Further, the agency is proposing to add the following statements at the end of the directions: "See important warnings about not using near a flame, in hot water, or in a microwave oven. Improper use may cause the mixture to splatter and cause burns." (Last two sentences to be highlighted in boldface type or contrasting color.)

The agency is also proposing to add an additional revision to the directions in § 341.74(d)(2)(iv) and (d)(2)(v) for products containing camphor or menthol for steam inhalation. The proposed revised directions inform users to add the solution directly to cold water in only a hot steam vaporizer. All suggestions to use the product in any other container have been deleted. This part of the proposed revised directions reads as follows:

> Adults and children 2 to under 12 years of age: Add 1 tablespoonful of solution, for each quart of water, or add 1½ teaspoonsful of solution, for each pint of water, directly to cold water in only a hot steam vaporizer. Breathe in the medicated vapors. Use up to three times daily or as directed by a doctor. Children under 2 years of age: Consult a doctor.

The agency is inviting comment on the specific wording of these warnings and directions, and the best way to convey this information to persons using these drug products.

III. Effective Date

The agency is proposing that these new warnings and directions become effective 12 months after the date of publication of a final rule in the **Federal Register**. The agency believes that the 12-month effective date is needed because this period of implementation would allow many manufacturers to coordinate this change with routinely scheduled label printing and/or revisions as well as the new OTC drug product labeling format proposed in the **Federal Register** of February 27, 1997 (62 FR 9024). The agency encourages manufacturers of OTC antitussive drug products to voluntarily implement this labeling as of the date of publication of this proposal because of the potential for safety problems. Manufacturers, however, should be aware of the possibility that FDA may change the wording of the warnings and/or directions as a result of comments filed in response to this proposal. Because FDA is encouraging that the proposed warnings and directions be used on a voluntary basis at this time, the agency advises that manufacturers will be given ample time after publication of a final rule to use up any labeling implemented in conformance with this proposal.

IV. Analysis of Impacts

FDA has examined the impacts of the proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Under the Regulatory Flexibility Act, if a rule has a significant economic impact on a substantial number of small entities, an agency must analyze regulatory options that would minimize any significant economic impact of a rule on small entities.

Title II of the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*) requires that agencies prepare a written statement and economic analysis before proposing any rule that may result in the expenditure in any 1 year by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million (adjusted annually for inflation).

The agency believes that this proposed rule is consistent with the principles set out in the Executive Order and in these two statutes. The purpose of this proposed rule is to revise and improve the labeling (add additional warning and direction statements) for topical/inhalant products that contain camphor, menthol, or both ingredients. This revised labeling addresses the flammability of these products when used near an open flame, in hot water, or in a microwave oven, and is intended to provide consumers additional information to help ensure safer use of these products. Potential benefits include reduction in the number of flash

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fires and serious burns when consumers use these products.

This proposed rule would amend the final monograph for OTC antitussive drug products and would require some relabeling for topical/inhalant products that contain camphor, menthol, or both ingredients. The agency's Drug Listing System identifies approximately 30 manufacturers and 79 marketers of over 100 stock keeping units (SKU) (individual products, packages, and sizes) of topical/inhalant antitussive drug products containing camphor, menthol, or both ingredients. There may be a few additional marketers and products that are not identified in the sources FDA reviewed.

The agency estimates that relabeling costs of the type that would be required by this proposal generally average about $2,000 to $3,000 per SKU. Assuming that there are about 110 affected OTC SKU's in the marketplace, total one-time costs of relabeling would be $220,000 to $330,000. The agency believes that actual costs would be lower for several reasons. First, most of the label changes will be made by private label manufacturers that tend to use relatively simple and less expensive labeling. Second, the agency is proposing a 12-month implementation period that would allow many manufacturers to coordinate this change with routinely scheduled label printing and/or revisions. Similarly, labeling changes for these products would not be required until the monograph amendment is issued and becomes effective. Thus, manufacturers would have time to use up existing labeling stocks and the relabeling costs would be mitigated. Third, manufacturers may be able to implement the new labeling required by this proposal at the same time that they implement the new labeling format proposed for OTC drug products (62 FR 9024). Thus, the relabeling costs resulting from two different but related final rules may be individually reduced by implementing both required changes at the same time.

The agency considered but rejected a shorter implementation period. While the agency would like to have this new labeling in place as soon as possible, it considers a period less than 12 months difficult for some manufacturers to implement all of the labeling that would be required by this proposal.

The proposed rule would not require any new reporting and recordkeeping activities. Therefore, no additional professional skills are needed. There are no other Federal rules that duplicate, overlap, or conflict with the proposed rule. The agency does not believe that there are any significant alternatives to the proposed rule that would reduce the economic impact of the rule on small entities and would still adequately provide for the safe and effective OTC use of antitussive topical/inhalant drug products that contain camphor, menthol, or both ingredients. For example, the agency considered a longer implementation period but concluded that the marginal reduction in costs associated with an implementation period greater than 12 months could not be justified in light of the additional injuries that would likely occur. The agency also considered but rejected more permissive warning language but concluded that such language would not adequately reduce the number of adverse events and accidents.

Based on current information, the agency does not believe that this proposed rule will have a significant economic impact on a substantial number of small entities, using the U.S. Small Business Administration designations for this industry (750 employees). As discussed above, FDA is aware of only 30 manufacturers affected by this rule, most of which are assumed to be small for the purposes of this analysis. In addition, the agency believes that any other unidentified manufacturer of these products is also likely to be a small entity. From information available to the agency, it appears that only one small entity manufactures more than three SKU's of these products. Based on the limited number of SKU's each manufacturer has to relabel, the cost for each manufacturer except one should be minimal.

The analysis shows that this proposed rule is not economically significant under Executive Order 12866 and that the agency has made an effort to reduce the burden to small entities. In addition, this economic analysis, together with other relevant sections of this document, serves as the agency's initial regulatory flexibility analysis, as required under the Regulatory Flexibility Act. Finally, this analysis shows that the Unfunded Mandates Act does not apply to the proposed amendment because it would not result in an expenditure in any 1 year by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million.

The agency invites public comment regarding any substantial or significant economic impact that this rulemaking would have on manufacturers of OTC antitussive topical/inhalant drug products that contain camphor, menthol, or both ingredients. Comments regarding the impact of this rulemaking on such manufacturers should be accompanied by appropriate documentation. The agency is providing a period of 90 days from the date of publication of this proposed rulemaking in the **Federal Register** for comments to be developed and submitted. The agency will evaluate any comments and supporting data that are received and will reassess the economic impact of this rulemaking in the preamble to the final rule.

In the **Federal Register** of February 27, 1997 (62 FR 9024), FDA proposed to establish a standardized format for the labeling of OTC drug products. When the agency finalizes the February 27, 1997, labeling rule, the agency will also amend the final version of this proposed rule, as needed, to conform to the final labeling rule.

V. Paperwork Reduction Act of 1995

FDA tentatively concludes that the labeling requirements proposed in this document are not subject to review by the Office of Management and Budget because they do not constitute a "collection of information" under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*). Rather, the proposed labeling requirements are a "public disclosure of information originally supplied by the Federal Government to the recipient for the purpose of disclosure to the public" (5 CFR 1320.3(c)(2)).

VI. Environmental Impact

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VII. Request for Comment

Interested persons may, on or before October 19, 1998, submit written comments to the Dockets Management Branch (address above). Written comments on the agency's economic impact determination may be submitted on or before October 19, 1998. Three copies of all comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 341

Labeling, Over-the-counter drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 341 be amended as follows:

PART 341—COLD, COUGH, ALLERGY, BRONCHODILATOR, AND ANTIASTHMATIC DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

1. The authority citation for 21 CFR part 341 continues to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 353, 355, 360, 371.

2. Section 341.74 is amended by adding paragraphs (c)(5)(iii), (c)(5)(iv), and (c)(5)(v), and revising paragraphs (d)(2)(i), (d)(2)(ii), (d)(2)(iv), and (d)(2)(v) to read as follows:

§ 341.74 Labeling of antitussive drug products.

* * * * *

(c) * * *

(5) * * *

(iii) *For any product containing camphor or menthol in a suitable ointment vehicle or for steam inhalation use.*—(A) The labeling should contain an appropriate flammability signal word, e.g., "extremely flammable," "flammable," "combustible," consistent with 16 CFR 1500.3(b)(10).

(B) "Keep away from fire or flame."

(iv) *For any product formulated in a volatile vehicle.* "Cap container tightly and store at room temperature away from heat."

(v) *For any product with labeling that contains warnings, the following information shall appear after the subheader "Do Not Use"*.—(A) "Near an open flame."

(B) "By adding to hot water."

(C) "In a microwave oven."

(D) "In a container in which water is being heated, except when adding to cold water in only a hot steam vaporizer."

(d) * * *

(2) * * *

(i) *For products containing camphor identified in § 341.14(b)(1) in a suitable ointment vehicle.* The product contains 4.7 to 5.3 percent camphor. Adults and children 2 to under 12 years of age: Rub on the throat and chest in a thick layer. Cover with a warm, dry cloth if desired. However, clothing should be loose about throat and chest to help vapors reach the nose and mouth. Use up to three times daily or as directed by a doctor. Children under 2 years of age: Consult a doctor. "See important warnings about not using near a flame, in hot water, or in a microwave oven. Improper use may cause the mixture to splatter and cause burns." (Last two sentences to be highlighted in bold type or contrasting color.)

(ii) *For products containing menthol identified in § 341.14(b)(2) in a suitable ointment vehicle.* The product contains 2.6 to 2.8 percent menthol. Adults and children 2 to under 12 years of age: Rub on the throat and chest in a thick layer. Cover with a warm, dry cloth if desired. However, clothing should be loose about throat and chest to help vapors reach the nose and mouth. Use up to three times daily or as directed by a doctor. Children under 2 years of age: Consult a doctor. "See important warnings about not using near a flame, in hot water, or in a microwave oven. Improper use may cause the mixture to splatter and cause burns." (Last two sentences to be highlighted in bold type or contrasting color.)

* * * * *

(iv) *For products containing camphor identified in § 341.14(b)(1) for steam inhalation use.* The product contains 6.2 percent camphor. Adults and children 2 to under 12 years of age: Add 1 tablespoonful of solution, for each quart of water, or add 1½ teaspoonsful of solution, for each pint of water, directly to cold water in only a hot steam vaporizer. Breathe in the medicated vapors. Use up to three times daily or as directed by a doctor. Children under 2 years of age: Consult a doctor. "See important warnings about not using near a flame, in hot water, or in a microwave oven. Improper use may cause the mixture to splatter and cause burns." (Last two sentences to be highlighted in bold type or contrasting color.)

(v) *For products containing menthol identified in § 341.14(b)(2) for steam inhalation use.* The product contains 3.2 percent menthol. Adults and children 2 to under 12 years of age: Add 1 tablespoonful of solution, for each quart of water, or add 1½ teaspoonsful of solution, for each pint of water, directly to cold water in only a hot steam vaporizer. Breathe in the medicated vapors. Use up to three times daily or as directed by a doctor. Children under 2 years of age: Consult a doctor. "See important warnings about not using near a flame, in hot water, or in a microwave oven. Improper use may cause the mixture to splatter and cause burns." (Last two sentences to be highlighted in bold type or contrasting color.)

Dated: July 8, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–19239 Filed 7–17–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF JUSTICE

28 CFR Part 23

[OJP (BJA)–1177]

RIN 1121–ZB14

Criminal Intelligence Sharing Systems; Policy Clarification

AGENCY: Bureau of Justice Assistance (BJA), Office of Justice Programs (OJP), Justice.

ACTION: Proposed clarification of policy.

SUMMARY: The current policy governing the entry of identifying information into criminal intelligence sharing systems requires clarification. This policy clarification is to make clear that the entry of individuals, entities and organizations, and locations that do not otherwise meet the requirements of reasonable suspicion is appropriate when it is done solely for the purposes of criminal identification or is germane to the criminal subject's criminal activity. Further, the definition of "criminal intelligence system" is clarified. While this clarification is not a rulemaking for the purposes of the Administrative Procedure Act, 5 U.S.C. 553, BJA is of the opinion that this clarification is significant enough to warrant public comment.

DATES: Public comment is due by September 18, 1998. Comments may be faxed to (202) 307–1419, e-mailed to "fisheral@ojp.usdoj.gov," or mailed to the Office of the General Counsel, 810 7th Street NW, Washington, DC, 20531.

FOR FURTHER INFORMATION CONTACT: Paul Kendall, General Counsel, Office of Justice Programs, 810 7th Street NW, Washington, DC 20531, (202) 307–6235.

SUPPLEMENTARY INFORMATION: The operation of criminal intelligence information systems is governed by 28 CFR Part 23. This regulation was written to both protect the privacy rights of individuals and to encourage and expedite the exchange of criminal intelligence information between and among law enforcement agencies of different jurisdictions. Frequent interpretations of the regulation, in the form of policy guidance and correspondence, have been the primary method of ensuring that advances in technology did not hamper its effectiveness.

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Use of Identifying Information

28 CFR 23.3(b)(3) states that criminal intelligence information that can be put into a criminal intelligence sharing system is "information relevant to the identification of and the criminal activity engaged in by an individual who or organization which is reasonably suspected of involvement in criminal activity, and * * * [m]eets criminal intelligence system submission criteria." Further, 28 CFR 23.20(a) states that a system shall only collect information on an individual if "there is reasonable suspicion that the individual is involved in criminal conduct or activity and the information is relevant to that criminal conduct or activity." 28 CFR 23.20(b) extends that limitation to collecting information on groups and corporate entities.

In an effort to protect individuals and organizations from the possible taint of having their names in intelligence systems (as defined at 28 CFR § 23.3(b)(1)), the Office of Justice Programs has previously interpreted this section to allow information to be placed in a system only if that information independently meets the requirements of the regulation. Information that might be vital to identifying potential criminals, such as favored locations and companions, or names of family members, has been excluded from the systems. This policy has hampered the effectiveness of many criminal intelligence sharing systems.

Given the swiftly changing nature of modern technology and the expansion of the size and complexity of criminal organizations, the Bureau of Justice Assistance (BJA) has determined that it is necessary to clarify this element of 28 CFR Part 23. Many criminal intelligence databases are now employing "Comment" or "Modus Operandi" fields whose value would be greatly enhanced by the ability to store more detailed and wide-ranging identifying information. This may include names and limited data about people and organizations that are not suspected of any criminal activity or involvement, but merely aid in the identification and investigation of a criminal suspect who independently satisfies the reasonable suspicion standard.

Therefore, BJA issues the following clarification to the rules applying to the use of identifying information. Information that is relevant to the identification of a criminal suspect or to the criminal activity in which the suspect is engaged may be placed in a criminal intelligence database, provided that (1) appropriate disclaimers accompany the information noting that is strictly identifying information, carrying no criminal connotations; (2) the identifying information may not be used as an independent basis to target a subject for investigation or to establish reasonable suspicion of involvement in criminal activity; and (3) the individual who is the criminal suspect identified by this information otherwise meets all requirements of 28 CFR Part 23. This information may be a searchable field in the intelligence system.

For example: A person reasonably suspected of being a drug dealer is known to conduct his criminal activities at the fictional "Northwest Market." An agency may wish to note this information in a criminal intelligence database, as it may be important to future identification of the suspect. Under the previous interpretation of the regulation, the entry of "Northwest Market" would not be permitted, because there was no reasonable suspicion that the "Northwest Market" was a criminal organization. Given the current clarification of the regulation, this will be permissible, provided that the information regarding the "Northwest Market" was clearly noted to be non-criminal in nature. For example, the data field that "Northwest Market" was entered in could be marked "Non-Criminal Identifying Information," or the words "Northwest Market" could be followed by a parenthetical comment such as "This organization has been entered into the system for identification purposes only—it is not suspected of any criminal activity or involvement." "Northwest Market" could not become the target of an investigation solely on the basis of the information provided in the comment field on the suspected drug dealer. Independent information would have to be obtained as a basis for the opening of an investigative file or the submission of intelligence information, based on reasonable suspicion, on "Northwest Market." Further, the fact that other individuals frequent "Northwest Market" would not provide a reasonable suspicion determination for those other individuals.

The Definition of a "Criminal Intelligence System"

The definition of a "criminal intelligence system" is given in 28 CFR 23.3(b)(1) as the "arrangements, equipment, facilities, and procedures used for the receipt, storage, interagency exchange or dissemination, and analysis of criminal intelligence information . . ." Given the fact that cross-database searching techniques are now commonplace, and given the fact that multiple databases may be contained on the same computer system, BJA has determined that this definition needs clarification, specifically to differentiate between criminal intelligence systems and non-intelligence systems.

The comments to the 1993 revision of 28 CFR Part 23 noted that "[t]he term 'intelligence system' is redefined to clarify the fact that historical telephone toll files, analytical information, and work products that are not either retained, stored, or exchanged and criminal history record information or identification (fingerprint) systems are excluded from the definition, and hence are not covered by the regulation * * *." 58 FR 48448–48449 (Sept. 16, 1993.) The comments further noted that materials that "may assist an agency to produce investigative or other information for an intelligence system * * *" do not necessarily fall under the regulation. *Id.*

The above rationale for the exclusion of non-intelligence information sources from the definition of "criminal intelligence system," suggests now that, given the availability of more modern non-intelligence information sources such as the Internet, newspapers, motor vehicle administration records, and other public record information on-line, such sources shall not be considered part of criminal intelligence systems, and shall not be covered by this regulation, even if criminal intelligence systems access such sources during searches on criminal suspects. Therefore, criminal intelligence systems may conduct searches across the spectrum of non-intelligence systems without those systems being brought under 28 CFR Part 23. There is also no limitation on such non-intelligence information being stored on the same computer system as criminal intelligence information, provided that sufficient precautions are in place to separate the two types of information and to make it clear to operators and users of the information that two different types of information are being accessed. Such precautions should be consistent with the above clarification of the rule governing the use of identifying information. This could be accomplished, for example, through the use of multiple windows, differing colors of data or clear labeling of the nature of information displayed.

Additional guidelines will be issued to provide details of the above clarifications as needed.

Richard H. Ward, III,

Director, Bureau of Justice Assistance.

[FR Doc. 98–19092 Filed 7–17–98; 8:45 am]

BILLING CODE 4410–18–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[AMS–FRL–6124–1]

Optional Certification Streamlining Procedures for Light-Duty Vehicles, Light-Duty Trucks, and Heavy-Duty Engines for Original Equipment Manufacturers and for Aftermarket Conversion Manufacturers; Notice of Proposed Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rule.

SUMMARY: In today's action, EPA is proposing to amend the current regulatory provisions regarding the certification of light-duty vehicles, light-duty trucks, and heavy-duty engines that meet the Clean-Fuel Vehicle (CFV) requirements. This proposed action would serve to ease the burden of certification for manufacturers of CFVs. EPA is also proposing to revise the definition for dedicated fuel systems to include CFVs with limited ability to operate on a conventional fuel, and is also proposing to amend current regulations to allow manufacturers of CFVs to group certain engine families together for certification purposes. In addition, EPA is proposing an exemption, for MY 1999, 2000 and 2001, from certification fees for dedicated gaseous-fueled vehicles and engines that certify to EPA's Tier 1 standards as well as for all vehicles and engines that certify to EPA's CFV, Low-Emission Vehicle (LEV), Ultra Low Emission Vehicle (ULEV), Inherently Low Emission Vehicle (ILEV), or Zero Emission Vehicle (ZEV) emission standards.

DATES: Any party who wishes to submit comments must do so by August 19, 1998 unless a hearing is requested. Any person can request EPA to hold a public hearing on this action, but such request must be received by August 19, 1998. If a hearing is requested, it will take place on September 18, 1998, and interested parties will have an additional 30 days after the hearing (until October 19, 1998) to submit comments on any information presented at the hearing. Because no hearing will occur, absent a request for one, interested parties should contact Clifford D. Tyree at the number listed below after August 19, 1998 to determine whether a hearing will take place.

ADDRESSES: Written comments should be submitted (in duplicate if possible) to: Air Docket Section (6102), Attention: Docket No. A–97–27, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, or hand-delivered to the Air Docket at the above address, in Room M–1500, Waterside Mall. A copy of written comments should also be submitted to Clifford D. Tyree at the address below.

Materials relevant to this notice of proposed rule are contained in Docket No. A–97–27, located at the Air Docket, 401 M Street SW, Washington, DC 20460, and may be reviewed in Room M–1500 from 8:00 a.m. until 5:30 p.m. on business days. As provided in 40 CFR Part 2, EPA may charge a reasonable fee for photocopying docket materials.

FOR FURTHER INFORMATION CONTACT: Mr. Clifford Tyree, Project Manager, U.S. EPA, National Vehicle and Fuel Emission Laboratory, Vehicle Programs and Compliance Division, 2565 Plymouth Road, Ann Arbor, MI 48105–2425. Telephone: (734) 214–4310; FAX 734–214–4869. E-Mail, tyree.clifford@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities potentially regulated by this notice of proposed rulemaking are Original Equipment Manufacturers (OEMs) of Light-Duty Vehicles, Light-Duty Trucks (LDTs), and Heavy-Duty Engine (HDEs) manufacturers. In addition, aftermarket convertors of LDVs, LDTs, and HDEs will also be regulated. Entities include:

Category	Examples of regulated entities
Auto industry of light-duty vehicles, light-duty trucks, and heavy-duty engines.	Original Equipment Manufacturers (OEMs) and Aftermarket Converters.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this proposed action. This table lists the types of entities that EPA is now aware could potentially be regulated by this proposed action. Other types of entities not listed in the table could also be regulated. If you have questions regarding the applicability of this proposed action to a particular product, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Obtaining Electronic Copies of the Regulatory Documents

The preamble, regulatory and other related documents are also available electronically from the EPA Internet Web site. This service is free of charge, except for any cost you already incur for internet connectivity. An electronic version is made available on the day of publication on the primary Web site listed below. The EPA Office of Mobile Sources also publishes **Federal Register** notices and related documents on secondary Web site listed below.

1. http://www.epa.gov/docs/fedrgstr/EPA-AIR/(either select desired date or use Search feature.)
2. http://www.epa.gov/OMSWWW/cff.htm

Please note that due to differences between the software used to develop the document and the software into which the document may be downloaded, changes in format, page length, etc. may occur.

I. Background [1]

EPA's emissions standards and requirements for clean-fuel vehicles (CFVs) are contained in 40 CFR Part 88. These regulations include several sets of exhaust emissions standards for clean-fuel vehicles (CFVs): Transitional Low-Emission Vehicle (TLEV) standards, Low-Emission Vehicle (LEV) standards, Inherently Low-Emission Vehicle (ILEV), Ultra Low-Emission Vehicle (ULEV) standards, and Zero-Emission Vehicle (ZEV) standards. The regulations also apply all standards and requirements in 40 CFR Part 86 to CFVs, except the Part 86 exhaust emissions standards for those pollutants for which Part 88 establishes standards. The CFV standards apply to all CFVs, including those that operate on gaseous-fuels like compressed natural gas (CNG) and liquefied petroleum gas (LPG).

Section 246 of the Clean Air Act, as amended in 1990 ("CAA" or "the Act"), requires states to adopt in their State Implementation Plans (SIP) a Clean-fuel Fleet Program (CFFP) for certain ozone and carbon monoxide nonattainment areas. The states' CFFPs must require that fleet operators with central fueling capability shall include a certain percentage of CFVs that meet LEV emissions standards in their vehicle purchases each year, and shall operate such vehicles on clean alternative-

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[1] EPA has included in this notice a brief summary of the aftermarket conversion requirements and the Clean-Fuel Fleet program. Readers may consult EPA's current certification regulations in 40 CFR Parts 86 and EPA's clean fuel vehicle regulations in 40 CFR part 88, as well as the following notices of final rulemaking: Emissions Standards for Clean Fuel Vehicles and Engines (59 FR 50042, September 30, 1994) and Standards for Emissions from Natural Gas-fueled and Liquefied Petroleum Gas-fueled Motor Vehicles and Motor Vehicle Engines, and Certification Procedures for Aftermarket Conversions (59 FR 48471, September 21, 1994), for additional background information.

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fuels.[2] EPA is aware that fleet operators subject to CFFP requirements are concerned about sufficient availability of CFVs to meet such requirements. For the 1997 model year, one light-duty vehicle, two light-duty trucks, and five heavy-duty vehicle engine families have been certified to federal CFV standards.

The EPA's Office of Mobile Sources recently adopted a one-year delay in implementation of state CFFPs, due to concerns about sufficient CFV availability to meet fleet operator requirements.[3]

In today's action, EPA is proposing to amend certain provisions intended to encourage and facilitate the certification of CFVs by reducing the costs of certifying in three specific areas. These provisions are described in detail below.

II. Today's Proposal

A. Definition of Dedicated Vehicle

Current EPA regulations define a "dual-fuel vehicle" as a motor vehicle, or engine, engineered and designed to be operated on two different fuels, but not on a mixture of fuels.[4] A "dedicated vehicle" is defined as a vehicle or engine engineered and designed to be operated using a single fuel.[5]

There are specific requirements that apply to dual-fuel light-duty vehicles (LDVs)[6] and light light-duty trucks (LLDT)[7] certifying to the CFV emissions standards. A dual-fuel vehicle must comply with the applicable set of standards for each fuel on which it can operate. To qualify as CFVs for purposes of state CFFPs, dual-fuel vehicles must meet LEV (or more stringent) emissions standards on the clean alternative fuel and the TLEV non-methane organic gas (NMOG) emission standard on the conventional fuel.[8] On the conventional fuel, the vehicle must meet Tier 1, NMOG and HCHO emission standards and also comply with all other motor vehicle emissions control requirements contained in 40 CFR Part 86 (such as the cold temperature carbon monoxide standard (Cold CO), onboard diagnostic requirement (OBD), and certification short test (CST) requirements) that apply to comparable conventional gasoline vehicles.

For vehicles with a dedicated fuel system to be a feasible option for fleets, many fleet operators will need the flexibility to operate on conventional fuel in emergency situations, when central fueling is impossible. If the fleet operator is subject to the CFFP, and is operating in a nonattainment area covered by the CFFP, he must operate the vehicle on a fuel on which the vehicle meets the CFV emissions standards to comply with the CFFP requirements. If the vehicle is certified to the LEV emissions standards on both fuels, the fleet operator would have the option of using the conventional fuel in the covered nonattainment area. However, if the vehicle is certified to the LEV standards only on CNG or LPG, that option would not be available.

In light of the limited gaseous-fuel fueling stations in the nonattainment areas covered by a CFFP, fleet operators are concerned that the safety of vehicle operators and occupants could be at risk during inclement weather.[9] In addition, unforeseen traffic delays (or other unforeseen delays) may cause fleet vehicles to be stranded, resulting in higher costs for and reduced efficiency of the fleet. For these reasons, EPA has determined that it would be reasonable and appropriate to revise the definition of a dedicated vehicle to allow operation up to a limited mileage on a conventional fuel.

As described above, fleet operators subject to the CFFP must operate their CFV's on a "clean alternative fuel," as defined in CAA Section 241(2). To ensure that CFVs that operate on gaseous fuels are a feasible option for fleet operators covered by the CFFP, EPA would certify as dedicated CFVs vehicles meeting the CFV dual-fuel standards with limited ability to operate on a conventional fuel, as described above. EPA's issuance of such certificates is authorized by the Agency's authority to adopt *de minimis* exemptions to statutory requirements, and is consistent with Congressional intent.

Section 246(b) of the CAA requires state CFFPs to provide that covered fleet operators must operate their clean-fuel vehicles on clean alternative fuels when operating in the covered nonattainment area. Clean alternative fuel, in turn, is defined as a fuel used in a CFV that meets applicable emissions standards and requirements when operating on such fuel. See § 241(2). Courts have recognized EPA's authority to provide exemptions from CAA requirements when the burdens of regulation yield a gain of trivial or no value. *Alabama Power v. Costle*, 636 F.2d.323 (D.C. Cir. 1979). EPA believes that prohibiting gaseous-fueled vehicles capable of limited operation on gasoline from qualifying as CFVs would unnecessarily increase the burden of compliance with state CFFPs, and would not result in any emissions benefits.

Allowing limited operation of such vehicles on gasoline in emergency situations would not result in any adverse emissions impacts. If a gaseous-fueled fleet vehicle is stranded within the nonattainment area due to lack of fuel, and cannot operate on gasoline, even for a limited number of miles, without violating the CFFP requirements, another vehicle would have to be dispatched to "rescue" the stranded vehicle and its occupants. The second vehicle may not be a CFV, especially if it is not owned by the covered fleet (e.g., if a tow truck was required to retrieve the stranded vehicle). This "rescue operation" will therefore result in emissions likely to be equivalent to, and perhaps in excess of, the incremental additional emissions resulting from the limited operation of the gaseous-fueled CFV on gasoline.

In general, EPA expects that CFVs meeting the revised definition of dedicated vehicle would meet the Tier 1 emission standards when operating on conventional fuel. EPA expects that Original Equipment Manufacturers (OEMs) will produce vehicles that meet the revised definition of dedicated vehicle and have limited ability to operate on a conventional fuel by limiting the conventional fuel use function of dual-fuel vehicles (or engines) previously certified to Tier 1 emissions standards on conventional fuel. Aftermarket conversion companies are likely to convert vehicles (or engines) previously certified to Tier 1 standards on a conventional fuel to operate on a gaseous fuel at least LEV emissions levels. If these vehicles are equipped with an emergency reserve tank with limited capacity for the conventional fuel, EPA expects that the vehicles' emissions on conventional fuel during emergency operation will be similar to the emissions of the vehicle prior to conversion (i.e., Tier 1 emissions levels). Therefore, EPA believes it would be appropriate for state CFFPs to allow fleet operators to purchase dedicated gaseous-fueled vehicles that have limited ability to operate on gasoline, and to operate for limited mileage on gasoline in emergency situations in the covered nonattainment area.

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[2] A clean alternative fuel is defined as a fuel used in a vehicle that meets the CFV standards when operating on such fuel. See CAA Section 241(2).

[3] 40 CFR 88.304–98, Direct Final Rule, 63 FR 20103, April 23, 1998.

[4] 40 CFR 88.102–94.

[5] 40 CFR 86.090–2.

[6] 40 CFR 86.082–2, A light-duty vehicle (LDV) means a passenger car or passenger car derivative capable of seating 12 passengers or less.

[7] 40 CFR 86.094–2, A light light-duty (LLDT) means any light-duty truck rated through 6,000 lbs. GVWR.

[8] Formaldehyde (HCHO) exhaust emission standards apply to any fuel used to meet CFV standards, including gasoline.

[9] The CFFP requires fleet operators to operate their CFVs on clean alternative fuels only when in the covered nonattainment area. Therefore, for dual-fuel CFVs, fleet operators may use either the clean alternative fuel or the conventional fuel outside the covered nonattainment area.

EPA regulations define the term "centrally fueled" as meaning a fleet, or that part of a fleet, consisting of vehicles that are fueled 100 percent of the time at a location that is owned, operated, or controlled by the covered fleet operator, or is under contract with the covered fleet operator. See 40 CFR 88.302–94. The proposed *de minimis* exemption for limited operation on conventional fuel described above would not affect this definition of "centrally fueled", because the *de minimis* exemption would allow only limited operation in emergency circumstances. A fleet operator would still need to determine whether, in normal circumstances, its covered fleet vehicles are centrally fueled 100 percent of the time.

EPA considered two modifications to the definition of dedicated vehicle to allow limited operation on conventional fuel. EPA considered proposing to modify the definition of a dedicated fueled vehicle to allow vehicles to be equipped with a fuel tank that would allow a range of operation of 50 statute miles. This would require the replacement of the existing gasoline tank with a tank of approximately two-gallon capacity. However, the act of removing an existing fuel tank that has met the crash tests and other testing required by the National Highway Transportation Safety Administration (NHTSA)[10] could require another set of vehicle crash tests with any vehicle using a "new" fuel tank system, and the cost of conducting another set of vehicle crash tests may deter manufacturers from modifying vehicles in this manner.

An alternative modification EPA considered proposing is retention of the existing fuel tank and use of a timer to restrict fuel usage. The timer could allow a maximum of one hour of operation on gasoline followed by a period of time the vehicle could not operate on gasoline. Manufacturers would be required to program these time periods into one of the vehicle's computers. The choice of one hour of operation is roughly equivalent to the 50-mile range criterion, based on the combined fuel economy values and an assumed vehicle average speed of 50 miles-per-hour.

To provide maximum flexibility to manufacturers and fleet operators, EPA is proposing to amend definition of a dedicated vehicle to allow both of these approaches: clean fuel vehicles equipped with a timer that limits operation on gasoline to one hour at a time, and clean fuel vehicles equipped with a fuel tank with fuel capacity of no more than 50 miles of operation on gasoline, will be included in the definition of a dedicated vehicle. Because the use of conventional fuel is intended for emergency use only, and the operation on conventional fuel is expected to be an exception, no emission or fuel economy testing would be required on these vehicles with conventional fuel.

The proposed revision to the definition of dedicated fuel systems would apply only to light-duty vehicles and light-duty trucks, because EPA has not adopted heavy-duty flexible and dual fueled Clean-Fuel vehicle standards. See 59 FR 50050 (September 30, 1994).

B. Engine Family Criteria and Assigned Deterioration Factors

Manufacturers and aftermarket converters have expressed concerns to EPA regarding the overall burden of complying with EPA's certification regulations for vehicles converted to operate on a clean alternative fuel for the purpose of meeting EPA's CFV emissions standards. The burdens identified relate to the cost of certifying each engine family and the narrowness of the criteria under which exhaust emission control systems are classified into engine families.[11]

Because of the diversity in marketing requirements, a number of engine families, with limited sales, would be created under current regulations to meet consumer needs. Currently EPA provides for relief from full useful life deterioration factor (DF) requirement for engine families with a combined total sales of no more than 10,000 vehicles or engines.[12] In today's action EPA is proposing to adopt similar provisions, applicable thru MY 2001, for vehicles and engines certified to EPA's CFV emissions standards.

The costs identified by the OEM and aftermarket conversion manufacturers were the actual costs associated with certifying each engine family. Costs attributed to certifying each engine family are development costs, testing costs, and certification fees. Various aftermarket conversion entities have estimated the costs of generating DFs to be in excess of $1 million for *each* engine family. While EPA does not have data to corroborate these cost estimates, the Agency believes that the cost of generating DFs is significant, but expects it is well below $1 million per engine family. EPA's current regulations for small volume engine family certification allow manufacturers to use assigned DFs generated by EPA. *See* 40 CFR 86.096–24(e)(2) Manufacturers may also use Dfs they have generated using good engineering judgment. *See* 40 CFR 86.094–14(c)(7)(i)(C)(*2*)(*i*). In today's action, EPA is proposing to amend the regulations that clarify these options are also available for CFV small-volume engine families. In September, 1995, EPA issued a guidance letter to manufacturers containing assigned DFs for gaseous fueled vehicles. In general, EPA expects that manufacturer's use of these assigned DFs for gaseous fueled CFVs would qualify as DFs generated using good engineering judgment under the regulatory provision adopted today.

EPA is proposing to amend the provisions that allow grouping of certain CFV engine families into an engine family class. The criteria for such grouping is described below. EPA expects that this proposed action would serve to encourage production of CFVs for fleet operators to purchase and use to meet state CFFP purchase requirements by reducing the amount of testing needed for certification of CFVs. This would allow manufacturers to introduce a greater number of CFV models desired by fleet owners without incurring additional testing costs.

Fleet vehicles must be able to perform a wide variety of duties, such as meter-reading tasks, service repair, making deliveries, transporting passengers, etc. Therefore, for a manufacturer or aftermarket converter to be competitive in the clean fuel vehicle fleet market, multiple engine families need to be certified for different needs.

Currently, vehicle grouping for the purpose of certification is accomplished though the application of the "engine family" and "emission control system" definitions in the regulations. Today's proposal would establish a new definition for grouping engine families: engine family class. An engine family class would be defined as engines sharing the following common characteristics: (1) Meeting LEV, ILEV, ULEV, or ZEV emission standards in 40 CFR Part 88, (2) same car line name, (3) all engines have engine displacements within a range of 0.8L[13] less than the displacement of the engine used for certification testing, (4) same catalyst construction, (5) same type of precious metals used in the catalyst, and (6) same

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[10] Reference NHTSA's rules found at 49 CFR Part 555.

[11] 40 CFR 86.096–24.

[12] 40 CFR 86.094–24(e)(2).

[13] *See* EPA Advisory Circular 17F, page 9, which can be found in the docket for this rulemaking action.

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relative engine/catalyst size and loading rates.

EPA is proposing to amend the criteria for engine family classes to reduce the certification burden for CFVs and to combine vehicles which are likely to exhibit similar exhaust emission deterioration over their useful lives, based on the characteristics of current-technology vehicles that most significantly affect the deterioration of emission control over time. Each engine family class would be certified using separate emission compliance data and a separate certificate of conformity would be required for each engine family class.

The engine family concept was originally developed as a way to combine vehicles of similar emission deterioration rates. At that time (in the early 1970's), the use of catalytic converters was less prevalent and most emission reductions occurred though modifications to the engine operating characteristics. For these vehicles, all emission deterioration was due to increases in emissions coming directly out of the engine (called "engine-out" emissions). Consequently, the definition of engine family focused on engine-based parameters. Since that time, there have been many advances in exhaust emission control technology which have made the engine family concept less useful for the purposes of grouping vehicles together on the basis of emission deterioration.

In today's vehicles, most emission control is accomplished through catalytic conversion of the exhaust while the engine is controlled to operate within carefully controlled air/fuel ratios to ensure optimum catalyst efficiency. While manufacturers have demonstrated that essentially no engine-out deterioration is experienced in their current product, the mating of the catalyst with the engine is extremely important. Appropriate sizing of the catalyst to the engine is critical to achieve an appropriate catalyst residence time (the time the exhaust gases remain in the catalyst) so that the catalytic reaction has time to be completed. Adequate levels of precious metal loading and appropriate dispersion are necessary to provide the active sites for conversion and achieve the desired conversion rates. Also, the catalyst must be placed in a temperature environment that allows it to quickly come to operating temperature but does not expose it to damaging amounts of high temperature during in-use driving.

The proposed engine family class definition takes into account the changes in emission control technology by shifting the focus away from engine parameters to the ability of the overall engine and emission control system to meet LEV, or better, standards. This single requirement of focusing on a more stringent emission standard would require the matching of the catalyst to the engine. The Agency believes that the proposed engine family class definition would comprise an effective emission control program and result in significant environmental benefits by giving manufacturers additional incentives to produce and market a broader range of vehicles and engines that meet the CFV standards.

EPA is proposing to provide this newly created engine family class criteria through model year 2001, by which time EPA expects that manufacturers would have had several years to assess the market requirements and should be able to more accurately predict which vehicle models, out of approximately 400 engine families currently certified, fleet owners need and consumers favor. Manufacturers would then know which engine families to focus certification testing on, rather than certifying a variety of engine families. EPA currently intends to propose new certification procedures for all light-duty vehicles and light-duty trucks for application in model year 2000. If these expected actions are delayed, the applicability of the definition proposed in this notice could be extended in a subsequent rule.

EPA notes that the proposed requirement that all engines in an engine family class have the same type of catalyst precious metal loading would apply only to OEMs. EPA is aware that catalysts are built to the OEM's specifications, and that the actual amount and ratio of precious metals in the catalyst is often considered confidential business information that cannot be obtained by an aftermarket converter who purchases a vehicle manufactured by an OEM to convert it to operate on a clean alternative fuel. EPA believes that the remaining criteria for grouping engines into an engine family class are sufficient to ensure that vehicles and engines converted to operate on a clean alternative fuel have similar emissions characteristics and that it would be appropriate to group such vehicles and engines together. Because manufacturers can only group vehicles that are in the same car line, and have similar engine displacements, catalyst construction, etc., it is unlikely that vehicles or engines that share those common characteristics will have different catalyst precious metal loadings. In the event that EPA has reason to believe that, in spite of meeting the other criteria, an aftermarket converter is attempting to group engines with different precious metal loadings, EPA is proposing to reserve the right to limit engine family groupings by aftermarket conversion companies if the Agency has reason to believe that the proposed engine family grouping would result in an engine family class containing engine families that are so dissimilar that such grouping is not appropriate. Since the Agency's belief could be based on information that is protected by confidential business practices, EPA could not necessarily disclose this information to the aftermarket conversion company. Based on a review of engine families from previous model years, the Agency does not believe this scenario is likely to occur but has decided to propose such a provision due to the theoretical possibility of the scenario occurring in the future.

C. Fees

Today's action proposes to amend the current fee schedule in 40 CFR Part 86, Subpart J by proposing exemptions from certification fee requirements. The exemption (through MY 2001) is proposed for vehicles and engines using certified to LEV, ULEV, ILEV, or ZEV, emission standards in 40 CFR Part 88 under the small-volume certification procedures in 40 CFR 86.094–14. In addition, a fee exemption is provided through MY 2001 for dedicated gaseous fuel systems meeting Tier 1 emission standards.

The Act authorizes EPA to promulgate (and from time to time revise) regulations establishing fees to recover all reasonable costs to the Agency associated with (1) certification of new vehicles or engines under section 206(a) or under part C of Title II of the Act, (2) compliance monitoring and testing under section 206(b) or part C, and (3) in-use compliance monitoring and testing under section 207(c) of part C. Section 217 of the Act requires such fees to be consistent with the Independent Offices Appropriation Act (IOAA), 37 U.S.C. 9701 *et seq.*, and requires that the Agency's fee schedule be based on such factors as the Administrator finds appropriate, equitable, and nondiscriminatory (including the number of vehicles or engines produced under a certificate).

Pursuant to its authority under section 217, EPA established a fee schedule to recover costs associated with the activities described above. This fee schedule currently applies to light-duty vehicles, light-duty trucks, heavy-duty vehicles, heavy-duty engines, and motorcycles, regardless of the emissions standards to which such vehicles are certified. Current EPA regulations provide for a partial fee waiver for certification requests where the full fee exceeds one percent of the aggregate projected retail sales price of vehicles that the certificate would cover. If EPA grants a waiver, the applicable fee would be equivalent to one percent of the aggregate projected retail sales price of the vehicles or engines covered by the certification request.

The first exemption proposed today is for vehicle technologies certifying to LEV, ULEV, ILEV, or ZEV emissions standards in 40 CFR 88.104–94 and 88.105–94. This proposed exemption is consistent with Section 217 of the CAA, and with the IOAA. Section 217 requires EPA's fee schedule to be based on factors that the Administrator finds are "appropriate and equitable and nondiscriminatory." Section 217 also requires EPA's fee regulations to be consistent with the IOAA. The IOAA states that "* * * [I]t is the sense of Congress that each service or thing of value provided by an agency * * * is to be self-sustaining to the extent possible." In addition, the IOAA authorizes agency heads to adopt regulations establishing a fee for such "services or things of value" provided by the agency. Such fees must be fair, and must be based on the following factors: (1) Cost to the government, (2) value of the service or thing to the recipient, (3) public policy or interest serviced, and (4) other relevant facts.

The proposed exemption from certification fees for vehicles and engines certified as LEVs, ILEVs, ULEVs, and ZEVs emission standards is consistent with the IOAA. The IOAA does not require agencies to be completely self-sustaining, but only "to the extent possible." In establishing fees, it is appropriate for EPA to weigh its broad purpose under the CAA of protecting the nation's air quality against the sense of Congress that agencies should be self-sustaining to the extent possible. *See Aeronautical Radio v. Federal Communications Commission*, 335 F.2d. 304 (7th Cir., 1964). While EPA recognizes that the Agency would incur costs in issuing certificates for such vehicles, and in assuring compliance with the applicable emissions standards, the proposed fee exemption is consistent with Congressional intent to encourage the development and production of clean-fuel vehicles for state clean-fuel fleet programs, and with the broader long-term goal of encouraging the penetration of clean-fuel vehicles in the national vehicle market. These are valid public policy interests that may be considered as a factor in setting fees under the IOAA in a manner that furthers such interests.

The proposed fee exemption for Tier 1 alternative fuel vehicles is also consistent with Section 217 of the CAA and with the IOAA. As described above, the IOAA does not require agencies to be completely self-sustaining, but only to "the fullest extent possible," and it is appropriate for EPA to weigh its broad purpose under the CAA of protecting air quality against the sense of Congress that agencies should be self-sustaining to the extent possible. While EPA recognizes that the Agency would incur costs in issuing certificates for such vehicles and in assuring compliance with the applicable emissions standards, the proposed fee exemption is consistent with EPA's broad purpose of protecting air quality. Although these vehicles would be certified to Tier 1 emissions standards, rather than to the more stringent CFV emissions standards, all fuel systems for a gaseous-fuel would have lower evaporative emissions than gasoline fueled vehicles because these fuel systems are "closed" fuel systems under pressure. These closed fuel systems are the only fuel systems thus far that have been able to demonstrated compliance with the lower evaporative emission standards required for ILEV evaporative emission compliance. Even though the operating fuel system on these vehicles and engines will have a fuel system that is similar to systems meeting ILEV evaporative standards, these vehicles could also have an emergency supply of conventional fuel and still qualify as dedicated vehicles if EPA finalized the proposed revisions to the definition of dedicated vehicle discussed in section C. 1. above. Lower evaporative emissions can still be expected from such vehicles because they will carry lower volumes of conventional fuel than do dedicated conventional fuel vehicles. In addition, there will be lower refueling losses because the conventual fuel is an emergency only fuel supply and will be replenished infrequently. Therefore, it would be appropriate and consistent with EPA's broad purpose of reducing emissions that result in air pollution problems for the Agency to waive certification fees for gaseous-fueled Tier 1 vehicles as a means to encourage manufacturers to produce such vehicles. Moreover, EPA expects that some CFVs purchased by fleet operators towards compliance with requirements of CFFPs will be gaseous-fueled CFVs, and encouraging production of gaseous-fueled Tier 1 vehicles would assist those fleet operators that choose gaseous-fueled CFVs by promoting and supporting the gaseous fuel fueling infrastructure.

The current fee structure is based on recovering EPA's cost for each engine family. Current regulations rules do allow for partial waiver of the full fee. This waiver requires the manufacturer to pay 1 percent of the retail value of the vehicle up to a full fee. The net result is for any engine family with expected annual sales of approximately 100 units, the manufacturers would be required to pay the full certification fee. For aftermarket conversions, however, the one percent of the retail value criterion is based on the sales price of the converted vehicle, and does not reflect the cost of procuring the pre-conversion vehicle or engine. The conversion process may add $5,000 to the vehicle's pre-conversion cost. The retail value of the converted vehicle may be anywhere from $10,000 for a LDV to $20,000 for a pickup truck. The fee the aftermarket conversion manufacturer pays is based on the total retail value of the vehicle, not just the value added. Therefore, if the retail value of the converted vehicle is $25,000 the fee under the current waiver provision would be 1 percent of $25,000, or $250. If the convertor expects to sell at least 100 converted vehicles, it would have to pay the full certification fee of $23,741.00 .

For the 1997 model year [14] EPA certified 12 engine families to LEV, ILEV, ULEV, and ZEV emission standards; three LDV's, four LDT's, and five HDE's. The total fees paid to EPA for these 12 engine families amount to less than $250,000. Since few gaseous-fueled engine families have been certified to Tier 1 emissions standards, EPA does not expect the cost of the fee waiver proposed for Tier 1 gaseous-fueled vehicles and engines would be significant. The cost of the proposed fees exemptions would not be passed on to other manufacturers.

In today's action, EPA is proposing a fee exemption for any engine family certified to Federal LEV, ILEV, ULEV, or ZEV emissions standards in 40 CFR Part 88. The proposed fee exemption, applicable through MY 2001, would be expected to result in a greater number of engine families and vehicles available for fleet operators to purchase and use to comply with the requirements of Clean-Fuel Fleet Programs. In addition, today's proposal is intended to reduce the overall burden of certifying clean-fuel vehicles and to provide additional incentive to both OEM and aftermarket converters to certify vehicles and engines that meet the CFV emission standards.

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This proposed exemption would apply through MY 2001 because EPA expects that such incentive will not be needed after MY 2001 as the production and sales of CFVs by that time should be at a level such that the amount of fees paid to EPA can easily be amortized over the total sales. EPA would apply this exemption in an equitable, nondiscriminatory manner—any manufacturer of a small volume engine family certified to LEV, ULEV, ILEV, or ZEV emissions standards under 40 CFR Part 88 would be eligible to receive an exemption.

III. Administrative Requirements

A. Administrative Designation

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), the Agency must determine whether this proposed regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and, the requirements of the Executive Order. The order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, EPA has determined that this proposed action is not a "significant regulatory action" within the meaning of the Executive Order, and is therefore not subject to OMB review. Today's action proposes to amend current regulations to streamline the certification process for manufacturers of Clean Fuel vehicles and dual fuel gaseous fueled vehicles and engines.

B. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have significant economic impact on a substantial number of small entities. Small entities include small business, small not-for-profit enterprises, and small governmental jurisdictions. This proposed rule would not have significant impact on a substantial number of small entities because today's proposed action would not impose any new requirements on small entities. In fact, this proposal would reduce the costs of certification for all entities, including small entities, that manufacturers of CFVs, as well as reducing costs for all entities that convert conventional vehicles to vehicles that operate on gaseous and other fuels, including small entities that perform such actions. Therefore, I certify that this action will not have a significant economic impact on a number of small entities.

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("UMRA") signed into law on March 22, 1995, EPA must prepare a written statement to accompany any rule where the estimated costs to State, local, or tribal governments, in the aggregate, or to the private sector, will be $100 million or more in any one year. Under section 205, for any rule subject to section 202, EPA must select the most cost-effective and least burdensome alternative that achieves the objective of the rule and that is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly and uniquely impacted by the rule.

EPA has determined that this proposed rule does not trigger the requirements of UMRA. The proposed rule does not include a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more, and it does not propose regulatory requirements that may significantly or uniquely affect small governments. Therefore, this proposed rule does not trigger the requirements of UMRA.

D. Reporting and Recordkeeping Requirement

Today's proposal does not impose any new information collection burden. The Office of Management and Budget (OMB) has previously approved the information collection requirements under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* And has assigned OMB control number 2060–0104 (EPA ICR No. 0783).

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instruction; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search for data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Copies of the ICR document(s) may be obtained from Sandy Farmer, OPPE Regulatory Information Division; EPA; 401 M St., SW. (mail code 2137); Washington, DC 20460 or by calling (202) 260–2740. Include the ICR and/or OMB number in any correspondence.

E. Environmental and Economic Impacts

This proposal will have no adverse effects on air quality, since all current emissions standards and requirements would continue to apply to vehicles and engines affected by today's action. EPA believes that this proposed action would encourage manufacturers to develop and market vehicles and engines with innovative, new emissions control technology, ultimately resulting in broader market penetration of CFVs and clean alternative fuels.

By proposing to waive certification fees for qualifying vehicles, this proposed action would reduce the regulatory burden on industry without adversely affecting air quality.

F. Protection of Children From Environmental Health Risks and Safety Risks

This proposed rule is not subject to E.O. 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), because it does not involve decisions on environmental health risks or safety risks that disproportionately affect

G. Public Participation

1. Comments and the Public Docket

EPA welcomes comments on all aspects of this proposed rulemaking. All comments, with the exception of proprietary information should be addressed to the EPA Air Docket Section, Docket No. A–97–27 (see **ADDRESSES**).

Commenters who wish to submit proprietary information for consideration should clearly separate such information from other comments by (1) labeling proprietary information "Confidential business Information" and (2) sending proprietary information directly to the contact person listed (see FOR FURTHER INFORMATION CONTACT) and not to the public docket. This would help insure that proprietary information is not inadvertently placed in the docket. If a commenter wants EPA to use a submission labeled as confidential business information as part of the basis for the notice of proposed rulemaking, then a non-confidential version of the document, which summarizes the key data or information, should be sent to the docket.

Information covered by a claim of confidentiality will be disclosed by EPA only to the extent allowed and by the procedures set forth in 40 CFR Part 2. If no claim of confidentiality accompanies the submission when it is received by EPA, the submission may be made available to the public without notifying the commenters.

2. Public Hearing

Any person can request EPA to hold a public hearing on this proposed action, but such request must be received by August 19, 1998. Because no hearing will occur, absent a request for one, interested parties should contact Clifford D. Tyree at the number listed below after August 19, 1998 to determine whether a hearing will take place.

IV. Statutory Authority

Authority for the actions set forth in this notice of proposed rulemaking is granted to the EPA by sections 202, 203, 206, 207, 217, 241, 242, 243, 244, 245, 246, 247, and 301(a) of the Clean Air Act as amended (15 U.S.C. 2001, 2002, 2003, 2005, 2006, 2013; 42 U.S.C. 7521, 7522, 7524, 7525, 7541, 7542, 7549, 7550, and 7601(a)).

List of Subjects in 40 CFR Part 86

Environmental protection, Administrative practice and procedure, Confidential business information, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: July 8, 1998.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, chapter I, title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 86—[AMENDED]

1. The authority citation for part 86 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

2. Section 86.090–2 of Subpart A is amended by revising the definition of "Dedicated vehicle (or engine)" to read as follows:

§ 86.090–2 Definitions.

* * * * *

Dedicated vehicle (or engine) means, any motor vehicle (or motor vehicle engine) engineered and designed to be operated using a single fuel. Flexible fuel vehicles and multi-fuel vehicles are not dedicated fuel vehicles. Through model year 2001, motor vehicles (or motor vehicle engines) capable of operating on a second fuel through use of one of the options listed in paragraphs (1) and (2) of this definition are dedicated vehicles (or engines):

(1) Vehicles or engines certified to Tier 1, LEV, ULEV, ILEV, or ZEV that are capable of operation on a conventional fuel for a maximum of one hour during a three-hour period.

(2) Vehicles or engines certified to Tier 1, LEV, ULEV, ILEV, or ZEV that are capable of operation on a conventional fuel no more than 50 miles on a conventional fuel limited either by fuel tank capacity or tamper-proof electronic software.

* * * * *

3. Section 86.096–24 of Subpart A is amended by revising paragraph (a)(2) introductory text and adding new paragraphs (c)(4), (c)(5), (e)(1), (i), and (j) to read as follows:

§ 86.096–24 Test vehicles and engines.

(a) * * *

(2) To be classed in the same engine family, engines must be identical in all the respects listed in paragraphs (a)(2)(i) through (x) of this section or, at the manufacturers option, as allowed in paragraphs (i) and (j) of this section.

* * * * *

(c) * * *

(4) *Light-duty vehicles and light-duty trucks applying for a certificate of conformity with Clean-Fuel vehicle emissions standards in 40 CFR part 88.* This paragraph (c)(4) applies to engines, systems, or components used to establish exhaust emission deterioration factors for light-duty vehicle and light-duty truck small volume engine families certified to LEV, ILEV, ULEV, or ZEV emissions standards in 40 CFR part 88.

(i) For light duty vehicles, the Administrator shall select the vehicles, engines, systems, or components to be used to determine exhaust emission deterioration factors for each engine family or engine family class control system combination using the criteria in paragraph (c)(1) of this section, or, alternatively, by selecting the vehicle with the largest projected sales volume in the engine family or engine family class.

(ii) For light duty trucks, the manufacturer shall select the vehicles, engines, systems, or components to be used to determine exhaust emission deterioration factors for each engine family or engine family class control system combination using the criteria in paragraph (c)(2) of this section, or alternatively, by selecting the vehicle with the largest projected sales volume in the engine family or engine family class.

(iii) For light duty vehicles, service accumulation procedures must comply with one of the following:

(A) 40 CFR 86.094–26 (a); or

(B) 40 CFR 86.094–14 (c)(7)(i)(C).

(iv) For light duty trucks, service accumulation procedures must comply with one of the following:

(A) 40 CFR 86.094–26 (b) and (d); or

(B) 40 CFR 86.094–14 (c)(7)(i)(C).

(5) *Heavy-duty engines applying for a certificate of conformity with Clean-fuel vehicle emissions standards in 40 CFR part 88.* This paragraph (c)(5) applies to engines, systems, or components used to establish exhaust emission deterioration factors for small volume heavy-duty engine families certified to LEV, ILEV, ULEV, or ZEV emissions standards in 40 CFR part 88.

(i) The manufacturer shall select the vehicles, engines, systems, or components to be used to determine exhaust emission deterioration factors for each engine family or engine family class control system combination using the criteria in paragraph (c)(3) of this section, or alternatively, by selecting the engine with the largest projected sales volume in the engine family or engine family class.

(ii) Service accumulation procedures must comply with one of the following:

(A) 40 CFR 86.094–26(c) and (d);

(B) 40 CFR 86.094–14 (c)(7)(i)(C); or

(C) The engine must be operated at maximum power and maximum fuel rate for 500 engine hours. Three tests, equally spaced, shall be used to extrapolate deterioration factors.

* * * * *

(e)(1) Any manufacturer may request to certify engine families, with combined total U.S. sales of vehicles and engines fewer than 10,000 units, for the model years 1999 through 2001, to the clean-fuel vehicle standards prescribed in 40 CFR 88.104–94 and

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88.105–94, under the provisions of § 86.094–14, in addition to the vehicles certified under paragraph (e)(2) of this section.

* * * * *

(i) For light duty vehicles and light duty trucks, small volume engine families certified to LEV, ULEV, ILEV, or ZEV emissions standards in 40 CFR part 88 may be grouped into an engine family class, provided that:

(1) For original equipment manufacturers, the following criteria are met:

(i) Vehicles are all certified to the same emissions standards prescribed in 40 CFR 88.104–94.

(ii) The maximum range of engine displacement is less than or equal to 0.8 liters of the largest displacement in the class.

(iii) Same type of catalyst (e.g., beads or monolith).

(iv) Same precious metal composition of the catalyst by the type of principle active material(s) used (e.g., platinum based oxidation catalyst, palladium based oxidation catalyst, platinum and rhodium three-way catalyst, palladium and rhodium three-way catalyst).

(v) The ratios of [(catalysts volume/displacement) × (catalyst loading rate)] of all catalysts is within 25 percent or 0.2 g/liter of each other.

(2) For aftermarket conversions, the following criteria are met:

(i) Vehicles are all certified to the same emissions standards prescribed in 40 CFR 88.104–94.

(ii) The maximum range of engine displacement is less than or equal to 0.8 liters of the largest displacement in the class.

(iii) Same type of catalyst (e.g., beads or monolith).

(iv) All carlines or engine models were included on the certificate for the pre-conversion configuration.

(3) Vehicles certifying to more than one set of emission standards specified in this paragraph (i) may be grouped into a single engine family class, as provided in paragraphs (i)(1) and (i)(2) of this section. For example, a manufacturer may certify a vehicle to both ULEV and ILEV standards, or to both ZEV and ILEV standards.

(j) For heavy duty engines, small volume engine families certified to LEV, ULEV, or ZEV emissions standards in 40 CFR 88.105–94 may be grouped into an engine family class, provided that:

(1) For original equipment manufacturers, the following criteria are met:

(i) The engines meet the requirements of paragraphs (a)(2)(iv) through (a)(2)(x) of this section.

(ii) The maximum range of engine displacement is less than or equal to 0.8 liters of the largest displacement in the class.

(iii) Same type of catalyst (e.g., beads or monolith).

(iv) Same precious metal composition of the catalyst by the type of principle active material(s) used (e.g., platinum based oxidation catalyst, palladium based oxidation catalyst, platinum and rhodium three-way catalyst, palladium and rhodium three-way catalyst).

(v) The ratio of [(catalysts volume/displacement)] × [catalyst loading rate] of all combinations is within 25% or .2 g/liter.

(2) For aftermarket conversions, the following criteria are met:

(i) The maximum range of engine displacement is less than or equal to 0.8 liters of the largest displacement in the class.

(ii) Same type of catalyst (e.g., beads or monolith).

(iii) All carlines or engine models were included on the certificate for the pre-conversion configuration.

4. Section 86.099–2 is added to subpart A to read as follows:

§ 86.099–2 Definitions.

The definitions of § 86.098–2 continue to apply to 1998 and later model year vehicles. The definitions listed in this section apply beginning with the 1999 model year.

Engine Family Class means:

(1) A grouping of vehicles or engine families that meets the following criteria:

(i) Dedicated vehicles or engines that meet LEV, ILEV, ULEV, or ZEV emission standards in 40 CFR 88.104–94 or 88.105–94.

(ii) The maximum range of engine displacement is not more than 0.8L of the largest displacement tested in the class.

(iii) Same type of catalyst.

(iv) Same principle active precious metal.

(v) The ratios of [(catalysts volume/displacement) × (catalyst loading rate)] of all catalysts is within 25 percent or 0.2 g/liter of each other.

(vi) For aftermarket conversions, all carlines or engine models were included on the certificate for the pre-conversion configuration.

(2) This definition is applicable for model years 1999 through 2001.

5. Section 86.908–93 of Subpart J is amended by adding paragraph (d) to read as follows:

§ 86.908–93 Waivers and refunds.

* * * * *

(d)(1) For model years 1999 through 2001, the required fees under this subpart shall be waived for any light-duty vehicle, light-duty truck, or heavy-duty engine family that meets the following requirements:

(i) Is a dedicated vehicle or engine;

(ii) Is seeking certification to LEV, ILEV, ULEV, or ZEV emissions standards in 40 CFR part 88; and

(iii) Meets the small volume sales requirements of § 86.094–14(b) or § 86.094–24(e).

(2) If the manufacturer does not receive a certificate of conformity with the LEV, ILEV, ULEV, or ZEV emissions standards in 40 CFR part 88, the fee requirements of this section will apply. Before any certificate can be issued, the applicable fee must be paid.

[FR Doc. 98–18860 Filed 7–17–98; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 69

[CC Docket No. 98–77; FCC 98–101]

Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: By this *Notice of Proposed Rulemaking (NPRM)*, the Commission commences a proceeding to reform access charge rules applicable to incumbent local exchange carriers (LECs) subject to rate-of-return regulation. The *NPRM* seeks comment on proposals to establish a transition to access charges that more closely reflect economic costs, with a goal of making our system of interstate access charges compatible with a competitive paradigm. Specifically, the Commission seeks comment on proposals to revise the switched access rate structure for rate-of-return LECs. The Commission also solicits comments on some additional issues relating to the regulation of interstate access services of rate-of-return LECs.

DATES: Comments are due on or before August 17, 1998, and reply comments are due on or before September 17, 1998. Written comments and reply comments by the public on the proposed information collections are due August 17 and September 17, 1998, respectively.

ADDRESSES: Federal Communications Commission, Secretary, Room 222, 1919 M Street N.W., Washington, DC 20554. In addition to filing comments with the

Commission's Secretary, a copy of any comments on the proposed information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street N.W., Washington, DC 20554, or via the Internet to jboley@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725 17th Street N.W., Washington, DC 20503, or via the Internet to fain_t@al.eop.gov.

FOR FURTHER INFORMATION CONTACT: Douglas L. Slotten, Common Carrier Bureau, Competitive Pricing Division, at (202) 418–1572. For additional information concerning information collections, contact Judy Boley at (202) 418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *NPRM* in the matter of Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation, CC Docket 98–77, adopted May 26, 1998, and released June 4, 1998. The complete text of this *NPRM* is available for inspection and copying during normal business hours in the Commission's Reference Center, Room 239, 1919 M Street N.W., Washington, DC. In addition, the *NPRM* is available through the Internet at http://www.fcc.gov/Bureaus/Common_Carrier/Notices/1998/fcc98101.wp. The complete text may be purchased from the Commission's duplicating contractor, International Transcription Service, Inc. (ITS, Inc.), at 1231 20th Street N.W., Washington, DC 20036 (202–857–3800).

Paperwork Reduction Act

This *NPRM* contains either proposed or modified information collections. As part of our continuing effort to reduce paperwork burdens, we invite the general public and OMB to take this opportunity to comment on any additional information collections contained in this NPRM, not previously approved by OMB, as required by the Paperwork Reduction Act of 1995, Pubic Law 104–13. Public and agency comments and reply comments are due August 17 and September 17, 1998, respectively. Written comments by the Office of Management and Budget on the proposed information collections are due September 18, 1998. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Control No.: None.

Title: Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation—CC Docket No. 98–77.

Form No.: N/A.

Respondents: Business or other for-profit entities.

Type of Review: New collection.

Proposed collection	Number of respondents	Estimated time per response (annual)	Total annual burden
Cost Study for Local Switching Port Costs	155	400 Hours	62,000 Hours.
Tariff Filing	51	200 Hours	10,200 Hours.
New Services Requirement	10	10 Hours	100 Hours.

Frequency of Response: One-time requirement, on occasion.

Total Annual Burden: 72,300 Hours.

Estimated Costs Per Respondent: $600 per respondent.

Needs and Uses: The Commission commences a proceeding to reform access charge rules applicable to incumbent local exchange carriers (LECs) subject to rate-of-return regulation. We propose to require rate-of-return LECs to conduct cost studies to determine the geographically-averaged portion of local switching costs that is attributable to the line-side ports and to dedicated trunk-side ports, to be filed with the tariffs implementing these changes. The Commission also proposes to allow rate-of-return carriers to file a petition for new services based on a public interest standard. The information will be used to determine whether the incumbent LECs should receive the regulatory relief proposed in the *NPRM*. The information collections are necessary to implement the Telecommunications Act of 1996.

Synopsis of Notice of Proposed Rulemaking

1. Access reform is one of a series of actions that collectively are intended to foster and accelerate the introduction of efficient competition in all telecommunications markets, pursuant to the mandate of the 1996 Telecommunications Act (1996 Act). In the *Access Charge Reform Order*, we set in motion the forces of competition and deregulation in local telecommunications markets served by incumbent LECs subject to price cap regulation. *Access Charge Reform*, CC Docket No. 96–262, First Report and Order, 12 FCC Rcd 15982 (1997), 62 FR 31868 (June 11, 1997) (*Access Charge Reform Order*); Order on Reconsideration, 12 FCC Rcd 10119 (1997), 62 FR 40460 (July 29, 1997); *appeal pending sub nom. Southwestern Bell Tel. Co.* v. *FCC*, No. 97–2618 (and consolidated cases) (8th Cir. argued Jan. 15, 1998); Second Order on Reconsideration, 12 FCC Rcd 16606 (1997), 62 FR 56121 (October 29, 1997) (*Second Reconsideration Order*). The 1996 Act, however, expressly provides that "Consumers in all regions of the Nation . . . should have access to telecommunications and information services . . . that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas." 47 U.S.C. 254(b)(3). With this *NPRM*, we commence a further proceeding on access reform to mobilize the same forces to serve the interests of consumers located in those rural and suburban areas that are served by incumbent LECs subject to rate-of-return regulation. The first step in this reform process is to enable these rate-of-return LECs to assess interstate access charges that are more consistent with principles of cost-causation and economic efficiency.

2. With this *NPRM*, we continue the process of reforming the access charge rate structure for rate-of-return LECs that was begun in the *Access Charge Reform Order* with the modifications to the transport rate structure, the reallocation of costs in the transport interconnection charge (TIC), and the amendments reflecting the changes necessary to implement universal service reform. In doing so, we intend to build on the analysis of the access charge rate structure developed in the *Access Charge Reform Order*. While rate-of-return LEC costs generally may be higher than price cap LEC costs due to longer loops or lower economies of

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scale, the two groups of carriers incur costs in the same manner, and similar economic principles should apply. Subject to receiving evidence showing that differences exist between price cap LECs and rate-of-return LECs that require different rules to achieve the goal of fostering an efficient, competitive marketplace, we propose to amend the access charge rules for rate-of-return LECs in a manner similar to that adopted for price cap LECs.

3. We recognize that differences in the circumstances of rate-of-return and price cap LECs may require different approaches to reform, including a different transition to more economically efficient, cost-based interstate access charges. We seek to ensure that, at the end of the transition, all Americans enjoy the benefits of competition. By varying the transitional mechanisms, we can ensure that the process of getting to those benefits is as smooth as possible.

In this *NPRM* we propose to reform the access charge rate structure of rate-of-return LECs. We address many of the most fundamental economic inefficiencies in the current structure and will lay a foundation on which to develop further initiatives for rate-of-return LECs, including the rural LECs, most of whom are subject to rate-of-return regulation. In a subsequent phase of this proceeding, we intend to address the very difficult question of when, and how much, additional pricing flexibility should be afforded to rate-of-return LECs. We also intend to address, in a future proceeding, alternative forms of regulation for LECs currently subject to rate-of-return regulation. Such alternative regulatory structures could offer incentives to rate-of-return LECs that are able to become more efficient.

5. The *Access Charge Reform Order*, including subsequent reconsideration and waiver orders, and the *Universal Service Order*, made the modifications necessary to implement the revisions to the universal service support mechanisms adopted in the *Universal Service Order*. *Federal-State Joint Board on Universal Service*, CC Docket No. 96–45, First Report and Order, 12 FCC Rcd 8776 (1997), 62 FR 32862 (June 17, 1997) (*Universal Service Order*). This *NPRM* is not intended to address contentions that some additional costs or services should receive universal service support; those matters will be resolved in the Universal Service proceeding. We note that the Commission has determined that there shall be no change in the existing high cost support mechanisms for rural LECs until January 1, 2001, at the earliest. This means that, in the interim, the amount of universal service support for rural LECs will be maintained initially at existing levels and should increase in accordance with specified factors, such as inflation, that have historically guided changes in such support.

6. *Common Line Costs*. Currently, rate-of-return LECs' subscriber line charges (SLCs) are limited to recovering the lesser of the actual cost of the interstate portion of the local loop, or $3.50 per month for residential and single line business customers, or $6.00 per month for multi-line business customers. Any remaining common line costs are recovered through carrier common line (CCL) charges, which are per-minute charges imposed on interexchange carriers (IXCs).

7. We tentatively conclude that we should adopt rate structure modifications for rate-of-return LECs that are similar to those that were adopted for price cap LECs in the *Access Charge Reform Order*. We seek comment on the applicability of the rate structure modifications adopted for price cap LECs to rate-of-return LECs. Specifically, the Commission proposes to permit rate-of-return LECs to adjust their SLC ceilings on non-primary residential and multi-line business lines to the level necessary to recover their average per-line interstate-allocated common line costs, subject to an inflation-adjusted $9.00 ceiling, while leaving the existing SLC ceiling of $3.50 for primary residential and single-line business lines at its current level.

8. To ameliorate possible adverse impacts of an immediate SLC adjustment for non-primary residential lines, the Commission proposes to adjust the SLC ceilings for these lines gradually. The Commission seeks comment on adjusting the monthly SLC ceiling initially to the LEC's average per-line interstate-allocated costs, but not exceeding $1.50 more than the current SLC ceiling. Annually thereafter, rate-of-return LECs could adjust the monthly SLC ceiling for these lines for inflation and could increase the ceiling by $1.00 per line, until the SLC ceiling for non-primary residential lines is equal to the SLC ceiling permitted for multi-line business lines.

9. To the extent that SLC ceilings prevent rate-of-return LECs from recovering their allowed common line revenues from end users, the Commission proposes to permit these LECs to recover the shortfall, subject to a maximum charge, through a presubscribed interexchange carrier charge (PICC), a flat, per-line charge assessed on the end-user's presubscribed interexchange carrier. For the first year, the proposed ceiling on the PICC will be $1.50 per month for non-primary residential lines and $2.75 per month for multi-line business lines. The Commission proposes adjusting the PICC for price cap non-primary residential and multi-line business lines annually for inflation and increasing the PICCs for non-primary residential and multi-line business lines by a maximum of $1.00 and $1.50 per year, respectively, until price cap LECs recover all their permitted common line revenues through a combination of flat-rated SLC and PICCs. The Commission also invites comment on whether the PICC for primary residential and single-line business lines should be capped at $0.53 per month for the first year, and adjusted annually thereafter for inflation, and increase by $0.50 per year, until it equals one twelfth of the sum of the annual per-line common line cost and residual interconnection charge cost permitted under our rate-of-return rules, divided by the projected average number of local exchange service subscriber lines in use during such annual period, less the maximum primary residential and single-line business lines SLC computed pursuant to our rules. If a customer does not designate a presubscribed interexchange carrier, the Commission proposes to permit rate-of-return LECs to collect directly from the customer the PICC that could otherwise be assessed against the presubscribed interexchange carrier.

10. To the extent that the SLC ceilings on all lines and the PICC ceilings on primary residential and single-line business lines prevent recovery of the full common line revenues permitted by the rate-of-return rules, the Commission proposes to permit rate-of-return LECs to recover the shortfall through a per-minute residual CCL charge. The Commission proposes that rate-of-return LECs should assess the residual CCL charge initially on originating minutes, subject to a rate cap, with any residual being collected through a per-minute terminating CCL charge. Rate-of-return LECs would, under the Commission's proposal, be allowed to assess an originating CCL charge that, when added to the sum of local switching charges, the per-minute residual TIC, and any per-minute charges related to marketing expenses, does not exceed the sum of local switching charges, the per-minute CCL charge, and TIC assessed on originating minutes on December 31, 1997. A per-minute residual TIC could also be assessed on IXCs by rate-of-return LECs to recover any TIC costs not recovered through facility-based charges. The originating residual TIC charge would be subject to the same

ceiling mechanism as the residual CCL charge.

11. Under the Commission's proposal, the per-minute residual CCL and residual TIC charges will be eliminated as the PICC ceilings increase. After the residual CCL and the residual TIC charges are eliminated, increases in the PICC for primary residential and single-line business lines will reduce the PICCs on non-primary residential and multi-line business lines by an amount that corresponds to the total increases in PICCs for primary residential and single-line business lines. Reductions will be targeted to the PICCs on multi-line business lines until the PICCs for those lines are equal to the PICCs for non-primary residential lines. Thereafter, reductions will be applied to both classes of customers equally until the combined SLCs and PICCs for primary residential and single-line business lines recover the full average per-line common line costs permitted under our rules, and the additional PICCs on non-primary residential and multi-line business lines no longer recover common line costs. Under the proposal, certain TIC costs and marketing expenses, in addition to common line costs, will be recovered through non-primary residential line and multi-line business PICCs, even though SLCs and PICCs for primary residential and single-line business lines only recover the average per-line common line costs permitted under our rules.

12. We conclude that modifications similar to those we made for price cap LECs are needed to remove implicit subsidies and ensure that charges more accurately reflect the manner in which the costs are incurred, thereby promoting competition. We acknowledge that certain rate-of-return LECs, especially those in rural and insular areas, face different market conditions and incur higher costs than do many price cap LECs due to the lack of economies of scale that result from low subscriber density and small exchanges that characterize rural areas. Smaller LECs serving more costly areas, however, will receive universal service support based on their embedded costs until the Commission, with the Universal Service Joint Board's assistance, develops an appropriate model to ensure that rural carriers receive support at a level that will enable them to provide supported services at affordable rates. Adopting the same rate structure approach for rate-of return LECs, therefore, most likely will not align rates with costs as quickly as it will for price cap LECs. For many rate-of-return companies, especially those located in rural and insular areas, longer loops and difficult terrain result in average loop costs that significantly exceed the average loop costs of price cap LECs. The cost recovery mechanism for price cap LECs contemplates that price cap LECs will be able to recover all of their interstate-allocated common line costs through a combination of SLCs and PICCs, reducing the CCL charge to zero in a relatively short amount of time.

13. If rate-of-return LECs were to implement the revised common line rate structure applied to price cap LECs, multi-line business PICCs and CCL charges would often go to their respective ceilings and remain higher than those of price cap LECs for the foreseeable future, because rate-of-return LEC common line costs are significantly higher than those of price cap LECs. If we direct rate-of-return LECs to recover certain switching, marketing, and residual TIC costs through the common line SLCs and PICCs, per-line common line costs will increase further. Under this scenario, the SLCs and/or PICCs for many rate-of-return LECs would have to be adjusted to a level that would be higher than the ceilings we adopted for price cap LECs if significant reductions in the CCL rate were desired. We solicit comment on this analysis.

14. We ask interested parties to discuss how we should determine appropriate SLC ceilings. Several entities have expressed concern that the immediate SLC increases to $9.00 for non-primary or multi-line business lines will create a large disparity between SLCs charged by rate-of-return LECs and neighboring price cap LECs, and that under the 1996 Act and applicable state laws, the lower-cost price cap carriers will be able to "cherry pick" the high volume business customers of the higher priced rate-of-return LECs. These entities urge the Commission to grant them pricing flexibility and propose that SLCs be set based on the national average or on the neighboring price cap LEC's average SLC.

15. We invite comment on establishing a ceiling that is based on the neighboring price cap LEC's average multi-line business SLC, or on the national average. In addition, in some cases, as the non-primary SLC cap increases, the disparity between the $3.50 SLC for primary residential lines and the SLC for non-primary residential lines will most likely be greater for rate-of-return carriers than it is for price cap companies. Would this disparity warrant a different approach for rate-of-return carriers' non-primary residential lines than we adopted for price cap LECs?

16. Interested parties should discuss whether the PICC is an effective cost recovery mechanism for rate-of-return LECs' common line costs and, if so, to what extent the PICCs and CCL charges for rate-of-return LECs should be comparable to those of price cap LECs. If commenters believe that the plan we adopted in the *Access Charge Reform Order* would not produce the expected economic benefits for rate-of-return LECs and their customers, interested parties should submit alternative plans. For example, should we prescribe higher ceilings for PICCs that would permit rate-of-return LECs to reduce their CCL rates to levels comparable to those of price cap LECs? Alternatively, should we prescribe a maximum CCL charge and eliminate the PICC ceiling to allow rate-of-return LECs to recover the shortfall through flat-rated charges? In addition, in light of the higher common line costs incurred by many rate-of-return LECs, and because, if adopted, other modifications proposed in this *NPRM* will require rate-of-return LECs to recover certain switching, marketing, and TIC costs through the common line recovery mechanism, we invite parties to discuss whether we should permit these carriers to recover relatively more of the common line revenue requirement through terminating minutes. Given that local switching per-minute rates will be reduced significantly by the inclusion of dial equipment minutes (DEM) weighing in universal service support, we ask interested parties to discuss whether a higher per-minute CCL charge in the short run is unsatisfactory.

17. Interested parties should also discuss the extent to which, for purposes of assessing SLCs and PICCs, residential and business lines should be treated differently. For example, should non-primary residential lines be assessed lower PICCs than multi-line business lines and phased in over time, as we did for price cap LECs, or should we permit the SLCs for non-primary residential lines to increase more rapidly for rate-of-return LECs than for price cap LECs, in order to allow carriers in high-cost areas to reduce their CCL charge more rapidly than would otherwise be possible with graduated increases in the SLC? Alternatively, should a uniform PICC be applied to all non-primary residential and business lines to spread the revenue requirement evenly across these classes of customers?

18. In the *Second Reconsideration Order* in the Access Charge Reform proceeding, we concluded that with

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respect to the PICC, Centrex customers should be treated similarly to PBX customers, because the two arrangements are functionally equivalent. Accordingly, we determined that Centrex lines should be assessed PICCs using a 9:1 line-to-trunk equivalency ratio, except where the multi-line business SLC ceiling does not permit the recovery of all interstate-allocated loop costs from the end user. In those instances, a PICC that includes the difference between the per-line loop cost and the multi-line business SLC cap, subject to the multi-line business PICC ceiling, will be assessed on Centrex lines. We seek comment on the applicability of this approach and of the 9:1 ratio to rate-of-return LECs. Parties proposing different ratios should submit data supporting the ratio they propose.

19. We also seek comment on how the 1996 Act will affect the development of competition in areas served by small and rural rate-of-return LECs. While the entry of competitors in many rate-of-return LEC service areas may be delayed due to the provisions of 47 CFR 251(f), entry in these areas will likely occur in time. Specifically, section 251(f)(1) provides an exemption for certain rural telephone companies from the duties of local exchange carriers enumerated in section 251(c), including but not limited to the duties to interconnect, to provide access to network elements on an unbundled basis, and to resell telecommunications services. Section 251(f)(2) provides a mechanism by which local exchange carriers with fewer than two percent of the nation's subscriber lines may petition the state for suspension or modification of some of the duties imposed by the Act on local exchange carriers. We ask interested parties to discuss the impact of these statute sections and the development of competition as they relate to the rate structure and transition mechanism we are proposing in this *NPRM.*

20. We also seek comment on whether we should adopt one approach for all rate-of-return LECs or whether our approach should vary depending on size, population density, topography, or other factors that may vary among rate-of-return LECs. Are there concerns that are specific to National Exchange Carrier Association (NECA) pooling companies that warrant separate treatment? Interested parties should address the specific issues raised and submit proposals for modifications that are consistent with the goals of the 1996 Act. Interested parties should also propose a time frame for adopting modifications to the rate structure. Should modifications adopted become effective immediately or should they be phased in over time? Finally, parties should address the extent to which options proposed affect small business entities, including small incumbent LECs and new entrants.

21. *Assessment of SLCs and PICCs on Derived Channels.* We propose to adopt similar SLCs and PICCs for integrated services digital network (ISDN) service offered by rate-of-return LECs. Specifically, we propose to permit rate-of-return LECs to charge SLC and PICC rates for Primary Rate Interface (PRI) ISDN service equal to five times the rate-of-return LEC's multi-line business SLC and PICC, and SLC and PICC rates for Basic Rate Interface (BRI) ISDN service equal to the rate-of-return LEC's non-primary residential line SLC and PICC. We seek comment on these conclusions and invite parties to comment on the impact that assessing SLCs and PICCs on ISDN lines will have on rate-of-return carriers and their customers. Parties should address whether the cost relationship between ISDN and analog service provided by rate-of-return LECs is similar to that of price cap LECs; if they believe it is not, they should submit specific data supporting their position. We also invite parties to discuss the relationship between proposed modifications to the common line rate structure and our tentative conclusion to treat rate-of-return LECs' ISDN lines in the manner discussed above.

22. *Local Switching Dedicated Facilities.* The interstate portion of local switching costs is currently recovered through per-minute local switching charges levied on IXCs, even though a significant portion of local switching costs is associated with ports and appears to be driven by the number of lines or trunks connected to the switch, not by the number of minutes of traffic routed by the switch. We propose to require rate-of-return LECs to reassign all costs for line-side ports, including the line card, protector, and main distribution frame, from the local switching category to the common line category, for recovery through the common line rate structure. We seek comment on this proposal. We ask if there are any specific factors for rate-of-return LECs that would preclude our adoption of this rate structure change at this time.

23. We propose to require rate-of-return LECs to conduct cost studies to determine the geographically-averaged portion of local switching costs that is attributable to the line-side ports and to dedicated trunk-side ports, to be filed with the tariffs implementing these changes. We solicit comment on this cost study proposal. In the alternative, commenters are requested to suggest a substitute mechanism to identify and assign costs to line-side ports or to trunk-side ports.

24. We also propose to require rate-of-return LECs to recover dedicated trunk port costs through a flat-rated trunk port charge assessed on the purchaser of the dedicated trunk terminating at the port. Analog switches require a voice-grade interface on the trunk-side of the end office switch, thereby requiring DS1 transport trunks to be demultiplexed into individual voice-grade circuits before being switched at analog end office switches. DS1/voice-grade multiplexers perform this function. A digital switch port includes the DS1/voice-grade multiplexing function. In addition, we propose to establish a separate rate element through which rate-of-return LECs can recover on a flat-rated basis the additional costs of DS1/voice grade multiplexers required in conjunction with terminating dedicated trunks at analog switches that were reassigned from the TIC. We ask whether the benefits to be gained from a more efficient, cost-causative rate structure outweigh the burden on rate-of-return LECs of establishing these new rate elements. In addition, we solicit suggestions as to what specific modifications of the part 69 cost allocation rules we should make to implement any rate structure changes for dedicated local switching facilities.

25. Common line charges will recover the cost of a line port used to provide basic, analog service, even when the end user has another form of service. For some services, such as ISDN, the cost of a line port is significantly more than the cost of a line port associated with a basic, analog line. We propose to permit rate-of-return LECs to assess a separate, monthly, flat-rated charge directly on end users of such services, to recover the amount by which the cost of a line port for ISDN, or the cost of a line port associated with other services, exceeds the cost of a line port for basic, analog service. We request comment on this proposal.

26. *Local Switching Shared Facilities.* We seek comment on our tentative conclusion that rate-of-return LECs adhere to a per-minute rate structure for shared local switching facilities, including the central processing unit, switching matrix, and shared trunk ports. Under this approach, the shared trunk ports and any associated DS1/voice grade multiplexers required at analog local switches will be assessed on a per-minute basis, separate from the charge for the switch itself. We ask whether there are any factors inherent to

rate-of-return LECs that should lead us to change this tentative conclusion.

27. *Call Setup Charge.* We propose to permit, but not require, rate-of-return LECs to establish a charge for call setup, the process of establishing a transmission path over which a phone call will be routed. Costs for call setup using SS7 are incurred primarily on a per-call rather than a per-minute basis. Under this proposed revision to 47 CFR 69.106, a rate-of-return LEC could elect to establish a separate per-call setup charge assessed on IXCs for all originating interstate calls handed off to the IXC's point of presence (POP), and on all terminating interstate calls that are received from an IXC's POP, whether or not a call is completed. We invite comment on this proposal for an optional call setup charge, including specific language to modify our part 69 cost allocation rules to implement this rate structure change. Moreover, if a rate-of-return LEC elects to recover revenue requirements through a call setup charge, we tentatively conclude that this charge cannot overlap with any other local switching charges, with charges for dedicated SS7 facilities, or with other signalling charges. We request comment on our tentative conclusion prohibiting double recovery for call setup charges by rate-of-return LECs. Commenters also should suggest mechanisms that would prevent any double recovery for rate-of-return LECs.

28. It would be extremely difficult to segregate the costs of the switch central processing unit and other traffic-sensitive costs into per-message and per-minute portions and to verify that the allocation has been done properly. Therefore, we propose to limit the costs that a rate-of-return LEC may recover through call setup charges to those associated with signalling. We request comment on this proposal. We seek comment on how call setup costs are affected by whether multifrequency (MF) signalling or SS7 signalling is employed. We also request estimates of the percentage of the total costs of a typical call that are represented by call setup costs. To facilitate our comparison of the estimates submitted, we request that commenters use an average call duration of 3.86 minutes, which we used as the call duration in our analysis in the *Access Charge Reform Order.*

29. *Tandem-Switched Transport Issues.* We request comment on our analysis that we should require rate-of-return LECs to recover the costs of trunk ports used to terminate dedicated trunks on the serving wire center (SWC) side of the tandem switch through flat-rated charges assessed on the purchaser of the dedicated trunk terminated at the trunk port on the SWC side of the tandem switch. To ease the burdens of implementing this unbundling, we propose to permit rate-of-return LECs to use the dedicated trunk port rates at the local switch to establish this unbundled charge. We ask for comment on this proposal. With regard to shared facilities at the tandem switch, we solicit comment on our tentative conclusion that there is no need to create a separate charge for shared trunk ports on the end-office-side of the tandem switch because this trunk port cost is included in the charge for the tandem switch and there is no reason to charge separately for shared trunk ports in the tandem switching context.

30. We also propose to require rate-of-return LECs to establish separate rate elements to recover the costs of multiplexing equipment on each side of the tandem switch that were reassigned to tandem switching from the TIC in the *Access Charge Reform First Reconsideration Order.* The rates for multiplexers on the SWC side of the tandem switch would be flat rated because they are dedicated to a single IXC. The rates for the multiplexers on the end office side of the tandem switch would be per-minute charges because these multiplexers are shared among all users of common transport. To simplify the implementation process for rate-of-return LECs, we propose to permit them to use multiplexer rates already established in their special access tariff for similar multiplexers. We request comment on these proposals. These provisions cover DS1/voice grade multiplexers used with analog tandem switches, as well as other multiplexers that are not included in transport rates.

31. *Outstanding Transport Interconnection Charge Issues for Rate-of-Return LECs.* Although the Commission in the *Access Charge Reform Order* directed rate-of-return LECs to make specified cost reallocations from the TIC to other facilities-based rate elements, thereby reducing the amount in the TIC, the reallocation of costs from the TIC to other rate elements will not remove all of the costs from the TIC, leaving a residual TIC. We propose to incorporate the residual TIC in the common line pricing structure of rate-of-return LECs, just as we did for price cap LECs. This will put in place a mechanism that will, at different times for different rate-of-return LECs, begin the process of transferring TIC costs to other rate elements. We ask for comment on this analysis and on our proposal to adopt a similar rate structure to that we employed for price cap LECs.

32. The *Access Charge Reform Order* reduces the TIC for price cap LECs by targeting certain price cap index (PCI) reductions to reducing the TIC. Price cap LECs will target price cap productivity (X-factor) adjustments to the trunking basket's PCI, and therein to the TIC service band index (SBI), thus reducing the amounts recovered through the residual TIC and effectively spreading those residual TIC revenues among the universe of access services. We ask whether any comparable mechanism exists for rate-of-return LECs that would eliminate the residual TIC in a reasonable time. We ask commenters whether it would be practical to spread the residual TIC proportionately over the other access elements in a manner comparable to that of targeting price cap productivity reductions to the TIC. We seek comment on what would be a reasonable time in which to accomplish such a reallocation. We ask parties supporting such an approach to propose cost allocation rules to implement their approach. Parties presenting data to quantify amounts in the residual TIC should include sufficient detail to permit the Commission and interested parties to evaluate the procedures used and to adjust the results, if necessary, to address concerns raised by the record. We seek comment on how these approaches affect small business entities, including small incumbent LECs and new entrants.

33. We ask parties to address whether there are additional causes of costs remaining in the residual TIC for rate-of-return LECs that have not been identified previously that would justify further reallocations of costs from the TIC. Parties identifying such costs should indicate the other element(s) to which these additional costs should be reallocated. We invite parties to comment on whether any public policy reasons would support retaining some costs of rate-of-return LECs in the residual TIC indefinitely. We ask parties to address the competitive implications of waiting for completion of a Joint Board review of separations procedures to determine which, if any, of the costs in the TIC reflect the higher cost of providing transport services in less densely populated areas, as compared with the costs underlying transport rates that were derived from special access rates. *See Jurisdictional Separations Reform and Referral to the Federal-State Joint Board,* CC Docket No. 80–286, Notice of Proposed Rulemaking, 12 FCC Rcd 22120 (1997), 62 FR 59842 (November 5, 1997).

34. *Signalling System Seven (SS7).* SS7 is the international standard

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network protocol currently used to establish and close transmission paths over which telephone calls are carried. Once the reallocation of SS7 costs included in the TIC is completed, most, if not all, of SS7 costs presumably will be recovered through the local switching charge. We invite comment on our proposal to continue the existing rate structure for SS7 cost recovery by rate-of-return LECs, and to permit these LECs to adopt the rate structure for SS7 services that we approved in *Ameritech Operating Companies Petition for Waiver of Part 69 of the Commission's Rules to Establish Unbundled Rate Elements for SS7 Signalling*, Order, 11 FCC Rcd 3839, 3841 (Com. Car. Bur. 1996). The rate structure established by Ameritech pursuant to that waiver recovers costs through four unbundled charges for the various functions performed by SS7 networks: (1) Signal link; (2) STP port termination; (3) signal transport; and (4) signal switching. We also solicit additional, alternative SS7 rate structure proposals for rate-of-return LECs. Any comments on this issue should include an assessment of the expense of requiring rate-of-return LECs to install equipment in their networks for metering SS7 traffic. Would the streamlined waiver petition procedure we propose pursuant to section 69.4(g) be preferable as a means to address alternative SS7 rate structures proposed by rate-of-return LECs?

35. We recognize that some call setup is still performed using in-band, MF signalling, rather than out-of-band signalling systems such as SS7. SS7 signalling may be less prevalent for rate-of-return LECs than for price cap LECs. Any determination we make concerning a SS7 rate structure for rate-of-return LECs could be affected by the extent that rate-of-return LEC networks use SS7. We also ask parties to comment on the need for revisions to the cost allocation rules in part 69 to accommodate the provision of SS7 signalling in accordance with the provisions of the Ameritech SS7 waiver.

36. *General Support Facilities Costs.* To the extent that rate-of-return LECs' costs are underallocated to the billing and collection category, rate-of-return LECs' regulated services are recovering costs associated with unregulated services through interstate access charges. We solicit comment on our tentative conclusion that we should modify 47 CFR 69.307 for rate-of-return LECs to allocate general support facilities (GSF) costs related to billing and collection services to the billing and collection category. For rate-of-return LECs that maintain accounts below the summary account level, we propose the use of a general expense allocator to apportion the interstate share of Accounts 2111 (Land), 2121 (Buildings), 2123 (Office Equipment), and 2124 (General Purpose Computers) between: (1) The billing and collection category and (2) all other elements and categories. To determine the amount to be assigned to the billing and collection category, we propose to apply a modified "Big Three Expense Factor" allocator to the interstate investment recorded in these four accounts. The interstate portion of Account 6120 (General Support Expenses) will continue to be apportioned among all elements and categories, including billing and collection, based upon the allocation rules contained in 47 CFR 69.401(a)(2). *Access Charge Reform,* Third Report and Order, CC Docket No. 96–262, 12 FCC Rcd 22430 (1997) (*Third Report and Order*), 62 FR 65619 (December 15, 1997). Because certain small rate-of-return LECs do not maintain accounts below the summary account level, we seek comment on what adjustments, if any, we should make to the allocation procedures to reflect this difference. It would be helpful if parties would comment on how many rate-of-return LECs use general purpose computers to provide billing and collection services. We also invite parties to identify any changes that should be made to other access elements as a result of any changes we may make to the GSF allocation procedures. Finally, parties should also address the extent to which these approaches affect large and small rate-of-return LECs differently and how small business entities, including small incumbent LECs and new entrants, will be affected.

37. *Marketing Expenses.* The Commission concluded in the *Access Charge Reform Order* that price cap LECs' marketing costs that are not related to the sale or advertising of interstate switched access services are not appropriately recovered from IXCs through per-minute interstate switched access charges. We seek comment on our tentative conclusion that rate-of-return LECs' marketing expenses allocated to the interstate jurisdiction should be recovered through the common line recovery mechanism from end users on a per-line basis. Specifically, we propose that rate-of-return LECs recover the revenues related to the Account 6610 marketing expenses by increasing the SLCs for multi-line business and non-primary residential lines, subject to the SLC ceilings. To the extent the SLC ceilings prevent full recovery of these amounts, rate-of-return LECs would be required to recover marketing costs through equal increases on the PICCs for non-primary residential and multi-line business lines, subject to the PICC ceilings. In the event the PICC ceilings prevent full recovery of these expenses, any residual marketing expenses may be recovered through per-minute charges on originating access service, subject to the ceiling placed on originating minutes. If rate-of-return LECs cannot recover their remaining marketing expenses through per-minute charges on originating access, any residual may be recovered through per-minute charges on terminating access service. To the extent marketing expenses will be recovered through the SLC, they shall not be included in the base factor portion or considered common line revenues.

38. We also ask parties to propose a mechanism comparable to the separate basket created for price cap LECs that will remove marketing expenses from access charges assessed by rate-of-return LECs. We invite parties to provide language for the amendment of our part 69 cost allocation rules that affect the recovery of these marketing expenses through the common line cost recovery mechanism.

39. *Special Access.* In light of the most recent changes to the charges incurred by multi-line businesses, including the higher SLC and the new multi-line business PICC, it may be cost effective for some multi-line businesses to substitute the purchase of special access lines for the use of switched access. We have already tentatively concluded that we should permit price cap LECs to assess a PICC on special access lines to recover revenues for the common line basket. *Access Charge Reform,* CC Docket No. 96–262, Further Notice of Proposed Rulemaking, 12 FCC Rcd 15982, 16154 ¶ 401 (1997), 62 FR 31868 (June 11, 1997) (*Further Notice*). The special access PICC would be no higher than the PICC that a price cap LEC could charge for a multi-line business line, would not recover TIC or marketing expenses, and would be gradually eliminated as the single-line PICC is gradually implemented for price cap LECs. We tentatively concluded that allowing price cap LECs to impose such special access PICCs would be necessary to facilitate the transition from current per minute CCL charges to the flat-rate PICC.

40. We invite parties to comment on whether, if we apply a PICC to special access services offered by price cap LECs, we should apply a PICC to special access services offered by rate-of-return LECs. Parties should comment on the

impact of PICCs on special access lines if the PICCs on rate-of-return LECs' multi-line business lines remain in place for a considerably longer time than they do for price cap LECs. To the extent parties advocate assessing PICCs on special access lines, we seek comment on how special access connections should be counted for purposes of assessing a "per line" PICC. Parties should also address the extent to which our proposal affects large and small LECs differently and how small business entities, including small incumbent LECs and new entrants, will be affected.

41. *Part 69 Cost Allocation Rules.* Under the Commission's separations rules at 47 CFR part 36, certain costs of the incumbent LEC network are assigned to the interstate jurisdiction. For rate-of-return LECs, the Commission's cost allocation rules at 47 CFR part 69 allocate these interstate costs among the various access and interexchange services. In addition to the comment requested previously in this NPRM on the need for changes to our cost allocation rules in conjunction with specific proposals to revise certain rate structure provisions of the part 69 rules, we ask whether we should make any other modifications at this time to our cost allocation rules for rate-of-return LECs to accommodate any of those changes, or to update the rules in other respects. Parties making such suggestions should be specific about the reasons the change is needed and include proposed language for revising the cost allocation rules.

42. *Modification of New Services Requirement.* Rate-of-return LECs currently must file a petition pursuant to 47 CFR 1.3 to request a part 69 waiver for the establishment of one or more new switched access rate elements to accommodate a new service offering to switched access customers. In order to streamline the part 69 waiver process for a rate-of-return LEC wishing to offer a new service, we request comment on our proposal to adopt for rate-of-return LECs the streamlined petition provisions of section 69.4(g), which currently requires a price cap LEC in similar circumstances to file a petition that demonstrates one of two criteria: (1) That another LEC has previously obtained approval to establish identical rate elements and that the original petition did not rely upon a competitive showing as part of its public interest justification, or (2) that the new rate elements would serve the public interest. In addition, we request suggestions as to any manner in which the procedures or standards of section 69.4(g) should be modified for rate-of-return LECs. Parties should comment, for instance, on whether a showing of prior approval should be limited to petitions granted to other rate-of-return LECs.

Ex Parte Presentations

43. This Notice of Proposed Rulemaking is a permit-but-disclose proceeding and is subject to the permit-but-disclose requirements under 47 CFR 1206(b), as revised. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. Other rules pertaining to oral and written presentations are set forth in section 1.1206(b), as well.

Regulatory Flexibility Analysis

44. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the proposals suggested in this *NPRM. See* 5 U.S.C. 603. The RFA, 5 U.S.C. 601 *et seq.*, has been amended by the Contract With America Advancement Act of 1996, Public Law 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

45. Written public comments are requested on the IRFA. Comments and reply comments must be identified by a separate and distinct heading as responses to the IRFA and must be filed on or before August 17 or September 17, 1998 respectively. Parties should address the extent to which our proposals affect large and small incumbent rate-of-return local exchange carriers (LECs) differently and how small business entities, including small incumbent LECs and new entrants, will be affected. The Commission's Office of Public Affairs, Reference Operations Division, will send a copy of this *NPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with 5 USC 603(a). In addition, the *NPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

46. Need for, and Objectives of, the Proposed Rules. The Commission's access charge rules for rate-of-return LECs were adopted at a time when interstate access and local exchange services were offered on a monopoly basis. We seek to revise the Commission's access charge rules for local exchange carriers (LECs) subject to rate-of-return regulation to make the rules consistent with the pro-competitive, deregulatory policies contemplated by the Telecommunications Act of 1996. In the 1997 *Access Charge Reform Order*, we focused on setting in motion the forces of competition and deregulation in local markets served by incumbent local exchange carriers subject to price cap regulation. In this *NPRM*, we propose to modify our rate structure requirements, to the extent possible, to permit rate-of-return LECs to recover costs in a manner that more accurately reflects the way those costs are incurred, identify implicit subsidies, and reduce subsidies by recovering more costs from the cost causer, thereby sending more accurate pricing signals to both consumers and competitors, and facilitating the transformation from a regulated to a competitive marketplace. Specifically, we propose to reduce usage-sensitive interstate access charges by diminishing local loop and other non-traffic sensitive costs and directing rate-of-return LECs to recover those non-traffic sensitive costs through more economically efficient, flat-rated charges.

47. Legal Basis. The proposed action is authorized by sections 1–4, 201–205, 251, 254, 303(r) and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201–205, 251, 254, 303(r) and 403.

48. Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply. The Regulatory Flexibility Act directs agencies to provide a description of and an estimate, where feasible, of the number of small entities that may be affected by proposed rules, if adopted. 5 U.S.C. 603(b)(3). The Regulatory Flexibility Act generally defines the term "small entity" as having the same meaning as the term "small business." 5 U.S.C. 601(6). The term "small business" has the same meaning as the term "small business concern" under the Small Business Act. *See* 5 U.S.C. 601(3). Under the Small Business Act, a "small business concern" is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA). 15 USC 632. *See, e.g., Brown Transport Truckload, Inc.* v. *Southern Wipers, Inc.*, 176 B.R. 82 (N.D. Ga. 1994).

49. Because the small rate-of-return LECs that would be subject to these rules are either dominant in their field of operations or are not independently owned and operated, consistent with

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our prior practice, they are excluded from the definition of "small entity" and "small business concerns." *See Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96–98, First Report and Order, 11 FCC Rcd 15499, 16144–45 ¶¶ 1327–30 (1996) (*Local Competition Order*), 61 FR 45476 (August 29, 1996), *Order on Reconsideration*, 11 FCC Rcd 13042 (1996), 61 FR 52706 (October 8, 1996), *vacated in part sub nom. Iowa Utils. Bd.* v. *FCC*, 120 F.3d 753 (8th Cir. 1997), *cert. granted sub nom. AT&T Corp.* v. *Iowa Utils. Bd.*, 118 S.Ct. 879 (1998). Accordingly, our use of the terms "small entities" and "small businesses" does not encompass small rate-of-return LECs. Out of an abundance of caution, however, for regulatory flexibility analysis purposes, we will consider small rate-of-return LECs within this analysis and use the term "small incumbent rate-of-return LECs" to refer to any rate-of-return LECs that arguably might be defined by SBA as "small business concerns," including consideration of any adverse impact of the rules we adopt and consideration of alternatives that may reduce adverse impacts on such entities. Since the time of the Commission's 1996 decision in the *Local Competition Order*, 11 FCC Rcd at 16144–45, 61 FR 45476 (August 29, 1996), the Commission has consistently addressed in its regulatory flexibility analyses the impact of its rules on incumbent LECs. *See* 13 CFR 121.210 (SIC 4813). *See also* Executive Office of the President, Office of Management and Budget, *Standard Industrial Classification Manual* (1987).

50. The SBA has defined a small business for Standard Industrial Classification (SIC) category 4813 (Telephone Communications, Except Radiotelephone) to be small telecommunications entities when they have no more than 1,500 employees at the holding company level. 13 CFR 121.201. We invite interested parties to discuss the number of telecommunications providers, if any, that can be considered "small entities" within the meaning of the Regulatory Flexibility Act, and whether there is any reason to establish different requirements for small telecommunication providers. Below, we discuss the total estimated number of telephone companies falling within these categories and the number of small businesses in each category, and we then attempt to refine further those estimates to correspond with the categories of telephone companies that are commonly used under our rules.

51. The most reliable source of information regarding the total numbers of certain common carriers nationwide appears to be data the Commission publishes annually in its *Telecommunications Industry Revenue* report, regarding the Telecommunications Relay Service (TRS). FCC, Telecommunications Industry Revenue: TRS Fund Worksheet Data, Figure 2 (Number of Carriers Paying Into the TRS Fund by Type of Carrier) (Nov. 1997) (*Telecommunications Industry Revenue*). According to data in the most recent report, there are 3,459 interstate carriers. These carriers include, *inter alia*, local exchange carriers, wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, providers of telephone toll service, providers of telephone exchange service, and resellers. *See* 13 CFR 121.201, SIC code 4813.

52. *Telephone Companies Affected.* The United States Bureau of the Census (Census Bureau) reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone service, as defined therein, for at least one year. United States Department of Commerce, Bureau of the Census, *1992 Census of Transportation, Communications, and Utilities, Establishment and Firm Size*, at Firm Size 1–123 (1995) (*1992 Census*). This number contains a variety of different categories of carriers, including incumbent LECs, interexchange carriers (IXCs), competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, personal communication service (PCS) providers, covered specialized mobile radio (SMR) providers, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities or small rate-of-return incumbent LECs because they are not independently owned or operated. *See generally* 15 U.S.C. 632(a)(1). For example, a PCS provider that is affiliated with an IXC having more than 1,500 employees would not meet the definition of a small business. It seems reasonable to conclude that fewer than 3,497 telephone service firms are small entity telephone service firms or small incumbent rate-of-return LECs because some of them are not independently owned or operated.

53. *Wireline Carriers and Service Providers Affected.* The SBA has developed a definition of small entities for telephone communications companies other than radiotelephone (wireless) companies. According to the SBA's definition, a small business telephone company other than a radiotelephone company is one employing no more than 1,500 persons. 13 CFR 121.201, SIC Code 4812. The Census Bureau reports that there were 2,321 such telephone companies in operation for at least one year at the end of 1992. *1992 Census, supra*, at Firm Size 1–123. All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small rate-of-return LECs. We do not have data on the number of carriers that are not independently owned and operated, and thus are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 2,295 small telephone communications companies other than radiotelephone companies that may be affected by the proposed rules, if adopted.

54. *Incumbent Local Exchange Carriers Affected.* Neither the Commission nor the SBA has developed a definition of small providers of local exchange service. The closest applicable definition under SBA rules is for telephone telecommunications companies other than radiotelephone (wireless) companies. Standard Industrial Classification (SIC) Code 4813. The most reliable source of information regarding the number of incumbent LECs nationwide appears to be the report that we compiled from the 1997 Telecommunications Relay Service (TRS) Fund worksheets and the Universal Service Fund (USF) worksheets of September, 1997. According to our most recent data, 1,376 companies that provided interstate telecommunications service as of June 30, 1997 reported that they were engaged in the provision of local exchange service. Federal Communications Commission, Common Carrier Bureau, Industry Analysis Division, *Carrier Locator: Interstate Service Providers*, Figure 1 (Nov. 1997). Although it seems certain that some of these carriers are not independently owned or operated, have more than 1,500 employees, or are subject to price cap regulation, we are unable at this time to estimate with greater precision the number of rate-of-return LECs that would qualify as small business

concerns under the SBA's definition. Consequently, we estimate that there are fewer than 1,376 small rate-of-return LECs that may be affected by the proposals in this NPRM, if adopted. We seek comment on this estimate.

55. *Interexchange Carriers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of interexchange services. The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. 13 CFR 121.201, SIC code 4813. According to the most recent *Telecommunications Industry Revenue* data, 143 carriers reported that they were engaged in the provision of interexchange services. *Telecommunications Industry Revenue*, Figure 2. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of interexchange carriers (IXCs) that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 143 small entity IXCs that may be affected by the proposed rules, if adopted.

56. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements.* It is not clear whether, on balance, proposals in this NPRM would increase or decrease incumbent rate-of-return LECs' administrative burdens. With respect to rate-of-return LECs, we believe that the rate structure reforms that we propose in Sections II and III would require at least one, and possibly several, additional filings, and may reduce some administrative burdens. For example, if we adopt the streamlined petition provisions of 47 CFR 69.4(g) for introduction of new services by rate-of-return LECs, we expect that this would decrease some administrative burdens of rate-of-return LECs.

57. If the rule revisions we propose are adopted, we estimate that these rate-of-return LECs would make one tariff filing to bring their access charges into compliance with the revised rules. We are unable to estimate how extensive each tariff filing would be, on average. We estimate that, on average, it would take approximately two hours per page for the rate-of-return LEC to prepare each tariff filing, at a cost of $35 per hour in professional level and support staff salaries. If we decide to require the filing of a cost study for determining local switching costs attributable to line-side ports and to trunk-side ports, these rate-of-return LECs would file one cost study. We estimate that, on average, it would take approximately 400 hours for the rate-of-return LEC to prepare a cost study, at a cost of $30 per hour in professional level and support staff salaries. Compliance with these tariff and cost study requirements may compel the use of engineering, technical, operational, accounting, billing, and legal skills.

58. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered. In Sections II and III, for the subscriber line charge, the carrier common line charge, non-traffic sensitive switching costs, the transport interconnection charge, a special access PICC, and general purpose computer costs, we have sought comment on how a number of proposals would affect small entities. These proposals could have varying positive or negative impacts on small entities, including small rate-of-return LECs and new entrants. We seek comment on these proposals and urge that parties support their comments with specific evidence and analysis.

59. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules. None.

Additional NPRM Filing Procedures

60. Pursuant to applicable procedures set forth in 47 CFR 1.399 and 1.411 *et seq.*, interested parties may file comments with the Secretary, Federal Communications Commission, Washington D.C. 20554, no later than August 17, 1998. Interested parties may file replies no later than September 17, 1998. To file formally in this proceeding, participants must file an original and twelve copies of all comments, reply comments, and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original plus 16 copies must be filed. In addition, parties must file two copies of any such pleading with the Competitive Pricing Division, Common Carrier Bureau, Room 518, 1919 M Street, N.W., Washington, D.C. 20554.

61. Parties submitting diskettes should submit them along with their formal filings to the Commission's Office of the Secretary. Submissions should be on a 3.5 inch diskette formatted in an DOS PC compatible form. The document should be saved into WordPerfect 5.1 for Windows format. The diskette should be submitted in "read only" mode. The diskette should be clearly labelled with the party's name, proceeding, type of pleading (comment or reply comment), docket number, and date of submission.

62. Parties may also file informal comments electronically via e-mail <rateofreturn@fcc.gov>. Only one copy of electronically-filed comments must be submitted. The docket number of this proceeding must appear in the subject line, CC Docket No. 98–77. The subject line must also disclose whether an electronic submission is an exact copy of formal comments. Your full name and U.S. Postal Service mailing address must be included in your submission.

63. Comments and replies must comply with 47 CFR 1.49 and all other applicable sections of the Commission's Rules. We also direct all interested parties to include the name of the filing party and the date of the filing on each page of their comments and replies. Comments and replies must also clearly identify the specific portion of the NPRM to which a particular comment or set of comments is responsive. If a portion of a party's comments does not fall under a particular topic listed in the Table of Contents of this NPRM, such comments must be included in a clearly labelled section at the beginning or end of the submission.

Ordering Clauses

64. Accordingly, it is ordered, pursuant to sections 1–4, 201–205, 251, 254, 303(r) and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201–205, 251, 254, 303(r) and 403, that notice is hereby given of the rulemaking described above and that comment is sought on these issues.

65. It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 69

Access charges, Communications common carriers.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–19206 Filed 7–17–98; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No: 98–111, RM–9299]

Radio Broadcasting Services; Elko, NV

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by L. Topaz Enterprises, Inc., seeking the allotment of Channel 233C3 to Elko, NV, as the community's third local commercial FM service. Channel 233C3 can be allotted to Elko in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 40–49–48 North Longitude and 115–45–36 West Latitude.

DATES: Comments must be filed on or before August 31, 1998, and reply comments on or before September 15, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Dale A. Ganske, 5546–3 Century Avenue, Middleton, WI 53562 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–111, adopted July 1, 1998, and released July 10, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–19310 Filed 7–17–98; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–110, RM–9311]

Radio Broadcasting Services; Humboldt, NE

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by C.R. Communications, Inc. seeking the allotment of Channel 244A to Humboldt, NE, as the community's first local aural service. Channel 244A can be allotted to Humboldt in compliance with the Commission's minimum distance separation requirements with a site restriction of 2.1 kilometers (1.4 miles) southeast, at coordinates 40–09–00 North Latitude and 95–55–43 West Longitude, to avoid a short-spacing to Station KZKX, Channel 245C1, Seward, NE.

DATES: Comments must be filed on or before August 31, 1998, and reply comments on or before September 15, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Charles A. Radatz, President, C.R. Communications, Inc., P.O. Box 589, Falls City, NE 68355 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–110, adopted July 1, 1998, and released July 10, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–19309 Filed 7–17–98; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–109; RM–9282]

Radio Broadcasting Services; Superior, WY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Windy Valley Broadcasting proposing the allotment of Channel 293C at Superior, Wyoming, as the community's first local aural transmission service. Channel 293C can be allotted to Shoshoni in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 293C at Superior are North Latitude 41–46–12 and West Longitude 108–58–12.

DATES: Comments must be filed on or before August 31, 1998, and reply comments on or before September 15, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: A. Wray Fitch, III, Esq., Gammon & Grange, P.C., 8280 Greensboro Drive, McLean, Virginia 22102–3807(Counsel for Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–109, adopted July 1, 1998, and released July 10, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–19306 Filed 7–17–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–107, RM–9288]

Radio Broadcasting Services; Gaylord, MI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Darby Advertising, Inc., proposing the substitution of Channel 268A for Channel 237A at Gaylord, Michigan, and modification of the license for Station WMJZ to specify operation on Channel 268A. Channel 268A can be allotted to Gaylord, Michigan, at petitioner's specified site (45–01–33 and 84–39–40). Canadian concurrence will be requested for this allotment. In addition, we will not accept competing expressions of interest for the use of Channel 268A at Gaylord because no upgrade in facilities is contemplated.

DATES: Comments must be filed on or before August 31, 1998, and reply comments on or before September 15, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Allan C. Campbell, Irwin, Campbell, & Tannenwald, P.C., 1730 Rhode Island Avenue, N.w., Suite 20, Washington, D. C. 20036.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–107, adopted June 24, 1998, and released July 10, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–19307 Filed 7–17–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–113; RM–9296]

Radio Broadcasting Services; Tumon, GU

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Guam Broadcast Services, Inc., proposing the allotment of Channel 280A at Tumon, Guam, as the community's first local aural transmission service. Channel 280A can be allotted to Tumon in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 280A at Tumon are North Latitude 13–30–25 and East Longitude 144–48–05.

DATES: Comments must be filed on or before August 31, 1998, and reply comments on or before September 15, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: Robert J. Rini, Esq., Rini, Coran & Lancellotta, P.C., 1350 Connecticut Avenue, NW., Suite 900, Washington, DC 20036 (Counsel for Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–113, adopted July 1, 1998, and released July 10, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

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Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–19306 Filed 7–17–98; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–114; RM–9298]

Radio Broadcasting Services; La Center, KY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Billy R. Evans proposing the allotment of Channel 282A at La Center, Kentucky, as the community's first local aural transmission service. Channel 282A can be allotted to La Center in compliance with the Commission's minimum distance separation requirements with a site restriction of 8.8 kilometers (5.5 miles) east to avoid a short-spacing to the licensed site of Station WFGE(FM), Channel 279C1, Murray, Kentucky, at petitoner's requested site. The coordinates for Channel 282A at La Center are North Latitude 37–04–22 .and West Longitude 88–52–25.

DATES: Comments must be filed on or before August 31, 1998, and reply comments on or before September 15, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: Billy R. Evans, 108 Connecticut Street, Elizabethtown, Kentucky 42701 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–114, adopted July 1, 1998, and released July 10, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–19305 Filed 7–17–98; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–115, RM–9277]

Radio Broadcasting Services; Stevensville, MT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Topaz Enterprises, Inc. proposing the allotment of Channel 283A to Stevensville, Montana, as that community's first local broadcast service. The channel can be allotted to Stevensville without a site restriction at coordinates 46–30–24 and 114–05–18. Canadian concurrence will be requested for this allotment.

DATES: Comments must be filed on or before August 31, 1998, and reply comments on or before September 15, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Dale A. Ganske, President, L. Topaz Enterprises, Inc., 5546–3 Century Ave., Middleton, Wisconsin 53562.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–115, adopted July 1, 1998, and released July 10, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–19304 Filed 07–17–98; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–116; RM–9281]

Radio Broadcasting Services; Lovell, WY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Windy Valley Broadcasting proposing the allotment of Channel 296C at Lovell, Wyoming, as the community's first local aural transmission service. Channel 296C can be allotted to Lovell in compliance with the Commission's minimum distance separation requirements with a site restriction of 25.4 kilometers (15.8 miles) south at petitioner's requested site. The coordinates for Channel 296C at Lovell are North Latitude 44–36–23 and West Longitude 108–23–30.

DATES: Comments must be filed on or before August 31, 1998, and reply comments on or before September 15, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: A. Wray Fitch, III, Esq., Gammon & Grange, P.C., 8280 Greensboro Drive, McLean, Virginia 22102–3807(Counsel for Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–116, adopted July 1, 1998, and released July 10, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–19303 Filed 7–17–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–112, RM–9027, RM–9268]

Radio Broadcasting Services; Anniston and Ashland, AL, College Park, Covington and Milledgeville, GA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on two mutually exclusive petitions. Preston W. Small, licensee of Station WLRR, Channel 264A, Milledgevile, GA, requests the substitution of Channel 264C3 for Channel 264A, the reallotment of Channel 264C3 from Milledgeville to Covington, GA, as the community's second local aural and first local FM service, and the modification of Station WLRR's license to specify Covington as its community of license. WNNX License Investment Co., licensee of Station WHMA, Channel 263C, Anniston, AL, requests the substitution of Channel 263C3 for Channel 263C and its reallotment to College Park, GA, as the community's first local aural service, and the modification of Station WHMA's license accordingly. In addition, WNNX requests that Channel 261C3 be allotted to Anniston as the community's fifth local aural service and that Channel 264A be allotted to Ashland, AL, as the community's second local FM service.

DATES: Comments must be filed on or before August 31, 1998, and reply comments on or before September 15, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultants, as follows: Timothy E. Welch, Hill & Welch, 1330 New Hampshire Avenue, NW, Suite 113, Washington, DC 20036 (Counsel to Small); Mark N. Lipp, Ginsburg, Feldman & Bress, 1250 Connecticut Avenue, NW, Washington, DC 20036 (Counsel to WNNX).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: Channel 264C3 can be allotted to Covington in compliance with the Commission's minimum distance separation requirements with a site restriction of 16.3 kilometers (10.2 miles) southeast, at coordinates 33–28–34 NL; 83–45–34 WL, to avoid a short-spacing to Station WUSY, Channel 264C, Cleveland, Tennessee and to accommodate petitioner's desired transmitter site. Channel 263C3 can be allotted to College Park with a site restriction of 12.0 kilometers (7.5 miles) northwest, at coordinates 33–45–32 NL; 84–30–10 WL, to accommodate petitioner's desired transmitter site. Channel 261C3 can be allotted to Anniston with a site restriction of 3.0 kilometers (1.9 miles) north, at coordinates 33–40–51; 85–48–56, to avoid a short-spacing to Station WDXX, Channel 261C2, Selma, Alabama, and Channel 264A can be allotted to Ashland with a site restriction of 5.9 kilometers (3.7 miles) south, at coordinates 33–13–15; 85–49–35, to avoid a short-spacing to Station WUSY, Cleveland, Tennessee.

This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–112, adopted July 1, 1998, and released July 10, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments.

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See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–19300 Filed 7–17–98; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 385

[FHWA Docket No. FHWA–98–3639]

RIN 2125–AE37

Safety Fitness Procedures

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Advance notice of proposed rulemaking (ANPRM); request for comments.

SUMMARY: On November 6, 1997, the FHWA published a final rule incorporating the safety fitness rating methodology (SFRM) into 49 CFR 385 as appendix B. In that document the FHWA identified its ultimate goal as creating a more performance-based means of determining the fitness of carriers to conduct commercial motor vehicle (CMV) operations in interstate commerce. The final rule announced that the FHWA would publish an ANPRM shortly which would request comments on the future evolution of a rating system that could be used both in making safety fitness determinations and meeting the demands of shippers, insurers and other present and potential users interested in evaluating motor carrier performance. Since the final rule, legislation was enacted that substantially heightens the importance of unsatisfactory ratings. Accordingly, at this time the FHWA is seeking comments and supporting data on what issues should be considered in constructing a rating system for the future.

DATES: Comments must be received on or before September 18, 1998.

ADDRESSES: Submit written, signed comments to the docket number that appears in the heading of this document to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Mr. William C. Hill, Office of Motor Carrier Research and Standards, (202) 366–4009, or Mr. Charles Medalen, Office of the Chief Counsel, (202) 366–1354, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590, Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal Holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users can access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): http://dms.dot.gov. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Federal Register Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the **Federal Register**'s home page at: http://www.nara.gov/nara/fedreg and the Government Printing Office's database at: http//www.access.gpo.gov/su_docs.

Background

Safety ratings for interstate motor carriers have been in use by the Department of Transportation (DOT) since 1966 when Congress transferred the responsibility for regulating motor carrier safety to the Department from the Interstate Commerce Commission (ICC). Congress delegated the authority to regulate qualifications and maximum hours-of-service of drivers, and the safety of operations and equipment of motor carriers in interstate commerce to the FHWA, an operating administration of the DOT. Pub. L. 89–670, § 6(f)(3)(B), Oct. 15, 1966, 80 Stat. 940, repealed and recodified by Pub. L. 97–449, Jan. 12, 1983, 96 Stat. 2415, 49 U.S.C. 104(c). Section 215 of the Motor Carrier Safety Act (MCSA) of 1984 (Pub. L. 98–554, 98 Stat. 2844, 49 U.S.C. 31144) required the Secretary of Transportation to prescribe by regulation procedures for determining the safety fitness of owners and operators of CMVs in interstate commerce, including those seeking new or additional operating authority from the ICC. It also stated that "rules adopted under this section shall supersede all Federal rules regarding safety fitness and safety rating of motor carriers in effect on the date of enactment of this Act." The final rule implementing the new safety fitness procedures mandated by the MCSA of 1984 became effective in 1989 (53 FR 50968, Dec. 19, 1988, 49 CFR Part 385). The procedures and rating methodology implementing the 1989 final rule were recently modified in a rulemaking concluding in a final rule issued on November 6, 1997, (62 FR 60035). This action was necessitated by a ruling of the U.S. Court of Appeals for the D.C. Circuit in *MST Express et al.* v. *Department of Transportation (FHWA)*, 108 F.3d 401 (D.C. Cir. 1997), to the effect that the rating methodology had not been adopted through notice and comment rulemaking as required by the Administrative Procedure Act (5 U.S.C. 553).

In the Transportation Efficiency Act for the 21st Century (TEA–21), Pub. L. 105–178, enacted June 9, 1998, Congress amended 49 U.S.C. 31144 to prohibit transportation of any property in interstate commerce by motor carriers with unsatisfactory ratings, and provides such carriers 60 days within which to improve the rating (extendable another 60 days) before the prohibition takes effect. This provision will be incorporated into the current regulations in a subsequent rulemaking.

Safety Rating System

A safety fitness rating system was first used by the FHWA to provide safety information to the ICC to assist in screening applicants seeking operating authority. It evolved into a means to identify motor carriers most likely to benefit from on-site compliance reviews (CRs). Presently, safety ratings are made available to anyone upon request. Shippers, including governmental agencies, use the ratings in making carrier selections and insurers use them in making decisions regarding coverage.

Safety ratings are developed in part through an on-site CR of a motor carrier's records, operations and, when available, equipment. The review is used to assess whether a commercial motor carrier's safety management controls are functioning effectively to ensure acceptable compliance with § 385.5, safety fitness standard. Safety rating factors are used in determining a safety rating. Four rating factors relate to the regulatory requirements of the Federal Motor Carrier Safety Regulations (FMCSRs) (general, driver, operational, vehicle) and one to the Hazardous Materials Regulations

(HMR), if applicable. The carrier's accident rate is the remaining factor. The rating factors are given equal weight, and one of three safety ratings can be assigned: satisfactory, conditional, or unsatisfactory. This process also identifies motor carriers needing improvement in their compliance with the FMCSRs and HMRs. Motor carriers rated unsatisfactory generally receive a higher priority for future compliance and enforcement efforts.

Statutory Prohibitions

In 1991, following a mandate in the MCSA of 1990 (Pub. L. 101–500, § 15(b)(1), 104 Stat. 1218, 49 U.S.C. 5113), the FHWA promulgated § 385.13 which prohibits motor carriers of hazardous materials (in quantities requiring placarding) and passenger carriers transporting more than 15 passengers including the driver from operating with an unsatisfactory safety rating unless the rating is improved within 45 days.

The prohibition against transportation of passengers or hazardous materials was significant because it applied serious statutory consequences to an unsatisfactory rating and limited the motor carrier's ability to operate in interstate commerce. With this change, Congress equated the unsatisfactory rating with unsafe operations. The MCSA of 1990 also prohibited Federal agencies from using motor carriers with an unsatisfactory rating to transport hazardous materials in a quantity requiring placarding or more than 15 passengers.

Section 4009 of the TEA–21 now gives most carriers found by the FHWA to be unfit a grace period 60 days. Those unable to improve their fitness determination during that period will have to halt trucking operations on the 61st day. However, passenger and hazardous materials carriers found to be unfit remain subject to a 45-day grace period before shutting down. A rule to implement TEA–21 will be proposed later.

In the November 6, 1997, final rule, the FHWA included an amendment which gives all motor carriers (not just those subject to operational prohibitions) a 45-day grace period before a less-than-satisfactory rating takes effect. Under the new procedures, motor carriers receive a Notice of Proposed Rating when the rating would be less than satisfactory. The notice informs the carrier of the reasons for the unsatisfactory or conditional rating and that it will take effect in 45 days. It also advises the carrier of its procedural options under Part 385. During the exit interview at the conclusion of the CR, the motor carrier also is informed of the safety violations discovered and is advised how improvements can be made.

Other Uses of Ratings

As the safety rating system has evolved, the assignment of ratings has taken on new importance to the public, particularly shippers and insurance companies. The changing use and public perception of the ratings provide the impetus for this rulemaking. Over time, the reliance on the safety ratings to make important business decisions regarding which carriers to use or which to insure has continued to grow. The ability of the agency to maintain current ratings for all motor carriers has not. Experience over the last eight years illustrates the impracticality of attempting to rate all carriers in an industry with high company turnover. The motor carrier industry has also grown at a prodigious rate, especially since 1980. For example, in 1979, the year before deregulation, for-hire carriers holding interstate authority from the ICC numbered under 20,000. Today that group, which probably has the greatest demand for safety fitness determinations, comprises nearly 80,000 registrants. The OMC census, which includes private carriers and compensated carriers previously exempt from ICC regulation, contains well over 400,000 companies.

Completing on-site rating reviews, bringing enforcement actions against high-risk carriers, doing legislatively mandated complaint investigations requiring on-site carrier reviews, and responding to individual requests from motor carriers that need a satisfactory rating for business purposes or that object to the ratings they have received, all serve to contribute to a high demand the agency is not able to fulfill with current resources.

New Demands

The Congress directed the FHWA in Sec. 4003 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Pub. L. 102–240, 105 Stat. 1914, 2144, to establish information systems containing safety fitness data, including roadside inspections and out-of-service orders for State commercial motor vehicle registrants (49 U.S.C. 31106). The Congress further directed the Department to demonstrate methods of linking a carrier's safety fitness to vehicle registration and to determine the types of sanctions and limitations which may be imposed to ensure the safety fitness of the registrant. That demonstration project, formerly known as the Commercial Vehicle Information System (CVIS), developed a new methodology to prioritize motor carriers for on-site reviews and monitor their safety performance. It is now called the Performance and Registration Information System Management (PRISM). The FHWA is planning to issue a Notice of Proposed Rulemaking in the near future which will set forth mechanisms to encourage carriers to improve their safety performance and enhance the FHWA's ability to focus resources on poor performers, i.e., those carriers over-involved in crashes or presenting the greatest potential for crashes.

SAFESTAT

The demonstration project also produced a new safety risk assessment model, the Motor Carrier Safety Status Measuring System or SAFESTAT, which varies significantly from the current SFRM, because it makes extensive use of performance data and assesses carrier performance over time. A safety rating is static and does not change, even though actual performance may improve or decline, until a new CR is performed. In contrast, SAFESTAT uses all available safety performance data to continuously assess the safety status of carriers and generate a safety indicator. The indicator is a preliminary *ranking* of carriers relative to their peers and is designed to identify those carriers presenting potential risks that require additional attention. In SAFESTAT, the results of a CR contribute additional data elements to be considered along with safety performance data, such as accident rates, roadside vehicle inspections, driver performance, and enforcement actions. Other data elements, such as driver moving violations, will be added to the model as they become more generally available. SAFESTAT evaluates all data elements on the basis of severity and time. For example, more weight is given to a fatal or serious injury crash than a tow-away crash and recent crashes are weighted more heavily than crashes occurring in the past. The CR remains as an integral part of SAFESTAT, and is used to gather safety data that cannot be obtained at the roadside. SAFESTAT represents another method of assessing carrier safety, but at present it is not a substitute for the current safety fitness rating process.

Third-party Ratings

Because of the increasing demand for safety fitness evaluations and the realization that present resources are not likely to grow dramatically, the FHWA is exploring the feasibility of using

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third-party contractors to increase the pool of safety information available. This is authorized by Sec. 4006 of TEA–21. Private rating services could be used to meet the public demand for additional safety information upon which to base business decisions. Federal resources would be freed up to pursue corrective measures against poorly performing carriers.

The U.S. Army's Military Traffic Management Command currently uses third-party services to assess the safety fitness of motor carriers under contract to the military. Private services could operate much like those already providing consumer credit histories, significantly increasing the availability of and access to relevant safety information. The FHWA and the industry could join in a partnership to set the standards for the conduct of safety fitness reviews, the use of safety information, and other aspects of such a system. A large data bank could be created into which safety information generated by Federal, State and private sources would be deposited. So long as shippers, insurers, and other stakeholders insisted on making decisions about the use of motor carriers based, at least in part, on their safety records, the demand for such a service would expand. Motor carriers interested in marketing their services would inevitably need to have a good safety rating to remain competitive. The FHWA is particularly interested in the feasibility of such a system.

General Discussion

Since its adoption, the safety rating process has been the subject of much confusion, controversy, and dispute. Although the FHWA had preferred to use the process as a means of targeting scarce enforcement and oversight resources, its use in making value judgments about the quality of motor carriers has increasingly been perceived as a primary function.

In a Notice of Proposed Rulemaking issued April 29, 1996, (61 FR 18870), the FHWA discussed the potential for the unsatisfactory rating to become the equivalent of a judgment that the motor carrier is unfit to operate in interstate commerce and to take on the aspect of a debarment in fact, if not in law. The statutory prohibition against the transportation of passengers or hazardous materials by a motor carrier with an unsatisfactory rating is now, with the enactment of TEA–21, to apply to all transportation of property. Most governmental shippers consider the unsatisfactory rating a disqualifier, and many other shippers treat it the same way. This is consistent with the FHWA's belief that unsatisfactory carriers should be well below the average and that the percentage of carriers earning such a rating ought to be small. The unsatisfactory rating has become and will remain a judgment that a carrier should discontinue operations until it can demonstrate a commitment to maintain adequate safety practices. That judgment must be correctly determined and fairly applied. In our system, a guilty judgment follows the opportunity to be heard, and the notice procedure adopted in the November 6, 1997, final rule should afford that opportunity.

In view of recent developments regarding the current safety fitness rating process and methodology and the obvious limitations on the availability of resources required to maintain a safety fitness evaluation process at the level many in the public and perhaps even the Congress expect, the FHWA is asking for comments and suggestions for changes through the following questions. In answering the questions, if possible, please provide any statistical information or empirical evidence to support your comments.

General

1. What do you believe should be the principal ingredients of a rating system? What kind of a rating system would best suit your needs? Why?

2. What benefits do you expect to gain from a rating system? What business decisions do you presently base on carrier ratings?

3. Are there differences in the way ratings should be used? (e.g., by FHWA? By shippers? By others?).

4. If ratings must impact the continued operations of rated carriers, what is the appropriate threshold for determining that a carrier is unsatisfactory, meaning "unfit to operate"?

Tiered System

5. Should the FHWA continue to maintain the three ratings: *satisfactory, conditional*, or *unsatisfactory*? If yes, what benefits do your perceive in maintaining the three ratings?

6. What should be the highest tier in such a system, and what should it connote?

7. How long should any rating last?

8. Do you see any benefit to a single rating system by the FHWA which would be concerned only with *unsatisfactory* carriers that would have to improve or cease operating?

Criteria

9. Should such ratings be determined entirely by objective (performance-based) criteria? Why?

10. What data elements best reveal the safety performance of the motor carrier and should receive consideration in future safety fitness determinations?

11. How should regulatory compliance be treated in safety fitness determinations? Which regulations are most important in evaluating safety fitness?

12. How should poor compliance be reconciled with good safety experience? Should a motor carrier be rated *unsatisfactory* even if it has a low accident rate?

Data Sources

13. Do you believe there is presently sufficient data available to make judgments about a motor carrier's ability to stay in business?

14. Should carriers be grouped by similarity of operations? By size?

Third-party System

15. Are there significant benefits to be derived from a third-party on-site review system for evaluating motor carriers? What do you perceive them to be?

16. If a third-party review system were to start up, what should be the Federal role in such a system?

17. Could and should a private third-party review system coexist with a Federal system? What would be their respective roles? What relationships should there be, if any, between coexisting Federal and private review systems?

18. What should be the effect of the third-party rating on the carrier's operation? What kind of review procedures would be required?

19. Should the information from third-party on-site reviews become a part of the FHWA data base? How should such information be treated?

20. Should a third-party reviewer have direct access to FHWA's data base to a greater extent than such information is presently available to the public?

21. Should there be standards for third-party reviews, including the identification of the relevant data elements to be employed for evaluative purposes? How should such standards be developed?

Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket room at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable, but the FHWA may issue an NPRM at any time after the close of the comment period. In addition to late comments, the FHWA will also continue to file, in the docket, relevant information that becomes available after the comment closing date, and interested persons should continue to examine the docket for new material.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined that this document does not contain a significant regulatory action under Executive Order 12866. The FHWA does not know what direction this rulemaking will take, however, it does not expect that this rulemaking will be inconsistent with any other agency actions or materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs. The FHWA anticipates that the costs of any rulemaking action that might be implemented in response to comments received would be no greater than the motor carrier's current costs of complying with the regulatory requirements. At this preliminary stage, we do not anticipate that any regulatory action taken in response to comments introduced here would be of sufficient economic magnitude to warrant a full regulatory evaluation.

Regulatory Flexibility Act

Although this document does not include any specific proposal at this time, the FHWA believes this action will not lead to a proposed rule that would have a significant economic impact on a substantial number of small motor carriers.

To meet the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612), however, the FHWA would evaluate the effects on small entities of any rule promulgated in subsequent phases of this proceeding. Therefore, the agency is particularly interested in comments from small entities on whether there are impacts from this action and how those impacts may be minimized.

Unfunded Mandates Reform Act of 1995

The FHWA will analyze any proposed rule to determine whether it would result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, as required by the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532).

Executive Order 12612 (Federalism Assessment)

The FHWA will analyze any proposed rule using the principles and criteria contained in Executive Order 12612 to determine whether the proposal would have sufficient federalism implications to warrant the preparation of a federalism assessment. The FHWA does not expect that any action developed in response to comments introduced here would infringe upon the State's ability to discharge traditional State governmental functions because interstate commerce, which is the subject of these regulations regarding interstate operations, has traditionally been governed by Federal laws.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Paperwork Reduction Act

The FHWA does not anticipate that any rulemaking action implemented in subsequent phases of this proceeding would result in changes in the collection of information requirements that are currently approved. The FHWA does not foresee the likelihood of increased paperwork burdens because what is being considered in this action is an evaluative process to determine, in part, how regulated motor carriers are complying with existing regulations. Should revisions to the safety assessment and rating system be proposed in this proceeding, however, the agency will evaluate carefully the information collection implications of such revisions under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

National Environmental Policy Act

The agency will analyze any action implemented in subsequent phases of this proceeding for the purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) to determine whether the action would affect the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 385

Highway safety, Highways and roads, Motor carriers, Motor vehicle safety, and Safety fitness procedures.

Issued on: July 10, 1998.

Kenneth R. Wykle,

Federal Highway Administrator.

[FR Doc. 98–19294 Filed 7–17–98; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Parts 395 and 396

[FHWA Docket No. FHWA–98–3414]

RIN 2125–AE35

Out-of-Service Criteria

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Advance notice of proposed rulemaking (ANPRM); request for comments.

SUMMARY: The FHWA seeks public comment concerning use of the "North American Uniform Out-of-Service Criteria" (OOS Criteria). During roadside inspections, Federal, State and local safety inspectors use the OOS Criteria as a guide in determining whether to place commercial motor vehicles (CMVs) or drivers of CMVs out-of-service. The OOS Criteria is a list of those violations which are so unsafe that they must be corrected before operations can resume. Correction of other less severe violations can be deferred to a more convenient time and place. The FHWA is seeking public comment on the future scope and effect of the OOS Criteria, which are not part of the Federal Motor Carrier Safety Regulations (FMCSRs). The agency is also seeking comment on the need to formalize these guidelines.

DATES: Comments should be received on or before September 18, 1998.

ADDRESSES: Signed, written comments should refer to the docket number appearing at the top of this document and must be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

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FOR FURTHER INFORMATION CONTACT: Mr. Robert F. Schultz, Jr., Office of Motor Carrier Research and Standards (HCS–10), (202) 366–4009, or Mr. Charles Medalen (HCC–20), Office of the Chief Counsel, (202) 366–1354, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users can access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL):http://dms.dot.gov. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Federal Register's home page at: http://www.nara.gov/fedreg and the Government Printing Office's database at: http://www.access.gpo.gov/su_docs.

What is the "North American Uniform Out-of-Service Criteria"?

The OOS Criteria is a reference guide developed and maintained by the Commercial Vehicle Safety Alliance (CVSA) to assist enforcement personnel in deciding whether to allow a CMV or driver, found in violation of law, to continue in commerce. The CVSA is an association of State, local, provincial and Federal officials responsible for the administration and enforcement of motor carrier safety laws and regulations in the United States, Canada, and Mexico. The CVSA provides a mechanism for the development of consensus upon issues of common concern. The OOS Criteria is a detailed list of conditions which the CVSA membership has agreed are sufficiently hazardous to justify restricting further operation by a driver or a CMV. Each year the CVSA reviews the OOS Criteria, and makes necessary changes.

How are the OOS Criteria Used?

The majority of the safety violations found during inspections at the roadside relate to the condition of the CMV. Some of these violations can be corrected at the roadside; for example, a driver can repair a turn signal which is not functioning. Others must be corrected at a repair facility. If a particular safety violation presents no immediate or undue threat to public safety, it would be an unnecessary interruption in the flow of commerce and perhaps even cause a traffic safety problem to require the motor carrier to undertake corrective action on site. In such cases, the assessment of a warning, fine, or other penalty is sufficient; the repairs necessary to prevent further deterioration or ultimately correct the condition may safely be deferred to another time and place.

In this sense, the OOS Criteria are usually less stringent than the FMCSRs. For example, a CMV with a single headlamp incapable of producing a low beam during night-time driving does not comply with the FMCSRs (49 CFR 393.9). The OOS Criteria, however, are not operable until both headlamps are incapable of producing a low beam. In this example, the inspector would cite the motor carrier for the violation of the FMCSRs, but permit the CMV to proceed so that repairs to the headlamp can be made at a more convenient time and place. In cases such as this, the OOS Criteria serve as enforcement tolerances because the violation of the FMCSRs is allowed to continue. In other instances, provisions of the OOS Criteria correspond precisely with the FMCSRs. For example, a CMV with only one rear turn signal working properly does not comply with the FMCSRs (49 CFR 393.11). The OOS Criteria also provides that the CMV should not be moved until both signals are in working order.

State inspectors with general police powers have authority under State law to stop and seize summarily. All States participating in the Motor Carrier Safety Assistance Program (MCSAP) have agreed that their inspectors will use the OOS Criteria when exercising this power. If an inspector, during an inspection activity, observes inherently dangerous conditions which are identified in the OOS Criteria, the inspector may issue an out-of-service order. Motor carriers and their drivers are able to anticipate reasonably uniform treatment of violations in all jurisdictions throughout this country because of the general acceptance of the OOS Criteria.

The majority of drivers who are placed out-of-service are so treated because they are driving in violation of the maximum hours-of-service rules under 49 CFR part 395. Such violations are usually corrected by the driver being off-duty at least eight consecutive hours.

An FHWA inspector at roadside may order a motor carrier's driver or CMV to cease operation.[1] When conducting roadside vehicle and driver inspections, the FHWA uses the OOS Criteria in deciding whether to allow particular motor carriers, CMVs, or drivers to proceed in violation of the FMCSRs.

How has the OOS Criteria Evolved?

Out-of-service criteria for drivers and CMVs have been in existence over forty years. Prior to its absorption into the United States Department of Transportation in 1967, the Bureau of Motor Carrier Safety (BMCS), a part of the former Interstate Commerce Commission, developed the first out-of-service criteria in carrying out its inspection function. Those criteria continued in use by the FHWA safety investigators thereafter.

In 1980, the FHWA conducted a pilot program to assess the potential of States to enforce CMV safety rules at the same time they enforce the restrictions on the size and weight of CMVs. Four States participated and generated results which were a factor in the enactment of legislation in 1982 authorizing the Motor Carrier Safety Assistance Program. That program, which provides funding to the States in their efforts to enforce motor carrier safety regulations, has been quite successful.

The States were brought together on another front by their search for a solution to the problems created by the patchwork of diverse State laws and regulations governing motor carrier safety. The States came to realize that a larger number of motor carriers could comply with safety laws and regulations if greater uniformity in enforcement were achieved. Several western States and Canadian Provinces formed the CVSA to reach agreement on issues such as inspections and out-of-service criteria. With the subsequent encouragement and support of the FHWA through the MCSAP, the CVSA expanded dramatically. Soon all 50 States and the District of Columbia became partners with the FHWA by adopting and enforcing, with minor variances, the FMCSRs and the Hazardous Materials Regulations (HMRs) of the Research and Special Programs Administration, and by using uniform inspection criteria.

In 1988, the FHWA published a comparison of the OOS Criteria and the FHWA's inspection criteria in 49 CFR Ch. III, subchapter B, appendix G. The fact that this comparison is so outdated and of little use today demonstrates one of the issues discussed below in the options for further regulatory action.

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[1] See 49 CFR 395.13(a), and 396.9(c).

The Motor Carrier Act of 1991 (the Act) prescribed certain penalties for motor carriers or drivers found to have violated out-of-service orders (49 U.S.C. 31310(g)(2)). The Act made the adoption of such penalties by the States, and a program of random reinspection of vehicles placed out-of-service, a condition for receipt of Federal safety funding under the MCSAP. The Congress also made a State's adoption of the penalties for violation of out-of-service orders a condition of continued receipt of the State's full allocation of highway construction funds (49 U.S.C. 31311). The FHWA published implementing regulations on May 18, 1994 (59 FR 26022) (codified in part at 49 CFR 383.5 and 390.5, definitions of "out-of-service criteria").

What is the FHWA's Role in the Development of the OOS Criteria?

The FHWA is a non-voting member of the CVSA, as are representatives of numerous trade organizations, such as the American Trucking Associations (ATA), the National Private Truck Council (NPTC), the Owner-Operator Independent Drivers Association, Inc. (OOIDA), and the National Tank Truck Carriers, Inc. (NTTC). Committees of the CVSA consider and recommend modifications to the OOS Criteria, which are then accepted or rejected by a vote of CVSA member jurisdictions. The revised OOS Criteria are then submitted to the FHWA for its use.

The FHWA's interest in the OOS Criteria is three-fold. First, as part of the MCSAP program, each State develops a Commercial Vehicle Safety Plan (CVSP) which the FHWA must approve before authorizing funds. At the present time, the CVSPs of all the States provide for use of the OOS Criteria in conducting driver, vehicle, and hazardous materials inspections at the roadside.

Second, the FHWA's own safety investigators use the CVSA OOS criteria in the limited number of roadside inspections they perform each year. By following the CVSA OOS criteria in determining whether to place a driver or vehicle out-of-service, the FHWA is promoting consistency with these State-developed criteria and further uniformity in treatment of carriers nationwide.

Third, the FHWA also uses the OOS Criteria indirectly in determining the safety fitness of motor carriers (49 CFR 385.5). The FHWA's safety ratings for motor carriers include three categories: Satisfactory, Conditional, or Unsatisfactory (49 CFR 385.7). The ratings are based on a number of factors, including compliance with the FMCSRs.

The FHWA has recently placed greater emphasis on the safety performance of motor carriers in the rating process, and this action has led to additional emphasis on the OOS Criteria. The FHWA considers the vehicle out-of-service experience of motor carriers when calculating the vehicle factor, one of the six components of a motor carrier's safety rating. Rather than taking all roadside violations into account, the FHWA considers only out-of-service violations on the presumption that, because they are more serious, they are more likely to reflect on the inspection, repair, and maintenance programs of motor carriers.[2]

Why is the FHWA Undertaking This Action?

The agency believes that the OOS Criteria serve as guides for enforcement personnel in the exercise of discretion. The inspector determines if there is a violation of the underlying substantive safety regulation, whether it be the FMCSRs, a State law or regulation compatible with the FMCSRs, or the HMRs. When this determination has been made, the inspector faces a second question: may this particular driver or vehicle resume operations immediately in the face of this violation? The inspector exercises his or her discretion in answering this question. The OOS Criteria serve as guidelines to help the inspector determine whether the condition that he or she is observing is sufficiently hazardous to warrant placing the driver or CMV out-of-service, or conversely, whether the condition is not serious enough to prevent the driver and CMV from proceeding in violation of the regulation, deferring the repairs until a more convenient time and location. Thus, the OOS Criteria take on the character of enforcement tolerances.

The FHWA is responding today, however, to a growing perception within the industry that the CVSA OOS Criteria play a significant role in the enforcement of the FMCSRs, and that publication of the criteria as a part of the FMCSRs is therefore warranted. The FHWA believes that the time has come for a full discussion of the OOS Criteria: what are they; what is their purpose; how are they used; who is responsible for implementing them; and whether they are regulatory or merely guides for the use of necessary discretion in the enforcement of motor carrier safety.

The FHWA is undertaking this action because there has been criticism of the manner in which the CVSA OOS Criteria are currently utilized. On May 1, 1989, the Maine State Police petitioned the FHWA to incorporate the CVSA OOS Criteria by reference within the FMCSRs. On October 29, 1993, the CVSA, petitioned the FHWA to define "out-of-service criteria," and incorporate the CVSA OOS Criteria into the FMCSRs by reference. On June 13, 1994, the OOIDA filed a motion with the FHWA to stay the imposition of certain final FHWA rules pertaining to penalties for violation of out-of-service orders, and cited in support of its motion the failure of the FHWA to formally incorporate these standards within the FMCSRs (FHWA Docket No. MC–92–13; FHWA–97–2279 at 59 FR 26022).

On April 20, 1995, the National Tank Truck Carriers, Inc. petitioned the FHWA to propose a rulemaking to establish the OOS Criteria as an appendix to the FMCSRs. On June 10, 1997, the FHWA granted the NTTC's petition, stating as part of the order entered that the FHWA would "publish a rulemaking to discuss the entire issue and propose a resolution." This ANPRM initiates that rulemaking.

Public comment on the issues raised in this ANPRM will assist the FHWA in determining whether any further regulatory action is required.

What Should be the Future Scope and Effect of the OOS Criteria?

1. Maintain the current FHWA policy.

As stated above, the FHWA uses the current CVSA OOS Criteria in several ways. The FHWA has treated these criteria as enforcement tolerances, as guidelines for its own staff, and as acceptable alternatives for States to use in their State Enforcement Plans adopted under the Motor Carrier Safety Assistance Program. Although these criteria are mentioned in the Federal Motor Carrier Safety Regulations (see, e.g., 49 CFR sections 383.5 and 390.5, definitions of "out-of-service orders"), the criteria themselves have not been adopted by the FHWA pursuant to notice and comment rulemaking. As

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[2] The out-of-service history is drawn from the nearly 2 million vehicle inspections which are performed each year by the States participating in the MCSAP. If a motor carrier experiences a ratio of out-of-service inspections to "clean" inspections of 34 percent or greater (minimum of 3 inspections), the initial rating for the Vehicle Factor is Conditional. The FHWA believes setting the ratio, commonly called the "out-of-service rate," at 34 percent is appropriate because the national average is 33 percent.

For a more detailed explanation of the Safety Fitness Rating Methodology, please consult FHWA Docket No. 94–22; FHWA–97–2252 (59 FR 47203), and see two notices: (1) Notice of Proposed Rulemaking, Safety Fitness Procedures; Safety Ratings, May 28, 1997 (62 FR 28826), and (2) Final Rule, Safety Fitness Procedures, November 6, 1997 (62 FR 60035).

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noted above, some industry representatives believe that the FHWA's use of these criteria has evolved to the point where adoption of the criteria pursuant to notice and comment rulemaking is warranted and desirable.

As part of this rulemaking, the FHWA will consider the scope and effect of the OOS criteria and the use to which the FHWA puts these criteria. One possible alternative is to limit the use of the criteria in ways that do not require adoption of the criteria as regulations. Under its current policy, the FHWA considers the OOS criteria to be a tool to determine whether violations of the FMCSRs (or compatible State safety regulations) are so serious as to warrant ordering a motor carrier to cease using the driver or vehicle in question. The criteria themselves do not establish separate standards of conduct for regulated entities, nor is it intended that use of the criteria excuses other less serious violations of applicable safety regulations.

Accordingly, comment is requested on the fundamental question of how the FHWA should use any OOS criteria. Comment is also solicited on the desirability of adopting the OOS criteria after notice and opportunity for comment, even if such opportunity for further public participation is not required.

2. Adoption of the OOS Criteria in the FMCSRs.

Comment is requested on the alternative of adopting the OOS criteria as part of the Federal Motor Carrier Safety Regulations, either because of the use to which the criteria is or should be put or because of the desirability of the opportunity for public participation inherent in the process of adopting these criteria as Federal regulations. If the FHWA should adopt out-of-service criteria by regulation, can the FHWA avoid undermining the general principle that compliance with all applicable safety regulations is required? Should the FHWA specifically require the use of such federally adopted out-of-service criteria by States as a condition of MCSAP, or could the adopted criteria be one of several acceptable sets of criteria States could use? How would, or should, adoption of such criteria limit the discretion or Federal and State safety investigators to address discovered driver and vehicle safety violations at the roadside? Should investigators be limited to issuing out-of-service orders only to cases that expressly meet the adopted criteria? Should investigators be required to issue out-of-service orders in all cases where the criteria are met? How much discretion should investigators retain to address safety hazards discovered at the roadside that may not be precisely covered in the adopted criteria?

3. How should out-of-service criteria be adopted?

In addition to the basic question of whether the FHWA should adopt these criteria as regulations, the FHWA is requesting comment on the most desirable way to accomplish any such adoption. As explained above, the existing criteria are developed by the CVSA. Section 12 of Pub. L. 104–113 (see 5 U.S.C. 272 note) directs agencies to use technical standards that are developed or adopted by voluntary consensus standards bodies. The FHWA appreciates the work done by the CVSA in maintaining the current criteria, and recognizes the value of that effort. The FHWA is also mindful of the role of the States in the MCSAP program and the desirability of using State-developed criteria or standards in the MCSAP program whenever possible. Therefore, the FHWA is seeking specific comment on how the FHWA should adopt any out-of-service criteria. Should the FHWA, for example, consider adopting the CVSA criteria and incorporating them in the FMCSRs, either as an appendix to the FMCSRs or by seeking approval from the Director of the Office of the Federal Register to incorporate by reference the CVSA criteria into the FMCSRs? Should the FHWA set forth the text of any criteria adopted in the body of its safety regulations? What implications, if any, would there be for continued State development of out-of-service criteria if the FHWA adopts separate criteria or incorporates existing criteria? How can the FHWA best address the federalism implications of adopting out-of-service criteria that may be used by the States which have concurrent motor carrier safety jurisdiction? How can national uniformity be promoted, and how can maximum State and industry acceptance of the criteria be gained, by any proposed alternative adoption method?

Request for Comments

A copy of the CVSA OOS criteria has been placed in the docket and may be accessed and viewed electronically following the instructions provided at the beginning of the Supplementary Information section of this ANPRM. Copies of the OOS Criteria may also be obtained at offices of the Federal Highway Administration's Office of Motor Carriers located in each State. The telephone numbers of the State offices may be obtained by telephoning 1–800–832–5660.

The FHWA invites public comment on the OOS Criteria: What are they? Who should be responsible for implementing them? How should they be used? Are they appropriate for regulatory treatment, or should they remain as guides to the enforcement of motor carrier safety by participating jurisdictions? What should the scope and effect of the OOS Criteria be? Should they be referred to in the FMCSRs? If so, in what manner? Should they continue to be used in safety fitness determinations? The FHWA welcomes the presentation of alternatives to the approaches outlined in this document. The FHWA is not, however, seeking comment on the substance of the OOS Criteria at this time.

Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket room at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable. In addition to late comments, the FHWA will also continue to file in the docket relevant information that becomes available after the comment closing date, and interested persons should continue to examine the docket for new material.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined that this action is not significant within the meaning of Executive Order 12866 or significant within the meaning of Department of Transportation regulatory policies and procedures. Due to the preliminary nature of this document and lack of necessary information on costs, the FHWA is unable to evaluate the economic impact of the potential regulatory changes being considered in this rulemaking. Based on the information received in response to this notice, the FHWA intends to carefully consider the costs and benefits associated with various alternative requirements. Comments, information, and data are solicited on the economic impact of any potential change.

Regulatory Flexibility Act

Due to the preliminary nature of this document and lack of necessary information on costs, the FHWA is unable to evaluate the effects of the potential regulatory changes on small entities. Based on the information received in response to this notice, the

FHWA intends, in compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), to carefully consider the economic impact of these potential changes on small entities. The FHWA solicits comments, information and data on these impacts.

Unfunded Mandates Reform Act

The FHWA will analyze any proposed rule to determine whether it would result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, as required by the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532).

Executive Order 12612 (Federalism Assessment)

This action has been analyzed using the principles and criteria contained in Executive Order 12612. Because of the preliminary nature of this document, it is not possible to determine whether this proposal will have sufficient federalism implications to warrant the preparation of a federalism assessment. The FHWA is presenting this rulemaking as an opportunity to air complex issues.

These issues appear to have federalism implications. For example, adoption by the FHWA of the OOS Criteria as part of the FMCSRs would have an effect on States and municipalities. By making the OOS Criteria a part of the FMCSRs, the FHWA would be exercising control over those criteria. The CVSA might experience a diminished role in the development of policy standards for the exercise of enforcement discretion. Its member States might likewise experience a reduced role in their relationships with the Federal government. Incorporation by reference within the FMCSRs might have less of a federalism impact. The FHWA would have to conduct a rulemaking whenever the CVSA developed revisions of the OOS Criteria. But, because the language of the OOS Criteria would be more directly under the control of the CVSA, the federalism impact would be less than in the first approach. Maintaining the current policy would appear to have minimal federalism impact. The State-Federal partnership which has been operative in this area would presumably continue, and the CVSA and its member States would continue to play a large role in the maintenance of the OOS Criteria.

Executive Order 12372 (Intergovernmental Review)

The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program. Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety.

Paperwork Reduction Act

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

National Environmental Policy Act

The agency has analyzed this action for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and it has determined that this action would not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects

49 CFR Part 395

Highway safety, Motor carriers, Reporting and recordkeeping requirements.

49 CFR Part 396

Highway safety, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements.

Authority: 49 U.S.C. 31133, 31136, 31310, and 31502; sec. 345, Pub.L. 104–59, 109 Stat. 568, 613; and 49 CFR 1.48.)

Issued on: July 10, 1998.

Kenneth R. Wykle,

Federal Highway Administrator.

[FR Doc. 98–19153 Filed 7–17–98; 8:45 am]

BILLING CODE 4910-22-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–98–4071; Notice 1]

RIN 2127–AH25

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend Federal Motor Vehicle Safety Standard on occupant crash protection to provide greater flexibility regarding the location of the telltale for air bag on-off switches installed in new motor vehicles. It would do so by eliminating the requirement that the telltale be located on the vehicle dashboard. No change would be made to the separate existing requirement that the telltale must be clearly visible from all front seat seating positions. This proposal would also add a requirement that the telltale be located within the vehicle's interior. The proposal is being issued, in response to a petition for rulemaking, to make the telltale requirements in the standard consistent with those in the agency's regulation governing the retrofitting of used vehicles with air bag on-off switches.

DATES: Comments must be received by September 3, 1998.

ADDRESSES: Comments should refer to the docket and notice number of this notice and be submitted to: Docket Management, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590 (Docket Room hours are 10:00 a.m.–5 p.m., Monday through Friday.)

FOR FURTHER INFORMATION CONTACT: For non-legal issues: Mr. Clarke Harper, Chief, Light Duty Vehicle Division, NPS–11, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. Telephone: (202) 366–2264. Fax: (202) 366–4329.

For legal issues: Ms. Rebecca MacPherson, Office of Chief Counsel, NCC–20, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. Telephone: (202) 366–2992. Fax: (202) 366–3820.

SUPPLEMENTARY INFORMATION:

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I. Background

This notice responds to a petition from Volkswagen of America, Inc. seeking to amend Federal Motor Vehicle Safety Standard No. 208 (FMVSS No. 208) by eliminating the current requirement that the telltale for air bag on-off (cutoff) switches in new motor vehicles be located on the vehicle dashboard. Under the proposed change, the telltale requirements for new vehicles equipped with an on-off switch

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would be consistent with the telltale requirements for retrofit on-off switches, i.e., vehicles that have been sold or leased to consumers. Part 595 exempts commercial entities from the statutory prohibition against making federally-required vehicle safety equipment inoperative for the purpose of allowing those entities to install retrofit switches.

On October 7, 1994, NHTSA published a notice of proposed rulemaking (NPRM) proposing to amend FMVSS No. 208 by giving manufacturers the option to install a manual passenger-side air bag on-off switch in new vehicles that either lacked a rear seat or had a rear seat too small to accommodate a rear-facing infant restraint (59 FR 51158). The proposal was issued in response to concerns that deploying air bags can seriously injure children appropriately restrained in a rear-facing infant restraint.

In the NPRM, NHTSA proposed requiring "a telltale light on the dashboard that is clearly visible from both the driver and front passenger seating positions and that is illuminated whenever the passenger air bag has been deactivated by means of the cutoff device." NHTSA went on to explain that it

> believes that the indicator should be visible to the driver as a reminder that the passenger air bag is, or is not, functioning. NHTSA believes that the indicator should be also visible from the passenger seating position as a warning to non-infant occupants that they are not protected by their air bag.

NHTSA sought comment on whether a supplemental or additional warning for passengers (i.e., a telltale separate from the readiness indicator light) would minimize instances in which the air bag was unintentionally not activated.

In response to the NPRM, NHTSA received comments addressing the suitability of differing light levels, required wording, and combination with the existing air bag readiness indicator. Three parties commented on the proposed requirement that the telltale be located on the vehicle dashboard. The Insurance Institute for Highway Safety stated that the telltale warning light should be continuously illuminated and should be conspicuously placed on the instrument panel to increase the likelihood that the driver takes note of the current status of the air bag. The American Automobile Manufacturer's Association (AAMA) stated that "proper placement of the device in the instrument panel could achieve two goals." According to AAMA, such placement would ensure that the telltale would be visible from both the driver and passenger seating positions and the telltale would not be in the direct line of sight to disrupt the driver in dark conditions. Mazda stated that it believed a telltale should be located near the instrument cluster or meter set, since it believed that the indicator should be visible mainly by the driver.

On May 23, 1995, NHTSA issued a final rule giving the manufacturers the option to install a manual passenger-side air bag on-off switch in vehicles with either no rear seat or with a rear seat inadequate for accommodating a rear-facing infant restraint (60 FR 27233). The final rule required the on-off switch be operable by the ignition key, be separate from the ignition switch, remain deactivated until affirmatively reactivated by turning the switch, and be accompanied by the telltale that is the subject of this notice.

The final rule dropped the proposed requirement that the telltale be adjustable to provide at least two levels of brightness. NHTSA was initially concerned that a single light, visible under all driving conditions, could be too bright for a driver who had adapted to dark ambient roadway conditions. Based on its review of the comments, NHTSA determined that a single level of brightness would be less design restrictive and would meet the agency's intended purpose. Accordingly, the less restrictive design requirement was adopted.

On November 21, 1997, NHTSA issued a final rule establishing Part 595 and allowing owners of used vehicles to have their vehicles retrofitted by commercial entities with air bag on-off switches, subject to certain conditions (62 FR 62406). Such switches are available for both driver and passenger seating positions as long as the conditions for each seating position are met by the vehicle owner and the entity that installs the switches. The switch requirements were largely patterned after the requirements for a passenger-side switch in FMVSS No. 208. However, in order to provide vehicle manufacturers with more flexibility in fitting a telltale light into a vehicle originally not designed to accommodate it, Part 595 did not include a requirement that the telltale for retrofit switches be installed in the vehicle dashboard. It did adopt the requirement that the telltale for a passenger-side air bag switch be clearly visible from both the driver and front passenger seat positions.

II. Details of the Proposal

On March 23, 1998, Volkswagen of America, Inc. submitted a petition requesting the agency to initiate a rulemaking proceeding to amend FMVSS No. 208 by eliminating the requirement that the telltale for an on-off switch in a new motor vehicle be located on the vehicle dashboard. Volkswagen maintains that the current requirement is unnecessarily design restrictive and that eliminating the dashboard requirement will not be detrimental to motor vehicle safety.

NHTSA is proposing to eliminate that requirement because the agency tentatively concludes that the requirement is not necessary to ensure the telltale's visibility. The agency believes that there are other locations (e.g., the console) within the vehicle's interior in which the telltale would be sufficiently noticeable by all front seat occupants. For example, General Motors installs telltale lights above the rearview mirror for vehicles with retrofit on-off switches.

NHTSA notes that in the final rule allowing retrofit air bag on-off switches, it did not require that the telltale be located on the vehicle dashboard. Instead, it simply specified that the telltale must be visible from the driver and front passenger seating positions and that the telltale must be located within the vehicle's interior. These conditions allow, but do not require, the placement of the telltale on the vehicle dashboard.

NHTSA proposes to amend FMVSS No. 208 to allow the placement of a telltale in a location other than the vehicle dashboard as long as the telltale is visible to all occupants of the front seat and is located within the vehicle's interior. This second requirement is being proposed because it would make FMVSS No. 208 consistent with Part 595 and because NHTSA believes external conditions like rain or snow could prevent the telltale from being clearly visible at all times.

The agency seeks comment on whether there would be any degradation of safety by not requiring uniformity of the telltale's location, i.e., on the vehicle dashboard.

III. Proposed Effective Date

Since the adoption of the proposal would relieve a restriction affecting safety, NHTSA plans to make the proposed amendment effective upon issuance of a final rule. NHTSA believes a delayed effective date would serve no purpose since the proposed changes would permit, but not require a change in the location of the switch telltale.

IV. Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed under E.O. 12866, "Regulatory Planning and Review." This action has been determined to be insignificant under the Department of Transportation's regulatory policies and procedures. NHTSA believes that this proposal, if adopted, would result in no additional cost to manufacturers and consumers as the proposal would only expand available options for the design of a telltale for factory-installed air bag on-off switches. Accordingly, the agency believes that the economic impacts of this proposal would be so minimal as not to warrant the preparation of a full regulatory evaluation.

Regulatory Flexibility Act

NHTSA has also considered the impacts of this notice under the Regulatory Flexibility Act. I hereby certify that this proposed rule would not have a significant economic impact on a substantial number of small entities. As explained above, this proposal would have minimal economic impact.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (P.L. 96–511), there are no requirements for information collection associated with this proposed rule.

National Environmental Policy Act

NHTSA has also analyzed this proposed rule under the National Environmental Policy Act and determined that it would not have a significant impact on the human environment.

Executive Order 12612 (Federalism)

NHTSA has analyzed this proposal in accordance with the principles and criteria contained in E.O. 12612, and has determined that this proposed rule would not have significant federalism implications to warrant the preparation of a Federalism Assessment.

Civil Justice Reform

This proposed rule would not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

V. Comments

Interested persons are invited to submit comments on this proposal. It is requested but not required that two copies be submitted.

All comments must not exceed 15 pages in length (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including the purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and two copies from which the purportedly confidential information has been deleted should be submitted to Docket Management. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received by NHTSA before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and recommends that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, it is proposed that 49 CFR Part 571 be amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for part 571 would continue to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

2. Paragraph S4.5.4.3 of Section 571.208 would be revised to read as follows:

§ 571.208 Standard No. 208; Occupant crash protection.

* * * * *

S4.5.4.3 A telltale light in the interior of the vehicle shall be illuminated whenever the passenger air bag is turned off by means of the on-off switch. The telltale shall be clearly visible to occupants of all front seating positions. The telltale:

(a) Shall be yellow;

(b) Shall have the identifying words "PASSENGER AIR BAG OFF" on the telltale or within 25 millimeters of the telltale;

(c) Shall remain illuminated for the entire time that the air bag is "off";

(d) Shall not be illuminated at any time when the air bag is "on"; and,

(e) Shall not be combined with the readiness indicator required by S4.5.2 of this standard.

* * * * *

Issued on July 14, 1998.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 98–19155 Filed 7–17–98; 8:45 am]

BILLING CODE 4910-59-U

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Denial of Petition for Rulemaking; Federal Motor Vehicle Safety Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Denial of petition for rulemaking.

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SUMMARY: This document denies Mr. John K. Roberts' petition to amend Federal Motor Vehicle Safety Standard (FMVSS) No. 108, Lamps, reflective devices, and associated equipment, to add requirements regarding the maximum time for a stop lamp to reach 90 percent of its required illumination. A requirement of this nature could be met using currently-available technology such as light emitting diodes (LEDs), neon lamps, hot filament systems, or shuttered systems. However, the costs associated with such a requirement would be far in excess of its benefits.

FOR FURTHER INFORMATION CONTACT: Mr. Chris Flanigan, Office of Safety Performance Standards, NHTSA, 400 Seventh Street, SW, Washington, DC 20590. Mr. Flanigan's telephone number is: (202) 366–4918. His facsimile number is (202) 366–4329.

SUPPLEMENTARY INFORMATION: By letter dated March 29, 1997, Mr. Roberts petitioned the agency to amend FMVSS No. 108 to create a stop lamp "rise time" requirement. He suggested that the standard require stop lamps to reach 90 percent of their presently-required intensity within 75 milliseconds (ms) following actuation. Conventional incandescent lamps take about 250 ms to reach 90 percent of their required intensity. In an emergency stop situation, this decrease in illumination time would allow an extra fraction of a second (approximately ⅙th of a second), for a following driver's brake actuation time.

Vehicle manufacturers could meet this requirement by using one of four currently available technologies. LED and neon lamps, which are both used on current vehicles, could meet the requirement as suggested by Mr. Roberts. These types of lamp systems can illuminate to 90 percent of their required intensity in well under 75 ms. Another method of meeting the suggested requirement would be to use a hot filament incandescent lamp. For this type of system, a conventional incandescent lamp would be constantly supplied with a low voltage which would not be enough to illuminate the lamp, but would decrease the illumination time. This is because the lamp is already supplied with a portion of the energy required for illumination. Finally, a shuttered light system could be used to comply. This type of system uses a centralized light source and individually shuttered fiber optic bundles to distribute and modulate the light sent to the stop lamps.

Mr. Roberts stated that Standard No. 108 should address the time lag occurring between the actuation of stop lamps and their rise to effective levels of intensity. He believes that the demands on a driver are much greater today than when the standard was promulgated, and therefore, this aspect of stop lamp systems should be regulated. He cites several vehicle design trends which lead him to believe that minimum stop lamp rise times are necessary. These include: enhanced capability for some vehicles to decelerate abruptly due to improved brakes, tires, and suspension systems; the use of lighter (and more electrically resistive) vehicle wiring harnesses to improve vehicle fuel economy; and increasingly overburdened vehicle electrical supply systems. He states that a vehicle travels seven meters or nearly 1.5 car-lengths at typical highway speeds during a typical incandescent lamp's 250 ms rise time.

Agency Position

Based on NHTSA's analyses, the requirement that Mr. Roberts suggested would produce relatively minor benefits. A May 1993 DOT report, "Assessment of IVHS Countermeasures for Collision Avoidance: Rear end Crashes," (DOT HS 807 995) found that both vehicles were moving in only 25 percent of all rear-end crashes. Further, in only four percent of these crashes was "following too closely" or "tailgating" cited as the principal cause. With respect to this one percent of all rear-end crashes (four percent of 25 percent), Mr. Roberts' suggestion would only provide a benefit if all the following conditions were met *simultaneously*: (1) The following driver is attentive enough to notice a ¼th second decrease in stop lamp actuation time; (2) the following distance is so short that the following driver cannot apply the brake fast enough to avoid the collision; (3) the lead driver decelerates so rapidly that the following driver cannot apply the brake fast enough to avoid a collision, and; (4) the following driver applies the brake upon first seeing the stop lamp without waiting for any additional clues such as closing distance reduction, lead vehicle pitching, or tire squeal. Even if all these factors occur, it seems unlikely that even one percent of all rear end crashes would be eliminated or reduced in severity by such a requirement.

While there would be some small level of benefits if Mr. Roberts' suggestion were to be included in the standard, such benefits would be greatly outweighed by the costs involved. LED, neon, and shuttered light systems would cost manufacturers upwards of $30 per vehicle. The least expensive of the four available technologies would be the hot filament systems. These systems would cost the industry approximately $15 per vehicle. To incorporate these systems, vehicles would need extra wiring and circuitry to keep the filament of the incandescent bulb powered to a level that is just below illumination. Based on an annual U.S. production of 16,000,000 vehicles, the suggested requirements would cost at least $240,000,000 per year to vehicle manufacturers which would be passed on to the consumer. This cost *does not* include manufacturer installation and other costs such as manufacturer and dealer profits. The agency has found in the past that these costs generally add about 50 percent onto the original equipment cost. These additional factors thus would raise the cost to the consumer further. Also, there would be an additional cost incurred by the consumer due to the extra power required to keep the lamp filaments constantly powered. This would lead to an increase in fuel consumption.

In order to confirm our belief that the benefits of fast rise brake requirements would be small, NHTSA analyzed data to compare the crash involvement of vehicles with LED and neon CHMSLs to similar vehicles with conventional incandescent CHMSLs. Specifically, Maryland state files were searched for model year 1994–1996 sport utility vehicles and vans that were struck in the rear while slowing or stopping. These types of vehicles were chosen because they had the highest percentage of vehicles which had LED and neon CHMSLs and were fairly similar in size. When comparing the crash involvement of LED and neon CHMSL vehicles to the incandescent CHMSL vehicles, there was no statistical difference found between designs. This may reflect the relatively small percentage of the vehicle fleet now in service with LED and neon CHMSLs, so that no statistically valid study may yet be conducted. Alternatively, it may be that the effects of lesser rise times do not show up in crash statistics. Whatever the case, the current data do not show safety benefits on the road from this technology.

Although the agency does not have data at this time to support such a requirement, it seems intuitive that there could be some value to a stop lamp illuminating faster. Because there are potential benefits, the agency will revisit this issue in the future when there are more vehicles on the road with LED and neon stop lamps. Based on NHTSA's examination of recent model year vehicles' CHMSLs, manufacturers are moving towards using more LED and neon light sources for this application.

Further, LEDs are beginning to be used as a light source for the main stop lamps as well. When the population increases, perhaps this will give the agency sufficient data to support proposing such a requirement.

In accordance with 49 CFR part 552, this completes the agency's review of the petition. The agency has concluded that there is no reasonable possibility that the amendment requested by the petitioner would be issued at the conclusion of a rulemaking proceeding. Accordingly, it denies Mr. Roberts' petition.

Authority: 49 U.S.C. 30103, 30162; delegation of authority at 49 CFR 1.50 and 501.8.

Issued on: July 13, 1998.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 98–19154 Filed 7–17–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[NHTSA Docket No. 98–4027, Notice 1]

RIN 2127–AG01

Federal Motor Vehicle Safety Standards; Steering Control Rearward Displacement

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Termination of rulemaking.

SUMMARY: This document terminates a rulemaking proceeding in which the agency proposed to exclude from its standard on steering control rearward displacement air bag-equipped passenger cars and other light vehicles certified as complying with the agency's occupant crash protection standard based upon the frontal barrier crash test. The agency proposed this exclusion because the engineering need to provide a stable air bag platform in order to perform consistently during an unrestrained dynamic crash test would ensure that vehicle manufacturers design their vehicles so that there would be little steering control rearward displacement. That necessity would obviate the need for manufacturers to conduct another crash test just to certify steering control rearward displacement performance.

However, since the proposal, the agency has temporarily allowed the manufacturers to certify their vehicles to the occupant protection standard based upon an unrestrained sled test and a restrained (or belted) barrier test. The capability of the steering column to provide a stable platform for the air bag is not tested in a sled test since no structural deformation of the structure occurs nor does the restrained occupant 30 mph barrier test adequately evaluate the platform stability since the belted dummy does not significantly load the steering assembly. NHTSA anticipates that nearly all manufacturers will certify to the unrestrained occupant protection standard based on the less rigorous sled test procedure. Therefore, the agency is terminating this rulemaking.

FOR FURTHER INFORMATION CONTACT:

On technical matters: Mr. John Lee, in the Office of Crashworthiness Standards, telephone: 202–366–4924, facsimile: 202–493–2739, e-mail: jlee@nhtsa.dot.gov.

On legal matters: Mr. Paul Atelsek, in the Office of the Chief Counsel, telephone: 202–366–2992, e-mail: patelsek@nhtsa.dot.gov.

The mailing address is: National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC, 20590.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to the March 4, 1995 directive, "Regulatory Reinvention Initiative," from the President to the heads of departments and agencies, NHTSA undertook a review of all its regulations and directives. During the course of this review, the agency identified several regulations as potential candidates for rescission or amendment. One of these regulations was Standard No. 204, *Steering Control Rearward Displacement*. The agency concluded at that time that requiring compliance with the standard appeared to be redundant for certain vehicles, given the actions which were separately required to be taken to comply with Standard No. 208, *Occupant Crash Protection*.

Standard No. 204 specifies a dynamic crash test to measure the rearward displacement of a vehicle's steering column to ensure that the driver is not "speared" by the column. The standard specifies that the upper end of the steering column and shaft may not be displaced horizontally rearward more than 5 inches (127 mm) in a 30-mile-per-hour frontal barrier crash test. The standard applies to passenger cars and other light vehicles.

Passenger cars and light vehicles are also required to pass a dynamic test specified in Standard No. 208, *Occupant crash protection*. For unrestrained occupants, Standard No. 208 requires either a frontal impact crash test into a rigid barrier at 30 mph or a dynamic sled test, with the performance measured by the impact forces on an anthropomorphic test dummy rather than by the displacement of a vehicle component. Air bags became mandatory in all passenger cars on September 1, 1997, and will be required in all light vehicles by September 1, 1998. Since March 19, 1997, it has been permissible to certify vehicles on the basis of a sled test instead of a crash test. The agency believes that the great majority of auto manufacturers are now certifying vehicles using the sled test.

On November 16, 1995, the agency published a Notice of Proposed Rulemaking, (60 FR 57565) proposing that vehicles be excluded from having to comply with Standard No. 204 if these vehicles were certified to comply with the frontal barrier crash test requirements of Standard No. 208 by means of an air bag. The basis for the proposal was that the engineering considerations that govern designing a vehicle with air bags would ensure that the vehicle would have the same performance for steering control rearward displacement as is currently required by Standard No. 204. One of the most fundamental engineering considerations when designing an air bag equipped vehicle is to provide a secure platform for the air bag. The designer must know the relative location of the air bag and the protected occupant during a crash because, if the air bag platform were moving up or down, or backward or forward during a crash, it could adversely affect air bag performance.

Since the driver's air bag is located in the steering column, the NPRM stated that the engineering measures necessary to provide a secure air bag platform will also ensure that Standard No. 204's specified performance for steering control rearward displacement is satisfied, even if the standard were no longer applicable. In case the public knew of some factors that NHTSA had not considered, NHTSA also asked for comment on whether there was any possibility that the proposed Standard No. 204 exclusion might result in an increase in injuries not protected against by Standard No. 208. The NPRM stated that the proposed rule would have minor, nonquantifiable cost savings. The public comment period closed on January 16, 1997.

Subsequent to the issuance of the NPRM on Standard No. 204, on March 19, 1997, in order to facilitate the

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depowering of air bags, the agency temporarily amended Standard 208 to permit vehicle manufacturers to certify their vehicles using a sled test procedure, rather than a crash test. In the sled test, there is no possibility of steering column movement due to deformation of the vehicle structure from crash forces, regardless of how good or bad the steering column design. Although the standard still permits manufacturers to certify their vehicles using the frontal barrier crash test using an unrestrained test dummy, as specified in S5.1, as noted above, essentially all manufacturers are now using the sled test for Standard No. 208 certification. The standard still requires a belted barrier test. Currently, the agency is in the midst of developing an NPRM on improved air bags that may reinstate some form of barrier test requirement.

II. Summary of Public Comments

The agency received six comments on the proposal to exclude air bag equipped vehicles from Standard No. 204. Advocates for Highway and Auto Safety (Advocates) and Mr. Lee F. Graser (an automobile reconstructionist) were generally opposed to the proposal. The Insurance Institute for Highway Safety (IIHS), the American Automobile Manufacturers Association (AAMA), and two auto manufacturers, Volkswagen and Mitsubishi, supported the proposal. The following is a brief summary of these comments.

As noted above, two commenters disagreed with excluding these vehicles from Standard No. 204. Mr. Lee F. Graser, President of LAS-KDS Inc. (an automobile reconstructionist) commented that the current standard was "incredibly successful in removing the "spear-like" qualities from the steering column." He based his comment on 30 years of experience in rebuilding automobiles damaged in a crash, and examining thousands of wrecked automobiles. He agreed that vehicles will continue to meet the crash test standards at 30 miles per hour, but said that in more severe (i.e., higher speed) crashes, the exclusion from the requirement will remove an important safety margin and result in the reintroduction of a hazard eliminated long ago.

Advocates was concerned that the exclusion would exacerbate a danger that it believes exists even with Standard No. 204 in place. Its main concern was the "dangers due to the proximate positioning of the drivers to the steering wheel air bag modules." It noted that short women and many older drivers must sit further forward than other drivers to comfortably reach the steering wheel. In such cases, it stated, the distance from the air bag to the driver's chest would be 6.5 to 4.5 inches. Drivers seated in this zone could be injured by the deploying air bag. Advocates' apparent concern with this exclusion is that, without Standard No. 204, the steering column would move rearward, even closer to the driver, prior to air bag deployment. If this occurred, there would be a very forceful impact of the air bag on the driver (air bag deployment force would be greater on a driver closer to the housing).

Advocates also argued that there was no supporting data for the exclusion and therefore the agency's proposed action could be considered capricious. Advocates commented that NHTSA has no data to support the presumption that manufacturers will continue to maintain compliance with Standard No. 204 if this exclusion is provided. Advocates also suggested that NHTSA needs test data showing that vehicles that do *not* comply with Standard No. 204 could still ensure safety of small passengers and not increase the risk of exacerbating trauma from steering wheels.

Finally, Advocates noted the request for comment that NHTSA had issued on air bag-related injuries (NHTSA Docket 74–14, Notice 97, 60 FR 65554, November 9, 1995). Advocates stated that it could not understand why the agency would complicate the understanding of this complex injury issue by adding another major variable (i.e., a presumed increase in steering wheel movement).

Four commenters agreed with excluding air bag equipped vehicles from Standard No. 204. Mitsubishi concurred without substantive comment. Volkswagen concurred and commented that the exclusion would save it testing costs of about $20,000 plus the cost of the vehicle for each car line because an extra crash test was required by Standard No. 204. It stated that the savings might be as much as $700,000 on a new car line, because a prototype vehicle would have to be used in the testing.

Volkswagen also noted that a proposal to make a similar exclusion from the ECE version of this standard is under discussion in Europe, implying that NHTSA should adopt the proposal in the interest of harmonization.

The AAMA supported the proposal. The AAMA confirmed that for an air bag equipped vehicle, the steering column location must remain relatively stable during a Standard No. 208 barrier test to consistently meet the test requirements. It provided an analysis of NHTSA's own Standard No. 204 "indicant" test reports for member companies: GM, Ford and Chrysler. The AAMA stated that the NHTSA indicant test data showed that the displacement was zero in most cases and well below the 5.0 inch (12.7 cm) limit in all cases. The AAMA also pointed out that, in a 1981 evaluation of the standard, the agency found that steering wheel rearward displacement was highly correlated to the vehicle's change in velocity during the crash (Delta V). "An Evaluation of Federal Motor Vehicle Safety Standards for Passenger Car Steering Assemblies", Standard No. 203—"Impact Protection for the Driver", Standard No. 204 "Rearward Column Displacement," January 1981, NHTSA Technical Report DOT HS 805 705. The agency evaluation indicated that, in crashes with a Delta V of less than 15 mph, there was virtually no rearward displacement. The AAMA did not provide any data from the motor vehicle manufacturers. It agreed that the proposal should be effective 30 days after the final rule.

The IIHS supported the proposed exclusion from Standard No. 204, stating that the current dynamic test in Standard No. 208 with an unbelted dummy is more than sufficient to limit excessive rearward steering wheel displacement in a centric crash specified by Standard No. 204. However, it was concerned that Standard No. 204's centric flat barrier crash test is inadequate, because steering control rearward displacement continues to be a problem in offset crashes. To support this offset crash concern, IIHS cited data from offset crash tests of 16 vehicles that showed rearward displacements of up to 6.7 inches (17 cm). It also provided a summary of an actual fatal offset crash which it believes might not have been fatal if the column had not moved rearward by 7.5 inches (19 cm). IIHS urged NHTSA to continue work on offset testing, and explore rulemaking on the subject.

III. Discussion of Issues

A. Don't Change a Standard That Works

Mr. Graser stated that Standard No. 204 has resulted in significant improvement in occupant protection by removing the spear-like qualities of the steering column. Advocates stated that there was no basis for the agency's presumption that motor vehicle manufacturers will maintain compliance after exclusion from Standard No. 204.

The agency agrees with Mr. Graser that designs that conform to Standard No. 204 mitigate chest injuries. The standard did accomplish its purpose, according to the agency's analysis. In the agency's regulatory evaluation of the benefits of its steering column regulations (Standard Nos. 204 and 203, *Impact Protection for the Driver From the Steering Control System*), NHTSA estimated that the two steering column standards in tandem were cost-effective and prevented 1,300 fatalities and 23,000 nonfatal injuries per year when all automobiles complied. (Note that the agency has already excluded from Standard No. 203 vehicles that comply with Standard No. 208 using air bags because it concluded that requiring compliance with Standard No. 203 was redundant (40 FR 17992, April 24, 1975)). Therefore, Standard No. 204 did prompt some useful changes in steering column design.

The NPRM was based on the assumption that manufacturers would have to conduct a dynamic crash test with unbelted dummies for Standard No. 208, an assumption that is no longer valid.

Vehicle manufacturers must design a stable air bag platform to ensure good, repeatable performance for the air bag in a crash. In other words, steering columns must be designed to ensure the air bag mounted in the steering wheel hub will remain in a constant position relative to the driver during a crash. However, Standard No. 208's unbelted performance requirements would adequately control steering column movement only during a full-barrier crash test. Conversely, the sled test does not ensure that the steering column will be adequately designed. Additionally, the belted occupant 30 mph barrier test, which is still required, does not adequately evaluate the air bag platform stability since the belted dummy does not significantly load the steering assembly.

B. Risk of Air Bag Injury to Small Occupants

In response to Advocates' concern about negative safety impacts on smaller occupants, the agency notes that rearward displacement of the steering column may not contribute to close proximity air bag deployments because displacement and deployment may occur at different times during a crash. To illustrate, in a standard barrier test the air bag begins to deploy between 15 to 20 milliseconds after impact and is completely deployed by 50 to 60 milliseconds after impact. In these crash tests, steering column dynamic rearward displacement and steering column collapse almost always occur after completion of air bag deployment, starting at about 60 milliseconds. During a Standard No. 208 unbelted full barrier impact compliance test, this steering column-occupant interaction is measured by the Hybrid III dummy. Therefore, excessive rearward displacement of the steering column in unbelted full barrier-type impacts would likely impact the dummy and cause a failure of the Standard No. 208 test. However, due to the wide variety of crash types in the real-world, the agency can see the potential for situations where steering column movement and air bag deployment could occur at the same time.

C. Supporting Data

In response to Advocates' complaint that NHTSA has no data to justify this proposed exclusion, NHTSA based its NPRM on an engineering analysis of the steering column design requirements implied or necessitated by the then-existing Standard No. 208 full-barrier impact requirements.

Moreover, it would have been impossible to generate the test data on non-compliant vehicles that Advocates says is necessary. Evidence indicates that all vehicle designs comply with Standard No. 204, so there are no non-complying vehicles to test. NHTSA reviewed the results of Standard No. 204 compliance tests before publishing the NPRM. The results of that review are in the docket. In that review, the agency found that in the last 28 years, there have been three cases worthy of further investigation, but no actual non-compliances. No air bag-equipped vehicle has failed this test.

The agency reviewed its 1996 calendar year information requests to vehicle manufacturers, which resulted in the submission of 36 reports of Standard No. 204 compliance tests. This 1996 sample includes 25 passenger cars and 11 light trucks. A summary of the steering column rearward displacement data from these manufacturer reports has been placed in the docket. The average value of the maximum dynamic horizontal deflection was 42 millimeters (1.6 inches). The range of horizontal deflections ranged from 0 mm (0 in.) to 99 mm (3.9 in.).

However, history may not be a guide when the assumptions are changed. NHTSA agrees with Advocates that there is no evidence that sled-tested and belted-barrier-tested vehicles will continue to comply with Standard No. 204.

D. Cost

The agency believes the cost savings that Volkswagen suggested would result from excluding vehicles from Standard No. 204 certification are overly optimistic. Vehicle manufacturers would probably "piggyback" tests on a prototype, i.e., the single test of a prototype vehicle could include indicant tests of Standard Nos. 204, 208, 212, and 301. Therefore, computer modeling and piggyback testing would significantly reduce this cost burden, especially during the vehicle developmental phase.

E. Offset Testing Program

In response to IIHS' urging that NHTSA pursue offset testing, the agency notes that an offset testing program is part of the Standard No. 208 Upgrade program, one of the elements in NHTSA's Strategic Execution Plan. Additionally, on January 2, 1998, the Center for Auto Safety (CAS) submitted a petition for rulemaking, requesting the addition of an offset test requirement within Standard No. 208.

The agency's FY 1997 and FY 1998 appropriations included funding to work on establishing a frontal offset crash protection safety standard. NHTSA will analyze the steering column behavior in offset crashes as part of this effort. The issues raised by IIHS and CAS, of whether to include a steering column displacement restriction within the requirements of an offset test standard, will be included in the offset program decision-making process.

IV. Agency Decision

In the final rule (March 19, 1997; 62 FR 12960) enhancing manufacturers' abilities to depower air bags, NHTSA decided to allow the sled test as a temporary measure given the need to provide manufacturers with maximum flexibility to respond rapidly to the risk posed by air bag activation in low speed crashes. In the final rule's preamble, NHTSA discussed the disadvantages of the sled test as an indicator of real world performance, including the fact that the sled test does not evaluate "the steering column's energy absorbing characteristics and load bearing capability." (62 FR at 12966). Sled testing effectively removes the measurement of the stability of the steering column as a factor affecting measured levels of occupant protection performance. NHTSA has never proposed to exclude from Standard No. 204 vehicles whose certification of compliance with Standard No. 208 was based upon the sled test or the belted barrier test.

NHTSA understands that almost all the vehicle manufacturers are now certifying compliance with Standard No. 208 based on the sled test, instead of the unbelted frontal barrier test. Further, the manufacturers have

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indicated that they will continue to rely on the sled test option while it remains available.

The March 19, 1997, final rule provided that the sled test option would expire on September 1, 2001. Several petitions for reconsideration have been filed requesting the agency to extend that date or to make the option permanent. NHTSA is currently considering those petitions. In addition, as part of its advanced air bag rulemaking, the agency is considering the possibility of requiring some form of barrier test.

Based on these understandings, NHTSA is terminating rulemaking to exclude from Standard No. 204 vehicles that comply with Standard No. 208. Given that the vehicle manufacturers are expected to rely on the sled test (to meet Standard No. 208 requirements) for the next several years, there is no need during that period for an exclusion from Standard No. 204 for vehicles certified to Standard No. 208 based on the barrier test. If circumstances change in the future, the agency will consider appropriate action at that time.

(Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: July 14, 1998.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 98–19217 Filed 7–17–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Denial of Petition for Rulemaking; Federal Motor Vehicle Safety Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Denial of petition for rulemaking.

SUMMARY: This document denies a petition by Whizzer Motorbike Company for rulemaking which would exclude it and other motorized bicycles from all DOT regulations. Petitioner argued that the vehicle's low speed and small size justified such exclusion. However, the agency found this conclusion unsupported and denies the petition. Motorized bicycles, which may have a maximum speed of up to 25 miles per hour and are found on the public streets, must be afforded the same level of protection that now exists for their category under the Federal motor vehicle safety standards where they are defined as "motor driven cycles," which are "motorcycles with a motor which produces 5 brake horsepower or less."

FOR FURTHER INFORMATION CONTACT: Jere Medlin, Office of Safety Performance Standards, NHTSA (202–366–5276).

SUPPLEMENTARY INFORMATION:

Introduction

The agency wishes to use this forum to reiterate its long-standing policy on the regulatory treatment of powered bicycles.

On October 2, 1997, the Whizzer Motorbike Company of Orange, California, petitioned the Administrator of the National Highway Traffic Safety Administration (NHTSA) for "*relief* from meeting DOT regulations" (petitioner's emphasis). The basis of its petition was that its product is "a motor-assisted bicycle, requiring human power to start from a static position," designed to carry one person, has less than 2 horsepower, weighs "less than 60 lbs. GVWR," and "will not exceed 25 miles per hour." In Whizzer's opinion, the vehicle may be used for "very limited transportation," but "it is not practical for utility purpose other than very short distances."

NHTSA advised Whizzer on November 17, 1997, that it viewed the petition as one for rulemaking that would exclude the Whizzer and other vehicles in its class from DOT requirements. One week later, Whizzer assented to this treatment, adding the justification that its product was a nostalgia vehicle and its engine a design of 1930s technology.

Background

Over the years, NHTSA has been asked about the applicability of the Federal motor vehicle safety standards (FMVSSs) to bicycles with small motors attached. In responding to these requests, the agency has begun by deciding whether the vehicle for which an interpretation was sought was, in fact, a motor vehicle subject to NHTSA's jurisdiction. NHTSA's enabling statute, 49 U.S.C. Chapter 301, defines a motor vehicle in pertinent part as "a vehicle driven or drawn by mechanical power and manufactured primarily for use on the public streets, roads, and highways * * *." (49 U.S.C. 30102(a)(6)). Since a bicycle that does not have any motor is a vehicle driven by muscular power instead of mechanical power, such a bicycle is not a "motor vehicle" regulated by NHTSA.

However, the addition of a motor to a bicycle may create a motor vehicle. Whether the motor in fact does so depends upon the extent to which it propels the bicycle to which it has been attached. Some motors are characterized as providing a "power assist" to the bicycle operator. Within this category of motorized bicycle, the agency has decided that if the motor is sufficient to propel the bicycle without any muscular input from the operator, even though at a diminished speed, then the bicycle is driven by mechanical power within the meaning of the definition and is a motor vehicle. On the other hand, if the power assist is insufficient alone to propel the bicycle, and therefore only supplements muscular power (as in helping traverse hilly terrains), the bicycle is not a motor vehicle under NHTSA regulations.

If a motorized bicycle is treated as a motor vehicle, it is classified, in the first instance, as a "motorcycle" for the purposes of the FMVSSs. Under 49 CFR Sec. 571.3(b), a motorcycle is defined as a motor vehicle with motive power having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground. As a motorcycle, a motorized bicycle may also be classified as a "motor driven cycle." A motor-driven cycle is defined as a motorcycle with a motor that produces five brake horsepower or less. Certain FMVSSs, such as the lighting standard, FMVSS No. 108, specify less stringent requirements for motor-driven cycles than for other motorcycles. FMVSS No. 108 allows motor-driven cycles to have a headlamp with a single beam, but requires other motorcycles to have a headlight with upper and lower beams). Other standards specify lesser requirements for motor driven cycles of limited performance, e.g., "a motor-driven cycle whose speed attainable in 1 mile is 30 mph or less * * *" (FMVSS No. 122, establishing motorcycle braking requirements). FMVSS No. 123, which specifies requirements for motorcycle controls and displays, allows a motor-driven cycle the alternative of a rear wheel brake control located on the left handlebar rather than on the right foot control.

Petitioner's Argument

As noted in the Introduction, Whizzer bases its argument for relief on the extremely low level of performance of its motorized bicycle. The petitioner claims that this is essentially a bicycle assisted by a small motor, less than two horsepower, and that while it may be used for very limited transportation, it is not practical for utility purposes other than very short distances. The petition requests relief from meeting the FMVSS because the Whizzer requires human power to start from a static position, it will not exceed 25 mph., it is extremely light weight, and is designed to accommodate one person only. In its October 2, letter, the petitioner argued that it should be allowed to offer the Whizzer without lighting, so as to deter night riding. Recognizing that some riders will still go out at night, the petitioner offered to provide a large prominent warning decal with the advisory "not approved for night riding".

Finally, the petitioner claims that the Whizzer is a nostalgia vehicle. The petitioner did not elaborate on this point. NHTSA assumes that the petitioner is arguing that since its goal is to produce a replica of a 1940s style vehicle, it should not be required to depart from the original design in order to conform the bicycle to standards intended for vehicles manufactured a half century later.

Discussion and Decision

NHTSA concludes that the Whizzer is a motor vehicle. This conclusion is based on the information presented by the petitioner that the Whizzer is fully capable of 25 mph sustained speed without pedal assist. Since the Whizzer has two wheels and its motor is less than 2 horsepower, it is classified not only as a motorcycle, but also as a motor-driven cycle.

The petitioner has provided no justification for excepting the Whizzer and other motorized bicycles from compliance with the FMVSS. Although the Whizzer is intended to replicate a design of the 1940s, the public expects, and is entitled to, a greater degree of safety on the road than was available 50 years ago. Federal motor vehicle safety standards are now in place for the purpose of protecting the operators of two-wheeled vehicles in an environment of heavier road traffic than existed half a century past. For 30 years, motor-driven cycles have been built and certified to comply with FMVSS addressing not only lighting, braking, and controls and displays as discussed, but also with FMVSS covering brake hoses, mirrors, tires and rims, and glazing if provided. Over the years, NHTSA has learned the importance of ensuring that small vehicles are detectable by larger users of the roadway. Detectability is enhanced by a vehicle's lamps and reflectors. Whizzers of the 1940s were equipped with a magneto and no electrical generating capability, and the only lamps available were add-on lamps powered by self-contained batteries. Today, motor-driven cycles have either generators or alternators to provide power for Federally required headlamps, taillamps, turn signals and stop lamps. Congress expected NHTSA to promulgate standards that would continue to allow the public a wide choice of vehicles, but it did not intend that NHTSA do so at the expense of safety. Therefore, the agency does not accept the petitioner's argument that it should be allowed to produce a motor-driven cycle without the safety equipment found on other motor-driven cycles, simply because to require compliance might detract from the authenticity of the vehicle.

NHTSA has completed its technical review pursuant to 49 CFR Sec. 552.6, and, taking into account other appropriate factors as discussed above, denies the petition by Whizzer Motorbike Company.

Authority: Delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: July 15, 1998.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 98–19216 Filed 7–17–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AC21

Endangered and Threatened Wildlife and Plants; Reopening of Comment Period on Proposed Endangered Status for Puccinellia Parishii (Parish's Alkali Grass)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of reopening of public comment period.

SUMMARY: The Fish and Wildlife Service provides notice that the public comment period is reopened for the proposal to list *Puccinellia parishii* (Parish's alkali grass) as an endangered species pursuant to the Endangered Species Act of 1973, as amended. This small annual grass occurs near desert springs, seeps, and seasonally wet areas in Apache, Coconino, and Yavapai counties, Arizona; San Bernardino County, California; and Catron, Cibola, Grant, Hidalgo, McKinley, Sandoval, and San Juan counties, New Mexico.

DATES: This comment period closes on August 19, 1998.

ADDRESSES: Written comments and materials should be sent to the Field Supervisor, New Mexico Ecological Services Field Office, U.S. Fish and Wildlife Service, 2105 Osuna Road, NE., Albuquerque, New Mexico 87113. Comments and materials received will be available for public inspection during normal business hours, by appointment, at the above address.

FOR FURTHER INFORMATION CONTACT: Charlie McDonald at the above address or telephone (505) 346–2525.

SUPPLEMENTARY INFORMATION:

Background

Puccinellia parishii (Parish's alkali grass) was proposed for designation as an endangered species under the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*) on March 28, 1994 (59 FR 14378). A 60-day public comment period was provided on the proposal. All interested parties were requested to submit factual reports or information that might contribute to the accuracy and effectiveness of any final action resulting from the proposal. The U.S. Fish and Wildlife Service (Service) received one request for a public hearing, and a notice announcing the public hearing and reopening the comment period was published in the **Federal Register** on August 30, 1994 (59 FR 44700). The public hearing was held on September 15, 1994, in Tuba City, Arizona.

Following the initial and reopened comment periods and public hearing, the Service received additional information on the distribution, abundance, habitat requirements, and threats for Parish's alkali grass. This new information is summarized in the following paragraphs.

Parish's alkali grass is now known from 29 sites as opposed to the 10 sites reported in the proposed rule. The known sites in New Mexico have increased to 16 from the 1 that was reported in the proposed rule. The new sites for New Mexico are in Catron (1), Cibola (1), Hidalgo (1), McKinley (6), Sandoval (4), and San Juan (2) counties. The 1 site reported in the proposed rule is in Grant County. The known sites in Arizona have increased to 11 from the 7 that were reported in the proposed rule. The new sites for Arizona are in Apache (3) and Yavapai (1) Counties. The 7 sites reported in the proposed rule are in Coconino County.

The known sites in California have decreased to 1 from the 2 that were reported in the proposed rule. Dr. Andrew Sanders of the University of California, Riverside identified the

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plants from Edwards Air Force Base in Kern County as *Puccinellia simplex* rather than *P. parishii* (C. Rutherford, U.S. Fish and Wildlife Service, *in litt.* 1995). The other California site reported in the proposed rule is in San Bernardino County.

Some of the newly discovered sites extend the overall range of the species. In particular, discoveries in northwestern New Mexico extend the species' range about 300 km (200 mi) eastward from previously known sites in Arizona, and the discovery in west-central Arizona extends the species' range about 240 km (150 mi) southwestward in that state. Many of the new sites fill gaps in the known distribution making populations much less disjunct from one another than previously believed.

Some newly discovered sites for Parish's alkali grass indicate the species occupies a broader range of habitats than previously supposed. In addition to sites near desert springs and seeps, some newly discovered sites are in areas where the soils are subirrigated and wet only during the winter and spring months. These sites are generally not identified as springs on maps and are only noticeable because their greener vegetation contrasts with the surrounding brown vegetation during the spring months. One newly discovered site occurs at 2,240 m (7,350 ft) in elevation, which is 410 m (1,350 ft) higher than any of the sites in the proposed rule. These discoveries greatly increase the number of potential sites where Parish's alkali grass might be found.

Some of the newly discovered sites indicate Parish's alkali grass may withstand disturbance better than previously suspected. At several sites, cattle have closely cropped the vegetation and severely trampled the area. However, Parish's alkali grass persists at the sites. In one instance, a highway right-of-way fence protects part of the site from grazing. The protected area has a dense stand of sweet clover (*Melilotus sp.*) and no Parish's alkali grass, but the grass is abundant in the grazed area only a few meters away. Some disturbance likely reduces competition and creates microsites for seedling establishment for Parish's alkali grass, which is a short-statured annual plant.

No final decision has been made on whether to give Parish's alkali grass protection under the Act or to withdraw the listing proposal. In consideration of the length of time since the initial proposal and the new information about the species, the Service is reopening the comment period and seeking comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning the proposed rule. The Service is seeking any other new information that may have been developed since the proposal was published, and that may expand the current knowledge of the status, distribution, or threats for Parish's alkali grass. The new comment period closes on August 19, 1998. Any comments should be sent to the Field Supervisor, New Mexico Ecological Services Field Office (see **ADDRESSES** section).

Reference Cited

Sivinski, R. 1995. Parish's alkali grass, progress report. New Mexico Forestry and Resources Conservation Division Section 6 Performance Report, Project E9, Segment 9. U.S. Fish and Wildlife Service, Albuquerque, New Mexico.

Author: The primary author of this document is Charlie McDonald (see **ADDRESSES** section).

Authority

The authority for this action is the Endangered Species Act (16 U.S.C. 1532 *et seq.*).

Dated: July 9, 1998.

Frank Shoemaker,

Regional Director, Region 2.

[FR Doc. 98–19208 Filed 7–17–98; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 63, No. 138
Monday, July 20, 1998

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 98-067-1]

Monsanto Co.; Receipt of Petition for Determination of Nonregulated Status for Potato Lines Genetically Engineered for Insect and Virus Resistance

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has received a petition from Monsanto Company seeking a determination of nonregulated status for certain potato lines genetically engineered for resistance to the Colorado potato beetle and potato virus Y. The petition has been submitted in accordance with our regulations concerning the introduction of certain genetically engineered organisms and products. In accordance with those regulations, we are soliciting public comments on whether these potato lines present a plant pest risk.

DATES: Written comments must be received on or before September 18, 1998.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 98-067-1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comments refer to Docket No. 98-067-1. A copy of the petition and any comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing access to that room to inspect the petition or comments are asked to call in advance of visiting at (202) 690-2817 to facilitate entry into the reading room.

FOR FURTHER INFORMATION CONTACT: Dr. David Heron, Biotechnology and Biological Analysis, PPQ, APHIS, Suite 5B05, 4700 River Road Unit 147, Riverdale, MD 20737-1236; (301) 734-5141. To obtain a copy of the petition, contact Ms. Kay Peterson at (301) 734-4885; e-mail: Kay.Peterson@usda.gov.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340, "Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests," regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such genetically engineered organisms and products are considered "regulated articles."

The regulations in § 340.6(a) provide that any person may submit a petition to the Animal and Plant Health Inspection Service (APHIS) seeking a determination that an article should not be regulated under 7 CFR part 340. Paragraphs (b) and (c) of § 340.6 describe the form that a petition for determination of nonregulated status must take and the information that must be included in the petition.

On December 5, 1997, APHIS received a petition (APHIS Petition No. 97-339-01p) from Monsanto Company (Monsanto) of St. Louis, MO, requesting a determination of nonregulated status under 7 CFR part 340 for certain NewLeaf® Y potato lines. The subject potato lines include one line of Russet Burbank (RBMT15-101), two lines of Shepody (SEMT15-02 and SEMT15-15), and one line of HiLite (HLMT15-46), which have been genetically engineered for resistance to the Colorado potato beetle (CPB) and potato virus Y (PVY). The Monsanto petition states that the subject potato lines should not be regulated by APHIS because they do not present a plant pest risk.

As described in the petition, all four of the subject NewLeaf® Y potato lines have been genetically engineered to contain the *cry3A* gene from *Bacillus thuringiensis* subsp. *tenebrionis* (*Btt*), which encodes a protein that is insecticidal to CPB, and the PVY coat protein gene (*PVYcp*), which imparts resistance to PVY. In addition to the *cry3A* gene and the PVYcp gene, these potato lines contain and express the *nptII* selectable marker gene, which is used in the initial stages of plant selection. While the two Shepody lines (SEMT15-02 and SEMT15-15) and the HiLite line (HLMT15-46) also contain the aad marker gene, tests indicate that this gene is not expressed in these potato plants. The subject potato lines were developed through the use of the *Agrobacterium tumefaciens* transformation system, and expression of the introduced genes is controlled in part by gene sequences derived from the plant pathogens *A. tumefaciens* and figwort mosaic virus.

The subject potato lines have been considered regulated articles under the regulations in 7 CFR part 340 because they contain gene sequences derived from plant pathogens. These potato lines have been evaluated in field trials conducted since 1995 under APHIS notifications. In the process of reviewing the notifications for field trials of the subject potato lines, APHIS determined that the trials, which were conducted under conditions of reproductive and physical containment or isolation, would not present a risk of plant pest introduction or dissemination.

In the Federal Plant Pest Act, as amended (7 U.S.C. 150aa *et seq.*), "plant pest" is defined as "any living stage of: Any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substances, which can directly or indirectly injure or cause disease or damage in any plants or parts thereof, or any processed, manufactured or other products of plants." APHIS views this definition very broadly. The definition covers direct or indirect injury, disease, or damage not just to agricultural crops, but also to plants in general, for example, native species, as well as to organisms that may be beneficial to plants, for example, honeybees, rhizobia, etc.

The U.S. Environmental Protection Agency (EPA) is responsible for the

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regulation of pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (7 U.S.C. 136 *et seq.*). FIFRA requires that all pesticides, including insecticides, be registered prior to distribution or sale, unless exempt by EPA regulation. In this regard, EPA has issued a registration to Monsanto for full commercialization of the plant pesticide *Btt* CRY3A delta endotoxin and the genetic material necessary for its production in potato. Residue tolerances for pesticides are established by EPA under the Federal Food, Drug and Cosmetic Act (FFDCA), as amended (21 U.S.C. 301 *et seq.*), and the Food and Drug Administration (FDA) enforces tolerances set by EPA under the FFDCA. In addition to the registration, EPA has issued exemptions from the requirement of a tolerance for residues of the subject plant pesticide CRY3A in potatoes, for the NPTII protein as a plant pesticide inert ingredient in all plants, and for the PVY coat protein in or on all plants and raw agricultural commodities.

FDA published a statement of policy on foods derived from new plant varieties in the **Federal Register** on May 29, 1992 (57 FR 22984–23005). The FDA statement of policy includes a discussion of FDA's authority for ensuring food safety under the FFDCA, and provides guidance to industry on the scientific considerations associated with the development of foods derived from new plant varieties, including those plants developed through the techniques of genetic engineering. Monsanto has completed consultation with FDA on the subject potato lines.

In accordance with § 340.6(d) of the regulations, we are publishing this notice to inform the public that APHIS will accept written comments regarding the Petition for Determination of Nonregulated Status from any interested person for a period of 60 days from the date of this notice. The petition and any comments received are available for public review, and copies of the petition may be ordered (see the **ADDRESSES** section of this notice).

After the comment period closes, APHIS will review the data submitted by the petitioner, all written comments received during the comment period, and any other relevant information. Based on the available information, APHIS will furnish a response to the petitioner, either approving the petition in whole or in part, or denying the petition. APHIS will then publish a notice in the **Federal Register** announcing the regulatory status of Monsanto's NewLeaf® Y potato lines RBMT15–101, SEMT15–02, SEMT15–15, and HLMT15–46 and the availability of APHIS' written decision.

Authority: 7 U.S.C. 150aa–150jj, 151–167, and 1622n; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.2(c).

Done in Washington, DC, this 14th day of July, 1998.

Craig A. Reed,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–19228 Filed 7–17–98; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Child Nutrition Database

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Food and Nutrition Service (FNS) to request voluntary submission of data including nutrient data from the food service industry to expand the Child Nutrition Database in support of the School Meal Initiatives for Healthy Children.

DATES: Comments on this notice must be received by September 18, 1998.

ADDRESSES: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. All responses to this notice will be summarized and included in the request for OMB approval and will become a matter of public record. Comments may be sent to: Marion Hinners, Team Leader, Food Science and Nutrition Section, Technical Assistance Branch, Nutrition and Technical Services Division, Food and Consumer Service, United States Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instruments and instruction should be directed to Marion Hinners at (703) 305–2556.

SUPPLEMENTARY INFORMATION:

Title: Data Collection to Expand the Child Nutrition Database.

OMB Number: Not yet assigned. (Previously cleared under ARS 0518–0021).

Expiration Date: Not available.

Type of Request: Reinstatement, with change, of a previously approved collection for which approval has expired.

Abstract: The development of the Child Nutrition (CN) Database, previously known as the National Nutrient Database for Child Nutrition Programs (NNDCNP), is regulated by the United States Department of Agriculture (USDA) School Meal Initiatives for Healthy Children. This database is designed to be incorporated in USDA approved nutrition analysis software programs and provide an accurate source of nutrient data, which allows schools to analyze the meals served to children and measure the compliance of the menus to established nutrition goals and standards specified in 7 CFR 210.10 for the National School Lunch Program and 7 CFR 220.8 for the School Breakfast Program. The information collection for the CN Database was previously conducted by USDA's Agricultural Research Service and will now be conducted using an outside contractor. The CN Database needs to be updated with an extensive database of brand name or manufactured foods commonly used in school food service. The Food and Nutrition Service is soliciting a contractor to collect this data from the food industry to expand the CN Database. The submission of data from the food industry will be strictly voluntary, and based on analytical, calculated, or nutrition facts label sources.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 2.0 hours per response.

Respondents: The respondents are the manufacturers of food products for school food service.

Estimated Number of Respondents: 100.

Estimated Number of Responses per Respondent: 30.

Estimated Total Annual Burden on Respondents: 6,000 hours.

Dated: July 9, 1998.

George A. Braley,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 98–19246 Filed 7–17–98; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection for the Wildland-Urban Interface Series

AGENCY: Forest Service, USDA.

ACTION: Notice of information collection; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service announces its intent to establish a new information collection. The new collection is necessary to help the Forest Service gain a better understanding of how residents living in urban environments perceive the agency's management of National Forest System lands, how the agency can better meet the recreational needs of residents of all ages who live in urban environments close to National Forest System lands, and how the agency can more effectively disseminate information to urban residents about National Forest System land recreational opportunities. Respondents will be urban residents who live close to and visit National Forest System lands, as well as urban residents who do not visit.

DATES: Comments must be received in writing on or before September 18, 1998.

ADDRESSES: All comments should be addressed to: Forest Service, USDA, The Wildland-Urban Interface Project, Pacific Southwest Forest Experiment Station, 4955 Canyon Crest Dr., Riverside, CA 92507.

FOR FURTHER INFORMATION CONTACT: Dr. Patricia Winter, Pacific Southwest Forest Experiment Station, at (909) 680–1557.

SUPPLEMENTARY INFORMATION:

Description of Information Collection

Title: The Wildland-Urban Interface Series.

OMB Number: New.

Expiration Date of Approval: New.

Type of Request: The following describes a new collection requirement and has not received approval by the Office of Management and Budget.

Abstract: Forest Service personnel will analyze the collected data to gain a better understanding of how residents, living in an urban environment close to National Forest System lands, get or receive information about recreational opportunities on these lands; how residents in urban environments perceive the Forest Service's management of the lands; how much residents in urban environments know about and what they think about the agency's policies and regulations governing the lands; and which recreational activities urban residents prefer.

Forest Service research scientists and technicians will collect the data.

The collected data will include the respondent's gender, age, education, ethnic or racial group affiliation, zip code, primary language, when they last visited an outdoor public recreational area, how many times a year they visit, if they have plans to visit in the near future, the types of activities they participate in while visiting the recreational sites, how they learned about the recreational area, if the area is relaxing or reminds them of other favorite places, if they think the area is accessible for the disabled, and the amenities they prefer, such as informational signs, well-maintained trails, and natural vegetation. Respondents, who have not visited Forest Service managed recreational sites, will be asked their reason for not visiting.

This information collection will include mail-in questionnaires, telephone interviews, and face-to-face interviews. Participation will be voluntary.

Data gathered in this information collection is not available from other sources.

Estimate of Burden: 15 minutes.

Type of Respondents: Individuals and groups visiting National Forest System lands, urban residents living in close proximity to the lands, and visitors to outdoor public recreational areas.

Estimated Number of Respondents: 3,000.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 750 hours.

Comments Are Invited

The agency invites comments on the following: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Use of Comments

All comments received in response to this notice, including the name and address when provided, will be summarized and included in the request for Office of Management and Budget approval. All comments will also become a matter of public record.

Dated: July 14, 1998.

Robert Lewis, Jr.,

Acting Associate Chief.

[FR Doc. 98–19215 Filed 7–17–98; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Data User Evaluation Surveys.

Form Number(s): Various.

Agency Approval Number: 0607–0760.

Type of Request: Extension of a currently approved collection.

Burden: 3,750.

Number of Respondents: 7,500.

Avg. Hours Per Response: 30 minutes.

Needs and Uses: The Census Bureau is requesting an extension of the generic clearance to conduct customer satisfaction research surveys which may be in the form of mailed or electronic questionnaires and/or focus groups or personal interviews.

The Census Bureau has ranked a customer focused environment as one of its most important strategic planning objectives. The Bureau routinely needs to collect and analyze customer feedback about its products and services to better align them to its customers' needs and preferences. Several products and distribution channels have been designed/redesigned based on feedback from its various customer satisfaction research efforts.

Each research design is reviewed for content, utility, and user-friendliness by a variety of appropriate staff (including research design and subject-matter

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specialists). The concept and design are tested by internal staff and a select sample of respondents to confirm its appropriateness, user-friendliness, and to estimate burden (including hours and cost) of the proposed collection of information. Collection techniques are discussed and included in the research concept design discussions to define the most time-, cost-efficient and accurate collection media.

The clearance operates in the following manner: A block of hours is reserved at the beginning of each year, and the particular activities that will be conducted under the clearance are not specified in advance. The Census Bureau provides information to OMB about the specific activities on a flow basis throughout the year. OMB is notified of each activity in a letter that gives specific details about the activity, rather than by means of individual clearance packages. At the end of each year, a report is submitted to OMB that summarizes the number of hours used as well as the nature and results of the activities completed under the clearance.

Affected Public: Individuals or households, businesses or other for-profit, not-for-profit institutions, Federal Government, State, Local or Tribal Government.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

Legal Authority: Executive Order 12862 (Setting Customer Service Standards).

OMB Desk Officer: Nancy Kirkendall, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Nancy Kirkendall, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: July 14, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–19205 Filed 7–17–98; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071398B]

Highly Migratory Species and Billfish Advisory Panels; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Atlantic Highly Migratory Species (HMS) and Billfish Advisory Panels (APs) will hold a joint meeting to discuss bycatch reduction issues in HMS fisheries, followed by a meeting of the HMS AP to discuss shark management measures for inclusion in the draft HMS fishery management plan (FMP).

DATES: The joint HMS/Billfish Advisory Panel meeting will be held Monday, July 27, 1998, from 8:00 a.m. to 5:00 p.m. The HMS AP meeting will be held Monday, July 27, 1998, from 7:00 to 9:00 p.m. and Tuesday, July 28, 1998, from 8:30 a.m. to 4:30 p.m. at the meeting location. There will be a public comment period on issues that the APs are discussing on Monday, July 27, 1998, from 6:00 to 7:00 p.m.

ADDRESSES: The APs will meet at the Ramada Plaza Hotel, 901 N. Fairfax Street, Alexandria, Virginia. Written comments should be submitted to, and informational materials related to the AP meeting are available from, Liz Lauck, Highly Migratory Species Management Division, 1315 East-West Highway, Silver Spring, Maryland 20910.

FOR FURTHER INFORMATION CONTACT: Liz Lauck or Pat Wilbert, telephone: (301) 713–2347, fax: (301) 713–1917.

SUPPLEMENTARY INFORMATION: The HMS and Billfish APs were established under the authority of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1901 *et seq.* The APs will assist the Secretary of Commerce in collecting and evaluating information relevant to the development of an FMP for Atlantic tunas, swordfish, and sharks, and an amendment to the Billfish FMP. All AP meetings are open to the public and will be attended by members of the AP, including appointed members, representatives of the five fishery Management Councils that work with Atlantic HMS, and the Chair, or his representative, of the U.S. Advisory Committee to the International Commission for the Conservation of Atlantic Tunas. A public comment period is scheduled for Monday, July 27, 1998, from 6:00 to 7:00 p.m. at the meeting location. Comments are solicited on bycatch reduction measures and shark management measures that should be considered for inclusion in the draft FMP documents. See **ADDRESSES** to request informational materials related to the AP discussion or to submit public comments on bycatch reduction or shark management measures. Agenda items for the joint HMS/Billfish AP meeting to discuss bycatch management include discussion of:

1. Consideration of protected resource issues in bycatch management for HMS fisheries;

2. Gear modifications that could be considered to reduce bycatch in HMS fisheries; and

3. The possible use of time and area closures to reduce bycatch in HMS fisheries.

Agenda items for the HMS AP meeting to discuss shark management include discussion of:

1. A review of preliminary or final results from the June 1998 Shark Evaluation Workshop;

2. Rebuilding scenarios for the overfished large coastal shark management sub-unit;

3. Issues related to operation of the commercial and recreational shark fisheries, which could include permitting and reporting, mitigating derby conditions in the fishery, and enforcement concerns;

4. Research and management needs for the small coastal and pelagic shark management sub-units; and

5. Current international management activities related to Atlantic sharks.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Pat Wilbert, 1315 East-West Highway, Silver Spring, MD 20910, phone (301) 713–2347; fax: (301) 713–1917, at least 7 days prior to the meeting date.

Dated: July 14, 1998.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–19159 Filed 7–14–98; 4:04 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Recording Assignments (Formerly Called Changes in Patent and Trademark Practices)

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce (DoC), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before September 18, 1998.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the attention of Audrey Britt, Manager of the Assignment Division, by telephone at (703) 308–9706 or by facsimile transmission to (703) 308–7124.

SUPPLEMENTARY INFORMATION:

I. Abstract

As part of the responsibilities outlined by 35 U.S.C. 261 and 262 for patents, and 15 U.S.C. 1057 and 1060 of the Trademark Act of 1946 for trademarks, the Patent and Trademark Office (PTO) records a variety of documents submitted to them by the public, corporations, other federal agencies, and Government-owned or Government-controlled corporations. These individuals, federal agencies, and corporations can submit various documents which establish their rights, and/or titles for patents and trademarks to the PTO for recording. This officially and publicly establishes their rights and titles. These documents typically include items such as transfers of properties (i.e., patents and trademarks), liens, licenses, assignments of interest, security interests, mergers, and explanations of transactions or other documents that record the transfer of ownership from one party to another. The PTO can also record assignments for applications, patents, and trademarks. By submitting these various items, the individual, federal agency or corporation can establish their ownership of an item.

Once the document has been recorded, it is available to the public. All recorded documents, except for those under secrecy orders or those in which the federal government has a documented interest, can be viewed by the public. The public uses these documents to conduct ownership and chain-of-title searches. The public can view these records either at the PTO or the National Archives and Records Administration, depending on when they were recorded.

To make the recording process faster, more efficient, and more accurate, the PTO developed an automated system called the Patent and Trademark Assignment System or PTAS. This system helps automate the movement of the various documents to be recorded throughout the PTO Assignment Division.

In order to accurately record a document and to take advantage of the speed and efficiency of the PTAS, the PTO developed cover sheets to submit with the document to be recorded. These cover sheets capture all of the necessary data needed to accurately record the various documents. These cover sheets were also designed so that they can be easily scanned into the PTAS. At this time, only the cover sheets can be scanned into the PTAS. The PTO does not currently use any automated, electronic, mechanical, or any other technological collection methods to collect the information for patent and application assignments.

II. Method of Collection

By mail, facsimile transmission, or hand carried to the Patent and Trademark Office.

III. Data

OMB Number: 0651–0027.

Type of Review: Renewal without change.

Affected Public: Individuals or households, businesses or other for-profit, not-for-profit institutions, farms, state, local or tribal governments, and the Federal Government.

Estimated Number of Respondents: 320,000 responses per year.

Estimated Time Per Response: It is estimated to take the public six minutes to complete an assignment of an application (Form PTO/SB/15) and an assignment of a patent (Form PTO/SB/41). It is estimated to take a half hour to complete a trademark recordation form cover sheet or a patent recordation form cover sheet.

Estimated Total Annual Respondent Burden Hours: 100,000 hours per year.

Estimated Total Annual Respondent Cost Burden: $17,500,000 per year.

Title of form or function	Form number(s)	Estimated time for response	Estimated annual burden hours	Estimated annual responses
Assignment of Application	PTO/SB/15	6 mins	7,500	7,500
Assignment of Patent	PTO/SB/41	6 mins	7,500	75,000
Trademark Recordation Form Cover Sheet	Form PTO–1618A, B, & C	30 mins	42,500	85,000
Patent Recordation Form Cover Sheet	Form PTO–1619A, B, & C	30 mins	42,500	85,000
Totals			100,000	320,000

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: July 14, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–19024 Filed 7–17–98; 8:45 am]

BILLING CODE 3510-18-P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Oman

July 14, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: July 20, 1998.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being increased, variously, for carryover and carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Also see 62 FR 67627, published on December 29, 1997.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 14, 1998.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 19, 1997, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Oman and exported during the twelve-month period which began on January 1, 1998 and extends through December 31, 1998.

Effective on July 20, 1998, you are directed to increase the limits for the following categories, as provided for under the terms of the bilateral agreement between the Governments of the United States and the Sultanate of Oman, effected by exchange of notes dated December 13, 1993 and January 15, 1994, as amended and extended:

Category	Adjusted twelve-month limit [1]
334/634	166,500 dozen.
335/635	280,269 dozen.
338/339	577,388 dozen.
340/640	280,269 dozen.
341/641	210,202 dozen.
347/348	956,831 dozen.
647/648/847	429,659 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1997.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–19219 Filed 7–17–98; 8:45 am]

BILLING CODE 3510-DR-F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Sri Lanka

July 14, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: July 20, 1998.

FOR FURTHER INFORMATION CONTACT: Helen L. LeGrande, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted, variously, for swing, special shift, carryover, carryforward, special carryforward, and allowance for handloomed products.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Also see 62 FR 67837, published on December 30, 1997.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 14, 1998.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 22, 1997, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Sri Lanka and exported during the twelve-month period which began on January 1, 1998 and extends through December 31, 1998.

Effective on July 20, 1998, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
237	378,494 dozen.
314	5,410,964 square meters.
331/631	3,712,107 dozen pairs.
333/633	13,359 dozen.
334/634	904,824 dozen.
335/835	204,058 dozen.
336/636/836	588,478 dozen.
338/339	1,597,383 dozen.
340/640	1,569,583 dozen.
341/641	2,220,363 dozen of which not more than 1,554,376 dozen shall be in Category 341 and not more than 1,554,376 dozen shall be in Category 641.
342/642/842	727,287 dozen.
345/845	98,476 dozen.

Category	Adjusted twelve-month limit[1]
347/348/847	1,800,291 dozen.
350/650	123,097 dozen.
351/651	438,549 dozen.
352/652	1,412,105 dozen.
359–C/659–C[2]	1,181,402 kilograms.
360	1,771,732 numbers.
363	13,515,567 numbers.
369–D[3]	650,016 kilograms.
369–S[4]	1,005,426 kilograms.
434	8,160 dozen.
435	17,486 dozen.
440	11,657 dozen.
611	6,820,144 square meters.
635	491,479 dozen.
638/639/838	1,053,988 dozen.
644	361,695 numbers.
645/646	118,096 dozen.
647/648	1,191,177 dozen.
840	128,067 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1997.

[2] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025, and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[3] Category 369–D: only HTS numbers 6302.60.0010, 6302.91.0005 and 6302.91.0045.

[4] Category 369–S: only HTS number 6307.10.2005.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–19220 Filed 7–17–98; 8:45 am]

BILLING CODE 3510–DR–F

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Notice of Availability of Funds To Support AmeriCorps Promise Fellowships in Support of the Goals of the Presidents' Summit

AGENCY: Corporation for National and Community Service.

ACTION: Notice of availability of funds.

SUMMARY: The Corporation for National and Community Service (the Corporation) will use approximately $5 million to award grants to state commissions on national and community service (State Commissions), Indian tribes, U.S. territories and national nonprofit organizations to sponsor AmeriCorps Promise Fellows who will help implement programs in support of the five goals for children and youth set at the Presidents' Summit for America's Future. These grants, in the aggregate, will support between 500–750 Fellows, with the number dependent upon the amount of national, state and local resources committed to this effort. These Fellows will spend one year serving with organizations that are committed to helping to meet one or more of the five goals of the Presidents' Summit. Each Fellow who successfully completes a term of service will receive the $4,725 AmeriCorps education award.

Last year at Philadelphia, President Clinton, former Presidents Bush, Carter, and Ford, Mrs. Nancy Reagan, and General Colin Powell, with the endorsement of many governors, mayors, and leaders of the independent sector, declared: "We have a special obligation to America's children to see that all young Americans have:

1. Caring adults in their lives, as parents, mentors, tutors, coaches;
2. Safe places with structured activities in which to learn and grow;
3. A healthy start and healthy future;
4. An effective education that equips them with marketable skills; and
5. An opportunity to give back to their communities through their own service.

These five goals are now the five fundamental resources sought by America's Promise " The Alliance for Youth, the organization following up on the goals of the Presidents' Summit.

As a major partner in this effort, the Corporation devotes a substantial part of its activities to help meet these goals, including the work of AmeriCorps, Learn and Serve America, and the National Senior Service Corps. This new Fellowship program will provide States and local communities with additional and unique support to help carry out their plans to provide America's children with these five fundamental resources.

DATES: All sponsor proposals must be submitted by September 10, 1998. The Corporation anticipates announcing selections under this announcement no later than October 31, 1998. The project period is negotiable, but will generally end no later than December 31, 1999.

ADDRESSES: Proposals to sponsor one or more Fellows must be submitted to the Corporation at the following address: Corporation for National Service, Attn: Gary Kowalczyk, 1201 New York Avenue NW, Washington, D.C. 20525.

FOR FURTHER INFORMATION CONTACT: For further information, or to obtain a sponsor application, contact the Corporation for National Service, Jeffrey Gale at (202) 606–5000, ext. 280 or Nicole Karlson at 215–597–2828. T.D.D. (202) 565–2799. This notice may be requested in an alternative format for the visually impaired.

SUPPLEMENTARY INFORMATION:

Background

The Corporation is a federal government corporation that encourages Americans of all ages and backgrounds to engage in community-based service. This service addresses the nation's educational, public safety, environmental and other human needs to achieve direct and demonstrable results. In doing so, the Corporation fosters civic responsibility, strengthens the ties that bind us together as a people, and provides educational opportunity for those who make a substantial commitment to service. For more information about the Corporation and the activities that it supports, go to http://www.nationalservice.org.

Pursuant to the National and Community Service Act of 1990, as amended (the Act), the Corporation may support "innovative and model programs" and may award national service fellowships. 42 U.S.C. 12653b. In addition, the Corporation may approve the provision of education awards to individuals who successfully complete a term of service in "national service positions as the Corporation determines to be appropriate". 42 U.S.C. 12573(7).

Through this notice, the Corporation invites grant proposals from eligible entities who wish to sponsor one or more AmeriCorps Promise Fellows.

Eligible Sponsors

The following entities are eligible to apply to become a sponsor: Governor-appointed state commissions on national and community service (State Commissions), Indian tribes, U.S. territories, and national nonprofit organizations currently operating an AmeriCorps program or proposing to sponsor activities meeting the goals of the Presidents' Summit in more than one state.

The Corporation anticipates supporting at least five Fellows in every state. If the grantmaking process results in a state not receiving AmeriCorps Promise Fellows the Corporation may set aside sufficient funds to ensure that every State has at least one Fellow. In such instances, the Corporation may approve, in coordination with a State Commission, a national or local

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nonprofit organization to sponsor one or more Fellows through a process other than the one described in this Notice.

Substance of the Fellowship Program

An AmeriCorps Promise Fellowship provides the Fellow with an opportunity to make a unique contribution to organizations helping to meet one or more of the five fundamental needs declared at the Presidents' Summit and being advanced by America's Promise—The Alliance for Youth; national, state, and local nonprofit organizations; and the national service network. For more information about the five goals of the Presidents' Summit, go to http://www.americaspromise.org.

Although AmeriCorps Promise Fellows may be placed by a sponsor at a host organization that focuses its resources on only one of the goals of the Presidents' Summit, the host organization must be part of a larger effort (e.g., Community of Promise) that supports the delivery of all of the five fundamental resources to children and young people.

Eligible sponsor applicants have considerable freedom to identify the structure of their Fellowship program and the projects or activities that AmeriCorps Promise Fellows will pursue. The most important considerations in establishing a program are that the prospective Fellows help meet the goals of the Presidents' Summit and that they have the ability to produce a defined outcome. The following are examples of specific tasks that Fellows may perform; these tasks are included here for illustrative purposes:

- A full-time coordinator for a Community of Promise campaign providing a targeted number of young people with all or several of the America's Promise fundamental resources.
- A full-time coordinator of individual or multiple sites, such as schools and housing complexes, that provide access to multiple or all five fundamental resources.
- An entrepreneur initiating a program to provide multiple resources to targeted young people, for example, adding a service component and access to dental care to an existing after-school tutoring program.
- A recruiter of Communities of Promise.
- A recruiter and manager of volunteers in a local or regional effort providing all or multiple resources to a number of young people.

The following are examples of organizational activities that could be supported by Fellows as part of an effort to provide the five fundamental resources to children and youth. They are included here for illustrative purposes only:

- Expansion of Volunteer Center activities to promote the goals of the Presidents' Summit.
- State Education Agency efforts to stimulate service-learning opportunities by K–12 students.
- Community and school efforts to provide after-school programs in safe places.
- Youth leadership to stimulate service and service-learning by inner-city youth.
- Support to community volunteer and Federal-Work-Study efforts to promote literacy.
- Immunization efforts aimed at young children and their families.
- Efforts to secure access to health care providers and facilities.
- Mentoring programs linking adults with youth in need of additional support.
- Recruitment and placement of Federal-Work-Study students for community service.
- New models for involving professions in organizing to meet the goals of the Presidents' Summit, e.g., health care professionals, librarians, museum administrators, and teachers.
- Efforts to stimulate service by diverse groups to meet the Presidents' Summit's goals, including diverse ethnic, religious, racial, and cultural groups.

A sponsor may determine its own process to identify projects and programs in which AmeriCorps Promise Fellows will serve, and may either participate directly in the recruitment and selection of individual AmeriCorps Promise Fellows or delegate that responsibility to local programs or another entity (e.g., a university). One model a sponsor may consider is first to identify organizations where Fellows may serve, establish that the activities of those organizations meet the criteria for the AmeriCorps Promise Fellowship program, and then simply publicize a list of eligible host organizations for individuals interested in pursuing a Fellowship.

Fellows will be viewed as leaders in the efforts to implement the goals of the Presidents' Summit, and as a group will have an identity tied to this overall effort, including opportunities to meet and to assess the overall impact of their efforts. Although no particular academic credentials or work experience are required to become a Fellow, confidence in the ability of applicants to produce outcomes in support of the goals of the Presidents' Summit, such as the implementation of commitments made at the Presidents' Summit and follow-up state and local summits, is the central criterion for selection. This is evidenced by: strong academic credentials; substantial and successful work experience in a field related to the organization's activities; and experience performing significant service related activities, particularly various national service leaders' programs, including AmeriCorps leaders, AmeriCorps*VISTA leaders, AmeriCorps*National Civilian Community Corps leaders, and leadership activities in programs sponsored by Learn and Serve America and the National Senior Service Corps. Each sponsor may adapt the above concepts to meet its specific needs.

An AmeriCorps Promise Fellow must: (1) Be at least 17 years of age; (2) be a U.S. citizen, national, or lawful permanent resident alien; and (3) have a high school diploma or GED. Individuals who have already served in two approved national service positions (a position for which an education award is provided) are, by statute, not eligible for a third education award.

Fellowships are expected to be for at least 10 months and must be completed within 12 months. To qualify for an education award of $4,725, a Fellow must serve on a full-time basis, perform at least 1,700 hours of service, and successfully complete the Fellowship.

Fellows who serve for twelve months receive a living allowance of $13,000, paid in regular increments. Fellow who serve fewer than twelve months receive a prorated living allowance. Fellows may receive a living allowance greater than $13,000 only if they are part of a professional corps and are supported entirely by public or private organizations (e.g., Fellows on paid sabbaticals), with the Corporation's support limited to the provision of education awards.

Sponsor's Role

Each sponsor determines the process for the recruitment and selection of AmeriCorps Promise Fellows in its respective area. State commissions are encouraged to use their Unified State Plan as the basis for their plans. The sponsor must certify that the host organization in which the Fellow is being placed is conducting activities that contribute to one or more of the five goals of the Presidents' Summit, and that this is part of a larger effort to provide all five of the fundamental resources to children and youth.

The Corporation anticipates that host organizations generally will be local nonprofit organizations that are engaged in activities in support of the goals of the Presidents' Summit. Fellows may serve at a State Commission only under limited circumstances. In proposing such an arrangement, a State Commission must describe how it will comply with (1) the prohibition on State Commissions operating any national service program receiving financial assistance from the Corporation and (2) the prohibition on a State Commission receiving Corporation assistance to carry out activities that are already supported by its administrative grant from the Corporation. A State Commission proposing this arrangement must also submit a detailed position description for the Fellow. Fellowships may not be used simply to supplement the numbers of AmeriCorps Members at existing programs already carrying out activities consistent with the goals of the Presidents' Summit. Rather, the role of AmeriCorps Promise Fellows should be to provide higher level support that will enable an organization to become more involved, or to substantially increase the amount or quality of activities supporting achievement of the Presidents' Summit's five goals.

Sponsors are responsible for ensuring compliance with required elements of the Fellowship program. These requirements, which will be individually described in the grant agreement between the Corporation and the sponsor, include, but are not limited to, the following:

- Providing office space, supplies, and equipment.
- Providing a living allowance.
- Paying and withholding FICA taxes.
- Withholding income taxes.
- Providing unemployment insurance if required by State law.
- Providing workers' compensation if required by State law or obtaining insurance to cover service-related injuries.
- Providing liability insurance to cover claims relating to Fellows.
- Providing adequate training and supervision.
- Ensuring that Fellows not engage in prohibited activities (such as lobbying).
- Complying with statutory prohibitions on uses of assistance (such as displacement, discrimination).
- Providing a grievance procedure that meets statutory standards.
- Verifying and submitting timely documentation relating to each Fellow's eligibility for an education award.
- Providing an adequate financial management system.
- Complying with other reporting requirements.

Contents of the Sponsor Application

Sponsor applications must contain the following information:

1. Background concerning the applicant's current efforts to achieve the goals of the Presidents' Summit.
2. A designation of the organizations where the Fellows will be assigned, including the process used to select host organizations and background concerning the selected organizations and the roles they are playing in local summit follow-up. If the organizations are not yet designated, the application should describe the process that the sponsor will use to designate such entities.
3. A description of the activities that the Fellows will perform, including an indication about how the activities will support significant growth and/or improvements in the quality of efforts to meet the five goals of the Presidents' Summit. If the Fellow serves at a State Commission, a detailed position description must be provided.
4. An estimated budget to carry out the program, consistent with the description below.

The application may not exceed 21 double-spaced pages in length; more detailed instructions concerning the contents of the application are contained in the application package.

The Corporation will provide additional information concerning this program on its web site and will use the web site to announce any conference calls for potential applicant organizations scheduled before the application deadline.

Budget and Finances

The Corporation will issue grants on a fixed amount per Fellow basis, not to exceed $13,000 for the first five Fellowships in the grant, nor $10,000 for the sixth through the 30th Fellowship. These amounts exclude the education award. The sponsor assumes full financial responsibility for the program. Sponsors must provide the additional financial support necessary to carry out their proposed Fellowship program. To the extent that a sponsor provides a significant portion of the costs such that it notably reduces the Corporation's funding per Fellowship, additional Fellowships may be supported. The Corporation strongly encourages cost-sharing proposals, consistent with the guidelines in this Notice, to leverage Corporation resources and maximize the number of Fellows.

The Corporation is currently exploring the feasibility of implementing a fixed price award mechanism that would not require Corporation monitoring of actual costs incurred. To use this mechanism, the Corporation would determine that the cost principles normally applicable to Federal awards do not apply and in that case the sponsor would not be required to account to the Corporation for actual costs incurred.

In addition to the approved grant amount, the Corporation will provide an education award to Fellows who successfully complete their term of service. The Corporation will sponsor national training events to provide Fellows with an opportunity to come together to assess national progress in meeting the goals of the Presidents' Summit. The Corporation will also promote the availability of these Fellowships.

The Corporation anticipates that these grants will be renewable for up to a three-year period, subject to performance and the availability of appropriations.

Process for Selecting Sponsors

The Corporation anticipates initially supporting 5–30 AmeriCorps Promise Fellowships under each grant, with the exact amount depending upon the proposal and the level of non-Corporation support. After September 10, 1998, if a sponsor identifies additional non-Corporation resources to support more Fellowships, the sponsor may propose to increase the number of its Fellows. In such instances, the Corporation may approve additional education awards subject to their availability, and the number of Fellowships per sponsor may exceed 30.

In selecting sponsors, the Corporation will consider: Program design (60%), including (in order of importance) getting things done to help achieve the five goals of the Presidents' Summit, fostering the skills and leadership development of Fellows, and strengthening communities; organizational capacity (25%); and budget/cost effectiveness (15%). The Corporation will make all final decisions concerning approval of these grants for Fellowships. Given the Corporation's interest in having the common elements for the Fellowships that are described above, the Corporation announces its intent to enter into such negotiations with any sponsor in a manner that may require revisions to the original grant proposal.

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Dated: July 15, 1998.

Kenneth L. Klothen,

General Counsel, Corporation for National and Community Service.

[FR Doc. 98–19238 Filed 7–17–98; 8:45 am]

BILLING CODE 6050–28–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Request for Comment on Proposed Criteria Used to Select and Evaluate National Service Programs

AGENCY: Corporation for National and Community Service.

ACTION: Request for comment.

SUMMARY: The Corporation for National and Community Service (Corporation) invites comments on proposed changes to the criteria it uses to select and evaluate national service programs. The Corporation applies these criteria to the following categories of national service programs: Learn and Serve America; National Senior Service Corps; AmeriCorps*VISTA; and AmeriCorps*State and National. The revised criteria will apply beginning in 1999 to the Corporation's selection of projects and programs, including recompetitions, and will be phased in for continuing projects and programs over the next year.

DATES: The deadline for the submission of comments is August 19, 1998.

ADDRESSES: Comments should be submitted to the Office of Planning and Program Integration, Corporation for National Service, 1201 New York Avenue NW, Washington, D.C. 20525.

FOR FURTHER INFORMATION CONTACT: Nancy Talbot, (202) 606–5000, ext. 470. T.D.D. (202) 565–2799. For individuals with disabilities, information will be made available in alternative formats upon request.

SUPPLEMENTARY INFORMATION:

A. Background

The Corporation for National and Community Service was established in 1993 to engage Americans of all ages and backgrounds in service to their communities. The Corporation's national and community service programs provide opportunities for participants to serve full-time and part-time, with or without stipend, as individuals or as a part of a team. AmeriCorps*State and National, VISTA, and National Civilian Community Corps engage thousands of Americans on a full-or part-time basis at more than 1,000 locations to help communities meet their toughest challenges. Learn and Serve America integrates service into the academic life of more than 800,000 students in all 50 states. The National Senior Service Corps utilizes the skills, talents and experience of over 500,000 older Americans to help make communities stronger, safer, healthier and smarter.

The Corporation provides assistance to organizations that carry out AmeriCorps*State and National, Learn and Serve America, and National Senior Service Corps programs. AmeriCorps*State and National programs, which involve 25,000 Americans each year in results-driven community service, are grant programs managed by (1) State Commissions that select and oversee programs operated by local organizations, (2) national non-profit organizations that identify and act as parent organizations for operating sites across the country; (3) Indian tribes; or (4) U.S. Territories. Learn and Serve America grants provide service learning opportunities for students in K–12 and higher education settings. The National Senior Service Corps operates through grants to local organizations for Retired Senior Volunteer Programs (RSVP), Foster Grandparents and Senior Companions to provide service to their communities.

The Corporation plays a direct role in carrying out the AmeriCorps*VISTA program in assigning more than 4,000 AmeriCorps*VISTA members to service programs across the nation where they develop grassroots programs, mobilize resources and build capacity. The Corporation itself operates the AmeriCorps*NCCC (National Civilian Community Corps) program, providing an opportunity for approximately 1,000 individuals between the ages of 18 and 24 to participate in a residential program principally located on downsized military bases.

For additional information on the national service programs supported by the Corporation, go to *http://www.nationalservice.org.*

While recognizing the particular aspects of the different types of national service programs, the Corporation seeks to make its evaluation criteria more consistent across programs. The proposed criteria for 1999 reflect an ongoing effort by the Corporation to streamline and harmonize the various application processes for organizations seeking support for their national service programs. The Corporation's Board of Directors has reviewed and endorsed the proposed 1999 evaluation criteria.

The Corporation will use the proposed evaluation criteria in selecting new and recompeting projects and programs and to assess the performance of organizations who have received assistance to carry out national service programs. Implementation of the criteria will begin with the issuance of 1999 guidance to the field. Because the criteria relate principally to programming and operations, they will not necessarily apply to other activities, such as technical assistance, supported by the Corporation.

The Corporation will provide additional guidance in application materials for each category of national service program. The additional guidance will state how the criteria will be applied, depending on the category of program (e.g., Learn and Serve America, National Senior Service Corps) and the nature of the application for assistance (new, recompeting, or continuation).

B. Evaluation Criteria Common to National Service Programs Assisted by the Corporation

1. Criteria

The following three categories (and the three sub-categories under Program Design) constitute the criteria by which the Corporation will select and evaluate organizations receiving assistance in Learn and Serve America, National Senior Service Corps, AmeriCorps*VISTA, and AmeriCorps*State and National.

a. Program Design (60%), which includes as subcategories:

i. *Getting Things Done,* meeting needs in the areas of education, public safety, the environment, and health and human needs;

ii. *Strengthening Communities;* and

iii. *Fostering Participant Development.*

b. Organizational Capacity (25%)

c. Budget/Cost-Effectiveness (15%)

2. Factors That May Be Applied Within Each Category or Sub-Category

Within each category or subcategory, the Corporation may apply the following factors, depending on the type of program and the nature of the application. While the majority of factors will apply to all programs supported by the Corporation, some may not, and each type of program may place a different emphasis on the respective factors. In addition, some of the factors may be used to assess program *outcomes* rather than initial applications for assistance. The Corporation will provide subsequent guidance in its application materials for each category of national service program, stating whether and how these factors will be applied.

a. Program Design (60%)

i. Getting Things Done

- Well-documented compelling community need(s).
- Well-designed activities with measurable goals and objectives that meet community needs.
- Well-defined roles for participants that lead to measurable outcomes/impact.
- Effective involvement of target community in planning/implementation.
- Ability to provide or secure effective technical assistance.

ii. Strengthening Communities.

- Strong community partnerships including well-defined roles for community partners.
- Potential for sustainability, innovation and/or replicability of project activities.
- Enhanced capacity of organizations and institutions.
- Mobilization of community resources, including volunteers.
- Bring together persons of diverse backgrounds.

iii. Participant Development.

- Effective plans for recruiting, developing, training, supervising, and recognizing participants.
- Well-designed activities that promote an ethic of service/civic responsibility.
- Well-designed plan to engage participants in high quality service-learning as defined by the Corporation.
- Learn to serve together with persons of diverse backgrounds.

b. Organizational Capacity (25%)

- Ability to provide sound programmatic and fiscal oversight.
- Sound track record in the issue area(s) to be addressed by the project.
- Well-defined roles for staff/administrators.
- Well-designed plans or systems for self-assessment, evaluation and continuous improvement.

c. Budget/Cost-Effectiveness (15%)

- Budget adequately supports program design.
- Applicant organization/host agency is committed to securing resources for program implementation and/or sustainability.
- Cost-effective within program guidance.

3. Subcategories Within Program Design

To reflect the differences between Learn and Serve America, National Senior Service Corps, AmeriCorps*VISTA, and AmeriCorps*State and National, the Corporation proposes to apply different values to the three subcategories within Program Design for each category of national service program. Thus, while Program Design will uniformly constitute 60% of an organization's evaluation, the Corporation may, for each national service program, place a different value on getting things done, strengthening communities and fostering participant development, as follows:

*AmeriCorps*State and National:* Getting things done in communities—things that would not have gotten done but for AmeriCorps—has been the core purpose for AmeriCorps*State and National. Program emphasis is placed on well-designed program activities that result in direct and demonstrable benefits that are both needed and valued by communities. Strengthening communities is mainly accomplished by mobilizing community resources and enhancing the capacity of organizations and institutions in order to achieve sustainability. AmeriCorps* State and National programs are required to develop specific strengthening communities and participant development objectives with demonstrable outcomes.

*AmeriCorps*VISTA* shifts the emphasis and gets things done more by mobilizing community resources and developing the capacity of community organizations. Strengthening communities is at the heart of AmeriCorps*VISTA's mission. The potential for sustainability, enhanced capacity, and mobilization of community resources (including volunteers), encompasses AmeriCorps*VISTA's most significant program measures and forms the basis of virtually all overall program evaluation activity.

Learn and Serve America's definition of getting things done must include measures of service-learning. A major concern is how participants will learn while engaging in projects that get things done and benefit the community. Learn and Serve emphasizes lasting impact on the community as a result of community involvement and school or institutional change. Increasing the acceptance of service-learning as a pedagogy and tool for strengthening communities is an essential goal of the program. Within Learn and Serve America appropriate participant development occurs through well-designed service-learning experiences that have as an integral component, positive community impact.

The National Senior Service Corps' incorporation of Programming for Impact has placed a new and significant emphasis on getting things done. Aside from the previous focus of providing a volunteer opportunity, there is an emphasis on channeling and utilizing the capabilities of participants to address critical community and human needs. The traditional Senior Corps philosophy is that participant development is very important. However, the starting point must be good, solid roles and activities viewed by the community as valued and important, that establish a context within which participant development occurs.

Within Program Design, the Corporation will consider the three subcategories in descending order of importance, as follows:

AmeriCorps*State and National
  (1) Getting Things Done
  (2) Participant Development
  (3) Strengthening Communities
AmeriCorps*VISTA
  (1) Strengthening Communities
  (2) Getting Things Done
  (3) Participant Development
Learn and Serve America
  Getting Things Done—equal
  Strengthening Communities—equal
  Participant Development—equal
National Senior Service Corps
  (1) Getting Things Done
  (2) Strengthening Community
  (3) Participant Development

Dated: July 14, 1998.

Kenneth L. Klothen,

General Counsel.

[FR Doc. 98–19210 Filed 7–17–98; 8:45 am]

BILLING CODE [illegible]

DEPARTMENT OF DEFENSE

Waiver of 10 U.S.C. 2534 for Certain Defense Items Produced in the United Kingdom

AGENCY: Department of Defense, (DoD).

ACTION: Notice of waiver of 10 U.S.C. 2534 for certain defense items produced in the United Kingdom.

SUMMARY: The Under Secretary of Defense (Acquisition and Technology) is waiving the limitation of 10 U.S.C. 2534 for certain defense items produced in the United Kingdom (UK). 10 U.S.C. 2534 limits DoD procurement of certain items to sources in the national technology and industrial base. The waiver will permit procurement of items enumerated from sources in the UK.

EFFECTIVE DATE: This waiver is effective for one year, beginning August 4, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Walter Henderson, OUSD (A&T), Director of Defense Procurement, Foreign Contracting, Room 3C762, 3060

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Defense Pentagon, Washington, DC 20301–3060, telephone (703) 697–9351.

SUPPLEMENTARY INFORMATION: Subsection (a) of 10 U.S.C. 2534 provided that the Secretary of Defense may procure the items listed in that subsection only if the manufacturer of the item is part of the national technology and industrial base. Subsection (i) of 10 U.S.C. 2534 authorizes the Secretary of Defense to exercise the waiver authority in subsection (d), on the basis of the applicability of paragraph (2) or (3) of that subsection, only if the waiver is made for a particular item listed in subsection (a) and for particular foreign country. Subsection (d) authorizes a waiver if the Secretary determines that application of the limitation "would impede the reciprocal procurement of defense items under a memorandum of understanding providing for reciprocal procurement of defense items" and if he determines that "that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country." The Secretary of Defense has delegated the waiver authority of 10 U.S.C. 2534(d) to the Under Secretary of Defense (Acquisition and Technology).

DoD has a reciprocal procurement Memorandum of Understanding (MOU) with the UK that was signed on December 4, 1994.

The Under Secretary of Defense (Acquisition and Technology) finds that UK does not discriminate against defense items produced in the United States to a greater degree that the United States discriminates against defense items produced in the UK, and also finds that application of the limitation in 10 U.S.C. 2534 against defense items produced in the UK would impede the reciprocal procurement of defense items under the MOU.

Under the authority of 10 U.S.C. 2534, the Under Secretary of Defense (Acquisition and Technology) has determined that application of the limitation of 10 U.S.C. 2534(a) to the procurement of any defense item produced in the UK that is listed below would impede the reciprocal procurement of defense items under the MOU with the UK.

On the basis of the foregoing, the Under Secretary of Defense (Acquisition and Technology) is waiving the limitation in 10 U.S.C. 2534(a) for procurements of any defense item listed below that is produced in the UK. This waiver applies only to the limitations in 10 U.S.C. 2534(a). It does not apply to any other limitation, including sections 8016 and 8073 of the National Defense Appropriations Act for Fiscal Year 1998 (Pub. L. 105–56). This waiver applies to procurements under solicitations issued on or after the effective date of this waiver. For contracts entered into prior to the effective date of this waiver, this waiver applies to procurements of the defense items listed below under—

(1) Subcontracts entered into on or after such effective date, provided the prime contract is modified to provide the Government adequate consideration such as lower cost or improve performance; and

(2) Options that are exercised after such effective date if the option prices are adjusted for any reason other than the application of the waiver, and if the contract is modified to provide the Government adequate consideration such as lower cost or improved performance.

List of Items to Which This Waiver Applies

1. Air circuit breakers.
2. Welded shipboard anchor and mooring chain with a diameter of four inches or less.
3. Gyrocompasses.
4. Electronic navigation chart systems.
5. Steering controls.
6. Pumps.
7. Propulsion and machinery control systems.
8. Totally enclosed lifeboats.
9. Ball and roller bearings.

Michele P. Peterson,
Executive Editor, Defense Acquisition Regulations Council.

[FR Doc. 98–19157 Filed 7–17–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Uniformed Services University of the Health Sciences

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Uniformed Services University of the Health Sciences.

TIME AND DATE: 8:30 a.m. to 4:00 p.m., August 3, 1998.

PLACE: Uniformed Services University of the Health Sciences, Board of Regents Conference Room (D3001), 4301 Jones Bridge Road, Bethesda, MD 20814–4799.

STATUS: Open—under "Government in the Sunshine Act" (5 U.S.C. 552b(e)(3)).

MATTERS TO BE CONSIDERED:

8:30 a.m.—Meeting—Board of Regents
(1) Approval of Minutes—May 15, 1998
(2) Faculty Matters
(3) Departmental Reports
(4) Financial Report
(5) Report—President, USUHS
(6) Report—Dean, School of Medicine
(7) Report—Dean, Graduate School of Nursing
(8) Comments—Chairman, Board of Regents
(9) New Business

CONTACT PERSON FOR MORE INFORMATION: Mr. Bobby D. Anderson, Executive Secretary of the Board of Regents, (301) 295–3116.

Linda Bynum,
OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–19346 Filed 7–16–98; 10:54 am]

BILLING CODE 5000–04–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Acting Deputy Chief Information Officer, Office of the Chief Information Officer, invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before August 19, 1998.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Deputy Chief Information Officer, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: July 14, 1998.

Hazel Fiers,

Acting Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: Extension.

Title: Grant Application for RSA Discretionary Program.

Frequency: Annually.

Affected Public: Businesses or other for-profits; Not-for-profit institutions; State, local or Tribal Gov't; SEAs or LEAs.

Reporting and Recordkeeping Hour Burden: Responses: 1,800. Burden Hours: 72,000.

Abstract: Discretionary Grant Application and Instructions for Rehabilitation Services Programs are required so that all applications are uniformly completed in accordance with the specific and unique requirements of the various RSA programs.

This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (OMB Control No. 1890–0001). Therefore, this 30-day public comment period will be the only public comment notice published for this information collection.

[FR Doc. 98–19206 Filed 7–17–98; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

ACTION: Correction notice.

SUMMARY: On July 13, 1998, a 60-day notice inviting comments from the public was inadvertently published for the National Longitudinal Survey of Schools (NLSS). A 60-day notice was published for this survey in the **Federal Register** (63 FR 13395–13396) dated March 19, 1998. This notice amends the public comment period for this survey to 30 days. The Acting Deputy Chief Information Officer, Office of the Chief Information Officer, hereby issues a correction notice on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before August 19, 1998.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Deputy Chief Information Officer, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: July 14, 1998.

Hazel Fiers,

Acting Deputy Chief Information Officer, Office of the Chief Information Officer.

[FR Doc. 98–19207 Filed 7–17–98; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Nevada Test Site

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Nevada Test Site.

DATES: Wednesday, August 5, 1998: 5:30 p.m.–9:00 p.m.

ADDRESSES: U.S. Department of Energy, Nevada Support Facility, Great Basin Room, 232 Energy Way, North Las Vegas, Nevada.

FOR FURTHER INFORMATION CONTACT: Kevin Rohrer, U.S. Department of Energy, Office of Environmental Management, P.O. Box 98518, Las Vegas, Nevada 89193–8513, phone: 702–295–0197.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Advisory Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

5:30 p.m. Call to Order
5:40 p.m. Presentations
7:00 p.m. Public Comment/Questions
7:30 p.m. Break
7:45 p.m. Review Action Items
8:00 p.m. Approve Meeting Minutes

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8:10 p.m. Committee Reports
8:45 p.m. Public Comment
9:00 p.m. Adjourn

Copies of the final agenda will be available at the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Kevin Rohrer, at the telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available by writing to Kevin Rohrer at the address listed above.

Issued at Washington, DC, on July 15, 1998.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 98–19240 Filed 7–17–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge Reservation

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge Reservation.

DATES: Wednesday, August 5, 1998 6:00 p.m.–9:30 p.m.

ADDRESSES: Ramada Inn, 420 S. Illinois Avenue, Oak Ridge, TN 37830.

FOR FURTHER INFORMATION CONTACT: Marianne Heiskell, Ex-Officio Officer, Department of Energy Oak Ridge Operations Office, 105 Broadway, Oak Ridge, TN 37830, (423) 576–0314.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda: The meeting will focus on regular Board business and preparation of the FY 1998 Annual Report/FY 1999 Work Plan.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Marianne Heiskell at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments near the beginning of the meeting.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available at the Department of Energy's Information Resource Center at 105 Broadway, Oak Ridge, TN between 8:30 am and 5:00 pm on Monday, Wednesday, and Friday; 8:30 am and 7:00 pm on Tuesday and Thursday; and 9:00 am and 1:00 pm on Saturday, or by writing to Marianne Heiskell, Department of Energy Oak Ridge Operations Office, 105 Broadway, Oak Ridge, TN 37830, or by calling her at (423) 576–0314.

Issued at Washington, DC, on July 15, 1998.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 98–19241 Filed 7–17–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Rocky Flats

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Rocky Flats

DATES: Thursday, August 6, 1998, 6:00 p.m.–9:30 p.m.

ADDRESSES: Westminster City Hall, Lower-level Multi-purpose Room, 4800 West 92nd Avenue, Westminster, CO.

FOR FURTHER INFORMATION CONTACT: Ken Korkia, Board/Staff Coordinator, EM SSAB-Rocky Flats, 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO 80021, phone: (303) 420–7855, fax: (303) 420–7579.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

1. The Board will hear a presentation from the Consortium for Rick Evaluation with Stakeholder Participation (CRESP) about the status of an upcoming survey of area residents about Rocky Flats issues.
2. The Board will consider a recommendation drafted by the Site Wide Issues/Budget Focus Group on worker benefits.
3. Staff will present information to the Board on the source evaluation for Walnut Creek Contaminant Exceedance.
4. The Board will discuss planning efforts for an upcoming community forum it is sponsoring.

Other topics will likely be added prior to the meeting date. A copy of the final agenda will be available at the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ken Korkia at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments at the beginning of the meeting.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available at the Public Reading

Room located at the Board's office at 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO 80021; telephone (303) 420–7855. Hours of operation for the Public Reading Room are 9:00 am and 4:00 pm on Monday through Friday. Minutes will also be made available by writing or calling Deb Thompson at the Board's office address or telephone number listed above.

Issued at Washington, DC on July 15, 1998.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 98–19242 Filed 7–17–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11150–000]

Cameron Gas & Electric Company; Notice of Site Visit to Project Area

July 14, 1998.

On July 21, 1998, the Federal Energy Regulatory Commission staff will visit the Smithville Mix Hydro Project No. 11150, located on the Grand River in the City of Eaton Rapids, Eaton County, Michigan.

The site visit is scheduled to begin at 12:30 p.m. at the Mix Plant on Route 50, Main Street, Eaton Rapids, Michigan.

If you have any questions concerning this matter, please contact Mr. William Guey-Lee at (202) 219–2808 or Mr. Robert Evans at (517) 347–4048.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–19231 Filed 7–17–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–346–000]

Carnegie Interstate Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

July 14, 1998.

Take notice that on July 8, 1998, Carnegie Interstate Pipeline Company (CIPCO) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheet, to be effective August 1, 1998.

Second Revised Sheet No. 146

CIPCO states that this filing is being made in compliance with Commission Order No. 587–G, issued by the Commission on April 16, 1998. Through this filing, CIPCO adopts by reference Version 1.2 of the GISB standards. CIPCO requests waiver of section 154.207 of the Commission's regulations to permit the tariff sheet to become effective on August 1, 1998.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–19193 Filed 7–17–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–346–001]

Carnegie Interstate Pipeline Company; Notice of Compliance Filing

July 14, 1998.

Take notice that on July 8, 1998, Carnegie Interstate Pipeline Company (CIPCO) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheet, to be effective August 1, 1998.

Fourth Revised Sheet No. 146

CIPCO states that this filing is being made in compliance with Commission Order No. 587–G, issued by the Commission on April 16, 1998. Through this filing, CIPCO adopts by reference Version 1.2 of the GISB standards. CIPCO requests waiver of section 154.207 of the Commission's regulations to permit the tariff sheet to become effective on August 1, 1998.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–19194 Filed 7–17–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–91–007]

CNG Transmission Corporation; Notice of Compliance Tariff Filing

July 14, 1998.

Take notice that on July 9, 1998, CNG Transmission Corporation (CNG), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheet, with an effective date of June 15, 1998:

2nd Sub. Third Revised Sheet No. 361A

CNG states that the purpose of this filing is to comply with the Letter Order issued by the Commissions in the above-captioned proceeding on June 24, 1998. Specifically, CNG states that its revised tariff sheet complies with the directive of the June 24 Letter Order, by establishing a July 1, 1998 commencement date for the thirty-month period established in Section 18.5 of the General Terms and Conditions of CNG's tariff.

CNG states that copies of its filing have been mailed to its customers and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public

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inspection in the Public Reference Room.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 98–19202 Filed 7–17–98; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–652–000]

Conoco Inc.; Notice of Petition for Declaratory Order

July 14, 1998.

Take notice that on July 2, 1998, Conoco Inc. (Conoco), 600 N. Dairy Ashford, Houston, Texas 77079, filed a petition pursuant to Section 207(a)(2) of the Commission's Regulations requesting that the Commission issue an order disclaiming jurisdiction under Section 1(b) of the Natural Gas Act for the subject facilities to be acquired from Northern Natural Gas Company (Northern), known as the Tejas and Champlin facilities, located in Glasscock, Irion, Reagan, Sterling, and Tom Green Counties, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Concurrently with this filing, Northern, in Docket No. CP98–649–000, filed an application to abandon by sale certain facilities known as the Tejas and Champlin facilities. The Tejas facilities consist of the Dorchester Lateral, Edmundson Lateral, Tejas Lateral, Irion Co. #2 Lateral. The longest and largest lateral in the Tejas system is 28 miles of 8-inch pipe; the other laterals are: 8 miles of 6-inch pipe, 5 miles of 6-inch pipe, 5 miles of 8-inch pipe and 3 miles of 6-inch pipe. According to Conoco, Northern is not conveying any compressors nor will Northern be providing any compression service on the subject facilities after the proposed sale. Conoco intends to operate the reconfigured segments of the Tejas lateral on a low pressure basis (approximately 50 # psia). Conoco states that it will use existing field compression to gather and transport raw natural gas to processing plants. Conoco contends that after the proposed reconfiguration, all of the gas gathered on these segments will be raw, untreated production gas. Additionally, Conoco states that only minimal mechanical dehydration and separation will be performed at or near the wellheads. Conoco states that all segments will tie into existing gathering lines that feed existing gas processing and treating plants and they will be behind the plant. According to Conoco, after the facilities are reconfigured and tied to its existing gathering lines these facilities will be upstream of existing gathering lines, upstream of any existing central point in the field, and there will be wells located throughout the system.

The Champlin system consists of approximately 14 miles of 6-inch pipe. Conoco states that there is presently no compressors on this system. However, Conoco notes that it will use existing compression on its current gathering system to reverse the original flow of the line. Once the lateral is connected, the original flow of the line. Once the lateral is connected, the original flow of the line. Once the lateral is connected, the pressure of the gathering system is expected to be approximately 50 #psia. Conoco states that the gas gathered by this lateral will be raw, untreated production gas. Conoco notes that the lateral will be upstream of existing gathering lines and integrated into its existing gathering system.

Any person desiring to be heard or to make a protest with reference to said application should, on or before August 4, 1998, file with the Federal Energy Regulatory Commission (888 First Street, NE., Washington, DC. 20426) a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 98–19191 Filed 7–17–98; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–350–000]

East Tennessee Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

July 14, 1998.

Take notice that on July 10, 1998, East Tennessee Natural Gas Company (East Tennessee), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, with an effective date of August 1, 1998.

East Tennessee states that the revised tariff sheets are being made in compliance with the Commission's Order No. 587–G issued on April 16, 1998. Standards for Business Practices of Interstate Natural Gas Pipelines, 83 FERC ¶ 61,029 (1998). Consistent with Order No. 587–G, East Tennessee proposes an effective date of August 1, 1998. East Tennessee requests a waiver of Section 154.207 to permit an August 1, 1998 effective date.

East Tennessee states that the revised tariff sheets incorporate by reference Version 1.2 of the GISB standards.

East Tennessee states that copies of the filing have been mailed to each of the parties that have intervened in this proceeding.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–19196 Filed 7–17–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–347–000]

Eastern Shore Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

July 14, 1998.

Take notice that on July 9, 1998, Eastern Shore Natural Gas Company (Eastern Shore) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, with a proposed effective date of August 1, 1998:

Second Revised Sheet No. 141
Second Revised Sheet No. 143
Second Revised Sheet No. 160A
Second Revised Sheet No. 210

Eastern Shore states that the filing is being made pursuant to the Commission's Order issued April 16, 1998 in Docket No. 96–1–007 (Order No. 587–G) Standards for Business Practices of Interstate Natural Gas Pipelines. Eastern Shore tenders for filing the above listed tariff sheets adopting Version 1.2 as the current GISB standards.

Eastern Shore states that copies of its filing has been mailed to all firm customers, interruptible customers, and affected state commission.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington D.C. 20426, in accordance wit the Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–19186 Filed 7–17–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT98–81–000]

Granite State Gas Transmission, Inc.; Notice of Refund Report

July 14, 1998.

Take notice that on July 8, 1998, Granite State Gas Transmission, Inc. (Granite State) tendered for filing with the Commission a report of Gas Research Institute (GRI) refunds made to its customers.

Granite State states that it received a total refund of $193,008.00 from GRI for over collection during 1997. Granite State says that it allocated the refund proportionately to its firm customers, Bay State Gas Company and Northern Utilities and made the refunds to them on July 8, 1998 by credits to the customers accounts.

Granite State also states that its report has been served on its customers and on the regulatory agencies of the states of Maine, Massachusetts and New Hampshire.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington D.C. 20426, in accordance wit the Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before July 21, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–19189 Filed 7–17–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP98–155–003 and TM98–4–4–001]

Granite State Gas Transmission, Inc.; Notice of Compliance Tariff Filing

July 14, 1998.

Take notice that on July 8, 1998, Grante State Gas Transmission, Inc. (Granite State) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Second Substitute First Revised Sheet No. 334, for effectiveness on July 1, 1998.

According to Granite State, the revised tariff sheet is submitted in compliance with a provision in the Commission's Letter Order issued June 25, 1998 which, among other things, directed Granite State to insert certain clarifying language in its Power Cost Adjustment Tariff provisions.

Granite State says that copies of its filing were served upon its firm and interruptible customers and the regulatory agencies of the states of Maine, Massachusetts and New Hampshire.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Roome.

Linwood A. Wason, Jr.,

Acting Secretary.

[FR Doc. 98–19197 Filed 7–17–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–348–000]

Gulf States Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

July 14, 1998.

Take notice that on July 10, 1998, Gulf States Transmission Corporation (Gulf States) tendered for filing as part of its

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FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, with an effective date of August 1, 1998:

Second Revised Sheet No. 58G

Gulf States states that the filing is being made pursuant to Subpart C of Part 154 of the Commission's Regulations and in compliance with Order No. 587–G issued April 16, 1998 in Docket No. RM96–1–007.

Gulf States states that the purpose of this filing is to implement Version 1.2 of the Gas Industry Standards Board (GISB) standards accepted by the Commission in Order No. 587–G. The tendered tariff sheet is proposed to be made effective August 1, 1998 and Gulf States requests all waivers of the Commission's regulations that may be necessary to allow the filing to become effective on August 1, 1998.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Rules and Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–19201 Filed 7–17–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–349–000]

Midwestern Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

July 14, 1998.

Take notice that on July 10, 1998, Midwestern Gas Transmission Company (Midwestern) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, with an effective date of August 1, 1998.

Midwestern states that the revised tariff sheets are being filed in compliance with the Commission's Order No. 587–G issued on April 16, 1998. Standards for Business Practices of Interstate Natural Gas Pipelines, 83 FERC ¶ 61,029 (1998). Consistent with Order No. 587–G, Midwestern proposes an effective date of August 1, 1998. Midwestern requests a waiver of Section 154.207 to permit an August 1, 1998 effective date.

Midwestern states that the revised tariff sheets incorporate by reference Version 1.2 of the GISB standards.

Midwestern states that copies of the filing have been mailed to each of the parties that have intervened in this proceeding.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–19187 Filed 7–17–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–3690–000]

New England Power Pool; Notice of Filing

July 14, 1998.

Take notice that on July 10, 1998, the New England Power Pool Executive Committee filed for acceptance a signature page to the New England Power Pool (NEPOOL) Agreement dated September 1, 1971, as amended, signed by USGen New England, Inc., (USGenNE). The NEPOOL Agreement has been designated NEPOOL FPC No. 2.

The Executive Committee states that the Commission's acceptance of USGenNE's signature page would permit NEPOOL to expand its membership to include USGenNE. NEPOOL further states that the filed signature page does not change the NEPOOL Agreement in any manner, other than to make USGenNE's participation in NEPOOL. NEPOOL requests an effective date for the commencement of USGenNE's participation in NEPOOL as of the date of USGenNE's acquisition of the generating assets currently owned by New England Power Company, which is anticipated to occur August 1, 1998 at the earliest.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions and protests should be filed on or before July 24, 1998. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–19232 Filed 7–17–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–651–000]

NorAm Gas Transmission Company; Notice of Request Under Blanket Authorization

July 14, 1998.

Take notice that on July 2, 1998, NorAm Gas Transmission Company (NorAm), 1111 Louisiana, Houston, Texas 77002, filed in Docket No. CP98–651–000 a request pursuant to Sections 157.205, 157.212, and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212, and 157.216) for authorization to upgrade facilities in Oklahoma. NorAm makes such request under its blanket certificate issued in Docket Nos. CP82–384–000 and CP82–384–001 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Specifically, NorAm seeks authority to (1) operate under Subpart G of Part

284 of the Commission's Regulations, measurement facilities constructed under Section 311 of the Natural Gas Policy Act and Subpart B, Part 284 of the Commission's Regulations; and (2) abandon obsolete measurement facilities and install upgraded delivery facilities at Delhi, Oklahoma to continue service to Arkla, a division of NorAm Energy Corporation (Arkla).

NorAm states that pursuant to Section 311, that it upgraded an existing delivery tap located on NorAm's Line 11–2 at pipeline station no. 355+41 in Comanche County, Oklahoma. It is stated that Arkla requested upgraded service and increased deliveries at that location, and that NorAm accordingly installed a Roots rotary 16M meter and two 1-inch Fisher regulators at an estimated cost of $600. (It is averred that Arkla fabricated the new meter and regulators and donated those facilities to NorAm at no cost.) NorAm states that it will own and operate those facilities and seeks authority to operate those facilities under Subpart G. NorAm estimates that up to 69,370 dekatherms (Dt) will be delivered to that tap annually and 651 Dt on a peak day.

At Delhi, Oklahoma, NorAm proposes to abandon and junk an American AL 800 meter, one 1-inch Fisher 630 regulator and one 1-inch Reliance 1800 regulator located at an existing town border station on NorAm's Line 8 at pipeline station no. 400+62 in Beckham County, Oklahoma. NorAm states that it will install a Roots 11M positive displacement meter and one 1-inch 399 Fisher regulator at an estimated cost of $600. (It is indicated that Arkla will fabricate the new meter and regulator and donate those facilities to NorAm at no cost.) The estimated volumes to be delivered to that tap are approximately 10,409 Dt annually and 492 Dt on a peak day.

NorAm states that the volumes in this request will be within Arkla's certificated entitlements, and that NorAm's tariff does not prohibit the addition of new delivery points. It is further stated that NorAm has sufficient capacity to accomplish the deliveries without detriment or disadvantage to its other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–19199 Filed 7–17–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–345–000]

Northern Border Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

July 14, 1998.

Take notice that on July 8, 1998, Northern Border Pipeline Company (Northern Border) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to become effective November 1, 1998. In order to allow time for computer system development, Northern Border requests approval of the following tariff sheets by September 1, 1998.

Second Revised Sheet Number 100
Second Revised Sheet Number 105
Second Revised Sheet Number 112
First Revised Sheet Number 125
First Revised Sheet Number 126
First Revised Sheet Number 133
First Revised Sheet Number 134
First Revised Sheet Number 135
Second Revised Sheet Number 150
Original Sheet Number 208A
Second Revised Sheet Number 234
Second Revised Sheet Number 235
Second Revised Sheet Number 237
Second Revised Sheet Number 238
Third Revised Sheet Number 239
Second Revised Sheet Number 240
Third Revised Sheet Number 241
Third Revised Sheet Number 249
Third Revised Sheet Number 250
First Revised Sheet Number 250A
Original Sheet Number 250B
Third Revised Sheet Number 251
Third Revised Sheet Number 253
Third Revised Sheet Number 255
Third Revised Sheet Number 256
Third Revised Sheet Number 257
Second Revised Sheet Number 258
Second Revised Sheet Number 260
First Revised Sheet Number 400
First Revised Sheet Number 401
First Revised Sheet Number 419
Original Sheet Number 419A
First Revised Sheet Number 420

Northern Border's states that its proposed tariff changes will identify and allocate separately the capacity on its system that results from ambient conditions and the capacity that results from unnominated firm. Firm shippers will receive a daily entitlement to use the ambient related capacity (Daily Ambient Capacity), which is projected to be available on a Gas Day above the shipper's contracted firm Maximum Receipt Quantity. Under this proposal to allocate Daily Ambient Capacity as a firm shipper entitlement, Northern Border, in compliance with Order No. 587–G, will be able to administer bumping more efficiently and with less disruption to the marketplace because reduced interruptible volumes will be subject to bumping by firm shippers.

Northern Border states that copies of this filing have been sent to all of Northern Border's affected shippers.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–19195 Filed 7–17–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–648–000]

Northern Natural Gas Company; Notice of Application

July 14, 1998.

Take notice that on July 1, 1998, Northern Natural Gas Company (Northern), P.O. Box 3330, Omaha, NE 68103–0330, filed an application pursuant to Section 7(b) of the Natural Gas Act for an order permitting the abandonment by sale to Conoco Inc. (Conoco) certain of its Permian Area facilities, specifically the Tejas and Champlin facilities, located in Glasscock, Irion, Reagan, Sterling, and

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Tom Green Counties, Texas, and certain services rendered thereby. Northern also requests permission and approval to abandon in place the Irion Co. #3 lateral located in Irion County, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern proposes to convey to Conoco approximately 63 miles of pipeline with diameters ranging between 6 and 8 inches. Northern states that the subject facilities were authorized as gas supply facilities pursuant to budget-type certificate authority granted in Docket Nos. CP79–2, CP80–148, and CP80–546. Northern contends that the subject facilities are currently under-utilized by Northern's shippers, since its shippers have generally elected to source their markets from other gas supply receipt points on Northern's pipeline system. Northern also notes that the production attached to the subject facilities is split connected and has not flowed into the system during the past 12 months or longer. Northern states that the Tejas facilities have an estimated capacity of 17,000 Mcf per day (with utilization on a total annual average basis of less than 1,650 Mcf per day of throughput). Currently, Northern states that there are no shippers which hold firm capacity on the Tejas facilities and only one interruptible shipper which transports gas on the subject facilities. Northern notes that the Champlin facilities have an estimated capacity of 14,000 Mcf per day and there are no shippers which hold firm capacity nor has there been any transportation service provided on these facilities during the past 12 months or longer. Northern asserts that Conoco will be filing a Petition for a Declaratory Order seeking a determination that the subject facilities are gathering facilities exempt from the Commission's jurisdiction under Section 1(b). Northern notes that the facilities will be conveyed for a purchase price of $1,475,000.

Any person desiring to be heard or to make a protest with reference to said application should, on or before August 4, 1998, file with the Federal Energy Regulatory Commission (888 First Street, NE., Washington, DC 20426) a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–19184 Filed 7–17–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–656–000]

Northwest Pipeline Corporation; Notice of Request Under Blanket Authorization

July 14, 1998.

Take notice that on July 6, 1998, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP98–656–000 a request pursuant to Sections 157.205, 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216) for authorization to modify approval previously received in Docket No. CP97–657–000 to abandon its Issaquah Lateral line, located in King County, Washington, by sale to Puget Sound Energy, Inc. (Puget), under Northwest's blanket certificate issued in Docket No. CP82–433–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northwest now proposes to abandon the first 407 feet of the 6-inch Issaquah Lateral line by removal, and to abandon the remaining approximately 1.3 mile segment of the lateral by sale to Puget. Northwest states that the pipeline and appurtenances that are removed from the lateral will be scrapped, and that the remaining portion of the lateral will be capped and transferred to Puget.

Northwest states that the estimated cost of removing the 407-foot section of the Issaquah Lateral and appurtenant facilities is estimated to be approximately $5,750, and that the remaining 1.3 miles of the lateral will be sold in place to Puget for $77,005, the approximate net book value.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–19185 Filed 7–17–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–131–007, GT98–23–001 and RP98–184–001]

Overthrust Pipeline Company; Notice of Tariff Filing

July 14, 1998.

Take notice that on July 10, 1998, Overthrust Pipeline Company tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1–A the following revised tariff sheets, to be effective as shown below:

Substitute revised tariff sheets	Effective date
Substitute Third Revised Sheet No. 1	November 1, 1997.
Substitute Fourth Revised Sheet No. 1	April 1, 1998.
Substitute Fifth Revised Sheet No. 30	November 1, 1997.
Substitute Sixth Revised Sheet No. 30	April 1, 1998.
Substitute First Revised Sheet No. 34A	November 1, 1997.
Substitute Second Revised Sheet No. 34A	May 8, 1998.

Overthrust states that the filing is being made in response to the Commission's June 22, 1998 letter in Docket No. RP97-301-002.

Overthrust states that this tariff filing (1) incorporates into certain tariff sheets filed by Overthrust in Docket Nos. RP97-131-005, GT98-23-000 and RP98-184-000 tariff revisions that were approved by the Commission's June 22 letter order, and (2) corrects the pagination of tariff sheets tendered with this filing that became effective between November 1, 1997, and May 8, 1998.

Overthrust states further that a copy of this filing has been served upon its customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to protest this filing should be a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98-19192 Filed 7-17-98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98-3487-000]

PJM Interconnection, L.L.C.; Notice of Filing

July 14, 1998.

Take notice that on June 24, 1998, the PJM Interconnection, L.L.C. (PJM), filed on behalf of the Members of the LLC, membership application of Statoil Energy Services, Inc. PJM requests an effective date on the date after this Notice of Filing is received by FERC.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions and protests should be filed on or before July 24, 1998. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98-19230 Filed 7-17-98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98-3536-000]

Public Service Electric and Gas Company; Notice of Filing

July 9, 1998.

Take notice that on July 6, 1998, Public Service Electric and Gas Company (PSE&G), of Newark, New Jersey tendered for filing an agreement for the sale of capacity and energy to Commonwealth Edison Company (ComEd), pursuant to the PSE&G Wholesale Power Market Based Sales Tariff, presently on file with the Commission.

PSE&G further requests waiver of the Commission's Regulations such that the agreement can be made effective as of June 8, 1998.

Copies of the filing have been served upon ComEd and the New Jersey Board of Public Utilities.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commissions Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions and protests should be filed on or before July 24, 1998. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98-19229 Filed 7-17-98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98-2-8-001]

South Georgia Natural Gas Company; Notice of Filing

July 14, 1998.

Take notice that on July 9, 1998, South Georgia Natural Gas Company (South Georgia) tendered for filing certain additional information concerning its Fuel Retention Percentage (FRP).

South Georgia states that its filing is in compliance with the Commission's June 24, 1998 order directing South Georgia to file supplemental data to explain the increase in its FRP as proposed by South Georgia in its May 29, 1998, filing in the instant proceeding.

South Georgia states that copies of the filing will be served on all parties designated on the official service list compiled by the Secretary in these proceedings.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before July 21, 1998. Protests will be considered by the Commission in determining the appropriate action to

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be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–19188 Filed 7–17–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–351–000]

Tennessee Gas Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

July 14, 1998.

Take notice that on July 10, 1998, Tennessee Gas Pipeline Company (Tennessee), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, with an effective date of August 1, 1998.

Tennessee states that the revised tariff sheets are being filed in compliance with the Commission's Order No. 587–G issued on April 16, 1998. Standards for Business Practices of Interstate Natural Gas Pipelines, 83 FERC ¶ 61,029 (1998). Consistent with Order No. 587–G, Tennessee proposes an effective date of August 1, 1998. Tennessee requests a waiver of Section 154.207 to permit an August 1, 1998 effective date.

Tennessee states that the revised tariff sheets incorporate by reference Version 1.2 of the GISB standards.

Tennessee states that copies of the filing have been mailed to each of the parties that have intervened in this proceeding.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–10203 Filed 7–17–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–653–000]

Tuscarora Gas Transmission Company; Notice of Request Under Blanket Authorization

July 14, 1998.

Take notice that on July 2, 1998, Tuscarora Gas Transmission Company (Applicant), 1575 Delucchi Lane, Suite 225, Post Office Box 30057, Reno, Nevada 89520–3057, filed in Docket No. CP98–653–000 a request pursuant to Section 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for approval to construct and operate a tap, meter station and appurtenant facilities for the transportation of natural gas to the HL Power Company (HL Power) in Lassen County, California Under Applicant's blanket certificate issued in Docket No. CP93–685–000 *et al.*, pursuant to Section 7(c) of the Natural Gas Act (NGA), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Applicant proposes to transport volumes, initially up to 2,400 Dekatherms per Day on interruptible basis, pursuant to the rates, terms, and conditions of Applicant's open access tariff. Applicant asserts that the construction of these facilities will enable HL Power to supplement its current fuel supply with natural gas. Applicant further asserts that none of its customers will be adversely affected by the certification of approximately $35,000. Applicant states that it will pay for the construction and acquisition of the facilities proposed herein. It is also asserted that the proposed facilities will have no effect on Applicant's ability to deliver natural gas to its existing customers at pressures in conformity with existing contracts and tariffs.

Any person or the Commission's Staff may, within 45 days of the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), a motion to intervene and pursuant to Section 157.205 of the regulations under the Natural Gas Act (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefor, the proposed activities shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–19190 Filed 7–17–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP97–346–000, TM97–3–24–000, and RP98–123–000]

Equitrans, L.P.; Notice Rescheduling Informal Settlement Conference

July 14, 1998.

Take notice that the information settlement conference scheduled to convene in this proceeding on Wednesday, July 15, 1998, at 10:00 a.m., has been canceled and rescheduled for Wednesday, July 22, 1998, at 10:00 a.m., at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC, 20426, for the purpose of reviewing the draft settlement documents in the above-referenced dockets.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commissions' regulations (18 CFR 385.214).

For additional information, please contact Irene E. Szopo at (202) 208–1602 or Robert A. Young at (202) 208–5705.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–19200 Filed 7–17–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2077 New Hampshire and Vermont]

New England Power Company; Notice of Proposed Restricted Service List for a Programmatic Agreement for Managing Properties Included in or Eligible for Inclusion in the National Register of Historic Places

July 14, 1998.

Rule 2010 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure provides that, to eliminate unnecessary expense or improve administrative efficiency, the Secretary may establish a Restricted Service List for a particular phase or issue in a proceeding.[1] The Restricted Service List should contain the names of persons on the service list who, in the judgment of the decisional authority establishing the list, are active participants with respect to the phase or issue in the proceeding for which the list is established.

The Commission staff is consulting with the New Hampshire and Vermont State Historic Preservation Officers (hereinafter, "SHPOs") and the Advisory Council on Historic Preservation (hereinafter, "Advisory Council") pursuant to the Advisory Council's regulations, 36 CFR Part 800, implementing Section 106 of the National Historic Preservation Act, as amended, (16 U.S.C. Section 470 f), to prepare a Programmatic Agreement for managing properties included in, or eligible for inclusion in, the National Register of Historic Places at Project No. 2077.

The Programmatic Agreement, when executed by the Commission, the SHPOs, and the Advisory Council, would satisfy the Commission's Section 106 responsibilities for all individual undertakings carried out in accordance with the license until the license expires or is terminated (36 CFR 800.13[e]). The Commission's responsibilities pursuant to Section 106 for the above project would be fulfilled through the Programmatic Agreement, which the Commission proposes to draft in consultation with certain parties listed below. The executed Programmatic Agreement would be incorporated into any Order issuing a license.

New England Power Company, as prospective licensee for Project No. 2077, is invited to participate in consultations to develop the Programmatic Agreement and to sign as a concurring party to the Programmatic Agreement.

For purposes of commenting on the Programmatic Agreement, we propose to restrict the service list for Project No. 2077 as follows:

Dr. Laura Henley Dean, Advisory Council on Historic Preservation, The Old Post Office Building, Suite 803, 1100 Pennsylvania Avenue, NW, Washington, DC 20004

Alec Giffen, Land & Water Associates, 9 Union Street, Hallowell, ME 04347

Cleve Kapala, New England Power Company, 4 Park Street, Concord, NH 03301

James MacCartney, NH Department of Environmental Services, 6 Hazen Drive, Concord, NH 03302–0095

Nancy Muller, State Historic Preservation Officer, NH Division of Historic Resources, Box 2043, Concord, NH 03302

Giovanna Peebles, Division of Historic Preservation, 135 State Street, Drawer 33, Montpelier, VT 05633–1201

John Ragonese, New England Power Company, 4 Park Street, Concord, NH 03301

Emily Wadhams, State Historic Preservation Officer, National Life Building, Drawer 20, Montpelier, VT 05602–0501

Kevin Young, Louis Berger & Associates, Inc., 75 Second Avenue, Suite 700, Needham, MA 02194–2800

Any person on the official service list for the above-captioned proceedings may request inclusion on the Restricted Service List, or may request that a Restricted Service List not be established, by filing a motion to that effect within 15 days of this notice date.

An original and 8 copies of any such motion must be filed with the Secretary of the Commission (888 First Street, NE, Washington, DC 20426) and must be served on each person whose name appears on the official service list. If no such motions are filed, the Restricted Service List will be effective at the end of the 15 day period. Otherwise, a further notice will be issued ruling on the motion.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–19198 Filed 7–17–98; 8:45 am]

BILLING CODE 6717–01–M

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[1] 18 CFR 385.2010.

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6126–3]

Toxic Chemicals; TSCA Inventory Corrections; Submission of ICR No. 1741.02 to OMB; Agency Information Collection Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of submission to OMB.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the Information Collection Request (ICR) entitled: Correction of Misreported Chemical Substances on the TSCA Inventory (EPA ICR No. 1741.02; OMB Control No. 2070–0145) has been forwarded to the Office of Management and Budget (OMB) for review and approval pursuant to the OMB procedures in 5 CFR 1320.12. The ICR, which is abstracted below, describes the nature of the information collection and its estimated cost and burden.

The Agency is requesting that OMB renew for 3 years the existing approval for this ICR, which is scheduled to expire on August 31, 1998. A **Federal Register** document announcing the Agency's intent to seek the renewal of this ICR and the 60-day public comment opportunity, requesting comments on the request and the contents of the ICR, was issued on March 18, 1998 (63 FR 13243). EPA did not receive any comments on this ICR during the comment period.

DATES: Additional comments may be submitted on or before August 19, 1998.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA by phone on (202) 260–2740, by e-mail: "farmer.sandy@epamail.epa.gov," or download off the Internet at http://www.epa.gov/icr/icr.htm and refer to EPA ICR No. 1741.02.

ADDRESSES: Send comments, referencing EPA ICR No. 1741.02 and OMB Control No. 2070–0145, to the following addresses:

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Regulatory Information Division (Mailcode: 2137), 401 M Street, SW., Washington, DC 20460;

and

Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

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SUPPLEMENTARY INFORMATION: *Review Requested:* This is a request to renew a currently approved information collection pursuant to 5 CFR 1320.12.

ICR Numbers: EPA ICR No. 1741.02; OMB Control No. 2070–0145.

Current Expiration Date: Current OMB approval expires on August 31, 1998.

Title: Correction of Misreported Chemical Substances on the TSCA Inventory

Abstract: Section 8(b) of the Toxic Substances Control Act (TSCA) requires EPA to compile and keep current an Inventory of Chemical Substances in Commerce, which is a listing of chemical substances manufactured, imported, and processed for commercial purposes in the United States. The purpose of the Inventory is to define, for the purpose of TSCA, what chemical substances exist in U.S. commerce. Since the Inventory thereby performs a regulatory function by distinguishing between existing chemicals and new chemicals, which TSCA regulates in different ways, it is imperative that the Inventory be accurate.

However, from time to time, EPA or respondents discover that substances have been incorrectly described by reporting companies. Reported substances have been unintentionally misidentified as a result of simple typographical errors, the misidentification of substances, or the lack of sufficient technical or analytical capabilities to characterize fully the exact chemical substances. EPA has developed guidelines (45 FR 50544, July 29, 1980) under which incorrectly described substances listed in the Inventory can be corrected.

This information collection request pertains to the use of the TSCA Chemical Substance Inventory Reporting Form C (EPA Form 7710–3C), which is used by the chemical industry in submitting requests to EPA to correct misreported chemical identities of substances listed on the Inventory. The correction mechanism ensures the accuracy of the Inventory without imposing an unreasonable burden on the chemical industry. Without the Inventory correction mechanism, a company that submitted incorrect information would have to file a premanufacture notification (PMN) under TSCA section 5 to place the correct chemical substance on the Inventory whenever the previously reported substance is found to be misidentified. This would impose a much greater burden on both EPA and the submitter than the existing correction mechanism.

Responses to the collection of information are voluntary.

Burden Statement: The annual public reporting burden for this collection of information is estimated to average 1.0 hour per response for an estimated 200 respondents making one or more submissions of information. These estimates include the time needed to review instructions; develop, acquire, install and utilize technology and systems for the purposes of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. No person is required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for these regulations are displayed in 40 CFR part 9.

Respondents/Affected Entities: Entities potentially affected by this action are persons who manufacture, process or import chemical substances in the United States.

Estimated No. of Respondents: 200.

Estimated Total Annual Burden on Respondents: 200 hours.

Frequency of Collection: On occasion.

Changes in Burden Estimates: There is no change in the total estimated respondent burden as compared with that identified in the information collection request most recently approved by OMB.

According to the procedures prescribed in 5 CFR 1320.12, EPA has submitted this ICR to OMB for review and approval. Any comments related to the renewal of this ICR should be submitted within 30 days of this document, as described above.

Dated: July 14, 1998.

Richard T. Westlund,

Acting Director, Regulatory Information Division.

[FR Doc. 98–19259 Filed 7–17–98; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6126–4]

National Drinking Water Advisory Council Operator Certification Working Group; Notice of Open Meeting

Under Section 10(a)(2) of Public Law 92–423, "The Federal Advisory Committee Act," notice is hereby given that a meeting of the Operator Certification Working Group of the National Drinking Water Advisory Council (NDWAC), established under the Safe Drinking Water Act, as amended (42 U.S.C. S300f *et seq.*), will be held on Thursday, August 13, 1998, from 1:00 p.m. to 5:00 p.m. and Friday, August 14, 1998, from 8:30 a.m. to 4:30 p.m. at the Hotel Washington, 515 15th Street, NW, Washington, DC, 20004. The meeting is open to the public to observe, but due to past experience, seating will be limited.

The primary purpose of this meeting is for the working group to discuss the public's comments that EPA received on the Public Review Draft Guidelines for the Certification and Recertification of Community and Nontransient Noncommunity Public Water Systems. Also, the working group members will develop recommendations on appropriate changes to the guidelines, based on the public comments, for transmittal to the NDWAC. Statements from the public will be taken at the end of the meeting if time allows.

For more information, please contact Richard Naylor, Designated Federal Officer, Operator Certification Working Group, U.S. EPA, Office of Ground Water and Drinking Water (4606), 401 M Street, SW, Washington, DC 20460. The telephone number is (202) 260–5135 and the e-mail address is naylor.richard@epamail.epa.gov.

Dated: July 14, 1998.

Charlene Shaw,

Designated Federal Officer, National Drinking Water Advisory Council.

[FR Doc. 98–19260 Filed 7–17–98; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1223–DR]

Florida; Amendment No. 6 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Florida, (FEMA–1223–DR), dated June 18, 1998, and related determinations.

EFFECTIVE DATE: July 3, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Florida, is hereby amended to include Individual Assistance in the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of June 18, 1998.

Brevard, Flagler, St. Johns, Seminole, and Volusia Counties (already designated for Category B under the Public Assistance porgram).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–19263 Filed 7–17–98; 8:45 am]

BILLING CODE 6718-02-P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1230–DR]

Iowa; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Iowa, (FEMA–1230–DR), dated July 2, 1998, and related determinations.

EFFECTIVE DATE: July 4, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Iowa, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 2, 1998:

Chickasaw and Polk Counties for Public Assistance (already designated for Individual Assistance).

Hardin, Howard, Mills, and Shelby Counties for Individual Assistance and Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–19270 Filed 7–17–98; 8:45 am]

BILLING CODE 6718-02-P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1230–DR]

Iowa; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Iowa, (FEMA–1230–DR), dated July 2, 1998, and related determinations.

EFFECTIVE DATE: July 8, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Iowa, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 2, 1998:

Boone, Carroll, Grundy, Hamilton, Iowa, Jasper, Johnson, Keokuk, Louisa, Marion, Marshall, Muscatine, Poweshiek, Taylor, Wapello, and Washington Counties for Individual Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–19277 Filed 7–17–98; 8:45 am]

BILLING CODE 6718-02-P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1230–DR]

Iowa; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Iowa (FEMA–1230–DR), dated July 2, 1998, and related determinations.

EFFECTIVE DATE: July 2, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated July 2, 1998, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

> I have determined that the damage in certain areas of the State of Iowa, resulting from severe storms, tornadoes and flooding beginning on June 13, 1998, and continuing is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93–288, as amended ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Iowa.
>
> In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.
>
> You are authorized to provide Individual Assistance, Public Assistance, and Hazard Mitigation in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Curt Musgrave of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Iowa to have been

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affected adversely by this declared major disaster:

Audubon, Cass, Chickasaw, Dallas, Fremont, Guthrie, Montgomery, Page, Polk and Pottawattamie Counties for Individual Assistance.

Audubon, Cass, Dallas, Fremont, Guthrie, Montgomery, Page, and Pottawattamie Counties for Public Assistance.

All counties within the State of Iowa are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

James L. Witt,

Director.

[FR Doc. 98–19281 Filed 7–17–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1232–DR]

Maine; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Maine (FEMA–1232–DR), dated July 2, 1998 and related determinations.

EFFECTIVE DATE: July 2, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated July 2, 1998, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

> I have determined that the damage in certain areas of the State of Maine, resulting from severe storms and flooding on June 13, 1998, and continuing is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93–288, as amended ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Maine.
>
> In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts, as you find necessary for Federal disaster assistance and administrative expenses.
>
> You are authorized to provide Public Assistance and Hazard Mitigation in the designated areas and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Alma C. Armstrong of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Maine to have been affected adversely by this declared major disaster:

Androscoggin, Franklin, Kennebec, Oxford, Somerset and York Counties for Public Assistance.

All counties within the State of Maine are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

James L. Witt,

Director.

[FR Doc. 98–19283 Filed 7–17–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1224–DR]

Massachusetts; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Massachusetts (FEMA–1224–DR), dated June 23, 1998, and related determinations.

EFFECTIVE DATE: July 6, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective July 6, 1998.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counselling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–19276 Filed 7–17–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1213–DR]

Federated States for Micronesia; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Federated States of Micronesia (FEMA–1213–DR), dated April 3, 1998, and related determinations.

EFFECTIVE DATE: June 30, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective June 30, 1998.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment

Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–19273 Filed 7–17–98; 8:45 am]

BILLING CODE 6718-02-P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1231–DR]

New Hampshire; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of New Hampshire (FEMA–1231–DR), dated July 2, 1998, and related determinations.

EFFECTIVE DATE: July 2, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated July 2, 1998, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

> I have determined that the damage in certain areas of the State of New Hampshire, resulting from severe storms and flooding on June 12, 1998, and continuing is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93–288, as amended ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of New Hampshire.
>
> In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.
>
> You are authorized to provide Public Assistance and Hazard Mitigation in the designated areas and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Kevin M. Merli of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of New Hampshire to have been affected adversely by this declared major disaster:

> Belknap, Carroll, Grafton, Merrimack, Rockingham and Sullivan Counties for Public Assistance.

All counties within the State of New Hampshire are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

James L. Witt,

Director.

[FR Doc. 98–19282 Filed 7–17–98; 8:45 am]

BILLING CODE 6718-02-P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–3128–EM]

New Mexico; Emergency and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of an emergency for the State of New Mexico (FEMA–3128–EM), dated July 2, 1998, and related determinations.

EFFECTIVE DATE: July 2, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated July 2, 1998, the President declared an emergency under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

> I have determined that the emergency conditions in the State of New Mexico, resulting from extreme fire hazards beginning on June 29, 1998, and continuing, is of sufficient severity and magnitude to warrant an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93–288, as amended ("the Stafford Act"). I, therefore, declare that such an emergency exists in the State of New Mexico.
>
> You are authorized to coordinate with other Federal agencies to provide any form of direct Federal assistance which you deem appropriate for required emergency measures, authorized under the Stafford Act, to save lives, protect property and public health and safety, or lessen or avert the threat of a catastrophe in the designated areas. You are also authorized to provide reimbursement for the eligible costs associated with the pre-staging of Emergency Management Assistance Compact fire suppression assets. In addition, you are authorized to provide such other forms of assistance under the Stafford Act, as you may deem appropriate.
>
> In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts, as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act will be limited to 75 percent of the total eligible costs.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Graham Nance of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

> FEMA has been authorized to coordinate with other Federal agencies to provide any form of direct Federal assistance appropriate for required emergency measures, authorized under the Stafford Act, to save lives, protect property and public health and safety, and lessen or avert the threat of a catastrophe in the State of New Mexico. Reimbursement for the eligible costs associated with the pre-staging of Emergency Management Assistance Compact's fire suppression assets is authorized.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing

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Program; 83.548, Hazard Mitigation Grant Program)

James L. Witt,

Director.

[FR Doc. 98–19271 Filed 7–17–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1222–DR]

New York; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of New York (FEMA–1222–DR), dated June 16, 1998, and related determinations.

EFFECTIVE DATE: July 2, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that in a letter dated July 2, 1998, the President amended his previous declaration to reflect the incident period for this disaster as May 31, 1998, through and including June 2, 1998.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–19275 Filed 7–17–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1227–DR]

Ohio; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Ohio, (FEMA–1227–DR), dated June 30, 1998, and related determinations.

EFFECTIVE DATE: July 3, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Ohio, is hereby amended to include the following areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of June 30, 1998:

Coshocton, Pickaway, and Richland Counties for Individual Assistance and Public Assistance.

Franklin, Monroe, Morgan, Perry, Sandusky, and Tuscarawas Counties for Individual Assistance.

Meigs County for Individual Assistance (already designated for Public Assistance).

Harrison, Holmes, and Morrow Counties for Public Assistance.

Belmont and Ottawa Counties for Public Assistance (already designated for Individual Assistance).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–19264 Filed 7–17–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1227–DR]

Ohio; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Ohio, (FEMA–1227–DR), dated June 30, 1998, and related determinations.

EFFECTIVE DATE: July 4, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Ohio, is hereby amended to include the following areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of June 30, 1998:

Jackson, Monroe, Morgan, Perry, and Tuscarawas Counties for Public Assistance (already designated for Individual Assistance).

Harrison County for Individual Assistance (already designated for Public Assistance).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–19269 Filed 7–17–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1227–DR]

Ohio; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Ohio (FEMA–1227–DR), dated June 30, 1998, and related determinations.

EFFECTIVE DATE: June 30, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated June 30, 1998, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

> I have determined that the damage in certain areas of the State of Ohio, resulting from severe storms, flooding and tornadoes on June 24, 1998, and continuing is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency

Assistance Act, P.L. 93–288, as amended ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Ohio.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance, Hazard Mitigation, and debris removal and emergency protective measures (Categories A and B) under Public Assistance in the designated areas and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Timothy J. Monteen of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Ohio to have been affected adversely by this declared major disaster:

Guernsey, Muskingum, Noble, and Washington Counties for Individual Assistance and debris removal and emergency protective measures under the Public Assistance program (Categories A and B).

All counties within the State of Ohio are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

James L. Witt,

Director.

[FR Doc. 98–19278 Filed 7–17–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1210–DR]

Republic of the Marshall Islands; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Republic of the Marshall Islands (FEMA–1210–DR), dated March 20, 1998, and related determinations.

EFFECTIVE DATE: June 30, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective June 30, 1998.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–19272 Filed 7–17–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1218–DR]

South Dakota; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of South Dakota (FEMA–1218–DR), dated June 1, 1998 and related determinations.

EFFECTIVE DATE: June 22, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective June 22, 1998.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–19274 Filed 7–17–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1228–DR]

Vermont; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Vermont FEMA–1228–DR), dated June 30, 1998, and related determinations.

EFFECTIVE DATE: June 30, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated June 30, 1998, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

> I have determined that the damage in certain areas of the State of Vermont, resulting from severe storms and flooding beginning on June 17, 1998, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93–288, as amended ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Vermont.
>
> In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.
>
> You are authorized to provide Individual Assistance, Public Assistance, and Hazard

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Mitigation in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Edward A. Thomas of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Vermont to have been affected adversely by this declared major disaster:

> Addison, Chittenden, Franklin, Lamoille, Orange, Rutland, Washington and Windsor Counties for Individual Assistance and Public Assistance.

All counties within the State of Vermont are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

James L. Witt,

Director.

[FR Doc. 98–19279 Filed 7–17–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1229–DR]

West Virginia; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of West Virginia (FEMA–1229–DR), dated July 1, 1998, and related determinations.

EFFECTIVE DATE: July 1, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated July 1, 1998, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

> I have determined that the damage in certain areas of the State of West Virginia, resulting from severe storms, flooding and tornadoes beginning on June 26, 1998, and continuing is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93–288, as amended ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of West Virginia.
>
> In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.
>
> You are authorized to provide Individual Assistance, Hazard Mitigation, and debris removal and emergency protective measures (Categories A and B) under Public Assistance in the designated areas and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Robert J. Gunter of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of West Virginia to have been affected adversely by this declared major disaster:

> Braxton, Gilmer, Jackson, Kanawha, Roane, and Wood Counties for Individual Assistance and debris removal and emergency protective measures under the Public Assistance program (Categories A and B).

All counties within the State of West Virginia are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

James L. Witt,

Director.

[FR Doc. 98–19280 Filed 7–17–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL LABOR RELATIONS AUTHORITY

Senior Executive Service; Performance Review Board

AGENCY: Federal Labor Relations Authority.

ACTION: Notice.

SUMMARY: Notice is hereby given of the names on the Performance Review Board.

DATES: July 20, 1998.

FOR FURTHER INFORMATION CONTACT: Michele Pilipovich, Human Resources Director, Federal Labor Relations Authority (FLRA), 607 Fourteenth Street, NW, Washington, DC 20424–0001, (202) 482–6660.

SUPPLEMENTARY INFORMATION: Section 4314(c)(1) through (5) of Title 5, U.S.C. requires that each agency establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards. The boards shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, and make recommendations to the appointing authority relative to the performance of the senior executive.

The following persons will serve on the FLRA's Performance Review Board:

Solly Thomas, Office of the Executive Director, FLRA
William E. Washington, Office of the General Counsel, FLRA
Deidre Flippen, Equal Employment Opportunity Commission
Gloria Joseph, National Labor Relations Board
Darrell L. Netherton, Merit Systems Protection Board

Solly Thomas,

Executive Director.

[FR Doc. 98–19289 Filed 7–17–98; 8:45 am]

BILLING CODE 6727–01–P

FEDERAL MARITIME COMMISSION

[Docket No. 98–12]

Panalpina Inc. v. Eastern Mediterranean Shipping Corp., Notice of Filing of Complaint and Assignment

Notice is given that a complaint filed by Panalpina Inc. ("Complainant") against Eastern Mediterranean Shipping Corp. ("Respondent") was served July 15, 1998. Complainant alleges that Respondent has violated sections 10(b)(6)(D) and 10(d)(1) of the Shipping Act of 1984, 46 U.S.C. app. §§ 1709(b)(6)(D) and (d)(1), by accepting two shipments for through movement, but failing to provide information as to the status and location of the shipments, failing to provide for the transhipment of the containers, failing to deliver the shipments to the designated consignees, retaining prepaid ocean freight charges received for the through movement of the shipments, and causing Complainant to incur additional storage, demurrage and ocean freight charges.

This proceeding has been assigned to the office of Administrative Law Judges. Hearing in this matter if any is held, shall commence within the tine limitations prescribed in 46 CFR 502.61, and only after consideration has been given by the parties and the presiding officer to the use of alternative forms of dispute resolution. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by July 15, 1999, and the final decision of the Commission shall be issued by November 12, 1999.

Joseph C. Polking,

Secretary.

[FR Doc. 98–19262 Filed 7–17–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 4, 1998.

A. **Federal Reserve Bank of Cleveland** (Paul Kaboth, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. *Max A. Smith, Hope E. Smith, Ray Jeffery, Dorothy C. Jeffery, and Carol J. Chilcote*, all of Antwerp, Ohio; to acquire voting shares of Diamond Bancshares., Inc., Antwerp, Ohio, and thereby indirectly acquire voting shares of Antwerp Exchange Bank Company, Antwerp, Ohio.

Board of Governors of the Federal Reserve System, July 15, 1998.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 98–19291 Filed 7–17–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 14, 1998.

A. **Federal Reserve Bank of Philadelphia** (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105-1521:

1. *Susquehanna Bancshares, Inc.*, Lititz, Pennsylvania; to acquire 100 percent of the voting shares of Cardinal Bancorp, Everette, Pennsylvania, and thereby indirectly acquire First American National Bank of Pennsylvania, Everette, Pennsylvania.

B. **Federal Reserve Bank of Minneapolis** (Karen L. Grandstrand, Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. *United Financial Corp.*, Great Falls, Montana; to become a bank holding company by acquiring 100 percent of the voting shares of Choteau County Bancshares, Inc., Fort Benton, Montana, and thereby indirectly acquire First State Bank of Fort Benton, Fort Benton, Montana.

In connection with the application, Applicant also has applied to retain Heritage Bank, FSB, Great Falls, Montana, and thereby engage in owning, controlling, or operating a savings association, pursuant to § 225.28(b)(4)(ii) of Regulation Y, and acquire Fort Benton Insurance Agency, Fort Benton, Montana, through its acquisition of Choteau County Bancshares, Inc., Fort Benton, Montana, and thereby engage in general insurance agency activities in a town of less than 5,000, pursuant to § 225.28(b)(11)(iii) of Regulation Y.

C. **Federal Reserve Bank of Kansas City** (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. *New Millennium Bankshares, Inc.*, Topeka, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of Alliance Bank, Topeka, Kansas (a de novo bank in organization).

D. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. *First Baird Bancshares, Inc.*, Baird, Texas; First Baird Bancshares of Delaware, Inc., Dover, Delaware; Weatherford Bancshares, Inc., Baird, Texas; and First Weatherford Bancshares, Inc., Carson City, Nevada;

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to acquire 100 percent of the voting shares of Western American National Bank, Bedford, Texas. Comments regarding this application must be received not later than July 30, 1998.

Board of Governors of the Federal Reserve System, July 15, 1998.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 98–19293 Filed 7–17–98; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 4, 1998.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. Barclays PLC and Barclays Bank PLC, both of London, England; to acquire through its subsidiary, Barclays Capital Inc., New York, New York, in the acquisition of a substantial portion of the securities lending and prime brokerage business of Daiwa Securities America Inc., New York, New York, and thereby engage in lending and securities activities, pursuant to §§ 225.28(b)(2)(i) and (b)(7) of Regulation Y.

B. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. State Financial Services Corporation, Hales Corners, Wisconsin; to acquire Home Bancorp of Elgin, Inc., Elgin, Illinois, a savings and loan holding company, and indirectly acquire Home Federal Savings, Elgin, Illinois, pursuant to § 225.28(b)(4)(ii) of Regulation Y.

Board of Governors of the Federal Reserve System, July 15, 1998.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 98–19292 Filed 7–17–98; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

HHS Management and Budget Office; Statement of Organization, Function, and Delegations of Authority

Part A, Office of the Secretary, Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services is being amended at Chapter AM, HHS Management and Budget Office, Chapter AML, Office of Budget, as last amended at 61 FR 37068 7/16/1996; Chapter AMN, Office of Finance, as last amended at 61 FR 47520–23 9/9/1996; and Chapter AMG, the Office of Grants and Acquisition Management, as last amended at 61 FR 43363–65 8/22/1996. The primary changes are to reflect a consolidation of functions related to the Government Performance and Results Act (GPRA); and a realignment of the Federal Management Financial Integrity Act and audit follow-up functions. The changes are as follows:

I. Under Chapter AMS, Office of Finance, Section AMS.20 Functions, made the following changes:

a. Under the Office of Finance (AMS) delete paragraph "e" and replace with the following:

"e. Provide support and guidance to the Assistant Secretary for Management and Budget and the HHS Operating Divisions for the Federal Managers Financial Integrity Act (FMFIA). Provides staff assistance to the ASMB and the HHS Operating Divisions in the implementation, management and analysis of Federal management control policies and processes to the FMFIA and implementing regulations. Represents the Department in government-wide activities to implement FMFIA policies, requirements and processes.

b. Under the Office of Financial Policy (AMS1), Division of Financial Management Policy (AMS11), delete paragraph (c), and renumber paragraphs "d" through "l," as paragraphs "c" through "(m)."

II. Under Chapter AML, Office of Budget, Division of Program Integrity and Organizational Management (AML2), delete in its entirety and replace with the following:

4. Division of Program Integrity and Organizational Management. The Division:

a. Reviews and analyzes the budgets of the Office of Inspector General (OIG) and Office for Civil Rights (OCR). Prepares special analyses of OIG and OCR budgets for the purpose of evaluating capacity and determining if alternative approaches are feasible. These analyses would usually be for the use of the Deputy Assistant Secretary, Budget, the Assistant Secretary for Management and Budget, and the Secretary. Monitors Congressional appropriations hearings in which the OIG and/or OCR are participants.

b. Provides staff assistance to the Secretary, the Assistant Secretary for Management and Budget, the Service and Supply Fund (SSF) Board of Directors, OPDIV Budget Officers, and STAFFDIV heads in the budgetary and financial management of the Service and Supply Fund.

c. Provides for policy management, and financial integrity of the SSF in the provision of Departmental common use administrative services.

d. Provides budget policy and technical support to the Program Support Center Director (and other activity managers) on all SSF activities.

e. Directs and provides technical guidance to SSF activity managers in preparing annual budgets. Assists in the planning and preparation of the SSF budget for presentation to the SSF Board, the Office of Management and Budget, and Congress.

f. Directs and provides technical guidance to SSF accountants in preparing annual financial statements. Assists in the planning and preparation of these statements for presentation to the SSF Board, auditors, and the Office of Management and Budget.

g. Prepares apportionment requests for the Service and Supply Fund.

h. Establishes Department policy in the management of Inspector General reports and audits.

i. Serves as the principal source of advice on all aspects of Department-wide organizational analysis including: (1) Planning for new organizational elements; (2) evaluating current organizational structures for effectiveness; (3) conducting the review process for reorganization proposals. Manages the reorganization process for the Office of the Secretary (OS) requiring the Assistant Secretary for Management and Budget or the Secretary's signature. Administers the Department's system for the review, approval and documentation of delegations of authority. Develops Department-wide policies and provides technical assistance on the use and application of delegations of authority. Advises senior officials within the Department on delegations of authority, coordinates review of proposed delegations requiring the Secretary's or the Assistant Secretary for Management and Budget's approval. Analyzes and makes recommendations related to legislative proposals with potential impact upon the Department's organizational structure or managerial procedures.

j. Manages, in accordance with the Paperwork Reduction Act of 1980, as amended, the OS activities related to the review and approval of all public use reports and record-keeping requirements which impose a paperwork burden on the public. Develops policies for and manages the OS Information Colllection Budget and the Information Collection Budget process. Develops policies and procedures for the OS and carries out analytical and oversight activities related to the Department's paperwork burden reduction efforts.

k. Manages the Departmental Standard Administrative Code (SAC) system, providing oversight, advice and assistance to ensure codes are in accord with the current approved organization.

l. Provides staff assistance to the Assistant Secretary for Management and Budget and the HHS Operating Divisions in the implementation, management and analysis for: (1) Strategic planning and for the development and implementation of performance measures under the Government Performance and Results Act (GPRA); and (2) budget-related performance planning and annual performance plans required under the Government Performance and Results Act (GPRA).

m. Represents the Department in government-wide activities to implement the development and implementation of performance measures under GPRA and budget-related GPRA performance planning policies, requirements and processes.

n. Provides special management review services for selected activities.

III. Under Chapter AMG, Office of Grants and Acquisition Management, at the end of Section AMG.20 Functions, paragraph "F. Office of Resolution and Cost Policy (AMG3)," add the following paragraph:

"m. Provides staff assistance to the Assistant Secretary for Management and Budget and the HHS Operating Divisions in the implementation, management and analysis of audit follow-up management and Semiannual Management and Inspector General reports under the Inspector General Act Amendments of 1988 (IGAA). Represents the Department in government-wide activities to implement audit follow-up policies, requirements and processes."

Dated: July 6, 1998.

John J. Callahan,

Assistant Secretary for Management and Budget.

[FR Doc. 98–19243 Filed 7–17–98; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

[Program Announcement No. AoA–98–8]

Fiscal Year 1998 Program Announcement; Availability of Funds and Notice Regarding Applications

AGENCY: Administration on Aging, HHS.

ACTION: Announcement of availability of funds and request for applications to carry out the functions of a National Resource and Educational Center on Women and Retirement.

SUMMARY: The Administration of Aging (AoA) announces that under this program announcement it will hold a competition for a grant award for a National Resource and Educational Center on Women and Retirement. The deadline date for the submission of applications is September 9, 1998. Public and/or nonprofit agencies, organizations, and institutions are eligible to apply under this program announcement. To be considered for funding, however, applicants must demonstrate a knowledge base, and a proven track record of experience, in issues and programs of relevance to women, economic security, and retirement.

Application kits are available by writing to the Department of Health and Humans Services, Administration on Aging, Office of Program Development, 330 Independence Avenue, S.W., Room 4274, Washington, DC 20201, telephone (202) 619–1269 or (202) 619–1058.

Dated: July 15, 1998.

Jeanette C. Takamura,

Assistant Secretary for Aging.

[FR Doc. 98–19287 Filed 7–17–98; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Meeting

The National Immunization Program, Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: The National Immunization Program (NIP) Technical Vision Meeting on Immunization Registry Networks.

Time and Date: 12 noon–5 p.m., July 30, 1998; 9 a.m.–4 p.m., July 31, 1998.

Place: NIP, Koger Office Park, Stanford Building, Satcher Room A, 2939 Flowers Road, Atlanta, Georgia 30341.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 30 people.

Purpose: To receive input from technical experts in the field of electronic information systems development on architectural models for immunization registry networks. The outcome of this meeting is to provide technical options and possible standard approaches for exchange of information among state and local immunization registries.

Matters to be Discussed: Agenda items will include an overview of immunization registries and discussions on the following issues: connectivity; system security; interfacing with vendor developed systems; command and control; and various technical platform options.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Robb Linkins, Ph.D., M.P.H., Chief, Systems Development Branch, Data Management Division, NIP, CDC, 1600 Clifton Road, NE, M/S E–62, Atlanta, Georgia 30333, telephone 404/639–8728, e-mail rxl3@cdc.gov.

Dated: June 13, 1998.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–19218 Filed 7–17–98; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Gastroenterology and Urology Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Gastroenterology and Urology Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA regulatory issues.

Date and Time: The meeting will be held on July 30, 1998, 9:30 a.m. to 5 p.m.

Location: Corporate Bldg., conference room 020B, 9200 Corporate Blvd., Rockville, MD.

Contact Person: Mary J. Cornelius, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2194, ext. 118, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12523. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss: (1) Reclassification of extracorporeal shock wave lithotriptors indicated for the fragmentation of kidney and ureteral calculi, (2) revised clinical and preclinical performance testing requirements, and (3) labeling.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by July 23, 1998. Oral presentations from the public will be scheduled between approximately 9:30 a.m. and 10 a.m. Near the end of the committee deliberations, a 30-minute open public session will be conducted for interested persons to address issues specific to the FDA proposed reclassification before the committee. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before July 23, 1998, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

FDA regrets that it was unable to publish this notice 15 days prior to the Gastroenterology and Urology Devices Panel of the Medical Devices Advisory Committee meeting. Because the agency believes there is some urgency to bring these issues to public discussion and qualified members of the Gastroenterology and Urology Devices Panel of the Medical Devices Advisory Committee were available at this time, the Commissioner concluded that it was in the public interest to hold this meeting even if there was not sufficient time for the customary 15-day public notice.

Dated: July 10, 1998.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 98–19175 Filed 7–17–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–P0015S]

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Revision of a currently approved collection; *Title of Information Collection:* Medicare Current Beneficiary Survey: National Baseline Medicare Beneficiary Knowledge Supplement; *Form No.:* HCFA–P–0015S; *Use:* This survey will establish baseline measures of Medicare beneficiary knowledge/understanding of the Medicare program, their new choices legislated under the Balanced Budget Act (BBA) which will allow HCFA to quantify current knowledge and attribute future changes in their understanding and knowledge to HCFA information and education initiatives. *Frequency:* Biennially; *Affected Public:* Business or other for-profit; *Number of Respondents:* 16,000; *Total Annual Responses:* 16,000; *Total Annual Hours:* 2,667.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address:

HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: John Rudolph, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: July 9, 1998.

John P. Burke III,

HCFA Reports Clearance Officer, Division of HCFA Enterprise Standards, Security and Standards Group, Health Care Financing Administration.

[FR Doc. 98–19255 Filed 7–17–98; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–21, 21B, 21P, 21.11A, 21E]

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: New Collection;

Title of Information Collection: Children's Health Insurance Program (CHIP) Budget and Expenditure System State Reporting Forms.

Form Nos.: HCFA–21, 21B, 21P, 21.11A, 21E;

Use: These forms will be used by State CHIP agencies to report CHIP program budget projections and actual CHIP program benefits and administrative expenditures, and the numbers of children being served in the CHIP program, to the Health Care Financing Administration (HCFA). The information provided by these new forms will be used by HCFA to prepare the grant awards to States for the CHIP, to ensure that the appropriate level of Federal payments for State expenditures under the CHIP are made in accordance with the CHIP-related BBA legislative provisions of 1997, and to track, monitor, and evaluate the numbers of children being served by the CHIP.

Note: at this time Form HCFA–21E of this package is for States to report the numbers of children, by service delivery system, that are served in the States' CHIPs based on age categories. However, we are continuing to work with the States to develop an appropriate format for States to report the numbers of children, by service delivery system, that are served in the CHIP based on Federal poverty income level categories and under the age categories previously requested. When this format is finalized it will be incorporated into Form HCFA–21E.

For a short description of the CHIP reporting forms, see below:

- Form HCFA–21 Summary Sheet. Quarterly Children's Health Insurance Program Statement of Expenditures for Title XXI Summary Sheet. This form summarizes the total expenditures in the State's CHIP reported by the State for the reporting quarter.
- Form HCFA–21. Children's Health Expenditures by Type of Service for the Title XXI Program, Expenditures in this Quarter. States use this form to report CHIP current quarter expenditures in accordance with services categories authorized under title XXI.
- Form HCFA–21B. Children's Health Insurance Program Budget Report for the Title XXI Program State Expenditure Plan. States use this form to report their budget projections each quarter for their Title XXI CHIPs for the current and budget Federal fiscal years and broken out by quarter.
- Form HCFA–21P. Children's Health Expenditures by Type of Service for the Title XXI Program, Prior Period Adjustments. States use this form to report CHIP prior period adjustment expenditures claimed in the submission quarter in accordance with services categories authorized under title XXI.
- Form HCFA–21.11A. Provider-Related Donations and Health Care Related Taxes, Fees, and Assessments Received Under Section 1903(w) for Title XXI. States use this form to report CHIP-related State receipts of provider related donations, and health care related taxes, fees, and assessments.
- Form HCFA–21E. Children's Health Insurance Program, Number of Children Served. States use this form to report the numbers of children, by service delivery system, that are served in the States' CHIPs based on age categories.

Note: HCFA is working with States to develop an appropriate format for States to report numbers of children, by service delivery system, that are served in the CHIP based on Federal poverty income level categories and under the age categories previously requested. When the format is finalized it will be incorporated into this form.

Frequency: Quarterly;

Affected Public: State and Federal government;

Number of Respondents: 56;

Total Annual Responses: 224;

Total Annual Hours: 7,840.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's WEB SITE ADDRESS at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: John Rudolph, Room C2-26-17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: July 9, 1998.

John P. Burke III,

HCFA Reports Clearance Officer, Division of HCFA Enterprise Standards, Security and Standards Group, Health Care Financing Administration.

[FR Doc. 98–19256 Filed 7–17–98; 8:45 am]

BILLING CODE 4120-03-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–P–11]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Medicare Home Health Quality Assurance Demonstration and Supporting Regulations 42 CFR 484.48; *Form No.:* HCFA—P–11, OMB # 0938–0519; *Use:* Do to the accelerated growth in the home health Care industry, the Health Care Financing Administration (HCFA) has identified a need to measure the effectiveness of home health services by analyzing patient outcomes. The Medicare Home Health Quality Assurance Demonstration will test the feasibility of collecting patient outcome data in Medicare-certified Home Health Agencies (HHAs) nationally. *Frequency:* On occasion; *Affected Public:* Not-for-profit institutions, business or other for-profit, and individuals or households; *Number of Respondents:* 35,905; *Total Annual Responses:* 99,825; *Total Annual Hours:* 7,897.

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To obtain copies of the supporting statement for the proposed paperwork collections referenced above, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: July 9, 1998.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 98–19257 Filed 7–17–98; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute of Health

Government-Owned Inventions; Availability for Licensing: Compound, Composition and Method for Treating Cancer

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The National Institutes of Health is seeking licensees for the further development, evaluation and commercialization of materials and methods for a novel cancer treatment strategy. The invention claimed in DHHS reference No. E–013–96/0, "Compound, Composition and Method for Treating Cancer," (Hartman, N., *et al.*) filed on 3 June 1996 as USSN 60/019,086, and in corresponding international filings, is available for licensing (in accordance with 35 U.S.C. 207 and 37 CFR Part 404).

ADDRESSES: Questions about the licensing opportunity should be addressed to Girish C. Barua, Ph.D., Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; Telephone: 301/496–7056 ext. 263; Fax: 301/402–0220.

SUPPLEMENTARY INFORMATION: The invention is a novel compound for treating cancer, Demethylpenclomedine, which is a derivative of the drug Penclomedine. Penclomedine is already under investigation for its remarkable preclinical activity against breast cancer, but it suffers from several dose-limiting side effects. The invention, Demethylpenclomedine, appears to have reduced toxicity while still having a similar therapeutic efficacy to that of Penclomedine in animal models.

Demethylpenclomedine may thus prove to be a useful chemotherapeutic against breast cancer and other cancers. The lower toxicity may allow use at higher levels than have been tried with Penclomedine, and other possible cancers, such as brain tumors, could be targeted.

Information about the patent application and pertinent information not yet publicly described can be obtained under a Confidential Disclosure Agreement. Respondees interested in licensing the invention will be required to submit an Application for License to Public Health Service Inventions.

Dated: July 6, 1998.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 98–19145 Filed 7–17–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Murine Intracisternal a Particle Constitutive Transport Elements and Uses Thereof

BK Felber, C Tabernero, AS Zolotukhin (NCI)

Serial No. 60/070,204 filed 31 Dec 97

Licensing Contact: Robert Benson, 301/496–7056 ext. 267

This invention concerns recombinant attenuated HIV strains useful as vaccines. HIV regulates its expression by controlling the nuclear transport of unspliced mRNA encoding structural proteins. HIV utilizes the Rev/RRE system. RRE (Rev. Responsive Element) is an HIV encoded nucleo-cytoplasmic transport element (NCTE), which is part of every HIV RNA encoding the structural genes (gas/pol and env). Rev is an HIV encoded protein which binds to the RRE. This interaction is essential for the nucleo-cytoplasmic transport of the RRE-containing viral mRNAs and the expression of Gap/Pol and Env proteins. The inventors have produced an attenuated HIV by disabling rev/RRE, by point mutations, and inserting in its place a novel murine NCTE, isolated form an intracisternal A-type particle (IAP). The resultant HIV is attenuated between 50 and 200 fold compared to wild-type HIV. Claimed are the novel murine NCTE, recombinant retroviruses comprising the NCTE, and vaccines. The use of another NCTE is described in Zolotukhin *et al.*, (1994) J. Virology 68:7944–7952.

Design and Construction of Non-Infectious Human Retroviral Mutants Deficient in Genomic RNA

RJ Gorelick, LO Arthur, A Rein, LE Henderson, S Oroszlan (NCI)

U.S. Patent No. 5,674,720 issued 07 Oct 97

Licensing Contract: Robert Benson, 301/496–7056 ext. 267

This invention describes methods for generating non-replicating (i.e. non-infectious) virus-like particles that mimic HIV–1, SIV and other retroviruses, which are capable of generating a protective immune response. In addition to being replication defective, these virus like particles are deficient in packaged genomic RNA but have the added benefit of a normal compliment of viral and cellular proteins that remain in their native conformations. Also claimed are methods of making the mutant retroviruses which may potentially be used as immunogens for vaccines, particularly against HIV–1. The basis of the method and the mutant viruses of the claims is the finding that a conserved amino acid sequence motif, found in the nucleocapsid domain of the Gag precursor polyprotein of all retroviruses, when mutated resulted in virions with much lower or zero infectivity. This concept has been tested in the primate lentivirus, SIV, which is related to HIV–1. Mutations were introduced into the gene coding for the conserved sequence motif found in the nucleocapsid domain of the Gag precursor polyprotein of SIV. The viruses obtained upon transfection were defective in replication. Plasmid DNA containing the mutated provirus was injected into five pig tailed macques and the vector without the provirus was injected into four control animals. The vaccinated animals were either partially or fully protected when challenged with infectious SIV(Mne) whereas three of the four control animals became persistently infected and developed AIDS as indicated by a marked decline in CD4 cell numbers. The invention has been filed in foreign countries and has been granted in Europe (No. 91900636.1) and Japan (No. Hei 7–16420).

The Application of Induction Tolerance by Oral Feeding of Myelin Basic Protein to the Generation of Increased Resistance to Stroke

KJ Becker, JM Hallenbeck, RM McCarron (NINDS)
Serial No. 08/994,293 filed 19 Dec 97
Licensing Contact: Stephen Finley, 301/496–7735 ext. 215

In vivo experiments have shown that immunosuppression in the brain can be achieved through oral tolerance to myelin basic protein (MBP). Following exposure to MBP again which has the effect of suppressing the inflammatory reaction associated with stroke. This possible new means of minimizing the severity of damage from stroke, the number three killer of Americans and leading cause of disability, does not result in detrimental systemic side effects as other immunosuppressive agents do. This treatment could be administered to those considered at significantly increased risk for a stroke including those with a previous stroke, diabetes mellitus, hypertension, hypercholesteremia, or a history of smoking as well as those undergoing a medical or surgical treatment which increases the possibility of an ischemic event.

Salivary Prolactin Test for Serotonergic Activity

JD Higley (NIAAA), S Lindell (NICHD)
Serial No. 60.082,126 filed 16 April 98
Licensing Contact: Stephen Finley, 301/496–7735 ext. 215

A noninvasive diagnostic assay improves on previous methods for determining central serotonin functioning, an indicator of susceptibility to aggression, alcohol abuse, obsessive-compulsive disorder and eating disorders. Levels of salivary prolactin can be assayed to determine susceptibility to the set of pysychiatric disorders related to central serotonin functioning. Levels of salivary prolactin were found to be positively correlated with levels of cerebrospinal fluid (CSF) 5-hydroxyindol acetic acid (5-HIAA), the current measurement of central serotonin functioning. Elevated CSF levels of 5-HIAA are associated with obsessive-compulsive disorders, and reduced levels are associated with violent behavior, alcohol abuse and bulimia. There are an estimated 9 million alcoholics in the United States and currently 0.5% of women 10 to 30 years old have anorexia nervosa while 5% of college-age women have bulimia. The user-friendliness and reduced costs of the saliva assay suggest possible candidacy for mass screenings to determine susceptibility to various psychiatric disorders.

Conjugate Vaccine for *Salmonella Paratyphi* A

E Konadu and S Szu (NICHD)
Serial No. PCT/US96/19978 filed 18 Dec 96
Licensing Contact: Robert Benson, 301/496–7056 ext. 267

This invention concerns a conjugate vaccine against *Salmonella paratyphi* A comprising the o-specific polysaccharide bound to a carrier protein. *Salmonella paratyphi* A infection causes enteritis and enteric fever. The emergence of multidrug resistant strains has raised alarms. The present invention offers a method of preventing the disease. The conjugate is made by isolating lipopolysaccharide, detoxifying by removing the lipid A, while retaining substantially all the O-acetyl groups, and conjugating by known means to a carrier protein such as tetanus toxoid or detoxified exoprotein A. In a Phase I clinical trial the vaccine has been given to healthy adults and elicited anti-LPS IgG levels at least 4-fold higher compared to preimmune serum in 85% of volunteers. The invention is also described in Konadu *et al.*, Infection and Immunity 64(7), 2709–2715, 1996.

Cloning of GMEB 1 and 2: Two Proteins Involved in the Modulation of Glucocorticoid Regulated Gene Transcription

S. Stoney Simons, Jr., *et al.* (NIDDK)
DDH Reference No. E–070–97/0 filed 25 Jul 97
Licensing Contact: Charles Maynard, 301/496–7735 ext. 243

This technology relates to a previously identified DNA element from a naturally occurring gene that has the properties of causing glucocorticoid induction at lower steroid concentrations than for other glucocorticoid inducible genes in the same cell. This DNA element, also called a glucocorticoid modulatory element, or GME, has been found to involve two proteins of 88 and 67 kDa.

This technology has succeeded in cloning and characterizing both the 67 kDa protein and the 88 kDa protein which together offer a unique and not previously described method of using genetic engineering to achieve selective regulation of glucocorticoid responsive genes. This group of proteins appears to be members of a larger class of related proteins which may have similar roles in modifying the activity of RNA polymerase II transcriptional complex.

Gated RF Preamplifier for Use in Pulsed Radiofrequency Electron Paramagnetic Resonance and MRI

RG Tschudin (NIDDK), R Murugesan (NCI), MK Cherukuri (NCI), JB Mitchell (NCI), S Subramanian (NCI)
Serial No. 08/699,383 filed 19 Aug 96
Licensing Contact: John Fahner-Vihtelic, 201/496–7735 ext. 270

The present application describes a radiofrequency preamplifier featuring very fast recovery after the transmit cycle to allow for ultrafast data acquisition, intended for use in pulsed EPR, MRI and related computed imaging applications. One advantage of this device is that it allows the use of low frequency EPR, which offers better tissue penetration during *in vivo* diagnostic studies. The invention permits the use of a pulsed EPR method, which offers improved speed and sensitivity over existing methods. A prototype device has been made and the design has proven to work in an EPR system.

Lipopolysaccharide Carriers for Use in Vaccines

B Golding (FDA)
Serial No. 08/369,565 filed 06 Jan 95 (allowed)
Licensing Contact: Robert Benson, 301/496–7056 ext. 267

This invention is a new carrier for conjugate vaccines. The carrier is lipopolysaccharide (LPS) isolated from Brucella abortus (BA). The claims of the patent cover all conjugates comprising BA–LPS and an antigen from an infectious agent or tumor. BA–LPS, like other LPSs from gram-negative bacteria,

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raises antibody responses in a T-independent fashion, which allows antibodies to be raised in the absence of T cell help. BA–LPS is much less toxic than LPS from other bacteria, and is much less potent than other bacterial LPS in including inflammatory cytokines. Thus, BA–LPS is much less likely to cause endotoxic shock. There are no foreign patent rights. The invention is further described in Infection & Immunity 61(5), pp. 1722–1729, 1993.

Dated: July 6, 1998.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 98–19146 Filed 7–17–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Aquatic Nuisance Species Task Force Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces the Summer 1998 meeting of the Aquatic Nuisance Species Task Force. Meeting topics are identified in the **SUPPLEMENTARY INFORMATION.**

DATES: The Aquatic Nuisance Species Task Force will meet from 8:30 a.m. to 5:00 p.m., Wednesday, July 22, 1998.

ADDRESSES: The meeting will be held at Arlington Square Building, Room 200, 4401 North Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Bob Peoples, Executive Secretary, Aquatic Nuisance Species Task Force, 703–358–2025.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Aquatic Nuisance Species Task Force. The Task Force was established by the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990.

Topics to be covered during the meeting include review of Task Force membership and regional panel configuration, the future of the ANS Digest, brown tree snake actions and plans, the voluntary national recreational activity guidelines for submission to the U.S. Coast Guard, a summary of Task Force staff activities, regional panel updates, and reports about or from the voluntary national ballast water guidelines and regulatory changes, recommendations of the Forum on Ecological Surveys, the Green Crab Control Proposal Review Committee, and recommendations from the Marine Conservation Biology Institute's Workshop on Marine Invasive Species.

Minutes of the meeting will be maintained by the Executive Secretary, Aquatic Nuisance Species Task Force, Suite 851, 4401 North Fairfax Drive, Arlington, Virginia 22203–1622, and will be available for public inspection during regular business hours, Monday through Friday, within 30 days following the meeting.

Dated: July 9, 1998.

Gary Edwards,

Co-Chair, Aquatic Nuisance Species Task Force, Assistant Director—Fisheries.

[FR Doc. 98–19156 Filed 7–17–98; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–050–08–1210–04; 1617]

Arizona: Intent To Prepare a Resource Management Plan Amendment (Wild Horse and Burro Herd Management Area) and Environmental Assessment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent To Prepare a Resource Management Plan Amendment/Environmental Assessment and Invitation to Participate in the Identification of Issues; Yuma Field Office, AZ.

SUMMARY: The Bureau of Land Management (BLM), Yuma Field Office, is preparing an Amendment/Environmental Assessment to the Yuma District Resource Management Plan to revise wild horse and burro management provisions. The proposed Amendment would update management provisions for the Cibola-Trigo Herd Management Area in conformance with the Wild Free-Roaming Horse and Burro Act, as amended, (16 U.S.C. 1331–1340) 1994. Under the proposed Amendment, horses and burros would be managed to maintain an appropriate management level that will provide for a thriving natural ecological balance within the Cibola-Trigo Herd Management Area south of Interstate 10 and west of the impact area from the Yuma Proving Ground firing range located near Highway 95, at the southern portion of the military reservation.

DATES: Written comments related to the identification of issues for the proposed Amendment will be accepted on or before August 19, 1998. A public meeting will be held on August 19, 1998, from 7:00 to 9:00 p.m. at the BLM office, 2555 Gila Ridge Road, Yuma, Arizona, to provide additional opportunity for the identification of issues.

ADDRESSES: Send comments to: Ron Morfin, BLM Yuma Field Office, 2555 Gila Ridge Road, Yuma, Arizona 85365.

FOR FURTHER INFORMATION CONTACT: Ron Morfin, Planning Team Leader, Yuma Field Office, Yuma, Arizona. Telephone (520) 317–3226.

SUPPLEMENTARY INFORMATION: The BLM Yuma Field Office is currently coordinating efforts with the U.S. Fish and Wildlife Service, U.S. Army Yuma Proving Ground, and Arizona Game and Fish Department to develop a cooperative management plan for lands and resources contained within the Cibola-Trigo Wild Horse and Burro Herd Management Area through an interdisciplinary planning team. Considering other land and resource values and multiple uses and to provide for a thriving natural ecological balance, management objectives and direction will be proposed for wild horse and burro herds through this effort to reach and maintain the appropriate management level as established by the Cibola-Trigo Herd Management Area Plan. National BLM Policies and guidance at 43 CFR 4700 require that management direction affecting wild horses and burros shall be established through the Land Use Planning Process pursuant to 43 CFR 1600.

Issues to be addressed include: the presence of burros at impact areas from a munitions research and development firing range; management of animals outside of the herd area; management of the current horse and burro herd to reach and maintain an appropriate management level; provisions for refining forage utilization monitoring protocols; and the use of new technologies to monitor herd size.

Documents relevant to the planning process will be available for public review at the BLM Yuma Field Office, 2555 Gila Ridge Road, Yuma, Arizona. This notice is published under the authority found in 43 CFR 1610.2(c).

Dated: July 8, 1998.

Maureen A. Merrell,

Assistant Field Manager, Business and Fiscal Services/Acting Field Manager.

[FR Doc. 98–19252 Filed 7–17–98; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Approved Collection

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of approval of information collection (1010–0051).

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, this notice informs the public and other Federal agencies of the approval by the Office of Management and Budget (OMB) of a collection of information. The Paperwork Reduction Act of 1995 (PRA) provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT: Alexis London, Rules Processing Team, telephone (703) 787–1600. You may also contact Alexis London to obtain a copy of this collection of information.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR Part 250, Subpart L, Oil and Gas Production Measurement, Surface Commingling, and Security.

Abstract: On May 12, 1998, MMS published a final rule on the titled collection (RIN 1010–AC23, 63 FR 26362). A correction to the final rule on May 20, 1998 (63 FR 27677) made the rule effective on June 29, 1998. The Paperwork Reduction Act section of the preamble to the final rule stated that the information collection requirements would not take effect until approved by OMB. The preamble to the final rule provided the required public comment period and announced that we had submitted the information collection request to OMB for approval. On July 7, 1998, OMB approved the collection of information required in 30 CFR 250, subpart L, with an expiration date of July 31, 2001.

MMS Information Collection Clearance Officer: Jo Ann Lauterbach (202) 208–7744.

Dated: July 10, 1998.

William S. Cook,

Acting Chief, Engineering and Operations Division.

[FR Doc. 98–19254 Filed 7–17–98; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

National Park Service

Correction; Grand Canyon National Park; Concession Contract for Operation of Accommodations, Facilities, and Services at Grand Canyon National Park (South Rim)

CORRECTION: In notice document 98–15128, appearing on pages 31228-31229, in the issue of Monday, June 8, 1998, the **SUPPLEMENTARY INFORMATION** is corrected to read as follows:

SUPPLEMENTARY INFORMATION: This contract renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The existing concessioner has performed its obligation to the satisfaction of the Secretary under an existing contract, which expires by limitation of time on December 31, 1998. Therefore, pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), the concessioner is entitled to be given preference in the renewal of the contract and in the award of a new contract, providing that the existing concessioner submits a responsive offer (a timely offer which meets the terms and conditions of the Prospectus). This means that the contract will be awarded to the party submitting the best offer, provided that if the best offer was not submitted by the existing concessioner, then the existing concessioner will be afforded the opportunity to match the best offer. If the existing concessioner agrees to match the best offer, then the contract will be awarded to the existing concessioner.

If the existing concessioner does not submit a responsive offer, the right of preference in renewal shall be considered to have been waived, and the contract will then be awarded to the party that has submitted the best responsive offer.

The Secretary will consider and evaluate all offers received as a result of this notice. Any offer, including that of the existing concessioner, must be received by the Regional Director, Intermountain Region, P.O. Box 25287, Denver, Colorado 80225–0287 (street address: 12795 West Alameda Parkway, Lakewood, Colorado 80228); no later than one hundred and twenty (120) days following release of the Prospectus to be considered and evaluated.

Dated: July 7, 1998.

Michael D. Snyder,

Acting Director, Intermountain Region.

[FR Doc. 98–19149 Filed 7–17–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability of Reference Manual Concerning Wilderness Preservation and Management Within the National Park Service

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: The National Park Service (NPS) is converting and updating its current system of internal instructions to a three-level system consisting of: (1) NPS Management Policies; (2) Director's Orders; and (3) Reference Manuals/Handbooks and other helpful information. When these documents contain new policy or procedural requirements that may affect parties outside the NPS, this information is being made available for public comments. Reference Manual #41 establishes operation policies and procedural guidance for the day-to-day and long-term preservation and management of the Service's wilderness resources.

DATES: Written comments will be accepted until August 17, 1998.

ADDRESSES: The draft Reference Manual #41 is available on the Internet at: http://www.nps.gov/refdesk/Dorders/index.htm. The specific link can subsequently be reached at: "Dorder41.htm". Requests for copies and written comments should be sent to Jim Walters, National Park Service Deputy Wilderness Program Coordinator, National Park Service, P.O. Box 728 Santa Fe, New Mexico 87504–0728.

FOR FURTHER INFORMATION CONTACT: Jim Walters at 509 988–6022 (fax)(505 988–6123 or Wes Henry at 202 208–5211.

SUPPLEMENTARY INFORMATION:

Table of Contents: Reference Manual #41: Wilderness Preservation and Management.

I. Background and Purpose

The purpose of Reference Manual #41: Wilderness Preservation and Management is to provide national park managers with the information they need to understand the laws and policies affecting the NPS wilderness resource and guidance for the application of the edicts into the day-to-day and long-term preservation of these

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resources. The Reference Manual contains: (1) An update of the NPS Management Policies pertaining to wilderness; (2) the Director's Orders intended to assist managers in the application of these policies, and (3) specific detailed references and background information affecting the Service's wilderness resource.

II. Legislative Guidance Applicable To NPS Wilderness Preservation

This information is intended to provide park managers and the public with an understanding of the primary laws regulating the wilderness resource. This discussion includes: the relationship between the Wilderness Act and the NPS Organic Act, the clarification of Section 4(a)(3) of the Wilderness ACt which is often misinterpreted by park managers, the implication of the Redwood Act Amendments to the Service's wilderness program, and an explanation of the Eastern Wilderness Act as it applies to the National Park Service.

III. Revised Management Policies Guiding Wilderness Preservation and Management (Level One)

The "Level One" wilderness policy statements will revise and update previous policies included in Chapter 6 of the 1988 Wilderness Policies handbook. These revised policies include general statements addressing: wilderness characteristics and values, the process for reviewing potential wilderness additions, general wilderness policies, consistency of the Service's wilderness program, zoning, accountability and responsibility, management plans, the minimum requirement process, monitoring strategies, signing, research protocols, NPS administrative facilities, fire management, cultural resources, environmental compliance standards, general public use, commercial services, special events, grazing and livestock driveways, rights-of-way and mineral development and public education standards.

IV. Director's Order #41 (Level Two)

The "Level Two" Director's Order are intended as more detailed guidance and standards for managers to use in the application of the revised policy statements. Director's Order #41 will be issued by the NPS Associate Director—Operations and Parks as required standards at which the respective programs and functions must be managed within NPS wilderness. These program, identified as "Critical Issues" include: wilderness management plan requirements, procedures for applying the "minimum requirement" concept, interagency coordination, cultural resource management, climbing protocols, fire management, interpretation and education, mineral development, research and other scientific uses, wilderness use by persons with disabilities, special events, training requirements, and the administration of commercial services in wilderness.

IV. Appendices

The appendices of the Level 3 Reference Manual are intended as a reference and bibliography for wilderness managers. This information includes: a glossary of wilderness terms, the text of the Wilderness Act, the Wilderness *Access Decision Tool,* examples of minimum requirement decision tools, the minimum requirements of a wilderness management plan, the Alaska National Interest Lands Conservation Act, the format of the annual Report to Congress, and a list of suggested readings relating to wilderness management.

Dated: July 10, 1998.

Maureen Finnerty,

Associate Director, Operations and Education.

[FR Doc. 98–19151 Filed 7–17–98; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of the Intent to Issue a Prospectus for the Operation of Commercial Visitor Services Within Carlsbad Caverns National Park

SUMMARY: The National Park Service will be releasing a concession Prospectus authorizing continued operation of food and beverage, merchandise (souvenir and gifts), kennels and storage lockers services for the public within Carlsbad Caverns National Park, New Mexico. The operation consists of providing these services at one location in the park. The proposed operation will be provided on a daily basis year round. The term of the proposed concession contract will be for ten (10) years beginning on January 1, 1999.

EFFECTIVE DATE: Offers will be accepted for SIXTY (60) days under the terms described in the Prospectus. The SIXTY day application period will begin with the release of the Prospectus, which will occur within thirty days of the publication of this notice. The actual release date of the Prospectus shall be the date of publication in the "Commerce Business Daily".

SUPPLEMENTARY INFORMATION: This contract renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The existing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract, which expires by limitation of time on December 31, 1998. Therefore, pursuant to the provision of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. sec. 20), the concessioner is entitled to be given preference in the renewal of the contract and in the award of a new contract, providing that the existing concessioner submits a responsive offer (a timely offer which meets the terms and conditions of the Prospectus). This means that the contract will be awarded to the party submitting the best offer, provided that if the best offer was not submitted by the existing concessioner, then the existing concessioner will be afforded the opportunity to match the best offer. If the existing concessioner agrees to match the best offer, then the contract will be awarded to the existing concessioner.

If the existing concessioner does not submit a responsive offer, the right of preference in renewal shall be considered to have been waived, and the contract will then be awarded to the party that has submitted the best responsive offer.

The Secretary will consider and evaluate all offers received as a result of this notice. Any offer, including that of the existing concessioner, must be received by the Regional Director, Intermountain Region, P.O. Box 25287, Denver, Colorado 80225–0287 (street address; 12795 West Alameda Parkway, Lakewood, Colorado 80228); not later than SIXTY (60) days following release of the Prospectus to be considered and evaluated.

ADDRESSES: Parties interested in obtaining a copy should contact the National Park Service, Concessions Management Program, Intermountain Region-Denver Support Office, Office of Concessions Management, 12795 West Alameda Parkway, P.O. Box 25287, Denver, Colorado 80225–0287; Attention: Judy Jennings. Please include a mailing address indicating where to send the Prospectus in your request. Inquires may be directed to Ms. Judy Jennings, Office of Concessions Management Program (303) 969–2661.

Dated: July 1, 1998.

John H. King,

Acting Regional Director, Intermountain Region.

[FR Doc. 98–19148 Filed 7–17–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Meeting of the Delta Region Preservation Commission

AGENCY: National Park Service, Interior.

ACTION: Meeting of the Delta Preservation Commission.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Delta Region Preservation Commission will be held at the following place and time.

DATES: Wednesday, August 5, 1998 at 7 p.m.

ADDRESSES: The meeting will be held at the Environmental Education Center in the Barataria Preserve Unit of Jean Lafitte National Historical Park and Preserve, 7400 Highway 45, Marrero, Louisiana 70072.

FOR FURTHER INFORMATION CONTACT: Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact Geraldine Smith, Superintendent, Jean Lafitte National Historical Park and Preserve, 365 Canal Street, Suite 2400, New Orleans, Louisiana 70130–1142, telephone (504) 589–3882, extension 108.

SUPPLEMENTARY INFORMATION: The Delta Region Preservation Commission was established pursuant to Section 907 of Public Law 95–625 (16 U.S.C. 230f), as amended, to advise the Secretary of the Interior in the selection of sites for inclusion in Jean Lafitte National Historical Park and Preserve, and in the implementation and development of a general management plan and of a comprehensive interpretive program of the natural, historic, and cultural resources of the region.

The matters to be discussed at this meeting include:

—Old Business

—General Park Update

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come, first-served basis. Any member of the public may file a written statement concerning matters to be discussed with the Superintendent, Jean Lafitte National Historical Park and Preserve.

Minutes of the meeting will be available for public inspection four weeks after the meeting at the headquarters office of Jean Lafitte National Historical Park and Preserve.

Dated: July 8, 1998.

Daniel W. Brown,

Acting Regional Director, Southeast Region.

[FR Doc. 98–19150 Filed 7–17–98; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before July 11, 1998. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St., NW, NC400, Washington, DC 20240. Written comments should be submitted by August 4, 1998.

Beth Savage,

Acting Keeper of the National Register.

Arkansas

Clark County

Henderson, Capt. Charles C., House, Jct. of 10th and Henderson Sts., Arkadelphia, 98000957

Newton County

Jones, Gould, Reservoir, AR 7, just S of Jasper, Jasper, 98000956

California

Alameda County

Berkeley Historic Civic Center District, Roughly bounded by McKinney Ave., Addison St., Shattuck Ave., and Kittredge St., Berkeley, 98000963

Los Angeles County

House at 1011 S. Madison Ave., (Residental Architecture of Pasadena: Influence of the Arts and Crafts Movement MPS), 1011 S. Madison Ave., Pasadena, 98000959

House at 1050 S. Madison Ave., (Residental Architecture of Pasadena: Influence of the Arts and Crafts Movement MPS), 1050 S. Madison Ave., Pasadena, 98000960

House at 1233 Wentworth Ave., (Residental Architecture of Pasadena: Influence of the Arts and Crafts Movement MPS), 1233 Wentworth Ave., Pasadena, 98000962

House at 380 W. Del Mar Blvd., (Residental Architecture of Pasadena: Influence of the Arts and Crafts Movement MPS), 380 W. Del Mar Blvd., Pasadena, 98000961

House at 574 Bellefontaine St. (Residental Architecture of Pasadena: Influence of the Arts and Crafts Movement MPS), 574 Bellefontaine St., Pasadena, 98000958

Connecticut

Hartford County

Old North Cemetery, 1821 Main St., Hartford, 98000964

New Haven County

Nehemiah Royce House, 538 N. Main St., Wallingford, 98000966

Florida

Hillsborough County

Downtown Plant City Historic Residential District, Bounded by N. Drane, Thomas, W. Tever, Franklin, and Carey Sts., Plant City, 98000965

Georgia

Banks County

Fort Hollingsworth—White House, Wynn Lake Rd., 2 mi. SE of Hollingsworth, Hollingsworth vicinity, 98000973

Chatham County

Tybee Island Strand Cottages Historic District, Along Butler Ave., between 12 St. and 14th St., Tybee Island, 98000971

Fulton County

Ashby Street Car Barn, 981 Ashby St. NW, Atlanta, 98000972

Freeman Ford Building, 75 John Wesley Dobbs Ave., Atlanta, 98000968

Greene County

Bethesda Baptist Church and Cemetery, Jct. of Cty Rd. 120 and Cty Rd. 129, Union Point vicinity, 98000967

Newton County

Covington Historic District, Roughly Covington City S of US 278, Covington, 98000969

Newborn Historic District, Roughly the entire city limits of Newborn City, Newborn, 98000970

Hawaii

Honolulu County

Schofield Barracks Stockade, Lyman Rd., Wahiawa vicinity, 98000974

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Illinois

Calhoun County

Brussels Historic District, Roughly along Main and Community Sts., Brussels, 98000981

Clay County

Clay County Jail, 195 Main St., Louisville, 98000986

Cook County

Illinois Industrial School for Girls, 733 N. Prospect Ave., Park Ridge, 98000978

Kuppenheimer, Louis B., Jr., House, 777 Burr Ave., Winnetka, 98000980

Grundy County

White and Company's Goose Lake Tile Works, 5010 N. Jugtown Rd., Morris vicinity, 98000976

White and Company's Goose Lake Stoneware Manufactury, 5010 N. Jugtown Rd., Morris vicinity, 98000982

Hardin County

Cave-In-Rock (Caught in the Middle: The Civil War on the Lower Ohio River MPS) 0.5 mi N of the town of Cave-In-Rock, Cave-In-Rock, 98000984

Gallatin County

Camp Mather—Camp Logan (Caught in the Middle: The Civil War on the Lower Ohio River MPS) 10765 IL 13, Shawneetown, 98000983

Jersey County

Fulkerson, Col. William H., Farmstead, 1510 N. State St., Jerseyville vicinity, 98000977

Hamilton Primary School, 200 ft. E of the jct. of Otteville and McClusky Rds., Otterville, 98000975

Sangamon County

Illinois Route 4—North of Auburn, Curran and Snell Rd., Auburn vicinity, 98000979

Lincoln Colored Home, 427 S. Twelfth St., Springfield, 98000985

Louisiana

Washington Parish

Franklinton High School, 617 Main St., Franklinton, 98000988

Greenlaw House, 613 10th Ave., Franklinton, 98000987

Maryland

St. Mary's County

Buena Vista, MD 5, W of jct. of MD 245 and MD 379, Leonardtown, 98000997

Massachusetts

Hampden County

Carreau Block, 640–642 Chicopee St., Chicopee, 98000993

Middlesex County

Brandeis University President's House, 66 Beaumont Ave., Newton, 98000990

Marlborough Center Historic District, Roughly bounded by MA 85, Granger Blvd., Mechanic St., Central St., and Washington St., Marlborough, 98000992

Sleepy Hollow Cemetery, 24 Court Ln., Concord, 98000991

Worcester County

Hubbardston Public Library, 7 Main St., Hubbardston, 98000989

Missouri

St. Louis Independent City

Laclede Building, 408 Olive St., St. Louis, 98000994

New York

Chenango County

Smithville Valley Grange No. 1397, NY 41, Smithville Flats, 98001009

Lewis County

St. Mark's Church (Historic Churches of the Episcopal Diocese of Central New York MPS), Jct. of West Main and Elm Sts., Port Leyden, 98001003

Madison County

Rippleton Schoolhouse, Rippleton Rd., 15 mi. SE of Syracuse, Cazenovia, 98000996

Onondaga County

Oran District No. 22 Schoolhouse, Jct. of NY 92 and Delphi Rd., Oran, 98001002

Pompey Centre District No. 10 Schoolhouse, 8354 US 20, Pompey Center, 98001007

Orange County

Crabtree, John A., House, 15 Factory St., Montgomery, 98001001

Crawford, John I, Farm, NY 302, 1 mi. NE of jct. of NY 302 and Thompson Ridge Rd., Crawford, 98001000

Shorter House, Andrews Rd., Crawford, 98001004

Saratoga County

Copeland Covered Bridge, North Shore Rd., over Beecher Cr., Edinburg, 98000998

Tompkins County

Forest Home Historic District, Roughly along NY392, Forest Home, 98000999

Ulster County

DuBois, Andries, House, 75 Wallkill Ave., Wallkill, 98001011

High Falls Historic District, Roughly along NY 213 and Main St., Marbletown, 98001005

Lock Tender's House and Canal Store Ruin, 40 Canal Rd., High Falls, 98001010

Trinity Episcopal Church Complex, Jct. of Church St. and Barclay St., Saugerties, 98001006

Westchester County

Palmer—Lewis Estate, Black Brook Rd., Bedford vicinity, 98001008

North Carolina

Orange County

Jordan, Dr. Arch, House, 7015 NC 57, Caldwell, 98000995

Ohio

Clermont County

U.S. Grant Birthplace and Grant Commemorative Sites Historic District, NY 232 and US 52, Point Pleasant, 98001013

Coshocton County

Eldridge—Higgins Building, 525 Orange St., Coshocton, 98001012

Hardin County

Ada Pennsylvania Station and Railroad Park, 112 E. Central Ave., Ada, 98001014

Texas

Washington County

Allcorn—Kokemoor Farmstead, Independence Rd., 5 mi. N of Brenham, Brenham vicinity, 98001015

Utah

Salt Lake County

Price, Lorenzo and Emma, House and Barn, 1205 E 1300 S, Salt Lake City, 98001016

Washington

Thurston County

SAND MAN (Tug Boat) (Maritime Related Resources of Budd Inlet MPS), Berth A–108, East Bay Marina Port of Olympia, Olympia, 98001018

Whitman County

Pullman High School, 115 NW State St., Pullman, 98001017

[FR Doc. 98–19261 Filed 7–17–98; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Overseas Private Investment Corporation

Submission for OMB Review; Comment Request

AGENCY: Overseas Private Investment Corporation, IDCA.

ACTION: Request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), Agencies are required to publish a Notice in the Federal Register notifying the public that the Agency has prepared an information collection request for OMB review and approval and has requested public review and comment on the submission. OPIC published its first **Federal Register** Notice on this information collection request on May 12, 1998, in 63 FR #91, p. 26208, at which time a 60-calendar day comment period was announced. This comment period ended July 13, 1998. No comments were received in response to this Notice.

This information collection submission has now been submitted to OMB for review. Comments are again being solicited on the need for the information, its practical utility, the accuracy of the Agency's burden estimate, and on ways to minimize the reporting burden, including automated collection techniques and uses of other forms of technology. The proposed form under review is summarized below.

DATES: Comments must be received within 30 calendar days of this Notice.

ADDRESSES: Copies of the subject form and the request for review submitted to OMB may be obtained from the Agency Submitting Officer. Comments on the form should be submitted to the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

OPIC Agency Submitting Officer: Carol Brook, Records Manager, Overseas Private Investment Corporation, 1100 New York Avenue, NW., Washington, DC 20527; 202/336–8563.

OMB Reviewer: Victoria Wassmer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503, 202/395–5871.

SUMMARY OF FORM UNDER REVIEW:

Type of Request: Revised form.

Title: Project Information Report.

Form Number: : OPIC–71.

Frequency of Use: On occasion; a function of the sampling criteria. Maximum use is once per investor per contract.

Type of Respondents: Business or other institutions (except farms).

Standard Industrial Classification Codes: All.

Description of Affected Public: U.S. companies investing overseas.

Reporting Hours: 7 hours per project.

Number of Responses: 25 per year.

Federal Cost: $1,600 per year.

Authority for Information Collection: Title 22 U.S.C. 2191(k)(2) and 2199 (h), Foreign Assistance Act of 1961, as amended.

Abstract (Needs and Uses): The Project Information Report is necessary to elicit and record the information on the developmental, environmental and U.S. economic effects of OPIC-assisted projects. The information will be used by OPIC's staff and management solely as a basis for monitoring these projects, and reporting the results in aggregate form, as required by Congress.

Dated: July 14, 1998.

James R. Offutt,

Assistant General Counsel, Department of Legal Affairs.

[FR Doc. 98–19288 Filed 7–17–98; 8:45 am]

BILLING CODE 3210-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review; Extension of a currently approved collection; Report of Theft or Loss of Controlled Substances—DEA Form 106.

This proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until September 18, 1998. Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information.

Your comments should address one or more of the following four points:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;
2. Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

If you have comments, suggestions, or need a copy of the proposed information collection instrument with instructions, if applicable, or additional information, please contact Patricia Good, 202–307–7297, Chief, Policy and Liaison Section, Office of Diversion Control, Drug Enforcement Administration, Washington, D.C. 20537.

Overview of This Information

(1) *Type of information collection:* Extension of a currently approved collection.

(2) *The title of the form/collection:* Report of Theft or Loss of Controlled Substances—DEA Form 106.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection: Form No.:* DEA Form 106.

Applicable component of the Department sponsoring the collection: Office of Diversion Control, Drug Enforcement Administration, U.S. Department of Justice

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other: Individuals or households.

Abstract: Title 21, CFR, 1301.74(c) and 1301.76(b) requires DEA registrants to complete and submit DEA–106 upon discovery of a thief or loss of controlled substances. Purpose: accurate accountability; monitor substances diverted into illicit markets and develop leads for criminal investigations.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* 6,460 respondents. 1.3 responses per year × 30 minutes per response = .65 hrs.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 4,199 annual burden hours. 6,460 respondents × .65 hrs. per respondent per year.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center,

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1001 G Street, NW, Washington, D.C. 20530.

Dated: July 13, 1998.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 98–19163 Filed 7–17–98; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review; Extension of a currently approved collection; ARCOS Transaction Reporting—DEA Form 333.

This proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until September 18, 1998. Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information.

Your comments should address one or more of the following four points:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

2. Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

If you have comments, suggestions, or need a copy of the proposed information collection instrument with instructions, if applicable, or additional information, please contact Patricia Good, 202–307–7297, Chief, Policy and Liaison Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537.

Overview of This Information

(1) *Type of information collection:* Extension of a currently approved collection.

(2) *The title of the form/collection:* ARCOS Transaction Reporting—DEA Form 333.

(3) The agency form number, if any, and the applicable component of the Department sponsoring the collection: Form No.: DEA Form 333.

Applicable component of the Department sponsoring the collection: Office of Diversion Control, Drug Enforcement Administration, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other: None.

Abstract: Necessary for U.S. to meet obligations under two international treaties: Single Convention on Narcotic Drugs and Psychotropic Substances. Treaties require information on the manufacture and consumption of certain substances. Information tracks substances from manufacture to sale to dispensing level.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* 617 respondents. 4 responses per year × 60 minutes per response = 4 hrs.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 2,468 annual burden hours. 617 respondents × 4 hrs. per respondent per year.

If Additional Information is Required Contact

Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: July 13, 1998.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 98–19164 Filed 7–17–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review; Extension of a currently approved collection; Application for Permit to Export Controlled Substances—DEA Form 161.

This proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until September 18, 1998. Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information.

Your comments should address one or more of the following four points:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

2. Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

If you have comments, suggestions, or need a copy of the proposed information collection instrument with instructions, if applicable, or additional information, please contact Patricia Good, 202–307–7297, Chief, Policy and Liaison Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537.

Overview of this information:

(1) *Type of information collection:* Extension of a currently approved collection.

(2) *The title of the form/collection:* Application for Permit to Export Controlled Substances—DEA Form 161.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection: Form No.:* DEA Form 161.

Applicable component of the Department sponsoring the collection: Office of Diversion Control, Drug Enforcement Administration, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other: None.

Abstract: Title 21 CFR Section 1312.22 requires individuals who export controlled substances in Schedules I and II to obtain a permit from DEA. Information is used to issue export permits and exercise control over exportation of controlled substances and compile data for submission to UN for treaty requirements.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* 67 respondents. 13 responses per year × 15 minutes per response=3.25 hrs.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 218 annual burden hours. 67 respondents × 3.25 hrs. per respondent per year.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G. Street, NW, Washington, DC 20530.

Dated: July 13, 1998.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 98–19165 Filed 7–17–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review; Extension of a currently approved collection; Registrants Inventory of Drugs Surrendered—DEA Form 41.

This proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until September 18, 1998. Request written comments and suggestion from the public and affected agencies concerning the proposed collection of information.

Your comments should address one or more of the following four points:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utiltiy;
2. Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropraite automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

If you have comments, suggestions, or need a copy of the proposed information collection instrument with instructions, if applicable, or additional information, please contact Patricia Good, 202–307–7297, Chief, Policy and Liaison Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537.

Overview of This Information

(1) Type of information collection: Extension of a currently approved collection.

(2) The title of the form/collection: Registrants Inventory of Drugs Surrendered—DEA Form 41.

(3) The agency form number, if any, and the applicable component of the Department sponsoring the collection: Form No.: DEA Form 41.

Applicable component of the Department sponsoring the collection: Office of Diversion Control, Drug Enforcement Administration, U.S. Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract:

Primary: Business or other for-profit.

Other: None.

Abstract: Title 21, CFR, 1307.21 requires that any registrant desiring to voluntarily dispose of controlled substances shall list these controlled substances on DEA Form 41 and submit to the nearest DEA office. The DEA 41 is used to account for surrendered destroyed controlled substance, and its use is mandatory.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply: 20,000 respondents. 1 responses per year × 30 minutes per response=.5 hrs (½ hr).

(6) An estimate of the total public burden (in hours) associated with the collection: 10,000 annual burden hours. 20,000 respondents × .5 hrs. per respondent per year.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: July 13, 1998.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 98–19166 Filed 7–17–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review; Extension of a currently approved collection; U.S. Official Order Forms for Schedules I and II Controlled Substances (Accountable Forms), Order From Requisition.

This proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until September 18, 1998. Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information.

Your comments should address one or more of the following four points:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;
2. Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

If you have comments, suggestions, or need a copy of the proposed information collection instrument with instructions, if applicable, or additional information, please contact Patricia Good, 202–307–7297, Chief, Policy and Liaison Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537.

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Overview of This Information

(1) Type of information collection: Extension of a currently approved collection.

(2) The title of the form/collection: U.S. Official Order Forms for Schedules I and II Controlled Substances (ACCOUNTABLE FORMS), Order Form Requisition.

(3) The agency form number, if any, and the applicable component of the Department sponsoring the collection: Form No.: DEA Form 222 and DEA Form 222a.

Applicable component of the Department sponsoring the collection: Office of Diversion Control, Drug Enforcement Administration, U.S. Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract:

Primary: Business or other for-profit.

Other: Individuals or households, Federal Government, and State, Local or Tribal Government.

Abstract: DEA–222 is used to transfer or purchase Schedule I and II controlled substances and data is needed to provide an audit of transfer and purchase. DEA–222a Requisition Form is used to obtain the DEA–222 Order Form. Respondents are DEA registrants desiring to handle these controlled substances.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply: 436,000 respondents. 1 response per year × 15 minutes per response=.25 hrs.

(6) An estimate of the total public burden (in hours) associated with the collection: 109,000 annual burden hours. 436,000 respondents × .25 hrs. respondent per year.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G. Street, NW, Washington, DC 20530.

Dated: July 13, 1998.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 98–19167 Filed 7–17–98; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review; Extension of a currently approved collection; Records and Reports of Registrants: Changes in Record Requirements for Individual Practitioners.

This proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until September 18, 1998. Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information.

Your comments should address one or more of the following four points:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;
2. Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

If you have comments, suggestions, or need a copy of the proposed information collection instrument with instructions, if applicable, or additional information, please contact Patricia Good, 202–307–7297, Chief, Policy and Liaison Section, Office of Diversion Control, Drug Enforcement Administration, Washington, D.C. 20537.

Overview of This Information

(1) Type of information collection: Extension of a currently approved collection.

(2) The title of the form/collection: Records and Reports of Registrants: Changes in Record Requirements for Individual Practitioners.

(3) The agency form number, if any, and the applicable component of the Department sponsoring the collection: Form No.: None.

Applicable component of the Department sponsoring the collection: Office of Diversion Control, Drug Enforcement Administration, U.S. Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract:

Primary: Individuals or households.

Other: Business or other for-profit.

Abstract: Required information is needed to maintain a closed system of records by requiring the individual practitioners to keep records of (1) complimentary samples of controlled substances dispensed to patients and (2) controlled substances which are both administered and dispensed to patients.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:

100,500 respondents.

100,000 recordkeepers. 1 response per year × 30 minutes per response=.5 hrs.

500 respondents. 1 response per year × 30 minutes per response=.5 hrs.

(6) An estimate of the total public burden (in hours) associated with the collection: 50,250 annual burden hours. 100,500 respondents × .5 hrs. per respondent per year.

Under the Paperwork Reduction Act, a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FOI and Records Management Section, Drug Enforcement Administration, Washington, DC 20537; and to the Office of Management and Budget, Paperwork Reduction Project No. 117–0021, Washington, DC 20503.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: July 13, 1998.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 98–19168 Filed 7–17–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review; Extension of a currently approved collection; Import/Export Declaration: Precursor and Essential Chemicals.

This proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until September 18, 1998. Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information.

Your comments should address one or more of the following four points:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;
2. Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

If you have comments, suggestions, or need a copy of the proposed information collection instrument with instructions, if applicable, or additional information, please contact Patricia Good, 202–307–7297, Chief, Policy and Liaison Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537.

Overview of This Information

(1) Type of information collection: Extension of a currently approved collection.

(2) The title of the form/collection: Import/Export Declaration: Precursor and Essential Chemicals.

(3) The agency form number, if any, and the applicable component of the Department sponsoring the collection: Form No.: DEA Form 486.

Applicable component of the Department sponsoring the collection: Office of Diversion Control, Drug Enforcement Administration, U.S. Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract:

Primary: Business or other for-profit.

Other: Individuals or households.

Abstract: The Chemical Diversion and Trafficking Act of 1988 requires those who import/export certain chemicals to notify the DEA 15 days prior to shipment. Information will be used to prevent shipments not intended for legitimate purposes.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply: 1,800 respondents. 1 response per year × 12 minutes per response=.20 hrs.

(6) An estimate of the total public burden (in hours) associated with the collection: 360 annual burden hours. 1,800 respondents × .20 hrs. per respondent per year.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: July 13, 1998.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 98–19169 Filed 7–17–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review; Extension of a currently approved collection; Reports of Suspicious Orders or Theft/Loss of Listed Chemicals/Machines.

This proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until September 18, 1998. Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information.

Your comments should address one or more of the following four points:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;
2. Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

If you have comments, suggestions, or need a copy of the proposed information collection instrument with instructions, if applicable, or additional information, please contact Patricia Good, 202–307–7297, Chief, Policy and Liaison Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537.

Overview of This Information

(1) Type of information collection: Extension of a currently approved collection.

(2) The title of the form/collection: Reports of Suspicious Orders or Theft/Loss of Listed Chemicals/Machines.

(3) The agency form number, if any, and the applicable component of the Department sponsoring the collection: Form No.: None.

Applicable component of the Department sponsoring the collection: Office of Diversion Control, Drug Enforcement Administration, U.S. Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract:

Primary: Business or other for-profit.

Other: Individuals or households.

Abstract: Domestic Chemical Diversion Control Act of 1993 amends DEA's chemical recordkeeping and reporting requirements to remove the exemption for certain drugs which contain ephedrine. Comprehensive Methamphetamine Control Act of 1996 removed the exemption for combination

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ephedrine, pseudoephredrine and phenylpropanolamine drug products. Persons who previously were not required to keep records or make reports regarding sales of these products now must do so.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:

2,000 reporters. 2 responses per year × 10 minutes per response=680 hrs.

100 recordkeepers. 100 hours per recordkeeper=10,000 hrs.

(6) An estimate of the total public burden (in hours) associated with the collection: 10,680 annual burden hours.

Under the Paperwork Reduction Act, a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FOI and Records Management Section, Drug Enforcement Administration, Washington, DC 20537; and to the Office of Management and Budget, Paperwork Reduction Project No. 1117–0024, Washington, DC 20503.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G. Street, NW, Washington, DC 20530.

Dated: July 13, 1998.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 98–19171 Filed 7–17–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review; Extension of a currently approved collection; Application for Registration Under Domestic Chemical Diversion Control Act of 1993 and Renewal Application for Registration under Domestic Chemical Control Act of 1993.

This proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until September 18, 1998. Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information.

Your comments should address one or more of the following four points:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;
2. Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

If you have comments, suggestions, or need a copy of the proposed information collection instrument with instructions, if applicable, or additional information, please contact Patricia Good, 202–307–7297, Chief, Policy and Liaison Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537.

Overview of This Information

(1) Type of information collection: Extension of a currently approved collection.

(2) The title of the form/collection: Application for Registration Under Domestic Chemical Diversion Control Act of 1993 and Renewal Application for Registration under Domestic Chemical Diversion Control Act of 1993.

(3) The agency form number, if any, and the applicable component of the Department sponsoring the collection: Form No.: DEA Form 510 and 510a.

Applicable component of the Department sponsoring the collection: Office of Diversion Control, Drug Enforcement Administration, U.S. Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract:

Primary: Business or other for-profit.

Other: Individuals or households.

Abstract: The Domestic Chemical Diversion Control Act requires that distributors, importers, and exporters of listed chemicals which are being diverted in the United States for the production of illicit drugs must register with DEA. Registration provides a system to aid in the tracking of the distribution of List I chemicals.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply: 1,500 respondents. 1 response per year × 30 minutes per response = .50 hrs.

(6) An estimate of the total public burden (in hours) associated with the collection: 750 annual burden hours. 1,500 respondents × .50 hrs. per respondent per year.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice, Management Division, Suite 850, Washington Center, 1001 G. Street, NW, Washington, DC 20530.

Dated: July 13, 1998.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 98–19172 Filed 7–17–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review; Extension of a currently approved collection; Removal of Restrictions on Employing Certain Individuals.

This proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until September 18, 1998. Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information.

Your comments should address one or more of the following four points:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

2. Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

If you have comments, suggestions, or need a copy of the proposed information collection instrument with instructions, if applicable, or additional information, please contact Patricia Good, 202–307–7297, Chief, Policy and Liaison Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537.

Overview of This Information

(1) *Type of information collection:* Extension of a currently approved collection.

(2) *The title of the form/collection:* Removal of Restrictions on Employing Certain Individuals.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form No.: None.

Applicable component of the Department sponsoring the collection: Office of Diversion Control, Drug Enforcement Administration, U.S. Department of Justice

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other: Individuals or households, not for Profit Institutions, Federal Government, State, Local or Tribal Government.

Abstract: The collection of information is necessary to maintain a closed system of distribution by requiring notification from DEA registrants of their intent to employ persons who have been convicted of a felony offense.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* 100 respondents. 1 response per year × 30 minutes per response = .50 hrs.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 50 annual burden hours. 100 respondents × .50 hrs. per respondent per year.

Under the Paperwork Reduction Act, a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FOI and Records Management Section, Drug Enforcement Administration, Washington, DC 20537; and to the Office of Management and Budget, Paperwork Reduction Project No. 1117–0032, Washington, DC 20503.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G. Street, NW, Washington, DC 20530.

Dated: July 13, 1998.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 98–19173 Filed 7–17–98; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 98–36; Exemption Application No. D–10525, et al.]

Grant of Individual Exemptions; Collection Bureau Services

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Collection Bureau Services, Profit Sharing Plan and Trust (the Plan), Located in Missoula, MT

[Prohibited Transaction Exemption 98–36; Exemption Application No. D–10525]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to (1) the proposed lease (the Lease) by the Plan of certain improved real property (the Property) to Collection Bureau Services (the Employer), a party in interest with respect to the Plan, and (2) the possible purchase of the Property by the Employer in the future, pursuant to the Employer's option to purchase the Property under the Lease.

This exemption is subject to the following conditions:

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(1) The Plan is represented for all purposes under the Lease by a qualified, independent fiduciary;

(2) The terms and conditions of the Lease are at least as favorable to the Plan as those the Plan could obtain in a comparable arm's length transaction with an unrelated party;

(3) The rent paid to the Plan under the Lease is no less than the fair market rental value of the Property, as established by a qualified, independent appraiser;

(4) The rent is adjusted, at a minimum, every three years, based upon an updated independent appraisal of the Property, but in no event shall such adjustments result in the rent being less than the rental amount for the Property existing for the preceding period;

(5) The Lease is triple net (with all expenses for maintenance, taxes, and insurance to be borne by the Employer as the tenant);

(6) The independent fiduciary for the Plan (the I/F) reviews the terms and conditions of the Lease on behalf of the Plan and determines that the Lease is in the best interests of, and appropriate for, the Plan;

(7) The I/F monitors and enforces compliance with all of the terms and conditions of the Lease, and of this exemption, throughout the duration of the Lease;

(8) The I/F expressly approves any improvements by the Employer to the Property, any renewal of the Lease beyond the initial term, and any sale of the Property to the Employer, pursuant to the Employer's option to purchase the Property under the Lease;

(9) In the event that the Employer exercises its option to purchase the Property under the Lease, the Employer pays the Plan an amount which is the greater of either (a) the original acquisition cost of the Property, plus holding expenses, or (b) the fair market value of the Property, as of the date of the sale, as established by a qualified, independent appraiser; and

(10) At all times throughout the duration of the Lease, the fair market value of the Property represents no more than 25 percent of the total assets of the Plan.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on May 29, 1998 at 63 FR 29456.

FOR FURTHER INFORMATION CONTACT: Ms. Karin Weng of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

McClain's R.V., Inc. 401(k) Profit Sharing Plan (the Plan), Located in Lake Dallas, Texas

[Prohibited Transaction Exemption 98–37; Exemption Application No. D–10583]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale of certain unimproved real property (the Land) by the Plan to Larry McClain, the sole shareholder of McClain's R.V. Inc., the sponsor of the Plan, and a party in interest with respect to the Plan, provided that the following conditions are satisfied:

(a) The sale will be a one-time cash transaction;

(b) The Plan will receive the greater of: (1) The original acquisition cost of the Land plus the aggregate holding costs incurred by the Plan; or (2) the current fair market value of the Land (plus an appropriate premium related to the adjacency of the Land to other real property owned by McClain's R.V. Inc.), as established by an independent qualified appraiser at the time of the sale; and

(c) The Plan will pay no commissions or other expenses associated with the sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on May 18, 1998 at 63 FR 27330.

FOR FURTHER INFORMATION CONTACT: Ekaterina A. Uzlyan of the Department at (202) 219–8883. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 15th day of July, 1998.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 98–19233 Filed 7–17–98; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D–10324, et al.]

Proposed Exemptions; Pacific Income Advisers, Inc.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Attention: Application No. _____, stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5507, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Pacific Income Advisers, Inc. (PIA), Located in Santa Monica, CA

[Application No. D–10324]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32847, August 10, 1990).

Section I—Proposed Exemption Involving Plans Where PIA Is Both a Fiduciary or Other Party in Interest With Respect to the Plan and Investment Adviser of Certain Trusts in Which the Plans Invest

If the exemption is granted, the restrictions of sections 406(a) and 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (F) of the Code, shall not apply to: (1) The acquisition, sale or redemption of trust units (the Units) in the Pacific Income Advisers Fixed-Income Group Investment Trust (Fixed Income Trust), the Pacific Income Advisers Short-Term Group Investment Trust (Short-Term Trust), the Pacific Income Advisers Equity Group Investment Trust (Equity Trust), and the Pacific Income Advisers International Group Investment Trust (International Trust; each a Trust and collectively, the Trusts), by employee plans, and Individual Retirement Accounts (IRA's; collectively, the Plan(s)); and (2) the payment of fees by a Trust to Pacific Income Advisers (PIA) where PIA is a fiduciary or other party in interest with respect to a Plan investing in a Trust and the investment adviser to each of the Trusts, provided the conditions of Section II are satisfied.

Section II—Conditions

(1)(a) The investment of a Plan's assets in each of the Trusts and the fees to be paid by a Trust to PIA are authorized in writing by a Plan fiduciary who is independent of PIA (Independent Fiduciary).[1] Such authorization shall be consistent with the responsibilities, obligations and duties imposed on fiduciaries by Part 4 of Title I of the Act. In addition, such authorization shall be either: (1) Set forth in the investment management agreement between the Plan and PIA; (2) indicated in writing prior to each purchase or sale; or (3) indicated in writing prior to the commencement of a specified purchase or sale program in the Units of the Trusts.

(b) PIA does not provide investment advice to a Plan's Independent Fiduciary within the meaning of 29 CFR 2510.3–21(c)(1)(ii) with respect to a Plan's acquisition of Units of a Trust.

(2) Prior to making an initial investment in the Units, each Plan's Independent Fiduciary shall receive the following written disclosures from PIA:

(a) The proposed exemption and grant notice describing the exemptive relief provided herein;

(b) The applicable Trust's Offering Memorandum, outlining the investment objective(s) of the Trust and the policies employed to achieve these objectives and a description of all fees associated with investment in the Trust; and

(c) The applicable Trust's Agreement and Declaration of Trust, disclosing the structure and manner of operation of the Trust.

(d) A statement describing the relationship between PIA and the Trusts.

(3) The Independent Fiduciary shall acknowledge in writing that the Plan is an "accredited investor" as defined in Rule 501 of Regulation D of the Securities Act of 1933 (1933 Act). In addition, the Independent Fiduciary shall acknowledge in writing that it has not relied upon the advice of PIA with respect to the acquisition, sale or redemption of the Units.

(4) No Plan shall pay a sales commission or redemption fee, in connection with the acquisition, sale or redemption of the Units of the Trusts.

(5)(a) No participating Plan may invest more than 25% of its total assets in the International Trust.

(b) No Plan, other than a multiple employer welfare arrangement (MEWA), a multiple employer trust (MET), or voluntary employee benefit association (VEBA), may acquire or hold Units representing more than 20% of the assets of a Trust.[2] A MEWA, MET, or VEBA may acquire and hold Units representing up to 35% of the assets of either the Short-Term Trust or Fixed Income Trust only. As to investment in any other Trust, a MEWA, MET, or

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[1] A fiduciary will not be deemed independent of PIA if: (1) Such fiduciary is directly or indirectly controlled by PIA or an affiliate thereof; (2) such fiduciary or any officer, director, partner, highly compensated employee, or the relative of such fiduciary is an officer, director, partner, or highly compensated employee, of PIA or an affiliate of PIA; and (3) such fiduciary directly or indirectly receives any compensation or other consideration for that fiduciary's own personal account in connection with any transaction described in this proposed exemption.

[2] A MEWA is defined in section 3(40)(A) of the Act and provides benefits described in section 3(1) of the Act for employees of two or more employers. Although the term "MET" is not used or defined in title I of the Act, a MET may be covered by title I of the Act, to the extent that it provides benefits described in section 3(1) of the Act and it is established or maintained by an employer, an employee organization, or both. A VEBA is defined in section 501(c)(9) of the Code and is subject to title I to the extent that it provides benefits described in section 3(1) of the Act and it is established or maintained by an employer, an employee organization, or both.

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VEBA may not acquire or hold Units representing more than 20% of the assets of such Trust.

(c) For purposes of determining the percentage of the assets of a Trust being held by a single Plan, PIA shall first make the calculation 90 days after the first Unit of a Trust is sold to such Plan.

(6)(a) At the time the transactions are entered into, the terms of the transactions shall be at least as favorable to the Plans as those obtainable in arm's length transactions between unrelated parties.

(b) PIA, including any officer or director of PIA, does not purchase or sell shares of the Trusts from or to any Plan Client.

(c) The price paid or received by a Plan Client for Units of a Trust is the net asset value per Unit at the time of the transaction and it is the same price which would have been paid or received for the Units of a Trust by any other investor at that time. For purposes of this paragraph, the term net asset value means the amount for purposes of pricing all purchases and sales calculated by dividing the value of all securities, determined by an objective method as set forth in each Trust's relevant Trust documents and Trust Offering Memorandum, and other assets belonging the Trust, less the liabilities charged to such Trust, by the total number of Units of the Trust.

(7) The combined total of all fees paid by a participating Plan shall constitute no more than reasonable compensation within the meaning of section 408(b)(2)of the Act.

(8) The Plan does not pay any Plan-level investment management fees, investment advisory fees or similar fees to PIA with respect to any of the assets of such Plan which are invested in Units of a Trust. This condition does not preclude the payment of investment advisory or similar fees by the Trusts to PIA under the terms of investment management agreements between PIA and each of the Trusts.

(9) All authorizations and approvals made by the Independent Fiduciary regarding investment in a Trust and the fees paid to PIA are subject to an annual reauthorization wherein any such prior authorization shall be terminable at will by the Plan, without penalty to the Plan, upon written notice of termination. A form expressly providing an election to terminate the authorization (the Termination Form) with instructions on the use of the form must be supplied to the Independent Fiduciary no less than annually; provided that the Termination Form need not be supplied sooner pursuant to paragraph (10) below. The Termination Form must include the following information:

(a) The authorization is terminable at will by the Plan, without penalty to the Plan, upon receipt by PIA of written notice from the Independent Fiduciary; and

(b) Failure of the Independent Fiduciary to return the Termination Form will result in continued authorization of PIA to continue to engage in the transactions described in Sections I.

(10) PIA will provide, at least 30 days in advance of the implementation of an additional service to a Trust by PIA or a fee increase for investment management, investment advisory or similar services, a written notice to the Independent Fiduciary of the Plan Client explaining the nature and amount of the additional service for which a fee is charged or the increase in fees.

(11) Each Plan shall receive the following:

(a) A monthly report disclosing the performance and the value of the Plan's investment in each of the Trusts. Such monthly report shall disclose the extent to which assets of a Plan have been shifted between the Trusts by PIA and any fee differential resulting from such shifting between the Trusts;

(b) An audited financial statement of each of the Trusts in which a Plan is invested, prepared annually by a independent, certified public accountant, including a list of investments of each Trust and their valuations, provided to the Plan not later than 45 days after the end of the period to which the report relates; and

(b) An annual statement of a Plan's percentage interest in each Trust and the value of the Plan's Units, provided to the Plan not later than 45 days after the end of the period to which the report relates. Such report shall also include the total fees paid to PIA by each Trust. Further, such report shall also include the brokerage fees paid by each Trust to unrelated broker-dealers, as well as the total of all fees and expenses paid by PIA to third parties.

(12) Brokerage transactions for the Trusts are performed by entities unrelated to PIA for no more than reasonable compensation within the meaning of section 408(b)(2) of the Act.

(13) PIA shall maintain, for a period of six years, the records necessary to enable the persons described in' paragraph (14) of this section to determine whether the conditions of this exemption have been satisfied, except that (a) prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of PIA, the records are lost or destroyed prior to the end of the six year period, and (b) no party in interest other than PIA shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (13) below.

(14)(a) Except as provided in section (b) of this paragraph and notwithstanding any provisions of subsection (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (13) of this section shall be unconditionally available at their customary location during normal business hours by:

(1) Any duly authorized employee or representative of the Department or the Internal Revenue Service (the Service);

(2) Any Independent Fiduciary of a Plan investing in a Trust, or any duly authorized representative of such fiduciary;

(3) Any contributing employer to any Plan investing in a Trust, or any duly authorized employee representative of such employer;

(4) Any participant or beneficiary of any participating Plan investing in a Trust, or any duly authorized representative of such participant or beneficiary; and

(5) Any other person or entity investing in a Trust.

(b) None of the persons described above in subparagraphs (2)–(5) of this paragraph (14) shall be authorized to examine the trade secrets of PIA or commercial or financial information which is privileged.

Effective Date: If granted, this proposed exemption will be effective August 29, 1997.

Summary of Facts and Representations

1. PIA, which maintains its headquarters in Santa Monica, California, is an investment adviser registered under the Investment Advisers Act of 1940, as amended. As of January 1, 1997, PIA rendered investment advisory services with respect to $3.1 billion in client's assets.

2. It is represented that in order to offer both lower fees relative to the fees charged by PIA for separate account management, and to provide an investment vehicle that will facilitate effective diversification and management of investor assets, PIA organized each Trust as a business trust under the laws of the Commonwealth of Massachusetts. The Trusts were organized on August 29, 1997. PIA is the investment adviser for each Trust and Imperial Trust Company (Imperial)

serves as trustee and custodian of each Trust. Imperial is a wholly owned subsidiary of Imperial Bank, N.A., and is not affiliated with PIA.

3. With regard to some Plan clients (Plan Clients) who invest in the Trusts, PIA has no pre-existing fiduciary relationship. Investments in a Trust will only occur with the express written consent of an Independent Fiduciary. PIA notes that in the situation where Units of a Trust are sold to a Plan Client with which PIA does not have a pre-existing relationship prior to the Plan Client's initial purchase, a prohibited transaction could arise under section 406(a) of the Act upon a subsequent purchase or redemption of Units of a Trust. This is because a party in interest relationship would have been established by virtue of PIA serving as investment adviser and fiduciary with respect to the Plan assets invested in the Trusts.[3]

4. Also, in some instances, PIA explains that a prohibited transaction may arise under section 406(a) of the Act if the Plan acquires Units of a Trust where the Plan Client has previously entered into a separate account investment management agreement with PIA and the Plan Client subsequently wishes to change the nature of its relationship with PIA from a separate account investment to an investment in a Trust. In such a situation, the Plan will terminate its separate account relationship with PIA and invest in the Trusts. The initial investment in a Trust may give rise to a prohibited transaction because of the pre-existing relationship between PIA and the Plan Client.

5. Further, some Plan Clients may decide to continue the individual investment management relationship with PIA or permit PIA, at its discretion, to move Plan assets between one or more Trusts, subsequent to a Plan's investment in a Trust. In these instances, possible violations of sections 406(a) and 406(b) of the Act may occur with respect to PIA's sale of Units of a Trust to such Plans. Also, PIA represents that the purchase of Units of a Trust by a Plan Client may give rise to a prohibited transaction because of the receipt of fees by PIA from the Trusts as a result of the investment of Plan assets in a Trust. In situations where the Plan Clients decide to continue the individual investment management relationships with PIA following the investment in the Trusts, PIA represents that it will not receive duplicate fees (i.e., a Plan-level investment management fee and a Trust-level investment management fee) with respect to the assets of a Plan that are invested in a Trust. Specifically, PIA represents that it will forego that portion of the plan-level investment management fee to which it would be entitled to receive under the investment management agreement with the Plans where assets subject to that agreement are also invested in a Trust.

6. PIA represents that it will not act as an investment adviser, within the meaning of section 3(21)(A)(ii) of the Act, to such Plan Clients which propose to invest in one or more Trusts. PIA represents that the decision to invest in a Trust will be made by an Independent fiduciary on the basis of his or her own investigation into the advisability of investing in one or more Trusts.[4] PIA represents that under no circumstances will it have discretionary authority or control with respect to an Independent Fiduciary's initial authorization or approval to acquire Units.

7. With respect to subsequent shifting of assets between the various trusts, PIA may have the discretionary authority to effect such transactions. However, PIA will obtain authorization or approval from the Plan Client prior to shifting assets between the various Trusts. Such authorization or approval by an Independent Fiduciary shall be either: (1) Set forth in the investment management agreement between the Plan Client and the PIA; (2) indicated in writing prior to each purchase or sale; or (3) indicated in writing prior to the commencement of a specified purchase or sale program in the Trusts.

8. Each Trust will maintain and pursue a separate investment objective by investing in equity and debt securities. For example, the objective of the Equity Trust is to provide long-term growth of capital by investing primarily in equity securities. PIA represents that the Equity Trust is expected to invest a majority of its assets in U.S. securities. In addition to investing in equity securities, the Equity Trust may as well invest in high-grade debt securities. PIA further represents that the Equity Trust will not: (1) Invest more than 10% of its assets in the securities of any one issuer, excluding obligations of the U.S. Government and its instrumentalities; and (2) invest more than 25% of its assets in any one industry.

The Short-Term Trust's investment profile is similar to that of a money market fund. PIA represents that the Short-Term Trust will invest its assets only in investment grade debt securities the average maturity of which will not exceed three years, including U.S. Treasury obligations, U.S. government agency obligations, collateralized mortgage obligations (excluding swaps), corporate bonds, commercial paper and repurchase agreements. The primary investment objectives of the Short-Term Trust are, in order of preference: (1) To preserve principal; (2) maintain liquidity; and (3) to maximize the rate of return available from investments consistent with these objectives. The rate of return objective of the Short-Term Trust is to attain a total rate of return that exceeds that available for a Certificate of Deposit and other similar short-term investment strategies.

The investment objective of the Fixed Trust is to maximize its total rate of return on its investment portfolio, including realized and unrealized appreciation, and to minimize risk. In accordance with these investment objectives, the Fixed Trust will invest primarily in high quality debt securities which are rated as investment grade by at least one of the major credit rating agencies, or judged to be of comparable quality, by PIA. It is represented that the Fixed Trust's portfolio of securities will be diversified. Specifically, the Fixed Trust will not: (1) Invest more than 10% of its total assets in the securities of one issuer, excluding obligations of the U.S. government, its agencies, and instrumentalities; and (2) invest more than 25% of its assets in issuers whose principal business activities are in the same industry, excluding obligations of the U.S. Government, its agencies, and instrumentalities.

The applicant believes that the investment in Units of the Short-Term Trust and Fixed Trust by a MEWA , MET, or VEBA would be an effective way for such Plans to manage its assets to meet its regular needs for cash to pay benefit claims. In this regard, the applicant believes that it would be in the interest of a MEWA, MET, or VEBA to own as much as 35% of the Units of each of the Short-Term Trust and Fixed Trust.

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[3] PIA represents that the equity participation by all Plans investing in Units of a Trust is expected to exceed 25% of the value of all Units of each of the Trusts and it has not been established that the Trusts are operating companies. Accordingly, it is anticipated that the underlying assets of the Trusts will constitute "plan assets" within the meaning of 29 CFR 2510.3–101.

[4] To the extent that in the ordinary course of business, PIA provides investment advice to a Plan within the meaning of regulation 29 CFR 2510.3–21(c)(1)(ii)(B) and recommends an investment of the Plan's assets in a Trust, the presence of an independent fiduciary acting on the investment adviser's recommendations on behalf of the Plan is not sufficient to insulate the adviser from fiduciary liability under section 406(b) of the Act. (See Advisory Opinions 84–03A and 84–04A, issued by the Department on January 4, 1984.) No relief is being provided herein for the provisions of investment advice in connection with the Plan's investment in the Trusts.

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The objective of the International Trust is to achieve growth of capital and to earn income. The International Trust will seek to achieve these objectives by investing, under normal circumstances, in debt securities issued in emerging and developed markets located throughout the world including: (1) Debt securities issued or guaranteed by U.S. or foreign governments, their agencies, instrumentalities or political subdivisions, or by government owned, controlled or sponsored entities, including central banks (collectively, "Sovereign Debt"), including Brady Bonds;[5] (2) interests in issuers organized and operated for the purpose of restructuring Sovereign Debt; (3) debt securities issued by foreign banks and other foreign business entities; and (4) debt securities denominated in or indexed to the currencies of emerging and developed markets. PIA represents that under normal circumstances, 75% or more of the International Trust's portfolio will be comprised of debt instruments of issuers located in global developed markets, including the United States. Further, no more than 25% of the International Trust's assets will be invested in debt securities of issuers in emerging markets. While the International Trust is not restricted in the portion of its assets that may be invested in securities of issuers located in a single region, under normal conditions the International Trust's assets will be invested in the securities of issuers located in at least three countries, and the International Trust's investments in the securities issued in any one country, other than the United States, will not exceed 25% of the International Trust's assets.

9. The Trusts will be treated as partnerships within the meaning of Part I of Subchapter K of the Code, and PIA will serve as the sole general partner of each Trust with full discretion over management and control of the business of each Trust. It is represented that PIA will not beneficially own more than 1% of the assets of any Trust. PIA will serve as investment adviser for each Trust. Under the investment advisory agreements with each Trust, PIA will provide certain investment advisory and management services that will primarily involve the exercise of investment discretion with respect to each Trust's assets. Beneficial owners of the Units (Unitholders) are anticipated to include individuals, corporations, Plans and other tax-exempt organizations. For its investment advisory services to the Equity Trust, Fixed-Income Trusts, Short-Term Trust, and International Trust, PIA will be paid an annual fee of .65%, .45%, .35% and .40% respectively, of the assets held by each Trust, payable in quarterly installments. The fee is a percentage of the value of each Trust. Such fee is accrued monthly and is paid to PIA quarterly in arrears. Each Plan bears a proportionate share of the fee based upon the value of its Units in each Trust. Brokerage and custodial services will be performed by unrelated third parties and the fees for such services will be charged in addition to PIA's fees. It is represented that the fees paid by the Plans will constitute no more than reasonable compensation.[6]

10. Units in the Trusts will be offered to Plans pursuant to a Trust Offering Memorandum (the Memorandum). This document describes the Trust, the parties involved and their rights, the investment objectives, and the fees charged for investment in each of the Trusts.[7] PIA represents that to the extent that a Plan acquires Units of one or more Trusts, that portion of a Plan's assets will be diversified because each Trust constitutes a diversified pool of securities.

11. A Plan fiduciary will determine how much to invest in a Trust and such Plan will receive a pro rata interest in the Trust based upon its capital account balance as compared to the capital account balances of other investors. All investments in the Trust will be paid in cash.

12. It is represented that prior to accepting a subscription for Units from a prospective Plan investor, PIA will furnish to an Independent Fiduciary with (a) a copy of the applicable Trust's offering Memorandum, which discusses the investment objective(s) of the Trust, the policies employed to achieve these objectives, and the compensation paid by each Trust to PIA, and fees paid by PIA and the Trust to third parties; (b) the fees charged to a Plan by each Trust; (c) a Subscription Agreement, which is designed to elicit information about the Independent Fiduciary and the Plan to determine whether the Plan qualifies as an "accredited" investor as set forth in Rule 501 of Regulation D of the 1933 Act; (d) a copy of the applicable Trust's Declaration of Trust; and (e) copies of the notice of proposed exemption and notice granting this exemption.

If a Plan is accepted as an investor in a Trust, the Independent Fiduciary will be required to acknowledge in connection with the execution of the Subscription Agreement that such fiduciary has received copies of the above-noted documents. In addition, the Independent Fiduciary will also be required to represent to PIA that such fiduciary is (a) independent of PIA, (b) knowledgeable with respect to the Plan in administrative matters and funding matters related thereto, and (c) capable of making, and in fact has made, an independent decision regarding the investment of Plan assets in the Trust.

PIA represents that no officer, director or employee of PIA who owns or controls, directly, or indirectly, five percent or more of the beneficial ownership or voting power of PIA will be accepted as an investor in a Trust. In addition, PIA will not be a sponsor of a Plan that invests in Units of a Trust.

13. It is represented that after a Plan is accepted as a Unitholder, PIA will provide each Unitholder with a monthly statement, reflecting the performance of the Plan's investment in the Trust, and a copy of the Trust's annual audited report.

14. Each Trust's Declaration of Trust provides that Units may not be sold or transferred to a third party without PIA's consent. Because Units will not be registered under the 1933 Act, they will be subject to the restrictions on transfers imposed thereby under applicable state securities laws. In Each Trust's Declaration of Trust, PIA has retained the right to dissolve a Trust at anytime.

15. Although each Trust's Declaration of Trust restricts each Unitholder's ability to assign its Units, Unitholders are allowed to redeem their Units. To effect a redemption of Units, a Plan must instruct PIA in writing at least seven (7) calender days prior to the last business day of the month, which is the day on which each Trust's assets are

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[5] Brady Bonds are the most liquid asset class in fixed income emerging market securities. These bonds have been issued in exchange for outstanding sovereign bank loans in a number of developing countries as part of debt reduction/restructuring plans named after former Treasury Secretary Nicholas Brady. Brady Bonds have been implemented as a method of restructuring debt in emerging markets since 1989. All Brady Bonds carry principal and interest collateral guarantees in the form of U.S. Treasury securities.

[6] The Department expresses no opinion herein on whether the fees charged by PIA satisfies the terms of section 408(b)(2) of the Act.

[7] The Department wishes to note that the Act's general standards of fiduciary conduct would apply to the investments described in this proposed exemption, and that satisfaction of the conditions of this proposal should not be viewed as an endorsement of the investments by the Department. Section 404 of the Act requires, among other things, that a fiduciary discharge his duties with respect to a plan solely in the interest of the plan's participants and beneficiaries and in a prudent fashion. Accordingly, the plan fiduciary must act prudently with respect to the decision to enter into an investment transaction. The Department further emphasizes that it expects the plan fiduciary to fully understand the benefits and risks associated with engaging in a specific type of investment, including any changes in the value of the investment. Thus, in considering whether to enter into a transaction, a fiduciary should take into account its ability to provide adequate oversight over the particular investment.

valued (Valuation Date).[8] Redemption requests received by PIA in proper form at least seven (7) calendar days prior to the month's Valuation Date will result in the Units being redeemed at the net asset value per Unit determined on that month's Valuation Date, with the cash redemption proceeds transferred to or for the benefit of the redeeming Unitholder within seven (7) days thereafter. Redemption requests received by PIA fewer than seven (7) days prior to the Valuation Date will be effected at the per Unit price at the close of business on the next month's Valuation Date, with cash proceeds transferred to or for the benefit of the redeeming Plan within seven (7) days after that Valuation Date.

16. PIA anticipates that each Trust will incur the following expenses: organizational expenses, investment management and administration fees, fees for necessary professionals, the costs of regulatory compliance, and the costs associated with maintaining the Trust's legal existence. Such expenses will be paid by PIA. Each Trust will be responsible for paying brokerage commissions of unrelated brokers. No Trust will impose sales charges, redemption fees or commissions on the acquisition, sale or redemption of Units.

17. The books of the Trust will be audited annually by independent certified public accountants selected by PIA. Each Independent Fiduciary will receive a copy of the audited financial report of a Trust in which it has invested Plan assets after the close of the fiscal year of that Trust. The books and financial records of a Trust will be open for inspection by an Independent Fiduciary of, any contributing employer to, any participant or beneficiary of, or any duly authorized representative of such participant or beneficiary of, a Plan investing in Units of that Trust as well as the Department and the Internal Revenue Service, during regular business hours.

18. In summary, it is represented that the proposed transactions will meet the statutory criteria for an exemption under section 408(a) of the Act because: (a) each Independent Fiduciary will be required to represent that he or she is both independent of PIA and sufficiently knowledgeable to make an informed decision regarding the transactions described herein; (b) the Independent Fiduciary will be solely responsible for making the decision with respect to that Plan's initial acquisition of Units; (c) no Plan will pay a fee or commission by reason of the acquisition, sale or redemption of Units; (d) Unitholders will receive monthly statements and copies of the annual report for each Trust in which assets are invested; (e) at the time the transactions are entered into, the terms of the transactions shall be at least as favorable to the Plans as those obtainable in arm's length transactions between unrelated parties; (f) the fees paid by the Plans shall constitute no more than reasonable compensation; and (g) with respect to assets invested in a Trust, no Plan will pay an investment management fee at the Plan level to PIA.

For Further Information Contact: Ms. Janet L. Schmidt of the Department, telephone (202) 219-8883. (This is not a toll-free number.)

R & J Hoffman, Inc. Profit Sharing Plan (the Plan), Located in Fremont, California

[Application No. D-10572]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to: (1) The proposed loan (the Loan) of $53,240 by the Plan to R & J Hoffmann, Inc. (the Employer), a disqualified person with respect to the Plan; and (2) the personal guarantee of the Loan by Richard and Angela Hoffmann (the Hoffmanns), provided the following conditions are satisfied: (a) The terms of the Loan are at least as favorable to the Plan as those obtainable in an arm's-length transaction with an unrelated party; (b) the Loan does not exceed 25% of the assets of the Plan; (c) the Loan is secured by a second mortgage on certain real property (the Property) which has been appraised by a qualified independent appraiser to have a fair market value not less than 150% of the amount of the Loan plus the balance of the first mortgage which it secures; (d) the Hoffmanns have also personally guaranteed the Loan; (e) in the event that the fair market value of the Property is no longer adequate to secure all outstanding loans, additional property will be pledged to the Plan to secure the Loan at an amount equal to at least 150% of the outstanding principal balance of all loans secured by the Property; and (f) the Hoffmanns are the only Plan participants to be affected by the Loan.[9]

Summary of Facts and Representations

1. The Hoffmanns are the 100% owners of the Employer, a California corporation, which is the sponsor of the Plan. The Employer is involved in the purchasing of lighting fixtures from various countries in the Pacific Rim and then selling the fixtures to United States retailers. The Hoffmanns are the only participants in the Plan.

2. The Hoffmanns have requested an exemption that would permit the Employer to borrow $53,240 from the Plan. The Plan had total assets of $212,963.21 as of June 30, 1997. Therefore, the principal amount of the Loan would represent less than 25% of the value of the Plan. The term of the Loan will be for a period of five years at an interest rate equal to the Prime Rate of Interest of U.S. banks (the Prime Rate) plus 1.5%, based on the published Prime Rate in the Western Edition of the Wall Street Journal, which currently would be 8.5% per annum. The interest rate will be adjusted during the term of the Loan whenever there is a change in the Prime Rate. The new interest rate will be effective immediately after such adjustment and will remain in effect until the next time the Prime Rate changes. The Loan will be repaid in equal monthly installments of principal and interest using a level amortization schedule until there is a change in the Prime Rate, at which time a new amortization schedule will be put into

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[8] Each Trust's Declaration of Trust provides that Imperial, the unrelated Trustee, shall determine the value of the assets of the Trust on the basis of the following valuation rules:

(1) Marketable U.S. Government obligations (including guaranteed obligations) shall be valued at the dealer bid prices appearing on the Valuation Date. Such prices will be taken from recognized pricing services.

(2) Securities listed on a securities exchange for which market quotations are available will be valued at the last quoted sales price on the Valuation Date or, if there has been no such reported sale, at the mean between the current bid and ask prices. Price information on listed securities will generally be taken from a composite trading tape offered by one of the pricing services. Unlisted U.S. securities for which market quotations are readily available will be valued at the official market price as quoted by the Trustee's pricing vendors.

(3) In those instances where there is no readily ascertainable market value obtainable from any of the sources specified above, investments shall be valued on the basis of data obtained from the best qualified and available independent sources, including bankers, brokers or dealers who may be employees of the unrelated Trustee, brokers or dealers who deal in or are familiar with the type of investment involved or other qualified appraisers, or by reference to the market value of similar investments for which a market value is readily ascertainable.

[9] Since the Hoffmanns are the sole owner of the Employer and the only participants in the Plan, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3-3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

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place. Mr. Jeffrey Good of Wells Fargo Bank, N.A. (the Bank), has represented in a letter dated February 27, 1998, that the Bank would require a rate of Prime plus .75% in order to make a similar loan to the Employer.

3. The Loan will be secured by the Property, which consists of the Hoffmanns' residence, which is located at 1324 Grosventres Court, Fremont, California. The Property has been appraised by Karen J. Mann, SRA of Mann & Associates, an independent real estate appraiser in Fremont, California, to have a fair market value of $540,000 as of March 12, 1998. The Property has a first mortgage in the amount of $133,382. The Loan would be secured by a second mortgage on the Property. Thus, if the Loan is made, the appraised fair market value of the Property would represent approximately 289% of the total outstanding principal amount of debt secured by the Property, including the Loan. The applicant represents that the mortgage to the Plan will be duly recorded in the Office of the County Clerk, Alameda County, California. The applicant states that in the event the fair market value of the Property is no longer adequate to secure all outstanding loans, additional property will be pledged to the Plan to secure the Loan at an amount equal to at least 150% of the outstanding principal balance of all outstanding loans secured by the Property. As additional security to the Plan, the Hoffmanns have agreed to personally guarantee the Loan. The applicant has submitted a personal balance sheet for the Hoffmanns which demonstrates that they have a total net worth of $691,804.16 as of March 19, 1998.

4. In summary, the applicant represents that the proposed transaction satisfies the criteria of section 4975(c)(2) of the Code because: (a) The Loan represents not more than 25% of the assets of the Plan; (b) the terms of the Loan will be not less favorable to the Plan than those required by a third party lender, the Bank, if it were to make a similar loan; (c) the Loan will be secured by the Hoffmanns' personal guarantee and by a second mortgage on the Property, which has been determined by a qualified, independent appraiser to have a fair market value of approximately 289% of the total principal amount of the loans that it will secure; (d) in the event the fair market value of the Property is no longer adequate to secure all outstanding loans, additional property will be pledged to the Plan to secure the Loan at an amount equal to at least 150% of the outstanding principal balance of all outstanding loans secured by the Property; and (e) the Hoffmanns are the only Plan participants to be affected by the Loan, and they desire that the transaction be consummated.

Notice to Interested Persons: Since the Hoffmanns are the only Plan participants to be affected by the proposed transaction, the Department has determined that there is no need to distribute the notice of proposed exemption to interested persons. Comments and requests for a hearing are due within 30 days from the date of publication of this notice of proposed exemption in the **Federal Register**.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 15th day of July, 1998.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 98–19234 Filed 7–17–98; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Review; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA plans to submit the following extension of a currently approved information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until September 18, 1998.

ADDRESSES: Interested parties are invited to submit written comments to NCUA Clearance Officer or OMB Reviewer listed below:

Clearance Officer: Mr. James L. Baylen (703) 518–6411, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–518–6433, E-mail: jbaylen@ncua.gov.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Copies of the information collection requests, with applicable supporting documentation, may be obtained by calling the NCUA Clearance Officer, James L. Baylen, (703) 518–6411.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

OMB Number: 3133–0011.

Form Number: NCUA 9600.

Type of Review: Extension of a currently approved collection.

Title: Application for Insurance of Accounts State-Chartered Credit Unions.

Description: Section 201 of the Federal Credit Union Act (12 U.S.C. 1781) requires state-chartered credit unions desiring federal insurance to submit an application. The requirement also applies to federal credit unions converting to state charters and desiring federal insurance.

Respondents: State chartered credit unions and federal credit unions converting to state charter that desire federal insurance of member accounts.

Estimated No. of Respondents/Recordkeepers: 61.

Estimated Burden Hours Per Response: 4.5 hours.

Frequency of Response: As required.

Estimated Total Annual Burden Hours: 268.

Estimated Total Annual Cost: N/A.

By the National Credit Union Administration Board on July 13, 1998.

Becky Baker,

Secretary of the Board.

[FR Doc. 98–19244 Filed 7–17–98; 8:45 am]

BILLING CODE 7535–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of the information collection:*

NRC Form 327—Special Nuclear Material (SNM) and Source Material (SM) Physical Inventory Summary Report;

NUREG/BR–0096—Instructions and Guidance for Completing Physical Inventory Summary Reports.

3. *The form number, if applicable:* NRC Form 327.

4. *How often the collection is required:* The frequency of reporting corresponds to the frequency of required inventories, which depends essentially on the strategic significance of the SNM covered by the particular license. Certain licensees possessing strategic SNM are required to report inventories every 2 months. Licensees possessing SNM of moderate strategic significance must report every 6 months. Licensees possessing SNM of low strategic significance must report annually.

5. *Who will be required or asked to report:* Fuel facility licensees possessing special nuclear material.

6. *An estimate of the number of responses:* 23.

7. *The estimated number of annual respondents:* 10.

8. *An estimate of the total number of hours needed annually to complete the requirement or request:* 98 (an average of approximately 4.25 hours per response for 23 responses).

9. *An indication of whether Section 3507(d), Pub. L. 104–13 applies:* Not applicable.

10. *Abstract:* NRC Form 327 is submitted by fuel facility licensees to account for special nuclear material. The data is used by NRC to assess licensee material control and accounting programs and to confirm the absence of (or detect the occurrence of) special nuclear material theft or diversion. NUREG/BR–0096 provides specific guidance and instructions for completing the form in accordance with the requirements appropriate for a particular licensee.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (http://www.nrc.gov) under the FedWorld collection link on the home page tool bar. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer by August 19, 1998: Erik Godwin, Office of Information and Regulatory Affairs (3150–0139), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 10th day of July, 1998.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–19225 Filed 7–17–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. Type of submission, new, revision, or extension: revision.

2. The title of the information collection:

NRC Form 4, "Cumulative Occupational Exposure History"

NRC Form 5, "Occupational Exposure Record for a Monitoring Period."

3. The form number if applicable:

NRC Forms 4 and 5

4. How often the collection is required: NRC Form 4 is generated for each individual who is likely to receive, in one year, an occupational dose requiring monitoring as described § 20.1502. It is maintained by the licensee until the Commission terminates the license. It is not submitted to the NRC. NRC Form 5 is prepared by all NRC licensees and is submitted only by those licensees listed in 10 CFR 20.2206(a) to the NRC annually.

5. Who will be required or asked to report: NRC licensees listed in 10 CFR 20.2206(a).

6. An estimate of the number of responses:

NRC Form 4
 22,373
NRC Form 5
 records maintained 497,635
 reports submitted 173,536

7. The estimated number of annual respondents:

NRC Form 4

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300 (109 reactor sites and 191 materials licensees)

NRC Form 5

5,986 licensees maintain records

300 (109 reactor sites and 191 materials licensees) are required to submit reports in accordance with 10 CFR 20.2206(a)

8. An estimate of the total number of hours needed annually to complete the requirement or request:

NRC Form 4

11,187 hours or an average of 0.5 hours per response.

NRC Form 5

175,957 hours—163,957 recordkeeping hours (an average of 0.33 hours per record × 83 individuals × 5,986 licensees) and 12,000 reporting hours in accordance with 10 CFR 20.2206(a) (an average of 40 hours per licensee × 300 licensees).

9. An indication of whether Section 3507(d), Pub. L. 104–13 applies: Not applicable.

10. Abstract: NRC Form 4 is used to record the summary of an individual's cumulative occupational radiation dose for the current year to ensure that dose does not exceed regulatory limits. NRC Form 5 is used to record and report the results of individual monitoring for occupational dose from radiation during a one-year period to ensure regulatory compliance with annual dose limits.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (http://www.nrc.gov) under the FedWorld collection link on the home page tool bar. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer by August 19, 1998: Erik Godwin, Office of Information and Regulatory Affairs (3150–0005, 3150–0006), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 10th day of July, 1998.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–19226 Filed 7–17–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–335]

Florida Power and Light (St. Lucie Unit 1); Confirmatory Order Modifying License Effective Immediately

I

Florida Power and Light, (FPL or the Licensee) is the holder of Facility Operating License No. 50–335, which authorizes operation of St. Lucie Plant, Unit 1, located in St. Lucie County, Florida.

II

The staff of the U.S. Nuclear Regulatory Commission (NRC) has been concerned that Thermo-Lag 330–1 fire barrier systems installed by Licensees may not provide the level of fire endurance intended and that Licensees that use Thermo-Lag 330–1 fire barriers may not be meeting regulatory requirements. During the 1992 to 1994 timeframe, the NRC staff issued Generic Letter (GL) 92–08, "Thermo-Lag 330–1 Fire Barriers," and subsequent requests for additional information that requested Licensees to submit plans and schedules for resolving the Thermo-Lag issue. The NRC staff has obtained and reviewed all Licensees' corrective plans and schedules. The staff is concerned that some Licensees may not be making adequate progress toward resolving the plant-specific issues, and that some implementation schedules may be either too tenuous or too protracted. For example, several Licensees informed the NRC staff that their completion dates had slipped by 6 months to as much as 3 years. For plants that have completion action scheduled beyond 1997, the NRC staff has met with these Licensees to discuss the progress of the Licensees' corrective actions and the extent of Licensee management attention regarding completion of Thermo-Lag corrective actions. In addition, the NRC staff discussed with Licensees the possibility of accelerating their completion schedules.

FPL was one of the Licensees with which the NRC staff held meetings. At these meetings, the NRC staff reviewed with FPL the schedule of Thermo-Lag corrective actions described in FPL submittals to the NRC dated October 27, 1995, and August 27, 1996. Based on the information submitted by FPL as supplemented by letter dated June 3, 1998, the NRC staff has concluded that the schedules presented are reasonable. This conclusion is based on (1) the amount of installed Thermo-Lag, (2) the complexity of the plant-specific fire barrier configurations and issues, (3) the need to perform certain plant modifications during outages as opposed to those that can be performed while the plant is at power, and (4) integration with other significant, but unrelated issues that FPL is addressing at its plant. In order to remove compensatory measures such as fire watches, it has been determined that resolution of the Thermo-Lag corrective actions by FPL must be completed in accordance with current FPL schedules. By letter dated May 1, 1998, the NRC staff notified FPL of its plan to incorporate FPL's schedule commitment into a requirement by issuance of an order and requested consent from the Licensee. By letter dated June 3, 1998, the Licensee provided its consent to issuance of a Confirmatory Order.

III

The Licensee's commitment as set forth in its letter of June 3, 1998 is acceptable and is necessary for the NRC to conclude that public health and safety are reasonably assured. To preclude any schedule slippage and to assure public health and safety, the NRC staff has determined that the Licensee's commitments in its June 3, 1998, letter be confirmed by this Order. The Licensee has agreed to this action. Based on the above, and the Licensee's consent, this Order is immediately effective upon issuance.

IV

Accordingly, pursuant to sections 103, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 50, *it is hereby ordered*, effective immediately, that:

FPL shall complete final implementation of Thermo-Lag 330–1 fire barrier corrective actions at St. Lucie Unit 1, as described in FPL letters L–97–19 dated March 17, 1997, and L–98–134 dated June 3, 1998, by December 31, 1998. There are three exceptions to this commitment as discussed in FPL letter L–98–134.

1. The proposed corrective action for the Thermo-Lag wall separating the St. Lucie Unit 1 cable spreading room and "B" switchgear room will not be completed by December 31, 1998. As discussed in L–98–134, FPL will complete the implementation of this proposed corrective action by the completion of the St. Lucie Unit 1 1999 refueling outage (SL1–16).

2. Thermo-Lag ampacity derating methodology issues, which are still under NRC review, will likely not be resolved by December 31, 1998. Schedules for any corrective actions related to ampacity derating will be determined separately and are not part of this Order.

3. The resolution of any new Thermo-Lag corrective actions resulting from the pilot fire protection functional inspection (FPFI) conducted at St. Lucie during March 1998 are not considered part of this confirming order since FPL has neither received nor responded to the inspection report. Such issues and any corrective actions will be scheduled and resolved as part of that inspection.

The Director, Office of Nuclear Reactor Regulation, may relax or rescind, in writing, any provisions of this Confirmatory Order upon a showing by the Licensee of good cause.

V

Any person adversely affected by this Confirmatory Order, other than the Licensee, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. Any request for a hearing will be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Attention: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies of the hearing request shall also be sent to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Deputy Assistant General Council for Enforcement at the same address, to the Regional Administrator, NRC Region II, Atlanta Federal Center, M/S 23T85, 61 Forsyth Street, SW., Atlanta, GA 30303–3415, and to the Licensee. If such a person requests a hearing, that person shall set forth with particularity the manner in which his or her interest is adversely affected by this Order and shall address criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any such hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this Order.

Dated at Rockville, Maryland, this 13th day of July, 1998.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 98–19223 Filed 7–17–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Indiana Michigan Power Company; Notice of Informal 10 CFR 2.206 Public Hearing

The U.S. Nuclear Regulatory Commission (NRC) will hold an informal public hearing regarding a petition submitted pursuant to 10 CFR 2.206 involving Donald C. Cook, Units 1 and 2 of the Indiana Michigan Power Company (the licensee). The hearing will be held on August 19, 1998. The location of the hearing will be at the NRC, rooms T–09A1–T–09F5. The NRC is located at 11555 Rockville Pike, Rockville, Maryland. The hearing will be open to public attendance and will be transcribed.

The structure of the hearing shall be as follows:

Wednesday, August 19, 1998:

9:00 a.m.—NRC opening remarks
9:15 a.m.—Petitioner's presentation
10:00 a.m.—NRC questions
10:15 a.m.—Licensee's presentation
11:00 a.m.—NRC questions
11:15 a.m.—Public Comments
11:45 a.m.—Licensee/Petitioner's final statements
12:00 noon—Meeting concludes

By letter dated October 9, 1997, the Union of Concerned Scientists (UCS or Petitioner) submitted a Petition pursuant to 10 CFR 2.206 requesting that the operating licenses for Donald C. Cook Nuclear Power Plant, Units 1 and 2, be modified, revoked, or suspended until there is reasonable assurance that plant systems are in conformance with design-and licensing-bases requirements. In addition, the Petitioner requested that a public hearing into the matter be held in the Washington, D.C., area before the first unit at D.C. Cook is authorized to restart. By letter dated January 12, 1998, UCS submitted an Addendum to the original Petition presenting additional information on six other concerns at the D.C. Cook plant.

The purpose of this informal public hearing is to obtain additional information from the Petitioner, the licensee, and the public for NRC staff use in evaluating the Petition. Therefore, this informal public hearing will be limited to information relevant to issues raised in the Petition and its Addendum. The staff will not offer any preliminary views on its evaluation of the Petition. The informal public hearing will be chaired by a senior NRC official who will limit presentations to the above subject.

The format of the informal public hearing will be as follows: opening remarks by the NRC regarding the general 10 CFR 2.206 process, the purpose of the informal public hearing, and a brief summary of the Petition and its Addendum (15 minutes); time for the Petitioner to articulate the basis of the Petition (45 minutes); time for the NRC to ask the Petitioner questions for purposes of clarification (15 minutes); time for the licensee to address the issues raised in the Petition (45 minutes); time for the NRC to ask the licensee questions for purposes of clarification (15 minutes); time for public comments relative to the Petition (30 minutes); and time for licensee and Petitioner's final statements (15 minutes).

Members of the public who are interested in presenting information relative to the Petition should notify the NRC official named below, 5 working days prior to the hearing. A brief summary of the information to be presented and the time requested should be provided in order to make appropriate arrangements. Time allotted for presentations by members of the public will be determined based upon the number of requests received and will be announced at the beginning of the hearing. The order for public presentations will be on a first received first to speak basis. Written statements will also be accepted and included in the record of the hearing. Written statements should be mailed to the U.S. Nuclear Regulatory Commission, Mailstop O–13E21, Attn: John Stang, Washington, DC 20555.

Requests for the opportunity to present information can be made by contacting John Stang, Project Manager, Division of Reactor Projects-III/IV (telephone 301–415–1345) between 7:30 a.m. to 4:15 p.m. (EDT), Monday–Friday. Persons planning to attend this informal public hearing are urged to contact the above 1 or 2 days prior to the informal public hearing to be advised of any changes that may have occurred.

Dated at Rockville, Maryland, this 14th day of July, 1998.

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For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Acting Director, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–19221 Filed 7–17–98; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–259, 50–260 and 50–296]

Tennessee Valley Authority; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (NRC, the Commission) has issued Amendment Nos. 234, 253 and 212 to Facility Operating License Nos. DPR–33, DPR–52 and DPR–68 issued to the Tennessee Valley Authority (TVA or the licensee) for operation of the Browns Ferry Nuclear Plant (BFN), Units 1, 2 and 3, respectively, located in Limestone County, Alabama.

The amendments implement a full conversion from the current Technical Specifications (TS) to a set of TS based on NUREG–1433, Revision 1, "Standard Technical Specifications for General Electric Plants, BWR/4," dated April 1995. The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act) and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments.

Notices of consideration of Issuance of Amendments to facility Operating License and Opportunity for Hearing in connection with this action were published in the **Federal Register** on October 23, 1996 (61 FR 55026), June 1, 1998 (63 FR 29763) and June 12, 1998 (63 FR 32252). No request for a hearing or petition for leave to intervene was filed following these notices.

The Commission has prepared an Environmental assessment to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of the amendments will not have a significant impact on the quality of the human environment (63 FR 34944).

For further details with respect to this action, see the application for amendments dated September 6, 1996, as supplemented May 1, August 14, November 5 and 14, December 3, 4, 11, 22, 23, 29 and 30, 1997, January 23, March 12, April 16, 20 and 28, and May 7, 14, 19 and 27, and June 2, 5, 10 and 19, 1998,, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC and at the local public document room located at the Athens Public Library, 405 E. South Street, Athens, Alabama.

Dated at Rockville, Maryland, this 14th day of July, 1998.

For the Nuclear Regulatory Commission.

Frederick J. Hebdon,

Project Director, Project Directorate II–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98–19224 Filed 7–17–98; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

A Nonparametric Statistical Methodology for the Design and Analysis of Final Status Decommissioning Surveys: Interim Draft for Comment and Use

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

SUMMARY: The Nuclear Regulatory Commission (NRC) is announcing the availability for use of NUREG–1505, "A Nonparametric Statistical Methodology for the Design and Analysis of Final Status Decommissioning Surveys, Interim Draft for Comment and Use." NUREG–1505 provides the statistical basis for Multi-Agency Radiation Survey and Site Investigation Manual's (MARSSIM) information on planning, conducting, and evaluating environmental radiological surveys of surface soils and building surfaces for demonstrating compliance with regulations. NUREG–1505 now incorporates public and NRC staff comments received since its initial publication in August 1995 and MARSSIM's publication in December 1996. The NRC reviewed public comments received on the draft NUREG as well as comments received as a result of a concurrent, independent, technical peer review. Suggested changes were incorporated, where appropriate, in response to those comments.

DATES: The comment period ends December 31, 1998. Comments received after this date will be considered if practical to do so, but the NRC is able to ensure consideration only for those comments received on or before this date.

ADDRESSES: Submit written comments to: Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Hand deliver comments to 11545 Rockville Pike, Rockville Maryland, between 7:15 a.m. and 4:30 p.m. on Federal workdays.

Comments may also be submitted through the Internet by addressing electronic mail to DLM1@NRC.GOV.

Those considering public comment may request a free single copy of NUREG–1505, while supplies last, by contacting the Office of the chief Information Officer, Reproduction and Distribution Section, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; or send a facsimile to 301–415–2289 or e-mail to GRW1@nrc.gov. A copy is also available for inspection and/or copying for a fee in the NRC Public Document Room, 2120 L Street, NW, Washington DC 20555–0001. All others may purchase this report by writing to: The Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20402–9328.

The manual is also available through the Internet by linkage from the NRC home page at: http://www.nrc.gov.

FOR FURTHER INFORMATION CONTACT: Questions concerning technical information in the NUREG should be addressed to George E. Powers, Phone: (301) 415–6212, U.S. Nuclear Regulatory Commission, MS T–9C24, Washington DC 20555, e-mail gep@nrc.gov.

SUPPLEMENTARY INFORMATION: The NUREG provides additional information not contained in MARSSIM on planning, conducting and evaluating environmental radiological surveys of soil surfaces and building surfaces for demonstrating compliance with regulations. The MARSSIM, now finalized, is a multi-agency consensus document.

NUREG–1505 provides the technical basis for MARSSIM's objective to describe standardized and consistent approaches for surveys of soil surfaces and building surfaces, which provide a high degree of assurance that established release criteria, limits, guidelines, and conditions of the regulatory agencies are satisfied, while at the same time encouraging an effective use of resources. The techniques, methodologies, and philosophies that form the bases of this manual were developed to be consistent with current Federal limits, guidelines, and procedures.

The agency is soliciting comments arising from review and use of the NUREG in conjunction with MARSSIM.

Comments will be reviewed and resolved as appropriate in the next revision of the NUREG.

Dated at Rockville, Maryland, this 19th day of June, 1998.

For the Nuclear Regulatory Commission.

John W. Craig,

Director, Division of Regulatory Applications, Office of Nuclear Regulatory Research.

[FR Doc. 98–19227 Filed 7–17–98; 8:45 am]

BILLING CODE 7590–01–M

Nuclear Regulatory Commission

Assessment of the Use of Potassium Iodide (KI) as a Public Protective Action During Severe Reactor Accidents; Availability of NUREG

AGENCY: Nuclear Regulatory Commission.

ACTION: Request for comments and notice of availability.

SUMMARY: The NRC is announcing the availability of draft NUREG–1633, "Assessment of the Use of Potassium Iodide (KI) As a Public Protective Action During Severe Reactor Accidents," and is requesting comments by September 15, 1998. Copies may be obtained by writing to the Superintendent of Documents, U.S. Government Printing Office, PO Box 37082, Washington, DC 20402–9328. You may obtain a copy free of charge to the extent of supply by writing to: Reproduction and Distribution Section, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Mail Stop OP–137, Washington, DC 20555–0001.

FOR FURTHER INFORMATION CONTACT: Aby S. Mohseni, Division of Incident Response, Office for Analysis and Evaluation of Operational Data, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Telephone: 301–415–6409, e-mail asm@nrc.gov.

SUPPLEMENTARY INFORMATION: On June 26, 1998, the Commission directed the staff to issue the draft NUREG–1633 for public comment. The staff will publish NUREG–1633 in its final form after evaluating comments received and making the appropriate changes. Subsequently, the staff will develop an information brochure based on NUREG–1633 to assist State and local planners in reaching an informed decision as to whether KI is an appropriate protective supplement.

Electronic Availability

Draft NUREG–1633 is also available electronically in the Reference Library area of the NRC's Home Page under technical reports. (http://www.nrc.gov).

For the Nuclear Regulatory Commission.

Frank J Congel,

Director, Division of Incident Response, Office for Analysis and Evaluation of Operational Data.

[FR Doc. 98–19222 Filed 7–17–98; 8:45 am]

BILLING CODE 7590–01–U

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 15a–4, SEC File No. 270–7, OMB Control No. 3235–0010

Rule 17a–1, SEC File No. 270–244, OMB Control No. 3235–0208

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission ("Commission") has submitted for extension of OMB approval the following rules:

Rule 15a–4 (17 CFR 240.15a–4) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) permits a natural person who is a member of a securities exchange and who terminates its association with a registered broker-dealer to continue to do business on the exchange while the Commission reviews his application for registration as a broker-dealer, if the exchange files a statement indicating that there does not appear to be any ground for disapproving the application. The total annual burden imposed by Rule 15a–4 is 240 hours, based on approximately 30 submissions, each requiring 8 hours to complete.

Completing and filing Form BD is mandatory in order for a broker-dealer to obtain the 45-day extension under Rule 15a–4 and does not involve the collection of confidential information.

Rule 17a–1 (17 CFR 240.17a–1) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) requires that all national securities exchanges, national securities associations, registered clearing agencies, and the Municipal Securities Rulemaking Board keep on file for a period of five years, two years in an accessible place, all documents which it makes or receives respecting its self-regulatory activities, and that such documents be available for examination by the Commission. The average number of hours necessary for compliance with the requirements of Rule 17a–1 is 50 hours per year. There are 26 entities required to comply with the rule: 8 national securities exchanges, 1 national securities association, 16 registered clearing agencies, and the Municipal Securities Rulemaking Board. The total number of hours required for all respondents to comply with the rule is thus 1,300 hours annually.

Completing the requirements under Rule 17a–1, are mandatory, and does not involve the collection of confidential information.

Please note that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

General comments regarding the estimated burden hours should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: July 13, 1998.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–19183 Filed 7–17–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of July 20, 1998.

A closed meeting will be held on Thursday, July 23, 1998, at 10:00 a.m.

Commissioners Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and

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(10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Johnson, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Thursday, July 23, 1998, at 10:00 a.m., will be:

Instituion and settlement of injunctive actions.

Instititon and settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: July 16, 1998.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–19434 Filed 7–16–98; 3:44 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40196; File No. SR–CHX–98–01]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Amendment No. 1 by The Chicago Stock Exchange, Incorporated Relating to the Stopping of Market and Marketable Limit Orders

July 13, 1998.

I. Background

On January 16, 1998, the Chicago Stock Exchange, Incorporated ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change relating to the stopping of market and marketable limit orders pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] On February 12, 1998, the Exchange filed amendment No. 1 with the Commission.[2] The proposed rule change, as amended, was published for comment in Securities Exchange Act Release No. 39956 (May 5, 1998), 63 FR 26233 (May 12, 1998). No comments were received on the proposal. For the reasons discussed below, the Commission is approving the proposed rule change.[3]

II. Description of the Proposal

The Exchange proposes to amend Article XX, Rule 37(b) relating to the stopping of market orders and marketable limit orders in the Midwest Automated Execution System ("MAX System"). The purpose of the proposed rule change is to amend CHX rules relating to "stopped" orders[4] in the MAX System[5] (i) to permit specialists to stop a marketable limit order[6] if the order is not immediately executed, and (ii) to automate the stopping of certain market orders that are not automatically executed.

Under the Exchange's BEST Rule, Exchange specialists are required to guarantee executions of all agency[7] market and limit orders for Dual Trading System issues[8] from 100 shares up to and including 2099 shares. Subject to the requirements of the short sale rule, market orders in Dual Trading System issues must be executed at a price equal to or better than the Intermarket Trading System ("ITS") best bid or offer ("BBO"), up to the size associated with the ITS BBO. Limit orders must be executed at their limit price or better when: (1) the ITS BBO at the limit price has been exhausted in the primary market; (2) there has been a price penetration of the limit in the primary market (generally known as a trade-through of a CHX limit order); or (3) the issue is trading at the limit price on the primary market unless it can be demonstrated that the order would not have been executed if it had been transmitted to the primary market or the broker and specialist agree to a specific volume related to, or other criteria for, requiring an execution.[9]

The Exchange's MAX System provides for the automatic execution of orders that are eligible for execution under the Exchange's BEST Rule and certain other orders.[10] The MAX System has two size parameters which must be designated by the specialist on a stock-by-stock basis. For Dual Trading System issues, the specialist must set the auto-execution threshold at 1099 shares or greater and the auto-acceptance threshold at 2099 shares or greater. In no event may the auto-acceptance threshold be less than the auto-execution threshold. If the order-entry firm sends an order through the MAX System that is greater than the specialist's auto-acceptance threshold, a specialist may cancel the order within one minute of it being entered into the MAX System. If the order is not canceled by the specialist, the order is designated as an open order.[11] If the order-entry firm sends an order through the MAX System that is less than the auto-acceptance threshold but greater than the auto-execution threshold, the order is not available for automatic execution but is designated in the open order book. A specialist may manually execute any portion of the order; the difference must remain as an open order. If the order-entry firm sends an order through the MAX System that is less than or equal to the auto-execution threshold, the order is executed automatically, unless an exception applies.[12]

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[1] 15 U.S.C. 78s(b)(1).

[2] *See* letter from David T. Rusoff, Foley & Lardner, to Gail A. Marshall, Division of Market Regulation, Commission, dated February 12, 1998.

[3] This approval includes a technical amendment that the Commission received which deleted an inappropriate reference in the proposed rule text. Article XX, Rule 37(b)(10) should not have referenced automatic executions under Article XX, Rule 37(b)(7). *See* letter David T. Rusoff, Foley & Lardner, to Gail A. Marshall, Division of Market Regulation, Commission, dated July 13, 1998.

[4] *See* CHX Manual, Art. XX, Rule 28 regarding member liability for stopped orders.

[5] The MAX System provides an automated delivery and, in certain cases, execution facility for orders that are eligible for execution under Article XX, Rule 37(a), and in certain other orders. *See* CHX Manual, Art. XX, Rule 37(b).

[6] For purposes of this filing, a marketable limit order is a limit order that is marketable when entered into the MAX System, *i.e.*, the limit price of the order is at or past (higher for a buy order or lower for a sell order) the relevant side of the ITS BBO at the time the order is received in the MAX System. If the ITS BBO subsequently moves away from the limit price (*i.e.*, if the limit price is lower than the ITS best offer for a buy order or higher than the ITS best bid for a sell order) after receipt of the order but before execution of the order, the order will still be considered a marketable limit order for purposes of pending auto-stop. Conversely, if a limit order is not marketable when received by the MAX System, the order will not be considered a marketable limit order for purposes of pending auto-stop, even if the ITS BBO subsequently becomes equal to or past the limit price of the order.

[7] The term "agency order" means an order for the account of a customer, but does not include professional orders as defined in CHX, Art. XXX, Rule 2, interpretation and policy .04. That rule defines a "professional order" as any order for the account of a broker-dealer, or any account in which a broker-dealer or an associated person of a broker-dealer has any direct or indirect interest.

[8] Dual Trading System Issues are issues that are traded on the CHX, either through listing on the CHX or pursuant to unlisted trading privileges, and are also listed on either the New York Stock Exchange or the American Stock Exchange.

[9] It is the responsibility of the specialist to be able to demonstrate that the order would not have been executed had it been routed to the other market. This is often accomplished by sending a "marker" order to the primary market.

[10] A MAX order fits under the BEST parameters must be executed pursuant to BEST Rules via the MAX System. (*See* Art. XX, Rule 37(a) for BEST Rules). While the BEST Rules do not apply if the order is outside the BEST parameters, MAX System handling rules are still applicable. (*See* Art. XX, Rule 37(b) for MAX System handling rules)

[11] If an oversized market or limit order is received by the specialist, he will either reject the order immediately or display it immediately, in accordance with CHX Article XX, Rule 7 and the SEC's recently adopted Order Execution Rules (Securities Exchange Act Release No. 37619A (Sept. 6, 1996), 61 FR 48290 (Sept. 12, 1996)). If the order is displayed, the specialist will check with the order entry broker to determine the validity of the oversized order. During the one minute period, the specialist can cancel the order and return it to the order entry firm, but until it is canceled the displayed order is eligible for execution.

The MAX Rules currently provide several exceptions to automatic execution, even for orders that are less than or equal to the auto-execution threshold. First, unless a professional order is received with a "Z" designator, it is not automatically executed, regardless of size. Second, all market orders for Dual Trading System issues received through the MAX System that would result in an out of range[13] execution are deemed to be received with a request to "stop."[14] Stopped orders for Dual Trading System issues are not automatically executed in the usual course (*i.e.*, pursuant to Rule 37(b)(6)), but are placed in the open order file.[15] The order sending firm then receives a "UR Stopped" message. The specialist is then required to include the order in its quote by bidding (if it is an order to buy) or offering (if it is an order to sell) the shares at one minimum variation better than the current market, in an effort to obtain price improvement for the order. Third, the MAX System will not automatically execute a market order or marketable limit order if the size associated with the ITS BBO, for Dual Trading System issues, is less than the size of the market or marketable limit order.[16]

Currently, the MAX System has no functionality to automatically "stop" marketable limit orders; only market orders are stopped, and then only for Dual Trading System issues if the order would result in out of range execution or the size of the order is greater than the size associated with the ITS BBO.[17] Consequently, if a marketable limit order is not immediately executed (*e.g.*, it is out of range, the order is greater than the size associated with the ITS BBO, etc.), it is merely added to the open order book. No message is sent to the order sending firm until the order is executed. The same is true for market orders that are not automatically stopped and are not automatically executed.

Because no message is sent to the order sending firm, the firm is uncertain as to the current status of its order. As a result, as stated above, the puprose of the proposed rule change is (i) to permit specialist to stop a marketable limit order, and (ii) to automate the stopping of certain market orders. Once stopped, the order sending firm will then receive a stopped message, rather than being unsure as to the current status of the order, as is currently the case.

Specifically, the CHX is proposing to amend Article XX, Rule 37 (b)(10) to provide that all MAX market orders that are from 100 up to and including 599 shares (or such higher amount determined by a specialist on a stock by stock basis) that are not automatically executed in the normal course pursuant to Rule 37(b)(6) (*i.e.*, because there is insufficient size associated with the ITS BBO, because the order would result in an out of range execution, because the order is a professional order and the specialist has not yet decided whether to accept the order, or because of any other reason permitted under CHX rules) will be identified as a "pending auto stop" order.[18]

These orders will retain their "pending auto-stop" status for 30 seconds. At the end of this 30 second period, the MAX System will automatically stop the order and send a "UR Stopped" message to the order sending firm, *unless*, before the end of the 30 second period, the order is executed, canceled, manually stopped by the specialist or "put on hold." If any of these events occur, the "pending auto-stop" status will be removed from the order and the order will not automatically be stopped.[19] If an order is "put on hold, the CHX's existing rules for the order will apply. If the order is stopped, the stop price will be the ITS BBO at the time the order is received in the MAX System. Furthermore, if the order is stopped after the "pending auto-stop" period, the *entire* order will be stopped.

The change to Rule 37(b)(10) to stop the entire order will result in better guarantees for the order than are required by existing CHX Rules. For example, professional orders are currently not guaranteed an execution under the BEST Rule. Under this change, eligible professional market orders will not be guaranteed an execution at the stopped price. Additionally, pursuant to Article XX, Rule 28, a stopped order constitutes a guarantee that the order will be executed at the stopped price or better. However, under existing rules, if the size of the order is greater than the size of the ITS BBO in existence when the order is received, there is merely no automatic execution of the order, the order does not have to be "stopped." Moreover, even if the order is "stopped" under Rule 28 only that portion of the order that is less than or equal to the size of the ITS BBO is stopped. The portion of the order that exceeds the ITS BBO is not stopped. As proposed, the entire size of the order (up to 599 shares) would be automatically stopped after the second delay unless an exception applies.

The Exchange believes that the 30 second delay between the time the order is entered and the time the order is stopped is appropriate. The 30 seconds will give the specialist an opportunity to review the order to determine whether a stop is appropriate under the circumstances.

The "pending auto-stop" feature of the MAX System will operate from 8:45 a.m. until 2:57 p.m. Thus, only orders entered into the MAX System after 8:45 a.m. but before 2:57 p.m. will be eligible to be "pending auto-stop" orders.

In addition to adding the new "pending auto stop" order to the MAX System the CHX is proposing changes to the MAX System that would permit a specialist to manually "stop" a marketable limit order, regardless of size.

III. Discussion

The Commission believes that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange, and, in particular with Section 6(b)(5),[20] which requires that the rules of an exchange be designed, among other things, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in

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[12] *See* CHX Article XX Rule 37(b)(6) and (7).

[13] "Out of range" means either higher or lower than the range in which the security has traded on the primary market during a particular trading day.

[14] *See* CHX Manual, Art. XX, Rule 37(b)(11).

[15] *See* CHX Manual, Art. XX, Rule 37(b)(2).

[16] *See* CHX Manual, Art. XX, rule 37(b)(12).

[17] *See* CHX Manual, Art. XX, Rule 37(b)(10) and (11). While makret orders may also be stopped under the Exchange's Enhanced SuperMAX program, these orders are not subject to this filing.

[18] While both agency and professional orders will be eligible to be "pending auto-stop" orders, all or none orders, odd-lot orders, fill or kill orders, immediate or cancel orders, orders that are or will be stopped under the Enhanced SuperMAX program, and other orders that cannot be entered into the MAX System (*i.e.*, not held orders, sell short exempt orders and special settlement orders) will not be eligible to be "pending auto stop" orders.

[19] As is the case for all features of the MAX System, in unusual trading conditions, this feature of MAX can be de-activated (in its entirety or on an issue by issue basis) with the approval of two members of the Exchange's Committee on Floor Procedure or designated member of the Exchange staff who would have authority to set execution prices. *See* CHX Article XX, Rule 37(b)(8).

[20] 15 U.S.C. 78f(b)(5).

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general, to protect investors and the public interest.

The Commission believes that the proposal to add the functionality to the MAX System to automatically stop unexecuted market orders and marketable limit orders will provide investors additional benefits. First, specialists will now have the ability to automatically stop marketable limit order which provides investors with improved opportunities for price improvement on these orders. Second, investors trading in Dual Trading System issues will be provided with more certainty as to the status of their orders because the auto-stop feature results in a message being sent to the order sending firm notifying that firm that the order has been stopped.[21] Third, investors may receive improved executions on their orders because, once auto-stopped, the entire order (up to 599 shares) in Dual Trading System issues will now be guaranteed an execution at the stopped price, regardless of whether it is an eligible professional market order or an order greater than the size of the ITS BBO.

The Commission believes that the proposed 30 second "pending auto-stop" period prior to the order being automatically stopped was designed to provide specialists with an opportunity to determine the best course for the order, consistent with best execution principles, whether that be executing the order, manually stopping the order, canceling the order, or putting the order on hold.[22] The Commission, however, expects the Exchange, as it gains experience with the auto-stop feature, to review whether the "pending auto-stop" period should be less than 30 seconds. In addition, the Commission anticipates that the Exchange will surveil to determine that specialists are not eluding the auto-stop feature, and thereby the benefits to investors, by routinely putting orders on hold or canceling them.

IV. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange. In addition, in approving this rule, the Commission notes that it has also considered the proposed rule's impact on efficiency, competition, and capital formation.[23]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[24] that the proposed rule change (CHX–98–01) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[25]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–19182 Filed 7–17–98; 8:45 am]

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[21] The stopped price will be the price at the time the order was received in the MAX System, consistent with CHX Rules for stopped orders.

[22] If an order is "put on hold," the existing CHX Rules on order handling apply.

[23] 15 U.S.C. 78c(f).

[24] 15 U.S.C. 78s(b)(2).

[25] 15 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40195; File No. SR–MSRB–98–7]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Fee for Backlog Document Collection of its Official Statement/Advance Refunding Document Subsystem of the Municipal Securities Information Library

July 13, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 16, 1998, the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("Commission") a proposed rule change is described in Items I, II, III below, which Items have been prepared by the Board. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Board is filing herewith a proposed rule change to change certain fees relating to the operation of its Official Statement/Advance Refunding Document ("OS/ARD") subsystem of the Municipal Securities Information Library® ("MSIL®") system.[3] The Board is establishing a price of $8,000 (plus delivery or postage charges) of each of its annual "backlog" collections of official statements and refunding documents.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the Board included statements concerning the purpose of, and basis for, the purposed rule change and discussed any comments it received on the proposed rule change. The texts of these statements may be examined at the places specified in Item IV below. The U.S. has prepared summaries, set forth in Section A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Purposed Rule Change

1. Purpose

The OS/ARD subsystem is a central electronic facility through which information collected and stored pursuant to MSRB Rule G–36 is made available electronically and in paper form to market participants and information vendors.[4] The annual subscription fee for daily electronic images of current year documents from the OS/ARD system currently is $14,000.[5] The fees for backlog document collections are substantially less than fees for an annual subscription because an annual subscription requires the Board to send electronic media to the subscriber each business day, but a backlog collection requires fewer resources.[6]

As of January 1, 1998, the Board terminated its contract with its imaging contractor and began operating the Board's own imaging subsystem. Part of this change was to begin storing OS/ARD images on CD–ROM instead of magneto-optical disk or digital audio tape (DAT). This change in media has made the cost of selling annual backlog collections more even. Thus, the Board is establishing a price of $8,000 (plus delivery or postage charges) for each annual backlog collection.[7]

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[1] 15 U.S.C. 78s(b)(1) (1994).

[2] 17 CFR 240.19b–4 (1997).

[3] Municipal Securities Information Library and MSIL are registered trademarks of the Board. The MSIL® system, which was approved in Securities Exchange Act Release No. 29298 (June 13, 1991), 56 FR 28194 (June 19, 1991, is a central facility through which information about municipal securities is collected, stored and disseminated.

[4] Rule G–36 requires underwriters to provide copies of final official statements and advance refunding documents within certain specified time frames for most new issues issued since January 1, 1990.

[5] Securities Exchange Act Release No. 37361 (June 25, 1996), 61 FR 34463 (July 2, 1996).

[6] The backlog fee plus delivery costs for 1996 if $7,000; 1995 is $9,000; 1994 is $7,000; 1993 is $9,000; 1992 is $7,000; 1991 is $8,000; 1990 is $6,000. *See* Securities Exchange Act Release No. 38694 (May 29, 1997), 62 FR 30919 (June 5, 1997) (1996 fee); Securities Exchange Act Release No. 37361 (June 25, 1996), 61 FR 34463 (July 2, 1996) (1995 fee); Securities Exchange Act Release No. 35848 (June 14, 1995), 60 FR 32187 (June 20, 1995) (1994 Fee); Securities Exchange Act Release No. 34602 (Aug. 25, 1994), 59 FR 45319 (Sept. 1, 1994) (1993 and 1991 fees); and Securities Exchange Act Release No. 32482 (June 16, 1993), 58 FR 34115 (June 23, 1993) (1992 and 1990 fees). The fees for the backlog collections vary based on the number of documents received and processed in any given year.

In its prior filings with the Commission, the Board stated that it intends to use its general revenues to help fund collecting, indexing and storing the OS/ARD subsystem's documents. However, the Board stated its intention that the costs of producing paper and electronic copies would be completely covered by user fees.[8] The Board is changing the fees for the annual backlog collectiuons to defray its cost of disseminating the electronic collections in a manner that reflects the change in cost to the Board resulting from the use of new media and in-house imaging. This is consistent with the Commission's policy that self-regulatory organizations' fees be based on expenses incurred in providing information to the public. The Board believes that employing cost-based prices is in the public interest since it will ensure that a complete collection of vital information will be available, at fair and responsible prices, for the life of the municipal securities.

2. Statutory Basis

The Board believes the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act,[9] which requires, in pertinent part, that the Board's rules:

> Be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of free and open market in municipal securities, and, in general, to protect investors and the public interest.

The MSIL® system is designed to increase the integrity and efficiency of the municipal securities market by, among other things, helping to ensure that the price charged for an issue in the secondary market reflects all available official information about that issue. The Board believes the new annual backlog fee is fair and reasonable in light of the costs associated with disseminating the information and the services provided by the MSIL® system are available on reasonable and nondiscriminatory terms to any interested person.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The rule change became effective on June 16, 1998, pursuant to Section 19(b)(3)(A)(ii) of the Act,[10] because the proposal establishes a fee. At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if its appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.[11] Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the Board's principal offices. All submissions should refer to File No. SR–MSRB–98–7 and should be submitted by August 10, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–19181 Filed 7–17–98; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Public Meeting

AGENCY: Small Business Administration.

ACTION: Notice of a Public Meeting on multi-Lender securitizations of the unguaranteed portion of SBA loans made under Section 7(a) of the Small Business Act.

SUMMARY: SBA is modifying its Interim Final Rule regarding financing and securitizing the unguaranteed portions of loans made under Section 7(a) of the Small Business Act. In its proposed rule, published May 18, 1998, SBA specifically sought comments during the 60-day comment period to assist in developing a proposal for multi-Lender securitizations. (See 63 FR 27219) Before developing such a proposal, SBA will hold a public meeting to gather a broad spectrum of ideas. Neither this meeting nor any written suggestions received after July 17, 1998, will be part of the record for the proposed rule published on May 18th.

DATES: July 30, 1998, 2 p.m. to 5 p.m.

ADDRESSES: Eisenhower Conference Room, U.S. Small Business Administration, 409 3rd Street, S.W., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: James W. Hammersley, Director, Secondary Market Sales, (202) 205–7505.

SUPPLEMENTARY INFORMATION: SBA posed several questions relating to multi-Lender securitizations in its May 18th Notice of Proposed Rulemaking. (See 63 FR 27219) In addition to those questions, SBA would like attendees to consider the following issues:

(1) What are the possible ways for a lender to retain an economic interest when securitizing through a multi-Lender structure?

(2) How can SBA connect the performance of securitizing lenders to the required retained economic interest in a multi-Lender structure?

(3) How should SBA manage the participation in the Preferred Lender

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[7] This price would apply to all prior backlog collections as well as the annual backlog collection for 1997 and future annual backlog collections. Telephone conversation with Ernesto A. Lanza, Assistant General Counsel, Board, and Karl Varner, Attorney, SEC, on July 2, 1998.

[8] Securities Exchange Act Release No. 28197 (July 12, 1990), 55 FR 29436 (July 19, 1990).

[9] 15 U.S.C. 78*o*(b)(2)(C).

[10] 15 U.S.C. 78s(b)(3)(A)(ii).

[11] In reviewing this proposal, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[12] 17 CFR 200.30–3(a)(12).

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Program for those lenders securitizing through a multi-Lender structure?

(4) How can SBA establish regulations that provide a structure for conduit transactions yet allow for other structure for multi-Lender securitizations?

(5) Should entities that sponsor multi-Lender securitization structures be regulated by SBA? If so, how?

To encourage the free exchange of ideas, the public meeting will be in the form of a round-table discussion.

Anyone wishing to submit written suggestions should send them to Jane Palsgrove Butler, Acting Associate Administrator for Financial Assistance, U.S. Small Business Administration, 409 3rd Street, S.W., Suite 8200, Washington, D.C. 20416.

The public meeting will take place at the Small Business Administration Office at 409 3rd Street, S.W., Washington, D.C. 20417. The meeting will be held on July 30, 1998, from 2 p.m. to 5 p.m.

Dated: July 14, 1998.

Jane Palsgrove Butler,

Acting Associate Administrator for Financial Assistance.

[FR Doc. 98–19147 Filed 7–17–98; 8:45 am]

BILLING CODE 8025–01–U

SMALL BUSINESS ADMINISTRATION

Region IX—Honolulu District Advisory Council; Public Hearing

The Small Business Administration Region IX Honolulu District Advisory Council located in the geographical area of Honolulu, Hawaii, will hold a public meeting at 9:30 a.m. on Thursday, July 30, 1998 at the Business Information and Counseling Center, 111 Bishop Street, Suite 204, Training Center, Honolulu, HI 96813, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call: Andrew K. Poepoe, District Director, U.S. Small Business Administration, 300 Ala Moana Boulevard, Room 2–235, Honolulu, Hawaii 96850–4981, (808) 541–2965.

Dated: July 15, 1998.

Shirl Thomas,

Director, Office of External Affairs.

[FR Doc. 98–19235 Filed 7–17–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Wisconsin State Advisory Council; Public Hearing

The U.S. Small Business Administration Wisconsin State Advisory Council, located in the geographical area of Milwaukee, Wisconsin, will hold a public meeting from 12:00 p.m. to 1:00 p.m., July 16, 1998 at Metro Milwaukee Area Chamber (MMAC) Association of Commerce Building; 756 North Milwaukee Street, Fourth Floor, Milwaukee, Wisconsin to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Yolanda Lassiter, U.S. Small Business Administration, 310 West Wisconsin Avenue Milwaukee, Wisconsin 53203; (414) 297–1092.

Dated: July 15, 1998.

Shirl Thomas,

Director, Office of External Affairs.

[FR Doc. 98–19237 Filed 7–17–98; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notification Requirements Concerning Substantial Changes in Ownership and Operations

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: The Department of Transportation reminds all air carriers holding authority for which a fitness finding is required to comply with the notification requirements of 14 CFR 204.5 concerning a change in ownership or a filing of a petition or a plan of reorganization under Chapter 11 of the U.S. Bankruptcy Code, and to accompany such written notification with information in support of the carrier's continuing fitness. The Department also requests that those carriers provide the Department with a minimum 30-day advance notification of any proposed substantial change in ownership, whether or not the change is part of a restructuring or recapitalization of a debtor-air carrier under a Chapter 11 plan of reorganization.

FOR FURTHER INFORMATION CONTACT: Carol A. Woods, Air Carrier Fitness Division, X–56, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–9721.

Patrick V. Murphy,

Deputy Assistant Secretary for Aviation and International Affairs.

[FR Doc. 98–19299 Filed 7–17–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings, Agreements Filed During the Week Ending July 10, 1998

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. Sections 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–98–4036.
Date Filed: July 9, 1998.
Parties: Members of the International Air Transport Association.
Subject: PTC2 ME–AFR 0016 dated June 30, 1998, Middle East—Africa Resos r1–18, PTC2 ME–AFR 0017 dated June 30, 1998—Minutes, PTC2 ME–AFR Fares 0013 dated July 7, 1998—Tables, Intended effective date: October 1, 1998.

Docket Number: OST–98–4037.
Date Filed: July 9, 1998.
Parties: Members of the International Air Transport Association.
Subject: PTC2 EUR–ME 0057 dated July 7, 1998 r1–8,PTC2 EUR–ME 0058 dated July 7, 1998 r9, Europe—Middle East Expedited Resolutions, Intended effective date: as early as August 15, 1998.

Docket Number: OST–98–4038.
Date Filed: July 9, 1998.
Parties: Members of the International Air Transport Association.
Subject: PTC3 Telex Mail Vote 949, Taiwan-Japan fares, r1—first class fares, r2—intermediate class fares, PTC3 Telex Mail Vote 950, Thailand—Viet Nam fares, r3—reso 010r, Intended effective date: September 1, 1998 (MV949), July 27, 1998 (MV950).

Dorothy W. Walker,

Federal Register Liaison.

[FR Doc. 98–19298 Filed 7–17–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending July 10, 1998

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier

Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–98–4032.

Date Filed: July 8, 1998.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope August 5, 1998.

Description: Application of Gemini Air Cargo, Inc. pursuant to 49 U.S.C. 41102 and Subpart Q, applies for a certificate of public convenience and necessity authorizing it to provide scheduled foreign air transportation of property and mail between any point or points in the United States, or any territory or possession of the United States, on the one hand, and any point or points in the countries listed in this application.

Docket Number: OST–98–4046.

Date Filed: July 10, 1998.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope August 7, 1998.

Description: Application of Emery Worldwide Airlines, Inc. pursuant to 49 U.S.C. 41102 and Subpart Q, applies to amend segment 1 of its Route 598 certificate to engage in scheduled foreign air transportation of property and mail between any point of points in the United States and any point or points in the countries listed in this application.

Dorothy W. Walker,

Federal Register Liaison.

[FR Doc. 98–19297 Filed 7–17–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Use the Revenue From a Passenger Facility Charge (PFC) at Blue Grass Airport, Lexington, KY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Blue Grass Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before August 19, 1998.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Memphis Airports District Office, 3385 Airways Boulevard, Suite #302, Memphis, TN 38116–3841.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Jon Zachem, Executive Director of the Blue Grass Airport at the following address: Lexington-Fayette Urban County Airport Board, 4000 Versailles Road, Lexington, KY 40510.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Blue Grass Airport under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Cynthia K. Wills, Program Manager, Memphis Airports District office, 3385 Airways Boulevard, Suite #302, Memphis, TN 38116–3841, (901) 544–3495 Extension 16. The application may be reviewed in person at this location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Blue Grass Airport under provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On July 13, 1998, the FAA determined that the application to use the revenue from a PFC submitted by Lexington-Fayette Urban County Airport Board was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than October 29, 1998.

The following is a brief overview of the application.

PFC Application Number: 98–04–U–00–LEX.

Level of the proposed PFC: $3.00.

Actual charge effective date: November 1, 1993.

Estimated charge expiration date: September 1, 2005.

Total estimated PFC revenue: $329,563.

Brief description of proposed project: Design and construction of a centralized glycol storage facility.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Part 135, non-scheduled, whole-plane charter basis (Air Taxi Operators).

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Blue Grass Airport.

Issued in Memphis, Tennessee, on July 13, 1998.

LaVerne F. Reid,

Manager, Airports District Office, Southern Region.

[FR Doc. 98–19295 Filed 7–17–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In June 1998, there were 12 applications approved. Additionally, three approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). This notice is published pursuant to paragraph d of section 158.29.

PFC Applications Approved

Public Agency: Kenton County Airport Board, Covington, Kentucky.

Application Number: 98–04–C–00–CVG.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $32,911,000.

Earliest Charge Effective Date: April 1, 1999.

Estimated Charge Expiration Date: January 1, 2001.

Classes of Air Carriers Not Required to Collect PFC's: (1) Part 121 supplemental operators which operate at the airport without an operating

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agreement with the public agency and which enplane less than 1,500 passengers per year; and (2) Part 135 on-demand air taxis, both fixed wing and rotary.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that each proposed class accounts for less than 1 percent of the total annual enplanements at Cincinnati/Northern Kentucky International Airport.

Brief Description of Projects Approved for Collection and Use:

Southwest detention facility (including land purchase).
Runway 35R large hold pad and deicing recovery system.
Perimeter road at security identification display area fence.
Fixed base operator apron and taxiway construction.

Decision Date: June 3, 1998.

FOR FURTHER INFORMATION CONTACT: Tommy L. Dupree, Memphis Airports District Office, (901) 544–3495.

Public Agency: Roanoke Regional Airport Commission, Roanoke, Virginia.

Application Number: 98–01–C–00–ROA.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $7,154,143.

Earliest Charge Effective Date: September 1, 1998.

Estimated Charge Expiration Date: March 1, 2006.

Classes of Air Carriers Not Required To Collect PFC's: Part 135 on-demand air taxis filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that each proposed class accounts for less than 1 percent of the total annual enplanements at Roanoke Regional Airport.

Brief Description of Projects Approved for Collection and Use:

Construct perimeter road.
Install ramp lighting and runway pull boxes.
Construct general aviation apron, taxiways, and access road.
Obstruction removal runway 6 and runway 15.
Rehabilitate aircraft rescue and firefighting (ARFF) vehicle and acquire radios.
Acquire snow removal equipment (SRE).
Acquire handicap passenger lift device.
Construct heliport improvements.
Install airport signage and electrical vault.
Update airport master plan.
Upgrade airport sign system.
Develop air cargo ramp.
Install new terminal main entrance door system.
Runway 24 tunnel rehabilitation.
Construct snow equipment and maintenance building.
Construct lower regional holdroom and escalator.
Demolish building No. 1 for airport development.
Acquire land runway 24 protection zone.

Brief Description of Project Partially Approved for Collection and Use: PFC program formulation and annual administrative costs.

Determination: Partially approved. The FAA has determined that the cost estimated by the public agency for the collection, reporting, and auditing of PFC revenues is excessive. Based on cost requests for similar airports, the FAA used a cost of $3,000 per year to estimate the allowable annual administrative cost.

Brief Description of Disapproved Project: Demolish Building 6 for airport development.

*Determination:*The FAA has determined that since the existing building is not a hazard and does not impede eligible airport development, the project does not meet the PFC eligibility criteria.

Decision Date: June 10, 1998.

For Further Information Contact: Terry Page, Washington Airports District Office, (703) 285–2305.

Public Agency: City of Redmond, Oregon.

Application Number: 98–02–C–00–RDM.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $571,248

Earliest Charge Effective Date: October 1, 2000.

Estimated Charge Expiration Date: February 1, 2003.

Class of Air Carriers not Required To Collect PFC's: Part 135 air taxi/commercial operators who conduct operators in air commerce carrying persons for compensation or hire, except air taxi/commercial operators operating public or private charters in aircraft with a seating capacity of 10 or more.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Roberts Field—Redmond Municipal Airport.

Brief Description of Projects Approved for Collection and Use:

Construct electrical vault and acquire emergency generator.
Master plan update.
Extend taxiway G and construct taxiways J and M.
Install precision approach path indicator to runway 28.
Construct ARFF facility.
Acquire passenger access lift.
Acquire airport sweeper/broom.
Acquire SRE.

Brief Description of Projects Withdrawn:

Reconstruct taxiway F north and construct exit taxiway.
Construct snow removal equipment and operations facility.
Reconstruct taxiway F south and relocate and construct taxiway H.

Determination: These projects were withdrawn by the public agency in a letter dated March 25, 1998. Therefore, the FAA did not rule on these projects in this decision.

Decision Date: June 16, 1998.

For Further Information Contact: Mary Vargas, Seattle Airports District Office, (425) 227–2660.

Public Agency: Bert Mooney Airport Authority, Butte, Montana.

Application Number: 98–04–C–BTM.

Application Type: Impose and use a PFC

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $215,040.

Earliest Charge Effective Date: July 1, 2001.

Estimate Charge Expiration Date: August 1, 2004.

Class of Air Carriers not Required To Collect PFC's: On demand non-scheduled air taxi/commercial operators.

Determination: Approved. Based on the information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Bert Mooney Airport.

Brief Description of Project Approved for Collection and Use: Land acquisition.

Decision Date: June 17, 1998.

For Further Information Contact: David P. Gabbert, Helena Airports District Office, (406) 449–5271.

Public Agency: County of Routt, Hayden, Colorado.

Application Number: 98–03–C–00–HDN.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in this Decision: $1,130,176.

Earliest Charge Effective Date: September 1, 1998.

Estimated Charge Expiration Date: December 1, 2002.

Class of Air Carriers not Required To Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use:

Construct ARFF/SRE building.
Perimeter fencing.
Terminal area master plan study.
Terminal holdroom expansion.
Commercial apron overlay and expansion.
SRE.

Decision Date: June 18, 1998.

For Further Information Contact: Christopher Schaffer, Denver Airports District Office, (303) 342–1258.

Public Agency: Jackson Hole Airport Board, Jackson, Wyoming.

Application Number: 98–05–I–00–JAC.

Application Type: Impose a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $1,850,000.

Earliest Charge Effective Date: August 1, 1998.

Estimated Charge Expiration Date: January 1, 2003.

Class of Air Carriers not Required To Collect PFC's: None.

Brief Description of Project Approved for Collection Only: Overlay runway and safety areas.

Decision Date: June 18, 1998.

For Further Information Contact: Christopher Schaffer, Denver Airports District Office, (303) 342–1258.

Public Agency: City of San Jose, California.

Application Number: 98–06–I–00–SJC.

Application Type: Impose a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $35,000,000.

Earliest Charge Effective Date: October 1, 1998.

Estimated Charge Expiration Date: February 1, 2001.

Class of Air Carriers not Required to Collect PFC's: Air taxi/commercial operators exclusively filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at San Jose International Airport.

Brief Description of Project Approved for Collection Only: Runway 12R/30L and taxiway connections reconstruction to 8,900 linear feet.

Decision Date: June 22, 1998.

For Further Information Contact: Maryls Vandervelde, San Francisco Airports District Office, (650) 876–2806.

Public Agency: Port of Seattle, Seattle, Washington.

Application Number: 98–04–C–00–SEA.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $852,885,000.

Earliest Charge Effective Date: January 1, 2004.

Estimated Charge Expiration Date: January 1, 2023.

Class of Air Carriers not Required to Collect PFC'S: None.

Brief Description of Projects Approved for Use:

Regional ARFF training facility.
Runways 16L–16R safety area improvements.

Brief Description of Project Partially Approved for Use: Passenger conveyance system.

Determination: Partially approved. The costs associated with the refurbishment of the train maintenance facility and the temporary transportation are not eligible.

Brief Description of Projects Approved for Collection and Use:

Third runway.
Concurse A expansion.
Access roadway improvements.

Brief Description of Projects Approved for Collection Only:

Security system upgrade.
Noise remedy program.
Airfield pavement and infrastructure improvements: taxiway pavement replacement; transitional navigation aids and lighting system; apron pavement replacement.

Brief Description of Project Approved for Collection Only: Terminal infrastructure upgrades.

Determination: Partially approved.The FAA has determined that the public agency did not provide a sufficient description or justification for several of the proposed elements to allow a determination of nominal eligibility for those elements. The elements in question include the upgrades of lighting fixtures, ceilings, floorings, wall finishes, restrooms, and utility systems; the International Arrivals facility; the seismic upgrades; and the commuter terminal and signage upgrades.

Decision Date: June 24, 1998.

For Further Information Contact: Mary Vargas, Seattle Airports District Office, (425) 227–2660.

Public Agency: County of Del Norte, Crescent City, California.

Application Number: 98–01–C–00–CEC.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $58,330.

Earliest Charge Effective Date: September 1, 1998.

Estimated Charge Expiration Date: September 1, 2001.

Class of Air Carriers not Required to Collect PFC's: None.

Brief Description of Project Approved for Collection and Use:

Airport sign system.
Obstruction removal.
Update airfield marking.
Part 139—certification/safety compliance.
Airport rotating beacon and tower.
Site development and construction of access taxiways phase 1.
Terminal apron expansion.

Brief Description of Project Disapproved: Rehabilitate emergency generator system.

Determination: Disapproved. The FAA has determined that removal of an underground fuel storage tank and replacement with an above ground tank is not included in 49 U.S.C. 47102(3)(F). Rather, the replacement of underground storage tanks falls within the Resource Conservation and Recovery Act, which is not among the Acts included in the definition of airport development in 49 U.S.C. 47102(3)(F). Therefore, this project does not meet the requirements of § 158.15(b).

Decision Date: June 26, 1998.

For Further Information Contact: Marlys Vandervelde, San Francisco Airports District Office, (650) 876–2806.

Public Agency: City of Sioux City, Iowa.

Application Number: 98–03–C–00–SUX. .

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $610,536.

Earliest Charge Effective Date: December 1, 2001.

Estimated Charge Expiration Date: March 1, 2004.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use:

Rehabilitation of taxiway Bravo.
Reconstruction of taxiway Charlie and the air carrier ramp.
Update airport master plan.
Replacement of snow plow 29.
Reconstruction of taxiway Alpha (south).

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Reconstruction of taxiway Bravo.
Reconstruction of taxiway Echo.

Decision date: June 26, 1998.

For Further Information Contact: Lorna Sandridge, Central Region Airports Division, (816) 426–4730.

Public Agency: Metropolitan Knoxville Airport Authority, Knoxville, Tennessee.

Application Number: 98–06–C–00–TYS. .

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $57,921,122.

Earliest Charge Effective Date: May 1, 1999.

Estimated Charge Expiration Date: July 1, 2021.

Class of Air Carriers Not Required To Collect PFC's: Nonscheduled, whole-plane charter operators by air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounted for less than 1 percent of the total annual enplanements at McGhee Tyson Airport.

Brief Description of Projects Approved for Collection and Use: Terminal construction/rehabilitation.

Decision Date: June 26, 1998.

For Further Information Contact: Jerry Bowers, Memphis Airports District Office, (901) 544–3495.

Public Agency: Tri-State Airport Authority, Huntington, West Virginia.

Application Number: 98–03–C–00–HTS.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $365,138.

Earliest Charge Effective Date: February 1, 1999.

Estimated Charge Expiration Date: March 1, 2001.

Class of Air Carriers Not Required To Collect PFC's: (1) Unscheduled Part 135 charter operators for hire to the general public; and (2) unscheduled Part 121 charter operators for hire to the general public.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounted for less than 1 percent of the total annual enplanements at Tri-State Airport.

Brief Description of Projects Approved for Collection and Use:

Prepare PFC application number 3.
Design and construct SRE building.
Purchase aircraft de-icing truck.
Purchase four-wheel drive pickup with snowplow.
Acquire security vehicle.
Acquire self propelled access lift.
Drainage/de-icing study and drainage rehabilitation.
Reseal and rehabilitate airline ramp.

Decision Date: June 26, 1998.

For Further Information Contact: Elonza Turner, Beckley Airports Field Office, (304) 252–6216.

Amendments to PFC Approvals

Amendment No. city, state	Amendment approved date	Original Approved net PFC revenue	Amended Approved Net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
94–02–C–03–DAY, Dayton, OH	06/16/98	$58,377,638	$45,742,740	04/01/11	01/01/10
94–02–C–02–SUX, Sioux City, IA	06/22/98	2,242,569	1,895,024	06/01/05	12/01/01
94–01–C–02–ISP, Islip, NY	06/29/98	19,418,406	21,290,023	01/01/06	04/01/10

Issued in Washington, DC, on July 15, 1998.

Eric Gabler,

Manager, Passenger Facility Charge Branch.

[FR Doc. 98–19296 Filed 7–17–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Denial of Motor Vehicle Defect Petition, DP98–004

AGENCY: National Highway Traffic Safety Administration (NHTSA), United States Department of Transportation.

ACTION: Denial of petition for a defect investigation.

SUMMARY: This notice sets forth the reasons for the denial of a petition submitted to NHTSA under 49 U.S.C. 30162, requesting that the agency commence a proceeding to determine the existence of a defect related to motor vehicle safety. The petition is hereinafter identified as DP98–004.

FOR FURTHER INFORMATION CONTACT: Dr. George Chiang, Office of Defects Investigation (ODI), NHTSA, 400 Seventh Street, SW, Washington, DC 20590. Telephone: (202) 366–5206.

SUPPLEMENTARY INFORMATION: Mr. Edward J. Lucas of Richardson, Texas, submitted a petition dated May 4, 1998, requesting that an investigation be initiated to determine whether Model Year (MY) 1995 Ford Windstar minivans contain a defect related to motor vehicle safety within the meaning of 49 U.S.C. Chapter 301. The petition alleges that MY 1995 Ford Windstars have a defective automatic transmission that can fail, creating a safety hazard. In support of his petition, the petitioner included not only a description of the problems he experienced with his vehicle, but also a printout of transmission complaints registered by other Windstar owners on one Internet website.

MY 1995 Ford Windstars equipped with an AX4S automatic transaxle are the subject vehicles. The transaxle combines a torque converter, fully automatic 4-speed transmission, final drive gearing, and differential into a front wheel drive system.

A review of agency data files, including information reported to NHTSA's Auto Safety Hotline by consumers, indicated that aside from the petition, there were 27 reports concerning failure or malfunction of the transmission in the subject vehicles. These reports address issues of inadvertent downshifting, transmission gear slippage, difficult shifting, noise, and economic/quality problems. There were no reports of injuries or crashes resulting from these transmission failures. These reports appear to be similar in nature to those Internet complaints included with the petition.

It appears that the failure or malfunction of the transmission on the subject vehicles primarily resulted from a cracked forward drive clutch aluminum piston inside the transaxle assembly. Ford Motor Company (Ford) addressed this issue in Technical Service Bulletin (TSB) No. 94–24–7.

The forward clutch piston may crack on its outside diameter, seal groove or bottom. The crack allows transmission fluid to leak through the crack, causing slippage in forward drive and disability of forward drive.

When the transmission is hot, the transmission fluid viscosity becomes low. When the clutch piston is cracked at a high temperature inside the transaxle, it can lead to faster transmission fluid leaks through the crack. At the same time, the hydraulic pressure decreases until the clutch begins to slip. At worst, the hydraulic pressure in the transmission could drop to a level that could not hold the forward drive clutch engaged, causing no forward drive. Ford was aware of the cracking piston problem, as shown by TSB No. 94–24–7, and replaced the aluminum piston with a steel one for 1996 and later model Windstars.

The petitioner alleged that the cracked piston is a safety hazard because it can disable forward drive function of the transmission and cause sudden loss of drive and subsequent unexpected engagement of the transmission.

Loss of forward drive function due to the cracked piston is not a sudden occurrence. Many transmission slippages will occur prior to the loss of forward drive. Further, this type of clutch disengagement is generally temporary. If the temperature inside transmission drops and the hydraulic pressure in the transmission increased, the forward drive clutch may engage again. The clutch re-engagement is noticeable to the driver, who is able to control the vehicle.

The agency has analyzed the available information concerning the problem alleged in the petition. Based on the information obtained from the evaluation of the ODI complaints and analysis of potential failure modes of the transmission, NHTSA believes that cracking of the forward clutch piston on the subject transaxle does not constitute a safety hazard within the meaning of Chapter 301.

For the reasons presented above, it is unlikely that NHTSA would issue an order for the notification and remedy of a safety-related defect in the subject vehicles at the conclusion of the investigation requested in the petition. Therefore, in view of the need to allocate and prioritize NHTSA's limited resources to best accomplish the agency's safety mission, the petition is denied.

Authority: 49 U.S.C. 30162(d); delegations of authority at CFR 1.50 and 501.8.

Issued on: July 9, 1998.

Kenneth N. Weinstein,

Associate Administrator for Safety Assurance.

[FR Doc. 98–19152 Filed 7–17–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–98–4074]

Decision That Nonconforming 1998 Mercedes-Benz Gelaendewagen Type 463 Multi-Purpose Passenger Vehicles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of decision by NHTSA that nonconforming 1998 Mercedes-Benz Gelaendewagen Type 463 multi-purpose passenger vehicles (MPVs) are eligible for importation.

SUMMARY: This notice announces the decision by NHTSA that 1998 Mercedes-Benz Gelaendewagen Type 463 MPVs not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they have safety features that comply with, or are capable of being altered to comply with, all such standards.

DATES: The decision is effective as of July 20, 1998.

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i)(I) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards. Where there is no substantially similar U.S.-certified motor vehicle, 49 U.S.C. 30141(a)(1)(B) (formerly section 108(c)(3)(A)(i)(II) of the Act, 15 U.S.C. 1397(c)(3)(A)(i)(II)) permits a nonconforming motor vehicle to be admitted into the United States if its safety features comply with, or are capable of being altered to comply with, all applicable Federal motor vehicle safety standards based on destructive test data or such other evidence as NHTSA decides to be adequate.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the **Federal Register**.

Europa International, Inc. of Santa Fe, New Mexico (Registered Importer No. R–91–002) petitioned NHTSA to decide whether 1998 Mercedes-Benz Gelaendewagen Type 463 MPVs are eligible for importation into the United States. NHTSA published notice of the petition on May 15, 1998 (63 FR 27118) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition. No comments were received in response to the notice. Based on its review of the information submitted by the petitioner, NHTSA has decided to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final determination must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VCP–16 is the vehicle eligibility number assigned to vehicles admissible under this determination.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that 1998 Mercedes-Benz Gelaendewagen Type 463 MPVs are eligible for importation into the United States because they have safety features that comply with, or are capable of being altered to comply with, all applicable Federal motor vehicle safety standards.

Authority: 49 U.S.C. 30141(a)(1)(B) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: July 15, 1998.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 98–19249 Filed 7–17–98; 8:45 am]

BILLING CODE 4910–59–P

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–98–4073]

Notice of Receipt of Petition for Decision That Nonconforming 1995–1996 Ford Bronco Multi-Purpose Passenger Vehicles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1995–1996 Ford Bronco multi-purpose passenger vehicles (MPVs) are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1995–1996 Ford Broncos manufactured for sale in Venezuela that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is August 19, 1998.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 10 am to 5 pm].

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Wallace Environmental Testing Laboratories, Inc. of Houston, Texas ("Wallace") (Registered Importer 90–005) has petitioned NHTSA to decide whether 1995–1996 Ford Broncos manufactured for sale in Venezuela are eligible for importation into the United States. The vehicles which Wallace believes are substantially similar are 1995–1996 Ford Broncos that were manufactured for sale in the United States and certified by their manufacturer, Ford Motor Company, as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared the non-U.S. certified 1995–1996 Ford Broncos to their U.S. certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

Wallace submitted information with its petition intended to demonstrate that the non-U.S. certified 1995–1996 Ford Broncos, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the non-U.S. certified 1995–1996 Ford Broncos are identical to their U.S. certified counterparts with respect to compliance with Standards Nos. 101 *Controls and Displays*, 102 *Transmission Shift Lever Sequence.* * * *, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 108 *Lamps, Reflective Devices and Associated Equipment*, 111 *Rearview Mirror*, 113 *Hood Latch Systems*, 114 *Theft Protection*, 116 *Brake Fluid*, 119 *New Pneumatic Tires for Vehicles other than Passenger Cars*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 203 *Impact Protection for the Driver from the Steering Control System*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 212 *Windshield Retention*, 214 *Side Impact Protection*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, 301 *Fuel System Integrity*, and 302 *Flammability of Interior Materials.*

Additionally, the petitioner states that the non-U.S. certified 1995–1996 Ford Broncos comply with the Bumper Standard found in 49 CFR Part 581.

Petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 120 *Tire Selection and Rims for Motor Vehicles other than Passenger Cars*: installation of a tire information placard.

Standard No. 208 *Occupant Crash Protection*: installation of a U.S. model air bag at the driver's seating position. The petitioner states that the vehicles are equipped with Type II seat belts at both front and both rear outboard designated seating positions, and with a Type I seat belt at the rear center designated seating position.

The petitioner also states that a vehicle identification number plate must be affixed to the vehicles to meet the requirements of 49 CFR Part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 10 am to 5 pm]. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: July 15, 1998.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 98–19250 Filed 7–17–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-98-4072]

Decision That Certain Nonconforming Motor Vehicles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of decision by NHTSA that certain nonconforming motor vehicles are eligible for importation.

SUMMARY: This notice announces decisions by NHTSA that certain motor vehicles not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to vehicles originally manufactured for importation into and/or sale in the United States and certified by their manufacturers as complying with the safety standards, and they are capable of being readily altered to conform to the standards.

DATES: These decisions are effective as of July 20, 1998.

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202-366-5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

NHTSA received petitions from registered importers to decide whether the vehicles listed in Annex A to this notice are eligible for importation into the United States. To afford an opportunity for public comment, NHTSA published notice of these petitions as specified in Annex A. The reader is referred to those notices for a thorough description of the petitions. No comments were received in response to these notices. Based on its review of the information submitted by the petitioners, NHTSA has decided to grant the petitions.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS-7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. Vehicle eligibility numbers assigned to vehicles admissible under this decision are specified in Annex A.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that each motor vehicle listed in Annex A to this notice, which was not originally manufactured to comply with all applicable Federal motor vehicle safety standards, is substantially similar to a motor vehicle manufactured for importation into and/or sale in the United States, and certified under 49 U.S.C. 30115, as specified in Annex A, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: July 15, 1998.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

Annex A—Nonconforming Motor Vehicles Decided To Be Eligible for Importation

1. Docket No. NHTSA-98-3627
   Nonconforming Vehicle: 1990-1993 Mercedes-Benz 250E and 1994-1995 E250
   Substantially similar U.S.-certified vehicle: 1990-1993 Mercedes-Benz 300E and 1994-1995 E300
   Notice of Petition published at: 63 FR 13911 (March 23, 1998)
   Vehicle Eligibility Number: VSP-245
2. Docket No. NHTSA-98-3628
   Nonconforming Vehicles: 1994 Mercedes-Benz C220
   Substantially similar U.S.-certified vehicles: 1994 Mercedes-Benz C220
   Notice of Petition published at: 63 FR 13910 (March 23, 1998)
   Vehicle Eligibility Number: VSP-246
3. Docket No. NHTSA-98-3630
   Nonconforming Vehicles: 1993-1998 Kawasaki ZZR1100
   Substantially similar U.S.-certified vehicles: 1993-1998 Kawasaki ZX1100
   Notice of Petition published at: 63 FR 13909 (March 23, 1998)
   Vehicle Eligibility Number: VSP-247
4. Docket No. NHTSA-98-3658
   Nonconforming Vehicles: 1995 Bentley Turbo R
   Substantially similar U.S.-certified vehicles: 1995 Bentley Turbo R
   Notice of Petition published at: 63 FR 15480 (March 31, 1998)
   Vehicle Eligibility Number: VSP-243
5. Docket No. NHTSA-98-3660
   Nonconforming Vehicles: 1992-1996 Ducati 600SS
   Substantially similar U.S.-certified vehicles: 1992-1996 Ducati 750SS
   Notice of Petition published at: 63 FR 15480 (March 31, 1998)
   Vehicle Eligibility Number: VSP-241
6. Docket No. NHTSA-98-3661
   Nonconforming Vehicles: 1994-1998 Mercedes-Benz E320
   Substantially similar U.S.-certified vehicles: 1994-1998 Mercedes-Benz E320
   Notice of Petition published at: 63 FR 15482 (March 31, 1998)
   Vehicle Eligibility Number: VSP-240
7. Docket No. NHTSA-98-3674
   Nonconforming Vehicles: 1995-1997 BMW 5 Series
   Substantially similar U.S.-certified vehicles: 1995-1997 BMW 5 Series
   Notice of Petition published at: 63 FR 17041 (April 7, 1998)
   Vehicle Eligibility Number: VSP-249
8. Docket No. NHTSA-98-3678
   Nonconforming Vehicles: 1995-1997 BMW 3 Series
   Substantially similar U.S.-certified vehicles: 1995-1997 BMW 3 Series
   Notice of Petition published at: 63 FR 17042 (April 7, 1998)
   Vehicle Eligibility Number: VSP-248
9. Docket No. NHTSA-98-3708
   Nonconforming Vehicles: 1998 Harley Davidson FX, FL, and XL
   Substantially similar U.S.-certified vehicles: 1998 Harley Davidson FX, FL, and XL
   Notice of Petition published at: 63 FR 18250 (April 14, 1998)
   Vehicle Eligibility Number: VSP-253
10. Docket No. NHTSA-98-3709
    Nonconforming Vehicles: 1995 Jeep Wrangler manufactured for Middle Eastern and other foreign markets
    Substantially similar U.S.-certified

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vehicles: 1995 Jeep Wrangler
Notice of Petition published at: 63 FR 18249 (April 14, 1998)
Vehicle Eligibility Number: VSP–255

11. Docket No. NHTSA–98–3710
    Nonconforming Vehicles: 1993 Jeep Cherokee manufactured for Middle Eastern and other foreign markets
    Substantially similar U.S.-certified vehicles: 1995 Jeep Cherokee
    Notice of Petition published at: 63 FR 18248 (April 14, 1998)
    Vehicle Eligibility Number: VSP–254
12. Docket No. NHTSA–98–3715
    Nonconforming Vehicles: 1981–1988 Toyota Landcruiser
    Substantially similar U.S.-certified vehicles: 1981–1988 Toyota Landcruiser
    Notice of Petition published at: 63 FR 18489 (April 15, 1998)
    Vehicle Eligibility Number: VSP–252
13. Docket No. NHTSA–98–3716
    Nonconforming Vehicles: 1995–1998 Ford Windstar
    Substantially similar U.S.-certified vehicles: 1995–1998 Ford Windstar
    Notice of Petition published at: 63 FR 18491 (April 15, 1998)
    Vehicle Eligibility Number: VSP–250
14. Docket No. NHTSA–98–3717
    Nonconforming Vehicles: 1990 Volkswagen Transporter
    Substantially similar U.S.-certified vehicles: 1990 Volkswagen Vanagon
    Notice of Petition published at: 63 FR 18490 (April 15, 1998)
    Vehicle Eligibility Number: VSP–251
15. Docket No. NHTSA–98–3806
    Nonconforming Vehicles: 1995 Ferrari 456
    Substantially similar U.S.-certified vehicles: 1995 Ferrari 456
    Notice of Petition published at: 63 FR 25895 (May 11, 1998)
    Vehicle Eligibility Number: VSP–256
16. Docket No. NHTSA–98–3809
    Nonconforming Vehicles: 1997–1998 Mercedes-Benz SLK
    Substantially similar U.S.-certified vehicles: 1997–1998 Mercedes-Benz SLK
    Notice of Petition published at: 63 FR 27117 (May 15, 1998)
    Vehicle Eligibility Number: VSP–257
17. Docket No. NHTSA–98–3811
    Nonconforming Vehicles: 1990–1993 Bentley Continental R
    Substantially similar U.S.-certified vehicles: 1990–1993 Bentley Continental R
    Notice of Petition published at: 63 FR 27116 (May 16, 1998)
    Vehicle Eligibility Number: VSP–258
18. Docket No. NHTSA–98–3822
    Nonconforming Vehicles: 1996–1998 BMW Z3
    Substantially similar U.S.-certified vehicles: 1996–1998 BMW Z3
    Notice of Petition published at: 63 FR 27343 (May 18, 1998)
    Vehicle Eligibility Number: VSP–260
19. Docket No. NHTSA–98–3823
    Nonconforming Vehicles: 1995 Ferrari F355
    Substantially similar U.S.-certified vehicles: 1995 Ferrari F355
    Notice of Petition published at: 63 FR 27344 (May 18, 1998)
    Vehicle Eligibility Number: VSP–259
20. Docket No. NHTSA–98–3851
    Nonconforming Vehicles: 1995 Mercedes-Benz C280
    Substantially similar U.S.-certified vehicles: 1995 Mercedes-Benz C280
    Notice of Petition published at: 63 FR 27616 (May 19, 1998)
    Vehicle Eligibility Number: VSP–262
21. Docket No. NHTSA–98–3852
    Nonconforming Vehicles: 1997 Porsche Boxster
    Substantially similar U.S.-certified vehicles: 1997 Porsche Boxster
    Notice of Petition published at: 63 FR 27617 (May 19, 1998)
    Vehicle Eligibility Number: VSP–261

[FR Doc. 98–19251 Filed 7–17–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 558 (Sub–No. 1)]

Railroad Cost of Capital—1997

AGENCY: Surface Transportation Board.

ACTION: Notice of decision.

SUMMARY: On July 20, 1998, the Board served a decision to update its estimate of the railroad industry's cost of capital for 1997. The composite cost of capital rate for 1997 is found to be 11.8%, based on a current cost of debt of 7.2%; a cost of common equity capital of 13.8%; a cost of preferred equity capital of 6.1%; and a 29.67% debt, 70.28% common equity, 0.05% preferred equity capital structure mix. The cost of capital finding made in this proceeding will be used in a variety of Board proceedings.

EFFECTIVE DATE: This action is effective July 9, 1998.

FOR FURTHER INFORMATION CONTACT: Leonard J. Blistein, (202) 565–1529. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: The cost of capital finding in this decision shall be used to evaluate the adequacy of railroad revenues for 1997 under the standards and procedures promulgated in *Standards for Railroad Revenue Adequacy*, 3 I.C.C.2d 261 (1986). This finding may also be used in other Board proceedings involving, for example, the prescription of maximum reasonable rate levels and proposed abandonments of rail lines. Additional information is contained in the Board's decision. To obtain a copy of the full decision, write to, call, or pick up in person from: DC NEWS & DATA, INC., Room 210, 1925 K Street, N.W., Washington, DC 20423. Telephone: (202) 289–4357. [Assistance for the hearing impaired is available through TDD services (202) 565–1695.] The decision is also available on the Board's internet site at www.stb.dot.gov.

Environmental and Energy Considerations

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Regulatory Flexibility Analysis

Pursuant to 5 U.S.C. 605(b), we conclude that our action in this proceeding will not have a significant economic impact on a substantial number of small entities. The purpose and effect of this action are to update the annual railroad industry cost of capital finding by the Board. No new reporting or other regulatory requirements are imposed, directly or indirectly, on small entities.

Authority: 49 U.S.C. 10704(a).

Decided: July 9, 1998.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 98–19286 Filed 7–17–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–547X]

Roaring Fork Railroad Holding Authority—Abandonment Exemption—in Garfield, Eagle and Pitkin Counties, CO

On June 30, 1998, Roaring Fork Railroad Holding Authority (RFRHA) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903–10905 [1] to abandon its line of railroad known as the Aspen Branch, extending from milepost 360.22 near Glenwood Springs to the end of the line at milepost 393.66 near Woody Creek, a total distance of approximately 33.44 miles in Garfield, Eagle and Pitkin Counties, CO. The line traverses U.S. Postal Service Zip Codes 81601, 81602, 81621, 81623, 81628, 81654 and 81656. There are no stations on the line.

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[1] RFRHA seeks exemptions from the offer of financial assistance (OFA) provisions of 49 U.S.C. 10904 and the public use provisions of 49 U.S.C. 10905. These exemption requests will be addressed in the final decision.

The line contains federally granted rights-of-way. Any documentation in RFRHA's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by October 16, 1998.

Unless an exemption is granted from the OFA provisions of 49 U.S.C. 10904, any OFA under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a $1,000 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Unless an exemption is granted from the public use provisions of 49 U.S.C. 10905, any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than August 10, 1998.[2] Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–547X and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001; and (2) Charles H. Montange, 426 NW 162d Street, Seattle, WA 98177.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1545. [TDD for the hearing impaired is available at (202) 565–1695.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: July 14, 1998.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–19285 Filed 7–17–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–33 (Sub–No. 122X)]

Union Pacific Railroad Company—Abandonment Exemption—in Monroe and Juneau Counties, WI

Union Pacific Railroad Company (UP) has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments and Discontinuances of Service and Trackage Rights* to abandon and discontinue service over a 8.4-mile line of railroad on the Camp Douglas Industrial Lead from milepost 174.3 near Wyeville to the end of the line at milepost 182.7 near Camp Douglas, in Monroe and Juneau Counties, WI.[1] The line traverses United States Postal Service Zip Codes 54660 and 54618.

UP has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on August 19, 1998, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by July 30, 1998. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by August 10, 1998, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Joseph D. Anthofer, General Attorney, Union Pacific Railroad Company, 1416 Dodge Street, Room 830, Omaha, NE 68179.

If the verified notice contains false or misleading information, the exemption is void ab initio.

UP has filed an environmental report which addresses the effects of the

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[2] Included in its petition is a request by RFRHA to railbank the line and a statement of its willingness to assume full responsibility for the management and use of the right-of-way and for the payment of taxes and other liabilities. This request by RFRHA to railbank its own line will be addressed in the final decision.

[1] Pursuant to 49 CFR 1150.50(d)(2), the railroad must file a verified notice with the Board at least 50 days before the abandonment or discontinuance is to be consummated. The applicant in its verified notice, indicated a proposed consummation date of August 12, 1998. However, because the verified notice was filed on June 30, 1998, consummation may not take place prior to August 19, 1998. Applicant's representative has been contacted and has confirmed that consummation will not take place until August 19, 1998.

Juneau County (County) filed a request for issuance of a notice of interim trail use (NITU) for the entire line pursuant to section 8(d) of the National Trails System Act, 16 U.S.C. 1247(d). The Board will address the County's trail use request and any others that may be filed in a subsequent decision.

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. See 49 CFR 1002.2(f)(25).

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abandonment and discontinuance, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by July 24, 1998. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), UP shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by UP's filing of a notice of consummation by July 20, 1999, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: July 9, 1998.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–19284 Filed 7–17–98; 8:45 am]

BILLING CODE 4915–00–P

UNITED STATES ENRICHMENT CORPORATION

Sunshine Act Meeting

AGENCY: United States Enrichment Corporation.

SUBJECT: Board of Directors.

TIME AND DATE: 5:00 p.m., Wednesday, July 22, 1998.

PLACE: USEC Corporate Headquarters, 6903 Rockledge Drive, Bethesda, MD 20817.

STATUS: The meeting will be closed to the public.

MATTER TO BE CONSIDERED: Privatization of the Corporation.

CONTACT PERSON FOR MORE INFORMATION: Elizabeth Stuckle at 301/564–3399.

Dated: July 15, 1998.

Carol K. DiSibio,

Clerk to the Board.

[FR Doc. 98–19345 Filed 7–16–98; 9:11 am]

BILLING CODE 8720–01–M

Corrections

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[MD Docket No. 98-36; FCC 98-115]

Assessment and Collection of Regulatory Fees for Fiscal Year 1998

Correction

In rule document 98–17222 beginning on page 35847, in the issue of Wednesday, July 1, 1998, make the following correction:

On page 35859, in the table, above § 1.1154, insert "4. Section 1.1154 is revised to read as follows:".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 918

[SPATS No. LA-017-FOR]

Louisiana Regulatory Program

Correction

In rule document 98–12249 beginning on page 25391, in the issue of Friday, May 8, 1998, make the following corrections:

1. On page 25393, in the first column, under the heading, *E. Section 5333. Hydrologic Balance: Impoundments*, in the sixth line, "(120" should read "(210".

2. On page 25394, in the table, in the third column, the second line, "A.2a.," should read "A.2.a.,".

BILLING CODE 1505-01-D

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federal register

Monday
July 20, 1998

Part II

Department of Energy

Federal Energy Regulatory Commission

18 CFR Part 37

Open Access Same-Time Information System and Standards of Conduct; Final Rule

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 37

[Docket No. RM95–9–003]

Open Access Same-Time Information System and Standards of Conduct

Issued June 18, 1998.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order on OASIS-related issues.

SUMMARY: In this order, the Federal Energy Regulatory Commission (the Commission): finds that "source and sink" information must be unmasked at the time when a transmission provider updates the transmission reservation posting to show the customer's confirmation that it wishes to finalize a transaction; implements interim procedures for the on-line negotiation of transmission service price discounts; and adopts a comprehensive update of the OASIS Standards and Communications Protocols Document that implements a number of findings made by the Commission in Order No. 889–A and in response to industry suggestions.

DATES: The current S&CP Document (Version 1.1), as modified to incorporate the interim procedures on price negotiation, is to become effective on September 18, 1998. The revised S&CP Document (Version 1.2) is to become effective on December 1, 1998. The revisions to the S&CP Document in § 4.3.7.b, pertaining to the masking of source and sink information, are to become effective on January 1, 1999.

FOR FURTHER INFORMATION CONTACT:
Marvin Rosenberg (Technical Information), Office of Economic Policy, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, (202) 208–1283
William C. Booth (Technical Information), Office of Electric Power Regulation, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, (202) 208–0849
Gary D. Cohen (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, (202) 208–0321

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in the Public Reference Room at 888 First Street, N.E., Room 2A, Washington, D.C. 20426.

The Commission Issuance Posting System (CIPS) provides access to the texts of formal documents issued by the Commission. CIPS can be accessed via Internet through FERC's Homepage (http://www.ferc.fed.us) using the CIPS Link or the Energy Information Online icon. The full text of this document will be available on CIPS in ASCII and WordPerfect 6.1 format. CIPS is also available through the Commission's electronic bulletin board service at no charge to the user and may be accessed using a personal computer with a modem by dialing 202–208–1397, if dialing locally, or 1–800–856–3920, if dialing long distance. To access CIPS, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400, or 1200 bps, full duplex, no parity, 8 data bits and 1 stop bit. User assistance is available at 202–208–2474 or by E-mail to CipsMaster@FERC.fed.us.

This document is also available through the Commission's Records and Information Management System (RIMS), an electronic storage and retrieval system of documents submitted to and issued by the Commission after November 16, 1981. Documents from November 1995 to the present can be viewed and printed. RIMS is available in the Public Reference Room or remotely via Internet through FERC's Homepage using the RIMS link or the Energy Information Online icon. User assistance is available at 202–208–2222, or by E-mail to RimsMaster@FERC.fed.us.

Finally, the complete text on diskette in WordPerfect format may be purchased from the Commission's copy contractor, La Dorn System Corporation. La Dorn Systems Corporation is located in the Public Reference Room at 888 First Street, N.E., Washington, D.C. 20426.

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    4. *Comments on Reservation Time Limits*
  F. *Data Elements in the Templates Are to be Fixed in Sequence and Number, and Are Not to Differ Among OASIS Nodes*
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Attachment 1—*ABBREVIATIONS OF NAMES USED IN ORDER*
Attachment 2—*Revised "STANDARDS AND COMMUNICATION PROTOCOLS FOR OPEN ACCESS SAME-TIME INFORMATION SYSTEM (OASIS) Phase IA" (clean version)*
Attachment 3—*Revised "STANDARDS AND COMMUNICATION PROTOCOLS FOR OPEN ACCESS SAME-TIME INFORMATION SYSTEM (OASIS) Phase IA" (with revisions to OASIS How Group's most recent submittal highlighted)*

Before Commissioners: James J. Hoecker, Chairman; Vicky A. Bailey, William L. Massey, Linda Breathitt, and Curt Hébert, Jr.

Order on OASIS-Related Issues

I. Background

The Commission has determined that open access non-discriminatory transmission service requires that information about the transmission system must be made available to all transmission users at the same time by way of the Open Access Same-Time Information System (OASIS).[1] The

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[1] Open Access Same-Time Information System and Standards of Conduct, Order No. 889, FERC Stats. & Regs. ¶ 31,035, 61 FR 21,737 (1996); *order granting request for clarification*, 77 FERC ¶ 61,335 (1996); *order on reh'g*, Order No. 889–A, FERC Stats. & Regs. ¶ 31,049, 62 FR 12484 (1997); and order denying reh'g, Order No. 889–B, 81 FERC ¶ 61,253, 62 FR 64715 (1997).

See also Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Order No. 888, FERC Stats. & Regs. ¶ 31,036, 61 FR 21540 (1996); *order on* current Phase I OASIS is an Internet-based electronic communication and reservation system through which transmission providers[2] furnish potential transmission customers with information pertaining to the availability and price of transmission and ancillary services and potential customers may select and procure those services in the form of service reservations.[3] To ensure that individual OASIS nodes present information in a consistent and uniform manner, the Commission has relied upon the industry to develop standards and protocols for the Commission's review and approval that specify, among other things, OASIS templates defining the information that must be presented to customers interested in procuring transmission-related services, both in the interactive form of graphical displays or screens, and in the form of downloadable files. To this end, EPRI and NERC have jointly facilitated the ongoing activities of the OASIS "How" Working Group (How Group)[4] to develop suitable OASIS standards and communications protocols.[5] In this order, we address several OASIS matters raised in connection with our directives in Order No. 889–A, various submittals from the How Group, and comments from interested persons.[6]

In Order No. 889–A, we determined that any "negotiation" between a transmission provider and a potential transmission customer over price discounts should take place on the OASIS, visible to all market participants. We also ordered some minor revisions to the OASIS regulations,[7] and requested that the How Group recommend certain changes to the S&CP Document consistent with the determinations we made in Order No. 888–A.[8] We made a request to the How Group to propose any conforming changes that might be necessary to the S&CP Document by June 2, 1997, and to inform the Commission of the earliest date by which the industry could meet our transmission service negotiation and price discount disclosure requirements during Phase I.

On June 27, 1997, the How Group proposed interim measures to allow on-line transmission service negotiation and posting of price discounts on currently configured Phase I OASIS nodes pending development of a more satisfactory method.

The How Group also sought clarification of the Commission's stated intention regarding source and sink[9] disclosure in Order No. 889–A. In that order, we deleted from the OASIS regulations provisions permitting transmission customers to request that transmission providers posting transmission and ancillary service requests and responses under § 37.6(e) temporarily mask the identities of the parties to the transaction during and after negotiations for transmission service.[10] The How Group asked if this meant that the source and sink information routinely provided by potential transmission customers and reported on OASIS transmission service request templates was also to be divulged. In addition, the How Group requested clarification as to whether a transmission price "discount" as used in Order No. 889–A refers to any price below the ceiling price.

On July 15, 1997, we issued a notice concerning the How Group's June 27 filing and invited public comment on the request for clarification of the Commission's masking requirements, the proposed interim measures for on-line transmission service negotiations, and the posting of transmission price discounts. The 13 comments we received are referred to herein as "Comments on How Group's June 27 letter".[11]

On August 12, 1997, the How Group submitted an updated revised S&CP Document (Phase IA S&CP Document) to fully implement our transmission price discount negotiation policy and the minor revisions enumerated in Order No. 889–A.[12] In addition to replacing the How Group's interim measures with more comprehensive procedures, the Phase IA S&CP Document incorporates several proposals prompted by the industry's experience in doing business using OASIS. The How Group proposes implementation six months after approval by the Commission, in order to allow four months for standards and protocol development and beta testing and two months for training and full scale testing.

On August 29, 1997, we issued a notice inviting public comment on the August 12 submittal. Four comments

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reh'g, Order No. 888–A, FERC Stats. & Regs. ¶ 31,048, 62 FR 12274, 62 FR 64688 (1997); *order on reh'g*, Order No. 888–B, 81 FERC ¶ 61,248 (1997); and *order on reh'g*, Order No. 888–C, 82 FERC ¶ 61,046 (1998).

[2] The term "Transmission Provider" is defined at § 37.3(a) of the Commission's OASIS regulations, 18 CFR Part 37 (1997), as:

"any public utility that owns, operates, or controls facilities used for the transmission of electric energy in interstate commerce."

[3] Early work on OASIS development has focused on facilitating the more frequently sought short term point-to-point transmission related services. Phase I of OASIS development has involved the establishment of basic OASIS sites (nodes) by each transmission provider, by January 3, 1997, with ongoing refinements that permit potential transmission customers to reserve transmission capacity and related services. OASIS Phase II contemplates fully functional OASIS nodes that additionally will allow on-line scheduling of transmission service and of the energy associated with transmission service that now must be accomplished off-OASIS by facsimile or telephone.

[4] A list of the abbreviations of names used in this order is provided in Attachment 1.

[5] Section 37.5(b)(2) of the OASIS regulations, 18 CFR 37.5(b)(2) (1997), requires that each transmission provider operate its OASIS node in compliance with the standardized procedures specified in the OASIS Standards and Communications Protocols document (referred to herein as the S&CP Document).

[6] In Order No. 889–A, we directed a number of changes to OASIS that are listed at note 64, *infra*. The submittals from the How Group included responses to the directives in Order No. 889–A, as well as requests for clarification and suggestions for additional changes to the S&CP Document based on business experience under OASIS.

[7] The minor revisions involved corrections of examples, typographical errors, out-of-date cross references, and similar changes.

[8] Consistent with this finding, we made a request to the How Group to make recommendations on eliminating any references in the S&CP Document (Version 1.1) pertaining to masking the identities of parties to the transmission transaction (*e.g.*, at § 4.3.7.b). We also made a request to the How Group to make recommendations on revising the templates used for the posted transmission service offerings (at § 4.3.2), the status of transmission service requests (at § 4.3.7), and the status of ancillary service requests (at § 4.3.9) to include: (1) the transmission provider's transmission and ancillary services maximum (ceiling) rates; (2) the transmission provider's offering price; (3) the price requested by the customer; and (4) the details of the negotiated transaction. *See* Order No. 889–A, FERC Stats. & Regs. ¶ 31,049 at 30,566.

[9] As we explain further below, depending on the requirements of the transmission provider, source and sink information, specifying the location of the generator(s) and the location of the ultimate load, may either refer to control areas in which the generation or load are located, or to specific generator or load busses.

[10] The relevant and now deleted OASIS regulations, at §§ 37.6(e)(1)(iii) and 37.6(e)(3)(i), respectively, read:

"The identify of the parties will be masked—if requested—during the negotiating period and for 30 days from the date when the request was accepted, denied or withdrawn.

When any transaction is curtailed or interrupted, the curtailment or interruption must be posted (with the identities of the parties masked as required in § 37.6(e)(1)(iii)) and must state the reason why the transaction could not be continued or completed."

[11] Comments on the June 27, 1997 letter were filed by APPA, CILCO, CCEM, Commonwealth Edison, CPEX, Electric Clearinghouse (jointly with PECO Energy), EPSA, Florida Power Corp, NRECA, NYSEG, PJM, and Southern (on behalf of Alabama Power, Georgia Power, Gulf Power, Mississippi Power, and Savannah). The How Group also filed comments, on September 22, 1997, which included proposed revisions to the S&CP Document to accommodate its proposed interim procedures for on-line transmission service negotiations and the posting of transmission price discounts.

[12] The How Group submitted a preliminary draft version of this proposal on July 9, 1997. Further additions, clarifications and corrections to the August 12, 1997 filing, were submitted on September 23, 1997.

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were filed and are referred to herein as "Comments on Phase IA".[13]

II. Discussion

A. Overview

In this order, we: (1) conclude that the source and sink information reported on OASIS transmission service request templates should be unmasked at the time when a transmission provider updates the transmission reservation posting to show the customer's confirmation that it wishes to finalize the transaction; (2) require modifications to the operative language in the existing S&CP Document (Version 1.1) to incorporate our findings on unmasking source and sink information (to become effective on January 1, 1999) and on proposed interim measures (to become effective 60 days from the date of publication of this order in the **Federal Register**; and (3) adopt, with the revisions discussed below, the Phase IA S&CP Document (as corrected by the How Group in its September 23, 1997 submittal), as Version 1.2, to become effective on December 1, 1998. For clarity, we address the issues raised by the various How Group submittals and related public comments on an issue-by-issue basis.

B. Masking of Source and Sink Related Information

The Commission has been asked to decide whether certain information routinely provided by potential transmission customers, which pertains to the location of the generator(s) (source) and the location of the ultimate load (sink) (collectively, source and sink information) should be made publicly available (by a posting on the OASIS) or should be kept confidential (and made available only to transmission system operators). This information, which helps define the transmission service being requested,[14] is submitted to the transmission provider by the potential transmission customer when it completes the TRANSREQUEST template as part of its initial request for transmission service.

Under the current S&CP Document, the source and sink information becomes an element of the transmission provider's response to the potential transmission customer's query on the status of its pending service request.[15] However, since such information might be used to infer the identifies of the power supplier and the power purchaser associated with a pending transmission service request, historically this element of the response has been masked. In connection with the masking of certain other information, in Order No. 889–A, we decided to delete the temporary masking option provisions in our OASIS regulations (formerly found in § 37.6(e)(1)(iii) and § 37.6(e)(3)(i), *see supra* note 10) applicable to the identities of the parties to the transmission transaction (*i.e.*, the transmission provider and the potential transmission customer), since our price discount policy calls for the identities of the parties negotiating the discount to be made public during the negotiation period.[16] Accordingly, we asked the How Group to eliminate any references in the S&CP Document to the masking of the identities of transaction parties.[17] We reaffirmed this decision in Order No. 889–B.[18]

In its June 27, 1997, submittal, the How Group asks us to clarify whether Order No. 889–A intended to require the unmasking of the source and sink information posted on the TRANSSTATUS and other templates covered by § 4.3.5b of the S&CP Document. Although the How Group prepared and provided a summary of the positions of transmission providers and transmission customers on this issue,[19] we invited further public comments on the matter.[20]

Comments

1. Business Sensitivity and Competitive Effect. It is not clear that all commenters mean the same thing by source and sink. Some appear to refer to the exact location of the generation and load, while others appear to refer to the control area, which may cover a much broader geographic area. With regard to the impact that unmasking of source and sink information may have on competition, Commonwealth Edison, CCEM, EPSA, and PECO Energy predict that unmasking will result in the elimination of the role that power marketers play in electricity markets in matching the needs of power suppliers to sell their generation output with the needs of power purchasers to meet their loads.[21] They posit that once the location of the generating facility (source) and the location of the load ultimately served (sink) for each point-to-point transmission service transaction is made publicly available, such information will be used by each party (*i.e.*, the power supplier and the power purchaser) to match up their respective needs and deal directly with each other, if possible, to their mutual advantage and to avoid the power marketer's mark-up.

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[13] Comments on the How Group's Phase IA submittal were filed by AEP, How Group/Commercial Practices Group, PECO, and Southern. The How Group/Commercial Practices Group comments included the September 23, 1997 revision of the Phase IA S&CP Document incorporating clarifications and minor corrections.

In addition, on April 3, April 9, April 10, and April 27, 1998, the How Group submitted a series of corrections and revisions to its OASIS Phase IA submittal incorporating various clarifications and minor corrections to the S&CP Document. Each successive submittal superseded all pending earlier submittals. We issued a notice of the April 10, 1998 submittal and not of those earlier submittals that it superseded (the April 27 corrections were submitted as comments on the April 10, 1998 submittal). We expected to act on the latest corrections of the How Group in this order. However, with so many revisions, we are uncertain that all errors have been identified. We therefore invite the How Group to file with the Commission a revised Phase IA submittal, within 21 days of the date of issuance of this order, in WordPerfect 6.1 format, that to the greatest extent possible identifies all needed corrections to the S&CP Document. We request that the transmittal letter for this submittal provide a complete explanation of all revisions and why they are being proposed. We also request that the submittal contain both a clean version and a redline/strikeout version showing changes between that version and the one being issued in this order. We will issue a public notice when we these documents are filed and will take action on the How Group's recommendations shortly thereafter.

[14] Source and sink information for point-to-point transmission service describes the location of the generators and the ultimate load in an electric system sense, and does not necessarily identify sellers and buyers by name. In accordance with the convention of the transmission provider under its individual Open Access Tariff (the Pro Forma Tariff allowed each transmission provider to determine this for itself in its Open Access Tariff filing) this source and sink information may routinely include only the identities of the respective control areas (*e.g.*, in the case of point-to-point transmission across a transmission provider's system, the point of receipt is identified as a control area and the point of delivery is similarly identified), or it may include the identities of the respective bus bars of the particular generators and loads (*e.g.*, in the case of transmission within, out of or into a transmission provider's transmission system). *See*, the Data Element Dictionary, accompanying the S&CP Document that, for template purposes, defines "source" as "[t]he area in which the SOURCE is located" and "sink" as "[t]he area in which the SINK is located."

The source and sink information here at issue is the source and sink information reported on OASIS templates. We are not addressing, and not requiring the disclosure of, information collected from customers as part of a complete application for transmission service under the Pro Forma Tariff, including information on whether the requested transmission service is feasible (*e.g.*, the NERC "tagging" information that might accompany the scheduling of transmission service). *See* Coalition Against Private Tariffs, and Western Resources, Inc., 8[illegible] FERC ¶ 61,015 (1998), *reh'g pending* (*CAPT*). *CAPT* is further discussed *infra* at notes 47, 74, and 76.

[15] *See also* "service request" transaction templates at § 4.3.5 of the S&CP Document.

[16] Order No. 889–A, FERC Stats. & Regs. at 30,569–70.

[17] *Id.* The How Group made this deletion in its August 1[illegible], 1997, Phase IA filing.

[18] Order No. 889–B, 81 FERC at 62,175.

[19] In its June 27, 1997 letter, the How Group summarized the positions of interest groups as follows:

- Transmission Providers generally do not have a preference on this issue, although it is technically easier for them if there is no masking on OASIS at all.
- Transmission customers involved in merchant activities strongly support having source and sink identity masked from competitors indefinitely or for as long as possible because they consider this information to be business sensitive.

[20] The Commission invited comments on: (1) why some parties consider this information to be business sensitive or confidential while others do not; (2) whether public access to this information might harm competition and reduce efficiency, and if so, why; (3) whether, in the event that source and sink information continues to be masked, competitors will be able to accurately infer this information from other sources; and (4) the implications of unmasking for contract path and flow-based pricing regimes for reserving transmission capability.

Florida Power Corp believes that unmasking source and sink information will eliminate some opportunities for marketers, if this information is made publicly available when transmission services are reserved, because power suppliers and power purchasers will then have time to negotiate directly.[22]

APPA points to the technical burden that masking efforts place on transmission providers.[23] It further argues that the bypass of power marketers that might be caused by unmasking is actually an efficient outcome, if all that unmasking adds to the overall transaction is the possibility of direct matching of the power supplier and the power purchaser. APPA asserts that those entities warning that the unmasking of source and sink information will cause harm to power marketers are really confusing a threat of private harm with societal harm. In its view, making source and sink information publicly available would serve the interests of ultimate customers.[24]

PJM sees no reason to mask source and sink information. It believes that providing this information to all market participants will increase both competition and the overall efficiency of the market.[25] NYSEG shares the view that electricity markets may become more efficient with more transmission information made available on a non-discriminatory basis.[26]

Southern suggests that the Commission should not unmask source and sink information unless it has a strong policy reason to do so.[27] Both EPSA and PECO Energy acknowledge the apparent benefit of unmasking source and sink information, but contend that such benefits will not be realized in practice, especially at this early stage when competitive electricity markets are still evolving.[28] They also argue that unmasking source and sink information would result in the loss of significant benefits they claim power marketers now bring to electricity markets, including liquidity, risk management, and creativity in meeting the unique needs of power suppliers and power purchasers.[29] EPSA foresees the competitiveness of electricity markets being undermined by unmasking, with markets eventually returning to monopoly power suppliers and captive power purchasers.[30] CPEX also sees unmasking as a serious threat to competitive electricity markets.[31]

CCEM makes the commercial business argument that unmasking will compel power marketers to give up the benefits that they provide without being compensated.[32] It further argues that the threat of after-the-fact audits should be sufficient to discourage instances of undue discrimination in the provision of transmission services and that unmasking is unnecessary for this purpose.

With regard to more improved utilization of transmission systems, NYSEG asserts that unmasking will allow all transmission users to gauge what impact a given transmission service transaction will have on the transmission provider's system.[33] NRECA suggests unmasking will provide transmission users with a better idea of the planned and scheduled uses of the transmission system and what additional transmission capacity is available. While it supports making source and sink information available at the time when transmission providers and potential transmission customers finalize reservations and energy schedules, NRECA opposes unmasking during the period when transmission reservation requests and the associated off-OASIS energy schedule requests are still pending.[34] Commonwealth Edison sees any enhancement of transmission system capacity analysis by transmission customers resulting from the disclosure of source and sink information, as being only theoretical. It asserts that postings of "available transmission capacity" (ATC) provide sufficient information for customers to analyze the impacts that various transmission transactions may have on the transmission system and its users.[35]

2. Other Information Sources and the Need for Source and Sink Information. With regard to whether similar information might be available elsewhere, which would allow the identity of the power supplier and the power purchaser associated with a given transmission transaction to be inferred even if masking is continued, Commonwealth Edison and Florida Power Corp opine that it would be extremely difficult to bypass power marketers by obtaining similar information from other sources.[36] NRECA contends that source and sink information will be available from the NERC transaction information system or the tagging form.[37] PECO Energy and Commonwealth Edison believe that unmasking should not be viewed as a reliability matter.[38]

Some commenters question the underlying need for source and sink information, even if it is not made publicly available. CPEX asserts that requiring source and sink information is an unnecessary burden on merchants and that the only information that system operators need to assure transmission reliability is information on power being sent and received through their control areas.[39] In CPEX's view, this is sufficiently covered by ATC without need for specific information on the source and the sink. CPEX further claims that transmission curtailment is only infrequently needed and, when it is, it is implemented by shifting among alternative generation sources without reliance on source and sink information. APPA, however,

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[21] EPSA Comments on How Group's June 27 letter at p. 4; PECO Energy Comments on How Group's June 27 letter at p. 4; Commonwealth Edison Comments on How Group's June 27 letter at p. 2; and CCEM Comments on How Group's June 27 letter at p. 7.

[22] Florida Power Corp Comments on How Group's June 27 letter at pp. 1–2.

[23] APPA Comments on How Group's June 27 letter at p. 1.

[24] APPA Comments on How Group's June 27 letter at p. 3.

[25] PJM Comments on How Group's June 27 letter at p. 1.

[26] NYSEG Comments on How Group's June 27 letter at p. 2.

[27] Southern Comments on How Group's June 27 letter at p. 4.

[28] EPSA Comments on How Group's June 27 letter at p. 4 and PECO Energy Comments on How Group's June 27 letter at p. 3.

[29] EPSA Comments on How Group's June 27 letter at p. 4 and PECO Energy Comments on How Group's June 27 letter at p. 4.

[30] EPSA Comments on How Group's June 27 letter at p. 4.

[31] CPEX Comments on How Group's June 27 letter at pp. 3–4.

[32] CCEM Comments on How Group's June 27 letter at p. 4.

[33] NYSEG Comments on How Group's June 27 letter at p. 1.

[34] NRECA Comments on How Group's June 27 letter at pp. 1–2.

[35] Commonwealth Edison Comments on How Group's June 27 letter at p. 2.

[36] Commonwealth Edison Comments on How Group's June 27 letter at p. 3 and Florida Power Corp Comments on How Group's June 27 letter at p. 3.

[37] NRECA Comments on How Group's June 27 letter at pp. 1–2.

[38] PECO Energy Comments on How Group's June 27 letter at p. 2 and Commonwealth Edison Comments on How Group's June 27 letter at p. 4.

[39] CPEX Comments on How Group's June 27 letter at pp. 1–3.

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complains that NERC has a policy of treating tagging information as confidential.[40] Finally, EPSA contends that the adverse competitive impacts of unmasking outweigh the limited benefits of source and sink information being collected, since the information is of only marginal relevance in the rare situation when there is a transmission constraint.[41]

3. Differing Impacts on Contract Path and Flow-Based Transmission Pricing Regimes. With regard to whether unmasking source and sink information affects either a contract path or flow-based transmission capacity pricing regime,[42] PJM sees unmasking making no difference.[43] Florida Power Corp notes that the method of calculating ATC for transmission service reservation purposes for either pricing regime is the same and, for this reason, asserts that neither pricing regime influences the decision of whether this information should be unmasked.[44] Finally, APPA asserts that source and sink information is essential under both transmission reservation pricing regimes for determining the potential impact of a request and all parties should have equal and full knowledge of this information.[45]

Commission Conclusion

Initially, we note that this proceeding does not concern whether the transmission provider should collect source and sink information from a potential customer seeking point-to-point transmission service. Point of receipt and point of delivery information is necessary for the transmission provider and we are not entertaining comments directed at challenging the necessity to collect this type of information in this proceeding. Nor does this proceeding concern questions regarding NERC tagging information.[46]

The issue here is whether to unmask, that is, make known to all parties, point-to-point transmission service source and sink information now made known to transmission system operators. We are persuaded that such source and sink information[47] should be disclosed publicly through an OASIS posting at the time when the transmission provider updates the OASIS posting to show that a customer has confirmed its request for point-to-point transmission service. As we explain below, we believe that disclosure of this information will foster greater public confidence in the integrity of OASIS systems and improve the ability of such systems to facilitate open access use of transmission systems comparable to that enjoyed by the transmission providers. We also believe that unmasking can be accomplished without compromising the role that power marketers play in electricity markets.

First, the disclosure of source and sink information will provide wholesale transmission customers and others with useful data for the after-the-fact evaluation of the accuracy of transmission providers' OASIS postings of ATC and total transmission capacity (TTC). Second, disclosure will also provide useful information for discerning any patterns of undue discrimination in the rendering of or refusals to provide transmission services and in price discounting by transmission providers. Thus, disclosure should encourage accurate postings and fair treatment leading to better competitive utilization of transmission systems.

While we acknowledge the potential business sensitivity that power marketers attach to source and sink information, we believe that delaying unmasking until the transmission provider updates the transmission reservation posting to show the customer's confirmation should allow the power marketer to finalize its arrangements with the power purchaser and the power seller. Moreover, delaying disclosure will not result in the public at large losing the benefits that disclosure offers to all transmission users, including power marketers, since assessments of the accuracy of posted information and unduly discriminatory activity based on such information will of necessity be conducted on an after-the-fact basis. We caution that our overriding concerns are with the promotion of the overall competitiveness of the electricity markets and with ensuring openness, confidence, and nondiscrimination in the use of interstate transmission facilities.[48]

We thus require that transmission providers unmask the source and sink information that is posted on TRANSSTATUS and other templates at the time when a request status posting is updated by the transmission provider to show that the customer has confirmed, in response to the transmission provider's acceptance of its offer, that it still wants to complete the transaction and purchase transmission service. Accordingly, we order corresponding revisions to be made to the masking requirements of the S&CP Document.[49] However, in recognition of the concerns expressed in this proceeding regarding the potential business sensitivity of source and sink information and the somewhat limited experience the Commission has had with the OASIS, we determine it is appropriate to delay the implementation of these revisions for seven months. This will permit competitive electric markets additional time to develop. Therefore, these revisions are to become effective on January 1, 1999.

Our decision to unmask source and sink information is consistent with sections 17.2 and 18.2 of the Pro Forma Tariff.[50] These sections provide that a transmission provider, unless otherwise ordered to do so, is obligated to treat confidentially information that is supplied as part of a Completed Application for transmission service pertaining to the location of the generator and the location of load ultimately served. We herein find that the obligation in the Pro Forma Tariff to treat such information confidentially does not contradict the requirement we are establishing in this order to unmask the source and sink information reported on the TRANSSTATUS and other S&CP Document templates at the time when the transmission provider posts on the OASIS that the customer confirms that it wants to complete the transaction. As noted above, *supra* note 50, the Pro Forma Tariff provides that transmission providers are to keep certain information on source and sink confidential at the request of a transmission customer, except in specified circumstances, which include a regulatory order requiring disclosure. In this regulatory order, we make just such an exception. Accordingly, the requirement in this order to disclose certain source and sink information is consistent with the requirements of the Pro Forma Tariff.

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[40] APPA Comments on How Group's June 27 letter at p. 4.

[41] EPSA Comments on How Group's June 27 letter at pp. 5–6.

[42] Flow-based pricing, unlike contract path pricing, may recognize all of the paths that a given transmission transaction utilizes. *See* Order No. 888, FERC Stats. & Regs. at 31,650 n.95.

"[I]n contrast to contract path pricing, flow-based pricing establishes a price based on the costs of the various parallel paths actually used when the power flows. Because flow-based pricing can account for all parallel paths used by the transaction, all transmission owners with facilities on any of the parallel paths could be compensated for the transaction."

[43] PJM Comments on How Group's June 27 letter at pp. 1–2.

[44] Florida Power Corp Comments on How Group's June 27 letter at pp. 3–4.

[45] APPA Comments on How Group's June 27 letter at p. 5.

[46] The Commission, elsewhere, has previously addressed NERC's tagging requirements. *See, CAPT supra* note 15.

[47] We earlier defined the source and sink information here at issue, *supra* notes 9 and 14.

[48] Our decision to require that certain potentially sensitive business information be disclosed is consistent with judicial directives to focus on the needs of the overall market, instead of on individual competitors within the market. In *Alabama Power Company* v. *Federal Power Commission*, 511 F.2d 383, 390–391, D.C. Cir. (1974), we had refused to amend our rule that required affected utilities to publicly disclose their monthly Form No. 423 reports of fuel purchases. The court considered various arguments to the effect that, on the one hand, "disclosure of information would lead to bargaining disadvantages in future fuel contract negotiations" (511 F.2d at 390), and on the other hand, any bargaining disadvantage as a result of disclosure would merely reflect the removal of information imperfections in an otherwise competitive market thereby facilitating efficient allocation of resources. [*Id.*]

Notably, the court found that,

"a sudden improvement in the availability of information may deprive a buyer of an advantage he enjoyed when, under more imperfect dissemination, he exploited a seller's ignorance of the market price. * * * Generally, however, laws and practices to safeguard competition assume that its prime benefits do not depend on secrecy of agreements reached in the market. [*Id.* at 391, n.13.]"

[49] We are revising the operative statement in § 4.3.7.2 of the S&CP Document (Version 1.1) that reads "[o]ther fields, such as SOURCE and SINK, may be masked to comply with FERC regulations and Primary Provider tariff" to read as follows:

"Transmission Providers shall make source and sink information available at the time the request status posting is updated to show that a transmission request is confirmed."

C. Proposed Interim Procedures To Achieve On-line Price Negotiation and Disclosure of Discounts in Phase I OASIS Until Phase IA Changes Are Implemented

The How Group's proposed interim procedures contain two separate components. Under the first, transmission service negotiations would be accomplished by allowing a potential transmission customer to make a bid by modifying the offered transmission price in the price field of the TRANSREQUEST template.[51] The transmission provider would then respond to the bid price by using the TRANSSTATUS template to notify the potential customer of whether the bid was accepted or rejected. This modification of the price field would require only a minor change to most OASIS nodes.

The second proposed interim procedure would create a new category ("discounts") in the MESSAGE template to announce agreed-upon transmission service price discounts. A price discount for a non-standard transmission related service, such as weekly service beginning on a Wednesday at 2:00 p.m., would be reported only in the MESSAGE template.

The How Group requested that the industry be given two months to test these interim modifications to OASIS templates and implement the interim measures. While maintaining that its interim procedures are a somewhat cumbersome method to implement on-line transmission service negotiations, the How Group contends that the interim measures will allow negotiations to proceed on the OASIS while a more satisfactory method is developed.

Comments

CCEM contends that on-line negotiation of transmission prices is not feasible at this time because the Internet-based OASIS cannot currently accommodate the speed at which negotiation should comfortably take place. It argues that the interim on-line negotiation process will be so cumbersome that transmission providers will lose interest in price discounting.[52] CCEM also sees the disclosure of transmission price discounts raising business sensitivity concerns and suggests that real time discount price disclosure is not the only means available to prevent unduly discriminatory treatment of transmission customers. As an alternative, CCEM suggests that transmission service negotiations proceed off-OASIS through a process that would rely on phone or facsimile communication arrangements between transmission providers and potential transmission customers.[53] Under CCEM's proposal, whenever a transmission price discount is agreed upon, the availability of the price discount would be broadcast and disseminated on-line over OASIS (within 12 hours in the case of an affiliated customer and within 15 days in the case of a non-affiliated customer).[54]

Commonwealth Edison argues that transmission service negotiations off-OASIS should continue, based on concerns about whether price negotiations could be conducted successfully through present OASIS nodes under the interim measures, given the many steps, the amount of time involved, and the OASIS capacity needed to handle the increased volume of the related communications.[55]

While supporting electronic negotiation of transmission prices, and noting that the NYPP OASIS node could implement the interim measures now, NYSEG also prefers to wait until a real-time or faster Internet-based OASIS system is developed. NYSEG suggests that, during the interim, transmission negotiations rely on recorded telephone calls with any agreed-upon price discounts posted on the OASIS within thirty minutes of the completion of the negotiations.

PJM notes that no changes will be required to the PJM OASIS to implement the How Group's interim measures. Southern, however, cautions that OASIS systems are still in the early stages of development and that requiring the capability for on-line negotiation of transmission price discounts, at this critical stage, would add further complexity to the design of OASIS nodes that could slow down the transmission reservation process and actually could impede the growth of more robust power trading.[56]

Florida Power Corp agrees that the proposed interim measures could be implemented through modification of existing OASIS templates, but stresses that price negotiations will be very cumbersome and not practical, especially for short-term transactions. It suggests that negotiations be conducted by telephone calls, with the results immediately posted on OASIS.[57]

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[50] Section 17.2(iv) of the Pro Forma Tariff (Stats. & Regs., Regulations Preambles at 30,522) reads:

"The location of the generating facility(ies) supplying the capacity and energy and the location of the load ultimately served by the capacity and energy transmitted. The Transmission Provider will treat this information as confidential except to the extent that disclosure of this information is required by this Tariff, by regulatory or judicial order, for reliability purposes pursuant to Good Utility Practice or pursuant to RTG transmission information sharing requirements. The Transmission Provider shall treat this information consistent with the standards of conduct contained in Part 37 of the Commission's regulations.

Section 18.2(vii) of the Pro Forma Tariff (Stats. & Regs., Regulations Preambles at 30,524) reads in relevant part:

"The Transmission Provider will treat this information in (vi) and (vii) as confidential at the request of the Transmission Customer except to the extent that disclosure of this information is required by this Tariff, by regulatory or judicial order, for reliability purposes pursuant to Good Utility Practice, or pursuant to RTG transmission information sharing agreements. The Transmission Provider shall treat this information consistent with the standards of conduct contained in Part 37 of the Commission's regulations."

[51] We noted in Order No. 889–A, FERC Stats. & Regs. at 30,551 and n.12, that "negotiation" would be considered to have taken place only if the transmission provider or transmission customer seeks prices below the ceiling prices set forth in the Order No. 888 Pro Forma Tariff.

[52] CCEM Comments on Interim Measures at pp. 11–12.

[53] CCEM Comments on Interim Measures at p. 11.

[54] *Id.*

[55] Commonwealth Edison Comments on Interim Measures at pp. 4–5.

[56] Southern Comments on Interim Measures at p. 2.

[57] Florida Power Corp Comments on Interim Measures at pp. 4–5.

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NRECA asserts that the interim measures will work effectively only if transmission providers respond in a timely manner to transmission customer requests for price discounts. However, it is willing to accept the interim measures even though they constitute a retrofit and would have developed differently if considered in the initial OASIS design stage.[58]

PECO Energy argues that transmission negotiations off-OASIS should continue, since the majority of transmission providers may not be able to successfully implement the software changes necessary for on-line negotiation of transmission prices over OASIS. PECO opposes mandatory interim measures for on-line negotiation until OASIS is greatly improved.[59] However, it believes that price discounts should be disclosed when offered to affiliates and non-affiliates alike, following the completion of the negotiations.

Commission Conclusion

As we stated in Order No. 889–A,[60] the objective of the interim procedures is to implement our Order No. 888–A on-line transmission price negotiation policy as soon as possible through OASIS, so we can improve the competitiveness of the electricity markets while the industry develops a more sophisticated "Phase IA" approach. Keeping this in mind, we are adopting the first of the How Group's two proposed interim measures (involving modifications to the price field of the TRANSREQUEST template) because it appears that this interim modification can be easily made. We are not adopting the How Group's second proposal (involving a new "discounts" flag in the MESSAGE template) because this revision is more complex and we wish to keep the burden of implementing the interim procedures to a minimum.[61] Under this limited interim procedure, wherein we merely allow the price field to be modified,[62] a potential transmission service customer will be able to request discounts via OASIS, but only on posted transmission service offerings. No commenter has provided persuasive evidence that the How Group's proposal cannot be implemented within the How Group's proposed time frame.

Relying on the How Group's interim proposal, we direct changes to the operative language of the current S&CP Document to allow a potential transmission customer to modify the price field when submitting a request to purchase transmission service using the TRANSREQUEST template.[63] If the customer's bid is approved, the provider will respond by posting the message "accepted" in the TRANSSTATUS template. If the customer's bid is not accepted, then the provider will respond by posting the message "denied."

We require implementation of this directive by September 11, 1998 so that discounts can be requested on-line without waiting for the industry to implement comprehensive changes in Phase IA OASIS.

We believe the benefits of fostering on-line discounting as soon as possible in this limited fashion outweigh the problems that may result from the use of a somewhat cumbersome process and find this preferable to waiting until OASIS Phase IA improvements can be implemented before implementing on-line discounting. As to any business sensitivity concerns over our decision to make price negotiation visible on OASIS, the time to raise these concerns was in the rehearing of Order No. 889–A and not at this compliance stage.

D. How Group Proposals To Revise the Phase IA S&CP Document Requirements

The How Group's proposed longer term revisions incorporated in a Phase IA S&CP Document (Version 1.2) include both the changes we directed in Order No. 889–A and other changes prompted by the industry's experience with operating OASIS sites.[64] Except as discussed below, we find these modifications to the S&CP Document to be acceptable and direct its revision with minor editorial changes to correct typographic errors, enumeration of sections, and other nonsubstantive changes.[65] Additionally, interested persons filed comments on certain of the proposed revisions to the S&CP Document, which we also address below.

1. Comments on Preconfirmed Reservations

In connection with transmission service negotiations, Section 4.2.10.1(a) of the How Group's proposed Phase IA S&CP Document indicates that OASIS shall set OFFER__PRICE equal to BID__PRICE in the case of

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[58] NRECA Comments on Interim Measures at p. 3. Although NRECA argues that "timely" responses are needed, it seeks no revisions to the timetables for posting in 18 CFR 37.6. This issue is also raised by PECO in their comments to Phase IA.

[59] PECO Energy Comments on Interim Measures at p. 7.

[60] Order No. 889–A, FERC Stats. & Regs. at 30,551.

[61] We note, however, that in section II.G *infra*, we accept the How Group's proposal to add a negotiation flag in the TRANSSTATUS template to enable customers to search for discounts, as part of the Phase IA S&CP Document revisions.

[62] This modification is more fully explained in note 63, *infra*.

[63] In the interim, until the revised S&CP Document Version 1.2 (see Attachment 2) becomes effective, we will modify the operative language of S&CP Document Version 1.1, as proposed in the How Group's June 27, 1997 letter with some minor clarifications, through the addition of the following language to § 4.3.7:

"For on-line price negotiation the customer can modify the price field when submitting a request to purchase transmission service using the TRANSREQUEST template. The provider response in the TRANSSTATUS template will either indicate "accepted" if the bid is approved, or "denied" if the bid is not accepted. The reason for denial would be shown in the comments field. The TRANSSTATUS template would retain the customer's bid price as a permanent record, whether accepted or not. If the request is denied for price reasons, the customer could repeat the process by submitting a new request with a different price bid. If a discount is given on a posted product, it is also required that the transmission provider change the posted offer price to match the discounted price for the service, for all unconstrained paths to the same point of delivery (POD) and for the same time period."

This insertion would precede "a. Customer Capacity Purchase Request" in § 4.3.7 of the S&CP Document. We are making this change through the issuance of this order and not through the issuance of an updated S&CP Document because it is to be in effect for only a limited time.

[64] Changes directed by the Commission include: (1) provision for on-line interactive negotiation (such as the addition of new data elements for price offered, price bid, ceiling price); (2) provision for linking ancillary services to transmission services; (3) provision for identification of a reservation made by an affiliated merchant; (4) provision for posting personnel transfers; (5) provision for posting incidents in which the provider exercises discretion in the application of tariffs; and (6) removal of all references in the S&CP Document to masking.

Improvements suggested by industry's experience include: (1) automatic notification of customers (dynamic notification) when the status of a reservation request has changed (to speed up the process of negotiating by reducing the customer's need to check an OASIS node repeatedly for the status of a pending request); (2) merging all transmission service offering templates into a single template (to simplify doing business); (3) further standardization of transmission service product names and identification of their attributes; (4) introduction of "sliding windows of time" allowing purchases of blocks of service (running 60 minutes, 24 hours, 7 days, or 30 days) on a non-calendar period basis; (5) introduction of "capacity profiles" reservations (allowing for a single reservation for monthly service to set different levels of reserved capacity for each day thereof); and (6) a new template for nonfirm secondary service over alternate points of receipt and delivery (provides additional support for secondary transmission service).

[65] In Attachment 3 to this order, we show all the changes that we have made and direct to the How Group's September 23, 1997, submittal in redline and strikeout fonts. In Attachment 2, we provide the revised document without redline and strikeout fonts. Attachments 2 and 3 will be posted on the Commission Issuance Posting System (CIPS) and may be reviewed in the Commission's Public Reference Room during normal business hours. Details about accessing CIPS are given in the supplementary information preceding this order, *supra* at ii.

"preconfirmed" transmission reservation requests. AEP states that this proposal should satisfy the restriction/requirement that BID__PRICE be equal to OFFER__PRICE for any reservation to be CONFIRMED;[66] however, AEP is concerned that parties to a preconfirmed transaction using the proposal may inappropriately modify or unwittingly accept price information. Thus, it requests that we substitute the following requirement:

> Prior to or commensurate with a Seller's setting a preconfirmed reservation request's STATUS to ACCEPTED (and by implication CONFIRMED), the Seller must set OFFER__PRICE equal to the value of the BID__PRICE as established by the Customer on submission of the request.

Commission Conclusion

The Commission adopts AEP's suggestion and proposed wording for the Phase IA S&CP Document. It is more specific and thus less subject to differing interpretations. AEP's proposal clarifies that the setting of the OFFER__PRICE equal to the BID__PRICE occurs only when the Seller accepts the preconfirmed request. We remind transmission providers that our OASIS regulations require that, if discounts are offered, they be offered to all transmission customers.[67]

2. Comments on Linking Ancillary and Transmission Services

The How Group proposes adding § 4.2.12 to conform the S&CP Document to the revisions directed by Order No. 889-A in connection with §§ 37.6(c)(4) and 37.6(e)(1)(iv) of the Commission's OASIS regulations, which require that transmission service offerings and transaction status postings identify the associated ancillary services and ancillary service transaction status.

AEP notes that the Commercial Practices Group white paper recommendation on the handling of ancillary services during Phase IA, *i.e.*, that

> basic point-to-point transmission service should be requested before any Ancillary Services to support that basic point-to-point transmission service are requested

was not incorporated in the How Group's proposal. AEP requests

> that the Commission adopt a provision that, for OASIS Phase IA, all ancillary service transactions/reservations are subordinate to and in support of a single transmission service reservation.

AEP argues that adoption of this provision would significantly simplify the implementation of the How Group's proposal. AEP contends that, if one considers pre-arrangement for Operating Reserve-Spinning Reserve from a third party ancillary service provider, that service provider will require notification that some or all of that service is supporting one or more transmission reservations made at some point in the future as those reservations are confirmed. As currently there is no proposed mechanism to query OASIS for reservations that reference this pre-arranged ancillary service reservation, AEP questions whether the third-party supplier market for ancillary services is robust enough to warrant the significant investment in programming resources needed to implement the How Group's proposal without such modification.[68]

Southern contends that the How Group's proposal to allow transmission customers to indicate a preferred provider of ancillary services and indicate which services will be purchased in the future, injects confusion into the reservation process by giving transmission customers options inconsistent with the Pro Forma Tariff. It also asserts that the proposal is unnecessary because the existing "request reference" or "deal reference" fields can be used to link ancillary and transmission services as required by the Commission.[69]

Commission Conclusion

We believe that AEP's suggestion to limit the flexibility inherent in the ancillary services linkage proposal reduces the Phase IA programming necessary to implement the proposal and is a practical suggestion. Nonetheless, while we adopt its suggestion that requests for ancillary service be associated with a single transmission service reservation, we find it unnecessary to completely adopt AEP's recommendation for the Commission to require that basic point-to-point transmission service must be requested *before* any request is made for supporting ancillary services. This would interfere with customers attempting to take advantage of certain optional ancillary service packages transmission providers offer with their transmission service offerings. Therefore, ancillary services may be requested before, concurrently with, or subsequent to, the related request for basic point-to-point transmission service.

We also agree with Southern that it is the Pro Forma Tariff, and not the OASIS regulations, that controls the minimum ancillary services that must be offered by a transmission provider. However, the How Group's Phase IA proposal merely attempts to accommodate the reservation options that transmission customers may have under a particular transmission provider's Pro Forma Tariff. To the extent that Southern has a feasible but simpler approach to handle ancillary service linkage, we encourage it to pursue its idea with the How Group to improve § 4.2.12 of the S&CP Document.

3. Comments on Capacity Profiles

The How Group proposes to introduce, in Phase IA, the concept of capacity profiles for reservations of varying amounts of capacity over a given service period. For example, a single OASIS transaction would cover a weekly reservation that incorporates varying daily reservation levels.

Southern asks for rejection of the capacity profile mechanism, claiming that OASIS, as it is currently configured, permits transmission customers to accomplish the same result through the submissions of multiple requests, each tied to the others through a common deal reference number supplied by the transmission customer and that, in any event, the computer systems of transmission providers are not set up for this process. Southern implies that the capacity profile reservation mechanism is also not feasible because the Pro Forma Tariff does not include provisions that allow transmission customers to make reservations based on capacity profiles.[70]

AEP questions whether transmission customers should be able to negotiate the price of the individual hours of a capacity profile. It claims that the S&CP Document has also defined the templates used to negotiate the transmission price of the individual hours of a capacity profile in an inconsistent and ambiguous manner. AEP, therefore, requests that any reference to pricing information for the individual hours of capacity profiles be removed.[71]

Commission Conclusion

The How Group's Phase IA proposal for implementing capacity profiles in § 4.3.7.1 of the S&CP Document leaves the adoption of the capacity profile transaction process to the option of each transmission provider:

> [s]upporting "profiles" of service, which request different capacities for different time

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[66] AEP Comments on Phase IA at p. 5.

[67] *See* Order No. 889–A, FERC Stats. & Regs. at 30,566.

[68] AEP Comments on Phase IA at pp. 5–7.

[69] Southern Comments on Phase IA at pp. 4–5.

[70] Southern Comments on Phase IA at pp. 5–6.

[71] AEP Comments on Phase IA at pp. 7–8.

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periods within a single request, are at the discretion of the Primary Provider.[72]

Accordingly, AEP, Southern, and other transmission providers will be free to decide whether to implement the capacity reservation profiles on their individual OASIS nodes within the parameters of the service offering prescribed by their respective Pro Forma Tariffs. The revisions to the S&CP Document which we adopt today merely provide a consistent method to follow by transmission providers in the event they choose to offer capacity reservation profiles.

4. Comments on Posting of Losses

PECO points out that, while transmission customers must account for losses when making a transmission reservation, it can be a very time consuming process for customers to search through the transmission provider's tariff to determine how losses will be applied on systems where losses vary from path to path.[73] PECO proposes either that the transmission provider's response to a request for transmission service via the "TRANSOFFERING" template include loss information or, alternatively, that a table of losses be posted on the OASIS by the transmission provider.

Commission Conclusion

PECO raises a valid concern. While we encourage transmission providers to post a table of losses on their OASIS nodes because such information is useful to transmission customers, we will not require it at this time because we believe that transmission users would be best served if loss information were provided in a standardized template. Therefore, we request that the How Group consider this as part of the OASIS Phase II process.

5. Revisions to Phase IA S&CP Document Recommended by the How Group and the Commercial Practices Group

In their joint comments, the How Group/Commercial Practices Group recommend one change, and several clarifications and minor corrections to the proposed Phase IA S&CP Document. The change pertains to the addition of two data elements requiring the establishment of two new fields (NERC__CURTAILMENT__PRIORITY and OTHER__CURTAILMENT__PRIORITY) to several templates (TRANSOFFER, TRANSSTATUS, LIST, TRANSSERV, SCHEDULE, CURTAIL, TRANSSELL, TRANSPOST), to inform transmission customers about the NERC curtailment priority and other regional curtailment priority assigned to each transmission service offering.[74] These priorities are set by the transmission provider, consistent with the tariff on file with the Commission. The minor changes include enumeration, typographical, sequencing, identification, and format corrections and fixes.[75]

Commission Conclusion

We adopt the new data elements as an option that transmission providers may display because they provide useful information. However, we caution that our adoption of a place on the OASIS for these data elements does not constitute an approval of the NERC or other curtailment priorities.[76] We also adopt the proposed corrective suggestions for Phase IA purposes because they improve and help complete the S&CP Document.

E. Other Proposed Revisions to the S&CP Document

1. Comments on Standardized Naming of Transmission Paths

AEP raises the issue of the need for consistent naming of point-to-point transmission paths among transmission providers' systems. It observes that inconsistent naming of paths among transmission providers has had a significantly negative impact on transmission customers' ability to effectively use OASIS to procure needed transmission services. AEP, therefore, proposes its own naming convention for transmission paths:

> Where a point of receipt and/or delivery (data elements POINT__OF__RECEIPT and POINT__OF__DELIVERY) represents a NERC Control Area, the NERC 4 character Control Area acronym shall be used as the name of that point of receipt and/or delivery.
>
> Where a path (dat[a] element PATH__NAME) represents the interconnection between two NERC Control Areas, the PATH__NAME shall be composed of: "REGION__CODE/PRIMARY__PROVIDER__CODE/PATH__CODE//". REGION__CODE and PRIMARY__PROVIDER__CODE are as defined in the Data Element Dictionary. PATH—CODE shall be composed of the POINT__OF__RECEIPT followed by the hyphen (-) character and POINT__OF__DELIVERY, where POINT__OF__RECEIPT and POINT__OF__DELIVERY are the associated NERC 4 character Control Area acronyms. OPTIONAL__CODE and SPARE__CODE are null.[77]

Commission Conclusion

We agree with AEP that a consistent naming convention of paths will greatly improve the usefulness of Phase IA OASIS. However, in this instance, we are reluctant to impose a change in a business practice without giving the industry the opportunity to consider other possibilities and reach a consensus on the best solution. Since the Commercial Practices Group has been formed to develop business practice standards for OASIS, we request that the Commercial Practices Group propose a consistent naming convention for transmission paths by August 31, 1998.

2. Comments on Reservation Templates

AEP notes that the cumbersome process that transmission customers must follow in making arrangements for transmission service on OASIS is made more cumbersome by those transmission providers that require submission of reservation requests to enter and exit their systems for "passthrough" or "wheeling" type transactions.[78] AEP suggests that a single reservation request should be sufficient to cover both entering and existing the transmission system for such service. AEP asks that we modify the S&CP Document (or the OASIS regulations) to the extent necessary to enable transmission customers to rely on a single reservation transaction for wheeling across a transmission system regardless of whether the particular path is posted.

Commission Conclusion

AEP is correct that our rules currently do not require postings in a manner that a allow a single reservation transaction for wheeling across a transmission system, without a specific advance request from a customer that a particular path be posted that way. We are reluctant to direct such a change at this time because it would require a redesign of OASIS. However, the current system has sufficient flexibility to deal with this problem on a case-by-case basis without the need for the Commission to modify its rules. The OASIS regulations at § 37.6(b)(1)(i) currently require that transmission providers post information pertaining to any path requested by a transmission customer, and transmission providers are free to post additional paths of commercial interest.[79] Thus, if a customer intends to do business across a system, it can make a request that the transmission provider post the path as an "in and out" path so that a single reservation can cover transmission passing through the transmission provider's system.[80]

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[72] August 12, 1997 How Group Letter at p. 48.

[73] PECO Comments on Phase IA at p. 2.

[74] While these data elements would inform customers of the curtailment priorities of NERC and various regional entities, curtailment priorities for transmission providers that are public utilities are governed by the applicable Pro Forma Tariff unless the Commission approves a transmission provider's proposal to revise its Pro Forma Tariff based on a showing that its revised curtailment priorities are consistent with or superior to the Pro Forma Tariff. *See CAPT, supra* note 14. Absent such an approved tariff revision, to the extent that a conflict exists between the curtailment priorities of NERC or another entity and the applicable Pro Forma Tariff, the Pro Forma Tariff shall govern.

[75] How Group/Commercial Practices Group Comments on Phase IA at pp. 1–2.

[76] As we advised in *CAPT supra* note 14:

> [t]he Commission further encourages the industry to examine reliability aspects of the Pro Forma Tariff when additional detail may be required to implement specific reservation, scheduling, and curtailment procedures and to propose generic improvements to the Pro Forma Tariff.

Such proposed detail cannot be considered approved by the Commission by virtue of our approving its display on the OASIS.

[77] AEP Comments on Phase IA at p. 2.

[78] AEP Comments on Phase IA at pp. 2–3.

We encourage AEP to pursue its idea with the How Group, and to consider, together with the How Group, what system redesign its proposal would necessitate, and whether this would be feasible and cost justified.

3. Comments on Dynamic Notification of Secondary Market Providers

Phase I OASIS nodes do not actively notify a potential transmission customer of information changes such as the current ATC for a given path or the status of a pending service request. The OASIS systems are passive, presenting information that is current only at the time when a particular OASIS node is queried by the customer. To determine if more current information is posted, the customer cannot simply "stay tuned" to the site but must continually re-query it. In Order No. 889–A, we noted the passive nature of Phase I OASIS systems and requested that the How Group consider adding more active, dynamic capabilities to OASIS in Phase II.

In its Phase IA submittal, the How Group proposes to add some dynamic capability to facilitate on-line transmission service negotiations prior to Phase II, which we are adopting in this order.[81] It proposes that OASIS nodes automatically notify a customer when the status of a reservation request has changed, from "pending" to either "accepted" or "denied." This would reduce the number of steps involved in closing a transmission service deal and reduce the incidence of unnecessary polling of OASIS nodes for status checks.[82]

AEP notes that a potential competitive problem exists on OASIS that could be resolved by modifying and extending the How Group's Phase IA dynamic notification proposal. AEP points out that a host transmission provider can gain an advantage by programing its own OASIS computer system to automatically notify it about any customer requests for transmission service while the host's competitors (*e.g.*, resellers of capacity on its transmission system (secondary sellers) and sellers of ancillary services to be used in conjunction with capacity on its transmission system) would be forced to query the host's OASIS node repeatedly to learn of any requests for the types of services they offer.[83]

AEP believes that extending dynamic notification to secondary market providers and ancillary service providers would resolve this competitive problem. It requests that a requirement for such additional dynamic notification be added to the Phase IA S&CP Document.[84]

Commission Conclusion

We agree with AEP that its proposed extension of the dynamic notification proposal would eliminate a potential competitive problem. Therefore, we adopt AEP's modified dynamic notification proposal and accordingly modify § 4.2.8.2—Company Information and § 4.2.10.3—Dynamic Notification, of the S&CP Document to permit secondary market and ancillary services providers who wish to be automatically notified, to identify themselves by merely registering with the transmission provider.[85] However, for purposes of Phase IA, this extension of dynamic notification is required only where the transmission provider has programmed its computer system for its own notification. During Phase II, the OASIS nodes of all transmission providers will be required to have this capability.

4. Comments on Reservation Time Limits

PECO requests the establishment of predetermined deadlines applicable to all OASIS nodes, by which acceptances by transmission providers of transmission service requests and confirmation by transmission customers pertaining to their requests must be made.[86] It contends that predetermined time limits will enable all parties to be aware of pertinent deadlines. On this matter, NRECA similarly points out, as it did for the proposed interim measures, that the proposed Phase IA transmission price discount procedures will work only if transmission providers respond to requests for transmission price discounts in a timely manner.[87]

Commission Conclusion

We note that the Pro Forma Tariff sets the deadlines applicable to transmission providers and we are not in this order modifying those deadlines.[88] Also, in Order No. 889–A, the matter of deadlines applicable to transmission customers was reserved for resolution in Phase II due to our reluctance to specify confirmation time limits without first soliciting the views of representative industry segments. PECO and NRECA, however, make a compelling argument that consistent confirmation deadlines among OASIS nodes are needed before

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[79] 18 CFR 37.6(b)(1)(i).

[80] Such an approach requires foresight by the customer (or by the transmission provider). If the customer has not made a request in advance that the path at issue be posted, then it would not be posted in time to accommodate the transaction (unless posted at the request of another customer).

[81] *See* supra note 64.

[82] How Group's August 12, 1997, letter at Attachment 1.

[83] Order No. 889, FERC Stats. & Regs. at 31,621–22, requires transmission providers to post resales of capacity from their transmission systems, on their OASIS nodes. To prevent transmission providers from gaining a competitive advantage over resellers, transmission providers must post such information on the same display page using the same tables used for their own offerings. Transmission providers must also provide postings of offers to sell ancillary services on the same page and in the same format that they use for their own offerings.

[84] AEP Comments on Phase IA at pp. 3–4. Specifically, AEP proposes:

"As an extension of the Company registration information of the host, domain and port identifiers for dynamic notification of changes in the Customer's purchase requests, a field should be added to the Company's registration information that would define/identify how notification would be delivered to that Company should a transmission or ancillary purchase request be directed to that Company as a Seller of a transmission or ancillary service. The pertinent information would be either a full HTTP protocol URL defining the protocol, host name, port, path, resource, etc. information or a "mailto:" URL with the appropriate mailbox string. On receipt of any purchase request directed to that Company as SELLER via either the "transrequest" or "ancrequest" templates, or on submission of any change in request STATUS to that Company as SELLER via either the "transcust" or "anccust" templates, a notification message formatted as documented for the delivery of notification to the Customer, shall be formatted and directed to the Seller."

[85] We note that AEP's proposed procedure parallels the registration procedure proposed by the How Group for Phase IA dynamic notification of transmission customers.

[86] PECO notes that the Commission has approved at least one tariff (Wisconsin Electric Power Company, 80 FERC ¶ 61,299 (1997), *reh'g denied* (unpublished order dated November 13, 1997)) that permits the transmission provider to set deadlines by which customers must confirm reservations.

[87] PECO Comments on Phase IA at p. 3.

[88] *See* Order No. 888–A, FERC Stats. & Regs. ¶ 31,048 at 30,523–24. Section 17.4 of the Pro Forma Tariff gives the deadlines for a notice of a deficient application, section 17.5 of the Pro Forma Tariff gives the deadline for a response to a competed application, and section 18.4 of the Pro Forma Tariff gives the deadline for a determination of available capability.

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Phase II. In addition, the Commercial Practices Group is now available to review this matter and give us its recommendations on how we should proceed. We, therefore, request that the Commercial Practices Group examine the development of proposed Phase IA deadlines and make recommendations to us on this issue by August 31, 1998.

F. Data Elements in the Templates Are To Be Fixed in Sequence and Number, and Are Not To Differ Among OASIS Nodes

The How Group asks us to reconsider our Order No. 889–A clarification that data elements in OASIS templates must be fixed in sequence and number, and are not to differ from OASIS node to OASIS node. The How Group contends that this does not permit the introduction of new fields to existing templates and it stifles OASIS innovation by transmission providers.

Commission Conclusion

The Commission continues to believe that permitting transmission providers to reorder and add their own information to OASIS templates defeats the purpose of standardizing electronic communication across all OASIS nodes. Standardization of electronic communication across all OASIS nodes is the underlying principle that permits efficient movement of power across the grid by making it easier for customers to locate information in a timely manner across various OASIS nodes. As we have stated before, when the industry proposes modifications to the standards, we will continue to order revisions to the S&CP Document, thus implementing across-the-board changes to the templates for all OASIS nodes, as necessary.[89] Moreover, even though we will continue to be responsive to requests to revise the S&CP Document as warranted, the proper forum for challenging issues first decided in Order No. 889–A (such as this one) would have been in a timely request for rehearing of Order No. 889–A.

G. The Meaning of Disclosure of a Discount Given to a Particular Customer

The How Group asks the Commission to clarify the definition of what constitutes a transmission price "discount." The How Group's June 27, 1997 letter states that it understands the Commission's definition to be any price below the tariff or ceiling price. The August 12, 1997 How Group letter requests clarification that, for the purpose of requiring disclosure of any transmission price discount given to a particular customer, the transmission price discount should be defined as any negotiated price different from the offer price that has been posted on the OASIS. The How Group proposes to identify transmission price discounts in two ways: (1) discounts from the ceiling price and (2) discounts stemming from negotiations regardless of whether the initial offer was the ceiling price. All discounts would be identified by posting the discounted price next to the ceiling price in the offering templates posted by the transmission provider. Negotiated discounts would be identified by a negotiation "flag" in the TRANSSTATUS template.[90] The negotiation "flag" would enable searches for discounts given to particular customers for specific transmission services, including searches by path, points of receipt and delivery, etc.[91]

Commission Conclusion

We agree with the How Group that, pursuant to our Order No. 888–A policy, a transmission price discount is present whenever a transmission price below the tariff or ceiling price is offered or negotiated by a transmission provider. The proposed use of a negotiation flag, in addition to the ceiling price and offer and bid price in the TRANSSTATUS template, meets our requirement to disclose transmission price discounts, identifying both a negotiated transmission price discount as well as an initial transmission offer price positioned below the ceiling price. We incorporate the How Group's proposal in the revised Phase IA S&CP Document.

H. Date of Implementation for Phase IA Changes

The How Group proposes an implementation date for its proposed Phase IA changes starting six months after approval by the Commission. This schedule would provide four months for development and beta testing and two months for training and full scale testing.

Commission Conclusion

We agree with the How Group that the six-month implementation schedule is reasonable. Accordingly, we will direct that the Phase IA changes must be implemented on December 1, 1998.

I. Impact of Phase IA Implementation

Southern posits that the overall goal of Phase I should be to ensure a reliable core set of transmission service information in a format that is easy to access and simple to use and that Phase IA will represent progress only if it has the effect of making OASIS workable for the majority of market participants.[92] Therefore, the resources of transmission providers and customers should be concentrated on making day-to-day OASIS operations more effective, before adding new features to OASIS.[93] Southern contends that the benefits of Phase IA are not worth the risk of market disruption that is sure to be caused by implementing an interim and substantially new OASIS. Repeating the point it made with respect to the proposed interim measures, Southern argues that Phase IA on-line negotiations may add complexity and will impede rather than accelerate robust trading of power because it will burden OASIS without increasing throughput. It adds that linking ancillary services to transmission services further increases the data entry requirements of the transmission provider and further increases the data that must be transferred between the provider and customer.

Commission Conclusion

As noted, Southern repeats its contention that interim measures for on-line negotiations may add complexity and impede rather than accelerate robust trading of power because it will increase the burden of using OASIS without increasing its throughput. Nonetheless, the policies that led to the changes at issue here were adopted by the Commission in Order No. 889–A after a full review on rehearing of Order No. 889. The proper forum to challenge the Commission's findings in Order No. 889–A would have been in a timely request for rehearing of that order. At this juncture, we are not persuaded to revise our policies concerning on-line negotiations and ancillary services.

J. Uniform Formats for Organizational Charts and Job Descriptions

In *American Electric Power Services Corp.*, 81 FERC ¶ 61,332 at 62,512 (1997), *order on reh'g and clarification*, 82 FERC ¶ 61,131 at 61,470–71 (1998), the Commission required transmission providers to post organizational charts and job descriptions on their OASIS nodes. Currently, transmission providers use many different software programs to create and post organizational charts and job descriptions including, but not limited to, Adobe Systems Incorporated's portable document format ("PDF"), Microsoft Corporation's "Word", and hypertext marked language ("HTML").

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[89] Order No. 889–A, FERC Stats. & Regs. at 30,574.

[90] The "flag" would identify whether the negotiated transmission service price is higher or lower than a transmission provider's offering price. A negotiated price may be higher than the offering price (not to exceed the ceiling price), for example, as the result of an auction on a constrained interface.

[91] How Group Phase II Report at p. 16.

[92] Southern Comments on Phase IA at pp. 1–6.

[93] Southern Comments on Phase IA at p. 2.

Because the transmission providers do not provide the organizational charts and/or job descriptions in standardized formats, industry participants have difficulty viewing and downloading the information. To rectify this problem, we encourage the industry to reach consensus on an industry-wide uniform format, which could be easily obtained and widely used by industry participants, to cover both organizational charts and job descriptions, or at a minimum, one uniform format for organizational charts and another uniform format for job descriptions. To this end, we request that the How Group, within 90 days of the date of issuance of this order, develop an industry-wide uniform format for organizational charts and job descriptions, and submit its recommendations on this issue to the Commission.

III. Effective Date and Congressional Notification

Version 1.1 of the S&CP Document, as modified herein, will take effect 60 days from the publication of this order in the **Federal Register**. Version 1.2 of the S&CP Document, as modified herein, will take effect on December 1, 1998. The revisions to § 4.3.7.b of Version 1.2 of the S&CP Document, pertaining to the masking of source and sink information, will take effect on January 1, 1999.

The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget, that this Rule is not a "major rule" within the meaning of section 351 of the Small Business Regulatory Enforcement Act of 1996.[94] The Commission will submit the rule to both houses of Congress and the Comptroller General prior to its publication in the **Federal Register**.

The Commission orders:

(A) The current S&CP Document (Version 1.1) is hereby modified, as discussed in the body of this order, to incorporate the interim procedures on price negotiation. This directive is to become effective 60 days from the date of publication of this order in the **Federal Register**. The S&CP Document (Version 1.1), as modified herein, will be superseded by the revised S&CP Document (Version 1.2), as shown on Attachment 2 to this order, upon the effective date of the revised S&CP Document (Version 1.2) ordered below in Ordering Paragraph (B).

(B) The revised S&CP Document (Version 1.2), as shown on Attachment 2 to this order, is hereby adopted for use by Transmission Providers, to become effective on December 1, 1998, as discussed in the body of this order.

(C) The revised S&CP Document (Version 1.2) is hereby modified, as discussed in the body of this order, to revise references in § 4.3.7.b pertaining to the masking of source and sink information, to become effective on January 1, 1999.

By the Commission. Commissioner Bailey dissented in part with a separate statement attached. Commissioner Hébert concurred.

David P. Boergers,

Acting Secretary.

BILLING CODE 6717-01-P

Open Access Same-Time Information System and Standards of Conduct

[Docket No. RM95–9–003]

Issued June 18, 1998.

BAILEY, Commissioner, *dissenting in part*

I respectfully dissent from the decision to require the unmasking of source and sink information and the posting of such information, for public inspection, on a transmission provider's open access same-time information system (OASIS).

In my judgment, this case presents a difficult balancing issue. Specifically, it raises the issue of whether the public divulgence of (what certain commenters characterize as) commercially and competitively sensitive information is outweighed by the public's and the Commission's need for such information for the purpose of detecting possible undue discrimination or preference in the provision of transmission service.

This issue—the balance between protecting commercially sensitive business information and requiring its disclosure for the purpose of monitoring and enforcement—is a recurring one. I have previously discussed the issue in the context of separation of functions requirements applicable to transmission providers[1] and reporting and filing requirements applicable to power suppliers with market-based rate authority.[2]

I view this issue as particularly important as wholesale power markets initiate and continue their development to competitive markets. From a regulator's perspective, it presents a difficult quandary. Should we require the divulgence of additional information to promote our monitoring of the competitive market, when we suspect or are informed that divulgence of such information would act to hinder operation of the very competitive market we are attempting to foster?

Here, the information at issue is what the order characterizes as "source and sink" information. Source and sink information helps to define the transmission service. Specifically, it identifies the location of the generation resource and the location of the load to be served.

This is very important information to the extent it allows the transmission provider to assess the demands a request for transmission service will place on its transmission system. I want to be clear that I have absolutely no problem with the divulgence of source and sink information, and any other related information, to the transmission provider and any other entities, for the purpose of promoting the reliability of the system and implementing appropriate line loading relief procedures.

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[94] 5 U.S.C. 804(2).

[1] *See* American Electric Power Service Corporation, *et al.*, 81 FERC ¶ 61,332 (1997), *order on reh'g*, 82 FERC ¶ 61,131 (1998), *reh'g pending*.

[2] *See* AES Huntington Beach, *et al.*, L.L.C., 83 FERC ¶ 61,100 (1998).

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The question here, however, is very different—whether such information should be made publicly available, by postings on the OASIS, to the public and to the Commission.

Here, we see different viewpoints on the subject. We are informed that transmission providers are, for the most part, indifferent on the subject and simply want to be apprised of their OASIS posting obligations in the aftermath of Order No. 889–A, which required the on-line posting and negotiation of transmission discounts and the unmasking of party names. (The OASIS "How" Working Group, a representative industry coalition that periodically makes recommendations as to proposed improvements in OASIS procedures and protocols, takes no position on the subject and simply seeks Commission "clarification" as to whether the unmasking of names also requires the unmasking of source and sink information.)

Transmission customers, on the other hand, offer strong opinion on the subject. Power marketers and power producers articulate strong opposition to the OASIS posting of source and sink information. They believe that this information is commercially and competitively sensitive, and that the public divulgence of the information will stifle the development of competitive markets (particularly markets for short-term energy transactions) and seriously impair their ability to act as market intermediaries identifying and matching sellers and purchasers.

Transmission customers without generation for sale offer a different judgment. They believe that the disclosure of source and sink information, identifying generation and load, will promote transparency of utility operations and better enable customers and the Commission to detect undue discrimination.

Today's order strikes a balance in favor of disclosure. It finds that the information is necessary to better enable customers and the Commission to detect and remedy undue discrimination and preference in the provision of open access transmission service. It also finds that disclosure is helpful in promoting the accuracy of the numbers—available transmission capacity (ACT) and total transmission capacity (TTC)—that transmission providers must post on the OASIS.

The order also helps to protect the commercial and competitive sensitivity of source and sink information by delaying the posting of such information until the time a transmission customer has confirmed that it wishes to finalize the transaction. In this manner, other transmission providers will not be able to swoop in and pirate off pending transactions, through the use of source and sink information, while they are still in the process of negotiation. In addition, the order delays until January 1, 1999 the date by which transmission providers must begin to post on the OASIS the source and sink information provided by transmission customers.

I find this delay in the public posting of source and sink information to be helpful in mitigating the commercial and competitive consequences of disclosure. Nevertheless, even with the delay in posting, I remain of the opinion that the balance tips in favor of protecting commercially and competitively sensitive information against public disclosure. I base this judgment on several considerations.

First, I remain unconvinced whether the unmasking of this information is necessary or represents the best, or even an appropriate, method of improving our ability to detect undue discrimination or promote the validity of OASIS postings. The Electric Power Supply Association, for example, in its comments refers to using source and sink information for enforcement purposes as "akin to going after a bug with a cannon instead of a fly swatter." I wonder whether there are more narrowly-tailored solutions, such as upgrading the data retention or auditing procedures of Order No. 889.

Second, I am struck by the fact that a large segment of the transmission customer community—power marketers and suppliers—which has an obvious interest in promoting competitive markets and utility compliance with our open access and OASIS initiatives actually opposes this initiative. To the extent we act to improve our enforcement mechanisms to the benefit of transmission customers, I would hope to see greater unanimity of support among such purported beneficiaries. In this regard, the commenters which oppose the unmasking of source and sink information are among those attendees at our July, 1997 technical conference on OASIS implementation which expressed great concern for the validity and usefulness of OASIS postings and procedures and urged a number of proposed improvements. However, unmasking of source and sink information was not one of the improvements advanced for our consideration.

Third, as today's order recognizes, the Commission itself recently reaffirmed—as recently as March 1997 in Order No. 888–A—the commercial and competitive sensitivity of source and sink information by providing in the *pro forma* transmission tariff that such information would remain confidential, except in certain limited circumstances. What circumstances have transpired in the last year as to defeat the presumption of confidentiality and to compel a reversal and the disclosure of such information at this time?

Fourth, we have incomplete information upon which to take the significant step of changing our mind and now unmasking information concerning the location of generation and load. The Commission is advancing an order on a variation of that which was set for notice and comment last summer. We have not elicited comments on whether delaying the posting of this information until the time of transaction finalization, or delaying the effectiveness of revisions to the OASIS Standards and Communications Protocols Document for seven months (until January 1, 1999), is sufficient to mitigate the competitive concerns of the commenters. The Coalition for a Competitive Market (CCEM) suggests, as an alternative, that the Commission could balance its concerns by further delaying disclosure of source and sink information for 30 days after a request for service is accepted, denied or withdrawn.

I am basing my decision on the pleadings as compiled in this proceeding. Upon the submission of further comment (such as in petitions for rehearing) as to the balancing of interests between protecting commercially and competitively sensitive information and using such information to promote enforcement and monitoring of markets, I could be persuaded to adopt a different balance.

At this time, however, I believe that the Commission's very important interest in monitoring markets and protecting against the abuse of monopoly power by transmission providers does not outweigh the Commission's interest in protecting this type of commercially and competitively sensitive information and, thereby, promoting a vigorous and thriving wholesale power market.

For all of these reasons, I dissent from the decision to require the unmasking of source and sink information and to adopt revised procedures in the OASIS Standards and Communications Protocols Document to reflect this unmasking of information. I concur in all other respects with the findings of the order.

Vicky A. Bailey,
Commissioner.

Note: This attachment will not appear in the Code of Federal Regulations.

Attachment 2—Standards and Communication Protocols for Open Access Same-Time Information System (OASIS)

Version 1.2

May 27, 1998

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Appendix A—Data Element Dictionary

ATTACHMENT 1.—ABBREVIATIONS OF NAMES USED IN ORDER

Entity name	Abbreviation
Alabama Power Company	(Alabama Power)
American Electric Power	(AEP)
American Public Power Association	(APPA)
Central Illinois Lighting Company	(CILCO)
Coalition for a Competitive Electric Market	(CCEM)
Commercial Practices Working Group	(Commercial Practices Group)
Commonwealth Edison Company	(Commonwealth Edison)
Continental Power Exchange	(CPEX)
Electric Clearinghouse, Inc	(Electric Clearinghouse)

ATTACHMENT 1.—ABBREVIATIONS OF NAMES USED IN ORDER—Continued

Entity name	Abbreviation
Electric Power Research Institute	(EPRI)
Electric Power Suppliers Association	(EPSA)
Florida Power Corporation	(Florida Power Corp)
Georgia Power Company	(Georgia Power)
Gulf Power Company	(Gulf Power)
Mississippi Power Company	(Mississippi Power)
OASIS How Working Group (EPRI)	(How Group)
National Rural Electric Cooperative Association	(NRECA)
New York Power Pool	(NYPP)
New York State Electric & Gas Corp	(NYSEG)
North American Electric Reliability Council	(NERC)
Pennsylvania—New Jersey—Maryland Power Pool	(PJM)
PECO Energy Company—Power Team	(PECO)
PECO Energy Company—Power Team and Vitol Gas & Electric, Ltd	(PECO Energy)
Savannah Electric and Power Company	(Savannah)
Southern Company Services, Inc.	(Southern)

1. Introduction

1.1 Definition of Terms

The following definitions are offered to clarify discussions of the OASIS in this document.

a. *Transmission Services Information (TS Information)* is transmission and ancillary services information that must be made available by public utilities on a non-discriminatory basis to meet the regulatory requirements of transmission open access.

b. *Open Access Same-Time Information System (OASIS)* comprises the computer systems and associated communications facilities that public utilities are required to provide for the purpose of making available to all transmission users comparable interactions with TS Information.

c. *Open Access Same-Time Information System Node (OASIS Node)* is a subsystem of the OASIS. It is one computer system in the (OASIS) that provides access to TS Information to a Transmission Customer.

d. *Transmission Provider (TP or Primary Provider)* is the public utility (or its designated agent) that owns, operates or controls facilities used for the transmission of electric energy in interstate commerce. (This is the same term as is used in Part 35.3).

e. *Transmission Customer (TC or Customer)* is any eligible Customer (or its designated agent) that can or does execute a transmission service agreement or can or does receive transmission service. (This is the same term as is used in Part 35.3).

f. *Secondary Transmission Provider (ST, Reseller, or Secondary Provider)* is any Customer who offers to sell transmission capacity it has purchased. (This is the same as Reseller in Part 37).

g. *Transmission Services Information Provider (TSIP)* is a Transmission Provider or an agent to whom the Transmission Provider has delegated the responsibility of meeting any of the requirements of Part 37. (This is the same as Responsible Party in Part 37).

h. *Value-Added Transmission Services Information Provider (VTSIP)* is an entity who uses TS Information in the same manner as a Customer and provides value-added information services to its Customers.

2. Network Architecture Requirements

2.1 Architecture of OASIS Nodes

a. Permit Use of Any OASIS Node Computers: TSIPs shall be permitted to use any computer systems as an OASIS Node, so long as they meet the OASIS requirements.

b. Permit Use of Any Customer Computers: OASIS Nodes shall permit the use by Customers of any commonly available computer systems, as long as they support the required communication links to the Internet.

c. Permit the Offering of Value-Added Services: TSIPs are required, upon request, to provide their Customers the use of private network connections on a cost recovery basis. Additional services which are beyond the scope of the minimum OASIS requirements are also permitted. When provided, these private connections and additional services shall be offered on a fair and non-discriminatory basis to all Customers who might choose to use these services.

d. Permit Use of Existing Communications Facilities: In implementing the OASIS, the use of existing communications facilities shall be permitted. The use of OASIS communication facilities for the exchange of information beyond that required for open transmission access (e.g., transfer of system security or operations data between regional control centers) shall also be permitted, provided that such use does not negatively impact the exchange of open transmission access data and is consistent with the Standards of Conduct in Part 37.

e. Single or Multiple Providers per Node: An OASIS Node may support a single individual Primary Provider (plus any Secondary Providers) or may support many Primary Providers.

2.2 Internet-Based OASIS Network

a. Internet Compatibility: All OASIS Nodes shall support the use of internet tools, internet directory services, and internet communication protocols necessary to support the Information Access requirements stated in Section 4.

b. Connection through the Public Internet: Connection of OASIS Nodes to the public Internet is required so that Users may access them through Internet links. This connection shall be made through a firewall to improve security.

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c. Connection to a Private Internet Networks: OASIS Nodes shall support private connections to any OASIS User (User) who requests such a connection. The TSIP is permitted to charge the User, based on cost, for these connections. The same internet tools shall be required for these private networks as are required for the public Internet. Private connections must be provided to all users on a fair and nondiscriminatory basis.

d. Internet Communications Channel: The OASIS Nodes shall utilize a communications channel to the Internet which is adequate to support the performance requirements given the number of Users subscribed to the Providers on the Node (see section 5.3).

2.3 Communications Standards Required

a. Point-to-Point Protocol (PPP) and Internet Protocol Control Protocol (IPCP) (reference RFCs 1331 and 1332) shall be supported for private internet network dial-up connections.

b. Serial Line Internet Protocol (SLIP) (reference RFC 1055) shall be supported for private internet network dial-up connections.

c. Transport Control Protocol and Internet Protocol (TCP/IP) shall be the only protocol set used between OASIS Nodes whenever they are directly interconnected, or between OASIS Nodes and Users using private leased line internet network connections.

d. Hyper Text Transport Protocol (HTTP), Version 1.0 (RFC 1945), shall be supported by User's web browsers so they can use it to select information for viewing displays and for downloading and uploading files electronically.

e. Internet Protocol Address: All OASIS Nodes are required to use an IP address registered with the Internet Network Information Center (InterNIC), even if private connections are used.

2.4 Internet Tool Requirements

Support the following specific internet tools is required, both for use over the public Internet as well as for any private connections between Users and OASIS Nodes:

a. Hypertext Markup Language (HTML), at least Version 3.2 shall be used by supported by User's browsers as a standards tool for viewing information.

b. HTML Forms shall be provided by the TSIPs to allow Customers to enter information to the OASIS Node.

c. Domain Name Service (DNS) (ref. RFC 1034, 1035) shall be provided as a minimum by the TSIPs (or their Internet Service Provider) for the resolution of IP addresses to allow Users to navigate easily between OASIS Nodes.

d. Simple Network Management Protocol (SNMP) is recommended but not required to provide tools for operating and managing the network, if private interconnections between OASIS Nodes are established.

e. The Primary Provider shall support E-mail for exchanges with Customers, including the sending of attachments. The protocols supported shall include, as a minimum, the Simple Messaging Transfer Protocol (SMTP), Post Office Protocol (POP(), and Multipurpose Internet Mail Extensions (MIME).

2.5 Navigation and Interconnectivity Between Oasis Nodes

a. World Wide Web Browsers: TSIPs shall permit Users to navigate using WWW browsers for accessing different sets of TS Information from one Provider, or for getting to TS Information from different Providers on the same OASIS Node. These navigation methods shall not favor User access to any Provider over another Provider, including Secondary Providers.

b. Internet Interconnection across OASIS Nodes: Navigation tools shall not only support navigation within the TSIP's Node, but also across interconnected OASIS Nodes. This navigation capability across interconnected Nodes shall, as a minimum, be possible through the public Internet.

3. Information Access Requirements

3.1 Registration and Login Requirements

a. Location of Providers: To provide Users with the information necessary to access the desired Provider, all Primary Providers shall register their OASIS Node URL address with www.tsin.com. This URL address should include the unique four letter acronym the Primary Provider will use as the PRIMARY__PROVIDER__CODE.

b. Initial User Registration: TSIPs shall require Users to register with a Primary Provider before they are permitted to access the Provider's TS Information. There must be a reference pointing to registration procedures on each Primary Provider's home page. Registration procedures may vary with the administrative requirements of each Primary Provider.

c. Initial Access Privileges: Initial registration shall permit a User only the minimum Access Privileges. A User and a Primary Provider shall mutually determine what access privilege the User is permitted. The TSIP shall set a User's Access Privilege as authorized by the Primary Provider.

d. User Login: After registration, Users shall be required to login every time they establish a dial-up connection. If a direct, permanent connection has been established, Users shall be required to login initially or any time the connection is lost. Use of alternative forms of login and authentication using certificates and public key standards is acceptable.

e. User Logout: Users shall be automatically loged out any time they are disconnected. Users may logout voluntarily.

3.2 Service Level Agreements

Service Level Agreements: It is recognized that Users will have different requirements for frequency of access, performance, et., based on their unique business needs. To accommodate these differing requirements, TSIPs shall be required to establish a "Service Level Agreement" with each User which specifies the terms and conditions for access to the information posted by the Providers. The default Service Level Agreement shall be Internet access with the OASIS Node meeting all minimum performance requirements.

3.3 Access to Information

a. Display: TSIPs shall format all TS Information on HTML format such that it may be viewed and read directly by Users without requiring them to download it. This information shall be in clear English as much as possible, with the definitions of any mnemonics or abbreviations available on-line. The minimum information that is to be displayed is provided in the Templates in Section 4.3.

b. Read-Only Access to TS Information: For security reasons, Users shall have read-only access to the TS Information. They shall not be permitted to enter any information except where explicitly allowed, such as HTML transaction request forms or by the Templates in Section 4.3.

Downloading Capability: Users shall be able to download from an OASIS Node the TS Information in electronic format as a file. The rules for formatting of this data are described in Section 4.2.

d. On-Line Data Entry on Forms: Customers shall be permitted to fill out on-line the HTML forms supplied by the TSIPs, for requesting the purchase of services and for posting of products for sale (by Customers who are resellers). Customers shall also be permitted to fill-out and post Want-Ads.

e. Uploading Capability: Customers shall be able to upload to OASIS Nodes the filled-out forms. TSIPs shall ensure that these uploaded forms are handled identically to forms filled out on-line. TSIPs shall provide forms that support the HTTP input of Comma Separated Variable (CSV) records. This capability shall permit a Customer to upload CSV records using standard Web browsers or additional client software (such as fetch_http) to specify the location of the CSV records stored on the Customer's hard disk.

f. Selection of TS Information: Users shall be able to dynamically select the TS Information they want to view and/or download. This selection shall be, as a minimum, through navigation to text displays, the use of pull-down menus to select information for display, data entry into forms for initiating queries, and the selection of files to download via menus.

3.4 Provider Updating Requirements

The following are the Provider update requirements:

a. Provider Posting of TS Information: Each Provider (including Secondary Providers and Value-Added Providers) shall be responsible for writing (posting) and updating TS Information on their OASIS node. No User shall be permitted to modify a Provider's Information.

b. Info.htm: Each Provider shall provide general information on how to use their node and describe all special aspects, such as line losses, congestion charges and assistance. The address for the directory of this information shall be info.htm, an HTML web page, linked to the Provider's registered URL address.

c. OASIS Node Space for Secondary Provider: To permit Users to readily find TS Information for the transmission systems that they are interested in. TSIPs shall provide database space on their OASIS Node for all Secondary Providers who have purchased, and who request to resell, transmission access rights for the power systems of the Primary Providers supported by that Node.

d. Secondary Provider Posting to Primary Provider Node: The Secondary Providers shall post the relevant TS Information on the OASIS Node associated with each Primary Provider from whom the transmission access rights were originally purchased.

e. Secondary Provider Posting Capabilities: The TSIPs shall ensure that the Secondary Providers shall be able to post their TS Information to the appropriate OASIS Nodes using the same tools and capabilities as the Customers, meet the same performance criteria as the Primary Providers, and allow users to view these postings on the same display page, using the same tables, as similar capacity being sold by the Primary Providers.

f. Free-Form Posting of non-TS Information. The TSIP shall ensure that non-TS Information such as Want-Ads, may be posted by Providers and Customers, and that this information is easily accessible by all Users. The TSIP shall be allowed to limit the volume and/or to charge for the posting of non-TS Information.

g. Time Stamps: All TS Information shall be associated with a time stamp to show when it was posted to the OASIS Node.

h. Transaction Tracking by an Assignment Reference Number: All requests for purchase of transmission or ancillary services will be marked by a unique accounting number, called an assignment reference.

i. Time-Stamped OASIS Audit Log: All posting of TS Information, all updating of TS Information, all User logins and disconnects, all User download requests, all Service Requests, and all other transactions shall be time stamped and stored in an OASIS Audit Log. This OASIS Audit Log shall be the official record of interactions, and shall be maintained on-line for download for at least 90 days. Changes in the values of posted Capacity (Available Transfer Capability) must be stored in the on-line audit Log for 20 days. Audit records must be maintained for 3 years off-line and available in electronic form within seven days of a Customer request.

j. Studies: A summary description with dates, and programs used of all transmission studies used to prepare data for the Primary Provider's ATC and TTC calculation will be provided along with information as to how to obtain the study data and results.

3.5 Access to Changed Information

a. General Message & Log: TSIPs shall post a general message and log that may be read by Users. The message shall state that the Provider has updated some information, and shall contain (or point to) a reverse chronological log of those changes. This log may be the same as the Audit Log. The User may use the manual capability to see the message.

b. TSIP Notification Design Responsibilities: The TSIP shall avoid a design that could cause serious performance problems by necessitating frequent requests for information from many Users.

3.6 User Interaction With an OASIS Node

There are three basic types of User interactions which must be supported by the OASIS Node. These interactions are defined in Section 4.3.

a. Query/Response: The simplest level of interactions is the query of posted information and the corresponding response. The User may determine the scope of the information queried by specifying values, through an HTML form,

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a URL string, or an uploaded file, using Query Variables and their associated input values as defined with each Template in Section 4.3. The response will be either an HTML display or a record oriented file, depending on the output format that the User requests.

The TSIP may establish procedures to restrict the size of the response, if an overly broad query could result in a response which degrades the overall performance of the OASIS Node for their Users.

b. Purchase Request: The second type of Customer interaction is the submittal of a request to purchase a service. The Customer completes an input form, a URL string or uploads a file and submits it to the OASIS Node. The uploaded file can either be a series of query variables or a record oriented file.

The request is processed by the Seller of the service, possibly off-line from the OASIS Node, and the status is updated accordingly.

If a purchase request is approved by the Seller, then it must be again confirmed by the Customer. Once the Customer confirms an approved purchase, a reservation for those services is considered to exist, unless later the reservation is reassigned, displaced, or annulled.

c. Upload and Modify Postings: Customers who wish to resell their rights may upload a form, create the appropriate URL or upload a file to post services for sale. A similar process applies to eligible Third Party Sellers of ancillary services. The products are posted by the TSIP. The seller may monitor the status of the services by requesting status information. Similarly the Seller may modify its posted transmission services by submitting a service modification request through a form, a URL query, or by uploading a file.

4. Interface Requirements

4.1 *Information Model Concepts*

a. ASCII-Bases OASIS Templates: For providing information to Users, TSIPs shall use the specified OASIS Templates. These Templates define the information which must be presented to Users, both in the form of graphical displays and as downloaded files. Users shall be able to request Template information using query-response data flows. The OASIS Templates are described in section 4.3. The Data Element Dictionary, which defines the data elements in the OASIS Templates, is provided in Appendix A.

Data elements must be used in the exact sequence and number as shown in the Templates when file uploads and downloads are used. Although the contents of the graphical displays are precisely defined as the same information as in the Templates, the actual graphical display formats of the TS information are beyond the scope of the OASIS requirements. Due to the nature of graphical displays, there may be more than one graphical display used to convey the information in a single Template.

b. ASCII-Based OASIS File Structures: For uploading requests from and downloading information to Users, TSIPs shall use specific file structures that are defined for OASIS Template information (see section 4.2). These file structures are based on the use of headers which contain the Query Variable information, including the name of the OASIS Template. These headers thus determine the contents and the format of the data follows. Although headers may not be essential if file transfers contain the exact sequence and number of data elements as the Templates, this feature is being preserved for possible future use when additional flexibility may be allowed.

4.2 *OASIS Node Conventions and Structures*

4.2.1 OASIS Node Naming Requirements

The following naming conventions shall be used to locate information posted on OASIS. OASIS naming conventions shall conform to standard URL structures.

4.2.1.1 OASIS Node Names

In order to provide a consistent method for locating an OASIS Node, the standard Internet naming convention shall be used. All OASIS Node names shall be unique. Each Primary Provider OASIS Node name and home directory shall be registered with the master OASIS directory site at http://www.tsin.com. OASIS Node names shall be stored in an Internet DNS name directory.

4.2.1.2 OASIS Node and Primary Provider Home Directory

The home directory name on an OASIS Node shall be "OASIS" to identify that the directory is related to the OASIS. The directory of each Primary Provider shall be listed under the "OASIS" directory:

http://(OASIS Node name)/OASIS/(PRIMARY__PROVIDER__CODE)

Where:

(OASIS Node name) is the World Wide Web URL address of the OASIS Information Provider.

(PRIMARY__PROVIDER__CODE is the 4 character acronym of the primary provider.

(PRIMARY__PROVIDER__CODEs shall be registered with the master OASIS directory site at http://www.tsin.com. A pointer to user registration information shall be located on the Primary Provider's home page.

4.2.1.3 CGI Script Names

Common Gateway Interface (CGI) scripts shall be located in the directory "data" as follows:

http://(OASIS Node name)/OASIS/(PRIMARY__PROVIDER__CODE)/data/(cgi script name)?(query variables)

Where:

(cgi script name) is the OASIS Template name (see Section 4.3). Other cgi scripts may be defined as required to implement the HTML interface to the documented templates. (query variables) is a list of query variables with their settings formatted as defined by the HTTP protocol (i.e., URL encoded separated by ampersands).

Example:

To request the hourly schedule Template at Primary Provider WXYZ Co. http://www.wxyz.com/oasis/wxyz/data/schedule ?templ=schedule& ver=1.2& fmt=data & stime=19960412040000PD &sptime=19960412100000PD& pprov=wxyz

4.2.2 Data Element Dictionary

The following are the requirements for the Data Element Dictionary:

a. Definition of OASIS Information Elements: All OASIS Information data elements shall be defined in the Data Element Dictionary which will be stored in the OASIS Node directory:

http://(OASISNode Name)/OASIS/(PRIMARY__PROVIDER__CODE/ (datadic.html 1 datadict.txt)

Where:

datadic.html is the HTML version of the data element dictionary
datadic.txt is the ASCII text version of the data element dictionary

The Data Element Dictionary is defined in Appendix A.

b. Provider-specific Data Element Values: The valid values that certain OASIS Information data elements may take on, such as PATH__NAME, etc., are unique to a Primary Provider. Names which must be uniquely identified by Primary Provider shall be listed on-line on the OASIS Node via the LIST Template (see Section 4.3.5). In posting OASIS information associated with data elements which are not free-form text, TSIPs shall use only the accepted data element values listed in the Data Element Dictionary and/or those values posted in the LIST of provider specific names provided on the OASIS.

4.2.3 OASIS Template Constructs

4.2.3.1 Template Construction

Section 4.3 lists the set of OASIS Templates that shall be supported by all OASIS nodes. These OASIS Templates are intended to be used precisely as shown for the transfer of data to/from OASIS, and identify, by Data Elements names, the information to be transferred. The construction of the OASIS Templates shall follow the rules described below:

a. Unique OASIS Template Name: Each type of OASIS Template shall be identified with a unique name which shall be displayed to the User whenever the OASIS Template is accessed.

b. Transfer Protocol: OASIS Templates are transferred using the HTTP protocol. Templates shall support both the "GET" and "POST" methods for transferring "query string" name/value pairs, as well as the OASIS specific "comma separated value" (CSV) format for posting and retrieval of information from OASIS. HTML screens and forms shall be implemented for each OASIS Template.

c. Source Information: Each OASIS Template shall identify the source of its information by including or linking to the name of the Primary Provider, the Secondary Provider, or the Customer who provided the information.

d. Time Of Last Update: Each OASIS Template shall include a time indicating when it was created or whenever the value of any Data Element was changed.

e. Data Elements: OASIS Templates shall define the elementary Data Element Dictionary names for the data values to be transferred or displayed for that Template.

f. Documentation: OASIS Information shall be in non-cryptic English, with all mnemonics defined in the Data Element Dictionary or a glossary of terms. TSIPs shall provide on-line descriptions and help screens to assist Users understanding the displayed information. Documentation of all formats, contents, and mnemonics shall be available both as displays and as files which can be downloaded electronically. In order to meet the "User-Friendly" goal and permit the flexibility of the OASIS to expand to meet new requirements, the OASIS Templates shall be as self-descriptive as possible.

4.2.3.2 Template Categories

OASIS Templates are grouped into the following two major categories:

a. Query/Response: These Templates are used to query and display information posted on OASIS. Each query/response Template accepts a set of user specified Query Variables and returns the appropriate information from data posted on OASIS based on those query variables. The valid Query Variables and information to be returned in response are identified by Data Element in Section 4.3.

b. Input/Response: These Templates are used to upload/input information on OASIS. The required input information and information to be returned in response are identified by Data Element in Section 4.3, Template Descriptions.

4.2.3.3 Template HTML Screens

Though the exact form and content of the HTML screens and forms associated with the OASIS Templates are not dictated by this document, the following guidelines shall be adhered to for all HTML screens and forms implemented on OASIS:

a. Data Element Headings: Data displayed in an HTML screen/form shall be labeled such that the associated data value(s) is(are) easily and readily identifiable as being associated with a particular OASIS Template Date Element. HTML "Hot-Links" or other pointer mechanisms may be provided for Data Element headings in OASIS Templates which permit the User to access documentation describing the meaning, type, and format of the associated data.

b. Display Limitations: HTML screens and forms shall be implemented in such a way to allow the display of all data specified for each OASIS Template. This may take the form of "wrapping" of lines of information on the screen, the use of horizontal and/or vertical scrolling, or the use of "Hot-Links" or other pointer mechanisms. There is not necessarily a one-to-one relationship between OASIS implemented HTML screens and their associated Template. However, all Template data elements shall be viewable through one or more HTML screens.

c. Template Navigation: HTML "Hot-Links" or other pointer mechanisms may be provided to assist the navigation between screens/forms associated with related OASIS Templates.

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4.2.4 Query/Response Template Requirements

Retrieval of information posted on OASIS is supported by the Query/Response Templates. The "query" identifies the OASIS Template and optionally supplies additional Data Elements which may be used to select specific information to be returned in the "response".

4.2.4.1 Query Requirements

Query information is transferred to OASIS using the HTML protocol as a string of Query Variables in the form of name/value pairs. Query Variable name/value pairs are specified as a collection encoded strings (e.g., blank characters replaced by plus (+) character, etc.) in the form of name=value, with each name/value pair separated by ampersands (&) (see section 4.2.6). OASIS shall support the following methods for Users to input Query information:

a. HTML: HTML FORM input and/or hypertext links shall be provided to allow Users to specify OASIS Template Query Variables. This will be the easiest way to obtain information should be the choice of most causal Users and for simple requests. The exact nature and form of these HTML screens are not specified, and may differ between OASIS nodes.

b. GET Method: The HTML GET method for specifying query information appended to a standard OASIS URL shall be supported. Using this method, the name=value formatted Query Variables preceded by a question mark (?) are appended to the URL. Each "name" in a name/value pair corresponds to a Data Element name associated with that Template, OASIS shall support the specification of all Data Elements associated with a Template by both their full name and alias as defined in the Data Dictionary. The "value" in a name/value pair represents the value to be associated with the Data Element being specified in the appropriate format as defined in the Data Dictionary and encoded according to the HTML protocol.

c. POST Method: The HTML POST method for specifying query information in the message body shall be supported. Using this method, the name=value formatted Query Variables shall be transferred to OASIS suing the "Content-length:" HTML header to define the length in bytes of the encoded query string and the "Content-type: application/x-www-form-urlencoded" HTML header to identify the data type included in the message body. Each "name" in a name/value pair corresponds to a Data Element name associated with that Template. OASIS shall support the specification of all Data Elements associated with a Template by both their full name and alias as defined in the Data Dictionary. The "value" in a name/value pair represents the value to be associated with the Data Element being specified in the appropriate format as defined in the Data Dictionary and encoded according to the HTML protocol.

User queries using any of the above methods are supported directly by the User's web browser software. More sophisticated data transfer mechanisms, such as the automated querying of information based on Query Variable strings contained in a User data file (i.e., "uploading a file containing a URL string), require appropriate software (e.g., "fetch__http") running on the User's computer system to effect the data transfer.

4.2.4.2 Response Requirements

In response to a validly formatted Query for each Query/Response OASIS Template, the OASIS shall return the requested information in one of two forms based on the User specified OUTPUT__FORMAT Query Variable:

a. HTML: If the User requests the response to have the format of "HTML" (OUTPUT__FORMAT=HTML) then the response from the OASIS shall be a web page using the HTML format. This shall be the default for all Query/Response Templates.

b. CSV Format: Comma Separated Value (CSV) format (OUTPUT__FORMAT=DATA) returns the requested information in the body of the HTML response message. The "Content-length:" HTML header shall define the length in bytes of the response, and the "Content-type: text/x-oasis-csv" HTML header shall be used to identify the data type included in the message body (see CSV File Format).

4.2.5 Input/Response Template Requirements

The posting of information on OASIS, including reservations for transmission/ancillary service, services for sale on the secondary market, etc., is supported by the Input/Response Templates. The "input" identifies the required data associated with an OASIS Template to be posted on OASIS, and the "response" specifies the information returned to the User.

4.2.5.1 Input Requirements

Input information is transferred to OASIS using the HTTP protocol as either a string of Query Variable in the form of name/value pairs, or as a Comma Separated Value (CSV) message. Query Variable name/value pairs are specified as a collection of encoded strings (e.g., blank characters replaced by plus (+) character, etc.) in the form of name=value, with each name/value pair separated by ampersands (&). CSV formatted messages are specified in the body of an HTTP message as a series of data records preceded by a fixed set of header records (see section 4.2.7).

OASIS shall support the following methods for Users to transfer Input data:

a. HTML: HTML FORM input shall be provided to allow Users to specify the necessary Input data associated with each Input/Response OASIS Template. This may be in the form of fill in blanks, buttons, pull-down selections, etc., and may use either the GET or POST methods. The exact nature and form of these HTML screens are not specified, and may differ between OASIS nodes.

b. GET Method: The HTTP GET method for specifying Input information in the form of a query string appended to a standard OASIS URL shall be supported. Using this method, the name=value formatted Query Variables preceded by a question mark (?) are appended to the URL. Each "name" in a name/value pair corresponds to a Data Element name associated with that Template. OASIS shall support the specification of all Data Elements associated with a Template by both their full name and alias as defined in the Data Dictionary. The "value" in a name/value pair represents the value to be associated with the Data Element being specified in the appropriate format as defined in the Data Dictionary and encoded according to the HTTP protocol.

c. POST Method: The HTTP POST method for specifying Input information in the form of a query string in the message body shall be supported. Using this method, the name-value formatted Query Variables shall be transferred to OASIS using the "Content-length:" HTTP header to define the length in bytes of the encoded query string and the "Content-type: application/x-www-form-urlencoded" HTTP header to identify the data type included in the message body. Each "name" in a name/value pair corresponds to a Data Element name associated with that Template. OASIS shall support the specification of all Data Elements associated with a Template by both their full name and alias as defined in the Data Dictionary. The "value" in a name/value pair represents the value to be associated with the Data Element being specified in the appropriate format as defined in the Data Dictionary and encoded according to the HTTP protocol.

d. CSV Format: Comma Separated Value (CSV) formatted Input information transferred in the body of a User's HTTP message shall be supported. The "Content-length:" HTTP header shall define the length in bytes of the Input, and the "Content-type: text/x-oasis-csv" HTTP header shall be used to identify the data type included in the message body.

4.2.5.2 Response to Input

In response to a validly formatted Input for each Input/Response OASIS Template, the OASIS shall return an indication as to the success/failure of the requested action. The OASIS shall respond to the Input in one of two forms, based on the OUTPUT__FORMAT, which was input by a User either as a Query Variable or in a CSV format Header Record:.

a. HTML: If the User requests the response to have the format of "HTML" (OUTPUT__FORMAT=HTML) then the response from the OASIS shall be a web page using the HTML format. This shall be the default for all Input/Response Templates invoked using either the FORM, GET or POST methods of input.

b. CSV Format: Coma Separated Value (CSV) format (OUTPUT__FORMAT=DATA) returns the response information in the body of the HTTP response message. The "Content-length:" HTTP header shall define the length in bytes of the response, and the "Content-type: text/x-oasis-csv" HTTP header shall be used to identify the data type included in the message body. This shall be the default for all Input/Response Templates invoked using the CSV Format methods of input.

4.2.6 Query Variables

4.2.6.1 General

Both Query/Response and Input/Response OASIS Templates shall support the specification of a query string consisting of Query Variables formatted as name/value pairs. OASIS shall support the specification of Data Element names ("name" portion of name=value pair) in both the full name and alias forms defined in the Data Dictionary. OASIS shall support the specification of Query Variables from the User using either the HTTP GET or POST methods. On input, Data Element names and associated values shall be accepted and processed without regard to case. On output, Data Element names and associated values may not necessarily retain the input case, and could be returned in either upper or lower case.

4.2.6.2 Standard Header Query Variables

The following standard Query Variable Data Elements shall be supported for all OASIS Templates and must be entered for each Query by a User:

VERSION
TEMPLATE
OUTPUT__FORMAT
PRIMARY__PROVIDER__CODE
PRIMARY__PROVIDER__DUNS
RETURN__TZ

Since these header Query Variables must be supported for all Templates, they are not listed explicitly in the Template description in Section 4.3.

All standard header Query Variables with appropriate values must be entered by the User.

4.2.6.3 Responses to Queries

Responses to Queries will include the following information as a minimum:

TIME__STAMP
VERSION
TEMPLATE
OUTPUT__FORMAT
PRIMARY__PROVIDER__CODE
PRIMARY__PROVIDER__DUNS
RETURN__TZ

The additional information shall include:

a. The requested information as defined by the Template indicated in the Query.

b. For CSV downloads, the additional header Data Elements required (see section 4.2.7.3).

4.2.6.4 Multiple Instances

Certain Query Variables may be repeated in a given Query/Response OASIS Template query string. Where such multiple instances are documented in the Template definitions using an asterix (*) after the query variable. When more than one instance of the query Variable is specified in the query string, OASIS shall recognize such multiple instances by either the Data Element's full name or alias suffixed with sequential numeric qualifiers starting with

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the number 1, (e.g., PATH__NAME1=abc&PATH__NAME2=xyz, or PATH1=abc&PATH2=xyz). At least 4 multiple instances will be permitted for each query variable marked with an asterix (*).

4.2.6.5 Logical Operations

OASIS shall use the following logical operations when processing Query Variables for Query/Response OASIS Templates. All Query Variables, with the exception of multiple instances of the same Query Variable Data Element, shall be operated on to return information based on the logical-AND of those Query Variables. For example, the query string "...SELLER__CODE=abc&PATH=xyz..." should return information associated with only those records that are on transmission path "xyz" AND associated with transmission provider "abc." Multiple instances of the same Query Variable shall be operated on as logical-OR. For example,"... SELLER__CODE=abc&PATH1=xyz&PATH2=opq..." should return information associated with transmission provider "abc" AND either transmission path "xyz" OR transmission path "opq". Some logical operations may exclude all possibilities, such that the responses may not contain any data.

4.2.6.6 Handling of Time Data Elements

In cases where a single query variable is provided to select information associated with a single template data element that represents a point in time (e.g., TIME__OF__LAST__UPDATE), OASIS shall return to the User all requested information whose associated data element time value (e.g. TIME__OF__LAST__UPDATE) is equal to or later than the value specified by the query variable. In this case the stop time is implicitly "now".

A pair of query variables (e.g. START__TIME__QUEUED and STOP__TIME__QUEUED) that represents the start and stop of a time interval but is associated with one single template data element (e.g. TIME__QUEUED shall be handled by OASIS to return to the User all requested information whose associated data element time value falls within the specified time interval.

A pair of query variables (e.g. START__TIME and STOP__TIME query variables) that represents the start and stop of one time interval but is associated with another pair of template data elements (e.g. START__TIME and STOP__TIME of a service offering) that represents a second time interval, shall be handled by OASIS to return to the User all requested information whose associated data element time interval overlaps any portion of the specified time interval. Specifically, the START__TIME query variable selects all information whose STOP__TIME data element value is later than the START__TIME query variable, and the STOP__TIME query variable selects all information whose START__TIME data element value is earlier than the STOP__TIME query variable. For example:

The transoffering template query string "START__TIME 970101000000ES&STOP__TIME970201000000ES" shall select from the OASIS database all associated offerings whose start/stop times overlap any portion of the time from 00:00 January 1, 1997, to 00:00 February 1, 1997. This would include offerings that (1) started prior to Jan. 1 and stopped any time on or after Jan. 1, and (20 started on or after Jan. 1 but before Feb. 1

For changes to and from daylight savings time, either Universal Time or the correct time and zone must be used, based on whether daylight savings time is in effect.

All Time values shall be checked upon input to ensure their validity with respect to date, time, time zone, and daylight savings time.

4.2.6.6 Default Values

Query Variables that are not specified by the User may take on default values as appropriate for that Query Variable at the discretion of the OASIS TSIP.

4.2.6.8 Limitations on queries

OASIS TSIP may establish validation procedures and/or default values for Query Variables to restrict the size and/or performance impact of overly broad queries.

4.2.7 CSV Format

4.2.7.1 General Record Format

OASIS Users shall be able to upload information associated with Input/Response OASIS Templates and download information associated with all OASIS Templates using a standardized Comma Separated Value (CSV) format. CSV formatted data is transferred to/from OASIS as part of the body of an HTTP message using the "Content-length:" HTTP header to define the length in bytes of the message body, and the "Content-type: text/x-oasis-csv" HTTP header to identify the data type associated with the message body. CSV formatted data consists of a fixed set of header records followed by a variable number of data records. Each record shall be separated by a carriage return plus line feed (denoted by the symbol ↵ in all examples). The fields within a record shall be delimited by commas(,). All data within a CSV formatted message shall use printable ASCII characters with no other special embedded codes, with the exception of the special encoding requirements associated with text fields.

4.2.7.2 Input Header Records

The following standard header records are required for the uploading of Input data for all Input/Response OASIS Templates:

VERSION-nn.n¬
TEMPLATE=aaaaaaaaaa¬
OUTPUT__FORMAT=[DATA]¬
PRIMARY__PROVIDER__CODE=aaaa¬
PRIMARY__PROVIDER__DUNS=nnnnnnnnn¬
RETURN__TZ=aa¬

DATA__ROWS=nnn¬
COLUMN__HEADERS=[Template data element names separated by commas]¬

The format of the value associated with each of the Input header record Data Elements are dictated by the Data Dictionary.

The value associated with the DATA__ROWS Data Elements shall define the total Number of data records that follow in the message after the COLUMN__HEADERS record.

The COLUMN__HEADERS record defines, by Data Element name, the data associated with each comma separated column contained in each subsequent data record (row). On Input, either the Data Element's full name or alias listed in the Data Dictionary may be specified.

4.2.7.3 Response Header Records

When explicitly specified using the OUTPUT__FORMAT=DATA Query Variable or implied by the Input of a CSV format message, the OASIS shall respond with the following standard response header records for all OASIS Templates:

REQUEST__STATUS=nnn¬
ERROR__MESSAGE=aaa...¬
TIME__STAMP=yyyymmddhhmmsstz¬
VERSION=nn.n¬
TEMPLATE=aaaaaaaaaa¬
OUTPUT__FORMAT=DATE¬
PRIMARY__PROVIDER__CODE=aaaa¬
PRIMARY__PROVIDER__DUNS=nnnnnnnnn¬
RETURN__TZ=tz¬
DATA__ROWS=nnn¬
COLUMN__HEADERS=[Template data element names separated by commas]¬

The format of the value associated with each of the Response header record Data Elements are dictated by the Data Dictionary.

The value associated with the DATA__ROWS Data Element shall define the total number of data records returned in the message following the COLUMN__HEADERS header record.

The COLUMN__HEADERS record defines, by Data Element name, the data associated with each comma-separated column contained in each subsequent data record (row). In all OASIS responses, the Data Element's full name shall be listed in the COLUMN__HEADERS record. The order of the column headings shall be the same as shown in the Templates for URL uploads and downloads. For graphical displays, the Provider may define the order that the Data Element names are shown.

4.2.7.4 Data Records

Data Records immediately follow the standard Input or Response header records. With the exception of data records grouped together as a single "logical record" through the use of Continuation Records, each data record in a CSV formatted Input message represents a single, complete execution of the associated OASIS Template. That is, sending five CSV formatted Input messages for a given Template to the same PRIMARY__PROVIDER__CODE with a single data record per message shall be handled in the exactly the same fashion as sending a single CSV formatted Input message for the same Template and PRIMARY__PROVIDER__CODE which contains five data records.

Each field (column) within each data record defines the value to be associated with the corresponding Data Element defined in the COLUM__HEADERS record. The number of Data Records in the message is defined by the DATA__ROWS header record. The data values associated with each column Data Element are interpreted based on the Data Element type as defined in the Data Dictionary:

a. Numeric Data Element: All numeric Data Elements shall be represented by an ASCII string of numeric digits in base ten, plus the decimal point.

b. Text Data Elements: Alphabetic and alphanumeric data elements shall be represented as ASCII strings and encoded using the following rules:

- Text strings that do not contain commas (,) or double quotes (") shall be accepted both with and without being enclosed by double quotes.
- Text fields with commas (,) or double quotes (") must be enclosed with double quotes. In addition double quotes within a text field shall be indicated by two double quotes ("").
- The Data Element field length specified in Data Dictionary does not include the additional double quotes necessary to encode text data.

a. Null Data Elements: Null Data Elements shall be represented by two consecutive commas (,,) corresponding to the leading and trailing (if appropriate) Data Element commas separators. Null text strings may optionally be represented by two consecutive double quote characters within the leading and trailing comma separators (i.e., ...,"",...).

4.2.7.5 Continuation Records

Continuation records shall be used to indicate that the information in multiple rows (records) is part of one logical record. Continuation records will be indicated through the use of a column header called CONTINUATION__FLAG. This column header is either the first column (if in a response to a query) or second column (if in a response to an input) in all Templates permitting continuation records. The first record shall contain a "N" in the CONTINUATION__FLAG column and each following record which is part of a continuation record shall contain a "Y" in this column, thus associating the information in that record with the information in the previous record. An "N" shall indicate that the record is not a continuation record. Any values corresponding to COLUMN__HEADERS other than those explicitly allowed for a particular Template shall be ignored. However commas must be included to properly align the fields.

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4.2.7.6 Error Handling in CSV-Formatted Responses

Validity of each record in the CSV-formatted Response to a Template Input shall be indicated through the use of RECORD__STATUS and ERROR__MESSAGE Data Elements which are included in each data record (row) of the Response.

- If no error was encountered in an Input data record, the RECORD__STATUS Data Element in the corresponding Response record shall be returned with a value of 200 (success), and the ERROR__MESSAGE shall be blank.
- If any error is detected in processing an Input data record, it shall be indicated by a RECORD__STATUS Data Element value other than 200. The ERROR__MESSAGE shall be set to an appropriate text message to indicate the source of the error in that data record.

The overall validity of each Template Query or Input shall be indicated in the CSV-formatted Response via the two REQUEST__STATUS and ERROR__MESSAGE header records (see section 4.2.7.3):

- If no errors were encountered in processing the User's Input data records, the REQUEST__STATUS shall be returned with the value of 200 (success), and the ERROR__MESSAGE shall be blank.
- If any errors were detected in the Template Input data records, the REQUESTS__STATUS value shall be any value other than 200, and the ERROR__MESSAGE shall be set to an appropriate text message to indicate the source of the error.

The OASIS node shall validate all Input records before returning a Response to the User. All valid records shall be processed by the node, while invalid records shall be identified as erroneous through the use of RECORD__STATUS and ERROR__MESSAGE. The User must correct the invalid fields and resubmit only those records which were invalid. If an error is encountered in a record which is part of a set of Continuation records, then all records belonging to that set must be resubmitted.

4.2.8 Registration Information

4.2.8.1 General

As specified in the Information Access Requirements. OASIS Nodes shall provide a mechanism to register Users of the OASIS with a Provider. For all levels of access to OASIS information beyond simple read-only access. OASIS node shall provide a mechanism to identify Users of the OASIS at least to the level of their respective Companies. Both Company and User registration information shall be maintained by the OASIS node.

4.2.8.2 Company Information

OASIS Templates require that certain Company registration information be maintained. As an extension of the Company registration information of the host, domain and port identifiers for dynamic notification of changes in the Customer's purchase requests, a field should be added to the Company's registration information that would define/identify how notification would be delivered to that Company should a transmission or ancillary purchase request be directed to that Company as a Seller of a transmission or ancillary service. The pertinent information would be either a full HTTP protocol URL defining the protocol, host name, port, path, resource, etc. information or a "mailto:" URL with the appropriate mailbox address string. On receipt of any purchase request directed to that Company as SELLER via either the "transrequest" or "ancrequest" templates, or on submission of any change in request STATUS to that Company as SELLER via either the "transcust" or "anccust" templates, a notification message formatted as documented for the delivery of notification to the Customer, shall be formatted and directed to the Seller. At a minimum, OASIS shall maintain the following information for each Company:

a. Company Code: 4 character code for primary transmission providers; 6 character code for eligible customers in accordance with NERC Tagging Information System (TIS) requirements shall be maintained for each Company.

b. Default Contact: Unless specified for each individual user affiliated with the Company, default contact information consisting of a phone number, fax number, and e-mail address shall be maintained for each Company.

c. Provider Affiliation: Each eligible Customer shall be obligated to identify to the OASIS TSIP any affiliation with a Transmission Provider whose "home page" is on that OASIS node.

d. Notification URL: For Companies using the URL notification mechanism for delivery of messages on each change of ancillary/transmission reservation STATUS, each Company shall provide the IP host name and port number to be used in delivering notification messages. OASIS nodes shall have the right to refuse support for notification to any IP ports other than port 80.

4.2.8.3 User Information

With the exception of "read-only" (visitor) access. OASIS nodes shall as a minimum provide a mechanism to identify Users of the node with at least their Company. However, OASIS nodes and Providers shall have the right to require full User identification even for visitor accounts.

To support the required OASIS Template Data Elements, OASIS nodes shall maintain the following information for each registered User:

- Company
- Name
- Phone
- Fax
- E-mail

In the event no additional additional User identification/registration information is maintained by the OASIS, all Template Data Elements referring to "company, name, phone, fax, e-mail" for either Customers or Sellers shall default to the Contact Information maintained for that User's Company.

4.2.9 Representation of Time

4.2.9.1 General

It is critical that all Users of OASIS have a clear and unambiguous representation of time associated with all information transferred to/from OASIS. For this reason, all Data Elements associated with time in OASIS shall represent "wall clock" times, which are NOT to be confused with other common industry conventions such as "hour ending." For the convenience of the User community, OASIS nodes shall be allowed to accept the input and display of "time" in any acceptable form provided such non-standard representations are CLEARLY labeled on the associated HTML screens. Alternate representations of time in CSV formatted messages shall not be allowed.

The following rules shall be implemented in OASIS for the representation of time on User entries (Query and Input) and output (Response) Templates.

4.2.9.2 Input Time

All time related Data elements associated with either the Input or Query of Input/Response or Query/Response OASIS Templates shall be validated according the following rules. If the time zone associated with a time Data Element is associated with either Universal Time (UT) or a "standard" time zone (e.g., ES, CS, etc.), OASIS shall accept and apply a fixed hour offset form Universal Time year-round. If the time zone associated with a time Data Element is specified with a "daylight savings" time zone (e.g. ED, CD, etc.), OASIS shall verify that daylight savings time is in effect of the date/time specified.

If daylight savings time (as specified by the time from 2:00 am on the first Sunday of October) is not in effect, the Users input shall be rejected with an error response. If daylight savings time is in effect, the Users input shall be accepted and the appropriate hours offset from Universal Time shall be applied by OASIS for conversion to all other time zones. The input of start/stop times fro transactions spanning the crossover day between standard and daylight (and vices versa) times must be made either entirely in standard time (valid year-round), or in two different time zones (xS/xD or xD/xS) for the start and stop times, depending on the time of year.

4.2.9.3 Output (Response) Time

The OASIS shall return a shall return all time Data Elements in the response to Input/Response or Query/Response OASIS Templates based on either the User specified RETURN_TZ header Query Variable or an appropriate OASIS specific default. OASIS shall interpret RETURN_TZ to specify:

a. The base time zone for conversion of all time Data Elements (e.g. Eastern, Pacific, etc.)

b. Whether daylight savings time is recognized. For example, a RETURN_TZ=ES would return all time Data Elements in Eastern Standard Time year-round. However, a RETURN_TZ=ED would direct OASIS to return all time Data Elements in Eastern Standard Time (ES) when daylight savings time is not in effect, and then return all time Data Elements in Eastern Daylight Time (ED) when daylight time is in effect.

4.2.10 Transaction Process

4.2.10.1 Purchase Transactions

Customers shall purchase services from the Seller using the following steps (see Exhibit 4–1):

a. The Templates (transrequest and ancrequest) shall be used by a Customer to enter a request for specific transmission services from a specific Seller. The Customer may enter a BID_PRICE which is different from the OFFER_PRICE in order to try to negotiate a lower price. The OASIS sets the initial STATUS of the request to QUEUED. The Customer may set the STATUS_NOTIFICATION to indicate that the OASIS must notify the Customer on any change of STATUS of transstatus (see Dynamic Notification). Prior to or commensurate with a Seller's setting of a preconfirmed reservation request's STATUS to ACCEPTED (and by implication CONFIRMED), the Seller must set OFFER_PRICE equal to the value of BID_PRICE as established by the Customer on submission of the request.

b. The Templates (transstatus and ancstatus) shall be used by Customers and Sellers to monitor the status of their transactions in progress. These Templates shall also be used by any Users to review the status of any transactions. The NEGOTIATED_PRICE_ZFLAG data element is set when the Seller agrees to a BID_PRICE (by setting OFFER_PRICE equal to BID_PRICE that is different from the previously posted price. It will show "higher" when OFFER_PRICE is higher than the posted price, and "lower"when the OFFER_PRICE is lower than the posted price.

c. The Templates (transsell and ancsell) shall be used by both to set a new value into STATUS and to negotiate a price by entering a new OFFER_PRICE which is different from the BID_PRICE entered by the Customer in the transrequest Template (if it was not PRECONFIRMED). During these negotiations, a Reseller shall formally indicate the approval or disapproval of a transaction and indicate which rights from prior confirmed reservations are to be reassigned. A Primary Provider may, but it not required, to enter transaction approval or disapproval using this Template. The valid STATUS values which may be set by a Seller are: RECEIVED, STUDY, OFFER, ACCEPTED, REFUSED, DISPLACED, ANNULLED, or RETRACTED.

d. The Customer shall use the transstatus and ancstatus Templates to view the Seller's new offer price and/or approval/disapproval decision.

e. After receiving notification of the transaction's STATUS being set to "OFFER" by the Seller the Templates (transcust and anccust) shall be used by the Customer to modify the BID_PRICE and set the STATUS to REBID. After negotiations are complete (STATUS set to "ACCEPTED" by the Seller), the Customer shall formally enter the confirmation or withdrawal of the offer to purchase services for the OFFER_PRICE shown in the transstatus Template. The valid STATUS values which a Customer may set are: REBID, CONFIRMED, or WITHDRAWN.

f. The Seller shall use the transstatus (ancstatus) Template to view the Customer's new bid price and/or confirmation/withdrawal decision, again responding through transsell or ancsell if necessary. If the Seller offers to sell a service at an OFFER_PRICE less than the posted in the transoffering (ancoffering) Template, the transoffering (ancoffering) Template must be updated to reflect the new OFFER_PRICE.

g. For deals consummated off the OASIS by a Seller, after the Customer has accepted the offering, the Templates (transassign and ancassign) may be used by the Seller to notify the Primary Provider of the transfer of rights to the Customer. Continuation records may be used to indicate the reassigning of rights for a "profile" of different assignments and different capacities over different time periods.

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h. The source of all user and seller contact information shall be the User registration process. Therefore, it shall not be input as part of uploads, but shall be provided as part of all transaction downloads.

i. OASIS shall accept a seller initiated change in STATUS to ACCEPTED only when OFFER_PRICE matches BID_PRICE (i.e., seller must set OFFER_PRICE equal to BID_PRICE prior to or coincident with setting STATUS to accepted)

j. OASIS shall accept a customer initiated change in STATUS to CONFIRMED only when BID_PRICE matches OFFER_PRICE (i.e. customer must set BID_PRICE equal to OFFER_PRICE prior to or coincident with setting STATUS to confirmed).

4.2.10.2 Status Values

The possible STATUS values are:

QUEUED=initial status assigned by TSIP on receipt of "customer services purchase request"
RECEIVED=assigned by TP to acknowledge QUEUED requests and indicate the service request is being evaluated, including for completing the required ancillary services
STUDY=assigned by TP to indicate some level of study is required or being performed to evaluate service request
OFFER=assigned by TP to indicate that a new OFFER_PRICE is being proposed
REBID=assigned by TC to indicate that a new BID_PRICE is being proposed
ACCEPTED=assigned by TP to indicate service request at the designed OFFER_PRICE has been approved/accepted. Of the reservation request was submitted PRECONFIRMED, OASIS shall immediately set the reservation status to CONFIRMED. Depending upon the type of ancillary services required, the Seller may or may not require all ancillary service reservation to be completed before accepting a request.
REFUSED=assigned by TP to indicate service request has been denied, SELLER_COMMENTS should be used to communicate reason for denial of service
CONFIRMED=assigned by TC in response to TP posting "ACCEPTED" status, to confirm service. Once a request has been "CONFIRMED", a transmission service reservation exists
WITHDRAWN=assigned by TC any point in request evaluation to withdraw the request from any further action
DISPLAY=assigned by TP when a "CONFIRMED" reservation from a TC is displaced by a longer term request and the TC has exercised right of first refusal (i.e. refused to match terms of new request)
ANNULLED=assigned by TP when, by mutual agreement with the TC, a confirmed reservation is to be voided
RETRACTED=assigned by TP when the TC fails to confirm or withdraw the request within the required time period

BILLING CODE 6717-01-M

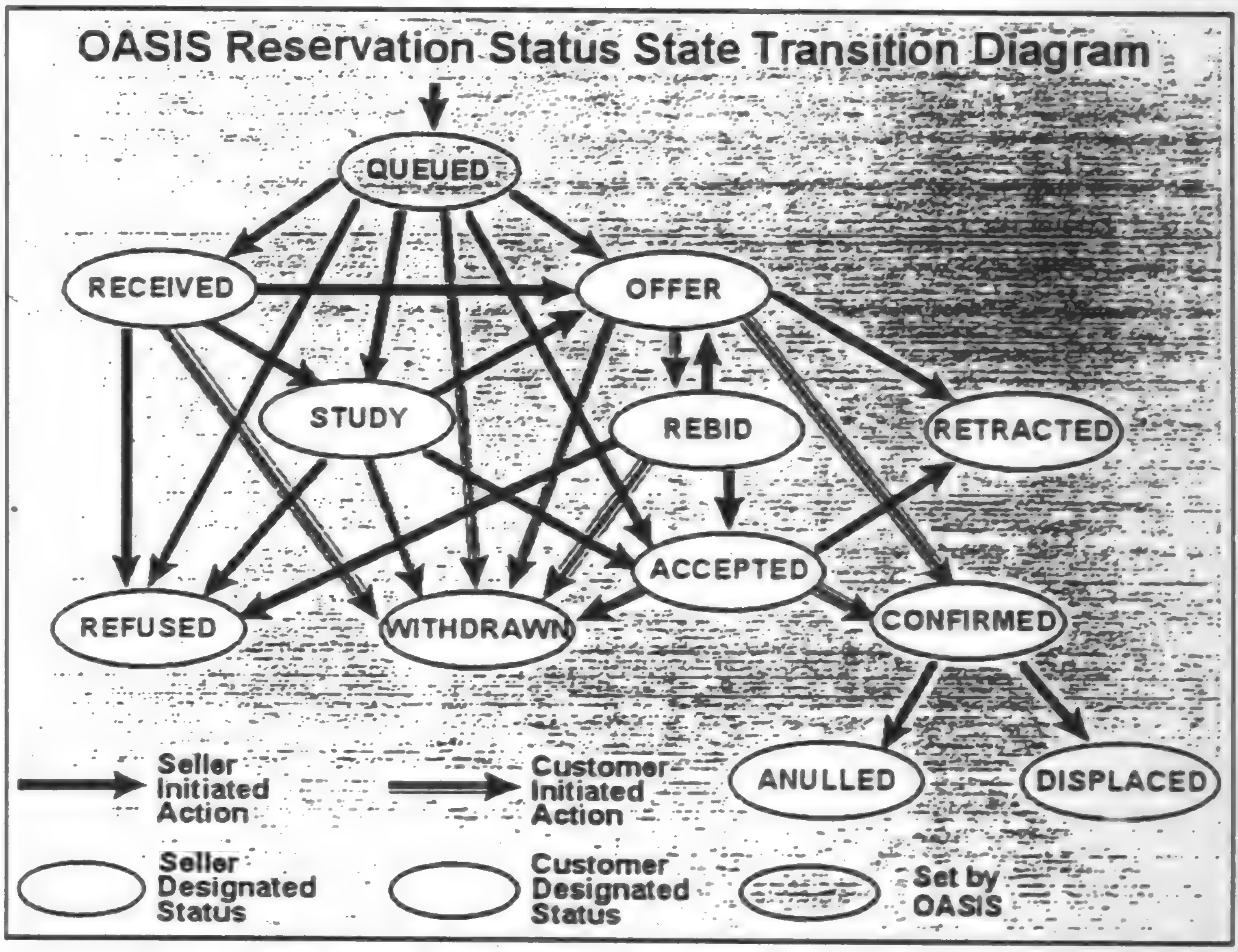
OASIS Reservation Status State Transition Diagram
QUEUED
RECEIVED
OFFER
STUDY
REBID
RETRACTED
ACCEPTED
REFUSED
WITHDRAWN
CONFIRMED
ANULLED
DISPLACED
Seller Initiated Action
Customer Initiated Action
Seller Designated Status
Customer Designated Status
Set by OASIS

Exhibit 4-1 - State Diagram of Purchase Transactions

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4.2.10.3 Nynamic Notification

Customers may specify the delivery of dynamic notification messages on each change in STATUS of an ancillary or transmission service reservation. OASIS shall support the delivery of dynamic notification messages through either the HTTP protocol or by electronic mail. The selection of which mechanism is used and the contents of the messages delivered to the client program or e-mail address is defined by the content of the STATUS__NOTIFICATION data element as described in the next subsections.

Regardless of whether this dynamic notification method is used or not, it shall still remain the User's responsibility to get the desired information, possibly through the use of a periodic "integrity request". OASIS nodes shall not be obligated or liable to guarantee delivery/receipt of messages via the STATUS__NOTIFICATION mechanism other than on a "best effort" basis.

As an extension of the Company registration information of the host, domain and port identifies for dynamic notification of changes in the Customer's purchase requests, a field should be added to the Company's registration information that would define/identify how notification would be delivered to that Company should a transmission or ancillary purchase request be directed to that Company as a Seller of a transmission or ancillary service. The pertinent information would be either a full HTTP protocol URL defining the protocol, host name, port, path, resource, etc. information or a "mailto:" URL with the appropriate mailbox address string. On receipt of any purchase request directed to that Company as SELLER via either the "transrequest" or "ancrequest" templates, or on submission of any change in request STATUS to that Company as SELLER via either the "transcust" or anccust" templates, a notification message formatted as documented for the delivery of notification to the Customer, shall be formatted and directed to the Seller.

4.2.10.3.1 HTTP Notification

OASIS shall deliver dynamic notification to a client system based on HTTP URL information supplied in part by the STATUS NOTIFICATION data element and by information supplied as part of the Customer's Company registration information. HTTP URL's are formed by the concatenation of a protocol field (i.e., http:), a domain name (e.g., //www.tsin.com), a port designation (e.g., :80), and resource location information.

The STATUS__NOTIFICATION data element shall contain the protocol field "http:", which designates the notification method/protocol to be used, followed by all resource location information required; the target domain name and port designations shall be inserted into the notification URL based on the Customer's Company registration information. The resource location information may include directory information, cgi script identifiers and URL encoded query string name/value pairs as required by the Customer's application. OASIS performs no processing on the resource location information other than to include it verbatim along with the protocol, domain name and port information when forming the URI that will be used to deliver the HTTP protocol notification message.

For example, Company XYZ has established the domain name and port designations of "//oasistc.xyz.com:80" as part of their registration information.

When a transmission reservation is submitted by one of Company XYZ's users (the Customer), and includes a STATUS__NOTIFICATION data element with the value of "http:/cgi-bin/status? DEAL__REF=8&REQUEST__REF=173", OASIS shall deliver and HTTP notification message using the URL: http://oasistic.xyz.com:80/cgi-bin/status? DEAL__REF=8&REQUEST__REF=173

If the STATUS__NOTIFICATION field contained only the "http:" protocol designation, the notifcation message would be deliverd using the URL: http://oasistc.xyz.com:80

The contents of the HTTP protocol notification message delivered by OASIS shall consist of the complete URL created by combining fields from the STATUS__NOTIFICATION data element and Company registration information as part of an HTTP GET method request. In addition to the GET method HTTP header record, OASIS shall also append the CSV formatted output of the transstatus template information for that particular reservation using the standard Content-type: text/x-oasis-csv and appropriate Content-length: HTTP header record. OASIS shall use a Primary Provider specific default value for RETURN__TZ in formulating the transstatus response information.

Continuing with the previous example, the important records in the HTTP notification message that would be delivered to Company XYZ for the transmission reservation request submitted to Primary Provider ABC and give an ASSIGNMENT__REF of 245 would be,

```
GET http://oasistc.xyz.com:80chi-bin/status? DEAL__REF=8&REQUEST__REF=173 HTTP/1.0
Content-type: text/x-oasis-csv
Content-length: <byte count of remainder of message>
REQUEST__STATUS=200
TIME__STAMP=<appropriate value>
VERSION=1.2
TEMPLATE=transstatus
OUTPUT__FORMAT=DATA
PRIMARY__PROVIDER__CODE=ABC
PRIMARY__PROVIDER__DUNS=123456789
RETURN__TZ=<appropriate value for ABC>
DATA__ROWS=1
COLUMN__HEADERS=CONTINUATION__FLAG, ASSIGNMENT__REF, . . .
N, 245, . . .
```

In the event an error is encountered delivering the HTTP notification message to the target URL as indicated by a failure of the target system to respond, or return of HTTP response status of 408, 500, 503, and 504, OASIS shall retry up to two more times, once every 5 minutes.

4.2.10.3.2 E-mail Notification

OASIS shall deliver dynamic notification to an e-mail address based to Mailto: URL information specified in the STATUS__NOTIFICATION data element. Mailto: URL's consist of the "mailto:" protocol identifier and an Internet mail address to which the notification message should be sent. The STATUS__NOTIFICATION data element shall contain the protocol field "mailto:", which designates the notification method/protocol to be used, followed by an Internet mail address in conformance with RFC 822. OASIS shall send an e-mail message to the Internet mail address containing the following information: "To:" set to the mail address from the STATUS__NOTIFICATION data element, "From:" set to an appropriate mail address of the OASIS node, "Subject:" shall be the transstatus template name followed by the value of the ASSIGNMENT__REF data element and the current value for the STATUS data element associated with the reservation (e.g., "Subject: transstatus 245 ACCEPTED"), and the body of the message shall contain the CSV formatted output of the transstatus template information for that particular reservation. OASIS shall use a Primary Provider specific default value for RETURN__TZ in formulating the transstatus response information.

4.2.11 Reference Identifiers

The TSIP shall assign a unique reference identifier, ASSIGNMENT__REF, for each Customer request to purchase capacity or services. The value of ASSIGNMENT__REF may be used to imply the order in which the request was received by the TSIP. This identifier will be used to track the request through various stages, and will be kept with the service through out its life. Whenever the service is resold, a new ASSIGNMENT__REF number is assigned, but previous ASSIGNMENT__REF numbers are also kept so that a chain of all transactions related to the service can be maintained.

The TSIP shall assign a unique reference identifier. POSTING__REF, to each Seller's offerings of service for sale or other information (messages) posted on OASIS. This identifier shall be referenced by the Seller in any/all subsequent template submissions which would result in a modification to or deletion of that specific offering or message. Optionally, Customers may also refer to this POSTING__REF in their subsequent purchase requests to aid in identifying the specific offering associated with the purchase request.

Sellers may aggregate portions of several previous transmission service reservations to create a new offering to be posted on OASIS. When all or a portion of such offerings are sold, the Seller (original Customer) is obligated to notify the Primary Provider of the sale/assignment by inserting appropriate reassignment information on OASIS (via the transsell or transassign templates) or by some other approved method. This reassignment information consists of the ASSIGNMENT__REF value assigned to the original reservation(s) and the time interval and capacity amount(s) being reassigned to the new reservation. These values are retained in the REASSIGNED__REF, REASSIGNED__START__TIME, REASSIGNED__STOP__TIME, and REASSIGNED__CAPACITY data elements.

Sellers may identify their service offerings received from Customers through the Seller supplied value specified for the SALE__REF data element.

Customers may track their purchase requests through the Customer supplied values specified for the DEAL__REF and REQUEST__REF data elements. Customers may also use POSTING__REF and SALE__REF in their purchase requests to refer back to posted offerings.

4.2.12 Linking of Ancillary Services to Transmission Services

The requirements related to ancillary services are shown in transoffering (and updated using transupdate) using the ANC__SVC__REQ data element containing the following permitted values:

SC:x; RV:x; RF:x; EI:x; SP:x; SU:x;

Where SC, RV, RF, EI, SP and SU are the ancillary services 1 through 6 described in the Proforma Tariff.

- SC-Scheduling, system Control and dispatch
- RV-Reactive supply and Voltage control
- RF-Regulation and Frequency response
- EI-Energy Imbalance
- SP-Spinning reserve
- SU-Supplemental reserve

and where x-(M,R,O,U) means one of the following:

- *M*andatory, which implies that the Primary Provider must provide the ancillary service
- *R*equired, which implies that the ancillary service is required, but not necessarily from the Primary Provider
- *O*ptional, which implies that the ancillary service is not necessarily required, but could be provided
- *U*nknown, which implies that the requirements for the ancillary service are not known at this time

Ancillary services may be requested by a User from the Provider at the same time as transmission services are requested via the transrequest template, by entering the special codes into ANC__SVC__LINK to represent the Proforma ancillary services 1 through 6 (or more) as follows:

SC:(AA); RV:(AA); RF:(AA EI: (AA[:xxx[:yyy[:nnn]]]);
SP:(AA[:xxx[:yyy[:nnn]]]); SU:(AA[:xxx[:yyy[:nnn]]]);
Registered :(AA[:xxx[:yyy[:nnn]]])

Where AA is the appropriate PRIMARY__PROVIDER__CODE, SELLER__CODE, or CUSTOMER__CODE, and represents the company providing the ancillary services. "AA" may be unspecified for "xxx" type identical to "FT", in which case the ":" character must be present and precede the "FT" type.

If multiple "AA" terms are necessary, then each "AA" grouping will be enclosed within parenthesis, with the overall group subordinate to the ANC__SVC__TYPE specified within parenthesis.

And where xxx represents either:

—"FT" to indicate that the Customer will determine ancillary services at a future time, or
—"SP" to indicate that the Customer will self-provide the ancillary services, or
—"RQ" to indicate that the Customer is asking the OASIS to initiate the process for making an ancillary services reservation with the indicated Provider or Seller on behalf of the Customer. The Customer must then continue

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the reservation process with the Provider or Seller. If the transmission services request is for preconfirmed service, then the ancillary services shall also be preconfirmed, or

—"AR" to indicate an assignment reference number sequence follows.

The terms "yyy" and "nnn" are subordinate to the xxx type of "AR". yyy represents the ancillary services reservation number (ASSIGNMENT_REF) and nnn represents the capacity of the reserved ancillary services. Square brackets are used to indicated optional elements and are not used in the actual linkage itself. Specifically, the :yyy is applicable to only the "ARA" term and the :nnn may optionally be left off if the capacity of ancillary services is the same as for the transmission services, and optionally multiple ancillary reservations may be indicated by additional (xx[:yyy[:nnn]]) enclosed within parenthesis. If no capacity amount is indicated, the required capacity is assumed to come from the ancillary reservations in the order indicated in the codes, on an "as-needed" basis.

Examples

Example 1

Assume ancillary services SC and RV are mandatory from the TP, whose code is "TPEL", and ancillary services RF, EI, SP and SU are required, but will be defined at a future time.

"SC: (TPEL:RQ); RV: (TPEL:RQ); RF:(:FT); EI:(:FT); SP:(:FT); SU:(:FT)"

Example 2

Assume ancillary services SC and RV are mandatory from the TP, whose code is "TPEL", and RF, EI, SP and SU are self-supplied. The customer code is "CPSE"

"SC: (TPEL:RQ); (TPEL:RQ); RF:(CPSE:SP); EI:(CPSE:SP); SP:(CPSE:SP); SU:(CPSE:SP)"

Example 3

Assume ancillary services SC and RV are mandatory from the TP, whose code is "TPEL", and ancillary services RF, EI, SP and SU were purchased via a prior OASIS reservation from seller "SANC" whose reservation number was "39843". There is sufficient capacity within the Ancillary reservation to handle this Transmission reservation.

"SE:(TPEL:RQ); RV:(TPEL:RQ); RF:(SANC:AR:39843); EI:(SANC:AR:39843) SP:(SANC:AR:39843); SU:(SANC:AR:39843)"

Example 4

Assume ancillary services SC and RV are mandatory from the TP, whose code is "TPEL", and ancillary services RF, EI, SP and SU were purchased via prior OASIS reservations from sellers "SANC" and "TANC", whose reservation numbers where "8763" and 9824" respectively. There is not sufficient capacity within the Ancillary reservation from seller "SANC" to handle this Transmission reservation. In this case the OASIS reservation number 8763 will be depleted for the time frame specified within the transmission reservation and the remaining required amount will come from reservation number "9824".

"SC:(TPEL:RQ); RV:(TPEL:RQ); RF:((SANC:AR:8763)(TANC:AR:9824)); EI:((SANC:AR:8763)(TANC:AR:9824)); SP:((SANC:AR:8763)(TANC:AR:9824)); SU:((SANC:AR:8763)(TANC:AR:9824))"

Example 5

Assume a transmission reservation in the amount of 100 mw/hour for a period of one day is made. Ancillary services SC and RV are mandatory from the TP, whose code is "TPEL", and ancillary services RF, EI, SP and SU were purchased via prior OASIS reservations from sellers "SANCS" and "TANC", whose reservation numbers where "8763" and 9824" respectively. There is sufficient capacity within the Ancillary reservation from seller "SANC" to handle this Transmission reservation, however the purchaser wishes to use only "40 mw's" for the time frame specified within the transmission reservation and the remaining required amount will come from reservation number "9824".

"SC:(TPEL:RQ); RV:(TPEL:RQ); RF:((SANC:AR:8763:40)(TANC:AR:9824)); EI:((SANC:AR:8763:40)(TANC:AR:9824)); SP:((SANC:AR:8763:40)(TANC:AR:9824)); SU:((SANC:AR:8763:40)(TANC:AR:9824))"

4.3 Template Descriptions

The following OASIS Templates define the Data Elements in fixed number and sequence which must be provided for all data transfers to and from the OASIS modes. The definitions of the data elements are listed in the Data Element Dictionary in Appendix A.

TSIPs must provide a more detailed supplemental definition of the list of Sellers, Paths, Point of Receipt (POR), Point of Delivery (POD), Capacity Types, Ancillary Services Types and Templates on-line, clarifying how the terms are being used (see LIST Template). If POR and POD are not used, then Path Name must include directionality.

Many of the Templates represent query-response interactions between the User and the OASIS Node. These interactions are indicated by the "Query" and "Response" section respectively of each Template. Some, as noted in their descriptions, are Input information, sent from the User to the OASIS Node. The Response is generally a mirror of the Input, although in some Templates, the TSIP must add some information.

4.3.1 Template Summary

The following table provides a summary of the process areas, and Templates to be used by Users to query information that will be downloaded or to upload information to the Primary Providers. These processes define the functions that must be supported by an OASIS Node.

Process area	Process name	Template(s)
4.3.2 Query/Response of Posted Services Being Offered	Query/Response Transmission Capacity Offerings	transoffering
	Query/Response Ancillary Service Offerings	ancoffering
4.3.3 Query/Response of Services Information	Query/Response Transmission Services	transserv
	Query/Response Ancillary Services	ancser
4.3.4 Query/Response of Schedules and Curtailments	Query/Response Transmission Schedules	schedule
	Query/Response Curtailments	curtail
4.3.5 Query/Response of Lists of Information	Query/Response List of Sellers, Paths, PORs, PODs, Capacity Types, Ancillary Service Types, Templates.	list
4.3.6 Query/Response of Audit Log	Query/Response Audit Log	auditlog
4.3.7 Purchase Transmission Services	Request Purchase of Transmission Services (Input)	transrequest
	Query/Response Status of Transmission Service Request	transstatus
	Seller Approves Purchase (Input)	transsell
	Customer Confirm/Withdraw Purchase of Transmission Service (Input).	transcust
	Alternate POD/POR	transalt
	Seller Reassign Rights (Input)	transassign
4.3.8 Seller Posting of Transmission Service	Seller Post Transmission Service for Sale (Input)	transpost
	Seller Modify (Remove) Transmission Service for Sale (Input).	transupdate
4.3.9 Purchase of Ancillary Service	Request Purchase of Ancillary Service (Input)	ancrequest
	Query/Response Status of Ancillary Service Request	ancstatus
	Seller Approves Purchase of Ancillary Service (Input)	ancsell
	Customer Accept/Withdraw Purchase of Ancillary Service (Input).	anccust
4.3.10 Seller Post Ancillary Service	Seller Post Ancillary Service (Input)	ancpost
	Seller Modify (Remove) Ancillary Service for Sale (Input)	ancupdate
4.3.11 Informal Messages	Post Want Ads (Input)	messagepost
	Query/Response Want Ads	message
	Delete Want Ad (Input)	messagedelete
	Personnel Transfers	personnel
	Discretion	discretion
	Personnel Transfers	personnel
	Standards of Conduct	stdconduct

4.3.2 Query/Response of Posted Services Being Offered

The following Templates define the information to be posted on services offered for sale. All discounts for service negotiated by a Customer and Primary Provider (as Seller) at a price less than the currently posted offering price shall be posted on OASIS in such a manner as to be viewed using these Templates. All secondary market and/or third-party posting and Primary Provider offerings for like services shall also be viewed using these templates.

The Query must start with the standard header Query Variable Data Elements, listed in Section 4.2.6.2, and may include any valid combination of the remaining Query Variables, shown below in the Templates. START__TIME and STOP__TIME is the requested time interval for the Response to show all offerings which intersect that interval (see Section 4.2.6.6). TIME__OF__LAST__UPDATE can be used to specify all services updated since a specific point in time.

Query variable listed with an asterisk (*) can be at last 4 multiple instances defined by the user in making the query.

In the Response, OFFER__START__TIME and OFFER__STOP__TIME indicate the "request time window" within which a customer must request a service in order to get the posted OFFER__PRICE. START__TIME and STOP__TIME indicate the time frame that the service is being offered for.

The SERVICE__DESCRIPTION data element shall define any attributes and/or special terms and conditions applicable to the offering that are not listed under the standard SERVICE__DESCRIPTION associated with the product definition supplied in the *transserv* or *ancserv* templates.

SERVICE__DESCRIPTION shall be null if there are no unique attributes or terms associated with the offering.

4.3.2.1 Transmission Capacity Offerings Available for Purchase (transoffering)

Transmission Services Offerings Available for Purchase (transoffering) is used to offer transmission services that are posted for sale by the Primary Provider or Resellers. At a minimum this Template must be used to post TTC and each increment and type of service by applicable regulations and the Primary Provider's tariffs.

This Template must include, for each posted path, the Primary Provider's TTC, firm ATC and non-firm ATC, [illegible] required by FERC orders 888 and 889 (plus revisions) and/or if provided in the Primary Provider's tariff. Additional transmission services may be offered with the same Template.

The POSTING__REF is set by the TSIP when an offering is posted and can be used in *transrequests* to refer to a particular offering.

A User may query information about services available from all sellers for the time frame specified by the SERVICE__INCREMENT data element, namely, hourly, daily, weekly, monthly, or yearly.

Template: transoffering

1. Query

PATH__NAME*

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SELLER__CODE*
SELLER__DUNS*
POINT__OF__RECEIPT*
POINT__OF__DELIVERY*
SERVICE__INCREMENT*
TS__CLASS*
TS__TYPE*
TS__PERIOD*
START__TIME (of transmission services)
STOP__TIME (of transmission services)
POSTING__REF
TIME__OF__LAST__UPDATE

2. Response

The response is one or more records showing the requested service information. Note that the Customer will receive as a series of records spanning all the SELLER__CODEs, PATH__NAMEs__PORs, PODs, TS__xxx, and the START__TIME/STOP__TIME specified in the query. The SALE__REF is a value provided by the SELLER to identify the transmission service product being sold. The ANC__SVC__REQ indicates all ancillary services required for the specified transmission services. All Template elements are defined in the Data Element Dictionary.

TIME__OF__LAST__UPDATE
SELLER__CODE
SELLER__DUNS
PATH__NAME
POINT__OF__RECEIPT
POINT__OF__DELIVERY
INTERFACE__TYPE
OFFER__START__TIME
OFFER__STOP__TIME
START__TIME
STOP__TIME
CAPACITY
SERVICE__INCREMENT
TS__CLASS
TS__TYPE
TS__PERIOD
TS__WINDOW
TS__SUBCLASS
ANC__SVC__REQ
SALE__REF
POSTING__REF
CEILING__PRICE
OFFER__PRICE
PRICE__UNITS
SERVICE__DESCRIPTION (if null, then look at *transserv*)
NERC__CURTAILMENT__PRIORITY
OTHER__CURTAIMENT__PRIORITY
SELLER__NAME
SELLER__PHONE
SELLER__FAX
SELLER__EMAIL
SELLER__COMMENTS

4.3.2.2 Ancillary Services Available for Purchase (ancoffering)

Ancillary Services Available for Purchase (ancoffering) is used to provide information regarding the ancillary services that are available for sale by all sellers (both Primary Provider and Third Party Sellers).

Template: ancoffering

1. Query

SELLER__CODE
SELLER__DUNS
CONTROL__AREA
SERVICE__INCREMENT
ANC__SERVICE__TYPE
START__TIME
STOP__TIME
POSTING__REF
TIME__OF__LAST__UPDATE

2. Response

TIME__OF__LAST__UPDATE

SELLER__CODE
SELLER__DUNS
CONTROL__AREA
OFFER__START__TIME
OFFER__STOP__TIME
START__TIME
STOP__TIME
CAPACITY
SERVICE__INCREMENT
ANCILLARY__SERVICE__TYPE
SALE__REF
POSTING__REF
CEILING__PRICE
OFFER__PRICE
PRICE__UNITS
SERVICE__DESCRIPTION (if blank, then look at ancserv)
SELLER__NAME
SELLER__PHONE
SELLER__FAX
SELLER__EMAIL
SELLER__COMMENTS

4.3.3 Query/Response of Services Information

4.3.3.1 Transmission Services (transserv)

Transmission Services (transserv) is used to provide additional information regarding the transmission services SERVICE__INCREMENT, TS__CLASS, TS__TYPE, TS__PERIOD, TS__SUBCLASS, TS__WINDOW, NERC__CURTAIMENT__PRIORITY, and OTHER__CURTAIMENT__PRIORITY that are available for sale by a Provider in the Templates in Section 4.3.2. This Template is used to summarize Provider tariff information for the convenience of the User. The Provider also sets PRICE__UNITS with this Template.

Template: transserv

1. Query

TIME__OF__LAST__UPDATE

2. Response

TIME__OF__LAST__UPDATE
SERVICE__INCREMENT
TS__CLASS
TS__TYPE
TS__PERIOD
TS__WINDOW
TS__SUBCLASS
CEILING__PRICE
PRICE__UNITS
SERVICE__DESCRIPTION
NERC__CURTAILMENT__PRIORITY
OTHER__CURTAILMENT__PRIORITY
TARIFF__REFERENCE

4.3.3.2 Ancillary Services (ancserv)

Ancillary Services (ancserv) is used to provide additional information regarding the ancillary services that are available for sale by a Provider in the Templates in Section 4.3.2. This Template is used to summarize Provider tariff information for the convenience of the User. The Provider also sets PRICE__UNITS with this Template.

Template: ancserv

1. Query

TIME__OF__LAST__UPDATE

2. Response

TIME__OF__LAST__UPDATE
SERVICE__INCREMENT
ANC__SERVICE__TYPE
CEILING__PRICE
PRICE__UNITS
SERVICE__DESCRIPTION
TARIFF__REFERENCE

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4.3.4 Query/Response of Schedules and Curtailments

4.3.4.1 Hourly Schedule (schedule)

Hourly Schedule (schedule) is used to show what a Provider's scheduled transmission capacity usage actually was for specific Paths. All the information provided is derived from that in the transmission reservation (see Template transstatus), except CAPACITY__SCHEDULED, which is the amount of the reservation which was scheduled. Posting of the schedules is organized around the transmission reservations, not the energy schedules. This may require the Primary Provider to map schedules back to the reservation. These records would have to be created for all reservations/schedules done off the OASIS during the operations scheduling period.

Template: schedule

1. Query

PATH__NAME*
SELLER__CODE*
SELLER__DUNS*
CUSTOMER__CODE*
CUSTOMER__DUNS*
POINT__OF__RECEIPT*
POINT__OF__DELIVERY*
SERVICE__INCREMENT*
TS__CLASS*
TS__TYPE*
TS__PERIOD*
START__TIME
STOP__TIME
TIME__OF__LAST__UPDATE
ASSIGNMENT__REF

2. Response

TIME__OF__LAST__UPDATE
SELLER__CODE
SELLER__DUNS
PATH__NAME
POINT__OF__RECEIPT
POINT__OF__DELIVERY
CUSTOMER__CODE
CUSTOMER__DUNS
AFFILIATE__FLAG
START__TIME (start time of schedule)
STOP__TIME (stop time of schedule)
CAPACITY (reserved)
CAPACITY__SCHEDULED (total of energy scheduled for this customer for this reservation for this hour)
SERVICE__INCREMENT
TS__CLASS
TS__TYPE
TS__PERIOD
TS__WINDOW
TS__SUBCLASS
NERC__CURTAILMENT__PRIORITY
OTHER__CURTAILMENT__PRIORITY
ASSIGNMENT__REF (Last rights holder)

4.3.4.2 Curtailment/Interruption (curtail)

Curtailment/Interruption (curtail) provides additional information about the actual curtailment of transmission reservations that have been scheduled for energy exchange. All fields are derived from the reservation except the CAPACITY__CURTAILMENT, CURTAILMENT__REASON and CURTAILMENT__OPTIONS. These fields provide information on the reasons for the curtailment, procedures to be followed and options for the Customer, if any, to relieve the curtailment.

Template: curtail

1. Query

PATH__NAME
SELLER__CODE*
SELLER__CODE
CUSTOMER__CODE*
CUSTOMER__DUNS*
POINT__OF__RECEIPT*
POINT__OF__DELIVERY*

SERVICE__INCREMENT*
TS__CLASS*
TS__TYPE*
TS__PERIOD*
START__TIME
STOP__TIME
TIME__OF__LAST__UPDATE
ASSIGNMENT__REF

2. Response

TIME__OF__LAST__UPDATE
SELLER__CODE
SELLER__DUNS
PATH__NAME
POINT__OF__RECEIPT
POINT__OF__DELIVERY
CUSTOMER__CODE
CUSTOMER__DUNS
AFFILIATE__FLAG__START__TIME (Start time of curtailment)
STOP__TIME (Start time of curtailment)
CAPACITY (Capacity reserved)
CAPACITY__SCHEDULED
CAPACITY__CURTAILED
SERVICE__INCREMENT
TS__CLASS
TS__TYPE
TS__PERIOD
TS__WINDOW
TS__SUBCLASS
HERC__CURTAILMENT__PRIORITY
OTHER__CURTAILMENT__PRIORITY
CURTAILMENT__REASON
CURTAILMENT__PROCEDURES
CURTAILMENT__OPTIONS
ASSIGNMENT__REF

4.3.5 Query/Response of Lists of Information

4.3.5.1 List (list)

List (list) is used to provide lists of valid names. The minimum set of lists is LIST, SELLER__CODEs, PATHs, PORs, PODs, SERVICE__INCREMENTs, TS__CLASSes, TS__TYPEs, TS__PERIODs, NERC__CURTAILMENT__PRIORITY, OTHER__CURTAILMENT__PRIORITY, ANCILLARY__SERVICE__TYPEs, CATEGORYs, and TEMPLATEs. These names may be used to query information, post or request services.

Template: list

1. Query

LIST__NAME
TIME__OF__LAST__UPDATE

2. Response

TIME__OF__LAST__UPDATE
LIST__NAME
LIST__ITEM
LIST__ITEM__DESCRIPTION

4.3.6 Query/Response to Obtain the Audit Log

4.3.6.1 Audit Log Information (auditlog)

Audit Log Information (auditlog) is used to provide a means of accessing the required audit information. The TSIP will maintain two types of logs:

a. Log of all changes to posted TS Information, such as CAPACITY. This log will record as a minimum the time of the change, the Template name, the name of the Template data element changed and the old and new values of the Template data element.

b. A complete record of all transaction events, such as those contained in the Templates 4.3.8, 4.3.9 and 4.3.10. For transaction event logs, the response will include: TIME__STAMP, TEMPLATE, ELEMENT__NAME, AND NEW__DATA. In this case the value of OLD__DATA in not applicable.

Template: auditlog

1. Query

START__TIME (search against audit log)

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STOP__TIME (search against audit log)

2. Response

ASSIGNMENT__REF or POSTING__REF
TIME__STAMP
TEMPLATE
ELEMENT__NAME (for data elements whose values have changed)
OLD__DATA
NEW__DATA

4.3.7 Purchase Transmission Services

The following Templates shall be used by Customers and Sellers to transact purchases of services.

4.3.7.1 Customer Capacity Purchase Request (transrequest)

The Customer Capacity Purchase Request (Input) (transrequest) is used by the Customer to request the purchase of transmission services. The response simply acknowledges that the Customer's request was received by the OASIS Node. It does not imply that the Seller has received the request. Inputting values into the reference Data Elements is optional.

CUSTOMER__CODE and CUSTOMER__DUNS shall be determined from the registered connection used to input the request.

Supporting "profiles" of services, which request different capacities for different time periods within a single request, is at the discretion of the Primary Provider. Continuation records may be used to indicate requests for these service profiles. Only the following fields may be redefined in a continuation record for the transrequest Template: CAPACITY, BID__PRICE, START__TIME, and STOP__TIME.

For requesting transmission services which include multiple paths, only the following fields may be redefined in a continuation record for the transrequest Template: PATH__NAME. Supporting multiple paths is at the discretion of the Provider.

The START__TIME and STOP__TIME indicate the requested period of service.

When the request is received at the OASIS Node, the TSIP assigns a unique ASSIGNMENT__REF value and queues the request with a time stamp. The STATUS for the request is QUEUED.

Specification of a value YES in the PRECONFIRMED field authorizes the TSIP to automatically change the STATUS field in the transstatus Template to CONFIRMED when that request is ACCEPTED by the Seller.

Template: transrequest

1. Input

CONTINUATION__FLAG
SELLER__CODE (Primary or Reseller)
SELLER__DUNS
PATH__NAME
POINT__OF__RECEIPT
POINT__OF__DELIVERY
SOURCE
SINK
CAPACITY
SERVICE__INCREMENT
TS__CLASS
TS__TYPE
TS__PERIOD
TS__SUBCLASS
STATUS__NOTIFICATION
START__TIME
STOP__TIME
BID__PRICE
PRECONFIRMED
ANC__SVC__LINK
POSTING__REF (Optionally set by Customer)
SALE__REF (Optionally set by Customer)
REQUEST__REF (Optionally set by Customer)
DEAL__REF (Optionally set by Customer)
CUSTOMER__COMMENTS

2. Response (acknowledgement)

RECORD__STATUS
CONTINUATION__FLAG
ASSIGNMENT__REF (assigned by TSIP)
SELLER__CODE
SELLER__DUNS
PATH__NAME

POINT__OF__RECEIPT
POINT__OF__DELIVERY
SOURCE
SINK
CAPACITY
SERVICE__INCREMENT
TS__CLASS
TS__TYPE
TS__PERIOD
TS__SUBCLASS
STATUS__NOTIFICATION
START__TIME
STOP__TIME
BID__PRICE
PRECONFIRMED
ANC__SVC__LINK
POSTING__REF
SALE__REF
REQUEST__REF
DEAL__REF
CUSTOMER__COMMENTS
ERROR__MESSAGE

4.3.7.2 Status of Customer Purchase Request (transstatus)

The Status of Customer Purchase Request (transstatus) is provided upon the request of any Customer or Provider to indicate the current status of one or more reservation records. Users may also view any transaction's status. Transmission Providers shall make source and sink information available at the time the request status posting is updated to show that a transmission request is confirmed.

Only the following fields may be redefined in a continuation record for the transstatus response Template: PATH__NAME, CAPACITY, START__TIME, STOP__TIME, REASSIGNED__REF, REASSIGNED__CAPACITY, REASSIGNED__START__TIME, AND REASSIGNED__STOP__TIME.

The AFFILIATE__FLAG will be set by the TSIP to indicate whether or not the Customer is an affiliate of the Primary Provider. The NEGOTIATED__PRICE__FLAG will be set by the TSIP to indicate whether the OFFER__PRICE is higher, lower, or the same as the BID__PRICE.

Template: transstatus

1. Query

SELLER__CODE*
SELLER__DUNS*
SELLER__CODE*
CUSTOMER__DUNS*
PATH__NAME*
POINT__OF__RECEIPT*
POINT__OF__DELIVERY*
SERVICE__INCREMENT*
TS__CLASS*
TS__TYPE*
TS__PERIOD*
STATUS*
START__TIME (Beginning time of service)
STOP__TIME
START__TIME__QUEUED (Beginning time queue)
STOP__TIME__QUEUED
NEGOTIATED__PRICE__FLAG
ASSIGNMENT__REF
REASSIGNED__REF
SALE__REF
REQUEST__REF
DEAL__REF
TIME__OF__LAST__UPDATE

2. Response

CONTINUATION__FLAG
ASSIGNMENT__REF
SELLER__CODE
SELLER__DUNS
CUSTOMER__CODE
CUSTOMER__DUNS

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AFFILIATE__FLAG (Set by TSIP)
PATH__NAME
POINT__OF__RECEIPT
POINT__OF__DELIVERY
SOURCE
SINK
CAPACITY (total reservation)
SERVICE__INCREMENT
TS__CLASS
TS__TYPE
TS__PERIOD
TS__WINDOW
TS__SUBCLASS
NERC__CURTAILMENT__PRIORITY
OTHER__CURTAILMENT__PRIORITY
START__TIME
STOP__TIME
CEILING__PRICE
OFFER__PRICE
BID__PRICE
PRECONFIRMED
ANC__SVC__LINK
ANC__SVC__REQ
ALTERNATE__SERVICE__FLAG
POSTING__REF
SALE__REF
REQUEST__REF
DEAL__REF
NEGOTIATED__PRICE__FLAG ("L" if Seller accepted Price is lower than OFFER__PRICE in transoffering Template; "H" if higher; otherwise blank)
STATUS=RECEIVED, QUEUED, STUDY, REBID, OFFER, ACCEPTED, REFUSED, CONFIRMED, WITHDRAWN, DISPLACED, ANNULLED, RETRACTED
STATUS__NOTIFICATION
STATUS__COMMENTS
TIME__QUEUED
RESPONSE__TIME__LIMIT
TIME__OF__LAST__UPDATE
PRIMARY__PROVIDER__COMMENTS
SELLER__COMMENTS
CUSTOMER__COMMENTS
SELLER__NAME
SELLER__PHONE
SELLER__FAX
SELLER__EMAIL
CUSTOMER__NAME
CUSTOMER__PHONE
CUSTOMER__FAX
CUSTOMER__EMAIL
REASSIGNED__CAPACITY (Capacity from each previous transaction)
REASSIGNED__START__TIME
REASSIGNED__STOP__TIME

4.3.8.3 Seller Approval of Purchase (transsell)

Seller Approval of Purchase (Input) (transsell) is input by a Seller to modify the status and queue of a request by a Customer.

If preconfirmed then Seller can only change values of data elements, STATUS, STATUS__COMMENTS, SELLER__COMMENTS, REASSIGNED__REF, NEGOTIATED__PRICE__FLAG, ANC__SRV__REQ, REASSIGNED__START__TIME, REASSIGNED__STOP__TIME, and REASSIGNED__CAPACITY. If not preconfirmed, then the Seller can also change OFFER__PRICE.

Only the following fields may be redefined in a continuation record for the transsell Template: REASSIGNED__CAPACITY, OFFER__PRICE, REASSIGNED__REF, REASSIGNED__START__TIME, and REASSIGNED__STOP__TIME.

SELLER__CODE and SELLER__DUNS shall be determined from the registered connection used to input the request. The Seller may accept a reservation only when the BID__PRICE and the OFFER__PRICE are the same.

Template: transsell

1. Input

CONTINUATION__FLAG

ASSIGNMENT_REF (Required)
OFFER_PRICE
STATUS= RECEIVED, STUDY, OFFER, ACCEPTED, REFUSED, ANNULLED, RETRACTED, DISPLACED
STATUS_COMMENTS
OTHER_CURTAILMENT_PRIORITY (optional)
ANC_SVC_REQ
NEGOTIATED_PRICE_FLAG
SELLER_COMMENTS
RESPONSE_TIME_LIMIT
REASSIGNED_REF
REASSIGNED_CAPACITY (Previous capacity to be reassigned)
REASSIGNED_START_TIME
REASSIGNED_STOP_TIME

2. Response

RECORD_STATUS
CONTINUATION_FLAG
ASSIGNMENT_REF
OFFER_PRICE
STATUS= RECEIVED, STUDY, OFFER, ACCEPTED, REFUSED, ANNULLED, RETRACTED, DISPLACED
STATUS_COMMENTS
OTHER_CURTAILMENT_PRIORITY
ANC_SVC_REQ
NEGOTIATED_PRICE_FLAG
SELLER_COMMENTS
RESPONSE_TIME_LIMIT
REASSIGNED_REF
REASSIGNED_CAPACITY (Previous capacity to be reassigned)
REASSIGNED_START_TIME
REASSIGNED_STOP_TIME
ERROR_MESSAGE

4.3.7.4 Customer Confirmation of Purchase (Input) (transcust)

Customer Confirmation of Purchase (Input) (transcust) is input by the Customer to state his agreement or withdrawal of a purchase after the Seller has indicated that the purchase request is approved. Only the BID_PRICE, STATUS, STATUS_COMMENTS, ANC_SVC_LINK, and CUSTOMER_COMMENTS data elements can be modified in this Template.

CUSTOMER_CODE and CUSTOMER_DUNS shall be determined from the registered connection used to input the request.

The Customer must change the BID_PRICE to be equal to the OFFER_PRICE for each record before the STATUS can be set to CONFIRMED.

Template: transcust

1. Input

CONTINUATION_FLAG
ASSIGNMENT_REF (Required)
REQUEST_REF
DEAL_REF
BID_PRICE
STATUS= REBID, CONFIRMED, WITHDRAWN
STATUS_COMMENTS
ANC_SVC_LINK
STATUS_NOTIFICATION If left blank, then original URL from the transrequest will be used
CUSTOMER_COMMENTS

2. Response

RECORD_STATUS
CONTINUATION_FLAG
ASSIGNMENT_REF
REQUEST_REF
DEAL_REF
BID_PRICE
STATUS= REBID, CONFIRMED, WITHDRAWN
STATUS_COMMENTS
ANC_SVC_LINK
STATUS_NOTIFICATION
CUSTOMER_COMMENTS
ERROR_MESSAGE

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4.3.7.5 Alternate Point of Receipt/Delivery (transalt)

Alternate Point of Delivery (transalt). The Customer may submit a request to use alternate points of receipt/delivery for an existing confirmed reservation, if allowed by applicable tariffs and service agreements. The assignment reference value associated with the prior confirmed reservation must be provided in the REASSIGNED__REF data element along with the alternate points of receipt/delivery. The request may be submitted as PRECONFIRMED. Requests submitted by the transalt template shall be handled by OASIS identically to reservations submitted using the transrequest template.

CUSTOMER__CODE and CUSTOMER__DUNS shall be determined from the registered connection used to input the request.

REASSIGNED__REF contains the ASSIGNMENT__REF of the original, confirmed reservation that is being designated to the alternate points of delivery/receipt. The Template allows for only one REASSIGNED__REF Field. Therefore, if multiple, original reservations are being designated, a separate transalt Template must be submitted associated with each original reservation. There is no restriction that multiple submissions of the transalt Template may all refer back to the same, original reservation (i.e., may have the same REASSIGNED__REF).

Demand profiles associated with the designation of alternate POD/POR may be submitted by additional records designating "Y" for CONTINUATION__FLAG, and specifying the CAPACITY, START__TIME, and STOP__TIME data elements corresponding to the MW demand being requested over each time interval associated with the reservation. The CAPACITY, START__TIME, and STOP__TIME data elements must fall within the amounts and time intervals associated with the original reservation.

The following data elements in transstatus and the appropriate ones in transcust shall take on the following implied values:

SELLER__CODE (value from SELLER__CODE in reservation designated by REASSIGNED__REF)
SELLER__DUNS (value from SELLER__DUNS in reservation designated by REASSIGNED__REF)
ALTERNATE__SERVICE__FLAG = YES
OFFER__PRICE = $0
BID__PRICE = $0
CEILING__PRICE = $0
TS__CLASS = Non-Firm (or whatever the Provider designates)
REASSIGNED__CAPACITY = MW capacity submitted in CAPACITY field of Template
REASSIGNED__START__TIME = time submitted in START__TIME field of Template
REASSIGNED__STOP__TIME = time submitted in STOP__TIME field of Template

Template: transalt

1. Input

CONTINUATION__FLAG
PATH__NAME
POINT__OF__RECEIPT
POINT__OF__DELIVERY
SOURCE
SINK
PRECONFIRMED
CAPACITY (Must be less than or equal to original capacity reservation)
STATUS__NOTIFICATION
START__TIME (Valid only to hour and within the time of original reservation)
STOP__TIME (Valid only to hour and within the time of original reservation)
REQUEST__REF
DEAL__REF
REASSIGNED__REF (Assignment Reference for the Firm reservation being used for request)
CUSTOMER__COMMENTS

2. Response (acknowledgment)

RECORD__STATUS
CONTINUATION__FLAG
ASSIGNMENT__REF (assigned by the TSIP)
SELLER__CODE (Primary)
SELLER__DUNS
PATH__NAME
POINT__OF__RECEIPT
POINT__OF__DELIVERY
SOURCE
SINK
PRECONFIRMED
ALTERNATE__SERVICE__FLAG (Defaulted to YES)
CAPACITY (Capacity requested)
STATUS__NOTIFICATION
START__TIME
STOP__TIME
REQUEST__REF

DEAL__REF
REASSIGNED__REF (Assignment Reference for the Firm reservation being used for request)
ERROR__MESSAGE

4.3.7.6 Seller to Reassign Service Rights to Another Customer (transassign)

Seller to Reassign Service Rights to Another Customer (Input) (transassign) is used by the seller to ask the Transmission Services Information Provider to reassign some or all of the seller's rights to Services to another Customer, for seller confirmed transactions that have occurred off the OASIS. The TSIP shall assign a unique ASSIGNMENT__REF in the response (acknowledgment) and enter the status CONFIRMED as viewed in the transstatus Template.

SELLER__CODE and SELLER__DUNS shall be determined from the registered connection used to input the request.

Only the following fields may be redefined in a continuation record for the transassign input Template: CAPACITY, START__TIME, STOP__TIME, REASSIGNED__REF, REASSIGNED__CAPACITY, REASSIGNED__START__TIME, and REASSIGNED__STOP__TIME.

SELLER__CODE and SELLER__DUNS shall be determined from the registered connection used to input the request.

Template: transassign

1. Input

CONTINUATION__FLAG
CUSTOMER__CODE
CUSTOMER__DUNS
PATH__NAME
POINT__OF__RECEIPT
POINT__OF__DELIVERY
SOURCE
SINK
CAPACITY
SERVICE__INCREMENT
TS__CLASS
TS__TYPE
TS__PERIOD
TS__SUBCLASS
START__TIME
STOP__TIME
OFFER__PRICE
ANC__SVC__LINK (optional: filled in if assignment is different than original transmission reservation)
POSTING__NAMES
REASSIGNED__REF
REASSIGNED__CAPACITY (Capacity being sold from each previous assignment)
REASSIGNED__START__TIME
REASSIGNED__STOP__TIME
SELLERS__COMMENTS

2. Response (acknowledgement)

RECORD__STATUS
CONTINUATION__FLAG
ASSIGNMENT__REF (assigned by TSIP)
CUSTOMER__CODE
CUSTOMER__DUNS
PATH__NAME
POINT__OF__RECEIPT
POINT__OF__DELIVERY
SOURCE
SINK
CAPACITY (Total capacity being reassigned)
SERVICE__INCREMENT
TS__CLASS
TS__TYPE
TS__PERIOD
TS__SUBCLASS
START__TIME
STOP__TIME
OFFER__PRICE
ANC__SVC__LINK
POSTING__NAME
REASSIGNED__REF
REASSIGNED__CAPACITY (Capacity being sold from each previous assignment)
REASSIGNED__START__TIME
REASSIGNED__STOP__TIME

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SELLER__COMMENTS
ERROR__MESSAGE

4.3.8 Seller Posting of Transmission Services

Sellers shall use the following Templates for providing sell information. They may aggregate portions of several previous purchases to create a new service, if this capability is provided by the Transmission Services Information Provider:

4.3.8.1 Seller Capacity Posting (transpost)

Seller Capacity Posting (Input) (transport shall be used by the Seller to post the transmission capacity for resale on to the OASIS Node.

SELLER__CODE and SELLER__DUNS shall be determined from the registered connection used to input the request.

Template: transpost

1. Input

PATH__NAME
POINT__OF__RECEIPT
POINT__OF__DELIVERY
INTERFACE__TYPE
CAPACITY
SERVICE__INCREMENT
TS__CLASS
TS__TYPE
TS__PERIOD
TS__WINDOW
TS__SUBCLASS
OTHER__CURTAILMENT__PRIORITY (optional)
ANC__SVC__REQ
START__TIME
STOP__TIME
OFFER__START__TIME
OFFER__STOP__TIME
SALE__REF
OFFER__PRICE
SERVICE__DESCRIPTION
SELLER__COMMENTS

2. Response (Acknowledgment)

RECORD__STATUS
POSTING__REF (Assigned by TSIP)
PATH__NAME
POINT__OF__RECEIPT
POINT__OF__DELIVERY
INTERFACE__TYPE
CAPACITY
SERVICE__INCREMENT
TS__CLASS
TS__TYPE
TS__PERIOD
TS__WINDOW
TS__SUBCLASS
OTHER__CURTAILMENT__PRIORITY
ANC__SVC__REQ
START__TIME
STOP__TIME
OFFER__START__TIME
OFFER__STOP__TIME
SALE__REF
OFFER__PRICE
SERVICE__DESCRIPTION
SELLER__COMMENTS
ERROR__MESSAGE

4.3.8.2 Seller Capacity Modify (transupdate)

Seller Capacity Modify (Input) (transupdate) shall be used by a Seller to modify a posting of transmission capacity.

SELLER__CODE and SELLER__DUNS shall be determined from the registered connection used to input the request.

Template: transupdate

1. Input

POSTING__REF (Must be provided)

CAPACITY (only if modified)
START__TIME (only if modified)
STOP__TIME (only if modified)
OFFER__START__TIME (only if modified)
OFFER__STOP__TIME (only if modified)
ANC__SVC__REQ (only if modified)
SALE__REF (only if modified)
OFFER__PRICE (only if modified)
SERVICE__DESCRIPTION (only if modified)
SELLER__COMMENTS (only if modified)

2. Response (acknowledgment)

RECORD__STATUS
POSTING__REF
CAPACITY
START__TIME
STOP__TIME
OFFER__START__TIME
OFFER__STOP__TIME
ANC__SVC__REQ
SALE__REF
OFFER__PRICE
SERVICE__DESCRIPTION
SELLER__COMMENTS
ERROR__MESSAGE

4.3.9 Purchase of Ancillary Services

4.3.9.1 Customer Requests to Purchase Ancillary Services (ancrequest)

Customer Requests to Purchase Ancillary Services (ancrequest) (Input, Template Upload) is used by the customer to purchase ancillary services that have been posted by a seller of those services. The same requirements exist for the use of STATUS__NOTIFICATION as for transrequest. The reference Data Elements are optional.

CUSTOMER__CODE and CUSTOMER__DUNS shall be determined from the registered connection used to input the request.

Template: ancrequest

1. Input

SELLER__CODE
SELLER__DUNS
CONTROL__AREA
CAPACITY
SERVCIE__INCREMENT
ANC__SERVICE__TYPE
STATUS__NOTIFICATION
START__TIME
STOP__TIME
BID__PRICE
PRECONFIRMED
POSTING__REF (Optionally Set by Customer)
SALE__REF (Optionally Set by Customer)
REQUEST__REF (Optionally Set by Customer)
DEAL__REF (Optionally Set by Customer)
CUSTOMER__COMMENTS

2. Response (acknowledgment)

RECORD__STATUS
ASSIGNMENT__REF (assigned by TSIP)
SELLER__CODE
SELLER__DUNS
CONTROL__AREA
CAPACITY
SERVICE__INCREMENT
ANC__SERVCIE__TYPE
STATUS__NOTIFICATION
START__TIME
STOP__TIME
BID__PRICE
PRECONFIRMED

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POSTING_REF
SALE_REF
REQUEST_REF
DEAL_REF
CUSTOMER_COMMENTS
ERROR_MESSAGE

4.3.9.2 Ancillary Services Status (ancstatus)

Ancillary Services Status (ancstatus) is used to provide the status of purchase requests regarding the ancillary services that are available for sale by all Service Providers.

The AFFILIATE_FLAG will be set by the TSIP to indicate whether or not the Customer is an affiliate of the Seller.

The values of STATUS and processes for setting STATUS are the same as for transstatus.

Template: ancstatus

1. Query

SELLER_CODE*
SELLER_DUNS*
CUSTOMER_CODE*
CUSTOMER_DUNS*
CONTROL_AREA
SERVICE_INCREMENT
ANC_SERVICE_TYPE
STATUS
START_TIME
STOP_TIME
START_TIME_QUEUED
STOP_TIME_QUEUED
ASSIGNMENT_REF
SALE_REF
REQUEST_REF
DEAL_REF
TIME_OF_LAST_UPDATE (only if TIME_OF_LAST_UPDATE is posted by record)

2. Response

ASSIGNMENT_REF
SELLER_CODE
SELLER_DUNS
CUSTOMER_CODE
CUSTOMER_DUNS
AFFILIATE_FLAG (Set by TSIP)
CONTROL_AREA
CAPACITY
SERVICE_INCREMENT
ANC_SERVICE_TYPE
START_TIME
STOP_TIME
CEILING_PRICE
OFFER_PRICE
BID_PRICE
PRECONFIRMED
POSTING_REF
SALE_REF
REQUEST_REF
DEAL_REF
NEGOTIATED_PRICE_FLAG ("L" if Seller accepted Price is lower than OFFER_PRICE in ancoffering Template; "H" if higher; otherwise blank)
STATUS=QUEUED, RECEIVED, REBID, OFFER, ACCEPTED, REFUSED, CONFIRMED, WITHDRAWN, ANNULLED, RETRACTED
STATUS_NOTIFICATION
STATUS_COMMENTS
TIME_QUEUED
RESPONSE_TIME_LIMIT
TIME_OF_LAST_UPDATE
PRIMARY _PROVIDER_COMMENTS
SELLER_COMMENTS
CUSTOMER_COMMENTS
SELLER_NAME

SELLER__PHONE
SELLER__FAX
SELLER__EMAIL
CUSTOMER__NAME
CUSTOMER__PHONE
CUSTOMER__FAX
CUSTOMER__EMAIL

4.3.9.3 Seller Approves Ancillary Service (ancsell)

Seller Approves Ancillary Service (ancsell) is used by the Seller to confirm acceptance after the Seller has approved the purchase an ancillary service.

SELLER__CODE and SELLER__DUNS shall be determined from the registered connection used to input the request.

Template: ancsell

1. Input

ASSIGNMENT__REF (Required)
OFFER__PRICE
STATUS=RECEIVED, OFFER, ACCEPTED, REFUSED
STATUS__COMMENTS
SELLER__COMMENTS

2. Response (acknowledgment)

RECORD__STATUS
ASSIGNMENT__REF
OFFER__PRICE
STATUS=RECEIVED, OFFER, ACCEPTED, REFUSED
STATUS__COMMENTS
NEGOTIATED__PRICE__FLAG
RESPONSE__TIME__LIMIT
SELLER__COMMENTS
ERROR__MESSAGE

4.3.9.4 Customers accepts Ancillary Service (anccust)

Customers accepts Ancillary Service (anccust) is used by the customer to confirm acceptance after the seller has approved the purchase of ancillary service.

The Customer must change the BID__PRICE to be equal to the OFFER__PRICE before the STATUS can be set to CONFIRMED.

customer__CODE and CUSTOMER__DUNS shall be determined from the registered connection used to input the request.

Template: anccust

1. Input

ASSIGNMENT__REF (Required)
REQUEST__REF
DEAL—REF
BID__PRICE
STATUS=REBID, CONFIRMED, WITHDRAWN
STATUS__COMMENTS
STATUS__NOTIFICATION (If left blank, then the original URL from the ancrequest will be used
CUSTOMER__COMMENTS

2. Response (Acknowledgment)

RECORD__STATUS
ASSIGNMENT__REF
REQUEST__REF
DEAL__REF
BID__PRICE
STATUS=REBID, CONFIRMED, WITHDRAWN
STATUS__COMMENTS
STATUS__NOTIFICATION
CUSTOMER__COMMENTS
ERROR__MESSAGE

4.3.10 Seller Posting of Ancillary Services

4.3.10.1 Seller Ancillary Services Posting (ancpost)

Seller Ancillary Services Posting (ancpost) is used by the Seller to post information regarding the different services that are available for sale by third party Sellers of ancillary services.

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SELLER_CODE and SELLER_DUNS shall be determined from the registered connection used to input the request.

Template: ancpost

1. Input

CONTROL_AREA
SERVICE_DESCRIPTION
CAPACITY
SERVICE_INCREMENT
ANC_SERVICE_TYPE
START_TIME
STOP_TIME
OFFER_START_TIME
OFFER_STOP_TIME
SALE_REF
OFFER_PRICE
SELLER_COMMENTS

2. Response (acknowledgement)

RECORD_STATUS
POSTING_REF (Assigned by TSIP)
CONTROL_AREA
SERVICE_DESCRIPTION
CAPACITY
SERVICE_INCREMENT
ANC_SERVICE_TYPE
START_TIME
STOP_TIME
OFFER_START_TIME
OFFER_STOP_TIME
SALE_REF
OFFER_PRICE
SELLER_COMMENTS
ERROR_MESSAGE

4.3.10.2 Seller Modify Ancillary Services Posting (ancupdate)

Seller Modify Ancillary Services Posting (ancupdate) is used by the Seller to modify posted information regarding ancillary services that are available for sale by a third party Seller.

SELLER_CODE and SELLER_DUNS shall be determined from the registered connection used to input the request.

Template: ancupdate

1. Input

POSTING_REF (Required)
CAPACITY (only if modified)
SERVICE_DESCRIPTION (only if modified)
START_TIME (only if modified)
STOP_TIME (only if modified)
OFFER_START_TIME (only if modified)
OFFER_STOP_TIME (only if modified)
SALE_REF (only if modified)
OFFER_PRICE (only if modified)
SELLER_COMMENTS (only if modified)

2. Response (acknowledgment)

RECORD_STATES
POSTING_REF
CAPACITY
SERVICE_DESCRIPTION
START_TIME
STOP_TIME
OFFER_START_TIME
OFFER_STOP_TIME
SALE_REF
OFFER_PRICE
SELLER_COMMENTS
ERROR_MESSAGE

4.3.11 Informal Messages

4.3.11.1 Provider/Customer Want Ads and Informal Message Posting Request (messagepost)

Provider/Customer Want Ads and Informal Message Posting Request (messagepost) is used by Providers and Customers who wish to post a message. The valid entries for CATEGORY shall be defined by providers and shall be listed in the List of CATEGORY Template.

One CATEGORY shall be DISCOUNT. All discount prices accepted by a Customer shall be immediately posted as a message using the DISCOUNT CATEGORY. This will permit carry-over from Phase 1.

CUSTOMER__CODE and CUSTOMER__DUNS shall be determined from the registered connection used to input the request.

Template: messagepost

1. Input

SUBJECT
CATEGORY
VALID__FROM__TIME
VALID__TO__TIME
MESSAGE (must be specified)

2. Response (acknowledgment)

RECORD__STATUS
POSTING__REF (assigned by information provider)
SUBJECT
CATEGORY
VALID__FROM__TIME
VALID__TO__TIME
MESSAGE
ERROR__MESSAGE

4.3.11.2 Message (message)

Message (message) is used to view a posted Want Ad or Informal Message. The CATEGORY data element can be queried. Specifically it shall be possible to query for the CATEGORY of DISCOUNT. This will permit carry-over from Phase 1.

Template: message

1. Query

CUSTOMER__CODE
CUSTOMER__DUNS
POSTING__REF
CATEGORY
VALID__FROM__TIME
VALID__TO__TIME
TIME__POSTED

2. Response

CUSTOMER__CODE
POSTING__REF
SUBJECT
CATEGORY
VALID__FROM__TIME
VALID__TO__TIME
TIME__POSTED
CUSTOMER__NAME
CUSTOMER__PHONE
CUSTOMER__FAX
CUSTOMER__EMAIL
MESSAGE

4.3.11.3 Provider/Sellers Message Delete Request (messagedelete)

Provider/Sellers Message Delete Request (messagedelete) is used by Providers and Sellers who wish to delete their message. The POSTING__REF number is used to determine which message.

CUSTOMER__CODE and CUSTOMER__DUNS shall be determined from the registered connection used to input the request.

Template: messagedelete

1. Input

POSTING__REF

2. Response (acknowledgment)

RECORD__STATUS
POSTING__REF
ERROR__MESSAGE

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4.3.11.4 Personnel Transfers (personnel)

Template: personnel

1. Query

TIME__OF__LAST__UPDATE
START__TIME__POSTED
STOP__TIME__POSTED

2. Response

POSTING__NAME
EMPLOYEE__NAME
FORMER__POSITION
FORMER__COMPANY
FORMER__DEPARTMENT
NEW__POSITION
NEW__COMPANY
NEW__DEPARTMENT
DATE__TIME__EFFECTIVE
DATE__TIME__POSTED
TIME__OF__LAST__UPDATE

4.3.11.5 Discretion (discretion)

Template: discretion

1. Query

START__TIME__POSTED
STOP__TIME__POSTED
STOP__TIME
SERVICE__TYPE
SERVICE__NAME
TIME__OF__LAST__UPDATE

2. Response

POSTING__NAME
RESPONSIBLE__PARTY__NAME (name of person granting discretion)
SERVICE__TYPE (ancillary or transmission)
SERVICE__NAME (make consistent with offering Templates)
TARIFF__REFERENCE
START__TIME
STOP__TIME
DISCRETION__DESCRIPTION
TIME__POSTED
TIME__OF__LAST__UPDATE

4.3.11.6 Standards of Conduct (stdconduct)

Template: stdconduct

1. Query

START__TIME__POSTED
STOP__TIME__POSTED
TIME__OF__LAST__UPDATE

2. Response

POSTING__NAME
RESPONSIBLE__PARTY__NAME
STANDARDS__OF__CONDUCT__ISSUES
TIME__POSTED
TIME__OF__LAST__UPDATE

4.4 FILE REQUEST AND FILE DOWNLOAD EXAMPLES

4.4.1 File Example for Hourly Offering

Example of the request to Primary Provider, aaa, and response for Seller, wxyz, for PATH__NAME "W/AAAA/PATH-ABC//" for April 10, 1996 from 8 a.m. to 3 p.m. (Note that the PATH__NAME consists of a REGION__CODE, PRIMARY__PROVIDER__CODE, PATH__CODE, and an OPTIONAL__CODE, separated with a slash, "/".) The VERSION for Phase 1A is 1.2.

The request is in the form of a URL query string and the response is a ASCII delimited file.

1. Query

http://(OASIS Node name)/OASIS/aaa/data/transoffering? ver=1.2 &templ=transoffering &fmt=data &pprov=AAAA &pprovduns=123456789 &path=W/AAA/ABC// &seller=WXYZAA &sellerduns=987654321 &POR=aaa &POD=bbb &service=hourly &TSCLASS1=firm &TSCLASS2=non-firm &stime=19960410080000PD &sptime=19960410150000PD

2. Response Data

```
REQUEST-STATUS=200↵ (Successful)
TIME__STAMP=19960409113526PD↵
VERSION=1.2↵
TEMPLATE=transoffering↵
OUTPUT__FORMAT=DATA↵
PRIMARY__PROVIDER__CODE=AAAA↵
PRIMARY__PROVIDER__DUNS=123456789↵
DATA__ROWS=14↵
COLUMN__HEADERS=TIME__OF__LAST__UPDATE, SELLER__CODE, SELLER__DUNS, PATH__NAME,
POINT__OF__RECEIPT, POINT__OF__DELIVERY, INTERFACE__TYPE, OFFER__START__TIME, OFFER__STOP__TIME,
START__TIME, STOP__TIME, CAPACITY, SERVICE__INCREMENT, TS__CLASS, TS__TYPE,TS__PERIOD, TS__SUBCLASS,
SALE__REF, POSTING__REF, CEILING__PRICE, OFFER__PRICE, PRICE__UNITS, SERVICE__DESCRIPTION, SELL-
ER__NAME, SELLER__PHONE, SELLER__FAX, SELLER-EMAIL, SELLER__COMMENTS↵
19960409030000PD,WXYZ, 987654321,W/AAA/ABC//,N/A,N/A,E, 19960402080000PD,
19960410080000PD,19960410080000PD,19960410090000PD,300, HOURLY, FIRM, POINT__T0__POINT, OFF__PEAK, N/
A,N/A,A001,1.50,1.35,MW,N/A,N/A,N/A,N/A,N/A,10% DISCOUNT↵
19960409030000PD,WXYZ,987654321,W/AAA/ABC//,N/A,N/A,E, 19960402080000PD,
19960410080000PD,19960410080000PD,19960410090000PD,300, HOURLY, NON-FIRM, POINT__T0__POINT. OFF__PEAK,
N/A,N/A,A001,1.50,1.35,MW,N/A,N/A,N/A,N/A,N/A,10% DISCOUNT↵
19960409030000PD,WXYZ,987654321,W/AAA/ABC//,N/A,N/A,E, 19960402080000PD,
19960410080000PD,19960410090000PD,1996041010000PD,300, HOURLY, FIRM, POINT__T0__POINT, OFF__PEAK, N/A,N/
A,A001,1.50,1.35,MW,N/A,N/A,N/A,N/A,N/A,10% DISCOUNT↵
19960409030000PD,WXYZ,987654321,W/AAA/ABC//,N/A,N/A,E, 19960402080000PD,
19960410080000PD,19960410090000PD,199604100000PD,300, HOURLY, NON-FIRM, POINT__T0__POINT, OFF__PEAK, N/
A,N/A,A001,1.50,1.35,MW,N/A,N/A,N/A,N/A,N/A,10% DISCOUNT↵
19960409030000PD,WXYZ,987654321,W/AAA/ABC//,N/A,N/A,E, 19960402080000PD,
19960410080000PD,19960410100000PD,19960410110000PD,300 HOURLY, NON-FIRM, POINT__T0__POINT, OFF__PEAK,
N/A,N/A,A001,1.50,1.35,MW,N/A,N/A,N/A,N/A,N/A,10% DISCOUNT↵
19960409030000PD,WXYZ,987654321,W/AAA/ABC//,N/A,N/A,E, 19960402080000PD,
19960410100000PD,19960410110000PD,19960410110000PD,300, HOURLY, NON-FIRM, POINT__T0__POINT, OFF__PEAK,
N/A,N/A,A001,1.50,1.35,MW,N/A,N/A,N/A,N/A,N/A,10% DISCOUNT↵
19960409030000PD,WXYZ,987654321,W/AAA/ABC//,N/A,N/A,E, 19960402080000PD,
19960410080000PD,19960410110000PD,19960410120000PD,300, HOURLY, FIRMPOINT__T0__POINT, OFF__PEAK, N/A,N/
A,A001,1.50,1.35,MW,N/A,N/A,N/A,N/A,N/A,10% DISCOUNT↵
19960409030000PD,WXYZ,987654321,W/AAA/ABC//,N/A,N/A,E, 19960402080000PD,
19960410080000PD,19960410110000PD,19960410120000PD,300, HOURLY, NON-FIRM, POINT__T0__POINT, OFF__PEAK
,N/A,N/A,A001,1.50,1.35,MW,N/A,N/A,N/A,N/A,N/A,10% DISCOUNT↵
. . .
. . .
. . .
19960409030000PD,WXYZ,987654321,W/AAA/ABC//,N/A,N/A,E, 19960402080000PD,
19960410080000PD,19960410140000PD,19960410150000PD,300, HOURLY, FIRM, POINT__T0__POINT, OFF__PEAK, N/
A,N/A,A001,1.50,1.35,MW,N/A,N/A,N/A,N/A,N/A,10% DISCOUNT↵
1996040903000PD. WXYZ. 987654321. W/AAA/ABC//, N/A,N/A,E. 19960402080000PD, 19960410080000PD,
19960410140000PD. 19960410150000PD.300. HOURLY, NON-FIRM, POINT__ TO__ POINT, OFF__PEAK, N/A, N/
A,A001,1.50. 1,35,MW,N/A,N/A,N/A,N/A,N/A,10% DISCOUNT↵
```

4.4.2 File Example for Hourly Schedule Data

The example shows a request for the hourly schedule data from Primary Provider, aaa, related to the seller, wxyz, for the period 10 a.m. to 3 p.m. on April 10, 1996.

There are two idential requests examples using two slightly different methods. The first request is using a HTTP URL request string through an HTML GET method. The second request is a similar example using fetch__http from a file using a POST method.

1. Query

URL Request (HTTP method=GET)

http://OASIS Node name)/OASIS/aaa/data/schedule? ver=1.0 & pprov=AAAA & templ=schedule & fmt=data & pprovduns=123456789 & path=W/AAA/ABC// & seller=WXYZ & por=BBB & CCC & tz=PD & stime=19960410100000PD & sptime=19960410150000PD

URL request (HTTP method=POST)

S fetch__http http://(OASIS Node name)/OASIS/aaa/data/ OASISDATA-fc:*/OASIS/ wxyz/upload/in-file.txt* Where *in-file.txt* contains the following: ver=1.0 & pprov=AAAA & Templ=schedule & fmt=data & pprovduns=123456789 & path=W/AAA/ABC// & seller=WXYZ &por=BBB &pod=CCC & tz=PD & stime=19960410100000PD & sptime-19960410150000PD

2. Response Data

```
REQUEST-STATUS=200↵
```

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```
TIME__STAMP=19960410114702PD↲
VERSION-1.2↲
TEMPLATE=schedule↲
OUTPUT__FORMAT=DATA↲
PRIMARY__PROVIDER__CODE=AAAA↲
PRIMARY__PROVIDER__DUNS=123456789↲
DATA__ROWS=5↲
COLUMN__HEADERS=TIME__OF__LAST__UPDATE, SELLER__CODE. SELLER__DUNS, PATH__NAME,
POINT__OF__RECEIPT. POINT__OF__DELIVERY, CUSTOMER__CODE. CUSTOMER__DUNS, AFFILIATE__FLAG,
START__TIME. STOP__TIME, CAPACITY, CAPACITY__SCHEDULED, SERVICE__INCREMENT, TS__CLASS, TS__TYPE,
TS__PERIOD, TS__SUBCLASS, ASSIGNMENT__REF↲
1996049030000pd.wxyz.0987654321. W/AAA/ABC//.BBB.CCC. WXYZAA.0987654322.Y.19960410100000PD.
19960410110000PD.300.300. HOURLY, FIRM, POINT__ TO__ POINT, OFF__ PEAK, N/A, 856743↲
. . .↲
. . .↲
1996049030000pd.wxyz.0987654321. W/AAA/ABC//.BBB.CCC.WXYZAA. 0987654322.Y. 19960410130000PD.
19960410140000PD.300.300. HOURLY, FIRM, POINT__ TO__ POINT, OFF__ PEAK, N/A, 856743↲
1996049030000pd.wxyz. 0987654321.W/AAA/ABC//.BBB.CCC. WXYZAA.0987654322.Y. 19960410140000PD.
19960410150000PD.300.300. HOURLY, FIRM, POINT__ TO__ POINT, OFF__ PEAK, N/A, 856743↲
```

4.4.3 Customer Posting a Transmission Service Offering

The example shows how a Customer would post for sale the transmission service that was purchased previously. The Seller would create a file and upload the file using the FETCH__ HTTP program to send a file to the OASIS node of the Primary Provider.

1. Input:

```
VERSION-1.2↲
TEMPLATE=transpost↲
OUTPUT__ FORMAT=DATA↲
PRIMARY__ PROVIDER__ CODE=AAAA↲
PRIMARY__ PROVIDER__ DUNS=123456789↲
DATA__ ROWS=1↲
COLUMN__HEADERS=PATH__NAME, POINT__OF__DELIVER, INTERFACE__TYPE, CAPACITY, SERVICE__INCREMENT,
TS__CLASS, TS__TYPE, TS__PERIOD, TS__SUBCLASS, START__TIME, STOP__TIME, OFFER__START__ TIME,
OFFER__STOP__ TIME, SALE__REF. OFFER__PRICE, SERVICE__DESCRIPTION, SELLER__COMMENTPF↲
WXYZ.987654321.W/AAA/ABC//.N/A,N/A.E.150, HOURLY, FIRM, POINT__ TO__ POINT, OFF__ PEAK, N/A/
.19960402080000PD, 19960410080000PD, 19960410080000PD, 199604101500PD, A123.90.N/A, "As Joe said, """It is a
good buy"""""↲
FETCH__ HTTP Command to send posting
S fetch__ http http//(OASIS Node name)/OASIS/abcd/data/transrequest-fc:/OASIS/abcd/upload/post.txt
```

2. Response Data

```
REQUEST-STATUS=200↲(Successful)
TIME__ STAMP=19960409113526PD↲
VERSION-1.2↲
TEMPLATE=transpost↲
OUTPUT__ FORMAT=DATA↲
PRIMARY__PROVIDER__ CODE=AAAA↲
PRIMARY__ PROVIDER__ DUNS=123456789↲
DATA__ ROWS=1↲
COLUMN__HEADERS=RECORD__STATUS, PATH__NAME, POINT__OF__RECEIPT, POINT__OF__DELIVER, INTER-
FACE__TYPE, CAPACITY, SERVICE__INCREMENT, TS__CLASS, TS__TYPE, TS__PERIOD, TS__SUBCLASS,
START__TIME, STOP__TIME, OFFER__START__TIME, OFFER__STOP__ TIME__TIME, SALE__REF, OFFER__PRICE,
SERVICE__DESCRIPTION, SELLER__COMMENTS, ERROR__MESSAGE↲
200.WXYZ.987654321, W/AAA/ABC//,N/A, N/A. E.150, HOURLY, FIRM, POINT__TO__POINT, OFF__PEAK, N/A.
19960402080000PD, 19960410080000PD, 19960410080000PD, 19960410150000PD, A123,.90, N/A/, "As Joe said, """It is
a good buy"""", No Error↲
```

4.4.4 Example of Re-aggregating Purchasing Services using Reassignment

The following examples do not show the complete Template information, but only show those elements of the Template of interest to the example.

a. Customer #1, "BestE" requests the purchase of 150 MW Firm ATC for 8 a.m. to 5 p.m. for $1.00 from a Primary Provider (transrequest).

```
TEMPLATE="transrequest"↲
CUSTOMER__CODE="BestE"↲
CAPACITY=150↲
TS__CLASS="FIRM"↲
START__TIME="1996050708000000PD"↲
```

```
STOP__TIME="1996050717000000PD"↵
BID__PRICE="$1.00"↵
```

The Information Provider assigns ASSIGNMENT__REF=5000 on acknowledgment.

b. Customer #1 purchases 120 MW ATC Non-firm for 3 p.m. to 9 p.m. for $.90 *(transrequest)*. The Information Provider assigns the ASSIGNMENT__REF=5001 when the request for purchase is made and is shown in the acknowledgment.

```
TEMPLATE="transrequest"↵
CUSTOMER__CODE="BestE"↵
CAPACITY=120↵
TS__CLASS="NON-FIRM"↵
START__TIME="1996050715000000PD"↵
STOP__TIME="1996050721000000PD"↵
BID__PRICE="$1.05"↵
```

c. Customer #1 becomes Seller #1 and post the Transmission service of 100 MW ATC Non-firm capacity from 8 a.m. to 9 p.m. for resale at $.90/MW-hour.

```
TEMPLATE="transpost"↵
SELLER__CODE="BestE"↵
CAPACITY=100↵
TS__CLASS="NON-FIRM"↵
START__TIME="1996050708000000PD"↵
STOP__TIME="1996050721000000PD"↵
SALE__REF="BEST100"↵
OFFER__PRICE=.90↵
SELLER__COMMENTS="aggregating two previous purchases"↵
```

d. Customer #2 then requests purchase of 100 MW Non-firm from Reseller #1 from 8 a.m. to 6 p.m. for $0.90/MW-hour (transrequest).

```
TEMPLATE="transrequest"↵
CUSTOMER__CODE="Whlsle"↵
SELLER__CODE="BestE"↵
CAPACITY=100↵
TS__CLASS="NON-FIRM"↵
START__TIME="1996050708000000PD"↵
STOP__TIME="1996050721000000PD"↵
SALE__REF="BEST100"↵
DEAL__REF="WPC100"↵
BID__PRICE=.90↵
CUSTOMER__COMMENTS="Only need service until 6 p.m."↵
```

The Information Provider provides the ASSIGNMENT__REF=5002 for this transaction.

e. Seller informs the Information Provider of the reassignment of the previous transmission rights when the seller accepts the customer purchase request (transsell).

```
TEMPLATE="transsell"↵
CUSTOMER__CODE="Whlsle"↵
SELLER__CODE="BestE"↵
ASSIGNMENT__REF=5002↵
STATUS="Accepted"↵
REASSIGNED__REF1=5000↵
REASSIGNED__CAPACITY1=100↵
REASSIGNED__START__TIME1="199605070800PD"↵
REASSIGNED__STOP__TIME1="199605071700PD"↵
REASSIGNED__REF2=5001↵
REASSIGNED__CAPACITY2=100↵
REASSIGNED__START__TIME2="199605071700PD"↵
REASSIGNED__STOP__TIME2="199605071800PD"↵
```

4.4.5 File Examples of the Use of Continuation Records

a. Basic Continuation Records

The first example of the use of Continuation Records is for the transrequest Template submitted by a Seller for purchase of a transmission reservation spanning 16 hours from 06:00 to 22:00 with "ramped" demand at beginning and end of time period. Two additional reservations appear prior to and following the profile to demonstrate the handling of ASSIGNMENT__REF by the OASIS node.

Only the following fields may be redefined in a continuation record for the transrequest Template: CAPACITY, START__TIME, STOP__TIME. Specification of any values corresponding to COLUMN__HEADERs other than CAPACITY, START__TIME, and STOP__TIME will be ignored, however commas must be included to properly align the CAPACITY, START__TIME and STOP__TIME fields.

Input:

```
VERSION=1.2↵
```

VOL
63
ISS
138
JL
20
1998
UMI

```
TEMPLATE=transrequest↵
OUTPUT__FORMAT=DATA↵
PRIMARY__PROVIDER__CODE=AEP↵
PRIMARY__PROVIDER__DUNS=123456789↵
DATA__ROWS=7↵
COLUMN__HEADERS=CONTINUATION__FLAG, SELLER__CODE, SELLER__DUNS, PATH__NAME,
POINT__OF__RECEIPT. POINT__OF__DELIVERY, SOURCE, SINK, CAPACITY, SERVICE__INCREMENT, TS__CLASS,
TS__TYPE, TS__PERIOD. TS__SUBCLASS, STATUS__NOTIFICATION, START__TIME, STOP__TIME, BID__PRICE.
PRECONFIRMED, ANC__SVC__LINK, POSTING__REF, SALE__REF, REQUEST__REF, DEAL__REF, CUS-
TOMER__COMMENTS↵
N. AEP, 123456789, ABC/XY, CE, MECS...35, DAILY, FIRM, POINT__TO__POINT, OFF__PEAK, N/A., pub/AEP/incoming,
19970423000000ES, 19970424000000ES, 24.50, Y.SC: (cust:SP);RV:(cust:SP);RF(cust:RQ); EI:(cust:R123);
SP:(custR234);SU:(cust:R345), PO123, S123, R765, D123, Standard daily reservation↵
N. AEP, 123456789, ABC/XY, CE, AMPO....5, HOURLY, NON-FIRM. POINT__TO__POINT, OFF__PEAK, N/A. pub/AEP/
incoming, 19970423060000ES, 19970423070000ES, 2.50, Y, SC:(cust:SP);RV:(cust:SP);RF(cust:RQ);EI:(cust:R 123);
SP:(custR234); SU:(cust:R345), P0123, S123, R765, D123, First piece of profile spanning 5 records↵
Y........10.......19970423070000ES, 19970423080000ES.........Second piece↵
Y........15.......19970423080000ES, 19970423200000ES.........Third piece↵
Y........10.......19970423200000ES, 19970423210000ES.........Fourth piece↵
Y........5........19970423210000ES, 19970423220000ES.........Fifth piece↵
N. AEP, 123456789, ABC/XY, CE, MECS... 20, HOURLY, FIRM POINT__TO__POINT, OFF__PEAK, N/A, pub/AEP/incoming,
19970423040000ES, 19970423160000ES, 2.00, Y .SC:(cust:SP);RV:(cust:SP);RF(cust:RQ);EI:(cust:R123); SP:(custR234);
SU:(cust:R345), PO123, S123, R765, D123, Standard hourly reservation after profiled reservation↵
```

Response:

```
REQUEST__STATUS=200↵
TIME__STAMP=19970422160523ES↵
TEMPLATE=transrequest↵
OUTPUT__FORMAT=DATA↵
PRIMARY__PROVIDER__CODE=AEP↵
PRIMARY__PROVIDER__DUNS=123456789↵
DATA__ROWS=7↵
COLUMN__HEADERS=RECORD__STATUS. CONTINUATION__FLAG, SELLER__CODE. SELLER__DUNS. PATH__NAME.
POINT__OF__RECEIPT. POINT__OF__DELIVERY. SOURCE, SINK, CAPACITY, SERVICE__INCREMENT. TS__CLASS.
TS__TYPE. TS__PERIOD. TS__SUBCLASS. STATUS__NOTIFICATION. START__TIME. STOP__TIME. BID__PRICE.
PRECONFIRMED. ANC__SVC__LINK. POSTING__REF. SALE__REF. REQUEST__REF. DEAL__REF, CUS-
TOMER__COMMENTS. ERROR__MESSAGE↵
200. N. AEP. 123456789. ABC/XY. CE, MECS...35, DAILY. FIRM. POINT__TO__POINT. OFF__PEAK, N/A, pub/AEP/
incoming, 19970423000000ES, 19970424000000ES, 24.50.Y.SC:(cust:SP):RV:(cust:SP);RF(cust:RQ); EI:(cust:R123);
SP:(custR234): SU:(cust:R345), P0123, S123, R765, D123, Standard daily reservation, No error↵
200. N. AEP. 123456789. ABC/XY. CE, AMPO...5, HOURLY. NON-FIRM. POINT__TO__POINT. OFF__PEAK. N/A/, pub/
AEP/incoming. 19970423060000ES, 19970423070000ES, 2.50. Y.SC:(cust:SP);RV:(cust:SP);RF(cust:RQ);EI:(cust:R123);SP:
(custR234); SU:(cust:R345). PO123, R765, D123. First piece of profile spanning 5 records. No error↵
200. Y.......10.......19970423070000ES, 19970423080000ES.........Second piece. No error↵
200. Y.......15.......19970423080000ES, 19970423200000ES.........Third piece. No error↵
200. Y.......10.......19970423200000ES, 19970423210000ES.........Fourth piece. No error. ↵
200. Y.......5........19970423210000ES, 19970423220000ES.........Fifth piece. No error. ↵
200. N. AEP. 123456789, ABC/XY, CE, MECS...20. HOURLY, FIRM, POINT__TO__POINT, OFF__PEAK, N/A. pub/AEP/
incoming, 19970423040000ES, 19970423160000ES, 2.00, Y. SC:(cust:SP);RV:(cust:SP);RF(cust:RQ); EI:(cust:R123);
SP:(custR234); SU:(cust:R345). PO123, S123, R765, D123. Standard hourly reservation after profiled reservation. No error↵
```

b. Submission of Reassignment Information—Case 1:

In the prior example, a reservation request was submitted to "Rseler" for 20 MW of Hourly Non-firm service from 04:00 to 16:00. Assume that Rseler has previously reserved service for the CE–VP path for Daily Firm in amount of 50 MW on 4/23 under ASSIGNMENT__REF=7019, and Hourly Non-Firm in amount of 10 MW from 08:00 to 20:00 on 4/23 under ASSIGNMENT__REF=7880. Rseler must designate which transmission service rights are to be reassigned to Cust to satisfy the 20MW from 04:00 to 16:00. This reassignment information is conveyed by Rseler using the transsell Template when the reservation request is ACCEPTED. At the SELLER's discretion, rights are assigned from the Non-firm reservation first (ASSIGNMENT__REF=7880) with the balance taken up by the Firm reservation (ASSIGNMENT__REF=7019).

The only fields allowed in "continuation" records for transsell Template are REASSIGNED__REF, REASSIGNED__CAPACITY, REASSIGNED__START__TIME, and REASSIGNED__STOP__TIME. Price may not be negotiated for each "segment" in a capacity profile.

Input:

```
VERSION=1.2↵
TEMPLATE=transsell↵
OUTPUT__FORMAT=DATA↵
PRIMARY__PROVIDER__CODE=AEP↵
```

```
PRIMARY__PROVIDER__DUNS=123456789↵
DATA__ROW=3↵
COLUMN__HEADERS=RECORD__STATUS, CONTINUATION__FLAG, ASSIGNMENT__REF. OFFER__PRICE. STATUS.
STATUS__COMMENTS. ANC__SVC__LINK. SELLER__COMMENTS. REASSIGNED__REF. REASSIGNED__CAPACITY. RE-
ASSIGNED__START__TIME. REASSIGNED__STOP__TIME N. 8236. 2.00, ACCEPTED. Status comments here.
SC:(cust:SP);RV:(cust:SP);RF(cust:RQ);EI:(cust:R123);SP:(CustR234); SU:(cust:R345). Seller comments here. 7019.20,
19970423040000ES. 19970423080000ES↵
200. Y.......7880. 10. 19970423080000ES. 19970423160000ES↵
200. Y.......7019. 10. 19970423080000ES. 19970423160000ES↵
```

Response:

```
VERSION=1.2↵
TEMPLATE=transsell↵
OUTPUT__FORMAT=DATA↵
PRIMARY__PROVIDER__CODE=AEP↵
PRIMARY__PROVIDER__DUNS=123456789↵
DATA__ROW=3↵
COLUMN__HEADERS=RECORD__STATUS. CONTINUATION__FLAG, ASSIGNMENT__REF. OFFER__PRICE. STATUS.
STATUS__COMMENTS. ANC__SVC__LINK. SELLER__COMMENTS. REASSIGNED__REF. REASSIGNED__CAPACITY. RE-
ASSIGNED__START__TIME. REASSIGNED__STOP__TIME, ERROR__MESSAGES 200. N. 8236.2.00, ACCEPTED. Status
comments here. SC:(cust:SP);RV:(cust:SP);RF(cust:RQ);EI:(cust:R123);sp:(CustR234); SU:(cust:R345). Seller comments here.
7019.20, 19970423040000ES. 19970423080000ES↵
200. Y.......7880. 10. 19970423080000ES. 19970423160000ES↵
200. Y.......7019. 10. 19970423080000ES. 19970423160000ES↵
```

c. Submission of Reassignment Information—Case 2:

Primary provider, AEP, is notified of a sale/assignment of transmission service rights from "Resell" to "cust". The parameters of the new reservation are for 10MW or 4/23 for "off-peak" hours (00:00–06:00 and 22:00–24:00) on POR/POD CE–VP. Rseler is assigning rights to 10MW from a prior reservation for the CE–VP path for Daily Firm in amount of 50 MW on 4/23 under ASSIGNMENT__REF=7019 to Cust. AEP would submit the following information using the transassign Template to post this (re)sale. The only fields allowed in "continuation" records for the transassign Template are CAPACITY, START__TIME, STOP__TIME, REASSIGNED__REF, REASSIGNED__CAPACITY, REASSIGNED__START__TIME, and REASSIGNED__STOP__TIME.

Even though there is a one-to-one correspondence between the segments of the new reservations and the reassignment of service from a prior reservation, it is entirely possible that a reservation spanning a single contiguous period would require multiple continuation records to convey reassignment information, and vice versa.

Fields for CUSTOMER__NAME and SELLER__NAME were used to convey user names for subsequent resolution of contact information from user registration.

Input:

```
VERSION=1.2↵
TEMPLATE=transassign↵
OUTPUT__FORMAT=DATA↵
PRIMARY__PROVIDER__CODE=AEP↵
PRIMARY__PROVIDER__DUNS=123456789↵
DATA__ROWS=2↵
COLUMN__HEADERS=CONTINUATION__FLAG, CUSTOMER__CODE, CUSTOMER__DUNS, PATH__NAME,
POINT__OF__RECEIPT, POINT__OF__DELIVERY, SOURCE, SINK, CAPACITY, SERVICE__INCREMENT, TS__CLASS,
TS__TYPE, TS__PERIOD, TS__SUBCLASS, START__TIME, STOP__TIME, OFFER__PRICE, SALE__REF, POSTING__NAME,
REASSIGNED__REF, REASSIGNED__CAPACITY, REASSIGNED__START__TIME, REASSIGNED__STOP__TIME, SELL-
ER__COMMENTS↵
N. Resler, 456123789, Cust. 987654321..CE. VP...10. HOURLY. NON-FIRM, POINT__TO__POINT, OFF__PEAK, N/A.
19970423000000ES. 19970423060000ES. 2.00, Joe Smith, Jane Doe . N. 19970422121354ES..7019. 10. 19970423000000ES.
19970423060000ES. Seller comments go here↵
Y...........10......19970423220000ES. 19970424000000ES.......7019. 10. 19970423220000ES. 19970424000000ES↵
```

Response:

```
REQUEST__STATUS=200↵
TIME__STAMP=19970422144520ES↵
VERSION=1.2↵
TEMPLATE=transassign↵
OUTPUT__FORMAT=DATA↵
PRIMARY__PROVIDER__CODE=AEP↵
PRIMARY__PROVIDER__DUNS=123456789↵
DATA__ROWS=2↵
COLUMN__HEADERS=RECORD__STATUS, CONTINUATION__FLAG, ASSIGNMENT__REF, SELLER__CODE, SELL-
ER__DUNS, CUSTOMER__CODE, CUSTOMER__DUNS, AFFILIATE__FLAG, PATH__NAME, POINT__OF__RECEIPT,
POINT__OF__DELIVERY, SOURCE, SINK, CAPACITY, SERVICE__INCREMENT, TS__CLASS, TS__TYPE, TS__PERIOD,
TS__SUBCLASS, START__TIME, STOP__TIME, OFFER__PRICE, SELLER__NAME, CUSTOMER__NAME, TIME__QUEUED,
```

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```
SALE__REF, REASSIGNED__REF, REASSIGNED__CAPACITY, REASSIGNED__START__TIME, REAS-
SIGNED__STOP__TIME, SELLER__COMMENTS, ERROR__MESSAGE↵
200. N. 8207, Rseler, 456123789, Cust. 987654321, N., CE. VP...10, HOURLY, FIRM, POINT__TO__POINT, OFF__PEAK,
N/A. 19970423000000ES. 19970423060000ES, 2.00, Joe Smith, Jane Doe , 19970422121354ES, . 7019, 10,
19970423000000ES, 19970423060000ES, Seller comments go here.↵
200, Y...........10......19970423220000ES, 19970424000000ES......7019, 10, 19970423220000ES, 19970424000000ES..↵
```

d. Query of Transmission Reservation Status:

The following typical response to a transstatus query might be delivered for 4/23 based on prior examples. Note that the only fields returned in "continuation" records are, CAPACITY, START__TIME, STOP__TIME, REASSIGNED__REF, REASSIGNED__CAPACITY, REASSIGNED__START__TIME, and REASSIGNED__STOP__TIME (price fields are debatable).

Input:

<appropriate query name/value pairs to return reservations for 4/23>

Response:

```
REQUEST__STATUS=200↵
TIME__STAMP=19970423040523ES↵
TEMPLATE=transstatus↵
OUTPUT__FORMAT=DATA↵
PRIMARY__PROVIDER__CODE=AEP↵
PRIMARY__PROVIDER__DUNS=123456789↵
DATA__ROWS=11↵
COLUMN__HEADERS= CONTINUATION__FLAG, ASSIGNMENT__REF, SELLER__CODE, SELLER__DUNS, CUS-
TOMER__CODE, CUSTOMER__DUNS, AFFILIATE__FLAG, PATH__NAME, POINT__OF__RECEIPT,
POINT__OF__DELIVERY, SOURCE, SINK, CAPACITY, SERVICE__INCREMENT, TS__CLASS, TS__TYPE, TS__PERIOD,
TS__SUBCLASS, START__TIME, STOP__TIME, CEILING__PRICE, OFFER__PRICE, BID__PRICE, PRECONFIRMED,
ANC__SVC__LINK, ALTERNATE__SERVICE__FLAG, POSTING__REF, SALE__REF, REQUEST__REF, DEAL__REF, NEGO-
TIATED__PRICE__FLAG, STATUS, STATUS__COMMENTS, TIME__QUEUED, TIME__OF__LAST__UPDATE, PRI-
MARY__PROVIDER__COMMENTS, SELLER__COMMENTS, CUSTOMER__COMMENTS, SELLER__NAME, SELL-
ER__PHONE, SELLER__FAX, SELLER__EMAIL, CUSTOMER__NAME, CUSTOMER__PHONE, CUSTOMER__FAX, CUS-
TOMER__EMAIL, REASSIGNED__REF, REASSIGNED__CAPACITY, REASSIGNED__START__TIME, REAS-
SIGNED__STOP__TIMES
N. 8207, Rseler, 456123789. ACust. 987654321. N..CE. VP...10, HOURLY, FIRM, POINT__TO__POINT, OFF__PEAK, N/
A. 19970423000000ES, 19970423060000ES, 2.25, 2.00, 6.20. N.SC:(cust:SP):RV:(cust:SP):RF(cust:RQ); EI:(cust:R123);
SP:(custR234); SU:(cust:R345).N.....N, CONFIRMED..19970422121354ES..TP Comments, Seller comments go here, Customer
comments, Joe Smith, (888)–123–4567, (888)–123–1231, jsmith@xyz.com. Jane Doe, (999)–123–4567, (999)–123–8823..7019,
10, 19970423000000ES. 19970423060000ES↵
Y,...........,10,.....,19970423220000ES, 19970424000000ES.............7019, 10, 19970423220000ES, 19970424000000ES↵
N. 8234, Rseler, 456123789. ACust. 987654321.N.CE.MECS...35 DAILY, FIRM, POINT__TO__POINT, OFF__PEAK, N/A.
19970423000000ES, 19970423060000ES, 42.00, 24.50, 24.50, N,SC:(cust:SP):RV(cust:SP);RF(cust:RQ); E1:(cust:R123);
SP:(custR234); SU:(cust:R345),N.....N, CONFIRMED..19970422121354ES..Standard daily reservation, System Operator, Cus-
tomer comments, Frank Orth, (999)–123–4567,(999)–123–1231,jsmith@xyx.com, Jane Doe, (999)–123–4567, (999)–123–
8823..7019, 10, 19970423000000ES, 19970423060000ES↵
N. 8235, AEP, 123456789, Cust. 987654321, N.. CE, AMPO...5, HOURLY, NON-FIRM, POINT__TO__POINT, OFF__PEAK,
N/A/ 19970423060000ES, 19970423070000ES, 2.50, 2.50, 6.20, N, SC:(cust:SP):RV(cust:SP);RF(cust:RQ); E1:(cust:R123);
SP:(custR234); SU:(cust:R345),N.....N,CONFIRMED..19970422160523ES..Profile verified. First piece. Customer comments,
System Operator, (888)–123–4567, (888)–123–1231, jsmith@xyz.com.Jane Doe (999)–123–4567, (999)–123–8823..7019, 10,
19970423000000ES, 19970423060000ES↵
Y............10.......19970423070000ES, 19970423080000ES.........................↵
Y............15.......19970423080000ES, 19970423200000ES.........................↵
Y............10.......19970423200000ES, 19970423210000ES.........................↵
Y............5........19970423210000ES, 19970423220000ES.........................↵
N, 8236, Rseler, 456123789, Cust, 987654321, N..CE, VP...20,HOURLY, FIRM, POINT__TO__POINT, OFF__PEAK, N/A,
19970424040000ES, 19970424160000ES, 2.00, 2.50, 6.20, N.....CONFIRMED,, 19970422160523ES..Bid price refused, Nego-
tiated OFFER__PRICE accepted, Joe Smith, (888)–123–4567, (888)–123–1231, jsmith@xyz.com, Jane Doe, (999)–123–4567,
(999)–123–8823..7019, 20, 19970423040000ES, 19970423008000ES↵
Y..................................7880.10.......19970423080000ES, 19970423160000ES↵
Y..................................7019.10......19970423080000ES, 19970423160000ES↵
```

4.4.6 Example of Negotiation of Price

4.4.6.1 Negotiation with Preconfirmation

a. The Customer submits a PRECONFIRMED transmission service request using the transrequest Template. Initially, the STATUS is set to QUEUED by OASIS

b. The Seller has the option of setting STATUS via the transsell Template to one of the following: RECEIVED, STUDY, ACCEPTED, or REFUSED. Since the request is PRECONFIRMED, the Seller is blocked from altering OFFER__PRICE by OASIS, and blocked from setting status to OFFER.

c. If the Seller sets STATUS to ACCEPTED, OASIS will immediately set STATUS to CONFIRMED and sets the OFFER__PRICE to the BID__PRICE.

d. The Customer may WITHDRAW request via transcust Template at any time up to point where the Seller sets STATUS to ACCEPTED.

e. Once the STATUS is CONFIRMED, the OFFER_PRICE officially becomes the terms of the reservation.

4.4.6.2 Negotiations without Preconfirmation

a. The Customer submits a transmission reservation request with the BID_PRICE less than the CEILING_PRICE via the transrequest Template. Initially the STATUS is set to QUEUED by OASIS.

b. The Seller has the option of setting the STATUS via the transsell Template to one of the following: RECEIVED, STUDY, ACCEPTED, OFFER, or REFUSED.

c. The Seller determines that the BID_PRICE is too low, sets the OFFER_PRICE to the price he wants, and sets the STATUS to OFFER via the transsell Template.

d. The Customer agrees to the OFFER_PRICE, sets the BID_PRICE equal to the OFFER PRICE, and sets the STATUS to CONFIRMED via the transcust Template.

e. The OFFER_PRICE with the STATUS of CONFIRMED locks in the terms of the reservation.

4.4.6.3 Multiple Step Negotiations

a. The Customer submits a transmission reservation request with the BID_PRICE less than the CEILING_PRICE via the transrequest Template. Initially the STATUS is set to QUEUED by OASIS.

b. The Seller has the option of setting STATUS via the transsell Template to one of the following: RECEIVED, STUDY, ACCEPTED, OFFER, or REFUSED.

c. The Seller determines that the BID_PRICE is too low, sets the OFFER_PRICE to the desired value, and sets the STATUS to OFFER via the transsell Template.

d. The Customer responds to the new OFFER_PRICE with an updated BID_PRICE and sets the STATUS to REBID for re-evaluation by the Seller.

e. The Seller determines that the BID_PRICE now is acceptable and sets the STATUS to ACCEPTED via the transsell Template. The transition to ACCEPTED state requires the OFFER_PRICE to be set to the BID_PRICE: accepting a reservation with an OFFER_PRICE different from BID_PRICE would require the STATUS be set to OFFER rather than ACCEPTED (see item c).

f. The Customer agrees to the OFFER_PRICE and sets the STATUS to CONFIRM via the transcust Template.

g. The OFFER_PRICE with the STATUS as CONFIRMED locks in the terms of the reservation.

4.4.6.4 Negotiations Refused by Seller

a. The Customer submits a transmission reservation request with the BID_PRICE less than the CEILING PRICE via the transrequest Template. Initially the STATUS is set to QUEUED by OASIS.

b. The Seller has the option of setting the STATUS via the transsell Template to one of the following: RECEIVED, STUDY, ACCEPTED, OFFER, or REFUSED.

c. The Seller determines that the BID_PRICE is too low, sets OFFER_PRICE to his desired value, and sets STATUS to OFFER via the transsell Template.

d. The Customer responds to OFFER_PRICE with updated BID_PRICE and sets the STATUS to REBID via the transcust Template for re-evaluation by Seller.

e. The Seller breaks off all further negotiations by setting the STATUS to REFUSED.

4.4.6.5 Negotiations Withdrawn by Customer

a. The Customer submits a transmission reservation request with the BID_PRICE less than the CEILING PRICE via the transrequest. Initially the STATUS is set to QUEUED by OASIS.

b. The Seller has the option of setting STATUS via the transsell Template to one of the following: RECEIVED, STUDY, ACCEPTED, OFFER, or REFUSED.

c. The Seller determines that the BID_PRICE is too low, sets the OFFER_PRICE to his desired value, and sets the STATUS to OFFER via the transsell Template.

d. The Customer responds to the OFFER_PRICE with an updated BID_PRICE and sets the STATUS to REBID for re-evaluation by Seller.

e. The Seller determines that the BID_PRICE is still too low, sets the OFFER_PRICE to another value, and sets STATUS to OFFER via the *transsell* Template.

f. The Customer breaks off all further negotiations by setting STATUS to WITHDRAWN (or the customer/seller could go through additional iterations of REBID/OFFER until negotiations are broken off or the reservation is CONFIRMED).

4.5 Information Supported by Web Page

There shall be a Web page on each OASIS node with information on requesting the text file of the tariffs and service agreements.

5. Performance Requirements

A critical aspect of any system is its performance. Performance encompasses many issues, such as security, sizing, response to user requests, availability, backup, and other parameters that are critical for the system to function as desired. The following sections cover the performance requirements for the OASIS.

5.1 Security

Breaches of security include many inadvertent or possibly even planned actions. Therefore, several requirements shall be implemented by the TSIPs to avoid these problems:

a. Provider Update of TS Information: Only Providers, including Secondary Providers, shall be permitted to update their own TS Information.

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b. Customer Input Only ASCII Text: TSIPs shall be permitted to require that inputs from Customers shall be filtered to permit only strict ASCII text (strip bit 8 from each byte).

c. Provider Updating Over Public Facilities: If public facilities are involved in the connection between a Provider and the OASIS Node, the Provider shall be able to update his TS Information only through the use of ASCII or through encrypted files.

d. User Registration and Login: All Users shall be required to register and login to a Provider's Account before accessing that Provider's TS Information.

e. User Passwords: All Users shall enter their personal password when they wish to access to TS Information beyond the lowest Access Privilege.

f. Service Request Transactions: Whenever Service Request transactions are implemented entirely over the OASIS, both an individual Customer password for the request, and an individual Provider password for the notification of acceptance shall be required.

g. Data Encryption: Sophisticated data encryption techniques and the "secure id" mechanisms being used on the public Internet shall be used to transfer sensitive data across the Internet and directly between OASIS Nodes.

h. Viruses: Since only data is being transmitted between the OASIS Nodes and the Users, viruses are unlikely to be passed between them. Therefore, TSIPs shall be responsible for ensuring that the OASIS Nodes are free from viruses, but need not screen data exchanges with Users for viruses.

i. Performance Log: TSIPs shall keep a log on User usage of OASIS resources.

j. Disconnection: TSIPs shall be allowed to disconnect any User who is degrading the performance of the OASIS Node through the excessive use of resources, beyond what is permitted in their Service Level Agreement.

k. Premature Access: The TSIP log shall also be used to ensure that Users who are affiliated with the Provider's company (or any other User) do not have access to TS information before it is publicly available.

l. Firewalls: TSIPs shall employ security measures such as firewalls to minimize the possibility that unauthorized users shall access or modify TS Information or reach into Provider or User systems. Interfaces through Public Data Networks or the Internet shall be permitted as long as these security requirements are met.

m. Certificates and Public Key Standards (optional): Use of alternative forms of login and authentication using certificates and public key standards is acceptable.

5.2 Access Privileges

Users shall be assigned different Access Privileges based on external agreements between the User and the Provider. These Access Privileges are associated with individual Users rather than just a company, to ensure that only authorized Users within a company have the appropriate access.

The following Access Privileges shall be available as a minimum:

a. Access Privilege Read-Only: The User may only read publicly available TS Information.

b. Access Privilege for Transactions: The Customer is authorized to transact Services Requests.

c. Access Privilege Read/Write: A Secondary Provider shall have write access to his own Provider Account on an OASIS Node.

5.3 OASIS Response Time Requirements

TSIPs can only be responsible for the response capabilities of two portions of the Internet-based OASIS network:

- The response capabilities of the OASIS Node server to process interactions with Users.
- The bandwidth of the connection(s) between the OASIS Node server and the Internet.

Therefore, the OASIS response time requirements are as follows:

a. OASIS Node Server Response Time: The OASIS Node server shall be capable of supporting its connection(s) to Users with an average aggregate data rate of at least "A" bits per second. "A" is defined as follows:

A=N * R bits/sec
where:
N=5% of registered Customers.
and
R=28,800 bits/sec per Customer.

b. OASIS Node Network Connection Bandwidth: The bandwidth "B" of the OASIS Node connection(s) to the Internet shall be at least:

B=2 * A bits/sec

c. Time to Meet Response Requirements: The minimum time responses shall be met within 1 month of User registration for any single new User. If more than 10 new Users register in one month, 2 months lead time shall be permitted to expand/upgrade the OASIS Note to meet the response requirements.

5.4 OASIS Provider Account Availability

The following are the OASIS Provider Account availability requirements:

a. OASIS Provider Account Availability: The availability of each OASIS Provider account on a OASIS Node shall be at least 98.0% (downtime of about 7 days per year).

Availability is defined as:

$$\%\ \text{Availability} = \frac{(1 - \text{Cumulative Provider Account Downtime})}{\text{Total Time}} * 100$$

A Provider account shall be considered to be down, and downtime shall be accumulated, upon occurrence of any of the following:

1. One or more Users cannot link and log on to the Provider account. The downtime accumulated shall be calculated as:

Σ for affected Users of 1/n * (Login time), which is the time used by each affected User to try to link and log on to the Provider account, and where "n" is the total number of Users actively registered for that Provider account.

2. One or more Users cannot access TS Information once they have logged on to a Provider account. The downtime accumulated shall be calculated as:

Σ for affected Users of 1/n * (Access Time), which is the time used by each affected User to try to access data, and where "n" is the total number of Users actively registered for that Provider.

3. A five (5) minute penalty shall be added to the cumulative downtime for every time a User loses their connection to a Provider's account due to an OASIS Node momentary failure or problem.

5.5 *Backup and Recovery*

The following backup and recovery requirements shall be met:

a. Normal Backup of TS Information: Backup of TS Information and equipment shall be provided within the OASIS Node so that no data or transaction logs are lost or become inaccessible by Users due to any single point of failure. Backed up data shall be no older than 30 seconds. Single points of failure include the loss of one:

- Disk drive or other storage device
- Processor
- Inter-processor communications (e.g., LAN)
- Inter-OASIS communications
- Software application
- Database
- Communication ports for access by Users
- Any other single item which affects the access of TS Information by Users

b. Spurious Failure Recovery Time: After a spurious failure situation, all affected Users shall regain access to all TS Information within 30 minutes. A spurious failure is a temporary loss of services which can be overcome by rebooting a system or restarting a program. Permanent loss of any physical component is considered a catastrophic failure.

c. Long-Term Backup: Permanent loss of critical data due to a catastrophic failure shall be minimized through off-line storage on a daily basis and through off-site data storage on a periodic basis.

d. Catastrophic Failure Recovery: Recovery from a catastrophic failure or loss of an OASIS Node may be provided through the use of alternate OASIS Nodes which meet the same availability and response time requirements. TSIPs may set up prior agreements with other TSIPs as to which Nodes will act as backups to which other Nodes, and what procedure will be used to undertake the recovery. Recovery from a catastrophic failure shall be designed to be achieved within 24 hours.

5.6 *Time Synchronization*

The following are the time requirements:

a. Time Synchronization: Time shall be synchronized on OASIS Nodes such that all time stamps will be accurate to within "0.5 second of official time. This synchronization may be handled over the network using NTP, or may be synchronized locally using time standard signals (e.g. WWVB, GPS equipment).

b. Network Time Protocol (NTP): OASIS Nodes shall support the Internet tool for time synchronization, Network Time Protocol (NTP), which is described in RFC–1350, version 3, so that Users shall be able to request the display and the downloading of current time on an OASIS node for purposes of user applications which might be sensitive to OASIS time.

5.7 *TS Information Timing Requirements*

The TS Information timing requirements are as follows, except they are waived during emergencies.

a. TS Information Availability: The most recent Provider TS information shall be available on the OASIS Node within 5 minutes of its required posting time at least 98% of the time. The remaining 2% of the time the TS Information shall be available within 10 minutes of its scheduled posting time.

b. Notification of Posted or Changed TS Information: Notification of TS Information posted or changed by a Provider shall be made available within 60 seconds of the log.

c. Acknowledgment by the TSIP: Acknowledgment by the TSIP of the receipt of User Purchase requests shall occur within 1 minute. The actual negotiations and agreements on Purchase requests do not have time constraints.

5.8 *TS Information Accuracy*

The following requirements relate to the accuracy of the TS information:

a. TS Information Reasonability: TS information posted and updated by the Provider shall be validated for reasonability and consistency through the use of limit checks and other validation methods.

b. TS Information Accuracy: Although precise measures of accuracy are difficult to establish, Providers shall use their best efforts to provide accurate information.

5.9 *Performance Auditing*

The following are the performance auditing requirements:

a. User Help desk Support: TSIPs shall provide a "Help Desk" that is available at least during normal business hours (local time zone) and normal work days.

b. Monitoring Performance Parameters: TSIPs shall use their best efforts to monitor performance parameters. Any User shall be able to read or down load these performance statistics.

5.10 *Migration Requirements*

Whenever a new version of the S&CP is to be implemented, a migration plan will be developed for cutting over to the new version.

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Appendix A—Data Element Dictionary

Version 1.2

May 27, 1998

Data dictionary element name	Alias	Field format: minimum characters (type of ASCII) maximum characters	Restricted values	Definition of data element
AFFILIATE_FLAG	AFFLAG	1(ALPHANUMERIC)3	Valid Values YES NO	Set to YES if customer is an affiliate of the provider.
ANC_SERVICE_TYPE	ANCTYPE	1(ALPHANUMERIC)20	Valid types • EL • SP • SU • RV • RF • SC • (Registered)	EI—Energy Imbalance. EP—Spinning Reserve. SU—Supplemental Reserve. RV—Reactive supply and Voltage Control. RF—Regulation and Frequency response. SC—Scheduling, system Control and Dispatch. (Registered) must be registered with www.tsin.com and listed in the ANCSERV template.
NAC_SVC_LINK	ANCSVCLINK.	1(ALPHANUMERIC)300	Formatted string as follows: SC:(AA); RV: (AA); RF: (AA[:xxx[:yyy[:nnn]]]); EL: (AA[:xxx[:yyy[:nnn]]]); SP: (AA[:xxx[:yyy[:nnn]]]); SU: (AA[:xxx[:yyy[:nnn]]]); (Registered): (AA[:xxx[:yyy[:nnn]]]);	The method for linking ancillary services to a transmission service request. The provider and capacity of each ancillary service is identified using the formated string: SC:(AA); RV:(AA); RI:[:xxx[:yyy[:nnn]]]); EI: (AA[:xxx[:yyy[:nnn]]]); SP:(AA[:xxx[:yyy[:nnn]]]); [Registered):(AA[:xxx[:yyy[:nnn]]]) where AA is the appropriate PRIMARY__PROVIDER__CODE, SELLER__CODE; or CUSTOMER__CODE, and represents the company providing the ancillary services. "AA" may be unspecified for "xxx" type identical to "FI", in which case the ":" character must be present and precede the "FI" type. If multiple "AA" terms are necessary, then each "AA" grouping will be enclosed within parenthesis, with the overall group subordinate to the ANC__SVC__TYPE: specified within parenthesis. and where xxx represents either: —"FT" to indicate that the Customer will determine ancillary services at a future time, or —"SI" to indicate tht the Customer will self-provide the ancillary services, or —"RQ" to indicate that the Customer is asking the OASIS to initiate the proecess for making an ancillary services reservation with the indicated Provider or Seller on behalf of the Customer. The Customer must then continue the reservation process with the Provider or Seller. If the transmission services request is for preconfirmed service, then the ancillary services shall also be preconfirmed, or —"AR" to indicate an assignment reference number sequence follows.

Data dictionary element name	Alias	Field format: minimum characters (type of ASCII) maximum characters	Restricted values	Definition of data element
				The terms "yyy" and "nnn" are subordinate to the xxx type of "AR" yyy represents the ancillary services reservation number (ASSIGNMENT__REF) and nnn represents the capacity of the reserved ancillary services. Square brackets are used to indicate optional elements and are not used in the actual linkage itself. Specifically, the :yyy is applicable to only the "AR" term and the :nnn may optionally be left off if the capacity of ancillary services is the same as for the transmission services, and optionally multiple ancillary reservations may be indicated by additional (xxx[:yyy[:nnn]]) enclosed within parenthesis. If no capacity amount is indicated, the required capacity is assumed to
ANC__SVC__REQ	ANCSVCREQ.	1(ALPHANUMERIC)100	EI: (M.R.O.U); SP; (M.R.O.U);. SU: (M.R.O.U); RV: (M.R.O.U): RE: (M.R.O.U); SC: (M.R.O.U): (registered): (M.R.O.U)	Ancillary services required for a transmission services offering. The appropriate letter (M.R.O.U) will be assigned to each of the six Proforma FERC ancillary services (see ANC__SERVICE__TYPE), where the letters mean the following: (M) Mandatory, which implies that the Primary Provider must provide the ancillary service (R) Required, which implies that the ancillary service is required, but not necessarily from the Primary Provider (O) Optional, which implies that the ancillary service is not necessarily required, but could be provided (U) Unknown, which implies that the requirements for the ancillary service are not know at this time.
ALTERNATE__SERVICE__FLAG.	ALTSVCFLG	2(ALPHANUMERIC)3	Defaulted to "YES"	Used as a flag to identify this reservation as a NON-FIRM use of FIRM transmission services on an alternate point of delivery.
ASSIGNMENTU__REF	AREF	1(ALPHANUMERIC)12	Unique value	A unique reference number assigned by a Transmission Information Provider to provide a unique record for each transmission or ancillary service request. A single transmission or ancillary service request will be over a contiguous time period, i.e. from a START__TIME to an STOP__TIME.
BID__PRICE	BIDPR	1(NUMERIC)5 +"," + 2(NUMERIC)12.	Positive number with 2 decimals.	The current bid price of a Service in dollars and cents. Used by Customers to designate a price being bid.
CAPACITY	CAP	1(NUMERIC)12	Non-negative number in units of MW.	Transfer capability is the measure of the ability of the interconnected electric system to readily move or transfer power from one area to another over all transmission lines (or paths) between those areas under specified system conditions. In this context "area" may be an individual electric system, powerpool, control area, subregion, or NERC region or portion thereof.
CAPACITY__CURTAILED	CAPCUR	1(NUMERIC)12	Non-negative number in units of MW.	The amount of transfer capability curtailed by the Primary provider for emergency reasons
CAPACITY__SCHEDULED	CAPSCH	1(NUMERIC)12	Non-negative number in units of MW.	Transfer capability scheduled on each path.

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Data dictionary element name	Alias	Field format: minimum characters (type of ASCII) maximum characters	Restricted values	Definition of data element
CATEGORY	CAT	1(ALPHANUMERIC)25	Valid name from CATEGORY in LIST Template.	A name to be used to categorize messages. Valid names would include: *Disocunt, Want-Ad, Curtailment, Outage, Oasis Maint Notice.*
CEILING_PRICE	CEILPR	1(NUMERIC)5 + "." + 2(NUMERIC)2.	Positive number with 2 decimals.	Ceiling price of the Service as entered by the Transmission Provider.
COLUMN_HEADERS	HEADERS	1(ALPHANUMERIC) Limited to all the elements names in one Template.	Headers surrounded with A and separated by commas. Limited to valid Template element names. Must use full element name and not alias.	Example: COLUMN_HEADER=APATH_NAME", "POINT_OF_RECEIPT", POINT_OF_DELIVERY", "SOURCE", "SINK".
CONTINUATION_FLAG	CONT	1(ALPHANUMERIC)1	"Y" OR "N"	Indicates whether or not this record is a continuation from the previous record.
CONTROL_AREA	AREA	1(ALPHANUMERIC)20	Valid name of a control area.	A part of the power system with metered tie lines and capable of matching generation and load while meeting scheduled interchange. Location of Ancillary Services is my CONTROL_AREA.
CURTAILMENT_OPTIONS	CUROPT	1(ALPHANUMERIC)80	Free form text	Customer options, if any, to avoid curtailment.
CURTAILMENT_PROCEDURES.	CURPROC	1(ALPHANUMERIC)80	Free form text	Curtailment procedures to be followed in the event of a curtailment.
CURTAILMENT_REASON	CURREAS	1(ALPHANUMERIC)80	Free form text	Reason for curtailment of service.
CUSTOMER_CODE	CUST	1(ALPHANUMERIC)6	Unique value, registered on TSIN.COM.	Any entity (or its designated agent) that is eligible to view OASIS information, to execute a service agreement, and/or to receive transmission service.
CUSTOMER_COMMENTS	CUSTCOM	1(ALPHANUMERIC)80	Free-form text	Informative text.
CUSTOMER_DUNS	CUSTDUNS	9(NUMERIC)9	Unique DUNS number	Unique DUNS number for a Customer.
CUSTOMER_EMAIL	CUSTEMAIL	1(ALPHANUMERIC)25	Valid Internet E-Mail address.	Internet E-Mail address of Customer contact person.
CUSTOMER_FAX	CUSTEFAX	14(ALPHANUMERIC)20	Area code and telephone number, plus any extensions (aaa)-nnn-nnnn xnnnn.	Fax phone number of Customer contract person.
CUSTOMER_NAME	CUSTNAME	1(ALPHANUMERIC)25	Free form text	Name of Customer contract person.
CUSTOMER_PHONE	CUSTPHON	14(ALPHANUMERIC)20	Area code and telephone number, plus any extensions (aaa)-nnn-nnnn xnnnn.	Telephone of Customer contact person.
DATA_ROWS	ROWS	1(NUMERIC) unlimited	Positive Number	Number of records (rows) of data exclusive of header information that are to be uploaded or downloaded in a file.
DATE_TIME_EFFECTIVE	TIMEEFCT	16(ALPHANUMERIC)16	Valid date and time in seconds yyyy+mo+dd+hh +mm+ss+tz.	Date and time a message or service offer is in effect.
DATE_TIME_POSTED	TIMEPSTD	16(ALPHANUMERIC)16	Valid date and time in seconds yyyy+mo+dd+hh +mm+ss+tz.	Date and time to seconds a message or service offered was posted.
DEAL_REF	DREF	1(ALPHANUMERIC) 12	Unique value, Assigned by Customer.	The unique reference assigned by a Customer to two or more service purchases to identify each of them as related to others in the same power service deal. These requests may be related to each other in time sequence through a single Provider, or as a series of wheels through multiple Providers, or a combination of both time and wheels. The User uses the DEAL_REF to uniquely identify a combination of requests relating to a particular deal.
DISCRETION_DESCRIPTION.	DISCDESC	0(ALPHANUMERIC)1000	Free form text	A detailed description of the discretion being reported.

Data dictionary element name	Alias	Field format: minimum characters (type of ASCII) maximum characters	Restricted values	Definition of data element
ELEMENT__NAME	ELEMENT	1(ALPHANUMERIC)40	Valid Template element name.	Template element name as indicated in data dictionary.
EMPLOYEE__NAME	EMPNAME	1(ALPHANUMERIC)25	Free form text	Name of person who is transferring from one position to another.
ERROR__MESSAGE	ERROR	1(ALPHANUMERIC)250	Free form text	Error message related to a RECORD__STATUS or REQUEST__STATUS.
FORMER__COMPANY	FORMCO	1(ALPHANUMERIC)25	Free form text	Former company of the person who is transferring.
FORMER__DEPARTMENT	FORMDEPT	1(ALPHANUMERIC)25	Free form text	Former department of the person who is transferring.
FORMER__POSITION	FORMPOS	1(ALPHANUMERIC)25	Free form text	Former position held by the person who is transferring.
INTERFACE__TYPE	INTERFACE	1(ALPHANUMERIC)1	I,E	Type of interface define by path: Internal (I) to a control area or External (E) to a control area.
LIST__ITEM	ITEM	1(ALPHANUMERIC)50	Free form text	Item from list, such as list of SELLERs, list of PATHs, list of PORs, list of PODs, Lists of SERVICE__INCREMENT, TS__CLASS, TS__TYPE, TS__PERIOD, NERC__CURTAILMENT__PRIORITY, OTHER__CURTAILMENT__ PRIORITY, SERVICE__INCREMENT, CATEGORY List of TEMPLATEs.
LIST__ITEM__ DESCRIPTION.	ITEMDESC	0(ALPHANUMERIC)100	Free form text	A detailed description of the LIST__ITEM.
LIST__NAME	LIST	1(alphanumeric)25	LIST, SELLER, PATH, POR, POD, SERVICE__INCREMENT, TS__CLASS, TS__TYPE, TS__PERIOD, TS__SUBCLASS, ANCILLARY__SERVICE__TYPE, CATEGORY, TEMPLATE.	List of valid names for each of the types of lists. The minimum set of lists defined must be implemented.
MESSAGE	MSG	1(ALPHANUMERIC)200	Free form text	An informative text message.
NEGOTIATED__PRICE__FLAG.	NGPRIFLG	1(ALPHANUMERIC)1	H, L, or blank	Set to H if OFFER__PRICE is higher than the currently posted price; set to L if OFFER__PRICE is lower than the currently posted price.
NERC__CURTAILMENT__ PRIORITY.	NERCURT	1(NUMERIC)1	Integer 1–7	One of the NERC seven curtailment priorities, documented in LIST templat.
NEW__COMPANY	NEWCO	1(ALPHANUMERIC)25	Free form text	New company of the person who is transferring.
NEW__DATA	NEWDATA	1(ALPHANUMERIC)200	Any valid date element value.	For audit log, the new updated value of a Template data element after update.
NEW__DEPARTMENT	NEWDEPT	1(ALPHANUMERIC)25	Free form text	New department of the person who is transferring.
NEW__POSITION	NEWPOS	1(ALPHANUMERIC)25	Free form text	New position held by the person who is transferring.
OFFER__PRICE	OFFPR	1(NUMERIC)5 + "." + 2(NUMERIC)2.	Positive number with 2 decimals.	The current offered price of a Service in dollars and cents. Used by the Seller to indicate the offering price.
OFFER__START__TIME	OFFSTIME	16(ALPHANUMERIC)16	Valid Date and Time to seconds: yyy+mo+dd+hh+mmm+ss+tz.	Start time of the window during which a Customer may request a discounted offer.
OFFER__ STOP__TIME	OFFSPTIME	16(ALPHANUMERIC)16	Valid Date and Time to seconds: yyyy+mo+dd+hh +mm+ss+tz	Stop time of the window during which a Customer may request a discounted offer. (Expiration time of an offer).
OLD__DATA	OLDDATA	1(ALPHANUMERIC)200	Any valid data element value.	For audit log, the old value of a Template data element prior to being updated. This element is not applicable in the audit log for transaction events.

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Data dictionary element name	Alias	Field format: minimum characters (type of ASCII) maximum characters	Restricted values	Definition of data element
OPTIONAL__CODE	N/A	0(ALPHANUMERIC)25	Unique path name within region.	OPTIONAL__CODE—25 chars, unique for Path. If used for directionality, then the first 12 characters shall represent POR, followed by >>, followed by 12 characters which shall represent POD. Used by PATH__NAME.
OTHER__CURTAILMENT __PRIORITY.	OTHCUR	0(ALPHANUMERIC)8	Free form tect	Other than NERC curtailment priorities, such as regional curtailment priorities. Suggested format region+number, for example MAPP4, WSCC7. Documented in LIST template.
OUTPUT__FORMAT	FMT	4(ALPHANUMERIC)4	HTML, DATA	Format of response: HTML = hypertext markup language for presentation using a web browser DATA = text for use in a downloaded file.
PATH__CODE	N/A	0(ALPHANUMERIC)12	Unique code for each path as defined by primary provider.	Unique code within a Region for each path. Used by PATH__NAME.
PATH__NAME	PATH	5(ALPHANUMERIC)50	Unique value	The unique name assigned to a single transmission line or the set of one or more parallel transmission lines whose power transfer capabilities are strongly interrelated and must be determined in aggregate. These lines are typically described as being on a path, corridor or interconnection in some regions, or as crossing an interface or cut-plane in other regions. Multiple lines may be owned by different parties and require prorating of capability shares. The name is constructed from the following codes, with each code separated by a "/". Trailing "/" may be omitted, if there are no values for OPTION__CODE and SPARE__CODE: REGION__CODE—2 chars, unique to OASIS System PRIMARY__PROVIDER__CODE—4 chars, unique within Region PATH__CODE—12 chars, unique for Primary Provider OPTIONAL__CODE—25 chars, unique for Path. If used for directionality, then the first 12 characters shall represent POR, followed by >>, followed by 12 characters which shall represent POD SPARE__CODE—3 chars.
POINT__OF__DELIVERY	POD	1(ALPHANUMERIC)12	Unique value within Primary Provider.	Point of Delivery is one or more point(s) of interconnection on the Transmission Provider's transmission system where capacity and/or energy transmitted by the Transmission Provider will be made available to the Receiving Party. This is used along with Point of Receipt to define a Path and direction of flow on that path. For internal paths, this would be a specific location(s) in the area. For an external path, this may be an area-to-area interface.

Data dictionary element name	Alias	Field format: minimum characters (type of ASCII) maximum characters	Restricted values	Definition of data element
POINT__OF__RECEIPT	POR	1(ALPHANUMERIC)12	Unique value within Primary Provider.	Point of Receipt is one or more point(s) of interconnection on the Transmission Provider's transmission system where capacity and/or energy transmitted will be made available to the Transmission Provider by the Delivering Party. This is used along with Point of Delivery to define a Path and direction of flow on that path. For internal paths, this would be a specific location(s) in the area. For an external path, this may be an area-to-area interface.
POSTING__NAME	POSTNAME	1(ALPHANUMERIC)25	Free form text	Name of person who is posting the information on the OASIS.
POSTING__REF	POSTREF	1(ALPHANUMERIC)12	Unique Value	Assigned by TSIP when Service or Message is received by TSIP. Unique number can be used by the user to modify or delete the posting.
PRECONFIRMED	PRECONF	2(ALPHA)3	YES or NO	Used by Customer to preconfirm sale in Template transrequest or ancrequest. If customer indicates sale is preconfirmed, then the response is YES and the customer does not need to confirm the sale.
PRICE__UNITS	UNITS	1(ALPHA)20	Free form text	The units used for CEILING__PRICE, OFFER__PRICE, and BID__PRICE. Examples: $/MWhr, $/MWmonth
PRIMARY__PROVIDER__COMMENTS.	PPROVCOM	1(ALPHANUMERIC)80	Free form text	Informative text. Usually entered by the Primary Provider through a back end system.
PRIMARY__PROVIDER__CODE.	PROVIDER	1(ALPHANUMERIC)4	Unique code	Unique code for each Primary Provider. Used by PATH__NAME and in URL. Registered as part of URL at www.tsin.com.
PRIMARY__PROVIDER__DUNS.	PPROVDUNS	9(NUMERIC)9	Valid DUNS number	Unique code for each Primary. Provided by Dun and Bradstreet.
REASSIGNED__CAPACITY	RASCAP	1(NUMERIC)12	Positive number, cannot exceed previous assigned capacity.	The amount of transfer capability that was reassigned from one entity to another.
REASSIGNED__REF	REREF	1(ALPHANUMERIC)12	Unique value	When customer makes a purchase of a transmission service that was posted for resale and a new ASSIGNMENT__REF number is issued the previous ASSIGNMENT__REF number now becomes the REASSIGNMENT__REF. Also used by SELLER when posting transmission or ancillary services for resale to show the previous assignment reference number. Also used by the customer when malong a request to use FIRM service as NON-FIRM over alternate points of delivery.
REASSIGNED__START__TIME.	RESSTIME	16(ALPHANUMERIC)16	Valid date and time to seconds: yyy+mo+dd+hh+tz	Beginning date and time of the reassigned transmission service.
REASSIGNED__STOP__TIME.	RESSPIME	16(ALPHANUMERIC)16	Valid date and time to hour: yyyy+mo+dd+hh+tz	Date and time of the end of the transmission service that is reassigned to another User.
RECORD__STATUS	RECSTATUS	1(NUMERIC)3	Error number	Record status indicating record was successful or error code if unsuccessful. 200=Successful

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Data dictionary element name	Alias	Field format: minimum characters (type of ASCII) maximum characters	Restricted values	Definition of data element
REGION_CODE	N/A	1(ALPHANUMERIC)2	Unique within OASIS System.	Defined for NERC regions, with the following defined: E—ECAR. I—MAIN. S—SERC. T—ERCOT. A—MAPP. P—SPP. M—MAAC. N—NPCC. W—WSCC. Second character or digit reserved for subregion id as defined by each region.
REQUEST_REF	RREF	1(ALPHANUMERIC)12	Unique value	A reference uniquely assigned by a Customer to a request for service from a Provider.
REQUEST_STATUS	RSTATUS	1(NUMERIC)3	Error number	Message status indicating message was successful (if all RECORD_STATUS show success) or error code if any RECORD_STATUS showed unsuccessful. 200=Successful.
RESPONSE_TIME_LIMIT	RESPTL	16(ALPHANUMERIC)16	Valid date and time to seconds: yyyy+mo+dd+hh +mm+ss+tz	Date and time to seconds by when a response must be received from a Customer.
RESPONSIBLE_PARTY_NAME.	PARTNAME	1(ALPHANUMERIC)25	Free form text	The name of the person responsible for granting the discretion.
RETURN_TZ	TZ	2(ALPHANUMERIC)2	AD, AS, PD, PS, ED, ES, MD, MS, CD, CS, UT.	A time zone code, indicating the base time zone, and whether daylight saving time is to be used. This field may be set by a Customer in a query. Returned date and time data is converted to this time zone.
SALE_REF	SREF	1(ALPHANUMERIC)12	Unique value	Identifier which is set by seller (including Primary Provider) when posting a service for sale.
SELLER_CODE	SELLER	1(ALPHANUMERIC)6	Unique value	Organization name of Primary Provider or Reseller.
SELLER_COMMENTS	SELCOM	1(ALPHANUMERIC)80	Free form text	Informative text provided by the Seller.
SELLER_DUNS	SELDUNS	9[NUMERIC]9	Valid DUNS number	Unique Data Universal Numbering System provided by Dun and Bradstreet. Code for a Primary Provider or Seller.
SELLER_EMAIL	SELEMAIL	5[ALPHANUMERIC]60	Valid network reference	E-Mail address of Seller contact person.
SERVICE_INCREMENT	SRVINCR	1[ALPHANUMERIC]8	Valid increments • HOURLY • Daily • Weekly • Monthly • Yearly • [Registered]	The transmission service increments provided. Five are pre-defined, while additional increments can be used if they are registered on TSIN.COM and shown in the Provider's LIST template.
SELLER_FAX	SELFAX	14[ALPHANUMERIC]20	Area code and telephone number, plus any extensions Example: (aaa)-nnn-nnnn-xnnnn.	The fax telephone number for contact person at Seller.
SELLER_NAME	SELNAME	1[ALPHANUMERIC]25	Free form text	The name of an individual contact person at the Seller.
SELLER_PHONE	SELPHONE	14[ALPHANUMERIC]20	Area code and telephone number, plus any extensions (aaa)-nnn-nnnn xnnnn.	The telephone number of a contact person as a Seller.
SERVICE_DESCRIPTION	SVCDESC	1[ALPHANUMERIC]200	Free-form text	Information regarding a service.
SERVICE_NAME	SVCNAME	1[ALPHANUMERIC]25	Free-form text	Name of service affected by the discretionary action.
SERVICE_TYPE	SVCTYPE	1[ALPHANUMERIC]25	Free-form text	Type of service affected by the discretionary action.
SINK	SINK	0[ALPHANUMERIC]14	Valid area name	The area in which the SINK is located.

Data dictionary element name	Alias	Field format: minimum characters (type of ASCII) maximum characters	Restricted values	Definition of data element
SOURCE	SOURCE	0[ALPHANUMERIC]14	Valid area name	The area in which the SOURCE is located.
SPARE_CODE	N/A	0[ALPHANUMERIC]3	Defined by region	Spare code to be used at a later time. Used by PATH_NAME.
STANDARDS_OF_CONDUCT_ISSUE.	STDISSUE	0[ALPHANUMERIC]200	Free-form text	Issues that were in violation of the FERC Standards of Conduct.
START_TIME	STIME	16[ALPHANUMERIC]16	Valid Date and Time to seconds: yyyy+mo+dd+hh +mm+ss+tz	Start date and clock time of a service. When used as a query variable, it requires the return of all items whose Stop time is after the Start time. Note that for some Templates when used as a query variable the time may be only valid up to the hour, day or month. If more data is given than is valid, the hour, day or month will be used to make the date and time inclusive, i.e. date or time will be truncated to valid hour, day or month.
START_TIME_POSTED	STIMEP	16[ALPHANUMERIC]16	Valid Date and Time to seconds: yyyy+mo+dd+hh +mm+ss+tz	Query parameter to indicate all the records are to be retrieved that were posted on or after this time.
START_TIME_QUEUED	STIMEQ	16[ALPHANUMERIC]16	Valid Date and Time to seconds: yyyy+mo+dd+hh +mm+ss+tz	Start date and clock time of a service, used for requesting transactions queued after this time.
STATUS	STATUS	5(ALPHANUMERIC)25	Valid field (QUEUED, RECEIVED, STUDY, REBID, OFFER, ACCEPTED, REFUSED, CONFIRMED, WITHDRAWN, DISPLACED, ANNULLED, RETRACTED).	QUEUED=initial status assigned by TSP on receipt of "customer capacity purchase request". RECEIVED=reassigned by TP to acknowledge QUEUED requests and indicate the service request is being evaluated. STUDY=assigned by TP to indicate some level of study is required or being performed to evaluate service request. OFFER=assigned by TP to indicate that a OFFER_PRICE is being proposed. REBID=assigned by TC to indicate a new BID_PRICE is being proposed. ACCEPTED=assigned by TP to indicate service request has been approved/accepted. If the reservation request was submitted PRECONFIRMED, OASIS shall immediately set the reservation status to CONFIRMED. Depending upon the type of ancillary services required, the Seller may or may not require all ancillary service reservations to be completed before accepting a request. REFUSED=assigned by TP to indicate service request has been denied, SELLER_COMMENTS should be used to communicate reason for denial of service. CONFIRMED=assigned by TC in response to TP posting "ACCEPTED" status to confirm service. WITHDRAWN=assigned by TC at any point in request evaluation to withdraw the request from any further action.

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Data dictionary element name	Alias	Field format: minimum characters (type of ASCII) maximum characters	Restricted values	Definition of data element
				DISPLACED=assigned by TP when a "CONFIRMED" request from a TC is displaced by a longer term request and the TC has exercised right of first refusal (i.e. refused to match T&Cs of new request). ANNULLED=assigned by TP when, by mutual agreement with the TC, the transaction is to be voided. RETRACTED=assigned by TP when the TC fails to confirm or withdraw the transaction within the required time period.
STATUS_COMMENTS	STACOM	1(ALPHANUMERIC)80	Free form text	Informative text.
STATUS_NOTIFICATION	STATNOT	1(ALPHANUMERIC)200	http://URL:portnumber/directory/cgi script/query parameters or Mailto: <e-mail address.>.	The STATUS_NOTIFICATION data element shall contain the protocol field "http:", which designates the notification method/protocol to be used, followed by all resource location information required; the target domain name and port designations shall be inserted into the notification URL based on the Customer's Company registration information. The resource location information may include directory information, cgi script identifiers and URL encoded query string name/value pairs as required by the Customer's application, or mailto and email address for the status information the Customer wants to receive upon a change in STATUS of transstatus, or ancstatus.
STOP_TIME	SPTIME	16(ALPHANUMERIC)16	Valid date and time yyyy+mo+dd+hh+mm+ss+tz.	Stop date and clock time. When used as a query variable, it requires the return of all items which start before the Stop time. Note that for some Template when used as a query variable the time may be only valid up to the hour, day or month. If more data is given than is valid, the hour, day or month will be used to make the date and time inclusive, i.e. date or time will be increased to include STOP_TIME.
STOP_TIME_POSTED	STPTIMEP	16(ALPHANUMERIC)16	Valid date and time to seconds: yyyy+mo+dd+hh+mm+ss+tz.	Query parameter to indicate all the records are to be retrieved that were posted on or before this time.
STOP_TIME_QUEUED	SPTIMEQ	16(ALPHANUMERIC)16	Valid date and time to seconds: yyyy+mo+dd+hh+mm+ss+tz.	Stop date and clock time, used for requesting transactions queued before this time.
SUBJECT	SUBJ	1(ALPHANUMERIC)80	Free form text	Informative text used to summarize a topic in a message.
TARIFF_REFERENCE	TARIFF	1(ALPHANUMERIC)150	Free form text. Name and description of Tariff.	Tariffs approved by FERC.
TEMPLATE	TEMPL	1(ALPHANUMERIC)20	Valid Name of Template from Section 4.3 or from LIST Template.	The name of a logical collection of DATA_ELEMENTS in a User's interaction with an OASIS Node.
TIME_OF_LAST_UPDATE.	TLUPDATE	16(ALPHANUMERIC)16	Valid date and time to seconds: yyyy+mo+dd+hh+mm+ss+tz.	Date and time to seconds that data was last updated. May be used to search data updated since a specific point in time.
TIME_POSTED	TIMEPST	16(ALPHANUMERIC)16	Valid date and time to seconds: yyyy+mo+dd+hh+mm+ss+tz.	Date and time a message is posted.

Data dictionary element name	Alias	Field format: minimum characters (type of ASCII) maximum characters	Restricted values	Definition of data element
TIME__QUEUED	TIMEQ	16(ALPHANUMERIC)16	Valid date and time to seconds: yyyy+mo+dd+hh+mm+ ss+tz.	Date and time that the request was queued.
TIME__STAMP	TSTAMP	16(ALPHANUMERIC)16	Valid date and time to seconds: yyyy+mo+dd+hh+mm+ ss+tz.	Time data is created.
TS__CLASS	TSCLASS	1(ALPHANUMERIC)20	Valid classes: • FIRM • NON-FIRM • TTC • (Registered)	The transmission service classes provided. Three are predefined, while additional classes can be used if they are registered on TSIN.COM and shown in the Provider's LIST template page.
TS__PERIOD	TSPER	1(ALPHANUMERIC)20	Valid periods: ON__PEAK OFF__PEAK FULL__PERIOD (Registered)	The transmission service periods provided. Three are predefined, while additional periods can be used if they are registered on TSIN.COM and shown in the Provider's LIST template.
TS__SUBCLASS	TSSUBC	1(ALPHANUMERIC)20	Free form	The transmission service subclasses provided. These are free form.
TS__TYPE	TSTYPE	1(ALPHANUMERIC)20	Valid periods: • POINT__TO__POINT • NETWORK • (Registered)	The transmission service types provided. Two are predefined, while additional types can be used if they are registered on TSIN.COM and shown in the Provider's LIST template.
TS__WINDOW	TSWIND	1(ALPHANUMERIC)20	Valid periods: • FIXED • SLIDING • (Registered)	The transmission service windows provided. Two are predefined, while additional windows can be used if they are registered on TSIN.COM and shown in the Provider's LIST template.
TZ	TZ	2(ALPHANUMERIC)2	Valid time zone and indication whether daylight savings time is to be used.	Time zones: Atlantic time=AD, AS. Eastern time=ED, ES. Central time=CD, CS. Mountain time=MD, MS. Pacific time=PD, PS. Universal time=UT.
VALID__FROM__TIME	VALFTIME	16(ALPHANUMERIC)16	Valid time and date yyyy+mo+dd+hh+mm+ ss+tz.	Date and time after which the message is valid.
VALID__TO__TIME	VALTTIME	16(ALPHANUMERIC)16	Valid date and time yyyy+mo+dd+hh+mm+ ss+tz.	Date and time before which the message is valid.
VERSION	VER	1(REAL NUMBER)6	RANGE OF 1.0 TO 9999.9.	Specifies which version of the OASIS Standards and Communication Protocol to use when interpreting the request.

Note: This attachment will not appear in the Code of Federal Regulations.

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Attachment 3—Standards and Communication Protocols for Open Access Same-Time Information System (OASIS) (With Revisions to OASIS How Working Group's September 23, 1997 Submittal Highlighted)

Version 1.2

May 27, 1998

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Appendix A—Data Element Dictionary

1. Introduction

1.1 Definition of Terms

The following definitions are offered to clarify discussions of the OASIS in this document.

a. *Transmission Services Information (TS Information)* is transmission and ancillary services information that must be made available by public utilities on a non-discriminatory basis to meet the regulatory requirements of transmission open access.

b. *Open Access Same-Time Information System (OASIS)* comprises the computer systems and associated communications facilities that public utilities are required to provide for the purpose of making available to all transmission users comparable interactions with TS Information.

c. *Open Access Same-Time Information System Node (OASIS Node)* is a subsystem of the OASIS. It is one computer system in the (OASIS) that provides access to TS Information to a Transmission Customer.

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d. *Transmission Provider (TP or Primary Provider)* is the public utility (or its designated agent) that owns, operates or controls facilities used for the transmission of electric energy in interstate commerce. (This is the same term as is used in Part 35.3).

e. *Transmission Customer (TC or Customer)* is any eligible Customer (or its designated agent) that can or does execute a transmission service agreement or can or does receive transmission service. (This is the same term as is used in Part 35.3).

f. *Secondary Transmission Provider (ST, Reseller, or Secondary Provider)* is any Customer who offers to sell transmission capacity it has purchased. (This is the same as Reseller in Part 37).

g. *Transmission Services Information Provider (TSIP)* is a Transmission Provider or an agent to whom the Transmission Provider has delegated the responsibility of meeting any of the requirements of Part 37. (This is the same as Responsible Party in Part 37).

h. *Value-Added Transmission Services Information Provider (VTSIP)* is an entity who uses TS Information in the same manner as a Customer and provides value-added information services to its Customers.

2. Network Architecture Requirements

2.1 Architecture of Oasis Nodes

a. Permit Use of Any OASIS Node Computers: TSIPS shall be permitted to use any computer systems as an OASIS Node, so long as they meet the OASIS requirements.

b. Permit Use of Any Customer Computers: OASIS Nodes shall permit the use by Customers of any commonly available computer systems, as long as they support the required communication links to the Internet.

c. Permit the Offering of Value-Added Services: TSIPs are required, upon request, to provide their Customers the use of private network connections on a cost recovery basis. Additional services which are beyond the scope of the minimum OASIS requirements are also permitted. When provided, these private connections and additional services shall be offered on a fair and non-discriminatory basis to all Customers who might choose to use these services.

d. Permit Use of Existing Communications Facilities: In implementing the OASIS, the use of existing communications facilities shall be permitted. The use of OASIS communication facilities for the exchange of information beyond that required for open transmission access (e.g., transfer of system security or operations data between regional control centers) shall also be permitted, provided that such use does not negatively impact the exchange of open transmission access data and is consistent with the Standards of Conduct in Part 37.

e. Single or Multiple Providers per Node: An OASIS Node may support a single individual Primary Provider (plus any Secondary Providers) or may support many Primary Providers.

2.2 Internet-Based OASIS Network

a. Internet Compatibility: All OASIS Nodes shall support the use of internet tools, internet directory services, and internet communication protocols necessary to support the Information Access requirements stated in Section 4.

b. Connection through the Public Internet: Connection of OASIS Nodes to the public Internet is required so that Users may access them through Internet links. This connection shall be made through a firewall to improve security.

c. Connection to a Private Internet Network: OASIS Nodes shall support private connections to any OASIS User (User) who requests such a connection. The TSIP is permitted to charge the User, based on cost, for these connections. The same internet tools shall be required for these private networks as are required for the public Internet. Private connections must be provided to all users on a fair and nondiscriminatory basis.

d. Internet Communications Channel: The OASIS Nodes shall utilize a communication channel to the Internet which is adequate to support the performance requirements given the number of Users subscribed to the Providers on the Node (see section 5.3).

2.3 Communication Standards Required

a. Point-to-Point Protocol (PPP) and Internet Protocol Control Protocol (IPCP) (reference RFCs 1331 and 1332) shall be supported for private internet network dial-up connections.

b. Serial Line Internet Protocol (SLIP) (reference RFC 1055) shall be supported for private internet network dial-up connections.

c. Transport Control Protocol and Internet Protocol (TCP/IP) shall be the only protocol set used between OASIS Nodes whenever they are directly interconnected, or between OASIS Nodes and Users using private leased line internet network connections.

d. Hyper Text Transport Protocol (HTTP), Version 1.0 (RFC 1945), shall be supported by User's web browsers so they can use it to select information for viewing displays and for downloading and uploading filed electronically.

e. Internet Protocol Address: All OASIS Nodes are required to use an IP address registered with the Internet Network Information Center (InterNIC), even if private connections are used.

2.4 Internet Tool Requirements

Support for the following specific internet tools is required, both for use over the public Internet as well as for any private connections between Users and OASIS Nodes:

a. Hypertext Markup Language (HTML), at least Version 3.2 shall be used by supported by User's browsers as a standard tool for viewing information.

b. HTML Forms shall be provided by the TSIPs to allow Customers to enter information to the OASIS Node.

c. Domain Name Service (DNS) (ref. RFC 1034, 1035) shall be provided as a minimum by the TSIPs (or their Internet Service Provider) for the resolution of IP addresses to allow Users to navigate easily between OASIS Nodes.

d. Simple Network Management Protocol (SNMP) is recommended but not required to provide tools for operating and managing in network. If private interconnections between OASIS Nodes are established.

e. The Primary Provider shall support E-mail for exchanges with Customers, including the sending of attachments. The protocols supported shall include, as a minimum, the Simple Messaging Transfer Protocol (SMTP), Post Office Protocol (POP), and Multipurpose Internet Mail Extensions (MIME).

2.5 Navigation and Interconnectivity Between OASIS Nodes

a. World Wide Web Browsers: TSIPs shall permit Users to navigate using WWW browsers for accessing different sets of TS Information from one Provider, or for getting to TS Information from different Providers on the same OASIS Node. These navigation methods shall not favor User access to any Provider over another Provider, including Secondary Providers.

b. Internet Interconnection across OASIS Nodes: Navigation tools shall not only support navigation within the TSIP's Node, but also across interconnected OASIS Nodes. This navigation capability across interconnected Nodes shall, as a minimum, be possible through the public Internet.

3. Information Access Requirements

3.1 Registration and Login Requirements

a. Location of Providers: To provide Users with the information necessary to access the desired Provider, all Primary Providers shall register their OASIS Node URL address with www.tsin.com. This URL address should include the unique four letter acronym the Primary Provider will use as the PRIMARY_PROVIDER_CODE.

b. Initial User Registration: TSIPs shall require Users to register with a Primary Provider before they are permitted to access the Provider's TS Information. There must be a reference pointing to registration procedures on each Primary Provider's home page. Registration procedures may vary with the administrative requirements of each Primary provider.

c. Initial Access Privileges: Initial registration shall permit a User only the minimum Access Privileges. A User and a Primary Provider shall mutually determine what access privilege the User is permitted. The TSIP shall set a User's Access Privilege as authorized by the Primary Provider.

d. User Login: After registration, Users shall be required to login every time they establish a dial-up connection. If a direct, permanent connection has been established, Users shall be required to login initially or any time the connection is lost. Use of alternative forms of login and authentication using certificates and public key standards is acceptable.

e. User Logout: Users shall be automatically logged out any time they are disconnected. Users may logout voluntarily.

3.2 Service Level Agreements

Service Level Agreements: It is recognized that Users will have different requirements for frequency of access, performance, etc., based on their unique business needs. To accommodate these differing requirements, TSIPs shall be required to establish a "Service Level Agreement" with each User which specifies the terms and conditions for access to the information posted by the Providers. The default Service Level Agreement shall be Internet access with the OASIS Node meeting all minimum performance requirements.

3.3 Access to Information

a. Display: TSIPs shall format all TS Information in HTML format such that it may be viewed and read directly by Users without requiring them to download it. This information shall be in clear English as much as possible, with the definitions of any mnemonics or abbreviations available on-line. The minimum information that is to be displayed is provided in the Templates in Section 4.3.

b. Read-Only Access to TS Information: For security reasons, Users shall have read-only access to the TS Information. They shall not be permitted to enter any information except where explicitly allowed, such as HTML transaction request forms or by the Templates in Section 4.3.

c. Downloading Capability: Users shall be able to download from an OASIS Node the TS Information in electronic format as a file. This rules for formatting of this data are described in Section 4.2.

d. On-Line Data Entry on Forms: Customers shall be permitted to fill out on-line the HTML forms supplied by the TSIPs, for requesting the purchase of services and for posting of products for sale (by Customers who are resellers). Customers shall also be permitted to fill-out and post Want-Ads.

e. Uploading Capability: Customers shall be able to upload to OASIS Nodes the filled-out forms. TSIPs shall ensure that these uploaded forms are handled identically to forms filled out on-line. TSIPs shall provide forms that support the HTTP input of Comma Separated Variable (CSV) records. This capability shall permit a Customer to upload CSV records using standard Web browsers or additional client software (such as fetch_http) to specify the location of the CSV records stored on the Customer's hard disk.

f. Selection of TS Information: Users shall be able to dynamically select the TS Information they want to view and/or download. This selection shall be, as a minimum, through navigation to text displays, the use of pull-down menus to select information for display, data entry into forms for initiating queries, and the selection of files to download via menus.

3.4 Provider Updating Requirements

The following are the Provider update requirements:

a. Provider Posting of TS Information: Each Provider (including Secondary Providers and Value-Added Providers) shall be responsible for writing (posting) and updating TS Information on their OASIS Node. No User shall be permitted to modify a Provider's Information.

b. Info.HTM: Each Provider shall provide general information on how to use their node and describe all special aspects, such as line losses, congestion charges and assistance. The address for the directory of this information shall be INFO.HTM, an HTML web page, linked to the Provider's registered URL ADDRESS.

c. OASIS Node Space for Secondary Provider: To permit Users to readily find TS Information for the transmission systems that they are interested in, TSIPs shall provide database space on their OASIS Node for all Secondary Providers

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who have purchased, and who request to resell, transmission access rights for the power systems of the primary Providers supported by that Nod.

d. Secondary Provider Posting to Primary Provider Node: The Secondary providers shall post the relevant TS Information on the OASIS Node associated with each Primary Provider from whom the transmission access rights were originally purchased.

e. Secondary Provider Posting Capabilities: The TSIPs shall ensure that the Secondary Providers shall be able to post their TS Information to the appropriate OASIS Nodes using the same tools and capabilities as the Customers, meet the same performance criteria as the Primary Providers, and allow users to view these postings on the same display page, using the same tables, as similar capacity being sold by the Primary Providers.

f. Free-Form Posting of non-TS Information: The TSIP shall ensure that non-TS Information, such as Want-Ads, may be posted by providers and Customers, and that this information is easily accessible by all Users. The TSIP shall be allowed to limit the volume and/or to charge for the posting of non-TS Information.

g. Time Stamps: All TS Information shall be associated with a time stamp to show when it was posted to the OASIS Node.

h. Transaction Tracking by an Assignment Reference Number: All requests for purchase of transmission or ancillary services will be marked by a unique accounting number, called an assignment reference.

i. Time-Stamped OASIS Audit Log: All posting of TS Information, all updating of TS Information, all User logins and disconnects, all User download requests, all Service Requests, and all other transactions shall be time stamped and stored in an OASIS Audit Log. This OASIS Audit Log shall be the official record of interactions, and shall be maintained on-line for download for at least 90 days. Changes in the values of posted Capacity (Available Transfer Capability) must be stored in the on-line Audit Log for 20 days. Audit records must be maintained for 3 years off-line and available in electronic form within seven days of a Customer request.

j. Studies: A summary description with dates, and programs used of all transmission studies used to prepare data for the Primary Provider's ATC and TTC calculation will be provided along with information as to how to obtain the study data and results.

3.5 Access to Changed Information

a. General Message & Log: TSIPs shall post a general message and log that may be read by Users. The message shall state that the Provider has updated some information, and shall contain (or point to) a reverse chronological log of those changes. This log may be the same as the Audit Log. The User may use the manual capability to see the message.

b. TSIP Notification Design Responsibilities: The TSIP shall avoid a design that could cause serious performance problems by necessitating frequent requests for information from many Users.

3.6 User Interaction with an OASIS Node

There are three basic types of User interactions which must be supported by the OASIS Node. These interactions are defined in Section 4.3.

a. Query/Response: The simplest level of interactions is the query of posted information and the corresponding response. The User may determine the scope of the information queried by specifying values, through an HTML form, a URL string, or an uploaded file, using Query Variables and their associated input values as defined with each Template in Section 4.3. The response will be either an HTML display or a record oriented file, depending on the output format that the User requests.

The TSIP may establish procedures to restrict the size of the response, if an overly broad query could result in a response which degrades the overall performance of the OASIS Node for their Users.

b. Purchase Request: The second type of Customer interaction is the submittal of a request to purchase a service. The Customer completes an input form, a URL string or uploads a file and submits it to the OASIS Node. The uploaded file can either be a series of query variables or a record oriented file.

The request is processed by the Seller of the service, possibly off-line from the OASIS Node, and the status is updated accordingly.

If a purchase request is approved by the Seller, then it must be again conformed by the Customer. Once the Customer confirms an approved purchase, a reservation for those services is considered to exist, unless later the reservation is reassigned, displaced, or annulled.

c. Upload and Modify Postings: Customers who wish to resell their rights may upload a form, create the appropriate URL or upload a file to post services for sale. A similar process applies to eligible Third Party Sellers of ancillary services. The products are posted by the TSIP. The seller may monitor the status of the services by requesting status information. Similarly the Seller may modify its posted transmission services by submitting a service modification request through a form, a URL query, or by uploading a file.

4. Interface Requirements

4.1 Information Model Concepts

a. ASCII-Based OASIS Templates: For providing information to Users, TSIPs shall use the specified OASIS Templates. These Templates define the information which must be presented to Users, both in the form of graphical displays and as downloaded files. Users shall be able to request Template information using query-response data flows. The OASIS Templates are described in section 4.3. The Data Element Dictionary, which defines the data elements in the OASIS Templates, is provided in Appendix A.

Data elements must be used in the exact sequence and number as shown in the Templates when file uploads and downloads are used. Although the contents of the graphical displays are precisely defined as the same information as in the Templates, the actual graphical display formats of the TS information are beyond the scope of the OASIS requirements. Due to the nature of graphical displays, there may be more than one graphical display used to convey the information in a single Template.

b. ASCII-Based OASIS File Structures: For uploading requests from and downloading information to Users, TSIPs shall use specific file structures that are defined for OASIS Template information (see section 4.2). These file structures are based on the use of headers which contain the Query Variable information, including the name of the OASIS Template. These headers thus determine the contents and the format of the data that follows. Although headers may not be essential if file transfers contain the exact sequence and number of data elements as the Templates, this feature is being preserved for possible future use when additional flexibility may be allowed.

4.2 OASIS Node Conventions and Structures

4.2.1 OASIS Node Naming Requirements

The following naming conventions shall be used to locate information posted on OASIS. OASIS naming conventions shall conform to standard URL structures.

4.2.1.1 OASIS Node Names

In order to provide a consistent method for locating an OASIS Node, the standard Internet naming convention shall be used. All OASIS Node names shall be unique. Each Primary Provider OASIS Node name and home directory shall be registered with the master OASIS directory site at http://www.tsin.com. OASIS Node names shall be stored in an Internet DNS name directory.

4.2.1.2 OASIS Node and Primary Provider Home Directory

The home directory name on an OASIS Node shall be "OASIS" to identify that the directory is related to the OASIS. The directory of each Primary Provider shall be listed under the "OASIS" directory:

http://(OASIS Node name)/OASIS/(PRIMARY__PROVIDER__CODE)

Where:

(OASIS Node name) is the World Wide Web URL address of the OASIS Information Provider.

(PRIMARY__PROVIDER__CODE) is the 4 character acronym of the primary provider.

PRIMARY__PROVIDER__CODEs shall be registered with the master OASIS directory site at http://www.tsin.com. A pointer to user registration information shall be located on the Primary Provider's home page.

4.2.1.3 CGI Script Names

Common Gateway Interface (CGI) scripts shall be located in the directory "data" as follows:

http://(OASIS Node name)/OASIS/(PRIMARY__PROVIDER__CODE/data/(cgi script name)?(query variables)

Where:

(cgi script name) is the OASIS Template name (see Section 4.3). Other cgi scripts may be defined as required to implement the HTML interface to the documented templates. (query variables) is a list of query variables with their settings formatted as defined by the HTTP protocol (i.e., URL encoded separated by ampersands).

Example:

To request the hourly schedule Template at Primary Provider WXYZ Co.

http://www.wxy.com/oasis/wxyz/data/schedule ?templ=schedule& ver=1.2&fmt=data & stime=19960412040000PD &sptime=19960412100000PD& pprov=wxyz

4.2.2 Data Element Dictionary

The following are the requirements for the Data Element Dictionary:

a. Definition of OASIS Information Elements: All OASIS Information data elements shall be defined in the Data Element Dictionary which will be stored in the OASIS Node directory:

http://(OASISNode Name)/OASIS/(PRIMARY__PROVIDER__CODE)/ (datadic.html datadict.txt)

Where:

datadic.html is the HTML version of the data element dictionary

datadic.txt is the ASCII text version of the data element dictionary

The Data Element Dictionary is defined in Appendix A.

b. Provider-specific Data Element Values: The valid values that certain OASIS Information data elements may take on, such as PATH__NAME, etc., are unique to a Primary Provider. Names which must be uniquely identified by Primary Provider shall be listed on-line on the OASIS Node via the LIST Template (see Section 4.3.5). In posting OASIS information associated with data elements which are not free-form text, TSIPs shall use only the accepted data element values listed in the Data Element Dictionary and/or those values posted in the LIST of provider specific names provided on the OASIS.

4.2.3 OASIS Template Constructs

4.2.3.1 Template Construction

Section 4.3 lists the set of OASIS Templates that shall be supported by all OASIS nodes. These OASIS Templates are intended to be used precisely as shown for the transfer of data to/from OASIS, and identify, by Data Elements names, the information to be transferred. The construction of the OASIS Templates shall follow the rules described below:

a. Unique OASIS Template Name: Each type of OASIS Template shall be identified with a unique name which shall be displayed to the User whenever the OASIS Template is accessed.

b. Transfer Protocol: OASIS Templates are transferred using the HTTP protocol. Templates shall support both the "GET" and "POST" methods for transferring "query string" name/value pairs, as well as the OASIS specific "comma

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separated value" (CSV) format for posting and retrieval of information from OASIS. HTML screens and forms shall be implemented for each OASIS Template.

c. Source Information: Each OASIS Template shall identify the source of its information by including or linking to the name of the Primary Provider, the Secondary Provider, or the Customer who provided the information.

d. Time Of Last Update: Each OASIS Template shall include a time indicating when it was created or whenever the value of any Data Element was changed.

e. Data Elements: OASIS Templates shall define the elementary Data Element Dictionary names for the data values to be transferred or displayed for that Template.

f. Documentation: OASIS Information shall be in non-cryptic English, with all mnemonics defined in the Data Element Dictionary or a glossary of terms. TSIPs shall provide on-line descriptions and help screens to assist Users understanding the displayed information. Documentation of all formats, contents, and mnemonics shall be available both as displays and as files which can be downloaded electronically. In order to meet the "User-Friendly" goal and permit the flexibility of the OASIS to expand to meet new requirements, the OASIS Templates shall be as self-descriptive as possible.

4.2.3.2 Template Categories

OASIS Templates are grouped into the following two major categories:

a. Query/Response: These Templates are used to query and display information posted on OASIS. Each query/response Template accepts a set of user specified Query Variables and returns the appropriate information from data posted on OASIS based on those query variables. The valid Query Variables and information to be returned in response are identified by Data Element in Section 4.3.

b. Input/Response: These Templates are used to upload/input information on OASIS. The required input information and information to be returned in response are identified by Data Element in Section 4.3, Template Descriptions.

4.2.3.3 Template HTML Screens

Though the exact form and content of the HTML screens and forms associated with the OASIS Templates are not dictated by this document, the following guidelines shall be adhered to for all HTML screens and forms implemented on OASIS:

a. Data Element Headings: Data displayed in an HTML screen/form shall be labeled such that the associated data value(s) is(are) easily and readily identifiable as being associated with a particular OASIS Template Data Element. HTML "Hot-Links" or other pointer mechanisms may be provided for Data Element headings in OASIS Templates which permit the User to access documentation describing the meaning, type, and format of the associated data.

b. Display Limitations: HTML screens and forms shall be implemented in such a way to allow the display of all data specified for each OASIS Template. This may take the form of "wrapping" of lines of information on the screen, the use of horizontal and/or vertical scrolling, or the use of "Hot-Links" or other pointer mechanisms. There is not necessarily a one-to-one relationship between OASIS implemented HTML screens and their associated Template. However, all Template data elements shall be viewable through one or more HTML screens.

c. Template Navigation: HTML "Hot-Links" or other pointer mechanisms may be provided to assist the navigation between screens/forms associated with related OASIS Templates.

4.2.4 Query/Response Template Requirements

Retrieval of information posted on OASIS is supported by the Query/Response Templates. The "query" identifies the OASIS Template and optionally supplies additional Data Elements which may be used to select specific information to be returned in the "response".

4.2.4.1 Query Requirements

Query information is transferred to OASIS using the HTTP protocol as a string of Query Variables in the form of name/value pairs. Query Variable name/value pairs are specified as a collection of encoded strings (e.g., blank characters replaced by plus (+) character, etc.) in the form of name=value, with each name/value pair separated by ampersands (&) (see section 4.2.6). OASIS shall support the following methods for Users to input Query information:

a. HTML: HTML FORM input and/or hypertext links shall be provided to allow Users to specify OASIS Template Query Variables. This will be the easiest way to obtain information and should be the choice of most casual Users and for simple reasons. The exact nature and form of these HTML screens are not specified, and may differ between OASIS nodes.

b. GET Method: The HTTP GET method for specifying query information appended to a standard OASIS URL shall be supported. Using this method, the name=value formatted Query Variables preceded by a question mark (?) are appended to the URL. Each "name" in a name/value pair corresponds to a Data Element name associated with that Template. OASIS shall support the specification of all Data Elements associated with a Template by both their full name and alias as defined in the Data Dictionary. The "value" in a name/value pair represents the value to be associated with the Data Element being specified in the appropriate format as defined in the Data Dictionary and encoded according to the HTTP protocol.

c. POST Method: The HTTP POST method for specifying query information in the message body shall be supported. Using this method, the name=value formatted Query Variables shall be transferred to OASIS using the "Content-length:" HTTP header to define the length in bytes of the encoded query string and the "Content-type: application/x-www-form-urlencoded" HTTP header to identify the data type included in the message body. Each "name" in a name/value pair corresponds to a Data Element name associated with that Template. OASIS shall support the specification of all Data Elements associated with a Template by both their full name and alias as defined in the Data Dictionary. The "value" in a name/value pair represents the value to be associated with the Data Element being specified in the appropriate format as defined in the Data Dictionary and encoded according to the HTTP protocol.

Using queries using any of the above methods are supported directly by the User's web browser software. More sophisticated data transfer mechanisms, such as the automated querying of information based on Query Variable strings contained in a User data file (i.e., "uploading a file containing a URL string), require appropriate software (e.g., "fetch__http") running on the User's computer system to effect the data transfer.

4.2.4.2 Response Requirements

In response to a validly formatted Query for each Query/Response OASIS Template, the OASIS shall return the requested information in one of two forms based on the User specified OUTPUT__FORMAT Query Variable:

a. HTML: If the User requests the response to have the format of "HTML" (OUTPUT__FORMAT=HTML) then the response from the OASIS shall be a web page using the HTML format. This shall be the default for all Query/Response Templates.

b. CSV Format: Comma Separated Value (CSV) format (OUTPUT__FORMAT=DATA) returns the requested information in the body of the HTTP response message. The "Content-length:" HTTP header shall define the length in bytes of the response, and the "Content-type: text/x-oasis-csv" HTTP header shall be used to identify the data type included in the message body (see CSV File Format).'

4.2.5 Input/Response Template Requirements

The posting of information on OASIS, including reservations for transmission/ancillary service, services for sale on the secondary market, etc., is supported by the Input/Response Templates. The "input" identifies the required data associated with an OASIS Template to be posted on OASIS, and the "response" specifies the information returned to the User.

4.2.5.1 Input Requirements

Input information is transferred to OASIS using the HTTP protocol as either a string of Query Variables in the form of name/value pairs, or as a Comma Separated Value (CSV) message. Query Variable name/value pairs are specified as a collection of encoded strings (e.g., blank characters replaced by plus (+) character, etc.) in the form of name=value, with each name/value pair separated by ampersands (&). CSV formatted messages are specified in the body of an HTTP message as a series of data records preceded by a fixed set of header records (see section 4.2.7).

OASIS shall support the following methods for Users to transfer Input data:

a. HTML: HTML FORM input shall be provided to allow Users to specify the necessary Input data associated with each Input/Response OASIS Template. This may be in the form of fill in blanks, buttons, pull-down selections, etc., and may use either the GET or POST methods. The exact nature and form of these HTML screens are not specified, and may differ between OASIS nodes.

b. GET Method: The HTTP GET method for specifying Input information in the form of a query string appended to a standard OASIS URL shall be supported. Using this method, the name=value formatted Query Variables preceded by a question mark (?) are appended to the URL. Each "name" in a name/value pair corresponds to a Data Element name associated with that Template. OASIS shall support the specification of all Data Elements associated with a Template by both their full name and alias as defined in the Data Dictionary. The "value" in a name/value pair represents the value to be associated with the Data Element being specified in the appropriate format as defined in the Data Dictionary and encoded according to the HTTP protocol.

c. POST Method: The HTTP POST method for specifying Input information in the form of a query string in the message body shall be supported. Using this method, the name=value formatted Query Variables shall be transferred to OASIS using the "Content-length: "HTTP header to define the length in bytes of the encoded query string and the "Content-type: application/x-www-form-urlencoded" HTTP header to identify the data type included in the message body. Each "name" in a name/value pair corresponds to a Data Element name associated with that Template. OASIS shall support the specification of all Data Elements associated with a Template by both their full name and alias as defined in the Data Dictionary. The "value" in a name/value pair represents the value to be associated with the Data Element being specified in the appropriate format as defined in the Data Dictionary and encoded according to the HTTP protocol.

d. CSV Format: Comma Separated Value (CSV) formatted Input information transferred in the body of a User's HTTP message shall be supported. The "Content-length:" HTTP header shall define the length in bytes of the Input, and the "Content-type: text/x-oasis-csv" HTTP header shall be used to identify the data type included in the message body.

4.2.5.2 Response to Input

In response to a validly formatted Input for each Input/Response OASIS Template, the OASIS shall return an indication as to the success/failure of the requested action. The OASIS shall respond to the Input in one of two forms, based on the OUTPUT—FORMAT, which was input by a User either as a Query Variable or in a CSV format Header Record:

a. HTML: If the User requests the response to have the format of "HTML" (OUTPUT__FORMAT=HTML) then the response from the OASIS shall be a web page using the HTML format. This shall be the default for all Input/Response Templates invoked using either the FORM, GET or POST methods of input.

b. CSV Format: Comma Separated Value (CSV) format (OUTPUT__FORMAT=DATA) returns the response information in the body of the HTTP response message. The "Content-length:" HTTP header shall define the length in bytes of the response, and the "Content-type: text/x-oasis-csv" HTTP header shall be used to identify the data type included in the message body. This shall be the default for all Input/Response Templates invoked using the CSV Format methods of input.

4.2.6 .Query Variables

4.2.6.1 General

Both Query/Response and Input/Response OASIS Templates shall support the specification of a query string consisting of Query Variables formatted as name/value pairs. OASIS shall support the specification of Data Element names ("name"

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portion of name=value pair) in both the full name and alias forms defined in the Data Dictionary. OASIS shall support the specification of Query Variables from the User using either the HTTP GET or POST methods. On input, Data Element names and associated values shall be accepted and processed without regard to case. On output, Data Element names and associated values may not necessarily retain the input case, and could be returned in either upper or lower case.

4.2.6.2 Standard Header Query Variables

The following standard Query Variable Data Elements shall be supported for all OASIS Templates and must be entered for each Query by a User:

VERSION
TEMPLATE
OUTPUT__FORMAT
PRIMARY__PROVIDER__CODE
PRIMARY__PROVIDER__DUNS
RETURN__TZ

Since these header Query Variables must be supported for all Templates, they are not listed explicitly in the Template descriptions in Section 4.3

All standard header Query Variables with appropriate values must be entered by the User.

4.2.6.3 Responses to Queries

Responses to Queries will include the following information as a minimum:

TIME__STAMP
VERSION
TEMPLATE
OUTPUT__FORMAT
PRIMARY__PROVIDER__CODE
PRIMARY__PROVIDER__DUNS
RETURN__TZ

The additional information shall include:

a. The requested information as defined by the Template indicated in the Query
b. For CSV downloads, the additional header Data Elements required (see section 4.2.7.3)

4.2.6.4 Multiple Instances

Certain Query Variables may be repeated in a given Query/Response OASIS Template query string. Where such multiple instances are documented in the Template definitions using an asterisk (*) after the query variable. When more than one instance of the Query Variable is specified in the query string, OASIS shall recognize such multiple instances by either the Data Element's full name or alias suffixed with sequential numeric qualifiers starting with the number 1, (e.g., PATH__NAME1=abc&PATH__NAME2=xyz, or PATH1=abc&PATH2=xyz). At least 4 multiple instances will be permitted for each query variable marked with an asterix (*).

4.2.6.5. Logical Operations

OASIS shall use the following logical operations when processing Query Variables for Query/Response OASIS Templates. All Query Variables, with the exception of multiple instances of the same Query Variable Data Element, shall be operated on to return information based on the logical-AND of those Query Variables. For example, the query string "* * *SELLER__CODE=abc&PATH=xyz* * *" should return information associated with only those records that are on transmission path "xyz" AND associated with transmission provider "abc." Multiple instances of the Query Variable shall be operated on as logical-OR. For example, "* * *SELLER__CODE=abc&PATH1=xyz&PATH2=opq* * *" should return information associated with transmission provider "abc" AND either transmission path "xyz" OR transmission path "opq". Some logical operations may exclude all possibilities, such that the responses may not contain any data.

4.2.6.6 Handling of Time Data Elements

In cases where a single query variable is provided to select information associated with a single template data element that represents a point in time (e.g., TIME__OF__LAST__UPDATE), OASIS shall return to the user all requested information whose associated data element time value (e.g. TIME__OF__LAST__UPDATE) is equal to or later than the value specified by the query variable. In this case the stop time is implicitly "now".

A pair of query variables (e.g. START__TIME__QUEUED and STOP__TIME__QUEUED) that represents the start and stop of a time interval but is associated with one single template data element (e.g. TIME__QUEUED) shall be handled by OASIS to return to the User all requested information whose associated data element time value falls within the specified time interval.

A pair of query variables (e.g. START__TIME and STOP__TIME query variables) that represents the start and stop of one time interval but is associated with another pair of template data elements (e.g. START__TIME and STOP__TIME of a service offering) that represents a second time interval, shall be handed by OASIS to return to the User all requested information whose associated data element time interval overlaps any portion of the specified time interval. Specifically, the START__TIME query variable, and the STOP__TIME query variable selects all information whose START__TIME data element value is earlier than the STOP__TIME query variable. For example:

The transoffering template query string START__TIME 970101000000ES&STOP__TIME 970201000000ES" shall select from the OASIS database all associated offerings whose start/stop times overlap any portion of the time form 00:00 January 1, 1997, to 00:00 February 1, 1997. This would include offerings that (1) started prior to Jan. 1. stopped any time on or after Jan. 1, and (2) started on or after Jan. 1 but before Feb. 1

For changes to and from daylight savings time, either Universal Time or the correct time and zone must be used, based on whether daylight savings time is in effect.

All time values shall be checked upon input to ensure their validity with respect to date, time, time zone, and daylight savings time.

4.2.6.7 Default Values

Query Variable that are not specified by the User may take on default values as appropriate for that Query Variable at the discretion of the OASIS TSIP.

4.2.6.8 Limitations on Queries

OASIS TSIP may establish validation procedures and/or default values for Query Variables to restrict the size and/or performance impact of overly broad queries.

4.2.7 CSV Format

4.2.7.1 General Record Format

OASIS Users shall be able to upload information associated with Input/Response OASIS Templates and download information associated with all OASIS Templates using a standardized Comma Separated Value (CSV) format. CSV formatted data is transferred to/from OASIS as part of the body of an HTTP message using the "Content-length:" HTTP header to define the length in bytes of the message body, and the "Content-type: text/x-oasis-csv" HTTP header to identify the data type associated with the message body. CSV formatted data consists of a fixed set of header records followed by a variable number of data records. Each record shall be separated by a carriage return plus line feed (denoted by the symbol ┘ in all examples). The fields within a record shall be delimited by commas (,). All data within a CSV formatted message shall use printable ASCII characters with no other special embedded codes, with the exception of the special encoding requirements associated with text fields.

4.2.7.2 Input Header Records

The following standard header records are required for the uploading of Input data for all Input/Response OASIS Templates:

VERSION=nn.n¬
TEMPLATE=aaaaaaaaaa¬
OUTPUT__FORMAT=[DATA]¬
PRIMARY__PROVIDER__CODE=aaaa¬
PRIMARY__PROVIDER__DUNS=nnnnnnnnn¬
RETURN__TZ=aa¬
DATA__ROWS=nnn¬
COLUMN__HEADERS=[Template data element names separated by commas]¬

The format of the value associated with each of the Input header record Data Elements are dictated by the Data Dictionary.

The value associated with the DATA__ROWS Data Element shall define the total number of data records that follow in the message after the COLUMN__HEADERS record.

The COLUMN__HEADERS record defines, by Data Element name, the data associated with each comma separated column contained in each subsequent data record (row). On Input, either the Data Element's full name or alias listed in the Data Dictionary may be specified.

4.2.7.3 Response Header Records

When explicitly specified using the OUTPUT__FORMAT=DATA Query Variable or implied by the Input of a CSV format message, the OASIS shall respond with the following standard response header records for all OASIS Templates:

REQUEST__STATUS=nnn¬
ERROR__MESSAGE=aaa...¬
TIME__STAMP=yyyymmddhhmmsstz¬
VERSION=nn.n¬
TEMPLATE=aaaaaaaaaa¬
OUTPUT__FORMAT=DATA¬
PRIMARY__PROVIDER__CODE=aaaa¬
PRIMARY__PROVIDER__DUNS=nnnnnnnnn¬
RETURN__TZ=tz¬
DATA__ROWS=nnn¬
COLUMN__HEADERS=[Template data element names separated by commas]¬

The format of the value associated with each of the Response header record Data Elements are dictated by the Data Dictionary.

The value associated with the DATA__ROWS Data Element shall define the total number of data records returned in the message following the COLUMN__HEADERS header record.

The COLUMN__HEADERS record defines, by Data Element name, the data associated with each comma-separated column contained in each subsequent data record (row). In all OASIS responses, the Data Element's full name shall be listed in the COLUMN__HEADERS record. The order of the column headings shall be the same as shown in the Templates for URL uploads and downloads. For graphical displays, the Provider may define the order that the Data Element names are shown.

4.2.7.4 Data Records

Data Records immediately follow the standard Input or Response header records. With the exception of data records grouped together as a single "logical record" through the use of Continuation Records, each data record in a CSV

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formatted Input message represents a single, complete execution of the associated OASIS Template. That is, sending five CSV formatted Input messages for a given Template to the same PRIMARY__PROVIDER__CODE with as single data record per message shall be handled in exactly the same fashion as sending a single CVS formatted Input message for the same Template and PRIMARY__PROVIDER__CODE which contains five data records.

Each field (column) within each data record defines the value to be associated with the corresponding Data Element defined in the COLUMN__HEADERS record. The number of Data Records in the message is defined by the DATA__ROWS header record. The data values associated with each column Data Element are interpreted based on the Data Element type as defined in the Data Dictionary:

a. Numeric Data Elements: All numeric Data Elements shall be represented by an ASCII string of numeric digits in base ten, plus the decimal point.

b. Text Data Elements: Alphabetic and alphanumeric data elements shall be represented as ASCII strings and encoded using the following rules:

- Text strings that do not contain commas (,) or double quotes (") shall be accepted both with and without being enclosed by double quotes.
- Text fields with commas (,) or double quotes (") must be enclosed with double quotes. In addition double quotes within a text field shall be indicated by two double quotes (" ").
- The Data Element field length specified in Data Dictionary does not include the additional double quotes necessary to encode text data.

a. Null Data Elements: Null Data Elements shall be represented by two consecutive commas (,,) corresponding to the leading and trailing (if appropriate) Data Element comma separators. Null text strings may optionally be represented by two consecutive double quote characters within the leading and trailing comma separators (i.e., ..., " ", ...).

4.2.7.5 Continuation Records

Continuation records shall be used to indicate that the information in multiple rows (records) is part of one logical record. Continuation records will be indicated through the use of a column header called CONTINUATION__FLAG. This column header is either the first column (if in a response to a query) or second column (if in a response to an input) in all Templates permitting continuation records. The first record shall contain a "N" in the CONTINUATION__FLAG column and each following record which is part of a continuation record shall contain a "Y" in this column, thus associating the information in that record with the information in the previous record. An "N" shall indicate that the record is not a continuation record. Any values corresponding to COLUMN__HEADERs other than those explicitly allowed for a particular Template shall be ignored. However commas must be included to properly align the fields.

4.2.7.6 Error Handling in CSV-Formatted Responses

Validity of each record in the CVS-formatted Response to a Template Input shall be indicated through the use of RECORD__STATUS and ERROR__MESSAGE Data Elements which are included in each data record (row) of the Response.

- If no error was encountered in an Input data record, the RECORD__STATUS Data Element in the corresponding Response record shall be returned with a value of 200 (success), and the ERROR__MESSAGE shall be blank.
- If any error is detected in processing an Input data record, it shall be indicated by a RECORD__STATUS Data Element value other than 200. The ERROR__MESSAGE shall be set to an appropriate text message to indicate the source of the error in that data record.

The overall validity of each Template Query or Input shall be indicated in the CSV-formatted Response via the two REQUEST__STATUS and ERROR__MESSAGE header records (see section 4.2.7.3):

- If no errors were encountered in processing the User's Input data records, the REQUEST__STATUS shall be returned with the value of 200 (success), and the ERROR__MESSAGE shall be blank.
- If any errors were detected in the Template Input data records, the REQUEST__STATUS value shall any value other than 200, and the ERROR__MESSAGE shall be set to an appropriate text message to indicate the source of the error.

The OASIS node shall validate all Input records before returning a Response to the User. All valid records shall be processed by the node, while invalid records shall be identified as erroneous through he use of RECORD__STATUS and ERROR__MESSAGE. The User must correct the invalid fields and resubmit only those records which were invalid.If an error is encountered in a record which is part of a set of Continuation records, then all records belonging to that set must be resubmitted.

4.2.8 Registration Information

4.2.8.1 General

As specified in the Information Access Requirements, OASIS Nodes shall provide a mechanism to register Users of the OASIS with a Provider. For all levels of access to OASIS information beyond simple read-only access, OASIS node shall provide a mechanism to identify Users of the OASIS at least to the level of their respective Companies. Both Company and User registration information shall be maintained by the OASIS node.

4.2.8.2 Company Information

OASIS Templates require that certain Company registration information be maintained. As an extension of the Company registration information of the host, domain and port identifiers for dynamic notification of changes in the Customer's purchase requests, a field should be added to the Company's registration information that would define/identify how notification would be delivered to that Company should a transmission or ancillary purchase request be directed to that Company as a Seller of a transmission or ancillary service. The pertinent information would be either a full

HTTP protocol URL defining the protocol, host name, port, path, resource, etc. information or a "mailto:" URL with the appropriate mailbox address string. On receipt of any purchase request directed to that Company as SELLER via either the "transrequest" or "ancrequest" templates, or on submission of any change in request STATUS to the Company as SELLER via either the "transcust" or "anccust" templates, a notification message formatted as documented for the delivery of notification to the Customer, shall be formatted and directed to the Seller. At a minimum, OASIS shall maintain the following information for each Company.

a. Company Code: 4 character code for primary transmission providers; 6 character code for eligible customers in accordance with NERC Tagging Information System (TIS) requirements shall be maintained for each Company.

b. Default Contact: Unless specified for each individual user affiliated with the Company, default contact information consisting of a phone number, fax number, and e-mail address shall be maintained for each Company.

c. Provider Affiliation: Each eligible Customer shall be obligated to identify to the OASIS TSIP any affiliation with a Transmission Provider whose "home page" is on that OASIS node.

d. Notification URL: For Companies using the URL notification mechanism for delivery of messages on each change of ancillary/transmission reservation STATUS, each Company shall provide the IP host name and port number to be used in delivering notification messages. OASIS nodes shall have the right to refuse support for notification to any IP posts other than port 80.

4.2.8.3 User Information

With the exception of "read-only" (visitor) access, OASIS nodes shall as a minimum provide a mechanism to identify Users of the node with at least their Company. However, OASIS nodes and Providers shall have the right to require full User identification even for visitor accounts.

To support the required OASIS Template Data Elements, OASIS nodes shall maintain the following information for each registered User:

- Company
- Name
- Phone
- Fax
- E-mail

In the event no additional User identification/registration information is maintained by the OASIS, all Template Data Elements referring to "company, name, phone, fax, e-mail" for either Customers or Sellers shall default to the Contact Information maintained for that User's Company.

4.2.9 Representation of Time

4.2.9.1 General

It is critical that all Users of OASIS have a clear and unambiguous representation of time associated with all information transferred to/from OASIS. For this reason, all Data Elements associated with time in OASIS shall represent "wall clock" times, which are NOT to be confused with other common industry conventions such as "hour ending." For the convenience of the User community, OASIS nodes shall be allowed to accept the input and display of "time" in any acceptable form provided such non-standard representations are CLEARLY labeled on the associated HTML screens. Alternate representations of time in CSV formatted messages shall not be allowed.

The following rules shall be implemented in OASIS for the representation of time on User entries (Query and Input) and output (Response) Templates.

4.2.9.2 Input Time

All time related Data Elements associated with either the Input or Query of Input/Response or Query/Response OASIS Templates shall be validated according to the following rules. If the time zone associated with a time Data Element is associated with either Universal Time (UT) or a "standard" time zone (e.g., ES, CS, etc.), OASIS shall accept and apply a fixed hour offset from Universal Time year-round. If the time zone associated with a time Data Element is specified with a "daylight savings" time zone (e.g., ED, CD, etc.), OASIS shall verify that daylight savings time is in effect for the date/time specified.

If daylight savings time (as specified by the time from 2:00 a.m. on the first Sunday of April through 2:00 a.m. on the last Sunday of October) is not in effect, the Users input shall be rejected with an error response. If daylight savings time is in effect, the Users input shall be accepted and the appropriate hours offset from Universal Time shall be applied by OASIS for conversion to all other time zones. The input of start/stop times for transactions spanning the crossover day between standard and daylight (and vice versa) times must be made either entirely in standard time (valid year-round), or in two different time zones (xS/xD or xD/xS) for the start and stop times, depending on the time of year.

4.2.9.3 Output (Response) Time

The OASIS shall return all time Data Elements in the response to Input/Response or Query/Response OASIS Templates based on either the User specified RETURN__TZ header Query Variable or an appropriate OASIS specific default. OASIS shall interpret RETURN__TZ to specify:

a. The base time zone for conversion of all time Data Elements (e.g. Eastern, Pacific, etc.).

b. Whether daylight savings time is recognized. For example, a RETURN__TZ=ES would return all time Data Elements in Eastern Standard Time year-round. However, a RETURN__TZ=ED would direct OASIS to return all time Data Elements in Eastern Standard Time (ES) when daylight savings time is not in effect, and then return all time Data Elements in Eastern Daylight Time (ED) when daylight time is in effect.

4.2.10 Transaction Process

4.2.10.1 Purchase Transactions

Customers shall purchase services from the Seller using the following steps (see Exhibit 4–1):

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a. The Templates (transrequest and ancrequest) shall be used by a Customer to enter a request for specific transmission services from a specific Seller. The Customer may enter a BID__PRICE which is different from the OFFER__PRICE in order to try to negotiate a lower price. The OASIS sets the initial STATUS of the request to QUEUED. The Customer may set the STATUS__NOTIFICATION to indicate that the OASIS must notify the Customer on any change of STATUS of transstatus (see Dynamic Notification). Prior to or commensurate with a Seller's setting of a preconfirmed reservation request's STATUS to ACCEPTED (and by implication CONFIRMED), the Seller must set OFFER__PRICE equal to the value of BID__PRICE as established by the Customer on submission of the request.

b. The Templates (transstatus and ancstatus) shall be used by Customers and Sellers to monitor the status of their transactions in progress. These Templates shall also be used by any Users to review the status of any transactions. The NEGOTIATED__PRICE__FLAG data element is set when the Seller agrees to a BID__PRICE (by setting OFFER__PRICE equal to BID__PRICE) that is different from the previously posted price. It will show "higher" when OFFER__PRICE is higher than the posted price, and "lower" when the OFFER__PRICE is lower than the posted price.

c. The Templates (transsell and ancsell) shall be used by a Seller both to set a new value into STATUS and to negotiate a price by entering a new OFFER__PRICE which is different from the BID__PRICE entered by the Customer in the transrequest Template (if it was not PRECONFIRMED). During these negotiations, a Reseller shall formally indicate the approval or disapproval of a transaction and indicate which rights from prior confirmed reservations are to be reassigned. A Primary Provider may, but is not required, to enter transaction approval or disapproval using this Template. The valid STATUS values which may be set by a Seller are: RECEIVED, STUDY, OFFER, ACCEPTED, REFUSED, DISPLACED, ANNULLED, or RETRACTED.

d. The Customer shall use the transstatus and ancstatus Templates to view the Seller's new offer price and/or approval/disapproval decision.

e. After receiving notification of the transaction's STATUS being set to "OFFER" by the Seller, the Templates (*transcust* and *anccust*) shall be used by the Customer to modify the BID__PRICE and set the STATUS to REBID. After negotiations are complete (STATUS set to "ACCEPTED" by the Seller), the Customer shall formally enter the confirmation or withdrawal of the offer to purchase services for the OFFER__PRICE shown in the *transstatus* Template. The valid STATUS values which a Customer may set are: REBID, CONFIRMED, or WITHDRAWN.

f. The Seller shall use the *transstatus (ancstatus)* Templates to view the Customer's new bid price and/or confirmation/withdrawal decision, again responding through *transsell* or *ancsell* if necessary. If the Seller offers to sell a service at an OFFER__PRICE less than that posted in the *transoffering (ancoffering)* Template, the *transoffering (ancoffering)* Template must be updated to reflect the new OFFER__PRICE.

g. For deals consummated off the OASIS by a Seller, after the Customer has accepted the offering, the Templates (*transassign* and *ancassign*) may be used by the Seller to notify the Primary Provider of the transfer of rights to the Customer. Continuation records may be used to indicate the reassigning of rights for a "profile" of different assignments and different capacities over different time periods.

h. The source of all user and seller contact information shall be the User registration process. Therefore, it shall not be input as part of uploads, but shall be provided as part of all transaction downloads.

i. OASIS shall accept a seller initiated change in STATUS to ACCEPTED only when OFFER__PRICE matched BID__PRICE (i.e., seller must set OFFER__PRICE equal to BID__PRICE prior to or coincident with setting STATUS to accepted).

j. OASIS shall accept a customer initiated change in STATUS to CONFIRMED only when BID__PRICE matches OFFER__PRICE (i.e., customer must set BID__PRICE equal to OFFER__PRICE prior to or coincident with setting STATUS to confirmed).

4.2.10.2 Status Values

The possible STATUS values are:

QUEUED=initial status assigned by TSIP on receipt of "customer services purchase request"

RECEIVED=assigned by TP to acknowledge QUEUED requests and indicate the service request is being evaluated, including for completing the required ancillary services

STUDY=assigned by TP to indicate some level of study is required or being performed to evaluate service request

OFFER=assigned by TP to indicate that a new OFFER__PRICE is being proposed

REBID=assigned by TC to indicate that a new BID__PRICE is being proposed

ACCEPTED=assigned by TP to indicate service request at the designated OFFER__PRICE has been approved/accepted. If the reservation request was submitted PRECONFIRMED, OASIS shall immediately set the reservation status to CONFIRMED. Depending upon the type of ancillary services required, the Seller may or may not require all ancillary service reservations to be completed before accepting a request.

REFUSED=assigned by TP to indicate service request has been denied, SELLER__COMMENTS should be used to communicate reason for denial of service

CONFIRMED=assigned by TC in response to TP posting "ACCEPTED" status, to confirm service. Once a request has been "CONFIRMED", a transmission service reservation exists

WITHDRAWN=assigned by TC at any point in request evaluation to withdraw the request from any further action

DISPLACED=assigned by TP when a "CONFIRMED" reservation from a TC is displaced by a longer term request and the TC has exercised right of first refusal (i.e., refused to match terms of new request)

ANNULLED=assigned by TP when, by mutual agreement with the TC, a confirmed reservation is to be voided.

RETRACTED=assigned by TP when the TC fails to confirm or withdraw the request within the required time period

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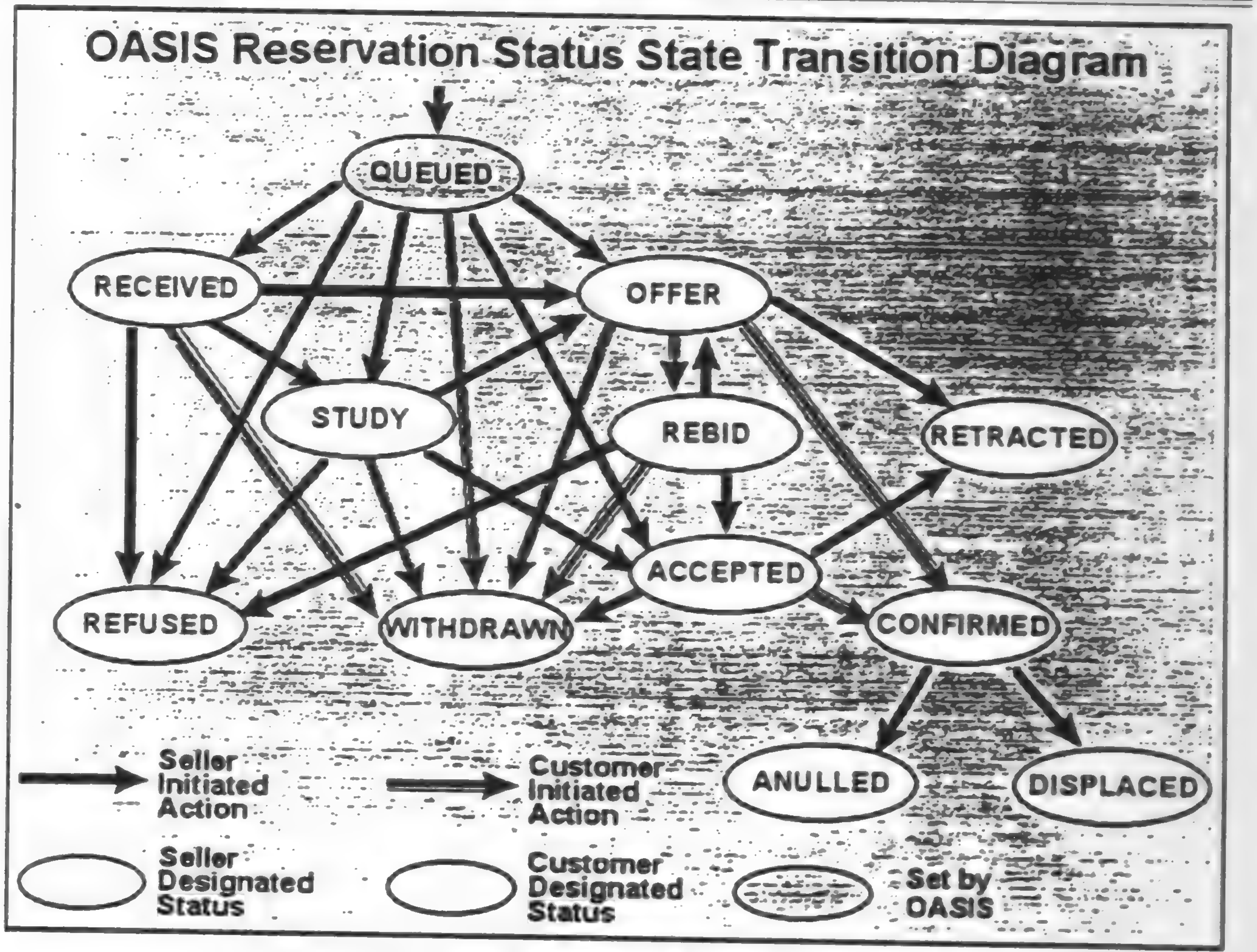
OASIS Reservation Status State Transition Diagram
QUEUED
RECEIVED
OFFER
STUDY
REBID
RETRACTED
ACCEPTED
REFUSED
WITHDRAWN
CONFIRMED
ANULLED
DISPLACED
Seller Initiated Action
Customer Initiated Action
Seller Designated Status
Customer Designated Status
Set by OASIS

Exhibit 4-1 - State Diagram of Purchase Transactions

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4.2.10.3 Dynamic Notification

Customer's may specify the delivery of dynamic notification messages on each change in STATUS of an ancillary or transmission service reservation. OASIS shall support the delivery of dynamic notification messages through either the HTTP protocol or by electronic mail. The selection of which mechanism is used and the contents of the messages delivered to the client program or e-mail address is defined by the content of the STATUS__NOTIFICATION data element as described in the next subsections.

Regardless of whether this dynamic notification method is used or not, it shall remain the User's Regardless of whether this dynamic notification method is used or not, it shall still remain the User's responsibility to get the desired information, possibly through the use of a periodic "integrity request". OASIS nodes shall not be obligated or liable to guarantee delivery/receipt of messages via the STATUS__NOTIFICATION mechanism other than on a "best effort" basis.

As an extension of the Company registration information of the host, domain and port identifiers for dynamic notification of changes in the Customer's purchase requests, a field should added to the Company's registration information that would define/identify how notification would be delivered to that Company should a transmission or ancillary purchase request be directed to that Company as a Seller of a transmission or ancillary service. The pertinent information would be either a full HTTP protocol URL defining the protocol, host name, port, path, resource, etc. information or a "mailto:" URL with the appropriate mailbox address string. On receipt of any purchase request directed to that Company as SELLER via either the "transrequest" or "ancrequest" templates, or on submission of any change in request STATUS to that Company as SELLER via either the "transrequest" or "ancrequest" templates, or on submission of any change in request STATUS to that Company as SELLER via either the "transcust" or "anccust" templates, a notification message formatted as documented for the delivery of notification to the Customer, shall be formatted and directed to the Seller.

4.2.10.3.1 HTTP Notification

OASIS shall deliver dynamic notification to a client system based on HTTP URL information supplied in part by the STATUS__NOTIFICATION data element and by information supplied as part of the Customer's Company registration information. HTTP URL's are formed by the concatenation of a protocol field (i.e., http:), a domain name (e.g., //www.tsin.com), a port designation (e.g.,:80), and resource location information.

The STATUS__NOTIFICATION data element shall contain the protocol field "http:", which designates the notification method/protocol to be used, followed by all resource location information required; the target domain name and port designations shall be inserted into the notification URL based on the Customer's Company registration information. The resource location information may include directory information, cgi script identifiers and URL encoded query string name/value pairs as required by the Customer's application. OASIS performs no processing on the resource location information other than to include it verbatim along with the protocol, domain name and port information when forming the URL that will be used to deliver the HTTP protocol notification message.

For example, Company XYZ has established the domain name and port designations of "//oasistc.xyz.com:80" as part of their registration information.

When a transmission reservation is submitted by one of the Company XYZ's users (the Customer), and includes a STATUS__NOTIFICATION data element with the value of "http:/cgi-bin/status? DEAL__REF=8&REQUEST__REF=173", OASIS shall deliver an HTTP notification message using the URL: http//oasistc.xyz.com:80/cgi-bin/status? DEAL__REF=8&REQUEST__REF=173

If the STATUS__NOTIFICATION field contained only the "http:" protocol designation, the notification message would be delivered using the URL: http://oasistic.xyz.com:80

The contents of the HTTP protocol notification message delivered by OASIS shall consist of the complete URL created by combining fields from the STATUS__NOTIFICATION data element and Company registration information as part of an HTTP GET method request. In addition to the GET method HTTP header record, OASIS shall also append the CSV formatted output of the transstatus template information for that particular reservation using the standard Content-type: text/x-oasis-csv and appropriate Content-length: HTTP header records. OASIS shall use a Primary Provider specific default value for RETURN__TZ in formulating response information.

Continuing with the previous example, the important records in the HTTP notification message that would be delivered to Company XYZ for the transmission reservation request submitted to Primary Provider ABC and given an ASSIGNMENT__REF of 245 would be.

```
GET http://oasistc.xyz.com:80/cgi-bin/status?DEAL__REF=8&REQUEST__REF=173 HTTP/1.0
Content-type: text/x-oasis-civ
Content-length:<byte count of remainder of message≤
REQUEST__STATUS=200
TIME__STAMP=<appropriate value≤
VERSION=1.2
TEMPLATE=transstatus
OUTPUT__FORMAT=DATA
PRIMARY__PROVIDER__CODE=ABC
PRIMARY__PROVIDER__DUNS=123456789
RETURN__TZ=<appropriate value for ABC≤
DATA__ROWS=1
COLUMN__HEADERS=CONTINUATION__FLAG, ASSIGNMENT__REF, . . .
N, 245, . . .
```

In the event an error is encountered delivering the HTTP notification message to the target URL as indicated by a failure of the target system to respond, or return of HTTP response status of 408, 500, 503, or 504, OASIS shall retry up to two more times, once every 5 minutes.

4.2.10.3.2 E-mail Notification

OASIS shall deliver dynamic notification to an e-mail address based on Mailto: URL information specified in the STATUS__NOTIFICATION data element. Mailto: URL's consist of the "mailto:" protocol identifier and an Internet mail address to which the notification message should be sent. The STATUS__NOTIFICATION data element shall contain the protocol field "mailto:", which designates the notification method/protocol to be used, followed by an Internet mail address in conformance with RFC 822.OASIS shall send an e-mail message to the Internet mail address containing the following information: "To:" set to the mail address from the STATUS__NOTIFICATION data element, "From:" set to an appropriate mail address of the OASIS node, "Subject:" shall be the transstatus template name followed by the value of the ASSIGNMENT__REF data element and the current value for the STATUS data element associated with the reservation (e.g., "subject: transstatus 245 ACCEPTED"), and the body of the message shall contain the CSV formatted output of the transstatus template information for that particular reservation. OASIS shall use a Primary Provider specific default value for RETURN__TZ in formulating the transstatus response information.

4.2.11 Reference Identifiers

The TSIP shall assign a unique reference identifier, ASSIGNMENT__REF, for each Customer request to purchase capacity or services. The value of ASSIGNMENT__REF may be used to imply the order in which the request was received by the TSIP. This identifier will be used to track the request through various stages, and will be kept with the service through out its life. Whenever the service is resold, a new ASSIGNMENT__REF number is assigned, but previous ASSIGNMENT__REF numbers are also kept so that a chain of all transactions related to the service can be maintained.

The TSIP shall assign a unique reference identifier, POSTING__REF, to each Seller's offerings of service for sale or other information (messages) posted on OASIS. This identifier shall be referenced by the Seller in any/all subsequent template submissions which would result in a modification to or deletion of that specific offering or message. Optionally, Customers may also refer to this POSTING__REF in their subsequent purchase requests to aid in identifying the specific offering associated with the purchase request.

Sellers may aggregate portions of several previous transmission service reservations to create a new offering to be posted on OASIS. When all or a portion of such offerings are sold, the Seller (original Customer) is obligated to notify the Primary Provider of the sale/assignment by inserting appropriate reassignment information on OASIS (via the transsell or transassign templates) or by some other approved method. This reassignment information consists of the ASSIGNMENT__REF value assigned to the original reservation(s) and the time interval and capacity amount(s) being reassigned to the new reservation. These values are retained in the REASSIGNED__REF, REASSIGNED__START__TIME, REASSIGNED__STOP__TIME, and REASSIGNED__CAPACITY data elements.

Sellers may identify their service offerings received from customers through the Seller supplied value specified for the SALE__REF data element.

Customers may track their purchase requests through the Customer supplied values specified for the DEAL__REF and REQUEST__REF data elements. Customers may also use POSTING__REF and SALE__REF in their purchase requests to refer back to posted offerings.

4.2.12 Linking of Ancillary Services to Transmission Services

The requirements related to ancillary services are shown in transoffering (and updated using transupdate) using the ANC__SVC__REQ data element containing the following permitted values:

SC:x; RV:x; RF:x; EI:x; SP:x; SU:x;

where SC, RV, RF, EI, SP and SU are the ancillary services 1 through 6 describe din the Proforma Tariff,

- SC—Scheduling, system Control and dispatch
- RV—Reactive supply and Voltage control
- RF—Regulation and Frequency response
- EI—Energy Imbalance
- SP—SPinning reserve
- SU—SUpplemental reserve

and where x={M,R,O,U} means one of the following:

- Mandatory, which implies that the Primary Provider must provide the ancillary service
- Required, which implies that the ancillary service is required, but not necessarily from the Primary Provider
- Optional, which implies that the ancillary service is not necessarily required, but could be provided
- Unknown, which implies that the requirements for the ancillary service are not known at this time

Ancillary services may be requested by a User from the Provider at the same time as transmission services are requested via the transrequest template, by entering the special codes into ANC__SVC__LINK to represent the Proformed ancillary services 1 through 6 (or more) as follows:

SC:(AA); RV:(AA); RF:(AA[:xxx[:yyy[:nnn]]]); EI:(AA[:xxx[:yyy[:nnn]]]);
SP:(AA[:xxx[:yyy[:nnn]]]); SU:(AA[:xxx[:yyy[:nnn]]]);
{Registered}:(AA[:xxx[:yyy[:nnn]]])

where AA is the appropriate PRIMARY__PROVIDER__CODE, SELLER__CODE, or CUSTOMER__CODE, and represents the company providing the ancillary services. "AA" may be unspecified for "xxx" type identical to "FT", in which case the ":" character must be present and precede the"FT" type.

If multiple "AA" terms are necessary, then each "AA" grouping will be enclosed within parenthesis, with the overall group subordinate to the ANC__SVC__TYPE specified within parenthesis.

and where xxx represents either:

__"FT" to indicate that the Customer will determine ancillary services at a future time, or

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__"SP" to indicate that the Customer will self-provide the ancillary services, or

__"RQ" to indicate that the Customer is asking the OASIS to initiate the process for making an ancillary services reservation with the indicated Provider or Seller on behalf of the Customer. The Customer must then continue the reservation process with the Provider or Seller. If the transmission services request is for preconfirmed service, then the ancillary services shall be preconfirmed, or

__"AR" to indicate an assignment reference number sequence follows.

The terms "yyy" and "nnn" are subordinate to the xxx type of "AR".yyy represents the capacity of the reserved ancillary services. Square brackets are used to indicated optional elements and are not used in the actual linkage itself. Specifically, the :yyy is applicable to only the "AR" term and the :nnn may optionally be left off if the capacity of ancillary services is the same as for the transmission services, and optionally multiple ancillary reservations may be indicated by additional (xxx[:yyy[:nnn]]) enclosed within parenthesis. If no capacity amount is indicated, the required capacity is assumed to come from the ancillary reservations in the order indicated in the codes, on an "as-needed" basis.

Examples:

Example 1:

Assume ancillary services SC and RV are mandatory from the TP, whose code is "TPEL", and ancillary services RF, EI, SP and SU are required, but will be defined at a future time.

"SC: (TPEL:RQ); RV:(TPEL:RQ); RF:(:FT); EI:(:FT); SP:(:FT); SU:(:FT)"

Example 2:

Assume ancillary services SC and RV are mandatory from the TP, whose code is "TPEL", and RF, EI, SP and SU are self-supplied. The customer code is "CPSE"

"SC:(TPEL:RQ); RV:(TPEL:RQ); RF:(CPSE:SP); EI:(CPSE:SP); SP:(CPSE:SP); SU:(CPSE:SP)"

Example 3:

Assume ancillary services SC and RV are mandatory from the TP, whose code is "TPEL", and ancillary services RF, EI, SP and SU were purchased via a prior OASIS reservation from seller "SANC" whose reservation number was "39843". There is sufficient capacity within the Ancillary reservation to handle this Transmission reservation.

"SC:(TPEL:RQ); RV:(TPEL:RQ); RF:(SANC:AR:39843); EI:(SANC:AR:AR:39843) SP:(SANC:AR:39843); SU:(SANC:AR:39843)"

Example 4:

Assume ancillary services SC and RV are mandatory from the TP, whose code is "TPEL", and ancillary services RF, EI, SP and SU were purchased via prior OASIS reservations from sellers "SANC" and "TANC", whose reservation numbers were "8763" and "9824" respectively. There is not sufficient capacity within the Ancillary reservation from seller "SANC" to handle this Transmission reservation. In this case the OASIS reservation number 8763 will be depleted for the time frame specified within the transmission reservation and the remaining required amount will come from reservation number "9824".

"SC:(TPEL:RQ); RV:(TPEL:RQ); RF:((SANC:AR:8763)(TANC:AR:9824)); EI:((SANC:AR:8763)(TANC:AR:9824)); SP:((SANC:AR:8763)(TANC:AR:9824)); SU:((SANC:AR:8763)(TANC:AR:9824))"

Example 5:

Assume a transmission reservation in the amount of 100 mw/hour for a period of one day is made. Ancillary services SC and RV are mandatory from the TP, whose code is "TPEL", and ancillary services RF, EI, SP and SU were purchased via prior OASIS reservations from sellers "SANC" and "TANC", whose reservation numbers were "8763" and "9824" respectively. There is sufficient capacity within the Ancillary reservation from seller "SANC" to handle this Transmission reservation, however the purchaser wishes to use only "40 mw's" from this seller. In this case the OASIS reservation number 8763 will be deplete in the amount of "40 mw's" for the time frame specified within the transmission reservation and the remaining required amount will come from reservation number "9824".

"SC:(TPEL:RQ); RV:(TPEL:RQ); RF:((SANC:AR:8763:40)(TANC:AR:9824)); EI:((SANC:AR:8763:40)(TANC:AR:9824)); SP:((SANC:AR:8763:40)(TANC:AR:9824)); SU:((SANC:AR:8763:40)(TANC:AR:9824))"

4.3 Template Descriptions

The following OASIS Templates define the Data Elements in fixed number and sequence which must be provided for all data transfers to and from the OASIS nodes. The definitions of the data elements are listed in the Data Element Dictionary in Appendix A.

TSIPs must provide a more detailed supplemental definition of the list of Sellers, Paths, Point of Receipt (POR), Point of Delivery (POD), Capacity Types, Ancillary Service Types and Templates online, clarifying how the terms are being used (see LIST Template). If POR and POD are not used, then Path Name must include directionality.

Many of the Templates represent query-response interactions between the User and the OASIS Node. These interactions are indicated by the "Query" and "Response" section respectively of each Template. Some, as noted in their descriptions, are Input information, sent from the User to the OASIS Node. The Response is generally a mirror of the Input, although in some Templates, the TSIP must add some information.

4.3.1 Template Summary

The following table provides a summary of the process areas, and Templates to be used by Users to query information that will be downloaded or to upload information to the Primary Providers. These processes define the functions that must be supported by an OASIS Node.

Process Area	Process Name	Template(s)
4.3.2 Query/Response of Posted Services Being Offered	Query/Response Transmission Capacity Offerings	transoffering
	Query/Response Ancillary Service Offerings	ancoffering
4.3.3 Query/Response of Services Information	Query/Response Transmission Services.	transserv
	Query/Response Ancillary Services	ancserv
4.3.4 Query/Response of Schedules and Curtailments	Query/Response Transmission Schedules	schedule
	Query/Response Curtailments	curtail
4.3.5 Query/Response of Lists of Information	Query/Response List of Sellers, Paths, PORs, PODs, Capacity Types, Ancillary Service Types, Templates.	list
4.3.6 Query/Response of Audit Log	Query/Response Audit Log	auditlog
4.3.7 Purchase Transmission Services	Request Purchase of Transmission Services (Input)	transrequest
	Query/Response Status of Transmission Service Request	transstatus
	Seller Approves Purchase (Input)	transsell
	Customer Confirm/Withdraw Purchase of Transmission Service (Input).	transcust
	Alternate POD/POR	transalt
	Seller Reassign Rights (Input)	transassign
4.3.8 Seller Posting of Transmission Service	Seller Post Transmission Service for Sale (Input)	transpost
	Seller Modify (Remove) Transmission Service for Sale (Input)	transupdate
4.3.9 Purchase of Ancillary Service	Request Purchase of Ancillary Service (Input)	ancrequest
	Query/Response Status of Ancillary Service Request	ancstatus
	Seller Approves Purchase of Ancillary Service (Input)	ancsell
	Customer Accept/Withdraw Purchase of Ancillary Service (Input).	anccust
4.3.10 Seller Post Ancillary Service	Seller Post Ancillary Service (Input)	ancpost
	Seller Modify (Remove) Ancillary Service for Sale (Input)	ancupdate
4.3.11 Informal Messages	Post Want Ads (Input)	messagepost
	Query/Response Want Ads	message
	Delete Want Ad (Input)	messagedelete
	Discretion	discretion
	Standards of Conduct	stdconduct

4.3.2 Query/Response of Posted Services Being Offered

The following Templates define the information to be posted on services offered for sale. All discounts for service negotiated by a Customer and Primary Provider (as Seller) at a price less than the currently posted offering price shall be posted on OASIS in such a manner as to be viewed using these Templates. All secondary market and/or third-party posting and Primary Provider offerings for like services shall also be viewed using these templates.

The Query must start with the standard header Query Variable Data Elements, listed in Section 4.2.6.2, and may include any valid combination of the remaining Query Variable, shown below in the Templates. START__TIME and STOP__TIME is the requested time interval for the Response to show all offerings which intersect that interval (see Section 4.2.6.6.). TIME__OF__LAST__UPDATE can be used to specify all services updated since a specific point in time.

Query variable listed with an asterix (*) can have at least 4 multiple instances defined by the user in making the query.

In the Response, OFFER__START__TIME and OFFER__STOP__TIME indicate the "request time window" within which a customer must request a service in order to get the post OFFER__PRICE. START__TIME and STOP__TIME indicate the time frame that the service is being offered for.

The SERVICE__DESCRIPTION data element shall define any attributes and/or special terms and conditions applicable to the offering that are not listed under the standard SERVICE__DESCRIPTION associated with the product definition supplied in the transserv or ancserv templates.

SERVICE__DESCRIPTION shall be null if there are no unique attributes or terms associated with the offering.

4.3.2.1 Transmission Capacity Offerings Available for Purchase (transoffering)

Transmission Services Offerings Available for Purchase (transoffering) is used to offer transmission services that are posted for sale by the Primary Provider or Resellers. At a minimum this Template must be used to post TTC and each increment and type of service required by applicable regulations and the Primary Provider's tariffs.

This Templates must include, for each posted path, the Primary Provider's TTC, firm ATC and non-firm ATC, as required by FERC orders 888 and 889 (plus revisions) and/or if provided in the Primary Provider's tariff. Additional transmission services may be offered with the same Template.

The POSTING__REF is set by the TSIP when an offering is posted and can be used in transrequests to refer to a particular offering.

A User may query information about services available from all sellers for the time frame specified by the SERVICE__INCREMENT data element, namely, hourly, daily, weekly, monthly, or yearly.

Template: transoffering

1. Query

PATH__NAME*
SELLER__CODE*
SELLER__DUNS*

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POINT__OF__RECEIPT*
POINT__OF__DELIVERY*
SERVICE__INCREMENT*
TS__CLASS*
TS__TYPE*
TS__PERIOD*
START__TIME (of transmission services)
STOP__TIME (of transmission services)
POSTING__REF
TIME__OF__LAST__UPDATE

2. Response

The response is one or more records showing the requested service information. Note that the Customer will receive as a series of records spanning all the SELLER__CODEs, PATH__NAMEs, PORs, PODs, Ts__xxx, and the START__TIME/STOP__TIME specified in the query. The SALE__REF is a value provided by the SELLER to identify the transmission service product being sold. The ANC__SVC__REQ indicates all ancillary services required for the specified transmission services. All Templates elements are defined in the Data Element Dictionary.

TIME__OF__LAST__UPDATE
SELLER__CODE
SELLER__DUNS
PATH__NAME
POINT__OF__RECEIPT
POINT__OF__DELIVERY
INTERFACE__TYPE
OFFER__START__TIME
OFFER__STOP__TIME
START__TIME
STOP__TIME
CAPACITY
SERVICE__INCREMENT
TS__CLASS
TS__TYPE
TS__PERIOD
TS__WINDOW
TS__SUBCLASS
ANC__SVC__REQ
SALE__REF
POSTING REF
CEILING PRICE
OFFER__PRICE
PRICE__UNITS
SERVICE__DESCRITION (if null, then look at transserv)
NERC__CURTAILMENT__PRIORITY
OTHER__CURTAIMENT__PRIORITY
SELLER__NAME
SELLER__PHONE
SELLER__FAX
SELLER__EMAIL
SELLER__COMMENTS

4.3.2.2 Ancillary Services Available for Purchase (ancoffering)

Ancillary Services Available for Purchase (ancoffering) is used to provide information regarding the ancillary services that are available for sale by all sellers (both Primary Provider and Third Party Sellers.)

Template: ancoffering

1. Query

SELLER__CODE*
SELLER__DUNS*
CONTROL__AREA*
SERVICE__INCREMENT*
ANC__SERVICE__TYPE*
START__TIME
STOP__TIME
POSTING__REF
TIME__OF__LAST__UPDATE

2. Response

TIME__OF__LAST__UPDATE

SELLER__CODE
SELLER__DUNS
CONTROL__AREA
OFFER__START__TIME
OFFER__STOP__TIME
START__TIME
STOP__TIME
CAPACITY
SERVICE__INCREMENT
ANCILLARY__SERVICE__TYPE
SALE__REF
POSTING__REF
CEILING__PRICE
OFFER__PRICE
PRICE__UNITS
SERVICE__DESCRIPTION (if blank, then look at ancserv)
SELLER__NAME
SELLER__PHONE
SELLER__FAX
SELLER__EMAIL
SELLER__COMMENTS

4.3.3. Query/Response of Services Information

4.3.3.1 Transmission Services (transserv)

Transmission Services (transserv) is used to provide additional information regarding the transmission services SERVICE__INCREMENT, TS__CLASS, TS__TYPE, TS__PERIOD, TS__SUBCLASS, TS__WINDOW, NERC__CURTAIMENT__PRIORITY, and OTHER__CURTAIMENT__PRIORITY that are available for sale for a Provider in the Templates in Section 4.3.2. This Template is used to summarize Provider tariff information for the convenience of the User. The Provider also sets PRICE__UNITS with this Template.

Template: transserv

1. Query

TIME__OF__LAST__UPDATE

2. Response

TIME__OF__LAST__UPDATE
SERVICE__INCREMENT
TS__CLASS
TS__TYPE
TS__PERIOD
TS__WINDOW
TS__SUBCLASS
CEILING__PRICE
PRICE__UNITS
SERVICE__DESCRIPTION
NERC__CURTAILMENT__PRIORITY
OTHER__CURTIMENT__PRIORITY
TARIFF__REFERENCE

4.3.3.2 Ancillary Services (ancserv)

Ancillary Services (ancserv) is used to provide additional information regarding the ancillary services that are available for sale by a Provider in the Templates in Section 4.3.2. This Template is used to summarize Provider tariff information for the convenience of the User. The Provider also sets PRICE__UNITS with this Template.

Template: ancserv

1. Query

TIME__OF__LAST__UPDATE

2. Response

TIME__OF__LAST__UPDATE
SERVICE__INCREMENT
ANC__SERVICE__TYPE
CEILING__PRICE
PRICE__UNITS
SERVICE__DESCRIPTION
TARIFF__REFERENCE

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4.3.4 Query/Response of Schedules and Curtailments

4.3.4.1 Hourly Schedule (schedule)

Hourly Schedule (schedule) is used to show what a Provider's scheduled transmission capacity usage actually was for specific Paths. All the information provided is derived from that in the transmission reservation (see Template transstatus), except CAPACITY__SCHEDULED, which is the amount of the reservation which was scheduled. Posting of the schedules is organized around the transmission reservations, not the energy schedules. This may require the Primary Provider to map schedules back to the reservation. These records would have to be created for all reservations/schedules done off the OASIS during the operations scheduling period.

Template: schedule

1. Query

PATH__NAME*
SELLER__CODE*
SELLER__DUNS*
CUSTOMER__CODE*
CUSTOMER__DUNS*
POINT__OF__RECEIPT*
POINT__OF__DELIVERY*
SERVICE__INCREMENT*
TS__CLASS*
TS__TYPE*
TS__PERIOD*
START__TIME
STOP__TIME
TIME__OF__LAST__UPDATE
ASSIGNMENT__REF

2. Response

TIME__OF__LAST__UPDATE
SELLER__CODE
SELLER__DUNS
PATH__NAME
POINT__OF__RECEIPT
POINT__OF__DELIVERY
CUSTOMER__CODE
CUSTOMER__DUNS
AFFILIATE__FLAG
START__TIME (start time of schedule)
STOP__TIME (stop time of schedule)
CAPACITY (reserved)
CAPACITY__SCHEDULED (total of energy scheduled for this customer for this reservation for this hour)
SERVICE__INCREMENT
TS__CLASS
TS__TYPE
TS__PERIOD
TS__WINDOW
TS__SUBCLASS
NERC__CURTAILMENT__PRIORITY
OTHER__CURTAILMENT__PRIORITY
ASSIGNMENT__REF (Last rights holder)

4.3.4.2 Curtailment/Interruption (curtail)

Curtailment/Interruption (curtail) provides additional information about the actual curtailment of transmission reservations that have been scheduled for energy exchange. All fields are derived from the reservation except the CAPACITY__CURTAILED, CURTAILMENT__REASON and CURTAILMENT__OPTIONS. These fields provide information on the reasons for the curtailment procedures to be followed and options for the Customer, if any, to relieve the curtailment.

Template: curtail

1. Query

PATH__NAME*
SELLER__CODE*
SELLER__DUNS*
CUSTOMER__CODE*
CUSTOMER__DUNS*
POINT__OF__RECEIPT*
POINT__OF__DELIVERY*

SERVICE__INCREMENT*
TS__CLASS*
TS__TYPE*
TS__PERIOD*
START__TIME
STOP__TIME
TIME__OF__LAST__UPDATE
ASSIGNMENT__REF

2. Response

TIME__OF__LAST__UPDATE
SELLER__CODE
SELLER__DUNS
PATH__NAME
POINT__OF__RECEIPT
POINT__OF__DELIVERY
CUSTOMER__CODE
CUSTOMER__DUNS
AFFILIATE__FLAG
START__TIME (Start time of curtailment)
STOP__TIME (Stop time of curtailment)
CAPACITY (Capacity reserved)
CAPACITY__SCHEDULED
CAPACITY__CURTAILED
SERVICE__INCREMENT
TS__CLASS
TS__TYPE
TS__PERIOD
TS__WINDOW
TS__SUBCLASS
NERC__CURTAILMENT__PRIORITY
OTHER__CURTAILMENT__PRIORITY
CURTAILMENT__REASON
CURTAILMENT__PROCEDURES
CURTAILMENT__OPTIONS
ASSIGNMENT__REF

4.3.5 Query/Response of Lists of Information

4.3.5.1 List (list)

List (list) is used to provide lists of valid names. The minimum set of lists is LIST, SELLER__CODEs, PATHs, PORs, PODs, SERVICE__INCREMENTs, TS__CLASSes, TS__TYPEs, TS__PERIODS, NERC__CURTAILMENT__PRIORITY, OTHER__CURTAILMENT__PRIORITY, ANCILLARY__SERVICE__TYPEs, CATEGORYs, and TEMPLATEs. These names may be used to query information, post or request services.

Template: list

1. Query

LIST__NAME
TIME__OF__LAST__UPDATE

2. Response

TIME__OF__LAST__UPDATE
LIST__NAME
LIST__ITEM
LIST__ITEM__DESCRIPTION

4.3.6 Query/Response to Obtain the Audit log

4.3.6.1 Audit Log Information (auditlog)

Audit Log Information (auditlog) is used to provide a means of accessing the required audit information. The TSIP will maintain two types of logs:

a. Log of changes posted TS Information, such as CAPACITY. This log will record as a minimum the time of the change, the Template name, the name of the Template data element changed and the old and new values of the Template data element.

b. A complete record of all transaction events, such as those contained in the Templates 4.3.8, 4.3.9 and 4.3.10. For transaction event logs, the response will include: TIME__STAMP, TEMPLATE, ELEMENT__NAME, AND NEW__DATA. In this case the value of OLD__DATA is not applicable.

Template: auditlog

1. Query

START__TIME (search against audit log)

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STOP__TIME (search against audit log)

2. Response

ASSIGNMENT__REF OR POSTING__REF
TIME__STAMP
TEMPLATE
ELEMENT__NAME (for data elements whose values have changed)
OLD__DATA

4.3.7 Purchase Transmission Service

The following Templates shall be used by Customers and Sellers to transact purchases of services.

4.3.7.1 Customer Capacity Purchase Request (transrequest)

The Customer Capacity Purchase Request (Input) (transrequest) is used by the Customer to request the purchase of transmission services. The response simply acknowledges that the Customer's request was received by the OASIS Node. It does not imply that the Seller has received the request. Inputting values into the reference Data Elements is optional.

CUSTOMER__CODE and CUSTOMER__DUNS shall be determined from the registered connection used to input the request.

Supporting "profiles" of services, which request different capacities for different time periods within a single request, is at the discretion of the Primary Provider. Continuation records may be used to indicate requests for these service profiles. Only the following fields may be redefined in a continuation record for the transrequest Template: CAPACITY, BID__PRICE, START__TIME, AND STOP__TIME.

For requesting transmission services which include multiple paths, only the following fields may be redefined in a continuation record for the transrequest Template. PATH__NAME. Supporting multiple paths is at the discretion of the Provider.

The START__TIME and STOP__TIME indicate the requested period of service.

When the request is received at the OASIS Node, the TSIP assigns a unique ASSIGNMENT__REF value and queues the request with a time stamp. The STATUS for the request is QUEUED.

Specification of a value YES in the PRECONFIRMED field authorizes the TSIP to automatically change the STATUS field in the transstatus Template to CONFIRMED when that request is ACCEPTED by the Seller.

Template: transrequest

1. Input

CONTINUATION__FLAG
SELLER__CODE (Primary or Reseller)
SELLER__DUNS
PATH__NAME
POINT__OF__RECEIPT
POINT__OF__DELIVERY
SOURCE
SINK
CAPACITY
SERVICE__INCREMENT
TS__CLASS
TS__TYPE
TS__PERIOD
TS__SUBCLASS
STATUS__NOTIFICATION
START__TIME
STOP__TIME
BID__PRICE
PRECONFIRMED
ANC__SVC__LINK
POSTING__REF (Optionally set by Customer)
SALE__REF (Optionally set by Customer)
REQUEST__REF (Optionally set by Customer)
DEAL__REF (Optionally set by Customer)
CUSTOMER__COMMENTS

2. Response (acknowledgment)

RECORD__STATUS
CONTINUATION__FLAG
ASSIGNMENT__REF (assigned by TSIP)
SELLER__CODE
SELLER__DUNS
PATH__NAME
POINT__OF__RECEIPT

POINT_OF_DELIVERY
SOURCE
SINK
CAPACITY
SERVICE_INCREMENT
TS_CLASS
TS_TYPE
TS_PERIOD
TS_SUBCLASS
STATUS_NOTIFICATION
START_TIME
STOP_TIME
BID_PRICE
PRECONFIRMED
ANC_SVC_LINK
POSTING_REF
SALE_REF
REQUEST_REF
DEAL_REF
CUSTOMER_COMMENTS
ERROR_MESSAGE

4.3.7.2 Status of Customer Purchase Request (transstatus)

The Status of Customer Purchase Request (transstatus) is provided upon the request of any Customer or Provider to indicate the current status of one or more reservation records. Users may also view any transaction's status. Transmission Providers shall make source and sink information available at the time the request status posting is updated to show that a transmission request is confirmed.

Only the following fields may be redefined in a continuation record for the transstatus response Template: PATH_NAME, CAPACITY, START_TIME, STOP_TIME, REASSIGNED_REF, REASSIGNED_CAPACITY, REASSIGNED_START_TIME, and REASSIGNED_STOP_TIME.

The AFFILIATE_FLAG will be set by the TSIP to indicate whether or not the Customer is an affiliate of the Primary Provider. The NEGOTIATED_PRICE_FLAG will be set by the TSIP to indicate whether the OFFER_PRICE is higher, lower, or the same as the BID_PRICE.

Template: transstatus

1. Query

SELLER_CODE*
SELLER_DUNS*
CUSTOMER_CODE*
CUSTOMER_DUNS*
PATH_NAME*
POINT_OF_RECEIPT*
POINT_OF_DELIVERY*
SERVICE_INCREMENT*
TS_CLASS*
TS_TYPE*
TS_PERIOD*
STATUS*
START_TIME (Beginning time of service)
STOP_TIME
START_TIME_QUEUED (Beginning time queue)
STOP_TIME_QUEUED
NEGOTIATED_PRICE_FLAG
ASSIGNMENT_REF
REASSIGNED_REF
SALE_REF
REQUEST_REF
DEAL_REF
TIME_OF_LAST_UPDATE

2. Response

CONTINUATION_FLAG
ASSIGNMENT_REF
SELLER_CODE
SELLER_DUNS
CUSTOMER_CODE
CUSTOMER_DUNS
AFFILIATE_FLAG (Set by TSIP)

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PATH__NAME
POINT__OF__RECEIPT
POINT__OF__DELIVERY
SOURCE
SINK
CAPACITY (total reservation)
SERVICE__INCREMENT
TS__CLASS
TS__TYPE
TS__PERIOD
TS__WINDOW
TS__SUBCLASS
NERC__CURTAILMENT__PRIORITY
OTHER__CURTAILMENT__PRIORITY
START__TIME
STOP__TIME
CEILING__PRICE
OFFER__PRICE
BID__PRICE
PRECONFIRMED
ANC__SVC__LINK
ANC__SVC__REQ
ALTERNATE__SERVICE__FLAG
POSTING__REF
SALE__REF
REQUEST__REF
DEAL__REF
NEGOTIATED__PRICE__FLAG ("L" if Seller accepted Price is lower than OFFER__PRICE in transoffering Template; "H" if higher; otherwise blank)
STATUS=RECEIVED, QUEUED, STUDY, REBID, OFFER, ACCEPTED, REFUSED, CONFIRMED, WITHDRAWN, DISPLACED, ANNULLED, RETRACTED
STATUS__NOTIFICATION
STATUS__COMMENTS
TIME__QUEUED
RESPONSE__TIME__LIMIT
TIME__OF__LAST__UPDATE
PRIMARY__PROVIDER__COMMENTS
SELLER__COMMENTS
CUSTOMER__COMMENTS
SELLER__NAME
SELLER__PHONE
SELLER__FAX
SELLER__EMAIL
CUSTOMER__NAME
CUSTOMER__PHONE
CUSTOMER__FAX
CUSTOMER__EMAIL
REASSIGNED__REF
REASSIGNED__CAPACITY (Capacity from each previous transaction)
REASSIGNED__START__TIME
REASSIGNED__STOP__TIME

4.3.7.3 Seller Approval of Purchase (transsell)

Seller Approval of Purchase (Input) (transsell) is input by a Seller to modify the status and queue of a request by a Customer.

If **preconfirmed** then Seller can only change values of data elements, STATUS, STATUS__COMMENTS, SELLER__COMMENTS, REASSIGNED__REF, NEGOTIATED__PRICE__FLAG, ANC__SRV__REQ, REASSIGNED__START__TIME, REASSIGNED__STOP__TIME, and REASSIGNED__CAPACITY. If not **preconfirmed**, then the Seller can also change OFFER__PRICE.

Only the following fields may be redefined in a continuation record for the transsell Template: REASSIGNED__CAPACITY, OFFER__PRICE, REASSIGNED__REF, REASSIGNED__START__TIME, and REASSIGNED__STOP__TIME.

SELLER__CODE and SELLER__DUNS shall be determined from the registered connection used to input the request.

The Seller may accept a reservation only when the BID__PRICE and the OFFER__PRICE are the same.

Template: transsell

1. Input

CONTINUATION__FLAG

ASSIGNMENT__REF (Required)
OFFER__PRICE
STATUS=RECEIVED, STUDY, OFFER, ACCEPTED, REFUSED, ANNULLED, RETRACTED, DISPLACED
STATUS__COMMENTS
OTHER__CURTAILMENT__PROPERTY (optional)
ANC__SVC__REQ
NEGOTIATED__PRICE__FLAG
SELLER__COMMENTS
RESPONSE__TIME__LIMIT
REASSIGNED__REF
REASSIGNED__CAPACITY (Previous capacity to be reassigned)
REASSIGNED__START__TIME
REASSIGNED__STOP__TIME

2. Response

RECORD__STATUS
CONTINUATION__FLAG
ASSIGNMENT__REF
OFFER__PRICE
STATUS=RECEIVED, STUDY, OFFER, ACCEPTED, REFUSED, ANNULLED, RETRACTED, DISPLACED
STATUS__COMMENTS
OTHER__CURTAILMENT__PRIORITY
ANC__SVC__REQ
NEGOTIATED__PRICE__FLAG
SELLER__COMMENTS
RESPONSE__TIME__LIMIT
REASSIGNED__REF
REASSIGNED__CAPACITY (Previous capacity to be reassigned)
REASSIGNED__START__TIME
REASSIGNED__STOP__TIME
ERROR__MESSAGE

4.3.7.4 Customer Confirmation of Purchase (Input) (Transcust)

Customer Confirmation of Purchase (Input) (transcust) is input by the Customer to state his agreement or withdrawal of a purchase after the Seller has indicated that the purchase request is approved. Only the BID__PRICE, STATUS, STATUS__COMMENTS, ANC__SVC__LINK, and CUSTOMER__COMMENTS data elements can be modified in this Template.

CUSTOMER__CODE and CUSTOMER__DUNS shall be determined from the registered connection used to input the request.

The Customer must change the BID__PRICE to be equal to the OFFER__PRICE for each record before the STATUS can be set to CONFIRMED.

Template: transcust

1. Input

CONTINUATION__
ASSIGNMENT__REF (Required)
REQUEST__REF
DEAL__REF
BID__PRICE
STATUS=REBID, CONFIRMED, WITHDRAWN
STATUS__COMMENTS
ANC__SVC__LINK
STATUS__NOTIFICATION If left blank, then original URL from the *transrequest* will be used
CUSTOMER__COMMENTS

2. Response

RECORD__STATUS
CONTINUATION__FLAG
ASSIGNMENT__REF
REQUEST__REF
DEAL__REF
BID__PRICE
STATUS=REBID, CONFIRMED, WITHDRAWN
STATUS__COMMENTS
ANC__SVC__LINK
STATUS__NOTIFICATION
CUSTOMER__COMMENTS
ERROR__MESSAGE

4.3.7.5 Alternate Point of Receipt/Delivery (transalt)

Alternate Point of Delivery (transalt). The Customer may submit a request to use alternate points of receipt/delivery for an existing confirmed reservation, if allowed by applicable tariffs and service agreements. The assignment reference value associated with the prior confirmed reservation must be provided in the REASSIGNED__REF data element along with the alternate points of receipt/delivery. The request may be submitted as PRECONFIRMED. Requests submitted by the transalt template shall be handled by OASIS identically to reservations submitted using the transrequest template.

CUSTOMER__CODE and CUSTOMER__DUNS shall be determined from the registered connection used to input the request.

REASSIGNED__REF contains the ASSIGNMENT__REF of the original, confirmed reservation that is being designated to the alternate points of delivery/receipt. The Template allows for only one REASSIGNED__REF field. Therefore, if multiple, original reservations are being designated, a separate transalt Template must be submitted associated with each original reservation. There is no restriction that multiple submissions of the transalt Template may all refer back to the same, original reservation (i.e., may have the same REASSIGNED__REF).

Demand profiles associated with the designation of alternate POD/POR may be submitted by additional records designating "Y" for CONTINUATION__FLAG, and specifying the CAPACITY, START__TIME, and STOP__TIME data elements corresponding to the MW demand being requested over each time interval associated with the reservation. The CAPACITY, START__TIME, and STOP__TIME data elements must fall within the amounts and time intervals associated with the original reservation.

The following data elements in transstatus and the appropriate ones in transcust shall take on the following implied values:

SELLER__CODE (value from SELLER__CODE in reservation designated by REASSIGNED__REF)
SELLER__DUNS (value from SELLER__DUNS in reservation designated by REASSIGNED__REF)
ALTERNATE__SERVICE__FLAG=YES
OFFER__PRICE=$0
BID__PRICE=$0
CEILING__PRICE=$0
TS__CLASS=Non-Firm (or whatever the Provider designates)
REASSIGNED__CAPACITY=MW capacity submitted in CAPACITY field of Template
REASSIGNED__START__TIME=time submitted in START__TIME field of Template
REASSIGNED__STOP__TIME=time submitted in STOP__TIME field of Template

Template: transalt

1. Input

CONTINUATION__FLAG
PATH__NAME
POINT__OF__DELIVERY
SOURCE
SINK
PRECONFIRMED
CAPACITY (Must be less than or equal to original capacity reservation)
STATUS__NOTIFICATION
START__TIME (Valid only to hour and within the time of original reservation)
STOP__TIME (Valid only to hour and within the time of original reservation)
CUSTOMER__COMMENTS

2. Response (acknowledgment)

RECORD__STATUS
CONTINUATION__FLAG
ASSIGNMENT__REF (assigned by the TSIP)
SELLER__CODE (Primary)
SELLER__DUNS
PATH__NAME
POINT__OF__RECEIPT
POINT__OF__DELIVERY
SOURCE
SINK
PRECONFIRMED
ALTERNATE__SERVICE__FLAG (Defaulted to YES)
CAPACITY (Capacity requested)
STATUS__NOTIFICATION
START__TIME
STOP__TIME
REQUEST__REF
DEAL__REF
REASSIGNED__REF (Assignment Reference for the Firm reservation being used for request)

4.3.7.6 Seller to Reassign Service Rights to Another Customer (transassign)

Seller to Reassign Service Rights to Another Customer (Input) (transassign) is used by the seller to ask the Transmission Services Information Provider to reassign some or all of the seller's rights to Services to another Customer, for seller confirmed transactions that have occurred off the OASIS. The TSIP shall assign a unique ASSIGNMENT__REF in the response (acknowledgment) and enter the status CONFIRMED as viewed in the transstatus Template.

SELLER__CODE and SELLER__DUNS shall be determined from the registered connection used to input the request.

Only the following fields may be redefined in a continuation record for the transassign input Template: CAPACITY, START__TIME, STOP__TIME, REASSIGNED__REF, REASSIGNED__CAPACITY, REASSIGNED__START__TIME, and REASSIGNED__STOP__TIME.

SELLER__CODE and SELLER__DUNS shall be determined form the registered connection used to input the request.

Template: transassign

1. Input

CONTINUATION__FLAG
CUSTOMER__CODE
CUSTOMER__DUNS
PATH__NAME
POINT__OF__RECEIPT
POINT__OF__DELIVERY
SOURCE
SINK
CAPACITY
SERVICE__INCREMENT
TS__CLASS
TS__TYPE
TS__PERIOD
TS__SUBCLASS
START__TIME
STOP__TIME
OFFER__PRICE
ANC__SVCX__LINK (optional: filled in if assignment is different than original transmission reservation)
POSTING__NAME
REASSIGNED__REF
REASSIGNED__CAPACITY (Capacity being sold from each previous assignment)
REASSIGNED__START__TIME
REASSIGNED__STOP__TIME
SELLER__COMMENTS

2. Response (acknowledgment)

RECORD__STATUS
CONTINUATION__FLAG
ASSIGNMENT__REF (assigned by TSIP)
CUSTOMER__CODE
CUSTOMER__DUNS
PATH__NAME
POINT__OF__RECEIPT
POINT__OF__DELIVERY
SOURCE
SINK
CAPACITY (Total capacity being reassigned)
SERVICE__INCREMENT
TS__CLASS
TS__TYPE
TS__PERIOD
TS__SUBCLASS
START__TIME
STOP__TIME
OFFER__PRICE
ANC__SVC__LINK
POSTING__NAME
REASSIGNED__REF
REASSIGNED__CAPACITY (Capacity being sold from each previous assignment)
REASSIGNED__START__TIME
REASSIGNED__STOP__TIME
SELLER__COMMENTS
ERROR__MESSAGE

4.3.8 Seller Posting of Transmission Services

Sellers shall use the following Templates for providing sell information. They may aggregate portions of several previous purchased to create a new service, if this capability is provided by the Transmission Services Information Provider:

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4.3.8.1 Seller Capacity Posting (transpost)

Seller Capacity Posting (Input) (transpost) shall be used by the Seller to post the transmission capacity for resale on to the OASIS Node.

SELLER_CODE and SELLER_DUNS shall be determined from the registered connection used to input the request.

Template: transpost

1. Input

PATH_NAME
POINT_OF_RECEIPT
POINT_OF_DELIVERY
INTERFACE_TYPE
CAPACITY
SERVICE_INCREMENT
TS_CLASS
TS_TYPE
TS_PERIOD
TS_WINDOW
TS_SUBCLASS
OTHER_CURTAILMENT_PRIORITY (optional)
ANC_SVC_REQ
START_TIME
STOP_TIME
OFFER_START_TIME
OFFER_STOP_TIME
SALE_REF
OFFER_PRICE
SERVICE_DESCRIPTION
SELLER_COMMENTS

2. Response (acknowledgement)

RECORD_STATUS
POSTING_REF (Assigned by TSIP)
PATH_NAME
POINT_OF_RECEIPT
POINT_OF_DELIVERY
INTERFACE_TYPE
CAPACITY
SERVICE_INCREMENT
TS_CLASS
TS_TYPE
TS_PERIOD
TS_WINDOW
TS_SUBCLASS
OTHER_CURTAILMENT_PRIORITY
ANC_SVC_REQ
START_TIME
STOP_TIME
OFFER_START_TIME
OFFER_STOP_TIME
SALE_REF
OFFER_PRICE
SERVICE_DESCRIPTION
SELLER_COMMENTS
ERROR_MESSAGE

4.3.8.2 Seller Capacity Modify (transupdate)

Seller Capacity Modify (Input) (transupdate) shall be used by a Seller to modify a posting of transmission capacity.

SELLER_CODE and SELLER_DUNS shall be determined from the registered connection used to input the request.

Template: transupdate

1. Input

POSTING_REF (Must be provided)
CAPACITY (only if modified)
START_TIME (only if modified)
STOP_TIME (only if modified)
OFFER_START_TIME (only if modified)
OFFER_STOP_TIME (only if modified)

ANC__SVC__REQ (only if modified)
SALE__REF (only if modified)
OFFER__PRICE (only if modified)
SERVICE__DESCRIPTION (only if modified)
SELLER__COMMENTS (only if modified)

2. Response (acknowledgment)

RECORD__STATUS
POSTING__REF
CAPACITY
START__TIME
STOP__TIME
OFFER__START__TIME
OFFER__STOP__TIME
ANC__SVC__REQ
SALE__REF
OFFER__PRICE
SERVICE__DESCRIPTION
SELLER__COMMENTS
ERROR__MESSAGE

4.3.9 Purchase of Ancillary Services

4.3.9.1 Customer Requests to Purchase Ancillary Services (ancrequest)

Customer Requests to Purchase Ancillary Services (ancrequest) (Input, Template Upload) is used by the customer to purchase ancillary services that have been posted by a seller of those services. The same requirements exist for the use of STATUS__NOTIFICATION as for transrequest. The reference Data Elements are optional.

CUSTOMER__CODE and CUSTOMER__DUNS shall be determined from the registered connection used to input the request.

Template: ancrequest

1. Input

SELLER__CODE
SELLER__DUNS
CONTROL__AREA
CAPACITY
SERVICE__INCREMENT
ANC__SERVICE__TYPE
STATUS__NOTIFICATION
START__TIME
STOP__TIME
BID__PRICE
PRECONFIRMED
POSTING__REF (Optionally set by Customer)
SALE__REF (Optionally set by Customer)
REQUEST__REF (Optionally set by Customer)
DEAL__REF (Optionally set by Customer)
CUSTOMER__COMMENTS

2. Response (acknowledgement)

RECORD__STATUS
ASSIGNMENT__REF (assigned by TSIP)
SELLER__CODE
SELLER__DUNS
CONTROL__AREA
CAPACITY
SERVICE__INCRECMENT
ANC__SERVICE__TYPE
STATUS__NOTIFICATION
START__TIME
STOP__TIME
BID__PRICE
PRECONFIRMED
POSTING__REF
SALE__REF
REQUEST__REF
DEAL__REF
CUSTOMER__COMMENTS

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ERROR_MESSAGE

4.3.9.2 Ancillary Services Status (ancstatus)

Ancillary Services Status (ancstatus) is used to provide the status of purchase requests regarding the ancillary services that are available for sale by all Service Providers.

The AFFILIATE_FLAG will be set by the TSIP to indicate whether or not the Customer is an affiliate of the Seller.

The values of STATUS and processes for setting STATUS are the same as for transstatus.

Template: ancstatus

1. Query

SELLER_CODE*
SELLER_DUNS*
CUSTOMER_CODE*
CUSTOMER_DUNS*
CONTROL_AREA
SERVICE_INCREMENT
ANC_SERVICE_TYPE
STATUS
START_TIME
STOP_TIME
START_TIME_QUEUED
STOP_TIME_QUEUED
ASSIGNMENT_REF
SALE_REF
REQUEST_REF
DEAL_REF
TIME_OF_LAST_UPDATE (only if TIME_OF_LAST_UPDATE is posted by record)

2. Response

ASSIGNMENT_REF
SELLER_CODE
SELLER_DUNS
CUSTOMER_CODE
CUSTOMER_DUNS
AFFILIATE_FLAG (Set by TSIP)
CONTROL_AREA
CAPACITY
SERVICE_INCREMENT
ANC_SERVICE_TYPE
START_TIME
STOP_TIME
CEILING_PRICE
OFFER_PRICE
BID_PRICE
PRECONFIRMED
POSTING_REF
SALE_REF
REQUEST_REF
DEAL_REF
NEGOTIATED_PRICE_FLAG ("L if Seller accepted Price is lower than OFFER_PRICE in *ancoffering* Template; "H" if higher; otherwise blank)
STATUS=QUEUED, RECEIVED, REBID, OFFER, ACCEPTED, REFUSED, CONFIRMED, WITHDRAWN, ANNULLED, RETRACTED
STATUS_NOTIFICATION
STATUS_COMMENTS
TIME_QUEUED
RESPONSE_TIME_LIMIT
TIME_OF_LAST_UPDATE
PRIMARY_PROVIDER_COMMENTS
SELLER_COMMENTS
CUSTOMER_COMMENTS
SELLER_NAME
SELLER_PHONE
SELLER_FAX
SELLER_EMAIL
CUSTOMER_NAME
CUSTOMER_PHONE

CUSTOMER__FAX
CUSTOMER__EMAIL

4.3.9.3 Seller Approves Ancillary Service (ancsell)

Seller Approves Ancillary Service (ancsell) is used by the Seller to confirm acceptance after the Seller has approved the purchase of ancillary service.

SELLER__CODE and SELLER__DUNS shall be determined from the registered connection used to input the request.

Template: ancsell

1. Input

ASSIGNMENT__REF
OFFER__PRICE
STATUS=RECEIVED, OFFER, ACCEPTED, REFUSED
STATUS__COMMENTS
SELLER__COMMENTS

2. Response (acknowledgment)

RECORD__STATUS
ASSIGNMENT__REF
OFFER__PRICE
STATUS=RECEIVED, OFFER, ACCEPTED, REFUSED
STATUS__COMMENTS
NEGOTIATED__PRICE__FLAG
RESPONSE__TIME__LIMIT
SELLER__COMMENTS
ERROR__MESSAGE

4.3.9.4 Customer accepts Ancillary Service (anccust)

Customer accepts Ancillary Service (anccust) is used by the customer to confirm acceptance after the seller has approved the purchase of ancillary service.

The Customer must change the BID__PRICE to be equal to the OFFER__PRICE before the STATUS can be set to CONFIRMED.

CUSTOMER__CODE and CUSTOMER__DUNS shall be determined from the registered connection used to input the request.

Template: anccust

1. Input

ASSIGNMENT__REF (Required)
REQUEST__REF
DEAL__REF
BID__PRICE
STATUS=REBID, CONFIRMED, WITHDRAWN
STATUS__COMMENTS
STATUS__NOTIFICATION (If left blank, then the original URL from the ancrequest will be used)
CUSTOMER__COMMENTS

2. Response (Acknowledgment)

RECORD__STATUS
ASSIGNMENT__REF
REQUEST__REF
DEAL__REF
BID__PRICE
STATUS=REBID, CONFIRMED, WITHDRAWN
STATUS__COMMENTS
STATUS__NOTIFICATION
CUSTOMER__COMMENTS
ERROR__MESSAGE

4.3.10 Seller Posting of Ancillary Services

4.3.10.1 Seller Ancillary Services Posting (ancpost)

Seller Ancillary Services Posting (ancpost) is used by the Seller to post information regarding the different services that are available for sale by third party Sellers of ancillary services.

SELLER__CODE and SELLER__DUNS shall be determined from the registered connection used to input the request.

Template: ancpost

1. Input

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SERVICE__DESCRIPTION
CAPACITY
SERVICE__INCREMENT
ANC__SERVICE__TYPE
START__TIME
STOP__TIME
OFFER__START__TIME
OFFER__STOP__TIME
SALE__REF
OFFER__PRICE
SELLER__COMMENTS

2. Response (acknowledgment)

RECORD__STATUS
POSTING__REF (Assigned by TSIP)
CONTROL__AREA
SERVICE__DESCRIPTION
CAPACITY
SERVICE__INCREMENT
ANC__SERVICE__TYPE
START__TIME
STOP__TIME
OFFER__START__TIME
OFFER__STOP__TIME
SALE__REF
OFFER__PRICE
SELLER__COMMENTS
ERROR__MESSAGE

4.3.10.2 Seller Modify Ancillary Services Posting (ancupdate)

Seller Modify Ancillary Services Posting (ancupdate) is used by the Seller to modify posted information regarding ancillary services that are available for sale by a third party Seller.

SELLER__CODE and SELLER__DUNS shall be determined from the registered connection used to input the request.

Template: ancupdate

1. Input

POSTING__REF (Required)
CAPACITY (only if modified)
SERVICE__DESCRIPTION (only if modified)
START__TIME (only if modified)
STOP__TIME (only if modified)
OFFER__START__TIME (only if modified)
OFFER__STOP__TIME (only if modified)
SALE__REF (only if modified)
OFFER__PRICE (only if modified)
SELLER__COMMENTS (only if modified)

2. Response (acknowledgment)

RECORD__STATUS
POSTING__REF
CAPACITY
SERVICE__DESCRIPTION
START__TIME
STOP__TIME
OFFER__START__TIME
OFFER__STOP__TIME
SALE__REF
OFFER__PRICE
SELLER__COMMENTS
ERROR__MESSAGE

4.3.11 Informal Messages

4.3.11.1 Provider/Customer Want Ads and Informal Message Posting Request (messagepost)

Provider/Customer Want Ads and Informal Message Posting Request (messagepost) is used by Providers and Customers who wish to post a message. The valid entries for CATEGORY shall be defined by providers and shall be listed in the List of CATEGORY Template.

One CATEGORY shall be DISCOUNT. All discount prices accepted by a Customer shall be immediately posted as a message using the DISCOUNT CATEGORY. This will permit carry-over from Phase I.

CATEGORY__CODE and CUSTOMER__DUNS shall be determined from the registered connection used to input the request.

Template: messagepost

1. Input

SUBJECT
CATEGORY
VALID__FROM__TIME
VALID__TO__TIME
MESSAGE (must be specified)

2. Response (acknowledgment)

RECORD__STATUS
POSTING__REF (assigned by information provider)
SUBJECT
CATEGORY
VALID__FROM__TIME
VALID__TO__TIME
MESSAGE
ERROR__MESSAGE

4.3.11.2 Message (message)

Message (message) is used to view a posted Want Ad or Informal Message. The CATEGORY data element can be queried. Specifically it shall be possible to query for the CATEGORY of DISCOUNT. This will permit carry-over from Phase 1.

Template: message

1. Query

CUSTOMER__CODE
CUSTOMER__DUNS
POSTING__REF
CATEGORY
VALID__FROM__TIME
VALID__TO__TIME
TIME__POSTED

2. Response

CUSTOMER__CODE
CUSTOMER__DUNS
POSTING__REF
SUBJECT
CATEGORY
VALID__FROM__TIME
VALID__TO__TIME
TIME__POSTED
CUSTOMER__NAME
CUSTOMER__PHONE
CUSTOMER__FAX
CUSTOMER__EMAIL
MESSAGE

4.3.11.3 Provider/Sellers Message Delete Request (messagedelete)

Providers/Sellers Message Delete Request (messagedelete) is used by Providers and Sellers who wish to delete their message. POSTING__REF number is used to determine which message.

CUSTOMER__CODE AND CUSTOMER__DUNS shall be determined from the registered connection used to input the request.

Template: messagedelete

1. Input

POSTING__REF

2. Response (acknowledgment)

RECORD__STATUS
POSTING__REF
ERROR__MESSAGE

4.3.11.4 Personnel Transfers (personnel)

Template: personnel

1. Query

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START__TIME__POSTED
STOP__TIME__POSTED

2. Response

POSTING__NAME
EMPLOYEE__NAME
FORMER__POSITION
FORMER__COMPANY
FORMER__DEPARTMENT
NEW__POSITION
NEW__COMPANY
NEW__DEPARTMENT
DATE__TIME__EFFECTIVE
DATE__TIME__POSTED
TIME__OF__LAST__UPDATE

4.3.11.5 Discretion (discretion)

Template: discretion

1. Query

START__TIME__POSTED
STOP__TIME__POSTED
START__TIME
STOP__TIME
SERVICE__TYPE
SERVICE__NAME
TIME__OF__LAST__UPDATE

2. Response

POSTING__NAME
RESPONSIBLE__PARTY__NAME (name of person granting discretion)
SERVICE__TYPE (ancillary or transmission)
SERVICE__NAME (make consistent with offering Templates)
TARIFF__REFERENCE
START__TIME
STOP__TIME
DISCRETION__DESCRIPTION
TIME__POSTED
TIME__OF__LAST__UPDATE

4.3.11.6 Standards of Conduct (stdconduct)

Template: stdconduct

1. Query

START__TIME__POSTED
STOP__TIME__POSTED
TIME__OF__LAST__UPDATE

2. Response

POSTING__NAME
RESPONSIBLE__PARTY__NAME
STANDARDS__OF__CONDUCT__ISSUES
TIME__POSTED
TIME__OF__LAST__UPDATE

4.4 File Request and File Download Examples

4.4.1 File Example for Hourly Offering

Example of the request to Primary Provider, aaa, and response for Seller, wxyz, for PATH__NAME "W/AAAA/PATH__ABC//" for April 10, 1996 from 8 a.m. to 3 p.m. (Note that the PATH__NAME consists of a REGION__CODE, PRIMARY__PROVIDER__CODE, PATH__CODE, and an OPTIONAL__CODE, separated with a slash, "/".) The VERSION for Phase 1A is 1.2.

The request is in the form of a URL query string and the response is a ASCII delimited file.

1. Query

```
http://(OASIS Node name)/OASIS/aaa/data/ transoffering? ver=1.2&templ=transoffering& fmt=data&pprov=AAAA
&pprovduns= 123456789& path=W/AAA/ABC// &seller=WXYZAA &sellerduns=987654321& POR=aaa& POD=bbb&
servincre=hourly& TSCLASS1=firm &TSCLASS2=non-firm&tz=PD&stime=19960410080000PD&sptime=19960410150000PD
```

2. Response Data

```
REQUEST-STATUS=200⌟(Successful)
```

```
TIME__STAMP=19960409113526PD↵
VERSION=1.2↵
TEMPLATE=transoffering↵
OUTPUT__FORMAT=DATA↵
PRIMARY__PROVIDER__CODE=AAAA↵
PRIMARY__PROVIDER__DUNS=123456789↵
DATA__ROWS=14↵
COLUMN__HEADERS= TIME__OF__LAST__UPDATE, SELLER__CODE, SELLER__DUNS, PATH__NAME,
POINT__OF__RECEIPT, POINT__OF__DELIVERY, INTERFACE__TYPE, OFFER__START__TIME, OFFER__STOP__TIME,
START__TIME,STOP__TIME, CAPACITY, SERVICE__INCREMENT, TS__CLASS,TS__TYPE, TS__PERIOD, TS__SUBCLASS,
SALE__REF, POSTING__REF, CEILING__PRICE, OFFER__PRICE, PRICE__UNITS, SERVICE__DESCRIPTION, SELL-
ER__NAME, SELLER__PHONE, SELLER__FAX, SELLER__EMAIL, SELLER__COMMENTS↵
19960409030000PD, WXYZ, 987654321, W/AAA/ABC//,N/A,N/A,E, 19960402080000PD, 19960410080000PD,
19960410080000PD,19960410090000PD,300, HOURLY, FIRM, POINT__TO__POINT, OFF__PEAK, N/A, N/A, A001,
1.50,1.35,MW,N/A,N/A,N/A,N/A,N/A,10% DISCOUNT↵
19960409030000PD,WXYZ,987654321,W/AAA/ABC//,N/A,N/A,E,19960402080000PD,19960410080000PD,
1960410080000PD, 19960410090000PD,300, HOURLY, NON-FIRM, POINT__TO__POINT, OFF__PEAK, N/A,N/A,A001.50,
1.35,MW,N/A,N/A,N/A,N/A,N/A, 10% DISCOUNT↵
19960409030000PD, WXYZ, 987654321,W/AAA/ABC//,N/A,N/A,E, 19960402080000PD, 19960410080000PD,
19960410090000PD, 1996041010000PD,300, HOURLY, FIRM, POINT__TO__POINT, OFF__PEAK, N/A,N/A,A001,1.50,1.35,
MW,N/A,N/A,N/A,N/A,N/A,10% DISCOUNT↵
19960409030000PD, WXYZ, 987654321,W/AAA/ABC//,N/A,N/A,E, 19960402080000PD, 19960410080000PD,
19960410090000PD, 19960410100000PD,300, HOURLY, NON-FIRM, POINT__TO__POINT, OFF__PEAK, N/A,N/
A,A001,1.50,1.35.MW, N/A,N/A,N/A,N/A,N/A, 10% DISCOUNT↵
19960409030000PD, WXYZ. 987654321,W/AAA/ABC//,N/A,N/A,E, 19960402080000PD,
19960410080000PD,19960410100000PD,19960410110000PD,300, HOURLY, FIRM, POINT__TO__POINT, OFF__PEAK, N/
A,N/A,A001,1.50,1.35,MW,N/A,N/A,N/A,N/A,N/A,10% DISCOUNT↵
19960409030000PD, WXYZ, 987654321,W/AAA/ABC//,N/A,N/A,E, 19960402080000PD, 19960410080000PD,
19960410100000PD, 19960410110000PD,300, HOURLY, NON-FIRM, POINT__TO__POINT, OFF__PEAK, N/A,N/
A,A001,1.50,1.35,MW,N/A,N/A,N/A,N/A,N/A, 10% DISCOUNT↵
19960409030000PD, WXYZ, 987654321,W/AAA/ABC//,N/A,N/A,E, 19960402080000PD,
19960410080000PD,19960410110000PD,19960410120000PD,300, HOURLY, FIRM, POINT__TO__POINT, OFF__PEAK, N/
A,N/A,A001,1.50,1.35,MW,N/A,N/A,N/A,N/A,N/A,10% DISCOUNT↵
19960409030000PD, WXYZ, 98765321,W/AAA/ABC//,N/A,N/A,E, 19960402080000PD, 19960410080000PD,
19960410110000PD,19960410120000PD,300, HOURLY, NON-FIRM, POINT__TO__POINT, OFF__PEAK, N/A,N/
A,A001,1.50,1.35,MW,N/A,N/A,N/A,N/A,N/A, 10% DISCOUNT↵
. . .
. . .
. . .
19960409030000PD, WXYZ, 987654321,W/AAA/ABC//,N/A,N/A,E, 19960402080000PD, 19960410080000PD,
19960410140000PD,19960410150000PD,300, HOURLY, FIRM, POINT__TO__POINT, OFF__PEAK, N/A,N/
A,A001,1.50,1.35,MW,N/A,N/A,N/A,N/A,N/A,10% DISCOUNT↵
1996040903000PD, WXYZ, 987654321,W/AAA/ABC//,N/A,N/A,E, 1996040208000PD, 19960410080000PD,
1996041014000PD,19960410150000PD,300, HOURLY, NON-FIRM, POINT__TO__POINT, OFF__PEAK, N/A,N/
A,A001,1.50,1.35,MW,N/A,N/A,N/A,N/A,N/A, 10% DISCOUNT↵
```

4.4.2 File Example for Hourly Schedule Data

This example shows a request for the hourly schedule data from Primary Provider, aaa, related to the seller, wxyz, for the period 10 a.m. to 3 p.m. on April 10, 1996.

There are two identical requests examples using two slightly different methods. The first request is using a HTTP URL request string through an HTML GET method. The second request is a similar example using fetch__http from a file using a POST method.

1. Query

URL Request (HTTP method=GET)

```
http://(OASIS Node name)/OASIS/aaa/data/schedule? ver=1.0& pprov=AAAA& templ=schedule& fmt=data
&pprovduns=123456789 &path=W/AAA/ABC//& seller=WXYZ &por=BBB &pod=CCC&tz=PD& stime=19960410100000PD&
sptime=19960410150000PD
```

URL Request (HTTP method=POST)

```
$ fetch__http http://(OASIS Node name)/OASIS/aaa/data/OASISdata -f c:/OASIS/wxyz/upload/in-file.txt
```

Where in-file.txt contains the following:

```
ver=1.0& pprov=AAAA& templ=schedule& fmt=data &pprovduns=123456789 &path=W/AAA/ABC//& seller=WXYZ
&por=BBB &pod=CCC& tz=PD& stime=19960410100000PD& sptime=19960410150000PD
```

2. Response Data

```
REQUEST-STATUS=200↵
TIME__STAMP=1996041014702PD↵
```

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```
VERSION=1.2⌟
TEMPLATE=Schedule⌟
OUTPUT__FORMAT=DATA⌟
PRIMARY__PROVIDER__CODE=AAAA⌟
PRIMARY__PROVIDER__DUNS=123456789⌟
DATA__ROWS=5⌟
COLUMN__HEADERS=TIME__OF__LAST__UPDATE, SELLER__CODE, SELLER__DUNS, PATH__NAME,
POINT__OF__RECEIPT, POINT__OF__DELIVERY, CUSTOMER__CODE, CUSTOMER__DUNS, AFFILIATE__FLAG,
START__TIME, STOP__TIME, CAPACITY, CAPACITY__SCHEDULED, SERVICE__INCREMENT, TS__CLASS, TS__TYPE,
TS__PERIOD, TS__SUBCLASS, ASSIGNMENT__REF⌟
19960409030000pd. wxyz, 0987654321,W/AAA/ABC//, BBB,CCC, WXYZAA,0987654322,Y, 19960410100000PD,
19960410110000PD,300,300, HOURLY, FIRM, POINT__TO__POINT, OFF__PEAK, N/A 856743⌟
. . .⌟
. . .⌟
19960409030000pd, wxyz, 0987654321,W/AAA/ABC//,BBB,CCC, WXYZAA, 0987654322,Y,
19960410130000PD,19960410140000PD,300,300, HOURLY, FIRM, POINT__TO__POINT, OFF__PEAK, N/A. 856743⌟
19960409030000pd, wxyz, 0987654321,W/AAA/ABC//,BBB, CCC,WXYZAA, 0987654322,Y, 19960410140000PD,
19960410150000PD, 303,300.HOURLY,FIRM,POINT__TO__POINT,OFF__PEAK,N/A, 856743⌟
```

4.4.3 Customer Posting a Transmission Service Offering

This example shows how a Customer would post for sale the transmission service that was purchased perviously. The Seller would create a file and upload the file using the FETCH__HTTP program to send a file to the OASIS node of the Primary Provider.

1. Input

```
VERSION=1.2⌟
TEMPLATE=transpost⌟
OUTPUT__FORMAT=DATE⌟
PRIMARY__PROVIDER__CODE=AAAA⌟
PRIMARY__PROVIDER__DUNS=123456789⌟
DATA__ROWS=1⌟
COLUMN__HEADERS=PATH__NAME, POINT__OF__RECEIPT, POINT__OF__DELIVERY, INTERFACE__TYPE, CAPACITY,
SERVICE__INCREMENT, TS__CLASS, TS__TYPE, TS__PERIOD, TS__SUBCLASS, START__TIME, STOP__TIME,
OFFER__START__TIME, OFFER__STOP__TIME, SALE__REF, OFFER__PRICE, SERVICE__DESCRIPTION, SELL-
ER__COMMENTPF⌟
WXYZ,987654321, W/AAA/ABC//, N/A,N/A,E,150, HOURLY, FIRM, POINT__TO__POINT, OFF__PEAK, N/
A..19960402080000PD, 19960410080000PD, 19960410080000PD, 19960410150000PD, A123,.90.,N/A,"“As Joe said, “It is
a good buy”””"⌟
```

FETCH__HTTP Command to spend posting

```
$fetch__http http://(OSASIS Node name)/OASIS/abcd/data/transrequest -fc:/OASIS/abcd/upload/post.txt
```

2. Response Data

```
REQUEST-STATUS=200⌟ (Successful)
TIME__STAMP=19960409113526PD⌟
VERSION-1.2⌟
TEMPLATE=Transport⌟
OUTPUT__FORMAT=DATA⌟
PRIMARY__PROVIDER__CODE=AAAA⌟
PRIMARY__PROVIDER__DUNS=1234456789⌟
DATA__ROWS=1⌟
COLUMN__HEADERS=RECORD__STATUS, PATH__NAME, POINT__OF__RECEIPT, POINT__OR__DELIVERY, INTER-
FACE__TYPE, CAPACITY, SERVICE__INCREMENT, TS__CLASS, TS__TYPE, TS__PERIOD, TS__SUBCLASS,
START__TIME, STOP__TIME, OFFER__START__TIME, OFFER__STOP__TIME, SALE__REF, OFFER__PRICE, SERV-
ICE__DESCRIPTION, SELLER__COMMENTS, ERROR__MESSAGE⌟
200,WXYZ, 987654321, W/AAA/ABC//,N/A,NA,E,150, HOURLY, FIRM, POINT__TO__POINT, OFF__PEAK, N/
A,19960402080000PD, 19960410080000PD, 19960410080000PD, 19960410150000PD, A123..90,N/A,“As Joe said, ““It is
a good buy”””", NO ERROR⌟
```

4.4.4 Example of Re-aggregating Purchasing Services Using Reassignment

The following examples do not show the complete Template information, but only show those elements of the Template of interest to the example.

a. Customer #1, “BestE” requests the purchase of 150 MW Firm ATC for 8 a.m. to 5 p.m. for $1.00 from a Primary Provider (*transrequest*).

```
TEMPLATE=transrequest⌟
CUSTOMER__CODE=BestE⌟
CAPACITY=150⌟
TS__CLASS="FIRM"⌟
```

START TIME="1996050708000000PD"↵
STOP__TIME="1996050717000000PD"↵
BID__PRICE="$1.00"↵

The Information Provider assigns ASSIGNMENT__REF = 5000 on acknowledgment.

b. Customer #1 purchases 120 MW ATC Non-firm for 3 p.m. to 9 p.m. for $.90 (transrequest). The Information Provider assigns the ASSIGNMENT__REF=5001 when the request for purchase is made and is shown in the acknowledgment.

TEMPLATE="transrequest"↵
CUSTOMER__CODE="BestE"↵
CAPACITY=120↵
TS__CLASS="NON-FIRM"↵
START__TIME="1996050715000000PD"↵
STOP__TIME="1996050721000000PD"↵
BID__PRICE="$1.05"↵

c. Customer #1 becomes Seller #1 and post the Transmission service of 100 MW ATC Non-firm capacity from 8 a.m. to 9 p.m. for resale at $.90/MW-hour.

TEMPLATE="transpost"↵
SELLER__CODE="BestE"↵
CAPACITY=100↵
TS__CLASS="NON-FIRM"↵
START__TIME="1996050708000000PD"↵
STOP__TIME="1996050721000000PD"↵
SALE__REF="BEST100"↵
OFFER__PRICE=.90↵
SELLER__COMMENTS-"aggregating two previous purchases"↵

d. Customer #2 then requsts purchase of 100 MW Non-firm from Reseller #1 from 8 a.m. to 6 p.m. for $0.90/MW=hour (*transrequest*).

TEMPLATE="transrequest"↵
CUSTOMER__CODE="Whisle"↵
SELLER__CODE="BestE"↵
CAPACITY__=100↵
TS__CLASS="NON-FIRM"↵
START__TIME="1996050708000000PD"↵
STOP__TIME="1996050721000000PD"↵
SALE__REF="BEST100"↵
DEAL__REF="WPC100"↵
BID__PRICE=.90↵
CUSTOMER__COMMENTS="Only need service until 6 p.m."↵

The Information Provider provides the ASSIGNMENT__REF=5002 for this transaction.

e. Seller informs the Information Provider of the reassignment of the previous transmission rights when the seller accepts the customer purchase request (transsell).

TEMPLATE="transsell"↵
CUSTOMER__CODE="Whisle"↵
SELLER__CODE="BestE"↵
ASSIGNMENT__REF=5002↵
STATUS="Accepted"↵
REASSIGNED__REFI=5000↵
REASSIGNED__CAPACITY1=100↵
REASSIGNED__START__TIME1="199605070800PD"↵
REASSIGNED__STOP__TIME1="199605071700PD"↵
REASSIGNED__REF2=5001↵
REASSIGNED__CAPACITY2=100↵
REASSIGNED__START__TIME2="199605071700PD"↵
REASSIGNED__STOP__TIME2="199605071800PD"↵

4.4.5 File Examples of the Use of Continuation Records

a. Basic Continuation Records: The first example of the use of Continuation Records is for the transrequest Template submitted by a Seller for purchase of a transmission reservation spanning 16 hours from 06:00 to 22:00 with "ramped" demand at beginning and end of time period. Two additional reservations appear prior to and following the profile to demonstrate the handling of ASSIGNMENT__REF by the OASIS node.

Only the following fields may be redefined in a continuation record for the transrequest Template: CAPACITY, START__TIME, STOP__TIME. Specification of any values corresponding to COLUMN__HEADERs other than CAPACITY, START__TIME, and STOP__TIME will be ignored, however commas must be included to properly align the CAPACITY, START__TIME and STOP__TIME fields.

Input:

VERSION=1.2↵
TEMPLATE=transrequest↵

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```
OUTPUT__FORMAT=DATA↵
PRIMARY__PROVIDER__CODE=AEP↵
PRIMARY__PROVIDER__DUNS=123456789↵
DATA__ROWS=7↵
COLUMN__HEADERS=CONTINUATION__FLAG, SELLER__CODE, SELLER__DUNS, PATH__NAME,
POINT__OF__RECEIPT, POINT__OF__DELIVERY, SOURCE, SINK, CAPACITY, SERVICE__INCREMENT, TS__CLASS,
TS__TYPE, TS__PERIOD, TS__SUBCLASS, STATUS__NOTIFICATION, START__TIME, STOP__TIME, BID__PRICE,
PRECONFIRMED, ANC__SVC__LINK, POSTING__REF, SALE__REF, REQUEST__REF, DEAL__REF, CUS-
TOMER__COMMENTS↵
N. AEP, 123456789, ABC/XY, CE, MECS...35, DAILY, FIRM, POINT__TO__POINT, OFF__PEAK, N/A,,pub/AEP/incoming,
19970423000000ES, 19970424000000ES, 24.50, Y, SC:(cust:SP);RF(cust:RQ); EI:(cust:R123); SP:(custR234); SU:(cust:R345),
P0123, S123, R765, D123, Standard daily reservation↵
N, AEP, 123456789, ABC/XY, CE, AMPO,,,5, HOURLY, NON-FIRM, POINT__TO__POINT, OFF__PEAK, N/A, pub/AEP/
incoming, 19970423060000ES, 19970423070000ES, 2.50, Y,SC:(cust:SP);RV:(cust:SP);RF(cust:RQ); EI:(cust:R123);
SP:(custR234); SU:(cust:R345), P0123, S123, R765, D123, First piece of profile spanning 5 records↵
Y,,,,,,,, 10,,,,,,, 19970423070000ES, 19970423080000ES,,,,,,,,Second piece↵
Y,,,,,,,, 15,,,,,,, 19970423080000ES, 19970423200000ES,,,,,,,,Third piece↵
Y,,,,,,,, 10,,,,,,, 19970423200000ES, 19970423210000ES,,,,,,,,Fourth piece↵
Y,,,,,,,, 5,,,,,,, 19970423210000ES, 19970423220000ES,,,,,,,,Fifth piece↵
N, AEP, 123456789, ABC/XY, CE, MECS,,, 20, HOURLY, FIRM, POINT__TO__POINT, OFF__PEAK, N/A, pub/AEP/incom-
ing, 19970423040000ES, 19970423220000ES, 2.00, Y,SC:(cust:SP);RV:(cust:SP);RF(cust:RQ); EI:(cust:R123); SP:(custR234);
SU:(cust:R345), P0123, S123, R765, D123, Standard hourly reservation after profiled reservation↵
```

Response:

```
REQUEST__STATUS=200↵
TIME__STAMP=19970422160523ES↵
TEMPLATE=transrequest↵
OUTPUT__FORMAT=DATA↵
PRIMARY__PROVIDER__CODE=AEP↵
PRIMARY__PROVIDER__DUNS=123456789↵
DATA__ROWS=7↵
COLUMN__HEADERS=RECORD__STATUS, CONTINUATION__FLAG, SELLER__CODE, SELLER__DUNS, PATH__NAME,
POINT__OF__RECEIPT, POINT__OF__DELIVERY, SOURCE, SINK, CAPACITY, SERVICE__INCREMENT, TS__TYPE,
TS__PERIOD, TS__SUBLCASS, STATUS__NOTIFICATION, START__TIME, STOP__TIME, BID__PRICE, PRECONFIRMED,
ANC__SVC__LINK, POSTING__REF, SALE__REF, REQUEST__REF, DEAL__REF, CUSTOMER__COMMENTS,
ERROR__MESSAGE↵
200, N, AEP, 123456789, ABC/XY, CE, MECS,,,35, DAILY, FIRM, POINT__TO__POINT, OFF__PEAK, N/A, pub/AEP/
incoming, 199702423000000ES, 19970424000000ES, 24.50, Y,SC:(cust:SP);RV:(cust:SP);RF(cust:RQ);EI:(cust:R123);
SP:(custR234); SU:(cust:R345), PO123, S123, R765, D123, Standard daily reservation, No error↵
200, N, AEP, 123456789, ABC/XY, CE, AMPO,,,5, HOURLY, NON-FIRM, POINT__TO__POINT, OFF__PEAK, N/A, pub/
AEP/incoming, 199702423060000ES, 19970423070000ES, 2.50, Y,SC:(cust:SP); RV:(cust:SP);RF(cust:RQ);EI:(cust:R123);
SP:(custR234); SU;(cust:R345), P0123, S123, R765, D123, First piece of profile spanning 5 records, No error↵
200, Y,,,,,,,, 10,,,,,,,19970423070000ES, 19970423080000ES,,,,,,,,,Second piece, No error↵
200, Y,,,,,,,, 15,,,,,,,19970423080000ES, 19970432800000ES,,,,,,,,,Third piece, No error↵
200, Y,,,,,,,, 10,,,,,,,19970423200000ES, 19970423210000ES,,,,,,,,,Fourth piece, No error↵
200, Y,,,,,,,, 5,,,,,,,19970423210000ES, 19970423220000ES,,,,,,,,,Fifth piece, No error↵
200, N, AEP, 123456789, ABC/XY, CE, MECS,,,20, HOURLY, FIRM, POINT__TO__POINT, OFF__PEAK, N/A, pub/AEP/
incoming, 19970423040000ES, 19970423160000ES, 2.00, Y, SC:(cust:SP);RV:(cust:SP);RF(cust:RQ);EI:(cust:R123);
SP:(custR234); SU:(cust:R345), P0123, S123, R765, D123, Standard hourly reservation after profiled reservation, No error↵
```

b. Submission of Reassignment Information—Case 1: In the prior example, a reservation request was submitted to "Rseler" for 20MW of Hourly Non-firm service from 04:00 to 16:00. Assume that Rseler has previously reserved service for the CE-VP path for Daily Firm in amount of 50 MW on 4/23 under ASSIGNMENT__REF=7019, and Hourly Non-Firm in amount of 10 MW from 08:00 to 20:00 on 4/23 under ASSIGNMENT__REF=7880. Rseler must designate which transmission service rights are to be reassigned to Cust to satisfy the 20MW from 04:00 to 16:00. This reassignment information is conveyed by Rseler using the transsell Template when the reservation request is ACCEPTED. At the SELLER's discretion, rights are assigned from the Non-firm reservation first (ASSIGNMENT__REF=7880) with the balance taken up by the Firm reservation (ASSIGNMENT__REF=7019).

The only fields allowed in "continuation" records for *transsell* Template are REASSIGNED__REF, REASSIGNED__CAPACITY, REASSIGNED__START__TIME, and REASSIGNED__STOP__TIME. Price may not be negotiated for each "segment" in a capacity profile.

Input:

```
VERSION=1.2↵
TEMPLATE=transsell↵
OUTPUT__FORMAT=DATA↵
PRIMARY__PROVIDER__CODE=AEP↵
PRIMARY__PROVIDER__DUNS=123456789↵
DATA__ROWS=3↵
COLUMN__HEADERS=CONTINUATION__FLAG, ASSIGNMENT__REF, OFFER__PRICE, STATUS, STATUS__COMMENTS,
ANC__SVC__LINK, SELLER__COMMENTS, REASSIGNED__REF REASSIGNED__CAPACITY, REAS-
```

```
SIGNED__START__TIME, REASSIGNED__STOP__TIME N. 8236, 2.00, ACCEPTED, Status comments
here,SC:(cust:SP);RV;(cust:SP);RF(cust:RQ);EI:(cust:R123);SP:(custR234);SU:(cust:R345), Seller comments here, 7019, 20,
19970423040000ES, 19970423080000ES↵
Y,,,,,,,7880, 10, 19970423080000ES, 19970423160000ES↵
Y,,,,,,,7019, 10, 19970423080000ES, 19970423160000ES↵
```

Response:

```
VERSION=1.2↵
TEMPLATE=transsell↵
OUTPUT__FORMAT=DATA↵
PRIMARY__PROVIDER__CODE=AEP↵
PRIMARY__PROVIDER__DUNS=123456789↵
DATA__ROWS=3↵
COLUMN__HEADERS=RECORD__STATUS, CONTINUATION__FLAG, ASSIGNMENT__REF, OFFER__PRICE, STATUS,
STATUS__COMMENTS, ANC__SVC__LINK, SELLER__COMMENTS, REASSIGNED__REF, REASSIGNED__CAPACITY, RE-
ASSIGNED__START__TIME, REASSIGNED__STOP__TIME, ERROR__MESSAGES 200, N. 8236, 2.00, ACCEPTED, Status
comments here,SC:(cust:SP);RV:(cust:SP);RF(cust:RQ); EI:(cust:R123); SP:(cust:R234);SU:(cust:R345), Seller comments here,
7019, 20, 19970423040000ES, 19970423080000ES.↵
200 Y,,,,,,,7880, 10, 19970423080000ES, 19970423160000ES,↵
200 Y,,,,,,,7019, 10, 19970423080000ES, 19970423160000ES,↵
```

c. Submission of Reassignment Information—Case 2: Primary provider, AEP, is notified of a sale/assignment of transmission service right from "Resell" to "cust". The parameters of the new reservation are for 10MW on 4/23 for "off-peak" hours (00:00–06:00 and 22:00–24:00) on POR/POD CE–VP. Rseler is assigning rights to 10MW from a prior reservation for the CE–VP path for Daily Firm in amount of 50 MW on 4/23 under ASSIGNMENT__REF=7019 to Cust. AEP would submit the following information using the transassign Template to post this (re)sale. The only fields allowed in "continuation" records for the transassign Template are CAPACITY, START__TIME, STOP__TIME, REASSIGNED__REF, REASSIGNED__CAPACITY, REASSIGNED__START__TIME, and REASSIGNED__STOP__TIME.

Even though there is a one-to-one correspondence between the segments of the new reservations and the reassignment of service from a prior reservation, it is entirely possible that a reservation spanning a single contiguous period would require multiple continuation records to convey reassignment information, and vice versa.

Fields for CUSTOMER__NAME and SELLER__NAME were used to convey user names for subsequent resolution of contact information from user registration.

Input:

```
VERSION=1.2↵
TEMPLATE=transassign↵
OUTPUT__FORMAT=DATA↵
PRIMARY__PROVIDER__CODE=AEP↵
PRIMARY__PROVIDER__DUNS=123456789↵
DATA__ROWS=2↵
COLUMN__HEADERS=CONTINUATION__FLAG, CUSTOMER__CODE, CUSTOMER__DUNS, PATH__NAME,
POINT__OF__RECEIPT, POINT__OF__DELIVERY, SOURCE, SINK, CAPACITY, SERVICE__INCREMENT, TS__CLASS,
TS__TYPE, TS__PERIOD, TS__SUBCLASS, START__TIME, STOP__TIME, OFFER__PRICE, SALE__REF, POSTING__NAME,
REASSIGNED__REF, REASSIGNED__CAPACITY, REASSIGNED__START__TIME, REASSIGNED__STOP__TIME, SELL-
ER__COMMENTS↵
N, Resler, 456123789, Cust, 987654321, , CE, VP, , , 10, HOURLY, NON-FIRM, POINT__TO__POINT, OFF__PEAK, N/
A, 19970423000000ES, 19970423060000ES, 2.00, Joe Smith, Jane Doe, N, 19970422121354ES, , 7019, 10,
19970423000000ES, 19970423060000ES, Seller comments go here↵
Y, , , , , , , , , , 10, , , , , , 19970423220000ES, 19970424000000ES, , , , , , , 7019, 10, 19970423220000ES,
19970424000000ES↵
```

Response:

```
REQUEST__STATUS=200↵
TIME__STAMP=19970422144520ES↵
VERSION=1.2↵
TEMPLATE=transassign↵
OUTPUT__FORMAT=DATA↵
PRIMARY__PROVIDER__CODE=AEP↵
PRIMARY__PROVIDER__DUNS=123456789↵
DATA__ROWS=2↵
COLUMN__HEADERS=RECORD__STATUS, CONTINUATION__FLAG, ASSIGNMENT__REF, SELLER__CODE, SELL-
ER__DUNS, CUSTOMER__CODE, CUSTOMER__DUNS, AFFILIATE__FLAG, PATH__NAME, POINT__OF__RECEIPT,
POINT__OF__DELIVERY, SOURCE, SINK, CAPACITY, SERVICE__INCREMENT, TS__CLASS, TS__TYPE, TS__PERIOD,
TS__SUBCLASS, START__TIME, STOP__TIME, OFFER__PRICE, SELLER__NAME, CUSTOMER__NAME, TIME__QUEUED,
SALE__REF, REASSIGNED__REF, REASSIGNED__CAPACITY, REASSIGNED__START__TIME, REAS-
SIGNED__STOP__TIME, SELLER__COMMENTS, ERROR__MESSAGE↵
200, N, 8207, Rseler, 456123789, Cust, 987654321, N, , CE, VP, , , 10, HOURLY, FIRM, POINT__TO__POINT, OFF__PEAK,
N/A 19970423000000ES, 19970423060000ES, 2.00, Joe Smith, Jane Doe, 19970422121354ES, , 7019, 10, 19970423000000ES,
19970423060000ES, Seller comments go here,↵
```

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```
200, Y, , , , , , , , , , , , , 10, , , , , , 19970423220000ES, 19970424000000ES,,,,,, 7019, 10, 19970423220000ES,
19970424000000ES,,↵
```

d. Query of Transmission Reservation Status: The following typical response to a transstatus query might be delivered for 4/23 based on prior examples. Note that the only fields returned in "continuation" records are, CAPACITY, START__TIME, STOP__TIME, REASSIGNED__REF, REASSIGNED__CAPACITY, REASSIGNED__START__TIME, and REASSIGNED__STOP__TIME (price fields are debatable).

Input:

<appropriate query name/value pairs to return reservations for 4/23>

Response:

```
REQUEST__STATUS=200↵
TIME__STAMP=19970423040523ES↵
TEMPLATE-transstatus↵
OUTPUT__FORMAT=DATA↵
PRIMARY__PROVIDER__CODE=AEP↵
PRIMARY__PROVIDER__DUNS=123456789↵
DATA__ROWS=11↵
COLUMN__HEADERS=CONTINUATION__FLAG, ASSIGNMENT__REF, SELLER__CODE, SELLER__DUNS, CUS-
TOMER__CODE, CUSTOMER__DUNS, AFFILIATE__FLAG, PATH__NAME, POINT__OF__RECEIPT,
POINT__OF__DELIVERY, SOURCE, SINK, CAPACITY, SERVICE__INCREMENT, TS__CLASS, TS__TYPE, TS__PERIOD,
TS__SUBCLASS, START__TIME, STOP__TIME, CEILING__PRICE, OFFER__PRICE, BID__PRICE, PRECONFIRMED,
ANC__SVC__LINK, ALTERNATE__SERVICE__FLAG, POSTING__REF, SALE__REF, REQUEST__REF, DEAL__REF, NEGO-
TIATED__PRICE__FLAG, STATUS, STATUS__COMMENTS, TIME__QUEUED, TIME__OF__LAST__UPDATE, PRI-
MARY__PROVIDER__COMMENTS, SELLER__COMMENTS, CUSTOMER__COMMENTS, SELLER__NAME, SELL-
ER__PHONE, SELLER__FAX, SELLER__EMAIL, CUSOMTER__NAME, CUSTOMER__PHONE, CUSTOMER__FAX, CUS-
TOMER__EMAIL, REASSIGNED__REF, REASSIGNED,__CAPACITY, REASSIGNED__START__TIME, REAS-
SIGNED__STOP__TIME5
N, 8207, Rseler, 456123789, A Cust, 987654321, N, CE, VP, , , 10, HOURLY, FIRM, POINT__TO__POINT, OFF__PEAK,
N/A, 19970423000000ES, 19970423060000ES, 2.25, 2.00, 6.20, N,SC:(cust:SP); RV:(cust:SP); RF(cust:RQ); EI:(cust:R123);
SP:(custR234); SU:(cust:R345), N, , , , , N, CONFIRMED, , 19970422121354ES,, TP Comments, Seller comments go
here, Customer comments, Joe Smith, (888)–123–4567, (888)–123–1231, jsmith@xyz.com, Jane Doe, (999)–123–4567, (999)–
123–8823, , 7019, 10, 19970423000000ES, 19970423060000ES↵
Y, , , , , , , , , , , , , , 10, , , , , , 19970423220000ES, 19970424000000ES, , , , , , , , , , , , , , , , , , , , , , ,7019,
10, 19970423220000ES, 19970424000000ES↵
N, 8234, Rseler, 456123789, ACust, 987654321, N, , CE, MECS, , , 35 DAILY, FIRM, POINT__TO__POINT, OFF__PEAK,
N/A 19970423000000ES, 19970423600000ES, 42.00, 24,50, N,SC:(cust:SP); RV:(cust:SP); RES:(cust:RQ); EI:(cust:R123);
SP:(custR234);SU:(cust:R345),N, , , , N, CONFIRMED, , 19970422121354ES, , Standard daily reservation, System Operator,
Customer comments, Frank Orth, (999)–123–4567, (999)–123–1231, jsmith@xyz.com, Jane Doe, (999)–123–4567, (999)–
123–8823, 7019, 10, 19970423000000ES, 19970423060000ES↵
N, 8235, AEP, 123456789, Cust, 987654321, N, , CE, AMPO, , , 5, HOURLY, NON-FORM, POINT__TO__POINT;
OFF__PEAK, N/A, 19970423060000ES, 19970423070000ES, 2.50, 2.50, 6.20, N, SC:(cust:SP); RV:(cust:SP); RF(cust:RQ);
EI:(cust:R123); SP:(cust:R234); SU:(cust:R345),N, , , , , N, CONFIRMED, , 19970422160523ES, , Profile verified, First
piece, Customer comments, System Operator, (888)–123–4567, (888)–123–1231, jsmith@xyz.com, Jane Doe, (999)–123–
4567, (999)–123–8823,, 7019, 10, 19970423000000ES, 19970423060000ES↵
Y, , , , , , , , , , , , , , 10, , , , , , ,19970423070000ES, 1997042380000ES, , , , , , , , , , , , , , , , , , , , , ,
, , ↵
Y, , , , , , , , , , , , , ,15, , , , , , ,19970423080000ES, 19970423200000ES, , , , , , , , , , , , , , , , , , , , , ,
, , ↵
Y, , , , , , , , , , , , , ,10, , , , , , ,19970423200000ES, 19970423210000ES, , , , , , , , , , , , , , , , , , , , , ,
, , ↵
Y, , , , , , , , , , , , , ,5, , , , , , ,19970421000000ES, 19970423220000ES, , , , , , , , , , , , , , , , , , , , , ,
, ↵
N. 8236, Rseler, 456123789, Cust, 987654321, N, , CE, VP, , , 20, HOURLY, FIRM, POINT__TO__POINT, OFF__PEAK,
N/A 19970424040000ES, 19970424160000ES, 2.00, 2.50, 6.20, N, , , , , , CONFIRMED, , 19970422160523ES, , Bid
price refused, Negotiated OFFER__PRICE accepted, Joe Smith, (888)–123–4567, (888)–123–1231, jsmithxyz.com, Jane Doe,
(999)–123–4567, (999)–123–8823, 7019, 20, 19970423040000ES, 19970423080000ES↵
Y, , , , , , , , , , , , , , , , , , , , , , , , , , , , , , , , , , , , 7880, 10, , , , , , 19970423080000ES, 19970423160000ES↵
Y, , , , , , , , , , , , , , , , , , , , , , , , , , , , , , , , , , , , 7019, 10, , , , , , 19970423080000ES, 19970423160000ES↵
```

4.4.6 Example of Negotiation of Price

4.4.6.1 Negotiation with Preconfirmation

a. The Customer submits a PRECONFIRMED transmission service request using the transreqest Template. Initially, the STATUS is set to QUEUED by OASIS.

b. The Seller has the option of setting STATUS via the transsell Template to one of the following: RECEIVED, STUDY, ACCEPTED, or REFUSED. Since the request is PRECONFIRMED, the Seller is blocked from altering OFFER__PRICE by OASIS, and blocked from setting status of OFFER.

c. If the Seller sets STATUS to ACCEPTED, OASIS will immediately set STATUS to CONFIRMED and sets the OFFER__PRICE to the BID__PRICE.

d. The Customer may WITHDRAW request via transcust Template at any time up to point where the Seller sets STATUS to ACCEPTED.

e. Once the STATUS is CONFIRMED, the OFFER_PRICE officially becomes the terms of the reservation.

4.4.6.2 Negotiations without Preconfirmation

e. The Customer submits a transmission reservation request with the BID_PRICE less than the CEILING_PRICE via the transrequest Template. Initially the STATUS is set to QUEUED by OASIS.

b. The Seller has the option of setting the STATUS VIA the transsell Template to one of the following: RECEIVED, STUDY, ACCEPTED, OFFER, or REFUSED.

c. The Seller determines that the BID_PRICE is too low, sets the OFFER_PRICE to the price he wants, and sets the STATUS to OFFER via the transsell Template.

d. The Customer agrees to the OFFER_PRICE, sets the BID_PRICE equal to the OFFER_PRICE, and sets the STATUS to CONFIRMED via the transcust Template.

The OFFER_PRICE with the STATUST of CONFIRMED locks in the terms of the reservation.

4.4.6.3 Multiple Step Negotiations

a. The Customer submits a transmission reservation request with the BID_PRICE less than the CEILING_PRICE via the transrequest Template. Initially the STATUS is set to QUEUED by OASIS.

b. The Seller has the option of setting STATUS via the transsell Template to one of the following: RECEIVED, STUDY, ACCEPTED, OFFER, or REFUSED.

c. The Seller determines that the BID_PRICE is too low, sets the OFFER_PRICE to the desired value, and sets the STATUS to OFFER via the transsell Template.

d. The Customer responds to the new OFFER_PRICE with an updated BID_PRICE and sets the STATUS to REBID for re-evaluation by the Seller.

e. The Seller determines that the BID_PRICE now is acceptable and sets the STATUS to ACCEPTED via the transsell Template. The transition to ACCEPTED state requires the OFFER_PRICE to be set to the BID_PRICE: accepting a reservation with an OFFER_PRICE different from BID_PRICE would require the STATUS be set to OFFER rather than ACCEPTED (see item c).

f. The Customer agrees to the OFFER_PRICE and sets the STATUS to CONFIRM via the transcust Template.

g. The OFFER_PRICE with the STATUS as CONFIRMED locks in the terms of the reservation.

4.4.6.4 Negotiations Refused by Seller

a. The Customer submits a transmission reservation request with the BID_PRICE less than the CEILING_PRICE via the transrequest Template. Initially the STATUS is set to QUEUED by OASIS.

b. The Seller has the option of setting the STATUS via the transsell Template to one of the following: RECEIVED, STUDY, ACCEPTED, OFFER, or REFUSED.

c. The Seller determines that the BID_PRICE is too low, sets OFFER_PRICE to his desired value, and sets STATUS to OFFER via the transsell Template.

d. The Customer responds to OFFER_PRICE with updated BID_PRICE and sets the STATUS to REBID via the transcust Template for re-evaluation by Seller.

e. The Seller breaks off all further negotiations by setting the STATUS or REFUSED.

4.4.6.5 Negotiations Withdrawn by Customer

a. The Customer submits a transmission reservation request with the BID_PRICE less than the CEILING_PRICE via the transrequest. Initially the STATUS is set to QUEUED by OASIS.

b. The Seller has the option of setting STATUS via the transsell Template to one of the following: RECEIVED, STUDY, ACCEPTED, OFFER, or REFUSED.

c. The Seller determines that the BID_PRICE is too low, sets the OFFER_PRICE to his desired value, and sets the STATUS to OFFER via the transsell Template.

d. The Customer responds to the OFFER_PRICE with an updated BID_PRICE and sets the STATUS to REBID for re-evaluation by Seller.

e. The Seller determines that the BID_PRICE is still too low, sets the OFFER_PRICE to another value, and sets STATUS to OFFER via the transsell Template.

f. The Customer breaks off all further negotiations by setting STATUS to WITHDRAWN (or the customer/seller could go through additional iterations of REBID/OFFER until negotiations are broken off or the reservation is CONFIRMED).

4.5 Information Supported by WEB Page

There shall be a Web page on each OASIS node with information on requesting the text file of the tariffs and service agreements.

5. Performance Requirements

A critical aspect of any system is its performance. Performance encompasses many issues, such as security, sizing, response to user requests, availability, backup, and other parameters that are critical for the system to function as desired. The following sections cover the performance requirements for the OASIS.

5.1 Security

Breaches of security include many inadvertent or possibly even planned actions. Therefore, several requirements shall be implemented by the TSIPs to avoid these problems:

a. Provider Update of TS Information: Only Providers, including Secondary Providers, shall be permitted to update their own TS Information.

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b. Customer Input Only ASCII Text: TSIPs shall be permitted to require that inputs from Customers shall be filtered to permit only strict ASCII text (strip bit 8 from each byte).

c. Provider Updating Over Public Facilities: If public facilities are involved in the connection between a Provider and the OASIS Node, the Provider shall be able to update this TS Information only through the use of ASCII or through encrypted files.

d. User Registration and Login: All Users shall be required to register and login to a Provider's Account before accessing that Provider's TS Information.

e. User Passwords: All Users shall enter their personal password when they wish access to TS Information beyond the lowest Access Privilege.

f. Service Request Transactions: Whenever Service Request transactions are implemented entirely over the OASIS, both an individual Customer password for the request, and an individual Provider password for the notification of acceptance shall be required.

g. Data Encryption: Sophisticated data encryption techniques and the "secure id" mechanisms being used on the public Internet shall be used to transfer sensitive data across the Internet and directly between OASIS Nodes.

h. Viruses: Since only data is being transmitted between the OASIS Nodes and the Users, viruses are unlikely to be passed between them. Therefore, TSIPs shall be responsible for ensuring that the OASIS Nodes are free from viruses, but need not screen data exchanges with Users for viruses.

i. Performance Log: TSIPs shall keep a log on User usage of OASIS resources.

j. Disconnection: TSIPs shall be allowed to disconnect any User who is degrading the performance of the OASIS Node through the excessive use of resources, beyond what is permitted in their Service Level Agreement.

k. Premature Access: The TSIP log shall also be used to ensure that Users who are affiliated with the Provider's company (or any other User) do not have access to TS information before it is publicly available.

l. Firewalls: TSIPs shall employ security measures such as firewalls to minimize the possibility that unauthorized users shall access or modify TS Information or reach the Provider or User systems. Interfaces through Public Data Networks or the Internet shall be permitted as long as these security requirements are met.

m. Certificates and Public Key Standards (optional): Use of alternative forms of login and authentication using certificates and public key standards is acceptable.

5.2 *Access Privileges*

Users shall be assigned different Access Privileges based on external agreements between the User and the Provider. These Access Privileges are assocated with individual Users rather than just a company, to ensure that only authorized Users within a company have the appropriate access.

The following Access Privileges shall be available as a minimum:

a. Access Privilege Read-Only: The User may only read publicy availabe TS Information.

b. Access Privilege for Transaction: The Customer is authorized to transact Service Requests.

c. Access Privilege Read/Write: A Secondary Provider shall have write access to his own Provider Account on an OASIS Node.

5.3 *OASIS Response Time Requirements*

TSIPs can only be responsible for the response capabilities of two portions of the Internet-based OASIS net work:

- The response capabilities of the OASIS Node server to process interactions with Users
- The bandwidth of the connection(s) between the OASIS Node server and the Internet.

Therefore, the OASIS response time requirements are as follows:

a. OASIS Node Server Response Time: The OASIS Node server shall be capable of supporting its connection(s) to Users with an average aggregate data rate of at least "A" bits per second. "A" is defined as follows:

$A = N * R$ bits/sec
where
$N = 5\%$ of registered Customers.
and
$R = 28,800$ bits/sec per Customer.

b. OASIS Node Network Connection Bandwidth: The bandwidth "B" of the OASIS Node conection(s) to the Internet shall be at least:

$B = 2 * A$ bits/sec

C. Time to Meet Response Requirements: The minimum time response shall be met within 1 month of User registration for any single new User. If more than 10 new Users register in one month, 2 months lead time shall be permitted to expand/upgrade the OASIS Node to meet the response requirements.

5.4 *OASIS Provider Account Availability*

The following are the OASIS Provider Account availability requirements:

a. OASIS Provider Account Availability: The availability of each OASIS Provider account on an OASIS Node shall be at least 98.0% (downtime of about 7 days per year).

Availability is defined as:

$$\% \text{ Availability} = \frac{(1 - \text{Cumulative Provider Account Downtime})}{\text{Total Time}} * 100$$

A Provider account shall be considered to be down, and downtime shall be accumlated, upon occurrence of any of the following:

1. One or more Users cannot link and log on to the Provider account. The downtime accumulated shall be calculated as:

3 Σ for affected Users of 1/n * (Login Time), which is the time used by each affected User to try to link and log on to the Provide account, and where "n" is the total number of Users actively registered for the Provider account.

2. One or more Users cannot access TS Information once they have logged on to a Provider account. The downtime accumulated shall be calculated as:

3 Σ for affected Users of 1/n * (Access Time), which is the time used by each affected User to try to access data, and where "n" is the total number of Users actively registered for that Provider.

3. A five (5) minute penalty shall be added to the cumulative downtime for every time a User loses their connection to a Provider's account due to an OASIS Node momentary failure or problem.

5.5 Backup and Recovery

The following backup and recovery requirements shall be met:

a. Normal Backup of TS Information: Backup of TS Information and equipment shall be provided within the OASIS Nodes so that no data or transaction logs are lost or become inaccessible by Users due to any single point of failure. Backed up data shall be no older than 30 seconds. Single points of failure include the loss of one:

- Disk drive or other storage device
- Processor
- Inter-processor communications (e.g., LAN)
- Inter-OASIS communications
- Software application
- Database
- Communication ports for access by Users
- Any other single item which affects the access of TS Information by Users

b. Spurious Failure Recovery Time: After a spurious failure situation, all affected Users shall regain access to all TS Information within 30 minutes. A spurious failure is a temporary loss of services which can be overcome by rebooting a system or restarting a program. Permanent loss of any physical component is considered a catastrophic failure.

c. Long-Term Backup: Permanent loss of critical data due to a catastrophic failure shall be minimized through off-line storage on a daily basis and through off-site data storage on a periodic basis.

d. Catastrophic Failure Recovery: Recovery from a catastrophic failure or loss of an OASIS Node may be provided through the use of alternate OASIS Nodes which meet the same availability and response time requirements. TSIPs may set up prior agreements with other TSIPs as to which Nodes will act as backups to which other Nodes, and what procedure will be used to undertake the recovery. Recovery from a catastrophic failure shall be designed to be achieved within 24 hours.

5.6 Time Synchronization

The following are the time requirements:

a. Time Synchronization: Time shall be synchronized on OASIS Nodes such that all time stamps will be accurate to within "0.5 second of official time. This synchronization may be handled over the network using NTP, or may be synchronized locally using time standard signals (e.g. WWVB, GPS equipment).

b. Network Time Protocol (NTP): OASIS Nodes shall support the Internet tool for time synchronization, Network Time Protocol (NTP), which is described in RFC–1350, version 3, so that Users shall be able to request the display and the downloading of current time on an OASIS Node for purposes of user applications which might be sensitive to OASIS time.

5.7 TS Information Timing Requirements

The TS Information timing requirements are as follows, except they are waived during emergencies:

a. TS Information Availability: The most recent Provider TS information shall be available on the OASIS Node within 5 minutes of its required posting time at least 98% of the time. The remaining 2% of the time the TS Information shall be available within 10 minutes of its scheduled posting time.

b. Notification of Posted or Changed TS Information: Notification of TS Information posted or changed by a Provider shall be made available within 60 seconds of the log.

c. Acknowledgment by the TSIP: Acknowledgment by the TSIP of the receipt of User Purchase requests shall occur within 1 minute. The actual negotiations and agreements on Purchase requests do not have time constraints.

5.8 TS Information Accuracy

The following requirements relate to the accuracy of the TS information:

a. TS Information Reasonability: TS information posted and updated by the Provider shall be validated for reasonability and consistency through the use of limit checks and other validation methods.

b. TS Information Accuracy: Although precise measures of accuracy are difficult to establish, Providers shall use their best efforts to provide accurate information.

5.9 Performance Auditing

The following are the performance auditing requirements:

a. User Help Desk Support: TSIPs shall provide a "Help Desk" that is available at least during normal business hours (local time zone) and normal work days.

b. Monitoring Performance Parameters: TSIPs shall use their best efforts to monitor performance parameters. Any User shall be able to read or down load these performance statistics.

5.10 Migration Requirements

Whenever a new version of the S&CP is to be implemented, a migration plan will be developed for cutting over to the new version.

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Appendix A—Data Element Dictionary

Version 1.2

May 27, 1998

Data dictionary element name	Alias	Field format: minimum characters (type of ASCII) maximum characters	Restricted values	Definition of data element
AFFILIATE__FLAG	AFFLAG	1(ALPHANUMERIC)3	Valid Values YES NO	Set to YES if customer is an affiliate of the provider.
ANC__SERVICE__TYPE	ANCTYPE	1(ALPHANUMERIC)20	Valid types	EI—Energy Imbalance.
			• EL	EP—Spinning Reserve.
			• SP	SU—Supplemental Reserve.
			• SU	RV—Reactive supply and Voltage Control.
			• RV	RF—Regulation and Frequency response.
			• RF	SC—Scheduling, system Control and Dispatch.
			• SC	(Registered) must be registered with www.tsin.com and listed in the ANCSERV template.
			• (Registered).	
ANC__SVC__LINK	ANCSVCLINK.	1(ALPHANUMERIC)300	Formatted string as follows. SC:(AA); RV: (AA); RF: (AA[:xxx[:yyy[:nnn]]]); EL: (AA[:xxx[:yyy[:nnn]]]); SP: (AA[:xxx[:yyy[:nnn]]]); SU (AA[:xxx[:yyy[:nnn]]]); (Registered): (AA[:xxx[:yyy[:nnn]]]);	The method for linking ancillary services to a transmission service request. The provider and capacity of each ancillary service is identified using the formated string: SC:(AA); RV:(AA); RF:AA[:xxx[:yyy[:nnn]]]); EI: (AA[:xxx[:yyy[:nnn]]]); SP:(AA[:xxx[:yyy[:nnn]]]):SU: (AA[:xxx[:yyy[nn]]]): [Registered):(AA[:xxx[:yyy[:nnn]]]) where AA is the appropriate PRIMARY__PROVIDER__CODE, SELLER__CODE; or CUSTOMER__CODE, and represents the company providing the ancillary services. "AA" may be unspecified for "xxx" type identical to "FI", in which case the ":" character must be present and precede the "FT" type. If multiple "AA" terms are necessary, then each "AA" grouping will be enclosed within parenthesis, with the overall group subordinate to the ANC__SVC__TYPE: specified within parenthesis. and where xxx represents either: —"FT" to indicate that the Customer will determine ancillary services at a future time, or —"SP" to indicate that the Customer will self-provide the ancillary services, or

Data dictionary element name	Alias	Field format: minimum characters (type of ASCII) maximum characters	Restricted values	Definition of data element
				—"RQ" to indicate that the Customer is asking the OASIS to initiate the process for making an ancillary services reservation with the indicated Provider or Seller on behalf of the Customer. The Customer must then continue the reservation process with the Provider or Seller. If the transmission services request is for preconfirmed service, then the ancillary services shall also be preconfirmed, or —"AR" to indicate an assignment reference number sequence follows. The terms "yyy" and "nnn" are subordinate to the xxx type of "AR" yyy represents the ancillary services reservation number (ASSIGNMENT_REF) and nnn represents the capacity of the reserved ancillary services. Square brackets are used to indicated optional elements and are not used in the actual linkage itself. Specifically, the :yyy is applicable to only the "AR" term and the :nnn may optionally be left off if the capacity of ancillary services is the same as for the transmission services, and optionally multiple ancillary reservations may be indicated by additional (xxx[:yyy[:nnn]]) enclosed within parenthesis. If no capacity amount is indicated, the required capacity is assumed to.
ANC_SVC_REQ	ANCSVCREQ.	1(ALPHANUMERIC)100	EI: (M.R.O.U); SP; (M.R.O.U);. SU: (M.R.O.U); RV: (M.R.O.U): RF: (M.R.O.U); SC: (M.R.O.U): (registered): (M.R.O.U)	Ancillary services required for a transmission services offering. The appropriate letter (M.R.O.U) will be assigned to each of the six Proforma FERC ancillary services (see ANC_SERVICE_TYPE), where the letters mean the following: (M) Mandatory, which implies that the Primary Provider must provide the ancillary service (R) Required, which implies that the ancillary service is required, but not necessarily from the Primary Provider (O) Optional, which implies that the ancillary service is not necessarily required, but could be provided. (U) Unknown, which implies that the requirements for the ancillary service are not known at this time.
ALTERNATE_SERVICE_FLAG.	ALTSVCFLG	2(ALPHANUMERIC)3	Defaulted to "YES"	Used as a flag to identify this reservation as a NON-FIRM use of FIRM transmission services on an alternate point of delivery.

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Data dictionary element name	Alias	Field format: minimum characters (type of ASCII) maximum characters	Restricted values	Definition of data element
ASSIGNMENT__REF	AREF	1(ALPHANUMERIC)12	Unique value	A unique reference number assigned by a Transmission Information Provider to provide a unique record for each transmission or ancillary service request. A single transmission or ancillary service request will be over a contiguous time period, i.e. from a START__TIME to an STOP__TIME.
BID__PRICE	BIDPR	1(NUMERIC)5 +"." +2(NUMERIC)12	Positive number with 2 decimals.	The current bid price of a Service in dollars and cents. Used by Customers to designate a price being bid.
CAPACITY	CAP	1(NUMERIC)12	Non-negative number in units of MW.	Transfer capability is the measure of the ability of the interconnected electric system to readily move or transfer power from one area to another over all transmission lines (or paths) between those areas under specified system conditions. In this context "area" may be an individual electric system, powerpool, control area, subregion, or NERC region or portion thereof.
CAPACITY__CURTAILED	CAPCUR	1(NUMERIC)12	Non-negative number in units of MW.	The amount of transfer capability curtailed by the Primary provider for emergency reasons.
CAPACITY__SCHEDULED	CAPSCH	1(NUMERIC)12	Non-negative number in units of MW.	Transfer capability scheduled on each path.
CATEGORY	CAT	1(ALPHANUMERIC)25	Valid name from CATEGORY in LIST Template.	A name to be used to categorize messages. Valid names would include: *Discount, Want-Ad, Curtailment, Outage, Oasis Maint Notice*.
CELING__PRICE	CEILPR	1(NUMERIC)5 + "." + 2(NUMERIC)2.	Positive number with 2 decimals..	Ceiling price of the Service as entered by the Transmission Provider.
COLUMN__HEADERS	HEADERS	1(ALPHANUMERIC) Limited to all the elements nameS in one Template.	Headers surrounded with A and separated by commas. Limited to valid Template element names. Must use full element name and not alias.	Example: COLUMN__HEADER= APATH__NAME", POINT__OF__RECEIPT", POINT__ OF__DELIVERY", "SOURCE", "SINK".
CONTINUATION__FLAG	CONT	1(ALPHANUMERIC)1	"Y" OR "N"	Indicates whether or not this record is a continuation from the previous record.
CONTROL__AREA	AREA	1(ALPHANUMERIC)20	Valid name of a control area	A part of the power system with metered tie lines and capable of matching generation and load while meeting scheduled interchange. Location of Ancillary services is my CONROL__AREA.
CURTAILMENT__OPTIONS	CUROPT	1(ALPHANUMERIC)80	Free form text	Customer options, if any, to avoid curtailment.
CURTAILMENT__PROCEDURES.	CURPROC	(ALPHANUMERIC)80	Free form text	Curtailment procedures to be followed in the event of a curtailment.
CURTAILMENT__REASON	CURREAS	(ALPHANUMERIC)80	Free form text	Reason for curtailment of service.
CUSTOMER__CODE	CUST	1(ALPHANUMERIC)6	Unique value, registered on TSIN.COM.	Any entity (or its designated agent) that is eligible to view OASIS information, to execute a service agreement, and/or to receive transmission service.
CUSTOMER__COMMENTS	CUSTCOM	1(ALPHANUMERIC)80	Free-form text	Informative text.
CUSTOMER__DUNS	CUSTDUNS	9(NUMERIC)9	Unique DUNS number	Unique DUNS number for a Customer.
CUSTOMER__EMAIL	CUSTEMAIL	1(ALPHANUMERIC)25	Valid Internet E-Mail address	Internet E-Mail address of Customer contract person.

Data dictionary element name	Alias	Field format: minimum characters (type of ASCII) maximum characters	Restricted values	Definition of data element
CUSTOMER__FAX	CUSTEFAX	14(ALPHANUMERIC)20	Area code and telephone number, plus any extensions (aaa)-nnn-nnnn xnnnn.	Fax phone number of Customer contract person.
CUSTOMER__NAME	CUSTNAME	(ALPHANUMERIC)25	Free form text	Name of Customer contract person.
CUSTOMER__PHONE	CUSTPHON	14(ALPHANUMERIC)20	Area code and telephone number, plus any extensions (aaa)-nnn-nnnn xnnnn.	Telephone of Customer contact person.
DATA__ROWS	ROWS	1(NUMERIC) unlimited	Positive Number	Number of records (rows) of data exclusive of header information that are to be uploaded or downloaded in a file.
DATE__TIME__EFFECTIVE	TIMEEFCT	16(ALPHANUMERIC)16	Valid date and time in seconds yyyy+mo+dd+hh +mm+ss+tz.	Date and time a message or service offer is in effect.
DATE__TIME__POSTED	TIMEPSTD	16(ALPHANUMERIC)16	Valid date and time in seconds yyyy+mo+dd+hh +mm+ss+tz.	Date and time to seconds a message or service offered was posted.
DEAL__REF	DREF	1(ALPHANUMERIC)12	Unique value, Assigned by Customer.	The unique reference assigned by a Customer to two or more service purchases to identify each of them as related to others in the same power service deal. These requests may be related to each other in time sequence through a single Provider, or as a series of wheels through multiple Providers, or a combination of both time and wheels. The User uses the DEAL__REF to uniquely identify a combination of requests relating to a particular deal.
DISCRETION__DESCRIPTION	DISCDESC	0(ALPHANUMERIC)1000	Free form text	A detailed description of the discretion being reported.
ELEMENT__NAME	ELEMENT	1(ALPHANUMERIC)40	Valid Template element name.	Template element name as indicated in data dictionary.
EMPLOYEE__NAME	EMPNAME	1(ALPHANUMERIC)25	Free form text	Name of person who is transferring from one position to another.
ERROR__MESSAGE	ERROR	1(ALPHANUMERIC)250	Free form text	Error message related to a RECORD__STATUS or REQUEST__STATUS.
FORMER__COMPANY	FORMCO	1(ALPHANUMERIC)25	Free form text	Former company of the person who is transferring.
FORMER__DEPARTMENT	FORMDEPT	1(ALPHANUMERIC)25	Free form text	Former department of the person who is transferring.
FORMER__POSITION	FORMPOS	1(ALPHANUMERIC)25	Free form text	Former position held by the person who is transferring.
INTERFACE__TYPE	INTERFACE	1(ALPHANUMERIC)1	I,E	Type of interface define by path: Internal (I) to a control area or External (E) to a control area.
LIST__ITEM	ITEM	1(ALPHANUMERIC)50	Free form text	Item from list, such as list of SELLERs, list of PATHs, list of PORs, list of PODs, Lists of SERVICE__INCREMENT, TS__CLASS, TS__TYPE, TS__PERIOD, NERC__ CURTAILMENT__PRIORITY, OTHER__CURTAILMENT__ PRIORITY, SERVICE__INCREMENT, CATEGORY List of TEMPLATEs.
LIST__ITEM__ DESCRIPTION	ITEMDESC	0(ALPHANUMERIC)100	Free form text	A detailed description of the LIST__ITEM.

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Data dictionary element name	Alias	Field format: minimum characters (type of ASCII) maximum characters	Restricted values	Definition of data element
LIST__NAME	LIST	1(alphanumeric)25	LIST, SELLER, PATH, POR, POD, SERVICE__INCREMENT, TS__CLASS, TS__TYPE, TS__ PERIOD, TS__SUBCLASS, ANCILLARY__ SERVICE__ TYPE, CATEGORY, TEMPLATE.	List of valid names for each of the types of lists. The minimum set of lists defined must be implemented.
MESSAGE	MSG	1(ALPHANUMERIC)200	Free form text	An informative text message.
NEGOTIATED__PRICE__FLAG	NGPRIFLG	1(ALPHANUMERIC)1	H, L, or blank	Set to H if OFFER__PRICE is higher than the currently posted price; set to L if OFFER__PRICE is lower than the currently posted price.
NERC__CURTAINMENT__ PRIORITY.	NERCURT	1(NUMERIC)1	Integer 1–7	One of the NERC seven curtailment priorities, documented in LIST templat.
NEW__COMPANY	NEWCO	1(ALPHANUMERIC)25	Free form text	New company of the person who is transferring.
NEW__DATA	NEWDATA	1(ALPHANUMERIC)200	Any valid date element value	For audit log, the new updated value of a Template data element after update.
NEW__DEPARTMENT	NEWDEPT	1(ALPHANUMERIC)25	Free form text	New department of the person who is transferring.
NEW__POSITION	NEWPOS	1(ALPHANUMERIC)25	Free form text	New position held by the person who is transferring.
OFFER__PRICE	OFFPR	1(NUMERIC)5 + "." + 2(NUMERIC)2.	Positive number with 2 decimals.	The current offered price of a Service in dollars and cents. Used by the Seller to indicate the offering price.
OFFER__START__TIME	OFFSTIME	16(ALPHANUMERIC)16	Valid Date and Time to seconds:. yyyy+mo+dd+hh+mmm+ss+tz.	Start time of the window during which a Customer may request a discounted offer.
OFFER__ STOP__TIME	OFFSPTIME	16(ALPHANUMERIC)16	Valid Date and Time to seconds: yyyy+mo+dd+hh +mm+ss+tz.	Stop time of the window during which a Customer may request a discounted offer. (Expiration time of an offer).
OLD__DATA	OLDDATA	1(ALPHANUMERIC)200	Any valid data element value	For audit log, the old value of a Template data element prior to being updated. This element is not applicable in the audit log for transaction events.
OPTIONAL__CODE	N/A	0(ALPHANUMERIC)25	Unique path name within region.	OPTIONAL__CODE—25 chars, unique for Path. If used for directionality, then the first 12 characters shall represent POR, followed by >->, followed by 12 characters which shall represent POD. Used by PATH__NAME.
OTHER__CURTAILMENT __PRIORITY.	OTHCUR	0(ALPHANUMERIC)8	Free form tect	Other than NERC curtailment priorities, such as regional curtailment priorities. Suggested format region+number, for example MAPP4, WSCC7. Documented in LIST template.
OUTPUT__FORMAT	FMT	4(ALPHANUMERIC)4	HTML, DATA	Format of response: HTML = hypertext markup language for presentation using a web browser. DATA = text for use in a downloaded file.
PATH__CODE	N/A	0(ALPHANUMERIC)12	Unique code for each path as defined by primary provider.	Unique code within a Region for each path. Used by PATH__NAME.

Data dictionary element name	Alias	Field format: minimum characters (type of ASCII) maximum characters	Restricted values	Definition of data element
PATH__NAME	PATH	5(ALPHANUMERIC)50	Unique value	The unique name assigned to a single transmission line or the set of one or more parallel transmission lines whose power transfer capabilities are strongly interrelated and must be determined in aggregate. These lines are typically described as being on a path, corridor or interconnection in some regions, or as crossing an interface or cut-plane in other regions. Multiple lines may be owned by different parties and require prorating of capability shares. The name is constructed from the following codes, with each code separated by a "/". Trailing "/" may be omitted, if there are no values for OPTION__CODE and SPARE__CODE:. REGION__CODE—2 chars, unique to OASIS System PRIMARY__PROVIDER__CODE—4 chars, unique within Region. PATH__CODE—12 chars, unique for Primary Provider. OPTIONAL__CODE—25 chars, unique for Path. If used for directionality, then the first 12 characters shall represent POR, followed by >->, followed by 12 characters which shall represent POD SPARE__CODE—3 chars.
POINT__OF__DELIVERY	POD	1(ALPHANUMERIC)12	Unique value within Primary Provider.	Point of Delivery is one or more point(s) of interconnection on the Transmission Provider's transmission system where capacity and/or energy transmitted by the Transmission Provider will be made available to the Receiving Party. This is used along with Point of Receipt to define a Path and direction of flow on that path. For internal paths, this would be a specific location(s) in the area. For an external path, this may be an area-to-area interface.
POINT__OF__RECEIPT	POR	1(ALPHANUMERIC)12	Unique value within Primary Provider.	Point of Receipt is one or more point(s) of interconnection on the Transmission Provider's transmission system where capacity and/or energy transmitted will be made available to the Transmission Provider by the Delivering Party. This is used along with Point of Delivery to define a Path and direction of flow on that path. For internal paths, this would be a specific location(s) in the area. For an external path, this may be an area-to-area interface.
POSTING__NAME	POSTNAME	1(ALPHANUMERIC)25	Free form text	Name of person who is posting the information on the OASIS.

Data dictionary element name	Alias	Field format: minimum characters (type of ASCII) maximum characters	Restricted values	Definition of data element
POSTING__REF	POSTREF	1(ALPHANUMERIC)12	Unique Value	Assigned by TSIP when Service or Message is received by TSIP. Unique number can be used by the user to modify or delete the posting.
PRECONFIRMED	PRECONF	2(ALPHA)3	YES or NO	Used by Customer to preconfirm sale in Template transrequest or ancrequest. If customer indicates sale is preconfirmed, then the response is YES and the customer does not need to confirm the sale.
PRICE__UNITS	UNITS	1(ALPHA)20	Free form text	The units used for CEILING__PRICE, OFFER__PRICE, and BID__PRICE. Examples: $/MWhr, $/MWmonth
PRIMARY__PROVIDER__COMMENTS.	PPROVCOM	1(ALPHANUMERIC)80	Free form text	Informative text. Usually entered by the Primary Provider through a back end system.
PRIMARY__PROVIDER__CODE.	PROVIDER	1(ALPHANUMERIC)4	Unique code	Unique code for each Primary Provider. used by PATH__NAME and in URL. Registered as part of URL at www.tsin.com.
PRIMARY__PROVIDER__DUNS.	PPROVDUNS.	9(NUMERIC)9	Valid DUNS number	Unique code for each Primary. Provided by Dun and Bradstreet.
REASSIGNED__CAPACITY	RASCAP	1(NUMERIC)12	Positive number, cannot exceed previous assigned capacity.	The amount of transfer capability that was reassigned from one entity to another.
REASSIGNED__REF	REREF	1(ALPHANUMERIC)12	Unique value	When customer makes a purchase of a transmission service that was posted for resale and a new ASSIGNMENT__REF number is issued the previous ASSIGNMENT__REF number now becomes the REASSIGNMENT__REF. Also used by SELLER when posting transmission or ancillary services for resale to show the previous assignment reference number. Also used by the customer when making a request to use FIRM service as NON-FIRM over alternate points of delivery.
REASSIGNED__START__TIME	RESSTIME	16(ALPHANUMERIC)16	Valid date and time to seconds: yyyy+mo+dd+hh+tz	Beginning date and time of the reassigned transmission service.
REASSIGNED__STOP__TIME	RESSPIME	16(ALPHANUMERIC)16	Valid date and time to hour: yyyy+mo+dd+hh+tz	Date and time of the end of the transmission service that is reassigned to another User.
RECORD__STATUS	RECSTATUS.	1(NUMERIC)3	Error number	Record status indicating record was successful or error code if unsuccessful. 200=Successful

Data dictionary element name	Alias	Field format: minimum characters (type of ASCII) maximum characters	Restricted values	Definition of data element
REGION_CODE	N/A	1(ALPHANUMERIC)2	Unique within OASIS System.	Defined for NERC regions, with the following defined: E—ECAR. I—MAIN. S—SERC. T—ERCOT. A—MAPP. P—SPP. M—MAAC. N—NPCC. W—WSCC. Second character or digit reserved for subregion id as defined by each region.
REQUEST_REF	RREF	1(ALPHANUMERIC)12	Unique value	A reference uniquely assigned by a Customer to a request for service from a Provider.
REQUEST_STATUS	RSTATUS	1(NUMERIC)3	Error number	Message status indicating message was successful (If all RECORD_STATUS show success) or error code if any RECORD_STATUS showed unsuccessful. 200–Successful.
RESPONSE_TIME_LIMIT	RESPTL	16(ALPHANUMERIC)16	Valid date and time to seconds: yyyy+mo+dd+hh +mm+ss+tz	Date and time to seconds by when a response must be received from a Customer.
RESPONSIBLE_PARTY_NAME.	PARTNAME	1(ALPHANUMERIC)25	Free form text	The name of the person responsible for granting the discretion.
RETURN_TZ	TZ	2(ALPHANUMERIC)2	AD, AS, PD, PS, ED, ES, MD, MS, CD, CS, UT.	A time zone code, indicating the base time zone, and whether daylight saving time is to be used. This field may be set by a Customer in a query. Returned date and time data is converted to this time zone.
SALE_REF	SREF	1(ALPHANUMERIC)12	Unique value	Identifier which is set by seller (including Primary Provider) when posting a service for sale.
SELLER_CODE	SELLER	1(ALPHANUMERIC)6	Unique value	Organization name of Primary Provider or Reseller.
SELLER_COMMENTS	SELCOM	1(ALPHANUMERIC)80	Free form text	Informative text provided by the Seller.
SELLER_DUNS	SELDUNS	9(NUMERIC)9	Valid DUNS number	Unique Data Universal Numbering System provided by Dun and Bradstreet. Code for a Primary Provider or Seller.
SELLER_EMAIL	SELEMAIL	5(ALPHANUMERIC)60	Valid network reference	E-Mail address of Seller contact person.
SERVICE_INCREMENT	SRVINCR	1(ALPHANUMERIC)8	Valid increments • HOURLY • Daily • Weekly • Monthly • Yearly • {Registered}	The transmission service increments provided. Five are predefined, while additional increments can be used if they are registered on TSIN.COM and shown in the Provider's LIST template.
SELLER_FAX	SELFAX	14(ALPHANUMERIC)20	Area code and telephone number, plus any extensions Example: (aaa)-nnn-nnnn-xnnnn.	The fax telephone number for contact person at Seller.
SELLER_NAME	SELNAME	1(ALPHANUMERIC)25	Free form text	The name an individual contact person at the Seller.
SELLER_PHONE	SELPHONE	14(ALPHANUMERIC)25	Free form text	The telephone number of a contact person as a Seller.
SERVICE_DESCRIPTION	SVCDESC	1(ALPHANUMERIC)200	Free form text	Information regarding a service.
SERVICE_NAME	SVCNAME	1(ALPHANUMERIC)25	Free form text	Name of service affected by the discretionary action.
SERVICE_TYPE	SVCTYPE	1(ALPHANUMERIC)25	Free form text	Type of service affected by the discretionary action.

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Data dictionary element name	Alias	Field format: minimum characters (type of ASCII) maximum characters	Restricted values	Definition of data element
SINK	SINK	0(ALPHANUMERIC)14	Valid area name	The area in which the SINK is located.
SOURCE	SOURCE	0(ALPHANUMERIC)14	Valid area name	The area in which the SOURCE is located.
SPARE_CODE	N/A	0(ALPHANUMERIC)3	Defined by region	Spare code to be used at a later time. Used by PATH_NAME.
STANDARDS_OF_CONDUCT_ISSUE.	STDISSUE	0(ALPHANUMERIC)200	Free form text	Issues that were in violation of the FERC Standards of Conduct.
START_TIME	STIME	16(ALPHANUMERIC)16	Valid date and time to seconds: yyyy+mo+dd+hh +mm+ss+tz	Start date and clock time of a service. When used as a query variable, it requires the return of all items whose Stop time is after the Start time. Note that for some Templates when used as a query variable the time may be only valid up to the hour, day or month. If more data is given than is valid, the hour, day or month will be used to make the date and time inclusive, i.e. date or time will be truncated to valid hour, day or month.
START_TIME_POSTED	STIMEP	16(ALPHANUMERIC)16	Valid Date and Time to seconds: xlyyyy+mo+dd+hh +mm+ss+tz	Query parameter to indicate all the records are to be retrieved that were posted on or after this time.
START_TIME_QUEUED	STIMEQ	16(ALPHANUMERIC)16	Valid Date and Time to seconds: yyyy+mo+dd+hh +mm+ss+tz	Start date and clock time of a service, used for requesting transactions queued after this time.
STATUS	STATUS	5(ALPHANUMERIC)25	Valid field (QUEUED, RECEIVED, STUDY, REBID, OFFER, ACCEPTED, REFUSED, CONFIRMED, WITHDRAWN, DISPLACED, ANNULLED, RETRACTED).	QUEUED=initial status assigned by TSIP on receipt of "customer capacity purchase request". RECEIVED=reassigned by TP to acknowledge QUEUED requests and indicate the service request is being evaluated. STUDY=assigned by TP to indicate some level of study is required or being performed to evaluate service request. OFFER=assigned by TP to indicate that an OFFER_PRICE is being proposed. REBID=assigned by TC to indicate a new BID_PRICE is being proposed. ACCEPTED=assigned by TP to indicate service request has been approved/accepted. If the reservation request was submitted PRECONFIRMED, OASIS shall immediately set the reservation status to CONFIRMED. Depending upon the type of ancillary services required, the Seller may or may not require all ancillary service reservations to be completed before accepting a request. REFUSED=assigned by TP to indicate service request has been denied, SELLER_COMMENTS should be used to communicate reason for denial of service.

Data dictionary element name	Alias	Field format: minimum characters (type of ASCII) maximum characters	Restricted values	Definition of data element
				CONFIRMED=assigned by TC in response to TP posting "ACCEPTED" status to confirm service. WITHDRAWN=assigned by TC at any point in request evaluation to withdraw the request from any further action. DISPLACED=assigned by TP when a "CONFIRMED" request from a TC is displayed by a longer term request and the TC has exercised right of first refusal (i.e. refused to match T&Cs of new request). ANNULLED=assigned by TP when, by mutual agreement with the TC, the transaction is to be voided. RETRACTED=assigned by TP when the TC tails to confirm or withdraw the transaction within the required time period.
STATUS__COMMENTS	STACOM	1(ALPHANUMERIC)80	Free form text	Informative text.
STATUS__NOTIFICATION	STATNOT ...	1(ALPHANUMERIC)200	http://URL:portnumber/directry/cgi script/query parameters or Mailto: <e-mail address>.	The STATUS__NOTIFICATION data element shall contain the rptocol field "http:", which designates the notification method/protocol to be used, followed by all resource location information required; the target domain name and port designations shall be inserted into the notification URL based on the Customer's company registration information. The resource location information may include directory information, cgi script identifiers and URL encoded query string name/value pairs as required by the Customer's application, or mailto and email address for the status information the Customer wants to receive upon a change in STATUS of transstatus, or ancstatus.
STOP__TIME	SPTIME	16(ALPHANUMERIC)16	Valid date and time yyyy + mo + ddd + hh + mm + ss+tz.	Stop date and clock time. When used as a query variable, it requires the return of all items which start before the stop time. Note that for some Templates when used as a query vanable the time may be only valid up to the hour, day or month. If more data is given than is valid, the hour, day or month will be used to make the date and time inclusive, i.e. date or time will be increased to include STOP__TIME.
STOP__TIME__POSTED	STPTIMEP ..	16(ALPHANUMERIC)16	Valid Date and Time to seconds: yyyy+mo+dd+hh+mm+ss+tz.	Query parameter to indicate all the records are to be retrieved that were posted on or before this time.
STOP__TIME__QUEUED	SPTIMEQ	16(ALPHANUMERIC)16	Valid Date and Time to seconds: yyyy+mo+dd+hh+mm+ss+tz.	Stop date and clock time, used for requesting transactions queued before this time.

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Data dictionary element name	Alias	Field format: minimum characters (type of ASCII) maximum characters	Restricted values	Definition of data element
SUBJECT	SUBJ	1(ALPHANUMERIC)80	Free form text	Informative text used to summarize a topic in a message.
TARIFF__REFERENCE	TARIFF	1(ALPHANUMERIC)150	Free form text. Name and description of Tariff.	Tariffs approved by FERC.
TEMPLATE	TEMPL	1(ALPHANUMERIC)20	Valid Name of Template from Section 4.3 or from LIST Template.	The name of a logical collection of DATA__ELEMENTS in a User's interaction with an OASIS Node.
TIME__OF__LAST__UPDATE	TLUPDATE	16(ALPHANUMERIC)16	Valid Date and Time to seconds: yyyy+mo+dd+hh+mm+ss+tz.	Date and time to seconds that data was last updated. May be used to search data updated since a specific point in time.
TIME__POSTED	TIMEPST	16(ALPHANUMERIC)16	Valid Date and Time to seconds: yyyy+mo+dd+hh+mm+ss+tz.	Date and time a message is posted.
TIME__QUEUED	TIMEQ	16(ALPHANUMERIC)16	Valid Date and Time to seconds: yyyy+mo+dd+hh+mm+ss+tz.	Date and time that the request was queued.
TIME__STAMP	TSTAMP	16(ALPHANUMERIC)16	Valid Date and Time to seconds: yyyy+mo+dd+hh+mm+ss+tz.	Time data is created.
TS__CLASS	TSCLASS	1(ALPHANUMERIC)20	Valid classes: • FIRM • NON-FIRM • TTC • (Registered)	The transmission service classes provided. Three are pre-defined, while additional classes can be used if they are registered on TSIN.COM and shown in the Provider's LIST template page.
TS__PERIOD	TSPER	1(ALPHANUMERIC)20	Valid periods: ON__PEAK OFF__PEAK FULL__PERIOD (Registered)	The transmission service periods provided. Three are pre-defined, while additional periods can be used if they are registered on TSIN.COM and shown in the Provider's LIST template.

Data dictionary element name	Alias	Field format: minimum characters (type of ASCII) maximum characters	Restricted values	Definition of data element
TS_SUBCLASS	TSSUBC	1(ALPHANUMERIC)20	Free form	The transmission service subclasses provided. These are freeform.
TS_TYPE	TSTYPE	1(ALPHANUMERIC)20	Valid periods: • POINT_TO_POINT • NETWORK • (Registered)	The transmission service types provided. Two are pre-defined, while additional types can be used if they are registered on TSIN.COM and shown in the Provider's LIST template.
TS_WINDOW	TSWIND	1(ALPHANUMERIC)20	Valid periods: • FIXED • SLIDING • (Registered)	The transmission service windows provided. Two are pre-defined, while additional windows can be used if they are registered on TSIN.COM and shown in the Provider's LIST template.
TZ	TZ	2(ALPHANUMERIC)2	Valid time zone and indication whether daylight savings time is to be used.	Time zones: Atlantic time=AD, AS. Eastern time=ED, ES. Central time=CD, CS. Mountain time=MD, MS. Pacific time=PD, PS. Universal time=UT.
VALID_FROM_TIME	VALFTIME	16(ALPHANUMERIC)16	Valid Date and Time yyyy+mo+dd+hh+mm+ss+tz.	Date and time after which the message is valid.
VALID_TO_TIME	VALTTIME	16(ALPHANUMERIC)16	Valid date and time yyyy+mo+dd+hh+mm+ss+tz.	Date and time before which the message is valid.
VERSION	VER	1(REAL NUMBER)6	RANGE OF 1.0 TO 9999.9	Specifics which version of the OASIS Standards and Communication Protocol to use when interpreting the request.

[FR Doc. 98–17210 Filed 7–17–98; 8:45 am]

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Monday
July 20, 1998

Part III

Department of Education

34 CFR Part 685

William D. Ford Federal Direct Loan Program; Final Rule

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DEPARTMENT OF EDUCATION

34 CFR Part 685

William D. Ford Federal Direct Loan Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Final regulations.

SUMMARY: These regulations contain revised income percentage factors for the income contingent repayment plan, a repayment plan available in the William D. Ford Federal Direct Loan (Direct Loan) Program. The regulations also contain updated sample income contingent repayment amounts for single and married or head-of-household borrowers at various income and debt levels.

EFFECTIVE DATE: These regulations take effect on July 1, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Donald Watson, Management Analyst, Direct Loan Policy, Policy Development Division, U.S. Department of Education, Room 3045, ROB–3, 600 Independence Avenue, SW., Washington, DC 20202–5400. Telephone number: (202) 708–8242. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION: The Direct Loan income contingent repayment plan regulations are amended to revise the four sources of information contained in Appendix A to 34 CFR Part 685, published on July 1, 1997 (62 FR 35602): examples of how the calculation of the monthly ICR repayment amount is performed, the income percentage factors, the constant multiplier chart, and charts showing sample repayment amounts.

The income percentage factors have been updated to reflect changes based on inflation. The revised income percentage factor table was developed by changing the dollar amounts of the incomes shown by a percentage equal to the estimated percentage change in the Consumer Price Index for all Urban Consumers from December 1997 to December 1998. Further, the examples of the calculations of the monthly repayment amounts and the two charts showing sample repayment amounts for single and married or head of household borrowers at various income and debt levels have been amended to reflect the updated income percentage factors.

The updated income percentage factors, at any given income, may cause a borrower's payments to be slightly lower than under the income percentage factors published in the July 1, 1997 regulations. These updated income percentage factors more accurately reflect a borrower's current ability to repay than those previously published because the revised factors are based on more recent economic data.

Waiver of Proposed Rulemaking

In accordance with the Administrative Procedure Act, 5 U.S.C. 553, it is customary for the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, the changes in this document do not establish any new substantive rules, but simply update the income percentage factors used in the income contingent repayment plan, as required under 34 CFR 685.209(a)(8), and revise sample repayment information accordingly. Therefore, the Secretary has determined that publication of a notice of proposed rulemaking is unnecessary and contrary to the public interest under 5 U.S.C. 553(b)(B). For the same reasons, the Secretary waives the 30-day delayed effective date under 5 U.S.C. 553(d).

Paperwork Reduction Act of 1995

These regulations have been examined under the Paperwork Reduction Act of 1995 and have been found to contain no information collection requirements.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have significant economic impact on a substantial number of small entities. The regulations will affect borrowers who are in repayment and will not affect institutions participating in the Direct Loan Program. The Regulatory Flexibility Act does not include individuals in its definition of "small entities." Thus, the changes will not have a significant economic impact on any small entities under the Regulatory Flexibility Act.

Assessment of Educational Impact

The Secretary has determined that the regulations in this document would not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Electronic Access to this Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in the text or portable document format (pdf) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
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To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office at (202) 512–1530 or, toll free, at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of this document is the document published in the **Federal Register**.

List of Subjects in 34 CFR Part 685

Administrative practice and procedure, Colleges and universities, Education, Loan programs-education, Reporting and recordkeeping requirements, Student aid, Vocational education.

Dated: July 13, 1998.

Richard W. Riley,

Secretary of Education.

(Catalog of Federal Domestic Assistance Number 84.268 William D. Ford Federal Direct Loan Program)

The Secretary amends Part 685 of title 34 of the Code of Federal Regulations as follows:

PART 685—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

1. The authority citation for Part 685 continues to read as follows:

Authority: 20 U.S.C. 1087a *et seq.*, unless otherwise noted.

2. Appendix A to part 685 is revised to read as follows:

Appendix A to part 685—Income Contingent Repayment

Examples of the Calculations of Monthly Repayment Amounts

Example 1. A single borrower with $15,000 of Direct Loans, 8.25 percent interest rate, and an adjusted gross income (AGI) of $23,356.

Step 1: Determine annual payments based on what the borrower would pay over 12 years using standard amortization. To do this, multiply the principal balance by the constant multiplier for 8.25 percent interest (0.1315452). The constant multiplier is a factor used to calculate amortized payments at a given interest rate over a fixed period of time. (See the constant multiplier chart below to determine the constant multiplier you should use for the interest rate on the loan. If the exact interest rate is not listed, use the next highest for estimation purposes.)

- 0.1315452 × $15,000 = $1,973.18

Step 2: Multiply the result by the income percentage factor shown in the income percentage factor table that corresponds to the borrower's income (if the income is not listed, you can calculate the applicable income percentage factor by following the instructions under the interpolation heading below):

- 80.33% (0.8033) × $1,973.18 = $1,585.06

Step 3: Determine 20 percent of discretionary income. For a single borrower, subtract the poverty level for a family of one, as published in the **Federal Register** on February 24, 1998 (63 FR 9235), from the borrower's income and multiply the result by 20%:

- $23,356 − $8,050 = $15,306
- $15,306 × 0.20 = $3,061.20

Step 4: Compare the amount from step 2 with the amount from step 3. The lower of the two will be the borrower's annual payment amount. This borrower will be paying the amount calculated under step 2. To determine the monthly repayment amount, divide the annual amount by 12.

- $1,585.05 ÷ 12 = $132.09

Example 2. Married borrowers repaying jointly under the income contingent repayment plan with a combined AGI of $29,337. The husband has a Direct Loan balance of $10,000, and the wife has a Direct Loan balance of $15,000. The interest rate is 8.25 percent. This couple has no children.

Step 1: Add the Direct Loan balances of the husband and wife together to determine the aggregate loan balance.

- $10,000 + $15,000 = $25,000

Step 2: Determine the annual payment based on what the couple would pay over 12 years using standard amortization. To do this, multiply the aggregate principal balance by the constant multiplier for 8.25 percent interest (0.1315452). (See the constant multiplier chart to determine the constant multiplier you should use for the interest rate on the loan. If the exact interest rate is not listed, choose the next highest rate for estimation purposes.)

- 0.1315452 × $25,000 = $3,288.63

Step 3: Multiply the result by the income percentage factor shown in the income percentage factor table that corresponds to the couple's income (if the income is not listed, you can calculate the applicable income percentage factor by following the instructions under the interpolation heading below):

- 87.61% (0.8761) × $3,288.63 = $2881.17

Step 4: Determine 20 percent of the couple's discretionary income. To do this, subtract the poverty level for a family of 2, as published in the **Federal Register** on February 24, 1998 (63 FR 9235), from the couple's income and multiply the result by 20 percent:

- $29,337–$10,850 = $18,487
- $18,487 × 0.20 = $3,397.40

Step 5: Compare the amount from step 3 with the amount from step 4. The lower of the two will be the annual payment amount. The married borrowers will be paying the amount calculated under step 3. To determine the monthly repayment amount, divide the annual amount by 12.

- $2,881.17 ÷ 12 = $240.10

Interpolation: If your income does not appear on the income percentage factor table, you will have to calculate the income percentage factor through interpolation. For example, assume you are single and your income is $30,000.

Step 1: To interpolate, you must first find the interval between the closest income listed that is less than $30,000 and the closest income listed that is greater than $30,000. Afterwards, you must subtract these numbers (for this discussion, we will call the result "the income interval"):

- $36,793–$29,337 = $7,456

Step 2: Next, find the interval between the two income percentage factors that are given for these incomes (for this discussion, we will call the result, the "income percentage factor interval"):

- 100.00%–88.77 = 11.23%

Step 3: Subtract the income shown on the chart that is immediately less than $30,000 from $30,000:

- $30,000–$29,337 = $663

Step 4: Divide the result by the number representing the income interval:

- $663 ÷ $7,456 = 0.0889

Step 5: Multiply the result by the income percentage factor interval:

- 0.0889 × 11.23 = 0.9983

Step 6: Add the result to the lower income percentage factor used to calculate the income percentage factor interval for $30,000 in income:

- .9983% + 88.77% = 89.77%

The result is the income percentage factor that will be used to calculate the monthly repayment amount under the income contingent repayment plan.

INCOME PERCENTAGE FACTORS

[Based on annual income]

Single		Married/head of household	
Income	Percent factor	Income	Percent factor
7,669	55.00	7,669	50.52
10,552	57.79	12,101	56.68
13,578	60.57	14,422	59.56
16,673	66.23	18,853	67.79
19,629	71.89	23,356	75.22
23,356	80.33	29,337	87.61
29,337	88.77	36,793	100.00
36,793	100.00	44,251	100.00
44,251	100.00	55,438	109.40
53,185	111.80	74,080	125.00
68,101	123.50	100,180	140.60
96,452	141.20	140,106	150.00
110,592	150.00	228,943	200.00
196,984	200.00		

CONSTANT MULTIPLIER CHART FOR 12-YEAR AMORTIZATION

Interest rate (percent)	Annual constant multiplier
7.00	0.123406
7.25	0.125011
7.46	0.126368
7.50	0.126627
7.75	0.128255
8.00	0.129894
8.25	0.131545
8.38	0.132408
8.50	0.133207
8.75	0.134880
9.00	0.136564

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Sample First-Year Monthly Repayment Amounts for a Single Borrower at various Income and Debt Levels

	Initial Debt																							
Income	$ 2,500	$ 5,000	$ 7,500	$ 10,000	$ 12,500	$ 15,000	$ 17,500	$ 20,000	$ 22,500	$ 25,000	$ 30,000	$ 35,000	$ 40,000	$ 45,000	$ 50,000	$ 55,000	$ 60,000	$ 65,000	$ 70,000	$ 75,000	$ 80,000	$ 85,000	$ 90,000	$ 100,000
$ 1,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
3,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
4,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
5,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
6,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
7,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
8,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
9,000	15	16	16	16	16	16	16	16	16	16	16	16	16	16	16	16	16	16	16	16	16	16	16	16
10,000	16	31	33	33	33	33	33	33	33	33	33	33	33	33	33	33	33	33	33	33	33	33	33	33
12,500	16	33	49	65	74	74	74	74	74	74	74	74	74	74	74	74	74	74	74	74	74	74	74	74
15,000	17	35	52	69	87	104	116	116	116	116	116	116	116	116	116	116	116	116	116	116	116	116	116	116
17,500	19	37	56	74	93	112	130	147	156	158	158	158	158	158	158	158	158	158	158	158	158	158	158	158
20,000	20	40	60	80	100	120	140	159	179	199	199	199	199	199	199	199	199	199	199	199	199	199	199	199
22,500	21	43	64	86	107	129	150	172	193	215	241	241	241	241	241	241	241	241	241	241	241	241	241	241
25,000	23	45	68	91	113	136	159	181	204	227	272	283	283	283	283	283	283	283	283	283	283	283	283	283
30,000	25	49	74	98	123	148	172	197	221	246	295	344	366	366	366	366	366	366	366	366	366	366	366	366
35,000	27	53	80	107	133	160	187	213	240	267	320	373	426	449	449	449	449	449	449	449	449	449	449	449
40,000	27	55	82	110	137	164	192	219	247	274	329	384	438	493	533	533	533	533	533	533	533	533	533	533
45,000	28	55	83	111	138	166	194	221	249	278	332	387	443	498	554	609	616	616	616	616	616	616	616	616
50,000	29	59	88	118	147	177	206	236	265	295	354	413	472	531	590	649	699	699	699	699	699	699	699	699
55,000	31	62	93	124	155	186	219	248	279	310	372	434	496	559	621	683	745	783	783	783	783	783	783	783
60,000	32	64	96	128	161	193	225	257	289	321	385	449	514	578	642	706	771	835	866	866	866	866	866	866
65,000	33	66	100	133	166	199	232	265	299	332	398	465	531	597	664	730	796	863	929	949	949	949	949	949
70,000	34	68	103	137	171	205	239	273	308	342	410	478	547	615	683	752	820	888	957	1025	1033	1033	1033	1033
75,000	35	70	105	140	175	210	245	280	315	350	420	490	560	630	701	771	841	911	981	1051	1116	1116	1116	1116
80,000	36	72	108	144	179	215	251	287	323	359	431	502	574	646	718	789	861	933	1005	1076	1148	1199	1199	1199
85,000	37	73	110	147	184	220	257	294	331	367	441	514	588	661	735	808	882	955	1029	1102	1176	1283	1283	1283
90,000	38	75	113	150	188	226	263	301	338	376	451	526	601	677	752	827	902	977	1053	1128	1203	1278	1353	1366
95,000	38	77	115	154	192	231	269	308	346	384	461	538	615	692	769	846	923	1000	1077	1153	1230	1307	1384	1449
100,000	39	79	118	157	197	236	275	314	355	393	472	550	629	707	786	865	943	1022	1100	1179	1258	1336	1415	1533

Sample repayment amounts are based on an interest rate of 8.25%.

Sample First-Year Monthly Repayment Amounts for a Married or Head-of-household Borrower at various Income and Debt Levels

Family Size = 3

Initial Debt

Income	$ 2,500	$ 5,000	$ 7,500	$ 10,000	$ 12,500	$ 15,000	$ 17,500	$ 20,000	$ 22,500	$ 25,000	$ 30,000	$ 35,000	$ 40,000	$ 45,000	$ 50,000	$ 55,000	$ 60,000	$ 65,000	$ 70,000	$ 75,000	$ 80,000	$ 85,000	$ 90,000	$ 100,000
$ 1,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
3,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
4,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
5,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
6,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
7,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
8,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
9,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
10,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
12,500	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
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    - Cetylmethyl, dimethyl, methyl 11-methoxy-11-oxoundecyl; comments due by 7-31-98; published 7-1-98
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    - Rule 9b-1 amendments; comments due by 7-31-98; published 7-1-98
  - Seed capital exemption; comments due by 7-27-98; published 5-28-98
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1, 2 (2 Reserved)	(869-034-00001-1)	5.00	[5] Jan. 1, 1998
3 (1997 Compilation and Parts 100 and 101)	(869-034-00002-9)	19.00	[1] Jan. 1, 1998
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Subscription (mailed as issued)		247.00	1998
Individual copies		1.00	1998
Complete set (one-time mailing)		247.00	1997
Complete set (one-time mailing)		264.00	1996

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period July 1, 1996 to June 30, 1997. The volume issued July 1, 1996, should be retained.

[5] No amendments to this volume were promulgated during the period January 1, 1997 through December 31, 1997. The CFR volume issued as of January 1, 1997 should be retained.

[6] No amendments to this volume were promulgated during the period April 1, 1997, through April 1, 1998. The CFR volume issued as of April 1, 1997, should be retained.

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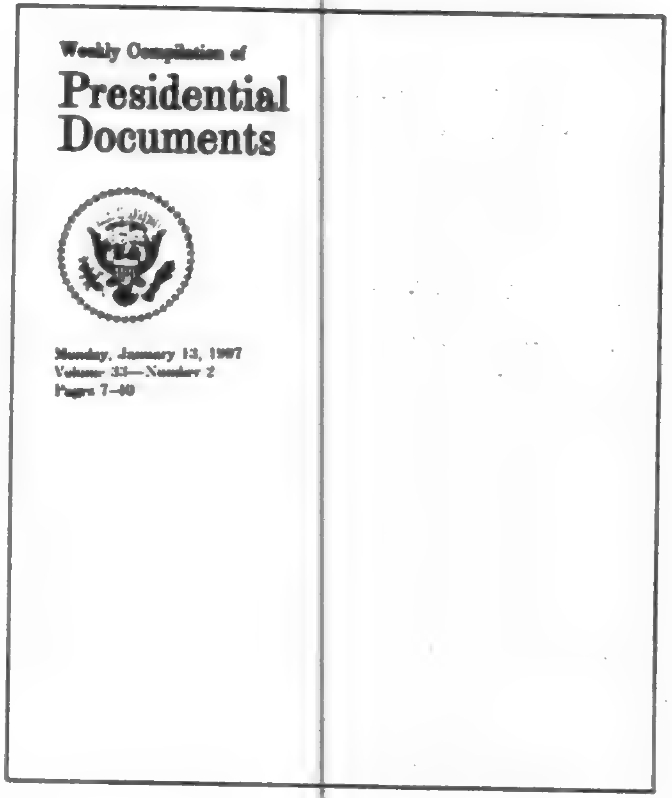

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Rules and Regulations

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NUCLEAR REGULATORY COMMISSION

10 CFR Part 140

RIN 3150–AG01

Adjustment of the Maximum Retrospective Deferred Premium

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to increase the maximum secondary retrospective deferred premium, presently established at $75.5 million per reactor per accident (but not to exceed $10 million in any 1 year), to $83.9 million per reactor per accident (but not to exceed $10 million in any 1 year), for liability insurance coverage in the event of nuclear incidents at licensed, operating, commercial nuclear power plants with a rated capacity of 100,000 kW or more. The change is based on the aggregate percentage change of 11.16 percent in the Consumer Price Index (CPI) from September 1993 through December 1997. This inflation adjustment is required by the Price-Anderson Amendments Act of 1988 (Pub. L. 100–408, 102 Stat. 1066) to be made at least once each 5 years.

EFFECTIVE DATE: August 20, 1998.

FOR FURTHER INFORMATION CONTACT: Ira Dinitz, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001, telephone 301–415–1289, e-mail ipd1@nrc.gov.

SUPPLEMENTARY INFORMATION: Part 140, "Financial Protection Requirements and Indemnity Agreements," provides requirements and procedures for implementing the financial protection requirements for certain licensees and other persons pursuant to Section 170 of the Atomic Energy Act (AEA) of 1954, as amended. Section 140.11(a)(4) specifies the amount of financial protection required of a licensee for a nuclear reactor that is licensed to operate, is designed for the production of electrical energy, and has a rated capacity of 100,000 kW or more. This amount is presently set at the sum of $200 million and the amount available as secondary financial protection in the form of private liability insurance under an industry retrospective rating plan. These limits are currently $75.5 million per reactor per incident (plus any surcharge assessed under Subsection 170o.(1)(E) of the AEA) for the maximum standard deferred premium and $10 million per reactor per incident per calendar year.

Section 15, "Inflation Adjustment," of Pub. L. 100–408, the Price-Anderson Amendments Act of 1988 ("the Act"), enacted on August 20, 1988, requires the Commission to adjust the amount of the maximum standard deferred premium (currently $75.5 million) based on inflation. Section 15 of the Act added a new Section 170t to the AEA, which provides as follows:

> t. INFLATION ADJUSTMENT.—(1) The Commission shall adjust the amount of the maximum standard deferred premium under subsection b(1) [Section 170b(1) of the AEA] not less than once during each 5-year period following the date of the enactment of the Price-Anderson Amendments Act of 1988 in accordance with the aggregate percentage change in the Consumer Price Index since —
>
> (A) such date of enactment, in the case of the first adjustment under this subsection; or
>
> (B) the previous adjustment under this subsection.
>
> (2) For purposes of this subsection, the term "Consumer Price Index" means the Consumer Price Index for all urban consumers published by the Secretary of Labor.

The inflation adjustment required by Section 170t(1)(B) of the AEA must be made at least once during the period from August 20, 1993, to August 20, 1998, and must be in accordance with the aggregate percentage change (since August 1993) in the CPI for all urban consumers, as published by the Secretary of Labor. The aggregate percentage increase in the CPI from September 1993 through December 1997 is 11.16 percent. This number is derived by dividing the September 1993 CPI index by the December 1997 CPI index. When the percentage increase is applied to the current $75.5 million maximum retrospective deferred premium, the new maximum retrospective deferred premium will increase to $83.9 million per reactor per incident. The limit of $10 million per reactor per incident per year will be unchanged.

To implement this inflation adjustment, the Commission is issuing revisions to 10 CFR 140.11(a)(4), which will become effective by August 20, 1998, that will require that large nuclear power plant licensees maintain, in addition to $200 million in primary financial protection, a new maximum standard deferred premium of $83.9 million per reactor per incident (but not to exceed $10 million in any 1 year). Because this inflation adjustment by the Commission is essentially ministerial in nature, the Commission finds that there is good cause for omitting notice and public procedure (in the form of a proposed rule) on this action as unnecessary, in accordance with the Administrative Procedure Act (5 U.S.C. 553b).

The next inflation adjustment in the amount of the standard deferred premium will be made not later than August 20, 2003, and will be based on the incremental change in the CPI since December 1997.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule does not contain a new or an amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget, approval number 3150–0039.

Public Protection Notification

If an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

Regulatory Analysis

Because this inflation adjustment is required by statute, no other alternatives

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were considered. See also the discussion in the Regulatory Flexibility Certification for this rule.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this final rule will not have a significant impact upon a substantial number of small entities. The rule will potentially affect licensees of approximately 110 nuclear power reactors. Nuclear power plant licensees do not fall within the definition of small businesses as defined in Section 3 of the Small Business Act (15 U.S.C. 632), the Small Business Size Standards of the Small Business Administration (13 CFR Part 121), or the Commission's Size Standards (10 CFR 2.810)

Backfit Analysis

The NRC has determined that this final rule does not require analysis under the backfit rule (10 CFR 50.109(a)(1)) because it is statutorily required and the statute does not confer any discretion on the NRC.

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

List of Subjects in 10 CFR Part 140

Criminal penalty, Extraordinary nuclear occurrence, Insurance, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Penalties, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the AEA, the Energy Reorganization Act of 1974 (as amended), and 5 U.S.C. 552 and 553, the NRC is adopting the following amendment to 10 CFR Part 140:

PART 140—FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS

1. The authority citation for Part 140 continues to read as follows:

Authority: Secs. 161, 170, 68 Stat. 948, 71 Stat. 576, as amended (42 U.S.C. 2201, 2210): secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842).

2. In § 140.11 the introductory text of paragraph (a) and paragraph (a)(4) are revised to read as follows:

§ 140.11 Amounts of financial protection for certain reactors.

(a) Each licensee is required to have and maintain financial protection:

* * * * *

(4) In an amount equal to the sum of $200,000,000 and the amount available as secondary financial protection (in the form of private liability insurance available under an industry retrospective rating plan providing for deferred premium charges equal to the pro rata share of the aggregate public liability claims and costs, excluding costs payment of which is not authorized by subsection 170o.(1)(D) of the Act, in excess of that covered by primary financial protection) for each nuclear reactor which is licensed to operate and which is designed for the production of electrical energy and has a rated capacity of 100,000 electrical kilowatts or more: Provided, however, that under such a plan for deferred premium charges for each nuclear reactor which is licensed to operate, no more than $83,900,000 with respect to any nuclear incident (plus any surcharge assessed under subsection 170o.(1)(E) of the Act) and no more than $10,000,000 per incident within one calendar year shall be charged.

* * * * *

Dated at Rockville, Maryland, this 15th day of July, 1998.

For the Nuclear Regulatory Commission.

James L. Blaha,

Acting Executive Director for Operations.

[FR Doc. 98–19362 Filed 7–20–98; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–105–AD; Amendment 39–10666; AD 98–15–15]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9, DC–9–80, and C–9 (Military) Series Airplanes, and Model MD–88 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9, DC–9–80, and C–9 (military) series airplanes, and Model MD–88 airplanes, that currently requires an inspection to detect chafing on the FIREX pipe assembly of the number one engine; and either repair of chafed pipe assemblies or replacement of the chafed pipe assemblies with new pipe assemblies; and modification of the FIREX and the pneumatic sense pipe assembly clamp marriage. This amendment revises the applicability of the existing AD to include additional airplanes and remove others. This amendment is prompted by reports of incidents in which the pneumatic sense pipe chafed against the FIREX supply pipe of the number one engine. The actions specified by this AD are intended to prevent chafing of the FIREX supply pipe, which could result in a hole in the pipe and consequently prevent the proper distribution of the fire extinguishing agent within the nacelle in the event of a fire.

DATES: Effective August 25, 1998.

The incorporation by reference of McDonnell Douglas DC–9 Service Bulletin 26–25, dated May 25, 1994; McDonnell Douglas Service Bulletin DC9–26–025, Revision 03, dated July 25, 1996; McDonnell Douglas Service Bulletin DC9–26–025, Revision 04, dated April 30, 1997; and McDonnell Douglas Service Bulletin DC9–26–025, Revision 05, dated May 29, 1998; as listed in the regulations, is approved by the Director of the Federal Register as of August 25, 1998.

The incorporation by reference of McDonnell Douglas DC–9 Service Bulletin 26–25, Revision 1, dated September 30, 1994; and McDonnell Douglas DC–9 Service Bulletin 26–25, Revision 2, dated April 18, 1995; was approved previously by the Director of the Federal Register as of July 24, 1995 (60 FR 32579, June 23, 1995).

ADDRESSES: The service information referenced in this AD may be obtained from The Boeing Company, Douglas Products Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert Baitoo, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5245; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 95–12–25, amendment 39–9278 (60 FR 32579, June 23, 1995), which is applicable to certain McDonnell Douglas Model DC–9, DC–9–80, and C–9 (military) series airplanes, and Model MD–88 airplanes, was published in the **Federal Register** on January 5, 1998 (63 FR 174). The action proposed to continue to require an inspection to detect chafing on the FIREX pipe assembly of the number one engine; and either repair of chafed pipe assemblies or replacement of the chafed pipe assemblies with new pipe assemblies; and modification of the FIREX and the pneumatic sense pipe assembly clamp marriage.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supports the proposed rule.

Explanation of Changes to This Final Rule

Since the issuance of the proposal, the FAA has reviewed and approved McDonnell Douglas Service Bulletin DC9–26–025, Revision 05, dated May 29, 1998. This revision is essentially the same as McDonnell Douglas Service Bulletin DC9–26–025, Revision 04, dated April 30, 1997; however, minor edits have been incorporated. The FAA has revised this final rule to reference Revision 05 as an additional source of service information for accomplishment of the required actions.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 1,691 McDonnell Douglas Model DC–9, DC–9–80, and C–9 (military) series airplanes, and Model MD–88 airplanes of the affected design in the worldwide fleet. The FAA estimates that 834 airplanes of U.S. registry will be affected by this AD.

The actions that are currently required by AD 95–12–25, and retained in this AD, take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. The cost of required parts will be nominal. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $50,040, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9278 (60 FR 32579, June 23, 1995), and by adding a new airworthiness directive (AD), amendment 39–10666, to read as follows:

98–15–15 McDonnell Douglas: Amendment 39–10666. Docket 97–NM–105–AD. Supersedes AD 95–12–25, Amendment 39–9278.

Applicability: Model DC–9–30, –40, and –50 series airplanes; Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), and DC–9–87 (MD–87) series airplanes; Model MD–88 airplanes; and C–9 (military) series airplanes; as listed in McDonnell Douglas Service Bulletin DC9–26–025, Revision 04, dated April 30, 1997; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent chafing of the FIREX supply pipe, which could result in a hole in the pipe and consequently prevent the proper distribution of the fire extinguishing agent within the nacelle in the event of a fire, accomplish the following:

(a) Within 8 months after the effective date of this AD, perform an inspection to detect chafing of the FIREX pipe assembly of the number one engine, in accordance with McDonnell Douglas DC–9 Service Bulletin 26–25, dated May 25, 1994; McDonnell Douglas DC–9 Service Bulletin 26–25, Revision 1, dated September 30, 1994; McDonnell Douglas DC–9 Service Bulletin 26–25, Revision 2, dated April 18, 1995; McDonnell Douglas Service Bulletin DC9–26–025, Revision 03, dated July 25, 1996; McDonnell Douglas Service Bulletin DC9–26–025, Revision 04, dated April 30, 1997; or McDonnell Douglas Service Bulletin DC9–26–025, Revision 05, dated May 29, 1998.

(1) If any chafing is detected, prior to further flight, accomplish paragraphs (a)(1)(i) and (a)(1)(ii) of this AD in accordance with the service bulletin. Where there are differences between the requirements of this AD and the procedures specified in the service bulletin, the AD prevails.

(i) Either repair chafed pipe assemblies or replace chafed pipe assemblies with new or serviceable pipe assemblies. And

(ii) Modify the FIREX and the pneumatic sense pipe assembly clamp marriage.

(2) If no chafing is detected, prior to further flight, modify the FIREX and the pneumatic

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sense pipe assembly clamp marriage in accordance with the service bulletin.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The actions shall be done in accordance with McDonnell Douglas DC–9 Service Bulletin 26–25, dated May 25, 1994; McDonnell Douglas DC–9 Service Bulletin 26–25, Revision 1, dated September 30, 1994; McDonnell Douglas DC–9 Service Bulletin 26–25, Revision 2, dated April 18, 1995; McDonnell Douglas Service Bulletin DC9–26–025, Revision 03, dated July 25, 1996; McDonnell Douglas Service Bulletin DC9–26–025, Revision 04, dated April 30, 1997; or McDonnell Douglas Service Bulletin DC9–26–025, Revision 05, dated May 29, 1998.

(1) The incorporation by reference of McDonnell Douglas DC–9 Service Bulletin 26–25, dated May 25, 1994; McDonnell Douglas Service Bulletin DC9–26–025, Revision 03, dated July 25, 1996; and McDonnell Douglas Service Bulletin DC9–26–025, Revision 04, dated April 30, 1997; and McDonnell Douglas Service Bulletin DC9–26–025, Revision 05, dated May 29, 1998; is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of McDonnell Douglas DC–9 Service Bulletin 26–25, Revision 1, dated September 30, 1994; and McDonnell Douglas DC–9 Service Bulletin 26–25, Revision 2, dated April 18, 1995; was approved previously by the Director of the Federal Register as of July 24, 1995 (60 FR 32579, June 23, 1995).

(3) Copies may be obtained from The Boeing Company, Douglas Products Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on August 25, 1998.

Issued in Renton, Washington, on July 10, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–19045 Filed 7–20–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–01–AD; Amendment 39–10669; AD 98–15–18]

RIN 2120–AA64

Airworthiness Directives; Maule Aerospace Technology Corp. M–4, M–5, M–6, M–7, MX–7, and MXT–7 Series Airplanes and Models MT–7–235 and M–8–235 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes Airworthiness Directive (AD) 95–26–18, which currently requires inspecting (one-time) certain wing lift struts for internal corrosion on certain Maule Aerospace Technology Corp. (Maule) M–4, M–5, M–6, M–7, MX–7, and MXT–7 series airplanes and Models MT–7–235 and M–8–235 airplanes, and replacing any wing lift strut where corrosion is found. That AD was the result of an accident where the wing separated from one of the affected airplanes. This AD retains the initial inspection and possible replacement requirements of AD 95–26–18, requires the inspections to be repetitive, and provides the option of using ultrasonic procedures to accomplish the inspection requirements. The actions specified by this AD are intended to prevent failure of the wing lift struts caused by corrosion damage, which could eventually result in the wing separating from the airplane.

DATES: Effective September 9, 1998.

The incorporation by reference of Maule Service Bulletin No. 11, dated October 30, 1995, as listed in the regulations was previously approved by the Director of the Federal Register as of January 26, 1996 (61 FR 623, January 9, 1996).

ADDRESSES: Service information that applies to this AD may be obtained from Maule Aerospace Technology Inc., 2099 GA Hwy. 133 South, Moultrie, Georgia 31768; telephone: (912) 985–2045; facsimile: (912) 890–2402. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–01–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Cindy Lorenzen, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone: (770) 703–6078; facsimile: (770) 703–6097.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to supersede AD 95–26–18, Amendment 39–9476 (61 FR 623, January 9, 1996), that applies to certain Maule M–4, M–5, M–6, M–7, MX–7, and MXT–7 series airplanes and Models MT–7–235 and M–8–235 airplanes that are equipped with part number (P/N) 2079E rear wing lift struts and P/N 2080E front wing lift struts, was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on March 24, 1998 (63 FR 14051). AD 95–26–18 currently requires inspecting (one-time) the wing lift struts for internal corrosion, and replacing any wing lift strut where corrosion is found. The proposed AD would supersede AD 95–26–18 with a new AD that would:

- Retain the initial inspection and possible replacement requirements of AD 95–26–18;
- Require the inspections to be repetitive; and
- Provide the option of using ultrasonic procedures to accomplish the inspection requirements.

Accomplishment of the actions required by AD 95–26–18 is in accordance with Maule Service Bulletin (SB) No. 11, dated October 30, 1995.

The NPRM was the result of a report of an accident where the wing separated from one of the affected airplanes.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Compliance Time of This AD

The compliance time of this AD is presented in calendar time instead of hours time-in-service. The FAA has determined that a calendar time for compliance is the most desirable method because the unsafe condition described in this AD is caused by corrosion. Corrosion can occur on airplanes regardless of whether the airplane is in service.

Cost Impact

The FAA estimates that 1,196 airplanes in the U.S. registry will be affected by this AD, that it will take 11 workhours per airplane to accomplish the initial inspection, and that the average labor rate is approximately $60 an hour. Parts to accomplish the initial inspection cost approximately $40 per airplane. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $837,200, or $700 per airplane. This figure only takes into account the cost of the initial inspection and does not take into account the cost of the repetitive inspections. The FAA has no way of determining how many repetitive inspections each owner/operator of the affected airplanes will incur.

In addition, these figures are based upon the presumption that no affected airplane operator has accomplished the initial inspection, and does not take into account the cost for replacement if corrosion is found on a wing lift strut. The FAA has no way of determining the number of wing lift struts that may need to be replaced based upon the results of the inspections.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Airworthiness Directive (AD) 95–26–18, Amendment No. 39–9476 (61 FR 623, January 9, 1996), and by adding a new AD to read as follows:

98–15–18 Maule Aerospace Technology Corp.: Amendment 39–10669; Docket No. 98–CE–01–AD; Supersedes AD 95–26–18, Amendment 39–9476.

Applicability: The following airplane models, all serial numbers, certificated in any category, that are equipped with part number (P/N) 2079E (or FAA-approved equivalent part number) rear wing lift struts or P/N 2080E (or FAA-approved equivalent part number) front wing lift struts:

Bee Dee
M–4T
M–4–210
M–4–220
M–5–180C
M–5–220C
M–7–235
MXT–7–180
MXT–7–160
MXT–7–420
M–4
M–4–180C
M–4–210C
M–4–220C
M–5–200
M–5–235C
MX–7–235
MT–7–235
MX–7–180A
M–7–235B
M–4C
M–4–180S
M–4–210S
M–4–220S
M–5–210C
M–6–180
MX–7–180
M–8–235
MXT–7–180A
M–7–235A
M–4S
M–4–180T
M–4–210T
M–4–220T
M–5–210TC
M–6–235
MX–7–420
MX–7–160
MX–7–180B
M–7–235C

Note 1: This AD does not apply to airplanes equipped with four Maule sealed lift struts, P/N 2200E and P/N 2201E. These sealed lift struts are identified by two raised weld spots on the upper end of the strut just below the serial number plate. Removal of the upper cuff is needed to locate the weld spots.

Note 2: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent failure of the wing lift struts caused by corrosion damage, which could eventually result in the wing separating from the airplane, accomplish the following:

Note 3: The paragraph structure of this AD is as follows:

Level 1: (a), (b), (c), etc.
Level 2: (1), (2), (3), etc.
Level 3: (i), (ii), (iii), etc.

Level 2 and Level 3 structures are designations of the Level 1 paragraph they immediately follow.

(a) Upon accumulating 2 years on a lift strut affected by this AD; within 3 calendar months after the effective date of this AD; or within 2 years after the last inspection accomplished in accordance with AD 95–26–18 (superseded by this action), whichever occurs later, remove the wing lift struts in accordance with the INSTRUCTIONS section of Maule Service Bulletin (SB) No. 11, dated October 30, 1995, and accomplish one of the following (the actions in either paragraph (a)(1), (a)(2), (a)(3), or (a)(4), including all subparagraphs, of this AD):

(1) Inspect the wing lift struts for corrosion in accordance with the INSPECTION

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PROCEDURE section of Maule SB No. 11, dated October 30, 1995.

(i) If no perceptible dents (as defined in the above SB) are found in the wing lift strut and no corrosion is externally visible, apply corrosion inhibitor to each strut in accordance with Maule SB No. 11, dated October 30, 1995. Reinspect the wing lift struts at intervals not to exceed 24 calendar months provided no perceptible dents or external corrosion is found.

(ii) If a perceptible dent (as defined in the above SB) is found in the wing lift strut or external corrosion is found, prior to further flight, accomplish one of the installations (and subsequent actions presented in each paragraph) specified in paragraphs (a)(3) and (a)(4) of this AD.

(2) Inspect the wing lift struts for corrosion in accordance with the Appendix to this AD. The inspection procedures in this Appendix must be accomplished by a Level 2 or Level 3 inspector certified using the guidelines established by the American Society for Non-destructive Testing, or MIL–STD–410.

(i) If no external corrosion is found and all requirements in the Appendix to this AD are met, prior to further flight, apply corrosion inhibitor to each strut in accordance with Maule SB No. 11, dated October 30, 1995. Reinspect the lift struts at intervals not to exceed 24 calendar months provided no external corrosion is found and all of the requirements included in the Appendix of this AD are met.

(ii) If external corrosion is found or if any of the requirements in the Appendix of this AD are not met, prior to further flight, accomplish one of the installations (and subsequent actions presented in each paragraph) specified in paragraphs (a)(3) and (a)(4) of this AD.

(3) Install original equipment manufacturer (OEM) part number wing lift struts (or FAA-approved equivalent part numbers) that have been inspected in accordance with the specifications presented in either paragraph (a)(1) or (a)(2) of this AD, and are found to be airworthy according to the inspection requirements included in these paragraphs. Accomplish this installation in accordance with the applicable maintenance manual. Thereafter, inspect these wing lift struts at intervals not to exceed 24 calendar months in accordance with the specifications presented in either paragraph (a)(1) or (a)(2) of this AD.

(4) Install new Maule sealed wing lift struts, P/N 2200E or P/N 2201E, as applicable (or FAA-approved equivalent part numbers) on each wing as specified in the INSTRUCTIONS section in Part II of Maule SB No. 11, dated October 30, 1995.

(b) If holes are drilled into the sealed wing lift strut assemblies installed as specified in paragraph (a)(4) of this AD in order to attach cuffs, door clips, or other hardware, inspect the wing lift struts at intervals not to exceed 24 calendar months using the procedures specified in either paragraph (a)(1) or (a)(2), including all subparagraphs, of this AD.

(c) The repetitive inspections required by this AD may be terminated after installing new wing lift strut assemblies as specified in paragraph (a)(4) of this AD provided no holes are drilled in these strut assemblies as specified in paragraph (b) of this AD.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.197 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Atlanta Aircraft Certification Office (ACO), One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349.

(1) The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

(2) Alternative methods of compliance approved in accordance with AD 95–26–18 are considered approved as alternative methods of compliance for this AD.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

(f) The removal, the lift strut inspection (in paragraph (a)(1) of this AD), the applications, and the installation required by this AD shall be done in accordance with Maule Service Bulletin No. 11, dated October 30, 1995. This incorporation by reference was previously approved by the Director of the Federal Register as of January 26, 1996 (61 FR 623, January 9, 1996). Copies may be obtained from Maule Aerospace Technology, Inc., 2099 GA Hwy. 133 South, Moultrie, Georgia 31768. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(g) This amendment supersedes AD 95–26–18, Amendment 39–9476.

(h) This amendment becomes effective on September 9, 1998.

Appendix to AD 98–15–18—Procedures and Requirements for Ultrasonic Inspection of Maule Wing Lift Struts

Equipment Requirements

1. A portable ultrasonic thickness gauge or flaw detector with echo-to-echo digital thickness readout capable of reading to 0.001 inch and an A-trace waveform display will be needed to accomplish this inspection.

2. An ultrasonic probe with the following specifications will be needed to accomplish this inspection: 10 MHz (or higher), 0.283 inch (or smaller) diameter dual element or delay line transducer designed for thickness gauging. The transducer and ultrasonic system shall be capable of accurately measuring the thickness of AISI 4340 steel down to 0.020 inch. An accuracy of +/−0.002 inch throughout a 0.020 inch to 0.050 inch thickness range while calibrating shall be the criteria for acceptance.

3. Either a precision machined step wedge made of 4340 steel (or similar steel with equivalent sound velocity) or at least three shim samples of same material will be needed to accomplish this inspection. One thickness of the step wedge or shim shall be less than or equal to 0.020 inch, one shall be greater than or equal to 0.050 inch and at least one other step or shim shall be between these two values.

4. Glycerin, light oil, or similar non-water based ultrasonic couplants are recommended in the setup and inspection procedures. Water-based couplants, containing appropriate corrosion inhibitors, may be utilized, provided they are removed from both the reference standards and the test item after the inspection procedure is completed and adequate corrosion prevention steps are then taken to protect these items.

- Note: Couplant is defined as "a substance used between the face of the transducer and test surface to improve transmission of ultrasonic energy across the transducer/strut interface."
- Note: If surface roughness due to paint loss or corrosion is present, the surface should be sanded or polished smooth before testing to assure a consistent and smooth surface for making contact with the transducer. Care shall be taken to remove a minimal amount of structural material. Paint repairs may be necessary after the inspection to prevent further corrosion damage from occurring. Removal of surface irregularities will enhance the accuracy of the inspection technique.

Instrument Setup

1. Set up the ultrasonic equipment for thickness measurements as specified in the instrument's user's manual. Because of the variety of equipment available to perform ultrasonic thickness measurements, some modification to this general setup procedure may be necessary. However, the tolerance requirement of step 13 and the record keeping requirement of step 14, must be satisfied.

2. If battery power will be employed, check to see that the battery has been properly charged. The testing will take approximately two hours. Screen brightness and contrast should be set to match environmental conditions.

3. Verify that the instrument is set for the type of transducer being used, i.e. single or dual element, and that the frequency setting is compatible with the transducer.

4. If a removable delay line is used, remove it and place a drop of couplant between the transducer face and the delay line to assure good transmission of ultrasonic energy. Reassemble the delay line transducer and continue.

5. Program a velocity of 0.231 inch/microsecond into the ultrasonic unit unless an alternative instrument calibration procedure is used to set the sound velocity.

6. Obtain a step wedge or steel shims per item 3 of the **Equipment Requirements**. Place the probe on the thickest sample using couplant. Rotate the transducer slightly back and forth to "ring" the transducer to the sample. Adjust the delay and range settings to arrive at an A-trace signal display with the first backwall echo from the steel near the left side of the screen and the second backwall echo near the right of the screen. Note that when a single element transducer is used, the initial pulse and the delay line/steel interface will be off of the screen to the left. Adjust the gain to place the amplitude of the first

backwall signal at approximately 80% screen height on the A-trace.

7. "Ring" the transducer on the thinnest step or shim using couplant. Select positive half-wave rectified, negative half-wave rectified, or filtered signal display to obtain the cleanest signal. Adjust the pulse voltage, pulse width, and damping to obtain the best signal resolution. These settings can vary from one transducer to another and are also user dependent.

8. Enable the thickness gate, and adjust the gate so that it starts at the first backwall echo and ends at the second backwall echo. (Measuring between the first and second backwall echoes will produce a measurement of the steel thickness that is not affected by the paint layer on the strut). If instability of the gate trigger occurs, adjust the gain, gate level, and/or damping to stabilize the thickness reading.

9. Check the digital display reading and if it does not agree with the known thickness of the thinnest thickness, follow your instrument's calibration recommendations to produce the correct thickness reading. When a single element transducer is used this will usually involve adjusting the fine delay setting.

10. Place the transducer on the thickest step of shim using couplant. Adjust the thickness gate width so that the gate is triggered by the second backwall reflection of the thick section. If the digital display does not agree with the thickest thickness, follow your instruments calibration recommendations to produce the correct thickness reading. A slight adjustment in the velocity may be necessary to get both the thinnest and the thickest reading correct. Document the changed velocity value.

11. Place couplant on an area of the lift strut which is thought to be free of corrosion and "ring" the transducer to surface. Minor adjustments to the signal and gate settings may be required to account for coupling improvements resulting from the paint layer. The thickness gate level should be set just high enough so as not to be triggered by irrelevant signal noise. An area on the upper surface of the lift strut above the inspection area would be a good location to complete this step and should produce a thickness reading between 0.034-inch and 0.041-inch.

12. Repeat steps 8, 9, 10, and 11 until both thick and thin shim measurements are within tolerance and the lift strut measurement is reasonable and steady.

13. Verify that the thickness value shown in the digital display is within +/− 0.002 inch of the correct value for each of the three or more steps of the setup wedge or shims. Make no further adjustments to the instrument settings.

14. Record the ultrasonic versus actual thickness of all wedge steps or steel shims available as a record of setup.

Inspection Procedure

1. Clean the lower 18 inches of the wing lift struts using a cleaner that will remove all dirt and grease. Dirt and grease will adversely affect the accuracy of the inspection technique. Light sanding or polishing may also be required to reduce surface roughness as noted in the **Equipment Requirements** section.

2. Using a flexible ruler, draw a ¼-inch grid on the surface of the first 11 inches from the lower end of the strut as shown in Piper Service Bulletin No. 528D or 910A, as applicable. This can be done using a soft (#2) pencil and should be done on both faces of the strut. As an alternative to drawing a complete grid, make two rows of marks spaced every ¼ inch across the width of the strut. One row of marks should be about 11 inches from the lower end of the strut, and the second row should be several inches away where the strut starts to narrow. Lay the flexible ruler between respective tick marks of the two rows and use tape or a rubber band to keep the ruler in place. See Figure 1.

3. Apply a generous amount of couplant inside each of the square areas or along the edge of the ruler. Re-application of couplant may be necessary.

4. Place the transducer inside the first square area of the drawn grid or at the first ¼-inch mark on the ruler and "ring" the transducer to the strut. When using a dual element transducer, be very careful to record the thickness value with the axis of the transducer elements perpendicular to any curvature in the strut. If this is not done, loss of signal or inaccurate readings can result.

5. Take readings inside each square on the grid or at ¼-inch increments along the ruler and record the results. When taking a thickness reading, rotate the transducer slightly back and forth and experiment with the angle of contact to produce the lowest thickness reading possible. Pay close attention to the A-scan display to assure that the thickness gate is triggering off of maximized backwall echoes.

- **Note:** A reading shall not exceed .041 inch. If a reading exceeds .041 inch, repeat steps 13 and 14 of the **Instrument Setup** section before proceeding further.

6. If the A-trace is unsteady or the thickness reading is clearly wrong, adjust the signal gain and/or gate setting to obtain reasonable and steady readings. If any instrument setting is adjusted, repeat steps 13 and 14 of the **Instrument Setup** section before proceeding further.

7. In areas where obstructions are present, take a data point as close to the correct area as possible.

- **Note:** The strut wall contains a fabrication bead at approximately 40% of the strut chord. The bead may interfere with accurate measurements in that specific location.

8. A measurement of 0.024 inch or less shall require replacement of the strut prior to further flight

9. If at any time during testing an area is encountered where a valid thickness measurement cannot be obtained due to a loss of signal strength or quality, the area shall be considered suspect. These areas may have a remaining wall thickness of less than 0.020 inch, which is below the range of this setup, or they may have small areas of localized corrosion or pitting present. The latter case will result in a reduction in signal strength due to the sound being scattered from the rough surface and may result in a signal that includes echoes from the pits as well as the backwall. The suspect area(s) shall be tested with a Maule "Fabric Tester" as specified in Piper Service Bulletin No. 528D or 910A.

10. Record the lift strut inspection in the aircraft log book.

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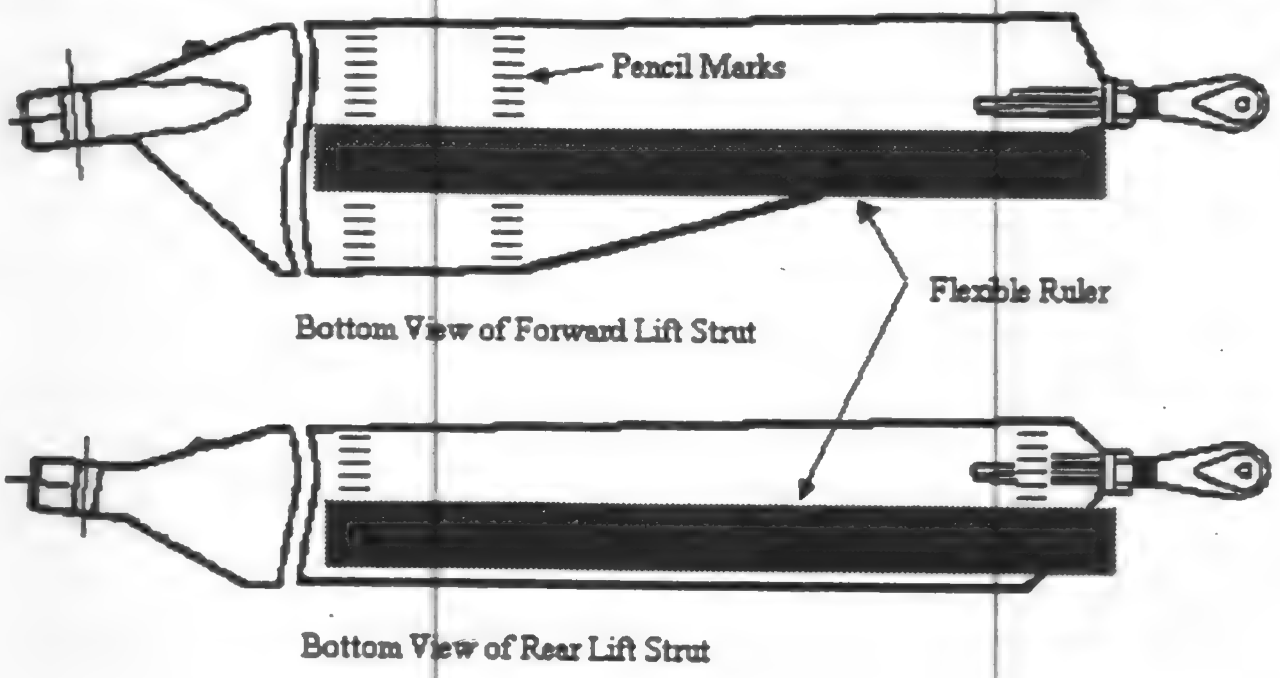

Bottom View of Forward Lift Strut

Bottom View of Rear Lift Strut

Figure 1

Issued in Kansas City, Missouri, on July 14, 1998.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 275

[Release No. IA–1731, File No. S7–29–97]

RIN 3235–AH25

Exemption To Allow Investment Advisers To Charge Fees Based Upon a Share of Capital Gains Upon or Capital Appreciation of a Client's Account

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting amendments to the rule under the Investment Advisers Act of 1940 that permits investment advisers to charge certain clients performance or incentive fees. The amendments modify the rule's criteria for clients eligible to enter into a contract under which a performance fee is charged and eliminate provisions specifying required contract terms and disclosures. The amendments provide investment advisers greater flexibility in structuring performance fee arrangements with clients who are financially sophisticated or have the resources to obtain sophisticated financial advice regarding the terms of these arrangements.

EFFECTIVE DATE: The rule amendments will become effective August 20, 1998.

FOR FURTHER INFORMATION CONTACT: Kathy D. Ireland, Attorney, or Jennifer S. Choi, Special Counsel, at (202) 942–0716, Task Force on Investment Adviser Regulation, Division of Investment Management, U.S. Securities and Exchange Commission, 450 Fifth Street, N.W., Mail Stop 5–6, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission today is adopting amendments to rule 205–3 [17 CFR 275.205–3] under the Investment Advisers Act of 1940 [15 U.S.C. 80b] ("Advisers Act").

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Executive Summary

Rule 205–3 under the Advisers Act permits investment advisers to charge performance fees to clients with at least $500,000 under the adviser's management or with a net worth of more than $1,000,000. The rule requires certain terms to be included in contracts providing for performance fees and specific disclosures to be made to clients entering into these contracts. The Commission is adopting rule amendments to eliminate the provisions of the rule that prescribe contractual terms and require specific disclosures. In addition, the amendments change the client eligibility criteria to permit the following clients to enter into performance fee arrangements with their investment advisers: (1) clients with at least $750,000 under management with the adviser or more than $1,500,000 of net worth; (2) clients who are "qualified purchasers" under section 2(a)(51)(A) of the Investment Company Act of 1940

("Investment Company Act");[1] and (3) knowledgeable employees of the investment adviser.

I. Background

A. Introduction

Section 205(a)(1) of the Advisers Act generally prohibits an investment adviser from entering into, extending, renewing, or performing any investment advisory contract that provides for compensation to the adviser based on a share of capital gains on, or capital appreciation of, the funds or any portion of the funds of the client.[2] In 1970, Congress provided an exception from the prohibition in section 205(a)(1) for advisory contracts relating to the investment of assets in excess of $1,000,000,[3] so long as an appropriate "fulcrum fee" is used.[4] This statutory exception was the only provision under which advisers could enter into performance fee contracts with so-called "high net worth" clients until 1985 when the Commission adopted rule 205–3.[5]

Under current rule 205–3, an adviser may charge performance fees to a client who has at least $500,000 under management with the adviser or has a net worth of more than $1,000,000. The Commission presumed that these clients, because of their wealth, financial knowledge, and experience, are less dependent on the protections provided by the Advisers Act's restrictions on performance fee arrangements.[6] The rule, however, imposes several conditions on advisers entering into performance fee contracts in addition to those related to the eligibility of clients.

In 1992, the Commission's Division of Investment Management issued a report recommending, among other things, that Congress enact legislation clarifying the authority of the Commission to provide exemptions from the performance fee prohibition for advisory contracts with any persons whom the Commission determined did not need the protections of the prohibition.[7] Four years later, Congress included in the National Securities Markets Improvement Act of 1996 ("1996 Act")[8] two additional statutory exceptions from the performance fee prohibition[9] and new section 205(e) of the Advisers Act, which authorizes the Commission to exempt conditionally or unconditionally from the performance fee prohibition advisory contracts with persons that the Commission determines do not need its protections.[10]

B. Proposed Amendments to Rule 205–3

On November 13, 1997, the Commission issued a release proposing amendments to rule 205–3 ("Proposing Release").[11] The proposed amendments were intended to provide increased flexibility to investment advisers and their clients in entering into performance fee arrangements and to revise the client eligibility criteria under the rule.

The Commission received 22 comment letters on the proposed amendments to rule 205–3. Commenters supported the proposed amendments; many urged the Commission to expand further the types of clients eligible to enter into such arrangements. The Commission is adopting amendments to rule 205–3 with one change from the amendments as proposed, in view of the issues raised by commenters. As suggested by commenters, the Commission is adding certain knowledgeable employees of investment advisers as another category of clients eligible to enter into performance fee arrangements under rule 205–3.

II. Discussion

A. Elimination of Specific Contractual and Disclosure Requirements

Current rule 205–3 imposes a number of required provisions on performance fee contracts, obligates the adviser to provide certain disclosures to clients, and requires that the adviser reasonably believe that the contract represents an arm's length arrangement and that the client (or its independent agent) understands the method of compensation and its risks. In the Proposing Release, the Commission explained that, although these conditions were intended to protect clients, they have inhibited the flexibility of advisers and their clients in establishing performance fee arrangements beneficial to both parties.[12] In light of the other protections provided by the Advisers Act, the Commission believed that these clients may not need the protections of the rule. Therefore, the Commission proposed, pursuant to its exemptive authority under new section 205(e) of the Advisers Act, to eliminate all of the contractual and disclosure provisions in rule 205–3 other than the client eligibility tests. All but one of the commenters supported these proposed amendments, which the Commission is adopting as proposed.

The Commission emphasizes that the elimination of the contractual and disclosure provisions from rule 205–3 does not alter the obligation of an adviser, as a fiduciary, to deal fairly with its clients and to make full and fair disclosure of its compensation arrangements.[13] This obligation includes full client disclosure of all material information regarding a proposed performance fee arrangement

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[1] 15 U.S.C. 80a–2(a)(51)(A).

[2] 15 U.S.C. 80b–5(a)(1).

[3] 15 U.S.C. 80b–5(b)(2). Trusts, governmental plans, collective trust funds, and separate accounts referred to in section 3(c)(11) of the Investment Company Act [15 U.S.C. 80a–3(c)(11)] are not eligible for this exception from the performance fee prohibition under section 205(b)(2)(B) of the Advisers Act [15 U.S.C. 80b–5(b)(2)(B)].

[4] 15 U.S.C. 80b–5(b)(2). *See* discussion of fulcrum fees in Proposing Release, *infra* note 11, at n.5.

In 1980, Congress added an exception for contracts involving business development companies under conditions set forth in section 205(b)(3) of the Advisers Act [15 U.S.C. 80b–5(b)(3)].

[5] Rule 205–3 was adopted under section 206A of the Advisers Act [15 U.S.C. 80b–6a], which grants the Commission general exemptive authority. In providing this authority, Congress noted that the Commission would be able to "exempt persons . . . from the bar on performance-based advisory compensation" in appropriate cases. H.R. Rep. No. 1382, 91st Cong., 2d Sess. 42 (1970); S. Rep. No. 184, 91st Cong., 1st Sess. 46 (1969).

[6] Exemption to Allow Registered Investment Advisers to Charge Fees Based Upon a Share of Capital Gains Upon or Capital Appreciation of a Client's Account, Investment Advisers Act Release No. 996 (Nov. 14, 1985) [50 FR 48556 (Nov. 26, 1985)].

[7] *See* Division of Investment Management, U.S. Securities and Exchange Commission, Protecting Investors: A Half Century of Investment Company Regulation 245, 247–48 (1992) ("Protecting Investors").

[8] Pub. L. No. 104–290, 110 Stat. 3416 (1996) (codified in scattered sections of the U.S. Code).

[9] Section 210 of the 1996 Act added to section 205 of the Advisers Act exceptions for contracts with companies excepted from the definition of investment company by section 3(c)(7) of the Investment Company Act [15 U.S.C. 80a–3(c)(7)] and contracts with persons who are not residents of the United States. The definition of "person" under section 202 of the Advisers Act includes companies, which in turn includes corporations, partnerships, associations, joint-stock companies, trusts and organized groups of persons [15 U.S.C. 80b–2(a)(5), (16)]; therefore, the exception for foreign residents includes foreign investment companies.

[10] 15 U.S.C. 80b–5(e). Section 205(e) provides that the Commission may determine that persons may not need the protections of section 205(a)(1) on the basis of such factors as "financial sophistication, net worth, knowledge of and experience in financial matters, amount of assets under management, relationship with a registered investment adviser, and such other factors as the Commission determines are consistent with [section 205]."

[11] Exemption To Allow Investment Advisers To Charge Fees Based Upon a Share of Capital Gains Upon or Capital Appreciation of a Client's Account, Investment Advisers Act Release No. 1682 (Nov. 13, 1997) [62 FR 61882 (Nov. 19, 1997)].

[12] *See* Proposing Release, *supra* note 11, at 8.

[13] *See* SEC v. Capital Gains Research Bureau, 375 U.S. 180, 194 (1963). In addition, advisers registered with the Commission are required to provide their clients with a brochure describing their fee arrangements. *See* Part II of Form ADV.

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as well as any material conflicts posed by the arrangement.[14]

B. Qualified Clients

Currently, rule 205–3 permits investment advisers to charge performance fees to clients with at least $500,000 under the adviser's management or with a net worth of more than $1,000,000. As noted above, in adopting rule 205–3 in 1985, the Commission concluded that clients who satisfy these criteria do not need the full protections provided by the Advisers Act's restrictions on performance fee arrangements.[15]

The Commission proposed to raise the net worth and assets-under-management threshold levels and to add a third category of eligible clients, "qualified purchasers" under section 2(a)(51)(A) of the Investment Company Act. Under the proposed amendments, clients who satisfied the new eligibility criteria contained in rule 205–3 would be referred to as "qualified clients." The Commission is adopting amendments to the criteria for determining the eligibility of clients with one modification to the proposal in response to suggestions by commenters, as discussed below.[16]

1. Numerical Thresholds

As discussed in the Proposing Release, the Commission recognized that, since 1985, the net worth and assets-under-management thresholds have been affected by inflation: $1,000,000 in 1985 dollars is now worth approximately $1,500,000; and $500,000 in 1985 dollars is now worth approximately $750,000.[17] The Commission therefore proposed to increase the amounts of the net worth and assets-under-management tests from $1,000,000 and $500,000 to $1,500,000 and $750,000, respectively. Five commenters supported the increased net worth and assets-under-management thresholds. One commenter noted that increasing the thresholds to reflect inflation would ensure that unsophisticated retail clients continue to receive the protections of the performance fee prohibition.[18]

Nine commenters opposed increasing the thresholds as unnecessary to ensure adequate client sophistication, often citing the lack of a history of abuse and the costs and inconvenience of incorporating new thresholds into existing agreements.[19] None of the commenters, however, suggested any alternative criteria to the objective thresholds, as requested by the Commission in the Proposing Release. Moreover, responding to the Commission's request for comment, the commenters opposed any indexing of the thresholds to take into account automatically the effects of inflation. The Commission has decided to adopt the amendments to the threshold levels as proposed. In light of the expansion of the performance fee exemption and the effects of inflation on the threshold levels, the Commission believes that, in order to continue to determine that clients who satisfy the numerical thresholds do not need the protections of the performance fee prohibition, it should increase the thresholds.

2. Qualified Purchasers

The Commission also proposed to permit advisers to enter into performance fee contracts with clients who are "qualified purchaser[s]" under section 2(a)(51)(A) of the Investment Company Act.[20] New section 3(c)(7) of the Investment Company Act, as added by the 1996 Act, exempts from regulation under the Investment Company Act certain investment pools whose interests are not offered to the public and whose shareholders consist primarily of "qualified purchasers," including individuals with at least $5,000,000 of investments.[21] Although, in most cases, persons who would be qualified purchasers under section 2(a)(51)(A) would satisfy the assets-under-management or net worth criterion under rule 205–3, even as amended, in some cases, such persons would not.[22] Therefore, the Commission proposed to add "qualified purchasers" as eligible clients under the rule so that an investor who meets the eligibility requirements to invest in a section 3(c)(7) company also could enter into a performance fee arrangement outside the context of a section 3(c)(7) company.[23] The commenters supported this provision, which the Commission is adopting as proposed.

3. Knowledgeable Employees

The Proposing Release requested comment on whether the Commission should exempt from the performance fee prohibition arrangements between advisers and clients who have certain pre-existing relationships. These relationships would be of a type that suggests that the abuses Congress sought to prevent by prohibiting performance fee arrangements are unlikely to occur. Section 205(e) permits the Commission to consider, in addition to criteria such as financial sophistication and knowledge and experience in financial matters, whether a client may not need the protections of the performance fee prohibition by virtue of the client's relationship with the adviser.[24]

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[14] The disclosure obligation flows from the Advisers Act's prohibitions against fraud in section 206 of the Advisers Act [15 U.S.C. 80b–6]. The amendments also eliminate paragraph (h) of the current rule, which states that "[a]n investment adviser entering into or performing an investment advisory contract under this rule is not relieved of any obligations under section 206 of the Advisers Act or of any other applicable provisions of the federal securities laws." The Commission believes that rule 205–3 by its terms provides an exemption only from section 205(a)(1), and that separate reference to section 206 and other provisions of the federal securities laws in the rule is unnecessary. By eliminating this reference, the Commission does not intend in any way to suggest that compliance with the amended rule would relieve advisers of any obligations under section 206 of the Advisers Act or any other applicable provisions of the federal securities laws.

The Commission further notes that advisers entering into performance fee arrangements with employee benefit plans covered by the Employee Retirement Income Security Act of 1974 ("ERISA") are subject to the fiduciary responsibility and prohibited transaction provisions of ERISA. 29 U.S.C. 1001–1461. The amendments to rule 205–3 do not affect an adviser's obligation to comply with ERISA. Issues involving performance fee arrangements under ERISA are within the jurisdiction of the Department of Labor, which is responsible for administering ERISA's fiduciary provisions and has addressed performance fee arrangements in a number of advisory opinions under ERISA. U.S. Department of Labor Advisory Opinion No. 89–28A (Sept. 25, 1989); U.S. Department of Labor Advisory Opinion 86–21A (Aug. 29, 1986); U.S. Department of Labor Advisory Opinion 86–20A (Aug. 29, 1986).

[15] *See supra* note 6 and accompanying text.

[16] One commenter requested that the Commission clarify whether a trust, governmental plan, collective trust fund, or separate account referred to in section 3(c)(11) of the Investment Company Act may be charged a fulcrum fee (or any other kind of performance fee) under rule 205–3. The Commission believes that a trust, governmental plan, collective trust fund, or separate account that satisfies all the conditions of rule 205–3 may enter into a performance fee (including a fulcrum fee) arrangement under the rule.

[17] *See* Proposing Release, *supra* note 11, at 10.

[18] One commenter went further and recommended a substantial increase in the thresholds beyond those set forth in the proposal.

[19] Although the proposed transition rule would "grandfather" existing arrangements with existing clients, the new thresholds would apply to new clients to existing arrangements. *See infra* Section II.D.

[20] *See supra* note 1.

[21] 15 U.S.C. 80a–3(c)(7).

[22] For example, in determining the amount of investments for purposes of the definition of qualified purchaser, only outstanding indebtedness incurred to acquire the investments must be deducted. Rule 2a51–1(e) under the Investment Company Act [17 CFR 270.2a51–1(e)]. *See also* Privately Offered Investment Companies, Investment Company Act Release No. 22597 (Apr. 3, 1997) [62 FR 17512 (Apr. 9, 1997)]. Thus, a person with less than $750,000 in assets under management could have more than $5,000,000 of investments, but a net worth of less than $1,500,000 because of other debt. Under the rule amendments, such a person would be eligible to enter into a performance fee contract under rule 205–3.

[23] Under section 205(b)(4) of the Advisers Act [15 U.S.C. 80b–5(b)(4)], section 3(c)(7) companies may enter into performance fee contracts without relying on rule 205–3. Each investor in a section 3(c)(7) company need not satisfy the eligibility criteria of rule 205–3 for an adviser to charge performance fees to the section 3(c)(7) company.

Many commenters recommended that the Commission add to the list of qualified clients certain "knowledgeable employees," consistent with the concept of "knowledgeable employees" eligible to invest in section 3(c)(1)[25] and section 3(c)(7) companies in accordance with rule 3c–5 under the Investment Company Act.[26] Under rule 3c–5, knowledgeable employees include executive officers, directors, trustees, general partners, and advisory board members of a section 3(c)(1) or a section 3(c)(7) company, and those who serve in similar capacities. The rule also includes certain other employees of the fund or its management affiliate who participate in investment activities and have performed such functions for at least 12 months.

One commenter asserted that such employees are inherently sophisticated because of their knowledge of the day-to-day investment activities of the adviser and are in the best position to evaluate the risks of performance fees and protect themselves from overreaching on the part of the adviser. Another commenter noted that inclusion of knowledgeable employees as qualified clients would allow such employees to invest in section 3(c)(1) companies that enter into performance fee arrangements as well as section 3(c)(7) companies, which are excepted from the performance fee prohibition pursuant to section 205(b)(4) of the Advisers Act.[27]

The Commission agrees that employees who actively participate in the investment activities of the adviser are likely to be sophisticated financially and do not need the protections of the performance fee prohibition. Therefore, the Commission is adding certain knowledgeable employees of the investment adviser as another criterion for "qualified clients" under the rule. The new category is similar to the definition of knowledgeable employee in rule 3c–5 under the Investment Company Act, and would include an executive officer, director, trustee, general partner, or person serving in a similar capacity, of the investment adviser, as well as certain other employees of the adviser who participate in investment activities and have performed such functions for at least 12 months.

C. Identification of the Client[28]

Rule 205–3 provides that with respect to certain clients entering into performance fee contracts with an adviser—private investment companies, registered investment companies, and business development companies—the adviser must "look through" the legal entity to determine whether each equity owner of the company would be a qualified client.[29] Under this provision, each "tier" of such entities must be examined in this manner. Thus, if a private investment company seeking to enter into a performance fee contract (the first tier company) is owned by another private investment company (the second tier company), the look through provision applies to the second (and any other) level private investment company, and thus the adviser must look to the ultimate client to determine whether the arrangement satisfies the requirements of the rule.[30]

The Commission proposed to retain the "look through" provision and to clarify that any "equity owners" that are not charged a performance fee would not be required to meet the qualified client test.[31] The Commission is adopting this provision as proposed.

Some commenters urged the Commission to eliminate the look through provision with respect to certain entities, such as private investment companies. Others opposed such changes, arguing that it would permit circumvention of the client eligibility requirements of the rule and result in performance fees being charged to groups of unsophisticated investors. The Commission has decided not to eliminate the look through provision of the rule at this time.[32]

D. Transition Rule

The Commission is adopting, as proposed, a transition rule permitting investment advisers and their clients to maintain their existing performance fee arrangements notwithstanding the clients' failure to meet the eligibility criteria after the thresholds increase to $750,000 and $1,500,000.[33] Such arrangements could continue under the transition rule if they were entered into before the effective date of the amendments to the rule and they satisfy the requirements of the rule as in effect on the date that they were entered into. A new party to an existing arrangement, however, would be required to satisfy the new qualified client test.

III. Cost-Benefit Analysis

The Commission is sensitive to the costs and benefits imposed by its rules. The Commission notes that the rule amendments are pursuant to new authority granted to it by Congress in the 1996 Act.

As discussed below, although costs and benefits of the rule amendments are difficult to quantify, the Commission believes that these amendments will benefit investment advisers and their clients without imposing any measurable costs.

The rule amendments will likely alter the total number of investment advisers that rely on the performance fee exemption.[34] The number of performance fee contracts may increase

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[24] *See supra* note 10.

[25] 15 U.S.C. 80a–3(c)(1).

[26] Rule 3c–5 [17 CFR 270.3c–5].

[27] 15 U.S.C. 80b–5(b)(4).

[28] The following discussion of the identity of the "client" is relevant only for purposes of this rule and not for purposes of section 206 of the Advisers Act [15 U.S.C. 80b–6].

[29] Rule 205–3(b)(2) [17 CFR 275.205–3(b)(2)].

[30] Conditional Exemption to Allow Registered Investment Advisers to Charge Fees Based Upon a Share of Capital Gains Upon or Capital Appreciation of a Client's Account, Investment Advisers Act Release No. 961 at n.21 (March 15, 1985) [50 FR 11718 (March 25, 1985)].

[31] Amended rule 205–3(b) [17 CFR 275.205–3(b)]. The Commission notes that an adviser charging a performance fee to only certain clients in this context should provide appropriate disclosure concerning the existence of the performance fee to those clients who do not pay a performance fee. In addition, the amendments retain the provision in rule 205–3 that an equity owner who is the investment adviser entering into the performance fee contract need not be a qualified client. Furthermore, as stated in the Proposing Release, the look through provision does not apply to section 3(c)(7) companies, which are excepted from the performance fee prohibition by section 205(b)(4) of the Advisers Act.

[32] One commenter urged that the look through provision not apply if the first tier company and the second tier company are independent of each other. This commenter reasoned that where a second tier section 3(c)(1) company is truly independent of the first tier section 3(c)(1) company, the adviser receiving the performance fee could not seek to circumvent the purpose of the look through provision and pool clients to avoid the qualified client requirement. Another commenter urged that the look through provision not apply if the first tier company and the second tier company are section 3(c)(1) companies, unless the adviser to the first tier company also is the adviser to the second tier company. This commenter reasoned that the financial sophistication of the managers of the second tier company would protect the interests of their investors in negotiating a performance fee at arm's length, which is consistent with the rule 205–3 exemption from the performance fee prohibition. The Commission has decided not to amend the rule; it, however, will entertain requests for relief from the application of the look through provision in circumstances where the policies and purposes of section 205 of the Advisers Act would not be served by its application.

[33] Amended rule 205–3(c) [17 CFR 275.205–3(c)].

[34] The Commission knows of no information concerning the incidence of performance fee arrangements in the United States. Performance fee arrangements, however, appear to be accepted practices in many other countries. *See* International Survey of Investment Adviser Regulation 15 (Marcia L. MacHarg & Roberta R. W. Kameda eds., 1994) (noting that performance fees generally are permitted in Australia, Brazil, Canada (Ontario, with client's written consent), France, Germany, Italy, Japan, Spain, Switzerland (up to 20% of net capital gain), the United Kingdom and Venezuela).

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because the performance fee arrangement will no longer be subject to prescribed contract terms. Moreover, the rule amendments will add two new categories of clients eligible to enter into performance fee arrangements—qualified purchasers and knowledgeable employees who may not have been eligible under the numerical thresholds. On the other hand, the increase in the net worth and assets-under-management thresholds for determining eligibility under the rule may reduce the number of eligible clients[35] and, as a result, the total number of performance fee arrangements. Overall, however, the Commission believes it is reasonable to estimate that the amendments to the performance fee rule will increase the number of performance fee arrangements.

To the extent that the rule amendments increase the number of performance fee arrangements, advisers and clients may benefit overall.[36] For example, proponents of performance fees have argued that these arrangements may benefit both parties to the advisory contract because linking advisory compensation to performance may result in a closer alignment of the goals of the adviser and the client.[37] Proponents also claim that performance fees may encourage better performance by rewarding good performance rather than linking compensation and assets under management as in more traditional arrangements.[38] In addition, advocates of the increased use of performance fees assert that they may encourage the establishment of new advisory firms[39] and may result in greater competition and produce a wider array of investment advisers and services and lower overall advisory costs.

The increased use of performance fees, however, also may produce some costs to advisory clients and the economy in general. Opponents of advisory fees have cited the potential for the adviser under a performance fee arrangement to engage in excessive risk taking with respect to the client's account.[40] In addition, some detractors have expressed concern that performance fees might result in discrimination against clients that do not pay performance fees.[41]

The arguments for and against performance fee arrangements provide no definitive answers concerning their effect on advisers, clients and the markets. The costs and benefits of performance fee arrangements in general are difficult to quantify because of their theoretical nature. Although the Commission requested comment in the Proposing Release on whether the benefits and costs could be quantified, no commenters responded to this request.

Similarly, it is difficult to quantify the effect of the rule amendments on advisers, their clients, or the economy. The Commission has no data from which to measure the total effect of these amendments. For example, the Commission knows of no information concerning the number of advisers that have performance fee contracts or the average number of performance fee contracts per adviser. The Commission requested the submission of data concerning incidence of performance fees in the Proposing Release, but no commenters responded to this request. In addition, the Commission has no information concerning either the number of clients who would no longer qualify under the new criteria or the number of clients who would qualify only under the new criteria.

Although the Commission cannot quantify the effects of the rule amendments, the Commission believes that the amendments will benefit advisers and their qualified clients by providing them with more flexibility in structuring performance fee arrangements that may benefit both parties. The amendments eliminate all the prescribed compensation calculations and other required contract terms, which have raised a number of interpretative issues and technical concerns over the years.[42] Thus, the amendments allow investment advisers and their clients who are financially sophisticated or have the resources to obtain sophisticated financial advice to negotiate the terms of their performance fee contracts. Moreover, the Commission believes that these amendments should reduce the costs of establishing and monitoring compliance with the current rule, and thus benefit both investment advisers and their clients who wish to enter into performance fee arrangements.

IV. Summary of Regulatory Flexibility Analysis

A summary of the Initial Regulatory Flexibility Analysis ("IRFA") was published in the Proposing Release. No comments were received on the IRFA. The Commission has prepared a Final Regulatory Flexibility Analysis ("FRFA") in accordance with 5 U.S.C. 604 regarding amendments to rule 205–3 under the Advisers Act. The following summarizes the FRFA.

As set forth in greater detail in the FRFA, the 1996 Act added section 205(e) to the Advisers Act, which authorizes the Commission to exempt conditionally or unconditionally from the performance fee prohibition contained in section 205(a)(1) of the Advisers Act advisory contracts with persons that the Commission determines do not need the protections of the prohibition. The FRFA states that the rule amendments will liberalize rule 205–3, which permits performance fees to be charged to sophisticated clients, by eliminating required contract terms and disclosures, update the current criteria for determining eligible clients to reflect the effects of inflation on the current assets-under-management and net worth tests, and add new categories of eligible clients—"qualified purchasers" under section 2(a)(51)(A) of the Investment Company Act, and "knowledgeable employees" of the investment adviser.

The FRFA also discusses the effect of the rule amendments on small entities. For the purposes of the Advisers Act and the Regulatory Flexibility Act, an investment adviser generally is a small entity (i) if it manages assets of $50 million or less, in discretionary or non-discretionary accounts, as of the end of its most recent fiscal year or (ii) if it renders other advisory services, has $50,000 or less in assets related to its advisory business.[43] The Commission estimates that approximately 17,650 investment advisers are small entities.[44]

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[35] According to data from the 1995 Survey of Consumer Finances conducted by the Federal Reserve Board, approximately 1,100,000 households have net worth between $1,000,000 and $1,500,000. This figure, however, represents the net worth of households and not the individual persons who might be clients. Furthermore, the survey results do not address clients that are not natural persons.

[36] The Division discussed the advantages and disadvantages of performance fees in more detail in its 1992 study. Protecting Investors, *supra* note 7, at 239–40.

[37] Richard Grinold & Andrew Rudd, *Incentive Fees: Who Wins? Who Loses?*, 43 Fin. Analysts J. 27, 37 (Jan.–Feb. 1987); Harvey E. Bines, The Law of Investment Management ¶5.03[2][b], at 5–43 (1978 & Supp. 1986) (observing that the principal justification for performance fees is that they permit the uncertainty in the quality of the product—the management of the portfolio—to be shared between the adviser and the client).

[38] *See, e.g.*, Stephen Lofthouse, *A Fair Day's Wages for a Fair Day's Work*, 4 Journal of Investing 74, 76 (Winter 1995); Grinold & Rudd, *supra* note 37; at 37; Bines, *supra* note 37, at 5–36 to 5–37.

[39] Julie Rober, *The Great Debate Over Performance Fees*, 17 Institutional Investor 123, 124 (Nov. 1983) (stating that new firms can begin generating profits before attracting a large asset base).

[40] Lofthouse, *supra* note 38, at 77; Rober, *supra* note 39, at 127.

[41] *See* In re McKenzie Walker Investment Management, Inc., Investment Advisers Act Release No. 1571 (July 16, 1996) (investment adviser favoring its performance-fee clients in the allocation of hot initial public offerings).

[42] *See, e.g.*, Valuemark Capital Management, Inc. (pub. avail. June 4, 1997) (limited partners purchasing or redeeming mid-year immaterial if performance fee based on performance of partnership over a period of at least one year); Securities Industry Association (pub. avail. Nov. 18, 1986) (use of rolling one-year periods after initial one-year period); P.E. Becker, Inc. (pub. avail. July 21, 1986) (individual limited partners may be considered the "client" for purposes of the "arm's-length" negotiation requirement).

The Commission does not have information from which to estimate the number of advisers managing assets of $50 million or less whose clients will be able to meet the eligibility tests under the amended rule and thereby will qualify to enter into a performance fee arrangement under the rule. However, the Commission believes that the number may be substantial. The Commission also believes that it would be reasonable to estimate that the overall effect of the amendments to the rule would be to increase the use of the exemption by small entities, and that the economic effect on small entities may be significant.

The FRFA states that the rule amendments will not impose any new reporting, recordkeeping or compliance requirements. The FRFA also discusses the various alternatives considered by the Commission in connection with the rule amendments that might minimize the effect on small entities, including (a) the establishment of differing compliance or reporting requirements or timetables that take into account the resources of small entities; (b) the clarification, consolidation or simplification of compliance and reporting requirements under the rule amendments for small entities; (c) the use of performance rather than design standards; and (d) an exemption from coverage of the rule or any portion of the rule, for small entities. As discussed in more detail in the FRFA, the amended rule will reduce the regulatory burden on all investment advisers, impose no new compliance or reporting requirements, and include a transition rule allowing existing arrangements to continue. The Commission therefore believes that it would be inappropriate to establish a different timetable for small entities, to further clarify, consolidate or simplify the rule's requirements for small entities, or to provide an even broader exemption for small entities.

The FRFA is available for public inspection in File No. S7–29–87, and a copy may be obtained by contacting Kathy D. Ireland, Securities and Exchange Commission, 450 5th Street, N.W., Mail Stop 5–6, Washington, D.C. 20549.

V. Statutory Authority

The Commission is adopting amendments to rule 205–3 pursuant to the authority set forth in section 205(e) of the Investment Advisers Act of 1940 [15 U.S.C. 80b–5(e)].

List of Subjects in 17 CFR Part 275

Reporting and recordkeeping requirements, Securities.

Text of Rule

For the reasons set out in the preamble, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

1. The authority citation for Part 275 is revised to read as follows:

Authority: 15 U.S.C. 80b–2(a)(17), 80b–3, 80b–4, 80b–6(4), 0b–6a, 80b–11, unless otherwise noted.

Section 275.203A–1 is also issued under 15 U.S.C. 80b–3a.

Section 275.203A–2 is also issued under 15 U.S.C. 80b–3a.

Section 275.204–2 is also issued under 15 U.S.C. 80b–6.

Section 275.205–3 is also issued under 15 U.S.C. 80b–5(e).

2. Section 275.205–3 is revised to read as follows:

§ 275.205–3 Exemption from the compensation prohibition of section 205(a)(1) for investment advisers.

(a) *General.* The provisions of section 205(a)(1) of the Act (15 U.S.C. 80b–5(a)(1)) will not be deemed to prohibit an investment adviser from entering into, performing, renewing or extending an investment advisory contract that provides for compensation to the investment adviser on the basis of a share of the capital gains upon, or the capital appreciation of, the funds, or any portion of the funds, of a client, *Provided*, That the client entering into the contract subject to this section is a qualified client, as defined in paragraph (d)(1) of this section.

(b) *Identification of the client.* In the case of a private investment company, as defined in paragraph (d)(3) of this section, an investment company registered under the Investment Company Act of 1940, or a business development company, as defined in section 202(a)(22) of the Act (15 U.S.C. 80b–2(a)(22)), each equity owner of any such company (except for the investment adviser entering into the contract and any other equity owners not charged a fee on the basis of a share of capital gains or capital appreciation) will be considered a client for purposes of paragraph (a) of this section.

(c) *Transition rule.* An investment adviser that entered into a contract before August 20, 1998 and satisfied the conditions of this section as in effect on the date that the contract was entered into will be considered to satisfy the conditions of this section; *Provided*, however, that this section will apply with respect to any natural person or company who is not a party to the contract prior to and becomes a party to the contract after August 20, 1998.

(d) *Definitions.* For the purposes of this section:

(1) The term *qualified client* means:

(i) A natural person who or a company that immediately after entering into the contract has at least $750,000 under the management of the investment adviser;

(ii) A natural person who or a company that the investment adviser entering into the contract (and any person acting on his behalf) reasonably believes, immediately prior to entering into the contract, either:

(A) Has a net worth (together, in the case of a natural person, with assets held jointly with a spouse) of more than $1,500,000 at the time the contract is entered into; or

(B) Is a qualified purchaser as defined in section 2(a)(51)(A) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(51)(A)) at the time the contract is entered into; or

(iii) A natural person who immediately prior to entering into the contract is:

(A) An executive officer, director, trustee, general partner, or person serving in a similar capacity, of the investment adviser; or

(B) An employee of the investment adviser (other than an employee performing solely clerical, secretarial or administrative functions with regard to the investment adviser) who, in connection with his or her regular

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[43] Rule 275.0–7 [17 CFR 275.0–7]. The Commission has revised the definition of "small entity," effective July 30, 1998. *See* Definitions of "Small Business" or "Small Organization" Under the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Exchange Act of 1934, and the Securities Act of 1933, Release Nos. 33–7548, 34–40122, IC–23272, and IA–1727 (June 24, 1998) [63 FR 35508 (June 30, 1998)]. Because the IRFA concerning the proposed amendments to rule 205–3 was prepared under the old definition, that definition applies to the Commission's preparation of the FRFA concerning these amendments. *Id.* at n.32.

[44] This estimate of the number of small entities was made for purposes of the Final Regulatory Flexibility Analysis for the rules implementing Title III of the 1996 Act, the Investment Advisers Supervision Coordination Act (the "Coordination Act"). *See* Rules Implementing Amendments to the Investment Advisers Act of 1940, Investment Advisers Act Release No. 1633 (May 15, 1997) [62 FR 28112 (May 22, 1997)] at nn.189–190 and accompanying text.

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functions or duties, participates in the investment activities of such investment adviser, provided that such employee has been performing such functions and duties for or on behalf of the investment adviser, or substantially similar functions or duties for or on behalf of another company for at least 12 months.

(2) The term *company* has the same meaning as in section 202(a)(5) of the Act (15 U.S.C. 80b–2(a)(5)), but does not include a company that is required to be registered under the Investment Company Act of 1940 but is not registered.

(3) The term *private investment company* means a company that would be defined as an investment company under section 3(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(a)) but for the exception provided from that definition by section 3(c)(1) of such Act (15 U.S.C. 80a–3(c)(1)).

(4) The term *executive officer* means the president, any vice president in charge of a principal business unit, division or function (such as sales, administration or finance), any other officer who performs a policy-making function, or any other person who performs similar policy-making functions, for the investment adviser.

Dated: July 15, 1998.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–19373 Filed 7–20–98; 8:45 am]

BILLING CODE 8010-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Bacitracin Methylene Disalicylate and Nitarsone

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Alpharma Inc. The NADA provides for using approved bacitracin methylene disalicylate and nitarsone Type A medicated articles to make combination drug Type C medicated turkey feeds used as an aid in the prevention of blackhead, and for increased rate of weight gain and improved feed efficiency.

EFFECTIVE DATE: July 21, 1998.

FOR FURTHER INFORMATION CONTACT: Charles J. Andres, Center for Veterinary Medicine (HFV–128), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1600.

SUPPLEMENTARY INFORMATION: Alpharma Inc., One Executive Dr., P.O. Box 1399, Fort Lee, NJ 07024, is sponsor of NADA 141–088 that provides for combining approved BMD® (10, 25, 30, 40, 50, 60, or 75 grams per pound (g/lb) bacitracin methylene disalicylate) and Histostat® (227 g/lb nitarsone) Type A medicated articles to make Type C medicated feeds for growing turkeys containing 4 to 50 g per ton bacitracin methylene disalicylate and 0.01875 percent nitarsone. The Type C medicated turkey feed is used as an aid in the prevention of blackhead, and for increased rate of weight gain and improved feed efficiency in growing turkeys. The NADA is approved as of June 17, 1998, and §§ 558.76(d)(3) and 558.369(d) (21 CFR 558.76(d)(3) and 558.369(d)) are amended to add new entries to reflect the approval. The basis for approval is discussed in the freedom of information summary.

Also, due to enactment of the Generic Animal Drug and Patent Term Restoration Act in 1988, National Academy of Science/National Research Council (NAS/NRC) NADA's are no longer approved. Therefore, the text of § 558.369(c) *NAS/NRC status* is removed and the paragraph reserved.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

This approval is for use of single ingredient Type A medicated articles to make combination drug Type C medicated feeds. One ingredient, nitarsone, is a Category II drug as defined in 21 CFR 558.3(b)(1)(ii). Prior to enactment of the Animal Drug Availability Act of 1996 (Pub. L. 104–250) (ADAA), an approved medicated feed application (MFA) was required for feed mills to make Type C medicated feeds from Category II drugs. The ADAA revised the Federal Food, Drug, and Cosmetic Act to replace the requirement for MFA's with that for feed mill licenses. Use of Type A medicated articles to make Type C medicated feeds as in this NADA is limited to licensed feed mills.

FDA has determined under 21 CFR 25.33(a)(2) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

2. Section 558.76 is amended by adding paragraph (d)(3)(xvi) to read as follows:

§ 558.76 Bacitracin methylene disalicylate.

* * * * *

(d) * * *

(3) * * *

(xvi) Nitarsone alone or in combination as in § 558.369.

3. Section 558.369 is amended by removing paragraph (c) and reserving it, by revising the introductory text of paragraph (d), by redesignating paragraphs (d)(1), (d)(2), and (d)(3) as paragraphs (d)(1)(i), (d)(1)(ii), and (d)(1)(iii), respectively, by adding a heading to paragraph (d)(1), and by adding new paragraph (d)(2), to read as follows:

§ 558.369 Nitarsone.

* * * * *

(c) [Reserved]

(d) *Conditions of use.* It is used as follows:

(1) *Chickens and turkeys.*

* * * * *

(2) *Turkeys*—(i) *Amount.* Nitarsone 0.01875 percent, plus bacitracin methylene disalicylate 4 to 50 grams per ton.

(ii) *Indications for use.* As an aid in the prevention of blackhead, and for increased rate of weight gain and improved feed efficiency.

(iii) *Limitations.* For growing turkeys. Feed continuously as sole ration. Early medication is essential to prevent spread of disease. Adequate drinking water must be provided near feeders at all times. Overdosage or lack of water may result in leg weakness or paralysis. The drug is not effective in preventing blackhead in birds infected more than 4 or 5 days. Discontinue use 5 days before slaughtering animals for human consumption to allow elimination of the drug from edible tissues. The drug is dangerous for ducks, geese, and dogs. Use as sole source of arsenic.

Dated: July 9, 1998.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 98–19315 Filed 7–20–98; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910, 1915, and 1926

[Docket No. H–049b]

RIN 1218–AA05

Respirator Cartridge and Canister Change-Out Schedules; Notice of Public Meeting

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Final rule; notice of a public meeting.

SUMMARY: This document announces a public meeting of an inter-agency work group sponsored by the Occupational Safety and Health Administration (OSHA) to discuss available information on respirator cartridge and canister change-out schedules. Employers are required to develop or adopt such schedules by the revised Respiratory Protection standard published in the **Federal Register** on January 8, 1998, and the Maritime and Construction industry respiratory protection standards, which now cross-reference the General Industry respiratory protection standard. In addition to OSHA, representatives of the National Institute for Occupational Safety and Health (NIOSH) and the Environmental Protection Agency (EPA) are participating in the work group and will attend the public meeting. Public participation is encouraged.

DATES: The work group public meeting will be held on August 6, 1998. The public meeting will begin at 9:00 A.M. and end about 5:00 P.M., with a one-hour lunch period at about noon.

ADDRESSES: The work group public meeting will be held in the Department of Labor Auditorium at the Frances Perkins Building, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Bonnie Friedman, Director, OSHA Office of Public Affairs, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210; Telephone (202) 219–8148.

SUPPLEMENTARY INFORMATION: On January 8, 1998, OSHA published a revised Respiratory Protection standard, 29 CFR 1910.134, (63 FR 1152). All provisions of the new standard take effect on or before October 5, 1998. Paragraph (d)(3)(iii) of the standard specifies that, under certain circumstances, employers must implement a change-out schedule, based on objective data, for respirator canisters and cartridges used to reduce exposures to gases and vapors. Change schedules establish the time periods for replacing cartridges and canisters before a toxic substance might break through and overexpose an employee. OSHA is sponsoring an inter-agency work group to discuss available relevant data for compliance with 29 CFR 1910.134(d)(3)(iii).

The first meeting of the work group will be held on August 6, 1998. It will be open to the public. Representatives of NIOSH and EPA who are experienced in developing change-out schedules and analyzing data sources on contaminant breakthrough will attend the work group meeting.

Agenda

The agenda for the work group public meeting is as follows:

(1) Welcome and introduction of the inter-agency work group.

(2) Public submissions of relevant information and comment to OSHA.

(3) Question and answer session.

(4) Closing remarks.

Public Participation

The meeting will be open to the public. Because of the limited amount of seating available, space will be assigned on a first-come, first-served basis. All individuals who plan to attend should contact Theresa Berry by July 30, 1998, at the OSHA Office of Public Affairs, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210; Telephone (202) 219–8148. Individuals with disabilities who plan to attend should contact Theresa Berry no later than July 30, 1998 to obtain appropriate accommodations.

Those attendees who plan to make a presentation are requested to submit a copy of their presentation to Theresa Berry by July 30, 1998. OSHA will make copies of submissions available at the public meeting and also in a docket available to the public (Docket # H–049b).

This document was prepared under the direction of Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C., 20210.

Signed at Washington, D.C. this 15th day of July, 1998.

Charles N. Jeffress,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 98–19347 Filed 7–20–98; 8:45 am]

BILLING CODE 4510-26-P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD11–98–010]

Drawbridge Operation Regulations; Honker Cut, San Joaquin County, CA, Eightmile Road Bridge

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: Notice is hereby given that the Coast Guard has issued a temporary deviation to the regulations governing the opening of the Eightmile Road swing bridge over Honker Cut between Empire Tract and King Island at Stockton, CA. The deviation specifies that the bridge need not be opened for vessels from 12:01 a.m., September 1, 1998 until 11:59 p.m., October 23, 1998. The purpose of this deviation is to allow San Joaquin County and its contractors paint the bridge. During this work, this bridge will have scaffolding and tarpaulins installed, which prevent the bridge from opening.

DATES: The effective period of the deviation is 12:01 a.m. September 1, 1998 to 11:59 p.m., October 23, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Olmes, Bridge Administrator, Eleventh Coast Guard District, Building 50–6 Coast Guard Island, Alameda, CA 94501–5100, telephone (510) 437–3515.

SUPPLEMENTARY INFORMATION: The Coast Guard anticipates that the economic consequences of this deviation will be minimal. The bridge opens on average only 6 times per year. If mariners require an opening, they have alternate routes available via Little Connection Slough or King Island Cut, two miles east and west of Honker Cut, respectively.

This deviation from the normal operating regulations in 33 CFR 117.161 is authorized in accordance with the provisions of 33 CFR 117.35.

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Dated: June 24, 1998.

R.D. Sirois,

Captain, U.S. Coast Guard, Commander, Eleventh Coast Guard District, Acting.

[FR Doc. 98–19360 Filed 7–20–98; 8:45 am]

BILLING CODE 4910–15–M

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket Nos. RM98–1, MC97–3 and MC97–4; Order No. 1212]

Amendments to Domestic Mail Classification Schedule

AGENCY: Postal Rate Commission.

ACTION: Final rule.

SUMMARY: This final rule sets forth the changes to the Domestic Mail Classification Schedule (DMCS) as a result of the Governors' Decisions on the Recommended Decisions of the Postal Rate Commission in Docket Nos. MC97–3 and MC97–4. The Commission's Decision in Docket No. MC97–3 (issued September 4, 1997) changed the classification provisions for Bound Printed Matter Weight Limitations. The Commission's Recommended Decision in Docket No. MC97–4 (issued September 4, 1997) established classification provisions for Bulk Parcel Return Service and Shipper-Paid Forwarding. For these reasons, Appendix A to Subpart C has been amended to reflect those changes.

DATES: This rule is effective July 21, 1998.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, Postal Rate Commission, 1333 H Street, NW., Suite 300, Washington, DC 20268–0001, (202) 789–6820.

SUPPLEMENTARY INFORMATION: On June 5, 1997, the Commission issued Order No. 1180 exercising its authority under 39 U.S.C. 3623(b) to initiate a proceeding, designated as Docket No. MC97–3, to consider increasing the maximum weight limitation applicable to the bound printed matter subclass from 10 pounds to 15 pounds. This action was taken in response to a joint filing by the Advertising Mail Marketing Association, the Association of American Publishers, and the Direct Marketing Association. On August 1, 1997, the Postal Service filed testimony in support of the proposed classification change, contemporaneous with the filing of a proposed stipulation and agreement. Notice was published in the **Federal Register** at 62 FR 32125–32128.

On September 4, 1997, the Postal Rate Commission transmitted to the Governors its Opinion and Recommended Decision approving the stipulation and agreement, which was unopposed. The Decision of the Governors of the United States Postal Service on the Recommended Decision of the Postal Rate Commission on Bound Printed Matter Weight Limitations, Docket No. MC97–3, September 8, 1997, accepted the Recommended Decision of the Postal Rate Commission. Resolution No. 97–11 established October 5, 1997, as the implementation date for changes relating to Bound Printed Matter.

On June 6, 1997, the Postal Service, pursuant to its authority under 39 U.S.C. 3621, *et seq.*, filed a request with the Postal Rate Commission for a recommended decision on certain limited changes affecting the classifications and rates for Standard (A) parcels. Contemporaneous with the filing of the Request, the Postal Service filed a Motion to Establish Procedural Mechanisms Concerning Settlement with an attached stipulation and agreement.

On June 11, 1997, the Commission issued Order No. 1184 designating this filing as Docket No. MC97–4, Bulk Parcel Return Service and Shipper-Paid Forwarding Classifications and Fees, outlining the Postal Service request, allowing interested parties an opportunity to intervene, designating the Director of the Office of the Consumer Advocate to represent the interests of the general public, and appointing the Service as settlement coordinator. Notice was published in the **Federal Register** at 62 FR 32832–32837.

The Commission issued its recommended decision on the Postal Service Request on September 4, 1997. The recommended decision adopted the revised stipulation and agreement, filed on August 12, 1997. The revised agreement was signed by 9 of the 12 participants in this proceeding.

The Decision of the Governors of the United States Postal Service on the Recommended Decision of the Postal Rate Commission on Bulk Parcel Return Service and Shipper-Paid Forwarding, Docket Nos. MC97–4 and C97–1, October 6, 1997, accepted the Recommended Decision of the Postal Rate Commission. Resolution No. 97–15 established October 12, 1997, as the effective date for implementation of changes to the Bulk Parcel Return Service; and January 4, 1998, as the effective date for the changes related to Shipper Paid Forwarding.

Regulatory Flexibility Act

Pursuant to 5 U.S.C. 605(b) of the Regulatory Flexibility Act, the Commission certifies that this rulemaking is not expected to have a significant economic impact on a substantial number of small entities. Accordingly, regulatory flexibility analysis is not required.

List of Subjects in 39 CFR Part 3001

Administrative practice and procedure, Confidential business information, Freedom of information, Postal Service, Sunshine Act.

For the reasons stated in the preamble, 39 CFR part 3001 is amended as follows:

PART 3001—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for part 3001 continues to read as follows:

Authority: 39 U.S.C. 404(b), 3603, 3622–24, 3661, 3662.

Subpart C—Rules Applicable to Requests for Establishing or Changing the Mail Classification Schedule

2. Appendix A to Subpart C—Postal Service Rates and Changes is amended as follows:

a. Amend the Table of Contents by adding Classification Schedule SS–21—Bulk Parcel Return Service and Classification Schedule SS–22—Shipper-Paid Forwarding.

b. In section 322.31, remove the number "10" and replace it with "15".

c. Revise section 353.1 to read as set forth below.

d. Add new section 363 to read as set forth below.

e. Amend section 2033 by adding, after "450", the words "and schedules SS–21 and SS–22".

f. Classification Schedules SS–21 and SS–22 are added to read as set forth below.

g. Add Rate Schedule SS–21 to read as set forth below.

h. Amend Schedule 1000 by adding after "Business Reply Mail Permit", a new entry for "Authorization to Use Bulk Parcel Return Service".

Appendix A to Subpart C—Postal Service Rates and Changes

* * * * *

353.1 Single Piece, Regular, Enhanced Carrier Route, Nonprofit and Nonprofit Enhanced Carrier Route Subclasses (section 321).

Undeliverable-as-addressed Standard Mail mailed under section 321 will be returned on request of the mailer, or forwarded and returned on request of the mailer. Undeliverable-as-addressed combined First-Class and Standard pieces will be returned as prescribed by the Postal Service. Except as provided in Schedule SS–21, the Single Piece Standard rate is charged for each piece receiving return only service. Except as provided in Schedule SS–22, charges for forwarding-and-return service are assessed only on those pieces which cannot be forwarded and are returned. Except as provided in Schedules SS–21 and SS–22, the charge for those returned pieces is the appropriate Single Piece Standard rate for the piece plus that rate multiplied by a factor equal to the number of section 321 Standard pieces nationwide that are successfully forwarded for every one piece that cannot be forwarded and must be returned.

* * * * *

363 Regular and Nonprofit

Regular and Nonprofit subclass mail will receive the following additional services upon payment of the appropriate fees.

Service	Schedule
a. Bulk Parcel Return Service	SS–21
b. Shipper-Paid Forwarding	SS–22

* * * * *

Classification Schedule SS–21—Bulk Parcel Return Service

21.01 Definition

21.010 Bulk Parcel Return Service provides a method whereby high-volume parcel mailers may have undeliverable-as-addressed machinable parcels returned to designated postal facilities for pickup by the mailer at a predetermined frequency prescribed by the Postal Service or delivered by the Postal Service in bulk in a manner and frequency prescribed by the Postal Service.

21.02 Description of Service

21.020 Bulk Parcel Return Service is available only for the return of machinable parcels, as defined by the Postal Service, initially mailed under the following Standard Mail subclasses: Regular and Nonprofit.

21.03 Requirements of the Mailer

21.030 Mailers must receive authorization from the Postal Service to use Bulk Parcel Return Service.

21.031 To claim eligibility for Bulk Parcel Return Service at each facility through which the mailer requests Bulk Parcel Return Service, the mailer must demonstrate receipt of 10,000 returned machinable parcels at a given delivery point in the previous postal fiscal year or must demonstrate a high likelihood of receiving 10,000 returned parcels in the postal fiscal year for which the service is requested.

21.032 Payment for Bulk Parcel Return Service is made through advance deposit account, or as otherwise specified by the Postal Service.

21.033 Mail for which Bulk Parcel Return Service is requested must bear endorsements prescribed by the Postal Service.

21.034 Bulk Parcel Return Service mailers must meet the documentation and audit requirements of the Postal Service.

21.04 Other Services

21.040 The following services may be purchased in conjunction with Bulk Parcel Return Service:

	Classification schedule
a. Address Correction Service	SS–1
b. Certificate of Mailing	SS–4
c. Shipper-Paid Forwarding	SS–22

21.05 Fee

21.050 The fee for Bulk Parcel Return Service is set forth in Fee Schedule SS–21.

21.06 Authorizations and Licenses

21.060 A permit fee as set forth in Fee Schedule 1000 must be paid once each calendar year by mailers utilizing Bulk Parcel Return Service.

21.061 The Bulk Parcel Return Service permit may be canceled for failure to maintain sufficient funds in an advance deposit account to cover postage and fees on returned parcels or for failure to meet the specifications of the Postal Service.

Classification Schedule SS–22—Shipper-Paid Forwarding

22.01 Definition

22.010 Shipper-Paid Forwarding provides a method whereby mailers may have undeliverable-as-addressed machinable parcels forwarded at Standard Mail Single Piece rates for up to one year from the date that the addressee filed a change-of-address order. If the parcel, for which Shipper-Paid Forwarding is elected, is returned, the mailer will pay the appropriate Standard Mail Single Piece rate, or the Bulk Parcel Return Service fee, if that service was elected.

22.02 Description of Service

22.020 Shipper-Paid Forwarding is available only for the forwarding of machinable parcels, as defined by the Postal Service, initially mailed under the following Standard Mail subclasses: Regular and Nonprofit.

22.03 Requirements of the Mailer

22.030 Shipper-Paid Forwarding is available only in conjunction with automated Address Correction Service in Schedule SS–1.

22.031 Mail for which Shipper-Paid Forwarding is purchased must meet the preparation requirements of the Postal Service.

22.032 Payment for Shipper-Paid Forwarding is made through advance deposit account, or as otherwise specified by the Postal Service.

22.033 Mail for which Shipper-Paid Forwarding is requested must bear endorsements prescribed by the Postal Service.

22.04 Other Services

22.040 The following services may be purchased in conjunction with Shipper-Paid Forwarding:

	Classification schedule
a. Certificate of Mailing	SS–4
b. Bulk Parcel Return Service ..	SS–21

22.05 Applicable Rates

22.050 Except as provided in Schedule SS–21, Standard Mail Single Piece Rates, set forth in Rate Schedule 321.1, apply to pieces forwarded or returned in connection with Shipper-Paid Forwarding.

* * * * *

Special services	Description	Fee
* * *	* *	* *
Schedule SS–21.		
Bulk Parcel Return Service	Per Returned Piece.	

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Special services	Description	Fee
* * *	* * *	* *

Issued by the Commission on April 20, 1998.

Cyril J. Pittack,

Acting Secretary.

[FR Doc. 98–19344 Filed 7–20–98; 8:45 am]

BILLING CODE 7710–FW–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300679; FRL–6015–9]

RIN 2070–AB78

Tebuconazole; Extension of Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule extends time-limited tolerances for residues of the fungicide tebuconazole in or on barley grain at 2.0 parts per million (ppm), barley hay at 20 ppm, barley straw at 20 ppm, wheat hay at 15 ppm, wheat straw at 2.0 ppm, and pistachios at 1.0 ppm; and extends time-limited tolerances for the combined residues of tebuconazole and its metabolite (HGW 2061) in milk at 0.1 ppm and meat byproducts of cattle, goats, hogs, horses, poultry and sheep at 0.2 ppm for an additional 18-month period, to December 31, 1999. This action is in response to EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on barley, wheat, and pistachios. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA) requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA.

DATES: This regulation becomes effective July 21, 1998. Objections and requests for hearings must be received by EPA, on or before September 21, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300679], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300679], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Follow the instructions in Unit II. of this preamble. No Confidential Business Information (CBI) should be submitted through e-mail.

FOR FURTHER INFORMATION CONTACT: By mail: Stephen Schaible, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 267, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)–308–9362; e-mail: schaible.stephen@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a final rule, published in the **Federal Register** of June 20, 1997 (FRL–5725–7), which announced that on its own initiative and under section 408(e) of the FFDCA, 21 U.S.C. 346a(e) and (l)(6), it established time-limited tolerances for the residues of tebuconazole in or on barley grain at 2.0 ppm, barley hay at 20 ppm, barley straw at 20 ppm, wheat hay at 15 ppm, wheat straw at 2.0 ppm, and pistachios at 1.0 ppm. EPA established time-limited tolerances for the combined residues of tebuconazole and its 1-(4-chlorophenyl)-4,4-dimethyl-3-(1H-1,2,4-triazole-1-yl-methyl)-pentane-3,5-diol metabolite (HGW 2061) in milk at 0.1 ppm and meat byproducts of cattle, goats, hogs, horses, poultry and sheep at 0.2 ppm. All of these tolerances have an expiration date of June 30, 1998. EPA established the tolerances because section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment.

EPA received requests to extend the use of tebuconazole on barley, wheat, and pistachios for this year's growing season due to continued non-routine situations for growers of these crops. Numerous States have requested emergency exemptions to control rust in barley and wheat; currently registered alternatives do not allow application at a sufficiently late stage of growth to control the disease. Additionally, North Dakota, Minnesota, South Dakota and Michigan have again requested use of this chemical to control Fusarium head blight on barley and/or wheat; abundant inoculum and wet weather conditions this year are likely to result in a severe outbreak without the requested use. The continued lack of an effective alternative to control late blight on pistachios when disease pressure is high is likely to result in significant economic losses to growers in California if wet weather conditions occur. After having reviewed the submissions, EPA concurs that emergency conditions exist for these States. EPA has authorized under FIFRA section 18 the use of tebuconazole on barley, wheat, and pistachios for control of the above fungal diseases in barley, wheat, and pistachios.

EPA assessed the potential risks presented by residues of tebuconazole in or on barley grain, barley hay, barley straw, wheat hay, wheat straw, pistachios, milk, and meat byproducts of cattle, goats, hogs, horses, poultry and sheep. In doing so, EPA considered the new safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerances under FFDCA section 408(l)(6) would be consistent with the new safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the final rule of June 20, 1997. Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerances will continue to meet the requirements of section 408(l)(6).

Therefore, the time-limited tolerances are extended for an additional 18-month period. Although these tolerances will expire and are revoked on December 31, 1999, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on barley grain, barley hay, barley straw, wheat hay, wheat straw, pistachios, milk, and meat byproducts of cattle, goats, hogs, horses, poultry and sheep after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerances. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

I. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to "object" to a tolerance regulation issued by EPA under new section 408(e) and (l)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by September 21, 1998, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

II. Public Record and Electronic Submissions

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the Virginia address in "ADDRESSES" at the beginning of this document

Electronic comments may be sent directly to EPA at:

opp-docket@epamail.epa.gov.

Electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Objections and hearing requests will also be accepted on disks in WordPerfect 51/6.1 or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP–300679]. No CBI should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

III. Regulatory Assessment Requirements

This final rule extends a time-limited tolerance that was previously extended by EPA under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). In addition, this final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

Since this extension of an existing time-limited tolerance does not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

IV. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

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List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 29, 1998.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

§ 180.474 [Amended]

2. In § 180.474, by amending paragraphs (b)(1) and (b)(2) in the tables, by changing the date "June 30, 1998" to read "12/31/99".

[FR Doc. 98–19405 Filed 7–20–98; 8:45 am]

BILLING CODE 6560–50–F

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Parts 2510, 2516, 2517, 2519, 2521, and 2540

Administrative Costs for Learn and Serve America and AmeriCorps Grants Programs

AGENCY: Corporation for National and Community Service.

ACTION: Interim final rule adopted as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim final rule that amended the Corporation's regulations relating to administrative costs in 45 C.F.R. Parts 2510, 2516, 2517, 2519, 2521, and 2540 published at 63 FR 18135, April 14, 1998. The rule amends the Corporation's regulations implementing a statutory limit on the percentage of assistance to specified national service programs that may be used to pay for administrative costs. The rule clarifies the definition of administrative costs, adds an explicit definition of program costs that are not subject to the limitation on administrative costs, and provides additional guidelines for applying the limitation on administrative costs.

DATES: The interim final rule was effective April 14, 1998.

FOR FURTHER INFORMATION CONTACT: Michael Kenefick, Director of Grants Management, Corporation for National Service, (202) 606–5000, ext. 101.

SUPPLEMENTARY INFORMATION:

On April 14, 1998, the Corporation for National and Community Service (Corporation) published an interim final rule amending its regulations implementing provisions of the National and Community Service Act of 1990, as amended, under which not more than five percent of assistance for a fiscal year may be used to pay for administrative costs. This limitation applies to the following types of programs: (1) School-based service-learning programs; (2) community-based service-learning programs; (3) higher education innovative programs for community service; and (4) national service programs assisted under sections 121(a) and 121(b) of the Act through grants to State Commissions, Indian Tribes, U.S. Territories, and national nonprofit organizations.

The Act itself does not define "administrative costs" but directs the Corporation to prescribe by rule the manner and extent to which assistance provided may be used to pay for administrative costs and the distribution of such costs between grantees and subgrantees. The final rule clarifies the types of costs that are considered subject to the five percent limitation on administrative costs. The final rule includes an itemization of costs that are directly related to programs and projects, and therefore excluded from the definition of administrative costs. The final rule also provides guidelines for the implementation of the statutory requirements, including the use of indirect cost rates and the use of fixed rates for administrative costs.

Comments on the interim final rule were due June 15, 1998. We did not receive any comments. The facts presented in the interim final rule still provide a basis for the rule.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, the Paperwork Reduction Act, the Unfunded Mandates Reform Act, and Executive Order 12875.

List of Subjects

45 CFR Part 2510

Grant programs—social programs, Volunteers.

45 CFR Part 2516

Elementary and secondary education, Grant programs—social programs, Indians, Nonprofit organizations, Reporting and recordkeeping requirements, Volunteers.

45 CFR Part 2517

Community development, Grant programs—social programs, Nonprofit organizations, Reporting and recordkeeping requirements, Volunteers.

45 CFR Part 2519

Colleges and universities, Grant programs—social programs, Nonprofit organizations, Reporting and recordkeeping requirements, Volunteers.

45 CFR Part 2521

AmeriCorps, Grant programs—social programs, Volunteers.

45 CFR Part 2540

Administrative practice and procedure, Grant programs—social programs, Reporting and recordkeeping requirements, Volunteers.

Interim Final Rule Adopted as Final Without Change

Accordingly, the interim final rule amending 45 CFR Parts 2510, 2516, 2517, 2519, 2521, and 2540, which was published at 63 FR 18135, April 14, 1998, is adopted as a final rule without change.

Authority: 42 U.S.C. 12501 *et seq.*

Dated: July 15, 1998.

Kenneth L. Klothen,

General Counsel.

[FR Doc. 98–19375 Filed 7–20–98; 8:45 am]

BILLING CODE 6050–28–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 11

[FO Dockets No. 91–171, 91–301; FCC 97–338]

Emergency Alert System; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: The FCC published a Second Report and Order, a document which amended the Commissions Emergency Alert System rules in the **Federal Register** of June 1, 1998. Inadvertently, incorrect language was inserted in § 11.54. This document corrects that language.

DATES: Effective on July 31, 1998.

FOR FURTHER INFORMATION CONTACT: David Sturdivant, Compliance and Information Bureau, Emergency Alert System Office (EAS) (202) 418–1100.

SUPPLEMENTARY INFORMATION: The **Federal Register** of June 1, 1998 (63 FR

29662), a summary of the Commission's Second Report and Order on amending the Commission's rules regarding the Emergency Alert System. This correction reflects changes made to that document contained in section 11.54. These changes were made due to improper language that was included in the initial publication of this document in the **Federal Register**.

In rule FR Doc. 98–14376, published June 1, 1998, on page 29666, column one, amendatory instruction number 15 and § 11.54, are corrected to read as follows:

15. Section 11.54 is amended by revising paragraph (b) introductory text; redesignate paragraph (b)(8) through paragraph (b)(14) as paragraph(b)(9) through paragraph (b)(15); adding new paragraph (b)(8); revising paragraphs (b)(11), (b)(12) and (b)(15), and paragraphs (c) and (d) to read as follows:

§ 11.54 EAS operation during a National Level emergency.

* * * * *

(b) Immediately upon receipt of an EAN message, broadcast stations and cable systems and wireless cable systems must:

(1) * * *

* * * * *

(8) Cable systems and wireless cable systems shall transmit all EAS announcements visually and aurally as specified in § 11.51 (g) and (h) of this part.

* * * * *

(11) Broadcast stations may transmit their call letters and cable systems and wireless cable systems may transmit the names of the communities they serve during an EAS activation. State and Local Area identifications must be given as provided in State and Local Area EAS plans.

(12) All broadcast stations and cable systems and wireless cable systems operating and identified with a particular EAS Local Area must transmit a common national emergency message until receipt of the Emergency Action Termination.

* * * * *

(15) The time of receipt of the EAN and Emergency Action Termination messages shall be entered by broadcast station logs in their logs (as specified in § 73.1820 and § 73.1840 of this chapter), by cable systems in their records (as specified in § 76.305 of this chapter), and by subject wireless cable systems in their records (as specified in § 21.304 of this chapter).

(c) Upon receipt of an Emergency Action Termination Message, broadcast stations and cable systems and wireless cable systems must follow the termination procedures in the EAS Operating Handbook.

(d) Broadcast stations and cable systems and wireless cable systems originating emergency communications under this section shall be considered to have conferred rebroadcast authority, as required by Section 325(a) of the Communications Act of 1934, 47 U.S.C. 325(a), to other participating broadcast stations, cable systems and wireless cable systems.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–19366 Filed 7–20–98; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 971208297–8054–02; I.D. 071398A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Western Regulatory Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Modification of a closure.

SUMMARY: NMFS is opening directed fishing for Pacific ocean perch in the Western Regulatory Area of the Gulf of Alaska management area (GOA). This action is necessary to fully utilize the 1998 total allowable catch (TAC) of Pacific ocean perch in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 15, 1998.

FOR FURTHER INFORMATION CONTACT: Andrew Smoker, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In accordance with § 679.20(c)(3)(ii), the Final 1998 Harvest Specifications of Groundfish for the GOA (63 FR 12027, March 12, 1998) established the amount of the 1998 TAC of Pacific ocean perch in the Western Regulatory Area of the Gulf of Alaska as 1,810 metric tons (mt).

The Administrator, Alaska Region, NMFS (Regional Administrator), has established a directed fishing allowance of 1,610 mt, and set aside the remaining 200 mt as bycatch to support other anticipated groundfish fisheries. The fishery for Pacific ocean perch in the Western Regulatory Area of the GOA was closed to directed fishing under § 679.20(d)(1)(iii) on July 3, 1998, (63 FR 36863, July 8, 1998).

NMFS has determined that as of July 14, 1998, 1,300 mt remain in the directed fishing allowance. Therefore, NMFS is terminating the previous closure and is opening directed fishing for Pacific ocean perch in the Western Regulatory Area of the GOA.

Classification

All other closures remain in full force and effect. This action responds to the best available information recently obtained from the fishery. It must be implemented immediately in order to allow full utilization of the Pacific ocean perch TAC. Providing prior notice and opportunity for public comment for this action is impracticable and contrary to the public interest. Further delay would only disrupt the FMP objective of providing the Pacific ocean perch TAC for harvest. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 15, 1998.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–19325 Filed 7–15–98; 4:48 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 971208298–8055–02; I.D. 071698A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Western Aleutian District of the Bering Sea and Aleutian Islands

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

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ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch in the Western Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 1998 total allowable catch (TAC) of Pacific ocean perch in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 16, 1998, until 2400 hrs, A.l.t., December 31, 1998.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907-586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR part 600 and CFR part 679.

The 1998 TAC of Pacific ocean perch for the Western Aleutian District was established by Final 1998 Harvest Specifications of Groundfish for the BSAI (63 FR 12689, March 16, 1998) as 5,162 metric tons (mt). See § 679.20(c)(3)(iii).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 1998 TAC for Pacific ocean perch in the Western Aleutian District will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 4,362 mt and is setting aside the remaining 800 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the Western Aleutian District.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent overharvesting the 1998 TAC of Pacific ocean perch for the Western Aleutian District of the BSAI. A delay in the effective date is impracticable and contrary to the public interest. Further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action should not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 16, 1998.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98-19387 Filed 7-16-98; 2:04 pm]

BILLING CODE 3510-22-F

Proposed Rules

Federal Register
Vol. 63, No. 139
Tuesday, July 21, 1998

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 927

[Docket No. FV98–927–1 PR]

Winter Pears Grown in Oregon and Washington; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate established for the Winter Pear Control Committee (Committee) under Marketing Order No. 927 for the 1998–99 and subsequent fiscal periods from $0.44 to $0.49 per standard box of winter pears handled. The Committee is responsible for local administration of the marketing order which regulates the handling of winter pears grown in Oregon and Washington. Authorization to assess winter pear handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The 1998–99 fiscal period began July 1 and ends June 30. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by August 20, 1998.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax (202) 205–6632. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Teresa L. Hutchinson, Northwest Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, Room 369, Portland, OR 97204; telephone: (503) 326–2724, Fax: (503) 326–7440 or George J. Kelhart, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 690–3919, Fax: (202) 205–6632. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 89 and Order No. 927, both as amended (7 CFR part 927), regulating the handling of winter pears grown in Oregon and Washington hereinafter referred to as the "order." The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, winter pear handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as proposed herein would be applicable to all assessable winter pears beginning July 1, 1998, and continue until modified, suspended, or terminated. This rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule would increase the assessment rate established for the Committee for the 1998–99 and subsequent fiscal periods from $0.44 to $0.49 per standard box of winter pears handled.

The order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The Committee consists of six producer members and six handler members, each of whom is familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The budget and assessment rate were discussed at a public meeting and all directly affected persons had an opportunity to participate and provide input.

For the 1997–98 and subsequent fiscal periods, the Committee recommended, and the Department approved, an assessment rate of $0.44 per standard box that would continue in effect from fiscal period to fiscal period indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee met on May 29, 1998, and unanimously recommended 1998–99 expenditures of $7,958,083 and an assessment rate of $0.49 per standard box of winter pears handled during the 1998–99 and subsequent fiscal periods. In comparison, last year's budgeted expenditures were $8,066,790. The assessment rate of $0.49 is $0.05 more than the rate currently in effect. The Committee recommended an increased assessment rate because the current rate would not generate enough income to adequately administer the program. The Committee decided that an assessment rate of more than $0.49 would generate income in excess of that needed to adequately administer the program.

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Major expenses recommended by the Committee for the 1998–99 fiscal period include $6,719,500 for paid advertising, $460,925 for unforeseen expenses, $302,000 for improvement of winter pears, $182,785 for salaries, and $75,000 for market development. Budgeted expenses for these items in 1997–98 were $7,010,550, $268,632, $346,200, $161,549, and $75,000, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of winter pears. Winter pear shipments for the year are estimated at 15,100,000 standard boxes, which should provide $7,399,000 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve (currently $470,000) will be kept within the maximum permitted by the order of approximately one fiscal period's expenses (§ 927.42).

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate would be in effect for an indefinite period, the Committee would continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 1998–99 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by the Department.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact this rule would have on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 1,800 producers of winter pears in the production area and approximately 90 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than $500,000 and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. The majority of winter pear producers and handlers may be classified as small entities.

This rule would increase the assessment rate established for the Committee for the 1998–99 and subsequent fiscal periods from $0.44 to $0.49 per standard box of winter pears handled. The Committee met on May 29, 1998, and unanimously recommended 1998–99 expenditures of $7,958,083 and an assessment rate of $0.49 per standard box of winter pears handled. In comparison, last year's budgeted expenditures were $8,066,790. The assessment rate of $0.49 is $0.05 more than the rate currently in effect. The Committee recommended an increased assessment rate because the current rate would not generate enough income to adequately administer the program. The Committee decided that an assessment rate of more than $0.49 would generate income in excess of that needed to adequately administer the program.

Major expenses recommended by the Committee for the 1998–99 fiscal period include $6,719,500 for paid advertising, $460,925 for unforeseen expenses, $302,000 for improvement of winter pears, $182,785 for salaries, and $75,000 for market development. Budgeted expenses for these items in 1997–98 were $7,010,550, $268,632, $346,200, $161,549, and $75,000, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of winter pears. Winter pear shipments for the year are estimated at 15,100,000 standard boxes, which should provide $7,399,000 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, would be adequate to cover budgeted expenses. The operating reserve is within the maximum permitted by the order of approximately one fiscal period's expenses (§ 927.42).

Recent price information indicates that the grower price for the 1998–99 marketing season will range between $6.18 and $10.78 per standard box of winter pears handled. Therefore, the estimated assessment revenue for the 1998–99 fiscal period as a percentage of total grower revenue would range between 0.5 and 0.8 percent.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the winter pear industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the May 29, 1998, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large winter pear handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A 30-day comment period is provided to allow interested persons the opportunity to respond to this request for information and comments. Thirty days is deemed appropriate because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1998–99 fiscal period began on July 1, 1998, and the order requires that the rate of assessment for each fiscal period apply to all assessable winter pears handled during such fiscal period; (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 927

Marketing agreements, Pears, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 927 is proposed to be amended as follows:

PART 927—WINTER PEARS GROWN IN OREGON AND WASHINGTON

1. The authority citation for 7 CFR part 927 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 927.236 [Amended]

2. Section 927.236 is proposed to be amended by removing the words "July 1, 1997," and adding in their place the words "July 1, 1998," and by removing "$0.44" and adding in its place "$0.49."

Dated: July 15, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–19389 Filed 7–20–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1005, 1007, and 1046

[Docket No. AO–388–A9, et al.; DA–96–08]

Milk in the Carolina and Certain Other Marketing Areas; Final Decision and Order To Terminate Proceeding on Proposed Amendments to Marketing Agreements and Orders

7 CFR part	Marketing area	Docket No.
1005 ..	Carolina	AO–388–A9.
1007 ..	Southeast	AO–366–A38.
1046 ..	Louisville-Lexington-Evansville.	AO–123–A67.

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final decision and termination of proceeding.

SUMMARY: This document denies proposed amendments to 3 Federal milk orders in the Southeastern United States and terminates the rulemaking proceeding. The proposals involve deductions from the minimum uniform price to producers and the definition of "producer" specified in each of the orders. The decision to deny the proposals is based upon 2 public hearings, and upon comments and exceptions filed in response to a subsequent recommended decision issued by the Department.

FOR FURTHER INFORMATION CONTACT: Nicholas Memoli, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 690–1932, e-mail address: Nicholas_Memoli@usda.gov.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and therefore is excluded from the requirements of Executive Order 12866.

This partial final decision denies the proposed amendments to the Carolina, Southeast, and Louisville-Lexington-Evansville Federal milk orders,[1] and terminates this rulemaking proceeding.

Small Business Consideration

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Agricultural Marketing Service has considered the economic impact of this action on small entities. The Act seeks to ensure that, within the statutory authority of a program, the regulatory and informational requirements are tailored to the size and nature of small businesses. For the purpose of the Regulatory Flexibility Act, a dairy farm is considered a "small business" if it has an annual gross revenue of less than $500,000, and a dairy products manufacturer is a "small business" if it has fewer than 500 employees. For the purposes of determining which dairy farms are "small businesses," the $500,000 per year criterion was used to establish a production guideline of 326,000 pounds per month. Although this guideline does not factor in additional monies that may be received by dairy producers, it should be an inclusive standard for most "small" dairy farmers. For purposes of determining a handler's size, if the plant is part of a larger company operating multiple plants that collectively exceed the 500-employee limit, the plant will be considered a large business even if the local plant has fewer than 500 employees.

The milk of approximately 7,600 producers is pooled on the Carolina, Southeast, and Louisville-Lexington-Evansville milk orders. Of these producers, 97 percent produce below the 326,000-pound production guideline and are considered to be small businesses.

There are 48 handlers operating pool plants under the 3 orders. Of these handlers, 22 have fewer than 500 employees and qualify as small businesses.

The Agricultural Marketing Service has determined, as set forth in the recommended decision, that neither the denial, nor the adoption, of proposed amendments involving deductions from the minimum payments to producers will have a significant economic impact on a substantial number of small entities under current marketing conditions. Dairy farmers are presently receiving the minimum order prices and should continue to do so given the current level of over-order premiums now in effect. Similarly, neither adoption nor denial of the proposed amendments will have any effect on handlers' costs under the orders because, currently, handlers are voluntarily paying producer prices in excess of the minimum prices specified in the orders. Furthermore, for the long term, the issue of deductions from minimum payments will be considered as part of the Federal order reform in connection with the Federal Agriculture Improvement and Reform Act of 1996 which requires an examination of the Federal milk order system. The concerns of small businesses will be addressed throughout the review process.

Additionally, neither the denial nor the adoption of the proposal to modify the definition of "producer" under the 3 orders will have a significant economic impact on a substantial number of small entities. Standards already exist in the 3 orders to assure an adequate association by producers in meeting the fluid milk needs of the markets. The denial of the proposal to incorporate additional producer qualification standards maintains the existing regulatory burden, and will not place any additional responsibilities on handlers operating under the orders.

Prior Documents in This Proceeding

Notice of Hearing: Issued May 1, 1996; published May 3, 1996 (61 FR 19861).

Tentative Partial Final Decision: Issued July 12, 1996; published July 18, 1996 (61 FR 37628).

Interim Amendment of Orders: Issued August 2, 1996; published August 9, 1996 (61 FR 41488).

Extension of Time for Filing Comments to the Tentative Decision: Issued August 16, 1996; published August 23, 1996 (61 FR 43474).

Extension of Time for Filing Comments to the Tentative Decision: Issued October 18, 1996; published October 25, 1996 (61 FR 55229).

Notice of Reopened Hearing: Issued November 19, 1996; published November 25, 1996 (61 FR 59843).

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[1] The Tennessee Valley Federal milk order, an order involved in this rulemaking proceeding, was terminated as of October 1, 1997.

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Partial Final Decision: Issued May 12, 1997; published May 20, 1997 (62 FR 27525).

Order Amending the Orders: Issued July 17, 1997; published July 23, 1997 (62 FR 39738).

Partial Recommended Decision: Issued July 17, 1997; published July 23, 1997 (62 FR 39470).

Preliminary Statement

Public hearings were held upon proposed amendments to the marketing agreements and the orders regulating the handling of milk in the aforesaid marketing areas. The hearings were held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice (7 CFR Part 900), in Charlotte, North Carolina, on May 15–16, 1996, and in Atlanta, Georgia, on December 17–18, 1996. Notice of the initial hearing was issued on May 1, 1996, and published May 3, 1996 (61 FR 19861).

The material issues on the record of the hearings relate to:

1. Transportation credits for supplemental bulk milk received for Class I use.
2. Deductions from the minimum uniform price to producers.
3. Whether emergency marketing conditions in the 4 regulated marketing areas warrant the omission of a recommended decision with respect to Issue No. 1 and the opportunity to file written exceptions thereto.
4. The definition of producer.

An interim order amending the orders with regard to transportation credits was issued on August 2, 1996, and published August 9, 1996 (61 FR 41488). The interim amendments became effective on August 10, 1996.

The Department reopened the hearing to hear additional evidence regarding the transportation credit issue and also to hear a related "producer" definition proposal. This hearing was held on December 17–18, 1996, in Atlanta, Georgia, following the notice of such reopened hearing issued on November 19, 1996, and published in the **Federal Register** on November 25, 1996 (61 FR 59843).

Interested parties were given until June 17, 1996, to file post-hearing briefs regarding the deductions from the minimum price proposal as published in the **Federal Register** and as modified at the hearing. Regarding the additional proposal concerning the definition of a "producer" heard at the reopened hearing, interested parties were given until February 7, 1997, to file post-hearing briefs.

A partial recommended decision involving minimum payments to producers and the "producer" definition was issued on July 17, 1997, and published in the **Federal Register** on July 23, 1997 (62 FR 39470).

Issue 1 was discussed in a separate partial final decision issued on May 12, 1997 (62 FR 27525). Issue 3 was discussed in the tentative partial final decision, and is now moot.

Following the final decision issued on May 12, 1997, producers were polled in each of the 4 markets involved in this proceeding to ascertain whether producers approved of the orders, as amended. An insufficient vote was obtained for the Tennessee Valley order, as amended. Consequently, that order was terminated effective October 1, 1997.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth:

Material Issue # 2—Deductions From the Minimum Uniform Price to Producers

A proposal by Hunter Farms and Milkco, Inc., which seeks to clarify the minimum payment to producers for Federal milk marketing orders 1005, 1007, and 1046, should be denied. Under the proposal, a handler (except a cooperative acting in its capacity as a handler pursuant to paragraph 9(b) or 9(c)) may not reduce its obligations to producers or cooperatives by permitting producers or cooperatives to provide services which are the responsibility of the handler. According to the proposal, such services include: (1) Preparation of producer payroll; (2) conduct of screening tests of tanker loads of milk required by duly constituted regulatory authorities before milk may be transferred to the plant's holding tanks and any other tanker load tests required to establish the quantity and quality of milk received; and (3) any services for processing or marketing of raw milk or marketing of packaged milk by the handler.

A Brief Summary of Testimony and Briefs Resulting From the May 15–16, 1996 Hearing

The Vice President of Hunter Farms (Hunter), which operates plants regulated under Order 5 at High Point and Charlotte, North Carolina, testified that Hunter purchases milk from Piedmont Milk Sales, Carolina-Virginia Milk Producers Association (CVMPA), Mid-America Dairymen, Inc. (Mid-Am),[2] and Cooperative Milk Producers Association. The witness explained that CVMPA and Mid-Am are cooperative associations, while Piedmont Milk Sales is a marketing agent handling the milk of independent producers. Due to competitive marketing conditions in the Southeast in late 1994 and early 1995, handlers were able to purchase milk supplies at Federal order minimum prices without any over-order premiums being charged. As a result of the absence of over-order premiums, Hunter received underpayment notices from the market administrator on milk that it had received from Piedmont Milk Sales. The underlying question was who must pay for certain services associated with the receipt of milk at regulated plants. Hunter argued that during the period of December 1994 through September 1995, competing handlers who received milk from cooperative associations at the minimum order price did not fully compensate the cooperatives for similar services that were provided.

Despite the fact that over-order premiums returned to the Carolina market, Hunter contends, the problem of what constitutes a minimum payment to producers should be clarified in the event that premiums may be reduced or disappear entirely in the future. For this reason, according to the proponent, it is important to resolve this issue.

In the event that this situation is not rectified, according to Hunter, a loss of milk sales and lower prices to producers will be evident. Hunter stated that current policy is discriminatory and unfair. Furthermore, Hunter stated that all would benefit from a clarification of the rules defining Federal order minimum prices.

Milkco Inc. (Milkco), a fluid milk processing plant located in Asheville, North Carolina, regulated under Order 5, receives milk from cooperative associations as well as independent producers marketing their milk through Piedmont Milk Sales. Milkco supported Hunter's position and stated that Milkco also received underpayment notices from the market administrator for the December 1994 through October 1995 period on milk received from independent dairy farmers, but did not receive underpayment notices on milk received under the same or similar conditions from cooperative associations.

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[2] Mid-America Dairymen, Inc., Western Dairymen Cooperative, Milk Marketing Inc., and Associated Milk Producers, Inc., Southern Region, merged to form "Dairy Farmers of America" effective January 1, 1998.

A witness representing Hunter and Milkco described the categories that should be defined as a handler responsibility, including preparation of a producer payroll, the testing of incoming tanker loads of milk, and any costs associated with processing raw milk or marketing milk in bulk or packaged form. The witness stressed that the thrust of the proposal is to ensure equality in the cost of milk among regulated handlers. According to the witness, current administrative practice in this area requires handlers receiving milk from independent producers to absorb the cost of a variety of services which are provided at no extra charge to handlers receiving milk from cooperative associations and result in an inequitable situation.

The General Manager of Carolina-Virginia Milk Producers Association or CVMPA offered qualified support for the Hunter-Milkco proposal. He said that from a philosophical point of view CVMPA would agree that if producers provide the services specified by the proponents—plus any additional services that are provided to a handler by a cooperative association—handlers should be charged the costs associated with these services. He said that, with these modifications, CVMPA could support the proposal. Additionally, CVMPA suggested expanding the proposed list of handlers' responsibilities to include tanker washing and tagging, supplying milk to handlers on an irregular delivery schedule, field work, disposing of surplus milk during months when the supply is above local needs, and importing supplemental milk for Class I use during periods of short production.

Additional testimony was also offered by a representative of Mid-America Dairymen, Inc. (Mid-Am) involving Hunter's proposal. Mid-Am objected to hearing the proposal and also to the narrowness of Hunter-Milkco's proposal. Mid-Am argued that the issue of minimum payments to producers is national in scope and should not be limited to the orders involved in this proceeding. It suggested that the issue be addressed by the Secretary within the context of the Federal order reform as required by the 1996 Farm Bill on a national basis. In addition, the Mid-Am representative objected to the proposal on grounds of lack of notice to interested parties.

The administrative law judge presiding over the hearing overruled Mid-Am's objection to hearing the proposal, noting that the Secretary had given interested parties the minimum 3-day notice requirement specified in 7 CFR 900.4(a). He also indicated that this proposal was being considered on a non-emergency basis and that, accordingly, interested parties had more than adequate time to brief it, discuss it, and consider it.

Briefs were submitted by interested parties both in support of and in opposition to this proposal. Proponents, Hunter and Milkco, submitted a brief in support of their proposal, emphasizing the points made on the hearing record. Hunter and Milkco maintain that uniform applicability in the treatment of handlers is essential, and any lack of uniformity is in violation of the Agricultural Marketing Agreement Act, as amended. According to the proponents, issuance of underpayment notices only on that milk which was received from independent producers who contracted with a specific marketing agency does not promote uniformity and is discriminatory.

Hunter and Milkco's brief also addresses the objections made by Mid-Am to this proposal. The proponents maintain that Mid-Am's objection to their proposal based on grounds of lack of notice is unfounded because the notice given was adequate. In addition, Hunter and Milkco argue that the suggestion by Mid-Am that this proposal be considered on a national basis is unjustified. Proponents maintain that the problem which has prompted this proposal is specific to the Federal order under consideration, and no evidence was presented to show that this problem exists in other regions of the United States.

Fleming Companies, Inc. (Fleming),[3] also filed a brief in support of this proposal. Fleming states that "* * * To the extent such services primarily benefit producers, it is appropriate that producers be authorized to contract for such services, and to allow a deduction for the reasonable value of such services." Fleming also expressed concern that without the clarification offered by the proposal, equity among member producers and non-member producers may be jeopardized and price uniformity may not be maintained if cooperative associations are able to assume the cost of producer-oriented services, while handlers receiving independent milk are not permitted to make a deduction for these services even if authorized by the producer.

A brief filed by Mid-America Dairymen, Inc., reiterated the cooperative's strong opposition to the proposal and its position that this issue should be addressed on a national basis in the context of Federal order reform. Furthermore, Mid-Am states that it is clear that the costs for butterfat testing are borne by all producers, and the costs of testing milk in tankers for antibiotics are borne by all handlers regardless of their source of supply. According to Mid-Am, no confusion exists as to who is responsible for these tests and, therefore, they should not be included in the proposed amendments.

The Kroger Co. states in its brief that proposal 2 is worthy of study and should be considered by the Secretary for all Federal milk marketing orders within the context of Federal milk order reform.

Summary of the Partial Recommended Decision Issued July 17, 1997

The Department issued a partial recommended decision on July 17, 1997 (62 FR 39470), which recommended denial of Hunter/Milkco's proposal to amend the 4 southeastern milk orders. On the basis of the testimony heard and the briefs filed, the Department determined that the issue should be addressed in the context of Federal order reform.

Under orders, the Department explained, payment for milk received from producers may not be less than the uniform price as announced each month by the market administrator, except to producers who receive payment from their cooperative association. The Department stated a cooperative association under the authorizing legislation may blend the net proceeds of its sales of milk for payment to its member producers. However, payments to a producer by a handler, the Department asserted, can be reduced to reflect "proper deductions authorized in writing by the producer." Historically, it noted, such deductions from minimum milk prices of only two basic types have been permitted.

The Department indicated that the two types of deductions permitted are (1) payments that are made by a handler on behalf of the producer to creditors of the producer, and (2) payments that are obligations of the producer in the production of milk and the transportation costs for delivery to the handler's plant. Accordingly, the Department stated, handlers are not required to make payments to creditors on behalf of producers but are permitted to do so if the deductions are proper and authorized. It stated such permission recognizes that handlers frequently make payments to producers' creditors as a service to the producers. Thus, the Department concluded, the term "proper" is included to prevent

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[3] During summer 1997, the dairy operations of Fleming was acquired by Suiza Foods. The fluid milk processing business of Fleming has been reorganized and is now Country Delite Farms, Inc.

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unwarranted deductions from minimum prices for milk.

The Department went on to state that the authorization by a producer of a certain deduction may not be proper and thus disallowed by the market administrator. Additionally, it indicated, producers cannot give up their rights to receive the uniform price by a deduction that is not of the two types described above.

The Department concluded that there were extensive conceptual differences among market participants concerning what constitutes minimum prices to producers. The decision stated that the lack of evidence and conflicting opinions made it extremely difficult to delineate in Federal milk orders those services which are the responsibility of handlers and those which lie within the domain of producers. Furthermore, even if a decision could be reached on this point it would be very difficult to establish uniform rates for the services suggested by the various parties on the basis of the record before the Department. The Department, therefore, concluded that the proposal should be denied and the matter considered in the Federal order reform proceeding where nationwide input and a more extensive evidentiary record could be obtained.

The decision stated that the underpayment problem which Milkco and Hunter experienced has been rendered moot with the return of over-order premiums. Although these premiums could again disappear, bringing the uniform pricing issue to the fore once again, the Department anticipates this is not likely to happen in the near future. Nevertheless, the decision stated, if this should happen, proponents could request relief through other means pending final resolution of this matter.

Exceptions to the Partial Recommended Decision

Hunter and Milkco, Inc., filed an exception to the Department's partial recommended decision and urged adoption of their proposal. These handlers stated that their proposal would specify the responsibility of all handlers with respect to producer milk and thereby rectify any inconsistency that may currently exist in order language concerning this issue.

Hunter and Milkco also stated that any disagreement within the industry concerning which services are the responsibility of the handler is secondary to the issue under review and does not warrant the denial of their proposal. The handlers contend that the central principle surrounding this issue is uniformity in the treatment of handlers purchasing milk supplies from cooperatives or independent producers. The precise list of services is of secondary importance, they state, and industry disagreement concerning these services should not prevent the Department from embracing the central thrust of their proposal.

Conclusion

The Milkco/Hunter's minimum payment proposal should be denied. It is the Department's determination that the Hunter/Milkco proposal would not have solved the handler equity problem but instead would have created a host of additional problems.

Proponents would have us specify that certain services, are a handler's responsibilities and, therefore, should be at handler's expense. Thus, if a cooperative association were providing one of these services for a handler, the cooperative association would be required to bill the handler for this service. However, the Department cannot adopt order provisions without substantial record evidence. The record contains little evidence as to which specific services should be included and even that evidence is conflicting. Furthermore, neither proponents, nor any other participant, provided guidance in the record concerning the cost of these services, which, we suspect, vary considerably from organization to organization.

In addition, the Department is engaged in congresionally regulated order consolidation[4] in which greater uniformity in order provisions is a stated goal. The record in this proceeding demonstrates no basis why the minimum payments provisions should be different in just these three orders. Instead, it appears that the provisions should be based upon the same considerations, and should not differ from one order to another. This issue regarding minimum payments to producers should, therefore, be considered as part of the Federal order reform. Thus, for the reasons stated above, the record evidence of the public hearing and the comments and exceptions received in response to the partial recommended decision do not support adoption of the Milkco/Hunter proposal.

Material Issue #4—Definition of Producer

A proposal to modify the definition of producer for Federal milk orders 5, 7, and 46 should also be denied on the basis of the testimony and evidence received at the reopened hearing. Mid-America Dairymen, Inc. (Mid-Am), Carolina-Virginia Milk Producers Association (CVMPA), and Maryland-Virginia Milk Producers Association, proponents of the proposal, stated that the objective of the proposal is to further define producer qualification to minimize the pooling of milk not historically associated with these 3 southeastern markets.

A Brief Summary of Testimony and Briefs Resulting From the December 17–18, 1996 Hearing

A spokesman for the proponents offered testimony explaining that base-excess plans (included in each of the orders at the time of the reopened hearing, but terminated from each order effective January 1, 1997, as a result of the expiration of legislative authority to include such plans in Federal milk orders) have substantially removed the incentive for a dairy farmer who was associated with another market during the base-building months to become a producer under one of these orders during the base-paying months. He expressed concern that with the elimination of such plans, no provisions would exist to prevent a dairy farmer from pooling any milk diverted or delivered within limits to pool plants under the orders during the former base-paying months.

The witness stated that the proposed provisions for the orders will exclude from the producer definition, during the flush production months of February through May, any dairy farmer who delivered more than 40 percent of his or her milk to plants as other than "producer milk" during the months of August through November. The proposed provisions, according to the witness, are designed to restrict those producers not normally associated with such orders from pooling their milk during the flush production months when it is not needed to supply fluid needs if they have not pooled such milk during the prior short months when supplies were needed.

In addition, the spokesman stated that for the purpose of determining the percentage of a producer's milk that was pooled during the prior August through November period, deliveries to plants as producer milk under the orders should be considered deliveries under the applicable order. He testified that this proviso is necessary to accommodate: (1) The historical shifting of producers between the orders; (2) the shifting of pool distributing plants; and (3) the shifting of producer milk due to the opening and closing of pool plants in the orders' area.

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[4] The 1996 Farm Bill requires the Secretary of Agriculture to merge the existing 33 Federal milk orders (currently 31 orders) into no more than 14, and no less than 10, milk orders by April 1, 1999. A proposed rule was issued on January 23, 1998, and published in the **Federal Register** on January 30, 1998 (63 FR 4802). Interested parties had until April 30, 1998, to file comments. A discussion of minimum payments to producers is included in the proposed rule (63 FR 4942).

The witness also testified that the proposal, as found in the notice of hearing, should be modified to define the classification of the milk received and specify the pricing of the milk as classified in each of the orders. According to the spokesman, the changes to the order language would require the receiving handler to pay into the pool the difference between the Class I price and the Class III price.

Regarding the administrative costs associated with the relevant proposal, the witness contended that there should be no noticeable difference between costs associated with the producer qualification proposal and costs associated with the base-excess plan. In conclusion, the spokesman testified that the adoption of such proposal is necessary to foster orderly marketing in the area and protect producer pools of the southeastern orders involved in this proceeding.

A representative of CVMPA testified that CVMPA fully supports the producer qualification proposal to make sure that high Class I utilization markets in the Southeast do not carry surplus from other surrounding markets resulting in low Class I utilization rates during the flush months of production. He maintained that the proposal benefits producers, processors, and consumers by maintaining fluid supplies, while encouraging the survival of local producers.

A representative from Associated Milk Producers, Inc. (AMPI), Southern Region, a cooperative association representing over 2,500 dairy farmers in the South and Southwest, testified in opposition to Mid-Am's proposal to modify the producer definition of the orders. The witness also maintained that such proposal is not related to the issue of transportation credits, and should, therefore, not be included in the reopened hearing.

According to the spokesman, the current producer pooling requirements under Order 7 are more restrictive than the proposed producer qualification requirements; thus, the proposal actually constructs an additional layer of unnecessary pooling requirements. The witness claimed that no handlers are currently abusing the order by diverting the maximum amount allowable under the provisions of Order 7; otherwise, he argued, such a high percentage of Class I utilization would not be maintained.

AMPI's witness also testified that it is apparent that the proponents intend to replace the base-excess plans in the orders involved in this proceeding. However, such an alternative is not viable, he argued, because sufficient protection for local producers already exists. While acknowledging the existence of such "dairy farmers for other market" provisions in other Federal orders, the spokesman testified that the Southeast markets will not benefit from such a provision. If the proposal is nevertheless adopted, he said, AMPI recommends a modification to the proposal such that milk imported from outside the marketing area that is received at a fully or ly regulated plant during any month of the year must be allocated to Class I and the handler of origin must be compensated at the receiving plant's Class I price.

Another AMPI representative testified that administration of Mid-Am's proposal would create additional costs and place a more serious burden on the cooperative. According to the witness, additional time and resources would be necessary to adapt AMPI's procedures to the new provision, including greater technical and manual assistance.

A representative of Piedmont Milk Sales testified that Piedmont supports the concept that a producer must make his milk available to the Class I market when it is needed in the fall or short period in order to be allowed to pool his milk in the same market during the spring or flush months. He contended that such a limitation assures that the producer who receives the blend price enhanced by the Class I value in those markets has actually earned it.

A spokesman for Fleming Dairy, which operates pool distributing plants in Nashville, Tennessee, and Baker, Louisiana, testified in support of Mid-Am's proposal, but suggested that the producer qualification period should be July through November, rather than August through November.

Additionally, a representative of Barber Pure Milk Co., a pool plant operator in Birmingham, Alabama, and Dairy Fresh Corporation, a pool plant operator in Greensboro, Alabama, testified in support of Mid-Am's producer qualification proposal. He suggested that any milk which is delivered directly from the farm and is received at a pool plant should qualify as producer milk, but any milk which is diverted should not.

Select Milk Producers submitted a brief in opposition to the proposed changes in the producer definition. According to Select, a similar proposal was introduced during the Southeast merger proceedings and was subsequently denied due to the lack of justification for such a provision. Select's brief indicated that the pooling standards and diversion limitations provided in the orders give the market administrator enough flexibility to prevent distant milk from being associated with the markets; therefore, a "dairy farmer for other markets" provision is not needed in these orders.

A brief filed on behalf of AMPI argued that the "dairy farmer for other markets" proposal submitted by Mid-Am and CVMPA and heard at the reopened hearing was in violation of the rules of practice and procedure governing the proceedings of marketing agreements and orders. AMPI maintains that this proposal does not qualify as an issue related to transportation credits, and therefore, should not have been discussed at the reopened hearing. Additionally, AMPI argued that the hearing record lacks the necessary evidence that would support adoption of such proposal. While reiterating its opposition to the additional work associated with implementation of the proposal as testified to at the reopened hearing, AMPI's brief also opposed the notion that in Mid-Am and CVMPA's proposal determination of a producer's eligibility would not only be dependent upon the amount of milk pooled under the order in which the producer is seeking producer status, but also upon the volume of milk pooled by that producer for the subject months in all of the orders involved in this proceeding. According to AMPI, there is no justification or evidence which supports the proposed "dairy farmer for other markets" provision.

CVMPA, one of the proponents of the producer qualification proposal, filed a brief in support of its proposal reiterating the arguments presented during the reopened hearing. In its brief, CVMPA pointed out that its proposal would not create a barrier to entry into these markets as was testified to by a representative of AMPI. CVMPA argued that such a proposal would actually encourage milk to be pooled when local supplies are inadequate to meet Class I needs. While acknowledging that diversion limitations and producer touch-base provisions currently in effect under the subject orders do provide limited Class I utilization protection for the markets, CVMPA argued that these limitations are insufficient to protect producers who have pooled their milk during the fall months from being displaced by producers entering those markets during the spring flush months in order to take advantage of the high

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Class I utilization percentages reflected in the high blend prices of these southeastern markets.

CVMPA also addressed the argument made by AMPI that the proposal would create an additional administrative burden for both the market administrators' offices and reporting handlers. According to CVMPA, no additional work would be created by the proposal, and the administration of the proposed provision would be easier than that associated with the former base-paying plans. CVMPA also expanded the proposal to allow a producer to qualify as a producer in the spring if his/her farm had not delivered Grade A milk from such farm during the previous August through November period. Furthermore, CVMPA stated that the producer's eligibility should be based upon the proportion of Grade A milk delivered from the farm in the previous fall in order to prevent a producer who is converting from Grade B to Grade A or a producer who lost his/her Grade A permit from being penalized.

A brief was also filed by Mid-Am in support of the proposal to modify the producer definition. In addition to reiterating the arguments testified to during the reopened hearing, Mid-Am's brief stated that the proposed producer qualification provisions are necessary to foster orderly marketing in the area and also to protect the producer pools of the orders involved in this proceeding. In its brief, Mid-Am also contends that the only opposition to the proposal testified to during the hearing was made by AMPI, which would be prevented from rotating their producers' milk in order to receive transportation credits. Mid-Am requests that the proposed provisions be implemented at the earliest possible date. No exceptions were received in response to the partial recommended decision.

Conclusion

The record of the reopened hearing does not clearly demonstrate the need to amend the producer definition of Orders 5, 7, and 46. Current safeguards exist to ensure that sufficient supplies of milk are made available for fluid use without the unwarranted pooling of additional supplies of milk that are not associated with serving the fluid market.

Proponents of this proposal believe that the termination of seasonal base plans will create disorderly marketing conditions in the 3 orders. However, the testimony and evidence received at the December 17–18, 1996, hearing do not sufficiently support this argument. According to the proponents, the termination of seasonal base plans, effective January 1, 1997, removes the incentive for producers to pool their milk during the short months when milk is needed in the Southeast because they will no longer receive the higher base prices for their milk during the following flush months. While it is feared by the proponents that the termination will open up the 3 Southeast markets to those producers not normally associated with such markets, but who seek to take advantage of the high Class I utilization rates, the record was unconvincing in its need for modification of the producer definition for this reason.

It is apparent that the proposal was initiated in response to the elimination of seasonal base plans in Federal milk orders. In other words, the proposed modification of the producer definition is intended to fill the void left by the removal of the base-excess plans. However, changing the producer definition should not be compared to the incorporation of base plans in the orders. Base plans are instituted in order to level out production throughout the year so that adequate milk supplies are ensured during the short production months, while discouraging surplus supplies in the flush production months. The base plans also did have the effect of preventing producers not normally associated with a market from entering such market during the flush production months because they would have received the low, excess price for their milk. Nevertheless, the removal of base plans does not by itself necessitate amending the orders.

The orders currently have strict pooling requirements. For example, as was testified to at the reopened hearing by AMPI's spokesman, the pooling requirements for Order 7 specify that a producer's milk must be received at least 4 days at a pool plant to be eligible to be pooled during the months of December through June. Additionally, there is a 50 percent diversion limitation in Order 7 to nonpool plants for those same months. The Carolina order has diversion limitations for cooperative associations during most months of 25 percent of the total quantity of producer milk. The order also maintains pooling requirements specifying how many days a month producer milk must be received at pool plants. The Louisville-Lexington-Evansville order specifies a diversion limitation based upon the number of days that a producer's milk is diverted during a month. The evidence in this proceeding is insufficient to conclude that the current pooling standards will not recognize the seasonally varying needs for milk for fluid use. The creation of additional producer pooling standards is unnecessary and unwarranted on the basis of the record herein and, therefore, the proposal should be denied.

To the extent that the suggested findings and conclusions filed by interested parties on either issue are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Determination

The findings and conclusions of this partial final decision do not require any changes in the regulatory provisions of the three respective orders regulating the handling of milk in the Carolina, Southeast, and Louisville-Lexington-Evansville marketing areas.

Termination Order

In view of the foregoing, it is hereby determined that the proceeding with respect to proposed amendments to the three specified marketing orders should be and is hereby terminated.

List of Subjects in 7 CFR Parts 1005, 1007, and 1046

Milk marketing orders.

The authority citation for 7 CFR Parts 1005, 1007, and 1046 of Title 7, chapter X continues to read as follows:

Authority: 7 U.S.C. 601–674.

Dated: July 16, 1998.

Michael V. Dunn,

Assistant Secretary, Marketing & Regulatory Programs.

[FR Doc. 98–19390 Filed 7–20–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–275–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A310 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to all Airbus Model A310 series airplanes, that would have required various inspections to detect fatigue cracks at certain locations on the fuselage, horizontal stabilizer, and wings and tail, and repair or modification, if necessary; and installation of doublers. That proposal was prompted by results of full-scale fatigue testing of a ModelA310 series airplane, which revealed fatigue cracks at those locations. This new action revises the proposed rule by adding new inspections and reducing certain inspection intervals. The actions specified by this new proposed AD are intended to prevent reduced structural integrity of the fuselage, horizontal stabilizer, and wings.

DATES: Comments must be received by August 17, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 95–NM–275–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 LindAvenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–NM–275–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 95–NM–275–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to all Airbus Model A310 series airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on January 11, 1996 (61 FR 1017). That NPRM would have required various inspections to detect fatigue cracks at certain locations on the fuselage, horizontal stabilizer, and wings and tail, and repair or modification, if necessary; and installation of doublers. That NPRM was prompted by results of full-scale fatigue testing of a Model A310 series airplane, which revealed fatigue cracks at those locations. That condition, if not corrected, could result in reduced structural integrity of the fuselage, horizontal stabilizer, and wings.

Disposition of Comments

Due consideration has been given to the comments received in response to the NPRM.

Request to Cite Revised Service Information

Airbus requests that the FAA revise the proposal to reference later revisions of certain service bulletins, and French airworthiness directive 92–106–132(B)R4, dated June 5, 1996. In addition, Airbus indicates that two additional inspection tasks have been added in Revision 4 of the French airworthiness directive. These tasks are described in two Airbus service bulletins:

- Airbus Service Bulletin A310–57–2064, dated August 24, 1995, which describes procedures for repetitive eddy current inspections to detect cracking of the corner angle fitting and the vertical tee fitting at left and right frame 40, and corrective actions, if necessary.
- Airbus Service Bulletin A310–57–2038, Revision 2, dated January 4, 1996, which describes procedures for repetitive high frequency eddy current or X-ray inspections to detect cracking of the stringer runouts inboard and outboard of rib 14 at stringers 6, 7, 8, and 9.

In addition, Airbus issued the following service bulletin revisions, which are essentially the same as the previous issues of the service bulletins, except as specified below:

- Service Bulletin A310–53–2014, Revision 5, dated June 9, 1992; as revised by Service Bulletin Change Notices 5.A., dated September 29, 1992, and 5.B., dated February 5, 1996; which specifies a reduced inspection threshold, and updates the reference to the appropriate French airworthiness directive.
- Service Bulletin A310–53–2059, Revision 1, dated January 4, 1996, which specifies appropriate grace periods for the specified compliance time for accomplishment of the recommended inspections, and updates the reference to the appropriate French airworthiness directive.
- Service Bulletin A310–57–2002, Revision 2, dated January 4, 1996, which provides a grace period for the specified compliance time for accomplishment of the recommended inspection.
- Service Bulletin A310–57–2006, Revision 3, dated May 2, 1996, which revises the effectivity listing of the service bulletin.
- Service Bulletin A310–57–2032, Revision 3, dated January 4, 1996, which revises the effectivity listing of the service bulletin.

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- Service Bulletin A310–57–2037, Revision 3, dated January 4, 1996, which contains minor editorial changes.
- Service Bulletin A310–57–2046, Revision 4, dated October 16, 1996; as revised by Service Bulletin Change Notice 4A, dated October 16, 1996; which changes the inspection technique, reduces the repetitive inspection intervals, and revises the effectivity listing of the service bulletin.
- Service Bulletin A310–57–2047, Revision 2, dated January 22, 1997, which revises the effectivity listing of the service bulletin.
- Service Bulletin A310–57–2050, dated April 23, 1990; as revised by Service Bulletin Change Notices 0.A., dated September 29, 1992, and 0.B., dated January 6, 1995; which adds a reference to the appropriate French airworthiness directive.

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, classified these service bulletins as mandatory, and issued French airworthiness directive 92–106–132(B)R4, dated June 5, 1996, in order to ensure the continued airworthiness of these airplanes in France.

The FAA concurs with the commenter's request to cite the additional and revised service bulletins, and has revised this supplemental NPRM to provide these references. Additionally, the cost impact information, below, has been revised to reflect any additional costs to operators and to update the number of affected U.S.-registered airplanes.

Request to Substantiate Need for Accomplishment of Service Bulletins

One commenter questions whether each of the service bulletins cited in the NPRM individually satisfies the unsafe condition requirements of part 39 of the Federal Aviation Regulations (14 CFR part 39). The commenter points out that Airbus Service Bulletin A310–53–2014 indicates that the existence of a "crack does not affect aircraft safety because its propagation ... could entail expensive repair."

The commenter further states that the supplementary comments (of the proposed rule) describe how the DGAC allows either a visual or eddy current inspection to detect cracks that measure 0.078 inch, but since the FAA has concluded that a 0.078-inch crack will not likely be found by visual means, the FAA proposes that only an eddy current inspection be used for the affected structure. The commenter states that this restriction goes beyond what is specified by the DGAC and should be substantiated. The commenter states that it suspects that the DGAC is well aware that a 0.078-inch crack would not be found by a visual inspection, but has concluded that a crack of that size on the affected structure does not render the airplane unsafe and that visual inspections are appropriate for the inspection interval provided.

The commenter suggests that if the justification for this proposed AD is based upon the DGAC recommendation, then the FAA's departure from the DGAC's recommendation should be coordinated with the DGAC before the FAA adopts this proposed AD.

The FAA infers that the commenter is requesting substantiation that accomplishment of all of the service bulletins referenced in the proposed AD is necessary in order to address an unsafe condition. The FAA also infers that the example cited regarding visual versus eddy current inspections is in reference to Airbus Service Bulletin A310–57–2039, dated September 24, 1990.

The wing, fuselage, and empennage structure is primary structure of the airplane that contributes significantly to carrying flight, ground, and pressurization loads. As in much of commercial aircraft structure, the failure of a single part is usually not catastrophic, and safe flight could likely continue for some time with any single part cracked or broken. However, if certain parts (as referenced in the service bulletins) were to fail, the residual strength of the surrounding aircraft structure would be reduced and could cause failure or initiate/accelerate cracking of other structural members. Therefore, in consonance with the DGAC, the FAA finds that accomplishment of the referenced service bulletins, as required by this supplemental NPRM, is necessary in order to adequately address the identified unsafe condition.

However, the FAA has reconsidered its position concerning the use of visual inspection techniques, specifically for accomplishment of the actions specified in Airbus Service Bulletin A310–57–2039 and A310–57–2050. The FAA finds that a visual inspection also will adequately detect cracking. Operators should note, however, that by the time cracking has progressed to the point of being visually detectable, repairs would likely be complicated and expensive. Since definitive repairs beyond a certain crack length are not provided in the service bulletins, an FAA-approved repair would be required to be accomplished for such cracking. The FAA has revised paragraphs (l) and (p) of this supplemental NPRM to add a visual inspection method as an option for accomplishment of the referenced service bulletins.

Reformatting of the Supplemental NPRM

Operators should note that the FAA has revised the text of paragraphs (a) through (q) of the original NPRM for the sake of brevity and to reduce the complexity of the requirements specified in those paragraphs.

Conclusion

Since certain changes explained previously expand the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the supplemental NPRM would require accomplishment of the actions specified in the service bulletins described previously, except as discussed below.

Differences Between This Supplemental NPRM and the Service Bulletins

Operators should note that, unlike the procedures described in Airbus Service Bulletins A310–57–2002, Revision 2, dated January 4, 1996; A310–57–2006, Revision 3, dated May 2, 1996; A310–57–2032, Revision 3, dated January 4, 1996; and A310–57–2037, Revision 3, dated January 4, 1996; this supplemental NPRM would not permit further flight if cracks are detected in the wing skins. The FAA has determined that, because of the safety implications and consequences associated with such cracking, any wing skin that is found to be cracked must be repaired or modified prior to further flight.

Additionally, operators should note that, although certain service bulletins specify that the manufacturer may be contacted for disposition of certain repair conditions, this supplemental NPRM would require the repair of those conditions to be accomplished in accordance with a method approved by either the FAA or the DGAC (or its delegated agent). In light of the type of repairs that would be required to address the identified unsafe condition, and in consonance with existing bilateral airworthiness agreements, the FAA has determined that, for this supplemental NPRM, repairs approved by either the FAA or the DGAC (or its delegated agent) would be acceptable for compliance with this supplemental NPRM.

Cost Impact

The FAA estimates that 36 airplanes of U.S. registry would be affected by this AD. Approximate work hours to accomplish the proposed actions and costs for required parts are listed in the following table. The average labor rate is $60 per work hour.

A310

Service bulletin No.	Work hours	Parts cost/Airplane	Cost/Airplane	No. of U.S. airplanes	Number modified
53–2014	78	$12,121	$16,801	7	5
53–2016	317	14,282	33,302	12	5
53–2054	11	N/A	660	8	0
53–2057	12	N/A	720	13	0
53–2059	13	N/A	780	17	0
53–2074	232	N/A	13,920	17	0
55–2002	715	34,100	77,000	7	5
55–2004	16	N/A	960	11	0
57–2002	8	N/A	480	6	0
57–2006	52	N/A	3,120	2	0
57–2032	5	N/A	300	6	0
57–2037	2	N/A	120	6	0
57–2039	3	N/A	180	15	0
57–2046	172	N/A	10,320	33	0
57–2047	82	N/A	4,920	24	0
57–2050	24	N/A	1,440	20	0
57–2064	8	N/A	480	26	0
57–2038	6	N/A	360	0	0

Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $1,845,591. However, the FAA has been advised that a certain number of U.S.-registered airplanes already have been modified in accordance with the requirements of this AD. (The numbers of U.S.-registered airplanes that have already been modified are listed under the heading, "Number Modified," in the table above.) Therefore, the future economic cost impact of this rule on U.S. operators is now $1,133,076.

The FAA recognizes that the obligation to maintain aircraft in an airworthy condition is vital, but sometimes expensive. Because AD's require specific actions to address specific unsafe conditions, they appear to impose costs that would not otherwise be borne by operators. However, because of the general obligation of operators to maintain aircraft in an airworthy condition, this appearance is deceptive. Attributing those costs solely to the issuance of this supplemental NPRM is unrealistic because, in the interest of maintaining safe aircraft, prudent operators would accomplish the required actions even if they were not required to do so by the supplemental NPRM.

A full cost-benefit analysis has not been accomplished for this supplemental NPRM. As a matter of law, in order to be airworthy, an aircraft must conform to its type design and be in a condition for safe operation. The type design is approved only after the FAA makes a determination that it complies with all applicable airworthiness requirements. In adopting and maintaining those requirements, the FAA has already made the determination that they establish a level of safety that is cost-beneficial. When the FAA, as in this supplemental NPRM, makes a finding of an unsafe condition, this means that the original cost-beneficial level of safety is no longer being achieved and that the proposed actions are necessary to restore that level of safety. Because this level of safety has already been determined to be cost-beneficial, a full cost-benefit analysis for this supplemental NPRM would be redundant and unnecessary.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part

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39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Docket 95–NM–275–AD.

Applicability: All Model A310 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (u) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced structural integrity of the fuselage, horizontal stabilizer, and wings, accomplish the following:

(a) For airplanes listed in Airbus Service Bulletin A310–53–2014, Revision 5, dated June 9, 1992, as revised by Service Bulletin Change Notices 5.A., dated September 29, 1992, and 5.B., dated February 5, 1996: Prior to the accumulation of 12,000 total flight cycles, or within 500 flight cycles after the effective date of this AD, whichever occurs later, perform an eddy current inspection to detect cracks on the fuselage center section doublers at frame 40, and install new doublers, in accordance with Airbus Service Bulletin A310–53–2014, Revision 5, dated June 9, 1992, as revised by Service Bulletin Change Notices 5.A., dated September 29, 1992, and 5.B., dated February 5, 1996. Except as provided by paragraph (t) of this AD, if any discrepancy is found, prior to further flight, perform follow-on corrective actions, as applicable, in accordance with the service bulletin.

(b) For airplanes listed in Airbus Service Bulletin A310–53–2016, Revision 5, dated December 7, 1992: Prior to the accumulation of 12,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later, perform a defectoscope or rototest inspection to detect cracks in the area of frame 47 and frame 54, and install new doublers, in accordance with Airbus Service Bulletin A310–53–2016, Revision 5, dated December 7, 1992. Except as provided by paragraph (t) of this AD, if any discrepancy is found, prior to further flight, perform follow-on corrective actions, as applicable, in accordance with the service bulletin.

(c) For airplanes listed in Airbus Service Bulletin A310–53–2054, Revision 2, dated May 22, 1990: Prior to the accumulation of 12,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 3,000 flight cycles, perform a visual inspection to detect cracks on frame 46 between the left- and right-hand sides of stringers 21 and 22 on the forward and aft faces in accordance with Airbus Service Bulletin A310–53–2054, Revision 2, dated May 22, 1990. If any crack is found, prior to further flight, repair in accordance with Airbus Service Bulletin A310–53–2054, Revision 2, dated May 22, 1990.

(1) Accomplishment of the repair required by paragraph (c) of this AD, or modification of the reinforcement angle runout in accordance with Airbus Service Bulletin A310–53–2019, Revision 2, dated May 22, 1990, terminates the repetitive inspection requirements of paragraph (c) of this AD.

(2) Accomplishment of paragraph (c) of this AD terminates the requirements of AD 91–13–01, amendment 39–7032.

(d) For airplanes listed in Airbus Service Bulletin A310–53–2057, Revision 1, dated April 30, 1992: Perform a visual inspection to detect cracks at the T-section connecting frame 50A to the beam between the left- and right-hand sides of frames 50 and 51, in accordance with Airbus Service Bulletin A310–53–2057, Revision 1, dated April 30, 1992. Perform the inspection at the time specified in paragraph (d)(1) or (d)(2) of this AD, as applicable. If any crack is found, prior to further flight, accomplish Airbus Modifications No. 4853 and No. 5273 in accordance with Airbus Service Bulletin A310–53–2057, Revision 1, dated April 30, 1992. Accomplishment of these modifications terminates the requirements of this paragraph.

(1) For the airplane having manufacturer's serial number (MSN) 191: Prior to the accumulation of 24,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later; and thereafter at intervals not to exceed 6,000 flight cycles.

(2) For airplanes other than the airplane identified in paragraph (d)(1) of this AD: Prior to the accumulation of 12,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later; and thereafter at intervals not to exceed 6,000 flight cycles.

(e) For airplanes listed in Airbus Service Bulletin A310–53–2059, Revision 1, dated January 4, 1996: Perform a visual inspection to detect cracks in the lower milled side panel at the lap joint with the upper side panel at frame 47 and stringer 22, left- and right-hand sides, in accordance with Airbus Service Bulletin A310–53–2059, Revision 1, dated January 4, 1996. Perform the inspection at the time specified in paragraph (e)(1) or (e)(2) of this AD, as applicable. Except as provided by paragraph (t) of this AD, if any crack is found, prior to further flight, repair in accordance with the service bulletin. Thereafter, repeat the inspections at intervals not to exceed 9,000 flight cycles, or accomplish Airbus Modification 5997 (Airbus Service Bulletin A310–53–2058). Accomplishment of either the repair or Airbus Modification 5997 constitutes terminating action for the repetitive inspections required by this paragraph.

(1) For Model A310–200 series airplanes, accomplish the inspection at the time specified in paragraph (e)(1)(i) or (e)(1)(ii) of this AD, as applicable.

(i) For airplanes that have accumulated less than 20,000 total flight cycles as of the effective date of this AD: Prior to the accumulation of 18,000 total flight cycles, or within 2,000 flight cycles after the effective date of this AD, whichever occurs later.

(ii) For airplanes that have accumulated 20,000 or more total flight cycles as of the effective date of this AD: Within 1,000 flight cycles after the effective date of this AD.

(2) For Model A310–300 series airplanes, accomplish the inspection at the time specified in paragraph (e)(2)(i) or (e)(2)(ii) of this AD, as applicable.

(i) For airplanes that have accumulated less than 19,700 total flight cycles as of the effective date of this AD: Prior to the accumulation of 18,000 total flight cycles, or within 1,700 flight cycles after the effective date of this AD, whichever occurs later.

(ii) For airplanes that have accumulated 19,700 or more total flight cycles as of the effective date of this AD: Within 850 flight cycles after the effective date of this AD.

(f) For airplanes listed in Airbus Service Bulletin A310–55–2002, Revision 4, dated April 28, 1989: Prior to the accumulation of 12,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later, perform an eddy current inspection to detect cracks on the upper integral part adjacent to the rear attach fittings on the horizontal stabilizer, and modify the horizontal stabilizer, in accordance with Airbus Service Bulletin A310–55–2002, Revision 4, dated April 28, 1989. Except as provided by paragraph (t) of this AD, if any discrepancy is found, prior to further flight, perform follow-on corrective actions, as applicable, in accordance with the service bulletin.

(g) For airplanes listed in Airbus Service Bulletin A310–55–2004, Revision 2, dated February 7, 1991: Perform a high frequency eddy current rototest inspection to detect cracks at specified fastener holes in the top skin chordwise splice along the contour of the steel doubler between ribs 3 and 4 on the left- and right-hand center and side boxes on the horizontal stabilizer in accordance with Airbus Service Bulletin A310–55–2004, Revision 2, dated February 7, 1991, at the time specified in paragraph (g)(1) or (g)(2) of this AD, as applicable. Except as provided by paragraph (t) of this AD, if any discrepancy is found, prior to further flight, perform follow-on corrective actions, as applicable, in accordance with the service bulletin.

(1) For airplanes on which Airbus Modification A310–4933 (Airbus Service Bulletin A310–55–2002) was accomplished prior to the accumulation of 6,000 total flight cycles on the airplane; or for airplanes having MSN 311 through 414 inclusive, on which Airbus Modification A310–4933 was accomplished during production: Prior to the

accumulation of 18,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later; and thereafter at intervals not to exceed 12,000 flight cycles.

(2) For airplanes on which Airbus Modification A310–4933 (Airbus Service Bulletin A310–55–2002) was accomplished upon or after the accumulation of 6,000 total flight cycles: Prior to the accumulation of 12,000 flight cycles since the modification, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later; and thereafter at intervals not to exceed 12,000 flight cycles.

(h) For airplanes listed in Airbus Service Bulletin A310–57–2002, Revision 2, dated January 4, 1996: Prior to the accumulation of 12,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later; and thereafter at intervals not to exceed 3,000 flight cycles; perform a detailed visual inspection to detect cracks in the external surface of the wing lower skin around the landing access panel holes of the leading edge, in accordance with Airbus Service Bulletin A310–57–2002, Revision 1, dated July 2, 1992. If any discrepancy is found, prior to further flight, repair in accordance with a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, or the Direction Générale de l'Aviation Civile (DGAC) (or its delegated agent). Accomplishment of Airbus Modification 5101 (Airbus Service Bulletin A310–57–2003) terminates the repetitive inspection requirements of paragraph (h) of this AD.

(i) For airplanes listed in Airbus Service Bulletin A310–57–2006, Revision 3, dated May 2, 1996: Prior to the accumulation of 6,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later; and thereafter at intervals not to exceed 3,000 flight cycles; perform an eddy current inspection to detect cracks in the holes around the overwing refueling aperture at ribs 13–14, in accordance with Airbus Service Bulletin A310–57–2006, Revision 3, dated May 2, 1996. Except as provided by paragraph (t) of this AD, if any discrepancy is found, prior to further flight, perform follow-on corrective actions, as applicable, in accordance with the service bulletin. Accomplishment of Airbus Modification 5891H5128 (Airbus Service Bulletin A310–57–2020) terminates the repetitive inspection requirements of paragraph (i) of this AD.

(j) For airplanes listed in Airbus Service Bulletin A310–57–2032, Revision 3, dated January 4, 1996: Prior to the accumulation of 12,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later; and thereafter at intervals not to exceed 4,500 flight cycles; perform a detailed visual inspection to detect cracks around the bolts in the wing top skin upper surface of the front spar between rib 7 and rib 28, in accordance with Airbus Service Bulletin A310–57–2032, Revision 3, dated January 4, 1996. If any discrepancy is found, prior to further flight, repair in accordance with a method approved by the Manager, International Branch, ANM–116, or the DGAC (or its delegated agent). Accomplishment of Airbus Modification 5026H0878 (Airbus Service Bulletin A310–57–2005) terminates the repetitive inspection requirements of paragraph (j) of this AD.

(k) For airplanes listed in Airbus Service Bulletin A310–57–2037, Revision 3, dated January 4, 1996: Prior to the accumulation of 12,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later; and thereafter at intervals not to exceed 3,000 flight cycles; perform a high frequency eddy current inspection to detect cracks around the attachment bolt heads for the shroud panel landing on the bottom skin aft of the rear spar, forward of access door 575CB/675CB, in accordance with Airbus Service Bulletin A310–57–2037, Revision 3, dated January 4, 1996. If any discrepancy is found, prior to further flight, repair in accordance with a method approved by the Manager, International Branch, ANM–116, or the DGAC (or its delegated agent). Accomplishment of Airbus Modification 5106H0894 (Airbus Service Bulletin A310–57–2004) terminates the repetitive inspection requirements of paragraph (k) of this AD.

(l) For airplanes listed in Airbus Service Bulletin A310–57–2039, dated September 24, 1990: Perform either an eddy current or visual inspection to detect cracks on the left and right vertical posts, numbers 1 through 5 inclusive, in the wing center box at frame 40/41, in accordance with Airbus Service Bulletin A310–57–2039, dated September 24, 1990. Perform the inspection at the time specified in paragraph (l)(1) or (l)(2) of this AD, as applicable. Except as provided by paragraph (t) of this AD, if any crack is found, prior to further flight, accomplish the modification specified in Airbus Service Bulletin A310–57–2041, dated September 24, 1990, in accordance with Airbus Service Bulletin A310–57–2039, dated September 24, 1990.

(1) For airplanes on which Airbus Modification 7541/S7973 (reference Airbus Service Bulletin A310–57–2041) has not been accomplished: Inspect prior to the accumulation of 21,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later; and thereafter at intervals not to exceed 4,200 flight cycles (for a visual inspection), or 7,500 flight cycles (for an eddy current inspection).

(2) For airplanes on which Airbus Modification 7541/S7973 (reference Airbus Service Bulletin A310–57–2041) has been accomplished: Inspect at the time specified in the graph contained in Note 1 of paragraph 1.A.(2) of Airbus Service Bulletin A310–57–2039, dated September 24, 1990, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later; and thereafter at intervals not to exceed 5,000 flight cycles (for a visual inspection), or 8,600 flight cycles (for an eddy current inspection).

(m) For Model A310–200 series airplanes on which Airbus Modification 7925H1113 has not been accomplished: Prior to the accumulation of 12,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later, perform an ultrasonic inspection to detect cracks in certain bolt holes where the main landing gear forward pick-up fitting is attached to the rear spar, in accordance with Airbus Service Bulletin A310–57–2046, Revision 4, dated October 16, 1996 (including Appendix 1, Revision 3, dated October 17, 1995), as revised by Service Bulletin Change Notice 4A, dated October 16, 1996. Accomplishment of paragraph (m) of this AD terminates the requirements of AD 91–06–18, amendment 39–6940.

(1) If no crack is found, accomplish either paragraph (m)(1)(i) or (m)(1)(ii) of this AD in accordance with the service bulletin at the time specified in that paragraph.

(i) Repeat the inspection of the bolt/stud holes thereafter at intervals not to exceed 3,500 flight cycles. Or

(ii) Prior to further flight, accomplish Airbus Modification 7925H1113; and, prior to the accumulation of 18,000 flight cycles after accomplishment of Airbus Modification 7925H1113, perform the inspection required by paragraph (m) of this AD. Repeat the inspection thereafter at intervals not to exceed 11,600 flight cycles.

Note 2: Airbus Service Bulletin A310–57–2046, Revision 4, dated October 16, 1996 (including Appendix 1, Revision 3, dated October 17, 1995), as revised by Service Bulletin Change Notice 4A, dated October 16, 1996, references Airbus Service Bulletin A310–57–2049 and Repair Instruction R571–49305 as additional sources of service information for accomplishment of Airbus Modification 7925H1113.

(2) If any crack is found, prior to further flight, repair in accordance with a method approved by the Manager, International Branch, ANM–116, or the DGAC (or its delegated agent).

(n) For Model A310–300 series airplanes on which Airbus Modification 7925H1113 has not been accomplished: Prior to the accumulation of 9,000 flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later, perform an ultrasonic inspection to detect cracks in certain bolt holes where the main landing gear forward pick-up fitting is attached to the rear spar, in accordance with Airbus Service Bulletin A310–57–2046, Revision 4, dated October 16, 1996 (including Appendix 1, Revision 3, dated October 17, 1995), as revised by Service Bulletin Change Notice 4A, dated October 16, 1996. Accomplishment of paragraph (n) of this AD terminates the requirements of AD 91–06–18, amendment 39–6940.

(1) If no crack is found, accomplish either paragraph (n)(1)(i) or (n)(1)(ii) of this AD in accordance with the service bulletin at the time specified in that paragraph.

(i) Repeat the inspection of the bolt/stud holes thereafter at intervals not to exceed 3,100 flight cycles. Or

(ii) Prior to further flight, accomplish Airbus Modification 7925H1113; and, prior to the accumulation of 18,000 flight cycles after accomplishment of Airbus Modification 7925H1113, perform the inspection required by paragraph (n) of this AD. Repeat the inspection thereafter at intervals not to exceed 11,600 flight cycles.

Note 3: Airbus Service Bulletin A310–57–2046, Revision 4, dated October 16, 1996 (including Appendix 1, Revision 3, dated

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October 17, 1995), as revised by Service Bulletin Change Notice 4A, dated October 16, 1996, references Airbus Service Bulletin A310–57–2049 and Repair Instruction R571–49305 as additional sources of service information for accomplishment of Airbus Modification 7925H1113.

(2) If any crack is found, prior to further flight, repair in accordance with a method approved by the Manager, International Branch, ANM–116, or the DGAC (or its delegated agent).

(o) For airplanes listed in Airbus Service Bulletin A310–57–2047, Revision 2, dated January 22, 1997: Perform a rotating probe inspection to detect cracks in the fastener holes on the left-and right-hand sides of the rear spar internal angle and tee fitting, in accordance with Airbus Service Bulletin A310–57–2047, Revision 2, dated January 22, 1997, at the applicable time specified in Note 2 of paragraph 1.A.(2) of the service bulletin, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later; and thereafter at the intervals specified in Note 2 of paragraph 1.A.(2) of the service bulletin. Except as provided by paragraph (t) of this AD, if any discrepancy is found, prior to further flight, perform follow-on corrective actions in accordance with the service bulletin.

(p) For airplanes listed in Airbus Service Bulletin A310–57–2050, dated April 23, 1990, as revised by Service Bulletin Change Notices 0.A., dated September 29, 1992, and 0.B., dated January 6, 1995: Perform a visual or rotating probe inspection to detect cracks in the drain holes on the lower skin panel in the center wing box between frames 42 and 46, in accordance with Airbus Service Bulletin A310–57–2050, dated April 23, 1990, as revised by Service Bulletin Change Notices 0.A., dated September 29, 1992, and 0.B., dated January 6, 1995, at the applicable time specified in Note 1 of paragraph 1.A.(2) of the service bulletin, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later; and thereafter at intervals not to exceed those specified in Note 1 of paragraph 1.A.(2) of the service bulletin. Except as provided by paragraph (t) of this AD, if any discrepancy is found, prior to further flight, perform follow-on corrective actions in accordance with the service bulletin. Accomplishment of Airbus Modification number 6130S6815 (Airbus Service Bulletin A310–57–2048), constitutes terminating action for the repetitive inspections required by paragraph (p) of this AD.

(q) For airplanes listed in Airbus Service Bulletin A310–53–2074, Revision 1, dated February 20, 1995: Perform visual and eddy current inspections to detect damaged sealant, corrosion, and cracks in accordance with Airbus Service Bulletin A310–53–2074, Revision 1, dated February 20, 1995. Accomplish these requirements at the applicable time specified in Table 2 of paragraph 1.C.(4) of the service bulletin, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later; and thereafter at intervals not to exceed those specified in Table 2 of paragraph 1.C.(4) of the service bulletin, as applicable. Except as provided by paragraph (t) of this AD, if any discrepancy is found, prior to further flight, perform follow-on corrective actions in accordance with the service bulletin.

(r) For airplanes listed in Airbus Service Bulletin A310–57–2064, dated August 24, 1995: Perform an eddy current inspection to detect cracks of the upper corner angle fitting and the vertical tee fitting at left and right frame 40, in accordance with Airbus Service Bulletin A310–57–2064, dated August 24, 1995. Perform the inspection at the time specified in paragraph (r)(1) or (r)(2) of this AD, as applicable. Except as provided by paragraph (t) of this AD, if any crack is found, prior to further flight, perform corrective actions in accordance with the service bulletin.

(1) For Model A310–200 series airplanes: Prior to the accumulation of 18,000 total flight cycles, or within 2,000 flight cycles after the effective date of this AD, whichever occurs later; and thereafter at intervals not to exceed 11,000 flight cycles.

(2) For Model A310–300 series airplanes: Prior to the accumulation of 18,000 total flight cycles, or within 1,700 flight cycles after the effective date of this AD, whichever occurs later; and thereafter at intervals not to exceed 7,700 flight cycles.

(s) For airplanes listed in Airbus Service Bulletin A310–57–2038, Revision 2, dated January 4, 1996: Prior to the accumulation of 12,000 total flight cycles, or within 1,500 flight cycles after the effective date of this AD, whichever occurs later, perform a high frequency eddy current (HFEC) or X-ray inspection to detect cracking of the stringer runouts inboard and outboard of rib 14 at stringers 6, 7, 8, and 9, in accordance with Airbus Service Bulletin A310–57–2038, Revision 2, dated January 4, 1996. Thereafter, repeat the inspection at intervals not to exceed those specified in paragraph 1.B.(5) of the service bulletin, as applicable. If any crack is detected, prior to further flight, repair in accordance with a method approved by the Manager, International Branch, ANM–116, or the DGAC (or its delegated agent).

(t) If any crack is found during any inspection required by this AD, and the applicable service bulletin specifies to contact Airbus for an appropriate action Prior to further flight, repair in accordance with a method approved by either the Manager, International Branch, ANM–116, or the DGAC (or its delegated agent).

(u) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(v) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 5: The subject of this AD is addressed in French airworthiness directive 92–106–132(B)R4, dated June 5, 1996.

Issued in Renton, Washington, on July 14, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–19332 Filed 7–20–98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–39–AD]

RIN 2120–AA64

Airworthiness Directives; Mitsubishi Heavy Industries, Ltd. MU–2B Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Mitsubishi Heavy Industries, Ltd. (Mitsubishi) MU–2B series airplanes. The proposed AD would require inspecting each forward attachment fitting bolt (total of four bolts) of the wing tip tanks for the correct bolt and replacing any incorrect bolt. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Japan. The actions specified by the proposed AD are intended to prevent the wing tip tank from separating from the airplane because of an incorrect bolt corroding, which could result in loss of control of the airplane.

DATES: Comments must be received on or before August 25, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–39–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Mitsubishi MU–2 Service Bulletin (SB) No. 225, dated September 29, 1995, may be obtained from Mitsubishi Heavy Industries, Ltd., Nagoya Aerospace Systems Works, 10, OYE–CHO, MINATO–KU, Nagoya, Japan, telephone: NAGOYA (611) 2141, facsimile: 4464561HISI. Mitsubishi MU–2 SB No. 089/57–002A, dated November 5, 1996, may be obtained from the Raytheon Aircraft Company, 9709 East Central, Wichita, Kansas 67201, Attention: Manager, Publications. This service information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. William Roberts, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, 3960 Paramount Boulevard, Lakewood, California 90712; telephone: (562) 627–5228; facsimile: (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98–CE–39–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–39–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Japan Civil Aviation Bureau (JCAB), which is the airworthiness authority for Japan, notified the FAA that an unsafe condition may exist on certain Mitsubishi MU–2B series airplanes. The JCAB reports one instance of corrosion on an incorrect forward attachment fitting bolt of the wing tip tank on one of the above-reference airplanes. An incorrect bolt(s) could be installed on other MU–2B series airplanes.

Correct bolts, Mitsubishi part number (P/N) 017A–12887, P/N 017A–12887–3, and P/N 017A–12887–7, are plated with a dry lubricant film that is black in color and is corrosion resistant. The incorrect bolts, P/N NAS1107, are cadmium plated, have a gold or yellowish color, and are not corrosion resistant.

This condition, if not detected and corrected, could result in the wing tip tank separating from the airplane with consequent loss of control of the airplane.

Relevant Service Information

Mitsubishi Heavy Industries, Ltd., has issued Mitsubishi MU–2 Service Bulletin (SB) No. 225, dated September 29, 1995, and Raytheon has issued Mitsubishi MU–2 SB No. 089/57–002A, dated November 5, 1996. These service bulletins specify procedures for inspecting all forward attachment fitting bolts of the wing tip tanks to determine whether any P/N 017A–12887, P/N 017A–12887–3, or 017A–12887–7 bolt is installed, and replacing any bolt not incorporating one of these part numbers. The P/N 017A–12887–7 bolts are of similar design to the P/N 017A–12887 and P/N 017A–12887–3 bolts and are identified with the black painted letters "SPL". These service bulletins also specify procedures for identifying any P/N 017A–12887 and P/N 017A–12887–3 bolts with the letters "SPL".

Mitsubishi Heavy Industries, Ltd., holds both Type Certificate No. A2PC and Type Certificate No. A10SW for the MU–2B series airplanes. Raytheon manufactures, in the United States, the airplanes affected by Type Certificate No. A10SW under a licensing agreement with Mitsubishi Heavy Industries, Ltd.

The JCAB classified MHI SB 225, dated September 29, 1995, as mandatory and issued Japanese AD KU–KI–158 TCD–4310–96, dated March 25, 1996, in order to assure the continued airworthiness of the airplanes affected by Type Certificate No. A2PC that are certificated for operation in Japan.

The FAA's Determination

The airplane models listed in Type Certificate A2PC are manufactured in Japan and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the JCAB has kept the FAA informed of the situation described above.

The FAA has examined the findings of the JCAB; reviewed all available information, including the service information referenced above; and determined that AD action is necessary for products of this type design that are certificated for operation in the United States, including the Mitsubishi MU–2B series airplanes manufactured in the United States by licensing agreement and listed in Type Certificate No. A10SW.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Mitsubishi Models MU–2B, MU–2B–10, MU–2B–15, MU–2B–10, MU–2B–25, MU–2B–26, MU–2B–26A, MU–2B–30, MU–2B–35, MU–2B–36, MU–2B–36A, MU–2B–40, and MU–2B–60 airplanes of the same type design registered in the United States, the FAA is proposing AD action. The proposed AD would require inspecting each forward attachment fitting bolt (total of four bolts) of the wing tip tanks to determine whether any bolt incorporating P/N 017A–12887, P/N 017A–12887–3, or 017A–12887–7 is installed, and replacing any bolt not incorporating one of these part numbers, with a P/N 017A–12887–7 bolt. The P/N 017A–12887–7 bolts are of similar design to the P/N 017A–12887 and P/N 017A–12887–3 bolts, and are identified with the black painted letters "SPL". The proposed AD would also require identifying any P/N 017A–12887 or P/N 017A–12887–3 bolt with the letters "SPL". Accomplishment of the proposed installation would be in accordance with the service information previously referenced.

Cost Impact

The FAA estimates that 252 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 1 workhour per airplane to accomplish the proposed inspection, and that the average labor rate is approximately $60 an hour. Based on these figures, the total cost impact of the proposed inspection on U.S. operators is estimated to be $15,120, or $60 per airplane.

Any replacements that would be required by the proposed AD would take approximately 4 workhours per airplane with each bolt costing $350 (up to 4 bolts per airplane). If an airplane had four incorrect bolts installed, the

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replacement cost of the proposed AD would be $1,640 for that airplane.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

Mitsubishi Heavy Industries, Ltd.: Docket No. 98–CE–39–AD.

Applicability: The following airplane model and serial number airplanes:

Models	Serial Nos.
Type Certificate No. A2PC	
MU–2B, MU–2B–10, MU–2B–15, MU–2B–20, MU–2B–25, and MU–2B–26.	008 through 347.
MU–2B–30, MU–2B–35, and MU–2B–36.	501 through 651, 653 through 660, and 662 through 696.
Type Certificate No. A10SW	
MU–2B–25, MU–2B–26, MU–2B–26A, and MU–2B–40.	313SA, 321SA, and 348SA through 459SA.
MU–2B–35, MU–2B–36A, and MU–2B–60.	652SA, 661SA, and 697SA through 1569SA.

Note 1: Mitsubishi Heavy Industries, Ltd. holds both Type Certificate No. A2PC and Type Certificate No. A10SW for the affected airplanes. Raytheon manufactures, in the United States, the airplanes affected by Type Certificate No. A10SW under a licensing agreement with Mitsubishi Heavy Industries, Ltd.

Note 2: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent the wing tip tank from separating from the airplane because of an incorrect bolt corroding, which could result in loss of control of the airplane, accomplish the following:

(a) Within the next 100 hours time-in-service (TIS) after the effective date of this AD, inspect each forward attachment fitting bolt (total of four bolts) of the wing tip tanks to determine whether any bolt not incorporating part number (P/N) 017A–12887, P/N 017A–12887–3, or 017A–12887–7, is installed. Accomplish this inspection in accordance with whichever of the following is applicable:

(1) Mitsubishi MU–2 Service Bulletin No. 225, dated September 29, 1995, for airplanes affected by Type Certificate No. A2PC; or

(2) Mitsubishi MU–2 Service Bulletin No. 089/57–002A, dated November 5, 1996, for airplanes affected by Type Certificate No. A10SW.

(b) If any bolt not incorporating P/N 017A–12887, P/N 017A–12887–3, or 017A–12887–7, is installed, prior to further flight, replace it with a P/N 017A–12887–7 bolt. The P/N 017A–12887–7 bolts are of similar design to the P/N 017A–12887 and P/N 017A–12887–3 bolts, and are identified with the black painted letters "SPL". Accomplish this action in accordance with one of the service bulletins listed in paragraphs (a)(1) and (a)(2) of this AD, as applicable.

(c) If any P/N 017A–12887 or P/N 017A–12887–3 bolt is installed, prior to further flight, identify the bolt with the letters "SPL". Accomplish this action in accordance with one of the service bulletins listed in paragraphs (a)(1) and (a)(2) of this AD, as applicable.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, 3960 Paramount Blvd., Lakewood, California 90712. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(f) Questions or technical information related to Mitsubishi MU–2 Service Bulletin No. 225, dated September 29, 1995, should be directed to Mitsubishi Heavy Industries, Ltd., Nagoya Aerospace Systems Works, 10, OYE–CHO, MINATO–KU, Nagoya, Japan, telephone: NAGOYA (611) 2141, facsimile: 4464561HISI. Questions or technical information related to Mitsubishi MU–2 Service Bulletin No. 089/57–002A, dated November 5, 1996, should be directed to Raytheon Aircraft Company, 9709 East Central, Wichita, Kansas 67201, Attention: Manager, Publications. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Note 4: The subject of this AD is addressed in Japanese AD KU–KI–158 TCD–4310–96, dated March 25, 1996.

Issued in Kansas City, Missouri, on July 14, 1998.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–19330 Filed 7–20–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–62–AD]

RIN 2120–AA64

Airworthiness Directives; Air Tractor, Inc. AT–300, AT–400, and AT–500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to supersede Airworthiness Directive (AD) 96–23–19, which currently requires installing a new flap actuator overtravel stop and a roll pin through the overtravel stop and jack screw on certain Air Tractor, Inc. (Air Tractor) Models AT–300, AT–400, and AT–500 series airplanes. The proposed AD would require replacing the existing flap actuator overtravel stop with a new one of improved design. The proposed AD is the result of reports of the jack screw breaking through the roll pin hole on three of the affected airplanes that were already in compliance with AD 96–23–19. The actions specified by the proposed AD are intended to prevent interference between the flap pushrod and the aileron pushrod caused by the flap actuator overtravel nut disengaging, which could result in loss of aileron control.

DATES: Comments must be received on or before September 18, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–62–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Air Tractor, Inc., P. O. Box 485, Olney, Texas 76374. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Bob May, Aerospace Engineer, FAA, Aircraft Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5156; facsimile: (817) 222–5960.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98–CE–62–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–62–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

AD 96–23–19, Amendment 39–9823 (61 FR 58985, November 11, 1996), currently requires installing a new flap actuator overtravel stop and a roll pin through the overtravel stop and jack screw on certain Air Tractor Models AT–300, AT–301, AT–302, AT–400, AT–400A, AT–401, AT–401A, AT–401B, AT–402, AT–402A, AT–402B, AT–501, AT–502, AT–502A, AT–502B, and AT–503A airplanes. Accomplishment of these installations is required in accordance with Snow Engineering Co. Service Letter #140, dated November 27, 1995, Revised October 10, 1996.

AD 96–23–19 was the result of reports of incidents involving Air Tractor Models AT–402 and AT–502 airplanes, where the flap actuator overtravel stop nut disengaged from the jack screw. The flap pushrod pressed against the aileron pushrod, which caused difficulty in moving the ailerons.

Actions Since Issuance of Previous Rule

The FAA has received reports of incidents of the jack screw breaking through the roll pin hole on three of the affected airplanes that were already in compliance with AD 96–23–19. Two cases of the control system binding up in the field prompted the FAA to investigate this condition with the following information revealed:

—The down flap limit switch must be inoperative;

—The mechanical overtravel stop nut must have fallen off; and

—The flaps must be driven down past the limit switch position to the maximum flap position where the aileron pushrods begin to bind.

The Snow Engineering Co. (the parent company of Air Tractor) and the FAA have simulated this combination of stop nut failure and limit switch failure on factory airplanes through a laboratory environment.

This condition, if not corrected in a timely manner, could result in difficulty in moving the ailerons with possible loss of aileron control.

Relevant Service Information

The Snow Engineering Co. has issued Service Letter #165, dated May 15, 1998, which specifies procedures for replacing the flap actuator overtravel stop with one of improved design, part number (P/N) 70975–1.

The FAA's Determination

After examining the circumstances and reviewing all available information related to the incidents described above, including the above-referenced service information, the FAA has determined that AD action should be taken to prevent interference between the flap pushrod and the aileron pushrod caused by the flap actuator overtravel nut disengaging, which could result in loss of aileron control.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Air Tractor Models AT–300, AT–301, AT–302, AT–400, AT–400A, AT–401, AT–401A, AT–401B, AT–402, AT–402A, AT–402B, AT–501, AT–502, AT–502A, AT–502B, and AT–503A airplanes of the same type design, the FAA is proposing AD action to supersede AD 96–23–19. The proposed AD would require replacing the existing flap actuator overtravel stop

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with a new one of improved design, P/N 70975–1. Accomplishment of the proposed replacement would be required in accordance with Snow Engineering Co. Service Letter #165, dated May 15, 1998.

Cost Impact

The FAA estimates that 1,250 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 2 workhours per airplane to accomplish the proposed replacement, and that the average labor rate is approximately $60 an hour. The manufacturer will supply parts at no cost to the owners/operators of the affected airplanes. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $150,000, or $120 per airplane.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Airworthiness Directive (AD) 96–23–19, Amendment 39–9823 (61 FR 58985, November 11, 1996), and by adding a new AD to read as follows:

Air Tractor, Inc.: Docket No. 98–CE–62–AD; Supersedes AD 96–23–19, Amendment 39–9823.

Applicability: The following model and serial numbered airplanes, certificated in any category, that do not have a part number (P/N) 70975–1 flap actuator overtravel stop installed:

Models AT–300, AT–301, AT–302, AT–400, AT–400A, AT–401, AT–401A, AT–401B, AT–402, AT–402A, and AT–402B airplanes, serial numbers 300–0001through 401B–1013; and

Models AT–501, AT–502, AT–502A, AT–502B, and AT–503A airplanes, serial numbers 502–0001 through 502B–0398.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 50 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

To prevent interference between the flap pushrod and the aileron pushrod caused by the flap actuator overtravel nut disengaging, which could result in loss of aileron control, accomplish the following:

(a) Install a new flap actuator overtravel stop with a new one of improved design, P/N 70975–1. Accomplish this replacement in accordance with the *REWORK INSTRUCTIONS* section of Snow Engineering Co. Service Letter #165, dated May 15, 1998.

(b) Special flight permits may be issued in accordance with sections 21.197 and 21.197 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance times that provides an equivalent level of safety may be approved by the Manager, Fort Worth Airplane Certification Office (ACO), 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150.

(1) The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Fort Worth ACO.

(2) Alternative methods of compliance approved in accordance with AD 96–23–19 are not considered approved as alternative methods of compliance for this AD.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Fort Worth ACO.

(d) All persons affected by this directive may obtain copies of the documents referred to herein upon request from Air Tractor Inc., P. O. Box 485, Olney, Texas 76374; or may examine these documents at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(e) This amendment supersedes AD 96–23–19, amendment 39–9823.

Issued in Kansas City, Missouri, on July 14, 1998.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–19327 Filed 7–20–98; 8:45 am]

BILLING CODE 4910–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 201

[Release Nos. 33–7555; 34–40203; 35–26896; 39–2365; IA–1730; IC–23315; File No. S7–16–98]

RIN 3235–AH47

Proposed Amendment to Rule 102(e) of the Commission's Rules of Practice

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Securities and Exchange Commission ("Commission") is extending from July 20, 1998 to August 20, 1998 the comment period for Release No. 33–7546 (June 12, 1998), 63 FR 33305 (June 18, 1998) proposing an amendment to Rule 102(e) of the Commission's Rules of Practice. Rule 102(e) allows the Commission to censure, suspend or bar persons who appear or practice before it. The release proposed an amendment to clarify the Commission's standard for determining when accountants engage in "improper professional conduct" under Rule 102(e)(1)(ii).

DATES: Comments must be received on or before August 20, 1998.

ADDRESSES: Submit comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549–6009. Comments can be submitted electronically at the following E-mail address: rule-comments@sec.gov. All comment letters should refer to File No. S7–16–98; include this file number on the subject line if E-mail is used. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 5th Street, NW, Washington, DC 20549–6009. Electronically-submitted comment letters will be posted on the Commission's Internet Web site (http://www.sec.gov).

FOR FURTHER INFORMATION CONTACT: Michael J. Kigin, Associate Chief Accountant, Office of the Chief Accountant, at (202) 942–4400; or David R. Fredrickson, Assistant General Counsel, Office of the General Counsel, at (202) 942–0890.

SUPPLEMENTARY INFORMATION: On June 18, 1998, the Securities and Exchange Commission proposed for comment an amendment to Rule 102(e), 17 CFR 201.102(e). The Commission requested that comments be received by July 20, 1998.

In light of the importance of comments on this subject, the Commission believes that extending the comment period is appropriate. The extension will permit interested persons to have additional time to comment on the matters the release addresses. The Commission does not anticipate extending the comment period beyond August 20, 1998. Therefore, the comment period for Release No. 33–7546 is extended to August 20, 1998.

Dated: July 15, 1998.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–19372 Filed 7–20–98; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 980629162–8162–01; I.D. 093097E]

RIN 0648–AK42

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Rocket Launches

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comment and information.

SUMMARY: NMFS has received a request from the 30th Space Wing, U.S. Air Force, for a small take of marine mammals incidental to missile and rocket launches, aircraft flight test operations, and helicopter operations at Vandenberg Air Force Base, CA (Vandenberg). By this document, NMFS is proposing regulations to govern that take. In order to grant the exemption and issue the regulations, NMFS must determine that these takings will have a negligible impact on the affected species and stocks of marine mammals. NMFS invites comment on the application and the proposed regulations.

DATES: Comments and information must be postmarked no later than September 4, 1998. Comments on the collection of information requirement must be received no later than September 21, 1998.

ADDRESSES: Comments should be addressed to Michael Payne, Chief, Marine Mammal Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3226. A copy of the application, a final Environmental Assessment (EA), a list of references used in the preparation of this document, and other documents mentioned in this proposed rule as being available may be obtained by writing to the above address, or telephoning one of the persons listed (see **FOR FURTHER INFORMATION CONTACT**). Additional supporting technical documentation is available for viewing, by appointment, during normal business hours at either the above address, or at the Southwest Regional Office, NMFS, 501 West Ocean Blvd. Suite 4200, Long Beach, CA 90802.

Comments regarding the burden-hour estimate or any other aspect of the collection of information requirement contained in this rule should be sent to the above individual and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: NOAA Desk Officer, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead, Office of Protected Resources, NMFS, telephone (301) 713–2055, or Irma Lagomarsino, Southwest Regional Office, NMFS, telephone (562) 980–4016.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) of the Marine Mammal Protection Act (MMPA)(16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and regulations are issued.

Permission may be granted for periods of up to 5 years if the Secretary finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and regulations are prescribed setting forth the permissible methods of taking and the requirements pertaining to the monitoring and reporting of such taking. NMFS has defined "negligible impact" in 50 CFR 216.103 as "an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival."

Description of Request

On September 30, 1997, NMFS received an application for an incidental, small take exemption under section 101(a)(5)(A) of the MMPA from the 30th Space Wing, Vandenberg, to take marine mammals incidental to missile and rocket launches, aircraft flight test operations, and helicopter operations at Vandenberg.

Vandenberg is located on the south-central coast of California. The base covers approximately 98,000 acres in western Santa Barbara County. The primary missions of the Air Force at Vandenberg are to launch and track satellites in space, test and evaluate the United State's intercontinental ballistic missile systems, and support aircraft operations. As a nonmilitary facet of operations, Vandenberg is also committed to promoting commercial space launch ventures.

Comments and Responses

On November 14, 1997 (62 FR 61077), NMFS published an advance notice of proposed rulemaking on the application and invited interested persons to submit comments, information, and suggestions concerning the application, and the structure and content of regulations if the application is accepted. During the 30-day comment period on that notice, no comments were received.

Description of Activities

Vandenberg anticipates a total of 10 launches annually for Minuteman and Peacekeeper missiles from North Vandenberg and a total of 20 launches annually for space launches

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(approximately 6 Delta II, 3 Taurus, 2 Atlas, 3 Titan IV, 2 Titan II, and 4 Lockheed Martin launch vehicles) primarily from South Vandenberg.

The noise from these launches may result in the unintentional disturbance of pinnipeds—considered to be unintentional, incidental takings under the MMPA. Such takings are prohibited by the MMPA unless authorized by NMFS.

The regulations proposed by this rule would replace annual incidental harassment authorizations issued to Vandenberg under section 101(a)(5)(D) of the MMPA. These authorizations have been issued previously for marine mammal takings incidental to launches by Lockheed-Martin launch vehicles (62 FR 40335, July 28, 1997), McDonnell Douglas Aerospace Delta II rocket launches (61 FR 59218, November 21, 1996), Taurus launches (62 FR 734, January 6, 1997) and Titan II and Titan IV launches (61 FR 64337, December 4, 1996). Incidental harassment authorizations for the latter three activities were reissued on December 19, 1997 (see 62 FR 67618, December 29, 1997), for an additional 1-year period or until regulations proposed in this document become effective and Letters of Authorization are issued.

These proposed regulations would also authorize takings incidental to Minuteman and Peacekeeper missile launches, aircraft flight tests and helicopter operations, none of which have had small take authorizations previously.

Aircraft test operations include the B–1 and B–2 bombers, the F–14, F–15, F–16, and F–22 fighters; and the KC–135 Stratotanker. The frequency for aircraft testing will be variable. The applicant anticipates an average of 10 flights/year, with 4 to 5 passes/flight. The maximum testing frequency could reach 3 flights/week.

Helicopter operations provide launch support, training and base support. Only about 1 percent, or 13 hours, of the 1300 hours of helicopter operations scheduled per year would occur over the Vandenberg coastline.

Description of Habitat and Marine Mammals Affected by Launch Activities

The Southern California Bight (SCB) including the Channel Islands, supports a diverse assemblage of 29 species of cetaceans (whales, dolphins and porpoises) and 6 species of pinnipeds (seals and sea lions). Harbor seals (*Phoca vitulina*), California sea lions (*Zalophus californianus*), northern elephant seals (*Mirounga angustirostris*), and northern fur seals (*Callorhinus ursinus*) breed there, with the largest rookeries on San Miguel Island (SMI) and San Nicolas Island (SNI). Guadalupe fur seals (*Arctocephalus townsendi*) may also occasionally inhabit SCB waters. Until 1977, a small rookery of Steller sea lions (*Eumetopias jubatus*) existed on SMI. However, there has been no breeding there since 1981 and no sightings on SMI since 1984. A group of 50 Stellers were observed off the Vandenberg coast in October 1993 (Roest, 1995). Additional information on the occurrence of marine mammal species in areas potentially impacted by Vandenberg activities is provided in Barlow *et al.*, (1995 and 1997),[1] Roest, 1995, the final EA on this proposed action (U.S. Air Force, 1997), and in **Federal Register** notices on previous authorizations (60 FR 24840, May 10, 1995 (Lockheed); 60 FR 43120, August 18, 1995 (Delta II); 61 FR 50276, September 25, 1996 (Taurus); and 61 FR 64337, December 4, 1996 (Titan)). For further information, please refer to these documents, which are available upon request (see **ADDRESSES**).

Summary of Potential Physical Impacts

The activities under consideration for small take authorizations under these regulations create two types of noise: continuous (but short-duration) noise, due mostly to combustion effects of aircraft and launch vehicles, and impulsive noise, due to sonic boom effects. Launch operations are the major source of noise on the marine environment from Vandenberg. The operation of launch vehicle engines produces significant sound levels. Generally, four types of noise occur during a launch: (1) Combustion noise from launch vehicle chambers, (2) jet noise generated by the interaction of the exhaust jet and the atmosphere, (3) combustion noise from the post-burning of combustion products, and (4) sonic booms. Launch noise levels are highly dependent upon the type of first-stage booster and the fuel used to propel the vehicle. Therefore, there is a great similarity in launch noise production within each size class.

Sonic booms are impulse noises, as opposed to continuous (but short-duration) noise such as that produced by aircraft and rocket launches. There is a significant potential for sonic booms (i.e., overpressures greater than 0.5 pound/sq.ft (psf)) to occur during launches of low earth orbit payloads. These sonic booms can vary from inconsequential to severe, depending on the physical aspects of the launch vehicle, the trajectory of the launch, and the weather conditions at the time of the launch. The initial shock wave propagates along a path that grazes the earth's surface due to the angle of the vehicle and the refraction of the lower atmosphere. As the launch vehicle pitches over, the direction of propagation of the shock wave becomes more perpendicular to the earth's surface. These direct and grazing shock waves can intersect to create a narrowly focused sonic boom, about 1 mile of intense focus, followed by a larger region of multiple sonic booms.

Aircraft and helicopter activities also produce noise in the coastal environment. Jet aircraft produce significant, subsonic noise with widely varying sound levels depending upon aircraft type, phase of flight, and other factors. Blade-rate tones account for high frequency squealing in jet sounds while the low-frequency roar is the jet mixing noise from engine exhaust (Richardson *et al.* (1995). The high frequency tones are rapidly absorbed in the atmosphere (>4 dB/kilometer (km)). To provide an example of noise levels for a typical aircraft, an F–16 aircraft at intermediate power and 300 ft (96.4 m) above the ground is projected to have a peak noise level of 103 dBA re 20 µPa-m, lasting from 1 to 3 seconds (U.S. Air Force, 1986).[2]

The sounds from helicopters contain many tones related to rotor or propeller blade rate, with most energy at frequencies below 500 Hz. Measurements of a Bell 212 helicopter at an altitude of 500 ft (152 m) indicated a peak, received level at the surface of 109 dB re 1 µPa-m. Duration of noise on the surface may last up to 4 minutes, but less than 38 seconds (sec.) at 9.8 ft (3 m) depth, and 11 sec. at 60 ft (18 m) (Greene, 1985a; Richardson *et al.*, 1995).

One issue for discussion on impacts to marine mammals is the extent to which noise penetrates the ocean surface and the sound pressure levels (SPLs) at depths which marine mammals may inhabit. Jet aircraft from Vandenberg remain subsonic when within the coastal zone (U.S. Air Force, 1997). Therefore, it is not necessary to consider sonic boom noise penetration into the water column from aircraft covered by this proposed authorization.

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[1] Reference citations can be found either in the EA or are available upon request from NMFS (see ADDRESSES).

[2] Airborne noise measurements are usually expressed relative to a reference pressure of 20 µPa, which is 26 dB above the usual underwater sound pressure reference of 1 µPa. Also, they are often expressed as broadband A-weighted sound levels (dBA). A-weighting refers to frequency-dependent weighting factors applied to sound in accordance with the sensitivity of the human ear to different frequencies. While it is unknown whether the marine mammal ear responds similar to the human ear, a recent study by C. Malme (pers. commun. to NMFS, March 5, 1998) found that for predicting effects, A-weighting is better than flat-weighting because pinniped highest hearing sensitivity is at higher frequencies than that of humans. As a result, whenever possible, NMFS provides both A-weighted and unweighted sound pressure levels; when both levels are not provided, it is presumed to represent the unweighted level.

The amount of subsonic aircraft noise entering the water column will depend primarily on aircraft altitude and limited by Snell's Law (e.g., at angles greater than 13° from the vertical much of the incident sound is reflected and does not penetrate into the water) (Richardson *et al.*, 1995). However, some airborne noise will penetrate water at angles >13° from the vertical when rough seas provide water surfaces at suitable angles (Lubard and Hurdle, 1976). In general, the peak, received level in the water, as an aircraft passes directly overhead, will decrease with increasing altitude and received depth (Richardson *et al.*, 1995). Duration of audibility, while significantly less than the duration in air, tends to increase with increasing aircraft altitude and with decreasing receiver depths. When an aircraft is not directly overhead, aircraft noises can be stronger at mid-water than at shallow depths (Richardson *et al.*, 1995).

Helicopters often radiate more sound forward than backward. However, because the acoustic wavelengths of the low-frequency sounds that dominate helicopter noise are much longer than the typical ocean wave heights, penetration at angles greater than 13° from vertical are expected to be negligible (see Richardson *et al.*, 1995).

Because a rocket's angle of trajectory at lift-off to the water surface is greater than 13 degrees, launch noises are not normally expected to transit the air-water interface. While rough seas may allow some penetration due to angle between the wave face and launch noise, surf and wind noise in the nearshore zone would be expected to limit in-water transmission and audibility.

A sonic boom will project ahead of the vehicle as it travels down range. This may produce a "carpet" boom, which, because of its angle of trajectory, is not expected to penetrate the ocean surface. While most of this sonic boom energy will be reflected off the water surface, some noise may penetrate it. Analyses by Cook and Goforth (1970) indicate that the "N" wave of a sonic boom is rapidly smoothed and attenuated with depth. They found that, in moderate seas and heavy ship traffic, sonic boom pressures can be expected to exceed the ambient noise pressures momentarily by up to 50 dB, from the surface to depths of a few hundred feet, between frequencies of 0.5 Hz and a few hundred Hz.

When the vehicle changes its launch trajectory offshore, the surface boom will meet the accelerated boom, creating a "focused" sonic boom. Sonic booms may become focused within a narrow band under the flight path, resulting in sound levels of exceptional amplitude within a very narrow footprint. This location will always be well offshore but may intersect with the Northern Channel Islands (NCI). Theoretical calculations have suggested that, within the narrow footprint of a focused sonic boom, sound levels as high as 147 dB (U.S. Air Force, 1990, 1996) to 154 dB (U.S. Air Force, 1988) could be received.

Marine Mammal Impact Assessment

Noise disturbance from operations on Vandenberg may cause negligible, short-term impacts to pinnipeds (seals and sea lions) hauled out on the Vandenberg coastline, and, if loud enough due to the proximity of the seals to the launch pad, it may result in a temporary threshold shift (TTS) in their hearing. Along the Vandenberg coast, launch noises are expected to impact principally harbor seals as other pinniped species (e.g., California sea lions and northern elephant seals) are known to haulout at these sites only infrequently and in significantly smaller numbers. The principal form of impacts would be the infrequent (approximately 30 launches/year; 50 aircraft flights/year) and unintentional incidental harassment resulting from noise generated by aircraft, helicopter, missile, and rocket launches and by the visual sighting of low-flying aircraft. Launch noises and sonic booms can be expected to cause a startle response and flight to water for those harbor seals, California sea lions and other pinnipeds that are hauled out on the coastline of Vandenberg and on the NCI. Launch noise is expected to occur over the coastal habitats in the vicinity of the Vandenberg launch sites during every launch, while sonic booms may be heard on NCI, principally SMI and Santa Rosa Island (SRI), only during certain launches of certain rocket types.

Titan II and Titan IV

Space Launch Complex (SLC) 4 is utilized for launching Titan II (SLC–4W) and Titan IV (SLC–4E) rockets. The Titan II space launch vehicle is a two-staged, modified Intercontinental Ballistic Missile redesigned to carry small payloads of up to 5,600 lb (2.267 962 kg). The Titan IV is a larger vehicle, carrying payloads similar to those carried by the Space Shuttle (U.S. Air Force 1996). Although loud, the duration of noise capable of affecting marine mammals generated by each Titan launch is brief. Although some low frequency rumbling noise will continue for several minutes, the noise event at the Rocky Pt. harbor seal haul-out will be concluded (Stewart *et al.*, 1992, 1993a, 1993b), within approximately 2 minutes following ignition and liftoff, by which time a Titan IV will be 28.6 miles (46 km) from SLC–4, over the open ocean and out of hearing range of marine mammals on Vandenberg (U.S. Air Force, 1996). While noise levels around the launch pad, during the launch, can reach a level of about 170 dB (a level that can cause hearing damage to humans) (U.S. Air Force, 1988), levels at the nearest seal rookery are significantly less.

Time-lapse photographic monitoring (Jehl and Cooper, 1982) shows that, in response to a specific stimulus, large numbers of pinnipeds may move suddenly from the shoreline to the water. Visual stimuli, such as humans and low-flying aircraft, are much more likely to elicit this response than strictly auditory stimuli, such as boat noise or sonic booms. Observations indicate that it is rare for mass movement to take place in a panic, and no resulting pup or adult mortality has been observed under these circumstances. Stewart (1981, 1982) exposed breeding California sea lions and northern elephant seals on SNI to loud implosive noises created by a carbide pest control cannon. SPLs varied from 125.7 to 146.9 dB. While behavioral responses of each species varied by sex, age, and season, Stewart found that habitat use, population growth, and pup survival of both species appeared unaffected by periodic exposure to the noise.

As part of previous small take authorizations for Titan IV launches at SLC–4, the U.S. Air Force has monitored the effects of launch noises on harbor seals hauled out at Rocky Pt. (4.8 mi (7.7 km) south of SLC–4). For six monitored launches of Titan IVs, the sound exposure level ranged from 141.2 dB to 146.8 dB (96.2–101.8 dBA) (Stewart and Francine, 1991, 1992; Stewart *et al.* 1993a, 1993b, 1996; Thorson *et al.*, 1998). During the 1992 and 1993 Titan IV launches, all or almost all, harbor seals that were ashore at the time fled into the water (23 of 28 in 1992, 41 of 41 in 1993) in response to the noise. After a launch in 1993, about 75 percent of those seals returned ashore later that day, most within 90 minutes of the disturbance (Stewart *et al.*, 1993b). There were no apparent mortalities following any of the six monitored launches, and the haulout patterns were reported similar to those prior to the launches.

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Therefore, because of the loud noise levels of the Titan IV, all harbor seals hauled out along the Vandenberg coastline are expected to leave the beach as a result of Titan IV launchings. While noise from a Titan IV launch can be heard on the NCI, monitoring on those islands indicates that pinniped response will be limited to no more than a heads-up alert. This alertness, however, makes the animals more sensitive for movement to the sea should noise from a sonic boom impact the haulout site.

Launch noise from a Titan II is expected to be significantly less than from the larger Titan IV. Noise measurements and observations on harbor seals at Harbor Seal Beach, Rocky Pt. were conducted during the launch of a Titan II on April 4, 1997. A sound exposure level measurement of 116.7 dB was made with a peak level of 83.2 dB at 17 Hz. The A-weighted sound exposure level (SEL) was measured at 88.5 dB, with the loudest sound occurring at 76 Hz (50 dB). The maximum number of harbor seals hauled out ranged from 164 to 278 prior to the launch, with most peaks occurring in the afternoon (Thorson and Francine, 1997). Thirty-three of the 37 seals ashore at the time of the launch entered the water during the event; most returned ashore within 30 minutes post-launch. Within 8 to 10 days, seal numbers had increased to 128 (Thorson and Francine, 1997).

Because of high ambient noise along the coastline (ambient noise level expected to range between 56 and 96 dBA (U.S. Air Force, 1995a)), rapid attenuation of launch noise, and because almost all sounds from the launch should be reflected off, and not penetrate, the water surface, launch noises are not expected to impact any marine mammals in nearshore waters of Vandenberg, although pinnipeds at the water surface in the vicinity of the launch site may alert to the noise and other marine mammal species at the water surface may hear the launch noises.

Sonic booms resulting from launches of the Titan II and IV will vary with the vehicle trajectory, weather conditions, and the specific ground location. Depending upon the intensity and location of a sonic boom, pinnipeds on the NCI could exhibit a simple alert (head-up) response, or startle and stampede into the water. Two primary concerns involve the possibility of a stampede during which pups may be trampled or separated from their mothers and the potential effects of loud noises on the pinniped's hearing. A third concern involves a possible physiological stress to the animals, resulting in unsuccessful breeding and other anomalies in behavior.

Theoretical calculations suggest that marine mammal habitat within the narrow footprint of a Titan IV focused sonic boom could experience sound levels as high as 147 dB (U.S. Air Force, 1990, 1996) to 154 dB (U.S. Air Force, 1988). Chappell (1980) calculated that a sonic boom would need to have a peak over-pressure in the range of 138 to 169 dB to cause TTS in marine mammals, with TTS lasting a few minutes at most. Humans have been exposed to impulse noise similar in magnitude to the sonic booms expected from Titan IVs with no permanent hearing effects and with only temporarily reduced hearing sensitivity.

Monitoring the effects of noise generated from Titan IV launches on SMI pinnipeds in 1991, Stewart and Francine (1992) , demonstrated that noise levels from a focused sonic boom of 1.34 psf (133 dB, 111.7 dBA) caused an alert (head up) response by 25 California sea lions, but no response from other pinniped species present (including harbor seals and elephant seals). There was no seaward movement as a result of this nighttime launch, and all animals returned to a resting position within 30 seconds. In 1993, an explosion of a Titan IV created a sonic boom-like pressure wave that resulted in an alert response, but no movement toward the sea. Additional popping and rumbling noises that followed the initial over pressure caused approximately 45 percent of the California sea lions (approximately 23,400, including 14 to 15 thousand 1-month old pups, were hauled out on SMI during the launch) and 2 percent of the northern fur seals to enter the surf zone. Although approximately 15 percent of the sea lion pups were temporarily abandoned when their mothers fled into the surf, no injuries or mortalities were observed. Most animals were returning to shore within 2 hours of the disturbance (Stewart *et al.*, 1993b) and haul-out patterns after launchings appeared normal.

In 1995, a Titan IV rocket produced a sonic boom that measured 146.6 dB (8.9 psf) on SMI (Stewart *et al.*, 1996). While seals exposed to this sonic boom were not tested for hearing effects, the authors reasoned that those animals most likely experienced hearing threshold shifts. Most recently, Thorson *et al.* (1998) measured the SEL for the Titan IV A–18 sonic boom at 121 dB (86.8 dBA) on the western side of SCI, where the largest boom was predicted to impact. This low amplitude (1.1 psf) sonic boom did not result in startling seals and sea lions.

In 1996, Stewart (1996) tested the auditory brainstem response (ABR)[3] of rehabilitated, stranded, harbor seals (6 pups), northern elephant seals (3 pups), and California sea lions (5 juvenile), exposed them to a simulated sonic boom, then immediately retested them to determine if a TTS injury occurred. In these trials, Stewart demonstrated TTS in California sea lions at over pressures between 3 and 6.9 psf. A 6.9 psf sonic boom produced a TTS that lasted approximately 3 hours. In harbor seals, sonic booms with over pressures between 4.2 and 7.2 psf produced TTS; a TTS produced by a 6.2-psf sonic boom lasted approximately 24 minutes, whereas a 7.2-psf sonic boom induced a TTS that lasted approximately 90 minutes. Northern elephant seals suffered TTS, lasting approximately 20 minutes, when exposed to sonic booms of 2.3 psf (135 dB) and greater. Thorson *et al.* 1998 found no discernible TTS during on-site ABR testing on harbor seals exposed to launch noise from a Titan IV on October 23, 1997.

Over water, almost all sonic boom sounds will be reflected off the water's surface. Therefore, except inside an approximate 4 mile by 1,000-ft (7 km by 305 m) zone of a focused sonic boom, only those individual marine mammals within this zone that are at the water surface at the time of focusing will experience energy from a sonic boom. Although Titan IV-generated sonic booms are not likely to cause permanent hearing damage to marine mammals in or out of the water, they may cause minor reduction in hearing sensitivity in those few species with hearing capabilities in the low frequencies found in sonic booms. This effect is expected to be temporary and will not affect the survival of individuals or adversely affect the species' populations in California waters.

Outside the zone of focused energy, cetaceans and pinnipeds in the water should be unaffected by the sonic booms, although, depending upon location and ambient noise levels, some pinnipeds may be able to hear the sonic boom. Although rough seas may provide some surfaces at the proper angle for sound to penetrate the water surface (Richardson *et al.*, 1991), sound entering a water surface at an angle greater than 13 degrees from the vertical has been shown to be largely deflected at the surface, with very little sound entering the water (Chappell, 1980; Richardson *et al.*, 1991, 1995).

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[3] Evoked ABRs are electrical potentials that are generated by the brainstem when the ear is stimulated by sound (Stewart 1996).

With only a remote likelihood that a cetacean will be almost directly under the line of flight of a Titan II and IV at the instant the vehicle changes its launch trajectory, NMFS believes that sonic booms will not result in the harassment of cetacean populations in offshore waters of the SCB.

Most long-term physiological effects, such as those on reproduction, metabolism and general health, or on the animals' resistance to disease, are believed to be caused by much greater cumulative sound exposures (intense continuous noise) than those expected from space vehicle sonic booms (infrequent, loud, and short-duration noise), which have less potential for affecting physiology (U.S. Air Force, 1990; NMFS, 1990).

NMFS believes therefore, that some TTS would be likely following exceptionally loud, focused, booms created by launches flying directly over the NCI, but this TTS should last only a short time (minutes to hours). Also, although the startle effect of the sonic booms might result in some minor physiological stress, the frequency of the booms would be low compared to the frequency of naturally induced startle events. Moreover, there should be no adverse effect on pinniped survival since no significant increase in stress-related pathology is anticipated, nor is any disruption of the reproductive cycle expected.

Lockheed Martin Athena Launch Vehicles

At SLC–6, Athena launches would place commercial payloads into low earth orbit using Lockheed Martin's family of vehicles (Athena–1, Athena–2 and Athena–3). Under typical conditions, the launch noise associated with the Athena would be approximately 127 dB (101 dBA) at the harbor seal haul-out areas, which are about 1.5 mi (2.4 km) to the south and southwest of SLC–6 (U.S. Air Force, pers. comm. April 28, 1998). The seaward aspects of the cliffs throughout much of the coastal area are expected to buffer the haul-out areas from launch noises during the earliest stages of Athena launches (U.S. Air Force, 1995). While this SEL is significantly less than levels for the Titan IV at similar distances (approximately 142 dB (121 dBA) for Titan IV), it is still sufficient to cause harbor seals to leave the beach at Point Arguello, Rocky Pt, and Boathouse Flats.

The maximum magnitude of sonic booms from launches of the Athena–1 (5.0 psf), Athena–2 (3.0 psf), and Athena–3 (3.0 psf) will be less than those measured or predicted for Titan IV. Depending upon the intensity and location of a sonic boom, pinnipeds on SMI or SRI may exhibit an alert response or stampede into the water. However, while it is highly probable that sonic booms from Athenas would occur over the Channel Islands, maximum overpressures of these booms are estimated to be less than 1.0 psf over the northern part of SMI (U.S. Air Force, 1995). A sonic boom with an overpressure of 1 psf (127 dB, 60 dBA) is not considered significant.

The sonic booms resulting from launches of the Athena will vary with the type of vehicle and with the specific ground location. For example, the sonic boom from Athena–3 (the largest of the Athena rockets) is not expected to intersect any portion of the NCI, but instead will focus on the open water southwest of the Islands. Also, while it is predicted that launches of the Athena–1 and Athena–2 will produce sonic booms over portions of the Channel Islands, the maximum overall SPL is not expected to exceed 110 dB (69 dBA) (U.S. Air Force, 1995). These sonic boom levels are likely to be indistinguishable from background noises caused by wind and surf (U.S. Air Force, 1995).

McDonnell-Douglas Delta II

Based upon SEL measurements recorded in November 1995, the launch noise associated with the Delta II launch at SLC–2W is estimated to be approximately 138.8 dB (125.7 dBA) at the nearest harbor seal haulout site at Purisima Pt (2,200 ft (670.6 m) from the launch site) (U.S. Air Force, 1995b). Launch noises from the Delta II are expected to impact mostly harbor seals as California sea lions and northern elephant seals are known to haul-out at these sites only infrequently and in smaller numbers. Therefore, it can be predicted that most, if not all, pinnipeds onshore near SLC–2W will leave the shore as a result of Delta II launchings. Harbor seals hauled out at Point Sal (10.5 mi (16.9 km)) and Rocky Pt 13.5 mi (21.7 km)) are expected to alert to the launch noise, and some, if not all, are expected to flee to the water.

While it is highly probable that a sonic boom from the Delta II would occur over SMI, maximum overpressures of these sonic booms are estimated to be 1.0 psf (U.S. Air Force, 1995c). A sonic boom with an overpressure of 1.0 psf or less is not considered significant. Also, the maximum overall sound pressure level is not expected to exceed 78 dBA (112 dB) (U.S. Air Force, 1995c). A sonic boom of this magnitude is likely to be either indistinguishable or barely distinguishable from background noises caused by wind, surf (U.S. Air Force, 1995a) and onshore marine mammals.

Taurus

Based upon measurements made on March 13, 1994, of a Taurus rocket launch from SLC–576E (Stewart *et al.*, 1994), the SEL recorded at Purisima Pt (2.24 km (1.4 mi) from the launch pad) was 127.4 dB (108.1 dBA). Twenty of the 23 harbor seals that were hauled out at this location before the launch fled immediately into the water within a few seconds after launch. The unweighted SEL of noise recorded at Rocky Pt was 103.9 dB (80.0 dBA)(130-second duration; 20.4 km (12.7 mi) from the launch pad). That noise included launch noise and possibly a sonic boom below 50 Hz. Twenty of 74 harbor seals that were monitored at Rocky Point fled into the water within several seconds of the sound arriving there. However, none of the four young pups that were ashore left the beach nor were they separated from their mothers. A comparison of the reactions of harbor seals to sound at the two study sites indicates that the intensity and duration of reactions of harbor seals to the type of noise associated with the Taurus was directly related to the intensity of the noise to which they were exposed (Stewart *et al.*, 1994). Substantially more seals reacted to the launch noise at Purisima Pt than at Rocky Pt. Furthermore, seals at Purisima Pt reacted much more energetically and remained in the water substantially longer than did seals at Rocky Pt.

Although monitoring was apparently not conducted at the Spur Road haulout (approximately 0.5 mi (804 m) from SLC–576E) in 1994, based upon measurements for Delta II (Aerospace Corporation, 1996) and comparing these results with Taurus (Stewart *et al.*, 1994), an SEL can be estimated for Spur Road to be approximately 129 dB (115 dBA). If any harbor seals are ashore at the time of a launch at this small haulout, all are expected to immediately leave the shore for the water.

Rocket engine noise over NCI from the just-launched Taurus traveling at supersonic speeds should not affect pinnipeds hauled out on these islands. The Taurus flight paths will be to the west-southwest away from the California coast. Sonic boom noise developed as a result of these launches is not expected to reach the Channel Islands. Low intensity rumbling noise may reach the Channel Islands with the effect ranging from a simple alert response to a startle response, which, while unlikely, could result in some movement into the water. The initial

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Taurus launch from SLC–576E did not cause a sonic boom over SMI, and there was no response by pinniped species on SMI (Orbital Sciences Corporation, 1996) from launch noise.

Atlas

Atlas II space vehicles, made by Lockheed-Martin, are planned to be launched from SLC–3E. This launch pad is located 6 mi (9.6 km) from Rocky Pt, 8.5 mi (13.7 km) from Purisima Pt, and 19 mi (30.6 km) from Point Sal. Predicted unweighted SELs for Rocky Pt and Purisima Pt are 96.5 dB and 90.4 dB, respectively. SELs of this intensity, if accurate, may not result in more than an alert posture by those harbor seals ashore at the time of launch; if low, then some or all of these seals may leave the shore for the water.

Minuteman and Peacekeeper Missiles

Minuteman missiles produced an unweighted 118 dB (99 dBA) at Point Sal (2.7 mi (4.3 km) distant) and 104 dB (80 dBA) at Purisima Pt. (7 to 10 mi (11.3 to 16.1 km) distant). While no observations are known to have been made to date, SELs of this level are considered sufficient to cause a startle effect and to result in a general movement by harbor seals into the water.

Peacekeeper missiles are initially launched using air pressure; the engine ignites at 300 ft (91.4 m) altitude. SELs can be predicted for Peacekeeper missile launches from North Vandenberg by comparing them with SELs for the Athena-1 rocket. LF–02 is approximately 2 mi (3.2 km) from Lions Head and 6.8 mi (10.9 km) from Point Sal. Using this comparison, NMFS estimates that Peacekeeper missiles would produce an unweighted SEL of 114 dB (85 dBA) at Point Sal (2.7 mi (4.3 km) distant) and 105 dB (73 dBA) at Purisima Pt. (7–10 mi (11.3–16.1 km) distant. SELs of this level are likely sufficient to cause a startle effect and to result in movement by harbor seals into the water.

Aircraft and Helicopters

Pinnipeds hauled out on land react to aircraft and helicopter sounds and/or sight by becoming alert and often by rushing into the water. They tend to react most strongly if an aircraft is flying low, passes nearly overhead, and/or causes abrupt changes in sounds. Responsiveness can vary according to the stage of the breeding cycle. In general, pinnipeds hauled-out for pupping or molting are the most responsive to aircraft (Tetra Tech, 1997). While flight to the water by a significant portion of the hauled out pinnipeds has the potential to increase pup mortality due to crushing or to increase rates of pup abandonment, direct mortality has not been observed (Richardson *et al.*, 1995). Specific examples of pinniped reaction to aircraft noise are provided in the EA.

For range safety and security prior to a launch, helicopter flights are flown at 500 ft (152.4 m) altitude except over recognized pinniped haulouts and rookeries where the helicopter is required to ascend to 1,000 ft (305 m). Pre-launch security at Vandenberg requires that helicopters scan the area in the path of the launch. These helicopter flights occasionally pass close by harbor seal haulouts. One such flight resulted in an average sound exposure level of 79.1 dBA (Thorson *et al.*, 1988). These flights may result in an unintentional, incidental harassment of pinnipeds and, rarely, cetaceans. One hypothesis is that these security patrols startle harbor seals and result in fewer seals being observed ashore (and thereby counted as being "taken by harassment") at the time of the launch.

Cumulative Impacts

Cumulative impacts that will occur to harbor seals, California sea lions, northern elephant seals, and northern fur seals have been discussed in the EA on this issue (U.S. Air Force, 1997), and need not be discussed further. However, the MMPA requires NMFS to determine that the total of such taking during the 5-year (or less) period will have a negligible impact on the species being taken. Using the information provided above, NMFS estimates that each rookery/haulout site along the Vandenberg coastline will be impacted by sufficient noise at each launch to cause harbor seals to leave the rocks fewer than 30 times annually due to missile and rocket launches and associated helicopter safety patrols and 10 times annually due to aircraft operations. On the NCI, pinnipeds may potentially leave the beach only as a result of a sonic boom from Titan IV and Athena-3 launch passes over or in the vicinity of a haulout on one of the Islands. Such an event is unlikely to occur more than 3 to 5 times annually.

Long term effects, such as stress and emigration, due to chronic exposure to noise are not expected since all noise events will be transitory and limited in number and duration.

Proposed Mitigation

One mitigation measure of long-standing is the requirement that no vehicles launched from Vandenberg are allowed direct overflight of SRI, SCI, or Anacapa Island. Therefore, nominal flight azimuths from SLC–4 for example, must be west of SRI.

All aircraft and helicopter flight paths will maintain a minimum distance of 1,000 ft (305 m) from recognized seal haulouts and rookeries (e.g., Point Sal, Purisima Pt, Rocky Pt), except in emergencies or for real-time security incidents. Emergencies include search-and-rescue and fire-fighting, both of which may require approaching pinniped rookeries closer than 1,000 ft (305 m).

For missile and rocket launches, unless constrained by other factors including, but not limited to, human safety, national security, or launch trajectories, efforts to ensure minimum negligible impacts of launches on harbor seals and other pinnipeds, NMFS proposes to require the Air Force to avoid, whenever possible, launches during the harbor seal pupping season of February through May and Titan IV launches which predict a sonic boom on NCI during harbor seal, elephant seal, and California sea lion pupping seasons.

Additional mitigation measures would be developed, if necessary, cooperatively between NMFS and the Air Force based on the degree of impact documented during monitoring activities following specific launches, especially for Titan IV rockets. Additional mitigation measures would be contained in annual Letters of Authorization (LOAs).

Research

Between 1991 and 1996, under a U.S. Air Force contract, research was conducted on the behavioral, auditory and population responses of pinnipeds on the NCI to loud and focused sonic booms and to launch noise from Titan IV rockets launched from Vandenberg. The results of this research are provided in Stewart (1996).

Under funding from the USAF and 30th Space Wing management, new research initiatives on the impacts of aerial noise on marine mammals have been undertaken. One study is to address the cumulative effects of rocket launch noise and sonic booms on pinnipeds at Vandenberg and on NCI. Studies include the following: (1) Hearing effects on seals from launch noise and the subsequent launch-generated sonic boom, (2) movements and haulout patterns of individual seals over the course of many rocket launches, (3) changes in seal demographic parameters over the 5-year study, and (4) foraging and diving behavior of seals exposed to launch noise. A scientific research permit has been issued for this research (see 62 FR 36049, July 3, 1997). A copy of the research plan is available upon request (see **ADDRESSES**).

There is some speculation that exposure to loud noise could cause other physiological effects in pinnipeds, including spontaneous abortion, disruption of effective female-neonate bonding, other reproductive dysfunction, detrimental health effects, and/or increased vulnerability to disease (Chappell *et al.*, 1980; Stewart *et al.*, 1996). While there has been little study of noise-induced stress in marine mammals (Richardson *et al.*, 1995), research initiatives have been identified (U.S. Air Force, 1996) and may be carried out in future years of this authorization.

Proposed Monitoring Measures

During the 5-year duration of this proposed authorization, impacts of missile and space launches on marine mammals would be monitored to ensure that the taking is having no more than a negligible impact on California pinniped stocks. For each launch, monitoring would occur at the pinniped rookery on Vandenberg most likely to be impacted by the launch. For most launches, this would be either Point Sal, Purisima Pt or Rocky Pt. Launch monitoring, as detailed in LOAs, would include the following: (1) At least one biologically trained on-site observer designated to record the effects of launches on harbor seals and other pinnipeds, (2) observations on harbor seal activity in the vicinity of the rookery nearest the launch platform or, in the absence of pinnipeds at that location, at another nearby haulout, for at least 72 hours prior to any planned launch and continue for a period of time not less than 48 hours subsequent to launching, (3) monitoring of haulout sites on NCI would be performed if it is determined that a sonic boom could impact those areas (this determination will be made in coordination with NMFS), (4) investigation of potential for spontaneous abortion, disruption of effective female-neonate bonding and other reproductive dysfunction, and (5) observations on Vandenberg and on NCI, if indicated, would be supplemented with both video-recording of mother-pup seal responses for daylight launches during the pupping season, and with acoustic measurements of those launch vehicles not having previous SPL measurements.

Proposed Reporting Requirement

A report would have to be submitted to NMFS within 90 days after each launch. This report will have to contain the following information:

(1) Date(s) and time(s) of each launch, (2) date(s), location(s), and preliminary findings of any research activities related to monitoring the effects on launch noise and sonic booms on marine mammal populations, and (3) results of the monitoring programs, including, but not necessarily limited to (a) numbers of pinnipeds present on the haulout prior to commencement of the launch, (b) numbers of pinnipeds that may have been harassed as noted by the number of pinnipeds estimated to have entered the water as a result of launch noise, (c) the length of time(s) pinnipeds remained off the haulout or rookery, (d) the numbers of pinniped adults or pups that may have been injured or killed as a result of the launch, and (6) any behavioral modifications by pinnipeds that likely were the result of launch noise or the sonic boom.

An annual report would have to be submitted that describes in a summary form any incidental takings not reported under the preceeding paragraph. For example, this report would be expected to describe the aircraft test program and helicopter operations and any assessments made on their impacts to hauled-out pinnipeds.

A final report would have to be submitted at least 180 days prior to expiration of these regulations. This report would summarize the findings made in all previous reports and assess both the impacts at each of the major rookeries and the cumulative impact on pinnipeds and on other marine mammals from Vandenberg activities.

Preliminary Conclusions

The short-term impact of aircraft testing and helicopter operations at Vandenberg, the launching of missiles from North Vandenberg, and the launching of rockets from North and South Vandenberg would be expected to result, at worst, in a temporary reduction in utilization of the haulout as seals or sea lions leave the beach for the safety of the water. Launchings would not be expected to result in any reduction in the number of pinnipeds, and they are expected to continue to reoccupy the same area shortly after each launch. Additionally, there would not be any impact on the habitat itself. Based upon studies conducted for previous space vehicle launches at Vandenberg, significant long-term impacts on pinnipeds at Vandenberg and the NCI are unlikely.

National Environmental Policy Act (NEPA)

The U.S. Air Force prepared an EA and issued a Finding of No Significant Impact (FONSI), as part of its request for a small take authorization. This EA contains information incorporated by reference in the application that is necessary for determining whether the activities proposed for receiving small take authorizations are having a negligible impact on affected marine mammmal stocks. As a result, NMFS will accept comment on this EA, and, based upon the comments received, will (1) adopt the U.S. Air Force EA as its own and sign a new FONSI statement, (2) amend the U.S. Air Force EA to incorporate relevant comments, suggestions and information and sign a new FONSI statement, or (3) based upon comments received, prepare and release for public comment a Draft Environmental Impact Statement.

Endangered Species Act (ESA)

The Department of the Air Force consulted with NMFS, as required by section 7 of the ESA, on whether launches of Titan II and IV at SLC–4 would jeopardize the continued existence of species listed as threatened or endangered. NMFS issued a section 7 biological opinion on this activity to the Air Force on October 31, 1988, concluding that launchings of the Titan IV were not likely to jeopardize the continued existence of the Guadalupe fur seal. The Air Force reinitiated consultation with NMFS after the Steller sea lion was added to the list of threatened and endangered species (55 FR 49204, November 26, 1990). However, since northern sea lions had not been sighted on the Channel Islands between 1984 and the time of the consultation, it was determined that these launchings were not likely to affect Steller sea lions. Additionally, on September 18, 1991, NMFS concluded that the issuance of a small take authorization to the Air Force to incidentally take marine mammals during Titan IV launches was not likely to jeopardize the continued existence of northern sea lions or Guadalupe fur seals. Because launches of rockets and missiles other than Titan IV are unlikely to produce sonic booms that will impact the NCI, and because listed marine mammals are not expected to haul-out either on the Vandenberg coast or on the NCI during the 5-year period for this proposed authorization, the issuance of these regulations are unlikely to adversely affect listed marine mammals. Additionally, incidental take authorizations for either of these two species under either the MMPA or the ESA are not warranted.

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Classification

This action has been determined to be not significant for purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as described in the Regulatory Flexibility Act. If implemented, this rule will affect only the U.S. Air Force, large defense companies, and an undetermined number of contractors providing services related to the launches, including the monitoring of launch impacts on marine mammals. Some of the affected contractors may be small businesses. The economic impact on these small businesses is dependent upon the award of contracts for such services. The economic impact cannot be determined with certainty, but will be beneficial have no effect, directly or indirectly, on small businesses. As such, a regulatory flexibility analysis is not required.

This proposed rule contains collection-of-information requirements subject to the provisions of the Paperwork Reduction Act (PRA). This collection has been approved by OMB under OMB control number 0648–0151. Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

The reporting burden for this collection is estimated to be approximately 3 hours per response for requesting an authorization (as described in 50 CFR 216.104) and 40 hours per response for submitting reports, including the time for gathering and maintaining the data needed and completing and reviewing the collection of information. Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. Please send any comments to NMFS and OMB (see ADDRESSES).

Information Solicited

NMFS requests interested persons to submit comments, information, and suggestions concerning the request and the structure and content of the regulations to allow the taking. Because this document contains only a summary of the information provided in the documents available to the public (see ADDRESSES), commenters are requested to review these documents before submitting comments.

List of Subjects in 50 CFR Part 216

Exports, Fish, Imports, Indians, Labeling, Marine mammals, Penalties, Reporting and recordkeeping requirements, Seafood, Transportation.

Dated: July 15, 1998.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR part 216 is proposed to be amended as follows:

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

1. The authority citation for part 216 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*, unless otherwise noted.

2. Subpart K is added to part 216 to read as follows:

Subpart K—Taking of Marine Mammals Incidental to Space Vehicle and Test Flight Activities

Sec.

216.120 Specified activity and specified geographical region.
216.121 Effective dates.
216.122 Permissible methods of taking.
216.123 Prohibitions.
216.124 Mitigation.
216.125 Requirements for monitoring and reporting.
216.126 Applications for Letters of Authorization.
216.127 Renewal of Letters of Authorization.
216.128 Modifications of Letters of Authorization.
216.129 [Reserved]

Subpart K—Taking of Marine Mammals Incidental to Space Vehicle and Test Flight Activities

§ 216.120 Specified activity and specified geographical region.

(a) This subpart applies only to the incidental taking of those marine mammals specified in paragraph (b) of this section by U.S. citizens engaged in:

(1) Launching a total of either 10 Minuteman and Peacekeeper missiles annually or 50 missiles over the 5-year authorization period from Vandenberg Air Force Base,

(2) Launching a total of either 20 rockets annually or 100 rockets over the 5-year authorization period from Vandenberg Air Force Base,

(3) Aircraft flight test operations, and

(4) Helicopter operations from Vandenberg Air Force Base.

(b) The incidental take of marine mammals on Vandenberg Air Force Base and in waters off southern California, under the activity identified in paragraph (a) of this section, is limited to the following species: Harbor seals (*Phoca vitulina*), California sea lions (*Zalophus californianus*), northern elephant seals (*Mirounga angustirostris*), northern fur seals (*Callorhinus ursinus*), Guadalupe fur seals (*Arctocephalus townsendi*), and Steller sea lions (*Eumetopias jubatus*).

§ 216.121 Effective dates.

This subpart is effective from October 1, 1998, through September 30, 2003.

§ 216.122 Permissible methods of taking.

(a) Under Letters of Authorization issued pursuant to § 216.106 of this chapter, the 30th Space Wing, U.S. Air Force, its contractors, and clients, may incidentally, but not intentionally, take marine mammals by harassment, within the area described in § 216.120 provided all terms, conditions, and requirements of these regulations and such Letter(s) of Authorization are complied with.

(b) [Reserved]

§ 216.123 Prohibitions.

Notwithstanding takings authorized by § 216.120 and by a Letter of Authorization issued under § 216.106, no person in connection with the activities described in § 216.120 shall:

(a) Take any marine mammal not specified in § 216.120(b);

(b) Take any marine mammal specified in § 216.120(b) other than by incidental, unintentional harassment;

(c) Take a marine mammal specified in § 216.120(b) if such take results in more than a negligible impact on the species or stocks of such marine mammal; or

(d) Violate, or fail to comply with, the terms, conditions, and requirements of these regulations or a Letter of Authorization issued under § 216.106.

§ 216.124 Mitigation.

(a) The activity identified in § 216.120(a) must be conducted in a manner that minimizes, to the greatest extent possible, adverse impacts on marine mammals and their habitats. When conducting operations identified in § 216.120, the following mitigation measures must be utilized:

(1) All aircraft and helicopter flight paths must maintain a minimum distance of 1,000 ft (305 m) from recognized seal haulouts and rookeries (e.g., Point Sal, Purisima Point, Rocky Point), except in emergencies or for real-time security incidents (e.g., search-and-rescue, fire-fighting) which may require approaching pinniped rookeries closer than 1,000 ft (305 m).

(2) For missile and rocket launches, unless constrained by other factors including, but not limited to, human safety, national security or launch trajectories, in order to ensure minimum negligible impacts of launches on harbor seals and other pinnipeds, holders of Letters of Authorization must avoid, whenever possible, launches during the harbor seal pupping season of February through May.

(3) For Titan IV launches only, the holder of that Letter of Authorization must avoid launches, whenever possible, which predict a sonic boom on the Northern Channel Islands during harbor seal, elephant seal, and California sea lion pupping seasons.

(4) If post-launch surveys determine that an injurious or lethal take of a marine mammal has occurred, the launch procedure and the monitoring methods must be reviewed, in cooperation with NMFS and appropriate changes made through modification to a Letter of Authorization, prior to conducting the next launch under that Letter of Authorization.

(5) Additional mitigation measures as contained in a Letter of Authorization.

(b) [Reserved]

§ 216.125 Requirements for monitoring and reporting.

(a) Holders of Letters of Authorization issued pursuant to § 216.106 for activities described in § 216.120(a) are required to cooperate with the National Marine Fisheries Service, and any other Federal, state or local agency monitoring the impacts of the activity on marine mammals. Unless specified otherwise in the Letter of Authorization, the Holder of the Letter of Authorization must notify the Administrator, Southwest Region, National Marine Fisheries Service, by letter or telephone, at least 2 weeks prior to activities involving the taking of marine mammals.

(b) Holders of Letters of Authorization must designate qualified on-site individuals, as specified in the Letter of Authorization, to:

(1) Conduct observations on harbor seal, elephant seal, and sea lion activity in the vicinity of the rookery nearest the launch platform or, in the absence of pinnipeds at that location, at another nearby haulout, for at least 72 hours prior to any planned launch and continue for a period of time not less than 48 hours subsequent to launching,

(2) Monitor haulout sites on the Northern Channel Islands if it is determined that a sonic boom could impact those areas (this determination will be made in coordination with the National Marine Fisheries Service),

(3) As required under a Letter of Authorization, investigate the potential for spontaneous abortion, disruption of effective female-neonate bonding, and other reproductive dysfunction,

(4) Supplement observations on Vandenberg and on the Northern Channel Islands, if indicated, with video-recording of mother-pup seal responses for daylight launches during the pupping season, and

(5) Conduct acoustic measurements of those launch vehicles not having sound pressure level measurements made previously.

(c) Holders of Letters of Authorization must conduct additional monitoring as required under an annual Letter of Authorization.

(d) The Holder of the Letter of Authorization must submit a report to the Southwest Administrator, National Marine Fisheries Service within 90 days after each launch. This report must contain the following information:

(1) Date(s) and time(s) of the launch, and

(2) Results of the monitoring programs, including, but not necessarily limited to:

(i) Numbers of pinnipeds present on the haulout prior to commencement of the launch,

(ii) Numbers of pinnipeds that may have been harassed as noted by the number of pinnipeds estimated to have entered the water as a result of launch noise,

(iii) The length of time(s) pinnipeds remained off the haulout or rookery,

(iv) The numbers of pinniped adults or pups that may have been injured or killed as a result of the launch, and

(v) Behavioral modifications by pinnipeds noted that were likely the result of launch noise or the sonic boom.

(e) An annual report must be submitted that describes in summary form any incidental takings not reported under paragraph (d) of this section.

(f) A final report must be submitted at least 180 days prior to expiration of these regulations. This report will:

(1) Summarize the findings made in all previous reports,

(2) Assess the impacts at each of the major rookeries,

(3) Assess the cumulative impact on pinnipeds and other marine mammals from Vandenberg activities, and

(4) State the date(s) location(s) and findings of any research activities related to monitoring the effects of launch noise and sonic booms on marine mammal populations.

§ 216.126 Applications for Letters of Authorization.

(a) To incidentally take harbor seals and other marine mammals pursuant to these regulations, either the U.S. citizen (see definition at § 216.103) conducting the activity or the 30th Space Wing on behalf of the U.S. citizen conducting the activity, must apply for and obtain a Letter of Authorization in accordance with § 216.106.

(b) The application must be submitted to the National Marine Fisheries Service at least 30 days before the activity is scheduled to begin.

(c) Applications for Letters of Authorization and for renewals of Letters of Authorization must include the following:

(1) Name of the U.S. citizen requesting the authorization,

(2) A description of the activity, the dates of the activity, and the specific location of the activity, and

(3) Plans to monitor the behavior and effects of the activity on marine mammals.

(d) A copy of the Letter of Authorization must be in the possession of the persons conducting activities that may involve incidental takings of seals and sea lions.

§ 216.127 Renewal of Letters of Authorization.

A Letter of Authorization issued under § 216.126 for the activity identified in § 216.120(a) will be renewed annually upon:

(a) Timely receipt of the reports required under § 216.125(d), which have been reviewed by the Assistant Administrator and determined to be acceptable;

(b) A determination that the mitigation measures required under § 216.124 and the Letter of Authorization have been undertaken; and

(c) A notice of issuance of a Letter of Authorization or of a renewal of a Letter of Authorization will be published in the **Federal Register** within 30 days of issuance.

§ 216.128 Modifications of Letters of Authorization.

(a) In addition to complying with the provisions of § 216.106, except as

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provided in paragraph (b) of this section, no substantive modification, including withdrawal or suspension, to the Letter of Authorization issued pursuant to § 216.106 and subject to the provisions of this subpart shall be made until after notice and an opportunity for public comment.

(b) If the Assistant Administrator determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 216.120(b) or that significantly and detrimentally alters the scheduling of launches, a Letter of Authorization issued pursuant to § 216.106 may be substantively modified without a prior notice and an opportunity for public comment. A notice will be published in the **Federal Register** subsequent to the action.

§ 216.129 [Reserved]

[FR Doc. 98–19392 Filed 7–20–98; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 980714174–8174–01; I.D. 061898B]

RIN 0648–AK60

Fisheries Off West Coast States and in the Western Pacific; Western Pacific Precious Corals Fisheries; Amendment 3

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Amendment 3 to the Fishery Management Plan for the Precious Corals Fisheries of the Western Pacific Region (FMP). Amendment 3 would establish framework procedures enabling management measures to be established and/or changed via rulemaking rather than through FMP amendment. The intent of this action is to enable the Western Pacific Fishery Management Council (Council) to respond quickly to rapid changes in the Western Pacific precious corals fisheries.

DATES: Comments on this proposed rule must be received on or before September 4, 1998.

ADDRESSES: Comments on this proposed rule or Amendment 3 should be sent to, and copies of these documents are available from, Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813.

FOR FURTHER INFORMATION CONTACT: Alvin Katekaru, Fishery Management Specialist, Pacific Islands Area Office, NMFS at (808) 973–2985 or Kitty Simonds at (808) 522–8220.

SUPPLEMENTARY INFORMATION: NMFS is proposing this rule based on a recommendation of the Council under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). It would establish framework procedures under FMP Amendment 3 to enable the Council and NMFS to change elements of the management regime governing the Western Pacific precious corals fisheries through rulemaking rather than through FMP amendment. The procedures would specify how certain new measures may be established in response to changes that may occur rapidly in the fishery, as well as how established measures (e.g., seasons, permit requirements, quotas, closures, area limitations, gear and coral size restrictions) may be revised without the Council having to develop and NMFS implement an FMP amendment. With the concurrence of the Council, the Southwest Regional Administrator, NMFS, would be able to initiate rulemaking. Each action taken under the framework process would entail documentation of the analysis of impacts of that action. Advance public notice, public discussion, and consideration of public comment on each framework action are required. Amendment 3 itself describes the framework procedure in more detail than the regulatory text of this rule.

On January 14, 1998, a notice of availability of draft FMP Amendment 3 was published in the **Federal Register** (63 FR 2195). The draft included two actions: Establishment of framework procedures and inclusion in the management unit of precious corals in the exclusive economic zone waters around the Commonwealth of the Northern Mariana Islands (CNMI) (which would have been managed as an exploratory permit area). The notice also indicated that the Council staff would submit the amendment for Secretarial review only if no substantive or critical comments were received during a 45-day public review period. The Council received substantive comments on the proposal to manage precious corals in the waters off CNMI as an exploratory permit area. However, no comments were received regarding the proposal to establish the framework procedures.

Subsequently, Council staff revised the draft amendment by removing the CNMI provision, and a new draft was prepared for Secretarial review. At its 95th meeting held in April 1998, the Council concurred with the revised draft amendment.

Framework procedures appear needed because of present interest in the harvest of precious corals at the established coral bed at Makapuu Point, Oahu, Hawaii, and around the main Hawaiian Islands. Pre-harvest surveys conducted in 1997 at the Makapuu bed indicate this bed to be at least 15 percent larger than it was 12 years ago. Recruitment of pink coral at the Makapuu bed is undiminished compared to 1991; however, recruitment of gold coral has been very low. Framework procedures under proposed FMP Amendment 3 would, for example, enable the Council to modify the harvestable size of the Makapuu precious coral bed or to adjust the quota on gold coral, if needed, in a timely manner.

Classification

At this time, NMFS has not determined that Amendment 3, which this rule would implement, is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period.

This proposed rule has been determined to be not significant for the purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as follows:

The National Marine Fisheries Service considers an impact to be significant if it results in a reduction in annual gross revenues by more than 5 percent, an increase in annual compliance costs of greater than 5 percent, compliance costs at least 10 percent higher for small entities than for large entities, compliance costs that require significant capital expenditures, or the likelihood that 2 percent of the small entities would be forced out of business. NMFS considers a "substantial number" of small entities to be more than 20 percent of those small entities affected by the regulation engaged in the fishery. Since the proposed action is administrative, and would only add a framework procedure to the FMP, this rule would not result in any new compliance burdens or in any significant economic impact on small entities. As a result, a regulatory flexibility analysis was not prepared.

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: July 15, 1998.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is proposed to be amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. A new § 660.89 is added to Subpart F to read as follows:

§ 660.89 Framework procedures.

(a) *Introduction.* Established management measures may be revised and new management measures may be established and/or revised through rulemaking if new information demonstrates that there are biological, social, or economic concerns in the precious coral permit area. The following framework process authorizes the establishment and revision of measures that may affect the operation of the fisheries, gear, quotas, season, or changes in catch and/or effort.

(b) *Annual report.* By June 30 of each year, the Council-appointed Precious Coral Team will prepare an annual report on the fisheries in the management area. The report shall contain, among other things, recommendations for Council action and an assessment of the urgency and effects of such action(s).

(c) *Procedure for established measures.* (1) Established measures are management measures that, at some time, have been included in regulations implementing the FMP, and for which the impacts have been evaluated in Council/NMFS documents in the context of current conditions.

(2) According to the framework procedures of Amendment 3 to the FMP, the Council may recommend to the Regional Administrator that established measures be modified, removed, or re-instituted. Such recommendation shall include supporting rationale and analysis, and shall be made after advance public notice, public discussion, and consideration of public comment. NMFS may implement the Council's recommendation by rulemaking if approved by the Regional Administrator.

(d) *Procedure for new measures.* (1) New measures are management measures that have not been included in regulations implementing the FMP, or for which the impacts have not been evaluated in Council/NMFS documents in the context of current conditions.

(2) Following the framework procedures of Amendment 3 to the FMP, the Council will publicize, including by a **Federal Register** document, and solicit public comment on, any proposed new management measure. After a Council meeting at which the measure is discussed, the Council will consider recommendations and prepare a **Federal Register** document summarizing the Council's deliberations, rationale, and analysis for the preferred action, and the time and place for any subsequent Council meeting(s) to consider the new measure. At a subsequent public meeting, the Council will consider public comments and other information received before making a recommendation to the Regional Administrator about any new measure. If approved by the Regional Administrator, NMFS may implement the Council's recommendation by final rulemaking, in some instances, or if circumstances warrant, by proposed and final rulemaking.

[FR Doc. 98–19391 Filed 7–20–98; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 980702167–8167–01; I.D. 051898A]

RIN 0648–AK73

Fisheries of the Exclusive Economic Zone Off Alaska; Stand Down Requirements for Trawl Catcher Vessels Transiting Between the Bering Sea and Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement a stand down requirement for trawl catcher vessels transiting between the Bering Sea and Aleutian Islands Management Area (BSAI) and Gulf of Alaska (GOA). This action is necessary to prevent unexpected shifts of fishing effort between BSAI and GOA fisheries that cause management problems and can lead to overharvests of total allowable catch (TAC) in the Western and Central (W/C) Regulatory Areas of the GOA. This action is intended to further the goals and objectives of the Fishery Management Plan for Groundfish of the Gulf of Alaska and the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMPs).

DATES: Comments on the proposed rule must be received no later than August 20, 1998.

ADDRESSES: Comments may be sent to Sue Salveson, Assistant Regional Administrator for Sustainable Fisheries, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori J. Gravel, or delivered to the Federal Building, 709 West 9th Street, Juneau, AK. Copies of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for this action are available from NMFS at the same address, or by calling the Alaska Region, NMFS, at 907–586–7228.

FOR FURTHER INFORMATION CONTACT: Kent Lind, 907–586–7228 or kent.lind@noaa.gov.

SUPPLEMENTARY INFORMATION: The groundfish fisheries off Alaska are managed by NMFS under the FMPs. The FMPs were prepared by the North Pacific Fishery Management Council (Council) under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Federal regulations governing the groundfish fisheries appear at 50 CFR parts 600 and 679.

Background and Need for Action

In recent years, management of the inshore pollock and Pacific cod fisheries of the W/C Regulatory Areas of the GOA has become increasingly difficult and the risk of harvest overruns has grown due to TAC amounts that are small relative to the potential fishing effort. The problem has been most acute in the Western Regulatory Area of the GOA due to the constant potential that numerous large catcher vessels based in the Bering Sea could cross into the GOA to participate in pollock and Pacific cod openings that have relatively small TACs. NMFS currently lacks a preseason vessel registration program that could gauge potential effort in these fisheries prior to openings, and inseason catch information in these fisheries is neither timely nor accurate enough to allow adequate management.

The difficulty of managing the pollock fishery in the Western Regulatory Area was demonstrated in 1997 during the September 1 third season opening. On September 4, 1997, NMFS announced a closure of the fishery effective September 7, 1997, based on the observed level of effort in the Western Regulatory Area. Once the closure date was announced, a large number of Bering Sea-based vessels entered the GOA to participate in the final 2 days of the fishery. NMFS inseason managers did not anticipate this increase in effort because the Bering Sea pollock fishery was still open at that time and NMFS expected that Bering Sea-based vessels would continue to fish in the Bering Sea. Nevertheless, these Bering Sea-based vessels harvested approximately 7,000 mt of pollock from the Western Regulatory Area in the final 2 days of the fishery. As a consequence of this unanticipated effort, the 1997 annual TAC of 18,600 mt for this area was exceeded by 8,017 mt or 43 percent of the total.

In response to the difficulties associated with managing the pollock and Pacific cod fisheries of the W/C Regulatory Areas, the Council has developed two distinct management solutions. The first program, adopted by the Council at its February 1998 meeting and contained in this proposed rule, is a stand down requirement for inshore trawl catcher vessels transiting between the BSAI and GOA. The second management program, currently under development by NMFS and the Council, is a vessel registration program that would require vessels to register with NMFS in advance of entering certain critical fisheries. Both of these programs are described in detail in the EA/RIR prepared for this action.

Elements of the Proposed Rule

This proposed rule would impose a stand down requirement for all trawl catcher vessels transiting between the BSAI and GOA FMP management areas that would be in effect when the pollock or Pacific cod fisheries are open in the BSAI or GOA. Vessels leaving the BSAI would be required to offload all fish caught in the BSAI and would be prohibited from deploying trawl gear in the W/C Regulatory Areas of the GOA until 1200 hours A.l.t. on the third day after the date that offloading was completed. Vessels transiting from the Western Regulatory Area to the BSAI would be subject to the same 3-day stand down requirement. However, vessels transiting between the Central Regulatory Area and the BSAI would face a 2-day stand down period. The Council believed that a shorter stand down period for vessels transiting between the Central Regulatory Area and the BSAI was warranted because the Central Regulatory Area is farther from the BSAI and less subject to rapid shifts of effort back and forth from BSAI fisheries.

The purpose of requiring vessels to offload all fish caught in one area before deploying gear in the new area is to aid enforcement officers in determining whether a violation of the stand down requirement has occurred. If vessels were allowed to retain fish on board the vessel while transiting to a new area, enforcement officers boarding a vessel would have no means of determining whether the fish on board the vessel were caught in the previous area, or caught in the new area in violation of the stand down requirement. Requiring vessels to empty their holds before beginning the stand down period would eliminate this enforcement difficulty.

Classification

This proposed rule has been determined to be not significant for the purposes of E.O. 12866.

NMFS has prepared an initial regulatory flexibility analysis that consists of the EA/RIR and the preamble to this proposed rule. A copy of the EA/RIR is available from NMFS (see ADDRESSES).

The proposed stand down requirement would affect an estimated 275 trawl catcher vessels fishing for groundfish in the GOA and BSAI, all of which are considered small entities, because it would restrict their ability to make rapid transits between the BSAI and GOA groundfish fisheries. Managing pollock and Pacific cod fisheries in the GOA has been increasingly difficult because of the potential for large catcher vessels based in the BSAI to participate in pollock and Pacific cod openings in the GOA that have relatively small TACs and risk harvest overruns. Ten to 15 catcher vessels, believed to be based in the BSAI, made rapid transits from one area to another in 1997. NMFS cannot calculate how many such vessels might transit in 1998 but it is possible that more than 10–15 catcher vessels could participate in GOA pollock and Pacific cod fisheries and risk harvest overruns. NMFS projects that the proposed restriction could result in the foregone harvest of pollock to BSAI-based catcher vessels, which could exceed the estimated 7,663 mt of pollock harvested in 1997 by these vessels. NMFS cannot calculate this proposed rule's effect on the affected vessels, but it is possible that it could result in losses of 5 percent or more of these vessels' gross revenues and/or increase the costs of production by more than 5 percent. No entities are expected to be forced out of business as a result of this action. As such, based on NMFS threshold guidelines, this action could result in a significant economic impact on a substantial number of small entities.

This proposed rule would not result in any new reporting requirements and does not duplicate, overlap with, or conflict with any other Federal rules.

Alternatives to the proposed stand down requirement include no action, variations on the length or applicability of the stand down requirement, or establishing a vessel registration program. The no action alternative would preserve the possibility of distributional impacts resulting from the BSAI-based fleet taking some of the TAC that would otherwise be harvested by the GOA-based fleet. This alternative's risks to the long-term health of the stock, due to the potential for continued overharvests, could lead to negative economic impacts in future years.

The Council considered a range of variations on the length and applicability of the stand down requirement. The options that would have applied the requirements either to all groundfish vessels, or all trawl vessels were rejected because the objective of preventing overharvests could be achieved through a less restrictive option that applied the stand down requirement only to trawl catcher vessels. The options that would have applied the stand down requirements to all target fisheries was selected over the option that would have applied only to the pollock and Pacific cod fisheries due to potential conflicts with the increased retention/improved utilization program and the difficulties of enforcing a more narrowly tailored rule. Reducing the length of the stand down period for the Western Regulatory Area from 72 to 48 hours may have marginally reduced some of the impacts on small entities and still reduced the number of rapid transits. However, this alternative would not have alleviated the impacts of the offloading requirement and could have resulted in enforcement difficulties. There were also several options concerning when the stand down period should begin: from the time of gear retrieval in one area, from noon on the date of landing fish, or from the actual time and date of the delivery of fish. Beginning the period at the time of retrieval of gear could have reduced impacts associated with delay on small entities. This approach would have relied on log book data, and vessels under 60 feet LOA are not required to maintain logbooks. However, NMFS does not believe that many of these small catcher vessels make rapid transits. Beginning the period at the time of actual delivery would have imposed a new record keeping and reporting requirement, and would have entailed a Paperwork Reduction Act clearance process that would have precluded implementing this action prior to 1999.

A vessel registration system, which would require vessels to pre-register for the areas in which they would be fishing, would resolve NMFS's management problems with the relatively minor impact of reduced flexibility for the fishing fleets. In some cases this option would impose costs on vessels that realize mid-course they would prefer to fish in another area, but it would improve the predictability of the fishing season and allow fishers to plan more effectively. The council has recommended developing this alternative and implementing it at a later date.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: July 14, 1998.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is proposed to be amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, 773 *et seq.*, and 3631 *et seq.*

2. In § 679.23 a new paragraph (h) is added to read as follows:

§ 679.23 Seasons.

* * * * *

(h) *Stand down requirements for catcher vessels transiting between the BSAI and GOA.*

If you own or operate a catcher vesssel and fish for groundfish with trawl gear in the * * *	You are prohibited from subsequently deploying trawl gear in the * * *	Until * * *
(1) BSAI while pollock or Pacific cod is open to directed fishing in the BSAI.	Western and Central Regulatory Areas of the GOA.	1200 hours A.l.t. on the third day after the date of landing or transfer of all groundfish on board the vessel harvested in the BSAI, unless you are engaged in directed fishing for Pacific cod in the GOA for processing by the offshore component.
(2) Western Regulatory Area of the GOA while pollock or inshore Pacific cod is open to directed fishing in the Western Regulatory Area of the GOA.	BSAI	1200 hours A.l.t. on the third day after the date of landing or transfer of all groundfish on board the vessel harvested in the Western Regulatory Area of the GOA.
(3) Central Regulatory Area of the GOA while pollock or inshore Pacific cod is open to directed fishing in the Central Regulatory Area of the GOA.	BSAI	1200 hours A.l.t. on the second day after the date of landing or transfer of all groundfish on board the vessel harvested in the Central Regulatory Area of the GOA.

[FR Doc. 98–19334 Filed 7–20–98; 8:45 am]

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Notices

Federal Register
Vol. 63, No. 139
Tuesday, July 21, 1998

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 98-040N]

Meeting on HACCP-Based Inspection Models Project for Slaughter Plants

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The Agency is holding a public meeting to discuss its HACCP-based Inspection Models Project for slaughter plants. The morning session will provide background information on the Inspection Models Project. The afternoon session will focus in some detail on the project's specific phases and timelines and will conclude with an open discussion period.

DATES: The meeting will be held on July 27, 1998, from 9 a.m. to 3 p.m.

ADDRESSES: The meeting will be held at the Washington Plaza Hotel in Washington, D.C., 10 Thomas Circle NW (at Massachusetts Avenue and 14th Street), Washington DC 20005, (202) 842-1300.

FOR MORE INFORMATION CONTACT: To register for the meeting, contact Ms. Jennifer Callahan of the FSIS Planning Staff at (202) 501-7138 or FAX (202) 501-7642. Attendees who require a sign language interpreter or other special accommodation should contact Ms. Callahan at the above numbers by July 22, 1998.

SUPPLEMENTARY INFORMATION: The Inspection Models Project is an outgrowth of the Agency's Pathogen Reduction/Hazard Analysis and Critical Control Point (PR/HACCP) Systems Final Rule, published on July 25, 1996. The PR/HACCP rule calls for the establishment of a HACCP-based food safety system to reduce the risk of foodborne illness from meat and poultry products.

In a **Federal Register** Notice of June 10, 1997, FSIS requested public comments on the design and development of new inspection models for slaughter and processing in a HACCP environment (62 FR 31553). This notice summarized recommendations by the National Academy of Sciences and the General Accounting Office that FSIS reduce its reliance on organoleptic (sensory) inspection and redeploy its resources by using inspection methods that are based on the risks inherent in meat and poultry slaughter operations. To accomplish these objectives, it is clear that new inspection methods must be developed and tested that are consistent with the meat and poultry inspection laws and the systems now required by the PR/HACCP rule. This inspection models project will help define the respective responsibilities of FSIS and the regulated industry in slaughter establishments operating under HACCP.

The Inspection Models Project will rely heavily on objective data. Data will be used to: (1) Measure the accomplishments of the present inspection system in slaughter establishments using data on the pathology, microbiology, and wholesomeness of carcasses produced under the current system; and (2) measure the effectiveness of the new inspection models at establishments where plant personnel will be tasked with performing slaughter process control and FSIS inspectors will rigorously perform oversight and verification inspection tasks. FSIS will then have comparable data to evaluate the models and determine their effectiveness.

The meeting is open to the public on space-available basis. Transcripts of this meeting will be available in the FSIS Docket Room.

Done in Washington, DC, on July 13, 1998.

Thomas J. Billy,

Administrator.

[FR Doc. 98-19324 Filed 7-20-98; 8:45 am]

BILLING CODE 3410-DM-P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 98-031E]

Extension of Time Period To Submit Abstracts of Scientific Papers

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Extension of Time Period to Submit Abstracts of Scientific Papers.

SUMMARY: In the **Federal Register** notice dated July 7, 1998, the Food Safety and Inspection Service (FSIS) announced it was soliciting abstracts of scientific papers for a conference on Technology to Improve Food Safety" to be held on July 28, 1998, in Washington, DC. The notice said that the abstracts must be received no later than COB July 8, 1998. FSIS would like to extend the date for submission of abstracts through July 17, 1998.

DATES: The conference will be held from 8:30 a.m. to 5:00 p.m. on July 28, 1998. Abstracts of scientific papers must be received no later than COB July 17, 1998; the final papers no later than COB July 20, 1998. Based on the number of requests for space received by July 17, 1998, FSIS will determine whether it will be able to make exhibition space available. The conference will be held in two sessions: Technologies for Reducing Pathogens and Technologies for Detecting Pathogens. Please specify for which session the paper is intended.

ADDRESSES: The meeting will be held in the Federal Hall Ballroom of the Washington Plaza Hotel, 10 Thomas Circle, NW, Washington, DC. Two copies of the abstracts and final papers should be sent to Ms. Mary Harris, Room 6904, Franklin Court Building, 1099 14th Street, NW, Washington, DC 20250-3700.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Hudnall, Assistant Deputy Administrator, Office of Policy, Program Development, and Evaluation; telephone (202) 205-0495 or FAX (202) 401-1760.

Done in Washington, DC, on July 14, 1998.

Thomas J. Billy,

Administrator.

[FR Doc. 98-19323 Filed 7-20-98; 8:45 am]

BILLING CODE 3410-DM-P

DEPARTMENT OF AGRICULTURE

Forest Service

West Indigo Timber Sales and Other Projects, Siskiyou National Forest, Josephine County, Oregon

AGENCY: Forest Service, USDA.

ACTION: Cancellation of an environmental impact statement.

SUMMARY: On March 18, 1991 a Notice of Intent (NOI) to prepare an environmental impact statement (EIS) for the West Indigo Timber Sales and Other Projects on the Galice Ranger District of the Siskiyou National Forest was published in the **Federal Register** (56 FR 11404). A Notice of Availability for the draft EIS was published in the **Federal Register** on September 25, 1992 (57 FR 36704). The comment period on the draft EIS ended November 9, 1992. Forest Service has decided to cancel the environmental analysis process. There will be no EIS for this project at this time NOI is rescinded.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this cancellation to Peter Gaulke, Supervisory Forester, Galice Ranger District, 200 N.E. Greenfield Avenue, Grants Pass, Oregon 97526, phone 541–471–6500.

Dated: July 9, 1998.

Robert F. Ettner,

Natural Resource Staff.

[FR Doc. 98–19355 Filed 7–20–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Information Systems Technical Advisory Committee; Notice of Partially Closed Meeting

A meeting of the Information Systems Technical Advisory Committee (ISTAC) will be held August 4 & 5, 1998, 9:00 a.m., Room 1617M–2, in the Herbert C. Hoover Building, 14th Street between Constitution and Pennsylvania Avenues, NW, Washington, DC. This Committee advises the Office of the Assistant Secretary for Export Administration on technical questions that affect the level of export controls applicable to information systems equipment and technology.

August 4

General Session

1. Opening remarks by the Chairman.
2. Review of ISTAC position papers on proposed Composite Theoretical Performance changes and on High Performance Computing.
3. Discussion of export regulation initiative regarding end-use visits for High Performance Computing in China.
4. Discussion of export regulation initiative regarding KMI (Key Management Infrastructure) licensing allowing 128-bit encryption for some destinations.
5. Discussion of Graphics Processors and related metrics.
6. Comments or presentations by the public.

August 4 & 5

Closed Session

7. Discussion of matters properly classified under Executive Order 12958, dealing with U.S. export control programs and strategic criteria related thereto.

The General Session of the meeting is open to the public and a limited number of seats will be available. Reservations are not required. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that public presentation materials or comments be forwarded at least one week before the meeting to the address listed below:

Ms. Lee Ann Carpenter, OAS/EA/BXA
MS: 3886C, U.S. Department of
Commerce, 15th St. & Pennsylvania
Ave, NW, Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on October 3, 1997, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of these Committees and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of these Committees is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, DC. For further information or copies of the minutes call Lee Ann Carpenter, 202–482–2853.

Dated: July 15, 1998.

Lee Ann Carpenter,

Director, Technical Advisory Committee Unit.

[FR Doc. 98–19411 Filed 7–20–98; 8:45 am]

BILLING CODE 3510–33–M

DEPARTMENT OF COMMERCE

Foreign—Trade Zones Board

[Order No. 993]

Grant of Authority for Subzone Status; Bollinger Shipyards, Inc. (Shipbuilding), Lockport, Louisiana

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the FTZ Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the South Louisiana Port Commission, grantee of FTZ 124, for authority to establish special-purpose subzone status for the shipbuilding facility of Bollinger Shipyards, Inc., in Lockport, Louisiana, was filed by the Board on August 11, 1997, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 64–97, 62 FR 44642, 8/22/97); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations would be satisfied, and that approval of the application would be in the public interest if approval were given subject to the standard shipyard restriction on foreign steel mill products;

Now, Therefore, the Board hereby grants authority for subzone status at the shipbuilding facility of Bollinger Shipyards, Inc., in Lockport, Louisiana (Subzone 124H); at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28, and subject to the following special conditions:

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1. Any foreign steel mill products admitted to the subzone, including plate, angles, shapes, channels, rolled steel stock, bars, pipes and tubes, not incorporated into merchandise otherwise classified, and which is used in manufacturing, shall be subject to Customs duties in accordance with applicable law, unless the Executive Secretary determines that the same item is not then being produced by a domestic steel mill; and,

2. In addition to the annual report, Bollinger Shipyards, Inc., shall advise the Board's Executive Secretary (§ 400.28(a)(3)) as to significant new contracts with appropriate information concerning foreign purchases otherwise dutiable, so that the Board may consider whether any foreign dutiable items are being imported for manufacturing in the subzone primarily because of subzone status and whether the Board should consider requiring Customs duties to be paid on such items.

Signed at Washington, DC, this 10th day of July 1998.

Richard W. Moreland,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–19399 Filed 7–20–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 990]

Grant of Authority for Subzone Status; Hewlett-Packard Company (Computer and Related Electronic Products); Bridgewater and Washington, New Jersey

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the Port Authority of New York and New Jersey, grantee of Foreign-Trade Zone 49, for authority to establish special-purpose subzone status at the computer and electronic products manufacturing facilities of the Hewlett-Packard Company, located at sites in Bridgewater and Washington, New Jersey, was filed by the Board on June 19, 1997, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 53–97, 62 FR 35151, 6/30/97; amended 8/25/97); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application, as amended, is in the public interest;

Now, therefore, the Board hereby grants authority for subzone status at the computer and related electronic products manufacturing facilities of the Hewlett-Packard Company, located in the Bridgewater and Washington, New Jersey, area (Subzone 49G), at the locations described in the application, and subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 10th day of July 1998.

Richard W. Moreland,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–19396 Filed 7–20–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign Trade Zones Board

[Order No. 991]

Approval of Manufacturing Activity Within Foreign-Trade Zone 93 Durham, North Carolina; Rike Industries, Inc. (In-Line Skates)

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, § 400.28(a)(2) of the Board's regulations, requires approval of the Board prior to commencement of new manufacturing/processing activity within existing zone facilities;

Whereas, the Triangle J Council of Governments, grantee of FTZ 93, has requested authority under § 400.28(a)(2) of the Board's regulations on behalf of Rike Industries, Inc., to assemble in-line skates under zone procedures within FTZ 93, Durham, North Carolina (filed 1–13–98; FTZ Doc. 3–98, 63 FR 3085, 1–21–98);

Whereas, the Board adopts the findings and recommendation of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied and that the proposal is in the public interest;

Now, therefore, the Board hereby approves the request subject to the Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 10th day of July 1998.

Richard W. Moreland,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–19397 Filed 7–20–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 992]

Grant of Authority for Subzone Status; Globe Metallurgical, Inc. (Ferroalloys and Silicon Metals); Beverly, Ohio

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the Rickenbacker Port Authority, grantee of FTZ 138, for authority to establish special-purpose subzone status at the ferroalloys and silicon metals manufacturing plant of Globe Metallurgical, Inc., in Beverly, Ohio, was filed by the Board on April 21, 1997, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 34–97, 62 FR 24393, 5/5/97) and was amended on April 21, 1998; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations would be satisfied, and that approval of the application, as amended, would be in the public interest;

Now, therefore, the Board hereby grants authority for subzone status at the ferroalloys and silicon metals manufacturing plant of Globe Metallurgical, Inc., located in Beverly, Ohio (Subzone 138D), at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28, and subject to the following conditions:

1. Foreign status products consumed in the production process shall be subject to duty at the applicable rate;
2. Privileged foreign status (19 CFR 146.41) shall be elected on all foreign merchandise admitted to the subzone; and
3. All foreign status merchandise subject to an antidumping or countervailing duty order (15 CFR 400.33) must be exported.

Signed at Washington, DC, this 10th day of July 1998.

Richard W. Moreland,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–19398 Filed 7–20–98; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 994]

Expansion of Foreign-Trade Zone 183, Austin, Texas

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, an application from the Foreign Trade Zone of Central Texas, Inc., grantee of Foreign-Trade Zone No. 183, for authority to expand its zone to include a site at the MET Center industrial park in Austin, Texas, within the Austin Customs port of entry, was filed by the Foreign-Trade Zones (FTZ) Board on August 4, 1997 (Docket 63–97, 62 FR 43700, 8/15/97);

Whereas, notice inviting public comment was given in the **Federal Register** and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board has found that the requirements of the Act and the regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The grantee is authorized to expand its zone as requested in the application, subject to the Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 10th day of July 1998.

Richard W. Moreland,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–19400 Filed 7–20–98; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–809]

Circular Welded Non-Alloy Steel Pipe From the Republic of Korea; Amended Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amended final results of antidumping duty administrative review.

SUMMARY: On June 16, 1998, the Department of Commerce published the final results of administrative review of the antidumping order on circular welded non-alloy steel pipe from the Republic of Korea (63 FR 32833). The period of review is November 1, 1995, through October 31, 1996. Subsequent to the publication of the final results, we received comments from respondents and petitioners alleging various ministerial errors. After analyzing the comments submitted, we are amending our final results to correct certain ministerial errors.

EFFECTIVE DATE: July 21, 1998.

FOR FURTHER INFORMATION CONTACT: Marian Wells or Zak Smith; Antidumping/Countervailing Duty Enforcement, Group I, Office 1, Import Administration, International Trade Administration, US Department of Commerce; 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone numbers (202) 482–6309 or (202) 482–1279, respectively.

Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930 ("the Act"), as amended, are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. Additionally, unless otherwise indicated all citations to the Department of Commerce's ("the Department's") regulations are to 19 CFR part 353 (April 1997).

SUPPLEMENTARY INFORMATION:

Background

On June 16, 1998, the Department published the final results of administrative review of the antidumping duty order on circular welded non-alloy steel pipe from Korea covering the period November 1, 1995, through October 31, 1996 (*see*, Circular Welded Non-Alloy Steel Pipe from Korea; Final Results of Antidumping Duty Administrative Review, 63 FR 32833 ("Final Results"). Subsequently, the following interested parties submitted ministerial error allegations: SeAH Steel Coporation ("SeAH") and Hyundai Pipe Company Limited ("Hyundai")(collectively "the respondents"), and Allied Tube and Conduit Corporation, Sawhill Tubular Division-Armco, Inc., and Wheatland Tube Company (collectively "the petitioners").

A summary of each allegation along with the Department's response is included below. We are hereby amending our final results, pursuant to 19 CFR 353.28(c), to reflect the correction of those errors which are clerical in nature.

Analysis of Ministerial Error Allegations

Allegation 1: Hyundai alleges that in the concordance program, the Department inadvertently used a different date of sale for Hyundai's U.S. sales than that specified in the Final Results.

Department's Position: We agree with Hyundai and have altered the concordance program such that the appropriate date of sale, as discussed in our Final Results, is used in both the margin and concordance programs.

Allegation 2: Respondents allege that in the concordance program the Department inadvertently applied its general and administrative expenses (G&A) and interest expense adjustment factor on a compounding basis for each

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subsequent sale within a control number.

Department's Position: We agree with respondents and have altered the concordance program in order to eliminate the compounding of the adjustment factor for G&A and interest expenses.

Allegation 3: SeAH states that the Department limited the coverage of U.S. sales to the period November 1, 1995 through October 31, 1996 and, in doing so, excluded sales made prior to November 1, 1995, but entered during the period of review ("POR") from the concordance program. The petitioners argue that the Department correctly limited the sales analyzed to those sales made during the POR.

SeAH also asserts that the Department excluded sales from the year 1995 by incorrectly naming the months of 1995 in the concordance program. According to SeAH, this resulted in the absence of all 1995 sales in the concordance table and therefore, the use of constructed value for all 1995 sales.

SeAH further states that the Department has used two different sales date variables in the concordance and margin programs.

Department's Position: We agree with SeAH on all three issues. Accordingly, we have altered the concordance program in order to include export price (EP) sales made before the POR but entered during the POR (*see*, comment 2 of the Final Results, at 32836). Furthermore, since we incorrectly named the variable representing sales during 1995, we have altered the concordance program to correct this problem. Finally, we corrected the inconsistent use of date variables in the margin program by using the contract date for all EP sales. For constructed export price ("CEP") sales, we use the variable SALEDTU (sale date) as discussed in our Final Results.

Allegation 4: SeAH maintains that the Department incorrectly excluded certain sales with entry dates during the POR in its margin analysis program.

Department's Position: We agree with SeAH. However, this error only applies to EP sales. For EP sales, we have substituted the field name ENTRDTU for SHIPDT2U in the margin analysis program to correct this error.

Allegation 5: SeAH alleges that the Department double counted U.S. commissions by adding the amount of commissions to the foreign market price and deducting commissions from U.S. price.

Department's Position: We agree with SeAH. To correct this error, we have eliminated the deduction of commissions in the calculation of U.S. price.

Allegation 6: SeAH states that the Department's adjustment to duty drawback was incorrectly calculated for CEP sales. SeAH argues that the Department has negated the claimed duty drawback and calculated a downward adjustment to the U.S. price.

Department's Position: We agree with SeAH. To correct this error, we have recalculated the duty drawback for SeAH's CEP sales (*see* SeAH Correction of Ministerial Errors Calculation Memorandum, June 9, 1998).

Allegation 7: Petitioners argue that the Department neglected to include any selling expenses in the formula for calculating constructed value ("CV") profit while including such expenses when calculating total CV.

Department's Position: We disagree with petitioners that we made a ministerial error when calculating CV profit. When calculating CV profit we applied the profit rate to a cost of production figure exclusive of certain selling expenses. We did this because the profit rate was also calculated on a basis exclusive of the same selling expenses. Thus, we intentionally did not include selling expenses when calculating CV profit, and therefore, this is not a ministerial error.

Amended Final Results of Review

As a result of the amended margin calculations, the following weighted-average percentage margins exist for the period November 1, 1995 through October 31, 1996:

Manufacturer/Exporter	Percentage margin
Hyundai	2.64
SeAH	2.63

In accordance with the methodology in the *Final Results of Antidumping Duty Administrative Review and Partial Termination of Administrative Review: Circular Welded Non-Alloy Steel Pipe from Korea* (62 FR 55574), October 27, 1997, we calculated exporter/importer-specific assessment values by dividing the total antidumping duties due for each importer by the number of tons used to determine the duties due. We will direct the Customs Service to assess the resulting per-ton dollar amount against each ton of the merchandise entered by these importers during the review period.

We will also direct the Customs Service to collect cash deposits of estimated antidumping duties on all appropriate entries in accordance with the procedures discussed in the Final Results and as amended by this determination. The amended deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice and shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing this determination in accordance with sections 751(h) and 777(i) of the Act and 19 CFR 353.28(c).

Dated: July 15, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–19395 Filed 7–20–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 98–033. *Applicant:* U.S. Environmental Protection Agency, 200 S.W. 35th Street, Corvallis, OR 97333. *Instrument:* Nutrient Monitor with Stainless Steel Mooring-frame-in-line. *Manufacturer:* W.S. Ocean Systems Ltd., United Kingdom. *Intended Use:*

The instrument will be used for studies of dissolved nitrate in coastal estuaries or seawater. Experiments will be conducted at high tide to determine the quantity of nutrients entering from the ocean and at low tide to determine the quantity of nitrate flowing down river. In addition, the instrument will be used to train students for ocean nutrient analyses. Application accepted by Commissioner of Customs: June 25, 1998.

Docket Number: 98–034. *Applicant:* Vanderbilt University, Mechanical Engineering Department, Box 1592, Station B, Nashville, TN 37235. *Instrument:* Excimer Laser, Model COMPex 150T. *Manufacturer:* Lambda Physik, Germany. *Intended Use:* The instrument is intended to be used for velocity measurements of gaseous flowfields using photolytic flow tagging and combustion properties measurements in high temperature reacting, gaseous flowfields. Application accepted by Commissioner of Customs: July 1, 1998.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 98–19401 Filed 7–20–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Evaluation of Coastal Zone Management Program and National Estuarine Research Reserves

AGENCY: Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), DOC.

ACTION: Notice of intent to evaluate.

SUMMARY: The NOAA Office of Ocean and Coastal Resource Management (OCRM) announces its intent to evaluate the performance of the Massachusetts Coastal Zone Management Program and the Chesapeake Bay (VA) and Waquoit Bay (MA) National Estuarine Research Reserves.

These evaluations will be conducted pursuant to sections 312 and 315 of the Coastal Zone Management Act of 1972 (CZMA), as amended. The CZMA requires a continuing review of the performance of states with respect to coastal program and research reserve program implementation. Evaluation of Coastal Zone Management Programs and National Estuarine Research Reserves require findings concerning the extent to which a State has met the national objectives, adhered to its coastal program document or the Reserve's final management plan approved by the Secretary of Commerce, and adhered to the terms of financial assistance awards funded under the CZMA. The evaluations will include a site visit, consideration of public comments, and consultations with interested Federal, State, and local agencies and members of the public. Public meetings are held as part of the site visits.

Notice is hereby given of the dates of the site visits for the listed evaluations, and the dates, local times, and locations of public meetings during the site visits.

The Chesapeake Bay National Estuarine Research Reserve in Virginia evaluation site visit will be from September 14–18, 1998. One public meeting will be held during the week. The public meeting will be held on Wednesday, September 16, 1998, at 7:00 p.m., at the Virginia Institute of Marine Science, Waterman's Hall Auditorium, Route 1208—Greate Road, Gloucester Point, Virginia.

The Massachusetts Coastal Management Program site visit will be from September 14–18, 1998. One public meeting will be held during the week. This public meeting will be on Wednesday, September 16, 1998, at 7:00 p.m. in the Massachusetts Maritime Academy, Room 101, 101 Academy Drive, Buzzards Bay, Massachusetts.

The Waquoit Bay National Estuarine Research Reserve in Massachusetts site visit will be from September 21–25, 1998. One public meeting will be held during the week. This public meeting will be on Wednesday, September 23, 1998, at 7:00 p.m. at the Waquoit Bay Reserve Headquarters, Main House—Old Sargent Estate, 149 Waquoit Highway, Waquoit, Massachusetts.

The States will issue notice of the public meeting(s) in a local newspaper(s) at least 45 days prior to the public meeting(s), and will issue other timely notices as appropriate.

Copies of the State's most recent performance reports, as well as OCRM's notifications and supplemental request letters to the States, are available upon request from OCRM. Written comments from interested parties regarding these Programs are encouraged and will be accepted until 15 days after the public meeting. Please direct written comments to Vickie A. Allin, Chief, Policy Coordination Division (PCD), Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910. When the evaluation is completed, OCRM will place a notice in the **Federal Register** announcing the availability of the Final Evaluation Findings.

FOR FURTHER INFORMATION CONTACT: Vickie A. Allin, Chief, Policy Coordination Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910, (301) 713–3090, ext. 126.

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration)

Dated: July 15, 1998.

Nancy Foster,

Assistant Administrator for Ocean Services and Coastal Zone.

[FR Doc. 98–19416 Filed 7–20–98; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 061098E]

Marine Mammals; File No. 898–1451

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Attractions Hawaii, d.b.a. Sea Life Park, P.O. Box 1060, Pacific Davies Center, Honolulu, Hawaii 96808 has been issued a permit to take Hawaiian monk seals, *Monachus schauinslandi*, for enhancement purposes.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Southwest Region, National Marine Fisheries Service, NOAA, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; and Coordinator, Pacific Area Office, National Marine Fisheries Service, NOAA, 2570 Dole Street, Room 106, Honolulu, HI 96822–2396.

FOR FURTHER INFORMATION CONTACT: Jeannie Drevenak, 301/713–2289.

SUPPLEMENTARY INFORMATION: On April 28, 1998, notice was published in the **Federal Register** (63 FR 23276) that a request for a scientific research and enhancement permit to take Hawaiian monk seals, *Monachus schauinslandi*, had been submitted by the above-named organization. The requested permit has been issued for enhancement purposes only under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the

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Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR parts 217–227).

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: July 13, 1998.

Ann Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–19393 Filed 7–20–98; 8:45 am]

BILLING CODE 3510–22–F

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND PLACE: 2:00 p.m., Monday, August 3, 1998.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–19526 Filed 7–17–98; 3:32 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND PLACE: 11:00 a.m., Friday, August 7, 1998.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Confernece Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–19527 Filed 7–17–98; 3:32 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND PLACE: 2:00 p.m., Monday, August 10, 1998.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–19528 Filed 7–17–98; 3:32 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND PLACE: 11:00 a.m., Friday, August 14, 1998.

PLACE: 1155 21st St., N.W., Washington, D.C. 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–19529 Filed 7–17–98; 3:21 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND PLACE: 2:00 p.m., Monday, August 17, 1998.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–19530 Filed 7–17–98; 3:21 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND PLACE: 11:00 a.m., Friday, August 21, 1998.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–19531 Filed 7–17–98; 3:21 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND PLACE: 2:00 p.m., Monday, August 24, 1998.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–19532 Filed 7–17–98; 3:21 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND PLACE: 11:00 a.m., Friday, August 28, 1998.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–19533 Filed 7–17–98; 3:21 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND PLACE: 2:00 p.m., Monday, August 31, 1998.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–19534 Filed 7–17–98; 3:21 pm]

BILLING CODE 6351–01–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Availability of Funds for Grants To Support the Martin Luther King, Jr. Service Day Initiative

AGENCY: Corporation for National and Community Service.

ACTION: Notice of availability of funds.

SUMMARY: The Corporation for National and Community Service (the Corporation), in consultation with the King Center on Nonviolent Social Change, Inc. in Atlanta, invites applications for grants to pay for the federal share of the cost of planning and carrying out service opportunities in conjunction with the federal legal holiday honoring the birthday of Martin Luther King, Jr. on January 18, 1999.

The grants are intended to mobilize more Americans to observe the Martin Luther King, Jr. federal holiday as a day of service in communities and to bring people together around the common focus of service to others. To achieve this, the Corporation will make available a total of up to $500,000 in grant funds to support approved service opportunities. Eligible organizations may apply for a grant in one of the following two categories. The first category of grants, in amounts of up to $3,500, will support national service and community volunteering projects of a relatively small scale and limited geographical scope. The second category of grants, in amounts of up to $20,000, will support large-scale (e.g., state-wide, city-wide, county-wide, or regional) service projects.

DATES: The deadline for submission of applications is August 31, 1998, no later than 5:00 p.m local time.

ADDRESSES: Application materials should be obtained from and returned to the Corporation state office in the applicant's state unless otherwise noted. See Supplementary Information section for Corporation state office addresses. The application should be addressed to: Martin Luther King, Jr. Day of Service, Corporation for National Service (Appropriate State Address).

FOR FURTHER INFORMATION CONTACT: For further information, contact the person listed for the Corporation office in your state, unless otherwise noted. This notice may be requested in an alternative format for the visually impaired by calling (202) 606–5000, ext. 262. The Corporation's T.D.D. number is (202) 565–2799 and is operational between the hours of 9 a.m. and 5 p.m. Eastern Daylight Time.

SUPPLEMENTARY INFORMATION:

Background

The Corporation is a federal government corporation, established by Congress in amendments to the National and Community Service Act of 1990 (the Act) that engages Americans of all ages and backgrounds in community-based service. This service addresses the nation's education, public safety, environmental, or other human needs to achieve direct and demonstrable results with special consideration to service that affects the needs of children. In doing so, the Corporation fosters civic responsibility, strengthens the ties that bind us together as a people, and provides educational opportunity for those who make a substantial commitment to service. The Corporation supports a range of national service programs including AmeriCorps, Learn and Serve America, and the National Senior Service Corps. In providing grants to support service in connection with the Martin Luther King, Jr. federal holiday, the Corporation acts in consultation with the King Center on Nonviolent Social Change, Inc. For more information about the Corporation and the programs it supports, go to http://www.nationalservice.org. For more information about the King Center, go to http://www.thekingcenter.com.

Section 12653(s) of the Act, as amended in 1994, authorizes the Corporation to make grants to share the cost of planning and carrying out service opportunities in conjunction with the federal legal holiday honoring the birthday of Martin Luther King, Jr. The Corporation intends that the activities supported by these grants will (1) get necessary things done in communities, (2) strengthen the communities engaged in the service activity, (3) reflect the life and teaching of Martin Luther King, Jr., and (4) begin or occur in significant part on the federal legal holiday (January 18, 1999).

Getting necessary things done means that projects funded under the Martin Luther King Jr. holiday grant will help communities meet education, public safety, environmental, or other human needs through direct service and effective citizen action. Accordingly, the Corporation expects a project sponsor to identify one or more unmet needs that are important to the community and design a project that helps meet such need or needs.

Strengthening communities means bringing people together in pursuit of a common objective that is of value to the community. On Martin Luther King, Jr. Day in 1998, President Clinton said "* * * to achieve one America, we must go beyond words to deeds. Serving together on the King holiday—and everyday—will bring our nation closer together and help meet some of our toughest challenges." Projects should seek to engage a wide range of local partners in the communities served. Projects should be designed, implemented, and evaluated with these partners, including local and state King Holiday Commissions, national service programs (AmeriCorps, Learn and Serve America, and the National Senior Service Corps), state and local organizations affiliated with the campaign for children and youth launched by America's Promise—the Alliance for Youth at the Presidents' Summit for America's Future, community-based agencies, schools and school districts, Volunteer Centers of the Points of Light Foundation and other volunteer organizations, communities of faith, businesses, foundations, state and local governments, labor organizations, and colleges and universities.

Reflecting the life and teaching of Martin Luther King means demonstrating his proposition that, "Everybody can be great because anybody can serve." Service opportunities to be considered for this program should foster cooperation and understanding among racial and ethnic groups, nonviolent conflict resolution, equal economic and educational opportunities, and social justice. 42 U.S.C. 12653(s)(1).

Begin or occur in significant part on the federal legal holiday means that a significant portion of the community service activities supported by the grant should occur on the holiday itself to strengthen the link between the observance of Martin Luther King, Jr.'s birthday, the federal legal holiday

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(January 18, 1999), and service that reflects his life and teaching.

The *direct service* to be done on and in connection with the King holiday may include, but is not limited to, the following types of activities: tutoring children or adults, feeding the hungry, packing lunches, delivering meals, stocking a food or clothing pantry, repairing a school and adding to its resources, translating books and documents into other languages, recording books for the visually impaired, restoring a public space, organizing a blood drive, registering bone marrow and organ donors, renovating low-income or senior housing, building a playground, removing graffiti and painting a mural, arranging safe spaces for children who are out of school and whose parents are working, collecting oral histories of elders, running health fairs, gleaning and distributing fruits and vegetables, etc.

Although celebrations, parades, and recognition ceremonies may be a part of the activities planned on the holiday and lead to or celebrate a commitment to service, for the purposes of this grant those activities themselves are not considered direct service and may not be supported by this grant.

Other service outcomes for which grant applications will be considered include, but are not limited to, the following: a day of service that is designed to produce a sustained long-term service commitment; community-wide servathons that bring a broad cross-section together in a burst of energy on one day of service, including schools or school districts that seek to involve all students and teachers in joint service; service-learning projects that link student service in schools and universities with community-based organizations; faith-based service collaborations that bring together communities of faith and secular human service programs (subject to the limitations listed below).

A preference will be given in the selection process to projects designed to help achieve the five goals for children and youth declared at the Presidents' Summit for America's Future and sought by America's Promise—the Alliance for Youth, the organization set up to pursue the Summit goals. Those five "fundamental resources" are: an ongoing relationship with a caring adult—mentor, tutor, coach; safe spaces and structured activities during non-school hours; a healthy start; an effective education that provides marketable skills; and an opportunity to give back to their communities through their own service. Particularly important is to challenge and inspire young people to give at least one hundred hours of service a year, the fifth goal of the President's Summit. To the maximum extent possible young people should be included as service providers and resources in project planning, not just as the recipients of service.

Grant funding will be available on a one-time, non-renewable basis for a budget period not to exceed seven months, beginning not sooner than November 1, 1998 and ending not later than June 30, 1999. By statute, grants provided under this program, together with all other federal funds used to plan or carry out the service opportunity, may not exceed 30 percent of the cost of planning and carrying out the service opportunity.

For example, if you request $3,500 in federal dollars you must have a non-federal match of at least $8,167 (cash and/or in-kind contributions) and a total projected cost of at least $11,667. If you request $20,000 in federal dollars you must have a non-federal match of at least $46,667 (cash and/or in-kind contributions) and a total projected cost of at least $66,667. In other words the total dollars requested from the federal government should be divided by .30 to determine the total cost of the project (and total project cost minus federal dollars requested equals the required match). It may assist in the calculation to apply the formula as follows:

Federal Dollars Requested ÷ .30 = Total Project Cost

Total Project Cost—Federal Dollars Requested = Non-Federal Match.

The non-federal match may include cash and in-kind contributions (including, but not limited to, supplies, staff time, trainers, food, transportation, facilities, equipment, and services) necessary to plan and carry out the service opportunity. Grants under this program constitute federal assistance and therefore may not be used primarily to inhibit or advance religion in a material way. No part of an award from the Corporation may be used to fund religious instruction, worship or proselytization or to pay honoraria or fees for speakers. Federal funds should not be requested to support a celebration banquet or other activities that do not constitute direct service.

The total amount of grant funds provided under this Notice will depend on the quality of applications and the availability of appropriated funds for this purpose.

Eligible Applicants

By law, any entity otherwise eligible for assistance under the national service laws shall be eligible to receive a grant under this announcement. The applicable laws include the National and Community Service Act of 1990, as amended, and the Domestic Volunteer Service Act of 1973, as amended.

Eligible applicants include, but are not limited to: nonprofit organizations, State Commissions, volunteer centers, institutions of higher education, local education agencies, educational institutions, local or state governments, and private organizations that intend to utilize volunteers in carrying out the purposes of this program.

The Corporation especially invites applications from organizations with experience in "and commitment to" fostering service on Martin Luther King, Jr. Day, including state and local Martin Luther King, Jr. Commissions, local education agencies, faith-based partnerships, Volunteer Centers of the Points of Light Foundation, and United Ways and other community-based agencies.

Any grant recipient from the 1997 and 1998 Martin Luther King, Jr., Day of Service Initiatives will be ineligible if it has been determined to be noncompliant with the terms of those grant awards.

Pursuant to the Lobbying Disclosure Act of 1995, an organization described in section 501(c)(4) of the Internal Revenue Code of 1986, 26 U.S.C. 501(c)(4), which engages in lobbying activities, is not eligible.

Overview of Application Requirements

To be considered for funding applicants should submit the following standard components for federal grants:

1. An Application for Federal Assistance, Standard Form 424.

2. A Project Narrative describing:

a. Clearly defined service activities being planned in observance of Martin Luther King, Jr. Day, which must take place significantly on the legal federal holiday (January 18, 1999), but which may extend for the budget period (November 1, 1998 through June 30, 1999).

b. The partnerships in the local community, city, state or region that are being engaged in support of the service activities.

c. The organization's background and capacity to carry out this program.

d. The proposed staffing of the activity.

The project narrative portion of the application may be no longer than 7 single-sided pages for applications not to exceed $3,500 and 15 single-sided pages for applications not to exceed $20,000 and must be typed double-spaced in a font no smaller than 12 point, with each page numbered.

3. A Budget Narrative (specific instructions will be provided in the application materials).
4. The Budget Form supplied with the application materials.
5. A signed Certification and Assurances form incorporating conditions attendant to the receipt of federal funding.
6. Three complete copies (one original and two copies) of the application.

All applications must be received by 5:00 p.m. local time, August 31, 1998 at the Corporation office in the applicant's state, unless otherwise noted, addressed as follows: Martin Luther King, Jr. Day of Service, Corporation for National Service.

(Appropriate state office address; see list of addresses provided below).

Applications may not be submitted by facsimile.

To ensure fairness to all applicants, the Corporation reserves the right to take action, up to and including disqualification, in the event an application fails to comply with the requirements relating to page limits, line-spacing, font size, and application deadlines.

Budget

Detailed instructions about the budget information required will be provided in the application materials.

Selection Process and Criteria

The applications will be reviewed initially to confirm that the applicant is an eligible recipient and to ensure that the application contains the information required and otherwise complies with the requirements of this notice. The Corporation will assess the quality of the applications based on their responsiveness to the objectives included in this announcement based on the criteria listed below (in descending order of importance):

1. *Program Design*. The proposal must demonstrate the applicants's ability to get necessary things done, strengthen communities, reflect the life and teaching of Martin Luther King, Jr., and begin or occur in significant part on the federal legal holiday, with a preference given to projects that serve and include young people.
2. *Organizational Capacity*. The application must demonstrate the organization's ability to carry out the activities described in the proposal, including the use of high quality staff.
3. *Cost*. The applicant must demonstrate how this grant will be used cost effectively, including the sources and uses of matching support.

Awards

The Corporation anticipates making awards under this announcement no later than November 1, 1998.

Corporation for National Service State Offices

Alabama

John D. Timmons, Director, Medical Forum, 950 22nd Street, North, Ste. 428, Birmingham, AL 35203, (205) 731–0027, FAX: (205) 731–0031

Alaska

Billy Joe Caldwell, Director, Jackson Federal Building, 915 Second Avenue, Ste. 3190, Seattle, WA 98174–1103, (206) 220–7736, FAX: (206) 553–4415

Arizona

Richard Persely, Director, 522 North Central, Room 205A, Phoenix, AZ 85004–2190, (602) 379–4825, FAX: (602) 379–4030

Arkansas

Opal Simms, Director, Federal Building, 700 West Capitol Street, Rm 2506, Little Rock, AR 72201, (501) 324–5234, FAX: (501) 324–6949

California

Gayle A. Hawkins, Director, Federal Building, 11000 Wilshire Boulevard, Room 11221, Los Angeles, CA 90024–3671 (310) 235–7421, FAX: (310) 235–7422

Colorado

Gayle Schladale, Director, One Sherman Place, 140 E. 19th Avenue, Ste. 120, Denver, CO 80203–1167, (303) 866–1070, FAX: (303) 866–1081

Connecticut

Romero A. Cherry, Director, One Commercial Plaza 21st Floor, Hartford, CT 06103–3510, (860) 240–3237, FAX: (860) 240–3238

Delaware and (MD)

Jerry E. Yates, Director, One Market Center, Box 5, 300 W. Lexington Street, Ste. 702, Baltimore, MD 21201–3418, (410) 962–4443, FAX: (410) 962–3201

District of Columbia (and VA)

Tom Harmon, Director, 400 North 8th Street, Room 446, P.O. Box 10066, Richmond, VA 23240–1832, (804) 771–2197, FAX: (804) 771–2157

Florida

Henry Jibaja, Director, 3165 McCrory Place, Suite 115, Orlando, FL 32803–3750, (407) 648–6117, FAX: (407) 648–6116

Georgia

David A. Dammann, Director, 75 Piedmont Avenue, N.E., Suite 462, Atlanta, GA 30303–2587, (404) 331–4646, FAX: (404) 331–2898

Hawaii (Guam and American Samoa)

Lynn Dunn, Director, Federal Building, 300 Ala Moana Boulevard, Room 6326, Honolulu, HI 96850–0001, (808) 541–2832, FAX: (808) 541–3603

Idaho

Van Kent Griffitts, Director, 304 North 8th Street, Room 344, Boise, ID 83702–5835, (208) 334–1707, FAX: (208) 334–1421

Illinois

Timothy Krieger, Director, 77 West Jackson Blvd, Suite 442, Chicago, IL 60604–3511, (312) 353–3622, FAX: (312) 353–5343

Indiana

Thomas L. Haskett, Director, 46 East Ohio Street, Room 457, Indianapolis, IN 46204–1922, (317) 226–6724, FAX: (317) 226–5437

Iowa

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Dated: July 16, 1998.

Kenneth L. Klothen,

General Counsel, Corporation for National and Community Service.

[FR Doc. 98–19374 Filed 7–20–98; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title and OMB Number: Survey of Local Registrars and Election Officials (NVRA), Post-Election Survey of Local

Election Officials and Post-Election Survey of Overseas Citizens (UOCAVA); OMB Number 0704–0125.

Type of Request: Reinstatement.

Number of Respondents: 2,851.

Responses per Respondents: 1.

Annual Response: 2,851.

Average Burden per Response: 10 minutes.

Annual Burden Hours: 475.

Needs and Uses: The federal responsibilities of 42 U.S.C. 1973ff, "The Uniformed and Overseas Citizens Absentee Voting Act of 1986," (UOCAVA), and 42 U.S.C. 1973gg. "The National Voter Registration Act of 1993," (NVRA), is administerted on behalf of the Secretary of Defense by the Federal Voting Assistance Program. UOCAVA requires a report to be submitted to the President and to Congress on the effectiveness of assistance under the Act, a statistical analysis of voter participation, and a description of State-Federal cooperation. The NVRA requires a biennial report to the Congress assessing the impact of the Act on the administration of elections for federal office, and recommendations for improvements in federal and state procedures, forms, and other matters affected by the Act. UOCAVA requires the states to allow uniformed services personnel, their family members, and overseas citizens to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and runoff elections for federal office. The Act covers members of the Uniformed Services and the Merchant Marine to include the commissioned corps of the National Oceanic and Atmospheric Administration and Public Health Service, and their eligible dependents, federal civilian employees overseas, and overseas U.S. citizens not affiliated with the federal government. The post-election survey is conducted on a statistically random basis to determine participation rates which are representative of all citizens covered by the Act, measure state-federal cooperation, and is designed to evaluate the effectiveness of the overall absentee voting program. The information collected is used for overall program evaluation, management and improvement, and to compile the congressionally mandated reports to the President and Congress. The NVRA designates Armed Forces Recruitment Offices as voter registration agencies to assist voters in applying for registration in elections for federal offices. The NVRA requires a biennial report to the Congress assessing the impact of the Act on the administration of elections for federal office, determine improvements needed in federal and state procedures, and other effects of the Act.

The NVRA survey is necessary to assess the impact of Armed Forces Recruiting Office implementation of voter registration under NVRA and for program evaluation and assessment purposes.

Affected Public: Individuals or households; State, Local, or Tribal Governments.

Frequency: Biennially.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: July 15, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–19361 Filed 7–20–98; 8:45 am]

BILLING CODE [illegible]

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sunshine Act Meeting

Pursuant to the provision of the "Government in the Sunshine Act" (5 U.S.C. § 552b), notice is hereby given of the Defense Nuclear Facilities Safety Board's (Board) meeting described below.

TIME AND DATE OF MEETING: 3:00 p.m. on August 4, 1998.

PLACE: Federal Building Auditorium, 825 Jadwin Avenue, Richland Washington 99352.

STATUS: Open.

MATTERS TO BE CONSIDERED: Board members will review with the Department of Energy (DOE) and its contractors the status of implementation of the Board's Recommendation 92–4. Recommendation 92–4 called for a systematic approach to addressing health and safety requirements during the design, construction, and operation of the Hanford Tank Waste Remediation system (TWRS).

CONTACT PERSON FOR MORE INFORMATION: Robert M. Andersen, General Counsel, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NE, Suite 700, Washington, D.C. 20004, (800) 788–4016. This is a toll-free number.

SUPPLEMENTARY INFORMATION: One of the major waste stabilization initiatives of the Department of Energy (DOE) has been the Hanford Site's TWRS. The TWRS will retrieve, process, and immobilize the more than 50 million gallons of high level radioactive waste currently stored in 177 underground storage tanks at the Hanford Site. In 1992, the Board noted deficiencies in the technical justification and planning for the Hanford TWRS Multi-function Waste Tank Facility (MWTF). As a result, in Recommendation 92–4, the board recommended to the Secretary of Energy that DOE adopt a systems engineering approach that ensures that health and safety requirements of the project are addressed in each phase of the project life cycle. The Secretary's Implementation Plan committed to adopting a systems engineering approach for the MWTF project and the entire TSRS. Additionally, DOE committed to taking systems approach for its site integration efforts.

Following the adoption of the privatization concept for a portion of the TWRS, DOE revised its Implementation Plan in October 1997. The DOE Implementation Plan committed to meeting the following objectives (1) institutionalizing systems engineering for the TWRS, (2) incorporating the privatization effort into the overall systems approach, and (3) coordinating the development of needed technology for the system. DOE's implementation is nearing completion.

A public meeting will be conducted by the Board to hear from staff members from DOE and its contractors responsible for the TWRS. These individuals will brief the Board on the status of activities under the Secretary's Implementation Plan for Recommendation 92–4.

A transcript of this proceeding will be made available by the Board for inspection by the public at the Board's Washington, D.C. office and at the DOE's Public Reading Room, 2770 University Drive, CIC, Room 101L. P.O. Box 999, mail stop H2–53, Richland, Washington 99352. Recommendation 92–4 in its entirety is also on file at DOe's Public Reading Room in Richland and at the Board's Washington, D.C. office.

The Defense Nuclear Facilities Safety board reserves its right to further schedule and otherwise regulate the course of this meeting, to recess, reconvene, postpone or adjourn the meeting, and otherwise exercise its

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authority under the Atomic Energy Act of 1954, as amended.

Dated: July 17, 1998.

John T. Conway,

Chairman.

[FR Doc. 98–19509 Filed 7–17–98; 3:32 pm]

BILLING CODE 3670–01–M

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sunshine Act Meeting

Pursuant to the provision of the "Government in the Sunshine Act" (5 U.S.C. § 552b), notice is hereby given of the Defense Nuclear Facilities Safety Board's (Board) meeting described below.

TIME AND DATE OF MEETING: 12:30 p.m. on August 5, 1998.

PLACE: Federal Building Auditorium, 825 Jadwin Avenue, Richland, Washington 99352.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION: Robert M. Andersen, General Counsel, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Suite 700, Washington, D.C. 20004, (800) 788–4016. This is a toll-free number.

MATTERS TO BE CONSIDERED: Board members will review with the Department of Energy (DOE) and its contractors the status of implementation of the Board's Recommendation 93–5. . Recommendation 93–5 called for the accelerated characterization of the tank wastes at Hanford. This characterization information is needed to support resolution of safety issues and to support design of processing and disposal systems.

SUPPLEMENTARY INFORMATION: The Board has repeatedly expressed the view that the Department of Energy needs to accelerate characterization of high-level radioactive waste in underground tanks at the Hanford Site. On July 19, 1993, the Board formally recommended to the Secretary of Energy (Recommendation 93–5) that DOE accelerate its actions to sample and characterize the Hanford tank wastes. The Secretary accepted the Board's recommendation, and characterization of the Hanford waste tanks is proceeding in accordance with the Secretary's Implementation Plan. The Implementation Plan has two major objectives: (1) characterize the tank waste sufficiently to support resolution of tank safety issues, and (2) characterize the tank waste safety sufficiently to support design of processing and disposal systems.

A public meeting will be conducted by the Board to hear from DOE and its contractors responsible for the Tank Waste Remediation System. Those individuals will brief the Board on the status of activities under the Secretary's Implementation Plan for Recommendation 93–5.

A transcript of this proceeding will be made available by the Board for inspection by the public at the Board's Washington, D.C. office and at the DOE's Public Reading Room, 2770 University Drive, CIC, Room 101L, Box 999, mail stop H2–53, Richland, Washington 99352. Recommendation 93–5 in its entirety is also on file at DOE's Public Reading Room in Richland and at the Board's Washington, D.C. office.

The Board reserves its right to further schedule and otherwise regulate the course of this meeting, to recess, reconvene, postpone or adjourn the meeting, and otherwise exercise its authority under the Atomic Energy Act of 1954, as amended.

Dated: July 17, 1998.

John T. Conway,

Chairman.

[FR Doc. 98–19510 Filed 7–17–98; 3:32 p.m.]

BILLING CODE 3670–01–M

DEPARTMENT OF ENERGY

Chicago Operations Office, Office of Transportation Technologies (OTT); Notice of Solicitation for Research and Development on Automotive Integrated Power Modules (AIPM)

AGENCY: Department of Energy.

ACTION: Notice of Solicitation Availability.

SUMMARY: The U.S. Department of Energy's (DOE) Office of Transportation Technologies (OTT) plans to issue a financial assistance solicitation (FAS) for Research and Development on Automotive Integrated Power Modules (AIPM). This solicitation, which is due to be released on or about July 15, 1998, supports the Government/automotive industry Partnership for a New Generation of Vehicles (PNGV).

The Partnership is developing light-duty vehicles that achieve up to three times the fuel economy of comparable conventional vehicles, meet emission standards, and offer the same level of performance and cost as today's vehicles. Additional information on the Partnership can be obtained at the USCAR web site *http://uscar.org.* Hybrid electric propulsion, integrated power electronics, along with direct injection engines, fuel cells, and lightweight materials have been selected for development due to their potential for attaining the goal of 80-mpg fuel economy in a six-passenger sedan. The AIPM is a cross-cutting system development technology that supports DOE's automotive fuel cell and direct injection engine programs and their introduction into pre-production automobiles. Applicants shall develop and demonstrate their AIPM innovation by using open architecture concepts that permit scalable low-cost manufacturing to meet automotive goals and requirements. Further, the Applicant shall participate with DOE and its automotive industry partners to demonstrate the system development capabilities of the proposed AIPM. DOE plans to do a vehicle system validation of this technology. Those prototypes that are successful may be used to develop automotive engineering solutions for operation under extreme conditions.

The AIPM specification was coordinated with the Navy's Power Electronic Building Block (PEBB) program and the IEEE. Additional information can be found on the PEBB web site *http://pebb.onr.navy.mil* and the IEEE web site *http://stdsbbs.ieee.org/groups/1461.* System integration issues for the AIPM include delivery of complete scale modules incorporating the principles of design for manufacturing and means to update DOE existing cost analyses. Proposals are sought for light-duty transportation applications; however, a scale up to medium and heavy duty transportation application may also be considered.

DATES: The solicitation will be available on or about July 15, 1998, on the DOE Chicago Internet Home Page at *http://www.ch.doe.gov/business/ACQ.htm* under the heading "Current Acquisition Activities," Solicitation No. DE–SC02–09EE50525, with applications due on or about August 17, 1998. Any amendments to this solicitation will be posted on the Internet. Please note that users will not be alerted when the solicitation is issued on the Internet or when amendments are posted on the Internet. Prospective applicants are, therefore, advised to check the above Internet address on a daily basis. The cooperative agreements are anticipated to be awarded on or about January 1, 1999.

ADDRESSES: Completed applications referencing Solicitation Notice DE–FC02–98EE50525 must be submitted to: U.S. Department of Energy, Chicago Operations Office, Attn: Earlette Robinson, Bldg. 201, Room 3E–10, 9800 South Cass Avenue, Argonne, IL 60439–4899

SUPPLEMENTARY INFORMATION: DOE's Office of Transportation Technologies anticipates that approximately two cooperative agreements will result from this solicitation. Periods of performance may range from 24 to 36 months and total estimated DOE funding is $10,000,000 each. Cost sharing requirements will be at 50 percent of total estimated costs. Awards are subject to the availability of funds. The solicitation will not obligate DOE to make any award(s). Any non-profit or for-profit organization, university of other institution of higher education, or non-federal agency or entity is eligible to apply. Federal laboratory participation will be limited to Designated Scientific User Facilities. The solicitation will provide further guidance in this area. Awards resulting from this solicitation will be subject to the requirements of the Energy Policy Act which in general requires that the awardee be a United States-owned company (including certain non-profits) or that the foreign country in which the parent company is located meets certain conditions of reciprocity in the treatment of investments, access to research and development programs, and protection of intellectual property. All responsible sources, as indicated above, may submit an application which will be considered by the Government.

FOR FURTHER INFORMATION CONTRACT: Earlette Robinson at (630) 252–2667, U.S. Department of Energy, 9800 South Cass Avenue, Argonne, IL 60439–4899; by fax at (630) 252–5045; or by e-mail at earlette.robinson@ch.doe.gov.

Issued in Chicago, Illinois on July 13, 1998.

John D. Greenwood,

Acquisition and Assistance Group Manager.

[FR Doc. 98–19369 Filed 7–20–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[FE Docket Nos. 92–123–NG]

Office of Fossil Energy; Orders Granting, Amending and Transferring Authorizations to Import and/or Export Natural Gas and Liquefied Natural Gas

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of orders.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy gives notice that it has issued Orders granting, amending and transferring various natural gas and liquefied natural gas import and export authorizations. These Orders are summarized in the attached appendix.

These Orders may be found on the FE web site at http://www.fe.doe.gov., or on the electronic bulletin board at (202) 586–7853.

They are also available for inspection and copying in the Office of Natural Gas & Petroleum Import and Export Activities, Docket Room 3E–033, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–9478. The Docket Room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on July 14, 1998.

John W. Glynn,

Manager, Natural Gas Regulation, Office of Natural Gas & Petroleum Import and Export Activities, Office of Fossil Energy.

APPENDIX—ORDERS GRANTING, AMENDING AND TRANSFERRING IMPORT/EXPORT AUTHORIZATION

[DOE/FE Authority]

Order No.	Date issued	Importer/exporter FE docket No.	Two-year maximum		Comments
			Import volume	Export volume	
717–A	06/02/98	San Diego Gas & Electric 92–123–NG.			Decrease in volumes of long-term import authority.
1226–A	06/05/98	Engage Energy Canada, L.P. (Successor to Westcoast Gas Services Inc.), 96–87–NG.			Transfer of blanket import/export authority.
1254–A	06/06/98	Engage Energy Canada, L.P. (Successor to Westcoast Gas Services, Inc.), 96–82–NG.			Transfer of long-term import authority.
1390	06/22/98	AG-Energy, L.P., 98–41–NG	113.14 Bcf		Import from Canada beginning first delivery after June 30, 1998.
1391	06/23/98	New York State Electric & Gas Corporation, 98–43–NG.	50 Bcf		Import and export up to a combined total from and to Canada beginning on July 1, 1998, through June 30, 2000.
1009–A	06/25/98	Pan-Alberta Gas (U.S.) Inc. (Successor to Northwest Alaskan Pipeline Company), 84–15–NG, 87–40–NG, 94–96–NG.			Transfer of long-term import authority.
1223–A	06/25/98	Power City Partners, L.P., 96–85–NG.			Increase in volumes from 500,000 Mcf to 16,060,000 Mcf over the two year term.
1392	06/26/98	National Fuel Resources, Inc., 98–45–NG.	20 Bcf		Import and export from and to Canada up to an aggregate beginning on June 1, 1998, through May 31, 2000.
1393	06/26/98	Merchant Energy Group of the Americas, Inc., 98–44–NG.	400 Bcf		Import and export from and to Canada up to a combined total beginning on date of first import or export.
1394	06/29/98	Energy Unlimited, Inc., 98–47–NG.	10 Bcf		Import and up to a combined total, including liquefied natural gas (LNG) from and to Canada and Mexico and LNG from other countries, beginning on the date of first import or export.

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[FR Doc. 98–19370 Filed 7–20–98; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Publication Activities

AGENCY: Energy Information Administration, DOE

ACTION: Notice of discontinuation of publications.

SUMMARY: The Energy Information Administration (EIA) is advising the public that it intends to cease publication of two reports in the electric power publication series.

DATES: Comments may be submitted in writing on or before September 4, 1998.

ADDRESSES: Send comments to John G. Colligan, EI–531, Energy Information Administration, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington DC 20585–0650, (202) 426–1174, e-mail jcolliga@eia.doe.gov, and fax (202) 426–1311.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to John Colligan at the address listed above.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Request for Comments

I. Background

In order to fulfill its responsibilities under the Federal Energy Administration Act of 1974 (Pub. L. No. 93–275) and the Department of Energy Organization Act (Pub. L. No. 95–91), the EIA is obliged to carry out a central, comprehensive, and unified energy data and information program. As part of this program, EIA collects, evaluates, assembles, analyzes, and disseminates data and information related to energy resource reserves, production, demand, and technology, and related economic and statistical information relevant to the adequacy of energy resources to meet demands in the near and longer term future for the Nation's economic and social needs.

II. Current Actions

The EIA intends to discontinue the publication of following two reports: *Financial Statistics of Major U.S. Investor-Owned Electric Utilities*—DOE/EIA–0437(yr)/1 and *U.S. Electric Utility Demand-Side Management*—DOE/EIA–0589(yr).

The final issue of the *Financial Statistics of Major U.S. Investor-Owned Electric Utilities* would be the issue dated December 1997, published on December 8, 1997, and covers the 1996 data year. In view of limited resources, the Department proposes that the issuance of this publication be discontinued because the data contained in this publication are collected by the Federal Energy Regulatory Commission (FERC) and will be available through FERC.

The last issue of the *U.S. Electric Utility Demand-Side Management* would be the December 1997 issue, published on December 19, 1997, and covers the 1996 data. In order to reduce respondent burden, the EIA restructured Schedule V, "Demand-Side Management Information," on the Form EIA–861, "Annual Electric Utility Report," during the 1997 survey re-clearance. The Form EIA–861 requires less detailed Demand Side Management (DSM) data from the reporting utilities. Starting with 1997, the DSM data are collected in a summary format and will continue to be published in the *Electric Power Annual, Volume II.* The annual detail DSM data will be posted on the Internet.

III. Request for Comments

Prospective users of these data and other interested parties may comment on the actions discussed in item II if they so desire. DOE will carefully consider all comments and if it is persuaded by the comments to continue publication of either report, it will publish a notice of its decision.

Issued in Washington, D.C. on July 15, 1998.

Jay H. Casselberry,

Agency Clearance Officer, Statistics and Methods Group, Energy Information Administration

[FR Doc. 98–19371 Filed 7–20–98; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[FERC–537 IC98–537–000]

Proposed Information Collection and Request for Comments

July 15, 1998.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed information collection and request for comments.

SUMMARY: In compliance with the requirements of Section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13), the Federal Energy Regulatory (Commission) is soliciting public comment on the specific aspects of the information collection described below.

DATES: Consideration will be given to comments submitted on or before September 21, 1998.

ADDRESSES: Copies of the proposed collection of information can be obtained from and written comments may be submitted to the Federal Energy Regulatory Commission, Attn: Michael Miller, Office of the Chief Information Officer, CI–1, 888 First Street N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 208–1415, by fax at (202) 273–0873, and by e-mail at michael.miller@ferc.fed.us.

SUPPLEMENTARY INFORMATION: The information collected under the requirements of FERC–537 "Gas Pipeline Certificates: Construction, Acquisition, and Abandonment" (OMB No. 1902–0060) is used by the Commission to implement the statutory provisions of the Natural Gas Policy Act (NGPA), (15 U.S.C. 3301–3432), and of the Natural Gas Act (NGA) (15 U.S.C. 717–717w). Under the NGA a natural gas company must obtain Commission authorization to engage in the transportation or sale of natural gas in interstate commerce, to undertake the construction or extension of any facilities, or to acquire or operate any such facilities or extensions in accordance with Section 7c of the NGA. A natural gas company must also obtain Commission approval under Section 7(b) of the NGA prior to abandoning any jurisdictional facility or service. Under the Natural Gas Policy Act (NGPA) interstate and intrastate pipelines must also obtain Commission authorization for certain transportation arrangements.

Information collection is necessary to certificate interstate pipelines engaged in the transportation and sale of natural gas, and the construction, acquisition, and operation of facilities to be used for those activities, to authorize the abandonment of facilities and services and to authorize certain NGPA transportations. If a certificate is granted, the natural gas company can engage in the interstate transportation or sale of natural gas and construct, acquire, or operate facilities therefore. Conversely, approval of an abandonment application permits the pipeline to cease service and discontinue the operation of such facilities. Authorization under NGPA Section 311(a) allows the interstate or intrastate pipeline applicants to render certain transportation services.

The natural gas companies file the necessary information with the Commission so that a determination can be made from the data as to whether the requested certificate should be authorized. The data required to be submitted consists of identification of the company and responsible officials, factors considered in the location of the facilities, and impact on the area for environmental considerations. Also, to be submitted are flow diagrams showing design capacity of engineering design verification and safety determination, and gas reserves data for appraisal of the feasibility of the project. Market data presenting the economic basis for the proposed action are included when appropriate as cost of proposed facilities, plans for financing, and estimated revenues and expenses related to the proposed facility for financial and accounting evaluation. The Commission implements these information collection requirements in the Code of Federal Regulations (CFR) under 18 CFR Part 2.60; 157.5–11; 157.13–.21; 157.102–.103; 157.106; 157.201–.208; 157.210–.218; 284.8–.9; 284.11; 284.126; 284.221–.224; Part 284 Subpart H.

Action: The Commission is requesting a three-year extension of the current expiration date.

Burden Statement: Public reporting burden for this collection is estimated as:

No. of respondents annually (1)	No. of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1)x(2)x(3)
50	11.6	252 hours	146,160 hours.

Estimated cost burdens to respondents: 141,160 hours divided by 2088 hours per year times $109,889 equals $7,429,086. The cost per respondent is equal to $148,582.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is base upon salaries for professionals and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology *e.g.* permitting electronic submission of responses.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–19336 Filed 7–20–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–3602–000]

Central Hudson Gas & Electric Corporation; Notice of Filing

July 8, 1998.

Take notice that on July 2, 1998, Central Hudson Gas & Electric Corporation (Central Hudson), tendered for filing proposed amendments to the Form of Service Agreement For Retail Access of its Open Access Transmission Tariff on file in Docket No. OA96–14–000 to implement retail access to its system as required by orders of the New York Public Service Commission. The details of the proposed amendments are more fully described in Central Hudson's filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 (CFR 385.214). All such motions and protests should be filed on or before July 22, 1998. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–19367 Filed 7–20–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–343–001]

Dauphin Island Gathering Partners; Notice of Proposed Changes in FERC Gas Tariff

July 15, 1998.

Take notice that on July 13, 1998, Dauphin Island Gathering Partners (DIGP) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheet listed below to become effective August 1, 1998:

First Revised Sheet No. 226

DIGP states that this tariff sheet corrects a pagination error included in DIGP's July 2, 1998, filing to comply with Order No. 587–G.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission,

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888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 98–19340 Filed 7–20–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–352–000]

MIGC, Inc.; Notice of Proposed Changes in FERC Gas Tariff

July 15, 1998.

Take notice that on July 10, 1998, MIGC, Inc. (MIGC) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to be effective August 1, 1998:

Third Revised Sheet No. 51
Third Revised Sheet No. 52
Fourth Revised Sheet No. 56
Third Revised Sheet No. 57
Third Revised Sheet No. 64
Fourth Revised Sheet No. 65
Fourth Revised Sheet No. 66
Third Revised Sheet No. 76
Third Revised Sheet No. 84
Third Revised Sheet No. 85
Fifth Revised Sheet No. 90
Second Revised Sheet No. 90A

MIGC states that the purpose of this filing is to conform MIGC's First Revised Volume No. 1 tariff to the requirements of Order No. 587–G that interstate pipelines transporting pursuant to Section 284.223 of the Commission's regulations conform their tariff to include Version 1.2 of the GISB standards.

MIGC states that copies of the filing were served on its customers and interested State Commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 98–19341 Filed 7–20–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–658–000]

Northern Natural Gas Company; Notice of Request Under Blanket Authorization

July 15, 1998.

Take notice that on July 8, 1998, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed in Docket No. CP98–658–000 a request pursuant to Sections 157.205, and 157.212, of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to construct and operate a new delivery point and appurtenant facilities to be located in Lake County, South Dakota under Northern's blanket certificate issued in Docket No. CP82–401–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northern states that it requests authority to construct and operate the delivery point to accommodate natural gas deliveries to Northwestern Public Service Company (NPSC). Northern states that NWPS has requested the delivery point to provide service to the Lake Madison town border station for redelivery to residential and commercial endusers. The estimated incremental volumes proposed to be delivered to NWPS at this delivery point are 2,480 MMBtu on a peak day and 88,600 MMBtu on an annual basis. The estimated cost to install the delivery point is $100,000. NWPS will reimburse, Northern for the total cost of constructing the proposed delivery point.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 98–19335 Filed 7–20–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–103–001]

OkTex Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

July 15, 1998.

Take notice that on July 10, 1998, OkTex Pipeline Company (OkTex), tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, with an effective date of August 1, 1998:

Original sheet No. 26A
Original Sheet No. 30A

OkTex states that the additional tariff sheets are being filed in compliance with the Commission's directives in Order No. 587–G.

OkTex states that the tariff sheets reflect the changes to OkTex's tariff that result from the Gas Industry Standards Board's (GISB) consensus standards that were adopted by the Commission in its April 16, 1998 Order No. 587–G in Docket No. RM96–1–007. OkTex further states that Order No. 587–G contemplates that OkTex will implement the GISB consensus standards for August 1998 business, and that the tariff sheets therefore reflect an effective date of August 1, 1998.

OkTex states that copies of the filing have been mailed to all affected customers and state regulatory commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and

Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–19339 Filed 7–20–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Tendered for Filing with the Commission

July 15, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of application:* New Minor License.

b. *Project No.:* 597–003.

c. *Date filed:* June 24, 1998.

d. *Applicant:* PacifiCorp.

e. *Name of Project:* Stairs Hydroelectric Project.

f. *Location:* On Big Cottonwood Creek, near the town of Sandy, in Salt Lake County, Utah, about 15 miles southeast of downtown Salt Lake City. The project affects federal lands within the Wasatch-Cache National Forest.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Randy Landolt, Director, Hydro Resources, PacifiCorp, 920 SW Sixth Avenue, Portland, OR 97204, (503) 464–5339.

i. *FERC Contact:* Gaylord Hoisington (202) 219–2756.

j. *Comment Date:* 60 days from the filing date in paragraph c.

k. *Brief Description of the Project:* The existing project consists of: (1) A 150-foot-long and 35-foot-high earth-fill diversion dam; (2) a reinforced concrete spillway; (3) a reinforced concrete intake structure; (4) an approximately 2,850-foot-long penstock; (5) an 100-foot-wide by 35-foot-long masonry powerhouse; (6) one turbine generator unit with a rated capacity of 1,200 kilowatts; (7) a 7-foot-wide, 5.3-foot-deep reinforced concrete tailrace; and (8) other appurtenances.

l. With this notice, we are initiating consultation with the *UTAH STATE HISTORIC PRESERVATION OFFICER (SHPO)*, as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

m. Under Section 4.32(b)(7) of the Commission's regulations (18 CFR 4.32 (b)(7)), if any resource agency, Indian Tribe, or person believes that the applicant should conduct an additional scientific study to form an adequate factual basis for a complete analysis of the application on its merits, they must file a request for the study with the Commission, not later than 60 days after the application is filed, and must serve a copy of the request on the applicant.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–19337 Filed 7–20–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Ready for Environmental Analysis

July 15, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Original Major License.

b. *Project No.:* 11181–002.

c. *Dated Filed:* November 28, 1994.

d. *Applicant:* Energy Storage Partners, Inc.

e. *Names of Project:* Lorella Pumped Storage Project.

f. *Location:* In Klamath County, Oregon, partially in Bureau of Land Management lands. T39S, R11E, section 35, T40S, R12E, section 2, T40S, R12E, section 1, T40S, R12E, section 12, T40S, R12E, section 11, T40S, R12E, section 14, T40S, R12E, section 22.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. § 791(a)–825r.

h. *Applicant's Contact:* Mr. Douglas Spaulding, Energy Storage Partners, 1030 North Tyrol Trail, Suite B–101, Minneapolis, MN 55416, (612) 315–309.

i. *FERC Contact:* Hector Perez at (202) 219–2843.

j. *Deadline Date:* See attached paragraph D10.

k. *Status of Environmental Analysis:* This application has been accepted for filing and is ready for environmental analysis at this time—see attached standard paragraph D10.

l. *Description of Project:* The proposed project would consist of: (1) An upper reservoir with a gross storage capacity of 16,519 acre-feet and an area of 199 acres at maximum normal water surface elevation of 5,523 feet above mean sea level (msl), impounded by two, 178-foot-high rock fill embankments with a crest elevation of 5,533 feet msl; (2) an ungated reinforced concrete intake/outlet structure with trashracks; (3) a 24-foot-diameter, 1,326-foot-long vertical power shaft; (4) a 24-foot-diameter, 3,200-foot-long concrete-lined power tunnel; (5) a concrete-lined penstock manifold dividing the power tunnel into four, 12-foot-diameter, 355-foot-long, steel-lined penstocks; (6) a powerhouse with four reversible pump/turbines, with four, 250-megawatt motor/generator units; (7) a 1,500-foot-long by 38-foot-wide D-shaped concrete-lined tailrace tunnel; (8) a lower reservoir with a storage capacity of 18,646 acre-feet and a maximum water surface elevation of 4,191 feet msl, impounded by natural topography and a 57-foot-high earth zoned embankment, with a crest elevation of 4,199.2 feet msl; (9) a 4-mile-long, 500-kilovolt transmission line connecting the project to Captain Jack substation' and (10) other appurtenances. The project would operate as a closed system using water supplied by two groundwater wells about 2 miles from the lower reservoir.

m. *Purpose of Projects:* Project power would be sold to a local utility.

n. *This notice also consists of the following standard paragraphs:* D10.

o. *Available Locations of Applications:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 First Street, N.E., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at the Klamath County Library in Klamath Falls, Oregon.

D10. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions; and prescriptions.

The Commission directs, pursuant to Section 4.34(b) of the Regulations (See Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. All reply comments must be filed with the Commission within 105 days from the date of this notice.

Anyone may obtain an extension of time for these deadlines from the

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Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "COMMENTS", "REPLY COMMENTS", "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–19338 Filed 7–20–98; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–50844; FRL–6019–4]

Issuance of an Experimental Use Permit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted an experimental use permit to the following applicant. This permit is in accordance with, and subject to, the provisions of 40 CFR part 172, which defines EPA procedures with respect to the use of pesticides for experimental use purposes.

FOR FURTHER INFORMATION CONTACT: By mail: John Bazuin, Jr., Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person or by telephone: Crystal Mall #2, 2nd Floor, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–7381, e-mail: bazuin.john@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permit:

10182–EUP–63. Issuance. Zeneca Ag Products, Inc., 1800 Concord Pike, Wilmington, DE 19850. This experimental use permit allows the use of up to 800 pounds of the fungicidal active ingredient methyl (E)-2-(2-(6-(2-cyanophenoxy)pyrimidin-4-yloxyphenyl)-3-methoxyacrylate (azoxystrobin), in the form of up to 3,500 pounds of the product Quadris SC fungicide, in alternation with Bravo fungicide, to treat a total of up to 1,248 acres of potatoes to: (1) Evaluate the efficacy of the program for control of early blight and late blight; (2) determine the yield and quality benefits of the program, as compared to a standard fungicide program; (3) determine the costs and benefits of the program, as compared to a standard fungicide program; (4) determine the extent of pesticide use reduction possible, as compared to a standard fungicide program; and (5) monitor populations of the early blight and late blight pathogens for baseline sensitivity to the Quadris SC fungicide. This program is authorized only in the State of Wisconsin. This experimental use permit is effective from July 13, 1998 to July 12, 1999. This permit is issued with the limitation that all treated crops will be destroyed or used for research purposes only.

Persons wishing to review this experimental use permit are referred to the designated product manager. Inquiries concerning this permit should be directed to the person cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Experimental use permits.

Dated: July 15, 1998.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 98–19404 Filed 7–20–98; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

July 14, 1998.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 418–1379.

Federal Communications Commission

OMB Control No.: 3060–0715.

Expiration Date: 06/30/2001.

Title: Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Proprietary Network..

Form No.: N/A.

Respondents: Business or other for-profit.

Estimated Annual Burden: 4832 respondents; 161.62 hours per response (avg.); 780,989 total annual burden hours for all collections.

Estimated Annual Reporting and Recordkeeping Cost Burden: $229,520,000.

Frequency of Response: On occasion; one-time.

Description: In the Second Report and Order issued in CC Docket No. 96–115, released 3/98, the Commission seeks to implement the statutory obligations of section 222 of the Telecommunications Act of 1996. In addition, the Commission undertakes a review of the current regulatory customer proprietary network information (CPNI) framework and addresses issues deferred to this proceeding from other Commission proceedings. In fulfillment of these goals, the Commission imposes certain collections of information on all telecommunications carriers. Collections Adopted in the Second Report and Order: (a) Customer Approval (47 U.S.C. Section 222(c)(1)): If carriers choose to use CPNI to market service offerings outside the customer's existing service, they must obtain customer approval. Carriers are permitted to obtain such approval through written, oral, or electronic means. Carriers are permitted to use advanced technologies of their networks, including 800 numbers, 888 numbers, and e-mail, to obtain customer approval, in addition to using various types of written approval, such as billing inserts. See 47 CFR Sections 64.2007. (Number of respondents: 4832; hours per response: 78 hours; total annual burden: 376,896). (b) Customer Approval Documentation and Recordkeeping: Carriers must document such approval through software "flags" on customer service records indicating whether the customer has approved or declined the marketing use of his or her CPNI when solicited. The flag must be conspicuously displayed within a box or comment field within the first few lines of the first computer screen. The flag must indicate whether the customer has approved the marketing use of his or her CPNI, and in addition reference the customer's existing service subscription. Carriers must maintain records of approval, whether written, oral, or electronic for a period of at least one year, and be capable of producing them if the sufficiency of a customer's approval is challenged. See 47 CFR Sections 64.2007(e) and 64.2009. (Number of respondents: 4832; hours per response: 30 minutes; total annual burden: 2416 hours). (c) Notification of CPNI Rights: All telecommunications carriers that choose to solicit customer approval must provide their customers a one-time notification of their CPNI rights prior to any such solicitation. Carriers are required to give customers explicit notice of their CPNI rights prior to any solicitation for approval. A carrier is permitted to provide either written or oral notification. Such notification may take the form of a bill insert, an individual letter or an oral presentation that advises the customer of his/her right to restrict carrier access to CPNI. At a minimum, customer notification, whether oral or written, must provide sufficient information to enable the customer to make an informed decision as to whether to permit a carrier to use, disclose, or permit access to CPNI. The notice must specify the types of information that constitute CPNI and the specific entities that will receive the CPNI, describe the purpose for which the CPNI will be used and inform the customer of his or her right to disapprove those uses, and to deny or withdraw access to CPNI at any time. The notification also must advise customers of the precise steps they must take in order to grant or deny access to CPNI, and must clearly state that a denial of approval will not affect the provision of any services to which the customer subscribes. The notification must be reasonably comprehensible and non-misleading. If any portion of a notification is translated into another language, then all portions of the notification must be translated into the language. See 47 CFR Section 64.2007(f) and paragraphs 138–141 in the Order. (Number of respondents: 4832; hours per response: 78 hours; total annual burden: 376,896 hours). (d) Notification Recordkeeping: Pursuant to this one-time notification requirement, these carriers must maintain a record of such notifications. Carriers must maintain such records for a period of at least one year. See 47 CFR Section 64.2007(e). (Number of respondents: 4832; hours per response: 30 minutes; total annual burden: 2416 hours). (e) Audit Mechanism: All employees with access to customer records must be trained as to when they can and cannot access the customer's CPNI. Carriers must maintain electronic audit mechanisms that track access to customer accounts. All carriers must record whenever customer records are opened, by whom, and for what purpose, and maintain these contact histories for a period of at least one year. See 47 CFR Section 64.2009. (Number of respondents: 4832; hours per response: 30 minutes; total annual burden: 2416 hours). (f) Event Histories Recordkeeping: To assure compliance with CPNI protections, sales personnel must obtain supervisory review of any proposed request to use CPNI for outbound marketing purposes. Carriers are required to maintain a record of these event histories for at least one year from the date of the marketing campaign. See 47 CFR 64.2009(d). (Number of respondents: 4832; hours per response: 30 minutes; total annual burden: 2416 hours). (g) Corporate Compliance Certification: All telecommunications carriers must obtain on an annual basis a certification signed by a current corporate officer attesting that he or she has personal knowledge that the carrier is in compliance with the rules we promulgated in this order, and to create an accompanying statement explaining how the carriers are implementing our rules and safeguards. This certification must be made publicly available. See 47 CFR Section 64.2009(e) and paragraph 201 of Order. (Number of respondents: 4832; hours per response: 1 hour; total annual burden 4832 hours). (h) Aggregate Customer Information Disclosure Requirements for LECs (47 U.S.C. 222(c)(3)): LECs must disclose aggregate customer information to others upon request, when they use or disclose the aggregate customer information for marketing service to which the customer does not subscribe. See paragraph 150 in text of Order. (Number of respondents: 1400; hours per response 1 hour; total annual burden: 1400 hours). (i) Subscriber List Information Disclosure Requirement for Providers of Telephone Exchange Service (47 U.S.C. Section 222(e)): Section 222(e) states that a telecommunications carrier that provides "telephone exchange service" shall provide subscriber list information "gathered in its capacity as a provider of such service on a timely and unbundled basis, under nondiscriminatory and reasonable rates, terms, and conditions, to any person upon request for the purpose of publishing directories in any format." (Number of respondents: 1400; hours per response: 4 hours; total annual burden: 5600 hours). (j) CPNI Disclosure to Third Parties: Section 222(c)(2) requires carriers, when presented with a customer's affirmative written request, to provide that customer's CPNI to any person designated in the written authorization. Section 222(c)(2) imposes a disclosure requirement on carriers to ensure that any party with customer authorization, including unaffiliated third party competitors, can obtain access to individually identifiable CPNI. As such, carriers must provide a customer's CPNI to any party that has obtained an affirmative written authorization from the customer. (Number of respondents: 500; hours per response: 5 hours; total annual burden: 2500 hours).

Collections Proposed in the FNPRM

(k) Proposed Foreign Storage of CPNI: The Commission sought comment on whether requiring written customer consent to store or access CPNI from a foreign country and maintaining duplicate CPNI records in the U.S. are necessary to protect customer confidentiality under section 222(a) or any other provisions. (Number of respondents: 10; hours per response: 78.5; total annual burden: 785 hours). (l) Proposed Foreign Maintenance of CPNI of all U.S.-Based Customers Records: The Commission sought comment on the FBI's proposal to require carriers to maintain copies of the CPNI of all U.S.-based customers, regardless of whether they are U.S. domestic customers, because of the need for prompt, secure and confidential law enforcement, public safety, or national security access to such information, pursuant to lawful authority. (Number of respondents: 4832; hours per response: 30 minutes; total annual burden; 2416 hours). All of the collections, adopted and proposed,

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would be used to ensure that telecommunications carriers comply with the CPNI requirements the Commission promulgates in the Second Report and Order and to implement Section 222 of the statute. Obligation to respond: Mandatory.

OMB Control No.: 3060–0756.

Expiration Date: 06/30/2001.

Title: Procedural Requirements and Policies for Commission Processing of Bell Operating Company Applications for the Provision of In-Region, InterLATA Services Under Section 271 of the Communications Act.

Form No.: N/A.

Respondents: Business or other for-profit.

Estimated Annual Burden: 75 respondents; 250 hours per response (avg.); 18,820 total annual burden hours for all collections.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion.

Description: In a Public Notice released 9/19/97, the Commission revised the various procedural requirements and policies relating to the Commission's processing of Bell Operating Company (BOC) applications to provide in-region, interLATA services pursuant to section 271 of the Communications Act of 1934, as amended. Section 271 provides for applications on a state-by-state basis. The Public Notice requires that applicant file an original and 11 copies of each application, together with one copy on a computer diskette. The applications each will consist of a stand-alone, principal document with supporting documentation such as records of state proceedings, interconnection agreements, affidavits, etc. (No. of respondents: 7; hours per response: 125 hours; total annual burden: 6125 hours). State regulatory commission will file written consultations relating to the applications no later than approximately 20 days after the issuance of an Initial Public Notice establishing specific due dates for various filings. (No. of respondents: 49; hours per response: 120 hours; total annual burden: 5880 hours). The Department of Justice will file written consultations relating to the applications not later than approximately 35 days after the issuance of the Initial Public Notice. (No. of respondents: 1; hours per response 100 hrs per state; total annual burden: 4900 hours). Interested third parties may file comments on the applications not later than approximately 20 days after the issuance of the Initial Public Notice. All substantive arguments must be made in a legal brief and not in affidavits or other supporting documentation. (No. of respondents: 75; hours per response: 25 hours; total annual burden: 1875 hours). All participants in the proceeding may file a reply to any comment made by any other participant. Such replies will be due approximately 45 days after the Initial Public Notice is issued. (No. of respondents: 10; hours per response: 2 hours; total annual hour: 20 hours). A dispositive motion filed with the Commission in a section 271 proceeding will be treated as an early-filed pleading and will not be subject to a separate pleading cycle, unless the Commission or Bureau determines otherwise. Non-dispositive motions will be subject to the default pleading cycle in section 1.45 of our rules, unless the Commission determines otherwise in a public notice. (No. of respondents: 10; hours per response: 2 hours; total annual burden: 20 hours). See the September 1997 Public Notice for details of all the requirements and procedures associated with this process. All of the requirements are used to ensure that BOCs have complied with their obligations under the Communications Act of 1934, as amended, before being authorized to provide in-region, interLATA services pursuant to section 271. Obligation to respond: Mandatory.

OMB Control No.: 3060–0793.

Expiration Date: 07/31/2001.

Title: Procedures for States Regarding Lifeline Consents, Adoption of Intrastate Discount Matrix for Schools and Libraries, and Designation of Eligible Telecommunications Carriers.

Form No.: N/A.

Respondents: Business or other for-profit.

Estimated Annual Burden: 865 respondents; 1.12 hours per response (avg.); 970 total annual burden hours for all collections.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion.

Description: On May 8, 1997, the Commission released Federal-State Joint Board on Universal Service, Report and Order, CC Docket No. 96–45, FCC 97–157 (Order). In that Order, the Commission adopted rules providing funding for discounts to eligible schools and libraries. The Commission also adopted rules mandating that state commissions designate common carriers as eligible telecommunications carriers for service areas selected by state commissions in accordance with section 214(e). In a Public Notice, the Common Carrier Bureau announced procedures states must follow in order to receive universal service support. a. Submission of eligibility criteria. States must, either upon their own motion or upon request, designate common carriers as eligible telecommunications carriers for service areas designated by the state commission in accordance with section 214(e). 47 CFR 54.201(b). States must also designate service areas for non-rural carriers. 47 CFR 54.201(b). We request that states submit a list of carriers designated as eligible telecommunications carriers and the service areas such non-rural carriers are required to serve to the Universal Service Administrator. We request that states also send copies of the lists to the Universal Service Branch and the Office of the Secretary at the Federal Communications Commission. This information should be submitted as soon as possible after a state makes a designation. (No. of respondents: 25; hours per response: 1 hour; total annual burden: 25 hours). b. Self-certification as a rural telephone company. Any local exchange carrier that seeks to be classified as a rural telephone company must file a letter with the Commission by April 30th of each year notifying the Commission that the LEC certifies itself to be a rural telephone company and explaining how the carrier meets at least one of the four criteria in 47 U.S.C. § 153(37). (No. of respondents: 840; hours per response: 1 hour; total annual burden: 840 hours). c. Notification of change in status as rural telephone company. If a local exchange carrier's status as a rural telephone company changes so that it becomes ineligible for certification as a rural carrier, that carrier must inform the Commission and the Universal Service Administrator within one month of the change in status. (No. of respondents: 210; hours per response: .5 hours; total annual burden: 105 hours).

All the requirements contained herein are necessary to implement the congressional mandate for universal service. These reporting requirements are necessary to verify that particular carriers and other respondents are eligible to receive universal service support. Obligation to respond: Required to obtain benefits.

OMB Control No.: 3060–0806.

Expiration Date: 06/30/2001.

Title: Universal Service: Schools and Libraries Universal Service Program.

Form No.: FCC Forms 470 and 471.

Respondents: Business or other for-profit.

Estimated Annual Burden: 60,000 respondents; 11 hours per response (avg.); 660,000 total annual burden hours for all collections.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion.

Description: On May 8, 1997, the Commission adopted rules in CC Docket No. 96–45 providing discounts on all telecommunications services, Internet access, and internal connections for all eligible schools and libraries. The following forms are used to implement these requirements and obligations: a. FCC Form 470—Description of Services Requested and Certification. Schools and libraries ordering telecommunications services, Internet access, and internal connections under the universal service discount program must submit a description of the services desired to the Administrator. Schools and libraries may use the same description they use to meet the requirement that they generally place to solicit competitive bids. The Administrator will then post a description of the services sought on a website for all potential competing service providers to see and respond to as if they were requests for proposals (RFPS). 47 CFR 54.504(b)(2), 47 CFR 54.504(b)(3). Pursuant to section 254(h) of the 1996 Telecommunications Act, schools and libraries must certify under oath that: (1) The school or library is an eligible entity under section 254(h)((4); (2) the services requested will be used solely for educational purposes; (3) the services will not be sold, resold, or transferred in consideration for money or any other thing of value; and (4) if the services are being purchased as part of an aggregated purchase with other entities, the identifies of all co-purchasers and the portion of the services being purchased by the school or library. 47 CFR 54.504(b)(2). For schools ordering telecommunications services at the individual school level (i.e., primarily non-public schools), the person ordering such services should certify to the Administrator the percentage of students eligible in that school for the national school lunch program (or other comparable indicator of economic disadvantage ultimately selected by the Commission). This requirement arises in the context of determining which schools are eligible for the greater discounts being offered to economically disadvantaged schools. For schools ordering telecommunications services at the school district level, the person ordering such services for the school district should certify to the Administrator the number of studies in each of its schools eligible for the national school lunch program (or other comparable indicator of economic disadvantage). Schools and libraries must also certify that they have developed a technology plan that has been approved by an independent entity or the Administrator. The technology plan should demonstrate that they will be able to deploy any necessary hardware, software, and wiring, and to undertake any necessary teacher training required to use the services ordered pursuant to the section 254(h) discount effectively. 47 CFR 54.504(b)(2). (No. of respondents: 50,000; hours per response: 6 hours; total annual burden: 300,000 hours). b. FCC form 471—Services Ordered and Certification. Schools and libraries that have ordered telecommunications services, Internet access, and internal connections under the universal service discount program must file FCC Form 471 with the Administrator. This form requires schools and libraries to indicate whether funds are being requested for an existing contract, a master contract or whether it wishes to terminate service. FCC Form 471 requires schools and libraries to list all services that have been ordered and the corresponding discount to which it is entitled. The school or library must also estimate its funding needs for the current funding year and for the following funding year. 47 CFR 54.504(b)(2). (No. of respondents: 60,000; hours per response: 6 hours; total annual burden: 360,000). All schools and libraries planning to order services eligible for universal service discounts must file FCC Forms 470 and 471. The purpose of this information is to help determine which schools are eligible for the greater discounts. Schools and libraries must certify to the Administrator that they have developed an approved technology plan via form 470. Copies of the forms may be obtained via email from: <www.neca.org>. Obligation to respond: Required to obtain benefits.

OMB Control No.: 3060–0804.

Expiration Date: 07/31/2001.

Title: Universal Service—Health Care Providers Universal Service Program.

Form No.: FCC Forms 465, 466, 467, and 468.

Respondents: Business or other for-profit.

Estimated Annual Burden: 18,400 respondents; 6.6 hours per response (avg.); 121,500 total annual burden hours for all collections.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion.

Description: FCC Form 465—Description of Services Requested and Certification. All health care providers requesting services eligible for universal service support must file a Description of Services and Certification Form with the Administrator. Filing this form is the first step a health care provider must take to participate in the universal service program. The Administrator will then post a description of the services sought on a website for all potential competing service providers to see and respond to as if they were requests for proposals (RFPs). (No. of respondents: 12,000; hours per response: 2.5; total annual burden: 30,000 hours). FCC Form 466—Services Ordered and Certification. All health care providers ordering services that are eligible for universal service support must file a Services Ordered and Certification Form with the Administrator. 47 CFR Section 54.603(b)(4). FCC Form 466, Services Ordered and Certification will be used to ensure health care providers have selected the most cost-effective method of providing the requested services as set forth in 47 CFR Section 54.603(b)(4). FCC Form 466 is also the means by which an applicant informs the Administrator that it has entered a contract with a telecommunications service provider for services that are supported under the universal services support program. The administrator must receive this form before it can commit universal service funds to support the services for which the applicant has contracted. (No. of respondents: 15,000; hours per response: 1.5 hours; total annual burden: 22,500 hours). FCC Form 467, Receipt of Service Confirmation. All health care providers that are receiving supported telecommunications service must file this form with the Administrator. The data in the report will be used to ensure that health care providers are receiving the services they have contracted for with telecommunications service providers so that universal service support may be appropriate to the telecommunications service provider pursuant to 47 CFR Section 54.611. (No. of respondents: 12,000; hours per response: 1.5 hours; total annual burden: 18,000 hours). FCC Form 468, Telecommunications Service Providers Support. All health care providers ordering services eligible for universal service support must file this form. The data in the report will be used to ensure that health care providers have calculated the amount of universal service support as set forth in 47 CFR Section 54.609(b). Telecommunications carriers must complete Form 468 by indicating the rural and urban rates for the service they have provided and the amount of the discount for which they must be reimbursed, and return it to the

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health care provider. The health care provider must attach it to Form 466 and file both forms with the administrator. (No. of respondents: 3400; hours per response: 1.5 hours; total annual burden: 51,000 hours (assuming 10 submissions per respondent)). These forms are used to administer the health care providers universal service program. The information is used primarily to determine eligibility. Copies of the forms may be obtained via e-mail from: <www.neca.org>. Obligation to respond: Required to obtain benefit.

OMB Control No.: 3060–0355.

Expiration Date: 07/31/2001.

Title: Rate of Return Reports.

Form No.: FCC Forms 492, 492A.

Respondents: Business or other for-profit.

Estimated Annual Burden: 107 respondents; 8 hours per response (avg.); 856 total annual burden hours for all collections.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; annually.

Description: Filing of FCC Form 492 and FCC Form 492A is required by Sections 65.600 of the FCC Rules. Filing of the FCC Form 492 on an annual basis is required from each local exchange carrier or group of affiliated carriers which is not subject to Sections 61.41 through 61.49 of the Commission's Rules and which has filed individual access tariffs during the enforcement period. Each local exchange carrier or group of affiliated carriers subject to the previously stated sections shall file the FCC Form 492A report with the Commission for the calendar year. These carriers are also required to file within 15 months after the end of each calendar year a report reflecting any corrections or modifications. The forms are necessary to enable the Commission to monitor the access tariffs and price cap earnings, and to enforce rate of return prescriptions. A copy of each report must be retained in the principal office of the respondent and shall be filed in such manner as to be readily available for reference and inspection. The date is used by staff members for enforcement purposes and by the public in analyzing the industry. The reports are also used by the Commission in the tariff review process and provide both the Commission and the carriers with an early warning system if rate adjustments are necessary to correct significant targeting errors. FCC Forms 492 and 492A are being revised to incorporate the new OMB expiration date and to make other adjustments. A public notice will be issued when the forms are available for public use. Obligation to respond: Mandatory.

Public reporting burden for the collections of information is as noted above. Send comments regarding the burden estimate or any other aspect of the collections of information, including suggestions for reducing the burden to Performance Evaluation and Records Management, Washington, D.C. 20554.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–19365 Filed 7–20–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Intralog, Inc., 1500 San Remo Avenue, Suite 253, Coral Gables, FL 33146, Officers: Dieter J. Bartels, President, Samuel J. Mow, Vice President

D.L. Wilco, 1001 Rio Bravo, Houston, TX 77064, Damon Lavelle Wilson, Sole Proprietor

Call Trans USA Inc. d/b/a Quality Express, Inc., 1360 Landmeier Road, Elk Grove, IL 60007, Officer: Hee Kyum Lee, President

Dated: July 15, 1998.

Joseph C. Polking,

Secretary.

[FR Doc. 98–19322 Filed 7–20–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 5, 1998.

A. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. Edward L. Clemons, Hazard, Kentucky; to acquire voting shares of Marie R. Turner Holding Company, Jackson, Kentucky, and thereby indirectly acquire Citizens Bank & Trust Company of Jackson, Jackson, Kentucky.

Board of Governors of the Federal Reserve System, July 16, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–19409 Filed 7–20–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 14, 1998.

A. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. *Carolina First BancShares, Inc.*, Lincolnton, North Carolina; to acquire 100 percent of the voting shares of Community Bank & Trust Company, Marion, North Carolina.

B. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. *Capitol Bancorp, Ltd.*, Lansing, Michigan; to acquire 51 percent of the voting shares of Detroit Commerce Bank (in organization), Detroit, Michigan.

2. *Sun Community Bancorp Limited*, Phoenix, Arizona, and Capitol Bancorp, Ltd., Lansing, Michigan; to acquire 51 percent of the voting shares of Mesa Bank, Mesa, Arizona (in organization).

Board of Governors of the Federal Reserve System, July 16, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–19408 Filed 7–20–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 5, 1998.

A. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. *Norwest Corporation*, Minneapolis, Minnesota; to engage *de novo* through a joint venture subsidiary, DRH Mortgage, LLC, Corona, California, in residential mortgage lending activities, pursuant to § 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, July 16, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–19410 Filed 7–20–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:00 a.m., Monday, July 27, 1998.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.bog.frb.fed.us for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: July 17, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–19551 Filed 7–17–98; 3:36 pm]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: FEDERAL TRADE COMMISSION.

TIME AND DATE: 2:00 p.m., Thursday, August 6, 1998.

PLACE: Federal Trade Commission Building, Room 532, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions Open to Public: (1) Oral Argument in Novartis Corporation, et al., Docket 9279.

Portions Closed to the Public: (2) Executive Session to follow Oral Argument in Novartis Corporation, et al. Docket 9279.

CONTACT PERSON FOR MORE INFORMATION: Victoria Streitfeld, Office of Public Affairs: (202) 326–2180, Recorded Message: (202) 326–2711.

Donald S. Clark,

Secretary.

[FR Doc. 98–19472 Filed 7–17–98; 10:20 am]

BILLING CODE 6750–01–M

GENERAL ACCOUNTING OFFICE

Federal Accounting Standards Advisory Board Meeting

AGENCY: General Accounting Office.

ACTION: Notice of Meeting on August 6 and 7.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. No. 92–463), as amended, notice is hereby given that the Federal Accounting Standards Advisory Board will hold a two-day meeting on Thursday, August 6 and Friday, August 7, 1998, from 9:00 a.m. to 4:00 p.m. in Room 7C13, the Comptroller General's Briefing Room, of the General Accounting Office building, 441 G St., NW., Washington, DC.

The purpose of the meeting is to discuss the following issues: (1) Management's Discussion and Analysis, (2) the Internal Revenue Service's request for amendments to the Accounting for Revenue and Other Financing Sources Standard, (3) the addition of new projects to the Board's agenda for 1998, (4) the Accounting for Internal Use Software Standard, (5) the Amendments to Accounting for Property, Plant, and Equipment Exposure Draft, and (6) the definition of "probable." Also, the Board will hear a

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presentation on early warning from representatives of the Advisory Council on Governmental Audit Standards.

Any interested person may attend the meeting as an observer. Board discussions and reviews are open to the public.

FOR FURTHER INFORMATION CONTACT: Wendy Comes, Executive Director, 441 G St., NW., Room 3B18, Washington, DC 20548, or call (202) 512–7350.

Authority: Federal Advisory Committee Act. Pub. L. No. 92–463, Section 10(a)(2), 86 Stat. 770, 774 (1972) (current version at 5 U.S.C. app. section 10(a)(2) (1988); 41 CFR 101–6.1015 (1990).

Dated: July 16, 1998.

Wendy M. Comes,

Executive Director.

[FR Doc. 98–19417 Filed 7–20–98; 8:45 am]

BILLING CODE 1610–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy Sites: Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Public Law 92–463) of October 6, 1972, that the Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy Sites of the Centers for Disease Control and Prevention (CDC), Department of Health and Human Services, has been renewed for a 2-year period beginning July 7, 1998 through July 7, 2000.

For further information, contact the Management Analysis and Services Office, Committee Management and Program Panels Activity, CDC, Mailstop E–72, 1600 Clifton Road, NE, Atlanta, Georgia 30333, telephone 404–639–6389 or fax 404–639–6290.

Dated: July 13, 1998.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–19326 Filed 7–20–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0515]

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

DATES: Submit written comments on the collection of information by August 20, 1998.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Denver Presley, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1472.

SUPPLEMENTARY INFORMATION: In compliance with section 3507 of the PRA (44 U.S.C. 3507), FDA has submitted the following proposed collection of information to OMB for review and clearance.

Current Good Manufacturing Practice Regulations for Type A Medicated Articles—(21 CFR Part 226)—(OMB Control Number 0910–0154—Reinstatement)

Under section 501 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 351), FDA has the statutory authority to issue current good manufacturing practice (CGMP) regulations for drugs, including Type A medicated articles. A Type A medicated article is a feed product containing a concentrated drug diluted with a feed carrier substance. A Type A medicated article is intended solely for use in the manufacture of another Type A medicated article or a Type B or Type C medicated feed. Medicated feeds are administered to animals for the prevention, cure, mitigation, or treatment of disease or for growth promotion and feed efficiency.

Statutory requirements for CGMP's for Type A medicated articles have been codified under part 226 (21 CFR part 226). Type A medicated articles that are not manufactured in accordance with these regulations are considered adulterated under section 501(a)(2)(B) of the act. Under part 226, a manufacturer is required to establish, maintain, and retain records for Type A medicated articles, including records to document procedures required under the manufacturing process to ensure that proper quality control is maintained. Such records would, for example, contain information concerning receipt and inventory of drug components, batch production, laboratory assay results (i.e., batch and stability testing), and product distribution. This information is needed so that FDA can monitor drug usage and possible misformulation of Type A medicated articles. The information could also prove useful to FDA in investigating product defects when a drug is recalled. In addition, FDA will use the CGMP criteria in part 226 to determine whether or not the systems used by manufacturers of Type A medicated articles are adequate to ensure that their medicated articles meet the requirements of the act pertaining to safety and also meet the articles, claimed identity, strength, quality and purity, as required by section 501(a)(2)(B) of the act.

The respondents for Type A medicated articles are pharmaceutical firms that manufacture both human and veterinary drugs and commercial feed mills.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
226.42	200	120	24,000	0.75	18,000
226.58	200	120	24,000	1.75	42,000
226.80	200	120	24,000	0.75	18,000
226.102	200	120	24,000	1.75	42,000

TABLE 1.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]—Continued

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
226.110	200	120	24,000	0.25	6,000
226.115	200	120	24,000	1.00	24,000
Total burden hours					150,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The estimate of the times required for record preparation and maintenance is based on agency communications with industry. Other information needed to calculate the total burden hours (i.e., manufacturing sites, number of Type A medicated articles being manufactured, etc.) are derived from agency records and experience.

Dated: July 13, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–19312 Filed 7–20–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0546]

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Food And Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

DATES: Submit written comments on the collection of information by August 20, 1998.

ADDRESSES: Submit written comments on the proposed collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Margaret R. Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In compliance with section 3507 of the PRA (44 U.S.C. 3507), FDA has submitted the following collection of information to OMB for review and clearance.

Food Labeling Regulations (21 CFR Parts 101, 102, 104, and 105)

FDA regulations in parts 101, 102, 104, and 105 (21 CFR parts 101, 102, 104, and 105) require food producers to disclose to consumers and others specific information about themselves or their products on the label or labeling of their products. Certain of these regulations also require that food producers retain records establishing the basis for the information contained in the label or labeling of their products and provide those records to regulatory officials. Finally, certain regulations provide for submissions of information to FDA in the form of petitions or notices. These regulations were issued under the authority of sections 4, 5, and 6 of the Fair Packaging and Labeling Act (FPLA) (15 U.S.C. 1453, 1454, and 1455) and of sections 201, 301, 402, 403, 409, 411, 701, and 721 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321, 331, 342, 343, 348, 350, 371, and 379e). Most of these regulations derive from section 403 of the act, which provides that a food product shall be misbranded if, among other things, its label or labeling fails to bear certain required information concerning the food product, is false or misleading in any particular, or bears certain types of unauthorized claims. The disclosure requirements and other collections of information in the regulations in parts 101, 102, 104, and 105 are necessary to ensure that food products sold in the United States are in compliance with the labeling provisions of the act and the FPLA. One purpose of this submission to OMB under the PRA is to consolidate all of the information collection provisions in these regulations into one submission to OMB for its review and approval.

Section 101.3 of FDA's food labeling regulations requires that the label of a food product in packaged form bear a statement of identity (i.e., the name of the product), including, as appropriate, the form of the food or the name of the food imitated. Section 101.4 prescribes the requirements for the declaration of ingredients on the label or labeling of food products in packaged form. Section 101.5 requires that the label of a food product in packaged form specify the name and place of business of the manufacturer, packer, or distributor and, if the food producer is not the manufacturer of the food product, its connection with the food product. Section 101.9 requires that nutrition information be provided for all food products intended for human consumption and offered for sale, unless an exemption in § 101.9(j) applies to the product. Section 101.9(g)(9) provides for the submission to FDA of requests for alternative approaches to nutrition labeling. Finally, § 101.9(j)(18) provides for the submission to FDA of notices from firms claiming the small business exemption from nutrition labeling. Section 101.10 requires that restaurants provide nutrition information, upon request, for any food or meal for which a nutrient content claim or health claim is made. Section 101.12(e) provides that a manufacturer that adjusts the reference amount customarily consumed (RACC) of an aerated food for the difference in density of the aerated food relative to the density of the appropriate nonaerated reference food must be prepared to show FDA detailed protocols and records of all data that were used to determine the density-adjusted RACC. Section 101.12(g) requires that the label or labeling of a food product disclose the serving size that is the basis for a claim made for the product if the serving size on which the claim is based differs from the RACC. Section 101.12(h) provides for the submission of petitions to FDA to request changes in the reference amounts defined by regulation.

Section 101.13 requires that nutrition information be provided in accordance with the provisions of § 101.9 for any food product for which a nutrient content claim is made. Under some circumstances, § 101.13 also requires the disclosure of other types of information as a condition for the use of a nutrient content claim. For example, under § 101.13(j), if the claim compares

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the level of a nutrient in the food with the level of the same nutrient in another "reference" food, the claim must also disclose the identity of the reference food, the amount of the nutrient in each food, and the percentage or fractional amount by which the amount of the nutrient in the labeled food differs from the amount of the nutrient in the reference food. Section 101.13(q)(5) requires that restaurants document and provide to appropriate regulatory officials, upon request, the basis for any nutrient content claims they have made for the foods they sell.

Section 101.14 provides for the disclosure of nutrition information in accordance with § 101.9 and, under some circumstances, certain other information as a condition for making a health claim for a food product. Section 101.15 provides that, if the label of a food product contains any representation in a foreign language, all words, statements, and other information required by or under authority of the act to appear on the label shall appear thereon in both the foreign language and in English. Section 101.22 contains labeling requirements for the disclosure of spices, flavorings, colorings, and chemical preservatives in food products. Section 101.22(i)(4) sets forth reporting and recordkeeping requirements pertaining to certifications for flavors designated as containing no artificial flavors. Section 101.30 specifies the conditions under which a beverage that purports to contain any fruit or vegetable juice must declare the percentage of juice present in the beverage and the manner in which the declaration is to be made.

Section 101.36 requires that nutrition information be provided for dietary supplements offered for sale, unless an exemption in § 101.36(h) applies. Section 101.36(f)(2) cross-references the provisions in § 101.9(g)(9) for the submission to FDA of requests for alternative approaches to nutrition labeling. Also, § 101.36(h)(2) cross-references the provisions in § 101.9(j)(18) for the submission of small business exemption notices.

Section 101.42 requests that food retailers voluntarily provide nutrition information for raw fruits, vegetables, and fish at the point of purchase, and § 101.45 contains guidelines for providing such information. Also, § 101.45(c) provides for the submission of nutrient data and proposed nutrition labeling values for raw fruit, vegetables, and fish to FDA for review and approval.

Sections 101.54, 101.56, 101.60, 101.61, and 101.62 specify information that must be disclosed as a condition for making particular nutrient content claims. Section 101.67 cross-references requirements in other regulations for information declaration (§ 101.4) and disclosure of information concerning performance characteristics (§ 101.13(d)). Section 101.69 provides for the submission of a petition requesting that FDA authorize a particular nutrient content claim by regulation. Section 101.70 provides for the submission of a petition requesting that FDA authorize a particular health claim by regulation. Section 101.77(c)(2)(ii)(D) requires the disclosure of soluble fiber per serving in the nutrition labeling of a food bearing a health claim about the relationship between soluble fiber and a reduced risk of coronary heart disease. Section 101.79(c)(2)(iv) requires the disclosure of the amount of folate in the nutrition label of a food bearing a health claim about the relationship between folate and a reduced risk of neural tube defects.

Section 101.100(d) provides that any agreement that forms the basis for an exemption from the labeling requirements of section 403(c), (e), (g), (h), (i), (k), and (q) of the act be in writing and that a copy of the agreement be made available to FDA upon request. Section 101.100 also contains reporting and disclosure requirements as conditions for claiming certain labeling exemptions.

Section 101.105 specifies requirements for the declaration of the net quantity of contents on the label of a food in packaged form and prescribes conditions under which a food whose label does not accurately reflect the actual quantity of contents may be sold, with appropriate disclosures, to an institution operated by a Federal, State or local government. Section 101.108 provides for the submission to FDA of a written proposal requesting a temporary exemption from certain requirements of §§ 101.109 and 105.66 for the purpose of conducting food labeling experiments with FDA authorization.

Regulations in part 102 define the information that must be included as part of the statement of identity for particular foods and prescribe related labeling requirements for some of these foods. For example, § 102.22 requires that the name of a protein hydrolysate shall include the identity of the food source from which the protein was derived.

Part 104, which pertains to nutritional quality guidelines for foods, cross-references several labeling provisions in part 101 but contains no separate information collection requirements.

Part 105 contains special labeling requirements for hypoallergenic foods, infant foods, and certain foods represented as useful in reducing or maintaining body weight.

The disclosure and other information collection requirements in the above regulations are placed primarily upon manufacturers, packers, and distributors of food products. Because of the existence of exemptions and exceptions, not all of the requirements apply to all food producers or to all of their products. Some of the regulations affect food retailers, such as supermarkets and restaurants.

The purpose of the food labeling requirements is to allow consumers to be knowledgeable about the foods they purchase. Nutrition labeling provides information for use by consumers in selecting a nutritious diet. Other information enables a consumer to comparison shop. Ingredient information also enables consumers to avoid substances to which they may be sensitive. Petitions or other requests submitted to FDA provide the basis for the agency to permit new labeling statements or to grant exemptions from certain labeling requirements. Recordkeeping requirements enable FDA to monitor the basis upon which certain label statements are made for food products and whether those statements are in compliance with the requirements of the act or the FPLA.

In a notice published in the **Federal Register** of March 23, 1998 (63 FR 13862), FDA invited comments on the information collection provisions contained in its food labeling regulations in parts 101, 102, 104, and 105. FDA received no comments in response to that notice.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN

21 CFR Section	No. of Respondents	Total Annual Responses	Hours per Response	Total Hours	Total Operating, Capital or Maintenance Costs
101.3, 101.22, parts 102 and 104	17,000	17,500	0.5	8,750	0
101.4, 101.22, 101.100, parts 102, 104, and 105	17,000	17,500	1	17,500	0
101.5	17,000	17,500	0.25	4,375	0
101.9, 101.13(n), 101.14(d)(3), 101.62, and part 104	17,000	17,500	4	70,000	$1,000,000
101.9(g)(9) and 101.36(f)(2)	12	12	4	48	0
101.9(j)(18) and 101.36(h)(2)	8,600	8,600	8	68,800	0
101.10	265,000	397,500	0.25	99,375	0
101.12(e)	25	25	1	25	0
101.12(g)	5,000	5,000	1	5,000	0
101.12(h)	5	5	80	400	$400,000
101.13(d)(1) and 101.67	200	200	1	200	0
101.13(j)(2), 101.13(k), 101.54, 101.56, 101.60, 101.61, and 101.62	2,500	2,500	1	2,500	0
101.13(q)(5)	265,000	397,500	0.75	298,125	0
101.14(d)(2)	265,000	397,500	0.75	298,125	0
101.15	160	1,600	8	12,800	0
101.22(i)(4)	25	25	1	25	0
101.30 and 102.33	1,500	5,000	1	5,000	0
101.36	300	12,000	4	48,000	$15,000,000
101.42 and 101.45	72,270	72,270	0.50	36,135	0
101.45(c)	5	20	4	80	0
101.69	3	3	25	75	0
101.70	3	3	80	240	$400,000
101.77 (c)(2)(ii)(D)	1,000	1,000	0.25	250	0
101.79 (c)(2)(iv)	100	100	0.25	25	0
101.100(d)	1,000	1,000	1	1,000	0
101.105 and 101.100(h)	17,000	17,500	0.5	8,750	0
101.108	0	0	40	0	0
Total Burden Hours				985,603	16,800,000

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN

21 CFR Section	No. of Respondents	Total Annual Records	Hours per Response	Total Hours	Total Operating, Capital or Maintenance Costs
101.12(e)	25	25	1	25	0
101.13(q)(5)	265,000	397,500	0.75	298,125	0
101.14(d)(2)	265,000	397,500	0.75	298,125	0
101.22(i)(4)	25	25	1	25	0
101.100(d)(2)	1,000	1,000	1	1,000	0
101.105(t)	100	100	1	100	0
Total Burden Hours				597,400	0

These estimates are based on FDA's "Regulatory Impact Analysis of the Final Rules to Amend the Food Labeling Regulations," the agency's most recent comprehensive review of food labeling costs, that published in the **Federal Register** of January 6, 1993 (58 FR 2927), agency communications with industry, and FDA's knowledge of and experience with food labeling and the submission of petitions and requests to the agency. Where an agency regulation implements an information collection requirement in the act or the FPLA, only any additional burden attributable to the regulation has been included in FDA's burden estimate.

No burden has been estimated for those requirements where the information to be disclosed is information that has been supplied by FDA. Also, no burden has been estimated for that information that is disclosed to third parties as a usual and customary part of a food producer's normal business activities. Under 5 CFR 1320(c)(2), the public disclosure of information originally supplied by the Federal Government to the recipient for the purpose of disclosure to the public is not a collection of information. Under 5 CFR 1320.3(b)(2), the time, effort, and financial resources necessary to comply with a collection of information are excluded from the burden estimate if the reporting, recordkeeping, or disclosure activities needed to comply are usual and customary because they would occur in the normal course of activities.

Dated: July 14, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–19313 Filed 7–20–98; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0517]

Development of Antimicrobial Drug Products; Development and Use of FDA Guidance Documents; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; request for comments.

SUMMARY: The Food and Drug Administration (FDA), Center for Drug Evaluation and Research (CDER), Office of Drug Evaluation IV (ODE IV), is providing notice to drug manufacturers regarding its current plans for revising existing guidance documents and preparing new guidance documents on the development of antimicrobial drug products for the treatment of infections. ODE IV is reviewing, updating, consolidating, and revising its existing guidance documents and identifying topics for future guidance. The agency is requesting public comment on topics for future guidance development.

DATES: Written comments may be submitted by October 19, 1998. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Copies of agency guidance documents can be obtained on the Internet at "http://www.fda.gov/cder/guidance/index.htm". Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville MD 20852. Comments are to be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Renata Albrecht, Center for Drug Evaluation and Research (HFD–590), Food and Drug Administration, 9201 Corporate Blvd., Rockville, MD 20850, 301–827–2336.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of February 27, 1997 (62 FR 8961), FDA published a notice explaining its policy for guidance document development, issuance, and use. The notice included an agency document entitled "Good Guidance Practices" (GGP's), which sets forth agency policies and procedures for developing, issuing, and using guidance documents. The GGP's emphasize the importance of gaining public input early in the guidance development process.

Since the 1970's the agency has issued guidance in a variety of forms to the pharmaceutical industry to facilitate the development of antimicrobial drug products. In addition to advice and guidance provided verbally during various industry and FDA meetings and other interactions between the regulated industry and FDA, or in individual letters written to sponsors, general written guidance has also been provided. In 1977, the agency issued guidance on the development of antimicrobial drug products entitled "Clinical Evaluation of Anti-Infective Drugs (Systemic)." In fulfillment of a contract from FDA, in November 1992, the Infectious Disease Society of America (IDSA) published its "Guidelines for the Evaluation of Anti-Infective Drug Products" in the supplement of "Clinical Infectious Disease" (formerly, "Reviews of Infectious Diseases"). That same month, FDA's Division of Anti-Infective Drug Products issued "Points to Consider: Clinical Development and Labeling of Anti-Infective Drug Products" (1992) on issues related to evaluating new drug applications for anti-infective drug products. All of these documents contain information helpful for designing clinical trial protocols for evaluating the safety and effectiveness of new therapies to treat infections and gaining approval for supplemental indications.

In 1996, in an attempt to outline in more detail the elements the agency considers important when evaluating clinical studies, the agency initiated efforts to develop guidance that would provide investigators, academia, and industry with insight on those elements (often referred to as "evaluability criteria") considered important during the evaluation of clinical studies for antimicrobial drug products. In March 1997, an early draft guidance, entitled "Evaluating Clinical Studies of Antimicrobials in the Division of Anti-Infective Drug Products," was discussed at an Anti-Infective Drug Products Advisory Committee meeting. That early draft contained an introduction and individual sections addressing 12 specific indications. Space was reserved to provide guidance at some later date on approximately 15 additional indications.

Since the 1997 advisory committee meeting, several events have occurred that affect how clinical trials are designed, conducted, evaluated, and reported and that are relevant to the revision and development of guidance on antimicrobial drug products. ODE IV, which includes the Division of Anti-Infective Drug Products, the Division of Special Pathogens and Immunologic Drug Products, and the Division of Anti-Viral Drug Products, reviewed all of its guidance documents and determined that certain revisions were necessary. In November 1997, the Food and Drug Administration Modernization Act of 1997 (Modernization Act) was enacted (Pub. L. 105–115); it contains several provisions related to drug development and will lead to additional agency guidance documents on a variety of subjects relating to clinical trial design and evaluation. For example, section 119 of the Modernization Act addresses meetings and agreements concerning the design and size of clinical trials. In addition, in May 1998, the agency published a guidance for industry entitled "Providing Clinical Evidence of Effectiveness for Human Drugs and Biological Products" (63 FR 27093, May 15, 1998) that fulfills certain requirements in section 403(b) of the Modernization Act and that also has implications for antimicrobial drug products.

ODE IV is continuing its efforts to develop comprehensive guidance on evaluability criteria by reviewing, updating, consolidating, and revising its existing guidance documents, taking into account these broader agency initiatives. Specifically, the office is deciding which elements of current guidance documents remain applicable, which elements need to be removed, which elements need to be updated, and which elements need to be added. In the process, all guidances are being developed consistent with the agency's GGP's.

Throughout the 1990's, ODE IV has approached the development of guidance in an open forum as part of its advisory committee process. It wishes to continue this public and transparent process for guidance document development. ODE IV generally expects to include advisory committee review as part of the process of reviewing and developing guidance for industry on antimicrobial drug development.

II. Guidance Development Plan

ODE IV has reviewed all existing, relevant documents. Within the next few months, ODE IV expects to issue a general draft guidance that addresses issues common to all indications and a series of companion draft guidances that address the following individual indications:

1. Uncomplicated urinary tract infections,
2. Uncomplicated skin and superficial skin structure infections,
3. Complicated skin and soft tissue infections,
4. Community-acquired pneumonia,
5. Nosocomial pneumonia,

6. Acute bacterial exacerbation of chronic bronchitis,
7. Secondary bacterial infection of acute bronchitis,
8. Acute otitis media,
9. Acute uncomplicated gonorrhea,
10. Acute sinusitus,
11. Complicated urinary tract infections and pyelonephritis,
12. Bacterial prostatitis,
13. Early Lyme disease,
14. Empiric therapy of febrile neutropenia,
15. Vulvovaginal candidiasis,
16. Streptococcal pharyngitis and tonsillitis,
17. Bacterial meningitis, and
18. Bacterial vaginosis.

Key aspects of these draft guidances will be discussed in a July 1998 advisory committee meeting. After the meeting, ODE IV will work toward finalizing these guidances.

The next step will involve developing draft guidance documents for the following proposed indications:

1. Nongonoccocal urethritis/cervicitis,
2. Endocarditis,
3. Uncomplicated intra-abdominal infections,
4. Complicated intra-abdominal infections,
5. Gynecologic infections (except sexually transmitted disease and pelvic inflammatory disease),
6. Pelvic inflammatory disease,
7. Osteomyelitis (acute and chronic),
8. Acute bacterial arthritis, and
9. Helicobacter pylori infections.

Once developed, the agency expects that it will release the guidances in draft for review and comment, with key elements discussed before the advisory committee.

ODE IV also is considering developing guidance during the next few years for the following agents:

1. Agents to treat opportunistic infections related to AIDS;
2. Antimycobacterial agents;
3. Antifungal agents;
4. Antiparasitic agents;
5. Immunologic/transplant agents;
6. Antiviral agents;
7. Dermatologic surgical scrubs, etc.;
8. Agents to treat sepsis/septic shock; and
9. Agents used in surgical prophylaxis.

As with the other guidances, it is expected that these guidances will first be issued in draft for review and comment and discussed before the advisory committee.

III. Comments

ODE IV is seeking suggestions and recommendations for future guidance development. Interested persons may submit comments to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 13, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–19319 Filed 7–20–98; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97E–0358]

Determination of Regulatory Review Period for Purposes of Patent Extension; Flowmax™

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Flowmax™ and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6620.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Flowmax™ (tamsulosin hydrochloride). Flowmax™ is indicated for the treatment of the signs and symptoms of benign prostatic hyperplasia (BPH). Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Flowmax™ (U.S. Patent No. 4,703,063) from Yamanouchi Pharmaceutical Co., Ltd., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated November 7, 1997, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Flowmax™ represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that the FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Flowmax™ is 3,529 days. Of this time, 3,163 days occurred during the testing phase of the regulatory review period, 366 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355) became effective*: August 19, 1987. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on on August 19, 1987.

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2. *The date the application was initially submitted with respect to the human drug product under section 505 of the act*: April 15, 1996. FDA has verified the applicant's claim that the new drug application (NDA) for Flowmax™ (NDA 20–579) was initially submitted on April 15, 1996.

3. *The date the application was approved*: April 15, 1997. FDA has verified the applicant's claim that NDA 20–579 was approved on April 15, 1997.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,825 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before September 21, 1998, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before January 19, 1998, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 26, 1998.

Thomas J. McGinnis,

Deputy Associate Commissioner for Health Affairs.

[FR Doc. 98–19379 Filed 7–20–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. 98N–0473, 98P–0275, 98P–0215, 98P–0216, and 98P–0338]

Medical Devices; Exemptions From Premarket Notification; Class II Devices

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a list of petitions requesting exemption from the premarket notification requirements for certain class II devices. FDA is publishing this notice in order to obtain comments on these petitions in accordance with procedures established by the Food and Drug Administration Modernization Act of 1997 (FDAMA).

DATES: Written comments by August 20, 1998.

ADDRESSES: Submit written comments on this notice to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Heather S. Rosecrans, Center for Devices and Radiological Health (HFZ–404), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–1190.

SUPPLEMENTARY INFORMATION:

I. Statutory Background

Under section 513 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c), FDA must classify devices into one of three regulatory classes: Class I, class II, or class III. FDA classification of a device is determined by the amount of regulation necessary to provide a reasonable assurance of safety and effectiveness. Under the Medical Device Amendments of 1976 (the 1976 amendments (Pub. L. 94–295)), as amended by the Safe Medical Devices Act of 1990 (the SMDA (Pub. L. 101–629)), devices are to be classified into class I (general controls) if there is information showing that the general controls of the act are sufficient to assure safety and effectiveness; into class II (special controls), if general controls, by themselves, are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls to provide such assurance; and into class III (premarket approval), if there is insufficient information to support classifying a device into class I or class II and the device is a life-sustaining or life-supporting device or is for a use which is of substantial importance in preventing impairment of human health, or presents a potential unreasonable risk of illness or injury.

Most generic types of devices that were on the market before the date of the 1976 amendments (May 28, 1976) (generally referred to as preamendments devices) have been classified by FDA under the procedures set forth in section 513(c) and (d) of the act through the issuance of classification regulations into one of these three regulatory classes. Devices introduced into interstate commerce for the first time on or after May 28, 1976 (generally referred to as postamendments devices) are classified through the premarket notification process under section 510(k) of the act (21 U.S.C. 360(k)). Section 510(k) of the act and the implementing regulations, 21 CFR part 807, require persons who intend to market a new device to submit a premarket notification report (510(k)) containing information that allows FDA to determine whether the new device is "substantially equivalent" within the meaning of section 513(i) of the act to a legally marketed device that does not require premarket approval.

On November 21, 1997, the President signed into law FDAMA (Pub. L. 105–115). Section 206 of FDAMA, in part, added a new section 510(m) to the act. Section 510(m)(1) of the act requires FDA, within 60 days after enactment of FDAMA, to publish in the **Federal Register** a list of each type of class II device that does not require a report under section 510(k) of the act to provide reasonable assurance of safety and effectiveness. Section 510(m) of the act further provides that a 510(k) will no longer be required for these devices upon the date of publication of the list in the **Federal Register**. FDA published that list in the **Federal Register** of January 21, 1998 (63 FR 3142).

Section 510(m)(2) of the act provides that, 1 day after date of publication of the list under section 510(m)(1), FDA may exempt a device on its own initiative or upon petition of an interested person, if FDA determines that a 510(k) is not necessary to provide reasonable assurance of the safety and effectiveness of the device. This section requires FDA to publish in the **Federal Register** a notice of intent to exempt a device, or of the petition, and to provide a 30-day comment period. Within 120 days of publication of this document, FDA must publish in the **Federal Register** its final determination regarding the exemption of the device that was the subject of the notice. If FDA fails to respond to a petition under this section within 180 days of receiving it, the petition shall be deemed granted.

II. Criteria for Exemption

There are a number of factors FDA may consider to determine whether a 510(k) is necessary to provide reasonable assurance of the safety and effectiveness of a class II device. These factors are discussed in the guidance the agency issued on February 19, 1998, entitled "Procedures for Class II Device Exemptions from Premarket Notification, Guidance for Industry and CDRH Staff." That guidance can be obtained through the World Wide Web on the CDRH Home Page at "http://www.fda.gov/cdrh" or by facsimile through CDRH Facts-on-Demand at 1–800–899–0381 or 301–827–0111. Specify "159" when prompted for the document shelf number.

III. List of Petitions

FDA has received the following petitions requesting an exemption from premarket notification for class II devices:

1. Sandhill Scientific Inc., 21 CFR 876.1725 *Gastrointestinal motility monitoring system*.
2. Welch Allyn, Inc., 21 CFR 886.1570 *Ophthalmoscope*.
3. Computerized Medical Systems, Inc., 21 CFR 892.5840 *Radiation therapy simulation system*, exemption requested only for Radiation Oncologist Data Entry Workstation.
4. Chemicon International Inc., 21 CFR 866.3175 *Cytomegalovirus serological reagents*, and 21 CFR 866.3900 *Varicella-zoster virus serological reagents*.

IV. Comments

Interested persons may, on or before August 20, 1998, submit to the Dockets Management Branch (address above) written comments regarding this notice. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The petitions and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 10, 1998.

D.B. Burlington,

Director, Center for Devices and Radiological Health.

[FR Doc. 98–19316 Filed 7–20–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0437]

New Model Medical Device Development Process; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration FDA is announcing the availability of a document entitled "New Model Medical Device Development Process." In this document, FDA outlines a new model for the investigational device exemption (IDE) and premarket approval application (PMA) development and review process. FDA is issuing this document as part of its commitment to improve the IDE and PMA development and review process.

DATES: Written comments concerning this document must be received by October 19, 1998.

ADDRESSES: See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the document. Written comments concerning this document must be submitted to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments should be identified with the docket number found in brackets in the heading of this document. Submit written requests for single copies on a 3.5" diskette of "New Model Medical Device Development Process" to the Division of Small Manufacturers Assistance, Center for Devices and Radiological Health (HFZ–220), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818.

FOR FURTHER INFORMATION CONTACT: Robert R. Gatling, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–1220.

SUPPLEMENTARY INFORMATION:

I. Background

Despite a marked improvement in device approval times, FDA's Center for Devices and Radiological Health (CDRH) is committed to substantial improvement of the IDE application and PMA development and review process. Often FDA's involvement with the product has been greatest at the end of the process—during review of the PMA. The lack of early and effective FDA and sponsor interaction too often results in a PMA with significant flaws requiring repair, including development of additional data, and multiple cycles of PMA review. These cycles can be costly and time consuming both for the medical device industry and FDA and can delay marketing of new devices.

As part of its reengineering process, CDRH is proposing a new model for the development and review of such class III medical devices that includes three tracks: (1) "Expedited" review for devices which offer significant advantages over current therapy; (2) "standard" review for most devices; and (3) "streamlined" review for devices which are very well understood by both the sponsor and FDA.

The new model also encourages interaction between the agency and the applicant, including early agreement on the overall development plan, and offers modular submission and review building the application and administrative file over time.

The guidance document outlines why FDA believes that the model will lead to "fast, fair, and smart" decisions that bring safe and effective devices to market as early as possible.

This guidance document represents the agency's current thinking on expediting the IDE/PMA process. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statute, regulations or both. FDA is issuing this as a Level 1 guidance document. Public comment prior to implementation is not required because the guidance is presenting a less burdensome policy that is consistent with the public health.

II. Electronic Access

In order to receive "New Model Medical Device Development Process" via your fax machine, call the CDRH Facts-On-Demand (FOD) system at 1–800–899–0381 or 301–827–0111 from a touch-tone telephone. At the first voice prompt press 1 to access DSMA Facts, at second voice prompt press 2, and then enter the document number (1101) followed by the pound sign (#). Then follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the guidance may also do so using the World Wide Web (WWW). CDRH maintains an entry on the WWW for easy access to information including text, graphics, and files that may be downloaded to a personal computer

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with access to the Web. Updated on a regular basis, the CDRH home page includes "New Medical Device Development Process" device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, mammography matters, and other device-oriented information. The CDRH home page may be accessed at http://www.fda.gov/cdrh.

A text-only version of the CDRH Web site is also available from a computer or VT-100 compatible terminal by dialing 1-800-222-0185 (terminal settings are 8/1/N). Once the modem answers, press Enter several times and then select menu choice 1: FDA BULLETIN BOARD SERVICE. From there follow instructions for logging in, and at the BBS TOPICS PAGE, arrow down to the FDA home page (do not select the first CDRH entry). Then select Medical Devices and Radiological Health. From there select CENTER FOR DEVICES AND RADIOLOGICAL HEALTH for general information, or arrow down for specific topics.

III. Comments

Interested persons may, on or before October 19, 1998, submit to the Dockets Management Branch (address above) written comments regarding this document. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The document and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 10, 1998.

D.B. Burlington,

Director, Center for Devices and Radiological Health.

[FR Doc. 98-19318 Filed 7-20-98; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D-0133]

Revised Guidance for Industry on Implementation of Section 126 of the Food and Drug Administration Modernization Act of 1997—Elimination of Certain Labeling Requirements

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a revised guidance for industry entitled "Implementation of Section 126 of the Food and Drug Administration Modernization Act of 1997— Elimination of Certain Labeling Requirements." Section 126 of the Food and Drug Administration Modernization Act of 1997 (Modernization Act) amends the Federal Food, Drug, and Cosmetic Act (the act) to require, at a minimum, that prior to dispensing, the label of prescription products contain the symbol "Rx only" instead of the "Caution: Federal law prohibits dispensing without prescription" statement. In addition, the requirement that the labels of certain habit-forming drugs bear the statement "Warning-May be habit forming" has been repealed. The revised guidance changes the implementation schedule provided in the original guidance dated February 1998, and answers certain questions concerning implementation of these amendments.

DATES: Written comments may be submitted at any time.

ADDRESSES: Copies of this guidance for industry can be obtained on the Internet at http://www.fda.gov/cder/guidance/index.htm or http://www.fda.gov/cber/guidelines.htm. Submit written requests for single copies of this guidance to the Drug Information Branch (HFD-210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857 or to the Office of Communication, Training and Manufacturers Assistance (HFM-40), Center for Biologics Evaluation and Research, 1401 Rockville Pike, Rockville, MD 20852-1448. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the guidance to the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT:

Jerry Phillips, Center for Drug Evaluation and Research (HFD-610), Food and Drug Administration, Office of Generic Drugs, 7500 Standish Pl., Rockville, MD 20855, 301-827-5846, or

Robert A. Yetter, Center for Biologics Evaluation and Research (HFM-10), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852-1448, 301-827-0373.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a revised guidance for industry entitled "Implementation of Section 126 of the Food and Drug Administration Modernization Act of 1997— Elimination of Certain Labeling Requirements." Section 126 of Title I of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105-115), signed into law by President Clinton on November 21, 1997, amends section 503(b)(4) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 353(b)(4)) to require, at a minimum, that prior to dispensing, the label of prescription products contain the symbol "Rx only" instead of the "Caution: Federal law prohibits dispensing without prescription" statement. In addition, section 502(d) of the act (21 U.S.C. 352(d)), that required the labels of certain habit-forming drugs to bear the statement "Warning-May be habit forming" is repealed. The amendments to section 503(b)(4) and the repeal of section 502(d) of the act became effective February 19, 1998.

FDA published a notice in the **Federal Register** of March 13, 1998, announcing the availability of the original guidance (63 FR 12473) and soliciting comments. Three comments on the guidance were submitted to the docket. In response to the comments, and to questions that were asked concerning the implementation of section 126 of the Modernization Act, FDA is issuing a revised guidance.

The revised guidance: (1) Describes the new prescription drug labeling requirements of the act as amended by the Modernization Act, (2) changes the implementation schedule previously described in the February 1998 guidance, and (3) answers certain frequently asked questions about the provision. The revised guidance advises that FDA does not intend to object if a sponsor of a currently approved product implements section 126 of the Modernization Act at the time of the next revision of its labels, or by February 19, 2003, whichever comes first, and reports these minor changes in the next annual report. For pending (unapproved) full or abbreviated applications received by the agency prior to February 19, 1998, sponsors have until the time of next revision of their labels or by February 19, 2003, whichever comes first, to comply with the amendments and they must report these minor changes in their next annual report. The guidance also advises that full or abbreviated applications received by FDA after February 19, 1998, should provide labels and labeling in compliance with the amendments.

This revised guidance document represents the agency's current thinking on implementation of the elimination of certain labeling requirements. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both.

Interested persons may, at any time, submit written comments on the guidance to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 10, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 98–19317 7–20–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–R–193]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; Title of Information Collection: " An Important Message form Medicare."and Supporting Regulations 42 CFR 466.78, 489.27, .20; *Form No.:* HCFA–R–193, OMB # 0938–0692; *Use:* Hospitals participating in the Medicare program have agreed to distribute " An Important Message from Medicare" to beneficiaries during each admission. Receiving this information will provide the beneficiary with some ability to participate and/ or initiate discussions concerning discussions affecting Medicare coverage or payment and about his or her appeal rights in response to any hospitals notice to the effect that Medicare will no longer cover continued care in the hospital. *Frequency:* Other, as needed; *Affected Public:* Individuals or Households, Business or other for-profit, Not-for-profit, Federal Government, State, Local, or Tribal Government; *Number of Respondents:* 6,700; *Total Annual Responses:* 11,000,000.; *Total Annual Hours:* 183,000.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: July 9, 1998.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA, Office of Information Services, Information Technology Investment Management Group, Division of HCFA Enterprise Standards.

[FR Doc. 98–19386 Filed 7–20–98; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Privacy Act of 1974; Report of New System

AGENCY: Department of Health and Human Services (HHS), Health Care Financing Administration (HCFA).

ACTION: Notice of new system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to establish a new system of records, called "End-Stage Renal Disease (ESRD) Managed Care Demonstration System," HHS/HCFA/ OSP No. 09–70–0067. We have provided background information about the proposed new system in the **SUPPLEMENTARY INFORMATION** section below. Although the Privacy Act requires only that the "routine uses" portion of the system be published for comment, HCFA invites comments on all portions of this notice.

DATES: HCFA filed a new system report with the Chairman of the Committee on Government Reform and Oversight of the House of Representatives, the Chairman of the Committee on Governmental Affairs of the Senate, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), on July 9, 1998. The new system of records, including routine uses, will become effective 40 days from the date submitted to OMB and the Congress, unless HCFA receives comments which require alteration to this notice.

ADDRESSES: The public should address comments to the HCFA Privacy Act Officer, Division of Freedom of Information & Privacy, Office of Information Services, Health Care Financing Administration, 7500 Security Boulevard, C2–01–11, Baltimore, Maryland 21244–1850. Comments received will be available for review at this location by appointment, Monday through Friday 9 a.m.–3 p.m., eastern time zone.

FOR FURTHER INFORMATION CONTACT: Paul Eggers, Office of Strategic Planning, Health Care Financing Administration, 7500 Security Boulevard, C3–24–07, Baltimore, Maryland 21244–1850. His telephone number is (410) 786–6691.

SUPPLEMENTARY INFORMATION: The ESRD Managed Care Demonstration System data file contains information on beneficiaries enrolled in the ESRD Managed Care Demonstration. This information will be used by HCFA and its evaluation contractor to monitor and evaluate the demonstration. The system

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will include information on utilization of specific health care services, cost and quality of those services, clinical outcomes and effectiveness of care, and patient satisfaction.

Primary data collected by the evaluator and the managed care organizations will be linked to HCFA administrative data to provide information necessary for monitoring and evaluating the demonstration and its interventions. The demonstration is designed to test the feasibility and effectiveness of the following:

- Removal of the barrier to ESRD enrollment. At present, ESRD-eligible beneficiaries cannot enroll in Medicare health maintenance organizations (HMOs) (although they may remain enrolled if they develop ESRD subsequent to enrollment). Under the demonstration, the sites will have year-round open enrollment of ESRD beneficiaries.
- ESRD-focused case management, and the potential benefits to patient, provider, and payer, with particular emphasis on whether outcomes of care are improved.
- Preventive and supportive interventions and more comprehensive benefit coverage for ESRD patients. Section 2355 of the Deficit Reduction Act of 1989, as amended, requires that HCFA pay the demonstration sites a capitation rate based on 100 percent of fee-for-service costs, rather than 95 percent. In order to justify receiving the additional 5 percent, the HMO is obliged to offer extra, non-Medicare-covered benefits beyond those that would have been available in the absence of the demonstration.
- An ESRD capitation rate that adjusts for patient age, cause of renal failure, treatment status, and services as an alternative to both fee-for-service and the current capitation rate for ESRD patients in HMOs, that is unadjusted for demographic or treatment factors.

Individual patient-level data will be collected and linked from a variety of sources, including, but not limited to: Surveys conducted by the evaluation contractor, including those using the Kidney Disease Quality of Life (KDQOL) instrument; data from the End-Stage Renal Disease (ESRD) Program Management and Medical Information System (PMMIS) maintained by HCFA; no-pay claims data submitted by the sites during the course of the demonstration; claims data on fee-for-service comparison patients; and clinical data in regard to dialysis adequacy measures, such as those collected by HCFA's core indicators studies.

The Privacy Act permits us to disclose information without the written consent of individuals for "routine uses"—that is, disclosures that are compatible with the purpose for which we collected the information. The proposed routine uses in the new system meet the compatibility criterion of the statute. We anticipate the disclosures under the routine uses will not result in any unwarranted adverse effects on personal privacy.

Dated: July 9, 1998.

Nancy-Ann Min DeParle,

Administrator.

09-70-0067

SYSTEM NAME:

End-Stage Renal Disease (ESRD) Managed Care Demonstration System, HHS/HCFA/OSP.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Health Care Financing Administration, Office of Information Services, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Medicare ESRD beneficiaries enrolled in the ESRD Managed Care Demonstration and Medicare ESRD beneficiaries in comparison groups.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual-level information on demographics, utilization of specific health care services, cost and quality of those services, clinical outcomes and effectiveness of care, and patient satisfaction will be collected.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system is section 2355 of the Deficit Reduction Act of 1984, Pub. L. 98-369, as amended by section 4207(b)(4) of the Omnibus Budget Reconciliation Act (OBRA) of 1990, Pub. L. 101-508, and as amended by section 13567(b) of OBRA 1993, Pub. L. 103-66.

PURPOSE(S):

To collect and maintain information on beneficiaries enrolled in the ESRD Managed Care Demonstration, and ESRD beneficiaries in comparison groups, in order to monitor and evaluate the demonstration.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These routine uses specify additional circumstances under which HCFA may release information from the ESRD Managed Care Demonstration System without the consent of the individual to whom such information pertains. Each proposed disclosure of information under these routine uses will be evaluated to ensure that the disclosure is legally permissible, including, but not limited to, ensuring that the purpose of the disclosure is compatible with the purpose for which the information was collected. Also, HCFA will require each prospective recipient of such information to agree in writing to certain conditions to ensure the continuing confidentiality and physical safeguards of the information. More specifically, as a condition of each disclosure under these routine uses, HCFA will, as necessary and appropriate:

(a) Determine that no other Federal statute specifically prohibits disclosure of the information;

(b) Determine that the use or disclosure does not violate legal limitations under which the information was provided, collected, or obtained;

(c) Determine that the purpose for which the disclosure is to be made:

(1) Cannot reasonably be accomplished unless the information is provided in individually identifiable form,

(2) Is of sufficient importance to warrant the effect on, or the risk to, the privacy of the individual(s) that additional exposure of the record(s) might bring, and

(3) There is a reasonable probability that the purpose of the disclosure will be accomplished.

(d) Require the recipient of the information to:

(1) Establish reasonable administrative, technical, and physical safeguards to prevent unauthorized access, use, or disclosure of the record or any part thereof. The physical safeguards shall provide a level of security that is at least the equivalent of the level of security contemplated in OMB Circular No. A-130 (revised), Appendix III—*Security of Federal Automated Information Systems* which sets forth guidelines for security plans for automated information systems in Federal agencies;

(2) Remove or destroy the information that allows subject individual(s) to be identified at the earliest time at which removal or destruction can be accomplished, consistent with the purpose of the request;

(3) Refrain from using or disclosing the information for any purpose other than the stated purpose under which the information was disclosed; and

(4) Make no further uses or disclosure of the information, except:

(i) To prevent or address an emergency directly affecting the health or safety of an individual;

(ii) For use on another project under the same conditions, provided HCFA has authorized the additional use(s) in writing; or

(iii) When required by law;

(e) Secure a written statement or agreement from the prospective recipient of the information whereby the prospective recipient attests to an understanding of, and willingness to abide by the foregoing provisions and any additional provisions that HCFA deems appropriate in the particular circumstances; and

(f) Determine whether the disclosure constitutes a computer "matching program" as defined in 5 U.S.C. 552a(a)(8). If the disclosure is determined to be a computer "matching program," the procedures for matching agreements as contained in 5 U.S.C. 552a(o) must be followed.

Disclosure may be made:

1. To a Congressional office, from the record of an individual, in response to an inquiry from the Congressional office made at the request of that individual;

2. To the Bureau of Census for use in processing research and statistical data directly related to the programs administered in whole or in part by HCFA;

3. To the Department of Justice, to a court or other tribunal, or to another party before such tribunal, when:

(a) HHS, or any component thereof; or

(b) Any HHS employee in his or her official capacity; or

(c) Any HHS employee in his or her individual capacity, where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or

(d) The United States, or any agency thereof, where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the tribunal, or the other party is relevant and necessary to the litigation and would help in the effective representation of the governmental party or interest, provided, however, that in each case HHS determines that such disclosure is compatible with the purpose for which the records were collected.

4. To an individual or organization for a research, demonstration, evaluation, or epidemiological project related to the prevention of disease or disability, the restoration or maintenance of health, or for purposes of determining, evaluating and/or assessing cost, effectiveness, and/or the quality of health care services provided.

5. To a contractor for the purpose of collating, analyzing, aggregating or otherwise refining or processing records in this system, or for developing, modifying, and/or manipulating automated information systems (ADP) software. Data would also be disclosed to contractors incidental to consultation, programming, operation, user assistance, or maintenance for ADP or telecommunications systems containing or supporting records in the system.

6. To a peer review organization or ESRD network for health care quality improvement projects conducted in accordance with its contract with HCFA.

7. To state Medicaid agencies pursuant to agreements with the Department of Health and Human Services for determining Medicaid and Medicare eligibility of recipients of assistance under titles IV, XVIII, and XIX of the Social Security Act, and for the complete administration of the Medicaid program.

8. To an agency of a state Government, or established by state law, for purposes of determining, evaluating and/or assessing cost, effectiveness, and/or the quality of health care services provided in the state.

9. To another Federal or state agency:

(a) To contribute to the accuracy of HCFA's proper payment of Medicare health benefits, including release to the Social Security Administration for its assistance in the implementation of HCFA's Medicare and Medicaid programs, or

(b) As necessary to enable such agency to fulfill a requirement of a Federal statute or regulation, or a state statute or regulation that implements a program funded in whole or in part with Federal funds.

10. To a HCFA contractor, including but not limited to, fiscal intermediaries and carriers under title XVIII of the Social Security Act, to administer some aspect of a HCFA-administered grant program, which program is or could be affected by fraud or abuse, for the purpose of preventing, deterring, discovering, detecting, investigating, examining, prosecuting, suing with respect to, defending against, correcting, remedying, or otherwise combating such fraud or abuse in such programs.

11. To another Federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States, including any state or local government agency, for the purpose of preventing, deterring, discovering, detecting, investigating, examining, prosecuting, suing with respect to, defending against, correcting, remedying, or otherwise combating such fraud or abuse in a health benefits program funded in whole or in part by Federal funds.

12. To any entity that makes payment for, or oversees administration of, health services, for the purpose of preventing, deterring, discovering, detecting, investigating, examining, prosecuting, suing with respect to, defending against, correcting, remedying, or otherwise combating such fraud or abuse against such entity or the program or services administered by such entity, provided:

(a) Such entity enters into an agreement with HCFA to share knowledge and information regarding actual or potential fraudulent or abusive practices or activities regarding the delivery or receipt of health care services, or regarding securing payment or reimbursement for health care services, or any practice or activity that, if directed toward a HCFA-administered program, might reasonably be construed as actually or potentially fraudulent or abusive;

(b) Such entity does, on a regular basis, or at such times as HCFA may request, fully and freely share such knowledge and information with HCFA, or as directed by HCFA, with HCFA's contractors; and

(c) HCFA determines that it may reasonably conclude that the knowledge or information it has received or is likely to receive from such entity could lead to preventing, deterring, discovering, detecting, investigating, examining, prosecuting, suing with respect to, defending against, correcting, remedying, or otherwise combating fraud or abuse in the Medicare, Medicaid, or other health benefits program administered by HCFA or funded in whole or in part by Federal funds.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are stored on magnetic tapes and computer disks.

RETRIEVABILITY:

The records are retrieved by health insurance claim number.

SAFEGUARDS:

Access is limited to authorized HCFA personnel and HCFA contractor employees in the performance of their duties. HHS contractors and collaborating researchers are required to comply with the provisions of the Privacy Act, and are required to sign Assurance of Confidentiality Forms (or

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Data Security Statements) that are kept on file by the contractor. For computerized records, safeguards established in accordance with Department standards and National Institute of Standards and Technology guidelines (e.g., security codes) will be used, limiting access to authorized personnel. System securities are established in accordance with HHS, Information Resource Management (IRM) Circular #10, Automated Information Systems Security Program; and HCFA Automated Information Systems (AIS) Guide, Systems Securities Policies, and OMB Circular No. A–130 (revised), Appendix III.

RETENTION AND DISPOSAL:

Records are maintained with identifiers as long as needed for program research.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Strategic Planning (OSP), Health Care Financing Administration, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

NOTIFICATION PROCEDURE:

The subject individual should write the system manager, who will require the system name, health insurance claim number, and, for verification purposes, name, address, date of birth, and sex to ascertain whether or not the individual's record is in the system.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requestors should also reasonably specify the record contents being sought. (These access procedures are in accordance with the Department Regulation 45 CFR 5b.5(a)(2).)

CONTESTING RECORD PROCEDURES:

Contact the system manager named above, and reasonably identify the record and specify the information to be contested. State the corrective action sought and the reasons for the correction with supporting justification. (These procedures are in accordance with Department Regulation 45 CFR 5b.7.)

RECORD SOURCE CATEGORIES:

The identifying information contained in these records is obtained from demonstration enrollees, and from the group health plans operating the demonstration and their participating providers. These data will be linked with HCFA administrative data, such as claims and enrollment data.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 98–19376 Filed 7–20–98; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration (SAMHSA)

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the following meeting of the SAMHSA Special Emphasis Panel II in July 1998.

A summary of the meeting may be obtained from: Ms. Dee Herman, Committee Management Liaison, SAMHSA, Office of Program Planning and Coordination (OPPC), Division of Extramural Activities, Policy, and Review, 5600 Fishers Lane, Room 17–89, Rockville, Maryland 20857. Telephone: (301)443–7390.

Substantive program information may be obtained from the individual named as Contact for the meeting listed below.

The meeting will include the review, discussion and evaluation of individual contract proposals. These discussions could reveal personal information concerning individuals associated with the proposals and confidential and financial information about an individual's proposal. Accordingly, the meeting is concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b(c)3),(4), and (6) and 5 U.S.C. App. 2, § 10(d).

Committee Name: SAMHSA Special Emphasis Panel II.

Meeting Date: July 22, 1998.

Place: Parklawn Building, Room 12–94, 5600 Fishers Lane, Rockville, MD 20857.

Closed: July 22, 1998, 9:00 a.m.—adjournment.

Contact: Joan Harrison, Room 12C–05, Parklawn Building, Telephone: (301)594–2811 and FAX: (301)443–3437.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Dated: July 15, 1998.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 98–19377 Filed 7–20–98; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration (SAMHSA)

Notice of Meetings

Pursuant to Public Law 92–463, notice is hereby given of the following meetings of the SAMHSA Special Emphasis Panels I and II and the Center for Substance Abuse Treatment National Advisory Council in August 1998.

The Special Emphasis Panel I will meet and the meeting will include the review, discussion and evaluation of individual grant applications. These discussions could reveal personal information concerning individuals associated with the applications. Accordingly, the meeting is concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b(c)(6) and 5 U.S.C. App. 2, § 10(d).

A summary of the meeting may be obtained from: Ms. Dee Herman, Committee Management Liaison, SAMHSA, Office of Program Planning and Coordination (OPPC), Division of Extramural Activities, Policy, and Review, 5600 Fishers Lane, Room 17–89, Rockville, Maryland 20857. Telephone: (301) 443–7390.

Substantive program information may be obtained from the individual named as Contact for the meeting listed below.

Committee Name: SAMHSA Special Emphasis Panel I.

Meeting Date: August 3–6, 1998.

Place: Hyatt Regency at Crystal City, 2799 Jefferson Davis Highway,Arlington, VA 22202.

Closed: August 3, 1998, 9:00 a.m.—5:00 p.m.; August 6, 1998, 9:00 a.m.—adjournment.

Contact: Peggy Thompson, Room 17–75, Parklawn Building, Telephone: (301) 443–5062 and FAX: (301) 443–3437.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

The Special Emphasis Panel I will have another meeting and the meeting will include the review, discussion and evaluation of individual grant applications. These discussions could reveal personal information concerning individuals associated with the applications. Accordingly, the meeting is concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b(c)(6) and 5 U.S.C. App. 2, § 10(d).

A summary of the meeting may be obtained from: Ms. Dee Herman, Committee Management Liaison, SAMHSA, Office of Program Planning and Coordination (OPPC), Division of Extramural Activities, Policy, and Review, 5600 Fishers Lane, Room 17–89, Rockville, Maryland 20857. Telephone: (301) 443–7390.

Substantive program information may be obtained from the individual named as Contact for the meeting listed below.

Committee Name: SAMHSA Special Emphasis Panel I.

Meeting Date: August 4–5, 1998.

Place: Hyatt Regency at Crystal City, 2799 Jefferson Davis Highway, Arlington, VA 22202.

Closed: August 4, 1998, 9:00 a.m.—5:00 p.m.; August 5, 1998, 9:00 a.m.—adjournment.

Contact: Barbara D. Bates, Room 17–89, Parklawn Building, Telephone: (301) 443–2090 and FAX: (301) 443–3437.

The Center for Substance Abuse Treatment (CSAT) National Advisory Council will meet by teleconference and the meeting will include the review, discussion and evaluation of individual contract proposals and discussion of information about the Center's procurement plans. Therefore, the meeting will be closed to the public as determined by the Administrator, SAMHSA, in accordance with Title 5 U.S.C. 552b(c)(3), (4), and (6) and 5 U.S.C. App. 2, § 10(d).

A summary of the meeting and roster of council members may be obtained from: Mrs. Marjorie Cashion, CSAT, National Advisory Council, Rockwall II Building, Suite 619, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–8923.

Substantive program information may be obtained from the contact below whose name and telephone number are listed.

Committee Name: Center for Substance Abuse Treatment National Advisory Council.

Meeting Date: August 12, 1998.

Place: Center for Substance Abuse Treatment, 5515 Security Lane—6th Floor Conference Room, Suite 617, Rockville, MD 20852.

Type: Closed: August 12, 1998—2:30–3:30 p.m.

Contact: Marjorie M. Cashion, Executive Secretary, Telephone: (301) 443–8923, and FAX: (301) 480–6077.

The SAMHSA Special Emphasis Panel II will meet by teleconference and the meeting will include the review, discussion and evaluation of individual grant applications. These discussions could reveal personal information concerning individuals associated with the applications. Accordingly, the meeting is concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b(c)(6) and 5 U.S.C. App. 2, § 10(d).

Committee Name: SAMHSA Special Emphasis Panel II.

Meeting Date: August 18, 1998.

Place: Parklawn Building, Room 16C–26, 5600 Fishers Lane, Rockville, MD 20857.

Closed: August 18, 1998, 2:00 p.m.—3:20 p.m.

Contact: Lionel Fernandez, Ph.D., Room 17–89, Parklawn Building, Telephone: (301) 983–9350 and FAX: (301) 443–3437.

Dated: July 15, 1998.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 98–19378 Filed 7–20–98; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4349–N–28]

Submission for OMB Review: Comment Request

AGENCY: Office of the Assistant Secretary for Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments due date:* August 20, 1998.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–1305. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: July 15, 1998.

David S. Cristy,

Director, IRM Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Title of Proposal: Evaluation of the Fair Housing Election Process.

Office: Policy Development and Research.

OMB Approval Number: None.

Description of the Need for the Information and its Proposed Use: Evaluation of the choice made by complainants to pursue their Title VIII compliant through the HUD Administrative Process by going to Federal Courts will require interviews of complainants and respondents about the reasons for their choices.

Form Number: None.

Respondents: Individuals or Households and Business or Other-For-Profit.

Frequency of Submission: One-Time Submission.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Complainants	500		1		.50		250
Respondents	500		1		.42		210

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Total Estimated Burden Hours: 460.

Status: New Collection.

Contact: Judson J. James, HUD, (202) 708–3700 x5707, Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: July 15, 1998.

[FR Doc. 98–19413 Filed 7–20–98; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4369–N–06]

Announcement of OMB Approval Number for Technical Assistance for Community Planning and Development Programs

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Announcement of OMB approval number.

SUMMARY: The purpose of this notice is to announce the OMB approval number for the collection of information pertaining to Technical Assistance for Community Planning and Development Programs.

FOR FURTHER INFORMATION CONTACT: Penelope G. McCormack, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–3176. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), this notice advises that OMB has responded to the Department's request for approval of the information collection pertaining to Technical Assistance for Community Planning and Development Programs. The OMB approval number for this information collection is 2506–0166, which expires on June 30, 2001.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number.

Dated: July 15, 1998.

Kenneth Williams,

Deputy Assistant Secretary for Grant Programs.

[FR Doc. 98–19412 Filed 7–20–98; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–00–P]

Notice for Publication; F–14908–A; Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(a), will be issued to Sitnasuak Native Corporation for 0.614 acre. The lands involved are in the vicinity of Nome, Alaska.

The Court House lot and School lot, within U.S. Survey No. 451.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in *The Nome Nugget*. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until August 20, 1998 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Katherine L. Flippen,

Land Law Examiner, ANCSA Team, Branch of 962 Adjudication.

[FR Doc. 98–19354 Filed 7–20–98; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–921–41–5700; WYW140724]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

July 2, 1998.

Pursuant to the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), a petition for reinstatement of oil and gas lease W140724 for lands in Johnson County, Wyoming was timely filed and was accompanied by all the required rentals accruing from the date of termination. The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements of reinstatement of the lease as set out in Section 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW140724 effective March 1, 1998, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Pamela J. Lewis,

Chief, Leasable Minerals Section.

[FR Doc. 98–19321 Filed 7–20–98; 8:45 am]

BILLING CODE 4310–22–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ030–1020–00–241A; AZA 22796]

Arizona: Reconveyed Lands Opened to Entry—Mohave, Yavapai Counties

AGENCY: Bureau of Land Management.

ACTION: Notice.

SUMMARY: The following-described lands were reconveyed to the U.S. under the provisions of Sec. 206 of the Federal Land Policy and Management Act of 1976, on March 9, 1988. This order will open the lands to entry under the general mining laws and the mineral leasing laws.

Gila and Salt River Meridian, Arizona

T. 11 N., R. 8 W.,
  Sec. 6, portion of lots 6, 7, and 8 lying southwest of Hwy 93;
  Sec. 7, lots 2 to 8 incl., and portion of lot 1 lying southwest of Hwy 93;
  Sec. 8, portion of W½ and SW¼SE¼ lying southwest of Hwy 93;
  Sec. 16, portion SW¼ lying southwest of Hwy 93;
  Sec. 17, portion lying southwest of Hwy 93;
  Sec. 18, lots 1 to 8, incl.;
  Sec. 19, lots 1 to 4, incl.;
  Sec. 20, N½;
  Sec. 21, portion of NW¼ lying southwest of Hwy 93.
T. 11 N., R. 9 W.,
  Sec. 1, lots 3, 4, and portion of lots 1, 2, S½N½, S½ lying southwest of Hwy 93 and outside of Arrastra Mountain Wilderness;
  Sec. 2, portion of lots 1, 2, and S½NE¼ outside of Arrastra Mountain Wilderness;

Sec. 12, E½ and portion of W½ outside Arrastra Mountain Wilderness;
Sec. 13, portion of E½ and NE¼NW¼ outside Arrastra Mountain Wilderness;
T. 12 N., R. 9 W.,
Sec. 5, portion of SW¼ lying southwest of Hwy 93;
Sec. 6, lots 3 to 6 incl., E½SW¼, and portion lot 2 and SE¼ southwest of Hwy 93;
Sec. 7, lots 1 to 4, incl., E½, E½W½;
Sec. 8, portion lying southwest of Hwy 93;
Sec. 17, All;
Sec. 18, lots 1 to 3, incl., NE¼, E½NW¼, and portion of lot 4 and S½ outside of Arrastra Mountain Wilderness;
Sec. 19, portion of E½ and E½NW¼ outside of Arrastra Mountain Wilderness;
Sec. 20, All;
Sec. 26, portion of S½NW¼ and S½ lying southwest of Hwy 93;
Sec. 29, lots 1 to 6, incl., E½E½, SW¼SE¼, and portion of W½W½ and SE¼SW¼ outside of Arrastra Mountain Wilderness;
Sec. 30, portion of E½NE¼ outside of Arrastra Mountain Wilderness;
Sec. 35, portion of NE¼ lying southwest of Hwy 93, and portion of W½ and SE¼ outside of Arrastra Mountain Wilderness;
Sec. 36, portion of W½ and SE¼ lying southwest of Hwy 93.
T. 13 N., R. 9 W.,
Sec. 5, lots 1 to 4, incl., S½N½, S½;
Sec. 6, lots 1 to 7, incl., S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7, lots 1 to 7, incl., E½, E½W½;
Sec. 8, All;
Sec. 31, lots 3, 4, and portion of lots 1, 2, E½W½ and SE¼ southwest of Hwy 93.
T. 14 N., R. 9 W.,
Sec. 30, lots 1 to 4, incl., E½, E½W½ (including MS 4578 within sec.);
Sec. 31, lots 1 to 4, incl., E½, E½W½;
Sec. 32, W½, W½SE¼.
T. 12 N., R. 10 W.,
Sec. 3, lots 1 to 4, incl., and portion of S½ outside of Arrastra Mountain Wilderness;
Sec. 4, lot 1, and portion of lots 2, 3, 4, and SE¼ outside of Arrastra Mountain Wilderness;
Sec. 5, portion of lots 1 to 4 outside of Arrastra Mountain Wilderness;
Sec. 6, portion of lots 1, 2, and SE¼ outside of Arrastra Mountain Wilderness;
Sec. 10, portion of NE¼NE¼NE¼ outside of Arrastra Mountain Wilderness;
Sec. 11, portion of N½N½ outside of Arrastra Mountain Wilderness;
Sec. 12, E½, and portion of W½ outside of Arrastra Mountain Wilderness;
Sec. 13, portion of N½ and SE¼ outside of Arrastra Mountain Wilderness.
T. 13 N., R. 10 W.,
Sec. 2, lots 1 to 5, incl., lot 7, S½N½, and E½SE;
Sec. 16, All;
Secs. 32 to 35, incl.
T. 14 N., R. 10 W.,
Sec. 6, lots 1 to 7, incl., S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 23, All;
Sec. 24, S½;
Sec. 31, lots 1 to 4, incl., E½, E½W½;
Secs. 32 to 34, incl., and sec. 36.

All descriptions according to the official plats on file at the Bureau of Land Management.

SUPPLEMENTARY INFORMATION: At 9 a.m. on August 20, 1998 the lands described above will be opened to entry under the general mining laws and the mineral leasing laws, subject to valid existing rights and requirements of applicable laws. Opening these lands to mineral entry is in conformance with the Kingman Field Office Resource Management Plan, as amended and approved March 7, 1995. Appropriation of the above-described lands under the general mining laws or mineral leasing laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal laws. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts. All applications and offers received prior to 9 a.m. on August 20, 1998, will be considered as simultaneously filed as of that time and date. Applications and offers received thereafter shall be considered in the order of filing. The above-described lands remain closed to all other forms of appropriation.

FOR FURTHER INFORMATION CONTACT: John Thompson, Geologist, or Janna Paronto, Land Law Examiner, Kingman Field Office, Bureau of Land Management, 2475 Beverly Avenue, Kingman, AZ 86401–3629, (520) 692–4400.

Dated: July 9, 1998.

Mary Jo Yoas,

Supervisor, Lands and Minerals Operations.

[FR Doc. 98–19320 Filed 7–20–98; 8:45 am]

BILLING CODE 4310–32–P

INTERNATIONAL TRADE COMMISSION

Silicon Metal From Argentina, Brazil, and China

AGENCY: United States International Trade Commission (Commission).

ACTION: Request for comments regarding the institution of section 751(b) review investigations concerning the Commission's affirmative determinations in the following investigations:

Country	Action taken by the Commission		Action taken by the Dept. of Commerce			
	Investigation No.	Determination publication date	Federal Register citation	Order No.	Date of order	Federal Register citation
Argentina	731–TA–470	09/25/91	56 FR 48577	A–357–804	09/26/91	56 FR 48779
Brazil	731–TA–471	08/07/91	56 FR 37572	A–351–806	07/31/91	56 FR 36135
China	731–TA–472	06/12/91	56 FR 27033	A–570–806	06/10/91	56 FR 26649

SUMMARY: The Commission invites comments from the public on whether changed circumstances exist sufficient to warrant the institution of investigations pursuant to section 751(b) of the Tariff Act of 1930 (the Act),[1] to review the affirmative determinations of the Commission in the above investigations. The purpose of the proposed review investigations is to determine whether revocation of the existing antidumping orders on imports of silicon metal from Argentina, Brazil, and China is likely to lead to continuation or recurrence of material injury.[2] Silicon metal is provided for in subheadings 2804.69.10 and 2804.69.50 of the Harmonized Tariff Schedule of the United States.

FOR FURTHER INFORMATION CONTACT: Fred Fischer (202–205–3179) or Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the

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[1] 19 U.S.C. 1675(b).

[2] 19 U.S.C. 1675(b)(2)(A).

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Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server at http://www.usitc.gov.

SUPPLEMENTARY INFORMATION:

Background

On June 23, 1998, the Commission received a request to review its affirmative determinations concerning silicon metal from Argentina, Brazil, and China (the request), in light of changed circumstances, pursuant to section 751(b) of the Act.[3] The request was filed by counsel on behalf of General Motors Corp. (GM), Detroit, MI. GM is an importer of silicon metal.

The alleged changed circumstances in the request include: (1) Structural changes in demand for silicon metal since the original investigations, (2) the development of evidence regarding a silicon metal price-fixing conspiracy, and (3) the extent to which price fixing in the ferrosilicon market may have affected the Commission's silicon metal investigations and determinations.

Written Comments Requested

Pursuant to section 207.45(b) of the Commission's Rules of Practice and Procedure,[4] the Commission requests comments concerning whether the alleged changed circumstances are sufficient to warrant institution of review investigations.

Written Submissions

In accordance with section 201.8 of the Commission's rules,[5] the signed original and 14 copies of all written submissions must be filed with the Secretary to the Commission, 500 E Street, SW, Washington, DC 20436. All comments must be filed no later than August 21, 1998, which is at least 30 days after the date of publication of this notice in the **Federal Register**. The Commission's determination regarding initiation of review investigations is due within 30 days of the close of the comment period. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request business confidential treatment under section 201.6 of the Commission's rules.[6] Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. Each sheet must be clearly marked at the top "Confidential Business Information." The Commission will either accept the submission in confidence or return it. All nonconfidential written submissions will be available for public inspection in the Office of the Secretary.

Copies of the non-confidential version of the request and any other documents in this matter are available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission; telephone 202–205–2000.

Issued: July 15, 1998.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–19357 Filed 7–20–98; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980

In accordance with Departmental policy, 28 CFR 50.7, and 42 U.S.C. 9622(d)(2), notice is hereby given that on July 9, 1998, a Consent Decree was lodged in *United States* v. *Dixie-Narco, et al.*, Civil Action No. MJG–96–3310, with the United States District Court for the District of Maryland.

The Consent Decree resolves claims against George P. Garratt III under Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. 9607, with respect to the Drumco Superfund Site ("Drumco Site") located in Baltimore and in Anne Arundel County, Maryland. Pursuant to the terms of the Consent Decree, Garratt is required to sell the Site property, and upon completion of the sale, pay a minimum of 65 percent of the proceeds, or $140,000 whichever is greater, to the United States.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of thirty days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General, Environmental and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Dixie-Narco, et al.*, Civil Action No. MJG–96–3310, Ref. No. 90–11–2–1140. The proposed Consent Decree may be examined at the office of the United States Attorney, District of Maryland, 604 United States Courthouse, 101 W. Lombard Street, Baltimore, Maryland. Copies of the Consent Decree may also be examined and obtained by mail at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005 (202–624–0892) and the offices of the Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. When requesting a copy by mail, please enclose a check in the amount of $9.00 (twenty-five cents per page reproduction costs) for the Consent Decree, payable to the "Consent Decree Library."

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–19384 Filed 7–20–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

Notice is hereby given that a proposed Consent Decree ("Decree") in *United States* v. *Lamb-Weston, Inc.*, Civil Action No. 98–0280–S–LMB, was lodged on July 1, 1998, with the United States District Court for the District of Idaho.

The complaint alleges that defendant Lamb-Weston, Inc. ("Lamb-Weston") violated the New Source Performance Standards ("NSPS"), 40 C.F.R. Part 60, Subparts A and Db, at its potato processing plants in American Falls, and Twin Falls, Idaho (collectively "the Plants"). The Plants are affected facilities as defined in the NSPS, which require: notification of construction, anticipated startup, and actual startup of affected facilities; performance testing of affected facilities; monitoring of emissions from affected facilities; and maintenance of records of such monitoring. Lamb-Weston failed to timely comply with these requirements at the Plants, as required by Sections 111 and 113 of the Clean Air Act ("CAA"), 42 U.S.C. 7411 and 7413.

Under the proposed Decree, Lamb-Weston shall pay the United States a civil penalty of $160,000. Lamb-Weston will also complete two supplemental environmental projects ("SEPs"), at a cost of approximately $364,000. Lamb-Weston's first SEP is replacement of a burner at its American Falls plant with a Low-NO_X Burner that will reduce NO_X emissions at that plant by at least 40 percent. Lamb-Weston's second SEP is the design, construction and operation of a wastewater recycling system at its Twin Falls plant. Currently, Lamb-Weston uses a silt water system to transport whole potatoes from the Twin

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[3] 19 U.S.C. 1675(b).

[4] 19 CFR 207.45(b).

[5] 19 CFR 201.8.

[6] 19 CFR 201.6.

Falls Facility truck receiving area to other parts of that facility. The water removes dirt and silt from the potatoes as it washes and transports them. Lamb-Weston, Inc. then discharges this dirt- and silt-laden water to the publicly owned treatment works ("POTW"). The wastewater recycling system will reduce the amount of water used by and silt water discharged from the silt water system at the Twin Falls Facility by 45 percent, as well as improve the quality of silt water discharged from the silt water system at the facility by reducing the amount of total suspended solids in the discharge by 45 percent. Lamb-Weston further agrees to operate the Low-NO_X Burner and the wastewater recycling system for at least two years after the effective date of the proposed Decree.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Lamb-Weston, Inc.*, DOJ Ref. #90-5-2-1-2129.

The proposed consent decree may be examined at the office of the United States Attorney, 877 West Main Street, Suite 200, Boise, ID 83702, 208-334-1211; the Region X Office of the Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101, 206-553-1218; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624-0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $9.00 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98-19385 Filed 7-20-98; 8:45 am]

BILLING CODE 4410-15-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 1943-98; AG Order No. 2169-98]

Requirement for Registration and Fingerprinting of Certain Nonimmigrants

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: This notice consolidates and replaces two prior notices requiring the registration and fingerprinting of certain nonimmigrants. The prior notices were published in response to continuing concern for national security resulting from terrorist attacks and uncovered plots directed by nationals of certain countries. This consolidation of prior notices allows more flexibility in the publication of such notices and clarifies the Attorney General's authority to exempt certain nationals from countries listed in this notice when such action is deemed to be in the interest of foreign policy or national security.

EFFECTIVE DATES: July 21, 1998.

FOR FURTHER INFORMATION CONTACT: Walter D. Cadman, Counterterrorism Coordinator, Office of Field Operations, Immigration and Naturalization Service, 425 I Street, NW., Room 7125, Washington, D.C. 20536, telephone (202) 305-3396.

SUPPLEMENTARY INFORMATION: On January 16, 1991, the Department of Justice published a Final Rule in the **Federal Register** at 56 FR 1566 requiring the registration and fingerprinting of certain nonimmigrants bearing Iraqi and Kuwaiti travel documents who apply for admission to the United States. The requirement was promulgated in response to the United States' condemnation of Iraq's invasion of Kuwait, United States' sanctions against Iraq, and the theft of thousands of Kuwaiti passports during the occupation of Kuwait by Iraq, all of which heightened the potential for domestic anti-United States terrorist activities. On December 23, 1993, the Department published an Interim Rule in the **Federal Register** at 58 FR 68024 that removed the requirement for the registration and fingerprinting of certain nonimmigrants bearing Iraqi and Kuwaiti travel documents and added a new paragraph (f) to 8 CFR 264.1. Paragraph (f) of that section provides that the Attorney General may require, by public notice in the **Federal Register**, certain nonimmigrants of specific countries to be registered and fingerprinted upon arrival in the United States, pursuant to section 263(a)(6) of the Immigration and Nationality Act, as amended.

Under the authority of 8 CFR 264.1(f), the Department published a notice entitled Requirement for the Registration and Fingerprinting of Certain Nonimmigrants Bearing Iranian and Libyan Travel Documents in the **Federal Register** at 61 FR 46829 (September 5, 1996) and a notice entitled Requirement for the Registration and Fingerprinting of Certain Nonimmigrants Bearing Iraqi and Sudanese Travel Documents in the **Federal Register** at 58 FR 68157 (December 23, 1993). This notice replaces and consolidates these prior notices.

Notice of Requirement for Registration and Fingerprinting of Certain Nonimmigrants

Pursuant to 8 CFR 264.1(f), I hereby order as follows: nonimmigrant aliens from the following countries shall be registered on Form I-94 (Arrival/Departure Record), photographed, and fingerprinted on Form FD-258 (Fingerprint Chart) by the Immigration and Naturalization Service at the Port of Entry where the aliens apply for admission to the United States: Iran; Libya; Iraq; and Sudan.

Nonimmigrants who apply for admission under section 101(a)(15)(A) or 101(a)(15)(G) of the Immigration and Nationality Act, as amended, are exempt from the requirements of this notice. In addition, the Attorney General, after consultation with the Secretary of State, may exempt certain nonimmigrants who are nationals of the countries listed herein from the requirements of this notice when such action is deemed to be in the interest of foreign policy or national security. Nothing in the foregoing sentence may be construed as creating a right to apply for or receive such an exemption

Dated: July 17, 1998.

Janet Reno,

Attorney General.

[FR Doc. 98-19499 Filed 7-17-98; 12:31 pm]

BILLING CODE 4410-10-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Notification of Legal Identity

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested

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data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed revision of the information collection related to the Notification of Legal Identity. MSHA is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

A copy of the proposed information collection request can be obtained by contacting the employee listed below in the For Further Information Contact section of this notice.

DATES: Submit comments on or before September 21, 1998.

ADDRESSES: Send comments to Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203–1984. Commenters are encouraged to send their comments on a computer disk, or via E-mail to psilvey@msha.gov, along with an original printed copy. Ms. Silvey can be reached at (703) 235–1910 (voice) or (703) 235–5551 (facsimile).

FOR FURTHER INFORMATION CONTACT: Mrs. Theresa M. O'Malley, Program Analysis Officer, Office of Program Evaluation and Information Resources, U.S. Department of Labor, Mine Safety and Health Administration, Room 715, 4015 Wilson Boulevard, Arlington, VA 22203–1984. Mrs. O'Malley can be reached at tomalley@msha.gov (Internet E-mail), (703) 235–1470 (voice), or (703) 235–1563 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Title 30 CFR part 41 implements this requirement and provides for the mandatory use of MSHA Form 2000–7, Legal Identity Report, for notifying MSHA of the legal identity of the mine operator. The legal identity for a mine operator is fundamental to enable the Secretary to properly ascertain the identity of persons charged with violations of mandatory standards. It is also used in the assessment of civil penalties which, by statute, must take into account the size of the business, its economic viability, and its history of previous violations. Because of the rapid and frequent turnover in mining company ownership and statutory considerations regarding penalty assessment, the operator is required to file information regarding ownership interest in other mines held by the operator and relevant persons in a partnership, corporation or other organization. This information is also necessary to the Office of the Solicitor in determining proper parties to actions arising under the Act. MSHA is including 30 CFR Sections 41.10, 41.11 and 41.12 for regulatory clarification. These references do not change or increase the reporting or paperwork burden requirements.

II. Current Actions

MSHA uses the information to properly ascertain the identity of persons chargeable with violations of mandatory safety and health standards and in the assessment of civil penalties. The Office of the Solicitor uses the information to expedite service of documents upon the mine operator.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

Title: Notification of Legal Identity.

OMB Number: 1219–0008.

Agency Number: MSHA Form 2000–7.

Recordkeeping: Source documents are required for as long as the mine is in operation.

Affected Public: Business or other for-profit.

Cite/Reference/Form/etc: 30 CFR Section 41.10, 41.11, 41.12 and 41.20.

Total Respondents: 14,000 mine operators.

Frequency: On occasion.

Total Responses: 6307.

Average Time per Response: 23 minutes.

Estimated Total Burden Hours: 2,447.

Total Burden Cost (capital/startup): 0.

Total Burden Cost (operating/maintaining): $2,018.24.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: July 15, 1998.

George M. Fesak,

Director, Program Evaluation and Information Resources.

[FR Doc. 98–19351 Filed 7–20–98; 8:45 am]

BILLING CODE 4510–43–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Rock Burst Control Plan

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed extension of the information collection related to the Rock Burst Control Plan. MSHA is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or

other forms of information technology, e.g., permitting electronic submissions of responses.

A copy of the proposed information collection request can be obtained by contacting the employee listed below in the For Further Information Contact section of this notice.

DATES: Submit comments on or before August 20, 1998.

ADDRESSES: Send comments to Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203–1984. Commenters are encouraged to send their comments on a computer disk, or via E-mail to psilvey@msha.gov, along with an original printed copy. Ms. Silvey can be reached at (703) 235–1910 (voice) or (703) 235–5551 (facsimile).

FOR FURTHER INFORMATION CONTACT: Mrs. Theresa O'Malley, Program Analysis Office, Office of Program Evaluation and Information Resources, U.S. Department of Labor, Mine Safety and Health Administration, Room 715, 4015 Wilson Boulevard, Arlington, VA 22203–1984. Mrs. O'Malley can be reached at tomalley@msha.gov (Internet E-mail), (703) 235–1470 (voice), or (703) 235–1563 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

When rock bursts occur in an underground mine, they pose a serious threat to the safety of miners in the area affected by the burst. These bursts may reasonably be expected to result in the entrapment of miners, death, and serious physical harm. Recent mining technology has disclosed scientific methods of monitoring rock stresses which will allow the prediction of an oncoming burst. These predictions can be used by the mine operator to move miners to safer locations and to establish areas which need relief drilling.

Title 30 Section 57.3461 requires operators of underground metal and nonmetal mines to develop a rock burst control plan within 90 days after a rock burst has been experienced.

II. Current Actions

This information collection needs to be extended to provide for the protection of miners from entrapment, death, or serious physical harm in metal an nonmetal underground mines with a history of rock bursts.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

Title: Rock Burst Control Plan.

OMB Number: 1291–0097.

Agency Number: MSHA 417.

Record keeping The control plan must be maintained at all times and updated as conditions warrant.

Affected Public: Business or other for-profit.

Cite/Reference/Form/etc.: 30 CFR Section 57.3461.

Total Respondents: 2 per year.

Frequency: On occasion.

Total Responses: 2 per year.

Average Time per Response: 12 hours.

Estimated Total Burden Hours: 24 burden hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $864.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: July 15, 1998.

George M. Fesak,

Director, Program Evaluation and Information Resources.

[FR Doc. 98–19352 Filed 7–20–98; 8:45 am]

BILLING CODE 4510–43–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Respirator Program Records

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed extension of the information collection related to respirator program records. MSHA is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity in the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

A copy of the proposed information collection request can be obtained by contacting the employee listed below in the For Further Information Contact section of this notice.

DATES: Submit comments on or before September 21, 1998.

ADDRESSES: Send comments to Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203–1984. Commenters are encouraged to send their comments on a computer disk, or via E-mail to psilvey@msha.gov, along with an original printed copy. Ms. Silvey can be reached at (703) 235–1910 (voice) or (703) 235–5551 (facsimile).

FOR FURTHER INFORMATION CONTACT: Theresa O'Malley, Program Analysis Office, Office of Program Evaluation and Information Resources, U.S. Department of Labor, Mine Safety and Health Administration, Room 715, 4015 Wilson Boulevard, Arlington, VA 22203–1984. Mrs. O'Malley can be reached at tomally@msha.gov (Internet E-mail), (703) 235–1370 (voice), or (703) 235–1563 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(a)(7) of the Mine Act mandates in part that mandatory standards prescribe the use of protective equipment where appropriate to protect miners against hazards. Where protective equipment or respirators are required because of exposure to harmful substances, MSHA must ensure that such equipment offers adequate protection for workers. A written respirator program that addresses such issues as selection, fitting, use, and maintenance of respirators is essential

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for ensuring that workers are properly and effectively using the equipment. Records of fit-testing and essential for determining that the worker is wearing the proper respirator.

Title 30 CFR Sections 56.5005 and 57.5005 require metal and nonmetal mine operators to institute a respirator program governing selection, maintenance, training, fitting, supervision, cleaning and use of respirators. To control those occupational diseases caused by breathing air contaminated with harmful dusts, fumes, mists, gases, or vapors, the primary objective is to prevent atmospheric contamination. MSHA's current policy, as prescribed by regulation, is to require that this be accomplished by feasible engineering and administrative control measures. When effective controls are not feasible, or while they are being instituted, or during occasional entry into hazardous atmospheres to perform maintenance or investigations, appropriate respirators are to be used in accordance with established procedures protecting the miners.

Sections 56.5005 and 57.5005 incorporate by reference requirements of the American National Standards Institute (ANSI Z88.2–1969). These incorporated requirements mandate that miners who must wear respirators be fit-tested to the respirators that they will use. Certain records are also required to be kept in connection with respirators, including records of the date of issuance of the respirator, and fit-test results. The fit-testing records are essential for determining that the worker is wearing the proper respirator.

II. Current Actions

The mine operator uses the information to properly issue respiratory protection to miners when feasible engineering and/or administrative controls do not reduce the exposure to permissible levels. Fit-testing records are used to ensure that a respirator worn by an individual is in fact the one for which that individual received a tight fit. MSHA uses the information to determine compliance with the standard.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

Title: Respirator Program Records.

OMB Number: 1219–0048.

Agency Number: MSHA 404.

Record keeping: None.

Affected Public: Business or other for-profit.

Cite/Reference/Form/etc: 30 CFR Sections 56.5005 and 57.5005.

Total Respondents: 600.

Frequency: As required.

Total Responses: 15,900.

Average Time per Response: 5 hours and 20 minutes.

Estimated Total Burden Hours: 3,973 hours.

Cite/Reference	Total respondents	Frequency (per year)	Total responses	Average time per response (hours)	Burden (hours)
Program Requirements	600	12	7,200	5.000	3,000
Fit Test	1,500	1	1,500	.250	375
ANSI Recordkeeping	600	12	7,200	.083	598
Totals	2,700		15,900	5.353	3,973

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintaining): $131,666.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: July 15, 1998.

George M. Fesak,

Director, Program Evaluation and Information Resources.

[FR Doc. 98–19353 Filed 7–20–98; 8:45 am]

BILLING CODE 4510–43–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group Studying Retirement Plan Leakage—Cashing In Your Future from ERISA Employer-Sponsored Pension Plans; Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting will be held on Wednesday, August 12, 1998, of the Retirement Plan Leakage—Cashing in Your Future—Working Group of the Advisory Council on Employee Welfare and Pension Benefit Plans. The group is studying pre-retirement distributions, including in-service distribution, hardship loans and participant loans from ERISA employer-sponsored pension plans.

The purpose of the open meeting, which will run from 9:30 a.m. to approximately noon in Room N–4437 C&D, U.S. Department of Labor Building, Second and Constitution Avenue NW, Washington, DC 20210, is for Working Group members to continue taking testimony on the import of these "pension preservation" issues.

Members of the public are encouraged to file a written statement pertaining to the topic by submitting 20 copies on or before August 4, 1998, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5677, 200 Constitution Avenue, NW, Washington, DC 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary or telephone (202) 219–8733. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by August 4, 1998, at the address indicated in this notice.

Organizations or individuals also may submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before August 4.

Signed at Washington, DC this 15th day of July, 1998.

Meredith Miller,

Deputy Assistant Secretary, Pension and Welfare Administration.

[FR Doc. 98–19348 Filed 7–20–98; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group Studying Small Businesses: How to Enhance and Encourage the Establishment of Pension Plans; Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting will be held Tuesday, August 11, 1998, of the Advisory Council on Employee Welfare and Pension Benefit Plans Working Group studying the obstacles to why small businesses are not establishing retirement vehicles for their employees when so many different savings arrangements are available. The Working Group also is focusing on how to encourage these businesses to establish such pension plans.

The session will take place in Room N–4437 C&D, U.S. Department of Labor Building, Second and Constitution Avenue, NW., Washington, DC 20210. The purpose of the open meeting, which will run from 1:00 p.m. to approximately 4:00 p.m., is for Working Group members to continue taking testimony on the topic.

Members of the public are encouraged to file a written statement pertaining to the topic by submitting 20 copies on or before August 4, 1998, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5677, 200 Constitution Avenue, NW., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by August 4, at the address indicated in this notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before August 4.

Signed at Washington, DC this 15 day of July 1998.

Meredith Miller,

Deputy Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 98–19349 Filed 7–20–98; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group on the Disclosure of the Quality of Care in Health Plans Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the Working Group established by the Advisory Council on Employee Welfare and Pension Benefit Plans to study what kind of information on the quality of care in health plans should be transmitted to fiduciaries and participants and how the information should be transmitted will hold an open public meeting on Tuesday, August 11, 1998, in Room N–4437 C&D, U.S. Department of Labor Building, Second and Constitution Avenue, NW., Washington, DC 20210.

The purpose of the open meeting, which will run from 9:30 a.m. to approximately noon, is for Working Group members to continue taking testimony on the topic.

Members of the public are encouraged to file a written statement pertaining to the topic by submitting 20 copies on or before August 4, 1998, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5677, 200 Constitution Avenue, NW., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by August 4, at the address indicated in this notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before August 4.

Signed at Washington, DC, this 15th day of July, 1998.

Meredith Miller,

Deputy Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 98–19350 Filed 7–20–98; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (98–097)]

NASA Advisory Council (NAC), Aeronautics and Space Transportation Technology Advisory Committee (ASTTAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics and Space Transportation Technology Advisory Committee.

DATES: Wednesday, August 12, 1998, 9:00 a.m. to 4:30 p.m.; and Thursday, August 13, 1998, 8:00 a.m. to 11:30 a.m.

ADDRESSES: National Aeronautics and Space Administration, Room 7H46, 300 E Street, S.W., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Mary-Ellen McGrath, Office of Aeronautics and Space Transportation Technology, National Aeronautics and Space Administration, Washington, DC 20546 (202/358–4729).

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

- —Aeronautics and Space Transportation Technology Overview
- —Subcommittee Reports
- —Strategic Management Framework
- —University Strategy Recommendations
- —NASA's Aviation Environmental Compatibility Research

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Dated: July 15, 1998.

Matthew M. Crouch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 98–19380 Filed 7–20–98; 8:45 am]

BILLING CODE 7510–01–P

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NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 63, No. 134/Tuesday, July 14, 1998.

PREVIOUSLY ANNOUNCED TIME AND DATE: 9:30 a.m., Tuesday, July 21, 1998.

CHANGE IN MEETING: A majority of the Board Members determined by recorded vote that the business of the Board required amending the agenda to delete the following item:

6906A: Pipeline Accident Summary Report: National Gas Pipeline Rupture and Fire During Dredging, Tiger Pass, Louisiana, October 23, 1996.

FOR MORE INFORMATION CONTACT: Rhonda Underwood, (202) 314–6065.

Dated: July 17, 1998.

Rhonda Underwood,

Federal Register Liaison Officer.

[FR Doc. 98–19511 Filed 7–17–98; 3:32 pm]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–387 and 50–388]

Pennsylvania Power and Light Company; Susquehanna Steam Electric Plants, Units 1 and 2 Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. NPF–14 and NPF–22, issued to Pennsylvania Power and Light Company, (the licensee), for operation of the Susquehanna Steam Electric Station (SSES), Units 1 and 2, located in Luzerne County, Pennsylvania.

Environmental Assessment

Identification of the Proposed Action

The Environmental Assessment has been prepared to address potential environmental issues related to the licensee's application dated August 1, 1996, as supplemented by letters dated November 26, 1997, January 6, March 2, April 24, and June 18, 1998. The proposed amendments will replace the SSES, Units 1 and 2, Current Technical Specifications (CTSs) in their entirety with Improved Technical Specifications (ITSs) based on Revision 1 to NUREG–1433, "Standard Technical Specifications-General Electric Plants BWR/4" dated April 1995.

The Need for the Proposed Action

It has been recognized that nuclear safety in all plants would benefit from improvement and standardization of Technical Specifications (TS). The Commission's "NRC Interim Policy Statement on Technical Specification Improvements for Nuclear Power Reactors," (52 Fed. Reg. 3788, February 6, 1987), and later the Commission's "Final Policy Statement on Technical Specification Improvements for Nuclear Power Reactors," 58 FR 39132 (July 22, 1993), formalized this need. To facilitate the development of individual improved TSs, each reactor vendor owners group (OG) and the NRC staff developed standard TS (STS). For General Electric plants, the STS are published as NUREG–1433, and this document was the basis for the new SSES, Units 1 and 2 TSs. The NRC Committee to Review Generic Requirements (CRGR) reviewed the STS and made note of the safety merits of the STS and indicated its support of conversion to the STS by operating plants.

Description of the Proposed Change

The proposed revision to the TSs is based on NUREG–1433 and on guidance provided in the Final Policy Statement. Its objective is to completely rewrite, reformat, and streamline the CTS. Emphasis is placed on human factors principles to improve clarity and understanding. The Bases section has been significantly expanded to clarify and better explain the purpose and foundation of each specification. In addition to the NUREG, portions of the CTS were also used as the basis for the ITS. Plant-specific issues (unique design features, requirements, and operating practices) were discussed at length with the licensee, and generic matters with the OG.

The proposed changes from the existing CTS, can be grouped into four general categories, as follows:

1. Non-technical (administrative) changes, which were intended to make the ITS easier to use for plant operators personnel. They are purely editorial in nature or involve the movement or reformatting of requirements without affecting technical content. Every section of the SSES, Units 1 and 2 CTS has undergone these types of changes. In order to ensure consistency, the NRC staff and the licensee have used NUREG–1433 as guidance to reformat and make other administrative changes.

2. Relocation of requirements, which includes items that were in the SSES, Units 1 and 2 CTS. The CTS items that are being relocated to licensee-controlled documents are not required to be in the TSs under 10 CFR 50.36 and do not meet any of the four criteria in the Commission's Final Policy Statement for inclusion in the TSs. They are not needed to obviate the possibility that an abnormal situation or event will give rise to an immediate threat to the public health and safety. The NRC staff has concluded that appropriate controls have been established for all of the current specifications, information, and requirements that are being moved to licensee-controlled documents. In general, the proposed relocation of items in the SSES, Units 1 and 2, CTS to the Final Safety Analysis Report (FSAR), appropriate plant-specific programs, procedures and ITS Bases follows the guidance of the General Electric STS (NUREG–1433). Once these items have been relocated by removing them from the CTS to licensee-controlled documents, the licensee may revise them under the provisions of 10 CFR 50.59 or other NRC staff-approved control mechanisms, which provide appropriate procedural means to control changes.

3. More restrictive requirements, which consist of proposed SSES, Units 1 and 2 ITSs items that are either more conservative than corresponding requirements in the SSES, Units 1 and 2, CTS or are additional restrictions that are not in the SSES, Units 1 and 2, CTS, but are contained in NUREG–1433. Examples of more restrictive requirements include: placing a Limiting Condition of Operation (LCO) on plant equipment that is not required by the CTS to be operable; more restrictive requirements to restore inoperable equipment; and more restrictive surveillance requirements.

4. Less restrictive requirements are relaxations of corresponding requirements in the SSES, Units 1 and 2, CTS that provide little or no safety benefit and place unnecessary burdens on the licensee. These relaxations were the result of generic NRC actions or other analyses. They have been justified on a case-by-case basis for SSES, Units 1 and 2, as will be described in the staff's Safety Evaluation to be issued with the license amendment, which will be noticed in the **Federal Register**.

In addition to the changes described above, the licensee proposed certain changes to the CTS that deviated from the STS in NUREG–1433. These additional proposed changes are described in the licensee's application and in the staff's Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing (61 FR 56972) published in the **Federal**

Register on November 5, 1996. Where these changes represent a change to the current licensing basis for SSES, Units 1 and 2, they have been justified on a case-by-case and will be described in the staff's safety evaluation to be issued with the license amendment.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that the proposed TS conversion would not increase the probability or consequences of accidents previously analyzed and would not affect facility radiation levels or facility radiological effluents.

Changes that are administrative in nature would have no effect on the technical content of the TSs and are acceptable. The increased clarity and understanding these changes bring to the TSs are expected to improve the operator's control of the plant in normal and accident conditions.

Relocation of requirements to licensee-controlled documents would not change the requirements themselves. Future changes to these requirements may be made by the licensee under 10 CFR 50.59 or other NRC-approved control mechanisms, which ensures continued maintenance of adequate requirements. All such relocations have been found to be in conformance with the guidelines of NUREG–1433 and the Final Policy Statement, and, therefore, are acceptable.

Changes involving more restrictive requirements would be likely to enhance the safety of plant operations and are acceptable.

Changes involving less restrictive requirements have been reviewed individually. When requirements have been shown to provide little or no safety benefit or to place unnecessary burdens on plant operations, those requirements have been relaxed in an overall effort to enhance safety. The changes will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does involve features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact.

Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. The principal alternative to this action would be to deny the request for the amendment. Such action would not reduce the environmental impacts of plant operations.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement related to the operation of the SSES, Units 1 and 2, dated June 1981.

Agencies and Persons Consulted

In accordance with its stated policy, on June 19, 1998, the staff consulted with the Pennsylvania State official, Mr. M. Mangi of the Pennsylvania Department of Environmental Protection Bureau, Division of Nuclear Safety, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated August 1, 1996, as supplemented by letters dated November 26, 1997, January 6, March 2, April 24, and June 18, 1998, which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington DC, and at the local public document room located at the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Dated at Rockville, Maryland, this 15th day of July 1998.

For the Nuclear Regulatory Commission.

Robert A. Capra,

Director, Project Directorate I–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98–19364 Filed 7–20–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Potential for Degradation of the Emergency Core Cooling System and the Containment Spray System After a Loss-of-Coolant Accident Because of Construction and Protective Coating Deficiencies and Foreign Material in Containment; Issue

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Issuance.

SUMMARY: The Nuclear Regulatory Commission (NRC) has issued Generic Letter (GL) 98–04 to all holders of operating licenses for nuclear power reactors, except those who have permanently ceased operations and have certified that fuel has been permanently removed from the reactor vessel, to alert licensees to the fact that foreign material continues to be found inside operating nuclear power plant containments. During a design basis loss-of-coolant accident (LOCA), this foreign material could block the emergency core cooling system (ECCS) or safety-related containment spray system (CSS) flow paths or damage ECCS or safety-related CSS equipment. In addition, construction deficiencies and problems with the material condition of ECCS structures, systems, and components (SSCs) inside the containment continue to be found. Design deficiencies also have been found which could potentially degrade the ECCS or safety-related CSS. No actions or information are requested regarding these issues. The NRC has issued many previous generic communications on this subject and expects licensees to have considered possible actions at their facilities to address these concerns.

The NRC is also issuing this generic letter to alert licensees to the problems associated with the material condition of protective coatings inside the containment and to request information under 10 CFR 50.54(f) for the purpose of evaluating their programs for ensuring that protective coatings do not detach from their substrate during a design basis LOCA and interfere with the operation of the ECCS and the safety-related CSS. The NRC intends to use this information to assess whether current regulatory requirements are being correctly implemented and whether they should be revised.

The NRC expects addressees to ensure that the ECCS and the safety-related CSS remain capable of performing their intended safety functions. The NRC will conduct inspections to ensure

compliance with existing licensing bases and respond to discovered inadequacies with aggressive enforcement consistent with its enforcement policy.

The generic letter is available in the NRC Public Document Room under accession number 9807010291.

DATES: The generic letter was issued on July 14, 1998.

ADDRESSES: Not applicable.

FOR FURTHER INFORMATION CONTACT: James A. Davis, at (301) 415–2713.

SUPPLEMENTARY INFORMATION: This generic letter does not constitute a backfit as defined in 10 CFR 50.109(a)(1) since it does not impose modifications of or additions to structures, systems or components or to design or operation of an addressee's facility. It also does not impose an interpretation of the Commission's rules that is either new or different from a previous staff position. The staff, therefore, has not performed a backfit analysis.

Dated at Rockville, Maryland, this 14th day of July 1998.

For the Nuclear Regulatory Commission.

Jack W. Roe,

Acting Director, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 98–19363 Filed 7–20–98; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) *Collection title:* Pay Rate Report.

(2) *Form(s) submitted:* UI–1e.

(3) *OMB Number:* 3220–0097.

(4) *Expiration date of current OMB clearance:* 9/30/1998.

(5) *Type of request:* Revision of a currently approved collection.

(6) *Respondents:* Individuals or households.

(7) *Estimated annual number of respondents:* 750.

(8) *Total annual responses:* 750.

(9) *Total annual reporting hours:* 63.

(10) *Collection description:* Under the Railroad Unemployment Insurance Act. The daily benefit rate for unemployment and sickness benefits depends on the employee's last daily rate of pay. The report obtains information from the employee and verification from the employer of the claimed rate of pay for use in determining whether an increase in the daily benefit rate is due.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and the OMB reviewer, Laura Oliven (202) 395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, D.C. 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 98–19381 Filed 7–20–98; 8:45 am]

BILLING CODE 7905–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) *Collection title:* Report of Medicaid State Office Buy-In Status.

(2) *Form(s) submitted:* RL–380–F.

(3) *OMB Number:* 3220–0185.

(4) *Expiration date of current OMB clearance:* 9/30/1998.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* State Government.

(7) *Estimated annual number of respondents:* 600.

(8) *Total annual responses:* 600.

(9) *Total annual reporting hours:* 100.

(10) *Collection description:* Under the Railroad Retirement Act, the Railroad Retirement Board administers the Medicare program for persons covered by the railroad retirement system. The collection obtains the information needed to determine if certain railroad beneficiaries are entitled to receive Supplemental Medical Insurance program coverage under a state buy-in agreement in states in which they reside.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and the OMB reviewer, Laura Oliven (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 98–19382 Filed 7–20–98; 8:45 am]

BILLING CODE 7905–01–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger carrying aircraft.

DATES: Comments must be received on or before August 20, 1998.

ADDRESS COMMENTS TO: Records Center, Research and Special Programs, Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption application number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications (See Docket Number) are available for inspection at the New Docket Management Facility, PL–401, at the U.S. Department of Transportation, Nassif Building, 400 7th Street, SW., Washington, DC 20590.

This notice of receipt of applications for new exemptions is published in accordance with Part 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on July 14, 1998.

J. Suzanne Hedgepeth,
Director, Office of Hazardous Materials, Exemptions and Approvals.

NEW EXEMPTIONS

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of exemption thereof
12096–N	RSPA–98–3991	E.I. DuPont de Nemours & Co., Inc., Wilmington, DE.	49 CFR 172.102 (c)(3) SP B9 & B74, 179.103–5 (b)(1).	To authorize the one time-transportation in commerce of a DOT-Specification 120A500W tank car, containing a Division 6.1 material, poisonous by inhalation, that was loaded out of test date. (mode 2)
12097–N	RSPA–98–3993	Qual-X Inc., Powell, OH ...	49 CFR 173.140, 173.412	To authorize the one-time transportation in commerce of a specially designed device containing small quantities of gas, Division 2.2 contained in Type A package used as part of a leak detector console. (mode 1)
12098–N	RSPA–98–3994	Carleton Technologies, Inc., Orchard Park, NY.	49 CFR 178.65	To authorize the transportation in commerce of certain compressed gases, Division 2.2, in non-DOT specification pressure vessels. (modes 1, 2, 4)
12100–N	RSPA–98–4004	Tokico (USA), Inc., Berea, KY.	49 CFR 172.200–202, 172.203–204, 172.300, 173.306 (f)(1), 173.306 (f)(2)(iii), 173.306 (f)(3).	To authorize the transportation in commerce of gas struts charged by a mixture of nitrogen gas and hydraulic oil as essentially unregulated. (modes 1, 2, 3, 4, 5)
12102–N	RSPA–98–4005	AETS/CWM, Flanders, NJ	49 CFR 173.56(i)	To authorize the transportation of certain Division 1.1D, unstable waste laboratory mixtures that have been densitized to remove their explosive characteristics, as Division 4.1 flammable solids. (mode 1)
12104–N	RSPA–98–4039	Hoechst Celanese, Spartanburg, SC.	49 CFR 174.67(i)	To authorize rail cars to remain connected throughout the unloading of Class 9 material without the physical presence of an unloader. (mode 2)
12105–N	RSPA–98–4040	Becton Dickinson Microbiology Systems, Sparks, MD.	49 CFR 172.504, 174.81, 177.848.	To authorize the transportation in commerce of specially-designed combination packaging for use in transporting Division 4.3 and Class 8 material be exempt from segregation and placarding requirements. (modes 1, 2)
12106–N	RSPA–98–4041	Air Liquide America Corporation, Houston, TX.	49 CFR 173.24(g)	To authorize the venting of a DOT-specification 105A400W tank car used for the transportation of carbon dioxide, Division 2.2. (mode 2)

[FR Doc. 98–19358 Filed 7–20–98; 8:45 am]
BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Modification of Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for modification of exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Requests for modifications of exemptions (e.g., to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix "M" denote a modification request. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments must be received on or before August 5, 1998.

ADDRESS COMMENTS TO: Records Center, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Records Center, Nassif Building, 400 7th Street, SW., Washington, DC.

Application No.	Docket No.	Applicant	Modifications of exemption
8299–M		Pacific Scientific, Durate, CA (See Footnote 1)	8299
11050–M		Koppers Industries, Inc., Pittsburgh, PA (See Footnote 2)	11050

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Application No.	Docket No.	Applicant	Modifications of exemption
11899–M	RSPA–97–2602	Carleton Technologies, Inc., Orchard Park, NY (See Footnote 3)	11899
11984–M	RSPA–97–3173	Trans World Airlines, Inc., Kansas City, MO (See Footnote 4)	11984
11990–M	RSPA–97–3098	Taylor-Wharton Coyne, Huntsville, AL (See Footnote 5)	11990
12047–M	RSPA–98–3617	True Drilling Company, Casper, WY (See Footnote 6)	12047
12070–M	RSPA–98–3886	Boeing North American, Inc., Downey, CA (See Footnote 7)	12070
12092–M	RSPA–98–4001	Matheson Gas Products, East Rutherford, NJ (See Footnote 8)	12092
12095–M	RSPA–98–4042	Railway Progress Institute, Inc., Alexandria, VA (See Footnote 9)	12095

(1) To reissue the exemption originally modified on an emergency basis to extend life limit of non-DOT specification pressure vessels used in special service for the transportation of compressed gases.

(2) To authorize party-status and add Division 4.1 as an additional class of hazardous materials.

(3) To modify the exemption to authorize an altered design of the sealed high pressure gas cylinder system, equipped with twin pyrotechnic cutters, Division 1.4D, charged with Nitrogen, Division 2.2, to be offered for shipment as a Division 2.2.

(4) To modify the exemption to provide for rail as an additional mode of transportation for the movement of motor-vehicle (piggy-back trailers) when shipping oxygen generators.

(5) To modify the exemption to remove the Safety Device criteria under 7.a., 178.35(e) of the exemption.

(6) To reissue the exemption originally issued on an emergency basis to transport flammable liquids in packages that are not presently authorized.

(7) To reissue the exemption originally issued as a emergency basis to authorize the transportation of a Kill Vehicle (KV) Assembly containing 1.4G explosives.

(8) To reissue the exemption originally issued on an emergency basis to use an alternate test method for cylinders rather than the hydrostatic test.

(9) To reissue an exemption originally issued on an emergency basis (as an extension) to authorized an alternative inspection and test program for tank cars.

This notice of receipt of applications for modification of exemptions is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on July 14, 1998.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials, Exemptions and Approvals.

[FR Doc. 98–19359 Filed 7–20–98; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–554X]

Perry County Port Authority d/b/a Hoosier Southern Railroad; Discontinuance Exemption; in Spencer County, IN

On July 1, 1998, Perry County Port Authority d/b/a Hoosier Southern Railroad (HSR) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903–10905[1] to discontinue service on a line of railroad known as the Rockport Line extending from milepost 0.0 at Rockport Junction to milepost 16.2 at Rockport, a distance of 16.2 miles in Spencer County, IN. As part of the exemption, HSR also seeks to discontinue incidental trackage rights over approximately 1.1 miles of Norfolk Southern Railway Company's (NSR) main line extending from milepost 32.1–EB at Rockport Junction to milepost 33.2–EB at Lincoln City, also in Spencer County, IN.[2] The lines traverse U.S. Postal Service Zip Codes 47552, 47611 and 47635. The Rockport Line includes the stations of Rockport, Chrisney, Rock Hill and Rockport Junction.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by October 19, 1998.

Unless an exemption is granted from the OFA provisions of 49 U.S.C. 10904, any OFA to subsidize continued rail service under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a $1,000 filing fee. *See* 49 CFR 1002.2(f)(25).

This proceeding is exempt from environmental reporting requirements under 49 CFR 1105.6(c) and from historic reporting requirements under 1105.8(b).

All filings in response to this notice must refer to STB Docket No. AB–554X and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001; and (2) John D. Heffner, Rea, Cross & Auchincloss, Suite 570, 1707 L Street, N.W., Washington, DC 20036.

Persons seeking further information concerning abandonment and discontinuance procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1545. [TDD for the hearing impaired is available at (202) 565–1695.]

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: July 14, 1998.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–19402 Filed 7–20–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Privacy Act of 1974: Computer Matching Program

AGENCY: Internal Revenue Service, Treasury.

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[1] HSR seeks exemption from the offer of financial assistance (OFA) subsidy provision of 49 U.S.C. 10904. This exemption request will be addressed in the final decision. HSR also seeks exemption from the public use provisions of 49 U.S.C. 10905. However, because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not applicable.

[2] HSR desires to terminate service because NSR has terminated its lease with HSR effective May 31, 1998. NSR resumed providing all rail service on the Rockport Line as of June 1, 1998.

ACTION: Notice.

SUMMARY: Pursuant to 5 U.S.C. 552a, the Privacy Act of 1974, as amended, and the Office of Management and Budget (OMB) Guidelines on the Conduct of Matching Programs, notice is hereby given of the conduct of an Internal Revenue Service (IRS) program of computer matches.

EFFECTIVE DATE: This notice will be effective August 20, 1998, unless comments dictate otherwise.

ADDRESSES: Comments or inquiries may be mailed to the Chief Inspector, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Mary Jacqueline Greening, Internal Auditor, Quality Assurance and Oversight Section, Office of Planning and Management, Office of Assistant Chief Inspector (Internal Auditor), Internal Revenue Service, (202) 622–5911.

SUPPLEMENTARY INFORMATION: IRS management is responsible for discouraging the perpetration of irregular or illegal acts and limiting any exposure if an integrity breach occurs. To assist in accomplishing this mission, the Inspection Service has enhanced its conventional audit and investigative activities with a program to detect and deter unauthorized access (UNAX) by IRS employees to taxpayer information.

The Audit Trail Lead Analysis System (ATLAS) is a system designed to detect unauthorized access to taxpayer records. It does so by identifying IRS employees who have accessed taxpayer records using the Integrated Data Retrieval System (IDRS) in a manner that appears to be inconsistent with standard IRS practice.

One of the five IRS organizational strategies is to ensure public confidence in the integrity of the IRS by a dedication to the highest ethical standards. One of the ways that the Inspection Service supports this objective is to provide IRS management an assessment of the organization's ethical environment through the UNAX Program, which is part of the overall Inspection Service Integrity Program.

Computer matching is the most feasible method of performing comprehensive analysis of employee, taxpayer, and tax administration data because of the large number of employees (56,000 employees access IDRS); the geographical dispersion of IRS offices and employees (nationwide); and the tremendous volume of computerized data that is available for analysis (100 million IDRS transactions are generated each month).

This program will be conducted using audit trails and IDRS records generated from each Service Center. Four years of audit trail records will be available to search.

NAME OF SOURCE AGENCY: Internal Revenue Service.

NAME OF RECIPIENT AGENCY: Internal Revenue Service.

BEGINNING AND COMPLETION DATES: This program of computer matches is expected to commence on July 31, 1998, but not earlier than the fortieth day after copies of the Computer Matching Agreement are provided to the Congress and OMB unless comments dictate otherwise. The program of computer matches is expected to conclude at the end of the eighteenth month after the beginning date (January 31, 2000).

PURPOSE: The purpose of this program of computer matches is to detect unauthorized access to taxpayer records by IRS employees. The system will identify employees who have accessed taxpayer records using the IDRS in a manner that appears to be inconsistent with standard IRS practice.

AUTHORITY: 5 U.S.C. 301, 26 U.S.C. 7213, 7213A, 7214, 7608, 7801, 7802, 7803, 18 U.S.C. 1030(a)(2)(B); and Reorganization Plan No. 1 of 1952, pursuant to Section 7804(a) of the Internal Revenue Code of 1986. The Computer Security Act of 1987 (Pub. L. 100–235). The Federal Managers' Financial Integrity Act (FMFIA) (Pub. L. 97–255). Executive Order 12674 of April 12, 1989, entitled, "Principles of Ethical Conduct for Government Officers and Employees." OMB Circular A–130, "Management of Federal Information Resources," dated February 8, 1996. OMB Circular A–123, "Internal Control Systems," dated August 16, 1983.

CATEGORIES OF INDIVIDUALS COVERED: Current and former employees of the IRS and contractors for the IRS.

CATEGORIES OF RECORDS COVERED: Included in this program of computer matches is information related to computer inquiries and entries to the IDRS (Treasury/IRS 34.018) made by IRS employees: employee identification numbers and employee social security numbers, command codes used, taxpayer identification number accessed, terminal from which access occurred, date and time of access. Information from the Individual Master File (IMF) (Treasury/IRS 24.030), the Business Master File (BMF) (Treasury/IRS 24.046), and the Treasury Integrated Management Information System (TIMIS) (Treasury/DO .002) will be used to obtain employee address and spouse's name.

Other information from these files not uniquely pertaining to the IRS employee(s) but that could possibly establish a relationship between the IRS employee(s) and the account(s) accessed will be used to determine the actions or the effect of actions of employee(s) or to corroborate declarations or statements by employee(s). From IDRS (Treasury/IRS 34.018): Taxpayer identification number and tax period. From IMF (Treasury/IRS 24.030) and BMF (Treasury/IRS 24.046): Taxpayer entity information, including address, current and prior name, and tax account status. From TIMIS (Treasury/DO .002): employee identifying and locating information, including address, current name and name of spouse.

Dated: July 15, 1998.

Shelia Y. McCann,

Deputy Assistant Secretary (Administration).

[FR Doc. 98–19343 Filed 7–20–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0085]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Board of Veterans' Appeals, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Board of Veterans' Appeals (BVA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information required in processing appeals from denial of VA benefits and in regulation of representatives' fees.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before September 21, 1998.

ADDRESSES: Submit written comments on the collection of information to Sue Hamlin, Board of Veterans' Appeals (01C), Department of Veterans Affairs,

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810 Vermont Avenue, NW, Washington, DC 20420. Please refer to "OMB Control No. 2900–0085" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Sue Hamlin at (202) 565–5686.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, BVA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of BVA's functions, including whether the information will have practical utility; (2) the accuracy of BVA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Titles

a. Appeal to Board of Veterans' Appeals, VA Form 9.

b. Withdrawal of Services by a Representative.

c. Filing of Representative's Fee Agreements and Motions for Review of Such Agreements.

d. Motion for Review of Representative's Charges for Expenses.

e. Request for Changes in Hearing Date.

f. Motion for Reconsideration.

OMB Control Number: 2900–0085.

Type of Review: Extension of a currently approved collection.

Abstract:

a. VA Form 9 is furnished to an appellant so that he or she has the information necessary to perfect an appeal from a denial of VA benefits.

b. When the appellant's representative withdraws from a case, information must be obtained in order to afford protection to the appellant and in order for BVA to be able to know who is providing representational services in each individual case.

c. Agreements for fees charged by individuals or organizations for representing claimants and appellants before VA are filed with, and reviewed by, the Board of Veterans' Appeals. The information is used to afford protection to VA claimants by ensuring that the VA benefits are not diverted from their intended purpose through overreaching by unscrupulous representatives and in processing payment of fees from VA benefits when provided by the agreement.

d. Expense reimbursements claimed by individuals and organizations for representing claimants and appellants before VA have been monitored for fairness for many years. The information is used to monitor representatives' fees for reasonableness and ensure that unreasonable fees are not charged by claiming such fees under the guise of "expenses."

e. VA provides hearings to appellants and their representatives, as required by basic Constitutional due-process and by Title 38 U.S.C. 7107(b). From time to time, hearing dates and/or times are changed, hearing requests withdrawn and new hearings requested after failure to appear at a scheduled hearing. The information is used to comply with the appellants' or their representatives' requests.

f. Decisions by BVA are final unless the Chairman orders reconsideration of the decision. The information provided is unique in each case and must be provided in order for BVA to be aware that reconsideration is being sought and to inform BVA of the basis of the request. Failure to obtain the information would result in depriving appellants of this potential form of relief.

Affected Public: Individuals or households.

Estimated Total Annual Burden: 36,837 hours.

a. Appeal to Board of Veterans' Appeals—32,500 hours.

b. Withdrawal of Services by a Representative—183 hours.

c. Filing and Motions for Review of fee Agreements—225 hours.

d. Motion for Review of Expenses—4 hours.

e. Request for Changes in Hearing Date—2,374 hours.

f. Motion for Reconsideration—1,550 hours.

Estimated Average Burden Per Respondent: 53 minutes.

a. Appeal to Board of Veterans' Appeals—1 hour.

b. Withdrawal of Services by a Representative—20 minutes.

c. Fee Agreement—30 minutes (contract modifications), 10 minutes (basic filing)—2 hours (filing motion or response).

d. Motion for Review of Expenses—2 hours (motion or response to motion).

e. Request for Changes in Hearing Date—15 minutes (basic request)—1 hour (requests requiring preparation of a motion).

f. Motion for Reconsideration—1 hour.

Frequency of Response: On occasion.

Estimated Total Number of Respondents: 41,644.

a. Appeal to Board of Veterans' Appeals—32,500.

b. Withdrawal of Services by a Representative—550.

c. Fee Agreement—875.

d. Motion for Review of Expenses—2.

e. Request for Changes in Hearing Date—6,167.

f. Motion for Reconsideration—1,550.

Dated: May 15, 1998.

By direction of the Secretary.

Barbara H. Epps,

Management Analyst, nformation Management Service.

[FR Doc. 98–19311 Filed 7–20–98; 8:45 am]

BILLING CODE 8320–01–P

Corrections

Federal Register
Vol. 63, No. 139
Tuesday, July 21, 1998

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 240 and 274a

[INS. No. 1893–97; AG Order No. 2154–98

RIN 1115–AF04

Adjustment of Status for Certain Nationals of Nicaragua and Cuba

Correction

In rule document 98–13246 beginning on page 27823, in the issue of Thursday, May 21, 1998, make the following corrections:

§ 240.41 [Corrected]

1. On page 27829, in the third column, in § 240.41, in the third and fourth line, "and section 202 of Pub. L. 100" should read "and section 202 of Public Law 105–100".

§ 274a.13 [Corrected]

2. On page 27833, in the third column, in § 274a.13, amendatory instruction 12 should read as set for below:

12. In § 274a.13, paragraph (d) is amended in the first sentence by revising the phrase "§ 274a.12(c)(8), which is governed by paragraph (a)(2) of this section" to read "§ 274a.12(c)(8), which is governed by paragraph (a)(2) of this section, and § 274a.12(c)(9) in so far as it is governed by § 245.13(j) of this chapter".

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federal register

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Part II

Postal Service

Changes in Domestic Rates, Fees, and Mail Classifications; Notice

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POSTAL SERVICE

Changes in Domestic Rates, Fees, and Mail Classifications

AGENCY: Postal Service.

ACTION: Notice of implementation of changes to the Domestic Mail Classification Schedule, domestic rates, and fees.

SUMMARY: This notice sets forth the changes to the Domestic Mail Classification Schedule and the accompanying rate and fee changes to be implemented as a result of the Decision of the Governors of the United States Postal Service on the Recommended Decision of the Postal Rate Commission on Postal Rate and Fee Changes, Docket No. R97–1 (June 29, 1998).

EFFECTIVE DATE: January 10, 1999, except as otherwise noted.

FOR FURTHER INFORMATION CONTACT: Daniel J. Foucheaux, Jr., (202) 268–2989.

SUPPLEMENTARY INFORMATION: On July 10, 1997, pursuant to its authority under 39 U.S.C. 3621, *et seq.*, the Postal Service filed with the Postal Rate Commission (PRC) a Request for a Recommended Decision on Proposed Changes in Rates of Postage and Fees for Postal Services (Request). The PRC designated the filing as Docket No. R97–1. The PRC published a notice of the filing, with a description of the Postal Service's proposals, on July 23, 1997, in the **Federal Register** (62 FR 39660).

On May 11, 1998, pursuant to its authority under 39 U.S.C. 3624, the PRC issued its Recommended Decision on the Postal Service's Request to the Governors of the Postal Service.

Pursuant to 39 U.S.C. 3625, the Governors of the United States Postal Service acted on the PRC's recommendations on June 29, 1998. In one decision, the Governors rejected the PRC's recommendations regarding Prepaid Reply Mail and Courtesy Envelope Mail. Decision of the Governors of the United States Postal Service on the Recommended Decisions of the Postal Rate Commission on Prepaid Reply Mail and Courtesy Envelope Mail, Docket No. R97–1 (June 29, 1998). In the second decision, the Governors acted on the remainder of the PRC's recommendations. Decision of the Governors of the United States Postal Service on the Recommended Decision of the Postal Rate Commission on Postal Rate and Fee Changes, Docket No. R97–1 (June 29, 1998). The Governors approved all of the remaining classification, fee, and rate changes, except that the Governors allowed under protest and returned for reconsideration recommendations related to three categories of mail. In particular, the Governors requested further action or clarification on the Commission's recommendations concerning Within County, Library Mail, and destination delivery unit Parcel Post. A copy of the attachments to the Governors' Decision, setting forth the classification, fee, and rate changes ordered into effect by the Governors, is set forth below.[1]

Also on June 29, 1998, the Board of Governors of the Postal Service, pursuant to its authority under 39 USC 3625(f), determined to implement, with certain limited exceptions noted below, the rate, fee and classification changes approved by the Governors effective at 12:01 a.m. on January 10, 1999 (Resolution No. 98–6). The Board determined to implement changes related to delivery confirmation, including the classification change allowing delivery confirmation as the sole prerequisite for return receipt service, at a later date to be determined by the Board. Subject to delayed implementation, therefore, are DMCS sections 260(j), 362(g), 945.21(e), and 948, and the delivery confirmation fees set forth in Fee Schedule 948.

In accordance with the Decision of the Governors and Resolution No. 98–6, except as noted above, the Postal Service hereby gives notice that the classification, fee, and rate changes set forth below will become effective at 12:01 a.m. on January 10, 1999. Implementing regulations also become effective at that time, as noted in a separate notice in the **Federal Register** of July 14, 1998.

Attachment A to the Decision of the Governors of the United States Postal Service on the Recommended Decision of the Postal Rate Commission in Docket No. R97–1

(June 29, 1998)

Changes to Domestic Rates and Fees

EXPRESS MAIL SCHEDULES 121, 122 AND 123

[Dollars]

Weight Not Exceeding (Pounds)	Schedule 121 Same Day Airport Service	Schedule 122 Custom Designed	Schedule 123 Next Day and Second Day PO to PO	Schedule 123 Next Day and Second Day PO to Addressee
½	9.25	9.55	9.70	11.75
1	10.75	13.55	13.70	15.75
2	10.75	13.55	13.70	15.75
3	13.75	16.30	16.45	18.50
4	15.00	19.05	19.20	21.25
5	16.25	21.80	21.95	24.00
6	17.60	24.55	24.70	26.75
7	18.85	27.20	27.35	29.40
8	20.20	28.40	28.55	30.60
9	21.50	29.60	29.75	31.80
10	22.70	30.80	30.95	33.00
11	24.05	32.25	32.40	34.45
12	25.35	34.60	34.75	36.80
13	26.60	35.85	36.00	38.05
14	27.95	37.20	37.35	39.40
15	29.20	38.40	38.55	40.60
16	30.50	39.70	39.85	41.90

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[1] Provisions approved by the Governors in connection with Docket No. MC96–1 relating to the barcoded small parcel experiment expired on April 28, 1998, and accordingly are no longer included in the DMCS and accompanying rate schedules. See 63 FR 35,140 (June 29, 1998).

EXPRESS MAIL SCHEDULES 121, 122 AND 123—Continued

[Dollars]

Weight Not Exceeding (Pounds)	Schedule 121 Same Day Airport Service	Schedule 122 Custom Designed	Schedule 123 Next Day and Second Day PO to PO	Schedule 123 Next Day and Second Day PO to Addressee
17	31.80	41.05	41.20	43.25
18	33.10	42.25	42.40	44.45
19	34.40	43.55	43.70	45.75
20	35.65	44.85	45.00	47.05
21	36.95	46.10	46.25	48.30
22	38.25	47.35	47.50	49.55
23	39.55	48.70	48.85	50.90
24	40.90	49.90	50.05	52.10
25	42.10	51.20	51.35	53.40
26	43.40	52.45	52.60	54.65
27	44.55	53.75	53.90	55.95
28	45.65	55.00	55.15	57.20
29	46.75	56.30	56.45	58.50
30	47.85	57.60	57.75	59.80
31	48.90	58.85	59.00	61.05
32	49.95	60.15	60.30	62.35
33	51.05	61.40	61.55	63.60
34	52.10	62.70	62.85	64.90
35	53.25	63.95	64.10	66.15
36	54.30	65.25	65.40	67.45
37	55.30	66.45	66.60	68.65
38	56.45	67.80	67.95	70.00
39	57.50	69.05	69.20	71.25
40	58.55	70.30	70.45	72.50
41	59.70	71.55	71.70	73.75
42	60.70	72.90	73.05	75.10
43	61.80	74.15	74.30	76.35
44	62.90	75.45	75.60	77.65
45	63.95	76.75	76.90	78.95
46	65.05	77.95	78.10	80.15
47	66.15	79.30	79.45	81.50
48	67.20	80.55	80.70	82.75
49	68.25	81.80	81.95	84.00
50	69.35	83.05	83.20	85.25
51	70.45	84.40	84.55	86.60
52	71.45	85.60	85.75	87.80
53	72.60	86.95	87.10	89.15
54	73.65	88.20	88.35	90.40
55	74.75	89.45	89.60	91.65
56	75.85	90.80	90.95	93.00
57	76.90	92.00	92.15	94.20
58	77.95	93.30	93.45	95.50
59	79.05	94.70	94.85	96.90
60	80.10	96.20	96.35	98.40
61	81.25	97.80	97.95	100.00
62	82.30	99.30	99.45	101.50
63	83.30	100.80	100.95	103.00
64	84.45	102.40	102.55	104.60
65	85.50	103.90	104.05	106.10
66	86.60	105.50	105.65	107.70
67	87.70	107.00	107.15	109.20
68	88.70	108.60	108.75	110.80
69	89.80	110.10	110.25	112.30
70	90.90	111.60	111.75	113.80

Schedules 121, 122 and 123 Notes:

[1] The applicable 2-pound rate is charged for matter sent in a ≤flat rate≥ envelope provided by the Postal Service.

[2] Add $8.25 for each pickup stop.

[3] Add $8.25 for each Custom Designed delivery stop.

FIRST-CLASS MAIL RATE SCHEDULE 221

Letters and Sealed Parcels	Rate (cents)
Regular:	
Single Piece: First Ounce	33.0

FIRST-CLASS MAIL RATE SCHEDULE 221—Continued

Letters and Sealed Parcels	Rate (cents)
Presort [1]	30.5
Qualified Business Reply Mail	30.0
Additional Ounce [2]	22.0
Nonstandard Surcharge	
Single Piece	11.0
Presort	5.0
Automation—Presort [1]	
Letters [3]	
Basic Presort [4]	27.0
3-Digit Presort [5]	26.1
5-Digit Presort [6]	24.3
Carrier Route Presort [7]	23.8
Flats [8]	
Basic Presort [9]	30.0
3/5-Digit Presort [10]	27.0
Additional Ounce [2]	22.0
Nonstandard Surcharge	5.0

Schedule 221 Notes:

[1] A mailing fee of $100.00 must be paid once each year at each office of mailing by any person who mails other than Single Piece First-Class Mail. Payment of the fee allows the mailer to mail at any First-Class rate. For presorted mailings weighing more than 2 ounces, subtract 4.6 cents per piece.

[2] Rate applies through 13 ounces. Heavier pieces are subject to Priority Mail rates.

[3] Rates apply to bulk-entered mailings of at least 500 letter-size pieces, which must be delivery point barcoded and meet other preparation requirements specified by the Postal Service.

[4] Rate applies to letter-size Automation-Presort category mail not mailed at 3-Digit, 5-Digit, or Carrier Route rates.

[5] Rate applies to letter-size Automation-Presort category mail presorted to single or multiple three-digit ZIP Code destinations specified by the Postal Service.

[6] Rate applies to letter-size Automation-Presort category mail presorted to single or multiple five-digit ZIP Code destinations specified by the Postal Service.

[7] Rate applies to letter-size Automation-Presort category mail presorted to carrier routes specified by the Postal Service.

[8] Rates apply to bulk-entered mailings of at least 500 flat-size pieces, each of which must be delivery-point barcoded or bear a ZIP+4 barcode, and must meet other preparation requirements specified by the Postal Service.

[9] Rate applies to flat-size Automation-Presort category mail not mailed at the 3/5-Digit rate.

[10] Rate applies to flat-size Automation-Presort category mail presorted to single or multiple three- and five-digit ZIP Code destinations as specified by the Postal Service.

FIRST-CLASS MAIL RATE SCHEDULE 222

Cards	Rate (cents)
Regular:	
Single Piece	20.0
Presort [1]	18.0
Qualified Business Reply Mail	18.0
Automation-Presort: [1,2]	
Basic Presort [3]	16.6
3-Digit Presort [4]	15.9
5-Digit Presort [5]	14.6
Carrier Route Presort [6]	14.1

Schedule 222 Notes:

[1] A mailing fee of $100.00 must be paid once each year at each office of mailing by any person who mails other than Single Piece First-Class Mail. Payment of the fee allows the mailer to mail at any First-Class rate.

[2] Rates apply to bulk-entered mailings of at least 500 pieces, which must be barcoded and meet other preparation requirements specified by the Postal Service.

[3] Rate applies to Automation-Presort category mail not mailed at 3-Digit, 5-Digit, or Carrier Route rates.

[4] Rate applies to Automation-Presort category mail presorted to single or multiple three-digit ZIP Code destinations as specified by the Postal Service.

[5] Rate applies to Automation-Presort category mail presorted to single or multiple five-digit ZIP Code destinations as specified by the Postal Service.

[6] Rate applies to Automation-Presort category mail presorted to carrier routes specified by the Postal Service.

FIRST-CLASS MAIL SCHEDULE 223—PRIORITY MAIL SUBCLASS

[Dollars]

Weight not exceeding (pounds)	L, 1, 2, 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
1	3.20	3.20	3.20	3.20	3.20	3.20
2	3.20	3.20	3.20	3.20	3.20	3.20
3	4.30	4.30	4.30	4.30	4.30	4.30
4	5.40	5.40	5.40	5.40	5.40	5.40
5	6.50	6.50	6.50	6.50	6.50	6.50

FIRST-CLASS MAIL SCHEDULE 223—PRIORITY MAIL SUBCLASS—Continued

[Dollars]

Weight not exceeding (pounds)	L, 1, 2, 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
6	6.60	6.90	7.10	7.45	7.70	8.25
7	6.70	7.30	7.70	8.40	8.90	10.00
8	6.80	7.70	8.30	9.35	10.10	11.75
9	6.90	8.10	8.90	10.30	11.30	13.50
10	7.00	8.50	9.50	11.25	12.50	15.25
11	7.20	9.15	10.30	12.20	13.45	16.50
12	7.40	9.80	11.05	13.10	14.45	17.80
13	7.75	10.40	11.80	14.05	15.50	19.10
14	8.10	11.05	12.55	14.95	16.50	20.40
15	8.50	11.70	13.30	15.85	17.50	21.70
16	8.85	12.30	14.00	16.75	18.55	23.00
17	9.20	12.95	14.75	17.70	19.55	24.30
18	9.60	13.60	15.50	18.60	20.60	25.60
19	9.95	14.20	16.25	19.50	21.60	26.95
20	10.35	14.85	17.00	20.40	22.65	28.20
21	10.70	15.50	17.70	21.35	23.65	29.45
22	11.05	16.15	18.45	22.25	24.70	30.65
23	11.45	16.75	19.20	23.15	25.70	31.85
24	11.75	17.40	19.95	24.05	26.70	33.05
25	12.15	18.05	20.70	25.00	27.75	34.35
26	12.55	18.65	21.40	25.90	28.75	35.55
27	12.90	19.30	22.15	26.80	29.80	36.75
28	13.25	19.95	22.90	27.70	30.80	37.95
29	13.65	20.55	23.65	28.60	31.85	39.15
30	14.00	21.20	24.40	29.55	32.85	40.35
31	14.35	21.85	25.10	30.45	33.90	41.55
32	14.75	22.45	25.85	31.35	34.90	42.80
33	15.10	23.10	26.60	32.25	35.95	44.00
34	15.45	23.70	27.35	33.15	36.95	45.20
35	15.80	24.35	28.10	34.10	37.95	46.40
36	16.20	25.00	28.80	35.00	39.00	47.60
37	16.60	25.65	29.55	35.90	40.00	48.80
38	16.90	26.25	30.30	36.85	41.05	50.05
39	17.30	26.90	31.05	37.75	42.05	51.25
40	17.70	27.55	31.80	38.65	43.10	52.45
41	18.00	28.15	32.50	39.55	44.10	53.65
42	18.40	28.80	33.25	40.45	45.15	54.85
43	18.80	29.45	34.00	41.40	46.15	56.10
44	19.15	30.05	34.75	42.30	47.20	57.35
45	19.50	30.70	35.50	43.20	48.20	58.55
46	19.85	31.35	36.20	44.10	49.20	59.75
47	20.25	31.95	36.95	45.05	50.25	60.95
48	20.60	32.60	37.70	45.95	51.25	62.15
49	20.95	33.25	38.45	46.85	52.30	63.35
50	21.35	33.85	39.20	47.75	53.30	64.55
51	21.70	34.50	39.90	48.65	54.25	65.80
52	22.05	35.15	40.65	49.60	55.30	67.00
53	22.45	35.75	41.40	50.50	56.25	68.20
54	22.80	36.40	42.15	51.40	57.25	69.40
55	23.15	37.05	42.90	52.30	58.20	70.60
56	23.55	37.65	43.60	53.25	59.20	71.80
57	23.90	38.30	44.35	54.15	60.20	73.05
58	24.25	38.95	45.10	55.05	61.15	74.25
59	24.65	39.55	45.85	55.95	62.20	75.45
60	25.00	40.20	46.60	56.90	63.15	76.65
61	25.35	40.85	47.30	57.80	64.15	77.90
62	25.75	41.45	48.05	58.70	65.10	79.10
63	26.10	42.10	48.80	59.60	66.10	80.35
64	26.50	42.75	49.55	60.55	67.10	81.55
65	26.85	43.35	50.25	61.45	68.05	82.75
66	27.20	44.00	51.00	62.35	69.10	83.95
67	27.60	44.65	51.75	63.25	70.05	85.15
68	27.95	45.25	52.50	64.15	71.00	86.35
69	28.30	45.90	53.25	65.10	72.05	87.55
70	28.70	46.55	53.95	66.00	73.00	88.80

Schedule 223 Notes:

[1]. The 2-pound rate is charged for matter sent in a >flat rate= envelope provided by the Postal Service.

[2]. Add $8.25 for each pickup stop.

[3]. EXCEPTION: Parcels weighing less than 15 pounds, measuring over 84 inches in length and girth combined, are chargeable with a minimum rate equal to that for a 15-pound parcel for the zone to which addressed.

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Standard Mail Rate Schedule 321.2A

Regular Subclass Presort Category[1]	Rate (cents)
Letter Size:	
Piece Rate	
Basic	23.5
3/5-Digit	20.7
Destination Entry Discount per Piece	
BMC	1.6
SCF	2.1
Non-Letter Size:[2]	
Piece Rate	
Minimum per Piece[3]	
Basic	30.4
3/5 Digit	24.0
Destination Entry Discount per Piece	
BMC	1.6
SCF	2.1
Pound Rate[3]	67.7
Plus per Piece Rate	
Basic	16.4
3/5-Digit	10.0
Destination Entry Discount per Pound	
BMC	7.9
SCF	10.0

Schedule 321.2A Notes

[1] A fee of $100 must be paid each 12-month period for each bulk mailing permit.

[2] Residual shape pieces are subject to a surcharge of $0.10 per piece.

[3] Mailer pays either the minimum piece rate or the pound rate, whichever is higher.

Standard Mail Rate Schedule 321.2B

Regular Subclass Automation Category[1]	Rate (cents)
Letter Size:[2]	
Piece Rate	
Basic Letter[3]	18.3
3-Digit Letter[4]	17.6
5-Digit Letter[5]	16.0
Destination Entry Discount per Piece	
BMC	1.6
SCF	2.1
Flat Size:[6]	
Piece Rate	
Minimum per Piece[7]	
Basic Flat[8]	24.5
3/5-Digit Flat[9]	20.3
Destination Entry Discount per Piece	
BMC	1.6
SCF	2.1
Pound Rate[7]	67.7
Plus per piece Rate	
Basic Flat[8]	10.5
3/5-Digit Flat[9]	6.3
Destination Entry Discount per Pound	
BMC	7.9
SCF	10.0

Schedule 321.2B Notes:

[1] A fee of $100 must be paid once each 12-month period for each bulk mailing permit.

[2] For letter-size automation pieces meeting applicable Postal Service regulations.

[3] Rate applies to letter-size automation mail not mailed at 3-digit, 5-digit or carrier route rates.

[4] Rate applies to letter-size automation mail presorted to single or multiple three-digit ZIP Code destinations as specified by the Postal Service.

[5] Rate applies to letter-size automation mail presorted to single or multiple five-digit ZIP Code destinations as specified by the Postal Service.

[6] For flat-size automation mail meeting applicable Postal Service regulations.

[7] Mailer pays either the minimum piece rate or the pound rate, whichever is higher.

[8] Rate applies to flat-size automation mail not mailed at 3/5-digit rate.

[9] Rate applies to flat-size automation mail presorted to single or multiple three-and five-digit ZIP Code destinations as specified by the Postal Service.

STANDARD MAIL RATE SCHEDULE 321.3

Enhanced Carrier Route Subclass[1]	Rate (cents)
Letter Size:	
Piece Rate	
Basic	16.2
Basic Automated Letter[2]	15.6
High Density	13.9
Saturation	13.0
Destination Entry Discount per Piece	
BMC	1.6
SCF	2.1
DDU	2.8
Non-Letter Size:[3]	
Piece Rate	
Minimum per Piece[4]	
Basic	16.2
High Density	15.1
Saturation	14.0
Destination Entry Discount per Piece	
BMC	1.6
SCF	2.1
DDU	2.8
Pound Rate[4]	56.3
Plus per Piece Rate	
Basic	2.5
High Density	1.4
Saturation	0.3
Destination Entry Discount per Pound	
BMC	7.9
SCF	10.0
DDU	12.6

Schedule 321.3 Notes:

[1] A fee of $100 must be paid each 12-month period for each bulk mailing permit.

[2] Rate applies to letter-size automation mail presorted to routes specified by the Postal Service.

[3] Residual shape pieces are subject to a surcharge of $0.10 per piece.

[4] Mailer pays either the minimum piece rate or the pound rate, whichever is higher.

STANDARD MAIL RATE SCHEDULE 321.4A

Nonprofit Subclass Presort Categories[1] (Full Rates)	Rate (cents)
Letter Size:	
Piece Rate	
Basic	16.9
3/5-Digit	14.2
Destination Entry Discount per Piece	
BMC	1.6
SCF	2.1
Non-Letter Size:[2]	
Piece Rate	
Minimum per Piece[3]	
Basic	23.3
3/5-Digit	16.5
Destination Entry Discount per Piece	
BMC	1.6
SCF	2.1
Pound Rate[3]	56.0
Plus per Piece Rate	
Basic	12.0
3/5-Digit	6.2
Destination Entry Discount per Pound	
BMC	7.9
SCF	10.0

Schedule 321.4A Notes

[1] A fee of $100.00 must be paid once each 12-month period for each bulk mailing permit.

[2] Residual shape pieces are subject to a surcharge of $0.10 per piece.

[3] Mailer pays either the minimum piece rate or the pound rate, whichever is higher.

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STANDARD MAIL RATE SCHEDULE 321.4B

Nonprofit Subclass Automation Categories[1] (Full Rates)	Rate (cents)
Letter Size:[2]	
Piece Rate	
Basic Letter[3]	11.9
3-Digit Letter[4]	11.4
5-Digit Letter[5]	9.3
Destination Entry Discount per Piece	
BMC	1.6
SCF	2.1
Flat Size:[6]	
Piece Rate	
Minimum per Piece[7]	
Basic Flat[8]	18.2
3/5-Digit Flat[9]	14.4
Destination Entry Discount per Piece	
BMC	1.6
SCF	2.1
Pound Rate[7]	55.0
Plus per Piece Rate	
Basic Flat[8]	6.9
3/5-Digit Flat[9]	3.1
Destination Entry Discount per Pound	
BMC	7.9
SCF	10.0

Schedule 321.4B Notes:

[1] A fee of $100 must be paid once each 12-month period for each bulk mailing permit.

[2] For letter-size automation pieces meeting applicable Postal Service regulations.

[3] Rate applies to letter-size automation mail not mailed at 3-digit, 5-digit or carrier route rates.

[4] Rate applies to letter-size automation mail presorted to single or multiple three-digit ZIP Code destinations as specified by the Postal Service.

[5] Rate applies to letter-size automation mail presorted to single or multiple five-digit ZIP Code destinations as specified by the Postal Service.

[6] For flat-size automation mail meeting applicable Postal Service regulations.

[7] Mailer pays either the minimum piece rate or the pound rate, whichever is higher.

[8] Rate applies to flat-size automation mail not mailed at 3/5-digit rate.

[9] Rate applies to flat-size automation mail presorted to single or multiple three- and five-digit ZIP Code destinations as specified by the Postal Service.

STANDARD MAIL RATE SCHEDULE 321.5

Nonprofit Enhanced Carrier Route Subclass[1] (Full Rates)	Rate (cents)
Letter Size:	
Piece Rate	
Basic	9.9
Basic Automated Letter[2]	9.2
High Density	7.8
Saturation	7.2
Destination Entry Discount per Piece	
BMC	1.6
SCF	2.1
DDU	2.6
Non-Letter Size:[3]	
Piece Rate	
Minimum per Piece[4]	
Basic	9.9
High Density	9.2
Saturation	8.4
Destination Entry Discount per Piece	
BMC	1.6
SCF	2.1
DDU	2.6
Pound Rate[4]	29.0
Plus per Piece Rate	
Basic	3.9
High Density	3.2
Saturation	2.4
Destination Entry Discount per Pound	
BMC	7.9
SCF	10.0
DDU	12.6

Schedule 321.5 Notes:

[1] A fee of $100 must be paid each 12-month period for each bulk mailing permit.

[2] Rate applies to letter-size automation mail presorted to routes specified by the Postal Service.
[3] Residual shape pieces are subject to a surcharge of $0.10 per piece.
[4] Mailer pays either the minimum piece rate or the pound rate, whichever is higher.

STANDARD MAIL RATE SCHEDULE 322.1A—PARCEL POST SUBCLASS INTER-BMC RATES

[dollars]

Weight Not Exceeding (Pounds)	Zone 1/2	Zone 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
2	$3.15	$3.15	$3.15	$3.15	$3.15	$3.15	$3.15
3	3.59	3.90	4.25	4.25	4.25	4.25	4.25
4	3.73	4.16	4.91	5.35	5.35	5.35	5.35
5	3.86	4.39	5.33	6.45	6.45	6.45	6.45
6	3.99	4.62	5.71	7.10	7.40	7.60	8.15
7	4.11	4.82	6.07	7.72	8.35	8.75	9.85
8	4.24	5.01	6.38	8.26	9.30	9.90	11.55
9	4.33	5.19	6.71	8.76	10.25	11.05	13.25
10	4.45	5.36	6.99	9.23	10.92	12.20	14.95
11	4.54	5.53	7.27	9.66	11.47	13.30	16.10
12	4.64	5.65	7.53	10.06	11.97	14.30	17.36
13	4.73	5.81	7.77	10.44	12.44	15.17	18.65
14	4.82	5.97	8.01	10.80	12.89	15.74	19.90
15	4.90	6.10	8.24	11.13	13.31	16.28	21.15
16	4.98	6.23	8.45	11.45	13.70	16.77	21.85
17	5.07	6.34	8.66	11.74	14.08	17.25	22.49
18	5.14	6.46	8.85	12.02	14.42	17.69	23.10
19	5.23	6.58	9.04	12.29	14.76	18.12	23.67
20	5.29	6.68	9.20	12.54	15.07	18.52	24.21
21	5.36	6.80	9.37	12.79	15.38	18.90	24.72
22	5.43	6.89	9.54	13.02	15.66	19.26	25.21
23	5.50	7.01	9.71	13.23	15.93	19.60	25.67
24	5.55	7.10	9.85	13.45	16.19	19.94	26.12
25	5.62	7.19	10.01	13.64	16.44	20.24	26.54
26	5.68	7.28	10.15	13.84	16.68	20.54	26.93
27	5.75	7.37	10.28	14.02	16.90	20.82	27.32
28	5.80	7.46	10.43	14.20	17.12	21.09	27.68
29	5.86	7.55	10.56	14.36	17.33	21.35	28.04
30	5.92	7.63	10.67	14.52	17.52	21.60	28.36
31	5.98	7.70	10.80	14.67	17.72	21.85	28.68
32	6.03	7.79	10.92	14.82	17.90	22.08	28.99
33	6.08	7.87	11.04	14.97	18.07	22.30	29.28
34	6.14	7.93	11.14	15.11	18.24	22.51	29.56
35	6.19	8.01	11.26	15.24	18.40	22.71	29.83
36	6.24	8.07	11.38	15.37	18.56	22.90	30.09
37	6.29	8.14	11.47	15.50	18.71	23.10	30.34
38	6.34	8.22	11.58	15.61	18.85	23.27	30.58
39	6.40	8.28	11.67	15.72	18.99	23.44	30.81
40	6.44	8.35	11.77	15.84	19.13	23.62	31.02
41	6.50	8.42	11.86	15.95	19.26	23.78	31.24
42	6.54	8.48	11.95	16.05	19.38	23.93	31.45
43	6.58	8.54	12.05	16.15	19.51	24.08	31.64
44	6.63	8.59	12.13	16.24	19.62	24.22	31.84
45	6.67	8.66	12.22	16.34	19.74	24.36	32.02
46	6.72	8.72	12.30	16.44	19.85	24.50	32.19
47	6.77	8.78	12.38	16.52	19.96	24.63	32.37
48	6.81	8.84	12.47	16.61	20.05	24.75	32.53
49	6.85	8.89	12.55	16.69	20.16	24.88	32.68
50	6.89	8.94	12.61	16.77	20.26	25.00	32.84
51	6.94	9.00	12.70	16.85	20.35	25.11	32.98
52	6.98	9.06	12.77	16.93	20.44	25.22	33.12
53	7.02	9.11	12.83	17.00	20.53	25.33	33.27
54	7.06	9.17	12.91	17.08	20.62	25.44	33.40
55	7.10	9.20	12.99	17.14	20.69	25.53	33.53
56	7.15	9.27	13.05	17.22	20.78	25.63	33.66
57	7.19	9.32	13.12	17.28	20.86	25.73	33.77
58	7.23	9.36	13.18	17.35	20.93	25.82	33.89
59	7.27	9.41	13.25	17.41	21.01	25.90	34.00
60	7.31	9.46	13.33	17.47	21.07	25.99	34.12
61	7.36	9.52	13.38	17.53	21.15	26.08	34.27
62	7.40	9.56	13.44	17.59	21.21	26.15	34.41
63	7.42	9.61	13.51	17.64	21.28	26.23	34.55
64	7.46	9.65	13.57	17.69	21.34	26.30	34.68
65	7.50	9.70	13.62	17.75	21.41	26.38	34.81
66	7.55	9.75	13.68	17.80	21.46	26.45	34.93
67	7.59	9.79	13.74	17.86	21.53	26.52	35.06
68	7.62	9.83	13.81	17.91	21.58	26.59	35.19

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STANDARD MAIL RATE SCHEDULE 322.1A—PARCEL POST SUBCLASS INTER-BMC RATES—Continued

[dollars]

Weight Not Exceeding (Pounds)	Zone 1/2	Zone 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
69	7.66	9.87	13.86	17.95	21.64	26.66	35.29
70	7.70	9.93	13.92	18.01	21.69	26.72	35.42
Oversize parcels [6]	34.07	38.18	44.22	53.79	65.11	80.53	106.01

Schedule 322.1A Notes:

[1] For nonmachinable Inter-BMC parcels, add: $1.65 per piece.

[2] For each pickup stop, add: $8.25.

[3] For Origin Bulk Mail Center Discount, deduct $0.57 per piece.

[4] For BMC Presort, deduct $0.22 per piece.

[5] For Barcoded Discount, deduct $0.03 per piece.

[6] See DMCS section 322.161 for oversize Parcel Post.

[7] Parcel Post pieces exceeding 84 inches in length and girth combined and weighing less than 15 pounds are subject to a rate equal to that for a 15 pound parcel for the zone to which the parcel is addressed.

STANDARD MAIL RATE SCHEDULE 322.1B—PARCEL POST SUBCLASS INTRA-BMC RATES

[Dollars]

Weight Not Exceeding (Pounds)	Local	Zone 1/2	Zone 3	Zone 4	Zone 5
2	$2.67	$2.80	$2.80	$2.80	$2.80
3	2.87	3.17	3.26	3.27	3.29
4	3.04	3.32	3.57	3.58	4.14
5	3.19	3.45	3.85	3.88	4.63
6	3.28	3.58	4.13	4.15	5.08
7	3.35	3.69	4.37	4.40	5.50
8	3.43	3.82	4.59	4.63	5.90
9	3.50	3.91	4.77	4.86	6.27
10	3.58	4.03	5.01	5.08	6.62
11	3.64	4.12	5.18	5.27	6.94
12	3.71	4.23	5.33	5.47	7.26
13	3.78	4.32	5.46	5.65	7.54
14	3.84	4.41	5.55	5.83	7.82
15	3.90	4.49	5.68	5.99	8.08
16	3.97	4.56	5.81	6.15	8.33
17	4.02	4.65	5.93	6.31	8.56
18	4.07	4.72	6.05	6.45	8.80
19	4.12	4.81	6.16	6.59	9.01
20	4.19	4.88	6.27	6.74	9.21
21	4.23	4.94	6.38	6.87	9.41
22	4.28	5.02	6.47	7.00	9.60
23	4.33	5.08	6.59	7.13	9.79
24	4.38	5.14	6.68	7.24	9.96
25	4.43	5.20	6.77	7.36	10.13
26	4.47	5.27	6.86	7.47	10.29
27	4.52	5.33	6.96	7.58	10.44
28	4.56	5.38	7.05	7.69	10.59
29	4.62	5.45	7.14	7.80	10.74
30	4.67	5.50	7.22	7.89	10.89
31	4.71	5.56	7.28	7.99	11.02
32	4.75	5.62	7.37	8.09	11.15
33	4.80	5.67	7.45	8.19	11.29
34	4.84	5.72	7.51	8.27	11.40
35	4.86	5.77	7.59	8.37	11.52
36	4.91	5.82	7.66	8.46	11.65
37	4.95	5.88	7.72	8.54	11.76
38	4.99	5.93	7.80	8.62	11.87
39	5.04	5.98	7.87	8.71	11.97
40	5.08	6.02	7.93	8.78	12.08
41	5.12	6.08	8.01	8.87	12.18
42	5.16	6.12	8.06	8.94	12.27
43	5.20	6.16	8.13	9.02	12.38
44	5.25	6.21	8.18	9.10	12.46
45	5.28	6.25	8.24	9.16	12.56
46	5.32	6.31	8.31	9.24	12.64
47	5.36	6.36	8.36	9.30	12.73
48	5.40	6.40	8.42	9.38	12.83
49	5.43	6.44	8.48	9.44	12.90
50	5.47	6.47	8.53	9.51	12.99
51	5.51	6.53	8.58	9.57	13.06
52	5.54	6.57	8.65	9.64	13.14
53	5.58	6.60	8.70	9.70	13.21

STANDARD MAIL RATE SCHEDULE 322.1B—PARCEL POST SUBCLASS INTRA-BMC RATES—Continued

[Dollars]

Weight Not Exceeding (Pounds)	Local	Zone 1/2	Zone 3	Zone 4	Zone 5
54	5.62	6.64	8.75	9.76	13.29
55	5.66	6.68	8.79	9.82	13.36
56	5.69	6.73	8.85	9.89	13.42
57	5.72	6.77	8.91	9.94	13.50
58	5.76	6.81	8.94	9.99	13.57
59	5.80	6.85	9.00	10.06	13.63
60	5.82	6.89	9.05	10.11	13.70
61	5.88	6.94	9.10	10.17	13.77
62	5.90	6.98	9.14	10.22	13.82
63	5.94	7.01	9.19	10.28	13.88
64	5.97	7.06	9.23	10.33	13.95
65	6.01	7.09	9.28	10.38	14.00
66	6.03	7.14	9.33	10.44	14.07
67	6.08	7.18	9.37	10.49	14.12
68	6.11	7.20	9.41	10.54	14.17
69	6.15	7.24	9.45	10.59	14.23
70	6.18	7.28	9.52	10.64	14.28
Oversize parcels[3]	19.43	28.42	28.42	28.42	28.42

Schedule 322.1B Notes:

[1] For each pickup stop, add $8.25.

[2] For Barcoded Discount, deduct $0.03 per piece.

[3] See DMCS section 322.161 for oversize Parcel Post.

[4] Parcel Post pieces exceeding 84 inches in length and girth combined and weighing less than 15 pounds are subject to a rate equal to that for a 15 pound parcel for the zone to which the parcel is addressed.

STANDARD MAIL RATE SCHEDULE 322.1C—PARCEL POST SUBCLASS DESTINATION BMC RATES

[Dollars]

Weight Not Exceeding (Pounds)	Zone 1/2	Zone 3	Zone 4	Zone 5
2	$2.23	$2.40	$2.40	$2.40
3	2.40	2.86	2.87	2.89
4	2.58	3.17	3.18	3.94
5	2.74	3.45	3.48	4.40
6	2.88	3.73	3.75	4.83
7	3.02	3.97	4.00	5.22
8	3.15	4.19	4.23	5.60
9	3.28	4.37	4.46	5.95
10	3.40	4.51	4.68	6.29
11	3.51	4.67	4.87	6.59
12	3.62	4.81	5.07	6.89
13	3.73	4.93	5.25	7.16
14	3.82	5.08	5.43	7.42
15	3.91	5.20	5.59	7.67
16	4.01	5.32	5.75	7.91
17	4.09	5.43	5.91	8.13
18	4.18	5.54	6.05	8.35
19	4.26	5.64	6.19	8.55
20	4.34	5.75	6.34	8.74
21	4.42	5.85	6.47	8.94
22	4.49	5.94	6.60	9.12
23	4.56	6.05	6.73	9.30
24	4.63	6.14	6.84	9.46
25	4.70	6.21	6.96	9.62
26	4.76	6.31	7.07	9.78
27	4.83	6.38	7.18	9.92
28	4.89	6.47	7.29	10.07
29	4.96	6.57	7.40	10.21
30	5.01	6.63	7.49	10.35
31	5.08	6.70	7.59	10.48
32	5.13	6.79	7.69	10.61
33	5.19	6.85	7.79	10.73
34	5.25	6.92	7.87	10.84
35	5.31	6.99	7.97	10.95
36	5.36	7.05	8.06	11.08
37	5.40	7.11	8.14	11.19
38	5.46	7.19	8.22	11.29
39	5.51	7.24	8.31	11.39
40	5.56	7.31	8.38	11.50
41	5.61	7.38	8.47	11.59

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STANDARD MAIL RATE SCHEDULE 322.1C—PARCEL POST SUBCLASS DESTINATION BMC RATES—Continued

[dollars]

Weight Not Exceeding (Pounds)	Zone 1/2	Zone 3	Zone 4	Zone 5
42	5.65	7.44	8.54	11.68
43	5.71	7.49	8.62	11.79
44	5.75	7.54	8.70	11.87
45	5.79	7.61	8.76	11.96
46	5.85	7.67	8.84	12.04
47	5.89	7.72	8.90	12.13
48	5.93	7.77	8.98	12.22
49	5.98	7.83	9.04	12.29
50	6.02	7.88	9.11	12.38
51	6.06	7.93	9.17	12.45
52	6.11	8.00	9.24	12.52
53	6.14	8.05	9.30	12.60
54	6.18	8.09	9.36	12.67
55	6.23	8.13	9.42	12.74
56	6.27	8.19	9.49	12.80
57	6.30	8.24	9.54	12.88
58	6.35	8.28	9.59	12.94
59	6.38	8.33	9.66	13.01
60	6.42	8.39	9.71	13.07
61	6.46	8.42	9.77	13.14
62	6.50	8.46	9.82	13.19
63	6.53	8.52	9.88	13.25
64	6.57	8.55	9.93	13.31
65	6.61	8.61	9.98	13.37
66	6.65	8.66	10.04	13.43
67	6.68	8.70	10.09	13.48
68	6.71	8.74	10.14	13.54
69	6.75	8.76	10.19	13.59
70	6.79	8.83	10.24	13.64
Oversize parcels[2]	15.43	22.73	28.00	28.00

Schedule 322.1C Notes:

[1] For Barcoded Discount, deduct $0.03 per piece.

[2] See DMCS section 322.161 for oversize Parcel Post.

[3] Parcel Post pieces exceeding 84 inches in length and girth combined and weighing less than 15 pounds are subject to a rate equal to that for a 15 pound parcel for the zone to which the parcel is addressed.

[4] A fee of $100 must be paid each year for DBMC, DSCF, and DDU.

STANDARD MAIL RATE SCHEDULE 322.1D—PARCEL POST SUBCLASS DESTINATION SCF RATES

[Dollars]

Weight (Pounds)	Rate
2	1.67
3	1,78
4	1.91
5	2.02
6	2.12
7	2.21
8	2.30
9	2.40
10	2.48
11	2.56
12	2.64
13	2.72
14	2.78
15	2.84
16	2.92
17	2.98
18	3.94
19	3.10
20	3.16
21	3.22
22	3.27
23	3.32
24	3.38
25	3.43
26	3.47
27	3.53
28	3.57
29	3.63

STANDARD MAIL RATE SCHEDULE 322.1D—PARCEL POST SUBCLASS DESTINATION SCF RATES—Continued

[Dollars]

Weight (Pounds)	Rate
30	3.67
31	3.72
32	3.76
33	3.81
34	3.86
35	3.90
36	3.94
37	3.97
38	4.02
39	4.06
40	4.10
41	4.14
42	4.17
43	4.22
44	4.26
45	4.29
46	4.34
47	4.37
48	4.40
49	4.45
50	4.48
51	4.51
52	4.55
53	4.58
54	4.61
55	4.65
56	4.69
57	4.71
58	4.76
59	4.78
60	4.82
61	4.85
62	4.88
63	4.91
64	4.94
65	4.98
66	5.01
67	5.04
68	5.07
69	5.10
70	5.14
Oversize	11.99 parcels[1]

Schedule 322.1D Notes:

[1] See DMCS section 322.161 for oversize Parcel Post.

[2] Parcel Post pieces exceeding 84 inches in length and girth combined and weighing less than 15 pounds are subject to a rate equal to that for a 15 pound parcel for the zone to which the parcel is addressed.

[3] A fee of $100.00 must be paid each year for DBMC, DSCF, and DDU.

STANDARD MAIL RATE SCHEDULE 322.1E—PARCEL POST SUBCLASS DESTINATION DELIVERY UNIT RATES

[Dollars]

Weight (Pounds)	Rate
2	1.10
3	1.35
4	1.42
5	1.48
6	1.53
7	1.58
8	1.63
9	1.69
10	1.74
11	1.78
12	1.83
13	1.88
14	1.91
15	1.95
16	2.00
17	2.03

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STANDARD MAIL RATE SCHEDULE 322.1E—PARCEL POST SUBCLASS DESTINATION DELIVERY UNIT RATES—Continued

[Dollars]

Weight (Pounds)	Rate
18	2.08
19	2.11
20	2.15
21	2.19
22	2.22
23	2.26
24	2.29
25	2.33
26	2.36
27	2.40
28	2.43
29	2.47
30	2.49
31	2.53
32	2.56
33	2.59
34	2.63
35	2.66
36	2.69
37	2.71
38	2.75
39	2.78
40	2.81
41	2.84
42	2.86
43	2.90
44	2.92
45	2.95
46	2.99
47	3.02
48	3.04
49	3.07
50	3.10
51	3.13
52	3.16
53	3.18
54	3.20
55	3.24
56	3.27
57	3.29
58	3.33
59	3.34
60	3.37
61	3.40
62	3.43
63	3.45
64	3.48
65	3.51
66	3.54
67	3.56
68	3.58
69	3.61
70	3.65
Oversize parcels [1]	8.69

Schedule 322.1E Notes:

[1] See DMCS section 322.161 for oversize Parcel Post.

[2] Parcel Post pieces exceeding 84 inches in length and girth combined and weighing less than 15 pounds are subject to a rate equal to that for a 15 pound parcel for the zone to which the parcel is addressed.

[3] A fee of $100.00 must be paid each year for DBMC, DSCF, and DDU.

STANDARD MAIL RATE SCHEDULE 322.3A—BOUND PRINTED MATTER SUBCLASS SINGLE PIECE RATES[1]

[Dollars]

Weight Not Exceeding (Pounds)	Zones							
	Local	1 & 2	3	4	5	6	7	8
1.5	1.14	1.54	1.57	1.63	1.72	1.81	1.92	2.02
2	1.16	1.57	1.61	1.69	1.81	1.93	2.08	2.21
2.5	1.18	1.60	1.66	1.76	1.90	2.06	2.24	2.40

Standard Mail Rate Schedule 322.3A—Bound Printed Matter Subclass Single Piece Rates[1]—Continued

[Dollars]

Weight Not Exceeding (Pounds)	Zones							
	Local	1 & 2	3	4	5	6	7	8
3	1.20	1.63	1.70	1.82	1.99	2.18	2.40	2.60
3.5	1.22	1.66	1.74	1.88	2.08	2.30	2.56	2.79
4	1.24	1.70	1.79	1.94	2.18	2.42	2.72	2.98
4.5	1.26	1.73	1.83	2.01	2.27	2.55	2.88	3.17
5	1.28	1.76	1.88	2.07	2.36	2.67	3.05	3.37
6	1.31	1.82	1.96	2.20	2.54	2.92	3.37	3.75
7	1.35	1.89	2.05	2.32	2.73	3.16	3.69	4.14
8	1.39	1.95	2.14	2.45	2.91	3.41	4.01	4.52
9	1.43	2.02	2.22	2.57	3.10	3.65	4.33	4.91
10	1.47	2.08	2.31	2.70	3.28	3.90	4.65	5.29
11	1.51	2.14	2.40	2.83	3.46	4.15	4.97	5.68
12	1.55	2.21	2.48	2.95	3.65	4.39	5.29	6.06
13	1.59	2.27	2.57	3.08	3.83	4.64	5.61	6.45
14	1.63	2.34	2.66	3.20	4.02	4.88	5.93	6.83
15	1.67	2.40	2.75	3.33	4.20	5.13	6.26	7.22
Per piece rate	1.08	1.44	1.44	1.44	1.44	1.44	1.44	1.44
Per pound rate	0.039	0.064	0.087	0.126	0.184	0.246	0.321	0.385

Schedule 322.3A Notes:

[1] Includes both catalogs and similar bound printed matter.

[2] For barcoded discount, deduct $0.03 per piece.

Standard Mail Rate Schedule 322.3B—Bound Printed Matter Subclass Bulk and Carrier Route Presort Rates[1]

[Dollars]

Zone	Per piece[3]	Carrier route[2]	Per pound
Local	0.54	0.463	0.028
1 & 2	0.72	0.643	0.051
3	0.72	0.643	0.073
4	0.72	0.643	0.112
5	0.72	0.643	0.171
6	0.72	0.643	0.233
7	0.72	0.643	0.307
8	0.72	0.643	0.371

Schedule 322.3B Notes:

[1] Includes both catalogs and similar bound printed matter.

[2] Applies to mailings of at least 300 pieces presorted to carrier route as specified by the Postal Service.

[3] For Barcoded Discount, deduct $0.03 per piece.

Standard Mail Rate Schedules 323.1 and 323.2—Special and Library Rate Subclasses

	Rates (cents)
Schedule 323.1: Special:	
First Pound	
Not presorted[4]	113
Level A Presort (5-digits)[1,2]	64
Level B Presort (BMC)[1,3,4]	95
Each additional pound through 7 pounds	45
Each additional pound over 7 pounds	28
Schedule 323.2: Library:	
[Rates for Special Subclass in Schedule 323.1 Apply.]	

Schedule 323.1 and 323.3 Notes:

[1] A fee of $100.00 must be paid once each 12-month period for each permit.

[2] For mailings of 500 or more pieces properly prepared and presorted to five-digit destination ZIP Codes.

[3] For mailings of 500 or more pieces properly prepared and presorted to Bulk Mail Centers.

[4] For Barcoded Discount, deduct $0.03 per-piece.

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PERIODICALS RATE SCHEDULE 421

Regular subclass[1],[2]	Postage rate unit	Rate[3] (cents)
Per Pound:		
Nonadvertising Portion	Pound	16.1
Advertising Portion:		
Delivery Office[4]	Pound	15.5
SCF[5]	Pound	17.8
1 and 2	Pound	21.5
3	Pound	22.9
4	Pound	26.3
5	Pound	31.6
6	Pound	37.1
7	Pound	43.8
8	Pound	49.5
Science of Agriculture:		
Delivery Office	Pound	11.6
SCF	Pound	13.3
Zones 1 and 2	Pound	16.1
Per Piece:		
Less Nonadvertising Factor[6]		5.9
Required Preparation[7]	Piece	29.4
Presorted to 3-digit	Piece	25.3
Presorted to 5-digit	Piece	19.7
Presorted to Carrier Route	Piece	12.2
Discounts:		
Prepared to Delivery Office[4]	Piece	1.3
Prepared to SCF[5]	Piece	0.7
High Density[8]	Piece	1.9
Saturation[9]	Piece	3.7
Automation Discounts for Automation Compatible Mail[10]		
From Required:		
Prebarcoded letter size	Piece	5.2
Prebarcoded flats	Piece	4.6
From 3-Digit:		
Prebarcoded letter size	Piece	4.7
Prebarcoded flats	Piece	3.9
From 5-Digit:		
Prebarcoded letter size	Piece	3.5
Prebarcoded flats	Piece	2.9

Schedule 421 Notes:

[1] The rates in this schedule also apply to commingled nonsubscriber, non-requester, complimentary, and sample copies in excess of 10 percent allowance in regular-rate, non-profit, and classroom periodicals.

[2] Rates do not apply to otherwise regular rate mail that qualifies for the Within County rates in Schedule 423.2.

[3] Charges are computed by adding the appropriate per-piece charge to the sum of the nonadvertising portion and the advertising portion, as applicable.

[4] Applies to carrier route (including high density and saturation) mail delivered within the delivery area of the originating post office.

[5] Applies to mail delivered within the SCF area of the originating SCF office.

[6] For postage calculations, multiply the proportion of nonadvertising content by this factor and subtract from the applicable piece rate.

[7] Mail not eligible for carrier-route, 5-digit or 3-digit rates.

[8] Applicable to high density mail, deducted from carrier route presort rate.

[9] Applicable to saturation mail, deducted from carrier route presort rate.

[10] For automation compatible mail meeting applicable Postal Service regulations.

PERIODICALS RATE SCHEDULE 423.2

Within County (Full Rates)	Rate (cents)
Per Pound:	
General	13.3
Delivery Office[1]	10.7
Per Piece:	
Required Presort	9.5
Presorted to 3-digit	8.8
Presorted to 5-digit	8.0
Carrier Route Presort	4.3
Per Piece Discount:	
Delivery Office[2]	0.4
High Density (formerly 125 piece)[3]	1.4
Saturation	1.8
Automation Discounts for Automation Compatible Mail:[4]	
From Required:	
Prebarcoded Letter size	6.2

PERIODICALS RATE SCHEDULE 423.2—Continued

Within County (Full Rates)	Rate (cents)
Prebarcoded Flat size	4.6
From 3-digit:	
Prebarcoded Letter size	4.7
Prebarcoded Flat size	2.4
From 5-digit:	
Prebarcoded Letter size	3.5
Prebarcoded Flat size	2.1

Schedule 423.2 Notes:

[1] Applicable only to carrier route (including high density and saturation) presorted pieces to be delivered within the delivery area of the originating post office.

[2] Applicable only to carrier presorted pieces to be delivered within the delivery area of the originating post office.

[3] Applicable to high density mail, deducted from carrier route presort rate. Mailers also may qualify for this discount on an alternative basis as provided in DMCS section 423.83.

[4] For automation compatible pieces meeting applicable Postal Service regulations.

PERIODICALS RATE SCHEDULE 423.3

Publications of Authorized Nonprofit Organizations[10] (Full Rates)	Postage Rate Unit	Rate[1] (cents)
Per Pound:		
Nonadvertising portion	Pound[9]	15.6
Advertising portion:		
Delivery Office[2]	Pound	15.5
SCF[3]	Pound	17.8
1&2	Pound	21.5
3	Pound	22.9
4	Pound	26.3
5	Pound	31.6
6	Pound	37.1
7	Pound	43.8
8	Pound	49.5
Per Piece:		
Less Nonadvertising Factor[4]		4.4
Required Preparation[5]	Piece	25.1
Presorted to 3-digit	Piece	20.8
Presorted to 5-digit	Piece	15.3
Presorted to Carrier Route	Piece	11.3
Discounts:		
Prepared to Delivery Office[2]	Piece	0.7
Prepared to SCF[3]	Piece	0.4
High Density (formerly 125-Piece)[6]	Piece	1.9
Saturation[7]	Piece	3.7
Automation Discounts for Automation Compatible Mail:[8]		
From Required:		
Prebarcoded letter size	Piece	6.2
Prebarcoded flats	Piece	4.6
From 3-Digit:		
Prebarcoded letter size	Piece	4.7
Prebarcoded flats	Piece	2.4
From 5-Digit:		
Prebarcoded letter size	Piece	3.5
Prebarcoded flats	Piece	2.1

Schedule 423.3 Notes:

[1] Charges are computed by adding the appropriate per-piece charge to the sum of the nonadvertising portion and the advertising portion, as applicable.

[2] Applies to carrier route (including high density and saturation) mail delivered within the delivery area of the originating post office.

[3] Applies to mail delivered within the SCF area of the originating SCF office.

[4] For postage calculation, multiply the proportion of nonadvertising content by this factor and subtract from the applicable piece rate.

[5] Mail not eligible for carrier route, 5-digit or 3-digit rates.

[6] Applicable to high density mail, deducted from carrier route presort rate.

[7] Applicable to saturation mail, deducted from carrier route presort rate.

[8] For automation compatible mail meeting applicable Postal Service regulations.

[9] Not applicable to publications containing 10 percent or less advertising content.

[10] If qualified, nonprofit publications may use Within County rates for applicable portions of a mailing.

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PERIODICALS RATE SCHEDULE 423.4

Classroom Publications [10] (Full Rates)	Postage Rate Unit	Rate [1] (cents)
Per Pound:		
Nonadvertising Portion	Pound	15.6
Advertising Portion: [9]		
Delivery Office [2]	Pound	15.5
SCF [3]	Pound	17.8
1 and 2	Pound	21.5
3	Pound	22.9
4	Pound	26.3
5	Pound	31.6
6	Pound	37.1
7	Pound	43.8
8	Pound	49.5
Per Piece:		
Less Nonadvertising Factor [4]		4.4
Required Preparation [5]	Piece	25.1
Presorted to 3-digit	Piece	20.8
Presorted to 5-digit	Piece	18.3
Presorted to Carrier Route	Piece	11.3
Discounts:		
Prepared to Delivery Office [2]	Piece	0.7
Prepared to SCF	Piece	0.4
High Density (formerly 125-Piece) [6]	Piece	1.9
Saturation [7]	Piece	3.7
Automation Discounts for Automation Compatible Mail: [8]		
From Required:		
Prebarcoded Letter size	Piece	6.2
Prebarcoded Flats	Piece	4.6
From 3-Digit:		
Prebarcoded Letter size	Piece	4.7
Prebarcoded Flats	Piece	2.4
From 5-Digit:		
Prebarcoded Letter size	Piece	3.5
Prebarcoded Flats	Piece	2.1

Schedule 423.4 Notes:

[1] Charges are computed by adding the appropriate per-piece charge to the sum of the nonadvertising portion and the advertising portion, as applicable.

[2] Applies to carrier route (including 125-piece walk sequence and saturation) mail delivered within the delivery area of the originating post office.

[3] Applies to mail delivered within the SCF area of the originating SCF office.

[4] For postage calculation, multiply the proportion of nonadvertising content by this factor and subtract from the applicable piece rate.

[5] Mail not eligible for carrier route, 5-digit, or 3-digit rates.

[6] For walk sequenced mail in batches of 125 pieces or more from carrier route presorted mail.

[7] Applicable to saturation mail; deducted from carrier route presort rate.

[8] For automation compatible mail meeting applicable Postal Service regulations.

[9] Not applicable to publications containing 10 percent or less of advertising content.

[10] If qualified, classroom publications may use Within County rates for applicable portions of a mailing.

FEE SCHEDULE 911—ADDRESS CORRECTIONS

Description	Fee
Per manual correction	$0.50
Per automated correction	0.20

FEE SCHEDULE 912

	Fee
ZIP CODING OF MAILING LISTS	
Per thousand addresses	$70.00
CORRECTION OF MAILING LISTS	
Per submitted address	0.20
Minimum Charge per list corrected	7.00

FEE SCHEDULE 912—Continued

	Fee
ADDRESS CHANGES FOR ELECTION BOARDS AND REGISTRATION COMMISSIONS	
Per change of address	0.17
CORRECTIONS ASSOCIATED WITH ARRANGEMENT OF ADDRESS CARDS IN CARRIER DELIVERY SEQUENCE	
Per Correction	0.20

Note:
When rural routes have been consolidated or changed to another post office, no charge will be made for correction if the list contains only names of persons residing on the route or routes involved.

FEE SCHEDULE 921—POST OFFICE BOXES AND CALLER SERVICE

I. Semi-annual Box Fees[1]

Box Size[2]	Fee Group				
	A	B	C	D	E
1	$30.00	$27.00	$22.00	$7.00	$0.00
2	46.00	41.00	32.00	12.00	0.00
3	80.00	70.00	57.00	22.00	0.00
4	151.00	136.00	97.00	33.00	0.00
5	261.00	217.00	162.00	52.00	0.00

[1] A customer ineligible for carrier delivery may obtain a post office box at Group E fees, subject to administrative decisions regarding customer=s proximity to post office.

[2] Box Size 1 = under 296 cubic inches; 2 = 296–499 cubic inches; 3 = 500–999 cubic inches; 4 = 1000–1999 cubic inches; 5 = 2000 cubic inches and over.

Fee Group	Fee
II. Semi-annual Caller Service Fees:	
A	$275
B	275
C	275
D	275
III. Annual Call Number Reservation Fee: (All applicable Fee Groups)	36

FEE SCHEDULE 931—BUSINESS REPLY MAIL

	Fee
Active business reply advance deposit account:	
Per piece:	
Qualified	$0.05
Nonletter-size, using reverse manifest (experimental)	0.02
Nonletter-size, using weight averaging (experimental)	0.03
Other	0.06
Payment of postage due charges if active business reply mail advance deposit account not used:	
Per piece	0.30
Annual License and Accounting Fees:	
Accounting Fee for Advance Deposit Account	300
Permit fee (with or without Advance Deposit Account)	100
Monthly Fees for customers using a reverse manifest or weight averaging for nonletter-size business reply:	
Nonletter-size, using reverse manifest (experimental)	1,000
Nonletter-size, using weight averaging (experimental)	3,000
Set-up/Qualification fee for customers using a reverse manifest or weight averaging for nonletter-size business reply:	
Nonletter-size, using reverse manifest (experimental)	1,000
Nonletter-size, using weight averaging (experimental)	3,000

[1] Experimental per piece, monthly, and set-up/qualification fees are applicable only to participants selected by the Postal Service for the nonletter-size business reply mail experiment. The experimental fees expire June 7, 1999.

FEE SCHEDULE 932—MERCHANDISE RETURN

	Fee
Per Transaction:	
Shipper must have an advance deposit account (see DMCS Schedule 1000)	$0.30

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FEE SCHEDULE 933—ON-SITE METER SETTING

	Fee
First Meter:	
By appointment	$27.50
Unscheduled request	31.00
Additional meters	4.00
Checking meter in or out of service (per meter)	8.50

Fee Schedule 934

[Reserved]

FEE SCHEDULE 935—BULK PARCEL RETURN SERVICE

	Fee
Per Returned Piece	$1.75

FEE SCHEDULE 941—CERTIFIED MAIL

Description	Fee*
Service (per mailpiece)	$1.40

*In addition to postage.

FEE SCHEDULE 942—REGISTERED MAIL

Declared Value of Article[1]	Fee[2]	Handling Charge
$ 0	$6.00	None.
0.01 to 100	6.20	None.
100.01 to 500	6.75	None.
500.01 to 1,000	7.30	None.
1,000.01 to 2,000	7.85	None.
2,000.01 to 3,000	8.40	None.
3,000.01 to 4,000	8.95	None.
4,000.01 to 5,000	9.50	None.
5,000.01 to 6,000	10.05	None.
6,000.01 to 7,000	10.60	None.
7,000.01 to 8,000	11.15	None.
8,000.01 to 9,000	11.70	None.
9,000.01 to 10,000	12.25	None.
10,000.01 to 11,000	12.80	None.
11,000.01 to 12,000	13.35	None.
12,000.01 to 13,000	13.90	None.
13,000.01 to 14,000	14.45	None.
14,000.01 to 15,000	15.00	None.
15,000.01 to 16,000	15.55	None.
16,000.01 to 17,000	16.10	None.
17,000.01 to 18,000	16.65	None.
18,000.01 to 19,000	17.20	None.
19,000.01 to 20,000	17.75	None.
20,000.01 to 21,000	18.30	None.
21,000.01 to 22,000	18.85	None.
22,000.01 to 23,000	19.40	None.
23,000.01 to 24,000	19.95	None.
24,000.01 to 25,000	20.50	None.
25,000.01 to $1 Million.	20.50	Plus 55 Cents For Each $1,000 (or Fraction Thereof) Over $25,000.
Over $1 Million to $15 Million	556.75	Plus 55 Cents For Each $1,000 (or Fraction Thereof) Over $1 Million.
Over $15 Million	8,256.75	Plus Amount Determined By The Postal Serice Based On Weight, Space And Value.

[1] Articles with a declared value of more than $25,000 can be registered, but compensation for loss or damage is limited to $25,000.

[2] In addition to postage.

FEE SCHEDULE 943—INSURANCE

Express Mail Insurance

Coverage	Fee[1] (in addition to postage)
Document Reconstruction:	
$ 0.01 to $500	No charge.
Merchandise:	
$ 0.01 to $500	No charge.
500.01 to $5000	$0.95 for each $100 (or fraction thereof) over $500 value.
General Insurance:	
$ 0.01 to $50	$0.85
50.01 to 100	1.80
100.01 to 5000	1.80 plus $0.95 for each $100 (or fraction thereof) over $100 in coverage.

[1] For bulk insurance, deduct $0.40 per piece.

FEE SCHEDULE 944—COLLECT ON DELIVERY

	Fee*
Amount to be collected, or Insurance Coverage Desired:	
$ 0.01 to $ 50	$4.00
50.01 to 100	5.00
100.01 to 200	6.00
200.01 to 300	7.00
300.01 to 400	8.00
400.01 to 500	9.00
500.01 to 600	10.00
Notice of nondelivery of COD	3.00
Alteration of COD charges or designation of new addressee	3.00
Registered COD	4.00

* In addition to postage.

FEE SCHEDULE 945—RETURN RECEIPTS

Description	Fee[3]
Receipt Issued at Time of Mailing[1]	
Items other than Merchandise	$1.25
Merchandise (without another special service)	1.40
Receipt Issued after Mailing[2]	7.00

[1] This receipt shows the signature of the person to whom the mailpiece was delivered, the date of delivery and the delivery address, if such address is different from the address on the mailpiece.

[2] This receipt shows to whom the mailpiece was delivered and the date of delivery.

[3] In addition to postage

FEE SCHEDULE 946—RESTRICTED DELIVERY

	Fee*
Per Piece	$2.75

* In addition to postage.

FEE SCHEDULE 947—CERTIFICATE OF MAILING

	Fee*
INDIVIDUAL PIECES	
Original certificate of mailing for listed pieces of all classes of ordinary mail (per piece)	$0.60
Three or more pieces individually listed in a firm mailing book or an approved customer provided manifest (per piece)	0.25
Each additional copy of original certificate of mailing or original mailing receipt for registered, insured, certified, and COD mail (each copy)	0.60
BULK PIECES	
Identical pieces of First-Class and Regular, Enhanced Carrier Route, Nonprofit, and Nonprofit Enhanced Carrier Route Standard Mail paid with ordinary stamps, precanceled stamps, or meter stamps are subject to the following fees:	
Up to 1,000 pieces (one certificate for total number)	3.00
Each additional 1,000 pieces or fraction	0.40

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FEE SCHEDULE 947—CERTIFICATE OF MAILING—Continued

	Fee*
Duplicate copy	0.60

*In addition to postage.

FEE SCHEDULE 948—DELIVERY CONFIRMATION

Service	Fee*
Used in Conjunction with Priority Mail:	
Electronic	$0.00
Manual	0.35
Used in Conjunction with Parcel Post, Bound Printed Matter, Library, and Special Standard Mail:	
Electronic	0.25
Manual	0.60

*In addition to postage.

FEE SCHEDULE 951—PARCEL AIR LIFT

	Fee*
Up to 2 pounds	$0.40
Over 2 up to 3 pounds	0.75
Over 3 up to 4 pounds	1.15
Over 4 pounds	1.55

*In addition to Parcel Post postage.

FEE SCHEDULE 952—SPECIAL HANDLING

	Fee*
Not more than 10 pounds	$5.40
More than 10 pounds	7.50

*In addition to postage.

FEE SCHEDULE 961—STAMPED ENVELOPES

Description	Fee[2]
Single Sale	$0.07
Single Sale Hologram	0.08
Plain Bulk (500) #6–3/4 size:	
Regular	5.50
Window	5.50
Printed Bulk (500) #6–3/4 size:	
Regular	14.00
Window	14.00
Banded (500) #6–3/4 size:	
Regular	9.50
Plain Bulk (500) size > #6–3/4 through #10[1]:	
Regular	11.50
Window	11.50
Hologram	15.50
Printed Bulk (500) size > #6–3/4 through #10:	
Regular	15.00
Window	15.00
Savings Bond	15.00
Hologram	19.00
Banded (500) size > #6–3/4 size through #10:	12.00
Multi-Color Printing (500):	
#6–3/4 size	14.00
#10 size[1]	15.00
Printing Charge per 500 Envelopes (for each type of printed envelope):	
Minimum Order (500 envelopes)	....
Order for 1,000 or more envelopes	....
Double Window (500) size > #6–3/4 through #10[1]	11.50
Household (50):	
size #6–3/4:	
Regular	3.00
Window	3.00

FEE SCHEDULE 961—STAMPED ENVELOPES—Continued

Description	Fee[2]
size > #6-3/4 through #10	
Regular	3.25
Window	3.25
Hologram	3.50

Notes:
[1] Fee for precancelled envelopes is the same.
[2] In addition to postage.

FEE SCHEDULE 962—STAMPED CARDS

Description	Fee *
Stamped Card	$0.01
Double Stamped Card	0.02

* In addition to postage.

FEE SCHEDULE 971—MONEY ORDERS

	Fee
Domestic—$0.01 to $700	$0.80
APO-FPO—$0.01 to $700	0.30
Inquiry Fee, which includes the issuance of copy of a paid money order	2.75

SCHEDULE 1000

	Fee
First-Class Presorted Mailing	$100.00
Periodicals:	
A. Original Entry	305.00
B. Additional Entry	50.00
C. Re-entry	50.00
D. Registration for News Agents	50.00
Regular, Enhanced Carrier Route, Nonprofit, and Nonprofit Enhanced Carrier Route Standard Mail Bulk Mailing	100.00
Parcel Post: Destination BMC, SCF, and DDU	100.00
Special Standard Mail Presorted Mailing	100.00
Authorization to Use Permit Imprint	100.00
Merchandise Return (per facility receiving merchandise return labels)	100.00
Business Reply Mail Permit (see Fee Schedule 931)	....
Authorization to Use Bulk Parcel Return Service	100.00

Attachment B to the Decision of the Governors of the United States Postal Service on the Recommended Decision of the Postal Rate Commission in Docket No. R97-1

Changes to the Domestic Mail Classification Schedule

AMEND THE DOMESTIC MAIL CLASSIFICATION SCHEDULE BY INSERTING UNDERLINED TEXT AND DELETING BRACKETED TEXT AS FOLLOWS:

Expedited Mail Classification Schedule

110 DEFINITION

Expedited Mail is mail matter entered as Express Mail under the provisions of this Schedule. Any matter eligible for mailing may, at the option of the mailer, be mailed as Express Mail. Insurance is either included in Express Mail postage or is available for an additional charge, depending on the value and nature of the item sent by Express Mail.

120 DESCRIPTION OF SERVICES

121 Same Day Airport Service

Same Day Airport service is available between designated airport mail facilities.

122 Custom Designed Service

122.1 General. Custom Designed service is available between designated postal facilities or other designated locations for mailable matter tendered [in accordance with] *under* a service agreement between the Postal Service and the mailer. Service *under* a service agreement shall be offered in a manner consistent with 39 U.S.C. 403(c).

122.2 Service Agreement. A service agreement shall set forth the following:

a. The scheduled place for each shipment tendered for service to each specific destination;

b. Scheduled place for claim, or delivery, at destination for each scheduled shipment;

c. Scheduled time of day for tender at origin and for claim or delivery at destination.

122.3 Pickup and Delivery. Pickup at the mailer=s premises, and/or delivery at an address other than the destination postal facility is provided under terms and conditions as [prescribed] *specified* by the Postal Service.

122.4 Commencement of Service Agreement. Service provided pursuant to a service agreement shall commence not more than 10 days after the signed service agreement is tendered to the Postal Service.

122.5 Termination of Service Agreement

122.51 Termination by Postal Service. Express Mail service provided pursuant to a service agreement may be terminated by the Postal Service upon 10 days prior written notice to the mailer if:

a. Service cannot be provided for reasons beyond the control of the Postal Service or because of changes in Postal Service facilities or operations, or

b. The mailer fails to adhere to the terms of the service agreement or this schedule.

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122.52 Termination by Mailers. The mailer may terminate a service agreement, for any reason, by notice to the Postal Service.

123 Next Day Service and Second Day Service

123.1 Availability of Services. Next Day and Second Day Services are available at designated retail postal facilities to designated destination facilities or locations for items tendered by the time or times [prescribed] *specified* by the Postal Service. Next Day Service is available for overnight delivery. Second Day Service is available for second day delivery.

123.2 Pickup Service. Pickup service is available for Next Day and Second Day Services under terms and conditions as [prescribed] *specified* by the Postal Service. Service shall be offered in a manner consistent with 39 U.S.C. 403(c).

130 PHYSICAL LIMITATIONS

Express Mail may not exceed 70 pounds or 108 inches in length and girth combined.

140 POSTAGE AND PREPARATION

Except as provided in Rate Schedules 121, 122 and 123, postage on Express Mail is charged on each piece. For shipments tendered in Express Mail pouches under a service agreement, each pouch is a piece.

150 DEPOSIT AND DELIVERY

151 Deposit

Express Mail must be deposited at places designated by the Postal Service.

152 Receipt

A receipt showing the time and date of mailing will be provided to the mailer upon acceptance of Express Mail by the Postal Service. This receipt serves as evidence of mailing.

153 Service

Express Mail service provides a high speed, high reliability service. Same Day Airport Express Mail will be dispatched on the next available transportation to the destination airport mail facility. Custom Designed Express Mail will be available for claim or delivery as *specified* in the service agreement.

154 Forwarding and Return

When Express Mail is returned, or forwarded, as [prescribed] *specified* by the Postal Service, there will be no additional charge.

160 ANCILLARY SERVICES

The following services may be obtained in conjunction with mail sent under this classification schedule upon payment of applicable fees:

Service	Schedule
a. Address correction	*911* [SS–1]
b. Return receipts	*945* [SS–16]
c. COD	*944* [SS–6]
d. Express Mail Insurance	*943* [SS–9]

170 RATES AND FEES

The rates for Express Mail are set forth in the following rate schedules:

	Schedule
a. Same Day Airport	121
b. Custom Designed	122
c. Next Day Post Office to Post Office	123
d. Second Day Post Office to Post Office	123
e. Next Day Post Office to Addressee	123
f. Second Day Post Office to Addressee	123

180 REFUNDS

181 Procedure

Claims for refunds of postage must be filed within the period of time and under terms and conditions [prescribed] *specified* by the Postal Service.

182 Availability

182.1 Same Day Airport. The Postal Service will refund the postage for Same Day Airport Express Mail not available for claim by the time specified, unless the delay is caused by:

a. Strikes or work stoppage;

b. Delay or cancellation of flights; or

c. Governmental action beyond the control of Postal Service or air carriers.

182.2 Custom Designed. Except where a service agreement provides for claim, or delivery, of Custom Designed Express Mail more than 24 hours after scheduled tender at point of origin, the Postal Service will refund postage for such mail not available for claim, or not delivered, within 24 hours of mailing, unless the item was delayed by strike or work stoppage.

182.3 Next Day. Unless the item was delayed by strike or work stoppage, the Postal Service will refund postage for Next Day Express Mail not available for claim or not delivered:

a. By 10:00 a.m., or earlier time(s) [prescribed] *specified* by the Postal Service, of the next delivery day in the case of Post Office-to-Post Office service;

b. By 3:00 p.m., or earlier time(s) [prescribed] *specified* by the Postal Service, of the next delivery day in the case of Post Office-to-Addressee service.

182.4 Second Day. Unless the item was delayed by strike or work stoppage, the Postal Service will refund postage for Second Day Express Mail not available for claim or not delivered:

a. By 10:00 a.m., or earlier time(s) [prescribed] *specified* by the Postal Service, of the second delivery day in the case of Post Office-to-Post Office service;

b. By 3:00 p.m., or earlier time(s) [prescribed] *specified* by the Postal Service, of the second delivery day in the case of Post Office-to-Addressee service.

First-Class Mail Classification Schedule

210 DEFINITION

Any matter eligible for mailing may, at the option of the mailer, be mailed as First-Class Mail. The following must be mailed as First-Class Mail, unless mailed as Express Mail or exempt under title 39, United States Code, or except as authorized under sections 344.12, 344.23 and 443:

a. Mail sealed against postal inspection as set forth in section 5000;

b. Matter wholly or partially in handwriting or typewriting except as specifically permitted by sections 312, 313, 323, 344.22, and 446;

c. Matter having the character of actual and personal correspondence except as specifically permitted by sections 312, 313, 323, 344.22, and 446; and

d. Bills and statements of account.

220 DESCRIPTION OF SUBCLASSES

221 Letters and Sealed Parcels Subclass

221.1 General. The Letters and Sealed Parcels subclass consists of First-Class Mail weighing [11] *13* ounces or less that is not mailed under section 222 or 223.

221.2 Regular Rate Categories. The regular rate categories consist of Letters and Sealed Parcels subclass mail not mailed under section 221.3.

221.21 [Single Piece] *Single-Piece* Rate Category. The single-piece rate category applies to regular rate Letters and Sealed Parcels subclass mail not mailed under section 221.22[.], *or 221.24*.

221.22 Presort Rate Category. The [P]*presort* rate category applies to Letters and Sealed Parcels subclass mail that:

a. Is prepared in a mailing of at least 500 pieces;

b. Is presorted, marked, and presented as [prescribed] *specified* by the Postal Service; and

c. Meets the addressing and other preparation requirements [prescribed] *specified* by the Postal Service.

221.23 [Reserved]

221.24 Qualified Business Reply Mail Rate Category. The qualified business reply mail rate category applies to Letters and Sealed Parcels subclass mail that:

a. Is provided to senders by the recipient, an advance deposit account business reply mail permit holder, for return by mail to the recipient;

b. Bears the recipient=s preprinted machine-readable return address, a barcode representing not more than 11 digits (not including Acorrection@ digits), a Facing Identification Mark, and other markings specified and approved by the Postal Service; and

c. Meets the letter machinability and other preparation requirements specified by the Postal Service.

221.25 [Reserved]

221.26 Nonstandard Size Surcharge. Regular rate category Letters and Sealed Parcels subclass mail is subject to a surcharge if it is nonstandard size mail, as defined in section 232.

221.27 Presort Discount for Pieces Weighing More Than Two Ounces. Presort rate category Letters and Sealed Parcels subclass mail is eligible for an additional presort discount on each piece weighing more than two ounces.

221.3 Automation Rate Categories—Letters and Flats

221.31 General. The automation rate categories consist of Letters and Sealed Parcels subclass mail weighing [11] *13* ounces or less that:

a. Is prepared in a mailing of at least 500 pieces;

b. Is presorted, marked, and presented as specified by the Postal Service;

c. Bears a barcode representing not more than 11 digits (not including "correction" digits) as [prescribed] *specified* by the Postal Service; and

d. Meets the machinability, addressing, barcoding, and other preparation requirements [prescribed] *specified* by the Postal Service.

221.32 Basic Rate Category. The basic rate category applies to letter-size automation rate category mail not mailed under section 221.33, 221.34, or 221.35.

221.33 Three-Digit Rate Category. The three-digit rate category applies to letter-size automation rate category mail presorted to single or multiple three-digit ZIP Code destinations as [prescribed] *specified* by the Postal Service.

221.34 Five-Digit Rate Category. The five-digit rate category applies to letter-size automation rate category mail presorted to single or multiple five-digit ZIP Code destinations as [prescribed] *specified* by the Postal Service.

221.35 Carrier Route Rate Category. The carrier route rate category applies to letter-size automation rate category mail presorted to carrier routes. It is available only for those carrier routes [prescribed] *specified* by the Postal Service.

221.36 Basic Flats Rate Category. The basic flats rate category applies to flat-size automation rate category mail not mailed under section 221.37.

221.37 Three- and Five-Digit Flats Rate Category. The three- and five-digit flats rate category applies to flat-size automation rate category mail presorted to single or multiple three- and five-digit ZIP Code destinations as specified by the Postal Service.

221.38 Nonstandard Size Surcharge. Flat-size automation rate category pieces are subject to a surcharge if they are nonstandard size mail, as defined in section 232.

221.39 Presort Discount for Pieces Weighing More Than Two Ounces. Presorted automation rate category mail is eligible for an additional presort discount on each piece weighing more than two ounces.

222 [Stamped Cards and Post Cards] *Cards* Subclass

Definition

[222.11 Stamped Card. A Stamped Card is a card with postage imprinted or impressed on it and supplied by the Postal Service for the transmission of messages.]

222.1[2]*1* [Post Card] *Cards. The Cards subclass consists of Stamped Cards, defined in section 962.11, and postcards. A* [post card] *postcard* is a privately printed mailing card for the transmission of messages. To be eligible to be mailed as a First-Class [post card] *postcard*, a card must be of uniform thickness and must not exceed any of the following dimensions:

a. 6 inches in length;

b. 43 inches in width;

c. 0.016 inch in thickness.

222.1[3]*2* Double Cards. Double Stamped Cards or [post cards] *double postcards* may be mailed as Stamped Cards or [post cards] *postcards*. [A d]*D*ouble Stamped Cards *are defined in section 962.12.* [or post card] *A double postcard* consists of two attached cards, one of which may be detached by the receiver and returned by mail as a single [Stamped Card or] *postcard* [post card].

222.2 Restriction. A mailpiece with any of the following characteristics is not mailable as a Stamped Card or [post card] *postcard* unless it is prepared as [prescribed] *specified* by the Postal Service:

a. Numbers or letters unrelated to postal purposes appearing in the address portion of the card;

b. Punched holes;

c. Vertical tearing guide;

d. An address portion which is smaller than the remainder of the card.

222.3 Regular Rate Categories

222.31 Single-Piece Rate Category. The single-piece rate category applies to regular rate [Stamped Cards and Post] *Cards* subclass mail not mailed under section 222.32 *or 222.34*.

222.32 Presort Rate Category. The presort rate category applies to [Stamped Cards and Post] Cards subclass mail that:

a. Is prepared in a mailing of at least 500 pieces;

b. Is presorted, marked, and presented as [prescribed] *specified* by the Postal Service; and

c. Meets the addressing and other preparation requirements [prescribed] *specified* by the Postal Service.

223.33 [Reserved]

222.34 Qualified Business Reply Mail Rate Category. The qualified business reply mail rate category applies to Cards subclass mail that:

a. Is provided to senders by the recipient, an advance deposit account business reply mail permit holder, for return by mail to the recipient;

b. Bears the recipient's preprinted machine-readable return address, a barcode representing not more than 11 digits (not including Acorrection® digits), a Facing Identification Mark, and other markings specified and approved by the Postal Service; and

c. Meets the card machinability and other preparation requirements specified by the Postal Service.

222.4 Automation Rate Categories

222.41 General. The automation rate categories consist of [Stamped Cards and Post] Cards subclass mail that:

a. Is prepared in a mailing of at least 500 pieces;

b. Is presorted, marked, and presented as specified by the Postal Service;

c. Bears a barcode representing not more than 11 digits (not including "correction" digits) as [prescribed] *specified* by the Postal Service; and

d. Meets the machinability, addressing, barcoding, and other preparation requirements [prescribed] *specified* by the Postal Service.

222.42 Basic Rate Category. The basic rate category applies to automation rate category cards not mailed under section 222.43, 222.44, or 222.45.

222.43 Three-Digit Rate Category. The three-digit rate category applies to automation rate category cards presorted to single or multiple three-digit ZIP Code destinations as [prescribed] *specified* by the Postal Service.

222.44 Five-Digit Rate Category. The five-digit rate category applies to automation rate category cards presorted to single or multiple five-digit ZIP Code destinations as [prescribed] *specified* by the Postal Service.

222.45 Carrier Route Rate Category. The carrier route rate category applies to automation rate category cards presorted to carrier routes. It is available only for those carrier routes [prescribed] *specified* by the Postal Service.

223 Priority Mail *Subclass*

223.1 General. The Priority Mail subclass consists of:

a. First-Class Mail weighing more than [11]*13* ounces; and

b. Any mailable matter which, at the option of the mailer, is mailed for expeditious mailing and transportation.

223.2 Single-Piece Priority Mail Rate Category. The single-piece *Priority Mail* [priority mail] rate category applies to Priority Mail subclass mail not mailed under section 223.[3]*4*.

223.3 [Presorted Priority Mail Rate Category. The presorted priority mail rate category applies to Priority Mail subclass mail that:

a. Is prepared in a mailing of at least 300 pieces;

b. Is presorted, marked, and presented as prescribed by the Postal Service; and

c. Meets the machinability, addressing, and other preparation requirements prescribed by the Postal Service.] [Reserved]

223.4 [Reserved]

223.5 Flat Rate Envelope. Priority Mail subclass mail sent in a "flat rate" envelope provided by the Postal Service is charged the two-pound rate.

223.6 Pickup Service. Pickup service is available for Priority Mail subclass mail under terms and conditions [prescribed] *specified* by the Postal Service.

223.7 Bulky Parcels. Priority Mail subclass mail weighing less than 15 pounds, and measuring over 84 inches in length and girth combined, is charged a minimum rate equal to that for a 15-pound parcel for the zone to which the piece is addressed.

230 PHYSICAL LIMITATIONS

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231 Size and Weight

First-Class Mail may not exceed 70 pounds or 108 inches in length and girth combined. Additional size and weight limitations apply to individual First-Class Mail subclasses.

232 Nonstandard Size Mail

Letters and Sealed Parcels subclass mail weighing one ounce or less is nonstandard size if:

a. Its aspect ratio does not fall between 1 to 1.3 and 1 to 2.5 inclusive; or

b. It exceeds any of the following dimensions:

i. 11.5 inches in length;

ii. 6.125 inches in width; or

iii. 0.25 inch in thickness.

240 POSTAGE AND PREPARATION

Postage on First-Class Mail must be paid as set forth in section 3000. Postage is computed separately on each piece of mail. Pieces not within the same postage rate increment may be mailed at other than a single-piece rate as part of the same mailing only when specific methods approved by the Postal Service for [ascertaining] *determining* and verifying postage are followed. All mail mailed at other than a single-piece rate must have postage paid in a manner not requiring cancellation.

250 DEPOSIT AND DELIVERY

251 Deposit

First-Class Mail must be deposited at places and times designated by the Postal Service.

252 Service

First-Class Mail receives expeditious handling and transportation, except that when First-Class Mail is attached to or enclosed with mail of another class, the service of that class applies.

253 Forwarding and Return

First-Class Mail that is undeliverable-as-addressed is forwarded or returned to the sender without additional charge.

260 ANCILLARY SERVICES

First-Class Mail, except as otherwise noted, will receive the following additional services upon payment of the fees prescribed in the corresponding schedule:

Service	Schedule
a. Address correction	*911* [SS1]
b. Business reply mail	*931* [SS2]
c. Certificates of mailing	*947* [SS4]
d. Certified mail	*941* [SS5]
e. COD	*944* [SS6]
f. [Insured mail] *Insurance*	*943* [SS9]
g. Registered mail	*942* [SS14]
h. Return receipt (limited to merchandise sent by Priority Mail).	*945* [SS16]
i. Merchandise return	*932* [SS20]
j. *Delivery Confirmation (limited to Priority Mail).*	*948*

270 RATES AND FEES

271 The rates [and fees] for First-Class Mail are set forth in the following schedules:

	Schedule
a. Letters and Sealed Parcels	221
b. [Stamped Cards and Post] Cards.	222
c. Priority Mail	223
[d. Fees	SS–19A and 1000]

272 Keys and Identification Devices. Keys, identification cards, identification tags, or similar identification devices that:

a. weigh no more than 2 pounds;

b. are mailed without cover; and

c. bear, contain, or have securely attached the name and address information, as specified by the Postal Service, of a person, organization, or concern, with instructions to return to the address and a statement guaranteeing the payment of postage due on delivery; are subject to the following rates and fees:

i. the applicable single-piece rates in schedules 221 or 223;

ii. the fee set forth in fee schedule 931 for payment of postage due charges if an active business reply mail advance deposit account is not used, and

iii. if applicable, the surcharge for nonstandard size mail, as defined in section 232.

280 AUTHORIZATIONS AND LICENSES

The fee set forth in [Rate] Schedule 1000 must be paid once each year at each office of mailing by any person who mails other than single-piece First-Class Mail or courtesy envelope mail. Payment of the fee allows the mailer to mail at any First-Class rate.

STANDARD MAIL CLASSIFICATION SCHEDULE

310 DEFINITION

311 General

Any mailable matter may be mailed as Standard Mail except:

a. Matter required to be mailed as First-Class Mail;

b. Copies of a publication that is entered as Periodicals class mail, except copies sent by a printer to a publisher, and except copies that would have traveled at the former second-class transient rate. (The transient rate applied to individual copies of second-class mail (*currently Periodicals class mail*) forwarded and mailed by the public, as well as to certain sample copies mailed by publishers.)

312 Printed Matter

Printed matter, including printed letters which according to internal evidence are being sent in identical terms to several persons, but which do not have the character of actual or personal correspondence, may be mailed as Standard Mail. Printed matter does not lose its character as Standard Mail when the date and name of the addressee and of the sender are written thereon. For the purposes of the Standard Mail Classification Schedule, "printed" does not include reproduction by handwriting or typewriting.

313 Written Additions

Standard Mail may have the following written additions placed on the wrapper, on a tag or label attached to the outside of the parcel, or inside the parcel, either loose or attached to the article:

a. Marks, numbers, name, or letters descriptive of contents;

b. "Please Do Not Open Until Christmas," or words of similar import;

c. Instructions and directions for the use of an article in the package;

d. Manuscript dedication or inscription not in the nature of personal correspondence;

e. Marks to call attention to any word or passage in text;

f. Corrections of typographical errors in printed matter;

g. Manuscripts accompanying related proof sheets, and corrections in proof sheets to include: corrections of typographical and other errors, alterations of text, insertion of new text, marginal instructions to the printer, and rewrites of parts if necessary for correction;

h. Handstamped imprints, except when the added matter is itself personal or converts the original matter to a personal communication;

i. An invoice.

320 DESCRIPTION OF SUBCLASSES

321 Subclasses Limited to Mail Weighing Less than 16 Ounces

321.1 [Single Piece Subclass] [*Reserved*]

[321.11 Definition. The Single Piece subclass consists of Standard Mail weighing less than 16 ounces that is not mailed under sections 321.2, 321.3, 321.4, 321.5 or 323.]

[321.12 Basic Rate Category. The basic rate category applies to Single Piece subclass mail not mailed under section 321.13.]

[321.13 Keys and Identification Devices Rate Category. The keys and identification devices rate category applies to keys, identification cards, identification tags, or similar identification devices mailed without cover, and which bear, contain, or have securely attached the name and complete address of a person, organization, or concern, with instructions to return to such address and a statement guaranteeing the payment of postage due on delivery.]

[321.14 Nonstandard Size Surcharge. Single Piece subclass mail, other than that mailed under section 321.13, is subject to a surcharge if it is nonstandard size mail, as defined in section 333.]

321.2 Regular Subclass

321.21 General. The Regular subclass consists of Standard Mail weighing less than 16 ounces that is not mailed under sections [321.1,] 321.3, 321.4, 321.5 or 323.

321.22, Presort Rate Categories

321.221 General. The presort rate categories apply to Regular subclass mail that:

a. Is prepared in a mailing of at least 200 addressed pieces or 50 pounds of addressed pieces;

b. Is presorted, marked, and presented as [prescribed] *specified* by the Postal Service; and

c. Meets the machinability, addressing, and other preparation requirements [prescribed] *specified* by the Postal Service.

321.222 Basic Rate Categories. The basic rate categories apply to presort rate category mail not mailed under section 321.223.

321.223 Three- and Five-Digit Rate Categories. The three- and five-digit rate categories apply to presort rate category mail presorted to single or multiple three- and five-digit ZIP Code destinations as [prescribed] *specified* by the Postal Service.

321.23 Automation Rate Categories

321.231 General. The automation rate categories apply to Regular subclass mail that:

a. Is prepared in a mailing of at least 200 addressed pieces or 50 pounds of addressed pieces;

b. Is presorted, marked, and presented as [prescribed] *specified* by the Postal Service;

c. Bears a barcode representing not more than 11 digits (not including Acorrection● digits) as [prescribed] *specified* by the Postal Service;

d. Meets the machinability, addressing, barcoding, and other preparation requirements [prescribed] *specified* by the Postal Service.

321.232 Basic Barcoded Rate Category. The basic barcoded rate category applies to letter-size automation rate category mail not mailed under section 321.233 or 321.234.

321.233 Three-Digit Barcoded Rate Category. The three-digit barcoded rate category applies to letter-size automation rate category mail presorted to single or multiple three-digit ZIP Code destinations as [prescribed] *specified* by the Postal Service.

321.234 Five-Digit Barcoded Rate Category. The five-digit barcoded rate category applies to letter-size automation rate category mail presorted to single or multiple five-digit ZIP Code destinations as [prescribed] *specified* by the Postal Service.

321.235 Basic Barcoded Flats Rate Category. The basic barcoded flats rate category applies to flat-size automation rate category mail not mailed under section 321.236.

321.236 Three- and Five-Digit Barcoded Flats Rate Category. The three- and five-digit barcoded flats rate category applies to flat-size automation rate category mail presorted to single or multiple three- and five-digit ZIP Code destinations as [prescribed] *specified* by the Postal Service.

321.24 Destination Entry Discounts. The destination entry discounts apply to Regular subclass mail prepared as [prescribed] *specified* by the Postal Service and addressed for delivery within the service area of the BMC (or auxiliary service facility), or sectional center facility (SCF), at which it is entered, as defined by the Postal Service.

321.25 Residual Shape Surcharge. Regular subclass mail is subject to a surcharge if it is prepared as a parcel or if it is not letter or flat shaped.

321.3 Enhanced Carrier Route Subclass

321.31 Definition. The Enhanced Carrier Route subclass consists of Standard Mail weighing less than 16 ounces that is not mailed under section [321.1,] 321.2, 321.4, 321.5 or 323, and that:

a. Is prepared in a mailing of at least 200 addressed pieces or 50 pounds of addressed pieces;

b. Is prepared, marked, and presented as [prescribed] *specified* by the Postal Service;

c. Is presorted to carrier routes as [prescribed] *specified* by the Postal Service;

d. Is sequenced as [prescribed] *specified* by the Postal Service; and

e. Meets the machinability, addressing, and other preparation requirements [prescribed] *specified* by the Postal Service.

321.32 Basic Rate Category. The basic rate category applies to Enhanced Carrier Route subclass mail not mailed under section 321.33, 321.34 or 321.35.

321.33 Basic Pre-Barcoded Rate Category. The basic pre-barcoded rate category applies to letter-size Enhanced Carrier Route subclass mail which bears a barcode representing not more than 11 digits (not including Acorrection● digits), as *specified* [prescribed] by the Postal Service, and which meets the machinability, addressing, and barcoding specifications and other preparation requirements [prescribed] *specified* by the Postal Service.

321.34 High Density Rate Category. The high density rate category applies to Enhanced Carrier Route subclass mail presented in walk-sequence order and meeting the high density requirements [prescribed] *specified* by the Postal Service.

321.35 Saturation Rate Category. The saturation rate category applies to Enhanced Carrier Route subclass mail presented in walk-sequence order and meeting the saturation requirements [prescribed] *specified* by the Postal Service.

321.36 Destination Entry Discounts. Destination entry discounts apply to Enhanced Carrier Route subclass mail prepared as [prescribed] *specified* by the Postal Service and addressed for delivery within the service area of the BMC (or auxiliary service facility), sectional center facility (SCF), or destination delivery unit (DDU) at which it is entered, as defined by the Postal Service.

321.37 Residual Shape Surcharge. Enhanced Carrier Route subclass mail is subject to a surcharge if it is prepared as a parcel or if it is not letter or flat shaped.

321.4 Nonprofit Subclass

321.41 General. The Nonprofit subclass consists of Standard Mail weighing less than 16 ounces that is not mailed under section [321.1,] 321.2, 321.3, 321.5 or 323, and that is mailed by authorized nonprofit organizations or associations of the following types:

a. Religious, as defined in section 1009,

b. Educational, as defined in section 1009,

c. Scientific, as defined in section 1009,

d. Philanthropic, as defined in section 1009,

e. Agricultural, as defined in section 1009,

f. Labor, as defined in section 1009,

g. Veterans', as defined in section 1009,

h. Fraternal, as defined in section 1009,

i. Qualified political committees,

j. State or local voting registration officials when making a mailing required or authorized by the National Voter Registration Act of 1993.

321.411 Qualified Political Committees. The term "qualified political committee" means a national or State committee of a political party, the Republican and Democratic Senatorial Campaign Committees, the Democratic National Congressional Committee, and the National Republican Congressional Committee:

a. The term "national committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the national level; and

b. The term "State committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level.

321.412 *Limitation on Authorization.* An organization authorized to mail at the nonprofit Standard rates for qualified nonprofit organizations may mail only its own matter at these rates. An organization may not delegate or lend the use of its permit to mail at [special] *nonprofit* Standard rates to any other person, organization or association.

321.42 Presort Rate Categories

321.421 General. The presort rate categories apply to Nonprofit subclass mail that:

a. Is prepared in a mailing of at least 200 addressed pieces or 50 pounds of addressed pieces;

b. Is presorted, marked, and presented as [prescribed] *specified* by the Postal Service; and

c. Meets the machinability, addressing, and other preparation requirements [prescribed] *specified* by the Postal Service.

321.422 Basic Rate Categories. The basic rate categories apply to presort rate category mail not mailed under section 321.423.

321.423 Three- and Five-Digit Rate Categories. The three- and five-digit rate categories apply to presort rate category mail presorted to single or multiple three- and five-digit ZIP Code destinations as [prescribed] *specified* by the Postal Service.

321.43 Automation Rate Categories

321.431 General. The automation rate categories apply to Nonprofit subclass mail that:

a. Is prepared in a mailing of at least 200 addressed pieces or 50 pounds of addressed pieces;

b. Is presorted, marked, and presented as [prescribed] *specified* by the Postal Service;

c. Bears a barcode representing not more than 11 digits (not including Acorrection● digits) as [prescribed] *specified* by the Postal Service; and

d. Meets the machinability, addressing, barcoding, and other preparation requirements [prescribed] *specified* by the Postal Service.

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321.432 Basic Barcoded Rate Category. The basic barcoded rate category applies to letter-size automation rate category mail not mailed under section 321.433 or 321.434.

321.433 Three-Digit Barcoded Rate Category. The three-digit barcoded rate category applies to letter-size automation rate category mail presorted to single or multiple three-digit ZIP Code destinations as [prescribed] *specified* by the Postal Service.

321.434 Five-Digit Barcoded Rate Category. The five-digit barcoded rate category applies to letter-size automation rate category mail presorted to single or multiple five-digit ZIP Code destinations as [prescribed] *specified* by the Postal Service.

321.435 Basic Barcoded Flats Rate Category. The basic barcoded flats rate category applies to flat-size automation rate category mail not mailed under section 321.436.

321.436 Three- and Five-Digit Barcoded Flats Rate Category. The three- and five-digit barcoded flats rate category applies to flat-size automation rate category mail presorted to single or multiple three- and five-digit ZIP Code destinations as [prescribed] *specified* by the Postal Service.

321.44 Destination Entry Discounts. Destination entry discounts apply to Nonprofit subclass mail prepared as [prescribed] *specified* by the Postal Service and addressed for delivery within the service area of the BMC (or auxiliary service facility) or sectional center facility (SCF) at which it is entered, as defined by the Postal Service.

321.45 Residual Shape Surcharge. Nonprofit subclass mail is subject to a surcharge if it is prepared as a parcel or if it is not letter or flat shaped.

321.5 Nonprofit Enhanced Carrier Route Subclass

321.51 Definition. The Nonprofit Enhanced Carrier Route subclass consists of Standard Mail weighing less than 16 ounces that is not mailed under section [321.1,] 321.2, 321.3, 321.4 or 323, that is mailed by authorized nonprofit organizations or associations (as defined in section 321.41) under the terms and limitations stated in section 321.412, and that:

a. Is prepared in a mailing of at least 200 addressed pieces or 50 pounds of addressed pieces;

b. Is prepared, marked, and presented as [prescribed] *specified* by the Postal Service;

c. Is presorted to carrier routes as [prescribed] *specified* by the Postal Service;

d. Is sequenced as [prescribed] *specified* by the Postal Service; and

e. Meets the machinability, addressing, and other preparation requirements [prescribed] *specified* by the Postal Service.

321.52 Basic Rate Category. The basic rate category applies to Nonprofit Enhanced Carrier Route subclass mail not mailed under section 321.53, 321.54 or 321.55.

321.53 Basic Pre-Barcoded Rate Category. The basic pre-barcoded rate category applies to letter-size Nonprofit Enhanced Carrier Route subclass mail which bears a barcode representing not more than 11 digits (not including Acorrection@ digits), as [prescribed] *specified* by the Postal Service, and which meets the machinability, addressing, and barcoding specifications and other preparation requirements [prescribed] *specified* by the Postal Service.

321.54 High Density Rate Category. The high density rate category applies to Nonprofit Enhanced Carrier Route subclass mail presented in walk-sequence order and meeting the high density requirements [prescribed] *specified* by the Postal Service.

321.55 Saturation Rate Category. The saturation rate category applies to Nonprofit Enhanced Carrier Route subclass mail presented in walk-sequence order and meeting the saturation requirements [prescribed] *specified* by the Postal Service.

321.56 Entry Discounts. Destination entry discounts apply to Nonprofit Enhanced Carrier Route subclass mail prepared as [prescribed] *specified* by the Postal Service and addressed for delivery within the service area of the BMC (or auxiliary service facility), sectional center facility (SCF), or destination delivery unit (DDU) at which it is entered, as defined by the Postal Service.

321.57 Residual Shape Surcharge. Nonprofit Enhanced Carrier Route subclass mail is subject to a surcharge if it is prepared as a parcel or if it is not letter or flat shaped.

322 Subclasses Limited to Mail Weighing 16 Ounces or More

322.1 Parcel Post Subclass

322.11 Definition. The Parcel Post subclass consists of Standard Mail weighing 16 ounces or more that is not mailed under sections 322.3, 323.1, or 323.2.

[322.12 Basic Rate Category. The basic rate category applies to all Parcel Post subclass mail not mailed under sections 322.13 or 322.14.]

322.12 Description of Rate Categories

322.121 Inter-BMC Rate Category. The Inter-BMC rate category applies to all Parcel Post subclass mail not mailed under sections 322.122, 322.123, 322.124, or 322.125.

322.122 Intra-BMC Rate Category. The Intra-BMC rate category applies to Parcel Post subclass mail originating and destinating within a designated BMC or auxiliary service facility service area, Alaska, Hawaii or Puerto Rico.

322.123 Destination Bulk Mail Center (DBMC) Rate Category. The destination bulk mail center rate category applies to Parcel Post subclass mail prepared as specified by the Postal Service in a mailing of at least 50 pieces entered at a designated destination BMC, auxiliary service facility, or other equivalent facility, as specified by the Postal Service.

322.124 Destination Sectional Center Facility (DSCF) Rate Category. The destination sectional center facility rate category applies to Parcel Post subclass mail prepared as specified by the Postal Service in a mailing of at least 50 pieces sorted to five-digit destination ZIP Codes as specified by the Postal Service and entered at a designated destination processing and distribution center or facility, or other equivalent facility, as specified by the Postal Service.

322.125 Destination Delivery Unit (DDU) Rate Category. The destination delivery unit rate category applies to Parcel Post subclass mail prepared as specified by the Postal Service in a mailing of at least 50 pieces, and entered at a designated destination delivery unit, or other equivalent facility, as specified by the Postal Service.

322.13 Bulk Parcel Post. Bulk Parcel Post mail is Parcel Post mail consisting of properly prepared and separated single mailings of at least 300 pieces or 2000 pounds. Pieces weighing less than 15 pounds and measuring over 84 inches in length and girth combined or pieces measuring over 108 inches in length and girth combined are not mailable as Bulk Parcel Post mail.

322.131 Barcoded Discount. The barcoded discount applies to Bulk Parcel Post mail that is entered at designated facilities, bears a barcode specified by the Postal Service, is prepared as specified by the Postal Service, and meets all other preparation and machinability requirements of the Postal Service.

[400.0202 Bulk

Bulk parcel post mail is fourth-class parcel post mail consisting of properly prepared and separated single mailings of at least 300 pieces or 2000 pounds. Pieces weighing less than 15 pounds and measuring over 84 inches in length and girth combined are not mailable as bulk parcel post. Provision for mailing nonidentical pieces is set forth in section 400.046.

322.14 Destination BMC Rate Category. Parcel Post subclass mail is eligible for destination BMC rates if it is included in a mailing of at least 50 pieces deposited at the destination BMC, auxiliary service facility, or other equivalent facility, as prescribed by the Postal Service.]

322.14 Bulk Mail Center (BMC) Presort Discounts

322.141 BMC Presort Discount. The BMC presort discount applies to Inter-BMC Parcel Post subclass mail that is prepared as specified by the Postal Service in a mailing of 50 or more pieces, entered at a facility authorized by the Postal Service, and sorted to destination BMCs, as specified by the Postal Service.

322.142 Origin Bulk Mail Center (OBMC) Discount. The origin bulk mail center discount applies to Inter-BMC Parcel Post subclass mail that is prepared as specified by the Postal Service in a mailing of at least 50 pieces, entered at the origin BMC, and sorted to destination BMCs, as specified by the Postal Service.

[322.15 Intra-BMC Discount. Basic rate category Parcel Post subclass mail is eligible for the intra-BMC discount if it originates and destinates within the same BMC or auxiliary service facility service area, Alaska, Hawaii or Puerto Rico.]

322.15 Barcoded Discount. The barcoded discount applies to Inter-BMC, Intra-BMC, and DBMC Parcel Post subclass mail that is entered at designated facilities, bears a barcode specified by the Postal Service, is prepared as specified by the Postal Service in a mailing of at least 50 pieces, and meets all other preparation and machinability requirements of the Postal Service.

322.16 Oversize Parcel Post

322.161 Excessive Length and Girth. Parcel Post subclass mail pieces exceeding 108 inches in length and girth combined, but not greater than 130 inches in length and girth combined, are mailable.

322.162 Balloon Rate. Parcel Post subclass mail pieces exceeding 84 inches in length and girth combined and weighing less than 15 pounds are subject to a rate equal to that for a 15 pound parcel for the zone to which the parcel is addressed.

322.1[6]7 Nonmachinable Surcharge. [Basic rate category Parcel Post subclass mail] *Inter-BMC Parcel Post subclass mail* that does not meet machinability criteria [prescribed] *specified* by the Postal Service is subject to a nonmachinable surcharge.

322.1[7]8 Pickup Service. Pickup service is available for Parcel Post subclass mail under terms and conditions [prescribed] *specified* by the Postal Service.

322.2 [Reserved]

322.3 Bound Printed Matter Subclass

322.31 Definition. The Bound Printed Matter subclass consists of Standard Mail weighing at least 16 ounces, but not more than 15 pounds, which:

a. Consists of advertising, promotional, directory, or editorial material, or any combination thereof;

b. Is securely bound by permanent fastenings including, but not limited to, staples, spiral bindings, glue, and stitching; loose leaf binders and similar fastenings are not considered permanent;

c. Consists of sheets of which at least 90 percent are imprinted with letters, characters, figures or images or any combination of these, by any process other than handwriting or typewriting;

d. Does not have the nature of personal correspondence; *and*

e. Is not stationery, such as pads of blank printed forms.

322.32 Single-Piece Rate Category. The single-piece rate category applies to Bound Printed Matter subclass mail which is not mailed under section 322.33 or 322.34.

322.33 Bulk Rate Category. The bulk rate category applies to Bound Printed Matter subclass mail prepared in a mailing of at least 300 pieces, prepared and presorted as [prescribed] *specified* by the Postal Service.

322.34 Carrier Route Presort Rate Category. The carrier route *presort* rate category applies to Bound Printed Matter subclass mail prepared in a mailing of at least 300 pieces of carrier route presorted mail, prepared and presorted as *specified* [prescribed] by the Postal Service.

322.35 Barcoded Discount. The barcoded discount applies to single-piece rate and bulk rate Bound Printed Matter subclass mail that is entered at designated facilities, bears a barcode specified by the Postal Service, is prepared as specified by the Postal Service in a mailing of at least 50 pieces, and meets all other preparation and machinability requirements of the Postal Service.

323 Subclasses With No 16-Ounce Limitation

323.1 Special Subclass

323.11 Definition. The Special subclass consists of Standard Mail of the following types:

a. Books, including books issued to supplement other books, of at least eight printed pages, consisting wholly of reading matter or scholarly bibliography or reading matter with incidental blank spaces for notations, and containing no advertising matter other than incidental announcements of books. Not more than three of the announcements may contain as part of their format a single order form, which may also serve as a *postcard* [post card.] [The] *These* order forms [permitted in this subsection] are in addition to and not in lieu of order forms which may be enclosed by virtue of any other provision;

b. 16 millimeter or narrower width films which must be positive prints in final form for viewing, and catalogs of such films, of 24 pages or more, at least 22 of which are printed, except when sent to or from commercial theaters;

c. Printed music, whether in bound form or in sheet form;

d. Printed objective test materials and accessories thereto used by or in behalf of educational institutions in the testing of ability, aptitude, achievement, interests and other mental and personal qualities with or without answers, test scores or identifying information recorded thereon in writing or by mark;

e. Sound recordings, including incidental announcements of recordings and guides or scripts prepared solely for use with such recordings. Not more than three of the announcements [permitted in this subsection] may contain as part of their format a single order form, which may also serve as a *postcard* [post card.] [The] *These* order forms [permitted in this subsection] are in addition to and not in lieu of order forms which may be enclosed by virtue of any other provision;

f. Playscripts and manuscripts for books, periodicals and music;

g. Printed educational reference charts, permanently processed for preservation;

h. Printed educational reference charts, including but not limited to

i. Mathematical tables,

ii. Botanical tables,

iii. Zoological tables, and

iv. Maps produced primarily for educational reference purposes;

i. Looseleaf pages and binders therefor, consisting of medical information for distribution to doctors, hospitals, medical schools, and medical students; and

j. Computer-readable media containing prerecorded information and guides or scripts prepared solely for use with such media.

323.12 Single-Piece Rate Category. The single-piece rate category applies to Special subclass mail not mailed under section 323.13 or 323.14.

323.13 Level A Presort Rate Category. The Level A presort rate category applies to mailings of at least 500 pieces of Special subclass mail, prepared and presorted to five-digit destination ZIP Codes as [prescribed] *specified* by the Postal Service.

323.14 Level B Presort Rate Category. The Level B presort rate category applies to mailings of at least 500 pieces of Special subclass mail, prepared and presorted to destination Bulk Mail Centers as [prescribed] *specified* by the Postal Service.

323.15 Barcoded Discount. The barcoded discount applies to single-piece rate and Level B presort rate Special subclass mail that is entered at designated facilities, bears a barcode specified by the Postal Service, is prepared as specified by the Postal Service in a mailing of at least 50 pieces, and meets all other preparation and machinability requirements of the Postal Service.

323.2 Library Subclass

323.21 Definition.

323.211 General. The Library subclass consists of Standard Mail of the following types, separated or presorted as [prescribed] *specified* by the Postal Service:

a. Matter designated in [sub]section 323.213, loaned or exchanged (including cooperative processing by libraries) between:

i. Schools or colleges, or universities;

ii. Public libraries, museums and herbaria, nonprofit religious, educational, scientific, philanthropic, agricultural, labor, veterans' or fraternal organizations or associations, or between such organizations and their members, readers or borrowers.

b. Matter designated in [sub]section 323.214, mailed to or from schools, colleges, universities, public libraries, museums and herbaria and to or from nonprofit religious, educational, scientific, philanthropic, agricultural, labor, veterans' or fraternal organizations or associations; or

c. Matter designated in [sub]section 323.215, mailed from a publisher or a distributor to a school, college, university or public library.

323.212 Definition of Nonprofit Organizations and Associations. Nonprofit organizations or associations are defined in section 1009.

323.213 Library subclass mail under section 323.211.a. Matter eligible for mailing as Library subclass mail under *subsection a of* section 323.211[a] consists of:

a. Books consisting wholly of reading matter or scholarly bibliography or reading

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matter with incidental blank spaces for notations and containing no advertising other than incidental announcements of books;

b. Printed music, whether in bound form or in sheet form;

c. Bound volumes of academic theses in typewritten or other duplicated form;

d. Periodicals, whether bound or unbound;

e. Sound recordings;

f. Other library materials in printed, duplicated or photographic form or in the form of unpublished manuscripts; and

g. Museum materials, specimens, collections, teaching aids, printed matter and interpretative materials intended to inform and to further the educational work and interest of museums and herbaria.

323.214 Library subclass mail under section 323.211.b. Matter eligible for mailing as Library subclass mail under *subsection b of* section 323.211[b] consists of:

a. 16-millimeter or narrower width films; filmstrips; transparencies; slides; microfilms; all of which must be positive prints in final form for viewing;

b. Sound recordings;

c. Museum materials, specimens, collections, teaching aids, printed matter, and interpretative materials intended to inform and to further the educational work and interests of museums and herbaria;

d. Scientific or mathematical kits, instruments or other devices; and

e. Catalogs of the materials in *subsections a through d of* section 323.214 [a through d] and guides or scripts prepared solely for use with such materials.

323.215 Library subclass mail under section 323.211.c. Matter eligible for mailing as Library subclass mail under *subsection c of* section 323.211[c] consists of books, including books to supplement other books, consisting wholly of reading matter or scholarly bibliography or reading matter with incidental blank spaces for notations, and containing no advertising matter other than incidental announcements of books.

323.22 Basic Rate Category. The basic rate category applies to all Library subclass mail.

323.23 Barcoded Discount. The barcoded discount applies to Library subclass mail that is entered at designated facilities, bears a barcode specified by the Postal Service, is prepared as specified by the Postal Service in a mailing of at least 50 pieces, and meets all other preparation and machinability requirements of the Postal Service.

330 PHYSICAL LIMITATIONS

331 Size

Except as provided in section 322.161, Standard Mail may not exceed 108 inches in length and girth combined. Additional size limitations apply to individual Standard Mail subclasses. The maximum size for mail presorted to carrier route in the Enhanced Carrier Route and Nonprofit Enhanced Carrier Route subclasses is 14 inches in length, 11.75 inches in width, and 0.75 inch in thickness. For merchandise samples mailed with detached address cards, the carrier route maximum dimensions apply to the detached address cards and not to the samples.

332 Weight

Standard Mail may not weigh more than 70 pounds. Additional weight limitations apply to individual Standard Mail subclasses.

[333 Nonstandard Size Mail

Single Piece subclass mail weighing one ounce or less is nonstandard size if:

a. Its aspect ratio does not fall between 1 to 1.3 and 1 to 2.5 inclusive; or

b. It exceeds any of the following dimensions:

i. 11.5 inches in length;

ii. 6.125 inches in width; or

iii. 0.25 inch in thickness.]

340 POSTAGE AND PREPARATION

341 Postage

Postage must be paid as set forth in section 3000. When the postage computed at a [Single Piece,] Regular, Enhanced Carrier Route, Nonprofit or Nonprofit Enhanced Carrier Route Standard rate is higher than the rate prescribed in any of the Standard subclasses listed in 322 or 323 for which the piece also qualifies (or would qualify, except for weight), the piece is eligible for the applicable lower rate. All mail mailed at a bulk or presort rate must have postage paid in a manner not requiring cancellation.

342 Preparation

All pieces in a Standard mailing must be separately addressed. All pieces in a Standard mailing must be identified as [prescribed] *specified* by the Postal Service, and must contain the ZIP Code of the addressee when [prescribed] *specified* by the Postal Service. All Standard mailings must be prepared and presented as *specified* [prescribed] by the Postal Service. Two or more Standard mailings may be commingled and mailed only when specific methods approved by the Postal Service for [ascertaining] *determining* and verifying postage are followed.

343 Non-Identical Pieces

Pieces not identical in size and weight may be mailed at a bulk or presort rate as part of the same mailing only when specific methods approved by the Postal Service for [ascertaining] *determining* and verifying postage are followed.

344 Attachments and Enclosures

344.1 [Single Piece,] Regular, Enhanced Carrier Route, Nonprofit and Nonprofit Enhanced Carrier Route Subclasses (section 321)

344.11 General. First-Class Mail may be attached to or enclosed in Standard books, catalogs, and merchandise entered under section 321. The piece must be marked as [prescribed] *specified* by the Postal Service. Except as provided in section 344.12, additional postage must be paid for the attachment or enclosure as if it had been mailed separately. Otherwise, the entire combined piece is subject to the First-Class rate for which it qualifies.

344.12 Incidental First-Class Attachments and Enclosures. First-Class Mail, as defined in *subsections b through d of* section 210 [b through d], may be attached to or enclosed with Standard merchandise entered under section 321, including books but excluding merchandise samples, with postage paid on the combined piece at the applicable Standard rate, if the attachment or enclosure is incidental to the piece to which it is attached or with which it is enclosed.

344.2 Parcel Post, Bound Printed Matter, Special, and Library Subclasses (sections 322 and 323)

344.21 General. First-Class Mail or Standard Mail from any of the subclasses listed in section 321 ([Single Piece,] Regular, Enhanced Carrier Route, Nonprofit or Nonprofit Enhanced Carrier Route) may be attached to or enclosed in Standard Mail mailed under sections 322 and 323. The piece must be marked as [prescribed] *specified* by the Postal Service. Except as provided in sections 344.22 and 344.23, additional postage must be paid for the attachment or enclosure as if it had been mailed separately. Otherwise, the entire combined piece is subject to the First-Class or section 321 Standard rate for which it qualifies (unless the rate applicable to the host piece is higher), or, if a combined piece with a section 321 Standard Mail attachment or enclosure weighs 16 ounces or more, the piece is subject to the Parcel Post rate for which it qualifies.

344.22 Specifically Authorized Attachments and Enclosures. Standard Mail mailed under sections 322 and 323 may contain enclosures and attachments as [prescribed] *specified* by the Postal Service and as described in *subsections a and e of* section 323.11 [a and e,] with postage paid on the combined piece at the Standard rate applicable to the host piece.

344.23 Incidental First-Class Attachments and Enclosures. First-Class Mail that meets one or more of the definitions in *subsections b through d* of section 210, [b through d,] may be attached to or enclosed with Standard Mail mailed under section 322 or 323, with postage paid on the combined piece at the Standard rate applicable to the host piece, if the attachment or enclosure is incidental to the piece to which it is attached or with which it is enclosed.

350 DEPOSIT AND DELIVERY

351 Deposit

Standard Mail must be deposited at places and times designated by the Postal Service.

352 Service

Standard Mail may receive deferred service.

353 Forwarding and Return

353.1 [Single Piece,] Regular, Enhanced Carrier Route, Nonprofit and Nonprofit Enhanced Carrier Route Subclasses (section 321)

Undeliverable-as-addressed Standard Mail mailed under section 321 will be returned on request of the mailer, or forwarded and returned on request of the mailer. Undeliverable-as-addressed combined First-Class and Standard pieces will be returned as [prescribed] *specified by* the Postal Service. Except as provided in [Schedule SS–21,] *section 935*, the [Single Piece Standard] *applicable First-Class Mail* rate is charged for each piece receiving return only service. Except as provided in [Schedule SS–22,] *section 936*, charges for forwarding-and-return service are assessed only on those pieces which cannot be forwarded and are returned. Except as provided in [Schedules SS–21 and SS–22,] *sections 935 and 936*, the charge for those returned pieces is the appropriate [Single Piece Standard] *First-Class Mail* rate for the piece plus that rate multiplied by a factor equal to the number of section 321 Standard pieces nationwide that are successfully forwarded for every one piece that cannot be forwarded and must be returned.

353.2 Parcel Post, Bound Printed Matter, Special, and Library Subclasses (sections 322 and 323)

Undeliverable-as-addressed Standard Mail mailed under sections 322 and 323 will be forwarded on request of the addressee, returned on request of the mailer, or forwarded and returned on request of the mailer. Pieces which combine Standard Mail from one of the subclasses described in 322 and 323 with First-Class Mail or Standard Mail from one of the subclasses described in 321 will be forwarded if undeliverable-as-addressed, and returned if undeliverable, as *specified* [prescribed] by the Postal Service. When Standard Mail mailed under sections 322 and 323 is forwarded or returned from one post office to another, additional charges will be based on the *applicable* [appropriate] [S] single [P] *piece* Standard *Mail* rate *under 322 or 323.*

360 ANCILLARY SERVICES

361 All Subclasses

All Standard Mail will receive the following services upon payment of the appropriate fees:

Service	Schedule
a. Address correction	*911* [SS1]
b. Certificates of mailing indicating that a specified number of pieces have been mailed.	*947* [SS4]

Certificates of mailing are not available for Regular, Enhanced Carrier Route, Nonprofit and Nonprofit Enhanced Carrier Route subclass mail when postage is paid *with* [by] permit imprint.

362 [Single Piece,] Parcel Post, Bound Printed Matter, Special, and Library Subclasses

[Single Piece,] Parcel Post, Bound Printed Matter, Special, and Library subclass mail will receive the following additional services upon payment of the appropriate fees:

Service	Schedule
a. Certificates of mailing	*947* [SS4]
b. COD	*944* [SS6]
c. [Insured mail] *Insurance*	*943* [SS9]
d. Special handling	*952* [SS16]
e. Return receipt (merchandise only).	*945* [SS–16]
f. Merchandise return	*932* [SS20]
g. Delivery Confirmation	*948*

Insurance, special handling, and COD services may not be used selectively for individual pieces in a multi-piece [Parcel Post subclass] *Standard Mail* mailing unless specific methods approved by the Postal Service for [ascertaining] *determining* and verifying postage are followed.

363 Regular and Nonprofit

Regular and Nonprofit subclass mail will receive the following additional services upon payment of the appropriate fees.

Service	Schedule
a. Bulk Parcel Return Service	[SS–21] *935*
b. Shipper-Paid Forwarding	[SS–22] *936*

370 RATES AND FEES

The rates and fees for Standard Mail are set forth as follows:

	Schedule
[a. Single Piece subclass.	321.1]
[b.] *a.* Regular subclass	321.2
[c.] *b.* Enhanced Carrier Route subclass.	321.3
[d.] *c.* Nonprofit subclass	321.4
[e.] *d.* Nonprofit Enhanced Carrier Route subclass.	321.5
[f.] *e.* Parcel Post subclass	
[Basic] *Inter-BMC*	322.1A
Intra-BMC	*322.1B*
Destination BMC	322.1[B] *C*
Destination SCF	*322.1D*
Destination Delivery Unit	*322.1E*
[g.] *f.* Bound Printed Matter subclass	
Single-Piece	322.3A
Bulk and Carrier Route	322.3B
[h.] *g.* Special subclass	323.1
[i.] *h.* Library subclass	323.2
[j.] *i.* Fees	1000

380 AUTHORIZATIONS AND LICENSES

381 Regular, Enhanced Carrier Route, Nonprofit and Nonprofit Enhanced Carrier Route Subclasses

A mailing fee as set forth in [Rate] Schedule 1000 must be paid once each year by mailers of Regular, Enhanced Carrier Route, Nonprofit and Nonprofit Enhanced Carrier Route subclass mail.

382 Special Subclass

A presort mailing fee as set forth in [Rate] Schedule 1000 must be paid once each year at each office of mailing by or for any person who mails presorted Special subclass mail. Any person who engages a business concern or other individuals to mail presorted Special subclass mail must pay the fee.

383 Parcel Post Subclass

A mailing fee as set forth in [Rate] Schedule 1000 must be paid once each year by mailers of Destination BMC, *Destination SCF or Destination Delivery Unit* rate category mail in the Parcel Post subclass.

Periodicals

Classification Schedule

410 DEFINITION

411 General Requirements

411.1 Definition. A publication may qualify for mailing under the Periodicals Classification Schedule if it meets all [of] the requirements in sections 411.2 through 411.5 and the requirements for one of the qualification categories in sections 412 through 415. Eligibility for specific Periodicals rates is prescribed in section 420.

411.2 Periodicals. Periodicals class mail is mailable matter consisting of newspapers and other periodical publications. The term "periodical publications" includes, but is not limited to:

a. Any catalog or other course listing including mail announcements of legal texts which are part of post-bar admission education issued by any institution of higher education or by a nonprofit organization engaged in continuing legal education.

b. Any looseleaf page or report (including any index, instruction for filing, table, or sectional identifier which is an integral part of such report) which is designed as part of a looseleaf reporting service concerning developments in the law or public policy.

411.3 Issuance

411.31 Regular Issuance. Periodicals class mail must be regularly issued at stated intervals at least four times a year, bear a date of issue, and be numbered consecutively.

411.32 Separate Publication. For purposes of determining Periodicals rate eligibility, an "issue" of a newspaper or other periodical shall be deemed to be a separate publication when the following conditions exist:

a. The issue is published at a regular frequency more often than once a month either on (1) the same day as another regular issue of the same publication; or (2) on a day different from regular issues of the same publication, and

b. More than 10 percent of the total number of copies of the issue is distributed on a regular basis to recipients who do not subscribe to it or request it, and

c. The number of copies of the issue distributed to nonsubscribers or nonrequesters is more than twice the number of copies of any other issue distributed to nonsubscribers or nonrequesters on that same day, or, if no other issue that day, any other issue distributed during the same period. "During the same period" shall be defined as the periods of time ensuing between the distribution of each of the issues whose eligibility is being examined. Such separate

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publications must independently meet the qualifications for Periodicals eligibility.

411.4 Office of Publication. Periodicals class mail must have a known office of publication. A known office of publication is a public office where business of the publication is transacted during the usual business hours. The office must be maintained where the publication is authorized original entry.

411.5 Printed Sheets. Periodicals class mail must be formed of printed sheets. It may not be reproduced by stencil, mimeograph, or hectograph processes, or reproduced in imitation of typewriting. Reproduction by any other printing process is permissible. Any style of type may be used.

412 General Publications

412.1 Definition. To qualify as a General Publication, Periodicals class mail must meet the requirements in section 411 and in sections 412.2 through 412.4.

412.2 Dissemination of Information. A General Publication must be originated and published for the purpose of disseminating information of a public character, or devoted to literature, the sciences, art, or some special industry.

412.3 Paid Circulation

412.31 Total Distribution. A General Publication must be designed primarily for paid circulation. At least 50 percent or more of the copies of the publication must be distributed to persons who have paid above a nominal rate.

412.32 List of Subscribers. A General Publication must be distributed to a legitimate list of persons who have subscribed by paying or promising to pay at a rate above nominal for copies to be received during a stated time. Copies mailed to persons who are not on a legitimate list of subscribers are nonsubscriber copies.

412.33 Nominal Rates. As used in section 412.31, nominal rate means:

a. A token subscription price that is so low that it cannot be considered a material consideration;

b. A reduction to the subscriber, under a premium offer or any other arrangements, of more than 50 percent of the amount charged at the basic annual rate for a subscriber to receive one copy of each issue published during the subscription period. The value of a premium is considered to be its actual cost to the publishers, the recognized retail value, or the represented value, whichever is highest.

412.34 Nonsubscriber Copies

412.341 *Up to Ten Percent.* Nonsubscriber copies, including sample and complimentary copies, mailed at any time during the calendar year up to and including 10 percent of the total number of copies mailed to subscribers during the calendar year are mailable at the rates that apply to subscriber copies provided that the nonsubscriber copies would have been eligible for those rates if mailed to subscribers.

412.342 *Over Ten Percent.* Nonsubscriber copies, including sample and complimentary copies, mailed at any time during the calendar year, in excess of 10 percent of the total number of copies mailed to subscribers during the calendar year which are presorted and commingled with subscriber copies are charged the applicable rates for Regular Periodicals. The 10 percent limitation for a publication is based on the total number of all copies of that publication mailed to subscribers during the calendar year.

412.35 Advertiser's Proof Copies. One complete copy of each issue of a General Publication may be mailed to each advertiser in that issue as an advertiser's proof copy at the rates that apply to subscriber copies, whether the advertiser's proof copy is mailed to the advertiser directly or, instead, to an advertising representative or agent of the publication. These copies count as subscriber copies.

412.36 Expired Subscriptions. For six months after a subscription has expired, copies of a General Publication may be mailed to a former subscriber at the rates that apply to copies mailed to subscribers, if the publisher has attempted during that six months to obtain payment, or a promise to pay, for renewal. These copies do not count as subscriber copies.

412.4 Advertising Purposes

A General Publication may not be designed primarily for advertising purposes. A publication is "designed primarily for advertising purposes" if it:

a. Has advertising in excess of 75 percent in more than one-half of its issues during any 12-month period;

b. Is owned or controlled by individuals or business concerns and conducted as an auxiliary to and essentially for the advancement of the main business or calling of those who own or control it;

c. Consists principally of advertising and editorial write-ups of the advertisers;

d. Consists principally of advertising and has only a token list of subscribers, the circulation being mainly free;

e. Has only a token list of subscribers and prints advertisements free for advertisers who pay for copies to be sent to a list of persons furnished by the advertisers; or

f. Is published under a license from individuals or institutions and features other businesses of the licensor.

413 Requester Publications

413.1 Definition. A publication which is circulated free or mainly free may qualify for Periodicals class as a Requester Publication if it meets the requirements in sections 411, and 413.2 through 413.4.

413.2 Minimum Pages. It must contain at least 24 pages.

413.3 Advertising Purposes

413.31 Advertising Percentage. It must devote at least 25 percent of its pages to nonadvertising and not more than 75 percent to advertisements.

413.32 Ownership and Control. It must not be owned or controlled by one or more individuals or business concerns and conducted as an auxiliary to and essentially for the advancement of the main business or calling of those who own or control it.

413.4 Circulated to Requesters

413.41 List of Requesters. It must have a legitimate list of persons who request the publication, and 50 percent or more of the copies of the publication must be distributed to persons making such requests. Subscription copies paid for or promised to be paid for, including those at or below a nominal rate may be included in the determination of whether the 50 percent request requirement is met. Persons will not be deemed to have requested the publication if their request is induced by a premium offer or by receipt of material consideration, provided that mere receipt of the publication is not material consideration.

413.42 Nonrequester Copies

413.421 *Up to Ten Percent.* Nonrequester copies, including sample and complimentary copies, mailed at any time during the calendar year up to and including 10 percent of the total number of copies mailed to requesters during the calendar year are mailable at the rates that apply to requester copies provided that the nonrequester copies would have been eligible for those rates if mailed to requesters.

413.422 Over Ten Percent. Nonrequester copies, including sample and complimentary copies, mailed at any time during the calendar year, in excess of 10 percent of the total number of copies mailed to requesters during the calendar year which are presorted and commingled with requester copies are charged the applicable rates for Regular Periodicals. The 10 percent limitation for a publication is based on the total number of all copies of that publication mailed to requesters during the calendar year.

413.43 Advertiser's Proof Copies. One complete copy of each issue of a Requester Publication may be mailed to each advertiser in that issue as an advertiser's proof copy at the rates that apply to requester copies, whether the advertiser's proof copy is mailed to the advertiser directly or, instead, to an advertising representative or agent of the publication. These copies count as requester copies.

414 Publications of Institutions and Societies

414.1 Publisher's Own Advertising. Except as provided in section 414.2, a publication which meets the requirements of sections 411 and 412.4, and which contains no advertising other than that of the publisher, qualifies for Periodicals class as a publication of an institution or society if it is:

a. Published by a regularly incorporated institution of learning;

b. Published by a regularly established state institution of learning supported in whole or in part by public taxation;

c. A bulletin issued by a state board of health or a state industrial development agency;

d. A bulletin issued by a state conservation or fish and game agency or department;

e. A bulletin issued by a state board or department of public charities and corrections;

f. Published by a public or nonprofit private elementary or secondary institution of learning or its administrative or governing body;

g. Program announcements or guides published by an educational radio or television agency of a state or political subdivision thereof, or by a nonprofit educational radio or television station;

h. Published by or under the auspices of a benevolent or fraternal society or order organized under the lodge system and having a bona fide membership of not less than 1,000 persons;

i. Published by or under the auspices of a trade(s) union;

j. Published by a strictly professional, literary, historical, or scientific society; or,

k. Published by a church or church organization.

414.2 General Advertising. A publication published by an institution or society identified in sections 414.1 h through k, may contain advertising of other persons, institutions, or concerns, if the following additional conditions are met:

a. The publication is originated and published to further the objectives and purposes of the society;

b. Circulation is limited to:

i. Copies mailed to members who pay either as a part of their dues or assessment or otherwise, not less than 50 percent of the regular subscription price;

ii Other actual subscribers; and

iii. Exchange copies.

c. The circulation of nonsubscriber copies, including sample and complimentary copies, does not exceed 10 percent of the total number of copies referred to in 414.2b.

415 Publications of State Departments of Agriculture

A publication which is issued by a state department of agriculture and which meets the requirements of sections 411 qualifies for Periodicals class as a publication of a state department of agriculture if it contains no advertising and is published for the purpose of furthering the objects of the department.

416 Foreign Publications

Foreign newspapers and other periodicals of the same general character as domestic publications entered as Periodicals class mail may be accepted on application of the publishers thereof or their agents, for transmission through the mail at the same rates as if published in the United States. This section does not authorize the transmission through the mail of a publication which violates a copyright granted by the United States.

420 DESCRIPTION OF SUBCLASSES

421 Regular Subclass

421.1 Definition. The Regular subclass consists of Periodicals class mail that is not mailed under section 423 and that:

a. Is presorted, marked, and presented as *specified* [prescribed] by the Postal Service; and

b. Meets machinability, addressing, and other preparation requirements [prescribed] *specified* by the Postal Service.

421.2 Regular Pound Rates

An unzoned pound rate applies to the nonadvertising portion of Regular subclass mail. A zoned pound rate applies to the advertising portion and may be reduced by applicable destination entry discounts. The pound rate postage is the sum of the nonadvertising portion charge and the advertising portion charge.

421.3 Regular Piece Rates

421.31 Basic Rate Category. The basic rate category applies to all Regular subclass mail not mailed under section 421.32, [or] 421.33, *or 421.34.*

421.32 Three[-Digit City and Five]-Digit Rate Category. The *three-digit rate category applies* [rates for this category apply] to Regular subclass mail presorted to [three-digit cities and five-digit] *single or multiple three-digit* ZIP Code destinations as [prescribed] *specified* by the Postal Service.

421.33 *Five-Digit Rate Category. The five-digit rate category applies to Regular subclass mail presorted to single or multiple five-digit ZIP Code destinations as specified by the Postal Service.*

421.34 Carrier Route Rate Category. The carrier route rate category applies to Regular subclass mail presorted to carrier routes as [prescribed] *specified* by the Postal Service.

421.4 Regular Subclass Discounts

421.41 Barcoded Letter Discounts. Barcoded letter discounts apply to letter size Regular subclass mail mailed under sections 421.31, [and] 421.32, *and 421.33* which bears a barcode representing not more than 11 digits (not including "correction" digits) as [prescribed] *specified* by the Postal Service, and which meets the machinability, addressing, and barcoding specifications and other preparation requirements [prescribed] *specified* by the Postal Service.

421.42 Barcoded Flats Discounts. Barcoded flats discounts apply to flat size Regular subclass mail mailed under sections 421.31, [and] 421.32, *and 421.33* which bear a barcode representing not more than 11 digits (not including "correction" digits) as [prescribed] specified by the Postal Service, and meet the flats machinability, addressing, and barcoding specifications and other preparation requirements *specified* [prescribed] by the Postal Service.

421.43 High Density Discount. The high density discount applies to Regular subclass mail mailed under section [421.33] *421.34*, presented in walk-sequence order, and meeting the high density and preparation requirements *specified* [prescribed] by the Postal Service.

421.44 Saturation Discount. The saturation discount applies to Regular subclass mail mailed under section [421.33] *421.34*, presented in walk-sequence order, and meeting the saturation and preparation requirements *specified* [prescribed] by the Postal Service.

421.45 Destination Entry Discounts. Destination entry discounts apply to Regular subclass mail which is destined for delivery within the service area of the destination sectional center facility (SCF) or the destination delivery unit (DDU) in which it is entered, as defined by the Postal Service. The DDU discount only applies to Carrier Route rate category mail.

421.46 Nonadvertising Discount. The nonadvertising discount applies to all Regular subclass mail and is determined by multiplying the proportion of nonadvertising content by the discount factor set forth in Rate Schedule 421 and subtracting that amount from the applicable piece rate.

422 [Reserved]

423 Preferred Rate Periodicals

423.1 Definition. Periodicals class mail, other than publications qualifying as Requester Publications, may qualify for Preferred Rate Periodicals rates if it meets the applicable requirements for those rates in sections 423.2 through 423.5.

423.2 Within County Subclass

423.21 Definition. Within County mail consists of Preferred Rate Periodicals class mail mailed in, and addressed for delivery within, the county where published and originally entered, from either the office of original entry or additional entry. In addition, a Within County publication must meet one of the following conditions:

a. The total paid circulation of the issue is less than 10,000 copies; or

b. The number of paid copies of the issue distributed within the county of publication is at least one more than one-half [of] the total paid circulation of such issue.

423.22 Entry in an Incorporated City. For the purpose of determining eligibility for Within County mail, when a publication has original entry at an independent incorporated city which is situated entirely within a county or which is contiguous to one or more counties in the same state, such incorporated city shall be considered to be within the county with which it is principally contiguous. Where more than one county is involved, the publisher will select the principal county.

423.3 Nonprofit Subclass

Nonprofit mail is Preferred Rate Periodicals class mail entered by authorized

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nonprofit organizations or associations of the following types:

a. Religious, as defined in section 1009,
b. Educational, as defined in section 1009,
c. Scientific, as defined in section 1009,
d. Philanthropic, as defined in section 1009,
e. Agricultural, as defined in section 1009,
f. Labor, as defined in section 1009,
g. Veterans', as defined in section 1009,
h. Fraternal, as defined in section 1009,
i. Associations of rural electric cooperatives,
j. One publication, which contains no advertising (except advertising of the publisher) published by the official highway or development agency of a state,
k. Program announcements or guides published by an educational radio or television agency of a state or political subdivision thereof or by a nonprofit educational radio or television station, and
l. One conservation publication published by an agency of a state which is responsible for management and conservation of the fish or wildlife resources of such state.

423.4 Classroom Subclass

Classroom mail is Preferred Rate Periodicals class mail which consists of religious, educational, or scientific publications designed specifically for use in school classrooms or religious instruction classes.

423.5 Science of Agriculture

Science of Agriculture mail consists of Preferred Rate Periodicals class mail devoted to the science of agriculture if the total number of copies of the publication furnished during any 12-month period to subscribers residing in rural areas amounts to at least 70 percent of the total number of copies distributed by any means for any purpose.

423.6 Preferred Rate Pound Rates

For Preferred Rate Periodicals entered under sections 423.3, 423.4 and 423.5, an unzoned pound rate applies to the nonadvertising portion. A zoned pound rate applies to the advertising portion and may be reduced by applicable destination entry discounts. The pound rate postage is the sum of the nonadvertising portion charge and the advertising portion charge. For Preferred Rate Periodicals entered under section 423.2, one pound rate applies to the pieces presorted to carrier route to be delivered within the delivery area of the originating post office, and another pound rate applies to all other pieces.

423.7 Preferred Rate Piece Rates

423.71 Basic Rate Category. The basic rate category applies to all Preferred Rate Periodicals not mailed under section 423.72, [or] 423.73, *or 423.74.*

423.72 Three[-digit City and Five]-Digit Rate Category. The *three-digit rate category applies* [rates for this category apply] to Preferred Rate Periodicals entered under sections *423.2,* 423.3, 423,4, or 423.5 that are presorted to *single or multiple* three-digit [cities and five-digit] ZIP [c]*C*ode destinations as [prescribed] *specified* by the Postal Service.

423.73 Five-Digit Rate Category. The five-digit rate category applies to Preferred Rate Periodicals entered under sections 423.2, 423.3, 423,4, or 423.5 that are presorted to single or multiple five-digit ZIP Code destinations as specified by the Postal Service.

423.74 *Carrier Route Rate Category.* The carrier route rate category applies to Preferred Rate Periodicals presorted to carrier routes as [prescribed] *specified* by the Postal Service.

423.8 Preferred Rate Discounts

423.81 Barcoded Letter Discounts. Barcoded letter discounts apply to letter size Preferred Rate Periodicals mailed under sections 423.71, [and] 423.72, *and 423.73* which bear a barcode representing not more than 11 digits (not including Acorrection@ digits) as *specified* [prescribed] by the Postal Service, and which meet the machinability, addressing, and barcoding specifications and other preparation requirements [prescribed] *specified* by the Postal Service.

423.82 Barcoded Flats Discounts. Barcoded flats discounts apply to flat size Preferred Rate Periodicals mailed under sections 423.71, [and] 423.72, *and 423.73* which bear a barcode representing not more than 11 digits (not including Acorrection@ digits) as [prescribed] *specified* by the Postal Service, and meet the flats machinability, addressing, and barcoding specifications and other preparation requirements [prescribed] *specified* by the Postal Service.

423.83 High Density Discount. The high density discount applies to Preferred Rate Periodicals mailed under section [423.73] *423.74,* presented in walk-sequence order, and meeting the high density and preparation requirements [prescribed] *specified* by the Postal Service[.], *except that mailers of Within County mail may qualify for such discount also by presenting otherwise eligible mailings containing pieces addressed to a minimum of 25 percent of the addresses per carrier route.*

423.84 Saturation Discount. The saturation discount applies to Preferred Rate Periodicals mailed under section [423.73] *423.74,* presented in walk-sequence order, and meeting the saturation and preparation requirements [prescribed] *specified* by the Postal Service.

423.85 Destination Entry Discounts. Destination entry discounts apply to Preferred Rate Periodicals which are destined for delivery within the service area of the destination sectional center facility (SCF) or the destination delivery unit (DDU) in which they are entered, as defined by the Postal Service. The DDU discount only applies to Carrier Route rate category mail; the SCF discount is not available for mail entered under section 423.2.

423.86 Nonadvertising Discount.

The nonadvertising discount applies to Preferred Rate Periodicals entered under sections 423.3, 423.4, 423.5 and is determined by multiplying the proportion of nonadvertising content by the discount factor set forth in Rate Schedules 421, 423.3 or 423.4 and subtracting that amount from the applicable piece rate.

430 PHYSICAL LIMITATIONS

There are no maximum size or weight limits for Periodicals class mail.

440 POSTAGE AND PREPARATION

441 Postage.

Postage must be paid on Periodicals class mail as set forth in section 3000.

442 Presortation.

Periodicals class mail must be presorted [in accordance with regulations prescribed] *as specified* by the Postal Service.

443 Attachments and Enclosures

443.1 General.

First-Class Mail or Standard Mail from any of the subclasses listed in section 321 ([Single Piece,] Regular, Enhanced Carrier Route, [or] Nonprofit or Nonprofit Enhanced Carrier Route) may be attached to or enclosed with Periodicals class mail. The piece must be marked as [prescribed] *specified* by the Postal Service. Except as provided in section 443.2, additional postage must be paid for the attachment or enclosure as if it had been mailed separately. Otherwise, the entire combined piece is subject to the appropriate First-Class or section 321 Standard Mail rate for which it qualifies (unless the rate applicable to the host piece is higher), or, if a combined piece with a section 321 Standard Mail attachment or enclosure weighs 16 ounces or more, the piece is subject to the Parcel Post rate for which it qualifies.

443.2 Incidental First-Class Mail Attachments and Enclosures.

First-Class Mail that meets one or more of the definitions in sections 210 b through d may be attached to or enclosed with Periodicals class mail, with postage paid on the combined piece at the applicable Periodicals rate, if the attachment or enclosure is incidental to the piece to which it is attached or with which it is enclosed.

444 Identification

Periodicals class mail must be identified as required by the Postal Service. Nonsubscriber and nonrequester copies, including sample and complimentary copies, must be identified as required by the Postal Service.

445 Filing of Information

Information relating to Periodicals class mail must be filed with the Postal Service [in accordance with] *under* 39 U.S.C. 3685.

446 Enclosures and Supplements

Periodicals class mail may contain enclosures and supplements as [prescribed] *specified* by the Postal Service. An enclosure or supplement may not contain writing, printing or sign thereof or therein, in addition to the original print, except as authorized by the Postal Service, or as authorized under section 443.2.

450 DEPOSIT AND DELIVERY

451 Deposit

Periodicals class mail must be deposited at places and times designated by the Postal Service.

452 Service

Periodicals class mail is given expeditious handling insofar as is practicable.

453 Forwarding and Return

Undeliverable-as-addressed Periodicals class mail will be forwarded or returned to the mailer, as [prescribed] *specified* by the Postal Service. Undeliverable-as-addressed combined First-Class and Periodicals class mail pieces will be forwarded or returned, as [prescribed] *specified* by the Postal Service. Additional charges when Periodicals class mail is returned will be based on the applicable [Standard] *First-Class* Mail rate.

470 RATES AND FEES

The rates and fees for Periodicals class mail are set forth as follows:

	Schedule
a. Regular	421
b. Within County	423.2
c. Nonprofit	423.3
d. Classroom	423.4
e. Science of Agriculture	421
f. Fees	1000

480 AUTHORIZATIONS AND LICENSES

481 Entry Authorizations

Prior to mailing at Periodicals rates, a publication must be authorized for entry as Periodicals class mail by the Postal Service. Each authorized publication will be granted one original entry authorization at the post office where the office of publication is maintained. An authorization for the establishment of an account to enter a publication at an additional entry office may be granted by the Postal Service upon application by the publisher. An application for re-entry must be made whenever the publisher proposes to change the publication's title, frequency of issue or office of original entry.

482 Preferred Rate Authorization

Prior to mailing at Nonprofit, Classroom, and Science of Agriculture rates, a publication must obtain an additional Postal Service entry authorization to mail at those rates.

483 Mailing by Publishers and News Agents

Periodicals class mail may be mailed only by publishers or registered news agents. A news agent is a person or concern engaged in selling two or more Periodicals publications published by more than one publisher. News agents must register at all post offices at which they mail Periodicals class mail.

484 Fees

Fees for original entry, additional entry, re-entry, and registration of a news agent are set forth in [Rate] Schedule 1000.

Renumber and Amend Special Service Classification Schedules SS–1–6, SS–8–16, and SS–18–22 as follows:

SPECIAL SERVICES

910 ADDRESSING

911 ADDRESS CORRECTION SERVICE

911.1 Definition

911.11 Address correction service is a service which provides the mailer with a method of obtaining the correct address, if available to the Postal Service, of the addressee or the reason for nondelivery.

911.2 Description of Service

911.21 Address correction service is available to mailers of postage prepaid mail of all classes. Periodicals class mail will receive address correction service.

911.22 Address correction service is not available for items addressed for delivery by military personnel at any military installation.

911.23 Address correction provides the following service to the mailer:

a. If the correct address is known to the Postal Service, the mailer is notified of both the old and the correct address.

b. If the item mailed cannot be delivered, the mailer will be notified of the reason for nondelivery.

911.3 Requirements of the Mailer

911.31 Mail, other than Periodicals class mail, sent under this [classification schedule] *section* must bear a request for address correction service.

911.4 Fees

911.41 There is no charge for address correction service when the correction is provided incidental to the return of the [mail piece] *mailpiece* to the sender.

911.42 A fee, as set forth in [Rate] *Fee* Schedule [SS–1] *911*, is charged for all other forms of address correction service.

912 MAILING LIST SERVICES

912.1 Definition

912.11 Mailing list services include:

a. Correction of mailing lists;

b. [Change of address] *Change-of-address* information for election boards and registration commissions;

c. ZIP coding of mailing lists; and

d. Arrangement of address cards in the sequence of delivery.

912.12 Correction of mailing list service provides current information concerning name and address mailing lists or correct information concerning occupant mailing lists.

912.13 ZIP coding of mailing lists service is a service identifying ZIP [c]*Code* addresses in areas served by multi-ZIP coded postal facilities.

912.2 Description of Service

912.21 Correction of mailing list service is available only to the following owners of name and address or occupant mailing lists:

a. Members of Congress
b. Federal agencies
c. State government departments
d. Municipalities
e. Religious organizations
f. Fraternal organizations
g. Recognized charitable organizations
h. Concerns or persons who solicit business by mail.

912.22 The following corrections will be made to name and address lists:

a. Names to which mail cannot be delivered or forwarded will be deleted;

b. Incorrect house, rural, or post office box numbers will be corrected;

c. When permanent forwarding orders are on file for customers who have moved, new addresses including ZIP [c]*Codes* will be furnished;

d. New names will not be added to the list.

912.23 The following corrections will be made to occupant lists:

a. Numbers representing incorrect or non-existent street addresses will be deleted;

b. Business or rural route addresses will be distinguished if known;

c. Corrected cards or sheets will be grouped by route;

d. Street address numbers will not be added or changed.

912.24 Corrected lists will be returned to customers at no additional charge.

912.25 Residential change-of-address information is available only to election boards or registration commissions for obtaining, if known to the Postal Service, the current address of an addressee.

912.26 ZIP coding or mailing list service provides that addresses will be sorted to the finest possible ZIP [c] *Code* sortation.

912.27 Gummed labels, wrappers, envelopes, [or] Stamped Cards, or [post cards] *postcards* indicative of one-time use will not be accepted as mailing lists.

912.28 Sequencing of address cards service provides for the removal of incorrect addresses, notation of missing addresses and addition of missing addresses.

912.3 Requirements of Customer

912.31 A customer desiring correction of a mailing list or arrangement of address cards in sequence of carrier delivery must submit the list or cards as [prescribed] *specified* by [regulation] *the Postal Service.*

912.4 Fees

912.41 The fees for mailing list services are set forth in [Rate] *Fee* Schedule[s] *912* [SS–11a, SS–11b, SS–11c and SS–11d].

920 DELIVERY ALTERNATIVES

921 POST OFFICE BOX AND CALLER SERVICE

921.1 Caller Service

921.11 Definition

921.111 Caller service is a service which permits a customer to obtain mail addressed to the customer's box number through a call window or loading dock.

921.12 Description of Service

921.121 Caller service uses post office box numbers as the address medium but does not actually use a post office box.

921.122 Caller service is not available at certain postal facilities.

921.123 Caller service is provided to customers on the basis of mail volume received and number of post office boxes used at any one facility.

921.124 A customer may reserve a caller number.

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921.125 Caller service cannot be used when the sole purpose is, by subsequently filing [change of address] *change-of-address* orders, to have mail forwarded or transferred to another address by the Postal Service free of charge.

921.13 Fees

921.131 Fees for caller service are set forth in [Rate] *Fee* Schedule *921*. [SS–10.]

921.2 Post Office Box Service

921.21 Definition

921.211 Post office box service is a service which provides the customer with a private, locked receptacle for the receipt of mail during the hours when the lobby of a postal facility is open.

921.22 Description of Service

921.221 The Postal Service may limit the number of post office boxes occupied by any one customer.

921.222 A post office [box holder] *boxholder* may ask the Postal Service to deliver to the post office box all mail properly addressed to the holder. If the post office box is located at the post office indicated on the piece, it will be transferred without additional charge, [in accordance with] *under* existing regulations.

921.223 Post office box service cannot be used when the sole purpose is, by subsequently filing [change of address] *change-of-address* orders, to have mail forwarded or transferred to another address by the Postal Service free of charge.

921.23 Fees

921.231 Fees for post office box service are set forth in [Rate] *Fee* Schedule *921*. [SS–10.]

921.232 In postal facilities primarily serving academic institutions or the students of such institutions, fees for post office boxes are:

Period of box use	Fee
95 days or less	½ semi-annual fee.
96 to 140 days	¾ semi-annual fee.
141 to 190 days	Full semi-annual fee.
191 to 230 days	1¼ semi-annual fee.
231 to 270 days	1½ semi-annual fee.
271 days to full year	Full annual fee.

921.233 No refunds will be made for post office box fees paid under section *921.232*. [10.031.] For purposes of this [classification schedule SS–10] *section*, the full annual fee is twice the amount of the semi-annual fee.

930 PAYMENT ALTERNATIVES

931 BUSINESS REPLY MAIL

931.1 Definitions

931.11 Business reply mail is a service whereby business reply cards, envelopes, cartons and labels may be distributed by or for a business reply distributor for use by mailers for sending First-Class Mail without prepayment of postage to an address chosen by the distributor. A distributor is the holder of a business reply license.

931.12 A business reply mail piece is nonletter-size for purposes of [Classification Schedule SS–2] *this section* if it meets addressing and other preparation requirements, but does not meet the machinability requirements [prescribed] *specified* by the Postal Service for mechanized or automated letter sortation.

This provision expires June 7, 1999.

931.2 Description of Service

931.21 The distributor guarantees payment on delivery of postage and fees for all returned business reply mail. Any distributor of business reply cards, envelopes, cartons and labels under any one license for return to several addresses guarantees to pay postage and fees on any returns refused by any such addressee.

931.3 Requirements of the Mailer

931.31 Business reply cards, envelopes, cartons and labels must be preaddressed and bear business reply markings.

931.32 Handwriting, typewriting or handstamping are not acceptable methods of preaddressing or marking business reply cards, envelopes, cartons, or labels.

931.4 Fees

931.41 The fees for business reply mail are set forth in [Rate] *Fee* Schedule *931* [SS–2].

931.42 To qualify as an active business reply mail advance deposit trust account, the account must be used solely for business reply mail and contain sufficient postage and fees due for returned business reply mail.

931.43 An accounting fee as set forth in [Rate] *Fee* Schedule *931* [SS–2] must be paid each year for each advance deposit business reply account at each facility where the mail is to be returned.

931.5 Experimental Reverse Manifest Fees

931.51 A set-up/qualification fee as set forth in [Rate] *Fee* Schedule *931* [SS–2] must be paid by each business reply mail advance deposit trust account holder at each destination postal facility at which it applies to receive nonletter-size business reply mail for which the postage and fees will be accounted for through a reverse manifest method approved by the Postal Service for [ascertaining] *determining* and verifying postage.

A distributor must pay this fee for each business reply mail advance deposit trust account for which participation in the nonletter-size business reply mail experiment is requested.

This provision expires June 7, 1999.

931.52 A nonletter-size reverse manifest monthly fee as set forth in [Rate] *Fee* Schedule *931* [SS–2] must be paid each month during which the distributor's reverse manifest account is active.

This fee applies to the (no more than) 10 advance deposit account holders which are selected by the Postal Service to participate in the reverse manifest nonletter-size business reply mail experiment and which utilize reverse manifest accounting methods approved by the Postal Service for [ascertaining] *determining* and verifying postage and fees.

This provision expires June 7, 1999.

931.6 Experimental Weight Averaging Fees

931.61 A set-up/qualification fee as set forth in [Rate] *Fee* Schedule *931* [SS–2] must be paid by each business reply mail advance deposit trust account holder at each destination postal facility at which it applies to receive nonletter-size business reply mail for which the postage and fees will be accounted for through a weight averaging method approved by the Postal Service for [ascertaining] *determining* and verifying postage.

A distributor must pay this fee for each business reply mail advance deposit trust account for which participation in the nonletter-size business reply mail experiment is requested.

This provision expires June 7, 1999.

931.62 A nonletter-size weight averaging monthly fee as set forth in [Rate] *Fee* Schedule *931* [SS–2] must be paid each month during which the distributor's weight averaging account is active.

This fee applies to the (no more than) 10 advance deposit account holders which are selected by the Postal Service to participate in the weight averaging nonletter-size business reply mail experiment.

This provision expires June 7, 1999.

931.7 Authorizations and Licenses

931.71 In order to distribute business reply cards, envelopes, cartons or labels, the distributor must obtain a license or licenses from the Postal Service and pay the appropriate fee as set forth in [Rate] *Fee* Schedule *931* [SS–2].

931.72 Except as provided in section *931.73* [2.0502], the license to distribute business reply cards, envelopes, cartons, or labels must be obtained at each office from which the mail is offered for delivery.

931.73 If the business reply mail is to be distributed from a central office to be returned to branches or dealers in other cities, one license obtained from the post office where the central office is located may be used to cover all business reply mail.

931.74 The license to mail business reply mail may be canceled for failure to pay business reply postage and fees when due, and for distributing business reply cards or envelopes [which] *that* do not conform to prescribed form, style or size.

931.75 Authorization to pay experimental nonletter-size business reply mail fees as set forth in [Rate] *Fee* Schedule *931* [SS–2] may be canceled for failure of a business reply mail advance deposit trust account holder to meet the standards [prescribed] *specified* by the Postal Service for the applicable reverse manifest or weight averaging accounting method.

This provision expires June 7, 1999.

932 MERCHANDISE RETURN SERVICE

932.1 Definition

932.11 Merchandise return service provides a method whereby a shipper may authorize its customers to return a parcel with the postage paid by the shipper. A shipper is the holder of a merchandise return permit.

932.2 Description of Service

932.21 Merchandise return service is available to all shippers who obtain the necessary permit and who guarantee payment of postage and fees for all returned parcels.

932.22 Merchandise return service is available for the return of any parcel under the following classification schedules:

a. First-Class Mail.
b. Standard Mail.

932.3 Requirements of the Mailer

932.31 Merchandise return labels must be prepared at the shipper's expense to specifications set forth by the Postal Service.

932.32 The shipper must furnish its customer with an appropriate merchandise return label.

932.4 Other Services

932.41 The following services may be purchased in conjunction with Merchandise Return Service:

[Classification Schedule] *Service*	Fee Schedule
a. Certificate of mailing	*947* [SS–4]
b. [Insured mail] *Insurance*	*943* [SS–9]
c. Registered mail	*942* [SS–14]
d. Special handling	*952* [SS–18]

932.42 Only the shipper may purchase insurance service for the merchandise return parcel by indicating the amount of insurance on the merchandise return label before providing it to the customer. The customer who returns a parcel to the shipper under merchandise return service may not purchase insurance.

932.5 Fees

932.51 The fee for the merchandise return service is set forth in [Rate] *Fee* Schedule *932*. [SS–20.] This fee is paid by the shipper.

932.6 Authorizations and Licenses

932.61 A permit fee as set forth in [Rate] Schedule 1000 must be paid once each calendar year by shippers utilizing merchandise return service.

932.62 The merchandise return permit may be canceled for failure to maintain sufficient funds in a trust account to cover postage and fees on returned parcels or for distributing merchandise return labels that do not conform to Postal Service specifications.

933 ON-SITE METER SETTING

933.1 Definition

933.11 On-site meter setting or examination service is a service whereby the Postal Service will service a postage meter at the mailer's or meter manufacturer's premises.

933.2 Description of Service

933.21 On-site meter setting or examination service is available on a scheduled basis, and meter setting may be [done] *performed* on an emergency basis for those customers enrolled in the scheduled on-site meter setting or examination program.

933.3 Fees

933.31 The fees for on-site meter setting or examination service are set forth in [Rate] *Fee* Schedule *933* [SS–12].

934 [RESERVED]

935 BULK PARCEL RETURN SERVICE

935.1 Definition

935.11 Bulk Parcel Return Service provides a method whereby high-volume parcel mailers may have undeliverable-as-addressed machinable parcels returned to designated postal facilities for pickup by the mailer at a predetermined frequency [prescribed] *specified* by the Postal Service or delivered by the Postal Service in bulk in a manner and frequency [prescribed] *specified* by the Postal Service.

935.2 Description of Service

935.21 Bulk Parcel Return Service is available only for the return of machinable parcels, as defined by the Postal Service, initially mailed under the following Standard Mail subclasses: Regular and Nonprofit.

935.3 Requirements of the Mailer

935.31 Mailers must receive authorization from the Postal Service to use Bulk Parcel Return Service.

935.32 To claim eligibility for Bulk Parcel Return Service at each facility through which the mailer requests Bulk Parcel Return Service, the mailer must demonstrate receipt of 10,000 returned machinable parcels at a given delivery point in the previous postal fiscal year or must demonstrate a high likelihood of receiving 10,000 returned parcels in the postal fiscal year for which the service is requested.

935.33 Payment for Bulk Parcel Return Service is made through advance deposit account, or as otherwise specified by the Postal Service.

935.34 Mail for which Bulk Parcel Return Service is requested must bear endorsements [prescribed] *specified* by the Postal Service.

935.35 Bulk Parcel Return Service mailers must meet the documentation and audit requirements of the Postal Service.

935.4 Other Services

935.41 The following services may be purchased in conjunction with Bulk Parcel Return Service:

Service	*Fee Schedule*
[Classification]	
a. Address Correction Service.	*911* [SS–1]
b. Certificate of Mailing	*947* [SS–4]
c. Shipper-Paid Forwarding.	*936* [SS–22]

935.5 Fee

935.51 The fee for Bulk Parcel Return Service is set forth in Fee Schedule [SS–21] *935*.

935.6 Authorizations and Licenses

935.61 A permit fee as set forth in [Fee] Schedule 1000 must be paid once each calendar year by mailers utilizing Bulk Parcel Return Service.

935.62 The Bulk Parcel Return Service permit may be canceled for failure to maintain sufficient funds in an advance deposit account to cover postage and fees on returned parcels or for failure to meet the specifications of the Postal Service.

936 SHIPPER-PAID FORWARDING

936.1 Definition

936.11 Shipper-Paid Forwarding provides a method whereby mailers may have undeliverable-as-addressed machinable parcels forwarded at [Standard Mail Single Piece] *applicable First-Class Mail* rates for up to one year from the date that the addressee filed a change-of-address order. If the parcel, for which Shipper-Paid Forwarding is elected, is returned, the mailer will pay the [appropriate Standard Mail Single Piece] *applicable First-Class Mail* rate, or the Bulk Parcel Return Service fee, if that service was elected.

936.2 Description of Service

936.21 Shipper-Paid Forwarding is available only for the forwarding of machinable parcels, as defined by the Postal Service, initially mailed under the following Standard Mail subclasses: Regular and Nonprofit.

936.3 Requirements of the Mailer

936.31 Shipper-Paid Forwarding is available only in conjunction with automated Address Correction Service in [Schedule SS–1] *section 911*.

936.32 Mail for which Shipper-Paid Forwarding is purchased must meet the preparation requirements of the Postal Service.

936.33 Payment for Shipper-Paid Forwarding is made through advance deposit account, or as otherwise specified by the Postal Service.

936.34 Mail for which Shipper-Paid Forwarding is requested must bear endorsements [prescribed] *specified* by the Postal Service.

936.4 Other Services

936.41 The following services may be purchased in conjunction with Shipper-Paid Forwarding:

Service	[Classification] *Fee schedule*
a. Certificate of Mailing	*947* [SS–4]
b. Bulk Parcel Return Service.	*935* [SS–21]

936.5 Applicable Rates

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936.51 Except as provided in [Schedule SS–21, Standard Mail Single Piece Rates, set forth in Rate Schedule 321.1] *section 935, single-piece rates under the Letters and Sealed Parcels subclass or the Priority Mail subclass of First-Class Mail, as set forth in Rate Schedules 221 and 223*, apply to pieces forwarded or returned [in connection with Shipper-Paid Forwarding] under this section.

940 ACCOUNTABILITY & RECEIPTS

941 CERTIFIED MAIL

941.1 Definition

941.11 Certified mail service is a service that provides a mailing receipt to the sender and a record of delivery at the office of *delivery* [address].

941.2 Description of Service

941.21 Certified mail service is provided for matter mailed as First-Class Mail.

941.22 If requested by the mailer, the time of acceptance[s] by the Postal Service will be indicated on the receipt.

941.23 A record of delivery is retained at the office of delivery for a specified period of time.

941.24 If the initial attempt to [delivery] *deliver the* mail is not successful, a notice of [arrival] *attempted delivery* is left at the mailing address.

941.25 A receipt of mailing may be obtained only if the article is mailed at a post office, branch or station, or given to a rural carrier.

941.26 Additional copies of the original mailing receipt may be obtained by the mailer.

941.3 Deposit of Mail

941.31 Certified mail must be deposited in a manner specified by the Postal Service.

941.4 Other Services

941.41 The following services may be obtained in conjunction with mail sent under this [classification schedule] *section* upon payment of the applicable fees:

Service	[Classification] *Fee* Schedule
a. Restricted Delivery ...	*946* [SS–15]
b. Return Receipt	*945* [SS–16]

941.5 Fees

941.51 The fees for certified mail service are set forth in [Rate] *Fee* Schedule *941*. [SS–5.]

942 REGISTERED MAIL

942.1 Definition

942.11 Registered mail is a service *that* [which] provides added protection to mail sent under this [Domestic Mail Classification Schedule] *section* and [optional] indemnity in case of loss or damage.

942.2 Description of Service

942.21 Registered mail service is available to mailers of prepaid mail sent as First-Class Mail except that registered mail must meet the minimum requirements for length and width regardless of thickness.

942.22 Registered mail service provides insurance up to a maximum of $25,000, depending upon the actual value at the time of mailing, except that insurance is [optional for articles valued $100 or less.] *not available for articles of no value.*

942.23 There is no limit on the value of articles sent under this [classification schedule] *section.*

942.24 Registered mail service is not available for:

a. All delivery points because of the high security required for registered mail; in addition, not all delivery points will be available for registry and liability is limited in some geographic areas[.];

b. Mail of any class sent in combination with First-Class Mail;

c. Two or more articles tied or fastened together, unless the envelopes are enclosed in the same envelope or container.

942.25 The following services are provided as part of registered mail service at no additional cost to the mailer:

a. A receipt;

b. A record of delivery, retained by the Postal Service for a specified period of time;

c. A notice of [arrival] *attempted delivery* will be left at the mailing address if the initial delivery attempt is unsuccessful;

d. When registered mail is undeliverable-as-addressed and cannot be forwarded, a notice of nondelivery is provided.

942.26 A claim for complete loss of insured articles may be filed by the mailer only. A claim for damage or for partial loss of insured articles may be filed by either the mailer or addressee.

942.27 Indemnity claims for registered mail [on which insurance is provided, or for articles valued $100 or less on which optional insurance has been elected,] must be filed within a [specified] period of time, *specified by the Postal Service,* from the date the article was mailed.

[942.28 No indemnity is paid on any matter registered free.]

942.3 Deposit of Mail

942.31 Registered mail must be deposited in a manner specified by the Postal Service.

942.4 Service

942.41 Registered mail is provided maximum security.

942.5 Forwarding and Return

942.51 Registered mail is forwarded and returned without additional registry charge.

942.6 Other Services

942.61 The following services may be obtained in conjunction with mail sent under this [classification schedule] *section* upon payment of applicable fees:

Service	[Classification] *Fee* Schedule
a. Collect on delivery	*944* [SS–6]
b. Restricted delivery	*946* [SS–15]
c. Return receipt	*945* [SS–16]
d. Merchandise return (shippers only).	*932* [SS–20]

942.7 Fees

942.71 The fees for registered mail are set forth in [Rate] *Fee* Schedule 942. [SS–14.]

943 INSURANCE

943.1 Express Mail Insurance

943.11 Definition

943.111 Express Mail Insurance is a service that provides the mailer with indemnity for loss of, rifling of, or damage to items sent by Express Mail.

943.12 Description of Service

943.121 Express Mail Insurance is available only for Express Mail.

943.122 Insurance coverage is provided, for no additional charge, up to $500 per piece for document reconstruction, up to $5,000 per occurrence regardless of the number of claimants. Insurance coverage is also provided, for no additional charge, up to $500 per piece for merchandise. Insurance coverage for merchandise valued at more than $500 is available for an additional fee, as set forth in [Rate] *Fee* Schedule 943 [SS–9]. The maximum liability for merchandise is $5,000 per piece. For negotiable items, currency, or bullion, the maximum liability is $15.

943.123 Indemnity claims for Express Mail must be filed within a specified period of time from the date the article was mailed.

943.124 Indemnity will be paid under terms and conditions [prescribed] *specified* by the Postal Service.

943.125 Among other limitations [prescribed] *specified* by the Postal Service, indemnity will not be paid by the Postal Service for loss, damage or rifling:

a. Of nonmailable matter;

b. Due to improper packaging;

c. Due to seizure by any agency of government; or[,]

d. Due to war, insurrection or civil disturbances.

943.13 Fees

943.131 The fees for Express Mail Insurance service are set forth in [Rate] *Fee* Schedule *943*.[SS–9.]

943.2 General Insurance

943.21 Retail Insurance

943.211 [General] *Retail* Insurance is a service that provides the mailer with indemnity for loss of, rifling of, or damage to mailed items.

943.212 The maximum liability of the Postal Service [under this part] for *Retail Insurance* is $5000.

943.213 [General] *Retail* Insurance is available for mail sent under the following classification schedules:

a. First-Class Mail, if containing matter [which] *that* may be mailed as Standard Mail;

b. [Single Piece,] Parcel Post, Bound Printed Matter, Special, and Library *subclasses of* Standard Mail.

943.214 [This service] *Retail Insurance* is not available for matter offered for sale, addressed to prospective purchasers who have not ordered or authorized their sending. If such matter is received in the mail, payment will not be made for loss, rifling, or damage.

943.215 For Retail Insurance, the [The] mailer is issued a receipt for each item mailed. For items insured for more than $50, a receipt of delivery is obtained by the Postal Service.

943.216 For items insured for more than $50, a notice of [arrival] *attempted delivery* is left at the mailing address when the first attempt at delivery is unsuccessful.

943.217 Retail insurance provides indemnity for the actual value of the article at the time of mailing.

943.22 Bulk Insurance

943.221 Bulk Insurance service is available for mail entered in bulk at designated facilities and in a manner specified by the Postal Service, including the use of electronic manifesting, and sent under the following classification schedules:

a. First-Class Mail, if containing matter that may be mailed as Standard Mail;

b. Parcel Post, Bound Printed Matter, Special, and Library subclasses of Standard Mail.

943.222 Bulk Insurance bears endorsements and identifiers specified by the Postal Service. Bulk Insurance mailers must meet the documentation requirements of the Postal Service.

943.223 Bulk Insurance provides indemnity for the lesser of:

(1) the actual value of the article at the time of mailing, or (2) the wholesale cost of the contents to the sender.

943.23 Claims

943.231 For Retail Insurance, a [A] claim for complete loss may be filed by the mailer only,[.] *and a* [A] claim for damage or for partial loss may be filed by either the mailer or addressee. *For Bulk Insurance, all claims must be filed by the mailer.*

943.232 A claim for damage or loss on a parcel sent merchandise return *under section 932* [(SS–20)] may [only] be filed *only* by the purchaser of the insurance.

943.233 Indemnity claims must be filed within a specified period of time from the date the article was mailed.

[943.234 Additional copies of the original mailing receipt may be obtained by the mailer, upon payment of the applicable fee set forth in Rate Schedule SS–9.]

943.24 Deposit of Mail

943.241 Mail insured under [this part] *section 943.2* must be deposited [in a manner] *as* specified by the Postal Service.

943.25 Forwarding and Return

943.251 By insuring an item, the mailer guarantees forwarding and return postage unless instructions on the piece mailed indicate that it not be forwarded or returned.

943.252 Mail undeliverable as addressed [sent under this part] will be returned to the sender as specified by the sender or by the Postal Service.

943.26 Other Services

943.261 The following services, if applicable to the *sub*class of mail, may be obtained in conjunction with mail sent under this [part] *section* upon payment of the applicable fees:

Service	[Classification] *Fee Schedule*
a. Parcel Airlift	*951* [SS–13]
b. Restricted delivery (for items insured for more than $50).	*946* [SS–15]
c. Return receipt (for items insured for more than $50).	*945* [SS–16]
d. Special handling	*952* [SS–18]
e. Merchandise return (shippers only).	*932* [SS–20]

943.27 Fees

943.271 The fees for [General] Insurance are set forth in [Rate] *Fee* Schedule *943*. [SS–9].

944 COLLECT ON DELIVERY

944.1 Definition

944.11 Collect on Delivery (COD) service is a service [which] *that* allows a mailer to mail an article for which [he has not been paid] *full or partial payment has not yet been received* and have the price, the cost of postage and fees, and anticipated or past due charges collected by the Postal Service from the addressee when the article is delivered.

944.2 Description of Service

944.21 COD service is available for collection of $600 or less upon the delivery of postage prepaid mail sent under the following classification schedules:

a. Express Mail

b. First-Class Mail

c. [Single Piece,] Parcel Post, Bound Printed Matter, Special, and Library *subclasses of* Standard Mail

944.22 Service under this [schedule] *section* is not available for:

a. Collection agency purposes;

b. Return of merchandise about which some dissatisfaction has arisen, unless the new addressee has consented in advance to such return;

c. Sending only bills or statements of indebtedness, even though the sender may establish that the addressee has agreed to collection in this manner; however, when the legitimate COD shipment consisting of merchandise or bill of lading, is being mailed, the balance due on a past or anticipated transaction may be included in the charges on a COD article, provided the addressee has consented in advance to such action;

d. Parcels containing moving-picture films mailed by exhibitors to moving-picture manufacturers, distributors, or exchanges; or

e. Goods *that* [which] have not been ordered by the addressee.

944.23 COD service provides the mailer with insurance against loss, rifling and damage to the article as well as failure to receive the amount collected from the addressee. This provision insures only the receipt of the instrument issued to the mailer after payment of COD charges, and is not to be construed to make the Postal Service liable upon any such instrument other than a Postal Service money order.

944.24 A receipt is issued to the mailer for each piece of COD mail. Additional copies of the original mailing receipt may be obtained by the mailer.

944.25 Delivery of COD mail will be made in a manner specified by the Postal Service. If a delivery to the mailing address is not attempted or if a delivery attempt is unsuccessful, a notice of [arrival] *attempted delivery* will be left at the mailing address.

944.26 The mailer may receive a notice of nondelivery if the piece mailed is endorsed appropriately.

944.27 The mailer may designate a new addressee or alter the COD charges by submitting the appropriate form and by paying the appropriate fee as set forth in [Rate] *Fee* Schedule *944*. [SS–6.]

944.28 A claim for complete loss may be filed by the mailer only. A claim for damage or for partial loss may be filed by either the mailer or addressee.

944.29 COD indemnity claims must be filed within a specified period of time from the date the article was mailed.

944.3 Requirements of the Mailer

944.31 COD mail must be identified as COD mail.

944.4 Deposit of Mail

944.41 COD mail must be deposited in a manner specified by the Postal Service.

944.5 Forwarding and Return

944.51 A mailer of COD mail guarantees to pay any return postage, unless otherwise specified on the piece mailed.

944.52 For COD mail sent as Standard Mail, postage at the applicable rate will be charged to the addressee:

a. When an addressee, entitled to delivery to the mailing address under Postal Service regulations, requests delivery of COD mail[which] *that* was refused when first offered for delivery;

b. For each delivery attempt, to an addressee entitled to delivery to the mailing address under Postal Service regulations, after the second such attempt.

944.6 Other Services

944.61 The following services, if applicable to the *sub*class of mail, may be obtained in conjunction with mail sent under this [classification schedule] *section* upon payment of the applicable fee:

Service	[Classification] Fee Schedule
a. Registered mail, if sent as First-Class.	*942* [SS14]
b. Restricted delivery	*946* [SS15]
c. Special handling	*952* [SS–18]

944.7 Fees

944.71 Fees for COD service are set forth in [Rate] *Fee* Schedule *944* [SS–6].

945 RETURN RECEIPT

945.1 Definition

945.11 Return receipt service is a service *that* [which] provides evidence to the mailer that an article has been received at the delivery address.

945.2 Description of Service

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945.21 Return receipt service is available for mail sent under the following *sections or* classification schedules:

	[Classification Schedule]
a. Certified mail	*941* [SS5]
b. COD mail	944 [SS6]
c. *Insurance* [Insured mail] (if insured for more than $50).	*943* [SS9]
d.Registered mail	942 [SS14]
e. Delivery Confirmation	*948*
[e.] *f.* Express Mail.	
[f.] *g.* Priority Mail (merchandise only).	
[g.] *h.* Standard Mail (limited to merchandise sent by [Single Piece,] Parcel Post, Bound Printed Matter, Special, and Library subclasses).	

945.22 Return receipt service is available at the time of mailing or, when purchased in conjunction with certified *mail*, COD, [insured] *Insurance* (if for more than $50), registered *mail*, or Express Mail, after mailing.

945.23 Mailers requesting return receipt service at the time of mailing will be provided, as appropriate, the signature of the addressee or addressee's agent, the date delivered, and the address of delivery, if different from the address on the mailpiece.

945.24 Mailers requesting return receipt service after mailing will be provided the date of delivery and the name of the person who signed for the article.

945.25 If the mailer does not receive a return receipt within a specified period of time from the date of mailing, the mailer may request a duplicate return receipt. No fee is charged for a duplicate return receipt.

945.3 Fees

945.31 The fees for return receipt service are set forth in [Rate] *Fee* Schedule *945* [SS–16].

946 RESTRICTED DELIVERY

946.1 Definition

946.11 Restricted delivery service is a service that provides a means by which a mailer may direct that delivery will be made only to the addressee or to someone authorized by the addressee to receive such mail.

946.2 Description of Service

946.21 This service is available for mail sent under the following [classification schedules] *sections:*

	[Classification Schedule]
a.Certified Mail	*941* [SS–5]
b.COD Mail	*944* [SS–6]
c.[Insured Mail] *Insurance* (if insured for more than $50).	*943* [SS–9]
d.Registered Mail	*942* [SS–14]

946.22 Restricted delivery is available to the mailer at the time of mailing or after mailing.

946.23 Restricted delivery service is available only to natural persons specified by name.

946.24 A record of delivery will be retained by the Postal Service for a specified period of time.

946.25 Failure to provide restricted delivery service when requested after mailing, due to prior delivery, is not grounds for refund of the fee or communications charges.

946.3 Fees

946.31 The fees for restricted delivery service are set forth in[Rate] *Fee* Schedule *946 [SS–15].*

947 CERTIFICATE OF MAILING

947.1 Definition

947.11 Certificate of mailing service is a service [which] *that* furnishes evidence of mailing.

947.2 Description of Service

947.21 Certificate of mailing service is available to mailers of matter sent under the classification schedule to any class of mail.

947.22 A receipt is not obtained upon delivery of the mail to the addressee. No record of mailing is maintained at the post office.

947.23 Additional copies of certificates of mailing may be obtained by the mailer.

947.3 Other Services

947.31 The following services, if applicable to the *sub*class of mail, may be obtained in conjunction with mail sent under this classification schedule upon payment of the applicable fees:

Service	[Classification] Fee Schedule
a. Parcel airlift	*951* [SS13]
b. Special handling	*952* [SS18]

947.4 Fees

947.41 The fees for certificate of mailing service are set forth in [Rate] *Fee* Schedule *947* [SS–4].

948 DELIVERY CONFIRMATION

948.1 Definition

948.11 Delivery confirmation service provides electronic confirmation to the mailer that an article was delivered or that a delivery attempt was made.

948.2 Description of Service

948.21 Delivery confirmation service is available for Priority Mail and the Parcel Post, Bound Printed Matter, Special and Library subclasses of Standard Mail.

948.22 Delivery confirmation service may be requested only at the time of mailing.

948.23 Mail for which delivery confirmation service is requested must meet preparation requirements established by the Postal Service, and bear a barcode specified by the Postal Service.

948.24 Matter for which delivery confirmation service is requested must be deposited in a manner specified by the Postal Service.

948.3 Fees

948.31 Delivery confirmation service is subject to the fees set forth in Fee Schedule 948.

950 PARCEL HANDLING

951 PARCEL AIRLIFT (PAL)

951.1 Definition

951.11 Parcel airlift service is a service that provides for air transportation of parcels on a space available basis to or from military post offices outside the contiguous 48 states.

951.2 Description of Service

951.21 Parcel airlift service is available for mail sent under the [following classification schedule:] *Standard Mail Classification Schedule.*

[Standard Mail]

951.3 Physical Limitations

951.31 The minimum physical limitations established for the mail sent under the classification schedule for which postage is paid apply to parcel airlift mail. In no instance may the parcel exceed 30 pounds in weight, or 60 inches in length and girth combined.

951.4 Requirements of the Mailer

951.41 Mail sent under this [schedule] *section* must be endorsed as [prescribed] *specified* by [regulation] *the Postal Service.*

951.5 Deposit of Mail

951.51 PAL mail must be deposited in a manner specified by the Postal Service

951.6 Forwarding and Return

951.61 PAL mail sent for delivery outside the contiguous 48 states is forwarded as set forth in section 2030 of the General Definitions, Terms and Conditions. PAL mail sent for delivery within the contiguous 48 states is forwarded or returned as set forth in section 353 as appropriate.

951.7 Other Services

951.71 The following services, if applicable to the *sub*class of mail, may be obtained in conjunction with mail sent under this [classification schedule] *section* upon payment of the applicable fees:

Service	[Classification] Fee Schedule
a. Certificate of mailing	*947* [SS4]
b. [Insured mail] *Insurance*	*943* [SS9]
c. Restricted delivery (if insured for more than $50).	*946* [SS15]
d. Return receipt (if insured for more than $50).	*945* [SS16]
e. Special handling	*952* [SS18]

951.8 Fees

951.81 The fees for parcel airlift service are set forth in [Rate] *Fee* Schedule *951* [SS–13].

952 SPECIAL HANDLING

952.1 Definition

952.11 Special handling service is a service that provides preferential handling to the extent practicable during dispatch and transportation.

952.2 Description of Service

952.21 Special handling service is available for mail sent under the following classification schedules:

a. First-Class Mail

b. [Single Piece,] Parcel Post, Bound Printed Matter, Special, and Library *subclasses* of Standard Mail

952.22 Special handling service is mandatory for matter [which] *that* requires special attention in handling, transportation and delivery.

952.3 Requirements of the Mailer

952.31 Mail sent under this [schedule] *section* must be identified as [prescribed] *specified* by *the Postal Service* [regulation].

952.4 Deposit of Mail

952.41 Mail sent under this [schedule] *section* must be deposited in a manner [prescribed] *specified* by the Postal Service.

952.5 Forwarding and Return

952.51 If undeliverable as addressed, special handling mail that is forwarded to the addressee is given special handling without requiring payment of an additional handling fee. However, additional postage at the applicable Standard Mail rate is collected on delivery.

952.6 Other Services

952.61 The following services, *if applicable to the subclass of mail,* may be obtained in conjunction with mail sent under this [classification schedule] *section* upon payment of the applicable fees:

Service	[Classification] Fee Schedule
a. COD mail	*944* [SS–6]
b. [Insured mail] *Insurance.*	*943* [SS–9]
c. Parcel airlift	*951* [SS–13]
d. Merchandise return (shippers only).	*932* [SS–20]

952.7 Fees

952.71 The fees for special handling service are set forth in [Rate] *Fee* Schedule *952* [SS–18].

960 STAMPED PAPER

961 STAMPED ENVELOPES

961.1 Definition

961.11 Plain stamped envelopes and printed stamped envelopes are envelopes with postage thereon offered for sale by the Postal Service.

961.2 Description of Service

961.21 Stamped envelopes are available for:

a. First-Class Mail within the first rate increment.

b. Standard Mail mailed at a minimum [per piece] *per piece* rate as [prescribed] *specified* by the Postal Service.

961.22 Printed stamped envelopes may be obtained by special request.

961.3 Fees

961.31 The fees for stamped envelopes are set forth in [Rate] *Fee* Schedule *961* [SS–19].

962 STAMPED CARDS

962.1 Definition

962.11 Stamped Cards. Stamped Cards are cards with postage imprinted or impressed on them and supplied by the Postal Service for the transmission of messages.

962.12 Double Stamped Cards. Double Stamped Cards consist of two attached cards, one of which may be detached by the receiver and returned by mail as a single Stamped Card.

962.2 Description of Service. Stamped Cards are available for First-Class Mail.

962.3 Fees. The fees for Stamped Cards are set forth in [Rate] *Fee* Schedule *962* [SS–19A].

970 POSTAL MONEY ORDERS

971 DOMESTIC POSTAL MONEY ORDERS

671.1 Definition

671.11 Money order service is a service that provides the customer with an instrument for payment of a specified sum of money.

971.2 Description of Service

671.21 The maximum value for which a domestic postal money order may be purchased is $700. Other restrictions on the number or dollar value of postal money order sales, or both, may be imposed [in accordance with] *by law or under* regulations prescribed by the Postal Service.

971.22 A receipt of purchase is provided at no additional cost.

971.23 The Postal Service will replace money orders that are spoiled or incorrectly prepared, regardless of who caused the error, without charge if replaced on the date originally issued.

971.24 If a replacement money order is issued after the date of original issue because the original was spoiled or incorrectly prepared, the applicable money order fee may be collected from the customer.

971.25 Inquiries [and] or claims may be filed by the purchaser, payee, or endorsee.

971.3 Fees

671.31 The fees for domestic postal money orders are set forth in [Rate] *Fee* Schedule *971* [SS–8].

Amend the Domestic Mail Classification Schedule as Follows:

General Definitions, Terms and Conditions

1000 General Definitions

As used in this Domestic Mail Classification Schedule, the following terms have the meanings set forth below.

1001 Advertising

Advertising includes all material for the publication of which a valuable consideration is paid, accepted, or promised, that calls attention to something for the purpose of getting people to buy it, sell it, seek it, or support it. If an advertising rate is charged for the publication of reading matter or other material, such material shall be deemed to be advertising. Articles, items, and notices in the form of reading matter inserted in accordance with a custom or understanding that textual matter is to be inserted for the advertiser or his products in the publication in which a display advertisement appears are deemed to be advertising. If a publisher advertises his own services or publications, or any other business of the publisher, whether in the form of display advertising or editorial or reading matter, this is deemed to be advertising.

1002 Aspect Ratio

Aspect ratio is the ratio of width to length.

1003 Bills and Statements of Account

1003.1 A bill is a request for payment of a definite sum of money claimed to be owing by the addressee either to the sender or to a third party. The mere assertion of an indebtedness in a definite sum combined with a demand for payment is sufficient to make the message a bill.

1003.2 A statement of account is the assertion of the existence of a debt in a definite amount but which does not necessarily contain a request or a demand for payment. The amount may be immediately due or may become due after a certain time or upon demand or billing at a later date.

1003.3 A bill or statement of account must present the particulars of an indebtedness with sufficient definiteness to inform the debtor of the amount [he is] required [to pay to acquit himself] *for acquittal* of the debt. However, neither a bill nor a statement of account need state the precise amount if it contains sufficient information to enable the debtor to determine the exact amount of the claim asserted.

1003.4 A bill or statement of account is not the less a bill or statement of account merely because the amount claimed is not in fact owing or may not be legally collectible.

1004 Girth

Girth is the measurement around a piece of mail at its thickest part.

1005 Invoice

An invoice is a writing showing the nature, quantity, and cost or price of items shipped or sent to a purchaser or consignor.

1006 Permit Imprints

Permit imprints are printed indicia indicating postage has been paid by the sender under the permit number shown.

1007 Preferred Rates

Preferred rates are the reduced rates established pursuant to 39 U.S.C. 3626.

1008 ZIP Code

The ZIP Code is a numeric code that facilitates the sortation, routing, and delivery of mail.

1009 Nonprofit Organizations and Associations

Nonprofit organizations or associations are organizations or associations not organized

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for profit, none of the net income of which benefits any private stockholder or individual, and which meet the qualifications set forth below for each type of organization or association. The standard of primary purpose applies to each type of organization or association, except veterans' and fraternal. The standard of primary purpose requires that each type of organization or association be both organized and operated for the primary purpose. The following are the types of organizations or associations [which] *that* may qualify as authorized nonprofit organizations or associations.

a. Religious. A nonprofit organization whose primary purpose is one of the following:

i. To conduct religious worship;

ii. To support the religious activities of nonprofit organizations whose primary purpose is to conduct religious worship;

iii. To perform instruction in, to disseminate information about, or otherwise to further the teaching of particular religious faiths or tenets.

b. Educational. A nonprofit organization whose primary purpose is one of the following:

i. The instruction or training of the individual for the purpose of improving or developing his capabilities;

ii. The instruction of the public on subjects beneficial to the community.

An organization may be educational even though it advocates a particular position or viewpoint so long as it presents a sufficiently full and fair exposition of the pertinent facts to permit an individual or the public to form an independent opinion or conclusion. On the other hand, an organization is not educational if its principal function is the mere presentation of unsupported opinion.

c. Scientific. A nonprofit organization whose primary purpose is one of the following:

i. To conduct research in the applied, pure or natural sciences;

ii. To disseminate systematized technical information dealing with applied, pure or natural sciences.

d. Philanthropic. A nonprofit organization primarily organized and operated for purposes beneficial to the public. Philanthropic organizations include, but are not limited to, organizations *that* [which] are organized for:

i. Relief of the poor and distressed or of the underprivileged;

ii. Advancement of religion;

iii. Advancement of education or science;

iv. Erection or maintenance of public buildings, monuments, or works;

v. Lessening of the burdens of government;

vi. Promotion of social welfare by organizations designed to accomplish any of the above purposes or:

(A) To lessen neighborhood tensions;

(B) To eliminate prejudice and discrimination;

(C) To defend human and civil rights secured by law; or

(D) To combat community deterioration and juvenile delinquency.

e. Agricultural. A nonprofit organization whose primary purpose is the betterment of the conditions of those engaged in agriculture pursuits, the improvement of the grade of their products, and the development of a higher degree of efficiency in agriculture. The organization may advance agricultural interests through educational activities; the holding of agricultural fairs; the collection and dissemination of information concerning cultivation of the soil and its fruits or the harvesting of marine resources; the rearing, feeding, and management of livestock, poultry, and bees, or other activities relating to agricultural interests. The term agricultural nonprofit organization also includes any nonprofit organization whose primary purpose is the collection and dissemination of information or materials relating to agricultural pursuits.

f. Labor. A nonprofit organization whose primary purpose is the betterment of the conditions of workers. Labor organizations include, but are not limited to, organizations in which employees or workmen participate, whose primary purpose is to deal with employers concerning grievances, labor disputes, wages, hours of employment and working conditions.

g. Veterans'. A nonprofit organization of veterans of the armed services of the United States, or an auxiliary unit or society of, or a trust or foundation for, any such post or organization.

h. Fraternal. A nonprofit organization [which] *that* meets all [of] the following criteria:

i. Has as its primary purpose the fostering of brotherhood and mutual benefits among its members;

ii. Is organized under a lodge or chapter system with a representative form of government;

iii. Follows a ritualistic format; and

iv. Is comprised of members who are elected to membership by vote of the members.

2000 DELIVERY OF MAIL

2010 Delivery Services

The Postal Service provides the following modes of delivery:

a. Caller service. The fees for caller service are set forth in [Rate] *Fee* Schedule *921* [SS–10.]

b. Carrier delivery service.

c. General delivery.

d. Post office box service. The fees for post office box service are set forth in [Rate] *Fee* Schedule *921*[SS–10.]

2020 Conditions of Delivery

2021 General

Except as provided in section 2022, mail will be delivered as addressed unless the Postal Service is instructed otherwise by the addressee in writing.

2022 Refusal of Delivery

The addressee may control delivery of his mail. The addressee may refuse to accept a piece of mail that does not require a delivery receipt at the time it is offered for delivery or after delivery by returning it unopened to the Postal Service. For mail that requires a delivery receipt, the addressee or his representative may read and copy the name of the sender of registered, insured, certified, COD, return receipt, and Express Mail prior to accepting delivery. Upon signing the delivery receipt the piece may not be returned to the Postal Service without the applicable postage and fees affixed.

2023 Receipt

If a signed receipt is required, mail will be delivered to the addressee (or competent member of his family), to persons who customarily receive his mail or to one authorized in writing to receive the addressee's mail.

2024 Jointly Addressed Mail

Mail addressed to several persons may be delivered to any one of them. When two or more persons make conflicting orders for delivery for the same mail, the mail shall be delivered as determined by the Postal Service.

2025 Commercial Mail Receiving Agents

Mail may be delivered to a commercial mail receiving agency on behalf of another person. In consideration of delivery of mail to the commercial agent, the addressee and the agent are considered to agree that:

a. No [change of address] *change-of-address* order will be filed with the post office when the agency relationship is terminated;

b. When remailed by the commercial agency, the mail is subject to payment of new postage.

2026 Mail Addressed To Organizations

Mail addressed to governmental units, private organizations, corporations, unincorporated firms or partnerships, persons at institutions (including but not limited to hospitals and prisons), or persons in the military is delivered as addressed or to an authorized agent.

2027 Held Mail

Mail will be held for a specified period of time at the office of *delivery* [address] upon request of the addressee, unless the mail:

a. Has contrary retention instructions;

b. Is perishable; or

c. Is registered, COD, insured, return receipt, certified, or Express Mail for which the normal retention period expires before the end of the specified holding period.

2030 Forwarding and Return

2031 Forwarding

Forwarding is the transfer of undeliverable-as-addressed mail to an address other than the one originally placed on the [mail piece]*mailpiece*. All post offices will honor [change of address] *change-of-address* orders for a period of time specified by the Postal Service.

2032 Return

Return is the delivery of undeliverable-as-addressed mail to the sender.

2033 Applicable Provisions

The provisions of sections 150, 250, 350, [and] 450, [and schedules SS–21 and SS–22] *935 and 936* apply to forwarding and return.

2034 Forwarding for Postal Service Adjustments

When mail is forwarded due to Postal Service adjustments (such as, but not limited to, the discontinuance of the post office of original address, establishment of rural carrier service, conversion to city delivery service from rural, readjustment of delivery districts, or renumbering of houses and renaming of streets), it is forwarded without charge for a period of time specified by the Postal Service.

3000 POSTAGE AND PREPARATION

3010 Packaging

Mail must be packaged so that:

a. The contents will be protected against deterioration or degradation;

b. The contents will not be likely to damage other mail, Postal Service employees or property, or to become loose in transit;

c. The package surface must be able to retain postage indicia and address markings;

d. It is marked by the mailer with a material [which] *that* is [not] *neither* readily water soluble nor [which can be] easily rubbed off or smeared, and the marking will be sharp and clear.

3020 Envelopes

Paper used in the preparation of envelopes may not be of a brilliant color. Envelopes must be prepared with paper strong enough to withstand normal handling.

3030 Payment of Postage and Fees

Postage must be fully prepaid on all mail at the time of mailing, except as authorized by law or this Schedule. Except as authorized by law or this Schedule, mail deposited without prepayment of sufficient postage shall be delivered to the addressee subject to payment of deficient postage, returned to the sender, or otherwise disposed of as [prescribed] *specified* by the Postal Service. Mail deposited without any postage affixed will be returned to the sender without any attempt at delivery.

3040 Methods for Paying Postage and Fees

Postage for all mail may be prepaid [by] *with* postage meter *indicia*, adhesive stamps, or permit imprint, unless otherwise limited or [prescribed] *specified* by the Postal Service. The following methods of paying postage and fees require prior authorization from the Postal Service:

a. Permit imprint,

b. Postage meter,

c. Precanceled stamps, precanceled envelopes, and mailer=s precanceled postmarks.

3050 Authorization Fees

Fees for authorization to use a permit imprint are set forth in [Rate] Schedule 1000. No fee is charged for authorization to use a postage meter. Fees for setting postage meters are set forth in [Rate] *Fee* Schedule 933[SS–12.] No fee is charged for authorization to use precanceled stamps, precanceled envelopes or mailer=s precanceled postmark.

3060 Special Service Fees

Fees for special services may be prepaid in any manner appropriate for the class of mail indicated or as otherwise [prescribed] *specified* by the Postal Service.

3070 Marking of Unpaid Mail

Matter authorized for mailing without prepayment of postage must bear markings identifying the class of mail service. Matter so marked will be billed at the applicable rate of postage set forth in this Schedule. Matter not so marked will be billed at the applicable First-Class rate of postage.

3080 Refund of Postage

When postage and special service fees have been paid on mail for which no service is rendered for the postage or fees paid, or collected in excess of the lawful rate, a refund may be made. There shall be no refund for registered, COD, general insurance, and Express Mail Insurance fees when the article is [later] withdrawn by the mailer *after acceptance*. In cases involving returned articles improperly accepted because of excess size or weight, a refund may be made.

3090 Calculation of Postage

When a rate schedule contains per piece and per pound rates, the postage shall be the sum of the charges produced by those rates. When a rate schedule contains a minimum [-per-piece] *per piece* rate and a pound rate, the postage shall be the greater of the two. When the computation of postage yields a fraction of a cent in the charge, the next higher whole cent must be paid.

4000 POSTAL ZONES

4010 Geographic Units of Area

In the determination of postal zones, the earth is considered to be divided into units of area thirty minutes square, identical with a quarter of the area formed by the intersecting parallels of latitude and meridians of longitude. The distance between these units of area is the basis of the postal zones.

4020 Measurement of Zone Distances

The distance upon which zones are based shall be measured from the center of the unit of area containing the dispatching sectional center facility or multi-ZIP coded post office not serviced by a sectional center facility. A post office of mailing and a post office of delivery shall have the same zone relationship as their respective sectional center facilities or multi-ZIP coded post offices, but this shall not cause two post offices to be regarded as within the same local zone.

4030 Definition of Zones 4031 Local Zone

The local zone applies to mail mailed at any post office for delivery at that office; at any city letter carrier office or at any point within its delivery limits for delivery by carriers from that office; at any office from which a rural route starts for delivery on the same route; and on a rural route for delivery at the office from which the route starts or on any rural route starting from that office.

4032 First Zone

The first zone includes all territory within the quadrangle of entry in conjunction with every contiguous quadrangle, representing an area having a mean radial distance of approximately 50 miles from the center of a given unit of area. The first zone also applies to mail between two post offices in the same sectional center.

4033 Second Zone

The second zone includes all units of area outside the first zone lying in whole or in part within a radius of approximately 150 miles from the center of a given unit of area.

4034 Third Zone

The third zone includes all units of area outside the second zone lying in whole or in part within a radius of approximately 300 miles from the center of a given unit of area.

4035 Fourth Zone

The fourth zone includes all units of area outside the third zone lying in whole or in part within a radius approximately 600 miles from the center of a given unit of area.

4036 Fifth Zone

The fifth zone includes all units of area outside the fourth zone lying in whole or in part within a radius of approximately 1,000 miles from the center of a given unit of area.

4037 Sixth Zone

The sixth zone includes all units of area outside the fifth zone lying in whole or in part within a radius of approximately 1,400 miles from the center of a given unit of area.

4038 Seventh Zone

The seventh zone includes all units of area outside the sixth zone lying in whole or in part within a radius of approximately 1,800 miles from the center of a given unit of area.

4039 Eighth Zone

The eighth zone includes all units of area outside the seventh zone.

4040 Zoned Rates

Except as provided in section 4050, rates according to zone apply for zone-rated mail sent between Postal Service facilities including [a]*Armed* [f]*Forces* post offices, wherever located.

4050 APO/FPO Mail

4051 General

Except as provided in section 4052, the rates of postage for zone-rated mail transported between the United States, or the possessions or territories of the United States, on the one hand, and Army, Air Force and Fleet Post Offices on the other, or among the latter, shall be the applicable zone rates for mail between the place of mailing or delivery and the city of the postmaster serving the Army, Air Force or Fleet Post Office concerned.

4052 Transit Mail

The rates of postage for zone-rated mail [which] *that* is mailed at or addressed to an *Armed Forces*[armed forces] post office and [which] is transported directly to or from *Armed Forces* [armed forces] post offices at the expense of the Department of Defense, without transiting any of the 48 contiguous states (including the District of Columbia), shall be the applicable local zone rate; provided, however, that if the distance from the place of mailing to the embarkation point or the distance from the point of debarkation to the place of delivery is greater than the local zone for such mail, postage shall be

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assessed on the basis of the distance from the place of mailing to the embarkation point or the distance from the point of debarkation to the place of delivery of such mail, as the case may be. The word "transiting" does not include enroute transfers at coastal gateway cities which are necessary to transport military mail directly between military post offices.

5000 PRIVACY OF MAIL

5010 First-Class and Express Mail

Matter mailed as First-Class Mail or Express Mail shall be treated as mail which is sealed against postal inspection and shall not be opened except as authorized by law.

5020 All Other Mail

Matter not paid at First-Class Mail or Express Mail rates must be wrapped or secured in the manner [prescribed] *specified* by the Postal Service so that the contents may be examined. Mailing of sealed items as other than First-Class Mail or Express Mail is considered consent by the sender to the postal inspection of the contents.

6000 MAILABLE MATTER

6010 General

Mailable matter is any matter which:

a. Is not mailed in contravention of 39 U.S.C. Chapter 30, or of 17 U.S.C. 109;

b. While in the custody of the Postal Service is not likely to become damaged itself, to damage other pieces of mail, to cause injury to Postal Service employees or to damage Postal Service property; and

c. Is not mailed contrary to any special conditions or limitations placed on transportation or movement of certain articles, when imposed under law by the U.S. Department of the Treasury; U.S. Department of Agriculture; U.S. Department of Commerce; U.S. Department of Health and Human Services, U.S. Department of Transportation; and any other Federal department or agency having legal jurisdiction.

6020 Minimum Size Standards

The following minimum size standards apply to all mailable matter:

a. All items must be at least 0.007 inches thick, and

b. all items, other than keys and identification devices, which are 0.25 inch thick or less must be

i. rectangular in shape,

ii. at least 3.5 inches in width, and

iii. at least 5 inches in length.

6030 Maximum Size and Weight Standards

Where applicable, the maximum size and weight standards for each class or *subclass* of mail are set forth in sections 130, 230, *322.16,* 330 and 430. Additional limitations may be applicable to specific subclasses, and rate and discount categories as provided in the eligibility provisions for each subclass or category.

Stanley F. Mires,

Chief Counsel, Legislative.

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federal register

Tuesday
July 21, 1998

Part III

Department of Education

Special Education—Technical Assistance and Dissemination to Improve Services and Results for Children With Disabilities; Inviting Applications for New Awards for Fiscal Year 1998; Notice

DEPARTMENT OF EDUCATION

Special Education—Technical Assistance and Dissemination to Improve Services and Results for Children With Disabilities; Notice Inviting Applications for New Awards for Fiscal Year 1998

SUMMARY: On June 4, 1997, the President signed into law Public Law 105–17, the Individuals with Disabilities Education Act Amendments of 1997, amending the Individual with Disabilities Education Act (IDEA).

This notice provides closing dates and other information regarding the transmittal of applications for fiscal year 1998 competitions under one program authorized by IDEA, as amended: Special Education—Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities (one priority).

This notice supports the National Education Goals by helping to improve results for children with disabilities.

Waiver of Rulemaking

It is generally the practice of the Secretary to offer interested parties the opportunity to comment on proposed priorities. However, section 661(e)(2) of IDEA makes the Administrative Procedure Act (5 U.S.C. 553) inapplicable to the priorities in this notice. In order to make awards on a timely basis, the Secretary has decided to publish this priority in final under the authority of section 661(e)(2).

General Requirements

(a) Projects funded under this notice must make positive efforts to employ and advance in employment qualified individuals with disabilities in project activities (see Section 606 of IDEA);

(b) Applicants and grant recipients funded under this notice must involve individuals with disabilities or parents of individuals with disabilities in planning, implementing, and evaluating the projects (see Section 661(f)(1)(A) of IDEA);

(c) Projects funded under these priorities must budget for a two-day Project Directors' meeting in Washington, D.C. during each year of the project; and

(d) Grant recipients funded under this notice must carry out activities that benefit, directly or indirectly, children with disabilities of all ages (see Section 661(a)(4) of IDEA.

Note: The Department of Education is not bound by any estimates in this notice.

Special Education—Technical Assistance and Dissemination To Improve Services and Results for Children With Disabilities

Purpose of Program: The purpose of this program is to provide technical assistance and information through such mechanisms as institutes, regional resource centers, clearinghouses and programs that support States and local entities in building capacity, to improve early intervention, educational, and transitional services and results for children with disabilities and their families, and address systemic-change goals and priorities.

Eligible Applicants: State and local educational agencies; institutions of higher education; other public agencies; private nonprofit organizations; outlying areas; freely associated States; Indian tribes or tribal organizations; and for-profit organizations.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The selection criteria included in regulations for this program in 34 CFR 320.30.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Priority: Under section 685 of the Individuals with Disabilities Education Act and 34 CFR 75.105(c)(3), the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competitions only those applications that meet this absolute priority:

Absolute Priority—National Clearinghouse on Careers and Professions Related to Early Intervention and Education for Children With Disabilities (84.326P)

Background

During the last ten years, significant changes have had an impact on professional development programs. The characteristics of children with disabilities have changed and in many ways have become more complex. Today, there are more children who have entered life with marked disabilities, who are expected to continue to thrive, and who require interdisciplinary approaches that provide them with essential support. Additionally, the cultural and linguistic characteristics of the student population have changed significantly. In order for educational programs to be effective, the Nation's schools need a work force of educators, related services providers, and early intervention personnels that is more culturally and linguistically diverse than in the past. Professional development programs have significantly changed as well, through new developments in assistive technology, changes in financial support for students entering special education fields, and, in particular, changes in Federal legislation.

The IDEA Amendments of 1997 direct the Secretary to provide technical assistance through clearinghouses and other means in order to build capacity for improving early intervention, education, and transition services and results for children with disabilities, and their families. The National Clearinghouse on Careers and Professions Related to Early Intervention and Education for Children with Disabilities supported through this priority will be responsible for identifying and responding to exigent issues, emerging trends, and strategies for ensuring an adequate supply of qualified professionals and paraprofessionals available to meet the needs of children with disabilities.

It is essential that the Clearinghouse establishes and maintains varied paths for the dissemination of a wide array of critical information, and provides information to a broad base of individuals, including students, parents, administrators, and researchers. It is also necessary for the Clearinghouse to coordinate its services with individuals and professional organizations and disseminate comprehensive materials related to the recruitment, preparation and effectiveness of professionals and paraprofessionals who provide services to children with disabilities and their families. For the purposes of this priority, "professionals" include early intervention personnel, special education teachers, general education teachers, adapted physical educators, and related services providers such as psychologists, occupational and physical therapists, orientation and mobility specialists, and speech-language pathologists. "Paraprofessionals" include paraeducators, teachers' aides, instructional assistants, occupational and physical therapy assistants, and speech-language pathology assistants.

Priority: The Secretary establishes an absolute priority to support a national clearinghouse that works toward ensuring the availability of an adequate number and the high quality of personnel to improve services and results for infants and children with disabilities. In order to accomplish these purposes, the clearinghouse must:

(a) Conduct nation-wide, outreach activities to encourage individuals to

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pursue careers in special education. To accomplish this objective, the clearinghouse must develop, implement and maintain comprehensive and coordinated communication campaigns that:

(1) Utilize the full range of media outlets;

(2) Reflect cutting edge formats and designs;

(3) Are customized in design and communication approach to promote the full range of career opportunities in special education and related services and early intervention services;

(4) Are customized in design and communication approach to attract individuals from culturally and economically diverse backgrounds and individuals with disabilities, across varying age levels and professional experiences.

(b) Conduct activities that assist State educational agencies (SEAs), local educational agencies (LEAs), institutions of higher education (IHEs), agencies that administer the Infants and Toddlers with Disabilities program under IDEA, and other appropriate entities in improving the quality of professionals and paraprofessionals who serve children with disabilities, including children with limited English proficiency and children from culturally diverse backgrounds. To accomplish this objective, the clearinghouse must:

(1) Collect, synthesize, and disseminate information on emerging approaches to professional preparation and career development for special education, related service, and early intervention personnel;

(2) Collect and disseminate information on current national, State, and professional standards, competencies, dual certifications, and reciprocity agreements applied by States and professional organizations to the credentialing or licensing of professional and paraprofessional personnel;

(3) Identify and disseminate information on effective strategies, through collaboration with appropriate entities, to identify and promote the credentialing of current early intervention, education, transition, and related services personnel who are lacking permanent certification or license;

(4) Develop and disseminate, through collaboration with appropriate entities, guidelines for instituting standards or certifications for paraprofessionals, where such standards do not exist; and

(5) Develop and disseminate periodic highlights or reviews of pressing issues, trends, and emerging research regarding professional development programs for special education, related service, and early intervention personnel.

(c) Conduct activities that would promote an adequate supply of qualified professionals and paraprofessionals who serve children with disabilities. To accomplish this objective, the clearinghouse must:

(1) Collect and disseminate information on the ongoing and emerging areas of personnel needs identified by States, LEAs, and other entities;

(2) Collect and disseminate information on the availability of qualified service providers, including those from traditionally underrepresented populations (e.g., persons from culturally or linguistically diverse backgrounds, and persons with disabilities);

(3) Collect and disseminate information on preservice professional development programs that prepare both professionals and paraprofessionals, including programs that provide special education preparation for general educators. At a minimum, this information must include, for each program: the areas of preparation and their academic level, the program head or chair, telephone, e-mail, FAX, mailing address and web address, if available, the number of full or part time faculty, tuition costs, and the availability of stipends or scholarships. Programs that receive Federal support for students should be identified with the source of those funds, particularly if from the Office of Special Education Programs or other offices in the U.S. Department of Education. Preservice professional development programs that provide specific services for students with disabilities, and the description of those services, must also be included. The Clearinghouse is also encouraged to collect information on the numbers of students enrolled, and graduating from, each of the identified programs;

(4) Arrange with producers of scholarship publications to include in such publications information on scholarship opportunities available through OSEP-supported professional development programs; and

(5) Identify, synthesize, and disseminate information on effective strategies used to recruit and retain both professionals and paraprofessionals who provide services to children with disabilities. Effective strategies should be identified for use by States, LEAs, and IHEs. Special emphasis should be placed on identifying recruitment and retention strategies and materials that have been particularly effective in urban and rural settings, and with traditionally under-represented populations (e.g., minorities and persons with disabilities).

(d) In order to satisfy the objectives in paragraphs (a), (b), and (c), the clearinghouse must also:

(1) Conduct timely updates of all information and data bases to ensure that information disseminated is accurate and current;

(2) Establish advisory groups to provide recommendations to the clearinghouse relative to the activities or products described above and to ensure that all constituency needs are met;

(3) Employ multiple dissemination mechanisms and approaches, including the establishment and maintenance of a user-friendly web site that permits the downloading of all clearinghouse information bases and incorporates hotlinks to available training programs and other relevant information sources; and

(4) Establish and implement a comprehensive system of evaluation to determine the impact of the clearinghouse activities. Evaluations should be conducted at least annually, identify strategies for improvement, and include relevant achievements.

Under this priority, the Secretary will make one award for a cooperative agreement with a project period of up to 60 months subject to the requirements of 34 CFR 75.253(a) for continuation awards. In determining whether to continue the clearinghouse for the fourth and fifth years of the project period, the Secretary, in addition to the requirements of 34 CFR 75.253(a) will consider:

(a) The recommendation of a review team consisting of three experts selected by the Secretary. The team's review, including a two-day site visit to the clearinghouse, is to be conducted during the last half of the project's second year. Costs associated with the services to be performed by the review team must also be included in the clearinghouse budget for year two. These costs are estimated to be approximately $4,000; and

(b) The timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the clearinghouse.

Project Period: Up to 60 months.

Maximum Award: The Secretary rejects and does not consider an application that proposes a budget exceeding $700,000 for any single budget period of twelve months. The Secretary may change the maximum amount through a notice published in the **Federal Register**.

Page Limits: Part III of the application, the application narrative, is where an

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applicant addresses the selection criteria that are used by reviewers in evaluating the application. An applicant must limit Part III to the equivalent of no more than 70 double-spaced pages, using the following standards: (1) A "page" is 8½"×11" (on one side only) with one-inch margins (top, bottom, and sides). (2) All text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs, must be double-spaced (no more than 3 lines per vertical inch). If using a proportional computer font, use no smaller than a 12-point font, and an average character density no greater than 18 characters per inch. If using a nonproportional font or a typewriter, do not use more than 12 characters to the inch.

The page limit does not apply to Part I—the cover sheet; Part II—the budget section (including the narrative budget justification); Part IV—the assurances and certifications; or the one-page abstract, resumes, bibliography, and letters of support. However, all of the application narrative *must* be included in Part III. If an application narrative uses a smaller print size, spacing, or margin that would make the narrative exceed the equivalent of the page limit, the application will not be considered for funding.

For Applications and General Information Contact: Requests for applications and general information should be addressed to the Grants and Contracts Services Team, 600 Independence Avenue, S.W., room 3317, Switzer Building, Washington, D.C. 20202–2641. The preferred method for requesting information is to FAX your request to: (202) 205–8717. Telephone: (202) 260–9182.

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8953.

Individuals with disabilities may obtain a copy of this notice or the application packages referred to in this notice in an alternate format (e.g. Braille, large print, audiotape, or computer diskette) by contacting the Department as listed above. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

Intergovernmental Review: This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for those programs.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT APPLICATION NOTICE FOR FISCAL YEAR 1998

CFDA No. and name	Applications available	Application deadline date	Deadline for intergovernmental review	Maximum award (per year)*	Page limit**	Estimated number of awards
84.326P National Clearinghouse on Careers and Professions Related to Early Intervention and Education for Children with Disabilities	7/24/98	8/24/98	9/22/98	$700,000	70	1

* The Secretary rejects and does not consider an application that proposes a budget exceeding the amount listed for each priority for any single budget period of 12 months.

** Applicants must limit the Application Narrative, Part III of the Application, to the page limits noted above. Please refer to the "Page Limit" section of this notice for the specific requirements. The Secretary rejects and does not consider an application that does not adhere to this requirement.

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Note: The official version of a document is the document published in the **Federal Register**.

Dated: July 14, 1998.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 98–19342 Filed 7–20–98; 8:45 am]

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Tuesday
July 21, 1998

Part IV

Department of Justice

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners: Prisoners Serving Sentences Under the District of Columbia Code; Interim Rule

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DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners:Prisoners Serving Sentences Under the District of Columbia Code

AGENCY: United States Parole Commission, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: The U.S. Parole Commission is incorporating into the Code of Federal Regulations, in amended and supplemented form, the regulations of the District of Columbia that govern the paroling jurisdiction that will be assumed by the U.S. Parole Commission on August 5, 1998. The paroling authority of the District of Columbia Board of Parole will be transferred to the U.S. Parole Commission under the National Capital Revitalization and Self-Government Improvement Act of 1997, which permits the Commission to amend and supplement the District's parole regulations pursuant to federal rulemaking procedures.

DATES: *Effective Date:* August 5, 1998. Comments must be received by December 1, 1998.

ADDRESSES: Send comments to Office of General Counsel, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Maryland 20815.

FOR FURTHER INFORMATION CONTACT: Pamela A. Posch, Office of General Counsel, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Maryland 20815, telephone (301) 492–5959.

SUPPLEMENTARY INFORMATION: Under Section 11231 of the National Capital Revitalization and Self-Government Improvement Act of 1997 (Public Law 105–33) the U.S. Parole Commission is required, not later than August 5, 1998, to assume the jurisdiction and authority of the Board of Parole of the District of Columbia to grant and deny parole, and to impose conditions upon an order of parole, in the case of any imprisoned felon who is eligible for parole or reparole under the District of Columbia Code. The Act requires the Parole Commission to exercise this authority pursuant to the parole laws and regulations of the District of Columbia. However, it also gives the Parole Commission the authority to amend or supplement any regulation interpreting or implementing the relevant parole laws of the District of Columbia, provided that the Commission adheres to the rulemaking requirements of the Administrative Procedure Act, 5 U.S.C. 553, as applied to the Commission by 18 U.S.C. 4218.

After an extensive review of the relevant regulations of the Board of Parole of the District of Columbia, as currently set forth in the District of Columbia Code of Municipal Regulations, the Commission decided to republish them with appropriate revisions. The Commission decided not to leave these regulations in the D.C. Code of Municipal Regulations because the Revitalization Act makes parole for D.C. Code felons a federal function, and rules promulgated by federal agencies pursuant to the Administrative Procedure Act are required to be published in the **Federal Register** and the Code of Federal Regulations. Notice of this proposed rulemaking was published at 63 FR 17771 (April 10, 1998). Notice of the proposed transfer of these regulations was also published in 45 D.C. Register 2356 (April 17, 1998).

A complete set of regulations for District of Columbia felony prisoners is therefore being incorporated into the Code of Federal Regulations alongside the existing regulations that govern all other criminal offenders who fall under the Commission's jurisdiction. The regulations that govern the remaining functions of the Board of Parole of the District of Columbia will continue to be set forth in the D.C. Code of Municipal Regulations until the Commission assumes the remaining functions of the Board with respect to felons, on or before August 5, 2000.

The revised D.C. parole regulations that will take effect as interim rules effective August 5, 1998, fall into three categories.

First, the Board of Parole's procedural regulations have been amended and supplemented to clarify the procedures that the Commission will follow in considering District of Columbia prisoners for parole. The parole hearing and decisionmaking process will remain essentially the same as that of the D.C. Board of Parole, but in many instances modifications will promote both increased fairness and administrative efficiency in the discharge of this new function.

Second, other revisions reflect recently-enacted District of Columbia laws, such as the Medical and Geriatric Parole Act, which were not previously implemented through regulations.

Third, the Commission has supplemented the existing parole guidelines of the Board of Parole by adopting an improved point score system to replace the scoring system that was removed from the Board's regulations by D.C. Law 10–255 (May 16, 1995). The continued use of this point score system by the D.C. Board of Parole has resulted in a high rate of upward departures from the guidelines. For example, in a random sample of 100 cases decided by the D.C. Board of Parole in 1997, the Commission found departures in more than half of the cases. Factors cited by the Board to justify departures most often appear to involve aspects of the prisoner's current offense or criminal history that indicate a risk of violent recidivism. See, *e.g.*, *Ellis* v. *District of Columbia*, 84 F.3d 1413 (D.C. Cir. 1996), *Smith* v. *Quick*, 680 A.2d 396 (D.C. App. 1996), and *McRae* v. *Hyman*, 667 A.2d 1356 (D.C. App. 1995). The guidelines set forth below retain the basic framework of the Board's guidelines, but incorporate factors that would otherwise be expected to result in decisions outside the guidelines. The Commission intends this improved point score system to serve the Board's original purpose of predicting violent crime and incapacitating offenders with a high probability of serious recidivism. It is also intended to reduce the potential for unwarranted disparity that can be produced by the frequent exercise of unguided discretion.

In this regard, the Parole Commission undertook a research study to identify factors related to current offense and criminal history that can be empirically correlated with repeat violent crime. The research was based on a statistical sampling of D.C. offenders released in 1992 (which provided a five-year follow-up period), as well as on comparative samples from larger federal and Connecticut data bases. The guideline table that is published at this time is based upon factors that were confirmed by the research data as correlated with violent recidivism. Whereas the current D.C. point score demonstrated a weak association with violent recidivism, the score adopted by the Commission at this time shows a significantly improved correlation. Moreover, the Connecticut data produced results that were remarkably consistent with the results obtained with the Commission's D.C. data.

In light of the research results, some factors were added to Category II of the proposed score, and others were dropped from the score as non-predictive. For example, distinguishing between "high level" and ordinary violence in the offender's prior record was found to reduce the predictive power of the score, as was the factor of "multiple current offenses." Therefore, these factors were deleted. Drug trafficking in the current offense (without possession of a firearm) was also found to lower the prediction of violent recidivism, and was therefore deleted.

On the other hand, the basic assumption that a violent current offense predicts for future violence was confirmed, as was the assumption that a violent prior record adds to the predictability of future violence in such cases. The research also pointed to the conclusion that a record of prior violent crime is predictive even if the current offense did not involve violence, so this factor was added. Firearm possession was also found to be strongly predictive, so this item is retained from the original D.C. score. (The points assigned to each factor in Category II of the score reflect that factor's predictive strength relative to the other factors in that Category.)

Although the frequencies of extremely violent crimes (murder, rape, etc.) proved too small to yield empirical research results, the Commission decided that such cases present implied risk levels that would either justify repeated departures, or the inclusion of the relevant factors in the guideline system itself. The latter option was chosen. What constitutes "violent crime" in the current offense has therefore been given differentiation so that cases of "high level" violence receive appropriate point enhancements. This is consistent with past D.C. practice. The Board of Parole's current point score table assigns a one point enhancement for violence, regardless of the nature and seriousness of the crime, notwithstanding the factors at 28 DCMR 204.18. Departures are therefore frequent for cases of "unusual cruelty to victims," which appears to correlate with "high level violence" as defined by the Parole Commission in Category III of the revised point score. See, *e.g.*, *Hall* v. *Henderson*, 672 A.2d 1047 (D.C. App. 1996).

Additionally, the research indicated that the predictive power of the Salient Factor Score (SFS), which is currently used by both the Parole Commission and the D.C. Board of Parole, would be significantly enhanced by increasing the weight given to Item C (age of the commencement of the current offense), from a maximum of 2 points to a maximum of 3 points. The SFS is therefore revised to differentiate better between offenders on the basis of their age at the commencement of the current offense. Taken together, age at the commencement of the current offense and the number of prior convictions and commitments function to predict recidivism by providing a measure of the rate of the offender's past criminal conduct. An additional adjustment in Item C to the scoring of offenders with four prior commitments will further refine the SFS and increase its predictive power. Finally, the Commission has deleted Item F (heroin/opiate dependence), an item that predicts recidivism by itself but which does not add to the predictive power of the SFS once all the other items are taken into account. The Commission will thus avoid the scoring problems associated with the issue of heroin/opiate dependence (which are due to the inadequate background information maintained on many D.C. prisoners). The SFS will remain a ten-point score and the parole prognosis categories (as well as the scores that define theses categories) will not be changed.

In sum, although some of the "type of risk" factors that indicate a prisoner's potential for violent recidivism are given increased weight in the new scoring system, this will render unnecessary the unstructured discretionary departures that were frequently ordered by the D.C. Board of Parole in the past to compensate for an inadequate violence prediction ("type of risk") scale. Moreover, increased weight is given to institutional performance, both by permitting program achievement to be balanced against any misconduct during the same period, and by assigning an additional point to superior program achievement. Positive achievement in prison programs, as well as negative institutional behavior, will therefore continue to produce significant adjustments to the "total point score" each time a prisoner who has been denied parole appears for a reconsideration hearing.

Finally, overcrowding in District prisons has long been a serious concern. However, the Commission's research indicates that adherence to the guidelines at § 2.80 will not increase overall prison time or produce more prison overcrowding. The rehearing guidelines at § 2.80(j) have been modified downward for prisoners with Base Point Scores of 7–10 to help keep the estimated average prison time served by D.C. prisoners within current levels. The Commission will continue to study the available data to determine whether the continuance ranges at § 2.80(j) should be further adjusted to avoid any unintended impact on the prison population, while ensuring that serious offenders will serve periods of imprisonment that are adequate to protect the public safety.

Explanatory Comments By Section

Comment to § 2.70: This section sets forth the authority assigned to the Parole Commission under the D.C. Revitalization Act and carries forth the provisions of 28 DCMR 100 with two exceptions. First, 28 DCMR 100.10 was not retained because the statutory authority upon which it was based has been repealed. Second, 28 DCMR 100.11 was not retained because it is redundant with paragraph (b) (derived from 28 DCMR 100.2), which sets forth the Commission's authority regarding committed youth offenders in a broader form. This proposed rule also reflects a 1993 amendment to the D.C. Code regarding geriatric and medical cases, and updates the references in 28 DCMR 100 regarding the Youth Corrections Act to take into account the Youth Rehabilitation Act Amendment of 1985.

Comment to § 2.71: This rule carries forth the provisions of 28 DCMR 102 with two modifications. First, youth offenders will have to complete a standard parole application form. Second, the rule provides that initial hearings are to be scheduled, where practicable, at least 180 days before the prisoner's eligibility date. Current D.C. Parole Board practice generally provides initial hearings about 60 days prior to the prisoner's eligibility date. It is expected that, on August 5, 1998, there will be a significant backlog of parole applicants for whom the 180 day deadline will have already passed. The Commission will hear these prisoners on successive dockets until compliance with this rule can be achieved.

Comment to § 2.72: This rule carries forth the provisions of 28 DCMR 103 with the following changes. First, it adds a requirement that the examiner discuss with the prisoner the pertinent file information. This will ensure that the prisoner is informed of the main information being considered by the Commission, and given an opportunity to respond. Second, although the rule retains the D.C. prohibition on representatives at parole hearings in District of Columbia facilities, it allows a prisoner to have a representative at a parole hearing in a federal facility, consistent with the procedure for federal prisoners. The same applies to prehearing disclosure of file documents, which likewise depends upon correctional staff resources that are not available in District facilities. Third, although 28 DCMR 103 permits a prisoner's supporters to visit the Board to discuss a case at any time, the interim rule requires a prisoner's supporters to request an office visit at least 30 days before the parole hearing so that their input can be included in the record that the examiner will consider at the hearing. Office visits at other times will be permitted only on a showing of good

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cause. Fourth, the rights of victims as set forth in a 1989 amendment to D.C. law are spelled out and amplified. Victims of violent crimes are given the right to appear at the parole hearing, and to submit testimony or a written statement. Although current D.C. procedures permit only a written statement, federal practice permits victims to testify. See *Phillips* v. *Brennan*, 969 F.2d 384 (7th Cir. 1992) (victim permitted to testify at parole hearing without presence of offender). Office visits are also permitted for victims, subject to the same 30-day notice requirement that applies to supporters. Fifth, the rule follows federal law at 18 U.S.C. 4208(f) in allowing the prisoner to obtain a copy of the tape recording of his parole hearing.

Comment to § 2.73: This rule carries forth the statutory criteria for parole contained in 28 DCMR 200. In addition, it explains that the parole function for D.C. Code offenders rests on a premise somewhat different from that of the federal parole guidelines. See *Cosgrove* v. *Thornburgh*, 703 F. Supp. 995, 1004, n.6 (D.D.C. 1988). For D.C. Code offenders, the revised guidelines in § 2.80 of these rules treat the minimum term of imprisonment imposed by the court as the measure of basic accountability for the offense of conviction. Only in unusual cases is the seriousness of the offense a basis for denial of parole. The normal function of parole consideration is to determine whether the prisoner would be "a responsible citizen if he is returned to the community" and whether "release on parole is consistent with the public safety." See *White* v. *Hyman*, 647 A.2d 1175 (D.C. App. 1994). Hence, this provision embodies the Commission's decision to maintain the existing purpose of parole for the District of Columbia.

Comment to § 2.74: This is a new rule. It requires the issuance of a statement of reasons for parole denial, a procedure not included in current District of Columbia Parole Board procedures. Federal practice under 18 U.S.C. 4206 is the model for this procedural reform, as well as for the 21-day time period for issuing the decision.

Comment to § 2.75: This rule carries forth the provisions of 28 DCMR 104, except that the policy of setting continuances for cases by reference to the length of the prisoner's sentence is replaced by reference to the new time ranges for rehearings that are set forth in § 2.80. In addition, the proposed rule prohibits the scheduling of a reconsideration hearing more than five (5) years from the date of the last hearing. At present, the D.C. Parole Board may order a reconsideration hearing exceeding this limit if it departs from its guidelines. Finally, the proposed rule authorizes special reconsideration hearings for new and significant information, and spells out the continuing authority of the D.C. Parole Board to revoke parole and set rehearing dates.

Comment to § 2.76: This rule carries forth the provisions of 28 DCMR 201 regarding applications for a reduction of minimum term. In addition, it sets forth the arrangement the Commission has with the U.S. Attorney's Office regarding the presentation of applications for a reduction in a minimum term to the Superior Court.

Comment to § 2.77: This is a new rule that sets forth criteria and procedures for implementing the medical parole provisions at D.C. Code 24–261–64, 267.

Comment to § 2.78: This is a new rule that sets forth criteria and procedures for implementing the geriatric parole provisions at D.C. Code 24–261, 263–64, 267.

Comment to § 2.79: This rule carries forth the provisions of 28 DCMR 205 in a somewhat modified form to conform to the procedure set forth at § 2.6 of these rules. A minor substantive change is that the Commission will consider the underlying circumstances of the misconduct in setting a date for review hearing rather than set a parole date that is contingent on the restoration of forfeited good time by institutional officials.

Comment to § 2.80: This section carries forth the provisions of 28 DCMR 204 in modified form. This revision of the D.C. Board's guideline system retains its fundamental three-part structure (the salient factor score, the total point score, and the grant/denial policy). The guideline system continues to serve as a measurement of both the degree and seriousness of the risk to the public safety presented in each case. The policy of permitting parole to be granted at initial hearings for those who merit 0–2 points on the "total point score," and permitting parole to be granted at rehearings for those who merit 0–3 points, is also retained. However, the relevant factors listed in the point score as indicating "seriousness of the risk" have been revised substantially along with the number of points assigned to each relevant factor. The purpose of the revisions is to produce a score that better predicts the probability of violent offenses, and that differentiates between ordinary and extremely violent offenses (e.g., murder, rape, assault with serious bodily injury). Thus, the revised score includes factors which appear to indicate an increased probability that recidivism (if it occurs) will be of a serious nature. At the same time, the possible points for superior program achievement in prison also are increased.

The primary intent is to protect the public safety, and to capture within the guidelines the many decisions that are now outside the guidelines because of the D.C. Board's well-founded concerns about the "seriousness of the risk." The Parole Commission itself has found it necessary to depart from the D.C. parole guidelines based on the same concerns. See *Duckett* v. *U.S. Parole Commission*, 795 F. Supp. 133 (M.D. Pa. 1992) (current offenses involved multiple separate crimes of violence not reflected by the point score).

The total point score thus revised permits (in the worst-case scenario) a repeat offender to receive as many as 10 points. However, point scores only go to this level if there are extraordinary aggravating factors (*e.g.*, current murder with an extensive prior record of violent crimes) that would otherwise justify a guideline departure. If the offender's past record is less extensive, the total point score will be correspondingly lower and will permit parole based on good behavior over a sufficient period of time in prison. What constitutes a "sufficient period of time in prison" is determined by the need to incapacitate the offender according to the risk level he or she presents, as reflected in the Guidelines for Time to Rehearing at § 2.80(j).

Comment to § 2.81: This rule carries forth the provisions of 28 DCMR 202.2, but follows federal practice by permitting an effective date of parole up to 9 months in advance. The D.C. Parole Board rule does not specify any time period. The rule also provides that parole dates will be set no more than 6 months in advance if placement in a halfway house is not required. This policy will leave the Commission with the flexibility to ensure adequate release planning before any prisoner is released on parole. Difficulties in determining the adequacy of release plans, in the availability of necessary halfway house resources, and in the adequacy of basic supervision resources, are presently serious issues that can impede the releases of many D.C. Code prisoners.

Comment to § 2.82: This rule carries forth the provisions of 28 DCMR 208 regarding release planning. Express authority is added for the Commission to rescind a grant of parole if failure to produce an acceptable release plan persuades the Commission that the release of the prisoner would lead to rapid failure in the community.

Comment to § 2.83: This rule carries forth that part of 28 DCMR 209 that concerns release to other jurisdictions.

Comment to § 2.84: This rule carries forth the provisions of 28 DCMR 207 pertaining to the conditions of parole.

Comment to § 2.85: This section carries forth the provisions of 28 DCMR 207 regarding release on parole and specifies when a parole becomes operative, based on 28 CFR § 2.29(a).

Comment to § 2.86: This rule carries forth the provisions of 28 DCMR 212.

Comment to § 2.87: This rule supplements the District of Columbia parole regulations by providing for the use of federal reparole guidelines (in the absence of a new D.C. Code sentence). The current parole regulations of the District of Columbia include rehearing schedules for parole violators but do not provide policy guidance for the substantive decision to grant or deny reparole. Moreover, neither federal nor District of Columbia law mandates any difference in the basic purposes served by revocation and reparole. This rule will ensure that parole violators will receive consistent decisions, and will know from the date of their first rehearing how much time must be served to correct and sanction the parole failure.

Comment to § 2.88: This carries forth the operative provisions of 28 DCMR 101. It maintains the confidentiality of D.C. Board parole files while conforming the regulations to federal parole practice under the Privacy Act of 1974.

Comment to § 2.89: This rule sets forth the provisions from Part A of these rules that, except to the extent otherwise provided by law, shall also apply to District of Columbia Code prisoners.

Comment to § 2.90: This is a new rule that is necessary to clarify the status of prior orders of the D.C. Board (parole grants, denials, revocations, etc.) as of August 5, 1998. It maintains the Commission's longstanding practice of implementing prior D.C. Board orders when a D.C. Code offender enters federal jurisdiction, including rehearing dates, unless duly reconsidered and changed. See *Morgan* v. *District of Columbia*, 618 F. Supp. 754 (D.D.C. 1985).

The Public Comment

The D.C. Public Defender's Service and the D.C. Prisoners' Legal Services Project argue that the proposed regulations will "increase the measure of punishment" for D.C. offenders, and will therefore violate the *ex post facto* clause. However, it was also acknowledged that the D.C. Board of Parole does not always follow its own rules. This acknowledgment, in effect, concedes the argument. Parole guideline changes, especially those that incorporate factors that are used to exceed the guidelines on a discretionary basis, do not offend the *ex post facto* clause. See, *e.g.*, *Davis* v. *Henderson*, 652 A.2d 634 (D.C. App. 1995), *Warren* v. *U.S. Parole Commission*, 659 F.2d 183 (D.C. Cir. 1981), *Inglese* v. *U.S. Parole Commission*, 768 F.2d 932 (7th Cir. 1985), and *Yamamoto* v. *U.S. Parole Commission*, 794 F.2d 1294 (8th Cir. 1986). Moreover, the revised guidelines are intended only to structure the use of paroling discretion in a more consistent manner, and not to reduce the decisionmaker's authority to allow individual factors to determine the final outcome in every case. The objective of the Commission is to provide a rational, research-based framework for its decisions that is based on a sample of actual past D.C. Board of Parole decisions.

Other contentions are that the Commission has no authority to administer the Youth Rehabilitation Act (based on the proposition that YRA prisoners convicted of felony offenses under the D.C. Code are somehow not "imprisoned felons"), that the Salient Factor Score has no demonstrated validity as a predictor of recidivism for D.C. offenders, that the United States Attorney should not be permitted to object when the Commission proposes to petition the sentencing court for reduction of a D.C. prisoner's minimum sentence, that prisoners should not be required to undergo the "needless formality" of a parole application, and that there should be representatives at parole hearings in D.C. facilities. The revised version of the Salient Factor Score has proved valid for D.C. Code offenders. The comment about representatives is understandable, but it appears that the D.C. Department of Corrections historically has been unwilling (or unable) to handle the security problems posed by outside representatives. Objections by the U.S. Attorney often bring to light new information which should be reviewed prior to filing with the court. An application for parole provides important information and provides evidence, at least, of the prisoner's ability to meet the reporting requirements of parole supervision.

Other commentary was devoted to pointing out discrepancies between the proposed rules at §§ 2.77 and 2.78, and the Medical and Geriatric Parole statute. These comments were very helpful, and the Commission has made revisions accordingly. There was praise for the Commission's proposal to conduct initial parole hearings within 180 days of eligibility, which should reduce average prison stays for offenders with scores of 0–2 (indicating parole at eligibility) by 5 to 9 months. How soon the Commission can accomplish this goal will be dependent, in large measure, on the D.C. Department of Corrections, and its ability to provide needed inmate file information in a timely manner.

Finally, the Public Defender Service objected to crime victims being permitted to testify at parole hearings, on the theory that because D.C. Code 23–103 does not guarantee victims this right, permitting them to do so would be *ultra vires*. This is an erroneous argument because it would reduce the victim to the status of a mere "opponent" of parole. A victim is more than that. A victim is both the primary witness to the crime and its impact, and no less a participant in the criminal justice process than the eligible prisoner. Moreover, D.C. Code 23–103A was intended to guarantee minimum rights and not to set limits on the Board of Parole's authority to consider relevant evidence. The Commission has clarified § 2.72(e) accordingly.

There were a few comments from individual prisoners, whose concerns chiefly appear to be to receive the same opportunities as federal prisoners, and not to be subjected to anything required by the National Capital Revitalization Act that would make them serve more time in prison.

Implementation

The regulations set forth below will be made effective as interim rules on August 5, 1998, with a further period for public comment. The rules are applicable only to prisoners serving sentences imposed under the District of Columbia Code, except that the revised Salient Factor Score (SFS–98) in § 2.20 will be applied to U.S. Code prisoners at all hearings held on or after August 5, 1998, pursuant to the Commission's standard retroactivity policy.

The Commission will evaluate the interim rules in the light of further public comment and operational experience before adopting final rules. The interim rules will govern all D.C. Code parole hearings and related matters coming before the Commission on or after August 5, 1998, with the exception of the guidelines at § 2.80, which will be applied only to D.C. Code prisoners who are given initial parole hearings on or after August 5, 1998. See § 2.80(e). Prisoners serving aggregated U.S./D.C. Code sentences will continue

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to be evaluated under (redesignated) § 2.65.

Good Cause Finding

The Commission is making these interim rules effective less than 30 days from the date of this publication for good cause pursuant to 5 U.S.C. 553(d)(3). First, August 5, 1998, is the deadline established by the National Capital Revitalization Act for the Commission to assume the function governed by the regulations. Second, the empirical research found necessary by the Commission to validate its proposed guidelines as a reliable prediction device for violent recidivism, and to verify the likely impact of these guidelines on prison population levels, proved more complex and difficult to accomplish than originally anticipated. Final results were not available for the Commission's review until June 30, 1998, and this delayed final voting by the Commission until July 9, 1998.

Executive Order 12866 and Regulatory Flexibility Statement

The U.S. Parole Commission has determined that this interim rule is not a significant rule within the meaning of Executive Order 12866, and the interim rule has, accordingly, not been reviewed by the Office of Management and Budget. The interim rule will not have a significant economic impact upon a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 605(b).

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Probation and parole, Prisoners.

The Amendment

Accordingly, the U.S. Parole Commission is adopting the following amendments to 28 CFR Part 2.

PART 2—[AMENDED]

1. The authority citation for 28 CFR Part 2 continues to read as follows:

Authority: 18 U.S.C. 4203(a)(1) and 4204(a)(6).

Subpart A—United States Code Prisoners and Parolees

2. Section 2.62 is redesignated as § 2.68.

3. Sections 2.1 through 2.67 (except 2.62) are designated as subpart A, and §§ 2.63 through 2.67 are redesignated as §§ 2.62 through 2.66. The heading for subpart A is added as set forth above.

4. Section 2.20 is amended by removing Item F from the Salient Factor Scoring Manual (HISTORY OF HEROIN/OPIATE DEPENDENCE), and by redesignating Item G (OLDER OFFENDERS) as Item F. In addition, Item C is revised to read as follows:

§ 2.20 Paroling policy guidelines; Statement of general policy.

* * * * *

ITEM C. AGE AT COMMENCEMENT OF THE CURRENT OFFENSE/PRIOR COMMITMENTS OF MORE THAN THIRTY DAYS (ADULT OR JUVENILE)

C.1 If the subject was 26 years of age or more at the commencement of the current offense and has 3 or fewer prior commitments, score 3; if four prior commitments, score 2; if five or more prior commitments, score 1.

C.2 If the subject was 22–25 years of age at the commencement of the current offense and has three or fewer prior commitments, score 2; if four prior commitments, score 1; if five or more prior commitments, score 0.

C.3 If the subject was 20–21 years of age at the commencement of the current offense and has three or fewer prior commitments, score 1; if four or more prior commitments, score 0.

C.4 If the subject was 19 years of age or less at the commencement of the current offense, score 0.

C.5 Definitions (a) Use the age of the commencement of the subject's current offense behavior, except as noted under the special instructions for probation/parole/confinement/escape status violators.

(b) Prior commitment is defined under Item B.

* * * * *

Subpart B—Transfer Treaty Prisoners and Parolees

5. Redesignated § 2.68 is designated as subpart B. Section 2.69 is added to Subpart B and reserved. The heading for subpart B is added as set forth above.

6. Subpart C is added to consist of §§ 2.70 through 2.89 to read as follows:

Subpart C—District of Columbia Code Prisoners and Parolees

Sec.
2.70 Authority and functions of the U.S. Parole Commission with respect to District of Columbia Code offenders.
2.71 Application for parole.
2.72 Hearing procedure.
2.73 Parole suitability criteria.
2.74 Decision of the Commission.
2.75 Reconsideration proceedings.
2.76 Reduction in minimum sentence.
2.77 Medical parole.
2.78 Geriatric parole.
2.79 Good time forfeiture.
2.80 Guidelines for D.C. Code offenders.
2.81 Effective date of parole.
2.82 Release planning.
2.83 Release to other jurisdictions.
2.84 Conditions of release.
2.85 Release on parole.
2.86 Mandatory release.
2.87 Reparole.
2.88 Confidentiality of parole records.
2.89 Miscellaneous provisions.
2.90 Prior orders of the Board of Parole.

Subpart C—District of Columbia Code Prisoners and Parolees

§ 2.70 Authority and functions of the U.S. Parole Commission with respect to District of Columbia Code offenders.

(a) The U.S. Parole Commission shall exercise authority over District of Columbia Code offenders pursuant to Section 11231 of the National Capital Revitalization and Self-Government Improvement Act of 1997, P.L. 105–33, and D.C. Code 24–209. The rules in this Subpart shall govern the operation of the U.S. Parole Commission with respect to D.C. Code offenders and are the pertinent parole rules of the District of Columbia as amended and supplemented pursuant to Section 11231(a)(1) of the Act.

(b) The Commission shall have sole authority to grant parole, and to establish the conditions of release, for all District of Columbia Code prisoners who are serving sentences for felony offenses, and who are not otherwise ineligible for parole by statute, including offenders who have been returned to prison upon the revocation of parole or mandatory release, wherever confined. (D.C. Code 24–208). The above authority shall include youth offenders who are committed to prison for treatment and rehabilitation based on felony convictions under the D.C. Code. (D.C. Code 24–804(a)).

(c) The Commission shall have authority to recommend to the Superior Court of the District of Columbia a reduction in the minimum sentence of a District of Columbia Code prisoner, if the Commission deems such recommendation to be appropriate (D.C. Code 24–201(c)).

(d) The Commission shall have authority to grant parole to a prisoner who is found to be geriatric, permanently incapacitated, or terminally ill, notwithstanding the minimum term imposed by the sentencing court (D.C. Code 24–263 through 267).

(e) The Board of Parole of the District of Columbia will continue to have jurisdiction over District of Columbia Code offenders who have been released to parole or mandatory release supervision, including the authority to return such offenders to prison upon an order of revocation. The jurisdiction and authority of the Board over such offenders will be transferred to the U.S. Parole Commission by August 5, 2000, pursuant to Section 11231(a)(2) of the Act.

(f) When the D.C. Board of Parole has issued a warrant for a parolee who has been confined in a federal prison to serve a new U.S. or D.C. Code sentence, the U.S. Parole Commission shall have jurisdiction to revoke parole and to determine the disposition of such warrant. (D.C. Code 24–209.)

§ 2.71 Application for parole.

(a) A prisoner (including a committed youth offender) desiring to apply for parole shall execute an application form as prescribed by the Commission. Such forms shall be available at each institution and shall be provided to a prisoner who is eligible for parole consideration. The Commission may then conduct an initial hearing or grant an effective date of parole on the record. A prisoner who receives an initial hearing need not apply for subsequent hearings.

(b) To the extent practicable, the initial hearing for an eligible prisoner who has applied for parole shall be held at least 180 days prior to the prisoner's date of eligibility for parole.

(c) A prisoner may knowingly and intelligently waive any parole consideration on a form provided for that purpose. A prisoner who declines either to apply for or waive parole consideration shall be deemed to have waived parole consideration.

(d) A prisoner who waives parole consideration may later apply for parole and be heard during the next visit of the Commission to the institution at which the prisoner is confined, provided that the prisoner has applied for parole at least 60 days prior to the first day of the month in which such visit of the Commission occurs. In no event, however, shall such prisoner be heard at an earlier date than that set forth in paragraph (b) of this section.

§ 2.72 Hearing procedure.

(a) Each eligible prisoner who has applied for parole shall appear in person for a hearing before an examiner of the Commission. The examiner shall review with the prisoner the guidelines at § 2.80, and shall discuss with the prisoner such information as the examiner deems relevant, including the prisoner's offense behavior, criminal history, institutional record, health status, release plans, and community support. If the examiner determines that the available file material is not adequate for this purpose the examiner may order the hearing to be postponed to the next docket so that the missing information can be requested.

(b) Parole hearings may be held in District of Columbia facilities (including District of Columbia contract facilities) and federal facilities (including federal contract facilities).

(c) A prisoner appearing for a parole hearing in a District of Columbia facility shall not be accompanied by counsel, any relative or friend, or any other person (except a staff member of that facility). A prisoner appearing for a parole hearing in a federal facility may have a representative pursuant to § 2.13(b) of this part.

(d) Rehearing disclosure of file material will be available to prisoners and their representatives only in the case of prisoners confined in federal facilities, and pursuant to § 2.55 of this part.

(e) A victim of a crime of violence, as defined in D.C. Code 23–103a(a)(3), or a victim of any other crime, or a representative from the immediate family of a victim if the victim has died, shall have the right

(1) To be present at the parole hearings of each offender who committed the crime, and

(2) To testify and/or offer a written or recorded statement as to whether or not parole should be granted, including information and reasons in support of such statement. A written statement may be submitted at the hearing or provided separately. The prisoner may be excluded from the hearing room during the appearance of a victim or representative who gives testimony. A victim or representative may also request permission to appear for an office hearing conducted by an examiner (or other staff member) in lieu of appearing at a parole hearing. Whenever new and significant information is provided under this rule, the hearing examiner will summarize the information at the parole hearing and will give the prisoner an opportunity to respond. Such summary shall be consistent with a reasonable request for confidentiality by the victim or representative.

(f) Attorneys, family members, relatives, friends, or other interested persons desiring to submit information pertinent to any prisoner may do so by forwarding letters or memoranda to the offices of the Commission prior to a scheduled hearing. Such persons may also request permission to appear at the offices of the Commission to speak to a Commission staff member, provided such request is received at least 30 days prior to the scheduled hearing. The purpose of this office visit will be to supplement the Commission's record with pertinent factual information concerning the prisoner, which shall be placed in the record for consideration at the hearing.

(g) An office visit at a time other than set forth in paragraph (f) of this section may be authorized only if the Commission finds good cause based upon a written request setting forth the nature of the information to be discussed. See § 2.22 of this part. Notwithstanding the above restriction on office visits, written information concerning a prisoner may be submitted to the offices of the Commission at any time.

(h) A full and complete recording of every parole hearing shall be retained by the Commission. Upon a request pursuant to § 2.56, the Commission shall make available to any eligible prisoner such record as the Commission has retained of the hearing.

§ 2.73 Parole suitability criteria.

(a) In accordance with D.C. Code 24–204(a), the Commission shall be authorized to release a prisoner on parole in its discretion after he or she has served the minimum term of the sentence imposed, if the following criteria are met:

(1) The prisoner has substantially observed the rules of the institution;

(2) There is reasonable probability that the prisoner will live and remain at liberty without violating the law; and

(3) In the opinion of the Commission, the prisoner's release is not incompatible with the welfare of society.

(b) It is the policy of the Commission with respect to District of Columbia Code offenders that the minimum term imposed by the sentencing court presumptively satisfies the need for punishment in respect to the crime of which the prisoner has been convicted, and that the responsibility of the Commission is to account for the degree and the seriousness of the risk that the release of the prisoner would entail. This responsibility is carried out by reference to the Salient Factor Score and the Point Assignment Table at § 2.80 of this part. However, in unusual cases, parole may be denied based upon the gravity of the offense.

§ 2.74 Decision of the Commission.

(a) Following each initial or subsequent hearing, the Commission shall render a decision granting or denying parole, and shall provide the prisoner with a notice of action that includes an explanation of the reasons for the decision. The decision shall ordinarily be issued within 21 days of the hearing, excluding weekends and holidays.

(b) Whenever a decision is rendered within the applicable guideline established by these rules, it will be deemed a sufficient explanation of the Commission's decision for the notice of action to set forth how the guideline was calculated. If the decision is a departure from the guidelines, the notice of action shall include the reasons for such departure.

(c) Relevant issues of fact shall be resolved by the Commission in accordance with § 2.19(c) of this part.

§ 2.75 Reconsideration proceedings.

(a) If the Commission denies parole, it shall establish an appropriate reconsideration date in accordance with the provisions of § 2.80. The prisoner shall be given a rehearing during the month specified by the Commission, or on the docket of hearings immediately preceding that month if there is no docket of hearings scheduled for the month specified. If the prisoner's mandatory release date will occur before the reconsideration date deemed appropriate by the Commission pursuant to § 2.80, the Commission may order that the prisoner be released by the expiration of his sentence less good time ("continue to expiration"). The first reconsideration date shall be calculated from the prisoner's eligibility date; any subsequent reconsideration dates shall be calculated from the date of the last hearing. However, when the prisoner has waived the initial hearing, the first reconsideration shall be calculated from the initial hearing date.

(b) Notwithstanding the provisions of paragraph (a) of this section, the Commission shall not set a reconsideration date in excess of five years from the date of the prisoner's last hearing, nor shall the Commission continue a prisoner to the expiration of his or her sentence, if more than five years remains from the date of the last hearing until the prisoner's scheduled mandatory release.

(c) The scheduling of a reconsideration date does not imply that parole will be granted at such hearing.

(d) Prior to the parole reconsideration date, the Commission shall review the prisoner's record, including an institutional progress report which shall be submitted 60 days prior to the hearing. Based on its review of the record, the Commission may grant an effective date of parole without conducting the scheduled in-person hearing.

(e) Notwithstanding a previously established reconsideration date, the Commission may also reopen any case for a special reconsideration hearing, as provided in § 2.28, upon the receipt of new and significant information concerning the prisoner.

(f) Upon entering an order revoking parole, the Board of Parole of the District of Columbia may grant an immediate reparole, or order the parole violator to be returned to prison. In the latter case, the Board will order a reconsideration date pursuant to its regulations. The Commission shall have sole authority to grant or deny reparole to an offender who has been returned to prison upon an order revoking parole.

§ 2.76 Reduction in minimum sentence.

(a) A prisoner who has served three (3) or more years of the minimum term of his or her sentence may request the Commission to file an application with the sentencing court for a reduction in the minimum term pursuant to D.C. Code 24-201c. The prisoner's request to the Commission shall be in writing and shall state the reasons that the prisoner believes such request should be granted. The Commission shall require the submission of a progress report before approving such a request.

(b) Approval of a prisoner's request under this section shall require the concurrence of a majority of the Commissioners.

(c) If the Commission approves a prisoner's request under this section, an application for a reduction in the prisoner's minimum term shall be forwarded to the U.S. Attorney for the District of Columbia for filing with the sentencing court. If the U.S. Attorney objects to the Commission's recommendation, the U.S. Attorney shall provide the government's objections in writing for consideration by the Commission. If, after consideration of the material submitted, the Commission declines to reconsider its previous decision, the U.S. Attorney shall file the application with the sentencing court.

(d) If a prisoner's request under this section is denied by the Commission, there shall be a waiting period of two (2) years before the Commission will again consider the prisoner's request, absent exceptional circumstances.

§ 2.77 Medical parole.

(a) Upon receipt of a report from the institution in which the prisoner is confined certifying that the prisoner is terminally ill, or is permanently and irreversibly incapacitated by a physical or medical condition that is not terminal, the Commission shall determine whether or not to release the prisoner on medical parole. Release on medical parole may be ordered by the Commission at any time, whether or not the prisoner has completed his or her minimum sentence. Consideration for medical parole shall be in addition to any other parole for which a prisoner may be eligible.

(b) A prisoner may be granted a medical parole on the basis of terminal illness if:

(1) The institution's medical staff has provided the Commission with a reasonable medical judgment that the prisoner is within six months of death due to an incurable illness or disease; and

(2) The Commission finds that:

(i) The prisoner will not be a danger to himself or others; and

(ii) Release on parole will not be incompatible with the welfare of society.

(c) A prisoner may be granted a medical parole on the basis of permanent and irreversible incapacitation only if the Commission finds that:

(1) The prisoner's condition is such as to render the prisoner incapable of continuing his criminal career;

(2) The prisoner will not be a danger to himself or others; and

(3) Release on parole will not be incompatible with the welfare of society.

(d) The seriousness of the prisoner's crime shall be considered in determining whether or not a medical parole should be granted.

(e) A prisoner, or the prisoner's representative, may apply for a medical parole by submitting an application to the institution medical staff, who shall forward the application accompanied by a medical report and any recommendations within 15 days. The Commission shall render a decision within 15 days of receiving the application and report.

(f) A prisoner, the prisoner's representative, or the institution may request the Commission to reconsider its decision on the basis of changed circumstances.

(g) Notwithstanding any other provision of this section—

(1) A prisoner who has been convicted of first degree murder or who has been sentenced for a crime committed while armed under D.C. Code 22-2903, 22-3202, or 22-3204(b), shall not be eligible for medical parole. (D.C. Code 24-267); and

(2) A prisoner shall not be eligible for medical parole on the basis of a physical or medical condition that existed at the time the prisoner was sentenced (D.C. Code 24-262).

§ 2.78 Geriatric parole.

(a) Upon receipt of a report from the institution in which the prisoner is confined that a prisoner who is at least 65 years of age has a chronic infirmity, illness, or disease related to aging, the Commission shall determine whether or not to release the prisoner on geriatric parole. Release on geriatric parole may be ordered by the Commission at any time, whether or not the prisoner has completed his or her minimum sentence. Consideration for geriatric parole shall be in addition to any other parole for which a prisoner may be eligible.

(b) A prisoner may be granted a geriatric parole if the Commission finds that:

(1) There is a low risk that the prisoner will commit new crimes; and

(2) The prisoner's release would not be incompatible with the welfare of society.

(c) The seriousness of the prisoner's crime, and the age at which it was committed, shall be considered in determining whether or not a geriatric parole should be granted prior to completion of a prisoner's minimum sentence.

(d) A prisoner, or a prisoner's representative, may apply for a geriatric parole by submitting an application to the institution medical staff, who shall forward the application accompanied by a medical report and any recommendations within 30 days. The Commission shall render a decision within 30 days of receiving the application and report.

(e) In determining whether or not to grant a geriatric parole, the Commission shall consider the following factors:

(1) Age of the prisoner;

(2) Severity of illness, disease, or infirmities;

(3) Comprehensive health evaluation;

(4) Institutional behavior;

(5) Level of risk for violence;

(6) Criminal history; and

(7) Alternatives to maintaining geriatric long-term prisoners in traditional prison settings.

(D.C. Code 24-265(c)(1)-(7)).

(f) A prisoner, the prisoner's representative, or the institution, may request the Commission to reconsider its decision on the basis of changed circumstances.

(g) Notwithstanding any other provision of this section—

(1) A prisoner who has been convicted of first degree murder or who has been sentenced for a crime committed while armed under D.C. Code 22-2903, 22-3202, or 22-3204(b), shall not be eligible for geriatric parole (D.C. Code 24-267); and

(2) A prisoner shall not be eligible for geriatric parole on the basis of a physical or medical condition that existed at the time the prisoner was sentenced (D.C. Code 24-262).

§ 2.79 Good time forfeiture.

Although a forfeiture of good time will not bar a prisoner from receiving a parole hearing, D.C. Code 24-204 permits the Commission to parole only those prisoners who have substantially observed the rules of the institution. Consequently, the Commission will consider a grant of parole for a prisoner with forfeited good time only after a thorough review of the circumstances underlying the disciplinary infraction(s) and if the Commission is satisfied that the parole date set has required a period of imprisonment sufficient to outweigh the seriousness of the prisoner's misconduct.

§ 2.80 Guidelines for D.C. Code offenders.

(a) *Introduction.* In determining whether an eligible prisoner should be paroled, the Commission shall apply the guidelines set forth in this section. The guidelines assign numerical values to the pre- and post-incarceration factors described in the Point Assignment Table set forth in paragraph (f) of this section. Decisions outside the guidelines may be made, where warranted, pursuant to paragraph (m) of this section.

(b) *Salient factor score and criminal record.* The prisoner's salient factor score shall be determined by reference to the salient factor scoring manual in § 2.20 of this part. The salient factor score is used to assist the Commission in assessing the probability that an offender will live and remain at liberty without violating the law. The prisoner's record of criminal conduct (including the nature and circumstances of the current offense) shall be used to assist the Commission in determining the probable seriousness of the recidivism that is predicted by the Salient Factor Score.

(c) *Disciplinary infractions.* The Commission shall assess whether the prisoner has been found guilty of committing disciplinary infractions while under confinement for the current offense. The Commission shall refer to the offense classification tables of the D.C. Department of Corrections or the Bureau of Prisons, as applicable, in determining whether the prisoner's disciplinary record should be counted on the point score. The Commission's general policy shall be that a single Class I or Code 100 offense, or two or more Class II or Code 200 offenses, shall be counted as negative institutional behavior at all hearings. A persistent record of lesser offenses may also be counted as negative institutional behavior, whether at an initial hearing or a rehearing. At initial hearings, an infraction free period of at least three years preceding the date of the hearing may be considered by the Commission as sufficient to exclude from consideration a previous record of Class I (or Code 100) or Class II (or Code 200) offenses, provided that such offenses would result in not more than one point added to the prisoner's score.

(d) *Program achievement.* The Commission shall assess whether the prisoner has demonstrated ordinary or superior achievement in the area of prison programs, industries, or work assignments while under confinement for the current offense. Where prison programs and work assignments are limited or unavailable, the Commission may exercise discretion based on the prisoner's record of behavior. Points may be deducted for program achievement regardless of whether points have been added for negative institutional behavior during the same period.

(e) *Implementation.* These guidelines shall be applied to all prisoners who are given initial parole hearings on or after August 5, 1998. For prisoners whose initial hearings were held prior to August 5, 1998, the Commission shall render its decisions by reference to the guidelines applied by the D.C. Board of Parole. However, when a decision outside such guidelines has been made by the Board, or is ordered by the Commission, the Commission may determine the appropriateness and extent of the departure by comparison with the guidelines in this section. The Commission may also correct any error in the calculation of the D.C. Board's guidelines.

(f) *Point assignment table.*

Add the applicable points from Categories I–III to determine the base point score. Then add or subtract the points from Categories IV and V to determine the total point score.

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Point Assignment Table

Category I: Risk of Recidivism	(Salient factor score)
10–8 (Very Good Risk)	+0
7–6 (Good Risk)	+1
5–4 (Fair Risk)	+2
3–0 (Poor Risk)	+3
Category II: Current or Prior Violence	(Type of Risk)
Note: Use the highest applicable subcategory. If no subcategory is applicable, score = 0.	
A. Violence in current offense, and any felony violence in two or more prior offenses	+4
B. Violence in current offense, and any felony violence in one prior offense	+3
C. Violence in current offense	+2
D . No violence in current offense and any felony violence in two or more prior offenses	+2
E. Possession of firearm in current offense if current offense is not scored as a crime of violence	+2
F. No violence in current offense and any felony violence in one prior offense	+1
Category III: Death of Victim or High Level Violence	
Note: Use highest applicable subcategory. If no subcategory is applicable, score = 0.	
A. Current offense was high level or other violence with death of victim resulting	+3
B. Current offense involved attempted murder	+2
C. Current offense was other high level violence	+1
Base Point Score (Total of Categories I–III)	
Category IV: Negative Institutional Behavior	
Note: Use the highest applicable subcategory. If no subcategory is applicable, score = 0.	
A. Negative institutional behavior involving: (1) assault upon a correctional staff member, with bodily harm inflicted or threatened, (2) possession of a deadly weapon, (3) setting a fire so as to risk human life, (4) introduction of drugs for purposes of distribution, or (5) participating in a violent demonstration or riot	+2
B. Other negative institutional behavior	+1
Category V: Program Achievement	
Note: Use the highest applicable subcategory. If no subcategory is applicable, score = 0.	
A. Acceptable institutional behavior with no program achievement	0
B. Acceptable institutional behavior with ordinary program achievement	−1
C. Acceptable institutional behavior with superior program achievement	−2
Total Point Score (Total of Categories I–V)	

(g) *Definitions and instructions for application of point assignment score.*

(1) *Salient factor score* means the salient factor score set forth at § 2.20 of this part.

(2) *High level violence* in Category III means any of the following offenses—

(i) Murder:

(ii) Voluntary manslaughter;

(iii) Arson of an occupied (or potentially occupied) building;

(iv) Forcible rape or forcible sodomy (first degree sexual abuse);

(v) Kidnapping, hostage taking, or any armed abduction of a victim during a carjacking or other offense;

(vi) Burglary of a residence while armed if a victim was in the residence at the offense;

(vii) Obstruction of justice through violence or threats of violence;

(viii) Any offense involving sexual abuse of a person less than sixteen years of age;

(ix) Any felony resulting in mayhem, malicious disfigurement, or other *serious bodily injury* (See Definition No. 3);

(x) Any offense defined below as *other violence* in which the offender intentionally discharged a firearm;

(3) *Serious bodily injury* means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(4) *Other violence* means any of the following felony offenses that does not qualify as *high level violence*—

(i) Robbery;

(ii) Residential burglary;

(iii) Felony assault;

(iv) Felony offenses involving a threat, or risk, of bodily harm;

(v) Felony offenses involving sexual abuse or sexual contact.

(5) Attempts, conspiracies, and solicitations shall be scored by reference to the substantive offense that was the object of the attempt, conspiracy, or solicitation; except that Category IIIA shall apply only if death actually resulted.

(6) *Current offense* means any criminal behavior that is either;

(i) Reflected in the offense of conviction, or

(ii) Is not reflected in the offense of conviction but is found by the Commission to be related to the offense of conviction (i.e., part of the same course of conduct as the offense of conviction).

(7) Category IIE applies whenever a firearm is possessed by the offender during, or used by the offender to commit, any offense that is not scored under Category IIA, B, C, or D. Category IIE also applies when the current offense is felony unlawful possession of a firearm and there is no other current offense. Possession for purposes of Category IIE includes constructive possession.

(8) Category IIIA applies if the death of a victim is:

(i) Caused by the offender, or

(ii) Caused by an accomplice and the killing was planned or approved by the offender in furtherance of a joint criminal venture.

(9) In some cases, negative institutional behavior that involves violence will result in a higher score if scored as an additional current offense under Categories II and/or III, than if scored under Category IVA. In such cases, the prisoner's point score is recalculated to reflect the conduct as an additional current offense under Categories II and/or III, rather than as a disciplinary infraction under Category IVA. For example, the attempted murder of another inmate will result in a higher score when treated as an additional current offense under Categories II and III, if the offense of conviction was scored under Category IIC only as violence in current offense. If negative institutional behavior is treated as an additional current offense, points may still be assessed under Category IVA or B for other disciplinary infractions.

(10) *Superior program achievement* means program achievement that is beyond the level that the prisoner might ordinarily be expected to accomplish. The Commission may, in its discretion, grant more than a 2 point deduction in the most clearly exceptional cases.

(h) *Guidelines for decisions at initial hearing—Adult offenders.*

In considering whether to parole an adult offender at an initial hearing, the Commission shall determine the offender's total point score and then consult the following guidelines for the appropriate action:

Total Points	Guideline recommendation
(1) If Points =0	Parole at initial hearing with low level of supervision indicated.
(2) If Points =1	Parole at initial hearing with high level of supervision indicated.
(3) If Points =2	Parole at initial hearing with highest level of supervision indicated.
(4) If Points =3+	Deny parole at initial hearing and schedule rehearing in accordance with § 2.75(c) and the time ranges set forth in paragraph (j) of this section:

(i) *Guidelines for decisions at initial hearing—Youth offenders.* In considering whether to parole a youth offender at an initial hearing, the Commission shall determine the youth offender's total point score and then consult the following guidelines for the appropriate action:

Total points	Guideline recommendation
(1) If Points = 0	Parole at initial hearing with conditions established to address treatment needs;
(2) If Points = 1+	Deny parole at initial hearing and schedule a rehearing based on estimated time to achieve program objectives or by reference to the time ranges in paragraph (j) of this section, whichever is less.

(j) *Guidelines for time to rehearing adult offenders.* (1) If parole is denied or rescinded, the time to the subsequent hearing for an adult offender shall be determined by the following guidelines:

Base point score (Categories I through III)	Months to Rehearing
0–4	12–18
5	18–24
6	18–24
7	18–24
8	18–24
9	22–28
10	26–32

(2) The time to a rehearing shall be determined by the prisoner's base point score, and not by the total point score at the current hearing, which indicates only whether parole should be granted or denied. *Exception:* In the case of institutional misconduct deemed insufficiently serious to warrant a change in the prisoner's total point score, the Commission may nonetheless deny or rescind parole and render a decision based on the guideline ranges at § 2.36 of this part.

(k) *Guidelines for decisions at subsequent hearing—Adult offenders.* In determining whether to parole an adult offender at a rehearing or rescission hearing, the Commission shall take the total point score from the initial hearing or last rehearing, as the case may be, and adjust that score according to the institutional record of the candidate since the last hearing. The following guidelines are applicable:

Total Points	Guideline recommendation
If Points = 0–3	Parole with highest level of supervision indicated.
If Points = 4+	Deny parole at rehearing and schedule a further rehearing in accordance with § 2.75(c) and the time ranges set forth in paragraph (j) of this section.

(l) *Guidelines for decisions at subsequent hearing—Youth offenders.* (1) In determining whether to parole a youth offender appearing at a rehearing or rescission hearing, the Commission shall take the total point score from the initial hearing or last rehearing, as the case may be, and adjust that score according to the institutional record of the candidate since the last hearing. The following guidelines are applicable:

Total Points	Guideline recommendation
If Points = 0–3	Parole with highest level of supervision indicated.
If Points = 4+	Deny parole and schedule a rehearing based on estimated time to achieve program objectives or by reference to the time ranges in paragraph (j) of this section, whichever is less.

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(2) Prison officials may in any case recommend an earlier rehearing date than ordered by the Commission if Commission's program objectives have been met.

(m) *Decisions outside the guidelines—All offenders.*

(1) The Commission may, in unusual circumstances, waive the Salient Factor Score and the pre- and post-incarceration factors set forth in this section to grant or deny parole to a parole candidate notwithstanding the guidelines, or to schedule a reconsideration hearing at a time different from that indicated in paragraph (j) of this section. Unusual circumstances are case-specific factors that are not fully taken into account in the guidelines, and that are relevant to the grant or denial of parole. In such cases, the Commission shall specify in the notice of action the specific factors that it relied on in departing from the applicable guideline or guideline range.

(2) Factors that may warrant a decision above the guidelines include, but are not limited to, the following:

(i) *Poorer parole risk than indicated by salient factor score:* The offender is a poorer parole risk than indicated by the salient factor score because of—

(A) Repeated failure under supervision (pretrial release, probation, or parole);

(B) Lengthy history of criminally related substance (drug or alcohol) abuse; or

(C) Unusually extensive prior record (sufficient to make the offender a poorer risk than the "poor" prognosis category).

(ii) *More serious parole risk:* The offender is a more serious parole risk than indicated by the total point score because of—

(A) Extensive record of violence beyond that taken into account in the guidelines;

(B) Current offense aggravated by extraordinary criminal sophistication orleadership role;

(C) Unusual cruelty (beyond that accounted for by scoring the offense as high level violence), or predation upon extremely vulnerable victim;

(D) Unusual degree of violence attempted or committed in relation to type of current offense; or

(E) Unusual magnitude of offense in terms of multiple victims, money, drugs, weapons, or other commodities involved.

(3) Factors that may warrant a decision below the guideline include, but are not limited to, the following:

(i) *Better parole risk than indicated by salient factor score.* The offender is a better parole risk than indicated by the salient factor score because of (applicable only to offenders who are not already in the very good risk category)—

(A) a prior criminal record resulting exclusively from minor offenses;

(B) a substantial crime-free period in the community for which credit is not already given on the salient factor score;

(C) a change in the availability of community resources leading to a better parole prognosis;

(ii) *Other factors:*

(A) Substantial cooperation with the government that has not been otherwise rewarded;

(B) Substantial period in custody on other sentence(s) or additional committed sentences sufficient to warrant a finding that the offender meets the criteria for parole.

§ 2.81 Effective date of parole.

(a) A parole release date may be granted up to nine months from the date of the hearing in order to permit placement in a halfway house or to allow for release planning. Otherwise, a grant of parole shall ordinarily be effective not more than six months from the date of the hearing.

(b) Except in the case of a medical or geriatric parole, a parole that is granted prior to the completion of the prisoner's minimum term shall not become effective until the prisoner becomes eligible for release on parole.

§ 2.82 Release planning.

(a) All grants of parole shall be conditioned on the development of a suitable release plan and the approval of that plan by the Commission. A parole certificate shall not be issued until a release plan has been approved by the Commission. In the case of mandatory release, the Commission shall review each prisoner's release plan to determine whether the imposition of any special conditions should be ordered to promote the prisoner's rehabilitation and protect the public safety.

(b) If a parole date has been granted, but the prisoner has not submitted a proposed release plan, the appropriate correctional or supervision staff shall assist the prisoner in formulating a release plan for investigation.

(c) After investigation by offender supervision staff, the proposed release plan shall be submitted to the Commission 30 days prior to the prisoner's parole or mandatory release date.

(d) The Commission may retard a parole date for purposes of release planning for up to 120 days without a hearing. If efforts to formulate an acceptable release plan prove futile by the expiration of such period, or if the Offender Supervision staff reports that there are insufficient resources to provide effective supervision for the individual in question, the Commission shall be promptly notified in a detailed report. If the Commission does not order the prisoner to be paroled, the Commission shall suspend the grant of parole and conduct a reconsideration hearing on the next available docket. Following such reconsideration hearing, the Commission may deny parole if it finds that the release of the prisoner without a suitable plan would fail to meet the criteria set forth in § 2.73 of this part. However, if the prisoner subsequently presents an acceptable release plan, the Commission may reopen the case and issue a new grant of parole.

(e) The following shall be considered in the formulation of a suitable release plan:

(1) Evidence that the parolee will have an acceptable residence.

(2) Evidence that the parole will be legitimately employed as soon as released; provided, that in special circumstances, the requirement for immediate employment upon release may be waived by the Commission.

(3) Evidence that the necessary aftercare will be available for parolees who are ill, or who have any other demonstrable problems for which special care is necessary, such as hospital facilities or other domiciliary care; and

(4) Evidence of availability of, and acceptance in, a community program in those cases where parole has been granted conditioned upon acceptance or participation in a specific community program.

§ 2.83 Release to other jurisdictions.

The Commission, in its discretion, may parole any individual from a facility of the District of Columbia, to live and remain in a jurisdiction other than the District of Columbia.

§ 2.84 Conditions of release.

(a) Parole is granted subject to the conditions imposed by the Commission as set forth in the certificate of parole. These conditions shall include, but not be limited to, the following. The parolee must:

(1) Obey all laws;

(2) Report immediately upon release to his or her assigned supervision office for instructions;

(3) Remain within the geographic limits fixed in the parole certificate unless official approval is obtained;

(4) Refrain from visiting illegal establishments;

(5) Refrain from possessing, selling, purchasing, manufacturing or distributing any controlled substance, or related paraphernalia;

(6) Refrain from using any controlled substance or drug paraphernalia unless such usage is pursuant to a lawful order of a practitioner and the parolee promptly notifies the Commission and his or her supervision officer of same;

(7) Be screened for the presence of controlled substances by appropriate tests as may be required by the Board of Parole or the Supervision Officer;

(8) Refrain from owning, possessing, using, selling, or having under his or her control any firearm or other deadly weapon;

(9) Find and maintain legitimate employment, and support legal dependents;

(10) Keep the supervision officer informed at all times relative to residence and work, and report all arrests;

(11) Refrain from entering into any agreement to act as an informer or special agent for a law enforcement agency without permission from the supervision authority; and

(12) Cooperate with the officials responsible for his or her supervision and carry out all instructions of his or her supervision officer and such special conditions as may have been imposed.

(b) The Commission may add to, modify, or delete any condition of parole at any time prior to the release of the offender. Following delivery of the parole or mandatory release certificate, such jurisdiction is vested in the Board of Parole of the District of Columbia until that jurisdiction is transferred to the Commission on or before August 5, 2000.

§ 2.85 Release on parole.

(a) When a parole effective date has been set, actual release on parole on that date shall be conditioned upon the individual maintaining a good conduct record in the institution or prerelease program to which the prisoner has been assigned.

(b) The Commission may reconsider any grant of parole prior to the prisoner's actual release on parole, and may advance or retard a parole effective date or rescind and deny a parole previously granted, based upon the receipt of any new and significant information concerning the prisoner, including disciplinary infractions. The Commission may retard a parole date for disciplinary infractions (*e.g.,* to permit the use of graduated sanctions for drug treatment program infractions) for up to 120 days without a hearing.

(c) After a prisoner has been granted a parole effective date, the institution shall notify the Commission of any serious disciplinary infractions committed by the prisoner prior to the date of actual release. In such case, the prisoner shall not be released until the institution has been advised that no change has been made in the Commission's order granting parole.

(d) A grant of parole becomes operative upon the authorized delivery of a certificate of parole to the prisoner, and the signing of that certificate by the prisoner, who thereafter becomes a parolee subject to the jurisdiction of the Board of Parole of the District of Columbia.

§ 2.86 Mandatory release.

(a) When a prisoner has been denied parole at the initial hearing and all subsequent considerations, or parole consideration is expressly precluded by statute, the prisoner shall be released at the expiration of his or her imposed sentence less the time deducted for any good time allowances provided by statute.

(b) Any prisoner having served his or her term or terms less deduction for good time shall, upon release, be deemed to be released on parole until the expiration of the maximum term or terms for which he or she was sentenced, except that if the offense of conviction was committed before April 11, 1987, such expiration date shall be less one hundred eighty (180) days. Every provision of this part relating to an individual on parole shall be deemed to include individuals on mandatory release.

(c) Each prisoner released in accordance with this section shall be subject to parole supervision upon the authorized delivery of a certificate of mandatory release.

§ 2.87 Reparole.

Each decision to grant or deny reparole shall be made by reference to the Commission's reparole guidelines at § 2.21 of this part, which shall include the establishment of a presumptive or effective release date pursuant to § 2.12(b) and interim hearings pursuant to § 2.14. However, if the prisoner is also eligible for parole on a new D.C. Code felony sentence that has been aggregated with the prisoner's parole violation term, the guidelines at § 2.80 shall be applied in lieu of such provisions. Reparole hearings shall be conducted according to the procedures set forth in § 2.72 of this part.

§ 2.88 Confidentiality of parole records.

(a) Consistent with the Privacy Act of 1974 (5 U.S.C. 552(b)), the contents of parole records shall be confidential and shall not be disclosed outside the Commission except as provided below.

(b) Information that is subject to release to the general public without the consent of the prisoner shall be limited to the information specified in § 2.37(c) of this part.

(c) Information other than as described in paragraph (b) may be disclosed without the consent of the prisoner only pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552(b)). See § 2.56 of this part.

§ 2.89 Miscellaneous provisions.

Except to the extent otherwise provided by law, the following sections in subpart A of this part are also applicable to District of Columbia Code offenders:

2.5 Sentence aggregation.

2.7 Committed fines and restitution orders.

2.8 Mental competency procedures.

2.10 Date service of sentence commences.

2.16 Parole of prisoner in State, local, or territorial institution.

2.19 Information considered.

2.22 Communication with Commission.

2.23 Delegation to hearing examiners.

2.32 Parole to local or immigration detainers.

2.34 Rescission of parole.

2.56 Disclosure of Parole Commission file.

2.66 Aggregated U.S. and D.C. Code sentences.

§ 2.90 Prior orders of the Board of Parole.

Any prior order entered by the Board of Parole of the District of Columbia shall be accorded the status of an order of the Parole Commission unless duly reconsidered and changed by the Commission at a regularly scheduled hearing. It shall not constitute grounds for reopening a case that the prisoner is subject to an order of the Board of Parole that fails to conform to a provision of this part.

Dated: July 15, 1998.

Michael J. Gaines,

Chairman, U.S. Parole Commission.

[FR Doc. 98–19356 Filed 7–20–98; 8:45 am]

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Part V

National Archives and Records Administration

Electronic Records Work Group Draft Report; Introductory Information, Appendixes C, D, E and Comments Requested; Notices

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NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Electronic Records Work Group Draft Report; Introductory Information

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of materials for public review and comment; request for comment.

SUMMARY: In this separate part, NARA is publishing five notice documents that invite public comment on draft products developed by the Electronic Records Work Group relating to the disposition of Federal records previously authorized for disposal under General Records Schedule (GRS) 20, including those created or received on electronic mail (e-mail) and word processing applications, or other office automation software. This notice provides an overview of the documents on which comments are sought and other background information to assist in your review.

DATES: Comments must be received on or before August 20, 1998.

ADDRESSES: Comments may be sent electronically to the e-mail address <grs20@arch2.nara.gov>. We ask that lengthy attachments be sent in ASCII, WordPerfect 5.1/5.2, or MS Word 6.0 format. If you do not have access to e-mail, comments may be mailed to Electronic Records Work Group (NPOL), Room 4100, 8601 Adelphi Rd., College Park, MD 20740–6001, or faxed to 301–713–7270.

FOR FURTHER INFORMATION CONTACT: Michael Miller at 301–713–7110, ext. 229.

SUPPLEMENTARY INFORMATION:

Background

The Electronic Records Work Group is an interagency group formed by the Archivist of the United States on November 21, 1997, to review the 1995 version of General Records Schedule (GRS) 20. GRS 20 provided agencies with the disposition authority to destroy (delete) electronic records on word processing and electronic mail (e-mail) systems after the records were copied to a recordkeeping system. GRS 20 also provided agencies with the authority to destroy certain specified *temporary* records created and used in computer operations, such as system test files, back-up files, and input/source files, when those records were no longer needed to conduct agency business.

On October 22, 1997, GRS 20 was declared null and void by the U.S. District Court for the District of Columbia in *Public Citizen* v. *Carlin*. In an April 9, 1998 Order, the District Court authorized the Archivist to state that a Federal agency may continue to follow its present disposition practices for electronic records until: (1) September 30, 1998; (2) the agency has submitted and received approval from NARA on a Request for Records Disposition Authority; (3) notification by NARA that the Government's appeal in the case has been resolved and NARA has provided further guidance as a result of the appellate court's decision; or (4) further Order of the District Court. The October and April Orders have been appealed by the Government.

The draft products presented in this **Federal Register** part reflect the effort of the Electronic Records Work Group to develop workable alternatives for providing agencies authority to dispose of two types of records previously authorized for disposal under GRS 20: (1) The electronic source record (i.e. the electronic record that is made or received using word processing, e-mail or other office automation software and that is used to produce the record filed in a recordkeeping system) and (2) computer management and operations records usually maintained by agency offices with responsibility for managing information systems. Recommendations 1 and 2 in the Work Group's draft report address the first type of record and recommendation 3 addresses the second. Records generated with office automation software, like other Federal records, can be destroyed (deleted) only with NARA's authorization.

GRS 20 itself only provided for the disposition of a small portion of the electronic records created by the Federal Government on a daily basis. It did not provide authority for disposition of major program-related information systems, data files used to support agency programs, records in electronic recordkeeping systems, records in document management systems, or similar program records managed electronically. The documents in this **Federal Register** notice also do not cover those types of electronic records. As before, Federal agencies must develop individual dispositions for those records and submit them for approval by NARA. The guidance for doing so is provided in other existing NARA issuances.

Nor is this document meant to provide guidance on the development of electronic recordkeeping systems, appropriate procedures for managing records electronically, specifications or requirements for electronic recordkeeping systems, or other aspects of electronic recordkeeping. NARA will work with Federal agencies over the next 18 months to develop appropriate guidance in these areas. NARA recognizes that such guidance is crucial to the effective implementation of electronic recordkeeping. However, this notice is intended to address several extremely pressing issues brought about by the Court's decision to declare GRS 20 null and void. From a Government operations standpoint, the most crucial issue is the process by which agencies can obtain appropriate disposition authority for the electronic source records formerly authorized for disposal under GRS 20.

The Work Group's recommendations do not require agencies to establish electronic records management systems in order to schedule electronic source records. There may be important considerations, such as the completeness of files or the authenticity of records, that makes a paper recordkeeping system the best choice. Regardless of whether the agency's recordkeeping system is paper or electronic, because the electronic document previously authorized for destruction (deletion) by GRS 20 is a record, the agency must schedule it and obtain disposition authority from NARA in order to delete it.

The computer has changed and continues to change the way the Federal government conducts public business. Information technology offers potential for substantial improvements in the creation, retention and management of records, as well as in the delivery of Government services. Some of this potential can be realized today, such as in economical storage and rapid retrieval of data. The future offers even greater possibilities.

Although electronic recordkeeping offers many potential benefits, current capabilities to implement it are limited by a number of factors. First, the recordkeeping capabilities of many of the most widely used software packages such as electronic mail and word processing are extremely limited. They must be supplemented with specific records management applications to provide the functionalities necessary to keep business quality records. Second, technology has made electronic records easier to create and transmit than to preserve for the periods of time necessary for recordkeeping. Finally, the Federal government is still developing key pieces of guidance in areas such as system requirements for electronic recordkeeping and authentication of electronic records. The Work Group also proposes to recommend, therefore, that the Archivist of the United States establish a follow-on group to examine electronic recordkeeping issues and to build on the work done by this Work Group.

Electronic Records Work Group Products for Comment

In addition to this introductory notice, this separate part contains the following Work Group products for which we seek your comments:

1. Appendix C—Proposal for Developing Agency Records Schedules That Include Electronic Source Records Generated With Office Automation Applications.

Appendix C addresses the first Work Group recommendation, that agencies must schedule their program and unique administrative records in all formats. It proposes guidance that NARA should issue on the revision of existing records disposition schedules to provide disposition authority for records created using office automation applications, which were covered by the 1995 GRS 20, items 13, 14 and 15. It outlines what agencies must do to schedule these records and how NARA will provide the public the opportunity to submit comments on the schedules as required by 44 U.S.C. 3303a.

2. Appendix D—Proposal to Revise the Entire GRS To Cover All Formats of the Administrative Records Included Therein.

Appendix D addresses the second Work Group recommendation, that NARA modify the GRS to authorize the destruction of copies of administrative records covered by those GRS that are not needed for recordkeeping purposes after a recordkeeping copy has been produced. This appendix proposes a new item to be added to General Records Schedules 1–16, 18, and 23 to provide the disposition authority previously provided by GRS 20, items 13, 14 and 15.

3. Appendix E—Proposed General Records Schedule, Information Technology Records

Appendix E addresses the Work Group's third recommendation. It proposes a new General Records Schedule to provide disposition authorities for certain specified temporary records specifically related to systems management and operations. The new GRS would not cover temporary records documenting development and management of agency systems for the agency's mission-related functions.

4. Draft Electronic Records Work Group Report to the Archivist of the United States

This notice contains the text of the Work Group's draft report to the Archivist, which is due to be submitted to the Archivist with the appendixes in September, and Appendix A. The draft report published here has been modified slightly from the June 15 version posted on the NARA GRS 20 web page (http://www.nara.gov/records/grs20/). The final report will reflect further changes that the Work Group makes as a result of the comments received, and will contain an Appendix B that discusses the comments received on the draft report and other work products.

Availability of Reference Sources Cited

The notice documents reference various materials that may be useful in your review of the documents. The following table shows where these documents are available for review on NARA's web site or in this separate part:

Cited document	Availability	Where cited
General Records Schedules 1–23, including GRS 20 (1995 edition)	http://ardor.nara.gov/grs/index.html	This notice; Appendix D; Draft Report.
NARA Bulletin 98–02	http://www.nara.gov/records/grs20/bltn–grs.html OR Appendix C.	Appendix C; Draft Report.
NWM 06–98	Appendix C	Appendix C.
1995 Agency Recordkeeping Requirements: A Management Guide	gopher://gopher.nara.gov:70/00/managers/federal/publicat/adequacy.txt.	Draft Report.

Questions and Issues

In each of the following notices, we have identified specific questions and issues that we would like you to consider and comment on as part of your review of those documents.

Future Steps

The Work Group must present its final report and implementation strategy to the Archivist of the United States in September. Consequently, we may not be able to consider any comments received after the comment deadline, August 20, 1998. The Work Group will review all comments received on the report and appendixes during the June **Federal Register** comment period before preparing its final report.

The Work Group intends to submit its report to the Archivist in time for his review and action on it by September 30. The Archivist will communicate his decisions to Federal agencies and the public.

Dated: July 16, 1998.

Lewis J. Bellardo,

Deputy Archivist of the United States.

[FR Doc. 98–19465 Filed 7–20–98; 8:45 am]

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NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Electronic Records Work Group Draft Report; Appendix C

AGENCY: National Archives and Records Administration (NARA).

ACTION: Request for comment.

SUMMARY: This notice contains the Electronic Records Work Group's proposed strategy for Federal agencies to implement the Work Group's proposed recommendation that agencies must schedule their program and unique administrative records in all formats. It proposes guidance that NARA should issue on the revision of existing records disposition schedules to provide disposition authority for electronic source records created using office automation applications, which were covered by the 1995 General Records Schedule (GRS) 20, items 13, 14 and 15. Your comments are requested on the proposed Appendix C which follows this notice and in response to the questions posed in the SUPPLEMENTARY INFORMATION.

DATES: Comments must be received on or before August 20, 1998.

ADDRESSES: Comments may be sent electronically to the e-mail address <grs20@arch2.nara.gov>. We ask that lengthy attachments be sent in ASCII, WordPerfect 5.1/5.2, or MS Word 6.0 format. If you do not have access to e-mail, comments may be mailed to Electronic Records Work Group (NPOL), Room 4100, 8601 Adelphi Rd., College Park, MD 20740–6001, or faxed to 301–713–7270.

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FOR FURTHER INFORMATION CONTACT: Michael Miller at 301–713–7110, ext. 229.

SUPPLEMENTARY INFORMATION:

The proposed Appendix C provides guidance for scheduling electronic source records (the electronic record that resides on an agency's electronic mail, word processing, or other office automation systems) formerly authorized for disposal under GRS 20. The electronic source documents addressed in this appendix are those that correspond to program records and administrative records not covered in the GRS. It is not meant to provide guidance for scheduling records in electronic recordkeeping systems and other records not disposable under GRS 20. Instructions for scheduling those records are provided in other NARA guidance. It is also not meant to provide guidance on electronic recordkeeping, which will be issued separately. The scheduling procedures described in the document should be conducted in the context of the agency's current records management program.

This document provides three models for scheduling electronic source records. While the models vary in format, they all accomplish the same result. Model 1 requires that agencies add a disposition for the electronic source records formerly covered by GRS 20 to every series in their manual or records schedules. This model is most appropriate for agencies that expect the retention of these records to vary considerably from series to series because they have different business needs for the records and their technology base allows them to implement the dispositions. The format of Model 2 allows the agency to obtain the approval for the dispositions without having to specify each series, except those for which the agency is requesting disposition instructions that deviate from the norm. Model 2 is appropriate for agencies that have a business need to maintain a few electronic source records for a different period of time than the majority of such records. Model 3 is appropriate for agencies that have neither the business need nor the technical capability to maintain the electronic source records for varying periods of time and have decided on a single disposition for the records.

No matter which format is chosen for submitting the schedules, agencies are expected to conduct a series-based analysis of their business needs and review their technical capabilities and to provide NARA with that information. NARA will also review the submissions on a series basis. Although Model 3, and to some extent Model 2, do not require separate disposition instructions for each agency series, please note that, like Model 1:

(1) Models 2 and 3, require that agencies analyze their recordkeeping needs and practices, including their needs for the electronic copies.

(2) Models 2 and 3 require that agencies provide NARA with information about their technical capabilities and other recordkeeping policies so NARA can assess on an agency by agency (and in some cases component by component) basis whether the agency is capturing the necessary information from electronically generated records in the records placed in an agency's recordkeeping system and whether the agency's justification for the early disposal of the electronic source records is supported by the state of the agency's technical capabilities.

(3) To use Model 2 or 3 agencies must identify what existing records the new disposition(s) will affect. This will allow NARA to determine whether the dispositions are appropriate. If there is no existing schedule for a body of records, the agency must schedule all of the records in all media following the guidance in NARA Bulletin 98–02.

Also, please note that no matter which model is used, the schedule will be published in the **Federal Register** for comment. The **Federal Register** notice will reference the existing schedules that are affected so that the public has sufficient information to comment.

With these parameters in mind, we also ask your comments on the following questions:

C1. Are the instructions for conducting the analysis of recordkeeping needs and capabilities sufficiently clear?

C2. Are the instructions for scheduling the records sufficiently clear?

C3. This document proposes a deadline of 180 days for agencies to submit schedules (SF 115s) to cover their electronic source records or, if the agency cannot meet that deadline, a deadline of 120 days for submitting a plan that sets milestones for accomplishing the scheduling effort. Are these appropriate time frames?

C4. This document includes a questionnaire concerning the systems used by an agency, its technical capabilities for recordkeeping, and the administrative controls used by the agency. Does the questionnaire ask the right questions to permit NARA to appraise the electronic source records? Should any questions be added or dropped?

C5. The scheduling process described in Appendix C will allow NARA to assess proposed retentions for the electronic source records based on the agency's internal records management policy, current recordkeeping systems and currently installed technology. However, technology changes rapidly and changes in technology will affect recordkeeping. Currently agencies are required to schedule all "records of new programs and of programs that are reorganized or otherwise changed in a way that results in the creation of new or different records within 1 year of creation" (36 CFR 1228.26(a)(2) and 1234.32(a)). Agencies are also required to review and update their schedules annually (36 CFR 1228.50(d)). Are these requirements appropriate in the current technological environment? If not, what process(es) should be instituted to ensure that as technology changes, agencies and NARA address the issue of whether the retention requirements, and in the case of permanent records, the transfer medium, should be changed?

Dated: July 16, 1998.

Lewis J. Bellardo,

Deputy Archivist of the United States.

Appendix C: Proposal for Developing Records Schedules That Include Office Automation Records

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  Public notice for review of SF 115's
Part I: Questionnaire To Be Answered by Agencies for Each Electronic Source Records Disposition Request (SF 115)
Part II: NARA Bulletin 98–02, Disposition of Electronic Records
Part III: NWM 06–98, Memorandum to Agency Records Officers and Information Management Officials

Executive Summary

The Electronic Records Work Group proposes that NARA issue guidance to agencies on the revision of existing records disposition schedules to provide disposition authority for electronic source records created using office automation applications (e-mail, word processing, spreadsheet and similar applications) which were covered by the 1995 General Records Schedule (GRS) 20. This proposal provides guidance for the submission of schedules and an overview of the NARA review and approval process.

Under this proposal, agencies will be offered two alternatives. The first alternative requires the agency to submit, within 180 days, a complete scheduling package to cover the electronic source records of its program and agency-specific administrative records created using e-mail, word processing, or other office automation applications which are not covered by General Records Schedules. If an agency is unable to meet this deadline, it must, within 120 days, submit a planning package that includes a project plan with milestones for reviewing the agency's current schedules and submitting to NARA revised schedules for electronic source records. In both cases, agencies ultimately must conduct a series-based analysis of their electronic source records and NARA will conduct a series-based review of the proposed disposition authorities. The public will have the opportunity to comment on all proposed dispositions for the electronic source records.

The Work Group proposes that, as part of its implementation of this report, the Archivist issue a NARA bulletin to agencies that would contain the requirements that follow, and provide no-cost training on implementing the requirements.

Scope

Agencies create a variety of records in connection with the use of computers and related communications systems. They create records about information technology, such as records about the development, operation, maintenance and support of computer systems. In the course of using information technology, they create certain types of records that are necessary for effective use of the technology, such as source code for computer programs, test data files, and backup files, among others. The proposed new General Records Schedule for information technology records (Appendix E) will cover common administrative records in these two categories: records about information technology and records necessary for the effective use of information technology.

Agencies also make or receive electronic records using information technology in carrying out any agency program and administrative activity. From a technical perspective, there are two distinct contexts in which agencies create such electronic records. The first context is that of a specific information system or application system. An information or application system is a specific application of information technology in support of a program or administrative function. The design of an application system includes the specification of what types of information will be captured in the system and how they will be organized. Thus, the application system design includes the definition of the records and series of records which will be created and maintained in the system. An information or application system involves the creation, manipulation, retention and disposition of records of the function which it supports. The instructions in this appendix do not apply to scheduling these systems. Each agency should schedule all of the records series retained within each application system on a comprehensive basis.

The second technical context is end-user computing. In today's environment, most Federal employees are provided with generic office automation tools, such as word processing and e-mail, which they use to generate electronic records related to their work, regardless of the nature of the work. In contrast to an application system, where the records fall into one series or a group of related series, end users can and do create a variety of records using office automation systems. A single user may create word processing files and send and receive e-mail messages related to both program and administrative activities. These records may belong in files that are completely unrelated, such as the employee's personnel folder and agency files on policy development. Records created using office automation software must be filed in electronic or paper recordkeeping systems, which agencies are required to schedule under current NARA regulations (36 CFR 1228.26). In either case, the agency needs to provide for the authorized disposition of the copies remaining on the original systems outside of the recordkeeping system. These records are termed "electronic source records" because they are electronic records which serve as the sources of the records filed in the agency's recordkeeping system.

NARA will provide, in the GRS, Government wide authorization for the disposition of electronic source records used to create the types of records covered by GRS 1–16, 18, and 23. Agencies must obtain authorization for disposition of all other electronic source records by submitting schedules (SF 115s) to NARA. This proposal describes the development, submission and approval of such schedules.

All agencies must ensure that all their records are scheduled. Consequently, each agency (or components of agencies that have independent records management programs and normally submit records schedules to NARA for approval) must ensure that its records schedules cover those electronic records not covered by the GRS that were created (or received) on e-mail, word processing, spreadsheet, graphic presentation and other office automation software. Agencies with schedules that do not include disposition instructions for such electronic source records must revise their schedules to do so and submit them to NARA for approval. To accomplish this effectively, agencies will have to conduct an analysis of the coverage of their current schedules, their current and foreseeable business[1] needs, and their current and near-term technological capabilities.

The Work Group recognizes that some agencies currently do not have a compelling business need, the resources, or the technology infrastructure to support electronic recordkeeping. Although Federal agencies are required to manage their records in all media in accordance with their business needs, for many offices that currently means maintaining their recordkeeping subject or correspondence files on paper or microform rather than electronically. At the same time, agencies are moving at varying rates toward automating their business processes to meet their own needs and those of their customers. Automated processes generate electronic records, and agencies will need to ensure that all electronic records are properly scheduled.

Agencies are encouraged to submit their revised schedules as soon as practicable; however, the Work Group recognizes that there is a wide variation in status of approved schedules, current and foreseeable recordkeeping needs, and current and planned technological capabilities across the Federal government. The Work Group also recognizes the different sizes and missions of agencies.

Description of Proposal

The Work Group proposes that in implementing this report, the Archivist issue a NARA Bulletin to provide agencies with guidance on how to develop and justify schedules for electronic source records. This appendix contains the language that the

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[1] The term "business needs" as used in this document refers to an agency's need to conduct its business, maintain a record of its essential activities and decisions for its own use, support oversight and audit of those activities, and permit appropriate public access.

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Work Group proposes for the Bulletin. An agency should choose whichever of the following alternatives best meets its needs for managing this scheduling effort:

(A) Scheduling Electronic Source Records

Submit a completed scheduling package (described below) to cover electronic source records for program and agency-specific (not covered by the GRS) administrative records within 180 days of the date of the NARA Bulletin.

Agencies may follow any of the three models presented here for their proposed schedules:

- *Model 1*—an agency would add an appropriate disposition for the electronic source records formerly covered by GRS 20 to every disposition instruction in its manual or records schedules.
- *Model 2*—an agency would schedule the electronic source records for selected individual series and combine other series under one disposition instruction. The format of Model 2 allows the agency to obtain the approval for the dispositions without having to physically annotate the dispositions of each series of records.
- *Model 3*—an agency would provide for the disposition of all electronic source records under one schedule item.

Regardless of which model is used, agencies must submit background information and justifications (see questionnaire described in Part I) to enable NARA to analyze and review the submissions effectively.

(B) Submit Plan for Scheduling Electronic Source Records

If an agency cannot determine which model is most appropriate or prepare the necessary submissions within 180 days, the agency may, within 120 days, submit a plan to NARA for the completion of the scheduling. This plan must include the following three elements:

- A statement from the agency head (or head of the agency component that will submit the schedule) that schedule requests cannot be completed within 180 days and a commitment to schedule the agency's electronic source records in accordance with a plan proposed by the agency and approved by NARA.
- A plan (described below) covering a period not to exceed two years, for the submission of proposed schedules for all electronic source records, with milestones and partial schedule submissions provided at pre-determined intervals.
- A schedule (SF 115) requesting an interim disposition authority for a period not to exceed two years for all electronic source records.

Although the approval of requests for interim disposition authority will be expedited by NARA, regulatory requirements for publication and comment periods in the **Federal Register** for all requests for the destruction of temporary records will require at least 90 days.

Agency Action

Selection of Model or Plan

Each agency must determine, after reviewing its existing approved records schedules, the most appropriate model for drafting a proposed schedule that covers electronic source records generated on e-mail, word processing, spreadsheet, graphic presentation and similar office automation software. In making a choice between the models, the agency may wish to ask several specific questions about the agency's office automation systems and recordkeeping practices:

(1) Are the same office automation systems and software used throughout the agency?

(2) When would it be more efficient to destroy unneeded electronic source records within each system—at the time a file copy is generated or at some other time?

(3) To what extent do the agency's office automation systems, used for e-mail, word processing and other end-user computing, have records management capabilities provided by electronic recordkeeping systems (e.g., they allow users or network administrators to differentiate between records and nonrecord material, support the allocation of records to specific series or file groupings with retention periods approved by NARA, and sustain subject matter searches)?

(4) Will anticipated internal and external reference and access needs be adequately met by the records in presently established recordkeeping systems (in paper, microform, or other media) or would these needs be better met by retaining (in addition to the record in the recordkeeping system) the electronic source records in the original system?

(5) Are the bulk of the file series that comprise the agency's recordkeeping systems covered by up-to-date NARA-approved schedules?

Several factors may influence the agency's choice of an alternative and scheduling model. Both the scheduling alternative and planning alternative require the scheduling of electronic source records. However, the requirement to schedule the electronic source records assumes that the agency has already scheduled most or all of its recordkeeping series. If this is not the case, the agency will have to schedule the recordkeeping series as well as the electronic source records. This will affect which of the scheduling models described below it will choose. In effect, some agencies will be updating their schedules at the same time they are scheduling their electronic source records.

Agencies may choose to submit a plan, rather than completing the requirements for one of the models:

(1) If they are unable to complete the scheduling within 180 days;

(2) If the agency's existing schedule is significantly out of date and must be revised; and/or

(3) If the agency has not implemented guidance consistent with current NARA regulations concerning e-mail and other electronic records.

When agencies do not have current disposition authorities for the recordkeeping copies of series with electronic source documents, they should schedule these series through the usual scheduling process, submitting SF 115 requests in accordance with 36 CFR 1228, subpart A. Agencies are reminded also of the regulatory requirement to submit to NARA, within one year, schedules for the "records of new programs and of programs that are reorganized or otherwise changed in a way that results in the creation of new or different records" (36 CFR 1228.26).

Description of Models

Model 1—an agency would add an appropriate disposition for the electronic source records formerly covered by GRS 20 to every disposition instruction in its manual or records schedules.

Description: Agencies may wish to revise and/or develop individual disposition instructions for the electronic source records generated by office automation systems in each scheduled program and agency-specific administrative series and allow for varied retention periods by series. In that case, agencies would list each of their series and provide disposition instructions for the electronic source records.

Appropriate Usage: This scheduling model is most appropriate when:

(1) The agency has determined that it has a business need and the technological capabilities to maintain electronic source records in addition to the paper (or electronic) records which are maintained as the recordkeeping copy and the electronic source records

need to have varying retention periods; or

(2) The agency has already planned to revise its schedules, and will be able to accomplish this within the 180-day time frame or will submit incremental schedules under an approved plan.

Example. Disposition statement for series of official decision of the Commission.

Official Decisions of the Commission

a. Signed copies of the official decisions:

Official signed copies of the decisions maintained as the official record. Permanent. Transfer the official signed copies of the decisions to the National Archives in ____year blocks when____years old.

b. Electronic copies of Commission decisions

Electronic copies of decisions published on CD–ROM. Permanent. Transfer a copy to the National Archives upon publication.

c. Electronic Source Records.

Electronic records in word processing files used to create both Items a and b. Delete after the recordkeeping copy and the electronic publication copies have been produced. Individual records may be retained for a limited period of time to facilitate other operational activities such as updating or revision.

Model 2—an agency would schedule the electronic source records for selected individual series and combine other series under one disposition instruction. The format of Model 2 allows the agency to obtain the approval for the dispositions without having to physically annotate the dispositions of each series of records.

Description: Model 2 allows agencies to group together those series for which there is a common disposition and provide separate dispositions for the series where the retention and disposition needs are different. Under Model 2, an agency may submit a schedule that provides uniform disposition instructions for most electronic source records and separate dispositions for particular series, functions or organizational components where needed to meet agency business needs, including internal or external reference needs. A variant of this model would be to develop one or more dispositions applicable to the electronic source records for multiple records series within a broad functional area or business process where a common disposition is appropriate. Such a schedule might include separate dispositions for the electronic source records for functions or processes such as regulatory development, planning, application review, project management, or any business process or function in the agency. In either case, the schedule will consist of two parts: (1) item(s) for groupings of records with the common disposition instructions, and (2) items that are exceptions to that common disposition. NARA will provide a series-based review of the program records and a more general review of the administrative series, based on the agency questionnaires provided with the agency submissions.

Appropriate Usage: This scheduling option is most appropriate when the agency intends to schedule the majority of its electronic source records in one schedule item (i.e., Model 3) but has identified one or more records series, or the collective series of one or more organizational components of the agency, where it is in the agency's interest to retain the electronic source records for different periods of time. For example, when specific documents serve as models that are reused, with appropriate modifications, in a number of cases, and the agency's recordkeeping system is on paper, keeping the source document in electronic form would facilitate reuse.

Sample Wording for the Schedule Item Covering Most of the Records Series

1. This schedule covers the electronic source records for those series whose disposition was previously approved by NARA under the following SF 115s (or agency published disposition manual) currently in effect: (List the previously approved schedule items or agency disposition manuals included in coverage).

Electronic source records maintained in addition to the copy preserved in an agency recordkeeping system. Includes records in all formats/media that are used as sources for the creation of a recordkeeping copy, such as electronic records that remain on electronic mail and word processing applications after the recordkeeping copy has been produced.

Delete electronic source records after a recordkeeping copy has been produced. Individual electronic source records may be retained for a limited period of time to facilitate other operational activities such as updating or revision.

[A numbered list of the exceptions to this general disposition would follow. Exceptions can be by series, business process, function, or unit. The basic format for exceptions would include identification of the type of record, component, function, or other identification as appropriate; citation to the approved schedule where the record copy is scheduled, and disposition. This list provides examples of each type of exception. Actual agency schedules might use one or more of these types of exceptions based on their needs. In actual practice some items may need to be subdivided into sub-items.]

Examples of exceptions by series

2. Exceptions

a. *Budget Development Spreadsheets.*

Record copy included in the budget case file scheduled for disposal in N1-XX-XX-X. Upon completion of budget cycle, transfer (move) electronic source record to Budget Directory. Delete from Budget Directory when ______ years old.

b. *Appraisal Memorandums.*

Record copy included in the appraisal case file scheduled for permanent retention in N1-XX-XX-X. Upon approval of schedule transfer (move) electronic source record to Appraisal Memorandums Directory. Delete when superseded or obsolete, or when 3 years old, whichever is sooner.

c. *Quarterly Narratives.*

Record copy scheduled for permanent retention in . Upon approval of office head, transfer (move) electronic source records to Quarterly Narratives Directory. Maintain for —— years, then delete.

d. *Press Releases*

Record copy (paper) scheduled for permanent retention in N1-XX-XX-X. Upon issuance of press release, transfer (move) electronic source record to Official Electronic Press Release Directory maintained by Public Affairs. Transfer copies of these press releases in electronic form to the National Archives on an annual basis according to procedures in 36 CFR 1228.188 and 1228.190.

Example of exceptions Based on Agency Function

Electronic Mail and Word Processing Source Records Relating to White House and Congressional Inquiries. Electronic mail messages and word processing records created by all components in responding to Congressional Committee and Presidential correspondence. Record copy scheduled for permanent retention in N1-XX-XX-X. Delete ____ years after component office input is completed.

Example of Exception Based on Business Process

Electronic Source Records Relating to the Development of Regulations

Electronic source records used to produce recordkeeping documents for 11 individual series that together document the process of regulatory development. These series are currently scheduled under the following schedules: N1–XXX–XX–XX (Items x, x, x); NC1–XXX–XX–XX (items X,x, and x), etc.

Following production of the recordkeeping copy, maintain a copy of each source document until the completion of regulatory development process, then destroy.

Example of Exceptions Based on Agency Component

Electronic Source Records of the Executive Secretariat, Office of the Secretary Program Correspondence and Messages.

Record copy (paper) scheduled for permanent retention in N1–XX–XX–X. Transfer (move) to appropriate Program Correspondence Directory. Cut off annually. Transfer to NARA in accordance with the disposition for the Secretary's paper file and according to procedures in 36 CFR 1228.188 and 1228.190.

Model 3—an agency would provide for the disposition of all electronic source records under one schedule item.

Description: Under Model 3, the agency may propose a single item to

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cover all of the agency's electronic source records. The single item should identify all of the records disposition schedules to which it applies by citing EITHER the appropriate agency published disposition manuals OR the approved disposition schedule(s) (NARA registration number for the SF 115). Agencies also may implement this model by submitting a schedule with one item for all program records and one item for all administrative records, or a schedule with separate schedule items for electronic source records from electronic mail messages and electronic source records from word processing files.

Agencies who choose this model should recognize that NARA may propose exceptions to the single disposition (along the lines of Model 2) when it appears from NARA's review that there are reasons for specifying individual retentions for the electronic source records of certain series, functions, or organizations. NARA's review of the schedule will be series-based even though the Model 3 schedule groups all series for disposition. NARA's review will be based on the information provided in the questionnaires completed by agencies (Part I) and the agency's existing schedules. NARA's **Federal Register** notice will provide the public the opportunity to review the schedules on a series basis also by listing the approved records schedules or disposition manual to which the new item would apply.

Appropriate Usage: This model may be used when the agency determines, after conducting a review of its schedules, that it has no present business need to maintain the electronic source record on the originating application and the same disposition is appropriate for the electronic source record copy of all of its office automation-generated records not covered by the General Records Schedules. This scheduling option represents an interim step as agencies develop the capacity for better management of their electronic records. Model 3 is most appropriate when the agency (1) has an up-to-date schedule, (2) has little or no capability for electronic recordkeeping, (3) has no present business need for maintaining records electronically, and (4) determines that the public interest is adequately served by the recordkeeping copies. Model 3 is also most appropriate for agencies that have scheduled series in electronic recordkeeping systems to provide disposition authority for the electronic source records.

Sample Wording

This schedule covers the electronic source records maintained in the originating e-mail, word processing, spreadsheet, or presentation office automation applications. The disposition of the recordkeeping copy was previously approved by NARA under the following SF 115s (or agency published disposition manuals) currently in effect: (List the previously approved schedules included in coverage.) These electronic source records are not maintained in recordkeeping systems and analysis has shown that these electronic records are not necessary to support the business needs of the agency.

Appropriate Disposition Instructions: Agencies may use the disposition instructions provided in NWM 06–98 (Delete when file copy is generated or when no longer needed for reference or updating, whichever is later) or may propose a longer retention period.

Submitting a Planning Package for Scheduling Electronic Source Records

Agencies unable to submit schedules for all electronic source records within the time frame set by the NARA bulletin must submit a planning package to NARA within 120 days. The planning package must include a statement from the agency head that comprehensive schedule requests cannot be completed within 120 days, a commitment to a plan for the scheduling of electronic source records within no more than two years, and a request for an interim disposition authority for all electronic source records.

The agency plan must contain a time line with milestones for completing a review of the agency's existing records schedules and for submitting SF 115's based on that review. NARA intends to work closely with the agency to ensure that the plan is realistic and that the agency demonstrates steady progress in meeting its milestones. The following parts of the planning package can be organized to meet the agency's particular needs, but all parts must be present:

- *Assessment of the completeness and currentness of the agency disposition schedule.* The agency must: (1) Identify segments of the schedule that are out-of-date and assess what work must be done to bring the schedule up to date (e.g., inventory or survey records-holding units, update organizational references).

(2) Identify program areas that are not covered by the agency disposition schedule and assess what work must be done to prepare the SF 115 to cover those records.

If the agency cannot perform a detailed assessment of the agency disposition schedule before submitting the plan, completion of the detailed assessment must be one of the early milestones of the plan. The minimum assessment provided with the plan must include the date(s) of the latest changes to the agency disposition schedule and a preliminary assessment, by chapter or program area.

- *Milestones for taking actions.* NARA expects agencies to submit incremental SF 115's covering segments of their activities throughout the period that the plan is in effect to demonstrate steady progress in scheduling their program and unique administrative records. Each incremental SF 115 must be accompanied by a completed agency supplementary information questionnaire (see Part I)
- *Disposition Request (SF–115) for interim disposition authority for electronic source records.* Since the implementation of the plan may take a considerable period of time, agencies should submit an interim SF 115 to authorize disposition of the electronic source records from office automation applications for the period of time that the plan covers. This interim schedule will normally follow the format of Model 3 as described above, will be reviewed by NARA, and published for comment in the **Federal Register**. The interim disposition authority will remain in force no longer than the time period of an approved agency plan. Incremental schedules that are submitted (in accordance with the plan milestones) and approved will supersede the interim disposition authority for the records they cover.

NARA Action

Schedule Review

NARA will review agency submissions and work closely with the agencies to approve their schedules and/or plans in a timely manner. NARA recognizes the need to act as quickly as possible to ensure that agencies have approved dispositions for their office automation records not needed for the conduct of agency business and NARA will develop procedures to streamline the processing of these schedules. Even streamlined procedures must include, however, a 90-day-period for the preparation and publication of disposition requests in the **Federal Register** and the review and analysis of any comments received.

NARA's review of disposition requests for electronic source records will focus on the agency's reports describing their technological capabilities, business needs, and status of e-mail and other electronic recordkeeping guidance. NARA's review will be a series-based review for program records and a more general analysis for administrative records.

Plan Review

NARA will review and approve those agency plans for completing the scheduling of electronic source records that provide for the submission in a timely fashion of incremental schedules that will, within the time specified, cover the electronic source records of all of its program and agency-specific administrative records (administrative records not covered by GRS 1–16, 18, and 23). If an agency's existing records schedules do not cover all of its program and unique administrative records, the agency must also submit updated schedules for those records, following the instructions in NARA Bulletin 98–02. NARA will normally approve as submitted the requests for interim disposition authority included with approved agency plans. NARA may, however, propose exceptions for specific series that it determines warrants longer retention.

Public Notice for Review of SF 115's

NARA will publish notices in the **Federal Register** for all schedules submitted following its normal practice, except that the schedules will be identified as specifically proposing dispositions for electronic source records. Following NARA's recently instituted practice, copies of appraisal memoranda may be requested for review with the schedule. For interim disposition authority requests associated with a plan, commenters may request a copy of the agency's proposed plan to use in their review of the disposition request.

When a copy of a schedule is requested, NARA also will provide the list of schedule citations (NARA job numbers) or published agency manual citations submitted by the agency for previously approved schedules that are being updated to include dispositions for electronic source records from office automation applications. This will allow the public the opportunity to review the proposed dispositions on a series basis. The **Federal Register** notices will indicate if the cited previously approved schedules can be reviewed on NARA's Internet ARDOR (Agency Disposition Online Resource) site (http://ardor.nara.gov). If the previously approved schedules or agency manuals are not available electronically from NARA, requestors can review them at the Archives II building in College Park, MD, or can request copies of them. Copies will be furnished on a fee basis, with the first 100 pages furnished free.

Part I—Questionnaire To Be Answered by Agencies for Each Electronic Source Records Disposition Request (SF 115)

(In addition to a signed copy of the disposition request (SF 115), please provide copies on disk in WordPerfect or Microsoft Word format of the request and the related completed questionnaire, to expedite processing.)

NAME OF AGENCY

CONTACT PERSON

(Person to contact if NARA has questions about this submission. Please include name, telephone number, and e-mail address)

DATE OF ELECTRONIC SOURCE RECORDS DISPOSITION REQUEST:

(Please attach copy of SF 115 submission)

1. How many separate disposition requests for electronic source records have been submitted by the agency?

2. Which agency components/functional areas/business processes are covered by this disposition request? For each agency component or functional area or business process, provide the name or description. (Please note that each major agency component or functional area should be described in a separate response to this questionnaire. However, if some of the answers are true for all components of the agency, please provide one agency response and reference that item on the questionnaire response for each subsequent subunit.)

3. What scheduling model is used in this disposition request (Models 1, 2 or 3)?

4. Why did your agency choose this model? If you are proposing a disposition that deletes electronic source records upon creation of a recordkeeping copy, please explain how this disposition will allow for you to address your agency's business needs (the need to conduct agency business, maintain a record of essential activities and decisions for agency use, support oversight and audit of those activities, and permit appropriate public access).

5. List NARA approved disposition authorities that are covered by this disposition request for this agency component or functional area. (List schedule and item numbers, or refer to agency printed manuals. If manuals are cited, please provide with this request a copy of the most recent manual.)

6. Are you using an electronic recordkeeping system for managing records generated by office automation systems? If yes, are you using a COTS system (please specify which one) or a system developed specifically for your agency?

[Note: An electronic recordkeeping system has the functionalities listed in question 7 (a)–(h)]

7. If answer to #6 is no, do the office automation systems for this component or functional area have any of the functions described below that are generally associated with electronic recordkeeping systems? Does the system allow users or system administrators to:

(a) Differentiate between records and non-record material;

(b) Associate transmission information with content of e-mail records;

(c) Ensure that records cannot be changed after designation as records;

(d) Support allocation of records to specific series or file codes;

(e) Integrate approved NARA retention periods into series designations or file codes used;

(f) Support subject matter searches;

(g) Implement shared directories by agency component or functional unit; and/or

(h) Provide appropriate formats for transfer of permanent electronic records to NARA (see the requirements in 36 CFR 1228.188).

8. Does your agency component or functional area use COTS document management software? If so, what systems are used?

9. Has the agency issued guidance on electronic records management, e-mail and/or recordkeeping guidance that applies to this functional area? Which of the following topics does this guidance cover:

(a) Distinguishing records from non-record material;

(b) Providing for transfer of complete electronic records (including transmission data with content for file copies of e-mail, for instance) to the recordkeeping system;

(c) Record status of drafts;

(d) Filing of electronic records in shared directories;

(e) Naming conventions for electronic records;

(f) Instructions for filing record copies of electronic source records in approved recordkeeping systems (paper, electronic, microform, other); and/or

(g) Protecting integrity of records in individual or shared directories.

10. What efforts has this organization component/functional area made to ensure that staff comply with e-mail and other electronic recordkeeping guidance, including formal and informal training and internal audits/evaluations? What is the scope, content, and frequency of training? Have audits

or evaluations of systems covered in this disposition request included review of the implementation of electronic records guidelines or policy?

11. To what extent are the records of this agency component or functional area (excluding administrative records covered by GRS 1–16, 18, and 23) covered by NARA-approved schedules? Are there significant omissions in schedule coverage? If so, specify the relevant office, program, or function. What is the date of the latest major schedule revision or review?

Part II: NARA Bulletin 98–02, Disposition of Electronic Records

The text of NARA Bulletin 98–02 is provided here for convenience of reviewers. It was distributed to Agency Heads, Records Officers, and Information Management Officials previously and is in effect.

NARA Bulletin 98–02
March 10, 1998
TO: Heads of Federal Agencies
SUBJECT: Disposition of electronic records

1. *Purpose.* This bulletin reminds agencies of their responsibilities for ensuring adequate documentation of agency activities and provides guidance to Federal agencies concerning new procedures for submitting records schedules covering new or revised series.

2. *Expiration.* This bulletin will remain in effect until October 31, 1998, unless superseded earlier. Agencies will be notified by NARA bulletin of new procedures for authorizing disposition of electronic records resulting from the recommendations of the Electronic Records Work Group to the Archivist of the United States.

3. *Background.*

a. Agency heads are required by 44 U.S.C. 3101 to "make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency. * * *" NARA regulations at 36 CFR Part 1222 specify agency recordkeeping responsibilities, including standards for recordkeeping requirements. NARA regulations at 36 CFR Part 1234 Subpart C specify standards for managing the creation, use, preservation, and disposition of electronic records.

b. Last October 22, 1997, the U.S. District Court for the District of Columbia issued an order declaring NARA's General Records Schedule (GRS) 20 "null and void." The court's order was in response to a suit filed by Public Citizen and other organizations against the Archivist of the United States, the Executive Office of the President (EOP), the Office of Administration, and the United States Trade Representative. The Government has filed an appeal of the court's declaratory judgment. The Department of Justice has advised that pending the appeal, government agencies may continue to rely upon GRS 20.

c. Although the Government has appealed the court's decision, fundamentally NARA believes that the Government needs to develop a better approach to the disposition of records created on word processing and electronic mail applications. NARA's Strategic Plan includes several strategies for improving the management of electronic records. As part of one of these strategies, NARA is re-evaluating how it approves the disposition of electronic records. To focus NARA's efforts on changing GRS 20, NARA has formed an interagency Electronic Records Work Group, consisting of select NARA staff, Federal records officers, and information management specialists, with oversight by the Deputy Archivist of the United States. The Work Group is to have recommendations to the Archivist by July 1 and an implementation plan by September 30, 1998.

4. *Agency recordkeeping requirements.* Agencies are reminded that NARA regulations provide guidance and requirements on recordkeeping policies and practices to assist agencies in ensuring adequate and proper documentation of agency activities. To support operational needs, protect rights, and allow accountability, agencies must create and preserve complete records in designated recordkeeping systems.

a. To ensure complete documentation, records, including those generated electronically with office automation applications, should include proper identification of originators and recipients, appropriate dates, and any other information needed by the agency to meet its business needs. Records generated with an office automation application must be copied to a recordkeeping system where they will be maintained as long as they are needed by the Government.

b. Proper recordkeeping systems organize or index records to provide context and to allow appropriate staff access to all records relating to a specific transaction, project, study, or subject. Recordkeeping systems may be in paper, micrographic, or electronic format.

5. *Impact on scheduling.* While NARA is reconsidering its policies on the disposition of electronic records generated with office automation applications and pending the recommendations of the Work Group, NARA advises agencies to follow the instructions provided below.

a. Subsequent to the issuance of this bulletin, new and revised items on SF 115s, Request for Records Disposition Authority, submitted for NARA approval must include provision for the disposition of both the copy of a record that resides on electronic mail or other office automation application, and the copy maintained in the recordkeeping system:

(1) When new and revised items include records generated on office automation applications, the description on the proposed schedule should indicate that records were generated using office automation, AND

(2) For each such item the proposed schedule should provide separate disposition instructions for the recordkeeping system described in the schedule and for the electronic copy created by the office automation application.

b. Agencies should monitor the Electronic Records Work Group Internet Web page at http://www.nara.gov/records/grs20/ and submit comments and suggestions to the Work Group on Work Group documents posted for comment.

6. *NARA action.* NARA will provide guidance and assistance to agency records officers concerning recordkeeping requirements and new scheduling procedures. NARA will advise agencies promptly of any Court action affecting maintenance and disposition of electronic records.

7. *For further information.* Please direct questions or comments to Michael Miller, Modern Records Programs, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001 (telephone: 301–713–7110, ext. 229) or by electronic mail to <grs20@arch2.nara.gov≤.

John W. Carlin,

Archivist of the United States.

Part III: NWM 06–98, Memorandum to Agency Records Officers and Information Management Officials

The text of NWM 06–98 is provided here for the convenience of the reviewer. It has been issued to the addressees.

March 13, 1998
NWM 06–98
MEMORANDUM TO AGENCY RECORDS OFFICERS AND INFORMATION MANAGEMENT OFFICIALS: Disposition of Electronic Records and Other Matters

Enclosed is a copy of NARA Bulletin 98–02 which the Archivist of the United States sent to heads of Federal agencies concerning significant recent events relating to the disposition of Federal electronic records. The bulletin provides an update on the status of the litigation concerning General Records Schedule 20, Electronic Records and reminds agency heads of their recordkeeping responsibilities. Even though the Government has filed an appeal of the District Court's declaratory judgment, the plaintiffs recently filed a motion asking the District Court to schedule a hearing on the plaintiffs' request for an injunction requiring the Archivist to instruct agencies that they cannot rely upon GRS 20 as authority to dispose of records. The District Court has granted the motion for a hearing, which is scheduled for March 20, 1998.

The bulletin also establishes a new procedure for scheduling electronic mail and other records created with office automation applications. As indicated in paragraph 5 of the bulletin, when agencies submit schedules (SFs 115) to NARA for approval, the description for new or revised items that include records generated with word processing, electronic mail, or other office automation applications must indicate the presence of such records and provide a separate disposition instruction for the copies of the records that remains on the originating application. The following example contains the necessary components.

1. Program Subject File.

Correspondence, reports, studies, forms, and other records relating to the program, documenting plans, progress, and accomplishments. Includes records generated with word processing and electronic mail applications.

a. Official file.

Destroy when 5 years old.

b. Electronic version of records created by the electronic mail and word processing applications.

Delete when file copy is generated or when no longer needed for reference or updating.

This approach will better document the nature of the series and give NARA the opportunity to consider the existence of electronic versions of records when approving schedules. If you have any questions about the new scheduling procedures, contact the NARA staff member assigned to work with your agency.

The Electronic Records Work Group referred to in NARA Bulletin 98–02 has identified a series of possible options for replacing GRS 20, or parts of it, and other mechanisms for the disposition of certain types of electronic records. A paper, "Preliminary Options for Replacing GRS 20," has been posted for public comment on the Internet Web site for the Work Group at <http://www.nara.gov/records/grs20/opt312.html>. As the work group has a tight deadline, we need your comments and suggestions by March 31. You may contribute to this effort by sending an electronic mail message to *grs20@arch2.nara.gov;* by sending a letter to Electronic Records Work Group, National Archives and Records Administration, 8601 Adelphi Road, Room 2100, College Park, MD 20740–6001; or by sending a facsimile transmission to 301–713–6852. If you send mail, please allow sufficient time for it to arrive by March 31. The Work Group may not be able to fully consider materials that arrive after that date. Any comments that you submit will be considered your personal views unless you indicate that they represent your agency's comments.

Also enclosed is NARA Bulletin 98–01, Checklist of NARA bulletins, which provides a list of bulletins issued prior to fiscal year 1998 that are still in effect.

Michael L. Miller,

Director, Modern Records Programs.

[FR Doc. 98–19466 Filed 7–20–98; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Electronic Records Work Group Draft Report; Appendix D

AGENCY: National Archives and Records Administration (NARA).

ACTION: Request for comment.

SUMMARY: This notice contains the Electronic Records Work Group's proposed Appendix D. Appendix D addresses the second Work Group recommendation, that NARA modify the General Records Schedules (GRS) to authorize the destruction of copies of administrative records covered by those GRS that are not needed for recordkeeping purposes after a recordkeeping copy has been produced. This appendix proposes a new item to be added to General Records Schedules 1–16, 18, and 23 to provide the disposition authority previously provided by GRS 20.

Because the proposed disposition for these GRS records is being published in full text for public comment as part of this notice, the Work Group believes that this notice will serve as the **Federal Register** notice required by 44 U.S.C. 3303a. Therefore, the Work Group believes that NARA will not need to publish a separate **Federal Register** records schedule notice for this GRS change unless the GRS disposition language is revised substantively in response to comments and the Archivist determines that additional public comment is warranted.

DATES: Comments must be received on or before August 20, 1998.

ADDRESSES: Comments may be sent electronically to the e-mail address <grs20@arcii2.nara.gov≤. We ask that lengthy attachments be sent in ASCII, WordPerfect 5.1/5.2, or MS Word 6.0 format. If you do not have access to e-mail, comments may be mailed to Electronic Records Work Group (NPOL), Room 4100, 8601 Adelphi Rd., College Park, MD 20740–6001, or faxed to 301–713–7270.

FOR FURTHER INFORMATION CONTACT: Michael Miller at 301–713–7110, ext. 229.

SUPPLEMENTARY INFORMATION: In addition to your comments on the proposed GRS changes which are presented in Appendix D at the end of this notice, we also ask your comments on the following question:

D1. Are the definition of program records and administrative records clear?

Dated: July 16, 1998.

Lewis J. Bellardo,

Deputy Archivist of the United States.

Appendix D: Proposal To Revise The Entire GRS To Cover all Formats of the Administrative Records Included Therein

Background

In the 1995 edition of the General Records Schedules, GRS 20, items 13, 14 and 15, authorized the deletion of electronic source records that remained on electronic mail and word processing systems after a record was produced for inclusion in a recordkeeping system. The disposition of the recordkeeping system would be governed by a separate GRS or agency schedule item. This authority was challenged in a court suit on the basis that the GRS cannot provide Governmentwide authorization for destruction of electronic mail messages and word processing records that qualified as program records. As stated in the draft report of the Electronic Records Work Group, the Archivist has determined that the GRS will be limited to common administrative records, and he charged the Electronic Records Work Group to develop guidance to distinguish between administrative and program records. This appendix provides that guidance and recommends changes to the GRS to replace GRS 20, items 13, 14, and 15, and include other source records.

Proposed Definitions

Program records are those records created by each Federal agency in performing the mission of the agency. The agency's mission is defined in enabling legislation and further delineated in formal regulations.

Administrative records are those records created by several or all Federal agencies in performing common facilitative functions that support the agency's mission activities, but do not directly document the performance of mission functions. Administrative records relate to activities such as budget and finance, information management, human resources, equipment and supplies, facilities, public and congressional relations, contracting, and legal matters not directly related to the agency's core mission (e.g., adherence to general statutes such as laws on procurement, privacy, and government ethics).

While both program and administrative records are needed for the agency to accomplish its mission, the distinction is important for the scheduling of an agency's records.

Discussion

The General Records Schedules (GRS) issued by the National Archives and Records Administration (NARA) in accordance with 36 CFR 1228.40 apply to certain administrative records created by several or all agencies. Their purpose and maintenance requirements are generally standard from agency to agency. The GRS provide mandatory disposition authority for those records, unless an agency receives an exception from NARA.

All program records and administrative records not covered by a GRS must be scheduled by the creating agency. Many agencies have records relating to administrative functions that are not described in the GRS. These records may supplement the records covered by the GRS or they may be organized or maintained in a way that

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make application of the GRS inappropriate. If records described in the GRS are part of a larger file series and cannot be economically segregated, the agency schedule for the series, not the GRS, would control the disposition of the entire series. Agencies also have administrative records that are not appropriate for GRS coverage because the content or organization of the files may vary significantly from agency to agency, such as records relating to the selection of political appointees (see NARA Bulletin 95–6).

The Work Group recommends that a new item be added to GRS 1–16, 18, and 23, to authorize disposal of the source records used to produce records maintained in those GRS recordkeeping systems, *after* a recordkeeping copy has been produced. These source records will include electronic source records generated using electronic mail, word processing, and other office automation systems. This authority is needed because the electronic source record that remains on the office automation application is a record, in addition to the record in the recordkeeping system.

This new item is appropriate for inclusion in the GRS because the GRS applies only to administrative records. This new item is recommended because unlike unique agency program records, the Work Group believes that the electronic source records of records covered by the GRS have virtually no potential for unique or added value. Consequently, unlike program records, the source records need not be appraised in a series-based manner. (This authority would not be added to GRS 17 and 21 because they cover cartographic, architectural, and audiovisual records. Even though such nontextual records may be generated in digital format, NARA needs to conduct further study before determining whether electronic source records should be added to these two GRS. GRS 19, Research and Development Records, was withdrawn in a previous edition of the GRS, and NARA has decided to withdraw GRS 22, Inspector General Records, in the next edition.)

The new item proposed by the Work Group would align the disposition authority for the source records with records documenting a specific administrative function, as opposed to providing one GRS authority across functional areas, as was done in the 1995 edition of GRS 20. It will provide authority for deletion of the source records, including those that are maintained on office automation applications apart from an agency recordkeeping system. The new item will be applicable to source records in all physical formats that the agency does not maintain in a recordkeeping system. However, the item will authorize deletion of source records maintained apart from the recordkeeping system only *after* a recordkeeping copy is produced. The item will not apply to the records in a recordkeeping system.

Proposed Changes

1. General Introduction to the GRS

Replace:

"As provided in GRS 20, Electronic Records, the disposal instructions for most records in the remaining schedules are applicable to both hard copy and electronic versions of the records described. GRS 20 specifies several exceptions to this authority. In those cases, the electronic version of the file must be scheduled by submission of an SF 115 to NARA."

With:

"The items in GRS 1–16, 18, and 23, apply to records that contain the information described in the schedule. The coverage is neutral with respect to the recording medium. The specified retention periods apply to the records described in each item which are maintained in a recordkeeping system, regardless of the physical medium used to maintain the records. In addition, an item in each of those schedules provides authority for agencies to destroy/delete source records after a record has been produced for inclusion in the appropriate recordkeeping system."

2. New Item to be Added at the End of GRS 1–16, 18, and 23

"*Records Maintained Apart From a Recordkeeping System.*"

"Records, including electronic source records, used to generate the records covered by the other items in this schedule which cover the records in an agency recordkeeping system. Includes records in all formats/media that are used as sources for the creation of the record maintained in a recordkeeping system, such as electronic records that remain on electronic mail and word processing utilities after the record for the recordkeeping system has been produced.

"Destroy/delete after the recordkeeping copy has been produced. Electronic source records may be maintained for a limited period of time for operational purposes other than recordkeeping, such as updating."

3. New Paragraph to be Added to the Introductions to GRS 1–16, 18, AND 23

"A new item has been added to this schedule to authorize the destruction of source records, regardless of physical format, that are maintained in addition to the record in an agency recordkeeping system. This item covers records that are used to create the recordkeeping copy, e.g., the electronic record that remains on electronic mail and word processing utilities after a record has been produced for inclusion in a recordkeeping system."

[FR Doc. 98–19467 Filed 7–20–98; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Electronic Records Work Group Draft Report; Appendix E

AGENCY: National Archives and Records Administration (NARA).

ACTION: Request for comment.

SUMMARY: This notice contains the Electronic Records Work Group's proposed general records schedule (GRS) to cover information technology records common to many or all Federal agencies. The proposed GRS would implement the Work Group's proposed recommendation that NARA should revise GRS 20 disposition authorities to cover only systems administration (or systems management) and operations records and that the new schedule should cover only administrative records. Agency systems records for program (mission-related) activities will not be covered by the proposed GRS.

The Work Group intends to recommend to the Archivist a proposed new GRS for information technology records based on the comments received during this comment period. Because we expect a number of comments on fundamental issues relating to the approach that the GRS should take and the records that should be covered, we believe that the draft that will be submitted to the Archivist of the United States in September will require an additional **Federal Register** comment period before NARA issues it in final form.

DATES: Comments must be received on or before August 20, 1998.

ADDRESSES: Comments may be sent electronically to the e-mail address <grs20@arch2.nara.gov>. We ask that lengthy attachments be sent in ASCII, WordPerfect 5.1/5.2, or MS Word 6.0 format. If you do not have access to e-mail, comments may be mailed to Electronic Records Work Group (NPOL), Room 4100, 8601 Adelphi Rd., College Park, MD 20740–6001, or faxed to 301–713–7270.

FOR FURTHER INFORMATION CONTACT: Michael Miller at 301–713–7110, ext. 229.

SUPPLEMENTARY INFORMATION: The proposed GRS is contained in Appendix E, which appears at the end of this document. Your comments are requested on the proposed GRS and in response to the following questions:

E1. Do the items in the proposed GRS accurately describe records with which you are familiar? Please identify any items (series) that do not reflect systems administration records as currently practiced.

E2. Unlike GRS 20, this proposal divides records into more detailed groupings and provides specific retentions for each. Is this helpful? Would agencies prefer this approach with greater detail and separate dispositions for each specific type of record, or an approach that combines multiple detailed items into larger series with a single disposition whenever appropriate?

E3. The proposed GRS is not presented in the format normally used in the GRS. Do you find this chart format helpful?

E4. Would fewer, more uniform retention periods better suit agency needs? Discussion: Some agencies have suggested that fewer, more uniform retention periods that are tied to a specific date (e.g., when 3 years old) and not an event (e.g., after 3 backup cycles) are easier to implement for series covered by a GRS.

E5. Does your agency have other information technology (IT) records relating to administrative functions not described in this proposed GRS that could be included in a GRS? You are reminded that the GRS will not cover an agency's program (mission-related) records. For a complete discussion of the distinctions between program records and administrative records, please see the introduction to the draft Appendix D, which is presented in a separate notice earlier in this separate part.

Dated: July 16, 1998.

Lewis J. Bellardo,

Deputy Archivist of the United States.

Appendix E: Proposed General Records Schedule, Information Technology Records

The Electronic Records Work Group has developed a preliminary draft of a General Records Schedule that would provide disposition authorities for records specifically related to the development, management and operation of computer systems, and digital networks. Records include those relating to system development and implementation, computer and network operations and technical support, office automation and user support, and data administration. The schedule is designed to conform with common practices in information technology (IT) management and operations.

The most significant differences between this draft schedule and the 1995 version of GRS 20 is that the proposed draft GRS eliminates disposition instructions for:

1. Electronic source records generated or received on e-mail and word processing applications for all program and agency-unique administrative records (items 13 and 14 in the 1995 GRS 20).
2. Electronic records that support administrative housekeeping functions when the records are derived from or replace paper records authorized for disposal in an agency-specific schedule (item 3b in the 1995 GRS 20).
3. Electronic source records scheduled for disposal under one or more items in GRS 1-16, 18, and 23 (item 3a in the 1995 GRS 20).

Under the Work Group's second recommendation, NARA will include coverage for the third item in revisions to those GRS (see appendix D), but the first two items will have to be included in agency specific schedules.

This preliminary draft also covers a wider variety of IT operational records and the descriptions it includes more accurately mirror current records and terminology. Because we believe that the IT community should be encouraged to review the draft GRS, the Work Group has formatted it in a style that we hope will be more familiar to them than the traditional GRS format.

The Work Group seeks comments on both the items to be included and the proposed retention periods, and reminds reviewers that GRS retention periods are mandatory unless the agency receives a specific exception from NARA.

When NARA issues a final version that reflects Federal agency and public comments, it will follow the format normally used in the GRS.

Transmittal No. XX

General Records Schedule XX

General Records Schedule XX

Information Technology (IT) Records

Information Technology (IT) records include general administration records of data processing units, systems development records, computer operation and technical support records, data administration support records, user and office automation support records, network and data communication services records, and, Internet services records. (*GRS 12, Communications Records is under review and will have to be modified at a later date to address redundancies.*) As defined in the *Information Technology Reform Act of 1996*, the term "information technology," with respect to an executive agency means "any equipment or interconnected system or subsystem of equipment, that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the executive agency." The term "includes computers, ancillary equipment, software, firmware and similar procedures, services (including support services), and related resources."

This General Records Schedule for IT records does not cover electronic records that support the agency's mission-related (program) functions and activities. Program managers and staff are responsible for developing and applying retention schedules to those electronic records retained to meet program-specific requirements. Data processing units are often the physical custodian of program IT records. Program IT records must be retained to meet retention requirements specified by the program area.

IT records not included in this schedule must be scheduled separately by the program having the responsibility and authority to determine their retention requirements and final disposition.

This schedule covers the records described in the following chart, wherever located within an agency. Agencies should develop and implement procedures for effective purging of electronic records from automated information systems on a regular basis. Intermediate storage of electronic records covered by this GRS can include down-loading them to off-line storage media such as magnetic tapes or diskettes, prior to final disposition, i.e., deletion or erasure. Records should be destroyed when the retention period has been met, unless the records are being used in an audit or legal action. Obsolete records consume expensive office space and computer storage capacity, and they can hinder efficient access and retrieval of current records.

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Item No.	Description of Records	Authorized Disposition
1	GENERAL ADMINISTRATION RECORDS General Administration includes IT fiscal and personnel administration, planning, and the coordination of activities within IT units and between an IT unit and other parts of an agency.	
1 a	General Information Technology Administrative Files. Correspondence and/or subject files relating to internal operation and administration of IT services matters not covered elsewhere in this schedule or in another GRS.	Destroy when 2 years old.[1]
1 b	Information Resources Management (IRM) and Data Processing Services Plans. Data processing services plans, and related records used to plan for information systems development, technology acquisitions, data processing services provision, or related areas. *Records Not Covered:* *IRM strategic plans and Information Technology Investment Reviews are program records and must be scheduled separately by the agency.*	Destroy 3 years after the plan is completed, superseded, or revised. Destroy copies, drafts, and routine material when no longer needed by agency.
1 c	Data Processing Policies. Records of data processing policies including those covering access and security, systems development, data retention and disposition, and data ownership. *Records Not Covered:* *1. Data processing policies for specific mission systems, which must be scheduled separately by the agency. (Data processing policies for specific systems that are central to the conduct of the agency's mission may be permanent records.).* *2. Data processing operating procedures (see item 3a).*	Destroy 3 years after policy is withdrawn, revised, updated, or superseded.
1[2] d	Data Center Records of Calculating Charge—backs to Data Processing Services Users. Electronic and manual records used to document, and calculate costs, for computer usage and data processing services. These records are also used for cost recovery, budgeting, or administrative purposes.	Destroy when 3 years old.
1[3] e	Data Center Billing Records. Reports and other records detailing charges for use of computer services including monthly billing reports, copies of vouchers and bills. *Note: Before disposing of these records, agencies must ensure that no legal actions have been initiated which might require access to them. If a case-by-case review of files is impractical, the records should be retained an additional 3 months beyond the minimum retention period.*	Destroy when 3 years old.
2	SYSTEMS DEVELOPMENT RECORDS Systems development covers the IT functions related to the development, redesign, modification, procurement, and testing of administrative systems as well as to maintaining the documentation generated by these processes. *Note: Records documenting specific agency mission systems are NOT covered by items 2a through 2c, and will need to be scheduled separately by the agency.*	
2 a	Systems Development Project Files. Records created and used in the development, redesign, or modification of an automated system for administrative functions including project management records, status reports, draft system or subsystem specifications, draft user requirements and specifications, and memoranda and correspondence.	Destroy 3 years after completion of project.
2[4] b	Data Systems Specifications. User and operational documentation for administrative systems describing how a system operates from a functional user and data processing point of view including records documenting data entry, manipulation, output and retrieval (often called "system documentation records"), records necessary for using the system, including user guides, system or sub-system definitions, system flowcharts, program descriptions and documentation, job control or work flow records, system specifications, and input and output specifications.	Destroy 3 years after discontinuance or replacement of the system, or after all records on the system are either successfully migrated to a new system or final disposition actions on them are completed, whichever is later.
2 c	Data Documentation. Data system and file specifications created during development or modification of administrative systems and necessary to access, retrieve, manipulate and interpret data in an automated system. Includes data element dictionary, information directories, database directories, file layout, code book or table, and other records that explain the meaning, purpose, structure, logical relationships, and origin of the data elements. *Note: In some cases, agencies will retain data for extended periods, sometimes offline. It is essential that they retain related documentation in an accessible format.*	Destroy 3 years after discontinuance of system or after system's data is destroyed or transferred to a new structure or format, whichever is later.
2[5] d	Automated Program Listing/Source Code. Automated program code which generates the machine-language instructions used to operate an automated information system. *Note: This item coincides with item 3e, System Backup Files. It assumes that the files are maintained (backed-up) and disposed in accordance with accepted data processing practice; i.e., that 3 generations of backups be retained (see item 3e). If this item is adopted into the GRS, there will be a note excluding code created to "fix" Year 2000 problems.*	Retain for 3 system update cycles after code is superseded or replaced, then destroy.
2 e	Technical Program Documentation. Paper copy of program code, program flowcharts, program maintenance log, system change notices, and other records that document modifications to computer programs.	Destroy 1 year after replacement, modification, or related programs cease to be used.
2[6] f	Information Technology Procurement Files. Records used in the procurement of system hardware and software including request for proposals, proposals, quotations and bids, benchmark/acceptance testing information, correspondence, duplicate copies of contracts, purchase orders, technical reviews, and vendor information including references and literature on the firm or product line..	

Item No.	Description of Records	Authorized Disposition
	(1) Contract-related records.[7]	Destroy 6 years after expiration of the contract.
	(2) All other records	Destroy 3 years after completion of the purchase.
2 g	Test Database/Files. Routine or benchmark data sets, related documentation, and test results constructed or used to test or develop a system.	Destroy after user accepts and management reviews and approves test results, or when no longer needed for operational purposes, whichever is later.
3	COMPUTER OPERATIONS AND TECHNICAL SUPPORT RECORDS Computer operation and technical support covers the IT functions related to operating systems, maintaining hardware and software, system security, data input services, system backup, tape library operations, job and production control, monitoring system usage, and liaison with hardware and software vendors.	
3 a	Data Processing Operating Procedures. Records of procedures for data entry, the operation of computer equipment, production control, tape library, system backup, and other aspects of a data processing operation.	Destroy 3 years after procedure is withdrawn, revised, updated, or superseded.
3 b	Data Processing Hardware Documentation.	
	(1) Records documenting the use, operation, and maintenance of an agency's data processing equipment including operating manuals, hardware/operating system requirements, hardware configurations, and equipment control systems.	Destroy after the agency no longer uses related hardware and all data is transferred to and made useable in new hardware environment.
	(2) Routine records that do not contain substantial information on the maintenance history or equipment.	Destroy when one year old.
3 c	Operating System and Hardware Conversion Plans. Records relating to the replacement of equipment or computer operating systems.	Destroy 1 year after successful conversion.
3[8] d	Disaster Preparedness and Recovery Plans. Records related to the protection and reestablishment of data processing services and equipment in case of a disaster. *Note: Agencies should store disaster preparedness and recovery plans in a secure area off-site from the computer installation to which they refer.*	Destroy after superseded by revised plan.
3 e	System Backup Files. Copies of master files or databases, application software, logs, directories, and other records needed to restore a system in case of a disaster or inadvertent destruction. *Records Not Covered:* *Backups used to document transactions or retained for purposes other than system security should be scheduled by the responsible program. For fiscal systems, monthly system backups are often retained for the entire fiscal year to provide an audit trail, and annual system backups are retained to meet all legal and fiscal requirements in lieu of copies of the individual master files or databases. These records should be disposed using items from General Records Schedule 7—Expenditure Accounting Records, or, if they are covered by specific Federal audit requirements requiring longer records retention, scheduled separately by the appropriate program.* *Note: It is advisable that for many application systems 2 or 3 copies of backups be produced during each cycle.*	Destroy after 3 system backup cycles.
3[9] f	System Users Access Records. Electronic or textual records created to control or monitor individual access to a system and its data created for security purposes, including but not limited to user account records, security logs, and password files. *Note: Computer Usage Records (item 3g) may also serve some security purposes*	Destroy after the individual no longer has access to the system and after audit requirements for the records modified by that individual have been met.[10]
3 g	Computer Usage Files. Electronic files or automated logs created to monitor computer system usage including but not limited to log-in files, system usage files, charge-back files, data entry logs, and records of individual computer program usage. *Records Not Covered:* *Security logs and related records (see item 3f)*	Destroy after 3 system backup cycles.
3 h	Summary Computer Usage Reports. Summary reports and other paper records created to document computer usage for reporting or cost recovery purposes.	Destroy when 1 year old.
3 i	Computer Run Scheduling Records. Records used to schedule computer runs including daily schedules, run reports, run requests, and other records documenting the successful completion of a run.	Destroy when 1 year old.
3 j	Data Processing Unit's Copies of Output Reports. Data processing unit's copy of output reports produced for client programs.	Destroy after output is distributed.
3 k	Tape Library Records.	
	(1) Automated System Files. Automated records used to control the location, maintenance, and disposition of magnetic media in a tape library.	Destroy after related records or media are destroyed or withdrawn from the tape library.
	(2) Tape Library Control Records. Records used to control the location, maintenance, and disposition of magnetic media in a tape library including list of holdings and control logs.	Destroy after superseded.
3 l	Reports on the Destruction of Files ("Scratch Reports"). Records containing information on the destruction of files stored on electronic media in a tape library.	Destroy after superseded or (if required) management review and approval.
4	RECORDS CREATED TO FACILITATE, OR CREATED IN THE COURSE OF, PROCESSING OR TRANSMITTING ELECTRONIC RECORDS	

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Item No.	Description of Records	Authorized Disposition
	Records created solely to support computer processing or communications. Excludes all records needed to document program or administrative functions.	
4 a	Input Documents. Electronic and hard copy of records or forms designed and used solely for data input and control when the data processing unit provides centralized data input services and original records are retained by the program. *Records Not Covered:* *Input records retained for fiscal audit or legal purposes, or, containing information needed by a program, should be scheduled by the responsible program. Input records which serve a fiscal audit purpose may be covered by items in General Records Schedule 7—Expenditure Accounting Records.*	Destroy after all data has been entered into the system and, if required, verified.
4 b	Work/Intermediate Files. Records used to facilitate the processing of a specific job/run or to create, update, modify, transfer, manipulate, or sort data within an automated system when all transactions are captured in a master file, central file, valid transaction file, or database, and the file is not retained to provide an audit trail. *Records Not Covered:* *Intermediate files retained to document valid transactions, to serve as an audit trail, or needed for system recovery backup.*	Destroy after the transaction is completed.
4[11] c	Valid Transaction Files. Records used to update and/or document a transaction in database or master file including valid transaction files, Data Base Management System (DBMS) log, update files, and similar records, and not retained to document a program action or for fiscal audit purposes. *Records Not Covered:* *Records used to document a program's actions (e.g., receipt of a voucher, issuance of a check), as opposed to a strictly data processing transaction, or needed for fiscal audit or legal purposes, should be separately scheduled by the responsible program.*	Destroy after 3 database/master file backup cycles.
4[12] d	Print Files (Not Used to Document a Transaction). Source output data extracted from the system to produce hard copy publications, printouts of tabulations, ledgers, registers, reports, or other documents.	Destroy after all print runs are completed, output verified (if required), and agency has no need to reproduce the report.
4 e	Database Audit Trails. Data generated during the creation of a master file or database used to validate a master file or database during a processing cycle.	Destroy after 3 database/master file backup cycles.
4 f	Summary Data Files. Summary or aggregate data from a master file or database and created solely to distribute data to individuals or programs for reference and use, but not altered or augmented to support program-specific needs. *Records Not Covered:* *Summary files altered or augmented to support program-specific needs should be separately scheduled by the responsible program.*	Destroy after data is distributed.
4 g	Extracted Data Files. Electronic files consisting solely of records extracted from a single master file or data base. *Records Not Covered:* *Extract files (1) produced as disclosure free files to allow public access to data; or (2) produced by an extraction process which changes the informational content of the source master file or data base; or, (3) records consisting of extracted information created from a master file or data base that is unscheduled; or (4) extracted from a permanent master file that cannot be accessed or no longer exists. These extract records should be separately scheduled by the responsible program.*	Delete when the agency determines they are no longer needed for administrative, legal, audit, or other operational purposes.
4 h	Finding Aids (Indexes) or Tracking Systems. Electronic indexes, lists, registers, and other finding aids used only to provide access to the temporary hard copy and electronic records in the custody of the data processing unit. *Records Not Covered:* *Finding aids and tracking systems of programs other than data processing units should be scheduled by the responsible program in conjunction with the related program records*	Destroy after the related hard copy or electronic records have been destroyed.
5	DATA ADMINISTRATION RECORDS *Data administration covers IT functions related to data administration support including the maintenance of data standards, corporate data models, and data definitions and dictionaries.*	
5[13] a	Data/Database Dictionary Records. Usually in an automated system, used to manage data in an agency's information systems including information on data element definitions, data structures or file layout, code tables, and other data attribute information or records that explain the meaning, purpose, logical relationships, ownership, use, or origin of data.	Destroy after discontinuance or modification of the related application or after the application's data is destroyed or transferred to a new structure or format, whichever is later.
5 b	Data/Database Dictionary Reports. Periodic printouts from a data/database dictionary system including data element attribute reports, database schema, and related records used for reference purposes. *Records Not Covered:* *The official copy of essential data documentation is covered by either item 2c or item 5a.*	Destroy when superseded or when data/database dictionary system is changed or eliminated.
6	USER/OFFICE AUTOMATION SUPPORT RECORDS	

Item No.	Description of Records	Authorized Disposition
	User/Office Automation Support refers to IT functions that provide work station support to users of a mainframe or office automation system, including assisting users to solve software and hardware problems, installing hardware or software, providing training, and the review and recommendation of software for agency use.	
6[14] a	Site/Equipment Support Files. Records documenting support services provided to specific data processing equipment or installations.	
	(1) Site visit reports, problem and equipment service reports, and routine correspondence and memoranda.	Destroy when 3 years old.
	(2) Service histories and other summary records	Destroy after the related equipment is no longer in use.
6[15] b	Help Desk Telephone Logs and Reports. Records used to document requests for technical assistance and responses to these requests as well as to collect information on the use of computer equipment for program delivery, security, or other purposes.	Destroy when 1 year old.
6 c	Training Course Information. Memoranda, flyers, catalogues, registration forms, rosters, and other records relating to training courses run by a data processing user support or office automation support unit.	Destroy when 5 years old or 5 years after completion of a specific training program.
6 d	Software Review and Recommendation Files. Records related to the review and recommendations for software for agency use including vendor information, manuals, software reviews, and related material.	Destroy after software is no longer used by agency.
7[16]	NETWORK/DATA COMMUNICATION SERVICES RECORDS	
	Network and Data Communication Services covers IT functions related to installing and maintaining networks, diagnosing and coordinating problems on the network, monitoring circuit usage, and liaison with General Services Administration and other network providers. For related records, see General Records Schedule 12, Communications Records.	
7 a	Network Site/Equipment Support Files. Records documenting support services provided to specific sites and computer to computer interfaces on a network including site visit reports, trouble reports, service histories, and correspondence and memoranda.	
	(1) Site visit reports, trouble reports, and routine correspondence and memoranda	Destroy when 3 years old.
	(2) Service histories and other summary records	Destroy after the related equipment or site is no longer in use.
	(3) Routine records that do not contain substantial information on the maintenance history or site.	Destroy on an annual basis.
7 b	Inventories of Circuits. Automated or paper records containing information on network circuits used by the agency including circuit number, vendor, cost per month, type of connection, terminal series, software, contact person, and other relevant information about the circuit.	Destroy after the circuit is no longer used by agency.
7[17] c	Network or Circuit Installation and Service Files. Copies of requests for data communication service, installation, or repair and related records including work orders, correspondence, memoranda, work schedules, copies of building or circuitry diagrams, and copies of fiscal documents.	Destroy 1 year after request is filled or repairs are made. Records that are related to a legal action are removed from the file and filed elsewhere.
7 d	Network Usage Files. Electronic files or automated logs created to monitor network usage including but not limited to log-in files and system usage files.	Destroy after 3 system backup cycles after creation.
7 e	Network Usage Reports. Summary reports and other records created to document computer usage for reporting or other purposes.	Destroy 1 fiscal year after creation.
7 f	Network Implementation Project Files. Agencies' records used to plan and implement a network including reports, justifications, working diagrams of proposed network, wiring schematics, and diagrams.	Destroy after superseded.
8	INTERNET SERVICES RECORDS	
	Internet Services covers records related to providing and monitoring services delivered and received via the Internet.	
8 a	Agency Internet Services Logs. Electronic files or automated logs created to monitor access and use of agency services provided via the Internet, including, but not limited to, services provided via an agency gopher site, FTP (file transfer protocol), or World Wide Web agency intranets/extranets, or via agency Telnet services.	Destroy after 3 backup cycles, and after relevant audit and documentation requirements have been met, whichever is later.
8 b	Employee Internet Use Logs. Electronic files or automated logs created to monitor and control use of the Internet WWW, intranets, and extranets by agency employees and non-employee use logs of agency extranets.	Destroy after 3 backup cycles, and after review and verification, whichever is later.

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[1] Disposition authorities are stated in this draft as "destroy when __ years old" or "destroy __ years after [event]. The file should be closed or "cut off" at the end of a fiscal year for the former types of records and destroyed __ years later. The file should be closed or cut off after the event for the latter types of records and destroyed __ years after the end of the fiscal year in which the file was cut off.

[2] ISSUE: The records in item 1d are often more than ledger entries. For example, item d can include charts correlating data processing unit operational costs to: (1) the customer's actual or estimated hours of use, (2) the customer's number of full time employees, or (3) the customer's percentage of organization size. The Work Group seeks comments on how agencies use these records to assist NARA in determining whether item 1d should (A) be eliminated, (B) refer the reader to GRS 7, item 2, or (C) changed the retention to "Destroy 6 years and 3 months after the close of the fiscal year involved."?

[3] ISSUE: Should this item be deleted because the records already are covered by GRS 6, Item 1a?

[4] ISSUE: There are concerns about (1) splitting the developmental and technical documentation, and (2) differentiating between systems and applications for administrative functions. One of the challenges in information technology is the documentation of systems and applications to permit the engineers and programmers to make further use of accumulated knowledge. Is there a way to encourage the retention of information that will preclude "reinventing the wheel" with applications and systems engineering?

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[5] Programming changes can appear to work initially, but prove to have problems over a longer period of time. The Work Group specifically invites comments on whether 3 system cycles is sufficient for all administrative systems. Retention of basic programming information can be crucial with problems like the Year 2000 conversions. In contrast to item 3e which contains "copies of master files or databases, application software, logs, directories, and other records needed to restore a system in case of a disaster or inadvertent destruction," 2d deals with the very basic operating system program. (2d is the frame and foundation of the house; 3e is the brick, aluminum siding, and drywall.)

[6] This is not the official contract file maintained by the agency procurement office and covered by GRS 3, item 3. Documentation pertaining to system requirements in the RFP, the language used by the vendor in proposals and quotes, and the benchmark/acceptance testing information can substantially impact assessment of vendor performance. Further, this can impact the specifications of future IT acquisitions.

[7] ISSUE: Should this item be deleted because GRS 3, Item 3, already covers all? Another alternative that has been proposed is to leave the description here, but provide a cross reference to GRS 3, Item 3c.

[8] Please see Schedule 18, Item 27.

[9] Items 3 f, g, and h could be collapsed into one item. Comments on the advisability of doing so are invited. For this draft, item 3f is separate because it focuses upon an individual user (for example, a procurement officer leaves the organization). Item 3g is a general log used to spot substantial differences in volume of traffic. Use of item 3g may trigger an audit of item 3f records (for example, a 40% increase in one unit's use may raise questions about why the increase; next step, a look at item 3f). Item 3h is a summary report, used for billing purposes.

[10] ISSUE: Can this retention period be easily applied? Is it appropriate for all administrative systems, including security-classified ones?

[11] Validity checks are routines in a data entry program that test the input for correct and reasonable conditions, such as numbers falling within a range and correct spelling, if possible. Valid transaction files are the reports of those validity checks.

[12] ISSUE: Disposition of item 4d is impossible to implement in the case of print files that are automatically generated and deleted by applications software. This may be a policy issue as to whether those files should be automatically deleted by the applications software.

[13] The disposition for Item 5a is for the operating system records; Item 2c covers the records for planning the system.

[14] In contrast to Item 2, which deals with systems application and development, Item 6 addresses end user support records.

[15] These logs can be invaluable in resolving customer complaints, providing appropriate follow-up service, and spotting problem trends in systems and networks.

[16] GRS 12, Communications Records, is under review and will have to be modified at a later date to address redundancies.

[17] Network installation records are included because the history of wiring in buildings, locations of switches, etc., has been a problem. Recent building renovations have revealed that agencies have unused phone lines, which are still live and costing money. Employees had moved to new offices, received new phone numbers, and never had the old phone lines disconnected.

[FR Doc. 98–19468 Filed 7–20–98; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Electronic Records Work Group Draft Report; Comments Requested

AGENCY: National Archives and Records Administration (NARA).

ACTION: Request for comment.

SUMMARY: This notice contains a working draft of the Electronic Records Work Group's proposed report to the Archivist outlining the Work Group's recommendations and the effort that went into developing the recommendations and implementation strategy. This draft has been modified slightly from the June draft that was posted on the Web and sent to agencies for review. This draft reflects the Work Group's decisions to use the term "electronic source record" to describe the records created using office automation applications and to place the discussion of program and administrative records, formerly in draft Appendix B, in the introductions to draft Appendixes C and D where they are most pertinent. For purposes of this review, we have not changed the Appendix designations that were used in the June draft and have, therefore, reserved Appendix B for a discussion in the final report of the public and Federal comments received on the draft products.

DATES: Comments must be received on or before August 20, 1998.

ADDRESSES: Comments may be sent electronically to the e-mail address <grs20@arch2.nara.gov>. We ask that lengthy attachments be sent in ASCII, WordPerfect 5.1/5.2, or MS Word 6.0 format. If you do not have access to e-mail, comments may be mailed to Electronic Records Work Group (NPOL), Room 4100, 8601 Adelphi Rd., College Park, MD 20740–6001, or faxed to 301–713–7270.

FOR FURTHER INFORMATION CONTACT: Michael Miller at 301–713–7110, ext. 229.

SUPPLEMENTARY INFORMATION: The draft report appears at the end of this notice.

Dated: July 16, 1998.

Lewis J. Bellardo,

Deputy Archivist of the United States.

Draft Electronic Records Work Group Report to the Archivist of the United States

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Executive Summary

The Electronic Records Work Group (Work Group) is an interagency group formed by the Archivist of the United States on November 21, 1997, to review the 1995 version of General Records Schedule (GRS) 20, which was declared null and void by the U.S. District Court for the District of Columbia. (That ruling is on appeal.) Specifically, the Work Group was asked to identify appropriate areas for revision, explore alternatives for authorizing disposition of electronic records, identify methods and techniques that are available with current technology to manage and provide access to electronic records, and recommend practical solutions for the scheduling and disposition of electronic records. The Archivist also gave the Work Group several guiding principles and policies, including: program records should not be scheduled in the GRS, electronic records should be scheduled as series, and solutions must be workable.

The Work Group membership was drawn from staff of the National Archives and Records Administration (NARA) and other Federal agencies with records management and/or electronic records expertise under the oversight of Deputy Archivist Lewis Bellardo. Michael Miller, the Director of NARA's Modern Records Programs, serves as the group leader. In addition, electronic records management experts from state archives and records programs, the National Archives of Canada, academia, and records management consulting firms serve as consultants to the Work Group on a *pro bono* basis.

In conducting its review and developing the recommendations contained in this report, the Work Group aggressively sought input from Federal agencies, other interested individuals and groups, and the general public. In addition to the public meetings held on December 19, 1997, and January 29, April 7, and May 18, 1998, NARA maintained a web page devoted to the work of the Electronic Records Work Group (http://www.nara.gov/records/grs20/); published public notices in the **Federal Register**; sent memos to Federal agency records officers asking for their comments at various points in the process; solicited comments from subscribers to the Archives Listserv and Records Management Listserv; and invited comments from professional organizations, such as the American Historical Association (AHA), Organization of American Historians (OAH), Society of American Archivists (SAA), National Association of Government Archives and Records Administrators (NAGARA), Association of Records Managers and Administrators International (ARMA), and the National Coordinating Committee for the Promotion of History, and from other individuals with an interest or expertise in electronic records.

By March 1998 the group had drafted a number of options to be explored to replace GRS 20 disposition authorities, including authorities for the deletion of program and administrative electronic mail and word processing records, and for system maintenance and operations records. The group also explored options for electronic maintenance of electronic source records (records that remain in word processing and electronic mail and other office automation systems after a record has been produced for incorporation into an agency recordkeeping system) on an interim basis prior to the installation of proper electronic recordkeeping capability. After carefully considering the public and consultant comments on the preliminary options, the Work Group determined that there was only one feasible alternative approach to GRS 20, and that was to schedule the records at the series level.

The two other options initially proposed as possible approaches for managing electronic source records generated with electronic mail and word processing software were found to have significant flaws. Both options (to establish a uniform minimum retention period or to develop retention standards based on an individual's position in the agency's hierarchy) failed to meet requirements for the proper maintenance of records. Neither provided for proper organization or categorization of records to facilitate access. In both cases, disposition appeared to be based on factors other than business needs. The group could not identify supplemental measures that could be taken in conjunction with either of these options to make them useful.

The Work Group, therefore, recommends to the Archivist of the United States a three-part approach for scheduling the electronic source records that previously were authorized for disposal under GRS 20, items 13, 14, and 15. The Work Group's recommendations also address other concerns with the 1995 edition of GRS 20, i.e., authorization for the disposition of electronic source records produced with other office automation systems such as presentation software and electronic calendaring software, and authorization for the disposal of electronic records that correspond to the records covered in GRS 1–16, 18 and 23.

- First, agencies must schedule their program and unique administrative records in all formats. As part of its report, the Work Group proposes an implementation strategy to assist Federal agencies and NARA in accomplishing this task.
- Second, the Work Group recommends that NARA modify General Records Schedules (GRS) 1–16, 18, and 23 to authorize the deletion of electronic source records, including those generated with office automation systems, that correspond to administrative records covered by those GRS, after a recordkeeping copy has been produced.
- Third, the Work Group recommends that NARA develop a new General Records Schedule that covers only systems administration (or systems management) and operations records, such as files related to system use and maintenance, backup tapes, and other records (e.g., system user access records) used in managing information systems throughout their life cycle. This new GRS would cover records in all media.

The Work Group originally conducted a preliminary review of issues facing agencies that want to move toward electronic recordkeeping, but determined that working simultaneously on the scheduling approach and the electronic recordkeeping approach was not feasible given the deadlines and the complexity of electronic recordkeeping issues that need to be studied. The Work Group recommends that the Archivist establish a follow-on group that continues to work on electronic recordkeeping. This follow-on group should recommend guidance on electronic recordkeeping for Federal agencies.

Introduction

The Archivist of the United States established an interagency Electronic Records Work Group on November 21, 1997. In his charge to the Work Group, the Archivist asked the group to:

- Review the current version of General Records Schedule (GRS) 20;
- Identify appropriate areas for revision;
- Explore alternatives for authorizing disposition of electronic records;
- Identify methods and techniques that are available with current technology to manage and provide access to electronic records; and
- Recommend practical solutions for the scheduling and disposition of electronic records.

The Work Group was asked to develop and weigh advantages of various options and assess the practicality and feasibility of each in light of the availability of electronic records management tools and other resources. The Archivist asked the Work Group to keep in mind the following working assumptions in performing its work:

- General records schedules should focus on administrative "housekeeping" records, not program records, and there should be guidance in place to distinguish between them.
- Records may be transferred from one medium to another; however, key information about those records must be preserved as part of the transfer process.
- Electronic records should be scheduled as series, not classes of media.
- Solutions to electronic records challenges must be workable and be something agencies can and will use.

The Work Group membership was drawn from NARA staff and representatives of other Federal agencies with records management and/or electronic records expertise under the oversight of Deputy Archivist Lewis Bellardo. Michael Miller, the Director of NARA's Modern Records Programs, serves as the group leader. In addition, electronic records management experts from state archives and records programs, the National Archives of Canada, academia, and records management consulting firms serve as consultants to the Work Group on a pro bono basis. A list of the Work Group members and consultants is provided in Appendix A to this report.

Throughout this report, the term "electronic source record" has been used to describe the electronic record that resides on an agency's electronic mail, word processing, or other office

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automation systems, i.e., the "copy" that formerly was authorized for disposal by GRS 20 after a recordkeeping copy was produced. This report addresses the disposition of the electronic records which are the sources of the records filed in the agency's recordkeeping system. Therefore these records are designated as "electronic source records." Agencies need to recognize that records created using word processing, e-mail and other software on office automation systems must be scheduled according to the same requirements which apply to all records. NARA will authorize the disposal of electronic source records in office automation systems only when copies of these records have been captured in a recordkeeping system.

A main thrust of this report is to provide guidance and techniques to agencies for scheduling electronic source records that are created using word processing, electronic mail, and other end-user software. These records typically are stored in desktop and laptop computer systems and in networked servers. In the modern Federal office environment, most staff members are provided with generic software tools, such as word processing and e-mail, which they use to generate electronic records related to their work, regardless of the nature of the work. These records need to be filed in a recordkeeping system so that they will be retrievable with other related records such as attachments, the corresponding incoming or outgoing record, and, if part of a case file, the forms and other records that comprise that file. The complete files, and individual records within them, need to be accessible to other staff members who need them in the course of their work and in response to inquiries from the public. Failure to place electronic records generated as electronic mail messages, word processing files, and other office automation products in a recordkeeping system will result in files which are incomplete or unreliable. Consequently, these electronic source records must be copied to a recordkeeping system established by the agency for maintenance, use, and disposition.

However, even after these records are placed in a recordkeeping system, a record remains on the originating system. These electronic source records, like other Federal records, can be destroyed (deleted from the office automation system) only with NARA's authorization. The Work Group proposes that NARA revise the GRS to provide governmentwide authorization for the disposition of electronic source records used to create the types of records covered by GRS 1-16, 18, and 23. Agencies must obtain authorization for disposition of all other electronic source records by submitting a schedule (Standard Form 115) to NARA.

The Work Group considered using terms other than "electronic source record" but found them problematical. Some readers saw "electronic copy" as implying nonrecord status. The term "version" is often used to distinguish between a paper record and the same record in electronic form. However, "version" is frequently used to describe a record that is an iteration of an earlier or later record. Hence, "version control" may be a feature of a document management or electronic recordkeeping system, to distinguish between the first record produced and later variants of the same record.

Conversely, the Work Group chose not to use the term "duplicate" because that term implies an exact match which may not exist. The electronic source record that resides in an individual's word processing directory or electronic mail box would be a duplicate of the record in the recordkeeping system only if the recordkeeping system were electronic and if all of the metadata produced by the word processing or electronic mail utility were transferred to the recordkeeping system. Because so many agencies are still maintaining paper files as their recordkeeping systems, use of the term "duplicate" would be inappropriate.

Work Group Approach

In conducting its review and developing the recommendation and products contained in this report, the Work Group made special efforts to engage the Federal community and the public in discussion of possible alternatives to the 1995 General Records Schedule 20, and to keep them informed of the Work Group's activities. A GRS 20 web page on NARA's Internet web site at <http://www.nara.gov/records/grs20/>, and a special e-mail address (grs20@arch2.nara.gov) was established. Posted on that web page were documents for public comment, meeting notices and agendas, summaries of public meetings, and other background materials relating to the Work Group and the *Public Citizen* v. *Carlin* litigation. Notices of public meetings and information about documents for public comment were published in the **Federal Register**. Information and requests for comment also were provided to Federal agency records officers through NARA memos and to subscribers of the Archives Listserv and Records Management Listserv through electronic message.

The Work Group's first public meeting was held on December 19, 1997, at NARA's Archives II facility in College Park, MD, with one member and several consultants participating by teleconference. The purpose of the meeting was to bring the members of the Electronic Records Work Group and consultants together to outline the tasks and to answer questions concerning the logistics of the Work Group. The Work Group and consultants received a set of detailed preliminary issues proposed for discussion and other background materials. The list of preliminary issues was posted on the GRS 20 Page and also published for public comment in the **Federal Register** on December 24. Comments were received from Work Group members and consultants and a Federal agency contractor by the January 9, 1998, deadline. In an effort to obtain wider input on the list of issues and options the Work Group should consider, a second public meeting was held on January 29, 1998, at the National Archives Building in Washington, DC. More than 70 Federal agency staff and interested members of the public attended. Two Federal employees provided formal remarks, and a number of individuals, most from Federal agencies, made comments from the audience.

Immediately following the public meeting on January 29 and continuing on February 9, 1998, the NARA members and Federal members of the Electronic Records Work Group held working sessions at the National Archives Building in Washington, DC, to discuss alternatives for GRS 20. The members discussed the framework in which they were working, ranging from the goals of the group to the current status of electronic records management in the Federal government. The members also discussed the comments submitted by members of the public and brainstormed on possible alternatives to GRS 20. From these comments and ideas, the Work Group developed three possible short-term approaches for scheduling electronic records for further analysis and review. These were described in the March 12, 1998, paper "Preliminary Options for Replacing GRS 20." The Work Group's consultants, who had reviewed a draft of the paper, were asked to provide their views on enabling requirements and related issues for specific options, and to comment on any other aspect of the paper. Work Group members also developed comments on specific options.

The Preliminary Options paper laid out three options. The first option, based on a traditional approach to scheduling records by series, had three complementary sections for scheduling program and administrative records, revising GRS 20 to cover only systems records, and revising the remaining GRS to provide disposal authority for source records not needed for recordkeeping. The second and third options offered alternative interim approaches for handling the disposition of electronic source records that remain on electronic mail and word processing systems. Option 2 involved saving electronic source records for a specific minimum period of time and option 3 proposed saving the electronic source records created or received by individuals holding specific positions within an organization.

Public input on the options paper and suggestions for additional approaches were sought in a variety of ways. The paper was posted on the GRS 20 Page as <http://www.nara.gov/records/grs20/opt312.html> on March 14, and a notice announcing the availability of the paper and requesting comments was published in the **Federal Register** on March 19, 1998. NARA sent a memo to Federal agency records officers and information management officials on March 13 (NWM 06–98) inviting comments on the paper. Announcements were sent to the Archives Listserv and Records Management Listserv, and messages were sent by e-mail or fax to individuals interested in electronic records issues and to professional organizations, including the American Historical Association (AHA), Organization of American Historians (OAH), Society of American Archivists (SAA), National Association of Government Archivists and Records Administrators (NAGARA), Association of Records Managers and Administrators International (ARMA), and the National Coordinating Committee for the Promotion of History. Comments were requested by March 31.

Public comments were received from eight individuals and the Small Agency Council Records Officers Committee. None suggested additional approaches although several commented on aspects of the entire GRS and on GRS 20 coverage. Option 1 was generally preferred.

Most of the Work Group's consultants submitted comments on all of the options and issues. No other short term options were identified. Several comments offered other approaches to appraising records (a systems or macro approach, the Canadian model, the Pittsburgh Project "warrant" concept). Given the time frame that the Work Group had to develop its recommendations, these approaches were not pursued; however, they deserve further review later. The consultants found options 2 and 3 problematic.

Copies of all of the comments received were circulated to the Federal members of the Work Group and to the consultants prior to an all-day public meeting on April 7 at the Office of Thrift Supervision Amphitheater in Washington, DC. All but two Work Group members attended the meeting, as did five of the 8 consultants. The meeting was called specifically to receive comments from the ERWG's consultants on the March 12, 1998, Options Paper, but the meeting was opened to the public and approximately ten persons observed all or part of the meeting. Most of the consultant comments and discussion focused on Option 1, and they agreed that options 2 and 3 lacked merit. No additional options were identified.

The Work Group met in a working session on April 17 to evaluate further the written comments and discussions at the April 7 meeting and to make assignments for developing products to implement Option 1. Several consultants were asked to contribute to those products and other consultant and agency/public comments were incorporated in the approaches where feasible. A fourth public meeting was held on May 18, 1998, at the National Archives Building in Washington, DC, to brief Federal agencies and the public on Work Group's progress and to obtain public comments and questions. In addition to the **Federal Register** notice and memo to records officers and IRM officials announcing the meeting, invitations were sent to the Chief Information Officers (CIO) Council, plaintiffs in the *Public Citizen* versus *Carlin* litigation, and other organizations and individuals. More than 200 people attended the meeting and provided a number of comments and questions.

As the Work Group discussed in the May 18 public meeting, the report and its appendixes were sent to Federal agencies for comment in June and a copy of the report, without the appendixes, was posted on the GRS 20 Page at that time. The Federal members of the Work Group met on July 13 to discuss changes and clarifications needed in the report and appendixes that would be published in the **Federal Register** for public and formal Federal agency comment the week of July 20. The Work Group and its consultants will review the comments received and prepare a final report and implementation plan to the Archivist of the United States in time for his review and approval before September 30, 1998.

Recommendations of the Electronic Records Work Group

The Electronic Records Work Group recommends to the Archivist of the United States that NARA take the following actions to replace the 1995 General Records Schedule 20:

1. NARA should instruct agencies to schedule their program and unique administrative records in all formats.

On March 10, 1998, NARA issued such instructions in NARA Bulletin 98–02, Disposition of Electronic Records, for new and revised series that are submitted to NARA for approval. NARA should issue instructions for scheduling the electronic source records generated with office automation systems that were authorized for disposal under the 1995 GRS 20.

If the scheduling process to replace the disposition authority formerly provided by GRS 20 is to move ahead expeditiously, it is essential that the process must both minimize the burden on Federal agencies as much as possible and continue to provide the public an opportunity to comment on the proposed schedules through the usual **Federal Register** process. In carrying out the proposed scheduling process, agencies must perform a series-based review of their schedules, NARA must appraise proposed dispositions on a series basis, and the public must have the opportunity to comment on proposed dispositions on a series basis. However, the Work Group does not believe that it is necessary, at this time, for agencies to submit individual schedule items for these electronic source records series by series. As agency records schedules are revised or amended, the disposition authorities for these electronic source records will be integrated into the agency disposition manual at the series level.

The Work Group has developed Appendix C to facilitate implementation of this recommendation. Appendix C proposes guidance to agencies on how to develop records disposition schedules to replace the dispositions formerly provided by GRS 20 and outlines in a general manner how those proposed schedules will be processed by NARA.

2. NARA should modify General Records Schedules (GRS) 1–16, 18, and 23 to authorize the deletion of source records corresponding to the administrative records covered by those GRS that are not needed for recordkeeping purposes, after a recordkeeping copy has been produced.

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Proposed language and a discussion of the recommendation is provided in Appendix D, along with definitions of "program records" and "administrative records." The definitions should be added to the general records management definitions in NARA regulations at 36 CFR 1220.14, and where appropriate in other NARA records management guidance.

3. NARA should revise GRS 20 disposition authorities to cover only systems administration (or systems management) and operations records, such as files related to system use and maintenance; backup tapes; and other records (e.g., system user access records) used in managing information systems throughout their life cycle. The new schedule should cover only administrative records, but should cover them in all media.

A proposed draft general records schedule is provided in Appendix E. This draft has been modeled after the New York State Archives and Records Administration (SARA) General Administrative Schedule's section on Electronic Data Processing, but adapted to reflect the mandatory nature of the General Records Schedules. (The New York General Administrative Schedule is advisory and provides minimum retention periods.) The New York SARA approach was developed with the assistance of the State government data processing community. The Work Group emphasizes that this draft revised general records schedule will need to be reviewed carefully by Federal agency CIO's and their information technology (IT) organizations to ensure that it accurately describes Federal IT records and includes only temporary administrative records that can be scheduled by a common disposition authority in a GRS.

Rejected Options

In early deliberations, the Electronic Records Work Group considered two other options for maintaining electronic source records used to generate some or all program records.

Those options, numbers 2 and 3 in the Preliminary Options Paper dated March 12, 1998, were:

- *Establish a uniform minimum retention period for electronic records currently covered by GRS 20, items 13 and 14*
- *Develop retention standards for electronic records currently covered by GRS 20, items 13 and 14, based on an individual's position in agency hierarchy*

These options were proposed as possible approaches for maintaining electronic source records of all or some of the most important agency program records created or maintained on e-mail and word processing systems. In discussing these two options, Work Group members came to the conclusion that they were significantly flawed. Both options failed to meet requirements for the proper maintenance of records. Neither provided for proper organization or categorization of records to facilitate access. In both cases, disposition appeared to be based on factors other than business needs. (Business needs refers to an agency's need to conduct its business, maintain a record of its essential activities and decisions for its own use, support oversight and audit of those activities, and permit appropriate public access.) The Work Group could not identify supplemental measures that could be taken in conjunction with either of these options to make them useful.

A significant concern with both approaches was that they might be viewed by agencies and the public as a satisfactory interim way to manage records electronically until the agencies have fully functioning electronic recordkeeping systems. Such electronic collections of mail and word processing records are incomplete, without proper recordkeeping organization, and unindexed. Moreover, they lack the context of the related documentation filed in the recordkeeping system. Access to such collections is limited to full text search, which has the dual drawbacks of finding many irrelevant documents and missing key documents that may not contain the word(s) used in the query.

An additional concern with option 2 was that some agencies may believe that this option could be implemented by retaining backup tapes for a minimum period of time. As stated in NARA regulations (36 CFR 1234.24(c)) and guidance (the 1995 Agency Recordkeeping Requirements: A Management Guide), backup tapes should not be used for recordkeeping purposes for a variety of reasons. One compelling reason is that records on backup tapes are not readily accessible to agency staff members. While necessary for disaster recovery, backup tapes are not useful for day-to-day agency operations.

The proposed option 3, to retain electronic source records generated with mail and word processing systems based on organizational position, was a variation of rejected option 2 and seemed to be based on archaic archival and records management theory. Work Group members and other NARA staff believe that setting retention periods based on hierarchical placement would not produce useful results. At one time, appraisal theory assumed that records of high level officials were generally more valuable than records in lower level offices, as significant program decisions are reached at the higher levels. Over many years, NARA has found that in many agencies much of the documentation of policy development and justification is maintained at lower-level program offices of an agency. Currently, appraisal of Federal records is conducted by assessing the documentation patterns in agencies and identifying the most valuable records based on function and recordkeeping practices, as well as content.

Finally, Work Group members recommended against these options because implementation of either would drain records and information management resources from more productive efforts to control agency records properly, including long-term plans to move toward electronic recordkeeping.

In conclusion, the Electronic Records Work Group, after careful deliberation, rejected options 2 and 3 in the Preliminary Options Paper dated March 12, 1998, as unworthy to be included in the recommendations to the Archivist.

Future Steps

This report of the Electronic Records Work Group addresses the recordkeeping practices of most agencies, which are still primarily paper-based. However, business needs and technology advances will lead agencies to electronic recordkeeping over time. The many Federal initiatives for electronic commerce and the reliance on computer technology to create the records that document government business are examples of the forces moving most agencies in this direction. NARA must provide guidance to agencies on sound policies and techniques for managing electronic records and for implementing electronic recordkeeping systems.

The Work Group recommends that the Archivist establish a follow-on group to look at the electronic recordkeeping issue and to make recommendations in that area. The follow-on group should begin as soon as possible and build on the work done by this Work Group. The Work Group suggests that the Archivist should set a relatively short time frame for submitting these electronic recordkeeping recommendations.

Appendix A: Electronic Records Work Group Membership

Members—National Archives And Records Administration

Lewis J. Bellardo, Deputy Archivist of the United States

Michael L. Miller, Director, Modern Records Programs

Nancy Allard, Policy and Communications Staff

Mark Giguere, Modern Records Programs

Jean Keeting, Modern Records Programs

Miriam Nisbet, Special Counsel for Information Policy

Susan Sallaway, Information Resources Policy and Projects Division

Kenneth Thibodeau, Director, Electronic Records Programs

Members—Other Federal Agencies

Edward Barrese, Records Officer, Federal Deposit Insurance Corporation

Maya Bernstein, Office of Information and Regulatory Affairs, Office of Management and Budget

Elizabeth Behal, Departmental Records Officer, U. S. Department of Agriculture

Christopher L. Olsen, Chief, Records Classification and Management, Records Classification and Management Group, Office of Information Management, Central Intelligence Agency

Dan Hocking, Computer Scientist, Army Research Laboratory

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Note: See the second document published in this Part V of the **Federal Register**.

Appendix D—Proposal To Revise the Entire GRS TO Cover All Formats of the Administrative Records Included Therein

Note: See the third document published in this Part V of the **Federal Register**.

Appendix E—Proposed General Records Sechedule, Information Technology Records

Note: See the fourth document published in this Part V of the **Federal Register**.

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

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H.R. 960/P.L. 105–195

To validate certain conveyances in the City of Tulare, Tulare County, California, and for other purposes. (July 16, 1998; 112 Stat. 629)

H.R. 2202/P.L. 105–196

National Bone Marrow Registry Reauthorization Act of 1998 (July 16, 1998; 112 Stat. 631)

H.R. 2864/P.L. 105–197

Occupational Safety and Health Administration Compliance Assistance Authorization Act of 1998 (July 16, 1998; 112 Stat. 638)

H.R. 2877/P.L. 105–198

To amend the Occupational Safety and Health Act of 1970. (July 16, 1998; 112 Stat. 640)

H.R. 3035/P.L. 105–199

National Drought Policy Act of 1998 (July 16, 1998; 112 Stat. 641)

H.R. 3130/P.L. 105–200

Child Support Performance and Incentive Act of 1998 (July 16, 1998; 112 Stat. 645)

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Approving the location of a Martin Luther King, Jr., Memorial in the Nation's Capital. (July 16, 1998; 112 Stat. 675)

S. 731/P.L. 105–202

To extend the legislative authority for construction of the National Peace Garden memorial, and for other purposes. (July 16, 1998; 112 Stat. 676)

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Of significant historical interest is Appendix B, which lists the agencies and functions of the Federal Government abolished, transferred, or renamed subsequent to March 4, 1933.

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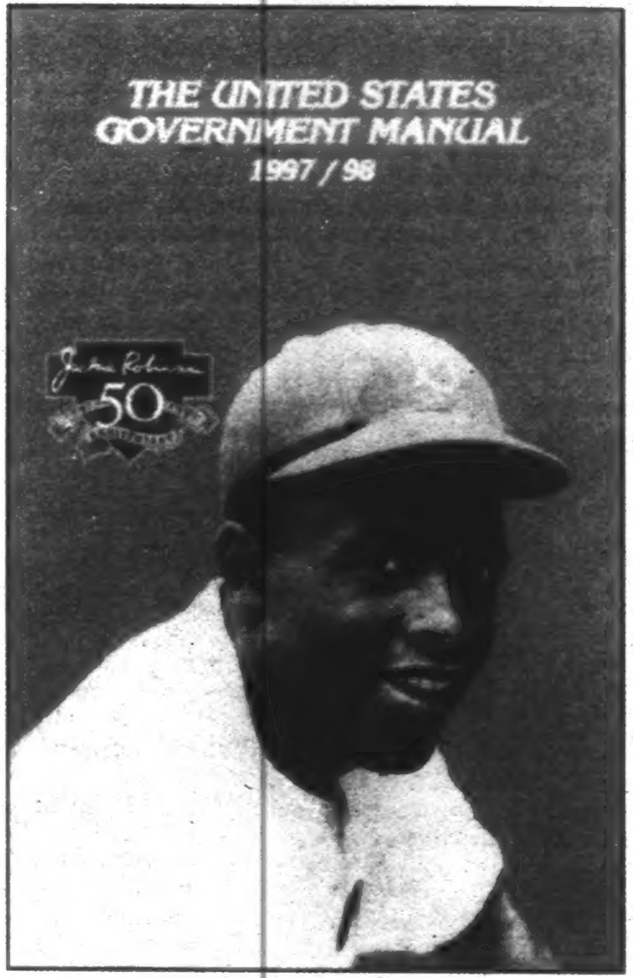

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